

Central Coast

Local Planning Panel

Central Coast
Local Planning Panel Meeting
Business Paper
23 June 2022



Meeting Notice

**The Local Planning Panel Meeting
of Central Coast
will be held remotely - online,
Thursday 23 June 2022 at 2.00 pm,
for the transaction of the business listed below:**

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Donna Rygate
Chairperson

Item No: 1.1
Title: Disclosures of Interest
Department: Governance

23 June 2022 Local Planning Panel Meeting

Reference: F2020/02502 - D14205789

The NSW Local Planning Panel Code of Conduct states that all panel members must sign a declaration of interest in relation to each matter on the agenda before or at the beginning of each meeting.

Recommendation

That Panel Members now confirm that they have signed a declaration of interest in relation to each matter on the agenda for this meeting and will take any management measures identified.

Item No: 2.1
Title: Confirmation of Minutes of Previous Meeting
Department: Corporate Affairs

Central Coast
Local Planning Panel

23 June 2022 Local Planning Panel Meeting

Reference: F2020/02502 - D15203681

Author: Rachel Callachor, Meeting Support Officer Civic Support

Summary

The Minutes of the following Meetings of the Local Planning Panel, which have been endorsed by the Chair of that meeting, are submitted for noting:

- ***Local Planning Panel Meeting held on 9 June 2022***

Recommendation

That the minutes of the previous Local Planning Panel Meeting held on 9 June 2022 which were endorsed by the Chair of that meeting, are submitted for noting.

Attachments

1   MINUTES - Local Planning Panel - 9 June 2022 D15199769



Local Planning Panel

Minutes of the
Local Planning Panel Meeting
Held Remotely - Online
on 9 June 2022

Panel Members

Chairperson	Jason Perica
Panel Experts	Greg Flynn Stephen Leathley
Community Representative/s	Tony Tuxworth

Central Coast Council Staff Attendance

Dr Alice Howe	Director Environment and Planning
Andrew Roach	Unit Manager Development Assessment
Neil Skeates	Senior Building Surveyor Development Assessment and Certification
Rachel Callachor	Meeting Support Officer

The Chairperson, Jason Perica, declared the meeting open at 2.00pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

The Chair read an acknowledgement of country statement.

Apologies

The Panel noted that no apologies have been received.

1.1 Disclosures of Interest

The Panel noted that declaration forms had been received and no conflicts had been identified.

2.1 Confirmation of Minutes of Previous Meeting

The minutes of the previous Local Planning Panel Meeting held on 26 May 2022 which were endorsed by the Chair of that meeting, were submitted for noting.

Minutes of the Local Planning Panel Meeting 9 June 2022 contd

Public Forum

The following people addressed the Panel:

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place

- 1 Marguerite Grey – against recommendation

Answered questions of the Panel in relation to the proposal:

- 2 Tim Shelley – Director, Tim Shelley Planning
- 3 Kirsten Lisbet Taylor, Ab3d Building Design
- 4 Chris Hajje (owner of the site)

The Local Planning Panel public meeting closed at 2:44pm. The Panel moved into deliberation from 2.53pm, which concluded at 3.24pm.

3.1 DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming Pool & Associated Works including a Lift and Fire Place

Site Inspected	Yes – site orientation via video conference, and individual site visits by some members of the Panel to compliment this.
Relevant Considerations	As per Council assessment report
Material Considered	<ul style="list-style-type: none">• Documentation with application• Council assessment report, including updated assessment of submissions and information provided upon request of the Panel in relation to plans and calculations• 15 Submissions
Council Recommendation	Approval
Panel Decision	1 The Local Planning Panel refuse Development Application DA/63207/2021 - 1 Yumbool Close Forresters Beach - Demolition of Existing Dwelling House down to slab level and demolition of Swimming Pool, New Dwelling on existing slab, Secondary Dwelling, Front Fence, Swimming

Minutes of the Local Planning Panel Meeting 9 June 2022 contd

Pool & Associated Works including a Lift and Fire Place subject to the reasons outlined below and having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

2 That Council advise those who made written submissions of the Panel's decision.

Reasons

- 1 The applicant's written request in accordance with Clause 4.6(3) of Gosford Local Environmental Plan 2014 ("the LEP") has not adequately demonstrated that a non-compliance with the provisions of Cl.4.3 (Height of Buildings development standard) is unnecessary or unreasonable in the circumstances of this case, nor that there are sufficient environmental planning grounds to justify the proposed contravention.
- 2 The Panel is not satisfied, having regard to Cl. 4.6(4) of the LEP, that granting consent would be in the public interest as the proposal is inconsistent with the objectives of the Building Height development standard and inconsistent with the objectives of the R2 Low Density zone.
- 3 The Panel specifically disagrees with observations, arguments or conclusions in the applicant's written request in accordance with Clause 4.6 of the LEP, specifically:
 - a. The proposition that the height limit has been abandoned for the area. There is no evidence before the Panel to support this conclusion. Some examples in the wider appear to be older dwellings and approvals of variations for sites need to be assessed on their own merits.
 - b. The proposition that the proposal is a "better planning outcome" than a building complying with the height standard, as such a compliant proposal would necessarily have a larger footprint. To the contrary, there are areas of excessive parking, undercrofts (over two levels) and inefficient planning/design (including for access) that could readily be utilised for the quantum of habitable floorspace currently contained in the upper (non-complying) level, within the same or similar overall footprint as proposed.

Minutes of the Local Planning Panel Meeting 9 June 2022 contd

- c. The depiction of a 10% variation to the Building Height development standard, as it has no relevance and serves to visually confuse or underestimate the contravention sought.
 - d. The proposition that the proposal is consistent with the objectives of the zone and Building Height Development standard. The Panel is of a contrary opinion.
 - e. The proposition that the proposed height exceedance leads to a high quality urban form. The Panel is of a contrary opinion.
- 4 The proposal is inconsistent with the following objectives of the Building Height development standard:
- (b) to permit building heights that encourage high quality urban form,*
 - (d) to nominate heights that will provide an appropriate transition in built form and land use intensity,*
 - (e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area.*
- 5 The proposal is inconsistent with the following objectives of the R2 Low Density Residential zone:
- To ensure that development is compatible with the desired future character of the zone.
 - To encourage best practice in the design of low-density residential development.
- 6 Both the surrounding predominant form in the area (particularly on the low side of the street) and the desired future character of the area favours a 1-2 storey presentation to the street and a potential additional level to the rear resulting due to land slope. The proposal is antipathetic to this form on a visually prominent site atop a ridge, while the proposal (changed or new) could readily achieve height and form compliance and desirable congruity.
- 7 The proposed non-compliance with the Gosford LEP 2014

Minutes of the Local Planning Panel Meeting 9 June 2022 contd

would constitute an undesirable precedent for future development and threaten the achievement of the strategic planning objectives for the desired future character of the area.

- 8 The development results in unnecessary and reasonable adverse impacts to the streetscape and amenity of the area as a result of non-compliance with the height standard of the LEP, while the excessive parking and the treatment of the ground floor presentation is also contrary to a typical dwelling form in the low density zone and context.
- 9 The proposal has not included areas of Gross Floor Area within the Secondary Dwelling which should be included. The ground floor laundry and storage area (and the internal stair to the level above) should be included in the Secondary Dwelling floor area calculations and this will result in the proposal contravening the non-discretionary standard within Clause 5.4 of the LEP.
- 10 Other areas which should be included in Gross Floor Area calculations appear to have been excluded, making the compliance with the Floor Space Ratio Development standard uncertain, based on the information before the Panel.
- 11 The provisions of an imminent Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018) retains the zoning (with some altered objectives which also do not support the proposal) and the current height standard, and this will continue to help inform the future and desired future character of the area.
- 12 The proposal is inconsistent with various objectives within Part 3.1.1.1, 3.1.2.1, 3.1.2.2, 3.1.3, 3.1.5, 3.1.6 and 3.1.8 of Gosford Development Control Plan 2013.

Votes

The decision was unanimous

Item No: 3.1

Title: DA/47946/2015 -10-16 Painters Lane, Terrigal -
Modification of Consent for Commercial Premises
and Shop Top Housing

Central Coast
Local Planning Panel

Department: Environment and Planning

23 June 2022 Local Planning Panel Meeting

Reference: DA/47946/2015/A - D14970574
Author: Robert Eyre, Principal Development Planner South
Ailsa Prendergast, Section Manager. Development Assessment South
Manager: Andrew Roach, Unit Manager, Development Assessment
Executive: Alice Howe, Director Environment and Planning

Summary

An application has been received for modification of consent for DA/47946/2015 for Commercial Premises and Shop Top Housing on 10-16 Painters Lane, Terrigal. The application has been examined having regard to the matters for consideration detailed in section 4.15 and 4.55 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements with the issues requiring attention and consideration being addressed in the report. The application is recommended for refusal.

The application is required to be referred to the Local Planning Panel due to the number of public submissions in excess of 10. Twenty-two submissions have been received.

Applicant	J Hancock
Owner	D Seraglio
Application No	47946/2015/2
Description of Land	Lot 23 DP 1204364, Lot 2 DP 349187, Lot B DP 347709, Lot 8B DP 412722, Lot C DP347823, No 10-16 Painters Lane, Terrigal
Proposed Development	Modification of consent
Site Area	2212.6m ²
Zoning	B2 Local Centre
Existing Use	Vacant
Employment Generation	No
Estimated Value	\$9,800,000.00

3.1 DA/47946/2015 -10-16 Painters Lane, Terrigal - Modification of Consent for Commercial Premises and Shop Top Housing (contd)

Recommendation

- 1 That the Local Planning Panel refuse consent to DA47946/2015/2 for modification of commercial premises and shop top housing on 10-16 Painters Lane Terrigal for the reasons in the attached schedule and having regard to the matters for consideration detailed in Section 4.15 and 4.55 of the Environmental Planning and Assessment Act 1979.**
- 2 That Council advise those who made written submissions of the Panel's decision.**

Key Issues

- Whether the proposed modification is substantially the same development.
- Floor space ratio
- Building bulk and scale
- View/visual impact
- Issues raised in public submissions

Precis:

Proposed Development	Commercial premises and shop top housing
Permissibility and Zoning	Permissible with consent under B2 zone
Relevant Legislation	<ul style="list-style-type: none">• <i>Environmental Planning & Assessment Act 1979 – Sections 4.15 and 4.55</i>• <i>Local Government Act 1993 – Section 89</i>• <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>• <i>State Environmental Planning Policy (Coastal Management) 2018</i>• <i>Gosford Local Environmental Plan 2014</i>• <i>Gosford Development Control Plan 2013</i>• <i>State Environmental Planning Policy (SEPP) No 65 - Design Quality of Residential Apartment Development</i>
Current Use	Vacant
Integrated Development	No
Submissions	Twenty-two (22)

Variations to Policies

Clause 4.3 and 4.4	Height of Building and Floor Space Ratio
Standard	RL 23.6m and 2.3:1
LEP/DCP	Gosford Local Environmental Plan 2014
Departure basis	Nil to 2.42m or 10.2% (Lift Overrun)

The Site and Surrounding Development

3.1 DA/47946/2015 -10-16 Painters Lane, Terrigal - Modification of Consent for Commercial Premises and Shop Top Housing (contd)

The site is located on the south-eastern side of Painters Lane and adjoins other holdings that together comprise the "Rapedo" site, which is the subject of a previous masterplan. The larger Rapedo holdings have an area of approximately 7,658m², and contain a number of separate development sites with frontage to Painters Lane and Campbell Street, Terrigal along with lesser frontages to Terrigal Esplanade.

The development area, subject of this application, is identified as Buildings 3 & 4 (refer to Figure 1), which have a frontage of 53.04m to Painters Lane, and a combined area of 2,212.6m².



The site has frontage to Painters Lane with access to Campbell Crescent via a right of way over the adjoining sites which form part of the wider Rapedo development.

The site falls from about RL 16 at Painters Lane to about RL 6.5 at the rear boundary with the right of way.

Adjoining the development site to the north-east is (Figures 2 and 3):



Figure 3- Aerial Photo

History

Zoning history

Until 2002, the entirety of the Rapedo site, including the land the subject of this application, was zoned to permit residential flat buildings and other development to a maximum height of 10m, with design requirements under the [then] *Gosford Development Control Plan No. 100*. These statutory controls extended across much of the area surrounding Terrigal Central Business District and examples of development approved under these controls include the 'Star of the Sea' residential resort complex.

In 2000-2001, the whole of the Rapedo Site was subject of detailed urban design investigations culminating, initially, in the gazettal of *Local Environmental Plan Amendment No. 489* in 2002. That LEP amendment introduced a site specific maximum height control of 23.6m AHD and a floor space ratio (FSR) of 2.3:1.

By its gazettal, *Gosford Local Environmental Plan 2014 (GLEP 2014)* zoned the whole of the Rapedo land B2 – Local Centre. The site retains its FSR (2.3:1) and height (23.6m AHD) controls for the whole of the Rapedo Lands under *GLEP 2014*.

3.1 DA/47946/2015 -10-16 Painters Lane, Terrigal - Modification of Consent for Commercial Premises and Shop Top Housing (contd)

Development approvals

There have been multiple development schemes over the years for the larger Rapedo site.

The current approach to developing the site is for separate development applications for separate development sites, which are primarily residential, with retail/commercial along Terrigal Esplanade and the ground floor of the Campbell Crescent frontage:

- Approvals have been issued for two residential flat buildings fronting Campbell Crescent, with ground floor retail space. These developments have been completed and are each six storeys with a vehicular driveway in between the buildings providing access to car parking and waste collection for a number of buildings on the site.
- A three storey serviced apartment development with two units has been approved on No. 18 Painters Lane.
- At 100–102 Terrigal Esplanade, a three storey development with retail/commercial and a top floor residential apartment has been constructed.

Previous development applications over the subject land are set out below:

DA47946/2015 (Approved on 17 December 2015)

The approved development was for a mixed use development with 31 shop top housing units above a 145.7m² commercial office space (Figures 4 and 6). The approved development consists of two separate buildings located over combined lower levels containing car parking and the commercial premises. The development presents as two storeys to Painters Lane and there is an additional residential level below that which is located partly below the street level. There are two parking levels below that, which are oriented to the south-west and Campbell Crescent. The elevation to the south-east, toward Campbell Crescent is five storeys. Vehicular access is provided from Campbell Crescent via an access driveway and parking is provided for 61 cars, including 10 stacked spaces (5 x 2 spaces).

The shop top units are located on levels above the commercial space, with entry provided from Painters Lane. The approved proposal consists of 14 units in Building 3 and 17 units in Building 4, comprising 1 x 4 bedroom unit, 2 x 2 bedroom + study units, 19 x 2 bedroom units and 9 x 1 bedroom units.

Buildings 3 and 4 have an internal separation of 6.5m and the buildings maintain the same setbacks at each level.

The Proposed Development (Modification to Approved DA/47946/2015)

The original application lodged and exhibited proposed a reduction in building setbacks as well as the reduction in separation of the buildings and the addition of a lift between Building 3 and Building 4.

Upon preliminary review, Council advised that the proposed modification to the development was unlikely to be supported.

The applicant amended the plans to retain or increase the building setbacks but not the separation between them. The amended plans were not advertised as the amendments were considered to be relatively minor, made an improvement to the overall design and addressed some of the issues raised in public submissions.

The proposed modifications, for consideration, include (Figures 5 and 7):

- a reduction of residential units from 31 to 23
- relocation of four residential units to the ground floor level
- increasing excavation and providing parking spaces in an additional basement level
- increasing commercial office space for adaption to the demands of the 'work from home' executive
- changes to architectural features including a glass framed lift well from Level 1 to roof top, improved articulation and building elevations

The assessment is based on the amended plans in Attachment 1.

A set of approved and proposed comparison plans are included in Attachment 2.



Figure 4 – Approved Elevation Painters Lane

3.1 DA/47946/2015 -10-16 Painters Lane, Terrigal - Modification of Consent for Commercial Premises and Shop Top Housing (contd)



Figure 5 - Proposed Elevation Painters Lane



Figure 6 - Approved Eastern Elevation



Figure 7 - Proposed Eastern Elevation

ASSESSMENT

Having regard for the matters for consideration detailed in Section 4.15 and Section 4.55 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, the assessment has identified the following key issues.

Section 4.55(2) Assessment Considerations

The proposal is required to be assessed having regard to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, which enables a consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with—*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Therefore, Council's assessment of the application to modify the subject development consent must consider the following issues:

1. Is the proposed development as modified substantially the same development approved by Council?
2. Consultation with other authorities.
3. Responses to notification of proposed modification in accordance with relevant policies.
4. Consideration of relevant matters under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*.

Each of these matters is dealt with separately below.

CONSIDERATION 1 - Is the proposed development as modified substantially the same development approved by Council?

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* provides that a consent authority may, on application being made by the applicant, modify a development consent if it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted.

The Land and Environment Court (LEC) consistently describes Section 4.55 (formerly Section 96) of the *Environmental Planning and Assessment Act 1979* modification provision as "*beneficial and facultative*". It is designed to assist the modification process rather than to act as an impediment to it:

'It is to be construed and applied in a way that is favourable to those who seek to benefit from the provision' (North Sydney Council v Michael Standley & Associates Pty Limited [1998]).

Therefore, the modification power is there for a reason, namely, to avoid the full development application process that is always otherwise available.

Nevertheless, there are legal tests that need to be satisfied before a modification application can be considered on its merits. Firstly, a proposal can only be regarded as a modification if it involves '*alteration without radical transformation*' (Sydney City Council v Ilenace Pty Ltd [1984]). If the proposed changes results in a '*radical transformation*', they will need to be dealt with as a new development application, rather than a modification application. The term '*radical transformation*' is a very broad term, leaving much scope to change a development consent via Section 4.55.

Secondly, the consent authority must also be '*satisfied*' that the modified development will be '*substantially the same development*' as authorised by the original development consent. A threshold exercise requirement that the consent authority be satisfied as to a subjective matter before it proceeds further with its merit assessment is to compare the proposed modified development against the development as it was originally approved.

In addition, the environmental impacts of the proposed modification are relevant to the legal question of whether it is '*substantially the same development*'. This means it is possible for some issues that might be characterised as '*merit*' issues, to also arise in addressing the '*substantially the same*' test.

In the case *Moto Projects (No 2) Pty Ltd v North Sydney Council* 1999, the LEC said that any comparison exercise cannot be undertaken in a sterile vacuum. Rather, the comparison involves consideration of quantitative and qualitative elements of the development. These

elements must be considered in their proper contexts – which include the circumstances in which the development consent was granted (i.e. all of the changes to the consent should be considered, not just changes to plans.)

The task of comparing the modified and originally approved development involves more than a comparison of the physical features or components of the development as currently approved and modified. The comparison will need to involve both *'an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)'* (Moto Projects (No.2) Pty Ltd v North Sydney Council [1999] NSWLEC 280; 106 LGERA 298 at [56]).

Chief Justice Preston reiterated the statutory approach, with reference to relevant sections of the *Environmental Planning & Assessment Act 1979* in *Arrage v Inner West Council* [2019] NSWLEC 85 at paragraphs [24-28]. Those paragraphs are outlined below:

24. *'First, the essential elements to be identified are not of the development consent itself, but of the development that is the subject of that development consent. The comparison required by s 4.55(2) is between two developments: the development as modified and the development as originally approved: see Scrap Realty Pty Ltd v Botany Bay City Council (2008) 166 LGERA 342; [2008] NSWLEC 333 at [16].*
25. *Second, the essential elements are not to be identified "from the circumstances of the grant of the development consent"; they are to be derived from the originally approved and the modified developments. It is the features or components of the originally approved and modified developments that are to be compared in order to assess whether the modified development is substantially the same as the originally approved development.*
26. *The choice of language in the judicial decisions of "material and essential features" or a "material and essential physical element" of the development (see, for example, Moto Projects at [58], [59] and [64]) derives from judicial interpretations of the statutory test that the modified development be "substantially the same" development as the originally approved development. In Vacik Pty Ltd v Penrith City Council [1992] NSWLEC 8, p 2 Stein J interpreted the word "substantially" in the former s 102(1)(a) of the EPA Act to mean "essentially or materially or having the same essence". That interpretation of the word "substantially" was accepted in North Sydney Council v Michael Standley & Associates Pty Ltd (1998) 43 NSWLR 468 at 475 by Mason P (with whom Sheppard AJA agreed at 403) and at 481-482 by Stein JA and in Moto Projects by Bignold J at [30] and [55].*

27. *This interpretation of the statutory test that the modified development be substantially the same development as the originally approved development, that the modified development be "essentially or materially" the same or "having the same essence" as the originally approved development could support an inquiry to identify the material and essential features of the originally approved and modified developments in order to undertake the comparative exercise required, but it does not demand such an inquiry.*
28. *That is one way, probably in most cases the most instructive way, to identify whether the modified development is substantially the same development as the originally approved development, but it is not the only way to ascertain whether the modified development is substantially (in the sense of essentially or materially) the same development as the originally approved development. For example, comparison could be made of the consequences, such as the environmental impacts, of carrying out the modified development compared to the originally approved development: see Moto Projects at [62] and Tipalea Watson Pty Ltd v Ku-ring-gai Council (2003) 129 LGERA 351; [2003] NSWLEC 253 at [17].*

A qualitative and quantitative analysis between the development as originally consented to and the proposed modification is required, and the modification must render the altered development 'essentially' or 'materially' the same.

Having regard for paragraphs 24 and 25 above, the proposed modifications to the development as originally approved and proposed are as follows (refer to Attachment 2 for comparison of the approved and proposed plans):

Development	Approved	Proposed Modification	Difference
Site Area	2053.7m ²	2212.6m ²	158.9m ²
No. of Units	31	23	-8
Unit Types	9X1 bedroom 11X2 bedroom 11X3 bedroom	3X1 bedroom 4X2 bedroom 10X3 bedroom 4X4 bedroom 2X5 bedroom	-6 -7 -1 +4 +2
Commercial Area	129.9m ²	280.7m ²	+150.8m ²

3.1

DA/47946/2015 -10-16 Painters Lane, Terrigal - Modification of Consent for Commercial Premises and Shop Top Housing (contd)

Development	Approved	Proposed Modification	Difference
GFA	2757.9m ²	4626.2m ² (includes 687.5m ² excess car parking.	+1868.3m ²
Building Height-Roof	RL23.6	RL23.6	Nil
Building Height Lift overrun	RL 26.0m	RL 26.02m	+0.02m
Number of storeys	5	5	Nil
Floor Space Ratio	1.34:1	1.78:1 (2.09:1 Including excess car parking)	+0.75:1
Landscape Area		452.6m ² (20.4%)	
Deep Soil planting		171.6m ² (7.75%)	

In addition to the amendments set out in the table above, every floor of the approved development design is proposed to be modified as part of the current application. A summary of the amendments for each level of the development, is listed in the table below page (refer to Attachment 2 for the comparison plans).

Level	Approved	Proposed
Basement	No Basement	22 car spaces
Lower Ground Level	29 car spaces No car lift 129.9sqm office 1 lobby Lift for each separated building 1 Vehicular Access	26 car spaces Car lift 202sqm office space (including fit out) 2 Lobby areas Relocation of 1 passenger lift to the central location Two vehicular accesses
Ground floor	32 car spaces No units No balconies	12 car spaces 4 units Balcony design changes Façade changes in materials and design
Level 1	9 units	8 units Relocation of services Redesign of whole floor in term so cross ventilation, access, privacy Walkways and central lift Façade changes in materials and design
Level 2	11 units Lift located in each separate block.	6 units Balcony redesign, Façade changes in materials and design

Level	Approved	Proposed
Level 3	11 units	5 units Balcony redesign, Façade changes in materials and design
Roof level	Roof top terrace	No terrace

The modification proposes to reduce the number of units (from 31 to 23) which reduces the car parking requirements. However, the proposal aims to reduce parking by one space (from 61 spaces to 60), and alter the design from one vehicular entry to two. It could be argued that the additional parking and amendment to vehicular access points is beneficial to the design overall, but in the context of determining whether the proposed development is substantially the same. This amendment only emphasises that the design amendment results in significant modifications - highlighting that the proposal is not substantial the same development.

In conjunction with the increase the commercial floor space, the additional basement level, the reduction in the building separation and the lift tower and walkways all add to the bulk and scale of the proposed development. Although there is no change in overall height, there is a change in the visual bulk and building footprint.

The change in design to now block the 'view corridor' between the two buildings (with a lift and pedestrian walkways) is a significant change to the design and goes against the approved plans to keep this corridor open. This corridor was highlighted in the original approval in both the separation distance of 6.5m and also under the view assessment as important aspect of the original design (refer page 9 of original assessment report, at Attachment 5). The installation of a lift tower does not itself result in a significant impacts itself, but it is the design of the lift tower represents a significant change in the design.

The reconfiguration of the development increases FSR, while reducing unit numbers. Gross Floor Area (GFA) is significantly increased (by more than 1,868m²).

The cumulative changes to the original approved development are considered to result in a substantially different development to that which was originally approved and are considered to alter the essential elements of the originally approved development.

The consequences of carrying out the modified development, compared to the originally approved development, will be noticeable, particularly in relation to the overall scale, the reduction in setbacks and the lift tower between the buildings, resulting in loss of the 'view corridor' between the buildings that was a key design feature.

It is considered that the bulk and scale of the development as perceived from surrounding viewpoints from both public and private property will significantly and materially change

under the proposed modifications. The scale and external appearance of the proposal are different that originally approved.

As a result, it is considered the proposed modification is not substantially the same development, as the proposed changes have additional impacts on adjoining developments and the locality due to increase in bulk and scale and FSR.

A quantitative and qualitative assessment of the proposed modification concludes that the proposal is not substantially the same development.

CONSIDERATION 2 - Consultation with other authorities.

No consultation was required with other authorities.

CONSIDERATION 3 - Notification of proposed modification.

The proposed modification was notified and 22 public submissions were received. The issues raised have been are considered (refer to the Public Submissions section later in this report).

CONSIDERATION 4 - relevant matters under section 4.15(1) of the EP&A Act 1979

Section 4.55 (3) reads:

'In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.'

Section 4.55(3) requires the consent authority to consider matters referred to in Section 4.15(1) as are relevant to the application for modification of the development consent. The modification has been assessed against the matters for consideration under Section 4.15 of the Act and found to be unsatisfactory with regard to impacts including, visual impacts and bulk and scale impacts and compliance with planning controls. These are discussed further in the report. Additionally, consideration must be given to the reasons for the granting of the original approval.

Although there were no formally specified reasons for the granting of the original consent, a review of the report for the originally approved application has been undertaken and the conclusion and findings of that original assessment have been taken into consideration as part of the assessment of the subject application.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application is supported by an amended BASIX certificate which confirms the proposal will meet the NSW Government's requirements for sustainability, if built in accordance with the commitments in the certificate.

The proposal is considered to be consistent with the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

State Environmental Planning Policy (Resilience & Hazards) 2021

The subject land is located within the 'coastal environment area' and 'coastal use area' as identified in the *NSW Coastal Management Act 2016*.

As such, the provisions of Chapter 2 of *State Environmental Planning Policy (Resilience & Hazards) 2021* requires Council to consider the matters set out in Section 2.10 of the SEPP (with regard to development in the coastal environment area) and Section 2.11 of the SEPP (with regard to development in the coastal use area)

The relevant matters have been considered in the assessment of this application. The application is considered consistent with the stated aims and objectives.

The original application was assessed under the provisions of the former *State Environmental Planning Policy No. 71 – Coastal Protection* (SEPP 71). The proposed amendments do not alter the assessment of the application against the relevant provisions of the former SEPP or raise any additional issues.

State Environmental Planning Policy (SEPP) No 65 - Design Quality of Residential Apartment Development

This policy applies as the building is a residential flat building more than three storeys in height. The application has been considered by Council's architect with the following key points noted:

The amended application proposes the following:

- Increase in the site area from 2057m² to 2212m² achieved by moving the laneway boundary further to the south west.
- An additional basement carpark level for 22 cars accessed by a car lift.
- Enlarging units and reducing unit numbers from 31 to 23, increasing the building footprint on the south and increasing FSR from 1.34:1 to 2.09:1.
- Addition of pedestrian bridges on the first, third and roof levels between the two buildings and the addition of a central lift between the buildings.

Context and Neighbourhood Character

The approved application provided a 6.5m-wide gap between the buildings to provide a view corridor from Painters Lane and to disguise the bulk and scale of the development.

The addition of a lift, connecting walkways and enlargement of balconies on levels 1 and 2 have eliminated this view corridor and increased bulk and scale and the amended application is now considered inconsistent with the desired character and the approved application.

Built Form and Scale

Proposed side setbacks are approximately 3m, which is 50% non-complying with the Apartment Design Guidelines (ADG), but consistent with the approved application and therefore considered acceptable.

The south western boundary has been moved further south towards the adjoining site. This has reduced the proposed building separation has been increased to approximately 9metres with landscaped screening added to improve privacy and outlook and is now considered acceptable.

An external lift and pedestrian bridges are now proposed within the 6m gap between the two buildings. This originally provided a view corridor between the buildings and disguised the visual scale. The proposed bridges and lift obstruct any views between the buildings and add visual bulk and scale and are not supported.

Density

Has been increased from 1.34:1 to 2.09:1. Though this complies, when combined with the loss of the view corridor and other detrimental impacts on adjoining sites, it indicates the application is an overdevelopment of the site.

Sustainability

BASIX certificate supplied indicating compliance with minimum sustainability requirements.

Landscape

The landscaping between public and private spaces on level one is located on the slab and is unlikely to achieve the size necessary to provide screening or disguise the bulk and scale resulting from increased building footprint, FSR and the removal of the view corridor.

Amenity

Inadequate building separation results in visual and acoustic privacy conflicts between adjoining sites and between units within the site.

Safety

Acceptable. Upper level units have windows and balconies overlooking the entry and street to increase surveillance of public areas.

Housing Diversity and Social Interaction

The application provides a mix of one, two, three and four bedroom units and adaptable units for different needs of occupants.

Aesthetics

Acceptable subject to addressing issues raised under Built Form and Scale. The stepped profile recessed and articulated facade and variations in material and colours attempt to break up and disguise the scale resulting from non-compliance but are not an adequate response to this problem.

Conclusion & Recommendation from Council's architect

The addition of the external lift and walkways within the former through site link is a major change to the approved application. It results in significant loss of amenity for adjoining sites, adds to bulk and scale and is inconsistent with the desired character.

The increase in FSR and built area could only be considered if the external lift and walkways are removed and the approved through site link is fully restored.

Detrimental impacts resulting from non-compliance are not supported. The application should comply with approved setbacks on all boundaries.

The amended application is not supported.

Gosford Local Environmental Plan 2014 - Permissibility

The subject site is zoned *B2 Local Centre* under the provisions of *GLEP 2014*.

The proposed development is defined as '*commercial premises*' and '*shop top housing*'.

The proposed development is permitted with development consent.

Gosford Local Environmental Plan 2014 - Zone Objectives

The objectives of the B2 Local Centre zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide for residential uses, but only as part of a mixed use development.*
- *To ensure that development is compatible with the desired future character of the zone.*
- *To promote ecologically, socially and economically sustainable development.*
- *To ensure that the town centres of Erina and Woy Woy are recognised as providing a higher level, and greater diversity, of services and facilities to serve a wide population catchment from numerous localities and as key public transport nodes, secondary to Gosford City Centre.*
- *To ensure that village centres such as Avoca, East Gosford, Ettalong Beach, Kincumber, Lisarow, Niagara Park, Terrigal, Umina Beach, West Gosford and Wyoming are recognised as providing a broad range of services and facilities to serve the population of the locality.*
- *To ensure that villages are recognised as providing local level services and facilities and are developed at a scale that reflects their population catchment and as a focus for public transport routes.*
- *To ensure that the different roles of villages are recognised with some villages being key tourist destinations with boutique activities in addition to serving the needs of local residents, while other villages are purpose-built centres to serve the needs of the local population.*
- *To encourage the residential population of villages and town centres to contribute to the vitality of those locations.*

The proposed modified development is incompatible with the desired future character of the zone in this location proposed modifications which result in addition bulk and impacts on the approved open corridor between the buildings.

The modified scale and external appearance of the proposal is not respectful of future expected development on surrounding land, particularly land that is upslope of the subject site. The proposed modification to close in the open corridor between the buildings results in additional bulk and impacts negatively to the external appearance of the proposal.

Gosford Local Environmental Plan 2014 – Development Standards

The following table provides an analysis against the development standards (Height of Buildings and Floor Space Ratio) as set out in GLEP 2014.

Development Standard	Required	Approved	Proposed	Variation to development standard	Compliance with Objectives
Clause 4.3 Height	RL 23.6m	Roof-RL 23.6m (Lift overrun RL 26.0m)	Roof-RL23.6m (Lift Overrun RL24.7m and 26.02m)	Yes	Yes
Clause 4.4 FSR	2..3:1	1.34:1	2.09:1	Yes	Yes

Height

The current approved building height is 23.6m with lift overrun to RL 26.0m. This was a variation to the development standard of up to 2.4m or 10.1%. The current application to modify the approved development results in an increase in height of 0.02m to the lift overrun. The lift overruns coverage is approximately 0.5% only of the site area.

The increase in height to the approved development is minor or negligible.

In considering the additional building height, there is established case law that a variation to development standards is not required for a modification under Section 4.55. (NSW Court of Appeal *North Sydney Council v Michael Standley & Associates Pty Ltd* (1998), and the Land and Environment Court *Gann v Sutherland Shire Council* (2008)). However, Council is still required to undertake an assessment of the variation and its impact under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

In this case:

- The proposed increase in height results in no increase in overshadowing; and
- The increase in height and the lift overruns is only over a total area of about 12.1m² towards the centre of the roof area has no increase in shadow impact on the adjoining sites.

It is noted that although the height does, in itself, not cause any impacts, the design of the lift tower is not supported.

Floor Space Ratio

In considering the additional Floor Space Ratio (FSR), as discussed above there is established case law that a variation to development standards is not required for a modification under

Section 4.55. However, Council is still required to undertake an assessment of the variation and its impact under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The proposal results in a significant increase in floor space and FSR due to the additional levels and increase in car parking. The increase in FSR, reduction in distance between Building 3 and Building 4 and the addition of the lift /connection between the two buildings add to the bulk and scale of the proposed building particularly when viewed from Painters Lane and Campbell Crescent.

Draft Central Coast Local Environmental Plan 2018

Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018) was adopted by Council at its meeting of 14 December 2020. Gazettal is anticipated in mid-2022, and has been considered during the assessment of the application.

Draft CCLEP 2018 does not propose a change to the zoning of the site or significant change to other relevant statutory matters.

Gosford Development Control Plan 2013

Chapters 2 and 4.3 and the environmental and parking controls under GDGP 2013 are relevant to the application.

The land is located in the 'Mainstreet Centre' character area, which encourages on going mixed use, including accommodation for residents and visitors, with high levels of street activity and improved standards of amenity and design.

The location of the site is on the fringe of the commercial area, at an interface with residential areas, and is not a primary 'mainstreet' location.

The proposed modification is not consistent with the desired character as:

- The lift tower and walkways result in an intrusive building form that impacts adversely on the *views that are enjoyed from surrounding hillside dwellings* and on the *informal scenic qualities of the foreshore setting*.
- The building form does not step the top level back from all site boundaries in accordance with that required in the DCP.
- The modified development is not sensitive to the topographic or scenic context, does not respect visual amenity nor maintain the pedestrian friendly scale of existing one and two storey shop front developments being visible as a backdrop.

Gosford Development Control Plan Chapter 4.3 – Terrigal Village Centre

GDCP 2013 Chapter 4.3 has the following objectives:

- *Ensure that future buildings neither dominate this coastal setting nor intrude unreasonably onto coastal and ocean views that are available from surrounding residential hillsides, and*
- *Promote the highest standards of urban and architectural design quality.*

The proposal does not meet the intent of these objectives in that design modifications intrude upon the views from surrounding properties and do not contribute to a high standard of design suitable for the scenic qualities of a foreshore setting.

Clause 4.3.4.3 (Controls – Desired character of buildings)

This clause states development should:

Provide a backdrop that is appropriate to the scenic quality of this coastal setting

- Limit overall height to maintain existing street-level amenity and to prevent unreasonable obstruction of coastal and ocean views that are available from surrounding residential hillsides*
- Vary the profile and silhouette of buildings within a framework set by height and building envelope controls*

The proposal does not satisfy the above controls as the design modifications and floor area obstructs views that are available from surrounding properties and the proposal does not conform to the framework set by the FSR and building envelope controls.

Side Setbacks

The approved development approved a variation to the side setbacks under the DCP. A 4m setback is required at lower levels to residential development, stepping in at upper levels. The approved north-eastern side setback from Building 3 is 3.1m, the rear setback is 6m (which complies) and the south-west side setback from Building 4 is 3m. There is a setback of 6.5m between Buildings 3 and 4. The proposed side setbacks were considered acceptable given the orientation of the units and the treatment of the interface of buildings to the side boundaries.

The proposed modification generally retains or increases the boundary setbacks. The proposed modification reduces the building separation between Buildings 3 and 4 from 6.5m to 6m and adds a lift which impacts the bulk and scale of the proposed development. This is not supported.

Public Submissions

Contributions

The land is subject to contribution plan for Terrigal. The modifications would require an update to the contributions specified in condition 2.2 applicable for open space, footpaths, town centre improvements and stormwater and flood mitigation.

Internal Consultation

The following internal consultations have been undertaken:

Traffic Engineer	Supported without conditions.
Development Engineer	Supported subject to amended conditions 1.1 and 2.10. See comments below.
Architect	Not supported. See SEPP 65 comments.
Waste Services	Supported subject to conditions.
Water and Sewer	Supported subject to conditions

Development Engineer

Road works

The existing development consent requires the construction of road works, footway formation and concrete footpath within Painters Lane. The proposed Section 4.55 amendment does not alter these existing development consent requirements.

Access

The existing development approval is accessed from Campbell Crescent via existing right of access arrangements over SP98141 (7 Painters Lane) and SP97511 (5 Painters Lane). This arrangement will remain unaltered with the proposed Section 4.55 modification.

Within the development site, access and parking arrangements are being modified to now propose the following:

- Ground Floor
This level is accessed from the proposed eastern ramp arrangement adjoining the existing right of access. This level accommodates 12 car parking spaces including four accessible spaces.
- Lower Ground Floor
This level is accessed directly off the existing right of access near the southern area of the site. A modified 'lower ground floor' level with access at the southern end of the site accommodating 26 car parking spaces including two accessible spaces is proposed together with a car lift within the level of car parking for access to the basement level. An

access ramp is proposed from the right of access arrangements at the eastern end of the site to provide access to the ground floor level. The residential waste bin storage room is retained on the Lower Ground Floor level.

- Basement Level:
Addition of a basement car parking level which will involve additional bulk excavation works to provide 22 car parking spaces together with secure tenant storage and plant room, lifts and bicycle parking. This level will be accessed via a car lift from the Lower Ground Floor Level.

The proposed access and parking modifications appear to generally comply with *AS2890 - Parking Facilities*.

Waste

The application indicates waste collection is to be undertaken by garbage trucks (9.8m in length), with separate collection areas located within the right of way, adjacent to the respective car park access driveways. Although this truck size is less than the standard 12.5m heavy rigid vehicle (HRV) to be designed for waste servicing, this arrangement appears to be consistent with the existing development consent which allowed the 9.8m vehicle in this instance.

Traffic

A 'Traffic and Parking Assessment Report' prepared by Varga Traffic Planning Pty Ltd (Ref 21481 dated 6 September 2021) was submitted with the application. This traffic assessment report indicates:

- The proposed modifications would result in a reduction in traffic generation of 1.3 peak hour trips compared to the existing development consent.
- The access and parking arrangements have been designed to comply with the relevant requirements specified in the *Standards Australia publication Parking Facilities Part 1 - Off-Street Car Parking AS2890.1:2004* and *Parking Facilities Part 6 - Off-Street Parking for People with Disabilities AS2890.6* in respect of ramp grades & transitions, driveway & aisle widths, parking bay dimensions and overhead clearances.
- The vehicular access arrangements have been designed to accommodate the swept turning path requirements of the B99 design vehicle as specified in *AS2890.1:2004 - Parking Facilities – Off Street Car Parking*, allowing them to enter and exit the car lift without difficulty, and to enter and exit the site in a forward direction at all times.

Flooding

Council's records do not indicate the site as being affected by flooding.

Drainage

The water management of the development associated with the existing development consent was based on the Water Cycle Management Report prepared by SRB Consulting Civil Engineers (Project No 21518b Issue 1 dated May 2015) as reflected in parts 'b', 'c', & 'd' of condition 2.10 of the development consent. As supporting documentation for this Section 4.55 application, a Water Cycle Management Plan prepared by SRB Consulting Civil Engineers (Project 21316 Issue 2 dated August 2013) together with plans prepared by SRB Consulting Civil Engineers (Project No 21316, Sheets 1, 2, & 3, all Issue B dated 6 August 2013) were lodged, however, these details are associated with DA/43874/2013 and DA/44795/2013 for an adjoining (completed) developments on 3-5 and 7-9 Campbell Crescent Terrigal and were not relevant to the subject DA (DA/47946/2015) for the purposes of internal water cycle management requirements within this site.

In response to Council's request for additional information, a revised Water Cycle Management Plan prepared by CUBO Consulting (Ref: 21120_WCMP_1.0 dated 7 December 2021) was submitted to address the water cycle management controls related to on-site detention, stormwater pollution controls and retention requirements for the altered development design. In this regard the revised measures propose a combination of 3,000L rainwater tank, a 52m³ retention tank, and 10 'Ocean Protect Storm Filters (or similar)'. This revised WCMP is acceptable for the purposes of the Section 4.55 assessment.

It is recommended that parts 'b', 'c', & 'd' of Condition 2.10 are revised to reflect the reference of the Water Cycle Management Plan prepared by CUBO Consulting (Ref: 21120_WCMP_1.0 dated 7 December 2021).

Ecologically Sustainable Principles

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles; however, the proposal is not supported on other grounds.

Other Matters for Consideration

View Impact Assessment

The original application was supported by a Visual Impact Assessment, which addresses view impacts from the public domain and in relation to surrounding private properties.

The proposed modification reduces the distance between Buildings 3 and 4 and with the addition of a lift significantly adds to the bulk and scale and reduces views through the site from opposite sites. The previous visual impact assessment submitted with the original application has not been updated to take into account the lift tower. An amended visual assessment was not requested due to the concerns raised at lodgement of the modification with the lift tower. As the lift tower design was not altered in the amended plans and as it was not supported from the beginning an additional visual impact assessment was not requested. The lift tower and walkways will result in blocking the open corridor but due to the location of the development there are limited views to water so it is not a specific view loss impact but rather the openness that the corridor provided.

Likely Impacts of the Development:

Acid Sulfate Soils

This land has been identified as being affected by the Acid Sulfate Soils Map (Class 5) and the matters contained in Clause 7.1 of GLEP 2014 have been considered.

Climate Change and Sea Level Rise

Climate change and sea level rise have been considered in the assessment of this application, and refusal of this application is not warranted on these grounds.

The Public Interest:

The application is considered contrary to the local and community interest, as detailed throughout this report.

Conclusion

This application has been assessed against the heads of consideration of Section 4.15 of the *Environmental Planning and Assessment Act 1979* and all relevant instruments and policies. The increase in FSR, reduction in separation between Buildings 3 and 4, and addition of a lift between the buildings impacts the bulk and scale of the proposal. The proposed modification is not substantially the same development.






Accordingly, the application is recommended for refusal pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

3.1 DA/47946/2015 -10-16 Painters Lane, Terrigal - Modification of Consent for Commercial Premises and Shop Top Housing (contd)

Reasons for Refusal

- 1 The proposed modification is not substantially the same development for which consent was originally granted.
- 2 The proposed modification results in additional unreasonable impacts as a result of additional floor space and reduction in distance between buildings as required under SEPP 65 and Apartment Design Guidelines.
- 3 The proposed modification has not suitably responded to the concerns raised in public submissions and is not in the public interest.

Attachments

 1 PTI Plans_PAN-147069	D15158873
 2 220510_Comparison Set_PAN-147069	D15158874
 3 SEE__DA47946_2015_S4.55_2_Revised 020522_10_16 Painters Lane, Terrigal_PAN-147069	D15147518
 4 PUBLIC SEPP 65 Design verification Statement 16 Painters Lane TERRIGAL DA/47946/2015/2	D14855448
 5 GOV.177 DA47946/2015 Applicant: SJH Planning & Design Proposed Shop Top Housing (31 Units) & Office (Buildings 3 & 4) on Various Lots, No 10 - 16 Painters Lane & No 3 -9 Campbell Crescent Terrigal (IR 21781971)	ECMD20434761

DRAWING LIST

00	COVER SHEET
01	SITE PLAN
02	BASEMENT FLOOR PLAN
03	LOWER GROUND FLOOR PLAN
04	GROUND FLOOR PLAN
05	LEVEL 1 FLOOR PLAN
06	LEVEL 2 FLOOR PLAN
07	LEVEL 3 FLOOR PLAN
08	ROOF PLAN
09	SECTIONS
10	SECTIONS
11	ELEVATIONS
12	ELEVATIONS
13	ELEVATIONS
14	DEVELOPMENT CALCULATIONS
15	LANDSCAPE AREA CALCULATIONS
16	AMENITY DIAGRAMS
16.1	AMENITY DIAGRAMS - NON PENTHOUSE ALTERNATIVE
17	SUN VIEW DIAGRAMS - SHEET 1
18	SUN VIEW DIAGRAMS - SHEET 2
19	WINTER SOLSTICE SHADOW DIAGRAMS
20	3D VIEWS
21	WASTE MANAGEMENT - SHEET 1 - LOWER GROUND
22	WASTE MANAGEMENT - SHEET 2 - TYPICAL FLOOR
23	WASTE MANAGEMENT VEHICLE ACCESS MANOEUVRING



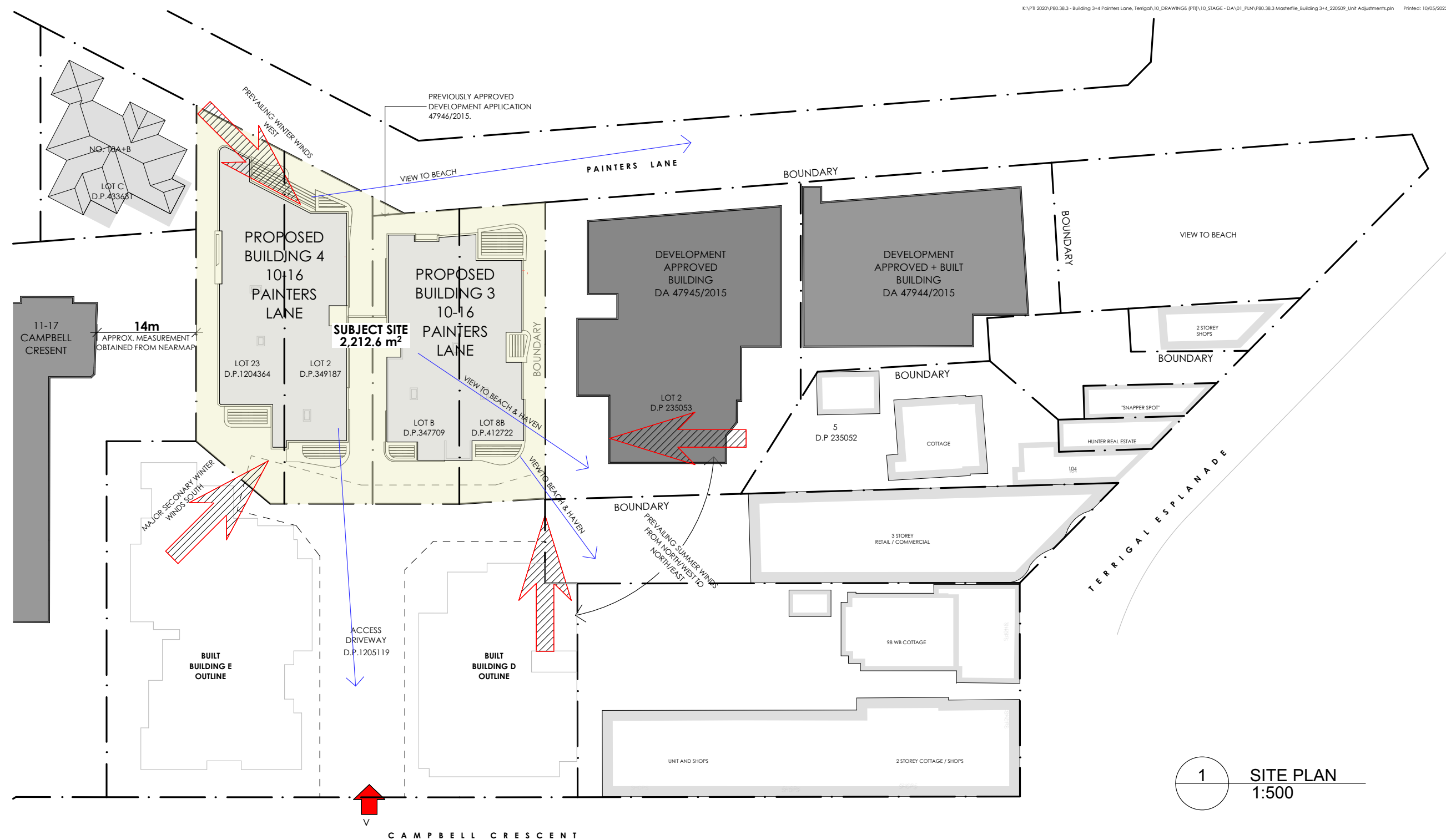
ARTISTS IMPRESSION

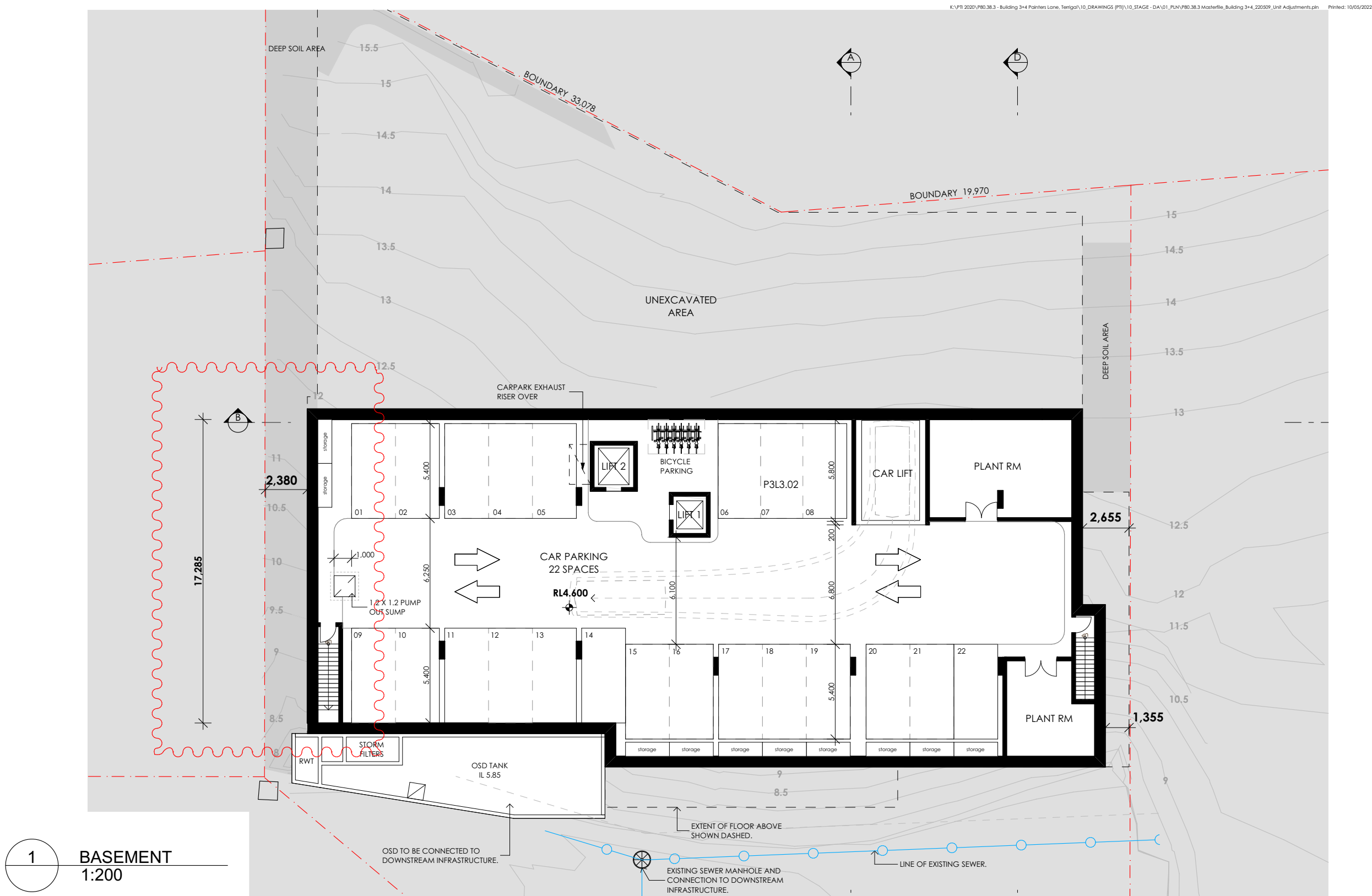
ARIA PROJECT (BUILDING 3&4)
SHOP TOP HOUSING

10-16 PAINTERS LANE, TERRIGAL

AT: LOT 23 DP 1204364, LOT 2 DP 349187, LOT B DP 347709, LOT 8B DP 412722, LOT C 347823
PREPARED FOR

RAPEDO PTY LTD





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Nominated Registered Architect: Peter Israel (reg no 5064)
ABN 90 050 071 022

REV	DESCRIPTION
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B	OSD / RWT AMENDMENTS
C	SIDE SETBACK AMENDMENTS

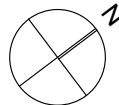
BY	DATE
GF	20/08/2022
GF	19/12/2022
GF	22/04/2022

CLIENT:
RAPEDO PTY LTD

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ARIA PROJECT BUILDING 3+4

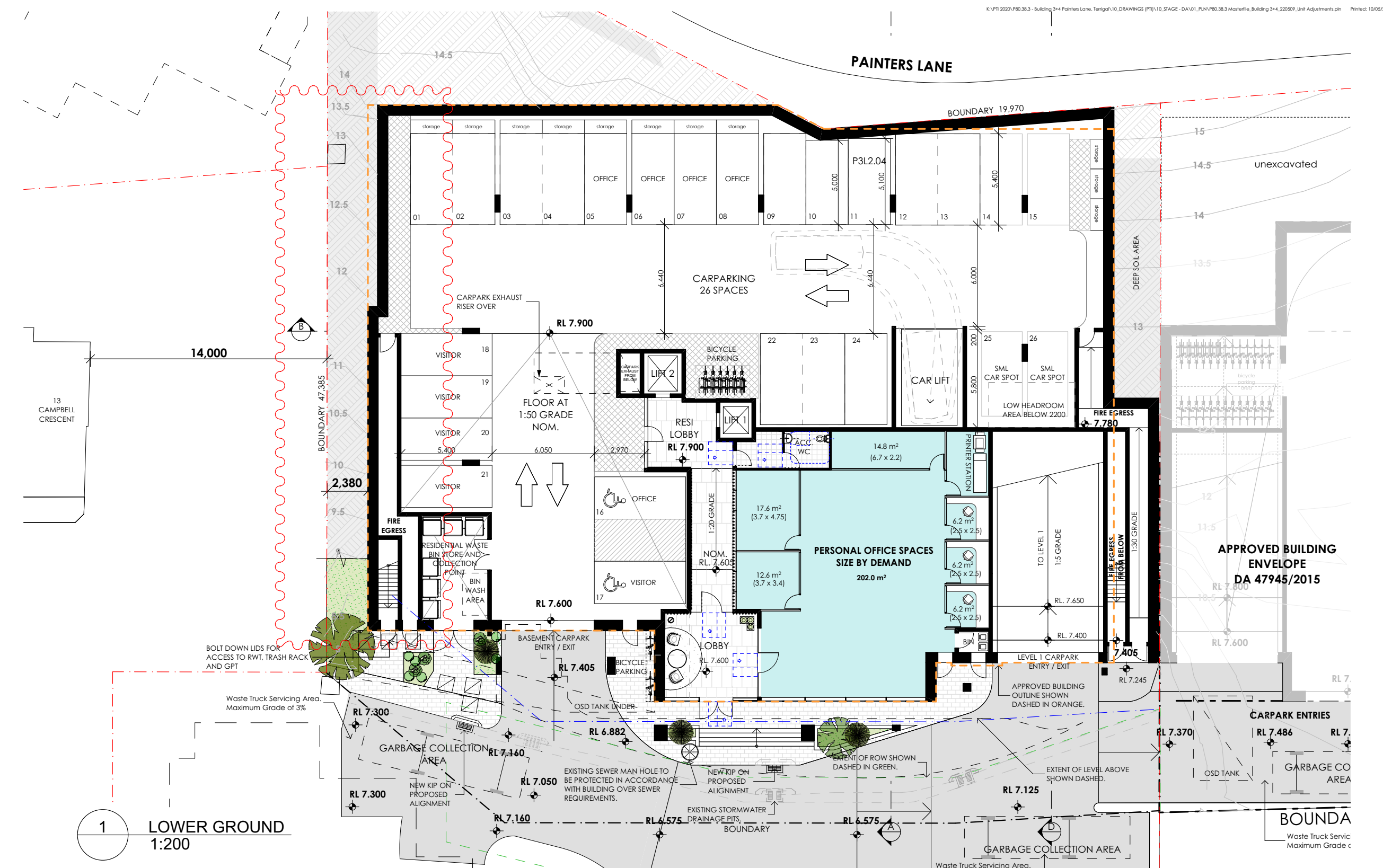
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NORTH POINT:



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DA 02 C
stage. dwg no. revision





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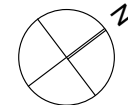
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B	SIDE SETBACK AMENDMENTS	GF	22/04/2022
C	AMENDMENTS TO SOUTH FACADE	DP	09/05/2022

CLIENT:
RAPEDO PTY LTD

PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

DRAWING TITLE:
GROUND FLOOR PLAN

NORTH POINT:



DRAWN BY: KC/GF
CHECKED BY: PI
SCALE: 1:200 AT A3
PROJECT NO: P80.38.3

DA 04 C
stage. dwg no. revision





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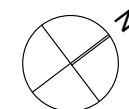
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B	SIDE SETBACK AMENDMENTS	GF	22/04/2022
C	AMENDMENTS TO SOUTH FACADE	DP	09/05/2022

CLIENT:
RAPEDO PTY LTD

PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

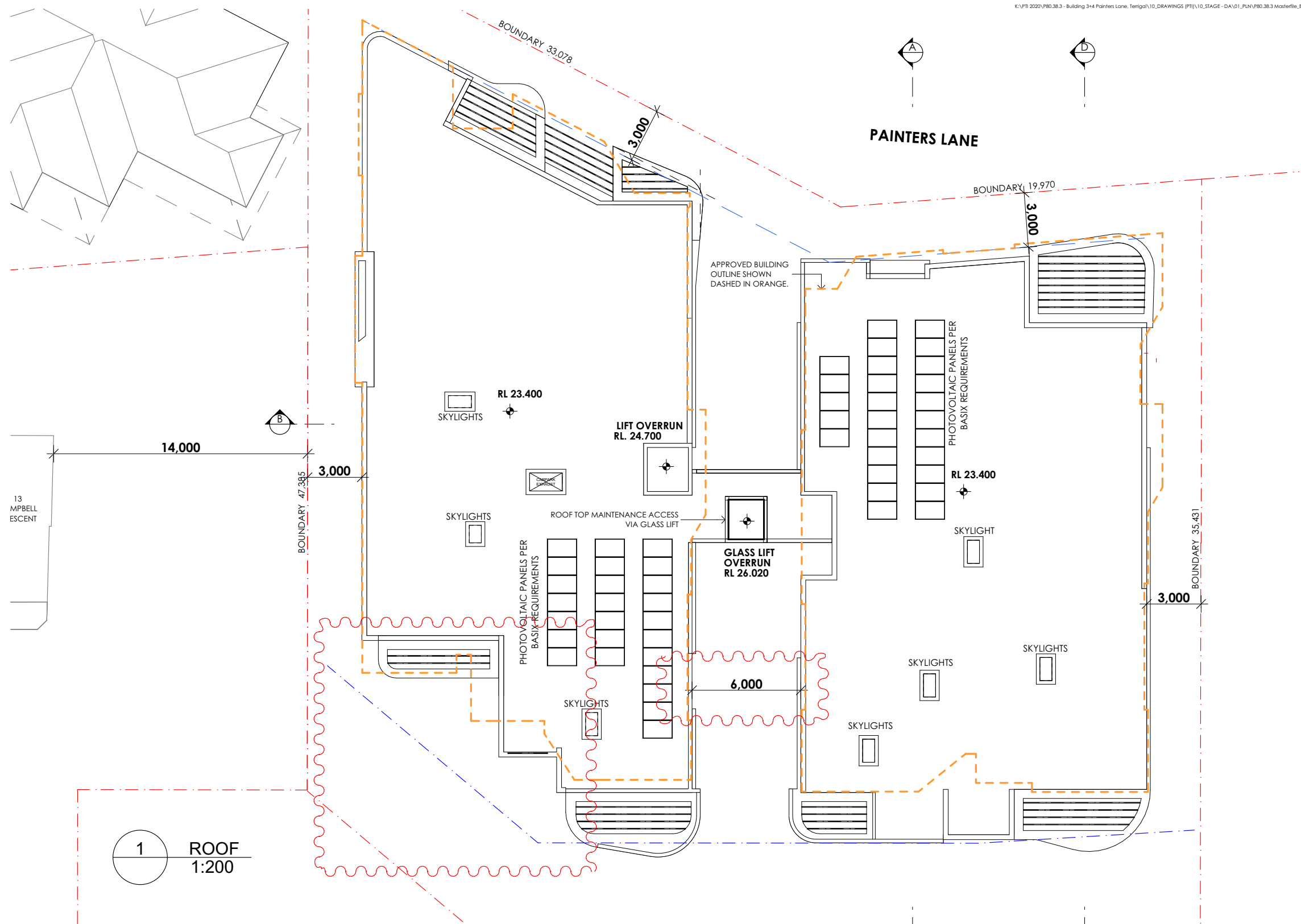
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DA 06 C
stage. dwg no. revision





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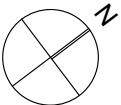
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D	AMENDMENTS TO SOUTH FACADE	GF	09/05/2022

CLIENT:
RAPEDO PTY LTD

PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

DRAWING TITLE:
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NORTH POINT:

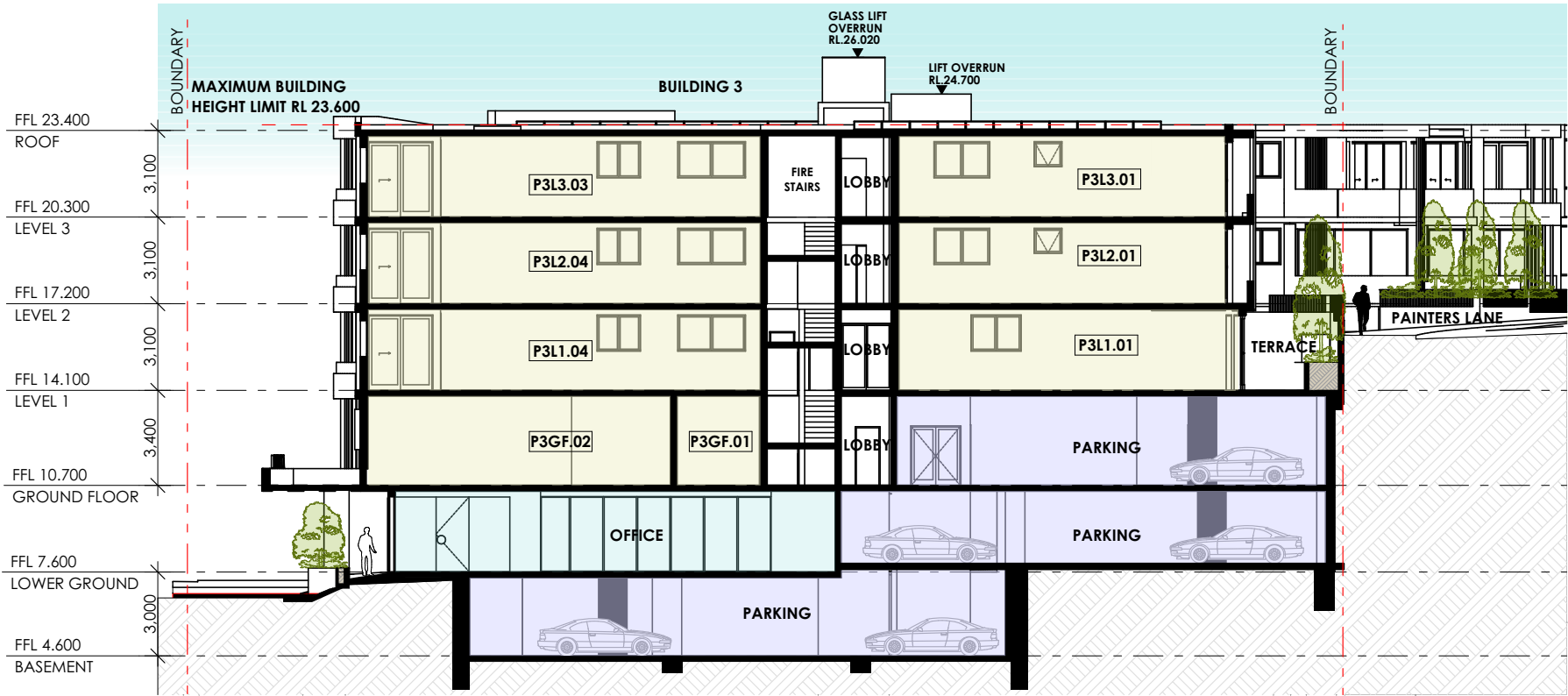


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PROJECT NO: P80.38.3

DA 08 D
stage. dwg no. revision

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1
SECTION A
1:200



2
SECTION B
1:200



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REV	DESCRIPTION	BY	DATE	CLIENT
A	DEVELOPMENT APPLICATION ISSUE	GF	20/08/2022	RAPEDO PTY LTD
B	SIDE SETBACK AMENDMENTS	GF	22/04/2022	

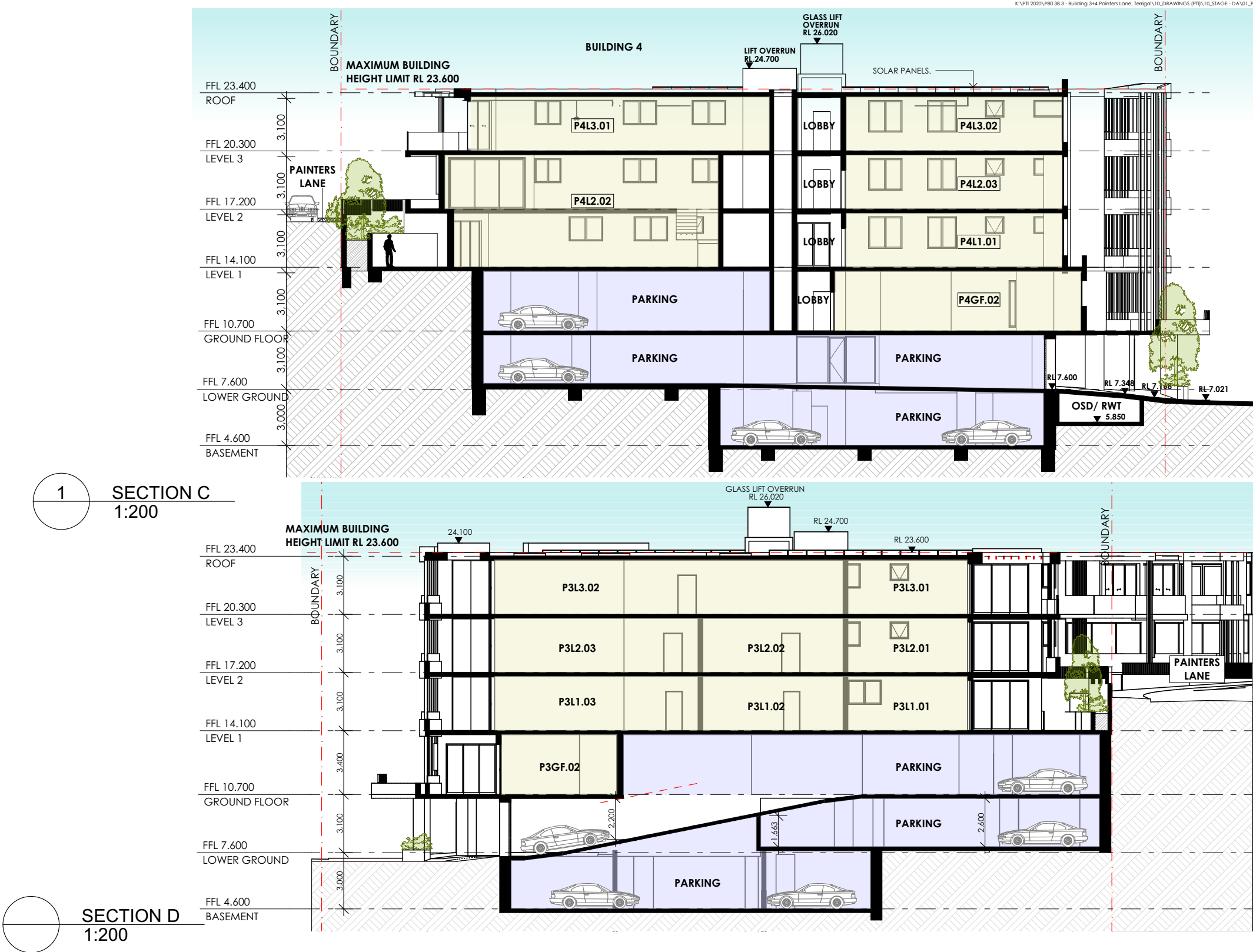
PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

