

Wollongong Local Planning Panel Assessment Report | 28 June 2022

WLPP No.	Item No.2
DA No.	DA-2021/1375
Proposal	Mixed Use Development - demolition of existing structures, construction of a residential flat building with ground floor commercial premises and basement parking
Property	43 Kembla Street Wollongong Lot 1 DP 168224
Applicant	Design Workshop Australia
Responsible Team	Development Assessment and Certification - City Centre & Major Development Team (TW)
Prior WLPP meeting	None

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel - Determination

The proposal has been referred to Local Planning Panel for determination pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Clause 3 of Schedule 2 of the Local Planning Panels Direction of 30 June 2020, the proposed development contravenes a development standard by more than 10% (minimum site width and building separation). Further, the development in part constitutes a residential flat building of 4 or more storeys to which SEPP 65 applies; this also necessitates determination by the LPP under Clause 4 of Schedule 2 of the Local Planning Panels Direction.

Proposal

The proposal is for the demolition of existing structures, construction of a mixed use development comprising ground floor commercial premises, residential apartments above and basement car parking.

Permissibility

The site is zoned B4 Mixed Use pursuant to Wollongong LEP 2009. The proposal is categorised as a *shop top housing development* which is permissible in the zone with development consent.

Consultation

The proposal was notified on two occasions in accordance with Council's Community Participation Plan 2019 and received three (3) submissions following the first notification period. There were no further submissions received following the second notification period. The submissions received are discussed at section 2.9 of the assessment report.

Main Issues

The main issues are:

- Site width – departure from Clause 7.14 of Wollongong LEP 2009 and minimum building street frontage (Clause 8.4 of Wollongong LEP 2009);
- Building separation – departures from Clause 8.6 of Wollongong LEP 2009;
- Design quality;
- DCP variations (Chapter D13 of Wollongong DCP 2009) in relation to side boundary setbacks/ building separation and unit mix;

- Heritage and streetscape considerations.

RECOMMENDATION

It is recommended that the application is approved subject to conditions detailed in Attachment 7.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies:

- SEPP (Resilience & Hazards) 2021
- SEPP 65 - Design Quality of Residential Apartment Development
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Transport & Infrastructure) 2021
- SEPP (Koala Habitat Protection) 2021

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan (WDGP) 2009

Other policies

- Wollongong City Wide Development Contributions Plan 2021
- Wollongong Community Participation Plan 2019
- NSW Apartment Design Guide

1.2 DETAILED DESCRIPTION OF PROPOSAL

The development application seeks consent for the demolition of existing structures, tree removal, construction of a five (5) storey building comprising one (1) ground level commercial space and 7 residential apartments over one (1) level of basement car parking.

Specifically, the proposal comprises the following:

- Demolition of existing structures;
- Removal of two (2) trees from the front section of the site;
- Excavation for the purposes of facilitating the provision of 1 level of basement car parking.

Works / Construction / building details

- Construction of a five storey residential flat building containing a ground floor commercial unit and apartments on Levels 1 – 4;
- 53.2sqm commercial space at ground floor with accessible WC and waste room accessible from rear car parking area;
- Ground floor carparking at the rear of the building comprising commercial and visitor car parking along with waiting bays for vehicles waiting entry to the basement level (which will be managed by a boom gate and traffic light system);
- 7 x 3 bedroom units, one (1) of which 1 has been designed as an adaptable unit capable of meeting the requirements of AS4299 for Adaptable Housing. The units on levels 1, 2 and 3 have been designed to be cross-through units while Level 4 is occupied by a single unit which is the adaptable unit.
- 1 basement level housing car parking and waste storage room. Vehicular access will be obtained via the laneway adjacent to the southern boundary of the site “Doughy Davis Lane”;
- Rooftop communal open spaces area; measuring 195.5sqm;

- Landscaping to the boundaries including a deep soil zone with an area of 53.1sqm to be provided adjacent to the eastern (rear) boundary of the site;
- Each apartment will be provided with one or more balconies.
- The external finishes comprise a combination of concrete, face brickwork, timber look aluminium batten clad screening, and cladding as illustrated on the drawings;
- The primary pedestrian access will be available from the Kembla Street frontage of the site, with lift access to all floors. Separate pedestrian access points are available to the commercial and residential components of the development.

Traffic, parking and servicing

- 7 residential car spaces, 1 commercial car space and 2 visitor car spaces. 1 of the residential car spaces has been designed to support the proposed adaptable apartment;
- 1 motorcycle spaces;
- 3 residential bicycle spaces and 1 visitor bicycle space;
- Vehicular access is to be provided from the 7.62m wide paved laneway (shared way) to the immediate south ('Doughy Davis Lane');
- Due to the narrow width of the internal ramp to the basement, a boom gate and traffic signals are proposed to be implemented to manage vehicles within the carpark. The plan provides for waiting bays to accommodate waiting vehicles at the top of the ramp;
- Waste storage rooms are proposed within the basement level and on ground floor. Residential bins will be transported to the frontage of the site for kerbside collection. Private waste collection will be required to be employed for the commercial premise.

1.3 BACKGROUND

Application relevant to the proposal include:

Application Number	Description	Decision	Decision Date
PL-2021/122	Pre-lodgement meeting – mixed use development		01-Sep-2021
DE-2021/110	Mixed Use Development – pre-lodgement meeting with the DRP		01-Sep-2021

Pre-lodgement meetings

A pre-lodgement meeting with Council officers was held for the proposal on 31 August 2021 (PL-2021/122). This was held shortly after a pre-lodgement meeting with the Design Review Panel held on 25 August 2021 (DE-2021/110). The subject application has addressed several of the issues raised at those meetings.

Customer service actions

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

1.4 SITE DESCRIPTION

The site is located at 43 Kembla Street, WOLLONGONG and the title reference is Lot 1 DP 168224. The site is an irregular shaped parcel of land with an area of 656sqm located on the eastern side of Kembla Street. The site has a frontage length of 15.24m to Kembla Street which forms its western boundary. To the immediate south of the site is a public laneway known as Doughy Davis Lane; the site has a frontage length of 37.58m to this laneway.

The site currently contains a single storey building which has been used in the past as a dwelling and later changed to a business premises. The site contains three (3) trees, two (2) in the front yard which are proposed to be removed in conjunction with this proposal, and one (1) large tree in the rear which will be retained.

The site is relevantly flat in topography with a slight fall towards the rear.

Vehicle access to the site is currently achieved via the shared public laneway adjacent to the southern boundary of the site. On the other side of the laneway is a 5 storey commercial building, featuring ground floor business and retail premises. The laneway provides access to both sites.

Adjoining development is as follows:-

- **North** (41 and 41A Kembla Street) - three (3) storey dual occupancy development;
- **South** - immediately to the south of the site is a 7.62m wide public laneway known as Doughy Davis Lane. Further to the south is a contemporary 5 storey commercial building at 45-43 Kembla Street, Wollongong. The ground floor of that building is occupied by business premises while the above floors are occupied by office suites.
- **East:** (41 Smith Street) – 40 units in a 4-5 storey residential flat building known as ‘The Sherwood’ accessed from Smith Street.
- **West** – residential development including dwellings and residential flat buildings and the heritage listed “Keiraleigh” backpackers hostel.

Property constraints

There are a number of site constraints affecting the property. These are:-

- Acid sulphate soils class 5 affectation;
- Flood affectation– uncategorized flood risk precinct.
- Site location within the Wollongong City Centre, thus subject to the city centre controls within the LEP and DCP Chapter D13.
- Nearby listed item of local heritage significance at 60 Kembla Street on the opposite side of the road, “Keiraleigh”.

Reference to the deposited plans indicates that there are no easements or restrictions on the title.

The site location/ aerial photograph and zoning extract form **Attachments 1 and 2**.

1.5 SUBMISSIONS

The application was notified on two occasions in accordance with Council’s Community Participation Plan, the second time following the submission of revised plans and additional information. The first notification period took place between 3-17 December 2021; at the conclusion of this notification period there were three (3) submissions received. Following the second notification period, no further submissions received.

The issues identified are discussed below:-

Table 1: Submissions – in response to plans at lodgement

	Concern	Comment
1	The development is an over development of the site having regard to the variations sought in relation to minimum lot widths and building separation. The variation requests are without merit	The variations in respect of site width and building separation are discussed in detail below and are considered to have merit in this instance.

	Concern	Comment
2	The commercial space is tokenistic and does not address either street frontage due to its setback and design	The commercial space proposed is of sufficient size to activate the frontage of the building and satisfy the requirements of the LEP, as well as being suitable for a small office or business use. The setback and design was considered to be supportable by the DRP.
3	The English Oak at the rear of the site should be retained; it has high value as noted by the arborist report and provides valuable separation between the proposed development and existing Sherwood Apartments. It adds much amenity value to the neighbouring development to the east and habitat. The tree was well established in the 1938 aerial photographs and was required to be retained as part of the development of the Sherwood Apartments in the 1990s.	Amended plans have been submitted by the applicant which provide for the retention of the English Oak. The plans have been supported by an Arboricultural report. Both plans and the report have been reviewed by Council's Landscape Architect and are satisfactory subject to consent conditions.
4	Waste Removal - bins will need to be moved up the 1:4 ramp or via the passenger lift which will be difficult likely to result in bins being stored in the street level visitors parking or along the laneway. This will degrade the amenity of the laneway which has significant use as it provides a direct entry to the Sherwood Apartments.	Residential bins will be required to remain stored within the basement level storage room until just before collection day. A condition is recommended to this effect.
5	<p>The existing cottage on the site has historical significance to the city of Wollongong and Council should give consideration to it being listed as a heritage item.</p> <p>The submission notes that the existing cottage exists in the earliest of Council maps and it is known that Walter James Davis, a baker, lived at 43 Kembla Street in the early 1900s. Mr Davis operated a bakery behind his residence and sold bread from his shop in Lower Crown Street.</p>	<p>Council's Heritage Officer has considered the potential heritage significance of the existing building and associated structures on the site. The applicant has provided a Heritage Impact Statement and preliminary Historic Archaeological Advice in respect of the site which concludes that the site is not of heritage significance and is of low archaeological potential. A number of conditions are recommended which include the requirement for an unexpected finds protocol to be employed during works and the requirement for photographic recording of the existing house.</p> <p>The existing dry sandstone wall is considered to be of historic value and its retention is required. The plans provide for the retention of the wall with some new gaps proposed to</p>

Concern	Comment
	allow pedestrian entry to the site. Any blocks removed from the wall will be required to be retained and securely stored on site prior to incorporation into other built elements on the site.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Architect

Council's Architect/ design expert reviewed the amended plans submitted in April 2022 and analysed whether the plans adequately responded to matters raised by the Design Review Panel at their meeting of 10 February 2022. Council's Architect identified the following areas where the proposal did not fully address the recommendations of the Design Review Panel. These are:

- Fire egress and BCA compliance – has an engineered solution been demonstrated?

Comment: The applicant has advised that the fire stairs have been amended, however a Fire Engineered Solution has been prepared to ensure compliance with the BCA. The application was accompanied by a letter of support from Mobius Fire Safety P/L which deals with the performance solutions proposed. It advises that preliminary assessments find that a Performance Solution is feasible and achievable to address these deemed-to-satisfy deviations through fire engineering assessment in order to demonstrate compliance with the Performance Requirements of the BCA. Compliance with the BCA can be ensured as a condition of consent.

- The location of the AC units on the roof top in the timber surround is not considered to be the most sympathetic way to treat this area, however it was noted that this will not be visible from the street as shown in the perspectives and on this basis is considered to be acceptable. *Comment:* the most recent plans have resolved this issue. The timber batten surround has been removed from the plans.
- The location of the rainwater tank (which is separate from the OSD tank proposed) is still not shown. *Comment:* the rainwater tank is located within the basement and is consistent with the BASIX certificate lodged with the DA.

Geotechnical Engineer

Council's Geotechnical Engineer reviewed the proposal and raised no objection subject to recommended consent conditions which are included in **Attachment 7**.

Stormwater Engineer

Council's Stormwater Officer has reviewed the revised stormwater concept plans and has indicated they have no objection. Conditions of consent are included in **Attachment 7**.

Landscape Architect

Council's Landscape Architect has reviewed the proposal and has provided a satisfactory referral including recommended consent conditions which are included in those provided at **Attachment 7**. These conditions include requirements in relation to tree retention and protection during works, footpath paving and street tree planting.

Traffic Engineer

Council's Traffic Officer has reviewed the application and provided a satisfactory referral including recommended consent conditions which are included in those provided at **Attachment 7**.

Heritage Officer

Following the submission of revised plans and further information, Council's Heritage Officer has provided a satisfactory referral including recommended consent conditions which are included in those provided at **Attachment 7**.

Environment Officer

Council's Environment Officer has reviewed the proposal and has raised no objections subject to consent conditions being imposed in waste management, the management of hazardous building materials and excavated soil material disposal. These are included in the recommended conditions provided at Attachment 7.

1.6.2 EXTERNAL CONSULTATION

Endeavour Energy

The application was referred to Endeavour Energy as required by Clause 2.48 of State Environmental Planning Policy (Transport & Infrastructure) 2021. Endeavour Energy has an advisory role and provided comment as to future servicing requirements. This advice was referred to the applicant.

Sydney Water

The application was referred to Sydney Water corporation for comment. Sydney Water has an advisory role and provided comment as to future servicing requirements.

Design Review Panel

Prior to lodgement of the development application, the applicant participated in a voluntary Design Review Panel meeting which was held on 25 August 2021 (DE-2021/110).

The development application was assessed by the Design Review Panel (DRP) under the requirements of the SEPP 65 post lodgement on 10 February 2022. Notes of the meeting are provided at Attachment 5. Council's Architect has reviewed the amended plans and has advised that the recommendations of the DRP have been addressed. A re-referral to the DRP was not deemed necessary.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

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

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

NSW BIODIVERSITY CONSERVATION ACT 2016

Under the provisions of Part 7 of the Act and relevant provisions of the Biodiversity Conservation Regulation 2017, the proposal does not trigger the requirement for a biodiversity offset scheme.

The site is not identified as being of high biodiversity value on the Biodiversity Values Map and none of the trees on the site proposed for removal have been identified as containing hollows. On this basis, the development will not result in adverse impacts on biodiversity and is consistent with the provisions of the BC Act 2016.

Fisheries Management Act 1994

Not applicable.

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

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE & HAZARDS) 2021

Chapter 4 Remediation of land

4.6 Contamination and remediation to be considered in determining development application

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

The DA was accompanied by a combined preliminary (PSI) and detailed site investigation (DSI) prepared by Reditus Consulting. The report has been reviewed by Council's Environmental Officer who deemed it satisfactory. The results of the combined PSI and DSI have determined that the land is suitable in its current state for the proposal; remediation of the site is not required.

The proposal is considered to be satisfactory with regard to the requirements of clause 4.6. It is noted that conditions will be imposed in relation to the safe removal, handling and disposal of hazardous materials associated with the demolition of the existing building, and classification of excavated material from the site.

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

The development meets the definition of a 'residential flat building' as it is more than 3 storeys and comprises more than 4 dwellings. As such, the provisions of SEPP 65 apply. The proposal has been considered by Council's DRP in accordance with Clause 28 and Schedule 1, as reflected above.

A statement has been prepared by a Registered Architect addressing the requirements of SEPP 65 and was submitted with the application at lodgement in accordance with Clauses 50(1A) & 50(1AB) of the Environmental Planning and Environment Regulation 2000 (in force at time of lodgement).

Schedule 1 of SEPP 65 sets out the design quality principles for residential apartment development. These must be considered in the assessment of the proposal pursuant to clause 30(2)(a) of the Policy and are discussed below

Principle 1: Context and neighbourhood character

The locality is an area in transition, featuring a mixture of development types and densities, including a range of commercial and mixed-use developments, larger dual occupancy and medium density housing development and serviced apartment complexes. In the more contemporary buildings in proximity of the site, there is no prevailing architectural theme / character evident.

The proposal is considered to be broadly consistent with the existing and desired future character of the area and was considered an appropriate design response for the site by the DRP and Council's Heritage Officer, noting the proximity of heritage items to the site and the historically significant stone wall which will be retained within the site.

Principle 2: Built form and scale

The bulk and scale of the development is not inconsistent with development in the locality, noting that there is no particular theme or architectural character evident, and the site is adjacent to the zone boundary of the B4 and R1 zones (to the east) and very close to the zone boundary to the north. Remaining dwelling houses and older residential buildings are expected to transition over time and be redeveloped into higher density residential or mixed use development. The form of the proposal is appropriate with regard to the desired future character of the area and the controls applicable to this part of the B4 zone.

The development will not create an isolated allotment and is an isolated allotment in itself, which in part warrants some flexibility in the application of the controls relating to site width and setbacks. It

is noted that the development features departures in respect of site width and building separation as well as DCP variations in relation to side boundary setbacks. These departures largely arise due to the isolated nature of the allotment, being sited between a contemporary large dual occupancy development to the north and a laneway to the south. Despite this, the building form is considered to be appropriate in that issues of privacy and amenity impacts are well resolved and the height and scale of the building provides an appropriate design response to the character of the area.

Principle 3: Density

The density of the development complies with the floor space ratio permitted for the land. Local infrastructure is capable of supporting the proposed development. The site is well situated with regard to existing public transport, employment, services and public open space, being within ready walking distance of the city centre and foreshore recreation areas. Adequate parking has been provided on site to cater for the number of units proposed. Contributions applicable to the development will go towards local infrastructure and facilities.

The design of the development provides for an appropriate built scale measured in terms of floor space and height. The proposed density was considered acceptable by the DRP.

Principle 4: Sustainability

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

- BASIX Certificates provided indicating minimum requirements are met.
- A Site Waste Management and Minimisation Plan has been provided indicating recycling of materials from the demolished dwelling.
- Apartments are provided with natural cross ventilation and internal layouts have been designed to provide for good solar access to primary living areas and private open space areas.
- The western elevation of the building will be partly shielded from harsh western sun with balconies providing shading of living areas.
- The proposal will not have an adverse impact on any heritage items or environmentally sensitive areas.
- The proposal is an efficient use of land in a location that is close to services and public open space.
- A photovoltaic system is proposed on the roof.

Principle 5: Landscape

The proposal is satisfactory in respect of landscaping. The proposal provides suitable landscaped areas and communal open space that will improve the amenity of the occupants, soften the appearance of the development from adjoining properties and the public domain and offer opportunities for some urban greening and infiltration of stormwater. The development has been designed to ensure the ongoing protection of the large English Oak tree at the rear of the site. The proposal is satisfactory to Council's Landscape Officer and the DRP, subject to conditions.

Principle 6: Amenity

The development will provide good amenity for future occupants by way of landscaped areas, private open space, communal open space and dwelling layout.

The proposal satisfies the requirements for solar access, cross ventilation, storage and acceptable balcony, communal open space areas, visual, acoustic privacy, access, and the like for future occupants of the development. Setbacks are reasonable and defensive design solutions are proposed in places to ensure that the privacy and amenity of neighbouring development is not compromised.

Principle 7: Safety

The proposal is satisfactory with regard to safety and security and is generally consistent with the principles of Crime Prevention through Environmental Design. The development is unlikely to result in additional criminal or antisocial behaviour in the locality.

A defined pedestrian entry has been provided to both the commercial and residential entries fronting Kembla Street and both the residential lobby and commercial space offer some activation of the street and these, coupled with the upper level balconies, will offer opportunities for passive surveillance of the street and laneway. The basement residential car parking is secured.

Principle 8: Housing diversity and social interaction

The proposal provides for only 3-4 bedroom units rather than a greater mix of 1-4 bedroom units which, the applicant contends, is more appropriate for the locality. One unit capable of adaptation is proposed. The DRP noted that while the mix does not correspond with the Council's requirements, the Panel recognises that as a small boutique development, it has little impact on local provision and is therefore able to be supported. The applicant's variation request is outlined in the ADG assessment table at **Attachment 6** and is considered to be reasonable and supportable.

Principle 9: Aesthetics

The form and finish of the development along with proposed landscaping are considered to positively contribute to the streetscape. The setbacks are appropriate, and the development provides for an appropriate streetscape response including an active street frontage, retention of the stone wall along the street frontage, landscaping, and public domain works.

The building is considered to be of a high quality with regard to its appearance. A mixture of materials and finishes is provided, and the bulk of the development is suitably articulated. Appropriate treatment of the streetscape is proposed having regard to the character of development in the locality and nearby heritage items. The form and finishes proposed are considered to be appropriate.

Apartment Design Guide

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

The development has been assessed against the provisions of the ADG and was found to be compliant, with the exception of variations in respect of 3F Visual Privacy (side and rear setbacks) and 4K Apartment Mix. The variations sought are discussed within the table at **Attachment 6** and are considered to be supportable.

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

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

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

2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT & INFRASTRUCTURE) 2021

The development application was referred to Endeavour Energy for comment in accordance with Clause 2.48 as it may involve works within proximity of electricity infrastructure. Endeavour Energy has advised on connection requirements and has confirmed that it has no objection to the proposed development.

2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2021

SEPP (Koala Habitat Protection) 2021 applies to the Wollongong Local Government Area, identified as being in the South Coast koala management area.

12 Development assessment process—other land

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

2.1.6 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

The following definitions are relevant to the proposed development:-

commercial premises means any of the following—

- (a) business premises,
- (b) office premises,
- (c) retail premises.

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

Note: Shop top housing is a type of *residential accommodation*—see the definition of that term in this Dictionary.

Clause 2.2 – zoning of land to which Plan applies

The zoning map (see **Attachment 2**) identifies the land as being zoned **B4 Mixed Use**.

Clause 2.3 – Zone objectives and land use table

The objectives of the B4 zone are as follows:-

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.

The proposal is satisfactory with regard to each of the above objectives.

The land use table permits the following uses in the B4 zone:-

Advertising structures; Amusement centres; Boarding houses; Car parks; Centre-based child care facilities; **Commercial premises**; Community facilities; Educational establishments; Entertainment facilities; Environmental facilities; Exhibition homes; Function centres; Home businesses; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Multi dwelling housing; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Self-storage units; Seniors housing; Service stations; **Shop top housing**; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Wholesale supplies

The proposal is characterised as *shop top housing* and *commercial premises* [as defined above]. Both uses are permissible in the zone with development consent.

Clause 2.7 Demolition requires development consent

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

Part 4 Principal development standards

Clause 4.3 Height of buildings

This clause prescribes a maximum height of 24 metres for the site. The proposal complies with a maximum overall height of approx. 20m.

Clause 4.4 Floor space ratio

Clause 4.4 provides for a maximum floor space ratio of 1.5:1 for the site. The proposed FSR is 1.499:1 which is compliant.

Clause 4.4A Floor space ratio – Wollongong city centre

Clause 4.4A(4) provides that the maximum floor space ratio for a building on land within a business zone under this Plan, that is to be used for a mixture of residential purposes and other purposes, is—

$$(NRFSR \times NR/100) + (RFSR \times R/100):1$$

This results in a maximum floor space ratio of 1.5:1. The development has a GFA of 983.51sqm, resulting in a FSR of 1.499253:1 which is compliant.

Clause 4.6 Exceptions to development standards

Variations are requested to Clauses 7.14(2) minimum 24m site width; and Clause 8.6 Building Separation and therefore this clause applies. The applicant has provided variation requests (see attachment 4) in accordance with Clause 4.6 of the WLEP 2009 as detailed and discussed in the table below.

Table 2: Clause 4.6, WLEP 2009 development departure assessment – Site Width

Development departure	Clause 7.14 (2). Minimum site width 24m The width of the site is 15.25m.
Is the planning control in question a development standard?	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Yes. The applicant's request contains this justification. The applicant contends that compliance with the standard is unreasonable and unnecessary in the circumstances of the proposed development because there are no reasonable opportunities to amalgamate with adjoining sites to achieve the minimum 24m prescribed width. Further, the applicant contends that the objectives of the B4 Mixed Use zone and the minimum site width development standard are achieved notwithstanding the non-compliance. The applicant notes that while the objectives of the standard are not identified in the instrument, it can be reasonably assumed that the intent of the standard is to ensure that sufficient space is provided on a development site to achieve suitable amenity. The applicant asserts that the proposal will provide satisfactory

	amenity as the proposal complies with the design objectives of the ADG, in particular those for solar access, ventilation and deep soil planting. The proposal's design also ensures that unreasonable privacy impacts are avoided, and that streetscape integration is achieved. The development has been designed to ensure that off-site impacts are minimised and it appropriately addresses the streetscape.
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes, the applicant's request contains this justification shown at attachment 4 .
4.6 (4) (a) the Consent authority must be satisfied that:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>The applicant has adequately addressed the matters required to be demonstrated by subclause (3).</p> <p>The applicant's submission contends that the following environmental planning grounds justify the departure: -</p> <p>The site width contravenes the minimum site width development standard as a result of the site's isolated nature. There is minimal if any opportunity to acquire and be amalgamated with adjoining land because, in the case of land to the north, the neighbouring sites are occupied by two (2) large contemporary dual occupancy developments, and the land to the south is occupied by a laneway which serves a public purpose.</p> <p>The proposed variation and the development are in the public interest as it satisfies the objectives of the B4 zone and will not give rise to detrimental impacts on adjoining residential and commercial development.</p> <p>Whilst the standard does not have any prescribed objectives or stated intent, the proposal satisfies the likely objective of the standard, being to achieve suitable amenity and streetscape presentation.</p> <p>The proposal will revitalise the site while providing additional housing in the Wollongong City Centre and reinforce pedestrian activity within the locality.</p> <p>The proposed development meets the relevant objectives of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> • 1.3(c) – the proposal is an orderly and economic use of the site. The proposal provides a contemporary built form that is compatible with the desired future character of the locality. • 1.3(d) – the proposed RFB includes seven (7) 3-bedroom residential apartments, and one (1) ground floor commercial space which contributes to the provision for new housing supply within close proximity to public transport, employment, community, and health services
(ii) the proposed development will be in the public interest because it is consistent with the	It is considered that strict compliance with the minimum lot width standard in the context of the proposal and the subject site

objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and	<p>would not result in any significant public benefit in this specific instance due to the unique site circumstances.</p> <p>The applicant has demonstrated that the proposed development is consistent with the objectives of the minimum lot width standard [Clause 7.14(2)]. Further, the development is consistent with the objectives of the B4 zone. The design appropriately responds to the narrow width of the site</p> <p>It provides a form of development which is consistent with the objectives of the B4 zone, activates the street and provides additional housing opportunities within close proximity of the city centre. It also provides a built form which is a suitable transition from the commercial development to the south and residential development to the north. On balance, the proposal is considered to be in the public interest.</p>
(b) the concurrence of the Secretary has been obtained.	The WLPP can assume the Secretary's concurrence as the consent authority.

Table 3: Clause 4.6, WLEP 2009 development departure assessment – Building Separation Clause 8.6(2)(a)

Development departure	<p>Clause 8.6(2)(a). The development standard requires a nil (0m) setback to side boundaries in order to achieve no separation between buildings, up to the desired street wall height, or up to a height of 24m, whichever is lesser.</p> <p>The extent of the variation proposed is as follows:-</p> <p>In this case, the proposed ground floor level is setback 0m from the northern side boundary, which complies with the standard. Above ground floor the setback to the northern boundary is in the order of 2.4m – 3.0m.</p> <p>The proposal does not comply in relation to the southern side boundary, however, with the setback ranging from 0.5m to 2.2m at ground level, to 1.5m at the roof top terrace (Level 5). To the north, south and east, there is no ability to achieve 'no separation' given the location of neighbouring buildings and other physical features including the large English Oak in the rear of the subject site.</p>
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Yes. The applicant's request contains this justification.</p> <p>The applicant contends that the development departure is required to facilitate the orderly and economic development of the land. Because there is no feasible opportunity to increase the width of the site, design techniques have been used to ensure the objectives of the building separation requirement are achieved, notwithstanding the numerical variation. The development has been designed in consideration of the neighbouring development</p>

	<p>and will result in no additional impact beyond what is anticipated for the development by the numerical separation standard.</p> <p>The applicant also states that the proposal is consistent with the prevailing streetscape character in the locality (where there are setbacks / gaps between buildings as evidenced in the images included in the applicant's statement) and preserves the amenity of the immediately adjoining multi-dwelling housing development.</p> <p>The applicant's submission concludes that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case for the following reasons:-</p> <ul style="list-style-type: none"> the objectives of the development standard are achieved notwithstanding non-compliance with the standard as the proposal is compatible with existing development (both established or recent development) along Kembla Street which all features some form of side setbacks; adequate privacy is achieved for the development; and the development has been satisfactorily designed with regard to the ADG requirements for solar access. The objective would be defeated or thwarted if strict compliance was required, in that it would require 0m setbacks from each side boundary, which is a scenario that has not been adopted elsewhere along Kembla Street. In effect, it would create a scale (when considered together with development's remaining upper levels), which is incompatible with the streetscape. In other words, it would be a poor visual appearance. Further, whilst the ground floor is primarily for commercial and service related purposes, it is considered that some form of side boundary setback creates a better amenity for occupants, compared to a scenario where strict compliance is enforced. The setbacks allow for additional natural ventilation, improved accessibility along the side boundary, as well as landscaping also along the side boundary. While more broadly the development standard has not been abandoned, but there are no buildings on this section of Kembla Street that have been designed with setbacks consistent with that required by Clause 8.6 ad as such it is considered that the standard has been abandoned with regard to this part of Kembla Street.
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes, the applicant's request contains this justification shown at attachment 4.
4.6 (4) (a) the Consent authority must be satisfied that:	
(i) the applicant's written request has adequately addressed the matters required	The written request has adequately addressed the matters required to be addressed under subclause (3)". The applicants'

<p>to be demonstrated by subclause (3), and</p>	<p>justification is supported and the exception from the development standard is considered to be well founded.</p> <p>The applicant has identified the following environmental planning grounds as justification for the building separation departure:-</p> <p>The proposal is in the public interest as it satisfies the objectives of clause 8.6 and the B4 zone and presents no detrimental impact to adjoining residential or commercial development.</p> <p>Kembla Street does not present any recent or established buildings which fully comply with the standard in question. The proposal has taken this into account and adopted side setbacks resulting in an envelope which better integrates with the existing and likely streetscape.</p> <p>Given the street does not include any developments which comply with the standard, requiring compliance in the case of the subject site would result in an envelope which is incompatible with the streetscape.</p> <p>The non-compliance results in better amenity for users of the proposal's ground floor in that it allows for additional ventilation, improves serviceability, and allows for additional landscaping. The view of the proposal from the southern nearby development (i.e., 45-53 Kembla Road) is also improved as some form of setback and landscaping 'softens' the appearance of the proposed development.</p> <p>The proposed development meets the relevant objectives of the <i>Environmental Planning and Assessment Act 1979</i> as follows:</p> <ul style="list-style-type: none"> • 1.3(c) – the proposal is an orderly and economic use of the site. The proposal provides a contemporary built form that is compatible with the desired future character of the locality. • 1.3(d) – the proposed RFB includes seven (7) 3-bedroom residential apartments, and one (1) ground floor commercial space which contributes to the provision for new housing supply within close proximity to public transport, employment, community, and health services
<p>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p>	<p>In this specific instance there is no public benefit in insisting on compliance with the standard. To do so would result in a built form at odds with the character of development in the locality and would jeopardise the economic and orderly development of the site.</p> <p>The proposal is considered to be consistent with the objective of the standard and the B4 zone despite the non-compliance. The development provides for an acceptable relationship with neighbouring buildings and the streetscape and the setbacks to both boundaries allow light and ventilation to the commercial and residential components which would otherwise be hampered by compliance with the standard.</p>

(b) the concurrence of the Secretary has been obtained.	The WLPP can assume the Secretary's concurrence as the consent authority.
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Table 4: Clause 4.6, WLEP 2009 development departure assessment – Building Separation Clause 8.6(3)

Development departure	<p>Clause 8.6(3). The development standard requires a 20m setback to the residential development to the north and a 16m setback to the commercial development to the south.</p> <p>The extent of the variation proposed is as follows:-</p> <p>In this case, the separation distance between the proposed development and the adjacent residential development to the north is 3.73m and ranges between 11.91m and 10.14m from the commercial development to the south. The separation distance between the proposed development and the residential building to the east of the site is a minimum of 16 metres.</p> <p>The residential units (level 1 and above) are setback 2.4 – 3m from the northern boundary and a minimum of 500mm from the southern boundary of the site. The setback to the rear/ eastern boundary from the residential units is a minimum of 9m.</p> <p>There is a consistent building separation of 3.73m to the northern neighbour for Levels 1 and 2 and a separation distance between 11.91m and 10.14m from the adjoining southern commercial development for Level 1, 2, 3 and 4 of the building. The separation distance from the proposed building to the residential flat building to the east is a minimum of 16m.</p>
Is the planning control in question a development standard	Yes.
4.6 (3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	<p>Yes. The applicant's request contains this justification.</p> <p>The applicant contends that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case for the following reasons:</p> <p>1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.</p> <p>The objective of clause 8.6 is –</p> <p><i>(1) The objective of this clause is to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access.</i></p> <p>With regard to <u>visual appearance</u>, the applicant contends that the proposal integrates effectively with the existing and likely future streetscape. This is demonstrated, in particular, by the proposal's compliant building height and consistency with side setbacks adopted for other developments along Kembla Street. This ensures the existing or potential 'rhythm' of built form along the streetscape is retained. Conversely, if compliance with the standard was required, it would result in an extremely narrow</p>

	<p>built form. This would be entirely inconsistent with the existing or likely streetscape and inconsistent with the objective of the standard.</p> <p>In addition, the proposal in general adopts a contemporary design with contemporary and high quality finishes. This ensures the proposal will be visually pleasing from the public domain and adjoining private land.</p> <p>With regard to <u>privacy</u>, the applicant contends that the development generally complies with 3F (visual privacy) of the ADG with the exception of a 'minor variation' in relation to the northern setback to Levels 1 and 2.</p> <p>The applicant states that, notwithstanding the minor non-compliance, the amenity of residents is not compromised as appropriate privacy measures have been implemented into the design to minimise overlooking - including obscured glass along the northern orientation, windows which are smaller in size than what would normally be used for habitable rooms, as well as windows which are offset or positioned to minimise direct overlooking to any windows on the adjacent dwelling.</p> <p>In relation to <u>solar access</u>, all of the units will achieve two (2) hours of direct sunlight between 9am and 3pm in mid-Winter which is more than the minimum 70% required by the ADG.</p> <p>The proposed development does not overshadow any residential development within the vicinity of the site.</p> <p>The applicant contends that the objective would be defeated or thwarted if compliance was required. If compliance was insisted upon, it would result in a very narrow built form due to the site's overall limited frontage of 15.24m. Such a built form would be inconsistent with the existing or likely future streetscape, and would not present particularly poorly to the public domain. It would not achieve suitable visual appearance, which is an objective of the standard. Therefore, compliance with the standard would result in its objective being thwarted.</p> <p>A number of instances where CI 8.6 has been varied by Council are cited in the applicant's submission, which they argue points to virtual abandonment or destruction by the Council's own actions in granting consents departing from the standard.</p>
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes, the applicant's request contains this justification shown at attachment 4.
4.6 (4) (a) the Consent authority must be satisfied that:	
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	The written request has adequately addressed the matters required to be addressed under subclause (3)". The applicant's justification is supported and the exception from the development standard is considered to be well founded.

	<p>The applicant's submission identifies the following environmental planning grounds to justify contravening the development standard:-</p> <p>The site is narrow and is isolated, preventing amalgamation with adjoining land to facilitate a larger possible building envelope.</p> <p>The proposal is in the public interest as it satisfies the objectives of clause 8.6 and the B4 zone, and will result in no detrimental impact to adjoining residential and commercial development</p> <p>The proposal will revitalise the site as envisaged by the WLEP 2009 while providing additional housing in the City Centre and reinforcing pedestrian activity within the locality.</p> <p>The proposed development meets the relevant objectives of the <i>Environmental Planning and Assessment Act 1979</i> as:</p> <ul style="list-style-type: none"> • 1.3(c) – the proposal is an orderly and economic use of the site. The proposal provides a contemporary built form that is compatible with the desired future character of the locality. • 1.3(d) – the proposed RFB includes seven (7) 3-bedroom residential apartments, and one (1) ground floor commercial space which contributes to the provision for new housing supply within close proximity to public transport, employment, community, and health services
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and	<p>In this specific instance there is no public benefit in insisting on compliance with the standard. To do so would result in a built form at odds with the character of development in the locality and would jeopardise the economic and orderly development of the site.</p> <p>The proposal is considered to be consistent with the objective of the standard and the B4 zone despite the non-compliance. The development provides for an acceptable relationship with neighbouring buildings and the streetscape. Despite the separation distances not complying, the design of the development minimises opportunities for acoustic and visual privacy impacts, maintains acceptable solar access to the proposed apartments and neighbouring development, and results in an appropriate built form outcome with a suitable visual appearance.</p>
(b) the concurrence of the Secretary has been obtained.	The WLPP can assume the Secretary's concurrence as the consent authority.

Part 5 Miscellaneous provisions

Clause 5.9 - Preservation of Trees or Vegetation

There are a two (2) trees on the site, one of which is proposed to be removed to facilitate construction of the proposed development. The largest tree is to be retained, being a large English Oak in the rear

of the site. The building has been redesigned to provide for the retention of the tree and incorporates the recommendations of the Arboricultural Impact Assessment submitted.

Council's Landscape Officer is supportive of the removal of the tree from the front yard, subject to compensatory planting being carried out. A condition of consent is recommended in this regard.

Clause 5.10 Heritage Conservation

The site is not heritage listed nor is it located within a heritage conservation area. There are however numerous heritage items within the vicinity of the site including 'House' (#6387) opposite the site, Wollongong Primary School and Headmasters Residence (#5935) and the Market Street Heritage Conservation Area.

A Heritage Impact Statement was supplied with the application which deals with the impact of the development on these items. The report concludes that the proposal will not have an adverse impact on the significance of the nearby items. Council's heritage officers have reviewed the proposal and have advised that it is acceptable.

The application was also accompanied by an archaeological study of the subject site which assessed it as being of low archaeological potential. A condition requiring the implementation of an unexpected finds protocol is however recommended for inclusion on any consent, along with the requirement for photographic recording of the existing building on the site prior to the commencement of demolition. The sandstone wall at the front and side boundary of the site is a significant historic feature and this is proposed to be retained and in part dismantled and reused in the landscape design which is supported by the heritage officers.

Clause 5.21 Flood planning

The site is located within a low flood risk precinct and the application was accompanied by a flood study which, along with the proposal, has been considered by Council's Stormwater Engineer with regard to the applicable provisions of Wollongong DCP 2009 and Clause 5.21 of the LEP. Matters for consideration under subclause 2 are satisfactory.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The land is located in an established urban area and it is expected that the existing utility services can be augmented to support the proposed development. It is recommended that a condition of consent is applied requiring approval from the relevant authorities for the connection of electricity, water and sewerage to service the site.

Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by class 5 acid sulphate soils. An acid sulphate soils management plan is not required.

Clause 7.6 Earthworks

The proposal involves excavation to facilitate the provision of the building's single level of basement car parking. The earthworks have been considered in relation to the matters for consideration outlined in Clause 7.6 and are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features of surrounding land. Council's Geotechnical Engineer has considered the application and has provided a satisfactory referral subject to conditions.

Clause 7.13 - Certain land within business zones

This clause applies to the business zones and states that consent must not be granted for unless the consent authority is satisfied that the ground floor of the building—

- (a) will not be used for the purpose of residential accommodation, and

- (b) will have at least one entrance and at least one other door or window on the front of the building facing the street other than a service lane.

The development complies with this clause.

Clause 7.14 Minimum site width

The plan indicates a 15.24m frontage to Kembbla Street which is 8.76m less than the minimum required width of 24m required under the provisions of this Clause. The application has sought a departure in this regard and has submitted a variation request pursuant to Clause 4.6 of the LEP; which is detailed above.

Clause 7.18 Design excellence in Wollongong city centre and at key sites

As the site is positioned within the Wollongong city centre, it is subject to this clause, the objective of which is to deliver the highest standard of architectural and urban design.

Development consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence. In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:-

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

The design, materials and detailing proposed are considered to be of high quality and are appropriate to the building type and location.

- (b) *whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*

The development is considered to positively contribute to the public domain through an aesthetically pleasing façade, appropriate bulk, scale and form, appropriate street setbacks, good resolution of levels between the site and the pedestrian footpath, appropriate landscaping, retention of existing street trees and new street tree planting.

- (c) *whether the proposed development detrimentally impacts on view corridors,*

No significant view corridors are expected to be impacted. The site is located within the nominated distant panoramic view corridor identified in Figure 3.12 (Clause 3.10) of Chapter D13 of Wollongong DCP 2009, however it is a narrow building and does not exceed either the maximum height or floor space ratio permitted for the site, and as such on balance is not considered to unreasonably impact on the view corridor.

- (d) *whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,*

The site is not identified as being affected by the sun plane controls and will not overshadow an area identified on the Sun Plane Protection Map.

- (e) *how the proposed development addresses the following matters:*

- (i) *the suitability of the land for development,*

The land is zoned for the type of development proposed and there are no site constraints that would prevent the proposal. The proposal has been designed satisfactorily with regard to flooding.

- (ii) *existing and proposed uses and use mix,*

The development is considered to be consistent with current and desired future development in the locality. The proposed use is consistent with the B4 zone objectives.

- (iii) *heritage issues and streetscape constraints,*

The development has been appropriately designed with regard to heritage issues and streetscape constraints. The development incorporates the retention of the existing stone wall which is considered to be of historic significance.

(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

Amenity and urban form matters have been satisfactorily addressed as discussed elsewhere in this report. The proposal provides for an appropriate relationship with the neighbouring residential buildings to the north and east of the site. There are some variations sought in respect of some required setbacks; these are discussed in detail in the compliance tables and are considered to have merit in this instance. The laneway to the south provides for appropriate separation distance to the building to the south.

(v) bulk, massing and modulation of buildings,

The bulk and scale of the development is considered to be acceptable when measured in terms of building height and floor space ratio. The DRP advised that the development is acceptable with regard to bulk, massing and modulation; see Attachment 5.

(vi) street frontage heights,

Not applicable.

(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,

The development incorporates sustainable design measures including a rainwater tank and solar panels. The proposal will not give rise to unreasonable overshadowing impacts and is not expected to result in uncomfortable wind conditions for pedestrians given its scale and low height. Conditions have been recommended in relation to limitations on material reflectivity.

(viii) the achievement of the principles of ecologically sustainable development,

The proposal is considered satisfactory with regard to objectives of ESD. The site is well placed with regard to access to key transport nodes, within ready walking distance of bus stops and the recreation areas.

The development has been designed to provide for good internal amenity with appropriate provision for energy and water efficiency and thermal comfort. It incorporates a rainwater tank and solar panels.

(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,

The proposal provides the necessary car parking, motorcycle and bicycle parking and suitable manoeuvring areas. Satisfactory waste servicing arrangements have been provided.

Appropriate arrangements have been made for safe, direct, practical and equitable pedestrian access to and throughout the building.

(x) impact on, and any proposed improvements to, the public domain.

The development is not expected to have an adverse impact on the public domain. If approved, conditions will be applied requiring upgrading of the footpath and street tree planting.

Council's Architect advised that the revised plans satisfactorily addressed the recommendations and outstanding issues of the DRP and on this basis, the proposal is considered satisfactory and exhibits design excellence as required by Clause 7.18 of WLEP 2009.

Part 8 Local provisions—Wollongong city centre

The site is located within the area defined as the Wollongong city centre by the LEP and accordingly the provisions within this part of the LEP are of relevance to the proposal.

Clause 8.1 Objectives for development in Wollongong city centre

The proposal would contribute to a residential apartment mix through the provision of additional housing and employment opportunities during construction. It is considered that the development provides for a standard of design, materials and detailing appropriate for the building type and its location and zoning. The proposal includes adaptable and silver level liveable apartments.

The proposed development is an efficient use of space in an accessible location that is serviced by existing public transport.

The proposal is not expected to adversely impact on natural or cultural heritage values.

Clause 8.4 - Minimum building street frontage

(2) Development consent must not be granted to the erection of a building that does not have at least one street frontage of 20 metres or more on land within Zone B3 Commercial Core, B4 Mixed Use or B6 Enterprise Corridor.

(3) Despite subclause (2), the consent authority may grant consent to the erection of a building on land referred to in that subclause if it is of the opinion that it is not physically possible for the building to be erected with at least one street frontage of 20 metres or more.

In this case, the subject site has a primary frontage for 15.24m to Kembla Street and a secondary frontage to the laneway of 37.5m. The site is a single isolated allotment with no reasonable opportunities for amalgamation to achieve the 20m width standard, and as such the application of subclause (3) is considered appropriate in this instance. While the site does not have a 20m width, the form of the building is considered to be appropriate with regard to the existing and potential future streetscape character and amenity. Reasonable setbacks are proposed at all levels as well as a height which is compatible with adjoining development. See discussion at Clause 4.6 above.

Clause 8.6 Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use

The building does not comply with the building separation requirements in Clause 8.6.

Clause 8.6 reads as follows:-

(1) The objective of this clause is to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access.

(2) Buildings on land within Zone B3 Commercial Core or B4 Mixed Use must be erected so that—

- (a) there is no separation between neighbouring buildings up to the street frontage height of the relevant building or up to 24 metres above ground level whichever is the lesser, and
- (b) there is a distance of at least 12 metres from any other building above the street frontage height and less than 45 metres above ground level, and
- (c) there is a distance of at least 28 metres from any other building at 45 metres or higher above ground level.

(3) Despite subclause (2), if a building contains a dwelling, all habitable parts of the dwelling including any balcony must not be less than—

- (a) 20 metres from any habitable part of a dwelling contained in any other building, and
- (b) 16 metres from any other part of any other building.

(4) For the purposes of this clause, a separate tower or other raised part of the same building is taken to be a separate building.

(5) In this clause—

street frontage height means the height of that part of a building that is built to the street alignment.

The proposal does not comply with 8.6(2)(a) or Clause 8.6(3). The applicant has provided justification for the departures sought under the provisions of Clause 4.6 of the LEP as detailed above.

The proposal does not comply with Clause 8.6(2)(a) and Clause 8.6(3). The applicant has sought departures in respect of these two aspects of Clause 8.6 as outlined above in relation to Clause 4.6 of WLEP 2009. The departures sought are supported in this instance.

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

Draft Environment SEPP

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

Draft Remediation of Land SEPP

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

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

It is considered the draft SEPP is of limited relevance at this point in time. All considerations pertaining to potential site contamination are discussed with regard to SEPP 55.

Draft Design and Place SEPP

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

Draft Housing SEPP

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

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

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP 2009 and found to be satisfactory. It is noted that the development departs from some of the design controls in Chapter D13, relating to the following issues:

- Clause 2.5 Building setbacks and separation
- Clause 6.2 Housing Choice & Mix

The full table of compliance can be found at Attachment 6 to this report; this includes discussion in relation to the variations sought. The variations are supported from a planning perspective.

It is noted that the applicant provided written justification in relation to a variation to Clause 4.1 Chapter B3 (Mixed Use Development) of WDCP 2009 in relation to site width (minimum 24m required), however the introduction to Chapter B3 of the DCP states that this chapter does not apply to development in the Wollongong City Centre.

2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

Wollongong City-Wide Development Contributions Plan - City Centre

Contributions are applied for development exceeding \$100,000. A 1% levy is payable.

2.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

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

Environmental Planning and Assessment Regulation 2021

2 Savings

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

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

61 Additional matters that consent authority must consider

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

The proposal includes the demolition of the existing structures on the site and as such the provisions of AS2601-1991 are applicable. Conditions are recommended in regards to demolition generally, compliance with AS2601-1991 and the management of hazardous building materials.

62 Consideration of fire safety

N/A

63 Considerations for erection of temporary structures

N/A

64 Consent authority may require upgrade of buildings

N/A.

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

The key impacts have been discussed largely in the body of this report. Further impacts are discussed below:-

Context and Setting:

Context and setting has been addressed with reference to the principles of SEPP 65 and the design excellence matters prescribed by Clause 7.18 of Wollongong LEP 2009 (see Sections 2.1.2 and 2.1.5) and in relation to the impact of the proposed development on nearby heritage items. The development is considered to appropriately respond to its setting.

The proposed height and floor space are consistent with planning controls and more recent development in the vicinity. The building form is narrower than most found elsewhere in the locality which is a product of the narrow site width. The applicant's variations in respect of site width and side boundary setbacks have been discussed above and are supported in this instance as, firstly, the site is unable to be amalgamated with neighbouring site, and on balance, the development is considered to provide for reasonable amenity to future occupants and neighbours.

Access, Transport and Traffic:

The proposal is satisfactory with regard to carparking, vehicular access, manoeuvring and servicing. Provision has been made for sufficient car parking along with adequate bicycle and motorcycle parking. The traffic generating impacts of the development will not be unreasonable in the locality. The proposed access arrangements are satisfactory to Council's Traffic Engineer.

Public Domain:

Footpath and street tree works will be required; conditions of consent are recommended in this regard.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply. Existing utilities will require augmentation to support the proposal; conditions are recommended for imposition in this regard.

Heritage:

There are nearby heritage items as detailed above. The proposal is not expected to have an unreasonable impact on the significance of these items. Refer to discussion in Sections 1.6.1 and 2.1.5 of this report. Council's Heritage Officer has recommended archival recording of the existing dwelling on the site and retention of the existing stone wall, along with implementation of an unexpected finds protocol during works.

Other land resources:

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

Water:

Supply & infrastructure - The site is presently serviced by Sydney Water's reticulated water and sewerage services. It is expected that these services can be extended/ augmented to meet the requirements of the proposed development.

Consumption - The proposal is not expected to involve excessive water consumption. The application was accompanied by BASIX certificates demonstrating that the development can achieve the water conservation targets of the BASIX SEPP. A rainwater tank is proposed.

Water quality – the development is not expected to have adverse impacts on water quality.

Stormwater - will be disposed of to the existing public drainage system in the road.

Soils:

Council records identify the site as containing class 5 acid sulfate soils.

Geotechnical aspects of the development are satisfactory.

Erosion and sedimentation controls are required to be employed during excavation and construction.

Air and Microclimate:

The proposal is not expected to have any negative impact on air or microclimate.

