

**Joint Regional Planning Panel
(Sydney East Region) (Supplementary Report)**

JRPP No.	2015SYE164
DA No.:	Demolition of all existing structures, construction of shop top housing development comprising 8 storeys to Green Street, 7 storeys to Maroubra Road with 2 retail tenancies fronting Maroubra Road and 1 fronting Green Street, 69 residential dwellings, 3 levels of basement car parking for 100 vehicles, landscaping and associated works. Amended Plans: Increase setback from the northern and southern edges of the building at Level 6, increase setback from the western boundary, delete units 0.01 to 0.05 to the northern building block, reconfiguration of apartment layout and installation of new privacy louvres.
Street Address	180-188 Maroubra Road, Maroubra
Applicant	Darren John Beasley
Owner	Prime & Famous Pty. Ltd.
Number of Submissions	6
Report By	Matthew Choi

Introduction

A development application seeking consent for demolition of all existing structures, construction of shop top housing development comprising 8 storeys to Green Street and 7 storeys to Maroubra Road was referred to the Joint Regional Planning Panel for determination, pursuant to Schedule 4A, of the Environmental Planning and Assessment Act 1979 and Part 4 of State Environmental Planning Policy (State and Regional Development) 2011.

Council officers recommended that the development application be refused for the following reasons:

- The proposal does not satisfy the objectives of the B2 Local Centre zone specified in the Randwick Local Environmental Plan 2012.*
- The proposal exceeds the maximum building height of 25m specified in Clause 4.3 of Randwick Local Environmental Plan 2012 and the Clause 4.6 variation to the development standard is not well founded.*
- The proposal does not satisfy the design criteria and design guidance set-out in Part 3D-1 Communal Open Space of the Apartment Design Guide as per SEPP 65.*
- The proposal does not satisfy the design criteria and design guidance set-out in Part 3E-1 Deep Soil Zones of the Apartment Design Guide as per SEPP 65.*

5. *The proposal does not satisfy the design criteria and design guidance set-out in Part 3F-1 Visual Privacy of the Apartment Design Guide as per SEPP 65.*
6. *The proposal does not satisfy the design criteria and design guidance set-out in Part 4A Solar and Daylight Access of the Apartment Design Guide as per SEPP 65.*
7. *The proposal does not satisfy the design criteria and design guidance set-out in Part 4B Natural Ventilation of the Apartment Design Guide as per SEPP 65.*
8. *The proposal does not satisfy the design criteria and design guidance set-out in Part 4C Ceiling Heights of the Apartment Design Guide as per SEPP 65.*
9. *The proposal does not satisfy the design criteria and design guidance set-out in Part 4F Common Circulation Spaces of the Apartment Design Guide as per SEPP 65.*
10. *The proposal does not satisfy the objectives or controls for Building Envelope set-out in Clause 3.1.3 of the Randwick Development Control Plan 2013 Part D4.*
11. *The proposal does not satisfy the objectives or controls for Building Height set-out in Clause 3.1.4 of the Randwick Development Control Plan 2013 Part D4.*
12. *The proposal does not satisfy the objectives or controls for Building Depth set-out in Clause 3.1.5 of the Randwick Development Control Plan 2013 Part D4.*
13. *The proposal does not satisfy the objectives or controls for the Block 08 set-out in Clause 3.2.8 of the Randwick Development Control Plan 2013 Part D4.*
14. *The proposed development is unacceptable and unreasonable in that the proposed height, bulk, scale, built form and design will have an adverse impact on the amenity of neighbouring residents and in that regard is not compatible with the scale of residential development in the Maroubra Junction Town Centre.*
15. *The proposal does not address the requirements of land contamination in accordance with the provisions of SEPP 55, Contaminated Land Management Act 1997 and Council's Contaminated Land Policy 1999.*
16. *The proposed the floor levels do not comply with Council's flood planning requirements (1%AEP level plus 500mm freeboard).*

On the 16 March 2016 the Sydney East Joint Regional Planning Panel resolved to defer the application in order to allow the applicant to submit amended plans by the 4 April 2016. The Applicant assured the panel that it can resolve all the issues mentioned in the reasons for refusal in the Joint Regional Planning Panel Report.

