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**URBIS**

# **CLAUSE 4.6**

# **VARIATION REQUEST**

Clause 4.4 Floor Space Ratio

212 Arden Street, 227-233 Coogee Bay  
Road, 5-7 Vicar Street and 15A Vicar  
Street, Coogee

Prepared for

**SIMMATOWN PTY LTD & CHEUNG PROPERTIES PTY LTD**

March 2023

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# 1. INTRODUCTION

This Amended Clause 4.6 Variation Request (**the Request**) has been prepared on behalf of Simmatown Pty Ltd & Cheung Properties Pty Ltd (**the applicant**) and accompanies an updated Development Application (**DA**) for the redevelopment of the Coogee Bay Hotel located at 212 Arden Street, 227-233 Coogee Bay Road and 5-7 and 15A Vicar Street, Coogee (**the site**).

The Request seeks an exception from the maximum floor space ratio (**FSR**) prescribed for the site under clause 4.4 of Randwick Local Environmental Plan 2012 (**RLEP 2012**). The variation request is made pursuant to clause 4.6 of RLEP 2012.

This report should be read in conjunction with the documents submitted in support of the updated DA including the Statement of Environmental Effects prepared by Urbis (March 2023), architectural drawings prepared by Fender Katsalidis (March 2023), the Heritage Impact Statement prepared by Weir Phillips and Addendum View Analysis prepared by Urbis (enclosed in **Appendix B**). These documents form part of the Request.

The following sections of the report include:

- **Section 2:** description of the site and its local and regional context, including key features relevant to the proposed variation.
- **Section 3:** brief overview of the proposed development as outlined in further detail within the accompanying drawings.
- **Section 4:** identification of the development standard which is proposed to be varied, including the extent of the contravention.
- **Section 5:** outline of the relevant assessment framework for the variation in accordance with clause 4.6 of the RLEP 2012.
- **Section 6:** detailed assessment and justification of the proposed variation in accordance with the relevant guidelines and relevant planning principles and judgements issued by the Land and Environment Court.
- **Section 7:** summary and conclusion.

## 2. SITE CONTEXT

### 2.1. SITE DESCRIPTION

The site comprises four allotments, including 212 Arden Street, 227-233 Coogee Bay Road, 5-7 Vicar Street and 15A Vicar Street, Coogee. Key characteristics of the site include:

- The site is configured as a slightly irregular rectangular shape and has a total area of 8,501sqm.
- The site has a primary frontage to Arden Street of approximately 80m and a frontage to Coogee Bay Road of approximately 100m.
- The site falls approximately 7.79m from the south west corner on Vicar Street down to the north east intersection of Coogee Bay Road and Arden Street.
- The land is currently devoid of any significant vegetation. There is some planted vegetation within the frontage area to Arden Street in the beer garden and along the southern driveway.
- The eastern portion of the site, excluding the lots fronting Vicar Street, is a local heritage listed item (Item 148) under the RLEP 2012. The site is not with a heritage conservation area.

Existing development within the site is summarised in **Table 1** and detailed in the aerial photograph at **Figure 1**. Site photographs are provided at **Figure 2**.

Table 1 Site details

Address	Legal Description	Current Development
212 Arden Street	Lot 1 DP872553	<p>This lot comprises:</p> <ul style="list-style-type: none"> <li>▪ The Coogee Bay Hotel including a three-storey hotel building (c.1920s) located on the corner of Arden and Coogee Bay Road. Within the hotel site, there are various structures including: <ul style="list-style-type: none"> <li>– A sandstone building with tiled hipped roof setback behind the courtyard/beer garden on Arden Street</li> <li>– Selina's nightclub</li> <li>– Drive through liquor store with associated car port and hotel loading area accessible via Arden Street</li> </ul> </li> <li>▪ Along the Coogee Bay Road frontage, there are 2 x two storey interwar buildings with ground floor retail including the entrance to the hotel's sports bar and gaming room</li> <li>▪ Fronting Vicar Street is a five storey hotel accommodation building (also known as 9 Vicar Street).</li> </ul>
227-233 Coogee Bay Road	Lot A DP437308	<p>Located on the north west corner of the site, the lot comprises:</p> <ul style="list-style-type: none"> <li>▪ 2 x two storey Federation shopfront building with retail uses at ground floor level; and</li> <li>▪ 1 three storey inter war building</li> </ul>
5-7 Vicar Street	Lot B DP437308	Two storey inter war residential flat building, accessible via Vicar Street
15A Vicar Street	Lot A DP337724	Three storey inter war residential flat building, accessible via Vicar Street