Flora and Fauna:

No adverse impacts on significant flora or fauna is expected as a result of the proposed development. The proposal has been designed to minimise impacts on significant trees including the large English Oak tree in the rear of the site. The existing street trees will be retained. An arborist report was supplied with the application which provides numerous recommendations to ensure that the works are conducted in such a way to ensure the long term health and vigour of the retained tree.

It is noted that Council's Landscape Officer was satisfied with the submitted landscape plan and development generally, including the removal of two trees from within the front section of the site.

Waste:

Refer to Wollongong DCP compliance table at **Attachment 6**.

Waste management during construction can be managed through proper arrangements. Conditions should be imposed if consent is granted requiring the use of an appropriate receptacle for any waste generated during the construction and compliance with the Site Waste Management and Minimisation Plan provided with the DA.

On-going waste management arrangements are satisfactory and comply with the relevant provisions of Wollongong DCP 2009 as detailed within this report. Residential bins will be stored within the basement car park and will be moved to the street frontage for collection. A waste storage room is proposed to the rear of the commercial space; waste will be collected by private contractor.

Energy:

The proposal is not expected to involve excessive energy consumption. The BASIX certificates provided with the application demonstrate that the residential units will achieve compliance with the energy efficiency and thermal comfort targets of the BASIX SEPP.

The development includes solar panels.

Noise and vibration:

Noise and vibration during construction are inevitable however conditions will be attached to any consent granted that nuisance be minimised during the course of all construction and demolition phases.

Natural hazards:

The development has been designed with regard to flooding. There are no other natural hazards that will preclude the proposed development.

Technological hazards:

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

Safety, Security and Crime Prevention:

This application does not result in any opportunities for criminal or antisocial behaviour and is considered to have been reasonably well designed with regard to CPTED principles.

Social Impact:

No adverse social impacts are expected.

Economic Impact:

There are not expected to be any adverse economic impacts arising from approval of the proposed development. The development is expected to create employment opportunities during the construction period.

Site Design and Internal Design:

A condition will be attached to any consent granted that all works are to be in compliance with the Building Code of Australia. Car parking, access and vehicular manoeuvring complies with applicable controls.

The application results in departures from development standards and some DCP controls which are discussed above. The design accounts for the known site constraints.

Construction:

Construction impacts have the potential to impact on the amenity of the neighbourhood including the public domain inclusive of traffic and pedestrian impacts. If approved, it would be appropriate to impose a suite of conditions to reduce the impact of construction works including those relating to hours of work, tree protection, traffic controls, erosion and sedimentation controls, vibration, dust mitigation, works in the road reserve, excavation, waste management, and use of any crane, hoist, plant or scaffolding, amongst others. These are included in the recommended conditions at Attachment 7.

Cumulative Impacts:

The proposal is not expected to give rise to any negative cumulative impacts.

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

Does the proposal fit in the locality?

The proposal is permitted with consent in the B4 zone and complies with the controls pertaining to building height and FSR. Numerous variations are sought which arise in part due to the unique site circumstances pertaining to its narrow width, isolation between a taller commercial building to the south and two large contemporary dual occupancy developments to the north. The form of the development is not considered to be inappropriate with regard to the character of development in the locality and is not expected to give rise to unreasonably adverse impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal. The building has been satisfactorily designed with regard to flooding.

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

Refer to discussion above at Section 1.5 of this report.

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

The application is not expected to result in significant unreasonable impacts on the environment or the amenity of the locality. The proposal is considered to be generally appropriate with regard to the zoning and the character of the area and on this basis is considered to be in the public interest.

3 CONCLUSION

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979. The proposal has been assessed with regard to the provisions of the relevant Environmental Planning Instruments and development control plan.

The proposed development is permissible with consent and is consistent with the zone objectives. There are development departures sought in relation to site width (cl 7.14 WLEP 2009) and building separation (Clause 8.6 WLEP 2009) and a number of variations in respect of ADG and DCP controls which have been justified by the applicant and are supportable in this instance having regard to the somewhat unique circumstances of the site, being a narrow, isolated allotment in a B4 zone. These variations have been assessed in this report as satisfactory.

Internal and external referrals were satisfactory, and submissions have been considered.

There being no outstanding issues, approval of the application is recommended.

4 RECOMMENDATION

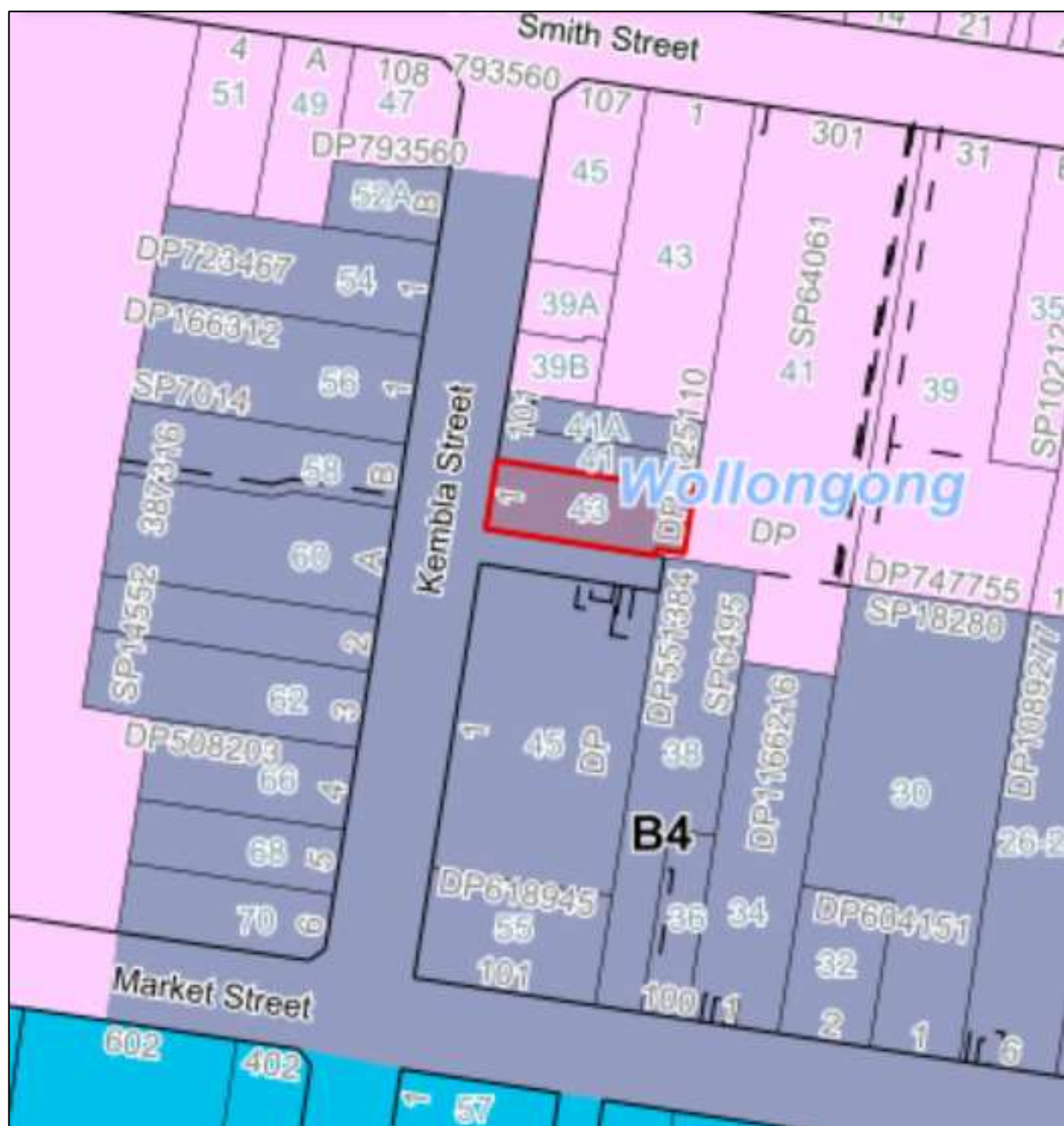
It is recommended that the Wollongong Local Planning Panel approve DA-2021/1375 pursuant to Section 4.16(1) of the Environmental Planning & Assessment Act 1979 subject to the conditions at Attachment 7.

5 ATTACHMENTS

- 1 Aerial Photograph of the site and surrounds
- 2 Wollongong LEP 2009 zoning and heritage map
- 3 Plans
- 4 Applicant's Submission - Development Departures – Clause 7.14 Site Width and Clause 8.6 Building Separation
- 5 Design Review Panel meeting notes 10 February 2022
- 6 ADG and WDCP 2009 compliance table
- 7 Recommended conditions

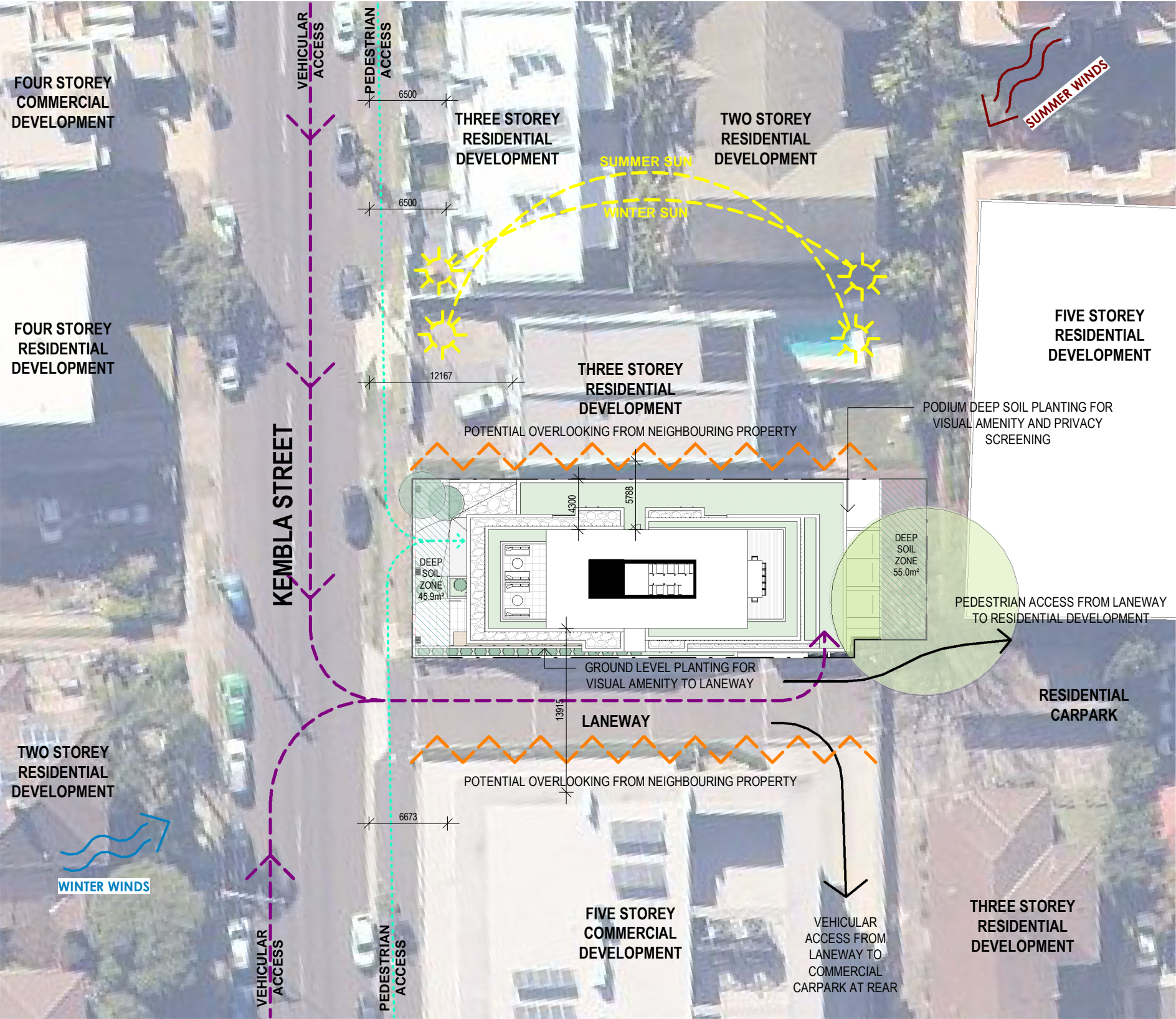
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Attachment 2 - WLEP zoning and heritage maps





Item Number and Name	Address
6387 – house	60 Kembla Street, Wollongong
5935 - Wollongong Public School and Former Headmaster's Residence	67A Church Street. Wollongong
6390 - Wollongong Congregational Church	33 Market Street, Wollongong
(Hatched area) - Market Street heritage conservation area	Market Street Wollongong



43 KEMBLA STREET - EXISTING FRONT ELEVATION



43 KEMBLA STREET - EXISTING SIDE/REAR ELEVATION

DETAILED CONTEXT

DISCLAIMER
Subject to: full site survey, measurements are preliminary, discussions and meetings with authorities, approval from authorities, relevant consultant information as per council DA requirements. Feasibility completed based on information provided by client. Drawings are not suitable for purchase of property. All parking and ramps to traffic engineers details. (Subject to Approval)

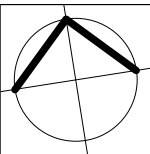
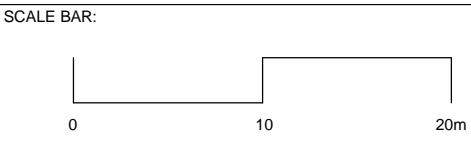
REF.	DATE	AMENDMENT
Y	10.05.2022	ADDITIONAL INFORMATION



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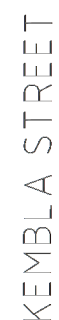
Sydney
Level 10, 6 Mount
Olympus Boulevard,
Wolli Creek NSW 2205
Nominated Architect:
Robert Gizzi (Reg. 8286)

CLIENT: GF MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: DETAILED CONTEXT



ISSUE DATE: 10.05.2022	PROJECT No. 2345
DRAWN: ML/NT	DWG No. Rev. 004 Y
SCALE: 1:400	
QA: RG	

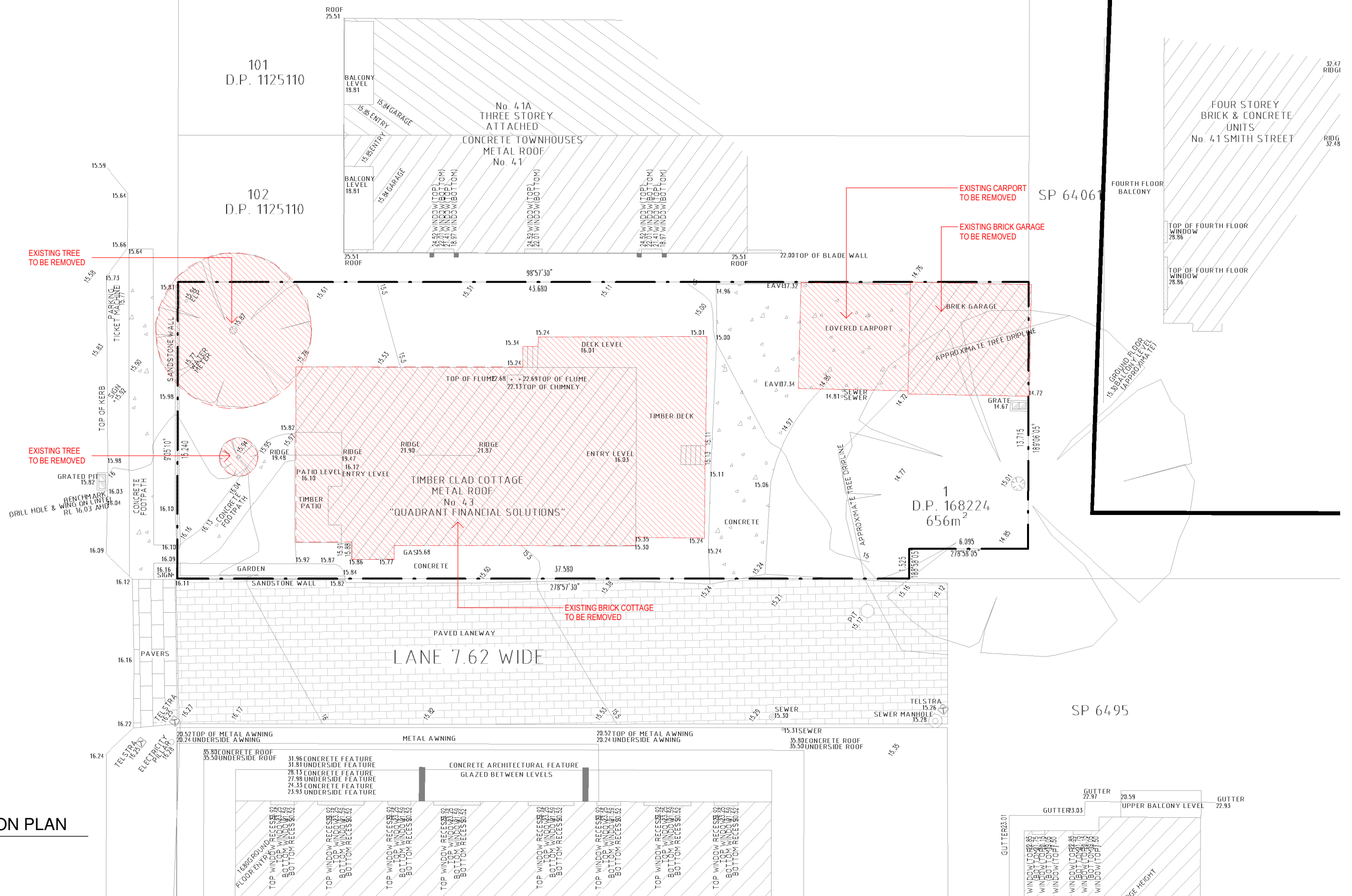
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22	PROJECT No.	
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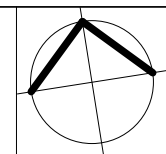
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Wolli Creek NSW 2205
Nominated Architect:
Robert Gizzi (Reg. 8286)

CLIENT:	GF MEDIUM DENSITY
ADDRESS:	43 KEMBLA STREET, WOLLONGONG
DRAWING NAME:	DEMOLITION PLAN

SCALE BAR:



0 2.5 5 7.5 10m



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QA: RG	

PROJECT No.	2345	
DWG No.	006	Rev. Y



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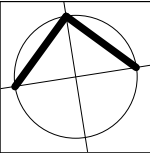
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Nominated Architect:
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CLIENT: GF
MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: PRECEDENCE



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DRAWN: DQ
SCALE: RG
QA: RG

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DWG No. 007
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ADDITIONAL INFORMATION

UNDERGROUND SERVICES
(GAS, HYDRANT AND NBN)
INVERT LEVELS NOT
OBTAINED

EXISTING TREE TO BE REMOVED
(TO BE CONFIRMED BY ARBORIST)

KEMBLA STREET

PEDESTRIAN ENTRY
(COMMERCIAL)

PEDESTRIAN ENTRY
(RESIDENTIAL)

VEHICULAR ENTRY

LANE 7.62 WIDE

SITE PLAN

1 : 250

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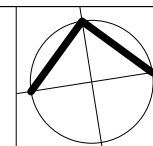
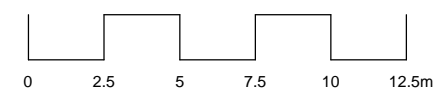


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Nominated Architect:
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CLIENT: GF
MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: SITE PLAN

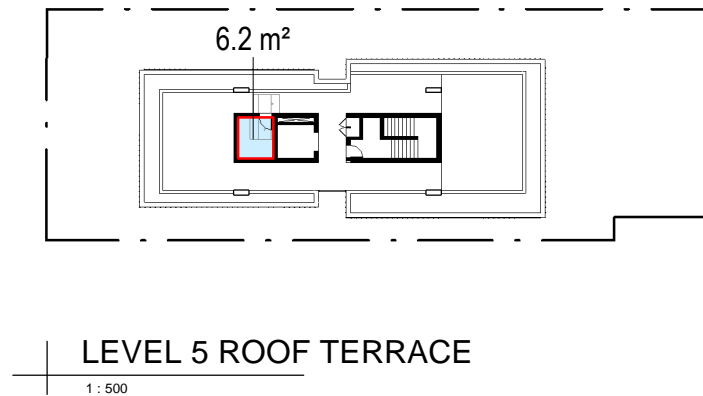
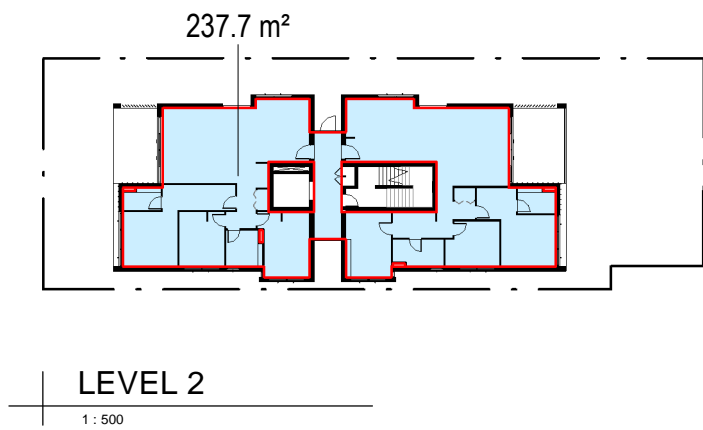
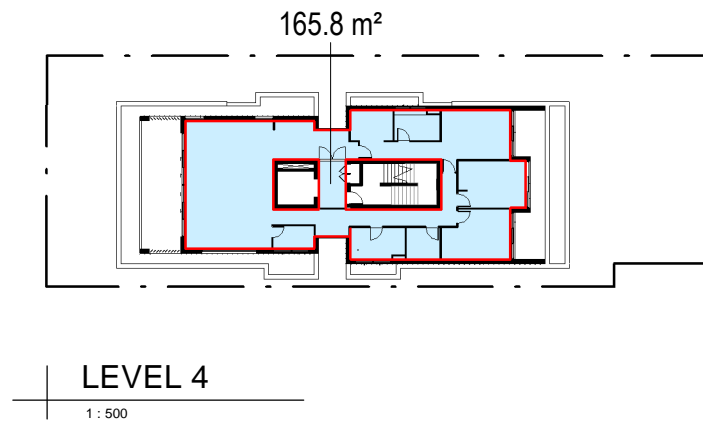
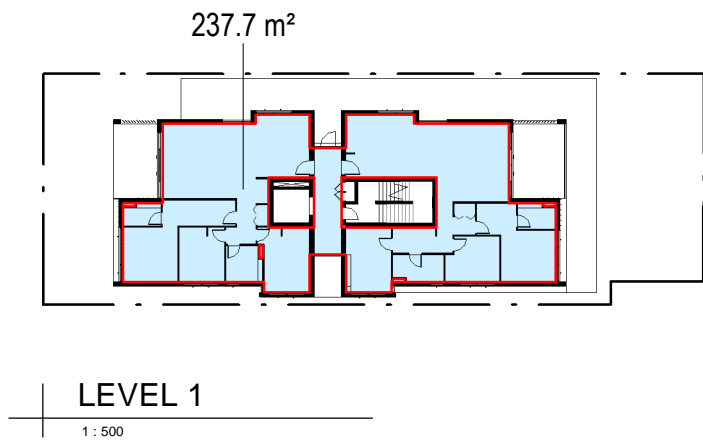
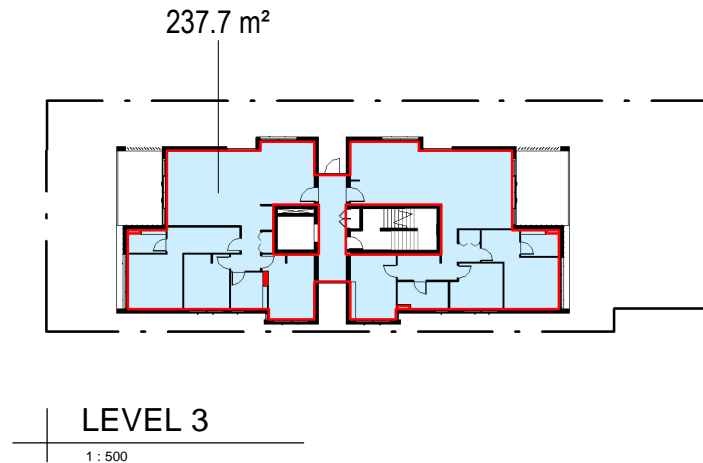
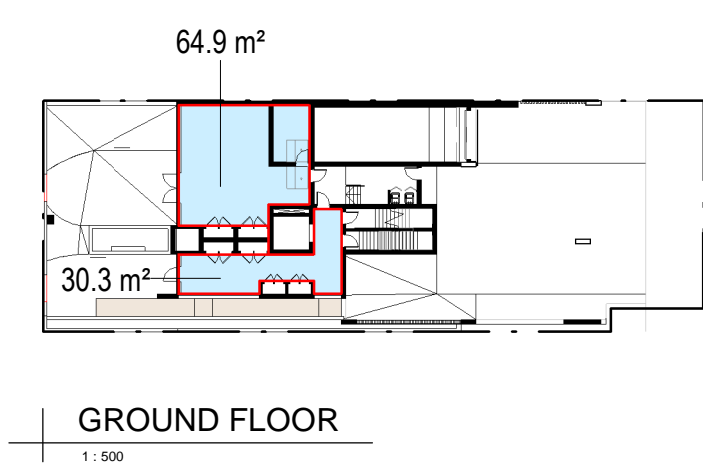
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ISSUE DATE:
10.05.2022
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SCALE: 1:250
QA: RG

PROJECT No.
2345
DWG No. Rev.
010 Y

ADDITIONAL INFORMATION



GFA SCHEDULE

SITE AREA:	656m ²
ALLOWABLE FSR:	1.5:1
ALLOWABLE AREA:	984m ²

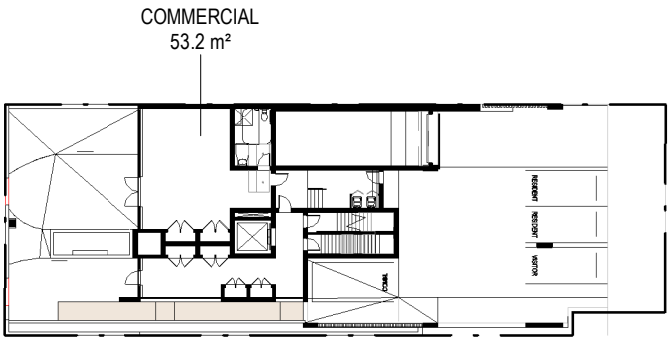
AREA SCHEDULE (GFA)

LEVEL	AREA	FSR
GROUND FLOOR	95.19 m ²	0.15
LEVEL 1	237.73 m ²	0.36
LEVEL 2	237.73 m ²	0.36
LEVEL 3	237.73 m ²	0.36
LEVEL 4	165.84 m ²	0.25
LEVEL 5 ROOF TERRACE	6.21 m ²	0.01
	980.45 m ²	1.49

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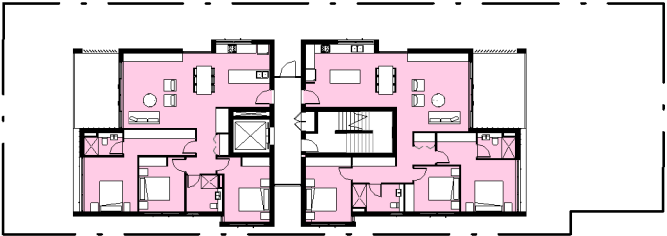
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ADDITIONAL INFORMATION



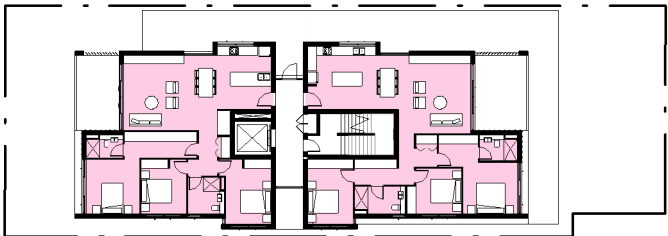
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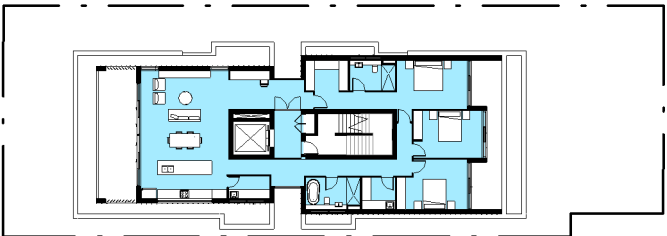
LEVEL 3 KEY

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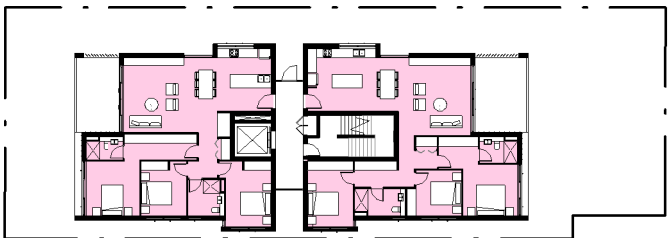
LEVEL 1 KEY

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LEVEL 4 KEY

1 : 500



LEVEL 2 KEY

1 : 500

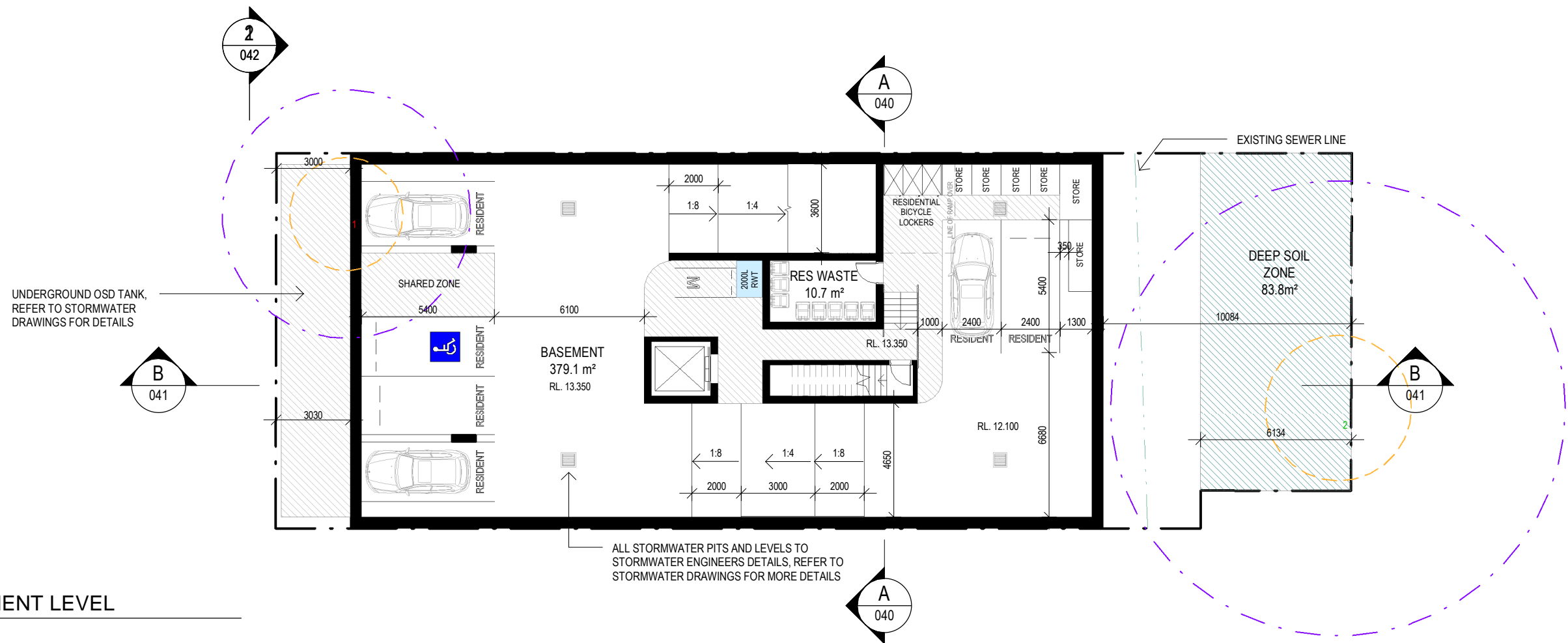
UNIT SCHEDULE		
UNIT #	UNIT TYPE	AREA
LEVEL 1		
1.01	3 BED	108.5 m²
1.02	3 BED	111.2 m²
		219.7 m²
LEVEL 2		
2.01	3 BED	108.5 m²
2.02	3 BED	111.2 m²
		219.7 m²
LEVEL 3		
3.01	3 BED	108.5 m²
3.02	3 BED	111.2 m²
		219.7 m²
LEVEL 4		
4.01	3 BED (ADAPTABLE)	165.3 m²
		165.3 m²

- 3 BED
- 3 BED (ADAPTABLE)

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ADDITIONAL INFORMATION



BASEMENT LEVEL

1 : 200

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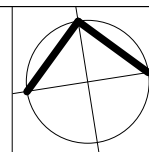
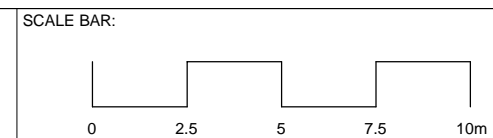
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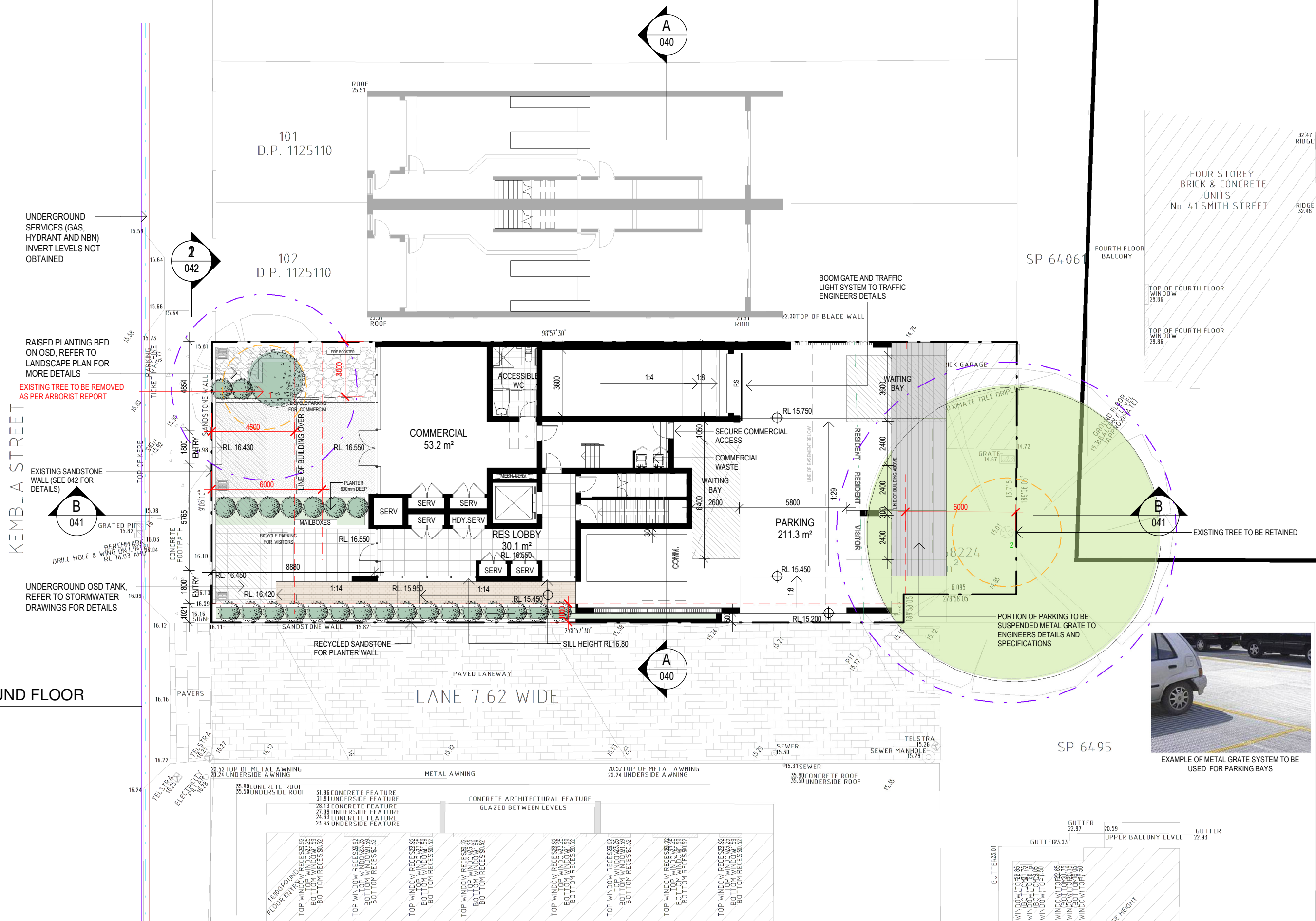
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Nominated Architect:
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CLIENT: GF
MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: BASEMENT



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QA: RG	

ADDITIONAL INFORMATION



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REF.	DATE	AMENDMENT
Z	08.06.2022	ADDITIONAL INFORMATION

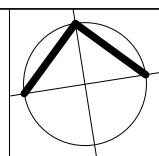
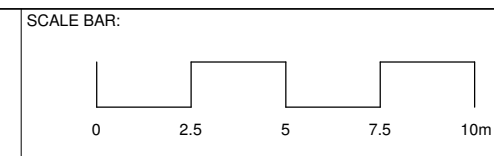
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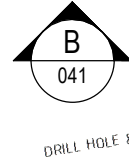
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Nominated Architect:
Robert Gizzi (Reg. 8286)

CLIENT: GF
MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: GROUND FLOOR



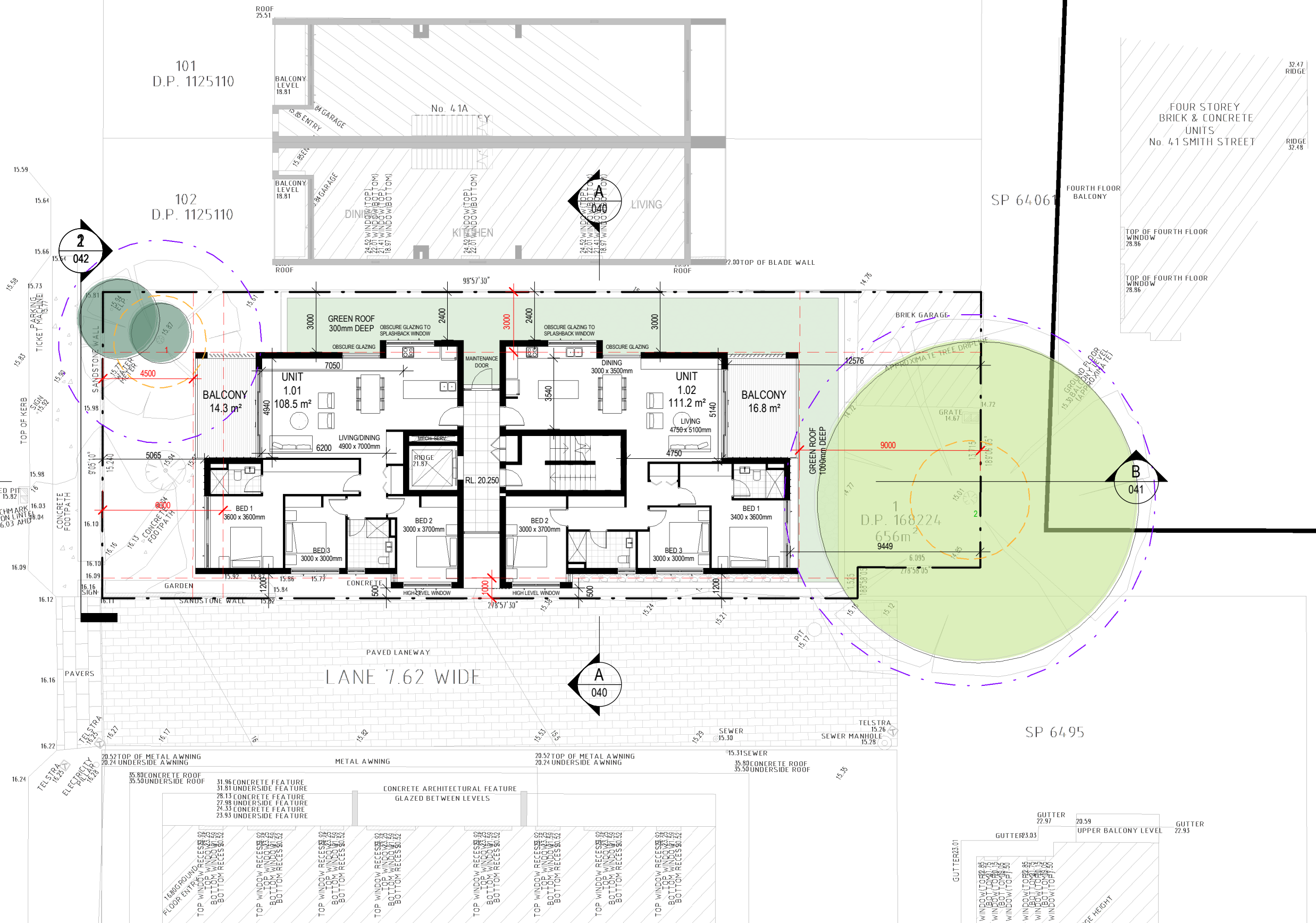
ISSUE DATE: 08.06.2022
DRAWN: NT/AK
SCALE: 1:200
QA: RG
PROJECT No. 2345
DWG No. 014
Rev. Z

KEMBLA STREET



LEVEL 1

1 : 200



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REF.	DATE	AMENDMENT
Y	10.05.2022	ADDITIONAL INFORMATION

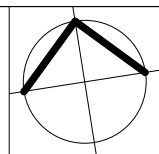
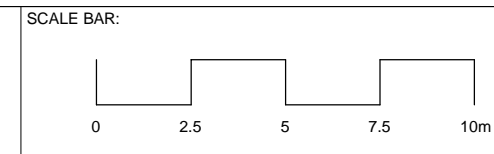
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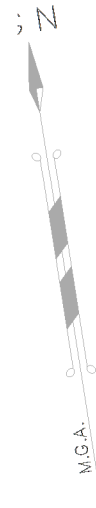
Sydney
Level 10, 6 Mount
Olympus Boulevard,
Wolli Creek NSW 2205
Nominated Architect:
Robert Gizzi (Reg. 8286)

CLIENT: GF
MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: LEVEL 1

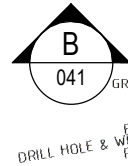


ISSUE DATE: 10.05.2022	PROJECT No. 2345
DRAWN: NT/AK	DWG No. Rev. 015 Y
SCALE: 1:200	
QA: RG	

ADDITIONAL INFORMATION

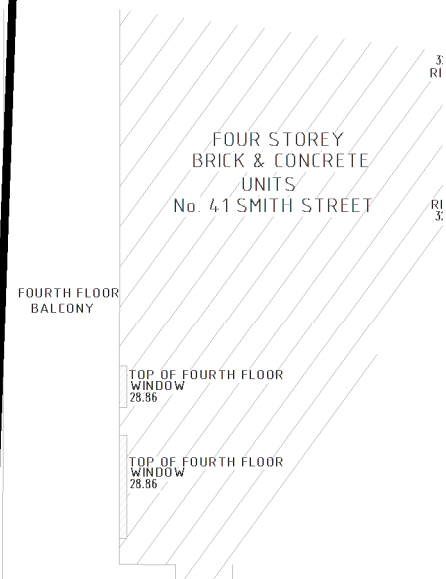
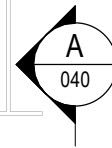
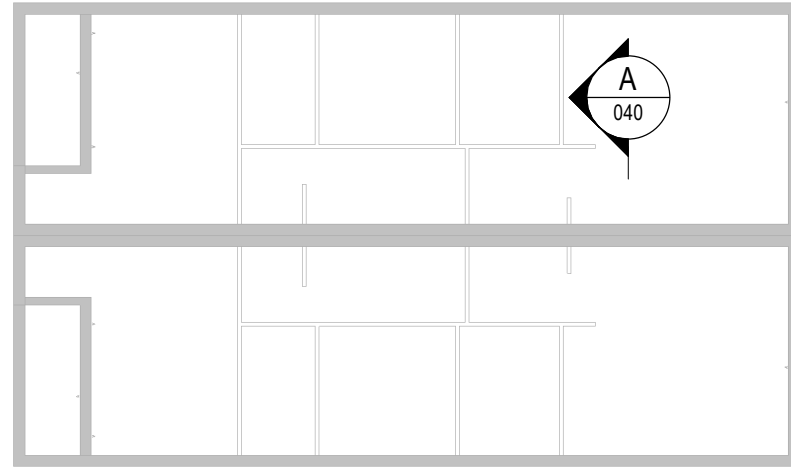


KEMBLA STREET



LEVEL 2

1 : 200



SP 64061

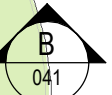
FOURTH FLOOR BALCONY

FOUR STOREY
BRICK & CONCRETE
UNITS
No. 41 SMITH STREET

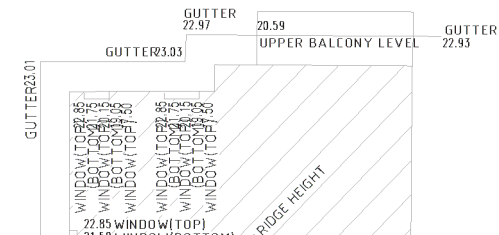
TOP OF FOURTH FLOOR
WINDOW

TOP OF FOURTH FLOOR
WINDOW

GROUND FLOOR
BALCONY LEVEL
APPROXIMATE



SP 6495



ADDITIONAL INFORMATION

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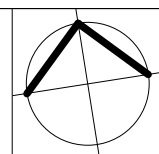
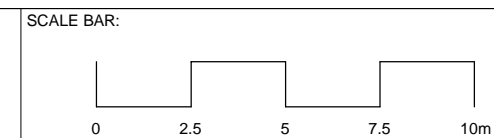
REF.	DATE	AMENDMENT
Y	10.05.2022	ADDITIONAL INFORMATION
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CLIENT: GF
MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: LEVEL 2



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DRAWN: NT/AK
SCALE: 1:200
QA: RG
PROJECT No. 2345
DWG No. 016
Rev. Y

KEMBLA STREET

B
041

LEVEL 3

1 : 200

ROOF BELOW

ROOF BELOW

A
040

FOUR STOREY
BRICK & CONCRETE
UNITS
No. 41 SMITH STREET

FOURTH FLOOR
BALCONY

TOP OF FOURTH FLOOR
WINDOW
28.86

TOP OF FOURTH FLOOR
WINDOW
28.86

FOURTH FLOOR
BALCONY

B
041

SP 64 95

GUTTER
22.97

20.59
UPPER BALCONY LEVEL

GUTTER
22.93

ADDITIONAL INFORMATION

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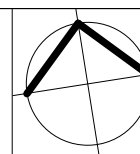
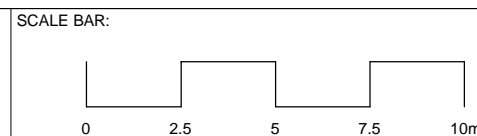
REF. Y	DATE 10.05.2022	AMENDMENT ADDITIONAL INFORMATION
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Sydney
Level 10, 6 Mount
Olympus Boulevard,
Wolli Creek NSW 2205
Nominated Architect:
Robert Gizzi (Reg. 8286)

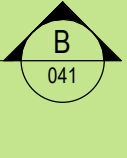
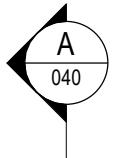
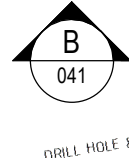
CLIENT: GF
MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: LEVEL 3



ISSUE DATE:
10.05.2022
DRAWN: NT/AK
SCALE: 1:200
QA: RG

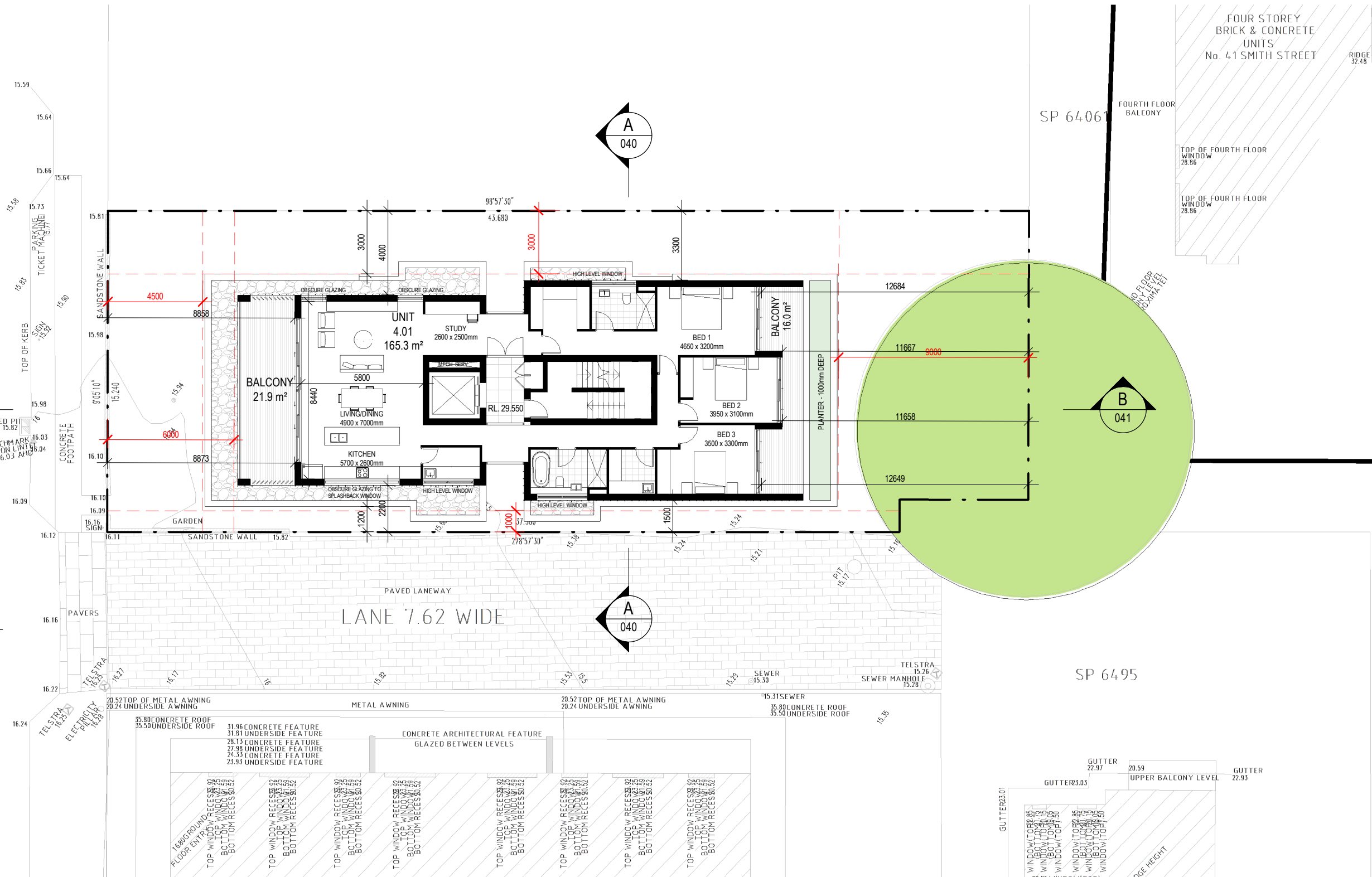
PROJECT No.
2345
DWG No. Rev.
017 Y

KEMBLA STREET



LEVEL 4

1 : 200



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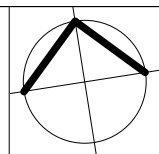
REF.	DATE	AMENDMENT
Y	10.05.2022	ADDITIONAL INFORMATION



