

Wollongong Local Planning Panel Assessment Report | 28 June 2022

WLPP No.	Item No. 1
DA No.	DA-2021/1081
Proposal	Residential - demolition of existing dwelling and construction of three (3) storey residential flat building comprising eight (8) units with basement car parking and rooftop amenities
Property	56 Elliotts Road, Fairy Meadow
Applicant	Mr Robert Gizzi
Responsible Team	Development Assessment and Certification – City Centre Planning Team (CB)
Prior WLPP meeting	None

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel - Determination

The proposal has been referred to the Wollongong Local Planning Panel pursuant to clause 2.19(1)(a) of the *Environmental Planning and Assessment Act 1979*. The application is for sensitive development, being a development to which *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* applies and is four or more storeys in height, which is required to be determined by the Panel under Part 4(b) Schedule 2 of the Local Planning Panels Direction.

The rooftop amenity toilet meets the Standard Instrument definition of a storey thereby increasing the overall building size to 4 storeys.

Proposal

The proposal is for the demolition of the existing dwelling and associated structures, the removal of 10 exempt trees and the construction of a 3 storey residential flat building comprising 8 units with associated basement carparking and rooftop amenities.

Permissibility

The site is zoned R3 Medium Density Residential pursuant to the Wollongong Local Environmental Plan 2009. The proposal is categorised as a residential flat building and is permissible in the zone with development consent.

Consultation

The proposal was notified in accordance with Council's Notification Policy and received three (3) unique submissions which are discussed at Section 1.5 of the assessment report.

Main Issues

The main issues identified during the assessment process are exceedance of the maximum height limit, flood affectation, the impact of road and rail noise and site width.

RECOMMENDATION

It is recommended that DA-2021/1081 be approved, subject to conditions provided at Attachment 8.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

State Environmental Planning Policies:

- SEPP (Resilience and Hazards) 2021
- SEPP (Transport & Infrastructure) 2021
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP No 65—Design Quality of Residential Apartment Development

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 2019
- Wollongong Community Participation Plan 2019

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal comprises the following:

Demolition

- Demolition of a single storey dwelling, two(2) outbuildings, one (1) retaining wall, and two (2) concrete driveways
- Removal of ten (10) exempt trees

Construction

- Construction of residential flat building (RFB) containing eight (8) units in a single building
- Internal access includes a lift (to all levels) and 2 sets of internal stairs; one servicing ground floor street entry to the basement and the other from ground floor to the rooftop
- The RFB layout is further described as:
 - Basement level: The maximum height above ground level is about 1.2m and facilities include an entrance ramp, nine (9) car parking spaces, one (1) motor bike parking space, four (4) bicycle spaces, waste storage area, resident storage area and flood storage area.
 - Ground Level: G01 (1 B/R), G02 (2 B/R) & hallway. There is a small communal open space on the ground floor podium
 - Level 1: 101 (2 B/R), 102 (1 B/R adaptable unit), 103 (2 B/R), hallway & service room
 - Level 2: 201 (2 B/R), 202 (1 B/R), 203 (2B/R), hallway & service room
 - Rooftop Level: communal open space that includes a landscaped terrace with pergola, accessible toilet and outdoor kitchenette
- Three (3) units are one bedroom and five (5) units are two bedrooms
- Vehicular access is achieved from Daisy Street, general pedestrian access is gained from two entries off Daisy Street and restricted pedestrian access is also available off Elliotts Road for G02 residents.
- Construction of new driveway from Daisy Street

- Earthworks and landscaping

1.3 BACKGROUND

A pre-lodgement application (PL-2020/201) was held for a similar proposal for 8 units on three levels, with basement parking and rooftop amenities. The main issues highlighted by the pre lodgement related to flooding and flood storage, site width, building height exceedance, building setbacks, ADG non-compliances and traffic noise, vibration and emission impacts.

Following the pre-lodgement, a pre-lodgement design review panel meeting was held (DE-2021/31). The DRP recommended the submission of a revised design to address flooding concerns, improve overall layout and building aesthetics.

The current application was considered by the DRP on 6 December 2021. The DRP concluded that the building has been sited and configured in a manner that generally responds to its immediate context in a reasonable manner. The DRP also highlighted a number of issues requiring further attention that included:

- Flood mitigation measures
- Details of building finishes and internal furniture layouts
- Revise balcony design to achieve ADG compliance solar access
- Revise west elevation to improve privacy and heat-load issues
- Refine communal open space design (COS)
- Refine landscaping adjacent to Unit G02 terrace

In response, the applicant submitted amended plans on 15 March 2022. Council's Architect reviewed these plans and was generally supportive of the proposal, noting however:

- that planting above the ramped driveway requires raising half a level to allow vehicle access below
- access to planting above the ramped driveway is required to be provided ie small external stairs or ladder for maintenance
- fire escape provision appears to be unsatisfactory as the fire stair requires residents to egress past residential doorways.

It is considered that a sufficient ramp height clearance of 2.283m is demonstrated in Section BB in accordance with the provisions of AS2890.1. Maintenance access for the ramp planting to be conditioned accordingly. Adequate fire safety can be achieved, subject to recommended conditions.

A copy of the DRP notes, dated 6 December 2021, are included and marked as Attachment 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 56 Elliotts Road, Fairy Meadow at the corner of Elliotts Road and Daisy Street and the title reference is Lot 3 DP 161827. The property is slightly irregular in shape with a splay corner at the intersection and an area of 860m². The land is relatively flat at about RL 8m AHD. See Attachments 1 & 2.

Existing development consists of a single storey brick and tile dwelling, two small outbuildings, and two retaining walls. The south & east boundary retaining wall is concrete, with a height of approximately 1m and capped with a 1m high open metal balustrade facing Elliotts Road and Daisy Street. Vehicular access is currently achieved from both Elliotts Road and Daisy Street using separate driveways.

Adjoining development predominantly consists of medium density residential development and is further described as follows:

North: No. 34 Daisy Street – two storey Residential flat building (RFB - 6 units)

South: No. 47 & 49 Elliotts Road – two storey multi dwelling housing (6 units)

East: Large Road reserve separating residents from Memorial Drive and the South Coast railway corridor (further eastwards). Memorial drive is a state classified road. Fairy Meadow railway station is approximately 140m to the southeast of the subject property

West: No. 58 Elliotts Road - two storey multi dwelling housing (4 units)

Further to the west is the Fairy Meadow Town Centre with a large number of shops that include the Ambience Shopping Centre, Aldi and Woolworths. The closest bus stops are about 45m to the west of the property on both sides of Elliotts Road.

Property constraints

Council records identify that the subject property is impacted by the following constraints:

- Acid sulphate soils: Class 5 - No concerns are raised in this regard.
- Flooding: The site is identified as being located within a Flood Risk Precinct Classification Under Review.
- Easement: A 2 metre wide and variable width drainage easement runs parallel to the southern boundary of the property.
- There are no restrictions on the title.

1.5 SUBMISSIONS

The application was notified between 7-22 October 2021 in accordance with Council's Community Participation Plan 2019. Three (3) unique submissions were received, and the issues identified are discussed below.

Table 1: Submissions

Concern	Comment
1. Traffic	Vehicular access will be achieved from Daisy Street – a minor collector road.
• unsatisfactory increase in traffic volume	The application was accompanied with a Traffic and Parking Assessment Report which calculated a net increase in peak hour traffic movements from the proposed development (discounting the vehicle movements from the existing dwelling on the site) to 3.3 vehicles per hour in both AM and PM peak hours. This low increase in vehicle trips is unlikely to result in any significant traffic or safety implications.
• increased risk of traffic accidents	
	The width of the roads allows for 9000 vehicle movements per day (Daisy Street) and 15,000 vehicle movements per day (Elliotts Road) and they are operating well within their designed capacity.
	The proposed development was reviewed by Council's Traffic Officer who raised no concerns with regards to traffic impact.

Concern	Comment
<p>2. Parking</p> <ul style="list-style-type: none"> insufficient parking for RFB residents 	<p>The development provides 9 car spaces in the basement: one for each unit, and one visitor parking space.</p> <p>Chapter E3 DCP parking rates for RFBs within 400m of a railway station are: 0.75 spaces per unit with GFA <70m², 1 space per unit with GFA 70-110m² plus 0.2 car parking spaces per unit for visitors. Required parking: $(0.75 \times 3) + (1 \times 5) + (0.2 \times 8) = 8.85$ spaces (9 spaces rounded up).</p> <p>The development complies with overall DCP car parking rates. The application was accompanied with a Traffic and Parking Assessment Report which notes an individual shortfall of 0.6 spaces for visitor parking; contending that the shortfall is acceptable due to the proximity of on-street parking in the vicinity of the subject property and the short term and infrequent need for visitor parking.</p> <p>The application was reviewed by Council's Traffic Engineer who supports the car parking layout noting site proximity to public transport. In these circumstances, it is considered that there is sufficient parking for the development.</p>
<p>3. Solar Access</p> <ul style="list-style-type: none"> Insufficient solar access for western neighbour (No. 58 Elliotts Road) 	<p>No 56 Elliotts Road has a north/ south orientation with shadow falling predominantly to Elliotts Road and Daisy Street. The application was accompanied with a set of shadow diagrams for the winter solstice which demonstrates adequate solar access for the western neighbour in accordance with the provisions of CI 18.2 Chapter B1 of the DCP.</p>
<p>4. Noise</p> <ul style="list-style-type: none"> Impact of construction noise on neighbours 	<p>Standard conditions are recommended to mitigate construction noise.</p>
<p>5. Privacy</p> <ul style="list-style-type: none"> Unreasonable overlooking on to western neighbour 	<p>No 58 Elliotts Road consists of 4 multi dwelling 2 storey units. The east elevation is partially private as vehicular access to the property is achieved on the eastern side of the property. Each unit has an east facing ground floor living room glass door, and two first floor east facing bedroom windows, attached deck and hall glass door at No. 56 Elliotts Road.</p> <p>The separation distance between the two buildings is 12 metres with the privacy screen (west elevation No. 56 Elliotts Road) extending 600mm into the separation space. No basement level windows face the west neighbour. Ground floor west facing windows consist of 1 living room window (G02), and hall windows that are screened by balustrading and landscaping. Level 1 and 2 windows are all positioned higher than the</p>

Concern	Comment
	western neighbour's windows which prevents direct overlooking. Notwithstanding, there is a large privacy screen along the entire length of the hall windows of levels 1 & 2 and a partial privacy screen for the west facing living room windows of Units 101, 103, 201 & 203. A 1.5m high opaque balustrade restricts rooftop viewing to the west. Taking all these design features into consideration, it is considered that the western neighbours have satisfactory privacy.
<p>6. Building Height</p> <ul style="list-style-type: none"> increase in building height is inconsistent with the local character of the area 	<p>The maximum building height is calculated at 13.3m in the vicinity of the lift, with the approximate lift area being 8.8m². Elsewhere, the maximum building height is 12.94m which complies with the maximum building height of 13m recorded in the Height of Buildings Map. The proposal was accompanied with a Written Request to vary the maximum building height and contravention of the development standard is supported in this instance. Please refer to Section 2.1.4 of this report for further discussion.</p> <p>The SEPP 65 design report provides an overview of the design principles. A full compliance table against the detailed provisions of the Apartment Design Guide (SEPP 65) has been provided and is considered satisfactory. The proposal is the type of development envisaged for the zone and is considered to be consistent with the future character of the area.</p>

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Council's Stormwater, Traffic, Environment, Landscape, BCA and Geotechnical Officers have reviewed the application and given satisfactory referrals. Conditions of consent were recommended and are included in the consent.

1.6.2 EXTERNAL CONSULTATION

None required.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

1.7 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 Act does not relate to the proposed works.

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

2.1.1 STATE ENVIRONMENTAL PLANNING (RESILIENCE AND HAZARDS) 2021

Chapter 2 – Coastal Management

The site identified under this policy as being located within the coastal environment area map. The proposed development is relatively small in scale and the site does not have a direct interface with the coastline. No concerns are raised with respect to Divisions 3 or 5 of this policy.

The proposal is not considered likely to have an adverse impact on the biophysical, hydrological or ecological environments, or the quantity or quality of surface and ground water flows.

Chapter 4 – Remediation of Land

The proposed development has been assessed with regard to the requirements of Chapter 4 of the SEPP with regard to potential land contamination. The proposal has been reviewed by Council's Environmental Scientist with regard to the SEPP and the relevant provisions of Wollongong DCP 2009.

The site is not known to be contaminated or potentially contaminated and the land is not registered under the Contaminated Land Management Act 1997. A detailed site investigation is not required. 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. The proposal does not comprise a change of use, with evidence that the site has been occupied by residential land uses for many decades.

No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 4.6. It is noted that conditions will be imposed in relation to the safe removal, handling and disposal of hazardous materials.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT & INFRASTRUCTURE) 2021

The site is located adjacent to a road reserve that borders Memorial Drive. This road is listed as a classified road. As the proposed development is residential, with a direct line of site to a classified road with an annual average daily traffic (AADT) greater than 20,000 vehicles, the provisions of Clauses 2.118 & 2.119 of SEPP (Transport & Infrastructure) 2021 apply.

As vehicular and pedestrian access to the subject site is achieved only via Elliotts road or Daisy Street, it is considered that the proposal satisfies the provisions of Clause 2.118. This is because neither road is a classified road. The safety, efficiency and ongoing operations of the classified road is not likely to be significantly affected by the proposed development in terms of the nature and volume of vehicles using the road network; nor from the emission of air pollution.

While not directly adjacent, the subject property is located approximately 145m from the South Coast railway corridor and Council's Environment Officer requested an amended acoustic report that also considered the impacts of rail line noise.

The proposal was accompanied with an amended acoustic assessment that considered the impacts of road and rail noise in compliance with the provisions of the SEPP. The proposal was reviewed by Council's Environment Officer who provided a satisfactory referral, subject to recommended conditions of consent.

2.1.3 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, BASIX Certificates have been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

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

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

The development meets the definition of a 'residential flat building' as it is more than 3 storeys and comprises more than 4 dwellings. Therefore, the provisions of SEPP 65 apply. The application is accompanied by a statement by a qualified designer in accordance with Clauses 50(1A) & 50(1AB) of the Environmental Planning and Environment Regulation 2000.

With regard to Clause 28(2)(a), the advice from the DRP has been considered as outlined in this report. With regard to Clause 28(2)(b), the design quality of the development has been considered in accordance with the design quality principles is outlined below. With regard to Clause 28(2)(c), an assessment of the application against the ADG is contained at Attachment 6 to this report.

Principle 1: Context and neighbourhood character

Comment:

The locality is an area in transition, featuring a mixture of residential development types and densities, including a number of single detached dwellings, multi dwelling housing and residential flat buildings. There is no prevailing architectural theme / character evident.

The proposal is considered to be broadly consistent with the desired future character of the area as identified through the development standards and controls applicable to the site.

Principle 2: Built form and scale

Comment:

The bulk and scale of the development is consistent with the applicable planning controls for the area. The development is not considered to be out of context with regard to the desired future character of the area and the likely impacts of the development on the locality and adjoining development.

The design of the development is considered to positively contribute to the public domain and provide high level of amenity for the occupants by way of landscaped areas, private open space and the like.

Principle 3: Density

Comment:

The density of the development complies with the maximum FSR permitted for the land. The development is not of a scale that is expected to place unreasonable strain on local infrastructure. Contributions applicable to the development will go towards local infrastructure and facilities. The site is well situated with regard to existing public open space and services.

Principle 4: Sustainability

Comment:

The proposal is considered acceptable with regard to sustainable design as follows:

BASIX Certificates provided indicating minimum requirements are met.

A Site Waste Management and Minimisation Plan has been provided indicating recycling of materials from the demolished buildings.

The proposal does not impact on any heritage items or environmentally sensitive areas.

The proposal is an efficient use of land in a location that is close to services and Fairy Meadow Town Centre.

