

**NSLPP MEETING HELD ON 07/09/2022****Attachments:**

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Height of Buildings
4. Design Excellence Panel Minutes

ADDRESS/WARD: 9 Undercliff Street, Neutral Bay**APPLICATION No:** DA430/2021

PROPOSAL: Demolition of an existing residential flat building and construction of a four storey residential flat building containing three apartments over basement parking for six cars, and associated works and landscaping.

PLANS REF:

Plan No.	Issue	Description	Prepared by	Dated	
DA04	C	Level 1 Plant	Corben Architects	22 August 2022	
DA05	C	Level 2 Plans		25 August 2022	
DA06	B	Level 3 Plan		3 June 2022	
DA07	B	Level 4 Plan		3 June 2022	
DA08	B	Level 5 Plan		3 June 2022	
DA09	B	Roof Plan		3 June 2022	
DA10	B	Southwest Elevation		3 June 2022	
DA11	B	Northwest Elevation		3 June 2022	
DA12	B	Northeast Elevation		3 June 2022	
DA13	B	Southeast Elevation		3 June 2022	
DA14	B	Section AA		3 June 2022	
DA15	C	Section BB & CC		25 August 2022	
D100	A	Landscape Plans		Sticks and Stones	20 May 2022
D101	A	Planting Plan			20 May 2022

OWNER: HJ Three Pty Limited**APPLICANT:** HJ Three Pty Limited**AUTHOR:** Michael Stephens, Senior Assessment Officer**DATE OF REPORT:** 29 August 2022**DATE LODGED:** 10 December 2021**AMENDED:** 25 June 2022**SUBMISSIONS:** Twenty-five (25)**RECOMMENDATION:** Approval

EXECUTIVE SUMMARY

This development application seeks consent for the demolition of an existing residential flat building and construction of a four storey residential flat building containing three apartments over basement parking for six cars, and associated works and landscaping on land at No. 9 Undercliff Street, Neutral Bay.

The application is reported to the North Sydney Local Planning Panel for determination as the application seeks a variation to a development standard by more than 10% and has attracted more than 10 submission by way of objection. In accordance with the Ministers direction of 1 August 2020, a public determination meeting is required because there were more than 10 submissions.

Development for the purpose of a residential flat building is permitted within the R4 High Density Residential zone. SEPP 65 – (Design Quality of Residential Apartment Development) does not apply as the proposed building contains less than four apartments.

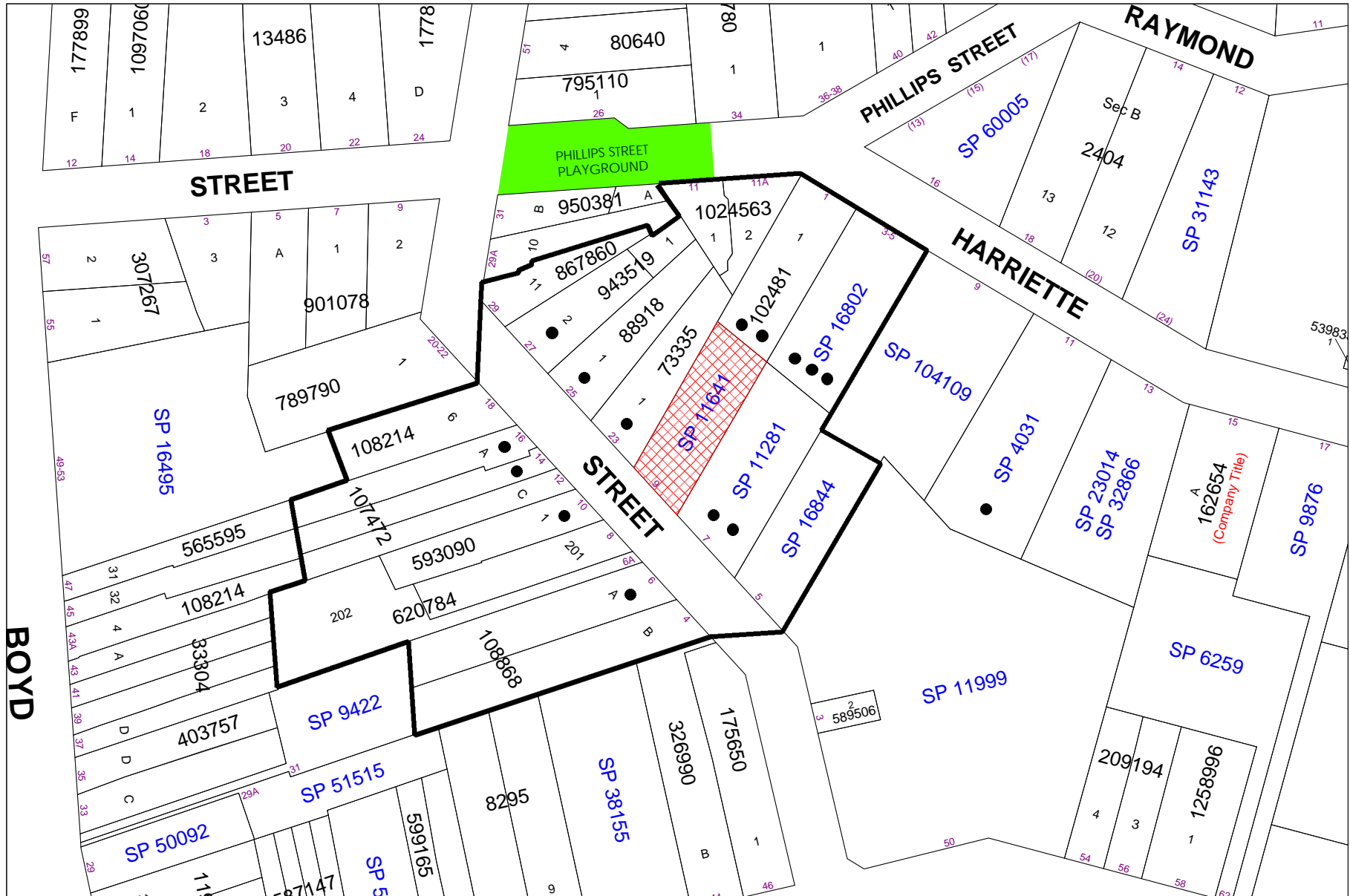
The proposed building results in a non-compliance with the height of buildings development standard in clause 4.3 of NSLEP 2013 by up to 4.08m or 33.6%. The extent of the variations relates primarily to the southern end of the upper level roof form, where the proposed floorplate overlaps the existing excavated basement parking areas, and a portion of a roof awning, and is reflective of the irregular steeply sloping topography of the site. The written request submitted pursuant to clause 4.6 in NSLEP 2013 demonstrates that compliance with the development standard is unreasonable and unnecessary as the objectives of the standard are achieved notwithstanding the variation, and that there are sufficient environmental planning grounds to justify the variation in the circumstances of the case. The variation would be in the public interest as the proposed development is consistent with the objectives of the standard and the objectives of the R4 High Density Residential zone.

The proposed development is also generally in accordance with the objectives in NSDCP 2013. The proposed building form complies with the maximum permitted site coverage provision for residential flat buildings, although relies on, in part, the non-compliant side setbacks of the existing building which is proposed to be demolished. The proposed built form, having regard to the existing building form, would provide for the redevelopment of the site having a similar impact regarding the retention of views, solar access and privacy in comparison to the existing development.

The application was notified in accordance with the community engagement protocol where Council received twenty-five (25) submissions objecting to issues including the proposed height variation, amenity impacts including view loss and overshadowing, tree removal, construction impacts including excavation, traffic congestion and insufficient on-site parking. The issues raised are considered to be generally acceptable or have been addressed through conditions of consent, particularly with regard to construction impacts including excavation.

On balance, the application is considered reasonable and is recommended for approval.

LOCATION MAP



□ Property/Applicant ● Submitters - Properties Notified



Figure 2. Proposed Southwestern Elevation (Undercliff Street)



Figure 3. Proposed Southeastern Elevation



Figure 4. Proposed Northeastern (Rear) Elevation



Figure 5. Proposed Northwestern Elevation

STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013

- Zoning – R4 High Density Residential zone
- Item of Heritage – No
- In Vicinity of Item of Heritage – (I0624, I0717, I0718, I0719, I0720, I0725, I0726, I0727, and others)
- Conservation Area – No

Environmental Planning and Assessment Act 1979

- s7.11/12 Infrastructure Contributions

SEPP No.65 – Design Quality of Residential Apartment Development.

SEPP (Housing) 2021

SEPP (Resilience and Hazards) 2021

SEPP (Biodiversity and Conservations) 2021

SEPP (Transport and Infrastructure) 2021

SEPP (Building Sustainability Index: BASIX) 2004

POLICY CONTROLS

North Sydney Development Control Plan 2013

North Sydney Local Infrastructure Contributions Plan 2020

DESCRIPTION OF LOCALITY

The subject site is legally described as SP11641 and is known as 9 Undercliff Street, Neutral Bay. The site is located on the northeastern (high) side of Undercliff Street between the intersections of Aubin Street to the south and Phillips Street to the north.

The site is a trapezium shape with parallel side boundaries. The site has a 13.4m frontage to Undercliff Street and a depth of between 35.89 and 37.9m, equating to a site area of 489sqm. The land falls from the rear to the front (Undercliff Street) by approximately 10m.



Figure 6. Aerial Image of the subject site and surrounds (Nearmap 2021)

The site is zoned R4 High Density Residential and contains an existing three storey residential flat building comprising three apartments over a lower ground floor garage.

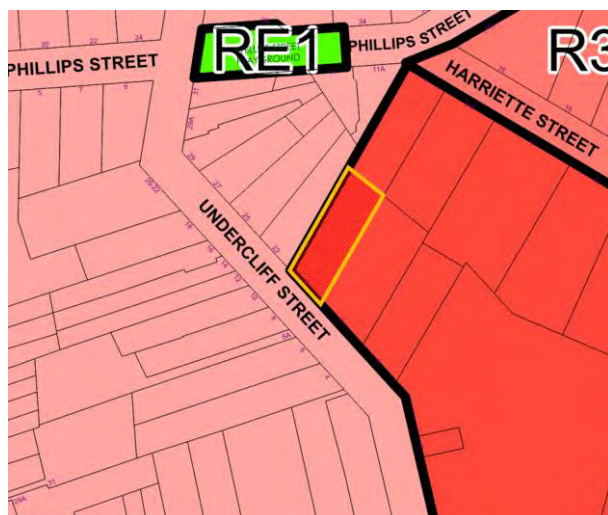


Figure 7. NSLEP 2013 Land use zoning map with the subject site shown outlined in yellow.

The properties located to the southeastern side and rear (northeast) are also zoned R4 High Density Residential and contain residential flat buildings with the exception of the directly adjoining property to the southeast (No. 7 Undercliff Street) which contains an attached dual occupancy. The subject site adjoins land zoned R2 Low Density Residential to the northwest and south which comprises dwelling houses, semi-detached dwellings and attached dwellings.

The directly adjoining property to the northwest (No. 23 Undercliff Street) contains a single storey dwelling house, with a rooms in the roof style first floor addition, which is identified as a Heritage Item and is sited at a lower level than the subject site.

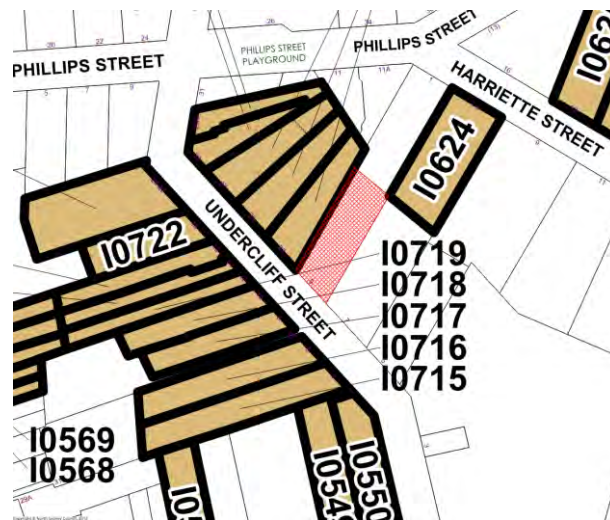


Figure 8. NSLEP 2013 Schedule 5 Heritage items (gold)

Virtually all the properties located towards the northwest and southwest along Undercliff Street are identified as Heritage Items of local significance in Schedule 5 to NSLEP 2013, however, the subject site is not identified as a heritage item or located within a conservation area.

The site has a maximum permitted building height of 12m, and the aforementioned R2 Low Density Residential zoned land adjoining the site to the northwest and south has a maximum permitted building height of 8.5 m.



Figure 9. NSLEP 2013 Height of Buildings maps within the subject site shown crosshatched in red.

Additional photos of the subject site and surrounding area are provided below.



Figure 10. Front elevation viewed from Undercliff Street



Figure 11. Undercliff Street looking northeast



Figure 12. Views from front balcony of the existing building



Figure 13. Nos. 25 & 23 Undercliff Street



Figure 14. Undercliff Street footpath



Figure 15. No. 7 Undercliff Street



Figure 16. Southeastern side setback



Figure 17. Southeastern side setback



Figure 18. Relationship between No. 7 Undercliff Street and the existing building



Figure 19. Rear of the existing building



Figure 20. Rear of subject site looking towards the North Sydney CBD skyline



Figure 21. Retaining wall and rocky outcrop adjacent to No. 23 Undercliff Street



Figure 22. Southern side of Undercliff Street



Figure 23. Southern side of Undercliff Street



Figure 24. No. 7 Undercliff Street from the rear of the subject site



Figure 25. No. 5 Harriatte Street from the rear of the subject site



Figure 26. No. 1 Harriette Street from the rear of the subject site



Figure 27. No. 23 Undercliff Street from the rear of the subject site



Figure 28. No. 23 Undercliff Street from the rear of the subject site



Figure 29. Northwestern side setback



Figure 30. Southeastern side of No. 23 Undercliff Street



Figure 31. Relationship between No. 23 Undercliff Street and the subject site



Figure 32. Relationship between the subject site and No. 23 Undercliff Street



Figure 33. Northwestern elevation of the existing building

RELEVANT DEVELOPMENT HISTORY

The Strata subdivision of the building was registered on 14 January 1977.

Development Application **DA2018/157** for the construction of two front balconies to unit 1 and unit 3 on the ground and second floor levels, respectively, was approved under delegation on 19 July 2022.

RELEVANT APPLICATION HISTORY

Date	Assessment
10 December 2022	The application was lodged with Council via the NSW Planning Portal.
16 December 2022	The application was notified in accordance with Council's Community Engagement Protocol from 14 January 2022 until 28 January 2022.
18 January 2022	The application was considered by the Design Excellence Panel.
25 March 2022	A site inspection was undertaken by Council assessment staff.
5 April 2022	A preliminary assessment letter was sent to the applicant advising that the application could not be supported raising concerns regarding the clause 4.6, front and rear building setbacks, overshadowing, view loss and submissions.
21 April 2022	A meeting was convened with the Applicant to discuss potential amendments.
24 June 2022	Amended plans were lodged with Council on 24 June 2022 via the NSW Planning Portal.
11 July 2022	The amended application was notified from 15 July 2022 until 29 July 2022.
23 August 2022	Amended plans were received on 23 & 26 August 2022 which included various additional details to provide clarity.

REFERRALS

Design Excellence

The application was considered by the Design Excellence Panel on 18 January 2022. A copy of the minutes is attached to this report (*Refer to ATT_5*) and the issues raised by the Panel are summarised below:

- The proposed roof form appears unresolved and presents like another element mounted atop of the expressed concrete slab. The roof form should be redesigned to present as a pitched and gabled roof form.
- The front setback should not extend forward of the approved balconies (DA157/2018) and the fourth level should be setback further to mitigate bulk and scale and to manage the transition between the proposed building and the adjoining heritage listed dwellings to the northwest.
- The proposed material palette is inconsistent with the character of the area and should be amended to include materials that are characteristic of the area and present some warmth through colour and texture.

- The street façade is dominated by glazing and should be amended to introduce a greater proportion of solid elements including solid balustrading and planter beds to soften the proposed built form.
- A single garage entry should be provided to reduce the dominance of the parking and to accommodate a landscaped front garden and separate pedestrian entry to the proposed building.

The amended plans lodged 24 June 2022 incorporated the following changes in response to the concerns raised by the Design Excellence Panel:

- The proposed roof form was amended to adopt a more traditional pitched roof form.
- The basement parking level was amended to provide a single garage entry and separate pedestrian building entry, in turn reducing the width of the driveway within the front setback area to also provide a landscaped front garden area.
- The front setback from the street was increased by 1m at each level with the upper level setback commensurately.
- The materials palette was amended to comprise a sandstone blockwork base, brown brick walls with contrasting detailing, reduced glazing and finer grain architectural elements.



Figure 34. Original Scheme



Figure 35. Amended Scheme

On balance, the proposed amendments are considered to reasonably address the concerns raised by the Panel.

Heritage

The application was referred to Council's Heritage Conservation Planner as the subject site is located within close proximity to several surrounding dwellings listed as Heritage Items of local significance in Schedule 5 to NSLEP 2013. The following comments were provided:

- *The proposed front building line should be set back further to align with the adjoining heritage item as to not overwhelm the scale of the adjoining dwelling.*
- *The deletion of glazed balustrading and the amended materials schedule are both acceptable having regard to the character of the surrounding heritage listed properties.*

Planning Comment:

Whilst it would be ideal to set back the front building line in line with the adjoining dwelling to the northwest (No. 23 Undercliff Street), the adjoining dwelling has an uncharacteristically large front setback of 11m at its southeastern corner. It is also acknowledged that given the heritage item is located at the interface with land zoned R4 High Density Residential that there would be a degree of inconsistency between the built forms, which reflects the differing development typology and applicable numerical development controls applying to each zone. The proposed front setback of between 7.6m and 9.6m, and splayed front elevation provides a reasonable degree of transition to the adjoining dwelling and on balance is considered acceptable.

Engineering

The amended application was referred to Council's Development Engineer who raised no objection to the proposed development. Standard and site specific engineering conditions were recommended.

Landscape

The amended application was referred to Council's Landscape Development Officer who raised no objection to the proposed development. No objection is raised to the removal of the following trees subject to replacement plantings:

- T1 *Acer negundo* (10x10m) located within the front setback area; and
- T9 *Lagerstroemia indica* (6x3m) located within the rear setback area

Conditions have also been recommended to ensure that the tree protection methodology identified in the submitted arborist report, prepared by Michael Shaw, dated 9 November 2021 are implemented on site to ensure the retention of T2-T8 & T10 including T6 *Liquidambar styraciflua* (20x 18m) (No. 7 Undercliff Street) and T2 *Phoenix canariensis* (14x6m) (No. 23 Undercliff Street) located on the respective adjoining properties. Other standard conditions were recommended to minimise construction impacts and manage tree protection in accordance with AS4970 throughout the construction phase.

SUBMISSIONS

The development application was notified in accordance with Council's Community Engagement Protocol from 14 January 2022 until 28 January 2022. Sixteen (16) submissions were received objecting to the proposed development.

The amended plans received on 24 June 2022 were renotified in accordance with Council's Community Engagement Protocol from 15 July 2022 until 29 July 2022. A further nine (9) submissions were received objecting to the proposed development.

The amended plans received on 22 and 25 August 2022 included only minor additional details and amendments to ensure clarity and did not require renotification as there were no material changes that would give rise to any or new impacts.

Given that the original scheme and amended scheme are relatively consistent, although some issues have been resolved with the amended plans, the issues raised in response to both notification periods are summarised below and are addressed later in this report.

Bulk and Scale

- *The proposed development breaches the maximum permitted building height pursuant to clause 4.3 in NSLEP 2013.*
- *The written request made pursuant to clause 4.6 in NSLEP 2013 is inadequate and should not be supported for the following reasons:*
 - *the development does not achieve objectives (b), (c), (e) and (f);*
 - *sufficient environmental planning grounds to justify the variation have not been provided*
 - *non-complying elements would cause overshadowing to No. 10 Undercliff Street*
 - *view loss is exacerbated by the non-complying element.*
- *The proposed site coverage is excessive for the size of the site.*
- *The proposed development does not comply with the unbuilt upon area provision in NSDCP 2013.*
- *The proposed development does not comply with the minimum setback requirements in NSDCP 2013.*
- *The proposed front building line extends too far forward towards the street and is inconsistent with the surrounding buildings.*
- *The proposed front building line disingenuously relies on the approved balcony footprint.*
- *The proposed front building line should not extend further forward than the approved balconies at each level.*
- *The proposed rear building line extends beyond the prevailing rear building line and has adverse amenity impacts upon surrounding residents.*

Character and Heritage

- *The application is not supported by a Heritage Impact Statement.*
- *The proposed development fails to achieve the fourth objective for the R4 High Density Residential zone as it would have an adverse impact on the heritage significance of dwellings in Undercliff Street.*
- *The front façade of the building comprises mainly glass and is inconsistent with the streetscape.*
- *The front elevation of the building is overly vertical in appearance.*
- *The proposed development is inconsistent with the character of the area.*
- *The proposed materials and finishes do not provide a warm appearance as recommended by Design Excellence Panel.*
- *The proposed balconies are not contained within the building envelope.*
- *The contemporary façade does not respond to the existing streetscape.*

Traffic and Parking

- *The proposed development would increase traffic and on-street parking congestion within the area and contribute to the cumulative impact of the surrounding development.*
- *The proposed development does not provide visitor parking and is likely to increase demand for on-street parking congestion which is already in high demand.*
- *Concerns regarding construction traffic congestion and construction worker parking congestion.*
- *The proposed tandem parking arrangement and maneuvering space is impractical and is likely to result in residents of the proposed building parking on the street.*

Amenity Impacts

Views

- *The proposed development results in a loss of Harbour and city views from the adjoining residential flat building to the east (No. 5 Harriette Street).*
- *The proposed development results in a loss of city views from the adjoining residential flat building to the northeast (No. 1 Harriette Street).*
- *The proposed development results in a loss of views to the North Sydney CBD and trees from the front balconies of the adjoining property to the southeast (No. 7 Undercliff Street).*

Privacy

- *The proposed development would overlook the adjoining property to the northwest and adjoining properties to the southeast.*
- *The proposed development would overlook the adjoining properties on the opposite side of Undercliff Street.*
- *The proposed front balconies and living areas would have a detrimental impact on the acoustic privacy of surrounding properties, including the properties on the opposite side of the street which have bedrooms facing the proposed development.*

Overshadowing

- *The proposed development would overshadow the adjoining property to the southeast, impacting the living room and rear courtyard of the ground floor dwelling.*
- *Shadow diagrams should be provided at hourly intervals including at the equinoxes.*
- *The proposed development, in part caused by the height variation, would overshadow the properties on the opposite side of the street.*
- *The proposed development would result in a further loss of light and outlook for the dwellings at the rear of the Harriette Street properties.*

Landscaping

- *The proposed development contributes to the cumulative impact of development on the remaining landscaping and urban canopy.*
- *The removal of T1 located within the front setback area should not be supported. The proposed replacement plantings are not sufficient to offset the loss of this tree.*
- *The proposed landscaping is capable of causing further view loss from surrounding properties.*

Construction Impacts

- *There is concern that the proposed excavation would adversely impact the stability of surrounding dwellings, particularly older homes with aging foundations.*
- *Concerns are raised that the proposed excavation and construction is likely to disrupt the amenity of the surrounding residents, particularly given the number of people working from home.*
- *There are concerns that the likely vibration caused by excavation could damage surrounding properties.*
- *Should the development be approved, strict conditions should be imposed and enforced regarding construction noise and vibration, and dust emissions.*

Miscellaneous

- *The proposed development does not make environmental sustainability commitments.*
- *The proposed development would result in a loss of natural ambient light for surrounding properties.*
- *A notification error, whilst corrected meant that some residents were unaware of the notification period.*
- *Removal of the side boundary fence along the northwestern side boundary should only be done with the consent of the adjoining property owners.*
- *A renovation of the existing building should be considered as an alternative.*
- *A fire safety plan/schedule has not been prepared.*

The issues raised in the submissions to both notified schemes remain relevant and are addressed later in this report.

The original submissions may be viewed by way of DA tracking on Council's website https://www.northsydney.nsw.gov.au/Building_Development/Current_DAs and are provided for review by NSLPP members.

CONSIDERATION

The relevant matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979, are assessed under the following headings:

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

Part 3 Retention of Existing Affordable Housing

This Policy does not apply as the existing subject building as per section 46 of the SEPP, specifically subsection (2)(a), as the existing building has been approved for subdivision under *Strata Schemes Development Act 2015*.

SEPP (RESILIENCE AND HAZARDS) 2021

Clause 4.6 of the SEPP requires the Consent Authority consider whether the subject site is contaminated, and if so, what remediation would be required to make the site suitable for the proposed use. The subject site has previously been used for residential dwellings. Given the historical use, the subject site is unlikely to be contaminated. Conditions relating to the identification of asbestos and its removal would be imposed should the application be approved by the Panel. The matters for satisfaction in the SEPP are therefore considered to be satisfied.

SEPP NO. 65 - DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

This Policy does not apply as the proposed development does not meet the criteria in section 4 of the SEPP, specifically subsection (1)(c) as the proposed development contains only three dwellings and not four.

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

A valid Multi-Dwelling BASIX Certificate has been provided with the amended plans which meets the requirements of this policy.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

The proposed development does not meet the threshold to be classified as traffic generating development in accordance with section 2.122 of the Policy and therefore referral to RMS is not required.

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 2 Vegetation in non-rural areas

Council's Landscape Development Officer supports the proposed removal of trees on the subject site to undertake the development. Consent is required for the removal of or impact to any tree identified in Section 16 Tree and Vegetation Management of NSDCP 2013. The primary threshold triggering the requirement to obtain consent is where trees are over 5m in height or a crown width greater than 5 m. The proposed development requires the removal of two existing site trees although no objection was raised by Council's Landscape Development Officer and therefore the policy is considered to be satisfied.

Chapter 10 Sydney Harbour Catchment

The subject site is not highly visible from Sydney Harbour, or its foreshores given the distance to the Harbour. The proposal therefore would not impact upon the scenic quality of Sydney Harbour or its waterways and is considered acceptable with regard to the Chapter 10 *Sydney Harbour Catchment* of the Policy.

NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013

Permissibility

The subject site is zoned R4 High Density Residential. The proposed development seeks consent for the demolition of an existing residential flat building and construction of a residential flat building which is a permitted use within the zone. A residential flat building is defined as follows:

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

The proposed building contains three dwellings and is configured in a form that would not be defined as attached dwellings, co-living housing or multi dwelling housing.

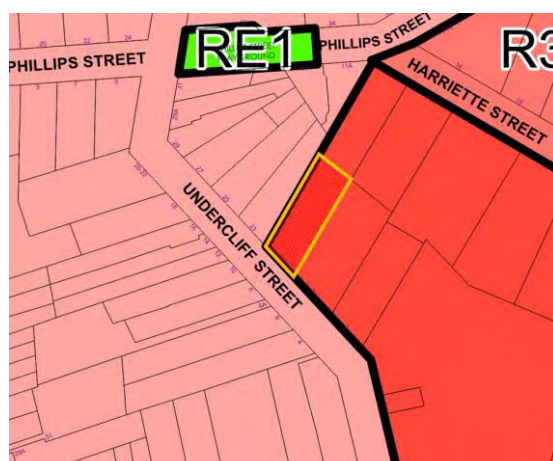


Figure 36. NSLEP 2013 Land use zoning map

Objectives of the zone

R4 High Density Residential zone

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a reasonably high level of residential amenity is achieved and maintained.*

The proposed development would provide for the housing needs of the community by replacing the existing dwellings with larger apartments for a portion of the local demographic. The proposed development has a high density residential form and is consistent with surrounding development within the surrounding R4 High Density Residential zone.

The proposed development of the site is acceptable as it would not materially impact the natural or cultural heritage of the area as the proposed tree removal is considered acceptable, and the appearance of the proposed building has been amended to be more sympathetic to the surrounding character of development which comprises several heritage listed dwellings.

The proposed development would achieve a high level of residential amenity for the proposed apartments whilst maintaining a reasonable level of amenity for surrounding dwellings, particularly with regard to the retention of views, privacy and solar access having regard to the extent and materiality of the impacts caused by the proposed development.

Clause 4.3 - Height of buildings

The subject site has a maximum permitted building height of 12m pursuant to clause 4.3(2) in NSLEP 2013. The existing building that is proposed to be demolished has a maximum height of 16.1m measured from the existing, partially excavated, ground level within the existing garage.

The proposed building maintains the same overall height (RL) as the existing building, however, the proposed upper level roof form extends further towards the front and rear, also not complying with the height of buildings development standard. The various building elements that exceed the development standard are identified in the table below. It is noted that the building height is measured from existing ground level, as per the definition in NSLEP 2013, and therefore includes the previously excavated lower ground floor garage area.

	Non-compliant Building Element	Control	Height	Variation
A.	Southern end of main ridge	12m	16.08m	33.6%
B.	Northern end of main ridge		13.19m	11.8%
C.	Third floor level balcony roof (SE corner)		14.58m	21.5%
D.	Second floor level balcony roof		12.2m	1.6%



Figure 37. Height Plane Diagram indicating the extent of the existing and proposed variations

Clause 4.6 - Contravention of a Development Standard

A written request to contravene the development standard for height has been submitted and has been considered below.

The assessment above outlines the extent of the variation measured strictly from the existing ground level including excavated areas in accordance with the definition of existing ground level in NSLEP 2013. The written request has also provided a further assessment of the proposed building height having regard to the methodology established by Commissioner O'Neill in [Bettar v Council of the City of Sydney \[2014\] NSWLEC 1070](#) ('Bettar') regarding the assessment of ground level for excavated sites.

The judgment related to the construction of a residential flat building on a site where an existing part-basement had been excavated which is similar to the circumstances of the subject site because there is an existing lower ground floor garage. The Commissioner held that once the existing building was demolished the existing ground levels would no longer be discernible and would provide limited relevance with respect to surrounding properties.

The approach taken by the Commissioner to remedy this inconsistency was to extrapolate the existing ground levels found at the footpath, i.e., at the site boundaries, across the site to create a height plane to measure the proposed building against. It is evident that the existing ground level within both the southeastern and northwestern side setback areas more closely relate to the existing topography of the area as the steep fall from the rear to the front is more evident and therefore provide a better point of comparison than the previously excavated area.

Taking this approach, the proposed variations would be calculated as follows. It is noted that **D. second floor level balcony** is outside the excavated area and therefore the variation remains the same.

	Non-compliant Building Element	Control	Height – “Bettar”	Variation
A.	Southern end of main ridge	12m	12.1m	0.08%
B.	Northern end of main ridge		9.4m	Complies
C.	Third floor level balcony roof (SE corner)		12.1m	0.08%
D.	Second floor level balcony roof		12.2m	1.6%

It is evident that the proposed development has been designed to reflect the surrounding existing topography once the excavation for the existing lower ground floor garaging has been accounted for given that the variations are otherwise minor.

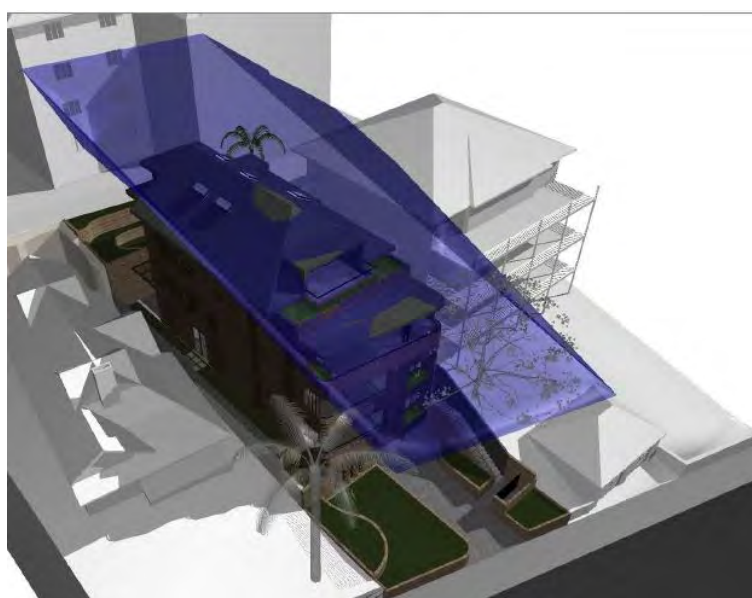


Figure 38. ‘Bettar’ Height Plane

Clause 4.6(3)(a) Is compliance with the development standard unreasonable and unnecessary in the circumstances of the case?

(1)(a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,

The applicant’s written request has described the topography of the subject site which falls steeply from the rear to the front by approximately 10m and has acknowledged that the existing ground level bears limited relationship to the natural ground level or existing ground level surrounding the existing building footprint given that the existing building has an excavated lower ground floor garage.

Should an assessment be made by extrapolating the natural landform as outline by the applicant, the proposed development would largely comply with the height of buildings development standard with only minor building elements such as the projecting roof balcony exceeding the extrapolated height plane.

The written request also describes the stepped building form to demonstrate that the proposed building has been designed to follow the existing or in this case, natural, landform.

(1)(b) to promote the retention and, if appropriate, sharing of existing views,

The written request has provided an assessment of the potential view impact of the proposed development on surrounding dwellings.

Given that the proposed development would largely comply with height of buildings development standard when measured from the natural or unexcavated ground level, the impact of any non-compliant element would be near negligible. The proposed building form also seeks to maintain the existing ridge height and pitched roof form, although in an elongated form, which similarly seeks to maintain existing views over the building and slot views through the side setbacks.

The written request has dealt with views from the following properties:



Figure 39. Aerial Image of the subject site and surrounding properties

- **No. 7 Undercliff Street**

No. 7 Undercliff Street is a two-three storey dual occupancy that is located directly to the south east of the subject site. Views from the dual occupancy would not be impacted as the views of the City of Sydney Skyline, Sydney Harbour, Sydney Harbour Bridge and the North Sydney Skyline are towards the south and southwest over the front boundary of the property. The proposed development, including the non-compliant elements towards the front of the proposed building are located alongside the property over the side boundary and therefore would not encroach upon the existing views.



Figure 40. Existing view from Unit 1 of No. 7 Undercliff Street over the side boundary

- **No. 1 Harriette Street**

No. 1 Harriette Street is a four storey residential flat building that is located directly to the rear (northeast) of the subject site and is located at a higher level given the topography of the area. Views to the City of Sydney skyline and Sydney Harbour Bridge are available from the apartments located at the rear of the building on the first (unit 2), second (unit 5) and third (unit 8) floor levels. The applicant's written request has described the relationship between the two properties and the potential impact of the proposed building.

Given No. 1 Harriette Street is located directly to the rear, the proposed development is unlikely to cause any notable view impacts as the proposed building has a northeast-southwest roof ridgeline that aligns with the ridgeline of the existing building, although has been extended further towards the front and the rear. The existing views over the building would therefore be retained as there is no increase in height and the prolongation of the roof form aligns with the view or where it extends towards the north is at a comparatively lower (compliant) level as the leading edge (southwestern end) would define the impact.

The view corridor within the eastern side of the subject site is also largely retained. The applicant has provided some modelling to demonstrate the absence of any impact from the second-floor level rear window (living room) of Unit 5 of No. 1 Harriette Street. Whilst the existing view is more limited on the level below (Unit 2), the proposed building form would also promote the retention of views through the side setbacks by retaining the existing side setbacks and roof pitch.

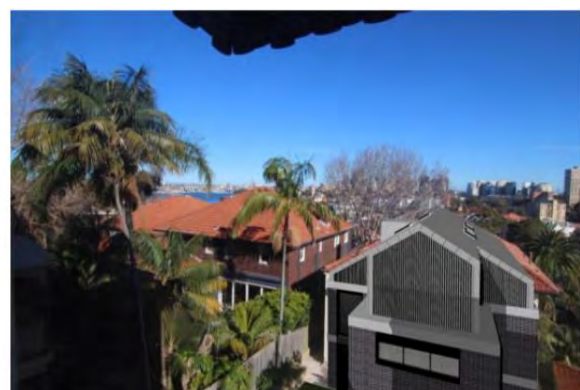
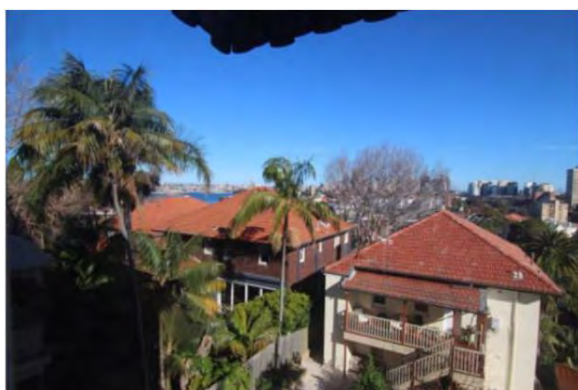


Figure 41. View modelling from rear window of Unit 5 of 1 Harriette Street (previous although comparatively similar scheme)

- **No. 5 Harriette Street**

No. 5 Harriette Street is a three storey residential flat building located diagonally to the rear (east) of the subject site and is similarly located at a higher level given the topography of the land. Views to the North Sydney CBD skyline are available from the apartments located to the rear on the first floor and second floor levels over the rear of the subject site and other surrounding properties.

The applicant has provided view modelling to demonstrate the potential impact from the first floor level rear balcony of Unit 2 of No. 5 Harriette Street. This unit would be where the most significant impact would occur for the apartments within the affected building given the viewing angle.

