

**NSLPP MEETING HELD ON 06/09/23****Attachments:**

1. Architectural Plans
2. Clause 4.6 Statement
3. Statement of Environmental Effects

**ADDRESS/WARD:** Unit 6/19 Belmont Avenue, Wollstonecraft**APPLICATION No:** DA 112/23**PROPOSAL:** Alterations and additions to Unit 6 within an existing residential flat building including garage conversion and additions to roof terrace**PLANS REF:**

Plan No.	Issue	Description	Prepared by	Dated
DA-02	H	Site Analysis and Proposed Site Plan	Wray and Cutcliffe Architects	15 June 2023
DA-05	H	Proposed Unit 6 Floor Plan	Wray and Cutcliffe Architects	15 June 2023
DA-06	H	Proposed Unit 6 Roof Plan	Wray and Cutcliffe Architects	15 June 2023
DA-07	H	Proposed Western Elevation	Wray and Cutcliffe Architects	15 June 2023
DA-08	H	Proposed Southern Elevation	Wray and Cutcliffe Architects	15 June 2023
DA-09	H	Proposed Northern (Street) Elevation	Wray and Cutcliffe Architects	15 June 2023
DA-10	H	Proposed Section	Wray and Cutcliffe Architects	15 June 2023
DA-16	H	Concept Model Views	Wray and Cutcliffe Architects	15 June 2023
DA-17	H	Door and Window Schedule	Wray and Cutcliffe Architects	15 June 2023

**OWNER:** R Rosenbach**APPLICANT:** Performance Building Consultants**AUTHOR:** Miguel Rivera, A/Team Leader (Assessments)**DATE OF REPORT:** 9 August 2023**DATE LODGED:** 3 April 2023**RECOMMENDATION:** Approval

## EXECUTIVE SUMMARY

The Applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for alterations and additions to Unit 6 within an existing residential flat building including garage conversion and additions to roof terrace on land identified as No. 19 Belmont Avenue, Wollstonecraft.

**The application is required to be reported to the NSLPP for determination, as directed by the Minister of Planning, as the development is considered sensitive development, to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) applies.**

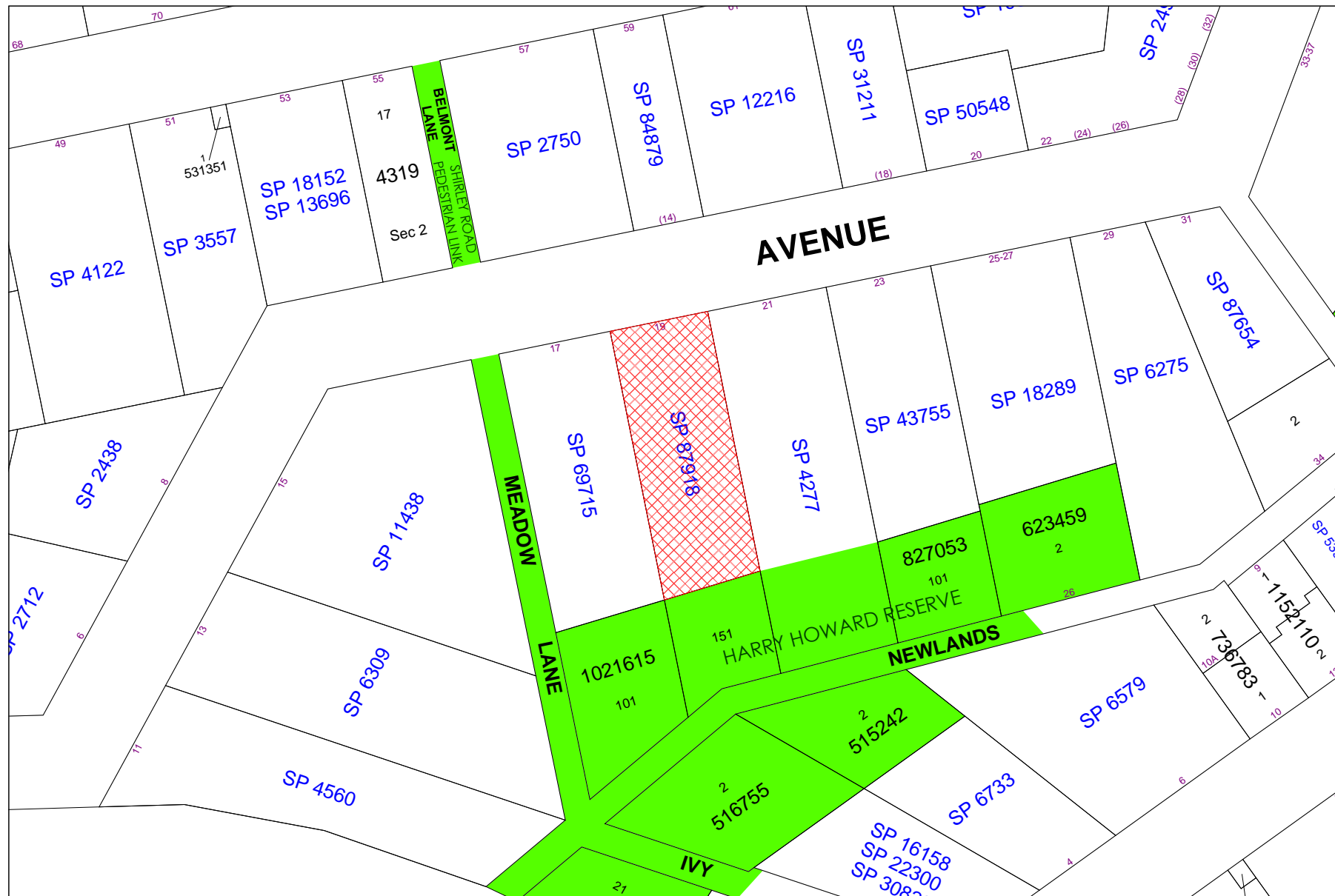
Council's notifications of the proposed development has attracted a total of two (2) submissions raising concerns and issues associated with building height, bulk and scale, parking, setbacks, view loss and outlook impacts, visual privacy and amenity impacts and property values.

The development application has been assessed against the relevant provisions and requirements under SEPP 65, the North Sydney Environmental Plan 2013 and the North Sydney Development Control Plan 2013 and is generally found to be satisfactory. In light of the considerations, reasons and merits mentioned through this report, the proposed development enables an appropriate, acceptable and reasonable design and planning outcome for the subject site that demonstrates appropriate consistency and adequate compatibility with the streetscape and character of the immediate locality. The proposed changes to the unit layout and external ancillary structures provide improved amenity, functionality and facilities for future occupants whilst not compromising the amenity of adjacent units and neighbouring properties. Further, the proposal will not result in an inability for the adjoining unit (Unit 7) to be redeveloped with a replicated form and design.

The application involves a non-compliance to the maximum height of buildings development standard (12m) under Clause 4.3 of NSLEP 2013 as the proposal features a building height of 12.55m above existing ground level that pertains to a small portion of the enclosed structure in the roof terrace. This represents a departure of 0.55m or 4.58% from the development standard. The Applicant submitted a written request pursuant to Clause 4.6 of the NSLEP 2013. The request is supported given that sufficient planning grounds were provided and the included information has demonstrated that compliance with this development standard is unreasonable or unnecessary.

The assessment of the proposed development considered the concerns raised in the submissions and its performance against Council's planning requirements. Following this assessment and having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), the application is recommended for approval given the merits demonstrated by proposal against critical objectives, provisions and controls under the SEPP 65 and Council policies.

### LOCATION MAP



Property/Applicant    ● Submitters - Properties Notified

## DESCRIPTION OF PROPOSAL

The application seeks consent for alterations and additions to an existing residential, Strata-titled unit (Unit 6) within a multi-storey residential flat building at No. 19 Belmont Avenue, Wollstonecraft. Specifically, the proposed development involves the following:

### Internal alterations in Unit 6:

- Conversion of existing garage to a new multi-media room with new doors and two (2) new windows facing west. This deletes the existing internal car space for Unit 6.
- Re-configuration of current bathroom to create two (2) smaller bathrooms.
- New highlight window (W03) facing west within combined living/dining room.
- Modification of existing openings/windows (south-facing) within combined living/dining room to comprise of new doors (D03) and highlight windows (above doors) (W06)
- Retention of existing internal layout within remainder of unit.

### External works:

- Construction of masonry hob wall in front of new multi-media room.
- External additions and alterations to Unit 6's existing terrace to provide a roofed BBQ/kitchen area and a fully enclosed structure comprising a water closet and office/sunroom, with surrounding windows and doors.
- Re-configuration of terrace area to provide two (2) fragmented terrace spaces.
- Retention of existing deck area between terrace and living/dining room and installation of a new vergola above this deck.

Site plan, floor plan, roof plan, elevations, sections and 3-D perspectives of the proposed development are shown in Figures 1 to 8 below.

