

Wollongong Local Planning Panel Assessment Report | 15 November 2022

WLPP No.	Item No. 1
DA No.	DA-2022/297
Proposal	Residential - installation to external lift addition
Property	6 Ross Street, Wollongong
Applicant	Vortex Developments Pty Ltd
Responsible Team	Development Assessment and Certification - City Centre & Major Development Team (HK)
Prior WLPP meeting	N/A

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel - Determination

The proposal has been referred to Local Planning Panel for determination pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. The application is for an external lift which is required to be determined by the Panel under Schedule 2 (3) "Departure from Development Standards" of the Local Planning Panels Direction.

The development contravenes the development standards by more than 10% (46.2%). The existing building is already over the floor space ratio and the addition further increases the departure. The residential flat building currently has a gross floor area (GFA) of 318.966 m² and the proposed lift shaft will add a further 0.883 m². The lift serves a single unit and will not be used as "common vertical circulation" which would otherwise be excluded from GFA calculations. The increase in GFA to 319.849 m², results in and increased FRS from 0.729:1 up to 0.731:1 against 0.5:1 limit or 46.22%.

Proposal

The proposal is for an external lift addition to an existing two storey residential flat building. The existing building was approved in the 1960s at which time floor space ratio and height controls were not applicable. The lift addition serves a single unit in the development.

Permissibility

The site is zoned R2 Low Density Residential. The proposal is categorised as an ancillary structure to an existing residential flat building. Residential flat buildings are permissible in the zone with development consent.

Consultation

The proposal was notified in accordance with Council's Notification Policy and did not receive any submissions.

Main Issues

The main issues are a 4.6 request for additional gross floor area and DCP variation to side setbacks and loss of a potential parking space.

RECOMMENDATION

It is recommended that the application be approved.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

State Environmental Planning Policies:

- SEPP (Resilience and Hazards) 2021

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:

Site preparation

- Partial demolition of the external wall

Works / Construction / building details

- Construction of an external elevator addition on the west side of the building to serve a single dwelling.

1.3 BACKGROUND

The development history for the site is as follows

Application	Decision	Effective	Description (Application)
BA-1950/850	APPROVED		Dwelling
BC-1954/1114	APPROVED		Additions
BC-1956/644	APPROVED		Dwelling
BA-1960/160	APPROVED		Six Flats & Garages
BA-1993/712	WITHDRAWN		Carport
CC-2007/67	WITHDRAWN	30-Jul-2007	Timber deck and storeroom
DA-2007/644	REFUSED	03-Aug-2007	Timber deck and second storey addition to storeroom
DA-2017/1527	REFUSED	10-Jan-2018	Residential - deck
NO-2017/211			Unauthorised raised timber deck and awning - 6 Ross St Wollongong
DA-2018/175	APPROVED	29-May-2018	Residential - alterations and additions
NO-2017/479	CANCELLED	26-Jun-2018	unauthorised construction works, including but not limited to removal of a window and part of the brick wall on the western side of the property and the installation of a double door in its place have been undertaken upon the subject property
CC-2018/77	APPROVED	17-Jul-2018	Residential; Install balustrade to existing 1st floor door opening.

No pre-lodgement meeting was held for the proposal.

Customer service actions

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

1.4 SITE DESCRIPTION

The site is located at 6 Ross Street WOLLONGONG NSW 2500 and the title reference is Lot 6 DP 21982. The site is regular in shape and relatively flat. It contains an existing two storey 1960s residential flat building. Councils Land registry records suggest it was originally approved with 6 dwellings. However, no plans or associated consent documents of this approval exist. The provided plans suggest 5 dwellings now exist on site. The site has two driveways on either side that run to the rear of the site. The site also contains a former attached garage converted into a home office, located at the rear of the building on the western side. The site is not strata subdivided. All units are owned by same individual.

Adjoining development is as follows:

- North: Large nine-storey aged care facility
- East and West: Single storey dwelling houses.
- South: Two storey dwelling houses.

The locality is characterised by older mid-20th century dwelling houses and a large multi storey aged care complex to the north.

Property constraints

Council records identify the land as being impacted by the following constraints:

- Acid sulphate soils – Class 3: Negligible earthworks are proposed.
- Flooding: The site is identified as being located within a medium flood risk precinct. Council's stormwater officer has reviewed the application in this regard and did not raise any concerns subject to their recommended conditions being included in the consent.

There are no restrictions on the title

1.5 SUBMISSIONS

The application was notified between 21 March and 5 April 2022 in accordance with Council's Community Participation Plan 2019. No submissions were received following the notification.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Stormwater Engineer

The site is flood effected. Councils' stormwater officer has reviewed the plans and have raised no concerns with regard to the elevator contributing to flood water impacts via displacement. Conditions will have to be provided to ensure that the elevator is built from flood compatible materials, can withstand the force of flood water, and all power services and equipment are above the maximum flood level.

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 POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 2 – Coastal Management

The site identified under this policy as being located within the coastal environment and coastal use 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, 4 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. The proposal will not impact on public places associated with the foreshore. The site does not contain a heritage item or conservation area, nor does it directly adjoin one. The development is unlikely to have a determinable impact on any of the matters described under clause 1a above

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 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.

NSW Coastal Management Act 2016 and Wollongong Coastal Zone Management Plan

The NSW Coastal Management Act 2016 came into force on 3 April 2018. Under the Act any existing certified CZMP's continue in force until 31 December 2021.

The Coastal Management Amendment Act 2021 commenced on 1 November 2021, to give coastal councils until 31 December 2023 to implement their CZMPs. By effect this enables a continuation of the current certified CZMP whilst Council undertakes further studies and community consultation for a transition to a new Coastal Management Plan.

A review of Council's associated CZMP coastal hazard mapping extents identifies that the subject site is not impacted by coastal inundation at the 2010, 2015 & 2100 timeline.

Chapter E13 contains controls for coastal inundation which have been included in the assessment of food risk.

Minimal adverse impact on the coastal environment is anticipated as a result of the proposed development. Minimal adverse impacts on the development are expected as a result of coastal processes

The proposal is therefore considered satisfactory with regard to the aims outlined in clause 3 of this policy and the matters outlined for consideration.

2.1.2 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

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

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 R2 Low 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 low-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 these objectives.

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

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home-based child care; Hospitals; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); **Residential flat buildings**; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Tank-based aquaculture; Veterinary hospitals

The proposal is categorised as an **ancillary structure** to an existing **residential flat building** as defined above and is permissible in the zone with development consent.

Part 4 Principal development standards

Clause 4.1 Minimum subdivision lot size

N/A

Clause 4.3 Height of buildings

The proposed elevator height of 5.43m does not exceed the maximum of 9m permitted for the site. The top of the elevator will sit below the existing eaves.

Clause 4.4 Floor space ratio

Maximum FSR permitted for the zone: 0.5:1

Site area:	437.5 m ²
GFA:	319.849 m ²
FSR:	0.731 : 1

Clause 4.6 Exceptions to development standards

WLEP 2009 Clause 4.6 proposed development departure assessment	
Development departure	Clause 4.4 Floor Space Ratio (FSR)
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification by demonstrating...	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Yes. The applicant's request contains this justification.</p> <p>The applicant contends that the environmental planning grounds justifying the variation are that the objectives of the floor space ratio control are met notwithstanding the breach of the numerical control.</p>
(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 4.
4.6 (4) (a) Development consent must not be granted for development that contravenes a development standard unless-	
(i) the consent authority is satisfied that; The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicant's request has adequately addressed the matters required to be addressed by subclause (3). In summary, the justification relies on three main arguments:</p> <p><u>Argument 1 Abandonment</u></p> <p><i>In the case of the current development proposal, strict compliance with the FSR development standard is considered to be unreasonable and unnecessary as the existing residential flat building erected on the site has an FSR of 0.729:1, which far exceeds the maximum allowable FSR of 0.5:1. Therefore, the FSR – as it applies to the subject site – is considered to have been abandoned as a result of the approval of the residential flat building in the 1960s.</i></p> <p>It's not clear that abandonment (site specific or otherwise) is a valid argument in this case. The building was constructed in 1960. Before the Illawarra Planning Scheme Ordinance. Council's understanding is that consent would have been required under the Local Government Act but there were no adopted planning rules at the time to be abandoned. The Floor Space Ratio standard was applied after construction to guide future development.</p> <p>It's also not clear that abandonment as described can be 'site specific'.</p> <p><u>Argument 2 GFA</u></p> <p><i>The existing development exceeds the maximum allowable FSR and therefore, any increase GFA, no matter how minor, cannot comply with the applicable FSR.</i></p>