Principle 5: Landscape

Comment:

The proposal provides suitable landscaped areas and communal open spaces that will improve the amenity of the occupants and soften the appearance of the development from adjoining properties and the public domain including the adjacent road corridor.

Principle 6: Amenity

Comment:

The development is acceptable in regard to controls relating to residential amenity. The units feature good internal layouts, compliant solar access, compliant cross ventilation and acceptable balcony and communal open space areas. The proposal satisfies the requirements for storage, visual and acoustic privacy, access and the like for future occupants of the development. Setbacks are reasonable and in most areas achieve compliance with the ADG.

Principle 7: Safety

Comment:

The proposal is satisfactory with regard to safety and security and is generally consistent with the principles of Crime Prevention through Environmental Design. The development is unlikely to result in additional criminal or antisocial behaviour in the locality. A defined pedestrian entry has been provided and a ground level entry lounge offers opportunities for passive surveillance.

Principle 8: Housing diversity and social interaction

Comment:

The proposal provides a mix of unit sizes and layouts appropriate to the locality.

The proposal provides for a mix of one- and two-bedroom units of which one, one bedroom unit is certified as adaptable which allows for ageing in place which is a positive outcome. The units are reasonable in size and feature generous balconies/ external living areas. The development offers a single communal open space and deep soil zone which will facilitate social interaction among residents.

Principle 9: Aesthetics

Comment:

The proposal is considered to be of a high quality with regard to its appearance. A mixture of materials and finishes is provided, and the bulk of the development is suitably articulated. Appropriate treatment of the streetscape is proposed having regard to the character of development in the locality. The form and finishes proposed are considered to be appropriate and the DRP have indicated its support for the design.

Apartment Design Guide

An assessment of the application against the ADG is contained at **Attachment 6** to this report.

The development has been assessed against the provisions of the ADG and was found to be compliant, with the exception of variations in respect of 3F Visual Privacy (rear setbacks). The variations sought are discussed within the table at **Attachment 6** and are considered to be supportable.

2.1.4 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

Demolition: In relation to a building means wholly or partly destroy, dismantle or deface the building.

Residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing 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 R3 Medium Density Residential.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposal is satisfactory with regard to the above objectives.

The land use table permits the following uses in the zone.

Permitted with consent

Attached dwellings; Backpackers' accommodation; Bed and breakfast accommodation; Boarding houses; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Exhibition homes; Exhibition villages; Group homes; Home-based child care; Home businesses; Home industries; Hostels; Information and education facilities; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); **Residential flat buildings**; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing; Signage; Tank-based aquaculture; Veterinary hospitals

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

Clause 2.7 Demolition requires development consent

Demolition of a building or work may only be carried out with development consent. Demolition of the existing dwelling and associated structures on the land is proposed.

Part 4 Principal development standards

Clause 4.1 Minimum subdivision lot size

Not applicable.

Clause 4.3 Height of buildings

The proposed building height of 13.3m exceeds the maximum of 13m permitted for the site. An assessment of the applicant's Clause 4.6 Variation is addressed below.

Clause 4.4 Floor space ratio

Maximum FSR permitted for the zone: 0.75:1

Site area: 860 m²

GFA: Ground Floor: 164.679m²
First Floor: 236.587m²
Second Floor: 236.587m²
Rooftop: 5.521m²
Total GFA : 164.679 + 236.587 + 236.587 + 5.521 = 643.374m²

FSR: 643.374/860 m² = **0.748:1**

Clause 4.6 Exceptions to development standards

Variations are requested to Clauses 4.3 Height of Buildings maximum 13m height and therefore this clause applies. This represents a 2.3% departure from the development standard. A clause 4.6 Variation has been submitted to address this non-compliance and is contained in Attachment 5 and discussed in the table below.

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.3 Building Height, 13.3m proposed
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Yes. The applicant's request contains this justification. The applicant contends that the environmental planning grounds justifying the variation are that the objectives of the height control are met notwithstanding the minor breach in the numerical control for building height
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes, the applicant's request contains this justification shown at attachment 5.
4.6 (4) (a) Consent authority is satisfied that:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	The applicant's request has adequately addressed the matters required to be addressed by subclause (3). In summary, the justification relies on compliance with the building height standard in this instance being unnecessary as there are no unreasonable impacts arising from the non-compliance and the development is consistent with the objectives of the standard despite the non-compliance. The applicant notes that the non-compliance relates only to the lift overrun (approximate area

	<p>8.5m²) which provides access for all residents to the rooftop communal open space.</p> <p>Examples are provided demonstrating that Council has previously approved exceptions to the building height standard where only a small section of the roof is non-compliant.</p> <p>Further, it is argued that the flood level applicable to the site has required the floor level to be raised about 1m above ground level which contributes to the height exceedance.</p> <p>The exceedance is 0.3m which represent a minor (2.3%) variation and will not detrimentally impact surrounding properties.</p>
<p>(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</p>	<p>It is considered that strict compliance with the height standard in the context of the proposal and the subject site would not result in any significant public benefit in this specific instance.</p> <p>The objectives of clause 4.3 Height of Buildings are:</p> <p><i>(a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,</i></p> <p><i>(b) to permit building heights that encourage high quality urban form,</i></p> <p><i>(c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.</i></p> <p>With regard to objective 'a', it is considered that site has been designed in accordance with the prescribed floor space and height restrictions. The proposed development is below the permitted FSR of 0.75:1.</p> <p>The departure represents an increase (2.3%) to the overall building height for a small portion of the building relating to the lift shaft.</p> <p>With regard to objective 'b', the proposed departure from the height control will not substantially impact on the ability for the development to achieve a high-quality urban form.</p> <p>With regard to objective 'c', the additional height will not detract from views of the sky or exposure to sunlight. The majority of the building falls under the 13m height limit.</p> <p>The objectives of the R3 zone are:</p>

	<ul style="list-style-type: none"> • <i>To provide for the housing needs of the community within a medium density residential environment.</i> • <i>To provide a variety of housing types within a medium density residential environment</i> • <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <p>The development is consistent with the above objectives as the proposed RFB will create additional housing servicing the housing needs of the locality. The zone caters for a medium density of 0.75:1 and the proposed development is below the permitted FSR.</p> <p>Building height & density were considered by the Design Review Panel with the following comments made:</p> <p><i>The list shaft extends nominally above the permissible height. However, given its location within the footprint of the building it appears to have minimal impact upon the perceived bulk of the building.</i></p> <p>It is considered that the development will not lead to adverse visual or environmental impacts. The Clause 4.6 submission has provided reasonable justification that the development achieves the objectives of the standard and the objectives of the zone and has sufficient planning grounds to justify the variation. Requiring compliance with the maximum 13m height limit is not necessary in this instance due to unique site constraints.</p> <p>Given that the development is consistent with the objectives of the standard and objectives of the zone, the proposed variation to the building height is considered to be in the public interest.</p>
(b) the concurrence of the Secretary has been obtained	The WLPP can exercise assumed concurrence in this instance as the consent authority.

Clause 5.21 Flood planning

The site is identified as being located within a Flood Risk Precinct Classification Under Review and is not located within an OSD concession zone. The application was accompanied by a flood study and a revised stormwater concept plan which includes an OSD facility and stormwater disposal to Daisy Street. The application was reviewed by Council's Stormwater Engineer, who provided a satisfactory referral. In this regard, it is considered that the proposal satisfies the provisions of Clause 5.21.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The proposal has been assessed against Clause 7.1 of WLEP 2009 and it is considered that the subject site is already serviced by public utilities which can be augmented to service the new proposal.

Clause 7.5 Acid Sulphate Soils

The property is identified as being impacted by Class 5 acid sulfate soils and the proposed works are also located within 500m of class 3 acid sulfate soils (to the east) on land that is below 5m AHD. A geotechnical report submitted with the application concluded that the soils are not acid sulfate soils. Council's Geotechnical Engineer reviewed the application and provided a satisfactory referral. No conditions are recommended for acid sulfate soil management.

Clause 7.6 Earthworks

Earthworks for the proposal are required for the construction of foundations, basement parking and associated infrastructure which is considered to be minor in nature. The proposal was accompanied with a satisfactory Site Waste Minimisation Management Plan (SWMMP). The 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

A minimum site dimension is 24m is required for a residential flat building. It is noted that no definition of site width is provided in the Standard Instrument. As east and west property boundary lengths are 37.795m and 40.78m respectively, the proposal satisfies the provisions of Clause 7.14.

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

Draft Environment SEPP

The Explanation of Intended Effect for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018. It is considered the draft SEPP is of limited relevance to the application.

Draft Remediation of Land SEPP

The Explanation of Intended Effect for the Remediation of Land SEPP and the Managing Land Contamination guidelines were exhibited between 25 January 2018 and 13 April 2018.

The proposed SEPP provides a state-wide planning framework for the remediation of land requires consent authorities to consider the potential for land to be contaminated when determining development applications; clearly lists the remediation works that require development consent; and introduces certification and operational requirements for remediation works that can be undertaken without development consent.

It is considered the draft SEPP is of limited relevance at this point in time. All considerations pertaining to potential site contamination are discussed with regard to SEPP Resilience and Hazards 2021.

Draft Design and Place SEPP

The draft Design and Place SEPP has been exhibited but the exhibited draft is not a matter for consideration under section 4.15(1)(a)(ii) of the EP&A Act 1979.

Draft Housing SEPP

The SEPP was an exhibited instrument at the time of lodgement of the application and has since been gazetted. The SEPP contains savings provisions. It has consolidated five existing housing-related SEPPs, none of which relate to the proposed development.

It is considered the SEPP is of limited relevance to the proposal as it does not contain provisions of specific relevance to residential flat buildings or shop top housing developments.

2.3 SECTION 4.15(1)(A)(II) ANY DEVELOPMENT CONTROL PLAN

The development has been assessed against the relevant provisions of WDCP 2009 and found to be satisfactory. A variation to Chapter B1 – Residential Development controls are addressed below. The full table of compliance can be found at Attachment 7 to this report.

Cl 6.2 Minimum Site Width Requirement

Clause 6.2.2.1 of Chapter B1 requires a minimum site width of 24m for residential flat buildings. The width must be calculated by measuring the full length of the building envelope and perpendicular to the side boundary. The subject site has a minimum width of 17.069 metres along the southern property boundary being the primary frontage and therefore does not meet the minimum width requirements. However as outlined above under clause 7.14 of WLEP2009 the proposal meets the minimum site width of 24m (noting that there is no definition of site width) albeit along the minor frontage being 37.795m and 40.78m respectively.

The objectives of this control 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*

In relation to a variation of the minimum site width, Clause 6.2.2.4 states:

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.

The DCP definition of an isolated is:

An “isolated lot” is a lot which is bounded on both sides by properties (or a property and a second street frontage) which comprise existing development other than a single dwelling house and redevelopment of such adjoining properties is unlikely. This includes cases where there is high separation of ownership of dwelling ownership in the adjoining developments.

The applicant has provided a Variation Statement to vary this control, contending that the property is an isolated lot and the proposal meets the objectives of the clause. Properties to the north and west are existing strata developments. As such, amalgamations with adjoining allotments are unlikely. As a corner allotment, the applicant maintains that the site benefits from two street frontages which improves access while reducing requirements for visual privacy and building separation criteria as there are only two adjoining neighbours, as opposed to the usual three. The corner location improves solar access and natural ventilation for apartment residents without reducing amenity for neighbours. The increased development density is consistent with the desired future character of Fairy Meadow in accordance with the provisions of Chapter D1 of the DCP. The secondary frontage of Daisy Street is greater than 24m in width and building design is oriented towards Daisy Street which satisfactorily accommodates the required building envelope, car parking and landscaping.

Comment:

The site width of 17.069m along the southern boundary is restricted by the splay corner. Without this limitation, site width would increase to about 20 metres. This figure translates to a 16.6 per cent departure from the control.

The surrounding existing strata development at 34 Daisy Street and 58 Elliotts Road is likely to significantly limit any opportunities for lot amalgamation. As such, the lot is considered to be an isolated lot in accordance with CI 6.2.2.4. Further, it is considered that the proposed development is capable of providing adequate solar access, privacy and visual amenity for adjoining residents as outlined in the body of this report.

The development complies with LEP requirements, with the exception of a minor variation to building height that is supported in this instance. Compliance with ADG requirements is demonstrated with the exception of a variation to Clause 3F Visual privacy for rear setbacks. Design amendments to the north elevation afford adequate visual privacy for neighbours. Finally, the proposal generally meets DCP design requirements with the exception of the site width and front setback control for building extrusions. The proposed design is capable of satisfying DCP provisions for parking and landscaping. The increase in development density is consistent with the future desired character of Fairy Meadow as per Chapter D1 of the DCP.

The site width variation is considered acceptable and it has been suitably demonstrated that the objectives of the control are met and the proposal satisfies CI 6.2.2.4.

CI 6.3 Front Setbacks

Clause 6.3.2.3 allows for balconies and other building extrusions to be setback a maximum of 900mm within the required front setback. The design of the southern balconies for Units 103 & 203 extend forward of the front building line by 1.5m, exceeding the maximum numerical requirement. The front setback of the balcony extension is 4.5m from the southern property boundary.

The objectives of the control are:

- (a) To reinforce the existing character of the street by acknowledging building setbacks.*
- (b) To define the spatial proportions of the street and define the street edge.*
- (c) To provide a transition between the public and private domain.*
- (d) To promote compatibility in front setbacks to provide unity in the building line.*

The applicant has provided a Variation Statement for this control, asserting that the existing character of Elliotts Road is maintained as the southern balcony extension of Units 103 & 203 is comparable to the front setback for multi dwelling housing at 58 Elliotts Road (DA-1993/811) which is 4.524m. Further, the street edge is defined by the balcony protrusion establishing a landmark development that addresses the street corner through articulation of the two street facing facades. Transition between the public and private domain is maintained with clear design features such as boundary fencing, entrance features and landscaping. The Variation Statement contends that the proposed development is consistent overall with the Fairy Meadow Town Centre (located nearby) and the future desired character of Fairy Meadow as per Chapter D1 of the DCP.

Comment:

The balconies protrude from the southern external wall which complies with the primary front setback control of 6m. The degree of non-compliance is considered to be relatively minor with an additional 600mm extension into the primary front setback for two upper floor balconies, each with an area of approximately 19m². The balconies are located in the southeastern corner of the property near the intersection of Elliotts Road and Daisy Street. This corner balcony design is an architectural feature which strengthens the verticality of the RFB when viewed from the street corner. The corner balcony design adds variety and interest to the street and clarifies the street hierarchy. It is considered that

the unity of the building line is generally maintained as the southern wall complies with front setback requirements as does the secondary front setback.

The design demonstrates that the objectives of the front setback control are met and the variation is supported in this instance.

2.3.1 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2019

The estimated cost of works is \$2,453,000 and a levy of 1% is applicable under this plan as the threshold value is \$100,000. A search of the 1977/78 aerial Intramaps database confirms that there were houses on the subject properties at this time. Therefore the 2016 Ministerial Direction regarding Section 94 development contributions does not apply.

2.4 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.

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

Environmental Planning and Assessment Regulation 2021

2 Savings

Any act, matter or thing that, immediately before the repeal of the 2000 Regulation, had effect under the 2000 Regulation continues to have effect under this Regulation.

2000 Regulation means the Environmental Planning and Assessment Regulation 2000 as in force immediately before its repeal on 1 March 2022.

61 Additional matters that consent authority must consider

Conditions of consent are recommended with regard to demolition.

62 Consideration of fire safety

Council's BCA Officer has assessed this application and provided a satisfactory referral, subject to recommended conditions.

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

There are not expected to be adverse environmental impacts on either the natural or built environments or any adverse social or economic impacts in the locality.

The proposal is satisfactory with regard to the applicable planning controls as detailed in the body of this report. A small departure from the building height Development Standard is supported in this instance & is discussed further in Section 2.1.4. DCP variations to site width and front setback building extrusions are capable of being supported. Further, an ADG variation to visual privacy is supported. Refer to Attachment 6.

