

Wollongong Local Planning Panel Assessment Report | 10 December 2024

WLPP No.	Item No. 2
DA No.	DA-2023/988
Proposal	Residential - demolition of existing buildings, construction of a 27unit residential flat building, including 16 of the 27 units for affordable housing, basement carpark and landscaping
Property	19-21 Tannery Street UNANDERRA NSW 2526
Applicant	TFR Pty Ltd
Responsible Team	Development Assessment and Certification – City Wide Team (JW)
Development cost	\$8,447,000.00 (\$4,161,084.00 affordable)
Lodgement date	14 December 2023

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;

- Under 4(b) of Schedule 2 of the Local Planning Panels Direction of 6 May 2024, the proposal is sensitive development to which State Environmental Planning Policy (Housing) 2021 Chapter 4 (Design of residential apartment) applies and is more than 4 storeys in height
- Under 3(b) of Schedule 2 the proposal also involves more than a 10% departure to the building height development standard of WLEP 2009.

Proposal

The proposal involves the demolition of two single dwelling houses, the construction of a residential flat building consisting of 27 units with 16 Affordable Housing Units. The proposal comprises a development of basement carparking, and 4 levels of units with a rooftop common area.

Permissibility

The site is zoned R3 Medium Density Residential pursuant to Wollongong Local Environmental Plan 2009. The proposal is categorised as Residential Flat Building and is permissible in the zone with development consent. Demolition works are permissible with consent.

Applicable planning controls

The following planning controls apply to the development:

State Environmental Planning Policies:

- SEPP (Resilience and Hazards) 2021
- SEPP (Sustainable Buildings) 2022
- SEPP (Housing) 2021

Consultation

The proposal was exhibited in accordance with Council's Community Participation Plan and received seven (7) submissions, 3 of which were in support, which are discussed at section 3.8.

The Design Review Panel reviewed the proposal and did not raise any significant concerns. Design changes were made to address the Panel's commentary.

Council's Stormwater, Traffic, Architect, Geotechnical, Landscape, Community Service, Community Safety and Environment Officers have provided conditionally satisfactory referrals.

Main Issues

- Design Review
- Cl 4.3 Height of Building Departure
- Submissions received

1 CONCLUSION AND REASONS

This application has been assessed as having regard to the Heads of Consideration under Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 including the provisions of relevant SEPPs, Wollongong LEP 2009 and WDCP2009.

The proposed development is permissible with consent and has regard to the objectives of the zone.

Internal and external referrals are conditionally satisfactory, and submissions received have been acknowledged and addressed.

The application also involves a variation in respect of Clause 4.3 of Wollongong LEP 2009, relating to building height, a variation request statement was provided, reviewed and is capable of support.

The proposed development has been designed appropriately given the nature and characteristics of the site and that approval is in the public interest by way of the provision of housing diversity, including affordable housing in a location proximate to services and transport.

The proposal is recommended for deferred commencement subject to a formal agreement being reached and submitted to Council evidencing the Community Housing Provider for the management of the 16 proposed affordable housing units.

RECOMMENDATION

DA-2023/988 be approved by way of Deferred Commencement subject to the conditions contained in **Attachment 6**.

2 APPLICATION OVERVIEW

2.1 PLANNING CONTROLS

State Environmental Planning Policies:

- SEPP Resilience and Hazards 2021
- SEPP (Housing) 2021
- SEPP (Building Sustainability Index: BASIX) 2004

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
- Wollongong Community Participation Plan

2.2 DETAILED DESCRIPTION OF PROPOSAL

This application seeks consent for the demolition of existing structures on 19 and 21 Tannery Street, and the construction of a four (4) storey residential flat building containing 27 units (16 of which are nominated for affordable housing units) including basement car parking. The development incorporates parking for 26 vehicles (17 resident spaces, 3 disabled spaces and 6 visitor car spaces), bicycle spaces and motorbike parking spaces are provided. Of the 16 Affordable housing units, 3 are proposed as adaptable.

Vehicular access to the site is provided via a driveway and ramp from Tannery Street. Pedestrian access from the street frontage is proposed from Tannery Street.

A deep soil zone is located to the rear of the site with communal open space provided at ground level and roof top level.

A description of each floor level is provided below:

- Basement: parking provided for 17 Residential spaces, 3 Disabled spaces, and 6 visitors.
- Ground floor plan: 1x 3bed, 3x 2bed, 2x 1bed – 6 units
- Level 1 plan: 1x 3bed, 5x 2bed, 1x 1bed – 7 units
- Level 2 plan: 1x 3bed, 5x 2bed, 1x 1bed – 7 units
- Level 3 plan: 1x 3bed, 5x 2bed, 1x 1bed – 7 units
- Rooftop: Communal open space

The applicant has stated in the SoEE that the whole development may be given over to affordable housing at some future time but has elected only nominate greater than 50% of units at present.

Council has only recently received information (27 November) from the Illawarra Community Housing Trust that both supports the application and indicates they may be involved in the project subject to a management or alternate agreement which is yet to be formalised.

Architectural plans (which include nominated affordable housing units) are presented at **Attachment 1**.

2.3 BACKGROUND

A Design Review Panel (DRP) meeting was held on 23 February 2023 (DE-2023/73) followed by a pre-lodgement meeting (PL-2023/90) held on 4 September 2023 prior to lodgement of this DA. The DRP Panel recommended amendments.

Further refinements recommended to improve amenity and refine the proposal contextual response include:

- *Consideration of the need for a roof top terrace.*
- *Refinement of side boundary interfaces.*
- *Incorporation of environmental initiatives.*
- *Further development of the pedestrian entrance.*
- *Further development of cross ventilation to upper-level units.*
- *The provision of detail sections to clearly document design intent.*
- *Refinements to the COS.*

The applicant responded to the pre-lodgement DRP comments and planning Pre-lodgement notes in the formal submission and lodgement of the application.

2.4 SITE DESCRIPTION

The site is located at 19-21 Tannery Street (Lot 77 & 78 DP 32226) Unanderra. The lots have a combined area of 2232.15m², with a frontage of approximately 34m to Tannery Street. The site has a gradual 2m grade difference sloping downwards from the front of the site to the rear boundary which adjoins a Council drainage reserve.

The site currently accommodates 2 single storey dwellings which are proposed to be demolished as part of this application.

The site is located within a R3 medium-density residential zone as such there is a mix of housing types surrounding the area characterised by single dwellings to medium rise residential development. The site is also proximate to the commercial zoning and associated services of Unanderra town centre and public transport including taxis, buses and trains.



Figure 1: Aerial Photograph

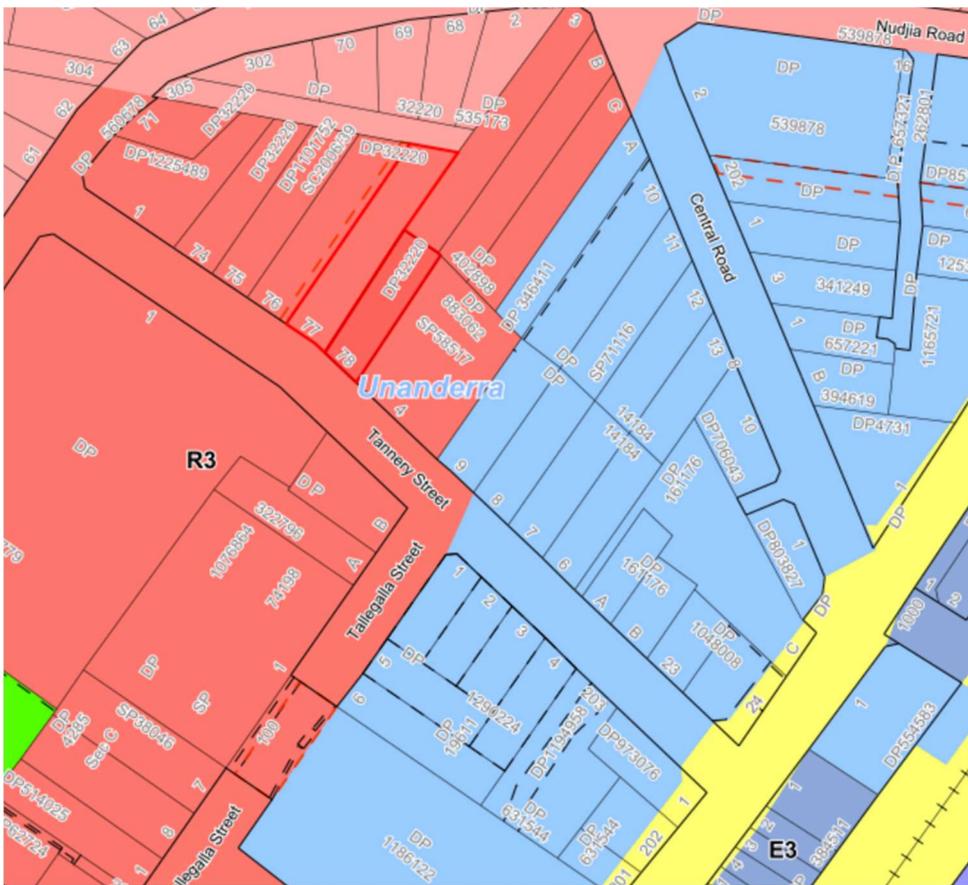


Figure 2 WLEP2009 Zoning map

Property constraints

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

- Low and Medium Flood Risk

2.5 SUBMISSIONS

The application was exhibited in accordance with Council's Community Participation Plan 2019 between 11 January 2024 and 25 January 2024. Seven (7) submissions were received, four (4) were objections and Three (3) were supportive; the issues identified are discussed below.

Concern	Comment
Stormwater flows and Flood impacts	The proposal is within a low and medium flood risk precinct. The applicant supplied a flood study, and suitable design that mitigates the flood risk. The proposal was conditionally supported by Councils Stormwater Officer.
Tree removal and planting	Councils Landscape and Environmental Officers have provided satisfactory referrals and conditions regarding tree removal and re-planting. The proposed landscape plan incorporates the site and adjacent development's context.
Overshadowing and Height variation	The proposal has been supported by a Clause 4.6 variation statement to the Height of Building development standard. The proposal has been designed to reduce potential overshadowing impacts. Detailed shadow diagrams depict the proposal will have some impacts on adjoining development however, the proposal is compliant with solar access requirements and is not expected to result in unreasonable adverse impacts. The proposed height variation is capable of support as detailed in section 3.15 of the report
Privacy and Overlooking	The proposal has been designed so as to limit overlooking and privacy impacts to adjoining development and is acceptable
Traffic generation	The proposal will result in the construction of 27 units, as a result there will be an increase in traffic generated from the site. The application was supported by a traffic report and Council's traffic officer has provided conditional support. The proposal is not expected to result in adverse impacts on the local road network.
Support for affordable housing	Noted.

Consultation

2.5.1 INTERNAL CONSULTATION

Council's Stormwater, Traffic, Architect, Geotechnical, Landscape, Community Service, Community Safety and Environment Officers have provided conditionally satisfactory referrals.

2.5.2 EXTERNAL CONSULTATION

Design Review Panel

The concept proposal was reviewed by the DRP 17/08/2023 and a pre-lodgement meeting was held on 4/09/2023. The current development Application was lodged on the 14/12/2023 and was the DRP notes for the DA dated 23 February 2024 are presented at **Attachment 2**.

The Panel initially raised concerns with several elements, in particular:

- Consideration of the need for a roof top terrace.
- Refinement of side boundary interfaces.
- Incorporation of environmental initiatives.
- Further development of the pedestrian entrance.
- Further development of cross ventilation to upper-level units.
- The provision of detail sections to clearly document design intent.
- Refinements to the COS.

Revised plans lodged in April 2024 have been reviewed by Council's Architect, who is satisfied the recommendations of the DRP have been satisfactorily addressed. Re-referral to the DRP was not required.

3 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

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

NSW BIODIVERSITY CONSERVATION ACT 2016

Section 1.7 of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents and approvals under this Act.

Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. The proposal does not trigger the requirement for a biodiversity offset scheme.

The site is not identified as being of high biodiversity value on the [Biodiversity Values Map](#). None of the trees on the site have been identified as containing hollows. The development would therefore not be considered to result in adverse impacts on biodiversity and is consistent with the provisions of the Biodiversity Conservation Act 2016.

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

3.1.1 STATE ENVIRONMENTAL PLANNING POLICY RESILIENCE AND HAZARDS 2021

Chapter 4 Remediation of land

4.6 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless—

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is—

(a) land that is within an investigation area,

(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,

(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital—land—

(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

Council records do not indicate any historic use that would contribute to the potential contamination of the site and the land is not identified as being contaminated on Council's land mapping system. The proposal does not comprise a change of use.

Both Preliminary Site Investigation/Detailed Site Investigation report and Hazardous Materials Survey were submitted and reviewed by Councils Environmental Assessment Officer. The reports are considered to be satisfactory, and conditions were recommended. No concerns are raised regarding contamination beyond the need for observance of the recommendations of the reports by way of condition and standard demolition and asbestos management conditions as well as an unexpected finds protocol conditions.

The Panel may therefore be satisfied that the requirements of section 4.6. are thus satisfied as relates to the intended use of the land.

3.1.2 STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

SEPP 65 was repealed on 14 December 2023 on the gazettal of State Environmental Planning Policy Amendment (Housing) 2023, which transferred the provisions of SEPP 65 across to Chapter 4 of SEPP (Housing) 2021. SEPP 65 was not the subject of savings provisions. Subsection 2A of Schedule 8 clarifies that the new Chapter 4 applies to DAs that were made, but not finally determined, before 14 December 2023, when SEPP 65 was repealed.

Chapter 2 Affordable Housing

Division 1

Section 16 – The proposal provides greater than 50% of the development for affordable housing to be managed by a community housing provider, as such the proposal receives an additional 0.5 FSR bringing the site from 0.75:1 under the WLEP2009 to maximum of 1.25:1.

The proposal provides an FSR of 1.09:1 and is thus compliant.

The application is proposed be deferred commencement subject to evidencing of the formal agreement of a Community Housing Provider for the management of the 16 affordable housing units proposed.

Section 19

(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—

(a) a minimum site area of 450m²,

(b) a minimum landscaped area that is the lesser of—

(i) 35m² per dwelling, or

(ii) 30% of the site area,

The site provides greater than 30% landscaped area

(c) a deep soil zone on at least 15% of the site area, where—

(i) each deep soil zone has minimum dimensions of 3m, and

(ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,

Section does not apply under subsection 3 – commentary provided in Apartment Design Guide compliance table at **Attachment 3**. The proposal provides 653m² of Deep Soil Zone at the rear of the site, the entire DSZ is within the rear of the site and complies with the WDCP 2009 requirements.

(d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,

Section does not apply under subsection 3 – Commentary provided in Apartment Design Guide compliance table at **Attachment 3**. The proposal provides 70.37% of units with solar access of a minimum of 2 hours sunlight between 9am and 3pm mid winter, which complies with the minimum requirement of 70%.

(e) the following number of parking spaces for dwellings used for affordable housing—

(i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,

(ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,

(iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,

The proposal provides 26 parking spaces in total.

(f) the following number of parking spaces for dwellings not used for affordable housing—

(i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,

(ii) for each dwelling containing 2 bedrooms—at least 1 parking space,

(iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,

The proposal provides 26 parking spaces in total.

(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,

The proposal is considered satisfactory, see ADG compliance table presented at **Attachment 3**

(h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low-Rise Housing Diversity Design Guide,

(i) if paragraphs (g) and (h) do not apply, the following minimum floor areas—

(i) for each dwelling containing 1 bedroom—65m²,

(ii) for each dwelling containing 2 bedrooms—90m²,

(iii) for each dwelling containing at least 3 bedrooms—115m² plus 12m² for each bedroom in addition to 3 bedrooms.

(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.

Section 21 Must be used for affordable housing for at least 15 years

(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development—

(a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and

(b) the affordable housing component will be managed by a registered community housing provider.

This section has been addressed through proposed conditions of consent as relates to confirmation of the community housing provider and restrictions on title.

Chapter 4

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 Chapter 4 of the Housing SEPP apply. The application is accompanied by a design verification statement by a qualified Architect designer in accordance with Clause 29 of the Environmental Planning and Environment Regulation 2021. A copy is provided at **Attachment 4**.

Section 145 - Referral to design review panel for development applications

Section 145(2) provides that, before determining the development application, the consent authority must refer the application to the design review panel for advice on the quality of the design of the development. The proposal was considered by the Wollongong Design Review Panel at its meeting on 23 February 2024 as discussed in Part 1.6.1 of this report. A copy of the Panel’s notes is provided at **Attachment 2**

Section 147 – Determination of development applications and modification applications for residential apartment development

Section 147(1) provides that,

(1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—

(a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,

(b) the Apartment Design Guide,

(c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

Regarding section 147(1)(c), the advice from the DRP has been considered as outlined in Part 1.5.2 of this report. Regarding section 147(1)(a), the design quality of the development has been considered in accordance with the design quality principles is outlined below. With regard to section 147(1)(b), an assessment of the application against the ADG has been undertaken and found to be compliant, as presented at **Attachment 3**.

Principle 1: Context and neighbourhood character

The existing character of development in the locality comprises medium and low-density housing of one and two storey dwellings and two storey walk-up multi-dwelling developments. Unanderra Woolworths, Bus stops and Unanderra town centre along with the Unanderra Train Station are located within proximity to the site as well as educational facilities. The proposal is considered to be consistent with built and future development within the locality. This development reflects the desired future character for the area as defined by the planning controls.

Principle 2: Built form and scale

The bulk and scale of the development is generally consistent with the applicable planning controls for the area with the locality expected to transition over time, with larger scale developments replacing the original smaller single dwelling houses.

Whilst likely to be dominant in the immediate urban landscape, the development is not considered to be out of context with regard to the desired future character of the area and the E1 and R3 zones. The potential impacts of the development on the locality and adjoining development have been addressed through a number of redesigns of the proposal in response to concerns raised by the DRP.

The design of the development will contribute to the public domain and provide amenity for the occupants by way of landscaped areas, private open space, communal open space and dwelling layout.

Principle 3: Density

The density of the development complies with the maximum FSR permitted for the land (with SEPP Housing provisions). The development is not of a scale that is expected to place unreasonable pressure on local infrastructure. The site is well situated with regard to existing public transport and services. Adequate parking facilities have been provided on site to cater for the number of units proposed.

Principle 4: Sustainability

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

- BASIX Certificate provided indicating minimum requirements are met.
- A Site Waste Management and Minimisation Plan have been provided indicating recycling of materials from the demolished structure.
- Units are provided with natural cross ventilation and internal layouts have been designed to provide for good solar access to primary living areas and POS areas.
- Solar panels PV panels have been added to the roof top.
- A specialist sustainability report was submitted and reviewed by Council's Environment officer

Principle 5: Landscape

The proposal includes suitable landscaped areas and communal open space that will provide for appropriate amenity to the occupants. Deep soil planting and a common lawn planting area have been incorporated into the site design.

Principle 6: Amenity

Amenity for the units and the adjoining neighbours has been addressed in response to concerns raised during the DRP meetings. The proposal meets the minimum requirements for solar access, private and storage, visual and acoustic privacy and access.

Suitable screening and landscaping have been provided to mitigate impacts to the neighbouring properties.

Principle 7: Safety

The proposal is satisfactory with regard to safety and security. A defined pedestrian entry has been incorporated into the design from the street entrance. The design provides for minimal areas of concealment and entrapment with natural surveillance of common spaces. A clear definition between public and private space has been provided within the design.

Principle 8: Housing diversity and social interaction

One-, two- and three-bedroom units are proposed with this development. Three units are also proposed as adaptable (Units G.01, G.04 and G.05). This is an acceptable mix of housing types.

Principle 9: Aesthetics

The proposal is considered to be of a high quality with regard to its appearance. Improvements have been made in response to previous DRP meetings. An improvement has been made from the first DRP meeting (prior to lodgement) with further refinement following post lodgement. A mixture of materials and finishes is provided with articulation in the built form.

Section 148 - Non-discretionary development standards for residential apartment development—the Act, s 4.15

Section 4.15 (2) of the Act, states that if an environmental planning instrument or a regulation contains non-discretionary development standards and where a development application complies with those standards, the consent authority is not entitled to take those standards into further consideration in determining the development application. The consent authority must not refuse the application on the ground that the development does not comply with those standards, and must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards.

Section 4.15(3) of the Act does not prevent development consent being granted if a non-discretionary development standard is not complied with.

Section 148(2) provides that the following are non-discretionary development standards—

(a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,

Comment: the car parking provision complies with the minimum specified in Part 3J of the ADG.

(b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,

Comment: the internal area for each apartment is greater than the recommended minimum internal area specified in Part 4D of the ADG.

(c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Comment: the proposed ceiling heights comply with the minimum specified in Part 4C of the ADG.

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

The application was lodged prior to the commencement of SEPP (Sustainable buildings) 2022. The proposal is BASIX affected development to which this policy applies. In accordance with Schedule 1, Part 1, 2A of the Environmental Planning and Assessment Regulation 2000, a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

The BASIX certificate was issued no earlier than 3 months before the date on which the development application was lodged. A Specialist section J report was submitted and reviewed by Councils Environmental Assessment Officer.

3.1.4 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY & CONSERVATION) 2022

The SEPP applies to the Wollongong Local Government Area, identified as being in the South Coast koala management area.

4.10 Development assessment process—other land

Consent can be issued for development on the subject land if Council is satisfied that the land does not have an approved koala plan of management applying to the land or is not core koala habitat. The land has not been assessed by a suitably qualified and experienced person as being highly suitable koala habitat, and Council has no record of the presence of koalas on the site currently or within the previous 18 years. The proposal does not include the removal of extensive native vegetation, and the land is not considered to comprise core koala habitat.

3.1.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

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

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 regarding the above objectives in that it provides a new housing type at a higher density.

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

*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 defined above and is permissible in the zone with development consent.

Clause 2.7 Demolition requires development consent

Demolition of existing structures is proposed. A demolition plan has been provided. Conditions are recommended addressing demolition management generally and the management and disposal of hazardous materials including asbestos.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The proposed height of the building is 16.68m which exceeds the maximum height of 13m by 3.68m (28%). Therefore, the proposal is non-complaint, the applicant has submitted a Clause 4.6 variation request which is addressed below.

Clause 4.4 Floor space ratio

Site Area: 2232.15m²

Maximum FSR permitted for the zone: 0.75:1 (1.25:1 with 0.5:1 allowance under SEPP Housing 2021)

Total GFA: 2427.4m²

FSR provided: 1.087:1

The proposal complies with the maximum allowable FSR (with allowance of SEPP Housing)

Clause 4.6 Exceptions of development standards

Section 4.6 of the Wollongong LEP “Exceptions to development standards” provides that development consent may, subject to this Section, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument, where certain matters are met.