The estimated cost of works for the proposed development is \$263,441.00

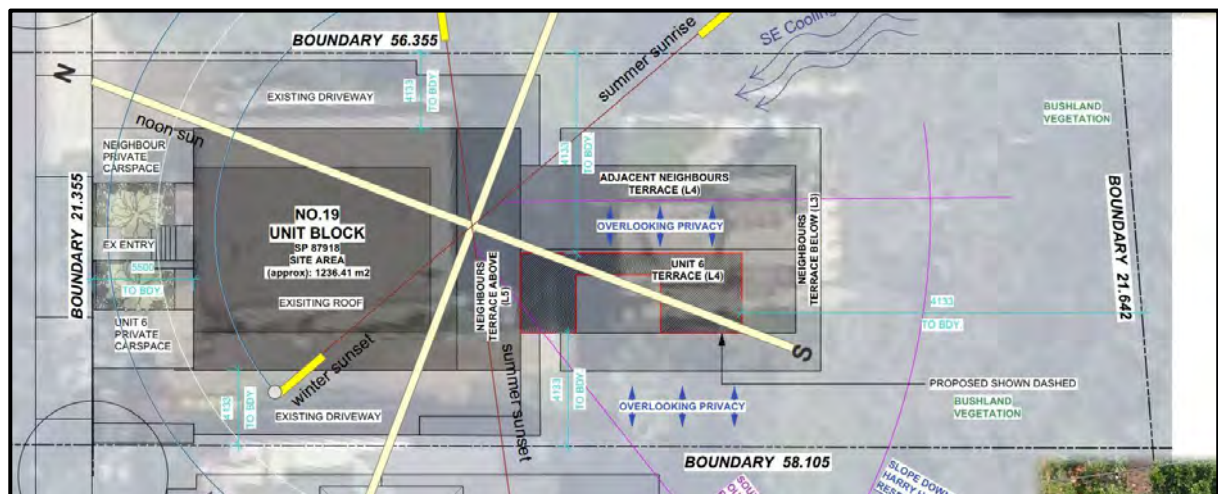


Figure 1: Site plan



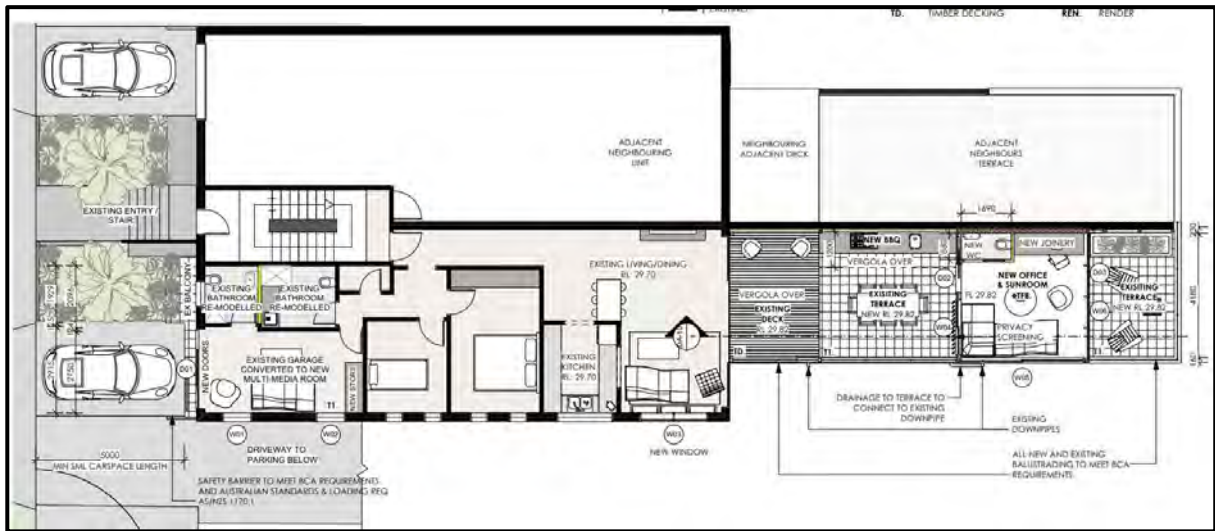


Figure 2: Floor plan

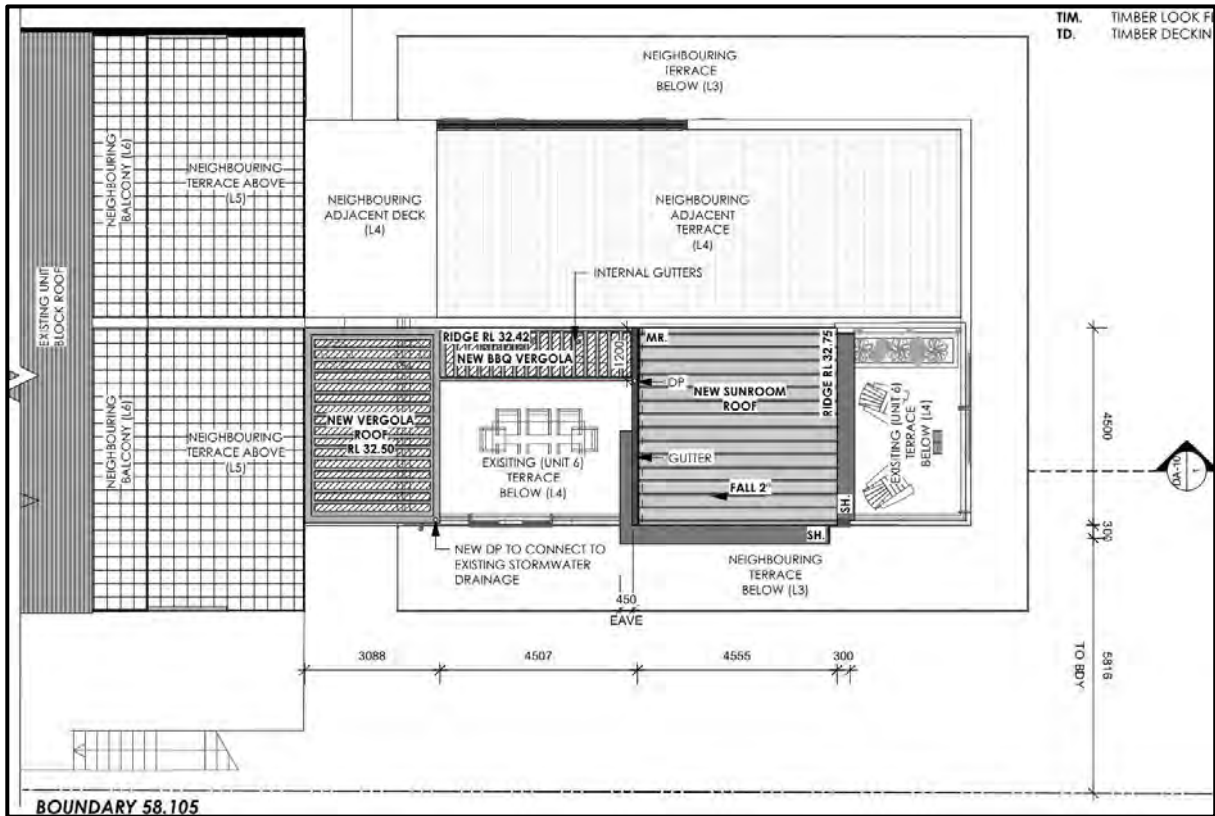


Figure 3: Roof plan

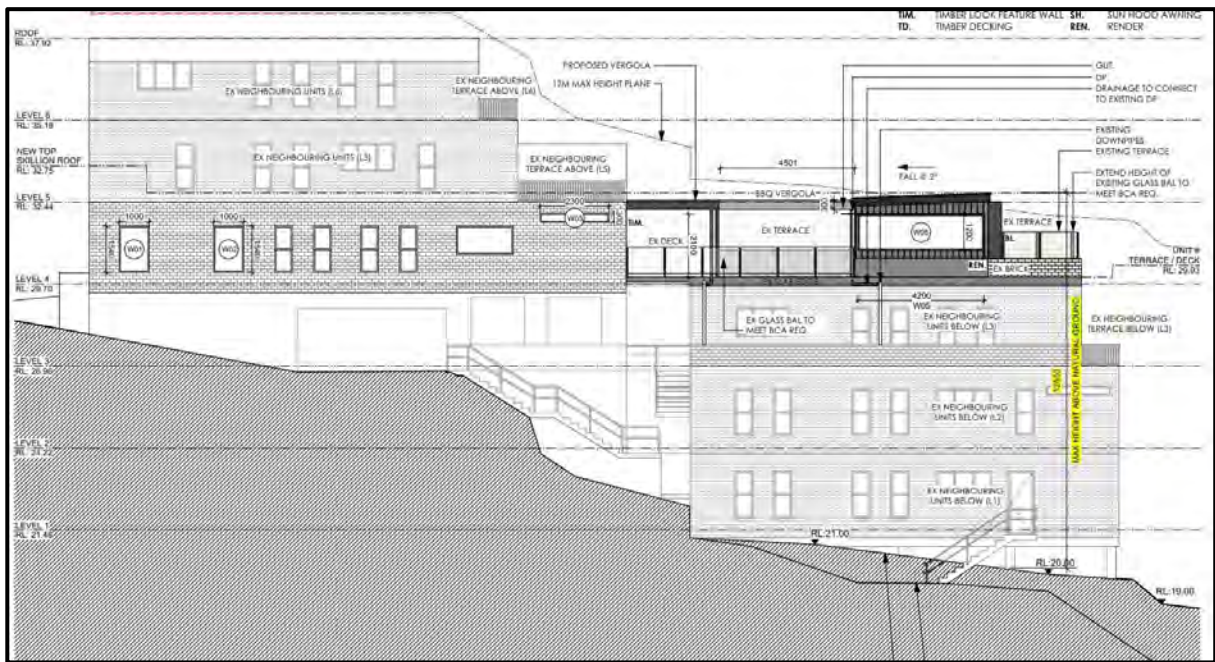


Figure 4: West elevation

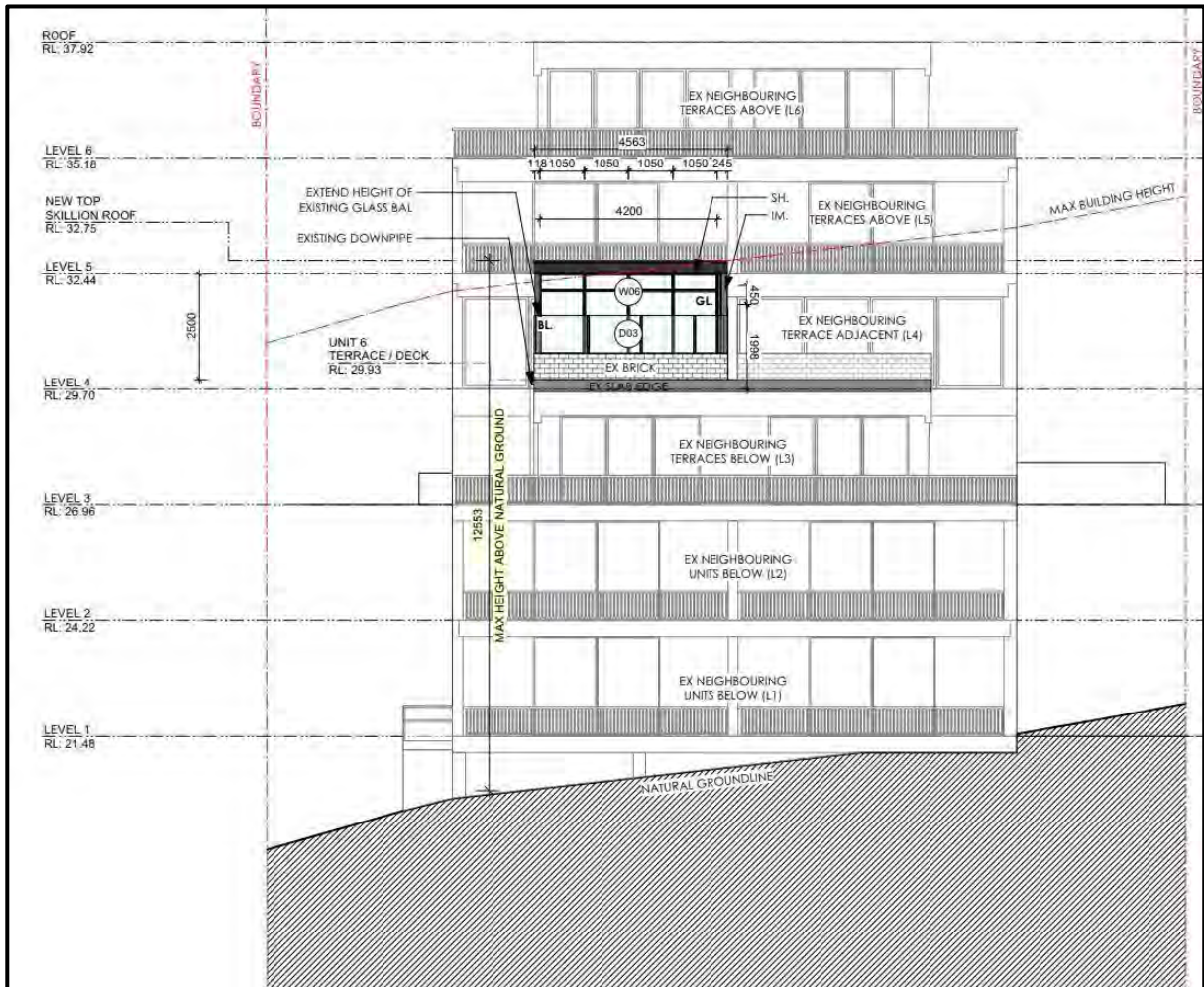


Figure 5: South elevation



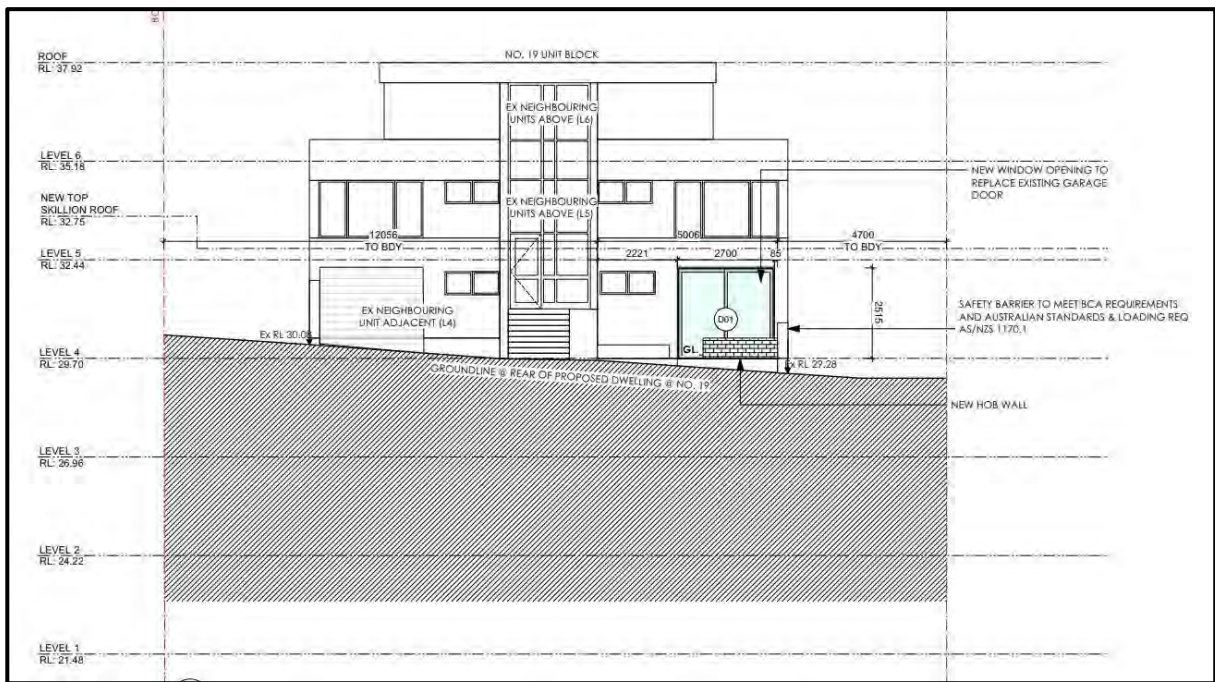


Figure 6: North elevation

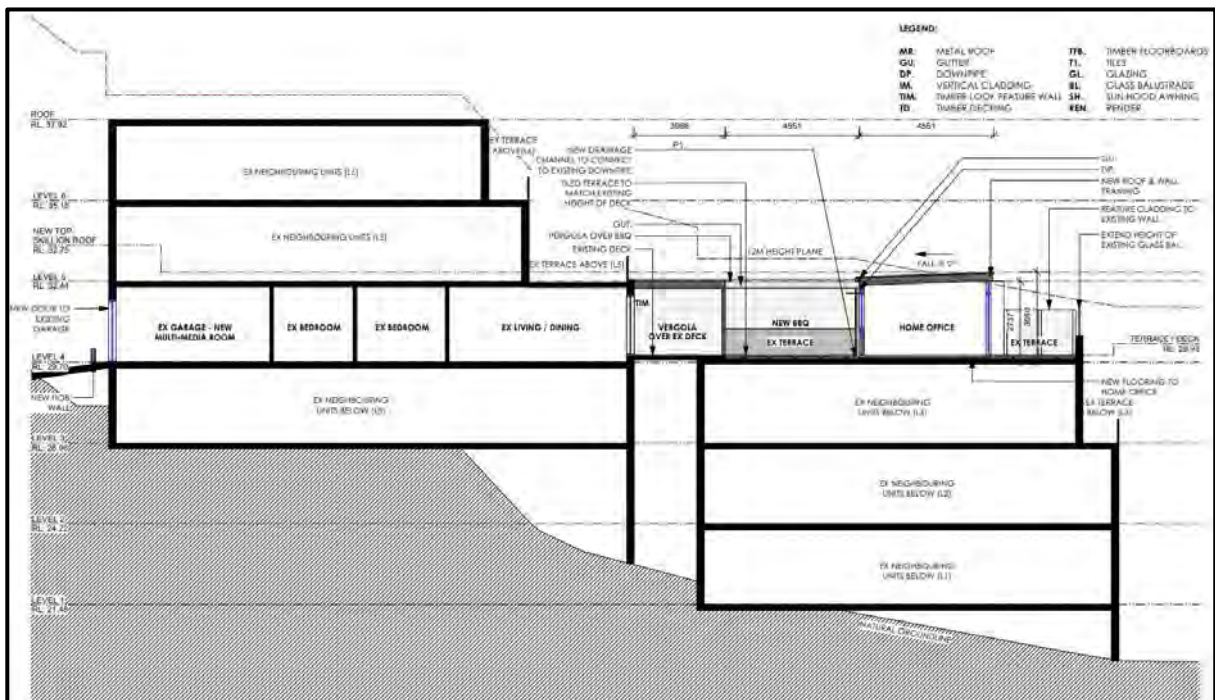


Figure 7: Section



**Figure 8: 3-D perspectives**

## **STATUTORY CONTROLS**

*Environmental Planning and Assessment Act 1979 (as amended)*  
*Environmental Planning and Assessment Regulation 2021*

North Sydney Local Environmental Plan 2013 (NSLEP 2013):

- Zoning – R4 – High Density Residential
- Clause 5.10 – Heritage conservation:
  - Item of heritage – No
  - In vicinity of heritage item – No
  - Conservation area – No
- Clause 6.9 – Limited development in foreshore area – No
- Clause 6.10 – Earthworks – No

State and regional environmental planning policies:

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

## **POLICY CONTROLS**

North Sydney Local Infrastructure Contributions Plan  
North Sydney Development Control Plan 2013 (NSDCP 2013)  
Sydney Harbour Foreshores and Waterways Area DCP 2005

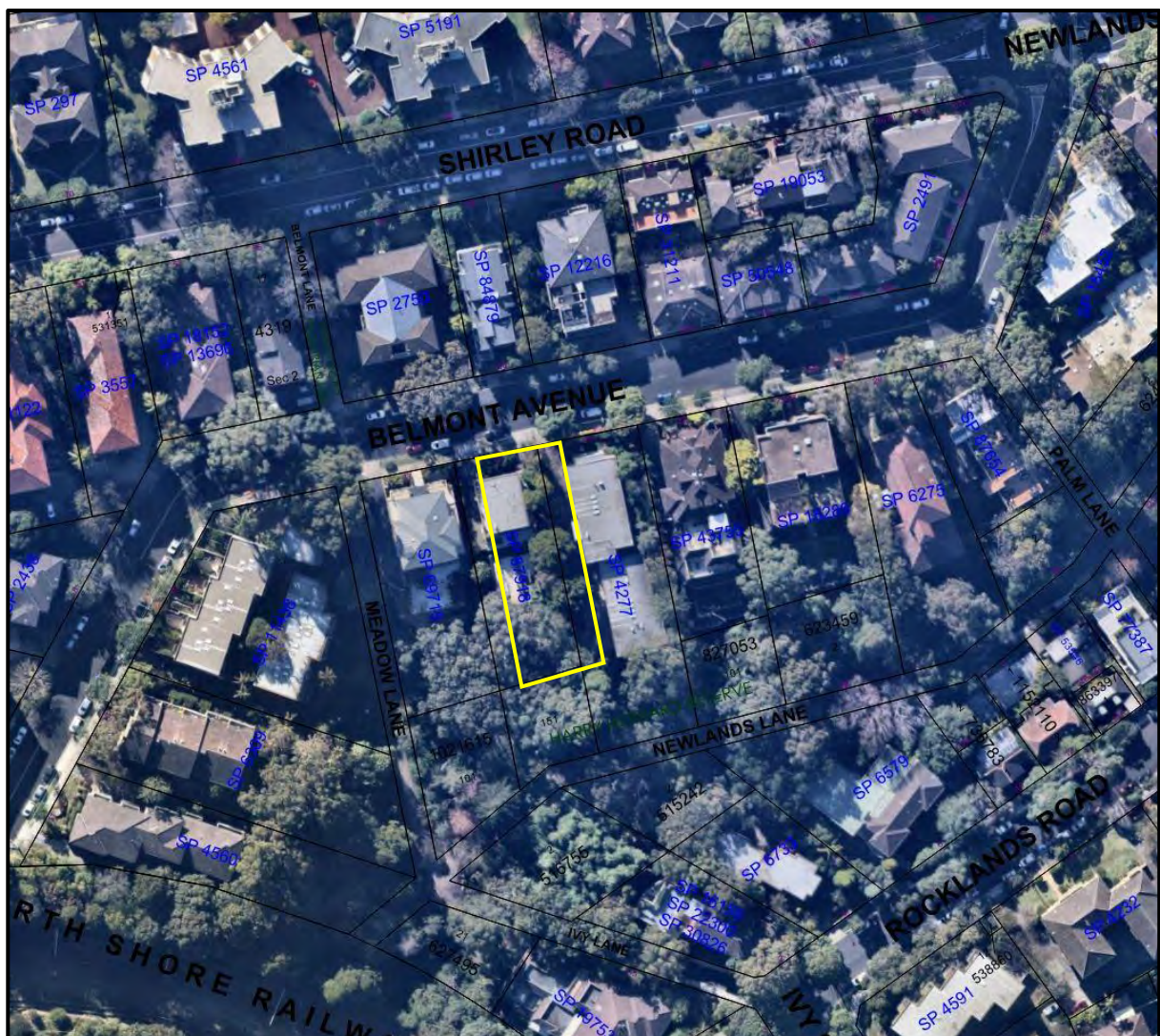


## DESCRIPTION OF LOCALITY

The subject site is commonly identified as Unit 6 of No.19 Belmont Avenue, Wollstonecraft, and is legally described as Lot 6 in SP 87918. The site is a rectangular shaped, sloping allotment situated on the southern side of Belmont Avenue (refer to Figure 9). The site is occupied by a 6-storey residential flat building with basement parking (refer to Figures 10 to 17).

The current unit mix in the residential flat building is as follows:

- Units 1, 2, 3, 4, 6, 8, 9 are 2-bedroom units (7 units); and
- Unit 5, 7, 10 are 3-bedroom units (3 units).



**Figure 9: Aerial map showing subject site (outlined in yellow) and surrounding properties.  
(Source: SIS Map and Spatial Information Exchange Maps)**





**Figure 10: Existing residential flat building at No. 19 Belmont Avenue – view from Belmont Avenue**



**Figure 11: Existing driveway to access garage of Unit 6**





**Figure 12: Front of garage of Unit 6 – to be converted into a multi-media room**



**Figure 13: Internal view of garage of Unit 6 – to be converted into a multi-media room**





**Figure 14: Existing bathroom to be split into 2 separate bathrooms**



**Figure 15: Rear openings and glazing of Unit 6 (shaded in yellow) to be modified**





**Figure 16: Existing roof terrace with timber deck (currently unroofed) – view to the south**



**Figure 17: Existing roof terrace – view to the north**

The site is surrounded by multi-storey, exposed brick/rendered residential flat buildings on sloping sites and bounded by Harry Howard Reserve (Council owned public recreational land) at the rear (refer to Figures 18 and 19). Belmont Avenue is characterised by low-rise residential flat buildings, tree-lined streets and undulating topography.





**Figure 18: Residential flat building at No. 21 Belmont Avenue – east-adjointing neighbour**



**Figure 19: Residential flat building at No. 21 Belmont Avenue – east-adjointing neighbour**

### Previous Applications

There are no previous applications that apply to the proposed development.

### Current Application

Date	Action
<b>3 April 2023</b>	The subject application was lodged with Council.
<b>21 April 2023</b>	The application was notified to adjoining/surrounding properties in accordance with Council's Community Participation Plan for 14 days – ending on 5 May 2023. Three (3) submissions were received during this period.
<b>5 May 2023</b>	Council's Assessment Officer conducted a site inspection at the subject site.
<b>17 May 2023</b>	A Request for Information (RFI) letter was sent to the Applicant via the Planning Portal, which detailed issues that required addressing, including enclosed BBQ kitchen/office/sunroom, ownership of driveway, safety barrier, undersized bedroom and floor plan lacking detail.
<b>16 June 2023</b>	The Applicant provided additional information and a revised design to address the issues mentioned in the RFI letter. The revised design involved deleting the converted bedroom and replacing this with a multi-media room.
<b>21 June 2023</b>	The Applicant provided further information including AGM Minutes and amended By-Laws for the building to address the issues mentioned in the RFI letter.

### **REFERRALS**

Council's Senior Building Surveyor Officer reviewed the application and provided the following commentary:

*The building is classified by the NCC BCA as a Class 2 and 7a building of Type A construction.*

*A search of Council's records revealed that the building forms part of Council's Annual Fire Safety Statement Register and Annual Fire Safety Statement is up to date for the Property.*

*A review of the Plans accompanying the application revealed that the proposed works can likely comply with the NCC BCA 2019, Volume 1.*

*Given the works represent less than 50% of the buildings total floor area no upgrade of the building pursuant to Clause 64 of the Environmental Planning & Assessment Regulations 2021 is required.*

*A detailed assessment of compliance with the Building Code of Australia 2019 will be undertaken by an appropriately registered certifier at the Construction Certificate Stage of the proposed development. Additionally, a Fire Safety Schedule is to be prepared by the certifier and accompany the Construction Certificate.*

*Generally, the proposed works are able to comply with the requirements of the NCC - BCA 2019, Volume 1.*

*Given the above, the following standard conditions are recommended:*

*F1 National Construction Code*

**Planning comment:** The above comments are noted and concurred with. Any recommended conditions will be imposed and incorporated into the consent.

## **ENGINEERING**

Council's Development Engineer reviewed the application and provided the following commentary with regard to the proposed vehicular access and parking, and stormwater management system.

*In reference to the proposed development, the following matters have been considered.*

### Traffic Management

*Relatively minor development.  
No conditions applied.*

### Stormwater

*No increase in BUA, stormwater may connect to existing system.  
Appropriate conditions shall be imposed in this regard.*

### Parking and Access

*In accordance with AS 2890.1 – Off-street car parking, the specified dimension for a small car space is 5.0m x 2.3m. The architectural drawings indicate the proposed hard stand parking space is 5.0m x 2.915m, therefore the proposed car space satisfies the requirements of AS2890.1 for a small or light vehicle.*

*The existing road shoulder, layback, gutter, crossover and footpath are in a satisfactory condition, therefore an application for "Vehicular Access" will not be required.*

*NOTE: There is a drop off the western side of the proposed hard stand, which varies in height from zero at the front boundary to approx. 900mm at the existing low brick wall.*

*AS2890.1 is silent in regard to applying a barrier to the side of car spaces, however I am of the opinion that a barrier along the western side of the hard stand, to protect drivers and/or passengers from falling when alighting from vehicles, should be installed.*

*At a minimum, I recommend at least a single rail at a height of 900mm, would be sufficient. This type of barrier may be covered in the BCA, and as such I suggest discussing with Council's Building Surveyors. No conditions in regard to vehicular access need be applied.*

*Sediment and Erosion controls*

*Appropriate conditions shall be imposed in this regard.*

*Excavation and Retaining Walls*

*No excavation proposed.*

*No conditions applied.*

*Recommendation*

*The application has been assessed and it is recommended that specific conditions be included in the Development Consent.*

**Planning comment:** The above comments are noted and concurred with. Any recommended conditions will be imposed and included in the development consent.

## **SUBMISSIONS**

### Original Plans

In accordance with Council's Community Participation Plan, Council notified adjoining properties of the proposed development from 21 April to 5 May 2023. Council received two (2) submissions during this period from Unit 8 of No. 19 Belmont Avenue and the west-adjointing neighbour at Unit 9 of No. 17 Belmont Avenue (unit number unknown).

The matters raised in these submissions are listed below:

- Building height
- Bulk and scale
- Parking space is unsafe and does not meet Australian Standards
- Setbacks
- View loss and outlook impacts;
- Privacy and amenity impacts
- Property value

The issues raised in the submissions are summarised below and addressed later in this report.

### Amended Proposal

The Applicant submitted amended plans and additional information on 16 and 21 June 2023. The nature of the changes within the final scheme results in an improved outcome and a reduced size of enclosed space in the terrace. The changes will not be discernible from public domain. The amended design will have zero consequence in terms of any additional impacts. An assessment of the final scheme confirms that the concerns and issues raised by submitters have been adequately addressed and considered in the re-design and by imposed conditions (see below). Given the above, the amended plans did not require re-notification, as per Council's Community Participation Plan.

### **CONSIDERATION**

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

The following sections apply to the proposed development and have been considered in the assessment:

#### **SEPP (Biodiversity and Conservation) 2021**

##### *Chapter 2 – Vegetation in non-rural areas*

The proposed development does not involve the removal of any existing trees. Accordingly, the proposal is able to satisfy the respective aims under Chapter 2 of this SEPP.

##### *Chapter 6 – Water Catchments*

The proposed development has been considered against the requirements of Chapter 6 of the SEPP. The proposal is not considered to be detrimental to Sydney Harbour and will not unduly impose upon the character of the foreshore given the site's location in the residential area of Wollstonecraft. The proposed development is acceptable in terms of the bulk, scale and design and remains proportionate and appropriate to the subject site and its setting within the Sydney Harbour Catchment. As such, the proposed development is acceptable having regard to the provisions of the SEPP.

#### **SEPP (Resilience and Hazards) 2021**

The provisions of Chapter 4 of this SEPP require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has been used as a residential flat building for over 38 years and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving alterations and additions to an existing dwelling) are such that any applicable requirements of this SEPP have been satisfactorily addressed.

#### **SEPP (Building Sustainability Index: BASIX) 2004**

A valid BASIX Certificate has been submitted with the application to satisfy the aims of this SEPP.

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

The proposed development involves alterations and additions to a residence within an existing residential flat building that is over three (3) storeys and comprises more than four (4) dwellings. Consequently, SEPP 65 applies to the application. The tables below provide a summary of the assessment of the proposed development against the relevant design quality principles contained in this SEPP and the provisions and controls under the Apartment Design Guide (ADG).