	<p>Being at or over the maximum FSR is not an inherent justification for further exceeding the development standard. This would effectively void all numerical development standards.</p> <p><u>Argument 3 underlying objectives of the development standard are achieved</u></p> <p><i>Despite the non-compliance with the FSR development standard the underlying objectives of the development standard are achieved.</i></p> <p>The applicant has identified the objectives of the development standard as outlined in Clause 4.4 of the LEP and considers that the development achieves the objectives</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 floor space ratio 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 4.4 Floor Space Ratio are:</p> <p><i>(a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,</i></p> <p><i>(b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,</i></p> <p><i>(c) to ensure buildings are compatible with the bulk and scale of the locality.</i></p> <p>The proposed lift addition is located on the western side of the existing residential flat building, and towards the rear of the building. The addition sits below the eaves line and projects 983mm out from the side wall of the building. The design and position of the proposed lift addition will not have a detrimental impact on the architectural design of the existing building and will not have any detrimental impacts on the neighbourhood arising from bulk, scale, overlooking or overshadowing.</p> <p>The proposal achieves an appropriate correlation between the size of the residential flat building and the size of the development site.</p> <p>The existing residential flat building on the site has a GFA of 318.966m² and the proposed lift addition being 0.883m², represents a very minor increase of 0.4% in the total GFA.</p> <p>The proposal will not generate any additional demands on service infrastructure (such as water, sewerage, gas, or electricity). There will be no additional stormwater runoff from the proposal, as the roof of the lift structure will replace an existing paved area.</p> <p>The objectives of R2 Low Density Residential zone are:</p> <p><i>a) To provide for the housing needs of the community within a low density residential environment.</i></p> <p><i>b) To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></p> <p>The proposal is not considered to be inconsistent with the zone objectives. The proposed lift addition will provide exclusive access to one of the residential dwellings. This will improve access to the dwelling for</p>

	<p>the elderly residents, allowing them to 'age in place' and improving their quality of life. In this regard, the proposal is consistent with providing for the housing needs of the community within a low-density residential environment.</p> <p>It is noted that if the elevator was moved slightly to the south, it would be 'common vertical circulation' and therefore exempt from the calculation of gross floor area. There would be no difference in environmental impacts between such an arrangement and the current proposal.</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 floor space ratio 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.

Part 7 Local provisions – general

Clause 7.5 Acid Sulfate Soils

The site is mapped as containing class 3 acid sulfate soils. An acid sulfate management plan is required for Works more than 1 metre below the natural ground surface and works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface. The provided plans show that the footings for the elevator are less than 1m (30cm). No concerns are raised. However, conditions are provided for the handling and management of any soil during works.

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

The current draft SEPPs published by the department of planning have been reviewed. None are directly applicable to this development. No concerns are raised.

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

WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

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 5 to this report

CHAPTER A1 – INTRODUCTION

8 Variations to development controls in the DCP

Chapter B1 – Clause 6.4.2 (1)

Clause 6.4.2 (1) states 'For residential flat buildings the following minimum setbacks shall be provided.

<ul style="list-style-type: none"> Buildings up to 4 storeys (12 metres) <ul style="list-style-type: none"> 6 metres where a habitable room/balcony on development site 3.5 metres where a non-habitable room/blank wall' 	
Control	Comment
3 The variation statement must address the following points:	
a) The control being varied; and	The control being varied is Clause 6.4.2 (1) of chapter B1 of WDCP 2009.
b) The extent of the proposed variation and the unique circumstances as to why the variation is requested; and	<p>Extent of the proposed variation:</p> <p>The elevator is proposed to be 2.27m from the western setback. A deficiency of 1.23m</p> <p>Unique circumstances:</p> <p>None</p>
c) Demonstrate how the objectives are met with the proposed variations; and	<p><i>(a) To provide adequate setbacks from boundaries and adjoining dwellings to retain privacy levels, views, sunlight and daylight access and to minimise overlooking.</i></p> <p><i>(b) To optimise the use of land at the rear of the property and surveillance of the street at the front of the property.</i></p> <p><i>(c) To control overshadowing of adjacent properties and private or shared open space.</i></p> <p><i>(d) To encourage setbacks which reflect the rhythm of building siting and the separation between.</i></p> <p><i>(e) To ensure that new development is scaled to support the desired area character with appropriate massing and space between buildings.</i></p> <p>Objective (a)</p> <ul style="list-style-type: none"> The lift addition has solid, metal clad external walls with the only external glazing being the ground floor lift access door, which faces the north. The lift does not provide any opportunity for overlooking of the neighbouring property to the west. Solar diagrams show that there is no overshadowing There are now view loss impacts. <p>Objective (b)</p> <p>The lift addition is to be installed on the western side of the building and will not compromise the use of land at the rear of the site or surveillance of Ross Street at the front of the property.</p> <p>Objective (c)</p> <p>Solar diagrams demonstrate no increase in overshadowing when compared to the existing building.</p>

	<p>Objective (d) & (e)</p> <p>The rhythm of building separation in Ross Street is characterised by dwelling houses with 0.9m setbacks on one side followed by 2.75 to 3m setbacks for driveways. The proposed lift is located towards the rear of the building, is 1.378m wide 5.4m high and projects 983mm out from the wall. It is screened by vegetation and the surrounding structures. There is minimal impact on building rhythm or character.</p>
a) Demonstrate that the development will not have additional adverse impacts as a result of the variation	<p>The applicant has provided the following additional points arguing that placing the external lift in this location will have the least impact when compared to alternatives.</p> <ul style="list-style-type: none"> • <i>There is no space to accommodate the lift within the existing internal stairwell.</i> • <i>Being a Class 2 building, a clear width of 1m is required for both the stairway and the top and bottom landings. A chairlift would impinge on the width of the stair and landing and would not be a practical solution</i> • <i>Being a residential flat building, there is no ability to provide the lift within the serviced dwelling's floor plan without having major implications for the ground floor dwelling below.</i>
<p>Comment: The variation has been considered and is supported in this case, as outlined above</p>	

3.1.1 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

Wollongong City-Wide Development Plan - City Wide

The Wollongong City-Wide Development Contributions Plan applies to the subject property. This Plan levies a contribution based on the estimated cost of development.

- The proposed cost of development of \$40,000 is less than \$100,000 - contributions do not apply.

3.2 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.

3.3 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

6 Determination of BASIX development

N/A

61 Additional matters that consent authority must consider

Conditions of consent are recommended with regard to demolition.

62 Consideration of fire safety

N/A no change of use proposed.

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

The proposal is considered acceptable with regard to the likely impacts. The application has shown that the additional bulk will not cause unreasonable impacts with regard to overshadowing, visual amenity or unreasonable traffic and parking impacts.

3.5 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.

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

No submissions.

3.7 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. The additional gross floor area associated with proposal is still considered appropriate with consideration to the zoning and the character of the area and is considered to be in the public interest.

4 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 R2 Low 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 floor space ratio development standard (cl4.4 WLEP2009). This departure is discussed in the body of the report and is considered capable of support.

The development is considered appropriate overall regarding the applicable controls outlined in the Wollongong Development Control Plan 2009 (DCP). One variation to minimum side setbacks is proposed and a variation request statement with justification has been provided by the applicant in accordance with Section 8 of Chapter A1 of WDCP 2009. This variation has been considered and is capable of support in this instance as discussed in this report.

Referrals from are all satisfactory and no submissions were received.

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.