Figure 1 Aerial photograph



Source: Urbis

Figure 2 Site photographs



Picture 1 Corner of Arden Street and Coogee Bay Road

Source: Urbis





Picture 2 Existing boutique hotel within the site at 9 Vicar Street

Source: Google Maps



Picture 3 Existing development at corner of Coogee Bay Road and Vicar Street

Source: Google Maps

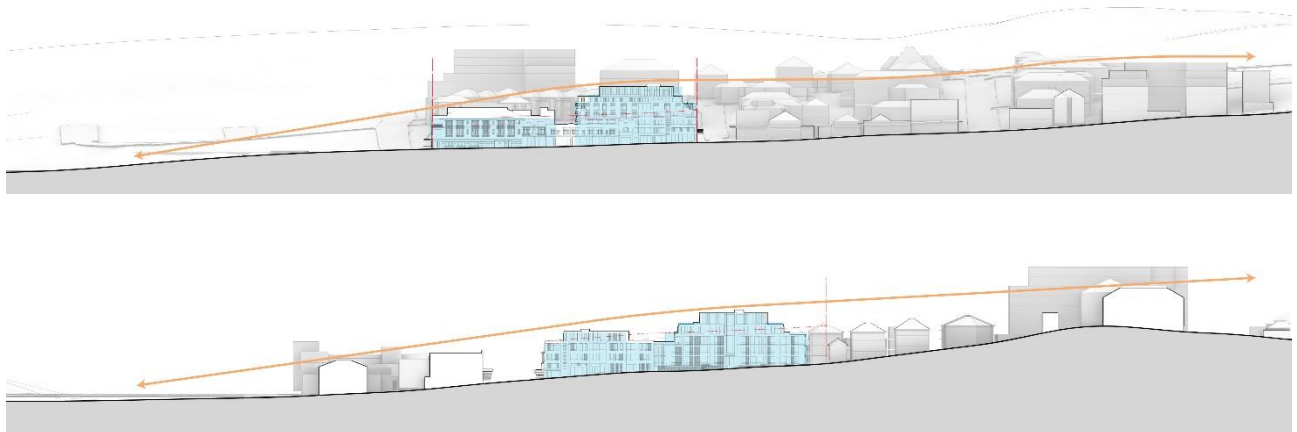
## 2.2. LOCALITY CONTEXT

The site when viewed in its broader context within Coogee is illustrated in **Figure 3** and **Figure 4**. This context is important when assessing the reasonableness of the variation to the floor space ratio standard.

From an analysis of the site context undertaken by Urbis and ae design partnership, the following is noted:

