Wollongong Local Planning Panel Assessment Report | 24 August 2021

WLPP No.	Item No. 2		
DA No.	DA-2021/459		
Proposal	Residential flat building - conversion of approved attached dual occupancy to a residential flat building with 3 units		
Property	30 Keira Street, WOLLONGONG Lot 51 DP 567214		
Applicant	Senol Akyol		
Responsible Team	Development Assessment & Certification - City Centre & Major Development Team (TW)		
Prior WLPP meeting	No		

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Wollongong Local Planning Panel - Determination

The proposal has been referred to Local Planning Panel for determination pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Clause 3 of Schedule 2 of the Local Planning Panels Direction of 30 June 2020, the proposed development contravenes a development standard by more than 10% (minimum site width).

Proposal

The proposal seeks consent for a residential flat building. The proposal involves the conversion of an approved attached dual occupancy (approved under DA-2019/1397/A) to a residential flat building containing 3 units.

Permissibility

The proposed residential flat building is a permissible use in the R1 General Residential zone.

Consultation

The proposal was notified in accordance with Council's Notification Policy and received two (2) submissions. The issues raised in the submissions are discussed at section 1.5 of the report.

Main Issues

- Development departure to Clause 7.14(2) Minimum Site Width;
- DCP variations (Chapters B1 and D13 of Wollongong DCP 2009) in relation to site width, side boundary setbacks/ building separation, accessibility and adaptable housing;
- Design quality;
- Use of adjacent right of way the applicant has demonstrated that the site benefits from legal access over this access driveway.

RECOMMENDATION

On balance, with some changes, it is considered that the proposal is capable of support. It is recommended that the application be granted consent subject to conditions; this includes a condition requiring changes to the lower level car park to address some of the concerns arising from the assessment.

1.1 PLANNING CONTROLS

The following planning controls apply to the proposal:

State Environmental Planning Policies:

- SEPP No. 55 Remediation of Land
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Coastal Management) 2018

Local Environmental Planning Policies:

Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

Wollongong Development Control Plan 2009

Other policies

- Wollongong City-Wide Development Contributions Plan 2020
- Wollongong Community Participation Plan 2019

1.2 DETAILED DESCRIPTION OF PROPOSAL

It is noted that there have been approvals granted for a building on the site in recent years. This was initially approved on 8 April 2020 via DA-2019/1397 and subsequently modified on 19 August 2020.

Approved Development

The approved development involves:

- Demolition of the existing buildings/structures on site;
- Erection of two (2) new dwellings in the form of an attached dual occupancy development, with on-site parking in 2 garages;
- Vehicular access via a Right of Carriageway (ROC) over the adjoining land to the north;
- Stormwater drainage works via easement over the adjoining land to the west;
- Associated landscaping and retention of all existing trees on site (note that Council's Landscape Officer requested the removal of 2 trees).

The construction of the development is well underway.

It is noted however that some components of the building have been built in accordance with the proposed plans rather than the approved plans. At the time of recent site inspections it was evident that the lower ground level has been constructed in accordance with the proposed plans, featuring a Om setback to the southern boundary. The balcony to proposed Unit 3 has also been constructed.

Proposed Development

This proposal seeks consent to convert the approved attached dual occupancy into a residential flat building housing 3 dwellings. The proposal involves modifications to the approved building envelope, predominately internally, to allow for a third unit within the development. The applicant advises that the proposal involves 'only minor' external changes to the approved building to facilitate its conversion into a residential flat building.

The impacts are discussed in detail in the body of this report. There are not expected to be adverse social or economic impacts in the locality and the environmental impacts on the natural

environment are likely to increase given that the building envelope will remain largely unchanged on that approved. There are some concerns raised in this report however in relation to the amenity impacts of the open car park sited immediately adjacent to the southern boundary and the amenity of the new additional unit.

These changes will include:-

Northern elevation

- Balcony opening for Unit 3
- Entry door in the middle level has been moved to east and a porch area has been provided to Unit 3
- A small porch area has been created for Unit 2

Southern elevation

- Storage areas in the basement have been converted to car parking spaces; parking area has been extended to the southern boundary (0m setback)
- Size of window W23 has been reduced
- additional window (W22 has been split into two to provide windows for ensuite and laundry)

No changes to the eastern and western elevations are proposed.

The three (3) units are described as follows:-

Unit 1 -

- GFA 204.4sqm; situated on the upper level of the building
- Parking in the form of an internal 2 car garage accessed from Keira Street by a single driveway
- 3 bedrooms and 1 study
- POS 42sqm in the form of an elevated deck area at the rear of the building

Unit 2 -

- 132.96sqm GFA; located across the mid and lower levels of the building
- parking for 2 cars in the lower level parking area accessed via the driveway on the northern side of the building
- 3 bedrooms and 1 study
- POS timber deck 42sqm along with stair access to rear garden

Unit 3 -

- 158.23sqm GFA; positioned on the mid level of the building
- Parking for 2 cars located within the lower ground parking area accessed via the driveway on the northern side of the building (ROC)
- 3 bedrooms and 1 study
- POS balcony 21sqm on the northern side of the building with access from the living room

A detailed description of the development is as follows:-

Works / Construction / building details

- Part two and part three storey residential flat building.
- The front dwelling will contain double car garage with access directly from the Keira Street frontage of the site. This dwelling will occupy the upper level of the building and will house 3 bedrooms, study and living spaces. A rear balcony is proposed which will act as the primary private open space area directly accessible from the internal living areas. A ground level additional open space and clothes dying area is to be provided in the lower part of the site, within the rear yard area.

- Units 2 and 3 have vehicular access from the driveway on the site to the immediate north. A 4
 car garage is proposed on the lower level along with storage, manoeuvring and bin storage
 areas,
- The private open space areas are located at the rear of the dwellings in the form of an elevated deck for Unit 2 and a turfed and landscaped yard area for Unit 1 (which has its primary POS as an upper level balcony). A balcony POS has been provided for Unit 3 on the mid level of the building. The dimensions of the 3 POS areas exceed minimum requirements.
- Deep soil zone located in the rear part of the site and will contain existing significant trees. As
 noted above, Council's Landscape Officer has required the removal of Trees 7 and 8 which
 conflict with the building envelope). All other trees will be retained; some will require canopy
 pruning which has been addressed within an accompanying arborist report.
- Other landscaped areas are proposed to be provided in the front setback and some limited landscaping to side boundaries.
- External walls will be finished in face brick and textured coat render, with Weathertex feature cladding and Colorbond Custom Orb roofing. The dwellings will feature aluminium powdercoated windows and doors, with privacy screens in places. The balcony features a glazed balustrade at rear, with privacy screens along the side elevations. A panel lift garage door is to be provided fronting Keira Street.

Traffic, parking and servicing

- The proposal provides for two car spaces per dwelling Unit 1 has a 2 car garage, whilst Units 2 and 3 will be provided with 2 car spaces within the mid-level garage. The car parking requirements however necessitate the provision of 5 car spaces total including 1 nominated visitor car space. The plans indicate that cars can reverse and exit the building in a forward direction.
- Access to the rear car park will be via the existing ROC over the adjoining land to the north at 26 Keira Street.
- The site is already serviced by electricity, water, sewer, telecommunications and the like.
- The site slopes and drains to the rear and stormwater disposal will be via connection to a 1m wide drainage easement. There is sufficient capacity to accommodate the additional stormwater runoff from the site.

1.3 BACKGROUND

It is noted that the earlier DA for the dual occupancy involved variations in relation to site width and side boundary setbacks which were supported.

Development History

BC-1991/1583, Weatherboard Cottage

BA-1960/996, Dwelling

DA-2019/1397, Residential - demolition of dwelling house and shed and construction of a dual occupancy (attached) – approved 8 April 2020

DA-2019/1397/A, Residential - demolition of dwelling house and shed and construction of a dual occupancy (attached), Modification A - changes to side setback, internal layouts and door, floor, ceiling and ridge heights and increase in overall building height – approved 19 August 2020

Pre-lodgement meetings

There have been 4 pre-lodgement meetings held in respect the site since 2016, for differing forms of development. The most recent of those (PL-2020/220) was on 9 March 2020 for the conversion of

the approved dual occupancy into a residential flat building containing 4 dwellings. Advice was provided in relation to a range of matters. The number of dwellings was reduced to 3 following the pre-lodgement meeting, which the applicant contends resolves the concerns raised at that meeting in relation to concerns around compliance with SEPP 65 and the Apartment Design Guide [the SEPP and ADG only apply where the number of units is greater than 4].

Customer service actions

There are no outstanding customer service requests of relevance to the development.

1.4 SITE DESCRIPTION

The site is located at 30 Keira Street Wollongong and the title reference is Lot 51 DP 567214.

The land has an area of 682.9m² and is generally regular in shape, with the following dimensions:

- 12.4m width and frontage to Keira Street along the eastern boundary;
- 52.5m length along the northern side boundary;
- 13.4m width along the western rear boundary;
- 52.7m length along the southern side boundary.

The land falls from the north-eastern (front) corner of the site (RL 29.77) to the south-western (rear) corner of the property (RL 22.56).

The site was previously occupied by a 1-2 storey weatherboard cottage which obtained vehicular access directly from the Keira Street frontage of the site. The dwelling has been demolished and construction of the approved development is well underway.

The site and surrounding properties are zoned R1 General Residential and the locality is characterised by a mixture of housing types and densities including residential flat buildings (RFB's), multi-dwelling housing and detached dwelling houses.

Adjoining and/or surrounding development in the immediate vicinity is described as follows:

To the north - An older style four (4) storey RFB at 26 Keira Street Wollongong:-



- To the east detached residential dwelling houses on the high side of Keira Street directly opposite the site, adjoined by a four (4) storey RFB;
- To the south 2 and 3 storey townhouses at 32-36 Keira Street;



• To the west − 2 storey medium density residential development. Further west-ward is commercial and light industrial development fronting Flinders Street.

The applicant's SEE notes that re-development of the site is constrained by various factors, particularly site isolation. The lot cannot be amalgamated with any adjoining properties as these are occupied by strata subdivided medium and high density development.

Property constraints

There are a number of site constraints affecting the property. These are:-

- Site location within the NSW Coastal zone and within the *coastal environment area* under the provisions of SEPP (Coastal Management). It is noted that no specific coastal hazards are identified in respect of the subject site specifically.
- Acid sulphate soils Class 5.
- In addition to the above it is noted that there is a number of trees within the site which pose a constraint on future development.
- Nearby Heritage item being "Esslemont" located at 23 Keira Street, Wollongong.

There are no restrictions on the title.

The site location/aerial photograph and zoning extract form **Attachments 1** and **2**.

1.5 SUBMISSIONS

The application was notified between 6 May 2021 and 2 May 2021 in accordance with Council's Community Participation Plan 2019. This involved notification letters being sent to the owners/occupiers of nearby and adjacent properties.

At the conclusion of the notification period there were 2 submissions received which raised the following summarised concerns in relation to the proposal:-

Table 1: Submissions

	Concern	Comment
1	The site width departure is significant and should not be supported; approval will lead	The site width departure is significant. It is discussed below with regard to WLEP 2009.

	Concern	Comment
	to an undesirable precedent being set	
2	Concerns regarding design of front elevation of the building	Council's Design Expert considers that the proposed design does not contribute or detract from the urban character of the streetscape, with a front elevation that presents as a residential house to the street and does not overwhelm the streetscape. It is mostly sympathetic to neighbouring residential buildings which are more traditional and "domestic" in style, however many of these are likely to be redeveloped in the future. Concerns were however raised in relation to the built up driveway and cantilevered garage however these elements of the building remain as per the previously approved plans.
3	Concerns around lack of car parking to service the potential population that could be accommodated within the development and the inability to provide additional car parking within the site and lack of access to on-street car parking	6 car spaces are proposed whilst 5 are required including 1 visitor car space. The car parking provision is therefore more than required. The development does not however make provision for required bicycle spaces; this can be resolved by conditions.
4	Inaccurate depiction and therefore downplay of building separation variation proposed	The applicant's site plan illustrates some of the separation distances available between the wall of the adjoining units and the proposed development and the southern wall of the units to the north of the site however it does not identify the separation distances available to all adjacent units. The proposal does not

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Stormwater Engineer

Council's Stormwater Officer has reviewed the application and given a satisfactory referral including recommended conditions which are included in the consent.

2.3.1 below.

provide for compliant side boundary setbacks as required by Chapter D13 of Wollongong DCP 2009; this and the applicant's justification are discussed in Section

Landscape Architect

Council's Landscape Officer has reviewed the application and provided a satisfactory referral, subject to conditions. Reference was made to the earlier application which permitted the removal of certain identified trees on the site and it was noted however that Trees 7 and 8 have been retained. These trees are however required to be removed due to the impact of the building on the structural root zone of these trees. If approved, a conditions will be applied requiring the removal of Trees 7 and 8.

Design Expert

Council's Design Expert has reviewed the application considers that the proposed design does not contribute or detract from the urban character of the streetscape. The following summarised concerns were raised in relation to the development:-

- Generally, the street frontage is acceptable, however the excessive bulk of the cantilevered garage and built up driveway is unacceptable and highly visible to the streetscape due to the driveway and likely to create CPTED and amenity issues. [Planner's note: this aspect of the development will remain unchanged on that approved under DA-2019/1397/A]
- While the development no longer requires adherence to SEPP 65 due to being only three units, many of these requirements are still applicable under the Wollongong DCP for residential flat buildings. Particularly:-
 - solar access is limited and sun eye diagrams with vegetation are required to show compliance with 70% as per 6.18 of Chapter B1. This is unlikely to comply to either living areas, POS, or COS.
 - o requirement for a continuous path of travel for those with a disability as per 6.16 of Chapter B1.
 - o one adaptable apartment is required as per 6.15 of Chapter B1.
 - o basement height is not negated by the open parking space, and is required to be set back 1.5m from boundary with a landscaping strip as per 6.9 of Chapter B1.
- Previous issues raised at the pre-lodgement meeting which have not been addressed include:
 - The garage does not currently include the required amenity including storage, bicycle parking, and visitor parking.
 - The COS provides little amenity for residents due to dense foliage, overshadowing, and washing lines which dominate the space. These washing lines are also unlikely to achieve solar access. [Planner's note: COS not required for 3 units; ground level area to the rear of the building is a secondary POS area for Unit 1].

Further, the Design Expert considered that the development does not adequately demonstrate design excellence as required by Clause 7.18 of Wollongong LEP 2009. This is discussed further below.

Traffic Engineer

Council's Traffic Officer has reviewed the application and provided an unsatisfactory referral. The following specific comments were provided in relation to the proposal:-

"The site is within the city centre, and is able to use the lower city centre car parking rates as follows:

- 0.75 car space per dwellings (<70m2) or 1 car spaces per dwelling (70-110m2) or 1.25 car spaces per dwelling (>110m2), plus 0.2 car parking spaces per dwelling for visitors.
- 1 bicycle space per 3 dwellings (residents) and 1 bicycle space per 12 dwellings (visitors)
- 1 motorcycle space per 15 dwellings

Units are 204.4sqm, 132.7 sqm and 158.2sqm for Units 1, 2 and 3 respectively.

Therefore, the development needs to provide (3.75) 4 residential car parking spaces and 0.6 visitor car parking spaces, rounded up to 1. This equates to a requirement for a total of 5 car parking spaces. 6 car parking spaces are provided which complies with the DCP requirements.

The development also requires 1 secure bicycle space to be provided somewhere within the site (this can be secured via the CC condition below).

However, the following shortcomings are noted:-

The following is noted:

- 1. The bins in the double garage would need to be moved as they will encroach on the vehicle spaces.
- 2. The proposed layout relies on the lower car park wall being extending to the boundary which may have impacts on neighbouring properties."

It is noted that consent conditions have been recommended to address the above matters.

1.6.2 EXTERNAL CONSULTATION

None required.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.

NSW Biodiversity Conservation Act 2016

The development does not involve the removal of any trees or use of land with biodiversity value.

Fisheries Management Act 1994

Not applicable.

2.3 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.3.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

Council records do not indicate any historic use that would contribute to the contamination of the site and the land is not identified as being contaminated on Council mapping. There are minimal earthworks as part of this application where the works are contained within an existing approved building envelope. The proposal does not comprise a change of use, with evidence that the site has been occupied by residential land uses for many years. No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 7.

2.3.2 STATE ENVIRONMENTAL PLANNING POLICY NO 65—DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

Whilst the proposed development is a residential flat building, it is not one to which SEPP 65 applies as the building contains less than 4 dwellings (see Clause 4 of the SEPP). As such, consideration is not required to be given to the design quality principles of the SEPP or the Apartment Design Guide.

2.3.3 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The proposal is BASIX affected development to which this policy applies. In accordance with Schedule 1, Part 1, 2A of the Environmental Planning and Assessment Regulation 2000, a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

The BASIX certificate was issued no earlier than 3 months before the date on which the development application was lodged.

2.3.4 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

The subject site is located within the coastal zone and requires consideration under this policy. The site is specifically identified as forming part of the Coastal Environment Area. The clauses of relevance are addressed as follows:

Clause 13 Development on land within the coastal environment area

Consideration has been given to the above matters for consideration and no concerns are raised. The site is sited some distance from the coastal foreshore and as such it is not expected to have any detrimental impacts on the coastal environment.

Stormwater from the site will be appropriately managed and construction impacts will be managed via consent conditions to ensure minimal impacts on downstream receiving waters. The landscape character of the area will not be compromised by the development. The proposal will have no impact on public access to the foreshore nor will it have any impact on the use of the foreshore area.

<u>Clause 15 Development in coastal zone generally—development not to increase risk of coastal</u> hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

The proposal is not expected to cause increased risk of coastal hazards on that land or other land.

Clause 16 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Consideration has been given to the Wollongong Coastal Management Study / Coastal Management Action Plan. Under the provisions of the Coastal Management study and associated Action Plan the site is not mapped as being affected by Coastal Geotechnical Risk, Reduced Foundation Capacity or Coastal Inundation on the 2010, 2050 & 2100 maps.

2.3.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

Note-

Residential flat buildings are a type of *residential accommodation*— see the definition of that term in this Dictionary.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned R1 General Residential.

<u>Clause 2.3 – Zone objectives and land use table</u>

The objectives of the zone are as follows:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposal is satisfactory with regard to the above objectives as it will provide for the housing needs of the community, and contribute to the range of housing types available in the city.

The land use table permits the following uses in the zone:-

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Group homes; Hostels; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing; Signage; Tank-based aquaculture

The proposal is characterised as a **residential flat building** as defined above and is permissible in the zone with development consent.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The height of buildings map prescribes a maximum building height of 16m for the site. The approved maximum building height is 3 storeys; 10.92m above ground level to ridge. There is no change to the roof height proposed in this application. The height is compliant.

Clause 4.4 Floor space ratio (FSR)

Clause 4.4 prescribes a maximum FSR of 1.5:1 for the site. The plans indicate that the proposed Gross Floor Area (GFA) is 513.59sqm, resulting in a proposed FSR of 0.752:1. As the development provides for one car space more than is required, the area of the surplus car space is counted towards the GFA. The FSR is compliant.

Clause 4.6 Exceptions to development standards

The applicant submitted a request for variation to the site width standard [Clause 7.14(2)] in accordance with Clause 4.6 *Exceptions to Development Standards* which is considered in detail below. The applicant's Clause 4.6 Statement forms **Attachment 4**.

WLEP 2009 Clause 4.6 proposed development departure assessment			
Development departure	Clause 7.14 (2) Minimum site width		
	(2) Development consent must not be granted for development for the purposes of a residential flat building unless the site area on which the development is to be carried out has a dimension of at least 24 metres.		
	The width of the site is 12.478m.		
Is the planning control in question a development standard	Yes		
4.6 (3) Written request submitted	by applicant contains a justification:		
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Attachment 4) contends that in the specific circumstances of case, compliance with the minimum lot width standard		
	a. the site is a small under-utilised allotment in the R1 zone and is surrounded by higher and larger strata subdivided RFBs.		
	Amalgamation with neighbouring sites is impossible;		

- b. The development involves providing an additional dwelling within the existing approved dual occupancy building envelope which changes the characterisation of the development to a RFB thereby subjecting it to the minimum site width requirement in Clause 7.14. In practicality though, there are no changes beyond the building envelope and the additional unit will be contained within that approved building envelope with no additional impact on trees or changes to setbacks, building height or scale.
- c. The existing driveways to the north and south afford substantial separation distances between the development and the buildings to the north (12.6m) and south (11.7m) which are acceptable given the site is an isolated allotment.
- d. The proposal meets all controls including site coverage and is an appropriate scale with regard to the character of development in the locality.
- e. Reference is made to the DCP (cl.6.2 Site Width, Chapter B1) which states that Council may consider a variation to the minimum site width requirement provided, where the proposed development will not cause any significant adverse overshadowing, privacy or amenity impact upon any adjoining development. There are no additional overshadowing, privacy or amenity impacts arising from the proposal.
- f. The development is consistent with the R1 zone and desired character statement and will provide for the housing needs of the community.