NORTH POINT:

DRAWING TITLE:
SECTIONS

DRAWN BY: KC/GF
CHECKED BY: PJ
SCALE: 1:200 AT A3
PROJECT NO: PB0.38.3

DA 09 B
stage. dwg no. revision



Main Office: Level 2, 68 Sophia Street, Surry Hills NSW 2010
Parramatta Office: Level 15, Deloitte Building, 60 Station Street, Parramatta NSW 2150
+ 61 2 9283 0860 | www.ptiarchitecture.com.au
Nominated Registered Architect: Peter Israel (reg no 5064)
ABN 90 050 071 022

REV	DESCRIPTION	BY	DATE	CLIENT
A	DEVELOPMENT APPLICATION ISSUE	GF	20/08/2022	RAPEDO PTY LTD
B	OSD / RWT AMENDMENTS	GF	09/12/2021	
C	REVISED S/W SETBACK	GF	14/01/2022	

PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

NORTH POINT:

DRAWING TITLE:
SECTIONS

DRAWN BY: KC/GF
CHECKED BY: PJ
SCALE: 1:200 AT A3
PROJECT NO: P80.38.3

DA 10 C
stage. dwg no. revision

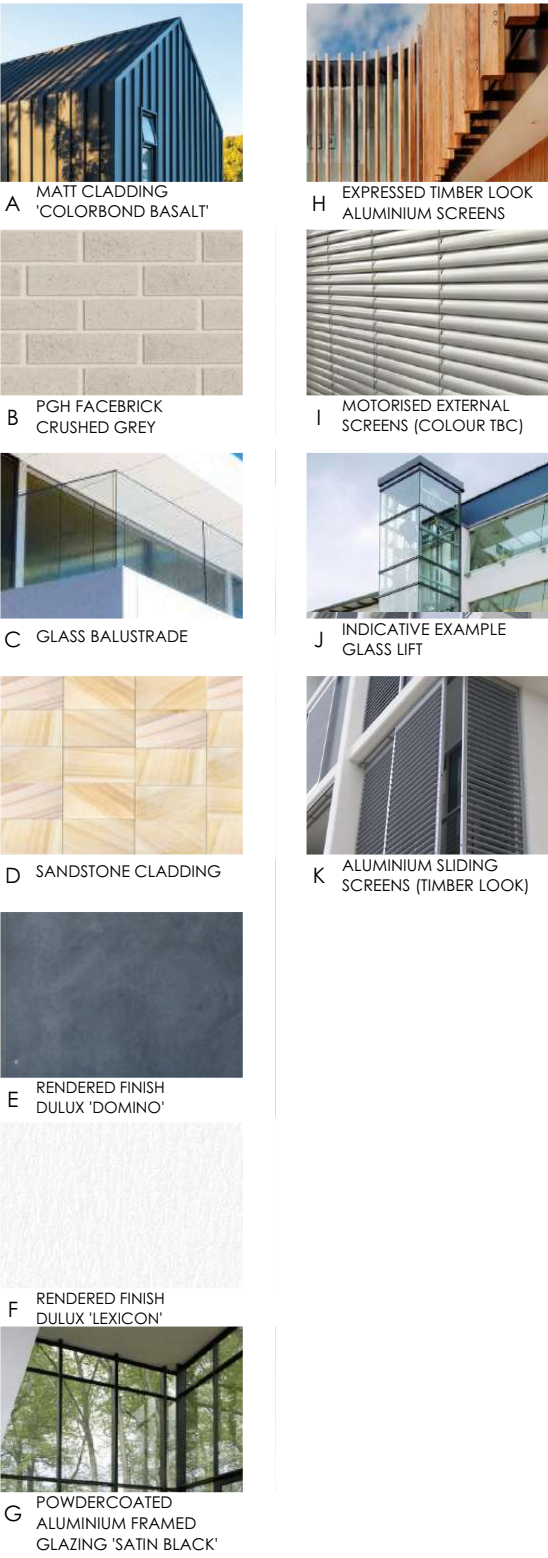
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1 PAINTERS LANE ELEVATION 3+4
1:200



2 WEST ELEVATION BUILDING 4
1:200



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REV	DESCRIPTION	BY	DATE
A	DEVELOPMENT APPLICATION ISSUE	GF	20/08/2022
B	REVISED S/W SETBACK	GF	14/01/2022
C	SIDE SETBACK AMENDMENTS	GF	22/04/2022
D	AMENDMENTS TO SOUTH FACADE	DP	09/05/2022

CLIENT:
RAPEDO PTY LTD

PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

DRAWING TITLE:
ELEVATIONS

NORTH POINT:

DRAWN BY: KC/GF
CHECKED BY: PJ
SCALE: 1:200, 1:100 AT A3
PROJECT NO: PB0.38.3

DA 11 D
stage. dwg no. revision



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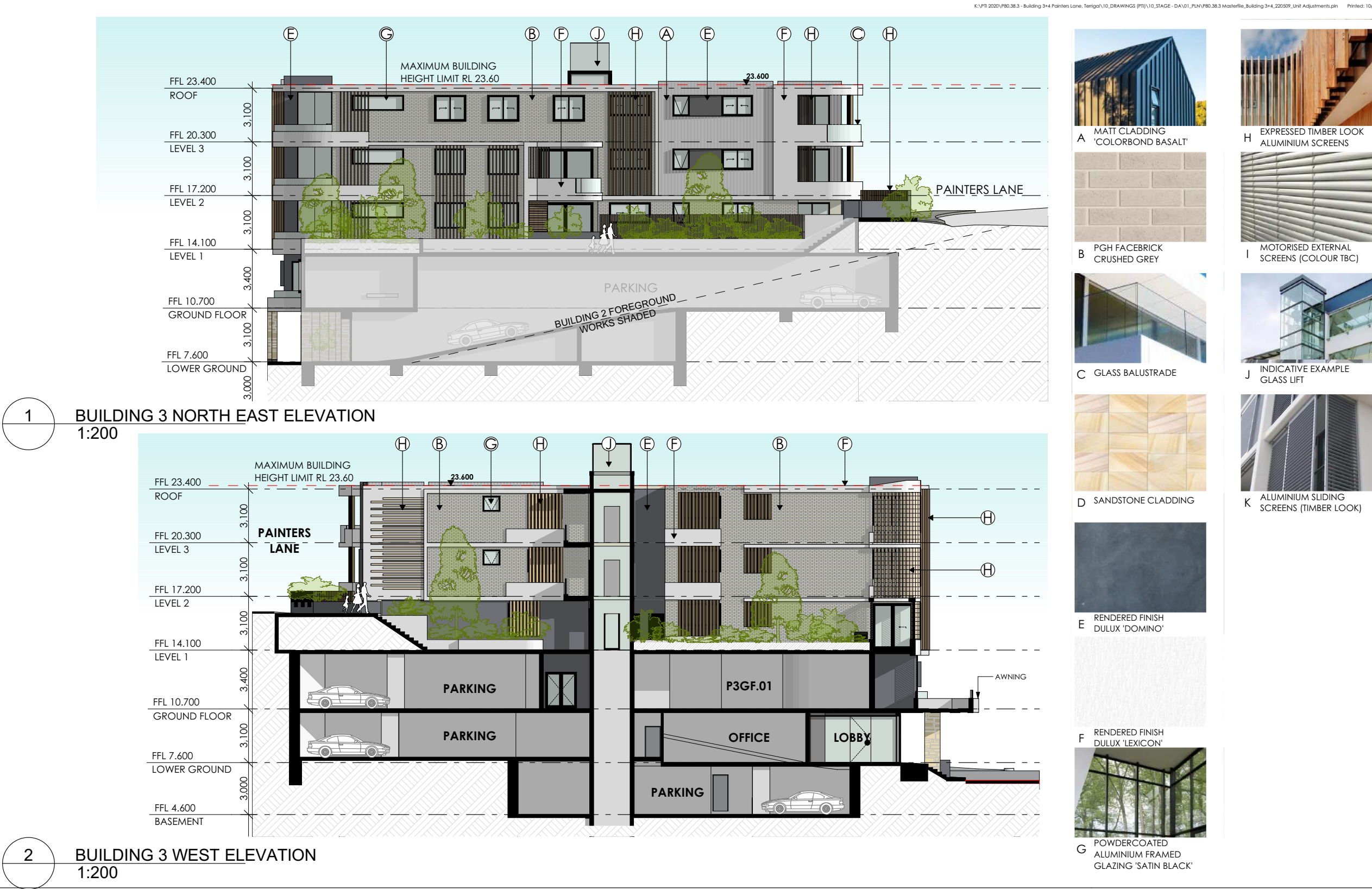
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A	DEVELOPMENT APPLICATION ISSUE	GF	20/08/2022	RAPEDO PTY LTD
B	REVISED S/W SETBACK	GF	14/01/2022	
C	SIDE SETBACK AMENDMENTS	GF	22/04/2022	
D	AMENDMENTS TO SOUTH FACADE	DP	09/05/2022	

PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

DRAWING TITLE:
ELEVATIONS

DRAWN BY: KC/GF
CHECKED BY: PJ
SCALE: 1:200, 1:100 AT A3
PROJECT NO: P80.38.3

DA 12 D
stage. dwg no. revision



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SITE DETAILS

SITE AREA = 2212.6m²
ALLOWABLE FSR = 2.2:1
(FOR OVERALL ARIA SITE)
ALLOWABLE GFA = 4867.72m²

DEVELOPMENT SUMMARY

GFA SCHEDULE (m²)

LEVEL	CARPARK (* EXCLUDE FROM GFA CALCULATIONS)	OFFICE	RESI	BALCONY (EXCLUDE FROM GFA CALCULATIONS)
B	631.9			
LGF	855.5*	202	78.7	
GF	549.6*		619.9	57.9
L1			1005.4	225
L2			1011.3	144.2
L3			1021.4	149.4
TOTAL	2,037	202	3,736.7	568.5

PROPOSED GFA = 3,938.7 m²
ADDITIONAL PARKING GFA = 687.5M2
TOTAL PROPOSED GFA = 4626.2m²
TOTAL PROPOSED FSR = 2.09:1

APARTMENT SCHEDULE

LEVEL	1B	2B	3B	4B	5B	TOTAL
GF	1	1	1	1	-	4
L1	1	1	4	-	-	6
L2	1	1	4	2	-	8
L3	-	1	1	1	2	5
TOTAL	3	4	10	4	2	23

CAR PARKING REQUIREMENT BREAKDOWN:
SHOPTOP HOUSING (1 PER DWELLING) = 23 SPACES
VISITOR PARKING (0.2 PER DWELLING) = 5 SPACES
OFFICE CAR PARKING (1 PER 40m²) = 5 SPACES
TOTAL REQUIRED CAR PARKING = 33 SPACES
(Based on dcp - Shop Top Housing)

PROPOSED CAR PARKING

BASEMENT = 22 SPACES
GF = 26 SPACES
LOWER GROUND = 12 SPACES
TOTAL PROPOSED CAR PARKING = 60 SPACES

CAR PARKING ALLOCATION BREAKDOWN:
4/5 BED CAR PARKING (3 PER UNIT) = 18 SPACES
3 BED CAR PARKING (2 PER UNIT) = 20 SPACES
1/2 BED CAR PARKING (1 PER UNIT) = 7 SPACES
VISITOR PARKING = 5 SPACES
OFFICE PARKING = 5 SPACES
TOTAL ALLOCATED CAR PARKING = 55 SPACES

LEGEND

- CARPARK (INCLUDE IN GFA CALCULATIONS)
- CARPARK (EXCLUDE FROM GFA CALCULATIONS)
- RESIDENTIAL
- OFFICE
- PRIVATE OPEN SPACE (EXCLUDE FROM GFA CALCULATIONS)



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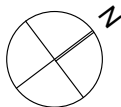
REV	DESCRIPTION	BY	DATE
A	DEVELOPMENT APPLICATION ISSUE	GF	20/08/2022
B	REVISED S/W SETBACK + GFA CALC.	GF	14/01/2022
C	REVISED PARKING GFA CALC.	GF	11/04/2022

CLIENT:
RAPEDO PTY LTD

PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

DRAWING TITLE:
DEVELOPMENT CALCULATIONS

NORTH POINT:



DRAWN BY: KC/GF

CHECKED BY: PJ

SCALE: 1:500 AT A3

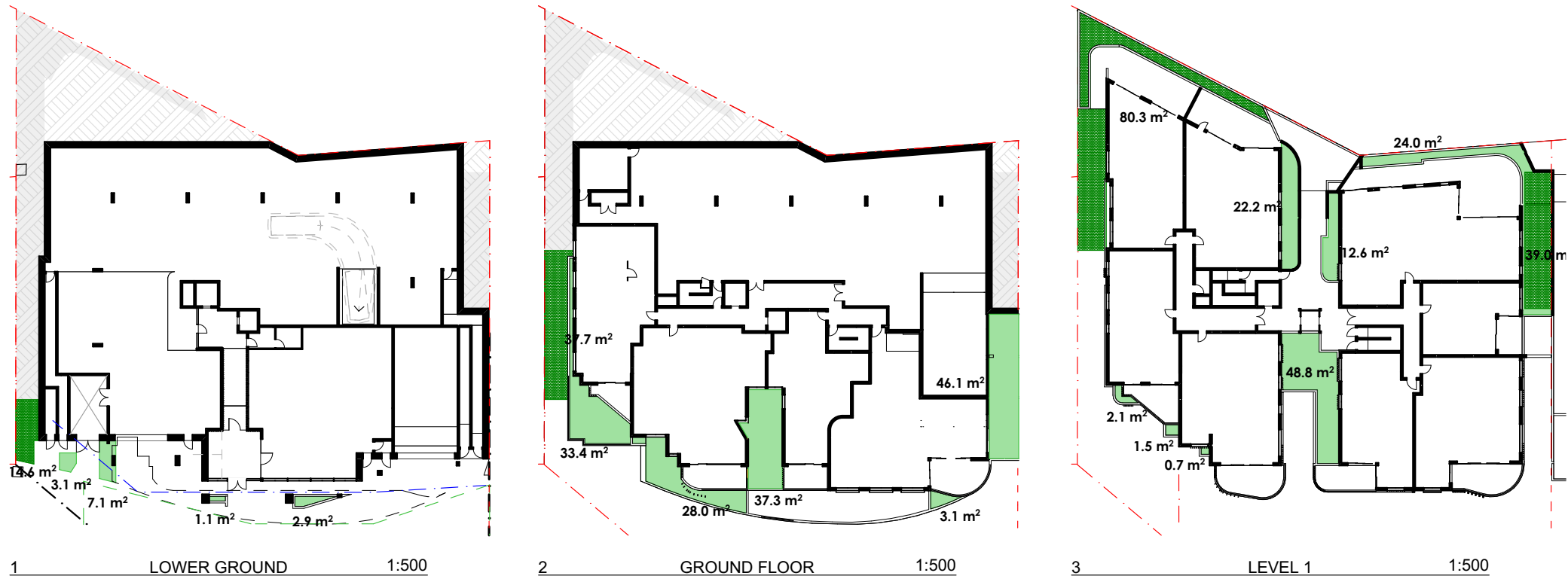
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dwg no.

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revision

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SITE DETAILS		
SITE AREA = 2212.6m²		
LANDSCAPE AREA SCHEDULE (m²)		
LEVEL	LANDSCAPE	DEEP SOIL
LGF	28.8	14.6
GF	185.6	37.7
L1	231.2	119.3
L2	4.9	-
L3	2.1	-
TOTAL	452.6	171.6
	20.4%	7.75%



LEGEND	
	LANDSCAPE AREA
	DEEP SOIL AREA

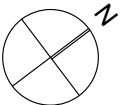


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REV	DESCRIPTION	BY	DATE	CLIENT:
A	DEVELOPMENT APPLICATION ISSUE	GF	20/08/2022	RAPEDO PTY LTD
B	REVISED AREAS.	GF	28/04/2022	

PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

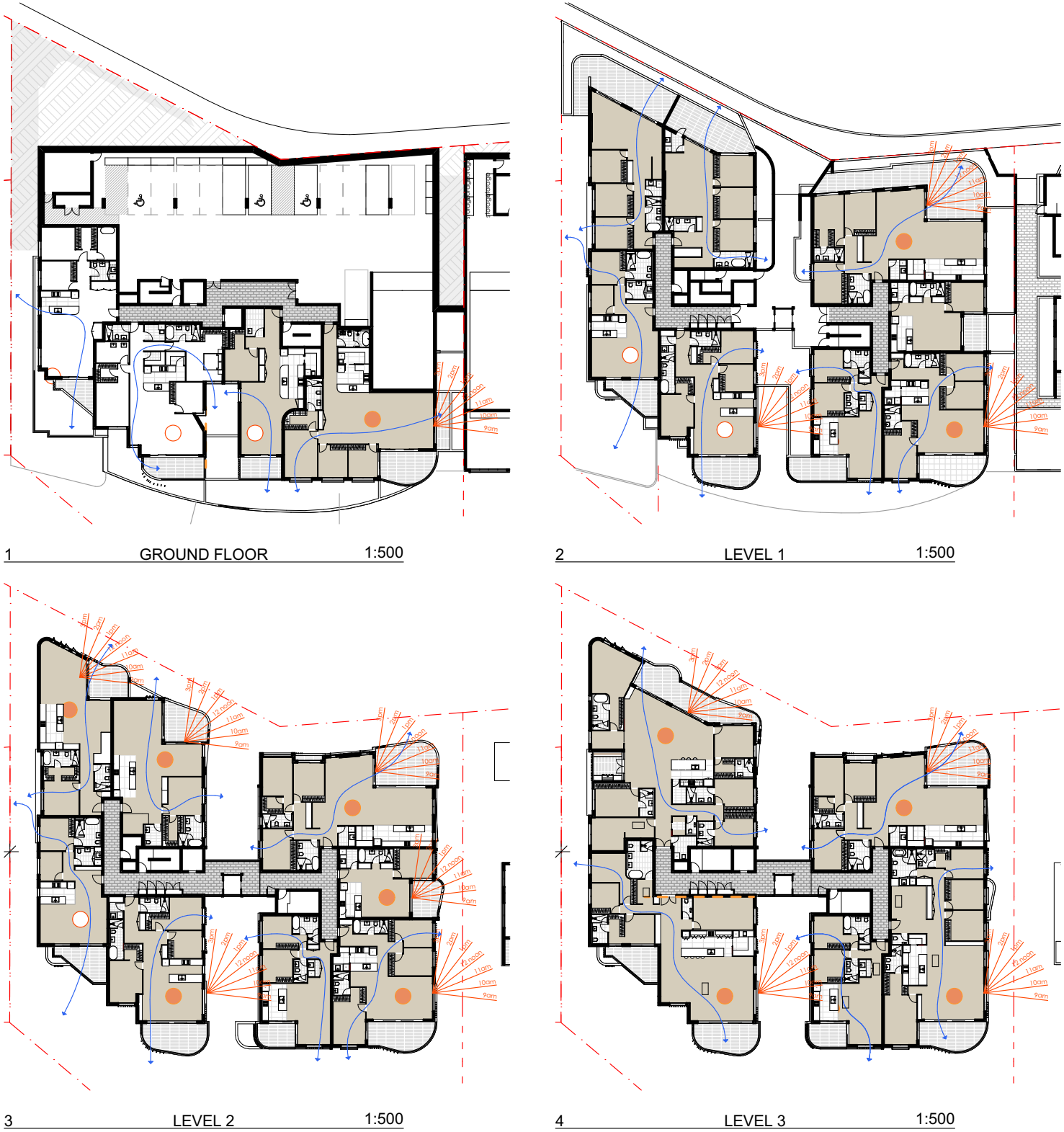
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DRAWING TITLE:
LANDSCAPE AREA
CALCULATIONS

DRAWN BY:	KC/GF	
CHECKED BY:	PI	
SCALE:	1:500 AT A3	
PROJECT No:	P80.38.3	
DA	15	B
stage.	dwg no.	revision

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AMENITY SUMMARY

CROSS VENTILATION

LEVEL	TOTAL NO. UNITS	ACHIEVE CROSS VENT
GF	4	4
L1	6	5
L2	8	7
L3	5	5
TOTAL	23	21 (91%)

MIN. 60% ADG REQ

2 HOURS DIRECT SUNLIGHT

LEVEL	TOTAL NO. UNITS	ACHIEVE 2 HOURS SUNLIGHT
GF	4	1
L1	6	2
L2	8	6
L3	5	5
TOTAL	23	14 (60.8%)

MIN. 70% ADG REQ

NO DIRECT SUNLIGHT

LEVEL	TOTAL NO. UNITS	NO DIRECT SUNLIGHT
GF	4	3
L1	6	3
L2	8	2
L3	5	-
TOTAL	23	8 (34.8%)

MAX 15% ADG REQ

*REFER TO SUN VIEW DIAGRAM SHEETS FOR UNIT BREAKDOWN LIST.

LEGEND

- CROSS VENTILATION PATH
- UNIT RECEIVES 2 HOURS DIRECT SUNLIGHT
- UNIT RECEIVES NO DIRECT SUNLIGHT BETWEEN 9AM-3PM (21 JUNE)



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REV DESCRIPTION
A DEVELOPMENT APPLICATION ISSUE
B REVISED AREAS.

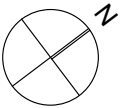
BY DATE
GF 20/08/2022
GF 28/04/2022

CLIENT:
RAPEDO PTY LTD

PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

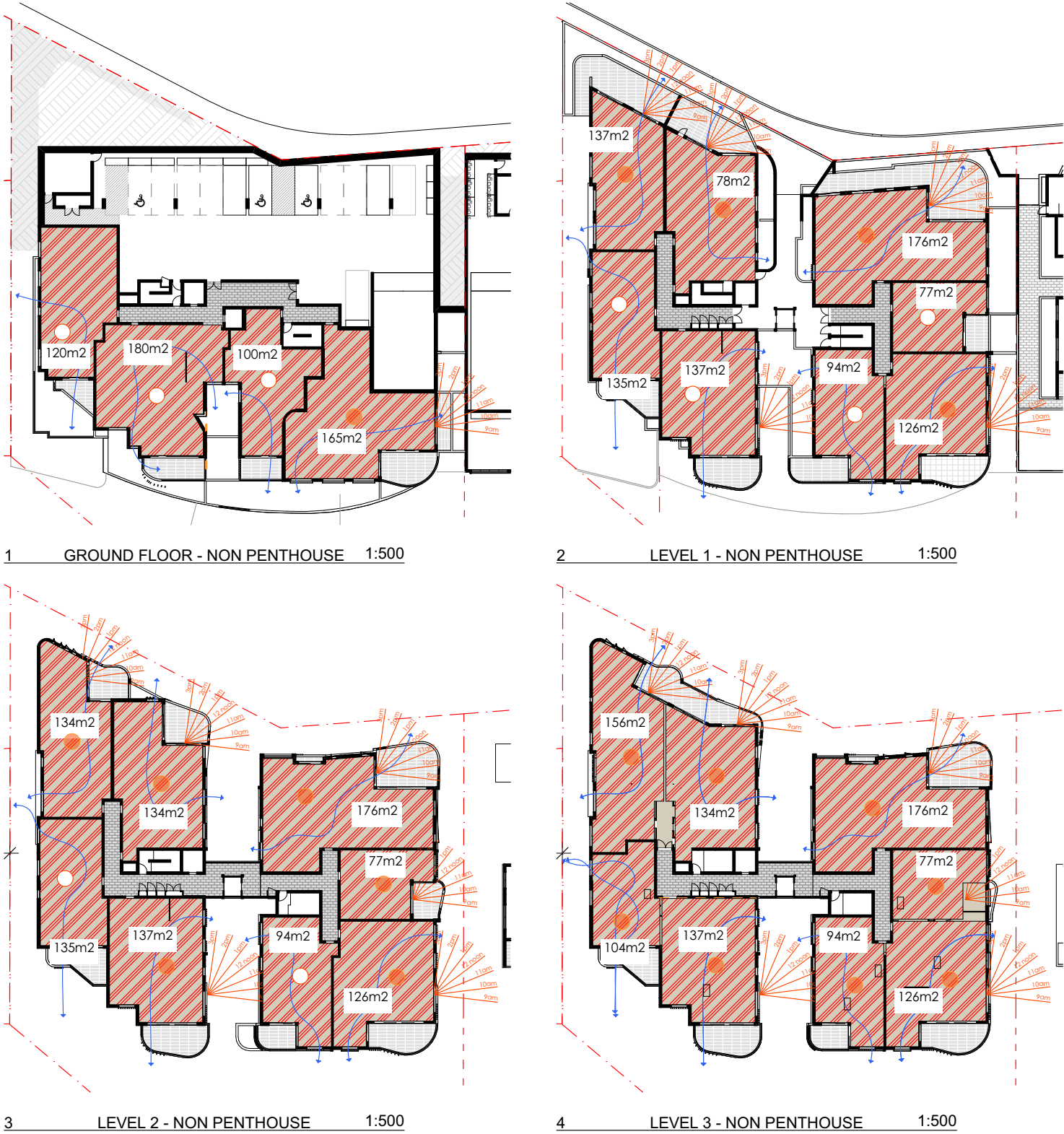
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AMENITY DIAGRAMS

NORTH POINT:



DRAWN BY: KC/GF
CHECKED BY: PJ
SCALE: 1:500 AT A3
PROJECT NO: PB0.38.3

DA 16 B
stage. dwg no. revision



AMENITY SUMMARY

CROSS VENTILATION

LEVEL	TOTAL NO. UNITS	ACHIEVE CROSS VENT
GF	4	4
L1	8	7
L2	8	7
L3	8	7
TOTAL	28	25 (89%)

MIN. 60% ADG REQS

2 HOURS DIRECT SUNLIGHT

LEVEL	TOTAL NO. UNITS	ACHIEVE 2 HOURS SUNLIGHT
GF	4	1
L1	8	4
L2	8	6
L3	8	8
TOTAL	28	19 (68%)

MIN. 70% ADG REQS

NO DIRECT SUNLIGHT

LEVEL	TOTAL NO. UNITS	NO DIRECT SUNLIGHT
GF	4	3
L1	8	3
L2	8	2
L3	8	-
TOTAL	28	8 (28.5%)

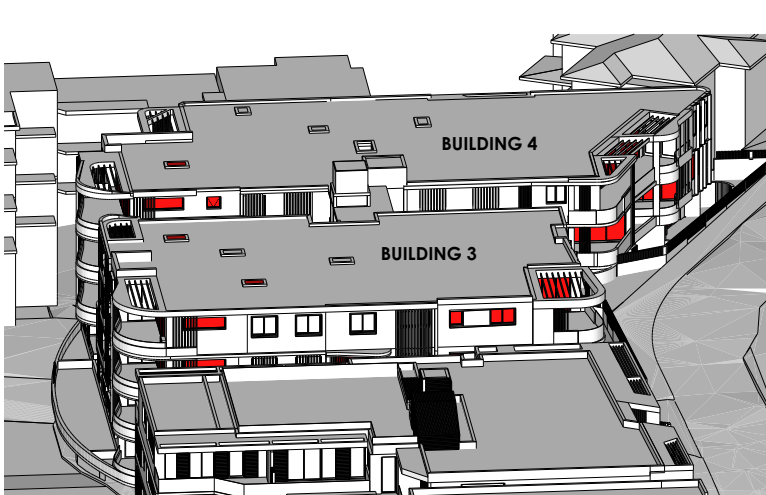
MAX 15% ADG REQS

*REFER TO SUN VIEW DIAGRAM SHEETS FOR UNIT
BREAKDOWN LIST.

LEGEND

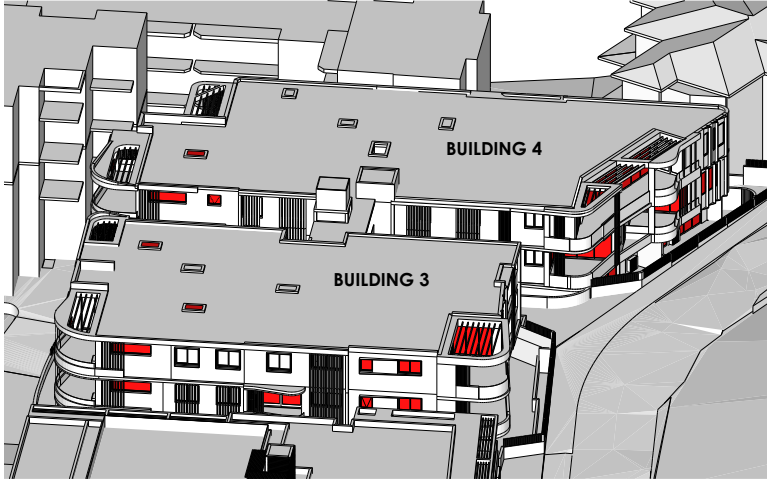
- CROSS VENTILATION PATH
- UNIT RECEIVES 2 HOURS DIRECT SUNLIGHT
- UNIT RECEIVES NO DIRECT SUNLIGHT BETWEEN 9AM-3PM (21 JUNE)
- NON - PENTHOUSE LAYOUT

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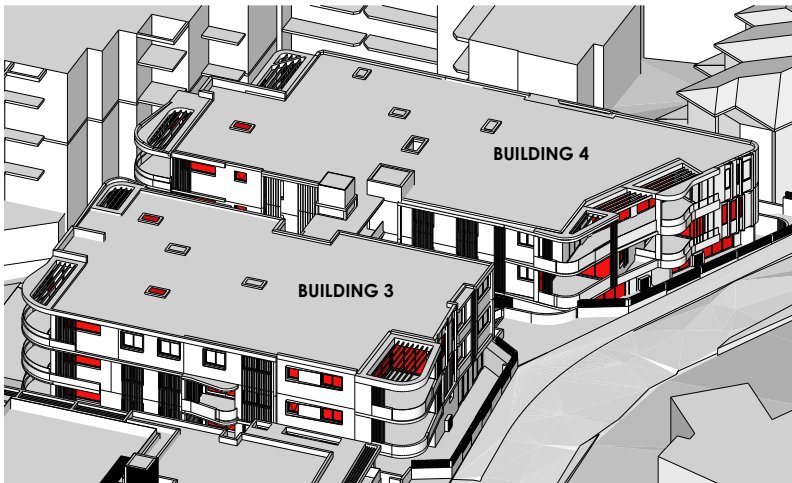
1

9AM 21ST JUNE
NOT TO SCALE



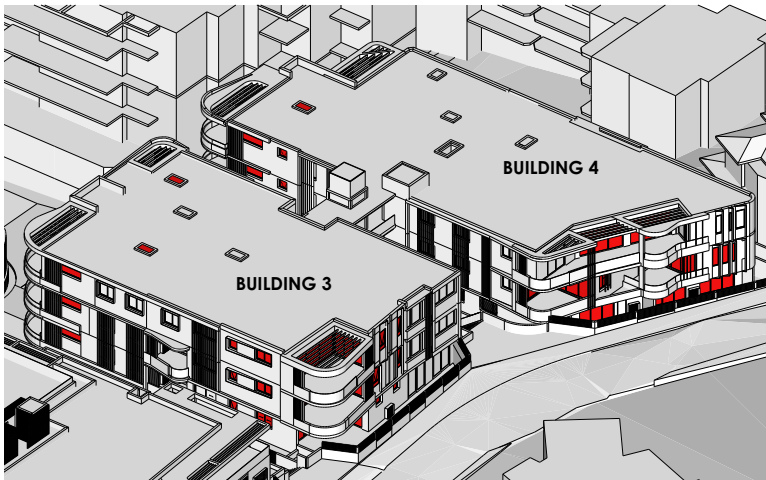
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10AM 21ST JUNE
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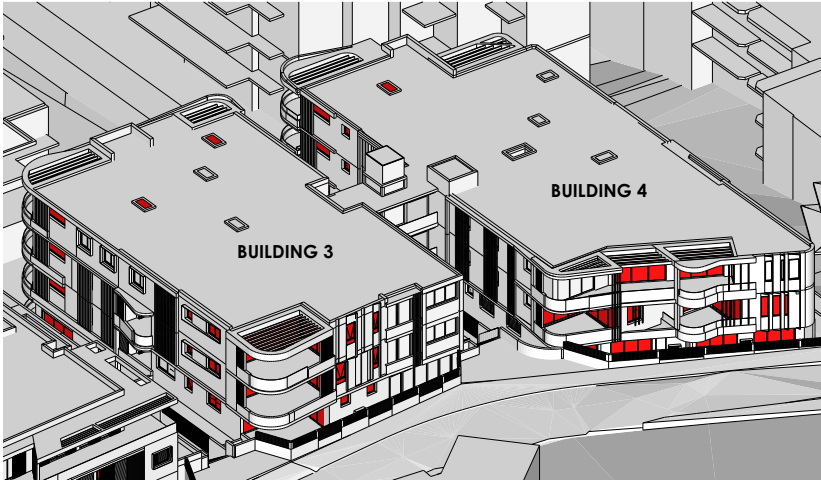
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11AM 21ST JUNE
NOT TO SCALE



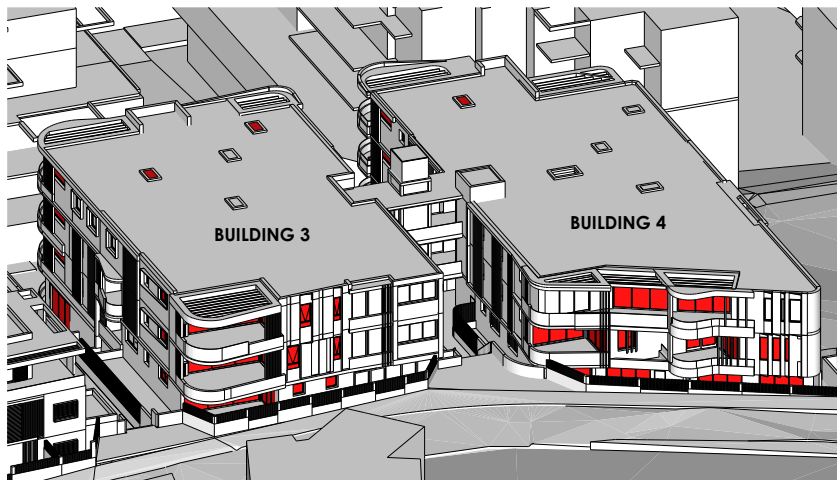
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12PM 21ST JUNE
NOT TO SCALE



5

1PM 21ST JUNE
NOT TO SCALE



6

2PM 21ST JUNE
NOT TO SCALE

LEGEND

LIVING ROOM WINDOWS



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REV	DESCRIPTION	BY	DATE	CLIENT
A	DEVELOPMENT APPLICATION ISSUE	GF	20/08/2022	RAPEDO PTY LTD
B	REVISED ISSUE	GF	28/04/2022	

PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

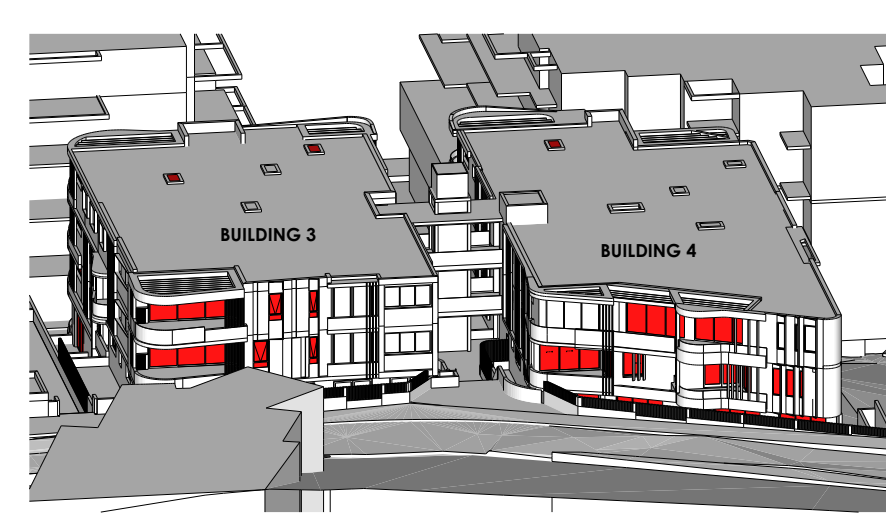
NORTH POINT:

DRAWING TITLE:
SUN VIEW DIAGRAMS - SHEET 1

DRAWN BY: KC/GF
CHECKED BY: PJ
SCALE: 1:1 AT A3
PROJECT NO: P80.38.3

DA	17	B
stage	dwg no.	revision

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1

3PM 21ST JUNE
NOT TO SCALE

LEGEND

LIVING ROOM WINDOWS

SOLAR ACCESS SUMMARY	
ACHIEVE 2 HOURS SUNLIGHT	
GROUND FLOOR	ACHIEVE 2 HOURS SUNLIGHT
P3 GF.01	NO
P3 GF.02	YES
P4 GF.01	NO
P4 GF.02	NO
LEVEL 1	ACHIEVE 2 HOURS SUNLIGHT
P3 L1.01	YES
P3 L1.02	NO
P3 L1.03	YES
P3 L1.04	NO
P4 L1.01	NO
P4 L1.02	NO
LEVEL 2	ACHIEVE 2 HOURS SUNLIGHT
P3 L2.01	YES
P3 L2.02	YES
P3 L2.03	YES
P3 L2.04	NO
P4 L2.01	YES
P4 L2.02	YES
P4 L2.03	YES
P4 L2.04	NO
LEVEL 3	ACHIEVE 2 HOURS SUNLIGHT
P3 L3.01	YES
P3 L3.02	YES
P3 L3.03	YES
P4 L3.01	YES
P4 L3.02	YES
TOTAL NO. UNITS 14 (60.8%) MIN. 70% ADG REQ	

SOLAR ACCESS SUMMARY	
RECEIVE NO DIRECT SUNLIGHT	
GROUND FLOOR	NO DIRECT SUNLIGHT
P3 GF.01	NO
P3 GF.02	-
P4 GF.01	NO
P4 GF.02	NO
LEVEL 1	NO DIRECT SUNLIGHT
P3 L1.01	-
P3 L1.02	-
P3 L1.03	-
P3 L1.04	NO
P4 L1.01	NO
P4 L1.02	NO
LEVEL 2	NO DIRECT SUNLIGHT
P3 L2.01	-
P3 L2.02	-
P3 L2.03	-
P3 L2.04	NO
P4 L2.01	-
P4 L2.02	-
P4 L2.03	-
P4 L2.04	NO
LEVEL 3	NO DIRECT SUNLIGHT
P3 L3.01	-
P3 L3.02	-
P3 L3.03	-
P4 L3.01	-
P4 L3.02	-
TOTAL NO. UNITS 8 (34.8%) MAX. 15% ADG REQ	



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A	DEVELOPMENT APPLICATION ISSUE	GF	20/08/2022
B	REVISED ISSUE	GF	28/04/2022

CLIENT:
RAPEDO PTY LTD

PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

DRAWING TITLE:
SUN VIEW DIAGRAMS - SHEET 2

DRAWN BY:
KC/GF

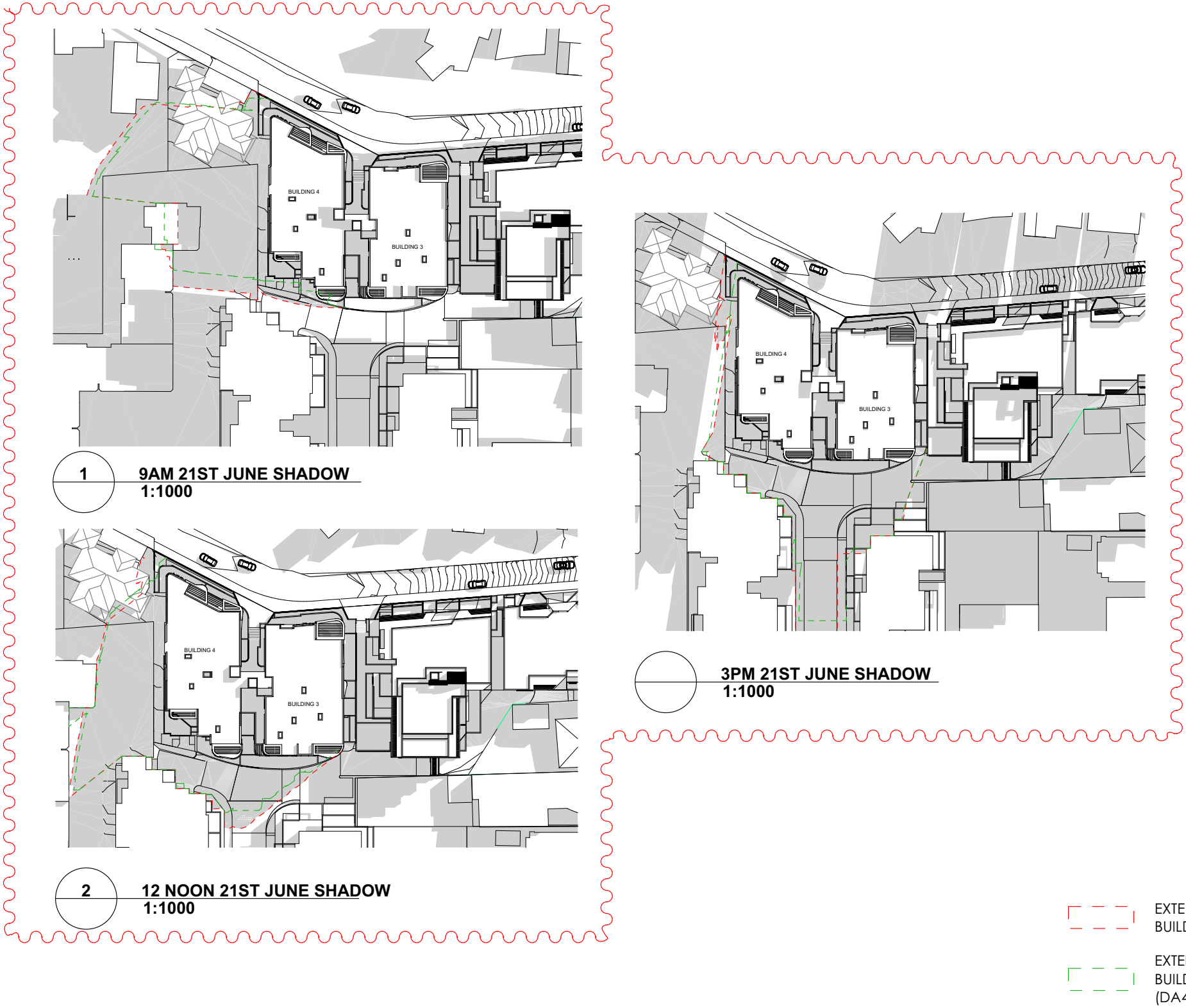
CHECKED BY:
PJ

SCALE:
1:1 AT A3

PROJECT NO:
P80.38.3

DA 18 B
stage dwg no. revision

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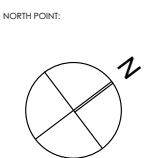
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B	REVISED S/W SETBACK	GF	14/01/2022
C	REVISED ISSUE	GF	28/04/2022

CLIENT:
RAPEDO PTY LTD

PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

DRAWING TITLE:
WINTER SOLSTICE SHADOW
DIAGRAMS



DRAWN BY: KC/GF
CHECKED BY: PJ
SCALE: 1:500 AT A3
PROJECT NO: PB0.38.3

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PROJECT TITLE:
ARIA PROJECT BUILDING 3+4

NORTH POINT:

DRAWING TITLE:
3D VIEWS

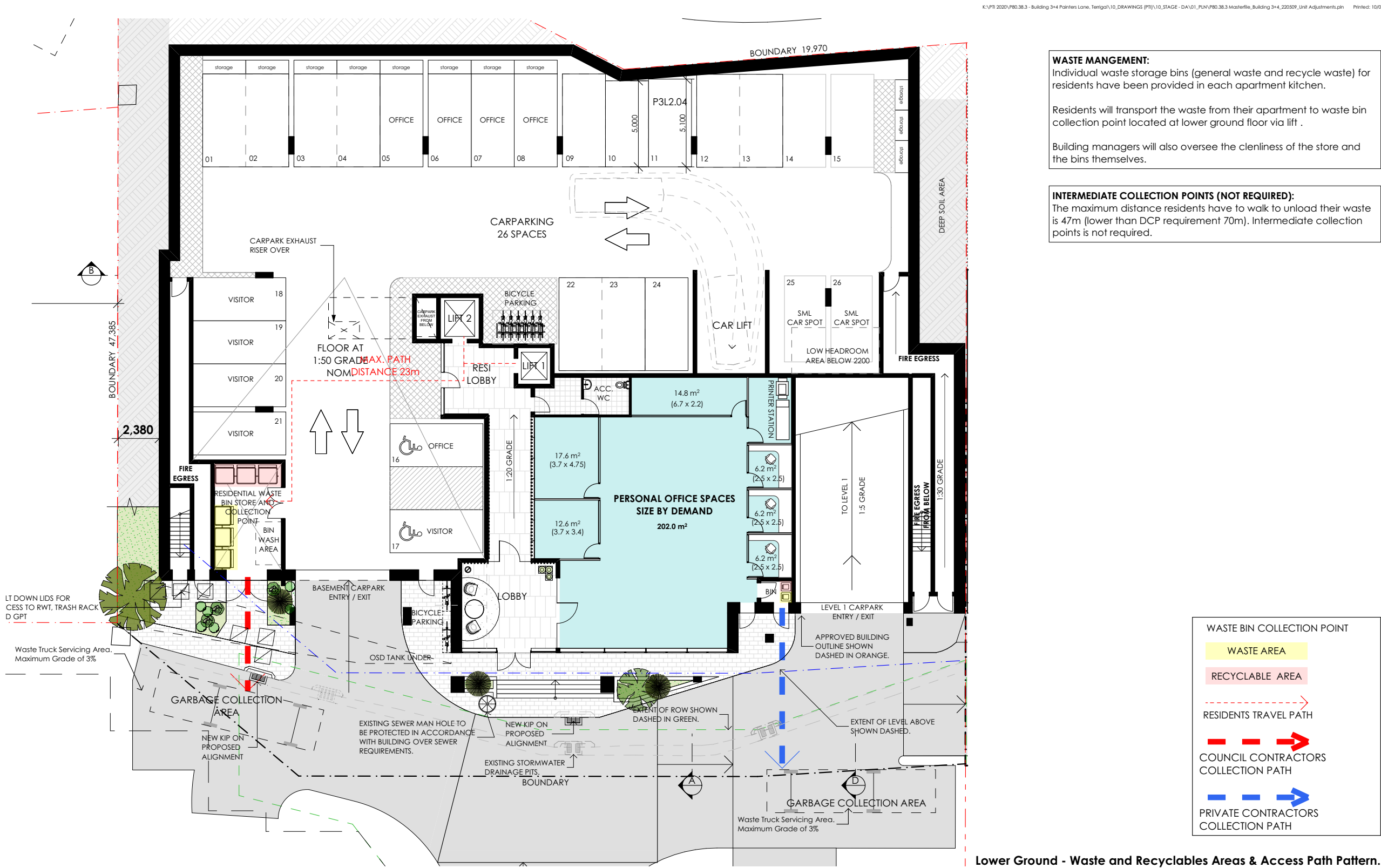
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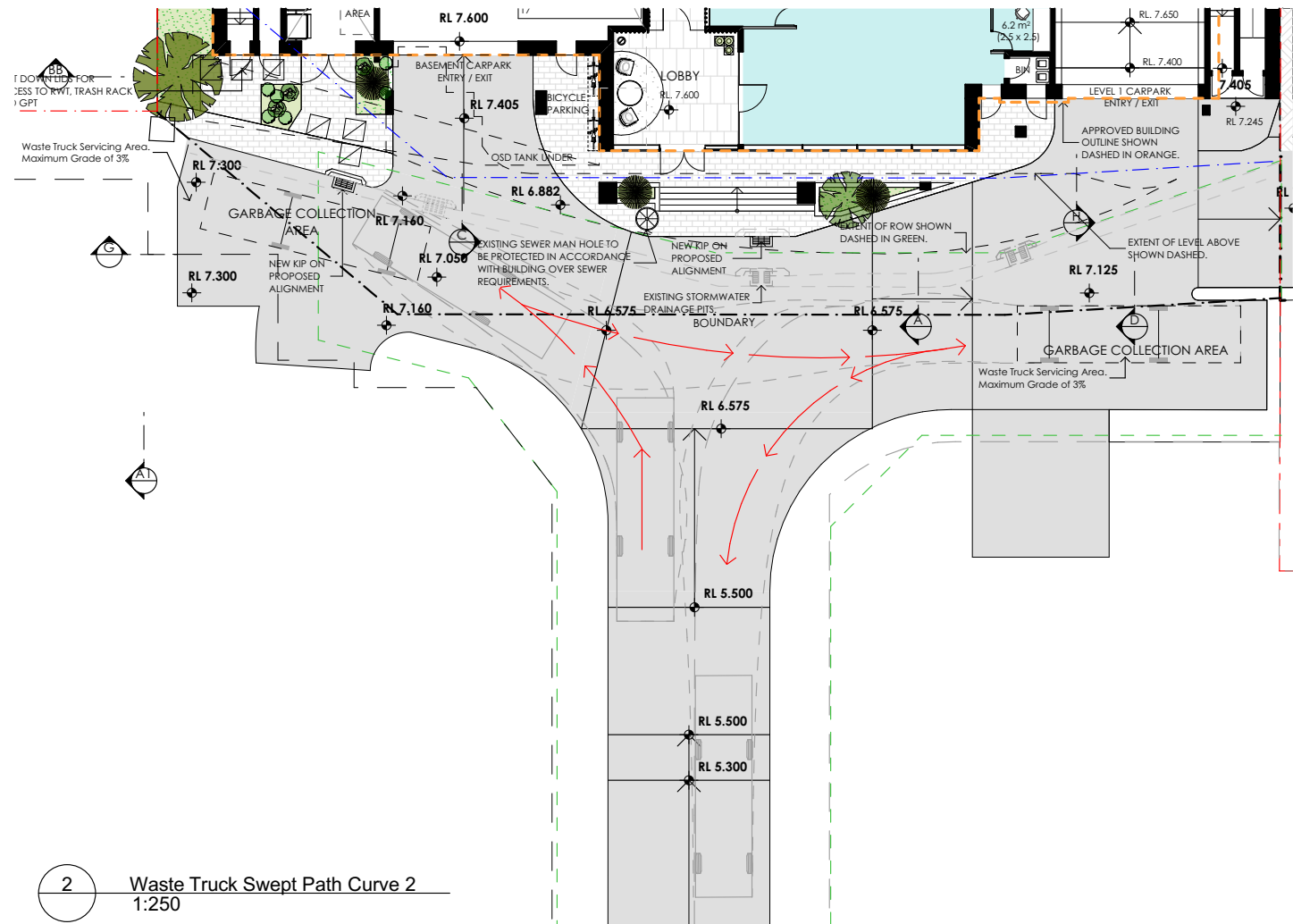
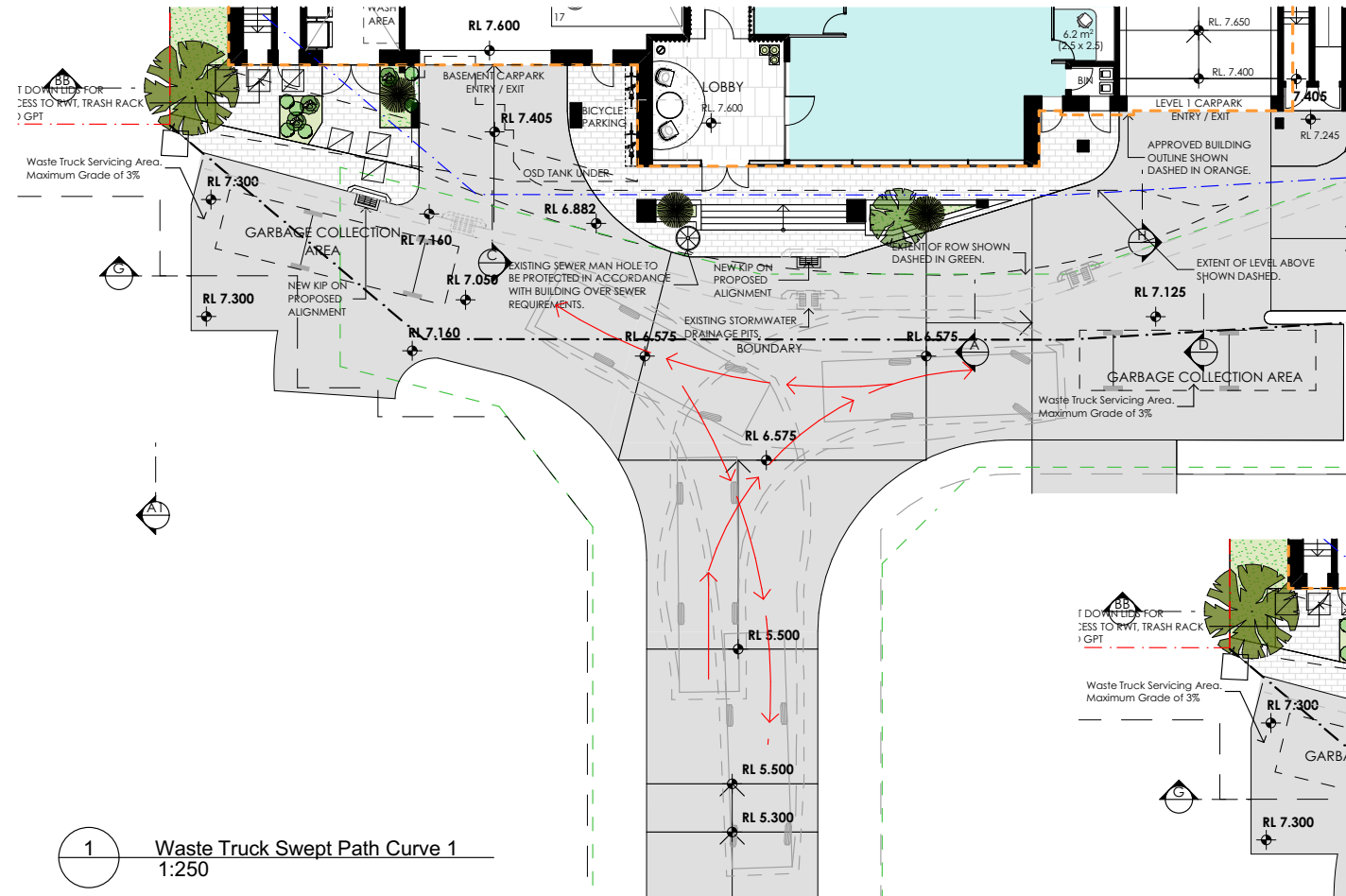
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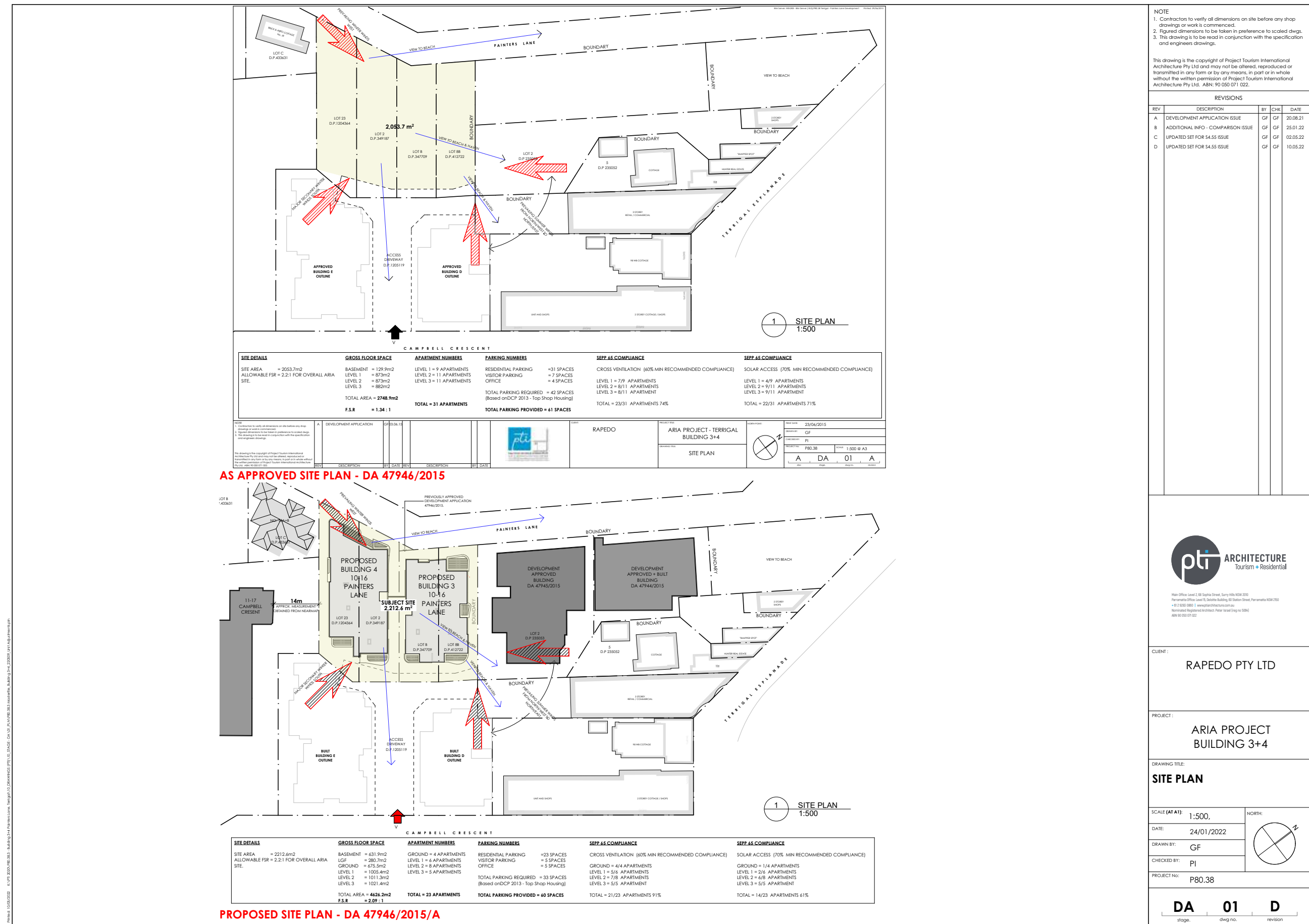
DA 20
stage. dwg no. revision

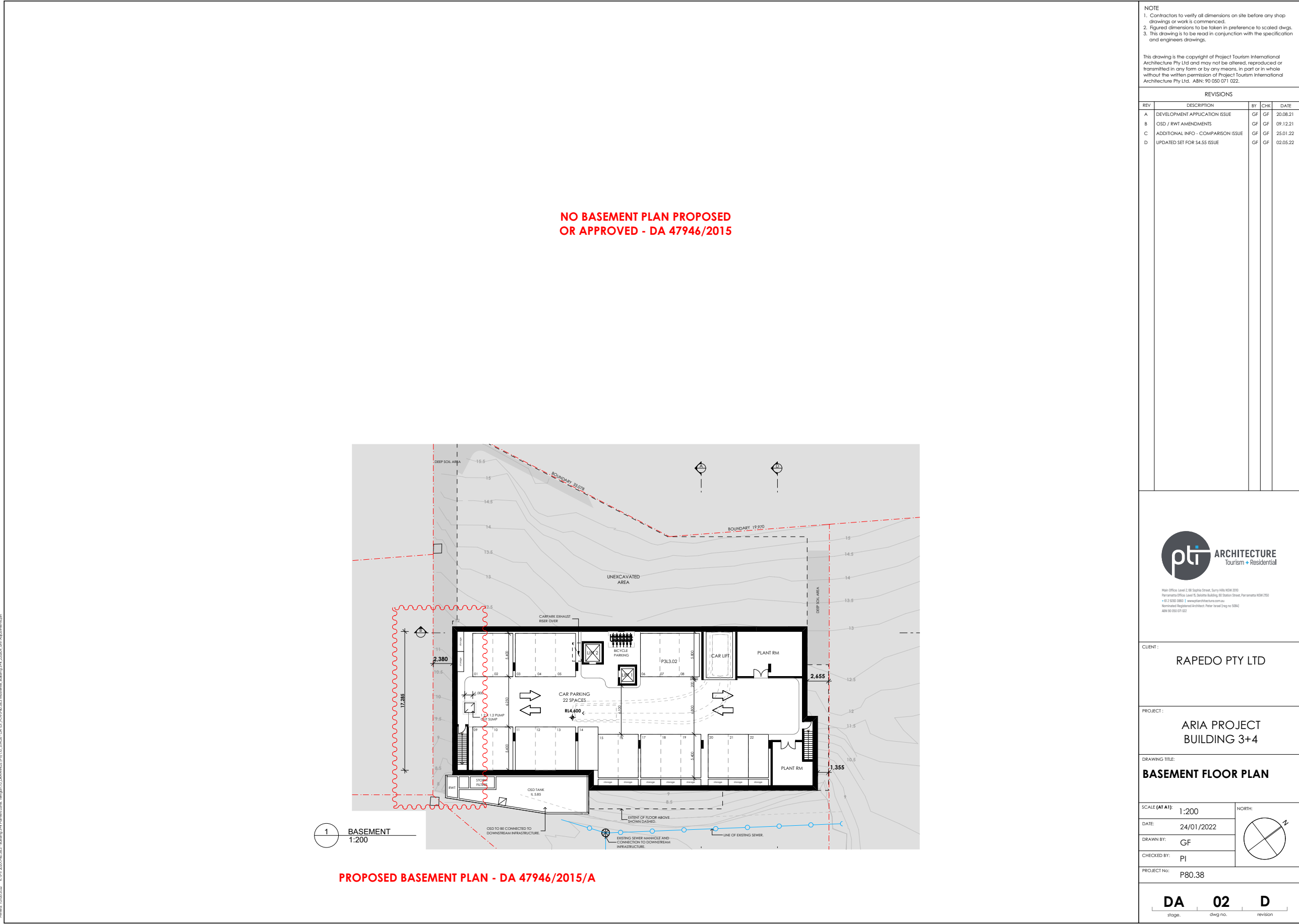


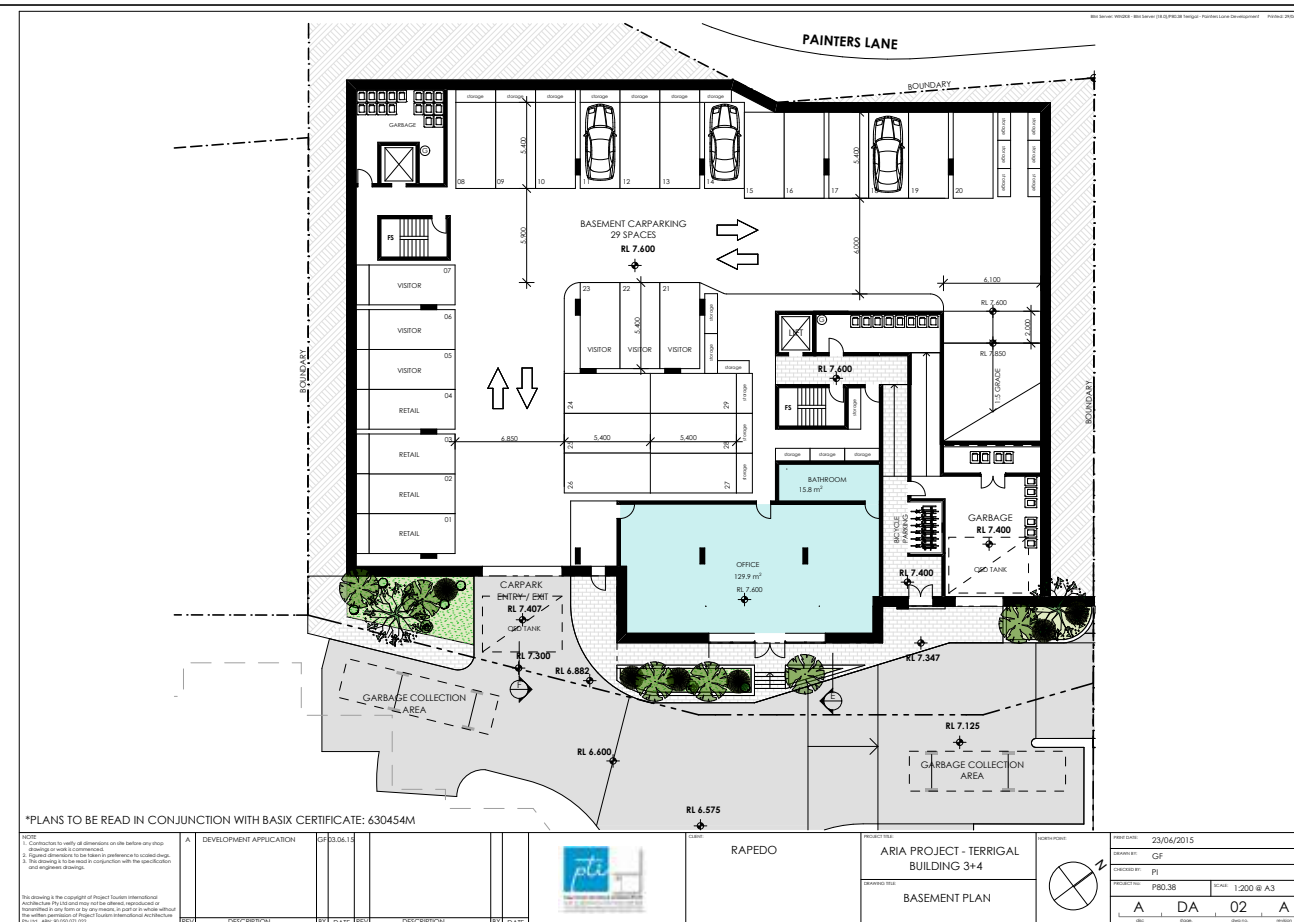


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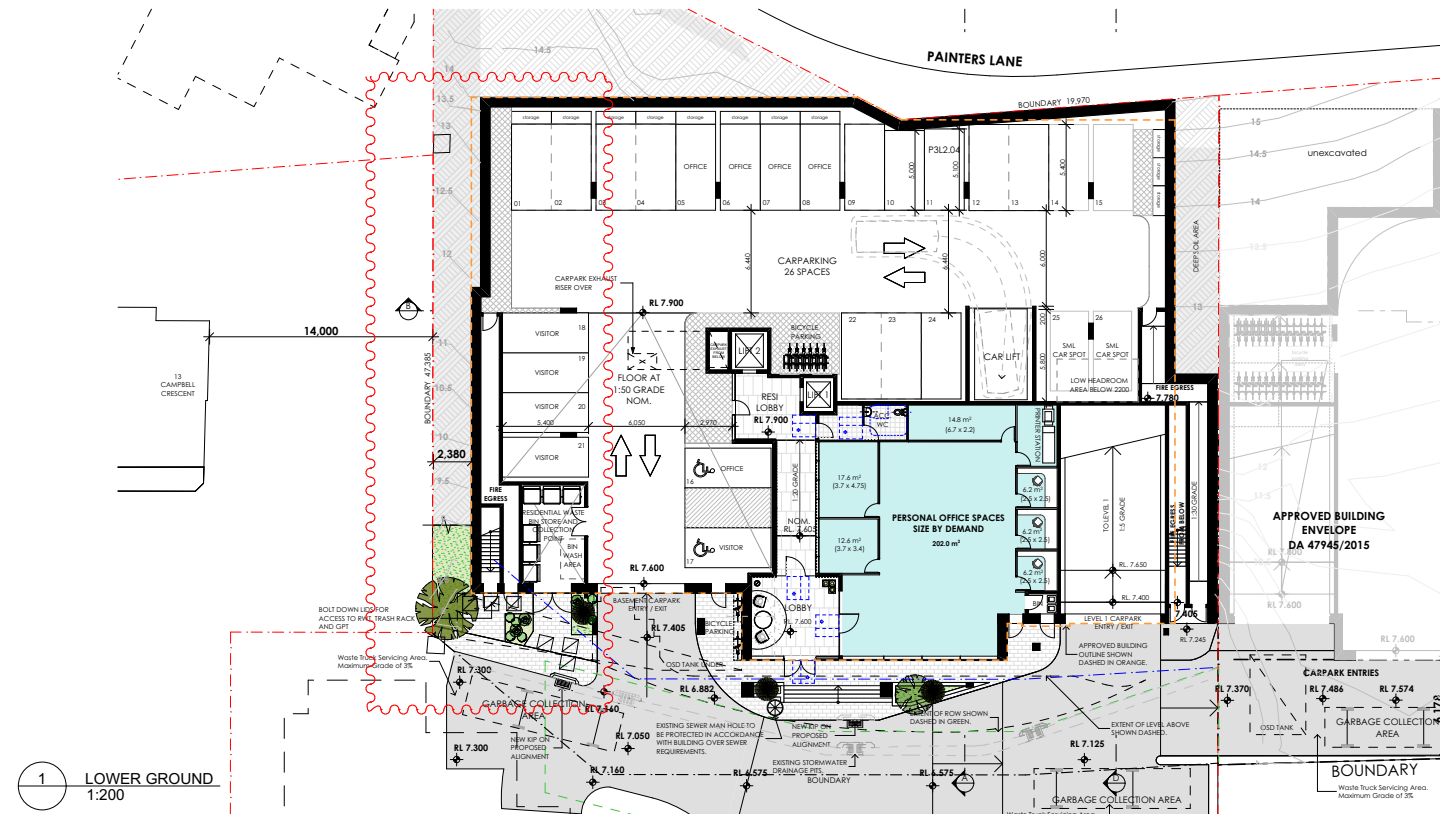






* BOUNDARY IN THE ORIGINAL DA
WAS SHOWN IN THE WRONG SPOT

LOWER GROUND FLOOR PLAN AS APPROVED - DA 47946/2015



PROPOSED LOWER GROUND FLOOR PLAN - DA 47946/2015/A

- NOTE**
1. Contractors to verify all dimensions on site before any shop drawings or work is commenced.
 2. Figured dimensions to be taken in preference to scaled dwgs.
 3. This drawing is to be read in conjunction with the specification and engineers drawings.