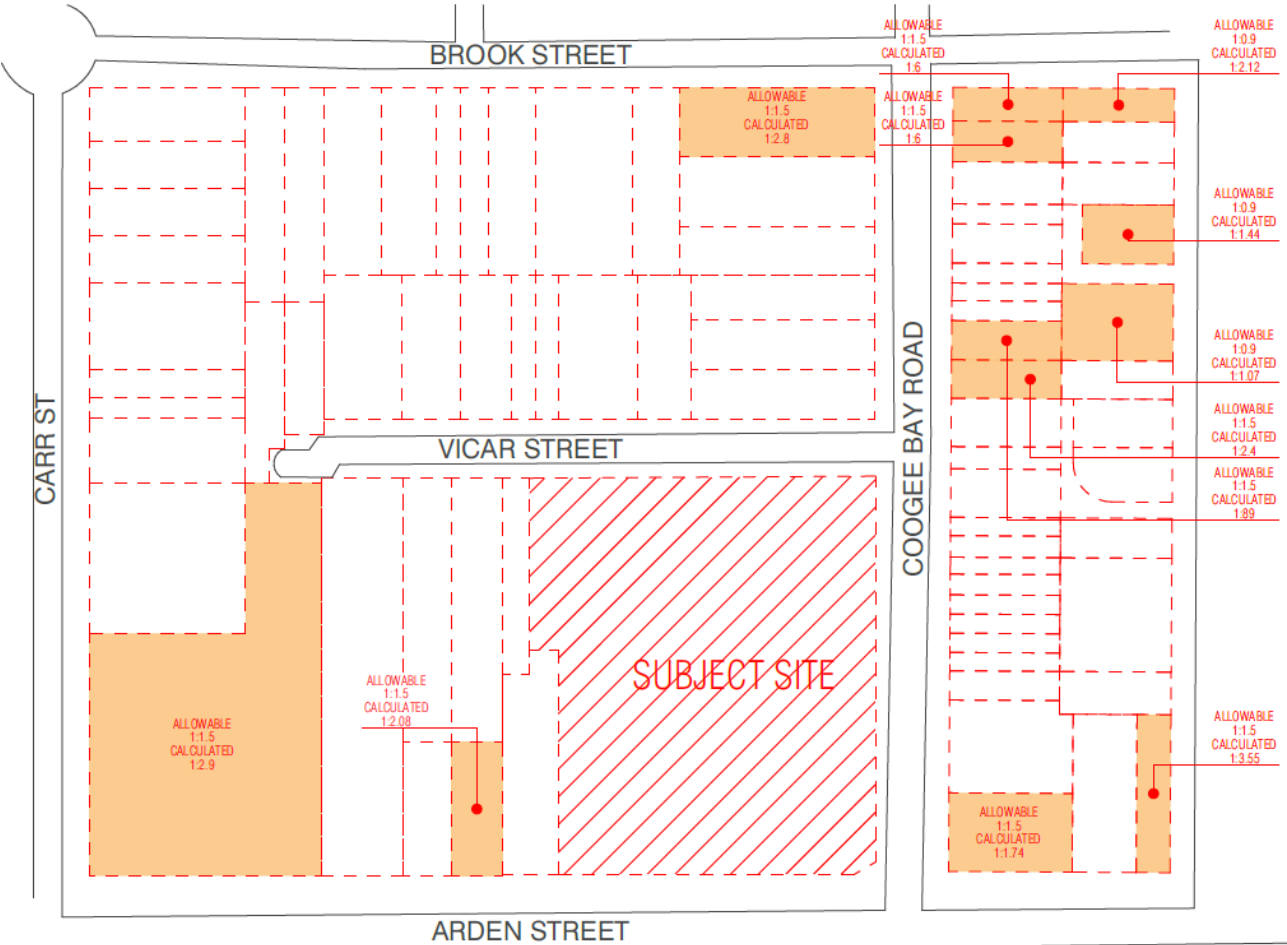
- As shown in **Figure 3**, the site sits in a low central 'bowl' or valley surrounded by sloping topography which rises to the south, west and north. The overall topography generally falls in elevation from the south west to the north east, with an approximate 7.5 metre fall from Vicar Street to Arden Street.
- The site is in the middle of the Coogee local centre (refer **Figure 4**), which has a highly varied scale of development, creating a skyline characterised by a mix of traditional small scale buildings and larger residential and hotel developments.
- Coogee Bay Road is characterised by attached shop top buildings ranging from one to three storeys in height with a mix of shops, restaurants and cafes located on the ground floor. These buildings are interspersed with three to four storey residential developments.
- The site sits at a zone interface, as the properties to the west along Vicar Street are zoned R3 Medium Density Residential. Vicar Street is characterised by higher density residential uses with a mix of single detached dwellings and residential flat buildings ranging from two to four storeys.
- The site is within the Foreshore Scenic Protection Area and is proximate to coastal areas such as Coogee Beach and Thompsons Bay to the immediate east. The site is along the Bondi to Coogee coastal walking track, which provides access to numerous other beaches along the coastline to the north and south. Significant public open space and formal recreation areas are also located north of the site at Coogee Oval.
- Immediately to the south of the site is a range of medium density residential flat buildings ranging predominantly from three to five storeys. Further to the south at the corner of Arden and Carr Streets is the Crowne Plaza hotel, which comprises a nine storey building.
- Owing to the historical evolution of the development of Coogee, many existing buildings are greater in height than the current controls – in part resulting from changing planning controls over time. This includes the residential developments to the south of the site and the Crowne Plaza hotel. It is noted that the maximum FSR for the site was amended from 3:1 to 1.5 in November 1995.
- FSR analysis undertaken by Fender Katsalidis demonstrates that a number of buildings within the B2 Local Centre zone in the immediate locality of the site have an FSR exceeding their applicable LEP FSR development standard. Where a 1.5:1 FSR applies, the analysis demonstrates built FSRs ranging from 1.6:1 to 2.9:1 (refer **Figure 4** and **Appendix A**). This analysis demonstrates that the existing character contains built forms which exceed the current controls for the zone. This FSR exceedance then informs the character of the Coogee local centre.