Submission comments received following notification are noted and can be addressed with conditions of consent

Internal referrals are satisfactory subject to appropriate conditions of consent.

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

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have any negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

See Section 1.5 of this report.

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

The application is not expected to have any unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is considered to be in the public interest.

3 CONCLUSION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section 54.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies.

The site is zoned R3 Medium Density Residential where a residential flat building is a permitted land use with development consent pursuant to the WLEP 2009.

The development is consistent with most of the applicable provisions of the relevant planning instruments, including Wollongong LEP 2009, with the exception of the building height development standard (cl4.3 WLEP2009). This departure is discussed in the body of the report and is considered capable of support.

The development is considered appropriate overall with regard to the applicable controls outlined in the Wollongong Development Control Plan 2009 (DCP). Two variations to minimum site width and front setback building extrusions are proposed and variation request statements with justification have been provided by the applicant in accordance with Section 8 of Chapter A1 of WDCP 2009. These variations have been considered and are capable of support in this instance, as discussed in section 2.3 of this report. Finally, an ADG Variation to Visual Privacy is supported following the submission of amended plans.

Referrals from are all satisfactory and submissions have been considered.

Overall, It is considered that the proposed development is appropriately designed given the nature and characteristics of the site and will not adversely impact the character or amenity of the surrounding area.

4 RECOMMENDATION

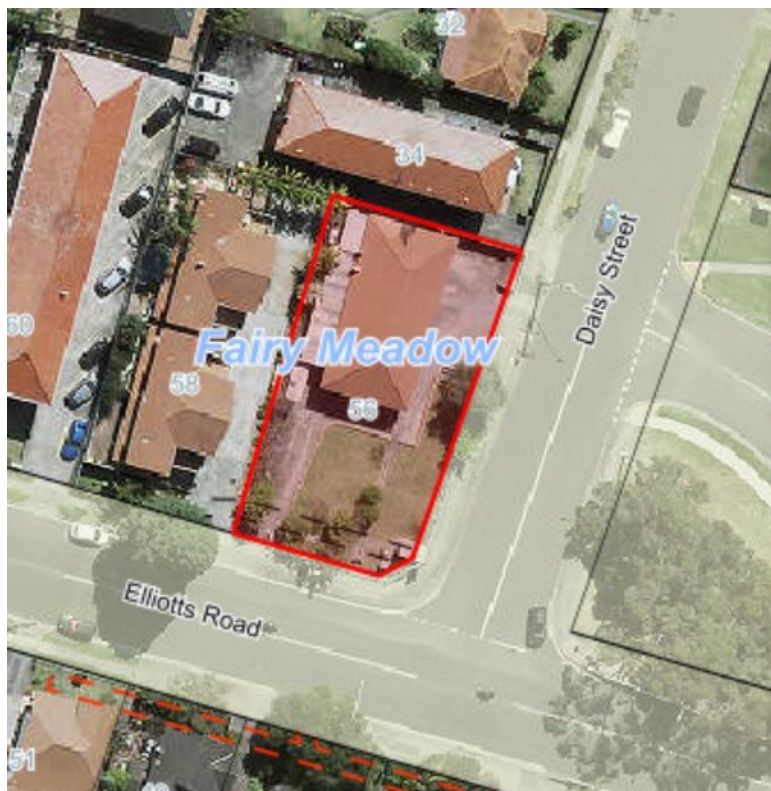
It is recommended that the development application be approved subject to appropriate conditions of consent.

5 ATTACHMENTS

- 1 Aerial photograph map
- 2 Zoning map

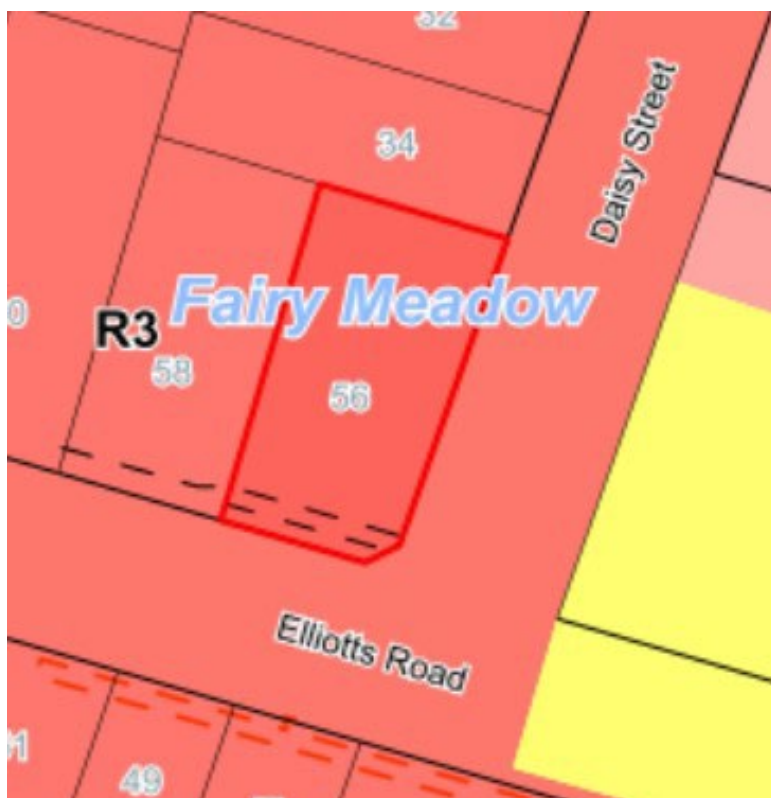
- 3 Plans
- 4 Design review panel notes 6 December 2021
- 5 Clause 4.6 variation request
- 6 ADG compliance table
- 7 WDCP 2009 Assessment
- 8 Draft conditions of consent

Attachment 1 – Aerial Photograph Map



Attachment 2 – Zoning Map.



NB/ The rose shading represents R3 Medium Density Residential land, the light pink shading represents R2 Low Density Residential land and the yellow shading represents SP2 Infrastructure land





REF.	DATE	AMENDMENT
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<p>DISCLAIMER All dimensions are in millimeters. Verify all dimensions on site prior to commencement of any work. Copyright of INWA.</p>		
<p>Legend:</p> <p>F801 FACE BRICK F802 FACE BRICK F803 FACE BRICK BLOKOWO BLOKOWO CLO1 CLADDING CLO2 CLADDING R1W ROOFING R2W ROOFING</p>		

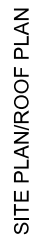
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		0A RG	012
DRAWING NAME:	PROPOSED LEVEL 1		REV.
			CC

	<p>Wollongong 81a Princes Highway, Fairy Meadow NSW 2519 Tel: (02) 4227 1661 Email: info@designworkshop.com.au Web: www.designworkshop.com.au</p>	<p>Sydney Level 10, 16 Mount Olympus Boulevard, Wall Creek NSW 2205 Nominated Architect Robert Gizzi (Reg. #26869)</p>	
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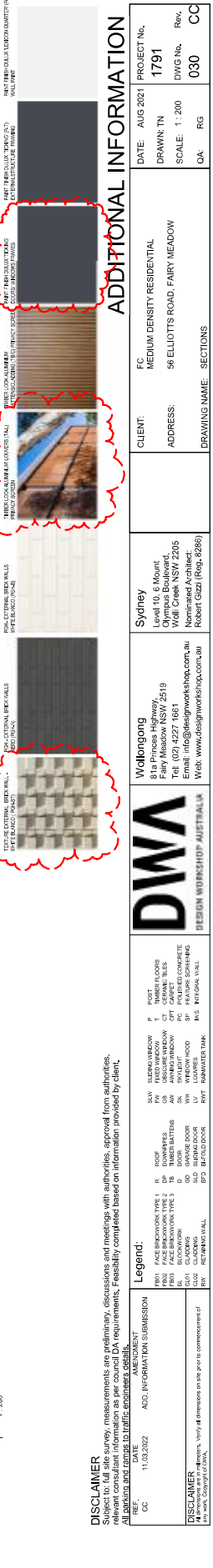
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A3



DISCLAIMER
Subject to: full site survey, measurements are preliminary, discussions and meetings with authorities, approval from authorities, relevant consultant information as per council DA requirements, Feasibility completed based on information provided by client, All parking and ramps to traffic engineers details.

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DISCLAIMER
Subject to: full site survey, measurements are preliminary, discussions and meetings with authorities, approval from authorities, relevant consultant information as per council DA requirements. Feasibility completed based on information provided by client.

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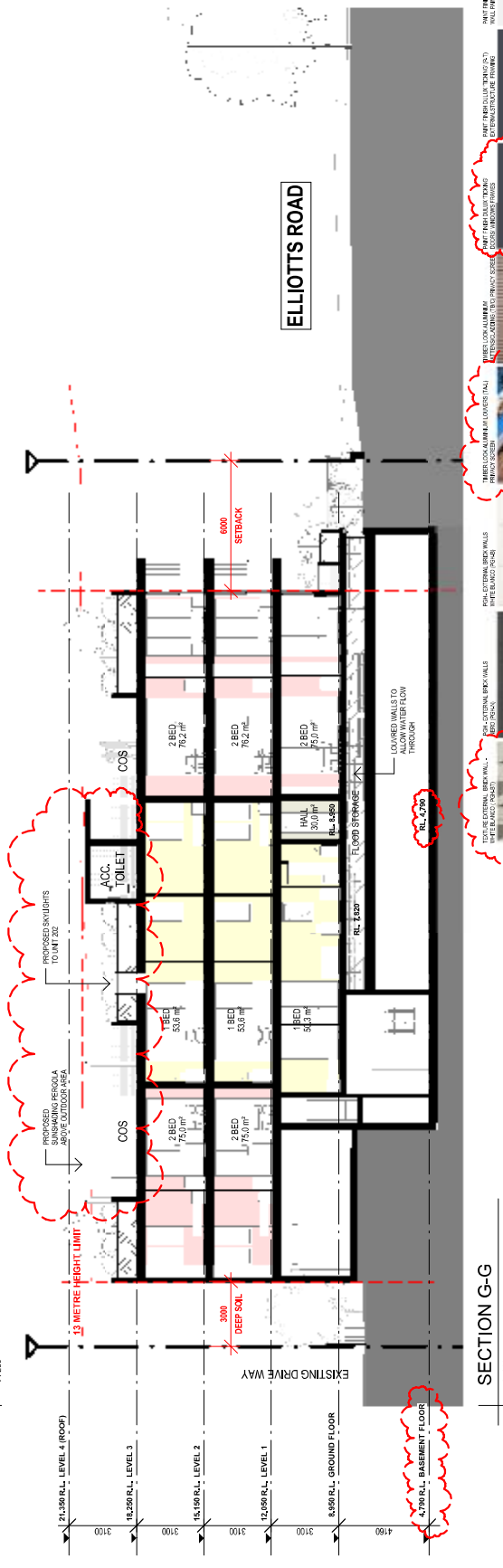
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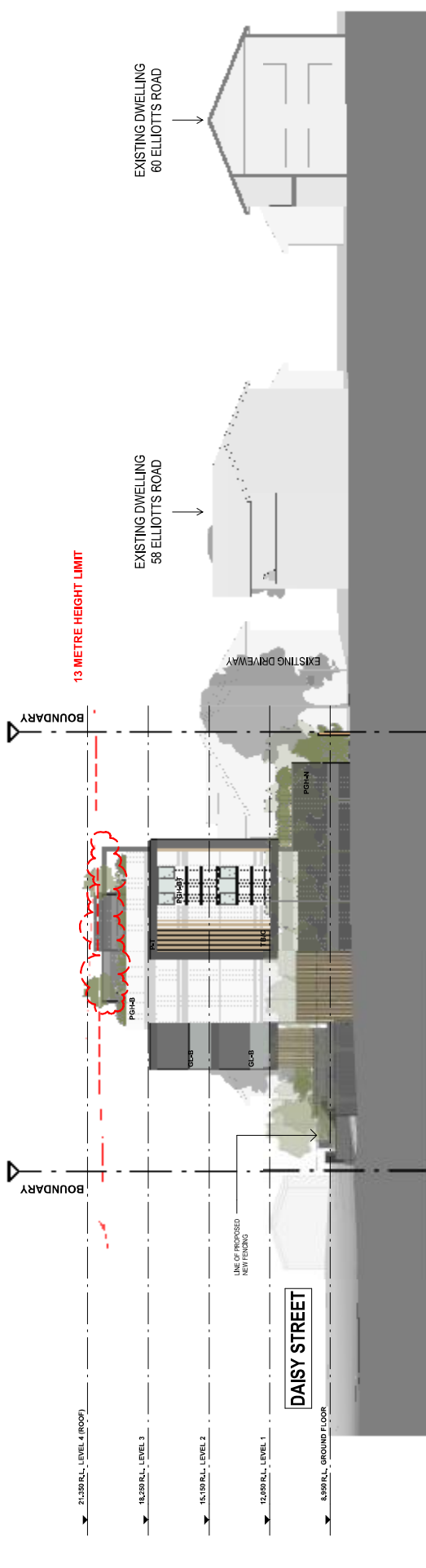
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BED FOLD DOOR
SLD SLIDING DOOR
LV LOUNGES
RWY RAINWATER