Amended plans are to comply with drawings prepared during the meeting of 16 March 2016 and marked JRPP01, JRPP02, JRPP03, JRPP04 all dated 16.03.2016 and provided to the panel. The amended proposal must demonstrate that seventy percent of the apartments receive at least 2 hours of sunlight between 9.00 am and 3.00 pm at mid-winter. The amended plans should also resolve the reasons for refusal as well as the overshadowing impacts in the assessment report.

1.0 Amended Proposal

Amended plans were submitted to Council on the 4 April 2016 which included the following amendments to the original scheme:

Basement level 1:

- Introduction of new deep soil and planting of trees located on the northern end of the site fronting Green Street located on Council's footpath/roadway.

Level 00:

- The deletion of all north units 0.01 – 0.05 (fronting Green Street) with new plant and services area and void levels above the retail and substation areas.
- Additional 1.8 metre side setback from the western boundary adjacent to an existing recess to the western neighbour (between levels 00 to 06).

Level 01:

- New south-facing window opening to common core areas to the northern and southern building blocks (between levels 01 to 06)
- New privacy louvres on the eastern edge of the balcony to the south units 1.04, 2.04, 3.04, 4.04, 5.04 and 6.04.
- New privacy louvres on the western edge adjoining the study, kitchen and dining windows to the north units 1.01, 2.01, 3.01, 4.01, 5.01 and 6.01 (between levels 01 to 06)
- New privacy louvres on the western edge adjoining the bedroom and bathroom windows to the south unit 1.01
- Reconfiguration to the apartment layout of the south unit 1.01 and 1.02
- Reconfiguration to the apartment layout of the north unit 1.01

Level 02:

- New privacy louvres on the western edge adjoining the ensuite and living/dining room windows to the south units 2.01, 3.01, 4.01, 5.01 and 6.01 (between levels 02 to 06).
- Enlargement of apartment 2.01 to the southern building block fronting Maroubra Road (between levels 02 to 06)

Level 06:

- Increase setback of external wall 700mm from the northern boundary (Green Street)
- Increase setback of external wall 3.27 metres and new balcony along the southern edge of the northern building block
- Increase setback of external wall 3 metres and new balcony along the southern edge of the southern building block
- Reconfiguration to the apartment layout of the northern building block from 4 apartments to 2 apartments

The applicant has submitted supporting documentation in response to the reasons for refusal which is attached to this report. An assessment of the substantive amendments to the scheme and issues arising are discussed below.

2.0 Key Issues:

2.1 Solar Access and Overshadowing

Concerns were raised by the Joint Regional Planning Panel regarding potential solar access and overshadowing impacts in particular the extent of shadowing that would be cast from the northern building block (fronting Green Street) to the north-facing windows of the southern building block (fronting Maroubra Road). It was discussed that the inherent site constraints as a north/south-facing block and the required site layout as a two building block form as per the Block 08 controls within Maroubra Junction Town Centre Development Control Plan 2013 (RDCP2013) would contribute to severe overshadowing impacts and would be difficult

for the proposed development to demonstrate compliance with the solar and daylight access requirements as per Part 3B: Orientation within the Apartment Design Guide (ADG). The ADG requires that new development must provide at least 70% of apartments in a building receive a minimum of two hours of direct sunlight and a maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.

The applicant has submitted amended plans and additional elevational shadowing details in order to demonstrate compliance with the ADG requirements including the following:

- Reconfiguration of the apartment layout which involves amalgamating the south-western corner unit with the north-eastern corner unit of the southern building block (fronting Maroubra Road).
- Increase setback of external wall 700mm from the northern boundary (Green Street)
- Increase setback of external wall 3.27 metres and new balcony along the southern edge of the northern building block

Notwithstanding the above, the submitted amended plans also included:

- The deletion of north units 0.01 – 0.05 (at Levels 00) and
- The deletion of north unit 6.03 and 6.04 (at Levels 06) on the Green Street building block.