Figure 3 Site context plan



Source: ae design partnership

Figure 4 Locality FSR Analysis



Source: Fender Katsalidis



## 2.3. PLANNING BACKGROUND

As outlined in the updated Statement of Environmental Effects (February 2023), development consent DA599/95 was approved by Randwick Council in April 1996 and it granted consent for:

- The Vicar Wing comprising a hotel building containing 4 floors of hotel rooms over three levels of car parking;
- Convention Wing comprising one part level and two levels over the existing Selina's Nightclub containing a total of 52 hotel rooms;
- An Entertainment/Convention Centre – a change of use of the existing Selina's and refurbishment of upper ground level rooms for conference rooms and associated facilities; and
- Refurbishment and rationalisation of existing 40 hotel rooms and provision of an additional 33 hotel rooms.

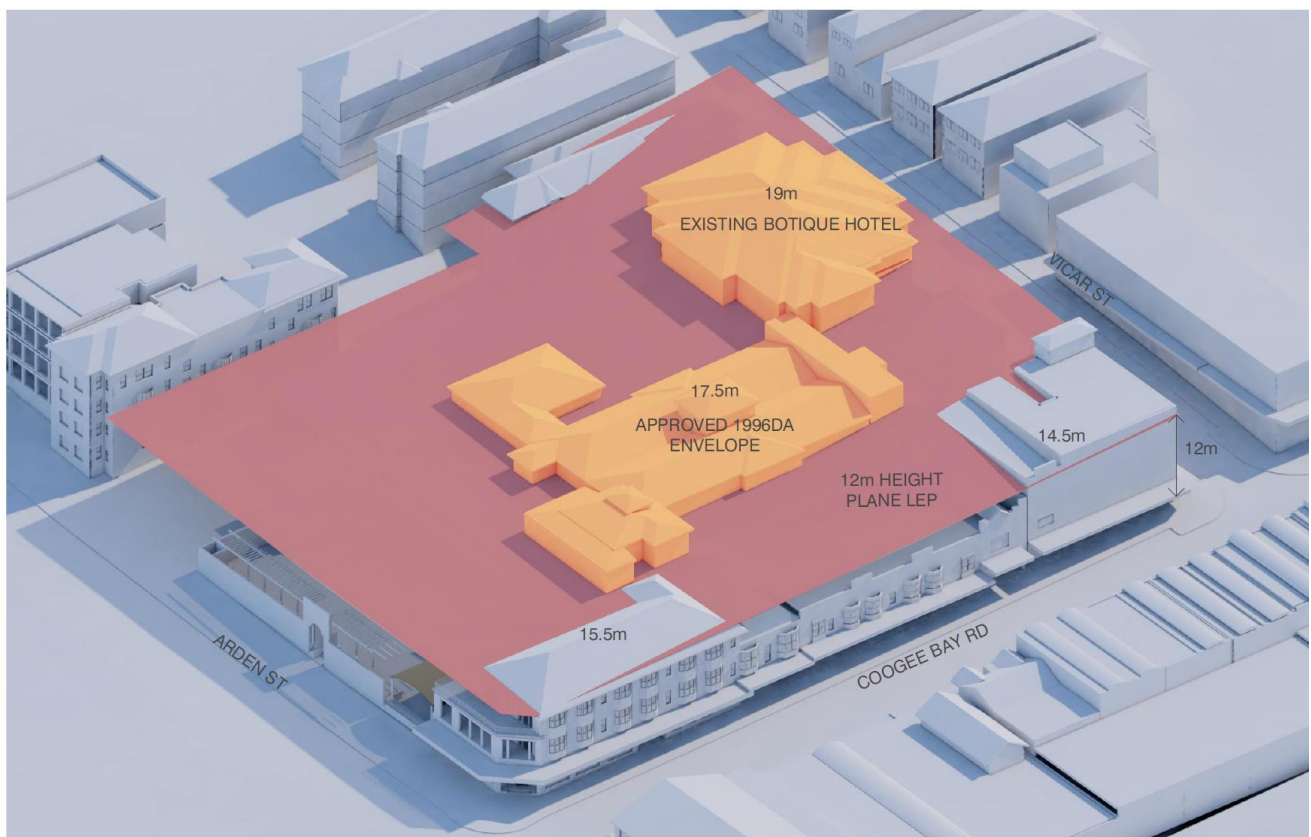
Overall, this consent resulted in the following:

