

**NSLPP MEETING HELD ON 03/04/24****Attachments:**

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Statement

ADDRESS/WARD: 54 High Street, North Sydney**APPLICATION No:** D206/23**PROPOSAL:** Construction of a sunroom, deck and balustrades for an existing apartment on the 9th floor and modifications to various conditions in Development Consent 105/22.**PLANS REF:**

Plan No. /Rev	Description	Prepared by	Dated
DA 01 Rev 01	Site Plan + Survey	Archisoul Architects	7/03/2023
DA 04 Rev 01	Unit 901 (Level 9) Floor Plan	Archisoul Architects	7/03/2023
DA 05 Rev 01	Roof Plan	Archisoul Architects	7/03/2023
DA 06 Rev 01	Elevations	Archisoul Architects	7/03/2023
DA 07 Rev 01	Sections	Archisoul Architects	7/03/2023

OWNER: SP8461. SP55509**APPLICANT:** Joseph Georghy**AUTHOR:** Robin Tse, Senior Assessment Officer**DATE OF REPORT:** 25 March 2024**DATE LODGED:** 10 July 2023**RECOMMENDATION:** Approval (Deferred Commencement)

EXECUTIVE SUMMARY

This development application seeks approval for the construction of a sunroom and a deck with associated balustrades for an approved studio apartment on roof level (9th floor) of an existing apartment building at 54 High Street located at the north-west junction of High Street and Clarke Road. The applicant also seeks modifications to various conditions in DA105/22 pursuant to Section 4.17(5) of the *Environmental Planning and Assessment Act 1979*, and Clause 6 of the *Environmental Planning and Assessment Regulations 2021*.

The application is referred to North Sydney Local Planning Panel for determination because the proposed sunroom and deck are to be located above the permissible height limit (12m) with a variation greater than 10% and the application has attracted more than 10 submissions in accordance with the Directions from the NSW Minister of Planning.

The construction of a sunroom and a deck with associated balustrades for an approved studio apartment on roof level (9th floor) of an existing apartment building is a form of permissible development on land zoned R4 (High Density Residential).

The proposal was considered under the relevant Environmental Planning Instruments and policies including *NSLEP 2013* and *NSDCP 2013* and was generally found to be satisfactory.

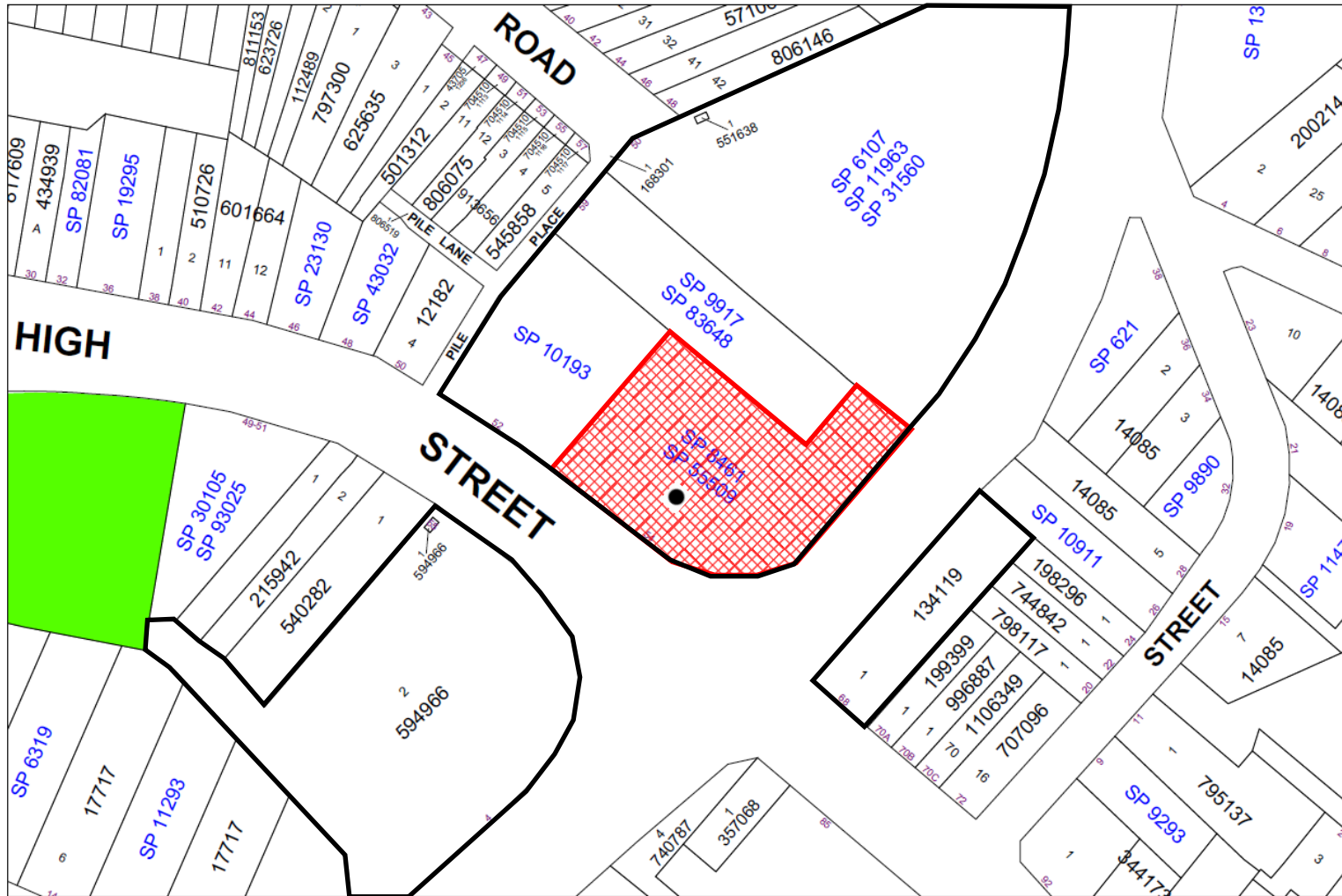
The Clause 4.6 written submission submitted by the applicant seeking a variation to the LEP maximum building height development standard is acceptable because the proposal would not significantly change the height and the envelope of the existing apartment building and would not result in adverse impacts in terms of the loss of significant views, privacy and/or solar access for the adjoining properties.


Council received a total of twelve (12) submissions that raised various concerns about the proposed development including proposal for changes to the access to the rooftop for maintenance/repair purposes. The issues have been addressed in this report including the imposition of specific conditions of consent to ensure compliance with the relevant building codes and to facilitate access to the roof top areas for necessary future building repair and maintenance works.

Consideration has been given to the proposed modifications to various conditions in **DA105/22**. Further modifications to the affected conditions are necessary to ensure consistency with the outcome of the assessment of the subject application. A deferred commencement condition is recommended requiring the lodgement of a notice of modification of Development Consent No. DA105/22 with Council to ensure that there are no inconsistencies between the scope of the approved development in DA105/22 and that of the subject development application (D206/23) (**Condition AA1**).

Having regard to the merits of the proposal, the application is recommended for approval subject to the imposition of a deferred commencement condition and appropriate standard and site specific conditions.

LOCATION MAP



 Property/Applicant ● Submitters - Properties Notified 

DESCRIPTION OF PROPOSAL

The applicant is seeking development consent for the construction of a sunroom, a tiled deck and balustrades for an apartment (Unit 901), located on the 9th floor of a multi-storey residential flat building at No. 54 High Street, North Sydney and modifications to various conditions in DA105/22 for the use of the premises as a studio apartment at the same address.

The proposed works are to be located on the eastern side of the apartment (Unit 901) on the 9th floor of the existing apartment building:

- (a) The construction of a steel framed sunroom with glazed panels. The internal dimensions of the sunroom are 3m x 6m and a floor area of 18sqm; and
- (b) The construction of a tiled deck measuring 6m x 6.1m with associated glass balustrades to the west of the sunroom.

The proposed sunroom and deck are to be accessed from the apartment (Unit 901).

The applicant also requested Council to consider proposed modifications to the following conditions in Development Consent (**D105/22**) for the use of the former common facilities area on the roof top (9th floor) as a residential studio at 54 High Street:

1. Delete Condition A4 (No Approval for Sunroom, Timber Deck and Planters)

No Approval for Sunroom, Timber Deck and Planters

A4. *Approval is only granted for the residential use of the exclusive use area on the 9th floor of the building in conjunction with Lot 105 in SP 8461. Nothing in this consent authorises the construction works and/or use of the following:*

- (a) *Sunroom and timber deck to the east of the proposed studio; and*
- (b) *Garden bed/planters on the roof level with associated planting removed.*

(Reason: To ensure that the terms of consent are clear and any approval of the 9th floor studio is related to its use only)

Applicant's Reason:

This condition specifies that development consent is not granted for the sunroom, timber deck and planters on the 9th floor of the subject apartment building. Given that approval is sought for sunroom, deck and perimeter balustrades at similar locations of the sunroom/timber deck referred in Condition A4, the condition is therefore not necessary.

2. Delete Condition C1 (Design Modifications – Eastern Elevation)

Design Modifications – Eastern Elevation

C1. *The design of the existing openings on the eastern elevation of the subject studio on the roof level (9th floor) must be modified as follows:*

- (a) *Installation of frames and glazed panels to all full height openings. The frames and glazed panels must be contained within the existing openings and must not extend beyond the building envelope; and*
- (b) *Installation of complying balustrades/railing across the full width of the openings to restrict access to the outdoor areas on the roof level.*

The design and installation of the above modified building elements must comply with the relevant building requirements and submitted for the written approval of Council's Team Leader Assessments.

The Certifying Authority must also 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 restrict pedestrian access to the roof top and to ensure safety for occupants)

Applicant's Reason:

This condition requires certain design modifications to an opening on the eastern elevation of the approved apartment studio so that pedestrian access would be restricted to the external areas on the roof top so as to ensure safety for occupants.

Such requirements would become unnecessary because the opening referred in Condition C1 would provide pedestrian access to the proposed sunroom and deck from the approved studio apartment.

3. Delete Condition I1 (Non-trafficable Area)

Non-trafficable Area

- I1. The external areas on the roof top level (9th Floor) must be non-trafficable other than to provide access to carry out maintenance and repair works on the roof level by qualified persons.*

(Reason: To restrict pedestrian access to the roof top and to ensure safety for occupants)

Applicant's Reason:

This condition restricts pedestrian access to the external areas on the roof top other than the qualified persons who carry out required repair/maintenance of the subject apartment building.

The applicant considers this condition would restrict access to any external area on the roof level and the proposed deck is intended to be trafficable.

4. Delete Condition I2 (Access to Roof Level for Repair and/or Maintenance Work)

Access to the Roof Level for Repair and/or Maintenance Works

12. The applicant must provide access through the subject exclusive use area on the 9th floor to the external roof areas to carry out maintenance and repair works by qualified/authorised persons.

(Reason: To ensure access to the external areas on the roof level for maintenance and repair works)

Applicant's Reasons:

This condition requires the property owner of Unit 901 to provide service/maintenance access for qualified persons via the subject apartment (Unit 901) to the external rooftop area.

The applicant considers that service/maintenance access is already adequately provided via a ladder and the access door within the existing stairwell (**Figure 7**).

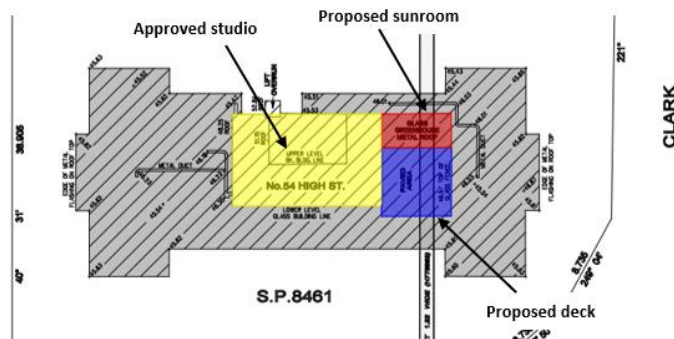


Figure 1: Site Plan

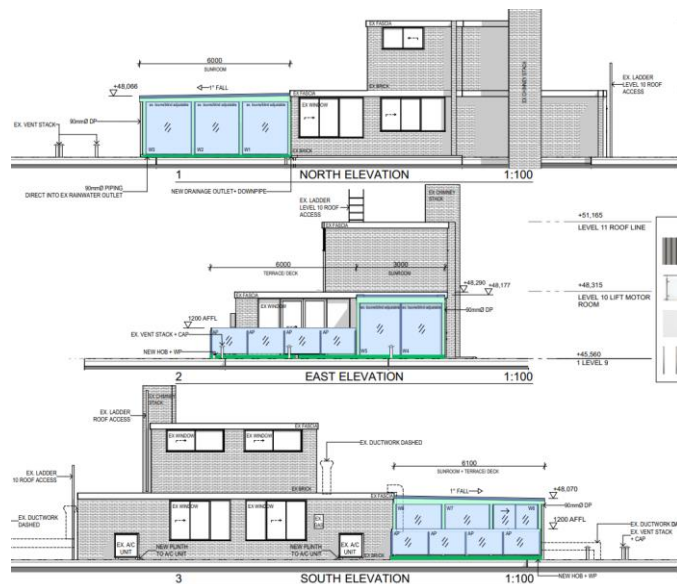


Figure 2: Elevations

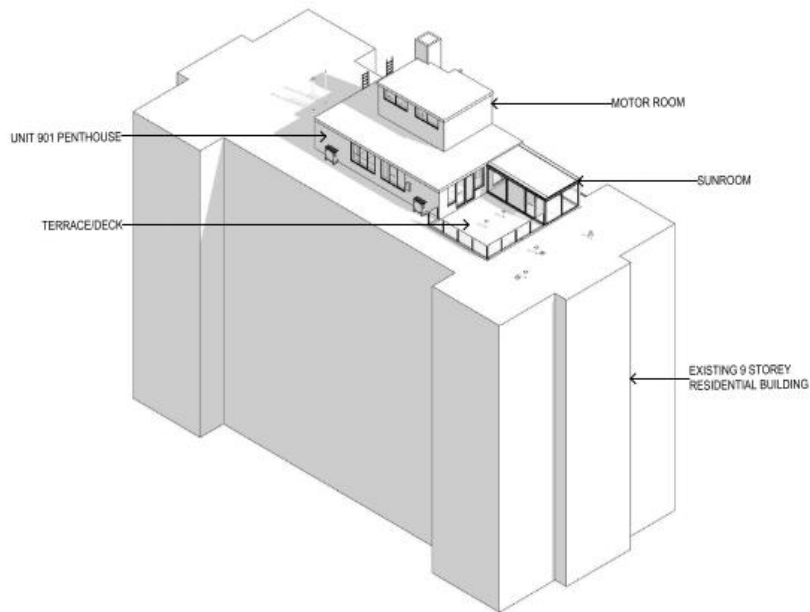


Figure 3: Montage

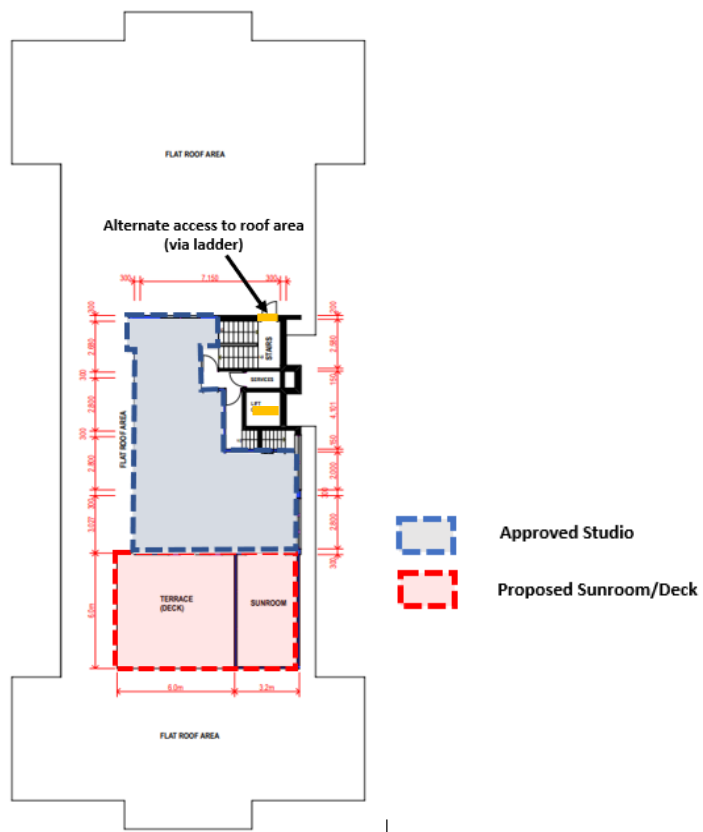


Figure 4: 9th Floor - Floor Plan

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – R4 High Density Residential
- Item of Heritage – No
- In Vicinity of Item of Heritage – No
- Conservation Area - No

Environmental Planning & Assessment Act 1979

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021

SEPP (Housing) 2021

State Environmental Planning Policy (Sustainable Buildings) 2022

Local Development

POLICY CONTROLS

North Sydney Local Infrastructure Contribution Plan
NSDCP 2013

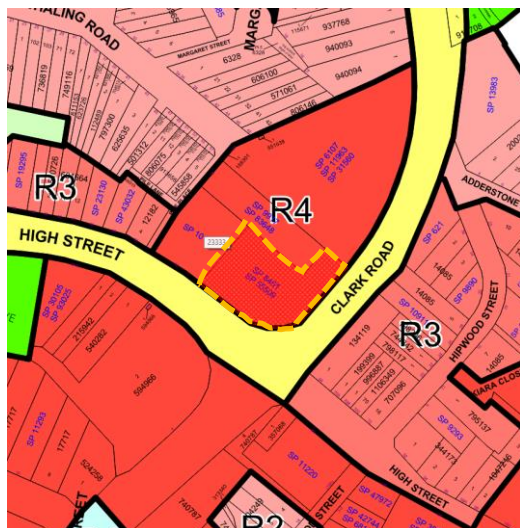


Figure 5: Zoning



Figure 6: Building Height

DESCRIPTION OF LOCALITY

The subject site is located on the north-eastern side of High Street, at the north-western junction of Clark Road and High Street.

The property contains two strata plans, i.e. SP8461 and SP 55509. SP 8461 contains all allotments within the development at No.54 High Street with the exception of one ground floor allotment (formerly known as Lot 108) that was subdivision to form Lot 109 in SP55509.

The site encompasses an area of approximately 2,135m², and is irregular in shape with frontages of approximately 46m to High Street and 45m to Clark Road.

The site is currently occupied by a multi-storey residential flat building, also known as *Lelani*, containing a total of 104 apartments. The ground floor level (fronting High Street) accommodates a series of non-residential tenancies.

The subject studio apartment (Unit 901) is located on the roof level (9th floor) of the residential flat building and is only accessible by a staircase connecting the lower floors including the lift lobby on the 8th floor. The lift overrun/motor room is located above the subject apartment. The staircase also serves as the fire stairs of the building.

The owners of subject apartment have the exclusive use of the subject apartment for residential purpose under various by-laws including the most recent one that were executed on 2 March 2022. The apartment studio (Unit 901) is referred as the “Exclusion Use Area” in the by law as detailed in the history of the development later in this report.

On 7 December 2023, Development Consent (D105/22) was granted by NSLPP for the use of the Unit 901 as a studio apartment.

In addition, service/maintenance access to the roof top is provided via:

- (a) A ladder and access door located within the existing stairwell of the apartment building (**Figure 7**); or
- (b) Through the subject studio apartment Unit 901 (also known as the Exclusion Use Area) as stated in the by-law 31 dated 2 March 2022, particularly in Part 4 **Conditions**, item (j) as follows:

The Owner must allow the Owners Corporation and any Authority access to the Exclusive Use Area for the purposes of an inspection, repair or maintenance of the Common Property or certification or registration of Common Property plant and equipment that adjoin the Exclusive Use Area within 24 hours of any written request from the Owners Corporation or an Authority.

