

# Central Coast

## Local Planning Panel

Central Coast  
Local Planning Panel Meeting  
Supplementary 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:

## **3 PLANNING REPORTS**

- 3.1 DA/47946/2015 -10-16 Painters Lane, Terrigal - Modification of Consent for  
Commercial Premises and Shop Top Housing ..... 4

Donna Rygate  
**Chairperson**

### **Supplementary Agenda Version History**

<b>Version</b>	<b>Date published</b>	<b>Details</b>
1 (this version)	20/06/2022	Supplementary agenda published to include two pages (pgs.26 and 27) and subsequent repagination of report, to correctly reflect the report content. These pages were inadvertently not included during the creation of the agenda papers, but were part of the finalised report.

**Note:** Whole of Meeting Agenda published 16/06/2022 and available online:  
<https://centralcoast.infocouncil.biz>



**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

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23 June 2022 Local Planning Panel Meeting

Reference: DA/47946/2015/A - D14970574  
Author: Robert Eyre, Principal Development Planner South  
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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.

<b>Applicant</b>	J Hancock
<b>Owner</b>	D Seraglio
<b>Application No</b>	47946/2015/2
<b>Description of Land</b>	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
<b>Proposed Development</b>	Modification of consent
<b>Site Area</b>	2212.6m <sup>2</sup>
<b>Zoning</b>	B2 Local Centre
<b>Existing Use</b>	Vacant
<b>Employment Generation</b>	No
<b>Estimated Value</b>	\$9,800,000.00

## 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:

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

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 7,658m<sup>2</sup>, 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 2,212.6m<sup>2</sup>.



Figure 1 - Rapedo Masterplan

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):

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

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**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)**

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#### 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 145.7m<sup>2</sup> 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**

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Figure 5 - Proposed Elevation Painters Lane



Figure 6 - Approved Eastern Elevation

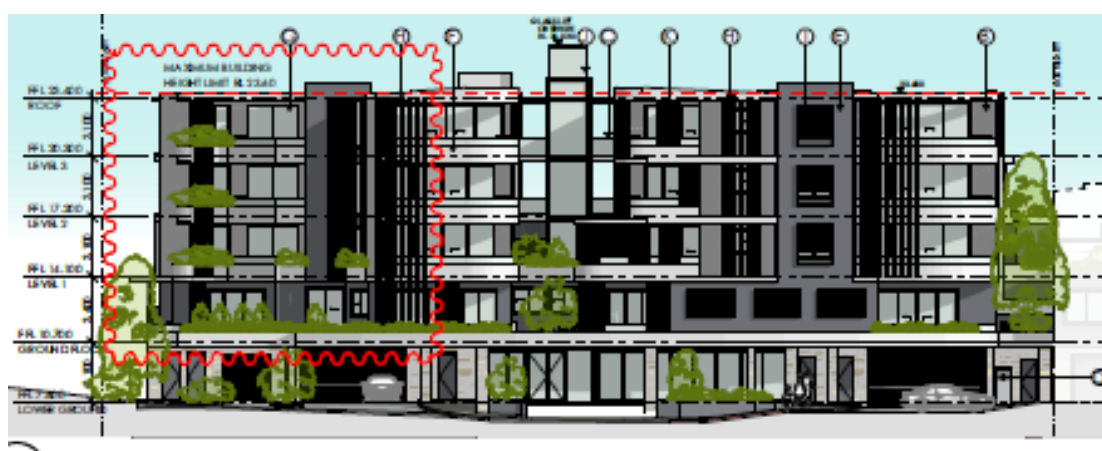


Figure 7 - Proposed Eastern Elevation

## 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 <sup>2</sup>	2212.6m <sup>2</sup>	158.9m <sup>2</sup>
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 <sup>2</sup>	280.7m <sup>2</sup>	+150.8m <sup>2</sup>

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Development	Approved	Proposed Modification	Difference
GFA	2757.9m <sup>2</sup>	4626.2m <sup>2</sup> (includes 687.5m <sup>2</sup> excess car parking.	+1868.3m <sup>2</sup>
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 <sup>2</sup> (20.4%)	
Deep Soil planting		171.6m <sup>2</sup> (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 1,868m<sup>2</sup>).

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 2057m<sup>2</sup> to 2212m<sup>2</sup> 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.

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- 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.

<b>Development Standard</b>	<b>Required</b>	<b>Approved</b>	<b>Proposed</b>	<b>Variation to development standard</b>	<b>Compliance with Objectives</b>
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 12.1m<sup>2</sup> 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 GDCP 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

The application was advertised from 27 October 2021 to 24 November 2021 and 22 public submissions were received.

The following is a summary of the issues raised in the submissions, with comments where appropriate:

*1. The lift overrun changes the look, bulk and scale of the building.*

**Comment:** The addition of lift and walkways (and other design modifications) result in the building appearance being amended so as to be different than that which was initially approved. Significantly, the proposal has substantially removed the building separation and 'visual corridor' that was a key component of the originally approved design. Assessment staff are of the view that the amended development, as proposed, does 'change the look' of the building.

*2. The additional lower levels may be underground with impacts on amenity.*

**Comment:** The residential units on the ground floor are orientated to Campbell Crescent and not the excavation behind.

*3. The proposal backs onto a residential street and is visible from many residential units which overlook the site.*

**Comment:** The proposed building will appear as a two storey building when viewed from Painters Lane (Figure 8). However, the reduction in separation distance between Buildings 3 and 4 from 6.5m to 6.0m and the addition of a lift structure between the buildings adds to the bulk and scale to that previously approved.

Land on the western or opposite side of Painters Lane rises significantly in height above the subject site. See below photograph looking easterly along Painters Lane.



**Figure 8: View looking east along Painters Lane. Subject land to the right of frame.**

*4. The lift structures will take the building height above what is permitted under the LEP by about 3m which will allow access to future development and roof top garden. This will encourage other developers to seek similar exemptions.*

**Comment:** The variation to height due to the lift overrun is minor and not significant. The overall design of the lift structure is not supported.

*5. The lift is not an architectural roof feature and is an eyesore.*

**Comment:** The addition of the lift and reduction in separation between Buildings 3 and 4 does add to the bulk and scale of the building.

*6. The proposal differs significantly from the current approved development.*

**Comment:** The proposed modification has been assessed under the principles of Section 4.55(2) and is considered to not be substantially the same development.

*7. Height limits are already too high in Terrigal.*

**Comment:** This is not a relevant submission. The height limits under the current planning instrument were determined after public consultation.

*8. Council has previously rejected lift overruns. The proposal will reduce air space between the 2 buildings and impact view loss.*

**Comment:** Lift overruns have been approved on other development in Terrigal and other areas.

*9. The proposal is not in character with the area and not consistent with the natural and built environment.*

**Comment:** The modification to the approved development is not considered to be consistent with existing and likely future character of the Terrigal area. The further variations to FSR and addition to the bulk and scale are not supported in the proposed form.

*10. The proposal is not consistent with the planning objectives and development standards.*

**Comment:** The modification to the approved development is not considered consistent with the planning objectives, the significant increase in FSR, additional level, reduction in separation and increase in bulk and scale are not substantially the same development.

## **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:

<b>Traffic Engineer</b>	Supported without conditions.
<b>Development Engineer</b>	Supported subject to amended conditions 1.1 and 2.10. See comments below.
<b>Architect</b>	Not supported. See SEPP 65 comments.
<b>Waste Services</b>	Supported subject to conditions.
<b>Water and Sewer</b>	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 52m<sup>3</sup> 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)**

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**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**

<a href="#"> 1</a> PTI Plans_PAN-147069	D15158873
<a href="#"> 2</a> 220510_Comparison Set_PAN-147069	D15158874
<a href="#"> 3</a> SEE__DA47946_2015_S4.55_2_Revised 020522_10_16 Painters Lane, Terrigal_PAN-147069	D15147518
<a href="#"> 4</a> PUBLIC SEPP 65 Design verification Statement 16 Painters Lane TERRIGAL DA/47946/2015/2	D14855448
<a href="#"> 5</a> 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



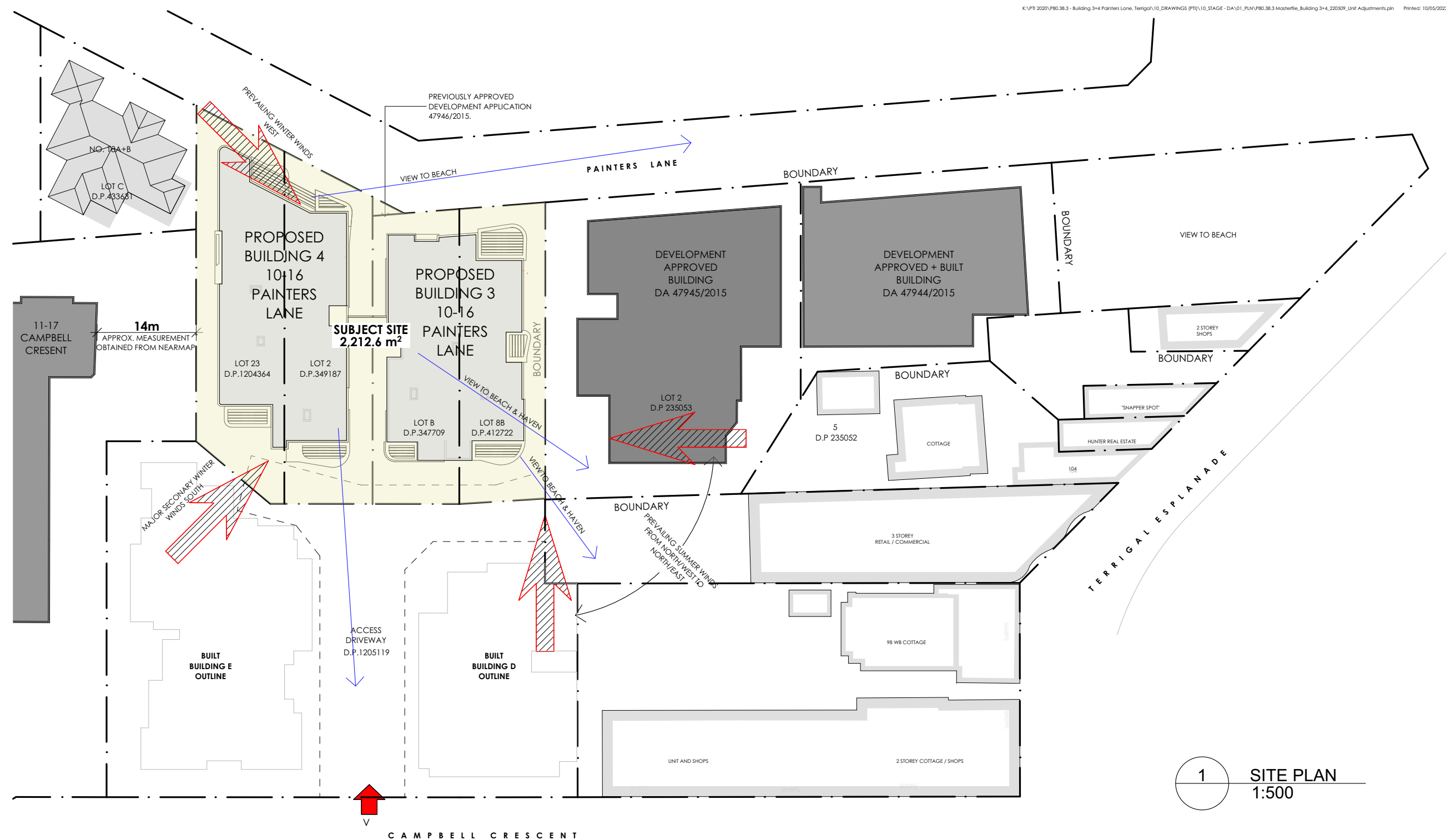
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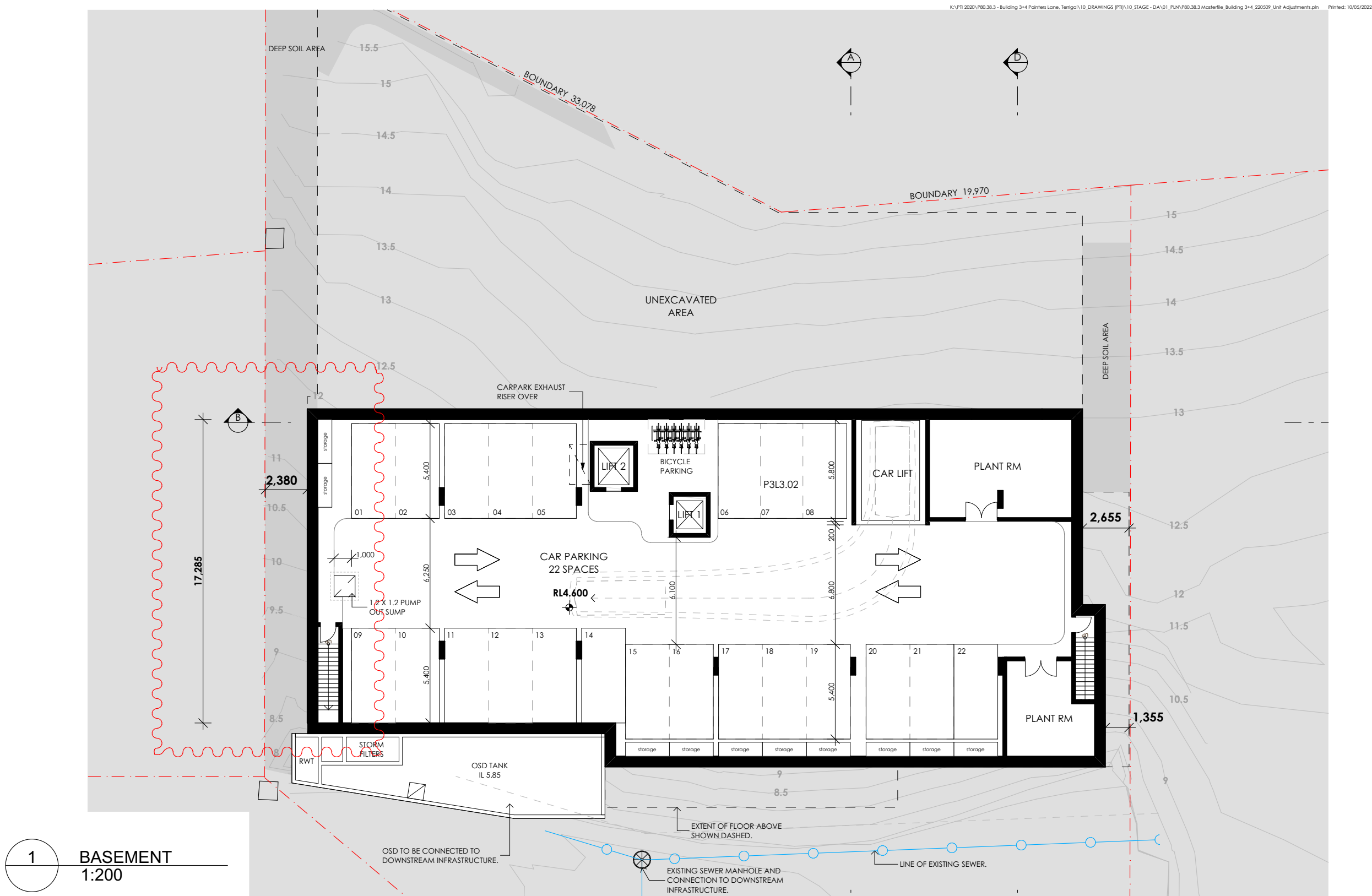
ARIA PROJECT (BUILDING 3&4)  
SHOP TOP HOUSING

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

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C	SIDE SETBACK AMENDMENTS

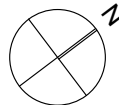
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GF	22/04/2022