The applicant's statement contends that strict compliance with the standard would hinder the attainment of the objects of the Act in that:-

- a. the proposal will maximise the use of the site to its full development potential, replacing an approved dual occupancy with a residential flat building (RFB) which will increase the number of units on the site from 2 to 3.
- b. The proposed RFB is a more efficient and orderly development on the land that is of high-quality architectural design which maximises the site's development potential along with providing additional housing stock for the community in the locality.

that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant's Clause 4.6 submission identifies the following environmental planning grounds as justification for the departure from the standard:-

- The site is an isolated lot and amalgamation is not possible due to both sides being driveways that service large RFBs.
- The proposal will not cause any significant adverse overshadowing, privacy or amenity impact upon any adjoining development.
- The proposal is a well-designed addition of one (1) unit contained entirely within an existing approved building envelope.
- The proposed RFB makes orderly use of a currently under-

utilised residential site.

- The proposed RFB utilises existing services and is ideally located in the city centre.
- The proposal provides additional housing choices for the community.
- The proposal satisfies the zone objectives.
- The proposal satisfies the objects as specified in Section 1.3(a) and (c) of the Act.
- It does not adversely affect any public views.
- The proposal provides for an improved outcome for the site in a way that does not compromise the general residential character of the area.
- All the trees onsite are able to be retained.

4.6 (4) (a) Consent authority is satisfied that:

the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and The applicant has adequately addressed the matters required to be demonstrated by subclause (3) as discussed in detail above.

the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and It is considered that strict compliance with the minimum lot width standard in the context of the proposal site would not result in any significant public benefit.

The applicant has demonstrated that the proposed development would be consistent with the objectives of the minimum lot width standard [Clause 7.14(2)]. It is noted that whilst there are no specific objectives for Clause 7.14(2) in the LEP, Clause 6.2 of Chapter B1 of WDCP 2009 sets controls for site width which replicate and support those of Clause 7.14(2). The objectives in that clause are:

- (a) To allow for development of sites, which are of sufficient width to accommodate the required building envelope, car parking and landscaping requirements.
- (b) To promote the efficient utilisation of land.
- (c) To encourage amalgamation of allotments to provide for improved design outcomes including greater solar access and amenity.

The applicant has argued that the construction of a RFB on the site can occur without detrimentally impacting the surrounding properties however the assessment indicates that there will be some impacts on neighbours arising from the open car parking area as well as compromised internal amenity for Unit 3 due to poor solar access. Subject to the car parking area being redesigned to enclose it on its southern side, this concern could be resolved. The built form of the development otherwise remains unchanged on that approved in the previous DA for the site and there are not expected to be any other impacts arising as a result of the inclusion of the third unit which could be overcome by

adherence to the site width requirement.

The plans demonstrate that a small residential flat building can be achieved on the site despite its narrow width. With the exception of the car park, the setbacks will be as per that approved under DA-2019/1397/A; these setbacks were deemed acceptable at that time and the visual bulk and impact of the building in terms of overshadowing impacts and other off site impacts will not change with this proposal, subject to the car park being enclosed on its southern side as recommended. The required car parking and overall site landscaping requirements are satisfied despite the site width departure.

(b) To promote the efficient utilisation of land.

The development increases the number of dwellings on the site, thus improving efficient utilisation of the land. The land is within proximity of the CBD, has reasonably good access to public transport and public amenities and is consistent with the objectives of the R1 zone and desired future character which seek to achieve higher density residential development in the city.

(c) To encourage amalgamation of allotments to provide for improved design outcomes including greater solar access and amenity.

The site is an isolated allotment. Due to the nature of adjacent development to the north and south comprising strata subdivided residential flat buildings, it is not expected that amalgamation of the subject site with neighbouring sites could ever be achieved.

The applicant has demonstrated that the proposed development will be consistent with the objectives of the R1 General Residential zone which are as follows:-

• To provide for the housing needs of the community

The proposed development is consistent with the objective as it will increase the available housing stock within the city centre.

To provide for a variety of housing types and densities.

The development will provide 3 units in a small residential flat building configuration thereby increasing the range of housing types in the locality.

•To enable other land uses that provide facilities or services to meet the day to day needs of residents

This objective is not relevant to the development as it seeks consent for a residential land use.

As discussed above, there are sufficient environmental planning grounds to justify contravening the development standard. The development is consistent with the objectives of the standard and objectives of the zone, and thus the proposed variation is considered to be in the public interest.

the concurrence of the

Yes, the WLPP can exercise assumed concurrence in this instance.

Secretary has been obtained.

Part 5 Miscellaneous provisions

Clause 5.9 - Preservation of Trees or Vegetation

There are a number of trees within the site and on neighbouring sites, all of which were proposed to be retained, some with canopy pruning. Council's Landscape Officer had previously approved the removal of 2 trees, which have been retained. The Landscape Officer has reviewed the proposal and has raised no concerns subject to the removal of the 2 trees which were previously approved for removal and which have been compromised by the building works undertaken.

Clause 5.10 - Heritage Conservation

The site is not heritage listed nor is it sited within a heritage conservation area. It is however situated near an item of heritage significance which is located at 23 Keira Street, Wollongong known as 'Esslemont' (Local Item 6250).

The proposed development will present as a single storey cottage when viewed from Keira Street and the listed heritage item. Recent developments in the immediate vicinity, being primarily the larger scale residential flat buildings to the north, would have had the greatest impact on the heritage listed cottage. The proposal is unlikely to have any significant adverse impacts on the existing heritage item. The application has been supported by a letter prepared by 'Heritage Solutions'.

Part 7 Local provisions - general

Clause 7.1 Public utility infrastructure

The site is already serviced by electricity, water and sewerage services which can be extended to service the residential flat building.

Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by class 5 acid sulphate soils however is within proximity of an area mapped as Class 3 ASS. The approved development involved excavation. Council's Environmental Officer imposed conditions in relation to the requirement for an acid sulphate soils management plan on DA-2019/1397.

Clause 7.6 Earthworks

The approved development involved earthworks to facilitate the construction. Earthworks are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land.

Clause 7.14 Minimum site width

Clause 7.14(2) states that, "Development consent must not be granted for development for the purposes of a residential flat building unless the site area on which the development is to be carried out has a dimension of at least 24 metres."

The site has a width of 12.478m and the applicant has submitted a request for an exception to the development standard under the provisions of Clause 4.6 of the LEP as discussed above.

Clause 7.18 - Design excellence in Wollongong city centre and at key sites

- (4) In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:
 - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

Comment: Council's Design Expert states that the standard of the proposed design in terms of materiality and detailing is of an appropriate, though not exceptional, level which is suited to this type of development. For the proposed design to achieve design excellence, there would be further articulation of the façade to achieve good internal outcomes for residents (such as solar access and privacy achieved without necessitating excessive screening) as well as additional architectural fenestration and detailing as appropriate to the design and character of the building.

It is noted however that the building form is remaining largely unchanged on that previously approved for the site.

(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,

Comment: Despite Council's Design Expert raising concerns in relation to the front elevation of the development (specifically in relation to the bulk of the cantilevered garage and built up driveway being unacceptable and highly visible to the streetscape due to the driveway), the front elevation of the building will remain as approved under DA-2019/1397. It is noted that the change to the lower level garage location in this proposal will prevent access to the landscaping area between the open basement and double garage, creating a "dead" space and potential CPTED issues. Changes to the car park are recommended, to be dealt with by consent conditions.

(c) whether the proposed development detrimentally impacts on view corridors,

Comment: the proposal will have no impacts on views from neighbouring properties.

(d) whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,

Comment: The site is not located near any areas identified on the Sun Plane Protection Map.

- (e) how the proposed development addresses the following matters:
 - (i) the suitability of the land for development,

Comment: there are no known site constraints and a right of carriageway has been registered over the driveway to the north to enable vehicular access to the site over this ROC. The site has access to an easement for drainage. Council's Design Expert considers that the narrow width has resulted in a number of defensive mechanisms (such as excessive screening which limits solar access). There is also concerns raised in relation to wayfinding and access issues which are discussed further below.

(ii) existing and proposed uses and use mix,

Comment: the proposed residential use of the site is appropriate given the R1 zoning of the site and surrounding properties.

(iii) heritage issues and streetscape constraints,

Comment: As discussed above, there is a nearby heritage item, the significance of which is unlikely to be affected by the proposed development.

(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

Comment: N/A; there is no tower proposed.

(v) bulk, massing and modulation of buildings,

Comment: The side setbacks to the building are non-compliant with applicable controls; this is discussed below in relation to Wollongong DCP 2009. Council's Design Expert has advised that, while the building is not overly bulky, there is little modulation provided along the entirety of the building sides. The elevations do however provide for some variation in materials which will add some visual

interest in lieu of modulation. Again it is noted that the building form will remain largely unchanged on that previously approved.

(vi) street frontage heights,

Comment: N/A.

(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,

Comment: Council's Design Expert has raised concerns in relation to the poor solar access to living areas, POS and COS which will be limited by excessive screening, and the dense planting already existing on site and neighbouring sites to the north. It appears that Unit 3 is likely to receive reduced solar access due to the trees on the northern boundary. Solar access to Units 1 and 2 will remain as per previously approved. The ADG (not technically applicable but a good guide for assessment) and DCP would require that 70% of units in a RFB receive compliant solar access; the development will receive marginally less (66.7% or 2 out of 3 of the units) which is considered generally acceptable.

The overshadowing impacts of the proposed development on neighbouring properties will remain unchanged on that of the approved dual occupancy development as the overall height of the building will remain the same as that approved and the setbacks are also largely unchanged. Similarly no additional wind effects are expected.

(viii) the achievement of the principles of ecologically sustainable development,

Comment: BASIX certificates have been provided for the dwellings outlining commitments required to achieve the BASIX SEPP targets for energy and water efficiency and thermal comfort. Council's Design Expert has noted that the privacy screens and existing trees will compromise solar access to living areas, POS and COS.

(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,

Comment: there is sufficient car parking, with compliant vehicular manoeuvring, within the site to support the number of units proposed. There is insufficient bicycle storage which Council's Traffic Engineer advises can be resolved with conditions.

Access, wayfinding, and circulation are all of a poor quality on site, with no provision for accessible pathways for residents or visitors, and no means of moving bulky or wheeled items into the dwellings. It is highly likely that the access requirements will limit the occupants of these dwellings to able-bodied families without children.

(x) impact on, and any proposed improvements to, the public domain.

Comment: whilst concerns have been raised by Council's Design Expert that the cantilevered garage and driveway are likely to create negative outcomes for neighbouring properties and will be highly visible from the public domain, the proposal's impacts on the public domain are largely unchanged on that of the approved dual occupancy development.

Subject to changes the proposal is capable of satisfying Clause 7.18.

2.4 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

None applicable.

2.5 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.5.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

An assessment of the proposal against planning controls in WDCP 2009 is contained in **Attachment** 5. Variations are discussed below:

CHAPTER A1 – INTRODUCTION

8 Variations to development controls in the DCP

The proposal departs from the following provisions of the DCP:-

- 1. Clause 6.2 Minimum Site Width Requirement;
- 2. Clause 6.4 Side Setbacks;
- 3. Clause 6.11 Landscaping Requirements the site configuration does not enable site landscaping along the length of the site boundaries in accordance with the requirements of Clause 6.11;
- 4. Clause 6.15 Adaptable and Universally Designed Housing 10% of all dwellings (or at least one dwelling) must be designed to be capable of adaptation for disabled or elderly residents. Dwellings must be designed in accordance with AS 4299-1995, the adaptable housing standard. The development does not provide for an identified adaptable unit;
- 5. Clause 6.16 Access for People with a Disability the provision of a continuous path of travel is required to the development to ensure equitable access for all people including people with a disability.

The applicant has provided justification for the variations sought in relation to Clauses 6.2, 6.4, 6.15 and 6.16.

1. Clause 6.2 - Minimum Site Width Requirement

[Note this variation has been dealt with in relation to Clause 7.14 of WLEP 2009 – variation statement at Attachment 4, discussed above in relation to Clause 4.6 of WLEP 2009].

(a) The control being varied;

Clause 6.2 minimum site width requirement of 24m for residential flat buildings.

- (b) The extent of the proposed variation and the unique circumstances as to why the variation is requested;
- (c) Demonstrate how the objectives are met with the proposed variations;
- (d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.

The site has a width of 12.478m; variation is 48%.

The applicant states:-

"The site is a small, isolated allotment which remains underutilised in the R1 General Residential Zone and is surrounded by higher and better uses which are large strata titled residential flat buildings (RFB) developments. The amalgamation of this subject site is impossible as both sides are adjoined by driveways servicing these RFBs.

The proposal will maximise the use of the site, by providing an additional dwelling within the existing approved building envelope for an attached dual occupancy. This proposal which will result in the increase of one (1) dwelling, changes the use classification to a 'residential flat building' under the WLEP and therefore triggers clause 7.14 min site width for RFB.

In practicality though, there are no changes beyond the building envelope and the additional unit will be contained within the approved building envelopment. All trees are retained along with setbacks, building height and building scale.

Accordingly, the impacts to vegetation, streetscape, solar access, building setbacks and separation are all negligible.

While these matters were addressed previously as part of the approved attached dual occupancy and there is no change to the building envelope, it is reiterated herein that the existing driveways

located on the adjoining properties on both sides of the site, provide an appropriate separation to maintain a reasonable level of privacy and amenity.

Specifically, there is a separation distance to the 4 storey RFB to the north is 12.6 m and to the 2 and 3 storey units to the south is 11.7m. Given that this is an isolated lot these separation distances are considered acceptable.

This modest development has been appropriately designed with regard to the site constraints by increasing the density within the site by only one unit. It has also been designed thoughtfully to ensure that impacts created will not be above or beyond the existing approved building envelope.

It has been demonstrated that the development has no negative consequences to overshadowing, privacy or amenity impact upon any adjoining development, resulting from this noncompliance to min lot width.

Finally, this development is entirely in keeping with the R1 general residential character and environment, desired by Council in this area, and the proposal meets all of the objectives of the zone. In particular, by varying the Min Lot Width control, the development is able to provide an additional dwelling, which is important addition to housing variety in the area, thereby the development will provide for the housing needs of the community.

It is noted that the provision of 3 dwellings on this site was previously supported by council. In 2016 a pre-lodgement meeting was held with council for the now approved attached dual occupancy proposal (PL-2016/81). The minutes stated that a dual occupancy plus the existing dwelling on the site would be supported if it did not conflict with trees on site. The current revised proposal is for 3 dwellings within the form of a RFB, which will not impact any trees and all will be retained as per Arborist report."

Planner's Comment

The following comments are provided in relation to the variation request:-

The site is an existing isolated allotment with a width significantly less than the minimum required. It is noted that Clause 6.2 outlines the cases in which an exception can be considered. These include in the case of social housing developments and where the proposed development will not cause any significant adverse overshadowing, privacy or amenity impact upon any adjoining development. In this case, the building envelope is remaining largely unchanged on that approved under DA-2019/1397/A and as such the impacts on neighbouring sites in terms of overshadowing and visual bulk remain largely unchanged. The additional impacts arising from the inclusion of the third unit relate to the new balcony facing the side/ northern boundary and the changes to the car parking area to accommodate the additional required car parking. As noted elsewhere in this report, the new balcony is unlikely to give rise to additional visual or acoustic privacy impacts on the northern neighbouring building due to the separation distances available and the operable screen proposed. The proposed open car parking area with no setback to the southern boundary of the site will give rise to impacts on neighbours via direct overlooking, acoustic impacts associated with movement of vehicles, people (including visitors) and bins etc, as well as headlight glare impacts. These issues could be resolved if the car park were enclosed along that boundary.

In terms of internal amenity for the dwellings, the amenity of Units 1 and 2 will remain largely unchanged. The new Unit 3 has a north facing balcony that will look over the neighbouring driveway area towards the unit development to the north; this POS area may suffer reduced acoustic and visual privacy as a result. The plans provide for an adjustable privacy screen. Given the likely overlooking this space will suffer, the screen is likely to remain closed which will limit solar access to the POS further. The POS and Unit 3 will suffer reduced solar access due to the tree situated adjacent to the northern boundary. A condition is recommended which will prevent the screen from being fixed in a closed position – this will assist in maintaining solar access to the space.

If Units 1 and 2 continue to receive what was deemed sufficient solar access at the time of determination of DA-2019/1397, 2/3 (66.7%) of the 3 units and their POS areas will receive sufficient solar access which is marginally below that required by the DCP.

The variation is supported subject to changes to the lower level car parking area to enclose the southern side of the car park with a solid wall to minimise noise transmission and headlight glare impacts on the neighbouring property. A consent condition is recommended in this regard.

2. Clause 6.4 – Side Setbacks

The side boundary setbacks proposed do not comply. The applicant has provided a variation statement which addresses Clause 4.3 of Chapter B1 which relates to dwellings and dual occupancies. It is noted that the DCP makes a distinction between the various forms of residential development and requires, in Section 6, greater boundary setbacks to account for the different impacts associated with residential flat development and to align generally with the setbacks required by the ADG.

(a) The control being varied;

Clause 6.4 side and rear setbacks/building separation.

Buildings up to 4 storeys (12 metres), required setbacks:-

- 6m to habitable rooms and balconies
- 3.5 metres to non-habitable rooms and blank walls.

The rear setback is compliant.

The side setbacks to both the southern and northern boundaries do not comply.

- (b) The extent of the proposed variation and the unique circumstances as to why the variation is requested;
- (c) Demonstrate how the objectives are met with the proposed variations;
- (d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.

Setbacks along the full length of the building on both sides are non-compliant. The side setback to the north to habitable rooms ranges from 1.295m to 2.105m. The side setback to the south is 1.9m to habitable rooms, with a 400mm setback to the attached garage of Unit 1. Nil setback to southern boundary from the open car park on the lower level.

The applicant has provided the following justification:

"The side and rear setbacks controls can be varied where the following can be demonstrated to Council:

- (a) The objectives of 4,4,1 are met;
- (b) The walls and footings are located wholly on the subject land;
- (c) There are no windows facing the adjoining property that enable overlooking;
- (d) Walls provide articulation so as to not impact the amenity of adjoining dwellings;
- (e) Landscaping is appropriately provided to screen development.

The objectives of clause 4,4,1 relate to site coverage and are outlined below:

- (a) To limit the building footprint and ensure adequate provision is made for landscaped areas, deep soil zones, permeability and private open space;
- (b) To control site density;

(c) To minimise adverse impacts arising from large dwellings and ancillary structures on the amenity of adjoining and adjacent properties.

The proposed development complies with the maximum site coverage requirement and satisfies the above mentioned objectives of clause 4,4,1. The site is a small, isolated allotment which remains undeveloped in the R1 General Residential Zone.

The building is surrounded by higher and better uses which are permitted in the zone, and is constrained by several mature trees located in the rear yard area and along the side and rear boundaries of the site which effectively limit the building footprint.

The walls along the northern elevation provide articulation so as not to impact the amenity of the adjoining dwellings. A photo of the southern side elevation of the adjoining development to the north is shown in Figures 3 & 4 in a section 3.6 of this report. These images show there is a ROC of existing mature trees that will be retained along the side boundary to assist with privacy.

In order to retain the existing trees on site, it has been necessary to condense the built form and maximise the available building envelope by pushing the development out towards the side boundaries.

The existing driveways located on the adjoining properties on both sides of the site, provide additional separation to maintain a reasonable level of privacy and amenity.

The separation distance to the 4 storey RFB to the north is 12.6 m and to the 2 and 3 storey units to the south is 11.7m, which is considered acceptable taking into account this is an isolated lot. These separation distances reflect the requirements for RFB's under the ADG.

There is little opportunity for new landscaping along the side boundaries given the width of the site. As the site is an isolated parcel, and taking into account that the design allows for all of the existing trees to be retained. We are seeking concessions to the proposed side boundary setbacks on the basis that the development satisfies the objectives of Clause 4.3 (a - e inclusive).