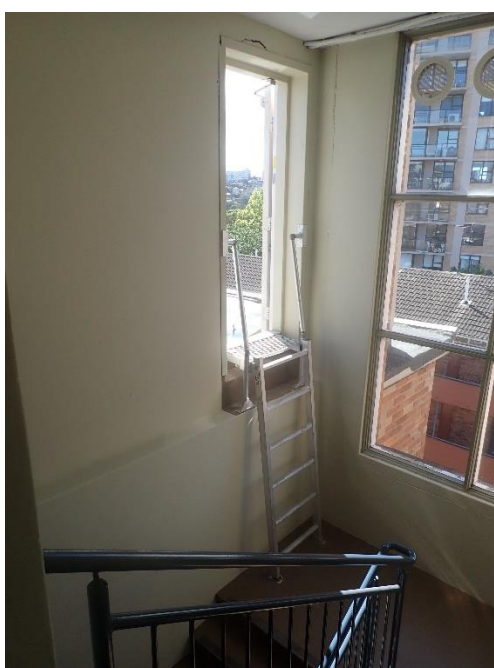


Figure 7: Ladder and access Door to the roof top located within the existing stairwell (Common Property)

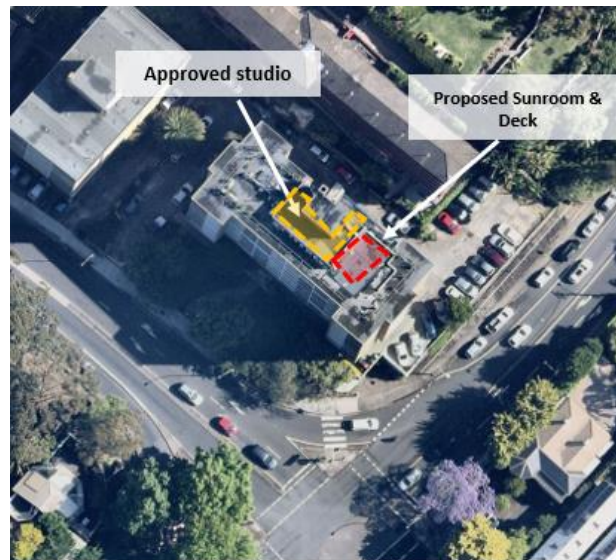


Figure 8: Aerial photo of the subject apartment building at No. 54 High Street

RELEVANT HISTORY

Approval for the subject apartment building at No.54 High Street:

On **31 August 1961**, Building Application **61/291** was submitted to Council involving the erection a residential flat building on the subject property comprising thirteen bed-sitting rooms on each of the upper eight floors (total of 104 units) with four shops, laundry facilities and entrance lobby at basement level, together with open and covered car parking facilities. The approved structures on the roof level (9th floor) included the staircases, a laundry, a cleaner's storeroom and a baggage room. The building consent was subject to the following condition:

5. *the store room on the roof to be utilised as a laundry and the distribution of fittings therein and in the basement laundry to be to the satisfaction of the Building Surveyor;*

The stamped building plans show the roof plan as:

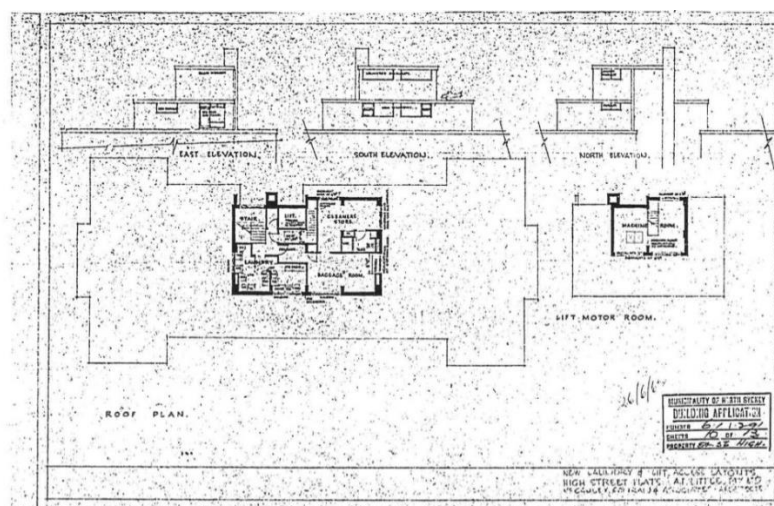


Figure 8: Original BA (61/291) approved plan

The approved residential flat building was subsequently completed in the mid 1960's.

Use of Roof Area (Prior to December 2022)

On 9 September 1974, a By Law was registered by the Owner Corporation to grant the "Exclusive Use Area" for Lot 105 on the ground floor over certain parts of the roof of the building (being common property) including the subject converted structure on the roof level and was depicted on the approved BA61/291 plans as laundry, baggage room and cleaner's storeroom as shown below (**Figure 8**).

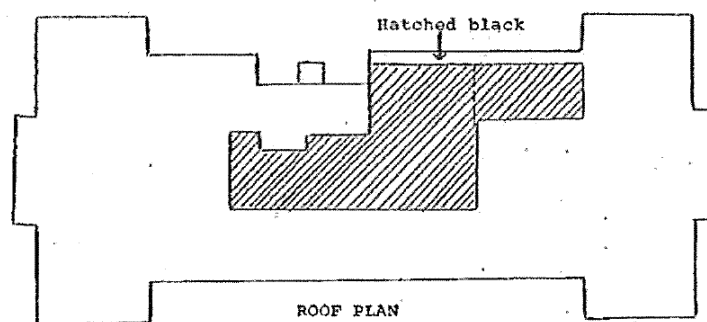


Figure 9: The exclusive use area as shown in an Annex to the By Law dated 9 September 1974

The applicant has advised that the area depicted in the 1974 By Law was used as a residence for the building manager/caretaker and was subsequently used as a residential apartment.

On **2 March 2022**, the By Law was amended with further provisions relating to the "Exclusive Use Area" including the continued residential use of this area and to allow access for Owners Corporation to carry out repair and maintenance works of the common property.

Doorway to the Roof

The installation of a doorway to provide access to the roof was approved on 11 September 1981 in response to the request from the Owner Corporation due to difficulties in gaining access to the roof through the "Exclusive Use Area".

Complying Development for Enclosed Pergola and Timber Deck – Z257/01

On **1 November 2001**, approval was granted for a Complying Development Certificate (**Z257/01**) for the construction of an enclosed pergola and timber deck to the east of the 9th floor converted structure. This enclosed pergola has been referred by the applicant as the sunroom of the 9th floor apartment. The enclosed pergola and timber deck were subsequently constructed and were used as part of the residential use on the roof level (9th floor).

It is noted that the sunroom and the timber deck have been subsequently demolished (between April and May 2022) in order to facilitate necessary repair/maintenance works on the roof level, including the areas under these former structures.



Figure 9: Former sunroom and timber deck constructed (now demolished)

It is also noted that the location and size of the proposed sunroom and deck are similar to the sunroom and timber deck constructed under **Z257/01**.

Compliance Actions

In response to complaints received about the unauthorised residential use of the “Exclusive Use Area”, a compliance investigation was undertaken in 2020. Subsequently, the applicant was invited to lodge a Development Application to facilitate a proper assessment of the residential use of the “Exclusive Use Area” for residential occupation.

Development Application - D71/21:

On 24 May 2021, Development Application (**D71/21**) for the use of the converted apartment including the sunroom and timber deck for residential purposes was refused under delegated authority due to non-compliance with the provisions of BCA/NCC and the absence of owners consent from the Body Corporate.

Development Application – D105/22:

On 7 December 2022, NSLPP granted Development Consent (**D105/22**) for the use of the former communal facilities on the roof top (Level 9) as a residential studio. Specific conditions have been imposed in relation to the scope of the approved development and the requirements for the provision of service and maintenance access via the subject studio apartment.

Subject Development Application (D206/23)

- **11 July 2023** – The subject Development Application (**D206/23, PAN-342153**) for the construction of a sunroom, deck and balustrade for an existing apartment on the 9th floor and amendments to various conditions in Development Consent 105/22 was lodged with Council via the Planning Portal. Owners consent from the strata plan was granted for the lodgement of the application with a letter from the Senior Strata Manager including the common seal.
- **28 July to 11 August 2023** - The subject application was notified to surrounding properties and the Milson and Anderson Precincts inviting comment for 14 days. A total of twelve (12) submissions were received.

- **1 September 2023** – A site inspection was conducted by Council’s Assessment Officer.
- **5 September 2023** – Council requested the applicant to provide additional information about the access arrangements to the roof top.
- **6 October 2023** – A letter was received from the applicant’s planning consultant providing commentaries in relation to the history of access within the stairwell, legal opinion of Condition I2 and statements from an architect and a building surveyor on providing access via Unit 901.
- **20 December 2023** – The applicant provided additional information in relation to the current conditions of various structures on the roof top level.
- **1 February and 19 March 2024** – The applicant provided an update and commentaries on the progress of further amendments to the correct By-law.

INTERNAL REFERRALS

Building

The application, including the submitted fire engineering report, was referred to Council’s Senior Building Surveyor who provided the following comments:

The Development Application seeks approval for the construction of a rooftop sunroom, deck and balustrade to an existing residential flat building.

The building is classified by the NCC BCA 2022, Volume 1 as a class 2 building of Type A construction.

A search of Council’s records revealed the building forms part of Council’s Annual Fire Safety Statement Register and submission of AFSS is up to date.

A review of the Plans accompanying the application revealed the proposed works can likely comply with the NCC BCA 2022, Volume 1.

Given the minor scale of the works, upgrade of the building pursuant to Clause 64 of the Environmental Planning & Assessment Regulations 2021 is not required.

Full compliance with the NCC BCA will be assessed by the engaged Registered Building Surveyor at Construction Certificate stage of the development.

The only recommended condition from Building Compliance in this instance is condition No. F1.

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

(Reason: Prescribed - Statutory)

Comment:

The comments from Council’s Senior Building Surveyor are noted and concurred with the imposition of **Condition F1** requiring compliance with NCC/BCA.

SUBMISSIONS

Council notified adjoining properties and the Milson Precinct of the proposed development seeking comment between 28 July and 11 August 2023. Council received twelve (12) submissions.

The issues raised in the submissions are summarised below and addressed later in this report. The original submissions may be viewed by way of DA tracking on Council's website https://www.northsydney.nsw.gov.au/Building_Development/Current_DAs and are available for review by NSLPP members.

The issues raised in the submissions are summarised as follows:

Basis of submission

- The subject premises was originally used as storage area and was never intended for residential occupation.
- Clarification sought for the address of the subject property.
- The design of the proposed structure is inconsistent with those of the neighbouring building.

- The use of Common Property for the use of one unit does not comply with the building code.
- The proposal would severely compromise access to the building's essential maintenance & services.
- The proposed works would cause damage to the rooftop in addition to those caused by other unauthorised works.
- The premises have been a matter of various legal actions and investigations by NCAT. Such actions have increased financial burden on all property owners of the subject apartment building.
- Further development on common property on Level 9 would compromise building equipment service and building maintenance requirements.
- Further development on common property on Level 9 would have significant implications on strata fees paid by the property owners of the subject apartment building.
- The proposed works would cause further damages to the waterproofing on the rooftop and other building elements within the subject apartment building.
- The proposal would compromise the maintenance and repair works to be carried out on the rooftop.
- Restrict access to the rooftop may lead to more unauthorised works.
- The proposed structures would further restrict access to the rooftop.
- Objection to the deletion of Condition I2 because this would reduce access to the rooftop.
- The placement of large number of pot plants has contributed to the ingress of water into the roof slab.
- Excessive bulk and scale of the proposed structures and its high visibility from the street.
- Concerns raised about the danger and/or damages associated with falling materials from construction activities to be carried out on the rooftop.
- Concerns about the reflectivity of glazing fitted on the proposed sunroom.
- The subject unit on the Level 9 is associated with Lot 105 in SP8461 and no change to the strata levies for that allotment and a financial advantage has been created for the property owner of the subject apartment following the approval of DA105/22.
- Council should levy additional rates following the approval of DA105/22.
- The approval of the subject DA would increase the risk of further damages to the waterproofing and other building services on the roof top.
- The current DA is contrary to the requirements of the previous approved DA because the current application seeks to restrict access to the external areas on the roof level via an existing service ladder and no access through the subject studio apartment.
- The proposed sunroom and deck will further restrict access to the external areas on the roof top.

- The proposal is also contrary to the relevant by-law allowing access for services and repair via the subject studio apartment.
- Concerns raised about adverse noise impact associated with the use of the proposed deck for entertaining.
- Concerns raised about the likely impacts on parking resulting from the new sunroom and deck.
- The area of the proposed deck at 36.6 sqm is inconsistent with the area 36.1sqm as specified in the by-law.
- The subject studio apartment must be used in conjunction with the ground floor commercial premises (Lot 105) and be consistent with the requirements of the by-law.
- The proposal is inconsistent with Development Consent DA 105/22 because the current DA seeks approval for a sunroom and a deck that were not approved in DA105/22.
- The existing roof is not designed to bear the additional loading from the proposed roof and deck and would compromise the water proofing applied to roof top.
- The residents are to bear the on-going repair and maintenance costs for works on the rooftop.
- Objection raised to the proposal following a review of the Owners Corporation Meetings and Minutes and the history of the subject studio apartment.
- Concerns raised about the denial of access to the roof top and the future cost involved for maintenance/repair works to be carried out on the common property on the roof top.
- The current DA is contrary to the requirements of the previous approved DA because the current application seeks to restrict access to the external areas on the roof level via an existing service ladder and no access through the subject studio apartment.
- The current proposal would convert storage spaces for residential use.
- The proposal fails to comply with the building code and would damage to building infrastructure such as the roof membrane.
- Concerns about cost incurred to the Body Corporate via various legal actions.
- The Level 9 rooftop areas of the building included in DA 206/23 are Common Property occupied under an exclusive use By-Law and are owned by the Owners Corporation not the Applicant.
- These enclosed and open rooftop areas provide access to a number of essential building services and the rooftop waterproofing membrane which require ongoing scheduled access and maintenance.
- The current proposal for a sunroom and deck is contrary to the approved DA that development consent was not granted for the same structures in the previous DA.
- The conditions of the previous DA were not satisfied and the applicant is residing in the subject studio apartment.

CONSIDERATION

Environmental Planning and Assessment Act 1979 (as amended)
Environmental Planning and Assessment Regulation 2000

SEPP (Resilience and Hazards) 2021

The provisions of *SEPP (Resilience and Hazards) 2021* require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The proposal does not offend the relevant provisions/requirements of the above SEPP because the proposal is for the residential use of an existing structure on the roof of the apartment building only and no earthworks.

SEPP (Biodiversity and Conservation) 2021

Chapter 6 - Sydney Harbour Catchment

Having regard to the *SEPP (Biodiversity and Conservation) 2021* concerned with the Sydney Harbour Catchment and the Sydney Harbour Foreshores and Waterways Area DCP 2005, the proposed development is not considered to be detrimental to the Harbour and will not unduly impose upon the character of the foreshore given that the proposal would not change the overall appearance of the existing apartment building. As such, the development is acceptable having regard to the provisions contained within the above *SEPP 2021* and the Sydney Harbour Foreshores and Waterways DCP 2005.

State Environmental Planning Policy (Sustainable Buildings) 2022

On 1 October 2023, the *SEPP (Sustainable Buildings) 2022* came into effect, which repealed the *SEPP (Building Sustainability Index: BASIX) 2004*. However, as this application was submitted prior to the commencement date of the *SEPP (Sustainable Building) 2022*, the new BASIX standards do not apply.

A valid BASIX Certificate (No.A489957) has been provided.

SEPP (Housing) 2021

On 14 December 2023, amendments to *SEPP (housing 2021)* came to effect, which repealed *SEPP 65 (Design Quality of Residential Apartment Development)*. Consideration has been given to the relevant provisions as contained in Chapter 4 (Design of Residential Apartment Development) of the *SEPP*.

The proposal involves the construction of a sunroom, a deck and associated balustrades for an approved studio apartment on the 9th floor and amendments to various conditions in Development Consent 105/22.

It is considered that the provisions/requirements of *SEPP (Housing) 2021* do not apply because the proposal does not involve “*substantial redevelopment or substantial refurbishment of an existing building*” in accordance with Clause 144(3)(a)(ii) of the *SEPP*.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

1. Permissibility

The proposal involves the construction of a sunroom, a deck and balustrades for an approved studio apartment on the 9th floor and amendments to various conditions in Development Consent 105/22. The construction of a sunroom, a deck and balustrades ancillary to a studio apartment within an existing apartment building are types of development permissible in an R4 (High Density Residential zone with Council consent.

2. Objectives of the zone

The proposal is generally consistent with the relevant objectives of the zone as demonstrated throughout this report.

Part 4 – Principal Development Standards

Principal Development Standards – North Sydney Local Environmental Plan 2013			
Site Area – 2,135m ²	Proposed	Control	Complies
Clause 4.3 – Heights of Building	31m	12m	NO – Clause 4.6 written variation received

3. Height of Building – Clause 4.3

The existing apartment building has a maximum building height of 36m, and the roof of the proposed sunroom would have a building height of 31m above the ground level. This represents a variation of 258% from the prescribed 12m building height for the subject site.

The applicant has submitted a written Clause 4.6 request to vary the development standard concerned with the height of buildings which is attached for the Panel's review (**Attachment 3**).

Consequently, consideration has been given to the applicant's Clause 4.6 submission as well as the following objectives of the building height control:

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

The proposal involves the construction of a new sunroom and deck on Level 9 of an existing apartment building so there would be no change to the existing landform nor the existing building envelope of the existing building.

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

The proposal would result in a new addition on the south-eastern side of the existing structures on Level 9 of the subject apartment building.

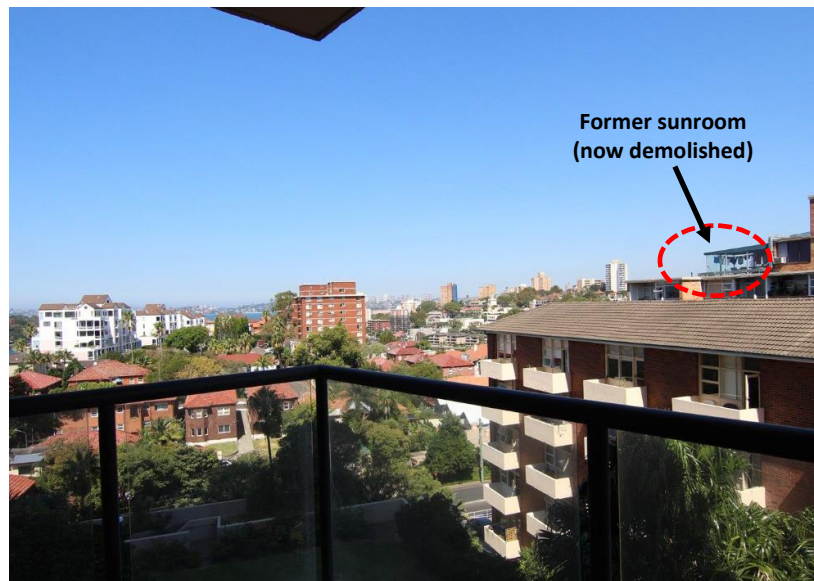
The proposal would have no view impacts for the adjoining apartment buildings to the north and west of the subject apartment buildings at No.59 Whaling Road and No.52 High Street respectively because the subject apartment building at No 54 High Street is taller than these apartment buildings occupying these adjoining properties.

Consideration has also been given to the likely view impact for the apartments within the apartment building further to the north of the subject site at No.50 Whaling Road.

It is noted that the proposed sunroom may affect the views from the apartments between 3rd and 5th floors located on the south-eastern corner of the apartment building at No.50 Whaling Road due to the elevated position of this building.