The rear of the proposed building has a two storey built form with a room in the roof form towards the rear and would be compliant with the height of building development standard should the excavated area be disregarded. The potential impact caused by the roof form is considered to be moderate by the applicant with respect to the methodology. Having regard to the planning principle established by Senior Commissioner Roseth in *Tenacity Consulting v Warringah* [2004] NSWLEC 140 as addressed by the applicant, the impact is considered reasonable given that the view is available from a bedroom balcony, over other properties including side boundaries, and a significant portion of the view is retained being the upper portion of the skyline.



Figure 42. View modelling from rear balcony of Unit 2 / 5 Harriette Street

The applicant's written request has reasonably demonstrated that the proposed variation would not result in any material loss of views having regard to view sharing planning principle. The proposed development largely relies on the retention of the existing building envelope, where the building form is proposed to be extended, and has been designed to reflect the natural land levels and would otherwise be largely compliant with the maximum permitted building height when the existing excavated area is excluded.

(1)(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,

The subject site has a northeast to southwest orientation. The proposed building would cause overshadowing to the adjoining dwellings as acknowledged in the written request, however, given the topography of the site the northern end of the proposed building is significantly below the height control as it has a two storey with room in the roof form towards the rear. The portion of the building causing the overshadowing would be compliant with the building height standard when the previously excavated area is excluded and therefore the technical variation does not result in any material impact to surrounding properties.

(1)(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

The written request has demonstrated that there would be no adverse privacy impacts caused by the non-complying elements given the internal floor space is contained within the proposed roof form and external screening and other design elements have been incorporated to prevent overlooking.

(1)(e) to ensure compatibility between development, particularly at zone boundaries,

The written request has acknowledged the zone boundary to the west of the subject site where the surrounding land is zoned R2 Low Density Residential. The difference in scale between the proposed building and the adjoining dwelling to the northwest (No. 23 Undercliff Street) is not dissimilar to the existing arrangement given the proposed building is of a similar scale to the existing building. The primary non-compliant element relates to the roof form and ridge which would not be overtly visible from the adjoining properties. The non-compliance does not result in an incompatibility between the proposed development and the adjoining development to the northwest when regard is taken to the different zoning and applicable height standards. The proposed pitched roof form assists in transitioning the scale of the development, stepping down to the northwest.

(1)(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.

The written request has identified the surrounding character of development on the surrounding land zoned R4 High Density Residential. The scale and density of the development has been designed to largely reflect the scale of the existing building, and whilst there is an increase to the density of the development, the proposed building complies with the site coverage provision. The proposed building maintains the same ridge height and external wall heights as the existing building. The surrounding development to the southeast of the subject site is of a similar scale, also being three to four storeys. The technical variation and the minor non-complying elements do not result in a building form that is incompatible with the surrounding development having regard to the zone boundary interface to the northwest and south.

(1)(g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.

This objective is not applicable as the subject site is zoned R4 High Density Residential.

Whether there are sufficient environmental planning grounds to justify contravening the development standard?

The environmental planning grounds advanced in the written request are considered to be sufficient to justify the contravention of the development standard in the circumstances of the case. The following justifications were provided (*paraphrased – refer to pages 12-13 of ATT_4*).

- *The breach of the height control largely relates to the existing excavation of the site. Strict compliance with the development standard would not achieve the objective of the standard to step with the “natural topography” as any building would need to step with the altered ground level rather than the sloping fall of the land.*

- *Locating some of the proposed floor space towards the front of the building where the non-compliance occurs is favourable, as a larger building form towards the rear, whilst potentially compliant with the development standard, would have greater impacts upon the amenity of the surrounding properties.*

The environmental planning grounds, as indicated above, are generally concurred with. When the existing excavation is disregarded, the proposed development would be largely compliant with the development standard with only minor breaches (1.6%) relating to roof features which would be inconsequential to the attainment of the objectives of the standard. This methodology is consistent with the decision in *Bettar* and provides a clearer comparison of the bulk and massing of the proposed development with the surrounding development and its associated potential impacts. It is also noted that the rear of the building is comparatively smaller in scale. Minimising the height towards the rear by setting the building massing forward over the existing excavation assists in minimising potential amenity impacts upon surrounding properties by better retaining views for the properties to the rear and solar access for the properties adjoining on either side.

Concurrence with Minister

The consent authority, but not a delegate due to the variation being greater than 10%, may assume concurrence with the Minister as per the Planning Circular PS 20-002.

Whether the proposed development will be in the public interest?

The proposed variation is considered to be in the public interest as it has been demonstrated that the proposed development is consistent with the objectives of the zone and the objectives of the development standard as discussed above.

Concluding Remarks

The written request to vary the development standard provided by the applicant is considered well founded. The written request demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify the variation. The proposed development is considered to be in the public interest. It is recommended that the variation be supported in these circumstances.

Clause 5.10 - Heritage conservation

The subject site is located within close proximity of several dwellings listed as Heritage Items of local significance in Schedule 5 to NSLEP 2013. Pursuant to sub-clause 5.10(5) the consent authority may require an assessment of the potential impact that the proposed development would have on a heritage item or conservation area within the vicinity of the site.

Council's Conservation Planner is satisfied that the proposed development would not adversely impact the heritage significance of the aforementioned dwellings with respect to the use of materials and finishes, however, raised concern regarding the visual transition between the scale of the proposed development and the adjoining single storey dwelling house to the northwest (No. 23 Undercliff Street) and suggested that front building line be set back in line with the adjoining dwelling, although, as discussed above, is deemed impractical in the circumstances.

On balance, the proposed development would not cause an adverse impact to the heritage significance of the surrounding properties that would be of a degree that could be considered determinative.

Clause 6.10 - Earthworks

Sub-clause 6.10(3) in NSLEP 2013 requires the consent authority to consider the following matters:

- (a) *the likely disruption of, or any detrimental effect on:***
 - (i) *drainage patterns and soil stability in the locality of the development, and***
 - (ii) *natural features of, and vegetation on, the site and adjoining land,***

The proposed excavation does not require the removal of any significant vegetation or natural features such as exposed rocky outcrops. The existing building is founded on rock and the proposed excavation would require the use of sensitive excavation methodology to ensure that the stability of the surrounding properties is maintained throughout excavation and construction, particularly where the proposed excavation is to be undertaken in close proximity to adjoining properties.

The proposed excavation would not adversely impact drainage patterns as the land levels generally remain higher than the adjoining properties and all surfaces within the proposed development are capable of draining to the street.

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

The proposed excavation seeks to facilitate the proposed redevelopment of the site and is largely consistent with the sloping topography of the land from the rear to the street.

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

The subject site has historically been used for residential development and therefore it is unlikely that the soil proposed to be excavated would be contaminated.

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

The proposed excavation is largely contained within the existing building footprint with the exception of some additional excavation within the side setback areas to regrade the existing paths and staircases.

The proposed excavation within the northwestern side setback would lower the land level in comparison to the existing side pathway although would still be elevated above the excavated levels within No. 23 Undercliff Street. In effect the proposed fence line would also be lowered, however, would remain elevated in comparison to the adjoining land levels.

The proposed excavation within the southeastern side setback similarly would lower the land level in comparison to the existing side paths and staircases, again, noting that the levels are generally higher than the adjoining levels within No. 7 Undercliff Street. A retaining wall has also been incorporated along the edge of the proposed excavation adjoining the property boundary.

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

Conditions C11 and E28 are recommended relating to a waste management plan and removal of excavated material. Subject to these conditions, there is no concern regarding the source of fill and destination of excavated material.

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

The proposal is unlikely to disturb any Aboriginal objects or relics as the site has been previously developed and contains no rocky outcrops or other features that would indicate the presence of Aboriginal objects or relics.

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

The site is not located in close proximity to a waterway or environmentally sensitive area.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Conditions C9 and E7 have been recommended to ensure that the proposed excavation does not adversely impact the stability and structural integrity of the surrounding properties.

Clause 6.12 - Residential flat buildings

The proposed development is for the purpose of a residential flat building on land zoned R4 High Density Residential and therefore this clause applies.

The adjoining property to the northwest (No. 23 Undercliff Street) is zoned R2 Low Density Residential. The adjoining property to the southeast (No. 7 Undercliff Street) contains two dwellings and would meet the current definition of an attached dual occupancy, although was likely constructed as a residential flat building as the Strata Plan was created in 1976. At the time residential flat buildings were defined as a building containing two dwellings under the North Sydney Planning Scheme Ordinance.

Nevertheless, the intention of clause 6.12 is to prevent site isolation where existing dwelling houses, semi-detached dwellings or dual occupancies cannot reasonably be capable of development as a residential flat building.

The clause states:

(3) Development consent must not be granted for development for the purposes of a residential flat building if the development will result in a single dwelling house, dual occupancy or semi-detached dwelling being located on adjoining land in Zone R4 High Density Residential unless—

- (a) the adjoining land is at least 900 square metres, or*
- (b) the consent authority is satisfied that the adjoining land is land on which development may be carried out for the purposes of a residential flat building.*


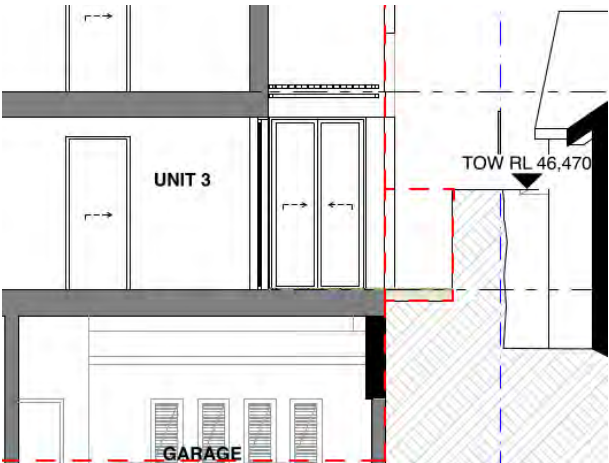
The adjoining land to the southeast zoned R4 High Density Residential (No. 7 Undercliff Street) has a lot size of 684.78sqm and therefore this clause applies. The applicant has confirmed that site consolidation was considered, and attempts were made to consolidate the sites for development. Nevertheless, given the similar lot sizes, there is potential for the adjoining property to undertake a similar development for the purpose of a residential flat building.

The adjoining land to the north, also zoned R4 High Density Residential (No. 1 Harriette Street), contains a residential flat building and therefore this clause does not apply.

POLICY CONTROLS

North Sydney Development Control Plan 2013

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013 PART B - SECTION 1 - Residential Development																						
	Complies	Comments																				
1.2 Function																						
Section 1.2.1 - Mixed residential population	Acceptable	<p>The proposed residential flat building contains three units and therefore the population mix specified in provision P1 technically applies and is assessed in the table below:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Dwelling Size</th> <th>Control</th> <th>Proposed (%)</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>Min 2</td> <td>0</td> <td>No</td> </tr> <tr> <td>1 bedroom</td> <td>Min 2</td> <td>0</td> <td>No</td> </tr> <tr> <td>2 bedroom</td> <td>Min 2</td> <td>0</td> <td>No</td> </tr> <tr> <td>3 bedroom +</td> <td>Min 2</td> <td>3 (100%)</td> <td>Yes</td> </tr> </tbody> </table> <p>The proposed development is relatively small in scale, and it would therefore be difficult to strictly comply with the above population mix. The proposed provision of only larger three and four bedrooms apartments is considered acceptable given the constrained nature of the site, its location, and the development efficiency created by providing single apartment floor plates.</p>	Dwelling Size	Control	Proposed (%)	Complies	Studio	Min 2	0	No	1 bedroom	Min 2	0	No	2 bedroom	Min 2	0	No	3 bedroom +	Min 2	3 (100%)	Yes
Dwelling Size	Control	Proposed (%)	Complies																			
Studio	Min 2	0	No																			
1 bedroom	Min 2	0	No																			
2 bedroom	Min 2	0	No																			
3 bedroom +	Min 2	3 (100%)	Yes																			
Section 1.2.2 - Universal Design and Adaptable Housing	N/A	Provision P5 does not apply as the proposed development comprises less than five units.																				
Section 1.2.3 - Maintaining residential accommodation	Yes	The proposed development seeks to replace the three existing apartments with three new apartments and would therefore maintain the existing amount of residential accommodation in the locality.																				
Section 1.2.4 - Maintaining affordable housing	N/A	Part 3 Retention of affordable housing of SEPP (Housing) 2021 does not apply as the existing building has been Strata subdivided.																				
1.3 Environmental criteria																						
Section 1.3.1 - Topography	Yes	<p>Subterranean Habitable Rooms</p> <p>The proposed secondary living room located towards the rear of the ground floor unit (Unit 3) is located below the surrounding ground level, however, is sited and orientated with glazed doors opening towards the west which more closely aligns with the existing ground level, compared to towards the rear, where the internal floor level is a full level below existing ground level.</p>																				

		<p>On the northwestern side, the internal floor level would still be between 1-1.5m below the sloping existing ground level within the northwestern side setback. Despite the level disparity, the secondary living area would be open to the west as excavation has also been proposed along the western side setback. The proposed excavated level within the side setback area would still remain substantially higher than the adjoining land level.</p> <p>Nevertheless, the secondary living room would receive a reasonable degree of amenity, noting that it is not the primary living area for the proposed apartment, without adversely impacting the amenity of the adjoining property to the west (No. 23 Undercliff Street).</p>  <p>Figure 43. Site photo of existing courtyard area adjacent to No. 23 Undercliff Street</p>  <p>Figure 44. Section through proposed secondary living room and courtyard</p>
<p>Section 1.3.6 - Views</p>	<p>Consistent with View Sharing Principles</p>	<p>The subject site and some of the more elevated surrounding properties enjoy views towards the south and southwest of the City of Sydney skyline including the Sydney Harbour Bridge and the North Sydney CBD skyline.</p> <ul style="list-style-type: none"> • The views of the Sydney Harbour Bridge are considered iconic and worthy of retention. • The views to the City of Sydney skyline are considered valuable and worthy of retention. • The views to the North Sydney skyline are considered to be of interest and worthy of retention where possible.

These views may potentially be impacted for the following properties:

- No. 7 Undercliff Street – Two storey dual occupancy located directly to the southeast of the subject site;
- No. 1 Harriette Street – Four storey residential flat building located directly to the (northeast) rear of subject site; and
- No. 5 Harriette Street – Three storey residential flat building located to the (east) rear of the subject site.

The potential impact is assessed utilising the Planning Principle for view sharing established by Senior Commissioner Roseth in *Tenacity Consulting v Warringah* [2004] NSWLEC 140 (*'Tennacity'*):

Step 1 – The view to be affected

No. 7 Undercliff Street

The dual occupancy is two storeys with balconies at the front of the building. Panoramic views from the North Sydney skyline in the west to Fort Denison and Garden Island in the east are available including Sydney Harbour, the City of Sydney skyline, the Sydney Harbour Bridge.

No. 1 Harriette Street

The residential flat building is four storeys and is located at a higher level than the subject site, directly to the rear. There is one apartment on each level at the rear of the building. The apartments at the rear (southwest) of the building have views over the existing building towards the south of the City of Sydney Skyline and Sydney Harbour Bridge.

Views towards the North Sydney skyline would not be impacted as the views are gained in a westerly direction.

No. 5 Harriet Street

The residential flat building is three storeys and is located at a higher level than the subject site, diagonally to the rear (east). The apartments at the rear (southwest) of the residential flat building have views towards the North Sydney CBD skyline at an angle across the existing rear setback area of the subject site.

Step 2 – The part of the property where the view is available from

No. 7 Undercliff Street

Unit 1 & 2 of No. 7 Undercliff Street have uninterrupted views over the front boundary from the front balconies and living rooms of each dwelling. Views are also available over the side boundary towards the North Sydney skyline towards the southwest.



Figure 45. Site photos from front balcony of Unit 1 of No. 7 Undercliff Street towards the south west and south

No. 1 Harriette Street

Unit 1 of No. 1 Harriette Street is located on the ground level and does not have any notable views across the subject site as it is impacted by the existing building.

Unit 2 of No. 1 Harriette Street is located on the first floor level. Views of the Milsons Point and North Sydney Skyline are available from the living area and a bedroom from a standing position over the rear boundary of the property. A partial view corridor is also available within the southeastern side setback of the subject site towards the City of Sydney skyline and Sydney Harbour Bridge, although is fragmented by the existing development and tree located at the front of No. 7 Undercliff Street.



Figure 46. Site photo from living room of Unit 2 of No.1 Harriette Street over the subject site



Figure 47. Site photo from bedroom of Unit 2 of No.1 Harriette Street over the subject site

Unit 5 of No. 1 Harriette Street is located on the second floor level. More extensive views are available from the living area and a bedroom from a standing position over the rear boundary of the property given the more elevated position.



Figure 48. View from Unit 5 of 1 Harriette Street

Unit 8 of No. 1 Harriette Street is located on the third floor level and is significantly elevated above the subject site and would not be impacted.

No. 5 Harriette Street

The apartments at the rear of the residential flat building have bedrooms with balconies facing the (southwest) rear. The views of the North Sydney skyline are partially impacted by the existing building and vegetation as they are gained over the rear and side boundaries through the rear setback areas of the surrounding properties to the south and west and the subject site. The views are primarily gained from the first floor and second floor levels, of which there are two apartments on each level that have bedrooms and balconies to the rear.



Figure 49. View from Unit 2 of 5 Harriette Street

The numbering of these apartments is not known although it includes Units 2 and 3 on the first and second floor levels.

Step 3 – The extent of the impact

No. 7 Undercliff Street

The proposed development would not impact the view to the North Sydney CBD skyline as demonstrated in the site photo below or the uninterrupted views towards the south. The proposed front building line extends 2m forward of the existing balcony of the subject site and would have a relatively minor impact.

Given the expansive, and objectively more desirable, views of the Harbour and Sydney Harbour Bridge to the south, the potential impact caused by the proposed development which occurs over the side boundary is considered minor.



Figure 50. Site photo of existing view from the front balcony of Unit 1 of No. 7 Undercliff Street across the side boundary.

No. 1 Harriette Street

Unit 2 of 1 Harriette Street

Views from this unit are likely to be somewhat impacted by the proposed elongation of the building form in comparison to the existing building form, however, views through the side setbacks are likely to be reasonable maintained given the retention of the pitched roof form at the same level. The portion of the proposed building that extends further towards the rear is relatively minor (2m in length) with respect to the view given that the view is obtained directly in line with the length of the building form. The potentially affected unit (Unit 2) is also elevated at approximately the same level of the proposed roof eave further supporting views over the proposed roof form within each side view corridor. Overall, the potential impact is considered minor.


Unit 5 of No. 1 Harriette Street

Views from this unit are unlikely to be impacted as the unit is elevated above the existing and proposed ridgeline of as can be seen in figure 48 above.

No. 5 Harriette Street

Unit 2 of No. 5 Harriette Street

Views from this unit are likely to be in part impacted, however, the view impact is considered to be minor given the portion of the view lost relates to the low portion of the North Sydney CBD skyline which has a lower retention value, although the upper portion is retained as seen in figure 51 below. Retention of this view relies on a view corridor over numerous side and rear boundaries which is more difficult to protect.

		 <p>Figure 51. View modelling from Unit 2 of No. 5 Harriette Street</p> <p>Of the four apartments on the first and second floor levels of No. 5 Harriette Street, Unit 2 would be the worst impacted. Given that the potential impact to this unit is considered minor, the potential impact to other units within the building that have existing views would also be considered minor to negligible.</p> <p>Step 4 – The reasonableness of the proposal</p> <p>With respect to the relatively minor impacts to views as identified above, particularly from Unit 2 of No. 1 Harriette Street and Unit 2 of 5 Harriette Street, the proposed development causing the potential impact largely considered reasonable. Whilst the proposed building results in a technical variation to the height of buildings development standard, the building would otherwise comply when compared to the surrounding land levels, and furthermore, does not exceed the height or roof pitch of the existing building. Where the building extends further towards the rear, the proposed building form is of a two-three storey scale.</p> <p>Summary</p> <p>In summary, the proposed development largely promotes the retention of views by retaining the height and massing of the existing building. Where the length of the building has been extended towards the front and rear, views have been retained towards the Harbour and its features through the view corridors either side of the pitched roof form. The impacts to views of the North Sydney skyline are considered secondary and whilst some impact would occur for some of the dwellings towards the east, the impact would not be unreasonable in the circumstances.</p> <p>The proposed development would result in some additional overshadowing to the adjoining properties.</p>
<p>Section 1.3.7 - Solar access</p>	<p>Yes</p>	<p>Impact to No. 7 Undercliff Street</p> <p>No. 7 Undercliff Street is a two storey dual occupancy and is located to the southeast of the subject site. The dual occupancy has a one up one down arrangement with living areas located towards the front (street) of the building. The proposed development would result in some additional overshadowing to the adjoining dual occupancy, primarily the ground floor level dwelling, in the afternoon hours. On the ground floor (Unit 1 of No. 7 Undercliff Street) the full height rear glazed doors are within the kitchen and dining room and the side bay window is within the main living area.</p>

The proposed additional massing towards the rear of the proposed building would result in additional overshadowing to the northwestern rear elevation and secondary private open space area between 2:00pm to 3:00pm in mid-winter. The portion of the proposed building causing the impact extends beyond the rear building line of the impacted property, although this is in part reflective of the angled rear boundary of the existing subdivision pattern, and this element complies with the rear and side setback provisions including the BHP in Section 1.4.6 of Part B in NSDCP 2013. The additional massing element is also around two and a half storeys in scale compared to the adjoining land level.



Figure 52. Additional overshadowing to north eastern rear elevation and courtyard of No. 7 Undercliff Street at 2:00pm & 3:00pm in midwinter.

It is noted that No. 7 Undercliff Street is also located on the southeastern side of the subject site, further making the property vulnerable to overshadowing.

Given the existing overshadowing caused by the buildings in Harriette Street to the north, and the existing rear ground floor addition to the eastern side of No. 7 Undercliff Street, the additional impact caused by the proposed development would reduce the potential solar access to the rear elevation of Unit 1 of No. 7 Undercliff Street, being the kitchen and dining area, and the rear courtyard, to only 2 hours in mid-winter. The existing levels of solar access to the side bay window of the living room would be retained, with solar access available between approximately 11:00-12:00pm in mid-winter.

Section 1.3.7 of NSDCP 2013 requires the principle living area and private open space of dwellings to achieve a minimum of 3 hours of solar access in mid-winter. The adjoining dual occupancy is orientated with the living area and private open space to the south. The impact to the kitchen, dining room and secondary courtyard area would reduce the amenity of the dwelling, although is not caused by an unreasonable proposal, given that the proposed additional massing element at the rear of the proposed development largely complies with the relevant building envelope controls and impacts areas that are secondary to the principle living areas and private open space.


On balance, the impact is acknowledged although does not warrant further amendment to the proposed building form or refusal of the application.

		<p>Impact to No. 23 Undercliff Street</p> <p>No. 23 Undercliff Street is a single storey dwelling with a habitable attic or room in the roof style first floor level and is located to the northwest of the subject site. The proposed development would not result in any additional overshadowing to the adjoining dwelling in between 9:00am and 3:00pm in mid-winter. There would be a slither of additional overshadowing to the front setback area of the adjoining property at 9:00am only, although would not impact the amenity of the dwelling or its private open space.</p>
Section 1.3.8 - Acoustic privacy	Yes	<p>The layout of the apartments within the proposed building are generally orientated with living areas and balconies towards the south, consistent with the existing residential flat building. Any potential impact emanating from the proposed living areas and balconies would be consistent with the R4 High Density Residential zone. The proposed front balconies are consistent with, although smaller in size than, the existing approved front balconies under DA157/2018.</p> <p>Condition C2 is recommended, requiring a timber or other sound dampening soffit to be installed to the front balcony to decrease the sound</p> <p>The proposed plant and equipment are located within the basement levels and are unlikely to cause any unreasonable acoustic impacts. Condition C29 is recommended to ensure that all plant and equipment are suitably designed and installed to minimise any impact.</p>
Section 1.3.9 - Vibration	Yes	<p>The proposed plant and equipment are located within the basement and are unlikely to cause any vibration impacts. Condition C30 is recommended to ensure that all plant and equipment are suitably designed and installed to minimise any impact.</p>
Section 1.3.10 - Visual privacy	Acceptable	<p>Southeastern Outlook</p> <p>The proposed apartments are orientated towards the street. All windows within the southeastern side elevation have external louvered privacy screening to prevent overlooking to the adjoining dual occupancy at No. 7 Undercliff Street. A privacy screen is also provided along the southeastern edge of the full width second floor and balcony to prevent overlooking.</p> <p>Northwestern Outlook</p> <p>The proposed apartments are orientated towards the street. All windows within the northwestern side elevation that are located above the fence line have external louvered privacy screening, with the exception of the kitchen splash back window, to prevent overlooking to the adjoining dwelling house at No. 23 Undercliff Street. The kitchen splash back window is located on the level which is significantly elevated above the adjoining dwelling and would have view over the rooftops of the surrounding properties.</p> <p>The proposed side courtyard, accessed from the rear secondary living area of the ground floor apartment (Unit 3) is located below the fence line and would not result in overlooking to the first floor level southeast facing bedroom window of No. 23 Undercliff Street.</p>

		<p>Northeastern Outlook</p> <p>The rear of the building includes secondary living rooms on the ground and first floor level with glazing towards the rear. The first floor level window has an external privacy screen to prevent overlooking to the adjoining residential flat buildings to the rear (Nos 1 & 5 Harriette Street). The ground level glazed doors are located below the rear fence line and would not adversely impact the privacy of the adjoining properties to the rear.</p> <p>The rear windows to the stairwell are also proposed to be screened to prevent overlooking to the adjoining residential flat building to the rear and the rear setback area if the adjoining dual occupancy to the southeast (No. 7 Undercliff Street).</p> <p>In summary, the proposed development would not result in any overlooking to adjoining properties that would materially impact the amenity of the adjoining properties.</p>
1.4 Quality Built Form		
Section 1.4.5 - Siting	Yes	<p>The proposed building is sited parallel to the boundaries of the site. The layout of the apartments are generally orientated towards the south, takings advantage of the views of the Harbour from each level.</p>
Section 1.4.6 - Front Setback	Yes	<p>The proposed front setback to Undercliff Street is between 7.6m-9.6m. The front building includes a splayed design to in part reflect the angle of the front boundary and transitions the proposed development around the bend in Undercliff Street towards the north adjoining dwelling houses to the northwest, noting the R2 Low Density Residential zoning and comparatively large front setbacks for these dwellings.</p> <p>Whilst the proposed development sits forward of both of the adjoining properties, the proposed setback is considered reasonable having regard to the uncharacteristically larger front setbacks of the adjoining properties, as both No. 7 and No. 23 Undercliff Street are sited towards the centre and/or rear of the respective lots.</p> <p>There would be some visual impact caused by the proposed front building line when viewed from the adjoining properties. The outlook from each adjoining properties would include a greater proportion of the side elevations of the proposed building which extend further forward than the existing building, which particularly in the case of No. 7 Undercliff Street, the outlook would be of an expanse of blank wall adjacent to the front balconies. The setback between the proposed buildings and the balcony is 4.5m. Given the building form would be viewed over the side boundary and is reflective of the siting of the adjoining properties towards the centre/rear of the lots, the potential impact is considered reasonable.</p> <p>The proposed second floor and third floor levels have been set back further, in part, through the more open design at the second floor level front balcony and the pitched roof form is set back behind the front building line at the upper most level, reducing the visual impact and dominance of the vertical nature of the proposed building.</p>

		<p>Council’s Conservation Planner has raised concern with the proposed front setback given that the building would sit forward of the adjoining dwelling houses to the northwest which are identified as heritage items. The proposed front setback and splayed design assists in increasing the visibility to the adjoining dwelling (No. 23 Undercliff Street), however, given that the adjoining dwelling is setback 11m from the front boundary it would be unreasonable to require the same setback for the proposed development.</p>
<p>Section 1.4.6 - Setbacks (Side and Rear)</p>	<p>No, however acceptable in site circumstances</p>	<p>Side Setbacks</p> <p>Provision P2 in Section 1.4.6 of Part B in NSDCP 2013 requires residential flat buildings to be set back a minimum of 3m from the site boundaries and compliance with the Building Height Plan (BHP) being a 45degree plane measure from 3.5m above the side boundary. It is noted that the subject site is a relatively small development site for the purpose of a residential flat building and is less than 12m wide.</p> <p>The existing residential flat building on the site is set back 1.7m from the western side boundary and between 1.5-2.6m from the eastern side boundary. The external wall height measures, from existing ground level, between 5.4-9.6m on the southeastern side and 8.3-10.8m on the northwestern side.</p> <p>The applicant seeks to retain the existing side setbacks noting that the proposed building largely adopts the footprint, overall height, and external wall height of the existing building. Whilst in the applicants view, the existing building could be in part retained to retain the side walls of the building and therefore the side setbacks, the proposal to demolish the existing building and construct as new residential flat building would be favourable from a construction perspective as this would allow for; easier excavation without requiring underpinning, changes in materials and improved buildability. This is in part agreed as strict compliance with the setback provision is considered unreasonable having regard to the existing siting of the building and the narrow width of the subject site.</p> <p>Notwithstanding this rational, the proposed development seeks to extend the building form towards the street by 0.9-2m at the ground floor level and 3.8-4.8m at the first and second floor levels, and the rear by 2m, maintaining the existing side setbacks. The potential impact of the additional length of the building has therefore been assessed having regard to the objective of the setback provisions and the potential impacts to the amenity of the surrounding properties given the non-compliance with the setback provisions. The scale of the additional massing towards the rear is two-three storeys with a pitched roof form. The additional massing would not have any material impact with regard to privacy or view loss. However, the proposed setbacks would cause some additional overshadowing as addressed above, although was not considered unreasonable given that the overshadowing would not directly impact the principle living areas or private open space.</p> <p>The rear of the proposed building steps in from each side boundary by between 3.6-4.4m and complies with the minimum 3m setback requirement and in part complies with the BHP.</p> <p>Rear Setback</p> <p>The proposed building is setback between 5-5.8m from the rear boundary which complies with the minimum 3m setback and also complies with the BHP requirement.</p>

<p>Section 1.4.7 - Form, massing and scale</p>	<p>Yes</p>	<p>The proposed form, massing and scale of the building is considered acceptable having regard to the height of the building as address regarding clause 4.3 <i>Height of buildings</i> in NSLEP2013 above and the proposed siting, setbacks and articulation of the building.</p> <p>The Neutral Neighbourhood Character does not specify characteristic storey control for the area. The surrounding building form within the R4 High Density Residential zone is of a three to four storey scale.</p> <p>Each level within the proposed building has a minimum floor to ceiling height of 2.7m to comply with provision P4 of Section 1.4.7 of Part B in NSDCP 2013.</p> <p>Despite the desire to maximise views towards the south, the extent of glazing facing the street is restrained through the introduction of more solid elements including wall nibs, solid balustrading, landscape planting and building articulation in accordance with P5 in Section 1.4.7 of Part B in NSDCP 2013.</p> <p>The proposed built form is reflective of the proponent’s inability to consolidate the development site with the adjoining site which is addressed under clause 6.12 of NSLEP 2013 above. The resulting built form results in non-compliant side setbacks and a vertical form, however, is reflective of the existing building form and is considered to be acceptable in the circumstances.</p>
<p>Section 1.4.8 - Built form character</p>	<p>Yes</p>	<p>The massing and scale of the proposed building has been broken down when viewed from the street and presents as a three storey element over a sandstone basement base level, the third storey has also been broken down further through the use of a full width balcony and light weight roof awning.</p> <div data-bbox="790 1205 1401 1579" data-label="Image"> </div> <p style="text-align: center;">Figure 53. Photo montage from Undercliff Street</p> <p>The proposed building has articulated building facades and is well modulated in plan and elevation and expresses the elements of the building’s architecture. The use of predominantly brick over a sandstone base, with contrasting darker banding, solid balustrading, well-proportioned glazing, external screening and landscaped planters breaks down the visual massing and scale of the building and provides visual interest when viewed from the public domain and surrounding properties. The retention of a pitched roof form is consistent with the surrounding roof typology. The built form character, given the use of these elements, responds to the character of the street noting the predominant period of development and provides for a contemporary design without being incompatible with the streetscape.</p> <p>The proposed development would utilise high quality materials and would positively contribute to the streetscape.</p>

Section 1.4.9 - Building entry	Yes	The proposed building entry is located at the front of the building and provides separate access to a basement garage level lobby. A secondary entry is also provided within the southeastern side setback via an external staircase to a side entry to the lobby on the ground floor level. The proposed building entry is visible from the public domain and provides a sense of address as the front garden and landscaping would direct visitors towards the garage and building entry.
Section 1.4.10 - Roofs	Yes	The proposed building has a pitched roof form and would be consistent with the surrounding roof typology within the Neutral Neighbourhood and particularly the streetscape which includes various dwellings and residential flat buildings with pitched roofs. The dormer like opening within the front roof plan is considered acceptable given the building typology.
Section 1.4.12 - Colours and materials	Yes	<p>The proposed development utilises predominantly dark colored brick with recessive contrasting brick banding, a sandstone base and complementary soft metal finish for balustrading, external screening and secondary roof forms. The proposed materials, finishes and colours are compatible with the surrounding development and landscaping.</p>  <p style="text-align: center;">Figure 54. Proposed Materials Palette</p>
Section 1.4.13 - Balconies - apartments	Yes	Each apartment has a balcony or ground level courtyard that complies with the minimum size and dimension requirements (<i>Refer to Private Open Space in Section 1.5.9 of Part B in NDCP 2013 below</i>).
Section 1.4.14 - Front fences	Yes	The proposed front fencing is to be constructed of sandstone to a maximum height of 1.1m and is consistent with the Neutral Neighbourhood Character Area.
1.5 Quality urban environment		
Section 1.5.1 - High quality residential accommodation	Yes	The proposed apartments are large in size and achieve the minimum size and dimension requirements. All apartments would achieve natural cross ventilation.
Section 1.5.3 - Safety and security	Yes	A reasonable level of safety and security is provided for the proposed development. The proposed building entry is located at the front of the building is highly visible from the public domain. There is also a secondary entry alongside the building
Section 1.5.4 - Vehicle Access and Car Parking	Yes	<p>The proposed carparking is located within one level of basement contained largely within the footprint of the proposed building. The basement parking is accessed from a single garage entry at the front of the building at grade. Some excavation is proposed within the front setback area to provide the access driveway at grade. The basement garage entry is setback at the front building line and would appear like a single garage.</p> <p>The basement parking includes two banks of tandem parking which is not ideal, however, is considered acceptable given the constrained nature of the site.</p>

		<p>The applicant has provided a swept path analysis to demonstrate that B85 vehicles are able to enter and exit the basement garage from each parking space in a forward direction. Condition G16 is recommended to advise future owners that the parking spaces are limited to B85 vehicles.</p> <p>The proposed basement garage is accessed by a single lane access point which would ordinarily require an on-site waiting bay to be provided to prevent queuing. However, no objection is raised because the subject site is located on a local road and the proposed development is relatively small scale of the development which would have a low trip generation and therefore queuing is unlikely to occur.</p>												
<p>Section 10.2.1 – Car Parking Rates</p>	<p>Acceptable</p>	<p>The proposed development includes on-site parking spaces with a basement level and is assessed against the parking rates in Table B-10.1 of Section 10.2.1 of Part B in NSDCP 2013 below:</p> <table border="1" data-bbox="759 734 1430 887"> <thead> <tr> <th>Control</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>3 Bedroom Apartments (3) 1.5 per dwelling (4.5 spaces)</td> <td>6</td> <td>No</td> </tr> <tr> <td>Visitor Parking (3 Dwellings) 0.25 per dwelling (0.75 Visitors)</td> <td>0</td> <td>-</td> </tr> </tbody> </table> <p>The proposed development seeks to provide two parking spaces per dwelling. Assuming the maximum number of parking spaces is rounded up to five, and given no visitor parking space has been provided, it is recommended that one of the proposed resident parking space be converted to a visitor parking space to ensure greater compliance with the maximum permitted parking rate and reduce the burden on on-street parking created by visitors.</p> <p>Condition G14 is recommended to specify the parking entitlement for the residential component and for visitors.</p>	Control	Proposed	Compliance	3 Bedroom Apartments (3) 1.5 per dwelling (4.5 spaces)	6	No	Visitor Parking (3 Dwellings) 0.25 per dwelling (0.75 Visitors)	0	-			
Control	Proposed	Compliance												
3 Bedroom Apartments (3) 1.5 per dwelling (4.5 spaces)	6	No												
Visitor Parking (3 Dwellings) 0.25 per dwelling (0.75 Visitors)	0	-												
<p>Section 10.5 – Bicycle Parking and Associated Facilities</p>	<p>Acceptable</p>	<p>The proposed development provides a separate secure basement storage room for each dwelling, large enough to store a bicycle and therefore satisfies the requirement for space per dwelling.</p>												
<p>Section 1.5.5 - Site Coverage Section 1.5.6 - Unbuilt Area and Landscaped Area</p>	<p>Yes</p>	<p>The site has an area of 489.83sqm. Compliance with the site coverage, unbuilt upon area and landscaped area provisions for residential flat buildings is assessed in the table below:</p> <table border="1" data-bbox="799 1413 1390 1626"> <thead> <tr> <th>Control</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>Site coverage = Maximum 45%</td> <td>202.6sqm (41.35%)</td> <td>Yes</td> </tr> <tr> <td>Landscaped Area = Minimum 40%</td> <td>181.5sqm (37.05%)</td> <td>No</td> </tr> <tr> <td>Unbuilt Upon Area = Maximum 15%</td> <td>105.8sqm (21.60%)</td> <td>No</td> </tr> </tbody> </table> <p>The proposed development complies with the relevant site coverage provision although results in a minor non-compliance with the unbuilt upon area and landscaped area provisions.</p> <p>The proposed basement footprint extending outside of the proposed building footprint is indicative of the small size of the site. Whilst these areas would technically constitute unbuilt upon area, the soil depth over these basement area is between 1.2-3.0m and would provide sufficient soil to support substantial landscaping, particularly within the site setback areas to soften the building form. If these areas were to be included as landscaped area, compliance would improve to 47%, well beyond the minimum requirement. The remaining unbuilt upon area are otherwise limited to the single driveway, side entry path and a small courtyard and do not detract from the landscaped setting of the building or the provision of substantial landscaping planting included trees.</p>	Control	Proposed	Compliance	Site coverage = Maximum 45%	202.6sqm (41.35%)	Yes	Landscaped Area = Minimum 40%	181.5sqm (37.05%)	No	Unbuilt Upon Area = Maximum 15%	105.8sqm (21.60%)	No
Control	Proposed	Compliance												
Site coverage = Maximum 45%	202.6sqm (41.35%)	Yes												
Landscaped Area = Minimum 40%	181.5sqm (37.05%)	No												
Unbuilt Upon Area = Maximum 15%	105.8sqm (21.60%)	No												

<p>Section 1.5.9 Private and Communal Open Space</p>	<p>Yes</p>	<p>Private Open Space The proposed apartments each include a balcony at the front of the building taking advantage of the southern views towards Sydney Harbour. The balconies have a minimum size of 12sqm, complying with Provision P1 in Section 1.5.9 of Part B in NSDCP 2013, with a depth of between 2-2.8m which is consistent with Provision P3 in Section 1.5.9 of Part B in NSDCP 2013. The ground level (Unit 3) and first floor level (Unit 2) apartments also have access to courtyard areas at ground level towards the rear of the site and the second floor level (Unit 1) apartment has an additional balcony accessed from the third floor level bedroom.</p> <p>Communal Open Space Given the smaller scale of the proposed development, the provision of a communal open space area is not warranted. Each apartment is provided with sufficient private open space. The inclusion of the rear courtyard area as a communal open space area could be undertaken, however, would result in amenity impacts to the first floor level apartment (Unit 2) as the communal open space would directly adjoin the rear bedrooms and secondary living area with limited opportunity to provide separation without diminishing the courtyard area.</p>
<p>Section 1.5.12 - Garbage storage</p>	<p>Yes</p>	<p>A garbage storage area has also been provided within 2m of the Undercliff Street frontage to facilitate collection. The enclosure has been integrated into the fencing and landscaping to obscure any views from the street.</p> <p>A garbage chute and separate recycling bin storage cupboard has not been provided on each level which is considered acceptable given the small scale of the development.</p>
<p>Section 1.5.13 - Site Facilities</p>	<p>Yes</p>	<p>The mailboxes have not been identified on the plans however can easily be integrated into the design of the front fencing (<i>Refer to Condition C3</i>)</p> <p>Adequate storage is provided within individual apartments with ancillary storage rooms provided within the basement.</p>
<p>1.6 Efficient use of resources</p>		
<p>BASIX</p>	<p>Yes</p>	<p>A valid multi-dwelling BASIX certificate has been provided.</p>

Part C - Section 7.2 Neutral Neighbourhood

The subject site is located within the **Neutral Neighbourhood** of the **Neutral Bay Planning Area**. The area is predominantly residential. The fall of the land is towards Sydney Harbour.