In this instance, a departure is sought in respect of Section 4.3 Height of Buildings. The applicant has provided a departure request statement prepared with reference to Clause 4.6. A copy is provided at **Attachment 5**. The development departure is dealt with as follows.

WLEP 2009 Section 4.6 proposed development departure assessment	
Development departure	Section 4.3 Height of Building 13 The proposal has a height of 16.68m (3.68m variation 28%)
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	A satisfactory Section 4.6 variation has been submitted.
that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes
4.6 (4) (a) Consent authority is satisfied that:	

<p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subsection (3), and</p>	<p>The statement submitted by the applicant (Attachment 5) is considered to have adequately addressed the matters required to be demonstrated, in that compliance to the development standard is unnecessary or unreasonable in the circumstances of the case. In demonstrating that there are sufficient planning grounds the statement appropriately provides reasons that are specific to the site.</p> <p>The exception is capable of support in this case for the following reasons:</p> <p>A review of other development approvals across the Wollongong Local Government Area and the schedule at Attachment 5, have identified circumstances in specific locations which have warranted a number of variations rather than strict compliance with the standard, along with caselaw supporting the proposed variation.</p> <p>The objectives of the height of building controls are met, providing a development that has been designed to reduce impacts to adjoining properties, provides a high-quality built form design, provides adjoining properties and public areas with solar access and views to the sky.</p> <p>The design is considered to be of high-quality design due to its variation to the height control which allows for a development that reduces impacts a compliant development would be required to provide.</p> <p>The proposal, if provided by a Community Housing Provider for the number of affordable rental units provided, would be compliant under SEPP Housing Section 17 and 18.</p> <p>The proposed development does not impact adversely on built form of the locality, ecological or scientific values of the site. The topography of the site shifts and is not reflected within the height controls, development presents as complaint at the street frontage.</p> <p>It has been demonstrated that compliance with the standard is both unreasonable and unnecessary in the circumstances of this case as the height of building restriction for this site is variable. Whilst the proposal exceeds the maximum HoB restriction, the development will not adversely affect the amenity of the area, overshadowing or view sharing. The written request has adequately addressed the matters required to be addressed under subsection (3).</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</p>	<p>It is considered that strict numerical compliance with the Height of Building development standard in the context of the proposal would not result in significant public benefit.</p>

<p>development within the zone in which the development is proposed to be carried out, and</p>	<p>The proposal is for the demolition of the existing dwelling and construction of a modern 4 storey residential flat building with basement car park that meets the future needs of the locality providing greater than 50% of the units for affordable rental housing.</p> <p>The proposal will have limited impact on surrounding area or adjoining development. The proposed dwelling is not considered out of character with the desired future character of the locality. The proposal will increase the available housing options within the area and provide adequate parking facilities for future residents. The proposal is not considered to result in traffic generation that would adversely impact the local road network.</p> <p>The proposal as discussed in the report is considered to maintain a reasonable level of amenity for the adjoining and nearby properties.</p> <p>The statement demonstrates that the proposed development will be in the public interest because it is consistent with the objectives of the standard. It provides a form of development which is consistent with the objectives of the R3 zone. The proposal will not give rise to detrimental impacts on adjoining residential development.</p> <p>The statement has satisfactorily demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds specific to the site to justify contravening the development standard.</p> <p>On balance, the proposal is in the public interest and the departure request capable of support</p>
<p>(b) the concurrence of the Secretary has been obtained.</p>	<p>The WLPP can assume the Secretary's concurrence as the consent authority.</p>

Part 5 Miscellaneous provisions

Clause 5.1 Flood planning

The proposal is within a low and medium flood risk precinct. The applicant supplied a flood study, and suitable design that mitigates the flood risk. The proposal was conditionally supported by Councils Stormwater Officer.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The land is located in an established urban area, and it is expected that the existing utility services can be augmented to support the proposed development.

Clause 7.6 Earthworks

The proposal comprises excavation for basement car parking at approximately 4m depth, the application was accompanied by a both a Geotechnical and Detailed Site Investigation report – both with bore logs.

(3) *Before granting development consent for earthworks, the consent authority must consider the following matters—*

(a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*

The proposal has been reviewed by Council's Geotechnical and stormwater officers who have not raised any concerns

(b) *the effect of the proposed development on the likely future use or redevelopment of the land,*
Satisfactory

(c) *the quality of the fill or of the soil to be excavated, or both,*

Excavated material would be subject to a requirement for waste classification and treatment prior to disposal. The site is not identified as being contaminated.

(d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*

Amenity impacts arising from the proposed excavation generally relate to noise, vibrations, dust and traffic movements. Standard amenity conditions would apply in this regard. The Geotechnical report information indicates it is unlikely that rock will be encountered during excavation works.

(e) *the source of any fill material or the destination of any excavated material,*

Excavated material will be classified prior to off-site disposal / reuse. Imported fill to be classified as VENM.

(f) *the likelihood of disturbing Aboriginal objects or other relics,*

The proposal is unlikely to encounter Aboriginal objects as the site has been disturbed previously.

(g) *proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

The submitted geotechnical report identifies that groundwater interference is unlikely; however, a condition is proposed to account for mitigation of potential impacts on groundwater take and Aquifer Interference by way of a report prior to the issue of a Construction Certificate. Separately should a rainfall event or excessive seepage be encountered a condition is proposed that any dewatering of the excavation proposed to be disposed of into Council's stormwater system only be undertaken after a section 68 Application has been lodged and assessed by Council.

Clause 7.14 Minimum site width

The site has a width of 34m which exceeds the minimum requirement of 24m for residential flat buildings.

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

Nonapplicable.

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

3.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

A full compliance table is presented at **Attachment 3**.

3.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

The proposed cost of development is over \$200,001 (\$8,447,000.00 (\$4,161,084.00 affordable housing)) – a levy rate of 1% applies

The application was referred to Council’s Development Contributions Officer.

As the application was not lodged by, or on behalf of, a community housing provider, the development is subject to the Development Contributions Plan for the whole cost of development and no exemptions are applicable.

3.4 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 is no planning agreement entered into, or any draft agreement offered to enter into under S7.4 which affect the development.

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

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

(1) In determining a development application for the demolition of a building, the consent authority must consider the Australian Standard AS 2601—2001: *The Demolition of Structures*.

Demolition is proposed and as such AS2601 is an applicable matter for consideration. Conditions are recommended for imposition requiring compliance with AS 2601.

62 Consideration of fire safety

N/A

63 Considerations for erection of temporary structures

N/A

64 Consent authority may require upgrade of buildings

N/A

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

Context and Setting:

Context and setting have been addressed with reference to the principles of Chapter 4 of the Housing SEPP. The development is considered to appropriately respond to its setting.

The proposed floor space ratio is consistent with the planning controls and more recent development in the vicinity, and the desired future character.

The development as revised has adequately responded to matters raised by the DRP and Council's Architect/ Design Expert.

Access, Transport and Traffic:

The proposal is satisfactory regarding carparking, vehicular access, manoeuvring and servicing. Provision has been made for sufficient car parking, bicycle and motorcycle parking. The traffic generating impacts of the development are acceptable in the locality. The proposed access arrangements are satisfactory to Council's Traffic officer.

Public Domain:

Street trees are to be planted.

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

Utilities:

The proposal is not expected to place an unreasonable demand on utility supply. Existing utilities are likely to be capable of augmentation to service the proposal. Recommended conditions include a requirement that the developer makes appropriate arrangements with the relevant servicing authorities prior to construction.

Other land resources:

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

Water:

The site is presently serviced by Sydney Water. The developer will need to liaise with Sydney Water regarding augmentation of existing infrastructure.

Soils:

Geotechnical aspects of the development are satisfactory. Erosion and sedimentation controls are required during excavation and construction. Conditions are recommended in relation to shoring and protection of adjoining properties

Air and Microclimate:

The proposal is not expected to adversely impact air quality or microclimate.

Flora and Fauna:

Council's Landscape and Environment officers are supportive of the application and have recommended conditions. Whilst tree removal is proposed, harm to native fauna is unlikely at this location.

Waste:

A waste management plan has been provided and is satisfactory. Waste bins will be stored in the waste room and will be collected via domestic kerbside collection. A condition is proposed requiring an appropriate receptacle be in place for any waste generated during construction. Separate conditions apply to demolition waste disposal.

Energy:

The BASIX certificate provided with the application demonstrates that the residential units will achieve compliance with the energy efficiency and thermal comfort targets of SEPP Basix (2004).

Noise and vibration:

Conditions are proposed regarding building design and noise and vibration associated with construction. There are also restricted hours for any rock breaking during the excavation stage – though considered unlikely to be encountered

Natural hazards:

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

Safety, Security and Crime Prevention:

The application is not expected to result in adverse criminal or antisocial behaviour.

Social Impact:

The application is not expected to result in adverse social impact.

Economic Impact:

The proposal is not expected to result in adverse economic impact.

Site Design and Internal Design:

The overall design is acceptable.

Construction:

Attachment 6 contains draft conditions of consent aimed to reduce the impact of construction works, including those relating to hours of work, traffic controls, erosion and sedimentation controls, vibration, dust mitigation, works in the road reserve, excavation, waste management, and use of any crane, hoist, plant, or scaffolding. A condition is also proposed requiring all works to comply with the Building Code of Australia.

Cumulative Impacts:

The proposal is not expected to result in adverse cumulative impacts.

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

Does the proposal fit in the locality?

The proposal is appropriate regarding the zoning of the site and the character which is consistent with that anticipated by the applicable planning controls.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

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

Submissions received following exhibition are discussed at section 1.5.

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

The character and form of the proposal is consistent with that envisaged under the zoning and applicable planning controls. Submissions raised following exhibition have been addressed at section 1.5 of this report. Internal and external referrals are satisfactory subject to appropriate conditions and the proposal is in the public interest.

4 CONCLUSION AND REASONS

This application has been assessed as having regard to the Heads of Consideration under Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 including the provisions of relevant SEPPs, Wollongong LEP 2009 and WDCP2009.

The proposed development is permissible with consent and has regard to the objectives of the zone.

Internal and external referrals are conditionally satisfactory, and submissions received have been acknowledged and addressed.

The application also involves a variation in respect of Clause 4.3 of Wollongong LEP 2009, relating to building height, a variation request statement was provided, reviewed and is capable of support

The proposed development has been designed appropriately given the nature and characteristics of the site and that approval is in the public interest by way of the provision of housing diversity, including affordable housing in a location proximate to services and transport.

The proposal is recommended for deferred commencement subject to a formal agreement being reached and submitted to Council evidencing the Community Housing Provider for the management of the 16 proposed affordable housing units.

5 RECOMMENDATION

DA-2023/988 be approved by way of deferred commencement subject to the conditions contained at **Attachment 6**.

6 ATTACHMENTS

- 1 Architectural Plans
- 2 Design Review Panel notes
- 3 ADG and WDCP 2009 compliance tables
- 4 Design Verification Statement
- 5 Clause 4.6 Variation Statement
- 6 Draft conditions

Attachment 1 - Plans



EXISTING WEATHERBOARD COTTAGE TO BE DEMOLISHED

EXISTING BRICK COTTAGE TO BE DEMOLISHED

DEMOLITION PLAN

1 : 250

SURVEY REFERENCE:
BOUNDARY FIGURED BEARINGS AND DIMENSIONS AS PER SURVEY PREPARED BY C.ROBSON & ASSOCIATES PTY LTD

DRAWING REFERENCE - 21324/0
DATED - 27.05.2021

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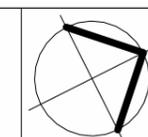
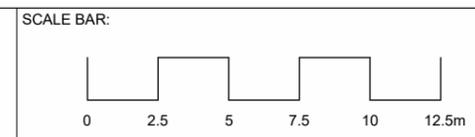
REF.	DATE	AMENDMENT
H	15.11.2023	PRELIMINARY
K	23.11.2023	DEVELOPMENT APPLICATION



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Wolli Creek NSW 2205
Nominated Architect:
Robert Gizzi (Reg. 8286)

CLIENT: ONIX MEDIUM DENSITY
ADDRESS: 19-21 TANNERY STREET, UNANDERRA NSW
DRAWING NAME: DEMOLITION PLAN



ISSUE DATE: 23.11.2023
DRAWN: NT
SCALE: 1:250
QA: RG

PROJECT No. 2615
DWG No. 008
Rev. K

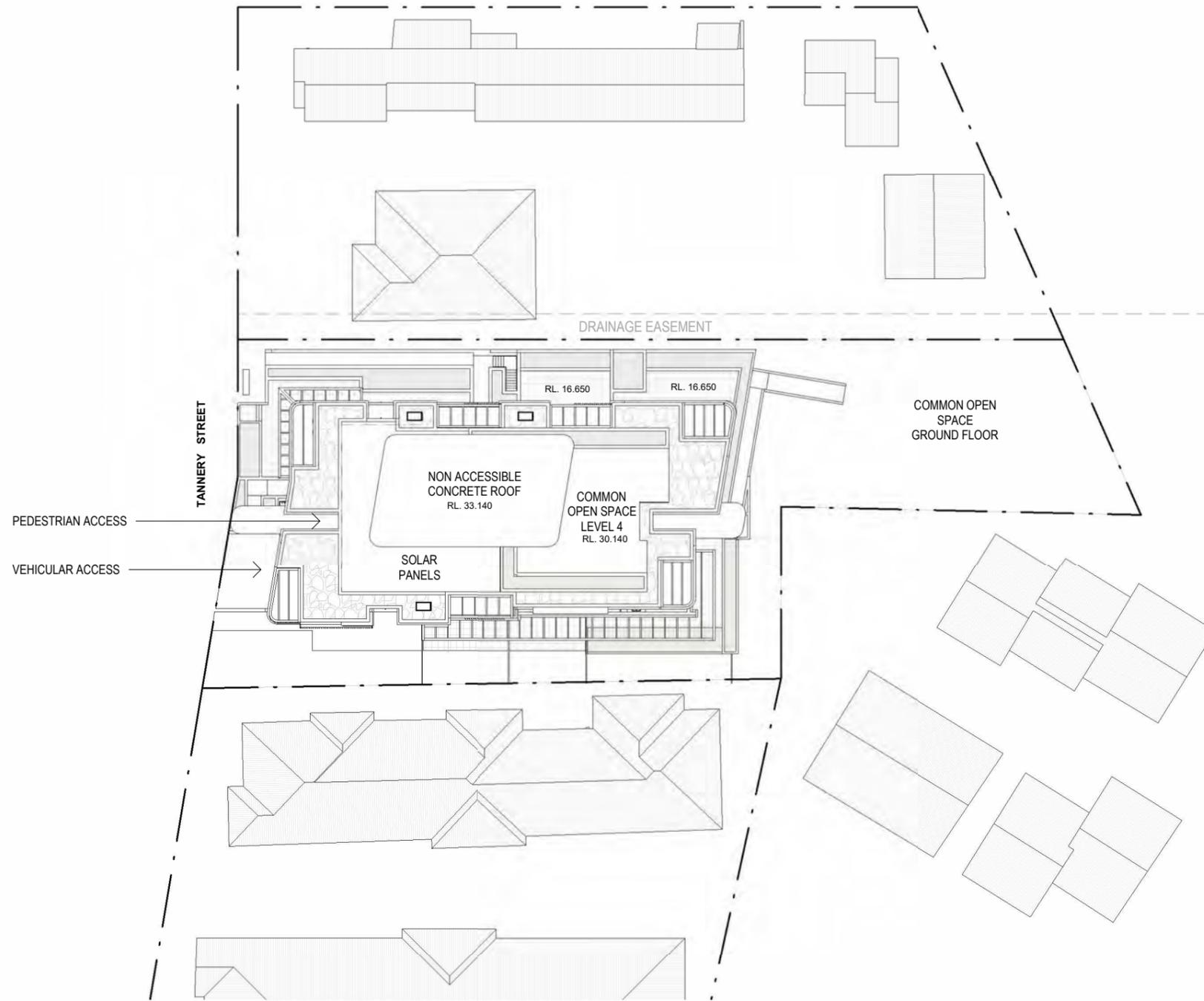
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Assessor name: Martin Pinson
Accreditation No. DMN/19/1921
Property Address: 19-21 TANNERY STREET, UNANDERRA NSW, 2526

009085140 UNANDERRA NSW 2526 05 DEC 2023

DEVELOPMENT APPLICATION



SITE PLAN

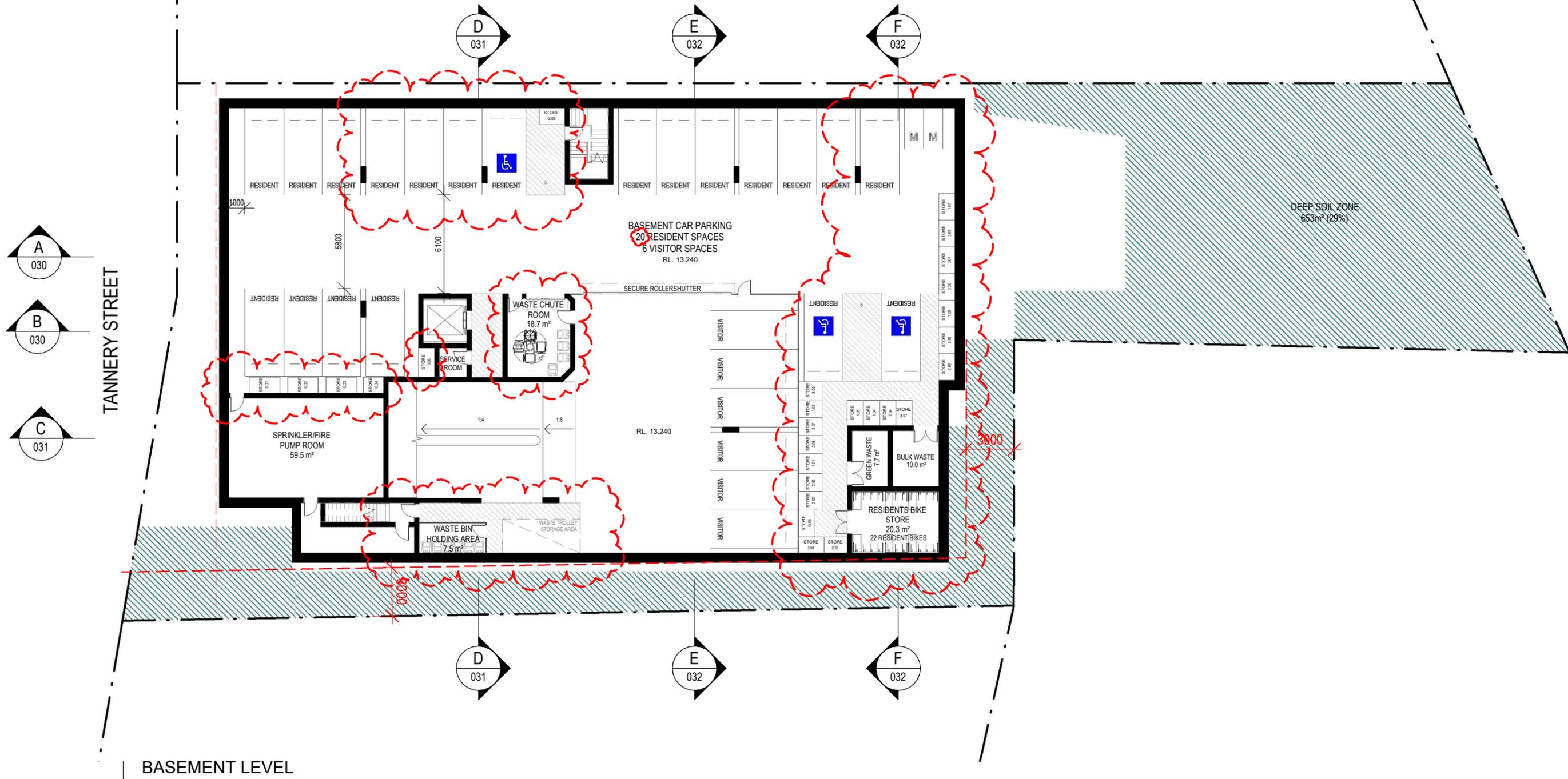
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 Accreditation No. DMN/19/1921
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 009085140 UNANDERRA NSW, 2526
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DEVELOPMENT APPLICATION

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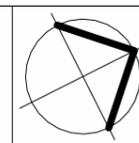
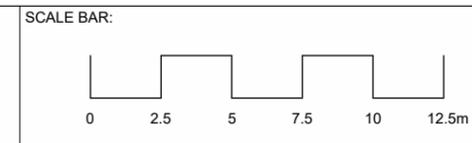
REF.	DATE	AMENDMENT
N	16.04.2024	ADDITIONAL INFORMATION
P	24.07.2024	ADDITIONAL INFORMATION



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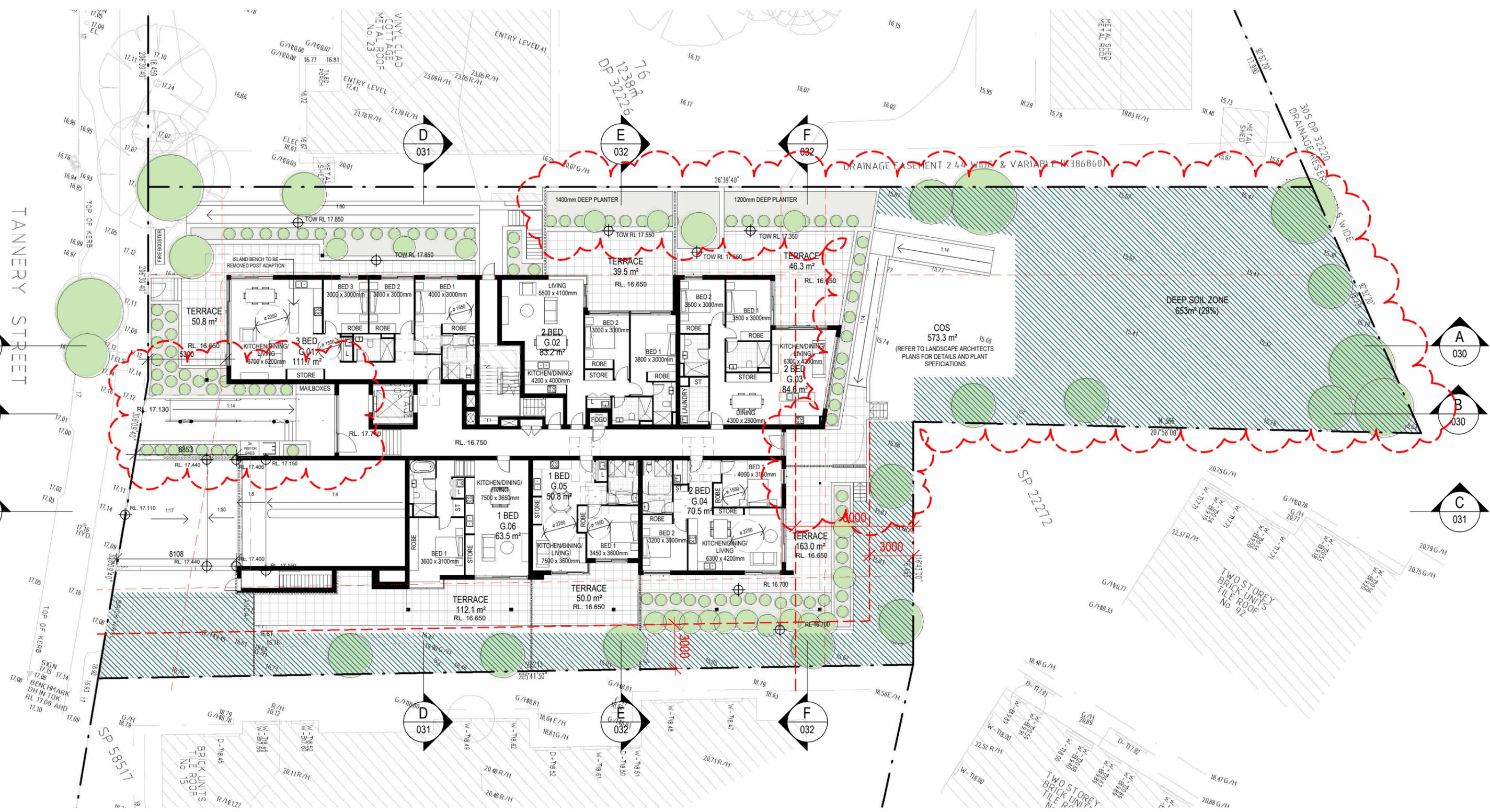
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ISSUE DATE: 24.07.2024
 DRAWN: NT
 SCALE: 1:250
 QA: RG

