

**NSLPP MEETING HELD ON 07/08/2024****Attachments:**

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

ADDRESS/WARD: Units 20 & 23, 11 Amherst Street, Cammeray**APPLICATION NO:** DA350/23**PROPOSAL:** Alterations and additions to existing roof terraces of a four (4) storey shop top housing development**PLANS REF:**

Plan No.	Issue	Description	Prepared by	Dated
DA001	B	Site Plan	Aspect Design	17.6.24
DA100	B	Terrace Level – Unit 20	Aspect Design	17.6.24
DA101	B	Roof – Unit 20	Aspect Design	17.6.24
DA102	B	Terrace Level – Unit 23	Aspect Design	17.6.24
DA103	B	Roof – Unit 23	Aspect Design	17.6.24
DA300	B	East Elevation - Miller St	Aspect Design	17.6.24
DA301	B	North Elevation – Building B	Aspect Design	17.6.24
DA302	B	West Elevation – Building B	Aspect Design	17.6.24
DA303	B	South Elevation – Building B	Aspect Design	17.6.24
DA311	B	Section A-A (Unit 20)	Aspect Design	17.6.24
DA312	B	Section B-B (Unit 23)	Aspect Design	17.6.24
DA400	B	Details – New Roof	Aspect Design	17.6.24
DA401	B	Details – New Pergola	Aspect Design	17.6.24

OWNERS: Paul Nicolas Ludlow & Kim Irene Ludlow
Penelope Irene Mai Sasso
SP 81068**APPLICANT:** Roberto Bianco**AUTHOR:** Report of Robin Tse, Senior Assessment Officer**DATE OF REPORT:** 22 June 2024**DATE LODGED:** 14 December 2023**RECOMMENDATION:** Approval

EXECUTIVE SUMMARY

This development application seeks consent alterations and additions to existing roof terraces of a four (4) storey shop top housing development including the removal of existing pergolas/retractable awnings and installation of new pergolas, new retractable screens and associated work for the roof terraces on the roof level at Units 20 and 23, 11 Amherst Street, Cammeray.

The application is reported to the North Sydney Local Planning Panel for determination as the application seeks a variation to a development standard by more than 10% in accordance with the Ministers Direction.

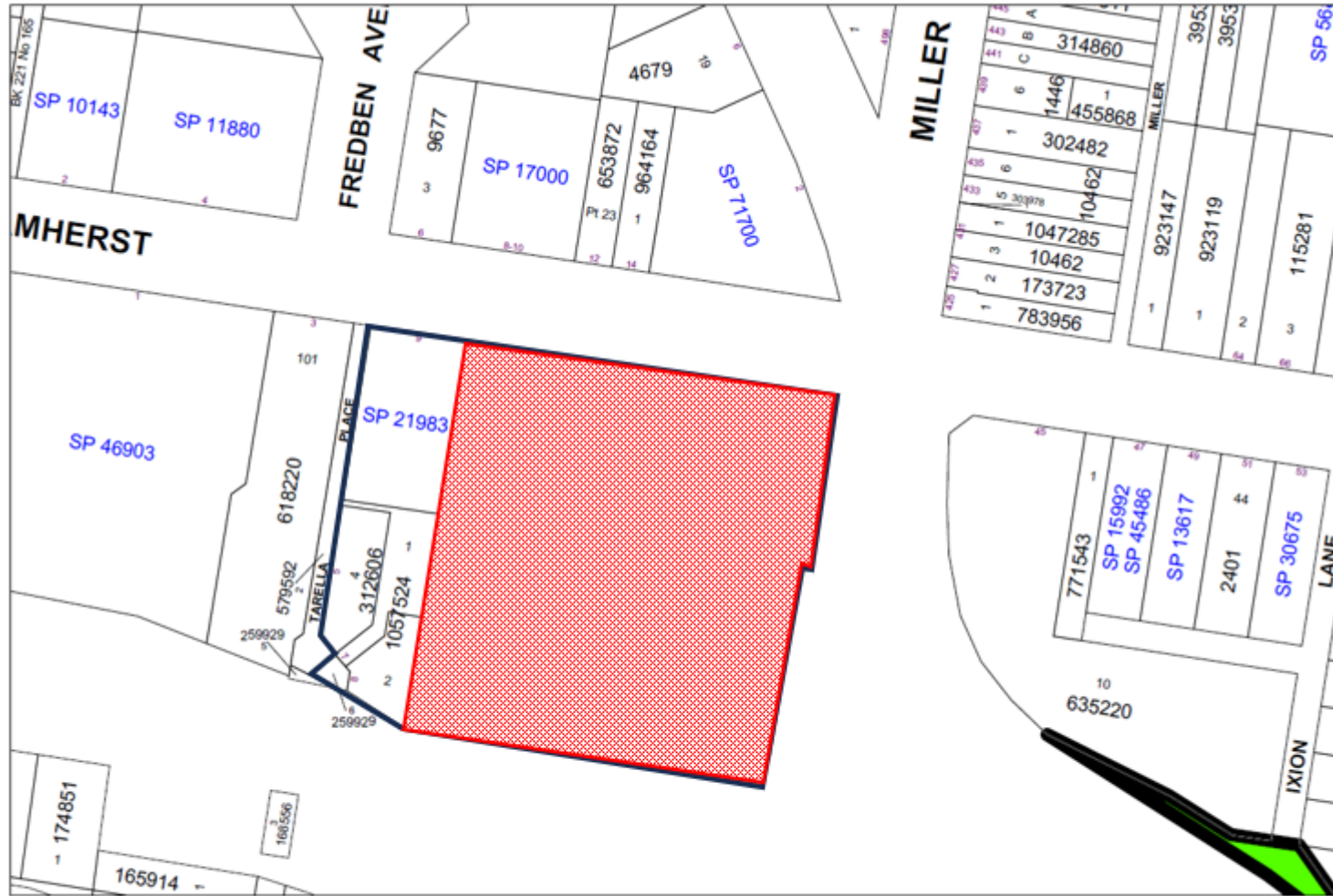
Notification of the proposal has attracted no submissions. The assessment has considered the performance of the application against Council's planning requirements.

The subject site is located on land zoned E1 (Local Centre) where shop top housing is a form of development permissible within the zone.

Consideration has been given to the relevant planning controls and the submission seeking a variation to the LEP maximum building height control for the proposed works. It is concluded that the proposal is unlikely to give rise to material amenity impacts, including significant views as seen for the adjoining properties. The design, height, bulk and scale of the proposed development are considered to be acceptable and is reasonably consistent with potential outcomes anticipated by the relevant controls.

Having regard to the merits of the proposal, the application is recommended for approval subject to appropriate conditions.

LOCATION MAP



Property/Applicant ● Submitters □ Properties Notified

DESCRIPTION OF PROPOSAL

The application is seeking development consent for alterations and additions to the roof terrace of Units 20 and 23 on the top floor of a shop top housing building (Building B) within an existing four (4) storey shop top housing (Mixed Use) development.

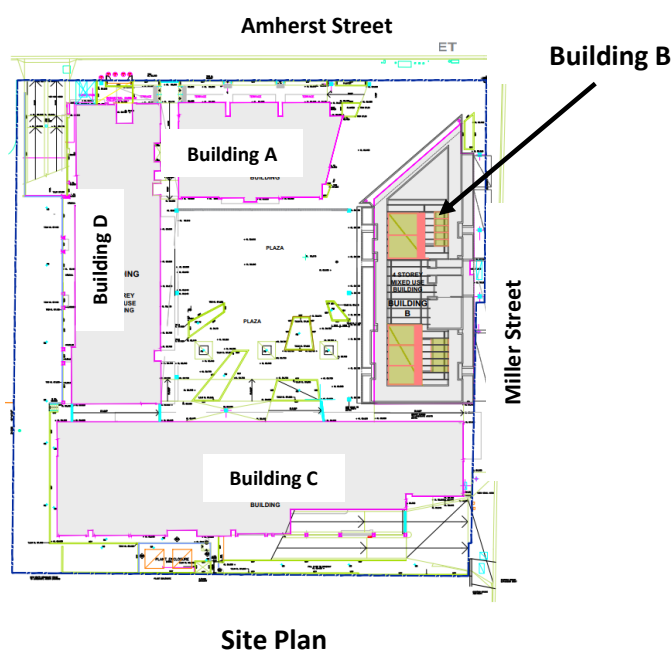
The proposed works are summarised as follows:

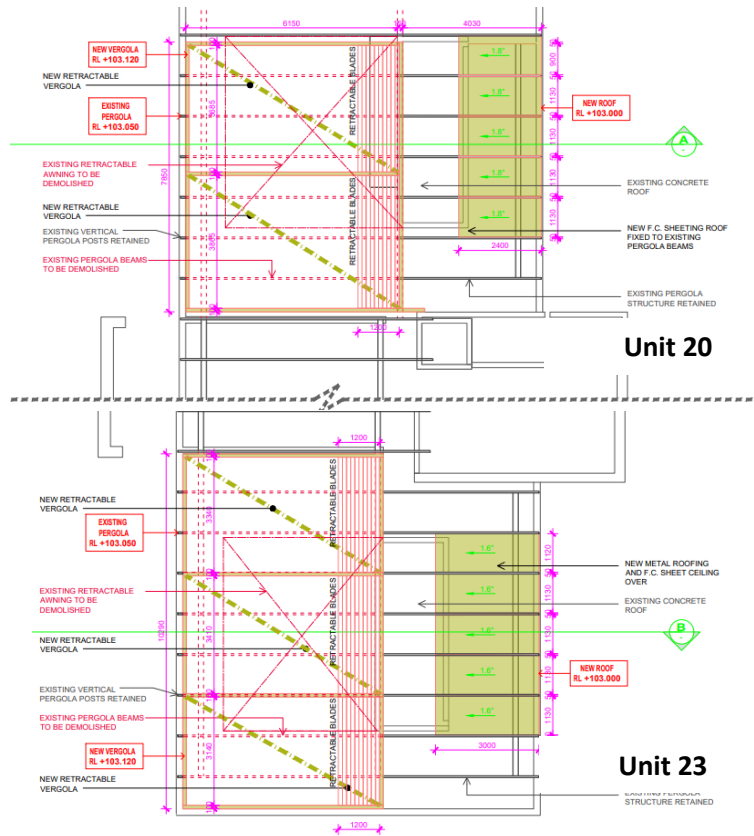
Unit 20:

- Removal of existing pergola, certain pergola beams and retractable awning on the western side of the roof terrace.
- Installation of a new pergola with retractable roof above the western roof terrace.
- Installation of new retractable zip screen to the west and north elevations of the new pergola for the western roof terrace.
- Addition of a roof fixed to existing pergola beams on the eastern side of the roof terrace.
- Installation of new outdoor kitchen/BBQ on the western wall of the stairwell.
- Re-position of planter boxes along the western perimeter of the roof terrace.

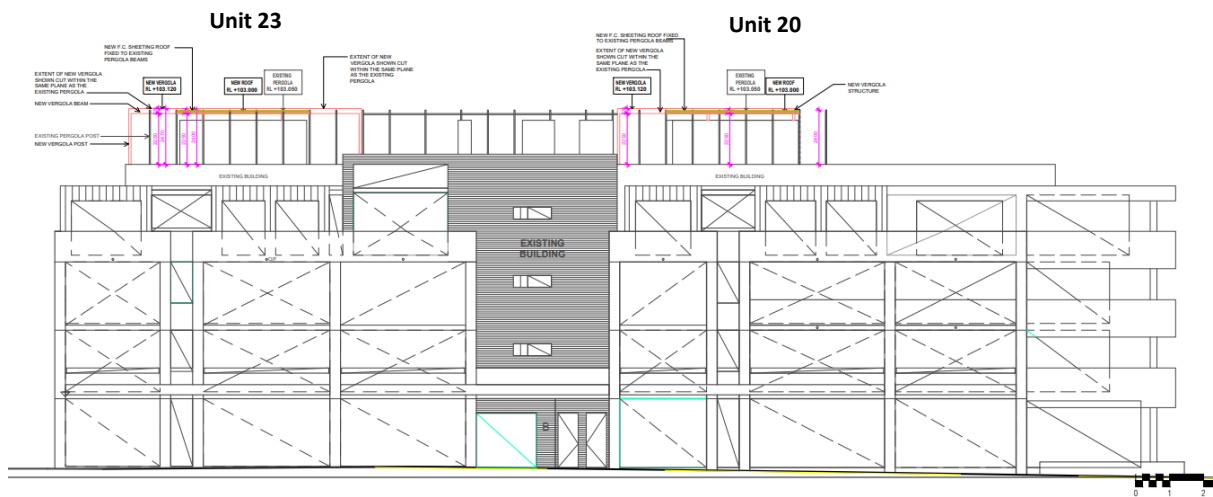
Unit 23:

- Removal of existing pergola, certain pergola beams and retractable awning on the western side of the roof terrace.
- Installation of a new pergola with retractable roof above the western terrace.
- Installation of new retractable zip screen to the west and north elevations of the new pergola for the western roof terrace.
- Addition of a roof fixed to existing pergola beams on the eastern side of the roof terrace.
- Removal of existing planter boxes and installation of new outdoor kitchen/BBQ along the eastern perimeter of the roof-top terrace.

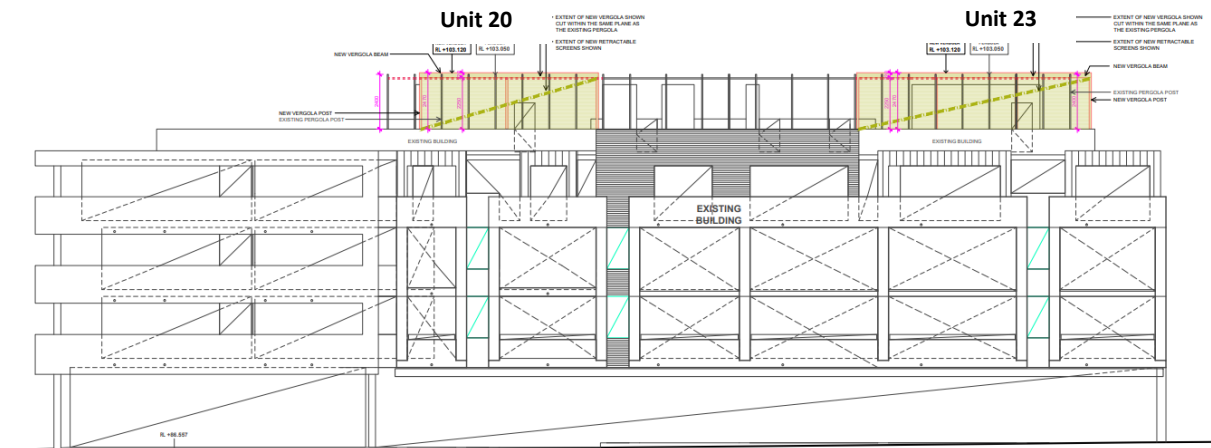




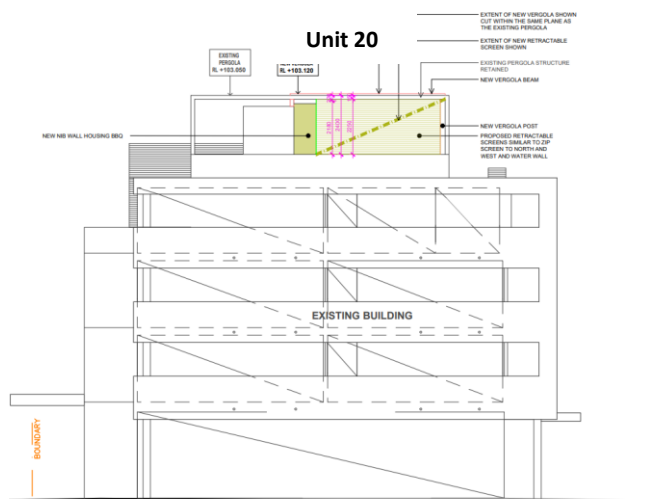
Roof Plan



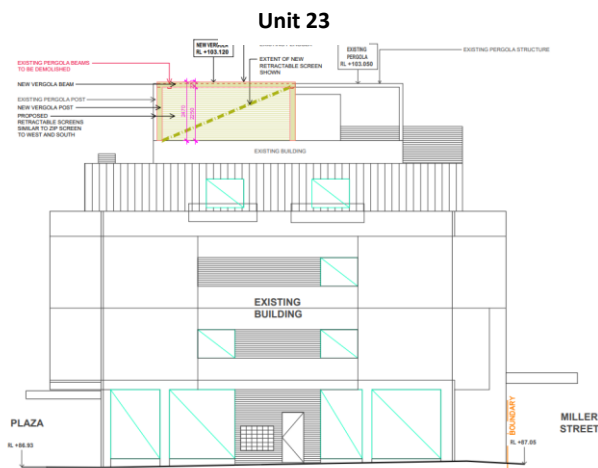
Eastern (Miller Street) elevation



Western elevation



Northern (Amherst St) elevation



Southern elevation

Figures 1 – 6: Proposed development

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – E1 (Local Centre)
- Item of Heritage – No
- In Vicinity of Item of Heritage – Yes (No.3 Amherst Street)
- Conservation Area – No
- FSBL - No

Environmental Planning & Assessment Act 1979

Environmental Planning and Assessment Regulation 2021

SEPP (Biodiversity and Conservation) 2021

SEPP (Housing) 2021

SEPP (Resilience and Hazards) 2021

SEPP (Sustainable Buildings) 2022

Local Development

POLICY CONTROLS

NORTH SYDNEY DCP 2013

Apartment Design Guidelines (ADG)

North Sydney Local Infrastructure Contributions Plan 2020

Sydney Harbour Foreshores & Waterways Area DCP 2005

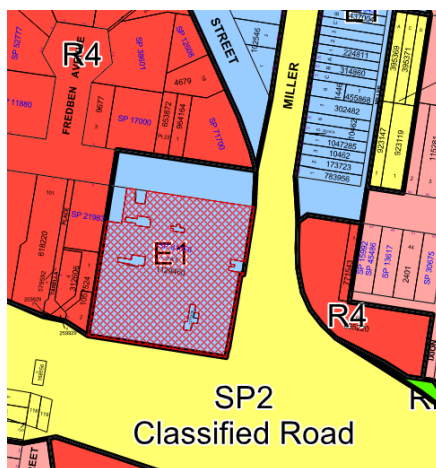


Figure 7: Zoning

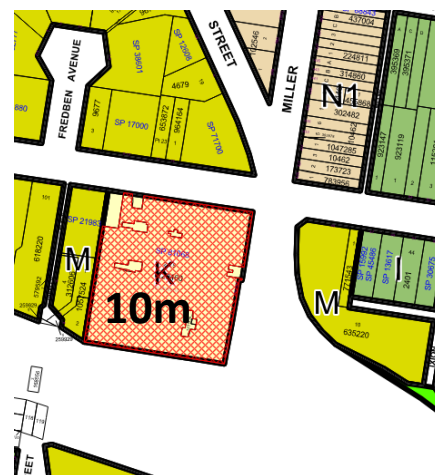


Figure 8: Maximum building height

DESCRIPTION OF LOCALITY

The subject strata lots are commonly known as No. 11 Amherst Street, Cammeray, and are legally described as Lots 20 and 23 in SP 81068. The subject lots are located on the southern side of Amherst Street and western side of Miller Street. The site is also located north of the Warringah Freeway however, there is no direct access between the Warringah Freeway and subject site. The existing vehicular access is via Amherst Street while the site loading dock is accessed via Miller Street.