Section 7.2.1 Significant Elements

Streetscape

P16 Generally a mixture of low sandstone, masonry and timber picket fences, with higher fences on the lower side of the street.

The proposed front fencing is to be constructed of low height sandstone walls and is well integrated into the front garden landscaping and includes low height retaining walls to terrace the landscaping.

P17 Buildings generally setback, with some instances of garages built to the boundary.

The proposed building is setback between 7.6m-9.6m from the front boundary which is considered acceptable as addressed above. The proposed development would remove the existing parking from the front setback area, significantly reducing the hardscaping and minimising the dominance the parking accommodation has on the street scape.

Section 7.2.2 Desired Future Character

P2 Pockets of attached dwellings, multi dwelling housing and residential flat buildings according to zone.

The subject site is zoned R4 High Density Residential and has a zone interface to the south and northwest, being land zoned R2 Low Density Residential. The proposed residential flat building is permitted within this pocket of the Neutral Neighbourhood and therefore the proposed development is indicative of the desired future character of the area.

Section 7.2.3 Desired Built Form

P1 Development should be carefully designed to follow the topography of the land, with buildings on sloping sites.

The subject site falls steeply from the rear to the street. The massing is predominantly shifted towards the street, being the lower portion of the site, to minimise the overall height of the building to sit on the site.

SECTION 7.11/12 CONTRIBUTIONS

The proposed development would increase the number of residents within the locality and therefore a contribution levied under section 7.11 the Act is required in accordance with the North Sydney Infrastructure Contributions Plan 2020.

s7.11 net population increase summary

Development Type	Dwellings		Residents
	Existing	Proposed	Change
<i>1 bed dwelling</i>	0	0	
<i>2 bed dwelling</i>	3	0	
<i>3 or more bed dwelling</i>	0	3	
Net resident change			1.8

The proposed development would receive a credit for the demolition of the three existing two-bedroom dwellings on the site and would be levied for the residents generated by the proposed development. Due to CPI increases, the levy for a two or three bedroom dwelling have both reached the \$20,000 threshold under the Minister's Direction - *Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012*. The contribution payable is calculated to be \$0 under section 7.11 of the Act despite the increase in residents.

However, under the plan, as the contribution calculated under Section 7.12 of the Act, being 1% of the development cost is greater than the contribution calculated under Section 7.11 of the Act, the Section 7.12 applies.

The proposed development has an estimated cost of works of \$3,476,000.00 and therefore a contribution of **\$34,760** is applicable.

Condition C34 is recommended which would require the payment to be made prior to the issue of the Construction Certificate.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL	CONSIDERED
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. All relevant s4.15(1) considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

The application, and subsequent amended application was notified in accordance with Council Community Engagement Protocol from 6 April 2021 until 20 April 2021 and 15 July 2022 until 29 July 2022. The issues raised are addressed below:

Bulk and Scale

- *The proposed development breaches the maximum permitted building height pursuant to clause 4.3 in NSLEP 2013.*

The proposed development would contravene the maximum permitted building height in clause 4.3 in NSLEP 2013. The application is therefore supported by a written request made pursuant to clause 4.6 in NSLEP 2013 which is considered to justify the variation in the circumstances as address in detail earlier in this report.

- *The written request made pursuant to clause 4.6 in NSLEP 2013 is inadequate and should not be supported for the following reasons:*

- *the development does not achieve objectives (b), (c), (e) and (f);*
- *sufficient environmental planning grounds to justify the variation have not been provided*
- *non-complying elements would cause overshadowing to No. 10 Undercliff Street*
- *view loss is exacerbated by the non-complying element.*

The written request made pursuant to clause 4.6 in NSLEP 2013 is considered to adequately address the prescribed matters in clause 4.6 in NSLEP 2013. Once the existing excavation has been taken into account, the proposed development would otherwise comply with the maximum permitted building height within the exception of minor element including the ridgeline and a roof awning. The development is considered to achieve the objectives of the height of buildings development standard, notwithstanding the non-compliances, as the non-complying elements do not give rise to material view impacts or overshadowing consistent with objectives (b) and (c), and would not be inconsistent with the bulk and scale envisaged within the R4 zone, noting the zone boundary to the northwest, consistent with objectives (e) and (f). Furthermore, the revised written request has provided sufficient environmental planning grounds to justify the variation.

- *The proposed site coverage is excessive for the size of the site.*

The proposed site coverage of 41% complies with the maximum permitted site coverage provision of 45% of residential flat buildings in NSDCP 2013.

- *The proposed development does not comply with the unbuilt upon area provision in NSDCP 2013.*

The proposed development results in a minor non-compliance with the unbuilt upon area provision in NSDCP 2013, however, is reasonably offset by the less than permitted site coverage and the significant landscaping over the basement structure which caused the numerical variation.

- *The proposed development does not comply with the minimum setback requirements in NSDCP 2013.*

The proposed development relies on the existing side setbacks of the existing building, where the proposed development seeks to extend the building towards the front and rear whilst maintaining the existing setbacks the proposed development has been assessed having regard to the objectives of the setback control and the potential impacts caused by the non-complying elements in the circumstances.

- *The proposed front building line extends too far forward towards the street and is inconsistent with the surrounding buildings.*

The proposed front building line would extend forward of the existing building and the adjoining properties to the southeast and northwest. The proposed front setback is considered appropriate in the circumstances as the existing siting of development along Undercliff Street is setback uncharacteristically towards the centre and/or rear of the lots, potential historically to gain a vantage point to the south given topography of the land and the extensive views available. The proposed front building line is setback 7.6-9.8m from the front boundary and has been splayed to reflect the subdivision pattern. The proposed development is also below the maximum permitted site coverage provision.

- *The proposed front building line disingenuously relies on the approved balcony footprint.*
- *The proposed front building line should not extend further forward than the approved balconies at each level.*

The applicant has provided an outline of the existing and approved building including the balconies approved under DA157/2018. Whilst it is acknowledged that the proposed building would extend further forward of the existing and approved balconies, the proposed building has been assessed on its merits and the proposed front building line is considered reasonable having regard to the constraints and context of the site and surrounding properties.

- *The proposed rear building line extends beyond the prevailing rear building line and has adverse amenity impact upon surrounding residents.*

The proposed building extends further towards the rear than the existing building form in a two to three storey building form and has been set in from both side boundaries. The proposed additional massing to the rear would result in some additional overshadowing to the secondary private open spaces and northeastern rear elevation of the adjoining property to the southeast (No. 7 Undercliff Street), however, as described in this report, this element complies with the relevant height and setback provisions. Whilst the additional overshadowing would impact the adjoining property between 2:00pm and 3:00pm in midwinter, it does not impact the principle private open space and living area which are orientated towards the views to the south.

Character and Heritage

- *The application is not supported by a Heritage Impact Statement.*

The subject site is not identified as a heritage item or within a conservation area and therefore the requirement to provide a HIS is discretionary. Council's Conservation Planner has assessed the proposed development with regards to Clause 5.10 in NSDCP 2013.

- *The proposed development fails to achieve the fourth objective of the R4 High Density Residential zone as it would have an adverse impact on the heritage significance of Undercliff Street.*

The subject site is not identified as a heritage item or within a conservation area although is in the vicinity of several heritage listed dwellings. The amended scheme is not inconsistent with the heritage significance of the surrounding heritage listed dwellings and has reasonably responded to the character of the streetscape notwithstanding the differing building typologies.

- *The front façade of the building comprises mainly glass and is inconsistent with the streetscape.*

The amended scheme has significantly reduced the extent of glazing within the front elevation of the building and is more consistent with the streetscape having regard to the variety of building typologies within Undercliff Street.

- *The front elevation of the building is overly vertical in appearance.*

The proposed building form would have four storeys with a recessed fifth storey located further behind the front elevation, reflecting the topography of the site. The front elevation is vertical in nature given the narrow width of the building in comparison to the building height. The proposed built form, however, has been broken down through the implementation of a sandstone blockwork base, two levels of face brick facade and a more open balcony at the second floor level to break down the visual scale of the façade into smaller elements, decreasing the visual massing at higher levels.

- *The proposed development is inconsistent with the character of the area.*

The amended scheme provides a more characteristic built form with traditional material and finishes as suggested by DEP. The character of the proposed development is considered acceptable having regard to the differing development typology within the area, which is a mix of residential flat building and heritage listed properties which are generally one-two storey dwellings.

- *The proposed materials and finishes do not provide a warm appearance as recommended by Design Excellence Panel.*

The proposed amended palette of materials and finishes is considered to satisfy the advice of the panel and draws on material and finishes that are evident amongst the surrounding buildings. The proposes use of sandstone and brown brick is an appropriate response to the site context and is more in keeping with the streetscape than the originally proposed exposed concrete and grey brickwork.

- *The proposed balconies are not contained within the building envelope.*

The proposed balconies have been better incorporated into the building envelope and are more recessive in appearance.

- *The contemporary façade does not respond to the existing streetscape.*

The amended scheme, whilst in part contemporary, would not be inconsistent with the streetscape.

Traffic and Parking

- *The proposed development would increase traffic and on-street parking congestion within the area and contribute to the cumulative impact of the surrounding development.*

The proposed development provides sufficient off-street parking for the residents and their visitors subject to **Condition G14**.

- *The proposed development does not provide visitor parking and is likely to increase demand for on-street parking congestion which is already in high demand.*

Condition G14 requires one of the proposed resident parking spaces to be utilised as a visitor parking space to minimise the burden on on-street parking by visitors. The parking arrangement would also better comply with the maximum permitted parking rates to discourage private car ownership.

- *Concerns regarding construction traffic congestion and construction worker parking congestion.*

Condition B1 is recommended requiring the preparation of a construction traffic management plan that would be required to address these issues.

- *The proposed tandem parking arrangement and maneuvering space is impractical and would likely result in resident parking on the street.*

The proposed tandem arrangement is considered acceptable given the constrained nature of the site. The proposed single level basement is preferable as it reduces the extent of excavation and does not rely on mechanical equipment.

Amenity Impacts

Views

- *The proposed development results in loss of Harbour and city views from the adjoining residential flat building to the east (No. 5 Harriette Street).*

The potential impact to the views of the North Sydney CBD skyline is considered reasonable in the circumstances as a portion of the view, being the upper portion of the skyline would be retained. Views towards the North Sydney CBD skyline are gained over multiple side and rear boundaries and are difficult to retain. Furthermore, the portion of the building causing the impact, being the elongation of the roof form towards the rear would otherwise comply with the maximum permitted building height when compared to the existing unexcavated land levels. There would be no impact to views of the Harbour.

- *The proposed development results in loss of city views from the adjoining residential flat building to the northeast (No. 1 Harriette Street).*

The proposed development largely retains the existing views to the City of Sydney CBD skyline and Sydney Harbour bridge as the proposed building retains the existing building height and pitched roof form when viewed directly from the rear. The view corridors within the side setbacks and across the pitched roof form are largely retained.

- *The proposed development results in loss of views to the North Sydney CBD and trees from the front balconies of the adjoining property to the southeast (No. 7 Undercliff Street).*

Whilst the proposed development extends further forward of the existing building and the existing front balconies of the adjoining dwellings to the southeast, the panoramic views would largely be retained with only a minor impact occurring over the side boundary to a small portion of the North Sydney CBD skyline which is considered negligible given the otherwise uninterrupted views of the Harbour.

Privacy

- *The proposed development would overlook the adjoining property to the northwest and adjoining properties to the southeast.*

Sufficient privacy measures have been proposed to prevent overlooking towards the adjoining properties. **Condition C1** is recommended to reinforce these measures and ensure that external privacy screening is not operable.

- *The proposed development would overlook the adjoining properties on the opposite side of Undercliff Street.*

Sufficient building separation is provided by the building setbacks and road reserve to provide privacy via separation. Overlooking of windows that face the street are of less concern given the existing privacy impacts.

- *The proposed front balconies and living areas would have a detrimental impact on the acoustic privacy of surrounding properties, including the properties on the opposite side of the street which have bedrooms facing the proposed development.*

The proposed front balconies are generally consistent with the existing and approved front balconies and of the balconies of the adjoining property to the southeast No. 7 Undercliff Street. The potential impact of the proposed balconies is consistent with the R4 High Density Residential zoning of the site. Furthermore, the proposed balconies are not excessive in size and are partly enclosed and or covered to ameliorate some of the noise emission.

Overshadowing

- *The proposed development would overshadow the adjoining property to the southeast, impacting the living room and rear courtyard of the ground floor dwelling.*

The proposed development would cause some additional overshadowing to the secondary private open space and northeast facing rear elevation of the adjoining property to the southeast between 2:00pm to 3:00pm in midwinter. Whilst this overshadowing would impact the amenity of this property, the impact is caused by a generally complying element and the proposed development does not result in additional overshadowing to the principle private open space and living area. On balance, the overshadowing, whilst unfavourable, is not unreasonable in the circumstances.

- *Shadow diagrams should be provided at hourly intervals including at the equinoxes.*

The proposed development has been assessed having regard to the winter solstice impacts in accordance with the relevant provisions and is considered acceptable noting that the additional overshadowing caused by the proposed development does not materially impact the principle living areas and private open space of the adjoining properties.

- *The proposed development, in part caused by the height variation, would overshadow the properties on the opposite side of the street.*

The extent of overshadowing to the adjoining properties located on the opposite side of Undercliff Street is negligible in mid-winter and does not impact living areas of private open space.

- *The proposed development would result in a further loss of light and outlook for the dwellings at the rear of the Harriette Street properties.*

The proposed development is setback from the rear boundary to comply with section 1.4.6 of Part B in NSDCP 2013. The dwellings located to the rear of the buildings in Harriette Street have limited solar access given the southern aspect, however, would retain an outlook to the sky and trees in accordance Provision P3 of Section 1.3.6 of Part B in NSDCP 2013. The cumulative impact of development may reduce the ambient light levels for these dwellings, however, there is no specific control or requirement to assess this impact.

Landscaping

- *The proposed development contributes to the cumulative impact of development on the remaining landscaping and urban canopy.*
- *The removal of T1 located within the front setback area should not be supported. The proposed replacement plantings are not sufficient to offset the loss of this tree.*

Council's Landscape Development Officer is satisfied with the proposed tree removal and replacement tree planting would provide a suitable landscaped setting for the building.

- *The proposed landscaping is capable of causing further view loss from surrounding properties.*

No concern is raised with respect to the proposed landscaping plane given the proposed landscaping does not comprise hedging or the like that would have an unreasonable impact on existing views.

Construction Impacts

- *There is concern that the proposed excavation would adversely impact the stability of surrounding dwellings, particularly older homes with aging foundations.*

Conditions **C8**, **C9** and **E7** have been recommended requiring further structural and geo-technical engineering advice to be prepared to ensure that the proposed excavation and construction does not adversely impact the stability of the adjoining land or cause damage to adjoining properties. **Conditions C6** and **G4** have also been recommended requiring the preparation of dilapidation reports and any damage caused by the proposed works to be rectified.

- *Concerns are raised that the proposed excavation and construction is likely to disrupt the amenity of the surrounding residents, particularly given the number of people working from home.*

Condition E20 and have been recommended specifying the construction hours. The standard construction hours are designed to minimise the disruption to surrounding properties and includes respite periods for noise work.

- *There are concerns that the likely vibration caused by excavation could damage surrounding properties.*

Condition C9 required the potential for vibration impacts caused by excavation to be considered and where applicable, monitored to ensure that any vibration remains within specified thresholds.

- *Should the development be approved, strict conditions should be imposed and enforced regarding construction noise and vibration, and dust emissions.*

Condition E11 has been recommended regarding dust suppression. As above, other conditions have been recommended to limit noise and vibration impacts to within acceptable levels.

Miscellaneous

- *The proposed development does not make environmental sustainability commitments.*

The application is accompanied by a valid BASIX Certificate and has met the requirements of the Policy.

- *A notification error, whilst corrected meant that some residents were unaware of the notification period.*

The application was notified and amended plans renotified in accordance with Council's Community Engagement Protocol.

- *Removal of the side boundary fence along the northwestern side boundary should only be done with the consent of the adjoining property owners.*

The amended plans have incorporated a retaining wall set back from the side boundary to ensure that the existing land levels and retaining walls that straddle the common boundary are retained. The existing fence is to be reconstructed and the proponent would need to comply with the requirements of the Dividing Fences Act 1991.

- *A renovation of the existing building should be considered as an alternative.*

The application has been assessed having regards to the proposed works.

- *A fire safety plan/schedule has not been prepared.*

Fire safety is to be addressed at Construction Certificate stage and the building would be required to be registered on Council's Annual Fire Safety Schedule register.

SITE SUITABILITY

The subject site contains an existing residential flat buildings and is zoned R4 High Density Residential.

PUBLIC INTEREST

There are no matters raised in which approval of the application would not be in the public interest.

HOW THE COMMUNITY VIEWS WERE TAKEN INTO CONSIDERATION

The application, and subsequent amended application was notified in accordance with Council Community Engagement Protocol from 6 April 2021 until 20 April 2021 and 15 July 2022 until 29 July 2022. The amended scheme sought to address in part some of the concerns raised regarding, in particular, the appearance and character of the proposed building. The assessment report has addressed all submissions and assessed the potential amenity impacts arising as a result of the proposed development.

CONCLUSION + REASONS

The matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 subject to the written request to vary the height of buildings development standard made pursuant to clause 4.6 of NSLEP 2013.

The extent of the variations relates primarily to the southern end of the upper level, where the proposed floorplate overlaps the existing excavated basement parking areas, and a roof awning, and is reflective of the irregular steeply sloping topography through the site. The clause 4.6 submitted demonstrates that in the site context that strict compliance is unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify the variation.

The proposed development largely seeks to retain the existing height and side setbacks to establish the proposed built form and proposes to extend the building towards the street and the rear in order to increase the overall yield of the building in comparison to the existing building. The proposed development complies with the maximum permitted site coverage provision and provided sufficient landscaped area having regard to additional planting over the proposed basement level.

The appearance of the proposed buildings has been amended to better reflect the character of the area noting the number of surrounding properties in the vicinity of the site that area listed as heritage items. The proposed façade minimises the extent of exposed glazing and incorporates design elements including sympathetic materials and finishes, and landscaping to soften the proposed building form.

Whilst it is noted that the proposed development significantly exceeds the scale of the development towards the northwest and southwest, this is reflective of the transition in built form anticipated at the zone boundary and whilst abrupt, is reflective of the pocket of R4 High Density Residential zoning and the density of development within the area.

It is noted that the proposed development would cause some additional impacts to the existing views and solar access, however, the impacts are generally considered to be minor and either do not materially impact the amenity of the surrounding dwellings or are caused by compliant elements of the proposed development.

The application was notified in accordance with the community engagement protocol where Council received twenty-five (25) submissions objecting to issues including the proposed height variation, amenity impacts including view loss and overshadowing, tree removal, construction impacts including excavation, traffic congestion and insufficient on-site parking. The issues raised are considered to be generally acceptable or have been addressed through conditions of consent, particularly with regard to construction impacts including excavation.

On balance, the proposed development is considered reasonable and is recommended for approval.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, exercising the functions of Council, as the consent authority, assume the concurrence of the Secretary, Department of Planning, Industry and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 of NSLEP 2013 and grant consent to Development Application No. 430/2021 for demolition of an existing residential flat building and construction of a four storey residential flat building containing three apartments and basement parking for six cars on land at No. 9 Undercliff Street, Neutral Bay subject to the following site specific conditions and standard conditions:

External Privacy Screening

- C1. The external privacy screening shown on the northwestern, northeastern and southeastern elevations are to be fixed and non-operable.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that a reasonable level of privacy is provided for the surrounding dwellings.)

Soffit Finish

- C2. The soffit of the front balcony roofs on each level is to be finished with a timber or engineered material to dampen the noise emission from the balconies. The colour and finish of the soffit is to be consistent with the character of the building having regard to the schedule of materials and finishes approved by this consent.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that the external finishes are complementary to the character of the area.)

Mailboxes

- C3. Individual Mailboxes for each apartments and the body corporate are to be incorporated into the design of the front fence.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure the provision of site facilities in accordance with Section 1.5.13 of Part B in NSDCP 2013.)

Landscape Plan

C38. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- A minimum of 4 x *Bambusa textilis var. Gracilis* (75L) shall be planted along the western boundary adjacent to the foremost section of the proposed building i.e the living, dining and kitchen area of Unit 3.
- 1x *Melaleuca armillaris* (150l) shall be planted centrally within the front setback area of the subject site.
- 1x *Cupaniopsis* (75l) shall be planted in the eastern corner of the rear setback area of the subject site.
- 1 x *Tristaniopsis laurina* (75l) shall be planted in the southeastern garden of the rear setback area of the subject site.
- No stormwater or any other pipework shall be directed through the TPZ of any tree to be retained.

An amended landscape plan complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity)

Allocation of Spaces

G14. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

5	Residents
1	Visitors

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lots' unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

Covenant and/or Restriction (Basement Parking)

G16. An Instrument pursuant to Sections 88B, 88E and 88F Instrument pursuant to the *Conveyancing Act 1919* in registrable form and 1 copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and Section 88E Instrument are to provide for:

- a) Access to the parking spaces is restricted to B85 Vehicles.

The instrument creating the restriction and/or covenant under sections 88B, 88E and/or 88F required by the conditions of consent must be registered on Title prior to the issue of an Occupation Certificate or the occupation of the building, whichever occurs first.

Evidence of registration of the restrictions, easements and covenants under Section 88E must be provided to Council within 28 days of registration on the Title.

Should the building be subdivided under the Strata Development Schemes Act 2015, this restriction and/or covenant is to be transferred to any Strata Plan relating to the building constructed under this development consent.

(Reason: To advise future owners of the constraints of the basement parking level)

Michael Stephens
SENIOR ASSESSMENT OFFICER

Robyn Pearson
TEAM LEADER ASSESSMENTS

Stephen Beattie
MANAGER OF DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
9 UNDERCLIFF STREET, NEUTRAL BAY
DEVELOPMENT APPLICATION NO. 430/21

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan Nos	Issue	Description	Prepared by	Dated
DA04	C	Level 1 Plan	Corben Architects	22 August 2022
DA05	C	Level 2 Plan		25 August 2022
DA06	B	Level 3 Plan		3 June 2022
DA07	B	Level 4 Plan		3 June 2022
DA08	B	Level 5 Plan		3 June 2022
DA09	B	Roof Plan		3 June 2022
DA10	B	Southwest Elevation		3 June 2022
DA11	B	Northwest Elevation		3 June 2022
DA12	B	Northeast Elevation		3 June 2022
DA13	B	Southeast Elevation		3 June 2022
DA14	B	Section AA		3 June 2022
DA15	C	Section BB & CC		25 August 2022
DA26	B	Northwest Boundary Elevation		25 August 2022
D100	A	Landscape Plans		Sticks and Stones
D101	A	Planting Plan	20 May 2022	

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

No Demolition of Extra Fabric

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

External Finishes and Materials

- A4. External finishes and materials must be in accordance with the submitted schedule DA24 B Finishes board, prepared by Corban Architects, dated 3 June 2022, unless otherwise modified by Council in writing.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

B. *Matters to be Completed before the lodgement of an Application for a Construction Certificate*

Construction and Traffic Management Plan – North Sydney Council Traffic Division Approval

- B1. A Construction Management Program prepared by a suitably qualified and experienced traffic consultant must be submitted for consideration by the North Sydney Traffic Committee and approved in writing by North Sydney Council's Traffic Division PRIOR TO THE ISSUE OF ANY Construction Certificate. Any use of Council property will require appropriate approvals prior to any work commencing. At a minimum, the Construction Management Program must specifically address the following matters:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
- i. Dedicated temporary construction site driveway entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways and footways;
 - ii. The proposed signage for pedestrian management to comply with the relevant Australian Standards, including pram ramps;
 - iii. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
 - iv. The locations of any proposed Work Zones in the frontage roadways (to be approved by Council's Traffic Committee);
 - v. Locations of hoardings proposed;
 - vi. Location of any proposed crane standing areas;
 - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.

- b) A detailed heavy vehicle access route map through the Council area to Arterial Roads. Provision is to be made to ensure through traffic is maintained at all times.
- c) The proposed phases of works on the site, and the expected duration of each phase.
- d) How access to neighbouring properties will be maintained at all times and the proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of process.
- e) The road is not to be used as a waiting area for trucks delivering to or awaiting pick up of materials.
- f) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising structural engineer and must not involve any permanent or temporary encroachment onto Council's property.
- g) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of "B" class hoardings over footpaths and laneways.
- h) A Waste Management Plan. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process.

All traffic control work and excavation, demolition and construction activities must be undertaken in accordance with the approved Construction Management Program and any conditions attached to the approved Program. A certificate of compliance with this condition must be obtained from Council's development engineers. The certificate and the approved Construction Management Program must be submitted as part of the documentation lodged with the application for approval of a construction certificate. A copy of the approved Construction Management Program and any conditions imposed on that Program, must be kept on the site at all times and made available to any officer of Council upon request.

Notes:

- 1) North Sydney Council's adopted fee for certification of compliance with this condition shall be payable on lodgement, or in any event, prior to the issue of the relevant approval.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction Management Plan be lodged with Council as early as possible, as **a minimum six (6) weeks' assessment period** is required, including referral to the Traffic Committee.

- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)*

External Privacy Screening

- C1. The external privacy screening shown on the northwestern, northeastern and southeastern elevations are to be fixed and non-operable.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that a reasonable level of privacy is provided for the surrounding dwellings.)

Soffit Finish

- C2. The soffit of the front balcony roofs on each level is to be finished with a timber or engineered material to dampen the noise emission from the balconies. The colour and finish of the soffit is to be consistent with the character of the building having regard to the schedule of materials and finishes approved by this consent.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that the external finishes are complementary to the character of the area.)

Mailboxes

- C3. Individual Mailboxes for each apartments and the body corporate are to be incorporated into the design of the front fence.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure the provision of site facilities in accordance with Section 1.5.13 of Part B in NSDCP 2013.)

Dilapidation Report Damage to Public Infrastructure

- C4. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Dilapidation Report Private Property (Excavation)

- C5. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey are to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/i.e., prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

C6. A photographic survey and dilapidation report of adjoining properties **Nos. 7 and 23 Undercliff Street** and **No's 1 and 5 Harriette Street** detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Shoring for Adjoining Property

C7. Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. A copy of this documentation must be provided to the Council for record purposes.

Note: Approval of engineering drawings for shoring works to be located on adjoining property by the Certifying Authority does not authorise a trespass on private or public land. All relevant permissions/legal rights must be obtained to undertake any works on adjoining land.

(Reason: To ensure the protection of existing public infrastructure and adjoining properties)

Structural Adequacy of Adjoining Properties - Excavation Works

C8. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining properties **Nos. 7 and 23 Undercliff Street** and which certifies their ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in close proximity during excavation works)

Geotechnical Report

C9. Prior to issue of any Construction Certificate a Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:

- a) The type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;
- b) The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
- c) The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
- d) The existing groundwater levels in relation to the basement structure, where influenced;

- e) The drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilized in controlling groundwater. Where it is considered there is the potential for the development to create a “dam” for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilized; and
- f) Recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/ hydro geological engineer or suitable qualified expert with previous experience in such investigations and reporting.

It is the responsibility of the consulting geotechnical/ hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

- a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;
- b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- d) vibration is to be minimized or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;

- e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and
- f) An adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The report, satisfying the requirements of this condition, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

Sediment Control

- C10. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils and Construction* (4th edition, Landcom, 2004) commonly referred to as the “Blue Book” or a suitable and effective alternative method.

A Sediment Control Plan must be prepared and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate and prior to any works commencing. The Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;
- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and
- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Sediment Control plan.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

C11. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:

- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
- b) The design of the on-site waste storage and recycling area; and
- c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Skylight(s)

C12. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 200 mm above roof plane when in a closed position. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

External Finishes and Materials

C13. The external colours and finishes must be in accordance with the approved schedule of finishes and materials. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure quality built form of development)

Reflectivity Index of Glazing

- C14. The reflectivity index (expressed as a per centum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

(Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development)

Roofing Materials - Reflectivity

- C15. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

No External Service Ducts

- C16. Service ducts must be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure quality built form of the development)

Work Zone

- C17. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate.

Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Bicycle Storage and Parking

C18. The bicycle storage area must accommodate a minimum of 3 bicycles, and a visitor parking bicycle rail shall be provided for 1 bicycle. The bicycle storage lockers and bicycle rail shall be designed in accordance with the applicable Australian Standards. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To promote and provide facilities for alternative forms of transport)

Basement Car Park to comply with relevant standards

- C19.
- a) Compliance with BCA drainage requirements, Council's Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.
 - b) Stormwater runoff and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by gravity to Council's street system via existing stormwater lines.
 - c) All redundant stormwater pipelines within the footpath area shall be removed and the footpath and kerb reinstated.
 - d) Pipelines within the footpath area shall be hot dipped galvanized steep rectangular hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres.
 - e) Any footpath panel on Undercliff Street disturbed for the purpose of stormwater connection shall be reconstructed as whole panel.

- f) Any proposed fence is to be constructed so as not to impede the natural overland flow along the line of the easement.

(Reason: To ensure the basement layout complies with relevant standards)

Obtain Driveway Crossing Permit under s138 Roads Act 1993

C20. A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council prior to the issue of any Construction Certificate. In order to obtain a permit under s138 of the Roads Act 1993, an application must be made to Council on the 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable issue of the permit. The requirements of the permit must be complied with at all times.

The civil design drawings must include the following at a minimum:

- a) The proposed vehicular access ways must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor.
- b) The redundant parts of layback crossing on Undercliff Street must be reinstated as upright kerb gutter and concrete footpath.
- c) The width of the vehicular layback must be 5.0m (including the wings).
- d) The vehicular laybacks must be set square to the kerb.
- e) The gutter levels, road shoulder levels and boundary footpath levels on Undercliff Street must stay unchanged.
- f) All inspection openings, utility services must be adjusted to match the proposed driveway levels and location.
- g) The design detail has to be provided with vehicular access application and must include sections along centre-line and extremities of the crossing at a scale of 1:25. Sections are to be taken from the centre of the roadway through to the parking area itself and shall include all changes of grade and levels, both existing and proposed.
- h) A longitudinal section along the gutter line on Street at a scale of 1:50 showing how it is intended to transition the layback with the existing gutter levels and shall include all changes of grade and levels, both existing and proposed.
- i) A longitudinal section along the footpath property boundary at a scale of 1:50 is required and shall include all changes of grade and levels, both existing and proposed.
- j) The sections must show the calculated clearance to the underside of any overhead structure.
- k) A swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of the garage spaces in accordance with AS 2890.1 2004 "Off Street Parking".

The permit must be granted by Council prior to the issue of any Construction Certificate.

All driveway and infrastructure works on the road reserve must be undertaken in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained and referenced on and accompanies the Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

C21. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$10,000.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.
- c) remedying any defects in any such public work that arise within six months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of six months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and

- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Tree Protection Measures to be shown on Construction Drawings

C22. The tree protection measures contained in the arborist report prepared by Michael Shaw, dated 9 November 2021, shall be shown clearly on the Construction Certificate drawings. Plans and specifications showing the said tree protection measures must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure the construction plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that appropriate tree protection measures are shown on construction drawings)

Protection of Trees

C23. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 - Protection of trees on development sites:

Trees	Location	Height
T2 <i>Phoenix canariensis</i>	No. 23 Undercliff Street	14m
T3 <i>Archontophoenix alexandrae</i>	No. 23 Undercliff Street	10m
T4 <i>Archontophoenix alexandrae</i>	No. 23 Undercliff Street	10m
T5 <i>Archontophoenix alexandrae</i>	No. 23 Undercliff Street	8m
T6 <i>Liquidambar styraciflua</i>	No. 7 Undercliff Street	6m
T7 <i>Howea forsteriana</i>	Rear setback area	8m
T8 <i>Archontophoenix alexandrae</i>	Rear setback area	10m
T10 <i>Murraya paniculata</i>	No. 7 Undercliff Street	4m

Sensitive construction techniques including hand excavation, pier and beam construction and flexible location of piers shall be utilised within the TPZ of any protected tree

No roots greater than 30mm shall be cut.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Approval for removal of Trees

C24. The following tree(s) are approved for removal in accordance with the development consent:

Trees that are acceptable to remove	Location	Height
T1 <i>Acer negundo</i>	Front setback area	10m
T9 <i>Lagerstroemia indica</i>	Rear setback area	6m

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Pruning of Trees

C25. No pruning shall be permitted to any of the protected trees nominated under this consent, and nor shall any pruning to any public trees be permitted for the purposes of obtaining site access.

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Garbage and Recycling Facilities

C26. An appropriate area must be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements must be met:

- a) all internal walls of the storage area must be rendered to a smooth surface, covered at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
- b) provision for the separation and storage in appropriate categories of material suitable for recycling;
- c) the storage area must be adequately screened from the street, with the entrance to the enclosures no more than 2 m from the street boundary of the property;

- d) if a storage facility is to be provided at another suitable location within the building, a complementary garbage bin holding bay must be provided no more than 2 m from the street boundary of the property;
- e) garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and
- f) garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Note: The applicant may wish to discuss bin storage requirements and location with Council's Environmental Services prior to finalisation of the required detail, and a copy of Council's Waste Handling Guide should be obtained for reference purposes before the design is finalised.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors)

Asbestos Material Survey

- C27. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Location of Plant

C28. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement of the building and is not to be located on balconies or the roof. Plans and specifications complying with this condition must be submitted to the Certifying Authority for Approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

Noise from Plant and Equipment

C29. The use of all plant and equipment installed on the premises must not:

- (a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.
- (b) Cause "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.

"affected receiver" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

"boundary" includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Vibration from Plant and Equipment

- C30. The use of all plant and equipment to be installed on the premises must comply with the vibration limits specified in "Assessing Vibration: a technical guideline" issued by the NSW Environment Protection Authority, at the boundary of any affected receiver.