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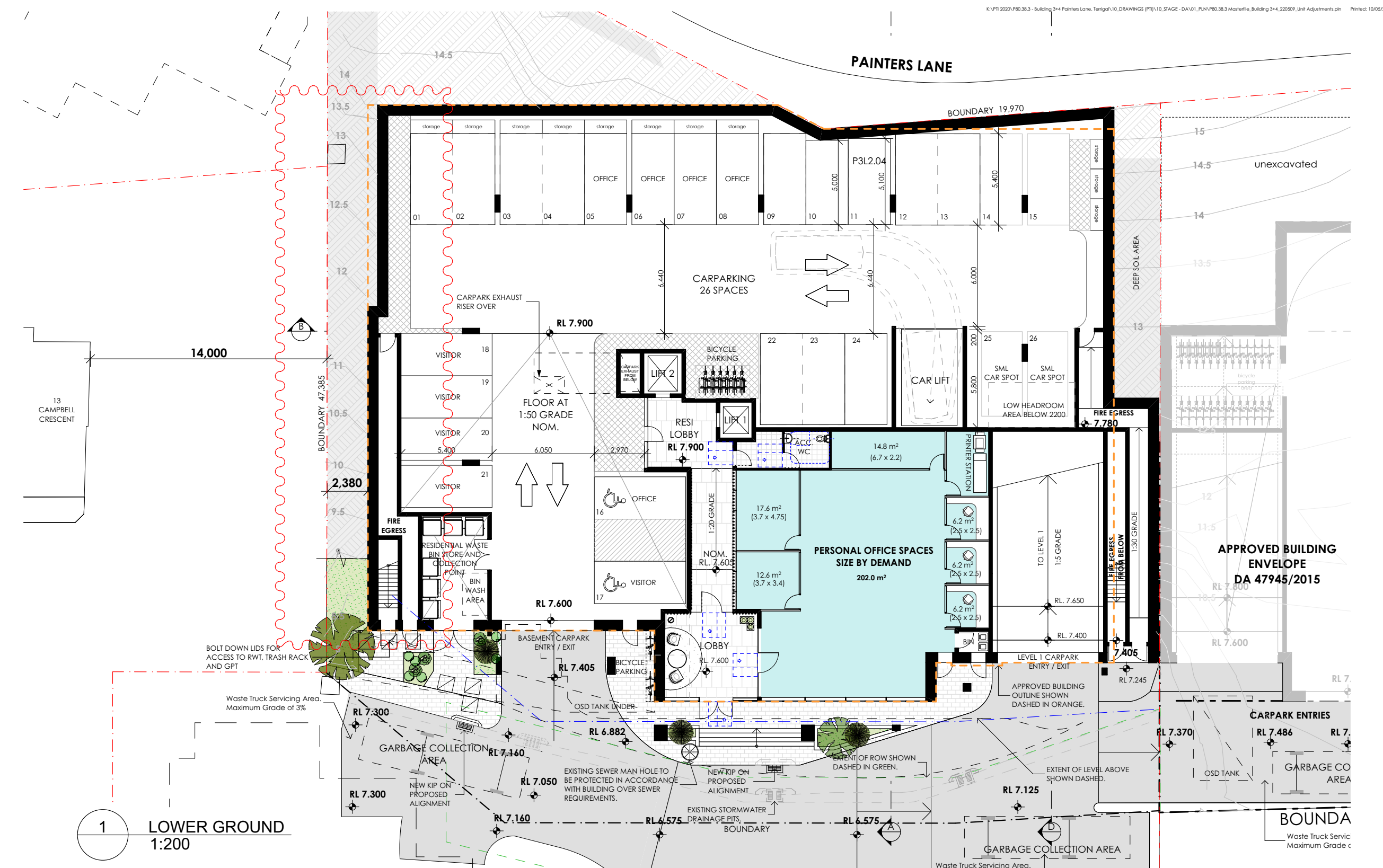
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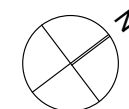
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ARIA PROJECT BUILDING 3+4

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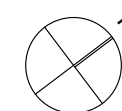
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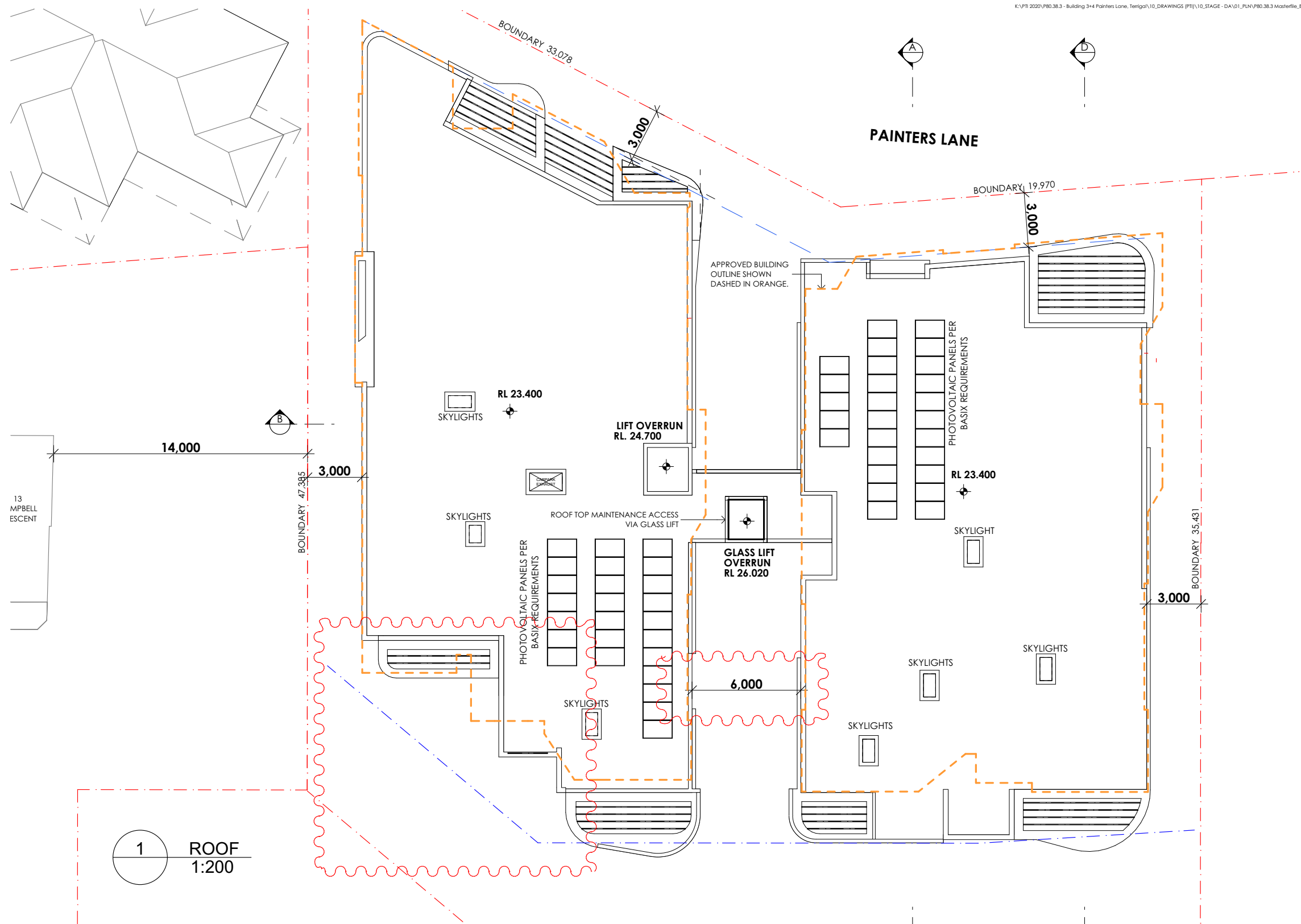
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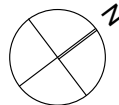
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D	AMENDMENTS TO SOUTH FACADE	GF	09/05/2022

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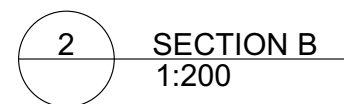
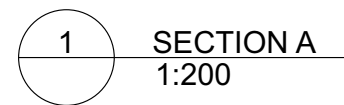
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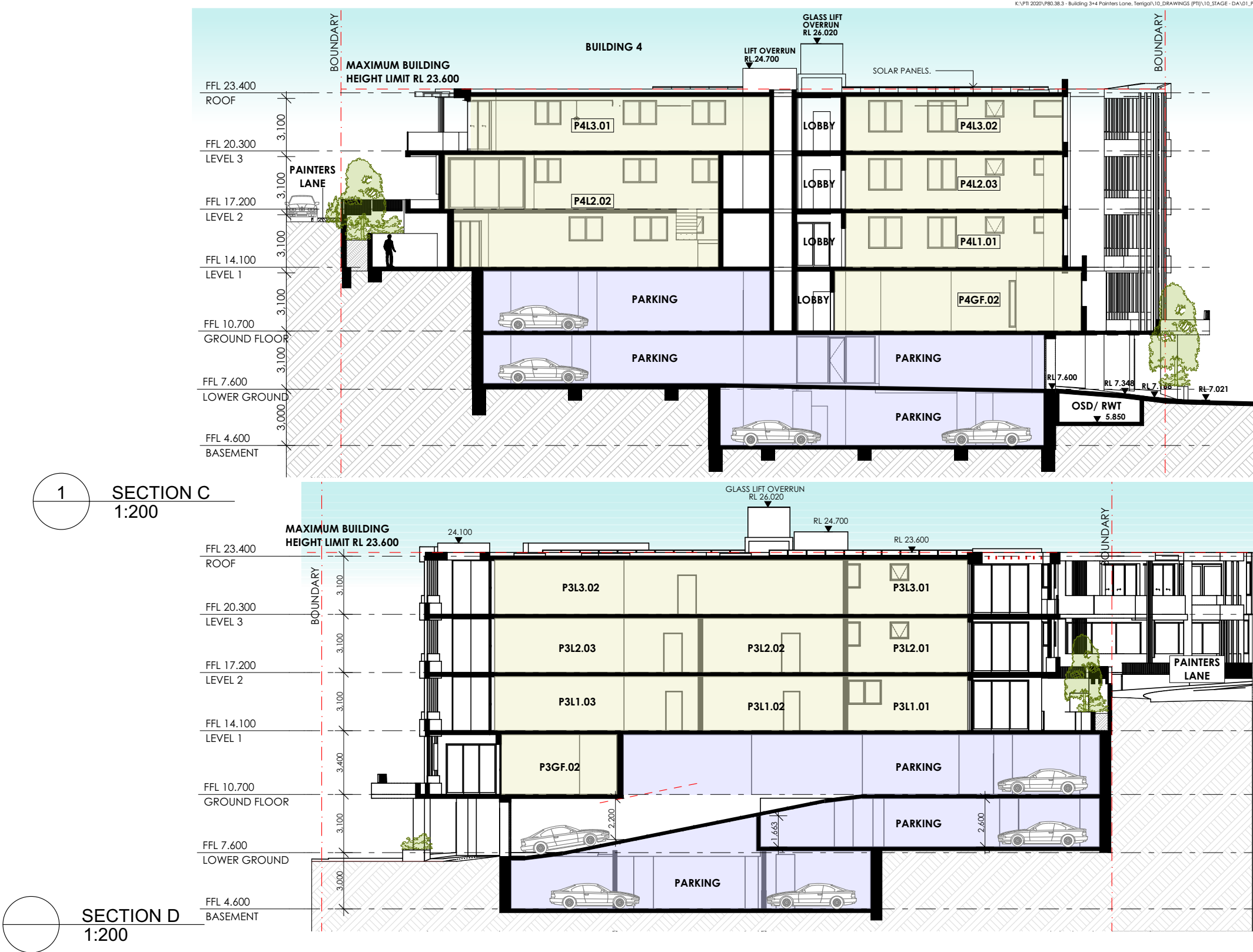
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ARIA PROJECT BUILDING 3+4

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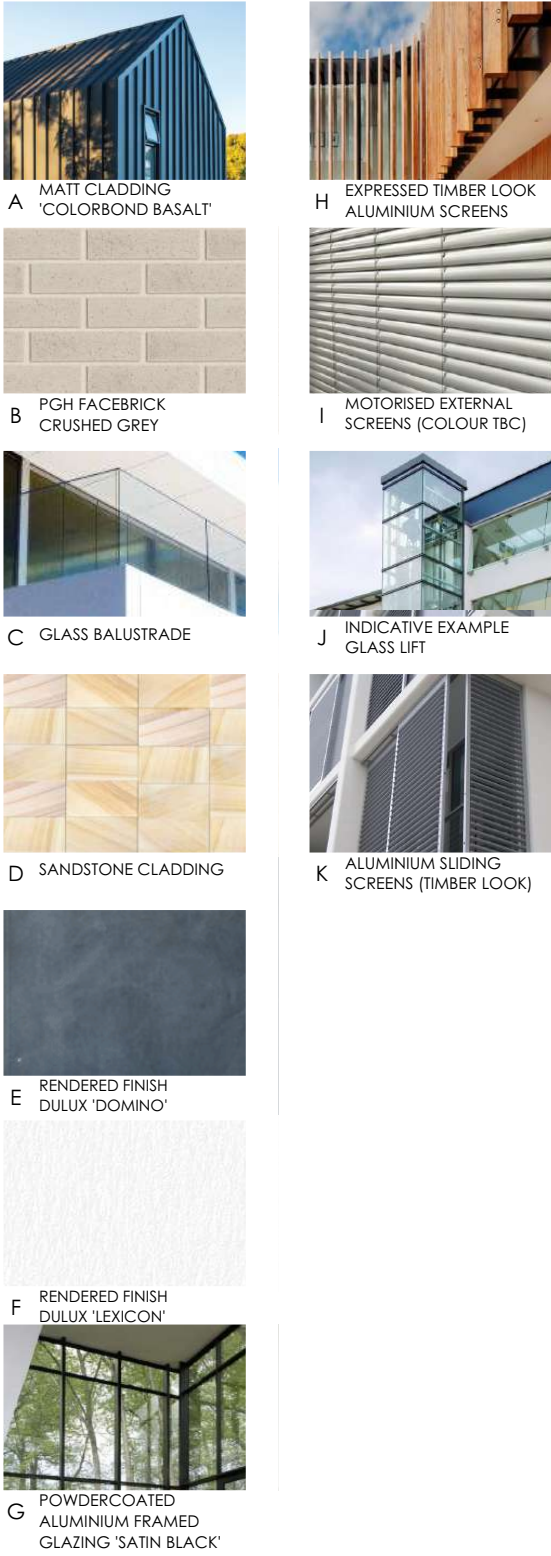
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2 WEST ELEVATION BUILDING 4  
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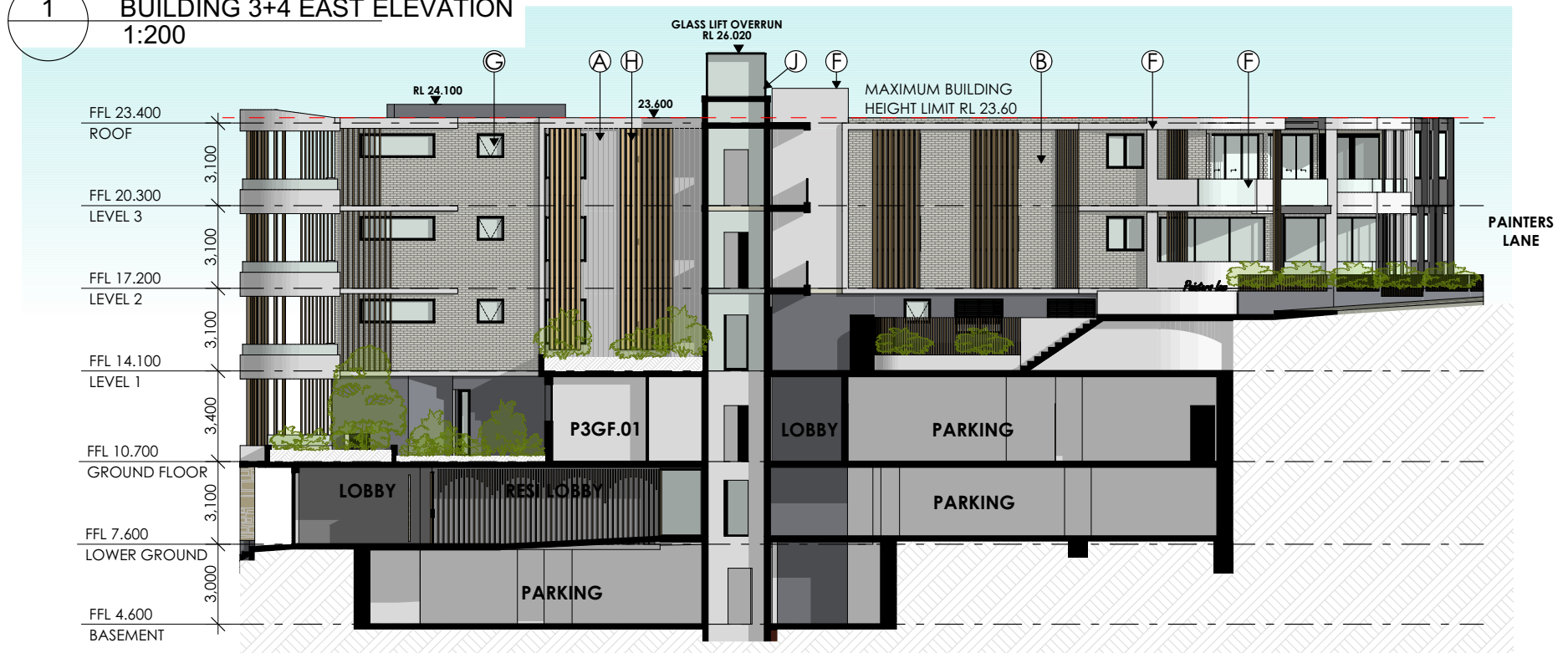
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1 BUILDING 3+4 EAST ELEVATION  
1:200