The subject strata lots fall within an allotment identified as Lot 2 in DP 1129460. This lot provides for a frontage of 80.195 metres to Amherst Street and a combined frontage of 85.005 metres to Miller Street. The southern boundary to Warringah Freeway measures 77.945 metres while the eastern side boundary has a combined length of 84.415 metres. The overall site area is approximately 6529m². The site was formerly known as No.450 Miller Street, Cammeray.

Located on the site at present are four (4) shop top housing buildings surrounding a plaza known as Cammeray Square. The shop-top housing building which the proposed development application relates (Building B), is four (4) storeys in height with ground floor commercial tenancies, residential units located above the ground floor and roof-top terraces. Specifically, the proposed alterations and additions relate to Units 20 and 23 (**Figures 1 – 6**).

Development in the area is mixed in its form, generally in response to the respective land use zone. Development to the north and west of the site is generally characterised by 2-5 storey residential flat buildings with the occasional single storey dwelling.

To the north-east, development is characterised by two (2) storey commercial buildings. Development to the east of the site is generally characterised by single storey residential dwellings. The area surrounding the site comprises of Forsyth Park to the south-east, St Leonards Park to the east and retail precinct to the north along Military Road.

The Warringah Freeway is located immediately to the south of the site while St Leonards station is located 1.6km to the west of the site, providing for major transport routes linking the site to the Sydney CBD and northwest. A number of public open space areas are located in vicinity of the subject site, including but not limited to, Anzac Park, St Thomas Rest Park and Cammeray Park.

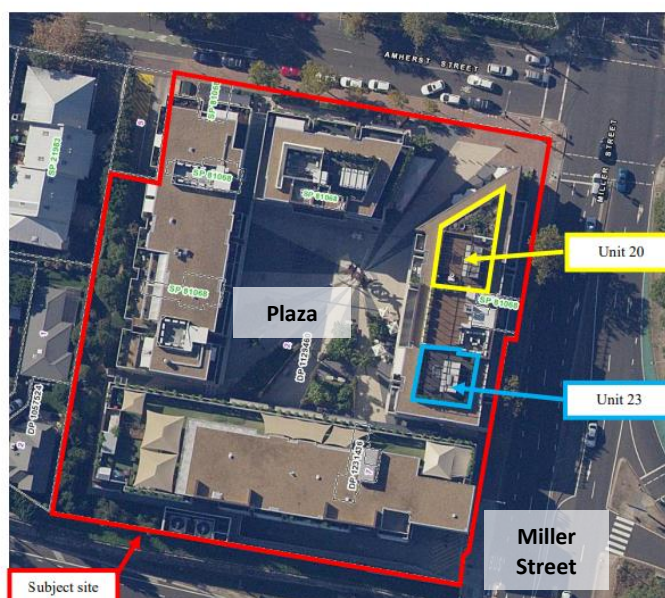
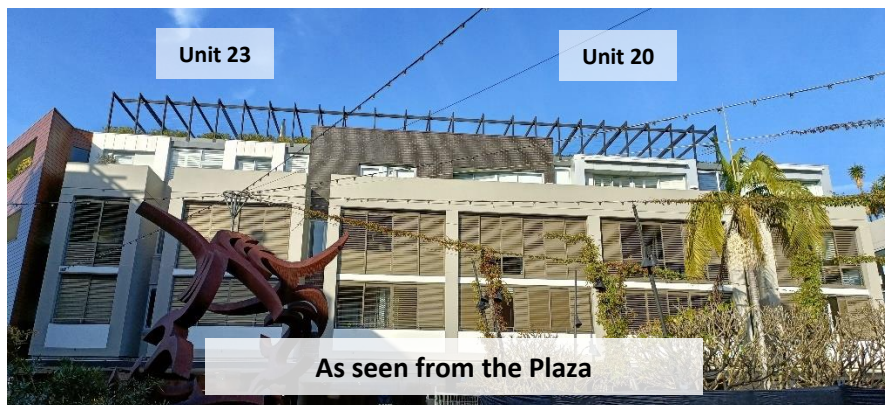


Figure 9: Subject site



Figures 10 - 11: Subject Site (as seen from Miller Street and the Plaza)

RELEVANT HISTORY

Previous applications

- **20 July 2006** - The NSW Land and Environment Court upheld an appeal against the refusal of a DA (95/05) and granted consent for the demolition of all existing structures and the construction of four buildings surrounding a landscaped courtyard containing retail floor space, child care centre, 94 apartments and three levels of basement parking on land that was known as No. 450 Miller Street, Cammeray.
- **2006 to 2009** – Approvals were granted for several applications seeking modifications to the design and layout of the complex as originally approved.
- **8 January 2010** – **Development consent (D418/09)** was granted for the installation of retractable awnings to the existing pergola structures of Unit Nos. 20 & 23.

Current Application

- **14 December 2023** – The subject development application (**D350/23, PAN-399053**) for alterations and additions to the roof terrace of Units 20 and 23 on the top floor of a shop top housing building (Building B) within an existing four (4) storey shop top housing (Mixed Use) development was lodged with Council via the Planning Portal.
- **9 to 23 February 2024** – Notification of the subject application to adjoining property owners and the Bridgeview Precinct. The notification attracted no submissions.
- **15 May 2024** – A site inspection was conducted by the Assessing Officer following an internal review of the application.
- **17 June 2024** – The applicant submitted updated architectural plans and a Clause 4.6 written variation to provide additional details on the design of the proposal and the maximum building height of the proposed building elements.

INTERNAL REFERRALS

BUILDING

The proposal has been referred to Council's Senior Building surveyor who raised no objection to the proposed works subject to the imposition of a standard conditions requiring compliance with the relevant building requirements/NCC (**Condition F1**).

HERITAGE

Council's Conservation Planner was consulted due to the proximity of the subject site to a heritage item. The proposal would have no impact on the significance of the heritage item at No. 3 Amherst Street given that the proposed works would be outside the visual curtilage of the heritage listed building.

SUBMISSIONS

On 9 February 2024, Council notified adjoining properties and the Bridgeview Precinct Committee of the proposed development seeking comment between 9 and 23 February 2024. Council received no submissions.

CONSIDERATION

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

SEPP (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in Non-Rural Areas

The proposal generally meets the objectives of the SEPP because the current application does not involve clearance of native vegetation or any materials impacts on bushland in the vicinity of the subject site.

Chapter 6 - Sydney Harbour Catchment

Having regard to the provisions of Chapter 6 of the SEPP and the Sydney Harbour Foreshores and Waterways Area DCP 2005, the proposal is not considered to be detrimental to general scenic quality and the ecology of the Harbour and will not unduly impose upon the overall character of the foreshore given that the subject site is located away and not visible from Sydney Harbour and its foreshores. Furthermore, the proposal would not adversely affect the environmental processes, including in relation to water quality and biodiversity.

As such, the development is generally acceptable having regard to the provisions contained within Chapter 6 of the above SEPP and the Sydney Harbour Foreshores and Waterways DCP 2005.

State Environmental Planning Policy (Resilience and Hazards) 2021

Section 4.6 of the SEPP requires the consent authority to consider whether the land is contaminated, and if so whether the land is suitable for the intended use or any remediations measures required. The proposed works are located on the top floor of an existing four (4) story mixed use building. Therefore, the proposal would have no impact on the condition of the land on site.

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*. The proposed works involve the replacement of existing pergola with new retractable screens. These works are considered to be “BASIX excluded development” in accordance with Schedule 7 “Dictionary” in *Environmental Planning and Assessment Regulations 2021*.

SEPP (Housing) 2021

State Environmental Planning Policy (Housing) 2021

Chapter 4 - Design Quality of Residential Apartment Development

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 alterations and additions to the roof terraces on the top level of an existing shop top housing (mixed use) development. The proposed works would not significantly change the overall building height, the building envelope, bulk and scale of the apartment component of the existing shop top housing development.

It is therefore 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)

Permissibility

The subject site is located on land zoned E1 (Local Centre) where development for the purpose of “shop top housing” is permissible.

The proposed works, involving alterations and additions to the roof terraces for Units 20 and 23 of the existing shop top housing development. The proposed works are considered to be ancillary to the respective units within the existing shop top housing and therefore permissible within E1 (Local Centre) zone.

Residential Zone Objectives

The proposal is generally consistent with the objectives for the E1 (Local Centre) zone.

Height of Building

The existing shop top housing has a maximum height of 16.45 m and breaches the LEP’s 10m maximum building height limit for the subject site by 6.45 m (64.5%). The proposed works for the proposed pergola would reach a maximum height of 16.52 m resulting a breach of the LEP maximum height limit by 6.52m (65.2%) (**Figure 12**).

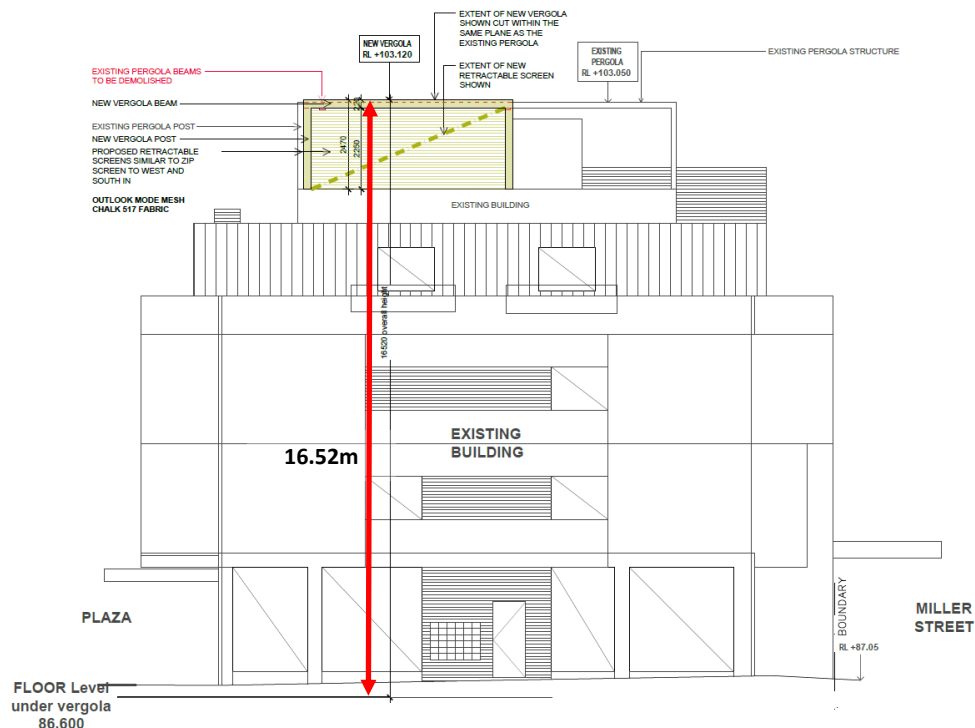


Figure 12: Building height

The applicant has submitted a written request to justify the proposed variation to the building height control. The proposed breach has been assessed in accordance with the requirements of Clause 4.6 (3) and (4), the objectives of the control and the zone. These matters have been considered below:

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

The proposal would not materially change the overall building height, the built form and envelope of the existing shop top housing building.

- (b) To promote the retention and, if appropriate, sharing of existing views,**

The proposal would result in the installation of a pergola on the roof level of the existing shop top housing building.

The proposal would have no impacts on significant views as seen from the public domain and surrounding properties because the proposed works involve the replacement of existing pergolas at similar height. Whilst the proposed pergola would be 70mm taller than the existing structure, the additional height of the new structure would have no material impacts on the views as seen from the public domain and surrounding properties.

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

The proposed pergola would not significantly change the building height and envelope of the existing shop top housing building because of the proposal involves the replacement of the existing retractable screen system for the pergolas over the roof terraces of Units 20 and 23.

Therefore, the shadowing impacts from the building elements above the LEP building height limit are considered to be immaterial given that the shadows from the proposed structure would primarily fall on the plaza, the roof of the subject shop top housing building and on Miller Street during mid winter. Furthermore, the proposal would have no material impacts on solar access to the plaza.

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

The proposed development should provide better amenity for the roof terrace with improved weather protection. It is also considered that the proposal would have no material privacy impacts on the neighbouring because of the use of the roof terrace is maintained with no increase in the size of this area. In addition, the 2.5m setback of the roof terrace from the western roof parapet and the planters along the western edge of the terrace would be maintained to provide additional privacy buffers between the roof terraces and nearby properties.

- (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

The proposed façade upgrade would not materially change the built form and character of the existing shop top housing development. There would be no change to the density of the existing development as a result of the proposed works.

The proposed materials and colours are considered to be acceptable having regard to those used on the existing building and surrounding buildings.

The building elements in breach of the LEP building height limit would not cause any material loss of solar access, adverse privacy loss and/or view loss as detailed throughout this report. Consequently, the variation to the LEP maximum building height limit is supported given that it would be unreasonable for Council to insist upon strict compliance when the objectives of the development standard are satisfied by the proposal.

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 will not have a material impact upon the character of the locality and/or the amenity of adjoining properties.

The building elements above the LEP height limit would not result in any unacceptable loss of significant views, overshadowing or privacy impacts.

The built form of the existing shop top housing building would be maintained, and the proposed works would have no impacts on the nearby heritage item at No.3 Amherst Street.

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

The proposal relates to the replacement of retractable screens for the roof terrace on the top level of an existing shop top housing building. The proposal would result in minimal changes to the building height, built form and building envelope of the existing building. Furthermore, the non-complying building elements are unlikely to cause material impacts on the amenity of the adjoining properties as discussed throughout this report.

Conclusion

The proposed variation to Clause 4.3(2) in NSLEP 2013 is considered to be acceptable 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 subject to the imposition of appropriate conditions of consent.

Heritage Conservation

The proposal generally satisfies Clause 5.10 of *North Sydney LEP 2013* given that the proposal would have no impact on the significance of the nearby heritage item at No. 3 Amherst Street as indicated earlier in this report.

Earthworks

The proposal does not involve earthworks given that all works are to be carried out on the top level of the existing four (4) storey shop top housing building.

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 2- Commercial and Mixed Use Development		
	complies	Comments
2.2 Function		
2.2.1 Diversity of Activities	No change	The proposal does not involve changes to the residential uses of the subject units.
2.2.3 Mixed Residential Population – Size of units	No change	The proposed does not involves changes to the size and mix of the affected units.
2.3 Environmental Criteria		
2.3.1 Clean Air	No change	The proposal would have no material impact on the air quality of the locality given that there would be no change to the use of the roof terraces ancillary to the residential use.
2.3.2 Noise 2.3.9 Acoustic Privacy 2.3.11 Visual Privacy	Yes	The proposal would have no material privacy impacts on the neighbouring because of the use of the roof terrace is maintained with no increase in the size of this area. In addition, the 2.5m setback of the roof terrace from the western roof parapet and the planters along the western edge of the terrace would be maintained to provide additional privacy buffers between the roof terraces and nearby properties.
2.3.4 Reflectivity 2.3.5 Artificial Illumination	Yes (via condition)	It is recommended that a condition be imposed restricting the level of reflectivity of roofing materials (C5). The proposal is unlikely to result in an unreasonable level of illumination given that the residential use of the roof terrace would be maintained.
2.3.7 Solar Access 2.3.8 Views	Yes	As mentioned earlier in this report, the proposed works would not materially change the building height nor the building envelope of the existing shop top housing building, therefore, the proposal is unlikely to have material impacts on the surrounding properties in terms of the loss of significant views and shadowing.
2.4 Quality built form		
2.4.1 Context	Yes	The proposal is considered to have no material impacts on the context and the setting within the locality given that the proposed works would not change the building height, envelope and/or the general appearance of the existing shop top housing building.
2.4.3 Setback – Side/rear – Zero required	Yes	The proposed pergola on the roof terrace would be located wholly within the perimeter of the roof parapet with a 2.5m setback from the western edge of the roof parapet. The proposed works would not change the overall building setbacks from all property boundaries for the subject shop top housing building.
2.4.5 Building Design 2.4.6 Skyline	Yes	As mentioned earlier in this report, the proposal would not materially change the building height, built form, massing, bulk and scale of the existing shop top housing building. The character and built form character of the subject building as well as the skyline would generally be maintained.
2.4.10 Streetscape 2.4.11 Entrances and Exits	Yes / No change	The proposed structures are located on the top level of an existing four (4) storey shop top housing building. Therefore, there would be no material visual impacts on the streetscape as the proposed alterations primarily overlook the internal courtyard area of the development.

		Furthermore, the proposal would not change the entrances and exits of the subject units/building.
2.5 Quality Urban Environment		
2.5.1 Accessibility	No change / Yes	The proposal would not change the accessibility of the roof terrace.
2.5.2 Safety and Security		The installation of new retractable screens would improve weather protection and safety for the residents of the subject units.
2.5.4 High Quality Residential Accommodation	No change / Yes	The proposal does not involve changes to the size/area of the existing roof terrace.
2.5.6 Private Open Space		However, the proposal would not improve the amenity of the roof terrace with better weather protection from the proposal.
2.5.7 Vehicular Access	No change	The proposal does not involve any changes to the existing parking arrangements and the number of on site parking within the subject site.
2.5.8 Car Parking		

CHARACTER STATEMENTS - PART C

Cammeray Planning Area (Cammeray Village Centre)

The proposal is generally consistent with the relevant provisions as contained in Section 4 of the Character Statement for the Cammeray Planning Area and Section 4.1 for Cammeray Village Centre in Part C of North Sydney DCP 2013.

The proposed development would be generally consistent with the provisions/requirements of the Character Statement.

NORTH SYDNEY LOCAL INFRASTRUCTURE CONTRIBUTION PLAN 2020

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. The contributions payable have been calculated in accordance with Council's Contributions Plan as follows:

Contribution amounts payable

Applicable contribution type		
s7.12 contribution details	Development cost:	\$189,655.00
<i>(payment amount subject to indexing at time of payment)</i>	Contribution: (0.5% of the development cost)	\$948.30

Accordingly, a condition requiring the payment of contributions at the appropriate time is recommended (**Condition C8**).

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	N/A
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 <i>Environmental Planning and Assessment (Amendment) Act 1979</i>	Yes

PUBLIC INTEREST

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

SUITABILITY OF THE SITE

The subject site is on land zoned E1 (Local Centre) and development ancillary to shop top housing is permissible within the zone with consent from Council.

The proposal is considered to be satisfactory subject to the imposition of appropriate conditions. 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 + REASONS

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

The subject site is located on land zoned E1 (Local Centre) where development ancillary to shop top housing is a form of development permissible within the zone with consent.

Consideration has been given to the relevant planning controls and the submission seeking a variation to the LEP maximum building height control for the proposed works. It is concluded that the proposal is unlikely to give rise to material amenity impacts, including significant views as seen for the adjoining properties. The design, height, bulk and scale of the proposed development are considered to be acceptable and is reasonably consistent with potential outcomes anticipated by the relevant controls.

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

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The subject application was notified to adjoining properties and Brightview Precinct inviting comment between 9 and 23 February 2024. Council received no submissions.