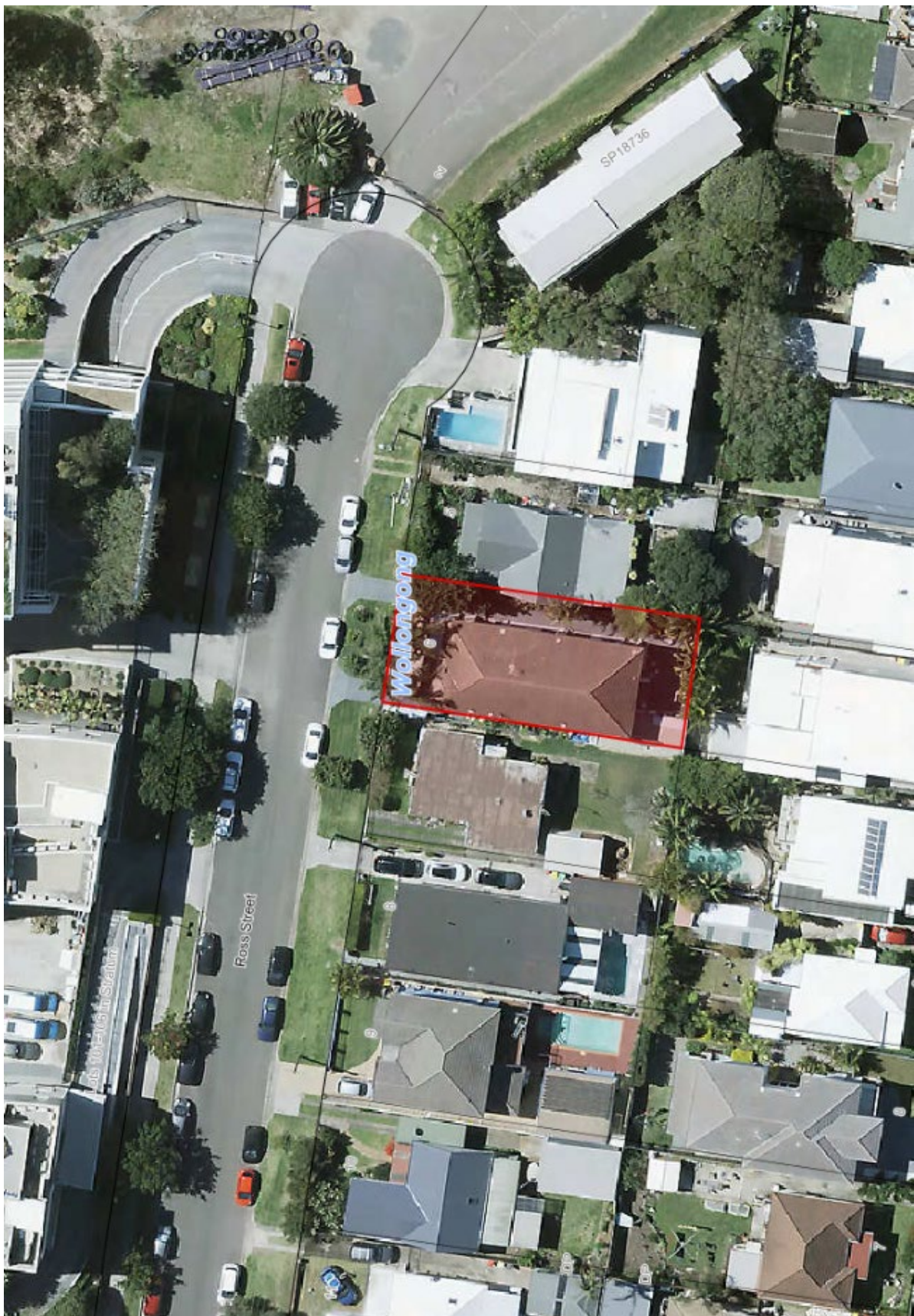
5 RECOMMENDATION

It is recommended that development application DA-2022/297 be approved subject to appropriate conditions of consent at attachment 6.

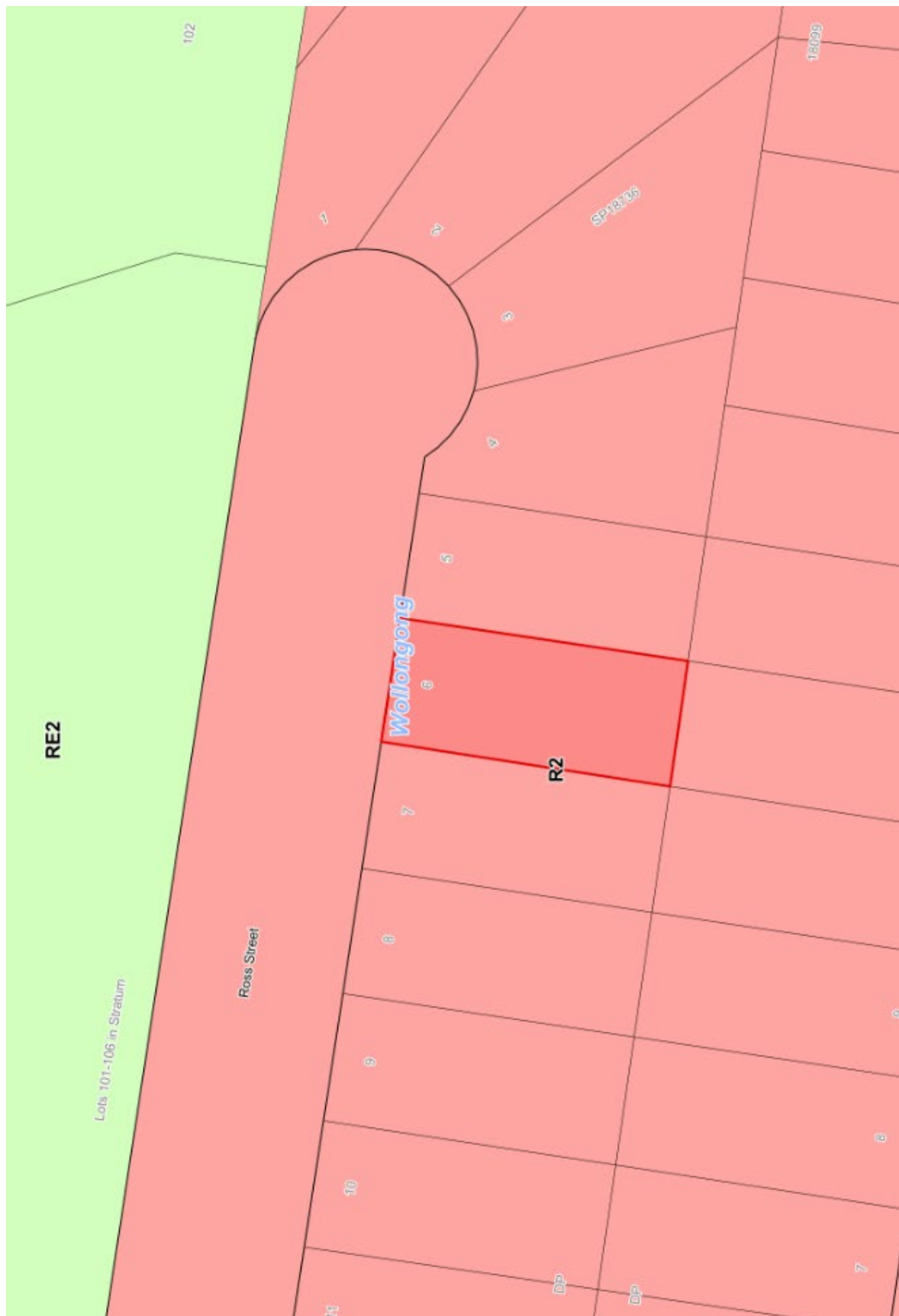
6 ATTACHMENTS

- 1 Aerial photograph map
- 2 Zoning map
- 3 Site Images
- 4 Plans
- 5 Clause 4.6 variation request
- 6 WDCP 2009 Assessment
- 7 Draft conditions of consent

Attachment 1: Aerial photograph - 6 Ross Street, Wollongong



Attachment 2: Zoning map – 6 Ross Street, Wollongong



Attachment 3: Site Images – 6 Ross Street, Wollongong







1.0 INTRODUCTION

Clause 4.6 of WLEP 2009 sets out the procedure to be followed by applicants for consent, Council, and the Planning Secretary in requesting, assessing and determining an application for development that involves a contravention of a development standard.

The objectives of clause 4.6 are stated as:-

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

Clause 4.6(2) provides that development consent be granted for a development even though the development would contravene a development standard imposed under WLEP 2009. In accordance with clause 4.6(3) development consent must not be granted unless Council has considered a written request from the applicant seeking to justify the contravention of the development standard by demonstrating:-

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

Clause 4.6(4) establishes preconditions that must be satisfied before development consent can be granted to a development that contravenes a development standard, as follows:-

- (a) the consent authority is satisfied that –*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Planning Secretary has been obtained.*

Planning Circular PS 20-002 (issued on 5th May 2020) provides advice to consent authorities on when the Planning Secretary's concurrence to vary development standards may be assumed. In relation to development standards that establish a maximum FSR requirement concurrence may not be assumed where the variation to the development standard is greater than 10%. In the case of the development proposal, the variation being sought is 0.3% (ie 0.729:1 up to 0.731:1) and therefore Council can assume the concurrence of the Planning Secretary.

This submission has been prepared in accordance with the provisions of clause 4.6 and is submitted for Council's consideration and assessment.

1.1 Subject Site

The subject site is a rectangular-shaped allotment of land situated on the southern side of Ross Street at Wollongong. The subject site is known as Lot 6 in Deposited Plan No.21982 No.6 Ross Street, and has an area of 437.5m².

The subject site is occupied by a two-storey residential flat building, containing six (6) dwellings. The building appears to have been constructed in the 1960s.