2 BUILDING 3 NORTH EAST ELEVATION  
1:200


- 


A MATT CLADDING  
'COLORBOND BASALT'
- 


B PGH FACEBRICK  
CRUSHED GREY
- 


C GLASS BALUSTRADE
- 


D SANDSTONE CLADDING
- 


E RENDERED FINISH  
DULUX 'DOMINO'
- 

F RENDERED FINISH  
DULUX 'LEXICON'
- 

G POWDERCOATED  
ALUMINIUM FRAMED  
GLAZING 'SATIN BLACK'
- 

H EXPRESSED TIMBER LOOK  
ALUMINIUM SCREENS
- 

I MOTORISED EXTERNAL  
SCREENS (COLOUR TBC)
- 

J INDICATIVE EXAMPLE  
GLASS LIFT
- 

K ALUMINIUM SLIDING  
SCREENS (TIMBER LOOK)



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

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

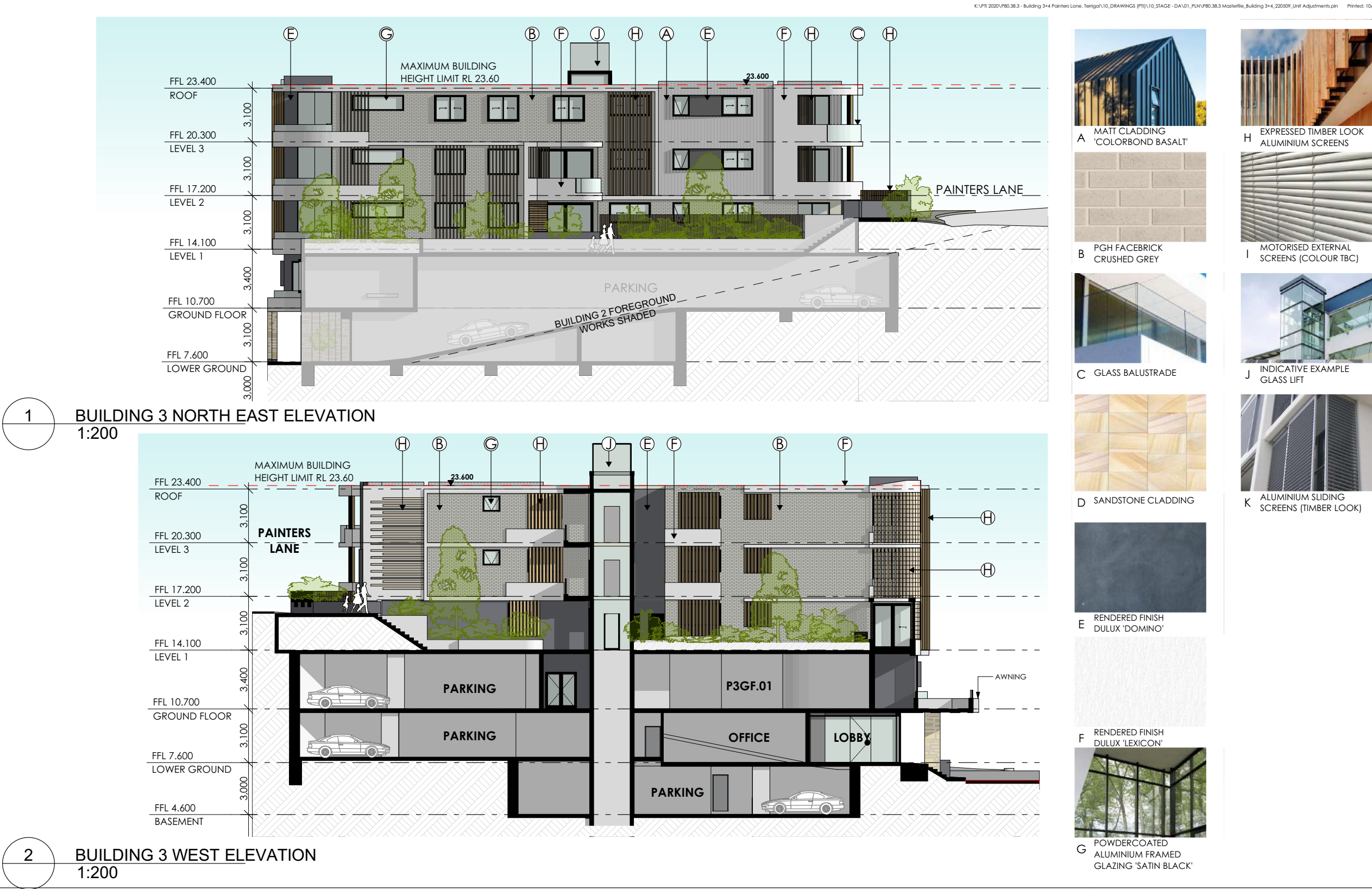
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PROJECT NO: P80.38.3

DA  
stage

12  
dwg no.

D  
revision



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**SITE DETAILS**

SITE AREA = 2212.6m<sup>2</sup>  
ALLOWABLE FSR = 2.2:1  
(FOR OVERALL ARIA SITE)  
ALLOWABLE GFA = 4867.72m<sup>2</sup>

**DEVELOPMENT SUMMARY**

**GFA SCHEDULE (m<sup>2</sup>)**

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 m<sup>2</sup>  
ADDITIONAL PARKING GFA = 687.5M2  
TOTAL PROPOSED GFA = 4626.2m<sup>2</sup>  
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 40m<sup>2</sup>) = 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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Nominated Registered Architect: Peter Israel (reg no 5064)  
ABN 90 050 071 022

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

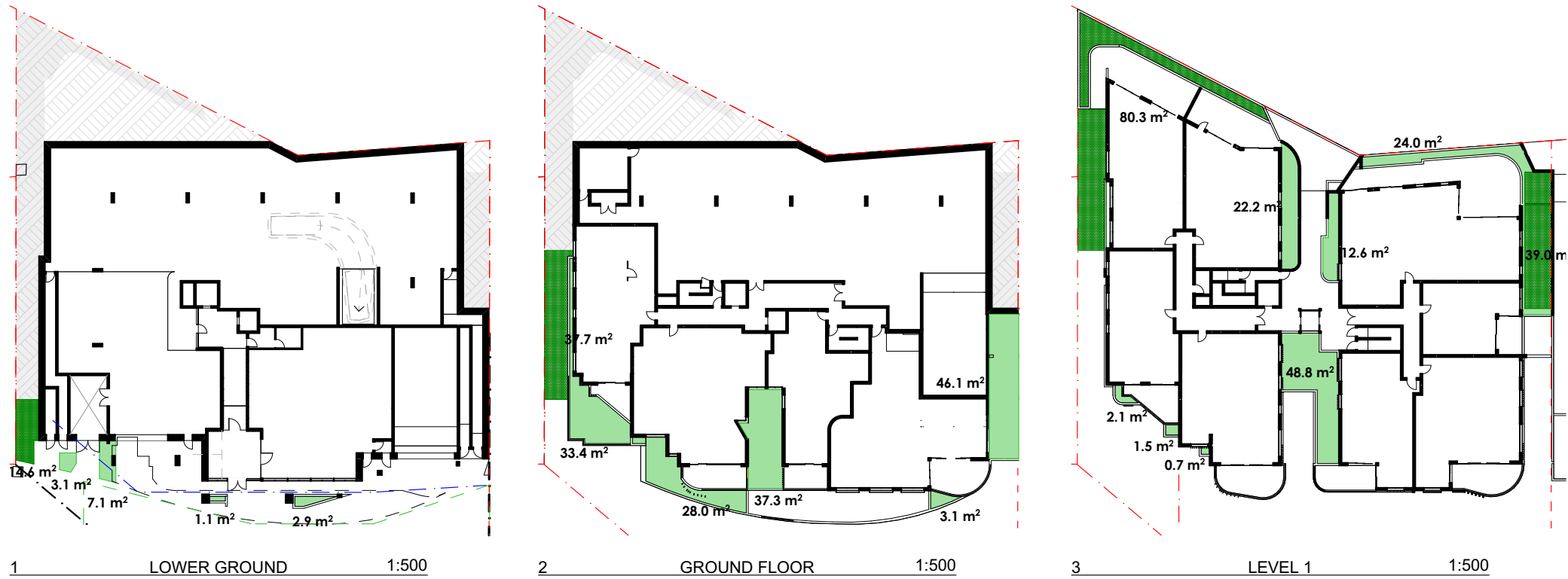
PROJECT NO: PB0.38.3

DA  
stage

14  
dwg no.

C  
revision

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### SITE DETAILS

SITE AREA = 2212.6m<sup>2</sup>

### LANDSCAPE AREA SCHEDULE (m<sup>2</sup>)

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	-
<b>TOTAL</b>	<b>452.6</b>	<b>171.6</b>
	<b>20.4%</b>	<b>7.75%</b>



LEGEND	
	LANDSCAPE AREA
	DEEP SOIL AREA

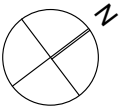


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Nominated Registered Architect: Peter Israel (reg no 5064)  
ABN 90 050 071 022

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

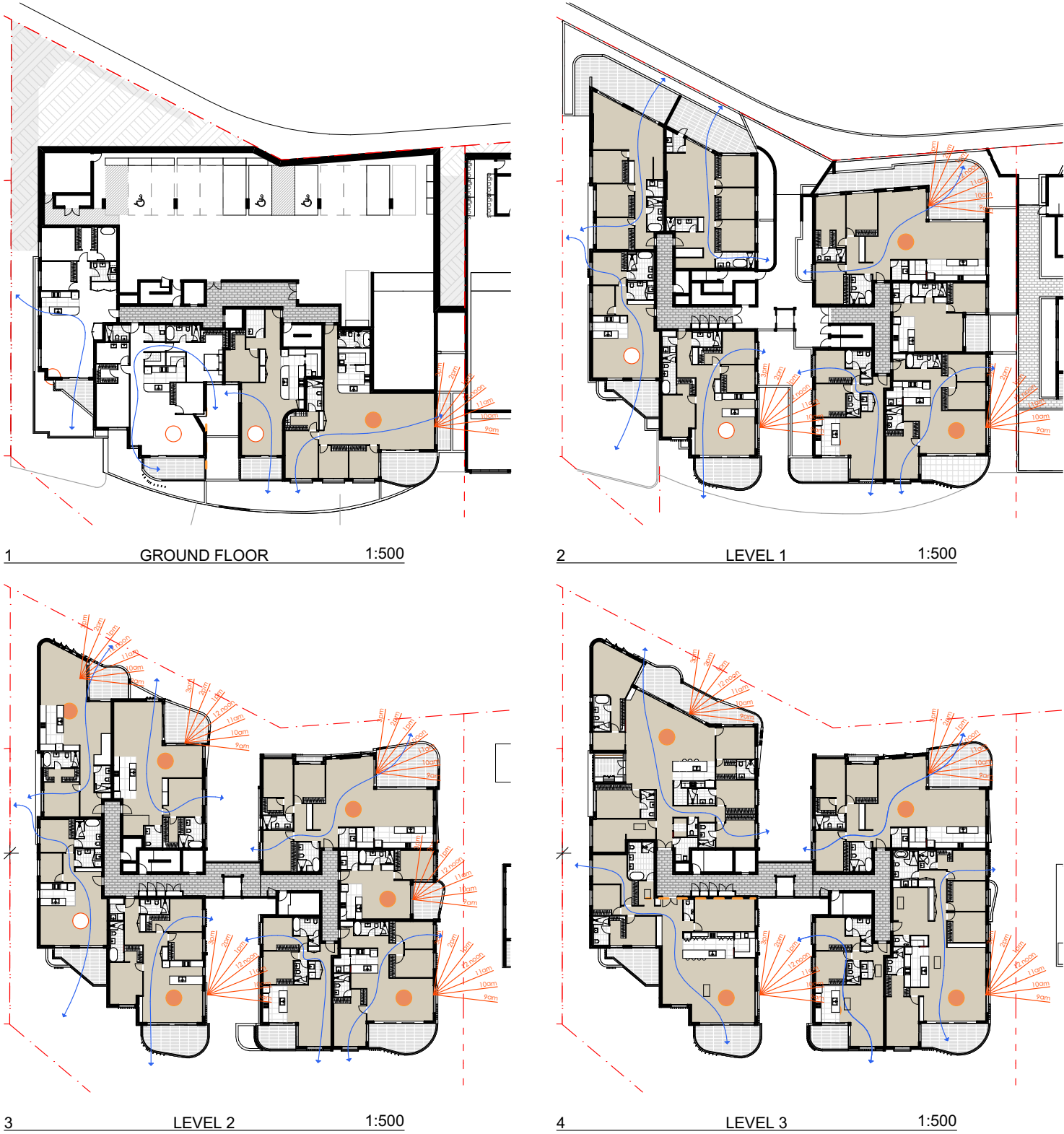
PROJECT TITLE:  
ARIA PROJECT BUILDING 3+4

NORTH POINT:



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	



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 REQS

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 REQS

NO DIRECT SUNLIGHT

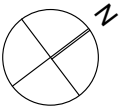
LEVEL	TOTAL NO. UNITS	NO DIRECT SUNLIGHT
GF	4	3
L1	6	3
L2	8	2
L3	5	-
TOTAL	23	8 (34.8%)

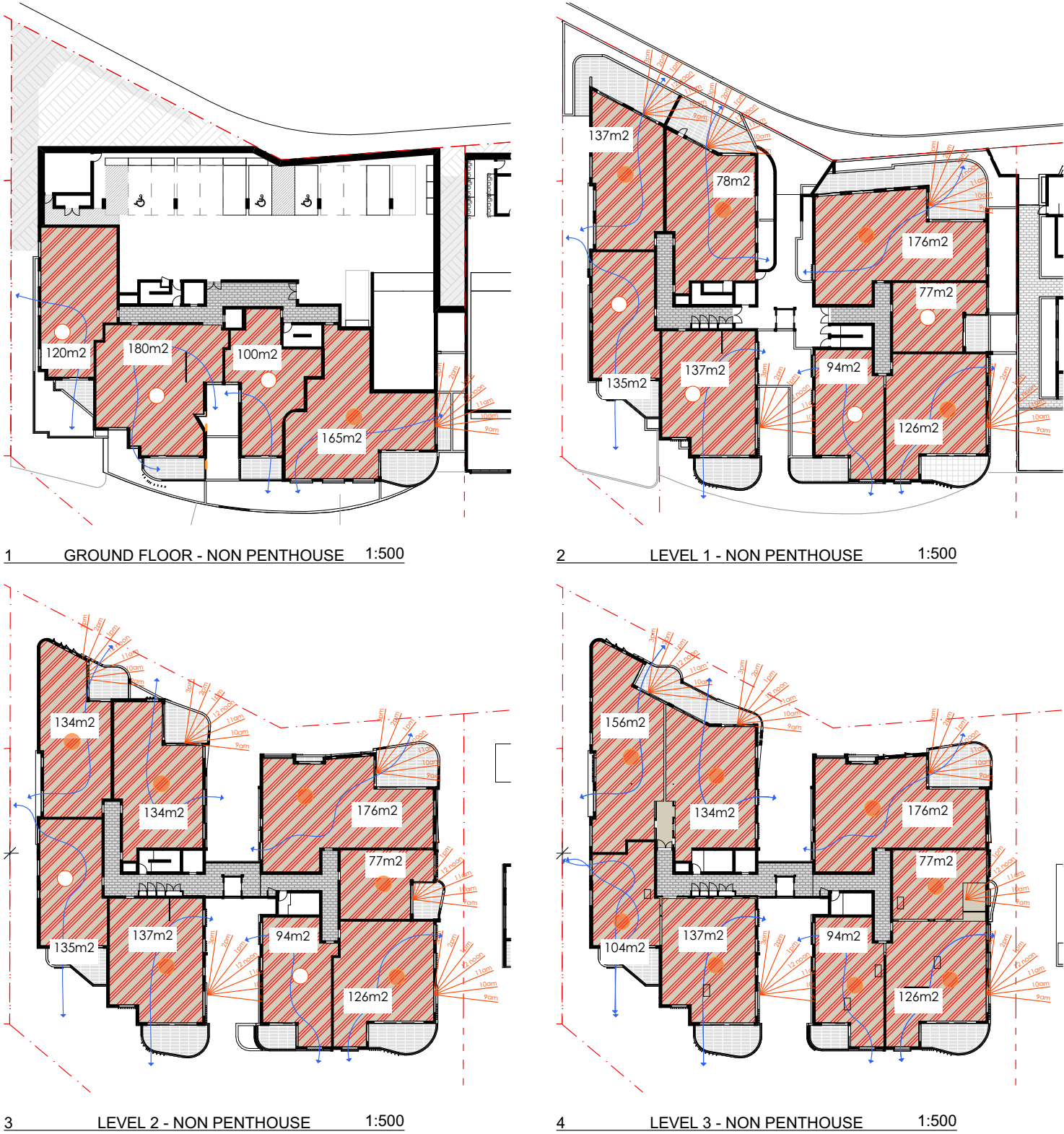
MAX 15% ADG REQS

\*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)