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

CLIENT: GF
MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: LEVEL 4



ISSUE DATE: 10.05.2022
DRAWN: NT/AK
SCALE: 1:200
QA: RG

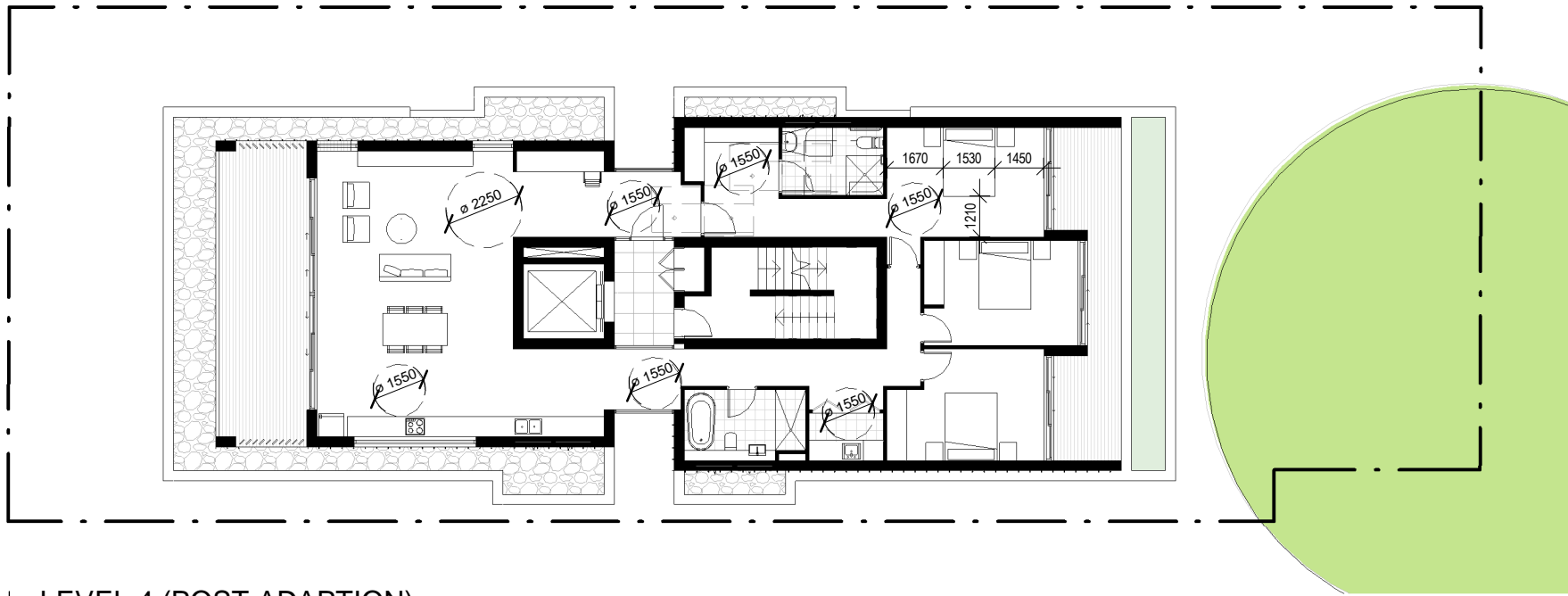
PROJECT No. 2345
DWG No. 018
Rev. Y

ADDITIONAL INFORMATION



LEVEL 4 (PRE ADAPTION)

1 : 200



LEVEL 4 (POST ADAPTION)

1 : 200

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REF.	DATE	AMENDMENT
Y	10.05.2022	ADDITIONAL INFORMATION

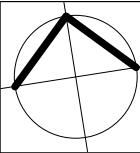
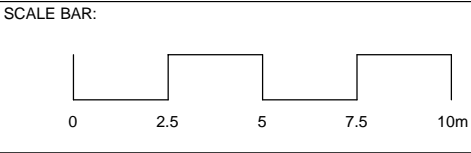
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Nominated Architect:
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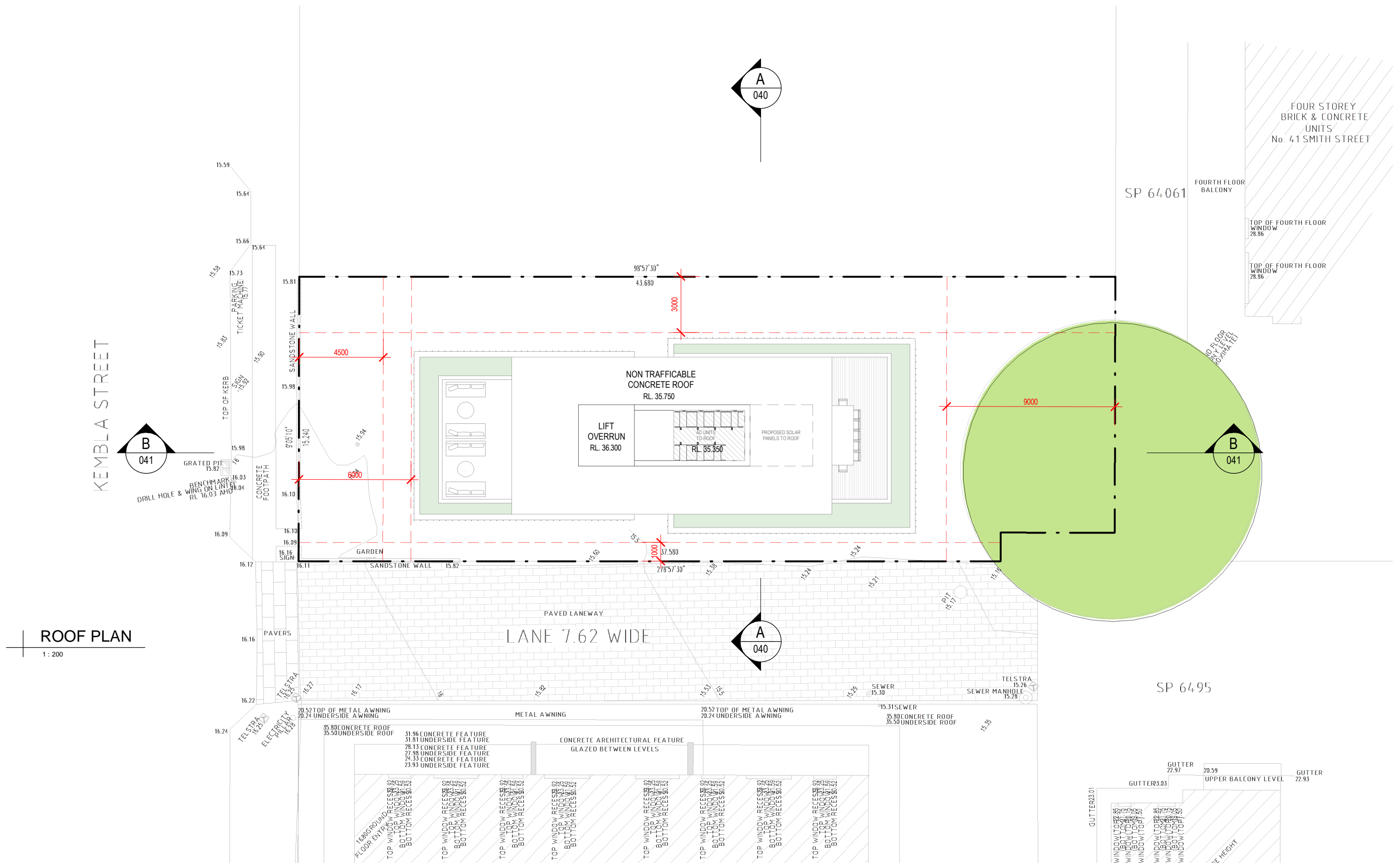
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MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: ADAPTABLE FLOOR PLANS



ISSUE DATE: 10.05.2022
DRAWN: NT / AK
SCALE: 1:200
QA: RG

PROJECT No. 2345
DWG No. 020
Rev. Y

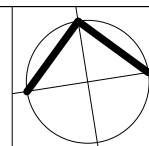
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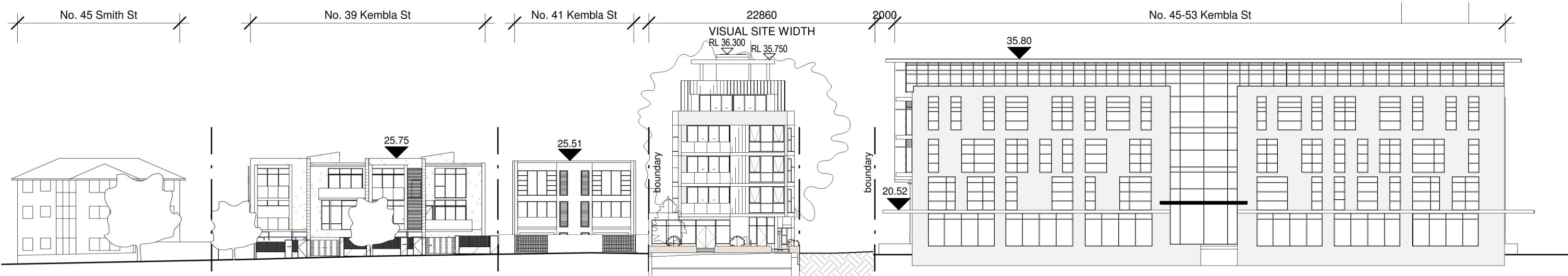


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STREETSCAPE ELEVATION - KEMBLA STREET

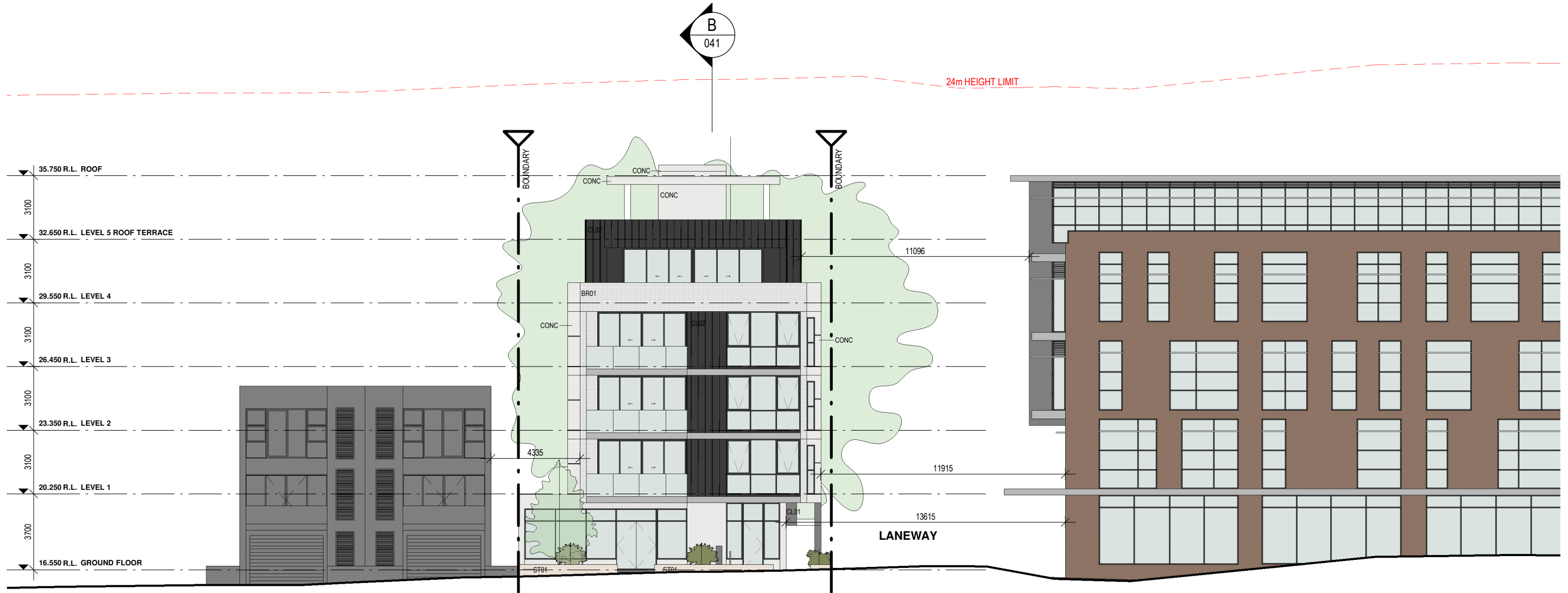
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REF. Z	DATE 08.06.2022	AMENDMENT ADDITIONAL INFORMATION	DWA DESIGN WORKSHOP AUSTRALIA	Wollongong 81a Princes Highway, Fairy Meadow NSW 2519 Tel: (02) 4227 1661 Email: info@designworkshop.com.au Web: www.designworkshop.com.au	Sydney Level 10, 6 Mount Olympus Boulevard, Wolli Creek NSW 2205 Nominated Architect: Robert Gizzi (Reg. 8286)	CLIENT: GF MEDIUM DENSITY ADDRESS: 43 KEMBLA STREET, WOLLONGONG DRAWING NAME: STREETSCAPE ELEVATIONS	SCALE BAR: 0 10 20m	ISSUE DATE: 08.06.2022 DRAWN: NT/AK SCALE: 1:400 QA: RG	PROJECT No. 2345 DWG No. Rev. 030 Z
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ADDITIONAL INFORMATION



WEST ELEVATION

1 : 200



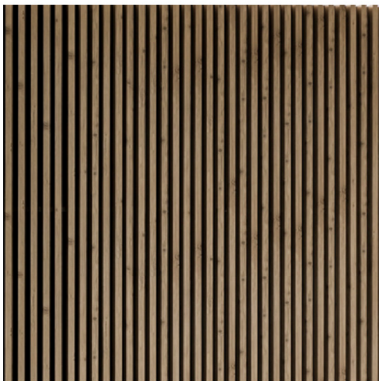
ST01 SANDSTONE BLOCK WALL - TO REUSE AND MATCH EXISTING SANDSTONE BLOCKS



WINDOW FRAMES - POWDERCOAT ALUMINIUM



CL01 TIMBER LOOK ALUMINIUM CLADDING - TO MATCH COVET KURI MASAME



SC01 TIMBER LOOK ALUMINIUM BATTEN CLAD SCREEN - TO MATCH COVET KURI MASAME



CONC- OFF FORM POLISHED CONCRETE



BR01 FACE BRICKWORK - TO MATCH PGH "ROSENBERG"



CL02 METAL CLADDING - COLOUR TO MATCH COLORBOND "MONUMENT"

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Z	08.06.2022	ADDITIONAL INFORMATION

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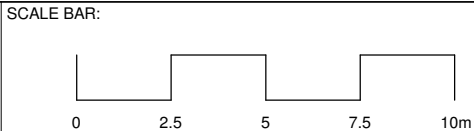


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Sydney
Level 10, 6 Mount
Olympus Boulevard,
Wolli Creek NSW 2205
Nominated Architect:
Robert Gizzi (Reg. 8286)

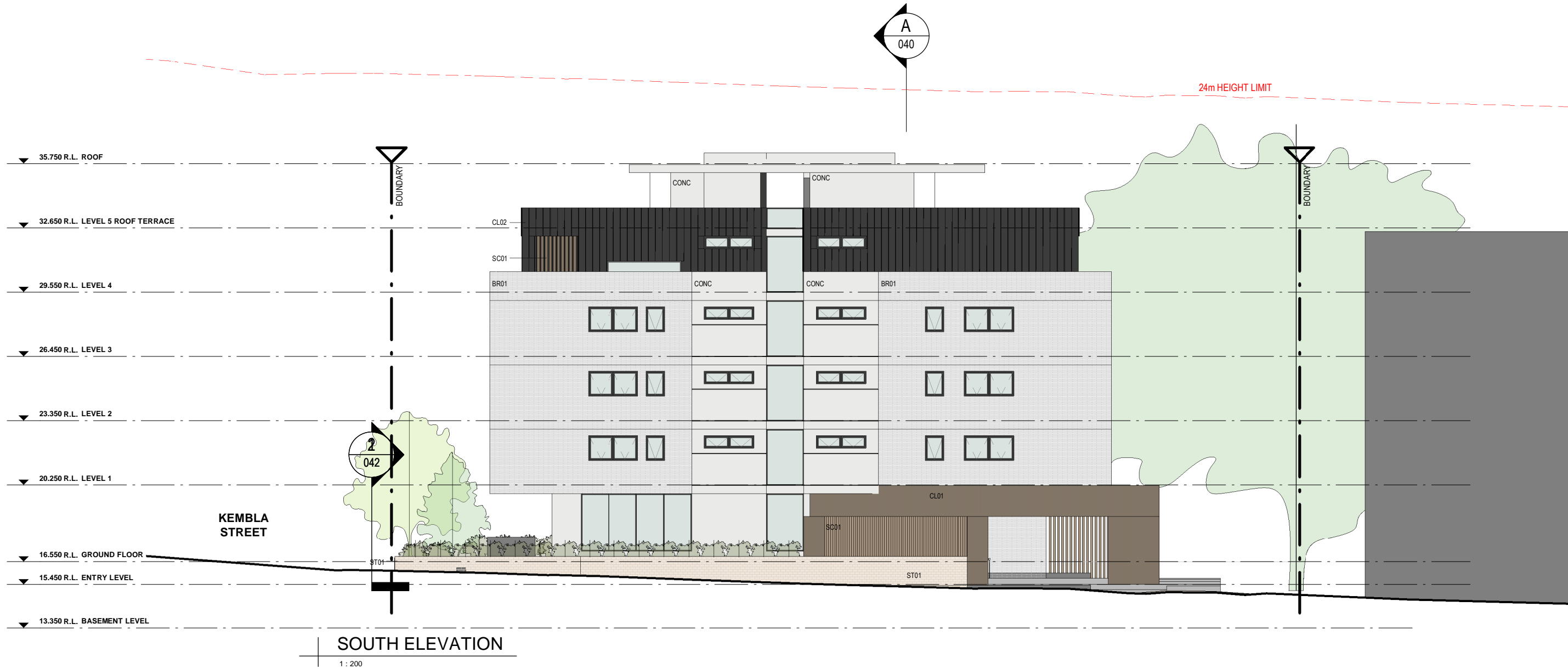
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ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: WEST ELEVATION



ISSUE DATE: 08.06.2022
DRAWN: NT / AK
SCALE: 1:200
QA: RG

PROJECT No. 2345
DWG No. 031
Rev. Z

ADDITIONAL INFORMATION



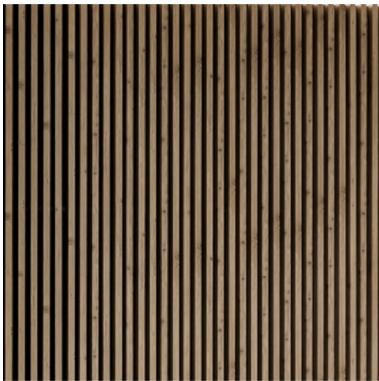
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TO REUSE AND MATCH EXISTING SANDSTONE BLOCKS



WINDOW FRAMES -
POWDERCOAT ALUMINIUM



CL01 TIMBER LOOK ALUMINIUM CLADDING -
TO MATCH COVET KURI MASAME



SC01 TIMBER LOOK ALUMINIUM BATTEN CLAD SCREEN -
TO MATCH COVET KURI MASAME



CONC -
OFF FORM POLISHED CONCRETE



BR01 FACE BRICKWORK -
TO MATCH PGH "ROSENBERG"



CL02 METAL CLADDING -
COLOUR TO MATCH COLORBOND "MONUMENT"

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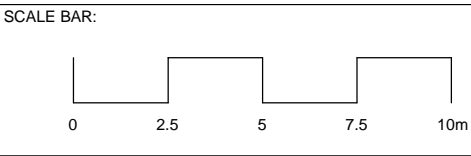
REF.	DATE	AMENDMENT
Y	10.05.2022	ADDITIONAL INFORMATION



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

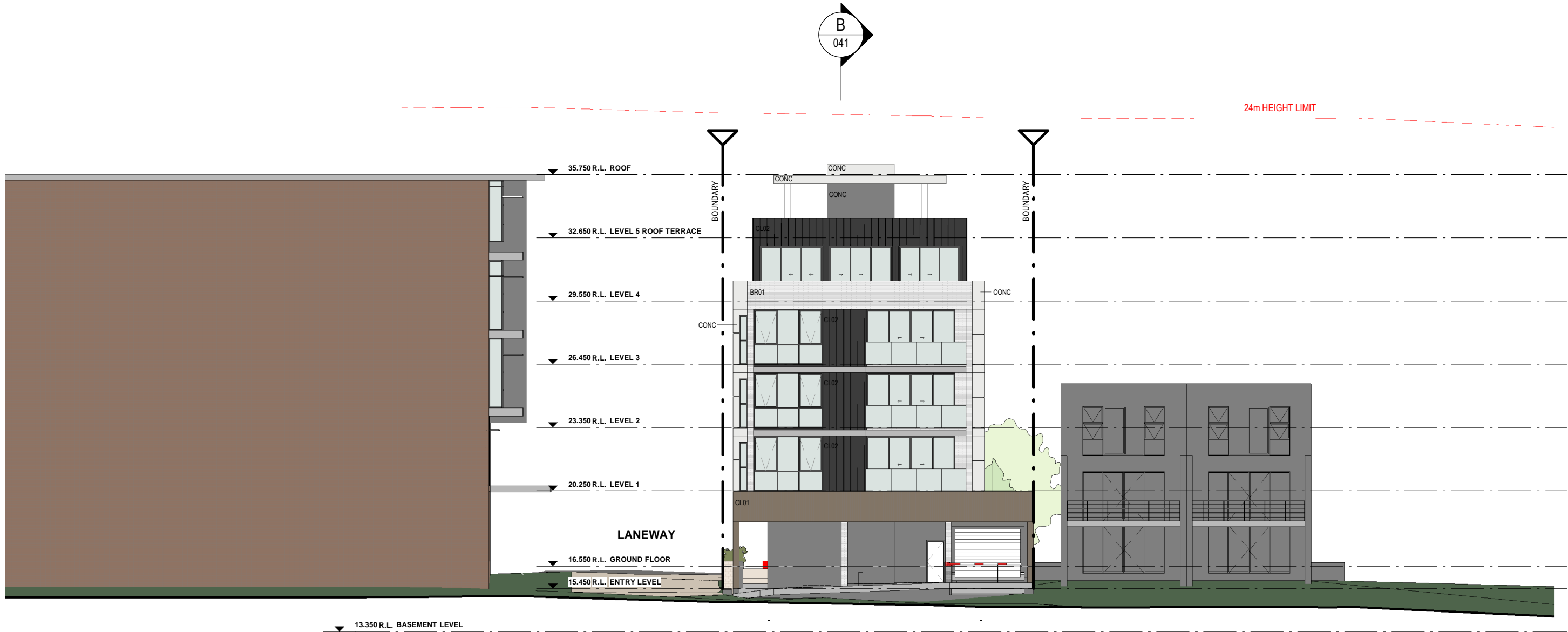
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ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: SOUTH ELEVATION



ISSUE DATE: 10.05.2022
DRAWN: NT / AK
SCALE: 1:200
QA: RG

PROJECT No. 2345
DWG No. 032
Rev. Y

ADDITIONAL INFORMATION



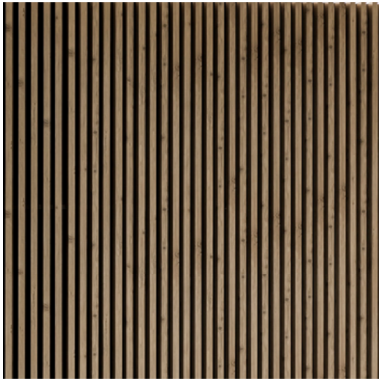
ST01 SANDSTONE BLOCK WALL -
TO REUSE AND MATCH EXISTING SANDSTONE BLOCKS



WINDOW FRAMES -
POWDERCOAT ALUMINIUM



CL01 TIMBER LOOK ALUMINIUM CLADDING -
TO MATCH COVET KURI MASAME



SC01 TIMBER LOOK ALUMINIUM BATTEN CLAD SCREEN -
TO MATCH COVET KURI MASAME



CONC -
OFF FORM POLISHED CONCRETE



BR01 FACE BRICKWORK -
TO MATCH PGH "ROSENBERG"

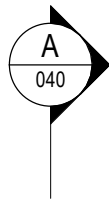


CL02 METAL CLADDING -
COLOUR TO MATCH COLORBOND "MONUMENT"

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ADDITIONAL INFORMATION

REF. Y	DATE 10.05.2022	AMENDMENT ADDITIONAL INFORMATION	DWA DESIGN WORKSHOP AUSTRALIA	Wollongong 81a Princes Highway, Fairy Meadow NSW 2519 Tel: (02) 4227 1661 Email: info@designworkshop.com.au Web: www.designworkshop.com.au	Sydney Level 10, 6 Mount Olympus Boulevard, Wolli Creek NSW 2205 Nominated Architect: Robert Gizzi (Reg. 8286)	CLIENT: GF MEDIUM DENSITY ADDRESS: 43 KEMBLA STREET, WOLLONGONG DRAWING NAME: EAST ELEVATION	SCALE BAR: 0 2.5 5 7.5 10m	ISSUE DATE: 10.05.2022 DRAWN: NT / AK SCALE: 1:200 QA: RG	PROJECT No. 2345 DWG No. Rev. 033 Y
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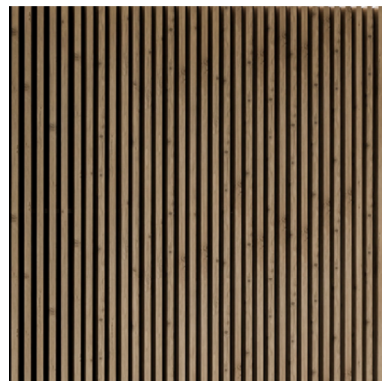
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TO REUSE AND MATCH EXISTING SANDSTONE BLOCKS



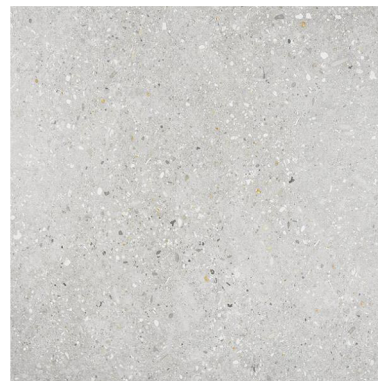
WINDOW FRAMES -
POWDERCOAT ALUMINIUM



CL01 TIMBER LOOK ALUMINIUM CLADDING -
TO MATCH COVET KURI MASAME



SC01 TIMBER LOOK ALUMINIUM BATTEN CLAD SCREEN -
TO MATCH COVET KURI MASAME



CONC -
OFF FORM POLISHED CONCRETE



BR01 FACE BRICKWORK -
TO MATCH PGH "ROSENBURG"



CL02 METAL CLADDING -
COLOUR TO MATCH COLORBOND "MONUMENT"

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REF.	DATE	AMENDMENT
Y	10.05.2022	ADDITIONAL INFORMATION

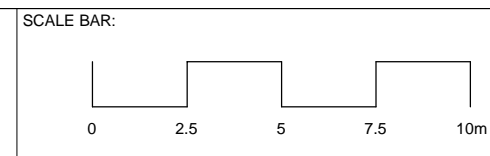
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Web: www.designworkshop.com.au

Sydney
Level 10, 6 Mount
Olympus Boulevard,
Wolli Creek NSW 2205
Nominated Architect:
Robert Gizzi (Reg. 8286)

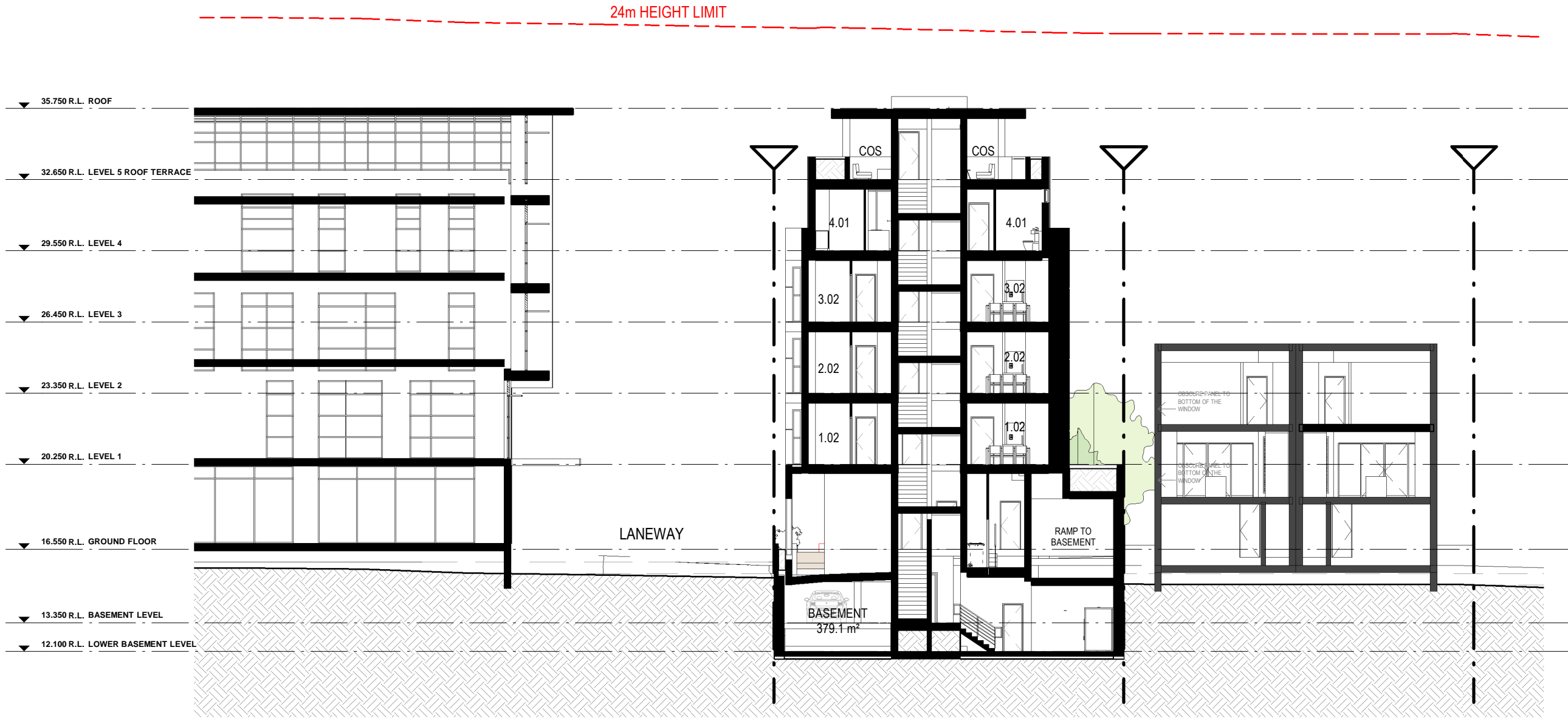
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MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: NORTH ELEVATION



ISSUE DATE:
10.05.2022
DRAWN: NT / AK
SCALE: 1:200
QA: RG

PROJECT No.
2345
DWG No. Rev.
034 Y

ADDITIONAL INFORMATION



SECTION A-A

1 : 200

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REF. Y	DATE 10.05.2022	AMENDMENT ADDITIONAL INFORMATION	DWA DESIGN WORKSHOP AUSTRALIA	Wollongong 81a Princes Highway, Fairy Meadow NSW 2519 Tel: (02) 4227 1661 Email: info@designworkshop.com.au Web: www.designworkshop.com.au	Sydney Level 10, 6 Mount Olympus Boulevard, Wolli Creek NSW 2205 Nominated Architect: Robert Gizzi (Reg. 8286)	CLIENT: GF MEDIUM DENSITY	ADDRESS: 43 KEMBLA STREET, WOLLONGONG	DRAWING NAME: SECTIONS		ISSUE DATE: 10.05.2022 DRAWN: NT/AK SCALE: QA: RG	PROJECT No. 2345 DWG No. Rev. 040 Y
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ADDITIONAL INFORMATION



SECTION B-B

1:200

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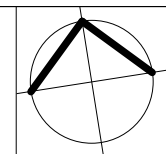


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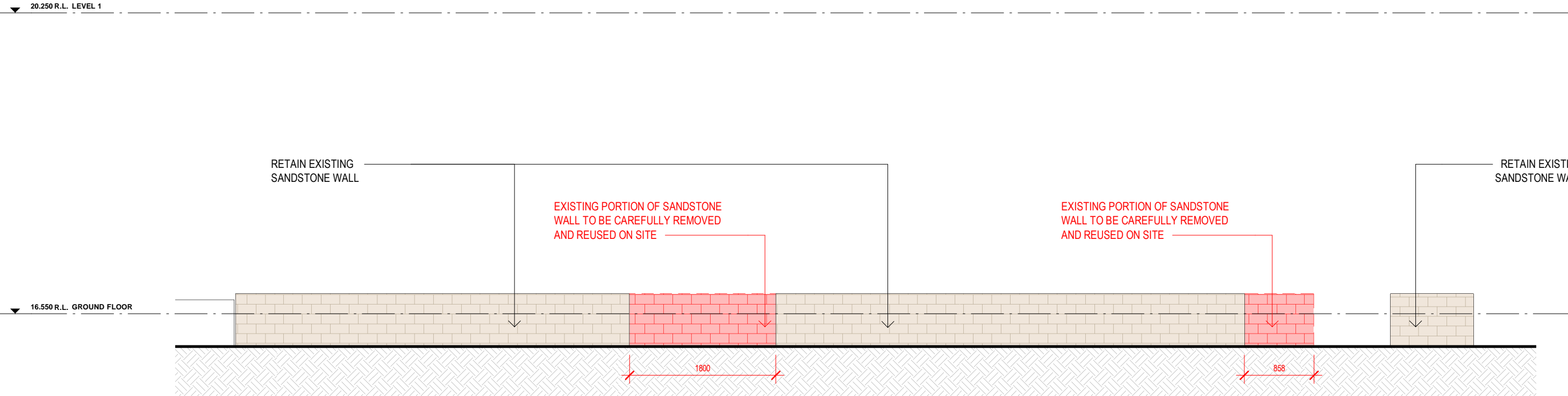
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Nominated Architect:
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CLIENT: GF
MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: SECTIONS

ADDITIONAL INFORMATION

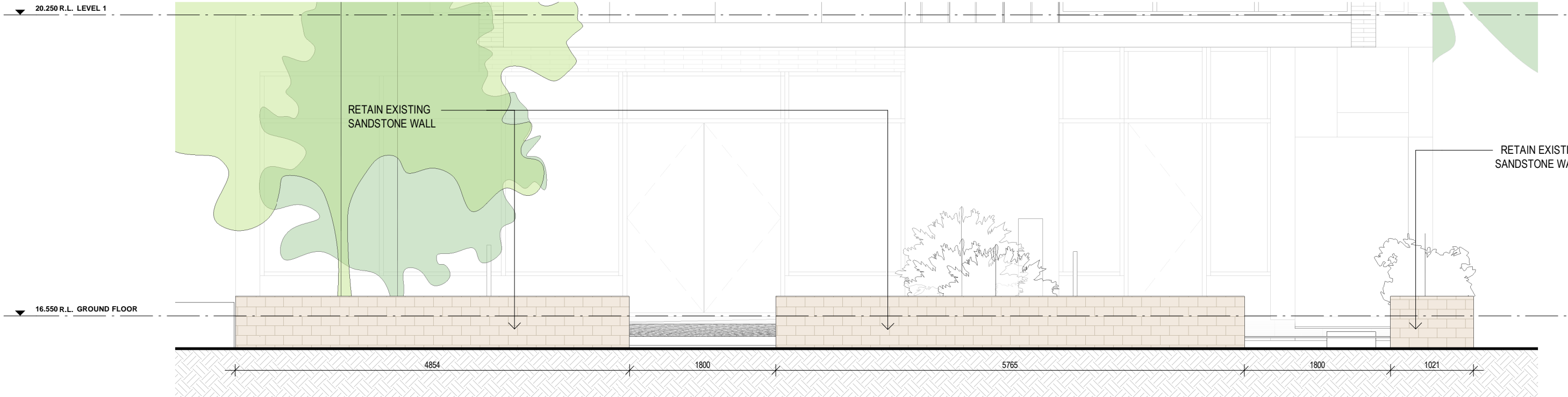


ISSUE DATE: 10.05.2022	PROJECT No. 2345
DRAWN: NT/AK	DWG No. Rev. 041 Y
SCALE: QA: RG	



WEST ELEVATION - SANDSTONE WALL DETAILS - EXISTING AND DEMOLITION

1 : 50



WEST ELEVATION - SANDSTONE WALL DETAILS - PROPOSED

1 : 50

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Drawings are not suitable for purchase of property.
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REF.	DATE	AMENDMENT
Y	10.05.2022	ADDITIONAL INFORMATION

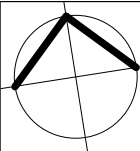
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Web: www.designworkshop.com.au

Sydney
Level 10, 6 Mount
Olympus Boulevard,
Wolli Creek NSW 2205
Nominated Architect:
Robert Gizzi (Reg. 8286)

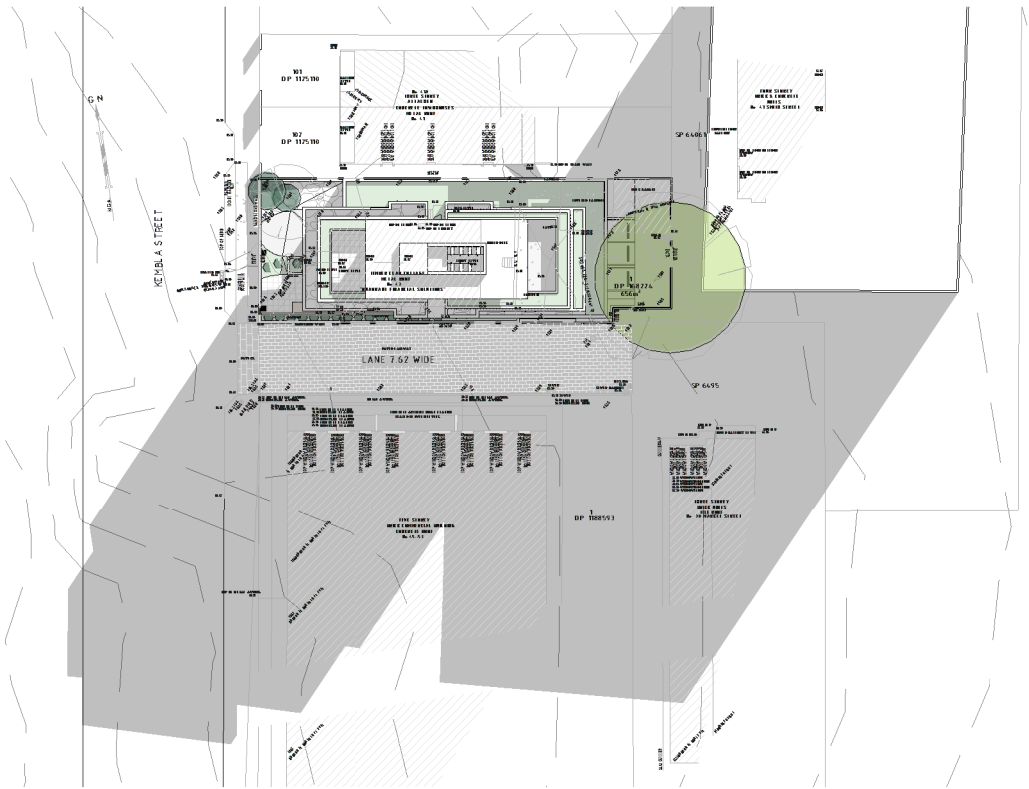
CLIENT: GF MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: DETAILED SECTIONS



ISSUE DATE: 10.05.2022
DRAWN: Author
SCALE:
QA: Checker

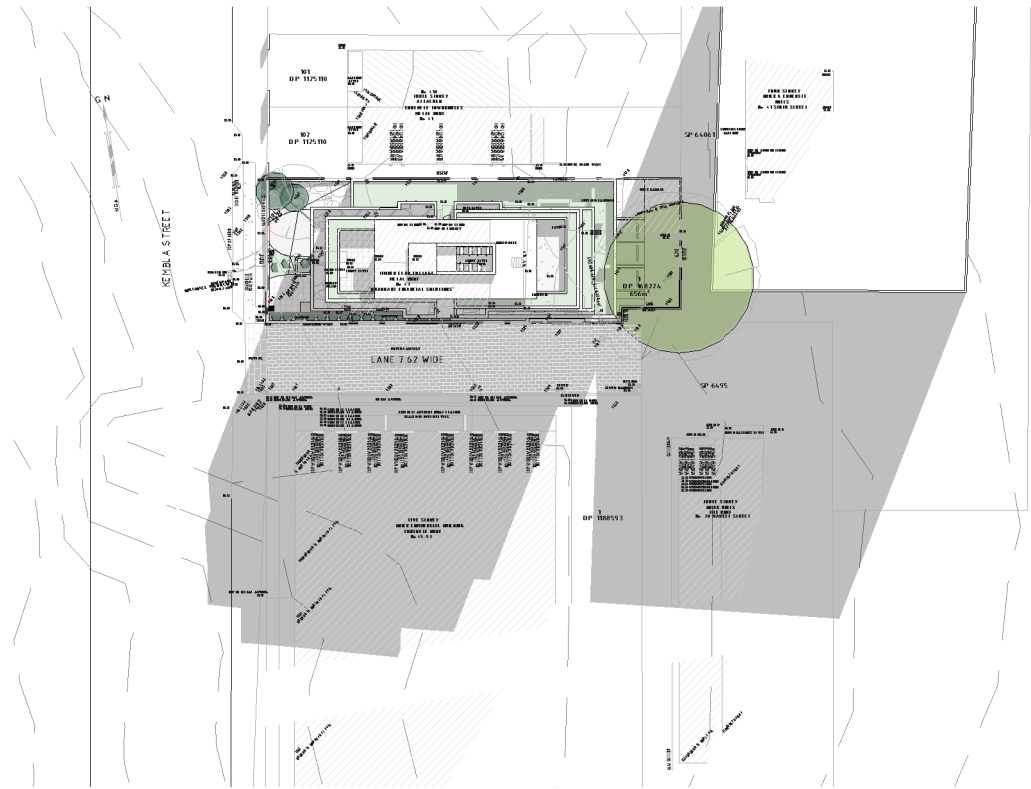
PROJECT No. 2345
DWG No. 042
Rev. Y

ADDITIONAL INFORMATION



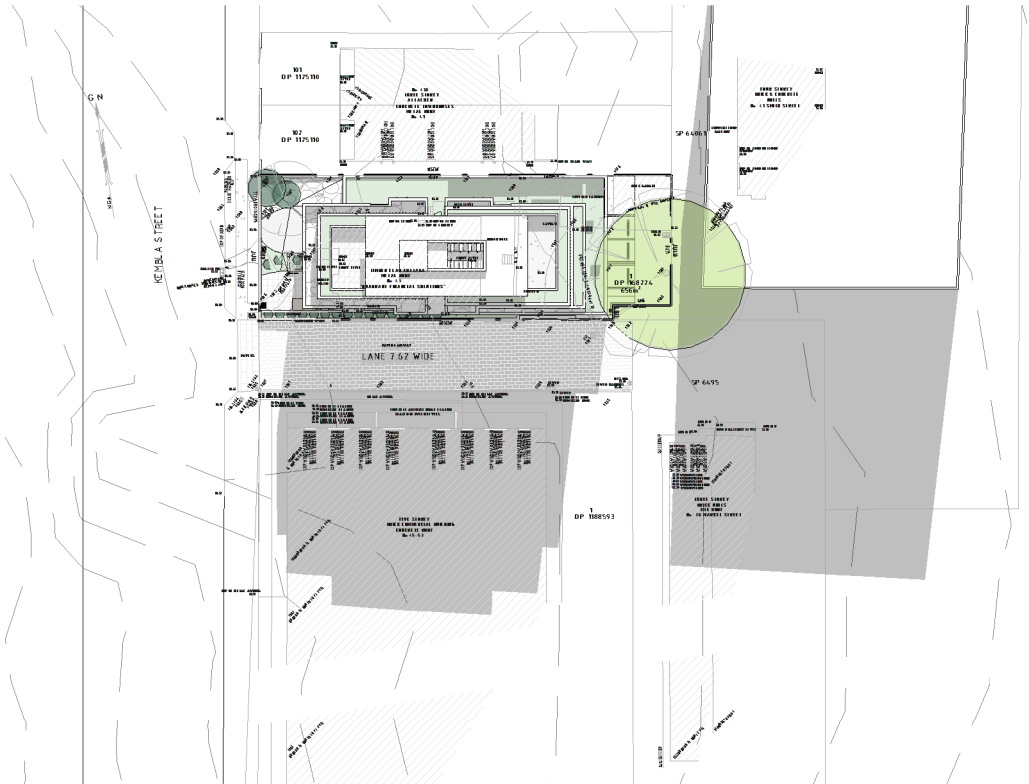
SHADOWS - WINTER - 9am

1 : 800



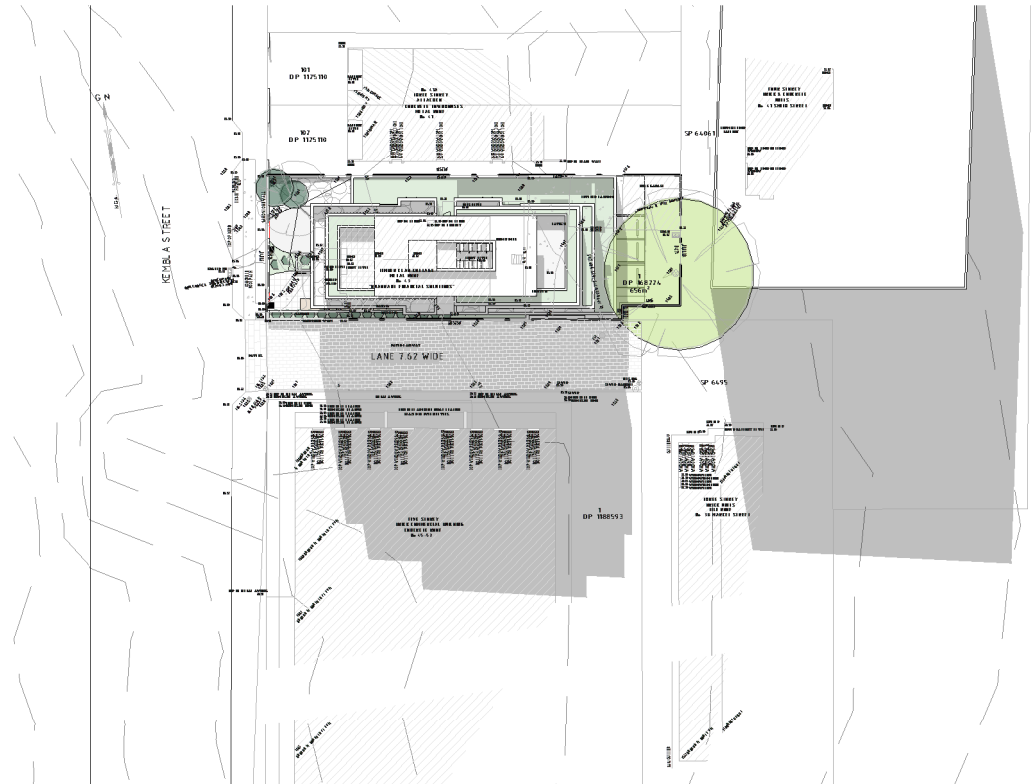
SHADOWS - WINTER - 10am

1 : 800



SHADOWS - WINTER - 11am

1 : 800



SHADOWS - WINTER - 12noon

1 : 800

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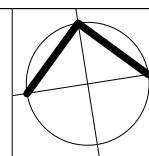
REF.	DATE	AMENDMENT
Y	10.05.2022	ADDITIONAL INFORMATION
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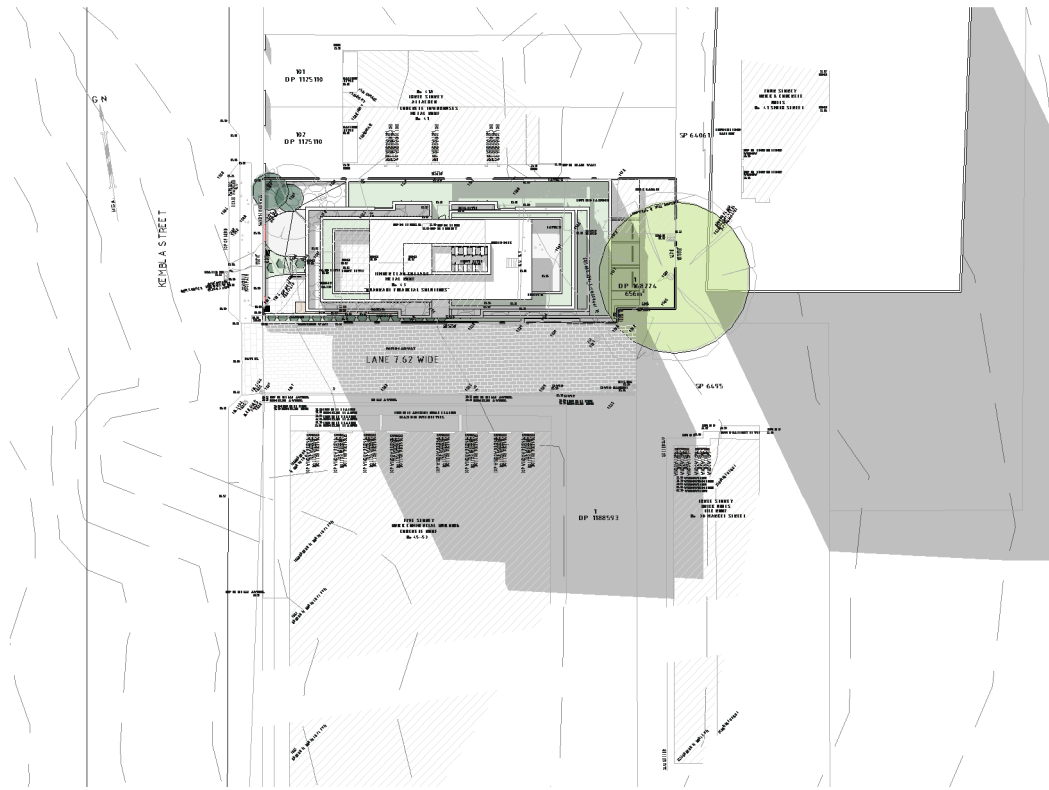
Sydney
Level 10, 6 Mount
Olympus Boulevard,
Wolli Creek NSW 2205
Nominated Architect:
Robert Gizzi (Reg. 8286)