- FSR: 1.84:1 (permissible 1.5:1 Randwick LEP 119; Eastern Beaches REP 3:1 for tourist related uses)
- Height: 19m (permissible 12m but 15m with concurrence)

Based on Urbis' review of Council files, it appears that the current boutique hotel on Vicar Street is the hotel component approved by DA599/95. It was originally approved as a three storey hotel which was amended to a four storey hotel. The existing boutique hotel and DA599/95 massing is indicated in **Figure 5**.

This existing development consent is a mandatory relevant consideration for the Land and Environment Court under section 39(4) of the *Land and Environment Court 1979: Kamenev v Woollahra Municipal Council (No 2)* [2018] NSWLEC 1228 at [39]-[41]; *MLC Properties v Camden Council* (1997) 96 LGRA 52, 58; *Omayya Investments Pty Ltd v Dean Street Holdings Pty Limited (No 5)* [2020] NSWLEC 9 at [106].

Figure 5 Height plane diagram - existing and previously approved development



Source: Fender Katsalidis

### 3. PROPOSED DEVELOPMENT

This Request has been prepared to accompany an amended DA for the redevelopment of the Coogee Bay Hotel site located at 212 Arden Street, 227-233 Coogee Bay Road and 15A Vicar Street, Coogee. The site also includes 5-7 Vicar Street, Coogee.

The proposal comprises a considered mixed-use development outcome, with an integrated design which revitalises the site, complements the character of the area and provides public benefits back to the community. Since the lodgement of the development application in July 2021, refinements have been proposed to the proposed scheme.

Specifically, this refined DA scheme seeks approval for the following:

- Retention of the existing local heritage listed Coogee Bay Hotel including the majority of the Coogee Bay Road façade and beer garden. The roofline of the heritage hotel is retained as are the above ground level façade elements along Coogee Bay Road to the west of the pub on the lot known as 212 Arden Street, Coogee.
- Internal refurbishment works are proposed to expand hotel accommodation, including 32 new or upgraded hotel rooms and reconfiguration of internal hotel areas to accommodate a refreshed food and beverage and function offer, gaming room, bottle shop and bar areas.
- Upgrade of the beer garden area and construction of dining pavilions in this space.
- Construction of new awning elements along Coogee Bay Road and returning south along the Vicar Street frontage.
- A new three storey southern hotel wing south of the beer garden and north of the driveway access will incorporate ground floor food and beverage and two levels of hotel accommodation (including 15 hotel rooms).
- Operation of the Pub Premises generally reflecting existing hours of operation.
- Provision of ground level commercial uses including 11 new retail food and beverage tenancies (cafes/restaurants) fronting a ground floor eat street precinct and Coogee Bay Road. Use and fitout consents for these tenancies will be subject to separate approvals.
- Provision of a new maximum five-storey shop top housing building above the ground floor retail tenancies incorporating 58 apartments including a mix of 7 x 1-bed, 25 x 2-bed, 24 x 3-bed and 2 x 4-bed apartments.
- Excavation for and construction of two levels of basement (one partial at ground level) accessed off Arden Street, including a total of 159 parking spaces comprising:
  - 91 residential spaces including 15 visitor spaces and 1 accessible space
  - 68 hotel / retail spaces including 2 accessible spaces
  - 11 motorcycle parking spaces, car wash bay, end of trip facilities, loading and servicing provisions, waste storage and collection areas, lift access and provisions for plant and services equipment.
- Site landscaping works including the creation of a new through-site link (public laneway) which runs from Coogee Bay Road to Arden Street, wrapping through the hotel area north of the basement driveway access. New landscape areas also include deep soil landscape planting to the south of the shop top housing adjacent 17 Vicar Street, a planted driveway awning adjacent 230 Arden Street, Level 1 communal gardens and pool for the site residents. Planting along the Arden Street frontage of the beer garden will also be upgraded. Eight trees are proposed for removal.
- Subdivision of the site into two lots – one for the hotel / pub and one for the retail and residential accommodation.