An examination of publicly available photographs taken from Unit 3D and Unit 5D on the 3rd and 5th floors within No.50 Whaling Road have revealed that the proposal is unlikely to have material impacts on significant views as seen from these nearby apartments. It is because the proposed sunroom would only affect a small part of the view to the sky as seen from the 3rd floor apartment (**Figure 10**) and district views with vegetation/buildings as seen from the 5th floor apartment (**Figure 11**). In addition, the harbour views as seen from the two apartments towards the south-east would be retained and not affected by the proposal.

It is also noted that the two photos featured the former sunroom (now demolished), constructed under CDC, at a similar location as the proposed sunroom.



**Figure 10: View from the living room balcony of Unit 3D at No. 50 Whaling Road
(Source: Domain.com)**



**Figure 11: View from the living room of Unit 5D at No. 50 Whaling Road
(Source: Real Estate.com)**

Therefore, the proposal would have no material impacts on the significant views as seen from the adjoining properties or the public domain.

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

There would be no material shadowing impacts arising from the proposal because the shadows from the new structure would primarily fall on the roof of the subject apartment building.

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

The proposal would have no material privacy impacts, visual and acoustic, because the proposal would be more than 15m away from the nearest adjoining property (i.e. No.59 Whaling Road). Furthermore, the proposed sunroom would provide some screening for the new deck as seen from the taller apartment building at No. 50 Whaling Road that is located in excess of 50m away from the subject site.

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

The existing apartment building and the adjoining properties to the north and west are located on land zoned R4 (High Density residential). Furthermore, the proposal would not significantly change the building envelope or the overall appearance of the existing apartment building nor the relationship with developments on the adjoining properties.

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

The proposed development would not significantly change the building envelope or the overall appearance of the existing apartment building. The addition of a sunroom and deck to the Level 9 studio apartment is considered to be acceptable.

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

This objective is not relevant to the subject multi storey building.

That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Strict compliance with the building height control is considered to be unreasonable and unnecessary as the elements in breach of the height control would not result in changes to the existing building envelope and the proposal would not cause material impacts on the streetscape or the amenity of adjoining properties.

That there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered that the proposed sunroom and deck above the LEP building height limit would have no material impacts on neighbouring properties and the locality in terms of the built forms and amenity. There are sufficient environmental planning grounds to justify contravening the building height control.

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for Residential R4 zone in which the development is proposed to be carried out.

The written justification as submitted by the applicant seeking variation to Clause 4.3(2) in NSLEP 2013 is considered to be well founded in the site circumstances. Compliance with the maximum building height control is therefore considered to be unreasonable and unnecessary in the circumstances, as the objectives of the zone and the control are achieved despite the non-compliance.

It is considered that the applicant's submitted Clause 4.6 variation provides sufficient justification to allow the proposed height variation.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

The proposal has been assessment under the following heading within NSDCP 2013:

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development		
	<i>complies</i>	<i>Comments</i>
1.2 Social Amenity		
Population Mix	Yes	Whilst the subject application would provide an additional sunroom and external terrace for an approved studio apartment, this addition would not result in a significant change in population mix within the locality given the minor nature of the proposal.
Maintaining Residential Accommodation	Yes	The application for a sunroom and a deck would not result in a significant change in the quantity and quality of residential accommodation on the site.
Affordable Housing	Yes	There would be no change to the current level of affordable housing within the subject site, if any, given that the existing apartment building is strata subdivided and the proposed works relate to an approved studio apartment.
1.3 Environmental Criteria		
Topography	No change	The proposal relates to works on the 9 th floor of an existing building so there would be no further changes to the topography and landform of the subject site.
Views/Solar access	Yes	The proposal would have no material impacts on overshadowing and/or views from the adjoining properties given that the proposed development would not result in significant changes to the overall building envelope, bulk and scale as indicated earlier in this report.
Privacy	Yes	The proposed works would have no material privacy impacts on the surrounding properties given the location of the proposed structures on the top floor of the building and the nearest adjoining property would be more than 15m away from the subject sunroom and deck.
1.4 Quality built form		
Context Form, Massing Scale Built Form character	Yes	The proposed sunroom and deck, located on the 9 th (top) floor of an existing multi-storey apartment building, would not result in significant changes to the overall bulk and scale as well as the built form of the existing apartment building. The proposal is considered to be acceptable in this regard.
Subdivision Pattern	No change	The proposal would not alter the subdivision pattern within the locality.
Siting	No change	The proposal would not change the siting and/or the orientation of the existing development on site.
Setbacks – Front, Side and Rear	Yes	The proposed sunroom and deck, located on the 9 th (top) floor of the existing apartment building, would be all contained within the footprint of the 9 th floor and therefore, the existing building setbacks from all property boundaries would be maintained.
Roofs	Yes	The proposed skillion roof for the sunroom is generally consistent with the contemporary flat roof design for the subject apartment building and the surrounding apartment developments.
Materials	Yes (via condition)	The proposed use of modern materials and full height glazing for the proposed sunroom is consistent with the use of contemporary materials for the surrounding buildings. A condition is recommended requiring submission of a schedule of colours and materials to ensure consistency with those shown on the submitted drawings (Condition C5).

1.5 Quality Urban Environment		
Parking	No change	The proposal for a sunroom and deck would not result in additional parking requirement. It is also noted that the subject site is in close proximity to public transport including Milsons Point/North Sydney railway stations, bus and ferry services. Therefore, the proposal is considered to be acceptable having regard to access to other forms of transport.
Vehicle Access	No change	There would be no change to the driveway off High Street.
Site Coverage Un-built Upon Area Landscape Area	No change	The subject studio is located on the roof of the existing apartment building. Therefore, the proposal would not alter the existing site coverage, unbuilt upon area and landscaped area within the subject site.
1.6 Efficient Use of Resources		
Energy Efficiency	Yes	The applicant has submitted a valid BASIX Certificate.

Neutral Bay Planning Area (Neutral Neighbourhood) – Part C of NSDCP 2013

Consideration has been given to Part C of NSDCP 2013 and in particular Section 7 of the Character Statement for the Neutral Bay Planning Area and Section 7.2 for the Neutral Neighbourhood. The proposal is unlikely to have adverse impacts on the character of the locality.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to payment of contributions towards the provision of local infrastructure.

It is however noted that the cost of the proposal at \$65,000.00 is below the minimum cost of development threshold of \$100,000.00, therefore the proposal is not subject to a local infrastructure contribution payment.

PROPOSED MODIFICATIONS TO VARIOUS CONDITIONS IN DEVELOPMENT CONSENT (D105/22)

The applicant has also requested modifications to the following conditions in Development Consent (D105/22) for the use of the former common facilities area on the roof top (9th floor) as a residential studio at 54 High Street:

- **Delete Condition A4 (No Approval for Sunroom, Timber Deck and Planters)**

The applicant proposes the deletion of Condition A4 as follows:

No Approval for Sunroom, Timber Deck and Planters

A4. *Approval is only granted for the residential use of the exclusive use area on the 9th floor of the building in conjunction with Lot 105 in SP 8461. Nothing in this consent authorises the construction works and/or use of the following:*

- (a) Sunroom and timber deck to the east of the proposed studio; and*
- (b) Garden bed/planters on the roof level with associated planting removed.*

(Reason: To ensure that the terms of consent are clear and any approval of the 9th floor studio is related to its use only)

Comment:

Whilst no objection is raised to the deletion to references to Item (a) sunroom and timber deck, It is considered that item (b) should be retained given that the current application does not involve landscaping works including garden/planter beds.

Therefore, it is recommended that Condition A4 be modified as follows:

No Approval for Planters

A4. *Approval is only granted for the residential use of the exclusive use area on the 9th floor of the building in conjunction with Lot 105 in SP 8461. Nothing in this consent authorises the construction works and/or use of the following:*

(a) Garden bed/planters on the roof level with associated planting removed.

(Reason: To ensure that the terms of consent are clear and any approval of the 9th floor studio is related to its use only)

• **Delete Condition C1 (Design Modifications – Eastern Elevation)**

The applicant seeks deletion of the following condition:

Design Modifications – Eastern Elevation

C1. *The design of the existing openings on the eastern elevation of the subject studio on the roof level (9th floor) must be modified as follows:*

- (a) Installation of frames and glazed panels to all full height openings. The frames and glazed panels must be contained within the existing openings and must not extend beyond the building envelope; and*
- (b) Installation of complying balustrades/railing across the full width of the openings to restrict access to the outdoor areas on the roof level.*

The design and installation of the above modified building elements must comply with the relevant building requirements and submitted for the written approval of Council's Team Leader Assessments.

The Certifying Authority must also 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 restrict pedestrian access to the roof top and to ensure safety for occupants)

Comment:

No objection is raised to the deletion of this condition given that the works required in this condition would not be required due to the works proposed in the current DA. **Condition to be deleted.**

Delete Condition I1 (Non-trafficable Area)

The applicant seeks deletion of the following condition:

Non-trafficable Area

- I1 The external areas on the roof top level (9th Floor) must be non-trafficable other than to provide access to carry out maintenance and repair works on the roof level by qualified persons.*

(Reason: To restrict pedestrian access to the roof top and to ensure safety for occupants)

Comment:

This condition restricts pedestrian access to the external areas on the roof top other than the qualified persons who carry out required repair/maintenance of the subject apartment building.

Given that the proposed deck is intended to be trafficable, it is recommended that the condition be modified as follows:

Non-trafficable Area

- I1 The external areas on the roof top level (9th Floor), with the exception of the deck associated with Unit 901 (Exclusive Use Area), must be non-trafficable other than to provide access to carry out maintenance and repair works on the roof level by qualified persons.*

(Reason: To restrict pedestrian access to the roof top and to ensure safety for occupants)

Delete Condition I2 (Access to Roof Level for Repair and/or Maintenance Work)

Access to the Roof Level for Repair and/or Maintenance Works

- I2.** The applicant must provide access through the subject exclusive use area on the 9th floor to the external roof areas to carry out maintenance and repair works by qualified/authorised persons.

(Reason: To ensure access to the external areas on the roof level for maintenance and repair works)

Comment:

This condition requires the property owner of Unit 901 to provide service/maintenance access for qualified persons via the subject apartment (Unit 901) to the external rooftop area.

The applicant considers that service/maintenance access is already adequately provided via a ladder and the access door within the existing stairwell (**Figure 7**).

It is however noted that in Part 4 **Conditions**, item (j) of the By-Law 31 for the subject apartment building dated 2 March 2022 states the following:

The Owner must allow the Owners Corporation and any Authority access to the Exclusive Use Area for the purposes of an inspection, repair or maintenance of the Common Property or certification or registration of Common Property plant and equipment that adjoin the Exclusive Use Area within 24 hours of any written request from the Owners Corporation or an Authority.

It is considered that any provision for maintenance/service access to the external roof areas on the 9th floor should be consistent with the provisions of the By-Law. It is therefore recommended that the following:

Access to the Roof Level for Repair and/or Maintenance Works

12. The applicant and/or the owner of the subject property, shall provide access through the subject exclusive use area on the 9th floor to the external roof areas to carry out maintenance and repair works by qualified/authorised persons in accordance with the provisions of the By-Laws relevant to the subject studio apartment on the 9th floor.

(Reason: To ensure access to the external areas on the roof level for maintenance and repair works and consistency with the relevant By-laws relevant to the subject studio apartment.)

Conclusion/Recommendation:

The purposes of the above modifications are to ensure consistency between the subject development application (D206/23) and development consent (D105/22) in terms of the scope of the approved use and works as well as the arrangements for access to the roof level for repair and/or maintenance works.

It is therefore recommended that a deferred commencement condition be imposed requiring the lodgement of a notice of modification of Development Consent No. DA105/22 with Council to ensure that there are no inconsistencies between the scope of the approved development in DA105/22 and that of the subject development application (D206/23) (**Condition AA1**).

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 S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

Council notified adjoining properties and the Milson Precinct of the proposed development seeking comment between 28 July and 11 August 2023. Council received twelve (12) submissions.

The issues raised relating to permissibility, the design/bulk and scale, privacy and parking impacts have been addressed earlier in the report.

There are a number of recurring issues raised in the submissions received. These issues are addressed below:

- ***The current DA is contrary to the requirements of the previous approved DA because the current application seeks to restrict access to the external areas on the roof level via an existing service ladder and no access through the subject studio apartment.***
- ***The proposal is also contrary to the relevant by-law allowing access for services and repair via the subject studio apartment.***
- ***The proposal would severely compromise access to the building's essential maintenance & services on the roof top.***
- ***Objection to the deletion of Condition I2 because this would reduce access to the rooftop.***
- ***Restrict access to the rooftop may lead to more unauthorised works.***

Comment:

Whilst the applicant considers that service/maintenance access is already adequately provided via a ladder and the access door within the existing stairwell, it is however noted that in Part 4 **Conditions**, item (j) of the By-Law 31 for the subject apartment building dated 2 March 2022 states the following:

The Owner must allow the Owners Corporation and any Authority access to the Exclusive Use Area for the purposes of an inspection, repair or maintenance of the Common Property or certification or registration of Common Property plant and equipment that adjoin the Exclusive Use Area within 24 hours of any written request from the Owners Corporation or an Authority.

It is considered that any provision for maintenance/service access to the external roof areas on the 9th floor must be consistent with the provisions of the relevant By-Law. It is therefore recommended that the wording of **Condition I2** in **DA105/22** be modified as detailed earlier in this report.

- ***The proposed development on the 9th floor would compromise building equipment service and building maintenance requirements/works to be carried out on the rooftop.***
- ***The proposed works would cause further damages to the waterproofing on the rooftop and other building elements within the subject apartment building.***
- ***The proposal fails to comply with the building code and would cause damages to the subject apartment building.***

Comment:

The application has been referred to Council's Senior Building Surveyor and, particularly, the following comments are noted:

A review of the Plans accompanying the application revealed the proposed works can likely comply with the NCC BCA 2022, Volume 1.

Given the minor scale of the works, upgrade of the building pursuant to Clause 64 of the Environmental Planning & Assessment Regulations 2021 is not required.

The comments from Council's Senior Building Surveyor are noted and the recommendation for the imposition of **Condition F1** requiring compliance with NCC/BCA is concurred with.

In addition, a standard condition relating to damage to adjoining properties (including the common property on the roof top) is also recommended to ensure that adjoining owners' rights are protected (**Condition G4**).

- ***Concerns raised about the danger and/or damages associated with falling materials from construction activities to be carried out on the rooftop.***

Comment:

Appropriate conditions relating to construction management have been recommended to ensure proper management during the construction phase of the proposed development.

- ***Concerns about the reflectivity of glazing fitted on the proposed sunroom.***

Comment:

A standard condition is recommended restricting reflectivity of the glazing to minimise excessive glare or reflectivity nuisance (**Condition C6**).

- ***The placement of large number of pot plants has contributed to the ingress of water into the roof slab.***
- ***The subject studio apartment must be used in conjunction with the ground floor commercial premises (Lot 105) and be consistent with the requirements of the by-law.***

Comment:

As indicated earlier in this report, the current application does not involve landscaping works including garden/planter beds on the rooftop.

Therefore, it is recommended that Condition A4 in **DA105/22** be modified as follows:

No Approval for Planters

A4. *Approval is only granted for the residential use of the exclusive use area on the 9th floor of the building in conjunction with Lot 105 in SP 8461. Nothing in this consent authorises the construction works and/or use of the following:*

(a) Garden bed/planters on the roof level with associated planting removed.

(Reason: To ensure that the terms of consent are clear and any approval of the 9th floor studio is related to its use only)

- ***Concerns raised about the financial implications of the proposal on strata fees and other future repair and maintenance costs burdening the other property owners of the subject apartment building.***
- ***The property owner benefited financially with the approval of previous DA (DA105/22).***

Comment:

The issues raised are noted. There is insufficient evidence to demonstrate that the proposal would result in financial benefits and/or burdens to various parties.

It is noted that a number of submissions have raised matters relating to strata fees and repair/maintenance costs. These are civil matters to be resolved amongst the affected parties (such as Owners Corporation, relevant property owners) and possibility NCAT.

PUBLIC INTEREST

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

SUITABILITY OF THE SITE

The proposal would be located in a R4 (High Density Residential) where the construction of a sunroom and deck ancillary to an approved studio apartment is a permissible form of development. Consequently, the proposal is considered to be suitable for the site having regard to the merits of the proposal as described in the above report.

CONCLUSION

The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and was generally found to be satisfactory.

The proposal for the construction of a sunroom and a deck with associated balustrades for an approved studio apartment on roof level (9th floor) of an existing apartment building is a form of permissible development on land zoned R4 (High Density Residential).

The Clause 4.6 written submission submitted by the applicant seeking a variation to the LEP maximum building height development standard is acceptable because the proposal would not significantly change the height and the envelope of the existing apartment building and would not result in adverse impacts in terms of the loss of significant views, privacy and/or solar access for the adjoining properties.

Council received a total of twelve (12) submissions that raised various concerns about the proposed development including proposal for changes to the access to the rooftop for maintenance/repair purposes. The issues have been addressed in this report including the imposition of specific conditions of consent to ensure compliance with the relevant building codes and to facilitate access to the roof top areas for necessary future building repair and maintenance works.

Consideration has been given to the proposed modifications to various conditions in **DA105/22**. Further modifications to the affected conditions are necessary to ensure consistency with the outcome of the assessment of the subject application. A deferred commencement condition is recommended requiring the lodgement of a notice of modification of Development Consent No. DA105/22 with Council to ensure that there are no inconsistencies between the scope of the approved development in DA105/22 and that of the subject development application (D206/23) (**Condition AA1**).

Having regard to the merits of the proposal, the application is recommended for approval subject to the imposition of a deferred commencement condition and appropriate standard and site specific conditions.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

Council notified adjoining properties and the Milson Precinct of the proposed development seeking comment between 28 July and 11 August 2023. Council received twelve (12) submissions.

The issues raised in the above submissions have been addressed in this report.

RECOMMENDATION

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

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Housing and Infrastructure and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 – maximum building height and grant deferred commencement consent to Development Application No. 206/23 on land at 54 High Street, North Sydney subject to the following conditions:-

AA. Deferred Commencement Condition

This consent shall not operate until the following deferred commencement condition(s) has/have been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 months from the date of this consent. It will lapse in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979.

Deferred Commencement Matters

Modification of Development Consent No. 105/22 (as modified to date)

AA1. A notice of modification of Development Consent No. **DA105/22** (as modified to date) must be lodged with the Council in accordance with the requirements of section 67 of the Environmental Planning and Assessment Regulation 2021 consistent with the following:

**Conditions A4, C1, I1 and I2 are to be modified as set out below
(with insertions shown in red and deletions shown in strikethrough):**

No Approval for ~~Sunroom, Timber Deck and Planters~~

A4. *Approval is only granted for the residential use of the exclusive use area on the 9th floor of the building in conjunction with Lot 105 in SP 8461. Nothing in this consent authorises the construction works and/or use of the following:*

~~(a) Sunroom and timber deck to the east of the proposed studio; and~~

~~(b)~~

(a) *Garden bed/planters on the roof level with associated planting removed.*

(Reason: To ensure that the terms of consent are clear and any approval of the 9th floor studio is related to its use only)

~~Design Modifications – Eastern Elevation~~

~~C1. The design of the existing openings on the eastern elevation of the subject studio on the roof level (9th floor) must be modified as follows:~~

~~(a) Installation of frames and glazed panels to all full height openings. The frames and glazed panels must be contained within the existing openings and must not extend beyond the building envelope; and~~

~~(b) Installation of complying balustrades/railing across the full width of the openings to restrict access to the outdoor areas on the roof level.~~

~~The design and installation of the above modified building elements must comply with the relevant building requirements and submitted for the written approval of Council's Team Leader Assessments.~~

~~The Certifying Authority must also 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 restrict pedestrian access to the roof top and to ensure safety for occupants)~~

Non-trafficable Area

11. The external areas on the roof top level (9th Floor), **with the exception of the deck associated with Unit 901 (Exclusive Use Area)**, must be non-trafficable other than to provide access to carry out maintenance and repair works on the roof level by qualified persons.