A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants must be submitted to the Certifying Authority, certifying that all plant and equipment on the site, together with the proposed plant and equipment, operating contemporaneously will comply with the requirements of this condition.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

"affected receiver" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship and commercial premises and such other affected receiver as may be notified by the Council in writing.

"boundary" includes any window or elevated window of an affected residence.

"contemporaneously" means *existing at or occurring in the same period of time* (Macquarie Dictionary 3rd rev. ed. 2004).

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Air Conditioners in Residential Premises

- C31. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2008 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (i) before 8.00 am and after 10.00 pm on any Saturday, Sunday or Public Holiday; or
 - (ii) before 7.00 am or after 10.00 pm on any other day
- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy will be applied.

"affected residence" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain residential amenity)

Construction Noise Management Plan

C32. A Construction Noise Management Plan must be prepared by an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, and must include the following:

- (a) Identification of noise affected receivers near to the site.
- (b) A prediction as to the level of noise impact at noise affected receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite.
- (c) Details of work schedules for all construction phases;
- (d) A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the Environment Protection Authority’s Interim Construction Noise Guideline (“ICNG”).
- (e) Representative background noise levels should be submitted in accordance with the ICNG.
- (f) Confirmation of the level of community consultation that is to be undertaken by occupants at noise affected receivers likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (g) Confirmation of noise monitoring methodology that is to be undertaken during the noise intensive stages of work including details of monitoring to be undertaken at the boundary of any noise affected receiver.
- (h) What course of action will be undertaken following receipt of a complaint concerning offensive noise?
- (i) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupants at noise affected receivers.

- (j) Details of selection criteria for any plant or equipment that is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on occupants at noise affected receivers and other less intrusive technologies available; and
- (k) Details of site induction to be carried out for all employees and contractors undertaking work at the site.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected residence.

The Construction Noise Management Plan and must be submitted to the Principal Certifying Authority and a copy provided to Council prior to the issue of the Construction Certificate.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

Underground Electricity and Other Services

- C33. All electricity and telecommunication provision to the site is to be designed in conjunction with Energy Australia and any other relevant authority so that it can be easily connected underground when the street supply is relocated underground. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground)

Section 7.12 Contributions

- C34. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council’s Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is **\$34,760.00**.

Indexation

The monetary contribution required under this consent will be indexed at the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of Payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au.

(Reason: To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

Security Deposit/Guarantee Schedule

C35. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Footpath Damage Bond	\$10,000.00
TOTAL BONDS	\$10,000.00

Note: The following fees applicable

Fees	
Section 7.12 Contributions	\$34,760.00
TOTAL FEES	\$34,760.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

BASIX Certificate

C36. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 1260751M_02, dated 16 June 2022 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

Outdoor Lighting

C37. All outdoor lighting must comply with, where relevant AS/NZ1158.3:1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of the Obtrusive Effects of Outdoor lighting. Details demonstrating compliance with these requirements must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To maintain the amenity of adjoining land uses)

Amendments to the Landscape Plan

C38. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- A minimum of 4 x *Bambusa textilis var. Gracilis* (75L) shall be planted along the western boundary adjacent to the foremost section of the proposed building i.e the living, dining and kitchen area of Unit 3.
- 1x *Melaleuca armillaris* (150l) shall be planted centrally within the front setback area of the subject site.
- 1x *Cupaniopsis* (75l) shall be planted in the eastern corner of the rear setback area of the subject site.
- 1 x *Tristaniopsis laurina* (75l) shall be planted in the southeastern garden of the rear setback area of the subject site.
- No stormwater or any other pipework shall be directed through the TPZ of any tree to be retained.

An amended landscape plan complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity)

D. Prior to the Commencement of any Works (and continuing where indicated)

Protection of Trees

D1. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites). A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Certifying Authority for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be undertaken for the duration of works on the site.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Tree Protection Measures

D2. The tree protection measures detailed in the approved Tree Protection and Management Plan, and as directed by the project arboriculturist shall be established before work commences.

(Reason: To ensure that the stability and ongoing viability of trees being retained are not compromised Tree protection measures)

Project Arborist to be Engaged

D3. A project Arborist is to be engaged to undertake the following:

- The project arboriculturist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the approved Tree Protection Plan and as directed by the project arboriculturist before work commences.
- The project arboriculturist shall provide guidance and oversight of tree protection and management to ensure that the stability and ongoing viability of trees being retained is not compromised.
- The project arboriculturist must contact the tree pruning contractor and Council's Tree Management Officer (giving at least 2 working days' notice) to arrange a joint site meeting, prior to commencing any pruning, to determine the exact location and extent of pruning that is permissible, with the tree pruning contractor to comply with any instructions issued by Council, acting reasonably.

- Any pruning must be undertaken by a practicing arborist with a minimum Australian Qualification Framework Level 3 in arboriculture, in accordance with the principles of the Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and the NSW Work Cover Code of Practice for the Amenity Tree Industry (1998), as well as any instructions issued on site by Council, acting reasonably.
- The practicing arborist must keep a log of dates and times of when they attended the site, the type of works that were performed, and must form part of the certification required prior to Occupation.

(Reason: Tree protection measures)

Temporary Fences and Tree Protection

- D4. All protected trees on-site that are specifically nominated as per Condition C23 to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builders' waste are to be stored in the vicinity of the nominated tree/trees at any time.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites), not less than the distance shown in the schedule hereunder, must be installed to the satisfaction of the Certifying Authority prior to demolition or commencement of any works and must be maintained for the duration of the works:

Schedule

Description of Tree	Distance
T7 <i>Howea forsteriana</i>	3m
T8 <i>Archontophoenix alexandrae</i>	3m

(Reason: To protect the trees to be retained on the site during construction works)

Public Liability Insurance - Works on Public Land

- D5. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

Notification of New Addresses

- D6. Prior to the commencement of any building works, an application must be made and written confirmation received from North Sydney Council of the allocated street address (house number) and/or unit numbers of the completed project.

To assist Council, a plan for unit numbering should be submitted for concurrence. These details will be recorded in Council records and must be displayed at the property in accordance with the provisions of the applicable Australian Standard relating to rural and urban addressing. A copy of the allocation confirmation must be submitted to the Certifying Authority with the application for a Construction Certificate.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties)

Sydney Water Approvals

- D7. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Certifying Authority must ensure that Sydney Water has appropriately stamped the plans before the commencement of building works.

Notes: **Sydney Water Building Plan Approvals** can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13 000 TAP IN (1300 082 746) for further information.

(Reason: To ensure compliance with Sydney Water requirements)

Asbestos Material Survey

- D8. Prior to the commencement of any works, a report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Commencement of Works' Notice

- D9. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. *During Demolition and Building Work*

Sandstone Kerbing to be retained and protected

- E1. The sandstone kerbing in Undercliff Street is to be retained in situ and is to be protected from any potential damage.

(Reason: To retain public infrastructure)

Parking Restrictions

- E2. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E3. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Service Adjustments

- E4. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the person acting on the consent and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

Temporary Disposal of Stormwater Runoff

- E5. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

Structures Clear of Drainage Easements

- E6. It is the full responsibility of the Developer and their contractors to:
- a) Ascertain the exact location of the Council drainage infrastructure traversing the site in the vicinity of the works;
 - b) Take full measures to protect the in-ground Council drainage system; and
 - c) Ensure dedicated overland flow paths are satisfactorily maintained through the site.

Drainage pipes can be damaged through applying excessive loading (such as construction plant, material storage and the like). All proposed structures and construction activities are to be located clear of Council drainage pipes, drainage easements, watercourses and trunk overland flow paths on the site. Trunk or dedicated overland flow paths must not be impeded or diverted by fill or structures unless otherwise approved.

In the event of a Council drainage pipeline being uncovered during construction, all work is to cease and the Certifying Authority and Council (if it is not the Certifying Authority) must be contacted immediately for advice. Any damage caused to a Council drainage system must be immediately repaired in full as directed, and at no cost to Council.

(Reason: Protection of Public Drainage Assets)

Geotechnical Stability during Works

- E7. A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.

Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydrogeological considerations must be undertaken in accordance with the recommendations of the report prepared to satisfy *Condition C9 Geotechnical Report* and all subsequent geotechnical inspections carried out during the excavation and construction phase.

Approval must be obtained from all affected property owners, including North Sydney Council where rock anchors (both temporary and permanent) are proposed below adjacent private or public property.

(Reason: Ensure appropriate professional are engaged at appropriate stages during construction)

Council Inspection of Public Infrastructure Works

E8. During the works on public infrastructure reverting to Council's care and control, Council's development engineer may undertake inspections of the works at the following hold points:

- a) Vehicular Access; and
- b) Associated road civil works.

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours' notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

Progress Survey

E9. In order to ensure compliance with approved plans, a Survey Certificate, prepared to Australian Height Datum, must be prepared by a Registered Surveyor showing the following:

- a) at the completion of excavation, prior to the placement of any footings, showing the completed level of the excavation and its relationship to the boundaries;
- b) prior to placement of concrete at the ground floor level, showing the level of the form work and its relationship to boundaries including relevant footpath and roadway levels;
- c) prior to placement of concrete at each fifth-floor level showing the principal level of the formwork and the intended relationship of the completed works to the boundary;
- d) prior to roofing, or completion of the highest point of the building showing the anticipated level of the completed work and its relationship to the boundary; and
- e) at completion, works showing the relationship of the building to the boundary and showing the maximum height of the overall works and the height of the principal roof elements.

Progress certifications in response to points (a) through to (e) must be provided to the Certifying Authority for approval at the time of carrying out relevant progress inspections. In the event that such survey information is not provided or reveals discrepancies between the approved plans and the proposed works, all works, save for works necessary to bring the development into compliance with the approved plans, must cease. Works may only continue upon notification by the Certifying Authority to the Applicant that survey information (included updated survey information following the carrying out of works to comply with the approved plans) complies with this condition.

(Reason: To ensure compliance with approved plans)

Removal of Extra Fabric

E10. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

Dust Emission and Air Quality

E11. The following must be complied with at all times:

- (a) Materials must not be burnt on the site.
- (b) Vehicles entering and leaving the site with soil or fill material must be covered.
- (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
- (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

E12. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Compliance with Construction Noise Management Plan

E13. All works conducted on site which form part of this development must be carried out in accordance with the submitted Construction Noise Management Plan submitted with the Construction Certificate and all conditions of consent.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

No Work on Public Open Space

E14. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

Applicant's Cost of Work on Council Property

E15. The Applicant must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

No Removal of Trees on Public Property

E16. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Protection of Trees

E17. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All recommendations contained within the tree report prepared by Michael Shaw dated 9 November 2021 must be implemented for the duration of the works.

In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

- a. If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.
- b. An application to modify this consent pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

(Reason: Protection of existing environmental infrastructure and community assets)

Trees to be Removed

- E18. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal:

Trees that are acceptable to remove	Location	Height
T1 <i>Acer negundo</i>	Front setback area	10m
T9 <i>Lagerstroemia indica</i>	Rear setback area	6m

(Reason: To ensure compliance with the terms of this development consent)

Special Permits

- E19. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours' notice is required for any permit:

1) **On-street mobile plant**

E.g., cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

Construction Hours

E20. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
All Other Zones	Monday - Friday	7.00 am - 5.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance and Enforcement Policy.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Out-of-Hours' Work Permits

E21. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council's Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is at risk**. Applications which seek a variation to construction hours solely to benefit the developer will require the lodgement and favourable determination of a modification application pursuant to the provisions of Section 96 of the Environmental Planning and Assessment Act 1979.

Notes:

- 1) Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.
- 2) Applications for out of hour's works should be lodged with Council no later than seven (7) calendar days prior to the date of the intended works.
- 3) Examples of activities for which permits may be granted include:
 - the erection of awnings,
 - footpath, road and other infrastructure works which cannot be carried out for public convenience reasons within normal hours,
 - the erection and removal of hoardings and site cranes, and
 - craneage of materials which cannot be done for public convenience reasons within normal working hours.
- 4) Examples of activities for which permits WILL NOT be granted include;
 - extended concrete pours
 - works which are solely to convenience the developer or client, and
 - catch up works required to maintain or catch up with a construction schedule.
- 5) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Installation and Maintenance of Sediment Control

- E22. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils and Construction (4th edition, Landcom, 2004), commonly referred to as the “Blue Book” and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

- E23. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Site Amenities and Facilities

- E24. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Health and Safety

- E25. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Prohibition on Use of Pavements

- E26. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant and Equipment Kept Within Site

- E27. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Waste Disposal

- E28. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

Asbestos Removal

- E29. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Home Building Act

F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:

a) in the case of work for which a principal contractor is required to be appointed:

- i) the name and licence number of the principal contractor, and
- ii) the name of the insurer by which the work is insured under Part 6 of that Act, or

(b) in the case of work to be done by an owner-builder:

- (i) the name of the owner-builder, and
- (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

F5. A person must not commence occupation or use of the whole or any part of a new building (*new building* includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Mandatory Critical Stage Inspections

F6. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

Excavation/Demolition

- F7.
- 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
 - 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F8. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F9. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
- b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
- c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

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

(Reason: Prescribed - Statutory)

G. Prior to the Issue of an Occupation Certificate

Infrastructure Repair and Completion of Works

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:

- a. in the road reserve must be fully completed; and
- b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of public assets)

Certification - Civil Works

- G2. An appropriately qualified and practising Civil Engineer must certify to the Certifying Authority that the stormwater drainage system is constructed in accordance with this consent and the provisions of the applicable Australian Standard. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority) upon completion of the development works and prior to the issue of an Occupation Certificate.

(Reason: Compliance with the Consent)

Works as Executed Drawings and Video

- G3. A works-as-executed survey drawing (W.A.E.) of the completed stormwater drainage system must be obtained. The W.A.E. survey drawing must show the alignment, depth and grade of the stormwater drainage pipelines, pits and ancillary plumbing. The W.A.E. survey drawing must be reviewed by a qualified and practising civil engineer and certification provided to the Certifying Authority that the as-built system achieves the design intent of the plans approved with the Construction Certificate. Certification must be provided with the W.A.E. survey drawing to the Certifying Authority prior to the issue of an Occupation Certificate.

A copy of the W.A.E. survey drawing and certification must be submitted to the Council if it is not the Certifying Authority.

(Reason: Compliance with the Consent)

Damage to Adjoining Properties

- G4. On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Certifying Authority (and a copy to Council if it is not the Certifying Authority) certifying:
- a) whether any damage to adjoining properties has occurred as a result of the development;
 - b) the nature and extent of any damage caused to the adjoining property as a result of the development;
 - c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
 - d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
 - e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Certifying Authority in accordance with this consent.

Where works required to rectify any damage caused to adjoining property as a result of the development identified in the report and certification have not been carried out, a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible prior to the issue of an Occupation Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To ensure adjoining owner's property rights are protected in so far as possible)

Utility Services

- G5. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

Notification of New Address Developments

- G6. Prior to any Occupation Certificate being issued, the person acting upon this consent must comply with the following: -

- (a) Notify Australia Post of the address(es) as issued by Council and the location in plan form of any secondary, internal addresses, in relation to built public roads. Check Australia Post Website (www.auspost.com.au) to find your nearest Australia Post Delivery Facility.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties)

Asbestos Clearance Certificate

- G7. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Certifying Authority (and a copy forwarded to Council if it is not the Certifying Authority) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following:

- a) the building/land is free of asbestos; or
b) the building/land has asbestos that is presently deemed safe.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au.

(Reason: To ensure that building works involving asbestos based products are safe for occupation and will pose no health risks to occupants)

Certification of Tree Condition

- G8. Prior to the issue of an Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Certifying Authority, describing the health of the tree(s) specifically nominated below:

Trees	Location	Height
T2 <i>Phoenix canariensis</i>	No. 23 Undercliff Street	14m
T3 <i>Archontophoenix alexandrae</i>	No. 23 Undercliff Street	10m
T4 <i>Archontophoenix alexandrae</i>	No. 23 Undercliff Street	10m
T5 <i>Archontophoenix alexandrae</i>	No. 23 Undercliff Street	8m
T6 <i>Liquidambar styraciflua</i>	No. 7 Undercliff Street	6m
T7 <i>Howea forsteriana</i>	Rear setback area	8m
T8 <i>Archontophoenix alexandrae</i>	Rear setback area	10m
T10 <i>Murraya paniculata</i>	No. 7 Undercliff Street	4m

1x <i>Melaleuca armillaris</i> (150l)	Front setback area	New planting
1x <i>Cupaniopsis</i> (75l)	Rear setback area	New planting
1x <i>Tristaniopsis laurina</i> (75l)	Rear setback area	New planting

The report must detail the condition and health of the nominated tree(s) upon completion of the works and shall certify that the tree(s) has/have not been significantly damaged during the works on the site and has/have reasonable prospects for survival.

(Reason: To ensure compliance with the terms of this consent)

BASIX Completion Certificate

G9. In accordance with section 75 of the Environmental Planning and Assessment Regulation 2021, prior to issuing a final occupation certificate the Certifying Authority must apply to the Director-General for a BASIX completion receipt.

(Reason: To ensure compliance with the specified BASIX Certificate)

House Numbering (Dwellings)

G10. Prior to any Occupation Certificate being issued an application must be made to North Sydney Council for written confirmation, or allocation, of the street address(es) or apartment number(s) for the completed project in accordance with Council's Property Addressing Policy. These are the numbers that will be recorded in Council records and must be displayed at the property in accordance with the provisions of AS/NZS 4819:2011.

Note: If apartments are to be sold off the plan, the applicant must have written confirmation from Council of the address and apartment numbering if the apartment number is to be identified on the contract.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties.)

Landscaping

G11. The landscaping shown in the approved landscape plan numbered D100 and D101, prepared by Sticks and Stones dated 20 May 2022 and received by Council on 24 June 2022 must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Verification Statement (External Finishes and Materials)

- G12. Prior to the issue of any Occupation Certificate, a verification statement from a qualified designer or architect (preferably the original designer), must be submitted to Council and the Certifying Authority certifying that the external finishes and materials are in accordance with the approved schedule of finishes and materials identified in this consent.

“qualified designer” means a person registered as an architect in accordance with the Architects Act 2003 cf 29 EP&A Regs 2021.

(Reason: To ensure the design quality and finishes for residential flat development)

Intercom

- G13. An intercom system must be provided in a convenient location adjacent to the visitor parking entry to enable easier and safe access to visitor parking prior to issue of any occupation Certificate.

(Reason: To ensure convenient access is available for visitors to the building)

Allocation of Spaces

- G14. Car parking spaces must be provided and maintained at all times on the subject site. The spaces shall be allocated to uses within the building in accordance the following table:

5	Residents
1	Visitors

The car parking spaces are to be identified on-site by line-marking and numbering upon the completion of the works and prior to issue of Occupation Certificate. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lots' unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the Owners Corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

Compliance with Certain conditions

G15. Prior to the issue of any Occupation Certificate, conditions C1, C2, C3 and C38 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

Covenant and/or Restriction (Basement Parking)

G16. An Instrument pursuant to Sections 88B, 88E and 88F Instrument pursuant to the *Conveyancing Act 1919* in registrable form and 1 copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and Section 88E Instrument are to provide for:

a) Access to the parking spaces is restricted to B85 Vehicles.

The instrument creating the restriction and/or covenant under sections 88B, 88E and/or 88F required by the conditions of consent must be registered on Title prior to the issue of an Occupation Certificate or the occupation of the building, whichever occurs first.

Evidence of registration of the restrictions, easements and covenants under Section 88E must be provided to Council within 28 days of registration on the Title.

Should the building be subdivided under the Strata Development Schemes Act 2015, this restriction and/or covenant is to be transferred to any Strata Plan relating to the building constructed under this development consent.

(Reason: To advise future owners of the constraints of the basement parking level)

I. Ongoing/Operational Conditions

Noise and Vibration Impact

I1. The ongoing use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)

Maintenance of Approved Landscaping

I2. The owner of the premises at No. 9 Undercliff Street is to maintain the landscaping approved by this consent generally in accordance with Landscape Plans D100 and D101, prepared by Sticks and Stones, dated 20 May 2022 and received by Council 24 June 2022, and as amended by Condition C38 *Amendments to landscape plans*.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)

Allocation of Spaces

13. The allocation of carparking spaces within the development must be maintained at all times in accordance with the terms of this consent. The allocation of spaces must be maintained in accordance with the following table:

5	Residential
1	Visitors

Carparking spaces provided must only be used in conjunction with the approved uses contained within the development.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

Visitor parking facilities must be designated as common property on the strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any occupier or owner and must be retained as common property by the owner's corporation for use by building visitors.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

list of abbreviations

A/C	air conditioning
ALUM	aluminium
AW	aluminium window
BAL	balustrade
BALC	balcony
BDY	boundary
BLWK	block work
BWBP	brickwork bagged & painted
BW1	brickwork faced
CON1	concrete- off form
CPS	concrete- polished & sealed
CST	concrete- steel trowel finish
CONC	concrete
COS	check on site
CCTV	closed circuit TV
CFC	compressed fibre cement
CPT	carpet
CR1	cement render
CT	ceramic tile
DH	double hung
DP	down pipe
DPC	damp proof course
EDB	electrical switch board
EQ	equal
EX	existing
FC	fibrous cement sheet
FCL	finished ceiling level
FFL	finished floor level
FGL	finished ground level
FP	fixed panel
G	glass/ glazing
GBL	glass balustrade
GL	glass- louvre
GO	glass- obscure
GALV	galvanised
GD	grated drain
GPO	general purpose outlet
GU	gutter
LAM	laminated
LV	louvre
MB	metal battens
MDF	medium density fibreboard
MI	mirror
MPBR	membrane pebble ballast roof
MR1	metal roof
MSB	main switch board
MS	metal sheeting
MT	mosaic tile
Ø	diameter
OF	overflow
PAV	paving
PB	plasterboard
PBFR	plasterboard- fire resistant 90/90/90
PBM	plasterboard- moisture resistant
PLY	plywood
PNT	paint
PU	polyurethane
PV	photo voltaic
RA	return air
RH	range hood
RHS	rectangular hollow section
RL	reduced level
RWH	rainwater head
RWO	rainwater outlet
SD	smoke detector
SH	shutters
SHA	shutters automated
SH	shingles
SHR	shower
SK	skirting
SP	set plaster
SPM	set plaster moisture resistant
SS	stainless steel
ST	stone
STL	steel
SWP	sewer pipe
T	timber
TB	timber- battens
TF	timber- frame
TFB	timber- floorboards
THR	timber- handrail
TOF	top of fence
TOW	top of wall
TR	tiled roof
TRZO	terrazzo
TS	timber screen
U/S	underside
VB	vapour barrier
VN	veneer- timber
VP	vent pipe
WB	weatherboards
WC	water closet
WPM	water proof membrane

drawing list

Development Application Drawing Register		
No.	Drawing Name	Rev.
A3 Cover Sheet		
DA01	Cover Sheet	B
A3 Documentation Sheet		
DA02	Site Analysis	A
DA03	Street Setbacks	A
DA04	Level 1 Plan	B
DA05	Level 2 Plan	B
DA06	Level 3 Plan	B
DA07	Level 4 Plan	B
DA08	Level 5 Plan	B
DA09	Roof Plan	B
DA10	South West Elevation	B
DA11	North West Elevation	B
DA12	North East Elevation	B
DA13	South East Elevation	B
DA14	Section AA	B
DA15	Section BB & CC	B
DA16	Area Calculations	B
DA17	Shadow studies - 21 June 9am - 11am	B
DA18	Shadow studies - 21 June 12pm - 2pm	B
DA19	Shadow studies - 21 June 3pm	01
DA20	Perspectives	B
DA21	Perspectives	B
DA22	Perspectives	B
DA23	Shadow studies - Elevational Studies	B
DA24	Finishes board	B
DA25	Photomontage	A
DA26	Boundary Elevations	A
DA27	Sweep Path Analysis 1	A
DA28	Sweep Path Analysis 2	A

BASIX Project Commitments		BASIX Number: 1260751M	
Proposed:	Single Dwelling		
Address:	9 Undercliff Street Neutral Bay		
Lot No / DP:	27/10169		
Water			
Fixtures		Specification	
Shower head rating	4 star (> 6 but <= 7.5 L/min)		
Toilet rating	3 star		
Kitchen taps rating	3 star		
Bathroom taps rating	3 star		
Alternative water details			
Rainwater tank size	Individual	3000L	
Connected to:	Garden and lawn areas	No	
	All toilets	Yes	
	Laundry	Yes	
Thermal Comfort		Accreditation Number: HERA 10056 NatHERS Number: 6866110	
Requirements			
External walls			
Cavity brick	All units	Dark colour R1.3	Bulk + Reflective both sides
Metal clad	Unit 1	Dark colour R5.3	Bulk insulation
Fibro cavity panel on battens	Unit 1	Dark colour R2.5	Bulk + Anti-glare foil
Internal walls			
Cavity wall, direct fix plasterboard	Ground Floor	No insulation	
Cavity wall, direct fix plasterboard	First Floor	R1.0 Bulk insulation	
Ceiling			
External ceiling - Plasterboard	R3.5 Bulk insulation		
Internal ceiling - Plasterboard	No insulation		
Roof			
Corrugated iron	Dark Colour (solar absorptance >0.70) R1.8 Bulk + Reflective side down, No air gap above (Anticon 75, 80mm)		
Waterproofing membrane	Dark Colour (solar absorptance >0.70) No insulation, only an air gap		
Floors			
Concrete slab on ground	Unit 3	No insulation	
Suspended concrete slab	Unit 1, Unit 2	R1.0 Bulk insulation	
Suspended concrete slab	Unit 3	R2.0 Bulk insulation	
Windows			
Aluminium frame ALM-002-04	Single low-e glazing with U-value 5.6 and SHGC 0.41 for Group B windows (double hung, fixed, louvres and sliding type windows/doors)		
Aluminium frame ALM-002-01	Single Clear glazing with U-value 6.7 and SHGC 0.7 for Group B windows (double hung, fixed, louvres and sliding type windows/doors)		
Downlights			
Downlight Covers	Approved fireproof downlight covers must be installed to all downlights in ceilings where insulation is installed.		
Lighting specification	Dwelling is rated without downlight		
Overshadowing details	Adjoining units calculated into model calculations		
Site			
Orientation of nominal north elevation	As shown on plans		
Energy			
Hot water		Specification	Rating
Individual system		Gas instantaneous	6 star
Ventilation			
Bathroom exhaust	Individual fan, not ducted		
Control switch	Manual switch on/off		
Kitchen exhaust	Individual fan, not ducted		
Control switch	Manual switch on/off		
Laundry	Individual fan, not ducted		
Control switch	Manual switch on/off		
Cooling			
Individual systems - living areas	3-phase airconditioning	EER 3.0 - 3.5	
Individual systems - bedroom areas	3-phase airconditioning	EER 3.0 - 3.5	
Heating			
Individual systems - living areas	Gas fixed flued heater	3 star	
Individual systems - bedroom areas	Gas fixed flued heater	3 star	
Lighting			
Carpark	Light-emitting diode	Daylight sensor and motion sensor	
Plant/Service room	Light-emitting diode	Manual on/manual off	
Hallway/Lobby	Light-emitting diode	Daylight sensor and motion sensor	
Lift	Light-emitting diode	Connected to lift call button	
Lift motor room	Light-emitting diode	Manual on/manual off	
Appliances			
Cooktop/oven	Gas cooktop & electric oven		
Ventilated fridge space	Yes		
Private outdoor clothes drying line	No		
Private indoor or sheltered clothes drying line	Yes		
Zoned Air-conditioning	No		
Alternative Energy			
Photovoltaic System	4kW		

revisions		
rev	date	description
B	3/6/22	REVISED DA ISSUE



Development Application

Undercliff Street Apartments

at

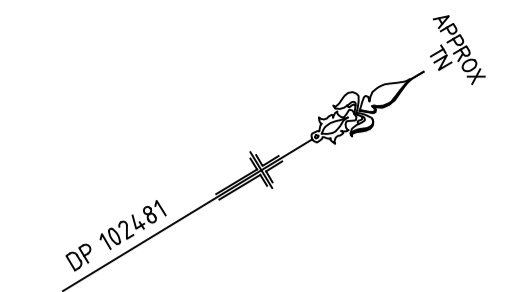
9 Undercliff Street, Neutral Bay

for

HJ Three Pty Ltd

<p>CORBEN ARCHITECTS</p> <p>PO Box 1021 Neutral Bay NSW 2089 Australia 02 9904 1844 mail@corben.com.au corben.com.au</p> <p>Nominated Architect: Philip Corben (Reg No 4616)</p>	job no.	HNB	dwg no.	DA01
	drawn	NW	revision	B
	checked	AV		
	scale	NTS @A3		

A1 Plan Form



Tree Table			
Tree ID	Trunk Dia	Spread Dia	Height
T 85	1	12	15
T 107	0.4	6	6
T 468	0.3	6	10
T 469	0.2	4	8

Door Schedule		
No	RL Top	RL Bottom
1	49.41	Not Vis.
50	57.35	-
51	57.30	-
52	53.91	-
53	53.94	-

Window Schedule		
No	RL Top	RL Bottom
1	49.77	48.92
2	Not Vis.	44.25
3	52.13	50.89
4	55.42	54.06
5	55.50	54.15
6	52.17	50.96
7	55.43	54.23
8	55.44	54.07
9	53.86	52.58
10	56.83	55.56
11	59.89	58.59
12	62.93	61.63
13	62.92	61.63
14	59.85	58.56
15	56.84	55.55
16	53.86	52.57
50	61.05	-
51	61.03	59.04

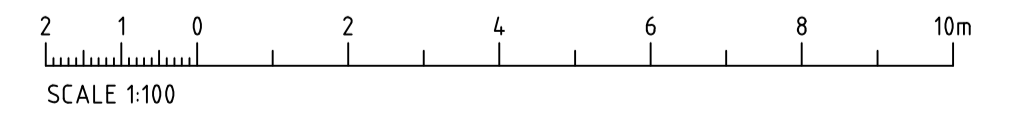
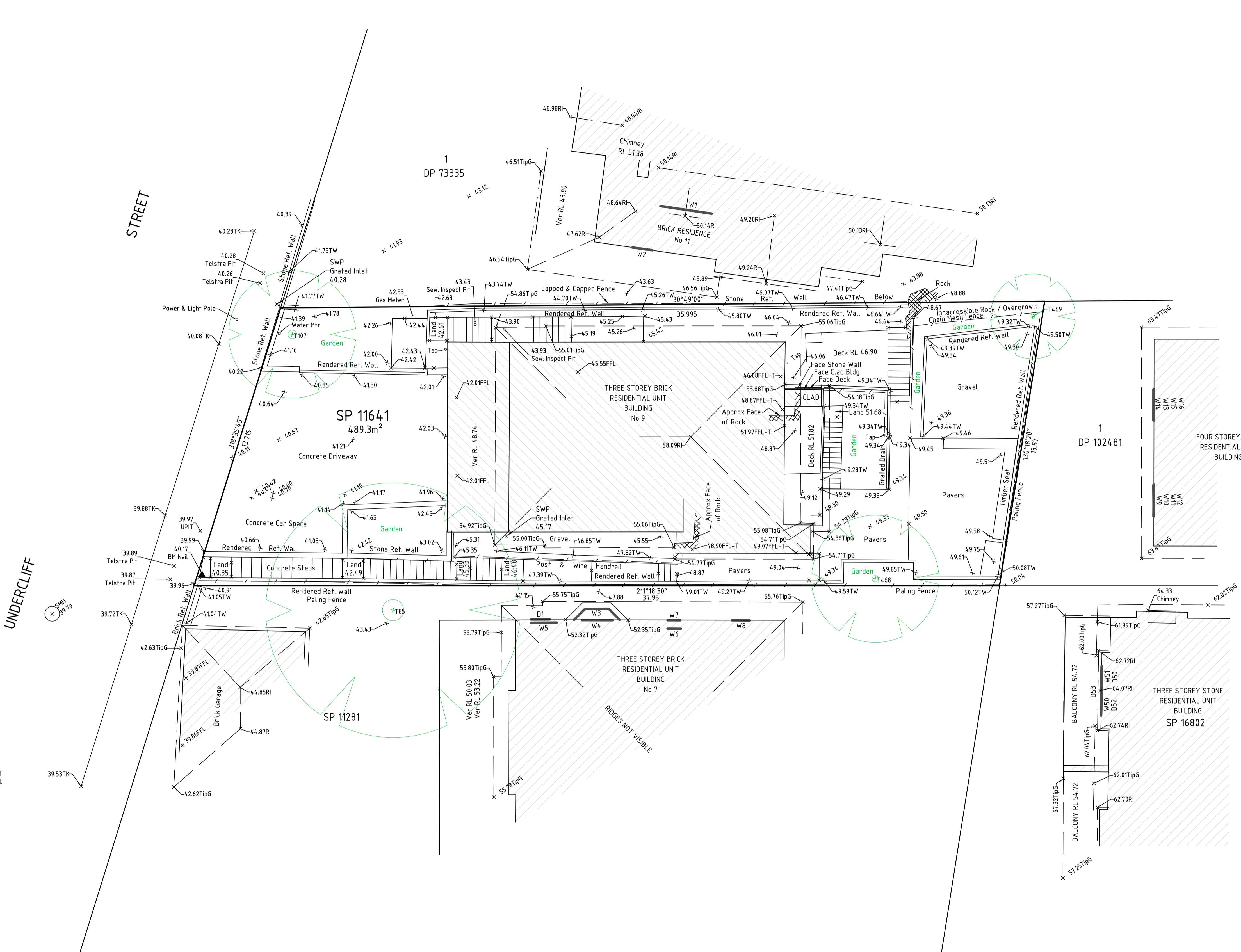
DETAIL SURVEY NOTES

- LEVELS ON AUSTRALIAN HEIGHT DATUM (AHD). ORIGIN OF LEVELS: PM 40809 RL 38.92.
- BOUNDARIES HAVE NOT BEEN SURVEYED. BEARINGS AND DISTANCES ARE BY TITLE ONLY. BOUNDARY LOCATIONS ARE APPROXIMATE ONLY.
- ONLY EXTERNAL PARCEL BOUNDARIES OF STRATA HAVE BEEN SHOWN. INTERNAL STRATA LOT BOUNDARIES ARE NOT SHOWN.
- RELATIONSHIP OF IMPROVEMENTS TO BOUNDARIES IS DIAGRAMMATIC ONLY. CRITICAL OFFSETS SHOULD BE CONFIRMED BY FURTHER SURVEY.
- ONLY SERVICES CLEARLY VISIBLE AT THE TIME OF THE SURVEY HAVE BEEN SHOWN. NO SERVICES SEARCH HAS BEEN CARRIED OUT.
- BOUNDARY BEARINGS HAVE BEEN TAKEN FROM PLANS ON THE PUBLIC RECORD. THEY ARE MAGNETIC MERIDIAN. IF ACCURATE TRUE NORTH IS REQUIRED A FURTHER SURVEY WOULD BE NECESSARY.
- CONTOURS AND/OR 3D MESH HAVE BEEN INTERPOLATED FROM SPOT HEIGHTS AND MAY NOT REPRESENT THE EXACT LEVEL AT ANY PARTICULAR POINT. PREFERENCE SHOULD BE GIVEN TO SPOT LEVELS SHOWN.