This proposal comprises a considered mixed-use development outcome, with an integrated design which revitalises the site, complements the character of the area and provides public benefits back to the community.

This proposal demonstrates how the site will be repositioned to complement the existing hotel operation with upgraded accommodation facilities complemented by residential accommodation, create a wider range of

entertainment and dining options, public meeting spaces and a more family friendly environment. An activated retail laneway provides a new café and dining precinct and access through the site to create an integrated built form outcome which enhances the public perception of the Coogee Bay Hotel.

The proposal is illustrated in the Architectural Drawings (**Appendix D**) and Architectural Design Report (**Appendix E**) prepared by Fender Katsalidis, as well as other design and supporting technical documentation provided in **Appendices A** through to **Y**.

- Key details of the refined proposal are summarised in **Table 2** and a photomontage of the proposed development is provided in

Figure 6.

Table 2 Numeric overview of proposal

<b>Component</b>	<b>Proposal</b>
<b>Site Area</b>	8,501 sqm
<b>Subdivided Site Areas</b>	Residential and Retail lot: 4,885 sqm Pub and Hotel lot: 3,616 sqm
<b>Land Uses</b>	Hotel, pub, retail, shop top housing
<b>Height</b>	Coogee Bay Hotel: 15.52 metres (no change) Shop top housing: 21.35 metres
<b>Gross Floor Area (GFA)</b>	13,488 sqm (1.59:1)
<b>Through Site Link</b>	Through site connection from Coogee Bay Road to Arden Street, via publicly accessible laneway / eat street.
<b>Landscaping</b>	1,669 sqm of landscape area including 158 sqm of deep soil areas
<b>Accommodation</b>	58 apartments comprising:  7 x 1 bedroom apartments                      25 x 2 bedroom apartments 24 x 3 bedroom apartments                      2 x 4 bedroom apartments
<b>Car Parking Spaces</b>	159 parking spaces comprising:  92 residential including 15 residential visitor and 1 accessible spaces                      67 hotel and retail spaces including 2 accessible spaces
<b>End of Trip Facilities</b>	58 sqm
<b>Motorbike Parking</b>	11 spaces
<b>Bicycle Parking</b>	7 retail bike spaces in basement 31 residential and 9 visitor bikes adjacent to the residential entries at Vicar Street (20 spaces at each entry)
<b>Loading / Servicing</b>	Basement loading and servicing for the residential, retail and hotel component via shared loading dock

Figure 6 Artists impression of Shop Top Housing from corner of Coogee Bay Road and Vicar Street