Source: *Confidential Source file*

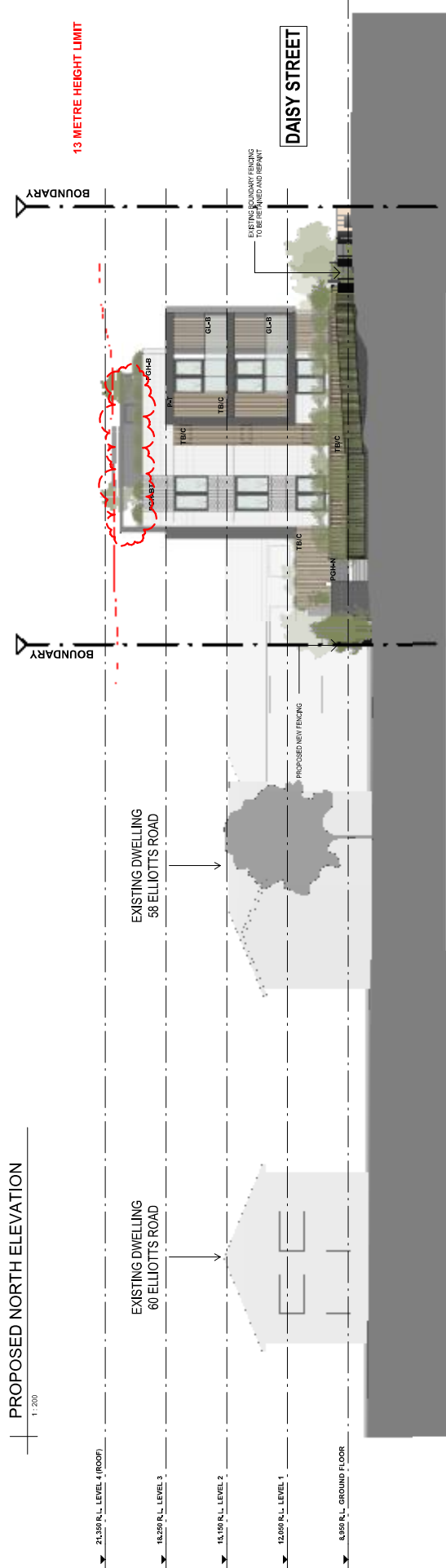


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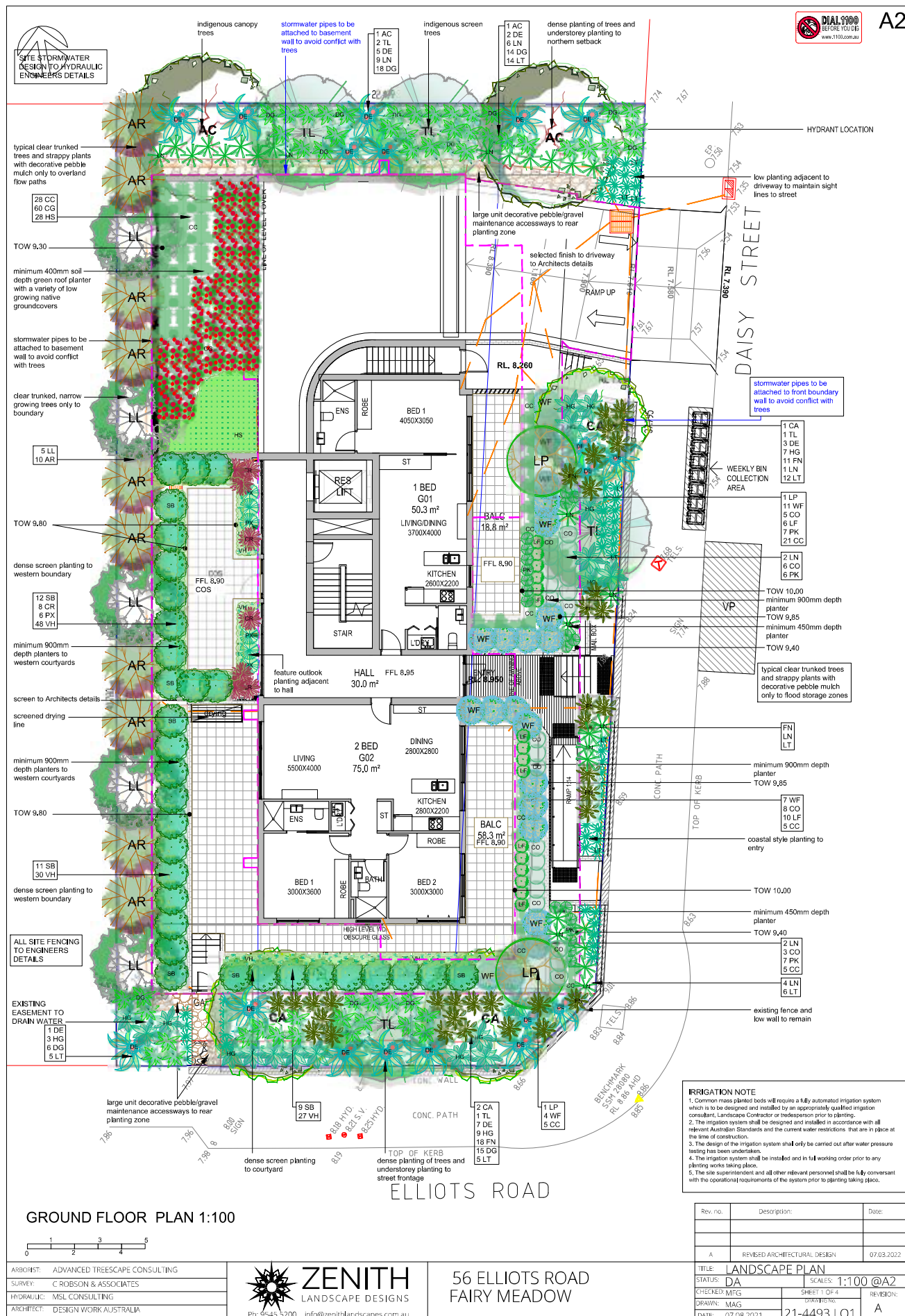


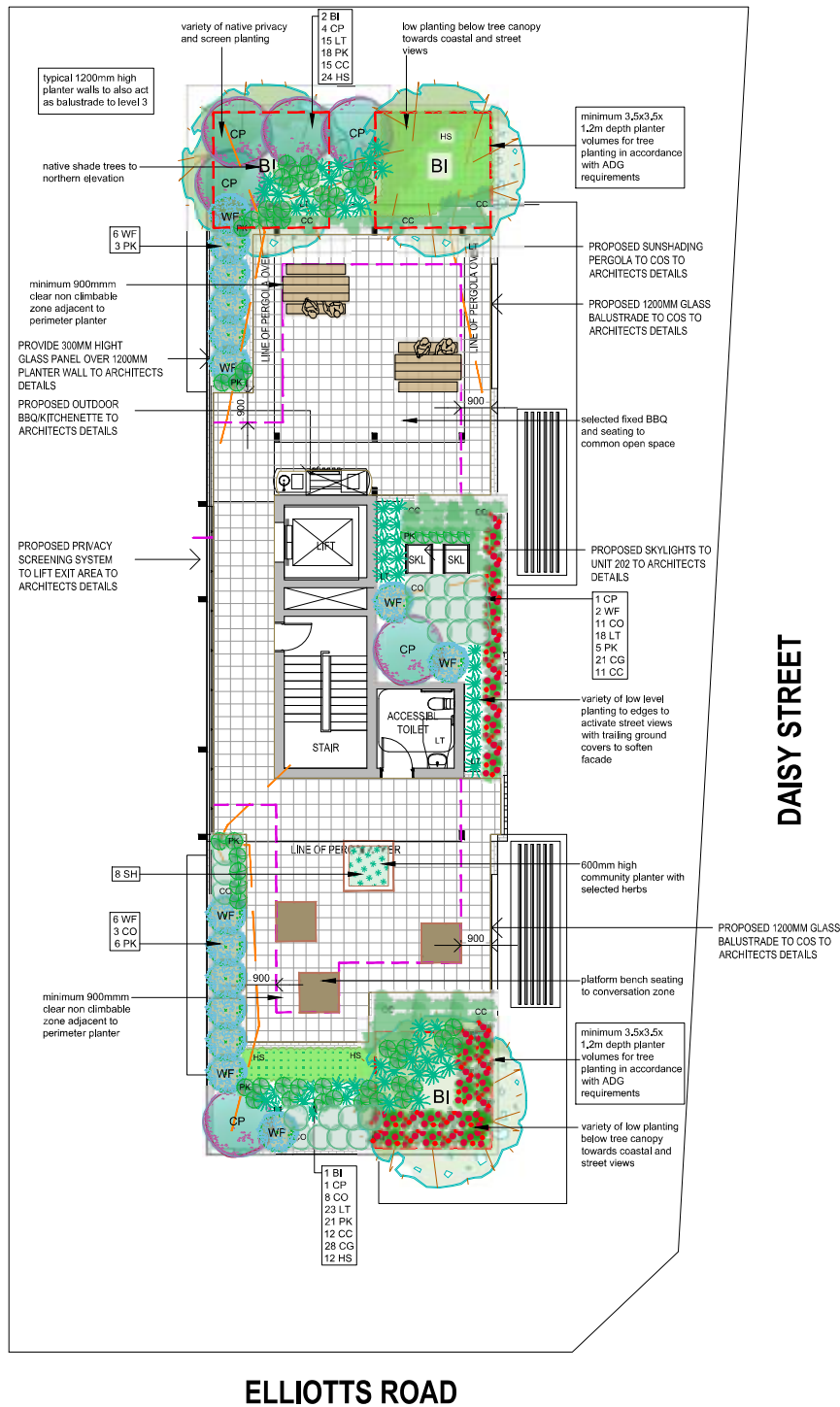
PROPOSED SOUTH ELEVATION
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DISCLAIMER
Subject to full site survey, measurements are preliminary, discussions and meetings with authorities, approval from authorities, relevant consultant information as per council DA requirements, Feasibility contended based on information provided by client, All building and design details are subject to change.

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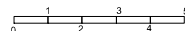
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OS	OUTSIDE	TD	TERRACE DOOR	WV	WALL VENTILATION	INT	INTERNAL WALL
AW	AWAY WINDOW	CT	CURTAIN TILES	WH	WIND WINDOW	INT	INTERNAL WALL
OPT	OPTIC	TB	TUBER BATTENS	WD	WOOD DOOR	INT	INTERNAL WALL
GT	GATE	TR	TRELLIS	WV	WALL VENTILATION	INT	INTERNAL WALL
SP	SPRINKLER	TR	TRELLIS	WV	WALL VENTILATION	INT	INTERNAL WALL
SP	SPRINKLER	TR	TRELLIS	WV	WALL VENTILATION	INT	INTERNAL WALL
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SP	SPRINKLER	TR	TRELLIS	WV	WALL VENTILATION	INT	INTERNAL WALL
SP	SPRINKLER	TR	TRELLIS	WV	WALL VENTILATION		





ELLIOTTS ROAD

LEVEL THREE PLAN 1:100



PLATFORM SEATING



BBQ FURNITURE

IRRIGATION NOTE

1. Common mass planted beds will require a fully automated irrigation system which is to be designed and installed by an appropriately qualified irrigation consultant, Landscape Contractor or tradesperson prior to planting.
2. The irrigation system shall be designed and installed in accordance with all relevant Australian Standards and the current water restrictions that are in place at the time of construction.
3. The design of the irrigation system shall only be carried out after water pressure testing has been undertaken.
4. The irrigation system shall be installed and in full working order prior to any planting works taking place.
5. The site superintendent and all other relevant personnel shall be fully conversant with the operational requirements of the system prior to planting taking place.

ARBORIST:	ADVANCED TREESCAPE CONSULTING
SURVEY:	C ROBSON & ASSOCIATES
HYDRAULIC:	MSL CONSULTING
ARCHITECT:	DESIGN WORK AUSTRALIA



ZENITH
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56 ELLIOTS ROAD
FAIRY MEADOW

Rev. no.	Description	Date
A	REVISED ARCHITECTURAL DESIGN	07.03.2022
TITLE: LANDSCAPE PLAN		
STATUS: DA	SCALES: 1:100 @A2	
CHECKED: MFG	SHEET 2 OF 4	REVISION:
DRAWN: MAG	DATE: 07.08.2021	21-4493 LO2
		A

ATTACHMENT 4

Wollongong Design Review Panel – MS Teams Meeting Meeting minutes and recommendations

Date	6 December 2021
Meeting location	Wollongong City Council Administration Offices
Panel members	(Chair) David Jarvis (Member) Tony Quinn (Member) Sue Hobley
Apologies	None
Council staff	Pier Panozzo - Development Assessment & Certification Manager (Acting) Rebecca Welsh – City Centre & Major Project Manager (Acting) Cathryn Bell – Development Project Officer Alexandra McRobert – City Architect
Guests/ representatives of the applicant	Robert Gizzi – Design Workshop Catherine Stevens – Design Workshop Megan Geddes – Zenith Landscapes Luke Rollinson - MMJ Wollongong Michael Pereira – MSL Engineers
Declarations of Interest	None
Item number	1
DA number	DA-2021/1081
Reason for consideration by DRP	
Determination pathway	SEPP 65
Property address	56 Elliots Road, Fairy Meadow
Proposal	Demolition of existing dwelling and construction of three (3) storey building comprising eight (8) units with basement car parking
Applicant or applicant's representative address to the design review panel	
Background	The site was Inspected by the Panel on 30 March 2021. The proposal was previously reviewed by the Panel on the 30 th March 2021 under DE-2021/31.
Design quality principals SEPP 65	
Context and Neighbourhood Character	The proposal is located at the intersection of Elliots Road and Daisy Street. Elliots Road is a busy main road, whereas Daisy Street is calmer residential street. The site is located in close proximity to Fairy Meadow train station and Fairy Meadow local centre. The neighbourhood consists of a mixture of modestly scaled town houses, residential flat buildings and single dwellings. Buildings in the immediate context are predominantly one and two storeys in scale. The site is constrained by flooding.
Built Form and Scale	The current proposal consists of a simple linear three storey building. The building form has been sited and configured in a manner that generally responds to its immediate context in a reasonable manner. The ground floor level has been raised in response to flooding constraints, this results in a ground floor level that sits approximately 1.2m above the street level at the northern end of the site and close to grade at the southern end of the site. In response to the Panel's previous comments, the entry has been moved further south and the vertical circulation core has been reconfigured. This has reduced the extent of the entry ramp and

	<p>contributing to a more rational circulation within the building. However, further consideration of the following issues is recommended:</p> <ul style="list-style-type: none"> - A flood storage area has been created fronting Daisy Street. Drawings show an 880mm high opening below the ground floor slab, that will be visible from the street. Detail design resolution must ensure that this space does not diminish the aesthetic quality of the development. Details should be provided documenting screens and the extent / type of planting proposed to conceal the flood storage area. - An existing concrete barrier (approximately 400mm high) wraps the perimeter of each street boundary. The barrier appears to be contributing to providing some protection from vehicle collision as well as limiting water entering the site from the north. It is not clear as to whether the concrete wall and associated fence will be maintained or removed. Demolition drawings do not show the removal of the wall and site sections do not fully show the position / extent of the wall. <p>For streetscape amenity, the deletion of this wall would be preferred. However, if the wall is retained, it may create a barrier that will limit the flow of water onto the site. The applicant is encouraged to consider these factors when developing flood mitigation solutions for this building. Flood modelling solutions for this building should include the impact of the concrete barrier when determining an appropriate solution for the site.</p> <ul style="list-style-type: none"> - A driveway adjacent to the northern site boundary provides access to the basement carpark. The driveway has been appropriately located in response to the topography of the site. However, to address flooding issues a naturally driven, automatic flood barrier is proposed within the driveway. The barrier eliminates the need for a bunded driveway entrance that would raise the level of the driveway by approximately 1m at its entry point. The flood barrier is a good design solution that reduces the extent of ramp required to access the basement. However, the applicant must liaise with Council's traffic engineer to confirm that Council will accept the barrier in lieu of a bunded entry. <p>To accommodate the basement ramp, the structure in the northwestern corner of the site has been elevated above the ground floor slab level, to sit approximately 2m above natural ground. Drawing 014 shows this area of structure as a roof garden. Whereas, Section AA, drawing 030 show a flat slab with no planting. The section should be developed to accommodate planting, to realize the design intent shown in the plan. To minimize potential privacy issues with neighbours this area of the must not be trafficable.</p> <ul style="list-style-type: none"> - The proposed 3 storey building is set back 6m from the western boundary. This provides a reasonable transition in
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	<p>scale with the existing neighbour. However, care must be taken with the detail development of the façade to minimise the potential for visual privacy issues.</p> <p>A contextual section should be provided showing the relationship between the balconies of the western neighbour and the proposal. This will assist in determining if there are likely to be any privacy issues between the podium level herb garden and the neighbouring balconies. If necessary, screening should be provided to the herb garden to minimise potential privacy issues.</p> <p>In principle, the Panel supports the proposed vine plantings on a tensile cable system along the western façade, but is concerned that privacy and relief from exposure to the western sun does not rely solely on a planting. Further detail development of the screening system to the west-facing lobby areas should be undertaken. The screen should be configured to maintain outlook from the lobby (in a north / south direction) but minimise direct lines of sight between the lobbies and the neighbouring balconies.</p> <p>If vines are incorporated consideration must be given to how the vines are maintained and windows cleaned, will this detail become a servicing issue? Other options that may also be considered include vertical louvres, external blinds and blinds integrated within windows.</p> <p>The proposed screen must provide a serviceable solution that is effective in minimising potential privacy issues and controlling excessive heat gain. A detail of the proposed screen should be provided.</p> <ul style="list-style-type: none">- The proposed 3 storey building is set back 3m from the northern boundary. This provides a reasonable transition in scale with the existing two storey neighbour. The northern façade has been configured in a defensive manner to minimise potential privacy issues with the northern neighbour. However, bedroom 2 of the northern units is serviced by a high-level window only. It is suggested that narrow windows (with a minimum 1m sill height) be provided in the western corner of bedroom 2 to provide some outlook to these rooms.- A 1.5m high glazed balustrade is shown wrapping the entire perimeter of the communal roof garden. This appears to be in excess of any statutory safety requirements. Given its location behind the planter beds, the glazing will also be very difficult to clean / maintain. It is recommended that the perimeter treatment of the communal roof garden be reviewed and refined. Perhaps allowing the terrace to extend to the perimeter of the building on the eastern face of the roof (by removing the planters) and only utilizing the 1.5m high glass screens on the western edge of the building, to provide increased acoustic separation from neighbours.
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Density	<p>Though relatively modestly scaled, the proposed three storey building will be bulkier than the existing built form context. However, the building has now been articulated to express its form in a considered manner, to provide a building consistent with the future desired character of the neighbourhood.</p> <p>The lift shaft extends nominally above the permissible height. However, given its location within the footprint of the building, it appears to have minimal impact upon the perceived bulk of the building.</p>
Sustainability	<p>The proposal provides the potential for natural cross ventilation to in excess of 60% of units. Compliance with the minimum requirements of the ADG is achievable.</p> <p>A reasonable strategy has been established to maximise solar access to the building, by creating living spaces that benefit from both morning and afternoon sun. However, many balconies still appear to be struggling to achieve the minimum 2 hours solar access required by the ADG (refer to drawing 052 W, sun angles analysis). It is suggested that the blade walls on the northern face of the balconies servicing units 103 and 203 are developed with angled louvre inserts. The angle of the louvres should allow sun onto balconies at 11am mid-winter but prevent sight lines from the balcony into the bedrooms of the neighbouring units. A detail of the louvred screen should be provided.</p> <p>Opportunities to harvest rainwater for use in maintaining any plantings established on the building or the site should be explored. Other water minimization measures (reuse of rainwater for toilet flushing and washing machines) should also be considered.</p> <p>The use of photovoltaic cells and solar panels is also encouraged.</p> <p>Landscape plantings should address aims for biodiversity protection, weed minimisation and low water use.</p>
Landscape	<p>The Panel notes the considerable work done to address previous concerns in relation to landscaping. The following concerns / issues require further attention:</p> <p>Streetscape</p> <ul style="list-style-type: none"> - The treatment of the small concrete wall in the public domain along the boundary interface needs to be resolved in an aesthetically satisfactory manner (See above under Built form and scale) - The proposed locations of street trees need to take into account the pedestrian access point, sightlines for vehicles exiting the site or entering Daisy Street from Elliotts Road. - The location of garbage bins for weekly collection needs to be further away from the pedestrian entry and closer to the driveway ramp which will be utilised for their movement.