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

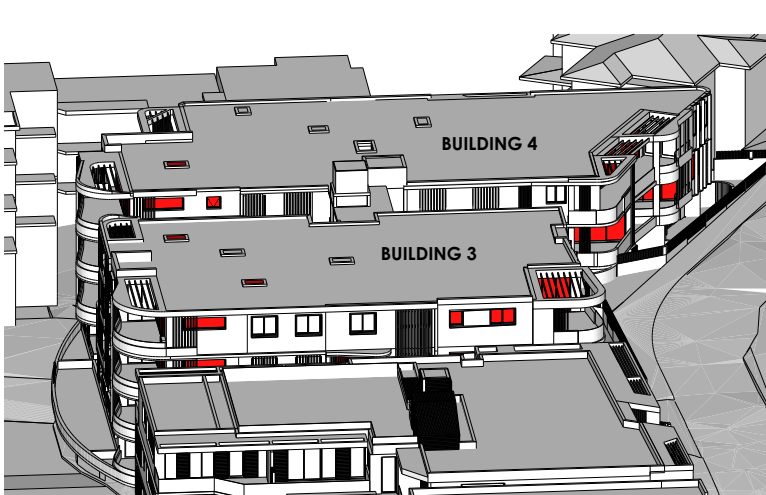
NO DIRECT SUNLIGHT

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

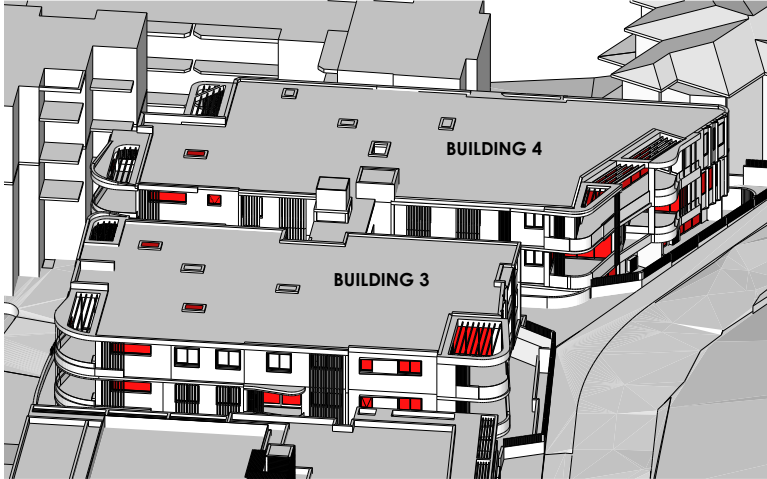
MAX 15% ADG REQS

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

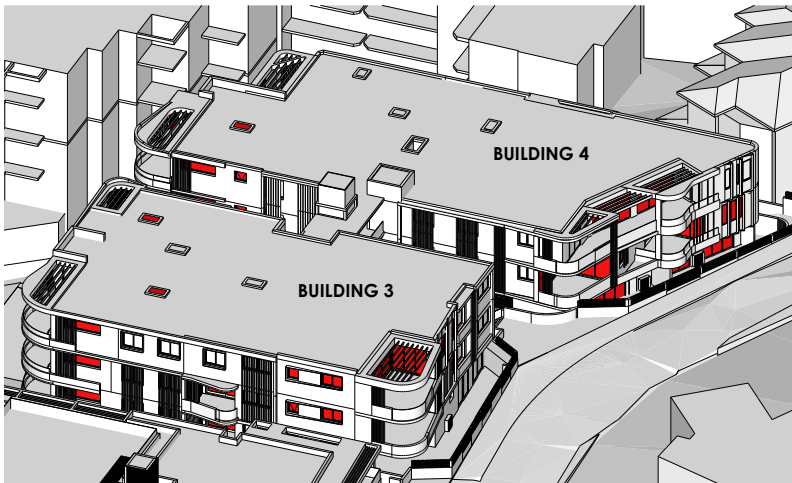
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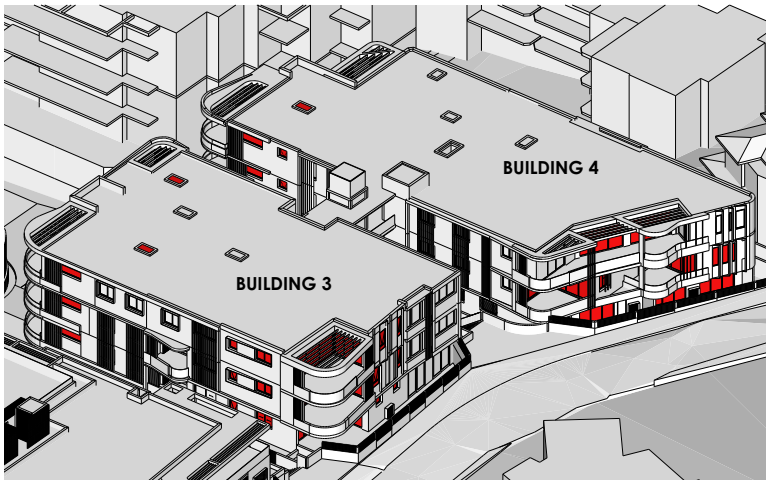
1 9AM 21ST JUNE  
NOT TO SCALE



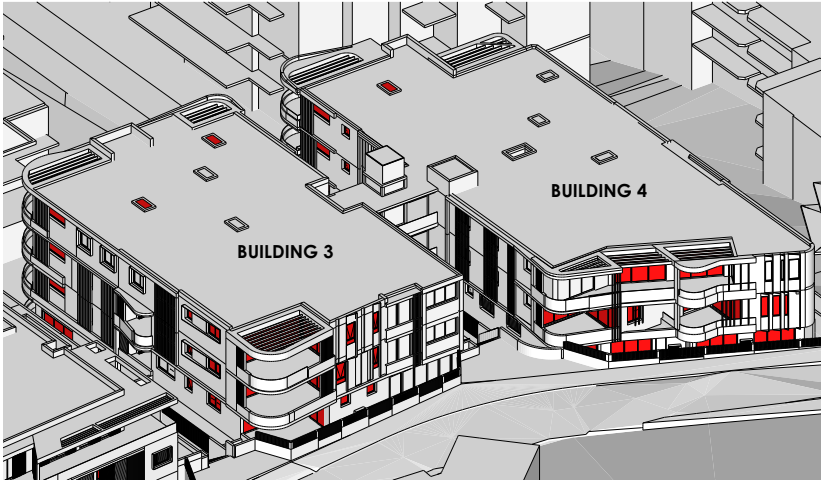
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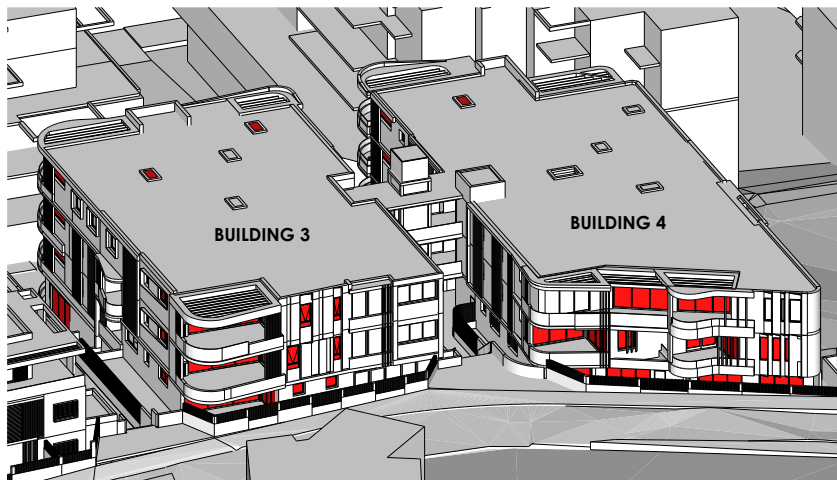
3 11AM 21ST JUNE  
NOT TO SCALE



4 12PM 21ST JUNE  
NOT TO SCALE



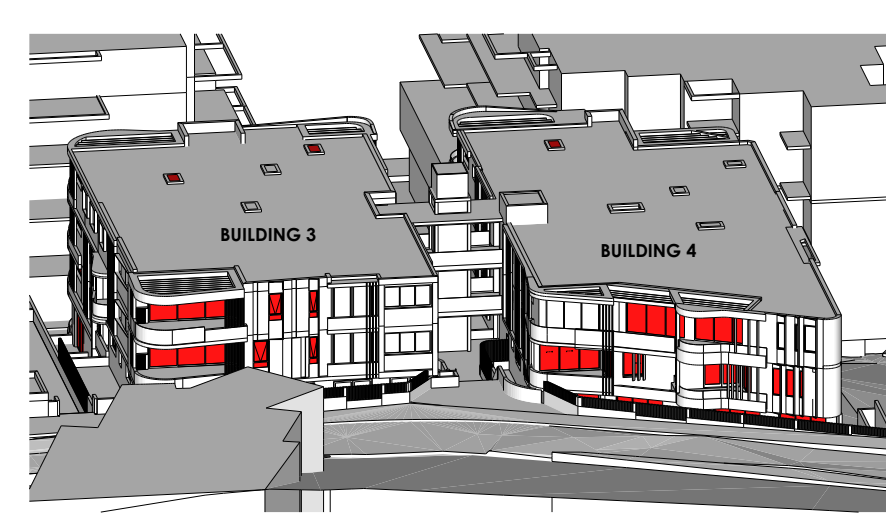
5 1PM 21ST JUNE  
NOT TO SCALE



6 2PM 21ST JUNE  
NOT TO SCALE

LEGEND  
■ LIVING ROOM WINDOWS

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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 <b>14 (60.8%)</b> 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 <b>8 (34.8%)</b> MAX. 15% ADG REQ	



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

REV	DESCRIPTION
A	DEVELOPMENT APPLICATION ISSUE
B	REVISED ISSUE

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

CLIENT:  
RAPEDO PTY LTD

PROJECT TITLE:  
ARIA PROJECT BUILDING 3+4

NORTH POINT:

DRAWING TITLE:  
SUN VIEW DIAGRAMS - SHEET 2

DRAWN BY: KC/GF

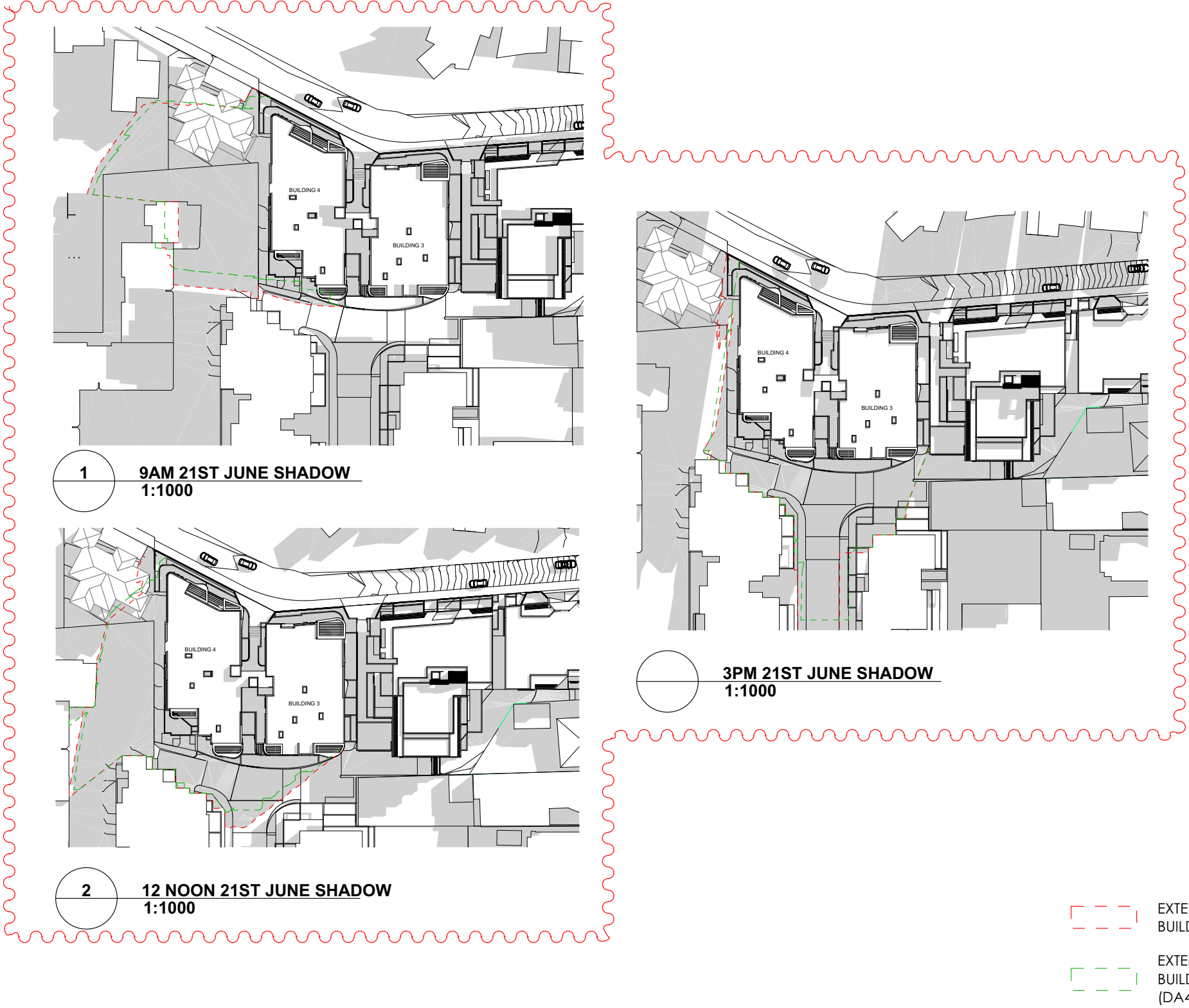
CHECKED BY: PJ

SCALE: 1:1 AT A3

PROJECT NO: P80.38.3

DA 18 B  
stage. dwg no. revision

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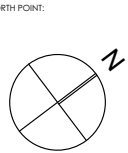
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Nominated Registered Architect: Peter Israel (reg no 5064)  
ABN 90 050 071 022

REV	DESCRIPTION	BY	DATE
A	DEVELOPMENT APPLICATION ISSUE	GF	20/08/2022
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:	PI
SCALE:	1:500 AT A3
PROJECT NO:	P80.38.3
DA stage:	19
dwg no.	C
revision	

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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