PROJECT No. 2615
 DWG No. 011
 Rev. P

DEVELOPMENT APPLICATION



GROUND FLOOR PLAN

1:250

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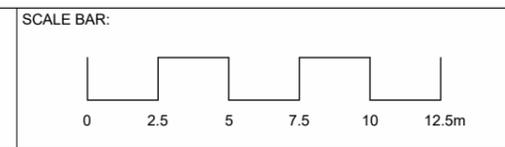
REF.	DATE	AMENDMENT
M	26.02.2024	PRELIMINARY
N	16.04.2024	ADDITIONAL INFORMATION



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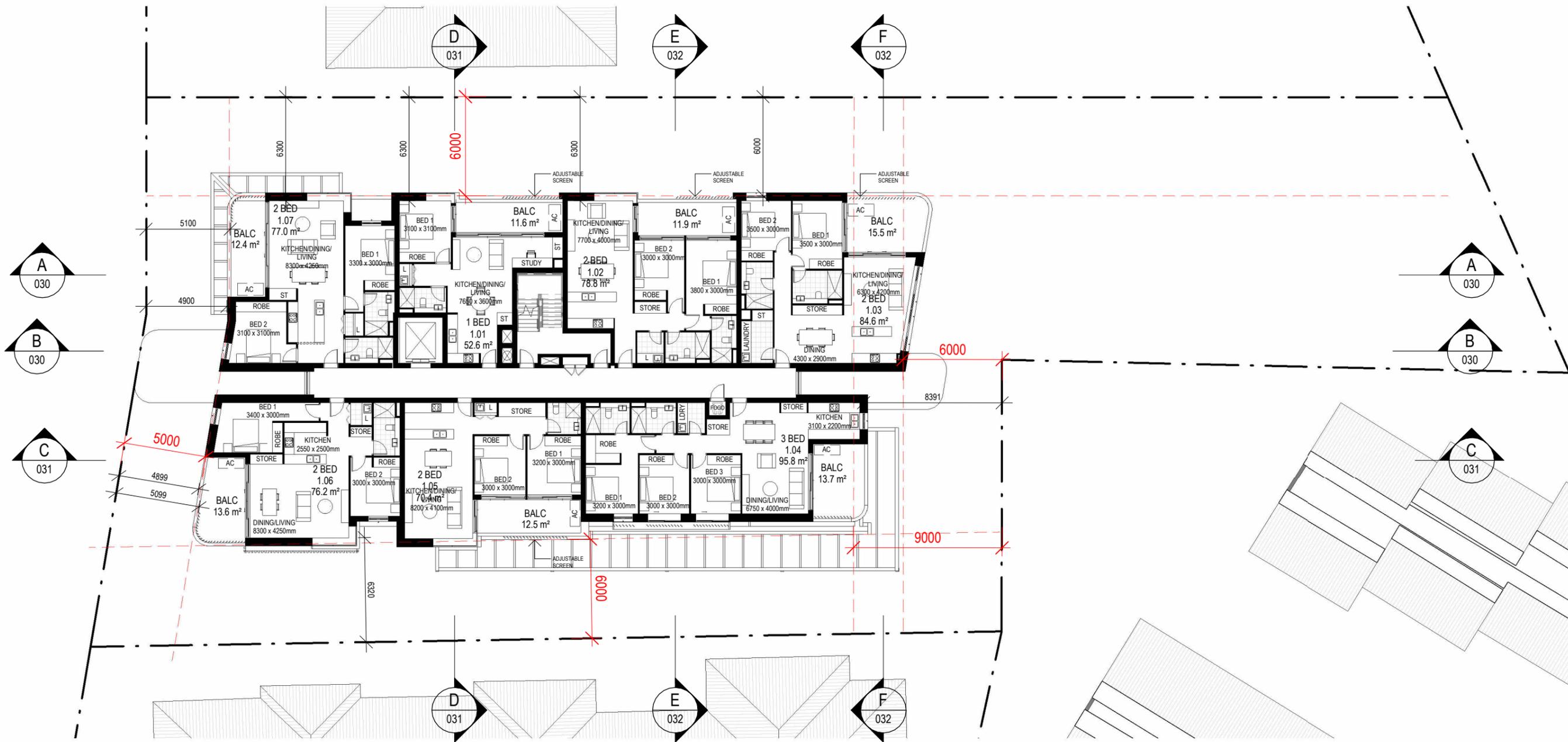
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CLIENT: ONIX MEDIUM DENSITY
 ADDRESS: 19-21 TANNERY STREET, UNANDERRA NSW
 DRAWING NAME: FLOOR PLAN - GROUND FLOOR



ISSUE DATE:	PROJECT No.
16.04.2024	2615
DRAWN: NT	DWG No.
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QA: RG	Rev.
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DEVELOPMENT APPLICATION



TYPICAL LEVEL - LEVEL 1/2/3

1 : 250

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K	23.11.2023	DEVELOPMENT APPLICATION
M	26.02.2024	PRELIMINARY



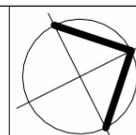
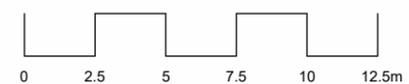
DESIGN WORKSHOP AUSTRALIA

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CLIENT: ONIX MEDIUM DENSITY
ADDRESS: 19-21 TANNERY STREET, UNANDERRA NSW
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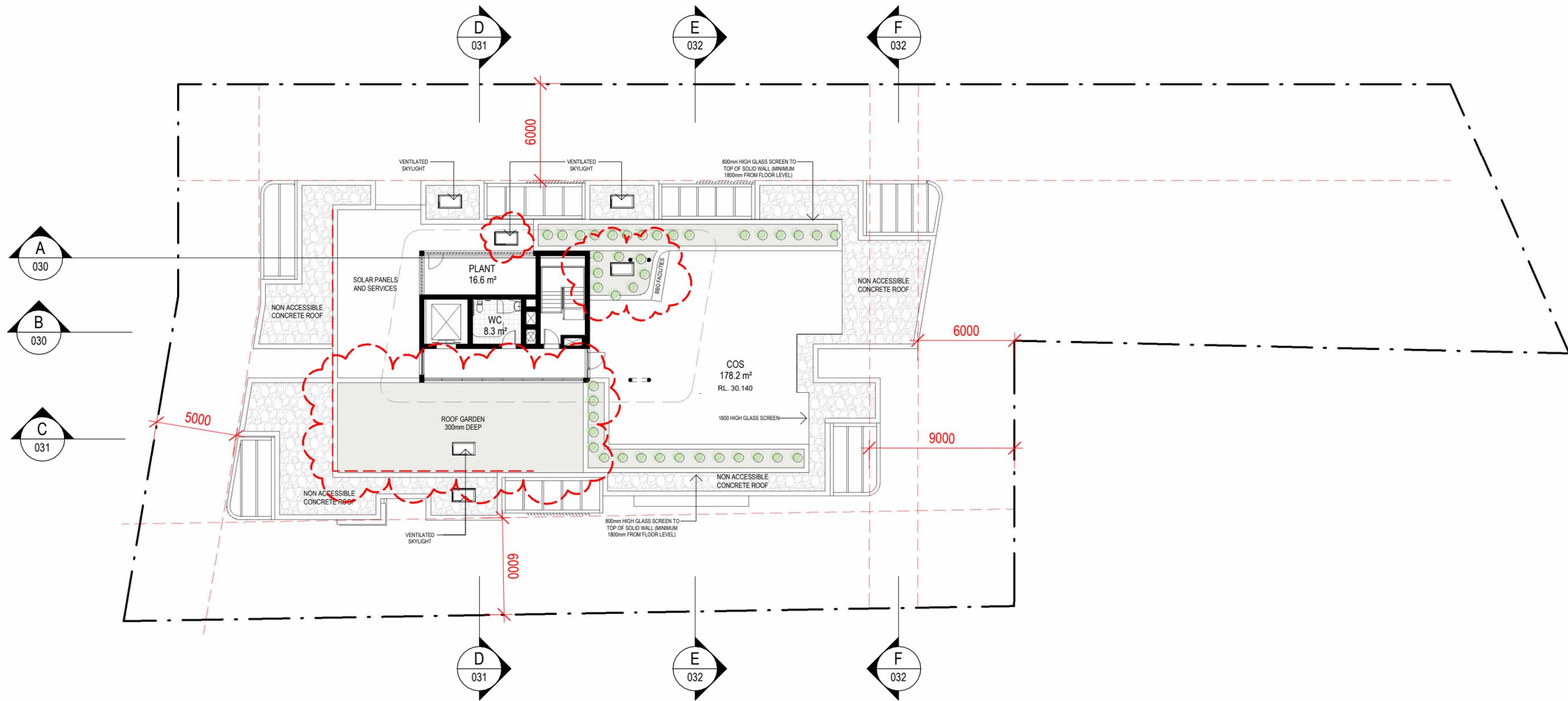
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ISSUE DATE: 26.02.2024
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PROJECT No. 2615
DWG No. 013
Rev. M

DEVELOPMENT APPLICATION



LEVEL 4

1 : 250

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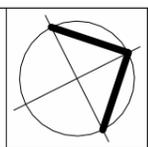
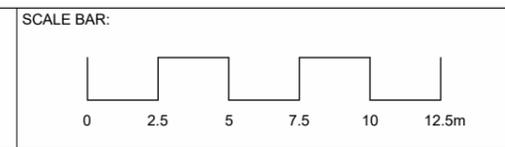
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CLIENT: ONIX MEDIUM DENSITY
ADDRESS: 19-21 TANNERY STREET, UNANDERRA NSW
DRAWING NAME: FLOOR PLAN - LEVEL 4



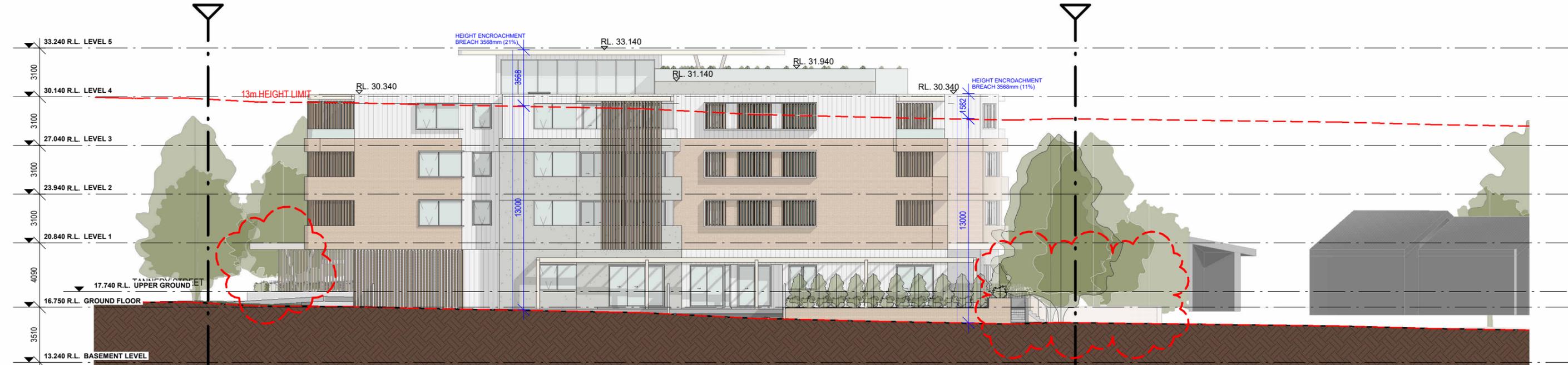
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DRAWN: NT	DWG No. 015
SCALE: 1:250	Rev. N
QA: RG	

DEVELOPMENT APPLICATION



NORTH-WESTERN ELEVATION

1 : 250



SOUTH-EASTERN ELEVATION

1 : 250

MATERIAL PALETTE



BW01 – RECYCLED BRICKWORK CL01 – CONCRETE GREY CLADDING CL02 – ALUMINIUM VERTICAL CLADDING TB – TIMBER BATTENS / GARAGE WF, AW/PERGOLA – DOVER WHITE

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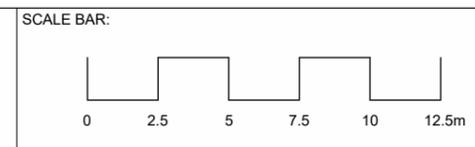
REF. M N	DATE 26.02.2024 16.04.2024	AMENDMENT PRELIMINARY ADDITIONAL INFORMATION
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CLIENT: ONIX MEDIUM DENSITY
ADDRESS: 19-21 TANNERY STREET, UNANDERRA NSW
DRAWING NAME: STREET ELEVATIONS



ISSUE DATE: 16.04.2024	PROJECT No. 2615
DRAWN: NT	DWG No. Rev. 020 N
SCALE: 1:250	
QA: RG	

DEVELOPMENT APPLICATION



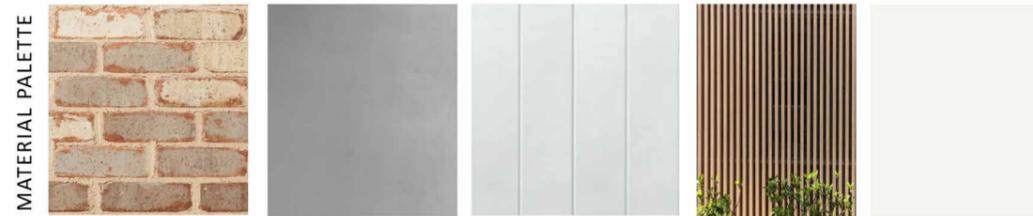
NORTH-EASTERN ELEVATION

1 : 250



SOUTH-WESTERN ELEVATION

1 : 250



BW01 – RECYCLED BRICKWORK CL01 – CONCRETE GREY CLADDING CL02 – ALUMINIUM VERTICAL CLADDING TB – TIMBER BATTENS / GARAGE WF, AW/PERGOLA – DOVER WHITE

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DEVELOPMENT APPLICATION

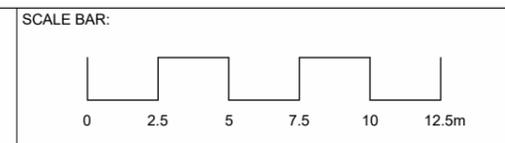
REF. M N	DATE 26.02.2024 16.04.2024	AMENDMENT PRELIMINARY ADDITIONAL INFORMATION
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Nominated Architect:
Robert Gizzi (Reg. 8286)

CLIENT: ONIX MEDIUM DENSITY
ADDRESS: 19-21 TANNERY STREET, UNANDERRA NSW
DRAWING NAME: STREET ELEVATIONS



ISSUE DATE: 16.04.2024	PROJECT No. 2615
DRAWN: NT	DWG No. Rev.
SCALE: 1:250	021 N
QA: RG	



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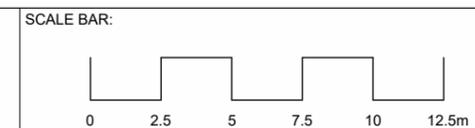
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K	23.11.2023	DEVELOPMENT APPLICATION
N	16.04.2024	ADDITIONAL INFORMATION



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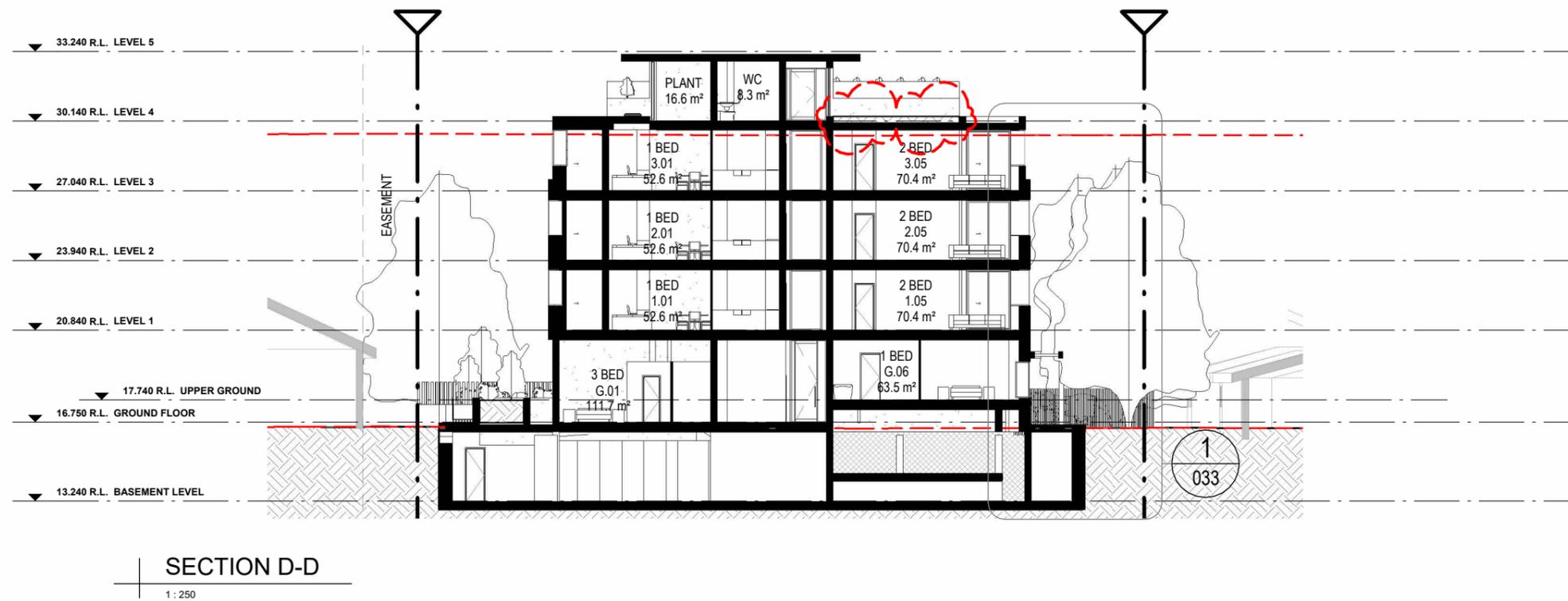
CLIENT: ONIX MEDIUM DENSITY
ADDRESS: 19-21 TANNERY STREET, UNANDERRA NSW
DRAWING NAME: SITE SECTIONS



ISSUE DATE:	PROJECT No.
16.04.2024	2615
DRAWN: NT	DWG No. Rev.
SCALE: 1:250	030 N
QA: RG	

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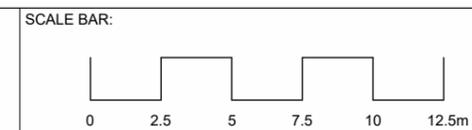
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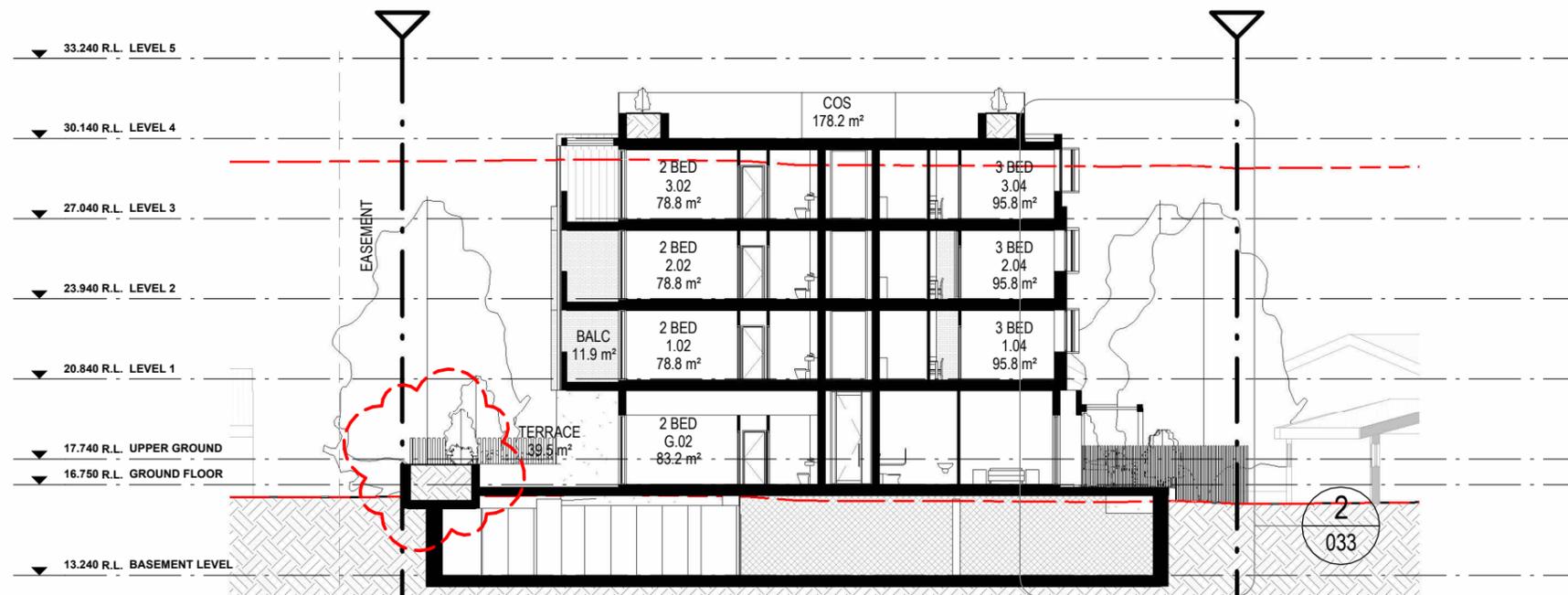
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QA: RG	