This results in a total loss of 6 north-facing units to the northern building block.

The following table illustrates the individual apartment from the northern, southern and western building blocks and whether the proposal will comply with the ADG requirements for solar and daylight access.

	Unit no.	> 2 hours of solar access to living rooms and private open space	< 2 hours direct solar access to living rooms and private open space	No solar access
Unit	North building block (fronting Green Street)			
1	North Unit 1.01			
2	North Unit 1.02			
3	North Unit 1.03			
4	North Unit 1.04			
5	North Unit 2.01			
6	North Unit 2.02			
7	North Unit 2.03			
8	North Unit 2.04			
9	North Unit 3.01			
10	North Unit 3.02			
11	North Unit 3.03			
12	North Unit 3.04			
13	North Unit 4.01			
14	North Unit 4.02			
15	North Unit 4.03			
16	North Unit 4.04			
17	North Unit 5.01			
18	North Unit 5.02			
19	North Unit 5.03			
20	North Unit 5.04			

21	North Unit 6.01			
22	North Unit 6.02			
Total		22	0	0
Unit no.	South building block (fronting Maroubra Road)			
23	South Unit 1.01			
24	South Unit 1.02			
25	South Unit 1.03			
26	South Unit 1.04			
27	South Unit 1.05			
28	South Unit 2.01			
29	South Unit 2.02			
30	South Unit 2.03			
31	South Unit 2.04			
32	South Unit 3.01			
33	South Unit 3.02			
34	South Unit 3.03			
36	South Unit 3.04			
37	South Unit 4.01			
38	South Unit 4.02			
39	South Unit 4.03			
40	South Unit 4.04			
41	South Unit 5.01			
42	South Unit 5.02			
43	South Unit 5.03			
44	South Unit 5.04			
45	South Unit 6.01			
46	South Unit 6.02			
47	South Unit 6.03			
48	South Unit 6.04			
Total		16	6	4
Unit no.	West building block (adjacent western boundary)			
49	West Unit 1.01			
50	West Unit 1.02			
51	West Unit 2.01			
52	West Unit 2.02			
53	West Unit 3.01			
54	West Unit 3.02			
55	West Unit 4.01			
56	West Unit 4.02			
57	West Unit 5.01			
58	West Unit 6.01			
Total		6	0	4
Combined Total		44	6	8
Percentage		76%	10%	14%

The submitted supplementary elevational shadowing diagrams and the amended design scheme which includes the additional setbacks at the top most levels indicate that the proposal will comply with the ADG requirements for solar and daylight access. The extent of additional overshadowing cast from the northern building block on the subject site itself and the north-facing window openings of the southern building block will not impact it to an extent which will otherwise result in non-compliance to the ADG requirements.

2.2 Relationship between the adjoining buildings

Council raised concerns in the original application regarding the excessive visual bulk and scale of the development within the streetscape and the relationship between the eastern and western neighbour. In particular, the non-compliance with the number of maximum storeys, the floor to ceiling heights at the ground floor commercial tenancy fronting Green Street and the treatment to the top most levels to the northern and southern building block.