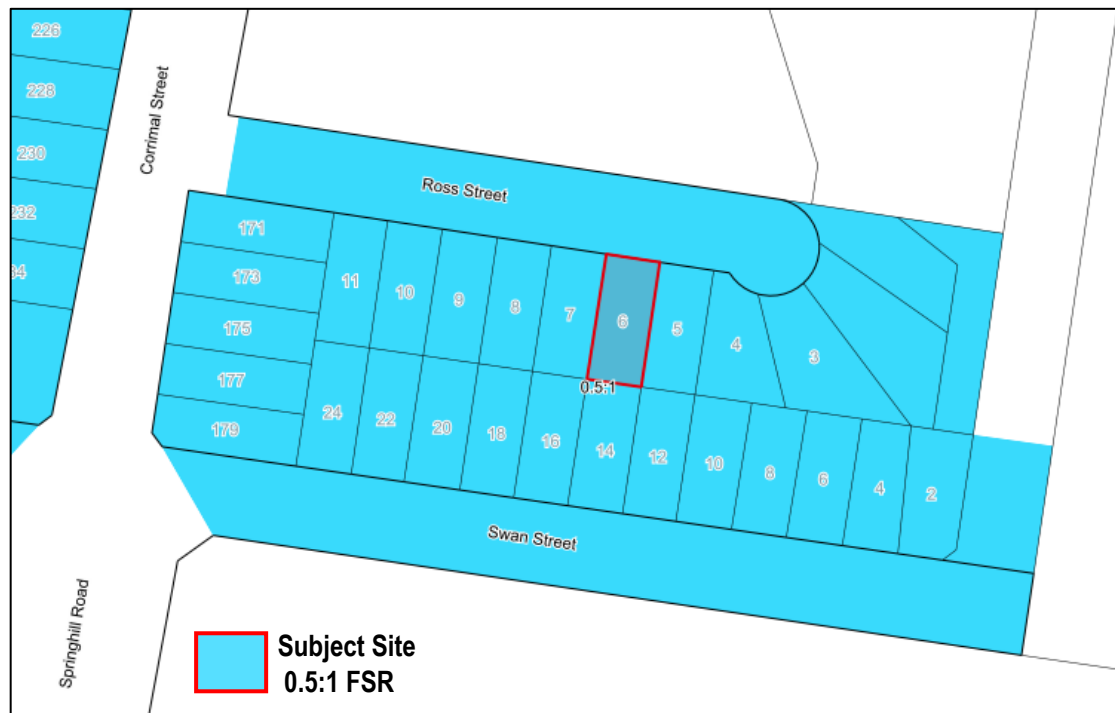
The site is zoned R2 Low Density Residential under the provisions of Wollongong Local Environmental Plan 2009 (WLEP 2009).

1.2 Development Proposal

The development proposal seeks Council's consent for the construction of an external lift addition to the western side of the building. The proposed lift will exclusively service the larger of the two first floor dwellings. The lift is a metal clad structure with a glass access door at ground floor level and a separate glass door providing access into the dwelling. The lift has an overall height of 5.43m, and will sit beneath the eaves of the existing building. The lift has footprint dimensions of 1.378m by 983mm and a floor area of 0.883m².

2.0 DEVELOPMENT STANDARD TO BE VARIED

Clause 4.4 of WLEP 2009 relates to floor space ratio (FSR) and provides that “*the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map*”. The extract (below) from the *Floor Space Ratio Map* indicates that a FSR of 0.5:1 applies to the subject site.



Source www.wollongong.nsw.gov.au

The existing development on the site has an FSR of 0.729:1. The proposed lift addition will add a further 0.883m² to gross floor area (GFA), increasing the FSR to 0.731:1. This represents an increase in the breach of the maximum FSR from of 0.3%.

The FSR development standard is not expressly excluded from the operation of clause 4.6, and accordingly Council is able to exercise flexibility in the application of the 0.5:1 maximum FSR development standard in accordance with that clause.

3.0 JUSTIFICATION IN SUPPORT OF THE CONTRAVENTION

Clause 4.6(3) of WLEP 2009 requires that an application involving a contravention of a development standard must be accompanied by a written request from the applicant that seeks to justify the contravention by demonstrating that compliance with the development standard is unreasonable or unnecessary under the circumstances of the case, and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

3.1 The Development Standard is Unreasonable or Unnecessary

Clause 4.6(3)(a) requires an applicant to establish that “*compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*”. In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ reiterated from his previous judgement in *Wehbe v Pittwater Council* (2007) NSWLEC 827 five common ways in which it might be demonstrated that compliance with a development standard is unreasonable or unnecessary:-

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

Preston CJ noted that the five ways described above were not exhaustive, but were merely the most common ways and that “*an applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way*” [*Initial Action* par 22].

In the case of the current development proposal, strict compliance with the FSR development standard is considered to be unreasonable and unnecessary as the existing residential flat building erected on the site has an FSR of 0.729:1, which far exceeds the maximum allowable FSR of 0.5:1. Therefore, the FSR – as it applies to the subject site – is considered to have been abandoned as a result of the approval of the residential flat building in the 1960s.

The strict application of the 0.5:1 FSR development standard is considered to be unreasonable and unnecessary under the circumstances of the case for the following reasons:-

- The existing development exceeds the maximum allowable FSR and therefore, any increase GFA, no matter how minor, cannot comply with the applicable FSR.
- Despite the non-compliance with the FSR development standard the underlying objectives of the development standard are achieved (refer to 4.1 below).
- Given that the existing development exceeds the maximum allowable FSR, and the objectives of the development standard are achieved, insisting on strict compliance with the development standard is both unreasonable and unnecessary in this instance.

3.2 There are Sufficient Environmental Planning Grounds

The proposed addition of the elevator to the western side of the existing residential flat building will not have any adverse environmental impacts, in particular:-

- The proposed lift addition is located on the western side of the existing residential flat building, and towards the rear of the building. The addition sits below the eaves line and projects just 983mm out from the side wall of the building. The design and position of the proposed lift addition will not have a detrimental impact on the architectural design of the existing building and will not have any detrimental impacts on the Ross Street streetscape.
- As the proposed lift addition sits beneath the eaves of the existing building and projects just 983mm out from the wall, there will be no material increase in shadowing. The extent of the early morning shadows to the west, is dictated by the ridge line of the building and not the edge of the guttering. Therefore, the addition will have no effect on morning shadows. Midday shadows will be contained within the subject site, and afternoon shadows will be cast in an easterly direction from the roof ridge.
- The lift addition has solid, metal clad external walls with the only external glazing being the ground floor lift access door, which faces the north. The lift therefore does not provide any opportunity for overlooking of the neighbouring property to the west.
- The lift addition is only modest in size – being just 1.378m wide and sitting below the level of the eaves of the existing building. Accordingly, the proposal will have a negligible impact on the visual amenity of the western neighbour.

4.0 PUBLIC INTEREST

In considering a development proposal that contravenes a development standard Council must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and those of the relevant zone.

4.1 Objectives of the Development Standard

The objectives of the FSR development standard are identified in clause 4.4 of WLEP 2009 as:-

- (a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,*
- (c) to ensure buildings are compatible with the bulk and scale of the locality.*

The development proposal is considered to be consistent with these objectives as it:-

- achieves an appropriate correlation between the size of the residential flat building and the size of the development site, particularly having regard to the minor nature of the proposed works and the form, scale and GFA of the existing development on the site.
- the existing residential flat building on the site has a GFA of 318.966m² and the proposed lift addition 0.883m², which represents a very minor increase of 0.4% in the total GFA. This is considered to be a negligible increase in the density of development on the site, particularly as no additional dwellings are proposed.
- will not generate any additional demands on service infrastructure (such as water, sewerage, gas, or electricity). There will be no additional stormwater run-off from the proposal, as the roof of the lift structure will replace an existing paved area.
- is a very minor addition, which will not materially increase the height, bulk or scale of the existing building. The existing residential flat building is commensurate with the range of building forms along both sides of Ross Street.

4.2 Objectives of the Zone

The subject site is zoned R2 Low Density Residential under the provisions of WLEP 2009. The objectives of the R2 zone are stated as:-

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

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

The development proposal is not considered to be inconsistent with the stated zone objectives. The proposed lift addition is ancillary to the residential use of the building and will provide exclusive access to one of the residential dwellings. This will improve access to the dwelling for the elderly residents, allowing them to 'age in place' and improving their quality of life. In this regard, the proposal is consistent with providing for the housing needs of the community within a low-density residential environment.

The second objective is not relevant to the proposal.

5.0 OTHER MATTERS

In determining whether or not to grant concurrence to a development proposal that involves the contravention of a development standard, clause 4.6(5) requires that the Planning Secretary must consider:-

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

Comments in relation to these matters are provided below.

5.1 State and Regional Planning Matters

The proposed contravention of the 0.5:1 FSR does not raise any State or Regional planning matters. The proposed development is consistent with all relevant State Environmental Planning Policies. The proposal is not inconsistent with the Illawarra-Shoalhaven Regional Plan 2015.

5.2 Public Benefit

It is considered that, having regard to the circumstances of the case, there is no public benefit to be gained by insisting upon strict compliance with the 0.5:1 FSR development standard. As the existing development on the site has an FSR of 0.729:1, which far exceeds the 0.5:1 limit, there is little to be gained by preventing the proposed 0.883m² lift addition. The lift addition is located on the western side of the building, towards the rear, and is not overtly visible from Ross Street. The building addition will therefore have a negligible impact on the public domain in Ross Street.

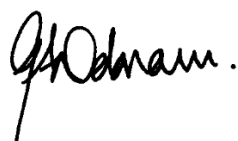
The proposed lift addition will not have any detrimental impacts upon the amenity of the adjoining neighbour to the west. There will be no loss of view, no material increase in shadowing (because the addition sits below the building's eaves), and no privacy impacts arising as a result of the construction of the lift shaft.