(Reason: To restrict pedestrian access to the roof top and to ensure safety for occupants)

Access to the Roof Level for Repair and/or Maintenance Works

12. The applicant **and/or the owner of the subject property, shall ~~must~~ provide access through the subject exclusive use area on the 9th floor to the external roof areas to carry out maintenance and repair works by qualified/authorised persons in accordance with the provisions of the By-Laws relevant to the subject studio apartment on the 9th floor.**

(Reason: To ensure access to the external areas on the roof level for maintenance and repair works **and consistency with the relevant By-laws relevant to the subject studio apartment.**)

This consent shall not operate until such time as the written approval from Council's Manager Development Services stating that the requirements of this condition have been satisfied.

- B. Subject to the above deferred commencement conditions being satisfied within 12 months of the date of this determination, the consent shall operate in accordance with the attached conditions including the following site specific conditions:**

Terms of Consent (D206/23)

- A4 Approval is granted for the construction of a sunroom, a tiled deck and associated balustrades ancillary to Unit 901, also known as the "exclusive use area" on the 9th floor of the building that is used in conjunction with Lot 105 in SP 8461.

No approval is granted or implied for construction/use of other building elements under this consent.

(Reason: To ensure that the terms of consent is clear).

Access to the Roof Level for Repair and/or Maintenance Works

11. The applicant and/or the owner of the subject property, shall provide access through the subject exclusive use area on the 9th floor to the external roof areas to carry out maintenance and repair works by qualified/authorised persons in accordance with the provisions of the By-Laws relevant to the studio apartment on the 9th floor.

(Reason: To ensure access to the external areas on the roof level for maintenance and repair works and consistency with the relevant By-laws relevant to the subject studio apartment.)

Non-trafficable Area

- 12 The external areas on the roof top level (9th Floor), with the exception of the deck associated with Unit 901 (Exclusive Use Area), must be non-trafficable other than to provide access to carry out maintenance and repair works on the roof level by qualified persons.

(Reason: To restrict pedestrian access to the roof top and to ensure safety for occupants)

ROBIN TSE
SENIOR ASSESSMENT OFFICER

ISOBELLA LUCIC
TEAM LEADER ASSESSMENTS

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
54 HIGH STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 206/23

AA. Deferred Commencement Condition

This consent shall not operate until the following deferred commencement condition(s) has/have been satisfied.

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 months from the date of this consent. It will lapse in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979.

Deferred Commencement Matters

Modification of Development Consent No. 105/22 (as modified to date)

AA1. A notice of modification of Development Consent No. **DA105/22** (as modified to date) must be lodged with the Council in accordance with the requirements of section 67 of the Environmental Planning and Assessment Regulation 2021 consistent with the following:

**Conditions A4, C1, I1 and I2 are to be modified as set out below
(with insertions shown in red and deletions shown in strikethrough):**

No Approval for ~~Sunroom, Timber Deck and Planters~~

A4. *Approval is only granted for the residential use of the exclusive use area on the 9th floor of the building in conjunction with Lot 105 in SP 8461. Nothing in this consent authorises the construction works and/or use of the following:*

(a) ~~Sunroom and timber deck to the east of the proposed studio; and~~

(b) ~~_____~~

(a) Garden bed/planters on the roof level with associated planting removed.

(Reason: To ensure that the terms of consent are clear and any approval of the 9th floor studio is related to its use only)

~~Design Modifications – Eastern Elevation~~

~~C1. The design of the existing openings on the eastern elevation of the subject studio on the roof level (9th floor) must be modified as follows:~~

- ~~(a) Installation of frames and glazed panels to all full height openings. The frames and glazed panels must be contained within the existing openings and must not extend beyond the building envelope; and~~
- ~~(b) Installation of complying balustrades/railing across the full width of the openings to restrict access to the outdoor areas on the roof level.~~

~~The design and installation of the above modified building elements must comply with the relevant building requirements and submitted for the written approval of Council's Team Leader Assessments.~~

~~The Certifying Authority must also 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 restrict pedestrian access to the roof top and to ensure safety for occupants)~~

Non-trafficable Area

11 The external areas on the roof top level (9th Floor), **with the exception of the deck associated with Unit 901 (Exclusive Use Area)**, must be non-trafficable other than to provide access to carry out maintenance and repair works on the roof level by qualified persons.

(Reason: To restrict pedestrian access to the roof top and to ensure safety for occupants)

Access to the Roof Level for Repair and/or Maintenance Works

12. The applicant **and/or the owner of the subject property, shall** ~~must~~ provide access through the subject exclusive use area on the 9th floor to the external roof areas to carry out maintenance and repair works by qualified/authorised persons **in accordance with the provisions of the By-Laws relevant to the subject studio apartment on the 9th floor.**

(Reason: To ensure access to the external areas on the roof level for maintenance and repair works **and consistency with the relevant By-laws relevant to the subject studio apartment.**)

This consent shall not operate until such time as the written approval from Council's Manager Development Services stating that the requirements of this condition have been satisfied.

**54 HIGH STREET, NORTH SYDNEY
DEVELOPMENT APPLICATION NO. 206/23**

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- B. Subject to the above deferred commencement conditions being satisfied within 12 months of the date of this determination, the consent shall operate in accordance with the attached conditions including the following conditions:**

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.

Plan No. /Rev	Description	Prepared by	Dated
DA 01 Rev 01	Site Plan + Survey	Archisoul Architects	7/03/2023
DA 04 Rev 01	Unit 901 (Level 9) Floor Plan	Archisoul Architects	7/03/2023
DA 05 Rev 01	Roof Plan	Archisoul Architects	7/03/2023
DA 06 Rev 01	Elevations	Archisoul Architects	7/03/2023
DA 07 Rev 01	Sections	Archisoul Architects	7/03/2023

(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 plans endorsed with Council's approval stamp, 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)

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)

Terms of Consent (D206/23)

- A4. Approval is granted for the construction of a sunroom, a tiled deck and associated balustrades ancillary to Unit 901, also known as the "exclusive use area" on the 9th floor of the building that is used in conjunction with Lot 105 in SP 8461.

No approval is granted or implied for construction/use of other building elements under this consent.

(Reason: To ensure that the terms of consent is clear).

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)***Dilapidation Report Damage to Public Infrastructure**

- C1. 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)

Structural Adequacy of Existing Building

- C2. 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

- C3. 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;
- 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

- C4. 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

- C5. The external colours and finishes shall be consistent with those indicated on Drawing Numbered DA06 Rev 1, prepared by Archisoul Architects and dated 7 March 2023.

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)

Reflectivity Glazing

- C6. The glazing for windows, walls of the approved development must be factory pre-finished with low glare and reflectivity properties. 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.

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

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

Roofing Materials - Reflectivity

- C7. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the 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 excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

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

- C8. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$2,000.00 to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
 - b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
 - c) remedying any defects in any such public work that arise within 6 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)

Air Conditioners in Residential Premises

- C9. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2017 and State Environmental Planning Policy (Infrastructure) 2007 and must not:
- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
 - (ii) before 7.00am or after 10.00pm on any other day
 - (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 will be applied.

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

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

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

(Reason: To maintain residential amenity)

Security Deposit/Guarantee Schedule

- C10. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Infrastructure Damage Bond	\$2,000.00
TOTAL BONDS	\$2,000.00

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

(Reason: Compliance with the development consent)

BASIX Certificate

C11. Under clause 75 of the Environmental Planning & Assessment Regulation 2021, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. A489957 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 the relevant 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 2 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)

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)

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)

Construction Hours

- E9. Construction activities and works approved under this consent must be restricted to within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
All zones	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, the EPA Noise Policy for Industry 2017 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 & Enforcement Policy.

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

Installation and Maintenance of Sediment Control

- E10. 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

- E11. 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

- E12. 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 work-place determines the type of amenities required.

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

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

Health and Safety

- E13. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

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

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

Prohibition on Use of Pavements

- E14. 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

- E15. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

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

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

Waste Disposal

- E16. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

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

Asbestos Removal

- E17. 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 condition 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.

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 Principal Certifying Authority (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)

Demolition

- F6. 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)

Site Sign

- F7. 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**Utility Services**

- G1. 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)

Asbestos Clearance Certificate

- G2. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Principal Certifier (and a copy forwarded to Council if it is not the Principal Certifier) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following: -

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

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

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

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

BASIX Completion Certificate

- G3. 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)

Damage to Adjoining Properties

- G4. On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the 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 any damage caused to the adjoining property (including Common Property) as a result of the development;
- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property (including Common 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 (including Common 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 applicant/property owner of the subject site.

(Reason: To record the condition of adjoining properties prior to completion of the development and to ensure that adjoining owners' rights are protected)

Compliance with Certain conditions

- G5. Prior to the issue of any Occupation Certificate Conditions A1 and A5 must be certified as having been implemented on site and complied with.

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

I. On-Going / Operational Conditions

Access to the Roof Level for Repair and/or Maintenance Works

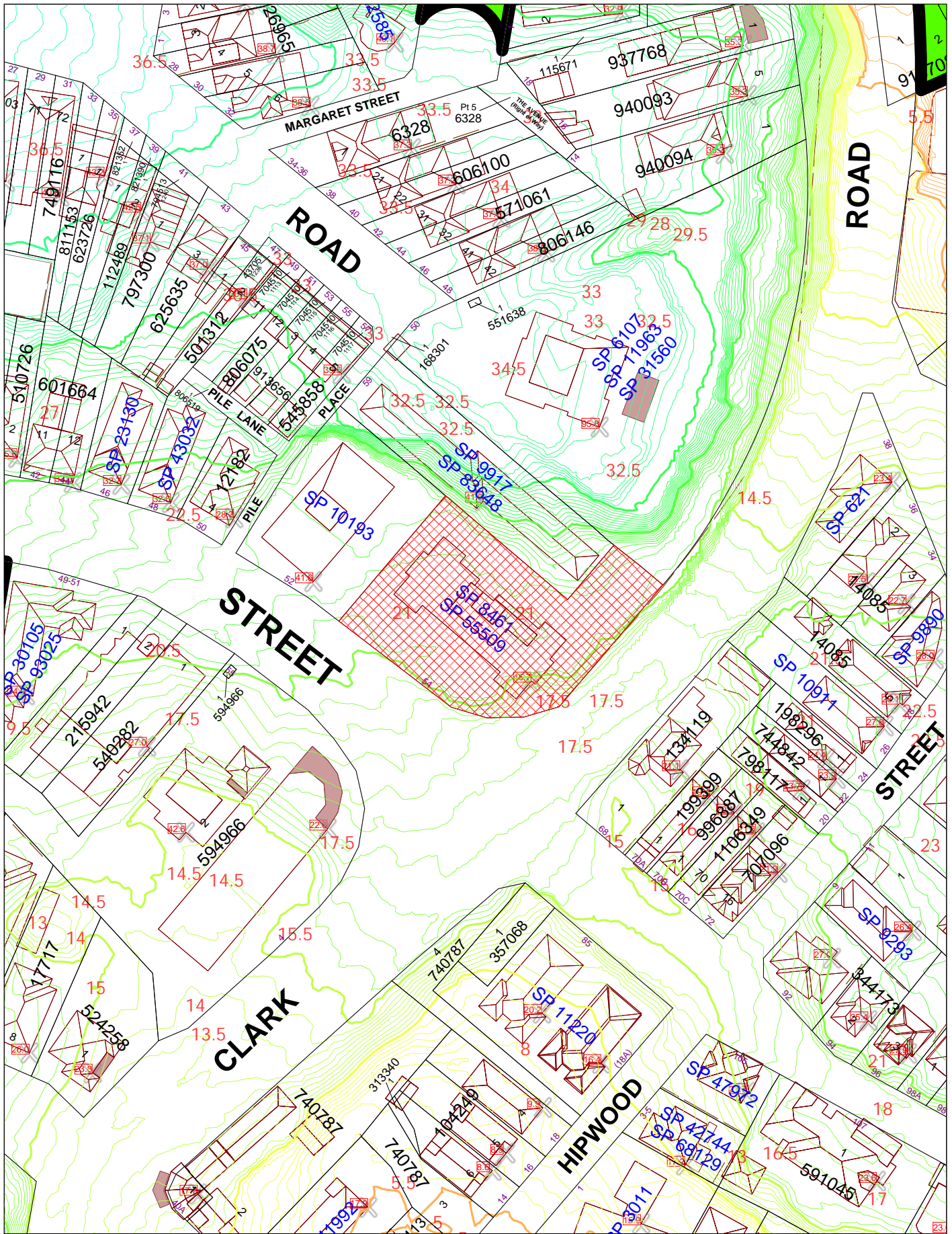
- I1. The applicant and/or the owner of the subject property, shall provide access through the subject exclusive use area on the 9th floor to the external roof areas to carry out maintenance and repair works by qualified/authorised persons in accordance with the provisions of the By-Laws relevant to the subject studio apartment on the 9th floor.

(Reason: To ensure access to the external areas on the roof level for maintenance and repair works and consistency with the relevant By-laws relevant to the subject studio apartment)

Non-trafficable Area

- 12 The external areas on the roof top level (9th Floor), with the exception of the deck associated with Unit 901 (Exclusive Use Area), must be non-trafficable other than to provide access to carry out maintenance and repair works on the roof level by qualified persons.

(Reason: To restrict pedestrian access to the roof top and to ensure safety for occupants)



North Sydney Council

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Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au

Scale: 1:1200 approx.



DA // Proposed Replacement of an Existing Sunroom & Terrace/Deck

Tuesday, 7 March 2023

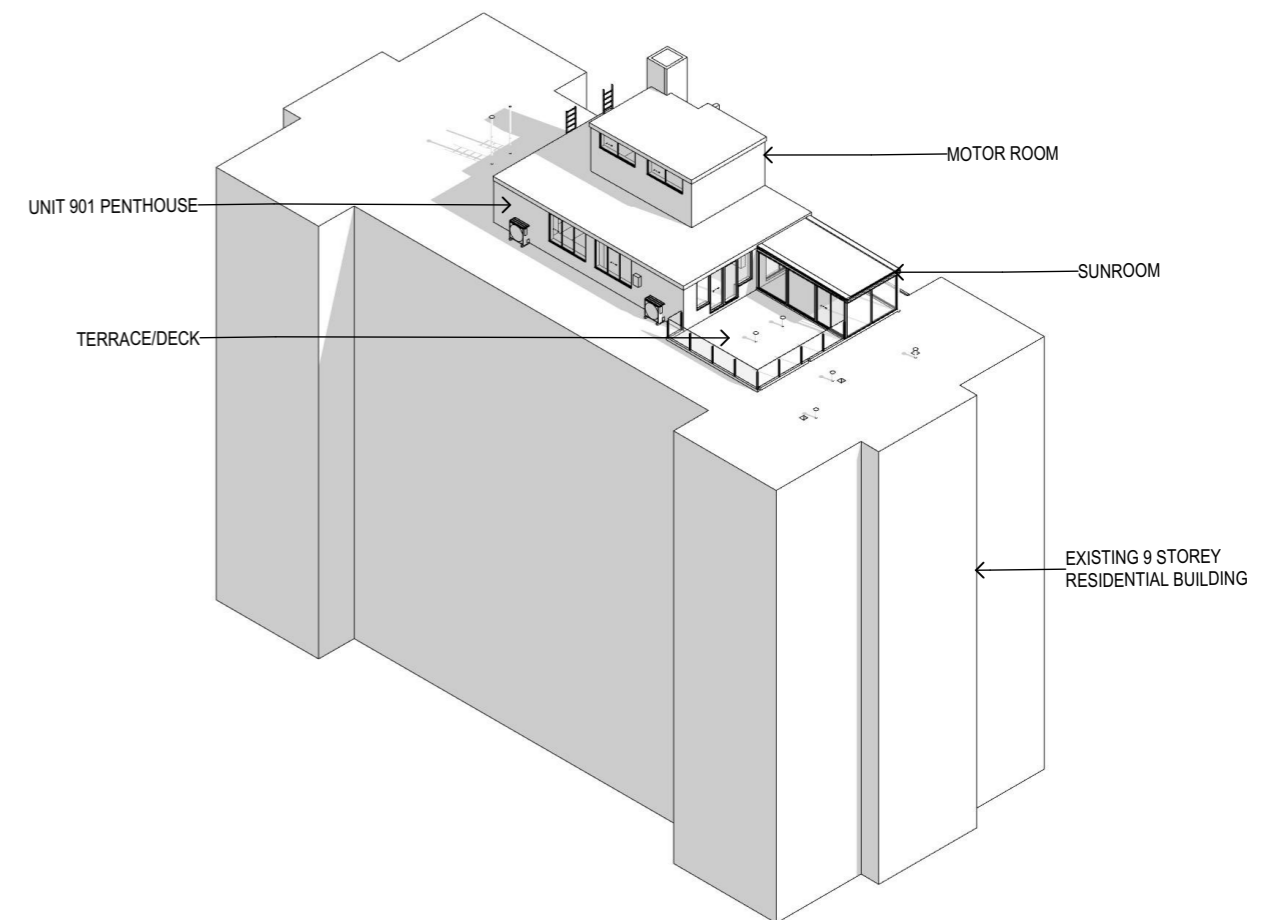
APPLICANT: MR J GEORGHY

LEVEL 9 UNIT 901 - 54 HIGH STREET, NORTH SYDNEY, NSW 2060

DRAWING No.	DESCRIPTION	REV	ISSUED
DA			
DA00	COVER PAGE	01	☒
DA01	SITE PLAN + SURVEY	01	☒
DA02	BEFORE OWNERS CORPORATION (OC) WATERPROOFING	01	☒
DA03	AFTER OWNERS CORPORATION (OC) WATERPROOFING	01	☒
DA04	UNIT 901 (LEVEL 9) FLOOR PLAN	01	☒
DA05	ROOF PLAN	01	☒
DA06	ELEVATIONS	01	☒
DA07	SECTIONS	01	☒
DA08	3D VIEWS	01	☒
DA09	SHADOW DIAGRAMS	01	☒
DA10	PROPOSED WINDOW SCHEDULE	01	☒
DA11	BASIX CERTIFICATE	01	☒



1 3D PERSPECTIVE VIEW - TERRACE/ DECK & SUNROOM



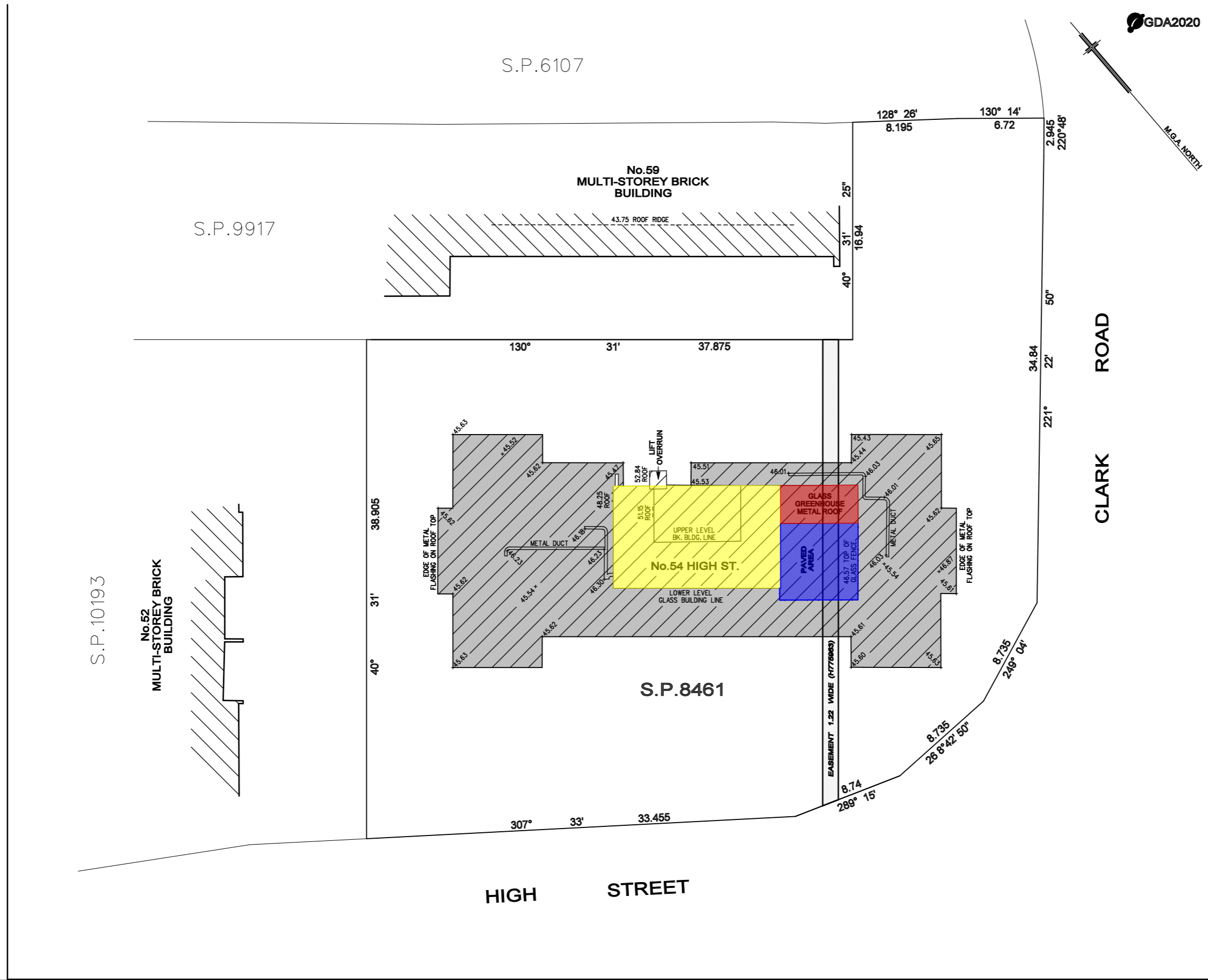
2 EXISTING 3D

NOTE:

THE ORIGINAL SUNROOM WAS REPLACED IN ABOUT NOVEMBER 2001 UNDER CDC ISSUED BY NORTH SYDNEY COUNCIL.