LEGEND

- BM DENOTES BENCH MARK
- D1 DENOTES DOOR No 1
- FFL DENOTES FINISHED FLOOR LEVEL
- FFL-T DENOTES APPROX FINISHED FLOOR LEVEL TAKEN AT THE EXTERNAL THRESHOLD (DOOR CLOSED)
- HYD DENOTES HYDRANT
- K DENOTES LEVEL ON INVERT OF KERB
- L DENOTES LEVEL ON INVERT OF PIPE
- LK DENOTES LEVEL ON LIP OF GUTTER
- RI DENOTES LEVEL ON RIDGE OR ROOF
- SMH DENOTES SEWER MANHOLE
- TF DENOTES LEVEL ON TOP OF FENCE
- TipG DENOTES LEVEL ON TIP OF GUTTER
- TK DENOTES LEVEL ON TOP OF KERB
- TW DENOTES LEVEL ON TOP OF WALL
- UPIF DENOTES UNIDENTIFIED PIT
- W1 DENOTES WINDOW No 1
- DENOTES FENCE

T145 DENOTES TREE NUMBER 145 (SEE TABLE FOR DETAILS)
 DENOTES APPROXIMATE SPREAD AND TRUNK DIAMETER OF TREE



REV	DATE	DESCRIPTION
01	2/9/2021	SURVEY UPDATED - EXTRA DETAIL ADDED
00	8/8/2014	ORIGINAL ISSUE



ABN 49 129 632 391
 Mitchell Land Surveyors Pty Ltd
 4/629 Kingsway Miranda
 NSW 2228
 e: enquiries@mitchellsurveying.com.au

PO Box 59
 Miranda NSW 1490
 t: 02 9531 0060
 f: 02 9531 0068

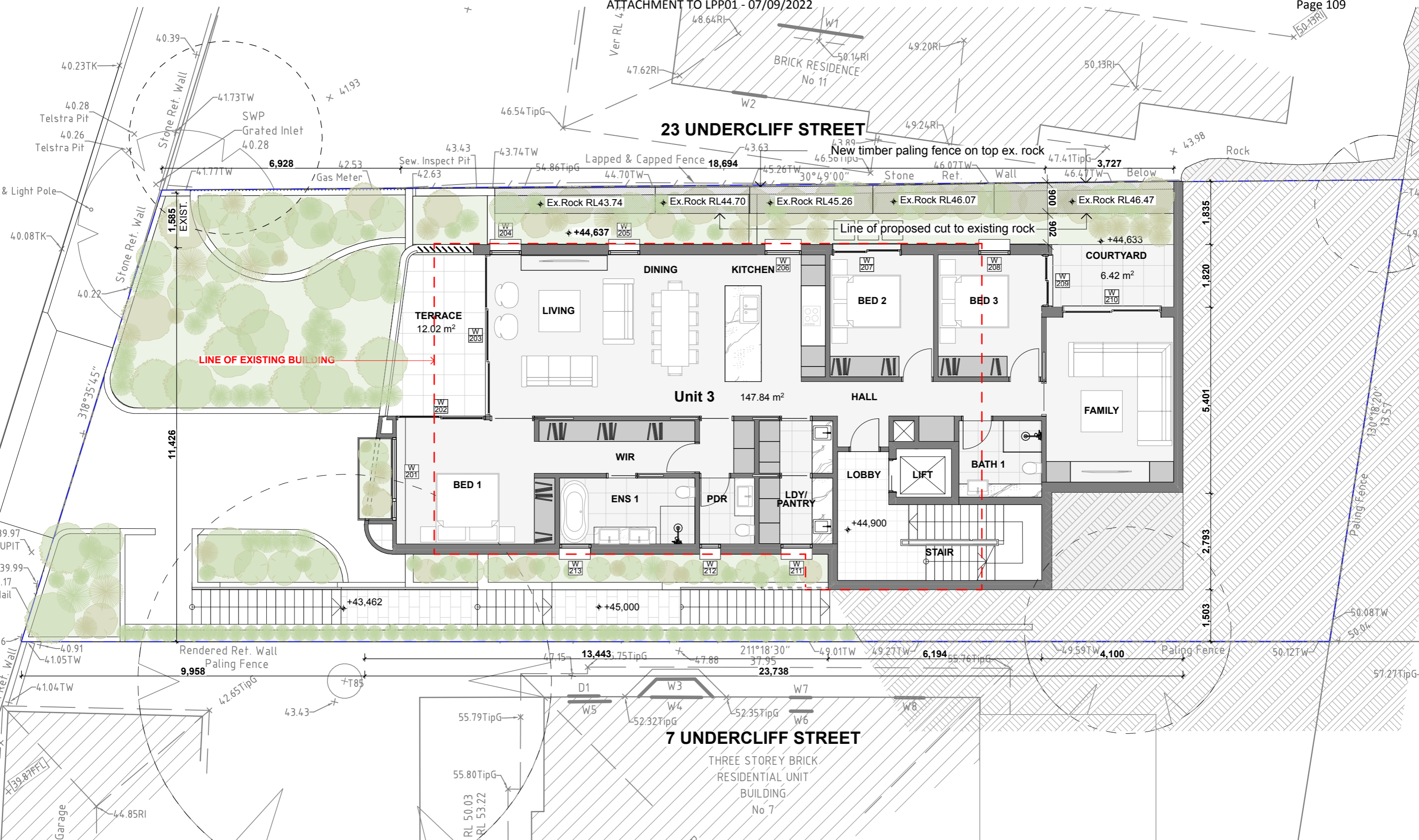
Project
9 Undercliff Street, Neutral Bay
 Being Lots 1, 2, 3 & Common Property in SP 11641

Client
 Parkdev Projects Pty Ltd

Title
Plan Showing Detail & Levels

© Information contained within this drawing is copyright of Mitchell Land Surveyors Pty Ltd.

Drawing No. 1143AA	Revision 01
Date 8 Aug 2014	Drawn SJM
Sheets 1 of 1	Scale 1:100

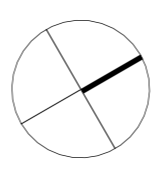


Any discrepancies to be brought to Architect's attention
 Use figure dimensions in preference to scaling
 Only scale under direction from Architect
 Builder to examine site and verify conditions and dimensions
 This drawing remains the property of the Architect
 Client is granted conditional licence to use the drawings
 Transfer of the licence is prohibited
 Architect reserves the right to terminate the licence
 Electronic data transfer should be scanned for viruses before use
 Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
 Refer to hard copies for accuracy of electronic data
 Copyright reserved by the Architect

revisions		
RevID	Date	Description
C	25/8/22	NORTH WEST BOUNDARY REVISED

notes

e: HNB6.2-220518 DA.wip B
 int date & time: 25/8/22@3:58 pm

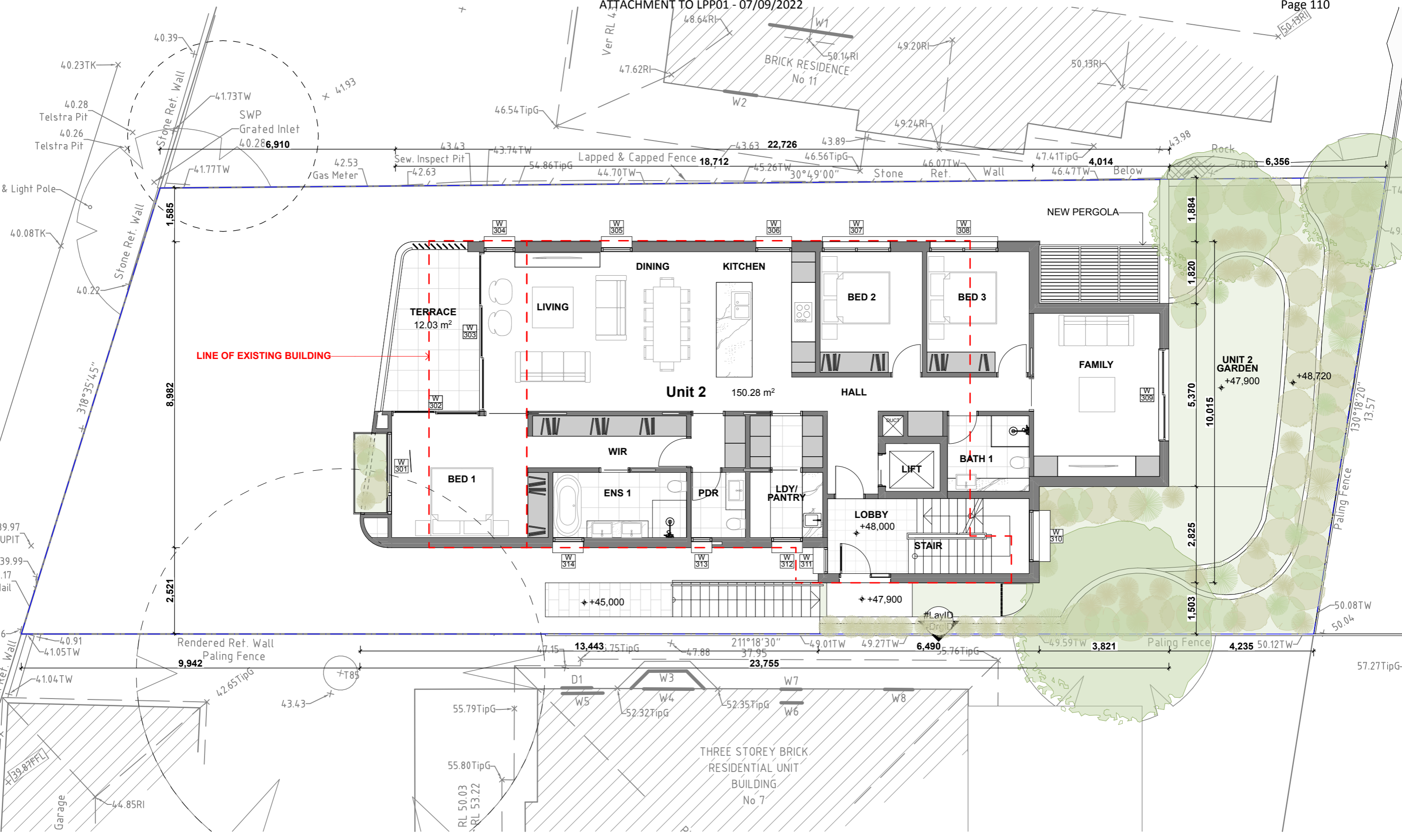


CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project	Undercliff Street Apartments
address	9 Undercliff Street Neutral Bay NSW
client	HJ Three Pty Ltd

title	Level 2 Plan
issue	Development Application

job no.	HNB	dwg no.	DA05
drawn	NW	revision	C
checked	AV		
scale	1:100 @A3		

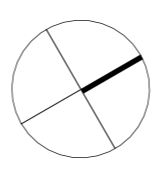


Any discrepancies to be brought to Architect's attention
 Use figure dimensions in preference to scaling
 Only scale under direction from Architect
 Builder to examine site and verify conditions and dimensions
 This drawing remains the property of the Architect
 Client is granted conditional licence to use the drawings
 Transfer of the licence is prohibited
 Architect reserves the right to terminate the licence
 Electronic data transfer should be scanned for viruses before use
 Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
 Refer to hard copies for accuracy of electronic data
 Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/6/22	REVISED DA/ISSUE

notes

e: HNB6.2-220518 DA wip B
 int date & time: 3/6/22@3:52 pm

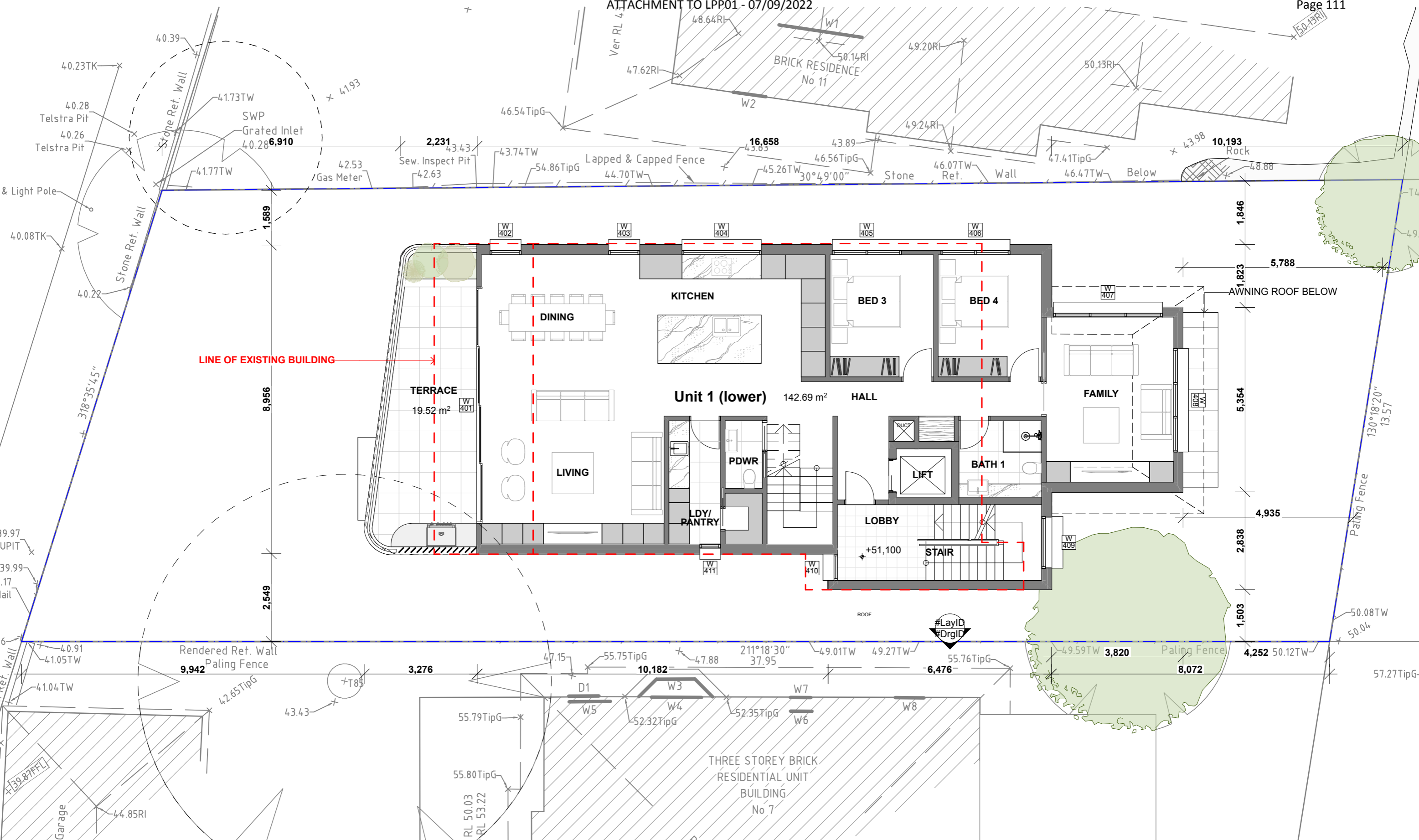


CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street Neutral Bay NSW
client HJ Three Pty Ltd

title Level 3 Plan
issue Development Application

job no.	HNB	dwg no.	DA06
drawn	NW	revision	B
checked	AV	scale	1:100 @A3

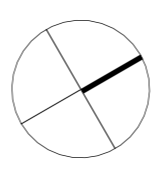


Any discrepancies to be brought to Architect's attention
 Use figure dimensions in preference to scaling
 Only scale under direction from Architect
 Builder to examine site and verify conditions and dimensions
 This drawing remains the property of the Architect
 Client is granted conditional licence to use the drawings
 Transfer of the licence is prohibited
 Architect reserves the right to terminate the licence
 Electronic data transfer should be scanned for viruses before use
 Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
 Refer to hard copies for accuracy of electronic data
 Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/8/22	REVISED DA ISSUE

notes

e: HNB6.2-220518 DA wip B
 int date & time: 3/8/22@3:52 pm

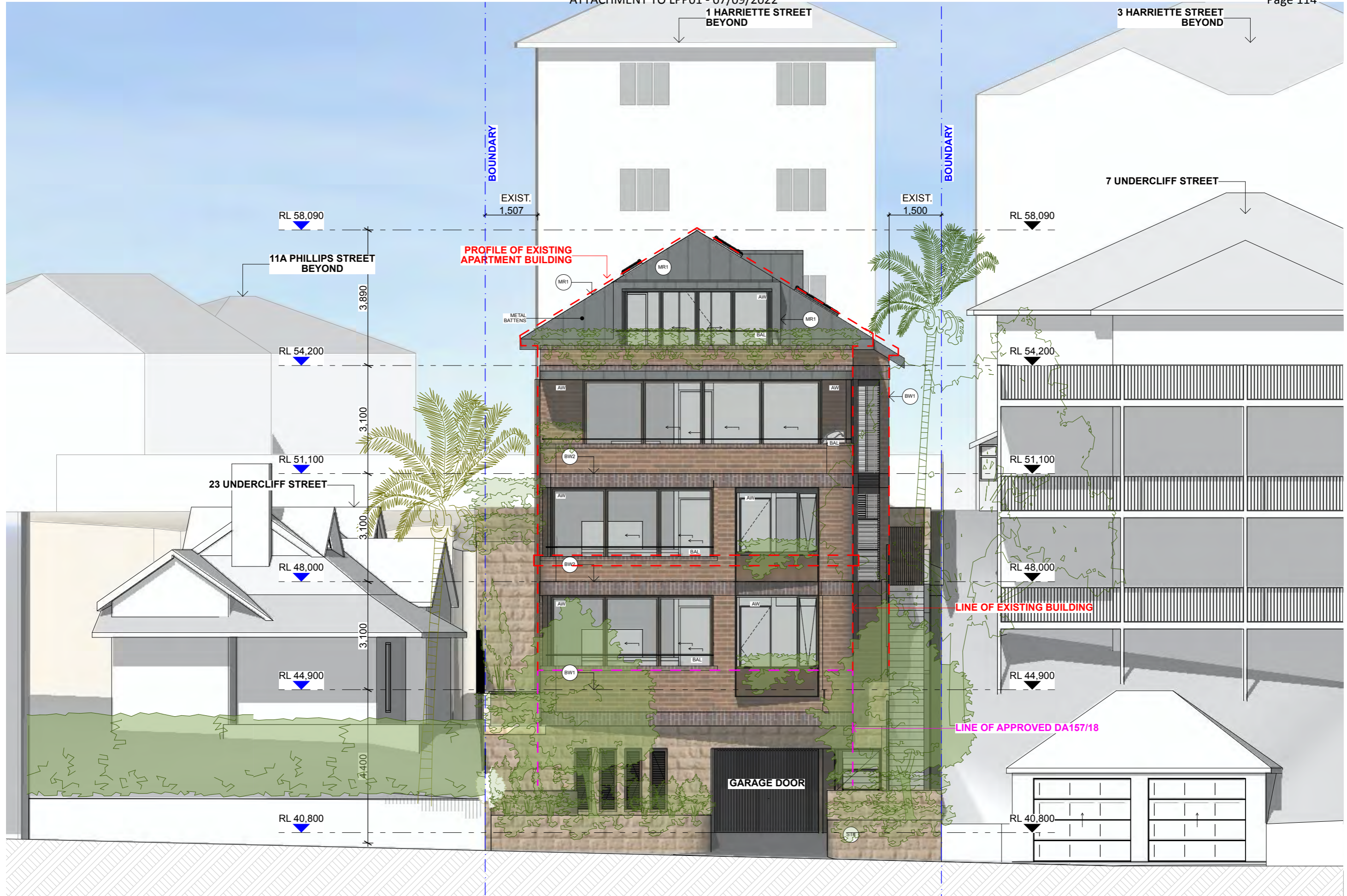


CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street Neutral Bay NSW
client HJ Three Pty Ltd

title Level 4 Plan
issue Development Application

job no.	HNB	dwg no.	DA07
drawn	NW	revision	B
checked	AV		
scale	1:100 @A3		



• Any discrepancies to be brought to Architect's attention
 • Use figure dimensions in preference to scaling
 • Only scale under direction from Architect
 • Builder to examine site and verify conditions and dimensions
 • This drawing remains the property of the Architect
 • Client is granted conditional licence to use the drawings
 • Transfer of the licence is prohibited
 • Architect reserves the right to terminate the licence
 • Electronic data transfer should be scanned for viruses before use
 • Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
 • Refer to hard copies for accuracy of electronic data
 • Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/6/22	REVISED DA ISSUE

notes

e: HNB6.2-220518 DA wip B
 int date & time: 3/6/22@3:52 pm

CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street Neutral Bay NSW
client HJ Three Pty Ltd

title South West Elevation
issue Development Application

job no. HNB
 drawn NW
 checked AV
scale 1:100 @A3

dwg no. DA10
 revision
B



Any discrepancies to be brought to Architect's attention
 Use figure dimensions in preference to scaling
 Only scale under direction from Architect
 Builder to examine site and verify conditions and dimensions
 This drawing remains the property of the Architect
 Client is granted conditional licence to use the drawings
 Transfer of the licence is prohibited
 Architect reserves the right to terminate the licence
 Electronic data transfer should be scanned for viruses before use
 Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
 Refer to hard copies for accuracy of electronic data
 Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/6/22	REVISED DA ISSUE

notes

e: HNB6.2-220518 DA wip B
 int date & time: 3/6/22@3:52 pm

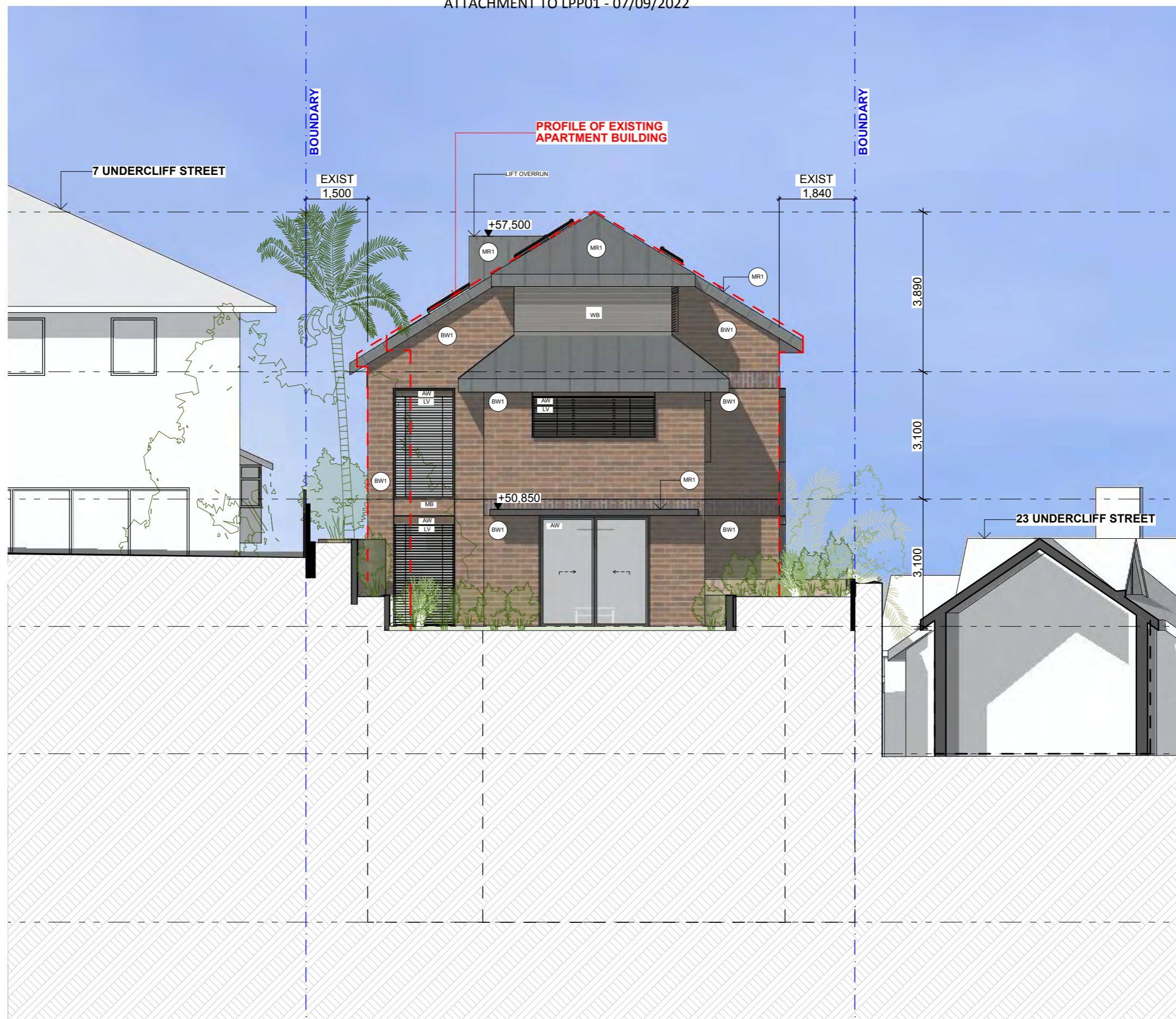
CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street Neutral Bay NSW
client HJ Three Pty Ltd

title North West Elevation
issue Development Application

job no. HNB
 drawn NW
 checked AV
scale 1:100 @A3

dwg no. DA11
 revision
B



- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/6/22	REVISED DA ISSUE

notes

e: HNB6.2-220518 DA wip B
 print date & time: 3/6/22@3:52 pm

CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street Neutral Bay NSW
client HJ Three Pty Ltd

title North East Elevation
issue Development Application

job no. HNB
 drawn NW
 checked AV
scale 1:100 @A3

dwg no. DA12
 revision
B



Any discrepancies to be brought to Architect's attention
 Use figure dimensions in preference to scaling
 Only scale under direction from Architect
 Builder to examine site and verify conditions and dimensions
 This drawing remains the property of the Architect
 Client is granted conditional licence to use the drawings
 Transfer of the licence is prohibited
 Architect reserves the right to terminate the licence
 Electronic data transfer should be scanned for viruses before use
 Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
 Refer to hard copies for accuracy of electronic data
 Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/6/22	REVISED DA ISSUE

notes

e: HNB6.2-220518 DA wip B
 int date & time: 3/6/22@3:52 pm

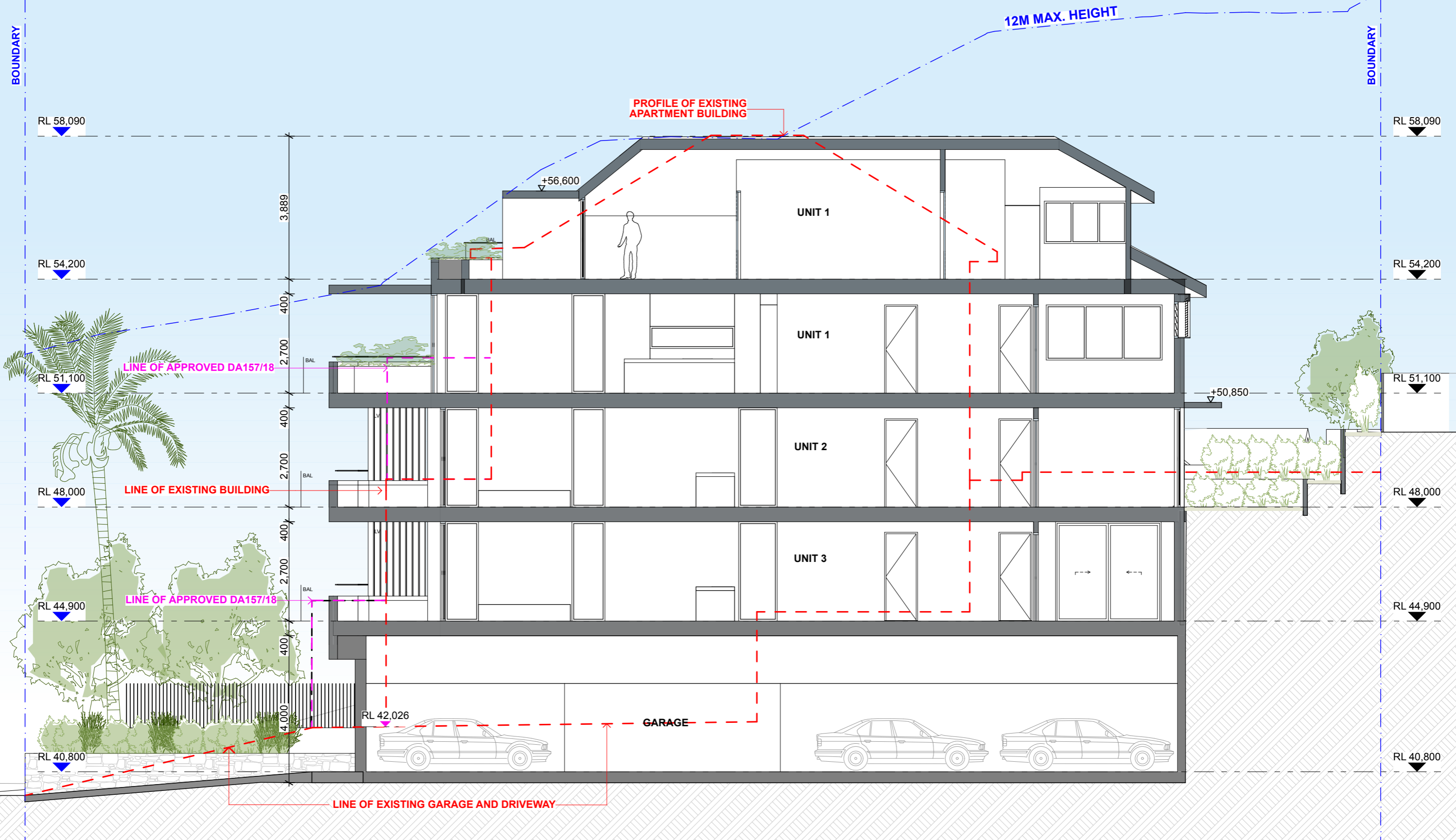
CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street Neutral Bay NSW
client HJ Three Pty Ltd

title South East Elevation
issue Development Application

job no. HNB
 drawn NW
 checked AV
scale 1:100 @A3

dwg no. DA13
 revision B



Any discrepancies to be brought to Architect's attention
 Use figure dimensions in preference to scaling
 Only scale under direction from Architect
 Builder to examine site and verify conditions and dimensions
 This drawing remains the property of the Architect
 Client is granted conditional licence to use the drawings
 Transfer of the licence is prohibited
 Architect reserves the right to terminate the licence
 Electronic data transfer should be scanned for viruses before use
 Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
 Refer to hard copies for accuracy of electronic data
 Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/6/22	REVISED DA ISSUE

notes

e: HNB6.2-220518 DA wip B
 int date & time: 3/6/22@3:52 pm

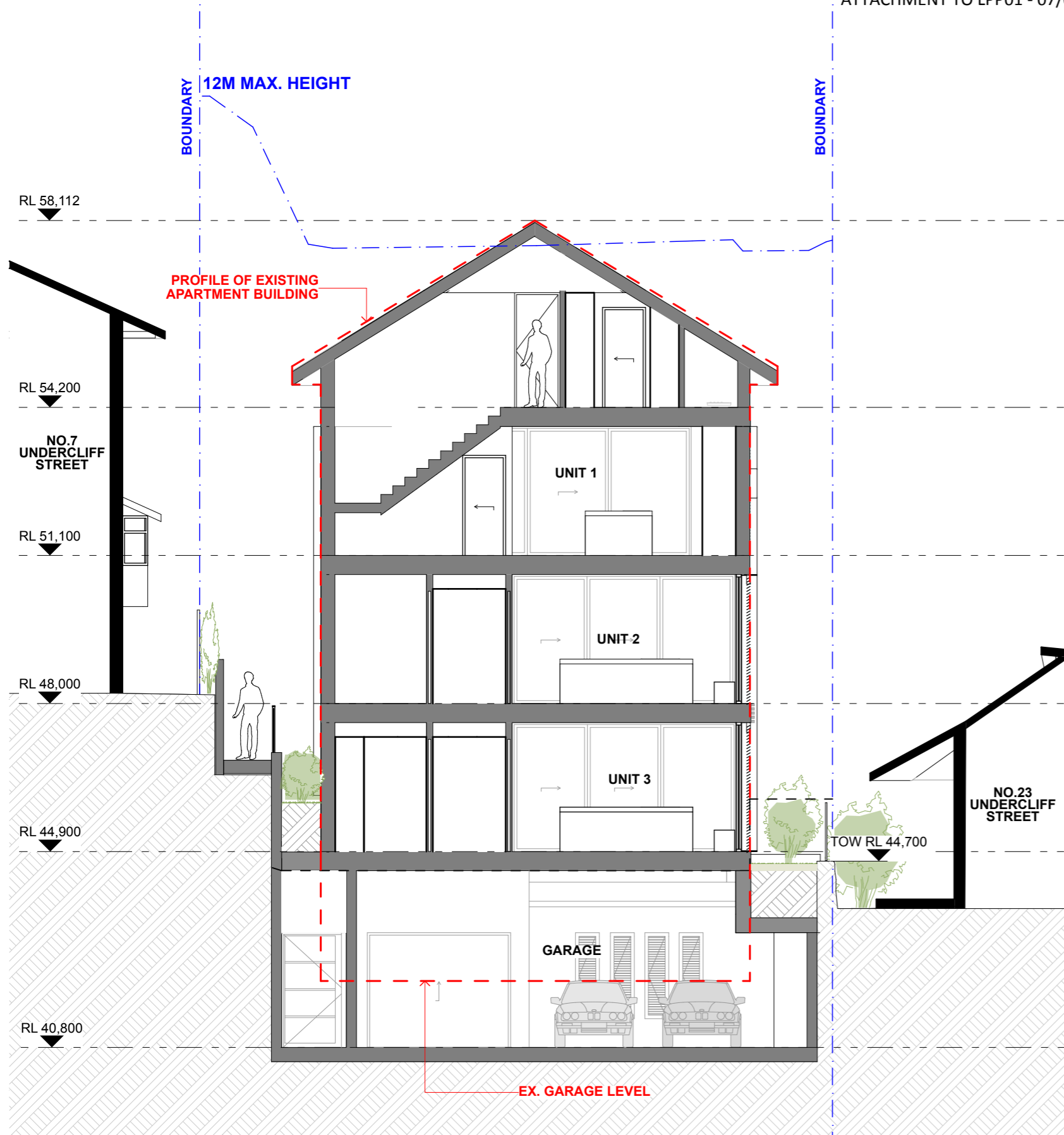
CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street Neutral Bay NSW
client HJ Three Pty Ltd

