

Sydney Eastern City Planning Panel

SCPP No.	2018SCL040 DA
DA No:	DA/813/2015/B
Street Address	180-188 Maroubra Road, Maroubra
Applicant:	Prime & Famous Pty Ltd
Owner	Prime & Famous Pty Ltd
Number of submissions	4
Recommendation	Approval
Report By:	<i>William Jones</i>

1. Executive Summary

Council is in receipt of a Section 4.55 (2) modification to DA/813/2015/B seeking consent for reconfiguration of the basement car park to accommodate 89 car parking spaces (resulting in an additional 3 spaces), increase the overall height of the southern lift overrun by 1.99m, modification to the entry retail steps and additional screening to approved condenser units on the roof. According to the applicant, the proposed modifications are required to facilitate design development that has occurred following rationalisation of the location of plant rooms and car parking undertaken since the determination of the application, and lift specifications being finalised.

The Section 4.55 (2) modification is referred to the Sydney Eastern City Planning Panel for determination as the original DA was referred to the (former) Joint Regional Planning Panel (JRPP) for determination pursuant to Schedule 4A, of the (former) Environmental Planning and Assessment Act 1979 and Part 4 of the State Environmental Planning Policy (State and Regional Development) 2011, given the development had a capital investment value in excess of \$20 million.

The Section 4.55 (2) modification was publicly notified to surrounding property owners and was advertised within the local newspaper with site notification attached to the subject site in accordance with the Randwick Comprehensive Development Control Plan 2013 (RDCP). 4 submissions were received in response to the public exhibition raising issues with the increased height of the lift overrun, additional visual bulk associated with changes to the roof, general overdevelopment and reduced number of parking spaces.

The key issue relate to the proposed height increase associated with the lift overrun fronting Maroubra Road and the addition of plant screening to the roof (the plant having been approved as part of the original DA). The increased building height does not comply with Clause 4.3 Height of buildings standard pursuant to the Randwick Local Environmental Plan 2012 (RLEP).

The proposed works are largely completed, including the height increase of the lift overrun and installation of the plant screening. Therefore, retrospective approval is sought and a Building Certificate will be required for these components should the application be approved.

Height Increase to Maroubra Road (southern frontage)

A 1.99m height increase of the lift overrun is proposed that will result in an increased maximum building height of 26.76m (25m permitted). A 0.2m height increase to the access stair to the rooftop terrace adjacent to the subject lift overrun is also proposed

resulting in a non-compliance with the maximum 25m building height control (25.02m). This portion of the building originally complied with the maximum building height control, being 24.7m to the top of the approved lift overrun. The 1.45m plant screening (which is not excluded from the definition of building height in the RLEP) complies with the maximum 25m building height control, being 23.85m above original natural ground level.

Height Increase to Green Street (northern frontage)

The JRPP supported a building height variation of 25.97m, which occurs to the top of the lift overrun fronting Green Street. Although no height increase is proposed to this lift overrun as part of the subject modifications, the proposed 1.8m plant screening will be 0.2m higher than the lift overrun at RL 52.69 (26.16 total height above original natural ground level), which does not comply with the maximum permitted building height.

The plant screening proposed in the middle of the roof on the western side will also breach the maximum permitted building height being 26.2m above original natural ground level.

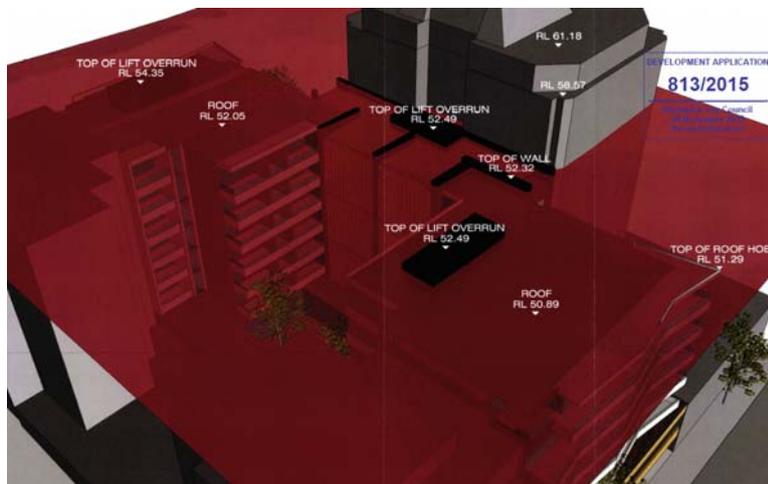


Figure 1. Height plane (red) showing the extent of JRPP-approved height variation associated with the lift overrun fronting Green Street and the central lift overrun and surrounding walls.