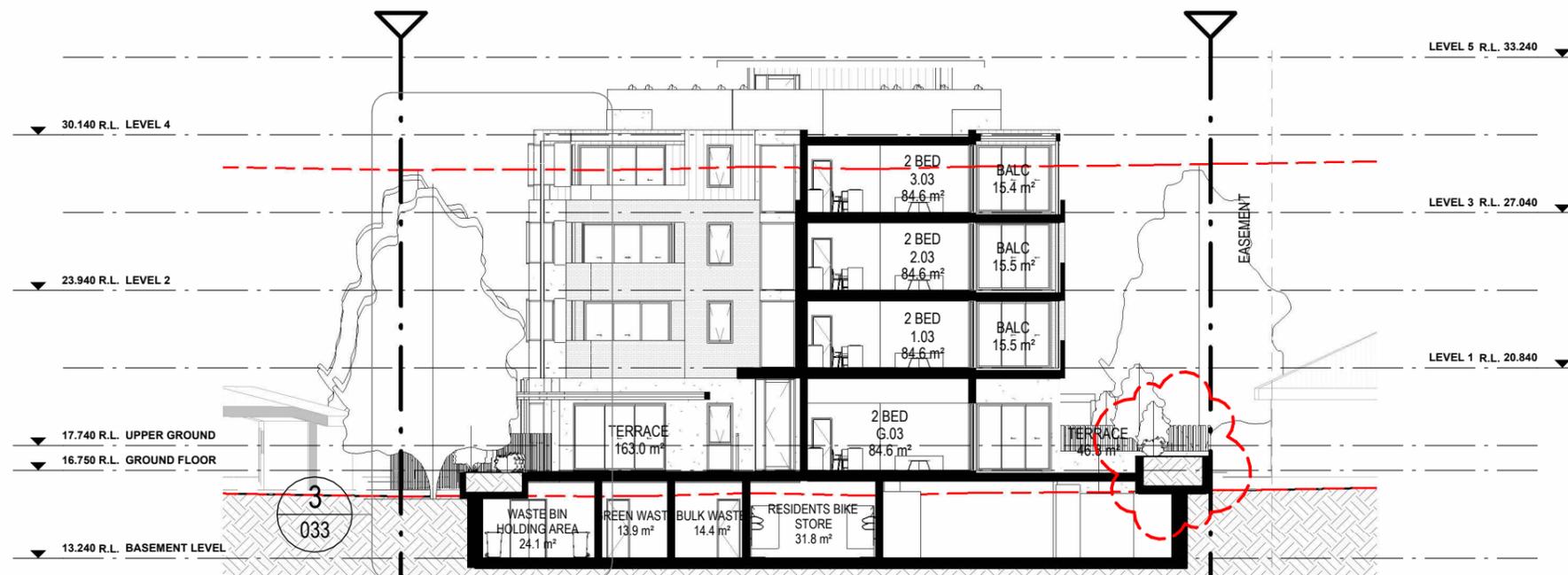
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DEVELOPMENT APPLICATION



SECTION E-E

1 : 250



SECTION F-F

1 : 250

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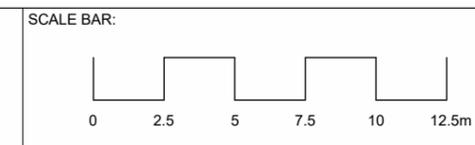
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DRAWING NAME: SITE SECTIONS



ISSUE DATE: 16.04.2024	PROJECT No. 2615
DRAWN: NT	DWG No. 032
SCALE: 1:250	Rev. N
QA: RG	

DEVELOPMENT APPLICATION

Attachment 2

Wollongong Design Review Panel Meeting minutes and recommendations

Date	23 February 2024
Meeting location	Wollongong City Council Administration Offices
Panel members	(Chair) David Jarvis (Member) Marc Deuschle (Member) Alexandra McRobert
Apologies	John Wood – City Wide Development Manager
Council staff	Jacob Williams – Development Project Officer April Wilkinson - Architect
Guests/ representatives of the applicant	Robert Gizzi – Design Workshop Carlo Di Giulio -Gyde Consulting Goran Ugrinovski – ATB Consulting Megan Geddes – Zenith Landscape Design
Declarations of Interest	None
Item number	1
DA number	DA-2023/988
Reason for consideration by DRP	Housing SEPP
Determination pathway	Wollongong Local Planning Panel - WLPP
Property address	19-21 Tannery Street, Unanderra
Proposal	Demolition of existing structures and the construction of a residential flat building consisting of 27 units of which 14 are affordable housing units.
Applicant or applicant's representative address to the design review panel	
Background	The site was Inspected by members of the Panel on 17 th August 2023
Design Quality Principles SEPP 65	
Context and Neighbourhood Character	<p>The proposal seeks to incorporate a portion of the additional GFA bonus (0.5:1) afforded by the Housing SEPP. The bonus sought will increase the FSR of the development to 1.09:1 (Council controls nominate a maximum FSR OF 0.75 for this site). Given the sites close proximity to Unanderra's primary retail centre and train station the site is ideally situated to accommodate a residential development of this type that includes a modest uplift in density. However, it must be demonstrated that the proposal responds appropriately to its immediate context.</p> <p>The site analysis provides a reasonable description of the immediate context of the site and also outlines the anticipated future character of the area, which has been depicted as residential flat buildings of a similar scale to that currently proposed on the subject site. Though the Panel do not entirely agree that the street scene depicted in drawing 005K provides an accurate representation of the future street scape, it is acknowledged that recent changes to state government policy are likely to increase the future density of this precinct.</p> <p>The site is flood-affected, additional information outlining the extent and nature of flooding has not been included as part of the site analysis. However, it is evident that the revised design has been refined to better respond to the flooding constraints of the site. The Panel defers to Council's engineer to confirm if all technical flood mitigation requirements have been addressed,</p>

	<p>though the finished floor level of Unit G.01 may need to be revised to match the lobby.</p>
<p>Built Form and Scale</p>	<p>In response to the Panel's previous comments several positive developments have been undertaken:</p> <ul style="list-style-type: none"> - Floor levels have been developed to better respond to flooding constraints. - A more amenable interface with and rear boundary has been provided. - The perceived scale of the building has been reduced by removing building mass fronting the street, the proposal now reads as a four-story building from the street (previously 5). - The basement entry has been relocated on the eastern side of the site to allow existing street trees to be maintained. <p><u>Side boundary interfaces</u></p> <p>The previous proposal created a podium up to 3m in height, with a nominal setback (approximately 900mm) from both side boundaries. In response to the Panel's comments the extent of the basement has been reduced and the ground floor stepped to better relate to site levels. The proposal's interface with side boundaries has significantly improved. However, further refinements are recommended:</p> <ul style="list-style-type: none"> - It is recommended that the fence height along the eastern boundary adjacent to units G04, G05 and G06 is increased to 2.2m to mitigate potential privacy issues with the neighbour. Note unit G04 is elevated in excess of 900mm above natural ground level, privacy (north and east) must be achieved through screening within the raised planter bed adjacent to the unit. - It is recommended that the POS of units G04, G05 and G06 are extended to include the deep soil landscaped area adjacent to the site boundary. Additionally, G06 would benefit from having its POS extended to the edge of the "empty" space shown on floor plans with a side gate, thus addressing CPTED and amenity issues. Steps should be provided within the planter surrounding the terrace of unit G04 to provide access to the deep soil area. The location and detail treatment of the steps should be developed to minimise potential privacy issues with neighbours. - A narrow unusable space has been created between the boundary fence and raised planter bed adjacent to the site's western boundary. Consideration may be given to relocating the western wall of the planter to abut the western boundary. The masonry wall of the planter could then be increased in height (1.8m) and become the boundary fence. Additional screening may also be required within the planter where POS is located in excess of 300mm above existing ground level, to mitigate potential privacy issues with the neighbour. <p><u>Height</u></p> <p>It is acknowledged that the proposal has been developed to reduce the perceived bulk of the building. However, the proposal</p>

	<p>remains significantly in excess of the maximum permissible height control.</p> <p>The height non-compliance is largely due to the proposed roof terrace. It is a concern that the roof terrace may create potential privacy issues with future neighbouring developments. Given that the proposal provides a generously-proportioned and amenable area of COS at ground level the Panel questions the necessity of the roof terrace.</p> <p><u>Rear boundary interfaces</u> The proposal has been developed to accommodate deep soil planting adjacent to the site's rear boundary. Consideration should be given to the provision of screening (both planting and structure) adjacent to the elevated landing of the ramp servicing COS and the elevated terrace of unit G04 to mitigate potential privacy issues with the neighbour. A detail section should be provided to demonstrate how privacy issues are mitigated.</p>
<p>Density</p>	<p>The current proposal will present as an unusually large building in its existing context. However, recent changes to state planning controls will allow buildings of a similar scale to the proposal to be developed on neighbouring sites within this precinct.</p> <p>In this respect it is acknowledged that the proposal is consistent with the future desired / evolving scale of this neighbourhood.</p>
<p>Sustainability</p>	<p>Opportunities to harvest rainwater for use in maintaining any plantings established on the building or the site should be explored. Other water minimisation measures (reuse of rainwater for toilet flushing and washing machines) should also be considered.</p> <p>The use of solar power and solar water heating, as well as general electrification, is strongly encouraged, particularly to service communal circulation and parking areas. The Panel notes there is a bank of PV panels on the roof – these should be detailed in plan and elevation.</p> <p>If the rooftop COS is retained, the outlook of the lift is onto this bank of solar panels which does not provide a particularly attractive visual for residents. The Panel suggests these panels could be utilised as a pergola instead, capturing the northern aspect if it sits appropriately within height limits.</p> <p>Low embodied energy should be a consideration in material and finish selections.</p> <p>Landscape plantings should address aims for biodiversity protection, weed minimisation and low water use.</p> <p>The Panel strongly recommends that electric vehicle charging stations be provided in the different basement levels and that spaces for car-sharing vehicles be provided.</p>

<p>Landscape</p>	<p>The proposed landscape design provides a suitable level of amenity for the future residents. The following should be addressed via a revised scheme to ensure outcome matches intent.</p> <p><u>Ground floor COS</u></p> <p>As per the previous commentary, the connection between internal communal spaces and the rear COS is important for the activation of the external space. While the intent of the 1:20 walkways wrapping the lower space to create a defined BBQ space in logical, the disparity between existing and proposed levels suggest these may need to be 1:14 ramps. Further to this, the Panel would recommend a stair is also added. The top landing of this stair should be situated to avoid overlooking into neighbouring properties. This lower space is also labelled as a BBQ space however it appears this has dropped off the drawings and must be shown.</p> <p>The inclusion of several circular nooks should add to the opportunity for multiple users to enjoy the space at the same time. The applicant should note the finish and details of these to ensure the quality is recorded at the DA stage, especially given the circular nature of the spaces. If possible, the spaces should be permeable to retain as much DSZ as possible.</p> <p>The inclusion of steppers around the nooks is not seen as a valuable addition for kids. Kids will explore regardless but for general users, being ensconced by planting may make the space feel better.</p> <p><u>Rooftop COS</u></p> <p>While the Panel is not convinced a rooftop COS is required, if retained, the following should be considered.</p> <p>The privacy of future neighbours should be considered and appropriate screening, ideally in the form of both plants and some permanent fixed screens should be considered.</p> <p>It appears the applicant is dividing the roof into a series of loosely define rooms. While dividing the spaces is supported, the use of circular pots may be better replaced with fixed planters to avoid 'lost' space between trapping leaves, rubbish and encouraging vermin. Rationalising the layout could also provide a more efficient and program/amenity-rich series of spaces.</p> <p>The concrete rooftop should be considered as a space that is viewed by rooftop users and as such should be treated with aesthetics in mind; perhaps pebbles or an extensive roof garden.</p> <p>Planting appears to be mostly native with selected deciduous for solar access which is appropriate.</p>
<p>Amenity</p>	<p>Unit layouts are generally functional and will provide an acceptable level of amenity.</p>

	<p>The dining room of units G03, 103, 203 and 303 are internalised spaces that lack outlook and natural lighting. It is recommended that a window is provided in the northern kitchen wall of these units to improve the amenity of the dining rooms and kitchens. The window serving the ground floor unit must be designed to minimise potential privacy issues, perhaps a high-level window or opaque glazing in any portion of the window located at or below eye level.</p> <p>Further rationalisation of the pedestrian entrance is recommended to provide a more direct entry process and allow mailboxes to be located externally adjacent to the street. Consideration may be given to allowing the 1:14 ramp to extend closer to the street boundary. This will allow the 1:20 ramp closest to the street to be removed and letter boxes to be located at the bottom of the entry steps adjacent to the street. Bike parking is useful at the entry as proposed however must not impede clear paths of travel via bikes jutting out beyond their allocated zone.</p> <p>The proposal appears to be capable of complying with ADG requirements for solar access. However, it is recommended that screening to balconies facing side boundaries is adjustable to allow solar access to be maximised without compromising the privacy of the unit.</p> <p>The proposal also appears capable of providing ADG compliant cross ventilation. However, upper-level units are dependent upon sky lights located close to the perimeter of the building. The position of the skylights appears to be providing very little scope for cross ventilation. It is recommended that units 3.01, 3.02 and 3.05 are serviced with sky lights or clerestory windows positioned deeper within the unit, preferable adjacent to where dining rooms interface with kitchens. Ideally these rooms would be serviced by clerestory windows and increased ceiling heights. Any skylight or clerestory window used for cross ventilation must meet ADG opening size requirements and be remotely operated.</p>
<p>Safety</p>	<p>A BCA report should accompany any Development Application. This is to specifically address egress compliance, and where an 'engineered solution' is required for compliance, full details of the 'solution' is to be included.</p>
<p>Housing Diversity and Social Interaction</p>	<p>With further refinement the proposal will contribute a valid housing option to this neighbourhood.</p> <p>The Panel supports the inclusion of affordable housing in locations such as this with high amenity and access to services. However, the applicant is encouraged to engage with a Community Housing Provider (if they have not already) to ensure that the proposed design meets the preferences of the CHP in terms of operation and management, as well as the needs of their tenants.</p>

<p>Aesthetics</p>	<p>A competent building aesthetic has been developed utilising an appropriate pallet of materials.</p> <p>To ensure the architects design intent is realised, it is recommended that, the applicant develop larger scale detail sections (minimum 1:20) to assist in providing a better understanding of the quality of finish being proposed. The sections should show balcony / balustrade details, screens, soffit finishes, and material junctions. All material finishes must be clearly documented.</p> <p>Servicing of the building must be considered at this stage of the design process. The location of service risers, car park exhausts, AC condensers, down pipes and fire hydrant boosters should be shown. The applicant did not mention the need for a substation, but this should be situated within the building footprint if required.</p>
<p>Key issues, further Comments & Recommendations</p>	<p>In response to the Panel's previous comments several significant improvements have been made to provide an improved contextual response and improve the level of amenity for residents. Pending detailed refinements, the proposal will establish an appropriate development precedent for future developments in this precinct.</p> <p>Further refinements recommended to improve amenity and refine the proposal contextual response include:</p> <ul style="list-style-type: none"> - Consideration of the need for a roof top terrace. - Refinement of side boundary interfaces. - Incorporation of environmental initiatives. - Further development of the pedestrian entrance. - Further development of cross ventilation to upper-level units. - The provision of detail sections to clearly document design intent. - Refinements to the COS.

ATTACHMENT 3 – WDCP Compliance table & ADG Compliance table
WDCP 2009 Assessment

CHAPTER B1 – RESIDENTIAL DEVELOPMENT

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>4.8 Building Character and Form</u>	The proposal responds to the future desired character of the locality with a development that is of high design quality	Yes
<u>4.14 Services</u> Water, sewage, gas, underground electricity and telephone are to be provided.	All necessary services are provided to the site	Yes
<u>6.2 Minimum site width</u> Minimum of 24m site width required	The site exceeds 24m in width	Yes
<u>6.3 Front Setbacks</u> 6m required	Proposal provides a minimum front setback of 5.3m. Under subsection 1(a) the proposed setback is considered to be acceptable within the 2m difference of adjoining setbacks in relation to adjoining development. The proposal is satisfactory in this regard.	Yes
<u>6.4 Side and rear building setbacks / building separation</u> <ul style="list-style-type: none"> • Minimum building setbacks from the side and rear property boundaries:- • Buildings up to 12m (4 storeys) requires 6m 	Development provides setbacks of greater than 6m on all residential levels	Yes

<p><u>6.5 Built form</u> Designed in accordance with ADG Design verification statement required</p>	<p>The development has been designed in accordance with the ADG and provides a satisfactory built form outcome. The proposal is supported by a Design verification statement</p>	<p>Yes</p>
<p><u>6.6 Visual Privacy</u> Layout to minimise overlooking</p>	<p>The proposal has been designed to provide occupants with amenity whilst accommodating adjoining properties privacy. The proposal is satisfactory with regard to the development controls</p>	<p>Yes</p>
<p><u>6.7 Acoustic Privacy</u> Apartments should be designed to minimise noise transition. Double glazed windows</p>	<p>The proposal is satisfactory</p>	<p>Yes</p>
<p><u>6.9 Basement Car Parking</u></p>	<p>The proposed basement car parking is not greater than 1.2m above ground level. The basement is within the length of the building and extends beyond the buildings width with a setback of greater than 1.5m. The basement has been designed to incorporate flood engineering matters.</p>	<p>Yes</p>

<p><u>6.10 Access Requirements</u></p>	<p>The proposal provides adequate locations for driveways and pedestrian entries</p>	<p>Yes</p>
<p><u>6.11 Landscaping Requirements</u> Minimum 30% landscaped area required 1 large tree or 2 medium trees per 80m² of deep soil zone</p>	<p>The proposal provides 40% of the site as landscaped area and provides 9 large trees.</p> <p>The development exceeds the minimum requirements</p>	<p>Yes</p>
<p><u>6.12 Deep Soil Zone</u> Minimum of half landscaped area (15% of site)</p>	<p>29% of site is Deep Soil Zone (665m²)</p>	<p>Yes</p>
<p><u>6.13 Communal Open Space</u> Development more than 10 units requires 5m² per dwelling.</p>	<p>The proposal provides 785.5m² of communal open space</p>	<p>Complies with ADG</p>

<p><u>6.14 Private Open Space</u></p>	<p>The proposal provides all units with balconies. 70.37% of dwellings receive minimum sunlight requirements of the ADG</p>	<p>Complies with ADG</p>
<p><u>6.15 Adaptable and Universally Designed Housing</u> 10% of dwellings or at least one unit is to be provided as adaptable housing.</p>	<p>The proposal provides 3 adaptable housing units (26%) which are G.01, G.04 and G.05</p>	<p>Yes</p>
<p><u>6.16 Access for People with a Disability</u></p>	<p>The proposal was supported by an access report. Conditions of consent to ensure adherence to recommendations will be imposed</p>	<p>Yes</p>
<p><u>6.17 Apartment Size and Layout Mix for Larger Residential Flat Building Developments</u> Mix of apartment sizes and layouts for developments greater than 10 units. Minimum of 10% of units must be 1 bedroom 2.7m ceiling heights</p>	<p>The proposal provides a mix of unit sizes and layouts; 1 bedroom x5 2 bedroom x18 3 bedroom x4 Greater than 10% of the units are 1 bedroom. All ceilings are 2.7m</p>	<p>Yes</p>

<p><u>6.18 Solar Access</u> 70% of units receive 3hrs sunlight between 9am and 3pm winter solstice</p>	<p>The proposal provides 70.37% of units with a minimum of 2hrs sunlight. – which complies with the ADG requirements.</p> <p>The development has been designed to reduce overshadowing of adjoining properties.</p>	<p>Yes</p>
<p><u>6.19 Natural Ventilation</u> Minimum 60% dwellings to be cross ventilated</p>	<p>18 (66.67%) of units are cross ventilated</p>	<p>Yes</p>

CHAPTER A2: ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The development is appropriately designed with regard to the principles of sustainability.

The proposal provides Solar panels on the roof top, rainwater collection and dwelling designs that accommodate ESD principles which was demonstrated within the Section J report.

The proposal is satisfactory in this regard.

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

The development has been appropriately designed with regard to disabled persons' access and facilities. The applicant submitted an access report with the DA which addresses the relevant provisions of the BCA and applicable standards including AS 1428.

The proposal has been considered against the requirements of this chapter and found to be acceptable. If approved it is recommended the application also be conditioned to comply with the BCA and relevant Australian Standards in regard to access, facilities and car parking.

The application was supported by an access report which is satisfactory, the development provides 3 adaptable units and 3 disabled parking spaces. The objectives are met.

Disabled persons' access will be provided from Tannery Street frontage.

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 behavior.

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

The proposal provides the parking requirements of the SEPP Housing 2021 Clause 19.

Affordable	Non affordable
1 bed – 0.4	1 bed – 0.5
2 bed – 0.5	2 bed – 1
3 bed – 1	3 bed – 1.5

The proposal provides 26 car parking spaces which includes:

20 residential spaces (including 3 disabled spaces)

6 Visitor parking spaces

22 Residential bicycle spaces

3 visitor bicycle spaces

2 motorcycle spaces.

Access and parking grades are compliant with the Australian Standards. The proposal is satisfactory.

CHAPTER E6: LANDSCAPING

The development provides a satisfactory landscaped area. Council's Landscape Officer has considered the proposal as satisfactory subject to conditions of any consent, including the need for a final landscape plan prior to release of the construction certificate.

CHAPTER E7: WASTE MANAGEMENT

An acceptable Site Waste Minimisation and Management Plan has been provided. Provision has been made for appropriate on-site storage and collection of waste. Councils traffic officer has also assessed waste servicing and storage, the waste management is satisfactory.

CHAPTER E12: GEOTECHNICAL ASSESSMENT

The application and specialist report has been reviewed by Council's Geotechnical Engineer. The development is satisfactory subject to consent conditions.

CHAPTER E13: FLOODPLAIN MANAGEMENT

The application was supported by a flood study report which was reviewed by Councils Stormwater Engineer as satisfactory.

CHAPTER E14: STORMWATER MANAGEMENT

Council's Stormwater Engineer has assessed the proposed development with regard to Chapter E14 of the DCP and provided a satisfactory referral.

CHAPTER E15: WATER SENSITIVE URBAN DESIGN

Application submission was supported by WSUD report which was considered by Council's Stormwater Engineer and Environment Officer and considered conditionally satisfactory.