Unit 2 Private Open Space

- The entry off Elliotts Road needs to be reconfigured to provide a landing at the top of the stairs where currently shown is a garden bed with plantings that include a tree.
- The proposed drying area at the interface with the communal open space needs to be screened so it does not impact on the amenity of the COS.

Ground Floor Communal Open Space (COS)

- It is recommended that the option to relocate the entrance off the lobby be explored. By placing the door closer to the lift, not only would access to the COS for residents be more direct but also it would be possible to extend the eastern planter box to the south and wrap-around the southern end of the area. This would enable plantings that would be visible from the entrance hall of the building and would also provide a screen between the COS and unit 2's terrace.
- See above (Built form) regarding the need to ensure privacy and shade concerns relating to the lobby are effectively addressed.
- See above (Built form) regarding the requirement that the slab over the driveway in the north-western corner be a non-trafficable green roof (or similar).

Roof Level COS

- See above (Built form) regarding the Panel's concerns about the proposed privacy screen at the lift exit and glazed-balustrades. The west-facing area alongside the lift and wall to the stairwell needs careful consideration in terms of privacy, solar exposure (over-heating summer) and amenity.
- The area should be provided with kitchenette facilities and include some form of cover to provide shade and shelter to a portion of the area (ensuring height compliance is not a concern).
- The lay-out of the planter boxes should take into account the need to access different plantings for maintenance; it should also provide gaps where direct (safe) viewing to the street is possible.

General

- Linear, monocultural plantings should be reconsidered. Mixed plantings in terms of species, form and dimension provide a softer aesthetic and better resistance to pests and diseases.
- The Panel strongly encourages the preferential use of locally indigenous plant species for all amenity / ornamental plantings as a means to support local biodiversity, minimise weed problems and achieve good water-use outcomes. To this end, the plant schedule should be amended to replace *Raphiolepis* spp, *Metrosideros* spp., *Gazania* spp. and *Elaeocarpus eumundii*. Suitable substitutes include (but are not limited to): *Leptospermum laevigatum*, *Monotoca*

	<i>elliptica, Westringia fruticosa, Correa alba and Carpobrotus glaucescens.</i>
Amenity	<p>The Panel previously recommended that units be reconfigured to locate living spaces on the northern and southern edges of the building, to provide more natural light and outlook to each unit. The applicant advised that this option had been explored. However, the applicant had determined that on balance the greater efficiency provided by entering directly into the living room resulted in a better unit. The level of amenity provided by the northern and southern units is acceptable.</p> <p>An accessible toilet has now been provided to the communal roof top open space.</p> <p>All rooms should demonstrate functional furniture layouts, units G01, 102 and 202 look particularly difficult to furnish.</p> <p>Room and balcony dimensions should be provided to demonstrate ADG compliance.</p>
Safety	Further detail required to clarify minimum clear non climbable zone on roof terrace COS
Housing Diversity and Social Interaction	The proposal is well situated in close proximity to a busy local retail centre and a train station. The proposal will provide an appropriate housing option for this neighbourhood.
Aesthetics	<p>In response to the Panel's previous comments, further development of the building form has provided a stronger corner expression at the junction of Elliotts Road and Daisy Street.</p> <p>The materials selection shown on elevational drawing provides an appropriate material pallet for this context. However, more detail information should be provided to ensure the architect's design intent is realised. Detail sections should be provided, and finishes clarified:</p> <ul style="list-style-type: none"> - Balustrade type, frameless as shown in perspectives? - Window frames, material and colour - Brick detailing confirmed, presumably not hit and miss as currently documented? - Detailing of all screens <p>Servicing of the building must be considered at this stage of the design process. The location of service risers, AC condensers, down pipes, fire hydrant boosters etc. should be accommodated.</p>
Key issues, further Comments & Recommendations	The building has been sited and configured in a manner that generally responds to its immediate context in a reasonable manner. However, the applicant must liaise with Council's traffic

	<p>engineer to confirm that Council will accept the proposed flood mitigation measures. Further detail development of the following issues is also required:</p> <ul style="list-style-type: none">- Further detail of building finishes (screens, materials, balustrades etc.)- Development of balconies to provide ADG compliant solar access- Development of the western façade to mitigate potential privacy and heat-load issues.- Further development the communal open space (both podium and roof terrace levels).- Further development of landscaping to the street and unit 2 terrace.- Furniture layouts to be provided in all units to demonstrate that function spaces have been provided.
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Appendix B – Clause 4.6 Exception to Development Standard

Introduction

This Clause 4.6 Exception to Development Standard Request has been prepared to support a DA under Division 4.3 of the Environmental Planning and Assessment (EP&A) Act 1979, for a Residential Flat Building at 56 Elliotts Road, Fairy Meadow. This request satisfies the requirements of Clause 4.6 of the Wollongong Local Environmental Plan 2009 in demonstrating that:

- (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. This Variation Request is seeking to vary Clause 4.3(2) of Wollongong Local Environmental Plan 2009 (WLEP 2009) and should be read in conjunction with the architectural plans provided with the Development Application.*

This variation has been prepared in accordance with the NSW Department of Planning Infrastructure (DPI) guideline “*Varying Development Standards: A Guide*” dated August 2011 and addresses the ‘five-part test’ established by the NSW Land and Environment Court (LEC) to determine whether the objection is well founded.

Subject land

The subject site is located east of the Fairy Meadow town Centre area, on the corner of Elliotts Road and Daisy Street near the overpass of Elliotts Road and Memorial Drive (east). The area to be redeveloped includes Lot 3 DP 161827.

The land has a site area of approximately 860m² and currently comprises a single storey brick and tile residence. All structures and surfaces are proposed to be demolished to support the new development.

The site is bound to the west by a two (2) storey development consisting of two (2) attached multi-dwelling housing accessed from Elliotts Road. The site is bound to the north by a two (2) storey brick residential flat building accessed from Daisy Street.

Applicable Environmental Planning Instrument

The applicable Environmental Planning Instrument subject to this Variation Request is the Wollongong Local Environmental Plan 2009 (WLEP 2009).

Wollongong Local Environmental Plan 2009

WLEP 2009 provides the key development standards applicable to the development and includes the aims and objectives for the development within the Wollongong Local Government Area. In particular, this Exception to Development Standards Request is seeking to vary the 13 metre building height development standard identified within Clause 4.3(2) of the LEP.

Objectives of the Development Standard

To satisfy the requirements of Clause 4.3(2) and demonstrate that compliance with the standard is unreasonable or unnecessary, it is important to understand the intent and objectives of the development standard being varied.

The objectives of this clause are as follows:

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,
- (b) to permit building heights that encourage high quality urban form,
- (c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.

Description of the Variation

The subject site allows a maximum building height of 13 metres. The highest point of the development is the lift over-run which sits at approx. RL 21.1 AHD, with natural ground level situated at approx. RL 7.8 AHD. This equates to an overall building height proposed at 13.3 metres, being approx. 300mm above the maximum permitted LEP building height of 13 metres. That is, a 2.3% exceedance of this development standard threshold when represented in percentage.

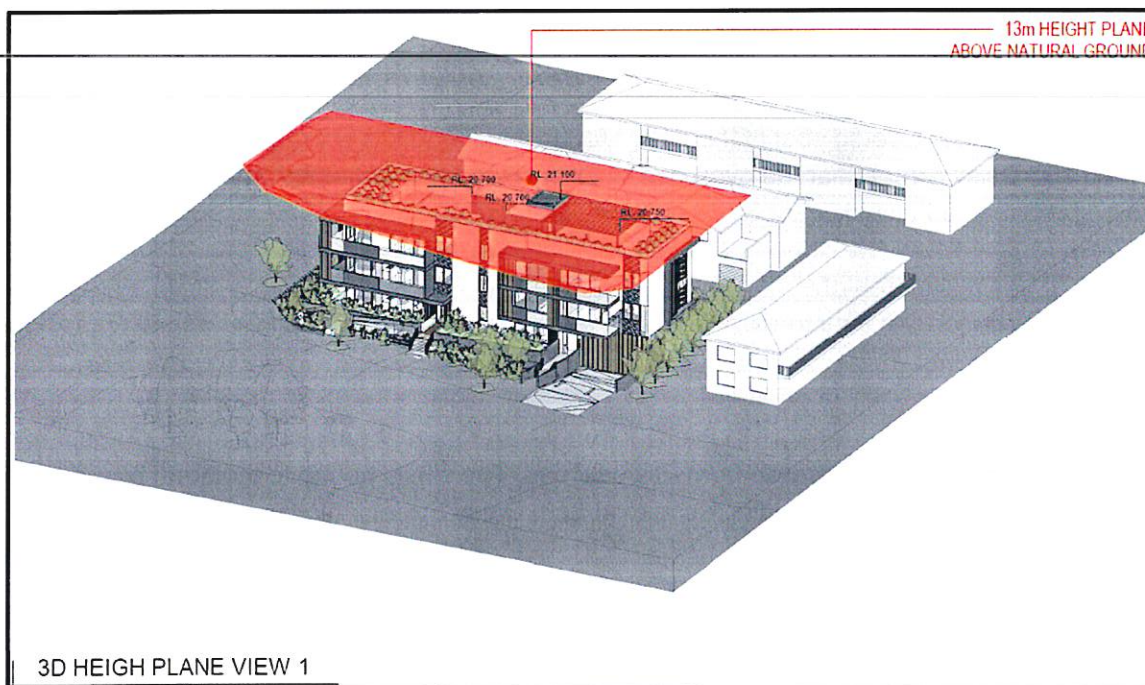


IMAGE 1 3D HEIGHT PLANE (*SOURCE DWA)

How is compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?

In *Wehbe v Pittwater Council* [2007] NSWLEC827 (*Wehbe*), Preston CJ identified five (5) ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary. While *Wehbe* related to objections pursuant to State Environmental Planning Policy No. 1 – Development Standards (SEPP 1), the analysis can



be of assistance to variations made under Clause 4.6 because subclause 4.6(3)(a) uses the same language as Clause 6 of SEPP 1 (see Four2Five at [61] and [62]).

The five (5) ways outlined in Wehbe include:

- 1. The objectives of the standard are achieved notwithstanding noncompliance with the standard (First Way)*
- 2. The underlying objective of purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Way)*
- 3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (Third Way)*
- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way)*
- 5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Way).*

Additionally, of note, in the judgment in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 the Chief Judge upheld the Commissioner's approval of large variations to height and FSR controls on appeal. He noted that under Clause 4.6, the consent authority (in that case, the Court) did not have to be directly satisfied that compliance with the standard was unreasonable or unnecessary, rather that the applicant's written request adequately addresses the matters in Clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary.

In this regard, this written request establishes and adequately addresses the matters in Clause 4.6(3)(a) that compliance with each development standard is unreasonable or unnecessary because the objectives of the standard are achieved irrespective of the non-compliance and accordingly justifies the variation pursuant to the **First Way** outlined in Wehbe, as follows.

Additionally, whilst it is not purported that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard, we do note the Fourth Way outlined in Wehbe is a relevant matter for consistency in the way that Council have granted departures this development standard over time.

Objective of the Development Standard:

Under WLEP 2009, Clause 4.3(2) has the following objectives in relation to the Maximum Building Height development standard:

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,*
- (b) to permit building heights that encourage high quality urban form,*



(c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.

Objective (a) - Correlation between the height and the floor space.

The allowable FSR for development on the site is 0.75:1 (645sqm). The development proposes an FSR of 0.73:1 (624.4sqm). As such, it is within the afore-mentioned FSR of 0.75:1 and complies with the applicable development standard in this regard. The proposed development does not maximise FSR accordingly.

The breach of the maximum height is due to flooding on the site and the requirement to raise the floor levels of the building to accommodate the plenum. Additionally, the roof top is proposed as communal open space and, as such, lift access is required ensure equitable opportunity for all residents. In doing so, the lift overrun slightly exceeds the maximum building height by 300 mm. No part of the communal open space floor area or habitable floor space within the development encroaches into this height plane at all.

Therefore, it is clear that the FSR is not a reason or an effect to exceeding the height limit for this proposal. The breach of the standard therefore does not result in an inconsistency with this objective.

Objective (b) - High Quality Urban Form

The external details have been carefully considered with DWA undertaking a comprehensive site analysis (not only in terms of built form but also materials) to ensure that the development will integrate with the existing setting, and also provide a benchmark for future development in the area.

The proposal has been designed to comply with key planning controls and the development has been included basement parking, street facing apartments and roof top communal open space in order to improve the streetscape. The roof top communal space provides a superior amenity outcome for the future inhabitants of the site and was generally supported by the Wollongong Design Review Panel:

Given the constraints of the site, it is evident that ground level communal open space cannot be provided without compromising the privacy of neighbouring properties. Therefore, rooftop communal open space is supported by the Panel on this site, provided that potential privacy issues are minimized by careful detailed design resolution.

The site at this location is subject to a reasonable level of traffic noise, and to incorporate communal open space at the ground-level would not be optimising residential amenity. The location and immediate neighbours afford good opportunity to incorporate communal open space at the roof top, without compromising amenity for adjoining residents.

The land is suitable for the proposed residential flat development and is compatible with the surrounding residential uses. The proposal will not have a detrimental impact on any environmental heritage items and will make a positive contribution to the streetscape.



The proposed bulk, massing and modulation of the building is acceptable and does not result in any unreasonable loss of amenity to any of the adjoining properties. The proposed street frontage heights are considered appropriate having regard to the surrounding context and scale of development.

The proposal will have no significant adverse environmental impacts in terms of sustainability, wind and/or reflectivity. Overshadowing and solar access has been addressed in detail by DWA. Relevant details have been provided in this regard to enable a full assessment (i.e. shadow diagrams, BASIX certificates etc).