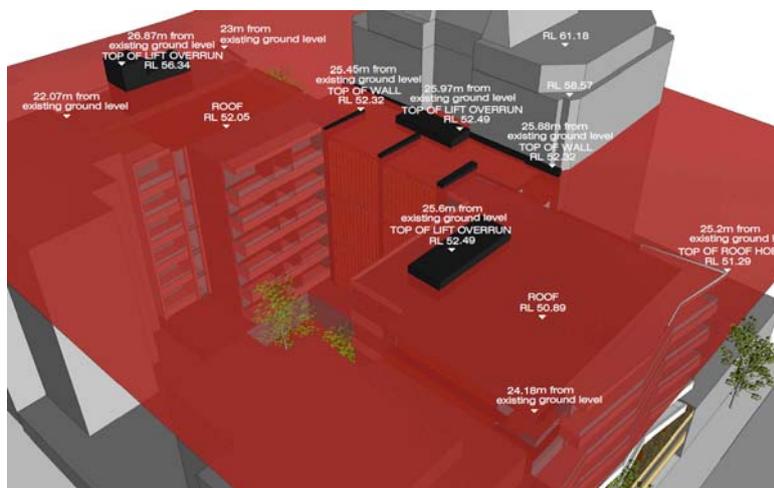


Figure 2. Extent of proposed height variation associated with the lift overrun fronting Maroubra Road (no change to lift overrun fronting Green Street proposed). Note – the plant screening is not shown in this figure.

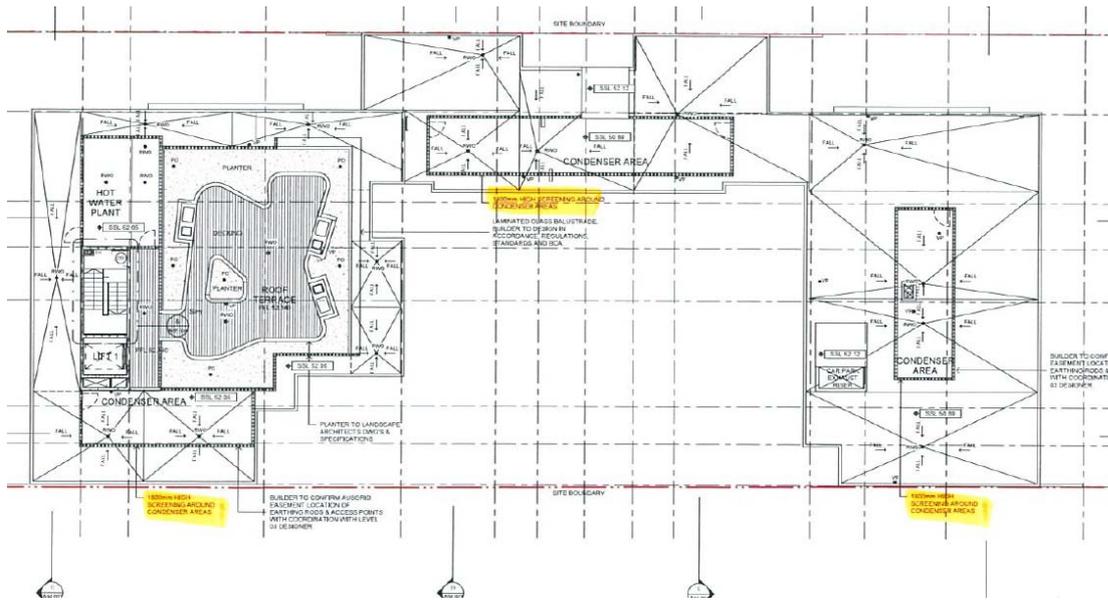


Figure 3. Roof plan showing x 3 locations of proposed plant screening (highlighted yellow). Note – Green Street to the right and Maroubra Road to the left.

In summary, the proposed height increase is supported as there will be no adverse visual bulk when viewed from the street or amenity impacts to surrounding properties in terms of visual bulk, overshadowing or view loss. The proposed height increase is isolated to 3 different sections of the approved building and does not dominate the built form, which will remain well articulated and appropriately scaled that will continue to be in accordance with the objectives of Clause 4.3 Height of buildings standard and objectives of the B2 Local Centre zone pursuant to the RLEP.

The proposed modifications to the basement will not alter the approved building envelope. The additional 3 car parking spaces and a decrease in bicycle parking from 54 spaces to 44 spaces is supported by Council's Development Engineer, noting that only 35 bicycle parking spaces are required to comply with the RDCP.

The approved development will remain substantially the same development as a result of the proposed modifications in accordance with Section 4.55 of the Environmental Planning and Assessment Act 1979 (as amended) that will not result in adverse impacts on the amenity of neighbouring properties or the character of the area. Therefore, the application is recommended for approval.