Design quality principles	Objective	Proposal
Principle 1: Context and neighbourhood character	<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area’s existing or future character.</p> <p>Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change</p>	<p>The proposed development introduces an enclosed space and additional roofed areas within an open and exposed roof terrace. This introduces some bulk and scale to the rear portion of the site that is somewhat unusual for the development pattern in the area. The in-filling of open roof terraces are not frequently occurring in the streetscape and immediate locality. Notwithstanding, any additional mass and built form are situated at the rear and are not visible from public domain.</p> <p>The changes to the garage and front façade are visible from Belmont Avenue. These changes are considered consistent and compatible with streetscape and reflective of the design, front façade, form and openings of residential flat buildings addressing this street.</p> <p><b>Accordingly, the proposed development achieves the objectives of Principle 1.</b></p>
Principle 2: Built form and scale	<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building’s purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p>	<p>The proposed development will not result in an excessive and enlarged building compared to the existing medium-high density residential buildings surrounding the site and in the immediate area. As mentioned, the proposal is primarily located within of internal building layout and at the rear – such that there will be minimal interruption of the current design and form of the building. The contribution of the proposal is limited. As such, it will not conflict with the prevailing character and development pattern of the surrounding area.</p>
	<p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><b>Accordingly, the proposed development achieves the objectives of Principle 2.</b></p>



<p>Principle 3: Density</p>	<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed</p>	<p><u>Amenity</u>          The existing amenity, direct solar access and cross ventilation of the existing unit and other units within the building remain generally unchanged. The new western window in the combined living/dining room achieves improved solar access to this space.</p>
<p>Principle 4: Sustainability</p>	<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p><u>Solar access</u>          See above – Unit 6 achieves direct solar access. The existing building complies.</p> <p><u>Cross ventilation</u>          See above – Unit 6 achieves cross ventilation. The existing building complies.</p> <p><b>Accordingly, the proposed development achieves the objectives of Principle 4.</b></p>
<p>Principle 5: Landscape</p>	<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity.</p> <p>A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro- climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access,</p>	<p>The proposed development does not involve any changes to the existing landscaped areas within the site. It only entails changes to Unit 6, which is situated on the 4<sup>th</sup> level of the building.</p> <p><b>Accordingly, the proposed development does not trigger landscaping requirements and therefore, it achieves the objective of Principle 5.</b></p>
	<p>respect for neighbours' amenity and provides for practical establishment and long term management.</p>	



<p>Principle 6: Amenity</p>	<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>Discussion on amenity (solar access and cross ventilation) aspects and the subterranean spaces are covered under Principle 4 above and the ADG table below.</p> <p><b>Accordingly, the proposed development achieves the objective of Principle 6.</b></p>
<p>Principle 7: Safety</p>	<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The proposed development is acceptable with regard to safety and security. Concern is raised with regard to the new opening for the converted garage (multi-media room) which immediately adjoins the new car space. This opening will be deleted and modified to windows, ensuring access to the entire unit will be via the existing building's main foyer and entrance.</p> <p><b>Accordingly, the proposed development achieves the objective of Principle 7.</b></p>
<p>Principle 8: Housing diversity and social interaction</p>	<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The proposed change to Unit 6 generally supports housing diversity and improved choices in the area.</p> <p>There are no changes to any existing communal open space and common areas.</p> <p><b>Accordingly, the proposed development achieves the objective of Principle 8.</b></p>
<p>Principle 9: Aesthetics</p>	<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The built form of the proposal is acceptable.</p> <p><b>Accordingly, the proposed development's aesthetics are supported and achieve the objectives of Principle 9.</b></p>

Apartment Design Guide (ADG)

The proposed development has also been assessed against the relevant provisions within the ADG as follows:

<b>Amenity</b>	<b>Design Criteria</b>	<b>Compliance</b>	<b>Comments</b>
<b>2F - Building Separation</b>	<p><i>Minimum separation distances for buildings (up to four storeys):</i></p> <ul style="list-style-type: none"> <li>• <i>6m setbacks for habitable rooms and balconies.</i></li> <li>• <i>3m setbacks for non-habitable rooms.</i></li> <li>• <i>No separation distance is required between blank walls.</i></li> </ul>	<b>Yes</b>	The proposed development introduces a habitable room within an existing roof terrace. Given that the building is unchanged in terms of setbacks and separation distances, the proposed building separation is considered acceptable.
<b>3F - Visual privacy</b>	<p><i>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</i></p> <p><i>6m (between habitable rooms and balconies to boundaries)</i>  <i>3m (between non-habit-able rooms)</i></p>	<b>Yes – habitable rooms and terraces</b>	The proposed development involves minimum setbacks of 6m from habitable rooms/terraces. The footprint of the existing terrace is unchanged.
<b>3G - Pedestrian Access and Entries</b>	<p><i>Building entries and pedestrian access connects to and addresses the public domain</i></p> <p><i>Access, entries and pathways are accessible and easy to identify</i></p>	<b>Yes</b>	The current pedestrian and vehicular access points remain unchanged. The proposed separate access into the multi-media room is not supported and will be deleted via conditions.
<b>3H - Vehicle Access</b>	<i>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</i>	<b>Yes</b>	The new car space is supported subject to conditions imposed.

<p><b>3J - Bicycle and Car parking</b></p>	<p><i>For development in the following locations:</i></p> <ul style="list-style-type: none"> <li><i>on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</i></li> <li><i>on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the mini-mum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</i></li> </ul> <p><i>The car parking needs for a development must be provided off street</i></p> <p><i>Parking and facilities are provided for other modes of transport</i></p>	<p><b>Yes</b></p>	<p>DCP requirements:</p> <p>Car parking (max.): Residential flat buildings in all other zones other than B4:</p> <ul style="list-style-type: none"> <li>2-bedroom units: 1 space per dwelling</li> <li>3 or more bedrooms: 1.5 spaces per dwelling</li> <li>Visitor spaces: 0.25 spaces per dwelling</li> </ul> <p>Bicycle parking (min.): 1 space per dwelling and 1 visitor space per 10 dwellings.</p> <p>No min. or max. number of motorcycle spaces.</p> <p>As per the above requirements the proposed development generates the following parking requirements:</p> <ul style="list-style-type: none"> <li>12 car spaces (residents) and three (3) visitor spaces = <b>15 car spaces (max.)</b></li> <li>10 bicycle spaces and 1 visitor space = <b>11 bicycle spaces (min.)</b>.</li> <li>No minimum motorcycle spaces.</li> </ul> <p>The existing residential flat building contains 10 car spaces. The proposal involves no changes to the amount of existing car spaces as it will result in a modified garage and conversion of the driveway into this garage into an external car space for Unit 6 .</p> <p>The existing residential flat building does not contain any bicycle spaces. This arrangement is unchanged. It is unlikely that the proposal will result in substantial intensification of the residential use such that it would necessitate changes to introduce bicycle parking within the premises.</p> <p>As such, compliance and merits against the above maximum and minimum parking rates have been demonstrated.</p>
<p><b>4A - Solar and daylight access</b></p>	<p><i>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</i></p> <p><i>A maximum of 15% of apartments receive no direct sunlight between 9am and 3pm at mid-winter.</i></p>	<p><b>Yes</b></p>	<p>The proposed development involves additional glazing to the internal living room of Unit 6 that enables direct solar access during mid-winter. It is noted that the proposal does not result in any changes to other units in the building that affect solar access to these units.</p>

<p><b>4B - Natural ventilation</b></p>	<p><i>All habitable rooms are naturally ventilated.</i></p> <p><i>The layout and design of single aspect apartments maximises natural ventilation.</i></p> <p><i>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents - At least 60% of apartments are naturally cross ventilated</i></p>	<p><b>Yes</b></p>	<p>The proposed development features openings for all habitable rooms - ensuring these are naturally ventilated. Unit 6 will be cross ventilated as a result of the proposal. It is noted that the proposal does not result in any changes to other units in the building that affect cross ventilation in these units.</p>
<p><b>4C - Ceiling Heights</b></p>	<p><i>Ceiling height achieves sufficient natural ventilation and daylight access - Minimum 2.7 m (habitable rooms)</i></p>	<p><b>Yes</b></p>	<p>The proposed floor to floor heights of the detached outbuilding/studio are indicated to be 2.7m to 3.05m – ensuring that the floor to ceiling heights comply with this requirement.</p>
<p><b>4D 1 - Apartment size and layout</b></p>	<p><i>Apartments are required to have the following minimum internal areas:</i>  <i>50m<sup>2</sup>(1-bedroom),</i>  <i>70m<sup>2</sup>(2-bedroom),</i>  <i>90m<sup>2</sup> (3-bedroom)</i></p> <p><i>Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each</i></p> <p><i>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each</i></p> <p><i>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</i></p>	<p><b>Yes</b></p>	<p>Unit 6 will be converted to a 2-bedroom unit with a secondary living space (multi-media room) and comprising a floor area of 105.39m<sup>2</sup>.</p> <p>All habitable rooms have external walls with windows that provide daylight and ventilation.</p>
<p><b>4D 2 - Apartment size and layout</b></p>	<p>1. <i>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</i></p> <p>2. <i>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</i></p>	<p><b>Yes</b></p> <p><b>Yes</b></p>	<p>Complies with the maximum depths for habitable rooms and open plan layouts.</p>

<p><b>4D 3- Apartment size and layout</b></p>	<p><i>Living rooms or combined living/dining rooms have a minimum width of:  4m for 2-bedroom and 3-bedroom apartments</i></p>	<p><b>Yes</b></p>	<p>The multi-media room is regarded as a secondary living room.  The principle living room remains unchanged and complies with this control.</p>
<p><b>4E - Private open space and balconies</b></p>	<p><i>All apartments are required to have primary balconies as follows:  2 bedroom apartments 10m<sup>2</sup> and minimum depth 2m</i></p>	<p><b>Yes</b></p>	<p>The proposal will result in two (2) new distinct terrace areas for Unit 6. These terraces have a minimum area of 12m<sup>2</sup> and a minimum depth of 2.1m. Given that the enclosed space can still be regarded as a private space and that there are two (2) separate open spaces – the variation to the depth control is considered acceptable.</p>

### **NORTH SYDNEY LOCAL ENVIRONMENT PLAN 2013**

#### **Aims of Plan**

The development application has been assessed against the aims of the North Sydney Local Environmental Plan 2013 (NSLEP 2013) and is considered to be satisfactory with respect to the relevant aims of the Plan.

#### **Permissibility**

The site is zoned R4 – High Density Residential zone under the provisions of the North Sydney Local Environmental Plan 2013. Development for the purposes of alterations and additions to an existing *residential flat building* is permissible with the consent of Council.

#### **Objectives of the zone**

The objectives of the R4 – High Density Residential zone are stated below:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage development of sites for low density housing, including dual occupancies, 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 high level of residential amenity is achieved and maintained.*

The proposed development (as amended) will result in a built form that is considered acceptable with regard to the objectives of the R4 – High Density Residential Zone.

The current use of the site as a residential dwelling within a residential flat building will be retained. The proposed changes, particularly to the garage and driveway and roof terrace are reasonable and supportable additions and alterations to the existing built form that will not result in a bulky and excessive development of the site. The resultant development is considered to be of a design, scale, massing and presentation that demonstrate consistency and compatibility with surrounding and adjacent development.

The proposed development generally achieves compliance with applicable planning provisions and controls under Council policy and will result in the retention of residential housing whilst improving the existing unit with regard to additional functional areas, amenities and facilities for future occupants.

The proposed development will not unreasonably compromise the amenity of the surrounding area and is considered a sympathetic design response that is contextually appropriate to the subject site and immediate locality.

### Principal Development Standards

The proposal has been assessed against the principal development standards applicable to the development under NSLEP 2013 as follows:

### Compliance Table

North Sydney Local Environmental Plan 2013			
Site Area – 1232.5m <sup>2</sup>	Proposed	Control	Complies
Clause 4.3 – Heights of Building	12.55m	Max. 12m	No* 0.55m or 4.58% variation

\*Clause 4.6 written submission provided

### Height of Building

The proposed development involves a maximum height of 12.55m, which is caused by a small portion of the new enclosed structure (refer to Figure 20). The proposed height represents a 0.55m or 4.58% variation to the maximum height of buildings development standard under Clause 4.3 of NSLEP 2013.

A detailed discussion regarding the proposed height breach and its assessment against Clause 4.6 of the NSLEP 2013 are discussed below.

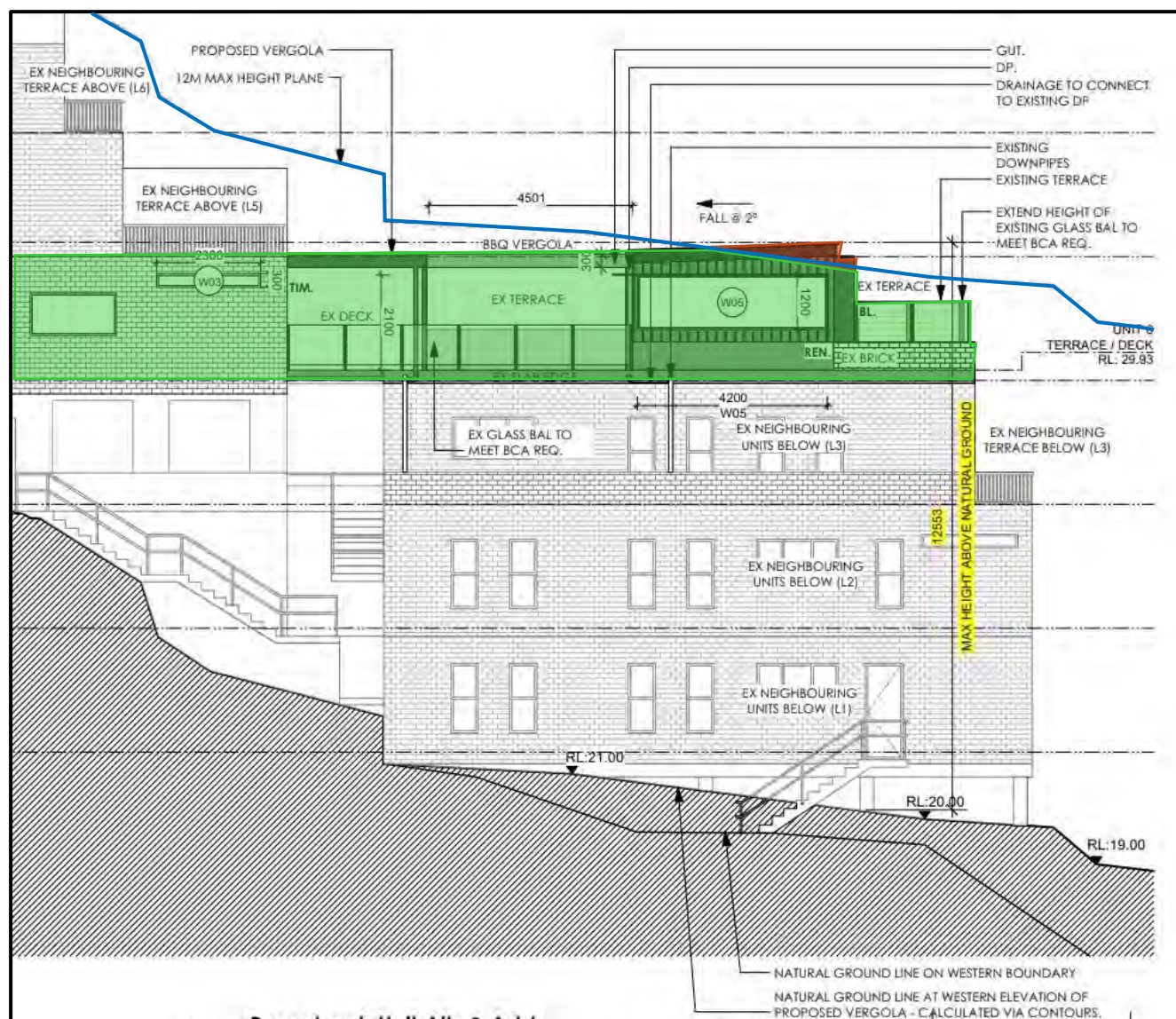
### Clause 4.6 – Exceptions to development standards

The Applicant has provided a written request to vary the development standard under Clause 4.3 of NSLEP 2013 – maximum height of buildings.

### Extent of the Variation

As described above, the proposed development involves a maximum height of 12.55m (attributed to a small portion of the enclosed structure in the roof terrace), which represents a 0.55m or 4.58% variation to the maximum height of buildings development standard. The remainder of the proposal achieves compliance with the numerical control.

An elevation showing the height variation and compliance of the proposal is shown in Figure 20 below.



**Figure 20: Elevation showing maximum building height line (in blue), proposed height variation (shaded in red) and height compliance (shaded in green) of the proposal**

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

For reference the objectives of the development standard are as follows:

Clause 4.3 of the NSLEP 2013

- (1) *The objectives of this clause are as follows:-*
- (a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
  - (b) *to promote the retention and, if appropriate, sharing of existing views,*
  - (c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*

- (d) *to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- (e) *to ensure compatibility between development, particularly at zone boundaries,*
- (f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,*
- (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.*

The Applicant's written request relies upon Webhe Test 1 (consistency with the standard's underlying purpose or objective) to demonstrate that compliance with the development standard is unreasonable and unnecessary. In response to Clause 4.6, the following excerpts are relevant and contained within the Applicant's written request:

***How is strict compliance with the development standard unreasonable or unnecessary in this particular case?***

*The proposed works are in the public's interest as they are consistent with the objectives of the standard. The proposed will have a minor impact to the height of the approved building and is compatible with the prevailing building height in the area and streetscape character. The proposed conforms to the topography of the sloping allotment with the roof form fitting well into the landscape, without adding excess bulk or scale to the building.*

*There is minimal impact in terms of view sharing from adjacent neighbours or public areas. The proposed alterations have minimal impact with regard to privacy and solar access enjoyed by the residents or adjacent properties and maintains adequate sunlight access to the building itself.*

*In terms of the zone objectives, the locality surrounding the site is displaying evidence of a renewal process, with medium to high density developments. The bulk and scale of the proposed development is generally consistent within the locality and is compatible with adjacent development. The proposed additions have been designed to meet the day to day needs of the residents and will provide an active use of the common open space of the strata unit.*

*The objectives of the Height of Buildings control remain relevant, and the proposed development is generally consistent with, or not antipathetic to, the objectives of the Height of Buildings control, notwithstanding the minor numerical variation.*

Council's evaluation of the Applicant's written request confirmed that the objectives of the development standard and the relevant zone (R4) have been achieved and the non-compliance with the development standard can be supported (as demonstrated in the 'Objectives of the zone' section above and the section below).



The Applicant's written request nominates "environmental planning grounds" which should be considered to justify the variation and that support for the variation will be in the public interest. Council's assessment of this request confirms that sufficient environmental planning grounds have been demonstrated and support for the variation is in the public interest.

The proposed development is considered below, having regard to the objectives of the development standard.

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

The offending element that involves the building height variation conforms and reflects natural landforms. The variation is largely due to the slope of the site, the current development's response to steep topography and the proposed in-fill of the roof terrace. The entire development is situated within the building footprint or within a built-up area and respects the natural topography of the land. It is considered that the proposal satisfies Objective (a).

***Objective (b) is to promote the retention and, if appropriate, sharing of existing views.***

The proposal does not adversely impact views of adjoining or adjacent properties. The proposed development involves either internal works or works within the existing roof terrace. Any new components on the terrace will not result in significant view loss for neighbouring properties including any units within the complex. The current outlook of units above Unit 6 will be slightly modified with additional roofing and structure visible from balconies/living rooms – instead of a current view of trees beyond an open roof terrace and balustrades. The majority of the respective outlook, which features some tree-top and distant horizon views are retained. No substantial view loss impacts will arise from the minor height variation. It is considered that the proposal satisfies Objective (b).

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

The site has a north-south orientation and as such, the majority of shadows fall within the site and to the public reserve. The shadow diagrams provided with the plans demonstrate that any additional overshadowing caused by the proposed development will fall on certain sections of the bushland reserve (Harry Howard Reserve). During mid-winter and throughout the course of the day, the impacted portion will not be shadowed by the proposal and will receive the minimum three (3) hours of solar access. It is considered that the proposal satisfies Objective (c).

***Objective (d) is to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings.***

It is noted that the height variation relates to a small portion of roof above the new enclosed structure. Any privacy impacts associated with this structure have been addressed by the design and through conditions imposed. It is further noted that the enclosed structure is contained within a roof terrace that currently has views to residential dwellings and their respective windows, living rooms, roof terraces and balconies. The current context is respected by the proposal and any new components above the terrace will not result in any additional nor substantial privacy impacts. It is considered that the new elements will create further use and slight intensification of this space; however, the additional solid elements and roofing in-combination with privacy treatments to the windows of the structure are considered sufficient in minimizing privacy impacts and maintaining residential amenity and privacy. It is considered that the proposal satisfies Objective (d).

***Objective (e) is to ensure compatibility between development, particularly at zone boundaries.***

The proposed development is situated at the rear, away from Belmont Avenue. Any height non-compliance will not be visible from the street and the building presentation from public domain will remain similar to the existing development. The maximum height of the building remains primarily unchanged and the height of the proposal is mostly compliant with the control. As such, the proposed development is consistent with the desired future character of the locality and provides improved residential amenity and facilities that responds to the site topography. The height breach does not offend the compatibility between development in any discernible way. It is further noted that the same development can be achieved and replicated for the adjoining unit (Unit 7) and their respective roof terrace. The proposal will not hinder the adjoining unit's ability to re-develop in a similar manner. It is considered that the proposal satisfies Objective (e).

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

The density and scale of the proposal is consistent with emerging built form in the locality. It is considered that the proposal satisfies Objective (f).

***Objective (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 does not apply to the proposed development as the subject site is within land zoned R4 – High Density Residential zone.

**Clause 4.6(4)(a)(ii) Applicant's written request**

The written request provided by the Applicant adequately addresses the matters required by subclause (3) as discussed above.

**Clause 4.6(4)(a)(ii) Public Interest**

The proposed development would be in the public interest because it is consistent with the objectives of the development standard for maximum height of buildings and the objectives of the zone as discussed above.

**Conclusion**

The Applicant has submitted a written request pursuant to Clause 4.6 in NSLEP 2013. The written request has adequately addressed subclause (3) and, subject to satisfying conditions, is considered to be in the public interest because it is consistent with the relevant development standard and the objectives of the zone.

**NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013 (NSDCP 2013)**

The NSDCP 2013 applies to the site. An assessment of the proposed development against relevant objectives and controls under this DCP has been carried out below:







Shadow diagrams – at 9am (top), 12pm (centre) and 3pm (bottom) during mid-winter (21 June)

Overshadowing impacts

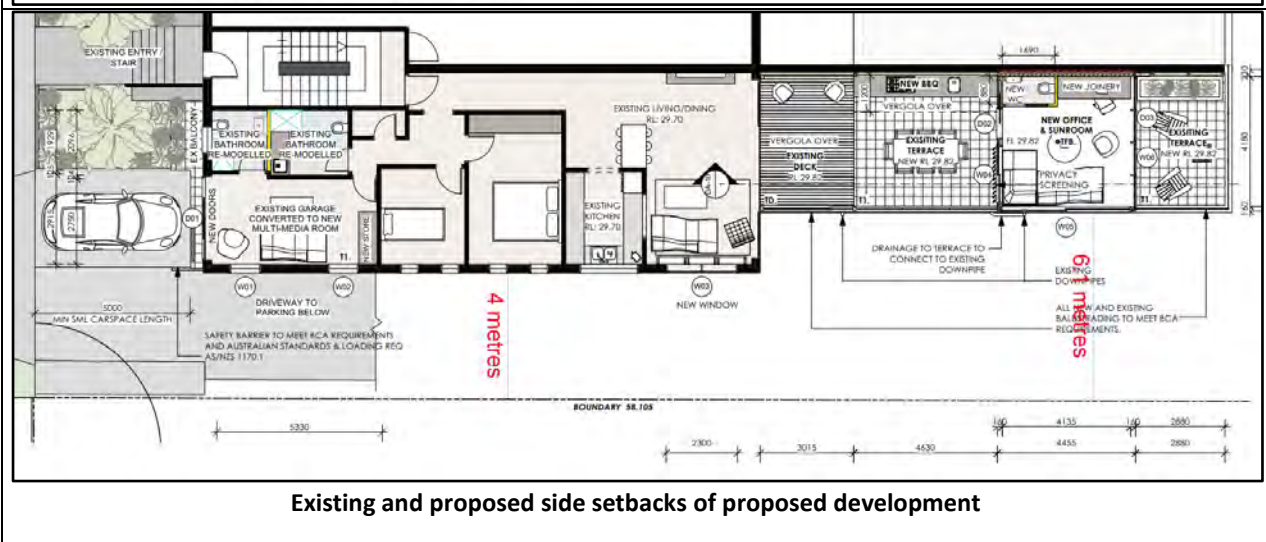
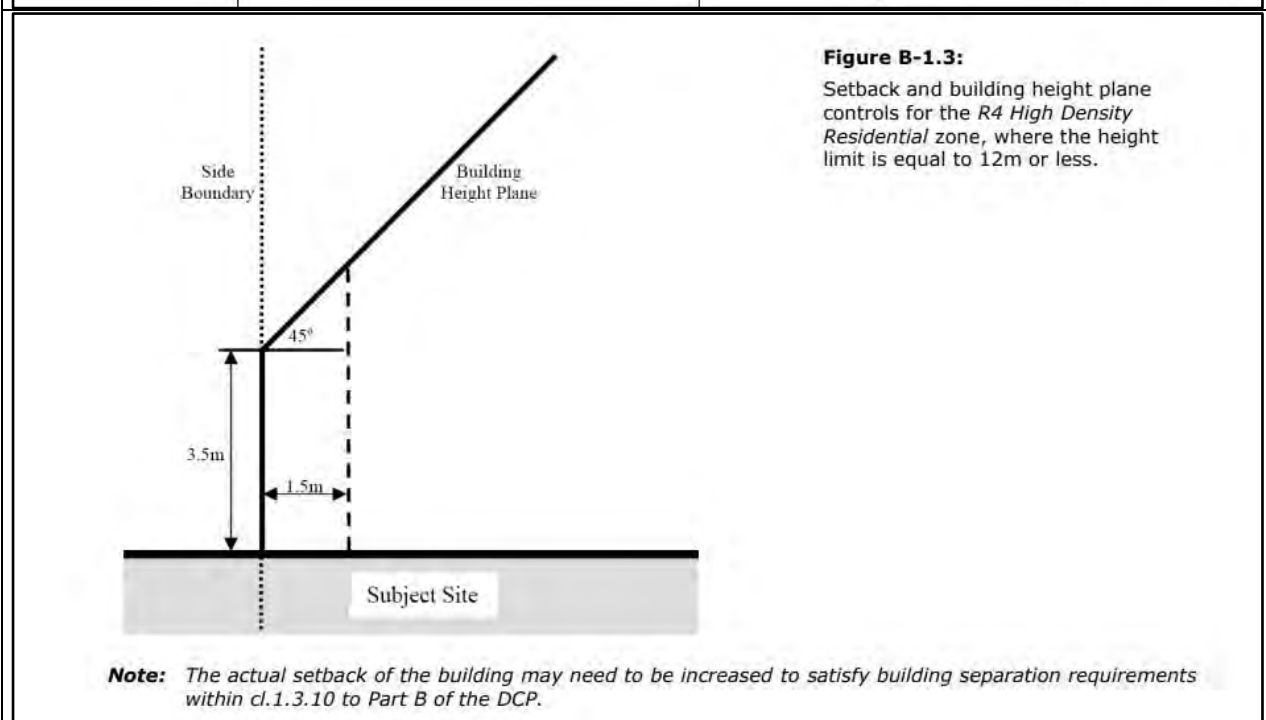
During the winter solstice, the shadows created by the proposed development will primarily impact Harry Howard Reserve. These shadows rotate at different parts of the reserve depending on the time of day and no single part of the reserve that is affected will be shaded by the proposal by more than three (3) hours during mid-winter. It is noted that the reserve is expansive and covers a significant area – the majority of which is unaffected by the proposal. Notably, there are no neighbouring residences impacted in terms of solar access. Therefore, on balance, any additional overshadowing created are considered reasonable. The proposed development demonstrates compliance with the relevant controls regarding solar access and passes the test for reasonableness in terms of overshadowing impacts.

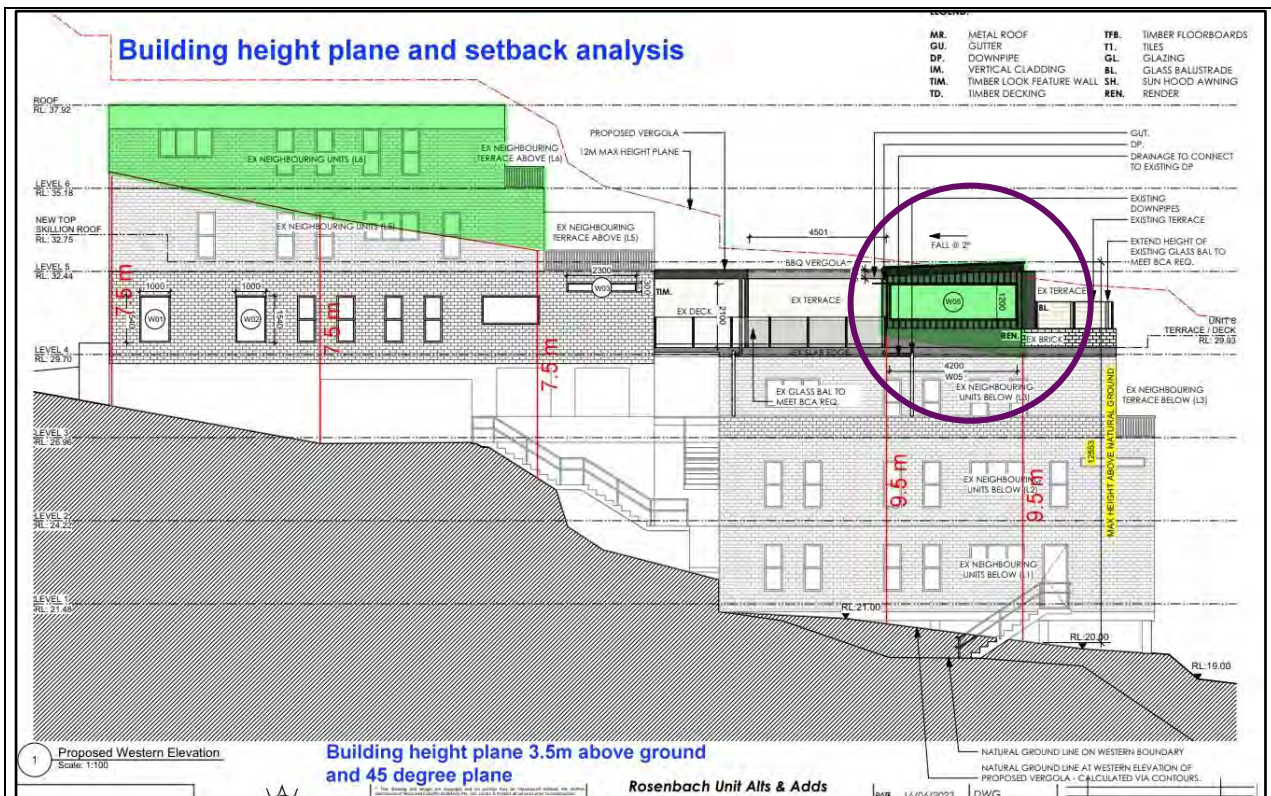
<p><b>Acoustic privacy</b></p>	<p>Yes</p>	<p>It is unlikely that the proposed development will have significant nor unreasonable acoustic impacts. Unit 6 retains its residential use and the spaces proposed reflect this intent. Based on the design and orientation of the proposal, any acoustic impacts are considered acceptable, and residents will be provided with a reasonable level of acoustic privacy.</p>
<p><b>Visual privacy</b></p>	<p>Yes</p>	<p>The proposed development will not result in unreasonable or adverse privacy impacts. All new windows do not directly face any neighbouring windows. The windows in the new multi-media room face a driveway.</p> <p>The new spaces within the external area involve re-configuration of the existing terrace and feature habitable rooms which have the same, unmodified outlook. Further, a condition will be imposed to incorporate privacy treatments to western window (W05) of the enclosed space (office/sun room) on the terrace. On balance, any privacy and overlooking impacts associated with the proposed changes to Unit 6 are considered acceptable and managed/mitigated by design and through conditions imposed.</p>

<b>1.4 Quality built form</b>		
<b>Context</b>	Yes	The design, aesthetic, presentation and built form of the proposed development are considered appropriate and generally not in context with the surrounding area. The introduction of an enclosed detached structure within an existing open terrace area will create additional bulk and mass to the building.
<b>Streetscape</b>	Yes	The proposed development involves no changes to any streetscape infrastructure including kerb and gutter.
<b>Siting</b>	Yes	
<b>Setbacks (objectives)</b>  <b>O1 To reinforce the characteristic pattern of setbacks and building orientation within the street.</b>  <b>O2 To control the bulk and scale of buildings.</b>  <b>O3 To provide separation between buildings.</b>  <b>O4 To preserve the amenity of existing dwellings and provide amenity to new dwellings in terms of shadowing, privacy, views, ventilation and solar access.</b>	Yes	Refer to ADG table.
<b>Setback – front</b>	Yes	Refer to ADG table.
<b>Setback – side</b> <b>Setback requirements – see below table and diagram</b>	No – demonstrates merit	<p>In general, the guidance controls under ADG override the DCP setback controls; however, consideration has been made with regard to the DCP as follows:</p> <ul style="list-style-type: none"> <li>• The majority of the front portion of the existing building does not comply with the setback control.</li> <li>• The setbacks of the existing building remain generally unchanged. The only element triggering review is the new enclosed structure, which will sit on an existing roof terrace. This structure will have a setback of 6.1m from the side boundary – maintaining the current setbacks of the roof terrace and the lower residential levels of the building. The introduction of the enclosed structure is not considered to result in substantial visual bulk, scale and massing to the existing building.</li> <li>• The proposed setback variation will not result in substantial nor adverse impacts in terms of view loss, amenity, privacy and streetscape.</li> <li>• The proposed side setback is consistent with and reflective of the development pattern and streetscape of the immediate area – which is characterized by staggered, residential flat buildings that step down with the sloping topography of sites with outlooks towards bushland reserve.</li> </ul> <p>On balance and with regard to the above aspects, the proposed setback is considered reasonable and acceptable and demonstrates compliance with the ADG. As such, a variation to the DCP control is considered acceptable and reasonable.</p>



TABLE B-1.5 - Side Setback Requirements				
Zone	Development Types	Minimum Setback Requirement		
	Boarding houses; Multi-dwelling housing; Residential flat building; seniors housing	On land with a height limit of 12m or less	3m; and The building must not exceed a building height plane commencing at 3.5m above ground level (existing) from side boundaries and projected internally to the site at 45° (refer to Figure B-1.3).	
		On land with a height limit greater than 12m	1st to 3rd storey (up to 10m)	4.5m
			Above 3rd storey	6m





**Building height plane and setback diagram (non-compliant portions shaded in green) and proposed variation circled in purple**

<b>Setbacks – rear</b>	Yes	Existing building’s rear setback is unchanged.
<b>Form, massing and scale</b>	Yes	The proposed form, density and scale of the proposed development are comparable to surrounding properties and will therefore, not detract from prevailing architecture and streetscape character of the vicinity.
<b>Built form character</b>	Yes	As mentioned above, the proposed development will be of a scale and design that is in keeping with the surrounding area. As such the built form character presented is supportable and acceptable.
<b>Dwelling Entry</b>	Yes	
<b>Roofs</b>	Yes	The proposed new roofing comprises a flat roofs for the deck, outdoor kitchen and enclosed room within the roof terrace. Due to its location and design, these roof forms are not dominant elements when viewed from public domain.
<b>1.6 Efficient Use of Resources</b>		
<b>Energy Efficiency</b>	Yes	A valid BASIX Certificate was submitted as part of the development application documentation.
<b>Passive Solar Design</b>	Yes	See BASIX Certificate
<b>Natural Ventilation</b>	Yes	See BASIX Certificate
<b>Hot Water Systems</b>	Yes	See BASIX Certificate
<b>Water Conservation</b>	Yes	See BASIX Certificate
<b>Stormwater Management</b>	Yes	Engineer’s comments confirmed acceptance of the design.
<b>Waste Management and Minimisation</b>	Yes	Waste management plan provided.



**CHARACTER STATEMENTS – PART C**

***Waverton/Wollstonecraft Planning Area***  
***Section 10.2 – Upper Slopes Neighbourhood***

The site is within the Waverton/Wollstonecraft Planning Area – specifically, the Upper Slopes Neighbourhood, to which, Part C, Section 3.2 of the DCP applies. Given the design, nature and siting of the proposed development and the retained use of the site as a residential flat building, it is considered that the proposed development is not contrary to the requirements under Section 10.2. The proposed development is incongruence with the established and desired future character and built form of the area.

**LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN**

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to the payment of contributions towards the provision of local infrastructure. A Section 7.11 levy is not applicable as the proposed development does not result in any additional dwellings or bedrooms for the existing residential flat building. A Section 7.12 levy is applicable and has been calculated in accordance with the plan. The contribution payment has been calculated as follows:

<b>Contribution amounts payable</b>		
<b>Applicable contribution type</b>		
<b>s7.12 contribution details</b>	Development cost: \$263,441.00	Cost summary reports are needed for ALL applications EXCEPT solely residential accommodation (i.e. not mixed use) and that results in a net population increase (s7.11 applies).
(Payment amount subject to indexing at time of payment)	Contribution: \$2,634.41 (1% of development cost)	

Accordingly, should the application be supported, a condition will be imposed requiring the payment of the above contribution amount.

**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	N/A
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	YES
8.	Site Management Issues	YES
9.	All relevant Section 4.15(1) considerations of <i>Environmental Planning and Assessment Act 1979 (amended)</i>	YES

### **PUBLIC INTEREST**

The proposed development is considered to be in the public interest for the reasons stated throughout this report.

### **SUITABILITY OF THE SITE**

The proposed development is located on land zoned R4 – High Density Residential where alterations and additions to an existing *residential flat building* are permissible forms of development. Consequently, the proposed development is considered to be suitable for the site having regard to the merits of the proposal as described in this report.

### **SUBMITTERS CONCERNS**

In accordance with Council's Community Participation Plan, Council notified adjoining properties from 21 April to 5 May 2023. Council received two (2) submissions during this period from Unit 8 of No. 19 Belmont Avenue and the west-adjointing neighbour at No. 17 Belmont Avenue (unit number unknown).

The following matters were raised in these submissions:

- Building height
- Bulk and scale
- Parking space is unsafe and does not meet Australian Standards
- Setbacks
- View loss and outlook impacts
- Privacy and amenity impacts
- Property value

Council's responses to the above matters and issues are provided below.

- Building height

**Response:** As described above, a portion of the proposed development does not comply with maximum building height provision under Clause 4.3 of the NSLEP 2013. A detailed assessment was provided above and the proposed variation is considered supportable and acceptable following an evaluation against provisions under Clause 4.6.

- Bulk and scale

**Response:** In terms of bulk and scale, the proposed development achieves appropriate articulation and modulation of any new external elements within the roof terrace. None of these elements will be highly visible from public domain. A discussion on bulk and scale is provided in the Assessment section.

- Parking space is unsafe and does not meet Australian Standards

**Response:** The Referrals and Assessment sections above provide adequate discussion on the proposed development with regard to the parking space. Council's Development Engineer confirmed support for the parking space subject to imposed conditions.

- Setbacks

**Response:** A discussion on setbacks is provided in the Assessment section above.

- View loss and outlook impacts

**Response:** The proposed development will not result in any significant or adverse view loss impacts as the site and affected properties do not benefit or have access to any iconic, waterfront or important views and vistas. It is acknowledged that the current outlook and distant views to open spaces, corridors and trees will (to an extent) be affected. These outlook impacts are primarily associated with the balconies and south-facing spaces (such as living rooms) of the upper units within the subject site.

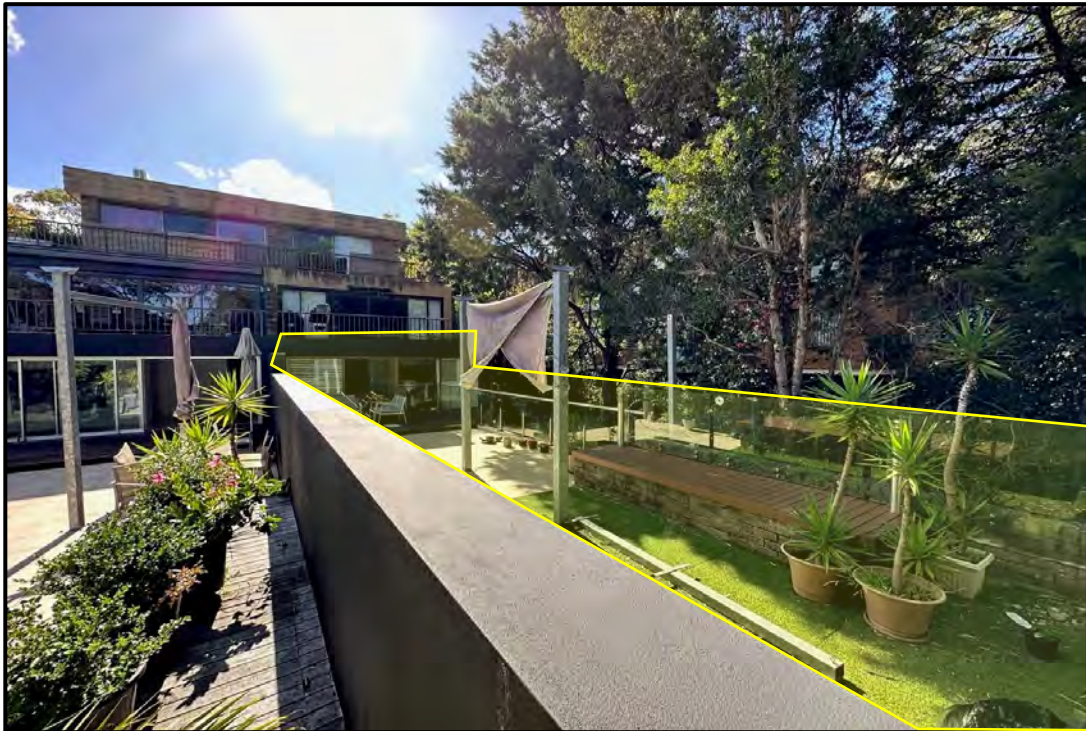
Any resultant changes to outlooks or views towards existing open corridors towards buildings/trees and the horizon as a result of additional roofing above a roof terrace and minor ancillary development such as awnings and roofed structures are considered reasonable. Therefore, on balance, any potential impacts with regard to outlook are deemed acceptable.

- Privacy and amenity impacts

**Response:** The Assessment section above provides adequate discussion on the proposed development in terms of privacy. A discussion with regard to the enclosed structure is provided below.

As mentioned previously, the urbanized setting and context of the site features exposed balconies, roof terraces and openings/windows of staggered and high residential flat buildings; many of which generally face the bushland reserve and adjoining buildings. Residences within the immediate locality typically, would overlook each other and are designed to capture pleasant outlooks and distant views of the horizon and trees. This setting and context are demonstrated in Figures 21 and 22 below.

It is noted that the roof terrace of Unit 6 is currently exposed to overlooking from some neighbouring properties and the upper units within the complex (refer to Figures 22 and 23). The provision of additional roofed and enclosed structures to this space will facilitate an improved shared privacy and amenity for the residence and amongst neighbours. These components would screen some of the existing views to neighbours from the terrace and vice-versa.