CHAPTER E17: PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION

The application was supported by an arborist report which was considered by Councils Landscape and Environmental Officers as satisfactory subject to conditions of consent.

CHAPTER E19: EARTHWORKS (LAND RESHAPING WORKS)

Council's Geotechnical Engineer has considered the application which included a geotechnical report and has provided a satisfactory referral subject to conditions. The proposal was supported by a DSI/PSI which was considered by Council's Environment Officer as conditionally satisfactory.

CHAPTER E20: CONTAMINATED LAND MANAGEMENT

The original proposal was considered satisfactory with regard to Clause 4.6 of SEPP (Resilience and Hazards) 2021. Refer to the assessment report in this regard. The proposal was supported by a DSI/PSI which was considered by Council's Environment Officer as satisfactory.

CHAPTER E21: DEMOLITION AND ASBESTOS MANAGEMENT

The application was supported by a demolition plan and hazardous materials survey which has been considered by Councils Environment Officer as conditionally satisfactory. Conditions are proposed in relation to demolition works, waste management, protection of excavations, handling and disposal of any hazardous building materials, appropriate monitoring and handling in relation to archaeology and the like.

CHAPTER E22: SOIL EROSION AND SEDIMENT CONTROL

Soil erosion and sediment control plan submitted and satisfactory. Conditions of the original consent are provided to address the implementation of appropriate sediment and erosion control measures during works.

Apartment Design Guide Compliance table

Key standards			
	Required	Proposed	Compliance
3D Communal and public open space	Communal open space (COS) has a minimum area equal to 25% of the site. Minimum of 50% direct sunlight to the principal usable part of the COS for a min of 2 hours between 9am- 3pm mid winter	Required: 25% x 2232.15 m ² = 558m ² Communal open space having an area of 751.1m ² with complying solar access is provided on the podium.	Yes
3E Deep soil zones	Less than 650m ² - N/A 650m ² - 1,500m ² - 3m Greater than 1,500m ² - 6m Deep soil zone (7% of site area)	Site area is 2,232.15m ² and requires 156.25m ² deep soil zone. Deep Soil Zone provided 653m ²	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) Up to 25m (5-8 storeys) – 9m (habitable rooms & balconies) 4.5m (non – habitable rooms)	The proposed building adjoins residential properties and complies	Yes
3J Bicycle and car parking	Housing SEPP 0.4 spaces per 1 bed unit (Affordable) 0.5 per 1 bed unit non affordable 0.5 spaces per 2 bed unit affordable, 1 space per 2 bed unit non affordable 1 spaces per 3 bed unit affordable 1.5 spaces per 3 bed unit non affordable 1 space per 5 units (visitors)	Parking provided in accordance with In-Fill Affordable Housing provisions of Housing SEPP (refer to report)	Yes
4A Solar and daylight access	Living rooms and private open space, 2 hours direct sunlight in mid-winter to 70% of units. Units receiving no direct sun light between 9am and 3pm mid-winter 15% maximum	19 units (70.37%) achieve min 2hours sunlight between 9am and 3pm midwinter.	Yes
4B Natural ventilation	60% of units to be naturally cross ventilated in the first nine storeys of the building. Overall depth of a cross-over or cross-through apartment does not exceed 18m.	14 apartments 66.67% of apartments will be cross ventilated.	Yes
4C Ceiling heights	Habitable rooms 2.7m	2.7m ceiling heights	Yes

	Non-habitable 2.4m	provided	
4D Apartment size and layout	1 bedroom 50m ² 2 bedroom 70m ² 3 bedroom 90m ²	1 bed – 50.8 – 63.5m ² 2 bed – 70.4 – 85.2m ² 3 bed – 97.3 – 117.7m ²	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 balconies exceed minimum requirements	Yes
4F common circulation spaces	The maximum number of apartments off a circulation core on a single level is eight. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Articulated circulation spaces with visual outlook provided. Material variation in circulation areas provided and well lit with natural light	Yes
4G Storage	Storage Required: 1 bed - 5 x 6m ³ = 30m ³ 2 bed - 18 x 8m ³ = 144m ³ 3 bed - 4 x 10m ³ = 40m ³ Total required: 214m³	Storage is provided within apartments and in Basement which meets this requirement. Total of 265.96m ²	Yes
Part 4 – Designing the building - Configuration			
			Compliance
4K Apartment mix <u>Objective 4K-1</u> <i>A range of apartment types and sizes is provided to cater for different household types now and into the future</i> <u>Objective 4K-2</u> <i>The apartment mix is distributed to suitable locations within the building.</i> Design guidance - Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building frontage is available	A variety of apartment types is provided The apartment mix is appropriate, taking into consideration the location of public transport, market demands, demand for affordable housing, different cultural/social groups	Yes	
4L Ground floor apartments <u>Objective 4L-1</u> <i>Street frontage activity is maximised where ground floor apartments are located</i>	3 of the affordable units are adaptable units which are on the ground floor. The proposal meets the objectives	Yes	
4M Facades			

<p><u>Objective 4M-1</u> <i>Building facades provide visual interest along the street while respecting the character of the local area</i></p> <p>Design guidance</p> <ul style="list-style-type: none"> - To ensure that building elements are integrated into the overall building form and façade design - The front building facades should include a composition of varied building elements, textures, materials, detail and colour and a defined base, middle and top of building. - Building services should be integrated within the overall facade - Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. - To ensure that new developments have facades which define and enhance the public domain and desired street character. <p><u>Objective 4M-2</u> <i>Building functions are expressed by the facade</i></p> <p>Design guidance</p> <ul style="list-style-type: none"> - Building entries should be clearly defined 	<p>Facades are appropriate and overall design is acceptable with regard to the design excellence provisions of the LEP.</p> <p>The design was acceptable to the Design Review Panel with the inclusion of some amendments which has been addressed by in amended plans.</p>	<p>Yes</p>
<p>4N Roof design</p> <p><u>Objective 4N-1</u> <i>Roof treatments are integrated into the building design and positively respond to other street</i></p> <p>Design guidance</p> <ul style="list-style-type: none"> - Roof design should use materials and a pitched form complementary to the building and adjacent buildings. <p><u>Objective 4N-2</u> <i>Opportunities to use roof space for Roof design is acceptable residential accommodation and open space are maximised</i></p> <p>Design guidance</p> <ul style="list-style-type: none"> - Habitable roof space should be provided with good levels of amenity. - Open space is provided on roof tops subject to acceptable visual and acoustic privacy, comfort levels, safety and security considerations <p><u>Objective 4N-3</u> <i>Roof design incorporates sustainability features</i></p> <p>Design guidance</p> <ul style="list-style-type: none"> - Roof design maximises solar access to apartments during winter and provides shade during summer 	<p>The roof design is considered acceptable and incorporates solar panels</p>	<p>Yes</p>

<p>40 Landscape design</p> <p><u>Objective 40-1</u> <i>Landscape design is viable and sustainable</i> Design guidance - Landscape design should be environmentally sustainable and can enhance environmental performance - Ongoing maintenance plans should be prepared</p> <p><u>Objective 40-2</u> <i>Landscape design contributes to the streetscape and amenity</i> Design guidance - Landscape design responds to the existing site conditions including: <ul style="list-style-type: none"> • changes of levels • views • significant landscape features </p>	<p>Landscape design is satisfactory. Satisfies relevant provisions and is satisfactory to Council's landscape Section</p>	<p>Yes</p>
<p>4P Planting on Structures</p> <p><u>Objective 4P-1</u> <i>Appropriate soil profiles are provided</i> Design guidance - Structures are reinforced for additional saturated soil weight - Minimum soil standards for plant sizes should be provided in accordance with Table 5</p> <p><u>Objective 4P-2</u> Minimal planting on structure proposed; most landscaping will occur in the ground N/A <i>Plant growth is optimised with appropriate selection and maintenance</i> Design guidance - Plants are suited to site conditions</p> <p><u>Objective 4P-3</u> <i>Planting on structures contributes to the quality and amenity of communal and public open spaces</i> Design guidance - Building design incorporates opportunities for planting on structures. Design solutions may include: <ul style="list-style-type: none"> • green walls with specialised lighting for indoor green walls • wall design that incorporates planting • green roofs, particularly where roofs are visible from the public domain • planter boxes </p>	<p>Appropriate planting is provided around the site and to the rear of the site adjoining communal open space</p>	<p>Yes</p>

<p>4Q Universal design</p> <p><u>Objective 4Q-1</u> <i>Universal design features are included in apartment design to promote flexible housing for all community members</i></p> <p>Design guidance - A universally designed apartment provides design features such as wider circulation spaces, reinforced bathroom walls and easy to reach and operate fixtures</p> <p><u>Objective 4Q-2</u> <i>A variety of apartments with adaptable designs are provided</i></p> <p>Design guidance - Adaptable housing should be provided in accordance with the relevant council policy</p> <p><u>Objective 4Q-3</u> <i>Apartment layouts are flexible and accommodate a range of lifestyle needs</i></p> <p>Design guidance - Apartment design incorporates flexible design solutions</p>	<p>Adaptable units proposed satisfy relevant requirements</p> <p>Access requirements are met</p>	<p>Yes</p>
<p>4S Mixed use</p> <p><u>Objective 4S-1</u> <i>Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement</i></p> <p>Design guidance - Mixed use development should be concentrated around public transport and centres - Mixed use developments positively contribute to the public domain.</p> <p><u>Objective 4S-2</u> <i>Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents</i></p> <p>Design guidance - Residential circulation areas should be clearly defined. - Landscaped communal open space should be provided at podium or roof levels</p>	<p>Not applicable</p>	<p>N/A</p>

<p>4T Awnings and signage</p> <p><u>Objective 4T-1</u> <i>Awnings are well located and complement and integrate with the building design</i></p> <p>Design guidance - Awnings should be located along streets with high pedestrian activity and active frontages</p> <p><u>Objective 4T-2</u> <i>Signage responds to the context and desired streetscape character</i></p> <p>Design guidance - Signage should be integrated into the building design and respond to the scale, proportion and detailing of the development</p>	<p>Awnings are provided to building entries, design responds to locality and building design</p>	<p>Yes</p>
<p>Part 4 – Designing the building - Performance Compliance 4U Energy efficiency</p> <p><u>Objective 4U-1</u> <i>Development incorporates passive environmental design</i></p> <p>Design guidance - Adequate natural light is provided to habitable rooms (see 4A Solar and daylight access)</p> <p><u>Objective 4U-2</u> <i>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer</i></p> <p>Design Guidance - Provision of consolidated heating and cooling infrastructure should be located in a centralised location</p> <p><u>Objective 4U-3</u> <i>Adequate natural ventilation minimises the need for mechanical ventilation.</i></p>	<p>Compliant. Compliant solar access, ventilation. Satisfies BASIX requirements.</p>	<p>Yes</p>
<p>4V Water management and conservation</p> <p><u>Objective 4V-1</u> <i>Potable water use is minimised.</i></p> <p><u>Objective 4V-2</u> <i>Urban stormwater is treated on site before being discharged to receiving waters</i></p> <p>Design guidance - Water sensitive urban design systems are designed by a suitably qualified professional</p>	<p>Satisfies BASIX requirements. Flood and stormwater management is acceptable.</p>	<p>Yes</p>

<p><u>Objective 4V-3</u> <i>Flood management systems are integrated into site design</i></p> <p>Design guidance - Detention tanks should be located under paved areas, driveways or in basement car parks</p>		
<p>4W Waste management</p> <p><u>Objective 4W-1</u> <i>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents</i></p> <p>Design guidance - Common waste and recycling areas should be screened from view and well ventilated</p> <p><u>Objective 4W-2</u> <i>Domestic waste is minimised by providing safe and convenient source separation and recycling</i></p> <p>Design guidance - Communal waste and recycling rooms are in convenient and accessible locations related to each vertical core - For mixed use developments, residential waste and recycling storage areas and access should be separate and secure from other uses - Alternative waste disposal, such as composting, can be incorporated into the design of communal open space areas</p>	<p>Appropriate arrangements proposed. Compliant acceptable waste storage rooms</p>	<p>Yes</p>
<p>4X Building maintenance</p> <p><u>Objective 4X-1</u> <i>Building design detail provides protection from weathering</i></p> <p>Design guidance - Design solutions such as roof overhangs to protect walls and hoods over windows and doors to protect openings can be used.</p> <p><u>Objective 4X-2</u> <i>Systems and access enable ease of maintenance</i></p> <p>Design guidance - Window design enables cleaning from the inside of the Building</p> <p><u>Objective 4X-3</u> <i>Material selection reduces ongoing maintenance costs easily cleaned surfaces that are graffiti resistant</i></p>	<p>Acceptable</p>	<p>Yes</p>

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28 November, 2023

CERTIFICATE OF VERIFICATION

*Proposed Residential Unit Development with Basement Car
Parking, Common Open Space and Associated Amenities*

19-21 Tannery Street, Unanderra

This certificate verifies that Robert Gizzi (NSW Registration No 8286)

- a) Personally, directed the design of the above development as architectural director for Design Workshop Australia (DWA) of 81a Princes Highway, Fairy Meadow.
- b) That the design quality principles set out in *State Environmental Planning Policy No. 65 – Design of Residential Flat Development - Apartment Design Guide 2015* are achieved for this residential development.

Yours Faithfully,



Robert Gizzi

Director

Registered Architect No: 8286

Clause 4.6 Variation Request

19-21 Tannery Street
Unanderra – Clause 4.6
variation

19-21 Tannery Street
Unanderra

Submitted to Design Workshop Australia
on behalf of Gyde Consulting

6 December 2023

GYDE

This report was prepared by:

Approver: Carlo Di Giulio

Author: Belinda Barrie

Project: 19-21 Tannery Street Unanderra – Clause 4.6 variation

Report Version: Final

This report was reviewed by: Carlo Di Giulio

Disclaimer

This report has been prepared by Gyde Consulting with input from a number of other expert consultants (if relevant). To the best of our knowledge, the information contained herein is neither false nor misleading and the contents are based on information and facts that were correct at the time of writing. Gyde Consulting accepts no responsibility or liability for any errors, omissions or resultant consequences including any loss or damage arising from reliance in information in this publication.

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Glossary and Abbreviations

Term/Acronym	Description
AS	Australian Standards
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
CEMP	Construction Environmental Management Plan
Council	Wollongong City Council
CPTED	Crime Prevention through Environmental Design
DA	Development Application
DCP	Development Control Plan
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
The Regulations	Environmental Planning and Assessment Regulations 2021
ESD	Ecologically Sustainable Development
FSR	Floor Space Ratio
GFA	Gross Floor Area
INP	Industrial Noise Policy
LALC	Local Aboriginal Land Council
LEP	Local Environmental Plan
LGA	Local Government Area
NCC	National Construction Code
SEPP	State Environmental Planning Policy
WSUD	Water Sensitive Urban Design

1. Introduction

This is a formal request that has been prepared in accordance with Clause 4.6 of the *Wollongong Local Environmental Plan 2009* (the LEP) to justify a variation to Clause 4.3 – Height of Building Standard.

The objectives of Clause 4.6 are to provide an appropriate level of flexibility in applying a certain development standard to particular development, and to achieve better outcomes for and from development, by allowing flexibility in particular circumstances.

This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (November 2023) and various recent decision in the New South Wales (NSW) Land and Environmental Court (LEC) and the NSW Court of Appeals (Appeals Court).

The LEP permits a maximum height of building on the site of 13 metres. The subject development proposes a maximum height of 16.68m. The building height's breach occurs along the roof level due to the infrastructure proposed on the roof, such as the lift over run and building mechanical equipment. There are also breaches at the rear of the building itself for internal habitable areas, but these are limited in volume (i.e. they do not constitute a full floor for example). The breach is also a result of the site's notable gradient away from the street, a response to the site's flooding conditions, and also a means to incorporate the additional floor space ratio permitted on the site according to State Environmental Planning Policy (Housing) 2021 ('Housing SEPP'). That said, the proposal does not utilise the full 'bonus floor space ratio' allowed by the Housing SEPP, which confirms that the breach and the development in general is a sensible response to the site, rather than simply an attempt to maximise gross floor area.

While the variation to the standard is acknowledged, the height is satisfactory as the building:

- has been designed to respond to the site's topography and flooding constraints.
- height itself up to the roofline is only subject to a minor variation to the building standard except for the rear where a larger variation occurs.
- With its additional height comes in the form of necessary roof infrastructure such as a lift overrun and plant material.
- Contains communal open space on the roof which provides for additional amenity to the residents.
- will not have an adverse impact on overshadowing, privacy or general amenity of the surrounding neighbours. Importantly, solar access to adjoining properties continues to comply with the Apartment Design Guide (ADG).

This request demonstrates that compliance with the Height of buildings development standard is unreasonable and unnecessary in the circumstances of the proposed development and that there are sufficient environmental planning grounds to justify the proposed variation. The development, as a whole, satisfies the objectives of the Height of building development standard.

It is therefore considered appropriate in this circumstance to vary the development standard.

2. Standard to be Varied

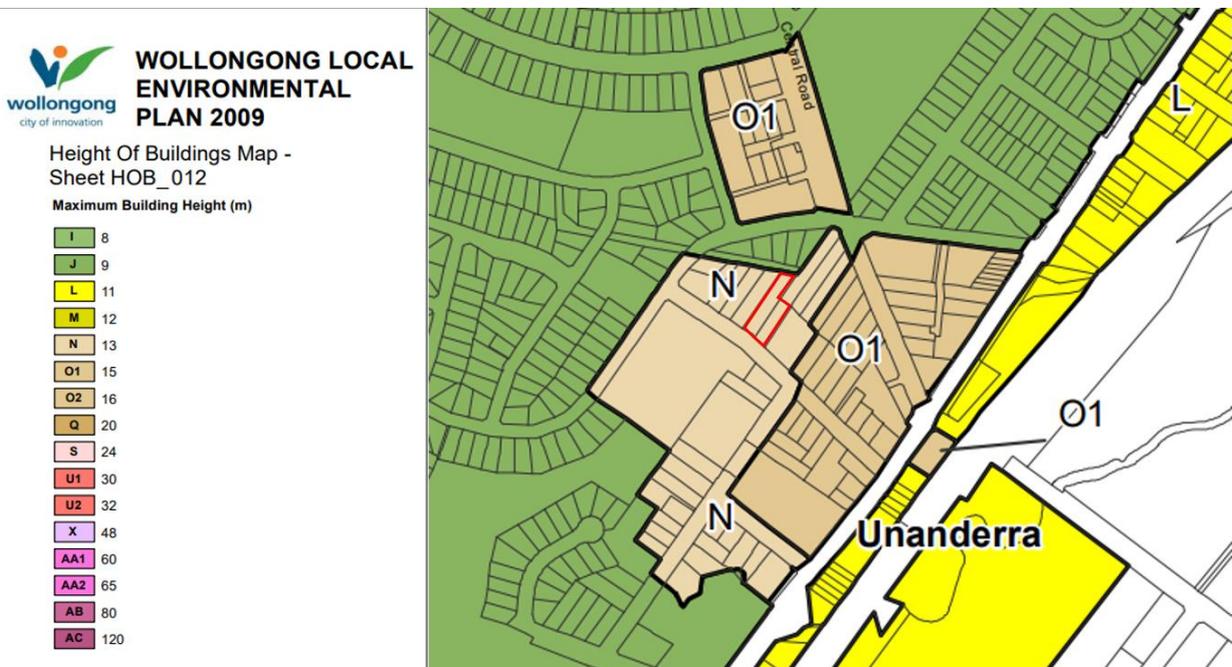
The standard that is proposed to be varied is the Height of Buildings development standard of the LEP which is set out in Clause 4.3(2) of the LEP as follows:

Clause 4.3 – Height of Buildings

(1) *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.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*



Map 2.1 Extract of Sheet HOB_012 from the LEP (Source: NSW Planning Portal)

The development standard to be varied is not excluded from the operation of Clause 4.6 of the LEP.

3. Extent of Variation

Clause 4.3 of the LEP prescribes a maximum height of building of 13m for the site. The proposed breaches are outlined and described below.

The maximum height of the building is 16.68m. This is the most significant of the height breaches and proposes a variation of 28%.

This height breach occurs central to the roof level and is because of the non-accessible concrete roof. Under this roof is the lift to access the roof level, plant room WC and fire stairs. Part of the roof also extends over the communal open space available on this level.

The main other height breach on the roof level is due to the planter boxes around the communal open space area. The maximum height of building to the top of the planter box is 15.8m, a breach of 2.3m (a variation of 17.7%).

The maximum extent of internal habitable area over the height of building standard is at the rear of the building and is measured at 1.5m (a variation of 11.5%).

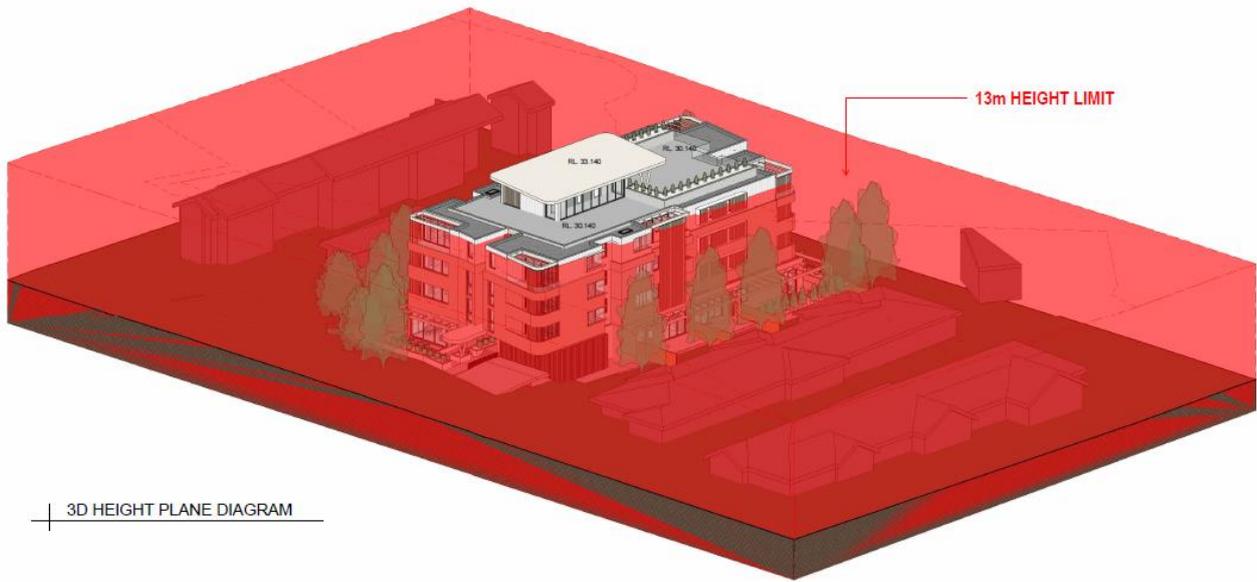
The following figures demonstrate the areas of the height breach and the extent of variation across the site:



Figure 1 North-western elevation of the development (Source: DWA)



Figure 2 South-eastern elevation of the development (Source: DWA)



3D HEIGHT PLANE DIAGRAM

Figure 3 13m height plane for the proposal

4. Unreasonable or Unnecessary

In this section it is demonstrated why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6(3)(a) of the LEP.