2. Site Description and Locality

The subject site is identified as 180 – 188 Maroubra Road, Maroubra and is legally described as Lot 1 in DP 1237842. The site is located on the northern side of Maroubra Road, centrally within the block bound by Anzac Parade to the west and Garden Street to the east forming part of the Maroubra Junction Town Centre. The site has a primary frontage to Maroubra Road, with a secondary frontage to Green Street at the rear. The site is rectangular in shape and oriented north-south. The approved development has been largely completed, including the proposed works that are the subject to this Section 4.55 modification.

To the immediate west of the subject site is a 13 storey residential flat building and to the east are shop-top housing developments that are 2 storeys in height. Further east is a mixed-use development of similar form to that of the approved DA, comprising ground

floor commercial to both frontages and 5 residential storeys above. Single dwelling houses are located to the north on the opposite side of Green Street. 2 storey shop top housing developments are located to the south on the opposite side of Maroubra Road. The site and surrounds is not subject to any heritage items or a heritage conservation area.



Figure 4. Aerial image of subject site (green) and submissions received (red).

3. Relevant History

- DA/813/2015: 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, 57 residential dwellings, 3 levels of basement car parking for 100 vehicles, landscaping and associated works.
 - The original DA was referred to the JRPP for determination pursuant to Schedule 4A, of the (former) Environmental Planning and Assessment Act 1979 and Part 4 of the State Environmental Planning Policy (State and Regional Development) 2011, given the development had a capital investment value in excess of \$20 million.
 - Council originally recommended the DA be refused in the assessment report for the following reasons:
 - o the development was not considered to be in accordance with the objectives of the B2 Local Centre zone;
 - o exceedance of the maximum permitted building height and associated adverse impacts to the streetscape and amenity of surrounding properties;

- non-compliances with the Apartment Design Guide;
 - non-compliances with the building envelope controls provided in the RDCP;
 - general amenity impacts due to the height, bulk and scale that was not considered to be compatible with the scale of residential development in the Maroubra Junction Town Centre;
 - the proposal did not address SEPP 55; and
 - the floor levels did not comply with Council's flood planning requirements (1% AEP level plus 500mm freeboard).
- On 16 March 2016 the JRPP deferred the application to allow the applicant to submit amended plans to address the reasons for refusal in the assessment report.
 - On 11 May 2016 the JRPP raised further concerns with the amended plans and again resolved to defer the application to allow the applicant to submit further amended plans to address the following issues:
 - increased setback of the sixth level fronting Green Street;
 - address amenity issues raised in Council's report;
 - review the proliferation of services spaces in basement Level 1 and Level 00; and
 - improve the Green Street activation with larger retail presence.

It is noted that the building height remained unchanged and was not requested to be reduced by the JRPP.

- On 25 May 2016 amended plans were submitted to address the concerns raised by the JRPP. Changes were made to the basement levels, a reduction in plant and services areas and a reduction in floor level and general reconfiguration at Level 00, alterations to dwellings at Level 01, and an increased setback of the north-facing balcony and external walls of the northern building block including reconfigured dwellings at Level 06. Council submitted a supplementary assessment report recommending approval given that the amended plans had satisfactorily addressed the concerns raised by the JRPP.
- The JRPP approved the DA on 15 June 2016. The final approved building height was 25.97 metres, which occurs to the top of the lift overrun fronting Green Street. The lift overrun fronting Maroubra Road complied with the 25m building height limit.
- DA/813/2015/A: Section 96 modification of approved development to correct description of number car spaces provided on site to 86, as shown on the approved drawings.
 - Approved by delegated authority on 24 July 2017.

4. The Proposed Development

- 1.99m increase to the building height associated with the lift overrun fronting Maroubra Road resulting in a total building height of 26.76m.
- 0.2m height increase to the access stair to the rooftop terrace adjacent to the lift overrun fronting Maroubra Road resulting in a height of 25.02m.

- Addition of 1.8m high and 1.45m high plant screening on the northern and southern frontages and on the western side of the roof.
- Addition of 3 car parking spaces.
- Reconfiguration of the internal layouts to basement levels 3, 2, 1 and Level 00 including:

Basement level 3 (bottom-most level):

- Increased RL from RL 17.17 to RL 18.16 at the southern section and from RL 18.9 to RL 19.9 at the northern section, and subsequent changes to ramp gradients.
- Widening of the southern basement section.
- Deletion of 2 plant rooms and subsequent replacement car parking.
- Addition of 2 bicycle spaces.
- Increase in car parking spaces from 30 spaces to 35 spaces.

Basement level 2:

- Increased RL from RL 20.63 to RL 21.62 at the southern section and from RL 22.36 to RL 23.35 at the northern section, and subsequent changes to ramp gradients.
- Addition of 2 bicycle spaces.
- Decrease in car parking spaces from 38 spaces to 37 spaces.