Access to the site has been carefully considered in a variety of forms (i.e. for pedestrians, motorists and cyclists alike), to ensure suitable provisions for service access and circulation. The proposed development will have a positive impact on the public domain.

The breach of the standard does not result in an inconsistency with this objective.

Objective (c) - Views and Solar Access

The proposal will likely impact on existing view corridors given that the proposal involves the construction of a three (3) storey RFB in place of the one (1) existing dwelling. However, these impacts are essentially unavoidable due to the orientation, topography and location of adjoining development, without effectively sterilising the site. Notwithstanding, at this location the primary views would be considered those towards the west pick up the Illawarra escarpment as a backdrop to existing urban form. There is no residential development immediately east of the site that would likely incorporate view corridors through the property, given the Daisy Street/Elliotts Road intersection and associated over pass road reserve areas immediately east at this location. Therefore, it can be conceived that there is no notable loss of views towards the Illawarra escarpment for any residents in the immediate locality.

Six (6) of the total eight (8) units (i.e. 75%) receive a minimum of 2 hours sun to living area glazing and private open space in midwinter. The ADG design criteria nominates 70% as a minimum. Only one (1) unit falls into the 'no sun' category defined by the ADG. The ADG criteria nominates 15% as a maximum and therefore the ADG design criteria for solar access are fully satisfied.

Overall, the proposed height is compatible within its context and will not result in any adverse impacts to surrounding properties. The breach of the standard allows for a building that achieves an improved built form. The breach of the standard allows a built form that is consistent with the urban design principles established in the R3 Medium Density Residential zone. This includes providing an adequate setback to the street, side, and rear boundaries; as well as the provision of a protected rooftop landscaping and communal open space. If the breach did not occur; the built-form outcome would be compromised as it would otherwise result in a poorer streetscape presentation and less amenity for the potential occupants.

The breach of the standard does not affect consistency with this objective.



Development Standard Abandoned:

In relation to the Fourth Way, we do not purport in any way that *"The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Way)"*. However, it is contended that Council's own actions in granting consents departing from the development standard are consistent in those circumstances. Many of these approvals and variations relate to only a small portion of a roof structure, pergola, lift overrun or similar, which is reflective of that proposed by this application.

In this regard, the following approvals have proposed the same type of variation and have been approved as an exception the development standard by Council in a similar fashion:

DA-2020/1458

*Residential - demolition of existing structures and construction of a six (6) storey residential flat building comprising of 27 units with basement level car parking and lot consolidation
A building height of 16m applies to the site. A proposed building height of 17.96m is proposed for the lift overrun and part of the communal open space roof structure. 12.25% variation*

DA-2021/252

*Residential - alterations and additions
9.7% departure*

DA-2020/805

c4.3(2) Height of buildings

The proposed height of 9.85 metres exceeds the height limit less than 10% (9.44%).

DA-2020/605

Residential - new rooftop pergola to existing roof terrace

Proposed height of 29.32m, where 24m is permitted in accordance with Cl 4.3 of WLEP 2009.

DA-2019/698

Alterations and additions to existing Educational Establishment to be undertaken in two stages including demolition works, tree removals, a new carpark, associated site works and landscaping

The Proposal exceeds the 9m height of buildings development standard under clause 4.3 of the WLEP 2009 with Block I having a maximum height of 10.4m measured to the southern eave of Block I, representing a variation of 1.4m and 16% exceedance.

Thus, deeming strict compliance with the Height of buildings development standard is unwarranted in the circumstances of this particular case. The endorsement of that proposed will not be inconsistent with that approved by Council previously.

[Are there sufficient environmental planning grounds to justify contravening the development standard?](#)

Yes, there are sufficient environmental planning grounds in the circumstances of the case to justify contravening the development standard. These include:



- The site is of a sufficient width, depth and size to accommodate the proposed height, without resulting in any significant adverse impacts on the public domain or any adjoining properties;
- The scale of the existing development and proposed rooftop awning/lift overrun is considered appropriate within the strategic planning context of the R3 Medium Density Residential zone and is consistent with the relevant zone objectives;
- The proposal satisfies the objectives and development controls in relation to the maximum permitted Height contained within Clause 4.3 of the *WLEP 2009*;
- Non-compliance with the standard will not result in any adverse environmental impacts; and
- The development as proposed will allow for the orderly and economic use of the subject land.

Is the proposed development in the public interest because it is consistent with the underlying intent of the development standard and the objectives for development in the zone

Yes, the proposal will provide additional dwellings to meet the needs of the local community. The development is consistent with the underlying intent of the development standard as noted, and the objectives for development in the zone, as noted.

Does contravening the development standard raise any matters of significance for the State or regional environmental planning?

No, contravening the development standard in this case does not raise any matters of State or Regional planning significance.

Is the objection well founded?

For the reasons outlined in the previous sections above, the objection is considered to be well founded in this particular instance. Granting an exception to the development standard can therefore be supported in the circumstances of the case.

The proposed development will be consistent with the outcomes envisaged in the zoning and policy framework. The development is also compatible with the relevant objectives specified in Section 1.3 of the EPAA 1979.

Conclusion

This Clause 4.6 Exception to Development Standards Request has been prepared to support a development application for a Residential Flat Building at 56 Elliots Road, Fairy Meadow. This request satisfies the requirements of Clause 4.6 of the Wollongong Local Environmental Plan 2009 (WLEP 2009) and demonstrates that compliance with the standard is both unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify varying the standard in this instance.

ATTACHMENT 6 – Apartment Design Guide Assessment

Key SEPP65 standards			
	Required/Objective	Proposed	Compliance
3D Communal and public open space	Communal open space has a minimum area equal to 25% of the site. Developments achieve a minimum of 50% direct sunlight to the principal usable part of COS for a minimum of 2 hours between 9 am and 3 pm on mid winter	Required: $25\% \times 860 = 215\text{m}^2$ Combined ground floor and rooftop COS area of $277\text{m}^2 = 32\%$ of site Satisfactory solar access.	Yes
3E Deep soil zones	$650\text{m}^2 - 1,500\text{m}^2$ min 3m dimension Deep soil zone (% of site area) 7%	Required: $7\% \times 860 = 60.2\text{m}^2$ Calculated 70m^2 of DSZ provided = 8.1% Minimum dimension of 3m	Yes
3F Visual privacy (separation distances from buildings to the side and rear boundaries)	Up to 12m (4 storeys) - 6m (habitable rooms & balconies) 3m (non – habitable rooms)	Building separation is achieved to the west but is not compliant with the north providing 3m to habitable rooms (bedrooms). North facing bedroom windows are raised 1.8m above FFL to maintain visual privacy for the northern neighbour. It is further noted that the 1.5m west side setback for the basement entrance ramp and parking, while not strictly representing habitable or non-habitable rooms, nonetheless increases overall building bulk and scale. The west facing section of the entrance ramp is about 3m high and 12 metres long. Western neighbours are most affected by the location of the basement entrance ramp. With no west facing windows, privacy is maintained. Landscaping on the basement ramp roof and along the west property boundary will reduce visual impact of the built form for neighbours. Solar access is satisfactory.	No – justified

3J Bicycle and car parking (Nominated regional centres; Wollongong, Warrawong, Dapto)	<p>For development on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre; the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>DCP parking rates are: 0.75 spaces per unit with GFA <70m², 1 space per unit with GFA 70-110m² plus 0.2 visitor car parking spaces per unit.</p>	<p>Site not within 400m of B3 or B4 zone. Therefore, parking rates under E3 of WDCP 2009 apply.</p> <p>The development provides 9 basement car spaces; one for each unit (2 adaptable), 1 visitor space, 1 motor cycle space and 4 bicycle spaces.</p> <p>The application was supported by Council's Traffic Engineer, taking Traffic and Parking Assessment Report comments into consideration. Proximity to public transport was noted.</p>	Yes
4A Solar and daylight access	<p>Living rooms and private open space, 2 hours direct sunlight in mid winter to 70% of units.</p> <p>Units receiving no direct sun light between 9am and 3pm mid-winter 15% maximum</p>	7 apartments (87.5%) achieve min 2 hours sunlight between 9am and 3pm mid winter.	Yes
4B Natural ventilation	<p>60% of units to be naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m.</p>	<p>5 apartments achieve natural ventilation (62.5%)</p> <p>Apartment depth does not exceed 18m.</p>	Yes

4C Ceiling heights	Habitable rooms 2.7m Non-habitable 2.4m	3.1m floor to floor is provided to meet the 2.7m requirement.	Yes
4D Apartment size and layout	Min internal area Studio 35m ² 1 bedroom 50m ² , 2 bedroom 70m ² 3 bedroom 90m ² Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	No studios or 3 bedroom apartments 3 x 1 bedrooms – >50m ² 3 x 2 bedrooms – >75m ² 2 x 2 bedrooms (with ensuite) - 75m ² All apartments meet the minimum dimensions required internally.	Yes
4E Private open space and balconies	Studio apartments 4m ² - depth N/A 1 bedroom apartments 8m ² min depth 2m 2 bedroom apartments 10m ² min depth 2m 3+ bedroom apartments 12m ² min depth 2.4m.	All POS meet minimum depth and area requirements.	Yes
4F common circulation spaces	The maximum number of apartments off a circulation core on a single level is eight.	One lift to service maximum of 3 units per level.	Yes
4G Storage	Storage Required: 1 bedroom apartments - 3 x 6m ³ = 18m ³ 2 bedroom apartments – 5 x 8m ³ = 40m ³ Total required: 58m ³	Suitable storage is provided within apartments and in the basement to meet ADG requirements.	Yes

4H Acoustic privacy	Noise impacts mitigated within units through layout/acoustic treatment.	The property is located in close proximity to Memorial Drive – a classified road. A revised Noise Intrusion Assessment was reviewed and supported by Council's Environment Officer, subject to recommended conditions of consent.	Yes with conditions
4K Apartment mix	Range of apartment types and sizes provided for different household types.	A variety of apartment types is provided. The site is small but provides 3 x one bedroom and 5 x 2 bedroom units (two with ensuites) which meet Council requirements for diversity.	Yes
4L Ground floor apartments	Street frontage activity is maximised where ground floor apartments are located. Ground floor apartment design provides amenity and safety for residents	G02 has a private gated entrance off Elliotts Road providing greater activation of the streetscape. Screening elements surrounding ground floor unit POS achieve safety and security for the POS while still permitting views. Ground level landscaping affords additional privacy to residents.	Yes
4M Facades	Building facades provide visual interest along the street while respecting character of local area Building functions are expressed by the facade	Façade design is sufficiently articulated and is considered acceptable.	Yes

4N Roof design	<p>Roof treatments integrated into building design and respond positively to the street.</p> <p>Maximise opportunities to use roof space for residential accommodation and open space are maximised</p>	<p>The roof is utilized as COS with associated facilities. Landscaping integrated into the balustrade.</p> <p>Skylights are integrated into the roof design.</p>	Yes
4O Landscape design	<p>Site area < 850m² – 1 medium tree per 50m² of DSZ</p> <p>Landscape design is viable and sustainable</p> <p>Landscape design contributes to streetscape and amenity</p>	<p>4 medium sized trees are proposed for the DSZ which exceed ADG requirements for 2 trees</p> <p>A revised landscape plan has been reviewed by Council's Landscape Officer who supported the application, subject to recommended conditions.</p>	Yes
4P Planting on structures	<p>Appropriate soil profiles provided</p> <p>Plant growth optimized through appropriate selection and maintenance</p> <p>Planting contributes to the quality and amenity of communal and public open spaces</p>	<p>A revised landscape plan that includes podium planting details was reviewed by Council's Landscape Officer and is supported, subject to recommended conditions</p>	Yes
4Q Universal design	<p>Universal design features are included in apartment design to promotes flexible housing for all community members.</p> <p>A variety of apartments with adaptable designs are provided</p>	<p>25% (102 & 202) are capable of providing compliance with the features of the Silver level of Livable Housing Guidelines.</p> <p>Unit 102 also complies with Adaptable unit requirements.</p>	Yes

4U Energy efficiency	<p>Development incorporates passive environmental design & passive solar design</p> <p>Adequate natural ventilation provided</p>	<p>The proposal meets BASIX requirements for energy efficiency.</p> <p>Apartments are generally well ventilated windows on with 5 of 8 units having windows on 3 sides.</p>	Yes
4V Water management and conservation	<p>Potable water use is minimised</p> <p>Urban stormwater is treated on site before being discharged.</p> <p>Flood management systems are integrated into site design</p>	<p>The proposal meets BASIX requirements for water efficiency.</p> <p>A revised stormwater concept plan that includes an OSD facility is supported by Council's Stormwater Engineer, subject to recommended conditions for stormwater and flooding</p>	Yes
4W Waste management	<p>Waste storage facilities designed to minimise impacts on the streetscape, building entry and amenity of residents</p> <p>Domestic waste is minimised by providing safe and convenient source separation and recycling</p>	<p>Appropriate arrangement for roadside pickup are proposed.</p> <p>Waste stored in basement with sufficient space to comply with Chapter E7 DCP RFB waste requirements with general waste storage at 80L/unit/week and recycled waste at 40L/unit /week</p>	Yes
4X Building maintenance	<p>Building design provides protection from weathering.</p> <p>Systems and access enable ease of maintenance.</p>	Generally acceptable	Yes

Variation – Clause 3F Visual Privacy

A variation statement was submitted by the applicant to address non-compliance with the Clause 3F Visual privacy design criteria requiring a minimum side or rear setback of 6m for habitable rooms of buildings up to 12m.

For this development, there are two bedrooms (unit 101 and 201) that are setback 3m from the north rear boundary. This results in a 3m non-compliance to the above described design criteria. Units 101 & 201 have each incorporated a north facing window raised 1.8m above the respective finished floor levels.

Objective 3F-1 states: *Adequate building separation distances are shared equitably between neighbouring sites to achieve reasonable levels of external and internal visual privacy.*

The applicant contends that the setback criteria of 3m for non-habitable rooms is achieved. Visual privacy is maintained for the north facing bedrooms of Units 101 & 201 through the inclusion of raised windows. Further, no private open spaces are located along the north elevation and there are no adverse impacts for the northern neighbour with respect to overlooking or reduced solar access.

In terms of demonstrating that the development will not have additional adverse impacts as a result of the variation, the applicant contends that the proposed 3m wide deep soil zone will adequately screen the two buildings and that the design is generally consistent with the relevant provisions of the ADG, WLEP & DCP. The building has also been designed to minimise noise intrusion.

Comment:

The raised windows will provide adequate privacy for northern residents at 34 Daisy Street. Natural light and ventilation for the associated bedrooms (101 & 201) will be enhanced by narrow east facing windows that are part of the revised design. A total distance of 6m will separate the respective buildings. The visual dominance of the new building will be reduced by the 3m wide DSZ buffer separating the two buildings. Amenity impacts, such as privacy, solar access and view loss are considered to be acceptable and the variation is supported in this instance.

Attachment 7: WDCP 2009 compliance table

CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

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

Generally speaking, the proposal is considered to be consistent with the principles of Ecologically Sustainable Development.