PROJECT TITLE:  
ARIA PROJECT BUILDING 3+4

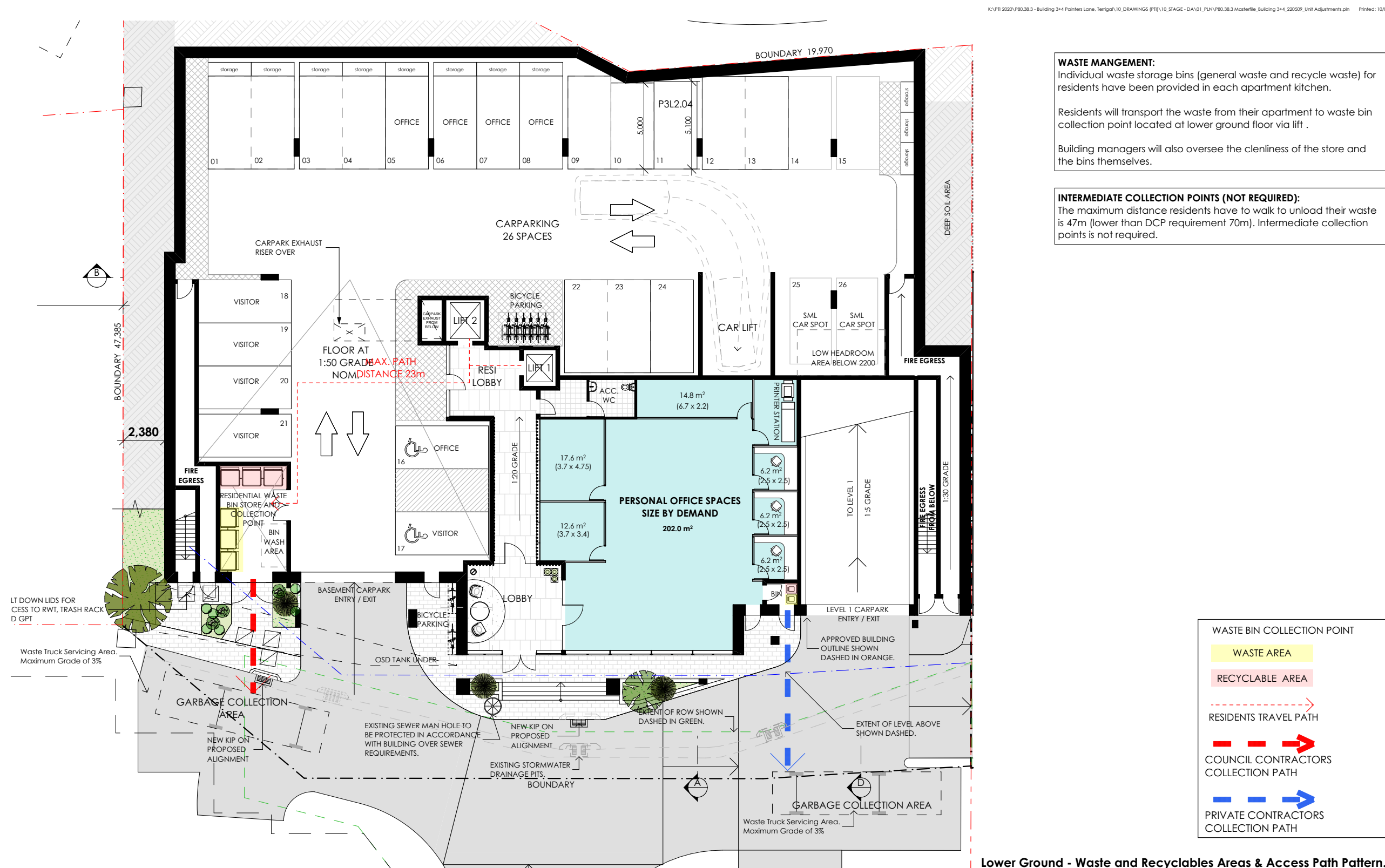
NORTH POINT:

DRAWING TITLE:  
3D VIEWS

DRAWN BY: KC/GF  
CHECKED BY: PJ

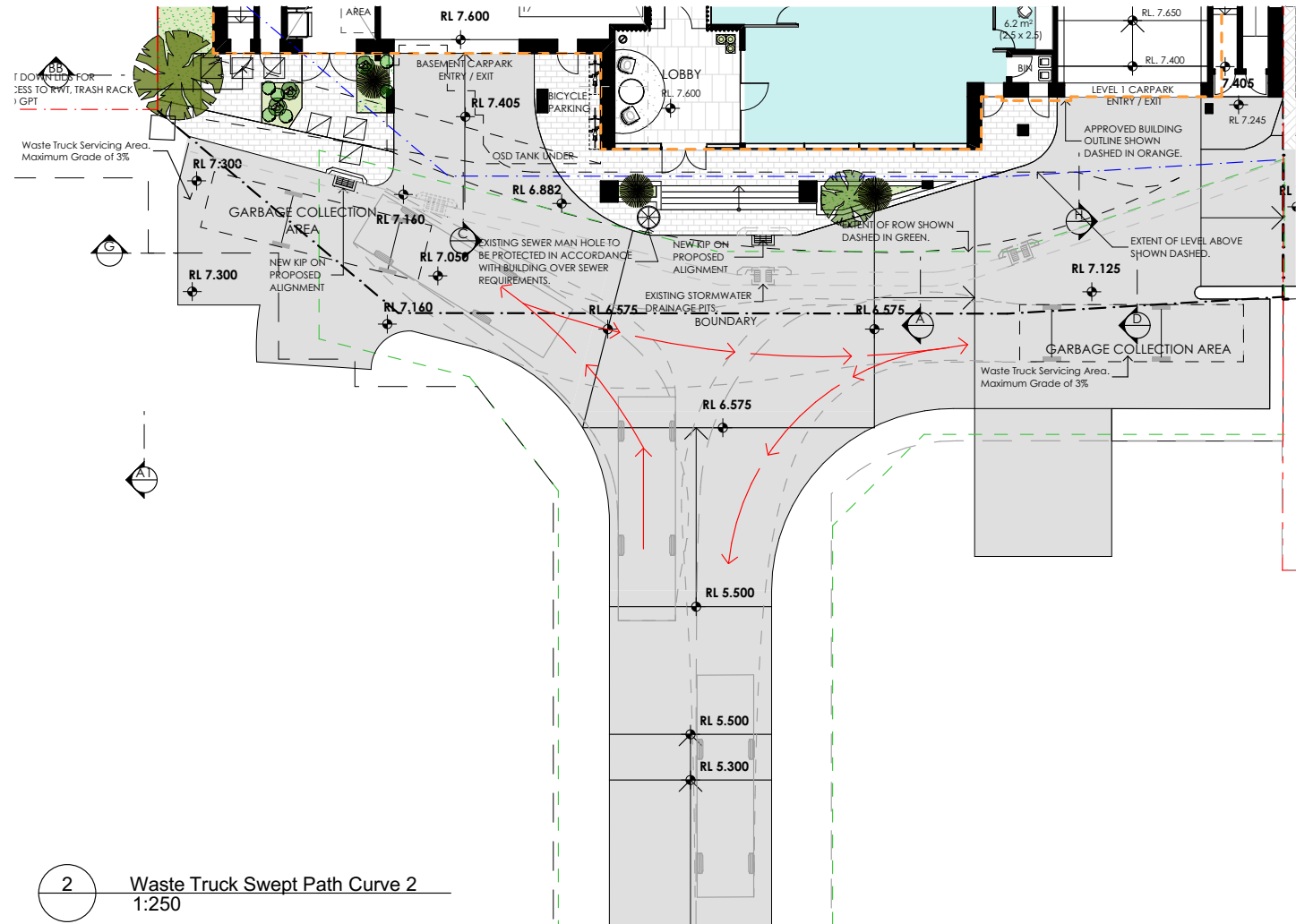
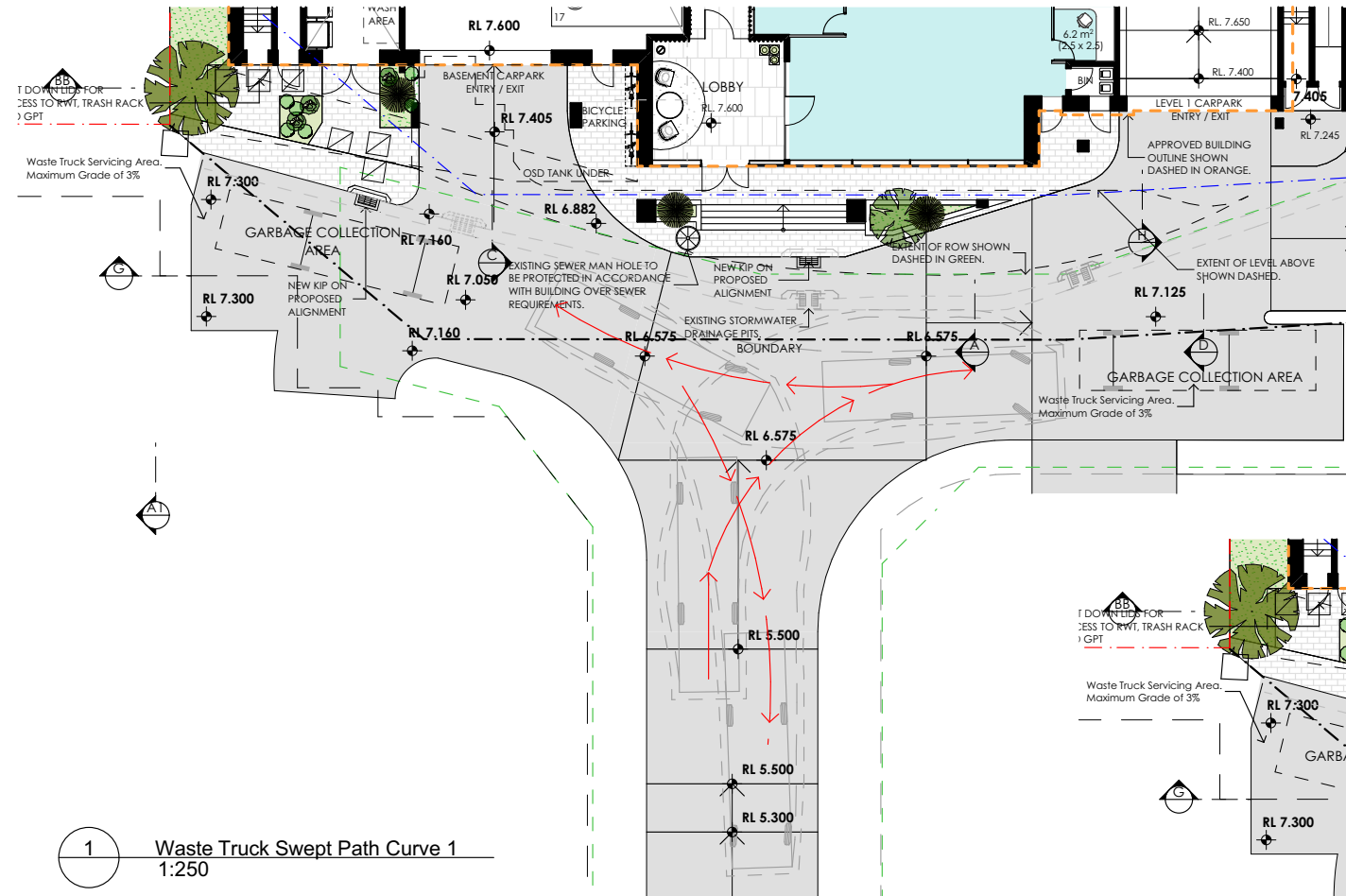
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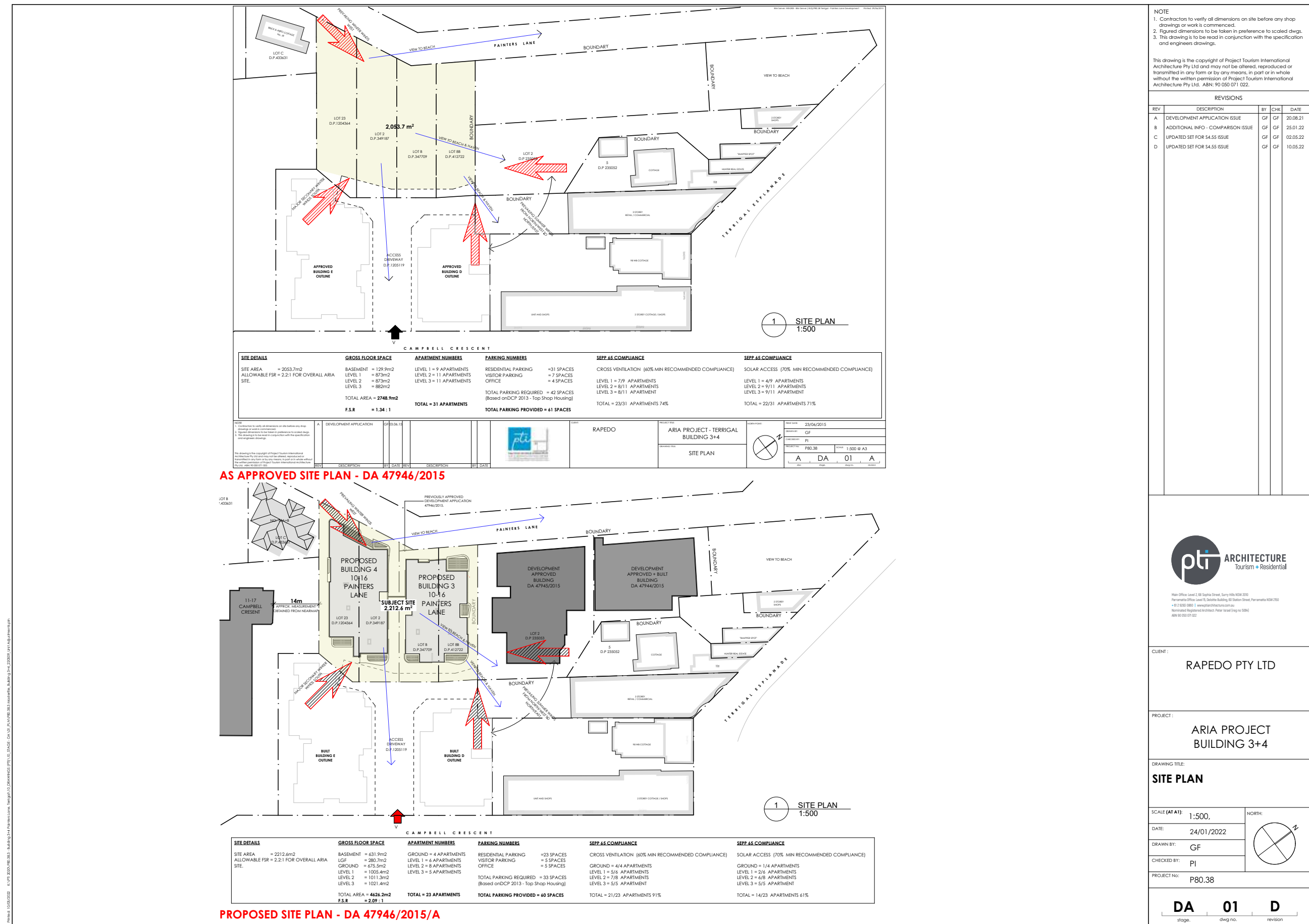
DA 20  
stage. dwg no. revision