Basement level 1:

- Increased RL from RL 24.82 to RL 25.08 at the southern section and subsequent changes to ramp gradients.
- Decrease in bicycle spaces from 22 to 8 spaces.
- Relocation of 5 motorcycle spaces.
- Decrease in car parking spaces from 18 spaces to 17 spaces.
- Increased residential garbage room size and addition of a retail garbage room.
- Reduced retail size from 98m² to 90m² and increased RL from 27.33 to RL 27.38.
- Reconfigured plant rooms, stairs and on-site detention.
- Deletion of a toilet.

Level 00:

- Changes to the RLs for the residential lobby 2, switch-room and retail 02, and subsequent changes to pedestrian pathway gradient.

5. Former JRPP Concerns

To determine whether the proposed modifications will conflict with the resolution of the original concerns raised by Council and the (former) JRPP, inserts from the supplementary planning report that accompanied the final amended plans approved by the JRPP and commentary with regards to the proposed modifications is provided below.

Increase setback at the sixth floor level units

The amended plans received by Council on the 25 May 2016 included squaring the north-facing balcony to the North Unit 6.01 and 6.02 and providing an additional setback from the balcony and the external wall at 6.05 metres and 2.5 metres, respectively.

Assessing Officer's Comment: No changes are proposed as part of the proposed modifications.

Amenity Issues

The amended plans include a new west facing bedroom window opening to the south unit 1.01. The amended plans include a new west facing window opening to the bathrooms of the south unit nos. 2.01 – 5.01 (between levels 02 to 05). The amended plans include a reconfiguration of the room layouts of the bedrooms to the north unit 1.01 – 5.01 (between levels 01 to 05).

Assessing Officer's Comment: No changes are proposed as part of the proposed modifications.

The proliferation of service spaces (including plant rooms) on Basement 1 and Level 00 and the activation and appearance to Green Street is to be improved, including a larger retail presence.

The amended plans submitted by the applicant seek to address the oversized nature of the plant and services room at the Basement Level 1 and Level 00 by increasing the footprint of the commercial tenancy at the ground floor level with a double height void space above the retail tenancy, walkway and substation. The amendments also include a reduction in the size of the plant and services rooms at the first floor level which is confined to the north-western corner of the site. The strategic reconfiguration of the spaces at the ground and first floor levels fronting Green Street and the overall reduction in plant and services improves the presentation and appearance of the northern building block within the streetscape.

Assessing Officer's Comment: The retail size at Basement Level 1 is proposed to be reduced from 98m² to 90m². The proposed decrease by 8m² is considered minor and will not result in a compromise to the functionality of the retail premises. The width of the retail premises as it presents to Green Street remains as approved (6.1m), maintaining an active retail presence in the street.

It is noted that Council's original concerns also included the proposed height of the building, however the JRPP did not share this view and considered that the changes made to reduce the bulk and scale of the building was sufficient to ensure the development is in accordance with the desired future character of the area. No changes are proposed to the approved setbacks or articulation of the building. In this context, the proposed height increase will not adversely contribute to the bulk and scale of the development. Therefore, the proposed modifications are not considered to conflict with the modifications made that were supported by the JRPP.

6. Clause 4.6 Exception to Development Standard – Building Height

The proposed modifications that will result in a breach to the maximum permitted building height (25m) pursuant to the RLEP are:

- 1.99m increase to the building height associated with the lift overrun fronting Maroubra Road resulting in a total building height of 26.76m.
- 0.2m height increase to the access stair to the rooftop terrace adjacent to the lift overrun fronting Maroubra Road resulting in a height of 25.02m.
- Addition of 1.8m high plant screening fronting Green Street resulting in a height of 26.16m.

- Addition of 1.8m high plant screening proposed of the roof on the western side will result in a height of 26.2m.

A Clause 4.6 variation only applies when a development application is made and not when a S4.55 modification is made. This is established in the Land and Environment Court case: *North Sydney Council v Michael Standley & Associates Pty Ltd* [1998]. Section 4.55(3) of the Environmental Planning and Assessment Act 1979 still requires the consent authority to take into consideration the matters referred to in Section 4.15 (1), which in turn include the provision of any environmental planning instrument. Therefore a merits assessment is made below against Clause 4.3 of the RLEP in relation to the building height control.

The objectives of the Height of Buildings standard are as follows:

- (a) *to ensure that the size and scale of development is compatible with the desired future character of the locality,*

Assessing Officer's Comment: The lift overrun fronting Maroubra Road occupies a 7.8m² area of the roof (3m x 2.6m) that is setback from the front boundary by 4.7m. The stair occupies a 13m² area and is also setback 4.7m from the front boundary. The stair steps down from the lift overrun by 2.7m resulting in only the western corner of the stair breaching the 25m building height control by 0.2m. As a result, the lift overrun and stair does not dominate the existing building nor add to unreasonable additional visual bulk when viewed from Maroubra Road at standing height or from the two storey buildings opposite the site on the southern side of Maroubra Road (see photos below). The finish of the lift overrun and stair is white, which matches the façade of the building and serves to reduce its prominence.