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REVISIONS				
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D	UPDATED SET FOR \$4.55 ISSUE	GF	GF	02.05.22



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 • 61 2 9235 0860 | www.ptiarchitecture.com.au
 Nominated Registered Architect: Peter Israel (reg no 5094)
 ABN 90 050 071 022

CLIENT :

RAPEDO PTY LTD

PROJECT :

ARIA PROJECT
BUILDING 3+4

DRAWING TITLE:

LOWER GROUND FLOOR PLAN

SCALE (AT A1): 1:200

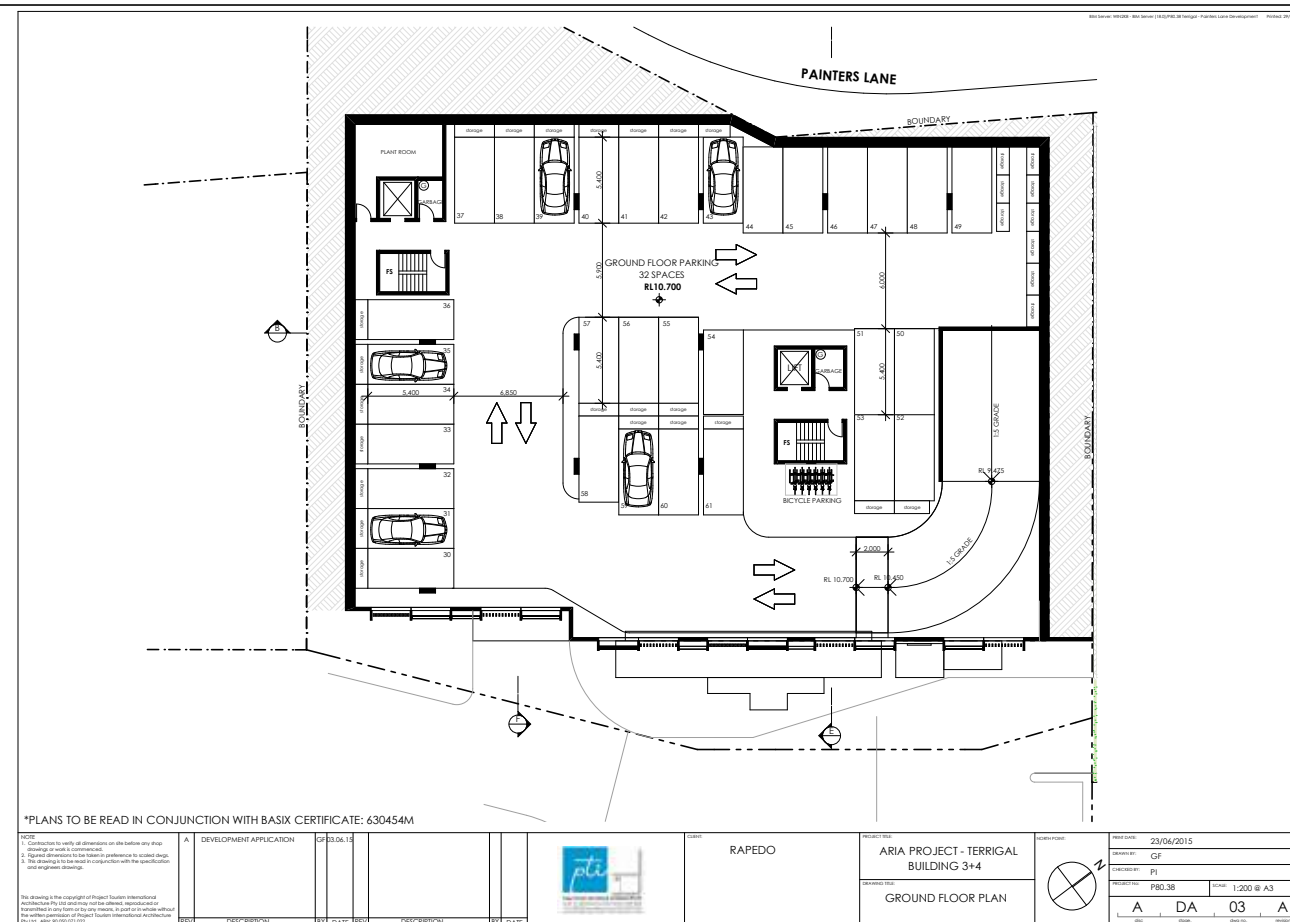
DATE: 24/01/2020

DRAWN BY: GF

CHECKED BY: PI

PROJECT No:	P80.38
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DA 03 D
stage dwg no revision



GROUND FLOOR PLAN AS APPROVED - DA 47946/2015



GROUND FLOOR PLAN - DA 47946/2015/A

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 Nominated Registered Architect: Peter Israel [reg no 5084]
 ABN 90 050 071 022

CLIENT :

RAPEDO PTY LTD

PROJECT :

ARIA PROJECT
BUILDING 3+4

DRAWING TITLE:

GROUND FLOOR PLAN

SCALE (AT A1): 1:200,

DATE: _____

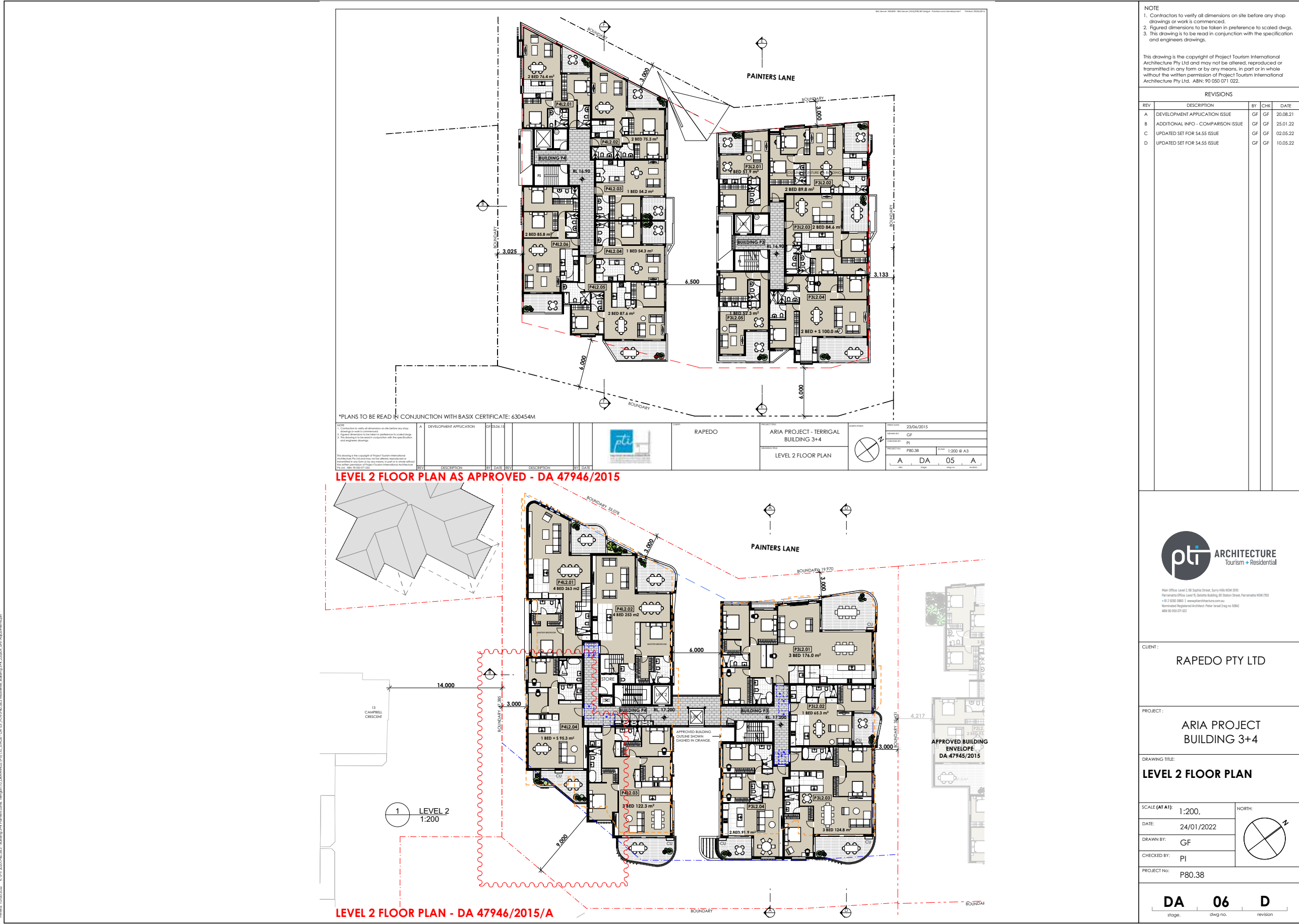
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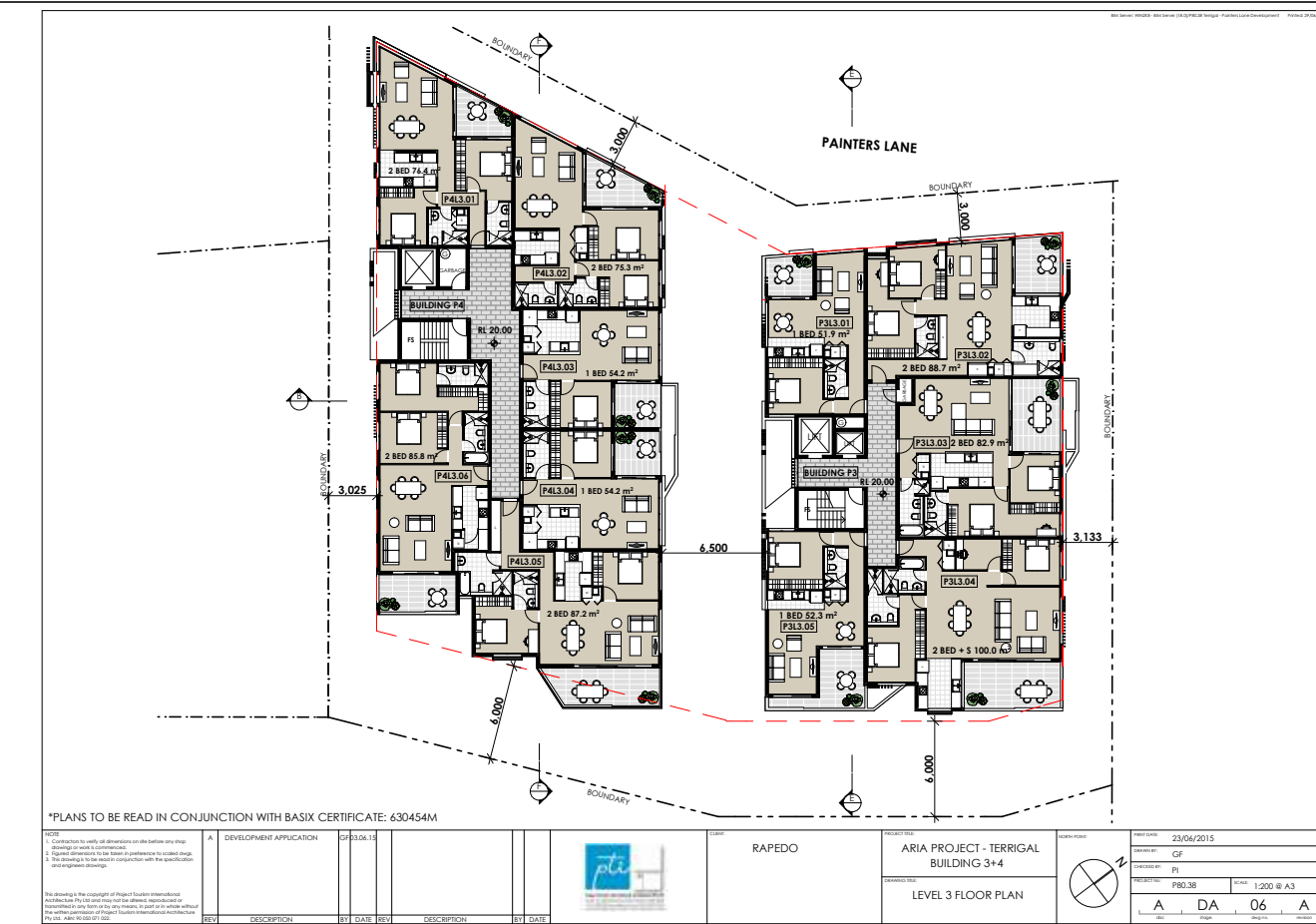
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BUILDING 3+4

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DATE: 24/01/2022
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LEVEL 3 FLOOR PLAN AS APPROVED - DA 47946/2015



LEVEL 3 FLOOR PLAN - DA 47946/2015/A

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 ABN 90 050 071 022

CLIENT :

RAPEDO PTY LTD

PROJECT :

ARIA PROJECT
BUILDING 3+4

DRAWING TITLE:

LEVEL 3 FLOOR PLAN

SCALE (AT A1): 1:200,

DATE: 24/01/2022

DRAWN BY:

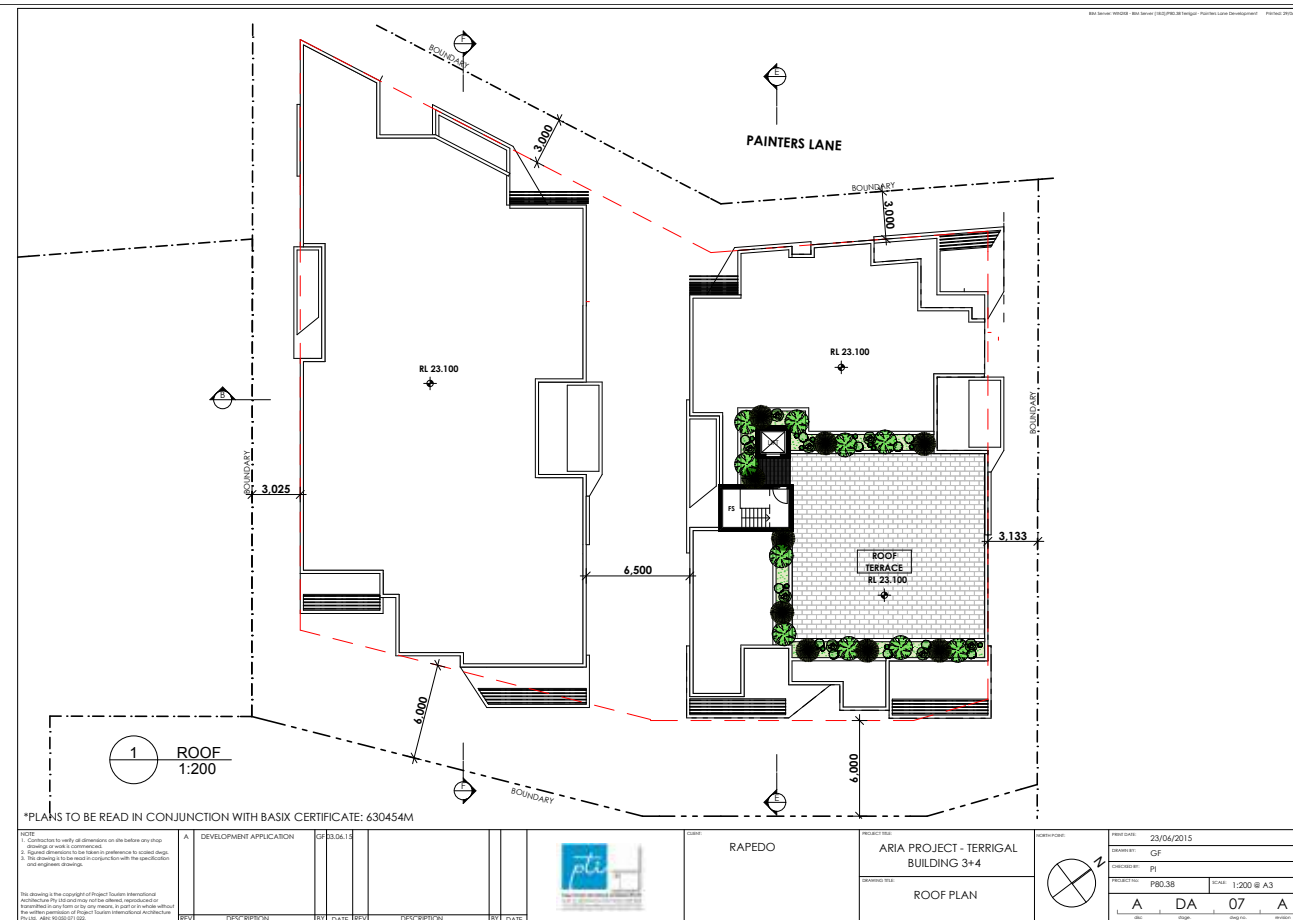
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PROJECT No:	P80.38
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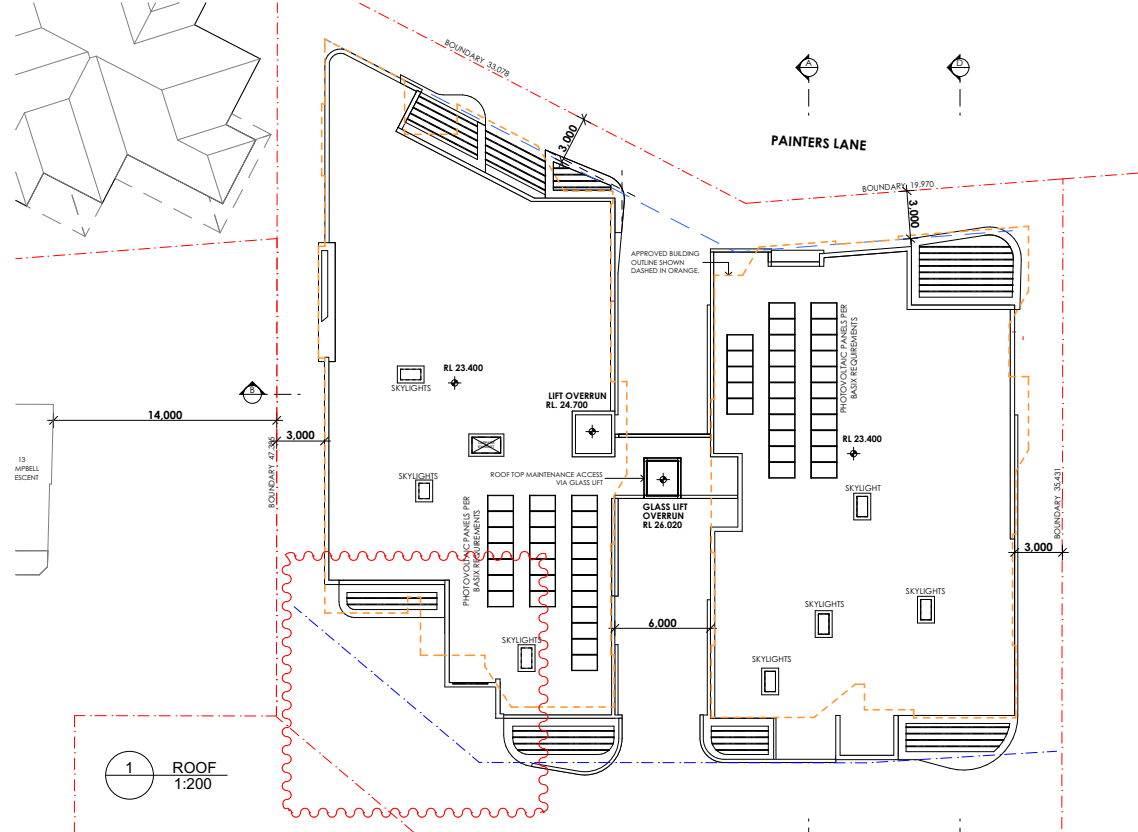
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ROOF PLAN AS APPROVED - DA 47946/2015



ROOF PLAN - DA 47946/2015/A

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CLIENT : RAPEDO PTY LTD

PROJECT:

ARIA PROJECT
BUILDING 3+4

DRAWING TITLE:

ROOF PLAN

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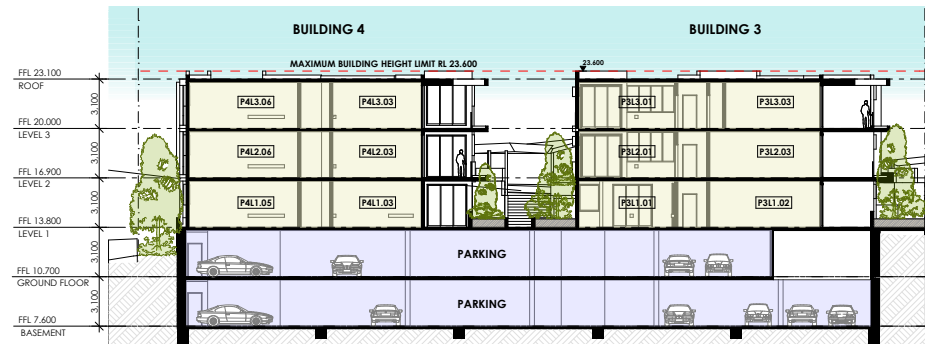
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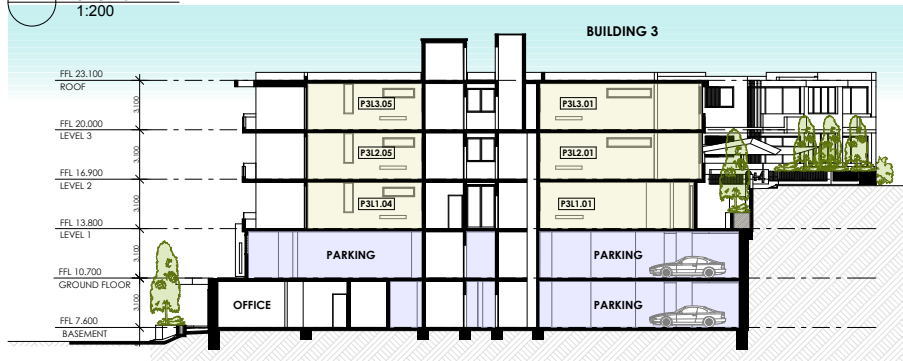
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stage. dwg no. revision



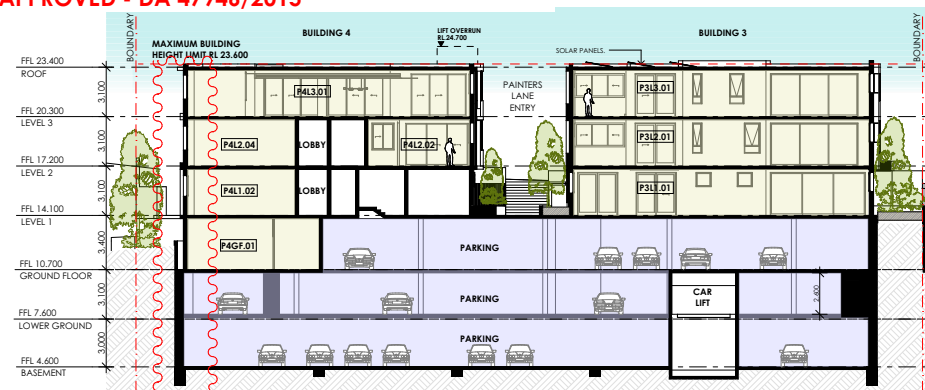
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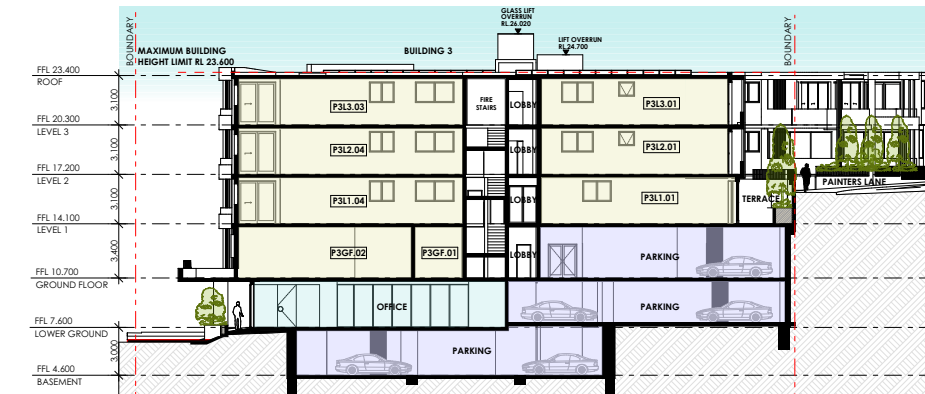
2 SECTION E
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*PLANS TO BE READ IN CONJUNCTION WITH BASIX CERTIFICATE: 430454M

SECTIONS AS APPROVED - DA 47946/2015



2 SECTION B
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1 SECTION A
1:200

SECTIONS PROPOSED - DA 47946/2015/A

- NOTE
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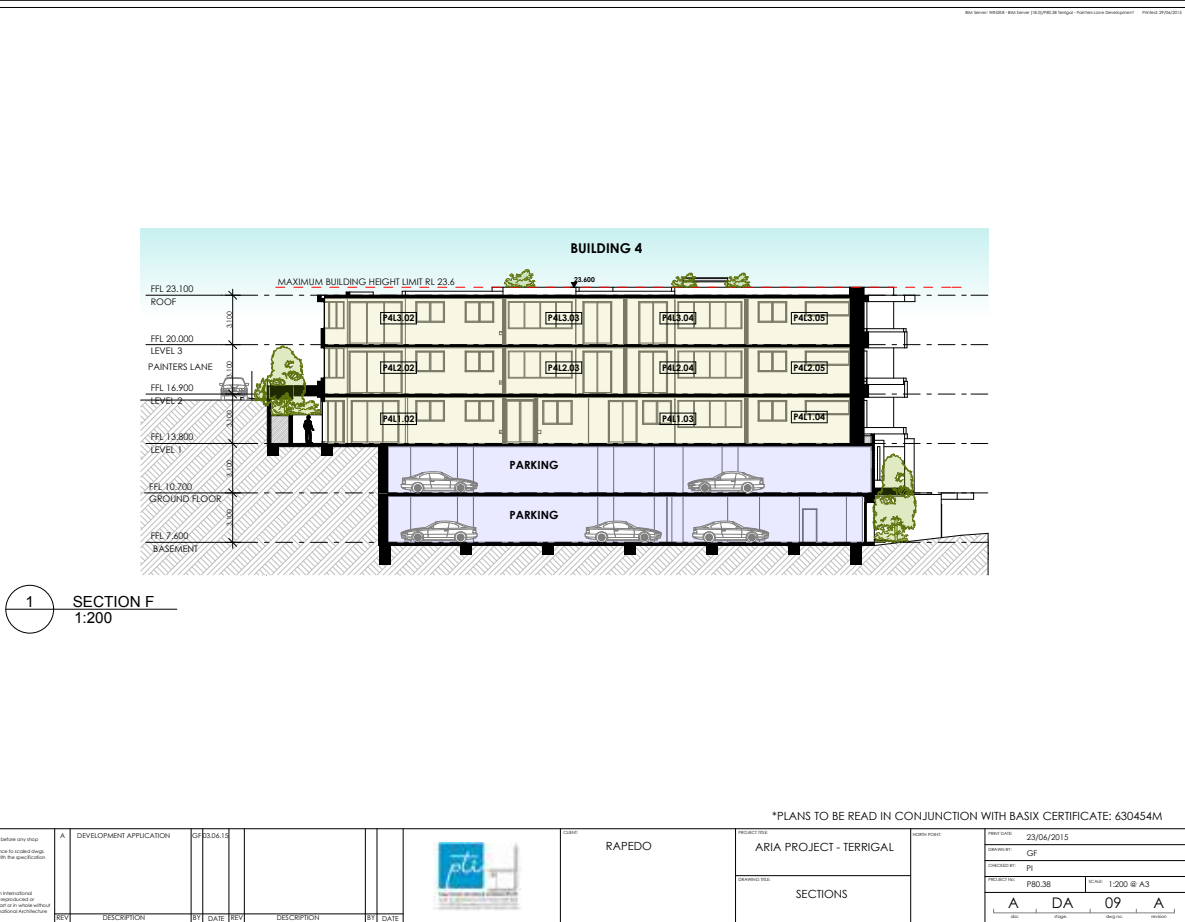
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RAPEDO PTY LTD

PROJECT :
ARIA PROJECT
BUILDING 3+4

DRAWING TITLE:
SECTIONS

SCALE (AT A1): 1:200,
DATE: 24/01/2022
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ABN 90 050 071 022

CLIENT :
RAPEDO PTY LTD

PROJECT :
ARIA PROJECT
BUILDING 3+4

DRAWING TITLE:
SECTIONS

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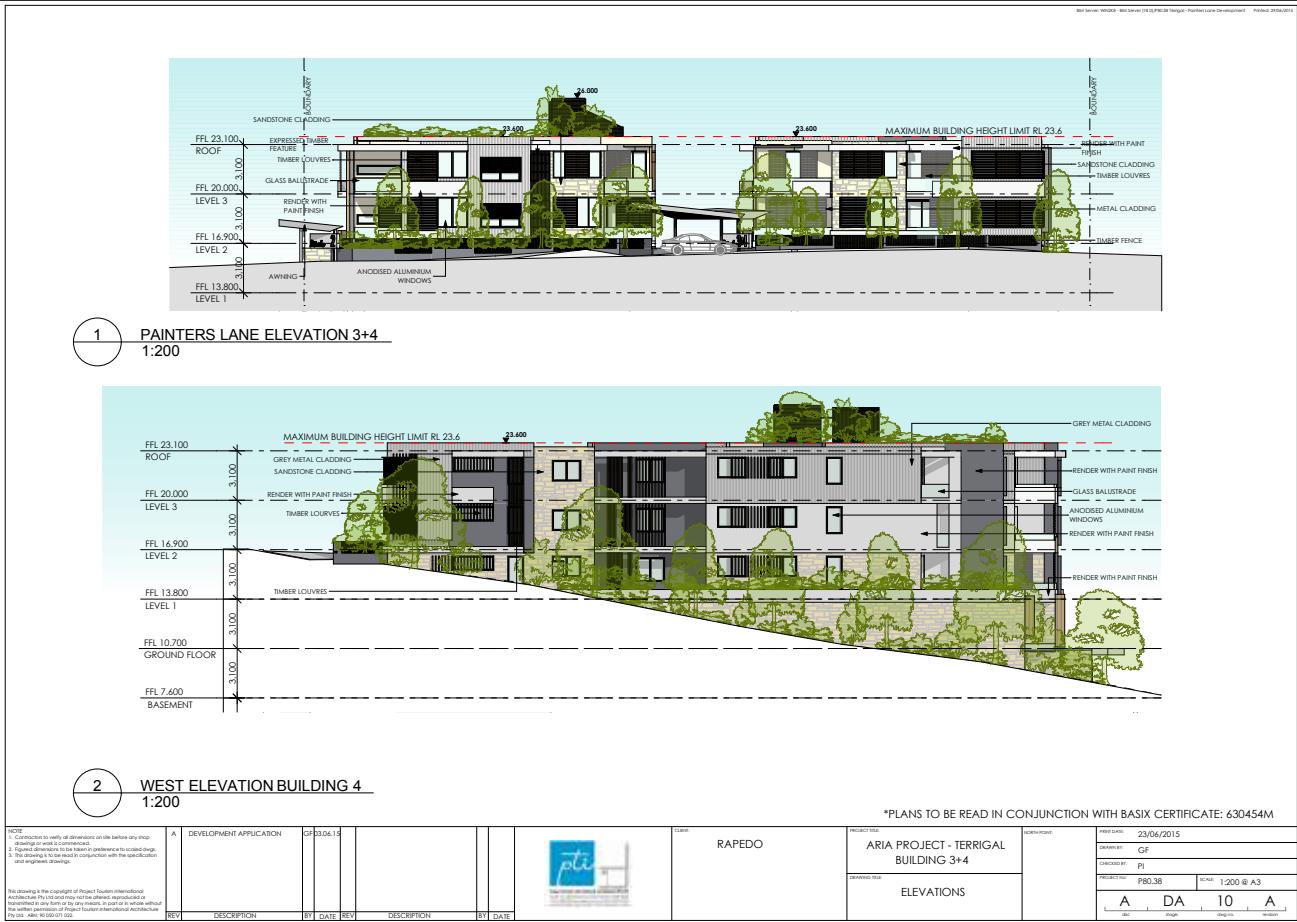
DATE:
24/01/2022

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PROJECT No:
P80.38

DA 10 E
stage. dwg no. revision



ELEVATIONS AS APPROVED - DA 47946/2015



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ABN 90 050 071 022

CLIENT :
RAPEDO PTY LTD

PROJECT :
ARIA PROJECT
BUILDING 3+4

DRAWING TITLE:
ELEVATIONS

SCALE (AT A1): 1:200,

DATE: 24/01/2022

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PROJECT No: P80.38

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CLIENT :
RAPEDO PTY LTD

PROJECT :
ARIA PROJECT
BUILDING 3+4

DRAWING TITLE:
ELEVATIONS

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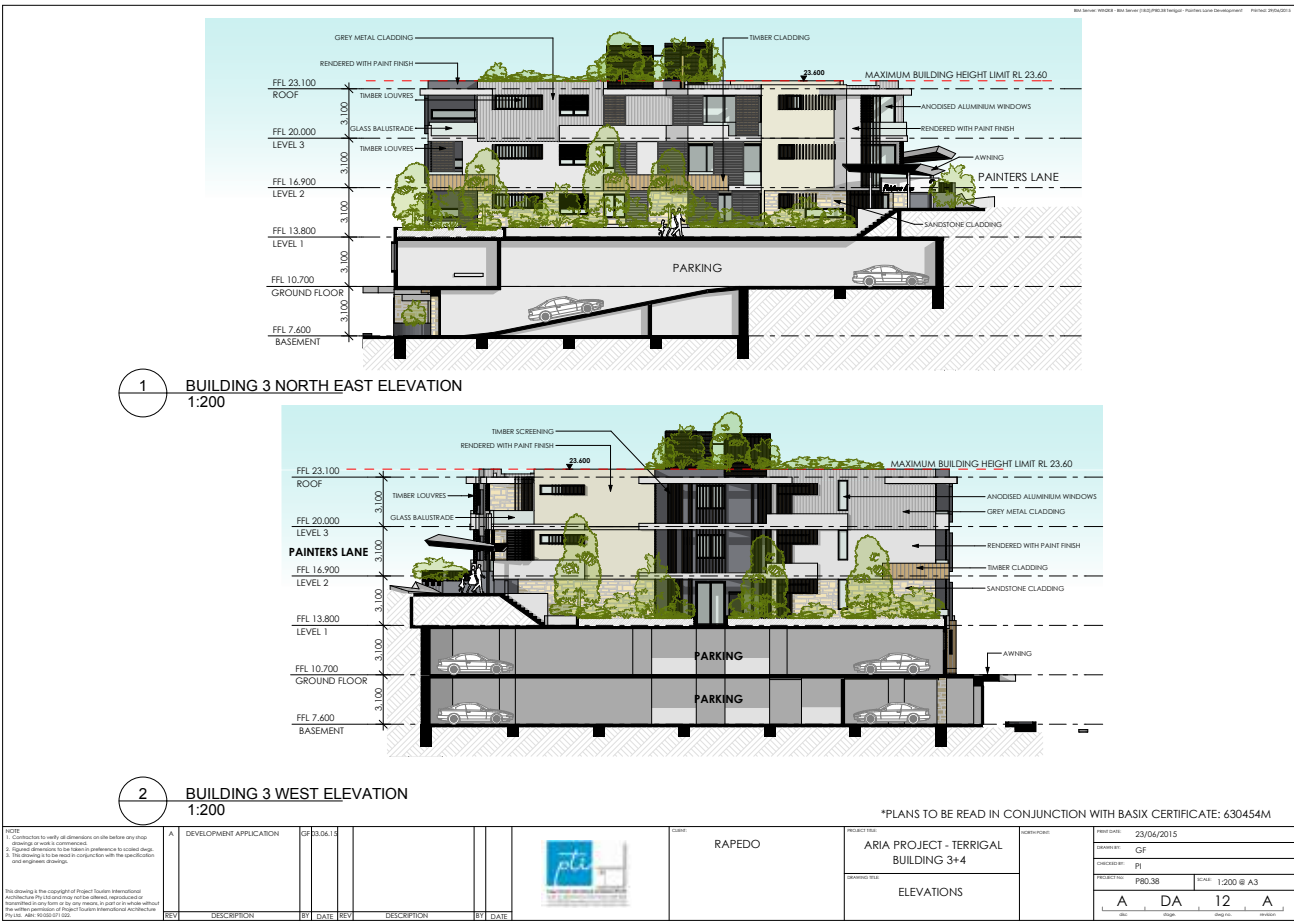
DATE: 24/01/2022

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CHECKED BY: PI

PROJECT No: P80.38

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ELEVATIONS AS APPROVED - DA 47946/2015



ELEVATIONS PROPOSED - DA 47946/2015/A

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Tourism + Residential

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ABN 90 050 071 022

CLIENT :

RAPEDO PTY LTD

PROJECT :

ARIA PROJECT
BUILDING 3+4

DRAWING TITLE:

ELEVATIONS

SCALE (AT A1): 1:200, 1:100, 1:

DATE: 24/01/2022

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DA 13 C

stage. dwg no. revision



STATEMENT OF ENVIRONMENTAL EFFECTS

Application to Modify Consent
Via Substitution of Drawings

Reduction of Apartments from 31 to 23 and
Increase Office and Parking Provision

Section 4.55(2)
DA No. 47946/2015 Part 1
Approved Shop Top Housing
ARIA Project (Buildings 3+4)

Lot 23 DP 1204364
Lot 2 DP 349187
Lot B DP 347709
Lot C DP 347823
Lot 8B DP 412722
No.'s 10-16 Painters Lane, Terrigal.

Revised
02/05/2022



Town Planners . Building Designers . Land Development . Local Government Liaison . Project Co-Ordination

SJH Planning & Design . 1 McCauley St, Davistown NSW 2251 . T: 4321 0580 . E: planning@sjh.net.au

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ATTACHMENTS

- Architectural Plans for Substitution
- SEPP 65 Design Verification Statement
- Schedule / Plan Comparisons

EXECUTIVE SUMMARY

Application was made via the NSW Planning Portal on 21st September 2021, requesting modification to the consent granted under DA47946/2015 via a reduction in the number of apartments from 31 to 23, increase in available office space and parking provision.

Plans lodged in September 2021 have been the subject of review and discussion between the Proponent, the Proponent's Architect and the Council's Senior Planning Staff.

Those discussion have led to the further amendment of plans the subject of this revised Statement of Environmental Effects which accompanies the submission now of those further amended plans and related documents.

The purpose of the further amended application remains consistent with the intention to achieve the optimum utility of the land reflecting the biophysical features, constraints and opportunities consistent with the emerging built environment, satisfying the statutory controls and meeting post Covid marketplace expectations.

Responsive to post Covid-19 pandemic executive residential accommodation demands, PTI Architects, at the direction of the proponent, have modified plans for the proposal resulting in:-

- (a) a nett reduction from 31 to 23 apartments;
- (b) location of 4 of those apartments at ground floor level affording physical, visual and social connectivity to the streetscape (and thus enhancing casual surveillance opportunity);
- (c) creation of additional parking/garaging opportunities via additional excavation in recognition of the likely greater need for recreational vehicle and equipment storage by more permanent residential occupation;
- (d) improvements to and expansion of the commercial office component for adaption to the demands of the 'work from home' executive; and
- (e) Maintenance of building footprint, envelope and height, consistent with that already approved and compliant with statutory controls in relation to height and FSR.

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Remaining consistent with the established urban design controls for the Rapedo Lands, the modifications are amenable to receipt, process and approval under the provision of *Division 4.9 of the Environmental Planning & Assessment Act, 1979, Clause 4.55 – Modification of consents*. Initially submitted under S4.55(1A), the application further revised has been refined to reflect Council's concerns is now submitted under S4.55(2) of the Environmental Planning & Assessment Act, 1979.

Plans now relied on, being those to which this revised Statement of Environmental Effects relates, are the product of an iterative process; a process that has enabled PTI Architects to better manage the void space available via excavation to improve on-site carparking, enhance on-site "work from home" opportunities and better design of internal floor plan responsive to post Covid marketplace demands while maintaining consistency with the existing approval and statutory controls in terms of building footprint and envelope.

In brief, the plans to which this revised Statement of Environmental Effects relates encapsulate the cumulative expert input of the marketplace response to design initiatives in a malleable form which has now been refined to satisfy Council's review in a form which remains substantially the same (if not identical) to the external footprint and elevation of that already approved.

This revised Statement of Environmental Effects, together with the plans and documentation attached supporting the application, have been revised to assist the Council by presenting information and analysis that leads to the conclusion that the proposal as amended is superior to that approved and being within the same footprint and envelope, has minimal and manageable impacts and thus warrants approval.

1 INTRODUCTION AND BACKGROUND TO THE PROPOSAL

The site the subject of this proposal has the benefit of consent and commencement for Shop Top Housing and Offices under Development Application No. 47946/2015 Part 1. That consent for Buildings 3+4 of "ARIA" was effected in a manner consistent with the site-specific urban design controls developed in relation to the "Rapedo" lands as referenced in Clause 9.4 of Schedule 1 to the Gosford Local Environmental Plan, 2014.

Earlier stages of the development of the "Rapedo" lands facilitated the installation and augmentation of water, sewer and drainage services both to the Painters Lane frontage and within the reciprocal rights-of-way and easements for services upon which this application relies with respect to services and vehicular access connecting to the Campbell Crescent frontage of the site.

Adopting overall height and FSR controls in a manner consistent with the current approval, this Statement of Environmental Effects relates to plans prepared by PTI Architecture drawings attached to the application and further modified by deletion of the previously contemplated architectural rooftop feature while maintaining a reduced number of apartments i.e., 23 rather than the approved 31.

While similar to the current approval via the inclusion of basement level parking, commercial space and "shop top" housing above, this proposal differs from that approved via the inclusion of additional carparking and storage space at basement level, enlarged professional office space, lobby and parking at lower ground floor, additional serviced/residential apartments at ground floor with residential apartments at level 1 and level 2 above with penthouse apartments at level 3.

The architectural plans attached to the application identify by red dotted outline the approved building as compared to that now proposed via modification providing convenient comparison.

Given the similarities of the proposal with the current approved and commenced development, the current iteration of drawings attached is amenable to consideration and approval as a modification to the current consent. The development is substantially the same as that approved in that its inclusions comprise shop top housing and offices with basement parking within a building of similar footprint and height.

The additional floor space and parking as now proposed is achieved within a building which maintains the overall height and bulk particularly with respect to its streetscape presentation to Painters Lane via excavation ensuring consistency and compliance with urban design controls effected over The Rapedo Lands and the desired character of the locality.

Commenced via works including roadworks within Painters Lane, DA47946/2015 is amenable to amendment via the substitution of plans – plans to which this revised Statement of Environmental Effects relates and plans which detail how, via additional excavation, the project is capable of accommodating the modifications and remain neutral in terms of building height at RL 23.6 AHD and consistent with approved setbacks.

The “malleable” design modifications are as now particularised in plans and accompanying SEPP 65 Design Verification Report prepared by PTI Architects and summarised as:-

- (a) 5 Storeys (above the finished ground level);
- (b) Comprising 23 Apartments (3 x 1 Bedroom, 4 x 2 Bedroom, 10 x 3 Bedroom, 4 x 4 Bedroom and 2 x 5 Bedroom)
Note. The Unit Area Schedule prepared by PTI Architects confirms that the building comprises 2 x Small Units, 4 x Medium Units and 17 x Large Units, as categorised in Council's DCP 100 which precedes current controls, but remains relied on in relation to contribution calculations;
- (c) On-Site carparking for 60 cars over 3 levels;
- (d) Shared office space to the lower ground floor level; and
- (e) Vehicular access and service infrastructure consistent with urban design controls as adopted by Council for the Rapedo Lands.

This revised Statement of Environmental Effects has been prepared to facilitate review and consideration by the Council and, to assist in that regard, draws on the information tabled previously with respect to view analysis prepared by Dr Richard Lamb, Richard Lamb & Associates dated 13th August, 2015.

Reference to the plans and supporting documentation attached to the application will confirm that the proposal is one which warrants approval given its consistency with the stated objectives and general compliance with relevant development standards.

2 THE SITE AND SURROUNDS

Comprising Lot 23 DP 1204364, Lot 2 DP 349187, Lot B DP 347709, Lot C DP 347823 and Lot 8B DP 412722 Painters Lane which forms part of the Rapedo Lands, the site has frontage to Painters Lane and via the internal right-of-ways, access to and from Campbell Crescent.

Pedestrian and vehicular access is available to and from Painters Lane and Campbell Crescent via the internal road network designed for the project at large which connects the site through to the Terrigal CBD and the beach environs. That internal road network has been designed and constructed to accommodate forward entry, loading and forward exit of a 9.8m garbage truck.

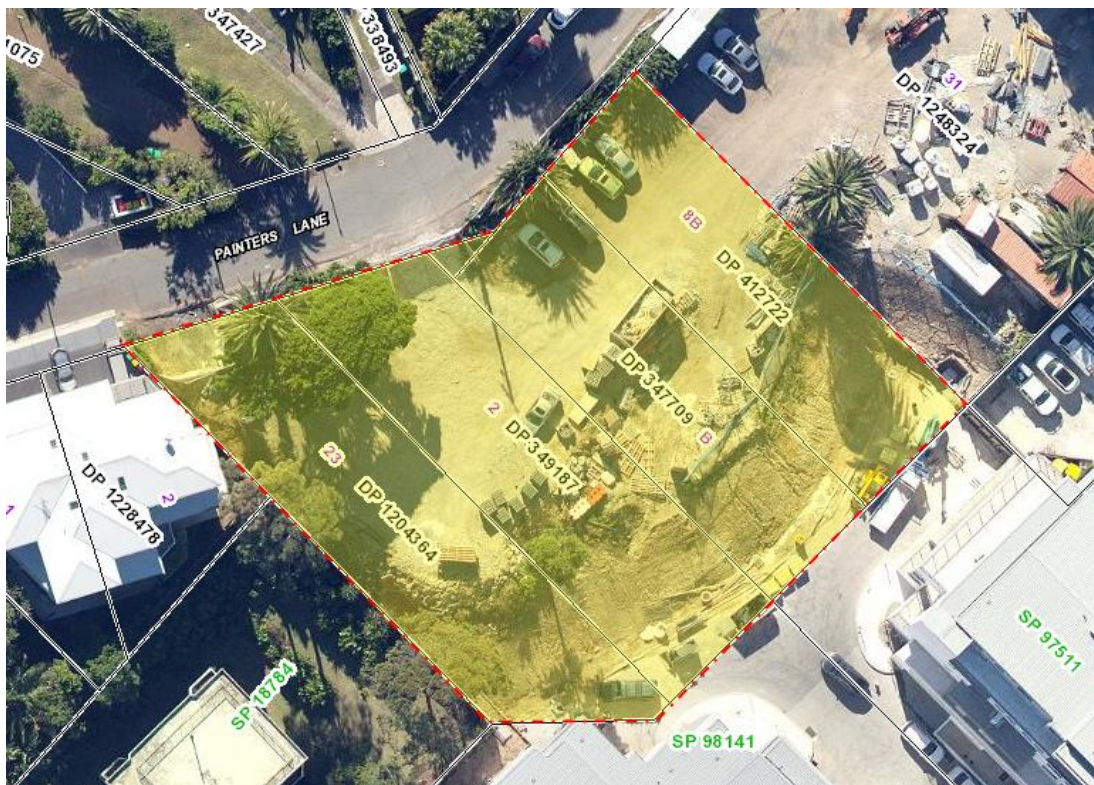
Contained within a generally regularly shaped parcel comprising an area of 2,212.6m² the land falls from about RL 16 on the Painters Lane frontage to about RL 6.5 against the right-of-way infrastructure providing access to and from Campbell Crescent.

Devoid of any improvements given the historical demolition of residential buildings which once stood on the land, the site represents the remainder of the land consolidated for urban renewal purposes, the benefits of which have been effected in part by the construction of four separate buildings to date within that land described in Clause 9A of Schedule 1 of the Gosford Local Environmental Plan, 2014.

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In adopting the urban controls which relate to the Rapedo Lands, Council gave consideration to and acknowledged the locational advantages of the site providing convenient access to all the services and facilities of the Terrigal CBD and the recreational opportunities afforded by the adjacent beach reserve.

Nearby and adjacent land uses include single dwelling houses, dual occupancy and multi-dwelling housing together with the mixed use (shop top housing) adjoining to the south-east.

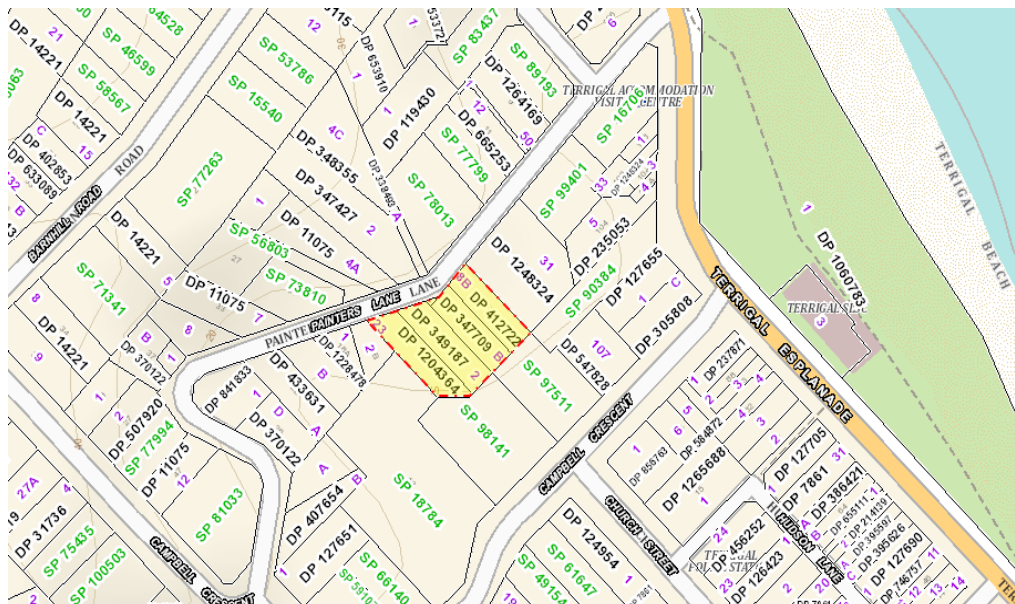


Aerial Photograph of Site – Source: Six Maps

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Aerial Photograph of Site & Surrounds – Source: Six Maps



Locality Map (Six Maps)

STATEMENT OF ENVIRONMENTAL EFFECTS (Revised 02/05/2022)

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-Application to Modify Consent – S4.55(2) – DA No. 47946/2015 Part 1

Lot 23 DP 1204364, Lot 2 DP 349187, Lot B DP 347709, Lot C DP 347823 + Lot 8B DP 412722

No.'s 10-16 Painters Lane, Terrigal

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3 THE PROPOSAL IN DETAIL

Maintaining the existing building height to RL 23.6 AHD, setbacks and general proportions in terms of bulk and scale, additional excavation has enabled refinements to the scheme as approved and commenced. That additional excavation has enabled the incorporation of refinements to the scheme effecting a nett reduction in unit numbers, an increase in the number of larger apartments in response to market demand, together with additional carparking and commercial floor space while retaining vehicular access and services infrastructure.

The elevation to Painters Lane reflects the approved height, scale and mass in terms of streetscape, while additional detailing of fenestrations and parapets will enhance the buildings presentation to the public domain.

Similar attention to detail in other elevations has the consequent benefits, particularly in relation to the internal street frontage created, providing enhanced presentation to and connectivity with the Campbell Crescent and Church Street frontage of the site.

Reference to the plans will confirm the modifications at each level are as follows:-

Basement Level

At basement floor level (RL 4.60) bulk excavation is proposed to provide access to 22 carparking spaces together with secure tenant storage and plant room, lifts and bicycle parking. This level is to be accessed via a car lift providing only authorised access to residential owners within the building.

Lower Ground Level

At lower ground floor the buildings lobby at RL 7.6 provides access to professional office space (202m²) so configured, furnished, managed and assigned as to meet future demand as strata management dictates.

The residential lobby (RL 7.6) grades up to the lift lobby (RL 7.9) providing vertical access to residential levels above.

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Vehicular access is provided at both the south-western and south-eastern sides of the building with 26 spaces including disabled spaces accessed at that level.

The car lift servicing the basement floor level is also accessed via the lower ground floor as is the residential waste storage bin room and accessible WC facilities.

Bin store and bicycle parking facilities are also found at lower ground floor level enabling convenient access and loading/collection of waste and secure storage of bicycle or other recreational vehicles.

Ground Level

The south-easternmost vehicular access driveway rises from RL 7.4 to the ground floor parking (11 spaces) at RL10.7 with those 11 spaces concealed in the void excavated and behind 4 residential suites being 1 x 1 bedroom, 1 x 2 bedroom, 1 x 3 bedroom and 1 x 4 bedroom.

Each unit has integrated balcony space and convenient access to the commercial and entertainment facilities within the Terrigal CBD. Apartments at this level enjoy access to and views over the activated internal street of the Rapedo project to Campbell Crescent and Church Street of the Terrigal CBD.

Level 1

The Level 1 floor plan at RL 14.1 is configured in two separate building components above the lower level podium with access via separate stairs and common lift. This level comprises 1 x 1 bedroom apartment, 1 x 2 bedroom apartments and 6 x 3 bedroom apartments accessible via the Painters Lane entry and/or via stairs or lift from either parking or lower ground floor level.

Each apartment has accessible and appropriately proportioned terrace space affording alfresco dining and relaxation as an extension to living rooms and adopts front, side and rear setbacks generally within the confines of that already approved.

Level 2

Comprising an identical unit mix within two buildings as Level 1, the units at Level 2 are “connected” to the lift while maintaining a separation between the two building elements of 6m.

Level 3

Comprising 5 penthouse suites, 1 x 2 bedroom, 1 x 3 bedroom and 2 x 4 bedroom and 1 x 5 bedroom apartments, the building components of Level 3 are similarly connected via the bridge servicing the centrally located lift.

The lift overrun has been designed as a building element aiding in the buildings presentation to the observer in both Church Street and Campbell Crescent.

Each of the penthouse suites at the uppermost level have appropriately proportioned balcony space integrated with living space and affording alfresco/lifestyle activities.

The current iteration of plans for Building 3+4, being consistent with the site specific urban design controls for the Rapedo Lands are also responsive to post Covid-19 marketplace requirements – requirements which have identified a market for:-

- (a) A variety of housing types offering both short-term holiday accommodation opportunities as well as more permanent and “barefoot executive” housing;
- (b) Integrated access connecting the residential suites with the tailored commercial office space to the resort facilities of the Terrigal Beach CBD offering a commercial address to executive residents who take up the opportunity for a dedicated commercial address at Terrigal;
- (c) Private open space and terraces which integrate with living space and, at the ground floor level provide an outlook to the Terrigal CBD and at upper levels have both CBD and ocean views;
- (d) Deep soil planting optimising the space available for permanent planting;
- (e) Generous provision of storage space and recreational vehicle storage consistent with Council Development Control Plan and Apartment Design Guidelines.

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The building as designed maintains compliance with FSR and height controls. Embedding solar panels to the roof top to supplement power consumption, the plans incorporate a glass lift overrun to RL 26.020 providing a practical relief to building appearance and affording work safe compliant access to the maintenance of the roof top solar power infrastructure.

The inclusions have been examined in the context of view sharing principles as well as the site-specific urban design controls for the Rapedo Lands contained within Clause 9A of the LEP and confirmed as satisfactory being consistent with that already approved and commenced.

Given the general compliance with the statutory controls, the consistency with the terms and conditions of the consent granted under Development Application No. 47946/2015 Part 1 leads to the conclusion that the proposal warrants a positive recommendation.

4 CONSULTATION

The applicant, proponent and the architectural team have maintained close communications with Council over an extended period and are thus furnished with a comprehensive knowledge of issues and concerns relevant to the consideration and the extent of modification that might be permitted.

An earlier iteration of the amendment for which consent is now sought incorporated an architectural roof feature and slightly different building arrangements; arrangements which reduced side boundary setbacks particularly at the lower and south westernmost corner.

Those earlier iterations, have been the subject of close review by the Architects and, assisted by the constructive criticism of Council's Urban Designer, led to the result of the amended plans as now tabled for consideration.

5 CONSIDERATION**5.1 Statutory Matters****5.1.1 Environmental Planning & Assessment Act, 1979**

It has been determined in discussions between the writer and Council's Principal Planner that the relevant power for the consent authority to deal with application such as this is found at Clause 4.55 – Modification of Consents generally, Sub Clause (2) Other Modifications which says:-

(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

Comment

The proposal, as amended, remains substantially the same development being described as Shop Top Housing and Offices. Additional excavation within the same footprint facilitates the inclusion of additional office space and additional basement parking without compromising residential amenity or overtaxing vehicular access infrastructure on-site or within the capacity of the street system servicing Terrigal.

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Reducing the residential yield from 31 to 23 apartments is responsive to marketplace demands as that redesign effectively increases the floor area of multiple apartments to meet those requirements.

The building design, as revised, maintains height, setback and apparent bulk especially to the public domain in a manner consistent with the zone objectives and the current approval while incorporating finite adjustments including treatments to fenestration and architectural parapet to enhance the buildings appeal in terms of streetscape.

The proposal is therefore one amenable to modification of the parent consent (DA No. 47946/2015 Part 1) via substitution of plans in accordance with S4.55(2) of the Act. Council therefore has the power to receive, process and determine the application via approval modifying the conditions to the extent necessary.

Council's obligation is to examine the application in accordance with the provisions of the Act and in particular, the matters for consideration as scheduled in Clause 4.15 Evaluation (previously S79C of the Environmental Planning & Assessment Act, 1979).

4.15 Evaluation (cf previous s 79C)

(1) Matters for consideration—general

(2) *In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—*

(a) *the provisions of—*

(i) *any environmental planning instrument, and*

(ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

(iii) *any development control plan, and*

(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, and*

(iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

(v) *(Repealed)*

that apply to the land to which the development application relates,

(b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

(c) *the suitability of the site for the development,*

(d) *any submissions made in accordance with this Act or the regulations,*

(e) *the public interest.*

(2) Compliance with non-discretionary development standards—development other than complying development

If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority—

(a) is not entitled to take those standards into further consideration in determining the development application, and

(b) must not refuse the application on the ground that the development does not comply with those standards, and

(c) 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, and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards—

(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and

(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note—

The application of non-discretionary development standards to complying development is dealt with in section 4.28(3) and (4).

(3A) Development control plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority—

(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

(c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, **standards** include performance criteria.

(3) Consent where an accreditation is in force

A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.

(5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).

(6) Definitions In this section—

(a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and

(b) **non-discretionary development standards** means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

Comment

Commencing with a review of the most relevant SEPPs in the pages following, commentary in relation to statutory controls is then followed by a review of the Gosford LEP requirements relating specifically to this site.

Application requirements were previously established by the content of Schedule 1 to Clause 50 of the Regulations ('How must a Development Application be made') which specified inter alia, documents required to accompany a Development Application. The application contains sufficient information and accompanying documents to satisfy the requirements that were previously contained in Schedule 1.

5.1.2 State Environmental Planning Policies (SEPPs)

The Property Report published by the Department of Planning on 2nd May 2022, confirms that there are now a reduced number of SEPPs applicable to the land (reduced by a Repeal of certain of the previously applicable SEPPs on or about 2nd December 2021) and others that are not directly relevant to the proposal. Those SEPPs that are applicable are addressed below.

5.1.2.1 State Environmental Policy (Building Sustainability Index: BASIX) 2004

PTI Architects are aware of the aims of the policy which for convenience and completeness are recited below:-

3 Aim of Policy

- (1) Regulations under the Act have established a scheme to encourage sustainable residential development (**the BASIX scheme**) under which:
- (a) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and
 - (b) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.
- (2) The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.
- (3) This Policy achieves its aim by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.

As lead consultants in the project, PTI Architects have embedded design features to satisfy inter alia, energy efficiency requirements, water management, air circulation and cross-ventilation in order to satisfy the BASIX undertakings as well as the Section J Certification requirements as detailed in the attachments accompanying the application.

5.1.2.2 State Environmental Planning Policy (Resilience and Hazards) 2021
(Subsumes State Environmental Planning Policy (Coastal Management) 2018
Repealed 02/12/2021)

At the time of writing and in response to our search for the relevant maps, the NSW Planning Portal carried the notation *“Temporarily Unavailable. The website that you're trying to reach is having technical difficulties and is currently unavailable. We are aware of the issue and are working hard to fix it. Thank you for your patience”*.

Subsequent and multiple visits to the NSW Planning Portal provided no clear “trail of breadcrumbs” that might lead to maps held by the Department.

In circumstances where legislation has changed, but clearly the geomorphology has not, and with an understanding of the purpose of the Coastal Management Act and its objectives, we make the observations that State Environmental Planning Policy (Resilience and Hazards) 2021, carries forward and replaces the statutory obligation for consent authorities and agencies to satisfy themselves that proposals within the coastal zone are engineered to withstand current and projected hazards.

This proposal is unlikely to alter coastal processes to the detriment of the natural environment, reduce public amenity and incorporates appropriate measures to manage any risk to life and public safety from public hazards.

The site's location is remote from the physical beachfront.

Review of relevant provisions which previously related to development of land within the coastal environment has been undertaken and reveal that the proposal is satisfactory, being unlikely to cause an adverse impact on:-

- (a) The integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
- (b) Coastal environmental values and natural processes,
- (c) The water quality of the marine estate,
- (d) Marine vegetation,
- (e) Existing public open space and safe access,
- (f) Aboriginal cultural heritage, practices and places,

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(g) The use of a surf zone.

SEPP (Resilience and Hazards) 2021 sets out matters that the relevant authorities are compelled to take into account in determining development matters consistent with the provisions of Clause 13, 14 and 15 of the SEPP.

Comment

In reviewing the relevant matters for consideration (see Clause 13, 14 and 15 of the SEPP), the consent authority will likely draw the same conclusions as this revised Statement of Environmental Effects, in that the development of the subject site is consistent with the aims of the policy and unlikely to be detrimental to marine environment or processes and consistent with social, cultural and recreational access and aspects of the policy.

The proposal is neutral in its impact in respect to general public access; is consistent with the visual amenity of the locality and has no impact on Aboriginal cultural heritage, practices or places.

The works have been designed conscious of and consistent with the relevant provisions of Council's Development Control Plan and likely impacts caused during construction are capable of mitigation and minimisation resulting in works consistent with the nature of the existing and likely future built environment.

During construction appropriate soil erosion and water management plans will be effected to contain and control stormwater discharge. Soil and water management plans once implemented will ensure that high quality pre-treated stormwater is discharged via the reticulated drainage system.

Similarly, connection to the reticulated sewer system will effect appropriate management of liquid waste. The building works will have no impact on public lands, nor detract from access to the foreshore or affect the surf zone.

Being consistent with the zoning of the land and the urban design controls adopted by the Council for the land, the Council can satisfy itself that the proposal is appropriately designed, takes into account topography of the site and does not diminish the public amenity of the beach environs by compromising access or creating overshadowing or wind funnelling off-site.

The buildings height and bulk remains consistent with the statutory controls and policy objectives adopting a minimum floor level above that identified in the Terrigal CBD and will not increase coastal hazards on other lands.

Preliminary works within the site and in the public domain adjacent, together with the successful execution of construction works on other lands being previous (earlier) stages of the Rapedo development, have revealed no evidence of hazard or contamination that will warrant further investigation.

In the subsequent execution of works associated with The Rapedo components completed to date no hint or suggestion for the need of further investigation or remediation has been identified.

5.1.2.3 State Environmental Planning Policy No. 65

Design Quality of Residential Apartment Development

In context and noting that the policy applies to the State of New South Wales, we note that the aims and objectives are somewhat generic, ubiquitous and for completeness and convenience are recited below.

2 Aims, objectives etc

(1) *This Policy aims to improve the design quality of residential apartment development in New South Wales.*

(2) *This Policy recognises that the design quality of residential apartment development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.*

(3) *Improving the design quality of residential apartment development aims—*

(a) *to ensure that it contributes to the sustainable development of New South Wales—*

(i) *by providing sustainable housing in social and environmental terms, and*

(ii) *by being a long-term asset to its neighbourhood, and*

(iii) *by achieving the urban planning policies for its regional and local contexts, and*

(b) *to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*

(c) *to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age,*

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including those with disabilities, and

(d) to maximise amenity, safety and security for the benefit of its occupants and the wider community, and

(e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions, and

(f) to contribute to the provision of a variety of dwelling types to meet population growth, and

(g) to support housing affordability, and

(h) to facilitate the timely and efficient assessment of applications for development to which this Policy applies.

(4) This Policy aims to provide—

(a) consistency of policy and mechanisms across the State, and

(b) a framework for local and regional planning to achieve identified outcomes for specific places.

Comment

The authors of the plans, PTI Architects, have prepared the architectural plans to which the application relates, together with the accompanying Design Verification Report under the relevant heads of State Environmental Planning Policy No. 65. That Design Verification Report is attached to the application and addresses the matters in the SEPP identified in Schedule 1 Design Quality Principles.

Acknowledging the Council's Principal Planner's advice and the constructive criticism of Council's Urban Designer, PTI Architects certification relates to a scheme, as amended, reflecting the expert input of others in a manner leading to resolution of design concerns and a project which matches that previously approved in terms of height, bulk and scale, with enhanced building inclusions better utilising the land and the services infrastructure consistent with good planning.

Site Analysis/Contextual Observations

Commencing with "first principles", it is apparent from site analysis assessments that the cardinal points i.e. north, south, east and west are a perpetual reference and starting point. For context, one must take into account the contributing elements inclusive of topography, elements in the built environment and the desirable elements of a locale.

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The architect's role in interpolation of those factors and graphical representation of design solutions incorporating a balance of such finite elements including cross ventilation, accessibility, social interaction and solar access is a complex "algorithm" and one resolved in this instance with innovative inclusions.

Continuing with "first principles" considerations, one must recognise that the orientation of the land and the fact that excavation as is required will place so much of the building on the downslope side of the "headland". That excavation and south-eastern orientation dictates that so much of the building is subsumed by both umbra and penumbra shadow impacts; impacts of the building within which those south-eastern oriented units are located. Additionally, shadows cast by the upper slopes of the hillside upon which they are located, together with that cast by buildings adjacent, as approved for construction, will soon contribute to further shadows cast over part of the site and therefore part of the building that is proposed.

In comparison, it is acknowledged that the Council has accepted development on similarly constrained land (in terms of solar access) being that on the south side of President's Hill at Gosford. In that location not dissimilar topographic and likely future built environment elements similarly constrain buildings oriented towards the views available.

Given that "first principles" deny any designer, no matter how skilled, the opportunity for all sides of a building to have optimum solar access, PTI Architects, in resolving building inclusions, offering a variety of dwelling types and optimising the residential capacity, have made a conscious decision to offer apartments at the lower levels destined to have a south-eastern orientation at best with access to and casual surveillance of not only the common vehicular access and service facilities, but to the activity generated within the townscape generally.

In that manner, those apartments so constrained in terms of solar access maintain satisfactory amenity particularly in terms of floor plan inclusions with efficient layouts and access to Terrigal's "resort town" facilities inclusive of the beach reserve offering unlimited solar access, together with the alfresco dining opportunities throughout the CBD.

While the impracticability of south facing apartments achieving optimum solar access might be self-evident, the physical and visual connectivity with the town centre from those apartments at the lowest level affords satisfactory amenity and justifies the departure from those generic standards given the contextual consideration warranted in a site so constrained yet affording good access to resort town inclusions.

The design solution advanced, being the product of consultation with Council's Senior Officers, offers an appropriate alternative to the approved scheme incorporating a practical mix of apartment floor plans and inclusions, all of which will maintain satisfactory amenity and contribute to passive surveillance of the common space serving the subject site and those adjacent.

5.1.2 Gosford Local Environmental Plan, 2014

Review of the Property Report accessed via the NSW Planning Portal confirms that the land is zoned B2 – Local Centre with a height control of RL 23.6 metres and a floor space ratio of 2.3:1.

In terms of relevant Local Environmental Plan controls, Council will be aware of the history which led to site-specific controls for the Rapedo Lands at Terrigal contained with Clause 9A.