- Floor to Ceiling Heights

The non-compliant floor to ceiling height of the ground floor commercial tenancy at 2 metres to the northern building block (fronting Green Street) in the original application was inadequate to serve as a functional commercial tenancy and any increase to the floor to ceiling height at Level 00 would result in the northern building block exceed the maximum permissible 25 metre building height as per the RLEP2012. Further, any increase above the maximum building height would extend well beyond the height of the eastern neighbour. In response the applicant has submitted amended plans which delete all units at Level 00 to the northern building block and provide double height void levels above the commercial tenancy and substation below to achieve the floor to ceiling height requirements. It is noted that the amended section plans submitted to Council do not reflect the changes to the floor to ceiling heights at the Basement 1 Plan and Level 00 of the northern building envelope. The deletion of all north facing units to the northern building block is to ensure the proposal demonstrates consistency with the definition of 'shop top housing' which was the subject of proceedings in the Land & Environment Court in *Hrsto v Canterbury City Council (no. 2) [2014] NSWLEC 12*, and is now the relevant authority in relation to defining 'shop-top housing'. The appropriate interpretation of the definition of 'shop top housing' is that any residential component "*must be truly 'above' the relevant retail or commercial parts*". The oversized nature of the plant and services room situated on a northern elevation and the poor aesthetics when viewed from the street would appear to be an absurd outcome. The façade treatment to Green Street at Level 00 incorporates a ventilation panel to the plant and services area which dominates the façade and does not constitute a quality presentation or enhance the appearance of the building within the public domain.

- Setback at Level 6

The originally submitted plans show the balconies at Levels 06 of the northern building block (fronting Green Street) setback nil from the northern boundary which will contribute to additional visual bulk and scale of the development when viewed from Green Street. The applicant submitted indicative plans at the conclusion of the Joint Regional Planning Panel and agreed to include a 3 metre setback of the building at Level 06. However, it is unclear from the indicative plans as to whether the JRPP is seeking a 3 metre setback be provided from the external wall of the building or from the balcony. The effect of the amended glass line of the upper level is an increase to the front setback of only 700mm from that originally proposed. The additional setback from Green Street is necessary in order to minimise the apparent bulk and scale of the development by stepping the built form at the top most level in order to alleviate the visual mass of the building. It is noted that a development that complied with the maximum storey control would also provide a transition in height from the B2 zone to the R3 zone on the northern side of Green St. Furthermore, a 3 metre setback from the balcony to the northern boundary will provide a similar balcony and building alignment to the eastern neighbour (190-194 Maroubra Road) and will match the building configuration at the upper most level.

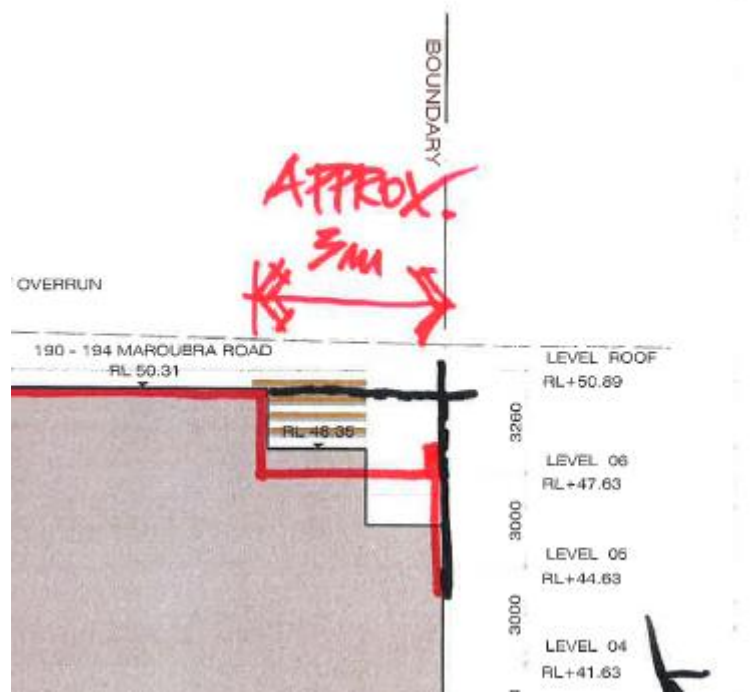


Figure 1: Indicative eastern elevation plan formed part of the proposed amendments as required by the JRPP