The plant screening fronting Maroubra Road complies with the 25m building height control and is not visible from the street. The plant screening fronting Green Street to the north and the plant screening located towards the centre of the building is also not visible from the street (refer to photo below). The proposed plant screening will not contribute to adverse visual bulk and will assist in screening the approved roof plant from surrounding residential development. Details of the plant screening were submitted to Council showing anodized satin dark bronze metal, which fits the character of the approved building.

The approved northern and southern elevations remain well articulated using a mix of materials and recessed and projecting architectural elements that contributes to visual interest. The proposal is consistent with the objectives of the B2 Local Centre zone by providing a range of retail uses that serve the needs of the community, encouraging employment opportunities, providing residential development that is well integrated and supports the primary business function of the zone while facilitating a high standard of urban design and protecting the amenity of residents. The development is therefore considered to remain compatible with the desired future character of the locality.

With regards to the existing streetscape context, the adjoining building to the east was approved via DA/676/2001 with a maximum building height of RL 53.44 measured to the ridgeline. The adjoining building to the west was approved via DA/416/1993 with a maximum building height of RL 67.3 measured to the ridgeline. Therefore, the proposed maximum height to the top of the lift overrun fronting Maroubra Road (RL 56.34) is not

out of keeping with the existing built context, with the bulk of the building (top of the roof) being less than the adjoining two buildings at RL 52.05.



Figure 5. Maroubra Road frontage from standing height.



Figure 6. Maroubra Road frontage from standing height zoomed in showing lift overrun and stair.



Figure 7. Green Street frontage from standing height.

- (b) *to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*

Assessing Officer's Comment: There are no contributory heritage items in the vicinity of the site.

- (c) *to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

Assessing Officer's Comment: An assessment against impacts to neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views is provided below under separate headings.

Visual Bulk

The lift overrun and stair fronting Maroubra Road will not be prominent when viewed from the adjoining shop top housing development to the east as there are limited windows provided in the adjoining development's western façade. Any views to the lift overrun and stair will be limited given the subject building and eastern buildings share a similar building height.

The adjoining residential flat building to the west is provided with limited windows in the development's eastern façade and is setback from the lift overrun and stair fronting Maroubra Road by approximately 19m and from the plant screening fronting Green

Street by approximately 20m. Given the small footprint of the lift overrun, stair and plant screening, these components will not visually dominate nor significantly increase the visual bulk of the development when viewed from the western adjoining property. Therefore the visual amenity of surrounding properties will not be adversely impacted as a result of the proposed height increase. The proposed plant screening will not add to significant bulk and will serve to screen the approved roof plant from properties to the west.

Loss of Privacy

There will be no impacts to the privacy of surrounding properties as a result of the proposed height increase.

Overshadowing

The submitted shadow diagrams illustrate additional overshadowing to properties on the southern side of Maroubra Road from 9:00am until 3:00pm on 21 June associated with the lift overrun fronting Maroubra Road. The additional shadow is minor however, and will not result in adverse overshadowing to these properties given the north-south orientation of the site.

Views

Distant easterly water views potentially exist as viewed from properties to the west of the subject site. There are no key iconic views nor views with land and water interface due to the 2km distance from the site to the water and existing buildings in between.

There will be no adverse impact to easterly water views from the adjoining property to the west given the adjoining property has limited east-facing windows on the uppermost level that is significantly higher than the subject building.