ON 17 MAY, TO ADDRESS WATERPROOFING ISSUES ON THE ROOF. THE OWNER'S COOPERATION DISMANTLED AND DISPOSED OF THE SUNROOM (FORMING PART OF UNIT 901).

THE OWNER IS RE-INSTATING THE SUNROOM/ DECK AND APPLYING FOR A DEVELOPMENT APPLICATION TO RE-INSTATE THE SUNROOM/ DECK.



LEGEND

- EXISTING UNIT 901 PENTHOUSE
- EXISTING SUNROOM
- EXISTING TERRACE/DECK

REV.	DATE	AMENDMENTS

RYGATE SURVEYORS
 Rygate & Company Pty Limited
 P.O. Box 100, Rygate NSW 2060
 P.W. Rygate & West
 ABN 61 001 204 897
 w rygate.com.au

Level 9, 89 York St Sydney NSW 2000
 p +61 2 9262 6800
 f +61 2 9262 6843
 e surveyors@rygate.com.au

SURVEYOR	DRAWN	CHECKED	APPROVED
M.B.	S.K.	M.B.	M.B.

REDUCTION RATIO 1:200 @ A2

DATUM : AUSTRALIAN HEIGHT DATUM
 CONTOUR INTERVAL : N/A
 ORIGIN OF LEVELS : S.S.M.21711 R.L.17.382 A.H.D.

THIS TITLE BLOCK AND NOTES FORM AN INTEGRAL PART OF THE PLAN AND MUST BE REPRODUCED IN ANY USE, DUPLICATION OR AMENDMENT.

CLIENT
JOSEPH GEORGHY

LOCALITY
NORTH SYDNEY

L.G.A.
NORTH SYDNEY

PLAN
 SHOWING LIMITED DETAIL & LEVELS
 LEVEL 9 ROOF - S.P.8461
 No.54 HIGH STREET

CAD REFERENCE No. 79562.dgn

REFERENCE No.	PLAN No.	DATE	SHEET No.
79562		10/03/2021	OF SHEETS

ARCHITECT

ARCHISOUL
 ARCHITECTS

UNIT 23/28-34 ROSEBERRY STREET
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NOTES

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REV	DATE	DESCRIPTION
01	7/03/2023	Issue for DA

PROJECT DETAILS

Drawn | Checked **JR - JG**

Plot Date: **7/03/2023**

Project Status **DA**

STRATA PLAN: SP8461

Client: **MR J GEORGHY**

CONSTRUCTION: TYPE A

Project: **2219**

DRAWING TITLE :
SITE PLAN + SURVEY

PROJECT NAME :
PROPOSED REPLACEMENT OF EX SUNROOM/TERRACE DECK UNIT 901 54 HIGH STREET, NORTH SYDNEY, NSW, 2060

REVISION NO.
01

DRAWING NO.
DA01

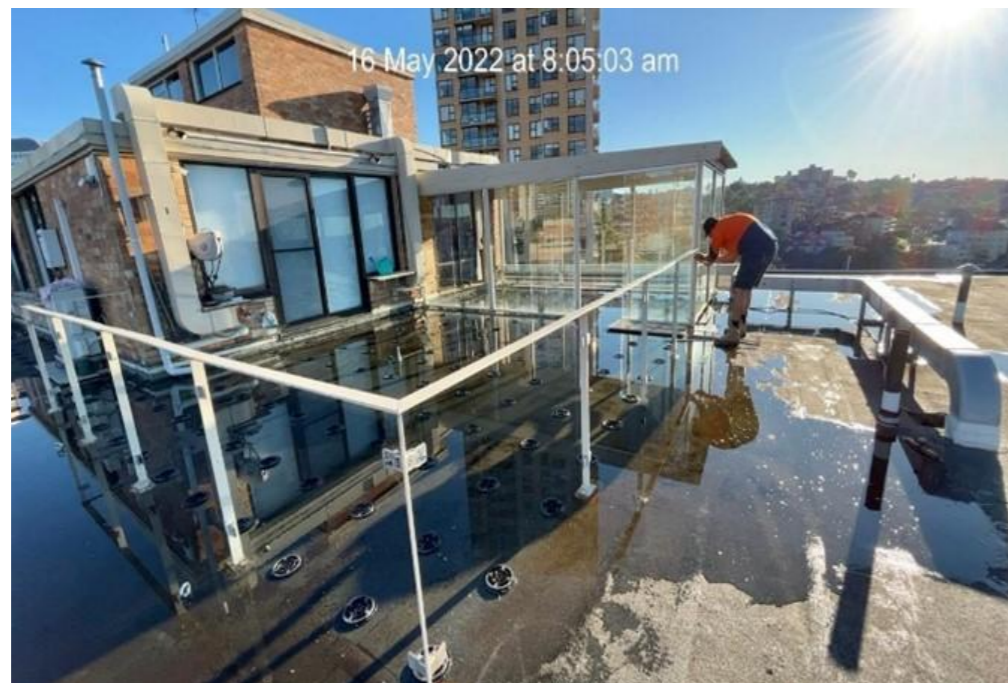
SCALE:
@ A3



BEFORE STRATA WATERPROOFING - SOUTH EAST VIEW - EXISTING TERRACE/ DECK (20 JAN 2022)

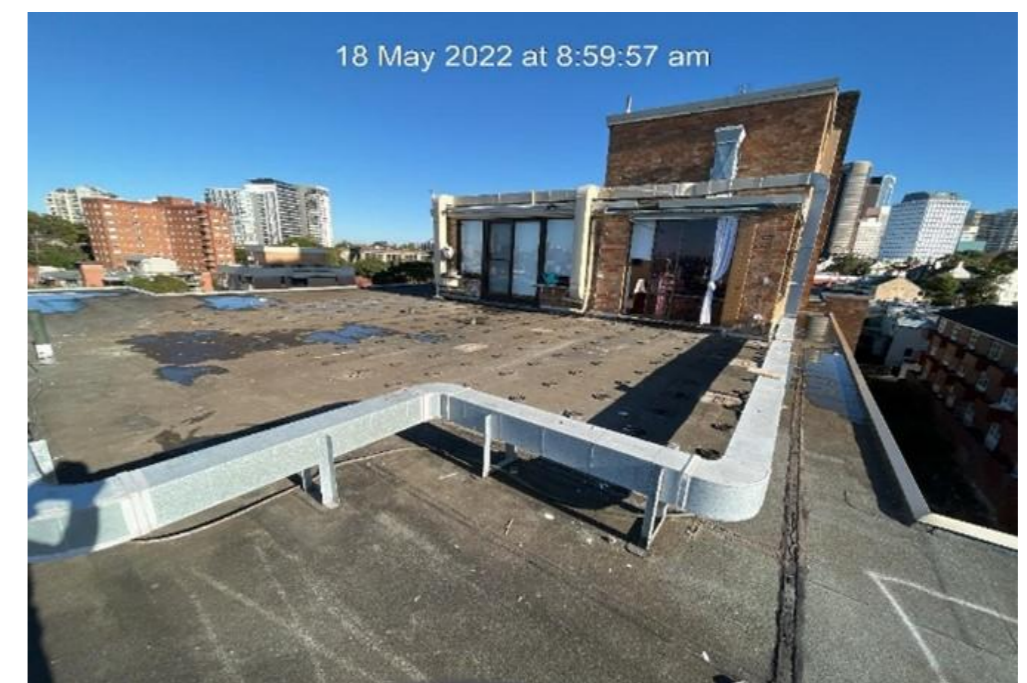


BEFORE STRATA WATERPROOFING - NORTH EAST VIEW - EXISTING SUNROOM (20 JAN 2022)



DISMANTLING OF SUNROOM AND TERRACE (16 MAY 2022)

NOTE:
EXISTING SUNROOM AND
OUTDOOR DECK/ TERRACE
HAVE BEEN REMOVED IN
ORDER TO FACILITATE STRATA
DIRECTED MAINTENANCE
(WATERPROOFING) WORKS ON
THE EXISTING ROOF SLAB



SUNROOM AND TERRACE/ DECK DISMANTLED AND DISPOSED (18 MAY 2022)

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REV	DATE	DESCRIPTION
01	7/03/2023	Issue for DA

PROJECT DETAILS

Drawn | Checked **JR - JG**
Plot Date: **7/03/2023**
Project Status **DA**
STRATA PLAN: SP8461
Client: **MR J GEORGHY**
CONSTRUCTION: TYPE A
Project: **2219**

DRAWING TITLE :

**BEFORE OWNERS
CORPORATION (OC)
WATERPROOFING**

PROJECT NAME :

**PROPOSED REPLACEMENT OF EX
SUNROOM/TERRACE DECK UNIT 901 54
HIGH STREET, NORTH SYDNEY, NSW, 2060**

REVISION NO.

01

DRAWING NO.

DA02

SCALE:
@ A3



EPOXY APPLIED TO SUNROOM AND TERRACE AREAS, SCREED AND FALL WAS CREATED (20 SEP 2022)



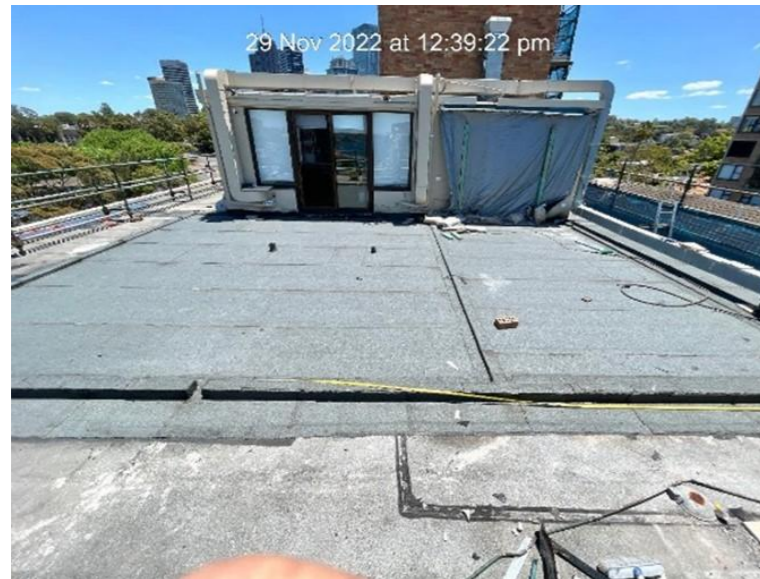
EPOXY APPLIED TO SUNROOM AND TERRACE AREAS, SCREED AND FALL WAS CREATED (10 OCT 2022)



BITUMEN APPLICATION ON THE SUNROOM AND TERRACE (10 NOV 2022)

NOTE:
THE JOB WAS CERTIFIED BY MR GEOFF GLEESON (A STRUCTURAL ENGINEER, ENGAGED BY THE OC).

THE TERRACE DOORWAY AND THE NEW SUNROOM DOORWAY ARE BCA COMPLIANT FOR HEIGHT AND WEATHER CONDITIONS



WATERPROOFING ON TERRACE + SUNROOM INSTALLED - SOUTH EAST FACADE - NOTE HOBS WITH GAPS FOR WATER DRAINAGE



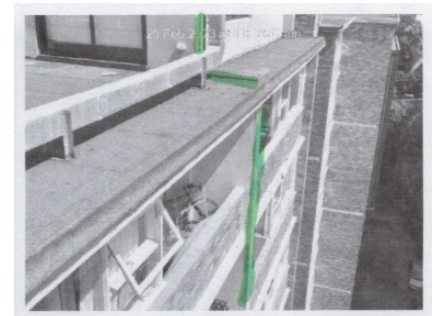
WATERPROOFING ON THE EXISTING ROOF SLAB AND SUNROOM DOORWAY INSTALLATION COMPLETED (27 FEB 2023) - SOUTH EAST VIEW



WATERPROOFING ON THE EXISTING ROOF SLAB AND SUNROOM DOORWAY INSTALLATION COMPLETED (27 FEB 2023) NORTH EAST VIEW



NORTHERN PATHWAY: DRAINING OUTLET - PIT DRAINS IN A PIPE ALONG THE WALL



NORTHERN PATHWAY: DRAINING OUTLET - PIT DRAINS IN A PIPE ALONG THE WALL

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REV	DATE	DESCRIPTION
01	7/03/2023	Issue for DA

PROJECT DETAILS

Drawn | Checked **JR - JG**
Plot Date: **7/03/2023**
Project Status **DA**
STRATA PLAN: SP8461
Client: **MR J GEORGHY**
CONSTRUCTION: TYPE A
Project: **2219**

DRAWING TITLE :

AFTER OWNERS CORPORATION (OC) WATERPROOFING

PROJECT NAME :

PROPOSED REPLACEMENT OF EX SUNROOM/TERRACE DECK UNIT 901 54 HIGH STREET, NORTH SYDNEY, NSW, 2060

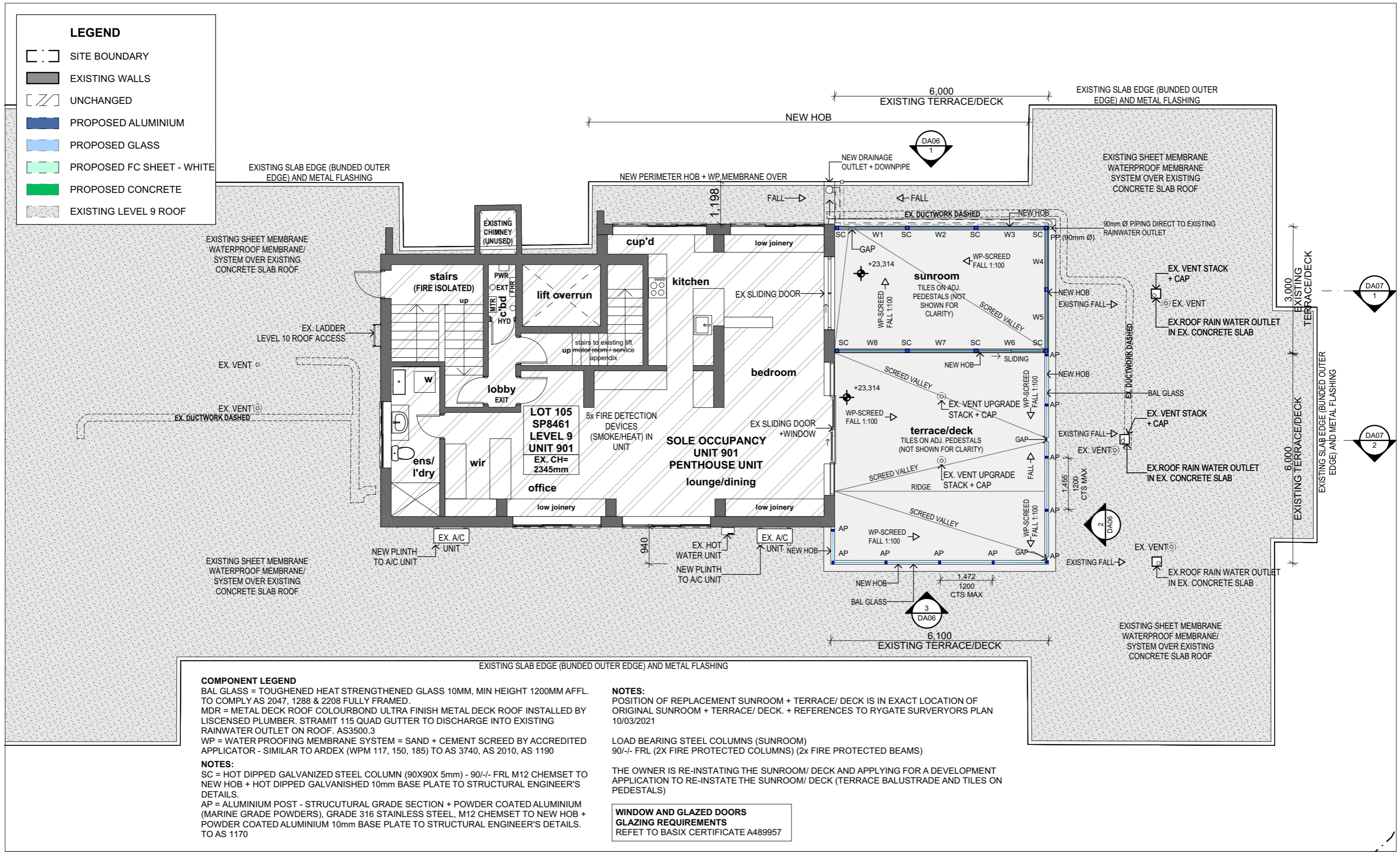
REVISION NO.

01

DRAWING NO.