**Figure 21: View towards upper units within building (Units 8, 9 and 10) and the roof terrace of the adjoining residence (Unit 7) (shaded in yellow)**



**Figure 22: View of the residential flat building at No. 17 Belmont Avenue – west-adjointing neighbour from the roof terrace**

It is acknowledged that the enclosed space, separated terrace zones and outdoor BBQ/kitchen area would improve functionality of the terrace and would likely result in an intensification of the use of this space – which could create additional amenity and privacy impacts. Notwithstanding, these elements reflect the retained residential use of the unit and the recreational use of the terrace and have been appropriately designed to minimise privacy and amenity impacts. The terrace and enclosed space has a generous setback from the western side boundary of 6.1m. In addition, a condition will be imposed to provide privacy treatments to the western window (W05) of the enclosed space (office/sun room) on the terrace. It is noted that the provision of an external BBQ area and cooking facility can be provided within roof terrace without Council approval. Accordingly, the potential impacts generated by the proposed development are considered reasonable and acceptable.

- Property value

**Response:** Impacts on property value are not a matter of consideration under the NSW legislation that is required to be evaluated when assessing and determining development applications.

## **CONCLUSION AND REASONS**

The development application has been assessed against the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development, the North Sydney Environmental Plan 2013 and the North Sydney Development Control Plan 2013 and is generally found to be satisfactory. In light of the considerations, reasons and merits mentioned through this report, the proposed development enables an appropriate, acceptable and reasonable design and planning outcome for the subject site that demonstrates appropriate consistency and adequate compatibility with the streetscape and character of the immediate locality. The proposed changes to the unit layout and external ancillary structures provide improved amenity, functionality and facilities for future occupants whilst not compromising the amenity of adjacent units and neighbouring properties. Further, the proposal will not result in an inability for the adjoining unit (Unit 7) to be redeveloped with a replicated form and design.

Having regard to the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, the proposed development will not result in any significant, adverse material impacts to adjoining properties and on the environment, including those relating to streetscape, heritage, amenity, privacy and view loss. As such, the application is considered satisfactory and is recommended for **approval**.

## **HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?**

The subject application was notified to adjoining properties, in accordance with Council's Community Participation Plan. Two (2) submissions were received during the notification period. Council's responses to the matters raised in the submissions are provided above.

## RECOMMENDATION

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

**THAT** North Sydney Local Planning Panel, assume the concurrence of the Secretary of the 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 – Maximum Height of Buildings and grant consent to Development Application No. DA112/23 for alterations and additions to a strata unit including garage and terrace on land at No. 19 Belmont Avenue, Wollstonecraft (SP 87918) subject to the following site specific and attached standard conditions:

### **Design Changes – New Parking Space, Multi-media Room and Privacy Treatments to Enclosed Space**

C1. The final construction plans must be amended to incorporate the following design changes:

- Safety barrier: A barrier must be provided along the western edge/perimeter of the new parking space for Unit 6. This barrier must be designed:
  - To contain a small vehicle on the car space on any portion that is raised and has a fall of more than 600mm.
  - To comply with the relevant BCA/NCC requirements.
  - Structurally, in accordance with the loading requirements of AS/NZS 1170.1.
  - To not be made from brickwork, unreinforced concrete, or other materials likely to shatter on impact.
  - Minimal in design and presentation from the street and comprising of materials, finishes and colouration that are complementary to the existing building. An example of a barrier design is a single metal rail with a height of 900mm above the existing levels of the car space.
- Separate access via multi-media room: Any separate access from the front setback/Belmont Avenue into the Unit 6 must be deleted completely. This includes the access/external doors into the multi-media room. Any openings facing Belmont Avenue must be modified to windows with a minimum sill height of 1.2m. Alternatively, a small access door can be provided on the eastern side of the northern wall (façade) of the multi-media room. As much as practicable, this door must be situated away from the parking space to minimise potential safety issues and the door must only comprise of a maximum 40% of the width of the northern wall (façade) width in the multi-media room.
- Garden bed: The landscaping and plantings within the garden bed immediately in front of the bathroom and east of the new car space must be improved with the establishment of additional groundcovers and shrubs/screening plants to facilitate an appropriate outlook and balanced presentation and to offset the car space.
- Privacy treatments to enclosed space (office/sun room): The western window (W05) of the enclosed space (office/sun room) on the terrace, must have a minimum sill height of 1.6m (measured from the floor level) and feature internal blinds/sheer curtains or internal or external adjustable louvres and/or tinting/frosted glazing to provide some privacy to this space and to adjoining properties.



Plans and specifications which comply with the above 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 resolve any safety issues associated with the new car space and to provide an improved landscaped presentation for the premises)

### **By-Laws**

G1. Prior to the release of any Occupation Certificate, the current By-Laws for the Strata Plan must be amended to capture the following:

- The restricted use of the new car space of Unit 6 as a space to be used for a small car only with accompanying signage. No part of a parked vehicle in this space, is to overhang Council's road reserve/footpath zone. The car space will form part of Lot 6 (Unit 6) and the ongoing maintenance of this car space will solely be the responsibility of the owner/s of Lot 6 (Unit 6).
- The exclusive use of the terrace by Unit 6 (Lot 6), which would reasonably anticipate the use of this space and any cooking, odour and noise generated from the terrace use, are appropriately referenced in terms of the By-Laws and updated Strata Plans. The owner/s of Lot 6 (Unit 6) must ensure cooking smoke, air, odour and noise emissions from the use of the terrace are minimised.

The updated By-Laws must be provided to the Certifying Authority and must be provided to Council in-conjunction with the Final Occupation Certificate.

(Reason: To ensure By-Laws reflect the approved development)

### **Strata Plan to be updated**

G2. The Strata Plan is to be updated to reflect the approved development, prior to the issue of the final Occupation Certificate.

(Reason: To ensure the use of communal space and unit entitlement are clarified)

### **Registered Plans (Strata)**

K1. The current Strata Plans must be updated, registered and provided to Council to reflect the approved development including the new car space and enclosed/roof structures on the terrace. The new and registered Strata Plans must indicate the restricted use of the new car space of Unit 6 as a space to be used for a small car only with accompanying signage. The car space will form part of Lot 6 (Unit 6) and the ongoing maintenance of this car space will solely be the responsibility of the owner/s of Lot 6 (Unit 6). No part of a parked vehicle in this space, is to overhang Council's road reserve/footpath zone.

The applicant must submit to Council's documentary evidence that the Strata Plan has been registered and the lot(s) exists. The use of the premise must not commence until the documentary evidence has been submitted to and approved by Council.

(Reason: To ensure that the allotments of land are created prior to the commencement of the approved use)

**MIGUEL RIVERA**  
**A/TEAM LEADER (ASSESSMENTS)**

**STEPHEN BEATTIE**  
**MANAGER DEVELOPMENT SERVICES**

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**NORTH SYDNEY COUNCIL**  
**CONDITIONS OF DEVELOPMENT APPROVAL**  
**UNIT 6, 19 BELMONT AVENUE, WOLLSTONECRAFT**  
**DEVELOPMENT APPLICATION NO. 112/23**

**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 endorsed with Council's approval stamp and other documentation listed in the table to this clause, or cited by other conditions, and as amended by other conditions of this consent.

<b>Plan No.</b>	<b>Issue</b>	<b>Description</b>	<b>Prepared by</b>	<b>Dated</b>
DA-02	H	Site Analysis and Proposed Site Plan	Wray and Cutcliffe Architects	15 June 2023
DA-05	H	Proposed Unit 6 Floor Plan	Wray and Cutcliffe Architects	15 June 2023
DA-06	H	Proposed Unit 6 Roof Plan	Wray and Cutcliffe Architects	15 June 2023
DA-07	H	Proposed Western Elevation	Wray and Cutcliffe Architects	15 June 2023
DA-08	H	Proposed Southern Elevation	Wray and Cutcliffe Architects	15 June 2023
DA-09	H	Proposed Northern (Street) Elevation	Wray and Cutcliffe Architects	15 June 2023
DA-10	H	Proposed Section	Wray and Cutcliffe Architects	15 June 2023
DA-16	H	Concept Model Views	Wray and Cutcliffe Architects	15 June 2023
DA-17	H	Door and Window Schedule	Wray and Cutcliffe Architects	15 June 2023

(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 Certifier.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the Principal Certifier 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)

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**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)

**C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)*****Design Changes – New Parking Space, Multi-media Room and Privacy Treatments to Enclosed Space**

C1. The final construction plans must be amended to incorporate the following design changes:

- Safety barrier: A barrier must be provided along the western edge/perimeter of the new parking space for Unit 6. This barrier must be designed:
  - To contain a small vehicle on the car space on any portion that is raised and has a fall of more than 600mm.
  - To comply with the relevant BCA/NCC requirements.
  - Structurally, in accordance with the loading requirements of AS/NZS 1170.1.
  - To not be made from brickwork, unreinforced concrete, or other materials likely to shatter on impact.
  - Minimal in design and presentation from the street and comprising of materials, finishes and colouration that are complementary to the existing building. An example of a barrier design is a single metal rail with a height of 900mm above the existing levels of the car space.
- Separate access via multi-media room: Any separate access from the front setback/Belmont Avenue into the Unit 6 must be deleted completely. This includes the access/external doors into the multi-media room. Any openings facing Belmont Avenue must be modified to windows with a minimum sill height of 1.2m. Alternatively, a small access door can be provided on the eastern side of the northern wall (façade) of the multi-media room. As much as practicable, this door must be situated away from the parking space to minimise potential safety issues and the door must only comprise of a maximum 40% of the width of the northern wall (façade) width in the multi-media room.
- Garden bed: The landscaping and plantings within the garden bed immediately in front of the bathroom and east of the new car space must be improved with the establishment of additional groundcovers and shrubs/screening plants to facilitate an appropriate outlook and balanced presentation and to offset the car space.

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- Privacy treatments to enclosed space (office/sun room): The western window (W05) of the enclosed space (office/sun room) on the terrace, must have a minimum sill height of 1.6m (measured from the floor level) and feature internal blinds/sheer curtains or internal or external adjustable louvres and/or tinting/frosted glazing to provide some privacy to this space and to adjoining properties.

Plans and specifications which comply with the above 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 resolve any safety issues associated with the new car space and to provide an improved landscaped presentation for the premises)

**Dilapidation Report Damage to Public Infrastructure**

- C2. 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 Principal Certifier 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 Principal Certifier with submission of the Construction Certificate documentation.

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

**Dilapidation Survey Private Property (Neighbouring Buildings)**

- C3. A photographic survey and dilapidation report of adjoining properties Units 1 to 10, 19 Belmont Avenue, Wollstonecraft 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, MUST BE submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person and a copy to be given to the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Principal Certifier, prior to the issue of any Construction Certificate.



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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)

**Structural Adequacy of Existing Building**

- C4. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Principal Certifier for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

**Sediment Control**

- C5. 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.

An Erosion and Sediment Control Plan must be prepared and submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate and prior to any works commencing. The Erosion and 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;

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- 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 Principal Certifier 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**

- C6. A Waste Management Plan is to be submitted for approval by the Principal Certifier 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)

**External Colours and Finishes**

- C7. The external colours and finishes shall match those as existing and/or be compatible with surrounding development. A schedule of external colours and finishes must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier 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 the completed colours and finishes of the works are compatible with surrounding development)

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**Work Zone**

- C8. If a Work Zone is required a Work Zone permit is to be obtained from Council prior to the issue of any Construction Certificate.

**Note:** For major development an application for work zone permit must be considered by the North Sydney Local Traffic Committee.

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. Works 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 Works 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 Principal Certifier 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)

**Stormwater Disposal**

- C9. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the NCC and current plumbing standards and guidelines. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier 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 appropriate provision for disposal and stormwater management arising from the development)

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

- C10. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$5,000.00 to be held by Council for the payment of cost for any/all of the following:

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- 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.
- d) Council reserves the right to retain all bonds on infrastructure works relating to the completion of required Infrastructure work for a 12-month defect liability period. Council may elect to provide a lesser period for minor residential work.

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 Development Engineers or Manager of Development Services.

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 Principal Certifier 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)

**Section 7.12 Contributions**

- C11. 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.



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Based on the cost of development at the date of determination, the total contribution payable to Council is \$2,634.41.

**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](http://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**

C12. 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:

<b>Security Deposit/Guarantee</b>	<b>Amount (\$)</b>
Footpath Damage Bond	\$5,000.00
<b>TOTAL BONDS</b>	<b>\$5,000.00</b>

Note: The following fees applicable

<b>Fees</b>	
Section 7.12 Contributions	\$2,634.41
<b>TOTAL FEES</b>	<b>\$2,634.41</b>

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)

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**BASIX Certificate**

C13. Under clause 75 of the Environmental Planning and Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A473636\_03 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier 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)

**D. Prior to the Commencement of any Works (and continuing where indicated)****Public Liability Insurance - Works on Public Land**

D1. 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)

**Commencement of Works' Notice**

D2. 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****Parking Restrictions**

- E1. 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**

- E2. 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)

**Temporary Disposal of Stormwater Runoff**

- E3. 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 Principal Certifier.

(Reason: Stormwater control during construction)

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**Removal of Extra Fabric**

- E4. 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**

- E5. 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**

- E6. 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)

**Applicant's Cost of Work on Council Property**

- E7. The applicant or the person, company or other entity that is acting upon this consent, 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)



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**No Removal of Trees on Public Property**

- E8. 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**

- E9. 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.

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)

**Special Permits**

- E10. 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**

E11. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

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Standard Construction Hours		
Location	Day	Hours
All zones (Excl. B3 Commercial Core and B4 Mixed use zone)	Monday - Friday	7.00am - 5.00pm
	Saturday	8.00am - 1.00pm
	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

E12. 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 4.55 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

**U6, 19 BELMONT AVENUE, WOLLSTONECRAFT  
DEVELOPMENT APPLICATION NO. 112/23**

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- 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](http://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**

E13. 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**

E14. 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**

E15. 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](http://www.workcover.nsw.gov.au).

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



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DEVELOPMENT APPLICATION NO. 112/23**

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**Health and Safety**

- E16. 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](http://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**

- E17. 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**

- E18. 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](http://www.northsydney.nsw.gov.au).

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

**Waste Disposal**

- E19. 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)

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DEVELOPMENT APPLICATION NO. 112/23**

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**Asbestos Removal**

- E20. 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 Certifier 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 Certifier for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

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DEVELOPMENT APPLICATION NO. 112/23**

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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 Certifier (PC)**

F3. Building work, **demolition** or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifier 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 Certifier appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

**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 Certifier.

(Reason: Statutory)

**U6, 19 BELMONT AVENUE, WOLLSTONECRAFT  
DEVELOPMENT APPLICATION NO. 112/23**Page 19 of 24

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**Commencement of Works**

- F7. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two (2) days' notice to North Sydney Council of the person's intention to commence the erection of the building.

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

**Excavation/Demolition**

- F8. 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**

- F9. 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.

**U6, 19 BELMONT AVENUE, WOLLSTONECRAFT  
DEVELOPMENT APPLICATION NO. 112/23**

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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**

- F10. 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 Certifier 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***

**By-Laws**

- G1. Prior to the release of any Occupation Certificate, the current By-Laws for the Strata Plan must be amended to capture the following:
- The restricted use of the new car space of Unit 6 as a space to be used for a small car only with accompanying signage. No part of a parked vehicle in this space, is to overhang Council's road reserve/footpath zone. The car space will form part of Lot 6 (Unit 6) and the ongoing maintenance of this car space will solely be the responsibility of the owner/s of Lot 6 (Unit 6).
  - The exclusive use of the terrace by Unit 6 (Lot 6), which would reasonably anticipate the use of this space and any cooking, odour and noise generated from the terrace use, are appropriately referenced in terms of the By-Laws and updated Strata Plans. The owner/s of Lot 6 (Unit 6) must ensure cooking smoke, air, odour and noise emissions from the use of the terrace are minimised.



**U6, 19 BELMONT AVENUE, WOLLSTONECRAFT  
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The updated By-Laws must be provided to the Certifying Authority and must be provided to Council in-conjunction with the Final Occupation Certificate.

(Reason: To ensure By-Laws reflect the approved development)

**Strata Plan to be updated**

G2. The Strata Plan is to be updated to reflect the approved development, prior to the issue of the final Occupation Certificate.

(Reason: To ensure the use of communal space and unit entitlement are clarified)

**Infrastructure Repair and Completion of Works**

G3. 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. Council's development engineer must be contacted to arrange inspections of the completed works in the Public Domain.

(Reason: Maintain quality of public assets)

**Damage to Adjoining Properties**

G4. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

**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)

**U6, 19 BELMONT AVENUE, WOLLSTONECRAFT  
DEVELOPMENT APPLICATION NO. 112/23**Page 22 of 24

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**BASIX Completion Certificate**

- G6. In accordance with Section 45 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, prior to issuing a final occupation certificate, the Principal Certifier must provide a BASIX completion receipt.

(Reason: To ensure compliance with the Regulations)

**Landscaping**

- G7. The landscaping approved by this consent, must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

**Damage to Adjoining Properties**

- G8. 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 Principal Certifier (and a copy to Council if it is not the Principal Certifier) 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 Principal Certifier in accordance with this consent.

A copy of the report and certification required by this condition must be submitted to Council with the Final Occupation Certificate. All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To record the condition of adjoining properties prior to completion of the development and to facilitate claims against damage)

**U6, 19 BELMONT AVENUE, WOLLSTONECRAFT  
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***I. Ongoing/Operational Conditions*****Single Occupancy**

- I1. Nothing in this consent authorises the use of the premises (Unit 6) other than for a single occupancy.

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

***K. Prior to the Issue of any Strata Certificate*****Registered Plans (Strata)**

- K1. The current Strata Plans must be updated, registered and provided to Council to reflect the approved development including the new car space and enclosed/roof structures on the terrace. The new and registered Strata Plans must indicate the restricted use of the new car space of Unit 6 as a space to be used for a small car only with accompanying signage. The car space will form part of Lot 6 (Unit 6) and the ongoing maintenance of this car space will solely be the responsibility of the owner/s of Lot 6 (Unit 6). No part of a parked vehicle in this space, is to overhang Council's road reserve/footpath zone.

The applicant must submit to Council's documentary evidence that the Strata Plan has been registered and the lot(s) exists. The use of the premise must not commence until the documentary evidence has been submitted to and approved by Council.

(Reason: To ensure that the allotments of land are created prior to the commencement of the approved use)

**Release of Strata Certificate**

- K2. The Strata Certificate that authorises registration of the Strata Plan, Strata Plan of Subdivision or Notice of Conversion at NSW Land and Property Information shall not be issued until bounding walls, floors and ceilings between proposed strata lots have been constructed in accordance with the approved plans identified in Condition A1 of this Consent.

(Reason: To ensure that the registered strata plan relates to approved development)

**Allocation of Parking and Visitor Parking**

- K3. Car-parking provided must only be used in conjunction with the units and tenancies contained within the development. Any carparking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement.

**U6, 19 BELMONT AVENUE, WOLLSTONECRAFT  
DEVELOPMENT APPLICATION NO. 112/23**

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The converted garage space and the new car space of Lot 6 (Unit 6) shall be reflected on Strata Certificate to capture the revised allocation of car spaces. The new car space of Lot 6 (Unit 6) must be for a small car only with accompanying signage. The car space will form part of Lot 6 (Unit 6) and the ongoing maintenance of this car space will solely be the responsibility of the owner/s of Lot 6 (Unit 6). No part of a parked vehicle in this space, is to overhang Council's road reserve/footpath zone.

The remaining car spaces for other Lots/Units and any visitor spaces within the premises remain unchanged by this consent.

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

In the case of Strata subdivision any carparking 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 Owners Corporation for use by building visitors.