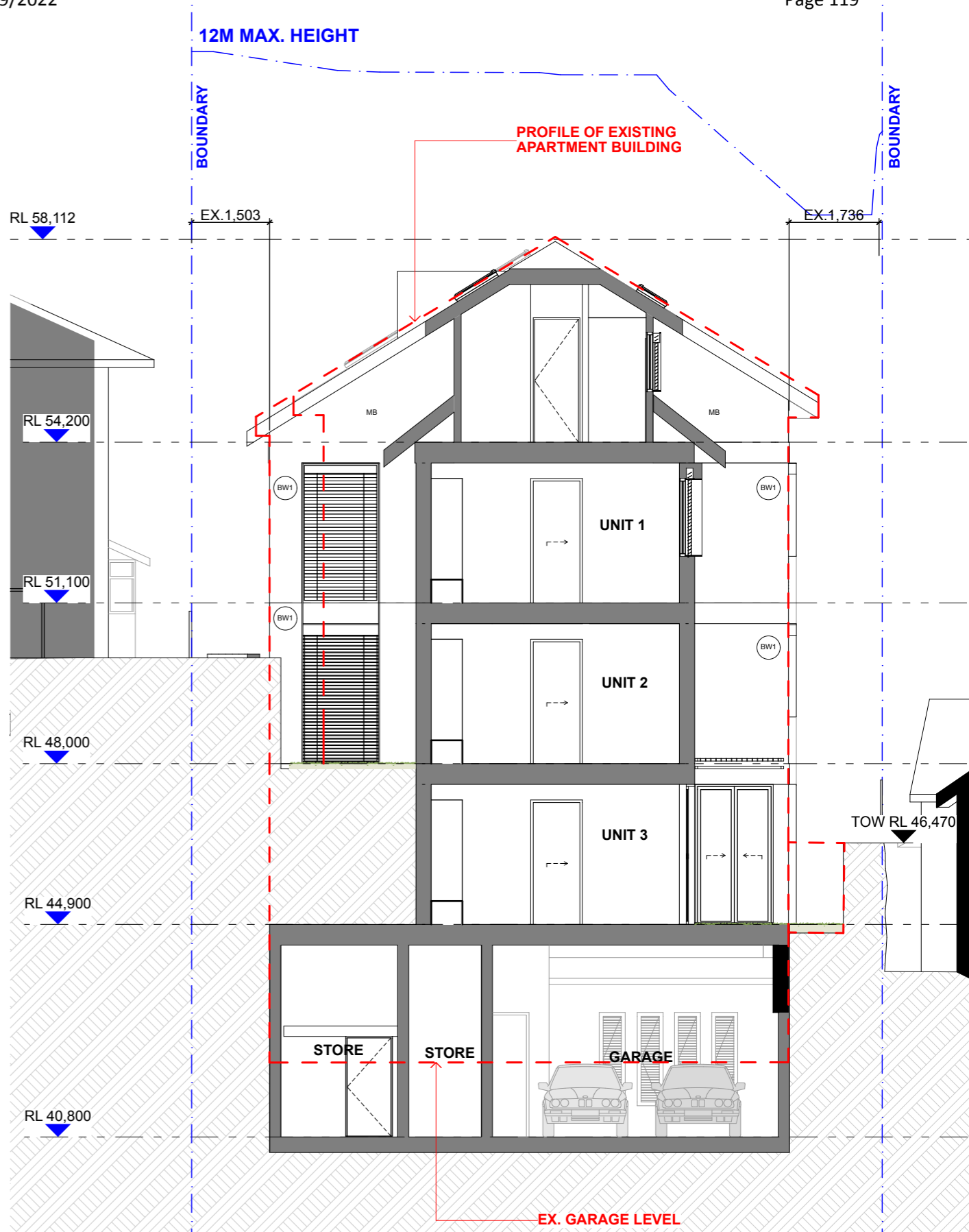
title Section AA
issue Development Application

job no. HNB
 drawn NW
 checked AV
scale 1:100 @A3

dwg no. DA14
 revision
B



Section BB
1:100



Section CC
1:100

- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

revisions		
RevID	Date	Description
C	25/8/22	NORTH WEST BOUNDARY REVISED

notes

e: HNB6.2-220518 DA wip B
int date & time: 25/8/22@3:59 pm

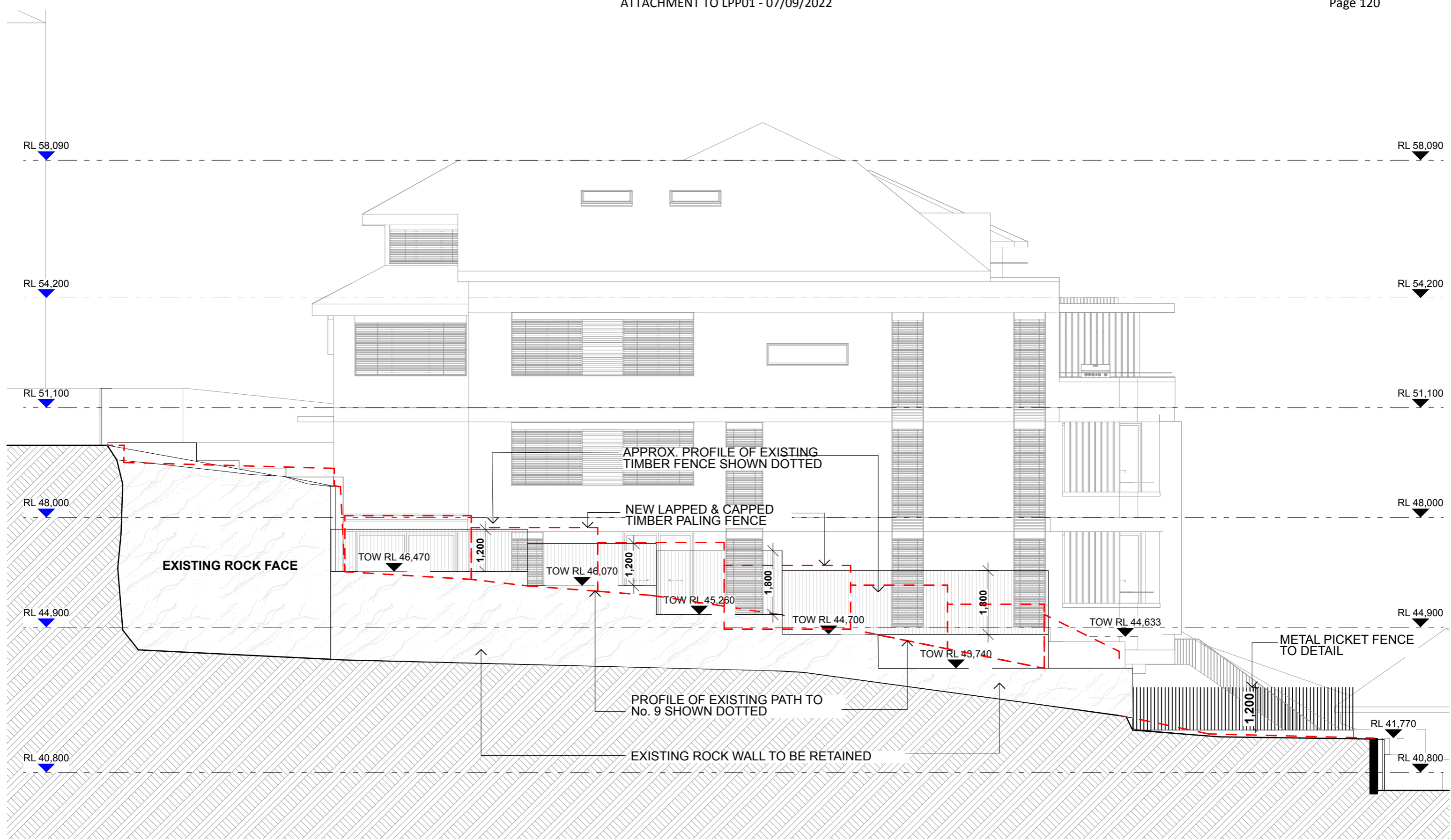
CORBEN ARCHITECTS
PO Box 1021 Neutral Bay NSW 2089 Australia
02 9904 1844
mail@corben.com.au
corben.com.au
Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street
Neutral Bay NSW
client HJ Three Pty Ltd

title Section BB & CC
issue Development Application

job no. HNB
drawn NW
checked AV
scale 1:100
@A3

dwg no. DA15
revision
C



1 North West Boundary Elevation
- 1:100

Any discrepancies to be brought to Architect's attention
 Use figure dimensions in preference to scaling
 Only scale under direction from Architect
 Builder to examine site and verify conditions and dimensions
 This drawing remains the property of the Architect
 Client is granted conditional licence to use the drawings
 Transfer of the licence is prohibited
 Architect reserves the right to terminate the licence
 Electronic data transfer should be scanned for viruses before use
 Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
 Refer to hard copies for accuracy of electronic data
 Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	25/8/22	NORTH WEST BOUNDARY REVISED

notes

e: HNB6.2-220518 DA wip B
 print date & time: 25/8/22@3:59 pm

CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project	Undercliff Street Apartments
address	9 Undercliff Street Neutral Bay NSW
client	HJ Three Pty Ltd

title	Boundary Elevations
issue	Development Application

job no.	HNB
drawn	NW
checked	AV
scale	1:100 @A3

dwg no.	DA26
revision	B



- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/6/22	REVISED DA/ISSUE

notes

e: HNB6.2-220518 DA wip B
 print date & time: 3/6/22@3:53 pm

CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street
 Neutral Bay NSW
client HJ Three Pty Ltd

title Perspectives
issue Development Application

job no. HNB
 drawn NW
 checked AV
scale NTS
 @A3

dwg no. DA20
 revision
B



- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/6/22	REVISED DA/ISSUE

notes

e: HNB6.2-220518 DA wip B
 print date & time: 3/6/22@3:53 pm

CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street
 Neutral Bay NSW
client HJ Three Pty Ltd

title Perspectives
issue Development Application

job no. HNB
 drawn NW
 checked AV
scale NTS
 @A3

dwg no. DA21
 revision
B



- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/6/22	REVISED DA/ISSUE

notes

e: HNB6.2-220518 DA wip B
 print date & time: 3/6/22@3:53 pm

CORBEN ARCHITECTS

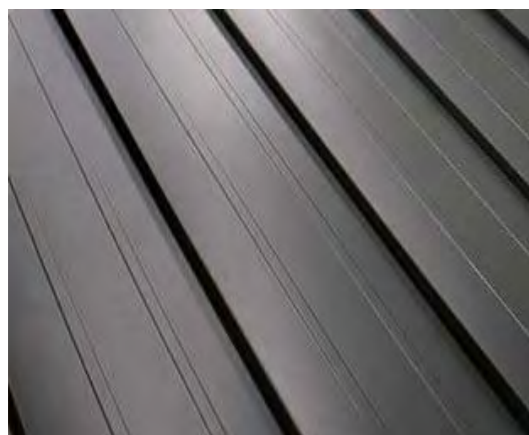
PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project	Undercliff Street Apartments
address	9 Undercliff Street Neutral Bay NSW
client	HJ Three Pty Ltd

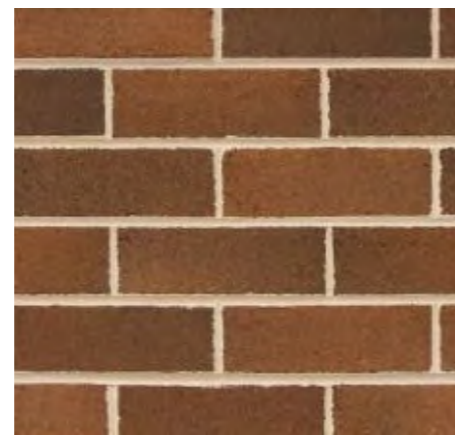
title	Perspectives
issue	Development Application

job no.	HNB
drawn	NW
checked	AV
scale	NTS @A3

dwg no.	DA22
revision	B



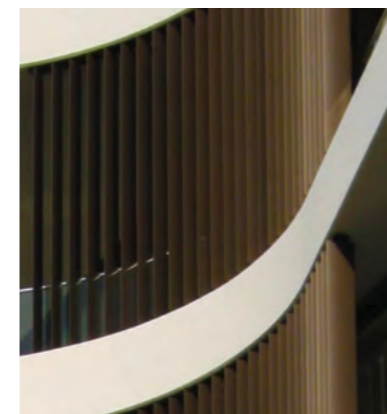
1 Metal roof - colourbond matt - basalt



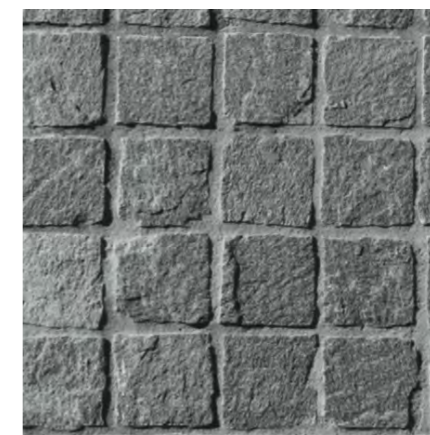
2 Face brick - Bowral Brown



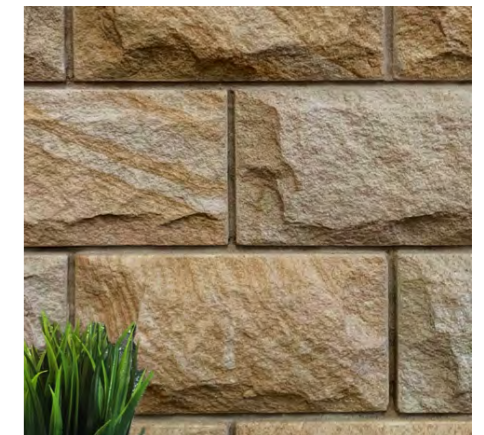
3 Brick highlights- Bowral Brown Stackbond



4 Aluminium Privacy Screens



5 Cobblestone driveway



6 Sandstone

- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/6/22	REVISED DA/ISSUE

notes

e: HNB6.2-220518 DA wip B
 print date & time: 3/6/22@3:53 pm

CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street Neutral Bay NSW
client HJ Three Pty Ltd

title Finishes board
issue Development Application

job no. HNB
 drawn NW
 checked AV
scale NTS @A3

dwg no. DA24
 revision
B



EXISTING VIEW FROM UNIT 2, 3-5 HARRIETTE STREET



PROPOSED VIEW FROM UNIT 2, 3-5 HARRIETTE STREET

- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

revisions		
RevID	Date	Description
A	3/6/22	REVISED DA/ISSUE

notes

e: HNB6.2-220518 DA wip B
 print date & time: 3/6/22@3:53 pm

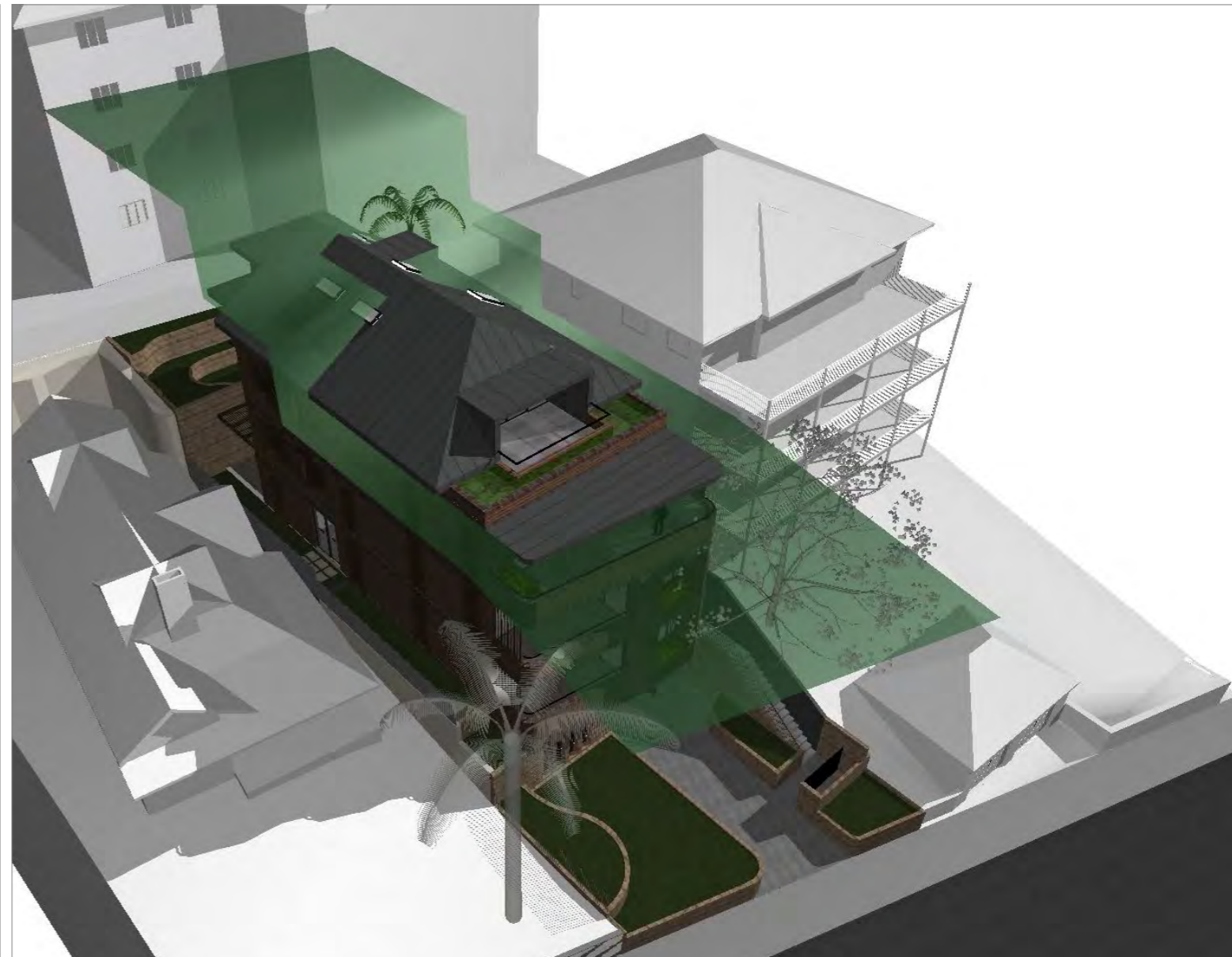
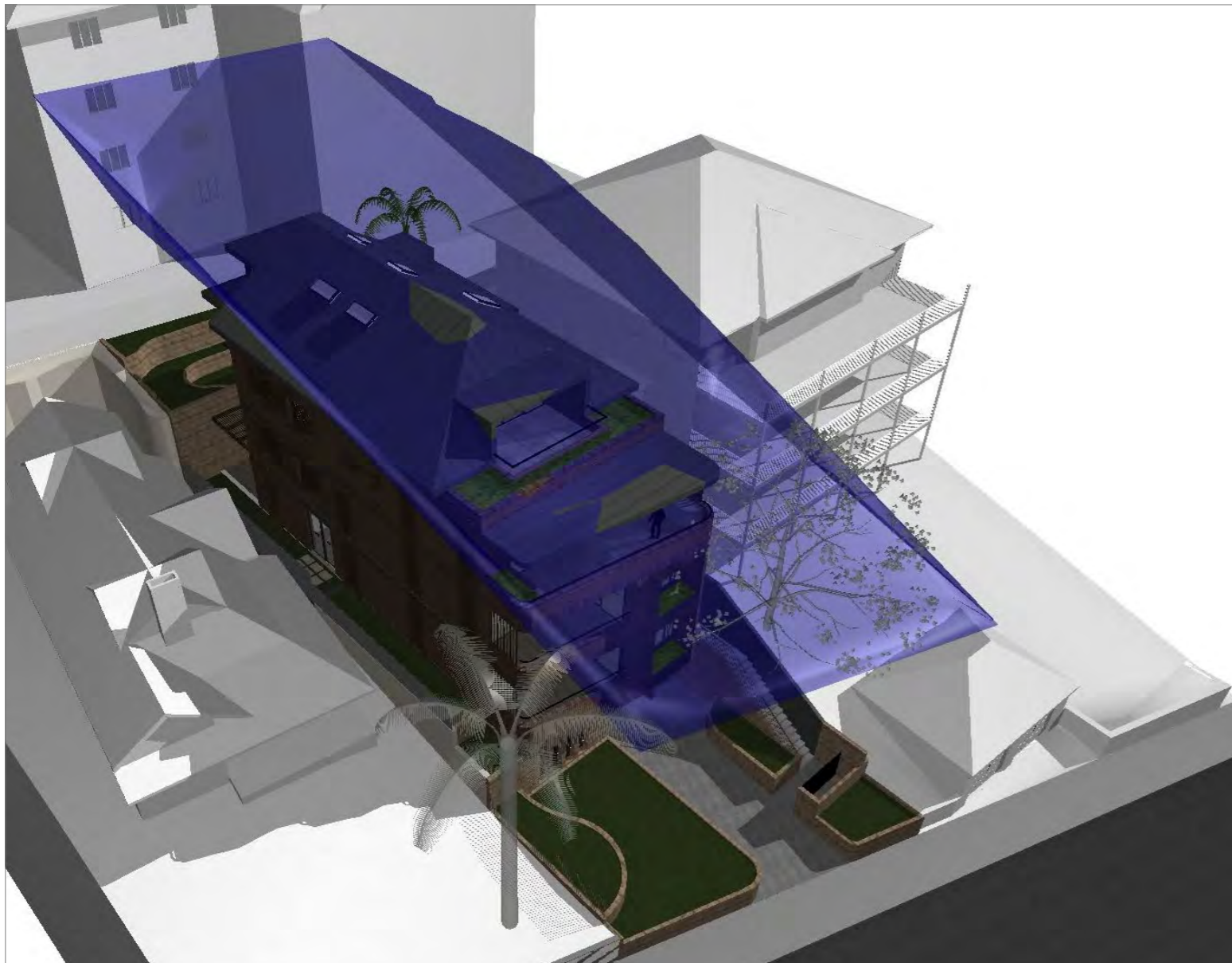
CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project	Undercliff Street Apartments
address	9 Undercliff Street Neutral Bay NSW
client	HJ Three Pty Ltd

title	Photomontage
issue	Development Application

job no.	HNB
drawn	NW
checked	AV
scale	NTS @A3

dwg no.	DA25
revision	A



- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

revisions		
RevID	Date	Description
A	22/8/22	REVISED DA ISSUE

notes

e: HNB6.2-220815 DA Issue C.pln
 print date & time: 23/8/22@2:35 pm

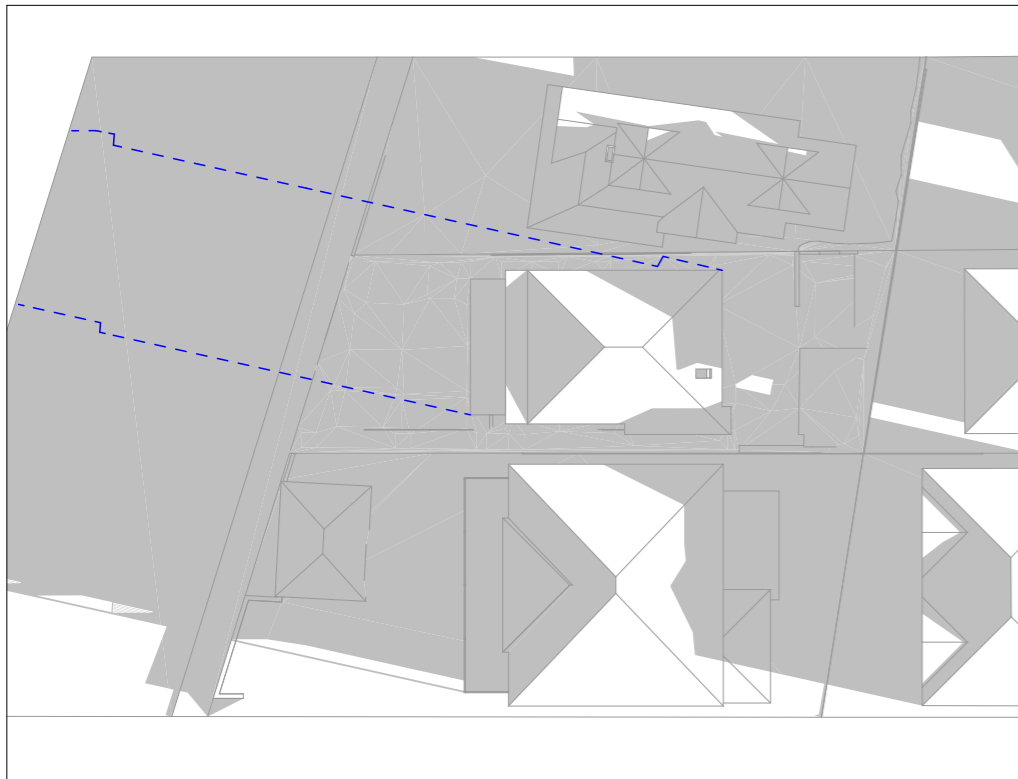
CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street
 Neutral Bay NSW
client HJ Three Pty Ltd

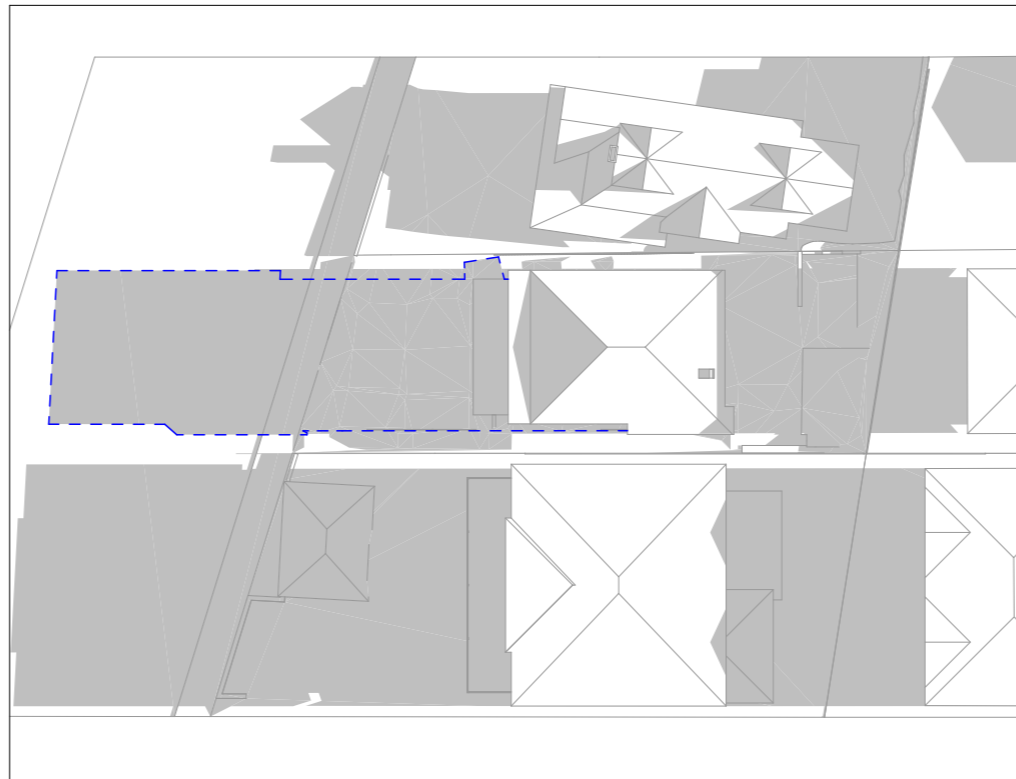
title Additional Heigh Plan Images
issue Development Application

job no. HNB
 drawn NW
 checked AV
scale NTS
 @A3

dwg no. DA37
 revision
A



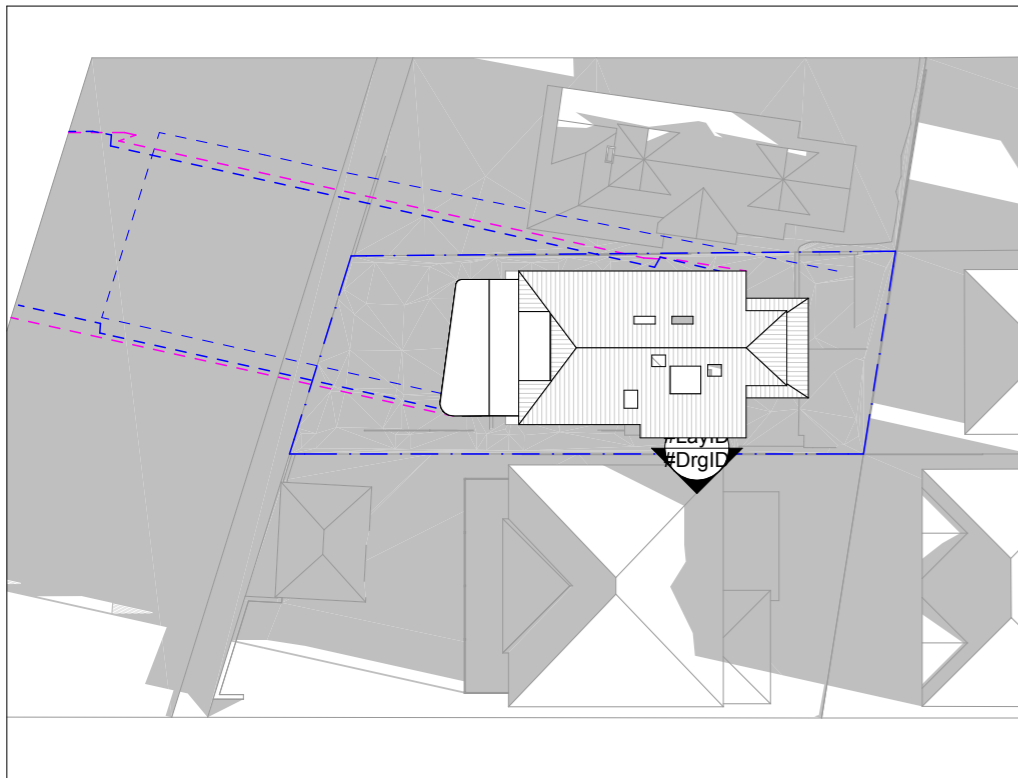
June 21 - 9am Existing



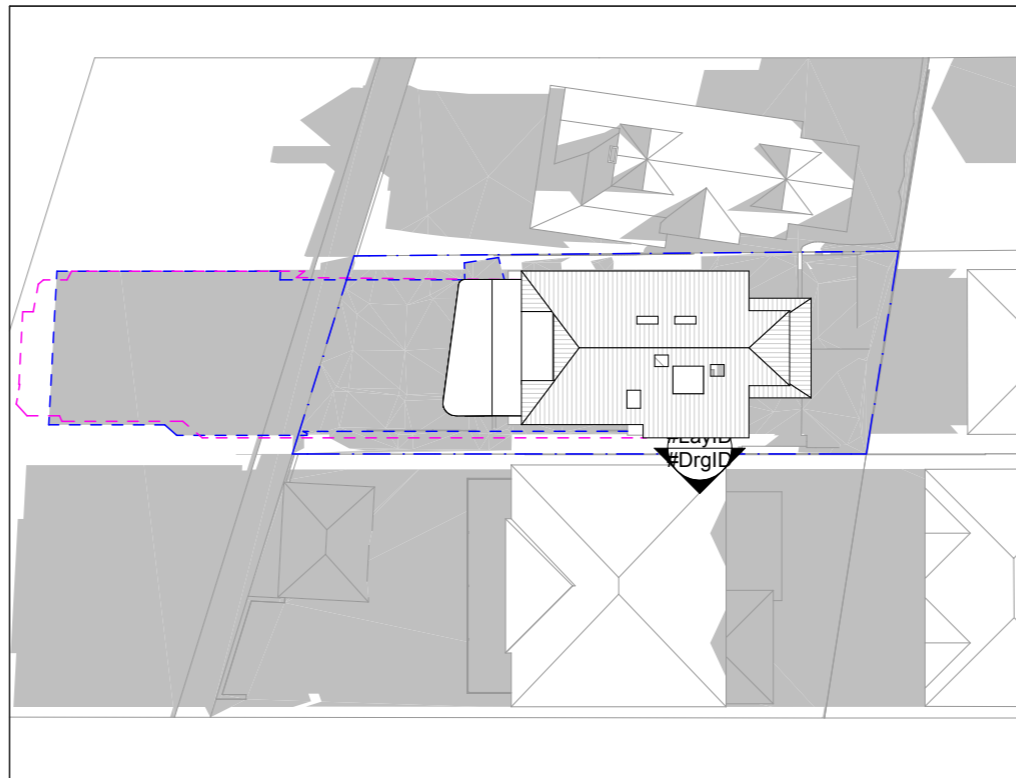
June 21 - 10am Existing



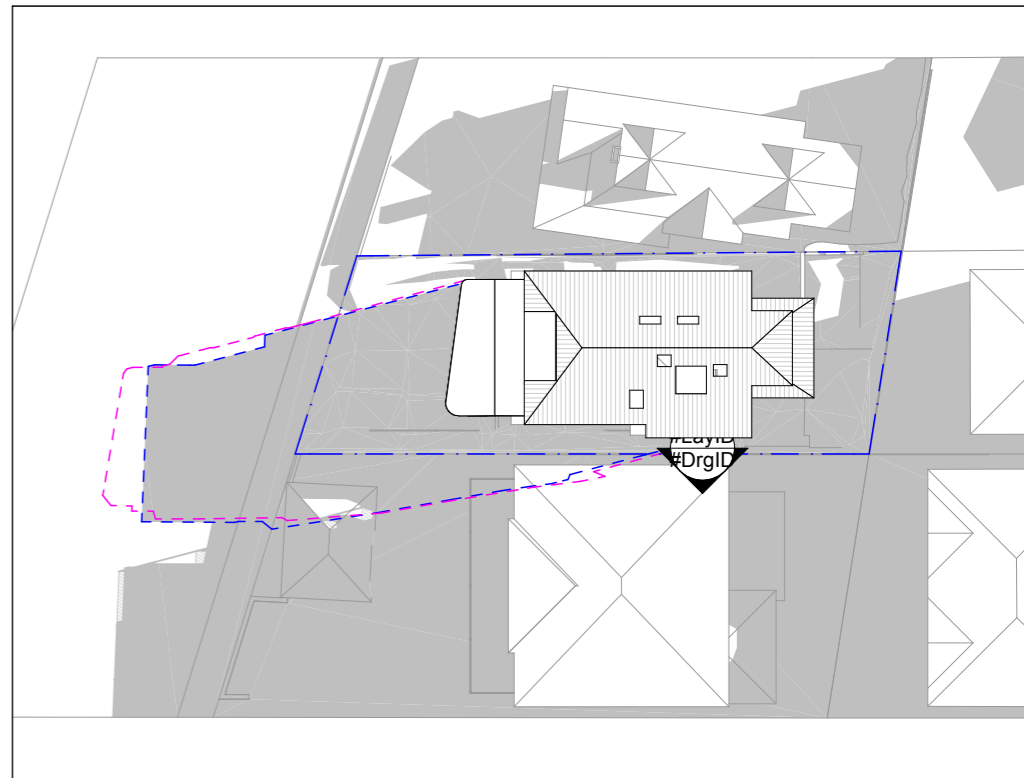
June 21 - 11am Existing



June 21 - 9am Proposed



June 21 - 10am Proposed

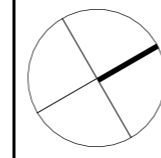


June 21 - 11am Proposed

- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/6/22	REVISED DA ISSUE

- notes**
- EXISTING SHADOW
 - OUTLINE OF EXISTING SHADOW
 - OUTLINE OF PROPOSED SHADOW



CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

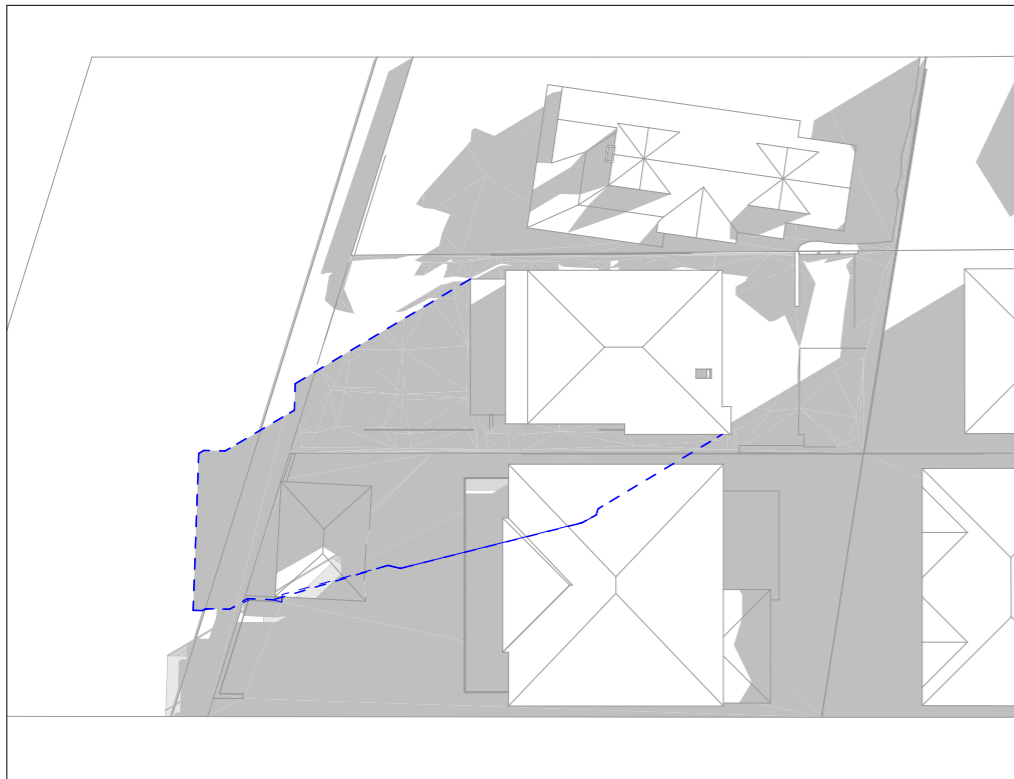
project Undercliff Street Apartments
address 9 Undercliff Street Neutral Bay NSW
client HJ Three Pty Ltd

title Shadow studies - 21 June 9am - 11am
issue Development Application

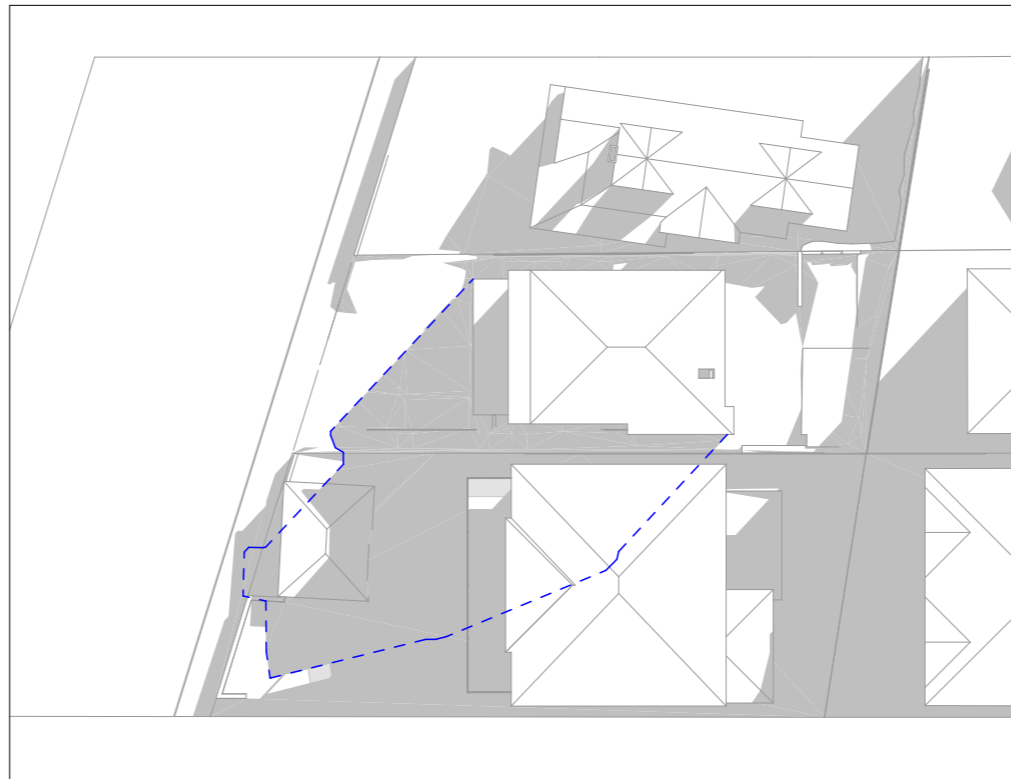
job no. HNB
 drawn NW
 checked AV
scale 1:500 @A3

dwg no. DA17
 revision
B

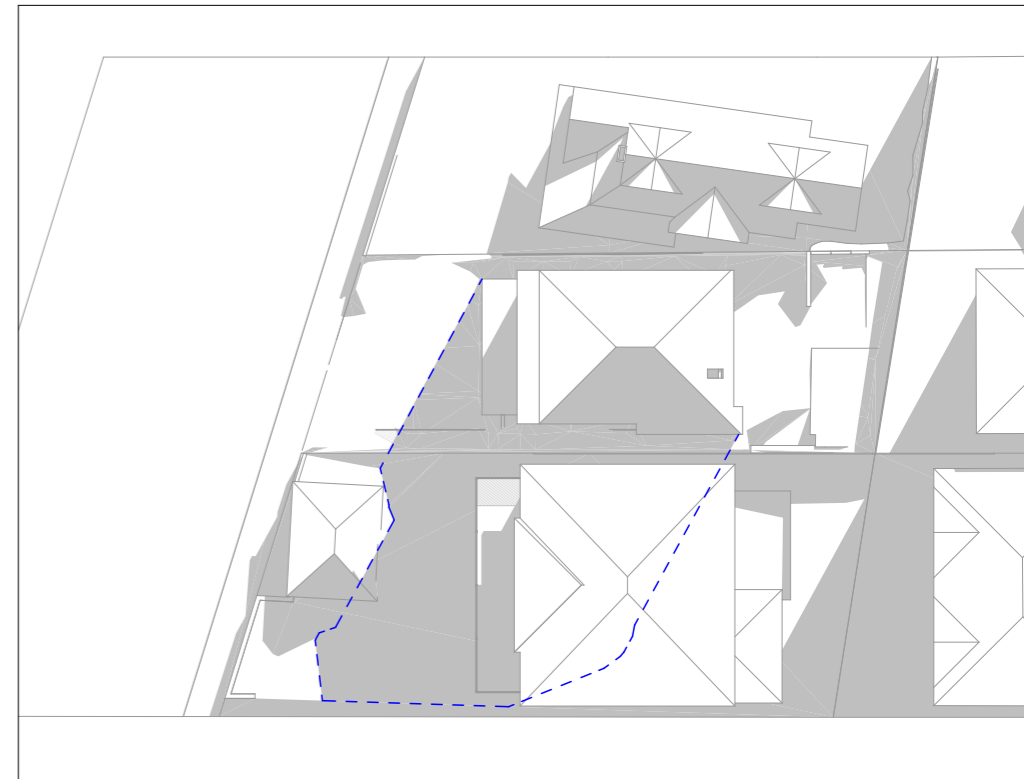
e: HNB6.2-220518 DA wip B
 int date & time: 3/6/22@3:53 pm