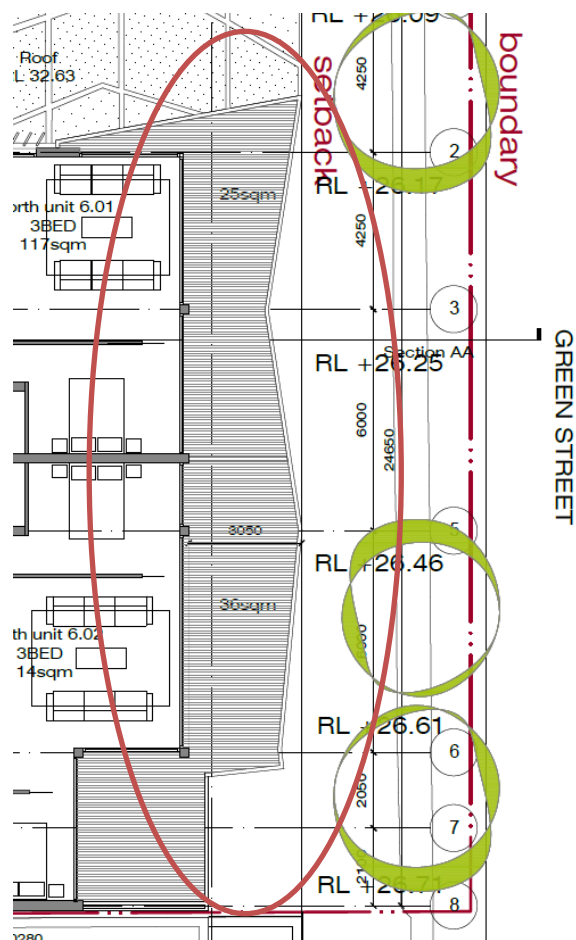


Figure 2: Level 06 Plan and the nil setback from the northern boundary fronting Green Street)

2.3 Amenity issues arising from the amended floor plates

- Amenity to the surrounding development

The proposal involved a nil setback adjacent an existing recess between the western neighbour (172-178 Maroubra Road) which enclosed the north and south-facing window openings of the east facing units and compromises the internal amenity into these bedroom windows. The amended plans include a 1.8 metre setback which mirrors the depth of the existing recess and creates an enlarged opening which will improve the amount of natural light and ventilation into the adjoining window openings.

- Amenity to the proposed development

No habitable room window south unit 1.01

The southern-most bedroom to the south unit 1.01 does not include a window opening and therefore does not provide any direct solar access, natural light or ventilation into the habitable room. The ADG requires that every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room and daylight and air may not be borrowed from other rooms. The amended plans do not comply with the ADG requirements. Given the corner positioning of these apartments it is possible that a window can be accommodated into the bedroom and appropriate privacy measures can be included to minimise any overlooking.