Namely, it provides adequate setbacks in combination with the proposed design treatment measures to retain privacy and minimise overlooking/overshadowing. The building is appropriately sited having regard to the site constraints. There is no unreasonable overshadowing of adjacent properties. The development will result in improved visual amenity outcomes to the streetscape."

Planner's comment:

There are some unique circumstances which may warrant a variation on the setback controls. Firstly, as noted elsewhere, the site is an existing narrow isolated allotment which will not be amalgamated with adjoining properties in the future. The narrow site width constrains the ability to achieve the required side setbacks, however this in itself does not warrant the variation.

Secondly, the building form was approved under DA-2019/1397 and the changes proposed in this application are not significant. At the time of consideration of the dual occupancy via DA-2019/1397, the side setback variations sought at that time were deemed acceptable. Thirdly, additional separation between the proposal and neighbouring buildings is afforded by the location of the driveways within the adjacent properties, either side of the subject site. Despite lack of compliance with the setback controls, there are reasonable separation distances available to the neighbouring buildings. Fourthly, there are a number of significant trees on the site which should and have been retained by consolidating the building form and pushing it somewhat towards the boundaries. The rear setback is generous, accommodating existing trees and additional planting within a DSZ.

The privacy of the units will not be affected by overlooking from neighbouring units but they may suffer reduced acoustic and visual privacy due to the neighbouring driveways and car parking areas. Most habitable rooms and balconies have external privacy screens applied to prevent overlooking and an operable screen has been applied to the balcony of Unit 3 to prevent overlooking to and

from the north. Existing taller trees and some proposed additional landscaping will also assist in reducing the potential for overlooking for parts of the length of the building.

The open car park on the lower level abuts the southern boundary precluding the opportunity for landscaping along the boundary which may assist in reducing visual privacy and headlight glare impacts on neighbours. The reduced setback to this element of the building is not supported in its current form – the open nature of the car park creates security/ CPTED issues and limits access to landscaped areas for maintenance. Council's Traffic Engineer has advised that an alternative car parking layout cannot be achieved which would eliminate the extension of the garage towards the southern boundary as the columns have already been constructed. Enclosure of the garage would reduce acoustic and visual privacy impacts and headlight glare; if approved, a condition of consent should be imposed in this regard.

Overshadowing impacts of the development will remain unchanged on that approved. The wide driveway to the immediate south of the site provides separation between the proposed and neighbouring building (ie shadows mainly fall on the driveway).

The form and scale of the building is not unreasonably large when considered in the context of the R1 zone which permits a greater building height and floor space ratio.

The variations are supported except in the case of the garage, which should be enclosed to reduce impacts to the southern boundary and to secure the space. As noted elsewhere, a consent condition is recommended in this regard.

3. Clause 6.15 - Adaptable and Universally Designed Housing

(a) The control being varied;

The control requires that 10% of all dwellings (or at least one dwelling) must be designed to be capable of adaptation for disabled or elderly residents (ie designed to achieve compliance with AS 4299-1995).

- (b) The extent of the proposed variation and the unique circumstances as to why the variation is requested;
- (c) Demonstrate how the objectives are met with the proposed variations;
- (d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.

The plans do not identify an adaptable unit and the development does not provide an accessible path of travel either from the car park or the street frontage.

The applicant states that the dwellings are capable of adaption for disabled or elderly residents however appropriate access is an issue. This is due to the site constraints. A variation is requested on this basis and that the RFB only contains 3 dwellings.

Planner's comment

Due to the site topography and proposed building configuration, it is not possible to provide compliant access to the unit entries for a person with limited mobility.

It is noted that the controls relating to dual occupancies do not require the provision of an adaptable unit and the controls relating to multi dwelling housing only require the provision of an adaptable unit where there are more than 6 dwellings proposed.

A variation on the basis of the site topography and small number of units proposed is considered warranted in this instance.

4. Clause 6.16 - Access for People with a Disability

(a) The control being varied;

The control requires the provision of a continuous path of travel to the development to ensure equitable access for all people including people with a disability. The proposed development does not provide for a compliant accessible path of travel to the unit entries.

- (b) The extent of the proposed variation and the unique circumstances as to why the variation is requested;
- (c) Demonstrate how the objectives are met with the proposed variations;
- (d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.

The applicant states that the dwellings are capable of adaption for disabled or elderly residents however appropriate access is an issue. This is due to the site constraints. A variation is requested on this basis and that the RFB only comprises 3 dwellings.

Planner's comment

Due to the site topography and proposed building configuration, it is not possible to provide compliant access to the unit entries for a person with limited mobility/ disabilities.

It is noted that the controls relating to dual occupancies and multi dwelling housing do not require the provision of disabled persons' access. Given the small number of units proposed and the site topography, a variation is considered warranted in this instance.

2.5.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2020

Due to the estimated cost of works being below the applicable threshold, a levy is not applicable to the development.

2.6 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

2.7 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

<u>92</u> What additional matters must a consent authority take into consideration in determining a development application?

Whilst the demolition of the previous dwelling has occurred, there may be some demolition works associated with the proposed works and for this reason the provisions of AS2601-1991 may be applicable. Conditions are recommended in this regard.

93 Fire safety and other considerations

N/A

94 Consent authority may require buildings to be upgraded

N/A.

2.8 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

The key impacts have been discussed largely in the body of this report. Further impacts are discussed below:-

Access, Transport and Traffic:

The proposed arrangements for vehicular access, manoeuvring and car parking within the site comply with relevant standards. The site benefits from legal access over the neighbouring right of way.

Public Domain:

The proposal will not have an adverse impact on the public domain.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply. Existing utilities will require some minor augmentation to support the proposal; conditions were imposed on DA-2019/1397/A in this regard.

Heritage:

No heritage items will be impacted by the proposal. There is a nearby heritage item however the development will have no impact on this item.

Other land resources:

The proposal is considered to contribute to orderly development of the site and is not envisaged to impact upon any valuable land resources.

Water:

The site is presently serviced by Sydney Water. Reticulated sewerage and water supply can be readily extended to meet the requirements of the proposed development. The proposal is not expected to require unreasonable water consumption. Water quality will not be compromised during construction if effective sedimentation controls are implemented; conditions are recommended for imposition in this regard.

Soils:

The development is not expected to have an adverse impacts on soil resources subject to erosion & sedimentation controls being implemented during construction.

Air and Microclimate:

The proposal is not expected to have any negative impact on air or microclimate.

Flora and Fauna:

There are not expected to be any impacts on fauna arising from the proposed development.

There is no vegetation removal proposed; the arborist report supplied with the earlier application for the site indicates that all trees can be retained though pruning of the canopy of some trees to facilitate the construction of the development has been required. Council's Landscape Officer has requested the removal of Trees 7 and 8; conditions have been recommended to this effect. A landscape plan has been submitted with the application.

Waste:

A condition will be attached to any consent granted that an appropriate receptacle be in place for any waste generated during the construction.

Bins will be stored within the lower level car park and will be moved to the street frontage for collection.

Energy:

The proposal is not expected to involve unreasonable energy consumption.

Noise and vibration:

Noise and vibration during construction are inevitable however conditions will be attached to any consent granted that nuisance be minimised during the course of all construction and demolition phases.

Natural hazards:

There are no natural hazards affecting the site that would prevent the proposal.

Technological hazards:

There are no technological hazards affecting the site that would prevent the proposal.

Safety, Security and Crime Prevention:

Concerns are raised in relation to the open lower level car park and changes to the form of this car park are recommended as discussed above. Otherwise it is not expected that any other aspect of the proposal will result in increased opportunities for criminal or antisocial behaviour.

Social Impact:

The proposal is not expected to create any negative social impacts in the locality.

Economic Impact:

The proposal is not expected to create any negative economic impact.

Site Design and Internal Design:

A condition will be attached to any consent granted that all works are to be in compliance with the Building Code of Australia. Car parking, access and vehicular manoeuvring complies with applicable controls.

The application results in departures from development standards and DCP variations which are discussed above.

Construction:

Conditions of consent are recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, tree protection, excavation, demolition and use of any crane, hoist, plant or scaffolding.

Cumulative Impacts:

The proposal is not expected to give rise to any negative cumulative impacts. Whilst there is a significant departure sought in relation to the minimum site width requirement, there are unique circumstances individual to this site which are considered to warrant the departure in this instance. If similar applications are lodged, each of those would need to be considered on their individual merits.

2.9 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Does the proposal fit in the locality?

The proposal is permitted with consent in the R1 zone and complies with the controls pertaining to building height and FSR. Numerous variations are sought which arise in part due to the unique site circumstances pertaining to its narrow width, isolation between strata subdivided unit developments, and the presence of numerous significant trees on the site and within neighbouring sites. The form of the development is not considered to be inappropriate with regard to the character of development in the locality and is not expected to give rise to unreasonably adverse impacts on the amenity of the locality or adjoining developments subject to recommended changes to the lower level car park.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

2.10 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

Refer to discussion above at Section 1.5 of this report.

2.11 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The application is not expected to result in significant unreasonable impacts on the environment or the amenity of the locality subject to recommended changes to the lower level car park. The proposal is considered to be generally appropriate with regard to the zoning and the character of the area and on this basis is considered to be in the public interest.

3 CONCLUSION

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979. The proposal has been assessed with regard to the provisions of the relevant Environmental Planning Instruments and development control plan.

The proposed development is permissible with consent and is consistent with the zone objectives. There is a development departure sought in relation to site width (cl 7.14 WLEP 2009) and a number of variations in respect of DCP controls which have been justified by the applicant and are generally supportable in this instance having regard to the somewhat unique circumstances of the site, being a narrow, isolated allotment in a R1 zone. However, the variation sought in relation to the setback to the lower level car park is not supported and concerns are raised warranting changes to this car park. As noted above, it is recommended that a condition be imposed requiring the car park to be enclosed along its southern side to minimise noise transmission and headlight glare impacts and to secure the space.

Internal referrals were satisfactory and concerns raised in submissions have been considered and where appropriate, conditions of consent are recommended to resolve/ mitigate concerns. The social, environmental and economic impacts of the development have been assessed and no additional concerns are raised.

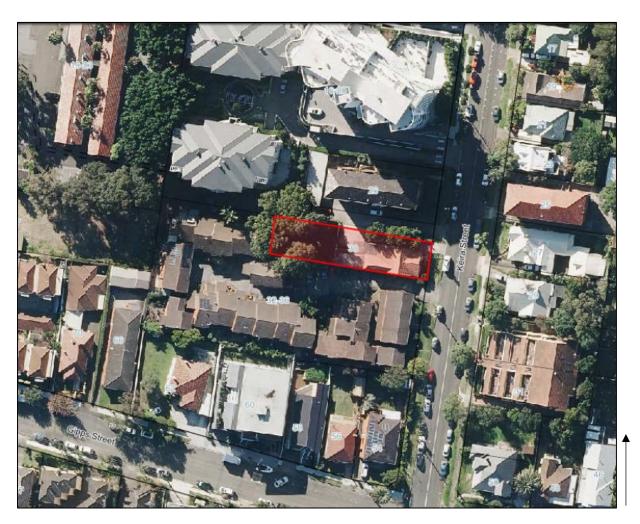
There being no outstanding issues, it is recommended that the application now be determined.

4 RECOMMENDATION

It is recommended that the Wollongong Local Planning Panel approve DA-2021/459 pursuant to Section 4.16(1) of the Environmental Planning & Assessment Act 1979 subject to the conditions at **Attachment 6**.

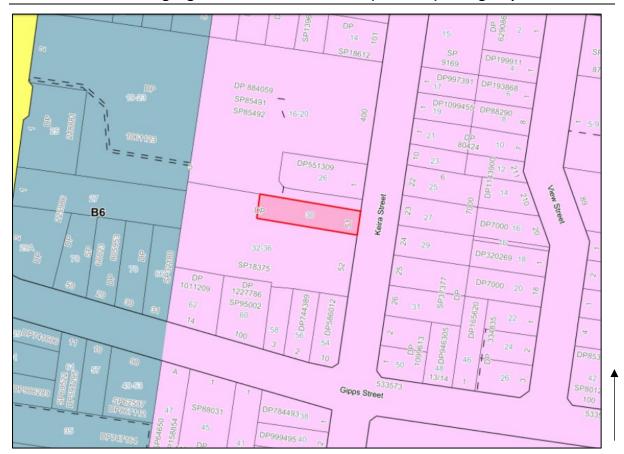
5 ATTACHMENTS

- 1 Aerial Photograph of the site & surrounds
- 2 Wollongong LEP 2009 zoning map extract
- 3 Plans
- 4 Applicant's Submission Development Departure Clause 7.14 Wollongong LEP 2009
- 5 Wollongong DCP 2009 Assessment
- 6 Recommended conditions

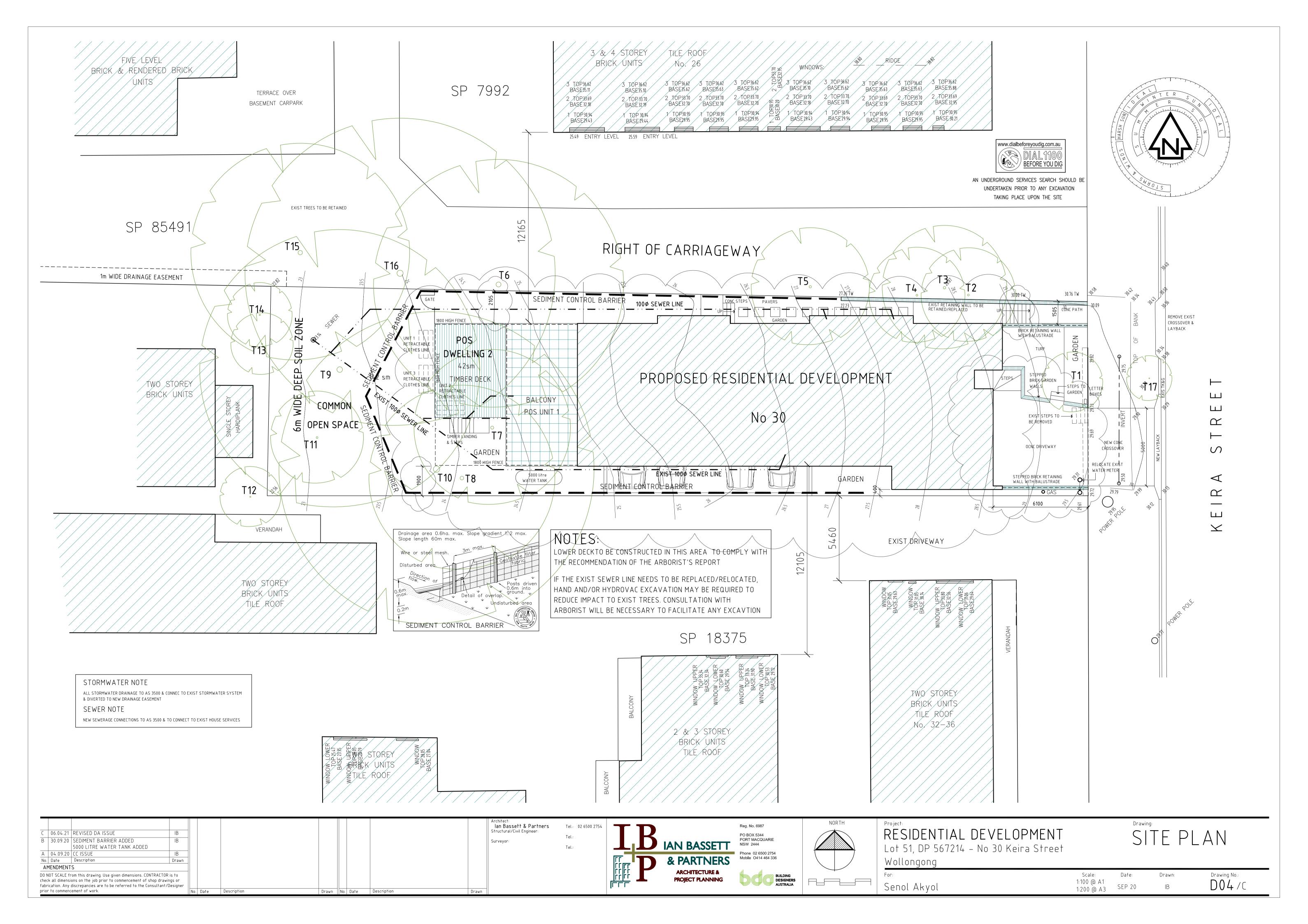


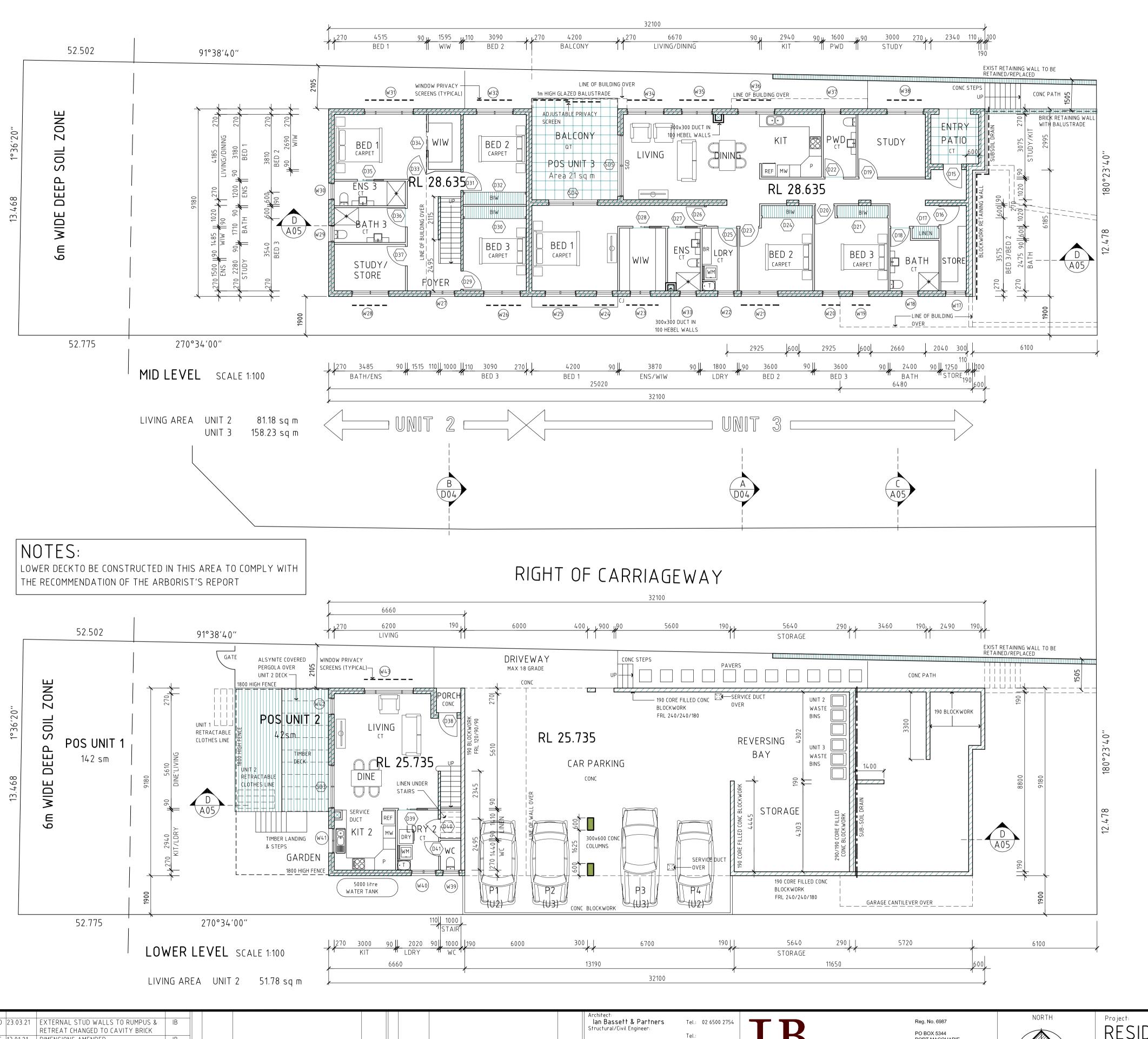
Subject site outlined and hatched in red