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, assumes 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 consent to Development Application No. 350/23 on land at Units 20 & 23, 11 Amherst Street, Cammeray subject to the attached standard conditions

ROBIN TSE
SENIOR ASSESSMENT OFFICER

ISOBELLA LUCIC
TEAM LEADER ASSESSMENTS

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings endorsed with Council's approval stamp and other documentation listed in the table to this clause, or cited by other conditions, and as amended by other conditions of this consent.

Plan No.	Description	Prepared by	Dated
DA001 Issue B	Site Plan	Aspect Design	17.6.24
DA100 Issue B	Terrace Level – Unit 20	Aspect Design	17.6.24
DA101 Issue B	Roof – Unit 20	Aspect Design	17.6.24
DA102 Issue B	Terrace Level – Unit 23	Aspect Design	17.6.24
DA103 Issue B	Roof – Unit 23	Aspect Design	17.6.24
DA300 Issue B	East Elevation - Miller St	Aspect Design	17.6.24
DA301 Issue B	North Elevation – Building B	Aspect Design	17.6.24
DA302 Issue B	West Elevation – Building B	Aspect Design	17.6.24
DA303 Issue B	South Elevation – Building B	Aspect Design	17.6.24
DA311 Issue B	Section A-A (Unit 20)	Aspect Design	17.6.24
DA312 Issue B	Section B-B (Unit 23)	Aspect Design	17.6.24
DA400 Issue B	Details – New Roof	Aspect Design	17.6.24
DA401 Issue B	Details – New Pergola	Aspect Design	17.6.24

(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)

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 2 of 15

No Demolition of Extra Fabric

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

(Reason: To ensure compliance with the approved development)

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

Waste Management Plan

- C3. 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 Finishes and Materials

- C4. The external colours and finishes must be in accordance with the colours/finishes and materials as shown on the approved plans. 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 quality built form of development)

Roofing Materials - Reflectivity

- C5. 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)

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 4 of 15

Stormwater Disposal

- C6. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the NCC and current plumbing standards and guidelines. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of any Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure appropriate provision for disposal and stormwater management arising from the development)

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

- C7. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$3,000.00 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.

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 5 of 15

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

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Principal Certifier must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

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

Section 7.12 Development Contributions

- C8. A monetary contribution pursuant to the provisions of Section 7.12 of *the Environmental Planning and Assessment Act 1979* is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$948.30.

Indexation

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of Payment

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

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

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

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 6 of 15

Security Deposit/Guarantee Schedule

- C9. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Footpath Damage Bond	\$3,000.00
TOTAL BONDS	\$3,000.00

Note: The following fees applicable

Fees	
Section 7.12 Development Contributions:	\$948.30
TOTAL FEES	\$948.30

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)

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)

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 7 of 15

Commencement of Works' Notice

- D2. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

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

E. *During Demolition and Building Work*

Parking Restrictions

- E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

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

Road Reserve Safety

- E2. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

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

(Reason: Public Safety)

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 8 of 15

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)

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 9 of 15

No Work on Public Open Space

- E7. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

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

Applicant's Cost of Work on Council Property

- E8. 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

- E9. 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)

Special Permits

- E10. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

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

1) **On-street mobile plant**

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

(Reason: Proper management of public land)

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 10 of 15

2) **Hoardings**

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

(Reason: Proper management of public land)

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

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

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

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

(Reason: Proper management of public land)

Construction Hours

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

Location	Standard Construction Hours	
	Day	Hours
All zones (Excl. E2 Commercial Centre MU1 Mixed-use)	Monday - Friday	7.00 am - 5.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above, the EPA Noise Policy for Industry 2017 and any Construction Noise Management Plan required under this consent.

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 11 of 15

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

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

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)

Community Information

- E14. Reasonable measures must be undertaken at all times to keep nearby residents informed about the proposed work, such as by way of signs, leaflets, public meetings and telephone contact numbers, to ensure that adjoining residents are aware of the likely duration of the construction works on the site

(Reason: To ensure that residents are kept informed of activities that may affect their amenity)

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 12 of 15

Prohibition on Use of Pavements

- E15. 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

- E16. 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

- E17. 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)

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:

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 13 of 15

- 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 Certifier (PC)

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

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

Construction Certificate

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

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

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 14 of 15

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)

Protection of Public Places

- F7. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- 5) No access across public reserves or parks is permitted.

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

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

**UNITS 20 AND 23, 11 AMHERST STREET, CAMMERAY
DEVELOPMENT APPLICATION NO. 350/23**

Page 15 of 15

Site Sign

- F8. 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***Damage to Adjoining Properties**

- G1. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

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

Utility Services

- G2. 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)

Disposal Information

- G3. Upon completion of works and prior to occupation, a report including the following information must be provided to Council's Open Space and Environmental Services Department:
- (a) the total tonnage of all waste and excavated material disposed of from the site (including any tipping docket); and
 - (b) the disposal points and methods used.

(Reason: To ensure appropriate disposal methods are undertaken for auditing and inspection purposes)



North Sydney Council

Copyright © North Sydney Council - No part of this map may be reproduced without permission. Commercial decisions should not be made based on information contained in this map without first checking details held by the responsible Government authority.

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

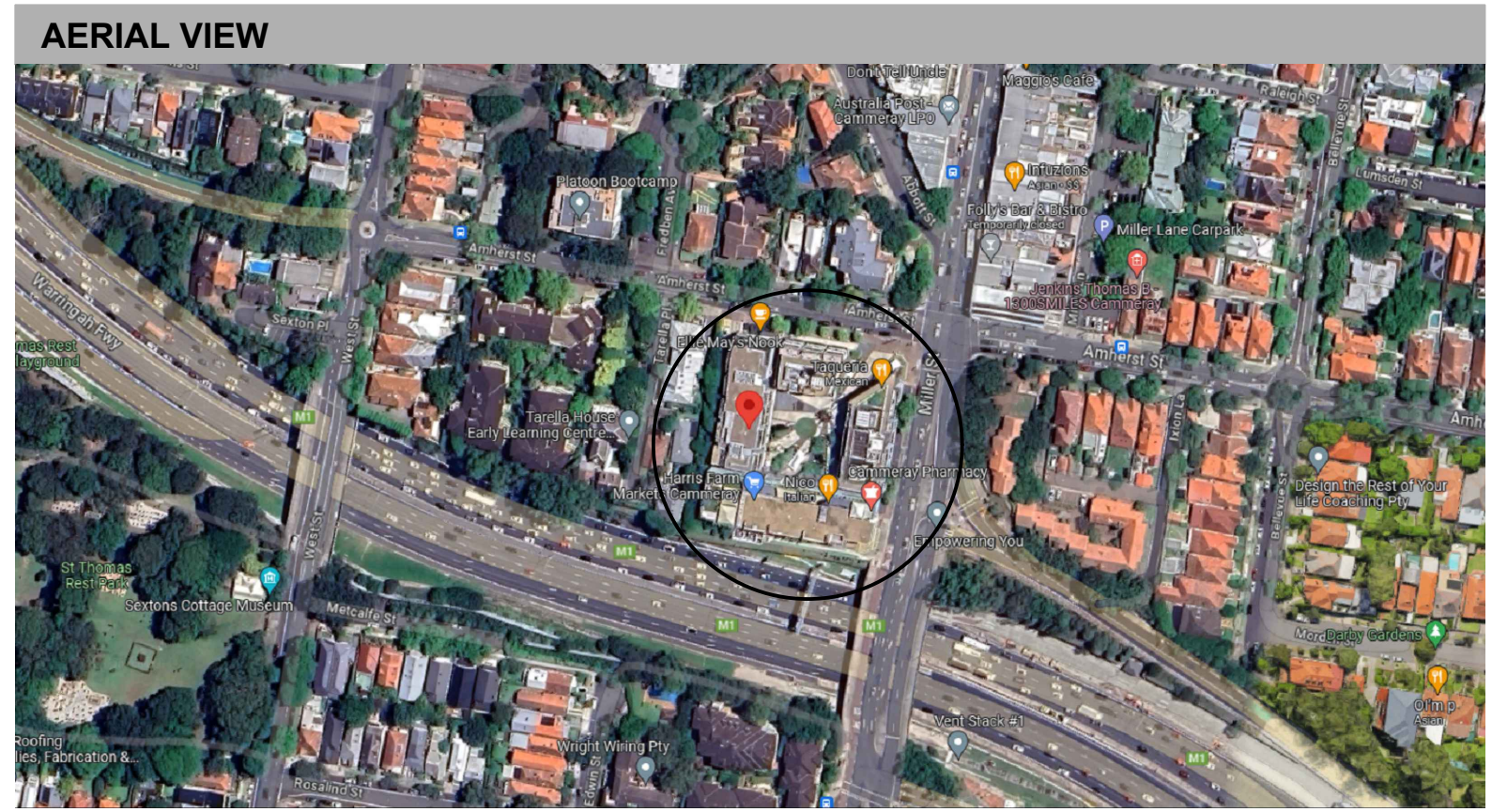
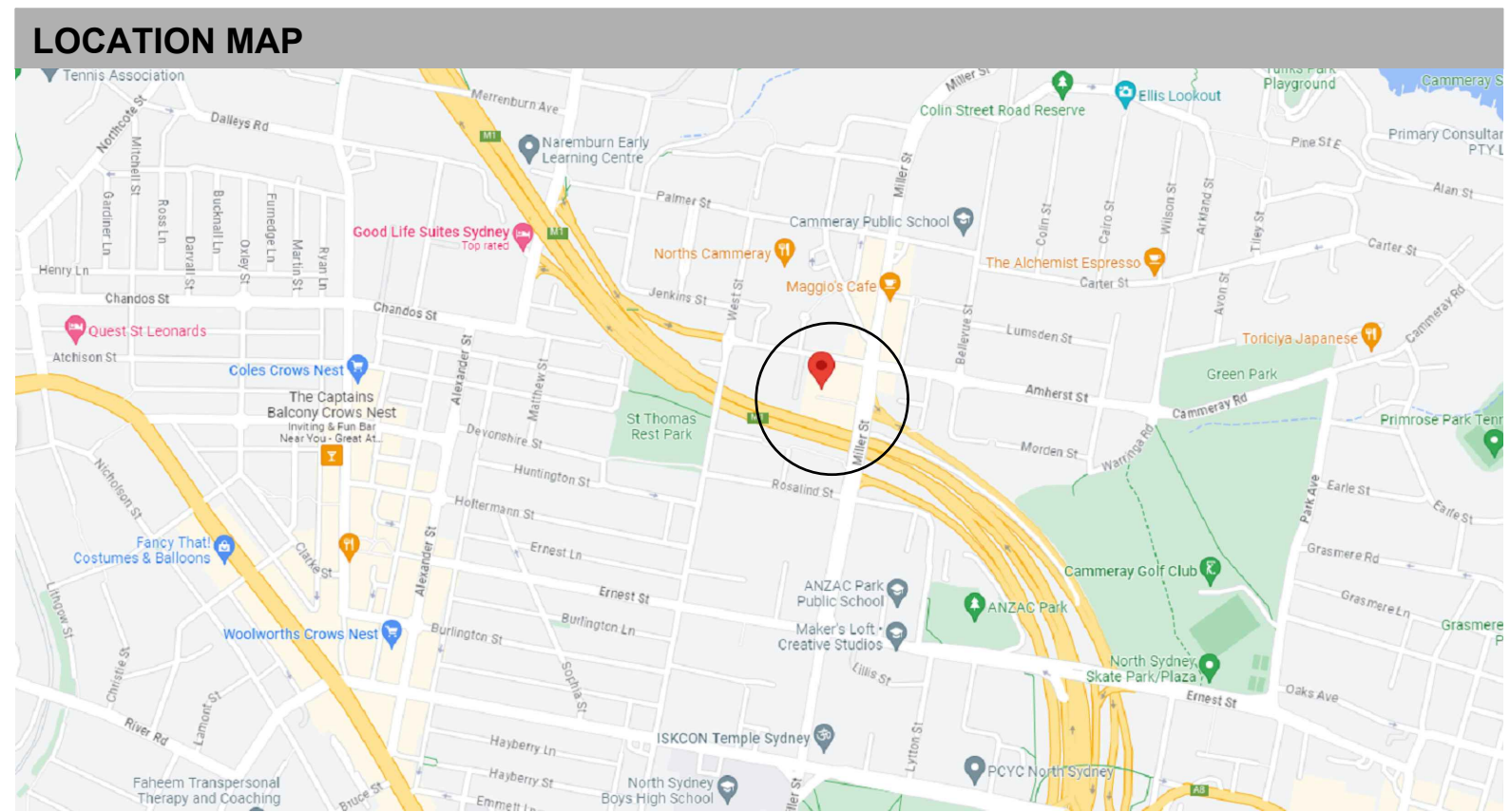
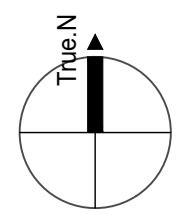
Scale: 1:1200 approx.



PROPOSED AMENDMENTS TO ROOF DECKS at Units 20 & 23, 11 AMHERST STREET, CAMMERAY for Mrs Penelope Sasso - Lot 20, Mr and Mrs P. Ludlow - Lot 23.

DRAWING LIST

000	COVER PAGE	/	A3
000.1	SAFETY NOTES	/	A3
000.2	STANDARD SPECIFICATION	/	A3
001	SITE PLAN	1:500	A3
002	SHADOWS TO PLAZA - existing conditions	1:500	A3
003	SHADOWS TO PLAZA - new vergola retracted screens and blades	1:500	A3
003	SHADOWS TO PLAZA - new vergola with blades out and screens down	1:500	A3
100	TERRACE LEVEL - UNIT 20	1:100	A3
101	ROOF - UNIT 20	1:100	A3
102	TERRACE LEVEL - UNIT 23	1:100	A3
103	ROOF - UNIT 23	1:100	A3
300	EAST ELEVATION	1:150	A3
301	NORTH ELEVATION	1:100	A3
302	WEST ELEVATION	1:150	A3
303	SOUTH ELEVATION	1:100	A3
311	SECTION A-A (UNIT 20)	1:100	A3
312	SECTION B-B (UNIT 23)	1:100	A3
400	DETAILS	1:10	A3
401	DETAILS	NTS	A3
501	NOTIFICATION PLAN - SITE PLAN	NTS	A4
502	NOTIFICATION PLAN - ELEVATIONS	NTS	A4

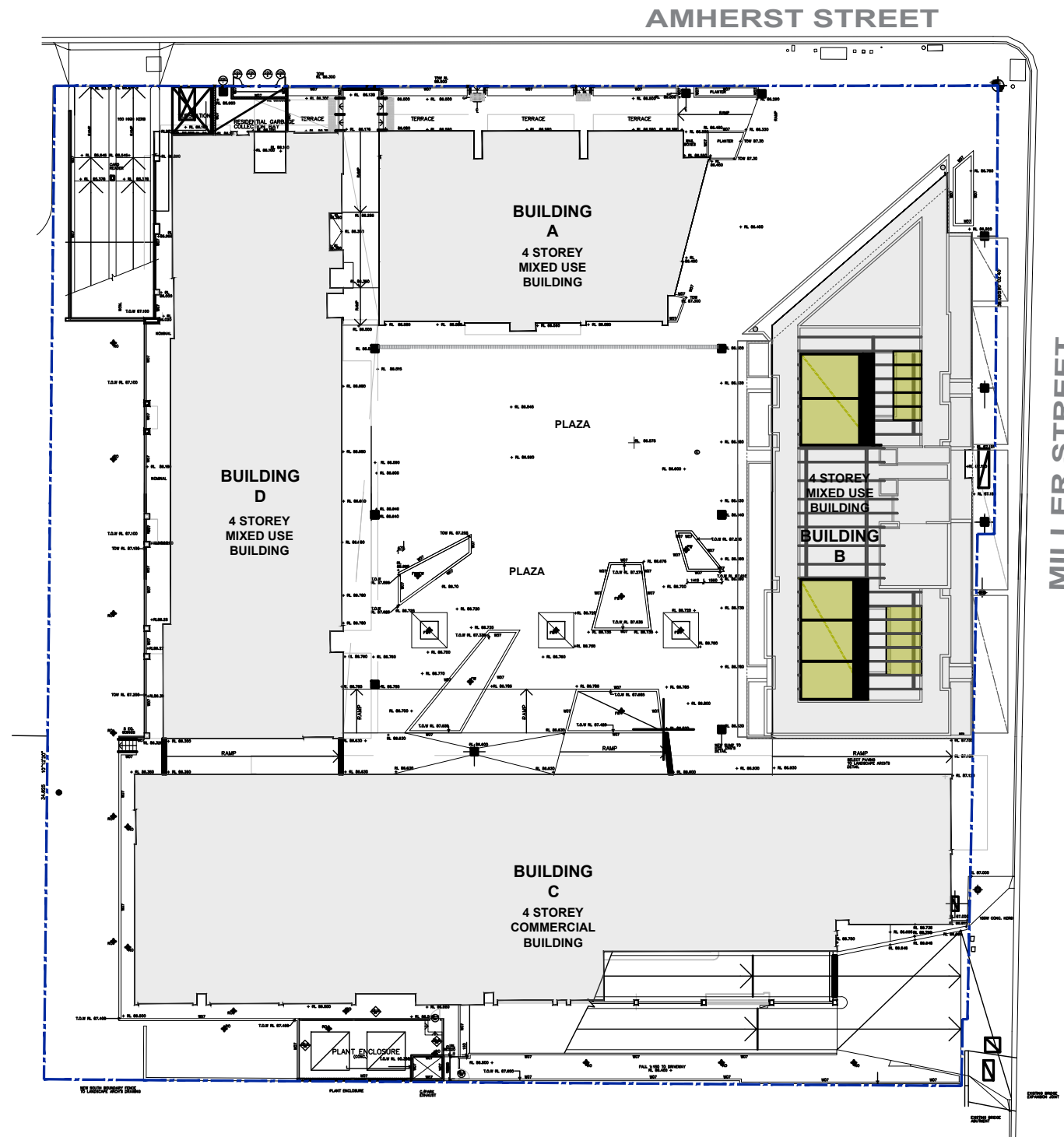


AMENDMENTS			
A	DA SUBMISSION	B.S.	05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S.	17.6.24

COVER PAGE
Designed By: M. Sasso Drawn : B. Srbinovska Date : 05.09.23 Scale : NTS@A3
DA ISSUE

PROPOSED AMENDMENTS TO ROOF DECKS		
UNITS 20 & 23, 11 AMHERST STREET CAMMERAY		
Mrs Penelope Sasso - Unit 20, Mr and Mrs P. Ludlow - Unit 23.		
Job No.	Dwg	Issue
-	DA 000	B

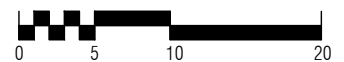
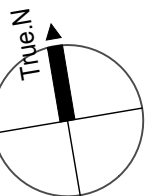
PRESTIGE RESIDENTIAL
DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
Aspect Design and Construction P/L
PO Box 608 Cammeray NSW 2062



SITE PLAN

HATCHES:

- PROPOSED WORK
- EXISTING BUILDINGS



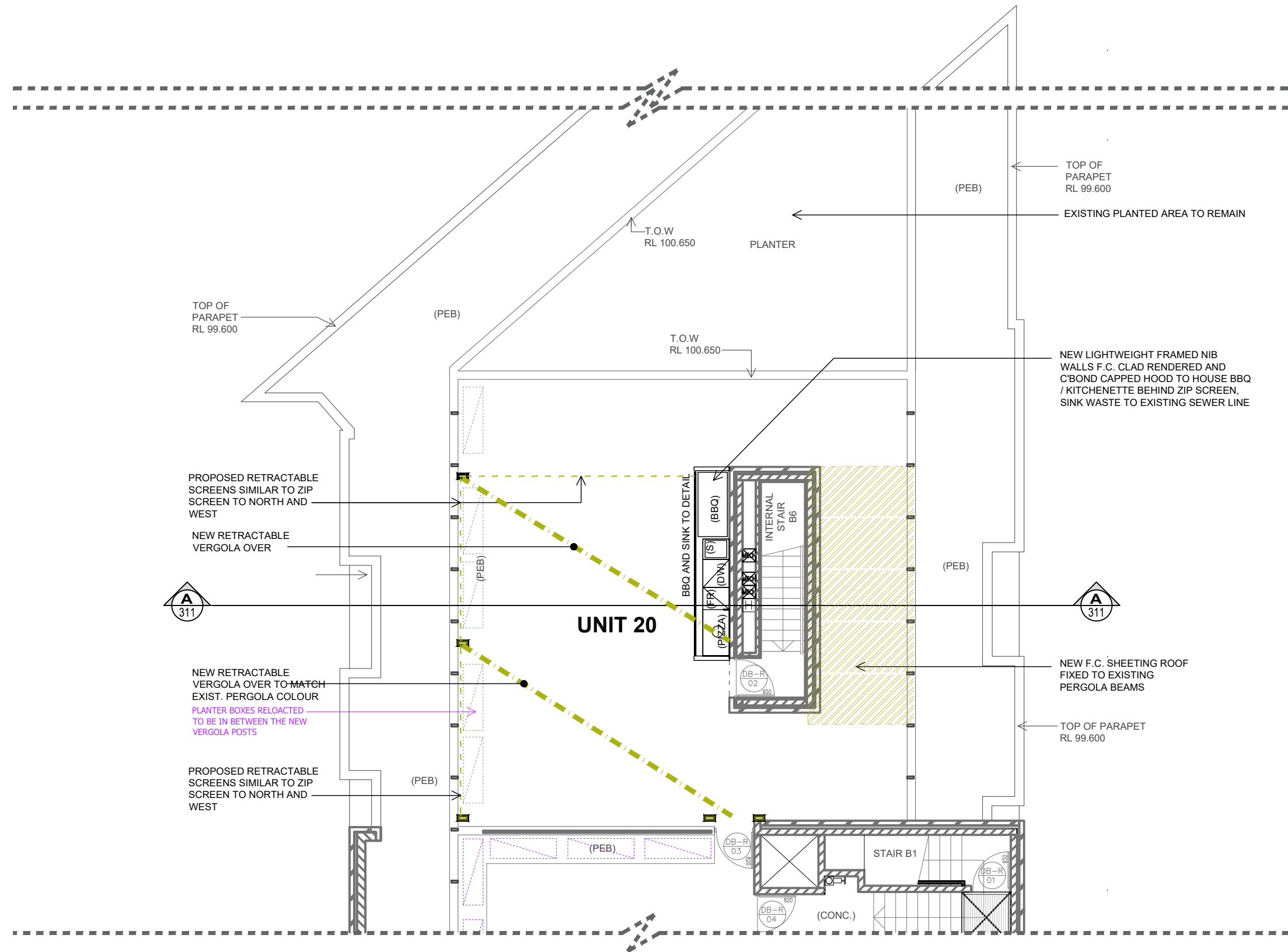
AMENDMENTS	
A	DA SUBMISSION
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED

SITE PLAN
Designed By: M. Sasso
Drawn : B. Srbinovska
Date : 05.09.23
Scale : 1:500@A3
DA ISSUE

PROPOSED AMENDMENTS TO ROOF DECKS		
UNITS 20 & 23, 11 AMHERST STREET CAMMERAY		
Mrs Penelope Sasso - Unit 20, Mr and Mrs P. Ludlow - Unit 23.		
Job No.	Dwg	Issue
-	DA 001	B

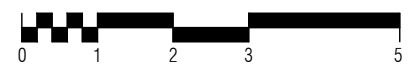
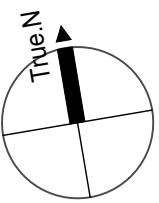
PRESTIGE RESIDENTIAL
DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
Aspect Design and Construction P/L
PO Box 608 Cammeray NSW 2062





LEGEND:

- EXISTING PERGOLA POSTS TO BE RETAIN
- NEW VERGOLA POSTS
- NEW ROOF ABOVE



AMENDMENTS			
A	DA SUBMISSION	B.S.	05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S.	17.6.24

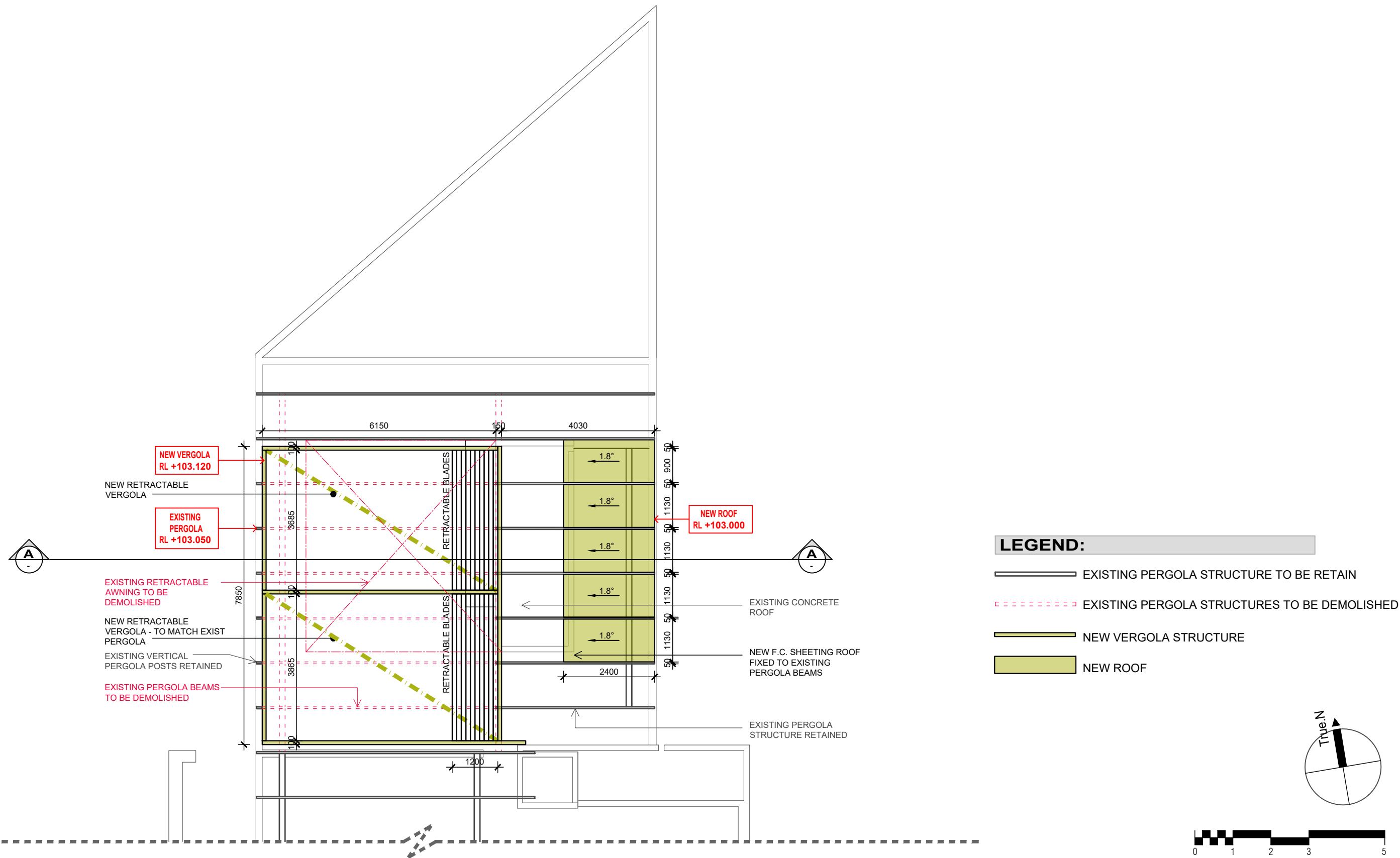
TERRACE LEVEL - UNIT 20

Designed By: M. Sasso
 Drawn : B. Srbinovska
 Date : 05.09.23
 Scale : 100@A3

DA ISSUE

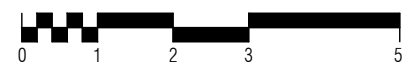
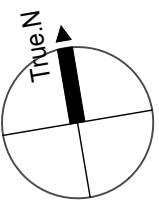
PROPOSED AMENDMENTS TO ROOF DECKS		
UNITS 20 & 23, 11 AMHERST STREET CAMMERAY		
Mrs Penelope Sasso - Unit 20, Mr and Mrs P. Ludlow - Unit 23.		
Job No.	Dwg	Issue
-	DA 100	B

PRESTIGE RESIDENTIAL
 DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
 Aspect Design and Construction P/L
 PO Box 608 Cammeray NSW 2062



LEGEND:

- EXISTING PERGOLA STRUCTURE TO BE RETAIN
- EXISTING PERGOLA STRUCTURES TO BE DEMOLISHED
- NEW VERGOLA STRUCTURE
- NEW ROOF



AMENDMENTS			
A	DA SUBMISSION	B.S.	05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S.	17.6.24

ROOF - UNIT 20

Designed By: M. Sasso
 Drawn : B. Srbinovska
 Date : 05.09.23
 Scale : 100@A3

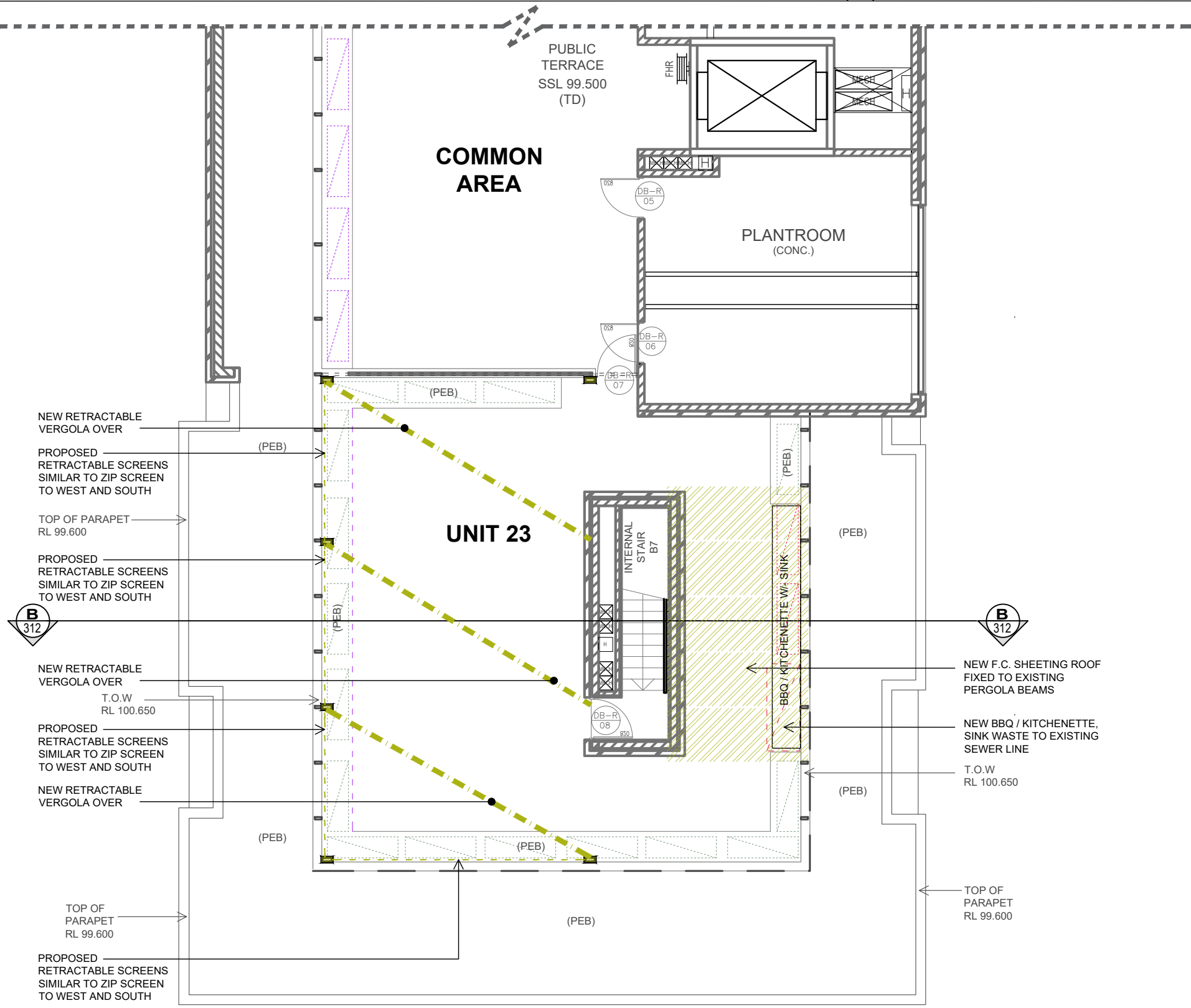
DA ISSUE

PROPOSED AMENDMENTS TO ROOF DECKS
 UNITS 20 & 23, 11 AMHERST STREET
 CAMMERAY

Mrs Penelope Sasso - Unit 20,
 Mr and Mrs P. Ludlow - Unit 23.

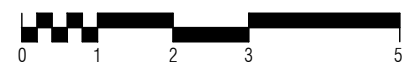
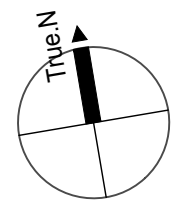
Job No.	Dwg	Issue
-	DA 101	B

PRESTIGE RESIDENTIAL
 DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
 Aspect Design and Construction P/L
 PO Box 608 Cammeray NSW 2062



LEGEND:

- EXISTING PERGOLA POSTS TO BE RETAIN
- NEW VERGOLA POSTS
- NEW ROOF ABOVE



AMENDMENTS			
A	DA SUBMISSION	B.S.	05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S.	17.6.24

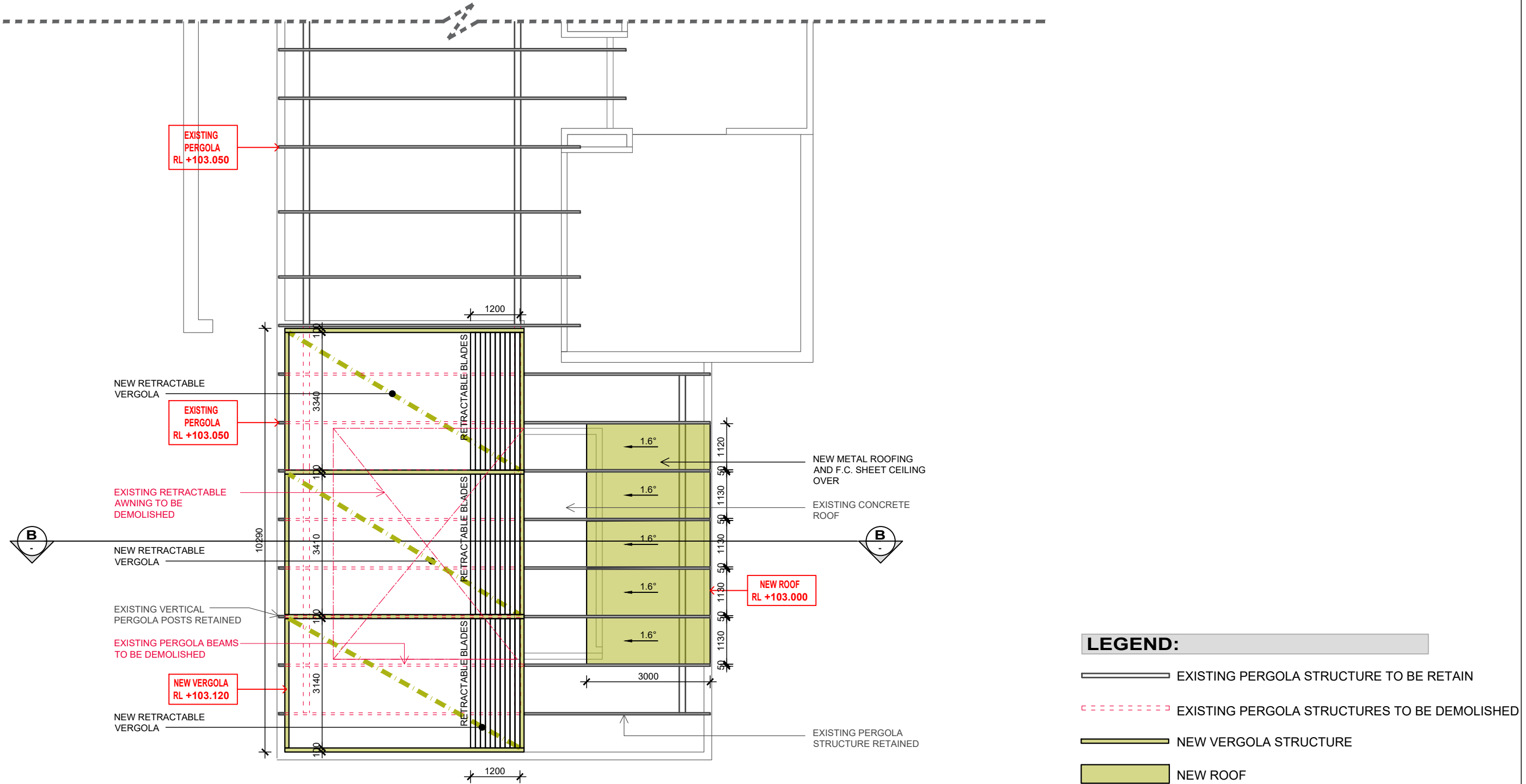
TERRACE LEVEL - UNIT 23

Designed By: M. Sasso
 Drawn : B. Srbinovska
 Date : 05.09.23
 Scale : 100@A3

DA ISSUE

PROPOSED AMENDMENTS TO ROOF DECKS		
UNITS 20 & 23, 11 AMHERST STREET CAMMERAY		
Mrs Penelope Sasso - Unit 20, Mr and Mrs P. Ludlow - Unit 23.		
Job No.	Dwg	Issue
-	DA 102	B

PRESTIGE RESIDENTIAL
 DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
 Aspect Design and Construction P/L
 PO Box 608 Cammeray NSW 2062



AMENDMENTS			
A	DA SUBMISSION	B.S.	05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S.	17.6.24

ROOF - UNIT 23

Designed By: M. Sasso
 Drawn : B. Srbinovska
 Date : 05.09.23
 Scale : 100@A3

DA ISSUE

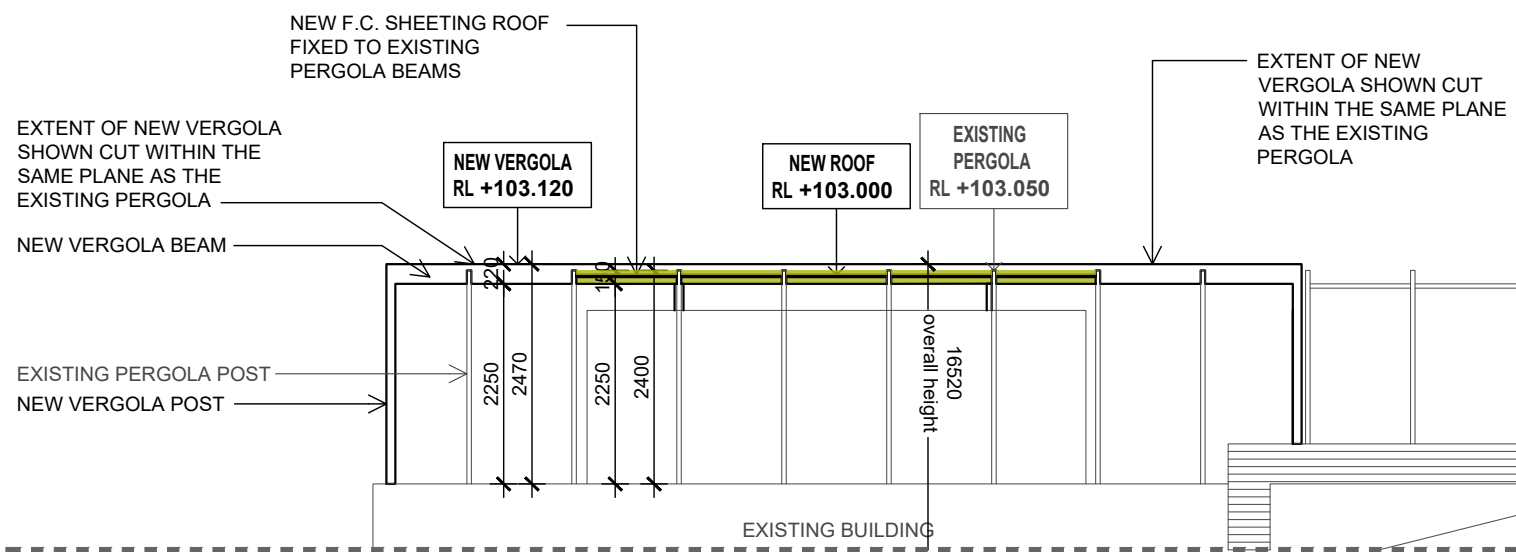
PROPOSED AMENDMENTS TO ROOF DECKS

UNITS 20 & 23, 11 AMHERST STREET
 CAMMERAY
 Mrs Penelope Sasso - Unit 20,
 Mr and Mrs P. Ludlow - Unit 23.