(Reason: To ensure consistency with this consent and that adequate parking facilities to service the development are provided on site)





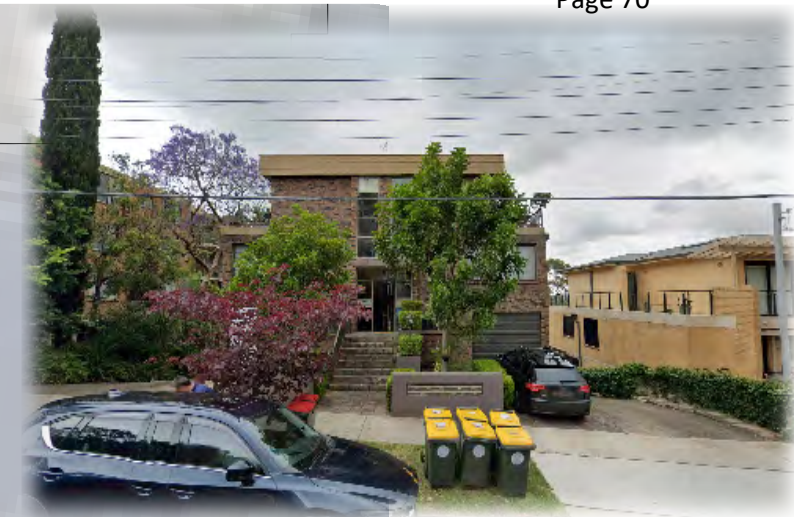
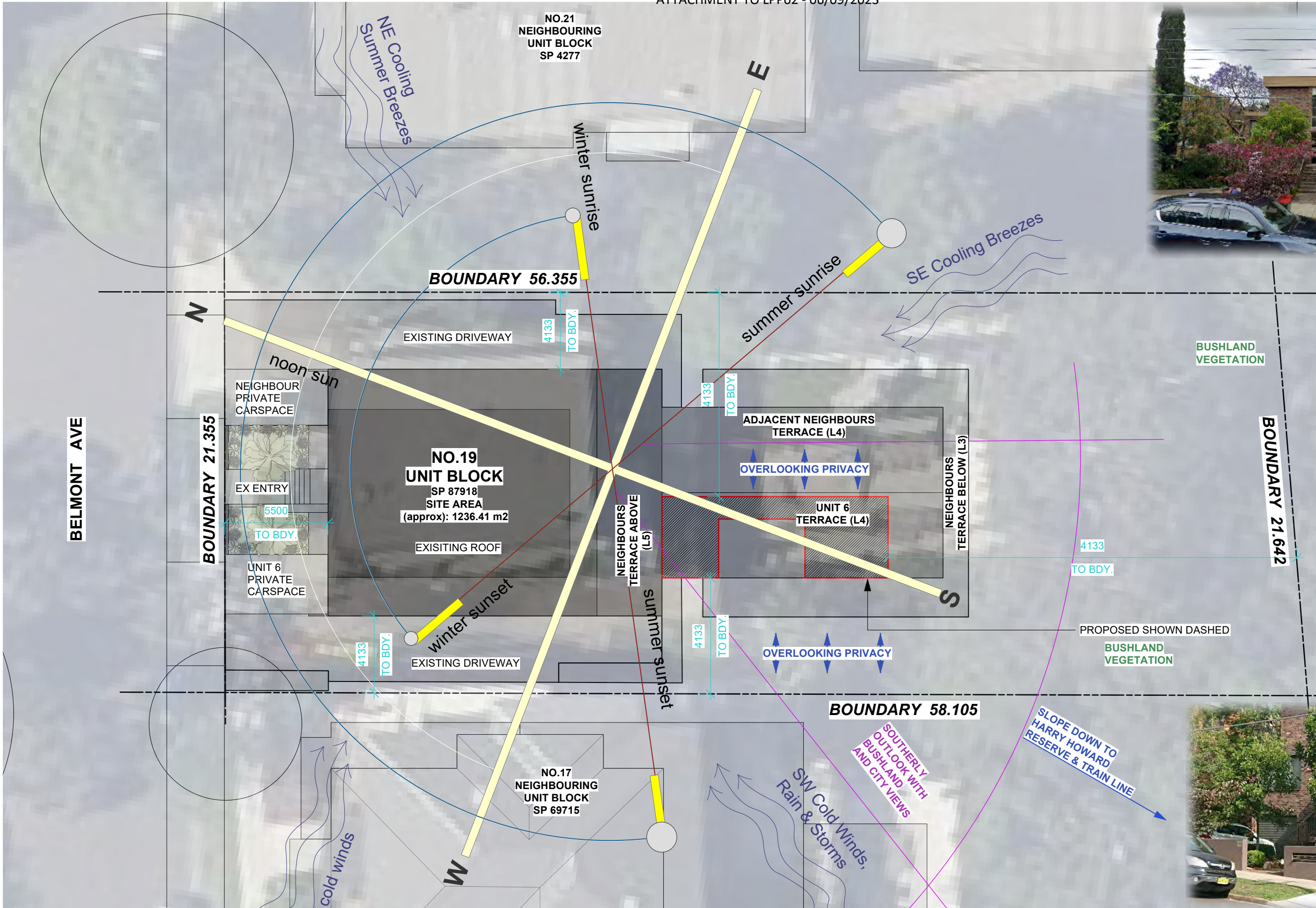


IMAGE - GOOGLE MAPS STREET VIEW



IMAGE - STREET PERSPECTIVE UNIT CARSPACE + GARAGE

1 Existing Site Analysis & Plan  
Scale: 1:200



**WRAY AND CUTCLIFFE**  
ARCHITECTS  
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**Rosenbach Unit Alts & Adds**  
TITLE Site Analysis & Proposed Site Plan  
CLIENT Roland Rosenbach  
AT Unit 6, 19 Belmont Ave, Wollstonecraft, 2065, Lot A, DP 317569

DATE 16/06/2023  
SCALE AS NOTED  
DRAWN JGW/DY  
JOB NO. #2202

DWG  
**DA - 02**  
ISSUE H

Issue	Description	Date
H	DA - REVISIONS	15/06/2023
G	Development Application 2.0	23.11.2022
F	DA Submission	04.10.2022
E	Development Application - FINAL	28.09.2022
D	Development Application - For Review	25.08.2022

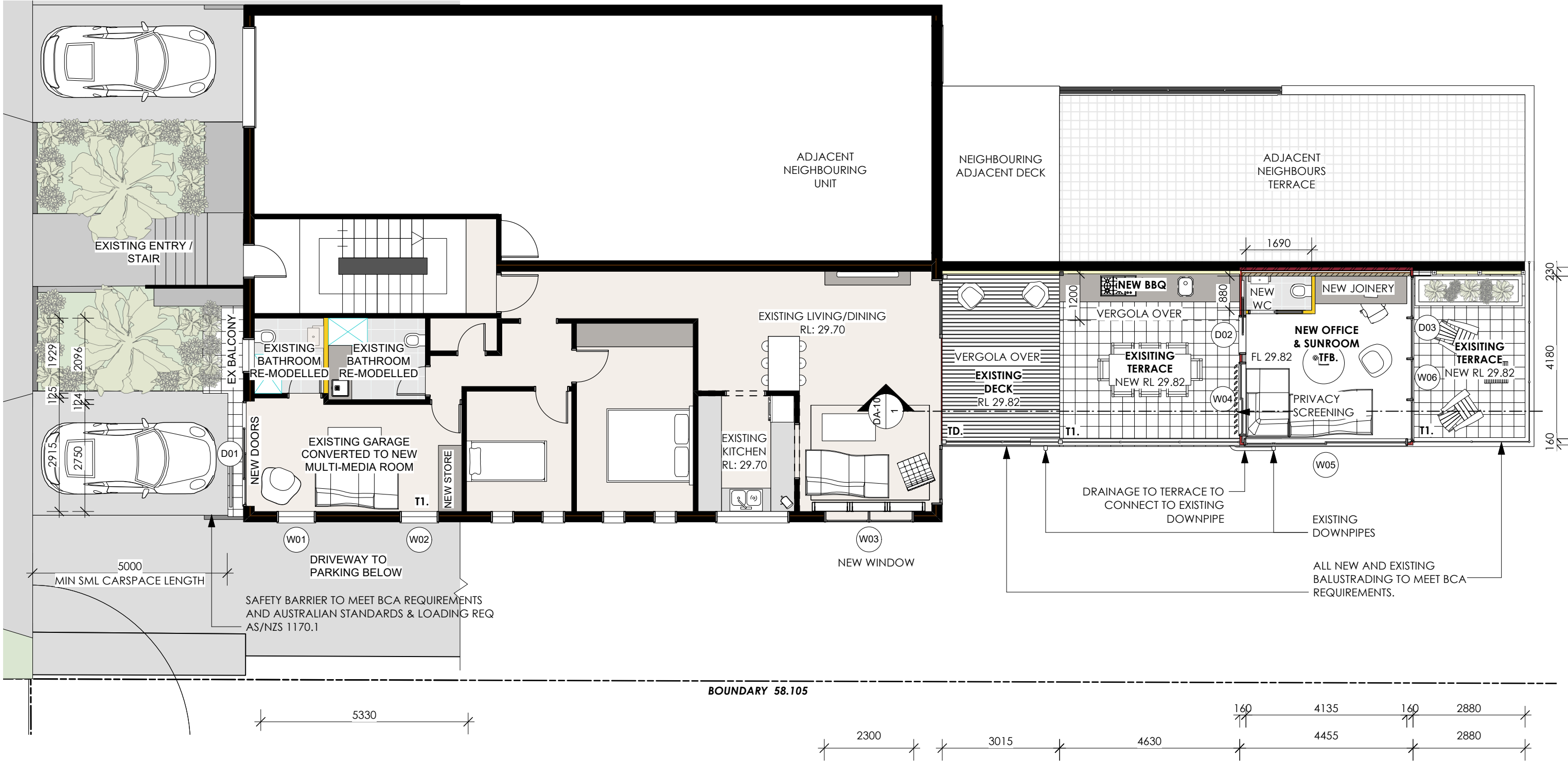


**WALL LEGEND:**

<b>WT01</b>		BRICK VENEER
<b>WT02</b>		INTERNAL TIMBER
<b>WT03</b>		TIMBER FEATURE CLADDING
<b>WT04</b>		NEW PROPOSED
		EXISTING

**LEGEND:**

<b>MR.</b>	METAL ROOF	<b>TFB.</b>	TIMBER FLOORBOARDS
<b>GU.</b>	GUTTER	<b>T1.</b>	TILES
<b>DP.</b>	DOWNPIPE	<b>GL.</b>	GLAZING
<b>IM.</b>	VERTICAL CLADDING	<b>BL.</b>	GLASS BALUSTRADE
<b>TIM.</b>	TIMBER LOOK FEATURE WALL	<b>SH.</b>	SUN HOOD AWNING
<b>TD.</b>	TIMBER DECKING	<b>REN.</b>	RENDER



**1 Proposed Floor Plan**  
Scale: 1:100



**WRAY AND CUTCLIFFE**  
ARCHITECTS  
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\* All work in accordance to BCA - N.C.C. Australian Standards & all relevant authorities.  
\* Waterproof/ Weatherproofing Details to Master Builders Industry Guidelines and to meet performance standards as well as Australian Standards.

**Rosenbach Unit Alts & Adds**

**TITLE** Proposed Unit 6 Floor Plan  
**CLIENT** Roland Rosenbach  
**AT** Unit 6, 19 Belmont Ave, Wollstonecraft, 2065, Lot A, DP 317569

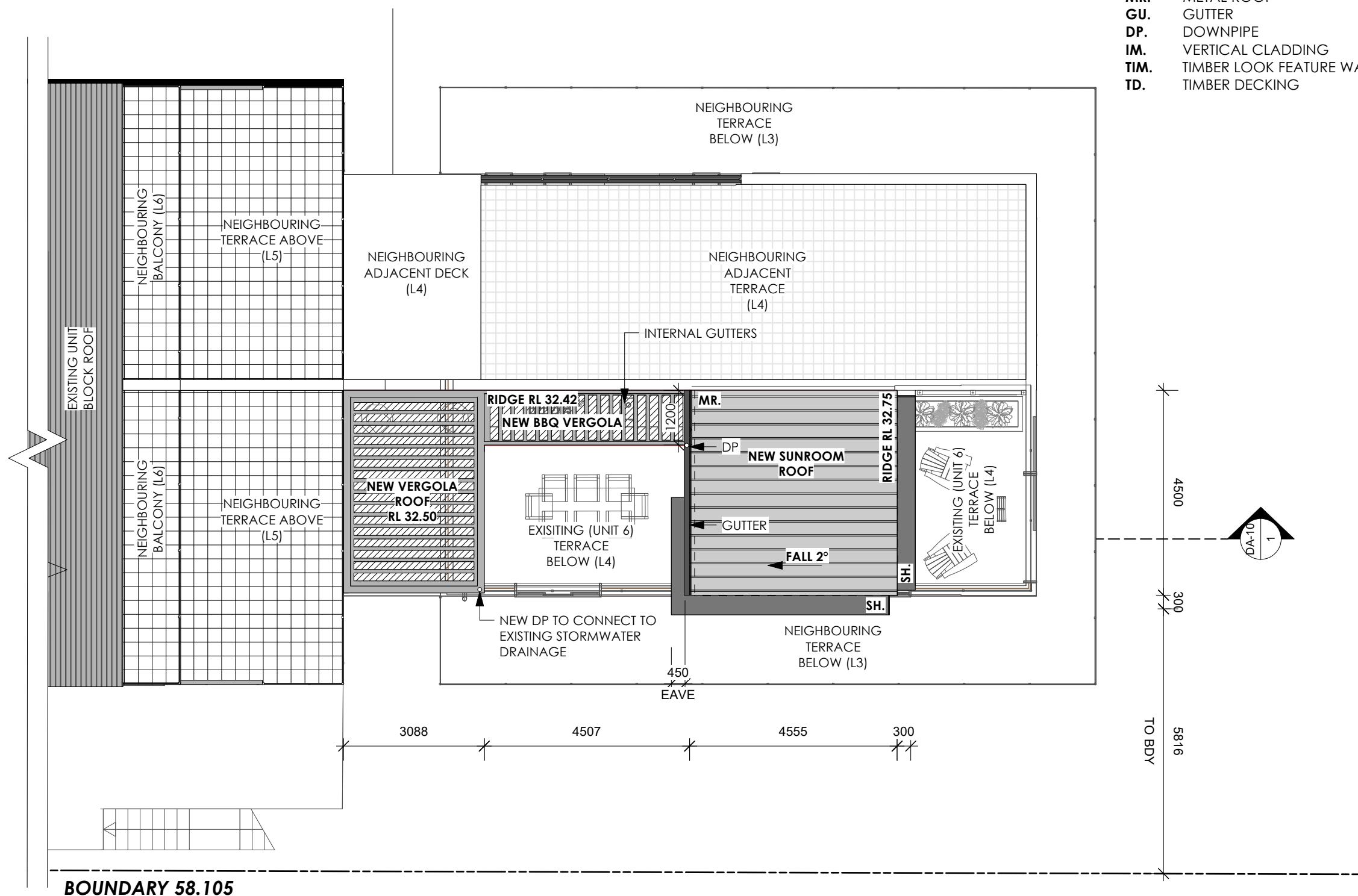
**DATE** 16/06/2023  
**SCALE** AS NOTED  
**DRAWN** JGW/DY  
**JOB NO.** #2202

**DWG**  
**DA - 05**  
**ISSUE H**

Issue	Description	Date
H	DA - REVISIONS	15/06/2023
G	Development Application 2.0	23.11.2022
F	DA Submission	04.10.2022
E	Development Application - FINAL	28.09.2022
D	Development Application - For Review	25.08.2022

**LEGEND:**

- |             |                          |             |                    |
|-------------|--------------------------|-------------|--------------------|
| <b>MR.</b>  | METAL ROOF               | <b>TFB.</b> | TIMBER FLOORBOARDS |
| <b>GU.</b>  | GUTTER                   | <b>T1.</b>  | TILES              |
| <b>DP.</b>  | DOWNPIPE                 | <b>GL.</b>  | GLAZING            |
| <b>IM.</b>  | VERTICAL CLADDING        | <b>BL.</b>  | GLASS BALUSTRADE   |
| <b>TIM.</b> | TIMBER LOOK FEATURE WALL | <b>SH.</b>  | SUN HOOD AWNING    |
| <b>TD.</b>  | TIMBER DECKING           | <b>REN.</b> | RENDER             |



1 Proposed Roof Plan  
Scale: 1:100



**WRAY AND CUTCLIFFE**  
ARCHITECTS  
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\* All work in accordance to BCA - N.C.C. Australian Standards & all relevant authorities.  
\* Waterproof/ Weatherproofing Details to Master Builders Industry Guidelines and to meet performance standards as well as Australian Standards.

**Rosenbach Unit Alts & Adds**  
**TITLE** Proposed Unit 6 Roof Plan  
**CLIENT** Roland Rosenbach  
**AT** Unit 6, 19 Belmont Ave, Wollstonecraft, 2065, Lot A, DP 317569

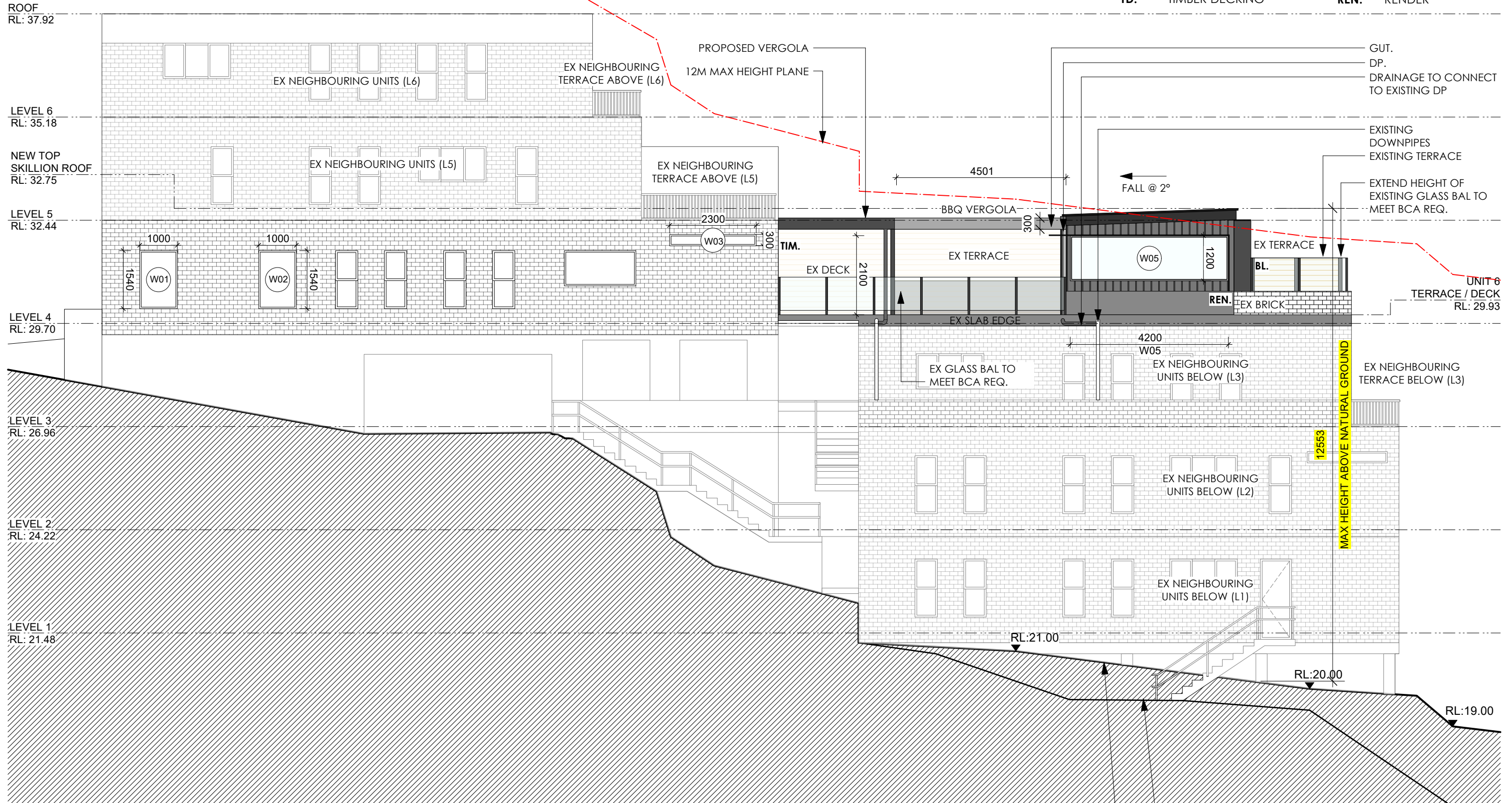
**DATE** 16/06/2023  
**SCALE** AS NOTED  
**DRAWN** JGW/DY  
**JOB NO.** #2202

**DWG**  
**DA - 06**  
**ISSUE H**

Issue	Description	Date
H	DA - REVISIONS	15/06/2023
G	Development Application 2.0	23.11.2022
F	DA Submission	04.10.2022
E	Development Application - FINAL	28.09.2022
D	Development Application - For Review	25.08.2022

**LEGEND:**

<b>MR.</b>	METAL ROOF	<b>TFB.</b>	TIMBER FLOORBOARDS
<b>GU.</b>	GUTTER	<b>T1.</b>	TILES
<b>DP.</b>	DOWNPIPE	<b>GL.</b>	GLAZING
<b>IM.</b>	VERTICAL CLADDING	<b>BL.</b>	GLASS BALUSTRADE
<b>TIM.</b>	TIMBER LOOK FEATURE WALL	<b>SH.</b>	SUN HOOD AWNING
<b>TD.</b>	TIMBER DECKING	<b>REN.</b>	RENDER



**1 Proposed Western Elevation**  
Scale: 1:100

**WRAY AND CUTCLIFFE ARCHITECTS**  
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 m: 0421 755 086

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 \* Waterproof/ Weatherproofing Details to Master Builders Industry Guidelines and to meet performance standards as well as Australian Standards.