CHAPTER B1 – RESIDENTIAL DEVELOPMENT

4.0 General Residential controls

<i>Controls/objectives</i>	<i>Comment</i>
4.13 Fire Brigade Servicing <ul style="list-style-type: none">ensure that all dwellings can be serviced by fire fighting vehicles.	The closest fire hydrant is located at 56 Elliotts Road on the Elliott Road frontage.
4.14 Services <ul style="list-style-type: none">encourage early consideration of servicing requirements, to ensure that all residential development can be appropriately serviced.	The site is currently serviced and appropriate conditions will be imposed for adequate services to be provided to meet the needs of the development.
4.16 View sharing	No significant view corridors affected
4.17. Retaining walls	No new garden retaining walls proposed.
N/A	

<i>Controls/objectives</i>	<i>Comment</i>
<p><u>4.19 Development near railway corridors and major roads</u></p> <ul style="list-style-type: none"> Impacts of road and rail noise or vibration on non-rail development must be considered under Clause 87 of the SEPP Infrastructure. 	<p>It is noted that the provisions of CI 4.19 have not been amended to reflect the current SEPP (Transport & Infrastructure) 2021.</p> <p>The subject property is adjacent to a road reserve bordering Memorial Drive which is a classified road. While not directly adjacent, the South Coast railway corridor is located next to Memorial Drive. Council's Environment Officer requested an amended acoustic report that also considered the impacts of rail line noise.</p> <p>An amended acoustic assessment that considered the impacts of road and rail noise in compliance with the provisions of SEPP (Transport & Infrastructure) 2021 was submitted. The proposal was reviewed by Council's Environment Officer who provided a satisfactory referral, subject to recommended conditions of consent.</p>

6 Residential flat buildings

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<p><u>6.1 General</u></p> <p>Development to comply with SEPP 65 and Apartment Design Guide (ADG), where requirements for:</p> <ul style="list-style-type: none"> Visual privacy Solar and daylight access Natural ventilation Ceiling heights Apartment size and layout Private open space and balconies Common circulation and spaces Storage; <p>shall prevail over any inconsistent objective or control in the DCP.</p>	<p>Refer to Section 2.1.5 for a discussion of SEPP 65 and Attachment 7 for the ADG assessment.</p>	<p>Yes</p>
<p><u>6.2 Minimum Site Width Requirement</u></p> <ul style="list-style-type: none"> Minimum site width of 24m required for RFBs. <p>Note: the width must be measured for the full length of the building envelope and perpendicular to the side boundary</p>	<p>The minimum site width as described in CI 6.2 is 17.069 metres along the southern property boundary and 22.409 metres along the northern property boundary, contrary to the provisions of CI 6.2.2.1 of the DCP.</p>	<p>No; variation supported.</p>

<ul style="list-style-type: none"> If the subject site is an existing isolated lot, Council may consider a variation to the minimum site width provided Council is satisfied the proposed development will not cause significant adverse overshadowing, privacy or amenity impact upon adjoining development. 	<p>The applicant submitted a variation statement for consideration of the proposal as an existing isolated lot as per CI 6.2.2.4. The variation is supported in this instance. Refer to Section 2.3 of the report for further discussion.</p>	
<p><u>6.3 Front Setbacks</u></p>		
<ul style="list-style-type: none"> Minimum front setback of 6m Minimum secondary street front setback is 3m Balconies and other building extrusions may be setback up to 900mm closer than min. front setback 	<p>The primary front setback off Elliotts Road is 6m and 5.6m for the secondary setback off Daisy Street. Balconies facing Daisy Street extend to a maximum of 3.5m within the secondary front setback.</p> <p>The southern balconies of Units 103 & 203 extend forward of the front building line by 1.5m contrary to CI 6.3.2.3 which stipulates a max. 900mm intrusion. The variation is supported in this instance. Refer to Section 2.3 of the report for further discussion.</p>	<p>No; variation supported</p>
<p><u>6.4 Side and Rear Setbacks / Building Separation</u></p>	<p>ADG non-compliances discussed in ADG Assessment.</p>	
<p><u>6.5 Built Form</u></p>	<p>The proposal was accompanied with a design verification statement stating that the proposal complies with the design quality principles set out in SEPP 65.</p> <p>The building form has been sited and configured in a manner that generally responds to its immediate context in a reasonable manner.</p> <p>The revised design provides a stronger corner expression at the corner of Elliotts Road and Daisy Street.</p> <p>The lift overrun forms part of the rooftop terrace design that also incorporates extensive landscaping and pergola.</p>	<p>Yes</p>
<p><u>6.6 Visual privacy</u></p>	<p>Refer to ADG assessment</p>	<p>Yes</p>

<u>6.7 Acoustic privacy</u>	Refer to ADG assessment	Yes
<u>6.8 Car Parking Requirements</u>	Refer to Chapter E3.	Yes
<u>6.9 Basement Car Parking</u>	The basement roof does not protrude more than 1.2m above natural ground level.	Yes
<u>6.10 Access Requirements</u>	The driveway access is appropriate and setback.	Yes
<u>6.11 Landscaping Requirements</u>	<p>The development generally meets the landscaping requirements of CI 6.111.</p> <p>The two Tuckeroos and one water gum shown on the amended landscape plan require removal as their location conflicts with the existing drainage easement. To be conditioned accordingly.</p>	Yes with conditions
<u>6.12 Deep Soil Zone</u>	DSZ provided to the rear of the site that complies with ADG requirements. Refer to ADG assessment.	
<u>6.13 Communal Open Space</u>	Communal open space is provided on the rooftop and ground floor level.	Yes
<u>6.14 Private Open Space</u>	Private open space has been provided in the form of courtyards and balconies. Refer to ADG assessment	
<u>6.15 Adaptable Housing</u>	<p>A Statement of Compliance Access for People with a Disability certifies that Units 102 & 202 (25%) are capable of providing compliance with the features of the Silver level of Livable Housing Guidelines.</p> <p>Unit 102 also complies with Adaptable unit requirements.</p>	Yes

<u>6.16 Access for People with a Disability</u>	<p>2 adaptable car spaces are proposed and access to all levels is available via the lift.</p> <p>Units 102 & 202 (25%) are capable of providing compliance with the features of the Silver level of Livable Housing Guidelines.</p> <p>Unit 102 also complies with Adaptable unit requirements.</p>	Yes
<u>6.17 Apartment Size and Layout Mix for Larger Residential Flat Building Developments</u>	Refer to ADG Assessment	Yes
<u>6.18 Solar Access</u>	Refer to ADG Assessment.	Yes
<u>6.19 Natural Ventilation</u>	<p>Solar access requirements achieved. Refer to ADG Assessment.</p> <p>Natural ventilation requirements achieved. Refer to ADG assessment.</p>	Yes

CHAPTER D1 – CHARACTER STATEMENTS

LOCALITY

The proposal is considered to be consistent with the existing and desired future character for the locality. The suburb currently has a range of housing forms, including residential flat buildings, and is located in close proximity to the Fairy Meadow Town Centre which contains a variety of upper level contemporary residential apartments. The development is an expression of increased residential densities that are likely to occur in areas close to Fairy Meadow railway station and the town centre.

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

The building has been appropriately designed with regard to disabled persons' access and facilities.

The applicant submitted an access report with the application which addresses the relevant provisions of the BCA and applicable standards including AS1428.

The proposal has been considered against the requirements of this Chapter and found to be generally acceptable. Conditions are recommended to comply with the BCA and relevant Australian Standards in regard to access, facilities and car parking.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The development is appropriately designed with regard to CPTED principles and is not expected to give rise to increased opportunities for criminal or antisocial behaviour.

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

6 Traffic impact assessment and public transport studies

The traffic impact assessment has been reviewed by Council's Traffic Officer who has not raised any concerns subject to conditions of consent.

7 Parking demand and servicing requirements

The development provides 9 car spaces in the basement; including one for each unit, two accessible parking spaces, one visitor parking space; one motor cycle parking space and 4 bicycle parking spaces.

Chapter E3 DCP parking rates for RFBs within 400m of a railway station are: 0.75 spaces per unit with GFA <70m², 1 space per unit with GFA 70-110m² plus 0.2 car parking spaces per unit for visitors. Required parking: $(0.75 \times 3) + (1 \times 5) + (0.2 \times 8) = 8.85$ spaces (**9 spaces** rounded up).

The development complies with overall DCP car parking rates. The application was accompanied with a Traffic and Parking Assessment Report which notes an individual shortfall of 0.6 spaces for visitor parking; contending that the shortfall is acceptable due to the proximity of on-street parking in the vicinity of the subject property and the short term and infrequent need for visitor parking.

The application was reviewed by Council's Traffic Engineer who supports the car parking layout noting site proximity to public transport. In these circumstances, it is considered that there is sufficient parking for the development.

8 Vehicular access

Driveway grades and sight distances comply.

9 Loading / unloading facilities and service vehicle manoeuvring

The development complies with AS 2890.2.

Waste servicing will occur from the kerb.

10 Pedestrian access

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

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

The proposal is satisfactory with regard to the principles of CPTED. Refer to Chapter E2.

CHAPTER E6: LANDSCAPING

The application was accompanied with an amended landscape plan and arborist's report that was supported by Council's Landscape Officer, subject to recommended conditions for tree management, and final landscape details. It was noted that no tree planting is to occur within the existing drainage easement.

CHAPTER E7: WASTE MANAGEMENT

A Site Waste Minimisation and Management Plan has been provided in accordance with this chapter. Provision has been made for appropriate on-site storage and collection of waste.

CHAPTER E12 GEOTECHNICAL ASSESSMENT

The application has been reviewed by Council's Geotechnical Engineer in relation to site stability and the suitability of the site for the development. Appropriate conditions have been recommended.

CHAPTER E13 FLOODPLAIN MANAGEMENT

The site is identified as being located within a Flood Risk Precinct Category Under Review. A flood study and revised concept stormwater plan that includes a raised driveway entrance and an OSD facility have been provided. Council's stormwater engineer has reviewed the proposal with respect to the provisions of this chapter and clause 7.3 of WLEP 2009 and has recommended conditions of consent.

CHAPTER E14 STORMWATER MANAGEMENT

The property is not located within an OSD concession zone and the impervious area of the site will increase by more than 100m². An OSD facility is proposed. Stormwater will be disposed of to an existing stormwater pit off Daisy Street. Council's stormwater engineer has reviewed the proposal with respect to the provisions of this chapter and has recommended conditions of consent.

CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)

All earthworks are generally consistent with the provisions of this Chapter, and consistent with a development of this type. Standard conditions of consent are recommended.

CHAPTER E21 DEMOLITION AND HAZARDOUS BUILDING MATERIALS MANAGEMENT

The proposal entails the demolition of an older style dwelling and associated structures. A satisfactory demolition plan was submitted with the application. Suitable conditions are recommended for the demolition of older buildings.

CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

Conditions of consent are recommended in regard to appropriate sediment and erosion control measures to be in place during works.

Attachment 8 – Draft Conditions of Consent for DA-2021/1081

1 Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No	Revision No	Plan Title	Drawn By	Dated
005	CC	Demolition Plan	DWA	11 March 2022
010	CC	Proposed Basement Floor	DWA	11 March 2022
011	CC	Proposed Ground Floor	DWA	11 March 2022
012	CC	Proposed Level 1	DWA	11 March 2022
013	CC	Proposed Level 2, 3	DWA	11 March 2022
014	CC	Site Plan - Roof Plan	DWA	11 March 2022
030	CC	Sections (A-A and BB)	DWA	11 March 2022
031	CC	Sections (C-C, D-D and E-E)	DWA	11 March 2022
032	CC	Sections (F-F and G-G)	DWA	11 March 2022
033	CC	Sections (H-H, I-I and J-J)	DWA	11 March 2022
040	CC	North & South Elevations	DWA	11 March 2022
041	CC	East & West Elevations	DWA	11 March 2022
21-4493 L01	A	Landscape Plan (Ground Floor)	Zenith Landscape Designs	7 March 2022
21-4493 L02	A	Landscape Plan (Level 3)	Zenith Landscape Designs	7 March 2022

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

General Matters

2 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.

3 Construction Certificate

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

A Construction Certificate certifies that the provisions of Clauses 139-147 of the Environmental Planning and Assessment Regulation 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.

4 **Occupation Certificate**

An Occupation Certificate must be issued by the Principal Certifier prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifier 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.

5 **Geotechnical**

- a All work is to be in accordance with the geotechnical recommendations contained in the report dated 6 September 2021 by Terra Insight and any subsequent geotechnical report required to address unanticipated conditions encountered during construction.
- b All excavations need to be supported during and after construction particularly to protect adjoining property with nearby existing development.
- c Foundation systems are to be designed for Class P soils with all footings to be founded within the underlying weathered bedrock or as recommended by the geotechnical consultant.
- d No disturbance of ground is to occur beyond site boundaries. A minimum buffer between site boundaries and the construction of retaining structures is to be recommended by the geotechnical consultant to ensure adjoining property is not adversely impacted upon by this development.
- e Site preparation earthworks must be undertaken with geotechnical supervision.
- f At the completion of site preparation earthworks, the geotechnical consultant is to prepare a works-as-executed report detailing encountered geotechnical conditions and how the remedial works addressed these conditions so that the residual geotechnical constraints can be accommodated within the structural designs for the development. These structural designs are to be confirmed or amended by the structural engineer based on the works-as-executed geotechnical report.
- g All excavations for foundations are to be inspected by the geotechnical consultant and certified that the ground has been suitably prepared for the placement of footings.

6 **Mailboxes**

The developer must install mailboxes along street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

7 **Tree Removal**

This consent permits the removal of all trees numbered as indicated on the Landscape Plan, Drawing No. 21-4493 L03-A, dated 7 March 2022, prepared by Zenith Landscape Designs. No other trees shall be removed without prior written approval of Council.

Prior to the Issue of the Construction Certificate

8 **Section 73 Compliance Certificate**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Builders and Developers" section of the web site www.sydneywater.com.au then search to "Find a Water Servicing Coordinator". Alternatively, telephone 13 20 92 for assistance.

Following application, a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since

building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Notice of Requirements must be submitted to the Principal Certifier prior to issue of the Construction Certificate.

9 **Endeavour Energy Requirements**

The submission of documentary evidence from Endeavour Energy to the Principal Certifier is required confirming that satisfactory arrangements have been made with Endeavour Energy for the provision of electricity supplies to the development, prior to the release of the Construction Certificate.

Note: Applications should be made to Customer Connections – South Coast, Endeavour Energy PO Box 811 Seven Hills NSW 1730.

10 **Telecommunications**

The submission of documentary evidence from an approved telecommunications carrier to the Principal Certifier confirming that underground telecommunication services are available for this development is required prior to the issue of the Construction Certificate.

11 **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.

12 **Dilapidation Survey**

A dilapidation survey and report shall be submitted to the Principal Certifier.

The dilapidation survey and report shall accurately reflect the condition of existing public and private infrastructure in the adjacent street(s) fronting the lots.

The report shall outline measures for the protection of existing public and private infrastructure during the works.

Any damage to infrastructure items and relics which is caused by the developer shall be repaired to the satisfaction of the Principal Certifier prior to the issue of a Certificate of Practical Completion for Subdivision works.

13 **Construction Environmental Management Plan**

- Submit a construction environmental management plan to the Principal Certifier. The plan shall address as minimum the vehicle traffic, odour and vapour, dust, plant and machinery noise, water and sediment management, surface water, subsurface seepage and accumulated excavation water, sediment from equipment and cleaning operations, site security, working hours, contact information, incident response and contingency management.
- Submit an excavated soil material disposal plan for top 50 cm soil as recommended in PSI report prepared by Terra Insight to Principal Certifier, with the batching, sampling and analysis procedures as per the DECCW (2009) *Waste Classification Guidelines*. The plan shall be prepared by a suitably qualified and experienced consultant. A copy of the plan shall be forwarded to Council.

14 **External Finishes – Residential Apartment Building**

The residential apartment building shall be constructed of a masonry or brick wall construction with select coloured finishes as per the schedule of finishes shown on the approved Elevations. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

15 **Obscure Glazing for all Bathroom and WC Windows**

The bathroom and WC windows for each dwelling in the development shall be frosted or opaque glass. This requirement shall be reflected on the Construction Certificate plans.