Attachment 2 - Wollongong Local Environmental Plan (LEP 2009) zoning map extract



Subject site outlined and hatched in red





	OR SC IT 3	HEDU	LE		
No	WIDTH	HEIGHT	ROOM	TYPE	HARDWARE
D1	1200	2400	Entry	Solid Core	Escape Dead Latch
D2	820	2040	Garage	Panelled Hollow Core	Passage Set
D3	820	2040	Bed 2	Panelled Hollow Core	Passage Set
D4	3/820	2040	Bed 2	Panelled Humes Sliding 'Smart Robe'	Finger Pull
D5	820	2040	Ens	Panelled Hollow Core	Passage Set/Privacy Latch
D6	820	2040	Study	Panelled Hollow Core	Passage Set
D7	820	2040	Bed 3	Panelled Hollow Core	Passage Set
D8	3/820	2040	Bed 3	Panelled Humes Sliding 'Smart Robe'	Finger Pull
D9	820	2040	Bath	Panelled Hollow Core	Passage Set/Privacy Latch
D10	820	2040	Ldry	Panelled Hollow Core	Passage Set
D10	2/820	2040	Linen	Panelled Humes Sliding 'Smart Robe'	Finger Pull
D12	600	2040	Pantry	Bifold – To match Kitchen cupb'ds	'D' Pull Magnetic Latch
			Bed 1	Panelled Hollow Core	
D13	820 820	2040	Ens		Passage Set
D14			EIIS	Panelled Hollow Core Cavity Slider	Finger Pull/Privacy Latch
	NG GLASS		D: :	Cliding Class Door	Kayadlatch
SD1	2400	2040	Dining	Sliding Glass Door	Keyed Latch
SD2 UN	2560 IT 2	2040	Living	Sliding Glass Door	Keyed Latch
D29	820	2040	Bed 3	Panelled Hollow Core	Passage Set
D30	3/920	2040	Bed 3	Panelled Humes Sliding 'Smart Robe'	Finger Pull
D30 D31	820	2040	Bed 2	Panelled Hollow Core	Passage Set
	3/920	2040	Bed 2	Panelled Humes Sliding 'Smart Robe'	Finger Pull
D32				Panelled Hollow Core	
D33	820	2040	Bed 1		Passage Set
D34	820	2040	WIW	Panelled Hollow Core Cavity Slider	Finger Pull
D35	820	2040	Ens 3	Panelled Hollow Core Cavity Slider	Finger Pull/Privacy Latch
D36	820	2040	Bath	Panelled Hollow Core	Passage Set/Privacy Latch
D37	820	2040	Study	Panelled Hollow Core	Passage Set
D38	1000	2040	Entry	Semi Glazed Solid Core	Escape Dead Latch
D39	820	2040	Ldry	Panelled Hollow Core Cavity Slider	Finger Pull
D40	820	2040	Linen	Panelled Hollow Core/Raked Head	Cupboard Set
D41	820	2040	WC	Panelled Hollow Core	Passage Set/Privacy Latch
SLIDI	NG GLASS	DOORS			
SD3	2100	2040	Dining	Sliding Glass Door	Keyed Latch
UN	IT 3				
D15	1000	2040	Entry	Semi Glazed Solid Core	Escape Dead Latch
D16	820	2040	Store	Panelled Hollow Core	Passage Set
D17	2/520	2040	Linen	Panelled Hollow Core	Cupboard Set
D18	820	2040	Bath	Panelled Hollow Core	Passage Set/Privacy Latch
D19	820	2040	Study	Panelled Hollow Core	Passage Set
D19 D20	820	2040	Bed 3	Panelled Hollow Core	Passage Set
D20 D21	3/920	2040	Bed 3	Panelled Humes Sliding 'Smart Robe'	Finger Pull
D21 D22	820	2040	Pwd	Panelled Hollow Core	
	820		Bed 2	Panelled Hollow Core	Passage Set/Privacy Latch Passage Set
D23		2040	Bed 2		
D24	3/920	2040		Panelled Humes Sliding 'Smart Robe'	Finger Pull Passage Set
D25	820	2040	Ldry	Panelled Hollow Core	_
D26	820	2040	Bed 1	Panelled Hollow Core	Passage Set
D27	820	2040	Ensuite	Panelled Hollow Core Cavity Slider	Finger Pull/Privacy Latch
D28	820 NG GLASS	2040	WIW	Panelled Hollow Core Cavity Slider	Finger Pull
	NG GLASS			Cliding Class Des-	Kovodlatch
SD4	1800	2040	Bed 1	Sliding Glass Door	Keyed Latch
SD5	3000			be sealed with draught protection device	

D	23.03.21	EXTERNAL STUD WALLS TO RUMPUS & RETREAT CHANGED TO CAVITY BRICK	IB		
C	13.01.21	DIMENSIONS AMENDED	IB		
В	19.11.20	WALL FRL's NOTED	IB		
Α	A 04.09.20 CC ISSUE		IB		
No. Date Description					
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prior to commencement of work.

E 06.04.21 REVISED DA ISSUE
No. Date Description

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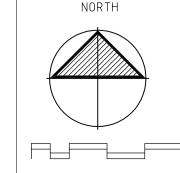
lan Bassett & Partners
Structural/Civil Engineer:
Surveyor:

Tel.: 02 6500 2754

Tel.:

Tel.:

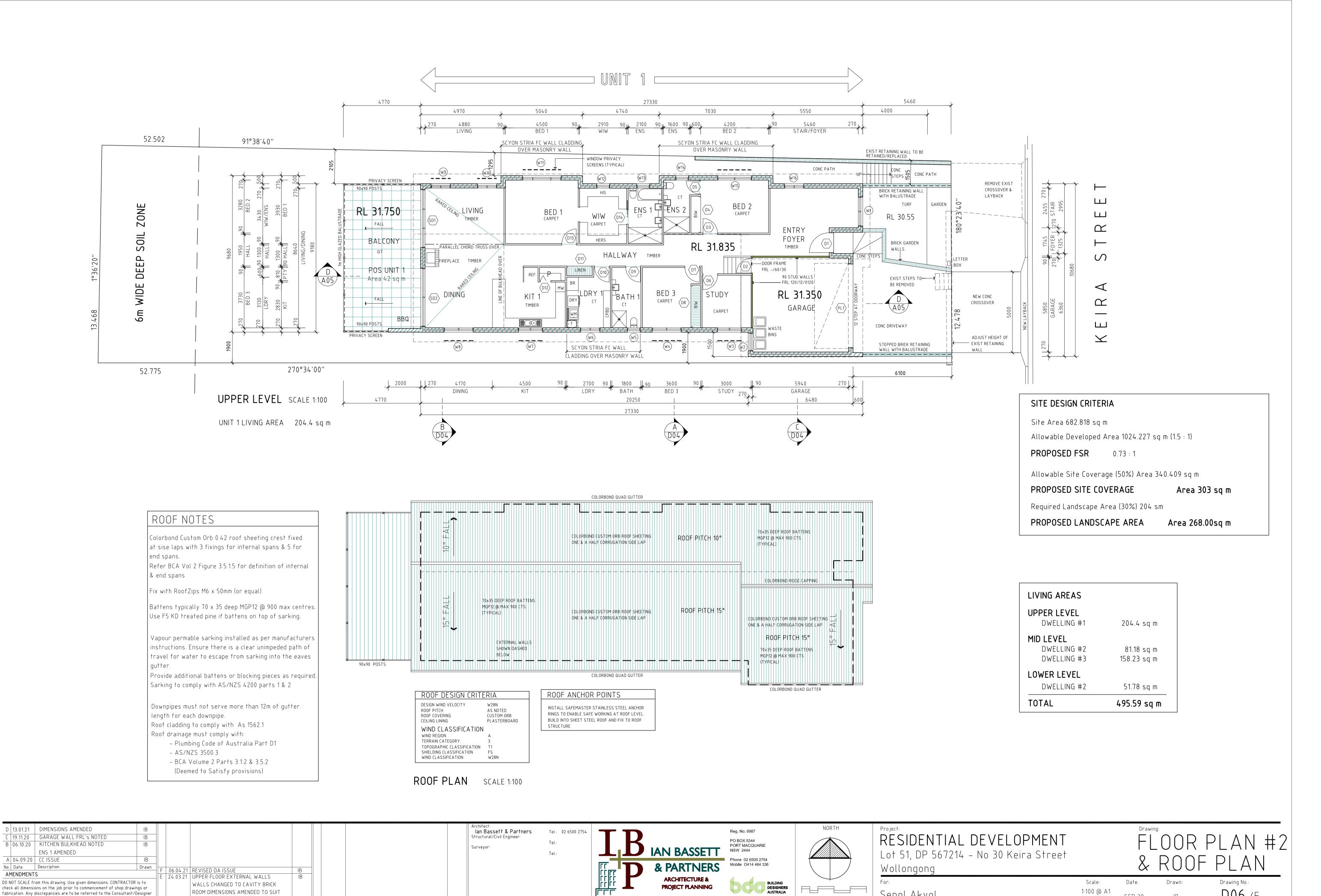




RESIDENTIAL DEVELOPMENT Lot 51, DP 567214 – No 30 Keira Street Wollongong FLOOR PLANS #1

For: Scale: Date: Drawn: Drawing No.:

Senol Akyol 1:100 @ A1
1:200 @ A3 SEP 20 IB D05 / E



ROOM DIMENSIONS AMENDED TO SUIT

Drawn No. Date Description

No. Date Description

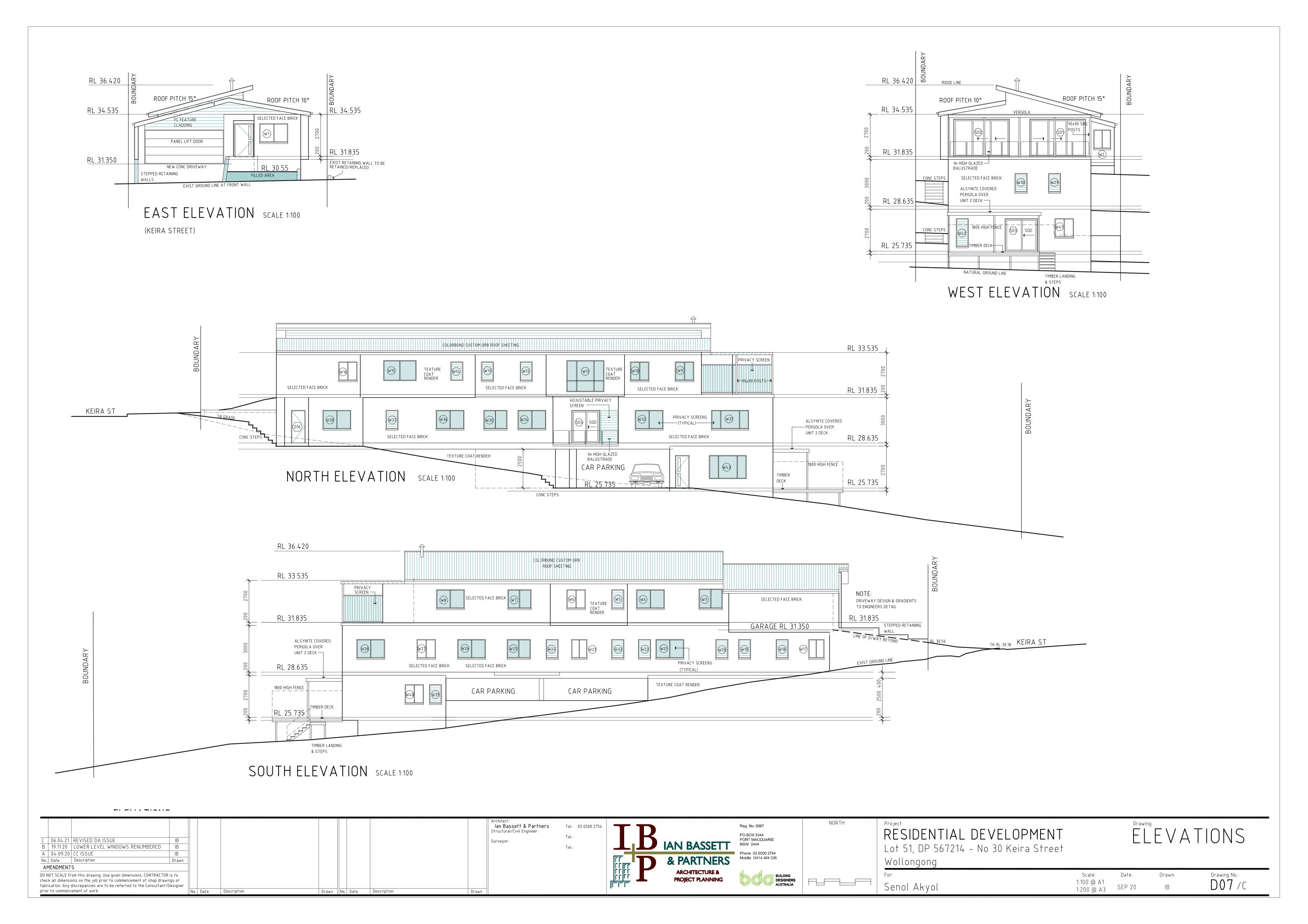
fabrication. Any discrepancies are to be referred to the Consultant/Designer

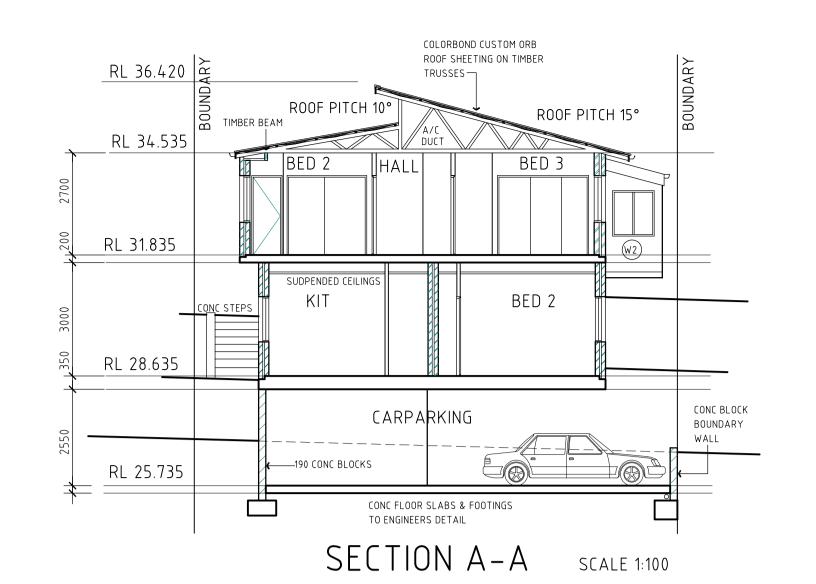
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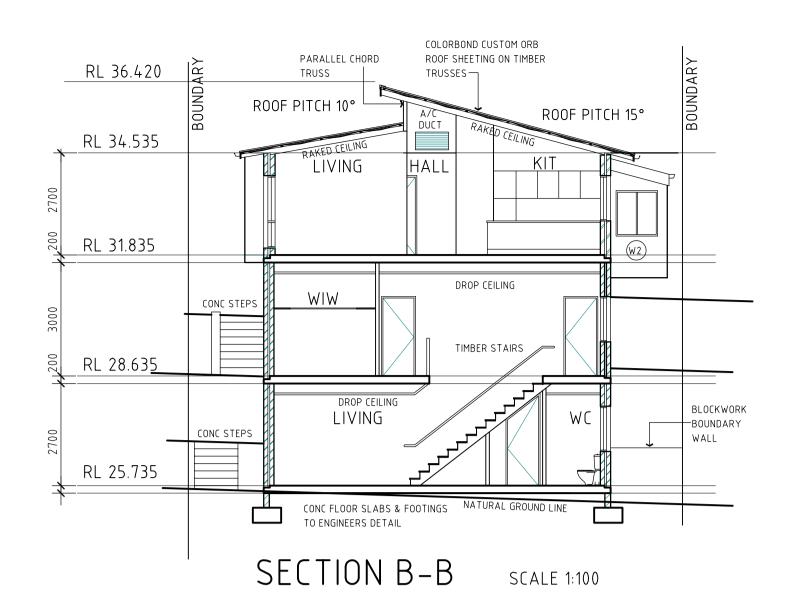
D06/F