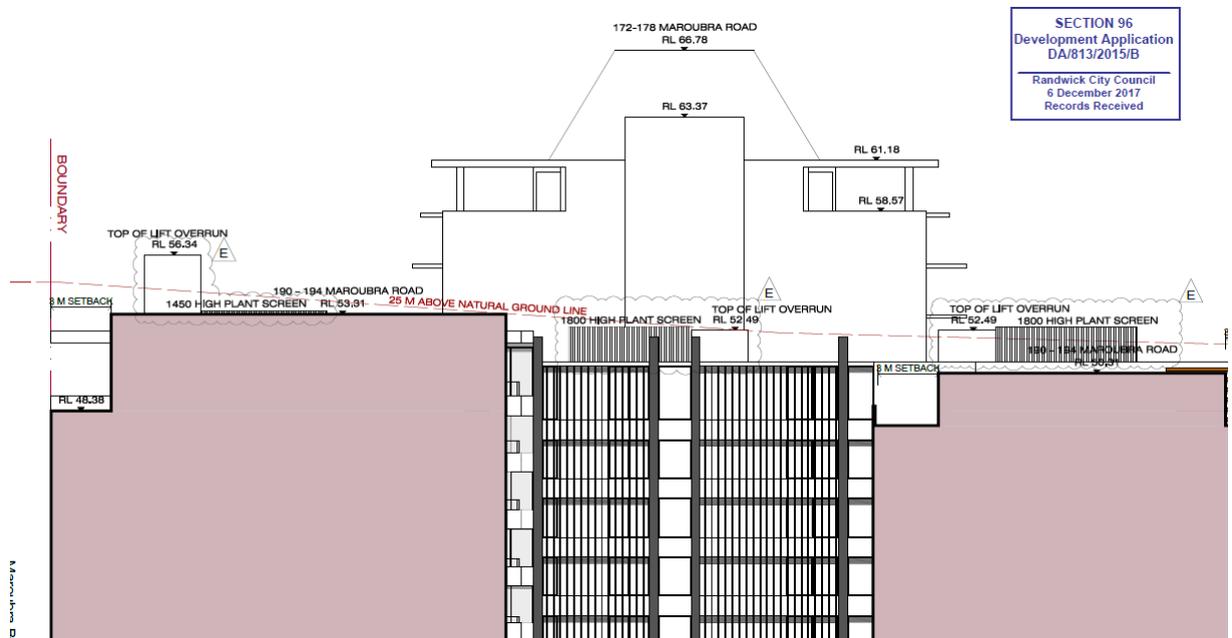


Figure 8. Western elevation showing adjoining property behind to the west with limited windows at the uppermost level.

Views from properties further west will not be adversely impacted considering these properties are sufficiently setback from the subject site and the small footprint of the lift

overrun, stair and plant screening that will not result in significant view loss to distant horizon water views.

Considering the above assessment, the proposed height increase will result in a development that remains consistent with the objectives of the building height control and is therefore supported.

7. Notification/ Advertising

The subject development was advertised/notified to surrounding landowners for a period of 14 days between 17 January 2018 and 1 February 2018 in accordance with the RDCP. As a result 4 submissions from the following properties were received.

- 16/172-178 Maroubra Road, Maroubra
- 19/172-178 Maroubra Road, Maroubra
- 14/128 Garden Street, Maroubra
- A35/15 Green Street, Maroubra

Issues	Comments
Significantly increased bulk associated with the roof, which will impact the street and neighbouring properties.	The increased bulk is assessed as minor and will not adversely impact the streetscape character or the amenity of neighbouring properties.
The proposed height increase is a significant departure from the original approval, which already did not comply with the maximum number of storeys.	Noted. The proposed height increase is assessed against the objectives of Clause 4.3 Height of buildings standard pursuant to the RLEP and is supported given there will be no adverse impacts to the streetscape character or to the amenity of surrounding properties. Refer to the "Clause 4.6 Exception to Development Standard – Building Height" section of this report for details.
Concerns with the reduction of 14 car parking spaces, resulting in traffic and parking impacts.	A reduction in car parking is not proposed but rather an increase by 3 spaces.
Works are already being carried out.	Noted. Retrospective approval is sought pursuant to Section 4.55 of the EP&A Act.
The plant is proposed to be moved from the basement to the roof.	According to the applicant, some plant will be moved to Level 00. No additional plant is proposed on the roof other than what was originally approved. A new condition is recommended to ensure new plant is not added to the roof.
Concerns with excessive construction noise, construction occurring outside of approved hours, lack of traffic control and dust control measures.	Concerns related to the approved DA should be directed to Council's Building Regulation and Compliance section for investigation.
Privacy impacts associated with the approved balconies and general concerns with overdevelopment of the site.	No changes to the approved balconies or number of apartments is proposed.

8. Technical Advice: Internal and External

8.1 Development Engineer and Landscape Officer

The following advice is provided by Council's Development Engineer and Landscape Officer:

A Section 4.55(2) application has been received which seeks to modify the approved development of the approved development by reconfiguration of the basement car park to accommodate 89 spaces, increase the overall height of the southern lift overrun by 1.99m, modification to entry retail steps and additional screening to condenser units on roof.

Original consent: 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, 57 residential dwellings, 3 levels of basement carparking for 86 vehicles,

This report is based on the following plans and documentation:

- *Statement of Environmental Effects stamped by Council*
- *Amended Architectural Plan stamped Marchese partners stamped by Council 7th June 2018*

PARKING COMMENTS

The reconfigured basement is satisfactory and will increase the parking provision from 86 to 89 carspaces. The amended layout appears to comply with AS 2890.1 however this will also be covered by existing condition 18.

No allocation of spaces is indicated however the stratum plans submitted for DA/150/2018 indicate the allocation between the residential and commercial components and were satisfactory.

Bicycle Parking

Under the DCP rates a total of 34 bicycle spaces would be required for the 57 residential dwellings and 1 space for the commercial component.