Source: Fender Katsalidis



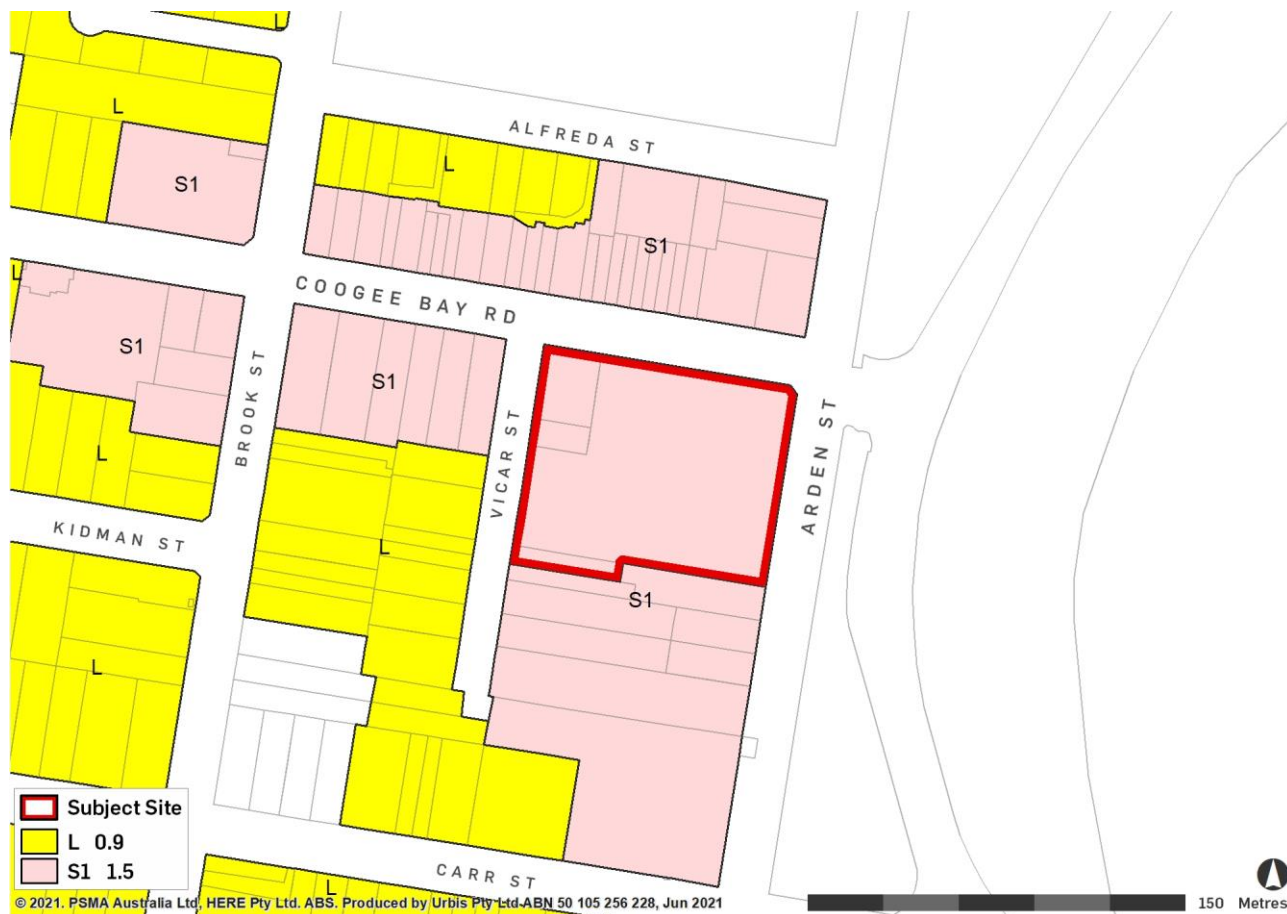
## 4. VARIATION OF FSR DEVELOPMENT STANDARD

This section of the report identifies the development standard which is proposed to be varied, including the extent of the contravention. A detailed justification for the proposed variation is provided in **Section 6** of the report.

### 4.1. PROPOSED VARIATION TO CLAUSE 4.4 FSR

This Request seeks a variation to the development standard contained within clause 4.4 of RLEP 2012, which provides that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the 'Floor Space Ratio Map'. The 'Floor Space Ratio Map' identifies the site as having a maximum FSR of 1.5:1 as illustrated in **Figure 7**.

Figure 7 RLEP 2012 Floor space ratio map



Source: Urbis

In order to calculate the proposed FSR, the site area has been determined on the basis of all lots in accordance with clause 4.5(3) of the RLEP 2012:

*(3) **Site area** In determining the site area of proposed development for the purpose of applying a floor space ratio, the site area is taken to be—*

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or*
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.*

*In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.*

The proposed variation to the maximum FSR is detailed in **Table 3**.