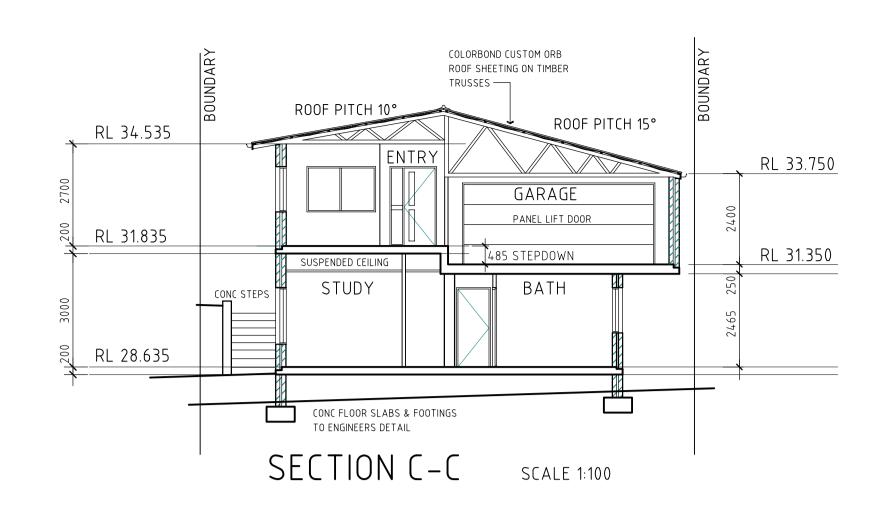
1:200 @ A3 SEP 20

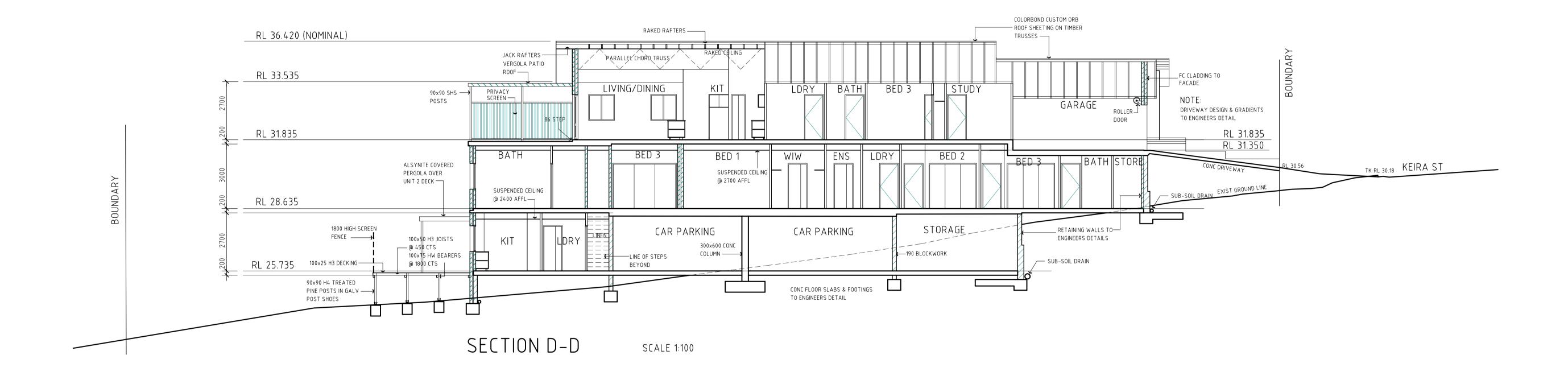
Senol Akyol



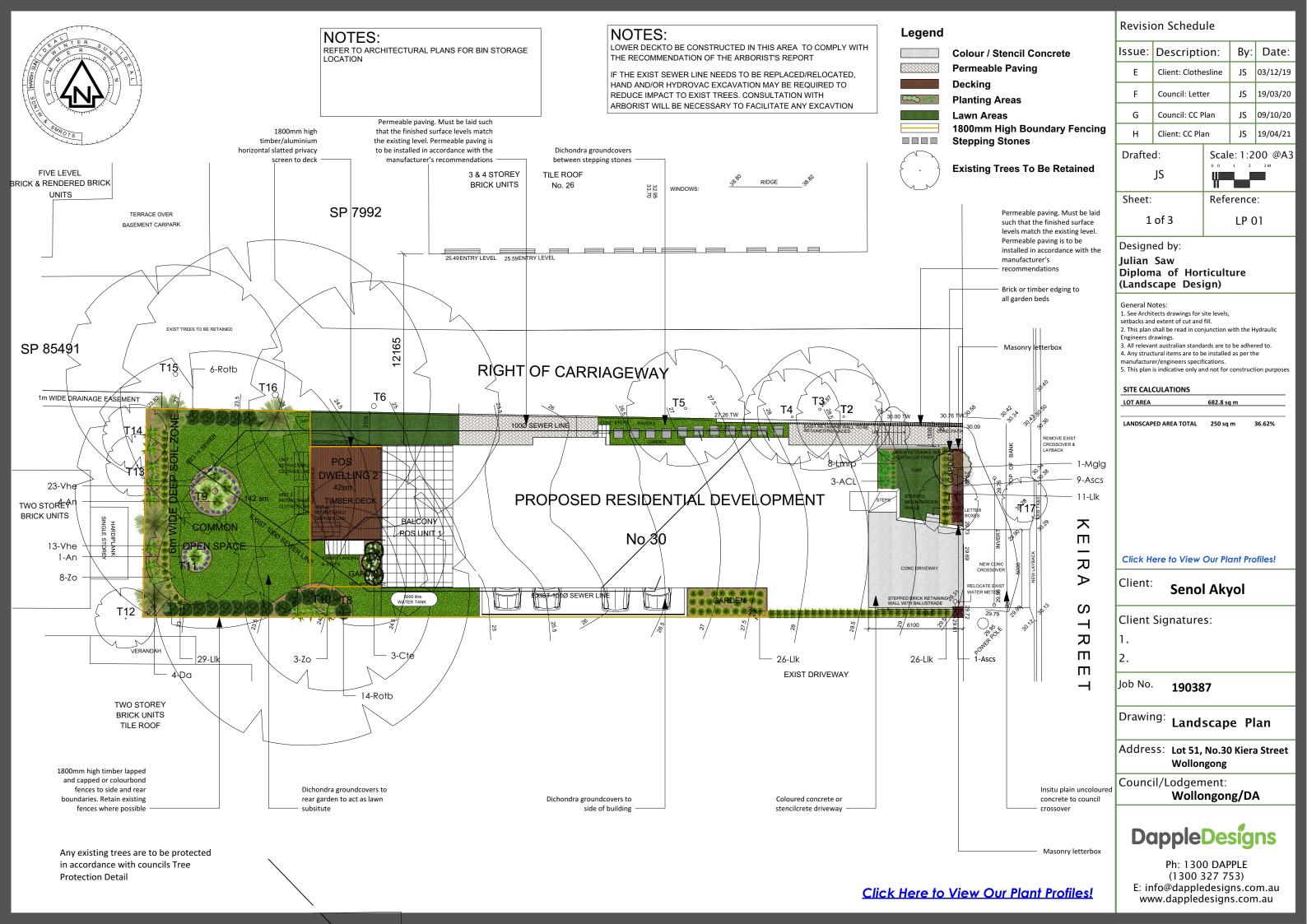








C 06.04.21 REVISED DA ISSUE B 24.03.21 UPPER FLOOR EXTERNAL WALLS IB CHANGED TO CAVITY BRICK A 04.09.20 CC ISSUE No. Date Description Drawn			Architect: lan Bassett & Partners Te Structural/Civil Engineer: Te Surveyor: Te	Tel: 02 6500 2754 Tel: Tel: Tel: A PARTNERS	Phone 02 6500 2754	RESIDENTIAL DEVELOPMENT Lot 51, DP 567214 – No 30 Keira Street Wollongong	SECTIONS
AMENDMENTS DO NOT SCALE from this drawing. Use given dimensions. CONTRACTOR is to check all dimensions on the job prior to commencement of shop drawings or fabrication. Any discrepancies are to be referred to the Consultant/Designer prior to commencement of work. No. D	Date Description Dr	awn No. Date Description	Drawn	& PARTNERS ARCHITECTURE & PROJECT PLANNING	BUILDING DESIGNERS AUSTRALIA	Senol Akyol	Scale: Date: Drawn: Drawing No.: 1:100 @ A1 1:200 @ A3 SEP 20 IB $\frac{D08}{C}$



LANDSCAPE SPECIFICATION

SITE ESTABLISHMENT

ALL RUBBISH, DEBRIS, FALLEN BRANCHES SHALL BE CLEARED FROM LANDSCAPED AREAS AND DISPOSED OF USING SKIP BINS ONSITE OR BY TRANSPORTING TO THE LOCAL WASTE MANANAGEMENT FACILITY. ANY UNUSED BRICKS, CONCRETE BLOCKS OR TIMBER SHOULD BE EITHER RE-USED ONSITE WHERE POSSIBLE OR RECYCLED AT THE LOCAL WASTE MANANAGEMENT FACILITY.

TREE PROTECTION

TREES TO BE RETAINED SHALL BE PROTECTED DURING SITE WORKS AND TREE PROTECTION BARRIERS INSTALLED ACCORDING TO TREE PROTECTION DETAILS. NO EXCAVATION OR CHANGE IN SOIL LEVEL SHOULD TAKE PLACE AROUND THE BASE OF SUCH TREES. ANY ARBORIST REPORT MUST BE ADHERED TO AND TREE PROTECTION ZONES MAINTAINEDWHERE APPLICABLE.

WEED ERADICATION

AREAS TO BE LANDSCAPED ARE TO BE SPRAYED WITH GLYPHOSATE AT THE RECOMMENDED RATE AT LEAST 1 WEEK PRIOR TO ANY LANDSCAPE WORKS TAKING PLACE IN ORDER TO ALLOW WEEDS TO DIE OFF. CARE IS TO BE TAKEN TO PROTECT REMAINING VEGETATION FROM THE HERBICIDE APPLICATION AND SHOULD ONLY BE UNDERTAKEN IN STILL WEATHER. ALL WEEDS ARE THEN TO BE DISPOSED OF APPROPRIATELY AT THE LOCAL WASTE MANANAGEMENT FACILITY.

GARDEN BED PREPERATION

ENSURE ALL GARDEN BEDS HAVE BEEN EXCAVATED TO 250MM BELOW FINISHED LEVELS. RIP THE SUBGRADE A FURTHER 100MM IN DEPTH. INSTALL PREMIUM GARDEN SOIL OR MIX NATURAL TOP SOIL WITH IMPORTED SOIL TO A DEPTH OF 250MM. INSTALL 75MM DEPTH OF LEAF LITTER MULCH FROM ANL LANDSCAPE SUPPLIES OR EQUIVALENT.

LAWN AREA PREPERATION

EXCAVATE LAWN AREAS TO A DEPTH OF 100MM BELOW REQUIRED FINISHED LEVELS. DO NOT EXCAVATE WITHIN WITHIN TREE PROTECTION ZONES WHERE APPLICABLE OR WITHIN 1500MM OF THE TRUNK OF ANY EXISTING TREES TO BE RETAINED. ENSURE THAT ALL SURFACE WATER IS DIRECTED TOWARD ANY DRAINAGE PITS, KERBS AND AWAY FROM ANY BUILDINGS. SUBGRADE IS TO BE RIPPED TO A DEPTH OF 150MM AND A 50MM DEEP LAYER OF TURF UNDERLAY INSTALLED ON TOP. LAWNS SHOULD HAVE AN EVEN GRADE SO THAT NO PONDING OR POOLING OCCURS. 'SIR LAUNCHER' FERTILISER OR EQUIVELANT SHOULD BE SPREAD OVER LAWN AREAS PRIOR TO LAYING TURF. LAY 'SIR WALTER BUFFALO' TURF ROLLS CLOSELY BUTTED ENSURING NO GAPS BETWEEN ARE PRESENT. ROLL AND WATER THOROUGHLY AFTER LAYING

PLANTS ARE TO BE HEALTHY. FREE OF PEST/DISEASES AND TRUE TO TYPE & SPECIES. REFER TO LANDSCAPE PLAN FOR LOCATION AND SPACING. ALL PLANTS SHOULD BE PLACED IN A HOLE DUG TWICE THE SIZE OF THE POT. GENTLY TEESE THE ROOTS OF ANY POT BOUND PLANTS. THE BASE OF THE TRUNK SHOULD BE INSTALLED LEVEL WITH THE SURFACE OF THE GROUND AND DISH CREATED AROUND THE BASE OF EACH PLANT TO AID WITH WATER RETENTION. WATER THOROUGHLY AFTER PLANTING.

SYMBOL BOTANIC NAME

STAKING

ALL TREES AND TOP HEAVY SCREENING SHRUBS SHOULD BE STAKED WITH 2 X 25MM X 25MM LONG TIMBER STAKES PER PLANT. LENGTH OF STAKES IS DEPENDENT ON THE HEIGHT AND STABILITY OF THE TREE/SHRUB. STAKES SHOULD BE FIRMLY POSITIONED. HESSIAN TAPE IS TO BE PLACED AROUND THE TREE AND STAKES ALLOWING SOME MOVEMENT IN ORDER TO ALLOW THE TRUNK TO DEVELOP STRENGTH OVERTIME.

GARDEN EDGING

USE EITHER "HAVEN" BRICK EDGING OR SIMILAR LAID ON A 50MM THICK BED OF MORTAR, OR TREATED TIMBER **EDGING** SECURED WITH INGROUND TIMBER STAKES. ALL GARDENS ARE TO HAVE EDGING INSTALLED AND BE INSTALLED AS PER PLAN.

RETAINING WALLS

REFER TO MANUFACTURERS INSTRUCTIONS FOR CONSTRUCTION OF RETAINING WALLS. DETAILS ON THIS PLAN ARE A GUIDE ONLY.

COMPLETION

SITE IS TO BE CLEARED OF ANY SURPLUS MATERIALS AND DEBRIS PRIOR TO PRACTICAL COMPLETION. WORK IS TO BE COMPLETED TO THE SATISFACTION OF COUNCILS GUIDELINES AND ANY DA CONDITIONS

MAINTENANCE PERIOD

A 12 MONTH MAINTENANCE PERIOD FROM THE DATE OF PRACTICAL COMPLETION WILL APPLY. DURING THIS TIME THE OWNER IS RESPONSIBLE FOR RECTIFYING ANY DEFECTIVE WORK. DURING THE MAINTENACE PERIOD THE FOLLOWING ACTIVITIES ARE

TO BE UNDERTAKEN

MATURE HEIGHT X WIDTH

a) REPLACEMENTS: ANY PLANTS/TREES THAT HAVE DIED SHALL BE REPLACED WITH THE SAME SPECIES AND SIZE AS INDICATED ON THIS PLAN. THE SPECIMENS MUST BE IN GOOD HEALTH AND FREE FROM PESTS AND DISEASES.

b) WATERING: REGULAR WATERING OF PLANTS IS REQUIRED. PLANTS SHOULD BE WATERED TWICE A WEEK WITHIN

2 MONTHS OF PLANTING AND AND DURING DRY PERIODS. LESS FREQUENT WATERING IS REQUIRED ONCE PLANTS ARE ESTABLISHED AND DURING PERIODS OF RAIN. THE CONTRACTOR/OWNER SHOULD USE THEIR DISCRETION. c) GARDEN BEDS: GARDEN AREAS SHOULD BE REGULARLY WEEDED AND MULCH TOPPED UP IF REQUIRED. NO BARE SOIL IS TO BE PRESENT AND SPECIFIED DEPTHS MAINTAINED.

d) LAWN AREAS: LAWN AREAS SHALL BE MOWN REGULARLY (AT LEAST ONCE A WEEK IN GROWING SEASON) IN ORDER TO PROMOTE A THICK LAWN THAT OUTCOMPETES ANY WEEDS. LAWN CLIPPINGS ARE NOT TO BE SPREAD OVER GARDEN AREAS. ANY DEAD AREAS OF LAWN OCCURING THE MAINTENANCE PERIOD, ARE TO BE REPLACE WITH THE TURF VARIETY SPECIFED IN THE PLAN.

e) PRUNING: ADEQUATE HORTICULTURAL PRUNING METHODS SHOULD BE USED ON PLANTS AS BECOMES NECESSARY. ANY HEDGES ARE TO BE TRIMMED REGULARLY, DEAD AND DANGEROUS TREE BRANCHES PRUNED AND LIGHT PRUNING OF SHRUBS TO PROMOTE THICK FOLIAGE COVER.

f) FERTILISING: 'ORGANIC LIFE' FERTILISER OR EQUIVELANT SHALL BE APPLIED AS PER MANUFACTURERS INSTRUCTIONS TO ALL GARDEN BEDS ONCE PER MONTH. DYNAMIC LIFTER OR SIMILAR SHOULD BE APPLIED TO ALL LAWN AREAS TWICE A YEAR, ONCE IN MID SPRING AND ONCE IN EARLY SUMMER. WATER THOROUGHLY AFTER EACH APPLICATION OF FERTILISER.

QTY

POT SIZE

NATIVE?

PLANT LIST

TYPE

TREES							
	Mglg	MAGNOLIA 'LITTLE GEM'	LIITLE GEM MAGNOLIA	5M X 3M	NO	1	45LTR
SHRUBS							
	Acl	ACACIA 'LIMELIGHT'	LIMELIGHT	1M X 1M	YES	3	200MM
	Cte	CHOISYA TERNATA	MEXICAN ORANGE BLOSSOM	2M X 2M	NO	3	200MM
	Rotb	HYMENOSPORUM FLAVUM 'GOLD NUGGET'	DWARF NATIVE FRANGIPANI	1M X 1M	YES	20	200MM
GROUNDCOVERS PERENNIALS	&						
	Vhe	VIOLA HEDERACEA	NATIVE VIOLET	0.3M X 0.5M	YES	36	140MM
	Zo	ZINGIBER OFFICINALE	EATING GINGER	1.2M X 1.2M	NO	11	200MM
		DICHONDRA REPENS	KIDNEY WEED		YES	636	TUBESTOCK
GRASSES & STRAP LEAF PLANTS							
	Lmrp	LIRIOPE MUSCARI 'ROYAL PURPLE'	LILY TURF	0.4M X 0.4M	NO	8	140MM
	Llk	LOMANDRA LONGIFOLIA 'KATRINUS'	KATRINUS	0.75M X 0.75M	YES	92	140MM
FERNS & CYCADS							
	An	ASPLENIUM NIDUS	BIRDS NEST FERN	0.75M X 1.5M	YES	5	200MM
	Da	DICKSONIA ANTARCTICA	TASMANIAN TREE FERN	4M X 3M	YES	4	200MM
HEDGES							
	Ascs	ACMENA SMITHII 'CHERRY SURPRISE'	CHERRY SURPRISE LILY PILLY	TRIMMED UP TO 1M	YES	10	200MM

COMMON NAME

Revision Schedule

Issue:	Description:	Ву:	Date
E	Client: Clothesline	JS	03/12/19
F	Council: Letter	JS	19/03/20
G	Council: CC Plan	JS	09/10/20
Н	Client: CC Plan	JS	19/04/21

JS Sheet: Reference: 2 of 3 LP 01

Scale: 1:200 @A3

Designed by:

Drafted:

Julian Saw Diploma of Horticulture (Landscape Design)

General Notes

 See Architects drawings for site levels, setbacks and extent of cut and fill

- 2. This plan shall be read in conjunction with the Hydraulic ngineers drawings.
- 3. All relevant australian standards are to be adhered to.
- 4. Any structural items are to be installed as per the
- manufacturer/engineers specifications.
- 5. This plan is indicative only and not for construction purposes

SITE CALCULATIONS

LOT AREA	682.8 sq m	
LANDSCAPED AREA TOTAL	250 sa m	36.62%

Click Here to View Our Plant Profiles!

Client:

Senol Akyol

Client Signatures:

1.

2.

Job No. 190387

Drawing: Plant List/Specification

Address: Lot 51, No.30 Kiera Street Wollongong

Council/Lodgement:

Wollongong/DA



Ph: 1300 DAPPLE (1300 327 753) E: info@dappledesigns.com.au www.dappledesigns.com.au



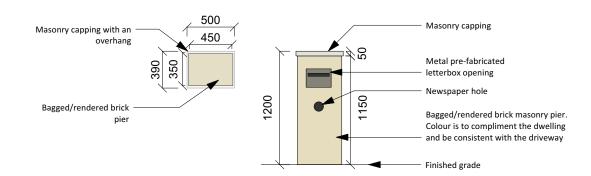
75mm of mulch clear of base of plants Backfill hole with imported premium Pot size as specified garden mix to a minimum depth of 300mm Natural ground Prepare subgrade as specified

- 1. TURF ROLLS ARE TO BE IN GOOD HEALTH, FREE FROM PESTS AND DISEASES AND WITHOUT HOLES
- 2. APPLY WATER SAVING CRYSTALS TO THE GROUND PRIOR TO LAYING
- 3. BUT ROLLS CLOSELY TOGETHER TO AVOID GAPS AND DIEBACK
- 4. WATER THROUROUGHLY AFTER PLANTING AND REGULARLY UNTIL ESTABLISHED

TURF LAYING DETAIL

SCALE 1:20

FRONT VIEW TOP VIEW



DETAILS

- 1. COLOUR CHOSEN IS TO COMPLIMENT THE DWELLING
- 2. ENSURE THAT NO CEMENT OR RENDER IS LEFT ON THE BRICKWORK OR LETTERBOX OPENING
- 3. BRICK PIER IS TO LEVEL AND STRAIGHT

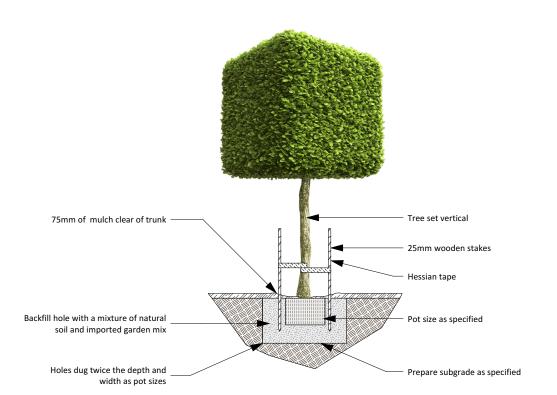
LETTERBOX DETAIL

SCALE 1:40

- 1. SPECIMENS ARE TO BE IN GOOD HEALTH AND FREE FROM PESTS AND DISEASES
- 2. GENTLY LOOSEN ROOTS IF REQUIRED, PRIOR TO PLANTING
- 3. WATER THROUROUGHLY AFTER PLANTING
- 4. REFER TO PLAN FOR QUANTITIES AND SPACING

SHRUB & GROUNDCOVER PLANTING DETAIL

SCALE 1:30



DETAILS

- 1. SPECIMENS ARE TO BE IN GOOD HEALTH AND FREE FROM PESTS AND DISEASES
- 2. WATER THROUROUGHLY AFTER PLANTING

TREE PLANTING DETAIL

SCALE 1:40

Revision Schedule

	Issue:	Description:	Ву:	Date:
	E	Client: Clothesline	JS	03/12/19
	F	Council: Letter	JS	19/03/20
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Drafted:	Scale: 1:200 @A3
JS	0 0 1 2 3 M
Sheet:	Reference:
3 of 3	LP 01

Designed by:

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General Notes:

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Client: Senol Akyol

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1.

2.

Job No. 190387

Drawing: Construction Details

Address: Lot 51, No.30 Kiera Street Wollongong

Council/Lodgement:

Wollongong/DA



Ph: 1300 DAPPLE (1300 327 753) E: info@dappledesigns.com.au www.dappledesigns.com.au

Clause 4.6 Variation Statement (Minimum Site Width)

30 KEIRA STREET WOLLONGONG

Title Details: Lot No 51 on DP567214

Proposal: Development Application

for Residential Flat Building

Owner: Senol Akyol

Applicant: Melissa Neighbour, Sky Town Planning

Consent Authority: Wollongong City Council

Date: 20 April 2021



www.skyplanning.com.au ABN: 69 130 400 884

Table of Contents

- 1.0 INTRODUCTION
- 2.0 CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS
- 3.0 GROUNDS FOR VARIATION TO DEVELOPMENT STANDARD
- 4.0 CONCLUSION

Page I 2 SKY TOWN PLANNING

1 Introduction

This Clause 4.6 Variation Report supports a Development Application submitted to Wollongong City Council, pursuant to the Environmental Planning and Assessment Act 1979 (EP&A Act). The Development Application is seeking consent for a residential flat building at 30 Keira Street, Wollongong.