Review of the proposal in light of the objectives of the provisions recited will confirm that the project in its modified form, remains consistent and compliant with the relevant provisions of the Gosford Local Environmental Plan 2014, and allied development controls.

The site specific amendments made initially to the Gosford Planning Scheme Ordinance, have been effectively “carried forward” in the creation of the Gosford Local Environmental Plan 2014. For completeness and again, for the convenience of the reader, relevant extracts from the Gosford Local Environmental Plan 2014 are recited below.

9A Use of certain land at Painters Lane, Terrigal

(1) This clause applies to land at Painters Lane, Terrigal, being Lot C, DP 433631, Lot 23, DP 1204364, Lot 2, DP 349187, Lot C, DP 347823, Lot B, DP 347709, Lot 8B, DP 412722 and Lot 3, DP 829025, identified as "Rapado Painters Lane Land" on the Additional Permitted Uses Map.

(2) Development for the purposes of dual occupancies, multi dwelling housing and residential flat buildings is permitted with development consent.

Comment

The combination of uses in the building remains consistent with those defined in the dictionary of the Gosford Local Environmental Plan 2014, and consistent with the range of uses permitted in the B2 – Local Centre zone at Terrigal and applicable to the site.

The height and floor space ratio remain consistent with that approved, while certain of the refinements improve the residential and commercial yield, enhance internal "livability" and carparking efficiency and most importantly, optimise accessibility to the social and recreational resources that are found in the Terrigal CBD.

For completeness, the B2 – Local Centre zone provisions are extracted from the Gosford Local Environmental Plan 2014, and recited below.

Zone B2 Local Centre**1 Objectives of zone**

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To provide for residential uses, but only as part of a mixed use development.
- To ensure that development is compatible with the desired future character of the zone.
- To promote ecologically, socially and economically sustainable development.
- To ensure that the town centres of Erina and Woy Woy are recognised as providing a higher level, and greater diversity, of services and facilities to serve a wide population catchment from numerous localities and as key public transport nodes, secondary to Gosford City Centre.
- To ensure that village centres such as Avoca, East Gosford, Ettalong Beach, Kincumber, Lisarow, Niagara Park, Terrigal, Umina Beach, West Gosford and Wyoming are recognised as providing a broad range of services and facilities to serve the population of the locality.
- To ensure that villages are recognised as providing local level services and facilities and are developed at a scale that reflects their population catchment and as a focus for public transport routes.
- To ensure that the different roles of villages are recognised with some villages being key tourist destinations with boutique activities in addition to serving the needs of local residents, while other villages are purpose-built centres to serve the needs of the local population.
- To encourage the residential population of villages and town centres to contribute to the vitality of those locations.

2 Permitted without consent

Recreation areas

3 Permitted with consent

Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Medical centres; Oyster aquaculture; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Home-based child care; Home businesses; Home occupations (sex services); Industrial retail outlets; Industries; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Pond-based aquaculture Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wholesale supplies

Comment

Being identical in its description to that approved on the land i.e. a mixed use development comprising "shop top housing and offices", the amendment remains permissible being consistent with aims and objectives and permitted range of uses encouraged by the LEP provisions.

Maintaining height and FSR standards and a building footprint and envelope with that commenced under DA47946/2015, the modifications arising from an increase in FSR commensurate with the enhancement of the dwelling mix and inclusions and improvement to on-site carparking represent the optimum yield of development in terms of the utility of the land and the services which are available.

5.1.3 Draft Local Environmental Plan and Draft Development Control Plan

In December 2020, the Administrator of Central Coast Council adopted a report in relation to the Consolidating LEP and DCP, the culmination of a long process embedded in a suite of documents effectively combining the planning provisions which previously applied to the separate but now amalgamated Wyong and Gosford LGAs.

Nothing in the report as adopted by the Administrator, nor the draft LEP erodes the specific provisions applicable to the subject site, nor limits the proponent's opportunities or that of the Council to permit the development as proposed.

In preparation of the Statement of Environmental Effects accompanying the application for modification, we sought reaffirmation of the status of the Draft LEP and were advised to expect conclusion via Parliamentary Counsel and endorsement by the Minister, followed by publication on the Department of Planning's website by year's end i.e., Christmas 2021! In preparing this revised Statement of Environmental Effects, we made similar enquiry and were informed to expect the process in relation to the Draft Local Environmental Plan to be concluded by June 2022. Let's see. In any event, the Draft Local Environmental Plan does nothing to constrain the consent authority's power to approve the application for modification.

5.1.4 Council Requirements

Council published in March 2019 a revision of its "A Guide for Applicants on Support Document Requirements". Described as a summary of supporting documents required for Development Applications; a summary that extends to 31 pages and concludes with an Application Checklist.

A review of that Checklist requirement confirms that the plans accompanying the application, together with supporting documents and read in conjunction with this Statement of Environmental Effects, satisfies the requirements for lodgement of an application for amendment to a current consent.

5.1.5 Gosford Development Control Plan, 2013

Being an application for modification of an existing consent, the proponent has the reasonable expectation that the application as modified (remaining consistent with height and FSR controls) remains also of a form and nature satisfactory in the context of the objectives of the DCP and its relevant chapters including character and carparking.

No further discussion is warranted given the consistency of the building detailed in plans attached with that already approved other than the specific issues and impacts identified and discussed below.

5.1.6 Issues, Impacts and Mitigation

Issues arising as a consequence of the application might be summarised as scheduled below:-

- (a) Consistency with the current approval;

Comment

By inclusion of additional residential apartments, enhanced vehicular access, parking and storage inclusions, the amended proposal achieves a better use and yield of the land.

- (b) Consistency with relevant development standards;

Comment

The proposal remains compliant and consistent with statutory and policy provisions satisfying the objectives of all.

- (c) Consequences of the amendment;

Comment

The consequences of the revisions to the design enable better compliance with the broader objects of the Act to achieve the optimum rational, orderly and economic use of land.

Impacts associated with the development might be grouped into those firstly associated with the construction phase; impacts which will remain all but identical to those associated and arising with the project as approved.

Secondly, impacts associated with the minor amendments to the building design in terms of local residential amenity will be largely limited to minor improvements to vehicular traffic aspects (refer to the Varga Traffic Planning report attached to the application).

Impacts associated with views have been thoroughly reviewed. The removal of the previously contemplated architectural roof feature brings the whole proposal entirely within the controls relevant to the Rapado Lands at large and to that extent, both the Council and the proponent are entitled to continue to rely on the expert advice of Dr Richard Lamb of Richard Lamb & Associates (refer Visual Impact Assessment Report dated 13th August 2015 held in Council's files).

SJH Planning & Design . 1 McCauley St, Davistown NSW 2251 . T: 4321 0580 . E: planning@sjh.net.au

The proposal, being consistent with the approved plans, and thus amenable to modification may be mitigated to the extent required via the application of appropriate conditions to the consent and is the usual course of action.

6 SUMMARY AND CONCLUSION

The proposal, being consistent with height, FSR, character and vehicular access arrangements is amenable to modification via Clause 4.55 – Modification of Consents of the Act.

The application, accompanied by further revised plans prepared by PTI Architects, continues to rely on the established infrastructure design.

Water cycle management issues (initially addressed in the Development Application via SRB) have been further examined and addressed to the extent required in relation to the amendment now proposed (and further modified by the plans to which this revised Statement of Environmental Effects relates) by the expert report previously submitted as prepared by CUBO Consulting Engineers. Council can rely on the CUBO Consulting Engineers Water Cycle Management Plan dated 7th December 2021 and confirm its requirements by way of appropriate conditions of consent.

The inclusion of an additional lower level of residential suites which benefit by an active outlook of the urban environment enhances casual surveillance opportunities. Other apartments with improved floor space arrangements achieve maximum advantage of view and solar outlook.

Modifications advanced enhance the “liveability” of all residential components given the convenient access to the social, service and recreational aspects of the Terrigal CBD and inclusion of inhouse professional office and active street front presentation components.

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Being consistent with the objectives of the zone, comprising the inclusions described and approved in the parent application and causing no significant impact leads to the conclusion that the modification sought is amenable to approval via S4.55(2) of the Act.

On behalf of our Client, we request that the Council provide it's imprimatur, endorse the substituted drawings, adjust conditions to the extent required and issue its amended approval.



SEPP65 ADG DESIGN VERIFICATION STATEMENT

TO ACCOMPANY THIS SECTION 4.55 AMENDEMENT BEING SUBMITTED TO
CENTRAL COAST COUNCIL

FOR SHOP TOP HOUSING DEVELOPMENT @ 14 & 16 PAINTERS LANE, TERRIGAL
(LOT 23 DP 1204364, LOT 2 DP 349187, LOT B DP 347709, LOT 8B DP 412722)

PREPARED ON BEHALF OF RAPEDO

15th SEPTEMBER 2021



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Nominated Registered Architect:
Peter Israel (reg no 5064)
ABN 90 050 071 022

Specialised Architects + Interior Designers
Project & Development Analysts, Managers &
Advisors for Tourism + Residential Properties



SUMMARY

This SEPP65 AND ADG Design Verification Statement has been prepared for Rapedo as part of a Section 4.55 Amendment to a previous Development Approval for the proposed new Shop Top Housing development and 14 and 16 Painters Lane, Terrigal.

These buildings were part of the previously approved Aria Terrigal site Planning Proposal, and so this proposal follows the principles as defined in the approval of this PP. Also, the site currently has a Development Approval for 31 apartments under DA 47946/2015.

The purpose of this application is to update the previous approval to provide now 23 apartments which includes a number of larger apartments and other lessons we learnt from the previously approved project undertaken by this same team at 8 Painters Lane.

This proposal includes:

- 2 buildings of 5 storeys
- 23 apartments comprising of 3 x 1 bed, 4 x 2 bed, 10 x 3 bed, 4 x 4 bed & 2 x 5 bed
- Parking for 60 car spaces over 3 levels including a basement.
- Lower ground floor office space fronting the existing right of way leading to Campbell Crescent.

The following notes address the ADG and SEPP65 Design Quality Principles and verifies that the scheme satisfies the design principles as set out in these documents.

We confirm that Peter Israel, the Nominated Registered Architect of PTI Architecture, oversaw the design of this development application and



Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

- The building is located in the Terrigal "bowl" on a steep site
- In this regard, the lowest part is a short walk to Campbell Crescent and the top of the site is 3 storeys higher fronting Painters Lane
- As such a key challenge of the project is to address both of these contexts
- Thereby creating a property that sits well in the context of the residential character of Painters Lane and also sits well with the context of the Terrigal town centre.
- In doing this we have designed a building that works with the requirements of the Terrigal Town Centre DCP and seeks to provide a good quality building in the process.
- Also, the challenge is to work with a substantially south facing site, albeit that the key advantage of this is that it provides for easy access to the town and the beach which for those units that do not reach solar compliance, is more than compensated by the fact that within a few minutes' walk the occupants can be on the beach or at a beach-side café.

Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

- The scale of the proposed development is in accordance with the requirements of the Town Centre Study, and therefore is in accordance with the future vision for Terrigal.
- Both buildings are built overall to the maximum height of RL 23.6, with only the lift overruns and selected parapets exceeding this height to provide an articulated building form as is encouraged by DCP and previous approval.
- Open balcony forms with privacy screens are also included as per the vision of DCP.
- A key feature of the scheme as a "place-marker" is the central glazed lift, which will provide an attractive view and end of the axis when looking up to the site along Church St from the central Church St and Kurrawyba Ave intersection.



Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

- The permissible FSR for the site is 2.2:1 as per the LEP, and the development utilises all of this
- This is a combination of 1.9:1 for the main building 0.3:1 being utilised for additional parking in the basement
- The density of the building is consistent with the requirements and objectives for the area as per the DCP and LEP.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

- The proposed building is designed to be energy efficient and compliant with the requirements of BASIX and Section J.
- A high percentage of cross ventilated apartments reduces the demands for mechanical cooling
- Also energy efficient appliances and fittings are provided through-out the development.
- 15kW photovoltaic system has also been provided.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management.

- The proposal incorporates hard and soft landscaping.
- Soft landscaping has been provided along the sides of the boundaries and along the central entry path to both buildings, as well as with planters to the south eastern balconies.



- Hard landscape areas have been provided to the ground floor central entry path leading to the Painters Lane frontage. The frontage will connect with the proposed new pedestrian path along Painters Lane.
- Additional hard landscaping is provided on the lower ground floor off the commercial space, this enables pedestrian flow in and around the central access road off Campbell Crescent.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

- The proposed apartments are designed to provide a good level of amenity for its occupants.
- Key to this also is the building's close proximity to the town centre and to the beach
- We have also sought to make the best of the site in terms of unit planning, views, natural light and ventilation and the site's proximity to the centre of town and the beach.
- In this regard also :
 - 21 out of 23 (91%) of the units are naturally cross ventilated.
 - and 14 of the 23 (61%) of the units living and private open space will achieve a minimum of 2 hours of direct sunlight.
 - On this please note that initially we designed these layouts to provide a more conventional arrangement of 28 apartments which would then achieve 68% of the apartments receiving 2hrs of sun in mid-winter, however the input from the market to our Client's sales and marketing team has led to a number of these apartments being combined to provide for the scheme as submitted. However, this alternative layout shows that the overall building form can result in a close to compliant layout in regard to sunlight in mid-winter compliance
 - Otherwise as noted there are more than 15% of the apartments having little or no direct sun in mid-winter, however this is a function of the site being south facing and with its downhill slope. As noted previously for the occupants the fact that they have access to the town and the beach within a few minutes' walk more than compensates in our view for this.
- On this we note that this particular site was originally part of a larger Planning Proposal for a much larger site extending from Terrigal Esplanade and along Campbell Crescent and up Painters Lane, and that although the total site with all its component buildings more than meets the requirements of ADG and SEPP65, this site which is the last of these component sites was



always challenged in terms of meeting full compliance, and in this regard we suggest that it is reasonable for Council to see it in association with these other sites all of which we have previously gained Development Approval for.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

- The safety and security of the residents, visitors and staff of the development has been considered and incorporated in all aspects of the design of the property.
- This includes by way of secure parking, security lighting, an intercom system for the apartments and security cameras to the ground floor and parking areas.
- As part of this also the lower floor of apartments facing into the right of way to the south provide a good level of passive surveillance to this area which provides the most risk to the safety of the residents and visitors.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

- We have found from the several projects we have previously undertaken with this Client in Terrigal, and our ongoing research into the market, that there is a current demand in Terrigal for both larger residential apartments as well as well-designed smaller apartments that are close and therefore convenient to town and to the beach
- With this in mind, the proposal provides a mixture apartment sizes comprising of 1 bed, 2 bed, 3 bed, 4 bed and 5 bed apartments that meet the demands of the various market segments.
- Accordingly, the proposal includes larger two storey apartments and a range of conventional size apartments.



Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

- The aesthetics of the scheme follow the previously approved scheme
- This also follows on from the previously approved and constructed Avanti Apartments that have been designed and developed by the same team at 8 Painters Lane
- This project seeking to further develop this aesthetic
- Which fundamentally also responds to the overall aesthetic of the town of Terrigal, as is also encapsulated in the local DCP.

Accessibility for the disabled

- All areas within the development have been designed with easy access for disabled persons, including compliant doorways, corridors, lifts and parking.
- 3 apartments as required have been designed to be post adaptable (see dwg DA26)
- Due to the site constraints ie the steep grades along Painters Lane and from Campbell Crescent, access to the site for disabled persons will be to an and from an accessible visitors car space which is located under cover near the main entry.

Waste Management

- Onsite waste storage for both residential and retail areas have been incorporated into the design as per the previously approved scheme.
- The garbage room located on the lower ground floor is very close to the Garbage Truck collection point
- The building manager will oversee that Council's required arrangements for the pickup of the garbage for the apartments are adhered to
- They will also oversee the cleanliness of the store and the bins themselves.
- Waste collection for the commercial component would be by private contractors.



Conclusion

For all the reasons stated above, we confirm that the building as designed meets the requirements and objectives of the Apartment Design Guide and SEPP65.

prepared by

PTI Architecture

Glen Fernandes, Registered Architect and

Peter Israel, Principal and Nominated Registered Architect (no. 5064)

[Agenda Report](#)

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Resolved Items Action Statement

Action is required for the following item as per the Council Resolution.

NOTICE OF COUNCIL RESOLUTION

COUNCIL MEETING – 8/12/2015

**TITLE DA47946/2015 APPLICANT: SJH PLANNING & DESIGN
PROPOSED SHOP TOP HOUSING (31 UNITS) & OFFICE
(BUILDINGS 3 & 4) ON VARIOUS LOTS, NO 10 - 16 PAINTERS
LANE & NO 3 -9 CAMPBELL CRESCENT TERRIGAL (IR 21781971)**

Department: Governance & Planning
Service Unit: Development & Compliance

The following item is defined as a planning matter pursuant to the Local Government Act, 1993 & Environmental Planning & Assessment Act, 1979.

Councillor Ward declared his less than significant non-pecuniary interest in relation to this item, under Chapter 14 of the Local Government Act 1993, as he has known the owner for some years, however considered he was capable of making an impartial decision in respect to this matter.

Councillor Doyle declared his less than significant non-pecuniary interest in relation to this item, under Chapter 14 of the Local Government Act 1993, as he has known the owner for some years, however considered he was capable of making an impartial decision in respect to this matter.

Councillor Burke declared his less than significant non-pecuniary interest in relation to this item, under Chapter 14 of the Local Government Act 1993, as he has known the owner for some years, however considered he was capable of making an impartial decision in respect to this matter.

RESOLVED (Ward/Bowles) that:

- A Council as consent authority grant consent to Development Application No 47946/2015 for Shop Top Housing (31 units) & Office (Buildings 3 & 4) on Lot 23 DP 1204364, Lot 2 DP 349187, Lot B DP: 347709, Lot: 8B DP 412722, part Lot 101 DP 1120921, part Lot 1 DP 349187, part Lot 24 DP 349187 & part Lot 0 SP 200849, 10-16 Painters Lane & 3-9 Campbell Crescent, Terrigal subject to the conditions attached.
- B In accordance with Section 95(1) of the Environmental Planning & Assessment Act 1979, this consent shall be valid for a period of five (5) years.

C The objectors are notified of Council's decision.

For the Resolution: Councillors McKinna, Doyle, Bocking, Bowles, Burke,
Macfadyen, Scott and Ward.

Item No: 3.2
Title: DA/62839/2021 - 149 Somersby Falls Road, Somersby -
DESIGNATED & NOMINATED INTEGRATED Expansion
to Concrete Manufacturing Facility
Department: Environment and Planning

Central Coast
Local Planning Panel

23 June 2022 Local Planning Panel Meeting

Reference: DA/62839/2021 - D15148306
Author: Karen Hanratty, Principal Development Planner. Development Assessment South
Ailsa Prendergast, Section Manager. Development Assessment South
Manager: Andrew Roach, Unit Manager, Development Assessment
Executive: Alice Howe, Director Environment and Planning

Summary

An application has been received for **DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility**. The application has been examined having regard to the matters for consideration detailed in section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements with the issues requiring attention and consideration being addressed in the report. The application is recommended for approval.

The application is referred to the Local Planning Panel for determination as a result of the number of submissions. Ten submissions by way of objection have been received.

Applicant	Reinforced Concrete Pips Australia Pty Ltd
Owner	Somersby Land Investments Pty Ltd
Application No	DA/62839/2021
Description of Land	Lot 4 DP 654894, 149 Somersby Falls Road, SOMERSBY
Proposed Development	DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility
Site Area	159100 m ²
Zoning	IN1 General Industrial / part C2 Environmental Conservation
Existing Use	Concrete Pipe Manufacturing
Employment Generation	Yes
Estimated Value	\$440,000

Recommendation:

- 1 That the Local Planning Panel grant consent to DA/62839/2021 149 Somersby Falls Road, Somersby - DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.**
- 2 That Council advise those who made written submissions of the Panel's decision.**

3.2 DA/62839/2021 - 149 Somersby Falls Road, Somersby - DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility (contd)

3 That Council advise relevant external authorities of the Panel's decision.

Key Issues

- Amenity impact on neighbouring properties for the expansion of the site and proposed 24 hour/7 days per week operation proposed
- Public submissions and matters contained therein.

Precis:

Proposed Development	DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility.
Permissibility and Zoning	The subject site is zoned IN1 General Industrial / part C2 Environmental Conservation under the provisions of <i>Gosford Local Environmental Plan 2014</i> . The proposed development is defined as general industry which is permissible in the zone with consent.
Relevant Legislation	<p>The following planning policies and control documents are relevant to the development and were considered as part of the assessment.</p> <ul style="list-style-type: none"> • <i>Environment Planning and Assessment Act 1979 - Section 4.15 (EP&A Act)</i> • <i>Environment Planning and Assessment Regulation 2000 (EP&A Reg)</i> • <i>Protection of the Environment Operations Act 1997 (PEEO Act)</i> • <i>Roads Act 1997 (Roads Act)</i> • <i>Rural Fires Act 1997 (RF Act)</i> • <i>Water Management Act 2000 (WM Act)</i> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> • <i>State Environmental Planning Policy (Primary Production) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>Gosford Local Environmental Plan 2014 (GLEP 2014)</i> • <i>Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018)</i> • <i>Gosford Development Control Plan 2013 (GDGP 2013)</i>
Current Use	Concrete Pipe Manufacturing
Designated Development	<i>Environmental & Planning Regulation 2000</i> Part 1 of Schedule 3 (14) Concrete Works
Integrated Development	<p><i>Protection of the Environment Operations Act 1997</i> Schedule 1 (13) Concrete Works</p> <p><i>Water Management Act 2000 (WM Act)</i> Section 91, Part 3 of Chapter 3 requiring a controlled activity approval</p>
Submissions	Ten

The Site

The site is located on the western side of Somersby Falls Road, just north of the intersection with Myoora Road.

The site has an area of 15.91 hectares and contains an approved level building pad occupying approximately 9.5 hectares. The site is zoned IN1 General Industrial with a vegetated buffer along the northern, western and southern boundaries zoned C2 Environmental Conservation.

The site generally slopes from the southeast to the northwest corner to an existing stormwater detention/water quality basin. The level building pad has been established by cutting into the southeast portion of the site by approximately 8m and filling up to approximately 9m to the northern side of the hardstand storage area.

Reinforced Concrete Pipes Australia (RCPA) operate from the site. The site is currently used for the manufacturing and storage of steel reinforced concrete pipes and associated concrete products. Steel reinforced concrete pipes are manufactured and stored on site prior to dispatch. The site also contains the concrete batching plant, offices, car parking, driveway, landscaping and associated site works (refer to Figures 1 and 2).

Vehicle access to the site is available directly from Somersby Falls Road via an existing entry/exit concrete driveway towards the southern portion of the site.

The site is identified as bushfire prone land.



Figure 1 – Aerial View of Site

Source: EIS - Beveridge Williams - Drone Survey, dated 5 May 2021



Figure 2 – Site Plan

Surrounding Development

To the west, south and north of the site is rural land with dwelling-houses and ancillary buildings. To the east of the site on the opposite side of Somersby Falls Road are a number of existing industrial buildings. Further to the west is Brisbane Water National Park (refer to Figure 3).

The site is located adjacent the north-western fringe of the Somersby Industrial Estate and identified with an Urban Release Area. The Kariong interchange and M1 Motorway is situated approximately 2.5km south-east of the site as shown in Figure 4.



Figure 3 – Locality Plan



Figure 4 – Cadastre Plan, subject site is outlined in blue, Somersby Industrial Estate is identified by green outline

Site History

GLEP 2014 (Amendment No 2) rezoned the land from RU1 to Part E2 Environmental Conservation and Part IN1 General Industrial on 9 May 2014.

DA/44996/2013 was granted consent on 9 May 2014 for a four lot subdivision of the land, subject to conditions. This consent has not physically commenced.

DA/55111/2018 was granted consent on 30 October 2018 for a temporary storage facility, subject to conditions. A construction certificate has not been issued.

DA/47599/2015 was granted consent on 26 June 2015 for the staged construction and use of a concrete pipe manufacturing facility with ancillary offices, amenities, car parking, driveways and associated site works. The then proposal consisted of a pipe manufacturing facility and associated concrete products to be constructed in stages consisting of:

- A 5000m² pipe manufacturing building consisting of 2400mm high precast concrete dado walls and Colorbond sheet metal walls and roof containing steel reinforcement cage making machines, pipe making machines, testing equipment, forklifts, front end loader, product moulds and pallets, ancillary equipment;
- 500m² awning on the northern elevation of the manufacturing facility;
- A concrete batching plant, raw material hoppers/silos and conveyors, aggregate storage bins, storage containers, concrete pipe repair benches. The four concrete silos will be approximately 16m in height;
- Offices and amenities;
- Additional 1200m² workshop;
- Stabilised gravel hard stand product storage areas;
- 10000 litre diesel fuel tank;
- 41 space car park including one disabled car parking space, two motorbike parking spaces and bicycle parking;
- Earthworks;
- Signage; and
- Associated site works including landscaping, driveways, fencing and concrete pavement

The original consent identified the following stages for the construction of the facility:

- Stage 1A – main manufacturing building (5000m²), concrete batching plant, 500m² awning adjacent to the northern elevation of the building, driveways, car parking, landscaping, signage, temporary offices, amenities and product storage;
- Stage 1B – office and amenities (415m²);
- Stage 1C – additional workshop (1200m²); and
- Stage 2 – additional external product storage.

3.2 DA/62839/2021 - 149 Somersby Falls Road, Somersby - DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility (contd)

Up to 20 staff were estimated to be employed initially. Increasing to 35 staff when the site is fully operational.

On 27 August 2015 a modified consent DA/47599/2015 (Part 2, now Part A) was issued to Amend Staging to Allow Preliminary Site Works that provided for:

- The addition of new 'Stage 1 – Clearing of IN1 Zoned Land, Fencing, Demolition and Temporary Buildings';
- The addition of new 'Stage 2 – Stormwater Detention Basin'; and
- The re-numbering of the Stages 1a, 1b, 1c and 2 to Stages 3a, 3b, 3c and 4.

On 15 February 2016 a modified consent DA/47599/2015 (Part 3, now Part B) was issued that provided for:

- Relocation of the main building further to the north;
- Relocation of the car park to the south of the main building and include new driveways to provide separate access for trucks and cars;
- Connect all gravel hardstand areas on site into Stage 3a*;
- Delete Stage 4 ;and
- Connect the office building and amenities building and reduce the floor area of these buildings to 375m².

(*By way of clarification, all hard stand areas are presently in Stage 3a, but the number of areas will be reduced from three to one through consolidation of areas, yet will remain in Stage 3a.)

On 5 September 2016 a modified consent DA/47599/2015 (Part 4, now Part C) was issued that amended the development by making minor changes to ramp, fencing, car park, drainage, landscaping and pavement.

On 27 October 2017, an application was lodged to modify DA/47599/2015 (Part 5 now Part D), Condition 6.5 in approved Stage 3A, to Allow Deliveries to be Made to and from the Site from 5am to 5pm Weekdays and 7am to 4pm on Saturdays, Sundays and Public Holidays. On 22 March 2018 consent was refused for the following reasons:

- i. Pursuant to Section 4.15 (1) (b) the subject proposal has failed to demonstrate that varying of conditions of consent relating to delivery hours will not detrimentally impact upon residential noise receivers in the vicinity.
- ii. Pursuant to Section 4.15 (1) (e) the subject proposal has not adequately proven the amendment is in the public interest due to limitations within the submitted Noise reporting.

A Section 8.2(1(b)) review was subsequently lodged with Council for the refusal of the Section 4.55 (1A) amendment to DA/47599/2015 (Part 5) to modify Condition 6.5 to increase delivery hours. The time frame to determine the Section 8.2A Review lapsed and no determination could be made.

On 26 April 2019, a modified consent DA/47599/2015 (Part 6 now Part E) was issued that amended the development by amending Stage 3a Condition 6.5 to allow deliveries to and from the site from 5am to 5pm weekdays. Condition 6.5 currently allows deliveries from 8am to 4pm on Saturdays, Sundays and Public Holidays; these hours were not amended. Additional conditions were applied for noise mitigation measures as follows:

- Condition 6.11 – required an acoustic assessment to be undertaken one month from the date of operation at the hours of 5am to 5pm weekdays and identify area where further noise mitigation measures will be required and provide the report to Council.
- Condition 6.12 - During the hours of 5am to 7am weekdays, delivery and despatch trucks must load/unload from within the Concrete Hardstand Product Storage Area.
- Condition 6.13 - No more than two forklifts (total) are permitted to be operating at any one time between the hours of 5am to 7am weekdays.
- Condition 6.14 - No more than 3 (total) delivery and dispatch trucks are permitted to access the site per day during the hours of 5am to 7am weekdays.
- Condition 6.15 - Delivery and dispatch trucks contracted by Reinforced Concrete Piping Australia are not permitted to enter and exit the site via Howes Rd Somersby.
- Condition 6.16 - Power tools are not permitted to be used between the hours of 5am to 7am weekdays.

On 30 September 2020 a pre-development meeting was held on site to discuss future works. Prior to the meeting Council was contacted by the proponent's consultant, Beveridge Williams, to discuss the scope of the future works as a modification to DA/47599/2015.

Following discussion with the consultant, Council advised that the scope of works would not be considered a modification to the DA as the likely increase in production would be greater than 30,000t/year for concrete works. The activities on the site would fall under the parameters for designated development and a new DA would be required.

Council staff met with RCPA management including their planning consultant and specialist consultants to discuss a proposed expansion of the site operations requiring site/environmental assessment for the following:

- Illumination Engineer to consider and certify lighting plans etc. for the night-time operation;
- Engineering design to consider retaining walls, planted batters, stormwater and water cycle management strategy, soil and water management, any required re-design of on-site detention basin, truck turning movements, internal circulation etc;
- Preparation of a Traffic Impact Assessment to address proposed truck entry and potential increase in truck movements to/from the site;
- Ecological assessment to consider potential impacts, if any, on existing vegetation within the C2 zoned portion of the site;

3.2 DA/62839/2021 - 149 Somersby Falls Road, Somersby - DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility (contd)

- Extensive acoustic assessment (to include both fixed acoustic measures and operational controls);
- Geotechnical Assessment (site and soil classification, foundation considerations with appropriate fill suitable for intended use, pavement design, progressive testing of controlled fill during construction etc.);
- Visual Impact Assessment (in relation to proposed acoustic barriers/walls) to consider potential impacts and appropriate mitigation measures;
- Air Quality and Odour Assessment to address potential sources of air and odour emissions from the expansion including potential cumulative impacts; and
- Updated Waste Management Plan in response to the proposed expansion.

On 12 November 2020, Council received notification from RCPA that they were extending operating hours in line with the current approved conditions stated below:

- Condition 6.6 - Except as restricted under Condition 6.5, the hours of operation shall be restricted to:
6am to 10pm Monday to Saturday; and
8am to 6pm Sundays and Public Holidays.
- The current approval allows production up to 10pm in the evening Monday to Saturday; previously operated until 6pm. Council was advised that RCPA intend to produce until approximately 8pm and finish any cleaning and end of shift activities by 10pm. In order to further limit potential impacts on adjoining properties an acoustic curtain is to be fitted to the weigh conveyor and trialling the use of adjustable broadband reversing alarms on the loader and forklifts which will only be operating in the vicinity of the factory.

Since the commencement of the revised delivery/dispatch hours Council has received complaints from the adjoining neighbour to the west raising concern from sleep disturbance from the early morning delivery trucks and forklifts. Council's Compliance Team have continually liaised with RCPA management and the neighbour in relation to the matter.

Operational requirements of DA/47599/2015/E and the proposed development

DA/47599/2015/E is a staged DA. Stages 1, 2 and 3a have been completed, Stage 3c has granted approval for an additional workshop (1,200m² in size) is yet to be constructed. Additions to the approved workshop is included in the proposal description under this application DA/62839/2021.

The Applicant has not requested the proposal to be staged; however, has provided a schedule of works with the intention to construct the acoustic mound/walls, then extend hours of operation and phased increase in production capacity before constructing the new hardstand area followed by the erection of buildings. Stage 3c for the additional workshop of DA/47599/2015 is then likely to be completed with the building works under this application.

It is considered both DAs would operate concurrently for a time during the construction of the acoustic walls. Current restrictions for ongoing operations on the site will not change until the

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relevant acoustic walls are constructed to allow the proponent to commence 24 hour/7 days per week operations as required by EPA conditions.

To ensure all stakeholders are aware of the operational conditions on the site, prior to the commencement of operations 24-hours/7days per week Council is to be notified two days prior to the intended commencement wherein the restrictions imposed by development consent DA/47599/2015 (Part 6 now Part E) Stage 3a, Section 6 (Ongoing), no longer apply to the operation of the site, refer conditions 1.4 and 1.5 respectively.

The Proposed Development

The proposal comprises the following:

- i. Import, place and compact fill (approximately 56,000m³) to a maximum height of 8.4m in the central northern portion of the site (surface area including batters equal to 13,828m²) to provide additional hard stand storage area (between existing hard stand storage area and detention/water quality basin). This area is already disturbed and clear of vegetation.

Pavement to match that of existing hardstand storage area, being cement stabilised road base.

- ii. Construction of fixed acoustic walls as recommended by the Applicant's Acoustic Engineer along the top northern edge of the proposed batter (filled area) and along the top western edge of the existing hardstand area with adequate return along the south-west corner. Internal noise walls are also proposed to the north and west of the existing batching plant.

Acoustic wall heights vary from approximately 1.7m to 8.5m;

- iii. Formalise second vehicle entry point, approx. 10m wide, at northern end of the property frontage to facilitate truck entry ONLY from Somersby Falls Road and improve efficiency of vehicle movements within the site. Existing access at southern end of the property frontage is to be retained and will continue to be used as a combined entry/exit point for standard vehicles and exit only for trucks.

During filling of the proposed hardstand storage area in the northern portion of the site, the second vehicle access will be particularly important to avoid congestion within the yard from multiple truck movements that will be required to import fill while carrying on normal business activities.

A plan showing Articulated Vehicle Swept Paths is Drawing Number EB14 of the Concept Engineering Design Plans. The plan has been prepared having regard for the largest heavy vehicle expected to enter and exit the site and demonstrates compliant vehicle manoeuvring within and around designated circulation paths.

- iv. Additional covered storage (awning) to eastern side of existing production building and via proposed container dome shelter to the north of the existing batching plant. The approved but not yet constructed workshop to the south-western side of the existing production building is to be extended to increase floor area. Refer below details:
- proposed awning dimensions (eastern side of production building) - 31.5m x 5m (157.5m²)
 - proposed container dome shelter (north of existing batching plant) 27.3m x 24m (655m²) with an overall height of 6.9 metres
 - extension to approved workshop (south-western side of production building) 25m x 18m (450m²) giving a total floor area once constructed of 1250m²
- v. Increase production capacity from the approved 22,000t/year to above the designated development production threshold of 30,000t/year to respond to changing market requirements.

The existing batching plant is to remain unchanged. Existing equipment and machinery are adequate to service the production capacity increase. RCPA proposes a phased increase in production capacity over several years up to a maximum of 100,000t/year. However, during busier times and in response to market demand, this throughput may be slightly exceeded periodically. Minor fluctuations are considered acceptable and a realistic response to an ever evolving and changing market. A reasonable degree of fluidity and common-sense approach should be applied in this regard.

While an increase in production capacity and hours of operation is proposed, the concrete batching process and ancillary operational characteristics will generally remain as per the original approval.

- vi. Extend approved operation hours to 24 hours, 7 days per week;

The aim of 24-hour operation is to increase production capacity to help meet market demand. Twenty-four-hour operation provides additional flexibility to extend production time to increase output as needed. While the majority of truck movements will continue to be within normal working hours, lifting restrictions on times that trucks can access the site allows for top up of raw material and pre-loading of dispatch trucks if needed. Truck sizes for dispatch are generally semi- trailers or rigid trucks with load capacities in the range of 8-30t. Trucks for raw material deliveries are generally truck and trailers, rigid trucks or semitrailers with similar load capacities.

Night-time operations would primarily occur within the main production building. Truck movements and work activities within the existing hardstand storage area directly west of the batching plant would be necessary but carried out in accordance with the recommendations, mitigation and management measures advised by the Acoustic Engineer.

The proposed hardstand storage area is not be used during night-time operations. These activities shall be limited to occur within the eastern half (close to batching plant) of the existing hardstand storage area.

Cement truck loading into cement silos will not occur during night-time operations (10pm – 7am). Sand and gravel cement truck deliveries will also not take place during night-time operations (10pm to 7am).

Refer to Acoustic Assessment for further mitigation and management measures (fixed and operational).

RCPA currently employ a total of 35 full and part-time employees at the Somersby facility. This figure would increase to approximately 55 employees as a result of the proposed development. The number of employees on site at any one time during a day shift would be approximately 35 and a night shift approximately 20.

- vii. Proposed development works will include modifications to the existing stormwater system and stormwater detention/water quality basin.

Items v and vi above would generate a need for an additional 18 – 20 full-time and part-time staff offering shift work opportunities. The increased production capacity would, in turn, have a multiplier effect on employment opportunities external to the business operation such as transport contractors, local material suppliers and maintenance contractors.

While no formal staging of the works is proposed, the following is the preferred structure and logical approach to facilitate an immediate incremental increase in production capacity, extended hours of operation and establishment of noise mitigation measures respective to the gradual stages of works:

1. Erection of internal acoustic noise walls to the north and west of the existing batching plant and along the top, western edge of the existing hardstand area with adequate return along the south-west corner. Works include associated stormwater treatment works as recommended (ie: provision of a turfed swale along the western edge of the existing gravel hardstand area)
2. Extend hours of operation
3. Phased increase in production capacity
4. Bulk earthworks, new heavy vehicle entry access, erection of acoustic noise wall along top northern edge of the proposed batter (filled area) and modifications to stormwater system and stormwater detention/water quality basin
5. Erection of new storage structures (awning and dome shelter)
6. Addition to approved workshop.

The proposed development is to be wholly located within the IN1 zoned portion of the site, being an already cleared and disturbed area. Removal of trees and vegetation is not required.

The proposed works are shown in the overall site plan in Figure 5, inclusive of new hardstand area, detention basin, buildings and acoustic walls and Figures 6, 7 & 8 identify the building additions floor plan, west and east elevations.

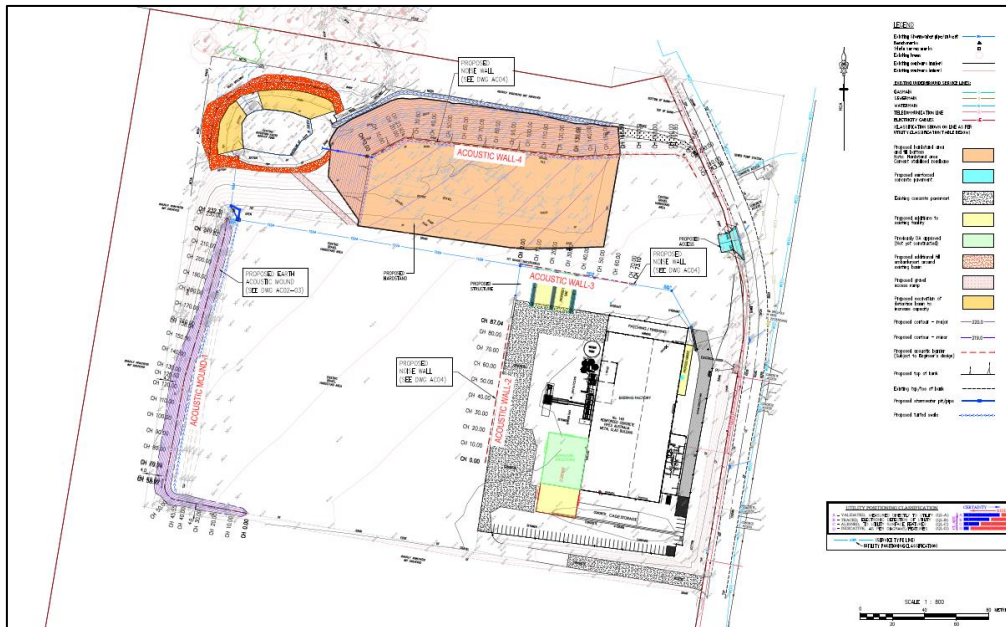


Figure 5 – Overall site plan of works

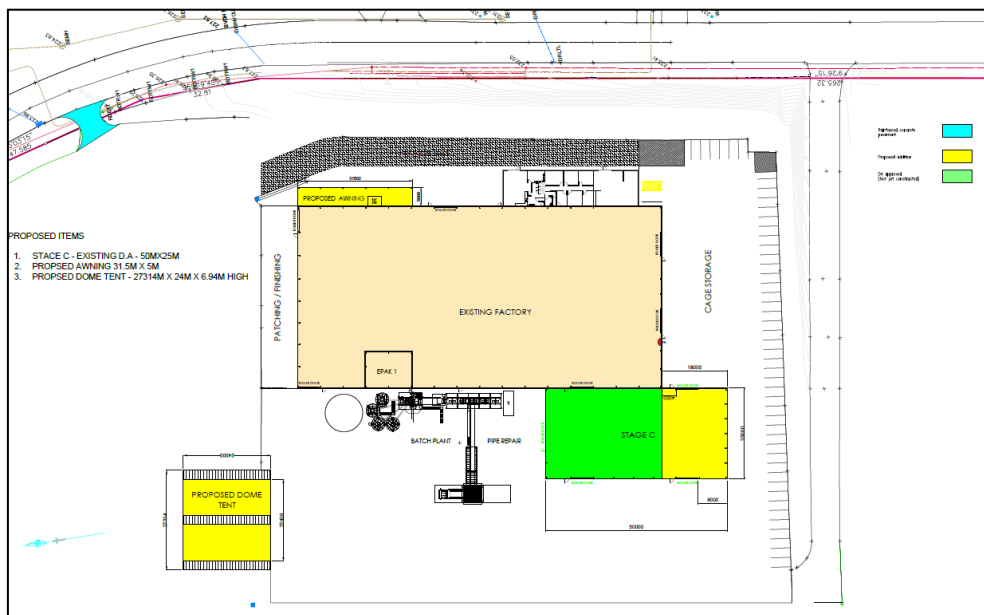


Figure 6 – Building additions - floor plan

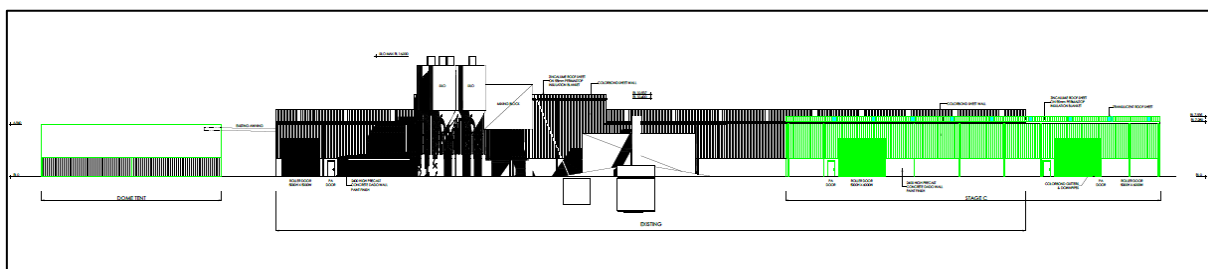


Figure 7 – Building additions shown green - west elevation

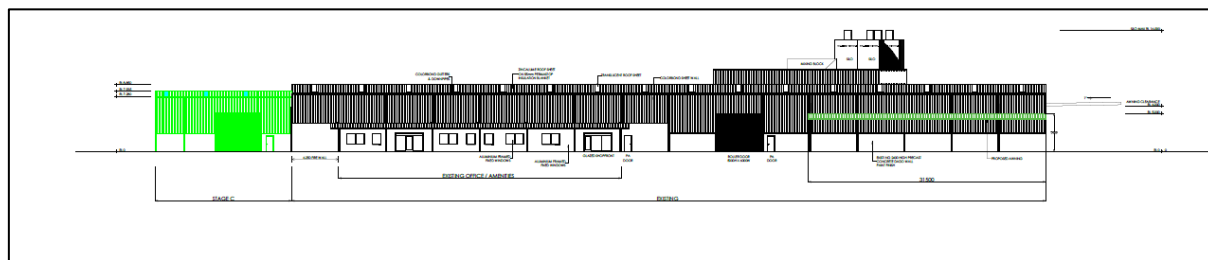


Figure 8 – Building additions shown green – east elevation

ASSESSMENT:

Having regard for the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, Council's policies and Section 10.7 Certificate details, the assessment has identified the following key issues.

Environmental Planning and Assessment Act 1979 (EP&A Act) - Integrated Development

The proposed development is considered Integrated Development in accordance with Section 4.46(1) the *Environmental Planning and Assessment Act 1979* and requires that the consent authority must, in accordance with the *Environmental Planning and Assessment Regulation 2000*, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development.

The application was referred to and General Terms of Approval provided by the relevant authorities as follows:

- Natural Resources Access Regulator (NRAR) has issued General Terms of Approval (IDAS-2021-10174 dated 6 October 2021) for part of the proposed development requiring a controlled activity approval under section 91, Part 3 of Chapter 3 of the *Water Management Act 2000*.
- NSW Environment Protection Authority (EPA) has issued General Terms of Approval (DOC21/805193 dated 18 October 2021) under Section 48, Part 3.2 of Chapter 3 of the *Protection of the Environment Operations Act 1997*, requiring an Environment Protection Licence for scheduled activities where Schedule 1 of the *Protection of the Environment*

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Operations Act 1997 indicates that a licence is required for premises at which the activity is carried on.

Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) - Designated Development

The application is Designated Development in accordance with the provisions of Part 1 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2000*, which sets out the criteria for the proposed development for concrete works as follows:

14 Concrete works

- (1) *Concrete works that produce pre-mixed concrete or concrete products and—*
 - (a) *that have an intended production capacity of more than 150 tonnes per day or 30,000 tonnes per year of concrete or concrete products, or*
 - (b) *that are located—*
 - (i) *within 100 metres of a natural waterbody or wetland, or*
 - (ii) *within 250 metres of a residential zone or dwelling not associated with the development.*
- (2) *This clause does not apply to concrete works located on or adjacent to a construction site exclusively providing material to the development carried out on that site—*
 - (a) *for a period of less than 12 months, or*
 - (b) *for which the environmental impacts were previously assessed in an environmental impact statement prepared for that development.*

The activities on the site will increase in production volumes above the 30,000t/year threshold. The site is within 100m to the north of the site of a natural waterbody and within 250m of a dwelling not associated with the development. Accordingly, the proposal is classified as Designated Development.

The Applicant sought and received the Secretary's Environmental Assessment Requirements (SEARS) from the [then] Department of Planning, Industry and Environment (DPIE) for the preparation of an Environmental Impact Statement (EIS), which was prepared by Beveridge Williams.

Protection of the Environment Operations Act 1997

The underlying objective of the *Protection of the Environment Operations Act 1997* is to reduce pollution and manage the storage, treatment and disposal of waste.

The increase in operating capacity evokes Schedule 1 of the *Protection of the Environment Operations Act 1997*, which requires the facility to operate within an Environmental Protection Licence issued and regulated by the EPA.

The application was referred to the EPA, who identified several environmental issues that will require conditions put on an Environment Protection Licence as follows:

- Impacts on air quality

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- Potential noise impacts
- Surface water controls
- Bunding and chemical storage.

The EPA issued its General Terms of Approval for the proposal dated 14 February 2022 and recommended conditions which are incorporated into conditions of consent as Schedule A.

The EPA is the approved regulatory authority for works, as well as the ongoing operation and management of this site, and as such no additional environmental health conditions will be applied for the operational period of this development.

Rural Fires Act 1997

The site is identified as bushfire prone land on Council's bushfire maps. In accordance with Section 4.14 of the *Environmental Planning and Assessment Act 1979*, development on bushfire prone land is required to comply with the provisions of the *Rural Fires Act 1997* and *Planning for Bushfire Protection 2019* (PBP 2019) published by the NSW Rural Fire Service (RFS).

The consent authority must be satisfied the development conforms to PBP 2019 otherwise it must consult with the RFS. The proposed development is considered 'other development' addressed by Clause 8.3.10 of PBP 2019 and shall demonstrate the proposal meets the aims and objectives of PBP 2019. It is considered referral to the RFS is not required in this instance as Council is satisfied the Applicant has demonstrated the proposal meets the aims and objectives and the level of risk has been adequately considered for the scale of the development and number of people likely to be occupying the building.

The Applicant states that consultation was undertaken in relation to the proposal with the relevant authorities in the preparation of the EIS in accordance with the SEARS.

The Applicant has demonstrated the proposal meets the aims and objectives of PBP 2019 in the EIS (Section 5.11.1 Bushfire) and provides the following in relation to access, water supply, services and emergency and evacuation planning as follows:

a. To provide safe access to/from the public road system for firefighters providing property protection during a bushfire and for occupant egress for evacuation.

- *The Site has direct frontage to Somersby Falls Road which is adequately serviced and maintained, with consistent surfacing and well-preserved road shoulder for much of its length. The speed limit on Somersby Falls Road is consistent with other local roads within the area at 60km/h.*
- *Access to the site is available directly from Somersby Falls Road via an existing concrete driveway approx. 10 metres wide and a proposed second concrete driveway approx. 11 metres.*
- *Existing and proposed hard stand surfaces are flat and would provide a suitable pavement for firefighters protecting the property during a bushfire event.*

- *The proposed vehicle access arrangements and adjoining sealed public road networks are considered satisfactory to provide adequate and safe evacuation in the event of a fire emergency.*

b. To provide suitable emergency and evacuation (and relocation) arrangements for occupants of the development.

- *It is recommended that suitable emergency and evacuation planning procedures be established generally in the form of an emergency and evacuation plan/map to be erected in a location that can be viewed by staff and visitors of the facility.*

c. To provide adequate services of water for the protection of buildings during and after the passage of bush fire and to locate gas and electricity so as not to contribute to the risk of fire to a building.

- *Council's reticulated water main supply is available to the site from Somersby Falls Road. Several rainwater tanks are also available on site. The site is provided with all essential infrastructures.*

d. Provide for the storage of hazardous materials away from the hazard wherever possible.

- *Storage of any hazardous goods or materials shall be located well away from the adjoining bushfire hazard and within the existing production building, where possible.*

The assessment of the application has considered the following:

- The development has been operating for a number of years on the site and currently employs a total of 35 full and part time employees which is likely to increase to approximately 55 employees: day shift 35 employees and night shift 20 employees as a result of the extended hours of operation.
- Based on the scale and nature of development proposed, involving the establishment of an additional hard stand area within an already cleared and disturbed area of the site and the erection of storage structures over existing hard stand areas, additional bushfire planning measures are not considered relevant or required and further consultation with RFS is not considered necessary subject to conditions for water/utilities, landscaping and preparation of an Emergency and Evacuation Plan.
- It is noted that the application was referred to the RFS upon lodgement of the application, who requested additional information by way of a bushfire report prepared by a bushfire consultant. Discussion was held with RFS on this matter stating a report is not required in this instance, a report was not requested of the Applicant and the RFS closed the referral on this basis stating the proposal was not supported.
- Referral to RFS is not required in accordance with s4.14(1) (a) of the *Environmental Planning and Assessment Act 1979*. Council is satisfied the proposal meets the aims and objectives of PBP 2019.

Water Management Act 2000

To the north of the site beyond Anulka Road (not formed) on adjoining land is an unnamed tributary to Floods Creek, which is located further west and north-west within Brisbane Water National Park. In accordance with the Strahler Stream Order guidelines, field-based investigation and the tributary being within 40m of the proposed works, it will be necessary to obtain a Controlled Activity Approval in accordance with section 91 of the *Water Management Act 2000*. The proposal is Integrated Development in accordance with Section 4.46 of the EP&A Act under Section 91 of the *Water Management Act 2000*.

Draft Environmental Planning Instruments

The following draft Environmental Planning Instruments apply to this application:

Draft Central Coast Local Environment Plan 2018

The draft Central Coast Local Environment Plan 2018 (Draft CCLEP 2018) is a matter for consideration under section 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*. Draft CCLEP 2018 was exhibited from 6 December 2018 to 28 February 2019 and adopted by Council on 14 December 2020.

Draft CCLEP 2018 is pending finalisation by Parliamentary Counsel for the Minister and is expected to be made, as CCLEP 2022, by the end of June 2022. The commencement date will be announced on the making of the plan.

The application has been assessed under the provisions of Draft CCLEP 2018 with respect to zoning, development standards and special provisions. The proposed development is consistent with Draft CCLEP 2018.

Under Draft CCLEP 2018 the site will retain the split zoning: IN1 General Industrial and C2 Environmental Conservation. The proposed development is a permitted use in the IN1 zone with consent. The proposal is consistent with Draft CCLEP 2018.

State Environmental Planning Policies (SEPP)

A number of State Environmental Planning Policies (SEPPs) have been consolidated to align with the new planning framework developed by the Department of Planning and Environment (DPE).

It is noted no policy changes have been made as a result of this consolidation and it does not change the legal effect of the existing SEPPs, with Section 30A of the *Interpretation Act 1987* applying to the transferred provisions.

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021 commenced on 1 March 2022 incorporating and repealing the provisions of *State Environmental Planning Policy 55 – Remediation of Land*.

The relevant provisions of the SEPP are addressed as follows:

Chapter 4 Remediation of Land

Clause 4.6 requires that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and suitable for the proposed use.

The existing operation and proposed development are wholly within the IN1 zoned portion of the site, which is suited to the intended development purpose, being for industrial activities.

Previous and current land uses are not expected to be potentially contaminating. The Preliminary Contamination Investigation prepared by Douglas Partners confirms this and proposes that fill material to be imported to site will be virgin excavated natural material (VENM) or excavated natural material (ENM).

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 commenced on 1 March 2022 incorporating and repealing the provisions of *Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)*.

The relevant provisions of the SEPP are addressed as follows:

Chapter 9 Hawkesbury-Nepean River

The aim of this Chapter is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

Part 9.2 stipulates the general planning considerations, specific planning policies and recommended strategies to achieve the aim of the chapter. The specific planning policies and recommended strategies that apply to the proposal are water quality and water quantity.

A Water Cycle Management and Soil and Water Management Report prepared by Beveridge Williams (Project No 2000438 dated 02/02/2022) was submitted with the application. Supporting preliminary engineering plans prepared by Beveridge Williams (Project Ref 2000438, Drawings

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EB01-EB14, all Rev C dated 01/02/2022) were also submitted in relation to proposed drainage and associated civil works.

It is proposed to import 56,000m³ of VENM/ENM with a surface area of 13,828m². Soil disturbance will affect an area of approximately 18,000m². The revised Soil and Water Management Plans produced by Beveridge Williams are generally satisfactory.

All surface water flows are to be directed into an existing detention pond which overflows into an unnamed creek located north of the site, which is a tributary of Floods Creek within Brisbane Water Natural Park. Spel Ecoceptors are proposed within two stormwater pits on site with all surface waters flowing into a stormwater retention dam on site.

A water quality monitoring program is proposed to be undertaken at the discharge point of the site, as well as the unnamed creek (upstream and downstream of the discharge point) prior to, during and post construction. Appropriate water quality parameters have been set and monitoring frequencies, as well as corrective actions for non-compliance.

The reports and plans have been reviewed. The recommended treatment controls and mitigation measures are considered satisfactory in relation to stormwater quantity and quality proposed to be treated and mostly managed on site to minimise potential impacts on the water table and downstream environment as a result of the existing and proposed development.

State Environmental Planning Policy (Primary Production) 2021

State Environmental Planning Policy (Primary Production) 2021 commenced on 1 March 2022 incorporating and repealing the provisions of *Sydney Regional Environmental Plan No 8 (Central Coast Plateau Areas)*.

The relevant provisions of the SEPP are addressed as follows:

Chapter 3 Central Coast plateau areas

The Chapter aims to predominantly provide for the environmental protection of the Central Coast plateau areas and to provide a basis for evaluating competing land uses whilst encouraging the use of land having a high agricultural capability and enable development for the purposes of extractive industries in specific locations.

Although the site is located on the Central Coast plateau, it is not identified as prime agricultural land. The rezoning of the site in 2014 to IN1 General Industrial has excluded the land for rural/agricultural purposes.

Notwithstanding this, consideration has been given to the environmental impacts of the proposed additions to the approved development on the natural ecosystems of the region and the adjoining properties as stated elsewhere in this report. The proposed development does not involve an

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extractive industry and does not require clearing of land. Council is satisfied that the carrying out of the development would not adversely affect the present or future use of other prime agricultural land for the purposes of agriculture.

State Environmental Planning Policy ((Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021 commenced on 1 March 2022 incorporating and repealing the provisions of *State Environmental Planning Policy (Infrastructure) 2007*.

The SEPP deals with traffic generating development and requires referral to and concurrence from Transport for NSW (TfNSW) for certain development that is expected to generate significant traffic in accordance with Clause 2.121 and Schedule 3 'traffic generating development' which must be referred to TfNSW for consideration.

The schedule includes development for the purposes of industry incorporating 20,000m² or more of gross floor area (GFA) for a site with access to a road (generally) or 5,000m² or more of GFA for a site with access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road).

The Applicant states that the site has an area of 15.96 hectares. The GFA of the existing pipe manufacturing building is approximately, 5,000m². The increase in GFA relates to storage structures only and equates to a total of approximately 1,260m². Based on these areas, the proposed development is not captured under Schedule 3 of the SEPP and referral to TfNSW was not necessary.

However, for the avoidance of doubt the proposal was referred to TfNSW for comment in accordance with the relevant planning provisions in force under Clause 104 / Schedule 3 of the *State Environmental Planning Policy (Infrastructure) 2007*, with respect to traffic generating developments (applicable policy at the time of lodgement). TfNSW advised in comments dated 13 October 2021 that the proposal is not of a size or scale that requires referral to TfNSW under Clause 104. Council is the Roads Authority in this instance.

A Traffic and Parking Impact Assessment prepared by Intersect Traffic Pty Ltd and dated 23 July 2021 was submitted with the application. The impacts of the proposal in relation to traffic generation has been reviewed by relevant Council officers and deemed satisfactory (refer to discussion under GDCP 2013 Chapter 7.1 Car Parking).

Gosford Local Environmental Plan 2014 (GLEP 2014) - Zoning and Permissibility

The subject site is partly zoned IN1 General Industrial and C2 Environmental Conservation under the GLEP 2014.

The proposal is located wholly within the IN1 General Industrial zone and is a permissible form of development within that zone. The part of the site zoned C2 is heavily vegetated as shown in the zoning map (refer to Figure 9), and acts as a buffer between the operation of the subject site and the neighbouring properties.

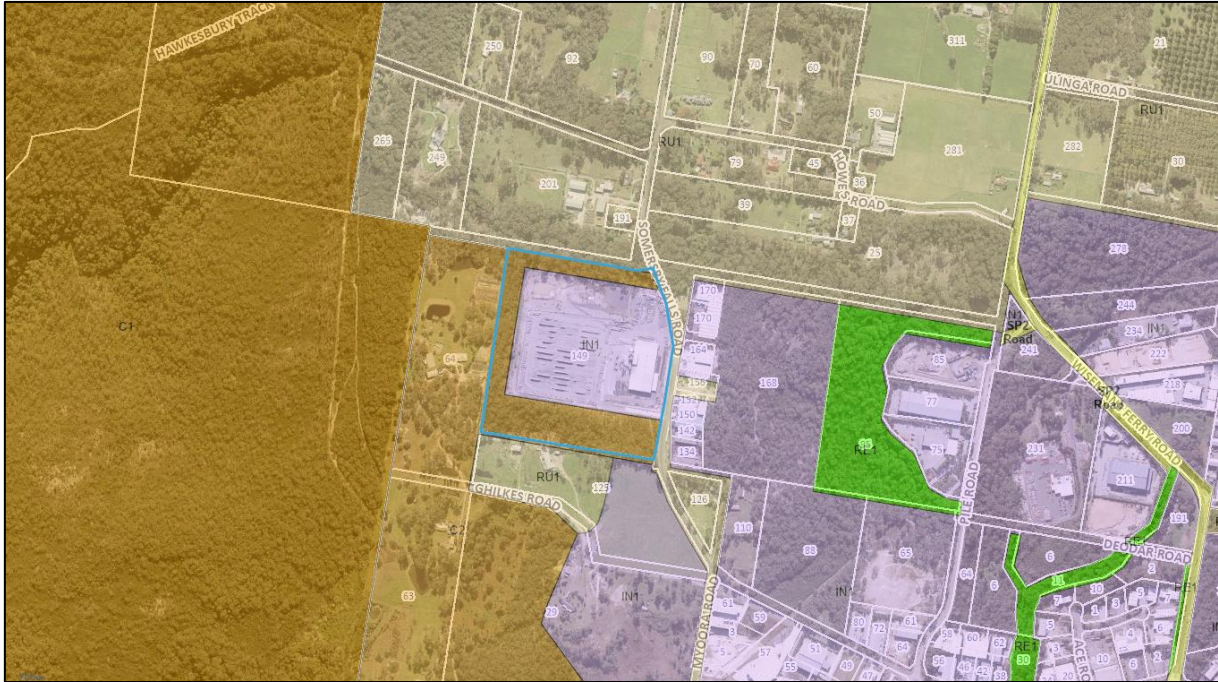


Figure 9 – Zoning Map GLEP 2014

Development for the purposes of a **general industry** is permissible within the IN1 zone with consent.

general industry means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

industrial activity means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.

The objectives of the IN1 General Industrial zone are:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.

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- *To promote ecologically, socially and economically sustainable development.*
- *To ensure that retail, commercial or service land uses in industrial areas are of an ancillary nature.*
- *To ensure that development is compatible with the desired future character of the zone.*

The objectives of the C2 Environmental Conservation zone are:

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*
- *To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.*
- *To ensure that development is compatible with the desired future character of the zone.*
- *To limit development in areas subject to steep slopes and flooding.*

The Applicant states the proposed development to utilise the remaining IN1 zoned portion of the site to increase in production capacity and hours of operation is in direct response to market demand and to prevent the sourcing and purchasing of concrete products from interstate.

The assessment has considered the cumulative impacts of the site expansion. The proposal addresses environmental impacts and represents an acceptable design. The proposed acoustic walls are required to mitigate offsite noise impacts although will have some visual impact to the north and east of the site which can be reduced by materials used and additional landscaping to blend into the landscape.

The proposal will provide appropriate measures to address the zone interface and potential amenity impacts with the adjoining sites and their residences zoned RU1 Primary Production to the north, C2 Environmental Conservation to the west and south. No development is permitted or proposed on the part of the site zoned C2 Environmental Conservation. The proposal is not considered to have adverse impact on the amenity of the surrounding area and is compatible with the desired future character of the land zoning.

The proposal is also consistent with the principles of ecologically sustainable development as specified within the *Local Government Act 1993*.

Gosford Local Environmental Plan 2014 - 4.3 Height of building

There is no height of building development standard in the IN1 General Industrial zone relevant to this application.

The height of building development standard is applicable to land zoned C2 Environmental Conservation. In accordance with the Height of Building map in GLEP 2014 the maximum building

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height is 8.5m in the C2 zone. No development is proposed within part of the site zoned C2 Environmental Conservation.

Gosford Local Environmental Plan 2014 - 4.4 Floor Space Ratio

There is no floor space ratio development standard in the IN1 General Industrial zone relevant to this application.

Gosford Local Environmental Plan 2014 – 7.1 Acid sulfate soils

This land has been identified as being affected by the Acid Sulfate Soils Map and the matters contained in Clause 7.1 of *Gosford Local Environmental Plan 2014* have been considered. The site is mapped as containing Class 5 acid sulfate soils (ASS).

Clause 7.1(2) defines Class 5 Acid Sulfate Soils as follows:

“Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres AHD and by which the watertable is likely to be lowered below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land”

The proposed works are not within 500m of any adjacent Class 1, 2, 3 or 4 land. While site disturbance is proposed, namely fill, it is unlikely the proposed development would disturb, expose or drain acid sulfate soils or cause environmental damage. The works do not require any excavation below 5m AHD and the water table is not likely to be lowered below 1m AHD.

In this instance, the proposal works are not considered to impact on acid sulfate soils and a preliminary assessment is not required. Notwithstanding this, a condition is recommended that ensure any unexpected finds of acid sulfate soils will be appropriately managed.

Gosford Development Control Plan 2013 (GDCP 2013)

Gosford Development Control Plan 2013 (GDCP 2013) provides objectives, design criteria and design guidance on how development proposals can achieve good design and planning practice.

Gosford Development Control Plan 2013 - Chapter 2.1 Character

The site is located within the character area: Somersby 3: Agricultural Plateau & Hillside of Gosford GDCP 2013 Chapter 2.1 Character. The desired character of this area is set out below:

These areas should remain productive rural landscapes that accommodate broad-hectare agricultural or livestock activities, together with a scattering of residential and small-scale tourist activities that do not interfere with the preferred primary-productive uses. Future development and land management, including major developments such as extractive industries, should not compromise scenically-distinctive qualities of backdrops to Gosford City’s major tourist routes.

Conserve scenic qualities and habitat values by retaining natural slopes and visible rock outcrops, as well as by preventing further fragmentation of the existing bushland canopy. Conserve existing bushland remnants that provide scenically-prominent backdrops to any road or nearby property, particularly trees that are located along road verges and frontages, as well as along the side and rear boundaries to each property. Screen any large existing structures as well as restoring the desired pattern of “green” boundaries by planting new trees that are

predominantly-indigenous. Noxious or environmental weeds must not be planted, and existing infestations should be controlled. Concentrate new buildings and works within existing clearings, away from prominent ridgelines, watercourses or any areas that are prone to flooding. Use low-impact framed construction with suspended floors rather than masonry structures that require extensive cut-and-fill, particularly on visually-prominent slopes or next to bushland.

Achieve bushfire asset protection zones preferably by thinning the canopy to establish breaks between existing trees. Locate new dwellings and accommodation buildings to avoid extensive additional clearing, and use fire-resistant design and construction techniques for all new structures as well as effective land management. Screen all verandahs, windows and suspended floors to exclude bushfire embers and sparks.

Complement the existing informal landscape quality of buildings scattered across paddocks or slopes that are surrounded by trees. Locate all new buildings and works (other than roadside stalls) well back from road frontages, and vary both siting and form of adjacent structures in order to avoid the appearance of continuous walls of development or visually-dense clusters of buildings. Promote the natural or informal scenic qualities of existing road verges and frontages by avoiding opaque fences, urban-style entrance walls, extensive landfilling or terracing, and large commercial signs. Conceal wastewater treatment systems, and ensure that any discharges would not compromise the composition or scenic quality of bushland, encourage weed growth, or affect water quality within any watercourse.

Ensure that new buildings would not visually-dominate any property within these scenically-prominent settings. Minimise scale and bulk by using strongly-articulated forms, such as stepped floor-levels that follow natural slopes, and irregular floorplans, such as linked pavilions that are capped by individual roofs and separated by landscaped courtyards. Roofs should be simple forms without elaborate articulation, with wide eaves plus gentle pitches. Use extensive windows and shady verandahs, as well as a variety of exterior finishes and cladding rather than expanses of plain masonry or metal sheeting. Ensure that outbuildings are compatible with scale and design quality of the principal structures upon any property by using similar roof pitches and eaves, plus appropriate exterior materials and finishes.

The site is located to the east of land located in the Somersby Industrial Area, which is identified as being within the character area of Somersby 2: Employment Estate and west of land identified as being within the character area of Somersby 5: Scenic Conservation.

GLEP 2014 (Amendment No 2) rezoned the land from RU1 to Part E2 Environmental Conservation and Part IN1 General Industrial on 9 May 2014, after the commencement of GLEP 2014 and GDCP 2013. The land may have once been used for agricultural purposes; however, is approved for and developed for the purposes of industry and the manufacturing of concrete pipes.

Notwithstanding this, the proposal seeks to further develop a presently disturbed and unused area of the site to expand the existing operation within the portion of the site zoned for this purpose.

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The vegetation surrounding the development on the C2 zoned portion of the site will remain, will not be disturbed and will continue to provide a visual buffer to the site operations.

The buildings proposed have been designed to integrate with the existing buildings and are not considered to have any adverse visual or amenity impact to that currently erected on the site or alter the existing or desired character of the area. The overall height of proposed acoustic walls along the edge of hardstand storage areas is appropriate to mitigate noise impacts and will not be visually intrusive subject to additional landscaping and materials and external finishes used to blend and integrate with the built and natural environment.

Further details are provided in the visual impact assessment under Other Matters for Consideration in the report. The proposal will not have a significant impact on the character of the area.

Gosford Development Control Plan 2013 - Chapter 2.2 Scenic Quality

The proposal is located within the Kulnura to Somersby Plateau landscape unit, which is of local significance although areas viewed from the Freeway and escarpment areas are of more than local significance.

The principle aim of the Scenic Quality Development Control Plan is to provide guidelines for the interpretation and management of the scenic quality of the area in accordance with the development objectives of the landscape unit.

As stated under Chapter 2.1 Character the structures proposed have been designed to integrated with existing buildings. No change is proposed to building setbacks, the existing vegetation buffer approximately 40m wide and greater will remain and not be disturbed.

Additional plantings shall be established along the site frontage adjoining Somersby Falls Road. Batters associated with proposed fill for the new hardstand storage area shall also be appropriately planted. Landscape plantings will be established to external facing sides of acoustic walls to be located along the northern and western edges of existing and proposed hardstand storage areas in accordance with the recommendations of the visual impact assessment.

The proposal is consistent with the development objectives and will not have adverse impact on the landscape character and scenic quality of the area.

Gosford Development Control Plan 2013 - Chapter 3.11 Industrial Development

The relevant provisions of Chapter 3.11 Industrial Development have been considered in the assessment of application as summarised in the table below.