The Court held that there are at least five (5) different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary. See *Wehbe v Pittwater Council [2007] NSWLEC 827 (Wehbe)*.

The five (5) ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard; (First Test)
2. The underlying objectives or purpose is not relevant to the development with the consequence that compliance is unnecessary; (Second Test)
3. The objectives would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable; (Third Test)
4. The development standard has been virtually abandoned or destroyed by the Council’s own actions in granted consents departing from the standard hence the standard is unreasonable and unnecessary; (Fourth Test) and
5. The zoning of the land is unreasonable or inappropriate. (Fifth Test)

It is sufficient to demonstrate only one of these ways to satisfy Clause 4.6(3)(a) (*Wehbe v Pittwater Council [2007] NSWLEC 827, Initial Action Pty Limited v Woollahra Municipal Council [2018] NSWLEC 118 at [22] and RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130 at [28]*) and *SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112 at [31]*).

Nonetheless, we have considered each of the ways as follows.

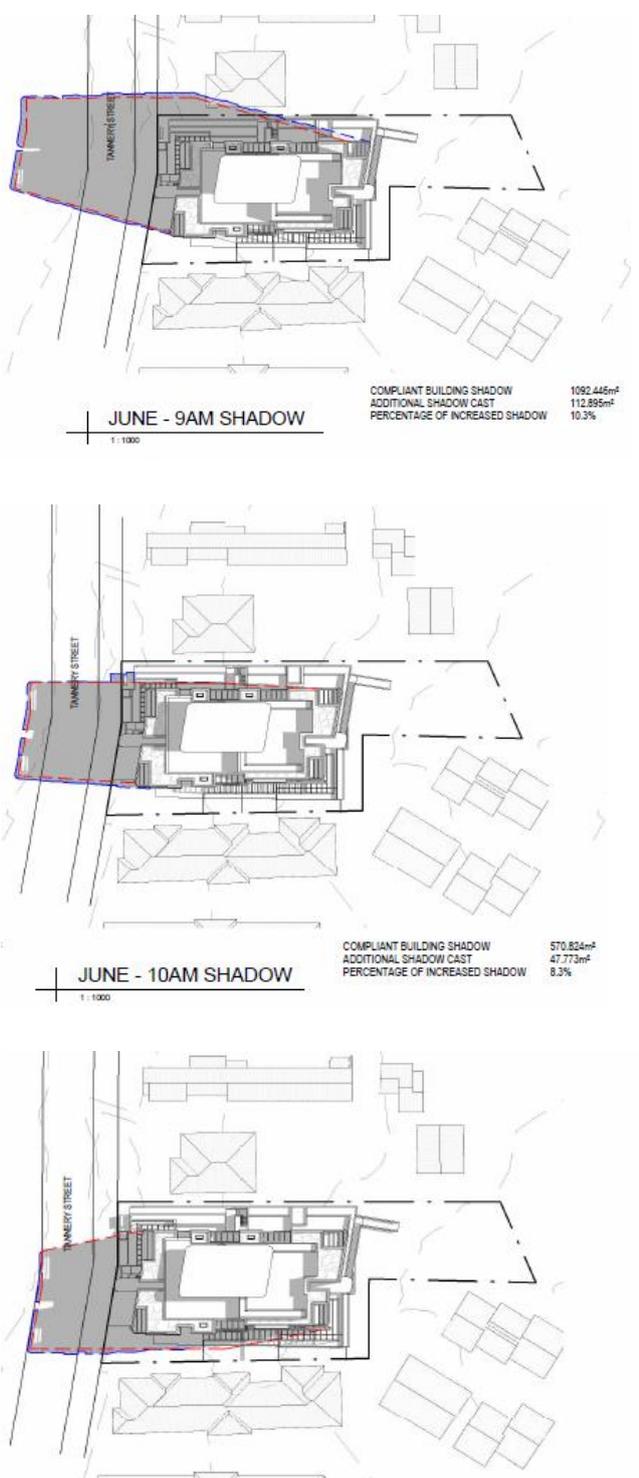
4.1 The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

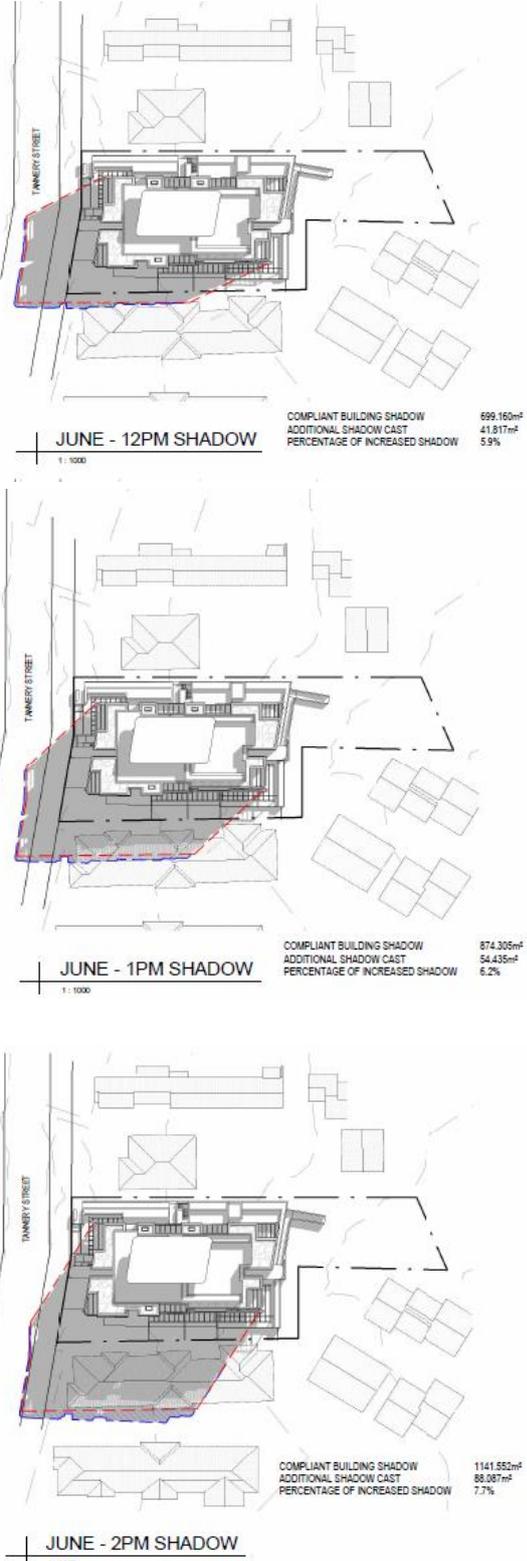
The following table considers whether the objectives of the development standard are achieved notwithstanding the proposed variation (First Test under *Wehbe*).

Table 1 Consistency with Objectives of clause 4.3 – Height of Buildings

Objective	Demonstration
Clause 4.3 – Height of Buildings	
1. 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,	The proposal does use the land efficiently to maximise the number of dwellings which can be established on the property using the existing controls and additional FSR bonuses. The proposed setbacks are consistent with those indicated in the Apartment Design Guide (ADG). The most significant portion of the site where the breach occurs is at the rear, and this is where the level differences are more significant. The breaches are used to complete Level 3 of the development. Overall, it is considered that this objective can be met.
(b) to permit building heights that encourage high quality urban form,	As demonstrated in the elevations, the proposal is for a high quality residential flat building with a mix of colours and materials with articulation and fenestration throughout all of the elevations, but the front and rear elevation in particular.

Objective	Demonstration
	 <p>The drawing shows a cross-section of a building facade with levels marked on the left: 22.240 R.L. LEVEL 5, 20.140 R.L. LEVEL 4, 17.940 R.L. LEVEL 3, 15.740 R.L. LEVEL 2, 13.540 R.L. LEVEL 1, 11.340 R.L. UPPER GROUND, and 9.140 R.L. GROUND FLOOR. A red dashed line indicates the 'TOP HEIGHT LIMIT'. Below the elevation is a 'MATERIAL PALETTE' with five swatches: BRICK - RECYCLED BRICKWORK, CONCRETE GREY CLADDING, ALUMINIUM VERTICAL CLADDING, TIMBER SHUTTERS / GARAGE, and MICROPERFORATED - DODDER WHITE.</p> <p>SOUTH-WESTERN ELEVATION 1:200</p> <p>MATERIAL PALETTE</p> <p>BRICK - RECYCLED BRICKWORK CONCRETE GREY CLADDING ALUMINIUM VERTICAL CLADDING TIMBER SHUTTERS / GARAGE MICROPERFORATED - DODDER WHITE</p> <p>The proposed building has been designed to meet the 9 Design Quality Principles as outlined in <i>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)</i>.</p> <p>Key elements of the strong building design are:</p> <ul style="list-style-type: none"> • A building with a strong streetscape and good scale and articulation along its frontage; • The detailing within the façade treatments which include different elements and cladding to add visual interest with a natural material and tone-based palette, with the use of separated portions to break down the overall scale of the building. • The design and proportion of balconies provide both amenity to the future residents and articulation to the facades. • A distinct focus on ESD principles with water saving and water reuse as well as energy efficiency in the building itself and passive cooling a key part of the layout and design. • There is a broad range of apartment sizes available within the development which is contributing to the housing diversity in the local area. <p>The building has been designed with good solar access and cross ventilation in mind, as the development meets the guidelines of SEPP 65 and ADG in this respect.</p> <p>The development also consolidates the roof plant and infrastructure under one roof form which is centrally located on the roof. The location of this structure is set back from the roof edges, which reduces its visibility from the street.</p> <p>Overall, it is considered that this objective is met.</p>
<p>(c) to ensure buildings and public areas continue to have views of the sky and receive exposure to sunlight.</p>	<p>The shadow impacts of the development have been carefully considered. Design Workshop Australia (DWA) have prepared shadow diagrams to demonstrate the shadow impacts of the proposed development on the winter solstice.</p>

Objective	Demonstration																		
	<p>In the morning (between 9am and 11am), the primary shadow impact is along Tannery Street. As indicated in the shadow diagrams below, the area in red is the shadows created by a compliant building, and those outlined in blue are created by the proposed development.</p>  <p>JUNE - 9AM SHADOW 1 : 1000</p> <table border="1" data-bbox="909 828 1181 884"> <tr> <td>COMPLIANT BUILDING SHADOW</td> <td>1092.446m²</td> </tr> <tr> <td>ADDITIONAL SHADOW CAST</td> <td>112.895m²</td> </tr> <tr> <td>PERCENTAGE OF INCREASED SHADOW</td> <td>10.3%</td> </tr> </table> <p>JUNE - 10AM SHADOW 1 : 1000</p> <table border="1" data-bbox="909 1377 1181 1433"> <tr> <td>COMPLIANT BUILDING SHADOW</td> <td>570.824m²</td> </tr> <tr> <td>ADDITIONAL SHADOW CAST</td> <td>47.773m²</td> </tr> <tr> <td>PERCENTAGE OF INCREASED SHADOW</td> <td>8.3%</td> </tr> </table> <p>JUNE - 11AM SHADOW 1 : 1000</p> <table border="1" data-bbox="909 1937 1181 1993"> <tr> <td>COMPLIANT BUILDING SHADOW</td> <td>572.001m²</td> </tr> <tr> <td>ADDITIONAL SHADOW CAST</td> <td>32.212m²</td> </tr> <tr> <td>PERCENTAGE OF INCREASED SHADOW</td> <td>5.6%</td> </tr> </table>	COMPLIANT BUILDING SHADOW	1092.446m ²	ADDITIONAL SHADOW CAST	112.895m ²	PERCENTAGE OF INCREASED SHADOW	10.3%	COMPLIANT BUILDING SHADOW	570.824m ²	ADDITIONAL SHADOW CAST	47.773m ²	PERCENTAGE OF INCREASED SHADOW	8.3%	COMPLIANT BUILDING SHADOW	572.001m ²	ADDITIONAL SHADOW CAST	32.212m ²	PERCENTAGE OF INCREASED SHADOW	5.6%
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Objective	Demonstration																		
	<p>From 12pm the shadow moves to the south:</p>  <p>JUNE - 12PM SHADOW 1 : 1000</p> <table border="1"> <tr> <td>COMPLIANT BUILDING SHADOW</td> <td>699.160m²</td> </tr> <tr> <td>ADDITIONAL SHADOW CAST</td> <td>41.817m²</td> </tr> <tr> <td>PERCENTAGE OF INCREASED SHADOW</td> <td>5.9%</td> </tr> </table> <p>JUNE - 1PM SHADOW 1 : 1000</p> <table border="1"> <tr> <td>COMPLIANT BUILDING SHADOW</td> <td>874.305m²</td> </tr> <tr> <td>ADDITIONAL SHADOW CAST</td> <td>54.435m²</td> </tr> <tr> <td>PERCENTAGE OF INCREASED SHADOW</td> <td>6.2%</td> </tr> </table> <p>JUNE - 2PM SHADOW 1 : 1000</p> <table border="1"> <tr> <td>COMPLIANT BUILDING SHADOW</td> <td>1141.552m²</td> </tr> <tr> <td>ADDITIONAL SHADOW CAST</td> <td>88.087m²</td> </tr> <tr> <td>PERCENTAGE OF INCREASED SHADOW</td> <td>7.7%</td> </tr> </table>	COMPLIANT BUILDING SHADOW	699.160m ²	ADDITIONAL SHADOW CAST	41.817m ²	PERCENTAGE OF INCREASED SHADOW	5.9%	COMPLIANT BUILDING SHADOW	874.305m ²	ADDITIONAL SHADOW CAST	54.435m ²	PERCENTAGE OF INCREASED SHADOW	6.2%	COMPLIANT BUILDING SHADOW	1141.552m ²	ADDITIONAL SHADOW CAST	88.087m ²	PERCENTAGE OF INCREASED SHADOW	7.7%
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Objective	Demonstration
	 <p data-bbox="582 750 949 784">In relation to the shadow impact:</p> <ul data-bbox="582 795 1412 1288" style="list-style-type: none"> • The shadow diagrams demonstrate that solar access is available to the private open space areas and north facing windows of No. 13-15 Tannery Street between 9am-12pm. Three hours of solar access is above the minimum of 2 hours suggested by ADG. • The shadow diagrams demonstrate that the impact created by the additional height of this building on No. 13-15 Tannery Street is minimal and the provision of 3 hours of solar access onto this property would be maintained under a compliant scenario. • In terms of the impact on the public areas, the proposal as it stands does not prevent any exposure to general sunlight. The footpath is just shaded by the development, which as outlined above, would occur with a fully compliant building. • Further to this, the shadow diagrams for September and December demonstrate that the footpath does receive sunlight access, and it is just the winter solstice where it is affected. <p data-bbox="582 1332 1412 1489">The objective also requires for buildings and public areas to have views of the sky. The proposed building on the site has setbacks off the boundaries of 6m which still allows residents of surrounding dwellings and those using the adjacent footpath (which is a public area being within the road reserve) views of the sky.</p> <p data-bbox="582 1534 1204 1568">Overall, it is considered that this objective can be met.</p>

As demonstrated in Table 1 above, the objectives of Clause 4.3- Height of Building development standard are achieved notwithstanding the proposed variation.

In accordance with the decision in *Wehbe v Pittwater Council [2007] NSWLEC 827*, *Initial Action Pty Limited v Woollahra Municipal Council [2018] NSWLEC 118*, *Al Maha Pty Ltd v Huajun Investments Pty Ltd (2018) 233 LGERA 170*; *[2018] NSWCA 245* and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130* and *SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112* at [31], therefore, compliance with the Height of buildings development standard is demonstrated to be unreasonable or unnecessary and the requirements of Clause 4.6(3)(a) have been met on this way alone.

4.2 The underlying objectives or purpose is not relevant to the development with the consequence that compliance is unnecessary.

The underlying objective or purpose is relevant to the development and therefore is not relied upon.

4.3 The objective would be defeated or thwarted if compliance was required with the consequent that compliance is unreasonable.

Arguably, objective B (i.e. high-quality building design) would not be achieved if compliance is required because it would necessitate a wider, and ‘squat’ building, rather than the ‘leaner’ envelope currently proposed. A wider, squat building will unnecessarily emphasis bulk and scale.

4.4 The development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary.

We note that the following variations to the Clause 4.3 development standard have been approved within the last 3 years.

Table 2 Clause 4.6 Variation Requests – Height of Buildings – Relevant Approvals

Application No.	Address	Category of Development	Development Standard Varied	Variation, Control and Approval
DA-2021/775	231 Lawrence Hargrave Drive, Coalcliff	Residential – alterations and additions	4.3 Height of Buildings	Variation: 3.8% Control: 9m Proposal: 9.35m
DA-2021/321	429-431 Princes Highway, Woonona	Mixed Use Development	4.3 Height of Buildings	Variation: 8.6% Control: 11m Proposal: 11.95m
DA-2021/840	51 Montague Street, North Wollongong	Industrial	4.3 Height of Buildings	Variation:8.3% Control: 9m Proposal: 9.745
DA-2021/238	105 Yallah Road, Yallah	Industrial	4.3 Height of Buildings	Variation: 8.9% Control: 9m Proposal: 9.805m
DA-2021/705	32 Foley Street, Gwyneville	Community Facility	4.3 Height of Buildings	Variation: 1.7% Control: 9m Proposal: 9.153m
DA-2021/252	10 Sturt Place, Buli	Residential – alterations and additions	4.3 Height of Buildings	Variation: 9.7% Control: 9m Proposal: 9.873m
DA2020-1458	6 Dudley Street, Wollongong	Residential – demolition of existing structures and construction of 6 story RFB	4.3 Height of Buildings	Variation: 12.3% Control: 16m Proposal: 17.96m

Application No.	Address	Category of Development	Development Standard Varied	Variation, Control and Approval
DA-2020/605	17 Kembla Street, Wollongong	Residential	4.3 Height of Buildings	Variation: 22.2% Control: 24m Proposal: 29.32m
DA-2020/805	56-64 Asquith Street, Austinmer	Residential	4.3 Height of Buildings	Variation: 8.9% Control: 9m Proposal: 9.85m
DA-2016/358	1-3 Canterbury Road, Kembla Grange	Industrial	4.3 Height of Buildings	Variation: 51% Control: 11m Proposal: 16.6m
DA-2021/775	231 Lawrence Hargrave Drive, Coalcliff	Residential – alterations and additions	4.3 Height of Buildings	Variation: 3.8% Control: 9m Proposal: 9.35m
DA-2021/321	429-431 Princes Highway, Woonona	Mixed Use Development	4.3 Height of Buildings	Variation: 8.6% Control: 11m Proposal: 11.95m

Whilst it is not suggested that the control has been fully abandoned, there is a pattern of variations seen within the LGA which further identifies that the variation and proposal as a whole is consistent with the existing and desired character of the area.

4.5 The zoning of the land is unreasonable or inappropriate.

The zoning of the land is reasonable and appropriate and therefore is not relied upon.

As discussed earlier, *Wehbe v Pittwater Council [2007] NSWLEC 827 (Wehbe)*, provides that there are at least 5 ways which an applicant might establish that compliance with a development standard is unreasonable or unnecessary, and that it is necessary to demonstrate only 1 of those has been addressed in order to confirm that compliance with a standard is unreasonable or unnecessary. This variation request demonstrates that the first option outlined in *Wehbe* has been satisfied.

In addition to the 5 recognised ways, *Wehbe* also provides that there may be additional avenues to demonstrate that compliance with the standard is unreasonable or unnecessary. This request provides that the additional affordable housing floor space above that allowed by the WLEP 2009 according to State Environmental Planning Policy (Housing) 2021 ('Housing SEPP') is another sufficient means to demonstrate that compliance with the standard is unreasonable or unnecessary. That is, if compliance with the height standard is enforced, the additional affordable housing FSR allowed by the Housing SEPP cannot be achieved, or cannot be achieved in a fashion that results in acceptable environmental impacts.

Lastly, the site is impacted by flooding. If flooding was not a constraint, the envelope could potentially be made longer and allowed for the height breach to be avoided. This is not possible, however, due to the flooding constraint.

5. Sufficient Environmental Planning Grounds

In *Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 118*, Preston CJ observed that in order for there to be ‘sufficient’ environmental planning grounds to justify a written request under Clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*, Plain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development or the particular site.

A compliant development would result in a lesser built form, but in this case, the parts of the building that contravene the standard do not cause any adverse impacts to surrounding residential properties and are appropriately setback. Therefore, it can be concluded that the proposal does not result in any unreasonable environmental impacts, and it is considered there are sufficient environmental planning grounds to justify the contravention.

Some additional specific environmental grounds to justify the contravention of the standard are summarised as follows:

- Topography

The site has a fall between 900mm-1.2m between the street frontage and the rear of the building. This change in topography is not reflected in the statutory height control for the site. That is, the statutory control is not adequately flexible to respond to the topography.

At the frontage, the building itself up to the roof level is largely compliant with the 13m height of building standard and appears as such along the frontage. At the rear of the building, a 1.5m variation occurs.

- Flooding

The building is required to raise the existing ground level for the ground floor to meet both accessibility requirements, and to also ensure at the frontage, that there is protection from flood waters entering the building. This contributes to the additional height of the building as the ability to cut into the existing ground level (beyond basement works) is not possible.

Similarly, if the site was not flood impacted, the envelope could possibly have been longer. This could have resulted in further redistribution of the building bulk and avoided the height breach. This is not possible, however, due to the flooding constraint.

- Architectural roof features

In relation to the roof top plant and equipment, it is likely that they can be eligible to be considered as “architectural roof features” under Clause 5.6 of the LEP. If applied, this would have enabled the architectural roof features to be exceed the height limit in the LEP and therefore reduce the extent of the height of building standard variation proposed.

In terms of Clause 5.6, it is considered that the proposed development would meet the criteria in the Clause as follows:

Table 3 Clause 5.6 criteria and response

Clause 5.6	Response
(3) Development consent must not be granted to any such development unless the consent authority is satisfied that—	
(a) the architectural roof feature—	
(i) comprises a decorative element on the uppermost portion of a building, and	The upper concrete roof is an architectural roof feature which is considered as a decorative element on the uppermost portion of the building.

Clause 5.6	Response
(ii) is not an advertising structure, and	The roof structure is not an advertising feature.
(iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and	The upper level concrete roof and communal open space area is not classified as 'gross floor area' and the nature of the design demonstrate it would be difficult to convert this area into 'floor space area' at a later date.
(iv) will cause minimal overshadowing, and	The roof feature has been considered in the overshadowing of the whole building. Their location in the centre of the roof area will minimise overshadowing impacts.
(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.	The proposal includes a concrete roof which has been integrated into the overall building design while screening roof infrastructure such as the lift overrun and containing other plant equipment underneath it.