This report has been prepared to request a variation to Clause 7.14 Minimum Site Width of the Wollongong Local Environmental Plan (WLEP) 2009 as it applies to the proposal.

This request responds to NSW Planning & Infrastructure 'guide for varying development standards' which states that development applications seeking to vary a development standard must include a clause 4.6 written request. The guide outlines all matters that need to be considered in clause 4.6 written requests. Each of these matters has been diligently addressed in Section 3.0 of this report.

2 Clause 4.6

Clause 4.6 Wollongong Local Environmental Plan (WLEP) 2009 enables an exception to the maximum allowable yield standard, subject to consideration of a written request from the applicant justifying the contravention. Relevant extracts of Clause 4.6 of LEP 2008 read as follows:

Clause 4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows—
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Page I 3 SKY TOWN PLANNING

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless—
- (a) the consent authority is satisfied that—
- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Planning Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Planning Secretary must consider—
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note-

When this Plan was made it did not include all of these zones.

- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—
- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4.
- (ca) clause 6.4, 6.5, 6.6, 7.5A, 7.22, 7.23, 7.24, 7.25, 7.26, 7.26A, 7.27, 7.28, 7.29 or 7.30.

3 Grounds for variation

This section responds to questions provided in Appendix 3 of the NSW Planning & Infrastructure 'guide for varying development standards.'

1. What is the name of the environmental planning instrument that applies to the land?

Wollongong Local Environmental Plan (WLEP) 2009

2. What is the zoning of the land?

The subject size is zoned R1 General Residential

3. What are the objectives of the zone?

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Comment:

It is considered that the proposed use meets the objectives of the R1 zone. This opinion is justified on the basis that the proposed development will replace an approved dual occupancy with a residential flat building of 3 units, thereby increasing housing variety in the area. The proposal will provide for the housing needs of the community and is ideally located very close to Wollongong city centre and various services such as hospital, schools, train station etc.

The changes to the existing approved 'dual occupancy' building envelope are very minor with the majority of changes occurring internally only in order to accommodate the additional dwelling.

There are no statutory zoning or zone objectives that are an impediment to the granting of approval to the proposed development.

4. What is the development standard being varied?

Page | 5 SKY TOWN PLANNING

Minimum Site Width - 12.478m

5. Under what clause is the development standard listed in the environmental planning instrument?

'Clause 7.14 Minimum Site Width' of the Wollongong Local Environmental Plan 2009.

6. What are the objectives of the development standard?

There are no specific objectives of the development standard contained in the WLEP.

The relevant clause states:

(2) Development consent must not be granted for development for the purposes of a residential flat building unless the site area on which the development is to be carried out has a dimension of at least 24 metres.

Comment:

The proposed development is a residential flat building with a site width of 12.478m along the Keira Street. This site is an isolated lot and amalgamation is impossible as both sides have driveways that service substantial strata subdivided RFBs which are unlikely to be redeveloped.

This modest development has been thoughtfully designed to ensure that impacts created will not be above or beyond the existing approved building envelope for a dual occupancy on the site.

By varying the Min Lot Width control the development is able to provide an additional dwelling thus making an important addition to housing variety in the area and providing for the housing needs of the community.

7. What is the numeric value of the development standard in the environmental planning instrument?

- 24 meters

8. What is proposed numeric value of the development standard in your development application?

- 12.478 meters

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9. What is the percentage variation (between your proposal and the environmental planning instrument)?

Value-1: Minimum Site Width = 24 m

Value-2: Site Frontage = 12.478m

Variation: -48%

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

The site is a small isolated allotment which remains underutilised in the R1 General Residential Zone and is surrounded by higher and better uses which are large stratatitled residential flat buildings (RFB) developments. The amalgamation of this subject site is impossible as both sides are adjoined by driveways servicing these RFBs.

The proposal will maximise the use of the site, by providing an additional dwelling within the existing approved building envelope for a dual occupancy. This proposal which will result in the increase of one (1) dwelling, changes the use classification to a 'residential flat building' under the WLEP and therefore triggers clause 7.14 min site width for RFB.

In practicality though, there are no changes beyond the building envelope and the additional unit will be contained within the approved building envelopment. All trees are retained along with setbacks, building height and building scale.

Accordingly, the impacts to vegetation, streetscape, solar access, building setbacks and separation are all negligible.

While these matters were addressed previously as part of the approved dual occupancy and there is no change to the building envelope, it is reiterated herein that the existing driveways located on the adjoining properties on both sides of the site, provide an appropriate separation to maintain a reasonable level of privacy and amenity.

Specifically, there is a separation distance to the 4 storey RFB to the north is 12.6 m and to the 2 and 3 storey units to the south is 11.7m. Given that this is an isolated lot these separation distances are considered acceptable.

The built form has been thoughtfully designed in order to retain the existing trees on site. As demonstrated in the Statement of Environmental Effects, submitted with this application, the proposed development complies with the maximum site coverage

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requirement and generally meets all other planning controls, which reflects it is a modest development. The development is of a scale that is appropriate to the site and to the other existing developments in the street and in the area.

In summary, the development has no adverse consequences, as a result of this noncompliance.

As outlined in the Wollongong DCP 2009, Council may consider a variation to the minimum site width requirement provided, where the proposed development will not cause any significant adverse overshadowing, privacy or amenity impact upon any adjoining development.

This modest development has been appropriately designed with regard to the site constraints by increasing the density within the site by only one unit. It has also been designed thoughtfully to ensure that impacts created will not be above or beyond the existing approved building envelope.

It has been demonstrated that the development has no negative consequences to overshadowing, privacy or amenity impact upon any adjoining development, resulting from this noncompliance to min lot width.

Finally, this development is entirely in keeping with the R1 general residential character and environment, desired by Council in this area, and the proposal meets all of the objectives of the zone. In particular, by varying the Min Lot Width control, the development is able to provide an additional dwelling, which is important addition to housing variety in the area, thereby the development will provide for the housing needs of the community.

It is noted that the provision of 3 dwellings on this site was previously supported by council. In 2016 a pre-lodgement meeting was held with council for the now approved dual occupancy proposal (PL-2016/81). The minutes stated that a dual occupancy plus the existing dwelling on the site would be supported if it did not conflict with trees on site. The current revised proposal is for 3 dwellings within the form of a RFB, which will not impact any trees and all can be retained.

In this circumstance, it is unreasonable and unnecessary to strictly comply with the site width given that the resulting development will be absent of any additional negative environmental or planning outcomes. The proposed development ultimately results in a planning outcome that undeniably meets council's desired intent for the area.

For the reasons stated above, it is argued that the 48% variation deserves support as it will provide for a much-needed housing stock and make better use of a currently underutilized site within the city centre which is in line with council's intent for the subject site.

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11. How would strict compliance hinder the attainment of the objects specified in Section 1.3(a) and (c) [previously s5(a)(i) and (ii)] of the Act.

- 1.3 (a) To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.
- 1.3 (c) To promote the orderly and economic use and development of land.

Comment:

The proposal will maximise the use of the site to its full development potential, replacing an approved dual occupancy with a residential flat building (RFB) which will increase the number of units on the site from 2 to 3, within the existing approved building envelope. Thereby the proposal will increase housing variety within the area and maximise the use of existing infrastructure, public transport, local facilities and services. Increasing housing stock within a highly urbanised area promotes a better outcome for the environment and community.

The proposed RFB is a more efficient and orderly development on the land that is of high-quality architectural design which maximises the sites development potential along with providing additional housing stock for the community in the locality. This is an improved outcome of the site while maintaining the general residential environment.

As such strict compliance in this regard would limit the above objects being fully attained.

12. Is the development standard a performance- based control? Give details.

The objectives of the development standard provide the controls to allow a performance based solution. For the reasons outlined herein, it is demonstrated the proposal meets the objectives of the zone, therefore Council should consider "compliance to the standard unreasonable in the circumstances of the development".

13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why?

Yes, please refer to answers in 10, 11 and 12 preceding.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

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

The following is a summary of the environmental planning grounds outlined in this statement, that justify varying the development standard under Clause 4.6:

- The site is an isolated lot and amalgamation is not possible due to both sides being driveways that service large RFBs.
- The proposal will not cause any significant adverse overshadowing, privacy or amenity impact upon any adjoining development.
- The proposal is a well-designed addition of one (1) unit contained entirely within an existing approved building envelope.
- The proposed RFB makes orderly use of a currently underutilised residential site.
- The proposed RFB utilises existing services and is ideally located in the city centre.
- The proposal provides additional housing choices for the community.
- The proposal satisfies the zone objectives.
- The proposal satisfies the objects as specified in Section 1.3(a) and (c) of the Act.
- It does not adversely affect any public views.
- The proposal provides for an improved outcome for the site in a way that does not compromise the general residential character of the area.
- All the trees onsite are able to be retained.

4 Conclusion

The non-compliance to the minimum site width control is in this particular case, considered acceptable based on the extensive and accepted planning rationale outlined herein.

Specifically, it is our view that the variation does not:

- Hinder the attainment of the objects specified in 1.3(a) and (c) [previously s5(a)(i) and (ii)] of the Environmental Planning and Assessment Act 1979;
- Raise any matter of significance for State or Regional planning; or
- Create any unreasonable precedent.
- Impact unreasonably on adjoining properties.

As shown herein, the development is still capable of satisfying the relevant objectives notwithstanding the 48% minimum site width variation and having regard to the facts outlined in this submission it is our view that it is both unreasonable and unnecessary for Council to fully apply the prescribed control in this instance.

Melissa Neighbour Principal Planner SKY Town Planning

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Attachment 5 – Wollongong DCP 2009 Assessment

CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Development controls to improve the sustainability of development throughout Wollongong are integrated into the relevant chapters of this DCP.

CHAPTER B1 – RESIDENTIAL DEVELOPMENT

Section 6 of Chapter B1 provides specific controls for residential flat buildings. Clause 1 states that, in addition to the controls in Section 6, the controls within Section 4 (excluding 4.1 to 4.12 and 4.20 to 4.23) of this chapter that must also be taken into consideration in the assessment of a residential flat building. The controls are addressed in the following table:

4.0 General Residential Controls

Controls/objectives	Comment	Compliance
4.12 Site Facilities		
 Letterboxes and clothes lines in an accessible location. 	Clothes lines indicated on plans. Letter boxes not indicated on plans but can be conditioned.	Yes, with conditions.
4.13 Fire Brigade Servicing		
 All dwellings, particularly dual occupancy and dwellings on battle axe allotment must be located within 60m of a fire hydrant, or the required distance as required by Australian Standard AS 2419.1. 	Complies.	Yes
4.14 Services		
 Encourage early consideration of servicing requirements. 	The site is already serviced; it is expected that some augmentation to existing utilities will be required to facilitate the proposed development. Conditions can be imposed in this regard.	Yes

Note: Clauses 4.15-4.23 have little, if any relevance to the proposal.

6 Residential Flat Buildings

Controls/objectives	Comment	Compliance
6.2 Minimum Site Width Requirement		
 Minimum required site width of 24 metres; width must be measured for the full length of the building envelope and perpendicular to the side boundary. Exceptions will only be considered for social housing 	The site is regular in shape with a width of 12.4m. Developer is not a social housing provider.	No, variation sought.
developments and in circumstances outline below. • Do not create an "isolated lot".	Site will not create an isolated allotment; the site is an isolated allotment surrounded by strata subdivided residential flat and multi-	

Amalgamation of allotments will be required in the circumstance where an isolated allotment would otherwise be created.

- In cases where the subject site is an existing "isolated lot", Council may consider a variation to the minimum site width requirement provided, in the opinion of Council, the proposed development will not cause any significant adverse overshadowing, privacy or amenity impact upon any adjoining development.
- In certain existing "isolated lot" cases, a proposed development may not achieve its maximum development potential (eg maximum floor space ratio and height) where side and rear setbacks are varied and the development does not, in the opinion of Council, achieve:
 - (a) Adequate separation between buildings to maintain reasonable levels of solar access, privacy and amenity to neighbouring dwellings; (b) Adequate landscaping screening of the development to maintain the amenity of adjoining dwellings; and (c) Maintain the streetscape amenity

6.3 Front Setbacks

of the locality.

- (a) The same distance as one or other of the adjoining buildings, provided the difference between the setbacks of the two adjoining dwellings is less than 2.0m.
- (b) The average of the setbacks of the two adjoining buildings, if the difference between the setbacks of the buildings is greater than 2.0m.
- (c) A minimum front setback of 6m applies to residential apartment buildings where calculations of (a) or (b) result in a front setback of less than 6m.
- Note however that the site is within the Wollongong city centre and Chapter D13 requires 4m setback.

dwelling housing development precluding the opportunity for future amalgamation.

The applicant has provided justification for the variation – they rely in part on the ROC which they say offsets the site width requirement. The applicant contends that the available site area is sufficient to accommodate the building envelope and demonstrate compliance with privacy, solar access, POS, visual amenity, built form, car parking and landscaping requirements – this is discussed in the report in relation to the variation to this clause and Clause 7.14(2) of WLEP 2009.

The proposal is setback 5.4m to the front facade and 6.1m to the garage.

Setbacks comply with Chapter D13 controls. Garages and carports setback minimum of 5.5m.

<u>6.4 Side and Rear Setbacks / Building Separation</u>

- Buildings up to 4 storeys (12 metres)
 - 6m to habitable room/balcony
 - 3.5 metres to non-habitable room/blank wall

No; setbacks along the full length of the building on both sides are non-compliant.

The side setback to the north to habitable rooms ranges from 1.295m to 2.105m.

Most habitable rooms and balconies have external privacy screens applied to prevent overlooking and an operable screen has been applied to the balcony of Unit 3 to prevent overlooking to and from the north.

The side setback to the south is 1.9m to habitable rooms, with a 400mm setback to the attached garage of Unit 1 (as approved DA-2019/1397/A).

Om side setback to southern boundary from the open car park on the lower level; abuts the southern boundary precluding the opportunity for landscaping along the boundary. It is recommended that a condition be imposed requiring the enclosure of the car park to its southern side to prevent acoustic and visual privacy impacts and headlight glare impacts on neighbours.

Rear setback >12m to edge of the private open space which is a decked structure.

There are a large number of windows along both sides of the building looking towards the side boundaries. Existing taller trees and some proposed additional landscaping will assist in reducing the potential for overlooking towards the south and west for parts of the length of the building.

Neighbouring buildings are setback with driveways abutting either side of the subject site. This offers greater separation which will assist in improving visual and acoustic privacy to neighbouring dwellings. The position of

No, variation sought. the northern driveway immediately adjacent to the balcony of Unit 3 will impact on the amenity of this space via overlooking and noise intrusion. An operable privacy screen is proposed to be fitted. This should not be fixed as it will affect solar access to that space.

6.5 Built Form

- RFBs must be designed by qualified designer and design verification statement provided as per SEPP 65.
- The design, height and siting of a new development must respond to its site context.
- The appearance of new development must be in harmony with the buildings around it and the character of the street. New development must contain or respond to the essential elements that make up the character of the surrounding urban environment.
- Incorporate the following elements:
 - (a) Define a base, middle and top related to the overall proportion of the building.
 - (b) Articulate all building elevations in both plan and section to reduce monotonous flat facades.
 - (c) avoid highly reflective finishes and curtain wall glazing.
 - (d) Avoid expanses of any single material.
 - (e) Utilise high quality and durable materials and finishes.
 - (f) Avoid blank or solid walls and the use of dark or obscured glass on street frontages.
 - (g) screen air conditioning units.
 - (h) For those dwellings adjacent to the street frontage, the habitable rooms must face the street.
 - (i) The main pedestrian entrance or a foyer must be 1.2m or less above natural ground level.

SEPP 65 does not apply due to there being less than 4 units; thus there is no requirement for a design verification statement.

The proposed design does not contribute or detract from the urban character of the streetscape, with a front elevation that presents as a residential house to the street and does not overwhelm the streetscape. It is mostly sympathetic to neighbouring residential buildings which are more traditional and "domestic" in style.

The RFB does not follow the traditional RFB form of defined base, middle and top.

Articulation and combination of building materials proposed to all elevations.

No highly reflective finishes and curtain wall glazing proposed.

Mix of materials proposed.

Entry and front window face street frontage.

Separate pedestrian entry to front (upper level Unit 1) available directly from street frontage. Units 2 and 3 entries are located on the northern side of the building, accessed via pathway which travels down the northern side of the building — sloping path and steps. Council's Design Expert has raised concerns in relation to access and wayfinding. Accessibility cannot be improved but wayfinding could be improved with use of signage.

(j) Entrances must be visible at eye level from the street and well lit. Ensure entrances can accommodate the movement of furniture.

6.6 Visual privacy

- Site and design buildings to maximise visual privacy between buildings through compliance with minimum front, side and rear setback / building separation requirements.
- Internal layout of buildings should be designed to minimise direct overlooking impacts upon habitable rooms and private balcony/open space courtyards, wherever possible by separating communal open space and public domain areas from windows of rooms, particularly sleeping room and living room areas.
- Buildings are to be designed to increase privacy without compromising access to sunlight and natural ventilation.
- Habitable room windows in the subject building with a direct sightline to habitable room windows in an adjacent dwelling within 12 metres must be:
 - (a) Off-set from the edge of one window to the edge of the other by a distance sufficient to limit views into the windows of the adjacent building; or
 - (b) Sill heights at least 1.7 metres above floor level; or
 - (c) Fixed obscure glazing in any part of the window below 1.7 metres above floor level.
- Windows, balconies, stairs, terraces, decks, verandahs or other private areas which provide direct overlooking opportunities from the development into the private open space courtyard of an adjoining property must be obscured or screened.

Side setbacks are significantly less than required.

Minimal overlooking opportunities available between units within the development.

Visual privacy is secured through a heavily reliance on external privacy screens which may reduce solar access to the units. Most of the screens were however approved in the earlier application DA-2019/1397.

Separation to the RFB to the north is ~12m. Separation to the units to the south is 5.46m to the eastern-most units and ~9m to the units positioned further west-ward within the site to the south. There is the potential for direct overlooking from the open car park in particular which is not proposed to be mitigated by screening or landscaping due to it being sited immediately inside the southern boundary of the site. Changes to this car parking area are recommended via consent conditions to resolve these concerns.

No, variation sought.

6.7 Acoustic privacy

- Mitigation between internal noise transmission.
- Migration against sources of external noise.

Noise transmission between units unlikely to be unreasonable; conditions can be applied in this regard if consent is granted.

Noise intrusion from driveway to the north may compromise the amenity of Unit 3 POS which is a single aspect space relying on solar access from the north. The northern driveway is likely to be traversed by many vehicular and pedestrian movements each day.

If screens are applied to this space for acoustic and visual privacy, solar access to Unit 3 will be affected; refer to discussion below.

6.8 Car Parking Requirements

 As per the requirements of Chapter F3:-

Residential flat building in city centre

1.25 spaces per dwelling >110sqm, plus 0.2 car parking spaces per dwelling for visitors (4 resident spaces plus one visitor car space required).

1 bicycle space per 3 dwellings (residents) and 1 bicycle space per 12 dwellings (visitors).

6.9 Basement Car Parking

6.10 Access Requirement

- All vehicles must be able to leave the site in a forward direction.
- Driveway grades must comply with AS 2890.1.

6.11 Landscaping Requirements

- A minimum of 30% of the total site area must be provided as landscaped area (= 205sqm).
- The landscaped area may also include landscaping on a podium, where that section of the podium is less or equal to than 1.2 metres in height and the

Plans provide for 6 car spaces, 2 for each dwelling. On the basis of the car parking rates, the development requires 4 resident car spaces and 1 visitor car space. No provision has been made for bicycle parking; there appears to be space however for this within the lower level car park – this issue can be rectified with conditions.

N/A

Access from the ROW/ driveway to the immediate north of the site.

Swept paths suggest compliant manoeuvring available to allow vehicles using the lower level garage to leave the site in a forward direction. Unit 1 vehicles will reverse onto the street.

The plans indicate that a total landscaped area of 268sqm however manual calculations suggest the landscaped area is 223.39sqm which is compliant. Manual landscaped area calculations only included those areas >1.5m in width.

Yes and no

Yes, with conditions.

N/A

Yes

Yes and no

minimum soil standards below are achieved. Any landscaped area on the site which is less than 1.5 metres in width is not included within the landscaped area calculations.