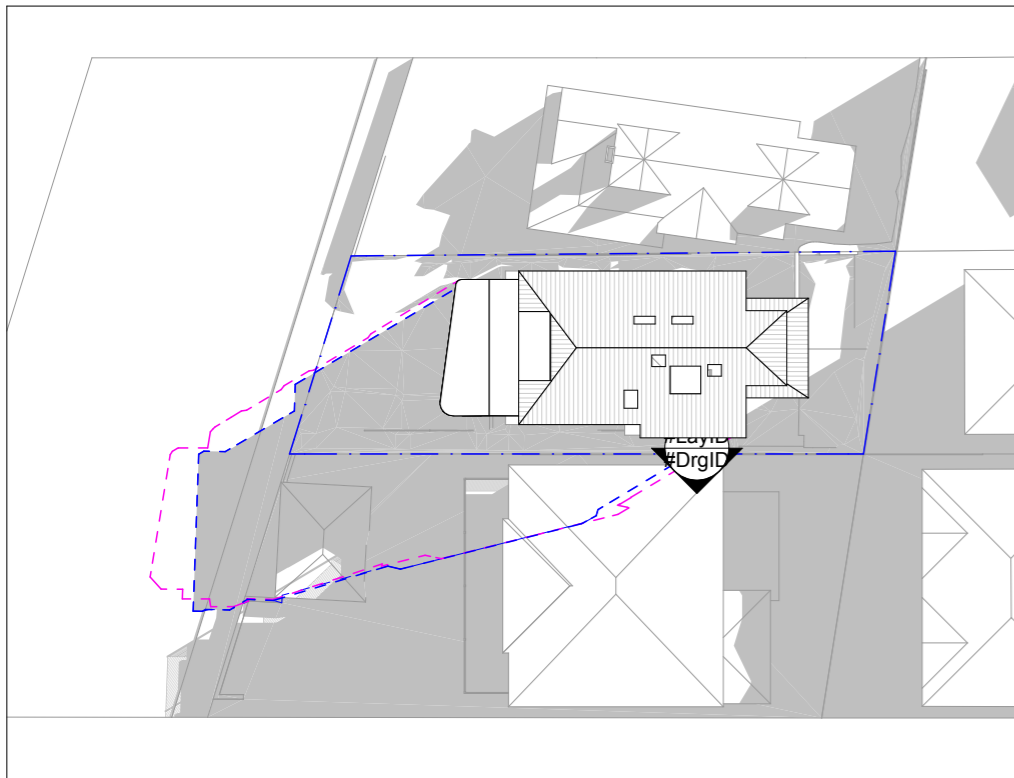
June 21 - 12pm Existing



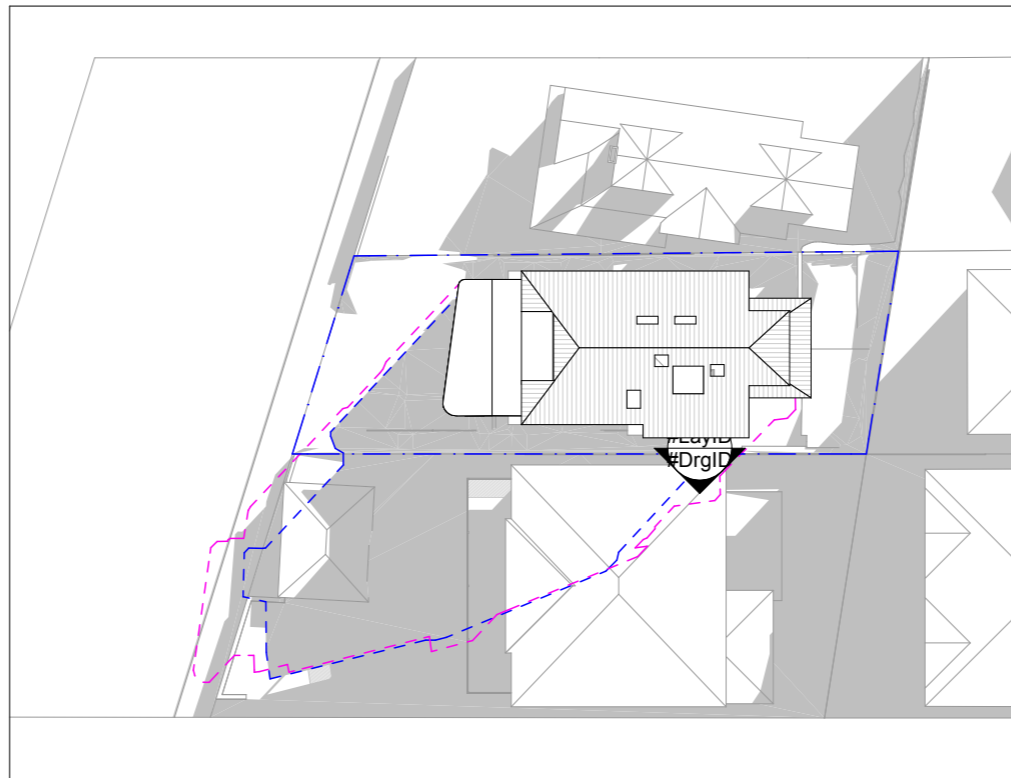
June 21 - 1pm Existing



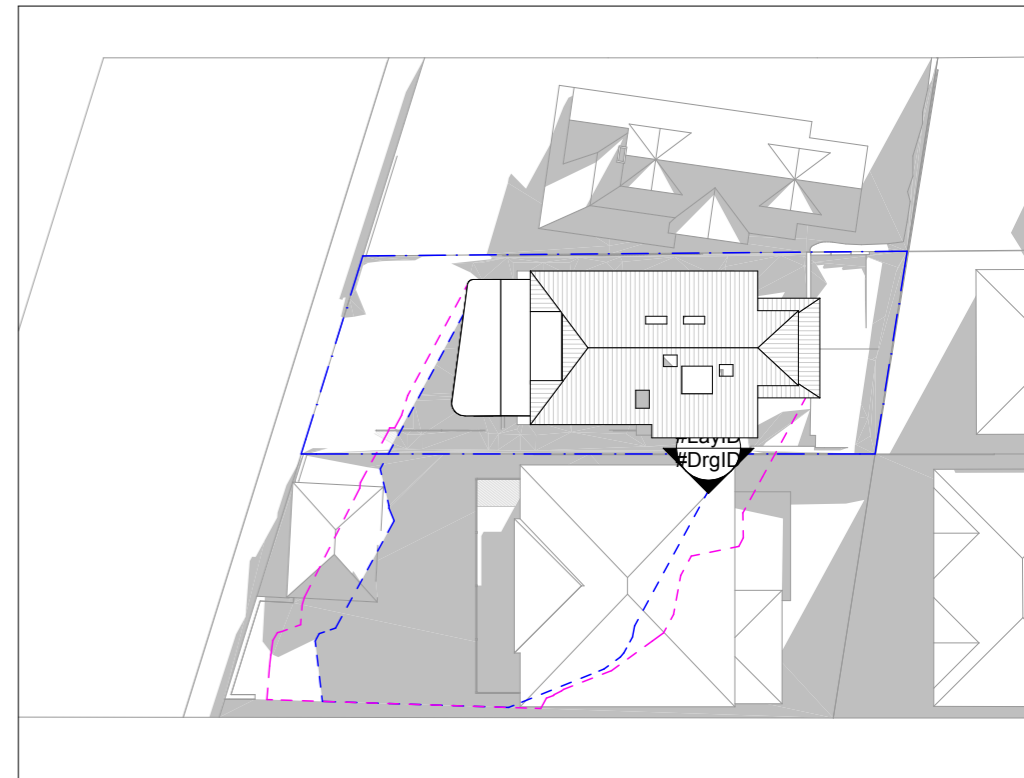
June 21 - 2pm Existing



June 21 - 12pm Proposed



June 21 - 1pm Proposed

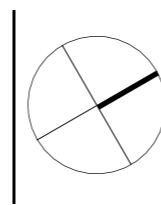


June 21 - 2pm Proposed

- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

revisions		
RevID	Date	Description
B	3/6/22	REVISED DA ISSUE

- notes**
- EXISTING SHADOW
 - OUTLINE OF EXISTING SHADOW
 - OUTLINE OF PROPOSED SHADOW



CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

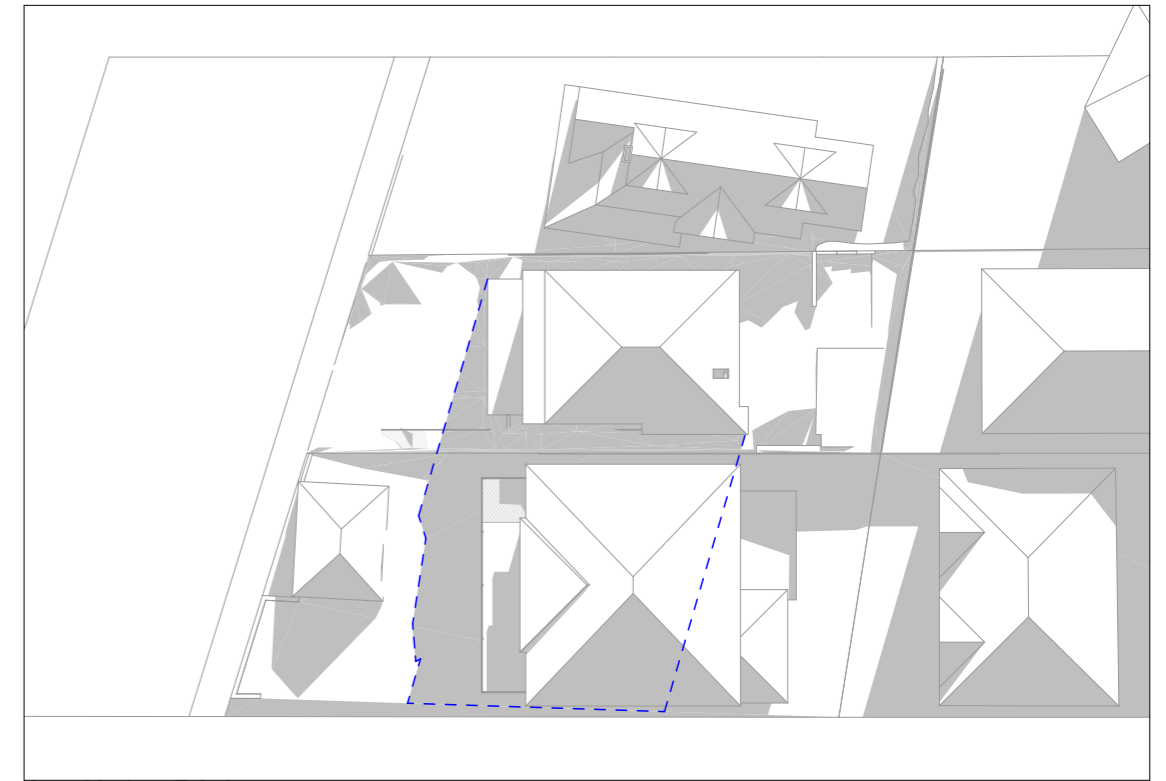
project Undercliff Street Apartments
address 9 Undercliff Street Neutral Bay NSW
client HJ Three Pty Ltd

title Shadow studies - 21 June 12pm - 2pm
issue Development Application

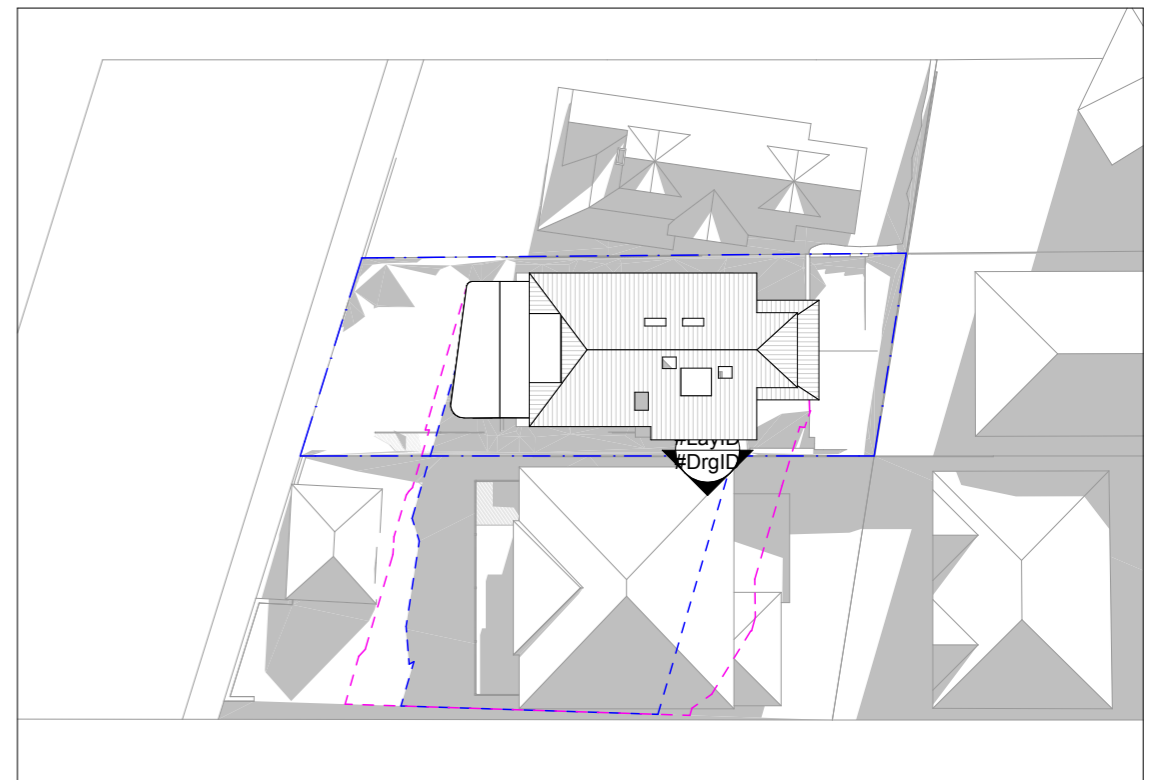
job no. HNB
 drawn NW
 checked AV
scale 1:500 @A3

dwg no. DA18
 revision
B

e: HNB6.2-220518 DA wip B
 int date & time: 3/6/22@3:53 pm



June 21 - 3pm Existing

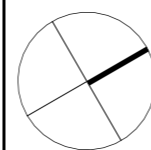


June 21 - 3pm Proposed

- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

revisions		
RevID	Date	Description
01	3/6/22	REVISED DATA ISSUE

- notes**
- EXISTING SHADOW
 - - - OUTLINE OF EXISTING SHADOW
 - - - OUTLINE OF PROPOSED SHADOW



CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street
 Neutral Bay NSW
client HJ Three Pty Ltd

title Shadow studies - 21 June
 3pm
issue Development Application

job no. HNB
 drawn NW
 checked AV
scale 1:500
 @A3

dwg no. DA19
 revision
 01

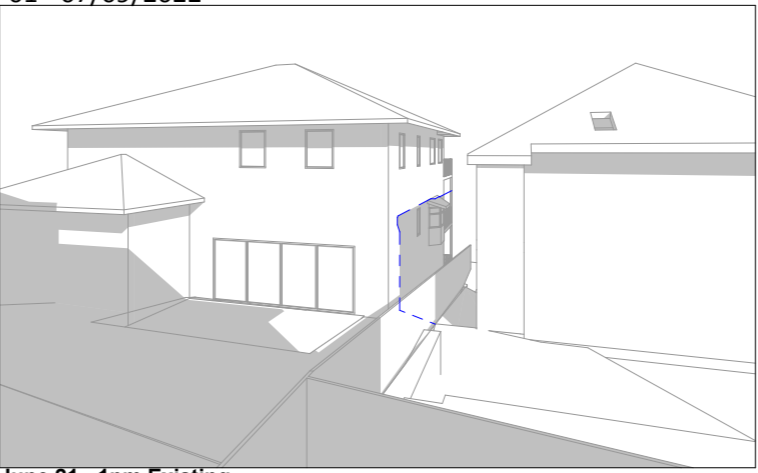
e: HNB6.2-220518 DA wip B
 print date & time: 3/6/22@3:53 pm



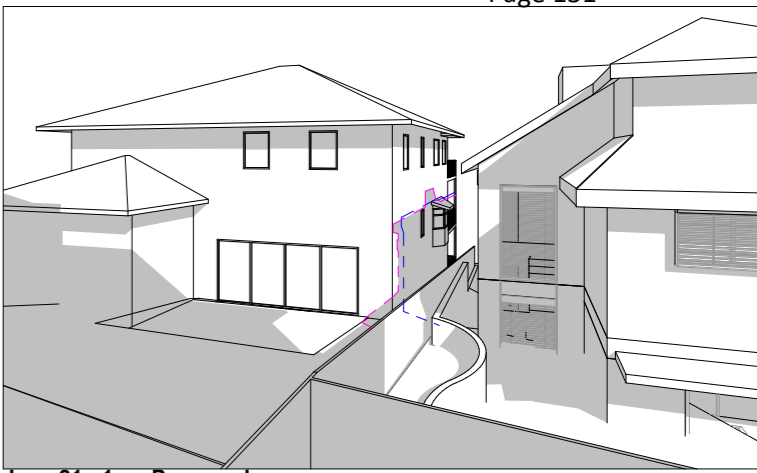
June 21 - 9am Existing



June 21 - 9am Proposed



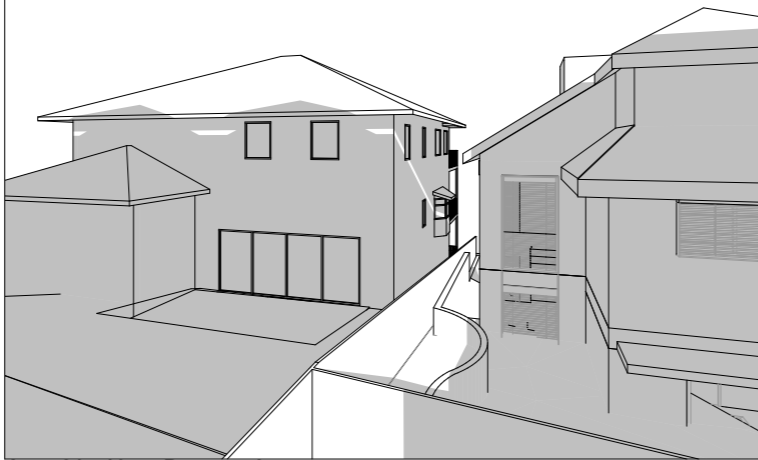
June 21 - 1pm Existing



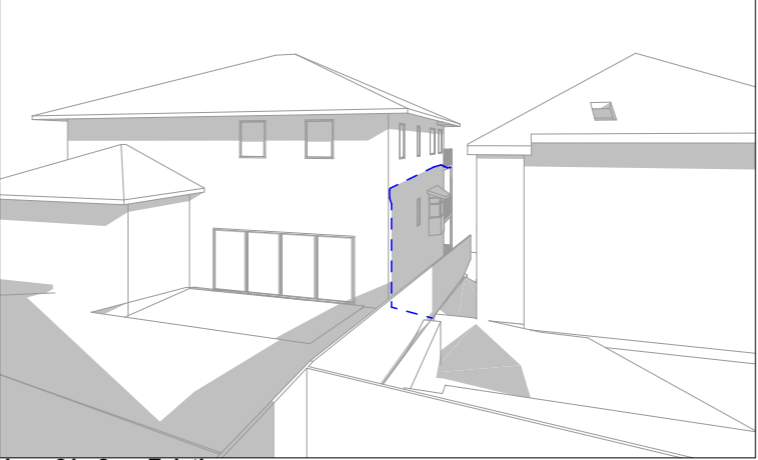
June 21 - 1pm Proposed



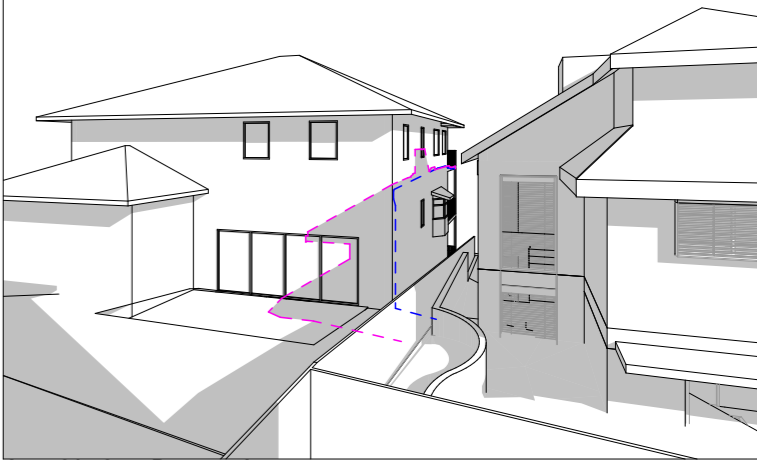
June 21 - 10am Existing



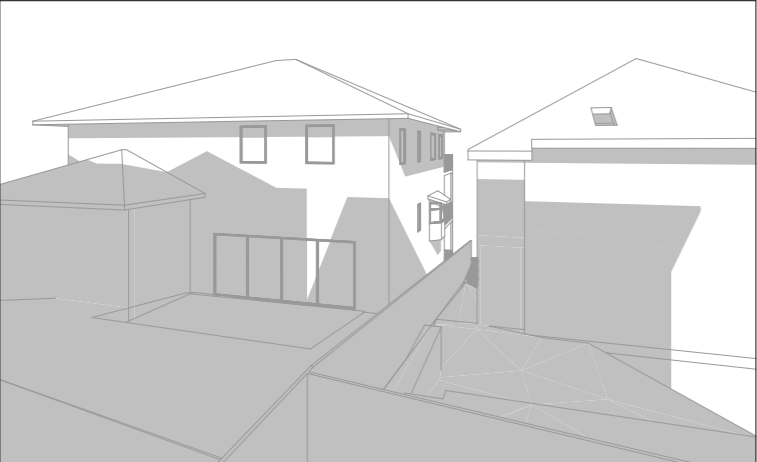
June 21 - 10am Proposed



June 21 - 2pm Existing



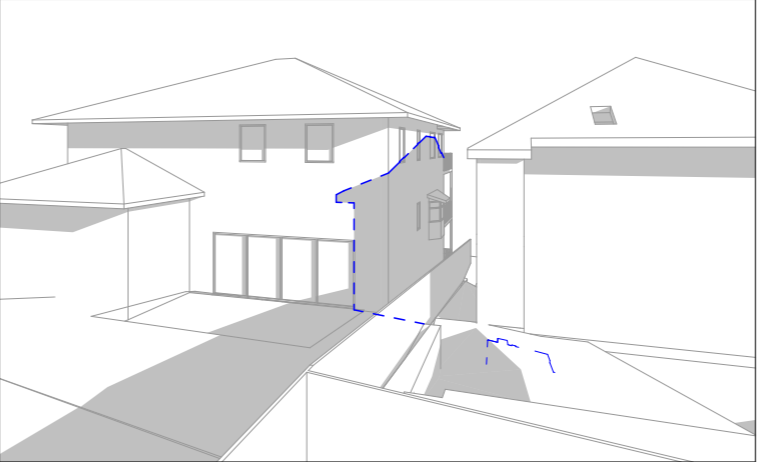
June 21 - 2pm Proposed



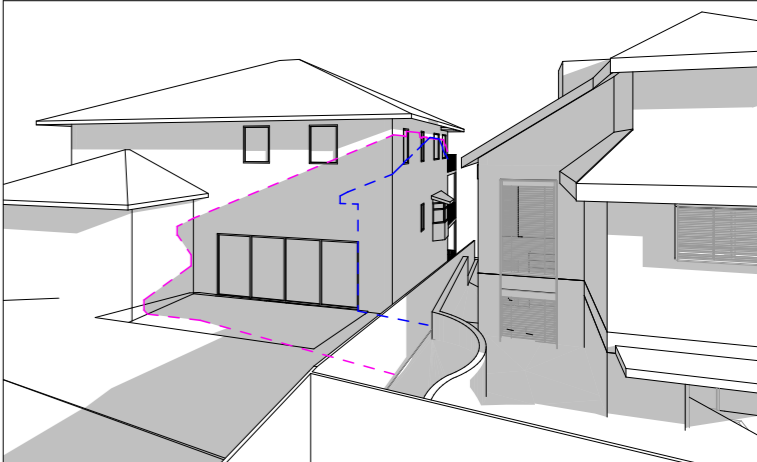
June 21 - 11am Existing



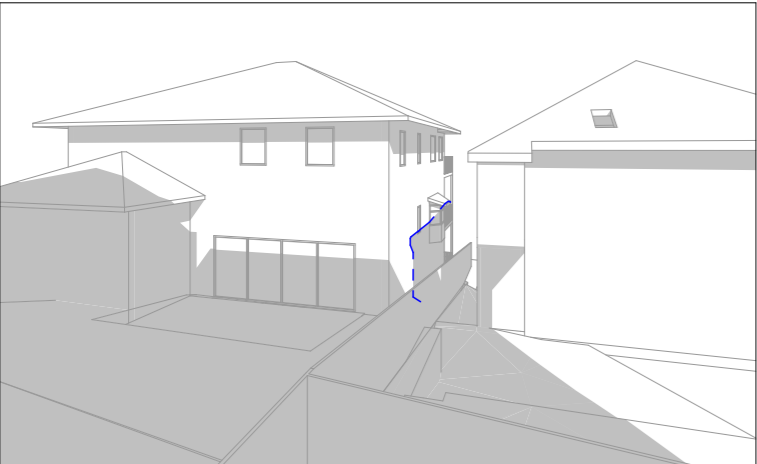
June 21 - 11am Proposed



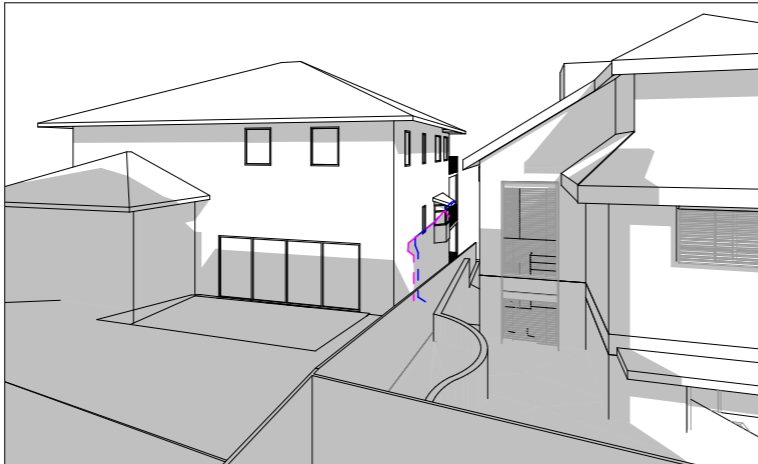
June 21 - 3pm Existing



June 21 - 3pm Proposed



June 21 - 12pm Existing



June 21 - 12pm Proposed

- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

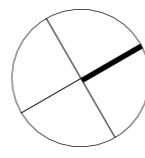
revisions		
RevID	Date	Description
B	3/6/22	REVISED DA/ISSUE

notes

--- OUTLINE OF EXISTING SHADOW

--- OUTLINE OF PROPOSED SHADOW

e: HNB6.2-220518 DA wip B
 int date & time: 3/6/22@3:53 pm



CORBEN ARCHITECTS

PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au

Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments

address 9 Undercliff Street
Neutral Bay NSW

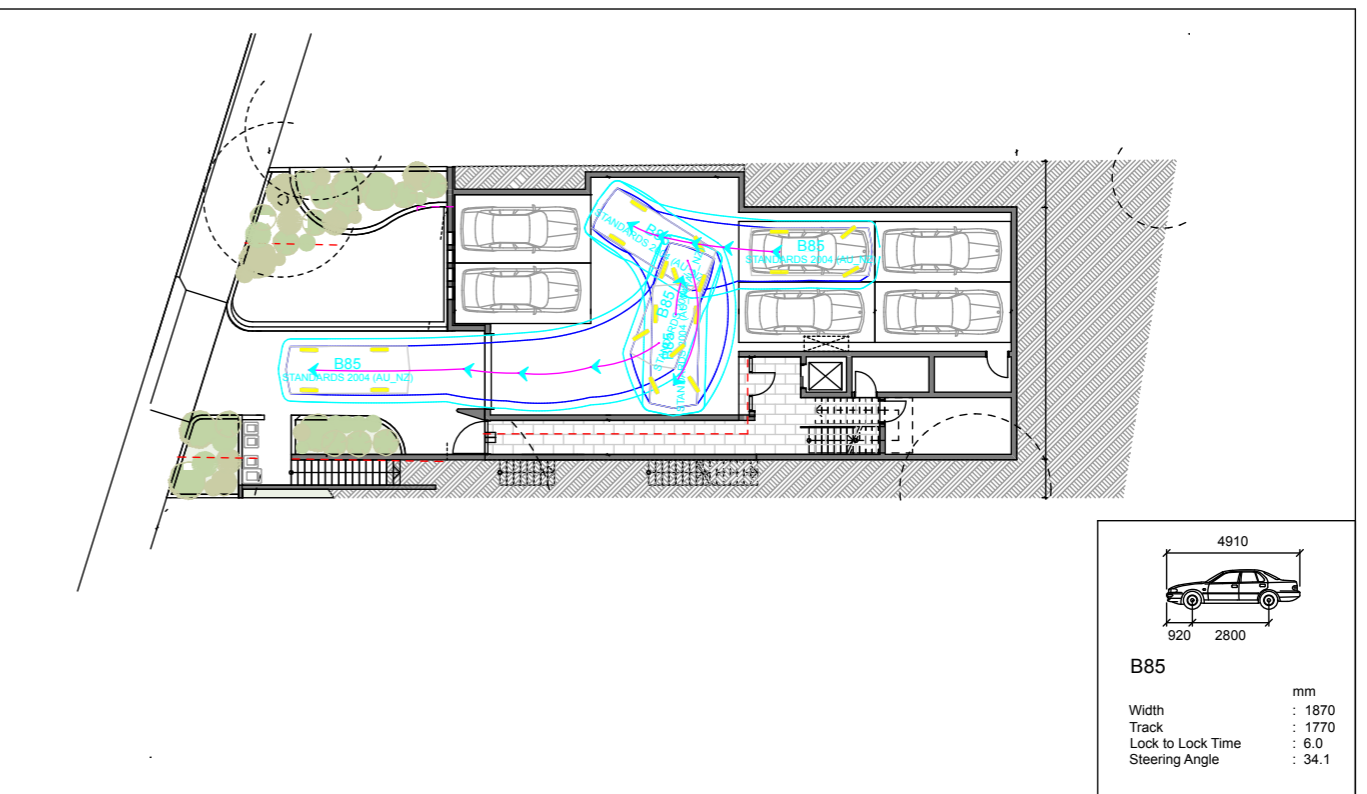
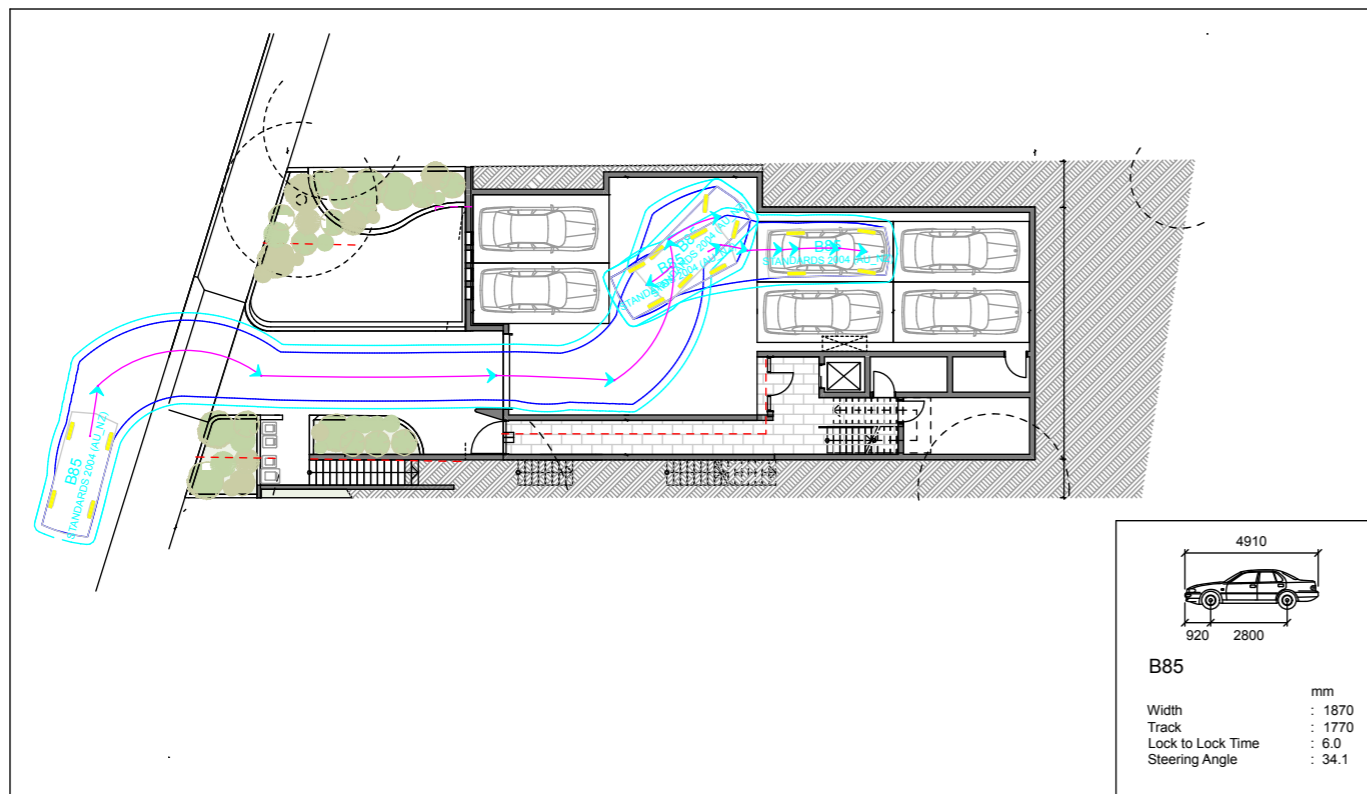
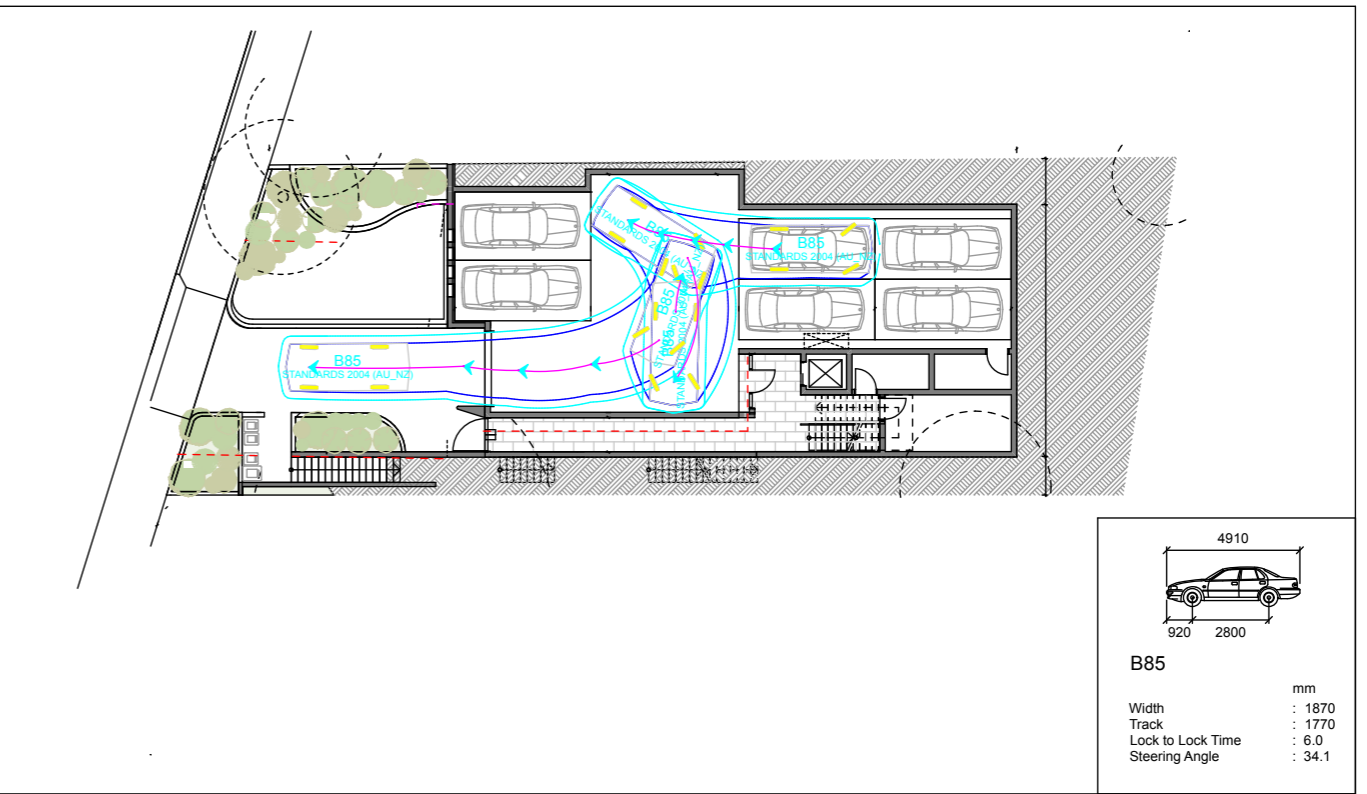
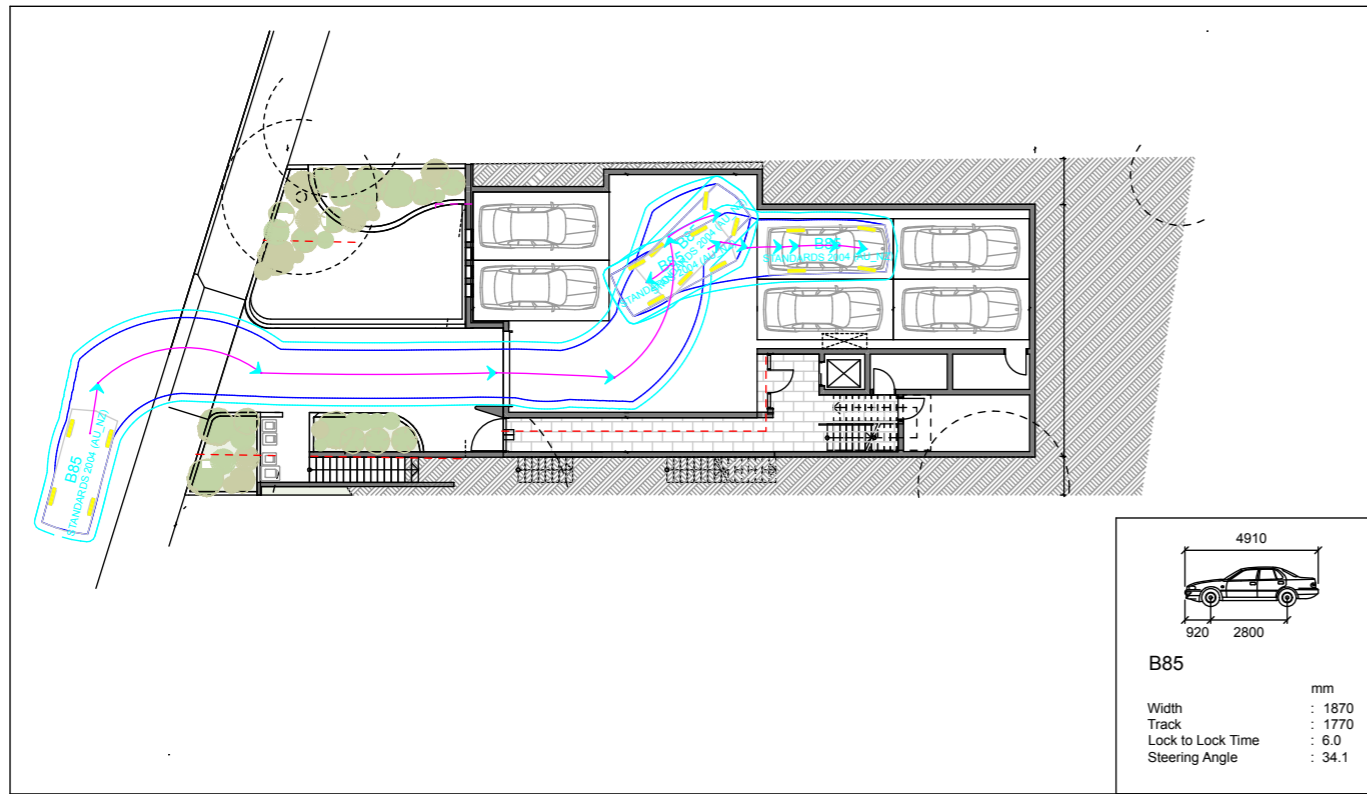
client HJ Three Pty Ltd