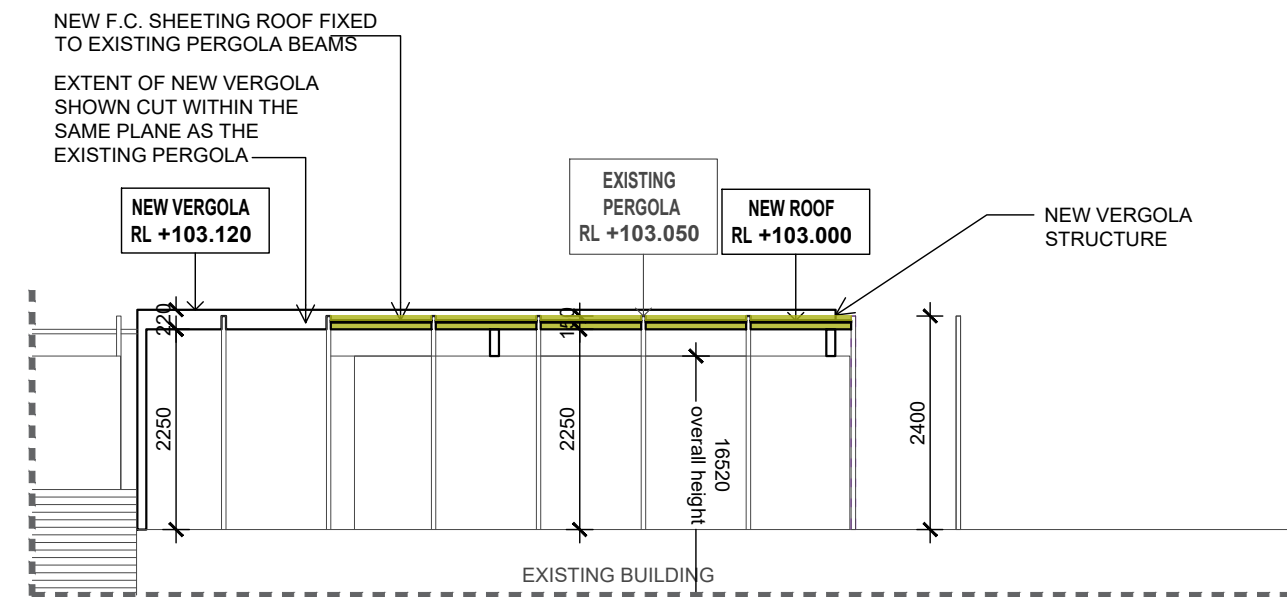
Job No.	Dwg	Issue
-	DA 103	B

PRESTIGE RESIDENTIAL
 DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
 Aspect Design and Construction P/L
 PO Box 608 Cammeray NSW 2062

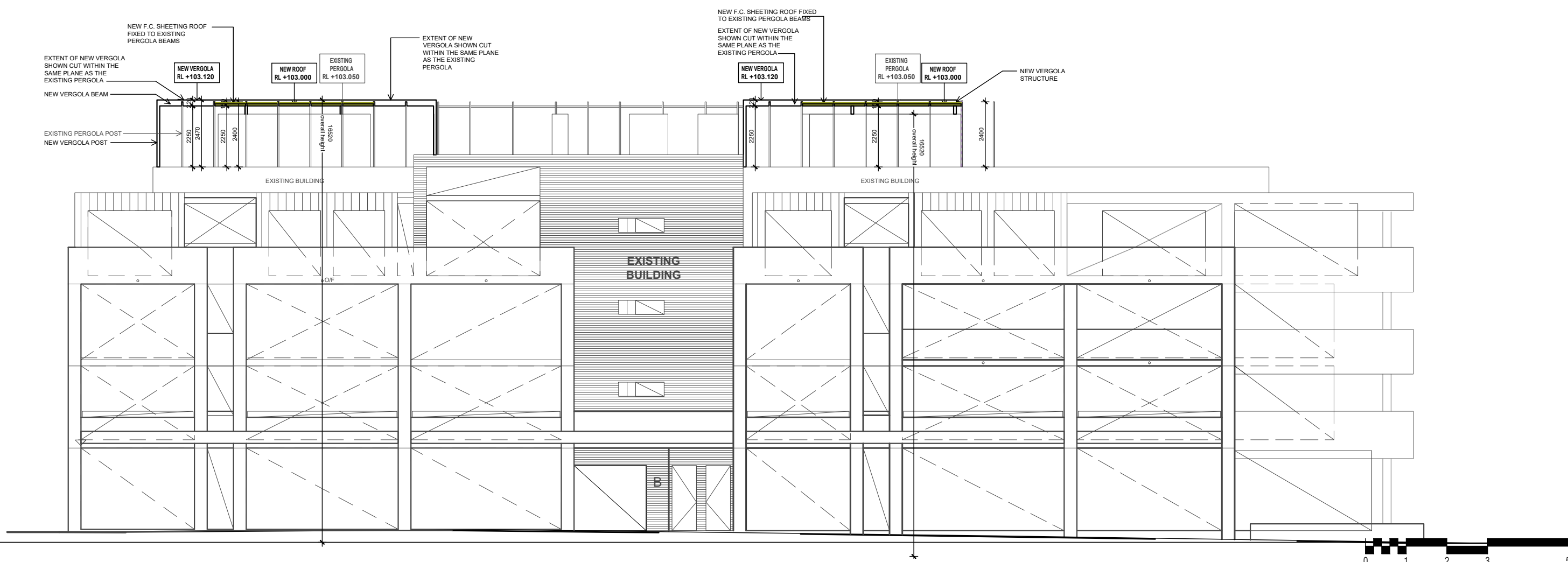




TERRACE EAST ELEVATION LOT 23 - MILLER STREET M= 1:85



TERRACE EAST ELEVATION KOT 20 - MILLER STREET M= 1:85



AMENDMENTS		
A	DA SUBMISSION	B.S. 05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S. 17.6.24

EAST ELEVATION - MILLER ST.

Designed By: M. Sasso
 Drawn : B. Srbinovska
 Date : 05.09.23
 Scale : 150@A3

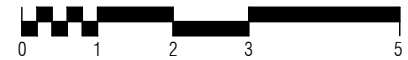
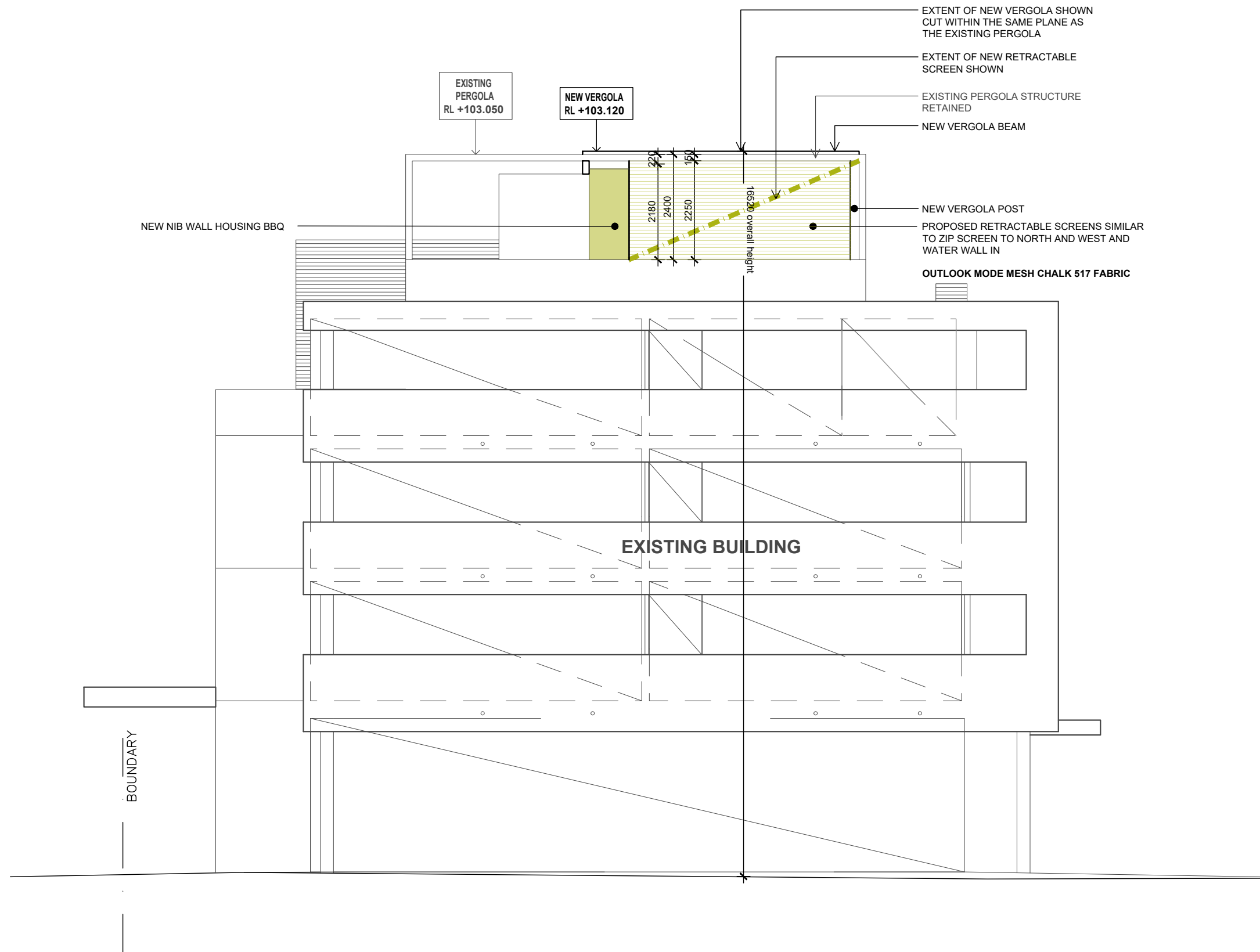
DA ISSUE

PROPOSED AMENDMENTS TO ROOF DECKS
 UNITS 20 & 23, 11 AMHERST STREET
 CAMMERAY

Mrs Penelope Sasso - Unit 20,
 Mr and Mrs P. Ludlow - Unit 23.

Job No.	Dwg	Issue
-	DA 300	B

PRESTIGE RESIDENTIAL
 DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
 Aspect Design and Construction P/L
 PO Box 608 Cammeray NSW 2062



AMENDMENTS			
A	DA SUBMISSION	B.S.	05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S.	17.6.24

NORTH ELEVATION - BUILDING B

Designed By: M. Sasso
 Drawn : B. Srbinovska
 Date : 05.09.23
 Scale : 100@A3

DA ISSUE

PROPOSED AMENDMENTS TO ROOF DECKS

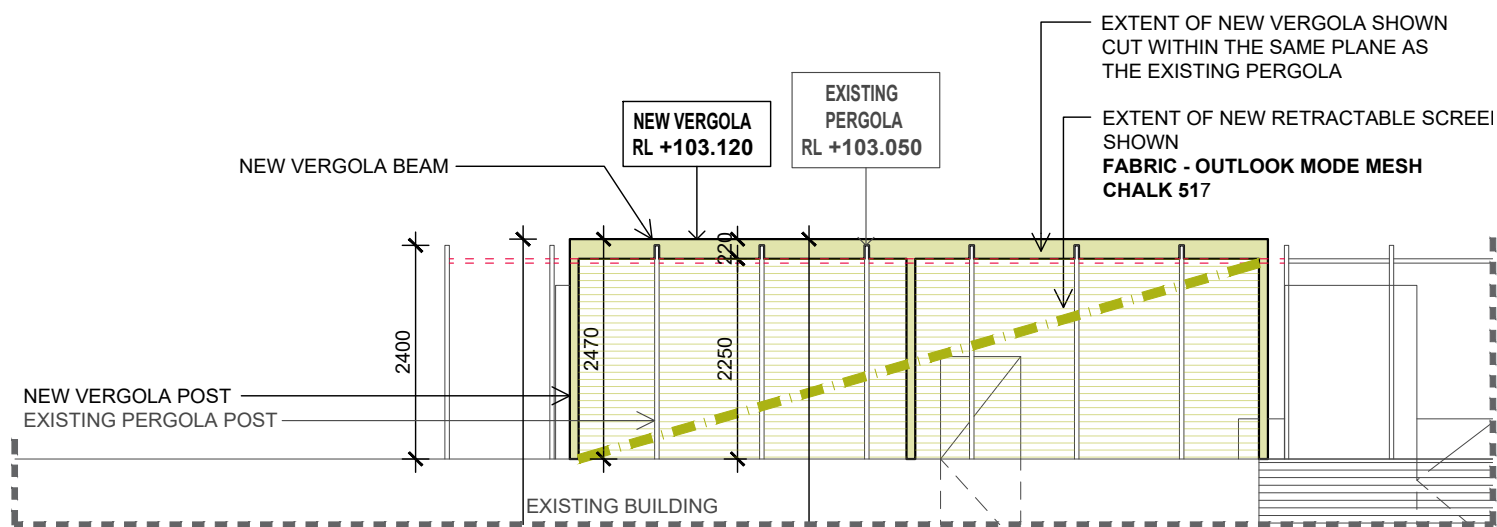
UNITS 20 & 23, 11 AMHERST STREET
 CAMMERAY

Mrs Penelope Sasso - Unit 20,
 Mr and Mrs P. Ludlow - Unit 23.

Job No.	Dwg	Issue
-	DA 301	B

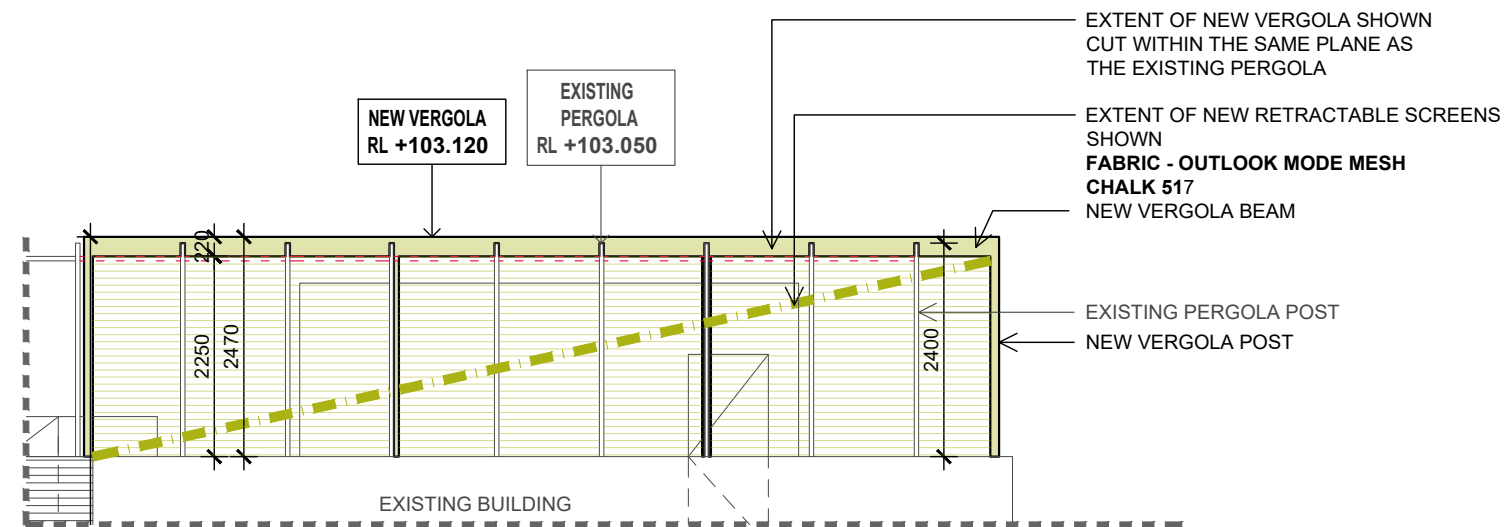
PRESTIGE RESIDENTIAL
 DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
 Aspect Design and Construction P/L
 PO Box 608 Cammeray NSW 2062