TOTAL BICYCLE PARKING REQUIRED = 34(res) + 1(Com) = 35 SPACES

As 44 spaces are proposed (level B1-8 spaces, level B2 18 spaces, level B3-18 spaces) this is 9 more than what is required under the DCP and is satisfactory.

Motorbike Parking

Under the DCP rates a total of 5 motorbike spaces would be required. The submitted amended plans demonstrate compliance with this requirements with 1 space on basement level 1, and 2 spaces each on basement levels 2 & 3.

Development Engineering raises no objections to the proposed modifications and there are no engineering conditions in DA/813/2015 required to be amended added or deleted.

9. Relevant Environmental Planning Instruments

The following statutory Environmental Planning Instruments apply in the assessment of the proposed development:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Building Sustainability Index BASIX) 2004

- Randwick Local Environmental Plan 2012

9.1 State Environmental Planning Policy (State and Regional Development) 2011

The provisions of the SEPP (State and Regional Development) 2011 apply to the proposed development as the consent authority for the subject Section 4.55 modification to DA/813/2015 is the Sydney Eastern City Planning Panel given the original DA was classified as 'regional development' in accordance with the requirements of the SEPP and Part 2, Division 2.4 of the Environmental Planning and Assessment Act 1979 (as amended).

9.2 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP No. 55 aims to promote the remediation of contaminated land for the purposes of reducing the risk of harm to human health or any other aspect of the environment. Council's Environmental Health Officers have reviewed the original development application and the site has been assessed as suitable for its intended purpose.

9.3 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

SEPP No. 65 aims to promote quality design of Residential Flat Buildings. The proposal is subject to the policy as it involves the modification to a residential flat building being 3 storeys and more in height. The proposal has not been considered by Council's Design Excellence Panel given no changes to the residential apartments are proposed. The original DA was assessed in accordance with Part 3: Siting the Development and Part 4: Designing the Building of the Apartment Design Guide (ADG) against the design criteria requirements.

As a result of the proposed modifications, no changes are proposed to the apartments or to the setbacks of the approved development and therefore the development is considered to remain compliant with SEPP No. 65 and the ADG.

9.4 State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004

SEPP: BASIX applies to the proposed development. A revised BASIX Certificate was not submitted with the subject application given no changes to the dwellings are proposed. The existing condition requiring compliance with the original BASIX Certificate will ensure compliance with the SEPP: BASIX.

9.5 Randwick Local Environmental Plan 2012

The subject site is zoned B2 Local Centre under the Randwick Local Environmental Plan 2012 (RLEP). The proposed modifications are ancillary to the approved shop top housing development, which is permissible in the zone.

The proposed modifications do not comply with Clause 4.3 Height of buildings due to the increased height of the lift overrun fronting Maroubra Road and plant screening. The increased building height is supported however given there will be no adverse impacts to the character of the area or the amenity of adjoining properties. The proposed height increase will result in a development that will remain in accordance with the objectives of the height of buildings development control and the objectives of the B2 Local Centre zone (refer to the "Clause 4.6 Exception to Development Standard – Building Height" section of this report for details).

It is noted that there is no maximum floor space ratio (FSR) that applies to the site, therefore the proposed additional car parking that is surplus to the minimum parking requirement (and counted as additional gross floor area) does not result in non-compliant FSR.

9.6 Policy Controls

The following policy controls apply in the assessment of the proposed development and are elaborated upon in the section below:

- **Randwick Comprehensive Development Control Plan 2013**

The RDCP provides guidance for development applications to supplement the provisions of the RLEP. There are General Controls in Part B, specific control for the site in Part D4 – Maroubra Junction Town Centre of the RDCP. The RDCP provides a framework for the redevelopment of the wider Maroubra Town Centre and surrounds, containing performance criteria and controls to guide built form, provide environmental and amenity standards, and give appropriate protection for local business, open space and residential development both on a block-by-block basis as well as a general overview.

In relation to the considerations that remain in the RDCP that are relevant to the subject modifications, these are largely assessed as acceptable and where necessary have been the subject of technical officers' comments and conditions recommended for inclusion in the determination.

10. Environmental Assessment

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(i) – Provisions of any environmental planning instrument	Refer to the "Environmental Planning Instruments" section of this report for details.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	Refer to the "Policy Control" section of this report for details. The proposal satisfies the objectives and development standards of the RDCP.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the <i>Environmental Planning and Assessment Regulation 2000</i> have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The environmental impacts of the proposed development on the natural and built environment have been addressed in the body of this report. The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The subject site is suitable for the proposed modifications, which are ancillary to an approved shop top

Section 4.15 'Matters for Consideration'	Comments
	housing development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in the body of this report.
Section 4.15(1)(e) – The public interest	The proposal will not result in any unreasonable or unacceptable ecological, social or economic impacts on the locality. Therefore, the development is considered to be in the public interest.