6.0 CONCLUSION

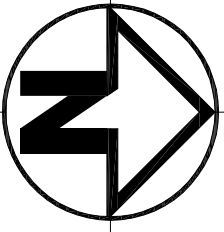
The construction of the proposed lift addition to the existing residential flat building will exacerbate the existing breach of the FSR development and has been reviewed having regard to the provisions of clause 4.6 of WLEP 2009. As a result of this review, it is concluded that the proposed development will be consistent with the objectives of the development standard and those for the R2 zone.

Strict compliance with the maximum FSR development standard is considered to be unreasonable and unnecessary in the circumstances as the existing development on the site has an FSR of 0.729:1 and the proposal will only increase this to 0.731:1. The absence of any deleterious amenity impacts is proof that there are sufficient environmental planning grounds to support the contravention of the development standard. The development proposal is not inconsistent with any State or Regional planning matters and will not conflict with the public interest.

For the reasons outlined in this submission, the contravention of the 0.5:1 FSR development standard is considered to be justified and the proposal is recommended for Council's support and approval.

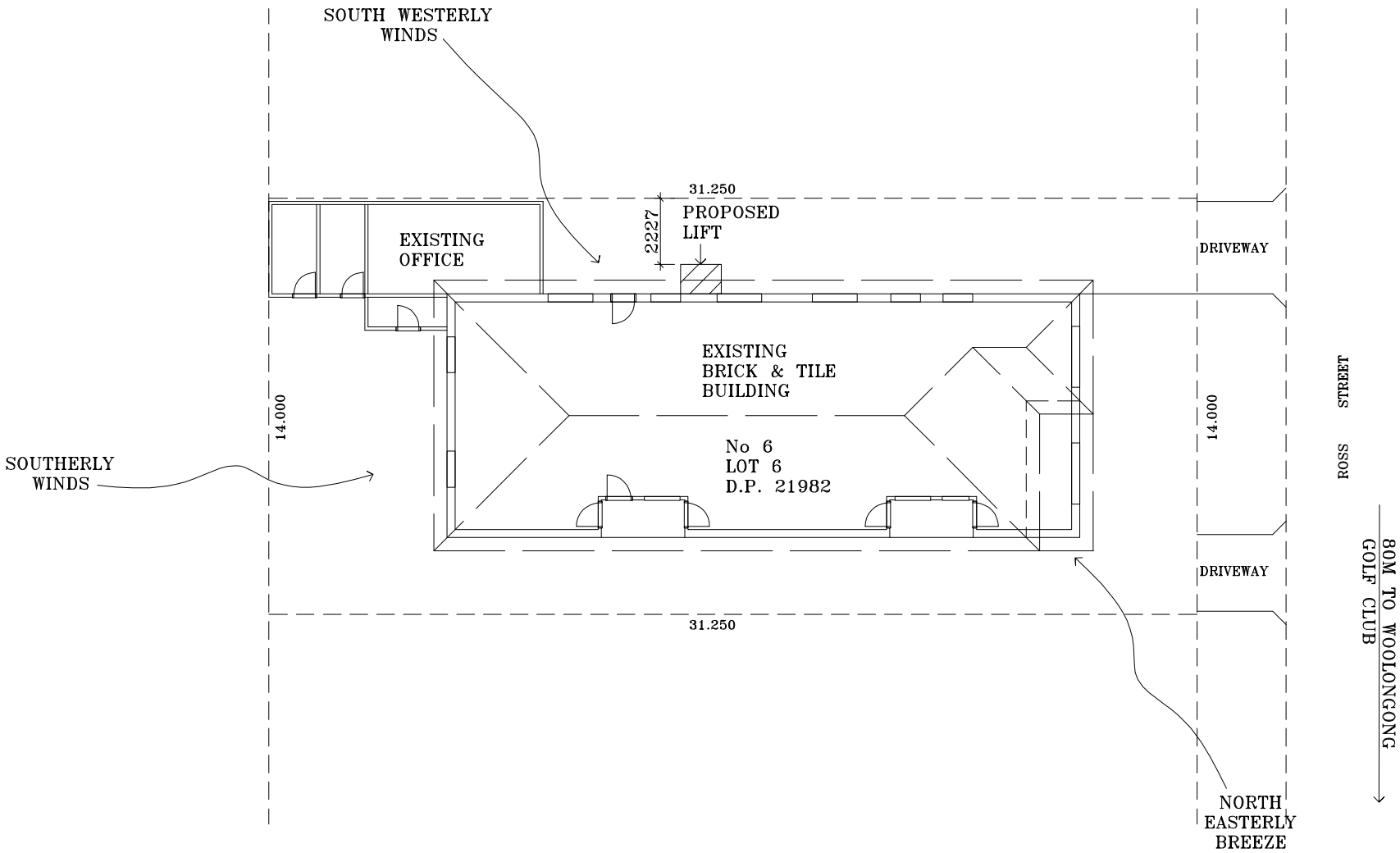
A handwritten signature in black ink, appearing to read 'Glenn Debnam'.

Glenn Debnam BTP (UNSW) RPIA
Town Planner
Director



NOTE:

DIAL 1100 BEFORE YOU DIG
UNDERGROUND SERVICE SEARCH SHOULD BE UNDERTAKEN
PRIOR TO ANY EXCAVATION TAKEN PLACE UPON THE SITE



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STORMWATER CALCULATIONS IN ACCORDANCE WITH AS 3500
AS REQUIRED ALL RETAINING & SURFACE WATER DRAINAGE TO BE COMPLETED BY THE OWNER TO COUNCIL SPECIFICATIONS UNLESS INCLUDED IN THE CONTRACT.

Rev	Date	Amendment
A	02/07/2021	DA/CC PLANS

Project:
Proposed : LIFT


at 6 ROSS STREET
WOLLONGONG NSW

for MR F CONTI

LOT. 6. D.P. 21982

Drawing:
Site Plan /
Analysis Plan

BUILDCHECK



drafting

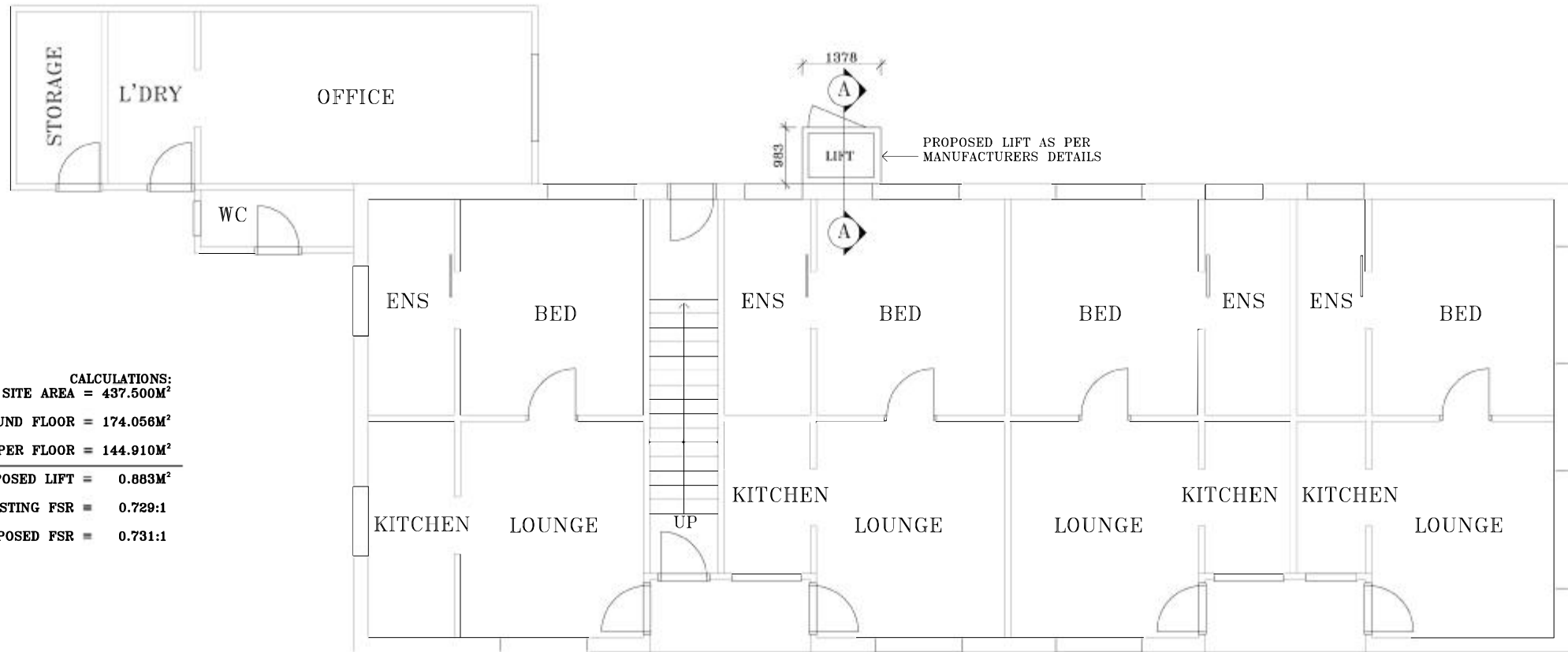
UNIT 2-102 INDUSTRIAL ROAD
OAK FLATS NSW
MOB: 0408027925