Development Controls	Proposed	Compliance with control	Compliance with objective
3.11.5.2.a	• Awning – east elevation 23m	Yes	Yes

3.2

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Setbacks and boundaries – site frontage – 10m	<ul style="list-style-type: none"> • Dome shelter - >25m • Addition to approved (not yet constructed) workshop = >80m 		
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Development Controls	Proposed	Compliance with control	Compliance with objective
3.11.5.2.c Side and rear setbacks for lots > 4000m ² in area – 5m	Side and rear >5m	Yes	Yes
3.11.5.2.e Setbacks to creek - 6m from top of the bank	Complies	Yes	Yes
3.11.5.3 Building Height A maximum requirement is not prescribed	The proposed building additions are less in height than existing structures on site and will not impact on the privacy and amenity of adjoining properties.	Yes	Yes
3.11.5.4 Building Appearance As per relevant design principles	<ul style="list-style-type: none"> • The appearance of the existing buildings on site generally remains unchanged. • The small awning addition and increase in floor area to the approved (but not yet constructed) workshop will integrate with existing structures. • External materials and colours shall be selected to match existing. • The proposed dome (igloo style) shelter is for the storage of pallets etc and is a lightweight structure to be located within the central portion of the site close to the existing batching plant and main production building. The dome structure is approximately 6.9m high and less than the height of the existing main production building and silo structures. 	Yes	Yes
3.11.6.2 Ancillary Uses – Outdoor storage Areas Not to encroach on carparking areas, driveways or landscaped areas. Screen from view from any road or public area.	<ul style="list-style-type: none"> • The proposed hardstand storage area will not encroach on carparking areas, existing driveway and internal circulation paths or landscaped areas. • Proposed acoustic walls, landscaped batters and additional plantings along the frontage of the site will assist to screen the new hardstand area from Somersby Falls Road and adjoining properties. 	Yes	Yes
3.11.7 Parking and Loading	• Refer discussion Chapter 7.1 Car Parking.	Yes	Yes

Development Controls	Proposed	Compliance with control	Compliance with objective
3.11.8.3 Landscaping – 5m site frontage	<ul style="list-style-type: none"> • Landscape plan conditioned to provide 5m depth at site frontage • Landscape Plan integrates with the building and car parking areas - Existing landscaping as established for the approved development will remain undisturbed. • Landscape plantings will be established to battered areas of the proposed filled area and along the outer facing elevation of perimeter acoustic walls to be located along the northern edge of the proposed hardstand storage area and the acoustic mound at the western edge of the existing hardstand storage area. • A Biodiversity Management Plan (BMP) is to be prepared. The subject area is to include the C2 Environment Conservation portion of the Lot and the detention basin area. The primary objective of the BMP is restoration of native vegetation and threatened species habitat management. 	Yes	Yes
3.11.8.4 Pollution Control	<ul style="list-style-type: none"> • Air quality, noise and lighting are addressed under Other Matters for Consideration 	Yes	Yes
3.11.9 Site Services	<ul style="list-style-type: none"> • Refer Chapter 7.1 Car Parking – Access • Refer Chapter 6.7 Water Cycle Management & Stormwater Drainage • Refer comments under WM Act – Water and Sewer • Refer Chapter 7.2 Solid Waste Management. 	Yes	Yes

The proposal is consistent with the requirements in GDCP 2013 for industrial development.

Gosford Development Control Plan 2013 - Chapter 6.3 Erosion and Sediment Control

It is proposed to import 56,000m³ of VENM/ENM with surface area of 13,828m². Soil disturbance will affect an area of approximately 18,000m². Council's Environmental Health Officer has reviewed the revised Soil and Water Management Plans produced by Beveridge Williams, which are satisfactory and comply with the minimum requirements of Clause 6.3 of the GDCP 2013.

GDCP 2013 - Chapter 6.7 Water Cycle Management

The civil works has been considered by Council's Development Engineer for the proposed development as follows:

Flooding

Council's records do not indicate that the site is affected by flooding.

Drainage

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The site generally grades from the south-eastern corner of the site to the north-western corner of the site. There is an existing on-site detention / water quality basin within the north-western area of the site that was constructed in conjunction with the existing development on the site associated with DA/47599/2015.

Water Cycle Management Plan

A Water Cycle Management Plan prepared by Beveridge Williams (Project No 2000438 Rev 3 dated 02/02/2022) was submitted with the application. Supporting preliminary engineering plans prepared by Beveridge Williams (Project Ref 2000438, Drawings EB01-EB10, all Rev C dated 01/02/2022) were also submitted in relation to proposed drainage and associated civil works.

This Water Cycle Management Plan addresses the requirements of Chapter 6.7 of GDCP 2013 as follows.

Storm water retention and reuse:

Please refer to the separate report by James E Allen and Partners Titled "Existing Concrete Batching Project, 149 Somersby Falls Road, Somersby – Water Usage Report", which is summarized below.

Stormwater quantity

In relation to stormwater quantity, the objectives of this report are indicated as to:

- *Model the site in the pre-development (No development) condition to determine the predevelopment peak storm water discharge from the site for peak storm events up to and including the 1% Annual Exceedance Probability (AEP) storm events.*
- *Model the site with the existing and proposed development to determine if the basin requires modification to contain up to the 1% Annual Exceedance Probability (AEP) peak storm event runoff and/or requires modification to the outlet control structures to ensure post proposed development peak flows leaving the site are less than predevelopment peak flows for peak storm events up to and including the 1%AEP storm event.*
- *Model the site with the existing and proposed development with modifications to the stormwater basin to contain up to the 1%AEP storm event runoff to result in peak flows that are less than pre-development peak flows for peak storm events up to and including 1% AEP peak storm event.*
- *Recommend works required to mitigate the impact of stormwater flows from the development site.*

A runoff routing method (DRAINS) was utilised to analyse the pre-and post-development scenarios for rainfall events from five minutes to two hours duration and annual exceedance probabilities (AEPs) from 50% to 1%.

The Water Cycle Management Plan indicates:

- *Discharge from the existing stormwater basin is controlled by a combination of pipe/orifice outlets and a high flow weir. Lower flows are controlled by a 450mm diameter pipe with an outlet invert of RL 208.45. This pipe is connected to a pit with a high- level inlet at RL 210.00 and a 750mm diameter basin outlet pipe. When the water in the basin reaches the high- level inlet the 450mm diameter pipe is flooded and the 750mm diameter pipe becomes the flow control. Further high- level flow from the basin occurs via a weir at RL 210.05 that is approximately 4m wide.*
- *The post-development modelling found that the existing stormwater basin didn't have sufficient capacity to contain the 1% AEP storm event with the water level exceeding a level of RL 210.30 indicating insufficient capacity. This result is not unexpected due to the increase in impervious area from the proposed development and increased flows from using rainfall data based on AR&R 2019 versus previous rainfall data from the original basin modelling which used AR&R 1987.*
- *To maintain the pre-development peak storm water discharge from the site for all AEPs up to and including the 1%AEP for the existing and proposed development it is recommended to increase the storage capacity of the existing stormwater basin by at least the amounts identified in 3.5 above. This can be achieved by some minor earthworks to the northern and western sides of the basin. The proposed works to modify the existing storm water basin are shown on the preliminary engineering drawings sheets 1 to 15 titled "PROPOSED DEVELOPMENT LOT 4 DP 654894 SOMERSBY FALLS ROAD, SOMERSBY Project No. 2000438 EB01-EB15" by Beveridge Williams that are provided separate to this report.*
- *With the additional storm water basin capacity proposed, the bank level would need to be raised above RL 210.31 which is the 1% AEP top water level reached in the basin. It is recommended that the top of the wall be increased to RL. 210.61 to allow a 300mm freeboard above the 1% AEP. The existing spillway level remains unchanged.*
- *Adoption of the measures shown on the drawings will mitigate the effects of increased peak flows from the proposed development on existing flow paths and waterways downstream of the development site.*

The results of the modelling and proposed amendments to the existing basin indicate that the proposed measures will limit post-development flows back to pre-development flows for the design storms analysed for recurrence intervals up to and including in the 1% AEP event.

Stormwater quality

In relation to stormwater quality, the objective of this report is to demonstrate that by the introduction of storm water treatment measures into the storm water system that the percentage reductions in annual pollutant loads indicated in Chapter 6.7 of GDCP 2014 will be achieved. In this regard the MUSIC (Model for Urban Stormwater Improvement Conceptualisation) modelling software was utilised to analyse the pre- and post-development scenarios. The proposed treatment train approach incorporates the following elements:

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- Rainwater tanks and reuse of roof water for non-potable water uses as noted in the report by James E Allen & Partners (Project No 2021-06 Rev P3 dated 11 April 2021).
- Use of Ecosol litter baskets with media filtration pillow in the nominated pits.
- Installation of a Spel Ecoceptor 1500 series and 4000 series at the locations indicated on the plans. (Note: Alternative equivalent devices can be used. This can be assessed further with design for Construction Certificate).
- Construction of a turf swale along the northern edge of the proposed hardstand area.
- Construction of a turf swale along the western edge of the existing gravel hardstand area.
- Provision of a buffer strip at the north east corner of the site along the existing toe of batter.
- The storm water detention basin in north western corner of the site.

The results of the modelling indicate that the provision of the stormwater treatment measures proposed will achieve the percentage reductions in annual pollutant loads required under Chapter 6.7 of GDCP 2013.

The Water Cycle Management Plan recommends that *stormwater treatment devices equivalent to those modelled and noted above are adopted within the stormwater network to service the existing and proposed development. The location of the various device and their integration into the proposed development is indicated on preliminary engineering drawings sheets 1 to 15 titled "PROPOSED DEVELOPMENT LOT 4 DP 654894 SOMERSBY FALLS ROAD, SOMERSBY Project No. 2000438 EB01-EB15" by Beveridge Williams.*

Note: the revised engineering drawings, 14 sheets, numbered EB01-EB14 dated 01/02/2022 do not conflict with the information provided in the Water Cycle Management Plan.

Monitoring and maintenance measures for the stormwater devices to be utilised in the treatment train approach has been included in the Water Cycle Management Plan.

The Water Cycle Management Plan is deemed to be acceptable for assessment of the application for the purposes of the matters indicated above.

Water conservation

A 'Water Usage Report' prepared by James E Allen & Partners (Project No 2021-06 Rev P3 dated 11 April 2021) was submitted with the application. This report analyses the existing water minimisation strategies adopted for the existing development on the site and analyses the performance and expectations of the existing development against the future performance and expectations related to the increase in staff (10 persons) and double the increase in production of concrete pipes proposed with this development application.

In summary, the retention/reuse measures provided with the existing development for the site would reduce the demand on potable water supplies by 89%. Utilising the same retention/reuse

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measures but doubling production and increasing staff as proposed would increase the demand on potable water supplies resulting in an overall reduction in demand on potable water supplies for the future development to 51.76%. However, the development would still result in achieving a reduction of demand on potable water supplies over and above the minimum 40% required.

Gosford Development Control Plan 2013 - Chapter 7.1 Car Parking

Parking

The existing development approved under DA/47599/2015 required 71 car parking spaces in accordance with the car parking requirements for industrial development based on floor area; 41 car parking spaces were approved. The Applicant submitted a Traffic and Parking Assessment Report, which identified that the development, whilst having a large floor area, only generates a need for parking of about 41 spaces based on projected employee and visitor numbers.

A "Traffic & Parking Assessment" prepared by Intersect Traffic (20/196 Rev E dated 23 July 2021) was submitted with the application. The report states 54 car parking spaces exist on site, with a maximum of 30 car parking spaces utilised on any given day as evidenced by on-site observations and one accessible space is provided.

The proposal requires car parking to be provided at the rate of 1 space /100m² of industrial floor space i.e. the additional floor area of 450m² requires five car spaces. Fifty-four car spaces are provided on site, which is in excess of five or more spaces unused on any given day. There is sufficient space to accommodate the car parking requirements for the proposed additions.

As per the consent for DA/47599/2015 is it recommended that an 'Ongoing' condition be imposed to indicate that "The road reserve of Somersby Falls Road is not to be utilised for the parking needs of the development".

Road, Access, Traffic

The civil works has been considered by Council's Development Engineer for the proposed development as follows:

Road works

The site has a frontage to Somersby Falls Road. Somersby Falls Road was upgraded by Council to provide a full width road pavement (11m wide) with kerb and gutter both sides and associated drainage infrastructure across the frontage of the site, and a full width road pavement (11m-12m wide) with kerb and gutter both sides and associated drainage infrastructure between the subject site and the intersection of Somersby Falls Road and Pile Road. The pavement in Somersby Falls Road is in very good condition.

Road works in Somersby Falls Road are not required for the proposed development.

Access

Within the road reserve

As part of the original development application on this site associated with DA47599/2015, a concrete heavy-duty vehicular access crossing was constructed near the southern end of the site frontage to provide for all traffic movements (cars & trucks) into and out of the site.

The subject application now proposes an additional vehicular access point. This new vehicular access is to be used for entry only for trucks with the 19m semi-trailer reflective of an AS2890.2:2018 Articulated Vehicle nominated as the vehicle to service the development.

The use of the existing vehicle access at the southern end of the site frontage is to be changed to combined entry/exit point for cars and an exit only for trucks.

The AS2890.2:2018 19m Articulated Vehicle is nominated as the largest vehicle to enter and exit the site. Conceptual swept turn paths for the AS2890.2:2018 vehicle entering the site at the location of the new vehicular access crossing were provided with the application to indicate that this access point would cater for this design vehicle.

The new vehicular access crossing is to be 11m wide (as proposed with the plans) and splayed to accommodate the swept turning path of the AS2890.2:2018 19m Articulated Vehicle. Footway formation to the boundary with appropriate tie-in fill batter works will be required around the proposed access crossing.

The pavement for the new vehicular access crossing is to be in accordance with recommendation is "Report on Geotechnical Assessment" prepared by Douglas Partners (Project 82819.01 dated July 2021).

Although the new vehicular access crossing is proposed for truck ingress only, it is recommended that vegetation within the footway is removed as required to provide sight distance compliant with AS2890.2:2018.

The location of the proposed vehicle access crossing is in conflict with an existing kerb inlet pit on the kerb line. This kerb inlet pit will need to be adjusted to provide a heavy duty double V-grate to assist vehicles entering the site at this location. To ensure that the inlet capacity of stormwater into the street drainage system is not reduced, a new kerb inlet pit is to be constructed on the uphill southern side of and clear of the proposed vehicle access crossing, with a new pipeline connecting to the existing kerb inlet pit to be modified.

Within the site

On-site access and car parking arrangements are to be in accordance with AS2890, in particular, AS2890.1:2004, AS2890.2:2018, and AS2890.6:2009.

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Details have been provided through the swept turning path of the AS2890.2:2018 19m Articulated Vehicle to indicate how these vehicles will be able to enter the site via the new vehicle access crossing, manoeuvre through the site, and the proceed to exit the site via the existing vehicle access crossing.

B-Doubles

DA/47599/2015 for the existing development on the site required the existing access be designed for the AS2890.2:2002 Articulated Vehicle and the Austroads 25m B-Double vehicle entering and exiting the site, however B-Doubles could not be utilised with the development until such time as the section of Somersby Falls Road from the intersection of Somersby Falls Road and Myoora Road to the access point of the development was formally designated and/or gazetted as a B-Double route.

The development now proposes all ingress truck movements to be via the new vehicle access crossing, however, the application (EIS and Traffic & Parking Assessment indicate that this access has been specifically designed for the largest vehicle to access the site being the AS2890.2:2018 19m Articulated Vehicle. No B-Double vehicles are indicated in the application to be used with the development. Therefore it is recommended that the "Ongoing" conditions include a requirements to indicate that the largest vehicle to access the site being the AS2890.2:2018 Articulated Vehicle, and that no B-Double vehicles are to service the development.

Traffic

A Traffic & Parking Assessment prepared by Intersect Traffic (20/196 Rev E dated 23/07/2021) was submitted with the application. This report includes: an outline of the existing situation in the vicinity of the site; an assessment of the traffic impacts of the proposed development including the predicted traffic generation and its impact on existing road and intersection capacities; consideration of parking, public transport, pedestrian, and cycle way requirements for the proposed development, including assessment against Council, Australian Standards and TfNSW's Roads and Maritime Services (RMS) standards as required; and, a presentation of conclusions and recommendations. This report concluded that:

- The proposed vehicle access arrangements, on site car parking and internal circulation paths are compliant with relevant Council requirements and Australian Standards and are deemed to be suitably safe.
- The Articulated Vehicle Swept Paths plan being prepared with regard for the largest heavy vehicle expected to enter and exit the site and demonstrates compliant vehicle manoeuvring within and around designated circulation paths.

Council's Traffic & Transport Engineer has reviewed the submitted Traffic & Parking Assessment and raises no objection to the proposal. The following comments are provided:

- The modelling clearly shows that the Wisemans Ferry Road / Somersby Falls Road / Gindurra Road roundabout will continue to operate satisfactorily (all at LOS A) even with the additional traffic generated by the development and with background traffic growth through to 2030. The average delay, levels of service and queue lengths for all movements remain well within the thresholds determined by the TfNSW as representing satisfactory operation.
- The Traffic Impact Assessment assumes that 65 % of traffic will have an origin / destination to or from the south via Wisemans Ferry Road; however, it is more likely development traffic would select Piles Road and Old Pacific Highway.
- Given the priority treatment the roundabout affords the turn manoeuvre from Old Pacific Highway into Wisemans Ferry Road south, this 65% apportionment will most likely use Pile Road for access to the Old Pacific Hwy. For both peaks, development induced traffic is likely to use the approaches to the roundabout.
- It is noted the intersection of Pile Road / Old Pacific Highway has spare capacity for right turns into Pile Road and left turn from Pile Road into Old Pacific Highway. There are currently few traffic delays at the intersection.
- If concerns are raised over congestion impacts, TfNSW could request the Applicant to carry out the additional traffic counts and SIDRA analysis of the Old Pacific Highway / Wisemans Ferry three leg roundabout.

The proposal is considered to meet the objectives of Chapter 7.1 Car Parking of GDCP 2013.

GDCP 2013 - Chapter 7.2 Waste Management

Council's Solid Waste Assessment Officer has reviewed the submitted Waste Management Plan and raises no objection to the proposal. The following comments are provided:

The revised Waste Management Plan and attachments have not provided a site plan indicating waste storage area for ongoing operation but has provided advice and photographs to indicate waste storage and waste servicing locations as previously requested.

The site is very large with multiple options for appropriate mixed and recyclables waste storage and heavy vehicle access for servicing of waste generated by the activities at the site.

The Waste Management Plan can be considered sufficient for an industrial development. Conditions are imposed to comply with the Waste Management Plan and for the waste bin location to be accessible and out of public view.

Other Matters for Consideration

Section 7.11 Contributions

The site is not subject to the provisions of any Section 7.11 development contribution plan. Therefore, no contributions are applicable.

Section 7.12 Contributions

The proposal is subject to the Section 7.12 Contribution Levy under the *Central Coast Regional Section 7.12 Contributions Plan 2019*. The estimated cost of the proposed development is \$440,000 and a 1% levy is applied as specified by Schedule 2 of contributions plan.

Water and Sewer Contributions

Water and sewer services are available to the land. The proposed increase in production will likely result in increasing demand on water and sewer from Council's system. The Applicant will be required to detail information on the increase in demand on water and sewer and Section 64 developer charges will be applicable for the proposal. The proponent will be required to submit a Section 305 application to obtain a section 307 Certificate of Compliance under the *Water Management Act 2000* and conditions of consent are applied.

Geotechnical Requirements

A Report on Geotechnical Assessment prepared by Douglas Partners (Project 82819.01 dated July 2021) was submitted with the application. The aims of that assessment are to provide comments and recommendations on foundation conditions and geotechnical parameters for the design of high level or shallow bored pier footings for the proposed factory extension; flexible pavement thickness design for the proposed unsealed hardstand storage area; rigid pavement thickness design for the new access crossover/driveway; and site preparation and bulk earthworks. It is recommended that engineering works for this development be designed and constructed in accordance with the recommendations in this report.

Environmental Impact Assessment

Air Quality

The Air Quality Assessment prepared by GHD Pty Ltd modelled TSP, PM₁₀ and PM_{2.5} as the identified pollutants. The assessment identifies forklift and truck movements on the unpaved hardstand area as the primary source of dust emissions during the operational phase resulting in exceedances of the cumulative 24-hour PM₁₀ criteria at one industrial receiver. Watering of the handstand area is required to mitigate this impact, in addition to sweeper trucks. Dust suppression using water carts and wind breaks are required during the construction phase. Conditions are applied for the construction phase.

Noise

Potential noise impacts from the proposal will be due to additional activities within the new hardstand storage area in the northern portion of the site, increased night-time operational hours and short-term impacts from the construction phase. Council has received complaints from neighbouring properties on the noise emissions and operations from the existing site operations.

Acoustic Consulting Engineers have prepared a Noise Assessment for the additional storage area and the night-time operation. The additional information, dated 1 February 2022 and 6 January 2022, has also been reviewed. Project-specific noise criteria are set based on the former Global Acoustics acoustic reports. Sound power levels were measured for each individual plant and equipment on site.

Fixed acoustic barriers/earth mounds are proposed along to the top northern edge of the batter and along the top western edge of the existing hardstand area with a return on the south west corner and internal noise walls along the north and west of the existing batching plant ranging from 1.7 metres to 7 metres in height. For the location of the acoustic barriers, refer to Figure 5 which indicates the Overall Site Plan of Works as part of the proposal description.

To minimise potential noise impact from the proposed additional storage area and extension of night-time operation the Acoustic Assessment recommends control measures in Section 7.1 and management measures in Section 7.2.

Recommended control measures are as follows:

- Construction of an acoustic barrier/earth mound or combination of acoustic barrier and earth mound on the western boundary (acoustic mound-1). The top of the acoustic barrier/earth mound shall be at RL225 (or higher) commencing from the south to RL223 (or higher) finishing at the north.
- Construction of acoustic barriers on the northern and western sides of the factory (acoustic wall-2 and wall-3). The top of the acoustic barrier shall be at RL232 (or higher) (the acoustic barriers shall be a minimum of 7m above the ground level outside the western side of the factory where the front-end-loader and cement truck work).
- Construction of an acoustic barrier/earth mound or combination of acoustic barrier and earth mound on the northern boundary (acoustic wall-4). The acoustic barrier/earth mound shall be a minimum of 3.5m above the finished ground level where the forklifts work (RL224 commencing from the west to RL227 finishing at the east).
- The acoustic barriers shall be constructed of masonry (eg. concrete) or proprietary lightweight concrete panel achieving a weighted sound reduction index of not less than Rw32. A combination of acoustic barriers and earth mounds may be constructed to the recommended heights. Any gaps between the construction elements and/or between the construction elements and the ground shall be back-filled with soil/overlapped/detailed to control noise from flanking paths.
- The factory-side of 7m high acoustic barriers (acoustic wall-2 and acoustic wall-3) shall be backed with 50mm thick acoustic absorptive lining (eg. Reapor or Stratocell Whisper) on the upper half of the barriers.
- Fork lift reverse alarms shall be replaced with broadband reverse alarms.
- The northern storage area shall not be used during night-time (refer to Figure 10).
- Only half of the western storage area (closer to factory) shall be used during night-time, refer Figure 10.

- Cement truck loading cement into cement silos shall not take place during night-time (10pm – 7am).
- Sand and gravel cement truck deliveries shall not take place during night time (10pm – 7am).
- Flexible acoustic screen (e.g. Flexshield Sonic Curtain with a weighted sound reduction index of not less than Rw27) shall be provided around the batching area (refer to Figure 11).

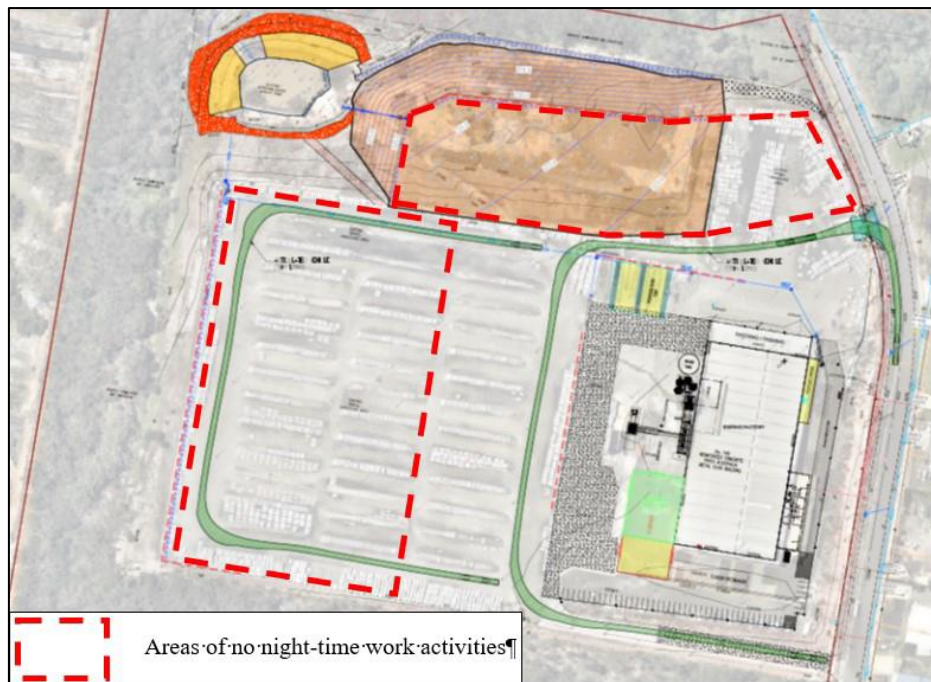


Figure 10 – Areas of no night-time work activities



Figure 11 – Acoustic Screen around batching area

Recommended management measures are as follows:

- Replacement of reverse alarms on fork lifts with broadband reverse alarms and provision of acoustic screen around the batching area shall be implemented prior to any construction works.
- Construction of the acoustic barrier/earth mound on the western boundary and return along the south-west corner prior to filling/construction of the additional storage area.
- Construction of the acoustic barrier/earth mound on the northern boundary as soon as practical, following filling/compaction for the additional storage area.
- Truck movements in one direction (forward) to minimise reversing and manoeuvring on site.
- Closing the roller doors on the southern façade of the manufacturing building during night-time operation.
- Arranging/planning work so as only the storage areas closed to the manufacturing building are used during night-time to maximise the distances from fork lift operations to the residences.
- Site inductions and personnel/contractor training to ensure correct use of construction plant and equipment.
- Construction only to occur during the standard work hours only:
 - 7am to 6pm Monday to Friday
 - 8am to 1pm Saturday
 - no construction on Sunday or public holidays.
- Use well maintained construction equipment and check to ensure mufflers are in good condition.

3.2 **DA/62839/2021 - 149 Somersby Falls Road, Somersby - DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility (contd)**

- Where extended high construction noise activities are anticipated, consult with affected receivers to determine whether noisy activities can be scheduled outside most sensitive hours or provide respite periods.
- Inform the residential neighbours in advance the types of construction work that could generate high noise levels and duration.

Council's Environmental Health Officer has reviewed the proposal and the Noise and Vibration Assessment, Proposed Additional Storage Area and Night-time Operation, prepared by Acoustic Consulting Engineers, dated 1 February 2022 and supports the proposal. Provided the noise mitigation measures are implemented the project specific noise criteria for day, night and sleep disturbance criteria can be met. A condition is included to implement the recommendations of Section 7.2 of the Acoustic Report (refer to Condition 4.11).

The EPA is the appropriate regulatory authority for the proposed development. In addition to the above, conditions are applied by the EPA for noise limits and operational noise, which are included in the consent as Schedule A. The proponent shall obtain an Environmental Protection Licence from the EPA prior to commencing operations on the site under this consent (refer to Condition 1.6).

The site is currently operating under conditions of consent in DA/47599/2015/E, which applied restrictions to operation hours, number of delivery and dispatch trucks including hours and location for loading/unloading, use of forklifts and power tools.

Council is to be notified two days prior to the intended commencement of operations 24-hours/7days per week, wherein the restrictions imposed by development consent DA/47599/2015 (Part 6 now Part E) Stage 3a, Section 6 Ongoing, will no longer apply to the operation of the site (refer to Conditions 1.4 and 1.5, respectively).

A comprehensive assessment of the potential noise impacts has been undertaken and it is considered the installation of the acoustic measures including the acoustic barriers will mitigate adverse amenity impacts on adjoining properties.

Timing of the construction of the acoustic walls

The EIS submitted with the application identifies the schedule of works intending to establish the acoustic walls in the first instance as follows:

- 1 Erection of internal acoustic noise walls to the north and west of the existing batching plant and along the top, western edge of the existing hardstand area with adequate return along the south-west corner. Works include associated stormwater treatment works as recommended (ie: provision of a turfed swale along the western edge of the existing gravel hardstand area).
- 2 Extend hours of operation.
- 3 Phased increase in production capacity.

3.2 **DA/62839/2021 - 149 Somersby Falls Road, Somersby - DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility (contd)**

- 4 Bulk earthworks, new heavy vehicle entry access, erection of acoustic noise wall along top northern edge of the proposed batter (filled area) and modifications to stormwater system and stormwater detention/water quality basin.
- 5 Erection of new storage structures (awning and dome shelter).
- 6 Addition to approved workshop.

The EPA has applied conditions for the timing of the construction of the acoustic walls, which require Acoustic Barrier 1-3 to be constructed prior to the commencement of night-time operations. Acoustic Barrier 4 is to be constructed prior to the commencement of the operations of the northern expansion area.

Water

It is proposed to import 56,000m³ of VENM/ENM with surface area of 13,828m². Soil disturbance will affect an area of approximately 18,000m².

The application was referred to the National Parks and Wildlife Service (NPWS) and comments received raising concern for the management of potential increase overflow/water contamination downstream into Floods Creek via Somersby Falls picnic area in Brisbane Water National Park.

Council's Environmental Health Officer has reviewed the revised Soil and Water Management Plans produced by Beveridge Williams, which are satisfactory and complies with the minimum requirements of Clause 6.3 of the GDCP 2013. The following comments are provided:

- All surface water flows are to be directed into an existing detention pond which overflows into an unnamed creek located north of the site, which is a tributary of Floods Creek within Brisbane Water Natural Park. Spel Ecoceptors are proposed within two stormwater pits on site with all surface waters flowing into a stormwater retention dam on site.
- A water quality monitoring program is proposed to be undertaken at the discharge point of the site, as well as the Unnamed creek (upstream and downstream of the discharge point) prior to, during and post construction. Appropriate water quality parameters have been set and monitoring frequencies, as well as corrective actions for non-compliance.

The EPA has set water quality parameters for the discharge point in their General Terms of Approval and recommended conditions (refer to Schedule A of the consent).

The matters raised by the NPWS have been appropriately considered and addressed.

Visual Impact Assessment

A visual impact assessment prepared by Beveridge Williams has been submitted with the proposal. The greatest visual changes are located outside of the site activity areas with the addition of the new noise walls to mitigate noise impacts from the production facility and loading areas. The walls

are placed to mitigate noise emissions from the production facility and storage yard. The indicative location of the acoustic walls is shown in Figure 12.



Figure 12 - Aerial photo of site and surrounding properties with indicative location of acoustic walls (source Beveridge Willams – Visual Impact Assessment)

The visual assessment concluded the following:

- The existing landscape character is a mix of industrial development and rural residential land uses. The scale of the built form on the site is comparable with other industrial development in the Somersby industrial locality.
- The proposed additions are well sited to integrate with the existing structures and natural vegetation surrounding the site. The proposed works are not visible from neighbouring rural allotments and are minimal from the street and industrial businesses across the road. The works integrate with the site and are consistent with an industrial use.
- The site is considered to have a low visual impact rating and therefore minimal mitigation measures are recommended as follows:
 - Where required, select colours to blend with the existing buildings and landscape.
 - The existing vegetation along Somersby Falls Road is to be embellished with additional plantings and species consistent with the existing vegetation (except where new driveway is proposed).
 - Planting should aim to fragment views rather than blocking completely.
 - A landscape plan should be prepared incorporating the recommendations above.

3.2 **DA/62839/2021 - 149 Somersby Falls Road, Somersby - DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility (contd)**

The visual impact of the proposal including the acoustic barriers is considered acceptable. The proposal is not considered to impact on the visual amenity of the landscape or surrounding properties. Conditions are included to submit a Landscape Plan to Council for approval prior to the issue of a construction certificate, and will incorporate the stated recommendations (refer to Condition 2.8).

Lighting

The visual impact assessment has considered areas where the proposal could provide privacy to the surrounding residential community. As the proposal is located in an elevated position to that of their neighbours the additional recommended mounds and fencing will complement the setback of the development (a minimum of 200m) with natural vegetative buffers between all of the adjoining properties.

Aligning the visual impact recommendations to the location and type of lighting proposed for the use of this development, it is anticipated that any impacts of "light spill" on the amenity of the neighbourhood will be minimal and if required mitigated through conditional restrictions for any development consent issued.

The proposal has been reviewed by Council's Environment Protection Officer. There is no objection to the proposal subject to the following conditions being included in the consent:

- Prior to the issue of an Occupation Certificate, lighting shall be constructed and implemented in accordance with the requirements of AS/NZS 1158 and AS/NZS 2890.1.
- All lighting is restricted to the existing hardstand as shown on the plans by Decrolux dated 17/2/21.
- All lighting must be managed in a manner that does not unreasonably impact the amenity of the surrounding neighbourhood.
- All lighting must be directed away from all adjoining properties and towards the ground.

Ecology

Council's Ecologist has assessed the ecological impact of the proposed development in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the *Environment Protection and Biodiversity Conservation Act 1999*. Impacts to biodiversity values have been assessed in accordance with the *Biodiversity Conservation Act 2016*.

Additional information has been submitted on amphibian surveys. A targeted amphibian survey was conducted on December 10-11, 2021 during suitable survey conditions. No threatened amphibians were recorded. In addition the existing detention pond does not support suitable habitat for known local threatened amphibians.

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Revised engineering plans show the addition of an acoustic barrier along part of the western IN1 zone boundary and south west corner. The barrier is located in an existing cleared area with some regrowth vegetation.

Council's Environmental Health Officer has conditioned recommendations contained in Section 3.6 of the Water Cycle Management Report. NRAR and EPA have provided General Terms of Approval. The application appears to satisfactory limit post-development flows back to pre-development and provide water quality protection measures.

No threatened entities are likely to be significantly impacted by the proposal. A Biodiversity Management Plan is required prior to issue of any construction certificate to ensure impacts on biodiversity during the construction and operational phase are appropriately mitigated and managed.

The objectives of the relevant policies, zoning objectives and potential environmental impacts associated with the proposal have been considered. Council's Ecologist has no objection to the proposal subject to the conditions being included in the consent (refer to Conditions 2.9, 3.11, 4.8, 5.14, 6.7 and 6.8).

Likely Impacts of the Development:

Section 4.15 (1)(b) of the *Environmental Planning and Assessment Act 1979* requires consideration of the likely impacts of the development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality. The likely impacts of the development are addressed below.

Built Environment Context and Setting

The proposed development will result in the ongoing industrial use of the land which is consistent with the IN1 zone objectives and development controls and provides for employment opportunities (both internal and external to the operation) in line with the strategic goals for the Central Coast.

A thorough assessment of the impacts of the proposed development on the built environment has been undertaken in terms of relevant acts and policies, GLEP 2014 and GDCP 2013 compliance.

The cumulative impacts of the proposed development have been considered. The proposal is not considered to have adverse amenity impacts to adjoining development from air quality, noise, lighting, stormwater management and hours of operation subject to the recommended conditions of consent.

Natural Environment

3.2 DA/62839/2021 - 149 Somersby Falls Road, Somersby - DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility (contd)

The relationship between the site and surrounding rural and environmental conservation zoned land will be protected with the retention of appropriate setbacks, natural vegetation buffers, implementation of acoustic measures (fixed and operational), appropriate pollution control, stormwater management and water quality treatment systems.

The proposal is satisfactory in relation to impacts on the natural environment as identified throughout this report. There will be no significant impact upon the natural environment as a result of the proposal.

Economic and Social Impacts

The proposed development will contribute to employment opportunities. The proposed increase in production capacity and hours of operation is in direct response to market demand and to prevent the sourcing and purchasing of concrete products from interstate. The proposal is considered to be satisfactory from an economic perspective.

The social impacts of the proposed development are the environmental impacts on the landscape and amenity impacts of the operations of the site on surrounding rural residential properties. The proposal has been considered in accordance with all relevant legislative requirements, objectives of the IN1 zone, Council's planning controls and with appropriate management and mitigation measures that will reduce potential for adverse social impacts.

Suitability of the Site for the Development:

The site is zoned IN1 General Industrial under GLEP 2014 which permits industrial activity.

There are no environmental hazards which would prevent development of the site. Potential environmental impacts can be managed or mitigated through the implementation of appropriate ameliorative measures (fixed and operational) and recommendations contained in the supporting documentation.

As such the site is considered suitable for the proposal and adequately addresses the site constraints and impacts subject to conditions of consent relating to civil works, traffic, visual and acoustic measures, stormwater, water quality and biodiversity management.

Any Submission made in Accordance with this Act or Regulations

Section 4.15 (1)(d) of the *Environmental Planning and Assessment Act 1979* requires consideration of any submissions received during notification of the proposal.

The proposal was formally advertised and notified, in accordance with GDCP 2013 Chapter 7.3.2 Notification of Development Proposals, between 10 September 2021 and 18 October 2021.

A total of 10 unique submissions were received in relation to the application. Those issues associated with key issues have been addressed in the above report. The remaining issues pertaining to various concerns were addressed in the assessment of the application pursuant to the heads of consideration contained within Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

A summary of the submissions objecting to the proposal is detailed below.

1. *Difficulty in accessing the documents subject of the development application*

Comment – Concerns with Council regarding access to the submitted documents were addressed by Council staff on 30 September 2021, when the submitter was advised the link was correct and staff provided guidance in accessing the documents.

An extension of time of a further two weeks was granted to lodge a submission from 18 October 2021 until 29 October 2021 in lieu of difficulties in accessing the development application documents.

2. *Concern regarding noise impacts of the current and proposed operations, inability of RCPA to adhere to noise restrictions, the resultant impact on adjoining properties, intrusive nature in a quiet rural residential area.*

Comment – Complaints have been received and have been attended to on a regular basis by Council's Compliance Team, since operations have commenced on the site and the commencement of the revised delivery/dispatch hours raising concern from sleep disturbance from the early morning delivery trucks and forklifts and the taking up of the of previously approved operation hours to 10pm.

Council has investigated concerns and liaised with RCPA to ensure the site operations are in accordance with current conditions of consent. It has been necessary to take compliance action to bring operations back in line on several occasions; however, the Compliance Team has advised that the site is generally operating in accordance with conditions of consent imposed under DA/47599/2015/E.

Council's Environmental Health Officer has reviewed the submitted noise and vibration assessment and states that provided the noise mitigation measures are implemented the project specific noise criteria for day, night and sleep disturbance criteria can be met.

The proposed operations are a scheduled activity in accordance with the *Protection of the Environment Operations Act 1997* with the intention/capacity to produce in excess of 30,000t/year of concrete products and will require an Environmental Protection Licence to be issued by the EPA.

The EPA is the appropriate regulatory authority under the *Protection of the Environment Operations Act 1997* for works, as well as the ongoing operation and management of this site.

The EPA has considered the potential operation impacts and identified environmental issues including impacts on air quality, potential noise impacts, surface water controls, bunding and chemical storage and determined the way forward is to apply conditions to mitigate these impacts; refer Schedule A of the conditions of consent. In relation to noise, conditions of consent are applied for noise limits and timing of the construction of the proposed acoustic walls.

The concerns raised in all submissions in relation to noise impacts and the construction of the acoustic walls have been considered in the assessment of the proposed development. It is considered that a satisfactory level of assessment has been undertaken by relevant public authorities and Council officers to make a recommendation of approval to the proposal.

3. *Timing of construction of acoustic walls*

Comment – The EIS submitted with the application identifies the schedule of works intending to establish the acoustic walls in the first instance:

1. Erection of internal acoustic noise walls to the north and west of the existing batching plant and along the top, western edge of the existing hardstand area with adequate return along the south-west corner. Works include associated stormwater treatment works as recommended (ie: provision of a turfed swale along the western edge of the existing gravel hardstand area).
2. Extend hours of operation.
3. Phased increase in production capacity.
4. Bulk earthworks, new heavy vehicle entry access, erection of acoustic noise wall along top northern edge of the proposed batter (filled area) and modifications to stormwater system and stormwater detention/water quality basin.
5. Erection of new storage structures (awning and dome shelter).
6. Addition to approved workshop.

The EPA is the appropriate regulatory authority and has applied conditions for the timing of the construction of the acoustic walls which require Acoustic Barrier 1-3 to be constructed prior to the commencement of night-time operations. Acoustic Barrier 4 to be constructed prior to the commencement of the operations of the northern expansion area.

4. *Concern regarding visual impact and effectiveness of screening whether installed around the boundary or adjacent to the equipment.*

Comment – Council and the EPA have reviewed the proposed acoustic screening in relation to the effectiveness to mitigate noise and visual impacts for the proposed development. It is considered that a satisfactory level of assessment has been undertaken by relevant public

3.2 DA/62839/2021 - 149 Somersby Falls Road, Somersby - DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility (contd)

authorities and Council officers, subject to conditions to make a recommendation of approval to the proposal, refer detailed discussion under Other Matters for Consideration in this report.

5. *Concern regarding one day noise level test – not in accordance with NSW EPA Noise Policy for Industry 2017 Fact Sheet A: Determining existing noised levels – requires long term method – equivalent of one week's worth of data.*

Comment – Unattended monitoring was undertaken by the Applicant's acoustic consultant for a week in accordance with the EPA's *Noise Policy for Industry 2017*. Attended monitoring was conducted to obtain maximum sound power levels of the plant and equipment on site and is only to be conducted on one day.

6. *Concern regarding the Traffic and Parking Assessment*

Comment – The traffic and parking considerations for the proposal have been reviewed by Council's Development Assessment Engineer and Traffic and Transport Engineer. The proposal will not have material adverse traffic impacts, subject to conditions applied in the consent. Consideration has been given to ongoing operations on the site in the following conditions:

- The road reserve of Somersby Falls Road is not to be utilised for the parking needs of the development.
- The largest vehicle to access the site shall be the AS2890.2:2018 Articulated Vehicle. No B-Double vehicles are to service the development.
- All vehicles servicing the site are not permitted to enter and exit the site via Howes Rd Somersby.

7. *Concern regarding the Air quality Assessment*

Comment – Council and the EPA have reviewed the proposal and potential impacts on air quality. It is considered that a satisfactory level of assessment has been undertaken by relevant public authorities and Council officers, subject to conditions to make a recommendation of approval to the proposal, refer detailed discussion under Other Matters for Consideration in this report.

8. *Historical planning and development of the site / Council's accumulative failures in assessment of development on the site*

Comment – The submission refers to the planning process for rezoning of the site. The rezoning of the land was made by GLEP 2014 (Amendment No 2), which rezoned the land from RU1 to Part E2 Environmental Conservation and Part IN1 General Industrial on 9 May 2014.

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The approval of development on the site under DA/47599/2015 and subsequent modifications have been considered in accordance with the relevant planning provisions applying to industrial developments, the production capacity of the concrete works including amenity impacts and the assessment of noise impacts and submitted noise reports.

The submission refers to the assessment of the original application in relation to the classification of the development as potentially designated development based on the proposal being defined as Concrete Works in Schedule 3 of the *Environmental Planning and Assessment Regulation 2000*.

In response, the statutory provision of Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* was considered in the assessment. The assessment stated:

The proposal produces 85-90 tonnes per day or 22,000 tonnes per year. The nearest dwelling house is greater than 250m from the proposed development concrete works, and there is no natural water body or wetland within 100m.

Therefore, the proposal is not classified as designated development and an Environmental Impact Statement (EIS) is not required.

The original application was supported and determined by Council under delegation.

Council has considered the cumulative impacts of the existing development approved and operating on the site and the proposed development, the relevant planning legislation policies and development controls applying to the site, the reports submitted with the application, consideration of public submissions. The submitted peer review by Spectrum Acoustics of the Noise and Vibration Assessment by Acoustic Consulting Engineers is noted.

It is considered that a satisfactory level of assessment has been undertaken by relevant public authorities and Council officers in relation to DA/47599/2015 and the proposed development to make a recommendation of approval.

Council has managed the impact of RCPA on nearby residents and in all instances thoroughly considered the relevant matters in the assessment of applications and neighbours' objections.

The proposed development is Designated Development. The determining body is the Central Coast Local Planning Panel.

Internal Consultation

Traffic Engineer	Supported without conditions
Development Engineer	Supported subject to Conditions 2.4-2.6, 3.9-3.10, 5.5-5.11, 6.10, 6.11, Advisory

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Ecology	Supported subject to Conditions 2.9, 3.11, 4.8, 5.14, 6.7, 6.8
Environmental Health	Supported subject to Conditions 4.9-4.16, 1.6
Environmental Protection	Supported subject to Conditions 5.13, 6.4-6.6
Waste Services	Supported subject to Conditions 4.6, 6.12-6.19
Water and Sewer	Supported subject to Conditions 2.10, 5.15

Public Authority / External Consultation

NSW Environment Protection Authority – Integrated approval body	General Terms of Approval and recommended conditions included as Schedule A in conditions of consent. EPA Licence to be obtained for the proposed scheduled activity,
Natural Resources Access Regulator – Integrated approval body	General Terms of Approval - Controlled Activity Approval
NSW Rural Fire Service	Discussion with RFS indicated referral not required. However, it is noted that RFS provided a determination of not supported due to information not provided.
NSW National Parks & Wildlife Service	Comments received are addressed under Other Matters for Consideration - Water
Transport for NSW	Referral not required – Council is the Roads Authority

The Public Interest

The approval of the application is considered to be in the public interest. The proposal will not have any adverse impact on the natural environment and will not unreasonably impact the amenity of neighbouring properties.

Political Donations

During assessment of the application there were no political donations were declared by the Applicant, Applicant's consultant, owner, objectors and/or residents.

Ecologically Sustainable Principles:

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Conclusion:

This application has been assessed under the heads of consideration of Section 4.15 of the *Environmental Planning and Assessment Act 1979* and relevant instruments and policies. Subject to

3.2 DA/62839/2021 - 149 Somersby Falls Road, Somersby - DESIGNATED & NOMINATED INTEGRATED Expansion to Concrete Manufacturing Facility (contd)

the imposition of appropriate conditions, the proposed development is not expected to have any material adverse social or economic impact.













Accordingly, the application is recommended for **approval** pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

Reasons for the Decision

The reasons for the decision as recommended under the assessment of this application are as follows:










- 1 The proposal is satisfactory having regard for the relevant environmental planning instruments, plans and policies.
- 2 There are no significant issues or impacts identified with the proposal under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Attachments

	1 Draft Conditions including Schedule A & B - 149 Somersby Falls Rd Somersby - DA/62839/2021	Provided Under Separate Cover	D15194535
	2 PUBLIC Plans 149 Somersby Falls Road, SOMERSBY DA/62839/2021 [PAN-133855]	Provided Under Separate Cover	D14799710
	3 Revised Acoustic Barrier Plan set - 149 SOMERSBY FALLS ROAD SOMERSBY DA/62839/2021	Provided Under Separate Cover	D15042063
	4 Revised Engineering Plans 149 Somersby Falls Rd Somersby DA/62839/2021	Provided Under Separate Cover	D15030611
	5 PUBLIC Air Quality Assessment 149 Somersby Falls Road, SOMERSBY DA/62839/2021 [PAN-133855]	Provided Under Separate Cover	D14799730
	6 Revised Noise and Vibration Assessment 149 Somersby Falls Road SOMERSBY DA/62839/2021	Provided Under Separate Cover	D15027400
	7 Preliminary Contamination Review and Water Quality Monitoring Plan - Rev 1 - 149 SOMERSBY FALLS ROAD, SOMERSBY DA/62839/2021	Provided Under Separate Cover	D15030165
	8 PUBLIC Environmental Impact Statement 149 Somersby Falls Road, SOMERSBY DA/62839/2021 [PAN-133855]	Provided Under Separate Cover	D14799723
	9 PUBLIC Flora and Fauna Assessment 149 Somersby Falls Road, SOMERSBY DA/62839/2021 [PAN-133855]	Provided Under Separate Cover	D14799722
	10 PUBLIC Additional Information Ecology 149 Somersby Falls Road SOMERSBY DA/62839/2021	Provided Under Separate Cover	D15019610
	11 PUBLIC Geotechnical Report 149 Somersby Falls Road, SOMERSBY DA/62839/2021 [PAN-133855]	Provided Under Separate Cover	D14799721
	12 Decrolux Proposal - Re-inforced Concrete Pipes Australia Hardstand Area 149 Somersby Falls Road, SOMERSBY DA/62839/2021 [PAN-133855]	Provided Under Separate Cover	D14799675

3.2

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	13 PUBLIC Survey Plan 149 Somersby Falls Road, SOMERSBY DA/62839/2021 [PAN-133855]	Provided Under Separate Cover	D14799701
	14 PUBLIC Traffic and Parking Report 149 Somersby Falls Road, SOMERSBY DA/62839/2021 [PAN-133855]	Provided Under Separate Cover	D14799698
	15 PUBLIC Visual Impact Assessment Report 149 Somersby Falls Road, SOMERSBY DA/62839/2021 [PAN-133855]	Provided Under Separate Cover	D14799696
	16 REVISED Waste Management Plan Revision 1 - RCPA Somersby_PAN-133855	Provided Under Separate Cover	D15077040
	17 Water Cycle Management Report - revision 3 Final - 149 SOMERSBY FALLS ROAD, SOMERSBY DA/62839/2021	Provided Under Separate Cover	D15030174
	18 Water Usage Report 149 Somersby Falls Road, SOMERSBY DA/62839/2021 [PAN-133855]	Provided Under Separate Cover	D14799688
	19 EPA GTA and Conditions DA62839 149 Somersby Falls Rd Somersby	Provided Under Separate Cover	D14893017
	20 NRAR Response GTA IDAS-2021-10174 149 Somersby Falls Rd Somersby DA62839/2021	Provided Under Separate Cover	D14878757
	21 SEARS 1511 - Applicant Package 149 Somersby Falls Road, SOMERSBY DA/62839/2021 [PAN-133855]	Provided Under Separate Cover	D14799691

Item No: 4.1

Title: DA1209/2021 - Lot R/918 Rd, The Entrance Road,
The Entrance - Markets and Function Centre for
community events

Central Coast
Local Planning Panel

Department: Environment and Planning

23 June 2022 Local Planning Panel Meeting

Reference: DA/1209/2021 - D15157367

Author: Katrina O'Malley, Development Planner

Emily Goodworth, Section Manager Development Assessment North

Manager: Andrew Roach, Unit Manager, Development Assessment

Executive: Alice Howe, Director Environment and Planning

Summary

An application has been received for Markets and Function Centre for community events. The application has been examined having regard to the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements with the issues requiring attention and consideration being addressed in the report. The application is recommended for approval.

The matter is referred to the Local Planning Panel as Council is the applicant and owner of the land.

Applicant	Central Coast Council
Owner	Central Coast Council
Application No	DA/1209/2021
Description of Land	Lot R/918 Rd The Entrance Road, THE ENTRANCE NSW 2261
Proposed Development	Markets and Function Centre for community events
Site Area	266m ²
Zoning	RE1 Public Recreation
Existing Use	Pedestrian waterfront plaza
Employment Generation	N/A
Estimated Value	N/A

Recommendation

- That the Local Planning Panel grants consent to DA/1209/2021 – Lot R/918 Rd ROAD, The Entrance Road, THE ENTRANCE – Markets and Function Centre for community events subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.***

4.1 DA1209/2021 - Lot R/918 Rd, The Entrance Road, The Entrance - Markets and Function Centre for community events (contd)

Precis:

Proposed Development	Community and Market Events
Permissibility and Zoning	RE1 Public Recreation Ancillary use to existing recreation area and markets
Relevant Legislation	<i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> <i>Wyong Local Environmental Plan 2013 (WLEP 2013)</i> <i>Development Control Plan 2013, Chapter 2.11 – Parking and Access</i> <i>Development Control Plan 2013, Chapter 3.7 – Heritage Conservation</i> <i>Development Control Plan 2013, Chapter 5.3 – The Entrance Peninsula</i> <i>The Entrance Peninsula Planning Strategy</i> <i>The Entrance Town Centre Masterplan</i>
Current Use	Pedestrian waterfront plaza
Integrated Development	No
Submissions	Nil

Variations to Policies

There are no variations proposed under the current application.

The Site

The site is known as Lot R/918 Rd (The Entrance Road), The Entrance. The site forms part of the Waterfront Plaza, which is an existing pedestrian plaza. The existing pedestrianised Waterfront Plaza area is located on part of The Entrance Road and is still classified as a road. The site is, however, closed to vehicle traffic and allows for a safe pedestrian link between the Memorial Park public recreation area and the adjoining commercial/residential area.

The Waterfront Plaza area was created in the late 1990s, closing this section of the road to vehicular traffic. This area of the Waterfront Plaza is paved and includes several trees within the site. The site also contains several outdoor dining areas which are leased and utilised by food and drink premises adjoining the site (refer to Figure 1).

The site is not subject to a Plan of Management (as it is a road, and not a Council reserve). The land is, however, captured by several other planning policies and covered by *The Entrance Town Centre Strategy*.

Surrounding Development

The surrounding development is a mixture of recreation, commercial and residential development. Land immediately to the east of the site consists of an existing recreation area known as Memorial Park. The park adjoins The Entrance Channel which forms part of the Tuggerah Lakes system.

Land to the north of the site is dominated by commercial development which is predominantly a mixture of food and drink premises and shops (refer to Figure 2). There is also shop top housing and tourist accommodation within the area. The larger locality continues the trend of a mixture of commercial and residential development of varying scales.

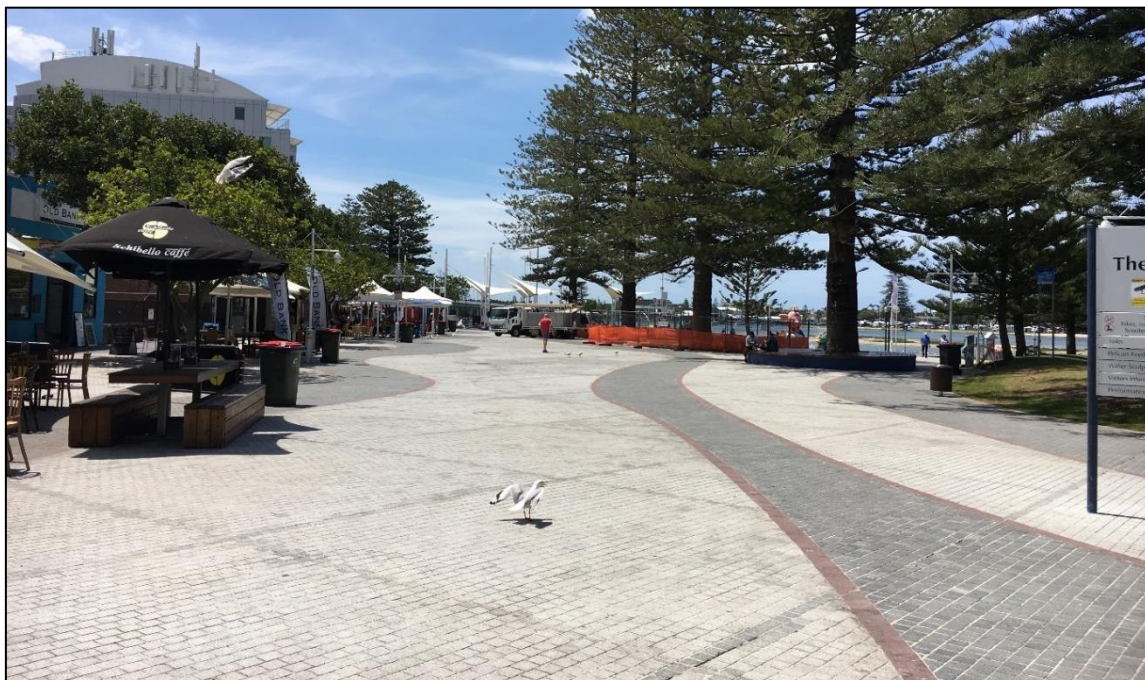


Figure 1. The site as viewed from the south

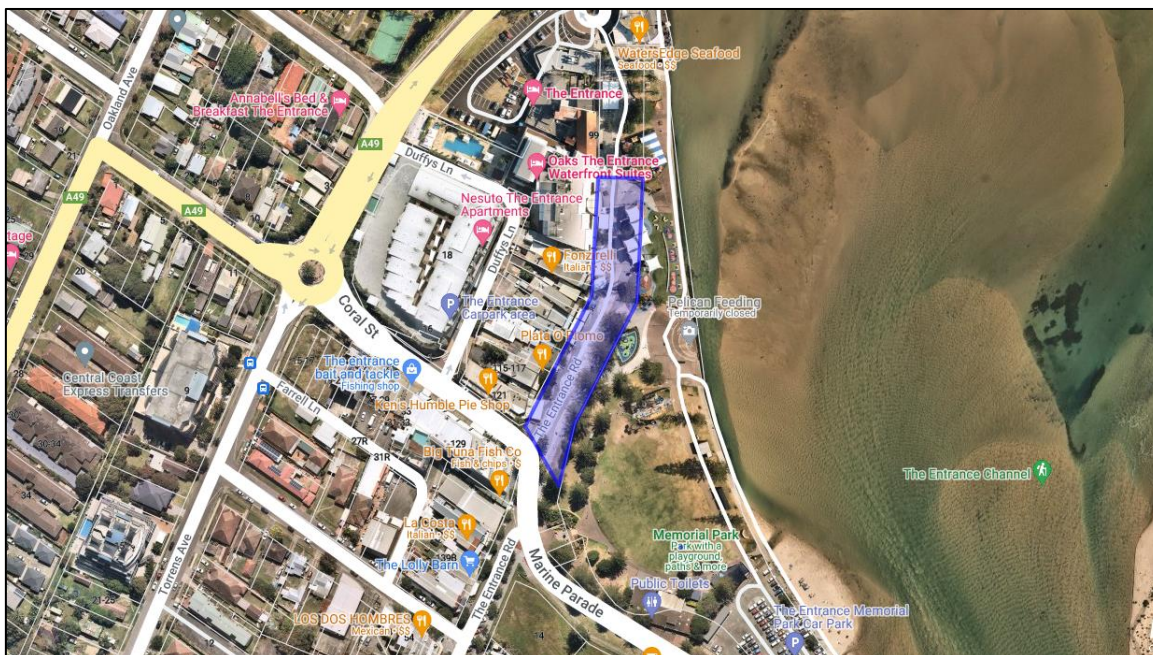


Figure 2. The site within the locality

The Proposed Development

The proposed development is for the use of the Waterfront Plaza for markets and as a function centre that will be used for a number of community events. The proposed events are to be small-scale community events that will include pop up activities, school holiday activities, market stalls and craft activities. The use of the land will involve the following:

- *School holiday activities*

The proposed use of the site will include school holiday activities (refer to Figure 3) that will operate Monday to Friday within school holiday periods and generally between the hours of 7:00am to 4:30pm. These events would include 5-10 activities that would operate under a booking system.

- *Activation/market events*

The proposal also includes activation/ market events that will operate on the second Friday and third Saturday of each month. These events will have between 10-20 market stalls, craft, or other activities (refer to Figures 4 and 5). The Friday events will operate generally between 12 midday and 9:00pm, whilst the Saturday events will either be a morning or afternoon event that will operate between 6.00am and 8.00pm, which includes bump in (set up) and bump out (pack up).

- *Pop up events*

Pop up events will form part of the larger events that operate within Memorial Park. These events will have between 10-20 market stalls, craft, or other activities. The event will either be a morning or afternoon event that will operate between 6.00am and 8.00pm, which includes bump in and bump out. The events are proposed to be held between Friday and Sunday (inclusive).

Operation

The proposed use of the land will not require the closure of any roads as there is no through traffic through the plaza area. The proposed events will be advertised prior to the day by the operator and have the correct insurances in place. Events will also operate in accordance with the relevant COVID-19 requirements at the time (if applicable).

Events proposed under the current application would generate attendance figures of approximately 100 to 1,000 people based on previous similar events within the locality. School holidays activities will generate attendances of around 100 people and will be required to be pre-booked. The market events will generate attendance of between 1,000 to 2,000 people depending on the season, school holidays and the like.

4.1 DA1209/2021 - Lot R/918 Rd, The Entrance Road, The Entrance - Markets and Function Centre for community events (contd)

Parking for the event will be provided for within the existing locality through a combination of on-street parking and public car parks within Coral Street and adjoining Memorial Park.



Figure 3. School holiday activities



Figure 4. Saturday waterfront markets



Figure 5. Friday night or Saturday pop up activities



Figure 6. Larger activities Friday, Saturday, or Sunday

History

The site has historically been utilised for a number of community events and market stalls over the years and this development consent will formalise the use of the land for this use in the future.

A recent development consent (DA/1056/2018) for the site was issued for Christmas light displays within this space.

ASSESSMENT:

Having regard for the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, the assessment has identified the following key issues.

State Environmental Planning Policies (SEPP)

State Environmental Planning Policy (Resilience and Hazards) 2021

The site is currently located within a coastal environment area under the above SEPP. Any development on land identified as a coastal environment area is required to be in accordance with *Clause 2.10 – Development on land within the coastal environment area* of the above SEPP. The proposal will not have an impact upon the coastal environment and given the nature of the proposal to be undertaken on the site it would not have any impacts to any items of Aboriginal heritage, should they be in the locality. The proposal is therefore consistent with the requirements of Clause 2.10.

The site is also located within a coastal use area under the SEPP. Any development on land identified as a coastal use area is required to be in accordance with *Clause 2.11 – Development on land within the coastal use area* of the above SEPP. The proposal will not have an impact upon the coastal environment and is therefore consistent with the requirements of Clause 2.11.

Wyong Local Environmental Plan 2013 (WLEP 2013)

Permissibility

The site is currently zoned RE1 Public Recreation under the WLEP 2013. The proposed development is for the use of the waterfront plaza area for markets and community events. Market stalls are a permitted use within the RE1 zone and are defined as follows:

*“**market** means an open-air area, or an existing building, that is used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.”*

For other activities that are to be undertaken on the site the definition that best fits the proposed use of the land is that of a function centre which is defined as follows:

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

A function centre is a permissible use in the RE1 Public Recreation zone. Consent is sought for the proposed use of Waterfront Plaza area for the holding of events.

Despite the fact there is no definition of 'event' in any relevant environmental planning instrument, the common use definition of 'event', as defined in the Oxford Dictionary, is "occurrence of a thing". Similarly, the Collins Dictionary defines an 'event' as "a planned and organized occasion". The activities to be undertaken on the site fit the broad definition of an event. Some events will be small in nature whilst others will be undertaken in conjunction with larger events held on the Memorial Park site.

Heritage

Schedule 5 of the WLEP 2013 identifies that the subject site adjoins several heritage items of local significance. These items include the carnival including carousel and Alfred Bruder Organ at 46 Marine Parade (identified as heritage item I81), WW1 monument at 1 Marine Parade (corner The Entrance Road) (identified as heritage item I97), concrete groyne off Marine Parade (identified as heritage item I83), and ferry master's cottage at 101 the Entrance Road (identified as heritage item I87).

The proposed use of land does not propose any structures or activities that would have any impact to, or alteration of, any heritage item. The proposed development would therefore have no impact upon the heritage items in proximity to the subject site.

Acid Sulphate Soils

The site is identified as containing potentially Class 3 acid sulfate soils. The proposed development does not involve the disturbance of any soils and as such an Acid Sulphate Soils Management Plan is not required for the proposal.

Draft Central Coast Environmental Plan 2018 (DCCEP 2018)

Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018) was publicly exhibited from 2 December 2018 until 28 February 2019 and will consolidate the planning instruments of the former Wyong and Gosford local government areas. The final version of this consolidated LEP is yet to be gazetted.

4.1 DA1209/2021 - Lot R/918 Rd, The Entrance Road, The Entrance - Markets and Function Centre for community events (contd)

Under Draft CCLEP 2018, the site will retain its RE1 Public Recreation zoning and development for the purpose markets and a function centre will remain permissible within the zone. There are no new or amended clauses or provisions warranting further discussion.

Wyong Development Control Plan 2013 (WDCP 2013)

Chapter 2.11 – Parking and Access

Under the provisions of the above policy there are no specific parking requirements for community events. The parking requirements for such a use are therefore assessed on merit. It is considered that those attending the event would utilise the existing public street parking around The Entrance town centre and parking in the public car parks located at Coral Street and Memorial Park. The existing parking areas have the capacity to cater for the proposed events. It is anticipated that dual and/or complementary uses of parking areas will occur. Accordingly, it is considered parking associated with the events can be adequately catered for with the existing car parking in The Entrance.

Parking for market stalls is required to be provided based on two spaces per stall. The proposal will have a maximum of 20 stalls at any one event, which would therefore require the provision of a minimum of 40 car spaces. There are currently over 3,000 on-street public parking spaces and 700 parking spaces provided in public car parks, that are within walking distance of Waterfront Plaza. There would be more than sufficient parking to cater for the use of the public land for the events and markets proposed.

The proposal is to be undertaken on public land and as such it would be suitable for the proposal to utilise the existing public car parking available within the locality.

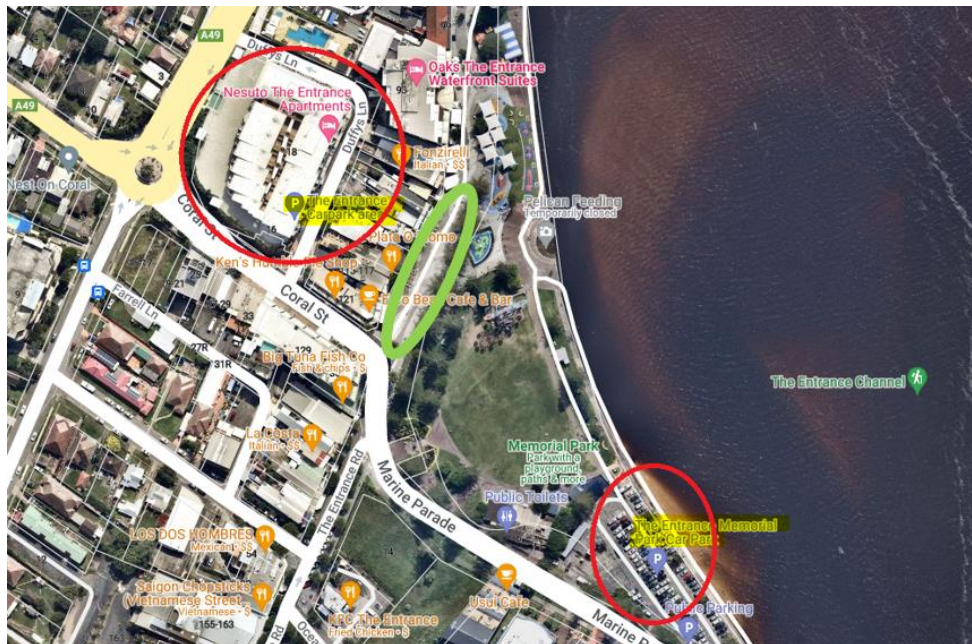


Figure 7. The site (green) in proximity to public parking (red) within the locality

Chapter 3.7 - Heritage Conservation

The site of the proposal does not contain any items of heritage. However, the site is located in proximity to a number of heritage items. The site is also not within an identified heritage conservation area.

The proposed development is to be for the use of the land for markets and community events which only involve the erection of temporary structures. The proposal will therefore have no impact on the conservation of any heritage items within the locality. Given the type of development proposed it is not considered necessary for a heritage impact assessment to be undertaken given the proposed location of the events and markets on site and the temporary nature of associated structures. It is considered there will be no impact to existing heritage items within the locality.

Chapter 5.3 – The Entrance Peninsula

The subject site has been identified as being located within the area identified as part of The Entrance Town Centre. The proposal does not include any permanent structures and as such many of the controls of the above chapter are not applicable to the proposal.

The objectives of the area, however, aim to promote an outdoor lifestyle and increased pedestrian activity in the locality. The proposed development is consistent with the objectives of WDCP 2013 as the proposal will increase usage of the pedestrian area of this part of The Entrance Road and assist in activating The Entrance Town Centre precinct.

Relevant Regulations

There are no specific matters under the *Environmental Planning & Assessment Regulation 2021* that require further specific discussion.

Likely Impacts of the Development:

Built Environment

A thorough assessment of the aspects of the proposed development on the built environment has been undertaken in terms of WDCP 2013 compliance.

As a result, the proposed development is considered to be satisfactory in terms of impacts on the built environment.

Access and Transport

As previously discussed, parking for the proposal can be catered for within the existing public parking areas within The Entrance town centre. It is highly likely that those attending the

event would also be visiting other premises within the town centre, resulting in dual usage of the public car parking areas.

There is also the potential that visitors will come from the surrounding residential areas and would therefore not generate a need for parking. Overall, there is sufficient parking in the locality to cater for the proposal whilst ensuring enough parking is available to cater for other uses.

Context and Setting

The proposal is located within an area that has historically provided a number of activities for both residents and visitors to the area. The proposed development will allow the continued activation of the space for the community and will have an indirect positive impact to local premises by bringing additional people to the locality to visit.

Natural Environment

There will be no significant impact upon the natural environment as a result of the proposal. Existing trees within the locality are to be maintained and there are no other flora or fauna within the locality that would be impacted by the proposal.