CLIENT: GF
MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: SHADOWS - WINTER



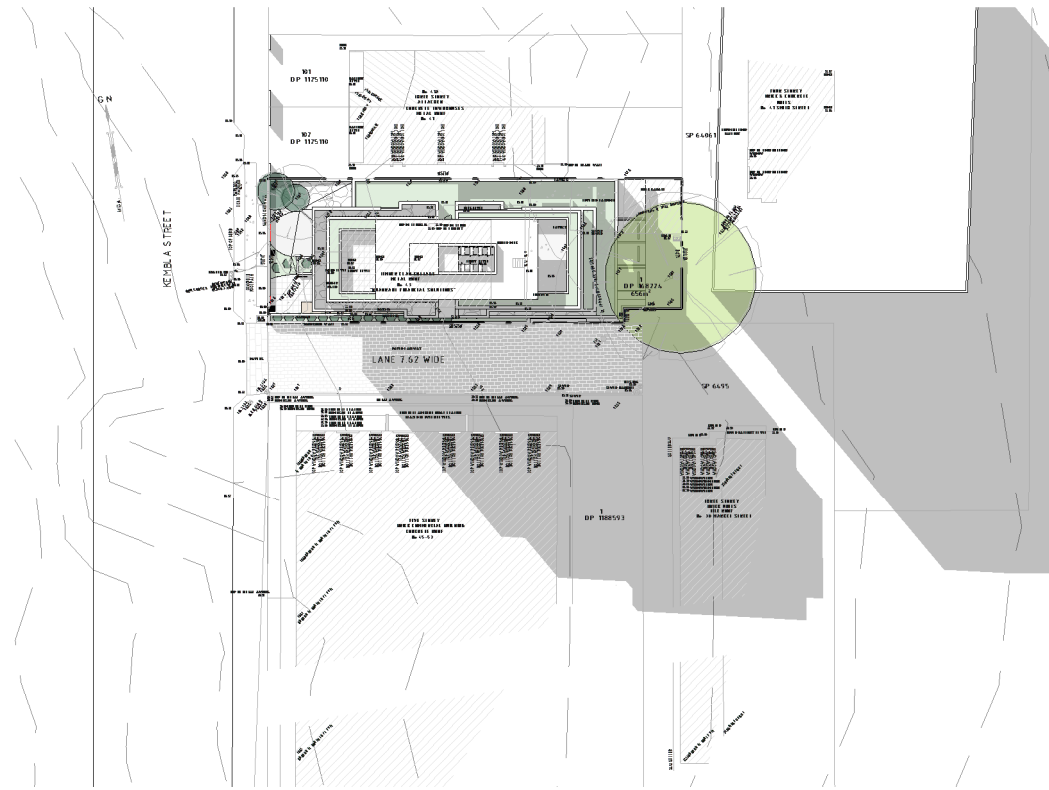
ISSUE DATE: 10.05.2022	PROJECT No. 2345
DRAWN: NT	DWG No. Rev. 050 Y
SCALE: QA: RG	

ADDITIONAL INFORMATION



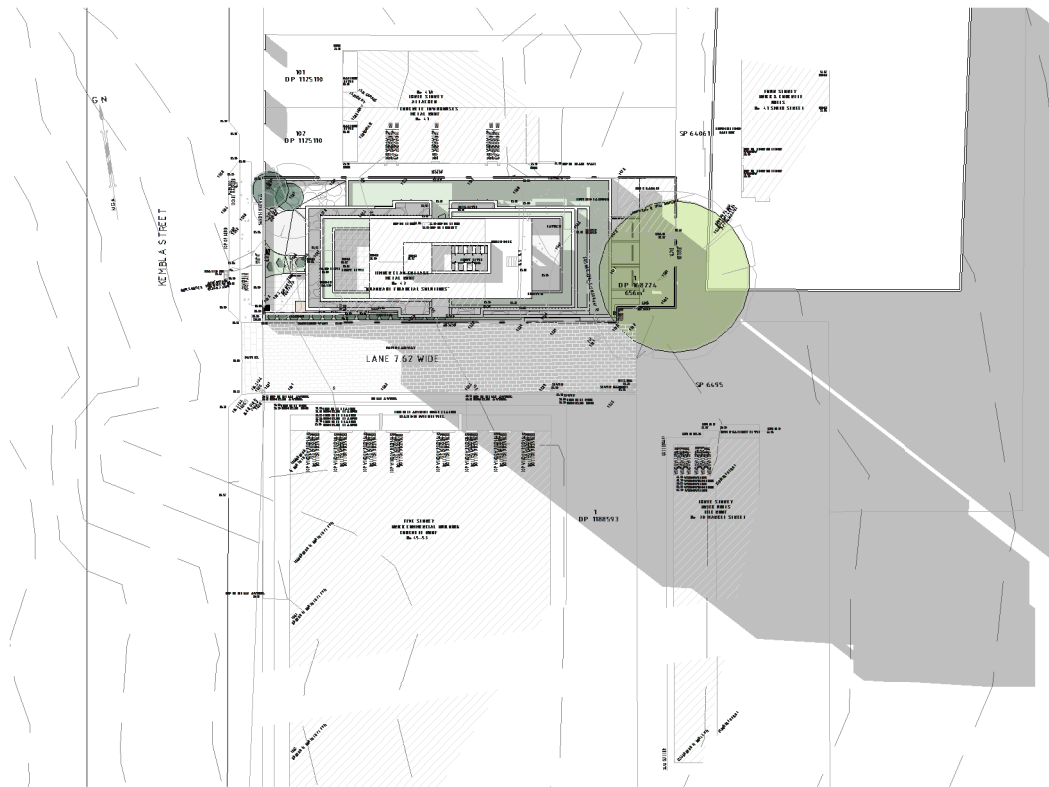
SHADOWS - WINTER - 1pm

1 : 800



SHADOWS - WINTER - 2pm

1 : 800



SHADOWS - WINTER - 3pm

1 : 800

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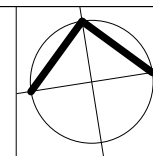
REF.	DATE	AMENDMENT
Y	10.05.2022	ADDITIONAL INFORMATION
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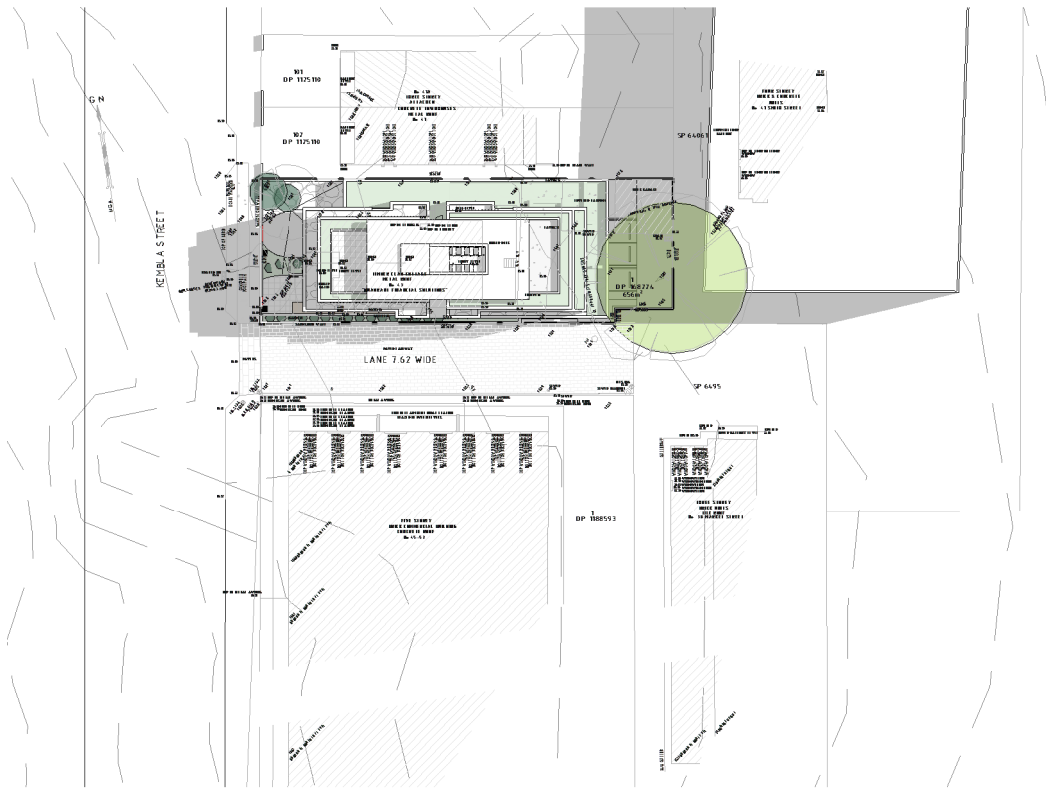
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Wolli Creek NSW 2205
Nominated Architect:
Robert Gizzi (Reg. 8286)

CLIENT: GF
MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: SHADOWS - WINTER



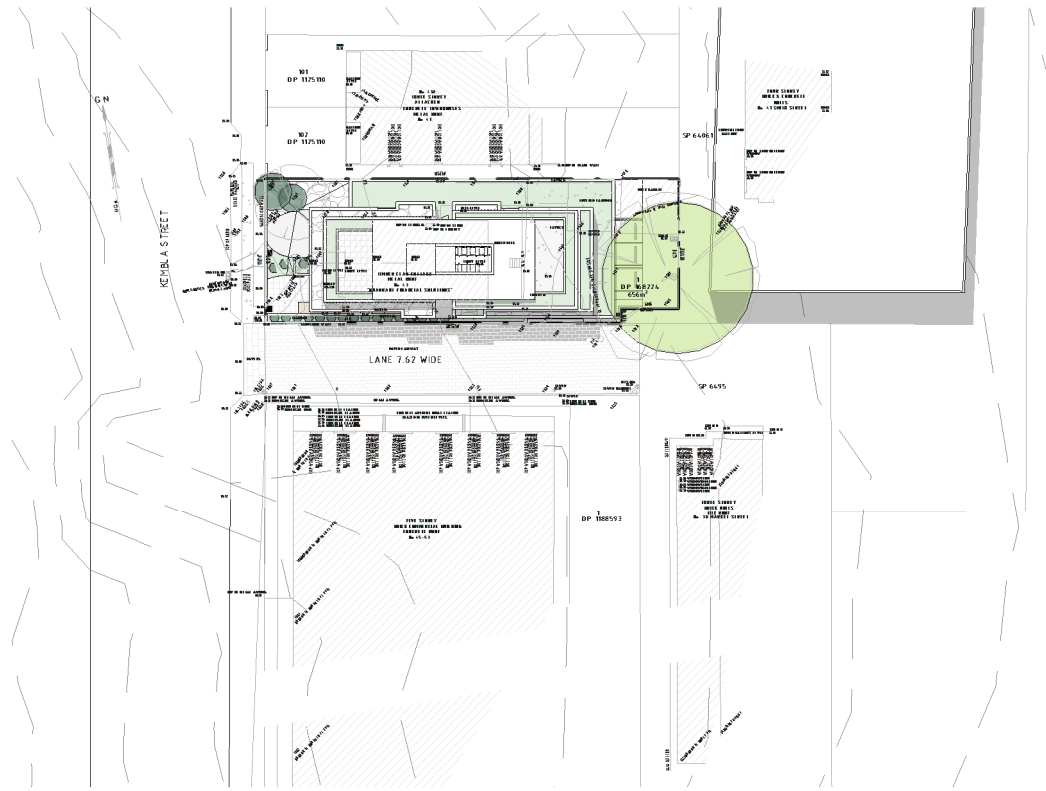
ISSUE DATE: 10.05.2022	PROJECT No. 2345
DRAWN: NT	DWG No. Rev. 051 Y
SCALE: QA: RG	

ADDITIONAL INFORMATION



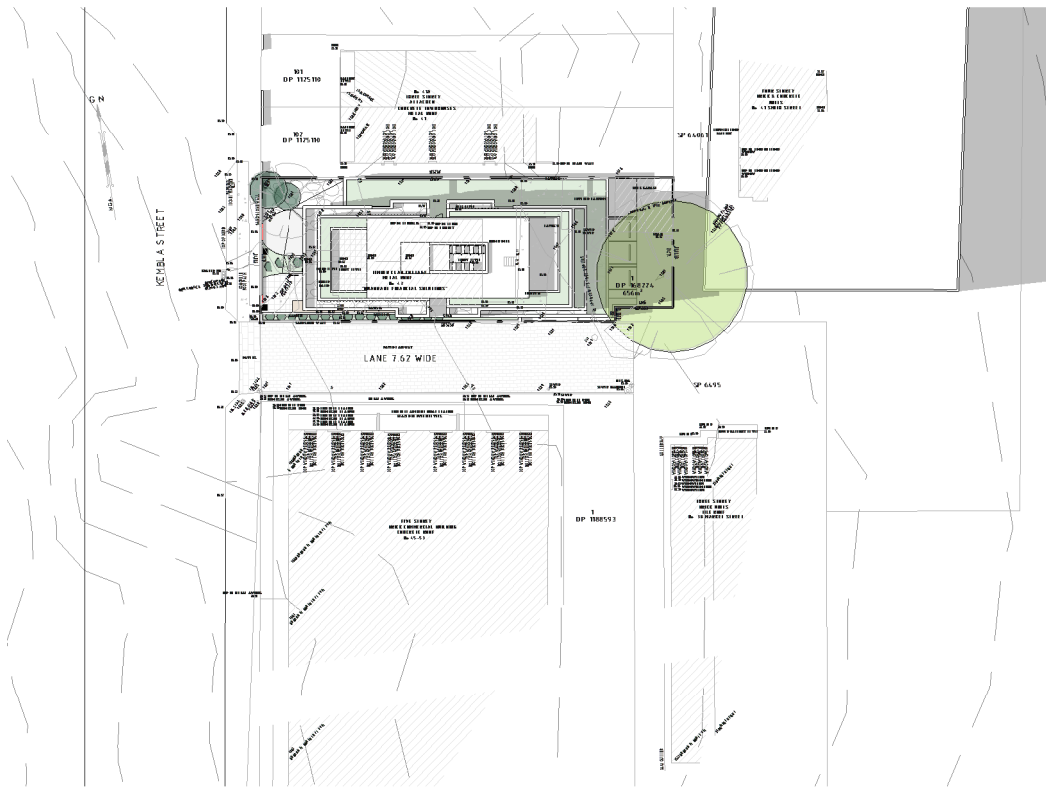
SHADOWS - SUMMER - 9am

1 : 800



SHADOWS - SUMMER - 12noon

1 : 800

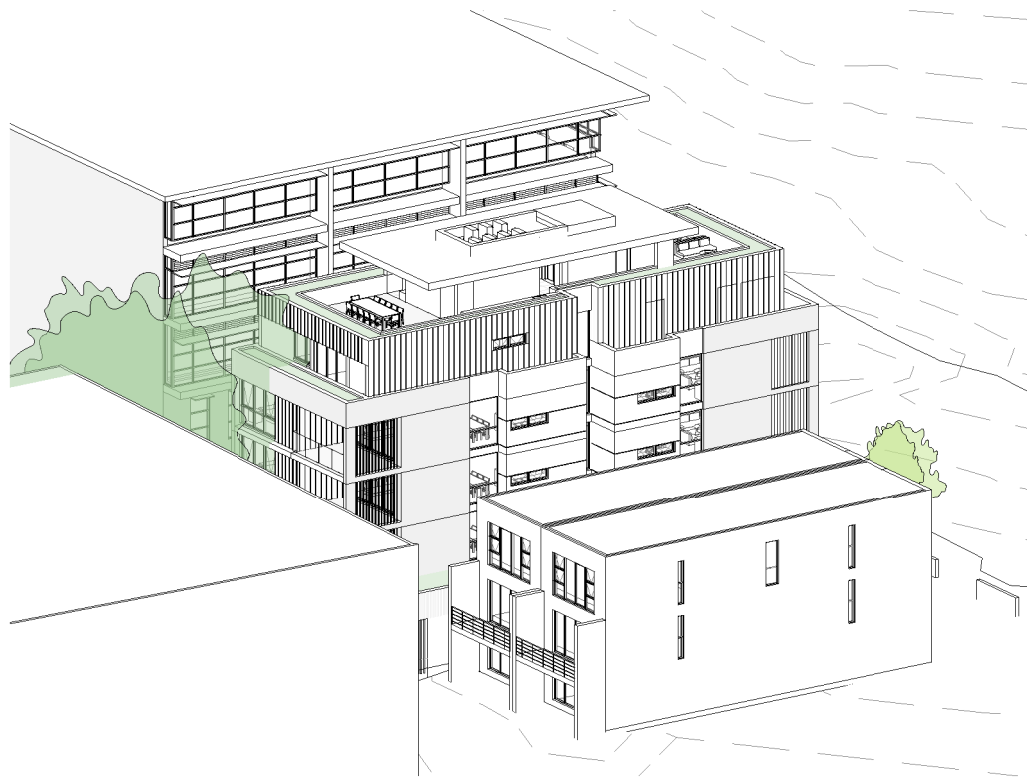


SHADOWS - SUMMER - 3pm

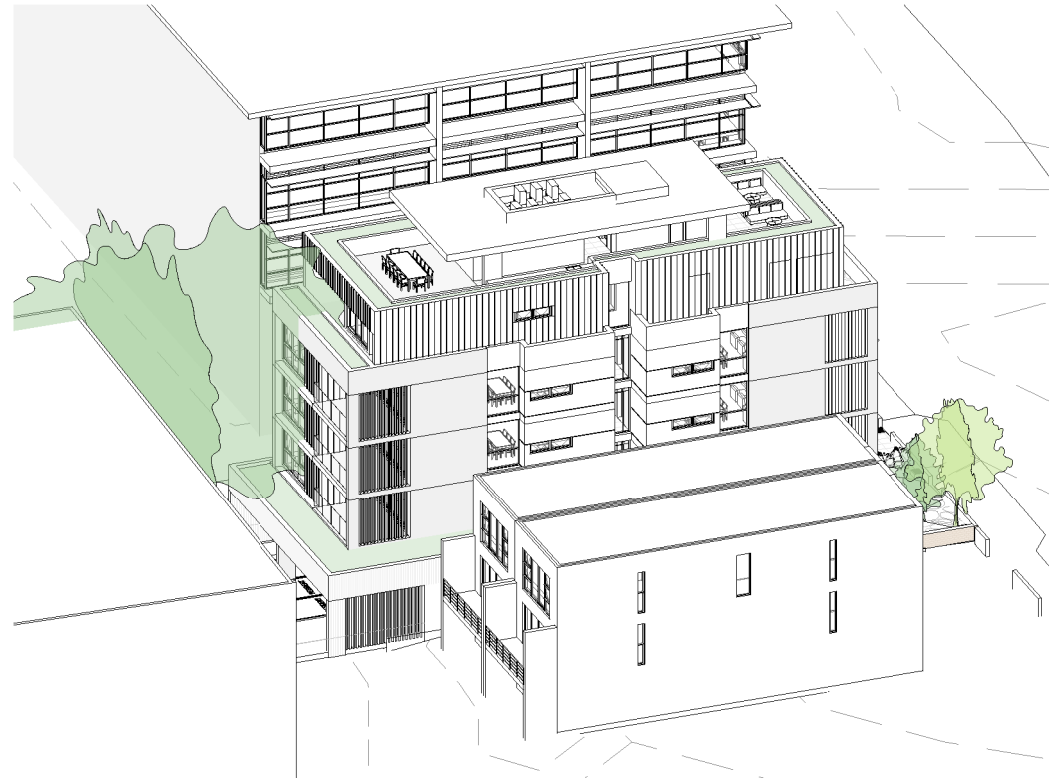
1 : 800

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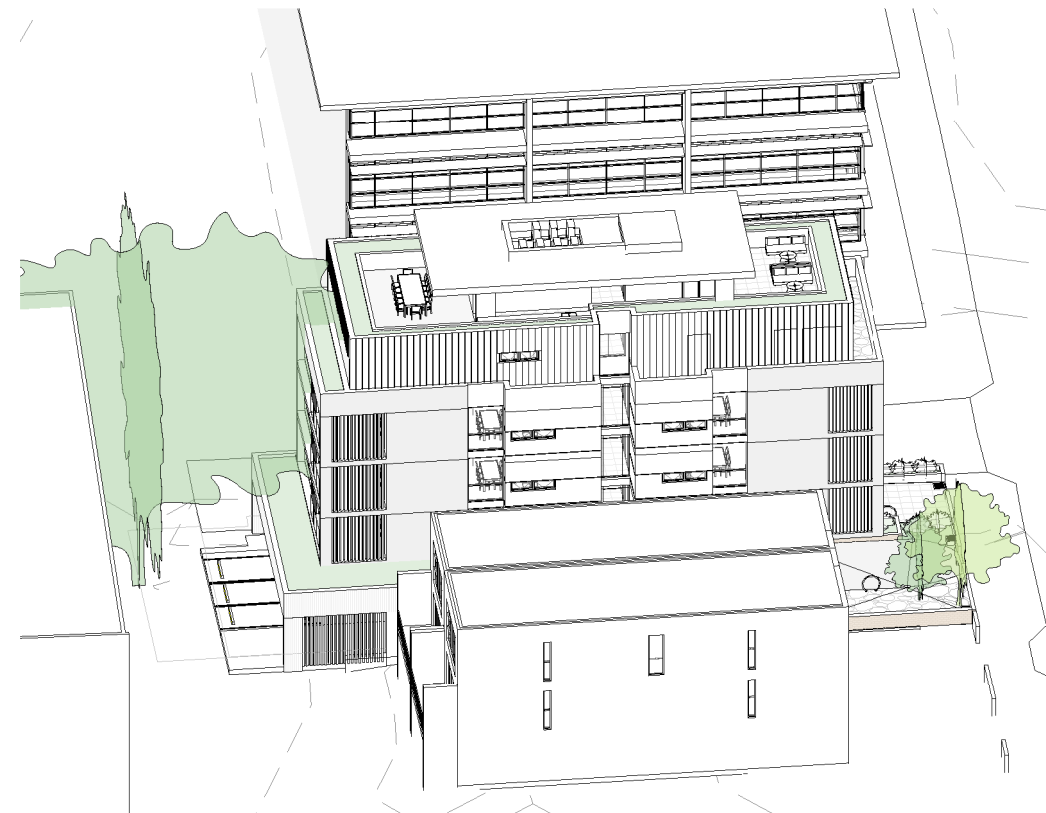
REF. Y	DATE 10.05.2022	AMENDMENT ADDITIONAL INFORMATION	DWA DESIGN WORKSHOP AUSTRALIA	Wollongong 81a Princes Highway, Fairy Meadow NSW 2519 Tel: (02) 4227 1661 Email: info@designworkshop.com.au Web: www.designworkshop.com.au	Sydney Level 10, 6 Mount Olympus Boulevard, Wolli Creek NSW 2205 Nominated Architect: Robert Gizzi (Reg. 8286)	CLIENT: GF MEDIUM DENSITY ADDRESS: 43 KEMBLA STREET, WOLLONGONG DRAWING NAME: SHADOWS - SUMMER		ISSUE DATE: 10.05.2022 DRAWN: NT SCALE: QA: RG	PROJECT No. 2345 DWG No. 052 Rev. Y
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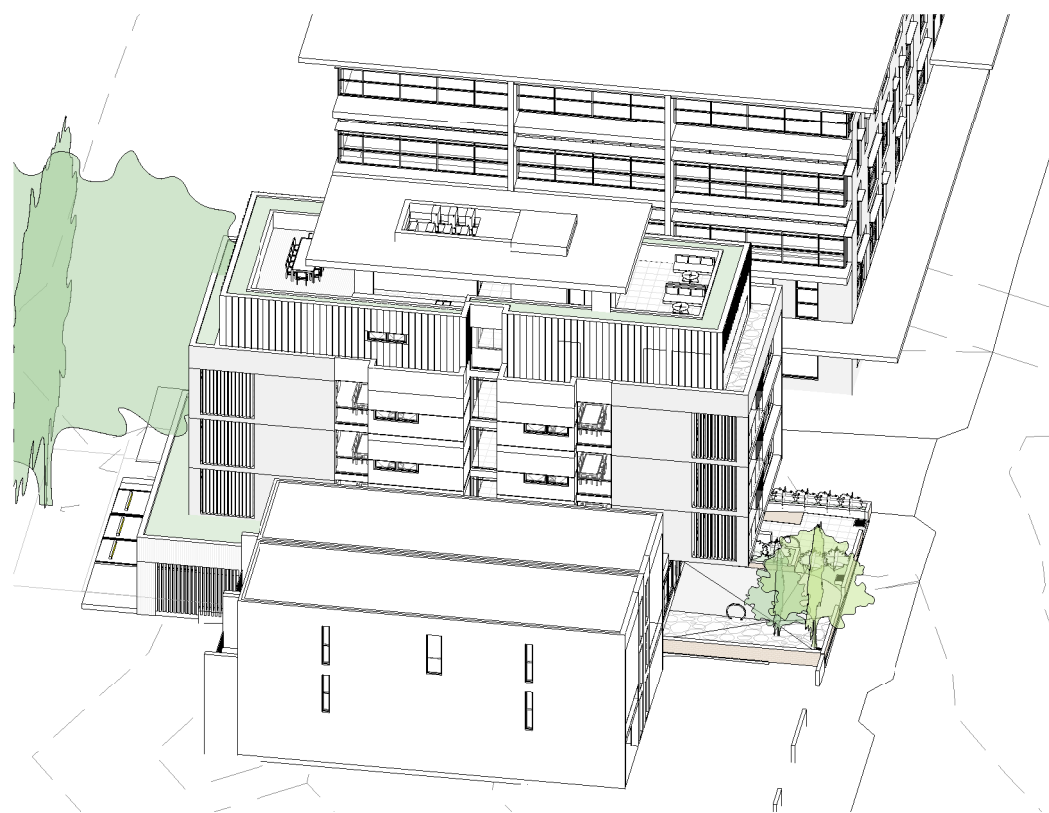
SOLAR ACCESS - 21/06/2021-9.00



SOLAR ACCESS - 21/06/2021-10.00



SOLAR ACCESS - 21/06/2021-11.00



SOLAR ACCESS - 21/06/2021-12.00

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REF.	DATE	AMENDMENT
Y	10.05.2022	ADDITIONAL INFORMATION

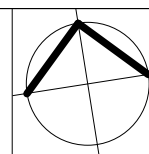
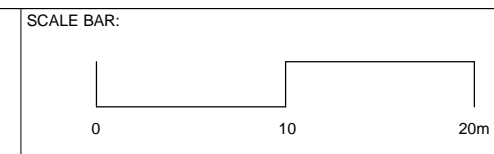
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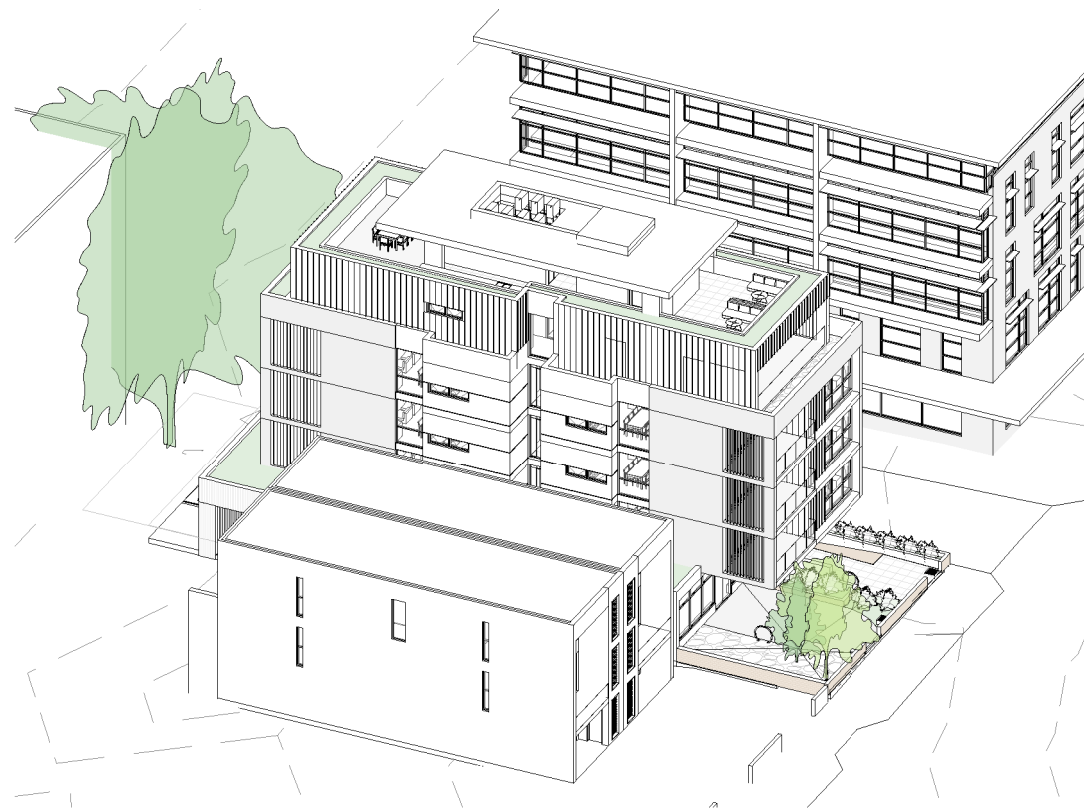
Sydney
Level 10, 6 Mount
Olympus Boulevard,
Wolli Creek NSW 2205
Nominated Architect:
Robert Gizzi (Reg. 8286)

CLIENT: GF MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: SOLAR ANALYSIS - VIEWS FROM THE SUN



ISSUE DATE: 10.05.2022	PROJECT No. 2345
DRAWN: NT	DWG No. Rev. 053 Y
SCALE: 1:400	
QA: RG	

ADDITIONAL INFORMATION



SOLAR ACCESS - 21/06/2021-13.00



SOLAR ACCESS - 21/06/2021-14.00



SOLAR ACCESS - 21/06/2021-15.00

DISCLAIMER

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REF.	DATE	AMENDMENT
Y	10.05.2022	ADDITIONAL INFORMATION
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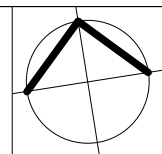
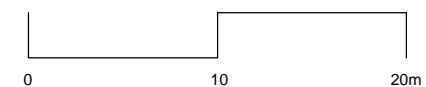


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Sydney
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Olympus Boulevard,
Wolli Creek NSW 2205
Nominated Architect:
Robert Gizzi (Reg. 8286)

CLIENT: GF
MEDIUM DENSITY
ADDRESS: 43 KEMBLA STREET, WOLLONGONG
DRAWING NAME: SOLAR ANALYSIS - VIEWS FROM THE SUN

SCALE BAR:

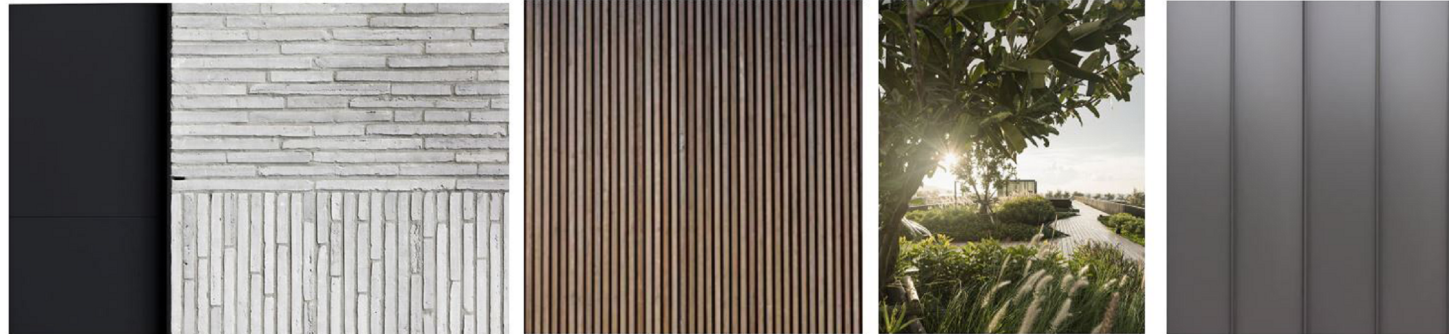


ISSUE DATE: 10.05.2022	PROJECT No. 2345
DRAWN: NT	DWG No. Rev. 054 Y
SCALE: 1:400	
QA: RG	

ADDITIONAL INFORMATION



MATERIAL PALLETTE



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REF. Y	DATE 10.05.2022	AMENDMENT ADDITIONAL INFORMATION	DWA DESIGN WORKSHOP AUSTRALIA	Wollongong 81a Princes Highway, Fairy Meadow NSW 2519 Tel: (02) 4227 1661 Email: info@designworkshop.com.au Web: www.designworkshop.com.au	Sydney Level 10, 6 Mount Olympus Boulevard, Wolli Creek NSW 2205 Nominated Architect: Robert Gizzi (Reg. 8286)	CLIENT: GF MEDIUM DENSITY ADDRESS: 43 KEMBLA STREET, WOLLONGONG DRAWING NAME: PRESPECTIVES			ISSUE DATE: 10.05.2022 DRAWN: NT/AK SCALE: QA: RG	PROJECT No. 2345 DWG No. 060 Rev. Y
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ADDITIONAL INFORMATION

Residential Development

DEVELOPMENT APPLICATION

43 Kembla Street, Wollongong

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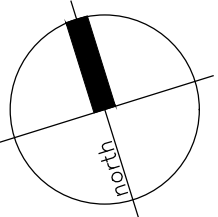
The contractor shall check and verify all work on site (including work by others) before commencing the landscape installation. Any discrepancies are to be reported to the Project Manager or Landscape Architect prior to commencing work. Do not scale this drawing. Any required dimensions not shown shall be referred to the Landscape Architect for confirmation.

Drawing Schedule

Drawing Number	Drawing Title	Scale
000	Landscape Coversheet	N/A
101	Landscape Plan - Ground Floor	1:100
102	Landscape Plan - Level 1	1:100
103	Landscape Plan - Level 4	1:100
104	Landscape Plan - Level 5	1:100
501	Landscape Details	As Shown
502	Landscape Details	As Shown



SITE AERIAL | NTS



PLANTING SCHEDULE								
	Botanic Name	Common Name	Mature Size	Pot Size	Density	Native / Exotic	Low Water Use	One Drop/ Sydney Water Speices List Species
STREET TREES								
Wf1	Waterhousea floribunda	Lilly Pilly	30 x 10	100L	As Shown	N		
TREES								
Bi	Banksia integrifolia	Coast Banksia	12 x 4	200L	As Shown	N	✓	✓
Ca	Cupaniopsis anacardroides	Tuckeroo	10 x 5	75 L	As Shown	N	✓	✓
Li	Leptospermum laevigatum	The Coast Tra Tree	4 x 3	200L	As Shown	N	✓	✓
Bm	Backhousia myrtifolia	Cinnamon Myrtle	7 x 4	100L	as shown	N	✓	✓
Ti	Tristaniopsis laurina 'Luscious®'	Watergum	8 x 6	200L	As shown	N		✓
SHRUBS & ACCENTS								
Am	Alpinia mutica	False Cardamon	1.5 x 2	300mm	As shown	N		
AL	Acacia cognata 'Limelight' River Wattle	River Wattle	1 x 1.2	300mm	As shown	N	✓	✓
Aa	Asplenium australasicum	Bird's Nest Fern	1.5 x 1.5	300mm	As shown	N	✓	✓
Bsl	Blechnum gibbum 'Silver Lady'	Silver Lady Fern	1 x 1	300mm	As Shown	N		✓
CBB	Crassula arborescens 'Blue Bird'	Bluebird	1 x 1	300mm	As shown	N	✓	
McT	Metrosideros collina 'Tahiti	Dwarf NZ Cjristmas Bush	1 x 1	300mm	As Shown	E		
Px	Philodendron xanadu	Xanadu	1.5 x 1	300mm	As Shown	E		✓
GBR	Grevillea 'Bronze Rambler'	Grevillea	0.3 x 4	200mm	As Shown	E	✓	
SA	Syzygium 'Australe'	Lillypillly	3 x 2	300mm	As shown	N		✓
Wf	Westringia fruticosa 'Aussie Box'	Coastal Rosemary	1 x 1	300mm	As shown	N	✓	✓
Dp	Doryanthes palmeri	Spear Lily	3 x 3	200 mL	As Shown			
GRASSES & GROUND COVERS								
ALR	Alternanthera dentata 'Little Ruby'	Ruby Leaf Alternanthera	0.4 x 0.9	150mm	5m²	N		
Cg	Carpobrotus glaucescens	Pig Face	0.1 x 1	150mm	5m²	N	✓	✓
Cm	Clivia miniata	Kaffir Lily	1 x 0.8	150mm	5m²	N	✓	✓
Da	Dichondra argentea	Dichondra Silver Falls	0.15 x 1	150mm	5m²	N		
FMG	Ficus microcarpa 'green island''	Green Island Fig	1 x 1.5	150mm	5m²	N	✓	
Gt	Gazania tomentosa	Silver Gazania	0.3 x 1.5	150mm	5m²	E	✓	
LmE	Liriope muscari 'Evergreen Giant'	Evergreen Giant	0.5 x 0.5	150mm	5m²	E		✓
Lm	Lomandra multiflora	Many-flowered Mat Rush	0.45 x 0.45	150mm	5m²	N		✓
MpY	Myoporum parvifolium 'Yareena'	Yareena Myoporum	0.1 x 1	150mm	5m²	N		✓
Pf	Pellaea falcata	The Sickle Fern	0.3 x 0.4	150mm	5m²	N	✓	✓
Pp	Plectranthus parviflorus	Spur Flower	0.5 x 0.4	150mm	5m²	N	✓	
Sa	Scaevola aemula	Fairy fan flower	0.6 x 0.5	150mm	5m²	N		✓
Level 1 - Green Roof Planting								
Ba	Brunoniella australis	Blue Yam	0.5 x 0.2	150mm	5m²	N		
Cg	Carpobrotus glaucescens	Pig Face	0.15 x 0.4	150mm	5m²	N	✓	✓
Dr	Danthonia racemosa	Wallaby Grass	0.1	150mm	5m²	N		
Gt	Gazania tomentosa	Silver Gazania	0.3 x 1.5	150mm	5m²	E	✓	
LI	Lomandra longifolia	Spiny Mat Rush	1 x 1.5	150mm	5m²	N	✓	
Lm	Lomandra multiflora	Many-flowered Mat-rush	0.3 x 0.2	150mm	5m²	N		✓
Pp	Plectranthus parviflorus	Spur Flower	0.5 x 0.4	150mm	5m²	N	✓	
Ta	Themeda australis	Kangaroo grass	1 x 0.5	150mm	5m²	N	✓	✓

G	Architectural Coordination	LH	NM	12.05.2022
F	Architectural Coordination	LH	NM	04.05.2022
E	Architectural Coordination	LH	NM	23.03.2022
D	Architectural Coordination	LH	NM	17.03.2022
C	Development Application	RH	NM	05.11.2021
B	Development Application	RH	NM	04.11.2021
A	Draft Development Application	RH	NM	12.10.2021
Issue	Revision Description	Drawn	Check	Date

Client:
GF
MEDIUM DENSITY

Project:
43 KEMBLA STREET,
WOLLONGONG

Level 1, 3-5 Baptist Street
Redfern NSW 2016
Australia

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S I T E I M A G E



Landscape Architects

DEVELOPMENT APPLICATION

Drawing Name:
Landscape Coversheet

Scale:
Job Number:
Drawing Number:
Issue:

SS21-4815 000 G

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G	Architectural Coordination	LW	NM	07.06.2022
F	Architectural Coordination	LH	NM	12.05.2022
E	Architectural Coordination	LH	NM	04.05.2022
D	Architectural Coordination	LH	NM	23.03.2022
C	Architectural Coordination	LH	NM	17.03.2022
B	Development Application	RH	NM	04.11.2021
A	Draft Development Application	RH	NM	12.10.2021
Issue	Revision Description	Drawn	Check	Date

- LEGEND
- Site Boundary
 - Proposed Trees
 - Existing Tree Removed
 - Existing Tree Retained
 - Natural Stone Paving
 - Gravel Paving
 - Brick Paving
 - Shrubs & Accents
 - Grasses & Groundcovers
 - Sandstone Wall Salvaged From Existing

Client:
GF
MEDIUM DENSITY

Project:
**43 KEMBLA STREET,
WOLLONGONG**

SITE IMAGE
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Redfern NSW 2016
Australia
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Landscape Architects

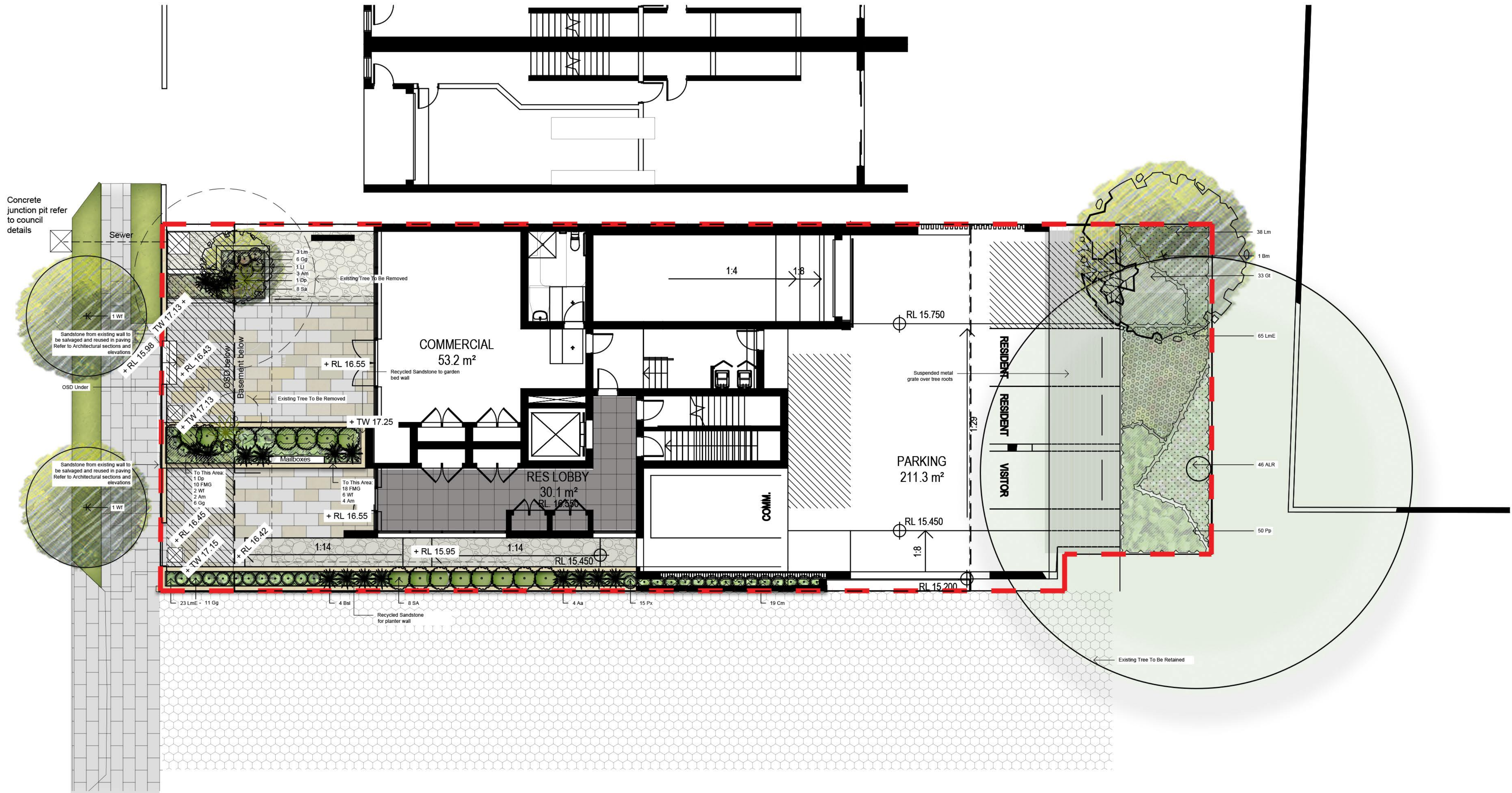
DEVELOPMENT APPLICATION

Drawing Name:
Landscape Plan
Ground Floor

Scale: 1:100 @ A1
Job Number:
Drawing Number:
Issue:

SS21-4815 101 G

KEMBLA STREET



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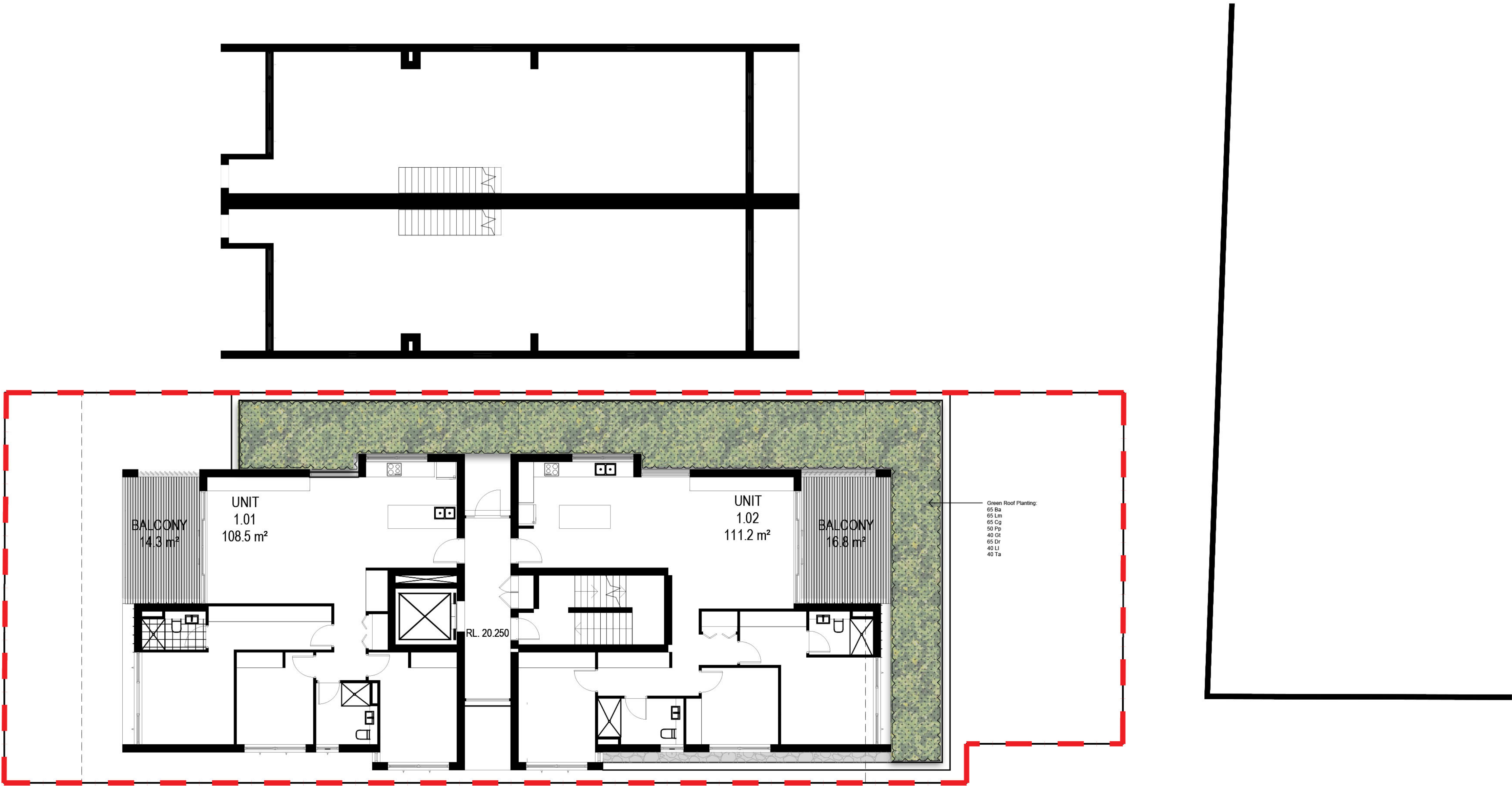
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D	Architectural Coordination	LH	NM	23.03.2022
C	Architectural Coordination	LH	NM	17.03.2022
B	Development Application	RH	NM	04.11.2021
A	Draft Development Application	RH	NM	12.10.2021
Issue	Revision Description	Drawn	Check	Date