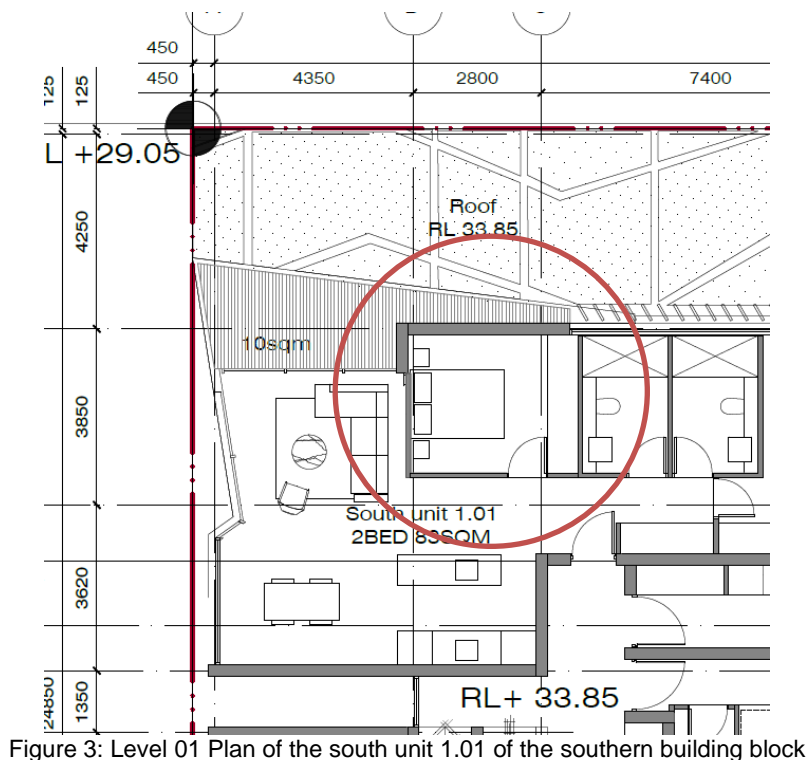


Figure 3: Level 01 Plan of the south unit 1.01 of the southern building block

Window openings to common circulation spaces

The originally submitted plans failed to provide any window openings to the common circulation spaces to either the northern, southern and western building blocks. The amended plans submitted by the applicant include a new window opening to the new void area created from the western building block and new south facing windows to the common core areas of the building. However, the window opening to the common core areas is significantly recessed behind the external walls between 3.4 to 4.4 metres and will restrict the amount of light penetration into the common core areas. The proposal is still

unacceptable in complying with the ADG requirements in that the common circulation spaces does not achieve a reasonable level of amenity in providing natural ventilation or daylight to the common circulation spaces.

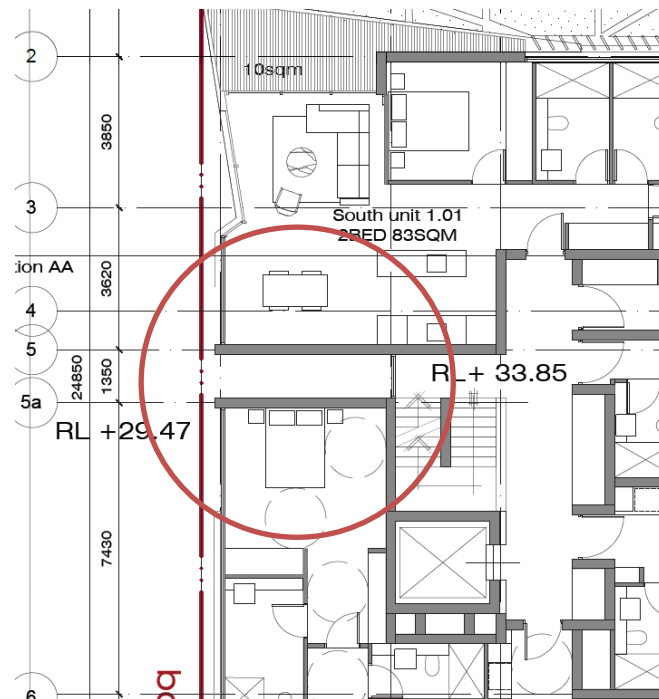


Figure 4: Window opening to common core area of the southern building block (shown at Levels 01 to 06)

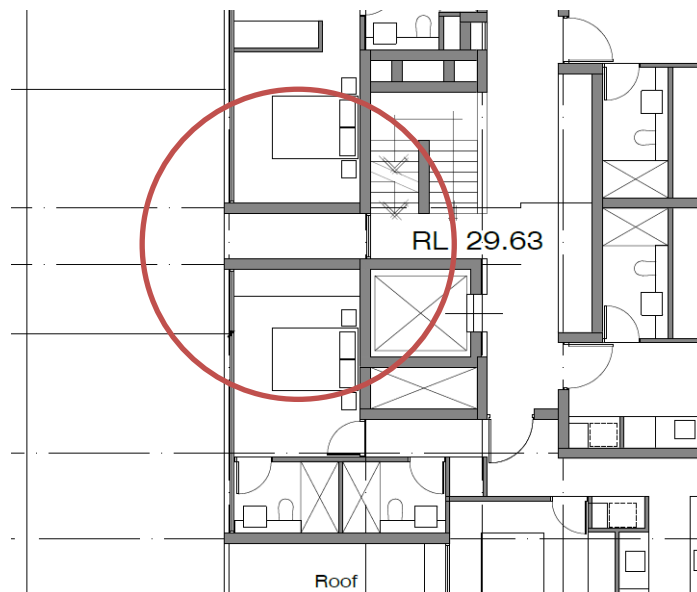


Figure 5: Window opening to common core area of the northern building block (shown at Levels 01 to 06)