**Rosenbach Unit Alts & Adds**

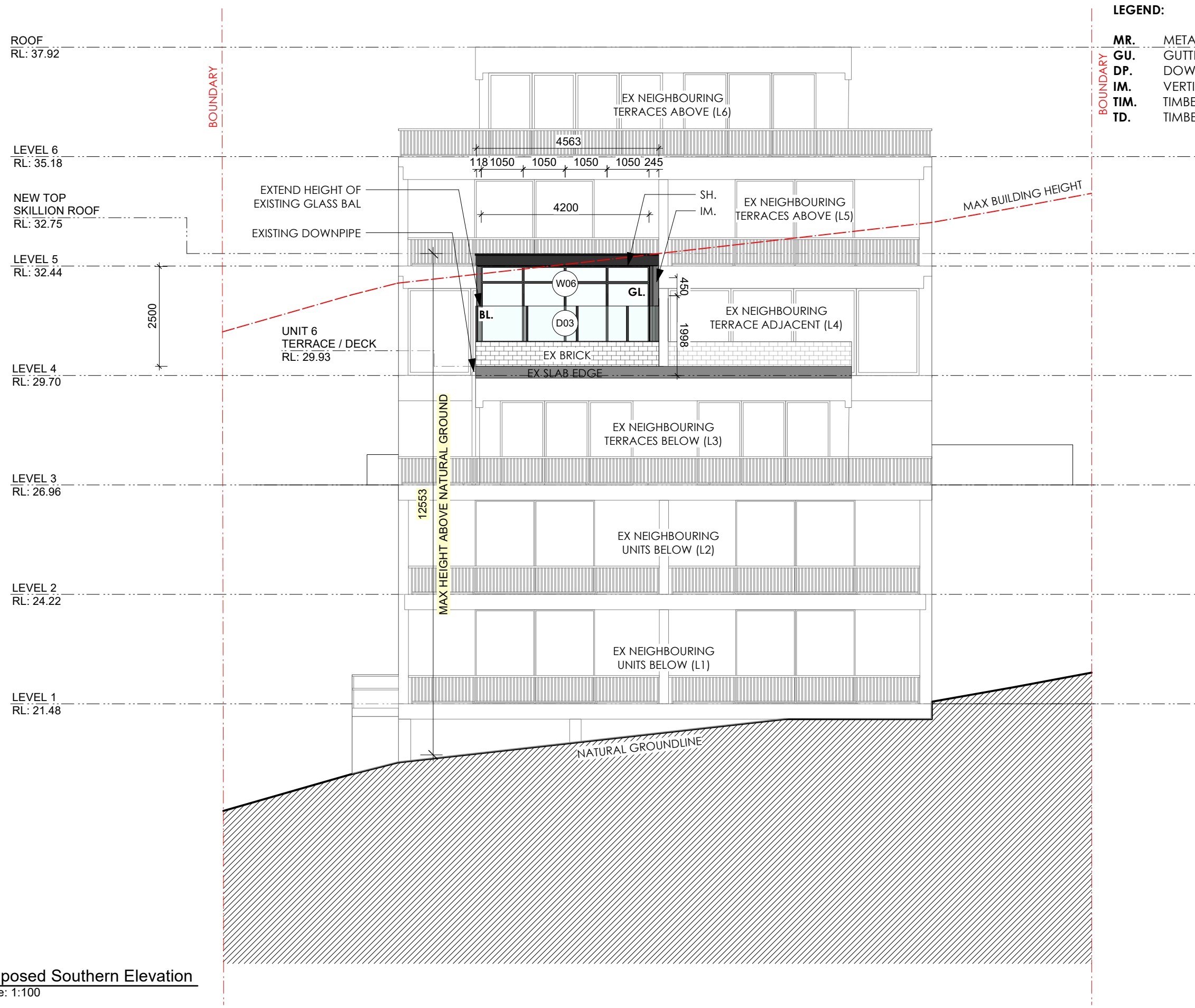
**TITLE** Proposed Western Elevation  
**CLIENT** Roland Rosenbach  
**AT** Unit 6, 19 Belmont Ave, Wollstonecraft, 2065, Lot A, DP 317569

**DATE** 16/06/2023  
**SCALE** AS NOTED  
**DRAWN** JGW/DY  
**JOB NO.** #2202

**DWG**  
**DA - 07**  
**ISSUE H**

Issue	Description	Date
H	DA - REVISIONS	15/06/2023
G	Development Application 2.0	23.11.2022
F	DA Submission	04.10.2022
E	Development Application - FINAL	28.09.2022
D	Development Application - For Review	25.08.2022

NATURAL GROUND LINE ON WESTERN BOUNDARY  
 NATURAL GROUND LINE AT WESTERN ELEVATION OF PROPOSED VERGOLA - CALCULATED VIA CONTOURS.



**LEGEND:**

<b>MR.</b>	METAL ROOF	<b>TFB.</b>	TIMBER FLOORBOARDS
<b>GU.</b>	GUTTER	<b>T1.</b>	TILES
<b>DP.</b>	DOWNPIPE	<b>GL.</b>	GLAZING
<b>IM.</b>	VERTICAL CLADDING	<b>BL.</b>	GLASS BALUSTRADE
<b>TIM.</b>	TIMBER LOOK FEATURE WALL	<b>SH.</b>	SUN HOOD AWNING
<b>TD.</b>	TIMBER DECKING	<b>REN.</b>	RENDER

1 Proposed Southern Elevation  
Scale: 1:100

**WRAY AND CUTCLIFFE**  
ARCHITECTS  
e: jessica@wacarchitects.com.au • e: alice@wacarchitects.com.au  
m: 0421 755 086 m: 0424 561 309

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**Rosenbach Unit Alts & Adds**

**TITLE** Proposed Southern Elevation  
**CLIENT** Roland Rosenbach  
**AT** Unit 6, 19 Belmont Ave, Wollstonecraft, 2065, Lot A, DP 317569

**DATE** 16/06/2023  
**SCALE** AS NOTED  
**DRAWN** JGW/DY  
**JOB NO.** #2202

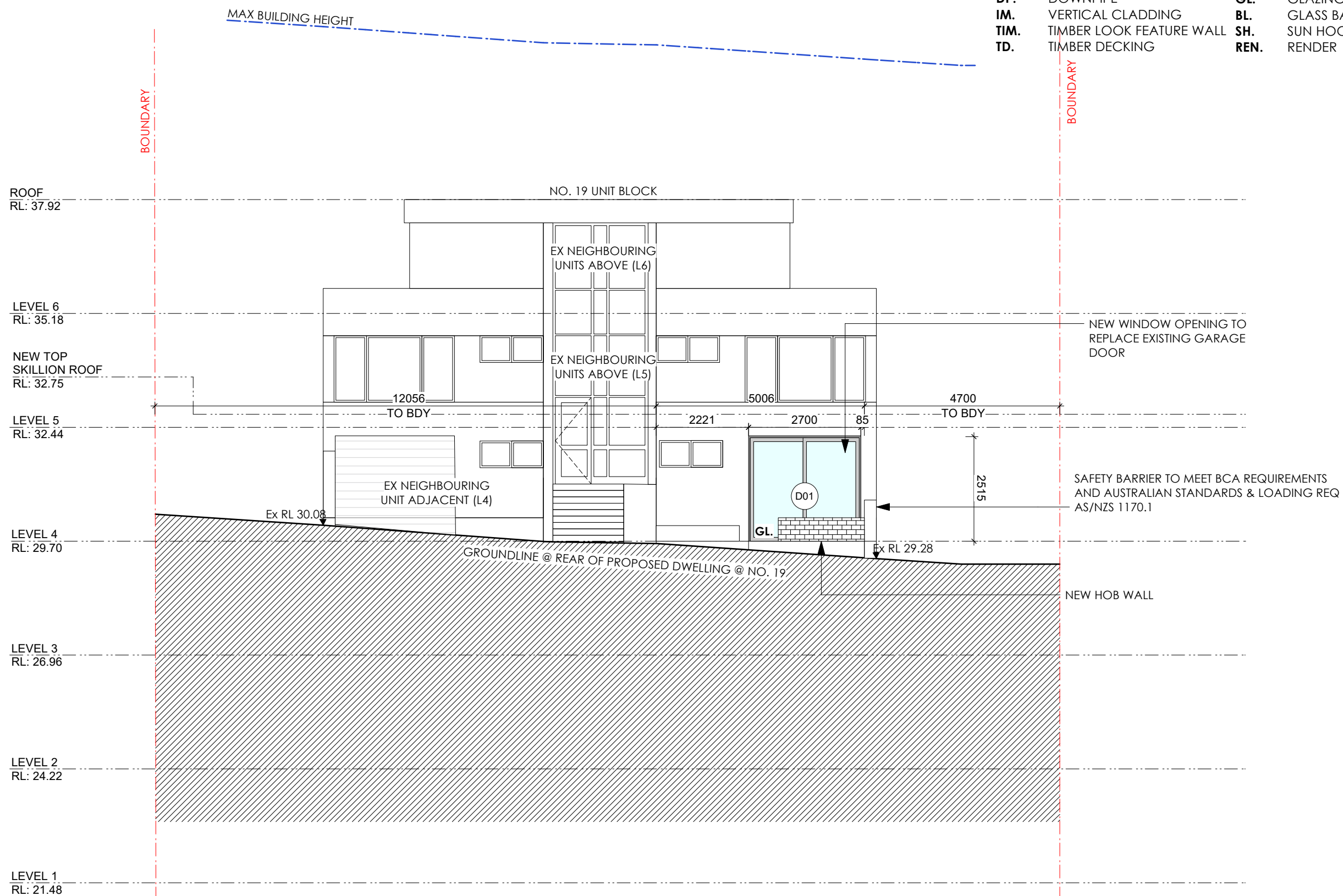
DWG  
**DA - 08**  
**ISSUE H**

Issue	Description	Date
H	DA - REVISIONS	15/06/2023
G	Development Application 2.0	23.11.2022
F	DA Submission	04.10.2022
E	Development Application - FINAL	28.09.2022
D	Development Application - For Review	25.08.2022



**LEGEND:**

<b>MR.</b>	METAL ROOF	<b>TFB.</b>	TIMBER FLOORBOARDS
<b>GU.</b>	GUTTER	<b>T1.</b>	TILES
<b>DP.</b>	DOWNPIPE	<b>GL.</b>	GLAZING
<b>IM.</b>	VERTICAL CLADDING	<b>BL.</b>	GLASS BALUSTRADE
<b>TIM.</b>	TIMBER LOOK FEATURE WALL	<b>SH.</b>	SUN HOOD AWNING
<b>TD.</b>	TIMBER DECKING	<b>REN.</b>	RENDER



1 Proposed Northern Elevation  
Scale: 1:100

**WRAY AND CUTCLIFFE**  
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m: 0421 755 086

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**Rosenbach Unit Alts & Adds**

**TITLE** Proposed Northern (Street) Elevation  
**CLIENT** Roland Rosenbach  
**AT** Unit 6, 19 Belmont Ave, Wollstonecraft, 2065, Lot A, DP 317569

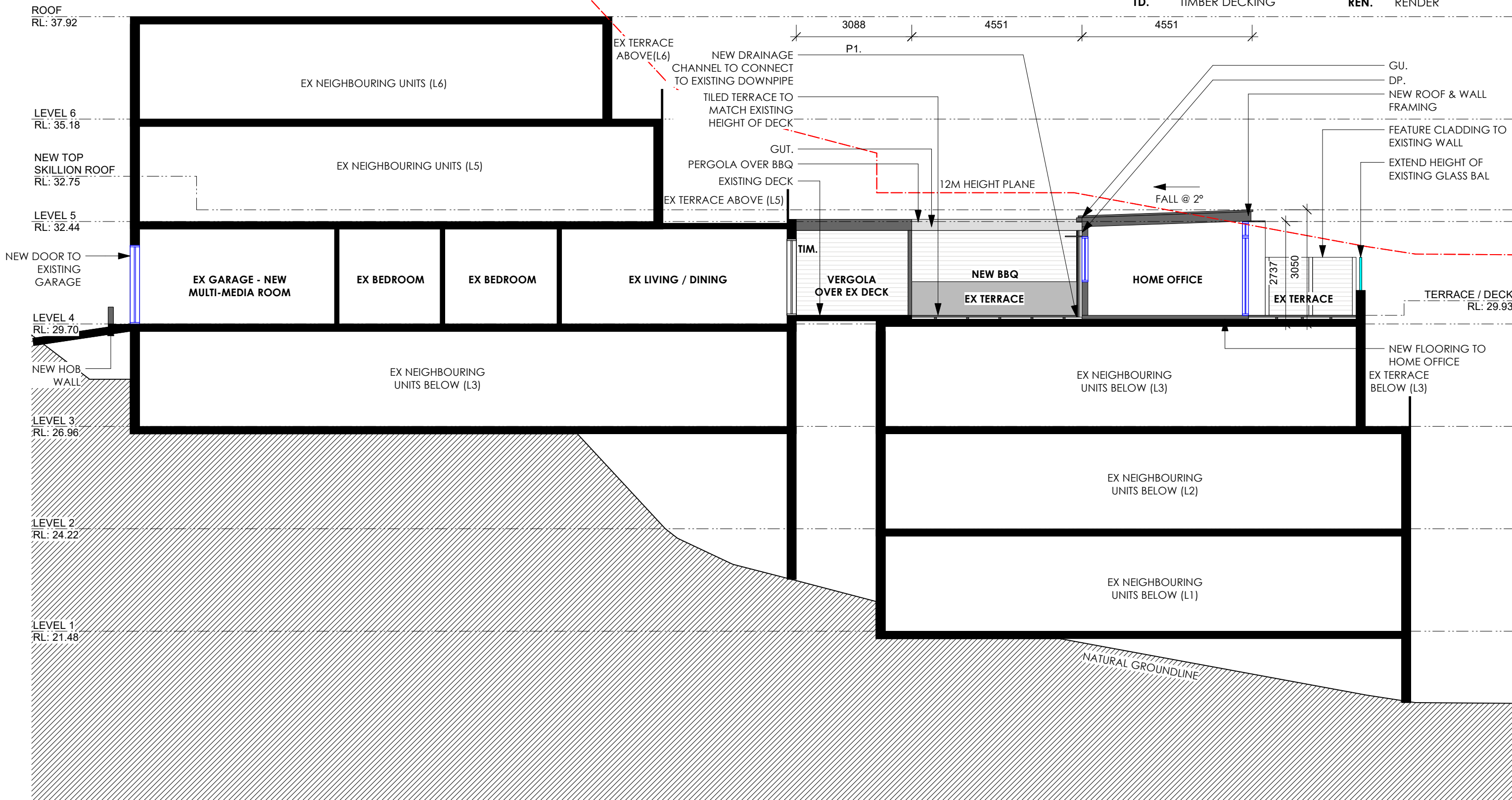
**DATE** 16/06/2023  
**SCALE** AS NOTED  
**DRAWN** JGW/DY  
**JOB NO.** #2202

DWG  
**DA - 09**  
ISSUE H

Issue	Description	Date
H	DA - REVISIONS	15/06/2023
G	Development Application 2.0	23.11.2022
F	DA Submission	04.10.2022
E	Development Application - FINAL	28.09.2022
D	Development Application - For Review	25.08.2022

**LEGEND:**

<b>MR.</b>	METAL ROOF	<b>TFB.</b>	TIMBER FLOORBOARDS
<b>GU.</b>	GUTTER	<b>T1.</b>	TILES
<b>DP.</b>	DOWNPIPE	<b>GL.</b>	GLAZING
<b>IM.</b>	VERTICAL CLADDING	<b>BL.</b>	GLASS BALUSTRADE
<b>TIM.</b>	TIMBER LOOK FEATURE WALL	<b>SH.</b>	SUN HOOD AWNING
<b>TD.</b>	TIMBER DECKING	<b>REN.</b>	RENDER



1 Proposed Section  
Scale: 1:100

**WRAY AND CUTCLIFFE**  
ARCHITECTS  
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**Rosenbach Unit Alts & Adds**

<b>TITLE</b>	Proposed Section
<b>CLIENT</b>	Roland Rosenbach
<b>AT</b>	Unit 6, 19 Belmont Ave, Wollstonecraft, 2065, Lot A, DP 317569

<b>DATE</b>	16/06/2023
<b>SCALE</b>	AS NOTED
<b>DRAWN</b>	JGW/DY
<b>JOB NO.</b>	#2202

DWG  
**DA - 10**  
ISSUE H

Issue	Description	Date
H	DA - REVISIONS	15/06/2023
G	Development Application 2.0	23.11.2022
F	DA Submission	04.10.2022
E	Development Application - FINAL	28.09.2022
D	Development Application - For Review	25.08.2022

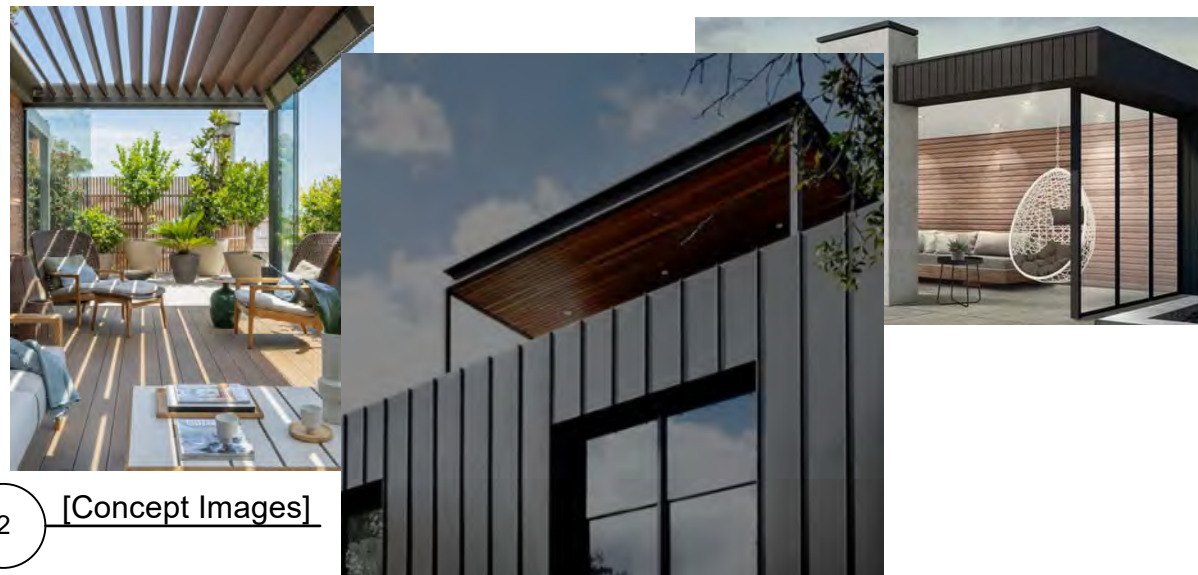




1 [Overall Perspective]



4 [Interior Perspective]



2 [Concept Images]



3 [Rear Perspective]



5 [Side Perspective]

  
**WRAY AND CUTCLIFFE**  
 ARCHITECTS  
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 m: 0421 755 086

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**Rosenbach Unit Alts & Adds**

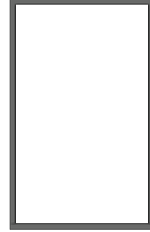
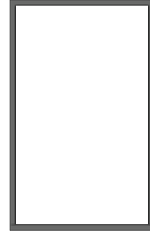




**TITLE** Concept Model Views  
**CLIENT** Roland Rosenbach  
**AT** Unit 6, 19 Belmont Ave, Wollstonecraft, 2065, Lot A, DP 317569

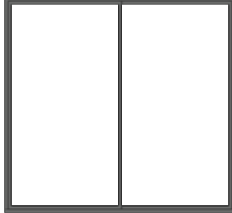


**DATE** 16/06/2023  
**SCALE** AS NOTED  
**DRAWN** JGW/DY  
**JOB NO.** #2202

DWG  
**DA - 16**  
 ISSUE H

Issue	Description	Date
H	DA - REVISIONS	15/06/2023
G	Development Application 2.0	23.11.2022
F	DA Submission	04.10.2022
E	Development Application - FINAL	28.09.2022
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WINDOWS					
Image	ID	Type	Height	Width	Orientation
	W01	Fixed Glass Window	1600	1000	W
	W02	Fixed Glass Window	1600	1000	W
	W03	Awning Hung Window	400	2300	W
	W04	Sliding Left Window	1200	1890	N
	W05	Sliding Left Window	1200	4200	W
	W06	Awning Hung Window	400	4250	S

DOORS					
Image	ID	Type	Height	Width	Orientation
	D01	Parallel Door System Right	2515	2700	N
	D02	Cavity Sliding Door	2100	1000	N Covered
	D03	Parallel Door System Left	2100	4250	S

### Rosenbach Unit Alts & Adds

**TITLE** Door & Window Schedule  
**CLIENT** Roland Rosenbach  
**AT** Unit 6, 19 Belmont Ave, Wollstonecraft, 2065, Lot A, DP 317569

**DATE** 16/06/2023  
**SCALE** AS NOTED  
**DRAWN** JGW/DY  
**JOB NO.** #2202

DWG  
**DA - 17**  
 ISSUE H

Issue	Description	Date
H	DA - REVISIONS	15/06/2023
G	Development Application 2.0	23.11.2022
F	DA Submission	04.10.2022
E	Development Application - FINAL	28.09.2022
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# Application to Vary a Development Standard

Unit 6, 19 Belmont Ave, Wollstonecraft

The purpose of this submission is to formally request a variation to the Height of Buildings control pursuant to Clause 4.6 of the North Sydney LEP 2013.