LEGEND

Site Boundary

Green Roof



Note: Green Roof Planting
with pattering through
species selection and trailing
plants to green facade

NOT FOR CONSTRUCTION

Client:
GF
MEDIUM DENSITY

Project:
**43 KEMBLA STREET,
WOLLONGONG**

S I T E I M A G E



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Australia

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DEVELOPMENT APPLICATION

Drawing Name:
Landscape Plan
Level 1

Scale: 1:100 @ A1
Job Number:

Drawing Number: 102
Issue: D

SS21-4815

102 D

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D	Architectural Coordination	LH	NM	23.03.2022
C	Architectural Coordination	LH	NM	17.03.2022
B	Development Application	RH	NM	04.11.2021
A	Draft Development Application	RH	NM	12.10.2021
Issue	Revision Description	Drawn	Check	Date

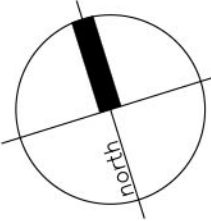
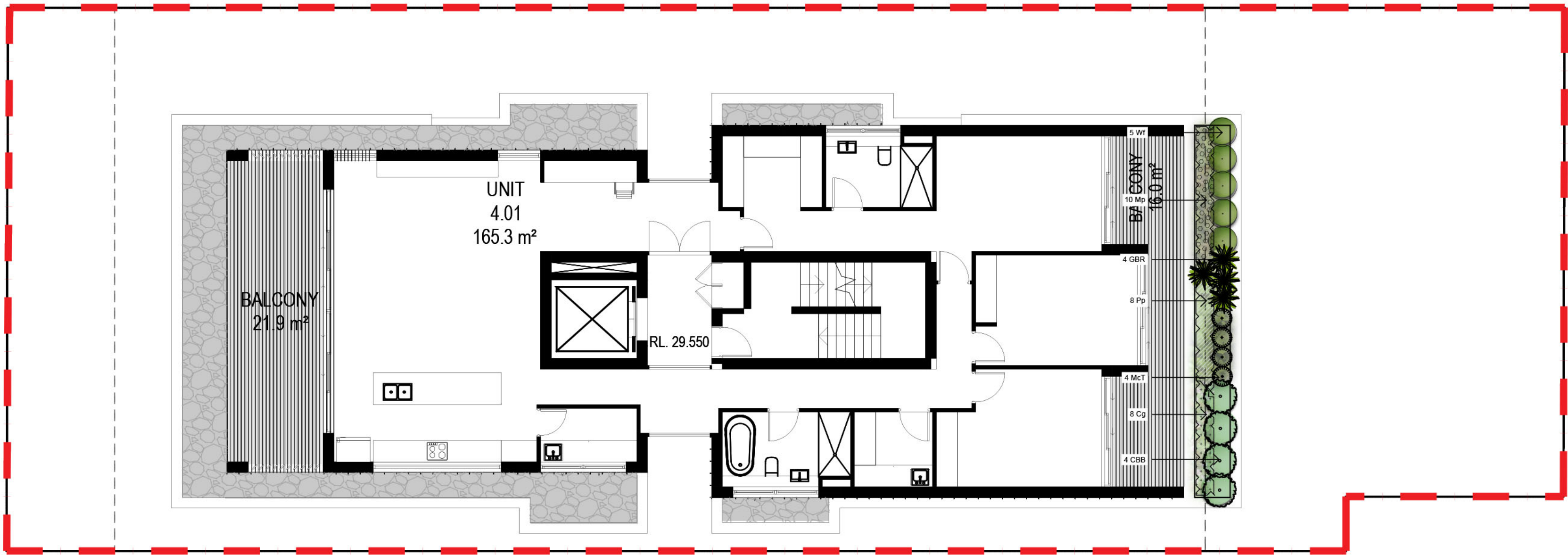
LEGEND

Site Boundary

Shrubs & Accents

Grasses & Groundcovers

Wall



Client:
GF
MEDIUM DENSITY

Project:
43 KEMBLA STREET,
WOLLONGONG

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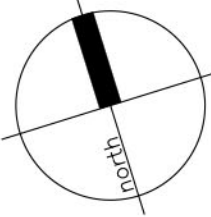
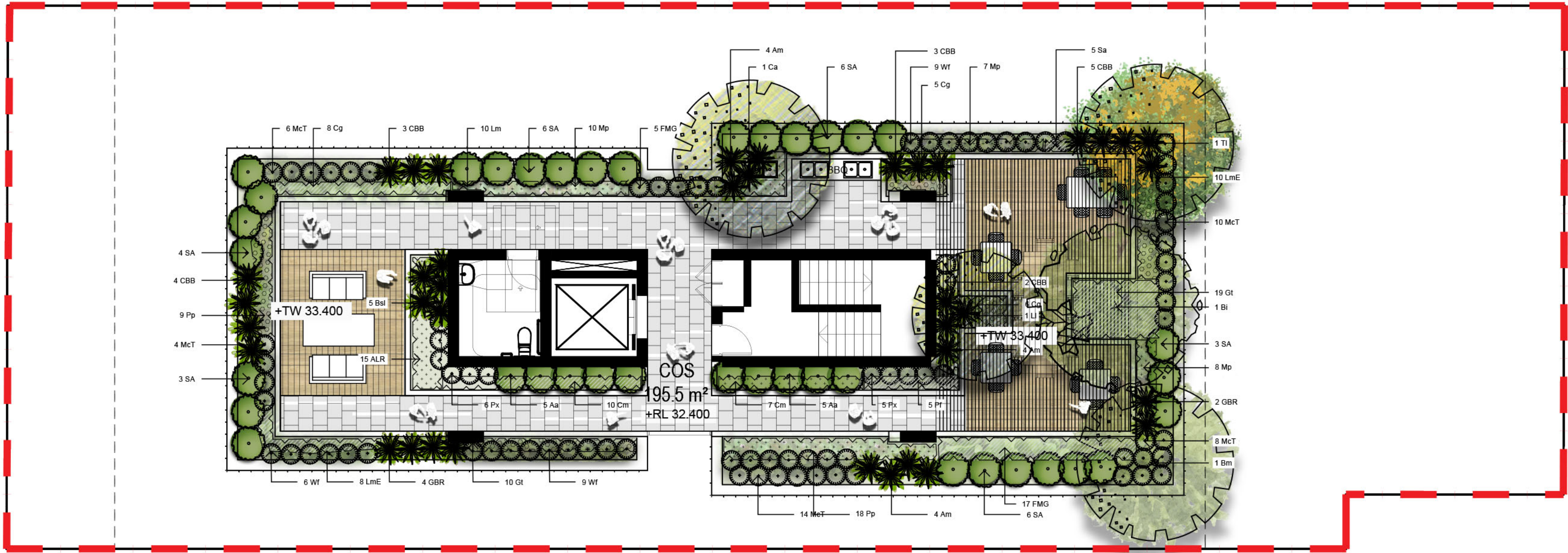
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Drawing Number: 103
Issue: D

The contractor shall check and verify all work on site (including work by others) before commencing the landscape installation. Any discrepancies are to be reported to the Project Manager or Landscape Architect prior to commencing work. Do not scale this drawing. Any required dimensions not shown shall be referred to the Landscape Architect for confirmation.

E	Architectural Coordination	LH	NM	23.03.2022
D	Architectural Coordination	LH	NM	17.03.2022
C	Development Application	RH	NM	05.11.2021
B	Development Application	RH	NM	04.11.2021
A	Draft Development Application	RH	NM	12.10.2021
Issue	Revision Description	Drawn	Check	Date

- LEGEND
- Site Boundary
 - Proposed Trees
 - Shrubs & Accents
 - Grasses & Groundcovers
 - Timber Decking
 - Units Paving
 - BBQ
 - Outdoor Dining Table
 - Wall
 - Lounge
 - Columne
 - Refer to Architects Drawings



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Project:
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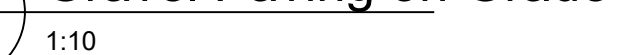
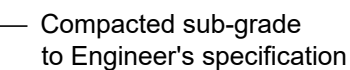
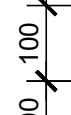
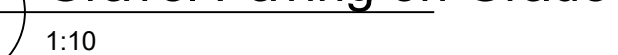
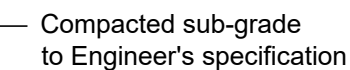
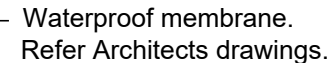
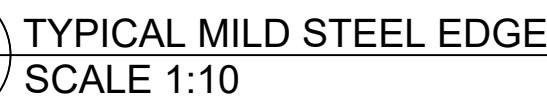
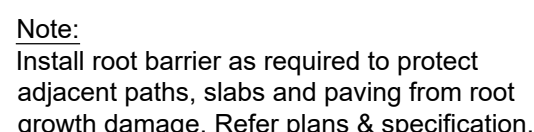
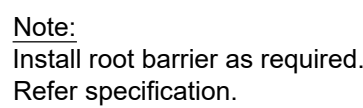
Landscape Architects

DEVELOPMENT APPLICATION

Drawing Name:
Landscape Plan
Level 5

Scale: 1:100 @ A1
Job Number:
Drawing Number:
Issue:

SS21-4815 104 E



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Project:
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S I T E I M A G E



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DEVELOPMENT APPLICATION

Drawing Name:

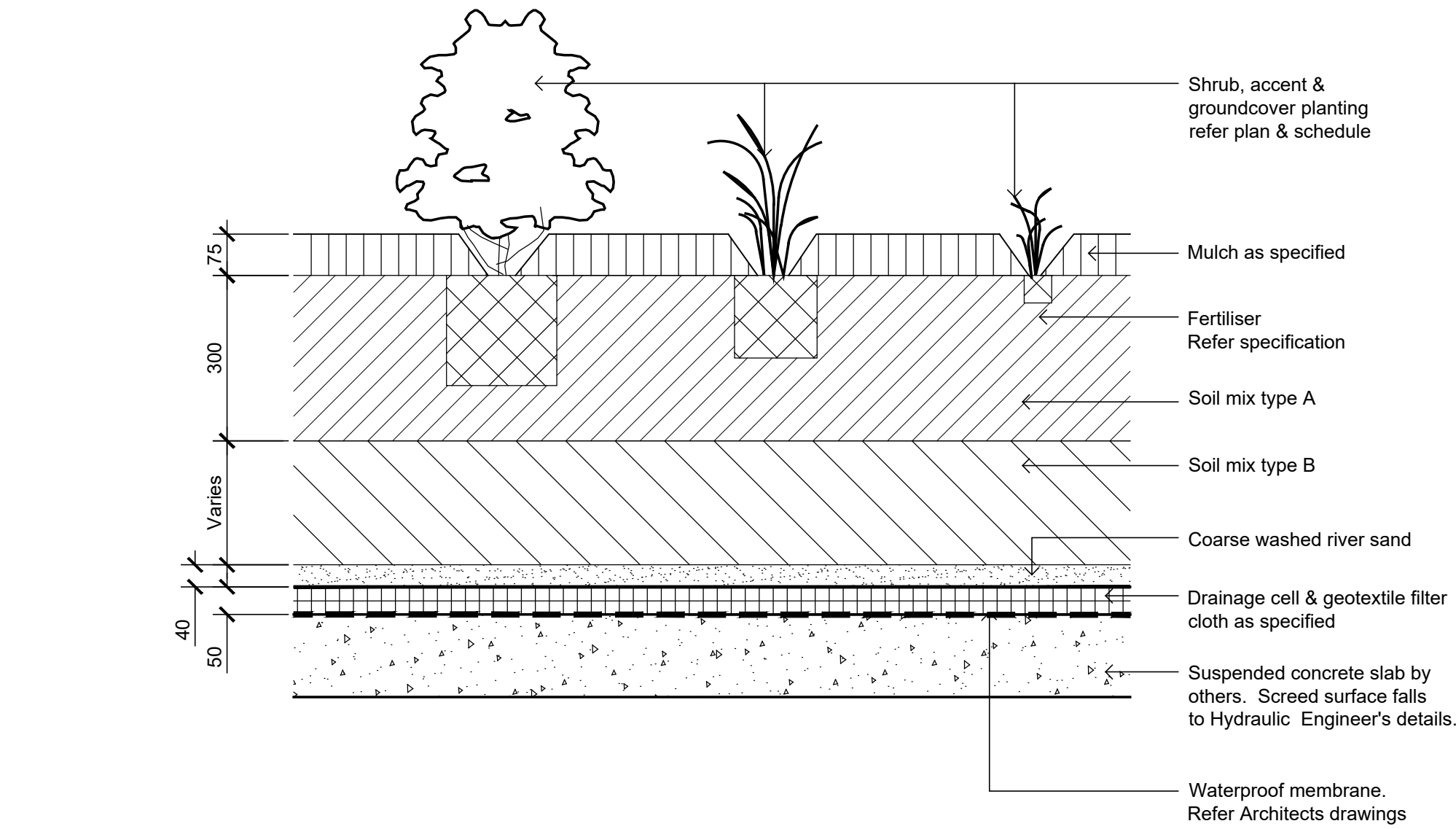
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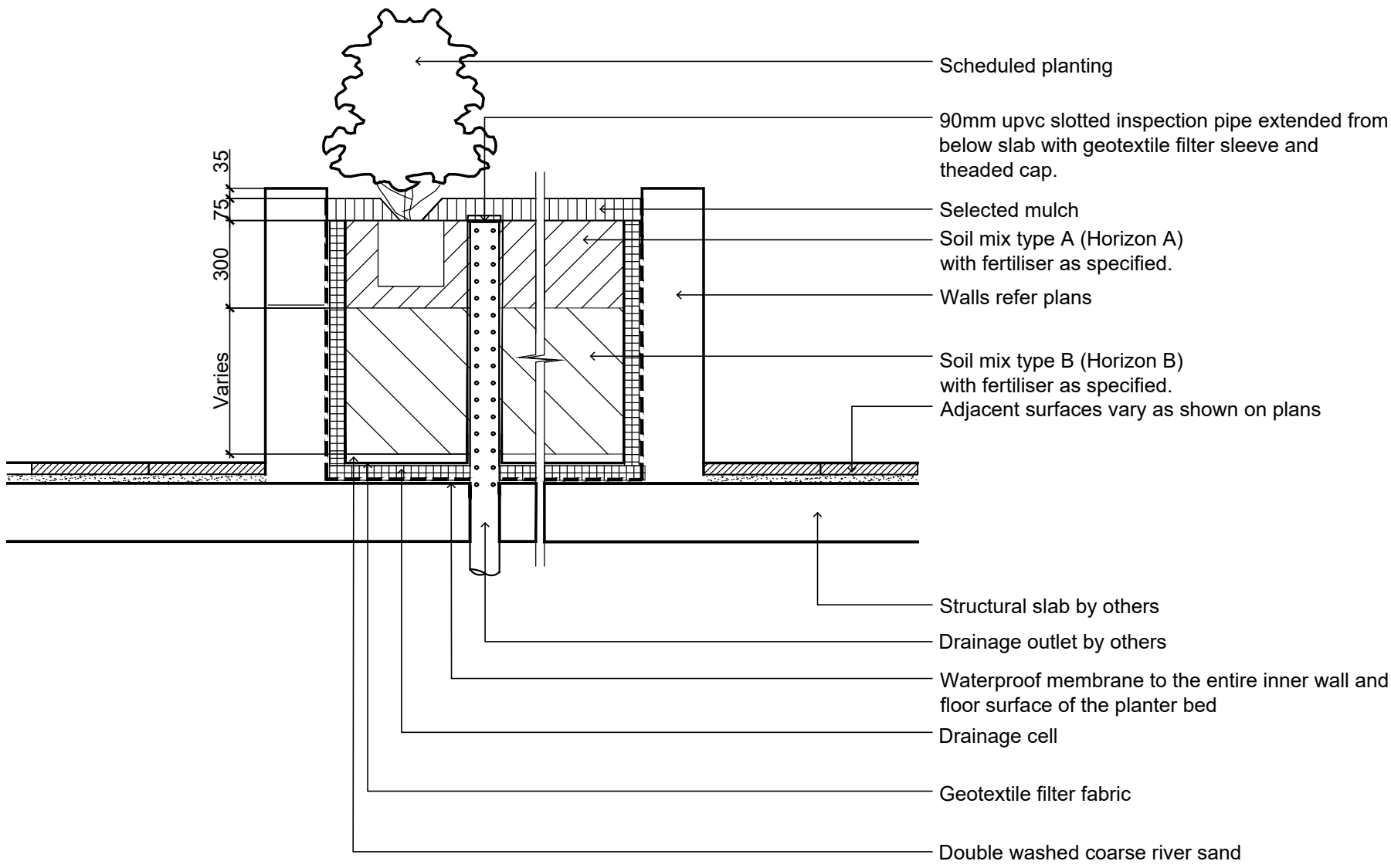
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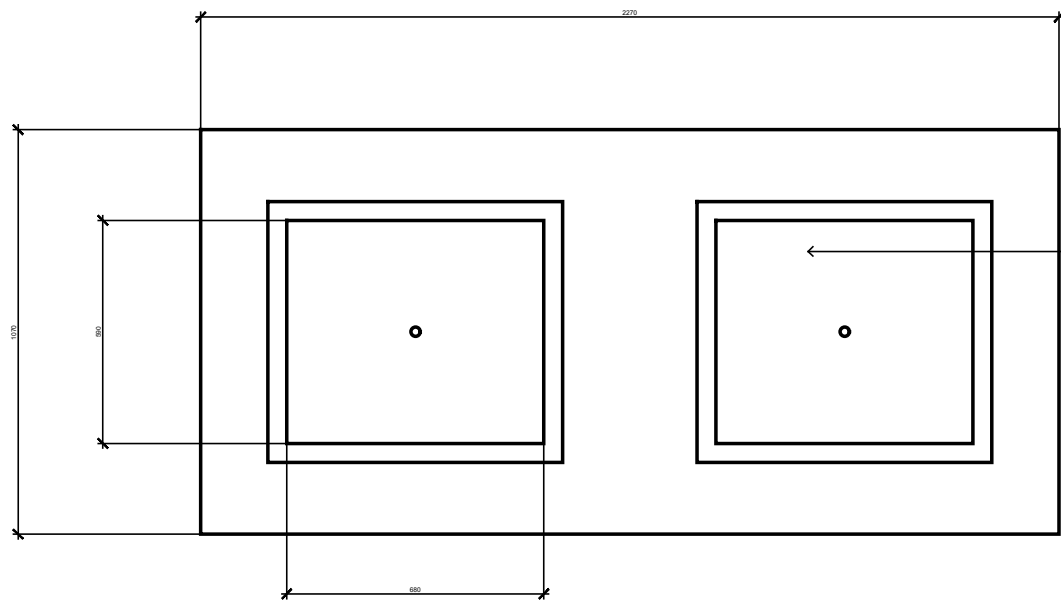
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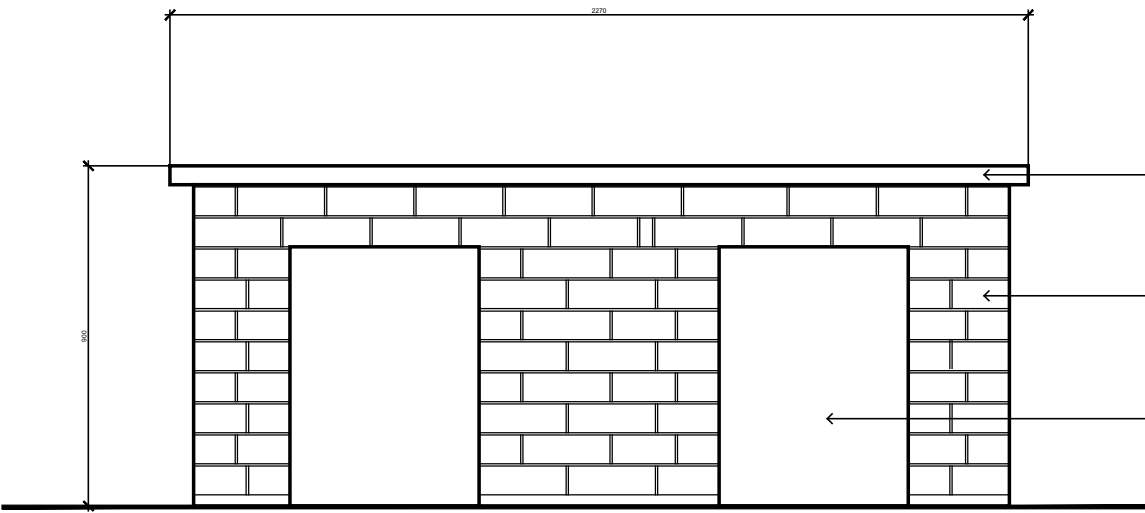
Detail Shrub Accent & Groundcover Planting on Structure
1:10



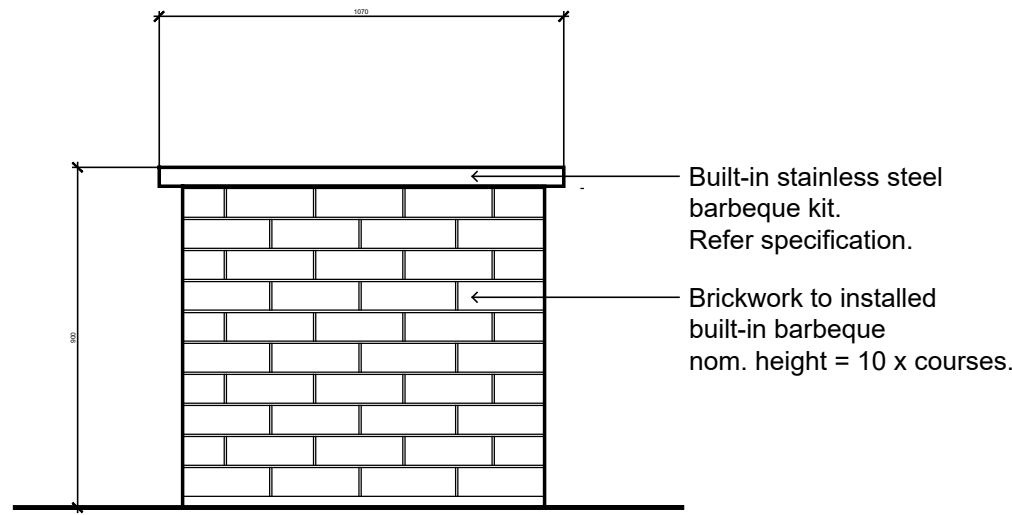
Section - Typical Raised Planter Bed on Structure
1:20
Inspection riser pipe



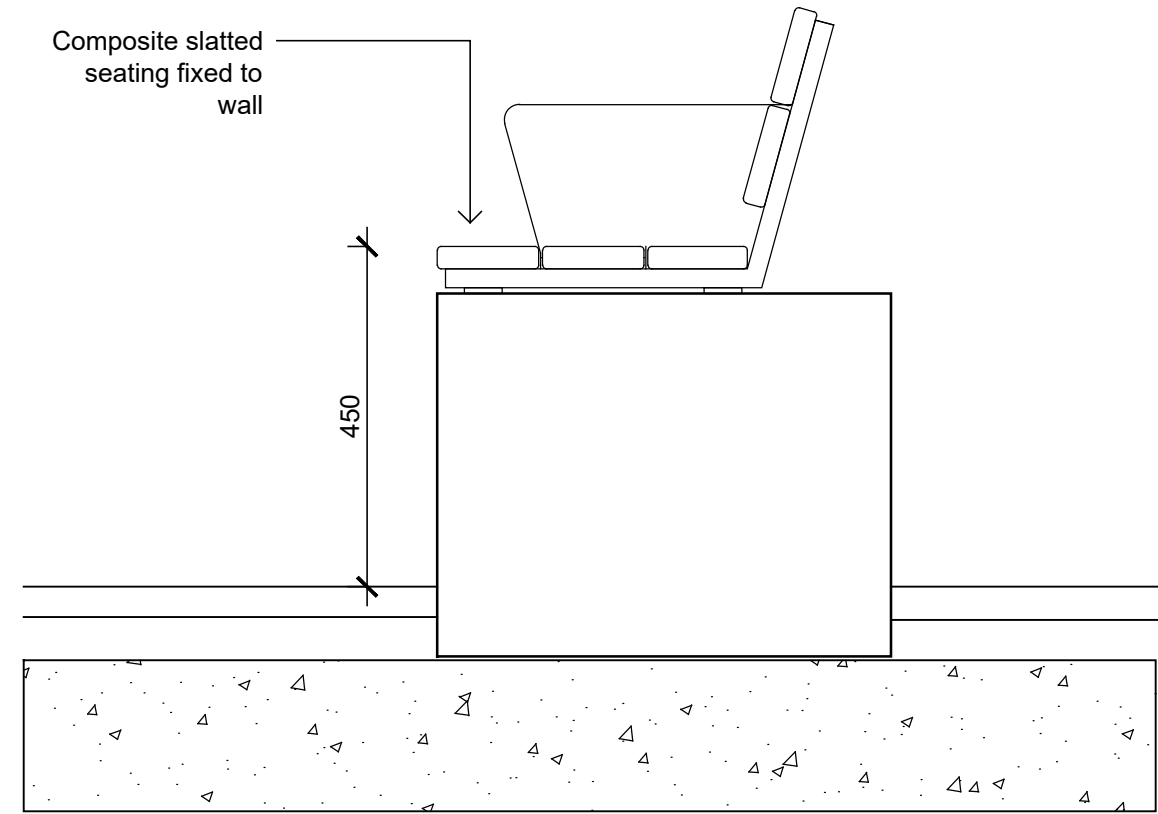
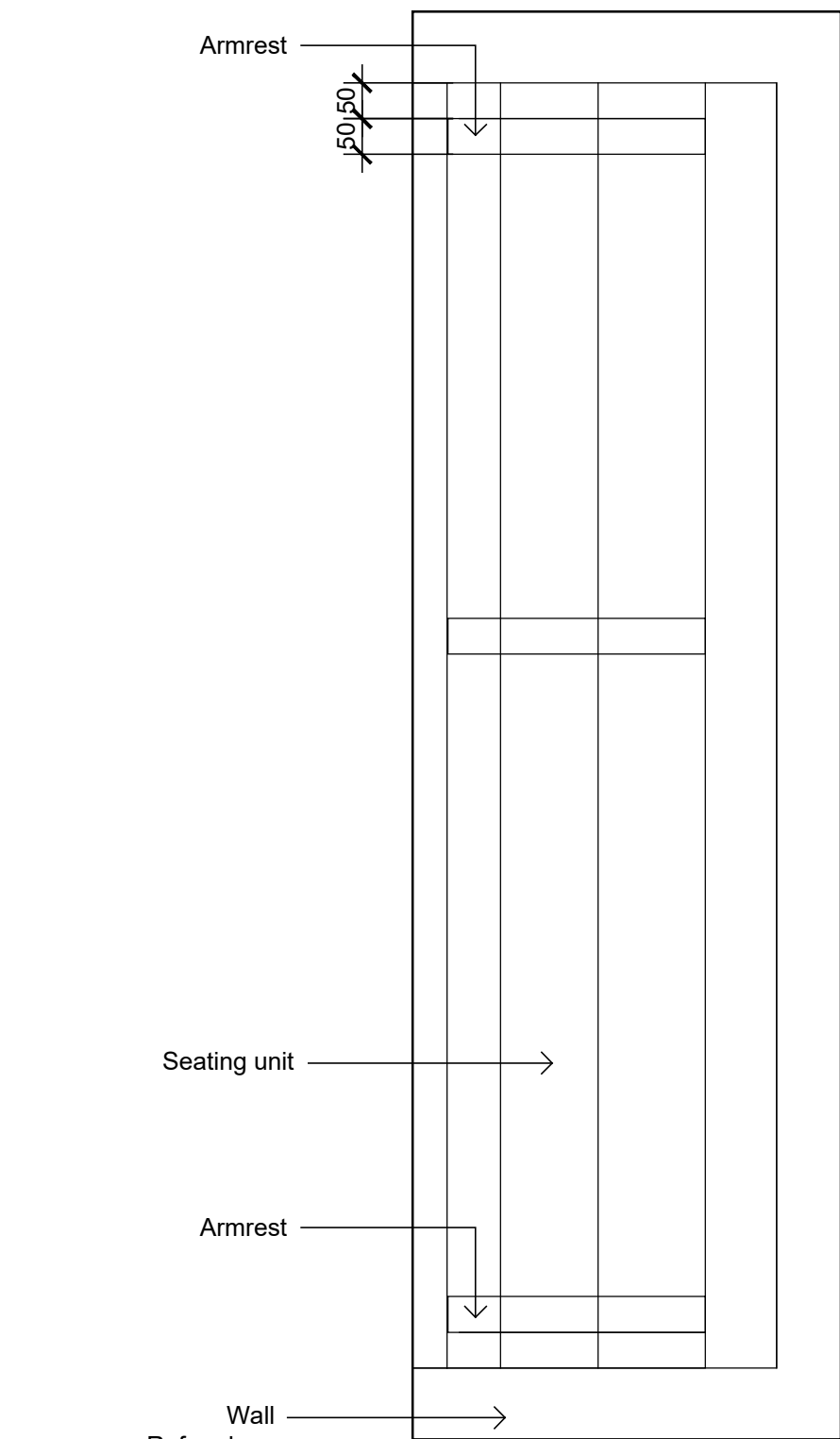
BUILT IN BARBEQUE - PLAN
SCALE 1:20



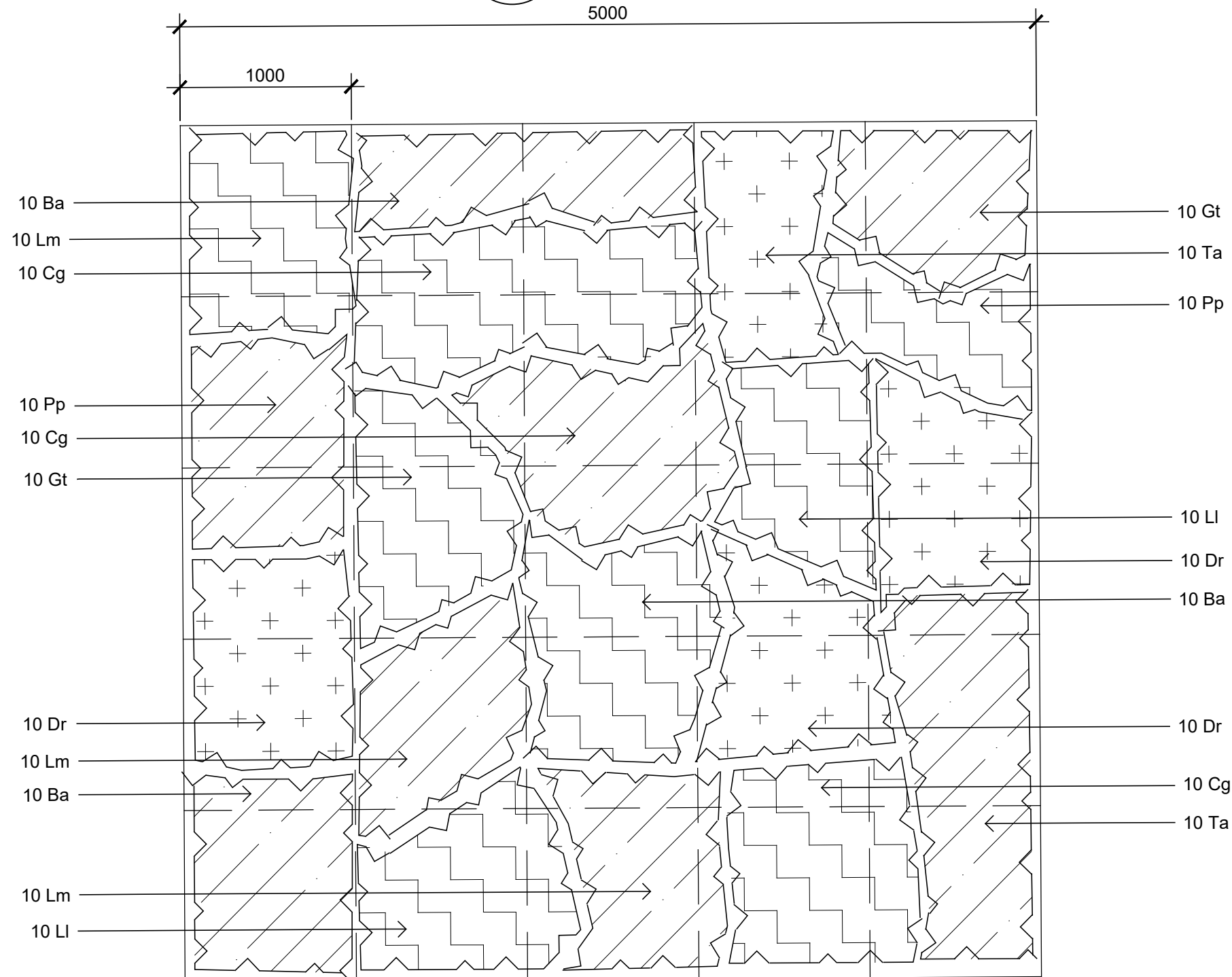
BUILT IN BARBEQUE - ELEVATION
SCALE 1:20



BUILT IN BARBEQUE - SIDE ELEVATION
SCALE 1:20



Bench Seat
1:10



Green Roof Matrix Planting
1:30

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Job Number:

Drawing Number:

Issue:

SS21-4815

502 C

GYDE

Clause 4.6 Variation Request

Minimum Site Width (CI 7.14)

43 Kembla Street, Wollongong

submitted to Wollongong Council

on behalf of Mr G Faddoul c/- Design Workshop Australia

This report was prepared by:

Director: Stephen Kerr
Associate Director: Carlo Di Giulio
Project Planner: Rachael Petherbridge
Project No. 21-200
Report Version: Final

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1. EXECUTIVE SUMMARY

This is a written request prepared in accordance with clause 4.6 of the *Wollongong Local Environmental Plan 2009* (WLEP 2009). The purpose of the request is to justify a variation to the minimum (i.e. 24m) site width (cl 7.14) development standard in a Development Application (DA) submitted to Wollongong City Council for a Mixed-Use Development comprising a 'Commercial Premises' and "Residential Flat Building" (RFB) at 43 Kembla Street, Wollongong (the site).

The proposal involves the demolition of the existing building onsite and the construction of a five (5) storey building comprising seven (7) residential units over one (1) level of basement car parking, and one (1) ground level commercial space.

The site has a width of 15.24m measured from the southern boundary to the northern boundary. This equates to an 8.76m shortfall in site width to the prescribed numerical standard. The departure from the standard is a result of the site's existing isolated nature, including a recently constructed multi-unit housing development to the north (i.e. 39 to 41A Kembla Street), as well as a laneway directly to the south of the site and a recently constructed multi storey commercial building on the opposite side of the laneway at 45-53 Kembla Street. These features do not provide reasonable opportunity for amalgamation to achieve the numerical standard. The proposal has been designed in consideration of the site's restricted width and achieves appropriate apartment amenity and a satisfactory relationship with the street and neighbouring development.



Figure 1: Aerial view highlighting the site's existing isolated nature (Source: SixMaps/Gyde)



Figure 2: Streetscape image demonstrating recently constructed nature of buildings adjoining or nearby the subject site (Source: Google/Gyde)

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

This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (August 2011) and various recent decisions in the New South Wales (NSW) Land and Environmental Court (LEC) and the NSW Court of Appeals (Appeals Court).

Clause 4.6 requires that a consent authority be satisfied of the following three (3) matters before granting consent to a development that contravenes a development standard (see *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 and *AI Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; [2018] NSWCA 245):

1. That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case [clause 4.6(3)(a)],
2. That the applicant has adequately demonstrated that there is sufficient environmental planning ground to justify contravening the development standard [clause 4.6(3)(b)], and

3. That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out [clause 4.6(4)].

This request demonstrates that compliance with the minimum site width development standard is unreasonable and unnecessary in the circumstances of the proposed development because there are effectively no reasonable opportunities to acquire the adjoining sites to achieve the minimum 24m prescribed width. Further, the objectives of the applicable B4 Mixed Use zone and the minimum site width development standard are achieved notwithstanding non-compliance.

Additionally, the development is in the public interest and there are sufficient environmental planning grounds to justify the variation. These include the architectural design of the built form is located centrally within the site to minimise the perception of bulk and scale, the built form is well below the Height of Buildings and Floor Space Ratio (FSR) development standards, the proposal will achieve compatibility with the existing or likely future streetscape, and the proposal is consistent with the relevant aims of the WLEP 2009.

This request also addresses the requirements for concurrence of the Secretary by Clause 4.6(4)(b).

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

2. STANDARD TO BE VARIED

The standard that is proposed to be varied is the minimum site width development standard which is set out in clause 7.14(2) of the *Wollongong Local Environmental Plan 2009* (WLEP 2009) as follows:

(2) Development consent must not be granted for development for the purpose of a residential flat building unless the site area on which the development is to be carried out has a dimension of at least 24 metres.

The numerical value of the development standard applicable in this instance is 24 metres.

The development standard to be varied is not excluded from the operation of clause 4.6 of the WLEP 2009.

3. EXTENT OF VARIATION

3.1. Proposed Site Width Variation

Pursuant to clause 7.15 of the WLEP 2009, the minimum site width for residential flat building (RFB) development is 24m. The site has a maximum site width of 15.24m, measured from the northern boundary to the southern boundary. There is no feasible means of increasing the width of the site due to the contemporary residential development to the north and a recent commercial development to the south.

The site maintains a consistent width of 15.24m for a majority of the site length, until the rear of the site which slightly decreases in width to 13.71m. The extent of site width variation is summarised as follows:

- 15.24m equalling a site width shortfall of 8.76m, and
- 13.71m equalling a site width shortfall of 10.29m.

An extract of the Survey Plan prepared by C. Robson & Associates is provided in Figure 3 below.

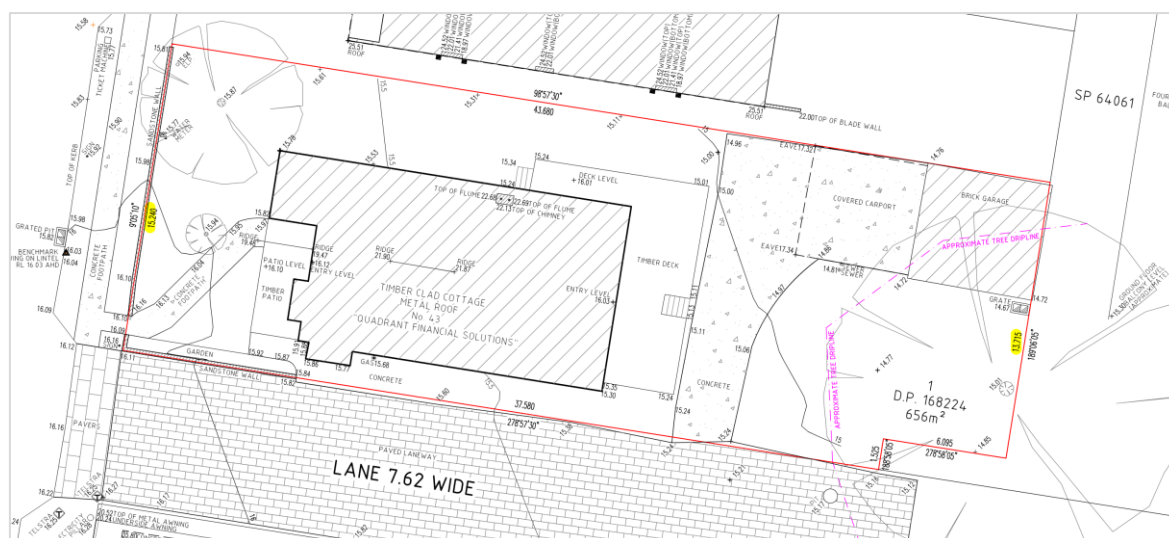


Figure 3: Extract of Survey Plan (Source: C. Robson & Associates)

4. UNREASONABLE OR UNNECESSARY

In this section it is demonstrated why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by clause 4.6(3)(a) of the WLEP 2009.

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

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

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

It is sufficient to demonstrate only one of these ways to satisfy clause 4.6(3)(a).

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

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

There are no objectives in clause 7.14 that apply to the minimum site width development standard. However, it is demonstrated in Section 6 that the development achieves the objectives of the B4 Mixed Use zone notwithstanding non-compliance with the clause 7.14 development standard.

It could be assumed, however, that the intent of the standard is to ensure that sufficient space is provided on a development site to achieve suitable amenity. The proposal will achieve suitable amenity because, as demonstrated in the accompanying Statement of Environmental Effects, the proposal achieves the relevant design objectives of the Apartment Design Guideline, particularly those for solar access, ventilation and deep soil landscaping. The proposal's design also ensures that unreasonable privacy impacts are avoided, and that streetscape integration is achieved. Further evidence of the design quality of the proposal is to be found in the minutes of the Wollongong Design Excellence Panel.

The following table in Section 6 of this report considers the public interest and whether the objectives of the B4 Mixed Use zone are achieved notwithstanding the proposed variation.

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

There are no objectives relevant to clause 7.14 of the WLEP 2009. As discussed above, however, it can be assumed that the purpose of the standard is to ensure higher density residential development achieves suitable amenity and streetscape presentation. This purpose would, therefore, be relevant to the development. As also discussed above, it is considered that the proposal would achieve the assumed purpose. That is, compliance with key objectives of the ADG are achieved, whilst compatibility with the intended streetscape would also be achieved.

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

As discussed above, one of the assumed objectives of the standard is to achieve streetscape presentation which is compatible with the intended streetscape character. The intended streetscape character is likely to be one which comprises taller buildings, which are medium to high density residential in nature, given the B4 Mixed Use zone and the 24m height limit. This would not be achieved because compliance with the standard effectively rules out taller forms of buildings, which are higher density residential in nature.

Therefore, it has been demonstrated that the standard's assumed objective would be thwarted if compliance was required.

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

The standard has not been abandoned by Council in this case and so this reason is not relied upon although we do observe that the minimum site width development standard has been varied under clause 4.6 of the WLEP 2009 on numerous occasions.

- 4.4. The zoning of the land is unreasonable or inappropriate.

The zoning of the land is reasonable and appropriate and so this reason is not relied upon.

5. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

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

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

As discussed in Section 3, the site width contravenes the minimum site width development standard as a result of the site’s isolated nature, and inability to acquire adjoining land because they have been recently developed (or in the case of the laneway, because it serves a public purpose).

The environmental planning ground to justify the departure of the minimum site width standard are as follows:

- The proposed variation and the development, as a whole, is in the public interest as it satisfies the objectives of the B4 Mixed Use zone (see Table 1) and presents no detrimental impact to adjoining residential and commercial development.
- Whilst the standard does not have any prescribed objectives or stated intent, the proposal would satisfy the likely objective of the standard, being to achieve suitable amenity and streetscape presentation.
- The variation is a result of the site’s isolated nature, and being surrounded by contemporary residential development to the north and recent commercial development to the south, providing no reasonable opportunity to acquire adjacent land.
- The proposal will revitalise the site while providing additional housing in the Wollongong City Centre and reinforce pedestrian activity within the locality.
- The proposed development meets the relevant objectives of the *Environmental Planning and Assessment Act 1979* as follows:
 - 1.3(c) – the proposal is an orderly and economic use of the site. The proposal provides a contemporary built form that is compatible with the desired future character of the locality.
 - 1.3(d) – the proposed RFB includes seven (7) 3-bedroom residential apartments, and one (1) ground floor commercial space which contributes to the provision for new housing supply within close proximity to public transport, employment, community, and health services.

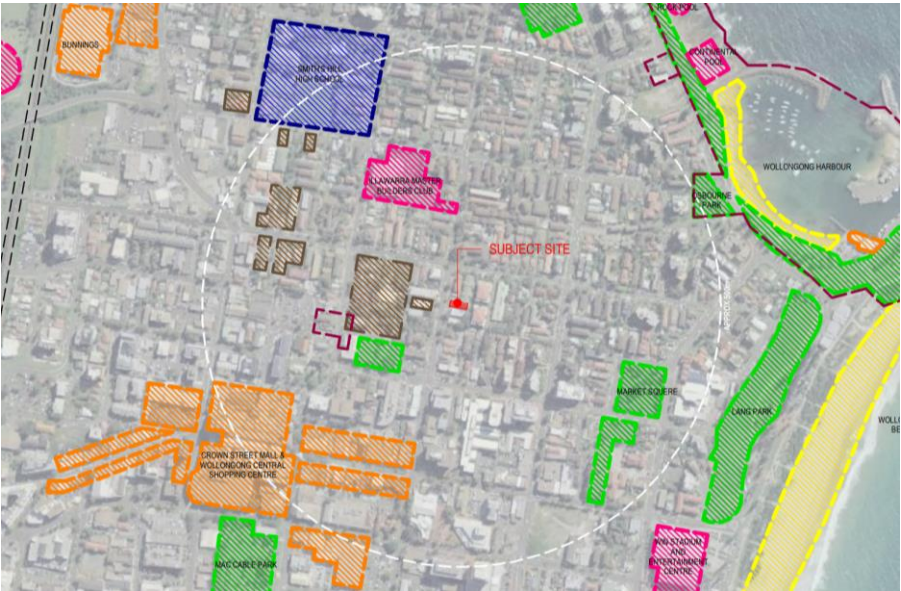
6. PUBLIC INTEREST

The proposed development will be in the public interest because it is consistent with the objectives for development within the zone in which the development is proposed to be carried out, in the absence of objectives of the particular development standard. This is required by clause 4.6(4)(a)(ii) of the WLEP 2009.

It is demonstrated within Table 1 below that the proposed development overall achieves the objectives of the B4 Mixed Use zone, notwithstanding the variation of the development standard, and in the absence of objectives in clause 7.14 that apply specifically to the minimum site width.

Table 1: Zone Objectives

OBJECTIVE	DISCUSSION
2.3 Zone objectives and Land use Table Zone B4 Mixed Use (1) Objectives of zone –	
<ul style="list-style-type: none"> To provide a mixture of compatible land uses. 	<p>The proposal achieves this objective.</p> <p>The proposal provides new housing choice centrally located within close proximity from the city centre, promoting increased pedestrian activity, and revitalization of the site.</p> <p>The ground floor commercial space will result in a small-scale contribution to the existing commercial strip along Kembla Street, which provides a congruous transition from residential development to the north to the commercial development to the south.</p>
<ul style="list-style-type: none"> To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximize public transport patronage and encourage walking and cycling. 	<p>The site is within the Wollongong City Centre, approximately 250m walking distance (3min) from Crown Street (the main street), which provides a wide variety of retail, commercial, and business services. The site directly adjoins a commercial premises leased by the Australia Tax Office (ATO), ANZ Bank, Australia Red Cross, and a variety of other uses.</p> <p>The site is located 1.2km from the Wollongong Station, a major transport node. The site is also within proximity to a number of bus stops which provide connection throughout the local government area and beyond.</p>

	 <p><i>Figure 4: Extract of Site Analysis Plan showing proximity to main street and other services (Source: DWA)</i></p> <p>The location of the site within the city centre provides a unique opportunity to a variety of commercial services and public transport opportunities, encouraging walking and cycling from the site to these services.</p>
<ul style="list-style-type: none"> • To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres. 	<p>The proposal has been designed to comply with this objective.</p> <p>The proposed development provides new housing supply within the city centre, walking distance from the Crown Street Mall and Wollongong Central Shopping Centre. The development will increase the patronage to these commercial areas on a small-scale, and will promote walking and cycling in the process, given its accessible location within the city centre.</p>

7. STATE OR REGIONAL ENVIRONMENTAL PLANNING

This section considers whether contravening of the development standard raises any matter of significant for state or regional environmental planning, the public benefit of maintaining the development standard, and any other matters required to be taken into consideration by the Secretary before granting concurrence required by clause 4.6(5).

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard as proposed by this application.

As demonstrated already, the proposal is consistent with the objectives of the zone, noting the absence of objectives of the development standard, and in our opinion, there are no additional matters which would indicate there is any public benefit of maintaining the development standard in the circumstances of this application.

Finally, we are not aware of any other matters required to be taken into consideration by the Secretary before granting concurrence.

8. CONCLUSION

This submission requests a variation, under clause 4.6 of the *Wollongong Local Environmental 2009*, to the Minimum site width development standard and demonstrates that:

1. Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development,
2. The development achieves the objectives of the B4 Mixed Use zone, noting the absence of objectives of the development standard, and
3. There are sufficient environmental planning grounds to justify the contravention.

The consent authority can be satisfied to the above and that the development achieves the objectives of the zone notwithstanding non-compliance with the Minimum site width development standard and is therefore in the public interest.

The concurrence of the Secretary can be assumed in accordance with Planning Circular PS 18-003.

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

GYDE

Clause 4.6 Variation Request

Building Separation - Cl 8.6(2)(a)
43 Kembla Street, Wollongong

submitted to Wollongong Council
on behalf of Mr G Faddoul c/- Design Workshop Australia

This report was prepared by:

Director: Stephen Kerr
Associate Director: Carlo Di Giulio
Project Planner: Rachael Petherbridge
Project No. 21-200
Report Version: Final

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1. EXECUTIVE SUMMARY

This is a written request prepared in accordance with clause 4.6 of the *Wollongong Local Environmental Plan 2009* (WLEP 2009) to justify a variation to the building separation within Zone B3 Commercial Core or Zone B4 Mixed Use (Building separation) [cl 8.6(2)(a)] development standard. The variation request accompanies a Development Application (DA) submitted to Wollongong City Council for a Mixed-Use development at 43 Kembla Street, Wollongong (the site).

The proposal involves the demolition of the existing building onsite and the construction of a five (5) storey building comprising seven (7) residential units over one (1) level of basement car parking, and one (1) ground level commercial space.