- 16 **Adaptable Unit Design**
Unit 102 must be designed to be capable of adaption for disabled or elderly residents. This unit must be designed in accordance with the Australian Adaptable Housing Standard (AS 4299:1955). This includes “pre-adaption” design details to ensure visibility is achieved. Compliance with this requirement shall be demonstrated in Construction Certificate plans.
- 17 **Access to Landscaped Roof over Driveway Ramp**
Suitable access to the landscaped roof covering the driveway ramp shall be provided for maintenance purposes. This requirement shall be reflected on Construction Certificate plans prior to the release of the Construction Certificate.
- 18 **Car Parking and Access**
The development shall make provision for a total of 9 car parking spaces (including 1 visitor car parking space and 2 car parking spaces capable of adaption for people with disabilities), 1 motorcycle parking space, a minimum of 3 secure (Security Class B) residential bicycle spaces and a minimum of 1 visitor bicycle space (Security Class C). This requirement shall be reflected on the Construction Certificate plans. Any change in above parking numbers shown on the approved DA plans shall be dealt with via a section 4.55 modification to the development. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.
- 19 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. Residential bicycle parking spaces must be provided in a secure enclosure with a self-closing door and combination keypad. This requirement shall be reflected on the Construction Certificate plans.
- 20 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.
- 21 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.
- 22 **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.
- 23 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.
- 24 **Water/Wastewater Entering Road Reserve**
Provision shall be made for a minimum 200mm wide grated box drain along the boundary of the property at the vehicular crossings to prevent surface water entering the road reserve. This requirement shall be reflected on the Construction Certificate plans.
- 25 The depth and location of all services (ie gas, water, sewer, electricity, telephone, traffic lights, etc) must be ascertained and reflected on the Construction Certificate plans and supporting documentation.
- 26 **Pier and Beam Footings Adjacent to any Drainage Easement**
Buildings and structures (including brick fences) adjacent to easements shall be supported on pier and beam footings outside the easement. The base of the piers shall be a minimum 900 mm below ground level and shall extend below the invert level of the drainage pipelines within the easement. Structural engineers details are required detailing the size and levels of the existing drainage pipelines and the design levels for the base of the piers adjacent to the easement.
- 27 **Stormwater Drainage Design**
A detailed drainage design for the development must be submitted to and approved by the

Principal Certifier 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 plans lodged for development approval, prepared by MSL Consulting Engineers, Reference No. 20163 Revision G, dated 11/03/22.
- b Include details of the method of stormwater disposal. Stormwater from the development must be piped to Council's existing stormwater drainage system.
- c 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.

28 **Details of Proposed Pit and Pipeline**

Details of the proposed connecting pipeline to the Council pit, within the existing drainage system shall be provided in conjunction with the detailed drainage design for the site. Connection is to be made in accordance with Wollongong City Council Standard Drawings. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

29 **Pump System**

A pump system shall be provided in association with the detailed drainage design for the site to cater for stormwater from a prolonged/extreme storm event entering the basement. The pump system shall be designed by a suitably qualified and experienced civil engineer and reflected on the Construction Certificate plans and supporting documentation.

30 **Basement Waterproofing**

Full engineering details of the proposed wall around the basement car park shall be submitted to the Principal Certifier prior to the issue of the Construction Certificate. These shall include construction details indicating that no ingress of stormwater is possible into the basement levels other than from sub-soil drainage, vehicle wash water and runoff from the driveway that drains towards the basement. This applies to any proposed opening such as doors or ventilation louvres. The problem of backwater from the stormwater pipeline entering the basement car park level shall be addressed by a method such as a flap gate or one-way valve system.

31 **Sizing of Drainage**

All roof gutters, downpipes, pits, and pipelines draining roof areas and other impervious surfaces with no deliberate overflow path to the on-site stormwater detention (OSD) facility, shall be designed to cater for a 1 in 100 year ARI storm event in accordance with AS 3500.3 – Plumbing and Drainage (Stormwater Drainage). Details of gutter/downpipe/pipeline sizes and locations shall be reflected on the Construction Certificate plans.

32 **On-Site Stormwater Detention (OSD) Design**

The developer must provide OSD storage for stormwater runoff from the development. The design and details of the OSD system must be provided in conjunction with the detailed drainage design and approved by the Principal Certifier prior to the release of the Construction Certificate. The OSD design and details must satisfy the following requirements:

- a Must be prepared by a suitable qualified engineer in accordance with Chapter E14 of the Wollongong DCP 2009.

- b Must include details of the Site Storage Requirement (SSR) and Permissible Site Discharge (PSD) values for the site in accordance with Section 10.2.4 of Chapter E14 of the Wollongong DCP 2009.
- c The OSD facility must be designed to withstand the maximum loadings occurring from any combination of traffic (with consideration to residential and heavy vehicles), hydrostatic, earth, and buoyancy forces. Details must be provided demonstrating these requirements have been achieved.
- d The OSD facility shall incorporate a minimum 900mm x 900mm square lockable grate for access and maintenance purposes, provision for safety, debris control screen, and a suitably graded invert to the outlet to prevent ponding.
- e Must include discharge control calculations (i.e. orifice/weir calculations) generally in accordance with Section 10.2.6 and 10.4.4 of Chapter E14 of the Wollongong DCP 2009.
- f Details of the orifice plate including diameter of orifice and method of fixing shall be provided.
- g Must include details of a corrosion resistant identification plaque for location on or close to the OSD facility. The plaque shall include the following information and shall be installed prior to the issue of the Occupation Certificate:
 - The structure is an OSD facility, being part of the stormwater drainage network, and is not to be tampered with.
 - Identification number DA-2021/1081;
 - Any specialist maintenance requirements.
- h Must include a maintenance schedule for the OSD system, generally in accordance with Chapter E14 of the Wollongong DCP 2009.

33 **Flood Level Requirements**

The following requirements shall be reflected on the Construction Certificate plans, prior to the release of the Construction Certificate:

- a Habitable floor levels must be constructed at a minimum of RL 8.93 metres AHD.
- b Any portion of the building or structure below RL 8.93 metres AHD should be built from flood compatible materials. Where materials are proposed and not listed in Appendix B of Chapter E13 of the Wollongong DCP2009, relevant documentation from the manufacturer shall be provided demonstrating that the materials satisfy the definition of 'flood compatible materials' as stated in Chapter E13 of the Wollongong DCP 2009.
- c The proposed building shall be designed to withstand the forces of floodwater, debris and buoyancy up to and including the 1 in 100 year flood level plus freeboard being RL 8.93 metres AHD.

34 **Site Filling**

Filling on the site being within the floodplain shall be restricted to within the proposed building footprint and ramped areas immediately adjacent to the garage only. No wholesale filling of the site within the floodplain is permitted. This requirement shall be reflected on the Construction Certificate plans.

35 **Flows from Adjoining Properties**

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. The above requirements must be clearly shown on Construction Certificate plans prior to the release of the Construction Certificate.

36 **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) metre to the Principal Certifier 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.

37 **Final Landscape Plan**

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

- a) no planting is to occur within the stormwater easement. Turf is acceptable planting.

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

38 The submission of certification from a suitably qualified and experienced landscape designer and drainage consultant to the Principal Certifier prior to the release of the Construction Certificate, confirming that the landscape plan and the drainage plan are compatible.

39 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 Principal Certifier prior to release of the Construction Certificate.

40 **Fencing**

The development is to be provided with fencing at full cost to the applicant/developer as follows:

- a) Replace existing fencing for the entire length of the west property boundary and the timber paling section of the north property boundary. The fencing shall be a minimum height 1.8 metre high behind the front building line and be constructed of brick, timber lapped and capped, palisade or Colorbond fences.
- b) Any new or replacement fences constructed on the site and located in the flood plain shall be of a type that will not obstruct the free flow of floodwaters and not cause damage to surrounding land in the event of a flood.

This requirement is to be reflected on the Construction Certificate plans.

41 **Council Footpath Reserve Works – Driveways and Crossings**

All redundant vehicular crossings and laybacks rendered unnecessary by this development must be reconstructed to normal kerb and gutter or existing edge of carriageway treatment to match the existing. The verge from the back of kerb to the boundary must be restored and the area appropriately graded, topsoiled and turfed in a manner that conforms with adjoining road reserve. The area forward of the front boundary must be kept smooth, even and free from any trip hazards. All alterations of public infrastructure where necessary are at the developer's expense.

All new driveway laybacks and driveway crossings must be designed in accordance with Wollongong City Council Standards. Any redundant linemarking such as 'marked parking bays' are adjusted/removed at the developer's expense by a Council recognised contractor with the

relevant insurances. Details and locations are to be shown on the Construction Certificate Plans.

42 Development Contributions

Pursuant to Section 4.17(1)(h) of the Environmental Planning and Assessment Act 1979 and the Wollongong City Wide Development Contributions Plan (2021), a monetary contribution of \$24,530.00 (subject to indexation) must be paid to Council towards the provision of public amenities and services, prior to the release of any associated Construction Certificate.

This amount has been calculated based on the estimated cost of development and the applicable percentage rate.

The contribution amount will be indexed quarterly until the date of payment using Consumer Price Index; All Groups, Sydney (CPI) based on the formula shown in the Contributions Plan.

To pay the contribution go to www.wollongong.nsw.gov.au/contributions and submit a Request for an Invoice. The following information will be required:

- Application number and property address.
- Name and address of who the invoice and receipt should be issued to.
- Email address where the invoice should be sent.

A copy of the Contributions Plan and accompanying information is available on Council's website www.wollongong.nsw.gov.au.

Prior to the Commencement of Works

43 Appointment of Principal Certifier

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

- a) Appoint a Principal Certifier 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 Principal Certifier must determine when inspections and compliance certificates are required.

44 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 Principal Certifier 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
 - ii) 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.

45 **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 Principal Certifier 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.

46 **Demolition Works**

All demolition works 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 Principal Certifier. 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.

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.

48 **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.

During Demolition, Excavation or Construction

49 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 Principal Certifier and Council. No work is permitted on public holidays or Sundays.

Allowable construction activity noise levels must be within the limits identified in the NSW EPA Interim Construction Noise Guidelines (ICNG) July 2009. ICNG are also applied for blasting, rock hammer and drilling, external plant and equipment.

<https://www.environment.nsw.gov.au/resources/noise/09265cng.pdf>

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.

50 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.

51 Asbestos – Removal, Handling and Disposal Measures/Requirements Asbestos Removal by a Licensed Asbestos Removalist

The removal of any asbestos material must be carried out by a licensed asbestos removalist if over 10 square metres in area of non-friable asbestos, or if any type of friable asbestos in strict accordance with SafeWork NSW requirements (<http://www.safework.nsw.gov.au>).

52 Asbestos Clearance Certificate

The internal floor area affected or likely to be affected, by scattering of asbestos pieces, particles or fibres during demolition or cutting into the building, is to be cleaned by vacuuming by a contractor approved by SafeWork NSW. A Clearance Certificate to certify that the site area is free of asbestos is to be submitted to Council by a licensed asbestos assessor within fourteen (14) days of the completion of renovations (or prior to the Occupation Certificate being issued).

53 Asbestos Waste Collection, Transportation and Disposal

Asbestos waste must be prepared, contained, transported and disposed of in accordance with SafeWork NSW and NSW Environment Protection Authority requirements. Asbestos waste must only be disposed of at a landfill site that can lawfully receive this type of waste. A receipt must be retained and submitted to the Principal Certifier, and a copy submitted to Council (in the event that Council is not the Principal Certifier), prior to commencement of the construction works.

54 Excess Excavated Material – Disposal

Excess excavated material shall be classified according to the NSW Environment Protection Authority's Waste Classification Guidelines – Part 1: Classifying Waste (2014) prior to being transported from the site and shall be disposed of only at a location that may lawfully receive that waste.

- 55 **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.”
- 56 **Survey Report for Floor Levels**
 A Survey Report must be submitted to the Principal Certifier verifying that each floor level accords with the floor levels as per the approved plans under this consent. The survey shall be undertaken after the formwork has been completed and prior to the pouring of concrete for each respective level of the building (if the building involves more than one level). All levels shall relate to Australian Height Datum.
- 57 **Implementation of all the recommendation (Façades Glazing) of Acoustic Report**
 Implement all the recommendations stated section 6.0 of acoustic assessment report prepared by Harwood Acoustic dated 15 March 2022 for building compliance with the NSW SEPP (Transport & Infrastructure) 2021 and Development Near Rail Corridors & Busy Roads –Interim Guidelines.
- 58 **Piping of Stormwater to Existing Stormwater Drainage System**
 Stormwater for the land must be piped to Council’s existing stormwater drainage system.
- 59 **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.
- 60 **Copy of Consent to be in Possession of Person carrying out Tree Removal**
 The Developer must ensure that any person carrying out tree removal is in possession of this development consent and the approved landscape plan, in respect to the tree(s) which have been given approval to be removed in accordance with this consent.
- 61 **Podium Planting**
 All podium planting areas are to have a waterproofing membrane that can provide a minimum 10 year warranty on product. Protective boarding is to be installed to protect membrane from damage.
- All podium planting areas to be provided with an adequate drainage system connected to the stormwater drainage system. The planter box is to be backfilled with free draining planter box soil mix.
- If selected mulch is decorative pebbles/gravel, the maximum gravel pebble size is 10mm diameter.
- 62 **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.

Prior to the Issue of the Occupation Certificate

63 BASIX

An Occupation Certificate must not be issued unless accompanied by the BASIX Certificate applicable to the development. The Principal Certifier 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.

64 Acoustic Compliance Report

The developer shall submit a noise compliance report prepared by an acoustic consultant who is a member of the Australian Acoustic Society (AAS) or the Association of Australian Acoustic Consultants (AAAC) in relation to the building compliance with the NSW SEPP Transport & Infrastructure 2022 – Development Near Rail Corridors & Busy Roads –Interim Guidelines. A copy of the acoustic compliance report must be submitted to Principal Certifier and forward a copy to Council.

65 Structural Soundness Certification

The submission of a report from a suitably qualified and experienced structural engineer to the Principal Certifier is required, prior to the issue of the Occupation Certificate and commencement of use. This report is required to verify that the development can withstand the forces of floodwater, debris and buoyancy up to and including the 1 in 100 year flood level plus freeboard, being RL 8.93 metres AHD or greater.

66 Retaining Wall Certification

The submission of a certificate from a suitably qualified and experienced structural engineer or civil engineer to the Principal Certifier 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 Principal Certifier.

67 Drainage

The developer must obtain a certificate of Hydraulic Compliance (using Council's M19 form) from a suitably qualified civil engineer, to confirm that all stormwater drainage and on-site detention works have been constructed in accordance with the approved plans. In addition, full works-as-executed plans, prepared and signed by a Registered Surveyor must be submitted. These plans and certification must satisfy all the stormwater requirements stated in Chapter E14 of the Wollongong DCP 2009. This information must be submitted to the Principal Certifier prior to the issue of the final Occupation Certificate.

68 Restriction on Use – On-site Detention System

The applicant must create a restriction on use under the Conveyancing Act 1919 over the on-site detention system. The following terms must be included in an appropriate instrument created under the Conveyancing Act 1919 for approval of Council:

"The registered proprietor of the lot burdened must not make or permit or suffer the making of any alterations to any on-site stormwater detention system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression 'on-site stormwater detention system' shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater as well as all surfaces graded to direct stormwater to those structures.

Name of the authority having the power to release, vary or modify the restriction referred to is Wollongong City Council."

The instrument, showing the restriction, must be submitted to the Principal Certifier for endorsement prior to the issue of the Occupation Certificate and the use of the development.

69 Positive Covenant – On-Site Detention Maintenance Schedule

A positive covenant shall be created under the Conveyancing Act 1919, requiring the property owner(s) to undertake maintenance in accordance with the Construction Certificate approved On-Site Stormwater Detention System and Maintenance Schedule (application number to be referenced).

The instrument, showing the positive covenant must be submitted to the Principal Certifier for endorsement prior to the issue of the Occupation Certificate and the use of the development.

70 **Boundary Fencing**

Any damage to existing retained boundary fencing as a result of the building construction shall be rectified at the full expense of the developer. The Certifier is to inspect the condition of all fencing prior to the issue of the Occupation Certificate.

71 **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.