- Existing and future character of the area

The area within walking distance to the train station has a maximum height of building standard under the LEP of 13 metres. This demonstrates that the site, and the surrounding area is recognised as being suitable for a transition to a larger scale than what is currently available in the area, given that the area is within walking distance to the train station and to other amenities and services.

While the current character is one to two storey dwellings, the proposed development is in keeping with the envisaged character as per the LEP control. As already stated, the roof height of the building is generally compliant with the roof infrastructure providing the bulk of the breach.

Clause 7.15 of the LEP has a minimum site width requirement for a residential flat building of 24m. Both the neighbouring properties can be developed in a similar manner given they can meet this requirement (noting that No. 23 and No. 25 Tannery Street do require consolidation to meet this standard).

An example of the future streetscape is provided in **Figure 4** below:

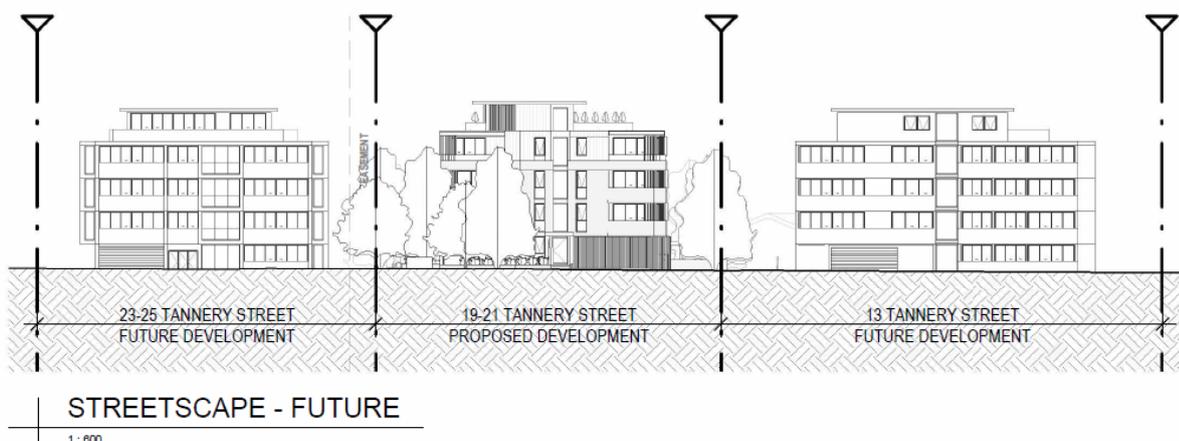


Figure 4 Potential future streetscape (Source: DWA)

- Visual impact

The additional height which forms the contravention will have some visual impact, but this will not be detrimental. As discussed above, the additional height is centrally located within the site and is setback sufficiently to limit the building's visual presence. From the street frontage, the development to its roof level is largely compliant with the 13m height of building development standard. The additional height as a result of the contravention does not cause the building to appear overly dominant or bulky because of the design features including setbacks, articulation, materials and associated landscaping.

- Amenity

The design of the proposal incorporates generous setbacks and extensive landscape planting to complement the built form and assist in reducing the scale of the development when viewed from the adjoining property boundaries and the public domain. This will ensure the proposal results in minimal amenity impacts and is compatible with the surrounding area in terms of bulk and scale. There are no adverse environmental impacts associated with privacy concerns and sufficient solar access to adjacent properties is still maintained.

- Housing SEPP 'affordable housing floor space'

As discussed earlier, if compliance was required, the proposal could not achieve the 'affordable housing floor space provisions allowed by the Housing SEPP in a manner which is without unacceptable environmental impacts.

For completeness, we note that the size of the variation is not in itself, a material consideration as whether the variation should be allowed. There is no constraint on the degree to which a consent authority may depart from a numerical standard under clause 4.6: *GM Architects Pty Ltd v Strathfield Council [2016] NSWLEC 1216 at [85]*.

In short, Clause 4.6 is a performance-based control, so it is possible (and not uncommon) for variations to be approved in the right circumstances.

6. Conclusion

The submission requests a variation, under Clause 4.6 of the Wollongong Local Environmental Plan 2009, to the Height of Buildings development standard, and demonstrates that:

1. Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development, and
2. There are sufficient environmental planning grounds to justify the contravention.

On this basis, therefore, it is appropriate to exercise the flexibility provided by Clause 4.6 in the circumstances of this application.

Attachment 6.

**DRAFT CONDITIONS FOR:
DA-2023/988**

Deferred Commencement

- A. The Development Consent shall not operate until Council has been satisfied as to the following matters:
 - (i) Deferred commencement conditions:**
 - a. Documentation to be provided to Council’s manager Development Assessment and Certification evidencing an agreement with a registered community housing provider for the management of the affordable housing component.****
- B. The developer must satisfy Council, within 18 months of the date shown on the top of this consent, that the matters specified in condition number (i) have been complied with. Failure to satisfy Council within that time period will lapse this development consent.**
- C. If compliance with the matters contained in condition number (i) results in a substantial variation to the development approved deferred commencement, a new development application must be submitted.**

Once Council is satisfied that the matters contained in condition number (i) have been complied with and the developer has been notified in writing of such compliance, the following conditions shall apply in respect of the approved development:

GENERAL CONDITIONS

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
008	K	Demolition Plan	Design Workshop Australia	23/11/2023
010	K	Site Plan	Design Workshop Australia	23/11/2023

011	P	Floor Plan – Basement	Design Workshop Australia	24/07/2024
012	N	Floor Plan – Ground Floor	Design Workshop Australia	16/04/2024
013	M	Floor Plan – Level 1 2 (typical)	Design Workshop Australia	26/02/2024
014	M	Floor Plan – Level 3	Design Workshop Australia	26/02/2024
015	N	Floor Plan – Level 4	Design Workshop Australia	16/04/2024
020	N	Street Elevations	Design Workshop Australia	16/04/2024
021	N	Street Elevations	Design Workshop Australia	16/04/2024
030	N	Site Sections	Design Workshop Australia	16/04/2024
031	N	Site Sections	Design Workshop Australia	16/04/2024
032	N	Site Sections	Design Workshop Australia	16/04/2024

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.

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

2. Design Endorsement

The structural designs for all foundations, shoring and excavation support are to be endorsed by the geotechnical consultant that all known site geotechnical constraints have been accommodated in the designs.

Reason:

To ensure site specific geotechnical constraints are appropriately considered and satisfied.

3. Earthworks Plan Development

An earthworks plan is to be developed by the geotechnical consultant prior to start of earthworks and all recommendations of Fortify Geotech in their geotechnical report dated 28 June 2023 are to be accommodated in the earthworks plan. The earthworks plan may require modification considering any subsequent geotechnical reports commissioned to address unforeseen geotechnical conditions encountered during the site works.

Reason:

To ensure site specific geotechnical constraints are appropriately considered and satisfied.

4. Ground Disturbance

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.

Reason:

To ensure site specific geotechnical constraints are appropriately considered and satisfied.

5. Excavation Support

All excavations need to be supported during and after construction particularly to protect adjoining property with nearby existing development.

Reason:

To ensure site specific geotechnical constraints are appropriately considered and satisfied.

6. Retaining Wall Design

Retaining wall design is not to include anchors extending on to adjoining property without the written consent of the adjoining property owner.

Reason:

To ensure site specific geotechnical constraints are appropriately considered and satisfied.

7. Tree Retention/Removal

The developer shall retain the existing tree(s) indicated on the Landscape Concept Plan by Zenith Landscape Designs Dated 08.08.2024 Rev B and in the Arboricultural Impact Assessment by DJD Tree Consultancy Dated 27th November 2023 consisting of tree(s) numbered 1, 2, 3, and 4.

Any branch pruning, which has been given approval, must be carried out by a qualified arborist in accordance with Australian Standard AS 4373:2007.

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

All recommendations in the Arboricultural Impact Assessment by DJD Tree Consultancy Dated 27th November 2023 page nos 11 are to be implemented including and not restricted to: remedial tree pruning, dead wood removal, fencing and signage, sediment buffer, stem protection, establishing tree protection zones and watering and root hormone application if required.

Reason:

To protect the amenity of the environment and the neighbourhood.

8. Stormwater Quality Management

a. The stormwater treatment system must achieve pollutants and nutrients removal minimum: GP – 90%, TSS – 80%, TP – 55% and TN – 40%

b. It is strata management responsibility to maintain the stormwater filtration system.

Reason:

To comply with WDCP Chapter E 15 and PoEO Act.

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

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

Reason:

To ensure the development is built in accordance with the Building Code of Australia.

10. 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.

Reason:

To satisfy the requirements of the legislation.

11. 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 150mm in height for each number and letter in the alphabet.

Reason:

To identify the property.

12. Maintenance of Access to Adjoining Properties

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

Reason:

To ensure that access is maintained.

13. 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.

Reason:

To satisfy the requirements of the legislation.

14. Development Contributions

In accordance with Section 4.17(1)(h) of the Environmental Planning and Assessment Act 1979 and the Wollongong City Wide Development Contributions Plan (2022), a monetary contribution of \$84,470.01 (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/Subdivision Certificate.

This amount has been calculated based on the proposed cost of development and the applicable percentage levy 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 show in the Contributions Plan.

To request an invoice to pay the contribution go to www.wollongong.nsw.gov.au/contributions and submit a contributions enquiry. The following will be required:

- Application number and property address.
- Name and address of who the invoice and receipt should be issue 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.

Reason:

To ensure the development contributes to the provision of local infrastructure, through the payment of development contributions.

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Conditions

15. Fencing

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

- a. where a screen wall faces the road, pedestrian walkway, reserve or public place that wall shall be constructed of the same brickwork as that used in the external wall of the building; and
- b. rear and side property boundaries (behind the building line) and private rear courtyards are to be provided with minimum 1.8 metre high brick, timber lapped and capped or colorbond fences.

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

Reason:

To comply with Council's Development Control Plan.

16. Crime Prevention Through Environmental Design (CPTED) - Landscaping

In order to reduce the opportunities for "hiding places" the proposed landscaping must:

- a. Use shrubs/plants which are no higher than one (1) metre.
- b. The type of trees proposed must have a sufficiently high canopy, when fully grown, so that pedestrian vision is not impeded.
- c. Be set back 1 metre from the centre of the pathway.

This requirement shall be reflected on the Construction Certificate plans.

Reason:

To satisfy the requirements of Australian Standards.

17. Change in Driveway Paving

A change in driveway paving is required at the entrance threshold within the property boundary to clearly show motorists they are crossing a pedestrian area. Between the property boundary and the kerb, the developer must construct the driveway pavement in accordance with the conditions, technical specifications and levels to be obtained from Council's Manager Works. This requirement shall be reflected on the Construction Certificate plans and any supporting documentation.

Reason:

To ensure compliance with Council's Technical Specifications.

18. 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.

Reason:

To ensure compliance with Australian Standards.

19. Final Landscape Plan Requirements

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

- a. A pool fence with a child proof locking gate is to be constructed around the headwall in the deep soil zone. clearance of 2m from the headwall is required.
- b. The fire exit path is to continue to the Tannery Street footpath as a concrete path that meets all relevant Australian Standards

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

Reason:

To comply with Council's Development Control Plan.

20. Certification for Landscape and Drainage

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

Reason:

To ensure development does not impact services.

21. Landscape Maintenance Plan

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 issue of the Construction Certificate.

Reason:

To comply with Council's Development Control Plan.

22. Tree Protection and Management

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

- a. Installation of Tree Protection Fencing - Protective fencing shall be 1.8 metre cyclone chainmesh fence, with posts and portable concrete footings. Details and location of protective fencing must be indicated on the architectural and engineering plans to be submitted to the Principal Certifier prior to release of the Construction Certificate.
- b. Installation of Tree Protection Fencing - A one (1) metre high exclusion fence must be installed around the extremity of the dripline of the tree/trees to be retained prior to any site works commencing. The minimum acceptable standard is a 3 strand wire fence with star pickets at 1.8 metre centres. This fence must be maintained throughout the period of construction to prevent any access within the tree protection area. Details of tree protection and its locations must be indicated on the architectural and engineering plans to be submitted to the Principal Certifier prior to release of the Construction Certificate.
- c. Mulch Tree Protection Zone: Areas within a Tree Protection Zone are to be mulched with minimum 75mm thick 100% recycled hardwood chip/leaf litter mulch.
- d. Irrigate: Areas within the Tree Protection Zone are to be regularly watered in accordance with the Arborist's recommendations.

Reason:

To comply with Council's Development Control Plan.

23. Glass Reflectivity Index

The reflectivity index of the glass used in the external façade of the building shall not exceed 20 per cent. The details and samples of the glass to be used are to be submitted with the Construction Certificate together with written evidence that the reflectivity of the glass is 20 per cent or less.

Reason:

To comply with Council's Development Control Plan.

24. Placement of Air Conditioning Units

Air conditioning systems are not to be located where they are visible from the public streets abutting the site. Plans submitted to the Principal Certifier prior to issue of the Construction Certificate are to identify any external components of air conditioning systems to ensure they meet the requirements of this condition.

Reason:

To protect neighbourhood amenity.

25. Redundant 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.

Reason:

To comply with Council's Development Control Plan.

26. Dilapidation Report

Before the issue of a construction certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works, and public land, to the satisfaction of the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties.

Reason:

To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.

27. Depth and Location of Services

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.

Reason:

To ensure development does not impact services.

28. 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; and
- 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.

Reason:

To comply with Council's Development Control Plan.

29. 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 900mm 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.

Reason:

To satisfy the requirements of Australian Standards.

30. 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 plan/s lodged for development approval, prepared by ATB Consulting Engineers, Reference No. 23029, revision C, dated 24/04/24.
- b. Include details of the method of stormwater disposal. Stormwater from the development must be piped to natural watercourse.
- 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% AEP 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.

Reason:

To comply with Council's Development Control Plan.

31. Flood Level Requirements

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

- a. The main front entry of the building must be no lower than RL17.74m AHD. Top of masonry landscape walls around the units on ground floor must be min of 0.3 metres above adjacent 1 % AEP water level to ensure that there is no ingress of surface flows or flooding into the building ground floor area.
- b. Any portion of the building or structure below RL 17.74metres AHD
- c. The proposed building shall be designed to withstand the forces of floodwater, debris and buoyancy up to and including the 1% AEP flood level plus freeboard being 17.74metres AHD.

Reason:

To comply with Council's Development Control Plan.

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/Subdivision Certificate:
 - i. The structure is an OSD facility, being part of the stormwater drainage network, and is not to be tampered with.
 - ii. Identification number [DA-2023/988].
 - iii. 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.

Reason:

To comply with Council's Development Control Plan.

33. 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.

Reason:

To comply with Council's Development Control Plan.

34. No Adverse Runoff Impacts on Adjoining Properties

The design of the development shall ensure there are no adverse effects to adjoining properties or upon the land as a result of flood or stormwater runoff.

Reason:

To protect neighbourhood amenity.

35. Flows from Adjoining Properties

Flows from adjoining properties shall be accepted and catered for within the site. Finished ground and surface levels (including top of retaining wall levels) on and/or immediately adjacent to the site 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.

Reason:

To protect adjoining properties.

36. Drainage to the Natural Watercourse

A minimum 150mm diameter, PVC Class SN4 inter-allotment drainage pipeline shall be provided to drain development to the natural watercourse.

Reason:

To satisfy Council's Development Control Plan.

37. Scour Protection

All stormwater outlets, watercourses, and surface flow paths (including swales, channels, and other dedicated overland flow paths) must be treated with appropriate scour/erosion protection measures designed in accordance with good engineering practice based on calculated 1 in 100 year ARI flow velocities. All scour protection measures and headwall structures within the watercourse shall be designed and constructed to match existing surface levels to ensure that there will be no change in flooding behaviour. All stormwater outlets shall be orientated in the direction of natural flow of the receiving watercourse. The outlet scour protection is to be in accordance with Guidelines for Outlet Structures prepared by the NRAR Office of Water dated July 2012. The final details of the proposed scour protection measures shall be reflected on the Construction Certificate plans.

Reason:

To protect neighbourhood amenity.

38. Completion of Engineering Works

The completion of all engineering works within Council's road reserve or other Council owned or controlled land in accordance with the conditions of this consent and any necessary work to make the construction effective must be to the satisfaction of Council's Manager Development Engineering. The total cost of all engineering works shall be fully borne by the applicant/developer and any damage to Council's assets shall be restored in a satisfactory manner, prior to the issue of the Occupation Certificate.

Reason:

To satisfy Council's Development Control Plan.

39. NSW Aquifer Interference Policy - Groundwater Take Assessment

The proposed development includes a basement for car parking and other services which may interfere with groundwater. The following information is to be submitted to Council for endorsement prior to the issue of the Construction Certificate:

- Prepare a Groundwater Take Assessment as per the NSW Aquifer Interference Policy and the Water Management Act 2000. Based on the assessment the report shall recommend options to comply with the NSW Aquifer Interference Policy.
- Refer to DPIE's minimum requirements for building site groundwater investigations and reporting Information for developers and consultants dated October 2022.

Reason:

To comply with NSW Aquifer Interference Policy.

40. Adaptable units

Before the issue of a relevant Construction Certificate, the applicant must ensure a report from a suitably qualified consultant is prepared and demonstrates, to the certifier's satisfaction, that any adaptable dwellings specified in the approved plans or supporting documentation comply with the provisions of *AS 4299-1995 Adaptable Housing Standards*.

Reason:

To ensure adaptable units are designed in accordance with the Australian Standard.

41. Building Code of Australia/Australian Standards Requirements

The following information will be required prior to the issue of the Construction Certificate in accordance with the Building Code of Australia and/or relevant Australian Standards:

- a. Details of termite protection in accordance with AS 3660.1:1995.
- b. The location of smoke detectors in the building.
- c. A schedule and location of all proposed essential services in the building in accordance with Section E of the Building Code of Australia.
- d. Proposed method of egress from the building in accordance with Section D of the Building Code of Australia.
- e. Means of protection of openings in accordance with Section C of the Building Code of Australia.
- f. Specific materials proposed to be used to satisfy the requirements of Specification C1.1 of the Building Code Australia.
- g. Fit out details for the disabled toilet(s) in accordance with AS 1428.1:2009.
- h. Details of footing/slab design in accordance with AS 2870:1996.
- i. A Wind Classification for the site in accordance with AS 4055 and AS 1170.2.
- j. Details of the proposed method car park ventilation in accordance with Section E of the Building Code of Australia and AS 1668.
- k. A certificate from an "accredited access consultant" certifying that the building complies with the requirements of AS 1428.1:2009.

Reason:

To satisfy the requirements of the legislation.

42. Structural Engineering Details

The submission of structural engineering details by a suitably qualified and experienced structural engineer (with appropriate insurance coverage) to the Principal Certifier, prior to the release of the Construction Certificate addressing the following matters:

- a. Footings;

- b. reinforced concrete slabs;
- c. retaining walls;
- d. structural steelwork;
- e. wall bracing and tie-down requirements;
- f. the structural engineer, in producing a design is to complement the Geotechnical Engineer's Stability Report to make a clear statement that "any structure designed and erected in accordance with the plans and specifications will achieve the performance requirements described in Clause 1.3 of 2870 (1996) and any other relevant codes and standards."

Reason:

To satisfy the requirements of the legislation and Australian Standards.

43. Car Parking and Access

The development shall make provision for a total of 26 car parking spaces (including 3 car parking spaces for people with disabilities and 6 visitor car parking spaces), 2 motorcycle parking space, 22 secure (Security Class B) residential bicycle spaces, and 3 visitor bicycle space (Security Class C). This requirement shall be reflected on the Construction Certificate plans.

Reason:

To comply with Council's Development Control Plan.

44. Parking Dimensions

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.

Reason:

To ensure compliance with Australian Standards.

45. Bicycle Parking Facilities

Bicycle parking facilities must have adequate weather protection and provide the appropriate level of security as required by the current relevant Australian Standard AS2890.3 - Bicycle Parking Facilities. This requirement shall be reflected on the Construction Certificate plans.

Reason:

To satisfy the requirements of Australian Standards.

46. Vehicular Flow Signage

Suitable barriers, line-marking and painted signage delineating vehicular flow movements must be provided within the car parking areas. These details shall be reflected on the Construction Certificate plans.

Reason:

To comply with Council's Development Control Plan.

47. Security Roller Shutters for Basement Car Parking Areas

The installation of any security roller shutter for the basement car parking area shall not restrict access to any designated visitor car parking space. In the event that the approved visitor car parking spaces are located behind any proposed security roller shutter, an intercom system is required to be installed to enable visitor access into the basement car parking area. This requirement is to be reflected on the Construction Certificate plans and any supporting documentation for the endorsement of the Principal Certifier prior to the release of the Construction Certificate.

Reason:

To comply with Council's Development Control Plan.

48. Sydney Water 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.

Reason:

To satisfy the requirements of the legislation.

49. Utilities and Services

Before the issue of the relevant Construction Certificate, the applicant must submit the following written evidence of service provider requirements to the certifier:

- a. a letter of consent from Endeavour Energy demonstrating that satisfactory arrangements can be made for the installation and supply of electricity.
- b. a response from Sydney Water as to whether the plans proposed to accompany the application for a construction certificate would affect any Sydney Water infrastructure, and whether further requirements need to be met.
- c. other relevant utilities or services - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them.

Reason:

To ensure relevant utility and service providers' requirements are provided to the certifier.

50. 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.

Reason:

To protect neighbourhood amenity.

51. Disabled Access and Facilities

The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 “Access for People with Disabilities” and Australian Standard AS 1428.1:2009: Design for Access and Mobility – Part 1 General Requirements for Access – Buildings. This requirement shall be reflected on the Construction Certificate plans.

Reason:

To satisfy the requirements of the legislation.

52. Disabled Access Ramp

The disabled access ramp(s) shall comply with the current relevant Australian Standard AS 1428.1:2009: Design for Access and Mobility – Part 1 General Requirements for Access – Buildings. This requirement shall be reflected on the Construction Certificate plans.

Reason:

To comply with Council's Development Control Plan.

53. Construction Site Management Plan

Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the principal certifier. The plan must include the following matters: a. location and materials for protective fencing and hoardings to the perimeter of the site. b. provisions for public safety. c. pedestrian and vehicular site access points and construction activity zones. d. details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site. e. details of any bulk earthworks to be carried out. f. location of site storage areas and sheds. g. equipment used to carry out all works. h. a garbage container with a tight-fitting lid. i. dust, noise and vibration control measures. j. location of temporary toilets. A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

Reason:

To comply with Council's Development Control Plan.