The departure from the standard is required to facilitate the orderly and economic development of the land. Because there is no feasible opportunity to increase the width of the site, design techniques have been used to ensure the objectives of the building separation requirement are achieved, notwithstanding the numerical variation. The result is a mixed-use development has been designed in consideration of the neighbouring development and presents no additional impact beyond what is anticipated for the development by the numerical separation standard. Moreover, the proposal is consistent with the prevailing streetscape character in the locality as observed in the images below and preserves the amenity of the immediately adjoining multi-dwelling housing development.

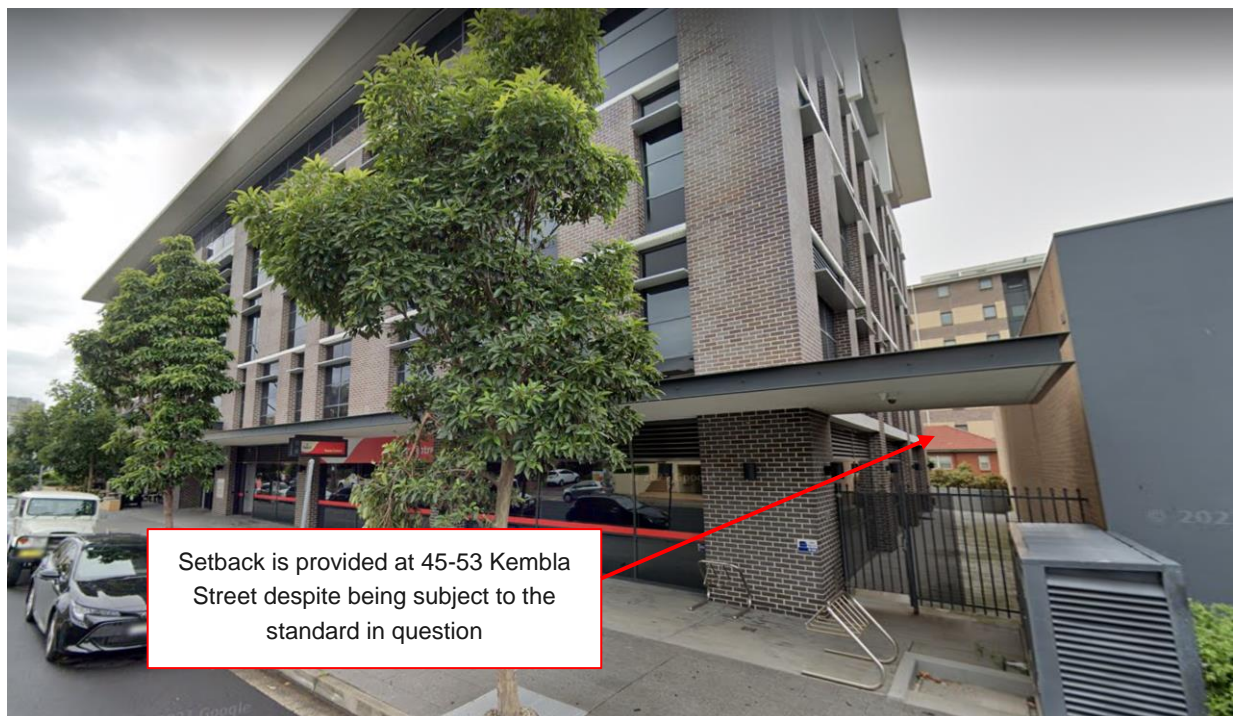


Figure 1: Setbacks within Local Context

CI 4.6 Variation Request – Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use



Figure 2: Setbacks within Local Context 2



Figure 3: Setbacks within Local Context 3

The objectives of clause 4.6 are to provide an appropriate level of flexibility in applying a certain development standard to particular development, and to achieve better outcomes for and from development, by allowing flexibility in particular circumstances. The proposed built form outcome is consistent with the character of the area and locality context, as well as the objectives of the B4 Mixed Use zone. Conversely, enforcing strict compliance would result in an inferior outcome as it would generate unnecessary scale at the lower level of the proposal, which is inconsistent with the treatment of most of developments along Kembla Street.

This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (August 2011) and various recent decisions in the New South Wales (NSW) Land and Environmental Court (LEC) and the NSW Court of Appeals (Appeals Court).

Clause 4.6 requires that a consent authority be satisfied of three (3) matters before granting consent to a development that contravenes a development standard; see *Harbour Smith Management Pty Ltd v Wollongong City Council* [2021] NSWLEC 1140, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEP 118, and *RebelMH Neutral Bay Pty Ltd Limited v North Sydney Council* [2019] NSWCA 130, and:

1. That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case [clause 4.6(3)(a)],
2. That the applicant has adequately demonstrated that there is sufficient environmental planning ground to justify contravening the development standard [clause 4.6(3)(b)], and
3. That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out [clause 4.6(4)].

This request considers that compliance with the building separation development standard is unreasonable and unnecessary in the circumstances of the proposed development as a result of the site's isolated nature, and in consideration of the locality characteristics of Kembla Street. The objectives of the development standard and the B4 Mixed Use zone are achieved notwithstanding non-compliance with the building separation development standard.

Additionally, the development is in the public interest as there are sufficient environmental planning grounds to justify the variation. These include the appreciation of the architectural design of the built form, located centrally within the site is minimise the perception of bulk and scale, consideration of amenity and privacy during the design phase, compatibility with the streetscape, improved ground level amenity, and the proposal is consistent with the relevant aims of the WLEP 2009.

This request also addresses the requirements for concurrence of the Secretary by Clause 4.6(4)(b).

It is therefore considered appropriate in these circumstance to grand the clause 4.6 variation request.

2. STANDARD TO BE VARIED

The standard that is proposed to be varied is the building separation development standard which is set out in clause 8.6(2)(a) of the *Wollongong Local Environmental Plan 2009* (WLEP 2009) as follows:

- (2) Buildings on land within Zone B3 Commercial Core or B4 Mixed Use must be erected so that –*
- (a) There is no separation between neighboring buildings up to the street frontage height of the relevant building or up to 24 metres above ground level whichever is the lesser, and*

The numerical value of the development standard applicable in this instance requires a 0-metre setback to side boundaries in order to achieve no separation between buildings, up to the desired street wall height, or up to a height of 24m, whichever is lesser.

The development standard to be varied is not excluded from the operation of clause 4.6 of the WLEP 2009.

3. EXTENT OF VARIATION

3.1. Proposed Building Separation Variation

Pursuant to clause 8.6(2)(a) of the WLEP 2009, the building separation width for a building on land within B4 Mixed Use zone is 0m up to a height of 24m. In other words, a 0m side setback is required. In this case, the proposed ground floor level, which contains (one) commercial unit, lobby, and services, is setback 0m from the northern side boundary, which complies with the standard. The proposal does not comply in relation to the southern side boundary, however, with the setback ranging from 0.5m to 2.2m at ground level, to 1.5m at the roof top terrace (i.e. level 5).

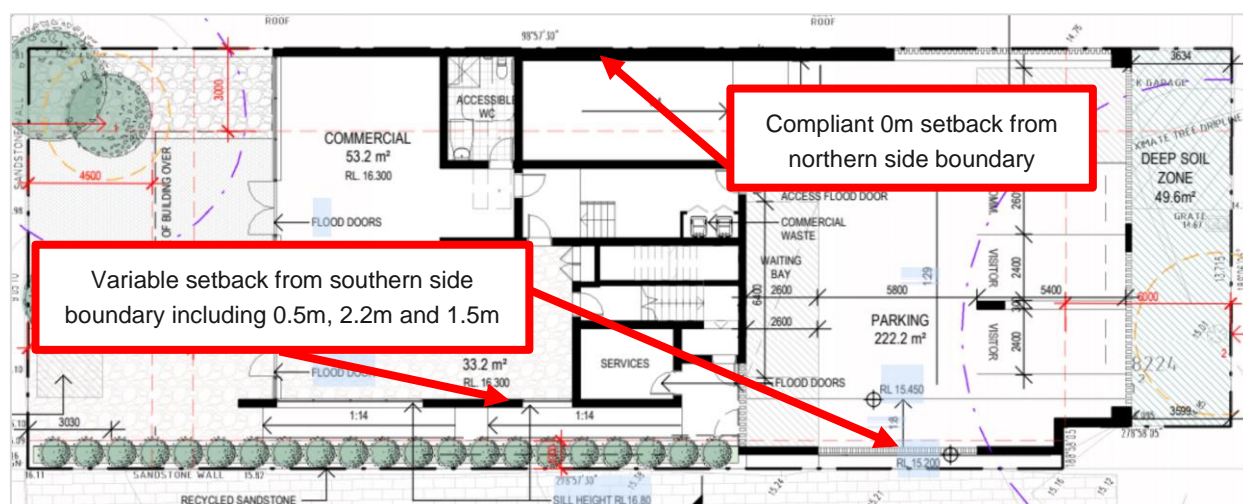


Figure 4: Extract of proposed ground floor plan demonstrating side setbacks (Source: DWA/Gyde)

The variation is a result of the contextual location of the site and the existing streetscape. That is, examples of development which comply with the control do not exist along Kembla Road, regardless of whether developments are recently completed or well established. As a result, the consistent podium street wall effect which is anticipated by the control, has not eventuated. Neither it is likely to eventuate given several envelopes have only recently been constructed.

4. UNREASONABLE OR UNNECESSARY

In this section, it is demonstrated why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by clause 4.6(3)(a) of the WLEP 2009.

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

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

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

It is sufficient to demonstrate only one of these ways to satisfy clause 4.6(3)(a).

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

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

The objective of clause 8.6 is –

(1) The objective of this clause is to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access.

In relation to the lower portions of the building, to which clause 8.6(2)(a) relates, the objective is satisfied given the proposal is compatible with existing development along Kembla Street. That is, as mentioned earlier, examples of either established or recent development which comply with the standard do not exist along Kembla Road. Therefore, by adopting some form of side setbacks, the proposal achieves a visual appearance which integrates suitably with the existing and likely streetscape character.

In relation to the lower portions of the building, adequate privacy is achieved given the ground floor includes service and commercial related floor space only. Habitable floor space is provided in levels 1 to 4, but these adopt sufficient side setbacks as well as window treatments to achieve adequate privacy [refer to discussion in the exemption request provided in relation to Clause 8.6(3) – Appendix C for privacy to habitable floor space].

As is demonstrated in the accompanying Statement of Environmental Effects (SEE), the proposal complies with the

Apartment Design Guide's recommendations for solar access and this has been confirmed by the Wollongong Design Review Panel. Specifically, due to the orientation of the site as well as the location and orientation of surrounding development, 100% of the proposal's dwellings achieve 2 hours solar access at June 21 between 9am to 3pm.

Therefore, it has been demonstrated that the proposal satisfies the objective of the standard, despite numerical non-compliance.

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

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

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

The objective would be defeated and/or thwarted as strict compliance would require 0m setbacks from each side boundary, which is a scenario that has not been adopted elsewhere along Kembla Street. In effect, it would create a scale (when considered together with development's remaining upper levels), which is incompatible with the streetscape. In other words, it would be a poor visual appearance.

Further, whilst the ground floor is primarily for commercial and service related purposes, it is considered that some form of side boundary setback creates a better amenity for occupants, compared to a scenario where strict compliance is enforced. That is, it allows for additional natural ventilation, improved accessibility along the side boundary, as well as landscaping also along the side boundary.

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

As indicated earlier, Kembla Street does not display any established or recent developments which strictly comply with the development standard in question. Neither of the two nearest developments, being 41-39 Kembla Road or 43-53 Kembla Road, strictly comply with the standard.

Arguably, therefore, the standard has been abandoned with regard to Kembla Street. In this case, compliance with the standard is unreasonable and unnecessary.

- 4.5. The zoning of the land is unreasonable or inappropriate.

The zoning of the land is reasonable and appropriate. This reason is not relied on.

5. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

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

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

As discussed in Section 3, the proposal's southern side setback contravenes the 0m side setback control anticipated by Clause 8.6(2)(a).

The environmental planning ground to justify the departure of the Building separation standard are as follows:

- The proposed variation and the development as a whole are in the public interest as it satisfies the objectives of clause 8.6 and the B4 Mixed Use zone and presents no detrimental impact to adjoining residential and commercial development.
- Kembla Street does not present any recent or established buildings which fully comply with the standard in question. The proposal has taken this into account and adopted side setbacks resulting in an envelope which better integrates with the existing and likely streetscape.
- Given the street does not include any developments which comply with the standard, requiring compliance in the case of the subject site would result in an envelope which is incompatible with the streetscape.
- The non-compliance results in better amenity for users of the proposal's ground floor. That is, it allows for additional ventilation, improves serviceability, and allows for additional landscaping. The view of the proposal from the southern nearby development (i.e. 45-53 Kembla Road) is also improved as some form of setback and landscaping 'softens' the appearance of the proposed development.
- The proposed development meets the relevant objectives of the *Environmental Planning and Assessment Act 1979* as follows:
 - 1.3(c) – the proposal is an orderly and economic use of the site. The proposal provides a contemporary built form that is compatible with the desired future character of the locality.
 - 1.3(d) – the proposed RFB includes seven (7) 3-bedroom residential apartments, and one (1) ground floor commercial space which contributes to the provision for new housing supply within close proximity to public transport, employment, community, and health services.

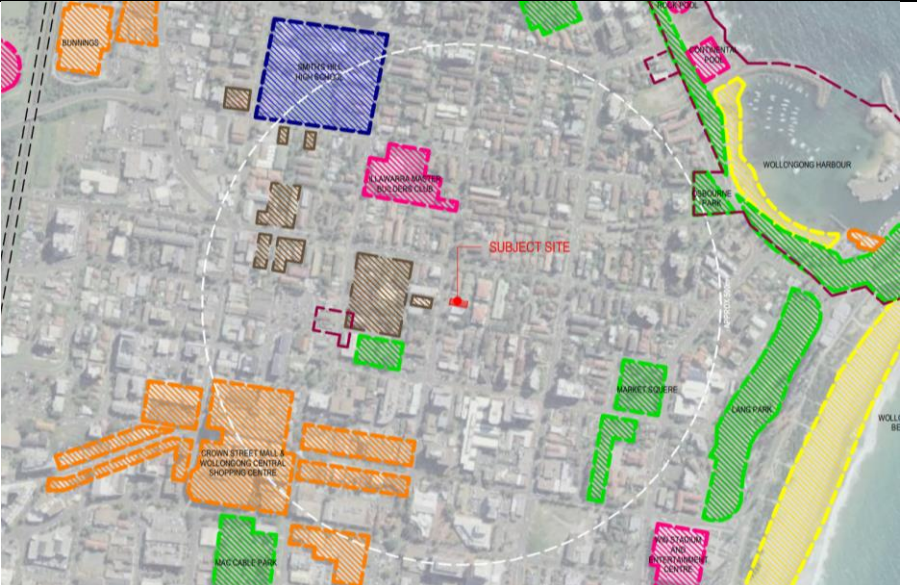
6. PUBLIC INTEREST

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. This is required by clause 4.6(4)(a)(ii) of the WLEP 2009.

It is demonstrated below in Table 1 that the proposed development overall achieves the objectives of the B4 Mixed Use zone, notwithstanding the variation of the development standard.

Table 1: Consistency with Zone Objectives

OBJECTIVE	DISCUSSION
2.3 Zone objectives and Land use Table Zone B4 Mixed Use	
(1) Objectives of zone –	
<ul style="list-style-type: none"> To provide a mixture of compatible land uses. 	<p>The proposal achieves this objective.</p> <p>The proposal provides new housing choice centrally located within close proximity from the city centre, promoting increased pedestrian activity, and revitalization of the site.</p> <p>The ground floor commercial space will result in a small-scale contribution to the existing commercial strip along Kembla Street, which provides a congruous transition from residential development to the north to the commercial development to the south.</p>
<ul style="list-style-type: none"> To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximize public transport patronage and encourage walking and cycling. 	<p>The site is within the Wollongong City Centre, approximately 250m walking distance (3min) from Crown Street (the main street), which provides a wide variety of retail, commercial, and business services. The site directly adjoins a commercial premises leased by the Australia Tax Office (ATO), ANZ Bank, Australia Red Cross, and a variety of other uses included a café that may services the future residents of the proposed development.</p> <p>The site is located 1.2km from the Wollongong Station, a major transport node. The site is also within proximity to a number of bus stops which provide connection throughout the local government area and beyond.</p>

OBJECTIVE	DISCUSSION
	 <p>Figure 5: Extract of Site Analysis Plan showing proximity to main street and other services (Source: DWA)</p> <p>The location of the site within the city centre provides a unique opportunity to a variety of commercial services and public transport opportunities, encouraging walking and cycling from the site to these services.</p>
<ul style="list-style-type: none"> To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres. 	<p>The proposal has been designed to comply with this objective.</p> <p>The proposed development provides new housing supply within the city centre, walking distance from the Crown Street Mall and Wollongong Central Shopping Centre. The development will increase the patronage to these commercial areas on a small-scale, and will promote walking and cycling in the process, given its accessible location within the city centre.</p> <p>The proposal's ground floor commercial tenancies are relatively small. They are not of a sufficient size to compromise the viability of any centres.</p>

7. STATE OR REGIONAL ENVIRONMENTAL PLANNING

This section considers whether contravening of the development standard raises any matter of significant for state or regional environmental planning, the public benefit of maintaining the development standard, and any other matters required to be taken into consideration by the Secretary before granting concurrence required by clause 4.6(5).

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard as proposed by this application.

As demonstrated already, the proposal is consistent with the objectives of the zone, noting the absence of objectives of the development standard, and in our opinion, there are no additional matters which would indicate there is any public benefit of maintaining the development standard in the circumstances of this application.

Finally, we are not aware of any other matters required to be taken into consideration by the Secretary before granting concurrence.

8. CONCLUSION

This submission requests a variation, under clause 4.6 of the *Wollongong Local Environmental 2009*, to the building separation development standard and demonstrates that:

1. Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development,
2. The development achieves the objectives of the B4 Mixed Use zone, noting the absence of objectives of the development standard, and
3. There are sufficient environmental planning grounds to justify the contravention.

The consent authority can be satisfied to the above and that the development achieves the objectives of the zone notwithstanding non-compliance with the building separation development standard and is therefore in the public interest.

The concurrence of the Secretary can be assumed in accordance with Planning Circular PS 18-003.

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

GYDE

Clause 4.6 Variation Request

Building Separation (Cl 8.6(3))
43 Kembla Street, Wollongong

submitted to Wollongong Council
on behalf of Mr G Faddoul c/- Design Workshop Australia

This report was prepared by:

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Project No. 21-200
Report Version: Final

Disclaimer

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1. EXECUTIVE SUMMARY

This is a written request prepared in accordance with clause 4.6 of the *Wollongong Local Environmental Plan 2009* (WLEP 2009) to justify a variation to the building separation within Zone B3 Commercial Core or Zone B4 Mixed Use (Building separation) (cl 8.6(3) development standard. The variation request accompanies a Development Application (DA) submitted to Wollongong City Council for a Residential Flat Building (RFB) development at 43 Kembla Street, Wollongong (the site).

The proposal involves the demolition of the existing building onsite and the construction of a five (5) storey building comprising seven (7) residential units over one (1) level of basement car parking, and one (1) ground level commercial space.

The departure from the standard is required because of the established pattern of development in the immediate locality and the physical characteristics of the site. The proposed Mixed Use Development has been designed in consideration of the neighbouring development and presents no additional impact beyond what is anticipated for the development by the numerical separation standard.



Figure 1: Aerial view highlighting the subject site's existing isolated nature (Source: Sixmaps / Gyde)

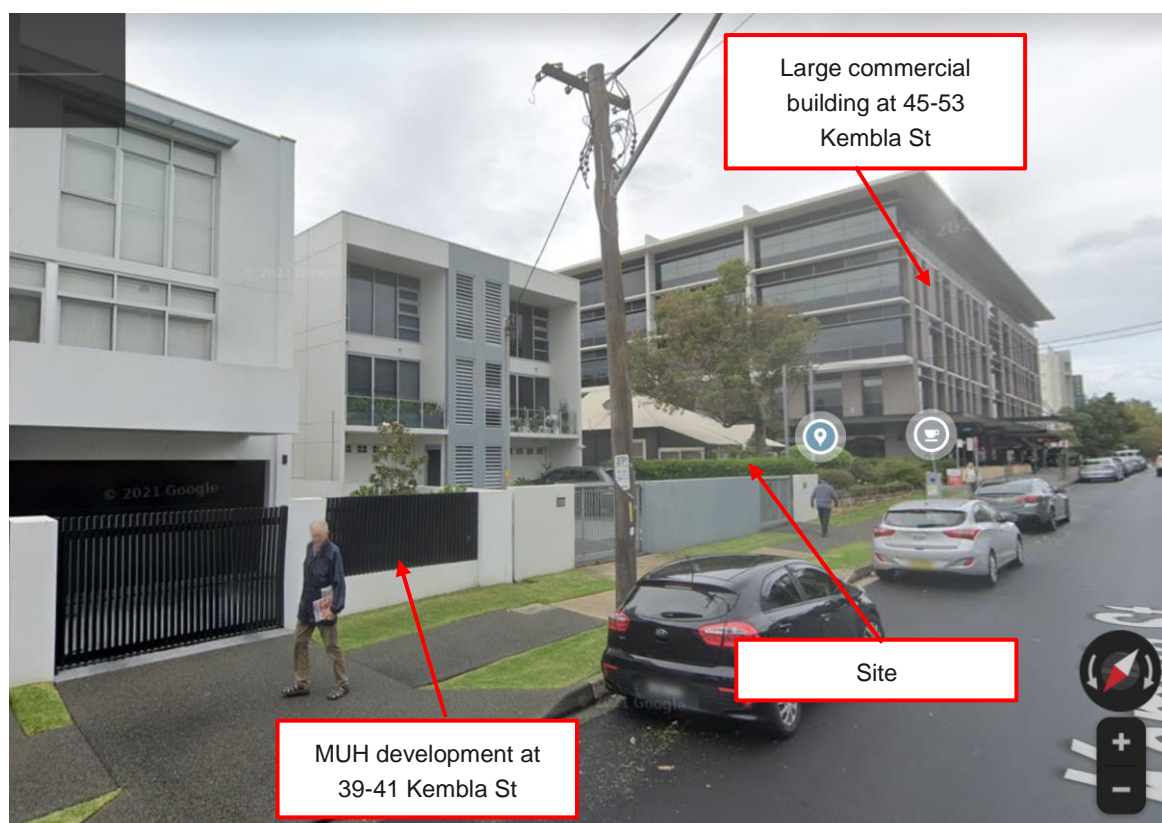


Figure 2: Streetscape image demonstrating recently constructed nature of buildings adjoining or nearby the site (Source: Google / Gyde)

The objectives of clause 4.6 are to provide an appropriate level of flexibility in applying a certain development standard to particular development, and to achieve better outcomes for and from development, by allowing flexibility in particular circumstances. The proposed built form outcome is consistent with the character of the area and locality context, as well as the objectives of the B4 Mixed Use zone.

This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (August 2011) and various recent decisions in the New South Wales (NSW) Land and Environmental Court (LEC) and the NSW Court of Appeals (Appeals Court).

Clause 4.6 requires that a consent authority be satisfied of three (3) matters before granting consent to a development that contravenes a development standard; see *Harbour Smith Management Pty Ltd v Wollongong City Council* [2021] NSWLEC 1140, *Initial Action Pty Ltd v Wollahra Municipal Council* [2018] NSWLEP 118, and *RebelMH Neutral Bay Pty Ltd Limited v North Sydney Council* [2019] NSWCA 130, and:

1. That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case [clause 4.6(3)(a)],
2. That the applicant has adequately demonstrated that there is sufficient environmental planning ground to justify contravening the development standard [clause 4.6(3)(b)], and

3. That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out [clause 4.6(4)].

This request considers that compliance with the building separation development standard is unreasonable and unnecessary in the circumstances of the proposed development given the site's isolated nature and the existing or likely built form character along Kembla Street.. Conversely, maintaining compliance with the standard would achieve a built form which is incompatible with the anticipated character. Similarly, maintaining compliance is likely to result in the existing building on the site being retained as compliance with the standard is not likely to result in a feasible redevelopment option for the site. The objectives of the development standard and the B4 Mixed Use zone are achieved notwithstanding non-compliance with the building separation development standard.

Additionally, the development is in the public interest as there are sufficient environmental planning grounds to justify the variation. These include the appreciation of the architectural design of the built form, located centrally within the site to minimise the perception of bulk and scale, consideration of amenity and privacy during the design phase, and the proposal achieving consistency with the relevant aims of the WLEP 2009.

This request also addresses the requirements for concurrence of the Secretary by Clause 4.6(4)(b).

It is therefore considered appropriate in these circumstance to grand the clause 4.6 variation request.

2. STANDARD TO BE VARIED

The standard that is proposed to be varied is the building separation development standard which is set out in clause 8.6(3) of the *Wollongong Local Environmental Plan 2009* (WLEP 2009) as follows:

- (3) Despite subclause (2), if a building contains a dwelling, all habitable parts of the dwelling including any balcony must not be less than –*
- (a) 20 metres from any habitable part of a dwelling contained in any other building, and*
 - (b) 16 metres from any other part of any other building.*

The numerical value of the development standard applicable in this instance is 20 metres to the residential development to the north and 16 metres to the commercial development to the south.

The development standard to be varied is not excluded from the operation of clause 4.6 of the WLEP 2009.

3. EXTENT OF VARIATION

3.1. Proposed Building Separation Variation

Pursuant to clause 8.6(3) of the WLEP 2009, the building separation width for a building containing a dwelling is 20m from any habitable part of another dwelling, and 16m from any other part of any other building. In this case, the proposed development is separated by 3.73m from the adjacent residential development to the north and ranges between 11.91m and 10.14m from the commercial development to the south.

The variation is a result of the subject site's isolated nature, confined by cotemporary residential development to the north and a recent commercial development to the south. The opportunity to achieve the building separation distance is not viable. Nonetheless, the site does not present any impact additional to what is anticipated from compliance with the standard.

The site maintains a consistent building separation of 3.73m to the northern neighbour for level 1 and level 2 and a separation distance between 11.91m and 10.14m from the adjoining southern commercial development for level 1, level 2, and level 3. The extent of variation is summarised as follows:

- Northern adjoining residential development:
 - Level 1 – 3.73m a shortfall of 16.27m, and
 - Level 2 – 3.73m a shortfall of 16.27m
 - Level 3 – Complies with development standard
 - Level 4 – Complies with development standard
- Southern adjoining commercial development:
 - Level 1 – 11.91m a shortfall of 4.09m.
 - Level 2 – 10.14m a shortfall of 5.86m.
 - Level 3 – 10.14m a shortfall of 5.86m.
 - Level 4 – 11.09m a shortfall of 4.91m.

The variation is also demonstrated in the Architectural Plans, prepared by Design Workshop Australia (DWA) (Appendix F). An extract of the architectural plans is provided in Figure 3 below.



Figure 3: Extract of Elevation Plan (Source: DWA / GYDE)

4. UNREASONABLE OR UNNECESSARY

In this section, it is demonstrated why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by clause 4.6(3)(a) of the WLEP 2009.

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

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

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

It is sufficient to demonstrate only one of these ways to satisfy clause 4.6(3)(a).

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

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


The objective of clause 8.6 is –

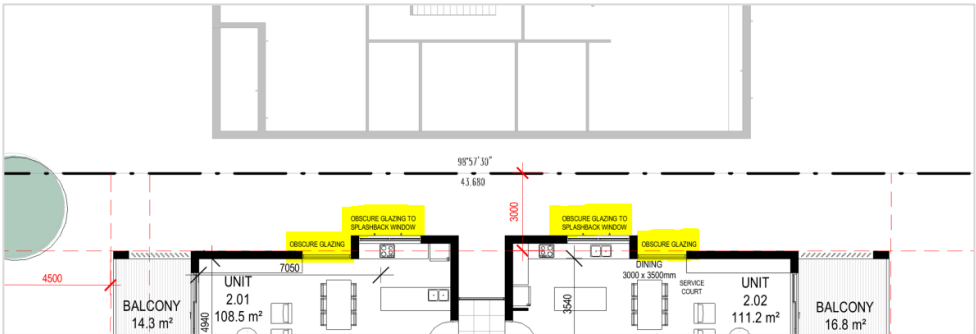
(1) The objective of this clause is to ensure sufficient separation of buildings for reasons of visual appearance, privacy and solar access.

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

Table 1: Consistency with Objectives of clause 8.6 of the WLEP

OBJECTIVE	DISCUSSION
8.6 Building Separation	
(1) The objective of this clause is to ensure sufficient separation of	<p>Visual Appearance</p> <p>Despite the variation, the proposal integrates effectively with the existing and potential streetscape. This is demonstrated, in particular, by the proposal's compliant building height</p>

OBJECTIVE	DISCUSSION												
buildings for reasons of visual appearance, privacy and solar access.	<p>and consistency with side setbacks adopted for other developments along Kembla Street. This ensures the existing or potential 'rhythm' of built form along the streetscape is retained. Conversely, if compliance with the standard was required, it would result in an extremely narrow built form. This would be entirely inconsistent with the existing or likely streetscape and inconsistent with the objective of the standard.</p> <p>In addition, the proposal in general adopts a contemporary design with contemporary and high quality finishes. This ensures the proposal will be visually pleasing any public domain, as well as adjoining private land.</p> <div></div>												
<p>Figure 4: Extract of Elevation Plan / Materials and Colours plan (Source: DWA)</p>													
<p>Privacy</p> <p>The proposed development adjoins residential development to the north and east of the subject site. The proposed design has been assessed against the provisions of the ADG to ensure visual privacy is maintained for existing development as well as the future residents. The minimum required separation distance is provided in Figure 5 below.</p> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <p>Figure 5: ADG Building Separation Requirements</p> <p>The Southern, Eastern, and Western orientations comply with requirements of the ADG. Level 3 and level 4 of the Northern orientation (side setback) comply with the requirements of the ADG. However, level 1 and level 2 of the development proposes a minor variation to the requirements of the ADG which present a separation distance of 3.72m from the neighbouring residential development. Notwithstanding the minor non-compliance, the</p>		Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m
Building height	Habitable rooms and balconies	Non-habitable rooms											
up to 12m (4 storeys)	6m	3m											
up to 25m (5-8 storeys)	9m	4.5m											
over 25m (9+ storeys)	12m	6m											

OBJECTIVE	DISCUSSION
	<p>amenity of residents is not compromised as appropriate privacy measures have been implemented into the design, including obscured glass (Figure 6) along the northern orientation, windows which are smaller in size than what would normally be used for habitable rooms, as well as windows which are offset or positioned such that they discourage looking directly across to any windows on the norther adjoining dwelling. As such, there is very limited opportunity for the proposed development to overlook to neighbouring area of private open space or living rooms windows.</p>  <p><i>Figure 6: Obscured glass along northern façade (Source: DWA / GYDE)</i></p> <p>Please refer to the Architectural Package (Appendix F) for further detail.</p> <p>Solar Access</p> <p>A total of seven (7) out of seven (7) apartments achieve two (2) hours of direct sunlight between 9am and 3pm on the 21 June, representing 100% of apartments. None of the apartments receive no direct sunlight between 9am and 3pm on 21 June.</p> <p>The ADG requires that at least 70% of apartments received a minimum of two (2) hours of direct sunlight into living room and areas of private opens space (POS) on the 21 June. The proposed development exceeds the minimum requirements and therefore achieves the objective.</p> <p>Additionally, due to the orientation of the site, the proposed development does not overshadow any residential development within the vicinity of the site. Solar Diagrams have been prepared by DWA (Appendix F) which demonstrate that the shadow of the proposed development is mostly cast toward the south of the site, over the Doughy Davis Laneway.</p> <p>Please refer to the Solar Diagrams (Appendix F) for further detail.</p>

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

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

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

If compliance was required, it would result in a very narrow built form due to the site's overall limited frontage of 15.24m. Such a built form would be inconsistent with the existing or likely future streetscape, and would not present particularly poorly to the public domain. It would not achieve suitable visual appearance, which is an objective of the standard. Therefore, compliance with the standard would result in its objective being thwarted..

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

In this particular case, there are grounds to presents that Council's own actions have virtually abandoned or destroyed the development standard, in granting consents departing from the standard, resulting in compliance with the standard being unreasonable and unnecessary (Fourth test under Wehbe). Table 3 below contains a list of the DA's Council has issued consent for that propose the same variation, demonstrating Council's abandonment of the development standard:

Table 2: List of DA approvals with the same variation as proposed

Application No.	Address	Description
DA2020/1292	46 Crown Street, Wollongong	Demolition of existing structures and construction of a mixed use development.
DA2020/80	290-294 Keria Street, Wollongong	Demolition of existing structures and construction of a seven (7) storey mixed use development comprising 34 residential units and two (2) commercial tenancies with 50 parking spaces.
DA2019/1231	111-113 Crown Street, Wollongong	Demolition of existing structures and construction of A-Grade office building above retail and basement parking.
DA2019/1123	35 Atchison Street. Wollongong	Demolition of existing structures and construction of a 14 storey mixed use development comprising 50 residential units, one (1) ground floor commercial tenancy and two levels of basement parking.
DA2019/779	80 Market Street, Wollongong	Commercial - demolition of existing structures and construction of a six (6) storey development.
DA2018/1638	71-77 Kembla Street, Wollongong	Mixed use development - fourteen (14) storey building comprising of one hundred and two (102) residential units and eight (8) commercial tenancies over two (2) levels of basement parking.
DA2018/973	28 Young Street, Wollongong	Residential - demolition of existing structures and construction of a 15 storey mixed use development comprising seven (7) commercial tenancies, 64 residential apartments and car parking

Application No.	Address	Description
		for 90 vehicles
DA2017/730	131-135 Keira Street, Wollongong	Demolition of existing buildings and ancillary structures and the construction of a mixed use development above basement parking.
DA2016/1354	43 Atchison Street, Wollongong	Demolition of existing structures on site and construction of a shop top housing development containing 203 residential apartments, two (2) levels of commercial/retail floor space, four (4) basement parking and servicing levels and associated landscaping and services.

With consideration of the abovementioned list of DA's which have received development consent, with the same development standard variation, strict compliance with the minimum building separation is unreasonable and unnecessary.

4.5. The zoning of the land is unreasonable or inappropriate.

The zoning of the land is reasonable and appropriate, the proposed development achieves the objectives of the B4 Mixed Use zone.

5. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

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

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

As discussed in Section 3, the site width contravenes the Minimum site width development standard as a result of the site's isolated nature. Specifically, the site is surrounded by recent residential and commercial development, disenabling the acquisition of additional adjoining land to achieve compliance with the standard.

The environmental planning ground to justify the departure of the Building separation standard are as follows:

- The proposed variation and the development as a whole is in the public interest as it satisfies the objectives of clause 8.6 and the B4 Mixed Use zone, and presents no detrimental impact to adjoining residential and commercial development.
- The variation is a result of the site's isolated nature, surrounded by contemporary residential development to the north and recent commercial development to the south, providing futile opportunity to comply with the standard.
- The proposal will revitalise the site as envisaged by the WLEP 2009 while providing additional housing in the Wollongong City Centre and reinforcing pedestrian activity within the locality.
- The proposed development meets the relevant objectives of the *Environmental Planning and Assessment Act 1979* as follows:
 - 1.3(c) – the proposal is an orderly and economic use of the site. The proposal provides a contemporary built form that is compatible with the desired future character of the locality.
 - 1.3(d) – the proposed RFB includes seven (7) 3-bedroom residential apartments, and one (1) ground floor commercial space which contributes to the provision for new housing supply within close proximity to public transport, employment, community, and health services.

6. PUBLIC INTEREST

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. This is required by clause 4.6(4)(a)(ii) of the WLEP 2009.

It is demonstrated below in Table 3 that the proposed development overall achieves the objectives of the B4 Mixed Use zone. Notwithstanding the variation of the development standard.

Table 3: Consistency with Zone Objectives

OBJECTIVE	DISCUSSION
2.3 Zone objectives and Land use Table Zone B4 Mixed Use	
(1) Objectives of zone –	
<ul style="list-style-type: none"> To provide a mixture of compatible land uses. 	<p>The proposal achieves this objective.</p> <p>The proposal provides new housing choice centrally located within close proximity from the city centre, promoting increased pedestrian activity, and revitalization of the site.</p> <p>The ground floor commercial space will result in a small-scale contribution to the existing commercial strip along Kembla Street, which provides a congruous transition from residential development to the north to the commercial development to the south.</p>
<ul style="list-style-type: none"> To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximize public transport patronage and encourage walking and cycling. 	<p>The site is within the Wollongong City Centre, approximately 250m walking distance (3min) from Crown Street (the main street), which provides a wide variety of retail, commercial, and business services. The site directly adjoins a commercial premises leased by the Australia Tax Office (ATO), ANZ Bank, Australia Red Cross, and a variety of other uses included a café that may services the future residents of the proposed development.</p> <p>The site is located 1.2km from the Wollongong Station, a major transport node. The site is also within proximity to a number of bus stops which provide connection throughout the local government area and beyond.</p>

7. STATE OR REGIONAL ENVIRONMENTAL PLANNING

This section considers whether contravening of the development standard raises any matter of significant for state or regional environmental planning, the public benefit of maintaining the development standard, and any other matters required to be taken into consideration by the Secretary before granting concurrence required by clause 4.6(5).

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard as proposed by this application.

As demonstrated already, the proposal is consistent with the objectives of the zone, noting the absence of objectives of the development standard, and in our opinion, there are no additional matters which would indicate there is any public benefit of maintaining the development standard in the circumstances of this application.

Finally, we are not aware of any other matters required to be taken into consideration by the Secretary before granting concurrence.

8. CONCLUSION

This submission requests a variation, under clause 4.6 of the *Wollongong Local Environmental 2009*, to the building separation development standard and demonstrates that:

1. Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development,
2. The development achieves the objectives of the B4 Mixed Use zone, noting the absence of objectives of the development standard, and
3. There are sufficient environmental planning grounds to justify the contravention.

The consent authority can be satisfied to the above and that the development achieves the objectives of the zone notwithstanding non-compliance with the building separation development standard and is therefore in the public interest.

The concurrence of the Secretary can be assumed in accordance with Planning Circular PS 18-003.

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

Wollongong Design Review Panel via MS Teams
Meeting minutes and recommendations

Date	10 February 2022
Meeting location	Wollongong City Council Administration Offices
Panel members	(Chair) Brendan Randles (Member) Tony Quinn (Member) Marc Deuschle
Apologies	Mark Adamson – Manager Development Assessment & Certification Pier Panozzo – City Centre & Major Development Manager
Council staff	Alexandra McRobert - City Architect Theresa Whittaker – Senior Development Project Officer
Guests/ representatives of the applicant	Robert Gizzi – Architect - Design Workshop Philip North - Weir Phillips Groan Uginovski – ATB Consulting Sonny Embleton – Gyde Consulting George Faddoul - Client
Declarations of Interest	none
Item number	1
DA number	DA-2021/1375
Reason for consideration by DRP	SEPP 65 WLEP 2009
Determination pathway	WLPP
Property address	43 Kembla Street, Wollongong
Proposal	Demolition of existing structures and construction of a residential flat building with ground floor commercial premises and basement parking
Applicant or applicant's representative address to the design review panel	The meeting was conducted by video link between the Panel (remote) and the Applicants' team (remote).
Background	The site was virtually inspected by the Panel on 25 August 2021 prior to lodgement (DE-2021/110). Where relevant, notes from the previous DRP meeting are shown italicised.
Design quality principals SEPP 65	
Context and Neighbourhood Character	<p><i>This relatively small site is located on the edge of a B4 mixed zone north of the Wollongong City Centre. Its edge position means that its street frontage transitions in terms of scale, use and setback from active uses at grade to the south, and to residential uses only with larger setbacks to the north. The site is bounded to the south by a lane further south of which is a large mixed-use building. A heritage listed house sits opposite at 60 Kembla Street.</i></p> <p><i>The site has a fall to its east and is flood affected. A mature large tree, located in its rear garden, contributes significantly to the character of this evolving context. The site and its immediate and broader context are well described in the documentation provided.</i></p> <p>As noted previously, although the proposal includes a number of non-compliances (including minimum street frontage width and side setbacks) the Panel broadly supported the development of this site at the scale and density proposed. However, a number of improvements to the built form and open space were suggested, most of them now integrated into a revised proposal.</p>

<p>Built Form and Scale</p>	<p><i>Although the site's 15.24m frontage does not comply with the 24m frontage width required for mixed use buildings, and side setbacks do not meet the requirements of the ADG, the Panel in principle support a well-designed mixed-use building for the site because the site is otherwise liable not to be developed. The resultant outcome would also be of great benefit in terms of street activation, streetscape, and residential amenity.</i></p> <p><i>The proposal comprises an elegant simple layout with two well considered units/ floor, an intelligently located vehicular entry and a compliant height, however, it is recommended that the built form is amended to achieve the following:</i></p> <ul style="list-style-type: none"> - <i>a street facing and a rear facing unit on each level</i> Achieved - <i>a south facing slot providing natural light and air to a greatly enlarged lobby on each level</i> Achieved - <i>a generous ground floor entry to the south of the built form, allowing for a unified commercial space to provide an active interface with the street frontage</i> Achieved - <i>a revised street fronting publicly accessible landscaped open space, designed to complement and facilitate proposed active uses</i> Partially achieved, however it is recommended that the materiality and extent of the sandstone walls be further refined; see landscape below. - <i>a revised rear garden with existing tree retained, providing high-quality visual and environmental amenity – but not COS - to the locality</i> NOT achieved; it is strongly recommended that the existing tree be retained. The panel understand that this will require modification of the basement level below and could result in the loss of a car space; given its location, access to transport, and the significant contribution to local amenity, the Panel could support this minor noncompliance with parking requirements subject to Council support. - <i>a revised roof terrace with private open space removed and greatly enlarged communal open space incorporating services storage, cover, communal WC and kitchenette or BBQ, and discretely housed plant</i> Partially achieved; it is still to be demonstrated how plant can be sensitively housed. - <i>revised north elevation glazing, with north facing windows removed or screened or angled to not overlook adjacent properties, and window to eastern bedrooms relocated to face east</i> Achieved - <i>clear and legible egress from both egress stairs</i> NOT achieved. The Panel remains concerned that egress as proposed may not comply with the BCA
<p>Density</p>	<p><i>Acceptable</i></p>

<p>Sustainability</p>	<p><i>The proposal has the potential to incorporate high landscape quality and 100% compliance with 100% ADG amenity compliance for cross ventilation, solar and no sun requirements. There are numerous additional opportunities for the proposal, including sustainability initiatives in the design and over and beyond those required by BASIX, such as solar energy generation, rainwater harvesting, etc.</i></p> <p>The Panel notes that a large water tank has been proposed (as suggested in the Basix Report) however its location is unclear. This must be located on DA drawings.</p> <p>It is not clear what sustainability measures over and above Basix are being proposed. At a minimum solar panels should be provided so as to provide lighting to public areas. More detail on the proposed sustainable energy management inclusions should be provided.</p> <p>Opportunities to harvest rainwater for use in maintaining plantings established on the building or the site should be explored. Other water minimisation measures (reuse of rainwater for toilet flushing and washing machines) are also recommended.</p> <p>Low embodied energy should be a consideration in material and finish selections. Low solar absorptance should be sought for all roof materials, trafficable or otherwise.</p> <p>Choice of planting and materials on the upper roof garden and lower, planted roof gardens should be well considered. Materials should avoid exacerbation of the UHI effect and plants should be tolerant of low-water conditions.</p> <p>Landscape plantings should address aims for biodiversity protection, weed minimisation and low water use.</p>
<p>Landscape</p>	<p>The value of the existing tree in the rear landscape area has now been assessed by an arborist and found to be of high value. It remains the strong recommendation of the Panel that this tree is retained. An increased width of this DSZ, or an isolated treatment to the basement that allows it to be retained, should be explored.</p> <p>Any revised design retaining the tree should continue to ensure the aesthetic value of the landscape (planting) design at ground level is high for residents entering and exiting the building / carpark.</p> <p>The front setback is well designed with a semi-private space associated with the commercial tenancy, and a separate entry landscape for the residents. However, the proposed sandstone walls feel out of character with the adjoining developments and proposed built form. While the retention of the existing sandstone is commended and supported, its reimagined form should be more in keeping with the contemporary design of the architecture and may feel better as a single element cut by openings as opposed to three separately proportioned and scaled elements.</p> <p>Although it should technically still comply, a section of the front DSZ has an OSD tank located in it which needs to be removed from calculations.</p> <p>The extent of the L1 green roof should be pulled back to allow retention of the existing tree and its canopy.</p> <p>The uppermost rooftop has now been given over entirely to COS which is a welcome addition to the design. As per previous comments, views could be better considered by engaging directly with the edge in relevant locations as opposed to surrounding all</p>

	spaces with planting. An area of the roof could be given over to AC / plant room to avoid these being retained on private balconies. The area immediately to the south of the lift / WC may be a viable option.
Amenity	<p><i>As described above, the current proposal creates a number of internal and external amenity issues including:</i></p> <ul style="list-style-type: none"> - <i>the typical lobbies are too small and do not have access to natural light and air</i> Amended lobbies are now increased in size and provided with light, air, and outlook - <i>the ground level street fronting active spaces are not unified and appear to make these tenancies unsuitable for active uses; as proposed, it appears that they could simply become additional residential spaces, which are not permitted in the zone</i> Amended layout now unifies commercial spaces and improves flexibility to house a variety of uses - <i>the street level open space appears inaccessible from the street and unsuited for adjacent active uses</i> The street facing open space is greatly improved however, further refinements would improve its character and expression (see Landscape above) - <i>the southern units on each level appear not to comply with the ADG's mid-winter solar access requirements</i> The layout has been revised and now achieves 100% mid-winter solar access - <i>egress appears unresolved as proposed</i> This has still not been addressed; the Panel is still concerned that as proposed, egress may not comply with the BCA - <i>the rear garden is unsuited for COS and has not retained the existing large tree</i> This issue remains; the Panel strongly recommends that the large tree be retained - <i>north facing windows should be deleted or screened or angled to not look into adjacent properties</i> All north facing windows now demonstrate that they will not allow for overlooking into the adjacent property - <i>instead of facing into a slot, windows in eastern bedrooms should be relocated to face east</i> The revised layout has removed all bedroom windows from slots, improving their outlook while ensuring that they will not adversely impact on adjoining properties - <i>it is not clear if flooding issues have been resolved</i> The Panel understands that flooding issues have been resolved; this must be confirmed - <i>the development does not provide adequate COS for residents</i> The COS now provided at roof level appears to be adequate for the number of units (and residents) proposed

Safety	<p><i>As it is not easily accessible or activated, and therefore could be unsafe, communal open space along the rear boundary is not supported.</i></p> <p>Although the rear garden has now been modified as recommended, the Panel believes that the large tree must be retained; see Built Form above.</p>
Housing Diversity and Social Interaction	<p><i>Although the mix does not correspond with the Council's requirements, the Panel recognises that as a small boutique development, it has little impact on local provision and is therefore able to be supported.</i></p> <p>Unchanged</p> <p><i>Improvements to communal spaces and street facing space require substantial modification (as described above) so as to optimise social interaction.</i></p> <p>Partially achieved; (see notes above in Landscape)</p>
Aesthetics	<p><i>Although the built form is liable to be substantially modified, the aesthetics currently proposed appears to be acceptable.</i></p> <p>The Panel supports the aesthetics of the proposal generally. However, it would appear that some feature materials are limited in scope and may be better deleted, such as the "timber look" panelling to the ground floor base, which could be replaced with brick.</p> <p>Also, concerns were raised about the discontinuous and slightly rustic quality of the sandstone wall to the street frontage. The panel believes that more attention should be given to its extent and continuity</p> <p>Also, it is recommended that the re-composition of the wall should result in a more contemporary visual appearance, so as to create a better relationship with the proposed built form's concrete materiality. (see Landscape above).</p>
Design Excellence WLEP2009	
Whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved	Partially achieved – see notes above regarding front sandstone wall and "timber look" panelling.
Whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,	Partially achieved – see notes above regarding the recommended retention of the existing large tree in the rear setback
Whether the proposed development detrimentally impacts on view corridors,	
Whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,	N/A

How the development addresses the following:	
the suitability of the land for development,	Suitable
existing and proposed uses and use mix	Suitable
heritage issues and streetscape constraints,	See notes above the frontage's sandstone wall
the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,	N/A
bulk, massing and modulation of buildings	Achieved
street frontage heights	Achieved
environmental impacts such as sustainable design, overshadowing, wind and reflectivity	Achieved
the achievement of the principles of ecologically sustainable development	Achieved; however, sustainability measures over and above Basix should be clarified
pedestrian, cycle, vehicular and service access, circulation and requirements	Achieved, however, parking and driveway will require modification to save the existing tree in the rear setback
impact on, and any proposed improvements to, the public domain	Partially achieved, however see notes above regarding the frontage's sandstone wall
Recommendations	<p>Incorporate the above recommendation into a revised design; incorporate design changes into DA documentation.</p> <p>The proposal need not return to the Panel.</p>

Attachment 6 – SEPP 65 Apartment Design Guide and Wollongong DCP 2009 Assessment

a) SEPP 65 Apartment Design Guide Assessment

<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<i>Part 3 Siting the development</i>		
<u>3A Site analysis</u>		
<p>Site analysis uses the following key elements to demonstrate that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context:</p> <ul style="list-style-type: none"> - Site location plan - Aerial photograph - Local context plan - Site context and survey plan - Streetscape elevations and sections - Analysis <p>A written statement explaining how the design of the proposed development has responded to the site analysis must accompany the development application.</p>	Detailed site analysis plans has been provided with the DA material and presented to the Design Review Panel.	Yes
<u>3B Orientation</u>		
<p>Buildings must be oriented to maximise norther orientation, response to desired character, promote amenity for the occupant and adjoining properties, retain trees and open spaces and respond to contextual constraints such as overshadowing and noise.</p> <p><u>Objective 3B-1:</u></p> <p><i>Building types and layouts respond to the streetscape and site while optimising solar access within the development</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Buildings should define the street by facing it and providing direct access. 	<p>Building faces Kembla Street; apartments and balconies are generally oriented toward the street, offering some opportunities for casual surveillance of the street, along with the ground level entry lobby and commercial space. The glazed southern elevation of the residential lobby and lift lobby will also offer opportunities for casual surveillance of the laneway.</p> <p>All apartments will enjoy good solar access.</p> <p>Access from the street frontage to the primary lobby and commercial space is well resolved. The entrances are very legible and provide for activation of the frontage.</p>	Yes
<p><u>Objective 3B-2</u></p> <p><i>Overshadowing of neighbouring properties is minimised during mid- winter</i></p>		