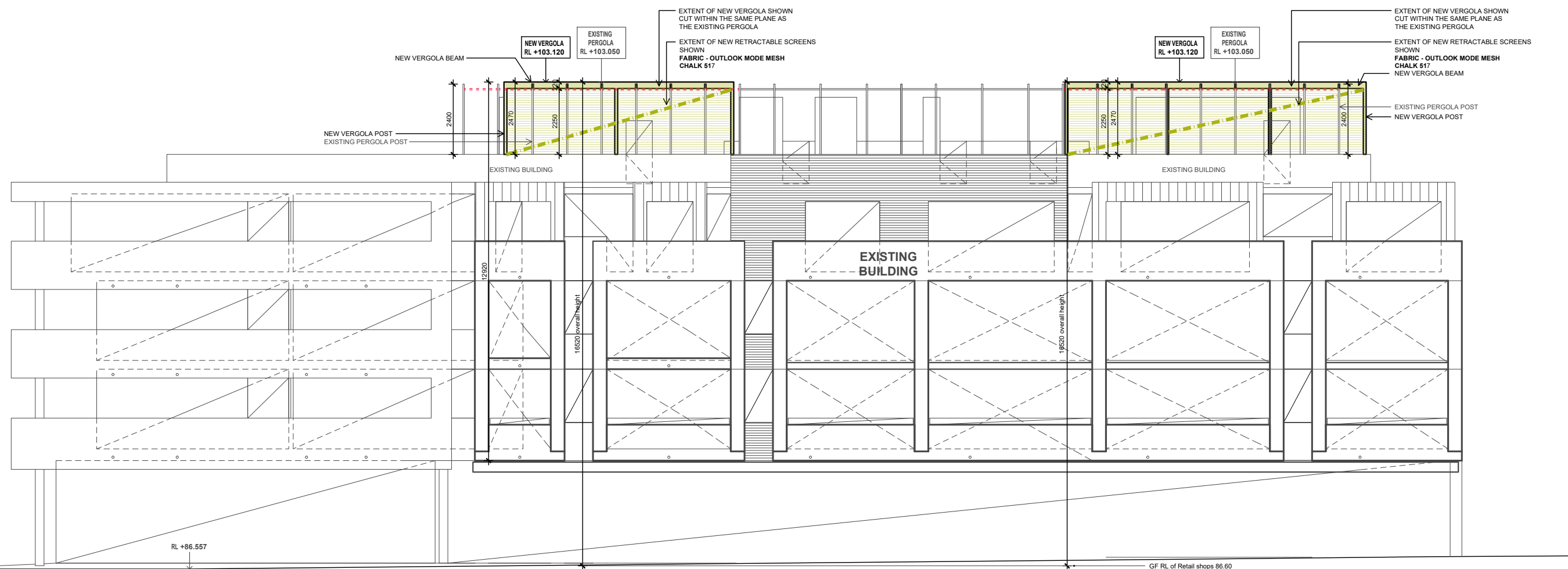
LOT 20 TERRACE WEST ELEVATION - PLAZA

M= 1:85



LOT 23 TERRACE WEST ELEVATION - PLAZA

M= 1:85



WEST ELEVATION - PLAZA



AMENDMENTS			
A	DA SUBMISSION	B.S.	05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S.	17.6.24

WEST ELEVATION BUILDING B

Designed By: M. Sasso
 Drawn : B. Srbinovska
 Date : 05.09.23
 Scale : 100@A3

DA ISSUE

PROPOSED AMENDMENTS TO ROOF DECKS

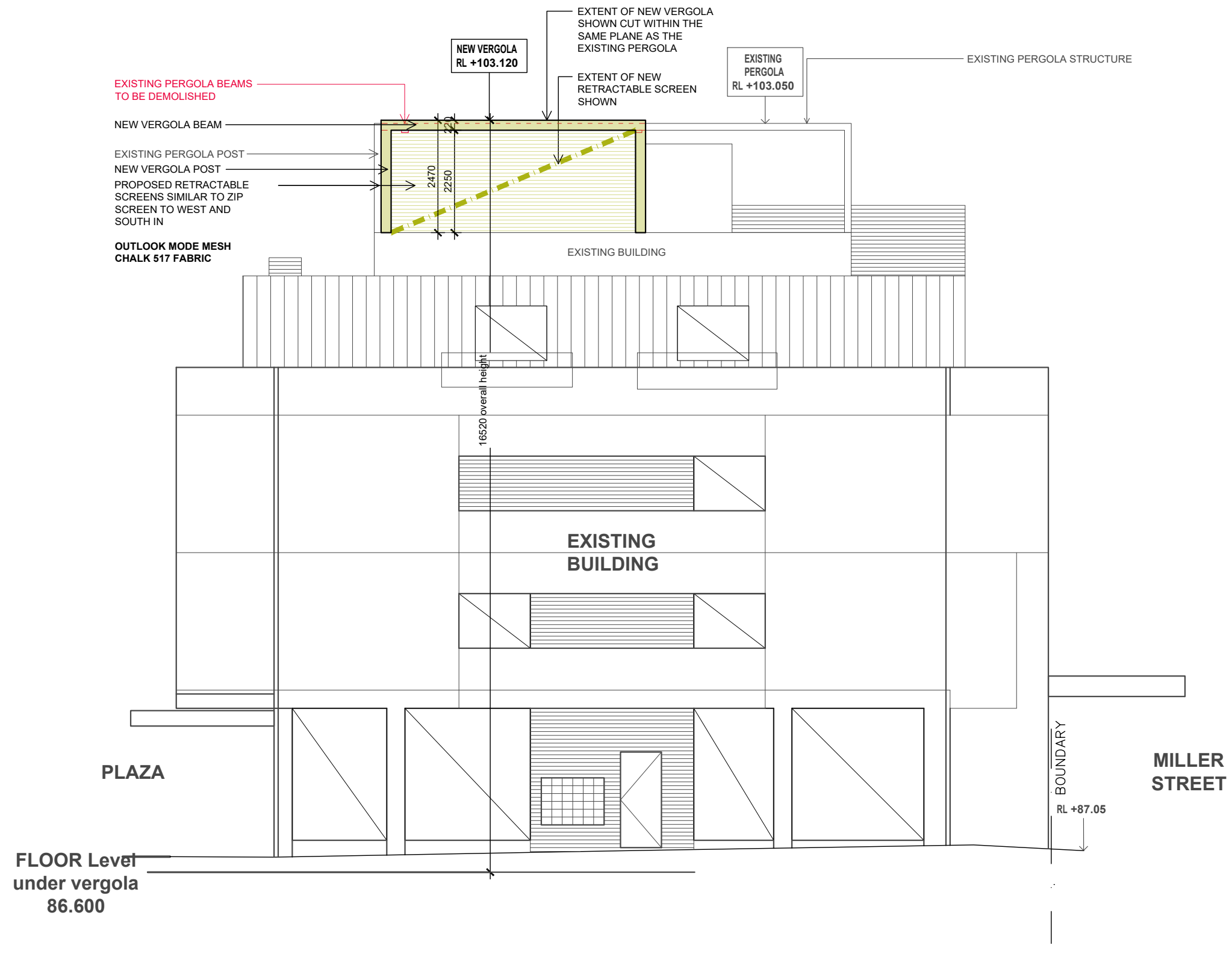
UNITS 20 & 23, 11 AMHERST STREET
 CAMMERAY

Mrs Penelope Sasso - Unit 20,
 Mr and Mrs P. Ludlow - Unit 23.

Job No.	Dwg	Issue
-	DA 302	B

PRESTIGE RESIDENTIAL
 DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
 Aspect Design and Construction P/L
 PO Box 608 Cammeray NSW 2062





AMENDMENTS			
A	DA SUBMISSION	B.S.	05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S.	17.6.24

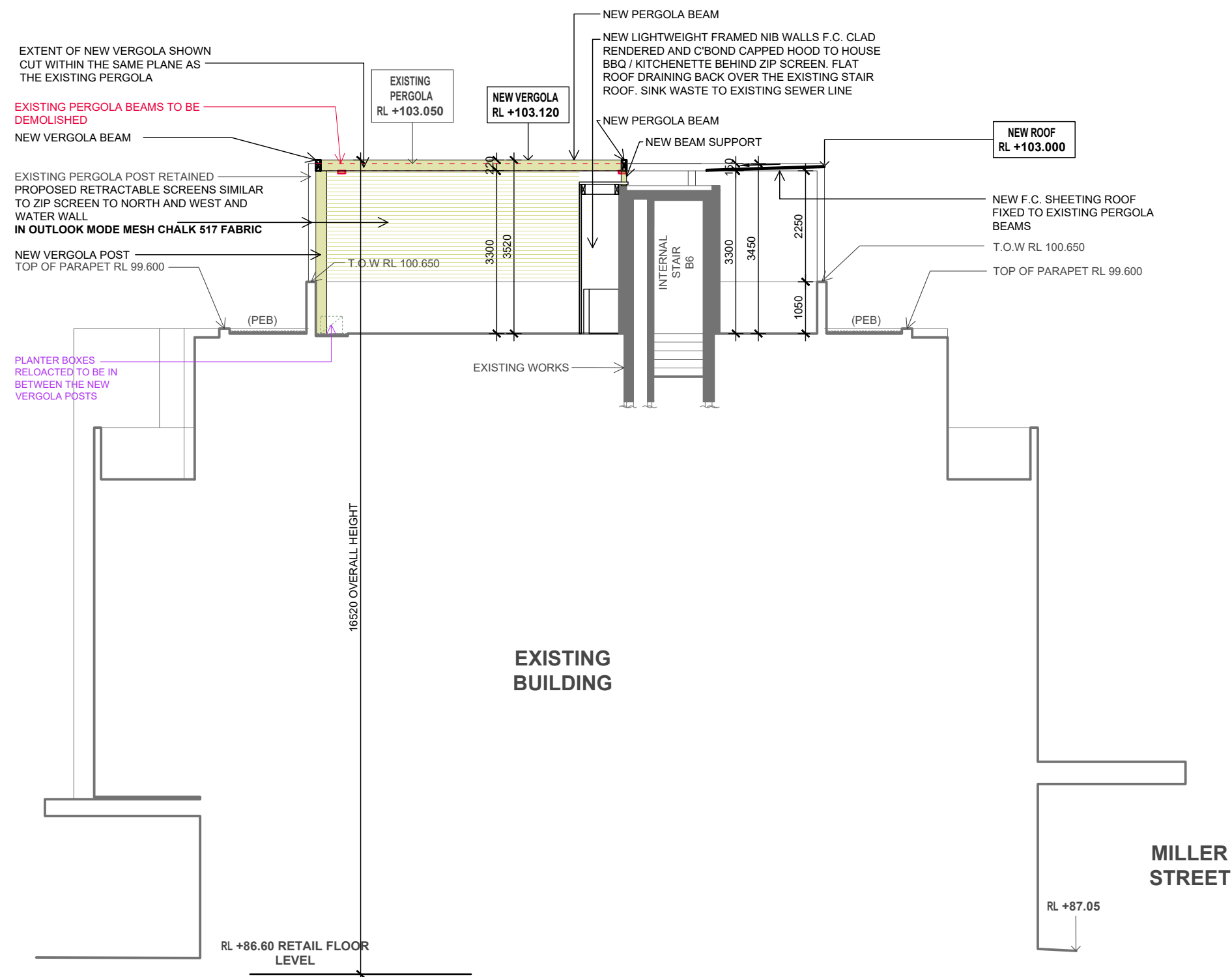
SOUTH ELEVATION BUILDING B

Designed By: M. Sasso
 Drawn : B. Srbinovska
 Date : 05.09.23
 Scale : 100@A3

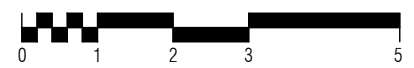
DA ISSUE

PROPOSED AMENDMENTS TO ROOF DECKS		
UNITS 20 & 23, 11 AMHERST STREET CAMMERAY		
Mrs Penelope Sasso - Unit 20, Mr and Mrs P. Ludlow - Unit 23.		
Job No.	Dwg	Issue
-	DA 303	B

PRESTIGE RESIDENTIAL
 DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
 Aspect Design and Construction P/L
 PO Box 608 Cammeray NSW 2062



SECTION A-A (UNIT 20)



AMENDMENTS			
A	DA SUBMISSION	B.S.	05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S.	17.6.24

SECTION A-A (UNIT 20)

Designed By: M. Sasso
 Drawn : B. Srbinovska
 Date : 05.09.23
 Scale : 100@A3

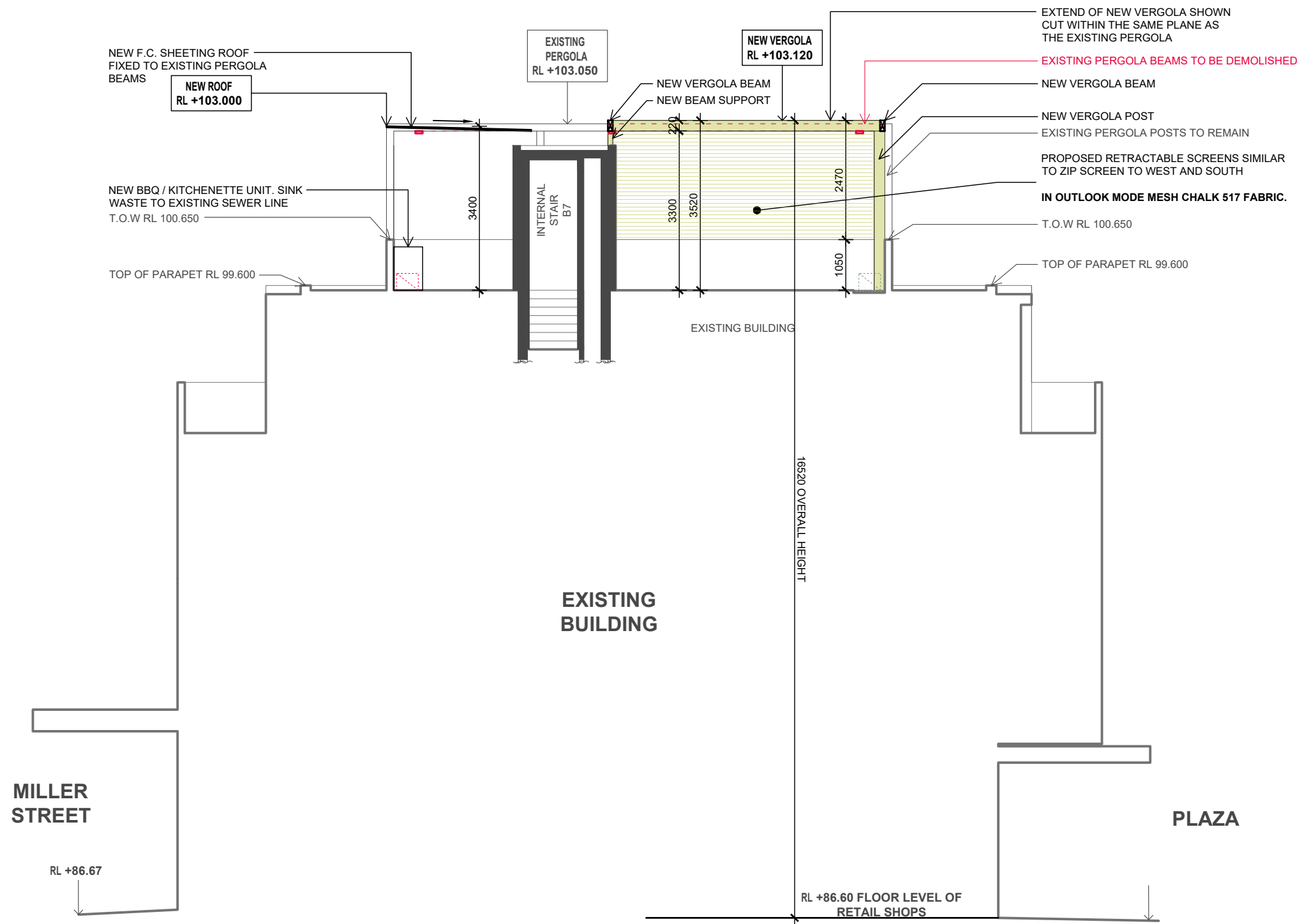
DA ISSUE

PROPOSED AMENDMENTS TO ROOF DECKS
 UNITS 20 & 23, 11 AMHERST STREET
 CAMMERAY

Mrs Penelope Sasso - Unit 20,
 Mr and Mrs P. Ludlow - Unit 23.

Job No.	Dwg	Issue
-	DA 311	B

PRESTIGE RESIDENTIAL
 DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
 Aspect Design and Construction P/L
 PO Box 608 Cammeray NSW 2062



AMENDMENTS			
A	DA SUBMISSION	B.S.	05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S.	17.6.24

SECTION B-B (UNIT 23)

Designed By: M. Sasso
 Drawn : B. Srbinovska
 Date : 05.09.23
 Scale : 100@A3

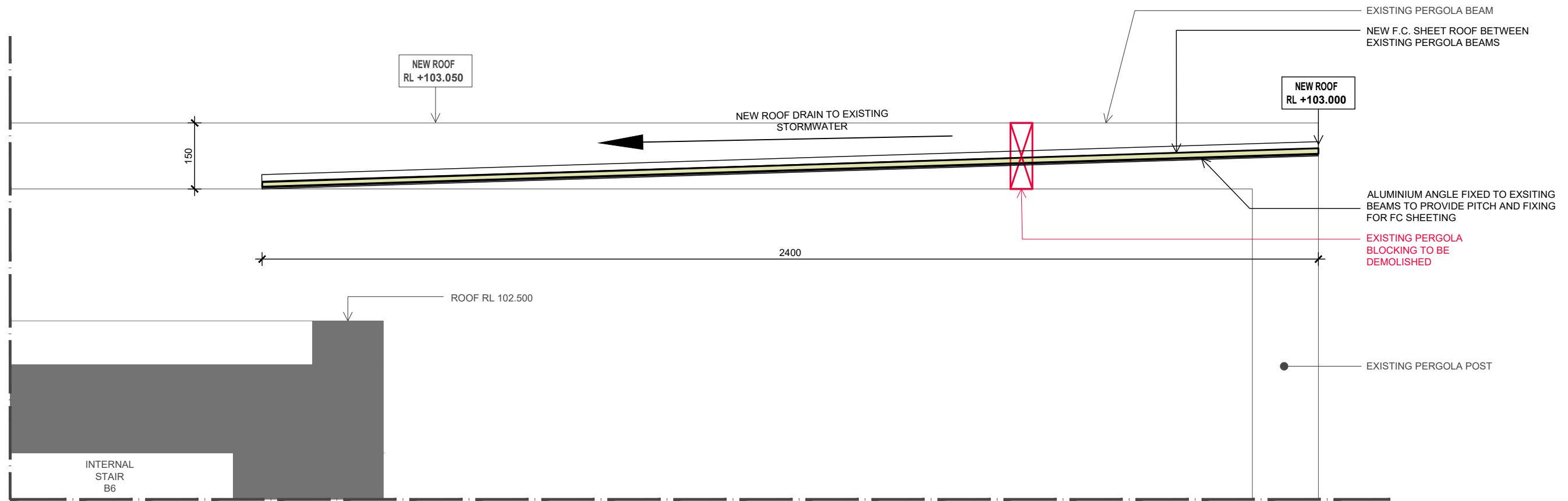
DA ISSUE

PROPOSED AMENDMENTS TO ROOF DECKS
 UNITS 20 & 23, 11 AMHERST STREET
 CAMMERAY

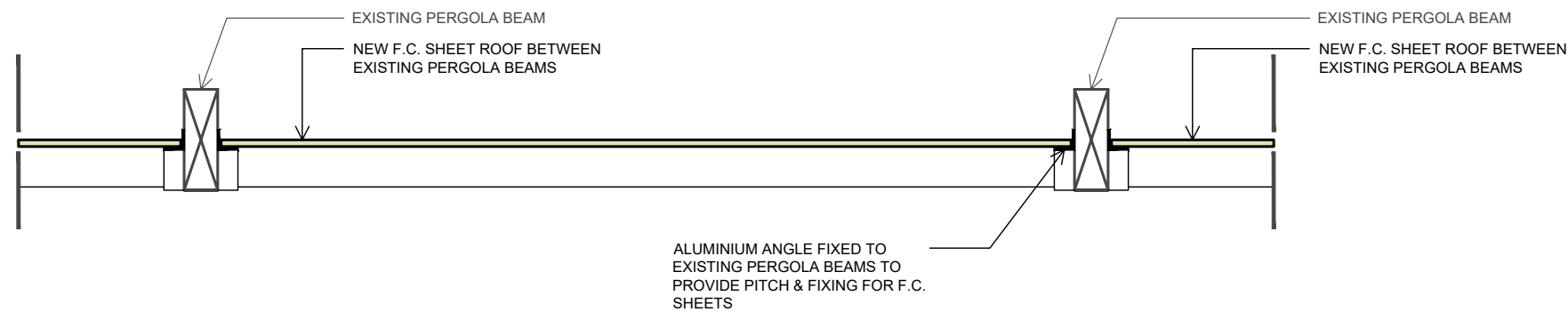
Mrs Penelope Sasso - Unit 20,
 Mr and Mrs P. Ludlow - Unit 23.