DA03

SCALE:
@ A3



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REV	DATE	DESCRIPTION
01	7/03/2023	Issue for DA

PROJECT DETAILS

Drawn | Checked **JR - JG**

Plot Date: **7/03/2023**

Project Status **DA**

STRATA PLAN: SP8461

Client: **MR J GEORGHY**

CONSTRUCTION: TYPE A

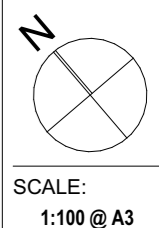
Project: **2219**

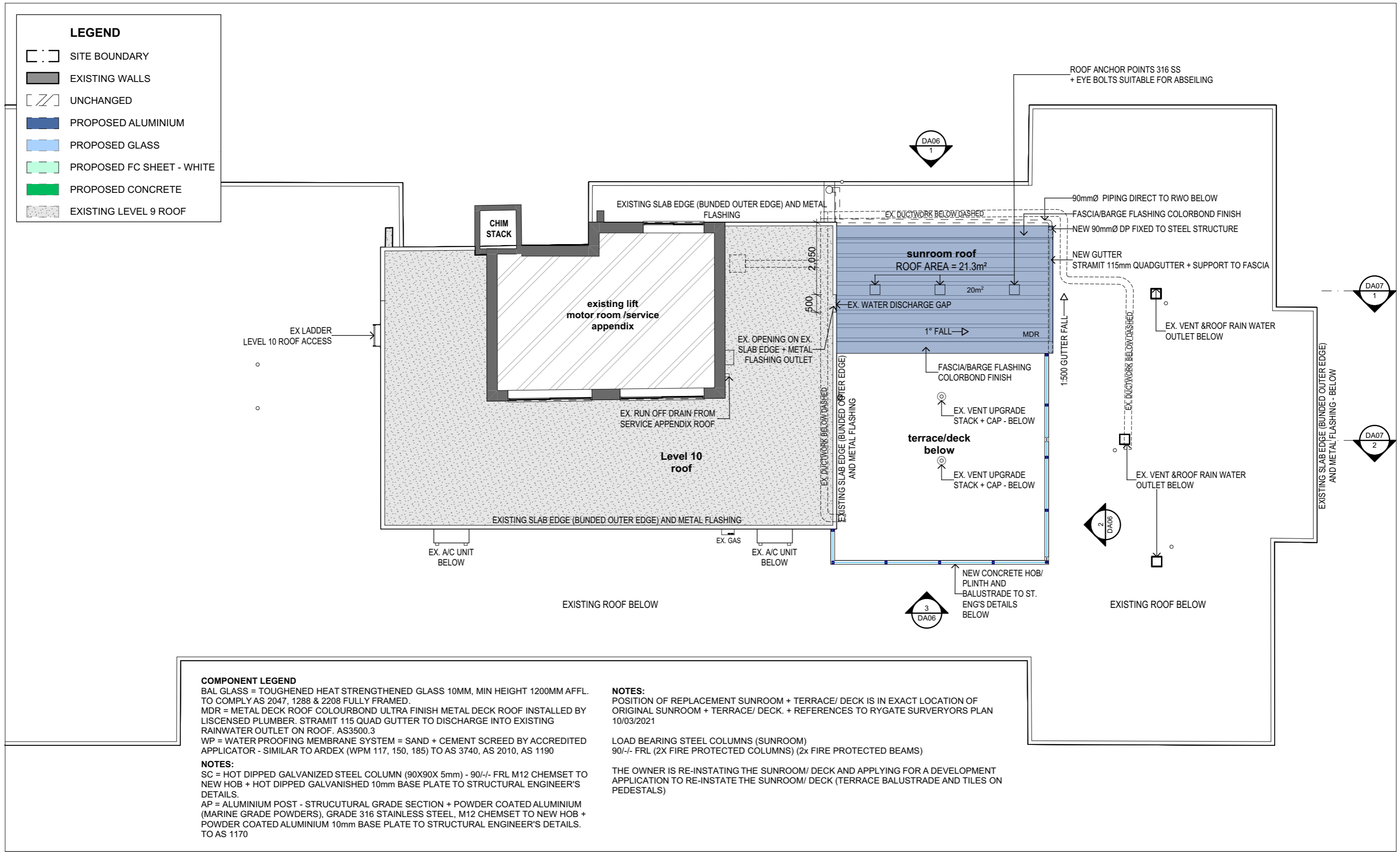
DRAWING TITLE :
UNIT 901 (LEVEL 9) FLOOR PLAN

PROJECT NAME :
PROPOSED REPLACEMENT OF EX SUNROOM/TERRACE DECK UNIT 901 54 HIGH STREET, NORTH SYDNEY, NSW, 2060

REVISION NO.
01

DRAWING NO.
DA04





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REV	DATE	DESCRIPTION
01	7/03/2023	Issue for DA

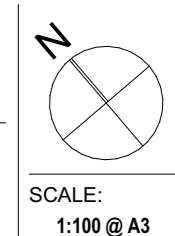
PROJECT DETAILS
 Drawn | Checked **JR - JG**
 Plot Date: **7/03/2023**
 Project Status **DA**
 STRATA PLAN: SP8461
 Client: **MR J GEORGHY**
 CONSTRUCTION: TYPE A
 Project: **2219**

DRAWING TITLE :
ROOF PLAN

PROJECT NAME :
PROPOSED REPLACEMENT OF EX SUNROOM/TERRACE DECK UNIT 901 54 HIGH STREET, NORTH SYDNEY, NSW, 2060

REVISION NO.
01

DRAWING NO.
DA05



LEGEND

- SITE BOUNDARY
- EXISTING WALLS
- UNCHANGED
- PROPOSED ALUMINIUM
- PROPOSED GLASS
- PROPOSED FC SHEET - WHITE
- PROPOSED CONCRETE
- EXISTING LEVEL 9 ROOF

WINDOW AND GLAZED DOORS GLAZING REQUIREMENTS
REFET TO BASIX CERTIFICATE A489957

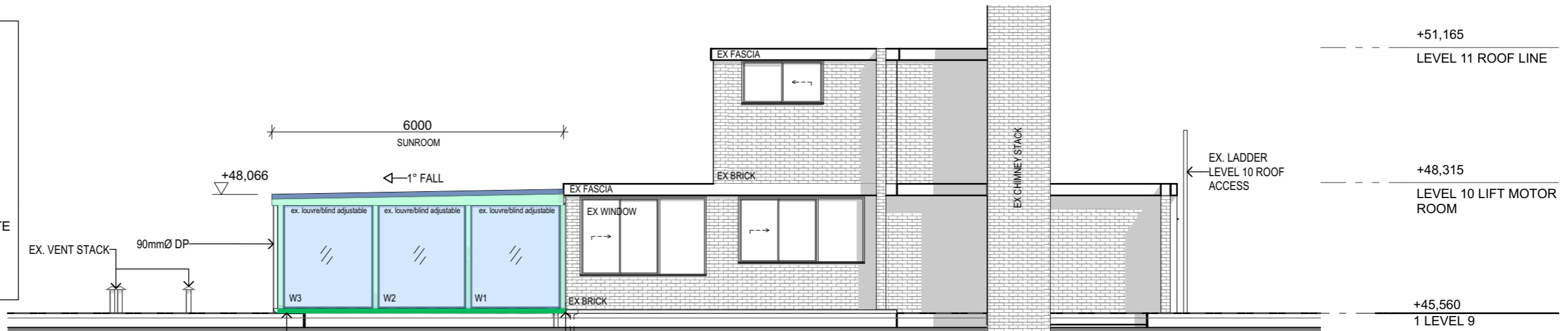
COMPONENT LEGEND
BAL GLASS = TOUGHENED HEAT STRENGTHENED GLASS 10MM, MIN HEIGHT 1200MM AFFL. TO COMPLY AS 2047, 1288 & 2208 FULLY FRAMED.
MDR = METAL DECK ROOF COLOURBOND ULTRA FINISH METAL DECK ROOF INSTALLED BY LISCENSED PLUMBER. STRAMIT 115 QUAD GUTTER TO DISCHARGE INTO EXISTING RAINWATER OUTLET ON ROOF. AS3500.3
WP = WATERPROOFING MEMBRANE SYSTEM = SAND + CEMENT SCREED BY ACCREDITED APPLICATOR - SIMILAR TO ARDEX (WPM 117, 150, 185) TO AS 3740, AS 2010, AS 1190

NOTES:
POSITION OF REPLACEMENT SUNROOM + TERRACE/ DECK IS IN EXACT LOCATION OF ORIGINAL SUNROOM + TERRACE/ DECK. + REFERENCES TO RYGATE SURVERYORS PLAN 10/03/2021

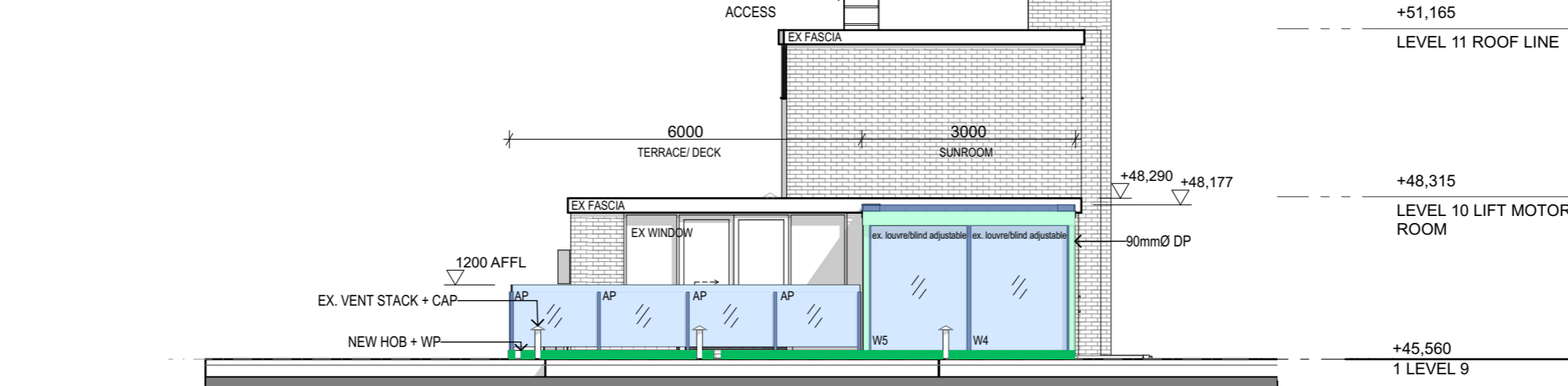
LOAD BEARING STEEL COLUMNS (SUNROOM)
90/-/ FRL (2X FIRE PROTECTED COLUMNS) (2x FIRE PROTECTED BEAMS)

THE OWNER IS RE-INSTATING THE SUNROOM/ DECK AND APPLYING FOR A DEVELOPMENT APPLICATION TO RE-INSTATE THE SUNROOM/ DECK (TERRACE BALUSTRADE AND TILES ON PEDESTALS)

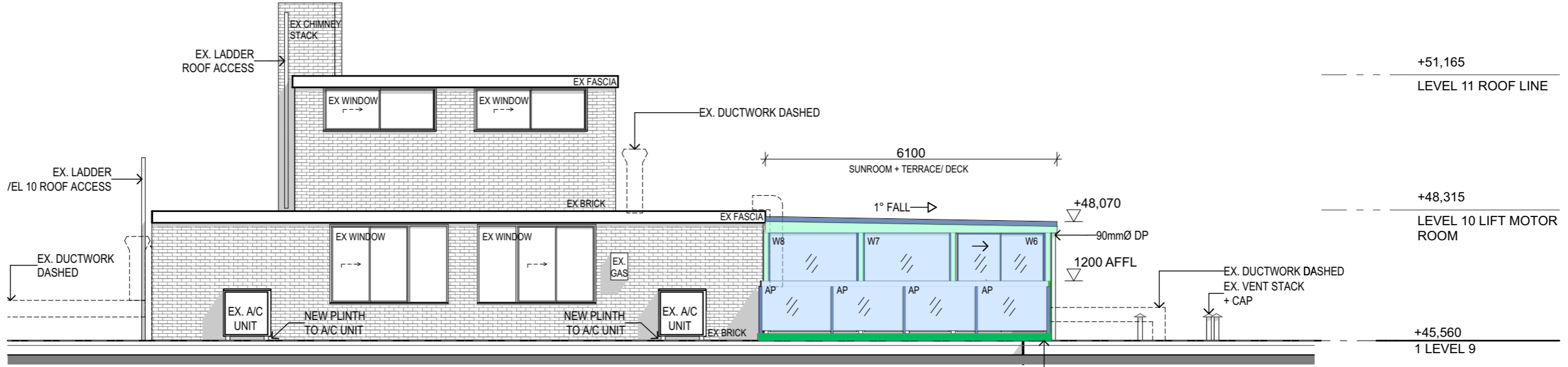
NOTES:
SC = HOT DIPPED GALVANIZED STEEL COLUMN (90X90X 5mm) - 90/-/ FRL M12 CHEMSET TO NEW HOB + HOT DIPPED GALVANISHED 10mm BASE PLATE TO STRUCTURAL ENGINEER'S DETAILS.
AP = ALUMINIUM POST - STRUCUTURAL GRADE SECTION + POWDER COATED ALUMINIUM (MARINE GRADE POWDERS), GRADE 316 STAINLESS STEEL, M12 CHEMSET TO NEW HOB + POWDER COATED ALUMINIUM 10mm BASE PLATE TO STRUCTURAL ENGINEER'S DETAILS. TO AS 1170



1 NORTH ELEVATION 1:100



2 EAST ELEVATION 1:100



3 SOUTH ELEVATION 1:100

MATERIALS LEGEND

- METAL DECK ROOF COLOUR BOND SHALE GREY
- ALUMINIUM POST + BALUSTRADE
- FIBRE CEMENT SHEET PAINTED DULUX LEXICON QUARTER
- WINDOW ALUMINIUM + GLAZING

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REV	DATE	DESCRIPTION
01	7/03/2023	Issue for DA

PROJECT DETAILS

Drawn | Checked **JR - JG**
Plot Date: **7/03/2023**
Project Status **DA**
STRATA PLAN: SP8461
Client: **MR J GEORGHY**
CONSTRUCTION: TYPE A
Project: **2219**

DRAWING TITLE :
ELEVATIONS

PROJECT NAME :
PROPOSED REPLACEMENT OF EX SUNROOM/TERRACE DECK UNIT 901 54 HIGH STREET, NORTH SYDNEY, NSW, 2060

REVISION NO.
01

DRAWING NO.
DA06

SCALE:
1:100 @ A3

LEGEND

- SITE BOUNDARY
- EXISTING WALLS
- UNCHANGED
- PROPOSED ALUMINIUM
- PROPOSED GLASS
- PROPOSED FC SHEET - WHITE
- PROPOSED CONCRETE
- EXISTING LEVEL 9 ROOF

WINDOW AND GLAZED DOORS GLAZING REQUIREMENTS
 REFET TO BASIX CERTIFICATE A489957

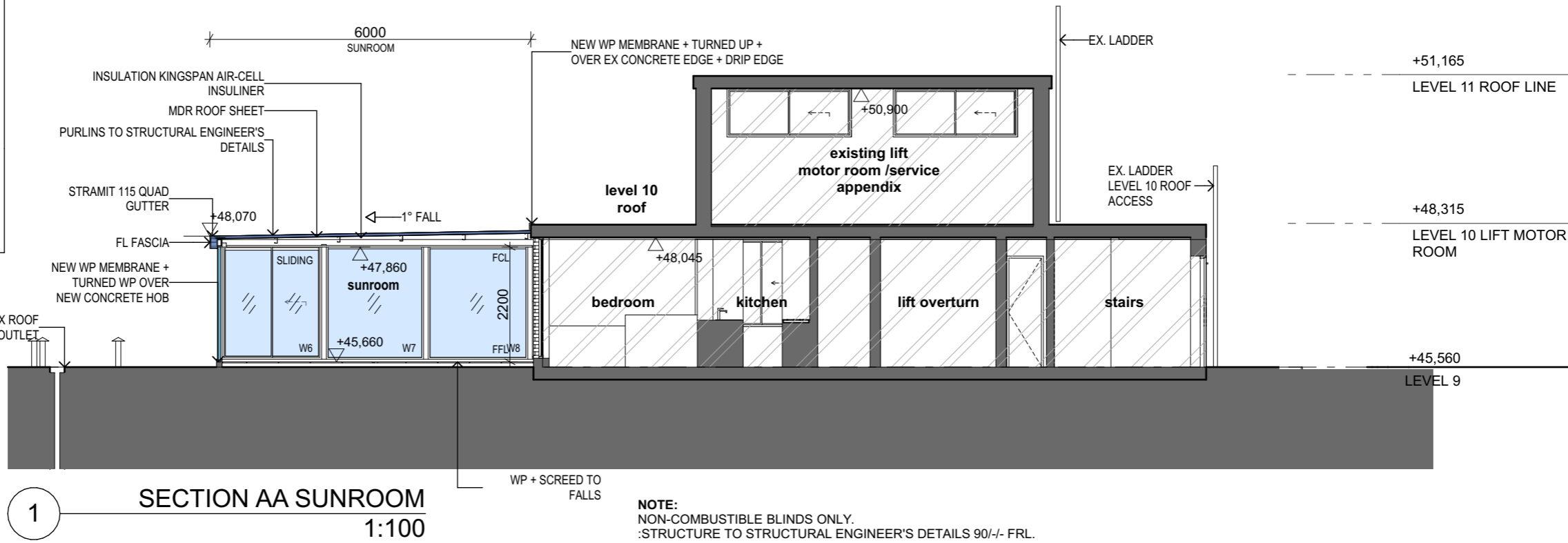
COMPONENT LEGEND
 BAL GLASS = TOUGHENED HEAT STRENGTHENED GLASS 10MM, MIN HEIGHT 1200MM AFFL. TO COMPLY AS 2047, 1288 & 2208 FULLY FRAMED.
 MDR = METAL DECK ROOF COLOURBOND ULTRA FINISH METAL DECK ROOF INSTALLED BY LISCENSED PLUMBER. STRAMIT 115 QUAD GUTTER TO DISCHARGE INTO EXISTING RAINWATER OUTLET ON ROOF. AS3500.3
 WP = WATER PROOFING MEMBRANE SYSTEM = SAND + CEMENT SCREED BY ACCREDITED APPLICATOR - SIMILAR TO ARDEX (WPM 117, 150, 185) TO AS 3740, AS 2010, AS 1190

NOTES:
 POSITION OF REPLACEMENT SUNROOM + TERRACE/ DECK IS IN EXACT LOCATION OF ORIGINAL SUNROOM + TERRACE/ DECK. + REFERENCES TO RYGATE SURVERYORS PLAN 10/03/2021

LOAD BEARING STEEL COLUMNS (SUNROOM)
 90/- FRL (2X FIRE PROTECTED COLUMNS) (2x FIRE PROTECTED BEAMS)

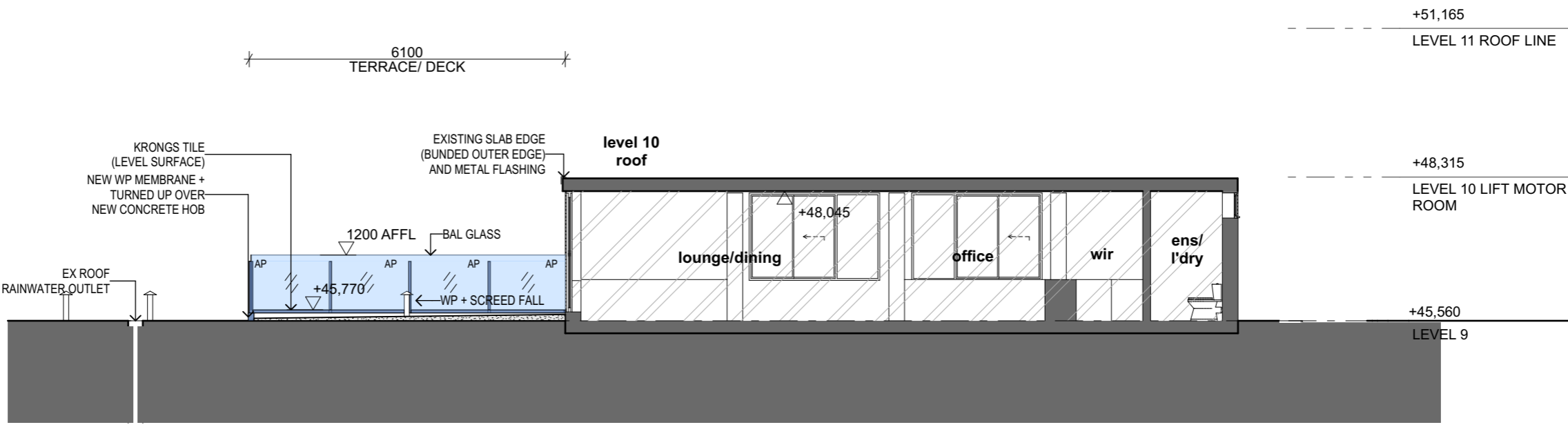
THE OWNER IS RE-INSTATING THE SUNROOM/ DECK AND APPLYING FOR A DEVELOPMENT APPLICATION TO RE-INSTATE THE SUNROOM/ DECK (TERRACE BALUSTRADE AND TILES ON PEDESTALS)