All other relevant issues regarding the likely impacts of the development have been discussed throughout this report. In general, it is considered that the property is suitable for an approval subject to conditions.

Suitability of the Site for the Development:

A review of Council's land information mapping has identified no site constraints. The site is therefore suitable for development. As discussed above, the site is mapped as a coastal use area and coastal environment area. The proposed development would not have any impact on either of these areas.

The proposed markets and community events are located within an area that contains a mixed use of development. The proposed development is compatible with the existing development in the locality and would potentially attract additional visitors to the area. These visitors could have a positive flow on impact to existing businesses within the locality.

Community Submissions

The application was notified from 8 October to 29 October 2021 in accordance with *WDCP 2013 – Chapter 1.2 Notification of Development Proposals*, with no submissions being received.

External Consultation

No external consultation was required for the proposal.

Internal Consultation

Traffic Engineer	Supported without conditions.
Environmental Health Officer	Supported subject to conditions

Ecologically Sustainable Principles:

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Other Matters for Consideration:

Contributions

Given the type of development proposed and the value of works, Section 7.11 and 7.12 Contributions are not applicable to the proposal.

The Entrance Peninsula Planning Strategy (2009)

The subject site has been identified as being located within Precinct 3 of the above strategy as part of The Entrance Peninsula. The proposal does not include the construction of any permanent structures; however, the proposal is consistent with the objectives of the area. Some of the objectives for the area relate to creating a high-quality tourist destination and facilitating a mix of activities within the precinct.

The proposal will fit in with the desired tourist activity destination of the precinct by providing events, markets and other activities for both residents and tourists within the area. The proposal will further activate the existing pedestrian plaza and ensure that it is utilised to its full potential. The proposal is also consistent with the strategy's vision of providing more attractions and activities within the town centre.

The Entrance Town Centre Masterplan (2011)

The Entrance Town Centre Masterplan outlines the proposed direction for The Entrance Town centre in terms of redevelopment of the area and development of public spaces. Similar to *The Entrance Peninsula Planning Strategy*, the masterplan looks to create a waterfront area that will attract tourist and permanent residents.

It is considered that the proposed development makes use of an existing public area for public benefit whilst the development proposed would not limit the site's ability to be used for additional public uses in the future.

Conclusion:

The proposed development is for the use of the site for markets and a function centre for the holding of community events. The proposed development is permissible under WLEP 2013 and proposes no variations to the plan or WDCP 2013. The proposal is consistent with *The Entrance Peninsula Planning Strategy*, *The Entrance Town Centre Masterplan* and other relevant plans and policies applying to the land. The proposed development is consistent with the anticipated future direction of the site.

The Development Application has been assessed against the heads of consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, and is considered satisfactory for the site and surrounding area. Accordingly, DA/1209/2021 is **recommended for approval** subject to the imposition of appropriate conditions.

Reasons for decision

The reasons for the decision as recommended under the assessment of this application are as follows:

- The proposal is considered satisfactory under the heads of consideration set out in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- The proposal is considered satisfactory with regard to WLEP 2013 with regard to permissibility, and zone objectives.
- The proposal is considered satisfactory in relation to the requirements of WDCP 2013, Chapters 2.11, 3.7 and 5.3.
- The proposed development is consistent with the aims and objectives of *The Entrance Town Centre Masterplan* and *The Entrance Planning Strategy*.

Attachments

- 1  Draft conditions/reasons - The Entrance Road, THE ENTRANCE NSW D15169391
 2261 - DA/1209/2021 - Central Coast Council

Date: 17 May 2022
Responsible Officer: Katrina O'Malley
Location: The Entrance Road, THE ENTRANCE NSW 2261
 Lot R/918 Rd ROAD
Owner: The Entrance Memorial Park Reserve Trust
Applicant: Ms J Canning
Date of Application: 6 September 2021
Application No: DA/1209/2021
Proposed Development: Community Facility
Land Area:
Existing Use: XXXX

PROPOSED CONDITIONS

1.PARAMETERS OF THIS CONSENT

Approved Plans and Supporting Documentation

- 1.1 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 Title	Drawn By	Dated
Event 1 – School Holidays Activities Plaza - Weekdays	Central Coast Council	-
Event 2 – Markets, Waterfront Plaza - Saturday		-
Event 3 – Friday Night Pop Up Activities, Waterfront Plaza - Saturday		-
Event 4 – Large Event. Friday - Sunday		-

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.

2.ONGOING

- 2.1. Submit to Council the Temporary / Mobile Food Business Application Form for an Approval to Operate for all temporary / mobile food businesses attending. The Application Form is available on Council's website

https://cdn.centralcoast.nsw.gov.au/sites/default/files/PDF_Forms/D13496166_Temporary_Mobile_Food_Business_Notification_Aligned.pdf

- 2.2 Submit to Council a food management plan for the event which is to include a list of food vendors, Approval to Operate numbers, contact details and types of food to be sold. The plan is to be submitted to Council's Environmental Health Officer a minimum of 14 days prior to the event.
- 2.3 This consent provides for the staging of the following activities:
 - School Holiday activities held Monday to Friday from 7:00am to 4:30pm in school holidays;
 - Friday afternoon/night activation events held the second Friday of each month from 12:00pm (midday) to 9:00pm;
 - Activation/market events held the third Saturday of each month from 6:00am and 8:00pm; and
 - Pop Up activation part of large event at Memorial Park. Friday night/Saturday events. 6:00am to 9:00pm
- 2.4 There are to be a maximum of 20 market stalls at any one event.
- 2.5 All stalls are to be located to not impede pedestrian access within the Waterfront Plaza area.
- 2.6 The curtilage of the activities shall at all times be presented in a neat and tidy manner. Appropriate waste receptacles are to be located onsite during the operation of the each activity.
- 2.7 All marquees are to be erected so as to not cause harm to the public or existing vegetation. There are to be no pegs or other in-ground disturbance within three (3) metres of the trunk of any tree. Nothing is to be nailed or tied to any tree.
- 2.8 This development application does not grant consent to the erection of permanent signage in relation to the approved development. No advertising sign/s shall be erected on or in conjunction with the use without prior development consent unless the advertisement is an 'approved sign' under Development Control Plan 2013, Chapter 2.6 – Signage. All temporary signs must be removed at the completion of each activity.
- 2.9 In order to address any issues during operation of the activities from event patrons, residents, Council or emergency service personnel, a designated event contact person is to be provided prior to each activity commencing. The designated contact person is to be readily identifiable and available at all times during the activity's hours of operation.

3.PENALTIES

Failure to comply with this development consent and any condition of this consent may be a **criminal offence**. Failure to comply with other environmental laws may also be a **criminal offence**.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

ADVISORY NOTES

No Conditions

The staff responsible for the preparation of the report, recommendation or advice to any person with delegated authority to deal with the application have no pecuniary interest to disclose in respect of the application.

Katrina O'Malley
Reporting Officer

XXXXX
Reviewing Officer

The staff authorised to determine the application have no pecuniary interest to disclose in respect of the application. The report is endorsed and the recommendation contained therein.

Approved/Refused:

Date:

Item No: 4.2
Title: DA/2059/2021 - 17 Kunala Lane Horsfield Bay -
Alterations & Additions to Existing Dwelling
Department: Environment and Planning

Central Coast
Local Planning Panel

23 June 2022 Local Planning Panel Meeting

Reference: DA/2059/2021 - D15121379
Author: Mark Earl, Building Surveyor
Manager: Wayne Herd, Section Manager, Building Assessment and Certification
Andrew Roach, Unit Manager, Development Assessment
Executive: Alice Howe, Director Environment and Planning

Summary

An application has been received for alterations and additions to an existing dwelling (lift, carport, turning bay, retaining walls, workshop and water tank). The application has been examined having regard to the matters for consideration detailed in section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements with the issues requiring attention and consideration being addressed in this report. The application is recommended for approval.

This development application is required to be reported to Local Planning Panel due to the development exceeding the '*Height of Buildings*' development standard specified and calculated within clauses 4.3 and 4.5 of *Gosford Local Environment Plan 2014* (GLEP 2014) by more than 10%. The height of the proposed lift exceeds the permissible maximum Height of Buildings of 8.5m by 2.03m (this represents a variation of 23.8%).

Applicant	Plan Urbia
Owner	Stephen Morrison
Application No	2059/2021
Description of Land	Lot 80 DP253201 17 Kunala Lane Horsfield Bay
Proposed Development	Alterations and Additions
Site Area	882m ²
Zoning	R2 Low Density Residential
Existing Use	Residential
Employment Generation	N/A
Estimated Value	\$148 500.00

Recommendation

- 1** *The Local Planning Panel agrees the Applicant's Clause 4.6 written variation request demonstrates compliance with the Height of Buildings development standard is unnecessary in circumstances of the case because of the minimal environmental impact that would result from the noncompliance with the Height of Buildings standard.*

Compliance with the Height of Buildings development standard would be unreasonable in the circumstances of the case because of the steep sloping nature of the block, compliance would not allow the lift, and that there are sufficient environmental planning grounds to justify contravening that development standard. Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the R2 Low Density Residential zone in which the development is proposed to be carried out.
- 2** *That the Local Planning Panel assumes the concurrence of the Secretary of the Department of Planning to permit the non-compliance with the development standard under Clause 4.6 of the Gosford Local Environmental Plan 2014, in accordance with the provisions of Clause 64 of the Environmental Planning and Assessment Regulation 2000.*
- 3** *That the Local Planning Panel grants development consent to DA2059/2021 – 17 Kunala Lane Horsfield Bay to construct a lift over two levels, carport and turning bay subject to appropriate conditions as detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 and other relevant issues.*
- 4** *Those who made a submission be notified of the outcome of the development application.*

Precis:

Proposed Development	Lift, carport, turning bay, retaining walls, workshop and water tank.
Permissibility and Zoning	<p>The subject site is zoned R2 – Low Density Residential under the provisions of Gosford Local Environmental Plan 2014.</p> <p>The proposed development is defined as a dwelling house (alterations and additions) which is defined under the GLEP 2014 as a building containing only one dwelling.</p> <p>The use is permissible with consent of the relevant Authority within the zone.</p>

Relevant Legislation	<p>The following planning policies and control documents are relevant to the development and were considered as part of the assessment.</p> <ul style="list-style-type: none"> • <i>Environment Planning and Assessment Act 1979 - section 4.15 (EP&A Act)</i> • <i>Gosford Local Environmental Plan 2014 (GLEP 2014)</i> • <i>Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018)</i> • <i>Gosford Development Control Plan 2013 Chapter 3.1 "Dwelling Houses, Secondary Dwellings and Ancillary Development" (Gosford DCP 2013)</i>
Current Use	Dwelling
Integrated Development	No
Submissions	<p>The development application was notified (in accordance with the provisions of the <i>Gosford Development Control Plan 2013</i>) from 17 March 2022 until 4 April 2022.</p> <p>One submission was received.</p>

Variations to Plans and Policies

Gosford Local Environmental Plan 2014

Clause	4.3 (2)
Standard	Height limit of 8.5m
LEP/DCP	Gosford LEP 2014
Departure basis	The proposal seeks a maximum height of 10.53m consisting of the proposed lift to the eastern elevation. This represents a variation of 2.03m or 23.8%.

Chapter 3.1. Dwelling Houses, Secondary Dwellings and Ancillary Structures of Gosford Development Control Plan 2013

Clause	3.1.2.1
Planning Control	Height limit of 8.5m
Departure basis	The proposal seeks a maximum height of 10.53m consisting of the lift to the eastern elevation. This represents a variation of 2.03m or 23.8%.

Clause	3.1.3.1a
Planning Control	Front setbacks – 9.5m
Departure basis	The proposal seeks a front setback to the carport of 4m. This represents a variation of 5.5m or 58%.

The Site

The site is identified as Lot 80 DP253201, 17 Kunala Lane Horsfield Bay.

The lot is an irregularly shaped allotment located on the western side of Kunala Lane, having a site area of 882m². Whilst the site enjoys a frontage to Woy Woy Road to the west, it is effectively cut in two by a rock ledge which bisects the site, with the rear elevated portion densely vegetated and unlikely to be developable. The rear portion of the site provides high quality amenity, setting and aesthetic qualities to residents, adjoining sites and the locality.

The site rises steeply from Kunala Lane and is located on the western side with a total area of 882m². The site is occupied by an existing two-storey cladded dwelling with metal roof, undercroft area to the front and rear, being partially built on supporting posts, due to the variation in topography.

Access is via a steep concrete driveway from Kunala Lane.

The subject site is zoned *R2 - Low Density Residential* under the provisions of *GLEP 2014*.

The site is identified as bushfire prone land.



Figure 1 Aerial Photograph showing location of subject site



Figure 2 Aerial view of site



Figure 3 Zoning. The subject site and nearby residential lots are zoned R2 - Low Density Residential under the provisions of GLEP 2014

Existing Height of Development on Site

It is noted that this matter is referred to the Local Planning Panel as a result of the proposed development exceeding the maximum permitted height set out within clauses 4.3 and 4.5 of GLEP 2014 by more than 10%. The height of the proposed lift exceeds the permissible maximum Height of Buildings of 8.5m by 2.03m to a total height of 10.53m (this represents a variation of 23.8%). It is noted that, as a result of the steeply sloping nature of the site, the existing dwelling already exceeds the 8.5m height limit, having a height of 12.69m.

Surrounding Development

The area generally contains a mixture of older style elevated dwellings on the steep hillside. The dwellings along the western and eastern side of Kunala Lane are of similar construction typology comprising a mix of cladded and brick single and two storey dwellings, many with carport and garage structures having direct address with the Kunala Lane street frontage, more particularly on the eastern side of Kanala Lane where the escarpment fall is the greatest.

The Kunala Lane streetscape is heavily landscaped and is not designed as a pedestrianised roadway being devoid of footways, with vegetative cover and rock outcrops largely extending to the road verge.



Figure 4 Front elevation

History

Council's records show that there have been a range of previous applications on the site, this includes approved works to repair a fire damaged dwellings in 2006 (DA/29963/2006 and CC/29963/2006), a new dwelling in 2000 (DA/12438/2001 and CC/12438/2001) and a new dwelling (DA/6950/2000 and CC/6950/2000).

The Proposed Development

The application seeks approval for the following:

1. Construction of detached carport with integrated lift structure at the Kunala Lane frontage
2. Construction of reversing car turning bay including associated retaining walls
3. Construction of single storey detached rear structure for use as a workshop
4. Reconfiguration of existing stair arrangement and landings at northern elevation of dwelling to form a link element between existing dwelling and detached shed structure
5. An 8,000 litre rainwater tank contained within the existing building envelope (within the undercroft area at the south eastern corner of the existing dwelling) and new 10,000 litre rainwater tank located behind the dwelling atop the escarpment.

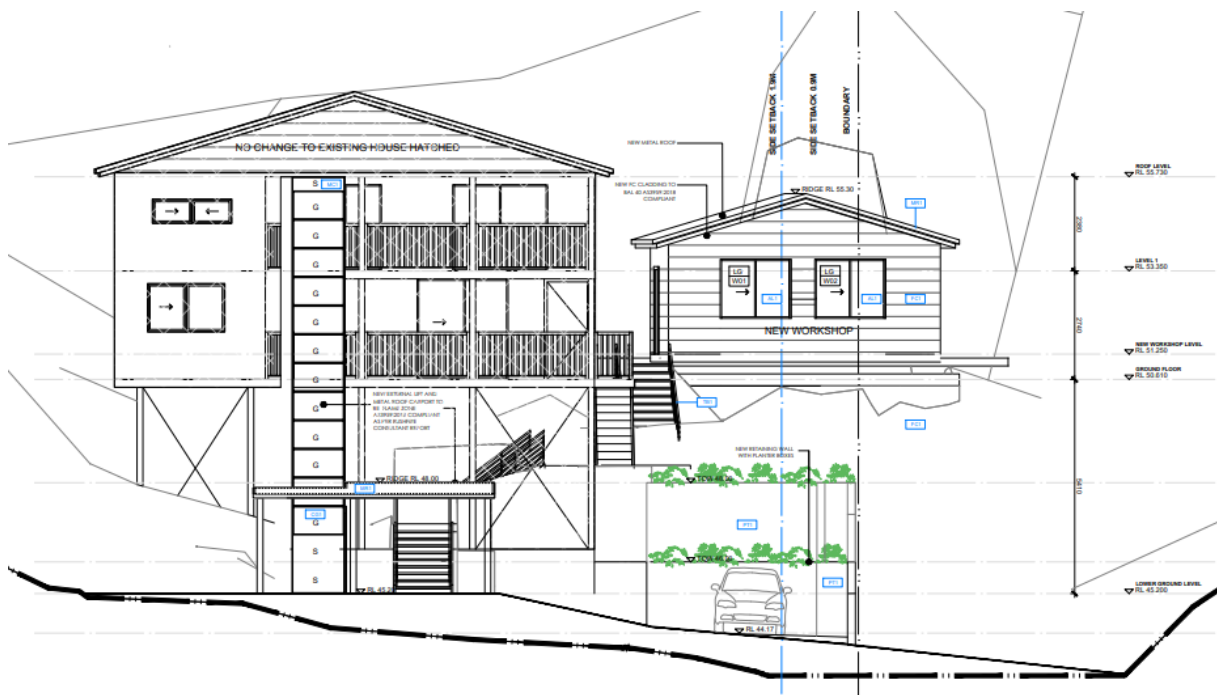


Figure 5 Proposed lift, carport and workshop

ASSESSMENT:

Having regard for the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, the assessment has identified the following key issues.

State Environmental Planning Policy (Building sustainability Index) BASIX 2004

A compliant BASIX certificate achieving the State Governments Energy Efficiency targets has been provided in support of the application.

State Environmental Planning Policy No 71 – Coastal Protection

The subject land falls within the 'Coastal Zone' under [now repealed] *State Environmental Planning Policy No 71 – Coastal Protection*.

State Environmental Planning Policy No 71 (Coastal Protection) (SEPP 71) was repealed on 3 April 2018 when the *State Environmental Planning Policy (Coastal Management) 2018* (SEPP Coastal Management) came into effect. The savings and transitional provisions contained within the SEPP Coastal Management state the SEPP 71 provisions continue to apply if a development application is lodged and not finally determined prior to the commencement of the SEPP Coastal Management.

The provisions of SEPP 71 require the consent authority to consider the aims and objectives of SEPP 71 together with the matters for consideration listed in Clause 8 of SEPP 71 when determining an application within the Coastal Zone. The Coastal Zone is an area defined on maps issued by the NSW Department of Planning and Environment and the subject property falls within this zone.

The relevant matters have been considered in the assessment of this application. The application is considered consistent with the stated aims and objectives of SEPP 71.

State Environmental Planning Policy (Coastal Management) 2018

Whilst the savings and transitional provisions of SEPP Coastal Management apply, the proposed development has also been considered against the provisions of SEPP Coastal Management and considered satisfactory.

Gosford Local Environmental Plan 2014- Zoning and Permissibility

The subject site is zoned *R2 - Low Density Residential* under the provisions of GLEP 2014.

The proposed development is best defined as a 'dwelling house':

'dwelling house means a building containing only one dwelling.'

The development of a dwelling house is permitted in the zone with consent.

Gosford Local Environmental Plan 2014 - Objectives of Zone

The subject site is zoned *R2 - Low Density Residential* under the provisions of GLEP 2014, which has the following objectives:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that development is compatible with the desired future character of the zone.*
- *To encourage best practice in the design of low-density residential development.*
- *To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.*
- *To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low-density housing.*

In this instance, it is considered that the proposal is consistent with the stated objectives of the zone and consistent with the principles of Ecologically Sustainable Development as specified within the *Local Government Act 1993*.

The proposed development provides for residential development that is consistent with the nature of the locality, does not have unacceptable impacts on the natural environment and does not adversely impact residential amenity.

Gosford Local Environmental Plan 2014 Clause 4.3 - Height of buildings

The proposed development proposes a height that does not comply with the development standard set out in GLEP 2014.

Development Standard	Required	Proposed	Compliance with Controls	Variation %	Compliance with Objectives
4.3 – Height of buildings	8.5m	The proposal seeks a maximum height of 10.53m.	No – see comments below	23.8%	Yes – see comments below

The proposed mapped height limit variation is supported by a Clause 4.6 application to vary the development standard. The elevations and site plan for the development are provided within this report.

Gosford Local Environmental Plan 2014 Clause 4.6 - Exceptions to development standards

The proposed application seeks to vary the mapped permissible height controls provided for within GLEP 2014.

Height Variation

The applicant seeks a variation to Clause 4.3(2) of GLEP 2014 in relation to the proposed maximum height of the dwelling. In this regard, the proposal seeks a maximum overall height of 10.53m in lieu of the 8.5m maximum height limit applicable to the allotment, resulting in a variation of 23.8%.

Clause 4.6 (3) of GLEP 2014 requires consideration of the following:

'Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating –

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.'

and Clause 4.6 (4) of GLEP 2014 requires consideration of the following:

'Development consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

(b) the concurrence of the Planning Secretary has been obtained.'

The height of the proposed development is described, by the applicant, in the table below:

Height of Buildings Control	8.5m
Existing Height of Building	12.69m
Max. Proposed Height (m) – measured from EGL	Proposed height of 10.53m (Lift Structure) - variation of 2.03m (Lift Structure).

The variation in height is illustrated at **Figure 6** and **Figure 7**, which also illustrates that, due to the steeply sloping topography, the existing two storey dwelling also exceeds the maximum height limit, having a height of 12.69m. The current variation is a consequence of this exceedance with the lift structure required to service all habitable areas of the dwelling.

In accordance with Clause 4.6 of GLEP 2014, the applicant has provided a detailed request to vary the height development standard by the proposed 23.8 %. This written submission is included as **Attachment 4**.

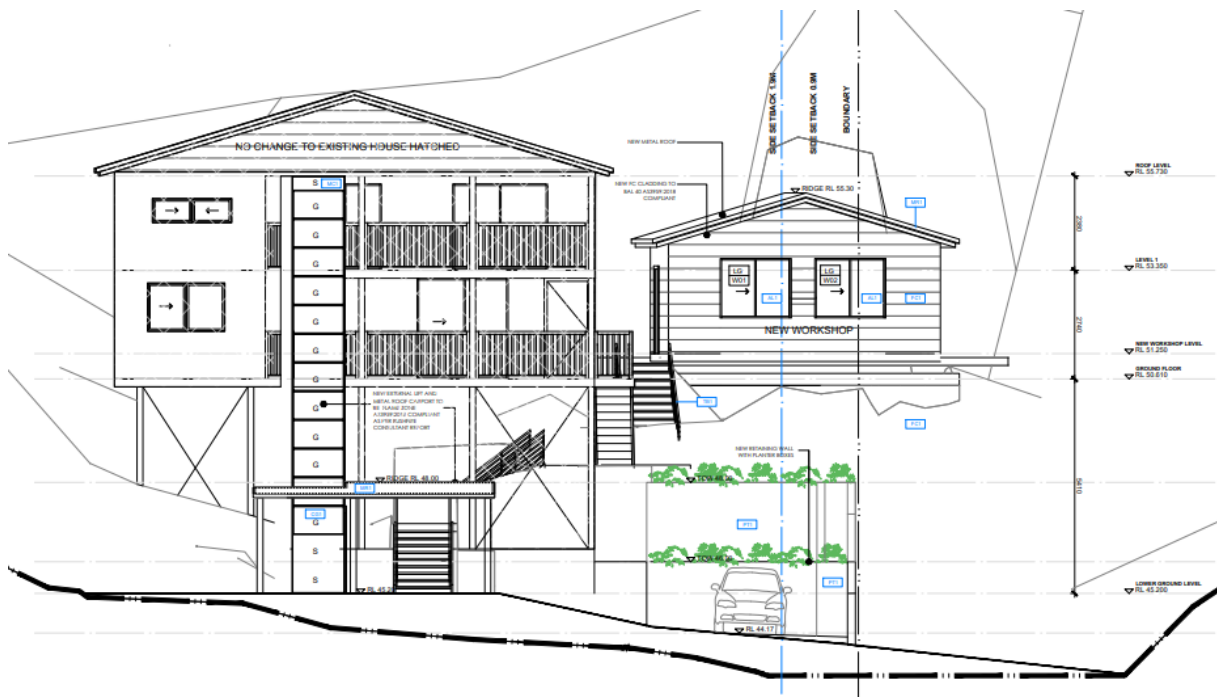


Figure 6 East (Front) Elevation

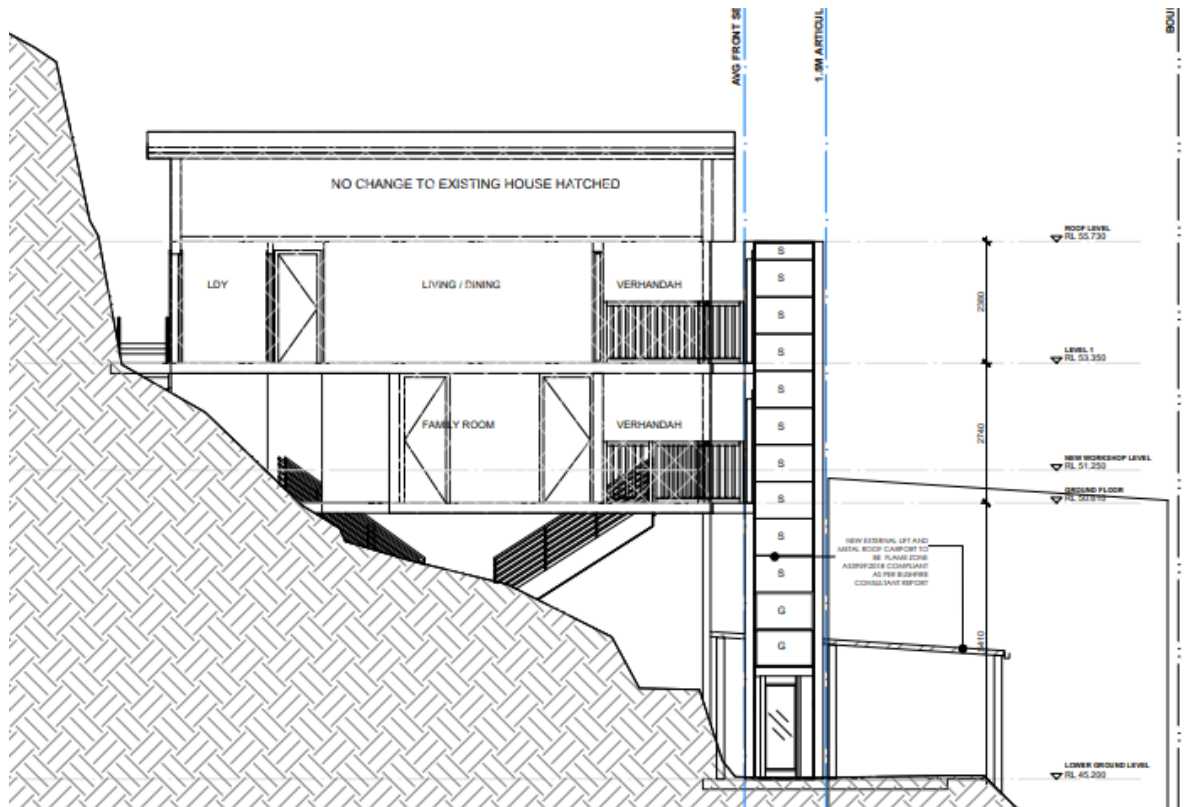


Figure 7 – Cross-Section through dwelling showing height of existing dwelling (12.69m) and height of proposed lift (10.53m)



Figure 8 Site Plan

Council Consideration of Proposed Variation

In reviewing the proposal, the objectives of the *R2 Low Density Residential Zone* have been undertaken in the context of the height variation. In considering these zone objectives, the following points are considered relevant:

- Dwelling Houses are permissible within the zone and the proposal satisfies the zone objective in terms of the provision of low-density residential development.
- The proposed dwelling design is considered in keeping with the existing and desired future character of the area.
- The design of the dwelling incorporates suitable architectural design elements and incorporates sustainable design features.

GLEP 2014 sets out six objectives pertaining to the building height development standard. The objectives are contained within Clause 4.3 (1) (a) to (f). These objectives are replicated below and commentary in respect to compliance or otherwise with each objective in relation to the proposed development are included as follows:

a) to establish maximum height limits for buildings,

The proposed height of the building, whilst exceeding the numerical height limit, is consistent with numerous other dwellings within the vicinity on this steep coastal hillside locality.

b) to permit building heights that encourage high quality urban form,

The new lift incorporating a skillion roof form and extensive glass material will result in a contemporary design and use of quality materials that will encourage a desired urban form in the locality.

c) to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,

The proposed alterations and additions will not result in any overshadowing.

d) to nominate heights that will provide an appropriate transition in built form and land use intensity,

The height exceedance relates to the proposed lift on the eastern elevation. The lift exceeds the 8.5m building height requirement by 2.03m, but is less than the 12.69m height of the existing dwelling roof.

- e) to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,*

The proposed design meets the relevant zone objectives and does not cause any unreasonable level of view loss impacts to the adjoining and surrounding properties.

- f) to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.*

The proposed design and height will not create any overshadowing to public open spaces and not impact on viewing natural topographical features from surrounding open spaces within the Horsfield Bay locality.

In terms of the proposed design, it is noted that the height exceedance is the proposed lift on the eastern elevation. The proposal meets the relevant zone objectives and does not cause view loss impacts to the adjoining properties.

It is considered that the applicant's request to vary the development standard would be consistent to the height and scale of other dwellings within the immediate area. In addition, the development would not impose any unreasonable level of detrimental impact on the amenity of residents in nearby dwellings. It has been concluded the steepness of the site contribute to the difficulty in complying with the height controls.

Having regard to the site factors, minimal impact on the character of the area and neighbouring residents, the applicant's request to vary the height development standard is considered reasonable and therefore supported.

Gosford Local Environmental Plan 2014 Clause 7.1 - Acid Sulfate Soils

The subject site has been identified as containing potential Class 5 acid sulfate soils. Clause 7.1 of the GLEP 2014 requires that an acid sulfate soils management plan must be prepared where:

- work within Class 5 Acid Sulfate Soils are located below 5m AHD, and
- the water table is likely to be lowered below 1m AHD on adjacent lands containing class 1, 2, 3 or 4 soils.

It is considered that an acid sulfate soils management plan is not required in this instance.

Draft Central Coast Local Environmental Plan 2018 (Draft CCLEP 2018)

Following a review of the *Draft Central Coast Local Environmental Plan 2018* (Draft CCLEP 2018), which was exhibited until 27 February 2018, the subject site retains its low density R2 residential zoning, with dwelling houses remaining permissible with consent.

Gosford Development Control Plan 2013Gosford Development Control Plan 2013 Chapter 2.1 – Character

The subject land is situated within the Horsfield Bay 1: Woodland Hillsides Character Area, as set out in the Gosford Development Control Plan 2013 (GDCP 2013)

The GDCP 2013 sets out the following desired character attributes:

'Horsfield Bay 1: Woodland Hillsides – Desired Character

These should remain very leafy low-density residential hillsides, conserving natural and scenic qualities of the bushland backdrops that are fundamental features of Gosford City's identity, where landscape settings that adjoin bushland reserves are not dominated by new development.

Conserve natural and scenic characters of wooded hillside properties plus unformed road verges by retaining natural slopes and the continuity of tree-canopy that is provided by existing bushland remnants. Complement the established tree canopy by new plantings that are predominantly indigenous, and do not plant any identified noxious or environmental weeds. Facing all boundaries, emphasise a leafy garden character by avoiding tall retaining walls, fences that are not see-through, elevated structures such as terraces or pools, and steep driveways that would visibly compromise the existing bushy hillside character.

In areas that are defined as bushfire prone, hazard must not be increased by inappropriate new plantings or structures. Minimise the extent of cleared asset protection zones by fire-resistant siting, design and construction for all new structures plus effective management of gardens. The ideal compromise between desired scenic quality and hazard-reduction would limit clearing to thinning of the canopy to establish breaks between existing trees. Screen or shield all verandahs, windows, roofs and suspended floors to prevent the entry of sparks and flying embers.

Avoid disturbing natural slopes and trees by appropriate siting of structures plus low-impact construction such as suspended floors and decks rather than extensive cut-and-fill. On the steeper sites, locate parking next to the street in structures that are designed to blend with their natural setting. Avoid the appearance of a continuous wall of development along any street or hillside by locating buildings within setbacks that are similar to their surrounding properties, and by providing at least one wide side setback or stepping the shape of front and rear facades.

Minimise the scale and bulk of buildings by strongly-articulated forms that sit beneath the canopy, with floor-levels that step to follow natural slopes and irregular floorplans, such as linked pavilions that are separated by courtyards and

capped by individual roofs. Front or rear facades that are taller than neighbouring dwellings should be screened by balconies, verandahs, stepped forms or extra setbacks. Roofs should be gently pitched to minimise the height of ridges, and flanked by wide eaves to disguise the scale of exterior walls.

Minimise the scale of prominent facades by using extensive windows and verandahs plus a variety of materials and finishes rather than expanses of plain masonry. Where dwellings would be visible from their road frontage, display a traditional "street address" with verandahs or decks, and living rooms or front doors that are visible from that roadway. Avoid wide garages that would visually-dominate any front façade. Locate and screen all balconies or decks to maintain the existing levels of privacy and amenity that are enjoyed by neighbouring dwellings.'

The proposed development is consistent with the desired character of the area. The proposal does not cause any significant detrimental impact in terms of the scenic character of the location. In this respect, the vegetated hillsides and road verges are maintained, with work undertaken primarily within the existing developed portion of the lot. Suspended floors and decks are preferred over extensive cut-and-fill and the proposal is appropriately designed given the topography and constraints of the site. The proposal does not have any adverse impact in terms of amenity or privacy for adjoining dwellings.

Gosford Development Control Plan 2013 Chapter 3.1 – Dwelling Houses, Secondary Dwellings and Ancillary Development

The following table provides an evaluation of the development against the provisions of GDCP 2013 Chapter 3.1:

Chapter 3.1	Requirement	Proposed	Compliance
Clause 3.1.2.1 Building Height	Three storeys on steeply sloping sites. 8.5m building height	The dwelling has two storeys 10.53m	Yes No – see comments below
Clause 3.1.2.2 Site Coverage	Maximum 50% site coverage.	24.9%	Yes
Clause 3.1.2.3 FSR	0.5:1 floor space ratio	0.21:1	Yes
Clause 3.1.3.1a – Front Setback	This is the average of the nearest two dwellings having the same primary road boundary and located within 40m of the lot on which the dwelling house is to be erected.	4m	No -see comments below
Clause 3.1.3.1b – Rear Setback	3m Rear setback to a parallel road	13.9m	Yes
Clause 3.1.3.1c – Side Setback	Height up to 4.5m – 0.9m	Workshop 0.9m to 2.5m	Yes

Chapter 3.1	Requirement	Proposed	Compliance
Clause 3.1.4.1	To encourage view sharing between properties	Existing views to and from the site are not obstructed due to the low scale nature of the proposed development	Yes
Clause 3.1.4.2 Visual Privacy	To minimise direct overlooking between main living areas and areas of principle private open space within the site and adjoining sites	Given the steep topography of the site, the proposal is considered to meet the requirements of this clause	Yes
Clause 3.1.5 – Car Parking and Access	2 car spaces	2 car spaces	Yes
Clause 3.1.6 Earthworks, Structural Support and Drainage	Cut – 3m when more than 1m from the boundary	2.0m	Yes
Clause 3.1.6.2 Retaining wall	1m above ground designed by a Structural Engineer	Structural Engineer designed	Yes
Clause 3.1.7.3 Detached Studios	No. required 1 Max. floor area 50m ²	No. proposed 1 Floor area 30m ²	Yes Yes

Gosford Development Control Plan 2013 Clause 3.1.2.1 Building Height

The applicant seeks a variation to the proposed maximum height of the dwelling. In this regard, the proposal seeks a maximum overall height of 10.53m in lieu of the 8.5m maximum height limit applicable to the allotment. The variation proposed is 23.8%.

An assessment of the building height has been carried out under the GLEP 2014. The proposed development is consistent to the height of other buildings on the hillside. The proposal meets the relevant zone objectives and does not cause view loss impacts or an unreasonable level of overshadowing to the adjoining properties.

It is considered the applicants request to vary the development standard would be consistent to the height and scale of other dwellings within the immediate area. In addition, the development would not impose any unreasonable level of detrimental impact on the amenity of residents in nearby dwellings. It has been concluded the steepness of the site contribute to the difficulty in complying with the height controls and comparisons to the height and scale of other dwellings along the hillside provide justification to vary them.

Gosford Development Control Plan 2013 Clause 3.1.3.1a Front Setback

The development proposes a front setback of 4m to the carport. The average setback distance calculated using the two adjacent properties is 8.5m. A carport is required to be setback 1m behind the front building line which would be 9.5m. The proposed setback is a variation of 5.5m or 58%.

The setback variation is considered against the objectives of the clause

Objectives: To ensure that setbacks are compatible with adjacent development and complements the character, streetscape, public reserve, or coastal foreshore

Comment – the location of the parking platform is existing on the site. The Character Statement for the locality recommends, “On the steeper sites, locate parking next to the street in structures that are designed to blend with their natural setting”. The proposed carport complies with this requirement.

Objective: To ensure the visual focus of a development is the dwelling, not the garage

Comment – both the lift and carport are transparent in appearance. By proposing a carport rather than a garage the development will not become the visual focus.

Objective: To protect the views, privacy and solar access of adjacent properties

Comment – the carport and lift structure do not impact on views, privacy or solar access of neighbouring properties.

Objective: To maintain view corridors to coastal foreshores and other desirable outlooks

Comment – the carport and lift structure do not impact on views corridors.

Objective: To maintain the scenic and environmental qualities of natural waterbodies and their foreshores and respond to site attributes such as topography

Comment – both the lift and carport are transparent in appearance and do not require removal of vegetation for their construction and installation on site.

Objective: To provide deep soil areas sufficient to conserve existing trees or accommodate new Landscaping

Comment - Neither the lift and carport require removal of vegetation for their construction and installation on site. The front setback of the site will remain vegetated.

Objective: To provide appropriate articulation of facades and horizontal elements reduce the appearance of bulk and provides visual interest to the building and subsequent streetscape where they face a street frontage(s)

Comment - both the lift and carport are transparent in appearance. The lift represents only 11.1% of the building façade width.

Giving consideration to the objectives related to front setback, the proposed variation is considered acceptable and is recommended for approval.

Gosford Development Control Plan 2013 Chapter 6.3 Erosion Sedimentation Control

Appropriate conditions for erosion and sediment control are recommended within the proposed conditions of consent, for the consideration of the Panel.

Gosford Development Control Plan 2013 Chapter 6.4 Geotechnical Requirements for Development Applications

The subject land is not identified as being at risk of land slip, as defined within the GDCP 2013.

The application has been accompanied by a Geotechnical Assessment prepared by Ascent Geotechnical Consulting (reference AG 21318 dated 18 October 2021). The report notes that the proposed development is suitable for the site and provides recommendations as to construction methodologies.

Gosford Development Control Plan 2013 Chapter 7.2 Waste Management

A waste management plan has been submitted in support of the proposed development. The waste management plan is considered appropriate, given the scale and nature of the development.

Bushfire

The subject land is identified as being bushfire prone land. The site is constrained by vegetation classified as '*Category 1 Bushfire Vegetation*'.

The application is supported by a *Bushfire Assessment Report* referenced 79BA-2254, prepared by Sydney Bushfire Consultants dated 4 November 2021.

The report concludes the bushfire attack level (BAL) for the development to be constructed to BAL FZ for the carport and lift, BAL 40 for the workshop as outlined in AS3959 – 2018 and NSWRFs '*Planning for Bushfire Protection*' (November 2019). The recommendations of this report are supported and appropriate conditions of consent are included for the consideration of the Panel.

The likely impacts of the development

Built Environment

Given the position of the proposed dwelling on the allotment and comparison of bulk and scale with other dwellings, the proposal is considered to be suitable with regard to the context and setting of the subject site and is considered to be in keeping with the character of the area.

A thorough assessment of the proposed development's impact on the built environment has been undertaken in terms of the GLEP 2014 and GDCP 2013 compliance. It is considered, on balance, that the potential impacts are reasonable.

Natural Environment

The proposal involves some site excavation given the site's sloping topography. Whilst there is some impact upon the natural environment, this is considered to be reasonable as the main bulk of excavation occurs to the north of the existing dwelling. Accordingly, the proposal is considered satisfactory in relation to impacts on the natural environment.

Public Submissions

The application was placed on public exhibition in accordance with the provisions of the GDCP 2014 and one submission has been received. The concerns are as follows:

1. *Want to ensure there is no dumping of building material and green waste onto adjacent property.*

Comment: A sediment and erosion control plan and a waste management plan have been submitted in support of the application. The requirements of these plan and appropriate conditions of consent will mitigate against impacts on adjoining lands, including dumping of material, green waste and other such matters.

Other Matters for Consideration:

Removal of Trees

Minimal clearing is proposed with the structures to be constructed on already built upon land, retaining the existing landscaping qualities of the site.

Development Contribution Plan

The proposed development is not a development type that is subject to Section 7.11 or Section 7.12 of the *Environmental Planning and Assessment Act 1979*. Therefore, no development contributions are applicable.

Water and Sewer Contributions

The proposed development is not subject to water and sewer contributions, as the site is already connected to these services and no increase in loading is proposed.

Ecologically Sustainable Development Principles:

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control, retention of vegetation where possible, is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.





The Public Interest

The proposed development represents a relatively modest addition to an existing residence. The proposal, despite the proposed variation to height, is consistent with the locality and an appropriate development given constraints if the site presented by topography. The public interest is best served by approval of the application.

Conclusion:

The development application has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* and relevant instruments and policies. The proposed development is considered suitable for the site, despite the identified variations. The proposal is therefore recommended for approval pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

Attachments

1	 Draft Conditions of Consent		D15124320
2	 Unredacted Development Plans - provided to Panel only as contain internal floor plans	Provided Under Separate Cover	D14986625
3	 Redacted Development Plans		D14986643
4	 Applicant's Objection Under Clause 4.6 - Height		D14986628



Telephone: 1300 463 954

Please Quote: DA/2059/2021

Plan Urbia
PO Box 86 GLEBE NSW 2037

Notice of Determination of a Development Application
issued under the *Environmental Planning and Assessment Act 1979*
section 4.18(1)(a)

Application Number: DA/2059/2021
Applicant: Plan Urbia
Property: Lot 80 DP 253201 , 17 Kunala Lane HORSFIELD BAY NSW 2256
Proposal: Alterations & Additions to Existing Dwelling

Date from which this consent operates

In accordance with section 4.20, 8.13 of the *Environmental Planning and Assessment Act 1979*, this consent becomes effective and operates from the date of this notice.

Consent to operate from

7 April 2022

Consent to lapse on

7 April 2027

Imposition of conditions

In accordance with section 4.17 of the *Environmental Planning and Assessment Act 1979*, this consent has been granted subject to conditions of this consent.

Review of Determination

In accordance with section 8.2, 8.3, 8.4, 8.5 of the *Environmental Planning and Assessment Act 1979*, the applicant may make an application seeking a review of this determination, providing it is made in time for Council to determine the review within six (6) months of this determination.

Right of Appeal

Section 8.7, 8.10 of the *Environmental Planning and Assessment Act 1979* confers on an applicant, who is dissatisfied with the determination of a consent authority, a right of appeal to the Land and Environment Court within six (6) months from the date of determination. To ascertain the date upon which the determination becomes effective refer to section 4.20, 8.13 of the Act.

For further information contact Central Coast Council Customer Service Unit on 1300 463 954.

On behalf of the consent authority

David Farmer

Chief Executive Officer

Per: ☐

Date:

ATTENTION: Determination - Missing Assessment Control

Conditions

1. PARAMETERS OF THIS CONSENT

1.1 Approved Plans and Supporting Documents

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
	A	Architectural Drawings	Play Co Architects	8/11/21

Document Title.	Version No.	Prepared By.	Dated.
Bushfire Report	79BA-2254	Sydney Bushfire Consultants	4 November 2021
Geotechnical Report	AG 21318	Ascent Geotechnical Consulting	18 October 2021
Basix Certificate	-	AENEC	16 November 2021
Waste Management Plan	-	No Author	8 November 2021

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

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

- 1.2** Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.
- 1.3** Comply with all commitments listed in the BASIX Certificate for the development as required under Section 75 *Environmental Planning and Assessment Regulation 2021*.

2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1** All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2** No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
- Site investigation for the preparation of the construction, and / or
 - Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
 - Demolition

- 2.3** Assessment of the development against the provisions of Planning for Bush Fire Protection (2019) (NSW) has determined a Bush Fire Attack level of BAL FZ for the carport and BAL 40 for the Workshop. The existing building is to be upgraded to improve ember protection as per the Building Best Practice Guide – Upgrading of Existing Buildings (Development Assessment & Planning, NSW Rural Fire Service, Reference 0914) and the Bushfire Report by Sydney Bushfire Consultants dated 4 November 2021.

Submit to the Registered Certifier for approval construction details showing that the development complies with this Bush Fire Attack Level (BAL) as prescribed by Australian Standard AS 3959-2018: Construction of buildings in bush fire prone areas and (where applicable) the additional measures contained within section 7.5.2 – 'NSW State variations to AS3959' of Planning for Bush Fire Protection (2019) (NSW) and the recommendations outlined in the Bushfire Report by Sydney Bushfire Consultants dated 4 November 2021.

- 2.4** Submit engineering details prepared and certified by a practising structural engineer that comply with *Council's Building Over or Adjacent To Sewer and Water Main Guidelines* to the satisfaction of Council. Engineering details must be submitted to Council's Water Assessment Team for approval. Plan assessment fees apply.

- 2.5** Submit an application to Council under section 305 of the Water Management Act 2000 for a section 307 certificate of compliance. The Application form can be found on Council's website centralcoast.nsw.gov.au. Early application is recommended.

The section 305 application will result in a section 306 letter of requirements which must be obtained prior to the issue of any Construction Certificate. The requirements letter will outline which requirements must be met prior to each development milestone eg. prior to construction certificate, subdivision works certificate, occupation certificate and/or subdivision certificate.

- 2.6** Submit to the Accredited Certifier responsible for issuing the construction certificate for works within the development site detailed design drawings and design reports for the following engineering works:
- Construction of driveways, ramps and car parking areas (including carports) in accordance with the requirements of the current edition Australian Standard AS/NZS 2890: Parking Facilities and other applicable Australian Standards.
 - Design and Construction of retaining walls where indicated on development approval documentation. Retaining wall design must not conflict with existing or proposed services or utilities. Retaining walls designs for wall greater than 600mm in height must be certified by a registered practising Civil or Structural engineer carrying Professional Indemnity insurance as being in accordance with Australian Standards.

Design and construction of Retaining walls, Detailed design drawings and design reports acceptable to the Accredited Certifier must be included in the Construction Certificate documentation.

3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1** All conditions under this section must be met prior to the commencement of any works.

- 3.2** Appoint a Principal Certifier for the building work:

- The Principal Certifier (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
- Submit to Council a Notice of Commencement of Building Work form giving at least two (2) days' notice of the intention to commence building work. The forms can be found on Council's website: www.centralcoast.nsw.gov.au

- 3.3** Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:
- The name, address and telephone number of the Principal Certifier for the work; and
 - The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
 - That unauthorised entry to the work site is prohibited
 - Remove the sign when the work has been completed.
- 3.4** Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
- erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
 - diverting uncontaminated run-off around cleared or disturbed areas, and
 - preventing the tracking of sediment by vehicles onto roads, and
 - stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot
- 3.5** Erect a temporary hoarding or temporary construction site fence between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works, if the works:
- could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
 - could cause damage to adjoining lands by falling objects, or
 - involve the enclosure of a public place or part of a public place

Note 1: A structure on public land or on or over a public road requires the prior approval of the relevant authority under the [Local Government Act 1993](#) or the [Roads Act 1993](#), respectively.

Note 2: The [Work Health and Safety Act 2011](#) and [Work Health and Safety Regulation 2011](#) contain provisions relating to scaffolds, hoardings and other temporary structures.

- 3.6** Provide or make available toilet facilities at the work site before works begin and maintain the facilities until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site.

Each toilet must:

- be a standard flushing toilet connected to a public sewer, or
- have an on-site effluent disposal system approved under the [Local Government Act 1993](#), or
- be a temporary chemical closet approved under the [Local Government Act 1993](#)

4. DURING WORKS

- 4.1** All conditions under this section must be met during works.

- 4.2 The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

7.00 am and 5.00 pm on Monday to Saturday

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

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

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

- 4.3 While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

"relic" means any deposit, artefact, object or material evidence that:

- a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- b) is of State or local heritage significance; and

"Aboriginal object" means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains. To ensure the protection of objects of potential sign.

- 4.4 Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 4.5 Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifier or an officer of Council.
- 4.6 Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.
- 4.7 Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.
- 4.8 Implement all recommendations of the geotechnical report(s) listed as supporting documentation in this development consent. Furthermore, the geotechnical engineer must provide written certification to the Principal Certifier that all works have been carried out in accordance with the recommendations contained within the geotechnical report(s).

5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1 All conditions under this section must be met prior to the issue of any Occupation Certificate.

- 5.2** Complete the building in accordance with the provisions of *Planning for Bush Fire Protection 2019 (NSW)* and the requirements of Australian Standard AS 3959-2018 - *Construction of Buildings in Bush Fire Prone Areas* and additional measures contained within section 7.5.2 – ‘NSW State variations to AS3959’ of *Planning for Bush Fire Protection (2019) (NSW)* for a Bush Fire Attack Level of BAL FZ for the carport and BAL 40 for the Workshop. The existing building is to be upgraded to improve ember protection as per the Building Best Practice Guide – Upgrading of Existing Buildings (Development Assessment & Planning, NSW Rural Fire Service, Reference 0914) and the Bushfire Report by Sydney Bushfire Consultants dated 4 November 2021.
- 5.3** Create in accordance with the requirements of Planning for Bush Fire Protection 2019 (NSW), an Asset Protection Zone (APZ) surrounding the development is to be provided to all elevations of the building consisting of:
- an Inner Protection Area (IPA) as noted in Appendix 1 - map 1 of the Bushfire Assessment Report by Sydney Bushfire Consultants dated 4 November 2021.
- 5.4** Complete the building in accordance with the relevant provisions and requirements of the National Construction Code Series.
- 5.5** Provide certification from a geotechnical engineer to the Principal Certifier that all works have been carried out in accordance with the recommendations contained within the geotechnical report(s) listed as supporting documentation in this development consent.
- 5.6** Install a rainwater tank in accordance with the recommendations in the Bushfire Assessment Report by Sydney Bushfire Consultants dated 4 November 2021. The required rainwater tank is to be installed in accordance with the requirements of the National Plumbing and Drainage Code Australian Standard AS 3500. All overflow must be connected via piped drainage line to street kerb outlet or an infiltration trench.
Note: Infiltration trenches are to be designed by a practising engineer experienced in hydraulics. The design details are to cater for a 1 in 20 year AEP storm event and are to allow for a minimum setback of three (3) metres from any sewer main and lot boundaries.
- 5.7** The construction of Retaining Walls shall be certified by an experienced Engineer carrying Professional Indemnity Insurance and the corresponding certification submitted to the Accredited Certifier (copy to Council).

6. ONGOING OPERATION

- 6.1** Do not adapt or use the non-habitable studio for residential, commercial or industrial purposes.
- 6.2** Do not let, adapt or use the dwelling / building for separate occupation in two or more parts.

7. PENALTIES

- 7.1** Failure to comply with this development consent and any condition of this consent may be a criminal offence. Failure to comply with other environmental laws may also be a criminal offence.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

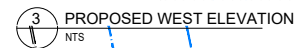
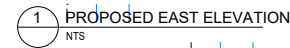
Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and / or custodial sentences for serious offences.

ADVISORY NOTES

- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:
 - a. Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments
 - b. Jemena Asset Management for any change or alteration to the gas line infrastructure
 - c. Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
 - d. Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
 - e. Central Coast Council in respect to the location of water, sewerage and drainage services
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and regulate the development industry.
- Dial Before You Dig
Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.
- Telecommunications Act 1997 (Commonwealth)
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.
- Install and maintain backflow prevention device(s) in accordance with Council's WS4.0 Backflow Prevention Containment Policy. This policy can be found on Council's website: www.centralcoast.nsw.gov.au

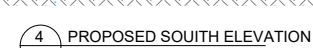
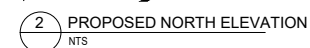
This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).



* ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS.
 * CONSTRUCTOR TO ENSURE CONSISTENCY BETWEEN SIMILAR MATERIAL IS MAINTAINED.
 * THIS INFORMATION IS PRELIMINARY AND UNTESTED AND MAY RELY ON INFORMATION FROM THIRD PARTIES THAT IS ALSO UNTESTED. ALL INFORMATION ARE SUBJECT TO CHANGE DURING DESIGN DEVELOPMENT.
 * ALL DIMENSIONS TO BE CHECKED ON SITE BEFORE COMMENCEMENT OF WORK. ALL DIMENSIONS MUST BE CHECKED & VERIFIED ON SITE PRIOR TO CONSTRUCTION & MANUFACTURE OF ANY ITEM.
 * THIS DRAWING IS COPYRIGHT AND THE PROPERTY OF THE AUTHOR. IT MUST NOT BE REPRODUCED, COPIED OR USED WITHOUT THE EXPRESS AUTHORITY OF PLAY GO PTY LTD.

PROJECT
17 Kunala Lane
Horsfield Bay

ABN 206 135 521 86
SUITE 6.14 55 MILLER STREET PYRMONT NSW 2009



SCALE	NTS @ A4	PAPER SIZE	A3	REVISION	A
DRAWN BY	RN	REVIEWED BY	NK	PROJECT STATUS	DA

Appendix A

CLAUSE 4.6 VARIATION

WRITTEN REQUEST FOR AN EXCEPTION TO THE MAXIMUM HEIGHT OF BUILDING DEVELOPMENT STANDARD 17 Kunala Lane, HORSFIELD BAY

13th December 2021

Report Ref: P11421-Rev/A

Prepared By

Mark Solomon

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PO BOX 86 GLEBE NSW 2037

Written Request for an Exception to Development Standards (Height)



Introduction

This written request for an exception to a development standard is submitted to support a development application in respect of the 'Height of Buildings' development standard contained within Clause 4.3(2) of the Gosford Local Environmental Plan 2014 (GLEP 2014). The request relates to a development application for alterations and additions to a residential dwelling at 17 Kunala Lane, HOSRSFIELD BAY NSW 2256.

The exception to a development standard relates to the proposed lift structure to the existing 2 storey residential dwelling contained on the site. The exception is made pursuant to Clause 4.6 of the Gosford Local Environmental Plan 2014 (GLEP 2014).

Clause 4.6 Exceptions to Development Standards

Clause 4.6(2) of the GLEP 2014 provides that development consent may be granted for development even though the development would contravene a development standard imposed by the GLEP 2014, or any other environmental planning instrument.

However, clause 4.6(3) states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

In accordance with clause 4.6(3) the applicant requests that the maximum permitted Height of Buildings development standard contained within Clause 4.3(2) of the GLEP 2014 be varied.

Development Standard to be Varied

Clause 4.3 (Height of Buildings) of the GLEP 2014.

The maximum Height of Buildings for the site shown on the map to which the proposed development relates is 8.5m as illustrated in **Figure 1**.

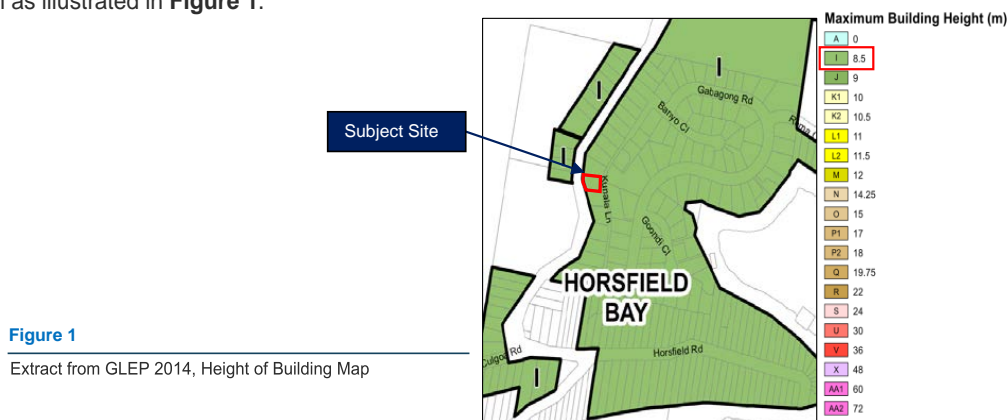


Figure 1

Extract from GLEP 2014, Height of Building Map

Written Request for an Exception to Development Standards (Height)



Extent of Variation to the Development Standard

The height of the proposed development is described in **Table 1** below:

TABLE 1	
Height of Buildings Control	8.5m
Existing Height of Building	12.69m
Max. Proposed Height (m) – measured from EGL	Proposed height of 10.53m (Lift Structure) Variation of 2.03m (Lift Structure).

The variation in height is illustrated at **Figure 2** and **Figure 3**, which also illustrates that due to the steeply sloping topography the existing 2 storey dwelling also exceed the maximum height limit at 12.69m. The variation is a consequence of this exceedance with the lift structure required to service all habitable areas of the dwelling.

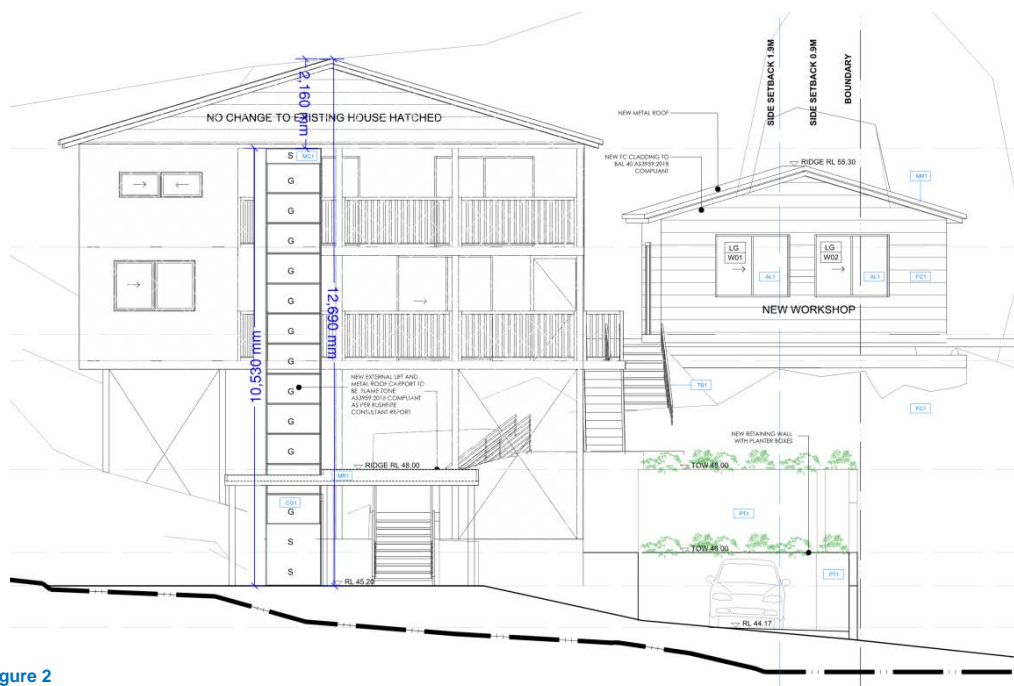


Figure 2

East Elevation showing variation in height.

Written Request for an Exception to Development Standards (Height)

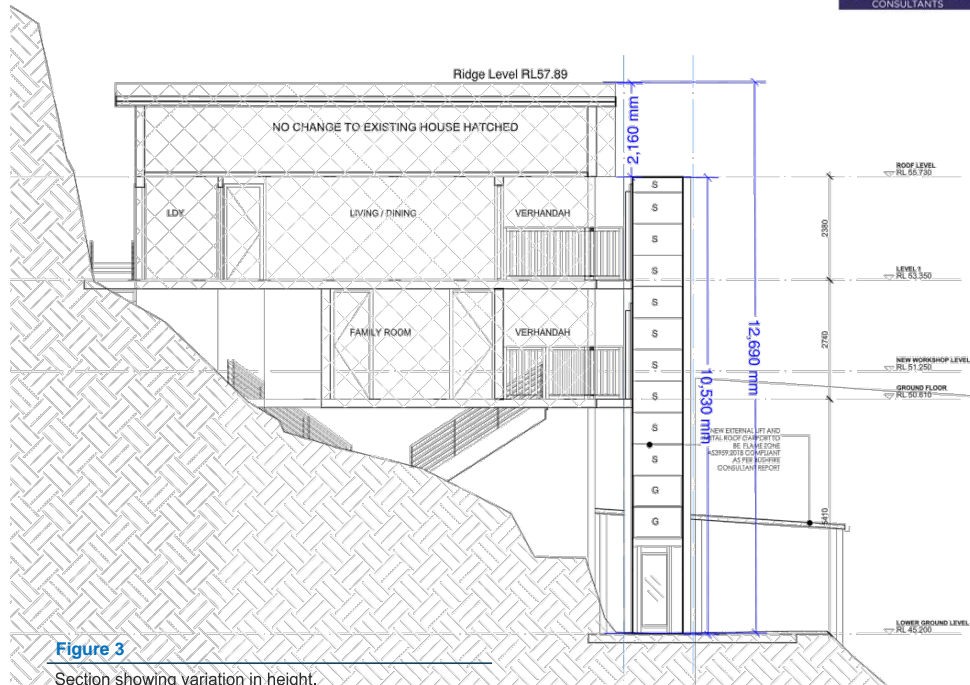


Figure 3
Section showing variation in height.

Clause 4.6(3)(a) – Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in *Wehbe v Pittwater Council*. [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

The Land and Environment Court in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 has required additional ways of establishing that compliance is unreasonable or unnecessary beyond consistency with the standard and zone objectives to be established. For completeness, this request addresses the five part test described in *Wehbe v Pittwater Council*. [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;

The specific objectives of the Height of Buildings development standard, as specified in clause 4.3(1) of the NSLEP 2013 are identified at **Table 2** below. A comment on the proposal's consistency with each objective is also provided.

Written Request for an Exception to Development Standards (Height)



TABLE 2	
OBJECTIVE	COMMENT
(a) <i>to establish maximum height limits for buildings,</i>	<p>Maximum building heights development standards typically govern the envelope of a building to ensure the character of the locality is consistent throughout.</p> <p>The extent of the variation is due to the nature of the site topography (escarpment) which is steeply sloping. It is noted that the 2 storey residential dwelling to which the lift structure is designed to service exceeds the maximum height limit for the same reasons.</p> <p>The existing principal dwelling has a height of 12.690m measured from the lowest point of the site to top of roof ridge, exceeding the permitted maximum height limit. The height of the lift structure, servicing all floors of the dwelling, is in response to this departure. This departure is not inconsistent with many of the dwellings situated along the southern side of Kunala Lane given the steep topography of the sites.</p> <p>Notwithstanding, the lift structure extends to the eaves line allowing the dwelling and gable roof form to be readily expressed, interpreted and discernible.</p>
(b) <i>to permit building heights that encourage high quality urban form,</i>	<p>The height of the lift structure, whilst exceeding the maximum permitted height, is within the established height of the existing dwelling, appropriately not higher than the eaves line allowing the gable roof structure to appropriately terminate the dwelling. Further, the presentation and expression of the dwelling remains largely unaltered in terms of its scale, articulation, and modulation which continues to reflect the steeply sloping topography.</p> <p>The lift structure is to have glazed panels providing a significant level of transparency to ensure the original design, form, scale, and articulation continues to respond to its context and setting. In addition, the lift structure represents only 11.7% of the building façade width to ensure the expression and presentation of the dwelling remains clearly visually discernible and interpreted.</p> <p>In this regard, the visual reading of the dwelling will be maintained irrespective of the height variation, and consequently will not be incompatible with or result in any adverse impact to the existing dwelling and its context and setting.</p>

Written Request for an Exception to Development Standards (Height)



TABLE 2	
OBJECTIVE	COMMENT
(c) <i>to ensure that buildings and public areas continue to receive satisfactory exposure to sky and sunlight,</i>	The lift structure is sited such that it will not impact exposure to sky and sunlight.
(d) <i>to nominate heights that will provide an appropriate transition in built form and land use intensity,</i>	The lift structure provides an appropriate transition in scale within the site by providing a height that is less than the existing building height. This will ensure that the relationship to the subject dwelling adjoining sites is not discordant but compatible with the subject dwelling and surrounding development.
(e) <i>to ensure that taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,</i>	View corridors are not impacted as a result of the departure to the height development standard.
(f) <i>to protect public open space from excessive overshadowing and to allow views to identify natural topographical features.</i>	The departure to the height limit does not impact the existing setting which is formed by the elevated wooded ridgeline, which extends from Woy Woy Road to the west, to the rear of the site.

2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

The underlying objectives and purpose of the Height of Buildings development standard is relevant to the proposed development. However, the proposed development is consistent with those objectives on the basis that the proposed height is compatible with the height of existing structures and does not diminish or materially impact the existing relationship of the dwelling within its context and setting, with no significant adverse impacts to adjacent properties by way of overshadowing, privacy or view loss.

3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

The underlying objective of the Height of Buildings development standard is to achieve an appropriate height on the site which is compatible with the context of the site and preserves the amenity and privacy of adjacent properties.

The proposed development satisfies the height objectives. The variation to the height development standard does not cause any significant disparity with existing structures or the character of the primary and dominant form of the 2 storey dwelling. The proposed development does not seek additional height that could facilitate an additional storey nor does it seek additional gross floor area but to provide functional

Written Request for an Exception to Development Standards (Height)



and equitable access to residents and visitors of the site, both able-bodied persons and those with mobility impairments, and in this regard will continue to have a density appropriate to the allotment.

The development is compatible with the contemporary form of the dwelling and has responded to this character by ensuring that the structure is lightweight and transparent, ensuring the dominant form and character of the dwelling continues to be discerned and expressed and that the impacts to the visual landscaped and bushland setting is maximised.

Accordingly, it is considered that strict compliance would likely result in the defeat of the underlying object and therefore compliance in this instance is considered unreasonable.

4. **the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;**

The Height of Building development standard has not been virtually abandoned or destroyed by Council's own actions. It is acknowledged too that Council has reasonably exercised its flexibility in the application of the development standard as evidenced by existing non compliances / departures of existing development along the western side of Kunala Lane and within the immediate locality.

5. **the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.**

The 2 storey residential dwelling is located within the R2 'Low Density Residential' zone. The zoning of the land is considered to be reasonable and appropriate. The objectives are identified in the **Table 3** and demonstrates that the variation is consistent with the objectives of the zone.

TABLE 3	
OBJECTIVE	COMMENT
<i>To provide for the housing needs of the community within a low density residential environment.</i>	<p>The additions are modest. The detached single storey workshop structure has a gross floor area of 30m² and provides for the recreational and functional needs of residents. The lift structure ensures that equitable access is afforded to residents and visitors to the site who are aged and / or have mobility impairments.</p> <p>The solar panels and rainwater tanks introduces increased sustainability and positive environmental outcomes.</p>
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	Not Applicable.

Written Request for an Exception to Development Standards (Height)



TABLE 3	
OBJECTIVE	COMMENT
<i>To ensure that development is compatible with the desired future character of the zone.</i>	The use remains as residential with the proposed structures to meet the needs of residents for additional recreational / work space and equitable access to the premises.
<i>To encourage best practice in the design of low-density residential development.</i>	Due to the escarpment to the rear of the subject site, adjacent and surrounding sites, many of the premises and ancillary structures have been built towards Kunala Lane. It is considered that the scale, siting and design of the proposed structures are compatible to the topography, existing 2 storey dwelling, surrounding development and the streetscape.
<i>To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.</i>	The proposed works incorporate environmentally sustainable development by siting structures on already 'built-upon' areas to minimise impacts to landscaped areas and existing biodiversity within the site, and incorporates rainwater tanks and solar panels for increased sustainability. The
<i>To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low-density housing.</i>	Not Applicable.

Clause 4.6(3)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

As previously stated, the proposed development is consistent with the underlying objectives of the Height of Buildings and the R2 'Low Density Residential' zone. As per the decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, a variation must justify sufficient environmental planning grounds particular to the circumstances of the proposed development and development site rather than grounds that would apply to a similar development on the site or a development in the vicinity.

This Clause 4.6 Request has been prepared in reference to the above LEC decision. As such, the grounds for the variation are particular to the circumstances of the proposed development noting that the proposed development has been designed in response to the existing site and environmental conditions.

Whilst the development standard has not been abandoned by Council, there are instances whereby Council has seen reason to depart from the height of building standards in the locality and with the approval of the subject building. In view of the particular circumstances of this case, strict compliance with Clause 4.3 of the LEP is considered to be both unnecessary and unreasonable on the following environmental planning grounds:

Written Request for an Exception to Development Standards (Height)



- ▶ The extent of the variation is due to the steeply sloping topography of the site which has resulted in the elevation of the existing 2 storey dwelling, creating a non-habitable undercroft area at ground level. As a consequence, the existing dwelling has a height of 12.960m above ground level, and 2.16m higher than the lift structure which sits below the eaves line of the roof form.
- ▶ The height variation does not seek to provide any additional density but is in response to enabling a more equitable arrangement for access into the dwelling.
- ▶ The lift structure is to be glazed providing a high level of transparency to the principal dwelling consequently reading as a subservient and recessive element to the principal form. This is reinforced by the width of the building to that of the lift structure at 12.145m and 1,350m respectively, with the lift structure representing only 11.1% of the building façade width. In this regard the visual reading of the principal dwelling will remain largely unchanged.
- ▶ In addition the lift structure has been sited away from the Kunala Lane vehicular access point, being an area of high visibility. The siting and materials proposed diminish any impact to the principal form and scale of the existing residential dwelling and any impact to the scenic qualities of the streetscape and waterway, with views from the waterway considered to be distant views and obscured by significant vegetation.
- ▶ There are no significant overshadowing impacts to surrounding development due to height of the lift structure not higher than the effective height of the bounding walls of the existing 2 storey dwelling.
- ▶ The height variation does not impact significant views from adjacent residential properties with the lift structure setback from external bounding walls of the principal 2 storey residential building.