BUILDCHECK (NSW) PTY LTD
A.B.N. 88104967240

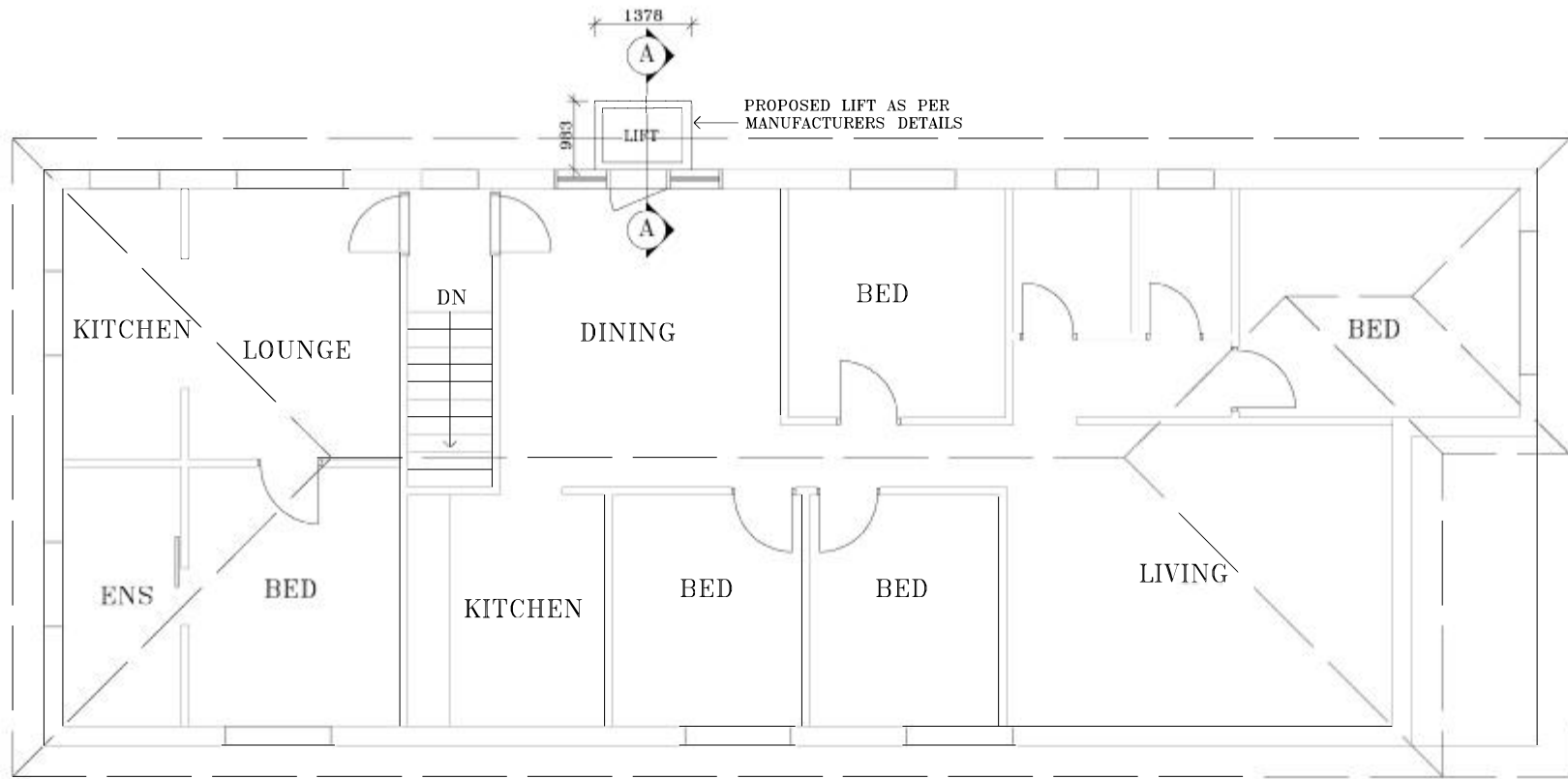
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Drawing No:
1438 - A01
No in set :3

STORMWATER DISPOSAL TO THE REQUIREMENTS
OF THE LOCAL COUNCIL APPROVAL.



GROUND FLOOR PLAN
SCALE 1:100



UPPER FLOOR PLAN
SCALE 1:100

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Rev	Date	Amendment
A	02/07/2021	DA/CC PLANS
B	04/03/2022	

Project:
Proposed : LIFT

at 6 ROSS STREET
WOLLONGONG NSW

for MR F CONTI

LOT. 6. D.P. 21982

Drawing:

Floor Plans

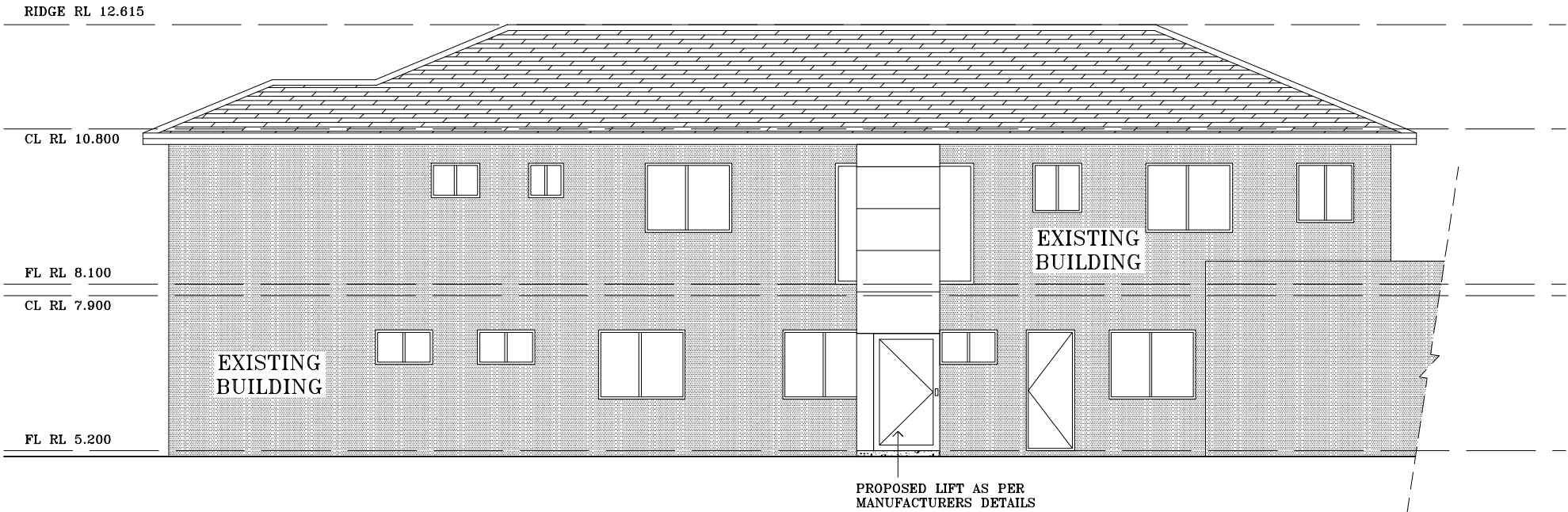
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UNIT 2-102 INDUSTRIAL ROAD
OAK FLATS NSW
MOB: 0408027925

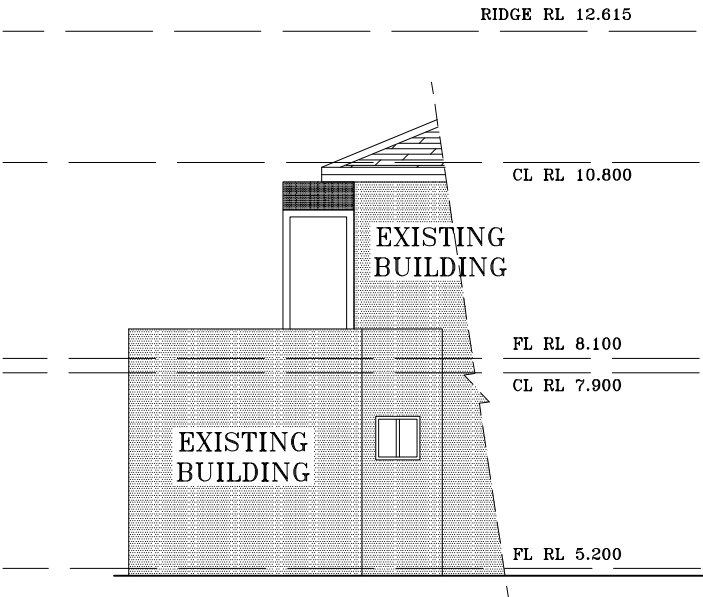
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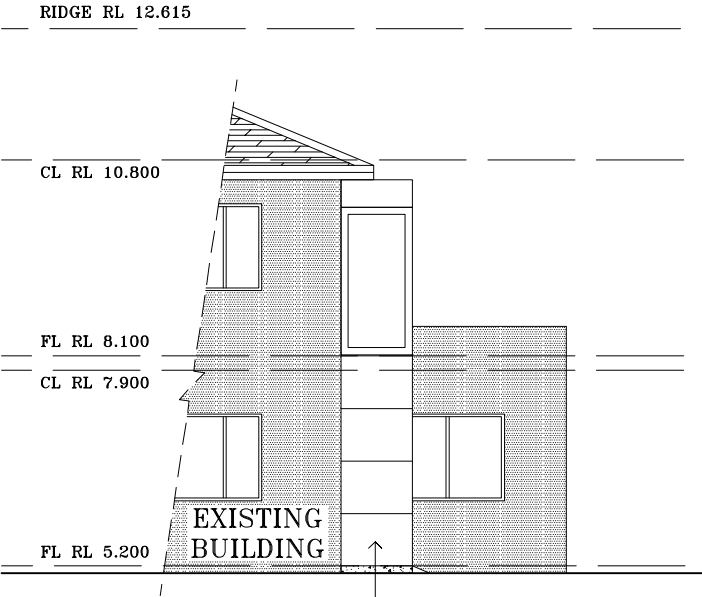
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No in set : 3