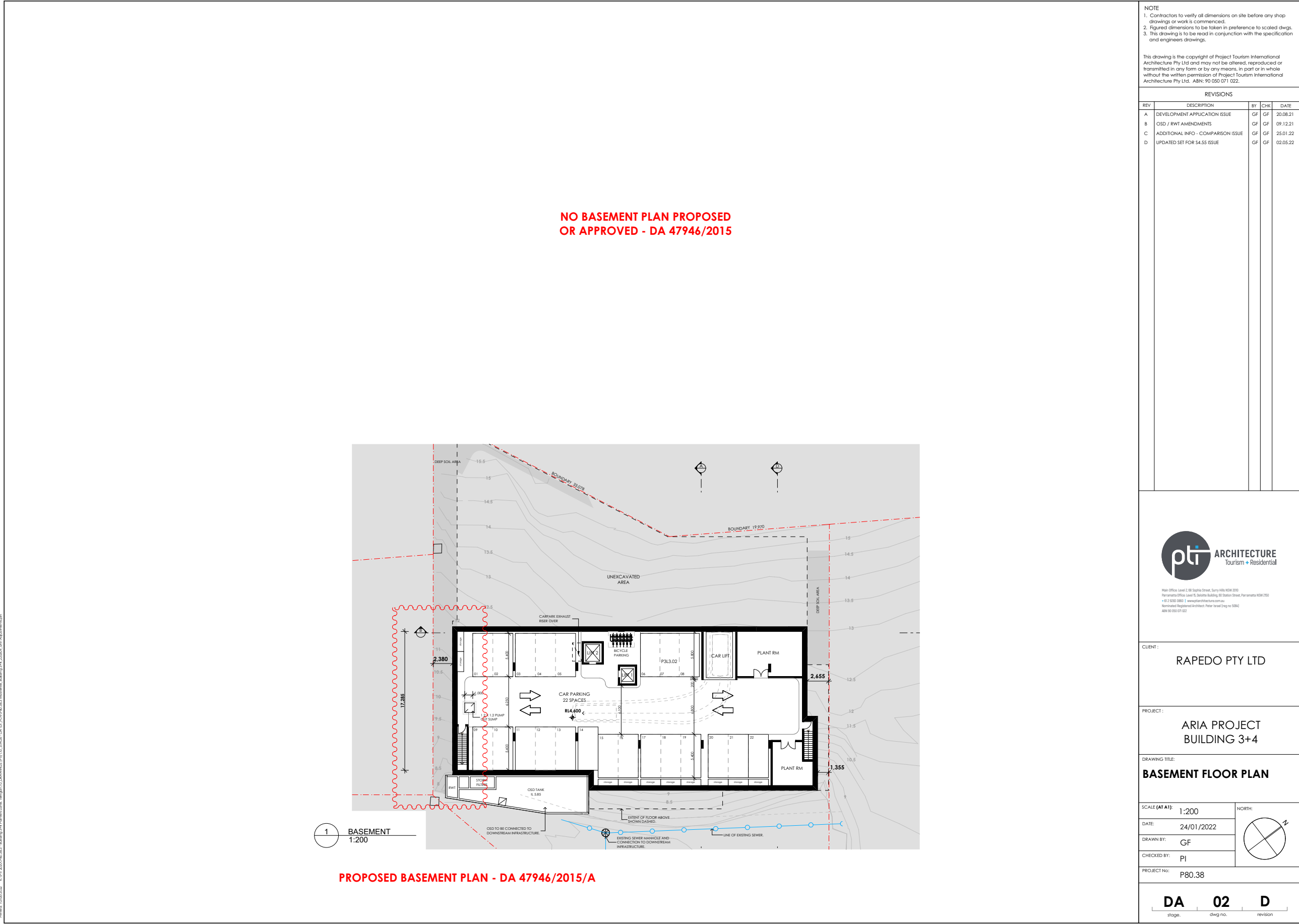




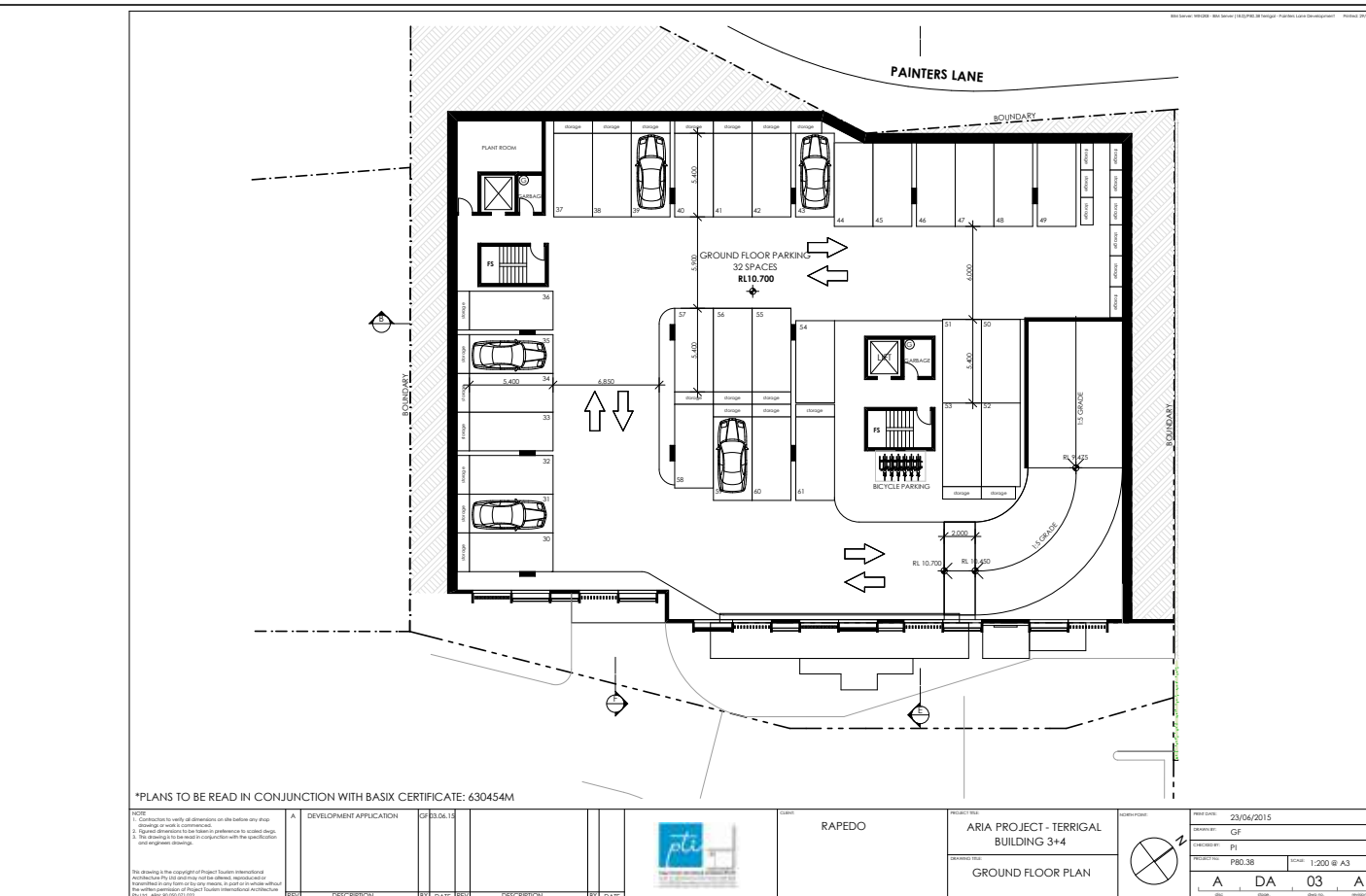
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**GROUND FLOOR PLAN AS APPROVED - DA 47946/2015**



**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				
REV	DESCRIPTION	BY	CHK	DATE
A	DEVELOPMENT APPLICATION ISSUE	GF	GF	20.08.21
B	ADDITIONAL INFO - COMPARISON ISSUE	GF	GF	25.01.22
C	UPDATED SET FOR \$4.55 ISSUE	GF	GF	02.05.22
D	UPDATED SET FOR \$4.55 ISSUE	GF	GF	10.05.22



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 Nominated Registered Architect: Peter Israel (reg no 50064)  
 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:

DRAWN BY:

CHECKED BY:

PROJECT No:	P80.38
-------------	--------

**DA**





pti ARCHITECTURE  
Tourism + Residential

CLIENT :  
RAPEDO PTY LTD

PROJECT :  
ARIA PROJECT  
BUILDING 3+4

DRAWING TITLE:  
LEVEL 2 FLOOR PLAN

SCALE (AT A1):  
1:200,

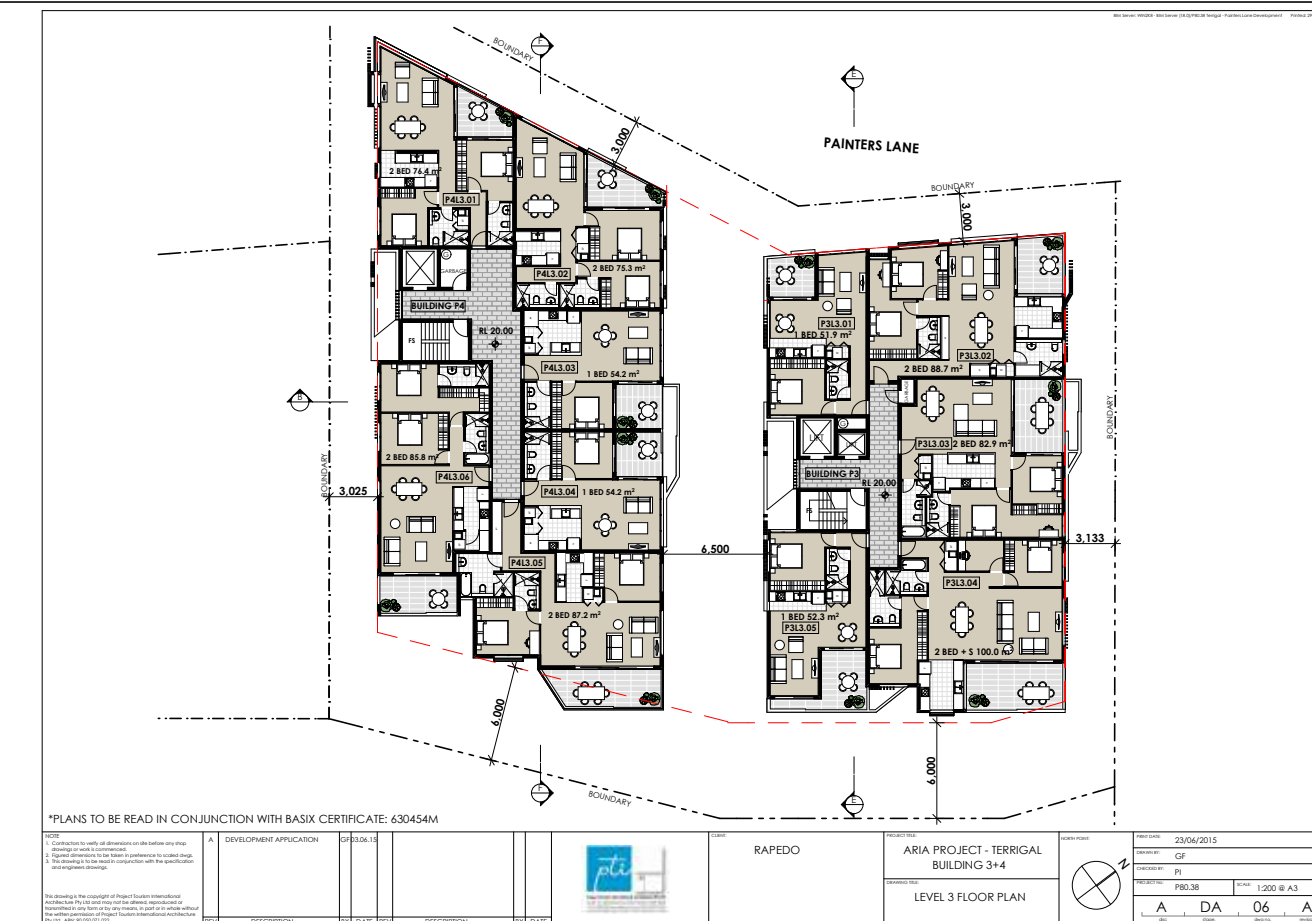
DATE:  
24/01/2022

DRAWN BY:  
GF

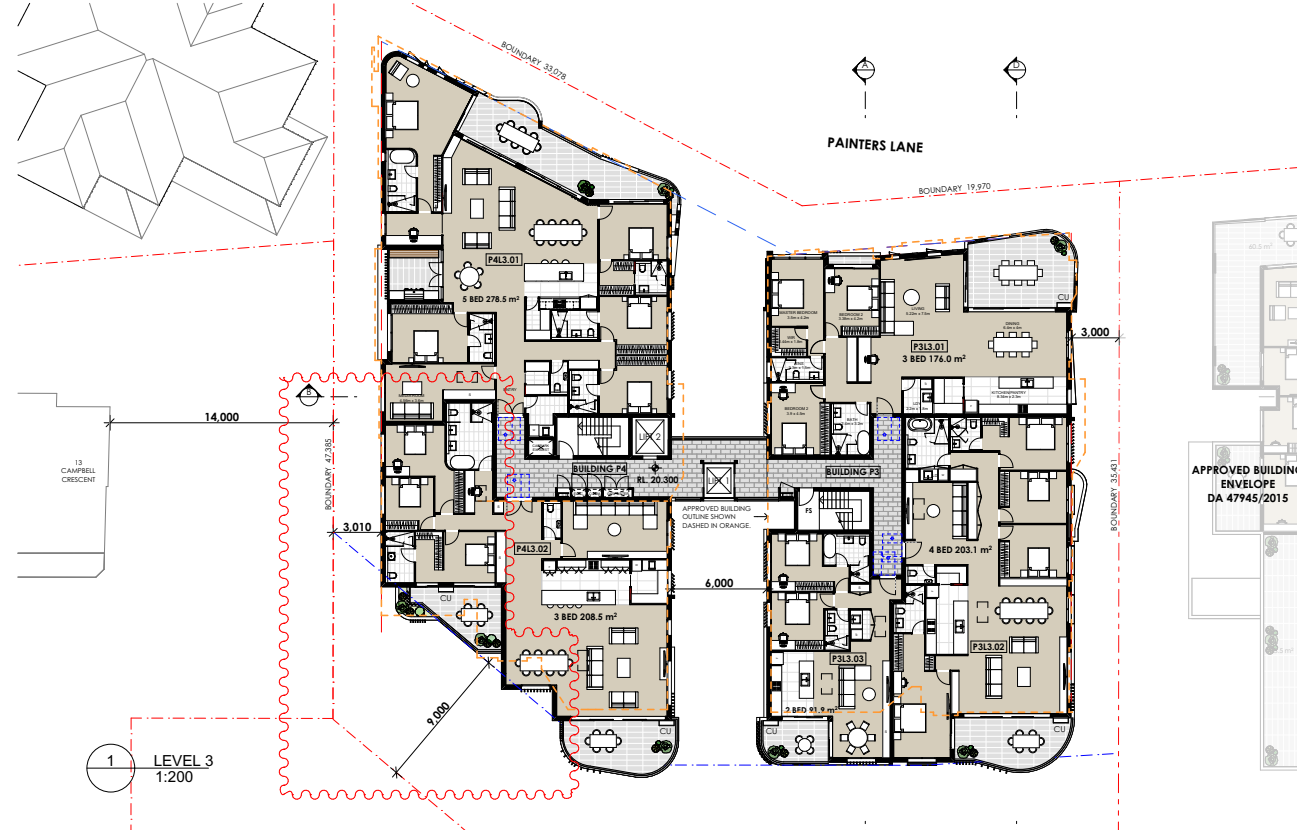
CHECKED BY:  
PI

PROJECT No:  
P80.38

DA 06 D  
stage. dwg no. revision



**LEVEL 3 FLOOR PLAN AS APPROVED - DA 47946/2015**



**LEVEL 3 FLOOR PLAN - DA 47946/2015/A**

NOTE
<ol style="list-style-type: none"> <li>1. Contractors to verify all dimensions on site before any shop drawings or work is commenced.</li> <li>2. Figured dimensions to be taken in preference to scaled dwgs.</li> <li>3. This drawing is to be read in conjunction with the specification and engineers drawings.</li> </ol>

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REVISIONS				
REV	DESCRIPTION	BY	CHK	DATE
A	DEVELOPMENT APPLICATION ISSUE	GF	GF	20.08.21
B	ADDITIONAL INFO - COMPARISON ISSUE	GF	GF	25.01.22
C	UPDATED SET FOR \$4.55 ISSUE	GF	GF	02.05.22
D	UPDATED SET FOR \$4.55 ISSUE	GF	GF	10.05.22



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 Nominated Registered Architect: Peter Israel (reg no 50064)  
 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