Job No.	Dwg	Issue
-	DA 312	B

PRESTIGE RESIDENTIAL
 DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
 Aspect Design and Construction P/L
 PO Box 608 Cammeray NSW 2062



DETAIL



DETAIL



AMENDMENTS			
A	DA SUBMISSION	B.S.	05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S.	17.6.24

DETAILS - NEW ROOF

Designed By: M. Sasso
 Drawn : B. Srbinovska
 Date : 05.09.23
 Scale : 1:10@A3

DA ISSUE

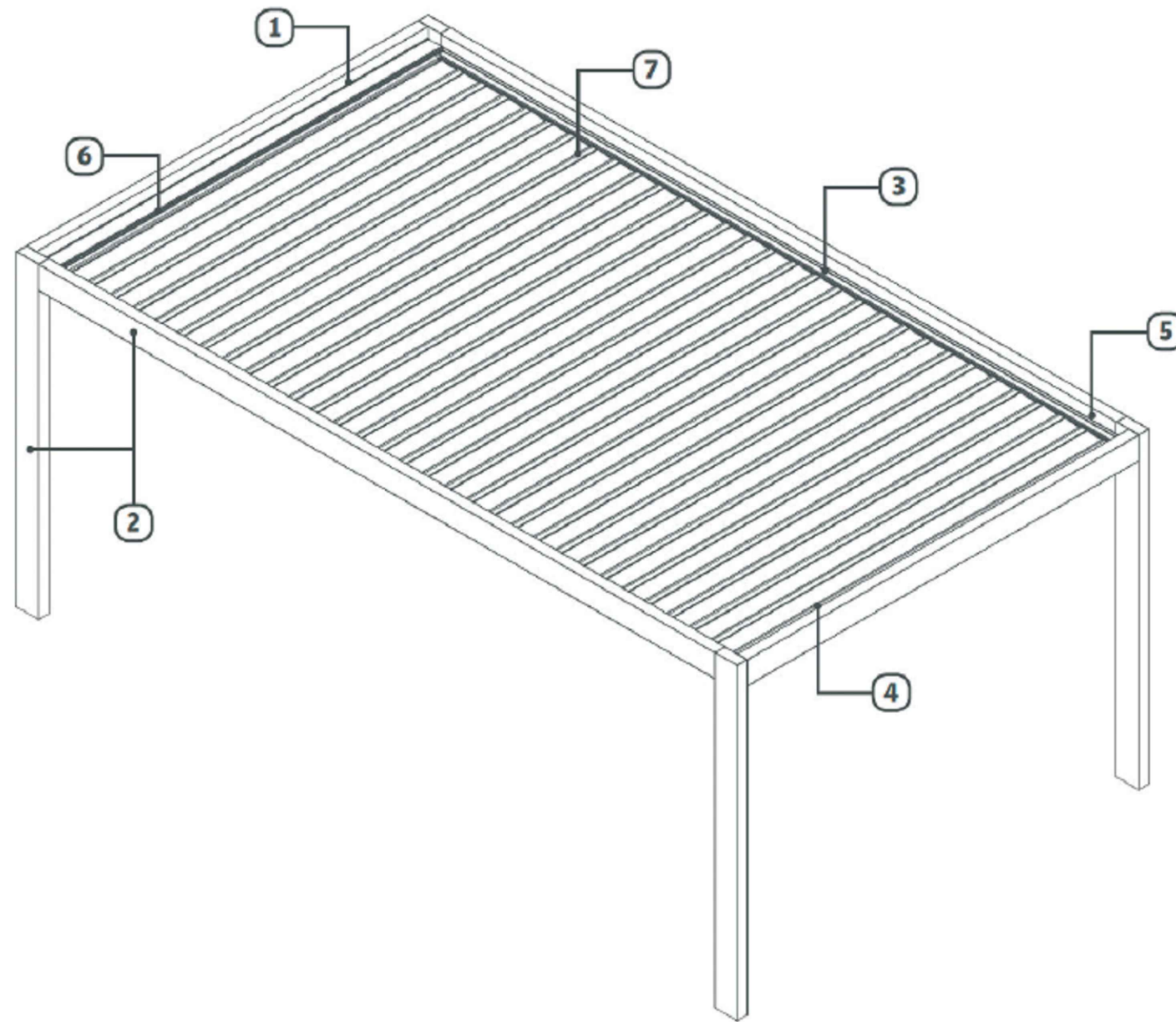
PROPOSED AMENDMENTS TO ROOF DECKS
 UNITS 20 & 23, 11 AMHERST STREET
 CAMMERAY

Mrs Penelope Sasso - Unit 20,
 Mr and Mrs P. Ludlow - Unit 23.

Job No.	Dwg	Issue
-	DA 400	B

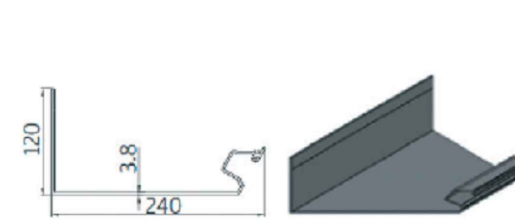
PRESTIGE RESIDENTIAL
 DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
 Aspect Design and Construction P/L
 PO Box 608 Cammeray NSW 2062

GENERAL VIEW

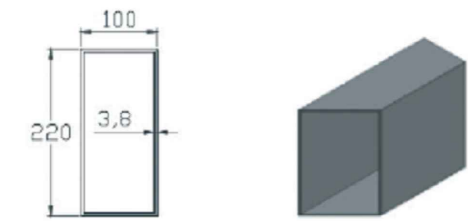


PROFILES

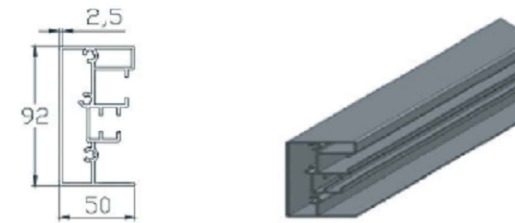
1 FRONT AND BACK GUTTER PROFILE



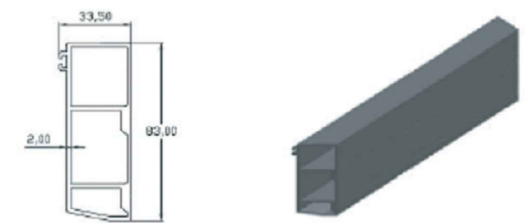
2 CARRIER POST AND SIDE BEAM PROFILE



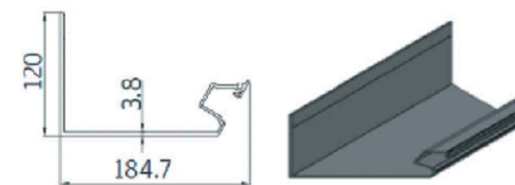
3 RAFTER PROFILE



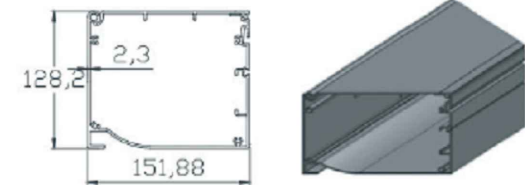
4 FRONT PROFILE



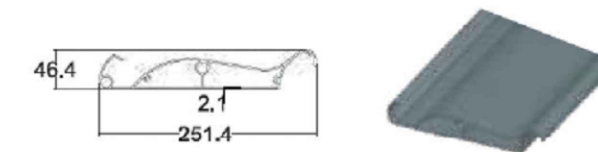
5 SIDE GUTTER PROFILE



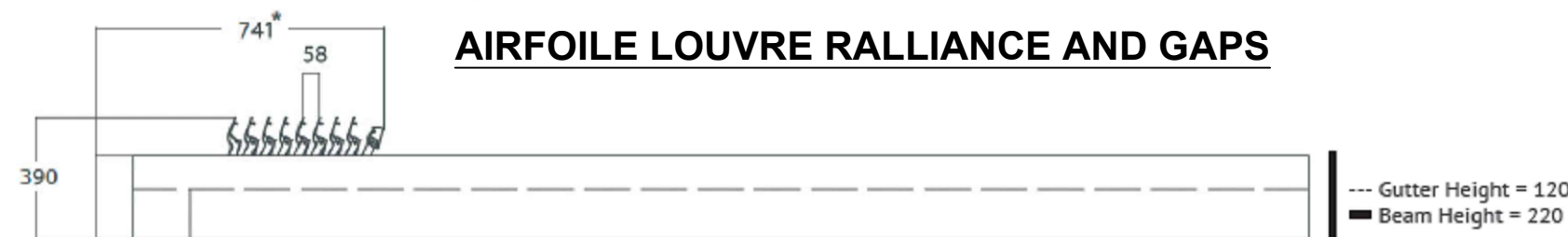
6 MOTOR BOX PROFILE



7 AIRFOIL LOUVRE PROFILE



AIRFOILE LOUVRE RALLIANCE AND GAPS



*This ralliance and gaps diagram is prepared for 8 aerofoil louvres.
For each aerofoil louvre added, 58mm should be added to the dimensions.

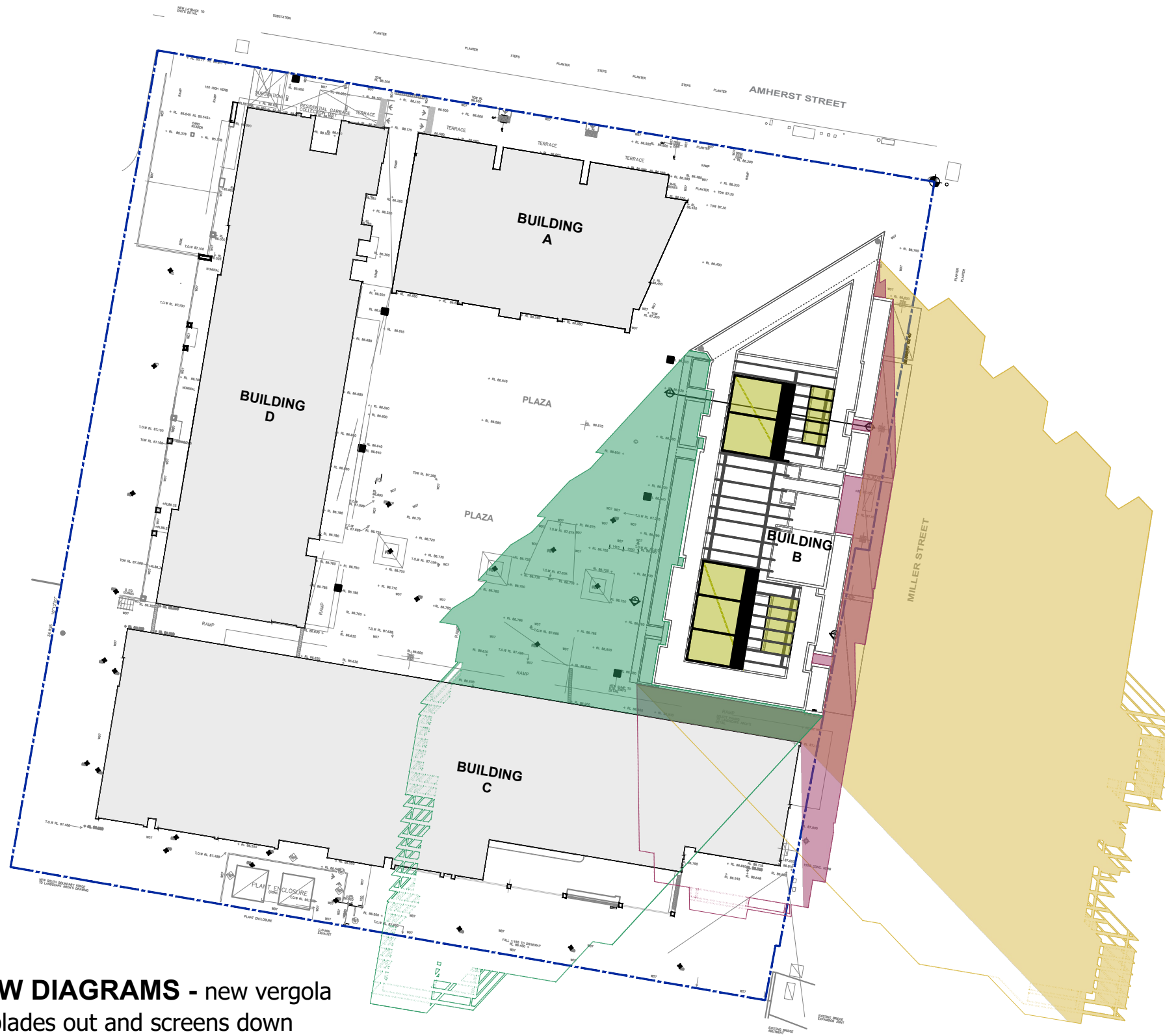


AMENDMENTS			
A	DA SUBMISSION	B.S.	05.09.23
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED	M.S.	17.6.24

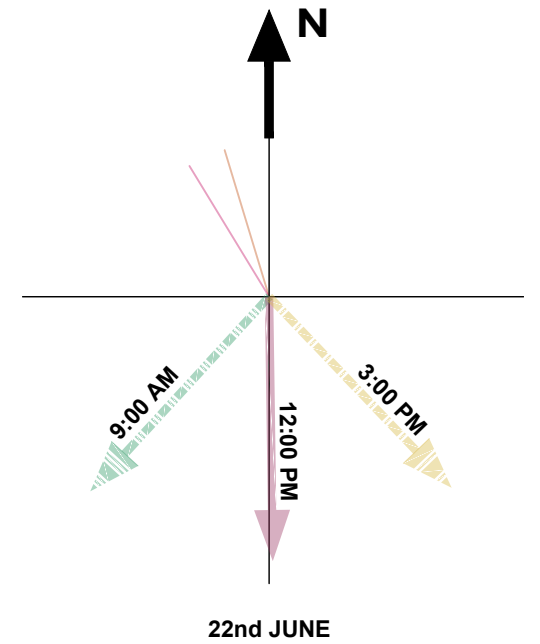
DETAILS - NEW VERGOLA	
Designed By: M. Sasso	
Drawn : B. Srbinovska	
Date : 05.09.23	
Scale : NTS@A3	
DA ISSUE	

PROPOSED AMENDMENTS TO ROOF DECKS		
UNITS 20 & 23, 11 AMHERST STREET CAMMERAY		
Mrs Penelope Sasso - Unit 20, Mr and Mrs P. Ludlow - Unit 23.		
Job No.	Dwg	Issue
-	DA 401	B

PRESTIGE RESIDENTIAL
DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
Aspect Design and Construction P/L
PO Box 608 Cammeray NSW 2062



SHADOW DIAGRAMS - new vergola with blades out and screens down

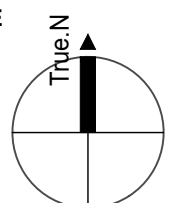


HATCHES:

- 9:00 AM 22nd JUNE
- 12:00 PM 22nd JUNE
- 3:00 PM 22nd JUNE

EXISTING SHADOWS:

- 9:00 AM 22nd JUNE
- 12:00 PM 22nd JUNE
- 3:00 PM 22nd JUNE



AMENDMENTS	
A	DA SUBMISSION
B	OVERALL HEIGHTS AND SCREEN COLOUR ADDED

SHADOWS TO PLAZA

Designed By: M. Sasso
 Drawn : B. Srbinovska
 Date : 05.09.23
 Scale : 1:500@A3

DA ISSUE

PROPOSED AMENDMENTS TO ROOF DECKS		
UNITS 20 & 23, 11 AMHERST STREET CAMMERAY		
Mrs Penelope Sasso - Unit 20, Mr and Mrs P. Ludlow - Unit 23.		
Job No.	Dwg	Issue
-	DA 004	B

PRESTIGE RESIDENTIAL
 DESIGN | INTERIOR | PROJECT MANAGEMENT | PROPERTY DEVELOPMENT
 Aspect Design and Construction P/L
 PO Box 608 Cammeray NSW 2062

**CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS)
OF THE NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013**

1. INTRODUCTION

This submission seeks a variation to Clause 4.3 of the North Sydney Local Environmental Plan 2013 (NSLEP13), which relates to building height.

This submission has been prepared with regards to a development application for the proposed alterations and additions to existing roof terraces of a four (4) storey shop-top housing complex at 11 Amherst Street, Cammeray

As detailed in this written request for a variation to building height being a development standard under NSLEP13, the proposed development meets the requirements prescribed under Clause 4.6 of NSLEP13.

This submission is made under Clause 4.6 of the NSLEP13 – Exceptions to development standards. Clause 4.6 states the following:

“4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows:*
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) Development consent may, subject to this clause, be granted for a development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Note –

The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) *The consent authority must keep a record of its assessment carried out under subclause (3).*

(5) *(Repealed)*

(6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if:*

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note –

When this Plan was made it did not include all of these zones

(7) *(Repealed)*

(8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(caa) clause 5.5,

(ca) clause 4.3 in relation to land identified as “Area 1” on the Special Provisions Area Map, other than subject land within the meaning of clause 6.19C,

(cab) clause 4.4, 5.6 or 6.19C in relation to land identified as “Area 1” on the Special Provisions Area Map,

(cb) clause 6.3 (2) (a) and (b),

(cba) clause 6.19A,

(cc) (Repealed)

(8A) (Repealed)”

The use of Clause 4.6 to enable an exception to this development control is appropriate in this instance and the consent authority may be satisfied that all requirements of Clause 4.6 have been satisfied in terms of the merits of the proposed development and the content in this Clause 4.6 variation request report.

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a local environmental plan. Subclause 4.6(3)(a) and 4.6(3)(b) requires that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

4.6(3)(b) that there is sufficient environmental planning grounds to justify contravening the development standard.