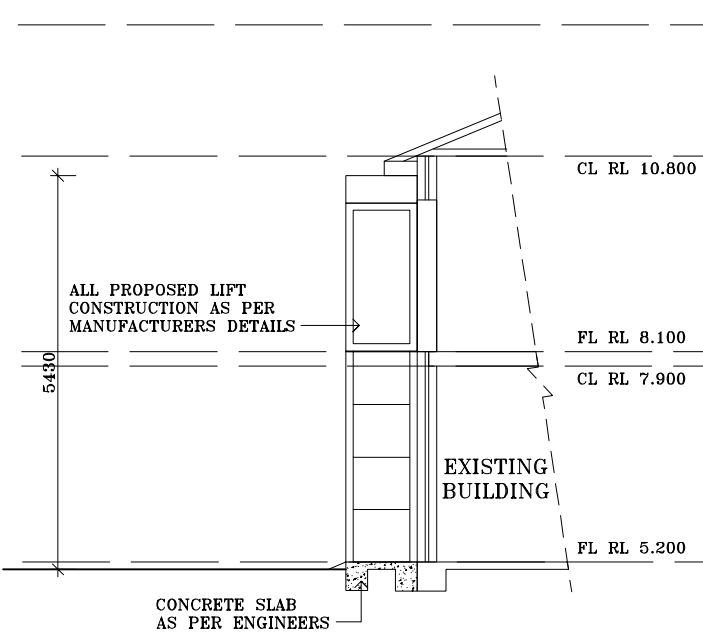
WESTERN ELEVATION
SCALE 1:100



SOUTHERN ELEVATION
SCALE 1:100



NORTHERN ELEVATION
SCALE 1:100



SECTION A-A
SCALE 1:100

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Rev	Date	Amendment
A	02/07/2021	DA/CC PLANS

Project:
Proposed : LIFT

at 6 ROSS STREET
WOLLONGONG NSW

for MR F CONTI

LOT. 6. D.P. 21982

Drawing:
Elevations /
Section A-A

BUILDCHECK
drafting

UNIT 2-102 INDUSTRIAL ROAD
OAK FLATS NSW
MOB: 0408027925

BUILDCHECK (NSW) PTY LTD
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No in set :3

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

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<i>Note: Absent controls are considered not applicable / relevant to this application.</i>		
4.13 Fire Brigade Servicing		
<ul style="list-style-type: none"> All dwellings located within 60m of a fire hydrant. NSW fire service can access and manoeuvre on the site. 	Complies	Yes
4.14 Services		
<ul style="list-style-type: none"> Encourage early consideration of servicing requirements 	The site is currently serviced	Yes
4.15 Development near the coastline		
<ul style="list-style-type: none"> Buildings within the coastal zone are to incorporate the following design features: Development should generally be designed in a contemporary Australian coastal style which incorporates elements such as varied roof lines, a modest scale, light weight materials where appropriate, wide eaves and covered outdoor living areas, and consistent with the desired future character outlined for the relevant suburb or locality as contained in Character Statements in Part A of the DCP. Consideration is to be given to the appearance of buildings from all public areas. Buildings are to be well articulated by the use of such features as indentations, off-set wall alignments, shading devices, balconies, window openings, awnings, and a mix of external materials and/or colours. Skillion and/or peaked roof forms with overhangs, which bring the roof line down towards the earth and therefore blend with the landscape, are preferred on sites adjacent to coastal foreshores. Elevations are to be broken up by building articulation and/or variation in external colours and materials. 	These controls are more applicable to new buildings. The external lift addition does not detract from the existing character of the building.	Satisfactory

<ul style="list-style-type: none"> Buildings shall be designed to utilise a composite of construction materials (such as a combination of masonry, glass, timber, weatherboard cladding and powder coated metal). The preferred roofing material is corrugated metal sheeting similar to "Colorbond®". In most instances the use of low-reflective materials will be required although this may vary in circumstances where a building seeks to echo the existing character of part of a neighbourhood (as reflected in the desired future character statement contained in Part A of the DCP). The use of curtain wall glazing and large expanses of framed glass will not be permitted in the vicinity of main roads in order to minimise reflectivity impacts. Colour schemes are to incorporate a mix of finishes drawn from colours found in the natural environment of the coastline. This does not however preclude the use of colour highlights on façade elements. Colour schemes in visually exposed areas must be recessive (i.e. backdrop colour or darker) to allow the development to blend with the coastal landscape. 		
<u>4.16 View sharing</u>	No view loss impacts.	Yes
<u>4.17. Retaining walls</u>		
N/A	N/A	N/A
<u>4.18 Swimming pools and spas</u>		
N/A	N/A	N/A
<u>4.19 Development near railway corridors and major roads</u>		
<ul style="list-style-type: none"> Impacts of rail and road noise or vibration on non-rail development must also be considered under clause 87 of the SEPP Infrastructure. 	Does not apply to an external lift addition	N/A
Controls/objectives	Comment	Compliance
<u>6.1 General</u>		
Part 4.13 to Part 4.19 apply to any RFB	As above.	Satisfactory
<u>6.2 Minimum Site Width Requirement</u>		

Minimum 24m site width required	Site has a frontage of 14m	No change
<u>6.3 Front Setbacks</u>		
The following setbacks are required: The same distance as one or other of the adjoining buildings, provided the difference between the setbacks of the two adjoining dwellings is less than 2.0m. The average of the setbacks of the two adjoining buildings, if the difference between the setbacks of the buildings is greater than 2.0m. A minimum front setback of 6m applies to residential apartment buildings where calculations of a) or b) result in a front setback of less than 6m. Balconies and front courtyard fences may be setback up to 900mm closer than the required front setback.	The elevator is set back approx. 16m from the front boundary.	Satisfactory.
<u>6.4 Side and Rear Setbacks / Building Separation</u>		
Buildings up to 4 storeys (12 metres) 6 metres to habitable room/balcony 3.5 metres to non-habitable room/blank wall	Proposed setbacks: 2.27m to the eastern boundary and 13.85m to the rear.	Variations Proposed – Refer to discussion in report.
<u>6.5 Built Form</u>		
The design, height and siting of the development must respond to its context. The appearance of new development must be in harmony with the buildings around it and the character of the street. New development must contain or respond to the essential elements that make up the character of the surrounding urban environment. This character is created by elements such as building height, setbacks, architectural style, window treatment and placement, materials and landscaping. Lift over runs and service plants must be concealed within the roof of the building or relate to adjacent roof top rooms or open space.	The size and sitting of the lift wont significantly detract from the current built form and there is no lift overrun higher than the roof line. There is limited visibility of the lift from the street.	Satisfactory
<u>6.6 Visual privacy</u>		
N/A	No concerns are raised. None of these controls are directly applicable to this development.	Satisfactory
<u>6.7 Acoustic privacy</u>		
This clause applies to proposals involving the erection of new residential flat	This part does not apply. Regardless, the applicant has identified that the lift uses a	Satisfactory

buildings upon land directly adjoining or opposite a business or industrial zone or in cases where there is an existing nearby land use which generates external noise from either the land use activity itself or from patrons attending or leave the nearby premises	2.2kW electric motor. The elevator does adjoin a bedroom on the ground floor. The wall is made of masonry. There was Informal consultation with Council's environment officer as part of the assessment. The proposal does not merit an acoustics report.	
<u>6.8 Car Parking Requirements</u>		
Refer to E3 Car Parking, Access, Servicing/Loading Facilities and Traffic Management.	Refer to Chapter E3 for discussion on parking provision.	Satisfactory
<u>6.9 Basement Car Parking</u>		
N/A	N/A	N/A
<u>6.10 Access Requirements</u>		
Any driveway servicing a residential development is to be setback a minimum of 1.5m from any boundary.	The elevator is positioned toward the rear of the western driveway but will not impact make cause any further non-compliances.	N/A
Driveways are to be a maximum of 6m in width.		
Driveway crossovers must be designed in accordance with Council's standard vehicle entrance designs.		
Sufficient manoeuvrability must be provided to allow vehicles to enter and leave the site in a forward direction without the need for more than a single point turn.		
Driveways servicing 3 to 5 dwellings must comply with a 3-4m combined crossover width.		
<u>6.11 Landscaping Requirements</u>		
	N/A - No changes proposed – the lift is to be built over an existing driveway.	Yes
<u>6.12 Deep Soil Zone</u>		
	N/A - No changes proposed	N/A
<u>6.13 Communal Open Space</u>		
	N/A - No changes proposed	N/A
<u>6.14 Private Open Space</u>		
	N/A - No changes proposed	N/A
<u>6.15 Adaptable Housing</u>		
	The controls of this part do not apply as no new dwellings are proposed. An external lift support the objectives of this part.	Satisfactory