<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Overshadowing should be minimised to the south or downhill by increased upper level setbacks - Refer sections 3D & 4A below for solar access requirements - A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings 	<p>The scale of the building responds to the desired future character for the precinct as defined by the planning controls (floor space ratio and building height). The narrow building form is a product of the narrow site width and provides for a good transition between the commercial building to the south and the residential development to the north.</p> <p>The strategic local character and future desired character of the site is set by Wollongong LEP 2009 (R1 zone, Clause 8.1 Objectives for development in Wollongong City Centre) and Chapter D13 of Wollongong DCP 2009 (Wollongong City Centre). Both LEP and DCP clauses are assessed in detail in the assessment report.</p> <p>The shadow diagrams indicate that overshadowing of nearby buildings will be minimal. Neighbouring residences will continue to receive more than a minimum 3 hours of sunlight as required.</p>	
<p><u>3C Public domain interface</u></p> <p>Key components to consider when designing the interface include entries, private terraces or balconies, fences and walls, changes in level, services locations and planting.</p> <p>The design of these elements can influence the real or perceived safety and security of residents, opportunities for social interaction and the identity of the development when viewed from the public domain.</p>	<p>The transition between public and private is acceptable and both the commercial space and the residential lobby and will activate the street, despite the setback proposed.</p> <p>Appropriate street frontage treatment provided. The public domain is to be treated with footpath paving and street tree planting in accordance with Council's City Centre Public Domain</p>	Yes

Standards/controls	Comment	Complies
<p><u>Objective 3C-1:</u></p> <p><i>Transition between private and public domain is achieved without compromising safety and security</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Terraces, balconies and courtyards should have direct street entry, where appropriate - Changes in level between private terraces etc above street level provide surveillance and improved visual privacy for ground level dwellings. - Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m. - Opportunities should be provided casual interaction between residents and the public domain e.g. seating at building entries, near letterboxes etc 	<p>Technical Manual. Conditions are recommended in this regard. Landscaping and paving of the front setback is proposed along with the retention of the existing low stone wall which is of historical significance. The wall will delineate the private from the public realm.</p> <p>Residential balconies face the street frontage, providing some opportunities for natural surveillance.</p>	
<p><u>Objective 3C-2:</u></p> <p><i>Amenity of the public domain is retained and enhanced</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Planting softens the edges of any raised terraces to the street (e.g. basement podium) - Mailboxes should be located in lobbies perpendicular to street alignment or integrated into front fences. - Garbage storage areas, substations, pump rooms and other service requirements should be located in basement car parks. - Durable, graffiti resistant materials should be used - Where development adjoins public parks or open space the design should address this interface. 	<p>Garbage storage areas, mail boxes and fire services are to be accommodated within the development in a manner which will not detract from its design quality.</p> <p>Mailboxes are located adjacent to the entry.</p> <p>Durable materials are proposed.</p>	Yes
<p><u>3D Communal and public open space</u></p> <p><u>Objective 3D-1</u></p> <p><i>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping</i></p> <p><u>Design Criteria</u></p> <p>1. Communal open space has a minimum area of 25% of the site area (164m²)</p>	<p>The principal communal open space is located on the rooftop and has an area of 195.5sqm.</p> <p>Communal open space achieves 25% and is accessible for residents via the lift.</p> <p>The communal open space area achieves the minimum</p>	Yes

<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<p>2. 50% direct sunlight provided to principal usable part of communal open space for a minimum of 2 hours between 9am and 3pm on 21 June</p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Communal open space should be consolidated into a well-designed, usable area. - Minimum dimension of 3m - Should be co-located with deep soil areas - Direct & equitable access required - Where not possible at ground floor it should be located at podium or roof level. 	<p>area required for the site and satisfies the required dimension requirements.</p> <p>The COS will receive good solar access.</p> <p>The design and treatment will provide for well designed, usable areas.</p> <p>Direct and equitable access available.</p> <p>Located on rooftop.</p>	
<p><u>Objective 3D-2</u></p> <p><i>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</i></p> <p><u>Design guidance</u></p> <p>Facilities to be provided in communal open spaces for a range of age groups, and may incorporate seating, barbeque areas, play equipment, swimming pools</p>	<p>The landscape plan makes provision for casual seating, an outdoor kitchen and outdoor dining area.</p>	Yes
<p><u>Objective 3D-3</u></p> <p><i>Communal open space is designed to maximise safety</i></p> <p><u>Design guidance</u></p> <p>Communal open space should be visible from habitable rooms and POS areas and should be well lit.</p>	<p>The communal open space will be safe. Secured access will only be available for residents.</p>	Yes
<p><u>3E Deep soil zones</u></p> <p><u>Objective 3E-1</u></p> <p><i>3E-1 Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</i></p> <p><u>Design Criteria:</u></p>	<p>DSZ is proposed adjacent to the eastern boundary at the rear of the building and immediately adjoining the English Oak tree. The area of the total DSZ is 53.1sqm (~8.1%) and the rear boundary area has a minimum dimension of 6m.</p> <p>The DSZ will be sited around the English Oak at the rear of the site and will be planted with additional landscaping.</p>	Yes

Standards/controls	Comment	Complies																								
<p>1. Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m² - 1,500m²</td><td>3m</td></tr> <tr> <td>greater than 1,500m²</td><td>6m</td></tr> <tr> <td>greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr> </tbody> </table> <p><u>Design guidance:</u></p> <ul style="list-style-type: none"> - Deep soil zones should be located to retain existing significant trees. <p>3F Visual privacy</p> <p><u>Objective 3F-1</u></p> <p><i>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual amenity.</i></p> <p><u>Design Criteria:</u></p> <p>1. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p>No separation is required between blank walls</p>	Site area	Minimum dimensions	Deep soil zone (% of site area)	less than 650m ²	-	7%	650m ² - 1,500m ²	3m	greater than 1,500m ²	6m	greater than 1,500m ² with significant existing tree cover	6m	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<p>There are variations to the building setbacks in a number of places, as follows:</p> <p><u>Up to 12m (Levels G-3)</u></p> <p><i>To northern boundary:</i></p> <ul style="list-style-type: none"> • 0m to blank wall of commercial space and carpark • min setback 2.4m to habitable rooms with obscure glazing to openings and 3m to screened balconies (6m required). <p><i>To southern boundary:</i></p> <ul style="list-style-type: none"> • min 500mm to walls with high level windows; 2.4m to G residential lobby windows. • L1 – L3 – min 500mm to high level windows (6m required) <p><i>To eastern boundary (rear):</i></p> <ul style="list-style-type: none"> • 3.634m to ground floor carpark; • L1-L3 - 9m to balconies and rear wall habitable rooms with openings <p><u>12m-24m (Level 4 & rooftop COS/ POS)</u></p>	<p>No, variations identified in bold</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)																								
less than 650m ²	-	7%																								
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Standards/controls	Comment	Complies
<p><u>Objective 3F-2:</u></p> <p><i>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</i></p>	<p><i>To northern boundary:</i></p> <ul style="list-style-type: none"> • min setback L4 - 3.3m to habitable rooms (blank wall); 4m to screened front balcony (9m required); 3.3m to rear balcony (solid wall to side elevation). • Roof terrace 4.3m from northern boundary (9m required). <p><i>To southern boundary:</i></p> <ul style="list-style-type: none"> • 1.5m to blank wall and screened balcony; 2.2m to habitable rooms with openings (9m required). • Roof terrace setback ~3.3m to southern boundary (9m required). <p>Where the non-compliances occur, in most places screening to side boundaries is proposed. This is provided either in the form of obscured glazing, highlight windows or, in the case of balconies, privacy screens fitted to prevent overlooking to the side boundaries. It is noted that the DRP were satisfied with the solutions proposed in this regard, as was Council's architect.</p> <p>The development will offer minimal opportunities for overlooking of the development to the north due to the privacy measures proposed. The northern neighbour is a 3 storey building and the roof sits below proposed Level 4. This building features minimal windows along its southern façade, so the potential privacy impacts of the reduced setbacks to the proposed building will not be significant or unreasonable.</p>	

Standards/controls	Comment	Complies
<p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Communal open space, common areas and access paths should be separated from private open space and windows to apartments. Design solutions include: <ul style="list-style-type: none"> • Setbacks, • Solid or partly solid balustrades to balconies 	<p>In terms of the reduced setbacks to the southern side of the building, there are not expected to be unreasonably deleterious impacts arising from the laneway itself. The laneway is a low traffic, low speed environment and will not reduce the visual or acoustic privacy of the apartments unreasonably.</p> <p>The neighbouring commercial building to the south of the site, on the southern side of the laneway, will overlook the proposed apartments. Most south-facing windows are to bedrooms which will be fitted with curtains or blinds. The laneway provides additional separation between the two buildings.</p> <p>Planting is to be provided to the edges of the COS to provide some screening of this space from the adjoining boundaries. Due to the height of the COS on the rooftop of the building, the COS will not be visible from public vantage points or from shorter adjoining buildings. The roof will assist in offering some screening to reduce overlooking from the taller nearby buildings including the commercial building to the south.</p> <p>Communal spaces are separated from private open space and windows to apartments</p>	<p>Yes</p>

<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<ul style="list-style-type: none"> • Fencing or vegetation to separate spaces • Screening devices • Raising apartments/private open space above the public domain • Planter boxes incorporated into walls and balustrades to increase visual separation • Pergolas or shading devices to limit overlooking • Only on constrained sites where it's demonstrated that building layout opportunities are limited – fixed louvres or screen panels • Windows should be offset from the windows of adjoining building. 		
<p><u>3G Pedestrian access and entries</u></p> <p><u>Objective 3G-1</u></p> <p><i>Building entries and pedestrian access connects to and addresses the public domain</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Multiple entries should be provided to activate the street edge. - Buildings entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries. <p><u>Objective 3G-2</u></p> <p><i>Access, entries and pathways are accessible and easy to identify</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Building access areas should be clearly visible from the public domain and communal spaces - Steps and ramps should be integrated into the overall building and landscape design. <p><u>Objective 3G-3</u></p> <p><i>Large sites provide pedestrian links for access to streets and connection to destinations</i></p>	<p>The residential lobby and commercial space and its entry is clearly identifiable in the streetscape.</p> <p>The entries will activate the street edge irrespective of the building setback. The landscaped forecourt in front of the building may facilitate some use of that space which will further activate the frontage.</p> <p>Ground floor level is accessible from the street frontage via compliant paths. Lift and stair access is provided to all dwellings from the basement and ground floor level. Access points are clearly visible.</p> <p>No through-site link is required. The development will not compromise the laneway.</p>	<p>Yes</p>
<p><u>3H Vehicle access</u></p> <p><u>Objective 3H-1</u></p>	<p>The driveway's location from the laneway is generally in a good location.</p>	<p>Yes</p>

<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<p><i>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Car park entries should be located behind the building line - Access point locations should avoid headlight glare to habitable rooms - Garbage collection, loading and service areas should be screened - Vehicle and pedestrian access should be clearly separated to improve safety. - Where possible, vehicle access points should not dominate the streetscape and be limited to the minimum width possible. 	<p>Proposed driveway location is removed from the nearest intersection and is acceptable from a traffic safety and management perspective.</p> <p>Garbage storage within the ground floor and basement with residential bins to be collected from the street. Commercial bins will be collected by private contractor.</p> <p>Vehicle and pedestrian access separated.</p> <p>Driveway and vehicular entry width is acceptable.</p>	
<p><u>3J Bicycle and car parking</u></p> <p><u>Objective 3J-2</u></p> <p><i>Parking and facilities are provided for other modes of transport</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Conveniently located and sufficient numbers of parking spaces should be provided for motorbikes and scooters - Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas. 	<p>Adequate vehicle, motor bike and bicycle parking is proposed; to be provided within the basement and ground level car park.</p> <p>Appropriate resident, visitor and commercial bicycle storage arrangements are proposed.</p>	Yes
<p><u>Objective 3J-3</u></p> <p><i>Car park design and access is safe and secure.</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Supporting facilities within car parks (garbage rooms, storage areas, car wash bays) can be accessed without crossing parking spaces - A clearly defined and visible lobby or waiting area should be provided to lifts and stairs. - Permeable roller doors allow for natural ventilation and improve the safety of car parking areas by enabling passive surveillance. 	<p>Supporting facilities generally appropriately located.</p> <p>Basement and ground level parking layout is appropriate with regard to safety and security. Resident carparking is secured through a roller shutter.</p> <p>Basement is mechanically ventilated.</p>	Yes
<p><u>Objective 3J-4</u></p>	<p>Acceptable.</p>	Yes

<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<p><i>Visual and environmental impact of underground car parking are minimised</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Excavation should be minimised through efficient carpark layouts and ramp design. - Protrusion of carparks should not exceed 1.0m above ground level. - Natural ventilation should be provided to basement and sub-basement car parking areas. - Ventilation grills or screening devices should be integrated into the façade and landscape design. <p><u>Objective 3J-5</u></p> <p><i>Visual and environmental impact of on-grade car parking are minimised</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - On-grade car parking should be avoided; - Where unavoidable, the following design solutions should be used – parking is located on the side or rear of the lot away from the primary street frontage - Cars are screened from view of streets, buildings, communal and private open space areas - Safe and direct access to building entry points is provided - Parking is incorporated into the landscaping design of the site - Stormwater run-off is appropriately managed - Light coloured paving materials or permeable paving systems are used and shade trees are planted to reduce increased surface temperatures from large areas of paving <p>Part 4 – Designing the building - Amenity</p> <p><u>4A Solar and daylight access</u></p> <p><u>Objective 4A-1</u></p> <p><i>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space</i></p> <p><u>Design Criteria</u></p> <ol style="list-style-type: none"> 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 	<p>There are minimal visual and environmental impacts of the underground carpark.</p> <p>Ground level car parking will be concealed within the building and will have minimal visual and environmental impacts. It is noted that the suspended metal grate system proposed within the dripline of the English Oak is acceptable to the Arborist and Council's Landscape Architect.</p>	
<p>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of</p>	<p>All apartments face north; all will achieve appropriate solar access (living rooms and private open spaces receive a minimum of 2 hours sunlight between 9am-3pm mid-Winter) .</p>	Yes

<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<p>two (2) hours direct sunlight between 9am and 3pm in mid-winter in Wollongong LGA.</p> <p>1. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter</p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - The design maximises north aspect and the number of single aspect south facing apartments is minimised - To optimise the direct sunlight to habitable rooms and balconies, the following design features are used: Dual aspect, Shallow apartment layouts Bay windows - To maximise the benefit to residents, a minimum of 1m² of direct sunlight measured at 1m above floor level, is achieved for at least 15 minutes. <p><u>Objective 4A-2</u></p> <p><i>Daylight access is maximised where sunlight is limited</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Courtyards, skylights and high level windows (sill heights of 1500mm or greater) are used only as secondary light sources in habitable rooms <p><u>Objective 4A-3</u></p> <p><i>Design incorporates shading and glare control, particularly for warmer months</i></p> <p><u>Design Guidance</u></p> <p>Design features can include:</p> <ul style="list-style-type: none"> - Balconies - Shading devices or planting - Operable shading - High performance glass that minimises external glare <p><u>4B Natural ventilation</u></p> <p><u>Objective 4B-1</u></p> <p><i>All habitable rooms are naturally ventilated.</i></p> <p><u>Design Guidance</u></p>	<p>All apartments receive direct sunlight between 9am and 3pm at midwinter.</p> <p>N/A</p> <p>Design is generally appropriate with regard to shading and glare control</p> <p>Balconies will shade west-facing glazing in part.</p> <p>All rooms are naturally cross ventilated.</p>	<p></p> <p>Yes</p>

Standards/controls	Comment	Complies
<ul style="list-style-type: none"> - A building's orientation should maximise the prevailing winds for natural ventilation in habitable rooms - The area of unobstructed window openings should be equal to at least 5% of the floor area served. - Doors and openable windows should have large openable areas to maximise ventilation. <p><u>Objective 4B-2</u> <i>The layout and design of single aspect apartments maximises natural ventilation</i></p> <p><u>Design Guidance</u> Single aspect apartments should use design solutions to maximise natural ventilation.</p> <p><u>Objective 4B-3</u> <i>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents</i></p> <p><u>Design Criteria:</u></p> <ol style="list-style-type: none"> 1. 60% of apartments are naturally cross ventilated in the first nine storeys 2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line. <p><u>4C Ceiling heights</u></p> <p><u>Objective 4C-1</u> <i>Ceiling height achieves sufficient natural ventilation and daylight access</i></p> <p><u>Design Criteria</u></p> <ol style="list-style-type: none"> 1. Minimum 2.7m for habitable rooms and 2.4m for non-habitable rooms 2. Ground floor greater ceiling heights to provide for flexibility of uses <p><u>Objective 4C-2</u> <i>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms</i></p> <p><u>Objective 4C-3</u> <i>Ceiling height contribute to the flexibility of building use over the life of the building</i></p>	<p>No single aspect apartments are proposed</p> <p>All apartments are naturally cross ventilated.</p> <p>Building depths are around 11.2m.</p> <p>The development has min 3.1m floor to floor heights. Ground floor to floor height is 3.7m.</p> <p>The ground floor has a greater ceiling height of ~3.1m</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<p><u>Design Guidance</u></p> <p>Ceiling heights of lower level apartments in centres should be greater than the minimum required by the design criteria allowing flexibility and conversion to non-residential uses.</p> <p><u>4D Apartment size and layout</u></p> <p><u>Objective 4D-1</u></p> <p><i>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</i></p> <p><u>Design Criteria:</u></p> <ol style="list-style-type: none"> Minimum internal areas: <ul style="list-style-type: none"> 2 bed – 70m² 3 bed – 90m² <p>The minimum internal areas include only 1 bathroom. Additional bathrooms increase the minimum internal areas by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal by 12m².</p> Every habitable room must have a window in an external wall with a total minimum glass area of at least 10% of the floor area of the room <p><u>Objective 4D-2</u></p> <p><i>Environmental performance of the apartment is maximised</i></p> <p><u>Design Criteria:</u></p> <ol style="list-style-type: none"> Habitable room depths are limited to a maximum of 2.5 x ceiling height In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window. <p><u>Design Guidance:</u></p> <ul style="list-style-type: none"> - Greater than the minimum ceiling heights can allow proportionate increases in room depths. - Where possible, bathrooms and laundries should have an external openable window. - Main living spaces should be oriented towards the primary outlook. <p><u>Objective 4D-3</u></p>	<p>Apartment size and layout is functional, well organised and provides a reasonable standard of amenity for future residents. The apartment layout has been considered by the Design Review Panel and Council's design expert and is acceptable.</p> <p>All apartments achieve compliance with the minimum internal areas specified.</p> <p>All habitable rooms have adequate windows.</p> <p>Habitable room depths comply.</p> <p>2.7m ceiling heights proposed.</p> <p>Living spaces are oriented towards the north and both</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

Standards/controls	Comment	Complies															
<p><i>Apartment layouts are designed to accommodate a variety of household activities and needs</i></p> <p><u>Design Criteria:</u></p> <ol style="list-style-type: none"> 1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excl wardrobe space) 2. Bedrooms have minimum dimension of 3m (excl wardrobe) 3. Living rooms have minimum width of: <ul style="list-style-type: none"> - 3.6m for studio and 1 bed apartments and - 4m for 2+ beds. 4. The width of the crossover or cross through apartments are at least 4m internally to avoid deep narrow apartment layouts. <p><u>4E Private open space and balconies</u></p> <p><u>Objective 4E-1</u></p> <p><i>Apartments provide appropriately sized private open space and balconies to enhance residential amenity</i></p> <ol style="list-style-type: none"> 1. Minimum balcony depths are: <table border="1"> <thead> <tr> <th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr> </thead> <tbody> <tr> <td>Studio apartments</td><td>4m²</td><td>-</td></tr> <tr> <td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr> <tr> <td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr> <tr> <td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p> <ol style="list-style-type: none"> 2. Ground level apartment POS must have minimum area of 15m² and min. depth of 3m. <p><u>Objective 4E-2</u></p> <p><i>Primary private open space and balconies are appropriately located to enhance liveability for residents</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Primary private open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space. - POS & Balconies should be oriented with the longer side facing outwards to optimise daylight access into adjacent rooms. 	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	<p>the east and west to take advantage of outlook, views to the English Oak and to optimise solar access.</p> <p>Bedroom and living room dimensions are adequate.</p> <p>All balcony areas achieve the minimum area and depth requirements. POS exceeds requirements and is generally well designed and located, with additional small balconies for bedrooms.</p> <p>No ground level terraces are proposed.</p> <p>POS of all apartments is located adjoining and accessible from living/dining areas.</p> <p>Adequate solar access is available to the balconies and terraces.</p>	<p>Yes</p> <p>Yes</p>
Dwelling type	Minimum area	Minimum depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
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<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<p><u>Objective 4E-3</u></p> <p><i>Primary private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - A combination of solid and transparent materials balances the need for privacy with surveillance of the public domain - Full width glass balustrades alone are not desirable - Operable screens etc are used to control sunlight and wind, and provide increased privacy for occupancy while allowing for storage and external clothes drying. 	<p>Balconies designed to articulate the façade. A variety of materials are proposed.</p>	
<p><u>Objective 4E-4</u></p> <p><i>Private open space and balcony design maximises safety</i></p> <p><u>Design Guidance</u></p> <p>Changes in ground levels or landscaping are minimised.</p>	<p>POS is appropriately designed with regard to safety.</p>	Yes
<p><u>4F Common circulation and spaces</u></p> <p><u>Objective 4F-1</u></p> <p><i>Common circulation spaces achieve good amenity and properly service the number of apartments.</i></p> <p><u>Design Criteria</u></p> <ol style="list-style-type: none"> 1. The maximum number of apartments off a circulation core on a single level is eight 2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40. <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Long corridors greater than 12m in length should be articulated through the use of windows or seating. - Primary living rooms or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces should be controlled. 	<p>7 apartments proposed.</p> <p>Maximum 2 apartments on each level; serviced by 1 lift.</p> <p>Corridors have good access to natural light and ventilation.</p> <p>Short corridors are proposed.</p> <p>No living or bedroom window openings to common circulation spaces.</p>	Yes
<p><u>Objective 4F-2</u></p> <p><i>Common circulation spaces promote safety and provide for social interaction between residents</i></p> <p><u>Design Guidance:</u></p>	<p>Some opportunities for casual social interaction within the lobby areas and outdoor spaces.</p>	Yes

Standards/controls	Comment	Complies										
<p>Incidental spaces can be used to provide seating opportunities for residents, and promotes opportunities for social interaction.</p> <p>4G Storage</p> <p><u>Objective 4G-1</u></p> <p><i>Adequate, well designed storage is provided in each apartment</i></p> <p>1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table> <p>At least 50% of the required storage is to be located within the apartment</p> <p><u>Objective 4G-2</u></p> <p><i>Additional storage is conveniently located, accessible and nominated for individual apartments</i></p> <p><u>Design Guidance:</u></p> <ul style="list-style-type: none">- Storage not located within apartments should be allocated to specific apartments. <p>4H Acoustic privacy</p> <p><u>Objective 4H-1</u></p> <p><i>Noise transfer is minimised through the siting of buildings and building layout</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none">- Adequate building separation is required (see also section identified in bold above).- Noisy areas within buildings should be located next to or above each other and quieter areas next to or above quieter areas.- Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources.- Noise sources such as garage doors, plant rooms, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Dwelling type	Storage size volume	Studio apartments	4m ³	1 bedroom apartments	6m ³	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³	<p>Common circulation areas are proposed to be well lit with natural light.</p> <p>All apartments exceed the minimum required storage. Minimum 50% is provided within each apartment, with the remainder located in the basement.</p> <p>Internal layout provides for appropriate internal acoustic amenity within individual apartments, and generally not an issue due to the limited number of apartments per floor.</p> <p>Noise transmission from windows and balconies to adjoining residences is not expected to adversely affect residential amenity given the small number of units proposed and the domestic nature of the use.</p>	<p>Yes</p> <p>Yes</p>
Dwelling type	Storage size volume											
Studio apartments	4m ³											
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Standards/controls	Comment	Complies
<p><u>Objective 4H-2</u></p> <p><i>Noise impacts are mitigated within apartments through layout and acoustic treatments</i></p> <p><u>Design Guidance</u></p> <p>In addition to mindful siting and orientation of the building, acoustic seals and double or triple glazing are effective methods to further reduce noise transmission.</p>	<p>Acceptable; it is noted that the DA was accompanied by an acoustical assessment which provides advice and recommendations to ensure the design meets the acoustical provisions of Part F5 of the BCA for Class 2 buildings as well as considering noise impacts at the adjoining dwellings from the use of the roof terrace and any mechanical plant servicing the building.</p>	<p>Yes</p>
<p><u>4J Noise and pollution</u></p> <p><u>Objective 4J-1</u></p> <p><i>In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Minimise impacts through design solutions such as physical separation from the noise or pollution source, <p><u>Objective 4J-2</u></p> <p><i>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission</i></p> <p><u>Design guidance:</u></p> <ul style="list-style-type: none"> - Design solutions include limiting openings to noise sources & providing seals to prevent noise transfer. 	<p>No obvious external noise sources are evident. Noise from the laneway to the south is expected to be significant given that it is a low speed, low traffic shared zone.</p>	<p>Yes</p>
<p><u>Part 4 – Designing the building - Configuration</u></p> <p><u>4K Apartment mix</u></p> <p><u>Objective 4K-1</u></p> <p><i>A range of apartment types and sizes is provided to cater for different household types now and into the future</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - A variety of apartment types is provided - The apartment mix is appropriate, taking into consideration the location of public transport, 	<p>The apartment building provides 7 apartments of which 6 are three bedrooms and 1 is a larger 3 bedroom + study.</p> <p>One adaptable apartment (Level 4) is proposed; a Statement of Compliance has been provided with the DA.</p>	<p>No, variation sought</p>

Standards/controls	Comment	Complies
<p>market demands, demand for affordable housing, different cultural/social groups</p> <ul style="list-style-type: none"> - Flexible apartment configurations are provided to support diverse household types and stages of life <p><u>Objective 4K-2</u></p> <p><i>The apartment mix is distributed to suitable locations within the building</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building frontage is available 	<p>The applicant has sought a variation in respect of the unit mix requirements of the ADG and DCP; this is outlined below with regard to Clause 6.2 of Chapter D13 of the DCP.</p> <p>The DRP have noted that while the apartment mix does not correspond with the requirements, the Panel recognises that as a small boutique development, it has little impact on local provision and is therefore able to be supported.</p> <p>The upper floor houses the larger apartment.</p>	
<p><u>4L Ground floor apartments</u></p> <p><u>Objective 4L-1</u></p> <p><i>Street frontage activity is maximised where ground floor apartments are located</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Direct street access should be provided to ground floor apartments - Activity is achieved through front gardens, terraces and the facade of the building. - Ground floor apartment layouts support small office home office (SOHO) use to provide future opportunities for conversion into commercial or retail areas. In these cases, provide higher floor to ceiling heights and ground floor amenities for easy conversion <p><u>Objective 4L-2</u></p> <p><i>Design of ground floor apartments delivers amenity and safety for residents</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - The design of courtyards should balance the need for privacy of ground floor apartments with surveillance of public spaces. Design solutions include: <ul style="list-style-type: none"> • elevation of private gardens and terraces above the street level by 1-1.5m (see figure 4L.4) 	<p>None proposed.</p>	N/A

Standards/controls	Comment	Complies
<ul style="list-style-type: none"> • landscaping and private courtyards • window sill heights that minimise sight lines into apartments • integrating balustrades, safety bars or screens with the exterior design <p>- Solar access should be maximised through:</p> <ul style="list-style-type: none"> • high ceilings and tall windows • trees and shrubs that allow solar access in winter and shade in summer <p><u>4M Facades</u></p> <p><u>Objective 4M-1</u></p> <p><i>Building facades provide visual interest along the street while respecting the character of the local area</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - To ensure that building elements are integrated into the overall building form and façade design - The front building facades should include a composition of varied building elements, textures, materials, detail and colour and a defined base, middle and top of building. - Building services should be integrated within the overall facade - Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. - To ensure that new developments have facades which define and enhance the public domain and desired street character. <p><u>Objective 4M-2</u></p> <p><i>Building functions are expressed by the facade</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Building entries should be clearly defined <p><u>4N Roof design</u></p> <p><u>Objective 4N-1</u></p> <p><i>Roof treatments are integrated into the building design and positively respond to street</i></p> <p><u>Design guidance</u></p>	<p>The building façade features a combination of building elements and a mixture of materials. The applicant has provided a colour and materials schedule with the DA and photomontages which form part of Attachment 3.</p> <p>Building services are to be provided in a manner which will not reduce the design quality of the development.</p> <p>Primary pedestrian entries are well defined and access from the street frontage is well resolved.</p> <p>As above.</p> <p>The proposed roof form is appropriate.</p> <p>The roof design is appropriate and the roof plan indicates services and</p>	<p>Yes</p> <p>Yes</p>

<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<ul style="list-style-type: none"> - Roof design should use materials and a pitched form complementary to the building and adjacent buildings. <p><u>Objective 4N-2</u></p> <p><i>Opportunities to use roof space for residential accommodation and open space are maximised</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Habitable roof space should be provided with good levels of amenity. - Open space is provided on roof tops subject to acceptable visual and acoustic privacy, comfort levels, safety and security considerations <p><u>Objective 4N-3</u></p> <p><i>Roof design incorporates sustainability features</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Roof design maximises solar access to apartments during winter and provides shade during summer 	<p>photovoltaics which are to be screened from view in an appropriate fashion.</p>	
<p><u>4O Landscape design</u></p> <p><u>Objective 4O-1</u></p> <p><i>Landscape design is viable and sustainable</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Landscape design should be environmentally sustainable and can enhance environmental performance - Ongoing maintenance plans should be prepared <p><u>Objective 4O-2</u></p> <p><i>Landscape design contributes to the streetscape and amenity</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Landscape design responds to the existing site conditions including: <ul style="list-style-type: none"> • changes of levels • views • significant landscape features 	<p>Council's Landscape Architect has advised that the landscape design is generally satisfactory.</p> <p>The English Oak tree is retained and accommodated within a suitable tree protection zone and is integrated into the landscape planting/ deep soil zone.</p>	<p>Yes</p>
<p><u>4P Planting on Structures</u></p> <p><u>Objective 4P-1</u></p> <p><i>Appropriate soil profiles are provided</i></p>	<p>Council's Landscape Architect is satisfied with the landscape plan. Planting</p>	<p>Yes</p>

<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<p><u>Objective 4Q-3</u></p> <p><i>Apartment layouts are flexible and accommodate a range of lifestyle needs</i></p> <p><u>Design guidance</u></p> <p>Apartment design incorporates flexible design solutions</p>	<p>Generally acceptable – the larger apartment provides a second living space which has flexible uses, plus a study has been provided to allow flexible spaces for working from home, study etc.</p>	
<p>Part 4 – Designing the building - Configuration</p> <p><u>4T Awnings and signage</u></p> <p><u>Objective 4T-1</u></p> <p>Awnings are well located and complement and integrate with the building design</p>	<p>An awning is not proposed however the upper level balconies and building projects forward over the commercial space, providing an undercroft. The design overall is acceptable to the DRP.</p>	Yes
<p><u>4U Energy efficiency</u></p> <p><u>Objective 4U-1</u></p> <p><i>Development incorporates passive environmental design</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Adequate natural light is provided to habitable rooms (see 4A Solar and daylight access) 	<p>The applicant has obtained a BASIX certificate which confirms that the proposed development will achieve the required energy efficiency and thermal comfort targets of the SEPP.</p> <p>Adequate natural light will be provided to all habitable rooms.</p>	Yes
<p><u>Objective 4U-2</u></p> <p><i>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer</i></p> <p><u>Design Guidance</u></p> <ul style="list-style-type: none"> - Provision of consolidated heating and cooling infrastructure should be located in a centralised location 	<p>Heat gain for west facing living rooms will be reduced by balcony overhangs.</p> <p>Units are all oriented north which is commendable.</p> <p>Plant room and serviced concealed within the building.</p>	
<p><u>Objective 4U-3</u></p> <p><i>Adequate natural ventilation minimises the need for mechanical ventilation</i></p>	<p>Apartments are naturally ventilated. Some bathrooms also have windows which is desirable.</p>	
<p><u>4V Water management and conservation</u></p> <p><u>Objective 4V-1</u></p>	<p>The BASIX certificate confirms that the proposed development will meet the</p>	Yes

<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<p><i>Potable water use is minimised</i></p> <p><u>Objective 4V-2</u></p> <p><i>Urban stormwater is treated on site before being discharged to receiving waters</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Water sensitive urban design systems are designed by a suitably qualified professional <p><u>Objective 4V-3</u></p> <p><i>Flood management systems are integrated into site design</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Detention tanks should be located under paved areas, driveways or in basement car parks <p><u>4W Waste management</u></p> <p><u>Objective 4W-1</u></p> <p><i>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Common waste and recycling areas should be screened from view and well ventilated <p><u>Objective 4W-2</u></p> <p><i>Domestic waste is minimised by providing safe and convenient source separation and recycling</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Communal waste and recycling rooms are in convenient and accessible locations related to each vertical core - For mixed use developments, residential waste and recycling storage areas and access should be separate and secure from other uses 	<p>NSW Government requirements for sustainability if built in accordance with the commitments set out in the certificate. This relates to both energy and water efficiency (4U and 4V).</p> <p>Rainwater tank provided.</p> <p>OSD provided with built in stormwater quality controls</p> <p>Site is flood affected. Detention system is located under the paved area at the front of the site; concealed from view.</p> <p>The applicant proposes waste storage areas within the basement and at ground level, concealed within the building. On-street collection of residential bins is proposed, with commercial waste to be collected by private contractor.</p> <p>Waste will be transported to the garbage room manually by residents which is acceptable given the small size of the building.</p>	<p>Yes</p>

<i>Standards/controls</i>	<i>Comment</i>	<i>Complies</i>
<ul style="list-style-type: none"> - Alternative waste disposal, such as composting, can be incorporated into the design of communal open space areas <p><u>4X Building maintenance</u></p> <p><u>Objective 4X-1</u></p> <p><i>Building design detail provides protection from weathering</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Design solutions such as roof overhangs to protect walls and hoods over windows and doors to protect openings can be used. <p><u>Objective 4X-2</u></p> <p><i>Systems and access enable ease of maintenance</i></p> <p><u>Design guidance</u></p> <ul style="list-style-type: none"> - Window design enables cleaning from the inside of the Building <p><u>Objective 4X-3</u></p> <p><i>Material selection reduces ongoing maintenance costs easily cleaned surfaces that are graffiti resistant</i></p>	<p>The applicant proposes to use durable and cleanable materials. Where windows are unable to be accessed from balconies or terraces, other cleaning methods will be required to be employed.</p>	Yes

b) Wollongong Development Control Plan 2009

CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

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

CHAPTER D13 – WOLLONGONG CITY CENTRE

2 Building Form

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<p><u>2.2 Building to street alignment and street setbacks</u></p> <p>4m setback required. Balconies allowed to project 600mm into front setback, to a cumulative maximum width of 50% of horizontal width façade.</p>	<p>Minimum wall setback to Kembla Street is 8.8m; upper levels come forward to 4.5m.</p> <p>L1 and up – min 4.5m</p>	Yes
<p><u>2.4 Building Depth and bulk</u></p> <p>Max floor plate 900sqm and 18m depth above 12m in height (excluding balconies)</p>	<p>Floor plate approx 290-300sqm</p> <p>Depth ~12.3m measured across the shortest axis, being north-south.</p>	Yes

Objectives/controls	Comment	Compliance
<p><u>2.5 Side and rear building setbacks and building separation</u></p> <p>Residential uses up to 12m in height:</p> <p><i>Habitable rooms with openings and balconies</i></p> <p>Side minimum 6m; Rear minimum 6m</p> <p><i>Non-habitable rooms and habitable rooms without openings</i></p> <p>Side minimum 3m; Rear minimum 4.5m</p>	<p>Note: ADG and DCP setbacks generally the same, with exception non-habitable rear setback for buildings under 12m.</p> <p>There are variations to the building setbacks in a number of places, identified in bold below:</p> <p><u>Up to 12m (Levels G-3)</u></p> <p><i>To northern boundary:</i></p> <ul style="list-style-type: none"> • 0m to blank wall of commercial space and carpark • min setback 2.4m to habitable rooms with obscure glazing to openings and 3m to screened balconies (6m required). <p><i>To southern boundary:</i></p> <ul style="list-style-type: none"> • min 500mm to walls with high level windows; 2.4m to G residential lobby windows. • L1 – L3 – min 500mm to high level windows (6m required) <p><i>To eastern boundary (rear):</i></p> <ul style="list-style-type: none"> • 3.634m to ground floor carpark; • L1-L3 - 9m to balconies and rear wall habitable rooms with openings. 	<p>No, variations are identified in bold</p>
<p>Residential uses between 12m and 24m in height:</p> <p><i>Habitable rooms with openings and balconies</i></p> <p>Side minimum 9m; Rear minimum 9m</p> <p><i>Non-habitable rooms and habitable rooms without openings</i></p> <p>Side minimum 4.5m; Rear minimum 4.5m</p>	<p><u>12m-24m (Level 4 & rooftop COS/ POS)</u></p> <p><i>To northern boundary:</i></p> <ul style="list-style-type: none"> • min setback L4 - 3.3m to habitable rooms (blank wall); 4m to screened front balcony (9m required); 3.3m to rear balcony (solid wall to side elevation). • Roof terrace 4.3m from northern boundary (9m required). <p><i>To southern boundary:</i></p> <ul style="list-style-type: none"> • 1.5m to blank wall and screened balcony; 2.2m to habitable rooms with openings (9m required). • Roof terrace setback ~3.3m to southern boundary (9m required). <p><i>To eastern boundary (rear)</i></p> <ul style="list-style-type: none"> • 11.685m to rear wall; 10m to edge of balcony • L5 – 12.154m to edge of COS 	<p>No, variations are identified in bold</p>

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
Over 24m in height	N/A	N/A

Applicant's variation request:

(a) The Control being varied; and

The control being varied is Clause 2.5 *Side and rear building setback and building separation*. The ground level commercial premises is required to have a 3m side setback, residential uses up to 12m in height are required to have a 6m side and rear setback from habitable rooms, and residential uses between 12m and 24m in height are required to have a minimum 9m side and rear setback from habitable rooms.

(b) The extent of the proposed variation and the unique circumstance as to why the variation is requested; and

The proposed development has been designed to respond to the specific constraints and opportunities of the subject site and response to the exiting character of the area. The proposal does not comply with the side setback requirements.

The ground level commercial premises presents a 0m side setback to the northern boundary, which is consistent with Clause 8.6 of the LEP, and a 0.5m setback to the southern boundary presenting a maximum non-compliance of 2.5m.

The residential component of the development up to 12m presents a side setback of 2.3m to the northern boundary and a side setback of 0.5m to the southern boundary presenting a maximum non-compliance of 11.5m.

The residential component of the development above 12m presents a setback between 2.3m to 5m to the northern boundary and 0.5m to 2.8m to the southern boundary presenting a maximum non-compliance of 8.5m.

It is considered that compliance cannot be reasonably achieved given the site's 15.24m frontage and isolated nature within the context of the streetscape.

(c) Demonstrate how the objectives are met with the proposed variations; and

Although the proposal does not strictly comply with the numerical controls within the DCP, the proposal meets the objectives of the Clause.

a) To ensure an appropriate level of amenity for building occupants in terms of daylight, outlook, view sharing, ventilation, wind mitigation, and privacy.

All seven (7) apartments achieve more than three (3) hours of sunlight to their living rooms and areas of POS between 9am and 3pm on the 21 June. All apartments have an outlook either facing Kembla Street or the landscaped area at the rear of the site, and windows to the northern boundary are obscured to ensure the highest level of privacy is maintained for future residents and existing residents of adjoining development. It is seen that the variation to the setbacks maintain a high level of amenity.

b) To achieve usable and pleasant streets and public domain areas in terms of wind mitigation and daylight access.

The inclusion of a commercial premises on the ground floor level creates an interactive and usable space for both future residents as well as the broader community. The proposal has been designed with high quality landscaping within the front setback to create an inviting sense of place for the Kembla Street frontage. The orientation of the development is towards Kembla Street which allows for passive surveillance and pleasant sightlines. Further, the proposal includes high quality finishes which will be visually interesting from any aspect, but particularly from any public domain.

(d) Demonstrate that the development will not have additional adverse impacts as a result of the variation.

Despite the non-compliance with the DCP control and the isolated nature of the site, the proposal has been designed to achieve a high-level of amenity for the proposed development through solar access, landscaping, and high-quality architecture which will compliment existing and future development within Kembla Street. Importantly, immediately to the south of the subject site is a laneway,

after which is a recently constructed commercial building. As such, the proposal would not be adversely impacting any sensitive amenity to its most potentially sensitive receiver, despite the non-compliance.

It is also worth noting that the proposal has received general support from the Design Review Panel, despite the non-compliance.”

Planner’s comment:

Where the non-compliances occur, in most places screening to side boundaries is proposed. This is provided either in the form of obscured glazing, highlight windows or, in the case of balconies, privacy screens fitted to prevent overlooking to the side boundaries. It is noted that the DRP were satisfied with the solutions proposed in this regard, as was Council’s architect.

The development will offer minimal opportunities for overlooking of the development to the north due to the privacy measures proposed. The northern neighbour is a 3 storey building and the roof sits below proposed Level 4. This building features minimal windows along its southern façade, so the potential privacy impacts of the reduced setbacks to the proposed building will not be significant or unreasonable.

In terms of the reduced setbacks to the southern side of the building, there are not expected to be unreasonably deleterious impacts arising from the laneway itself. The laneway is a low traffic, low speed environment and will not reduce the visual or acoustic privacy of the apartments unreasonably.

The neighbouring commercial building to the south of the site, on the southern side of the laneway, will overlook the proposed apartments. Most south-facing windows are to bedrooms which will be fitted with curtains or blinds. The laneway provides additional separation between the two buildings.

Planting is to be provided to the edges of the COS to provide some screening of this space from the adjoining boundaries. Due the to the height of the COS on the rooftop of the building, the COS will not be visible from public vantage points or from shorter adjoining buildings. The roof will assist in offering some screening to reduce overlooking from the taller nearby buildings including the commercial building to the south.

The variations are supported.

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>2.6 Mixed Use Buildings</u> <ul style="list-style-type: none"> • Provide flexible building layouts • In the B4 zone, the ground floor and first levels of a building shall incorporate a minimum 3 metre floor to ceiling height clearance, to maximise the flexibility in the future use of the building. • Separate commercial service requirements, such as loading docks, from residential access, servicing needs and primary outlook. • Locate clearly demarcated residential entries directly from the public street. • Clearly separate and distinguish commercial and residential entries and vertical circulation. • Provide security access controls to all entrances into private areas, including car parks and internal courtyards. • Provide safe pedestrian routes through the site, where required. • Front buildings onto major streets with active uses. • Avoid the use of blank building walls at the ground level. 	<ul style="list-style-type: none"> • 3.7m floor to floor height proposed for ground floor • Separate entries, servicing areas as required • Clearly distinguished pedestrian entries. • Security controls to be provided to residential areas • Safe pedestrian routes proposed • Active street frontage proposed to Kembla Street • Minimal blank walls at ground level to street frontage 	Yes
<u>2.7 Deep soil zone</u> Minimum 15% of the site (i.e. 98.4m ²) Minimum dimension 6m	DSZ is proposed adjacent to the eastern boundary at the rear of the building and immediately adjoining the English Oak tree. The area of the total DSZ is 53.1sqm (~8%) and the rear boundary area has a minimum dimension of 6m. While the area of the DSZ does not comply with the DCP, it does comply with 3E of the ADG.	No, but compliant with the ADG
<u>2.8 Landscape design</u>	Acceptable to Council's Landscape Architect.	Yes
<u>2.9 Green roofs, green walls and planting on structures</u>	A true deep soil area is provided at the rear, at the base of the English Oak tree. There are areas of planting on structure which has been reviewed by Council's Landscape Architect and were deemed satisfactory.	Yes
<u>2.10 Sun access planes</u>	N/A	N/A

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>2.11 Development on classified roads</u>	N/A	N/A

3 Pedestrian Amenity

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>3.2 Permeability</u>	N/A	N/A
<u>3.3 Active Street frontages</u> <ul style="list-style-type: none"> In mixed use development, active street fronts are encouraged in the form of non-residential uses on ground level. Active ground floor uses are to be at the same general level as the footpath and be accessible directly from the street For all non-residential ground floor frontages outside the streets shown in Figure 3.4, provide clear glazing where ever possible to promote passive surveillance and contribute to street activity. Restaurants, cafes and the like are to consider providing openable shop fronts. Residential developments are to provide a clear street address and direct pedestrian access off the primary street front, and allow for residents to overlook all surrounding streets. Provide multiple entrances for large developments including an entrance on each street frontage. 	<ul style="list-style-type: none"> Development provides a commercial space at ground floor to provide an active street frontage to Kembla Street Entry is at a similar level to the street and grades on the pedestrian entry comply with relevant standards and ensure satisfactory accessibility Commercial frontage will be faced in clear glazing as will the residential lobby Clear street address and direct pedestrian access off the primary street front proposed to the residential entry 	Yes
<u>3.4 Safety and security</u>	The development provides open front setbacks, with common and private areas delineated. Entry lobby and commercial spaces are both prominent and both these and upper level balconies will offer surveillance of the street and laneway.	Yes
<u>3.6 Vehicular footpath crossings</u>	Suitable driveway location proposed from the laneway.	Yes

<u>3.8 Building exteriors</u>	Generally, acceptable building materials and colours are proposed. Building design and aesthetic was considered acceptable to the DRP.	Yes
<u>3.10 Views and view corridors</u>	No significant impact on views expected	N/A

4 Access, parking and servicing

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>4.2 Pedestrian access and mobility</u>	The building entrances are readily legible. Direct and level pedestrian access is available from the street frontage into both the commercial space and the residential entry lobby.	Yes
<u>4.3 Vehicular driveways and manoeuvring areas</u>	Driveways, access and manoeuvring comply with relevant controls. It is noted that due to the narrow ramp width, a traffic light system is proposed which is outlined in the applicant's Traffic Generation & On-site Parking Assessment. This is acceptable to Council's Traffic Engineer.	Yes
<u>4.4 On-site parking</u> As per the requirements of Chapter E3.	Adequate parking for residential, commercial and visitor cars, along with motorcycle and bicycle parking is proposed.	Yes
<u>4.5 Site facilities and services</u>	The site is serviced by the major utilities and the proposal is not expected to require significant augmentation of these services. Proposed waste storage and collection arrangements are acceptable.	Yes

5 Environmental Management

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>5.2 Energy efficiency and conservation</u>	Energy efficiency and thermal comfort measures identified in the BASIX certificate are shown on the plans where required. Conditions will require compliance with the BASIX certificate.	Yes

<u>5.3 Water conservation</u>	Water conservation measures identified in the BASIX certificate are shown on the plans. A rainwater tank is proposed.	Yes
<u>5.4 Reflectivity</u>	Materials are not highly reflective.	Yes
<u>5.6 Waste and recycling</u>	Proposed waste management arrangements are satisfactory.	Yes

6 Residential Development Standards

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>6.2 Housing Choice & Mix</u> <ul style="list-style-type: none"> Maximum 10% of units are 1 bed or studios Maximum 10% of units are 3 or more beds Minimum 10% of units must be adaptable 	<p>7 apartments are proposed. Apartment mix is 6 x 3 bedrooms and 1 x 3 bedroom plus study.</p> <p>The applicant has sought a variation in respect of the unit mix requirements of the ADG and DCP as detailed above.</p> <p>1 adaptable apartment is proposed (Apartment 4.01).</p> <p>The applicant has advised that all other apartments are capable of compliance with the features of Silver level of Livable Housing Guidelines.</p>	No , variation sought

Applicant's variation request:

"The proposed development does not strictly meet the development controls stated within Section 6.2.2(b)(i) and (ii) due to a number of considerations associated with the site. Nonetheless, the proposal is considered to be consistent with the objectives of this section as stated within Section 6.2.1(a) – (d), and the non-compliance is therefore, considered to be acceptable. A detailed response to each objective is provided below.

a) Ensure that residential development provides a mix of dwelling types and sizes to cater for a range of household types.

The proposed mixed-use development provides seven (7) 3-bedroom dwellings which range in size and shape. Their varying size and shape directly satisfies the objective.

Although the proposed development does not provide an 'mix' of bedroom types it does not preclude other development in the area from providing a range of apartment types. Further to this, it is known that recent development within the immediate area provides a mix of dwelling types and sizes.

The site is narrow (i.e. 15.24m) and isolated within Kembla Street, located between recently completed development to both side and rear boundaries which presents limited development opportunity. The site's narrow width limits the design approach and, subsequently, the potential for a mix of dwellings. If the proposal had included a mix of dwellings, their amenity would likely have been extremely poor as the site is simply not large enough to allow for sufficient amenity within smaller dwellings.

The Design Review Panel (DRP) confirmed that the proposed mix was supportable in the case of the proposed development due to the site's unique circumstances. The DRP stated the following –

"Although the mix does not correspond with the Council's requirements, the Panel recognizes that as a small boutique development, it has little impact on local provision and is therefore able to be supported".

b) Ensure that dwelling layout is sufficiently flexible for residents' changing needs over time.

The proposal has been designed to provide larger dwelling types to cater for the evolving requirements for inner-city living. Households may wish to use all three (3) bedrooms as bedrooms or may convert one into a study to facilitate the on-going 'hybrid' working arrangements which have continued for many people post the Covid-19 pandemic.

Providing larger dwellings supports flexibility for the dwellings to adapt to the changing needs of residents over time. Specifically, it supports 2-child families which are increasingly residing in apartments due to their relative affordability, as well as 'downsizers'. Further to this, the layout of each apartment has been thoroughly considered to ensure privacy, sunlight access, and cross ventilation is available to every dwelling, providing a high level of amenity for all residents.

c) Ensure a sufficient proportion of dwellings include accessible layouts and universally designed features to accommodate changing requirements of residents.