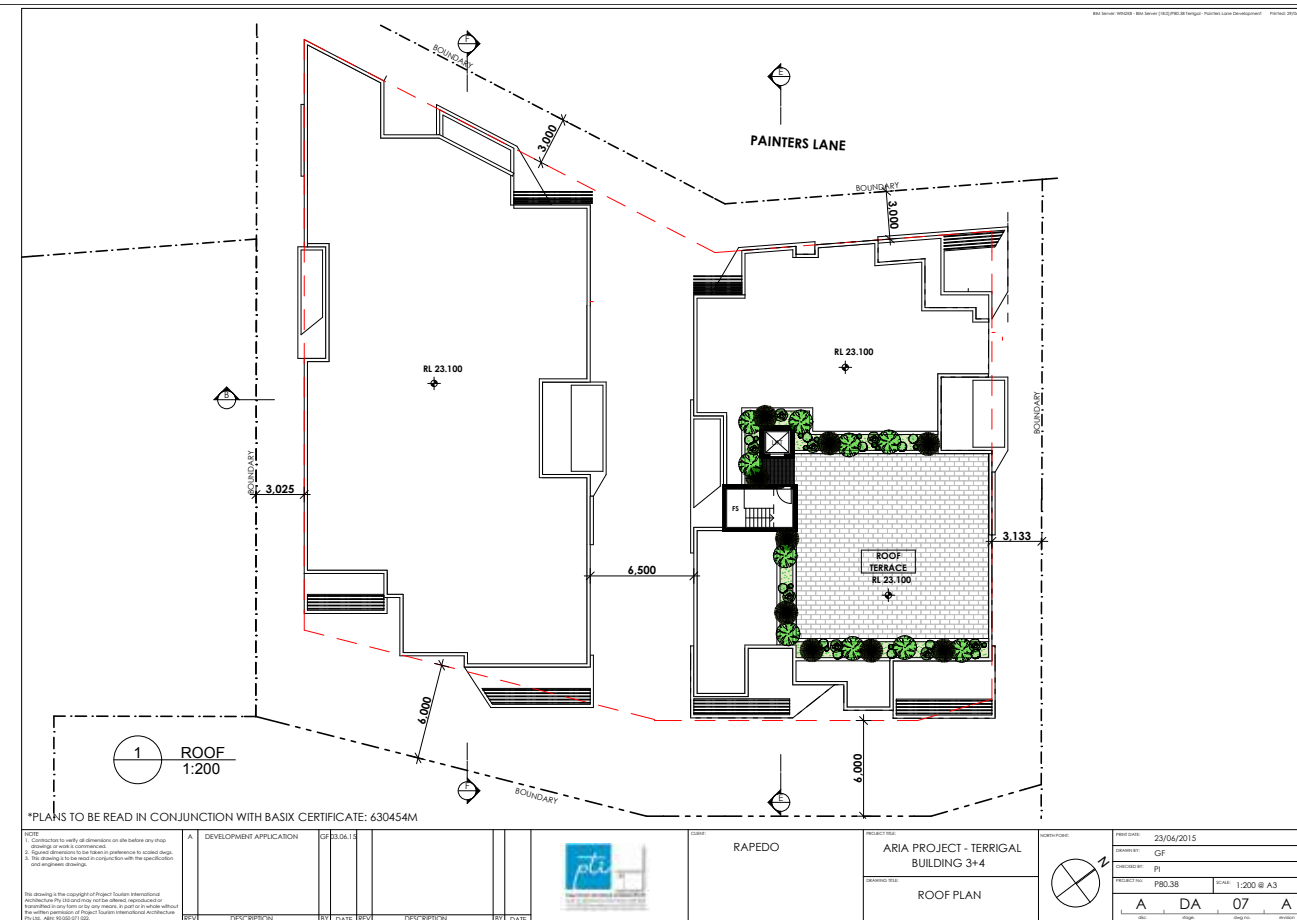
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CHECKED BY:	DI
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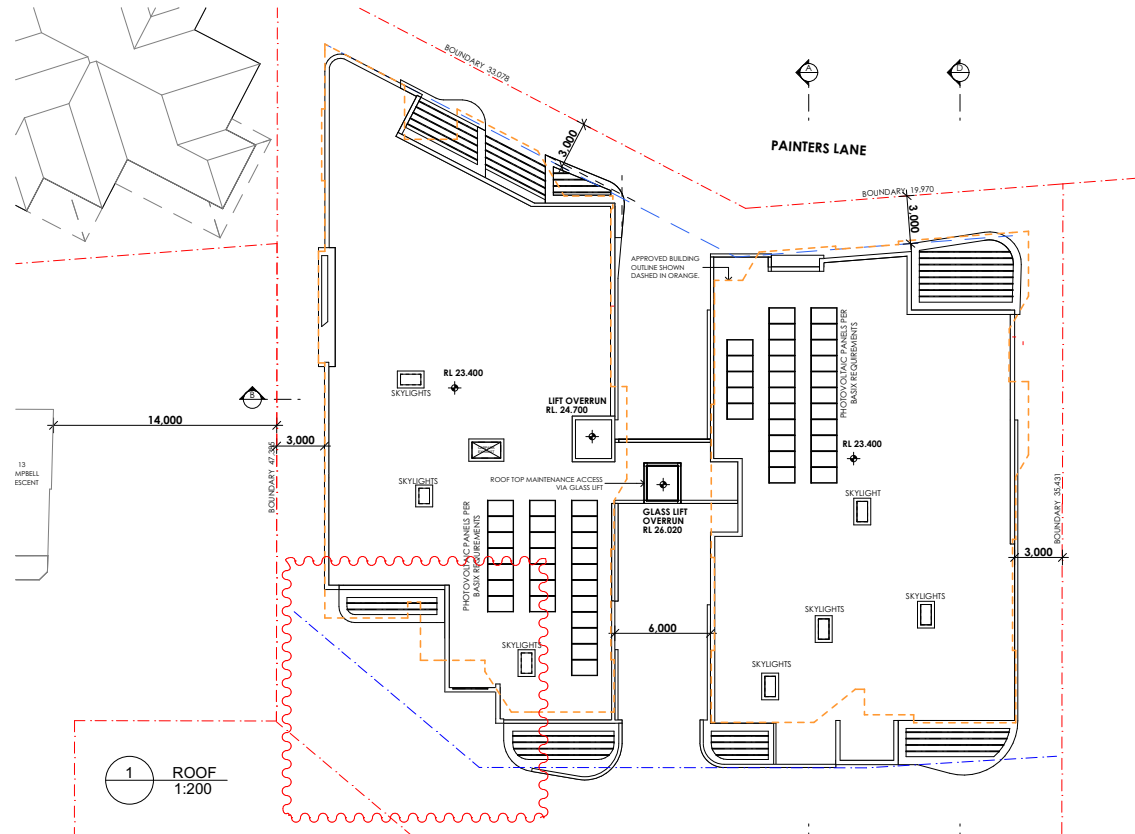
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**ROOF PLAN AS APPROVED - DA 47946/2015**



**ROOF PLAN - DA 47946/2015/A**

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A	DEVELOPMENT APPLICATION ISSUE	GF	GF	20.08.21
B	ADDITIONAL INFO - COMPARISON ISSUE	GF	GF	25.01.22
C	UPDATED SET FOR \$4.55 ISSUE	GF	GF	02.05.22
D	UPDATED SET FOR \$4.55 ISSUE	GF	GF	10.05.22



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• 61 2 9285 0860 | [www.ptarchitects.com.au](http://www.ptarchitects.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:

## ROOF PLAN

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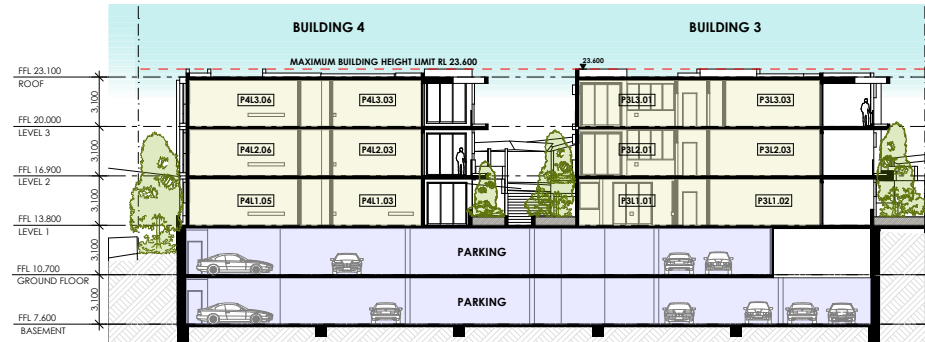
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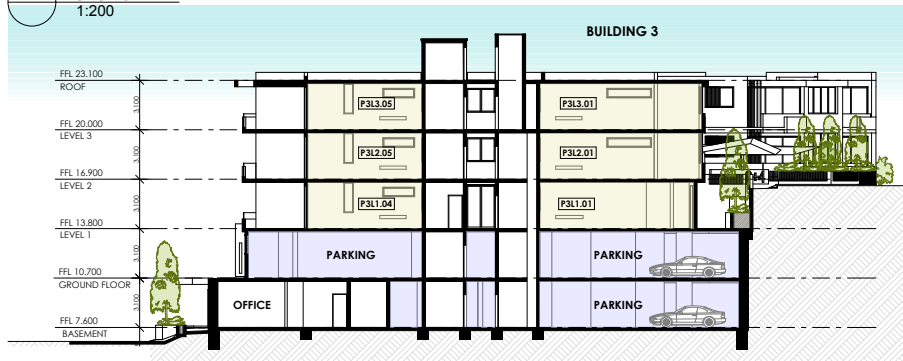
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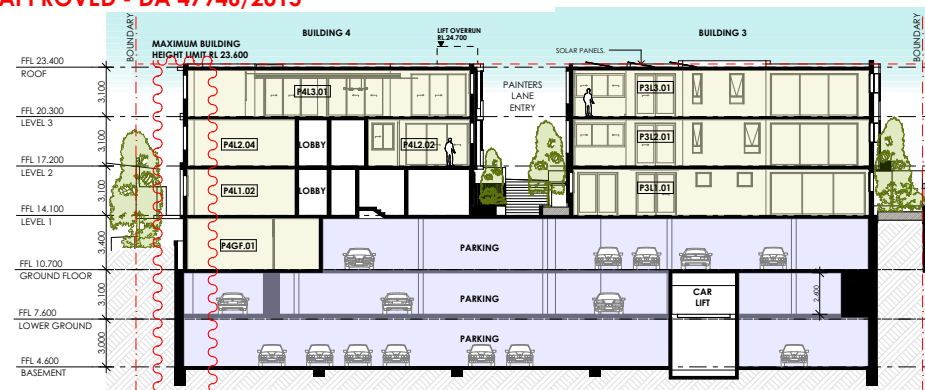
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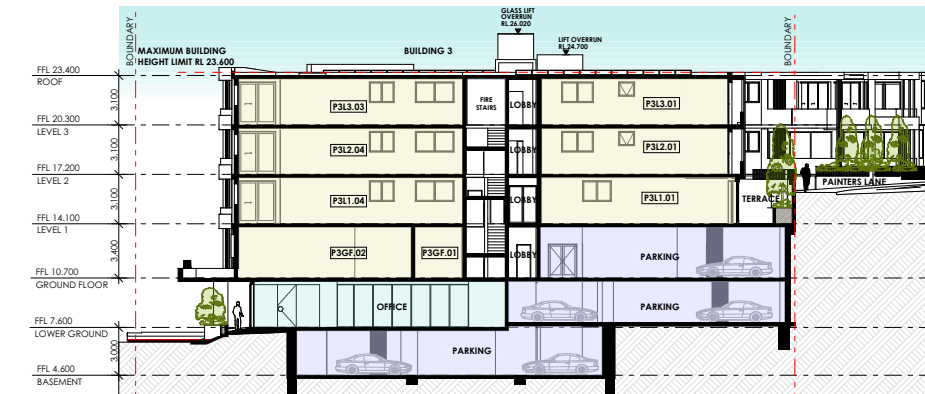
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\*PLANS TO BE READ IN CONJUNCTION WITH BASIX CERTIFICATE: 430454M

SECTIONS AS APPROVED - DA 47946/2015



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SECTIONS PROPOSED - DA 47946/2015/A

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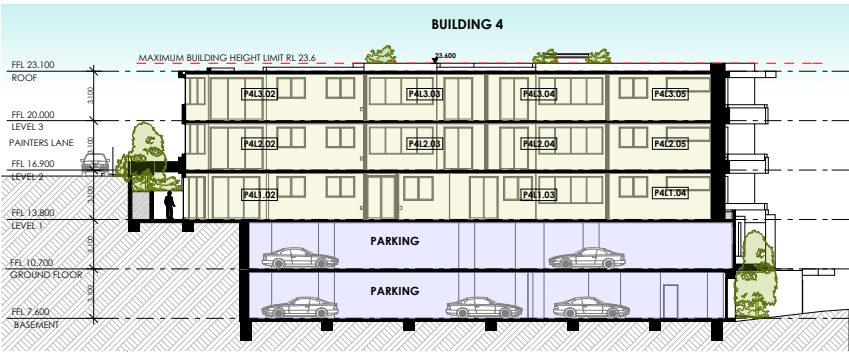
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PROJECT :  
ARIA PROJECT  
BUILDING 3+4

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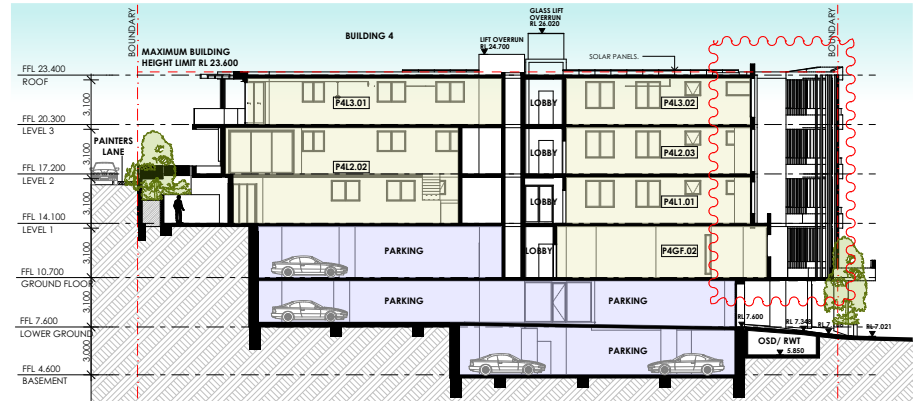


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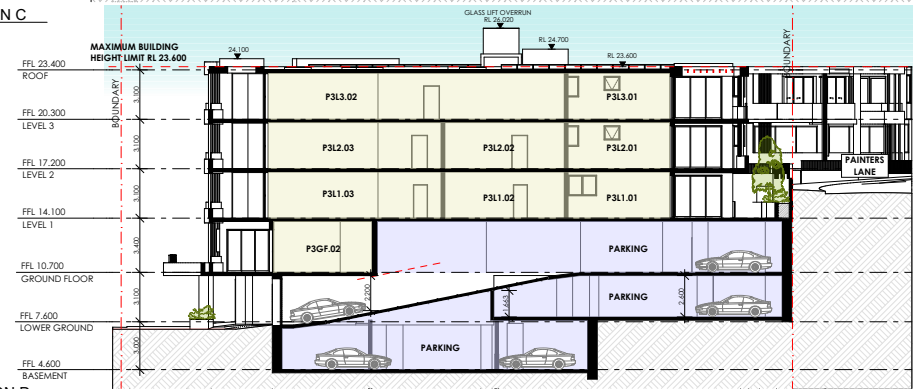
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			C			ADDITIONAL INFO - COMPARISON ISSUE			GF			GF		
			D			UPDATED SET FOR \$4.55 ISSUE			GF			GF		
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1 SECTION D  
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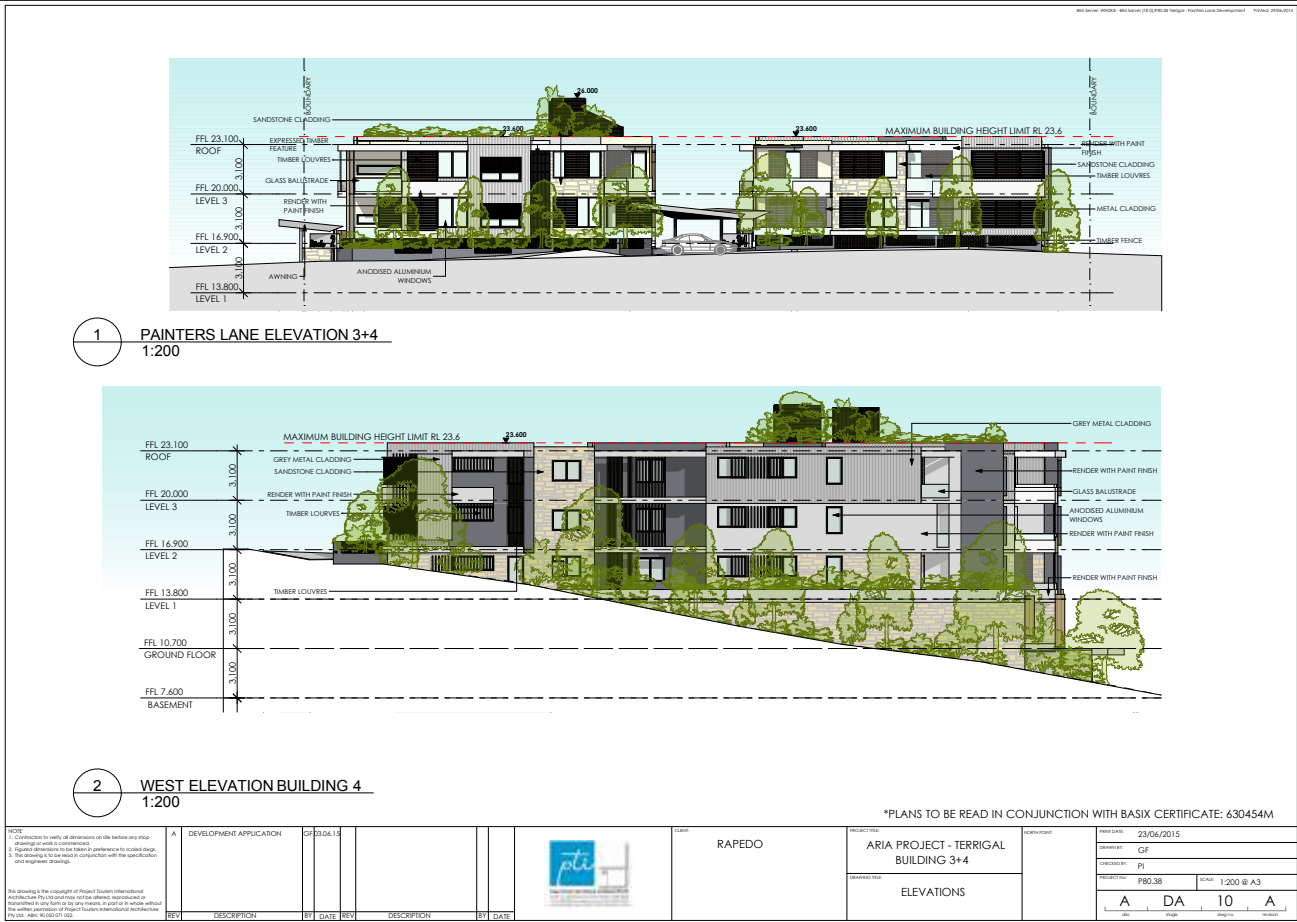
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PROJECT :  
ARIA PROJECT  
BUILDING 3+4