No window openings to bathrooms

The proposed apartment configuration fails to provide a number of windows to bathrooms, in particular those located on the western extremity of the building. The bathrooms adjacent to the western external wall of south unit nos. 2.01 – 6.01 do not provide any window openings and does not comply with the design guidance of the ADG which requires that bathrooms and laundries should have an external openable window where possible. Given the corner positioning of these apartments it is possible that a window can be accommodated into each of the bathrooms and appropriate privacy measures can be included to minimise any overlooking impacts to these spaces.

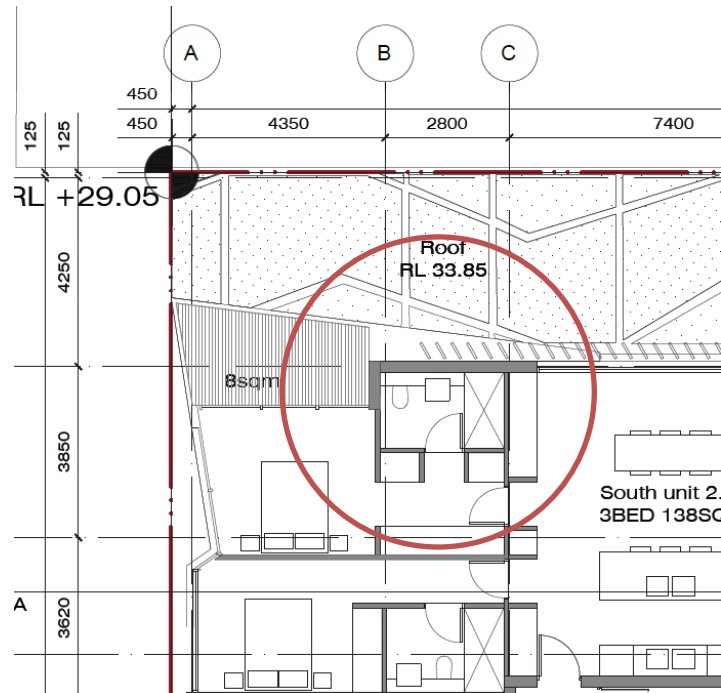


Figure 5: No window opening to bathroom on the southern building block between units 2.01 - 6.01 (shown at Levels 02 to 06)

Reduced bedroom window size to north unit 1.01, 2.01, 3.01, 4.01 and 5.01

The modification to the apartment layout involves reducing the size of the east facing window opening to the southern-most bedroom of the northern building block to a maximum width of 600mm. The nominal window opening to the north unit 1.01, 2.01, 3.01, 4.01 and 5.01 does not provide a reasonable level of amenity to the occupants within the building in receiving adequate natural light and ventilation into the habitable room. Further, it is likely that the room will require extensive artificial lighting and ventilation in order to provide internal comfort to the occupants.