title Shadow studies -
Elevational Studies

issue Development Application

job no. HNB
 drawn NW
 checked AV
scale 1:500
 @A3

dwg no. DA23
 revision
B



- Any discrepancies to be brought to Architect's attention
- Use figure dimensions in preference to scaling
- Only scale under direction from Architect
- Builder to examine site and verify conditions and dimensions
- This drawing remains the property of the Architect
- Client is granted conditional licence to use the drawings
- Transfer of the licence is prohibited
- Architect reserves the right to terminate the licence
- Electronic data transfer should be scanned for viruses before use
- Any loss or damage (including consequential damage) caused to the recipient of electronic data, by its direct or indirect use, is not the liability of the Architect
- Refer to hard copies for accuracy of electronic data
- Copyright reserved by the Architect

revisions		
RevID	Date	Description
A	3/6/22	REVISED DA/ISSUE

notes

e: HNB6.2-220518 DA wip B
 int date & time: 3/6/22@3:53 pm

CORBEN ARCHITECTS
 PO Box 1021 Neutral Bay NSW 2089 Australia
 02 9904 1844
 mail@corben.com.au
 corben.com.au
 Nominated Architect: Philip Corben (Reg. No. 4616)

project Undercliff Street Apartments
address 9 Undercliff Street
 Neutral Bay NSW
client HJ Three Pty Ltd

title Sweep Path Analysis 2
issue Development Application

job no. HNB
 drawn NW
 checked AV
scale NTS
 @A3

dwg no. DA28
 revision
A

**DEMOLITION AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING
9 UNDERCLIFF STREET, NEUTRAL BAY
CLAUSE 4.6 VARIATION TO BUILDING HEIGHT CONTROL UNDER CLAUSE 4.3
OF NSLEP2013**

INTRODUCTION

This request for variation of the height control under Clauses 4.3 of North Sydney Local Environmental Plan 2013 is made pursuant to the provisions of Clause 4.6 as follows.

4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*

- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
- (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- Note.** When this Plan was made it did not include all of these zones.
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) *a development standard for complying development,*
- (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,*
- (c) *clause 5.4,*
- (ca) *in relation to land identified as "Land in St Leonards" on the [Exceptions to Development Standards Map](#)—clause 4.3(2) by more than 3 metres (excluding plant rooms and similar structures),*
- (cb) *clause 6.3(2)(a) and (b),*
- (cba) *clause 6.19A,*
- (cc) *clause 6.20.*

OBJECTIVES OF CLAUSE 4.6

Clause 4.6 permits variations to development standards subject to a written request from the applicant satisfying the provisions of the clause. The following written request is submitted in respect of the proposed variation to the building height control of 12m contained at clause 4.3 of NSLEP 2013.

The objectives of Clause 4.6 are to provide for an appropriate degree of flexibility in applying development standards in order to achieve better outcomes for and from development.

The breach of the height control is necessitated by the slope to the front of the site and the existing excavated ground level of the basement garage of the residential flat building on the site.

Therefore, the flexible application of the development standard is appropriate in this case, resulting in a better outcome for and from the development.

DEVELOPMENT STANDARD

The building height control is a numerical development standard, being consistent with the definition of “*development standards*” contained within Section 1.4 of the Environmental Planning and Assessment Act as follows.

“development standards” means provisions of an environmental planning instrument or regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point;*
- (b) the proportion or percentage of the area of a site which a building or work may occupy;*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work;*
- (d) the cubic content or floor space of a building;*
- (e) the intensity or density of the use of any land, building or work;*
- ((f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment;*
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles;*
- (h) the volume, nature and type of traffic generated by the development;*
- (i) road patterns;*
- (j) drainage;*
- (k) the carrying out of earthworks;*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows;*
- (m) the provisions of services, facilities and amenities demanded by development;*
- (n) the emission of pollution and means for its prevention or control or mitigation;*
and
- (o) such other matters as may be prescribed;”*

The relevant component of the definition in this instance is:

“(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work;”

The provisions of Clause 4.3 is not prohibited from the provisions of Clause 4.6 by way of either Clause 4.6(6) or (8).

BREACH OF CONTROL

Clause 4.3 sets a maximum height of buildings for the site of 12m, with height measured from the existing ground level.

The proposed building has a maximum building height of 16.08m at the point where the ridge corresponds with the excavation for the garage within the existing residential flat building. The extend of breaching elements of the proposed building can be seen above the green line in the following section. As can be seen, the larger breaches of the height control occur over the existing garage, with smaller breaches over the excavated rear ground level of the existing residential flat building.

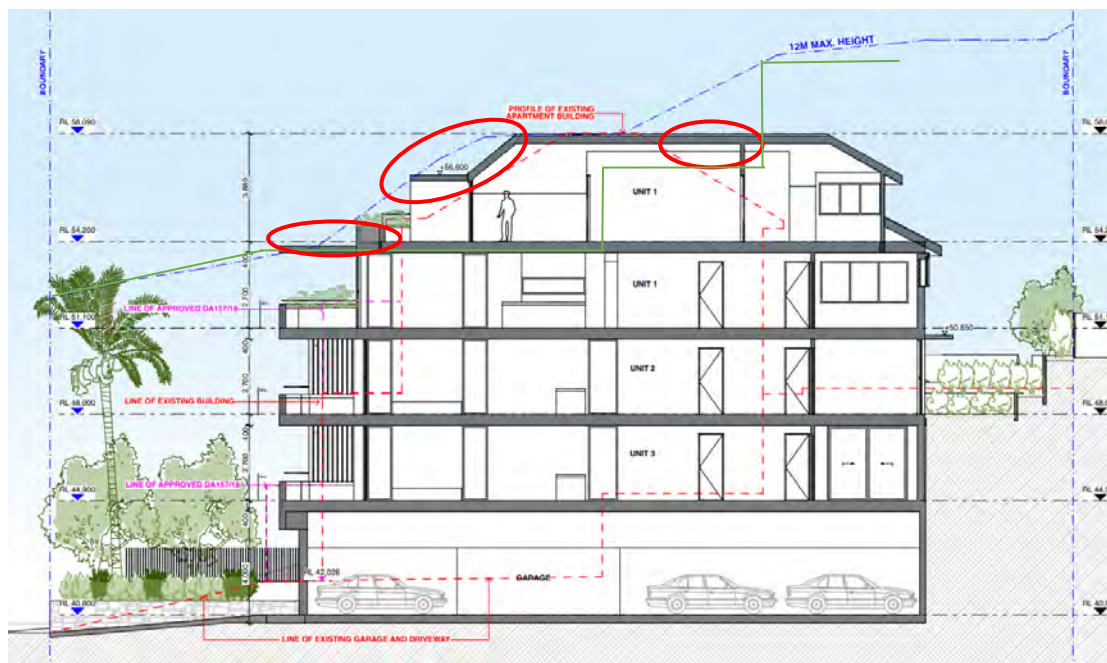


Figure 1: North/south section showing the 12m height line measured from existing excavated ground level in green line and averaged natural ground level in dotted blue line. The dotted red line is the outline of the existing building on the site. The red ovals are areas where the development extends beyond the existing building envelope and breaches the height control.

As can be seen in the section in Figure 1, a blue line also shows a 12m height line above an extrapolated average natural ground level. Whilst this line does not reflect the height control, it is a relevant matter in considering whether to support a variation of the height control.

The other line, being a dotted red line, shows the outline of the existing building on the site. Again, whilst this line breaches the height control in part, and does not automatically mean a breach of the height control to the same extent is warranted, it is also a relevant matter in considering whether to support a variation of the height control. Of note, there are only minor areas of the proposed building that are outside the envelope of the existing building and in breach of the height control (see red ovals).

UNREASONABLE AND UNNECESSARY

Determining whether strict compliance with the control is unreasonable and unnecessary, has been addressed in a number of judgements of the Land and Environment Court and the correct method of consideration has recently been summarised in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 as follows:

16. As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in *Wehbe v Pittwater Council* at [42]-[51]. Although that was said in the context of an objection under *State Environmental Planning Policy No 1 – Development Standards* to compliance with a development standard, the discussion is equally applicable to a written

request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.

- 17. The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].*
- 18. A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].*
- 19. A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].*
- 20. A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].*
- 21. A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.*
- 22. These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

It is unreasonable and unnecessary to strictly apply the building height control where the development as proposed would satisfy the objectives of the control and the zone objectives, which are addressed following.

Objectives of Building Height Controls

The objectives of the building height control are as follows and as can be seen in the discussion, the proposal is consistent with the objectives of the control:

- (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*

The site no longer reflects the natural landform or gradient of the site, having been significantly excavated for the construction of the residential flat building on the site. This is also the case with surrounding development.

Notwithstanding this, the blue line on Figure 1 reflects an extrapolated natural ground level and the proposed building is largely consistent with the height control having regard to the “natural landform” with only minor roof elements over balconies that “breach” having regard to the “natural landform”. Further, the building is designed to step at the front to follow the “natural landform”.

The building is lower at the rear than the maximum height control having regard to the existing and natural landform as increasing height in this location, whilst being compliant and consistent with the objective, would result in significant loss of view and increased shadow impacts upon surrounding properties. For these reasons, the design of the development, which breaches the height control having regard to the excavated existing ground level, complies with the objective by breaching the control and largely following the extrapolated “natural landform” of the site. It is therefore considered that the development, and in particular the breaching components at the front of the site result in a design that steps with the “natural” landform of the site. Therefore, due to the proposed breach of the control, the proposal satisfies objective (a).

(b) *to promote the retention and, if appropriate, sharing of existing views,*

The proposal does not impact views from any streets or public places.

In relation to views from surrounding buildings, extreme care has been taken with the design to protect existing views to the greatest extent possible, by designing the new building within the side and roof envelope of the existing building and extending only to the front and rear where view impacts would be minimised. The extension to the front of the site in an area where views will not be affected results in a breach of the height control. An alternative design with a greater height at the rear could have been proposed whilst still complying with the height control but it would have had significant view impacts. As is discussed following, it is considered that the design, which results in height breaches at the front of the site where they would be in the “view shadow” of the remainder of the proposed building and the existing building, rather than a compliant, but impacting height at the rear, is a more skilful design in minimising view impacts.

The adjoining dwellings at 7 and 23 Undercliff Street do not appear to have any views across the site that would be detrimentally impacted by the proposed development. In this regard it is noted that the dwellings at 7 Undercliff Street have exceptional views to the south and south east as can be seen in the view from the balcony of Unit 2 in Figure 2, which is not impacted by the proposal.

The properties to the rear of the site, in Harriette Street, have a greater potential for impacts upon views. Whilst access into the apartments was not possible, photographs from real estate websites have been used to assess view impacts upon these dwellings, along with a photograph provided by Council.

The property immediately to the rear of the Site is 1 Harriette Street, and the views from this property are largely over the roof of the existing dwelling on the Site and over the roof of properties to the west.



Figure 2: View from balcony of Unit 2, 7 Undercliff Street is not impacted by proposal

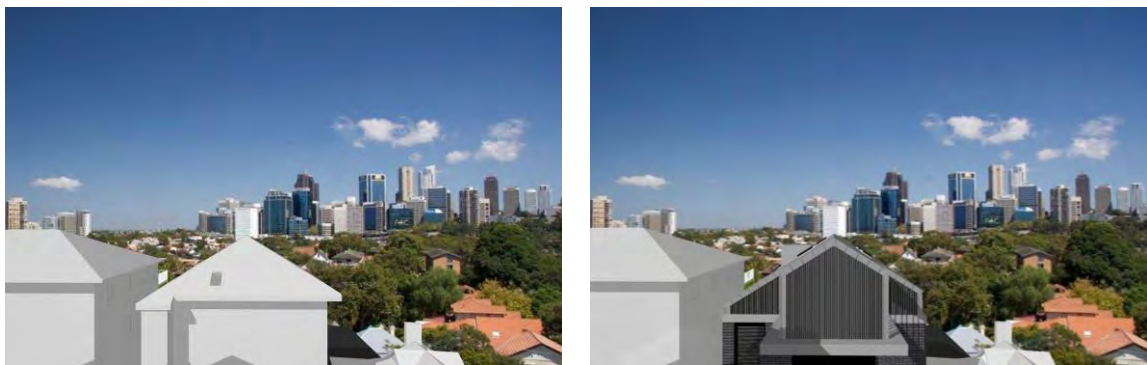


Figure 3: Before and after view from unit within 1 Harriette Street, showing no detrimental impact – note the montage is of a previous form of the development but the view impact remains the same

Figure 3 shows the before and after views from a unit (number unknown) within 1 Harriette Street, showing there is no detrimental impact upon the view.

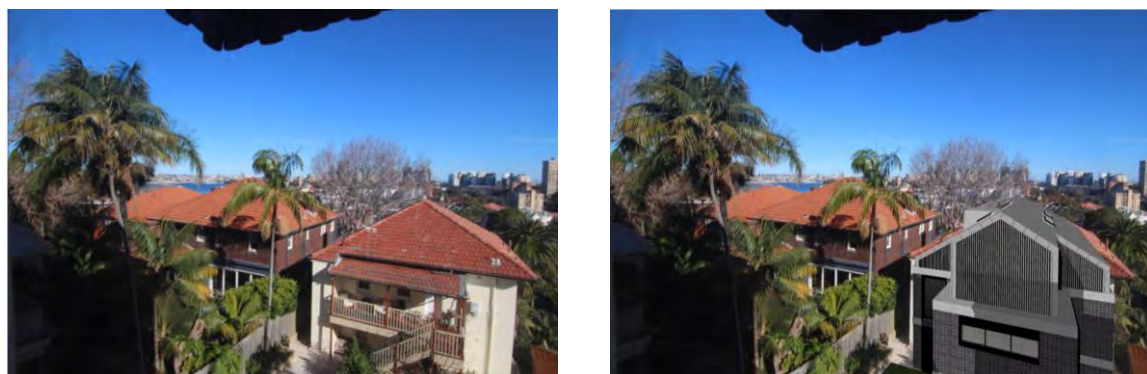


Figure 4: Before and after view from unit within 1 Harriette Street, showing no detrimental impact

Similarly, Figure 4 shows the before and after views from another unit (number unknown) within 1 Harriette Street, showing there is no detrimental impact upon the view.

The protection of views from 1 Harriette Street has been achieved by keeping the new building within the envelope of the roof and side walls of the existing building and extending only to the front and rear, without utilising the maximum height control at the rear of the site, where this would have resulted in a compliant height but a significant loss of view.

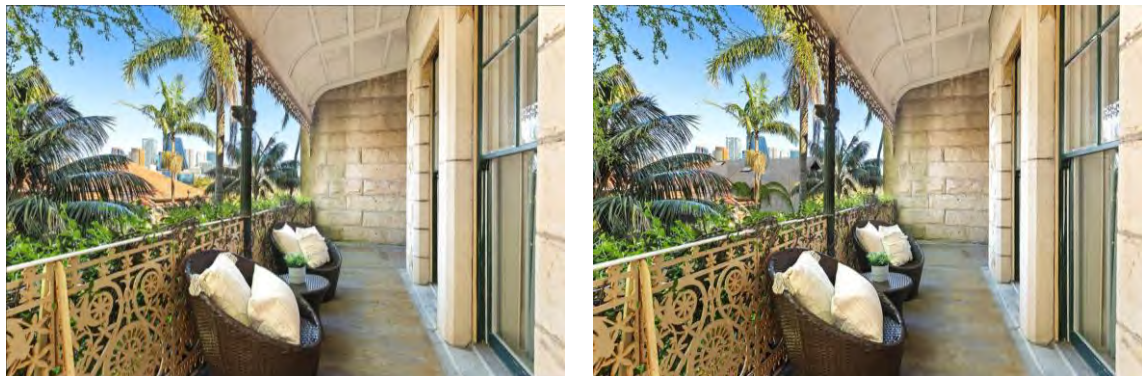


Figure 5: Before and after view from Unit 2, 3-5 Harriette Street, showing impact upon view is moderate

Figure 5 shows the before and after views from Unit 2, 3-5 Harriette Street, showing there is an impact upon the lower portion of the view of North Sydney, but that the upper portion of the view would be retained. Given the angle of viewing the view impact is almost totally as a result of the compliant elements of the building.

Council also provided another photograph taken from the balcony of this property from a different position on the balcony and this was used to show the impact of the modified development upon views from this position (see Figure 6).



Figure 6: Existing and future view from balcony of 2/3-5 Harriette Street

The following assessment of view impact has been carried out using the Planning Principle set by the Land and Environment Court in *Tenacity Consulting v Warringah Council* based on the photograph provided by Council.

In this Planning Principle a number of steps are required to assess view impact as follows:

1. Assessment of views affected – water views are more highly valued and iconic views are valued the highest. Whole views are more valued than partial views;
2. Consideration of what part of the property the views are obtained from – protection of views across side boundaries is more difficult than those from the front and rear boundaries, sitting views may be harder to protect than standing views;
3. Identify the extent of impact holistically for the property – impact on living area views are more significant than from bedrooms and service areas (other than kitchens which are highly valued). Use of qualitative assessment using criteria of negligible, minor, moderate, severe or devastating;
4. Assess the reasonableness of the proposal – a compliant development is more reasonable than one with non-compliances – where non-compliance result in even a moderate impact they may be unreasonable, need to consider whether the design is a skilful design attempting to achieve appropriate view sharing.

As can be seen, the view in question is of the North Sydney CBD and the view is a partial view of the buildings and skyline. The view is available from the balcony of the dwelling from a standing position and is a view over the rear boundary of 7 Undercliff Street and the side boundary of the subject site. Given the view is across a side boundary, it is a view that a more vulnerable and less likely to be able to be retained than views across a front or rear boundary.

The most significant component of this view is the skyline, with the views of the foreground buildings and lower portions of the North Sydney CBD buildings being the less important parts of the view. It appears that the view is the only one available to the dwelling given its lower floor location and the impact upon the view is considered to be moderate, with the skyline retained and the lower portion of some of the buildings lost.

The proposal has been designed to maintain the height of the existing building and provide a similar hipped front roof to minimise the impact upon the significant elements of the views. Whilst the proposal will result in a loss of part of the view of the North Sydney buildings, it does not impact the more important skyline view and as such it is considered to be a skilful design that retains the significant portion of the view whilst allowing a reasonable redevelopment of the site. It is noted that a higher element, but still compliant with the height control, could have been designed at the rear of the building which would have had a significantly greater impact, resulting in the loss of part of the more significant skyline view. The proposal, with the breach of the height control at the front of the site and largely within the envelope of the existing building, is a more skilful design which retains more of the important elements of the view.

The angle of viewing and its location across a side boundary makes the view very susceptible to impacts from development on the site, or indeed to the planting of vegetation on either the site or adjoining properties, as can be seen by the impact of existing vegetation.

For these reasons, whilst there is a moderate impact to the partial view of North Sydney from this apartment, the impact is acceptable, relocating part of the

development to an area where the height control is breached (due largely to previous excavation) and limiting the height at the rear where there would be a greater view impact. It is therefore considered that breaching the height control is necessary for a more skilful design when considered having regard to the Planning Principle.

- (c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*

The elements of the proposed development which breach the height control result in no loss of solar access to adjoining development. Rather, the more skilful design with the breaching the height control (based on an excavated ground level) at the front of the site and reduced height to well below the height control at the rear of the site reduces the extent of shadowing on 7 Undercliff Street. As the breach of the height control in the proposed design results in less shadow impact than a compliant design with a greater height at the rear, the design skilfully breaches the control in order to maintain more solar access for 7 Undercliff Street and the proposal satisfies objective (c).

- (d) *to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*

The design of the development results in improvements for privacy of both the future residents and adjoining properties when compared with the existing building on the site. This is achieved through improved design and use of screening elements. The elements of the proposal that breach the height control do not result in any privacy impacts for adjoining properties or future residents of the development. Accordingly, notwithstanding the breach of the control, the proposal satisfies objective (d).

- (e) *to ensure compatibility between development, particularly at zone boundaries,*

The site is located at a zone boundary, with R2 zoned land to the west, however the height and bulk of the building at the boundary with this property is similar with that of the existing building on the site. Further, the main breaching elements of the building relate to the roof and ridge, which will not be visible from these properties. The breach of the control does not result in any incompatibility between the development and that adjoining to the west. As such, notwithstanding the breach of the height control, the development satisfies objective (e).

- (f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.*

The scale of the development as viewed from the street is comparable with that of the existing building and adjoining and nearby development in the R4 zone. The density of the development is increasing, but still easily complies with the site coverage controls, and the number of dwellings on the site is not being increased. The design carefully maintains its relationships with adjoining properties by largely retaining the same side wall height and location and the same roof pitch and height. The elements of the building which breach the height control do so largely in a manner that reflects the previously existing natural topography of the site and as such the breach does not result in an incompatible scale of development, but rather a development which is appropriate with and promotes the character of the area. Accordingly, notwithstanding the breach of the control, the proposal satisfies objective (f).

- (g) *to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.*

This objective is not relevant to the assessment of the application which is in the R4 zone.

Objectives of R4 High Density Zone

The objectives of the R4 zone, as follows, are satisfied by the proposed development.

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

The replacement of the existing apartment building containing 3 dwellings with a new apartment building containing 3 dwellings will provide for appropriate accommodation for the housing needs of the community in a high density environment and will maintain the variety of housing types in the area, satisfying the first two objectives. The breach of the height control does not result in a change in the density of the development and is not inconsistent with these objectives.

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

The third objective is not relevant to the assessment of the application.

- *To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*

Care has been taken in relation to the new design to protect and enhance the relationship of the proposed building with the nearby heritage items. In this regard the new building retains the side setback, wall and roof height of the existing building on the site, increasing the side setback of the rear addition. Further, the new development will allow a significant improvement in landscaping between the residential flat building and the adjoining heritage item at 23 Undercliff Street, providing a greater softening of the building than is currently the case. Finally, the colour palette and face brick construction will improve the relationship with the adjoining heritage area compared to the current painted brick building.

The provision of a new building also allows an improvement in privacy to adjoining properties as the existing side windows have no screening and cause privacy impacts where the proposed side windows are treated for privacy. Further, the existing rear balcony is removed, improving privacy between the site and the residential flat building to the rear.

The design of the development has been careful to place the additional bulk of the new building to the front and rear and to increase the setbacks of the rearmost element and reduce its height to be significantly below the height control to ensure solar access, visual privacy and views are largely maintained to adjoining properties. This has been achieved by the breach of the height control at the front of the site, where floorspace that could have been provided in a compliant manner at the rear of

the site was relocated to result in an improved outcome in relation to solar access and views for neighbouring properties, largely utilising the envelope of the existing building on the site.

- *To ensure that a reasonably high level of residential amenity is achieved and maintained.*

Whilst the development focuses the living areas of the building to the south to enjoy the spectacular views available from the property, appropriate amenity is provided for each dwelling with family rooms to the rear that will enjoy solar access and two of the three dwellings also have northerly facing private open space.

As discussed in relation to the previous objective, the breach of the height control, which is a breach related to a previously excavated portion of the site, rather than providing a compliant but more impactful height at the rear of the site results in the retention of residential amenity for adjoining properties.

As such the proposal is consistent with all relevant objectives of the zone.

SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

Determining whether there are sufficient environmental planning grounds to vary a control, has been addressed in a number of judgements of the Land and Environment Court and the correct method of consideration has recently been summarised in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 as follows:

23. *As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be “environmental planning grounds” by their nature: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.*
24. *The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].*

The breach of the height control is largely one that relates to a previous excavation on the site. Compliance with the height control in relation to the ground level of the excavated site would be inconsistent with the objectives of the control, which seek for development to step with the “natural topography”, not step with the artificially created

excavated topography of the site. For this reason, a breach of the height control at the front of the site results in compliance with the objectives of the control, where compliance with the height control would not. This provides a sufficient environmental planning ground for the breach of the control.

The second environmental planning ground in support of the breach of the height control is that relocating some additional floor space to the front of the site, largely within the envelope of the existing building, rather than at the rear of the site where it would comply with the height control, results in reduced shadow and view impacts upon properties to the rear and side of the development.

The additional benefits resultant from the breach of the height control compared to a compliant development provide sufficient environmental planning grounds to vary the height control.

PUBLIC INTEREST

There are no public interest matters that would prevent the variation of the height control in this instance given the compelling environmental planning grounds for the variation and the compliance with the objectives of the control and the R4 High Density Residential zone.

CONCURRENCE REQUIREMENTS

Matters of State or Regional Significance

There are no matters of State or Regional significance that would prevent the appropriate flexible implementation of the height control in this instance.

Public Benefit of Maintaining the Control

There is no public benefit in maintaining the control strictly in this circumstance.

N O R T H S Y D N E Y C O U N C I L



DESIGN EXCELLENCE PANEL

DA No:	DA 430/2021
ADDRESS:	9 Undercliffe Street, Neutral Bay
PROPOSAL:	Construction of a four storey residential flat building containing three apartments.
DATE	18 January 2021
ATTENDANCE	
<i>Chair</i>	Anita Morandini
<i>Panel Members</i>	Professor Peter Webber and Kylie Legge
<i>Council staff</i>	Stephen Beattie – Manager Development Services, Jim Davies – Executive Planner, Michael Stephens – Senior Assessment Officer
<i>Applicant</i>	Andrew Vingilis – Corben Architects, Kerry Gordon KGPS, Chris Hattingh – Applicant

PANEL COMMENTS**Principle 1: Context and local character**Current & future context

The site slopes from the rear to the street with a fall of approximately 9m. The site is zoned R4 High Density Residential and borders land zoned R2 Low Density Residential to the north west. The street encompasses a mixed development typology with residential flat buildings located to east and dwelling house to the south and north west.

Heritage

The site is not identified as a heritage item and is not in a conservation area although is located in the vicinity of a number of heritage items. Numerous properties on the opposite side of the street and those to the north-west are all identified as items of heritage, as are the properties diagonally to the rear of the site to the east.

There is no certainty whether the other residential flat buildings to the east of the site would also be redeveloped in the future.

Principle 2: Built form, scale and public domain/ urban design responseSetbacks and Building Separation

Separation distances along both side boundaries are less than ADG recommendations, and generally maintain the alignment of the existing building with exception of the front and rear extended footprint. Rooms facing to the east are primarily bedrooms and bathrooms which have fully screened windows. This may be acceptable pending careful location of windows offset to those neighbouring to mitigate acoustic and visual privacy impacts.



Windows facing west are more extensive in area and serve bedrooms, living and kitchen spaces which overlook and borrow the amenity of the neighboring site. In documentation submitted, the relationship of proposed to neighbouring windows is unclear and should be clarified. Pending clarifications, the side setback may be acceptable.

The front setback should respect and mediate between the two storey scale of the heritage listed houses to the north west and residential flat building to the south. The front facade should not extend beyond the line of approved DA157/18. Level 4 front facade should be further setback by 2m to mitigate bulk and scale and to manage the scale transition between the residential flat building and heritage listed houses.

Principle 3: Density

The proposed should address setbacks as noted above to mitigate bulk and scale to achieve an appropriate density.

Principle 4: Sustainability, building performance and adaptability

Energy and water efficiency initiatives

Consideration should be given to incorporating water and energy efficient initiatives such as rainwater reuse tanks and photovoltaic energy generation.

Passive environmental design

Apartments achieve a reasonable level of solar access and natural cross ventilation however western solar load should be managed with the provision of adjustable screens to balconies and windows.

Principle 5: Landscape Integration

There is an existing mature tree on the western side of the street frontage, which is proposed for removal. Although the landscape plans are of good quality, with banksia and other large shrubs on the frontage, the retention of the tree or at least a replacement would be desirable.

There are large trees on the frontages of both adjoining properties which do not appear to be fully represented in documentation. A number of palm trees to the frontage of 11 Undercliff are not shown on the plans and should be confirmed. The proposed should not impact on neighbouring mature trees.

The extent of hardscape within the front setback area is excessive and is to be significantly reduced to provide a landscaped setting.

Principle 6: Building configuration, planning, and amenity

Configuration and planning

Apartment configuration and amenity is generally of a reasonable standard.



Entry

The communal entry lobby, stairwell and lift are located towards the rear of the building and are accessed via a long run of stairs within the eastern side setback. Consideration should be given to relocating the building entry and common vertical circulation further toward the street frontage. An at grade entry lobby addressing the street should be considered and the side setback area reserved for landscape planting.

Communal spaces

Given the small number of apartments, provision of a communal open space for gathering may not be required. In lieu, substantial landscaping to the balance of communal open space should be provided.

Private open space and balconies

Front balconies as the primary private open space for each dwelling should be refined to improve usability and amenity. A significant portion of the balconies are inaccessible forward of the primary bedrooms.

Subterranean spaces and excavation

The proposed finished floor level of Unit 3 family room is located up to 3.2m below adjacent ground levels and is reliant on the western orientated window and courtyard for light and ventilation. The courtyard overlooks the western neighbour and may impact visual and acoustic privacy. Should impacts be identified then either the family room should be deleted, or the proposed side courtyard planted out and inaccessible.

Visual Privacy

The proposed external privacy screening along the eastern and western side elevations should be detailed to prevent overlooking neighbouring properties in balance with providing sufficient openable area for natural ventilation.

Shadow impacts

The solar access controls require solar access to be maintained to the windows of the main internal living areas, principal private open space areas, solar panels and communal open space of adjoining properties for 3 hours at midwinter and for this level of solar access to be provided for the proposed dwellings.

The SEE notes the proposal results in additional shadowing to the front yard of the two adjoining properties, with no significant change in shadowing to the rear yards (minor additional shadowing of 7 Undercliff Street at 3pm at midwinter). Shadow diagrams presented are insufficient to ascertain the extend of overshadowing.

Elevations should be provided clearly showing current existing and proposed shadow impacts.

View impacts

A formal assessment of the potential impacts has not been undertaken by the Panel.



Principle 7: Safety

Entry and security

The entry lobby and vertical circulation is accessed via a long run of stairs via the side setback area. The entry is not readily visible from the public domain and has no passive surveillance. As noted above, the entry should be reconfigured to address safety and accessibility and be readily apparent from the street.

Principle 8: Housing diversity and social interaction

Apartment Mix

The proposed development proposes to replace 3 x two bedroom apartments with 3 x four bedroom apartments. A mix of dwelling sizes should be provided to support diversity of housing choices.

Principle 9: Architectural expression and materiality

Whilst the basic built form is generally acceptable (See suggested setbacks to street front and treatment of roof form), the architectural expression and detailing should be further development with increased articulation to mitigate bulk and enhance presentation in keeping with the surrounding context.

Material palette and facade treatment

The dark grey external finishes and materials of both walls and roof is not characteristic of the area. The 'Bowral blue' bricks and 'basalt' coloured metal roof should be reconsidered. In keeping with neighbouring character, materials with some warmth in colours and textures should be selected.

With the exception of the projecting window surrounds, the facade treatment to the rear and side elevations presents as flat blank walls with minimal articulation. The masonry facade detailing should introduce depth, texture and play of light and shadow to assist in mitigating the expanse of shear walls. The vertical expression of metal screens to windows running to height of 3 storeys further reinforces the shear side walls and should be reconsidered.

The street facade with expanse of glazed balconies lacks privacy and should be articulated and detailed to achieve a finer grain expression. A composition of solid balustrading or upturns with open palisade balustrading should be considered in balance with providing views to the Harbour. Planter beds could also be incorporated to soften the built form. Installation of adjustable external screening may also be desirable given the solar loading caused by the western orientation.

The soffits would be highly visible from the street and should be of high quality finish and slab edges finely detailed.

Roof form

The proposed roof is unresolved and presents as a shed like form mounted atop of the expressed concrete slab. The roof material, detailing and form should be more recessive



and in keeping with the surrounding pitched, hipped, gabled roofs which characterize the area.

The roof presents neither as a pitched nor mansard roof and does not serve to mitigate the overall height of the building. The roof pitch should immediately recede from the top of the wall/parapet and should not read as vertical extension of the wall. The rear roof form with a particularly large vertical extension of wall, should be redesigned to present as gable/pitched roof.

Garage and entry

The number of carparking spaces should be reduced to be compliant with controls, enabling reconfiguration of the garage to accommodate at grade pedestrian entry, reduced hardscape and increased opportunities for landscape planting.

The 3 bays of garage doors should not dominate the façade and be reduced in width to provide a residential entry addressing the street. The driveway width and hardscape should be reduced to support increased planting and provision of a mature tree.

The garage doors should be recessive and of high quality material and not result in a long bank of roller shutter doors.

Recommendations to Achieve Design Excellence

The Panel generally supports the application noting that the built form is generally acceptable, however, is subject to the resolution of the issues raised by the Panel as detailed above.

Development Services Manager's Note

The outcome of this review by the Design Excellence Panel is not determinative and is but one of many inputs into the assessment process. Applicants are urged to have high regard to the Panel's input and respond accordingly.