 The required landscaped area must include a minimum 1.5 metre wide landscaping bed, which is provided along the side and rear boundaries of the site. The plans provide for tree retention and some additional ornamental planting to the rear of the site and some planting forward of the building line.

Plans do not provide for 1.5m wide strip to side boundaries; some sections of the building abut the boundaries and on the northern side the pedestrian pathway extends along most of the length of the building precluding the ability to provide a landscape bed to side boundaries. The open carpark proposed has been built to the boundary which will preclude landscaping along this section of the building.

6.12 Deep Soil Zone

- A minimum of half of the landscaped area (i.e. 15% of the site) must be provided as a deep soil zone, where the deep soil zone is not located at the rear of the site.
- The deep soil zone may be located in any position on the site, other than forward of the building line, subject to this area having a minimum dimension of 6m.
- Alternatively, the deep soil may extend along the full length of the rear of the site, with a minimum width of 6m.
- The area of deep soil planting must be contiguous.
- No structures are permitted within the DSZ.
- The DSZ must be densely planted with trees and shrubs.
- DSZ must be retained in the common property and managed by the body corporate.

6.13 Communal Open Space

• COS required in RFBs with more than 10 dwellings.

Plans provide for 6m wide DSZ across the rear boundary of the site where there are some significant trees which will be retained. Some pruning required; arborist report has been supplied in this regard.

Proposed DSZ = approx. 81sqm contiguous area where there are no other structures proposed.

Not required; only 3 dwellings proposed.

N/A

Yes

6.14 Private Open Space

- Ground level units must have a terrace of 25sqm and a min width of 2m; separated from boundaries by at least 1.5m with a landscape bed.
- The primary POS of at least 70% of the dwellings must receive a minimum of 3 hours of direct sunlight between 9.00am and 3.00pm on June 21.
- POS should be sited in a location which provides privacy, solar access, and pleasing outlook and has a limited impact upon adjoining neighbours.
- POS to act as extension of internal living areas.
- screen where appropriate to ensure privacy.
- Where POS is provided in the form of a balcony, avoid locations where they address side boundaries.
- Where POS is provided in the form of a balcony, minimum area of 12sqm open space and a minimum depth of 2.4 metres is required.

All units have POS in the form of balconies. POS Unit 1 42sqm, depth 4.77m; POS Unit 2 - 42sqm, depth 4.7m; POS Unit 3 – 21sqm, width 4.2m.

Unit 3 POS features an operable privacy screen on its northern side which, when in use, will enclose the space and will reduce solar access. Given proximity of that balcony to the driveway to the north, the occupants of U3 are likely to utilise the privacy screens most of the time to reduce overlooking and noise from the driveway. This will reduce solar access to the POS and the unit. The screen will however be operable, giving the future occupants control over its use. A condition should be applied, if consent is granted, to ensure that the privacy screen is never fixed in a closed position.

Solar access to the other POS areas will be constrained due to the trees; the POS areas are however as approved in DA-2019/1397.

POS areas are accessible from the internal living areas. Minimum dimension requirements are achieved.

The POS areas are separated. Privacy screens are to be provided to the edges of the upper floor balcony which will form the POS for Unit 1. This will prevent overlooking towards the side boundaries.

6.15 Adaptable Housing

10% of all dwellings (or at least one dwelling) must be designed to be capable of adaptation for disabled or elderly residents. Dwellings must be designed in accordance with the Australian Adaptable Housing (AS 4299:1995), Standard which includes "preadaptation" design details to ensure visitability is achieved.

The plans do not identify an adaptable unit nor has an access consultant provided any documentation in support of the proposal. The applicant contends that the dwellings are capable of adaption for disabled or elderly residents however appropriate access is unable to be achieved due to the configuration of the building and the site topography; refer to discussion below.

No, variation sought. The DA must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Adaptable Housing Standard (AS 4299:1995).

6.16 Access for People with a Disability

 provide a continuous path of travel to the development to ensure equitable access for all people including people with a disability.

6.17 Apartment Size and Layout Mix for Larger Residential Flat Building Developments

Only applies to RFBs containing more than 10 dwellings.

6.18 Solar Access

Solar Access into Residential Apartment Buildings

- Design RFB to maximise number of dwellings with a northern aspect; orientate living spaces and balconies towards the north.
- Maximise the number of apartments with a dual orientation.
- Single aspect, single storey apartments should preferably have a northerly or easterly aspect and a reduced depth to allow for access of natural light to all habitable spaces.
- Utilise shading devices where necessary, particularly on habitable rooms on western elevation.
- Living rooms and private open space of at least 70% of apartments should receive a minimum of three hours of direct sunlight between 9.00am and 3.00pm.

Not provided.

The applicant contends that a variation should be granted due to the small number of units proposed and the site topography which makes it difficult to achieve compliant disabled persons' access into the building from the street frontage or the car parking area (note no lift access proposed).

No, variation sought.

N/A

N/A

Proposed building:

Living areas of Units 1 and 3 are orientated generally towards the north. U3 balcony orientated to north. Balconies U1 and U2 in rear with western orientation. Privacy screens fitted to the northern edge of the balconies to reduce overlooking to/from the side boundaries.

The privacy screens are likely to prevent overlooking but will also reduce solar access.

No single aspect units; all units have dual orientation.

No shading required due to presence of dense trees in rear yard and on northern neighbouring property.

Council's Design Expert has advised that solar access is limited and sun eye diagrams with vegetation are required to show compliance with 70% as per

- The number of single aspect apartments with a southerly aspect (south-westerly to south-easterly) is limited to a maximum of 10% of the total number of apartments proposed.
- Provide vertical shading to eastern and western windows.

Solar Access into Living Areas and Private Open Space Area of Adjoining Properties

- design of the development must have regard to the existing and proposed level of sunlight which is received by living areas and private open space areas of adjacent dwellings.
- retain the maximum amount of sunlight for adjacent residents.
- Windows to living rooms and private space areas in adjacent residential buildings must receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on June 21.
- At least 50% of the POS areas of adjoining residential properties must receive at least 3 hours of sunlight between 9.00am and 3.00pm on June 21.
- Shadow diagrams required for hourly intervals between 9am – 3pm for 21 June which show the extent of overshadowing upon dwellings and rear private open space areas of adjoining dwellings.

6.19 Natural Ventilation

- RFBs shall have a building depth of between 10 - 18m, measured across the shortest dimension of the building excluding the depth of unenclosed balconies.
- Dwellings should be a maximum depth of 21m, measured from the outside of the balcony.
- A minimum of 60% of all apartments shall be naturally cross ventilated.

Clause 6.18 of Chapter B1. It is noted that Unit 2 will remain unchanged on that approved under DA-2019/1397/A and Unit 1's POS and living areas will remain largely unchanged (though internal living space is reduced). The level of solar access available to those units and their appurtenant POS areas was deemed acceptable at the time of consideration of DA-2019/1397.

Neighbouring development

Full scaled shadow diagrams have been provided demonstrating the proposed development's relationship with the adjoining dwellings.

Solar access/overshadowing impacts have been examined and it is concluded that solar access to neighbouring properties will be compliant with applicable controls.

All units comply with the ventilation requirements. The building depth is much less than the maximum permitted.

Yes

- 25% of kitchens must have access to natural ventilation. The back of the kitchen must be no more than 8m from a window.
- Single aspect apartments must be limited in depth to 8m from a window.

CHAPTER D13 – WOLLONGONG CITY CENTRE

2 Building Form

Objectives/controls	Comment	Compliance
2.2 Building to street alignment and street setbacks	Yes. The proposal is setback 5.4m to the front facade and 6.1m to the garage.	Yes
4m setback required.		
2.3 Street frontage heights in commercial core	N/A	N/A
2.4 Building depth and bulk	N/A	N/A
2.5 Side and rear building setbacks and building separation	Refer to discussion above in relation to Chapter B1.	No
2.6 Mixed used buildings	N/A	N/A
2.7 Deep soil zone	Acceptable provision made	Yes
2.8 Landscape design	Acceptable; though the reduced setback to the open car parking area precludes the ability to provide the required landscape bed along the full length of the southern wall of the building.	Yes.
2.9 Green roofs, green walls and planting on structures	N/A	N/A
2.10 Sun access planes	N/A	N/A
2.11 Development on classified roads	N/A	N/A

3 Pedestrian Amenity

Objectives/controls	Comment	Compliance
3.2 Permeability	N/A	N/A
3.3 Active street frontages	N/A	N/A
3.4 Safety and security	See discussion below.	
3.5 Awnings	N/A	N/A
3.6 Vehicular footpath crossings	Single crossing approved via DA-2019/1397/A; Units 2 and 3 gain access via the existing driveway to the north	Yes

	(ROC in place).	
3.7 Pedestrian overpasses, underpasses and encroachments	N/A	N/A
3.8 Building exteriors	Acceptable building materials and colours proposed. The form and finish of the development will remain largely unchanged with this proposal.	Yes
3.9 Advertising and signage	N/A	N/A
3.10 Views and view corridors	No impact on views expected	N/A

4 Access, parking and servicing

Objectives/controls	Comment	Compliance
4.2 Pedestrian access and mobility	The entrance to Unit 1 is clearly legible from the street however concerns are raised in relation to access to and wayfinding to Units 2 and 3 which gain access via the pathway along the northern boundary of the site adjacent to the right of carriageway. Signage may be required.	
	The development does not provide for equitable access into the building as noted elsewhere in this report.	
4.3 Vehicular driveways and manoeuvring areas	Driveways, access and manoeuvring comply with relevant controls.	Yes, with conditions.
4.4 On-site parking 4.5 Site facilities and services	Adequate parking proposed.	Yes
	The site is serviced by the major utilities and the proposal is not expected to require significant augmentation of these services.	Yes
	Clothes drying areas indicated on plans.	
	Waste storage proposed within garages with waste collection from the street frontage.	

5 Environmental Management

Objectives/controls	Comment	Compliance
5.2 Energy efficiency and conservation		
	Energy efficient and thermal comfort measures identified in the BASIX certificate are shown on the plans where	conditions

	required. Conditions will require compliance with the BAS1IX certificate.	
5.3 Water conservation	Water conservation measures identified in the BASIX certificate are shown on the plans where required. Conditions will require compliance with the BASIX certificate.	
5.4 Reflectivity	Materials will remain largely unchanged on that approved via DA-2019/1397/A which was subject to a condition in relation to material reflectivity condition to be imposed.	Yes
5.5 Wind mitigation	No relevant controls.	N/A
5.6 Waste and recycling	The plans indicate that bins are to be stored within a nominated storage area within the garage/ car parking area. Bins will be moved to the street for weekly collection. The arrangement proposed is acceptable.	Yes

6 Residential Development Standards

Objectives/controls	Comment	Compliance
6.2 Housing Choice & Mix	Units are all 3BR; could be adaptable but lack equitable access. Given the small scale of the development this is considered to be acceptable.	·
6.6 Basement Carparks	N/A	N/A
6.7 Communal open space	N/A; not required for less than 10 units.	N/A
6.8 Private open space	POS areas are provided in compliance with applicable controls.	Yes
6.9 Overshadowing	No change to overshadowing impacts given that the built form of the building will remain largely unchanged on that approved under DA-2019/1397. At the time of consideration of that DA it was noted that shadow diagrams were supplied which indicated that no unreasonable overshadowing impacts would result.	Yes
6.10 Solar access	Solar access to the units may be limited in part by the privacy screens applied to windows and the existing trees. Refer to discussion above.	Yes & no
6.11 Natural ventilation	Ventilation will be compliant with applicable controls; all units are cross through/ dual orientation units with a narrow width.	Ye

Objectives/controls	Comment	Compliance
6.12 Visual privacy	External screens and existing trees minimise direct overlooking of neighbour	Yes
6.13 Acoustic Privacy	Concerns are raised in relation to the potential acoustic impacts of the open car park which abuts the southern boundary of the site. The lack of setback and openings will permit noise intrusion from vehicles, people and movement of bins etc. Given this space abuts the driveway and car parking area within the site to the immediate south this impact may not be unreasonable however measures should be implemented to minimise noise transmission as discussed in the report.	rectified with
6.14 Storage	Adequate provision made.	Yes

7 Planning controls for special areas

The site is not located within a special area.

8 Works in the public domain

None proposed or required.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposed development is generally acceptable with regard to CPTED matters however concerns are raised in relation to the security of the open car parking area. This should be redesigned and enclosed on its southern side to prevent unauthorised access; refer to discussion in the report.

CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

Traffic impact assessment and public transport studies

A traffic impact assessment was not required for the proposal.

Parking demand and servicing requirements

The development requires 1.25 car spaces per dwelling, ie. 4 resident car spaces, plus 0.6 car spaces per dwelling for visitors (1). The development provides for 6 car spaces; one of these will need to be allocated and marked for visitors.

One (1) secure bicycle space is also to be provided somewhere within the site; this could be accommodated within the lower level car parking area.

Vehicular access

Driveway grades and sight distances were considered under DA-2019/1397/A and are satisfactory.

Loading / unloading facilities and service vehicle manoeuvring

On-street waste collection is acceptable in this location.

Pedestrian access

The proposal is generally satisfactory with regard to pedestrian access into the site and along the frontage.

Safety & security (Crime Prevention through Environmental Design) measures for car parking areas

The open car parking area is not satisfactory with regard to the principles of CPTED; the space is unable to be secured in its current form. Refer to discussion in the body of the report.

CHAPTER E6: LANDSCAPING

A satisfactory landscape plan has been provided. Council's Landscape Officer has provided a satisfactory referral in this regard, though has noted that Trees 7 and 8 should be removed; this can be dealt with by conditions.

CHAPTER E7: WASTE MANAGEMENT

A Site Waste Minimisation and Management Plan has been provided.

Suitable waste storage and servicing arrangements are proposed. Conditions should be imposed, if consent is granted, in relation to waste management during construction and ongoing waste management arrangements once the development is occupied.

CHAPTER E14: STORMWATER MANAGEMENT

Stormwater can be suitably connected to an existing easement. Council's Stormwater Engineer has provided a satisfactory referral in this regard.

CHAPTER E17: PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION

There are a number of significant trees within the site; these have been addressed within the arborist report supplied with the application. No concerns have been raised in relation to the impact of the proposed development on existing vegetation by Council's Landscape Officer, who has provided a satisfactory referral with conditions.

CHAPTER E21: DEMOLITION AND HAZARDOUS BUILDING MATERIALS MANAGEMENT

N/A; the demolition was carried out in conjunction with DA-2019/1397/A.

CHAPTER E22: SOIL EROSION AND SEDIMENT CONTROL

Conditions were imposed on DA-2019/1397/A in relation to the implementation of appropriate sediment and erosion control measures during works. Most of the works involving ground disturbance have been completed however it would be appropriate to apply similar conditions to this application if consent is granted.

Approved Plans and Specifications

The development shall be implemented substantially in accordance with the details and specifications on Drawing D04/C-C, D05/E-E, D06/F-F, D07/C-C and D08/C-C dated 6 April 2021 prepared by Ian Bassett & Partners and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

General Matters

The lower level car park must be enclosed along its southern edge to minimise noise transmission, headlight glare impacts, visual privacy impacts and to secure the car park. Details of the changes required to achieve this shall be illustrated on plans to be provided with the Construction Certificate and the car park shall be enclosed prior to the issue of an Occupation Certificate.

3 Building Work - Compliance with the Building Code of Australia

All building work must be carried out in compliance with the provisions of the Building Code of Australia.

4 Construction Certificate

A Construction Certificate must be obtained from Council or Registered Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Clauses 139-148 of the Environmental Planning and Assessment Amendment Regulations, 2000 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

Note: The Certifier must cause notice of its determination to be given to the consent authority, and to the Council, by forwarding to it, within two (2) days after the date of the determination, the plans and documentation referred to in clause 142 (2) of the Environmental Planning and Assessment Regulation 2000.

5 Maintenance of Access to Adjoining Properties

Access to all properties not the subject of this approval must be maintained at all times and any alteration to access to such properties, temporary or permanent, must not be commenced until such time as written evidence is submitted to Council or the Principal Certifier (PC) indicating agreement by the affected property owners.

6 Occupation Certificate

An Occupation Certificate must be issued by the PC prior to occupation or use of the development. In issuing an Occupation Certificate, the PC must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

7 Mailboxes

The developer must install mailboxes along street frontage of the property boundary in accordance with Australia Post Guidelines. The mailboxes should be integrated into a wall if possible and constructed of materials consistent with the appearance of the building. Letterboxes shall be secure and large enough to accommodate articles such as newspapers,

parcels and the like. Prominent house numbers are to be displayed, with a minimum number size of 150mm in height for each number and letter in the alphabet.

8 Tree Retention

The developer shall retain the existing tree(s) indicated on the Site, Ian Bassett & Partners, issue E date and Arboricultural Development Assessment prepared by Moore Trees dated 13 March 2020 consisting of tree(s) numbered 9, 10 and 11 on the subject property. Any branch pruning, which has been given approval, must be carried out by a qualified arborist in accordance with Australian Standard AS 4373:2007.

All tree protection measures are to be installed in accordance with Australian standard AS 4970:2009 Protection of Trees on development Sites.

All recommendations in the Arboricultural Development Assessment prepared by Moore Trees dated 13 March 2020 page 14 to 16 and 23 are to be implemented including and not restricted to: remedial tree pruning, dead wood removal, fencing and signage, sediment buffer, stem protection, establishing tree protection zones and watering and root hormone application if required.

9 Tree Removal

This consent permits the removal of trees numbered 1, 7 and 8 as indicated on the drainage design site plan, Optima, issue B date 18 March 2020 and Arboricultural Development Assessment Report dated 13 March 2020. No other trees shall be removed without prior written approval of Council.

10 Protection of Public Infrastructure

Council must be notified in the event of any existing damage to any of its infrastructure such as the road, kerb and gutter, road shoulder, footpath, drainage structures and street trees fronting the development site, prior to commencement of any work.

Adequate protection must be provided for Council infrastructure prior to work commencing and during building operations.

Any damage to Council's assets shall be made good, prior to the issue of any Occupation Certificate or commencement of the operation.

Prior to the Issue of the Construction Certificate

11 Present Plans to Sydney Water

Approved plans must be submitted online using Sydney Water Tap, available through www.sydneywater.com.au to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

The PC must ensure that Sydney Water has issued an approval receipt prior to the issue of a Construction Certificate.

Visit <u>www.sydneywater.com.au</u> or telephone 13 20 92 for further information.

12 Property Addressing Policy Compliance

Prior to the issue of any Construction Certificate, the developer must ensure that any site addressing complies with Council's **Property Addressing Policy** (as amended). Where appropriate, the developer must also lodge a written request to Council's **Infrastructure Systems & Support – Property Addressing (propertyaddressing@wollongong.nsw.gov.au)**, for the site addressing prior to the issue of the Construction Certificate. Please allow up to 3-5 business days for a reply. Enquiries regarding property addressing may be made by calling 4227 8660.

13 Construction Management Plan (CMP)

Prior to the release of a Construction Certificate or the commencement of any works at the site, a detailed CMP prepared by a suitably qualified person in consultation with adjoining land owners shall be submitted to and approved by Council. The CMP shall include (but not be limited to) the following details:

- a Plan of proposed construction storage area;
- b parking for construction workers during the construction phase (no vehicles associated with deliveries to the site, or construction workers parking shall park on the neighbouring driveways including the right of carriageway to the immediate north of the site);
- c how materials/plant/ equipment are to be transported to and stored at the site;
- d timing of delivery of materials;
- e the proposed access points to the site during construction;
- f arrangements for continuity of access to neighbouring residential properties.

A community engagement plan be prepared and incorporated into the CMP, including regular updates and contact numbers for complaints and consultation for schedule of works.

A Construction Certificate shall not be released by the PC and no works shall commence until such time as Council's written approval has been obtained for the CMP The approved CMP shall be complied with at times.

14 Tree Protection and Management

The existing trees are to be retained upon the subject property and any trees on adjoining properties shall not be impacted upon during the excavation or construction phases of the development. This will require the installation and maintenance of appropriate tree protection measures, including (but not necessarily limited to) the following:

- a All recommendations in the Arboricultural Development Assessment prepared by Moore Trees dated 13 March 2020 page no. 14 to 16 and page 23 are to be implemented.
- b Installation of Tree Protection Fencing Protective fencing shall be 1.8 metre cyclone chainmesh fence, with posts and portable concrete footings. Details and location of protective fencing must be indicated on the architectural and engineering plans to be submitted to the PC prior to release of the Construction Certificate.
- c Mulch Tree Protection Zone: Areas within a Tree Protection Zone are to be mulched with minimum 75 mm thick 100% recycled hardwood chip/leaf litter mulch.