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

The submission of a Site Management, Pedestrian and Traffic Management Plan to the Principal Certifier and Council (in the event that Council is not the Principal Certifier) for approval of both the Principal Certifier and Council is required, prior to the issue of the Construction Certificate. This plan shall address what measures will be implemented for the protection of adjoining properties, pedestrian safety and traffic management and shall be in compliance with the requirements of the latest versions of Australian Standard AS 1742: Traffic Control Devices for Works on Roads and the TfNSW Traffic Control at Worksites Manual.

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

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

The traffic control plan endorsed by Council shall be implemented, prior to the commencement of any works upon the construction site.

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

Reason:

To ensure compliance with Australian Standards.

55. Demolition and Excavation

The recommendations of the Preliminary Site Investigation & Detailed Site Investigation Project No. 24228 by Reditus Consulting dated 25 September 2024 are to be incorporated into the Construction Site Management Plan and the Construction Environmental Management Plan

Reason:

To comply with the legislation.

56. Crime Prevention Through Environmental Design - Lighting

The area of the subject site which can be accessed by the public must have lighting provided in accordance with AS 1158:1999 or AS 4360:1999 (such as low impact bollard lighting). This requirement shall be reflected on the Construction Certificate plans.

Reason:

To satisfy the requirements of the Australian Standards.

BEFORE BUILDING WORK COMMENCES

Conditions

57. Dilapidation Report

A dilapidation report is required for all structures located within the zone of influence of the proposed earthworks as determined by the geotechnical consultant.

Reason:

To ensure geotechnical considerations are met.

58. Supervising Arborist - Tree Inspection and Installation of Tree Protection Measures

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

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

59. Certification from Arborist - Adequate Protection of Trees to be Retained

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

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

60. 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.

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

61. Tree protection measures

Before the commencement of any site or building work, the Principal Certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.

Reason:

To protect and retain trees.

62. Works in Road Reserve - Major Works

Any occupation, use, disturbance or work on the footpath or road reserve for construction purposes, which is likely to cause an interruption to existing pedestrian and/or vehicular traffic flows requires Council consent under Section 138 of the Roads Act 1993.

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. An application must be submitted must be obtained from Wollongong City Council's Development Engineering Team prior to any works commencing where it is proposed to carry out activities such as, but not limited to, the following:

- a. Digging or disruption to footpath/road reserve surface;
- b. Loading or unloading machinery/equipment/deliveries;
- c. Installation of a fence or hoarding;
- d. Stand mobile crane/plant/concrete pump/materials/waste storage containers;
- e. Pumping stormwater from the site to Council's stormwater drains;
- f. Installation of services, including water, sewer, gas, stormwater, telecommunications and power;
- g. Construction of new vehicular crossings or footpaths;
- h. Removal of street trees;
- a. Carrying out demolition works.

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.

Reason:

To satisfy the requirements of the legislation.

63. Hazardous Material Survey

At least one (1) week prior to demolition, the applicant must prepare further hazardous materials survey of the site as recommended by Reditus Consulting especially in the reported inaccessible areas of the initial survey and submit to Council a report of the results. . Hazardous

materials include, but are not limited to, asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint. The report must include at least the following information:

- a. the location of hazardous materials throughout the site;
- b. a description of the hazardous material;
- c. the form in which the hazardous material is found, eg AC sheeting, transformers, contaminated soil, roof dust;
- d. an estimation (where possible) of the quantity of each particular hazardous material by volume, number, surface area or weight;
- e. a brief description of the method for removal, handling, on-site storage and transportation of the hazardous materials, and where appropriate, reference to relevant legislation, standards and guidelines;
- f. identification of the disposal sites to which the hazardous materials will be taken.

Reason:

To identify hazardous materials and ensure safe disposal in accordance with the legislation.

64. Asbestos Hazard Management Strategy

An appropriate hazard management strategy shall be prepared by a suitably qualified and experienced licensed asbestos assessor pertaining to the removal of contaminated soil, encapsulation or enclosure of any asbestos material. This strategy shall ensure any such proposed demolition works involving asbestos are carried out in accordance with SafeWork NSW requirements (<https://www.safework.nsw.gov.au>). The strategy shall be submitted to the Principal Certifier and Council (in the event that Council is not the Principal Certifier prior to the commencement of any works).

The approved strategy shall be implemented and a clearance report for the site shall be prepared by a licensed asbestos assessor and submitted to the Principal Certifier and Council (in the event that Council is not the Principal Certifier), prior to the issue of an Occupation Certificate or commencement of the development. The report shall confirm that the asbestos material has been removed or is appropriately encapsulated based on visual inspection plus sampling if required and/or air monitoring results and that the site is rendered suitable for the development.

Reason:

To identify hazardous materials and ensure safe disposal in accordance with the legislation.

65. 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.

Reason:

To satisfy the requirements of the legislation.

66. Waste Management

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

Reason:

To protect neighbourhood amenity.

67. Construction Environmental Management Plan

- Submit a construction environmental management to 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 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.

Reason:

To comply with PoEO Act.

68. 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.

Reason:

To satisfy the requirements of the legislation.

69. 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.

Reason:

To satisfy the requirements of the legislation.

70. 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.

Reason:

To satisfy the requirements of the legislation.

71. Temporary Toilet/Closet Facilities

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

Each toilet provided must be:

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

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

Reason:

To satisfy the requirements of the legislation.

72. 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.

Reason:

To ensure safety.

73. Demolition Works

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

Reason:

To satisfy the requirements of the legislation and Australian Standards.

74. 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.

Reason:

To advise neighbourhood.

75. 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.

Reason:
To ensure safety.

76. Survey Report - Siting of Development within Property Boundaries

A survey report prepared by a registered surveyor is required to be submitted to the Principal Certifier to ensure that the proposed development is located on the correct allotment and at the approved distances from the boundary. This must be verified by pegging the site prior to commencement of works.

Reason:
To ensure correct development location.

77. Temporary Sediment Fences

Temporary sediment fences (eg haybales or geotextile fabric) must be installed on the site, prior to the commencement of any excavation, demolition or construction works in accordance with Council's guidelines. Upon completion of the development, sediment fencing is to remain until the site is grassed or alternatively, a two (2) metre strip of turf is provided along the perimeter of the site, particularly lower boundary areas.

Reason:
To protect neighbourhood amenity.

78. 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.

Reason:
To protect neighbourhood amenity.

79. Erosion controls - Vehicular Entry/Exit Points

The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.

Reason:
To protect neighbourhood amenity.

80. Sediment Control Measures

The developer must ensure that sediment-laden runoff from the site is controlled at all times subsequent to commencement of construction works. Sediment control measures must be maintained at all times and checked for adequacy at the conclusion of each day's work.

Reason:
To protect neighbourhood amenity.

81. 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.

Reason:
To satisfy the requirements of the legislation.

DURING BUILDING WORK

Conditions
<p>82. Level 1 Geotechnical Supervision</p> <p>Due to the sensitivity of the site to changing geotechnical conditions, all work must be undertaken with Level 1 geotechnical supervision as defined in Australian Standard AS 3798 Guidelines for Earthworks for Commercial and Residential Developments.</p> <p><u>Reason:</u> To comply with the Australian Standards.</p>
<p>83. Foundation Inspections</p> <p>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.</p> <p><u>Reason:</u> To ensure all parties are aware of the approved plans and supporting documentation.</p>
<p>84. Restricted Washing of Equipment or Disposal of Materials on any Tree Dripline Area</p> <p>No washing of equipment and or the disposal of building materials such as cement slurry must occur within the drip line of any tree which has been nominated for retention of the site and adjacent property.</p> <p><u>Reason:</u> To ensure all parties are aware of the approved plans and supporting documentation.</p>
<p>85. Treatment of any Tree Damage by a Supervised Arborist</p> <p>Any damage inflicted on a tree during the construction phase which has been nominated for retention shall be treated by an approved arborist at the developer's expense.</p> <p><u>Reason:</u> To ensure all parties are aware of the approved plans and supporting documentation.</p>
<p>86. Provision of Taps/Irrigation System</p> <p>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.</p> <p><u>Reason:</u> To comply with Council's Development Control Plan.</p>
<p>87. Podium Planting</p> <p>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.</p> <p>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.</p> <p>If selected mulch is decorative pebbles/gravel, the maximum gravel pebble size is 10mm diameter.</p> <p><u>Reason:</u> To comply with Council's Development Control Plan.</p>

88. Tree Protection

While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of *AS 4970-2009 Protection of trees on development sites* and any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

Reason:

To protect and retain trees.

89. Responsibility for Changes to Public Infrastructure

While building work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerbs and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).

Reason:

To ensure payment of approved changes to public infrastructure.

90. Survey Report for 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 as well as the maximum height of the building as approved 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).

Where a timber/steel frame supports the floor, the survey shall be undertaken after the piers have been installed and prior to the laying of the bearers/joists and installation of the wall frames for each respective ground floor level of the building.

All levels shall relate to Australian Height Datum.

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

91. Piping of Stormwater to Existing Stormwater Drainage System

Stormwater for the land must be piped to the existing Council Stormwater system.

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

92. 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.

Reason:

To comply with Council's Development Control Plan.

93. Fences

Any new 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.

Reason:

To comply with Council's Development Control Plan.

94. New Information/Unexpected Finds

In the event that demolition and/or construction works cause the generation of odours or the uncovering of previously unidentified contaminants, hazardous materials or acid sulfate soils, works must immediately cease. The Principal Certifier and Council (in the event that Council is not the Principal Certifier) must be notified in writing within two (2) days of the incident. An assessment of the potential contaminant and works required to make the site safe from potential human health and environmental harm must be undertaken by an appropriately qualified environmental consultant as soon as possible. This assessment will necessitate a report to be prepared outlining the required remediation measures for the sign off by Council and the Principal Certifier.

Reason:

To ensure protection of the environment and comply with legislation.

95. 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.

Any request to vary these hours shall be submitted to the **Council** in writing prior to works being undertaken and shall detail:

- 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: Other legislation, such as the Noise Guide for Local Government January 2023, may control the activities for which Council has granted consent, including but not limited to, the *Protection of the Environment Operations Act 1997*.

Reason:

To ensure protection of the environment and neighbourhood amenity. To mitigate adverse amenity impacts in the locality.

96. Site Management

Stockpiles of sand, gravel, soil and the like must be located to ensure that the material:

- a. Does not spill onto the road pavement and
- b. is not placed in drainage lines or watercourses and cannot be washed into these areas.

Reason:

To comply with Council's Development Control Plan.

97. Spillage of Material

Should during construction any waste material or construction material be accidentally or otherwise spilled, tracked or placed on the road or footpath area without the prior approval of Council's Works Division this shall be removed immediately. Evidence that any approval to place material on the road or road reserve shall be available for inspection by Council officers on site at any time.

Reason:

To comply with Council's Development Control Plan.

98. 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.

Reason:

To ensure ongoing protection of the environment and neighbourhood amenity.

99. 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>).

Reason:

To satisfy the requirements of the legislation.

100. 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.

Reason:

To satisfy the requirements of the legislation.

101. 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 14 days of the completion of renovations (or prior to the Occupation Certificate being issued).

Reason:

To satisfy the requirements of the legislation.

102. 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.

Reason:

To satisfy the requirements of the legislation.

103. Installation of WSUD treatment device

The proponent shall install the WSUD infrastructure (water quality improvement devices) as stated in the drainage plan.

Reason:

To comply with Council's Development Control Plan.

104. SEPP Sustainability NCC Section J

Implement all the recommendations made in Section J compliance report prepared by Greenperch Pty Ltd dated September 2023 demonstrating compliance with the relevant requirements outlined in Appendices of the report.

Reason:

To comply with Council's Development Control Plan and SEPP Sustainability 2023.

105. Survey Certificate

The submission of a Survey Certificate to the Principal Certifier at footings and/or formwork stage (whichever occurs first) confirming:

- a. the set out of the boundaries of the site,
- b. actual siting of the buildings and
- c. siting levels comply with the approved plans.

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

106. Supervision of Engineering Works

All engineering works associated with the development are to be carried out under the supervision of a practicing engineer and/or registered surveyor.

Reason:

To ensure compliance with relevant Standards.

107. Cut and Fill Retained

All proposed cut and filling works must be adequately retained with all battered slopes being no steeper than 2H:1V.

Reason:

To ensure ongoing protection of the environment and neighbourhood amenity.

108. Lead Based Paint

To prevent contamination of the soil and human health risks associated with lead dust, safeguards must be used when removing flaking paint or sanding paint surfaces that are suspected to contain lead.

Reason:

To satisfy the requirements of the legislation.

109. 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.

Reason:

To comply with Council's Development Control Plan.

110. Building Site to be Kept Free of Rubbish

The building site must be kept free of rubbish at all times. All refuse capable of being wind-blown must be kept in a suitable waste container.

Reason:

To comply with Council's Development Control Plan.

111. Implementation of BASIX Commitments

While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

Reason:

To satisfy the requirements of the legislation.

112. Mechanical Plants and Exhaust Ventilation system

Outdoor Air Conditioning Units

The outdoor air conditioning units shall have suitable acoustic enclosure to comply.

Reason:

To mitigate adverse amenity impacts in the locality.

113. Ecologically Sustainable Development

Implement all energy efficient – waste – environment and sustainability devices such as:

- a. Water efficient bathroom and kitchen fittings;
- b. All common area toilet flushing systems are at least 4 stars;
- c. All common area taps are at least 4 stars;
- d. Light efficiency measures in the carparks using time clocks and motion sensors;
- e. Electricity sub-metering for significant end uses that will consume more than 10,000 kWh/a;
- f. Water sub-metering for major uses;
- g. Low levels of volatile organic compounds (VOC) paints and floor coverings and low formaldehyde wood products where possible; and

Reason:

To comply with WDCP Chapter A2.

114. Discharge of Accumulated Water

Any water accumulating in excavations on-site or in the settlement ponds shall not be discharged to Council's stormwater system, unless a Section 68 approval issued under the Local Government Act 1993 has been obtained and all the following criteria are met:

- a. The concentration of suspended solids in the water to be discharged does not exceed 50 mg/L; and
- b. The pH of the water to be discharged is between 6.5 and 8.5; and
- c. The water to be discharged contains no visible oil or grease; and
- d. If alum has been used to reduce suspended solids, the concentration of aluminium in the water to be discharged does not exceed 0.055 mg/L; and
- e. The water to be discharged does not contain any substances known to be toxic to aquatic life; and
- f. The flow rate of discharged water does not exceed 55 litres per second in dry weather conditions, or is less than the capacity of the receiving stormwater drain; and
- g. A copy from a NATA accredited laboratory of sample test results for suspended solids and pH (and aluminium if applicable) confirming the water to be discharged meets criteria 1 and 2 (and criteria 4 if applicable) as stated above is submitted to Council (email Council@wollongong.nsw.gov.au, attention Building and Certification Manager).

Alternatively, such waters are to be removed by tanker for disposal at a NSW Environment Protection Authority licensed waste facility.

Reason:

To satisfy the requirements of the legislation.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Conditions

115. Completion of Landscape and Tree Works

Before the issue of an Occupation Certificate, the Principal Certifier must be satisfied that all landscape and tree works, including pruning in accordance with *AS 4373-2007 Pruning of amenity trees* and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.

Reason:

To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).

116. Arborist Verification – Street Tree Installation

Prior to the issue of Occupation Certificate, the developer must supply certification in the form of a report, including photographic evidence, from an AQF Level 5 Arborist to the Principal Certifier and Wollongong City Council to verify:

- a. The tree stock complies with AS 2203:2018 Tree Stock for Landscape Use.
- b. The tree pits have been constructed and the trees installed in accordance with the requirements of the Wollongong City Council City Centre Public Domain Technical Manual and arboricultural best practice.

Reason:

To comply with the Australian Standards.

117. Drainage Certification and WAE

The following information shall be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate:

- a. Certification from a suitably qualified Civil Engineer, stating that all stormwater drainage and related work has been constructed in accordance with the approved Construction Certificate plans and Chapter E14 of the Wollongong DCP2009.
- b. A certificate of Hydraulic Compliance (using Council's M19 form) from a suitably qualified Civil Engineer, confirming that all on-site stormwater detention works have been constructed in accordance with the approved plans.
- c. Full works-as-executed plans, prepared and signed by a Registered Surveyor, including levels and location for all drainage structures and works, buildings (including floor levels), and finished ground and pavement surface levels, and satisfying the requirements stated in Chapter E14 of the Wollongong DCP2009.

Reason:

To comply with Council's Development Control Plan.

118. Restriction on Use - On-Site Detention System (OSD)

The applicant must create a restriction on use under the Conveyancing Act 1919 over the OSD 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 detention system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression ‘on-site 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 registered 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.

Reason:

To comply with Council's Development Control Plan.

119. 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.

Reason:

To comply with the relevant Standards.

120. Positive Covenant - On-Site Detention Maintenance Schedule

A positive covenant shall be created and registered under the Conveyancing Act 1919, requiring the property owner(s) to undertake maintenance in accordance with the Construction Certificate approved On-Site Detention System and Maintenance Schedule (DA-2023/988).

The registered 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.

Reason:

To comply with Council's Development Control Plan.

121. On-Site Detention - Structural Certification

The submission of a certificate from a suitably qualified practising civil and/or structural engineer to the Principal Certifier is required prior to the issue of the Occupation Certificate. This certification is required to verify the structural adequacy of the on-site detention facility and that the facility has been constructed in accordance with the approved Construction Certificate plans.

Reason:

To comply with Council's Development Control Plan.

122. 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 RL 17.74 metres AHD (being the 100yr flood level plus freeboard)

Reason:

To comply with Council's Development Control Plan.

123. Flood Protection Wall 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 final Occupation Certificate and commencement of use. This report is required to verify that the landscape flood protection wall and entry area along the southern and western side of the development (i.e. 'Flood Protection Wall') has been constructed in accordance with the Construction Certificate plans and that there is no potential for ingress of surface water flows into the proposed addition.

Reason:

To comply with legislation

124. Completion report for excavation adjacent to a public road

A report be provided to Wollongong City Council and Principal Certifying Authority, prepared by a qualified Civil Engineer, NPER 3 accreditation with the Institute of Engineers Australia and experienced in structural design that:

- a. Certifies that all proposed retaining structures within the zone of influence of any Council assets including the road pavement, stormwater pipes and pits was constructed in accordance with the approved plans prepared in accordance to RMS Technical direction GTD 2012/001.
- b. Certifies that the monitoring of the site was carried out in accordance with the requirements of RMS Technical direction GTD 2012/001.
- c. Provides a post construction dilapidation survey

Reason:

To protect neighbourhood amenity.

125. Flood Protection Wall Restriction

The applicant must create a restriction on use under the Conveyancing Act 1919 over the flood protection wall. 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 the flood protection wall. The expression ‘flood protection wall’ shall include the feature labelled as a ‘Flood Protection Wall’ on the construction plans for the development.

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 an Occupation Certificate and use of the development.

Reason:

To promote reasonable and orderly development.

126. Flood Affection Certification

The submission of a report from a suitably qualified and experienced civil (hydrology) engineer to the Principal Certifier is required, prior to the issue of the Occupation Certificate and commencement of use. This report is required to certify that the ‘as-constructed’ development will not have any detrimental effects to adjoining properties or upon the subject land with respect to the loss of flood storage, changes in flood levels and alteration of flood conveyance, as a result of flooding or stormwater run-off.

Reason:

To satisfy the requirements of the legislation.

127. In-fill Affordable Housing

The following is required prior to the issue of an Occupation Certificate:

- a. a restriction must be registered, in accordance with the *Conveyancing Act 1919*, section 88E, against the title of the property relating to the development, that provides:
 - i. the affordable housing component comprising 16 must be used for affordable housing, and
 - ii. the affordable housing component must be managed by a registered community housing provider, and
- b. evidence of an agreement with a registered community housing provider for the management of the affordable housing component must be given to the Registrar of Community Housing, including the name of the registered community housing provider, and
- c. evidence that the requirements of paragraphs (a) and (b) have been met must be given to the consent authority.

Reason:
To ensure that statutory requirements are met.

128. Section 73 Certificate

A Section 73 Certificate must be submitted to the Principal Certifier prior to occupation of the development.

Reason:
To satisfy the requirements of the legislation.

129. 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.

Reason:
To satisfy the requirements of the legislation.

130. 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 Occupation Certificate unless satisfied that selected commitments have been complied with as specified in the relevant BASIX Certificate.

NOTE: Clause 44 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 provides for independent verification of compliance in relation to certain BASIX commitments.

Reason:
To satisfy the requirements of the legislation.

131. Compliance with Access Consultant recommendations

An Occupation Certificate must not be issued unless accompanied by an access consultants compliance report showing compliance with all matters raised in Statement of Compliance report Job No. 223062 prepared by Accessible Building Solutions dated 5 December 2023.

Reason:
To satisfy the requirements of the legislation.

132. Fire Safety Certificate

A Fire Safety Certificate must be issued for the building prior to the issue of an Occupation Certificate. As soon as practicable after a Fire Safety Certificate is issued, the owner of the building to which it relates:

- a. Must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades, and
- b. must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

Reason:
To satisfy the requirements of the legislation.

OCCUPATION AND ONGOING USE

Conditions

133. Loading/Unloading Operations/Activities

All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.

Reason:

To comply with legislation and Australian Standards.

134. Affordable Housing Requirements

- a. Documentation is required in the form of a properly executed statutory declaration from a representative of the affordable housing provider who is managing the affordable housing component of the development, to provide periodic verification that the affordable housing component is in fact being used for the purposes of affordable housing. This documentation is required to be provided to Wollongong City Council:
 - o 12 months from the date of issue of the Occupation Certificate; and
 - o 8 years following the date of issue of the Occupation Certificate; and
 - o 15 years following the date of issue of the Occupation Certificate.
- b. The statutory declaration must confirm that a minimum of 16 units are being managed as housing for very low income households, low income households and/or moderate income households. Section 13 of *State Environmental Planning Policy (Housing) 2021*, as amended from time to time, prescribes the parameters which govern whether a household is taken to be a very low income households, low income households or moderate income households and applies for the purpose of satisfying this condition. Reference to the criteria in section 13 of the *State Environmental Planning Policy (Housing) 2021* (or any relevant transferred or replacement provision) must be made in the Statutory Declaration.
- c. During the relevant period, being 15 years from the date of issue of an Occupation Certificate:
 - i. the affordable housing component must be used for affordable housing, and
 - ii. the affordable housing component must be managed by a registered community housing provider, and
 - iii. notice of a change in the registered community housing provider who manages the affordable housing component must be given to the Registrar of Community Housing and the consent authority no later than 3 months after the change, and
 - iv. the registered community housing provider who manages the affordable housing component must apply the Affordable Housing Guidelines.

affordable housing component has the same meaning as in *State Environmental Planning Policy (Housing) 2021*, section 21.

relevant period means a period of 15 years commencing on the day on which an occupation certificate is issued for all parts of the building or buildings to which the development consent relates.

Reason:

To ensure that objects of the legislation are achieved, and statutory requirements are met.