The proposed development has been designed in compliance with the requirements of the *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* and the Apartment Design Guide (ADG) and provides one (1) adaptable dwelling out of the seven (7) proposed. All dwellings are of a sufficient size such that they could be converted for further adaptability requirements.

Further to the above, all dwellings, and areas of communal open space (COS) are accessible via a passenger lift. Access to the ground floor commercial unit and residential lobby has been designed to be accessed without stairs to ensure the mobility needs of all residents and visitors are considered. Residents can directly access the public street from the lift as there is an accessible pathway directly to the front boundary.

d) Ensure the provision of housing that will, in its adaptable features, meet the access and mobility needs of any occupant.

As stated above under point (c) the proposal provides an adaptable dwelling in accordance with the provisions of the *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* and the Apartment Design Guide (ADG). Specifically, the proposal already includes an accessible dwelling, whilst all dwellings are large enough to easily become accessible.

The proposal is considered to comply with the objectives of Section 6.2.1(a) – (d) of Chapter D13 of the Wollongong Development Control Plan 2009 as outlined above, despite not complying with the numerical requirements of the control. In this case, the proposal is considered to be acceptable in relation to this control.

Further consideration is given to Division 3.6, Section 3.42(1)(a) – (c) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) which identifies that the principal purpose of a development control plan is to provide guidance to facilitate permissible development and are not statutory requirements. Essentially, this clause provides that strict compliance with the DCP control is not necessary, particularly in the circumstance of the subject site where it is isolated and narrow."

Planner's comment:-

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<p>The applicant's justification for the variation to the unit mix requirements of the DCP are generally supported. The apartment types proposed are considered to be suitable for the location and as noted by the DRP, although the mix does not correspond with the Council's requirements, as a small 'boutique' development, it has little impact on local provision of a range of housing typologies and is, on this basis considered to be supportable. Further it is noted that the development provides for 1 adaptable apartment (Apartment 4.01) while all other apartments are capable of compliance with the Silver level of Livable Housing Guidelines. This offers flexibility within the apartment configuration proposed. The variation is supported.</p>		
<u>6.6 Basement Carparks</u>	Acceptable.	Yes
<u>6.7 Communal open space</u> Minimum 5m ² per dwelling	Provided in the form of a rooftop terrace; in compliance with area requirements.	Yes
<u>6.8 Private open space</u> <ul style="list-style-type: none"> Each unit to have POS Courtyards: minimum 25m² and minimum width 2m Balconies: minimum 12m² and minimum depth 2.4m Minimum 70% of units must receive at least 3hrs direct sunlight 9am-3pm June 21 	POS areas are provided in compliance with applicable controls.	Yes
<u>6.9 Overshadowing</u> Adjacent residential buildings and their public spaces must receive minimum 3 hours direct sunlight 9am-3pm on June 21	Shadow diagrams provided and are acceptable. Adjacent buildings will receive minimum 3 hours of direct sunlight.	Yes
<u>6.10 Solar access</u> Living rooms and POS of minimum 70% must receive at least 3 hours direct sunlight 9am-3pm.	Adequate solar access is provided. All units will receive more than 3 hours direct sunlight.	Yes
<u>6.11 Natural ventilation</u>	All apartments are naturally cross ventilated, exceeding requirements.	Yes
<u>6.12 Visual privacy</u>	Appropriate window placement and design, use of external screens and obscure glazing, landscape buffers and building setbacks will minimise direct overlooking of neighbouring properties and provide for appropriate internal visual privacy to the apartments. Refer to discussion above in regards to 3F of the ADG.	Yes
<u>6.13 Acoustic Privacy</u>	Acceptable acoustic privacy will be provided to each of the units.	Yes

<i>Objectives/controls</i>	<i>Comment</i>	<i>Compliance</i>
<u>6.14 Storage</u> 1 bed: 3m ² /3m ³ 2 bed: 4m ² /8m ³ 3 bed: 5m ² /10m ³	Adequate provision made both within units and within the car parking levels.	Yes

7 Planning controls for special areas

The site is not located within a special area.

8 Works in the public domain

Footpath paving and street tree planting is required.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposed development is generally acceptable with regard to CPTED matters. The building entries are clearly visible and secure access will be provided to the car park / basement and building entries. Fencing and landscaping will delineate shared and private spaces and the commercial space, residential entry lobby and balconies will offer casual surveillance of the public domain.

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

Traffic impact assessment and public transport studies

A traffic impact assessment was not required to be provided for the proposal. The DA was however accompanied by a Traffic Generation & On-Site Parking Assessment prepared by a consulting traffic engineer.

Parking demand and servicing requirements

The development requires parking at the following WDCP 2009 rates:

Residential flat building in city centre

1 space per dwelling 70-110sqm GFA x 3 = 3

1.25 spaces per dwelling >110sqm x 4 units = 5

plus 0.2 car parking spaces per dwelling for visitors = 1.4 [say 1 space *]

Office/ business/ retail premises in the city centre

1 space per 60sqm GFA = 1 space

Total 10 spaces required

+ 3 secure (Security Class B) residential bicycle spaces, a minimum of 1 secure (Security Class B) staff bicycle space and a minimum of 1 residential visitor bicycle space (Security Class C).

+ 1 motorcycle space

[* Council's Traffic Engineer has advised that the development results in a low car parking fraction for the required visitor parking (1.4 spaces required) which is closer to 1 space being required rather than 2. It is considered appropriate to accept 1 visitor car space, noting that the site is within a town centre area with ample timed parking and public transport options nearby.]

Vehicular access

Driveway grades and sight distances are satisfactory.

Loading / unloading facilities and service vehicle manoeuvring

On-street residential waste collection is acceptable in this location given the small number of units proposed. Commercial waste will be collected by private contractor.

Pedestrian access

Pedestrian access into and throughout the building is well resolved. Conditions will be applied, if consent is granted, requiring compliance with the BCA and applicable accessibility standards.

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

The basement and ground level car parking areas are satisfactory with regard to the principles of CPTED.

CHAPTER E6: LANDSCAPING

A satisfactory landscape plan has been provided, which incorporates adequate tree protection to ensure protection of the English Oak at the rear of the site. Council's Landscape Architect has no objection to the proposal, inclusive of the proposed tree removal. Street tree planting will be required.

CHAPTER E7: WASTE MANAGEMENT

A Site Waste Minimisation and Management Plan has been provided.

Suitable waste storage and servicing arrangements are proposed - kerbside collection of residential waste is proposed and is acceptable in this location and given the small number of units proposed. Commercial waste will be collected by private contractor.

Conditions should be imposed, if consent is granted, in relation to waste management during construction and ongoing waste management arrangements once the development is occupied.

CHAPTER E11: HERITAGE CONSERVATION

The site is not heritage listed nor is it located within a heritage conservation area. There are however numerous heritage items within the vicinity of the site including 'House' (#6387) opposite the site, Wollongong Primary School and Headmasters Residence (#5935) and the Market Street Heritage Conservation Area. An extract of the LEP heritage map is included within Attachment 2.

A Heritage Impact Statement was supplied with the application which deals with the impact of the development on these items. The report concludes that the proposal will not have an adverse impact on the significance of the nearby items. Council's heritage officers have reviewed the proposal and have advised that it is acceptable.

The application was also accompanied by an archaeological study of the subject site which assessed it as being of low archaeological potential. Irrespective of this, a condition requiring the implementation of an unexpected finds protocol is recommended for inclusion on any consent, along with the requirement for photographic recording of the existing building on the site prior to the commencement of demolition. The sandstone wall at the front and side boundary of the site is a significant historic feature and this is proposed to be retained and in part dismantled and reused in the landscape design. This is supported by the heritage officers.

CHAPTER E12: GEOTECHNICAL ASSESSMENT

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

CHAPTER E13: FLOODING MANAGEMENT

Council's Stormwater Engineer has reviewed the application with regard to the provisions of Chapter E13 of the DCP and has provided a satisfactory referral.

CHAPTER E14: STORMWATER MANAGEMENT

Stormwater can be suitably connected to Council's existing system. Council's Stormwater Engineer has provided a satisfactory referral in this regard.

CHAPTER E17: PRESERVATION AND MANAGEMENT OF TREES AND VEGETATION

Protection of the significant English Oak at the rear of the site has been addressed within the arborist report supplied with the application. No concerns have been raised in relation to the impact of the proposed development on the English Oak, subject to tree protection measures being employed during excavation and construction. Conditions of consent are recommended.

CHAPTER E21: DEMOLITION AND HAZARDOUS BUILDING MATERIALS MANAGEMENT

Demolition of the existing dwelling and ancillary structures is proposed. A demolition and site management plan has been provided. Conditions of consent are recommended relating to the requirement for a Hazardous Material Survey and in relation to the safe handling and disposal of hazardous materials including asbestos.

CHAPTER E22: SOIL EROSION AND SEDIMENT CONTROL

A sediment and erosion control plan will be required to be provided and employed prior to and during the construction.

Attachment 7 - DRAFT CONDITIONS FOR DA-2021/1375

Consent has been granted subject to the following conditions:

1. Approved Plans and Supporting Documentation

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

Plan No	Revision No	Plan Title	Drawn By	Dated
006	Y	Demolition Plan	Design Workshop Australia	10.05.2022
010	Y	Site Plan	Design Workshop Australia	10.05.2022
013	Y	Basement	Design Workshop Australia	10.05.2022
014	Z	Ground Floor	Design Workshop Australia	08.06.2022
015	Y	Level 1	Design Workshop Australia	10.05.2022
016	Y	Level 2	Design Workshop Australia	10.05.2022
017	Y	Level 3	Design Workshop Australia	10.05.2022
018	Y	Level 4	Design Workshop Australia	10.05.2022
019	Y	Level 5 Roof Terrace	Design Workshop Australia	10.05.2022
020	Y	Adaptable Floor Plans	Design Workshop Australia	10.05.2022
021	Y	Roof Plan	Design Workshop Australia	10.05.2022
031	Z	West Elevation	Design Workshop Australia	08.06.2022
032	Y	South Elevation	Design Workshop Australia	10.05.2022
033	Y	East Elevation	Design Workshop Australia	10.05.2022
034	Y	North Elevation	Design Workshop Australia	10.05.2022
040	Y	Sections (A-A)	Design Workshop Australia	10.05.2022
041	Y	Sections (B-B)	Design Workshop Australia	10.05.2022
042	Y	Detailed Sections	Design Workshop Australia	10.05.2022

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

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

General Conditions

2. Separate Consent for Retail Spaces

Unless otherwise exempt, separate development consent shall be obtained for the use of the commercial/retail spaces within the building.

3. Separate Consent Required for Advertising Signage

This consent does not authorise the erection of any advertising signage. Any such advertising signage will require separate Council approval, in the event that such signage is not exempt development.

4. Disability Discrimination Act 1992

This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS 1428.1:2009: Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons within the building.

5. Mailboxes

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

6. Separate Consent Required for Advertising Signage

This consent does not authorise the erection of any advertising signage. Any such advertising signage will require separate Council approval, in the event that such signage is not exempt development, under an Environmental Planning Instrument.

Any new application for advertising signage must be submitted to Council in accordance with Chapter C1 – Advertising and Signage Structure of Wollongong Development Control Plan 2009.

7. Maintenance of Access to Adjoining Properties

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

8. Tree Retention/Removal

The developer shall retain the existing tree indicated on the Landscape Concept by Site Image, Issue E, dated 23.03.22 and the Arboricultural Impact Assessment by Allied Tree Consultancy dated March 2022 consisting of Tree no. 2 located at the rear of the site.

Any branch pruning, which has been given approval, must be carried out by a qualified arborist in accordance with Australian Standard AS4373-2007.

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

All recommendations in the Arboricultural Impact Assessment by Allied Tree Consultancy dated March 2022 page no. 10 -14 are to be implemented including and not restricted to: remedial tree pruning, dead wood removal, fencing and signage, sediment buffer, stem protection, establishing tree protection zones and watering and root hormone application if required.

This consent permits the removal of Tree number 1 as indicated on the Aboricultural Impact Assessment by Assessment by Allied Tree Consultancy dated March 2022. No other trees shall be removed without prior written approval of Council.

9. Geotechnical Requirements

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

- a. All excavations need to be supported during and after construction particularly to protect adjoining property with nearby existing development.
- b. Retaining wall design is not to include anchors extending on to adjoining property without the written consent of the adjoining property owner.
- c. No disturbance of ground is to occur beyond site boundaries. A minimum buffer between site boundaries and the construction of retaining structures is to be recommended by the geotechnical consultant to ensure adjoining property is not adversely impacted upon by this development.
- d. An earthworks plan is to be developed by the geotechnical consultant prior to start of earthworks.
- e. All recommendations of Fortify Geotech in their geotechnical report dated 28 October 2021 are to be accommodated in the earthworks plan.
- f. Hard bedrock where encountered will be difficult to excavate. Alternative excavation methods should be considered to minimise noise and vibration.
- g. The earthworks plan may require modification considering any subsequent geotechnical reports commissioned to address unforeseen geotechnical conditions encountered during the site preparation works.
- h. Due to the sensitivity of the site to changing geotechnical conditions, all work must be undertaken with Level 1 geotechnical supervision as defined in Australian Standard AS3798 Guidelines for Earthworks for Commercial and Residential Developments.
- i. At the completion of site preparation earthworks, the geotechnical consultant is to prepare a works-as-executed report detailing encountered geotechnical conditions and how the remedial works addressed these conditions so that the residual geotechnical constraints can be accommodated within the structural designs for the dwelling. These structural designs are to be confirmed or amended by the structural engineer based on the works-as-executed geotechnical report.
- j. All excavations for foundations are to be inspected by the geotechnical consultant and certified that the ground has been suitably prepared for the placement of footings.

10. Occupation Certificate

An Occupation Certificate must be issued by the Principal Certifier prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifier must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

11. Construction Certificate

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

A Construction Certificate certifies that the provisions of Part 3 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

Note: The Certifier must cause notice of its determination to be given to the consent authority, and to the Council, by forwarding to it, within two (2) days after the date of the determination, the plans

and documentation referred to in Section 13 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

12. Development Contributions

In accordance with Section 4.17(1)(h) of the Environmental Planning and Assessment Act 1979 and the West Dapto Development Contributions Plan (2021), a monetary contribution of \$31,848.23 (subject to indexation) must be paid to Council towards the provision of public amenities and services, prior to the release of any associated Construction Certificate.

Infrastructure Category	Total Contribution
Transport	\$.00
Stormwater Management	\$.00
Administration	\$.00
Total Contribution	\$ 31,848.23

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

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

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

An invoice will be emailed to you within 3 business days and will include payment options. The contribution amount must be paid within 14 days of receiving the invoice.

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

Before the Issue of a Construction Certificate

13. Utilities and Services

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

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

14. Adaptable Units

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

15. Tree Protection Plan for Demolition of Structures Near Tree 2

The following conditions are required during the demolition stages for the zones of protection. The following protective measures must be indicated on a dedicated Tree Protection Plan within the demolition, architectural and engineering documentation to be submitted to the Principal Certifier prior to release of the Construction Certificate.

- a. The demolition process must remove all other site structures before removal of the surfaces (including the decomposed granite) that are within the TPZ (9.24m radius). These will be the final structures removed from the site.
- b. Machinery can be used for part of this removal, however, must always be retained to a hard surface (drive or slab). No machine should on any occasion work on a soil/lawn based surface within the area of the TPZ. The buckets employed must be gummy and not tine.
- c. Any surface that falls within the area of 4m radius from the girth of the tree must be removed via hand tools, e.g., Jackhammers, etc. removal of the remaining concrete must disturb as little area beneath the drive surface as possible. That is, the removal of this area should not carry any soil with it.
- d. If machinery is required to enter the TPZ where no hard surface exists, then ground protection methods are required to be employed. Any machinery used within this process must provide for a minimum height of 2500mm, and that sufficient clearance is offered beneath the branch structure and machine to avoid injury. No pruning can occur for access to machinery.
- e. After removal of the hard surfaces within the TPZ, vertical mulching of the area where the sealed surfaces covered is required. This will also employ a soil conditioner to be applied.

Soil Conditioner: A non-synthetic type is recommended such as 'Seasol,' 'Tri-Kelp' and applied as a diluted root drench via a hose applicator, appropriate to the manufacturer's recommendations. In addition to the soil drench, a surfactant (wetting agent) and carbohydrate treatment, will aid with the wetting and movement of water in the ground. The carbohydrate treatment includes the addition of 25-50gms of caster sugar per litre of water. These three ingredients can be combined and applied via a single application.

16. **Certification Stages for Arborist**

Assessment and documentation (report, letter, certification) by the project arborist or person responsible for the specific work type, and the related documentation is to be issued to the principal certifying agent. The Hold points as determined in the Arboricultural Impact Assessment by Allied Tree Consultancy dated March 2022, Section 7.5 are to be indicated on the architectural and engineering plans to be submitted to the Principal Certifier prior to release of the Construction Certificate.

17. **Street Trees City Centre**

The developer must address the street frontage by installing street tree planting. The number and species for this development two *Lophostemon confertus* 200 litre container size in accordance with AS 2303:2018 Tree stock for landscape use. Tree pit detailing is to be in accordance with the Wollongong City Council Public Domain Technical Manual. Dial Before You Dig must be consulted prior to any excavation on site. Pot holing must be carried out to determine service location. Location of street tree plantings to be sited to ensure no conflict occurs with street light poles.

Tree pits must be adequately mulched, plants installed and tree guard/staking/tree grille/edging installed to the satisfaction of WCC Manager of Works.

These requirements shall be reflected on the Construction Certificate plans and any supporting documentation.

18. **Dilapidation Survey**

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

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

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

Any damage to infrastructure items and relics which is caused by the developer shall be repaired to the satisfaction of the Principal Certifier prior to the issue of an Occupation Certificate.

19. Footpath Paving City Centre

The developer is responsible for the construction of footpath paving for the entire frontage of the development for the full width of the verge. The type of paving for this development shall be in accordance with the Wollongong City Council Public Domain Technical Manual.

A nominal two percent (2%) minimum one percent (1%), maximum two and a half percent (2.5%) cross fall to be provided from property line to back of kerb. Any changes of level, ramps or stairs and associated tactile markers and handrails are to be contained within the property boundary.

The driveway entry threshold from the property boundary line to the face of kerb is to match the footpath material and be designed to withstand predicted traffic loadings.

The driveway threshold finish within property boundary line is to contrast with driveway entry.

The footpath and driveway entry on the Council property must be installed to the satisfaction of WCC Manager of Works.

A Landscape Plan is to be submitted to Council for approval prior to the issue of the Construction Certificate showing proposed paving, footpath design levels, street tree details and location of all services.

20. Present Plans to Sydney Water

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

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

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

21. Landscaping

The submission of a final Landscape Plan will be required in accordance with the requirements of Wollongong City Council DCP 2009 Chapter E6 and the approved Landscape Plan (ie as part of this consent) for the approval by the Principal Certifier, prior to the release of the Construction Certificate.

22. Final Landscape Plan Requirements

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

- a. a schedule of proposed planting, including botanic name, common name, expected mature height and staking requirements as well as number of plants and pot sizes;
- b. the location of all proposed and existing overhead and underground service lines. The location of such service lines shall be clear of the dripline of existing and proposed trees;
- c. any proposed hard surface under the canopy of existing trees shall be permeable and comply with the requirements of the Aboricultural Impact Assessment by Assessment by Allied Tree Consultancy dated March 2022.

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

23. Landscape Maintenance Plan

The implementation of a landscape maintenance program in accordance with the approved Landscape Plan for a minimum period of 12 months to ensure that all landscape work becomes well established by regular maintenance. Details of the program must be submitted with the Landscape Plan to the Principal Certifier prior to release of the Construction Certificate.

24. Tree Protection and Management

The existing tree T2 is to be retained upon the subject property and shall not be impacted upon during the excavation or construction phases of the development. Details and location of protective measures must be indicated on the architectural and engineering plans to be submitted to the Principal Certifier prior to release of the Construction Certificate.

The following protection measures are required to be implemented before initiation of site works (including demolition/excavation) and retained until the landscaping works are required unless otherwise specified. The location of the protection measures is illustrated in the Arboricultural Impact Assessment by Allied Tree Consultancy dated March 2022, Section 8 Protection Specification, Plan 2, Appendix B, and examples of the protection measures are contained in Appendix C:-

- a. Installation of Ground Protection Ground protection is required to be located in accordance with Plan 2, Appendix B, and in regards to the requirements of the AS 4970, listed in Appendix C. This must be installed prior to the commencement of any demolition, excavation or construction works and shall be maintained throughout the entire construction phase of the development, and until landscaping works and installation of the drive/crossovers is required. The ground protection can be retained during construction and removed before installation of the steel engineered floor grates on the suspended car park.
- b. Installation of Tree Protection Fencing - protective fence is required to be installed to protect the portion of the TPZ from all site-related work and are recommended to be located in accordance with the requirements of the AS 4970, listed in Appendix C. The fence is required to be secured to the ground with pegs to avoid movement during construction. This must be installed prior to the commencement of any demolition, excavation or construction works and shall be maintained throughout the entire construction phase of the development, and until landscaping works and installation of the drive/crossovers is required.
- c. Mulch Tree Protection Zone: Areas within a Tree Protection Zone are to be mulched with minimum 75 mm thick 100% recycled hardwood chip/leaf litter mulch.

25. Council Footpath Reserve Works – Driveways and Crossings

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

All new driveway laybacks and driveway crossings must be designed in accordance with Wollongong City Council Standards. Any redundant linemarking such as 'marked parking bays' are adjusted/removed at the developer's expense by a Council recognised contractor with the relevant insurances. Details and locations are to be shown on the Construction Certificate Plans.

26. Protection of Basement Car Park

The basement car park shall be protected from inundation during a 1 % AEP flood, ensuring all vehicular access, doors and ventilation points are a minimum of 0.2 metres above the 1 % AEP flood level. Evidence that this requirement has been satisfied shall be submitted to the Principal Certifier prior to the issue of a Construction Certificate

27. Pump System

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

28. Car Parking and Access

The development shall make provision for a total of 10 car parking spaces (including 1 visitor car parking space on the ground floor, 1 residential car parking space capable of adaption for people with disabilities within the basement and 1 commercial car parking space on the ground floor), 1 motorcycle parking space, a minimum of 3 secure (Security Class B) residential bicycle spaces, a minimum of 1 secure (Security Class B) staff bicycle space and a minimum of 1 residential visitor bicycle space (Security Class C). This requirement shall be reflected on the Construction Certificate plans. Any change in above parking numbers shown on the approved DA plans shall be dealt with via a section 4.55 modification to the development. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.

29. Parking Dimensions

The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with the current relevant Australian Standard AS 2890.1, except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.

30. Bicycle Parking Facilities

Bicycle parking facilities must have adequate weather protection and provide the appropriate level of security as required by the current relevant Australian Standard AS 2890.3 - Bicycle Parking Facilities. This requirement shall be reflected on the Construction Certificate plans.

31. Vehicular Flow Signage

The provision of suitable barriers, line-marking and painted signage delineating vehicular flow movements within the car parking areas. These details shall be reflected on the Construction Certificate plans.

32. Car Parking and Traffic Management Report to include Design and Certification of Car Park Traffic Signals

The applicant shall provide car park traffic signals within the basement car park to manage conflicts near the entrance to all basement ramps and within parking aisles where two-way vehicle travel cannot be achieved. The operation and management of the traffic signals shall be detailed in a Car Parking and Traffic Management Report. The report shall outline how the proposed signals system will be maintained and managed by the appropriate Body Corporate. The responsibilities of the Body Corporate in relation to the required upkeep and maintenance of the signals shall be detailed and referenced in the Car Parking and Traffic Management Report. The satisfactory operation of the signals is to be certified by an experienced and qualified Traffic Engineer and provided generally in accordance with the Traffic Generation and On-site parking Assessment prepared by ATB Consulting Engineers Pty Ltd, dated 10 November 2021, Issue A. These details shall be demonstrated prior to the issue of the Construction Certificate.

33. Glass Reflectivity Index

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

34. External Finishes

The building shall be constructed and finished in accordance with the approved schedule of finishing materials and colours except where amended by conditions of this consent. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

35. Utility Services

Should a proposed Vehicular Crossing be located where it is likely to disturb or impact upon a utility installation (ie power pole, Telstra pit etc) written confirmation from the affected supplier that they have agreed to the proposed impacts shall be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

36. Utility Services

The arrangements and costs associated with any adjustment to a public utility service shall be borne by the applicant/developer. Any adjustment, deletion and/or creation of public utility easements associated with the approved works are the responsibility of the applicant/developer. The submission of documentary evidence to the Principal Certifier which confirms that satisfactory arrangements have been put in place regarding any adjustment to such services is required prior to the release of the Construction Certificate.

37. Pedestrian Entries

Pedestrian access ways, entry paths, arcades and lobbies must be constructed with durable materials commensurate with the standard of the adjoining public domain with appropriate slip resistant materials, tactile surfaces and contrasting colours.

38. Finish of Vehicular Entries

Vehicular entries are to have high quality finishes to walls and ceilings as well as high standard detailing. No ducts or pipes are to be visible from the street.

39. Placement of Air Conditioning Units

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

40. Integration of Rooftop Structures in Approved Building Envelope

All rooftop or exposed structures including lift rooms, plant rooms together with air conditioning units, ventilation and exhaust systems are to be integrated within the approved rooftop envelope. This requirement shall be reflected on the Construction Certificate plans.

41. Mechanical Ventilation of the Car Park

The car park shall be mechanically ventilated, to be ducted to the roof. Details demonstrating compliance shall be provided with the Construction Certificate.

42. Permeable Garage Shutter

Any shutters provided within the basement car parks shall be permeable so as to improve basement ventilation, as per the requirements of 3J-4 of the Apartment Design Guide.

43. External Lighting

Any lighting of external areas within the development such as the communal open space areas, driveways and car parking entries, shall be designed and located in a manner to prevent light spill and/or glare impacts on neighbouring properties. Light placement and design shall be indicated on the Construction Certificate drawings.

44. Compliance with the Recommendations of the Acoustic Report

The recommendations for noise attenuation outlined in the BCA Acoustical Review and Noise Assessment (reference 2109005B-R) prepared by Harwood Acoustics dated 4 November 2021 shall be implemented. Details demonstrating compliance shall be provided on the drawings submitted with the Construction Certificate.

45. Depth and Location of Services

The depth and location of all services (ie gas, water, sewer, electricity, telephone, traffic lights, etc) must be ascertained and reflected on the Construction Certificate plans and supporting documentation.

46. Details of Proposed Pit and Pipeline

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

47. Certification for Landscape and Drainage

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

48. Engineering Plans and Specifications - Retaining Wall Structures Greater than One (1) Metre

The submission of engineering plans and supporting documentation of all proposed retaining walls greater than one (1) metre to the Principal Certifier for approval prior to the issue of the Construction Certificate. The retaining walls shall be designed by a suitably qualified and experienced civil and/or structural engineer. The required engineering plans and supporting documentation shall include the following:

- a. A plan of the wall showing location and proximity to property boundaries;

- b. An elevation of the wall showing ground levels, maximum height of the wall, materials to be used and details of the footing design and longitudinal steps that may be required along the length of the wall;
- c. Details of fencing or handrails to be erected on top of the wall;
- d. Sections of the wall showing wall and footing design, property boundaries, subsoil drainage and backfill material. Sections shall be provided at sufficient intervals to determine the impact of the wall on existing ground levels. The developer shall note that the retaining wall, subsoil drainage and footing structure must be contained wholly within the subject property;
- e. The proposed method of subsurface and surface drainage, including water disposal. This is to include subsoil drainage connections to an inter-allotment drainage line or junction pit that discharges to the appropriate receiving system;
- f. The assumed loading used by the engineer for the wall design.
- g. Flows from adjoining properties shall be accepted and catered for within the site. Finished ground and top of retaining wall levels on the boundary shall be no higher than the existing upslope adjacent ground levels.

49. Sizing of Drainage

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

50. Stormwater Drainage Design

A detailed drainage design for the development must be submitted to and approved by the Principal Certifier prior to the release of the Construction Certificate. The detailed drainage design must satisfy the following requirements:

- a. Be prepared by a suitably qualified Civil Engineer in accordance with Chapter E14 of Wollongong City Council's Development Control Plan 2009, Subdivision Policy, conditions listed under this consent, and generally in accordance with the concept stormwater plan/s lodged for development approval, prepared by ATB Consulting, Project No. 21078, Drawing No. SW3, issue C dated 07/06/22.
- b. Include details of the method of stormwater disposal. Stormwater from the development must be piped to Council's existing stormwater drainage system.
- c. Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified engineer and be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties. The plan must indicate the method of disposal of all stormwater and must include rainwater tanks, existing ground levels, finished surface levels on all paved areas, estimated flow rates, invert levels and sizes of all pipelines.
- d. Overflow paths shall be provided to allow for flows of water in excess of the capacity of the pipe/drainage system draining the land, as well as from any detention storage on the land. Blocked pipe situations with 1 in 100 year ARI events shall be incorporated in the design. Overflow paths shall also be provided in low points and depressions. Each overflow path shall be designed to ensure no entry of surface water flows into any building and no concentration of surface water flows onto any adjoining property. Details of each overflow path shall be shown on the detailed drainage design.

51. Flood Level Requirements

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

- a. Habitable floor levels must be constructed at a minimum of RL 16.55 metres AHD.

- b. Any portion of the building or structure below RL 16.75 metres AHD should be built from flood compatible materials. Where materials are proposed and not listed in Appendix B of Chapter E13 of the Wollongong DCP 2009, relevant documentation from the manufacturer shall be provided demonstrating that the materials satisfy the definition of 'flood compatible materials' as stated in Chapter E13 of the Wollongong DCP 2009.
- c. The proposed building shall be designed to withstand the forces of floodwater, debris and buoyancy up to and including the Probable Maximum Flood (PMF) level plus 0.5 metres freeboard.

52. On-Site Stormwater Detention (OSD) Design

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

- a. Must be prepared by a suitable qualified engineer in accordance with Chapter E14 of the Wollongong DCP 2009.
- b. Must include details of the Site Storage Requirement (SSR) and Permissible Site Discharge (PSD) values for the site, designed to ensure post development peak stormwater discharge rates to Council's existing stormwater drainage system in Kembla Street will not exceed the pre-development values.
- c. The OSD facility must be designed to withstand the maximum loadings occurring from any combination of traffic (with consideration to residential and heavy vehicles), hydrostatic, earth, and buoyancy forces. Details must be provided demonstrating these requirements have been achieved.
- d. The OSD facility shall incorporate a minimum 900mm x 900mm square lockable grate for access and maintenance purposes, provision for safety, debris control screen, and a suitably graded invert to the outlet to prevent ponding.
- e. Must include discharge control calculations (i.e. orifice/weir calculations) generally in accordance with Section 10.2.6 and 10.4.4 of Chapter E14 of the Wollongong DCP 2009.
- f. Details of the orifice plate including diameter of orifice and method of fixing shall be provided.
- g. Must include details of a corrosion resistant identification plaque for location on or close to the OSD facility. The plaque shall include the following information and shall be installed prior to the issue of the Occupation Certificate:
 - i. The structure is an OSD facility, being part of the stormwater drainage network, and is not to be tampered with.
 - ii. Identification number [DA-2021/1375].
 - iii. Any specialist maintenance requirements.
- h. Must include a maintenance schedule for the OSD system, generally in accordance with Chapter E14 of the Wollongong DCP 2009.

53. No Adverse Runoff Impacts on Adjoining Properties

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

Before the Commencement of Building Work

54. Works in Road Reserve - Major Works

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

The application form for Works within the Road Reserve – Section 138 Roads Act can be found on Council's website. The form outlines the requirements to be submitted with the application, to

give approval to commence works under the Roads Act. It is advised that all applications are submitted and fees paid, five (5) days prior to the works within the road reserve are intended to commence. An application must be submitted must be obtained from Wollongong City Council's Development Engineering Team prior to any works commencing where it is proposed to carry out activities such as, but not limited to, the following:

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

Restoration must be in accordance with the following requirements:

- a. All restorations are at the cost of the Applicant and must be undertaken in accordance with Council's standard document, "Specification for work within Council's Road Reserve".
- b. Any existing damage within the immediate work area or caused as a result of the work/occupation, must also be restored with the final works.

55. Works in Road Reserve - Minor Works

Approval, under Section 138 of the Roads Act must be obtained from Wollongong City Council's Development Engineering Team prior to any works commencing or any proposed interruption to pedestrian and/or vehicular traffic within the road reserve caused by the construction of this development.

The application form for Works within the Road Reserve – Section 138 Roads Act can be found on Council's website. The form outlines the requirements to be submitted with the application, to give approval to commence works under the Roads Act. It is advised that all applications are submitted and fees paid, five (5) days prior to the works within the road reserve are intended to commence. The Applicant is responsible for the restoration of all Council assets within the road reserve which are impacted by the works/occupation. Restoration must be in accordance with the following requirements:

- a. All restorations are at the cost of the Applicant and must be undertaken in accordance with Council's standard document, "Specification for work within Council's road reserve".
- b. Any existing damage within the immediate work area or caused as a result of the work/occupation, must also be restored with the final works.

56. Support for Neighbouring Buildings/Structures

This consent requires the preservation and protection of neighbouring buildings/structures from any damage and if necessary, requires the underpinning and support of any neighbouring building/structure in an approved manner. The applicant or the contractor carrying out the work must at least seven days in advance of any excavation works below the level of the base of the footings of a building/structure on an adjoining allotment, including a public road or place, give written notice of intention to carry out such works to the property owner of the affected adjoining building/structure and furnish specific written details and supporting plans or other documentation of the proposed work.

The adjoining property owner of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

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

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

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

59. Hazardous Material Survey

At least one (1) week prior to demolition, the applicant must prepare a hazardous materials survey of the site and submit to Council a report of the results of the survey. Hazardous materials includes, but are not limited to, asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint. The report must include at least the following information:

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

60. Asbestos Hazard Management Strategy

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

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

61. Waste Management

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

62. Tree Protection and Management

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

- a. installation of Tree Protection Fencing - protective fencing shall be 1.8m cyclone chainmesh fence, with posts and portable concrete footings;
- b. installation of Tree Protection Fencing - a one (1) metre high exclusion fence must be installed around the extremity of the dripline of the tree/trees to be retained prior to any site works commencing. The minimum acceptable standard is a 3 strand wire fence with star pickets at 1.8m centres. This fence must be maintained throughout the period of construction to prevent any access within the tree protection area;
- c. mulch Tree Protection Zone: areas within a Tree Protection Zone are to be mulched with minimum 75mm thick 100% recycled hardwood chip/leaf litter mulch;
- d. irrigate: areas within the Tree Protection Zone are to be regularly watered in accordance with the Arborist's recommendations.

The tree protection fencing shall be installed prior to the commencement of any demolition, excavation or construction works and shall be maintained throughout the entire construction phases of the development.

63. Dilapidation Report

The developer shall submit a Dilapidation Report recording the condition of the existing streetscape, street trees and adjoining reserve prior to work commencing and include a detailed description of elements and photographic record.

64. Appointment of Principal Certifier

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

- a. appoint a Principal Certifier and notify Council in writing of the appointment irrespective of whether Council or a Registered Certifier is appointed; and
- b. notify Council in writing of their intention to commence work (at least two [2] days notice is required).

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

65. Signs On Site

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

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

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

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

66. Temporary Toilet/Closet Facilities

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

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

- iii. an approved chemical closet.

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

67. Tree Protection

Prior to commencement of any work on the site, including any demolition, all trees not approved for removal as part of this consent that may be subjected to impacts of this approved development must be protected in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970:2009).

Tree Protection Zones must be established prior to the commencement of any work associated with this approved development.

No excavation, construction activity, grade changes, storage of materials stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones.

68. Demolition Works

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

No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the Principal Certifier. In the event that the demolition works may involve the obstruction of any road reserve/footpath or other Council owned land, a separate application shall be made to Council to enclose the public place with a hoarding or fence over the footpath or other Council owned land.

69. Structural Engineer's Details

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

70. Enclosure of the Site

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

71. Temporary Sediment Fences

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

72. Demolition Notification to Surrounding Residents

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

73. Consultation with SafeWork NSW - Prior to Asbestos Removal

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

74. Contaminated Roof Dust

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

75. Heritage - Photographic Recording

Prior to the commencement of works the existing building condition is to be documented through a photographic recording prepared in accordance with the NSW Heritage Branch Guidelines. A copy of the recording is to be provided to Council's Heritage Staff for written approval prior to the

commencement of works. A hard copy of the final recording is to be provided to Wollongong City Council for inclusion in the local studies collection of the Wollongong City Library.

76. Heritage – Unexpected Discovery of Historical Relics

Relics are protected in NSW under the Heritage Act 1977. Relics cannot be disturbed except with a permit or exception/exemption notification. Should unanticipated relics not skeletal in nature be discovered during the course of the project, work in the vicinity must cease and an archaeologist contacted to make a preliminary assessment of the find. The Heritage Council will require notification if the find is assessed as a relic.

77. Heritage - Sandstone Wall

The existing dry sandstone wall shall be retained in-situ where possible in its original height and form. Parts of the wall may be dismantled and reconstructed as required as per the details set out on Drawing No.2345-042-Y prepared by DWA dated 10.05.2022.

In the event that blocks have to be temporarily removed due to construction requirements the blocks shall be retained and securely stored on site.

78. Construction Environmental Management Plan

- Submit a construction environmental management to Principal Certifier, the plan shall implement all the recommendations of DSI and HAZMAT reports prepared by Reditus Consulting dated 29 Oct 2021 and to address as minimum the vehicle traffic, odour and vapour, dust, plant and machinery noise, water and sediment management, surface water, subsurface seepage and accumulated excavation water, sediment from equipment and cleaning operations, site security, working hours, contact information, incident response and contingency management.
- Submit an excavated soil material disposal plan to Principal Certifier, with the batching, sampling and analysis procedures as per the DECCW (2009) Waste Classification Guidelines. The plan shall be prepared by a suitably qualified and experienced consultant. A copy of the plan shall be forwarded to Council.

79. All-weather Access

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

While Building Work is Being Carried Out

80. Cut and Fill Retained

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

81. Implementation of BASIX Commitments

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

82. Compliance with the Building Code of Australia

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

83. Responsibility for Changes to Public Infrastructure

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

84. Excavation/Filling/Retaining Wall Structures

Any proposed filling on the site must not:

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

85. Provision of Waste Receptacle

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

86. Hours of Work

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

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

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

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

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

Any request to vary the approved hours shall be submitted to the Council in writing detailing:

- a. The variation in hours required (length of duration);
- b. the reason for that variation (scope of works;
- c. the type of work and machinery to be used;
- d. method of neighbour notification;
- e. supervisor contact number; and
- f. any proposed measures required to mitigate the impacts of the works.

Note: The developer is advised that other legislation may control the activities for which Council has granted consent, including but not limited to, the *Protection of the Environment Operations Act 1997*.

87. Asbestos - Removal, Handling and Disposal Measures/Requirements Asbestos Removal by a Licensed Asbestos Removalist

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

88. Asbestos Waste Collection, Transportation and Disposal

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

89. Shoring and Adequacy of Adjoining Property

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense -

- a. Protect and support the building, structure or work from possible damage from the excavation, and
- b. Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

90. Protection of Public Places

If the work involved in the erection or demolition of a building involves the enclosure of a public place or is likely to cause pedestrian/vehicular traffic in a public place to be obstructed or rendered inconvenient, or have the potential for conflict between pedestrians and vehicles:

- a. A hoarding or fence must be erected between the work site and the public place;
- b. an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place;
- c. the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in a public place;
- d. safe pedestrian access must be maintained at all times;
- e. any such hoarding, fence or awning is to be removed when the work has been completed.

91. Copy of Consent in the Possession of Person carrying out Tree Removal

The Developer/Applicant must ensure that any person carrying out tree removal is in possession of this development consent and/or the approved landscape plan, in respect to the tree(s) which has/have been given approval to be removed in accordance with this consent.

92. Lighting not to cause Nuisance

The lighting of the premises must be directed so as not to cause nuisance to the owners or occupiers of adjoining premises or to motorists on adjoining or nearby roads.

93. Spillage of Material

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

94. Dust Suppression Measures

Activities occurring during the construction phase of the development must be carried out in a manner that will minimise the generation of dust.

95. Excavation Protection and Notification

If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on adjoining allotment of land, the person causing the excavation to be made:

- a. Must preserve and protect the adjoining building from damage; and
- b. if necessary, must underpin and support the building in an approved manner; and
- c. must, at least seven (7) days before excavation below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation.

96. Safe Excavations and Backfilling

All excavations and backfilling associated with the erection of a building must be executed safely and in accordance with appropriate professional standards.

97. Guarding of Excavations and Backfilling

All excavations and backfilling associated with the erection of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

98. Building Site to be Kept Free of Rubbish

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

99. Excess Excavated Material - Disposal

Excess excavated material shall be classified according to the NSW Environment Protection Authority's Waste Classification Guidelines – Part 1: Classifying Waste (2014) prior to being

transported from the site and shall be disposed of only at a location that may lawfully receive that waste.

100. Provision of Taps/Irrigation System

The provision of common taps and/or an irrigation system is required to guarantee that all landscape works are adequately watered. The location of common taps and/or irrigation system must be implemented in accordance with the approved Landscape Plan.

101. Podium Planting

All podium planting areas are to have a waterproofing membrane that can provide a minimum 10 year warranty on product. Protective boarding is to be installed to protect membrane from damage.

All podium planting areas to be provided with an adequate drainage system connected to the stormwater drainage system. The planter box is to be backfilled with free draining planter box soil mix.

If selected mulch is decorative pebbles/gravel, the maximum gravel pebble size is 10mm diameter.

102. Restricted Work Hours of Operation

The developer must not carry out any work (other than emergency procedures to control dust or sediment laden runoff) outside the normal working hours, namely 7.00 am to 5.00 pm Monday to Friday and 7.00 am to 1.00 pm Saturday, without the prior written consent of the Principal Certifier. No work is permitted on Sundays or Public Holidays.

Any request to vary these hours shall be submitted to the Principal Certifier in writing, detailing:

- a. the variation in hours required;
- b. the reason for that variation; and
- c. the type of work and machinery to be used.

Note: The developer is advised that other legislation may control the activities for which Council has granted consent including but not limited to the Protection of the Environment Operations Act 1997. Developers must note that consistent with the NSW Environment Protection Authority's Interim Construction Noise Guideline (July, 2009), the noise from construction (LAeq (15 min)) must not exceed the background noise level (LA90 (15 min)) plus 10 dB(A), and a LAeq (15 min) of 75 dB(A) when measured at the residential property boundary that is most exposed to construction noise, and at a height of 1.5 metres above ground level. If the property boundary is more than 30 metres from the residence, the location for measuring noise levels is at the most noise-affected point within 30 metres of the residence.

103. Supervision of Engineering Works

All engineering works associated with the development are to be carried out under the supervision of a practicing engineer.

104. Pipe Connections

All pipe connections to existing stormwater drainage systems within the road reserve shall be constructed flush with the pit wall in accordance with good engineering practice. The developer shall ensure that the condition of the existing stormwater drainage system is not compromised and that the service life of the existing stormwater drainage system is not reduced as a result of the connection.

105. Acoustic Report Recommendations

The recommendations contained within Section 4 of the BCA Acoustical Review and Noise Assessment prepared by Harwood Acoustics, reference 2109005B-R, dated 4 November 2021, shall be implemented. Details demonstrating compliance shall be provided with the Construction Certificate.

106. Survey Report for Floor Levels

A Survey Report must be submitted to the Principal Certifier verifying that each floor level accords with the floor levels as per the approved plans under this consent. The survey shall be undertaken after the formwork has been completed and prior to the pouring of concrete for each respective

level of the building (if the building involves more than one level). All levels shall relate to Australian Height Datum.

107. Piping of Stormwater to Existing Stormwater Drainage System

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

108. No Adverse Run-off Impacts on Adjoining Properties

The design and construction of the development shall ensure there are no adverse effects to adjoining properties, as a result of flood or stormwater run-off. Attention must be paid to ensure adequate protection for buildings against the ingress of surface run-off.

Allowance must be made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other property.

109. Flood Compatible Materials - Electrical

All power service (metering) equipment, power outlets, switches etc. shall be located above RL 16.75 metres AHD. All electrical wiring installed below this level should be suitable for continuous underwater immersion and should contain no fibrous components. Earth leakage circuit breakers shall also be installed. Any equipment installed below or partially below RL 16.75 metres AHD should be capable of disconnection by a single plug and socket assembly.

Before the Issue of an Occupation Certificate

110. Drainage

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

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

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

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

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

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

112. Retaining Wall Certification

The submission of a certificate from a suitably qualified and experienced structural engineer or civil engineer to the Principal Certifier is required, prior to the issue of the Occupation Certificate or commencement of the use. This certification is required to verify the structural adequacy of the retaining walls and that the retaining walls have been constructed in accordance with plans approved by the Principal Certifier.

113. Positive Covenant - On-Site Detention Maintenance Schedule

A positive covenant shall be created under the Conveyancing Act 1919, requiring the property owner(s) to undertake maintenance in accordance with the Construction Certificate approved On-Site Detention System and Maintenance Schedule (DA-2021/1375).

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

114. On-Site Detention - Structural Certification

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

115. Structural Soundness Certification

The submission of a report from a suitably qualified and experienced structural engineer to the Principal Certifier is required, prior to the issue of the Occupation Certificate and commencement of use. This report is required to verify that the building can withstand the forces of floodwater, debris and buoyancy up to and including the Probable Maximum Flood (PMF) level plus 0.5 metres freeboard.

116. Installation of Car Park Traffic Signals

The proposed Car Park Signals must be installed as per the recommendations of the Car Parking and Traffic Management Report and generally in accordance with the Traffic Generation and On-site parking Assessment prepared by ATB Consulting Engineers Pty Ltd, dated 10 November 2021, Issue A. Details of such compliance are to be demonstrated prior to issue of Occupation Certificate.

117. Drainage WAE

The developer shall obtain written verification from a suitably qualified civil engineer, stating that all stormwater drainage and related work has been constructed in accordance with the approved Construction Certificate plans. In addition, full works-as-executed plans, prepared and signed by a Registered Surveyor shall be submitted. These plans shall include levels and location for all drainage structures and works, buildings (including floor levels), and finished ground and pavement surface levels. This information shall be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

118. Completion of Landscape Works on Council Owned or Controlled Land

The Developer must complete all landscape works required within Council's road reserve, or other Council owned or controlled land, in accordance with the conditions of this consent. The total cost of all such landscape works shall be fully borne by the Developer and any damage to Council's assets shall be the subject of restoration works sufficient to restore the asset to its previous state and configuration previous to the commencement of works. Evidence that this requirement has been met must be satisfied prior to the issue of the Occupation Certificate.

119. Arborist Verification – Street Tree Installation

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

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

120. Mailboxes and Street Numbering

The developer must install mailboxes in accordance with Australia Post Guidelines and Clause 4.5.2 of Chapter D13 of Wollongong Development Control Plan 2009. The mailboxes must be provided in one accessible location adjacent to the main entrance to the development, integrated into a wall if possible and constructed of materials consistent with the appearance of the building. Letterboxes shall be secure and large enough to accommodate articles such as newspapers, parcels and the like. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet. The developer must install minimum two (2 No.)

reflective paint house number on face of kerb along street frontage of the property to assist emergency services/deliveries/visitors.

121. Occupation Certificate

An Occupation Certificate must be issued by the Principal Certifier prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifier must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

122. Compensatory Planting

The developer must make compensatory provision for the trees required to be removed as a result of the development. In this regard, two (2) 100 litre container mature plant stock shall be placed within the property boundary of the site.

123. BASIX

An Occupation Certificate must not be issued unless accompanied by the BASIX Certificate applicable to the development. The Principal Certifier must not issue the final Occupation Certificate unless satisfied that selected commitments have been complied with as specified in the relevant BASIX Certificate.

NOTE: Clause 154B of the Environmental Planning and Assessment Regulation 2000 provides for independent verification of compliance in relation to certain BASIX commitments.

124. Repair of Infrastructure

Before the issue of an Occupation Certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

Note: If the Council is not satisfied, the applicant is responsible for any payments required for rectification works.

125. Completion of Landscape and Tree Works

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

Occupation and Ongoing Use

126. Waste Bins

Garbage and recycling bins shall be moved to the kerbside for collection no earlier than 4pm on the day before collection day and shall be returned to the waste storage area as soon as possible after collection.

127. Storage of Waste Bins and Waste

All waste and bins associated with the development shall be stored within the waste storage rooms at all times. No waste shall be allowed to accumulate or shall be stored on or adjacent to the street frontage of the site at any time.

128. Street Tree Establishment Period

The Developer must comply with the terms of an approved landscape maintenance program for a minimum period of 12 months to ensure that all landscape works within Council's road reserve or Council owned or controlled land becomes well established by regular maintenance. The Street Tree Establishment Period shall commence from the issue of the Occupation Certificate.

The program must include the following elements: watering, weeding, litter removal, mulching, fertilising, tree guard and grate maintenance, and pest and disease control.

Details of the proposed program must be submitted with the Landscape Plan to the Principal Certifier for approval prior to release of the Construction Certificate.

129. Graffiti Removal

Any graffiti shall be removed immediately from the exterior of the building or any associated structures including any fences, site services and retaining/planter bed walls.

130. Strata Plan Requirements

Should a Strata Plan be prepared for this development in the future, the following matters must be addressed:

- a. Garbage and recycling rooms must be contained within the common area;
- b. Motorbike and bicycle storage areas and visitor car parking must be contained within the common area; and
- c. Appropriate allocation of carparking and storage areas to the dwellings.

131. Clothes Drying on Balconies/Terrace Areas Prohibited

The use of the balconies/terrace areas for the external drying of clothes is strictly prohibited.

132. Residential Storage

Each residential unit shall be allocated storage within the residential storage area provided within the building. The residential storage area shall be appropriately secured and fitted with CCTV surveillance. This requirement shall be reflected on the Construction Certificate plans.

133. Maintenance of Traffic Signals

The traffic signals within the car parking levels must be maintained in a good state of repair and operational at all times. In the event a future strata or stratum subdivision is contemplated, the maintenance schedule for the strata/ stratum plan should include ongoing maintenance of the lights.

Reasons

The reasons for the imposition of the conditions are:

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