## 1. What is the name of the environmental instrument that applies to the land?

*North Sydney LEP 2013*

## 2. What is the zoning?

R4 High Density Residential

## 3. What are the objectives of the 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

## 4. What is the development standard being varied?

Height of Buildings

## 5. Under what clause is the standard listed?

Clause 4.3

## 6. What are the objectives of the standard?

- (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,
- (b) to promote the retention and, if appropriate, sharing of existing views,
- (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,
- (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,
- (e) to ensure compatibility between development, particularly at zone boundaries,
- (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,
- (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.

## 7. What is the numeric value of the development standard in the environmental planning instrument?

12m



**8. What is the proposed numeric value of the development standard in your development application?**

12.55m

**9. What is the percentage variation?**

4.48%

**10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?**

The proposed works are in the public's interest as they are consistent with the objectives of the standard. The proposed will have a minor impact to the height of the approved building and is compatible with the prevailing building height in the area and streetscape character. The proposed conforms to the topography of the sloping allotment with the roof form fitting well into the landscape, without adding excess bulk or scale to the building.

There is minimal impact in terms of view sharing from adjacent neighbours or public areas. The proposed alterations have minimal impact with regard to privacy and solar access enjoyed by the residents or adjacent properties and maintains adequate sunlight access to the building itself.

In terms of the zone objectives, the locality surrounding the site is displaying evidence of a renewal process, with medium to high density developments. The bulk and scale of the proposed development is generally consistent within the locality and is compatible with adjacent development. The proposed additions have been designed to meet the day to day needs of the residents and will provide an active use of the common open space of the strata unit.

The objectives of the Height of Buildings control remain relevant, and the proposed development is generally consistent with, or not antipathetic to, the objectives of the Height of Buildings control, notwithstanding the minor numerical variation.

**The Environmental Planning and Assessment Act 1979**

*Objectives:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

### **11. How would strict compliance hinder the attainment of the objectives as specified in the Environmental Planning and Assessment Act 1979?**

Strict compliance with the height control in this instance would hinder greatly the residents right to a high level of residential amenity and an active use of the open space of the strata unit. The proposed is of exceptional design and maintains the facility of the built location, while continuing to endorse positive economic use and development of the land. The proposal does not compromise the amenity of the surrounding area and will continue to protect the wellbeing of the occupants.

### **12. How are the objectives of the Act being met in this instance?**

The proposed alterations and addition will provide amenity of the built environment. As a high-quality designed extension, it will deliver an orderly and economic use of the land and provides affordable housing.

### **13. Are sufficient environmental planning grounds to justify contravening the development standard?**

The objectives of the standard and the zone have been achieved. The proposed will sit over an existing and approved terrace and will have only a minor increase to the height of the existing and approved building. The proposed is consistent with that of the existing building and will have no adverse effect to the solar access, streetscape or the distinctive character of the area.

As the height of the building remains predominately the same as prior to the proposed alterations, together with the reasons set out above, it is considered that sufficient environmental planning grounds have been met to justify contravening the development standard in this instance.

### **14. Conclusion**

Compliance with the Height of Buildings control is unreasonable and unnecessary in these particular circumstances, and there are sufficient environmental planning grounds to justify the proposed variation to the Height of Buildings control.

The proposed works will be in the public's interest as they are consistent with the objectives of the HOB standard and the objectives for development within the R4 Zone. It is considered that the development will not compromise the planning intent for the site or the character and amenity of the surrounding area.

The proposed will sit over an existing and approved terrace and will have only a minor increase to the height of the existing and approved building. In this instance, the proposal will not have detrimental amenity impacts on the adjacent allotments in regard to loss of solar access or views resulting from the non-compliance. The proposed is consistent with that of the existing building and will have no adverse effect to the streetscape or the distinctive character of the area.

This application has shown justification that the requirements as set out in the decision of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (*referenced below*) have been met, to enable council to determine the application.

Accordingly, it is recommended that this request for variation to the HOB control be supported.

*In Wehbe v Pittwater Council [2007] NSW LEC 827, Chief Judge of the Land and Environment Court, Preston J recast the long standing 5 point test for consideration of a SEPP 1 objection set out in Winten Property Group Ltd v North Sydney Council (2001). The aim of this test is to determine whether requiring compliance with the standard would be unreasonable or unnecessary in the circumstances. The Chief Judge advised that the requirement to demonstrate that an objection is well founded could be satisfied in any of the following ways:*

- 1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable and unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

# Application to Vary a Development Standard

Unit 6, 19 Belmont Ave, Wollstonecraft

The purpose of this submission is to formally request a variation to the Height of Buildings control pursuant to Clause 4.6 of the North Sydney LEP 2013.

## 1. What is the name of the environmental instrument that applies to the land?

*North Sydney LEP 2013*

## 2. What is the zoning?

R4 High Density Residential

## 3. What are the objectives of the 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

## 4. What is the development standard being varied?

Height of Buildings

## 5. Under what clause is the standard listed?

Clause 4.3

## 6. What are the objectives of the standard?

- (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,
- (b) to promote the retention and, if appropriate, sharing of existing views,
- (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,
- (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,
- (e) to ensure compatibility between development, particularly at zone boundaries,
- (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,
- (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.

## 7. What is the numeric value of the development standard in the environmental planning instrument?

12m

**8. What is the proposed numeric value of the development standard in your development application?**

12.55m

**9. What is the percentage variation?**

4.48%

**10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?**

The proposed works are in the public's interest as they are consistent with the objectives of the standard. The proposed will have a minor impact to the height of the approved building and is compatible with the prevailing building height in the area and streetscape character. The proposed conforms to the topography of the sloping allotment with the roof form fitting well into the landscape, without adding excess bulk or scale to the building.

There is minimal impact in terms of view sharing from adjacent neighbours or public areas. The proposed alterations have minimal impact with regard to privacy and solar access enjoyed by the residents or adjacent properties and maintains adequate sunlight access to the building itself.

In terms of the zone objectives, the locality surrounding the site is displaying evidence of a renewal process, with medium to high density developments. The bulk and scale of the proposed development is generally consistent within the locality and is compatible with adjacent development. The proposed additions have been designed to meet the day to day needs of the residents and will provide an active use of the common open space of the strata unit.

The objectives of the Height of Buildings control remain relevant, and the proposed development is generally consistent with, or not antipathetic to, the objectives of the Height of Buildings control, notwithstanding the minor numerical variation.

**The Environmental Planning and Assessment Act 1979**

*Objectives:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*



### **11. How would strict compliance hinder the attainment of the objectives as specified in the Environmental Planning and Assessment Act 1979?**

Strict compliance with the height control in this instance would hinder greatly the residents right to a high level of residential amenity and an active use of the open space of the strata unit. The proposed is of exceptional design and maintains the facility of the built location, while continuing to endorse positive economic use and development of the land. The proposal does not compromise the amenity of the surrounding area and will continue to protect the wellbeing of the occupants.

### **12. How are the objectives of the Act being met in this instance?**

The proposed alterations and addition will provide amenity of the built environment. As a high-quality designed extension, it will deliver an orderly and economic use of the land and provides affordable housing.

### **13. Are sufficient environmental planning grounds to justify contravening the development standard?**

The objectives of the standard and the zone have been achieved. The proposed will sit over an existing and approved terrace and will have only a minor increase to the height of the existing and approved building. The proposed is consistent with that of the existing building and will have no adverse effect to the solar access, streetscape or the distinctive character of the area.

As the height of the building remains predominately the same as prior to the proposed alterations, together with the reasons set out above, it is considered that sufficient environmental planning grounds have been met to justify contravening the development standard in this instance.

### **14. Conclusion**

Compliance with the Height of Buildings control is unreasonable and unnecessary in these particular circumstances, and there are sufficient environmental planning grounds to justify the proposed variation to the Height of Buildings control.

The proposed works will be in the public's interest as they are consistent with the objectives of the HOB standard and the objectives for development within the R4 Zone. It is considered that the development will not compromise the planning intent for the site or the character and amenity of the surrounding area.

The proposed will sit over an existing and approved terrace and will have only a minor increase to the height of the existing and approved building. In this instance, the proposal will not have detrimental amenity impacts on the adjacent allotments in regard to loss of solar access or views resulting from the non-compliance. The proposed is consistent with that of the existing building and will have no adverse effect to the streetscape or the distinctive character of the area.

This application has shown justification that the requirements as set out in the decision of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (*referenced below*) have been met, to enable council to determine the application.

Accordingly, it is recommended that this request for variation to the HOB control be supported.

*In Wehbe v Pittwater Council [2007] NSW LEC 827, Chief Judge of the Land and Environment Court, Preston J recast the long standing 5 point test for consideration of a SEPP 1 objection set out in Winten Property Group Ltd v North Sydney Council (2001). The aim of this test is to determine whether requiring compliance with the standard would be unreasonable or unnecessary in the circumstances. The Chief Judge advised that the requirement to demonstrate that an objection is well founded could be satisfied in any of the following ways:*

- 1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable and unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*



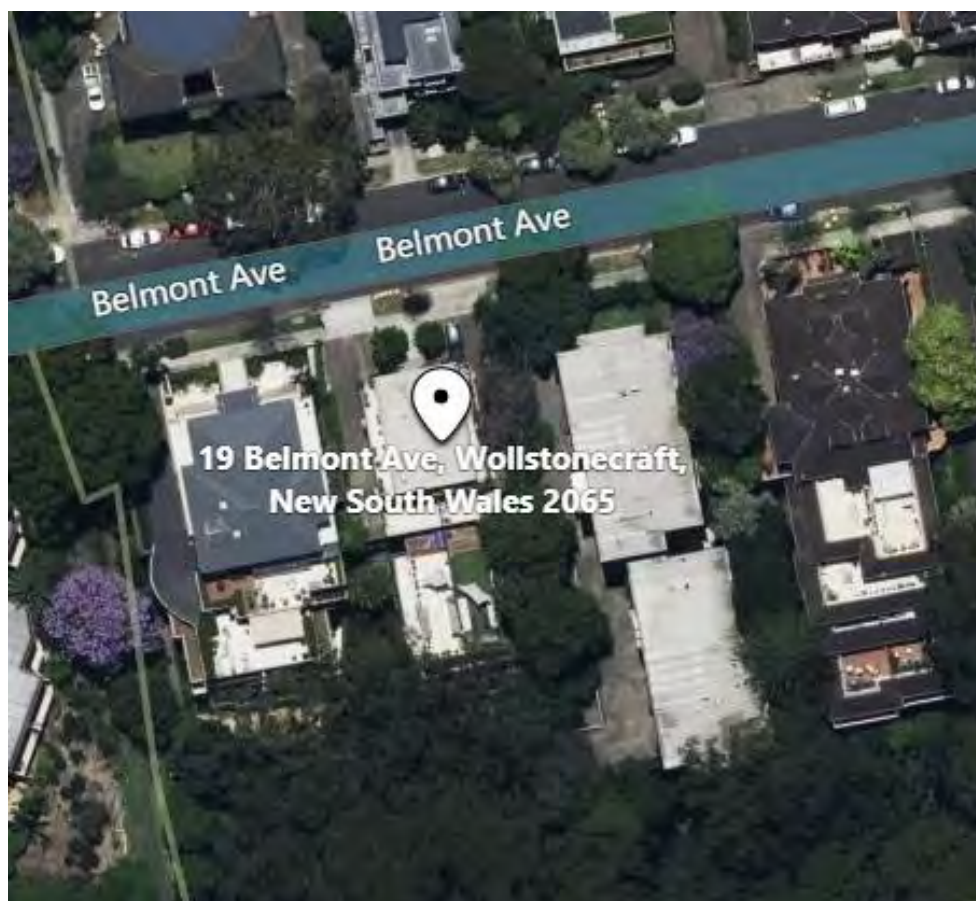
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## STATEMENT OF ENVIRONMENTAL EFFECTS

Prepared for Mr R Rosenbach

by

Performance Building Consultants



January 2023

**INTRODUCTION**

Performance Building Consultants has been engaged to prepare this Statement of Environmental Effects to accompany the development application for the alterations and additions to the existing strata unit located at 6/19 Belmont Ave, Wollstonecraft.

The proposal is sought by the applicant, Performance Building Consultants. This statement should be read in conjunction with the concept plans prepared by Wray and Cutcliffe Architects dated November 2022, and supporting Development Application documentation.

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**PROPOSED DEVELOPMENT**

Proposed alterations and additions to existing strata residence including terrace and garage conversion and Vergola (awning) roof system to roof top terrace area

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**SUBJECT PREMISES**

Unit 6, 19 Belmont Ave, Wollstonecraft

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**OWNER**

Mr R Rosenbach

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**COUNCIL**

North Sydney Council

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**DATE**

20<sup>th</sup> March 2023

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## **1.0** **EXISTING SITE FEATURES**

The development site is known as Unit 6, 19 Belmont Ave, Wollstonecraft and is located on the southern side of the street. The site is currently developed by a 4-storey residential strata block.

The locality as characterised by a mixture of residential and mixed-use medium to high density development.

## **2.0** **PROPOSED DEVELOPMENT**

The proposal is for the alterations and additions to the existing strata residence including terrace and garage conversion and Vergola (awning) roof system to existing roof top terrace area.

## **3.0** **ASSESSMENT CRITERIA**

Pursuant to Section 4.15 of the Environmental Planning & Assessment Act 1979 the following heads of consideration apply: -

### **3.1** **North Sydney LEP 2013**

North Sydney Local Environmental Plan 2013 (NSLEP 2013) is the primary environmental planning instrument applying to the site and the proposed development.

The premises are situated in area zoned High Density R4 under the LEP and the alterations and additions associated with a dwelling is permissible in this zoning, with Council consent. The proposed development is consistent with the zone objectives. The following examines the principal controls outlined in the LEP and the proposals compliance with these.

#### **3.1.1** **Proximity to C2 Environmental Conservation**

The subject allotment is adjacent to an area zoned C2 Environmental Conservation. The proposed works will have no adverse effect the Environmental Conservation area being above the existing and approved terrace area, and a considerable distance from the reserve. The existing bushland aesthetic values remain intact.

#### **3.1.2** **Height of Buildings**

With a maximum height from existing ground level of 12.55m, the proposal seeks to vary the Height of Buildings control (12m). A variation statement is supplied with this development application.

#### **3.1.3** **FSR**

Floor Space Ratio is not applicable in this instance.

### **3.2** **North Sydney DCP**

Compliance with North Sydney (residential) DCP is summarised in the following: Please note only the relevant sections have been selected for consideration and analysis.

<b>DCP Requirements</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Side &amp; rear setback of</b>	No change to existing setbacks	Yes
<b>Minimum Landscaped area</b>	There is no change to landscaped area	Yes



### 3.2.1 SOCIAL AMENITY

The proposed alterations/additions, with an increase to number of bedrooms, ensures that the existing residential density on site will not be reduced.

### 3.2.2 ENVIRONMENTAL CRITERIA

Amenity of the residential strata development has been improved utilising existing floor space to improve the amenity of the residents. The proposed will provide practical and useable open space for the strata unit and is acceptable in terms of environmental impacts. The works incorporate innovative sustainable design and meet sustainability requirements.

### 3.2.3 QUALITY BUILT FORM

The proposed has been designed to be compatible with the architecture of the building and provides consistency in articulation of the existing strata unit.

### 3.2.4 QUALITY URBAN ENVIRONMENT

The proposed works will improve residential amenity and will not detract from the urban character of the area, given that it is not visible from any public road and is compatible with the development in area. The views to the building from the nearby Reserve are obscured by existing dense vegetation at the rear of the allotment.

### 3.2.5 CONSTRUCTION MANAGMENT

During construction the safety of surrounding residents will be protected by implementing the appropriate safety standards.

### 3.2.6 BUSHLAND

The proposed is compatible with long term conservation and management of Council's Bushland reserve system and consistent with the requirements of Part B: Section 15 - Bushland of the DCP.

### 3.2.7 STREETSCAPE

The proposed has been designed to be sympathetic with the existing streetscape by being at the rear of the strata unit and therefore is not a dominant aspect of the streetscape. The proposed have minimal impact to exiting streetscape.

### 3.2.8 HEIGHT

The proposed works includes an elevation of 12.55m from existing ground line. Such elevation encroaches on councils control for this zone. A variation statement is supplied with this application.

### 3.2.9 SOLAR ACCESS

The height, setback and location of the proposed additions will not adversely impact on the level of solar access currently enjoyed by the neighbouring properties.

### 3.2.10 LANDSCAPING

The proposed adds no additional impervious area to the site as it will be built over an existing hardstand area. There is no changed to existing landscaped areas.

### 3.2.11 DRAINAGE CONTROL

All downpipes will be connected into the existing system.

**3.2.12****HERITAGE**

The DCP has outlined the site is not considered to be a Heritage item or within a Heritage conservation area.

**3.2.13****WASTE MANAGEMENT**

Materials brought onsite will be used in the installation of the additions, with minimal waste to be directed offsite. A WMP is supplied showing stockpiles for excess waste.

**3.2.14****VISUAL IMPACT**

The proposed works have been designed to ensure minimal impact to the neighbouring properties and the views they currently enjoy. There is no visual impact from the street and the adjacent bushland is not affected by the proposed works.

**3.2.15****ACOUSTIC PRIVACY**

The proposed alterations and additions have been designed to ensure minimal noise transmission impacting adjoining properties.

**3.2.16****COLOURS AND MATERIALS**

The proposed colours and materials of the development are consistent with the requirements of area character statement. Please refer to the Schedule of Colours and Finishes supplied with this application.

**3.2.17****VEHICULAR ACCESS AND PARKING**

The current garage is to be converted into a bedroom as part of this proposal. The remaining car space is located between the street frontage and the façade of the building. As noted in the DCP, Part B: Section 10; a single car parking space is allowed in this instance as the parking space is uncovered, has adequate space to fit a vehicle within the property boundaries and does not reduce the present landscaped areas.

The proposal achieves the objectives of the parking requirements found within Part B: Section 10 – Car Parking and Transport of the DCP.

**3.4****RESIDENTIAL FLAT BUILDINGS****3.4.1****BUILT FORM CHARACTER**

The proposed development will not result in any increased negative impacts on the character of the locality, the amenity of adjoining neighbours or adjacent Environment Conservation Area (C4). The alterations and additions have been designed to ensure minimal impact to the streetscape and are articulated to reduce the appearance of the bulk and scale.

**3.4.2****ROOFS**

The proposed skillion roof is at the rear of the building and continues to express elements of the buildings architecture.

**3.5****AREA CHARACTER STATEMENT – WOLLSTONECRAFT PLANNING AREA**

The proposed alterations and additions to the existing strata building maintain the character of the area and compliment the prevailing built form. Neighbouring locality areas have been considered in the design.

### Environmental Criteria

There is no visual impact from the street and the adjacent bushland is not affected by the proposed works. The additions to the strata unit are to be built over existing terrace area connected to existing stormwater system, adding no adverse effects to stormwater runoff.

### Quality Built Form

The alterations and additions have been designed to ensure minimal impact to the streetscape and articulated to reduce the appearance of the bulk and scale.

### Quality Urban Environment

The proposed works will provide the occupants an active use of current open space, enabling a variety of activities without impacting on neighbouring properties or view sharing opportunities.

### Efficient Use of Resources

All materials brought onsite will be used in the installation of the Vergola and the building design has been considered to prevent unnecessary waste of building materials.

## **3.6 STATE ENVIRONMENTAL PLANNING POLICIES**

The following State Environmental Planning Policies may apply:

- ◆ State Environmental Planning Policy (Planning Systems) 2021
- ◆ State Environmental Planning Policy (Biodiversity and Conservation) 2021
- ◆ State Environmental Planning Policy (Resilience and Hazards) 2021
- ◆ State Environmental Planning Policy (Transport and Infrastructure) 2021
- ◆ State Environmental Planning Policy (Industry and Employment) 2021
- ◆ State Environmental Planning Policy (Resources and Energy) 2021
- ◆ State Environmental Planning Policy (Primary Production) 2021
- ◆ State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021
- ◆ State Environmental Planning Policy (Precincts – Central River City) 2021
- ◆ State Environmental Planning Policy (Precincts – Western Parkland City) 2021
- ◆ SEPP (Precincts – Regional) 2021
- ◆ State Environmental Planning Policy (Housing) 2021,

Consideration has been given to the abovementioned policies; no additional requirements are outlined which impact on the proposed development.

## **3.7 SUBMISSIONS**

It is acknowledged that submissions arising from the public notification of this application will need to be assessed by Council. Should objections be received it is hoped Council will enable mediation to occur in order to resolve any issues.

## **3.8 PUBLIC INTEREST**

The proposed development is considered in the public interest for the following reasons:

- The proposal is consistent with relevant State and Local strategic plans and complies with the relevant State and Local planning controls.
- No significant adverse environmental, social or economic impacts will result from the proposal.

**4.0****CONCLUSION**

The development proposal has demonstrated compliance with the North Sydney LEP, achieves the requirements of the Development Control Plan and is consistent with the provisions found in the design variation statement provided with this application.

Demonstrating an understanding of, and an appropriate response to the existing form and specific conditions of the site, this development represents a high-quality design which is consistent with the existing building and surrounding high density residential locality. The size and scale of the development is consistent with the dominant design themes within the immediate area without having an adverse impact on the views, amenity, privacy and existing levels of solar access currently enjoyed by the neighbouring properties.

Accordingly, it is recommended that the development proposal be supported.