NOTES:
 SC = HOT DIPPED GALVANIZED STEEL COLUMN (90X90X 5mm) - 90/- FRL M12 CHEMSET TO NEW HOB + HOT DIPPED GALVANISHED 10mm BASE PLATE TO STRUCTURAL ENGINEER'S DETAILS.
 AP = ALUMINIUM POST - STRUCUTURAL GRADE SECTION + POWDER COATED ALUMINIUM (MARINE GRADE POWDERS), GRADE 316 STAINLESS STEEL, M12 CHEMSET TO NEW HOB + POWDER COATED ALUMINIUM 10mm BASE PLATE TO STRUCTURAL ENGINEER'S DETAILS. TO AS 1170



1 SECTION AA SUNROOM
 1:100

NOTE:
 NON-COMBUSTIBLE BLINDS ONLY.
 :STRUCTURE TO STRUCTURAL ENGINEER'S DETAILS 90/- FRL.
 FIXINGS GRADE 316 STAINLESS STEEL CLIPS



2 SECTION BB TERRACE/DECK
 1:100

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REV	DATE	DESCRIPTION
01	7/03/2023	Issue for DA

PROJECT DETAILS

Drawn | Checked **JR - JG**

Plot Date: **7/03/2023**

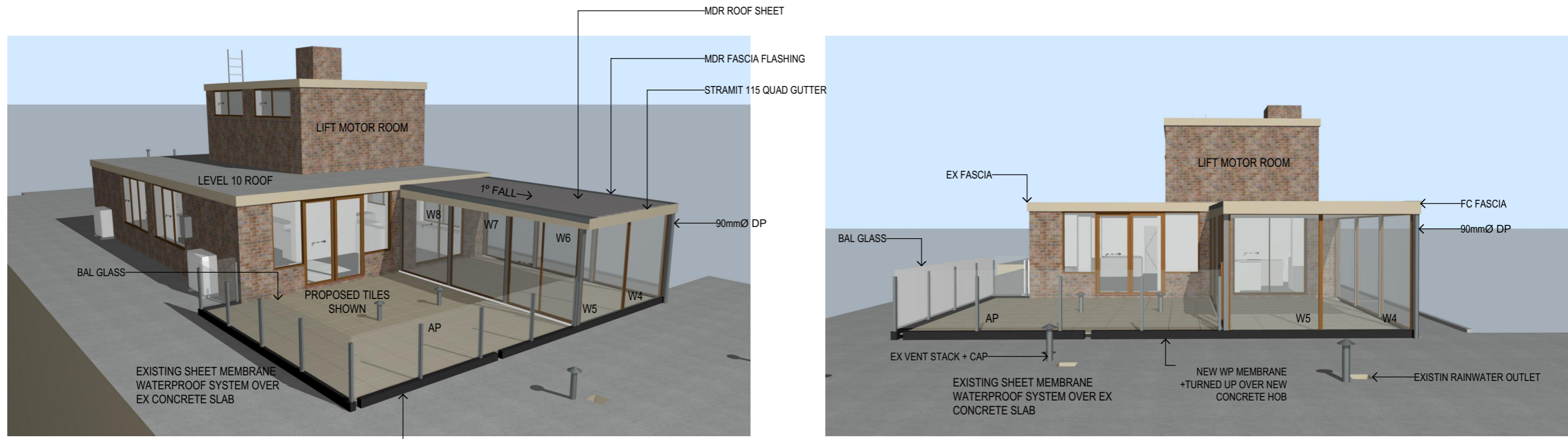
Project Status **DA**
 STRATA PLAN: SP8461

Client: **MR J GEORGHY**
 CONSTRUCTION: TYPE A
 Project: **2219**

DRAWING TITLE :
SECTIONS

PROJECT NAME :
PROPOSED REPLACEMENT OF EX SUNROOM/TERRACE DECK UNIT 901 54 HIGH STREET, NORTH SYDNEY, NSW, 2060

REVISION NO.	01
DRAWING NO.	DA07
SCALE:	1:100 @ A3



COMPONENT LEGEND

BAL GLASS = TOUGHENED HEAT STRENGTHENED GLASS 10MM, MIN HEIGHT 1200MM AFFL. TO COMPLY AS 2047, 1288 & 2208 FULLY FRAMED.
 MDR = METAL DECK ROOF COLOURBOND ULTRA FINISH METAL DECK ROOF INSTALLED BY LISCENSED PLUMBER. STRAMIT 115 QUAD GUTTER TO DISCHARGE INTO EXISTING RAINWATER OUTLET ON ROOF. AS3500.3
 WP = WATER PROOFING MEMBRANE SYSTEM = SAND + CEMENT SCREED BY ACCREDITED APPLICATOR - SIMILAR TO ARDEX (WPM 117, 150, 185) TO AS 3740, AS 2010, AS 1190

NOTES:

POSITION OF REPLACEMENT SUNROOM + TERRACE/ DECK IS IN EXACT LOCATION OF ORIGINAL SUNROOM + TERRACE/ DECK. + REFERENCES TO RYGATE SURVERYORS PLAN 10/03/2021

LOAD BEARING STEEL COLUMNS (SUNROOM)
 90/-/- FRL (2X FIRE PROTECTED COLUMNS) (2x FIRE PROTECTED BEAMS)

THE OWNER IS RE-INSTATING THE SUNROOM/ DECK AND APPLYING FOR A DEVELOPMENT APPLICATION TO RE-INSTATE THE SUNROOM/ DECK (TERRACE BALUSTRADE AND TILES ON PEDESTALS)

NOTES:

SC = HOT DIPPED GALVANIZED STEEL COLUMN (90X90X 5mm) - 90/-/- FRL M12 CHEMSET TO NEW HOB + HOT DIPPED GALVANISHED 10mm BASE PLATE TO STRUCTURAL ENGINEER'S DETAILS.
 AP = ALUMINIUM POST - STRUCUTURAL GRADE SECTION + POWDER COATED ALUMINIUM (MARINE GRADE POWDERS), GRADE 316 STAINLESS STEEL, M12 CHEMSET TO NEW HOB + POWDER COATED ALUMINIUM 10mm BASE PLATE TO STRUCTURAL ENGINEER'S DETAILS.
 TO AS 1170

NEW WP MEMBRANE +TURNED UP OVER NEW CONCRETE HOB



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REV	DATE	DESCRIPTION
01	7/03/2023	Issue for DA

PROJECT DETAILS

Drawn | Checked **JR - JG**
 Plot Date: **7/03/2023**
 Project Status **DA**
 STRATA PLAN: SP8461
 Client: **MR J GEORGHY**
 CONSTRUCTION: TYPE A
 Project: **2219**

DRAWING TITLE :
3D VIEWS

PROJECT NAME :
PROPOSED REPLACEMENT OF EX SUNROOM/TERRACE DECK UNIT 901 54 HIGH STREET, NORTH SYDNEY, NSW, 2060

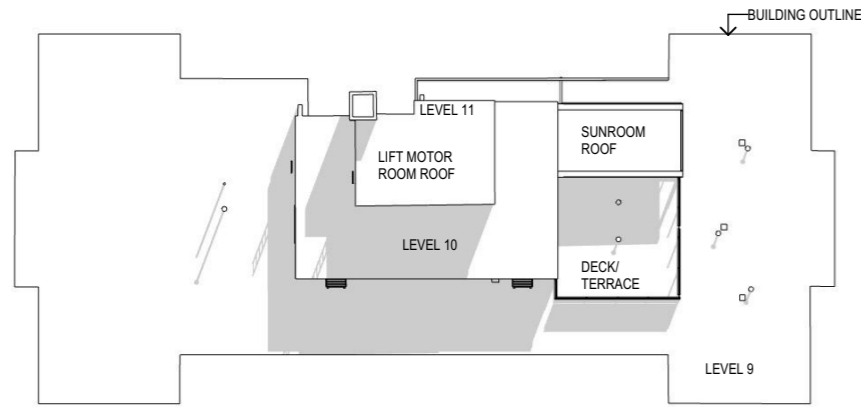
REVISION NO.

01

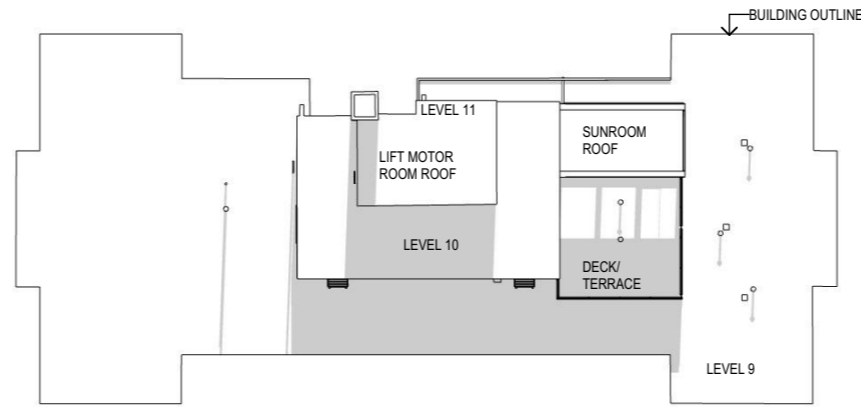
DRAWING NO.

DA08

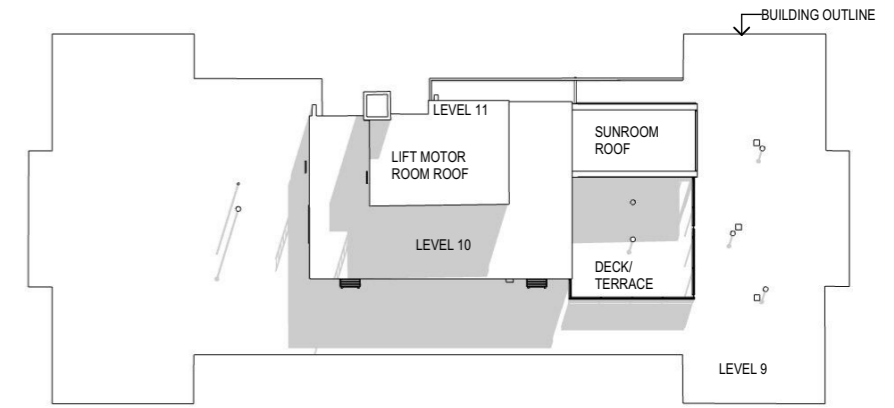
SCALE:
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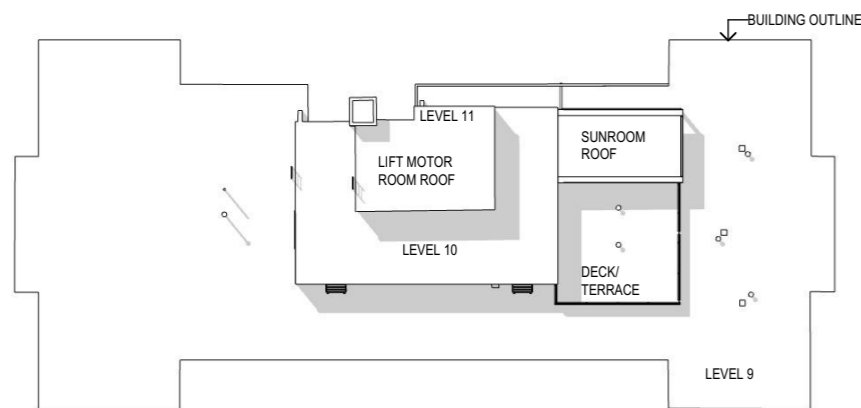
1 SHADOW DIAGRAM - 21 MARCH - 9AM



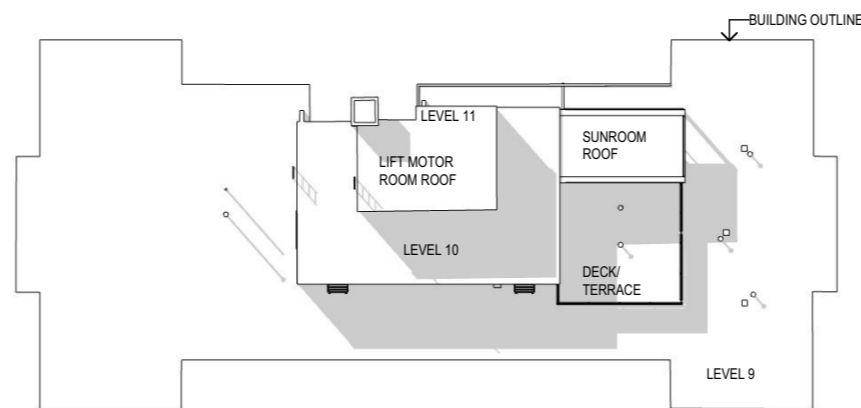
4 SHADOW DIAGRAM - 21 JUNE - 9AM



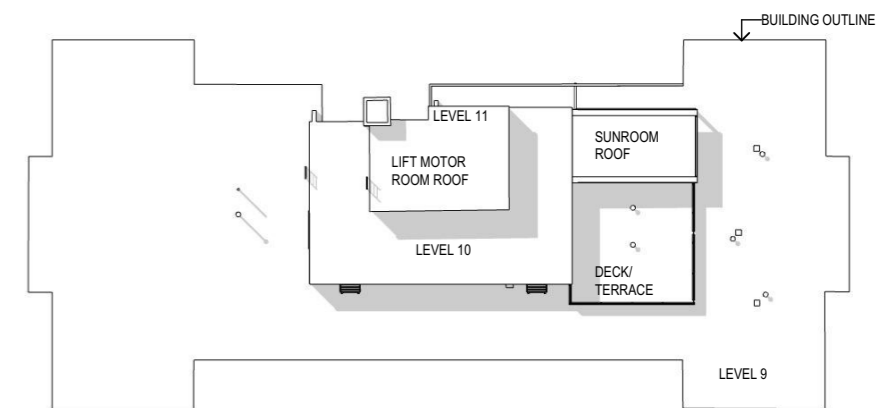
7 SHADOW DIAGRAM - 21 SEPTEMBER - 9AM



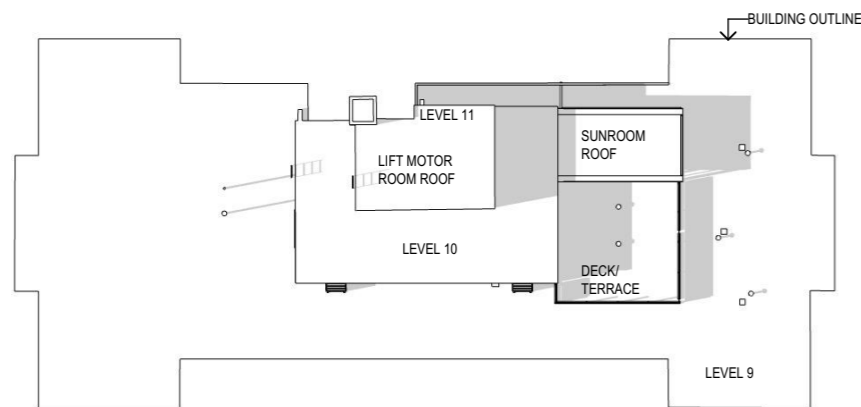
2 SHADOW DIAGRAM - 21 MARCH - 12PM



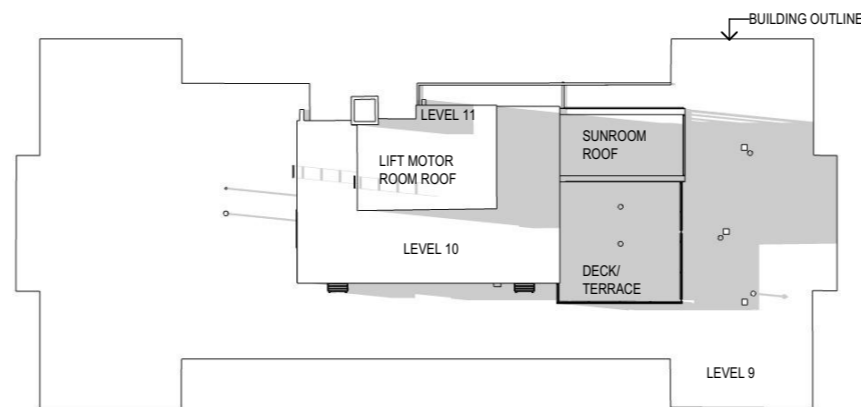
5 SHADOW DIAGRAM - 21 JUNE - 12PM



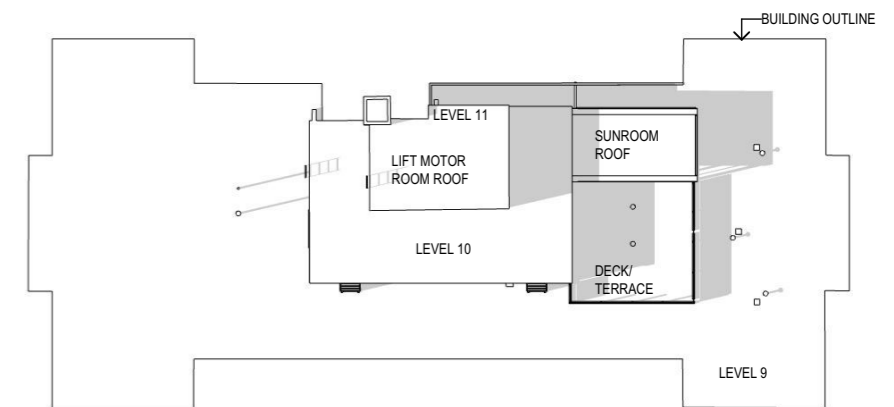
8 SHADOW DIAGRAM - 21 SEPTEMBER - 12PM



3 SHADOW DIAGRAM - 21 MARCH - 3PM



6 SHADOW DIAGRAM - 21 JUNE - 3PM



9 SHADOW DIAGRAM - 21 SEPTEMBER - 3PM

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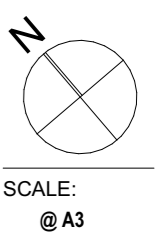
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REV	DATE	DESCRIPTION
01	7/03/2023	Issue for DA

PROJECT DETAILS
 Drawn | Checked **JR - JG**
 Plot Date: **7/03/2023**
 Project Status **DA**
 STRATA PLAN: SP8461
 Client: **MR J GEORGHY**
 CONSTRUCTION: TYPE A
 Project: **2219**

DRAWING TITLE :
SHADOW DIAGRAMS
 PROJECT NAME :
**PROPOSED REPLACEMENT OF EX
 SUNROOM/TERRACE DECK UNIT 901 54
 HIGH STREET, NORTH SYDNEY, NSW, 2060**

REVISION NO.
01
 DRAWING NO.
DA09



WINDOW SCHEDULE								
ID	W1	W2	W3	W4	W5	W6	W7	W8
LEVEL	LEVEL 9	LEVEL 9	LEVEL 9	LEVEL 9	LEVEL 9	LEVEL 9	LEVEL 9	LEVEL 9
ELEVATION VIEW (EXTERNAL)								
AREA (m2)	4.19	4.10	4.20	3.74	3.74	4.20	4.10	4.19
FRAME WIDTH x HEIGHT (mm)	1,907x2,200	1,862x2,200	1,907x2,200	1,699x2,200	1,699x2,200	1,907x2,200	1,862x2,200	1,907x2,200
GLAZING	DOUBLE GLAZED, ARGON FILLED & LOW E COATED	DOUBLE GLAZED, ARGON FILLED & LOW E COATED	DOUBLE GLAZED, ARGON FILLED & LOW E COATED	DOUBLE GLAZED, ARGON FILLED & LOW E COATED	DOUBLE GLAZED, ARGON FILLED & LOW E COATED	DOUBLE GLAZED, ARGON FILLED & LOW E COATED	DOUBLE GLAZED, ARGON FILLED & LOW E COATED	DOUBLE GLAZED, ARGON FILLED & LOW E COATED
FRAME	Dulux Duratec® Powdercoat - Zeus Monument Matt	Dulux Duratec® Powdercoat - Zeus Monument Matt	Dulux Duratec® Powdercoat - Zeus Monument Matt	Dulux Duratec® Powdercoat - Zeus Monument Matt	Dulux Duratec® Powdercoat - Zeus Monument Matt	Dulux Duratec® Powdercoat - Zeus Monument Matt	Dulux Duratec® Powdercoat - Zeus Monument Matt	Dulux Duratec® Powdercoat - Zeus Monument Matt
NOTES	External Louvre/Blind (adjustable)	External Louvre/Blind (adjustable)	External Louvre/Blind (adjustable)	External Louvre/Blind (adjustable)	External Louvre/Blind (adjustable)	SLIDING DOOR		

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REV	DATE	DESCRIPTION
01	7/03/2023	Issue for DA

PROJECT DETAILS

Drawn | Checked **JR - JG**
 Plot Date: **7/03/2023**
 Project Status **DA**
 STRATA PLAN: SP8461
 Client: **MR J GEORGHY**
 CONSTRUCTION: TYPE A
 Project: **2219**

DRAWING TITLE :

PROPOSED WINDOW SCHEDULE

PROJECT NAME :

PROPOSED REPLACEMENT OF EX SUNROOM/TERRACE DECK UNIT 901 54 HIGH STREET, NORTH SYDNEY, NSW, 2060

REVISION NO.