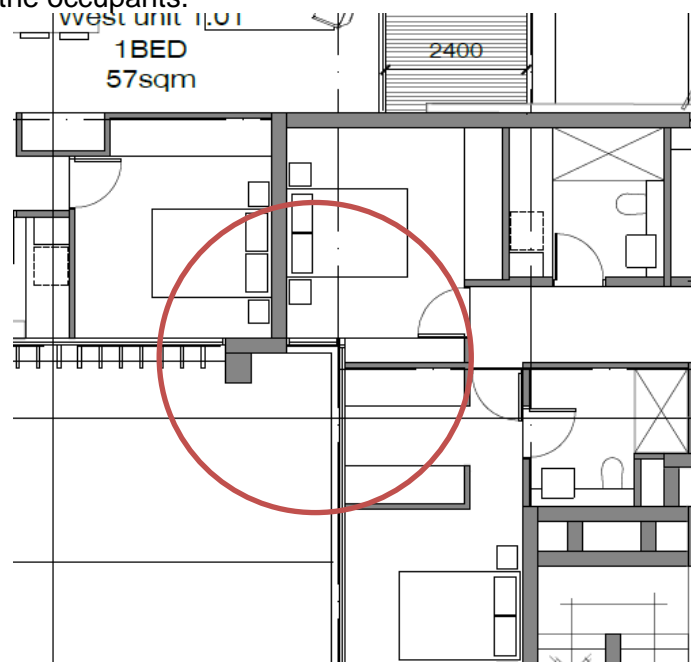


Figure 6: Reduced window size to bedroom (shown between Levels 01 to 05)

Kitchens located within main circulation spaces

The design guidance within the ADG requirements specifies that kitchens not be located as part of the main circulation space such as in hallways or entry spaces. The apartment reconfiguration does not demonstrate consistency with this requirement given the kitchen areas are co-located within the main entrance spaces and does not create a functional or practical apartment layout for everyday use by the occupants. More specifically, the north units 1.02 – 5.02 and the south unit 1.02 to 5.02 (all between Levels 01 to 05) does not provide a sense of space within the apartments or provide for a well-proportioned apartment layout in particular within high use areas such as kitchens.

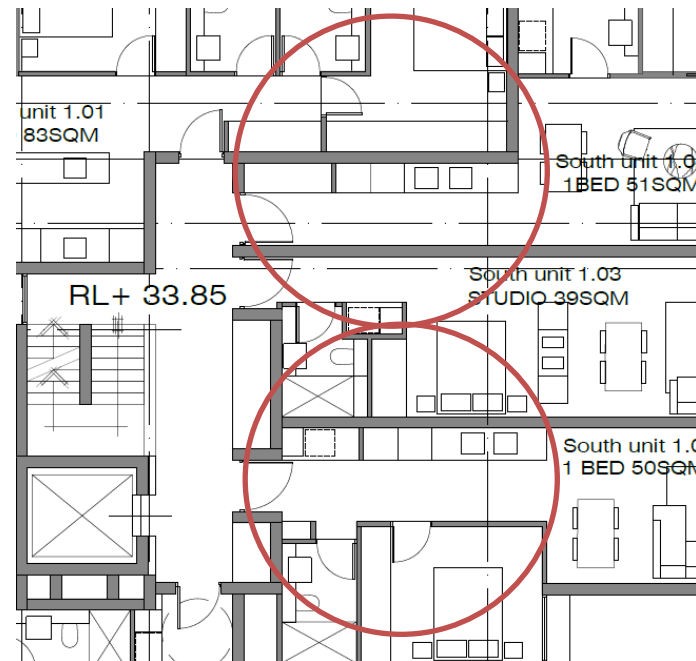


Figure 7: Kitchen areas located in main circulation spaces (shown between Levels 01 to 05)

3.0 Conclusion

The amended plans received by Council on the 4 April 2016 do not fully address the issues raised by the Joint Regional Planning Panel and give rise to further unresolved planning issues. The amendment to the top most level along Green Street and the degree of stepping of the built form from the street edge to ensure compatibility of the building alignment to the eastern neighbour and reduce the apparent scale of the building to the street is inadequate. The deletion of all north-facing units at Level 00 fronting Green Street does not result in a better planning outcome in terms of utilisation of space or in its aesthetic presentation to the street. The reconfiguration of the apartment layouts further contributes to a loss of amenity for future occupants with a number of non-compliances to the ADG requirements. Should the JRPP wish to grant development consent, conditions of consent will be submitted as part of a separate attachment.

Attachment/s:

1. Supporting documentation including amended plans and contamination report.