15 Installation of Drainage Lines

Hydrovac or hand excavation should be utilised for the installation stormwater line trenching within the tree protection zones of existing trees. When undertaking hydro-vacuum excavation the water pressure shall be calibrated so as to not damage, remove bark, or sever roots over thirty (30) millimetres in diameter. The truck should also be kept out of the Tree protections areas and not parked within any tree protection area for the duration of the works. No roots greater than 30mm within the SRZ are to be cut or damaged. The Project Arborist shall supervise these works.

Site Management, Pedestrian and Traffic Management Plan (Where Works are Proposed in a Public Road Reserve)

The submission of a Site Management, Pedestrian and Traffic Management Plan to the PC and Council (in the event that Council is not the PC) for approval of both the PC and Council is required, prior to the issue of the Construction Certificate. This plan shall address what measures will be implemented for the protection of adjoining properties, pedestrian safety and traffic management and shall be in compliance with the requirements of the latest versions of Australian Standard AS1742 - Traffic Control Devices for Works on Roads and the TfNSW Traffic Control at Worksites Manual.

This plan is required to maintain public safety, minimise disruption to pedestrian and vehicular traffic within this locality and to protect services, during demolition, excavation and construction phases of the development. This plan shall include the following aspects:

- a proposed ingress and egress points for vehicles to/from the construction site;
- b proposed protection of pedestrians, adjacent to the construction site;
- c proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d proposed measures to be implemented for the protection of all roads and footpath areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- e proposed method of loading and unloading excavation machines, building materials formwork and the erection of any part of the structure within the site;
- f proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period;
- g proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc are required to be displayed where works are in progress in any road reserve and shall be in accordance the latest versions of the TfNSW Specification "Traffic Control at Work Sites Manual" and the Australian Standard AS 1742. "Manual of Uniform Traffic Control Devices" and accompanying field handbooks (SAA HB81);
- h proposed method of support of any excavation, adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by an accredited certifier in Civil Engineering; and
- i proposed measures to be implemented, in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the roadway.

The approved plan shall be implemented, prior to the commencement of any works upon the construction site.

Note: Any proposed works or placement of plant and equipment and/or materials within any road reserve will require the separate approval of Council, prior to the commencement of such works, pursuant to the provisions of the Roads Act 1993.

17 Car Parking and Access

The development shall make provision for a minimum of 5 car parking spaces and a minimum of one (1) secure (Security Class B) residential bicycle space. Of the five (5) required car spaces, one (1) shall be marked for visitor car parking purposes. The secure (Security Class B) residential bicycle space shall be located within the lower level car park.

This requirement shall be reflected on the Construction Certificate plans. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.

- The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with the current relevant Australian Standard AS 2890.1, except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.
- The provision of suitable barriers, line-marking and painted signage delineating vehicular flow movements within the car parking areas. These details shall be reflected on the Construction Certificate plans.
- Bicycle parking facilities must have adequate weather protection and provide the appropriate level of security as required by the current relevant Australian Standard AS 2890.3 Bicycle

Parking Facilities. This requirement shall be reflected on the Construction Certificate plans.

21 Structures Adjacent to Driveway

Any proposed structures adjacent to the driveway shall comply with the requirements of the current relevant Australian Standard AS 2890.1 (figure 3.2 and 3.3) to provide for adequate pedestrian and vehicle sight distance. This includes, but is not limited to, structures such as signs, letterboxes, retaining walls, dense planting etc. This requirement shall be reflected on the Construction Certificate plans.

- The edge of the driveway must be provided with a hob or dish drain to prevent surface water flows from entering the adjoining property. This requirement shall be reflected on the Construction Certificate plans, prior to the release of the Construction Certificate.
- Engineering Plans and Specifications Retaining Wall Structures Greater than One (1) Metre
 The submission of engineering plans and supporting documentation of all proposed retaining
 walls greater than one (1) to the PC for approval prior to the issue of the Construction
 Certificate. The retaining walls shall be designed by a suitably qualified and experienced civil
 and/or structural engineer. The required engineering plans and supporting documentation
 shall include the following:
 - a A plan of the wall showing location and proximity to property boundaries;
 - b An elevation of the wall showing ground levels, maximum height of the wall, materials to be used and details of the footing design and longitudinal steps that may be required along the length of the wall;
 - c Details of fencing or handrails to be erected on top of the wall;
 - d Sections of the wall showing wall and footing design, property boundaries, subsoil drainage and backfill material. Sections shall be provided at sufficient intervals to determine the impact of the wall on existing ground levels. The developer shall note that the retaining wall, subsoil drainage and footing structure must be contained wholly within the subject property;
 - e The proposed method of subsurface and surface drainage, including water disposal. This is to include subsoil drainage connections to an inter-allotment drainage line or junction pit that discharges to the appropriate receiving system;
 - f The assumed loading used by the engineer for the wall design.
 - g Flows from adjoining properties shall be accepted and catered for within the site. Finished ground and top of retaining wall levels on the boundary shall be no higher than the existing upslope adjacent ground levels.

24 Stormwater Drainage Design

A detailed drainage design for the development must be submitted to and approved by the PC prior to the release of the Construction Certificate. The detailed drainage design must satisfy the following requirements:

- a Be prepared by a suitably qualified civil engineer in accordance with Chapter E14 of Wollongong City Council's Development Control Plan 2009, Subdivision Policy, conditions listed under this consent, and generally in accordance with the concept drainage plan lodged for development approval, prepared by Optima Consulting Engineers, Drawing No. OCE12812/C02/DA/B, Issue B dated 18 March 2020.
- b Include details of the method of stormwater disposal. Stormwater from the development must be piped to the existing inter-allotment drainage system within the easement to drain water 1.5 wide and variable over Lot 1 DP 214579 that benefits the subject site.
- Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties. The plan must indicate the method of disposal

- of all stormwater and must include rainwater tanks, existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines.
- d Overflow paths shall be provided to allow for flows of water in excess of the capacity of the pipe/drainage system draining the land, as well as from any detention storage on the land. Blocked pipe situations with 1 in 100 year ARI events shall be incorporated in the design. Overflow paths shall also be provided in low points and depressions. Each overflow path shall be designed to ensure no entry of surface water flows into any building and no concentration of surface water flows onto any adjoining property. Details of each overflow path shall be shown on the detailed drainage design.

25 Interallotment Drainage

A minimum 150mm diameter, PVC Class SN4 inter-allotment drainage pipeline shall be provided to drain Lot 51 DP 567214 to the existing inter-allotment drainage system within the easement to drain water 1.5 wide and variable over Lot 1 DP 214579 that benefits the subject site.

26 Landscaping

The submission of a final Landscape Plan to the PC, prior to the release of the Construction Certificate. The final Landscape Plan shall address the following requirements:

- a a schedule of proposed planting, including botanic name, common name, expected mature height and staking requirements as well as number of plants and pot sizes;
- b the location of all proposed and existing overhead and underground service lines. The location of such service lines shall be clear of the dripline of existing and proposed trees; and
- c any proposed hard surface under the canopy of existing trees shall be permeable and must be laid such that the finished surface levels match the existing level. Permeable paving is to be installed in accordance with the manufacturer's recommendations.

The completion of the landscaping works as per the final approved Landscape Plan is required, prior to the issue of Occupation Certificate.

- As required by DA-2019/1397, the developer must make compensatory provision for the trees required to be removed as a result of the development. In this regard, four (4) 100 litre container mature plant stock shall be in an appropriate location within the property boundary of the site. The suggested species are *Magnolia 'Little Gem'*.
- The submission of certification from a suitably qualified and experienced landscape designer and drainage consultant to the PC prior to the release of the Construction Certificate, confirming that the landscape plan and the drainage plan are compatible.
- The implementation of a landscape maintenance program in accordance with the approved Landscape Plan for a minimum period of 12 months to ensure that all landscape work becomes well established by regular maintenance. Details of the program must be submitted with the Landscape Plan to the PC prior to release of the Construction Certificate.

30 External Lighting

Any lighting of external areas within the development such as the pedestrian pathway/ stairs, driveway and car parking entries, shall be designed and located in a manner to prevent light spill and/or glare impacts on neighbouring properties. Light placement and design shall be indicated on the Construction Certificate drawings.

31 Residential Storage

Each residential unit shall be allocated storage within the residential storage area provided within the building. The residential storage area shall be appropriately secured. This requirement shall be reflected on the Construction Certificate plans.

Prior to the Commencement of Works

32 Appointment of PC

Prior to commencement of work, the person having the benefit of the Development Consent and a Construction Certificate must:

- a Appoint a PC (and notify Council in writing of the appointment irrespective of whether Council or a Registered Certifier is appointed; and
- b notify Council in writing of their intention to commence work (at least two days notice is required).

The PC must determine when inspections and compliance certificates are required.

Residential Building Work – Compliance with the Requirements of the Home Building Act 1989

Building work involving residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PC for the development to which the work relates:

- a in the case of work to be done by a licensee under that Act:
 - i has been informed in writing of the licensee's name, contractor license number and contact address details (in the case of building work undertaken by a contractor under the Home Building Act 1989); and
 - ii is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or
- b in the case of work to be done by any other person:
 - i has been informed in writing of the persons name, contact address details and owner-builder permit number; and
 - has been given a declaration signed by the property owner(s) of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of the Home Building Act 1989 and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

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

34 Sign – Supervisor Contact Details

Before commencement of any work, a sign must be erected in a prominent, visible position:

- a stating that unauthorised entry to the work site is not permitted
- b showing the name, address and telephone number of the PC for the work; and
- c showing the name and address of the principal contractor in charge of the work site and a telephone number at which that person can be contacted at any time for business purposes.

This sign shall be maintained while the work is being carried out and removed upon the completion of the construction works.

35 **Temporary Toilet/Closet Facilities**

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be:

- a a standard flushing toilet; and
- b connected to either:
 - i the Sydney Water Corporation Ltd sewerage system or
 - ii an accredited sewage management facility or
 - iii an approved chemical closet.

The toilet facilities shall be provided on-site, prior to the commencement of any works.

36 Structural Engineer's Details

Structural engineer's details for all structurally designed building works such as reinforced concrete footings, reinforced concrete slabs and structural steelwork must be submitted to the PC, prior to the commencement of any works on the site.

37 Enclosure of the Site

The site must be enclosed with a suitable security fence to prohibit unauthorised access, to be approved by the PC. No building work is to commence until the fence is erected.

38 Waste Management

The developer must provide an adequate receptacle to store all waste generated by the development pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and reusable materials.

39 **Demolition Works**

The demolition of any existing structures shall be carried out in accordance with Australian Standard AS 2601:2001: The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of the SafeWork NSW.

No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the PC. In the event that the demolition works may involve the obstruction of any road reserve/footpath or other Council owned land, a separate application shall be made to Council to enclose the public place with a hoarding or fence over the footpath or other Council owned land.

40 Notification to SafeWork NSW

The demolition licence holder who proposes demolition of a structure or part of a structure that is loadbearing or otherwise related to the physical integrity of the structure that is at least six metres in height, involving load shifting machinery on a suspended floor, or involving the use of explosives must notify SafeWork NSW in writing at least five (5) calendar days before the work commences.

41 Site Management Program – Sediment and Erosion Control Measures

A site management program incorporating all sediment and erosion control measures (eg cleaning of sediment traps, fences, basins and maintenance of vegetative cover) is to be initiated prior to the commencement of any demolition, excavation or construction works and maintained throughout the demolition, excavation and construction phases of the development.

42 Support for Neighbouring Buildings/Structures

This consent requires the preservation and protection of neighbouring buildings/structures from any damage and if necessary, requires the underpinning and support of any neighbouring building/structure in an approved manner. The applicant or the contractor carrying out the work must at least seven days in advance of any excavation works below the level of the base

of the footings of a building/structure on an adjoining allotment, including a public road or place, give written notice of intention to carry out such works to the property owner of the affected adjoining building/structure and furnish specific written details and supporting plans or other documentation of the proposed work.

The adjoining property owner of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

43 Tree Protection

Prior to commencement of any work on the site, including any demolition, all trees not approved for removal as part of this consent that may be subjected to impacts of this approved development must be protected in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970:2009).

Tree protection zones must be established prior to the commencement of any work associated with this approved development.

No excavation, construction activity, grade changes, storage of materials stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones.

44 Supervising Arborist – Tree Inspection and Installation of Tree Protection Measures

Prior to the commencement of any demolition, excavation or construction works, the supervising arborist must certify in writing that tree protection measures have been inspected and installed in accordance with the arborist's recommendations and relevant conditions of this consent.

45 Certification from Arborist - Adequate Protection of Trees to be Retained

A qualified arborist is required to be engaged for the supervision of all on-site excavation or land clearing works. The submission of appropriate certification from the appointed arborist to the PC is required which confirms that all trees and other vegetation to be retained are protected by fencing and other measures, prior to the commencement of any such excavation or land clearing works.

46 Notification to Council of any Damage to Council's Infrastructure

Council must be notified in the event of any existing damage to any of Council's infrastructure including, but not limited to the road, kerb and gutter, road shoulder, footpath, drainage structures and street trees fronting the development prior to the commencement of work. Adequate protection must be provided to Council infrastructure prior to work commencing and during the construction period. Any damage to Council's assets shall be restored in a satisfactory manner prior to the issue of the Occupation Certificate.

47 Works in Road Reserve - Minor Works

Approval, under Section 138 of the Roads Act must be obtained from Wollongong City Council's Development Engineering Team prior to any works commencing or any proposed interruption to pedestrian and/or vehicular traffic within the road reserve caused by the construction of this development.

The application form for Works within the Road Reserve – Section 138 Roads Act can be found on Council's website. The form outlines the requirements to be submitted with the application, to give approval to commence works under the roads act. It is advised that all applications are submitted and fees paid, five (5) days prior to the works within the road reserve are intended to commence. The Applicant is responsible for the restoration of all Council assets within the road reserve which are impacted by the works/occupation. Restoration must be in accordance with the following requirements:

- a All restorations are at the cost of the Applicant and must be undertaken in accordance with Council's standard document, "Specification for work within Council's Road reserve".
- b Any existing damage within the immediate work area or caused as a result of the work/occupation, must also be restored with the final works.

During Demolition, Excavation or Construction

48 Compliance with the Construction Management Plan

The construction management plan provided in response to Condition 12 of this consent shall be implemented at all times during the course of demolition works, site preparation and construction.

49 No Adverse Run-off Impacts on Adjoining Properties

The design and construction of the development shall ensure there are no adverse effects to adjoining properties, as a result of flood or stormwater run-off. Attention must be paid to ensure adequate protection for buildings against the ingress of surface run-off.

Allowance must be made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other property.

50 Copy of Consent to be in Possession of Person carrying out Tree Removal

The Developer/Applicant must ensure that any person carrying out tree removal is in possession of this development consent and/or the approved landscape plan, in respect to the tree(s) which has/have been given approval to be removed in accordance with this consent.

51 Restricted Hours of Construction Work

The developer must not carry out any work, other than emergency procedures, to control dust or sediment laden runoff outside the normal working hours, namely, 7.00 am to 5.00 pm, Monday to Saturday, without the prior written consent of the PC and Council. No work is permitted on public holidays or Sundays.

Any request to vary these hours shall be submitted to the Council in writing detailing:

- a the variation in hours required (length of duration);
- b the reason for that variation (scope of works);
- c the type of work and machinery to be used;
- d method of neighbour notification;
- e supervisor contact number;
- f any proposed measures required to mitigate the impacts of the works.

Note: The developer is advised that other legislation may control the activities for which Council has granted consent, including but not limited to, the Protection of the Environment Operations Act 1997.

52 Minimise Nuisance

The developer must carry out work at all times in a manner which will not cause a nuisance, by the generation of unreasonable noise, dust or other activity, to the owners and/or occupiers of adjoining and adjacent land.

- The lighting of the premises must be directed so as not to cause nuisance to the owners or occupiers of adjoining premises or to motorists on adjoining or nearby roads.
- The building site must be kept free of rubbish at all times.

55 **Dust Suppression Measures**

Activities occurring during the construction phase of the development must be carried out in a manner that will minimise the generation of dust.

56 Excavation/Filling/Retaining Wall Structures

Any proposed filling on the site must not:

- a encroach onto the adjoining properties, and
- b adversely affect the adjoining properties with surface run-off.
- All proposed cut and filling works must be adequately retained with all battered slopes being no steeper than 2H: 1V and comply with Council's "Policy for Development on Sloping Sites".

58 Safe Excavations

If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on adjoining allotment of land, the person causing the excavation to be made:

- a must preserve and protect the adjoining building from damage; and
- b if necessary, must underpin and support the building in an approved manner; and
- c must, at least seven (7) days before excavation below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation.
- All excavations and backfilling associated with the erection of a building must be executed safely and in accordance with appropriate professional standards.
- All excavations and backfilling associated with the erection of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

61 Piping of Stormwater to Existing Stormwater Drainage System

Stormwater for the land must be piped to the existing inter-allotment drainage system within the easement to drain water 1.5 wide and variable over Lot 1 DP 214579 that benefits the subject site.

62 BASIX

All the commitments listed in each relevant BASIX Certificate for the development must be fulfilled in accordance with Clause 97A(2) of the Environmental Planning & Assessment Regulation 2000.

A relevant BASIX Certificate means:

- A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 4.55 of the Environmental Planning & Assessment Act 1979, a BASIX Certificate that is applicable to the development when this development consent is modified); or
- if a replacement BASIX Certificate accompanies any subsequent application for a Construction Certificate, the replacement BASIX Certificate; and
- BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000."

Prior to the Issue of the Occupation Certificate

63 **Drainage Works-As-Executed (WAE)**

The developer shall obtain written verification from a suitably qualified civil engineer, stating that all stormwater drainage and related work has been constructed in accordance with the approved Construction Certificate plans. In addition, full WAE plans, prepared and signed by a Registered Surveyor shall be submitted. These plans shall include levels and location for all drainage structures and works, buildings (including floor levels), and finished ground and pavement surface levels. This information shall be submitted to the PC prior to the issue of the Occupation Certificate.

64 Retaining Wall Certification

The submission of a certificate from a suitably qualified and experienced structural engineer or civil engineer to the PC is required, prior to the issue of the Occupation Certificate or commencement of the use. This certification is required to verify the structural adequacy of the retaining walls and that the retaining walls have been constructed in accordance with plans approved by the PC.

65 BASIX

An Occupation Certificate must not be issued unless accompanied by the BASIX Certificate applicable to the development. The PC must not issue the final Occupation Certificate unless satisfied that selected commitments have been complied with as specified in the relevant BASIX Certificate. NOTE: Clause 154B of the Environmental Planning and Assessment Regulation 2000 provides for independent verification of compliance in relation to certain BASIX commitments.

66 Improved Wayfinding

Wayfinding to the entries of Units 2 and 3 could be improved with the use of signage. In this regard, a small legible sign shall be fixed to the northern retaining/ entry wall identifying the location of the entries to Units 2 and 3 down the stairs. The sign shall be in place prior to the issue of an Occupation Certificate.

67 Completion of Landscape Works

The completion of the landscaping works as per the final approved Landscape Plan is required prior to the issue of Occupation Certificate.

68 Provision of Taps/Irrigation System

The provision of common taps and/or an irrigation system is required to guarantee that all landscape works are adequately watered. The location of common taps and/or irrigation system must be implemented in accordance with the approved Landscape Plan.

Operational Phases of the Development/Use of the Site

69 Storage of Garbage/Waste Bins

The bins for all three (3) dwellings shall be stored within the lower level, adjacent to the car parking area. There is insufficient space within the garage of Unit 1 for the storage of bins in addition to vehicles.

No waste shall be allowed to accumulate or shall be stored on or adjacent to the street frontage of the site at any time.

70 Privacy Screen - Unit 3 Private Open Space/Balcony

The privacy screen to be attached on the northern side of the private open space balcony of Unit 3 is not to be fixed in a closed position at any time. This is to ensure that solar access to the unit and balcony is not compromised.

71 Strata Plan Requirements

Should a Strata Plan be prepared for this development in the future, the following matters must be addressed:

- a Garbage and recycling rooms must be contained within the common area;
- b bicycle storage areas and visitor car parking must be contained within the common area; and
- c appropriate allocation of carparking and storage areas to the dwellings.