01

DRAWING NO.

DA10

SCALE:
 @ A3

BASIX Certificate

Building Sustainability Index www.basix.nsw.gov.au

Alterations and Additions

Certificate number: A489957

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Alterations and Additions Definitions" dated 06/10/2017 published by the Department. This document is available at www.basix.nsw.gov.au

Secretary
Date of issue: Thursday, 02, March 2023
To be valid, this certificate must be lodged within 3 months of the date of issue.



Description of project

Project address	
Project name	Unit 901 - 54 High Street
Street address	54 High Street North Sydney 2060
Local Government Area	North Sydney Council
Plan type and number	Deposited Plan 8461
Lot number	105
Section number	n/a
Project type	
Dwelling type	Unit
Type of alteration and addition	My renovation work is valued at \$50,000 or more.

Certificate Prepared by (please complete before submitting to Council or PCA)
Name / Company Name: CHAPMAN ENVIRONMENTAL SERVICES PTY LTD
ABN (if applicable): 58601921108

Construction	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check						
Insulation requirements									
The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m2, b) insulation specified is not required for parts of altered construction where insulation already exists.	✓	✓	✓						
<table border="1"> <thead> <tr> <th>Construction</th> <th>Additional insulation required (R-value)</th> <th>Other specifications</th> </tr> </thead> <tbody> <tr> <td>flat ceiling, flat roof: framed</td> <td>ceiling: R2.50 (up), roof: foil/sarking</td> <td>medium (solar absorptance 0.475 - 0.70)</td> </tr> </tbody> </table>	Construction	Additional insulation required (R-value)	Other specifications	flat ceiling, flat roof: framed	ceiling: R2.50 (up), roof: foil/sarking	medium (solar absorptance 0.475 - 0.70)			
Construction	Additional insulation required (R-value)	Other specifications							
flat ceiling, flat roof: framed	ceiling: R2.50 (up), roof: foil/sarking	medium (solar absorptance 0.475 - 0.70)							

Glazing requirements	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check																																																								
Windows and glazed doors																																																											
The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door.	✓	✓	✓																																																								
The following requirements must also be satisfied in relation to each window and glazed door:		✓	✓																																																								
Each window or glazed door with improved frames, or pyrolytic low-e glass, or clear/air gap/clear glazing, or toned/air gap/clear glazing must have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. The description is provided for information only. Alternative systems with complying U-value and SHGC may be substituted.		✓	✓																																																								
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Legend
In these commitments, "applicant" means the person carrying out the development.
Commitments identified with a "✓" in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).
Commitments identified with a "✓" in the "Show on CC/CDC plans & specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.
Commitments identified with a "✓" in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate for the development may be issued.

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REV	DATE	DESCRIPTION
01	7/03/2023	Issue for DA

PROJECT DETAILS

Drawn | Checked **JR - JG**

Plot Date: **7/03/2023**

Project Status **DA**

STRATA PLAN: SP8461

Client: **MR J GEORGHY**

CONSTRUCTION: TYPE A

Project: **2219**

DRAWING TITLE :
BASIX CERTIFICATE

PROJECT NAME :
PROPOSED REPLACEMENT OF EX SUNROOM/TERRACE DECK UNIT 901 54 HIGH STREET, NORTH SYDNEY, NSW, 2060

REVISION NO.
01

DRAWING NO.
DA11

SCALE:
@ A3

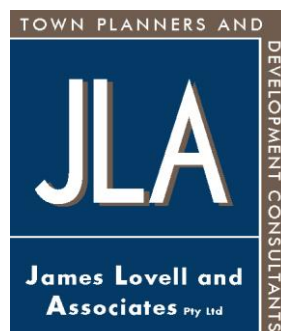
Alterations and Additions to an Existing Residential Apartment

Unit 901/54 High Street, North Sydney

Clause 4.6 Written Request to Vary the Building Height Control

31 March 2023

Ref: 20151/2



INTRODUCTION

This "*written request*" has been prepared to vary the building height control incorporated in the North Sydney local Environmental Plan (LEP) 2013.

The "*written request*" has been prepared to accompany a Development Application (DA) for alterations and addition to an existing residential apartment identified as Unit 901/54 High Street, North Sydney.

The subject site is located on the north-eastern side of High Street, at the junction with Clark Road. The site encompasses an area of approximately 2,135m², and is irregular in shape with frontages of approximately 46 metres to High Street and 45 metres to Clark Road.

The site is currently occupied by a multi-storey residential flat building, accommodating a total of 105 residential apartments (including Unit 901). The ground floor level (fronting High Street) accommodates a series of non-residential tenancies.

Unit 901 is located at the upper level of the existing building, and was first used for residential purposes as a caretaker's residence when the building was constructed on the basis of a Building Approval (BA) granted by Council on 17 October 1961.

The owner of Lot 105 in Strata Plan 8461 has exclusive use rights over the area occupied by the existing residential apartment (Unit 901), including the existing roof space located immediately to the east.

On 1 November 2001, Council granted Complying Development Certificate (CDC) No. 2257/01 for the replacement of an enclosed pergola, deck and perimeter balustrade immediately to the east of the existing residential apartment.

The works approved by the CDC were completed, and the enclosed pergola (commonly referred to as a sunroom), deck and perimeter balustrade were constructed and occupied as part of the residential apartment until they were dismantled and removed in May 2022 to rectify water leaks to the structures below.

On 7 December 2022, Council granted Development Consent No. 105/22 for the *"Use of the former communal facilities area on the roof top (Level 9) as a residential studio"*. The Development Consent confirms the continued use of the existing residential apartment for residential purposes.

At the time the Development Consent was granted, the sunroom, timber deck and perimeter balustrade had recently been dismantled and removed to facilitate the repairs to the roof membrane.

The repairs to the roof membrane have now been completed and the proposed development comprises the construction of a new sunroom, deck and balustrade to replace the same structures that were removed to facilitate the roof repairs.

The proposed sunroom has a floor area of 18m² with internal dimensions of 3.0 x 6.0 metres. The sunroom is a simple steel framed structure with fixed glazing to the north, east and south, and sliding glass doors providing access to the south between the sunroom and the timber deck.

The approved sunroom under CDC No. 2257/01 had a floor area of 19.2m² with dimensions of 3.2 x 6.0 metres. The approved sunroom was a simple steel framed structure with fixed glazing to the north, east and south, and a partial opening providing access to the south between the sunroom and the timber deck.

The proposed tiled deck has an area of 36.6m² with dimensions of 6.0 x 6.1 metres, and a glass balustrade is proposed around the perimeter of the deck. The approved deck under CDC No. 2257/01 had a floor area of 36m² with dimensions of 6.0 x 6.0 metres, with a glass balustrade around the perimeter.

The proposed sunroom and deck will be accessed to/from the existing residential apartment by sliding glass doors located in exactly the same location.

Further, the proposed sunroom physically connects to the existing structure at a point marginally below the existing fascia at Level 9. The existing fascia at Level 9 is 2.85 metres below the existing fascia to the lift motor room, and further below the existing chimney stack.

Accordingly, the proposed works remain well below the upper portion of the existing building, and the height of the sunroom has been reduced compared to the approved sunroom that connected to the existing structure at the level of the top of the existing fascia at Level 9.

Clause 4.3 of the LEP specifies a maximum building height of 12 metres. The proposed works are located at Level 9 of the existing building, representing a technical building height (above “ground level (existing)”) of approximately 31 metres.

The height and size of the proposed sunroom has been reduced compared to the approved sunroom. Further, the proposed works are extremely minor in the context of the overall existing built form, and will have no material impact on the visual appearance of the existing building, or the amenity of the surrounding properties.

The building height control is a development standard and is not excluded from the operation of Clause 4.6 of the LEP.

CLAUSE 4.6 OF THE NORTH SYDNEY LEP 2013

Clause 4.6(1) is facultative and is intended to allow flexibility in applying development standards in appropriate circumstances.

Clause 4.6 does not directly or indirectly establish a test that non-compliance with a development standard should have a neutral or beneficial effect relative to a complying development (Initial at 87).

Clause 4.6(2) of the LEP specifies that “*development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument*”.

Clause 4.6(3) specifies that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The requirement in Clause 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard has a better environmental planning outcome than a development that complies with the development standard (Initial at 88).

Clause 4.6(4) specifies that development consent must not be granted for development that contravenes a development standard unless:

- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Clause 4.6(5) specifies that in deciding whether to grant concurrence, the Secretary must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

CONTEXT AND FORMAT

This “written request” has been prepared having regard to “Varying development standards: A Guide” (August 2011), issued by the former Department of Planning, and relevant principles identified in the following judgments:

- *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;*
- *Wehbe v Pittwater Council [2007] NSWLEC 827;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248;*
- *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7;*
- *Moskovich v Waverley Council [2016] NSWLEC 1015;*
- *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118; and*
- *Hansimikali v Bayside Council [2019] NSWLEC 1353.*

“Varying development standards: A Guide” (August 2011) outlines the matters that need to be considered in DA’s involving a variation to a development standard. The Guide essentially adopts the views expressed by Preston CJ, in *Wehbe v Pittwater Council [2007] NSWLEC 827* to the extent that there are effectively five (5) different ways in which compliance with a development standard can be considered unreasonable or unnecessary as follows:

1. The objectives and purposes of the standard are achieved notwithstanding non-compliance with the development standard.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
3. The underlying objective or 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 Councils 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 or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

As Preston CJ, stated in *Wehbe*, the starting point with a SEPP No. 1 objection (now a Clause 4.6 variation) is to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances. The most commonly invoked 'way' to do this is to show that the objectives of the development standard are achieved notwithstanding non-compliance with the numerical standard. The Applicant relies upon ground 1 in *Wehbe* to support its submission that compliance with the development standard is both unreasonable and unnecessary in the circumstances of this case.

In that regard, Preston CJ, in *Wehbe* states that "... *development standards are not ends in themselves but means of achieving ends*". Preston CJ, goes on to say that as the objectives of a development standard are likely to have no numerical or qualitative indicia, it logically follows that the test is a qualitative one, rather than a quantitative one. As such, there is no numerical limit which a variation may seek to achieve.

The above notion relating to 'numerical limits' is also reflected in Paragraph 3 of Circular B1 from the former Department of Planning which states that:

As numerical standards are often a crude reflection of intent, a development which departs from the standard may in some circumstances achieve the underlying purpose of the standard as much as one which complies. In many cases the variation will be numerically small in others it may be numerically large, but nevertheless be consistent with the purpose of the standard.

It is important to emphasise that in properly reading *Wehbe*, an objection submitted does not necessarily need to satisfy all of the tests numbered 1 to 5, and referred to above. This is a common misconception. If the objection satisfies one of the tests, then it may be upheld by a Council, or the Court standing in its shoes. Irrespective, an objection can also satisfy a number of the referable tests.

In *Wehbe*, Preston CJ, states that there are three (3) matters that must be addressed before a consent authority (Council or the Court) can uphold an objection to a development standard as follows:

1. The consent authority needs to be satisfied the objection is well founded;
2. The consent authority needs to be satisfied that granting consent to the DA is consistent with the aims of the Policy; and
3. The consent authority needs to be satisfied as to further matters, including non-compliance in respect of significance for State and regional planning and the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

Further, it is noted that the consent authority has the power to grant consent to a variation to a development standard, irrespective of the numerical extent of variation (subject to some limitations not relevant to the present matter).

The decision of Pain J, in *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* suggests that demonstrating that a development satisfies the objectives of the development standard is not necessarily sufficient, of itself, to justify a variation, and that it may be necessary to identify reasons particular to the circumstances of the proposed development on the subject site.

Further, Commissioner Tuor, in *Moskovich v Waverley Council [2016] NSWLEC 1015*, considered a DA which involved a relatively substantial variation to the FSR (65%) control. Some of the factors which convinced the Commissioner to uphold the Clause 4.6 variation request were the lack of environmental impact of the proposal, the characteristics of the site such as its steeply sloping topography and size, and its context which included existing adjacent buildings of greater height and bulk than the proposal.

The decision suggests that the requirement that the consent authority be satisfied the proposed development will be in the public interest because it is "consistent with" the objectives of the development standard and the zone, is not a requirement to "achieve" those objectives. It is a requirement that the development be 'compatible' with them or 'capable

of existing together in harmony'. It means "something less onerous than 'achievement'".

In *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ found that it is not necessary to demonstrate that the proposed development will achieve a "better environmental planning outcome for the site" relative to a development that complies with the development standard.

Finally, in *Hansimikali v Bayside Council [2019] NSWLEC 1353*, Commissioner O'Neill found that it is not necessary for the environmental planning grounds relied upon by the Applicant to be unique to the site.

ASSESSMENT

Is the requirement a development standard?

The building height control is a development standard and is not excluded from the operation of Clause 4.6 of the LEP.

What is the underlying object or purpose of the standard?

The objectives of the building height control are expressed as follows:

- (a) *to promote development that conforms to and reflects the 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 E4 Environmental Living.*

In relation to objective (a), the proposed development does not alter the existing topographical conditions of the site.

In relation to objective (b), the height and size of the proposed sunroom has been reduced compared to the approved sunroom, and the proposed development will have no adverse impact on any views from public places or surrounding properties.

In relation to objective (c), the shadows cast by the proposed development will not extend beyond the roof surface of the existing building, and will have no impact on the existing solar access to any surrounding properties, public reserves or streets.

In relation to objective (d), the proposed development maintains substantial separation distances from the surrounding properties, and will have no impact on the existing privacy of any residential properties.

In relation to objective (e), the proposed development will re-establish the building form that existed prior to the recent roof repairs, and are extremely minor in the context of the overall existing built form. The proposed works will have no material impact on the visual appearance of the existing building.

In relation to objective (f), the proposed development does not alter the approved number or mix of existing apartments, and the proposed works are extremely minor in the context of the overall existing built form.

In relation to objective (g), the site is zoned R4 – High Density Residential, circumstances in which objective (g) does not apply.

In summary, the proposed development is generally consistent with the objectives of the building height control, notwithstanding the numerical variation.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The Department of Planning published "*Varying development standards: A Guide*" (August 2011), to outline the matters that need to be considered in Development Applications involving a variation to a development standard. The Guide essentially adopts the views expressed by Preston CJ in *Wehbe v Pittwater Council [2007] NSWLEC 827* to the extent that there are five (5) different ways in which compliance with a development standard can be considered unreasonable or unnecessary.

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

The proposed development is generally consistent with the objectives of the building height control, notwithstanding the numerical variation.

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

The objectives and purpose of the building height control remain relevant, and the proposed development is generally consistent with the objectives of the building height control, notwithstanding the numerical variation.

3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The proposed development is generally consistent with the objectives of the building height control, notwithstanding the numerical variation.

Further, strict compliance with the building height control would unnecessarily require the demolition of the substantial majority of the existing building.

4. *The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

The building height control has effectively been abandoned and destroyed by the approval of the existing building on the site, albeit the approval of the existing building substantially preceded the current planning controls, including the building height control.

Further, the objectives of Clause 4.6 of the LEP includes to provide “an appropriate degree of flexibility in applying certain development standards to particular development”.

5. *Compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

The zoning of the land remains relevant and appropriate. Irrespective, strict compliance with the building height control would unnecessarily require the demolition of the substantial majority of the existing building.

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

The proposed numerical variation to the building height control is reasonable and appropriate in the particular circumstances on the basis that:

- the proposed development comprises the construction of a new sunroom, deck and balustrade to replace the same structures that were removed to facilitate the roof repairs;
- the height and size of the proposed sunroom has been reduced compared to the approved sunroom;
- the proposed works remain well below the upper portion of the existing building;
- the existing building on the site extends above the building height control, and the existing building was constructed in accordance with the Building Approval and CDC;
- the proposed works are extremely minor in the context of the overall existing built form, and will have no material impact on the visual appearance of the existing building, or the amenity of the surrounding properties;
- the proposed works will improve and re-establish the amenity of the existing and approved residential apartment in relation to the size and configuration of the enclosed floor space, and the provision of private open space;
- the height and size of the proposed sunroom has been reduced compared to the approved sunroom, and the proposed

- development will have no adverse impact on any views from public places or surrounding properties;
- the shadows cast by the proposed development will not extend beyond the roof surface of the existing building, and will have no impact on the existing solar access to any surrounding properties, public reserves or streets;
 - the proposed development does not alter the approved number or mix of existing apartments;
 - the building height control has effectively been abandoned and destroyed by the approval of the existing building on the site;
 - strict compliance with the building height control would unnecessarily require the demolition of the substantial majority of the existing building;
 - the proposed development does not alter the existing site topographical conditions of the site;
 - the proposed development is consistent with good design and the amenity of the built environment which is a recently incorporated object of the Act: *"(g) to promote good design and amenity of the built environment"*;
 - the proposed development is consistent with, or not antipathetic to, the relevant objectives of the R4 – High Density Residential zone; and
 - the proposed development is generally consistent with, or not antipathetic to, the objectives of the building height control, notwithstanding the numerical variation of the existing building.

Are there any matters of State or regional significance?

The numerical variation to the building height control does not raise any matters of State or regional significance.

What is the public benefit of maintaining the standard?

The proposed development is generally consistent with the objectives of the building height control, notwithstanding the numerical variation.

In the circumstances, the proposed development does not affect the public benefit of maintaining compliance with the building height control in other instances.

In that regard, the objectives of Clause 4.6 of the LEP includes to provide “an appropriate degree of flexibility in applying certain development standards to particular development”.

Any other matters?

There are no further matters of relevance to the variation to the building height control.

Zone Objectives and Public Interest

The site is zoned R4 – High Density Residential pursuant to the North Sydney LEP 2013. The objectives of the zone relating to residential development are expressed as follows:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a reasonably high level of residential amenity is achieved and maintained.*

The proposed development is generally consistent with (or not antipathetic to) the objectives of the zone on the basis that the proposed works will improve and re-establish the amenity of an existing/approved apartment without compromising the amenity of the surrounding area or the natural or cultural heritage of the area.

The proposed development generally serves the public interest on the basis that the proposed works will improve and re-establish the amenity of an existing/approved apartment without compromising the amenity of the surrounding area or the natural or cultural heritage of the area.

CONCLUSION

The purpose of this submission is to formally request a variation in relation to the building height control in Clause 4.3 of the North Sydney LEP 2013.

In general terms, strict compliance with the building height control is unreasonable and unnecessary in the particular circumstances, and there are sufficient environmental planning grounds to justify the numerical variation.