The Environmental Planning Instrument to which these variations relate to is the NSLEP13.

The development standard to which this variation relates to is Clause 4.3 – Height of Buildings, which reads as follows:

- “(1) The objectives of this clause are as follows:*
- (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
 - (b) to promote the retention and, if appropriate, sharing of existing views,*
 - (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
 - (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
 - (e) to ensure compatibility between development, particularly at zone boundaries,*
 - (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.*
 - (g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living.*
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*
- (2A)–(2C) (Repealed).”*

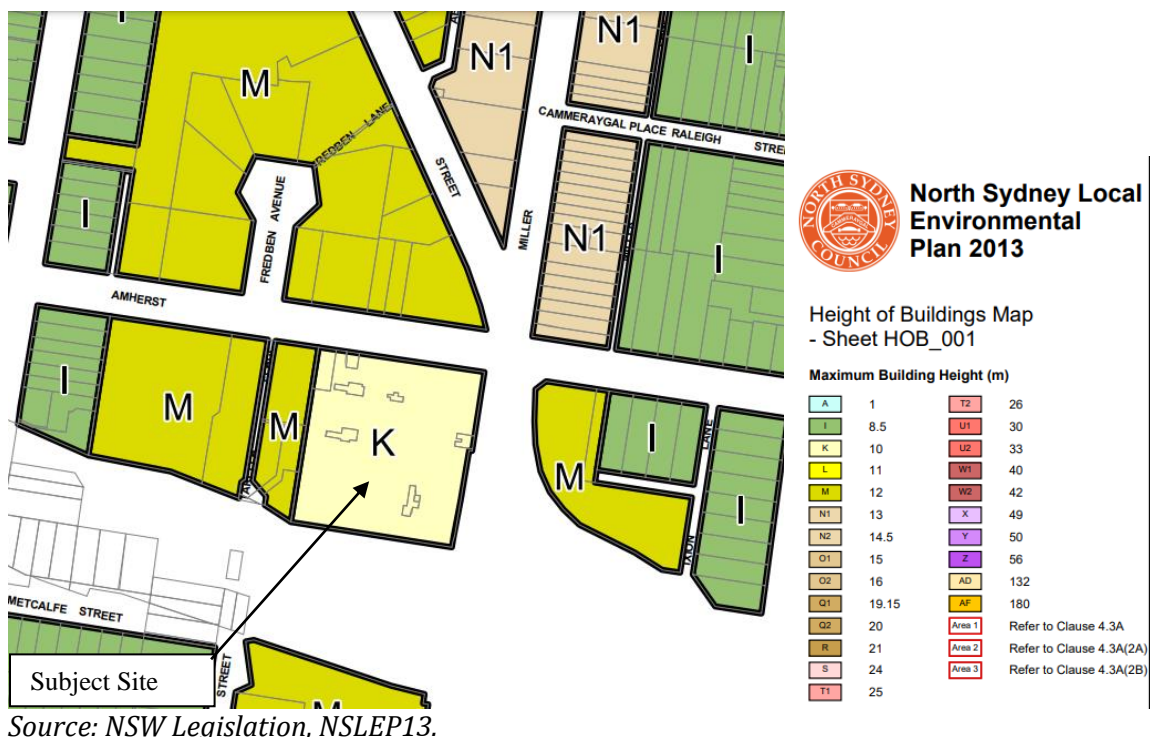
As demonstrated in Figure 1 on the following page, the subject site has been prescribed with a maximum height of buildings standard of 10 metres.

The proposed maximum height is 16.52 metres, being a variation of 6.52m. It should be noted that the proposed alterations and additions are only 70mm above the existing height of the pergola structure, the highest point of the building. The variation relates to an existing non-compliance.

- Maximum building height control: 10m
- Existing building height: 16.45m
- Existing variation: 6.45m (64.5%)
- Proposed height: 16.52m
- Proposed variation: 6.52m (65.2%)

A written justification is therefore required for the proposed variation to the maximum building height development standard, in accordance with Clause 4.6 of the NSLEP13.

Figure 1 – Height of Buildings Map



2. SITE BACKGROUND

The subject strata lots are commonly known as No. 11 Amherst Street, Cammeray, and are legally described as Lots, 20 and 23 in SP 81068. The subject lots are located on the southern side of Amherst Street and western side of Miller Street. The site is also located north of the Warringah Freeway however, there is no direct access between the Warringah Freeway and subject site. The existing vehicular access is via Amherst Street while the site loading dock is accessed via Miller Street.

The subject strata lots fall within an allotment identified as Lot 2 in DP 1129460. This lot provides for a frontage of 80.195 metres to Amherst Street and a combined frontage of 85.005 metres to Miller Street. The southern boundary to Warringah Freeway measures 77.945 metres while the eastern side boundary has a combined length of 84.415 metres. The overall site area is approximately 6529m².

Located on the site at present are four (4) shop top housing buildings surrounding a plaza known as Cammeray Square. The shop-top housing building which the proposed development application relates (Building B), is four (4) storeys in height with ground floor commercial tenancies, residential units located above the ground floor and roof-top terraces. Specifically, the proposed alterations and additions relate to Units 20 and 23. Refer to Figure 2 on the following page.

Development in the area is mixed in its form, generally in response to the respective land use zone. Development to the north and west of the site is generally characterised by 2-5 storey residential flat buildings with the occasional single storey dwelling. To the north-east,

development is characterised by two (2) storey commercial buildings. Development to the east of the site is generally characterised by single storey residential dwellings.

The area surrounding the site comprises of Forsyth Park to the south-east, St Leonards Park to the east and retail precinct to the north along Military Road. The Warringah Freeway is located immediately to the south of the site while St Leonards station is located 1.6km to the west of the site, providing for major transport routes linking the site to the Sydney CBD and north-west.

A number of public open space areas are located in vicinity of the subject site, including but not limited to, Anzac Park, St Thomas Rest Park and Cammeray Park.

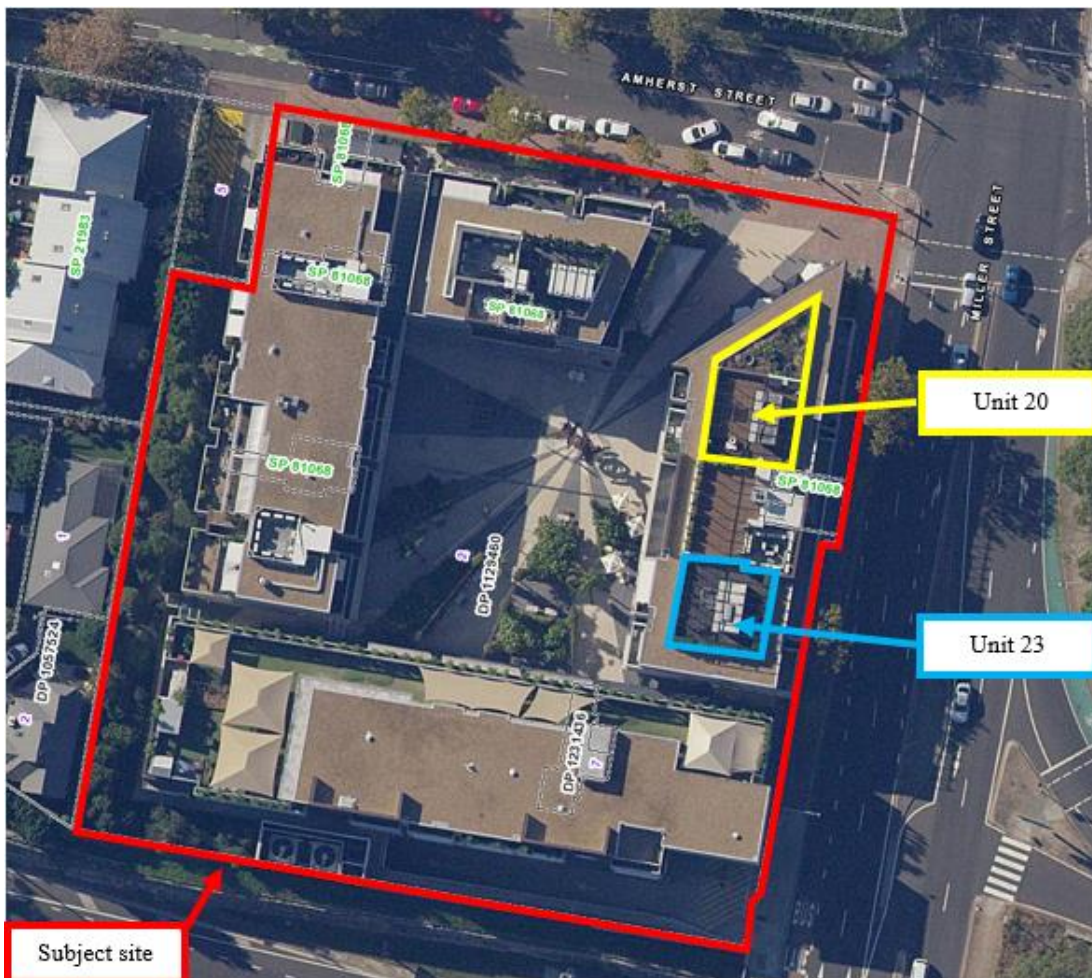


Figure 2: Aerial view of subject site. (Source: Six Maps).



Figure 3: Land zoning map (Source: NSW Legislation)

3. EXTENT OF NON-COMPLIANCE

As noted above Clause 4.3 of the NSLEP13 states that the maximum building height for the site is 10 metres.

The proposed alterations and additions have a maximum height of 16.52m above the existing ground level. This represents a non-compliance of 6.52m or (65.2%).

- Maximum building height control: 10m
- Existing building height: 16.45m
- Existing variation: 6.45m (64.5%)
- Proposed height: 16.52m
- Proposed variation: 6.52m (65.2%)

It is important to reiterate that the proposed alterations and additions relate to the replacement of an existing pergola structure. The proposed alterations and additions only seek a 70mm increase to the height of the existing pergola structure.

4. IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

The proposed variation from the development standard is assessed against the required tests in Clause 4.6. In addition, in addressing the requirements of Clause 4.6(3), the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council (2007) LEC 827* are considered.

In the matter of Four2Five, the Commissioner stated within the judgement the following, in reference to a variation:

“...the case law developed in relation to the application of SEPP 1 may be of assistance in applying Clause 4.6. While Wehbe concerned an objection under SEPP 1, in my view the analysis is equally applicable to a variation under Clause 4.6 where Clause 4.6 (3)(a) uses the same language as Clause 6 of SEPP 1.”

In the decision of *Wehbe vs Pittwater Council (2007) LEC 827*, Preston CJ summarised the five (5) different ways in which an objection under SEPP 1 has been well founded and that approval of the objection may be consistent with the aims of the policy. The five possible ways are as set out below:

First	<i>The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.</i> <i>The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable. (applicable)</i>
Second	<i>A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. (not applicable)</i>
Third	<i>A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable. (not applicable)</i>
Fourth	<i>A fourth way is to establish that 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. (not applicable)</i>
Fifth	<i>A fifth way is to establish that “the zoning of particular land” was “unreasonable or inappropriate” so that “a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary. (not applicable)</i>

In respect of the building height standard, the first method is invoked.

The objectives supporting the maximum building height control identified in Clause 4.3 are discussed below. Consistency with the objectives and the absence of any environmental impacts, would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance.

The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.3.

Clause 4.3 Height of Buildings

“(1) The objectives of this clause are as follows:

- (a) to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- (b) to promote the retention and, if appropriate, sharing of existing views,*
- (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- (d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- (e) to ensure compatibility between development, particularly at zone boundaries,*
- (f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area,*
- (g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living”*

With respect to objective (a), the subject site has had regard to its site context and topography. The proposed alterations and additions sought do not alter the existing ground level or finished floor levels. The proposed new pergola will be situated approximately at the same height of the existing roof-top pergola structure, with only a 70mm increase in height proposed. Hence, the built form, with due regard to the existing ground, floor and roof levels, is already established with no topographical change.

Regarding objective (b), no view corridors will be impacted as the proposed new pergola structure will be approximately at the same height of the existing pergola structure. Considering development surrounding the subject site is generally 2-3 storeys in form, any potential views towards the city skyline would be impacted by the existing 4-5 storey form of the shop-top housing development, regardless of any roof-top terrace structures.

For objective (c), no additional overshadowing will be generated by the proposed alterations and additions sought. The proposed development seeks to replace the existing roof-top pergola structure with a new pergola structure. The minor 70mm increase to the height of the existing pergola will not generate any adverse overshadowing impacts to adjoining sites as demonstrated through shadow diagrams prepared by Aspect Designs. The proposed structures will be located centrally within the footprint of the existing roof, reducing the impact of the built structures to Cammeray Square and adjoining properties.

In response to objective (d), the privacy of the units or adjoining properties will not be impacted by the proposed alterations and additions noting that the existing roof-top terrace size and locations will be retained. The proposal seeks to replace the existing pergola structures within the roof-top terrace with a new pergola structure. The new pergola structure will include retractable zipscreens along the elevations of the pergola structures, improving the level of privacy for units 20 and 23.

With regard to objective (e), although the site is bounded by lots zoned R4 High Density Residential to the west, the alterations and additions sought are located on the building furthest away from neighbouring properties. Nevertheless, the proposed alterations and

additions only seek a minor 70mm increase to the existing height of the built form, thus ensuring the relationship between the site and adjoining properties remains relatively unchanged.

Regarding objective (f), the scale and density of the existing building will remain unaltered by the proposed alterations and additions sought. The proposed pergolas are approximately at the same height of the existing pergola height and will be contained within the existing building footprint of Building B. No change to the existing gross floor area will occur as a result of the proposed alterations and additions sought.

Objective (g) is irrelevant to the proposed development as the subject site is not located within Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone C4 Environmental Living.

The application meets the objectives of the standard.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard.

5. ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS?

The assessment above demonstrates that the resultant environmental impacts of the proposal will be satisfactory.

The proposed development relates to alterations and additions to existing roof-top terraces. The existing number of storeys or finished floor levels will not be impacted by the proposed development.

The existing building on the site exceeds the maximum LEP building height standard. The proposed development seeks to replace the existing roof-top pergola structure with a new pergola structure only 70mm higher than the existing height of the pergola structures. As such no additional impacts to solar access, views, privacy or building bulk will be generated by the variation to building height sought.

Considering pergola structures are part of the existing arrangement of the roof-top terrace, the proposed alterations and additions to the roof-top terrace will not alter the relationship of the building with adjoining properties or the streetscape. The new pergola structure will greatly improve the amenity and useability of the roof-top terraces of units 20 and 23, with retractable zip screens proposed for adjustable shading, allowing for sun-protection during summer months and direct solar access during winter months.

Thus, the key **environmental planning grounds** resulting in the non-compliance to the building height standard are:

- The proposed development does not alter the existing number of storeys or finished floor levels of the dwelling.
- The proposed variation to the building height relates to an existing non-compliance. The proposed alterations and additions seek a minor 70mm increase to the existing height of the roof-top structures.

- No additional impacts to solar access, views, privacy or building bulk will be generated by the variation to building height sought.
- No additional habitable rooms are proposed above the maximum LEP height standard.
- The proposed minor increase to building height will allow for new pergola structure that greatly improves the amenity and useability of the roof-top terrace.
- The proposed alterations and additions are modest, and will integrate into the desired future character of the area as they have been design to integrate into the existing architectural form and presentation of the building with no resulting environmental impact.

Furthermore, it is important to also consider the objectives of the E1 Local Centre zone in relation to the development, which are as follows:

Zone E1 Local Centre

Objectives of zone

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential uses on the ground floor of buildings.*
- *To encourage active street life while maintaining high levels of residential amenity.*
- *To minimise adverse effects on adjoining residentially zoned land.*
- *To ensure the scale and intensity of non-residential development caters to local needs.*

In response to the above the following is provided:

- The proposal solely relates to alterations and additions to roof-top terraces of an existing shop-top housing development. No changes to the existing ground floor commercial premises are proposed.
- The proposed alterations and additions to existing roof terraces will not impact employment opportunities or economic growth of the existing ground floor commercial premises.
- The proposed alterations and additions do not alter the existing number of residential dwellings on the site or the functionality of the site as an active local centre.
- The proposed development will enhance the existing roof-top private open space area, improving residential amenity for units 20 and 23. The existing use and functionality of Cammeray Square and street life of Amherst Street and Miller Street will not be impacted by the proposed alterations and addition sought.

- The proposed alterations and additions relate to existing roof-top terrace areas which are located away from the adjoining R4 High density Residential zoned land. No adverse effects will occur to adjoining properties.

The application achieves the objectives of the E1 Local Centre zone.

Consequently, in this case, strict compliance with the development standard for height of buildings development standard of the NSLEP13 is unnecessary and unreasonable.

6. IS THE VARIATION WELL FOUNDED?

It is considered that this has been adequately addressed within this written submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the NSLEP13 in that:

- ❑ Compliance with the development standards would be unreasonable and unnecessary in the circumstances of the development;
- ❑ There are sufficient environmental planning grounds to justify the departure from the standards;
- ❑ The development meets the objectives of the standard to be varied (height of buildings) and objectives of the E1 Local Centre zoning of the land;
- ❑ The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- ❑ The breach does not raise any matter of State of Regional Significance; and

Based on the above, the variation is considered to be well founded.

7. GENERAL

Clause 4.6 also states that:

“(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if:

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. *When this Plan was made it did not include all of these zones*

(7) (Repealed)

- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) clause 5.4,*
 - (caa) clause 5.5,*
 - (ca) clause 4.3 in relation to land identified as "Area 1" on the Special Provisions Area Map, other than subject land within the meaning of clause 6.19C,*
 - (cab) clause 4.4, 5.6 or 6.19C in relation to land identified as "Area 1" on the Special Provisions Area Map,*
 - (cb) clause 6.3 (2) (a) and (b),*
 - (cba) clause 6.19A,*
 - (cc) (Repealed)*
- (8A) (Repealed)."*

This variation does not relate to the subdivision of land. The variation sought is thus not contrary to subclause (6).

Should the exception to the development standard sought under this submission be supported by Council, the Council must retain a record of the assessment of this submission.

The development proposed is not complying development.

A BASIX certificate was not required to be provided for the development.

The additional clauses outlined above, within the NSLEP13 do not apply to the proposal. The site is not identified on the Special Provisions Area Map.

10. CONCLUSION

The proposal does not strictly comply with the maximum building height control as prescribed by Clause 4.3 of the NSLEP13. Having evaluated the likely effects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the NSLEP13 are satisfied as the breach to the controls does not create any adverse environmental impacts.

As reiterated throughout this report, the proposal seeks to provide for a development that meets Council's standards, excepting the variation sought to height. The development is considered to meet the desired future character of the area.

Consequently, strict compliance with this development standard is unreasonable and unnecessary in this particular instance, especially considering the proposed works will match the existing height of the building. The use of Clause 4.6 of the NSLEP13 to vary this development control is appropriate in this instance.

Based on the above, it is sensible to conclude that strict compliance with the maximum building height control is not necessary and that a better outcome is achieved for this development by allowing flexibility in the application.

Should you have any questions regarding the proposed development, please do not hesitate to contact me.

Kind regards,

Roberto Bianco
GAT & Associates
Plan 4725