<p><u>6.16 Access for People with a Disability</u></p> <p>The provision of continuous path of travel is required to the development to ensure equitable access for all people including people with a disability. Refer to Chapter E1 Access for People with a Disability in Part E of this DCP.</p>	Chapter E1 refers applicants to the requirements the Australian standards which are a mandatory part of the BCA-NCC. The proposal will have to comply with all BCA requirements.	Conditioned
<p><u>6.17 Apartment Size and Layout Mix for Larger Residential Flat Building Developments</u></p>	N/A <10 dwellings	N/A
<p><u>6.18 Solar Access</u></p> <p>Windows to living rooms and at least 50% of the private open space areas of the adjoining dwellings must receive at least 3 hours of sunlight between 9am – 3pm on June 21.</p>	Solar diagrams demonstrate compliance	Satisfactory
<p><u>6.19 Natural Ventilation</u></p>	The ventilation of the building is not adversely impacted.	Satisfactory

CHAPTER E13 FLOODPLAIN MANAGEMENT

The site is considered to be in the Medium Flood Risk Precinct. 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. Flood impacts are considered negligible due to the small footprint over an existing paved area. All structures to have flood compatible building components and a structure will have to be certified by an engineer that it can withstand the forces of floodwater, debris & buoyancy up to the probable maximum flood level.

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

Under the current controls residential flat buildings would require 1 car parking space per dwelling (<70m²) or 1.5 car parking spaces per dwelling (70-110m²) or 2 car parking space per dwelling (110m²), plus 0.2 car parking spaces per dwelling for visitors

- Five dwellings are less than 70sqm and would have required a single space.
- One dwelling would require 1.5 (2) spaces
- Plus, a visitor space
- For a total of 8 spaces.

The need for new parking spaces is not triggered by the proposed lift addition.

However possible parking impacts have been assessed by this application.

Due to the age of the original application, **there are no records at hand of any approved parking arrangements.** It is assumed that the building may have no approved parking spaces.

The current building has 6 dwellings and has two driveways. Currently, the only way each dwelling would get at least one on-site parking spot is if each driveway had three spaces in a stacked parking arrangement. Each spot would be assigned to a separate dwelling. The external elevator is located in the driveway and would remove a 'three deep' stacked parking spot. Two parking spaces are still possible in front of the elevator. A three-space stacked parking arrangement would still be on the eastern driveway.

This outcome can be supported for the following reasons.

- Any stacked parking arrangement involving three cars considered too impractical. It is made more impractical as each spot belongs to a different dwelling. Council would not approve any such arrangement for this reason. Therefore, no loss in **currently viable** parking spaces results from this proposal.
- Council's traffic engineer has been verbally consulted about this arrangement. He identifies that the loss of this assumed space would likely result in an **improved traffic outcome**. As a three deep stacked parking arrangement between multiple dwellings, if used, is likely to have negative safety impacts. For example, it would produce excessive shuffling of cars onto the street.

ATTACHMENT 7 - DRAFT CONDITIONS FOR: DA-2022/297

For Office Use Only – Do Not Mail

Consent has been granted subject to the following conditions:

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
1438-A01	A	Site Plan / Analysis Plan	Buildcheck Drafting	02/07/2021
1438-B02	B	Floor Plans	Buildcheck Drafting	04/03/2022
1438-A03	A	Elevations / Sections A-A	Buildcheck Drafting	02/07/2021

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 Conditions

1. 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 Part 3 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 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 Section 13 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

2. 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.

Before the Issue of a Construction Certificate

3. Present Plans to Sydney Water

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

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

Visit www.sydneywater.com.au or telephone 13 20 92 for further information.

4. Flood Level Requirements

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

- a. Any portion of the building or structure below RL 3.84 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 DCP 2009, 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.
- b. The proposed external lift addition shall be designed to withstand the forces of floodwater, debris and buoyancy up to and including RL 5.30 metres AHD.

Before the Commencement of Building Work

5. 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 [2] days notice is required).

The Principal Certifier must determine when inspections and compliance certificates are required.

6. Home Building Act Requirements

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 (not being the Council) has given the Council written notice of the following information -

- a. In the case of work for which a principal contractor is required to be appointed -
 - i. the name and licence number of the principal contractor, and
 - ii. the name of the insurer by which the work is insured under Part 6 of that Act,
- b. In the case of work to be done by an owner-builder -
 - i. the name of the owner-builder, and
 - ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

7. Signs On Site

A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- a. showing the name, address and telephone number of the Principal Certifier for the work, and
- b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c. stating that unauthorised entry to the worksite is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

Note: This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

8. Temporary Toilet/Closet Facilities

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

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

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

9. Structural Engineer's Details

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

10. Enclosure of the Site

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

11. Demolition Works

The demolition of the existing 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 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.

12. Demolition Notification to Surrounding Residents

Demolition must not commence unless at least two (2) days written notice has been given to adjoining residents of the date on which demolition works will commence.

13. Consultation with SafeWork NSW - Prior to Asbestos Removal

A licensed asbestos removalist must give written notice to SafeWork NSW at least five (5) days before licensed asbestos removal work is commenced.

14. Contaminated Roof Dust

Any existing accumulations of dust in ceiling voids and wall cavities must be removed prior to any demolition work commencing. Removal must take place by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter.

15. All-weather Access

An all-weather stabilised access point must be provided to the site to prevent sediment leaving the site as a result of vehicular movement. Vehicular movement should be limited to this single accessway.

16. 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.

While Building Work is Being Carried Out

17. Compliance with the Building Code of Australia (BCA)

Building work must be carried out in accordance with the requirements of the BCA.

18. Piping of Stormwater to Existing Stormwater Drainage System

Stormwater for the land must be piped to the existing stormwater drainage system.

19. Hours of Work

The Principal Certifier must ensure that building work, demolition or vegetation removal is only carried out between:

- 7:00am to 5:00pm on Monday to Saturday.

The Principal Certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Any variation to the hours of work requires Council's approval.

Any request to vary the approved 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; and
- 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*.

20. Excavation/Filling/Retaining Wall Structures

Any proposed filling on the site must not:

- a. Encroach onto the adjoining properties, and
- b. adversely affect the adjoining properties with surface run-off.

21. 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 (<https://www.safework.nsw.gov.au>).

22. 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.

23. Provision of Waste Receptacle

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

24. Acid Sulfate Soils

The Wollongong Local Environmental Plan 2009 Acid Sulfate Soils Map has identified that this property may be affected by classes 3, 4 or 5 Acid Sulfate Soils. Acid Sulfate Soils contain iron sulfides which, when exposed to air due to drainage or disturbance, may produce sulfuric acid and release toxic quantities of iron, aluminium and heavy metals. The Acid Sulfate Soils Map is an indication only and you are advised that you may encounter Acid Sulfate Soils during the excavation for the proposed development.

Any spoil material extracted or excavated from the foundations must be neutralised with commercial lime (calcium bicarbonate) by the addition of 10 kilograms of lime per 1 cubic metre of spoil material before it is disposed of or re-used on-site. Lime is to be added by evenly distributing over all exposed surface areas, drilled piers and footing trenches on the site, prior to pouring concrete.

Council suggests the applicant refer to the Acid Sulfate Soils Assessment Guidelines contained in the Acid Sulfate Soils Manual, prepared by NSW Acid Sulfate Management Advisory Committee, August 1998 for further information.

25. Flood Compatible Materials

All power service (metering) equipment, power outlets, switches etc. shall be located above RL 3.84 metres AHD. All electrical wiring installed below this level should be suitable for continuous underwater immersion and should contain no fibrous components. Earth leakage circuit breakers shall also be installed. Any equipment installed below or partially below RL 3.84 metres AHD should be capable of disconnection by a single plug and socket assembly.

Reasons

The reasons for the imposition of the conditions are:

1. To minimise any likely adverse environmental impact of the proposed development.
2. To ensure the protection of the amenity and character of land adjoining and in the locality.
3. To ensure the proposed development complies with the provisions of Environmental Planning Instruments and Council's Codes and Policies.
4. To ensure the development does not conflict with the public interest.