Further primary views are to the east, north east and southeast and not across the subject site. The balcony of the adjacent site to the south (19 Kunala Lane) has a balcony structure that will continue to extend beyond the proposed lift structure, with the adjacent dwelling to the south at a significantly lower level and with a balcony located at its northern elevation from which primary views will continue to be enjoyed.

- ▶ The height variation does not result in unreasonable privacy or amenity impacts on neighbouring properties.
- ▶ The visual reading from the waterway, being predominantly the wooded elevated ridge line forming the rear of the site, will be maintained irrespective of the height variation, and consequently will not be incompatible with or result in any adverse impacts to the existing context and setting.
- ▶ The height of the lift structure is necessary in order to service / access all storeys of the residential dwelling for equitable access to all persons, particularly those with a mobility impairment.

For the reasons provided above, it is considered that the reduction of the balustrade height to achieve strict compliance would not result in an improved planning outcome. Overall, it is considered that strict compliance with the development standard in this instance is unreasonable and unnecessary.

Written Request for an Exception to Development Standards (Height)



Clause 4.6(4)(a)(i) – Consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

These matters are comprehensively addressed above in this written request with reference to the five part test described in *Wehbe v Pittwater Council*. [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided, with reference to the matters specific to the proposal and site, sufficient to justify contravening the development standard.

Clause 4.6(4)(a)(ii) – Consent authority satisfied that the proposal is in the public interest because it is consistent with the zone and development standard objectives

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the development standard and the relevant zone objectives have already been addressed previously in this written request at **Table 2** and **Table 3**, and for the sake of brevity will not be reproduced for the purposes of addressing Clause 4.6(4)(a)(ii).

Objectives of Clause 4.6

The specific objectives of Clause 4.6(1) are:

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

The overall outcomes for the site to provide improved functional and equitable access to the living areas of the dwelling. The proposed development responds to and is compatible with the streetscape, surrounding context, and the desired character envisaged by Council and does not diminish the aesthetic and scenic qualities of the surrounding landscaped and bushland setting or waterway. The proposal sits comfortably within its setting and context with the prominent form of the dwelling continuing to be clearly expressed as the primary dominant form. In addition, the height variation does not result in unreasonable privacy or amenity impacts, and does not materially impact significant views from adjacent residential properties.

Accordingly, it is considered that the consent authority can be satisfied that the proposal meets the objectives of Clause 4.6 in that allowing flexibility in relation to the Height of Building development standard will achieve a better outcome for the residents with minimal impact to the subject dwelling, surrounding development or the scenic qualities of the locality and waterway, and that the dwelling will continue to maintain its existing relationship within its setting.

Written Request for an Exception to Development Standards (Height)



Clause 4.6(5)(a) – Any Matter of Significance

The non-compliance will not raise any matters of significance for state or regional environmental planning.

Clause 4.6(5)(b) – The Public Benefit

Under Clause 4.6 (5b) the consent authority must consider if there is public benefit associated with maintaining the development standard. Given the nature of the proposed variation and the justification of the impacts provided within this report and the Statement of Environmental Effects, there is not considered to be public benefit in applying it strictly. The proposed development is not contrary to the public interest and there can be no quantifiable or perceived public benefit in maintaining the standard.

Conclusion

The proposed modification exceeds the maximum height limit for the site and therefore requires a Clause 4.6 variation. Considering the particular circumstances of this modification, strict compliance with the numerical standard in this instance is both unreasonable and unnecessary owing to the following:

- ▶ The proposal is consistent with the objectives of the height of buildings standard;
- ▶ As demonstrated throughout the Statement of Environmental Effects, the development will not result in adverse environmental impacts;
- ▶ The additional height does not cause any loss of significant views from neighbouring residential areas, adverse impacts to privacy, or adverse overshadowing to residential properties or the public domain;

Based on the reasons outlined above, it is concluded that the request is well founded and that the particular circumstances of the case warrant flexibility in the application of the development standard to the extent proposed.

A handwritten signature in black ink, appearing to read 'Mark Solomon', with a stylized flourish at the end.

MARK SOLOMON

DIRECTOR

PLAN URBIA PLANNING AND ACCESS CONSULTANTS

PLANNING INSTITUTE OF AUSTRALIA (PIA) MEMBERSHIP No. 7915

ASSOCIATION OF CONSULTANTS IN ACCESS AUSTRALIA (ACAA) ASSOCIATE MEMBERSHIP 651

Item No: 4.3
Title: Request to prepare a Planning Proposal for 60 Wyong Road, Tuggerah (Tuggerah Gateway Site)
Department: Environment and Planning

Central Coast
Local Planning Panel

23 June 2022 Local Planning Panel Meeting

Reference: RZ/2/2021 - D15180762
Author: Lynda Hirst, Principal Strategic Planner
Manager: Scott Duncan, Section Manager Land Use and Policy
David Milliken, Unit Manager Strategic Planning
Executive: Alice Howe, Director Environment and Planning

Summary

A request to prepare a planning proposal has been received for Lot 2 DP1056960 and Lot 3 DP1084221, 60 Wyong Road, Tuggerah.

The proposal (RZ/2/2021) is referred to the Local Planning Panel for advice prior to reporting the matter to Council.

The proposal seeks to rezone part of the site from RU6 Transition to R1 General Residential and undertake a minor realignment of the existing B4 Mixed Use zone. The existing C2 Environmental Conservation zone will be retained.




Please refer to supporting attachments, including the Council Report and strategic assessment, that outline how the proposal satisfies the relevant legislation and strategic planning policies.

Recommendation

That the Local Planning Panel:

- 1 Consider the planning proposal (Attachments 2 and 3) and draft Council report (Attachment 1).***
- 2 Provide independent advice on the planning proposal for consideration by Council.***

Attachments

- | | | |
|--|---|-----------|
| 1  | Draft Council Report - Request to prepare a Planning Proposal for 60 Wyong Road, Tuggerah (Tuggerah Gateway Site) | D15181521 |
| 2  | Planning Proposal Assessment Report - Tuggerah Gateway Site | D15181925 |
| 3  | Planning Proposal Strategic Assessment - Tuggerah Gateway Site | D15181926 |

Item No: 0.0

Title: Request to prepare a Planning Proposal for 60 Wyong Road, Tuggerah (Tuggerah Gateway Site)

Department: Environment and Planning

28 June 2022 Ordinary Council Meeting

Reference: RZ/2/2021 - D15181521

Author: Lynda Hirst, Principal Strategic Planner

Manager: Scott Duncan, Section Manager Land Use and Policy

Executive: Alice Howe, Director Environment and Planning



Recommendation

- 1 That Council prepare a Planning Proposal in relation to Lot 2 DP1056960 and Lot 3 DP1084221, 60 Wyong Road, Tuggerah, to amend the Wyong or Central Coast Local Environmental Plan, whichever is in effect, to:**
 - (a) rezone part of the site to R1 General Residential.**
 - (b) realign the existing zone boundary of the B4 Mixed Use zone.**
 - (c) retain the existing C2 Environmental Conservation zone.**
- 2 That Council submit the Planning Proposal to the Minister for Planning in accordance with Section 3.35(2) of the Environmental Planning and Assessment Act 1979, requesting a Gateway Determination, pursuant to Section 3.34 of the Environmental Planning and Assessment Act 1979.**
- 3 That Council request delegation for Council to finalise and make the draft Local Environmental Plan, pursuant to Section 3.36 of the Environmental Planning and Assessment Act 1979.**
- 4 That Council prepare a site-specific Development Control Plan to support the Planning Proposal to ensure appropriate built form guidelines are applied in the development design for the site.**
- 5 That Council undertake community and public authority consultation in accordance with the Gateway Determination requirements, including the concurrent exhibition of the draft Development Control Plan and draft Planning Agreement.**
- 6 That Council authorise the Chief Executive Officer (or delegate) to enter into a Planning Agreement, informed by community and public authority feedback, and to negotiate and execute all documentation in relation to the finalisation of the Planning Agreement (if required). The Planning Agreement is to be based on the terms as outlined in the Scentre Group Letter of Offer dated 16 March 2022 for monetary contributions and works in kind.**

0.0 Request to prepare a Planning Proposal for 60 Wyong Road, Tuggerah (Tuggerah Gateway Site) (contd)

Report purpose

To consider a request to prepare a planning proposal to rezone part of Lot 2 DP1056960 and Lot 3 DP1084221, 60 Wyong Road, Tuggerah from RU6 Transition to R1 General Residential under the *Central Coast Local Environmental Plan* (CCLEP), when it comes into effect, or *Wyong Local Environmental Plan 2013* (WLEP 2013). The proposal will retain the existing B4 Mixed Use zone with a minor realignment of the zone boundary, resulting in no net loss to the B4 zoned land. The proposal will also retain the existing C2 Environmental Conservation zoned land.

Executive Summary

The planning proposal will seek to create a new community to support the existing Tuggerah Centre with a range of low, medium, and higher-density housing options to meet future housing demand. The residential development will be supported by the retention of the B4 Mixed Use zoned land to provide for additional large format retail in the short term, transforming to a mixed-use development with a range of employment, retail and entertainment land uses in the longer term.

The planning proposal will be supported by a site-specific Development Control Plan (DCP) to ensure appropriate built form guidelines are applied in the development design, and a Planning Agreement to provide monetary contributions and works in kind to support the development of the site.

The site has been identified in numerous strategic plans as a key gateway to the northern Central Coast, strategically located adjacent to transport corridors and in close proximity to existing infrastructure and services. The development of the site will assist Tuggerah to evolve as a more integrated centre, contributing to its desired future character as a sustainable and vibrant centre, and bringing increased activity, vibrancy and viability to the centre.

The Planning Proposal was considered by the Local Planning Panel on 23 June 2022 where independent advice on the planning proposal was received (Attachment 3).

Background

The site was purchased by Westfield (now Scentre Group) in 1990 with the acquisition facilitating the development of the adjoining Westfield Tuggerah which opened in 1995.

The subject site forms part of the Tuggerah Town Centre and has been identified as a strategic gateway and development opportunity site in numerous strategic planning documents including the Central Coast Regional Plan 2036 by the Department of Planning &

0.0 Request to prepare a Planning Proposal for 60 Wyong Road, Tuggerah (Tuggerah Gateway Site) (contd)

Environment (DPE) and Council's Wyong Tuggerah Planning Strategy (2007) and Tuggerah to Wyong Economic Corridor Strategy (2020).

In April 2008 a proposed concept plan for the site was submitted to the [then] Department of Planning for consideration as a Major Project under the former provisions of Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The concept plan was subsequently revised to include all Scentre Group landholdings, including the adjoining Westfield Tuggerah and triangle site to the east, with Director General requirements outlining that any proposal for the site was to be consistent with the Tuggerah State Significant Site (SSS) study. A draft structure plan for the Tuggerah SSS was released in 2013 identifying the site as having potential for residential and bulky goods development. However, the SSS proposal did not proceed.

The site and adjoining Westfield Tuggerah were initially deferred from inclusion in the Wyong Local Environmental Plan (WLEP, 2013) due to unresolved strategic planning matters including the rezoning mechanism, flooding and traffic impacts. The WLEP 2013 was later amended on 18 November 2015 zoning the Gateway site a combination of RU6 Transition, B4 Mixed Use and C2 Environmental Conservation.

A development application (DA/1179/2014) was approved on 19 November 2015 for large format retail to be constructed over 2 stages on the B4 part of the site. Stage 1 included a Masters Homemaker Centre of approximately 14,000m². and Stage 2 for complimentary retail/bulky goods development of approximately 9,000m². A Planning Agreement was executed on 26 October 2015 between Scentre Group and the Minister for Planning which triggers road upgrades and signalisation of the Tonkiss St and Wyong Rd intersection when any building works of 14,000m² or greater is constructed on the B4 land. These requirements under this Planning Agreement will be delivered as part of the planning proposal and subsequent development applications. Pre gateway consultation with Transport for NSW (TfNSW) has indicated no objections to the proposal.

Current Status

The site is strategically located adjacent to the M1 Motorway and Pacific Highway transport corridors, and in walking distance to the Tuggerah train station.

The proposed development will enhance the amenity and attractiveness of this key gateway site that forms the entrance to the northern part of the Central Coast. The development incorporates new open space and recreational opportunities whilst improving walkable connections to essential services and public transport.

The proposed development aligns with surrounding land uses and strengthens the existing Tuggerah Town Centre, contributing to its desired future character as a sustainable and vibrant centre. The development of the site will attract investment to the area to stimulate the economy and grow the region as key location for economic development and residential growth.

0.0 Request to prepare a Planning Proposal for 60 Wyong Road, Tuggerah (Tuggerah Gateway Site) (contd)

The Proposal

The planning proposal will seek to amend the relevant Local Environmental Plan as follows:

- 1 Rezone the RU6 Transition land to R1 General Residential.
- 2 Retain the B4 Mixed Use land with a minor realignment of the zone boundary resulting in no net loss of the B4 land.
- 3 Retain the C2 Environmental Conservation land.
- 4 Remove the 40-hectare minimum lot size that applies to the RU6 land.
- 5 Apply maximum height limits to the B4 land ranging from 16m to 42m (note: no maximum height limit currently applies to the site).
- 6 Apply maximum floor space (FSR) ratio limits to the B4 land ranging from 1.25:1 to 2.0:1 (note: no maximum FSR limit currently applies to the site).
- 7 Amend Part 6 of the LEP to include the site as an Urban Release Area.

The flood impact assessment shows the proposal will have no impact in the 1% annual exceedance probability (AEP) flood event aside from a small section within Mardi Creek, which is considered to have negligible impact on neighbouring properties. Minor impacts in the Probable Maximum Flood (PMF) event are not considered to increase the flood hazard in those areas and there is flood free egress from the site during a PMF event.

A Biodiversity Certification Assessment Report (BCAR) has been prepared to support the proposal. The BCAR identifies a number of ecosystem and species credits to be secured and retired to offset the impacts of the proposal. The proposal incorporates retention and a slight expansion of the 4ha conservation zone to protect the existing high value environmental area with ongoing management to be undertaken by the proponent.

Council's Affordable and Alternate Housing Strategy (AAHS) identifies a need for diversity of housing options on the Central Coast. Housing demographics demonstrate increased demand for medium and high-density housing and the proposal provides for a yield of up to 2,177 dwellings, including 661 high density and 959 medium density dwellings. The proposal will enable increased opportunities for well-located affordable and lower cost housing that will satisfy some of the low-income housing needs of the community. The proposed housing is in close proximity to Westfield Tuggerah which provides a range of employment, retail, dining, entertainment, and health services, and a bus service that connects Westfield Tuggerah with the train station and the wider region.

The planning proposal is considered to have strategic planning merit for the following reasons:

- The proposed rezoning to R1 General Residential is consistent with surrounding residential development and will provide additional housing in close proximity to existing infrastructure and services, bringing increased vitality and viability to the Tuggerah Town Centre.

0.0 Request to prepare a Planning Proposal for 60 Wyong Road, Tuggerah (Tuggerah Gateway Site) (contd)

- The retention of the B4 zoned land will provide for short term bulky goods retail development, transitioning to mixed use development along Wyong Road in the longer term. This will ensure ongoing job opportunities with the potential for a range of employment generating land uses including retail, office, short stay accommodation, childcare, education and medical facilities.
- The retention of the C2 Environmental Conservation zoned land will facilitate the protection, conservation and enhancement of environmentally sensitive areas with ongoing management of the land to be funded by the proponent.
- The proposed maximum height and floor space ratio (FSR) limits for the B4 portion of the site are considered appropriate and consistent with surrounding development including the proposed Woodberry Park residential development opposite the site (with a maximum height of 37.5m) and the Wyong Town Centre (with a range of FSR limits from 1.1:1 to 3.0:1).
- A site-specific Development Control Plan (DCP) will be prepared to support the planning proposal to ensure appropriate built form guidelines are applied in the development design for the site. The proposal incorporates a number of parks and accessible open space areas that enable active and passive recreation opportunities and will provide a high-quality amenity for the future residential population.
- A planning agreement will be prepared to support the planning proposal to provide monetary contributions and works in kind to support the development. A letter of offer has been submitted with the proposal which outlines approximately \$11.6 million of improvements including:
 - \$1 million in management of conservation land;
 - \$6.5 million in provision of open space facilities;
 - \$1.5 million for delivery of a new youth centre; and
 - \$2.5 million in new pedestrian and vehicular connections including a range of new and upgraded shared pedestrian paths and cycleways both throughout the development and connecting to Tuggerah train station and bus interchange.

An assessment of the proposal has been undertaken to inform this recommendation, as detailed in Attachment 1 – Assessment Report. The proposal has also been assessed having regard for all State Environmental Planning Policies (SEPPs), Ministerial Directions and relevant guidelines of the *Central Coast Regional Plan 2036* (CCRP) as detailed in Attachment 2 - Strategic Assessment. As the proposal has strategic merit it is recommended that a planning proposal be prepared and forwarded to the Minister for Planning requesting a Gateway Determination.

0.0 Request to prepare a Planning Proposal for 60 Wyong Road, Tuggerah (Tuggerah Gateway Site) (contd)

Consultation

Government agency and public consultation requirements will be detailed in the Gateway Determination and conducted accordingly. Pre Gateway consultation on the proposal has occurred with DPE, Biodiversity Conservation Division (BCD) of DPE, TfNSW and NSW Rural Fire Service. The proponent has also consulted with Ausgrid and Darkinjung Local Aboriginal Land Council in development of the indicative structure plan for the site. No objections have been raised to the proposal.

Financial Considerations

At its meeting held 19 October 2020, Council resolved the following:

1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.

The following statement is provided in response to this resolution of Council.

Adoption of the staff recommendation has no bottom-line implications for Council's budget. The direct cost to Council is the preparation of the planning proposal and the associated Planning Agreement and DCP. These costs will be charged as per Council's fees and charges on a cost recovery basis.

Link to Community Strategic Plan

Theme 2: Smart

Goal C: A growing and competitive region

S-C3: Facilitate economic development to increase local employment opportunities and provide a range of jobs for all residents.

Theme 3: Green

Goal F: Cherished and protected natural beauty

G-F1: Protect our rich environmental heritage by conserving beaches, waterways, bushland, wildlife corridors and inland areas, and the diversity of local native species.

0.0 Request to prepare a Planning Proposal for 60 Wyong Road, Tuggerah (Tuggerah Gateway Site) (contd)

Theme 4: Responsible

Goal I: Balanced and sustainable development

R-I2: Ensure all new developments are well planned with good access to public transport, green space and community facilities and support active transport.

R-I4: Provide a range of housing options to meet the diverse and changing needs of the community and there is adequate affordable housing.

Theme 5: Liveable

Goal K: Out and about in fresh air

L-K2: Design and deliver pathways, walking trails and other pedestrian movement infrastructure to maximise access, inclusion and mobility to meet the needs of all community members.

Risk Management

There have been no risks identified to the natural and built environment associated with the proposed amendment to the relevant LEP.

Options

- 1 Support the recommendation as the planning proposal has strategic merit.
The basis for this recommendation is:
 - The proposal rezones the land to an appropriate zone under either the CCLEP or WLEP 2013.
 - The proposal will provide additional housing to meet the growing housing demand adjacent to existing infrastructure and services.
 - The proposal will provide for additional employment generating land uses to expand and complement the existing services within the Tuggerah Town Centre.
 - The proposal respects the scenic values and character of the site, ensuring the environmentally sensitive areas of the site will be retained, enhanced, and protected.

This is the recommended option.

- 2 Refuse to support the Request for a planning proposal (not recommended).
Should the planning proposal not be supported, an opportunity will be missed to enhance the amenity and attractiveness of this key gateway site whilst providing additional housing and employment to support growth and investment in the Tuggerah Town Centre.

0.0 Request to prepare a Planning Proposal for 60 Wyong Road, Tuggerah (Tuggerah Gateway Site) (contd)

Critical Dates or Timeframes

DPE is implementing strict timeframes for planning proposal exhibition and finalisation which will be outlined in the Gateway Determination.

Attachments

- | | | | |
|----------|--|-------------------------------|-----------|
| 1 | Planning Proposal Assessment Report - Tuggerah Gateway Site | Provided Under Separate Cover | D15181925 |
| 2 | Planning Proposal Strategic Assessment - Tuggerah Gateway Site | Provided Under Separate Cover | D15181926 |
| 3 | Independent Advice - Local Planning Panel - to be provided following the Panel's meeting on 23 June 2022 | Provided Under Separate Cover | |



Proposal Summary

Applicant	Scentre Group		
Owner	Orta Pty Ltd & Scentre Limited		
Application Number	RZ/2/2021		
Description of Land subject of planning proposal	<i>Property Description:</i> 60 Wyong Rd, Tuggerah <i>Legal Description:</i> Lot 2 DP1056960 & Lot 3 DP1084221		
Site Area	Approximately 42 hectares		
Existing Use	Vacant land currently used for grazing		
Proposed Amendments – Central Coast Local Environmental Plan			
<i>Provisions</i>	<i>Existing Provision</i>	<i>Proposed Amendment</i>	<i>Outcome (Supported/Not Supported)</i>
<i>Zoning</i>	RU6 Transition B4 Mixed Use C2 Environmental Conservation	R1 General Residential B4 Mixed Use C2 Environmental Conservation	Supported
<i>Minimum Lot Size</i>	RU6 - 40ha E2 – 40ha	R1 – no MLS E2 – 40ha	Supported
<i>Height of Building</i>	N/A	Ranging from 16m to 42m across the B4 portion of the site	Supported
<i>Floor Space Ratio</i>	N/A	Ranging from 1.25:1 to 2.0:1 across the B4 portion of the site	Supported



Proposal Summary

The proposal seeks to rezone part of Lot 2 DP1056960 and Lot 3 DP1084221, 60 Wyong Road, Tuggerah from RU6 Transition to R1 General Residential under the *Central Coast Local Environmental Plan* (CCLEP) when it comes into effect, or *Wyong Local Environmental Plan 2013* (WLEP 2013). The proposal will retain the existing B4 Mixed Use zone with a minor realignment of the zone boundary, resulting in no net loss to the B4 zoned land. The proposal will also retain the existing C2 Environmental Conservation zoned land.

The Site

The subject site (Figure 1) is located on the corner of Wyong Road and Tonkiss Street, Tuggerah and is known as the Tuggerah Gateway site (the site). The site is approximately 42 hectares and is adjacent to the existing Westfield Tuggerah and the M1 Motorway. The site was previously used as an abattoir and is comprised mostly of grass cover with minor areas of remanent trees scattered around the perimeter and within the site. The site is currently used for grazing.



Figure 1 – Aerial photograph of the Tuggerah Gateway site (Urbis GIS)



The site slopes from south to north with natural steep slopes situated primarily within the south-eastern portion of the site which is currently zoned C2 Environmental Conservation zone. The remainder of the site is zoned RU6 Transition zone with a small portion of B4 Mixed Use land in the north eastern corner of the site (Figure 2).

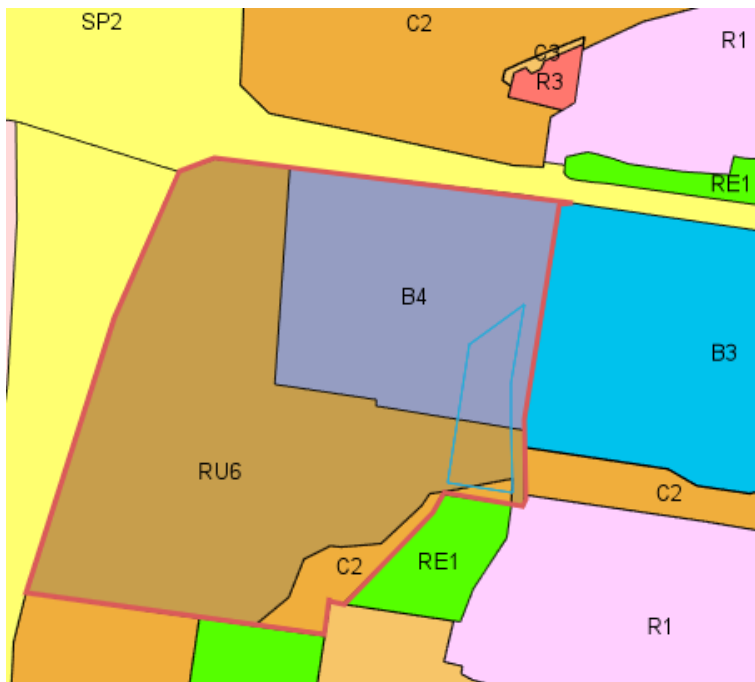


Figure 2 – Existing zoning under Wyong Local Environmental Plan 2013

Background

The site was purchased by Westfield (now Scentre Group) in 1990 with the acquisition facilitating the development of the adjoining Westfield Tuggerah which opened in 1995.

The site forms part of the Tuggerah Town Centre and has been identified as a strategic gateway and development opportunity site in numerous strategic planning documents including the *Central Coast Regional Plan 2036* by the Department of Planning and Environmental (DPE) and Council's *Wyong Tuggerah Planning Strategy* (2007) and *Tuggerah to Wyong Economic Corridor Strategy* (2020).

In April 2008 a proposed concept plan for the site was submitted to the [then] Department of Planning for consideration as a Major Project under the former provisions of Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The concept plan was subsequently revised to include all Scentre Group landholdings, including the adjoining Westfield Tuggerah and triangle site to the east, with Director General requirements outlining that any proposal for the site was to be consistent with the Tuggerah State Significant Site (SSS) study. A draft structure plan for the Tuggerah SSS was released in 2013 identifying the site as having potential for residential and bulky goods development. However, the SSS proposal did not proceed.



The site and adjoining Westfield Tuggerah were deferred from inclusion in the WLEP 2013 due to unresolved strategic planning matters including the rezoning mechanism, flooding and traffic impacts. The WLEP 2013 was later amended on 18 November 2015 zoning the site a combination of RU6 Transition, B4 Mixed Use and C2 Environmental Conservation.

A development application DA/1179/2014 was approved on 19 November 2015 for large format retail to be constructed over 2 stages on the B4 zoned land. Stage 1 included a Masters Homemaker Centre of approximately 14,000sq.m. and Stage 2 for complimentary retail/bulky goods development of approximately 9,000sq.m. A Planning Agreement was executed on 26 October 2015 between Scentre Group and the Minister for Planning which triggers road upgrades and signalisation of the Tonkiss St and Wyong Rd intersection when any building works of 14,000sq.m. or greater is constructed on the B4 land. These requirement under this Planning Agreement will be delivered as part of the planning proposal and subsequent development applications.

The Proposal

Zoning

The planning proposal will seek to rezone the portion of the site currently zoned RU6 Transition to R1 General Residential (Figure 3). It is proposed to retain the portion of the site zoned B4 Mixed Use and the portion of the site zoned C2 Environmental Conservation. A minor realignment of the B4 Mixed Use boundary is proposed to reflect the indicative structure plan and the proposed building footprints. It will result in no net loss of employment land.

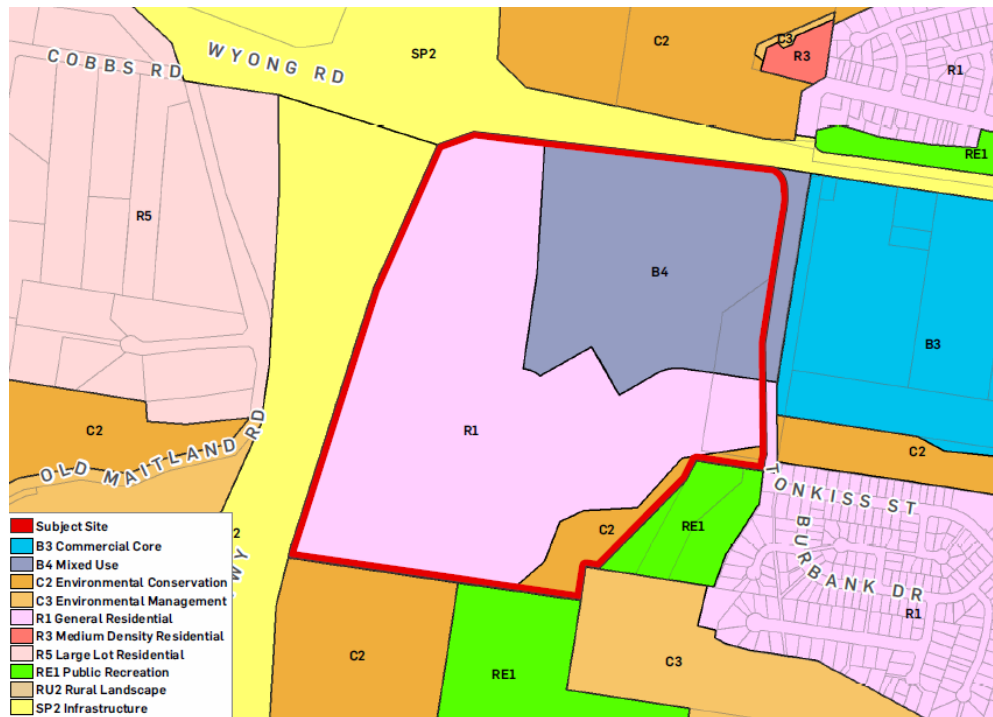


Figure 3 – Proposed zone



Maximum Building Height

The planning proposal will seek to introduce new maximum building heights across the B4 portion of the site (Figure 4). The heights reflect the indicative structure plan and are in response to the natural topography of the site. The heights range from 16m along the south eastern boundary of the B4 zoned land to 42m (approximately 12 storeys) along the perimeter of the zone fronting Wyong Road and Tonkiss Street. Land opposite the development in Woodberry Park currently has a maximum building height of 37.5m.

No maximum height limit is proposed in the LEP for the R1 General Residential zoned land. This is consistent with surrounding R1 land. Built form guidelines and height controls for the residential land will be included in a site specific Development Control Plan (DCP) for the site. The draft DCP proposes to limit residential development on the R1 land to a maximum of 10m (generally two to three storeys).

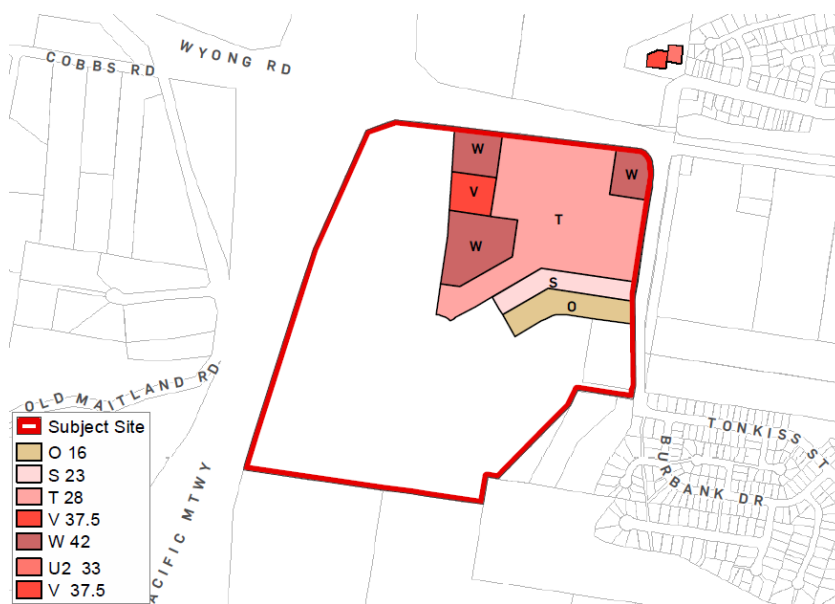


Figure 4 – Proposed maximum building height

Maximum Floor Space Ratio

The planning proposal will seek to introduce new maximum floor space ratio (FSR) limits across the B4 portion of the site (Figure 5). The FSR limits reflect the indicative structure plan for the site and range from 1.25:1 to 2.0:1. Similar FSR limits currently apply to the Wyong Town Centre which ranges from 1.1:1 to 3.0:1.

No maximum FSR control is proposed in the LEP for the R1 General Residential zoned land. This is consistent with surrounding R1 land. FSR controls will be outlined in a site specific DCP for the site. The draft DCP proposes to limit FSR for dual occupancy, semi detached dwellings, multi dwelling housing and attached dwelling to 0.75:1.

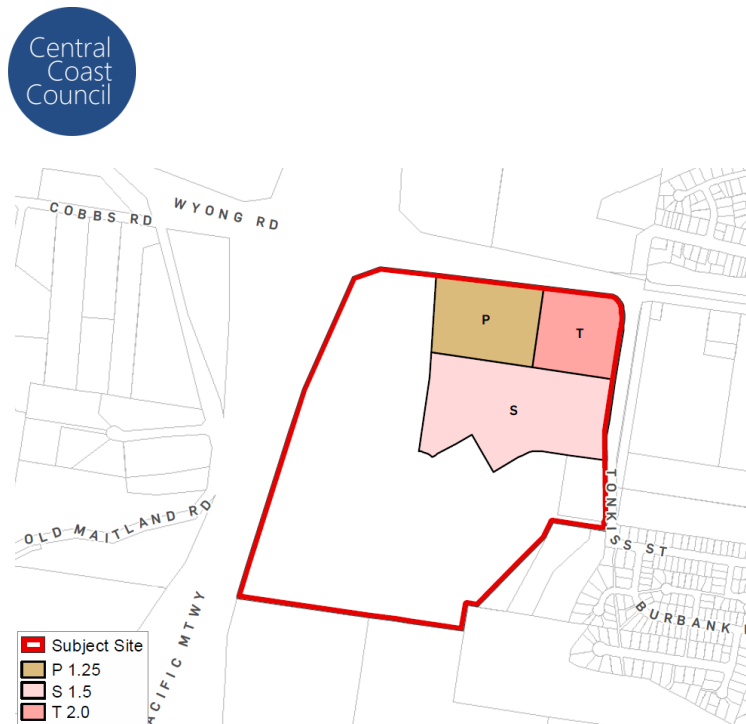


Figure 5 – Proposed maximum FSR

Minimum Lot Size

Under WLEP 2013 a minimum lot size (MLS) of 40 hectares applies to the portion of the site zoned RU6 Transition and C2 Environmental Conservation. The planning proposal will seek to remove the minimum lot size from the RU6 land upon its rezoning to R1 General Residential (Figure 6). No minimum lot size is proposed for the R1 land which is consistent with surrounding R1 land. A site specific DCP will be prepared to support the planning proposal to ensure appropriate built form guidelines are applied in the development design for the site.

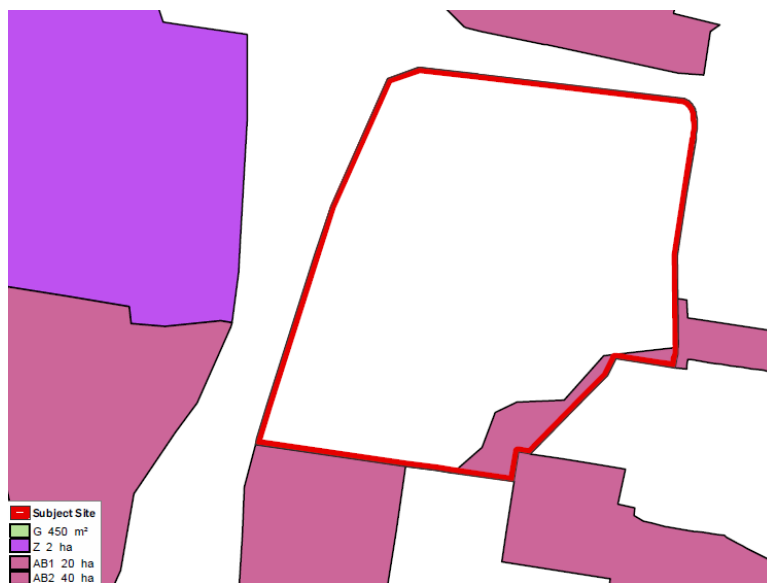


Figure 6 – Proposed MLS



Assessment

The planning proposal is considered to have strategic planning merit for the following reasons:

- The proposed rezoning to R1 General Residential is consistent with surrounding residential development and will provide additional housing in close proximity to existing infrastructure and services, bringing increased vitality and viability to the Tuggerah Town Centre.
- The retention of the B4 zoned land will provide for short term bulky goods retail development, transitioning to mixed use development along Wyong Road in the longer term. This will ensure ongoing job opportunities with the potential for a range of employment generating land uses including retail, office, short stay accommodation, childcare, education and medical facilities.
- The retention of the C2 Environmental Conservation zoned land will facilitate the protection, conservation and enhancement of environmentally sensitive areas with ongoing management of the land to be funded by the proponent.
- The proposed maximum height and floor space (FSR) limits for the B4 portion of the site are considered appropriate and consistent with surrounding development including the proposed Woodberry Park residential development opposite the site (with a maximum height of 37.5m) and the Wyong Town Centre (with a range of FSR limits from 1.1:1 to 3.0:1).
- A site specific DCP will be prepared to support the planning proposal to ensure appropriate built form guidelines are applied in the development design for the site. The proposal incorporates a number of parks and accessible open space areas that enable active and passive recreation opportunities and will provide a high quality amenity for the future residential population.
- A planning agreement will be prepared to support the planning proposal to provide monetary contributions and works in kind to support the development. A letter of offer has been submitted with the proposal which outlines approximately \$11.6 million of improvements including-
 - \$1 million in management of conservation land
 - \$6.5 million in provision of open space facilities
 - \$1.5 million for delivery of a new youth centre
 - \$2.5 million in new pedestrian and vehicular connections including a range of new and upgraded shared pedestrian paths and cycleways both throughout the development and connecting to Tuggerah train station and bus interchange.

**Internal Consultation**

Internal consultation for the Planning Proposal has been undertaken as summarised below:

Environment

Land zoned C2 Environmental Conservation exists in the south east of the site and is proposed to be slightly expanded. The proposal also proposes to retain a rocky outcrop and native vegetation in the north west of the site, and a small area of remnant native vegetation in the east. The proposal also seeks to improve and restore Mardi Creek which runs west to east along the northern boundary of the site.

A Biodiversity Certification Assessment Report (BCAR) has been prepared by Ecological to support the proposal. The BCAR identifies the following credits to be secured and retired to offset the impacts of the proposal:

- 10 ecosystem credits to offset impacts to PCT 684 - Blackbutt - Narrow-leaved White Mahogany shrubby tall open forest of coastal ranges, northern Sydney Basin Bioregion
- 2 ecosystem credits to offset impacts to PCT 1105 - River Oak open forest of major streams, Sydney Basin Bioregion and South East Corner Bioregion
- 3 ecosystem credits to offset impacts to PCT 1718 - Swamp Mahogany - Flax-leaved Paperbark swamp forest on coastal lowlands of the Central Coast
- 3 species credits for impacts to Biconvex Paperbark (*Melaleuca biconvexa*)
- 17 species credits for impacts to Southern Myotis (*Myotis Macropus*)

Council's Strategic Environmental Planner has outlined that some minor revisions may be required to the proposal to avoid impacts to the *Melaleuca biconvexa* on the northern boundary of the site. The area of identified *Melaleuca biconvexa* (approximately 0.14 hectares) is currently zoned B4 Mixed Use with previous DA and Planning Agreement approval to locate the proposed intersection to Wyong Road in this locality. Further consultation will be undertaken with the Biodiversity Conservation Division (BCD) of DPE to determine if a minor boundary readjustment is necessary to avoid impacts to this species.

The letter of offer submitted with the proposal proposes the retention of 4 hectares of conservation land with ongoing management to be undertaken by the proponent in consultation with Darkinjung Local Aboriginal Land Council.

Water and Sewer

The proponent has prepared a servicing strategy to outline the proposed water demand and sewer loading for the development. For water supply, there is an existing 200mm water main on 50 Wyong Rd. The proposed development will be required to connect into the 200mm water main and extend this water main into the development land and connect back into the existing Council 150mm water main on the southern end of Tonkiss St.

The existing 300mm Council sewer main does not have the capacity for the whole development. The proponent will be required to undertake further investigations and update the servicing strategy to consider the different options available to service the proposed



development. This will ensure the necessary water and sewer infrastructure can be designed and delivered at the Development Application stage.

Flooding and Drainage

The Flood Assessment Report has been reviewed and the modelling methodology, input parameters and assumptions are deemed to be satisfactory. The Flood Model referred to in the report is assumed to be reliable. The Flood Impact Assessment shows no impact in the 1% annual exceedance probability (AEP) flood event aside from a small section within Mardi Creek, which is considered to have negligible impact on neighbouring properties. Minor impacts in the Probable Maximum Flood (PMF) event are not considered to increase the flood hazard in those areas and there is flood free egress from the site during a PMF event.

Traffic and Transport

A traffic and transport report has been prepared to support the proposal. The proposal will provide significant road infrastructure including upgrades to the Wyong Rd and Tonkiss St intersection. The proposal provides a range of new and upgraded shared pedestrian path and cycleways both throughout the development and connecting to Tuggerah train station and bus interchange. Further detailed traffic investigations will be required at DA stage.

Social Planning

Council's Affordable and Alternate Housing Strategy (AAHS) identifies a need for diversity of housing options on the Central Coast. The planning proposal provides for a range of housing typologies to enable choice reflective of changing demographics. Housing demographics demonstrate increased demand for medium and high density housing and the proposal provides for a yield of up to 2,177 dwellings with 661 high density and 959 medium density dwellings. The indicative concept plan also provides for seniors housing with 261 independent living units.

The proposal will enable increased opportunities for well-located affordable and lower cost housing that will satisfy some of the low-income housing needs of the community. The proposed housing is in close proximity to Westfield Tuggerah which provides a range of retail, dining, entertainment, and health services, and a bus service that connects Westfield Tuggerah with the train station and the wider region.

In discussions with Council's Community and Culture team it was highlighted that this proposal has the opportunity to fill current gaps that exist in the community, in particular for the aged and the youth. A Letter of Offer has been submitted by the proponent outlining a range of monetary contributions and works in kind to support the proposal. Included in the offer is delivery of a ground floor youth centre valued at \$1.5 million either as part of future development of the Gateway site or within the adjoining Westfield Tuggerah.

Land Contamination

The land was utilised as an abattoir since the early 1900s. A Preliminary Site Investigation for Contamination prepared by Douglas Partners (2016) has found that there is a low potential for



significant or widespread contamination of the site. Localised potential contamination sources were identified from fill material, previous demolition works and from the previous abattoir.

Council's Environmental Health Officer has concluded that the findings are not significant enough in nature to prevent the rezoning proposal from proceeding. A detailed contamination assessment must be completed at DA stage to determine the level of contamination of the site and to prepare a remedial action plan to ensure the land is made suitable for its intended/proposed use.

Acoustic Impact

An acoustic assessment has been prepared to support the proposal. The predictive modelling suggests that the proposed residential locations can be made suitable with specific construction material. Additional attenuation measures should be considered at DA stage to provide for improved amenity for the future residential development located adjoining the M1 Pacific Motorway.

Development Design

Consultation has also occurred with the following Council sections who have identified issues to be addressed in the development design of the site and any future DA for the site:

- Development Assessment
- Engineering Certification
- Natural Assets and Biodiversity
- Open Space and Recreation
- Centres Planning and Urban Design
- Local Infrastructure and Planning

These issues will also be considered in finalising a draft site specific DCP for the site.

External consultation

Pre Gateway consultation on the proposal has occurred with DPE, Biodiversity Conservation Division (BCD) of DPE, Transport for NSW (TfNSW), and NSW Rural Fire Service. The proponent has also consulted with Ausgrid and Darkinjung Local Aboriginal Land Council (LALC) in development of the indicative structure plan for the site. No objections have been raised to the proposal.

Government agency and public consultation requirements will be detailed in the Gateway Determination and conducted accordingly.

Statutory compliance and strategic justification

The proposal has been assessed having regard for all State Environmental Planning Policies (SEPPs), Ministerial Directions and relevant guidelines set out within the *Central Coast Regional Plan 2036* (CCRP) as detailed in Attachment 2 Strategic Assessment.

The proposal is considered to be consistent with these considerations and therefore suitable for forwarding to the Minister of Planning requesting a Gateway Determination.



Central Coast Council
Planning Proposal RZ
Strategic Assessment

Version 0.3

Date: May 2022

Strategic Assessment

Lot /DP: Lot 2 DP1056960 & Lot 3 DP1084221

Site Address: 60 Wyong Road

Suburb: Tuggerah

File No: RZ/2/2021

Date: May 22

Version 1.0

Central Coast Council

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Opening Hours 8.30am - 5.00pm

Central Coast Regional Plan Assessment

Direction	Applicable	Assessment/Comment
1. Grow Gosford City Centre as the region's capital	N/A	The subject land is not within Gosford City Centre
2. Focus economic development in the Southern and Northern Growth Corridors	Yes	The subject land is located within the Northern Growth Corridor. Development of the site is consistent with Council's Tuggerah to Wyong Economic Corridor Strategy (2021) and Action 2.10 in creating a diverse, connected, and vibrant Tuggerah centre.
3. Support priority economic sectors	Yes	The Planning Proposal comprises a range of land uses to support the adjoining Westfield Tuggerah. The proposal locates additional housing in close proximity to existing essential services and retail and commercial uses. No net loss is proposed to the portion of the site currently zoned B4 Mixed Use. The proposed development is consistent with Action 3.3 to Establish the Northern and Southern Growth Corridors as key locations for economic development, residential growth and investment.
4. Strengthen inter-regional and intra-regional connections for business	Yes	The subject land is located adjacent to the M1 Pacific Motorway. The proposed development will implement Action 4.4 to Improve connections between residential and employment areas, including opportunities to better use public transport, walking and cycling modes. The Letter of Offer submitted with the Planning Proposal provides for over \$2.5 million of new and improved pedestrian paths and cycleways both within the development site and connecting to Tuggerah train station and bus interchange.
5. Support new and expanded industrial activity	Yes	The proposed use is not an industrial activity but will provide additional housing to support the existing commercial and retail uses within the Tuggerah Centre. No net loss in employment land is created with the existing B4 Mixed Use portion of the site retaining its capacity to providing for employment generating uses.
6. Strengthen the economic self-determination of Aboriginal communities	N/A	The Planning Proposal does not relate to Aboriginal land.

Direction	Applicable	Assessment/Comment
7. Increase job containment in the region	Yes	The proposed development retains the B4 Mixed use zone over a portion of the site to provide short term bulky goods retail, transitioning to mixed use development along Wyong Road in the longer term. This will ensure job opportunities throughout the project life cycle.
8. Recognise the cultural landscape of the Central Coast	Yes	The proposed development respects the scenic values and character of the site, retaining the site's natural assets including the rocky outcrop in the northwest and southwest of the site.
9. Protect and enhance productive agricultural land	N/A	The subject land is not zoned for agricultural use.
10. Secure the productivity and capacity of resource lands	N/A	The subject land is not identified as resource land.
11. Sustain and balance productive landscapes west of the M1	N/A	The subject land is not located west of the M1.
12. Protect and manage environmental values	Yes	The proposed development retains the existing riparian corridor and the C2 Environmental Conservation land along the eastern and southern boundary of the site. Approximately 31.8% of the site will contain open space or water bodies including the conservation land, rocky outcrop, Mardi Creek and linear park.
13. Sustain water quality and security	Yes	Water Sensitive Urban Design (WSUD) principles have been incorporated into the proposed development.
14. Protect the coast and manage natural hazards and climate change	N/A	The subject land is not located on the coast and is not subject to coastal hazards.
15. Create a well-planned, compact settlement pattern	Yes	The Planning Proposal will implement Action 15.5 to Link communities with centres, employment areas, the Northern and Southern Growth Corridors and greater open space and recreation opportunities. The proposed development provides for additional housing alongside employment, retail and commercial land uses, and incorporates open space and recreation opportunities within the site.
16. Grow investment opportunities in the region's centres	Yes	The Planning Proposal limits retail activity and provides additional housing to support the existing Tuggerah and Wyong centres and ensure their ongoing viability.

Direction	Applicable	Assessment/Comment
17. Align land use and infrastructure planning	Yes	The Planning Proposal intensifies urban development in close proximity to existing infrastructure including the M1 Pacific Motorway and Tuggerah train station. The development will provide extensions and capacity upgrades to existing water and sewer services to cater for the proposal.
18. Create places that are inclusive, well-designed and offer attractive lifestyles	Yes	The proposed development will enhance the amenity and attractiveness of this key gateway site at the entrance to the northern part of the Central Coast. The development incorporates new open space and recreational opportunities whilst improving walkable connections to essential services and public transport.
19. Accelerate housing supply and improve housing choice	Yes	The Planning Proposal provides for an additional 2,177 dwellings over the life of the development with a range of low to high density housing options.
20. Grow housing choice in and around local centres	Yes	The Planning Proposal provides a range of housing options adjacent to Westfield Tuggerah and the M1 and Pacific Highway transport corridors, and in walking distance to the Tuggerah train station.
21. Provide housing choice to meet community needs	Yes	The proposed development provides for housing diversity with a range of housing types including detached dwellings, medium density townhouses/terraces, apartments and seniors living.
22. Deliver housing in new release areas that are best suited to building new communities	N/A	The subject land is not located within the North Wyong Shire Structure Plan area.
23. Manage rural lifestyles	N/A	The subject land is not located within a rural area.

State Environmental Planning Policy Assessment

State Environmental Planning Policy (Biodiversity and Conservation) 2021.	Assessment/Comment
Chapter 2 – Vegetation in Non-Rural Areas	
<p>The aims of this Chapter are—</p> <p>(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and</p> <p>(b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.</p> <p>This Chapter applies to the following areas of the State (the non-rural areas of the State)—</p> <p>(b) land within the following zones under an environmental planning instrument—</p> <p>RU5 Village, R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential, R5 Large Lot Residential, B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core, B4 Mixed Use, B5 Business Development, B6 Enterprise Corridor, B7 Business Park, B8 Metropolitan Centre, IN1 General Industrial, IN2 Light Industrial, IN3 Heavy Industrial, IN4 Working Waterfront, SP1 Special Activities, SP2 Infrastructure, SP3 Tourist, RE1 Public Recreation, RE2 Private Recreation, E2 Environmental Conservation, E3 Environmental Management, E4 Environmental Living or W3 Working Waterways.</p>	<p>The Proposal is consistent with the provisions of this SEPP.</p> <p>A BCAR has been prepared in accordance with the BAM to support biocertification of the subject land. Land zoned C2 Environmental Conservation exists in the south east of the site and is proposed to be slightly expanded. The proposal also proposes to retain a rocky outcrop and native vegetation in the north west of the site, and a small area of remnant native vegetation in the east.</p>

State Environmental Planning Policy (Biodiversity and Conservation) 2021.	Assessment/Comment
Chapter 3 – Koala habitat protection 2020	
Not applicable.	Not applicable.
Chapter 4 – Koala Habitat Protection 2021	
<p><i>This Chapter aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.</i></p> <p><i>This Chapter does not apply to—</i></p> <ul style="list-style-type: none"> <i>(a) land dedicated or reserved under the National Parks and Wildlife Act 1974, or acquired under Part 11 of that Act, or</i> <i>(b) land dedicated under the Forestry Act 2012 as a State forest or a flora reserve, or</i> <i>(c) land on which biodiversity certification has been conferred, and is in force, under Part 8 of the Biodiversity Conservation Act 2016, or</i> 	<p>The Proposal is consistent with the provisions of this SEPP.</p> <p>Field survey and habitat monitoring undertaken by Ecological Australia did not record the presence of any koalas on the site. It has been sufficiently demonstrated that the proposal will have a little to no direct impact on koalas or koala habitats, as such a Tier 2 assessment process is not required.</p>
Chapter 5 – River Murray lands	
Not applicable.	Not applicable.
Chapter 6 – Bushland in Urban Areas	
<ul style="list-style-type: none"> <i>(1) The general aim of this Chapter is to protect and preserve bushland within the urban areas referred to in Schedule 5 because of—</i> <ul style="list-style-type: none"> <i>(a) its value to the community as part of the natural heritage,</i> <i>(b) its aesthetic value, and</i> <i>(c) its value as a recreational, educational and scientific resource.</i> <i>(2) The specific aims of this Chapter are—</i> <ul style="list-style-type: none"> <i>(a) to protect the remnants of plant communities which were once characteristic of land now within an urban area,</i> <i>(b) to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term,</i> <i>(c) to protect rare and endangered flora and fauna species,</i> <i>(d) to protect habitats for native flora and</i> 	<p>The Proposal is consistent with the provisions of this SEPP.</p> <p>A BCAR has been prepared in accordance with the BAM to support biocertification of the subject land. Land zoned C2 Environmental Conservation exists in the south east of the site and is proposed to be slightly expanded. The proposal also proposes to retain a rocky outcrop and native vegetation in the north west of the site, and a small area of remnant native vegetation in the east. The proposal also seeks to improve and restore Mardi Creek which runs west to east along the northern boundary of the site.</p>

State Environmental Planning Policy (Biodiversity and Conservation) 2021.	Assessment/Comment
<p>fauna,</p> <p>(e) to protect wildlife corridors and vegetation links with other nearby bushland,</p> <p>(f) to protect bushland as a natural stabiliser of the soil surface,</p> <p>(g) to protect bushland for its scenic values, and to retain the unique visual identity of the landscape,</p> <p>(h) to protect significant geological features,</p> <p>(i) to protect existing landforms, such as natural drainage lines, watercourses and foreshores,</p> <p>(j) to protect archaeological relics,</p> <p>(k) to protect the recreational potential of bushland,</p> <p>(l) to protect the educational potential of bushland,</p> <p>(m) to maintain bushland in locations which are readily accessible to the community, and</p> <p>(n) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.</p> <p>This Chapter applies to the areas and parts of areas specified in Schedule 5:</p> <p>Gosford</p>	
Chapter 7 – Canal Estate Development	
Not applicable.	Not applicable.
Chapter 8 – Sydney drinking water catchment	
Not applicable.	Not applicable.
Chapter 9 – Hawkesbury – Nepean River	
Not applicable.	Not applicable.
Chapter 10 – Sydney Harbour Catchment	
Not applicable.	Not applicable.
Chapter 11 – Georges Rivers Catchment	
Not applicable.	Not applicable.
Chapter 12 – Willandra Lakes Region World Heritage Property	
Not applicable.	Not applicable.

SEPP (Design and Place) 2021 (DRAFT)	Assessment/Comment
TBA	Not applicable.

State Environmental Planning Policy (Housing) 2021	Assessment/Comment
Chapter 2 – Affordable Housing	
<p>The principles of this Policy are as follows—</p> <ul style="list-style-type: none"> (a) enabling the development of diverse housing types, including purpose-built rental housing, (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability, (c) ensuring new housing development provides residents with a reasonable level of amenity, (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services, (e) minimising adverse climate and environmental impacts of new housing development, (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality, (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use, (h) mitigating the loss of existing affordable rental housing. 	<p>The Proposal is consistent with the provisions of this SEPP.</p> <p>The proposal will provide a range of housing options in close proximity to existing infrastructure and services. Housing typologies include detached dwellings, medium density townhouses/terraces, apartments and seniors living.</p>
Chapter 3 – Diverse Housing	
<p>Part 1: Secondary Dwellings Part 2: Group Homes Part 3: Co-living Housing Part 4: Built-to-rent Housing Part 5: Seniors Housing Part 6: Short-term Rental Accommodation Part 7: Conversion of Certain Serviced Apartments</p>	<p>The Proposal is consistent with the provisions of this SEPP.</p> <p>The proposal will provide a range of diverse housing options including seniors living in the form of independent living units.</p>
<p>Part 8: Manufactured Home Estates The aims of this Part are—</p> <ul style="list-style-type: none"> (a) to facilitate the establishment of manufactured 	<p>The Proposal is consistent with the provisions of this SEPP.</p>

State Environmental Planning Policy (Housing) 2021	Assessment/Comment
<p><i>home estates as a contemporary form of medium density residential development that provides an alternative to traditional housing arrangements, and</i></p> <p><i>(b) to provide immediate development opportunities for manufactured home estates on the commencement of this Part, and</i></p> <p><i>(c) to encourage the provision of affordable housing in well-designed estates, and</i></p> <p><i>(d) to ensure that manufactured home estates are situated only in suitable locations and not on land having important resources or having landscape, scenic or ecological qualities that should be preserved, and</i></p> <p><i>(e) to ensure that manufactured home estates are adequately serviced and have access to essential community facilities and services, and</i></p> <p><i>(f) to protect the environment surrounding manufactured home estates, and</i></p> <p><i>(g) to provide measures which will facilitate security of tenure for residents of manufactured home estates.</i></p>	<p>The proposal does not propose or impact any manufactured home estates.</p>
<p>Part 9: Caravan Parks</p> <p><i>The aim of this Part is to encourage—</i></p> <p><i>(a) the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and</i></p> <p><i>(b) the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and</i></p> <p><i>(c) the provision of community facilities for land so used, and</i></p> <p><i>(d) the protection of the environment of, and in the vicinity of, land so used.</i></p>	<p>The Proposal is consistent with the provisions of this SEPP.</p> <p>The proposal does not propose or impact any caravan parks.</p>

State Environmental Planning Policy (Industry and Employment) 2021.	Assessment/Comment
Chapter 3 – Advertising and Signage	
<p>1. This Chapter aims—</p> <ul style="list-style-type: none"> (a) to ensure that signage (including advertising)— <ul style="list-style-type: none"> i is compatible with the desired amenity and visual character of an area, and ii provides effective communication in suitable locations, and iii is of high-quality design and finish, and (b) to regulate signage (but not content) under Part 4 of the Act, and (c) to provide time-limited consents for the display of certain advertisements, and (d) to regulate the display of advertisements in transport corridors, and (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors. <p>This Chapter does not regulate the content of signage and does not require consent for a change in the content of signage.</p>	<p>The Proposal is consistent with the provisions of this SEPP.</p>

State Environmental Planning Policy (Planning Systems) 2021	Assessment/Comment
Chapter 2 – State and Regional Development	
<p>The aims of this Chapter are as follows—</p> <ul style="list-style-type: none"> (a) to identify development that is State significant development, (b) to identify development that is State significant infrastructure and critical State significant infrastructure, (c) to identify development that is regionally significant development. <p>This chapter applies to Warnervale Town Centre as well as general categories of state significant development.</p>	<p>The Proposal is consistent with the provisions of this SEPP.</p>
Chapter 3 – Aboriginal Land	
<p>The aims of this Chapter are—</p> <ul style="list-style-type: none"> (a) to provide for development delivery plans for areas of land owned by Local Aboriginal Land Councils to be considered when development applications are considered, and 	<p>There are four sites within the Central Coast LGA which are subject to the SEPP. The Planning Proposal does not apply to any of these sites. The Proposal is consistent with the provisions of this SEPP.</p>

State Environmental Planning Policy (Planning Systems) 2021	Assessment/Comment
<p>(b) to declare specified development carried out on land owned by Local Aboriginal Land Councils to be regionally significant development.</p> <p>This Chapter applies to the land specified on the Land Application Map.</p>	

State Environmental Planning Policy (Precincts—Regional) 2021	Assessment/Comment
Chapter 5 – Gosford City Centre	
<p>The aims of this Chapter are as follows—</p> <p>(a) to promote the economic and social revitalisation of Gosford City Centre,</p> <p>(b) to strengthen the regional position of Gosford City Centre as a multi-functional and innovative centre for commerce, education, health care, culture and the arts, while creating a highly liveable urban space with design excellence in all elements of its built and natural environments,</p> <p>(c) to protect and enhance the vitality, identity and diversity of Gosford City Centre,</p> <p>(d) to promote employment, residential, recreational and tourism opportunities in Gosford City Centre,</p> <p>(e) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that Gosford City Centre achieves sustainable social, economic and environmental outcomes,</p> <p>(f) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of Gosford City Centre for the benefit of present and future generations,</p> <p>(g) to help create a mixed use place, with activity during the day and throughout the evening, so that Gosford City Centre is safe, attractive and efficient for, and inclusive of, its local population and visitors alike,</p> <p>(h) to preserve and enhance solar access to key public open spaces,</p> <p>(i) to provide direct, convenient and safe pedestrian links between Gosford City Centre and the Gosford waterfront,</p>	<p>The Proposal is consistent with the provisions of this SEPP.</p> <p>The land comprising Gosford City Centre as defined by the <i>State Environmental Planning Policy (Precincts—Regional) 2021</i> is not subject to the draft Planning Proposal.</p>

State Environmental Planning Policy (Precincts—Regional) 2021	Assessment/Comment
(j) to ensure that development exhibits design excellence to deliver the highest standard of architectural and urban design in Gosford City Centre.	

State Environmental Planning Policy (Primary Production) 2021.	Assessment/Comment
Chapter 2 - Primary Production and Rural Development	
<p>The aims of this Chapter are as follows—</p> <ul style="list-style-type: none"> (a) to facilitate the orderly economic use and development of lands for primary production, (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources, (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations, (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts, (e) to encourage sustainable agriculture, including sustainable aquaculture, (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture, (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors. 	<p>The Proposal is consistent with the provisions of this SEPP.</p>
Chapter 3 - Central Coast Plateau Areas	
<p>The general aims of this Chapter are—</p> <ul style="list-style-type: none"> (a) to provide for the environmental protection of the Central Coast plateau areas and to provide a basis for evaluating competing land uses, 	<p>No land within the draft Planning Proposal is located within the Central Coast Plateau Area.</p> <p>The Proposal is consistent with the provisions of this SEPP</p>

State Environmental Planning Policy (Primary Production) 2021.	Assessment/Comment
<p>(b) to encourage the use of land having a high agricultural capability for that purpose and, as much as possible, to direct development for non-agricultural purposes to land of lesser agricultural capability,</p> <p>(c) to protect regionally significant mining resources and extractive materials from sterilization,</p> <p>(d) to enable development for the purposes of extractive industries in specified locations,</p> <p>(e) to protect the natural ecosystems of the region, and</p> <p>(f) to maintain opportunities for wildlife movement across the region, and</p> <p>(g) to discourage the preparation of draft local environmental plans designed to permit rural residential development, and</p> <p>(h) to encourage the preparation of draft local environmental plans based on merits.</p>	

State Environmental Planning Policy (Resilience and Hazards) 2021.	Assessment/Comment
Chapter 2 - Coastal Management	
<p>The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—</p> <p>(a) managing development in the coastal zone and protecting the environmental assets of the coast, and</p> <p>(b) establishing a framework for land use planning to guide decision-making in the coastal zone, and</p> <p>(c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.</p>	The Proposal is consistent with the provisions of this SEPP.
Chapter 3 – Hazardous and Offensive Development	
<p>This Chapter aims—</p> <p>(a) to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and</p> <p>(b) to render ineffective a provision of any environmental</p>	The Proposal is consistent with the provisions of this SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021.	Assessment/Comment
<p><i>planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Chapter, and</i></p> <p>(c) <i>to require development consent for hazardous or offensive development proposed to be carried out in the Western Division, and</i></p> <p>(d) <i>to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and</i></p> <p>(e) <i>to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and</i></p> <p>(f) <i>to require the advertising of applications to carry out any such development.</i></p>	
Chapter 4 - Remediation of Land	
<p>1. <i>The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land.</i></p> <p>2. <i>In particular, this Chapter aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment—</i></p> <p>(a) <i>by specifying when consent is required, and when it is not required, for a remediation work, and</i></p> <p>(b) <i>by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and</i></p> <p>(c) <i>by requiring that a remediation work meet certain standards and notification requirements.</i></p>	<p>The Proposal is consistent with the provisions of this SEPP.</p> <p>The land was utilised as an abattoir since the early 1900s. A Preliminary Site Investigation for Contamination prepared by Douglas Partners (2016) has found low potential for significant or widespread contamination of the site. Localised potential contamination sources were identified from fill material, previous demolition works and from the previous abattoir.</p> <p>Based on this assessment, it is determined the site is generally considered compatible with the proposed residential land use. A Stage 2 Contamination Assessment will be required in the detailed Development Application stage.</p>

State Environmental Planning Policy (Resources and Energy) 2021.	Assessment/Comment
Chapter 2 – Mining, Petroleum Production and Extractive Industries	
<p>The aims of this Chapter are, in recognition of the importance to New South Wales of mining, petroleum production and extractive industries—</p> <ul style="list-style-type: none"> (a) to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and (b) to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and (c) to promote the development of significant mineral resources, and (d) to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and (e) to establish a gateway assessment process for certain mining and petroleum (oil and gas) development— <ul style="list-style-type: none"> i to recognise the importance of agricultural resources, and ii to ensure protection of strategic agricultural land and water resources, and iii to ensure a balanced use of land by potentially competing industries, and iv to provide for the sustainable growth of mining, petroleum and agricultural industries. 	The Proposal is consistent with the provisions of this SEPP.
Chapter 3 – Extractive Industries in Sydney Area	
<p>This Chapter aims—</p> <ul style="list-style-type: none"> (a) to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance, and (b) to permit, with the consent of the council, development for the purpose of extractive industries on land described in Schedule 3 or 4, and (c) to ensure consideration is given to the impact of encroaching development on the ability of extractive industries to realise their full potential, and 	The Proposal is consistent with the provisions of this SEPP.