DRAWING TITLE:  
SECTIONS

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PROJECT No: P80.38

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ELEVATIONS AS APPROVED - DA 47946/2015



ELEVATIONS PROPOSED - DA 47946/2015/A

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National Registered Architect: Peter Torral (Reg no 50964)  
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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 Nominated Registered Architect: Peter Israel (reg no 50064)  
 AIAA (40 060 076 072)

CLIENT :

RAPEDO PTY LTD

PROJECT

ARIA PROJECT  
BUILDING 3+4

DRAWING TITLE:

## ELEVATIONS

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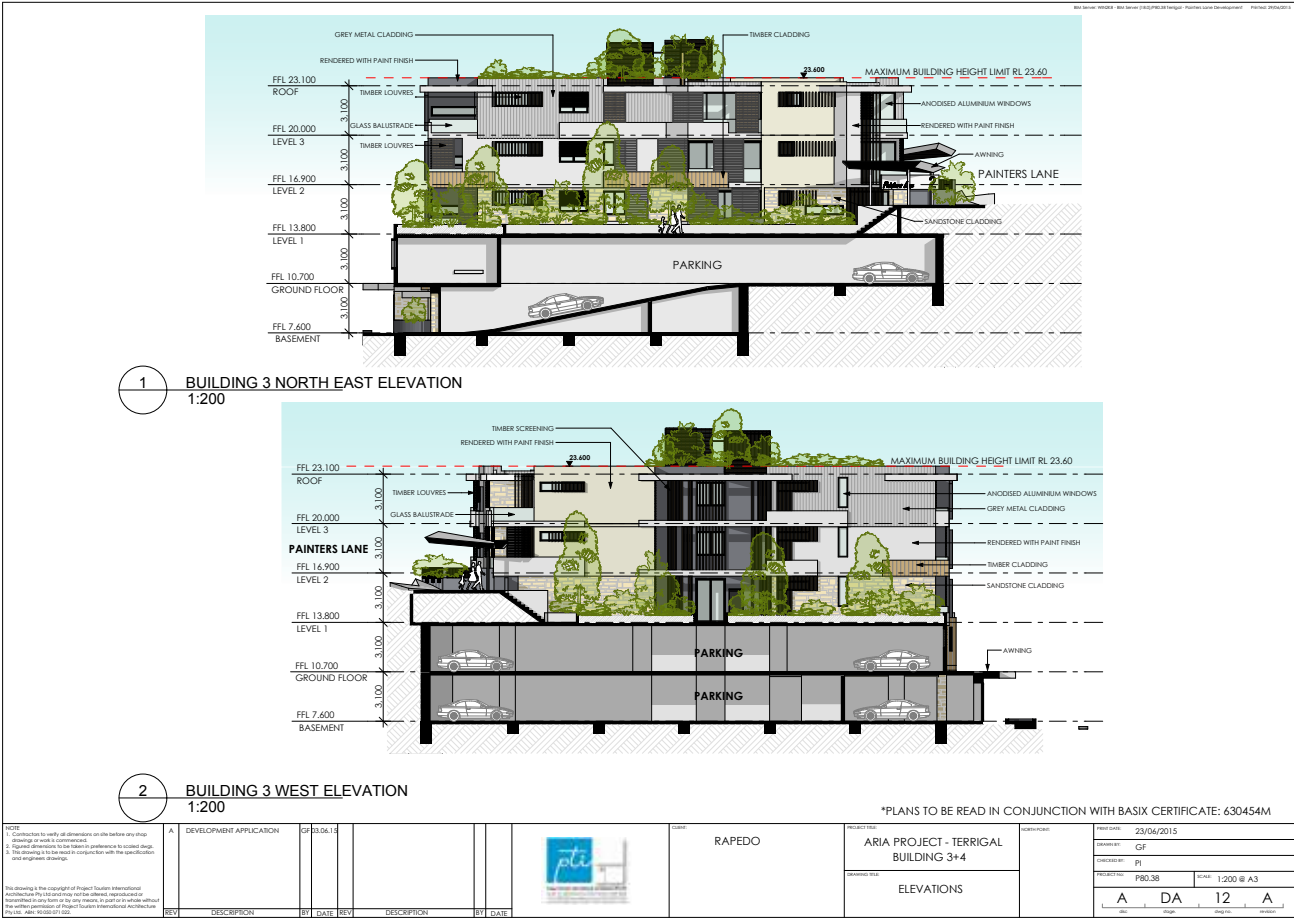
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PROJECT No:	P80.38
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ELEVATIONS AS APPROVED - DA 47946/2015



ELEVATIONS PROPOSED - DA 47946/2015/A

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National Registered Architect: Peter Torral (Reg no 5094)  
ABN 90 050 071 022

CLIENT :  
RAPEDO PTY LTD

PROJECT :  
ARIA PROJECT  
BUILDING 3+4

DRAWING TITLE:  
ELEVATIONS

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PROJECT NO: P80.38

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## STATEMENT OF ENVIRONMENTAL EFFECTS

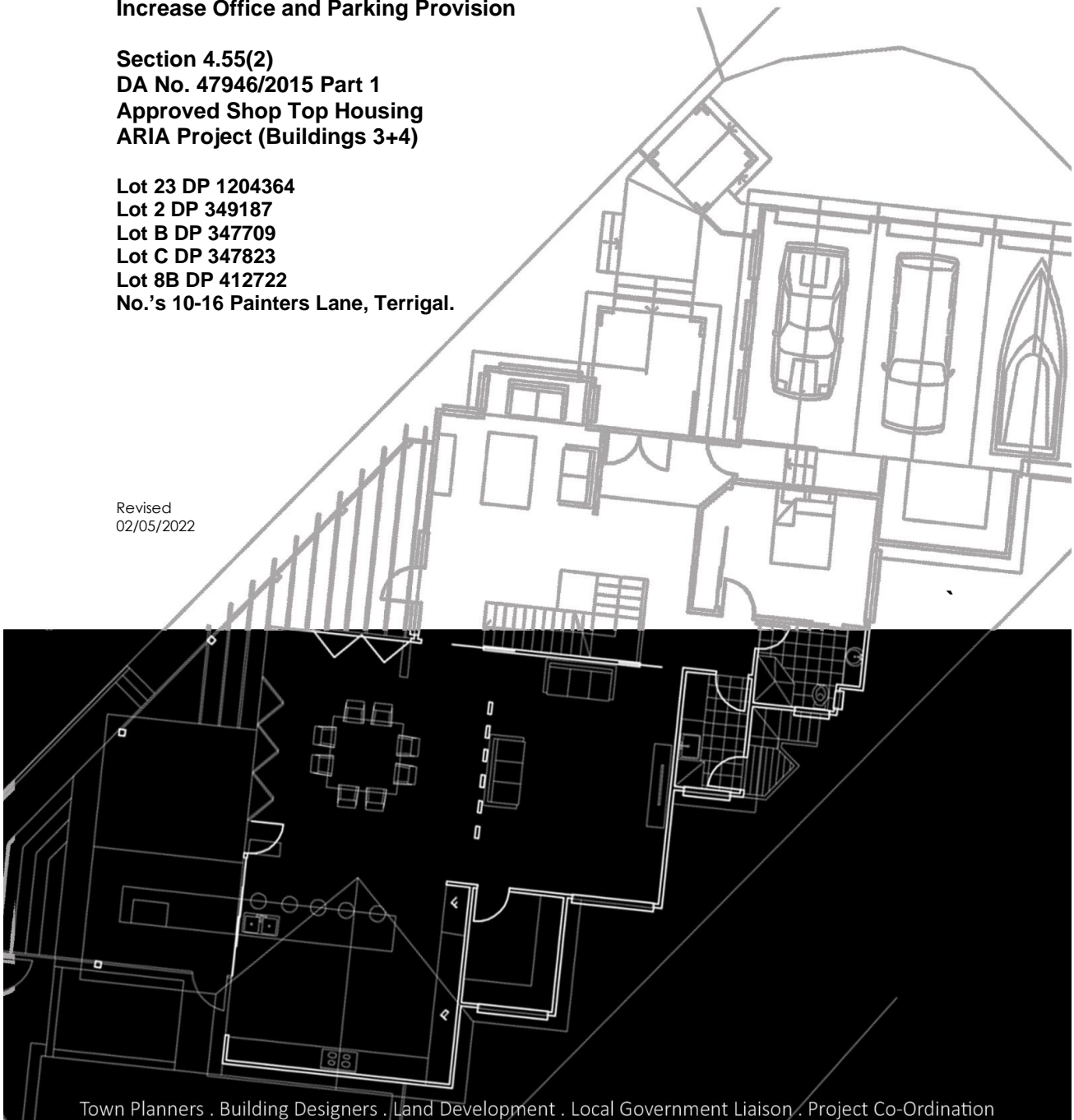
Application to Modify Consent  
Via Substitution of Drawings

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

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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 21<sup>st</sup> 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.

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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 13<sup>th</sup> 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.

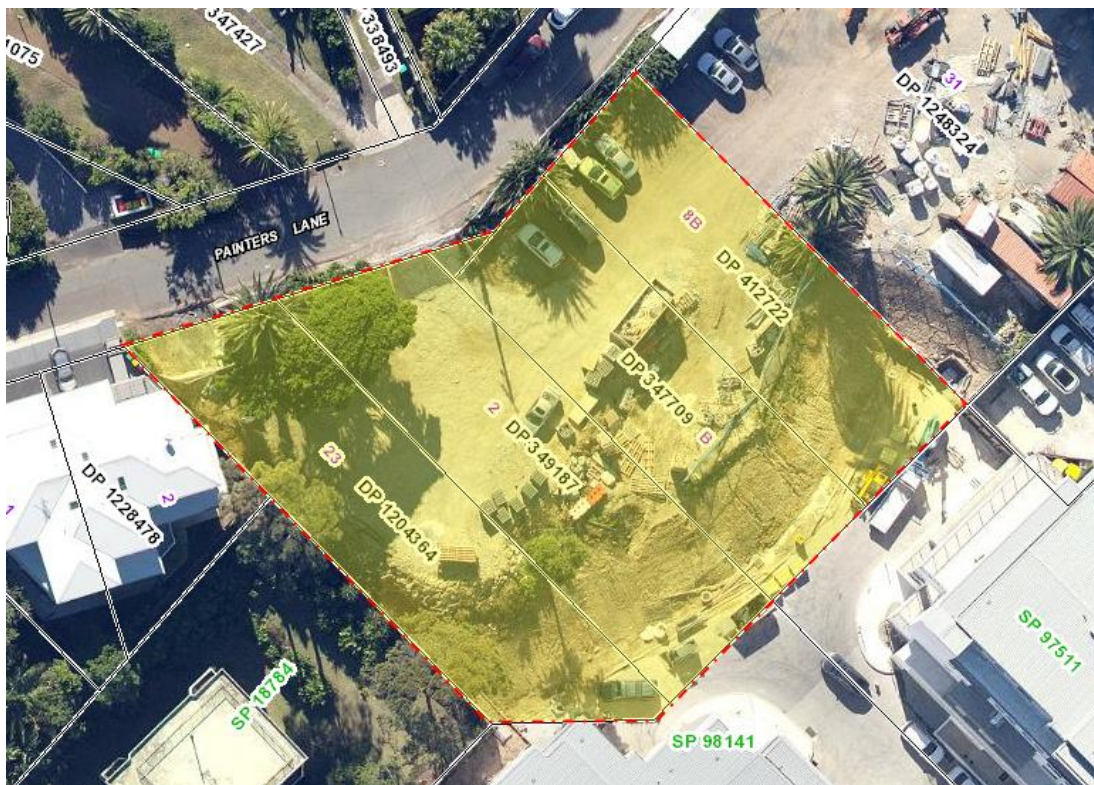
Contained within a generally regularly shaped parcel comprising an area of 2,212.6m<sup>2</sup> the land falls from about RL 16 on the Painters Lane frontage to about RL 6.5 against the right-of-way infrastructure providing access to and from Campbell Crescent.

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.

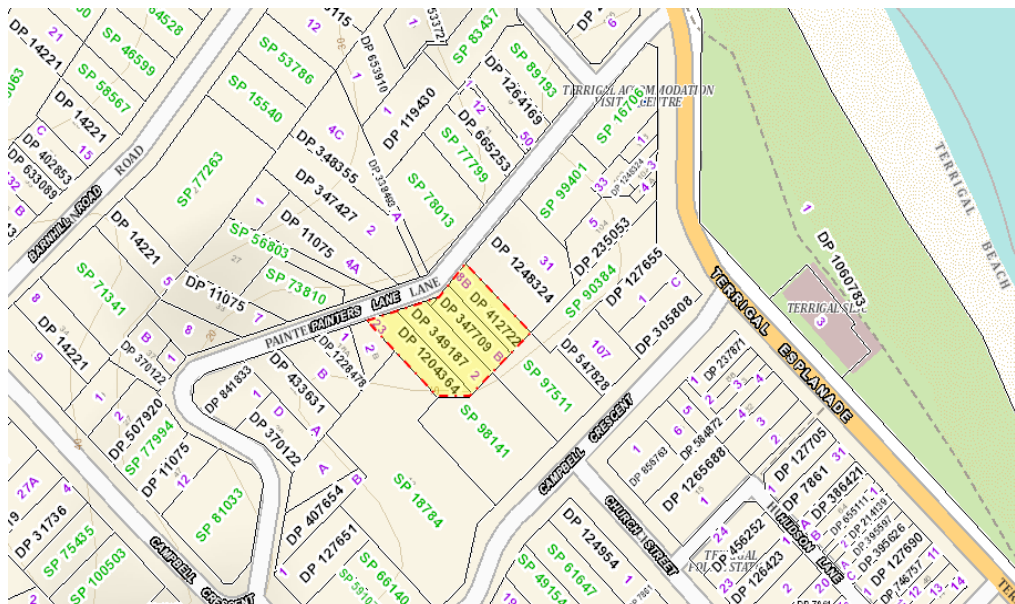


Aerial Photograph of Site – Source: Six Maps

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Aerial Photograph of Site & Surrounds – Source: Six Maps



Locality Map (Six Maps)

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

Page 9

-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 (202m<sup>2</sup>) 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.

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 overtaking vehicular access infrastructure on-site or within the capacity of the street system servicing Terrigal.

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.*

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**(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 2<sup>nd</sup> 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 2<sup>nd</sup> 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.

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**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,

(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.

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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.

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#### 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 13<sup>th</sup> August 2015 held in Council's files).

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 7<sup>th</sup> 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**

15<sup>th</sup> SEPTEMBER 2021



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## 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.

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## 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.