10.1 Section 4.55 Assessment

Under the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979 (the Act), as amended, the Consent Authority may only agree to a modification of an existing Development Consent if the following criteria has been complied with: -

- a) it is satisfied that the development to which the consent as modified relates is *substantially the same development* as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- b) it has consulted with any relevant public authorities or approval bodies, and
- c) it has notified the application & considered any submissions made concerning the proposed modification

11. Substantially the Same Development

The proposed modifications are not considered to result in a development that will fundamentally alter the originally approved development, and is therefore considered to be substantially the same development.

12. Consultation with Other Approval Bodies or Public Authorities

The development is not integrated development or development where the concurrence of another public authority is required.

It is noted that the original DA was referred to Sydney Airport, who advised that the subject site is within an area defined within the Civil Aviation (Building Control) Regulations that limits the height of structures to 45.72m above existing ground level without prior approval of the Civil Aviation Safety Authority. As the proposed modifications will result in a building that is less than 45.72m in height, further approval from the Civil Aviation Safety Authority is not required.

13. Notification and Consideration of Submissions:

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the RDCP. Four submissions were received as a result of the notification process and the concerns raised in the submissions have been considered in the body of this report (refer to "Notification / Advertising" section of this report).

14. Relationship to City Plan

The relationship with the City Plan is as follows:

Outcome 4: Excellence in urban design.

Direction 4a: Improved design and sustainability across all development.

15. Conclusion:

That the Section 4.55 (2) modification to DA/813/2015 seeking consent for reconfiguration of the basement car park to accommodate 89 car parking spaces (resulting in an additional 3 spaces), increase the overall height of the southern lift overrun by 1.99m, modification to entry retail steps and additional screening to approved condenser units on the roof at 180-188 Maroubra Road, Maroubra, be approved (subject to new and modified conditions) for the following reasons:

- The proposal satisfies the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.
- The proposal remains substantially the same development in accordance with Section 4.55 of the Environmental Planning and Assessment Act 1979, as amended.
- The proposal remains compliant with the requirements of the State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.
- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The proposal will not result in adverse amenity impacts to surrounding residential and non-residential land uses.

16. Recommendation

That the Sydney Central Regional Planning Panel, as the consent authority, grants development consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/813/2015/B for reconfiguration of the basement car park to accommodate 89 car parking spaces (resulting in an additional 3 spaces), increase the overall height of the southern lift overrun by 1.99m, modification to entry retail steps and additional screening to approved condenser units on the roof at 180-188 Maroubra Road, Maroubra, subject to the following modified conditions:

- **Amend Condition 1 to read:**

Approved Plans & Supporting Documentation

The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received</i>
DA1.03 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA2.01 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA2.02 (Revision D)	Marchese Partners	23.05.2016	25 May 2016

DA2.03 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA2.04 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA2.05 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA2.06 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA2.07 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA2.08 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA2.09 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA2.10 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA2.11 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA3.01 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA3.02 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA3.03 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA3.04 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA3.05 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA3.06 (Revision D)	Marchese Partners	23.05.2016	25 May 2016
DA4.01 (Revision D)	Marchese Partners	23.05.2016	25 May 2016

<i>BASIX Certificate</i>	<i>No.</i>	<i>Dated</i>	<i>Received</i>
Multi Dwelling	680404M	18 November 2015	20 November 2015

EXCEPT where amended by:

- **Council in red on the approved plans; and/or**
- **Other conditions of this consent; and/or**
- **the following Section 4.55 plans and supporting documents only in so far as they relate to the modifications highlighted on the Section 4.55 plans and detailed in the Section 4.55 application:**

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received</i>
DA2.01 (Revision F)	Marchese Partners	24.11.2017	7 June 2018
DA2.02 (Revision F)	Marchese Partners	24.11.2017	7 June 2018
DA2.03 (Revision F)	Marchese Partners	24.11.2017	7 June 2018
DA2.04 (Revision E)	Marchese Partners	3.11.2017	6 December 2017
DA3.01 (Revision E)	Marchese Partners	3.11.2017	6 December 2017
DA3.02 (Revision E)	Marchese Partners	3.11.2017	6 December

			2017
DA3.03 (Revision E)	Marchese Partners	3.11.2017	6 December 2017
DA3.04 (Revision E)	Marchese Partners	3.11.2017	6 December 2017
DA3.04 (Revision E)	Marchese Partners	3.11.2017	6 December 2017
DA3.06 (Revision E)	Marchese Partners	3.11.2017	6 December 2017
DA4.01 (Revision E)	Marchese Partners	3.11.2017	6 December 2017
A02.011 (Revision B)	Marchese Partners	17.11.2017	12 June 2018

- **Add Condition 2 (d) to read:**

Amendment of Plans & Documentation

- (d) No additional plant and equipment areas on the roof are permitted by this consent.