State Environmental Planning Policy (Resources and Energy) 2021.	Assessment/Comment
<p>(d) to promote the carrying out of development for the purpose of extractive industries in an environmentally acceptable manner, and</p> <p>(e) to prohibit development for the purpose of extractive industry on the land described in Schedule 5 in the Macdonald, Colo, Hawkesbury and Nepean Rivers, being land which is environmentally sensitive.</p> <p><i>This chapter applies to land in former Gosford and former Wyong LGAs.</i></p>	

State Environmental Planning Policy (Transport and Infrastructure) 2021	Assessment/Comment
Chapter 2 – Infrastructure	
<p><i>The aim of this Chapter is to facilitate the effective delivery of infrastructure across the State by—</i></p> <p>(a) <i>improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and</i></p> <p>(b) <i>providing greater flexibility in the location of infrastructure and service facilities, and</i></p> <p>(c) <i>allowing for the efficient development, redevelopment or disposal of surplus government owned land, and</i></p> <p>(d) <i>identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and</i></p> <p>(e) <i>identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and</i></p> <p>(f) <i>providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and</i></p> <p>(g) <i>providing opportunities for infrastructure to demonstrate good design outcomes.</i></p>	<p>The Proposal is consistent with the provisions of this SEPP.</p>
Chapter 3 – Educational Establishments and Childcare Facilities	

State Environmental Planning Policy (Transport and Infrastructure) 2021	Assessment/Comment
<p><i>The aim of this Chapter is to facilitate the effective delivery of educational establishments and early education and care facilities across the State by—</i></p> <ul style="list-style-type: none"> <i>(a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and</i> <i>(b) simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and</i> <i>(c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and</i> <i>(d) allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and</i> <i>(e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and</i> <i>(f) aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and</i> <i>(g) ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and</i> <i>(h) encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.</i> 	<p>The Proposal is consistent with the provisions of this SEPP</p>

Ministerial Section 9.1 Directions

Planning Systems	Comments
1.1 Implementation of the Minister's Planning Principles	
<ul style="list-style-type: none"> <i>In the preparation of a planning proposal the planning authority must have regard to the Minister's Planning Principles and give consideration to specific planning principles in the Ministers Planning Principles that are relevant to the preparation of the planning proposal.</i> <i>Where there is an inconsistency between a specific planning principle in the Minister's Planning Principles and any other Ministerial Direction under section 9.1 of the Environmental Planning and Assessment Act 1979 the Ministerial Direction should be followed to the extent of that inconsistency.</i> 	<p>Applicable</p> <p>The Proposal is consistent with this direction.</p>
1.2 Implementation of Regional Plans	
<p>1. <i>Planning proposals must be consistent with a Regional Plan released by the Minister for Planning and Public Spaces.</i></p>	<p>Applicable</p> <p>The proposal is consistent with this direction. Consistency with the CCRP 2036 is outlined at the beginning of this document.</p>
1.3 Development of Aboriginal Land Council Land	
<p>1. <i>When preparing a planning proposal to which this direction applies, the planning proposal authority must take into account:</i></p> <p>(a) <i>any applicable development delivery plan made under the chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021; or</i></p> <p>(b) <i>if no applicable development delivery plan has been published, the interim development delivery plan published on the Department's website on the making of this direction.</i></p>	<p>Not Applicable</p> <p>Land within the Planning Proposal is not shown on the Land Application Map of State Environmental Planning Policy (Aboriginal Land) 2019.</p>
1.4 Approval and Referral Requirements	
<p>1. <i>A planning proposal to which this direction applies must:</i></p> <p>(a) <i>minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</i></p> <p>(b) <i>not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</i></p> <p>i. <i>the appropriate Minister or public authority, and</i></p>	<p>Applicable</p> <p>The proposal does not seek to include additional approval or referral requirements.</p> <p>The Proposal is consistent with this direction.</p>

Planning Systems	Comments
<ul style="list-style-type: none"> ii. the Planning Secretary (or an officer of the Department nominated by the Secretary), prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act, and (c) not identify development as designated development unless the relevant planning authority: <ul style="list-style-type: none"> i. can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the class of development is likely to have a significant impact on the environment, and ii. has obtained the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act. 	
1.5 Site Specific Provisions	
<ol style="list-style-type: none"> 1. A planning proposal that will amend another environmental planning instrument in order to allow particular development to be carried out must either: <ol style="list-style-type: none"> (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. 2. A planning proposal must not contain or refer to drawings that show details of the proposed development. 	<p>Applicable</p> <p>The proposal does not seek to apply specific site-specific provisions through the LEP. Additional site-specific development control plan provisions have been prepared.</p> <p>The Proposal is consistent with this direction.</p>
1.6 Parramatta Road Corridor Urban Transformation Strategy	
<ol style="list-style-type: none"> 1. A planning proposal that applies to land in the nominated local government areas within the Parramatta Road Corridor must: <ol style="list-style-type: none"> (a) give effect to the objectives of this direction, (b) be consistent with the Strategic Actions within the Parramatta Road Corridor Urban Transformation Strategy (November, 2016), (c) be consistent with the Parramatta Road Corridor Planning and Design Guidelines (November, 2016) 	<p>Not Applicable</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>

Planning Systems	Comments
<p>and particularly the requirements set out in Section 3 Corridor-wide Guidelines and the relevant Precinct Guidelines,</p> <p>(d) be consistent with the staging and other identified thresholds for land use change identified in the Parramatta Road Corridor Implementation Plan 2016 – 2023 (November, 2016), and the Parramatta Road Corridor Urban Transformation Implementation Update 2021, as applicable,</p> <p>(e) contain a requirement that development is not permitted until land is adequately serviced (or arrangements satisfactory to the relevant planning authority, or other appropriate authority, have been made to service it) consistent with the Parramatta Road Corridor Implementation Plan 2016 – 2023 (November, 2016),</p> <p>(f) be consistent with the relevant District Plan.</p>	
1.7 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	
1. Planning proposals to which this direction applies shall be consistent with the North West Priority Growth Area Land Use and Infrastructure Strategy.	<p>Not Applicable</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>
1.8 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	
1. Planning proposals shall be consistent with the interim Plan published in July 2017.	<p>Not Applicable</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>
1.9 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	
1. A planning proposal is to be consistent with the Interim Land Use and Infrastructure Implementation Plan and Background Analysis, approved by the Minister for Planning and Public Spaces and as published on 5 August 2017 on the website of the Department of Planning, Industry and Environment (Implementation Plan).	<p>Not Applicable</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>
1.10 Implementation of Glenfield to Macarthur Urban Renewal Corridor	

Planning Systems	Comments
1. A planning proposal is to be consistent with the precinct plans approved by the Minister for Planning and Public Spaces and published on the Department's website on 22 December 2017.	Not Applicable This Direction does not apply to the Central Coast Local Government Area.
1.11 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	
1. A planning proposal is to be consistent with the Western Sydney Aerotropolis Plan approved by the Minister for Planning and Public Spaces and published on 10 September 2020 on the website of the Department of Planning, Industry and Environment.	Not Applicable This Direction does not apply to the Central Coast Local Government Area.
1.12 Implementation of Bayside West Precincts 2036 Plan	
1. A planning proposal authority must ensure that a planning proposal is consistent with the Bayside West Precincts 2036 Plan, approved by the Minister for Planning and Public Spaces and published on the Department of Planning, Industry and Environment website in September 2018.	Not Applicable This Direction does not apply to the Central Coast Local Government Area.
1.13 Implementation of Planning Principles for the Cooks Cove Precinct	
1. A planning proposal authority must ensure that a planning proposal is consistent with the following: (a) Enable the environmental repair of the site and provide for new recreation opportunities; (b) Not compromise future transport links (such as the South-East Mass Transit link identified in Future Transport 2056 and the Greater Sydney Region Plan) that will include the consideration of the preserved surface infrastructure corridor, noting constraints, including the Cooks River, geology, Sydney Airport and existing infrastructure will likely necessitate consideration of future sub-surface solutions and potential surface support uses; (c) Create a highly liveable community that provides choice for the needs of residents, workers and visitors to Cooks Cove; (d) Ensure best practice design and a high quality amenity with reference to the NSW design policy Better Placed; (e) Deliver an enhanced, attractive, connected and publicly accessible foreshore and public open space network and protect and enhance the existing market garden; (f) Safeguard the ongoing operation of Sydney Airport;	Not Applicable This Direction does not apply to the Central Coast Local Government Area.

Planning Systems	Comments
<p>(g) Enhance walking and cycling connectivity and the use of public transport to encourage and support a healthy and diverse community and help deliver a 30-minute city;</p> <p>(h) Deliver a safe road network that balances movement and place, provides connections to the immediate and surrounding areas, and is cognisant of the traffic conditions in this area; and</p> <p>(i) Enhance the environmental attributes of the site, including protected flora and fauna, riparian areas and wetlands and heritage. The objective of this direction is to ensure development within the Cooks Cove Precinct is consistent with the Cooks Cove Planning Principles.</p>	
1.14 Implementation of St Leonards and Crows Nest 2036 Plan	
<p>1. A planning proposal authority must ensure that a planning proposal is consistent with the St Leonards and Crows Nest 2036 Plan, approved by the Minister for Planning and Public Spaces and published on the Department of Planning, Industry and Environment website on 29 August 2020.</p>	<p>Not Applicable</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>
1.15 Implementation of Greater Macarthur 2040	
<p>1. A planning proposal authority must ensure that a planning proposal is consistent with Greater Macarthur 2040, approved by the Minister for Planning and Public Spaces and as published on 19 November 2018 on the website of the Department of Planning, Industry and Environment.</p>	<p>Not Applicable</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>
1.16 Implementation of the Pyrmont Peninsula Place Strategy	
<p>1. A planning proposal authority must ensure that a planning proposal is consistent with the Pyrmont Peninsula Place Strategy, approved by the Minister for Planning and Public Spaces and published on the Department of Planning, Industry and Environment website on 11 December 2020, including that it:</p> <p>(a) gives effect to the objectives of this direction and the Vision (Part 5) of the Pyrmont Peninsula Place Strategy,</p> <p>(b) is consistent with the 10 directions (Part 6) and Structure Plan (Part 8) in the Pyrmont Peninsula Place Strategy,</p>	<p>Not Applicable</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>

Planning Systems	Comments
<p>(c) delivers on envisaged future character for sub-precincts (Part 9), including relevant place priorities in the Pyrmont Peninsula Place Strategy, and</p> <p>(d) supports the delivery of the Big Moves (Part 7) in the Pyrmont Peninsula Place Strategy.</p>	
1.17 North West Rail Link Corridor Strategy	
<p>1. A planning proposal that applies to land located within the NWRL Corridor must:</p> <p>(a) give effect to the objectives of this direction</p> <p>(b) be consistent with the proposals of the NWRL Corridor Strategy, including the growth projections and proposed future character for each of the NWRL precincts</p> <p>(c) promote the principles of transit-oriented development (TOD) of the NWRL Corridor Strategy.</p>	<p>Not Applicable</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>

Design & Place	Comments
2.1 N/A	

Biodiversity & Conservation	Comments
3.1 Conservation Zones	
<p>1. A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>2. A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with Direction 9.3 (2) of "Rural Lands".</p>	<p>Applicable</p> <p>The proposal facilitates the protection and conservation of environmentally sensitive areas.</p> <p>A Biodiversity Certification Assessment Report (BCAR) has been prepared by Ecological to support the proposal. The BCAR identifies the following credits to be secured and retired to offset the impacts of the proposal:</p> <ul style="list-style-type: none"> • 10 ecosystem credits to offset impacts to PCT 684 - Blackbutt - Narrow-leaved White Mahogany shrubby tall open forest of coastal ranges, northern Sydney Basin Bioregion • 2 ecosystem credits to offset impacts to PCT 1105 - River Oak open forest of major streams, Sydney Basin Bioregion and South East Corner Bioregion

Biodiversity & Conservation	Comments
	<ul style="list-style-type: none"> • 3 ecosystem credits to offset impacts to PCT 1718 - Swamp Mahogany - Flax-leaved Paperbark swamp forest on coastal lowlands of the Central Coast • 3 species credits for impacts to Biconvex Paperbark (<i>Melaleuca biconvexa</i>) • 17 species credits for impacts to Southern Myotis (<i>Myotis Macropus</i>) <p>The letter of offer submitted with the proposal proposes the retention of 4.0 hectares of conservation land with ongoing management to be undertaken by the proponent in consultation with Darkinjung Local Aboriginal Land Council (DLALC).</p>
3.2 Heritage Conservation	
<p>1. A planning proposal must contain provisions that facilitate the conservation of:</p> <p>(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</p> <p>(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</p> <p>(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</p>	<p>Applicable</p> <p>The site does not comprise heritage items, is not located in close proximity to heritage items and is not within an environmental heritage zone.</p> <p>The AHIMS database identified no Aboriginal sites recorded in the subject area, however 2 Aboriginal objects are registered within 1km of the subject area.</p> <p>Further consultation with DLALC and the Aboriginal community will occur if the proposal progresses to public exhibition.</p> <p>The Proposal is consistent with this direction.</p>
3.3 Sydney Drinking Water Catchments	
<p>1. A planning proposal must be prepared in accordance with the general principle that water quality within the Sydney drinking water catchment must be protected, and in accordance with the following specific principles:</p> <p>(a) new development within the Sydney drinking water catchment must have a neutral or beneficial effect on water quality, and</p>	<p>Not Applicable.</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>

Biodiversity & Conservation	Comments								
<p>(b) future land use in the Sydney drinking water catchment should be matched to land and water capability, and</p> <p>(c) the ecological values of land within a Special Area that is:</p> <ul style="list-style-type: none"> i. reserved as national park, nature reserve or state conservation area under the National Parks and Wildlife Act 1974, or ii. declared as a wilderness area under the Wilderness Act 1987, or iii. owned or under the care control and management of the Sydney Catchment Authority, should be maintained. <p>2. When preparing a planning proposal that applies to land within the Sydney drinking water catchment, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) ensure that the proposal is consistent with chapter 9 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, and (b) give consideration to the outcomes of the Strategic Land and Water Capability Assessment prepared by the Sydney Catchment Authority, and (c) zone land within the Special Areas owned or under the care control and management of Sydney Catchment Authority generally in accordance with the following: <table border="1"> <thead> <tr> <th>Land</th><th>Zone under Standard Instrument (Local Environmental Plans) Order 2006</th></tr> </thead> <tbody> <tr> <td>Land reserved under the National Parks and Wildlife Act 1974</td><td>C1 National Parks and Nature Reserves</td></tr> <tr> <td>Land in the ownership or under the care, control and management of the Sydney Catchment Authority located above the full water supply level</td><td>C2 Environmental Conservation</td></tr> <tr> <td>Land below the full water supply level (including water storage at dams and weirs) and operational land at dams, weirs, pumping stations etc.</td><td>SP2 Infrastructure (and marked "Water Supply Systems" on the Land Zoning Map)</td></tr> </tbody> </table> <p>and</p> <ul style="list-style-type: none"> (d) consult with the Sydney Catchment Authority, describing the means by which the planning 	Land	Zone under Standard Instrument (Local Environmental Plans) Order 2006	Land reserved under the National Parks and Wildlife Act 1974	C1 National Parks and Nature Reserves	Land in the ownership or under the care, control and management of the Sydney Catchment Authority located above the full water supply level	C2 Environmental Conservation	Land below the full water supply level (including water storage at dams and weirs) and operational land at dams, weirs, pumping stations etc.	SP2 Infrastructure (and marked "Water Supply Systems" on the Land Zoning Map)	
Land	Zone under Standard Instrument (Local Environmental Plans) Order 2006								
Land reserved under the National Parks and Wildlife Act 1974	C1 National Parks and Nature Reserves								
Land in the ownership or under the care, control and management of the Sydney Catchment Authority located above the full water supply level	C2 Environmental Conservation								
Land below the full water supply level (including water storage at dams and weirs) and operational land at dams, weirs, pumping stations etc.	SP2 Infrastructure (and marked "Water Supply Systems" on the Land Zoning Map)								

Biodiversity & Conservation	Comments
<p><i>proposal gives effect to the water quality protection principles set out in paragraph (1) of this direction, and</i></p> <p><i>(e) include a copy of any information received from the Sydney Catchment Authority as a result of the consultation process in its planning proposal prior to the issuing of a gateway determination under section 3.34 of the EP&A Act.</i></p>	
3.4 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	
<p>1. <i>A planning proposal that introduces or alters an C2 Environmental Conservation or C3 Environmental Management zone or an overlay and associated clause must apply that proposed C2 Environmental Conservation or C3 Environmental Management zone, or the overlay and associated clause, in line with the Northern Councils C Zone Review Final Recommendations.</i></p>	<p>Not Applicable</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>
3.5 Recreational Vehicle Areas	
<p>1. <i>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983):</i></p> <p><i>(a) where the land is within a conservation zone,</i></p> <p><i>(b) where the land comprises a beach or a dune adjacent to or adjoining a beach,</i></p> <p><i>(c) where the land is not within an area or zone referred to in paragraphs (a) or (b) unless the relevant planning authority has taken into consideration:</i></p> <p><i>i. the provisions of the guidelines entitled Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and</i></p> <p><i>ii. the provisions of the guidelines entitled Recreation Vehicles Act 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985. Aims to protect sensitive land or land with significant conservation values from adverse impacts from recreational vehicles.</i></p>	<p>Applicable</p> <p>The proposal does not seek land to be developed for the purpose of a recreation vehicle area.</p> <p>The Proposal is consistent with this direction.</p>

Resilience & Hazards	Comments
4.1 Flooding	
<p>1. A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> (a) the NSW Flood Prone Land Policy, (b) the principles of the Floodplain Development Manual 2005, (c) the Considering flooding in land use planning guideline 2021, and (d) any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council. <p>2. A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Business, Industrial or Special Purpose Zones.</p> <p>3. A planning proposal must not contain provisions that apply to the flood planning area which:</p> <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit development for the purposes of residential accommodation in high hazard areas, (d) permit a significant increase in the development and/or dwelling density of that land, (e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate, (f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent, (g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or (h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot 	<p>Applicable</p> <p>The site is located within the lower part of the Mardi Creek catchment.</p> <p>A Flood Assessment Report has been prepared by Stantec (March 2022). The Flood Impact Assessment shows no impact in the 1% AEP Flood event aside from a small section within Mardi Creek. This is not predicted to have negligible impact on neighbouring properties.</p> <p>There are minor impacts during the PMF, but it is accepted that these impacts do not increase the flood hazard in those areas and there is flood free egress from the site during the PMF event.</p> <p>The Proposal is consistent with this direction.</p>

Resilience & Hazards	Comments
<p>be effectively contained during the occurrence of a flood event.</p> <p>4. A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:</p> <ul style="list-style-type: none"> (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the dwelling density of that land, (d) permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate, (e) are likely to affect the safe occupation of and efficient evacuation of the lot, or (f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities. <p>5. For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the Floodplain Development Manual 2005 or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council.</p>	
4.2 Coastal Management	
<p>1. A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> (a) the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas; (b) the NSW Coastal Management Manual and associated Toolkit; (c) NSW Coastal Design Guidelines 2003; and (d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect 	<p>Applicable</p> <p>The subject site is not located on land within a coastal environment area.</p> <p>The Proposal is consistent with this direction.</p>

Resilience & Hazards	Comments
<p><i>under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land.</i></p> <p>2. <i>A planning proposal must not rezone land which would enable increased development or more intensive land-use on land:</i></p> <p><i>(a) within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018; or</i></p> <p><i>(b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken:</i></p> <p><i>i. by or on behalf of the relevant planning authority and the planning proposal authority, or</i></p> <p><i>ii. by or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority.</i></p> <p>3. <i>A planning proposal must not rezone land which would enable increased development or more intensive land-use on land within a coastal wetlands and littoral rainforests area identified by chapter 3 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.</i></p> <p>4. <i>A planning proposal for a local environmental plan may propose to amend the following maps, including increasing or decreasing the land within these maps, under the State Environmental Planning Policy (Coastal Management) 2018:</i></p> <p><i>(a) Coastal wetlands and littoral rainforests area map;</i></p> <p><i>(b) Coastal vulnerability area map;</i></p> <p><i>(c) Coastal environment area map; and</i></p> <p><i>(d) Coastal use area map.</i></p> <p><i>Such a planning proposal must be supported by evidence in a relevant Coastal Management Program that has been certified by the Minister, or by a Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016.</i></p>	
4.3 Planning for Bushfire Protection	
<p>1. <i>In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation in</i></p>	<p>Applicable</p> <p>A Bushfire Study (Ecological, 2021) submitted with the proposal outlines that compliance with the provisions of <i>Planning for Bushfire Protection</i></p>

Resilience & Hazards	Comments
<p>satisfaction of clause 4, Schedule 1 to the EP&A Act, and take into account any comments so made.</p> <p>2. A planning proposal must:</p> <p>(a) have regard to Planning for Bushfire Protection 2019,</p> <p>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</p> <p>(c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ).</p> <p>3. A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <p>(a) provide an Asset Protection Zone (APZ) incorporating at a minimum:</p> <p>i. an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and</p> <p>ii. an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</p> <p>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,</p> <p>(c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</p> <p>(d) contain provisions for adequate water supply for firefighting purposes,</p> <p>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</p> <p>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</p>	<p>(PBP) 2019 can be achieved.</p> <p>Pre-gateway comments received from the NSW Rural Fire Service (RFS) raise no objection to the proposal subject to a requirement that the future subdivision/development of the land complies with PBP 2019.</p> <p>The Proposal is consistent with this direction.</p>
4.4 Remediation of Contaminated Lands	
<p>1. A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land to which this direction</p>	<p>Applicable</p> <p>This direction applies due to the land being known to have been utilised as an abattoir since</p>

Resilience & Hazards	Comments
<p><i>applies if the inclusion of the land in that zone would permit a change of use of the land, unless:</i></p> <ul style="list-style-type: none"> <i>(a) the planning proposal authority has considered whether the land is contaminated, and</i> <i>(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</i> <i>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.</i> <p><i>In order to satisfy itself as to paragraph 1(c), the planning proposal authority may need to include certain provisions in the local environmental plan.</i></p> <p>2. <i>Before including any land to which this direction applies in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines. Aims to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</i></p>	<p>the early 1900s.</p> <p>A Preliminary Site Investigation for Contamination prepared by Douglas Partners (2016) found low potential for significant or widespread contamination of the site. Localised potential contamination sources were identified from fill material, previous demolition works and from the previous abattoir.</p> <p>Based on this assessment, it is determined the site is generally considered compatible with the proposed residential land use. A Stage 2 Contamination Assessment will be required in the detailed Development Application stage.</p> <p>The Proposal is consistent with this direction.</p>
4.5 Acid Sulfate Soils	
<p>1. <i>The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Planning Secretary when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</i></p> <p>2. <i>When a relevant planning authority is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</i></p> <ul style="list-style-type: none"> <i>(a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Planning Secretary, or</i> <i>(b) other such provisions provided by the Planning Secretary that are consistent with the Acid Sulfate Soils Planning Guidelines.</i> 	<p>Applicable</p> <p>The lower northern area of the site is mapped as Class 4 acid sulfate soils. This indicates there is a low probability of acid sulfate soils at depths 2m below the natural ground surface. The remainder of the site is mapped as Class 5 acid sulfate soils. This indicates no known occurrence of acid sulfate soils in this area of the site, however, the site is located within 500m of a Class 1, 2, 3 or 4 acid sulfate soil.</p> <p>Previous investigation undertaken for the site by Douglas Partners have indicated that both acid sulfate soils and acidic soils have been found on the site, however, the land is generally considered compatible with the proposed</p>

Resilience & Hazards	Comments
<p>3. A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Planning Secretary prior to undertaking community consultation in satisfaction of clause 4 of Schedule 1 to the Act.</p> <p>4. Where provisions referred to under 2(a) and 2(b) above of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with 2(a) and 2(b).</p>	<p>residential use. Further detailed investigations will be required at Development Application stage.</p> <p>The Proposal is consistent with this direction.</p>
4.6 Mine Subsidence & Unstable Land	
<p>1. When preparing a planning proposal that would permit development on land that is within a declared mine subsidence district, a relevant planning authority must:</p> <p>(a) consult Subsidence Advisory NSW to ascertain:</p> <p>i. if Subsidence Advisory NSW has any objection to the draft local environmental plan, and the reason for such an objection, and</p> <p>ii. the scale, density and type of development that is appropriate for the potential level of subsidence, and</p> <p>(b) Incorporate provisions into the draft Local Environmental Plan that are consistent with the recommended scale, density and type of development recommended under 1(a)(ii), and</p> <p>(c) include a copy of any information received from Subsidence Advisory NSW with the statement to the Planning Secretary (or an officer of the Department nominated by the Secretary prior to undertaking community consultation in satisfaction of Schedule 1 to the Act.</p> <p>2. A planning proposal must not permit development on land.</p>	<p>Not Applicable</p> <p>The subject land is not within a mine subsidence district.</p>

Transport & Infrastructure	Comments
5.1 Integrating Land Use & Transport	
<p>1. A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</p> <p>(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</p>	<p>Applicable</p> <p>The Proposal is consistent with this direction.</p> <p>The proposal provides a range of residential and associated land uses in close proximity to existing infrastructure and services (e.g. Westfield Tuggerah, Tuggerah train station and bus interchange).</p>
5.2 Reserving Land for Public Purposes	
<p>1. A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).</p> <p>2. When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must:</p> <p>(a) reserve the land in accordance with the request, and</p> <p>(b) include the land in a zone appropriate to its intended future use or a zone advised by the Planning Secretary (or an officer of the Department nominated by the Secretary), and</p> <p>(c) identify the relevant acquiring authority for the land.</p> <p>3. When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the relevant planning authority must:</p> <p>(a) include the requested provisions, or</p> <p>(b) take such other action as advised by the Planning Secretary (or an officer of the Department nominated by the Secretary) with respect to the use of the land before it is acquired.</p> <p>4. When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the relevant planning authority must</p>	<p>Applicable</p> <p>The subject site is not identified for acquisition for public purposes.</p> <p>The Proposal is consistent with this direction.</p>

Transport & Infrastructure	Comments
rezone and/or remove the relevant reservation in accordance with the request.	
5.3 Development Near Regulated Airports and Defence Airfields	
<p>1. In the preparation of a planning proposal that sets controls for development of land near a regulated airport, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) consult with the lessee/operator of that airport; (b) take into consideration the operational airspace and any advice from the lessee/operator of that airport; (c) for land affected by the operational airspace, prepare appropriate development standards, such as height controls. (d) not allow development types that are incompatible with the current and future operation of that airport. <p>2. In the preparation of a planning proposal that sets controls for development of land near a core regulated airport, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) consult with the Department of the Commonwealth responsible for airports and the lessee/operator of that airport; (b) for land affected by the prescribed airspace (as defined in clause 6(1) of the Airports (Protection of Airspace) Regulation 1996, prepare appropriate development standards, such as height controls. (c) not allow development types that are incompatible with the current and future operation of that airport. (d) obtain permission from that Department of the Commonwealth, or their delegate, where a planning proposal seeks to allow, as permissible with consent, development that would constitute a controlled activity as defined in section 182 of the Airports Act 1996. This permission must be obtained prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act. <p>3. In the preparation of a planning proposal that sets controls for the development of land near a defence airfield, the relevant planning authority must:</p> <ul style="list-style-type: none"> (a) consult with the Department of Defence if: <ul style="list-style-type: none"> i. the planning proposal seeks to exceed the height provisions contained in the Defence 	<p>Not Applicable</p> <p>The site is not located in the vicinity of a licensed aerodrome.</p>

Transport & Infrastructure	Comments
<p><i>Regulations 2016 – Defence Aviation Areas for that airfield; or</i></p> <p>ii. <i>no height provisions exist in the Defence Regulations 2016 – Defence Aviation Areas for the airfield and the proposal is within 15km of the airfield.</i></p> <p>(b) <i>for land affected by the operational airspace, prepare appropriate development standards, such as height controls.</i></p> <p>(c) <i>not allow development types that are incompatible with the current and future operation of that airfield.</i></p> <p>4. <i>A planning proposal must include a provision to ensure that development meets Australian Standard 2021 – 2015, Acoustic-Aircraft Noise Intrusion – Building siting and construction with respect to interior noise levels, if the proposal seeks to rezone land:</i></p> <p>(a) <i>for residential purposes or to increase residential densities in areas where the Australian Noise Exposure Forecast (ANEF) is between 20 and 25; or</i></p> <p>(b) <i>for hotels, motels, offices or public buildings where the ANEF is between 25 and 30; or</i></p> <p>(c) <i>for commercial or industrial purposes where the ANEF is above 30.</i></p> <p>5. <i>A planning proposal must not contain provisions for residential development or to increase residential densities within the 20 Australian Noise Exposure Concept (ANEC)/ANEF contour for Western Sydney Airport.</i></p>	
5.4 Shooting Ranges	
<p>1. <i>A planning proposal must not seek to rezone land adjacent to and/ or adjoining an existing shooting range that has the effect of:</i></p> <p>(a) <i>permitting more intensive land uses than those which are permitted under the existing zone; or</i></p> <p>(b) <i>permitting land uses that are incompatible with the noise emitted by the existing shooting range.</i></p>	<p>Not Applicable</p> <p>The proposal is not located in the vicinity of a shooting range.</p>

Housing	Comments
6.1 Residential Zones	
<p>1. <i>A planning proposal must include provisions that encourage the provision of housing that will:</i></p>	<p>Applicable</p> <p>The Proposal is consistent with this direction.</p>

Housing	Comments
<p>(a) broaden the choice of building types and locations available in the housing market, and</p> <p>(b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>2. A planning proposal must, in relation to land to which this direction applies:</p> <p>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>	<p>The proposal will provide a range of low, medium and higher density housing options including seniors living. The adjoining Westfield Tuggerah provides existing infrastructure and services, whilst upgraded pedestrian and cycle paths are proposed to connect the site to Tuggerah train station.</p>
6.2 Caravan Parks and Manufactured Home Estates	
<p>1. In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <p>(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</p> <p>(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.</p> <p>2. In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <p>(a) take into account the categories of land set out in Schedule 6 of State Environmental Planning Policy (Housing) as to where MHEs should not be located,</p> <p>(b) take into account the principles listed in clause 9 Schedule 5 of State Environmental Planning Policy (Housing)(which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and</p> <p>(c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the</p>	<p>Applicable</p> <p>The Proposal is consistent with this direction.</p> <p>The proposal does not propose or impact any caravan parks.</p>

Housing	Comments
<i>Community Land Development Act 1989 be permissible with consent..</i>	

Industry & Employment	Comments
7.1 Business & Industrial Zones	
<p>1. A planning proposal must:</p> <ul style="list-style-type: none"> (a) give effect to the objectives of this direction, (b) retain the areas and locations of existing business and industrial zones, (c) not reduce the total potential floor space area for employment uses and related public services in business zones, (d) not reduce the total potential floor space area for industrial uses in industrial zones, and (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Planning Secretary. 	<p>Applicable</p> <p>The Proposal is consistent with this direction.</p> <p>The existing B4 Mixed Use zone is to be retained on the site and will provide for employment generating land uses.</p>
7.2 Reduction in non-hosted short-term rental accommodation period	
<p>1. The council must include provisions which give effect to the following principles in a planning proposal to which this direction applies:</p> <ul style="list-style-type: none"> (a) non-hosted short term rental accommodation periods must not be reduced to be less than 90 days (b) the reasons for changing the non-hosted short-term rental accommodation period should be clearly articulated (c) there should be a sound evidence base for the proposed change, including evidence of the availability of short-term rental accommodation in the area (or parts of the area) in the 12 months preceding the proposal, relative to the amount of housing in the area, and trend data on the availability of short-term rental accommodation over the past 5 years. (d) the impact of reducing the non-hosted short-term rental accommodation period should be analysed and explained, including social and economic impacts for the community in general, and impacted property owners specifically. 	<p>Not Applicable</p> <p>Applies to Byron Shire Council.</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	

Industry & Employment	Comments
<ol style="list-style-type: none"> 1. A planning proposal that applies to land located on "within town" segments of the Pacific Highway must provide that: <ol style="list-style-type: none"> (a) new commercial or retail development must be concentrated within distinct centres rather than spread along the highway; (b) development with frontage to the Pacific Highway must consider impact the development has on the safety and efficiency of the highway; and (c) for the purposes of this paragraph, "within town" means areas which, prior to the draft local environmental plan, have an urban zone (e.g.: "village", "residential", "tourist", "commercial", "industrial", etc) and where the Pacific Highway speed limit is less than 80km/hour. 2. A planning proposal that applies to land located on "out-of-town" segments of the Pacific Highway must provide that: <ol style="list-style-type: none"> (a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be inconsistent with the objectives of this direction; (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway; and (c) for the purposes of this paragraph, "out-of-town" means areas which, prior to the draft local environmental plan, do not have an urban zone (e.g.: "village", "residential", "tourist", "commercial", "industrial", etc) or are in areas where the Pacific Highway speed limit is 80km/hour or greater. 3. Notwithstanding the requirements of paragraphs (1) and (2), the establishment of highway service centres may be permitted at the localities listed in Table 1, provided that Roads and Maritime Services is satisfied that the highway service centre(s) can be safely and efficiently integrated into the Highway interchange(s) at those localities. For the purposes of this paragraph, a highway service centre has the same meaning as is contained in the Standard Instrument (Local Environmental Plans) Order 2006. 	<p>Not Applicable</p> <p>Applies to all councils between and inclusive of Port Stephens and Tweed Shire Councils.</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>

Industry & Employment		Comments
Table 1: Highway service centres that can proceed		
Town	Locality	
Chinderah	Chinderah Bay Road interchange (southbound) Western side of highway at Tweed Valley Way interchange (northbound)	
Ballina	Teven Road interchange	
Macleay	Southern interchange	
Woolgoolga	Northern interchange at Arrawarra	
Nambucca Heads	Nambucca Heads interchange	
Kempsey	South Kempsey interchange	
Port Macquarie	Oxley Highway interchange (both sides of the Pacific Highway)	
Taree	Old Bar Road interchange	
Tomago	In the vicinity of Tomago Road / South Heatherbrae	

Resources & Energy		Comments
8.1 Mining, Petroleum Production and Extractive Industries		
<p>1. <i>In the preparation of a planning proposal affected by this direction, the relevant planning authority must:</i></p> <p>(a) <i>consult the Secretary of the Department of Primary Industries (DPI) to identify any:</i></p> <p>i. <i>resources of coal, other minerals, petroleum or extractive material that are of either State or regional significance, and</i></p> <p>ii. <i>existing mines, petroleum production operations or extractive industries occurring in the area subject to the planning proposal, and</i></p> <p>(b) <i>seek advice from the Secretary of DPI on the development potential of resources identified under (1)(a)(i), and</i></p> <p>(c) <i>identify and take into consideration issues likely to lead to land use conflict between other land uses and:</i></p> <p>i. <i>development of resources identified under (1)(a)(i), or</i></p> <p>ii. <i>existing development identified under (1)(a)(ii).</i></p> <p>2. <i>Where a planning proposal prohibits or restricts development of resources identified under (1)(a)(i), or proposes land uses that may create land use conflicts identified under (1)(c), the relevant planning authority must:</i></p> <p>(a) <i>provide the Secretary of DPI with a copy of the planning proposal and notification of the relevant provisions,</i></p> <p>(b) <i>allow the Secretary of DPI a period of 40 days from the date of notification to provide in writing any objections to the terms of the planning proposal, and</i></p> <p>(c) <i>include a copy of any objection and supporting information received from the Secretary of DPI with</i></p>		<p>Applicable</p> <p>The Proposal is consistent with this direction.</p>

Resources & Energy	Comments
<i>the statement to the Planning Secretary (or an officer of the Department nominated by the Secretary before undertaking community consultation in satisfaction of Schedule 1 to the Act.</i>	

Primary Production	Comments
9.1 Rural Zones	
<p>1. A planning proposal must:</p> <ul style="list-style-type: none"> (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village). 	<p>Applicable</p> <p>The Proposal is consistent with this direction.</p> <p>The proposal seeks to rezone land zoned RU6 Transition which has been identified for future development potential.</p>
9.2 Rural Lands	
<p>1. A planning proposal must:</p> <ul style="list-style-type: none"> (a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Planning Secretary, and any applicable local strategic planning statement (b) consider the significance of agriculture and primary production to the State and rural communities (c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources (d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions (e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities (f) support farmers in exercising their right to farm (g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land use (h) consider State significant agricultural land identified in chapter 2 of the State Environmental Planning Policy (Primary Production) 2021 for the 	<p>Applicable</p> <p>The Proposal is consistent with this direction.</p> <p>The site is not currently used for significant agricultural or primary production purposes. The proposed rezoning will not cause fragmentation of existing rural lands</p>

Primary Production	Comments
<p>purpose of ensuring the ongoing viability of this land</p> <p>(i) consider the social, economic and environmental interests of the community.</p> <p>2. A planning proposal that changes the existing minimum lot size on land within a rural or conservation zone must demonstrate that it:</p> <p>(a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses</p> <p>(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains</p> <p>(c) where it is for rural residential purposes:</p> <p>i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres</p> <p>ii. is necessary taking account of existing and future demand and supply of rural residential land.</p>	
9.3 Oyster Aquaculture	
<p>1. In the preparation of a planning proposal the relevant planning authority must:</p> <p>(a) identify any 'Priority Oyster Aquaculture Areas' and oyster aquaculture leases outside such an area, as shown the maps to the Strategy, to which the planning proposal would apply,</p> <p>(b) identify any proposed land uses which could result in any adverse impact on a 'Priority Oyster Aquaculture Area' or oyster aquaculture leases outside such an area,</p> <p>(c) identify and take into consideration any issues likely to lead to an incompatible use of land between oyster aquaculture and other land uses and identify and evaluate measures to avoid or minimise such land use in compatibility,</p> <p>(d) consult with the Secretary of the Department of Primary Industries (DPI) of the proposed changes in the preparation of the planning proposal, and</p> <p>(e) ensure the planning proposal is consistent with the Strategy.</p>	<p>Not Applicable</p> <p>The proposal does not affect land within a Priority Oyster Aquaculture Area.</p>

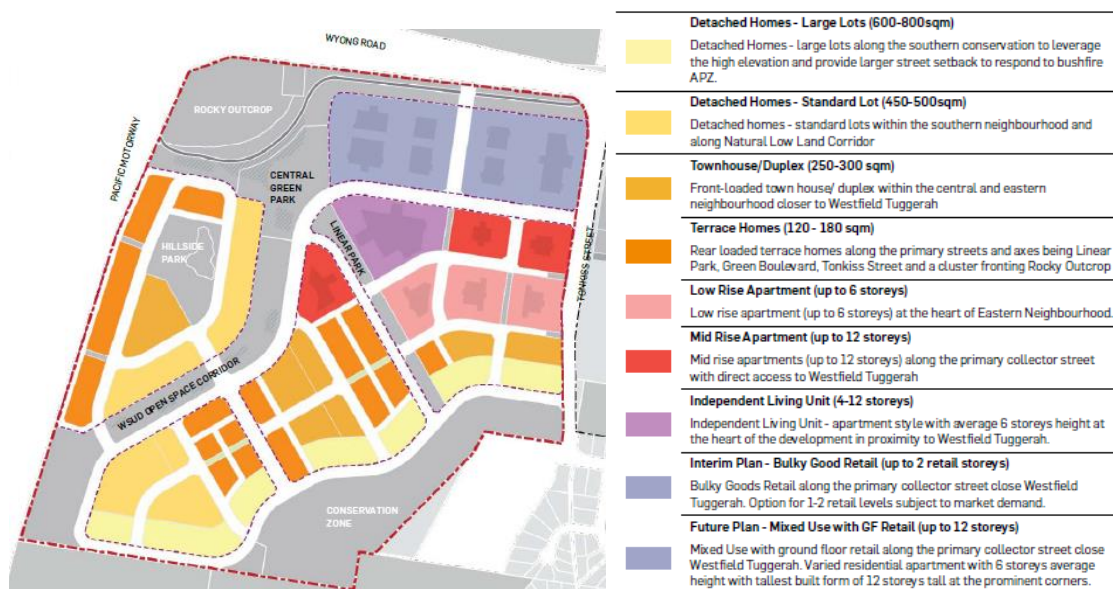
Primary Production	Comments
<p>2. Where a planning proposal proposes land uses that may result in adverse impacts identified under (1)(b) and (1)(c), relevant planning authority must:</p> <p>(a) provide the Secretary of DPI with a copy of the planning proposal and notification of the relevant provisions,</p> <p>(b) allow the Secretary of DPI a period of 40 days from the date of notification to provide in writing any objections to the terms of the planning proposal, and</p> <p>(c) include a copy of any objection and supporting information received from the Secretary of DPI with the statement to the Planning Secretary before undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act.</p>	
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	
<p>1. A planning proposal must not:</p> <p>(a) rezone land identified as "State Significant Farmland" for urban or rural residential purposes.</p> <p>(b) rezone land identified as "Regionally Significant Farmland" for urban or rural residential purposes.</p> <p>(c) rezone land identified as "significant non-contiguous farmland" for urban or rural residential purposes.</p>	<p>Not Applicable.</p> <p>This Direction does not apply to the Central Coast Local Government Area.</p>

Central Coast Affordable and Alternative Housing Strategy

The Central Coast Affordable and Alternative Housing Strategy (AAHS, 2020) seeks to provide effective policy solutions to address the growing need for affordable and alternative housing within the Central Coast LGA. It aims to build a vision for a 'fair and inclusive region, where everyone has access to affordable and sustainable housing'.

The AAHS identifies a need for diversity of housing options on the Central Coast. The planning proposal provides for a range of housing typologies to enable choice reflective of changing demographics. Housing demographics demonstrate increased demand for medium and high density housing and the proposal provides for a yield of up to 2,177 dwellings with 661 high density and 959 medium density dwellings.

The proposal will enable increased opportunities for well-located affordable and lower cost housing that will satisfy some of the low-income housing needs of the community. The proposed housing is in close proximity to Westfield Tuggerah which provides a range of retail, dining, entertainment, and health services, and a bus service that connects Westfield Tuggerah with the train station and the wider region.



Biodiversity Strategy

The Biodiversity Strategy (2020) provides a framework and guide for the management of biodiversity on the Central Coast that is consistent with regional, state and national strategies, plans and policies.

The proposal facilitates the protection and conservation of environmentally sensitive areas. A Biodiversity Certification Assessment Report (BCAR) has been prepared by Ecological to support the proposal. The BCAR identifies a number of ecosystem and species credits to be secured and retired to offset the impacts of the proposal.

The letter of offer submitted with the proposal proposes the retention of 4 hectares of conservation land with ongoing management to be undertaken by the proponent in consultation with Darkinjung Local Aboriginal Land Council (DLALC).

Interim Local Strategic Planning Statement (LSPS)

Strategies	Assessment/Comment
1 Revitalise our centres	The subject site directly adjoins Westfield Tuggerah. The proposal will provide a range of housing options in close proximity to existing infrastructure and services, bringing increased vitality and viability to the Tuggerah Centre. It will also retain the existing B4 Mixed Use zone on the site which will provide for a range of employment generating land uses including retail, office, short stay accommodation, childcare, education and medical facilities.
2 Renew urban form	The proposal will meet the changing demand for housing with a range of different housing types including detached housing lots, medium and higher density housing and seniors living. The housing will be supported by a range of recreational and open space facilities and supporting vehicular and pedestrian connections.
3 Define the urban edge	The subject site forms the western edge of the Tuggerah Town Centre. The proposal will locate infill residential development in an urban area with existing services and infrastructure. The vegetated portion to the south east of the site will be retained as conservation land.
4 Create a sustainable region	The proposal will provide a range of housing options to support increased activation and growth of the Tuggerah Town Centre. The proposed development aligns with surrounding land uses and strengthens the existing Tuggerah Town Centre, contributing to its desired future character as a sustainable and vibrant centre. The development of the site will attract investment in the area to stimulate the economy whilst preserving the bushland setting of the site.

Interim Local Strategic Planning Statement (LSPS)

Planning Priority	Actions	Assessment/Comment
Centres and Corridors		
1 Align development to our infrastructure capacity	Develop a Central Coast Regional Infrastructure Plan that considers our infrastructure capacity, appropriate trigger points for infrastructure provision and prioritises opportunities for integrated infrastructure delivery across the Central Coast. (CCRP Direction 4, 17)	The proposed development aligns with this priority with existing infrastructure to be extended to the site to cater for the proposal. The proposal will provide significant infrastructure including upgrades to Wyong Rd and Tonkiss St intersection, stormwater and WSUD improvements to ensure no additional downstream impacts, and the provision of new community facilities.
4 Renew our Centres as places for people	Review development capacities (planning controls) for identified Strategic and Town Centres to determine opportunities for growth. (CCRP Direction 2, 3, 16)	The proposal will increase residential density in close proximity to the existing services and infrastructure of the Tuggerah Town Centre including Westfield Tuggerah and the Tuggerah train station. The proposal will assist Tuggerah to evolve as a more integrated centre with residential uses located close to existing services, jobs and active transport options.
Housing		
7 Provide well designed housing with high standards of sustainability features.	Develop Centre Structure and Precinct Plans, together with a comprehensive review of planning controls to ensure that housing density and built form is planned and designed to maximise amenity. (CCRP Direction 2, 15, 18)	A site specific Development Control Plan (DCP) will be prepared to support the planning proposal to ensure appropriate built form guidelines are applied in the development design for the site. The retention of the B4 land will enable a mixed use function on the site with high density housing located above ground floor commercial uses.
8 Provide for the housing needs of our growing region	Implement relevant actions from the draft Affordable and Alternative Housing Strategy to provide for the diverse housing needs of our community. (CCRP Direction 19, 20, 21)	The planning proposal provides for a range of housing typologies providing choice reflective of changing demographics. Housing demographics demonstrate increased demand for medium and high density housing and the proposal provides for a yield of up to 2,177 dwellings with 661 high density and 959 medium density dwellings. The proposal will enable increased opportunities for well-located affordable and lower cost housing in close proximity to Westfield Tuggerah.
Economics		
11 Facilitate Emerging Logistics, Warehousing, Manufacturing and Innovative and Green Economy Enterprises	Develop the Tuggerah to Wyong Corridor Strategy to promote economic growth, jobs and development and leverage the improved connectivity from the proposed Link Road and Pacific Highway upgrade. (CCRP Direction 2, 3, 4, 5)	The retention of the B4 land will provide for a range of employment generating land uses to be developed on the site taking advantage of its strategic location adjoining the M1 Motorway.

Planning Priority	Actions	Assessment/Comment
12 Build the Knowledge Economy and support Health and Wellness Industries	Develop Activity Hubs as the heart of key Centres, providing core elements such as a transport interchange, education facilities, business centres, Wifi connectivity, smart hubs, fresh food markets, health and medical services, library and childcare options, creating dynamic urban environments that encourage the exchange of ideas, opportunities for creativity and an appealing lifestyle. (CCRP Direction 1, 2, 3, 16, 18)	The retention of the B4 land will continue to create opportunities for businesses that can expand and complement the existing services within the Town Centre including Westfield Tuggerah, Tuggerah Super Centre and Tuggerah Business park.
13 Grow Regionally Competitive Tourism Destinations across the entire Central Coast	Development of local Centres, by enhancing cultural identity along with local accommodation options and a strong public transport system. Work in partnership with the Tourism Industry and State Government to develop visitor facilities and attractions, including new tourist destinations, hotels and accommodation opportunities.	The proposal provides for a number of parks and passive open space to provide a high quality amenity for the future residential population. The retention of the B4 land can provide for a range of employment and residential accommodation include short stay and hotel options.
Open Space		
15 Plan for a hierarchy of recreational open space based on current and future needs	Increase the provision of quality and sustainable recreation opportunities through provision of multiuse facilities to support the growing population in the NWSSP urban release precincts.	The development proposes to enhance Mardi Creek through restoration of the original alignment. Environmental conservation lands will be enhanced, and the development will expand on the existing adventure character of the rocky outcrop located in the north west of the site.
16 Distinguish our recreational open space assets from our natural assets	Develop a Green Infrastructure Audit and Strategy that reviews our green infrastructure assets and provides guidelines around the provision of council owned recreational open space and natural areas.	The proposal allows for dual use of open space and incorporates semi-natural spaces to ensure the community has access to quality urban areas. This is achieved through the rocky outcrop, Linear Park, Hillside Park and pocket parks throughout the site bringing the natural environment into the community.
17 Support neighbourhood "pocket parks" accessible to local communities and within walking distance to larger recreational multi-use open space destinations	Incorporate active living principles in planning strategies and structure plans to ensure open space networks are provided and designed to promote active transport. (CCRP Direction 18)	The proposal incorporates a range of accessible open space areas that provide active and passive recreation opportunities. The site is close to larger recreational multi-use open space destinations including the Central Coast Regional Sporting and Recreation Complex which is located 1.5kms from the site.

Planning Priority	Actions	Assessment/Comment
Heritage		
20 Recognise and protect the natural, built and cultural heritage of the Central Coast	Undertake a review of existing and potential heritage items and make recommendations on protecting items of heritage significance from the impacts of development through the Local Environmental Plan. (CCRP Direction 8)	Preliminary consultation on the proposal has occurred with Darkinjung Local Aboriginal Land Council (DLALC). Two aboriginal objects are registered within 1km of the site – a quarry and an artefact scatter. Further investigative studies will be required at DA stage in accordance with the OEH Guidelines for Aboriginal Heritage Investigations for Proponents (2010).
Environment		
22 Create Sustainable and Resilient communities	Review planning controls to require high standards of design and construction, including energy and water efficiency, liveability measures, waste minimization and emissions reduction	A site specific Development Control Plan (DCP) will be prepared to support the planning proposal to ensure the residential buildings are designed to provide comfort and protection from weather extremes. These built form guidelines will also specify requirements for WSUD, energy efficiency and waste management.
Water and Sewer		
33 Deliver Essential Infrastructure	Continue to deliver infrastructure projects through Councils Operational Plans, Delivery Plans and Capital Works projects. which support the needs of the community and encourages consideration of environmental, social and economic outcomes in infrastructure decision making. (CCRP Direction 17)	The site will be designed with stormwater detention basins and associated treatment facilities to be incorporated within a WSUD corridor to manage flows prior to discharge from the site. Existing water and sewer infrastructure will be extended to the site to accommodate the proposed development.
35 Integrate land use and infrastructure	Review Servicing and Infrastructure Capacity to identify potential infrastructure gaps within the planned growth areas of the Central Coast and ensure that we have the required infrastructure to meet current and future demand. (CCRP Direction 17)	<p>To support the planning proposal a letter of offer has been submitted that outlines a range of public domain benefits for the proposal to support the additional residential population. The letter of offer proposes approximately:-</p> <ul style="list-style-type: none"> • \$1 million in conservation land • \$6.5 million in open space facilities • \$1.5 million for a new youth centre • \$2.5 in new pedestrian and vehicular connections <p>A total of approximately \$11.6 million dollars of public domain benefits to support the proposal.</p>

Community Strategic Plan Assessment

Objective/Requirement		Comment
BELONGING		
OUR COMMUNITY SPIRIT IS OUR STRENGTH		
	A1 Work within our communities to connect people, build capacity and create local solutions and initiatives	The proposal creates opportunities for more recreational and community activities through the provision of a mixed use development that incorporates a range of land uses (including residential, recreational, commercial, community, tourism, etc) that are co-located and integrated for people of all ages.
	A2 Celebrate and continue to create opportunities for inclusion where all people feel welcome and participate in community life	
	A3 Work together to solve a range of social and health issues that may impact community wellbeing and vulnerable people	
	A4 Enhance community safety within neighbourhoods, public spaces and places	
CREATIVITY, CONNECTION AND LOCAL IDENTITY		
	B1 Support reconciliation through the celebration of Aboriginal and Torres Strait Islander cultures	The proposal will assist Tuggerah to evolve as a more integrated centre with residential uses located close to existing services, jobs and active transport options. This will bring increased vitality and viability to the Tuggerah Town Centre.
	B2 Promote and provide more sporting, community and cultural events and festivals, day and night, throughout the year	
	B3 Foster creative and performing arts through theatres, galleries and creative spaces, by integrating art and performance into public life	
	B4 Activate spaces and places to complement activity around town centres, foreshores, lakes and green spaces for families, community and visitors	<p>The proposal incorporates a 1.2 hectare central green park with outdoor BBQ facilities, water features and celebration of Aboriginal Culture.</p> <p>The proposed development aligns with surrounding land uses and strengthens the existing centre, contributing to its desired future character as a sustainable and vibrant centre.</p>
SMART		
A GROWING AND COMPETITIVE REGION		
	C1 Target economic development in growth areas and major centres and provide incentives to attract businesses to the Central Coast	The retention of the B4 mixed use land will provide for a range of employment generating land uses to be developed on the site taking advantage of its strategic location adjoining the M1 Motorway.
	C2 Revitalise Gosford City Centre, Gosford Waterfront and town centres as key destinations and attractors for businesses, local residents, visitors and tourists	
	C3 Facilitate economic development to increase local employment opportunities and provide a range of jobs for all residents	The proposal incorporates a range of accessible open space areas that provide active and passive recreation and tourism opportunities.
	C4 Promote and grow tourism that celebrates the natural and cultural assets of the Central Coast in a way that is accessible, sustainable and eco-friendly	

Objective/Requirement		Comment
A PLACE OF OPPORTUNITY FOR PEOPLE		
	D1 Foster innovation and partnerships to develop local entrepreneurs and support start-ups	The retention of the B4 mixed use land will facilitate a range of employment generating land uses that have the ability to support further service based businesses. The letter of offer that supports the proposal provides for the delivery of a youth centre valued at \$1.5 million either within the gateway site development or as part of the existing Westfield Tuggerah.
	D2 Support local business growth by providing incentives, streamlining processes and encouraging social enterprises	
	D3 Invest in broadening local education and learning pathways linking industry with Universities, TAFE and other training providers	
	D4 Support businesses and local leaders to mentor young people in skills development through traineeships, apprenticeships and volunteering	
GREEN		
ENVIRONMENTAL RESOURCES FOR THE FUTURE		
	E1 Educate the community on the value and importance of natural areas and biodiversity and encourage community involvement in caring for our natural environment	A site specific Development Control Plan (DCP) will be prepared to support the planning proposal to ensure the residential buildings provide comfort and protection from weather extremes. These built form guidelines will also specify requirements for WSUD, energy efficiency and waste management.
	E2 Improve water quality for beaches, lakes and waterways including minimising pollutants and preventing litter entering our waterways	
	E3 Reduce littering, minimise waste to landfill and educate to strengthen positive environmental behaviours	
	E4 Incorporate renewable energy and energy efficiency in future design and planning and ensure responsible use of water and other resources	
CHERISHED AND PROTECTED NATURAL BEAUTY		
	F1 Protect our rich environmental heritage by conserving beaches, waterways, bushland, wildlife corridors and inland areas and the diversity of local native species	The proposal embraces the biodiversity value of the site by retaining and incorporating existing landscaping and riparian features into the development design. New landscaping is proposed throughout the site to create a green backdrop to the new residential landscape. The proposal incorporates a 4 hectare conservation zone to protect the existing high value environmental area with ongoing management to be undertaken by the proponent. The proposal also incorporates over 2.7 hectares of useable open space including a central green park, hillside park, rocky outcrop with nature playground, linear park, natural low land corridor and riparian corridor with vegetation buffer and shared pedestrian and cycle path.
	F2 Promote greening and ensure the wellbeing of communities through the protection of local bushland, urban trees, tree canopies and expansion of the Coastal Open Space System (COSS)	
	F3 Improve enforcement for all types of environmental non-compliance including littering and illegal dumping and encourage excellence in industry practices to protect and enhance environmental health	
	F4 Address climate change and its impacts through collaborative strategic planning and responsible land management and consider targets and actions	

Objective/Requirement		Comment
RESPONSIBLE		
GOOD GOVERNANCE AND GREAT PARTNERSHIPS		
	G1 Build strong relationships and ensure our partners and community share the responsibilities and benefits of putting plans into practice	<p>Significant stakeholder engagement has occurred to inform the Planning Proposal including consultation with a range of agencies including:</p> <ul style="list-style-type: none"> • Department of Planning & Environment, • Transport for NSW, • NSW Rural Fire Service (RFS), • Ausgrid; and • Darkinjung Local Aboriginal Land Council (DLALC). <p>Further consultation will occur with the community and interested stakeholders should the proposal progress to public exhibition.</p>
	G2 Communicate openly and honestly with the community to build a relationship based on transparency, understanding, trust and respect	
	G3 Engage with the community in meaningful dialogue and demonstrate how community participation is being used to inform decisions	
	G4 Serve the community by providing great customer experience, value for money and quality services	
DELIVERING ESSENTIAL INFRASTRUCTURE		
	H1 Solve road and drainage problem areas and partner with the State Government to improve road conditions across the region	<p>The proposal provides a range of new and upgraded shared pedestrian path and cycleways both throughout the development and connecting to Tuggerah train station and bus interchange.</p> <p>The development will provide extensions and capacity upgrades to existing water and sewer services to cater for the proposal.</p>
	H2 Improve pedestrian movement safety, speed and vehicle congestion around schools, town centres, neighbourhoods, and community facilities	
	H3 Create parking options and solutions that address the needs of residents, visitors and businesses whilst keeping in mind near future technologies including fully autonomous vehicles	
	H4 Plan for adequate and sustainable infrastructure to meet future demand for transport, energy, telecommunications and a secure supply of drinking water	
BALANCED AND SUSTAINABLE DEVELOPMENT		
	I1 Preserve local character and protect our drinking water catchments, heritage and rural areas by concentrating development along transport corridors and town centres east of the M1	<p>The proposal will increase residential density in close proximity to the existing services and infrastructure of the Tuggerah Town Centre including Westfield Tuggerah and the Tuggerah train station.</p> <p>The proposal will meet the changing demand for housing with a range of different housing types including detached housing lots, medium and high density housing and seniors living.</p>
	I2 Ensure all new developments are well planned with good access to public transport, green space and community facilities and support active transport	
	I3 Ensure land use planning and development is sustainable and environmentally sound and considers the importance of local habitat, green corridors, energy efficiency and stormwater management	
	I4 Provide a range of housing options to meet the diverse and changing needs of the community including adequate affordable housing	

Objective/Requirement		Comment
LIVABLE		
RELIABLE PUBLIC TRANSPORT AND CONNECTIONS		
	J1 Create adequate, reliable and accessible train services and facilities to accommodate current and future passengers	The proposal provides for a \$388,772 monetary contribution to provide new and improved dedicated on-road cycling lanes from the subject site along Wyong Road to Tuggerah train station and bus interchange.
	J2 Address commuter parking, drop-off zones, access and movement around transport hubs to support and increase use of public transport	
	J3 Improve bus and ferry frequency and ensure networks link with train services to minimise journey times	
	J4 Design long-term, innovative and sustainable transport management options for population growth and expansion	<p>The site is adjacent to the M1 and Pacific Highway transport corridors and adjacent to Westfield Tuggerah which has bus service that connects the shopping centre with the train station and the wider region.</p> <p>The site is also located within a walkable distance to Tuggerah Train station.</p>
OUT AND ABOUT IN THE FRESH AIR		
	K1 Create a regional network of interconnected shared pathways and cycle ways to maximise access to key destinations and facilities	<p>The proposal provides pedestrian pathways and cycleways throughout the site to maximise access, inclusion and mobility.</p> <p>The proposal incorporates over 2.7 hectares of locally accessible open space facilities including a central green park, hillside park, rocky outcrop with nature playground, linear park, natural low land corridor and riparian corridor with vegetation buffer and shared pedestrian and cycle path.</p>
	K2 Design and deliver pathways, walking trails and other pedestrian movement infrastructure to maximise access, inclusion and mobility to meet the needs of all community members	
	K3 Provide signage, public facilities, amenities and playgrounds to encourage usage and enjoyment of public areas	
	K4 Repair and maintain wharves, jetties, boat ramps and ocean baths to increase ease of access to and enjoyment of natural waterways and foreshores	
HEALTHY LIFESTYLES FOR A GROWING COMMUNITY		
	L1 Promote healthy living and ensure sport, leisure, recreation and aquatic facilities and open spaces are well maintained and activated	The proposal promotes healthy living though the provision of new and improved recreation facilities and open space areas that are well designed and co-located to suit community needs and promote walkability within the site and encourage social interaction.
	L2 Invest in health care solutions including infrastructure, services and preventative programs to keep people well for longer	
	L3 Cultivate a love of learning and knowledge by providing facilities to support lifelong learning opportunities	
	L4 Provide equitable, affordable, flexible and co-located community facilities based on community needs	

Item No: 5.1
Title: Central Coast Local Planning Panel - Membership
Department: Environment and Planning

Central Coast
Local Planning Panel

23 June 2022 Local Planning Panel Meeting

Reference: F2020/02502 - D15189801
Author: Andrew Roach, Unit Manager, Development Assessment
Executive: Alice Howe, Director Environment and Planning

Summary

The purpose of this report is to advise that:

- The appointment period of current Central Coast Local Planning Panel members has been extended until 29 February 2024, and
- Two additional members have been appointed to the Central Coast Local Planning Panel.

Recommendation

That the Local Planning Panel:

- 1 Note the information contained within this report.***
- 2 Write to retiring Panel member, Mr Garry Fielding, thanking him for his service on the Panel.***

Background

The Central Coast Local Planning Panel was constituted via resolution at the Ordinary Meeting of Central Coast Council on 11 May 2020. Panel appointments were due to expire on 11 May 2023.

Extension of Term of Appointment

The Department of Planning and Environment (DPE) has advised its intention to bring into alignment the appointment periods of all Local Planning Panels throughout NSW. On this basis, the Minister for Planning has required that all councils appoint their Local Planning Panel to a term expiring on 29 February 2024.

Consequently, at the Ordinary Meeting of Council on 24 May 2022 it was resolved that the appointment period for current Central Coast Council Panel members be extended to 29 February 2024.





Appointment of Additional Expert Local Planning Panel Members

Since the inception of the Local Planning Panel, one of the appointed expert Panel members has advised that they are no longer able to fulfil their Panel commitments as a result of other commitments.

In order to ensure that the Central Coast Local Planning Panel is capable of functioning as intended, and in order to meet the legislative requirements for Panel operations, at the Ordinary Meeting of Council on 24 May 2022 it was also resolved that the appointment of two additional expert Panel members be made.

A copy of the report to Council on 24 May 2022 is included as Attachment 1, with the full list of current Panel membership at Attachment 2.

Attachments

- | | | |
|--|--|-----------|
| 1  | Report to Council - 24 May 2022 - Central Coast Local Planning Panel | D15158832 |
|  | Membership | |
| 2  | Local Planning Panel Members May 2022 | D15193751 |
|  | | |

Item No: 2.10
Title: Central Coast Local Planning Panel - Membership
Department: Environment and Planning

24 May 2022 Ordinary Council Meeting

Reference: F2020/02502 - D15158832

Author: Andrew Roach, Unit Manager, Development Assessment

Executive: Alice Howe, Director Environment and Planning



Recommendation

- 1 That Council resolve, in accordance with Schedule 2 Clause 11 (3) of the Environmental Planning & Assessment Act 1979, to continue the existing Central Coast Local Planning Panel Chair, Expert and Community Panel membership (as noted in Attachment 1) for a period expiring on 29 February 2024; and**
- 2 That Council, noting the resignation of one existing Local Planning Panel member, resolve in accordance with Schedule 2 Clause 11 (1) of the Environmental Planning & Assessment Act 1979 to appoint two additional members to the 'expert' panel list (as noted in Attachment 1) for a period expiring on 29 February 2024.**

Report purpose

To extend the appointment period of current Central Coast Local Planning Panel members until 29 February 2024, and to appoint additional members to the Central Coast Local Planning Panel.

Executive Summary

The Central Coast Local Planning Panel was constituted via resolution at the Ordinary Meeting of Council on 11 May 2020. The current appointees to the Panel have been appointed for a period expiring on 11 May 2023.

The Department of Planning and Environment (DPE) has advised its intention to bring into alignment the appointment periods of all Local Planning Panels throughout NSW and, on this basis, the Minister for Planning has required that all councils appoint their Local Planning Panel to a term expiring on 29 February 2024. This report seeks to extend the appointment term of the current Panel members to that date.

In addition, this report sets out an intention to appoint two additional members to the Panel in order to replace a Panel member who has resigned from the Panel, and to expand the Panel. This is recommended to cater for workloads and to ensure appropriate obligations can be met, including ensuring Panel quorum, probity and to allow rotation of Panel members as required by operational guidelines.

2.10 Central Coast Local Planning Panel - Membership (contd)

Background

As Directed by the Minister for Planning, at the Ordinary Meeting of Central Coast Council on 11 May 2020, Council resolved to constitute the Central Coast Local Planning Panel and to appoint the inaugural panel members for an initial period expiring 11 July 2021. At the Ordinary Meeting of Council on 27 April 21 it was resolved to extend the appointment period of Panel members until 11 May 2023.

Relevant resolutions from the Ordinary Meeting of 11 May 2020:

- *Council resolve to Constitute the Central Coast Local Planning Panel (minute 371/20);*
- *Appoint expert and community members for a period of 14 months (minute 372/20 and 373/20)*

Relevant resolution from the Ordinary Meeting of 27 April 2021:

- *That Council resolve, in accordance with Schedule 2 Clause 11 (1) of the Environmental Planning & Assessment Act 1979, to continue the existing CCLPP Chair, Expert and Community Panel membership (as noted in Attachment 1), to the maximum allowable period of three years, expiring on 11 May 2023 (minute 140/21)*

Operation of Local Planning Panel and Appointment of Membership

A Local Planning Panel determines a range of Development Applications on behalf of Council and provides advice on strategic planning matters such as Planning Proposals. At each meeting, the Panel is comprised of four members:

- the Chair (the Chair and alternate Chairs for each Local Planning Panel are nominated by the NSW Minister for Planning);
- two expert members with expertise in urban design, urban planning or other related field (expert panel members are appointed by Council from an approved list of candidates endorsed by the NSW Minister for Planning); and
- one community representative (selected from a pool of members appointed by Council, following a defined appointment process).

The selection of Panel membership is undertaken in accordance with *Local Planning Panels Panel Member Selection Guide* published by DPE.

2.10 Central Coast Local Planning Panel - Membership (contd)

Ministerial Directions set out the development types considered by Local Planning Panels, which can be summarised as applications involving:

- potential conflict of interest for councils
- potentially contentious development
- development that significantly departs from development standards; or
- sensitive development

Extension of Term of Appointment of Local Planning Panel

Since the matter of Local Planning Panel appointments was last considered by Council, DPE has advised its intent to '*align appointment terms across all LPPs*' with an appointment term to '*run through to 29 February 2024*'. That is, to bring into alignment the appointment terms of all Local Planning Panel across NSW. This requirement has been clarified in written correspondence to Council from the Minister for Planning.

The period of extension set out in the recommendation of this report aims to align with the requirements of the Minister and DPE.

Term of Appointment of Local Planning Panel Members

A Local Planning Panel Member may sit on a Local Planning Panel for an appointment period of three years, which may be extended to a maximum period of six years in accordance with Schedule 2 Clause 11 (6) of the *Environmental Planning and Assessment Act 1979*.

The initial constitution of the Central Coast Local Planning Panel and appointment of the members was made on 11 May 2020. As such, all current Panel members are entitled to have their terms extended to 29 February 2024.

Appointment of Additional Expert Local Planning Panel Members

Since the inception of the Local Planning Panel, one of the appointed expert Panel members has advised that they are no longer able to fulfil their Panel commitments as a result of other work responsibilities.

In addition, there have been circumstances since the constitution of the Panel where the functioning of the Panel has been hindered by a shortage of Panel members. This has included Panel members being unavailable due to other commitments, being required to excuse themselves from consideration due to probity matters (Panel members must excuse themselves from deliberating on matters where they have a conflict of interest), or where the formation of a quorum has been difficult to achieve.

It is the responsibility of Council to ensure that enough members are appointed to ensure the smooth functioning of the Panel. Additional membership will also allow ongoing rotation of Panel members, as is required by the '*Ministerial Direction -Local Planning Panels Operational Procedures Direction*' dated 30 June 2020.

2.10 Central Coast Local Planning Panel - Membership (contd)

For these reasons, it is recommended that the appointment of two additional expert Panel members be made. In short, this is to ensure that the Panel is capable of functioning as intended, and in order to meet the legislative requirements for Panel operations.

Selection Process for Additional Expert Panel Members

The selection of expert members to the Panel must be made from the approved list of approximately 220 professionals who have registered interest in being part of the Local Planning Panel process across NSW. DPE has undertaken appropriate background and probity checks for proposed expert Panel members, including criminal, financial and academic checks.

The *Local Planning Panels Panel Member Selection Guide* published by DPE does not provide specific guidance for councils on selection criteria for expert Panel members from the approved list.

In making a recommendation to Council about those recommended to be added to the Panel, Council officers have considered their breadth of skills, nature of qualifications and experience, knowledge of the local government area, experience in local government, experience in statutory planning and the like. Panel members with broad experience were preferred over candidates with narrow/single areas of expertise (noting the wide range of matters that may come before a Panel at any given meeting).

In addition, Panel members were evaluated in terms of their location, with those being located within close proximity to the Central Coast preferred (noting that the approved list of professionals includes interested parties from across NSW), and for their skills to compliment those of the expert Panel members.

The recommended additional expert Panel members are set out in Attachment 1.

Consultation

Consultation with the existing Chair of the Central Coast Local Planning Panel has been undertaken, and the Chair agreed with the approach in selecting an additional two Panel members for the Local Planning Panel, noting that such appointments would assist the Panel in achieving its legislated obligations. The DPE guidance on Panels precludes the Chair of a panel being actively involved in selecting the Panel members.

Financial Considerations

At its meeting held 19 October 2020, Council resolved the following:

2.10 Central Coast Local Planning Panel - Membership (contd)

1108/20 That any motions put before Council for the remainder of this term of Council that have financial implications require the Chief Executive Officer to provide a report on how those additional costs will be met.

The following statement is provided in response to this resolution of Council.

The provisions of the *Environmental Planning and Assessment Act 1979* are clear that Council must make all the necessary arrangements for the operation of the Local Planning Panel. This includes: '... provide staff and facilities for the purpose of enabling a local planning panel to exercise its functions' including general secretariat services, provision of meeting facilities; reporting, technical advice and assistance to the Panel, and the payment of sitting fees for Panel members (noting that minimum sitting fees for the Local Planning are set out in the 'Remuneration Determination' for Local Planning Panels.

Based on the operation of the Panel since its inception, the cost of operating the Panel is in the order of \$500,000 per annum.

Provision will be made in Council's 2022-23 Budget and Long Term Financial Plan for costs associated with operation of the Local Planning Panel. The decisions recommended in this report will have no material additional cost implications, as there will not be additional sitting fees associated with the extra Panel members.

Link to Community Strategic Plan

Theme 4: Responsible

Goal I: Balanced and sustainable development

R-13: Ensure land use planning and development is sustainable and environmentally sound and considers the importance of local habitat, green corridors, energy efficiency and stormwater management.

Risk Management

Central Coast Council must, by virtue of Section 2.17 of the *Environmental Planning and Assessment Act, 1979* have a functioning Local Planning Panel to determine a range of development applications and provide advice on Planning Proposals. Failure to provide Panel membership, by either extending the tenure of the current panel membership or selecting alternate membership may result in the Council failing to meet its legislative obligations and slowing the assessment of Development Applications referred to the Panel.

2.10 Central Coast Local Planning Panel - Membership (contd)

Options

- 1 That Council resolve to continue the Panel membership as set out in Attachment 1.
This is the recommended option to support continuity for Panel operations.
- 2 Resolve not to extend the appointment of current Panel membership, and instead pursue the appointment of new Panel members. Note, that the process would require a formal selection process as set out in the Ministerial Direction titled '*Local Planning Panels Direction – Operational Procedures*' and dated 30 June 2020 and other NSW Government Guidance. This action is not recommended as it does not provide continuity for operation of the Panel, will involve lengthy selection process, and does not provide certainty and consistency in Panel operations for the near future.
- 3 Do nothing. This action is not recommended as it does not provide continuity for the operation of the Panel and may result in Council failing to meet its statutory obligations to ensure a functioning Panel membership (noting that Section 2.17 of the *Environmental Planning and Assessment Act 1979* requires Central Coast Council to have a functioning Local Planning Panel).

Critical Dates or Timeframes

Appropriate decision-making will need to be made to ensure Panel members are in place beyond the current cessation of Panel membership on 11 May 2023.

Attachments

- | | | | |
|---|---|-------------------------------|-----------|
| 1 | Proposed additional Local Planning Panel professional members | Provided Under Separate Cover | D15161787 |
|---|---|-------------------------------|-----------|

Attachment 2 - Central Coast Local Planning Panel

The following represents the current Central Coast Local Planning Panel membership:

Chair/Alternates:

- Donna Rygate (Chair)
- Jason Perica (alternate)
- Kara Krason (alternate)

Expert/Professional Members:

- Greg Flynn
- Linda McClure
- Stephen Leathley
- Sue Francis
- Grant Christmas
- Stacey Brodbeck
- Michael Ryan

Community Panel Members:

- Anthony Tuxworth (Gosford East Ward)
- Lynette Hunt (Gosford West Ward)
- Paul Dignam (Wyong Ward)
- Scott McGrath (The Entrance Ward)
- David Kitson (Budgewoi Ward)
- Stephen Glen (Gosford East and Budgewoi Wards – alternate)
- Geoffrey Mitchell (Gosford West – alternate)
- Glenn Watts (Wyong Ward – alternate)
- Mark Elsey (The Entrance Ward – alternate)