Table 3 Proposed FSR variation

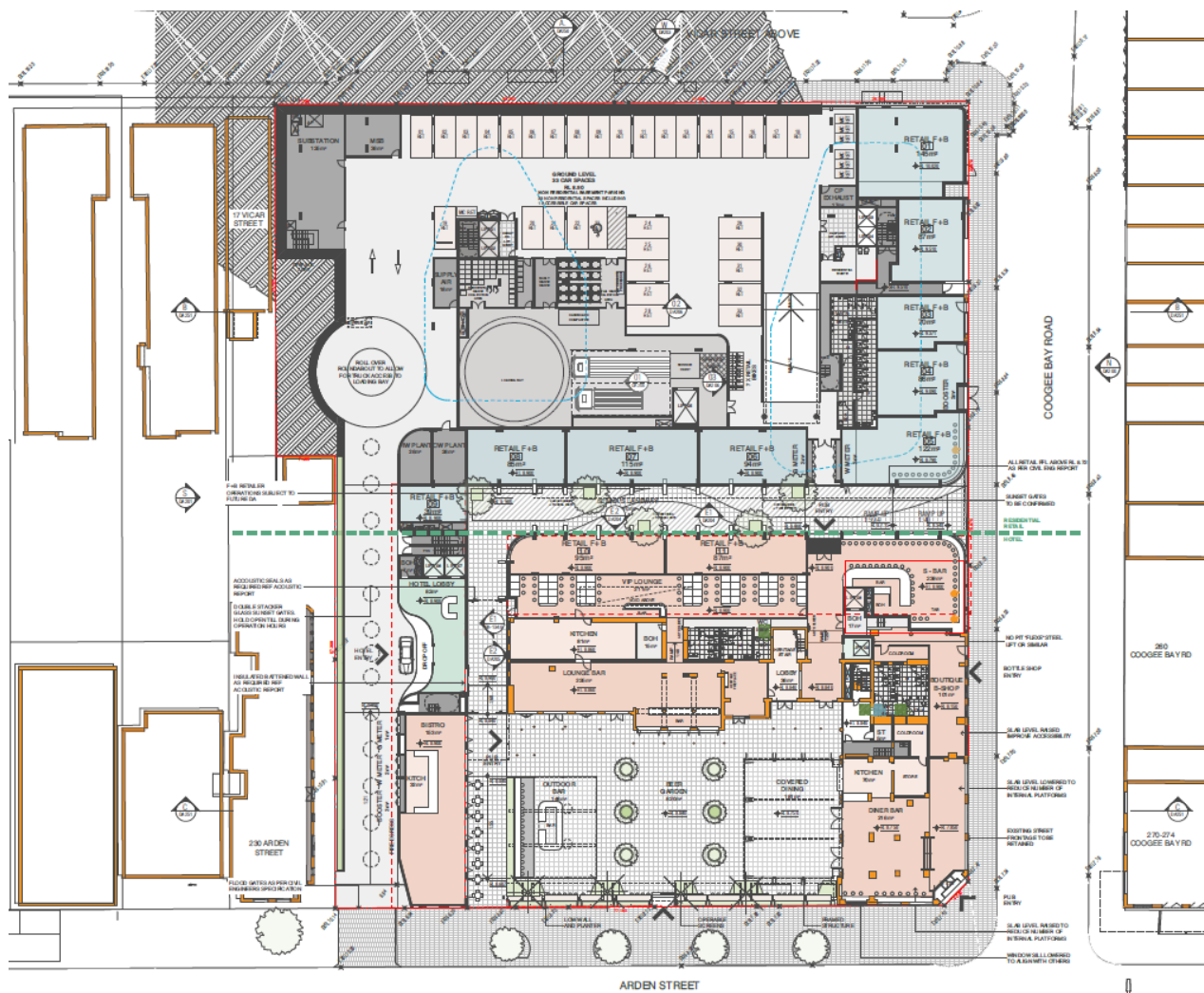
	Current Permitted Maximum	Proposed Development	Exceedance	%Exceedance
<b>GFA</b>	12,751.5 sqm	13,488sqm	736.5 sqm	5.8%
<b>FSR</b>	1.5:1	1.59:1	0.09:1	6%

As outlined in **Section 3**, the proposal involves the Torrens title subdivision of the site into two allotments following the demolition of existing buildings and structures. The subdivision includes:

- Eastern portion lot – existing Coogee Bay Hotel excluding the demolished part of the buildings and driveway access from Arden Street to the basement parking area; and
- Western portion lot – new shop top housing building, retail eat street precinct and parking areas.

The two lots to which the Request applies are shown in the extract from drawing DA100 that appears in **Figure 8** below. The division of the overall site into the two lots is identified by the dashed green line.

Figure 8 Ground Floor Plan



Source: Fender Katsalidis

There are two decisions by commissioners of the Land and Environment Court that suggest that where the subdivision of land is proposed as part of the application — and that subdivision is integral to the application

— the lots to be created by the subdivision should be regarded as lots for the purpose of clause 4.5(3) of a standard-instrument compliant local environmental plan.

The first decision is *Lam v Inner West Council* [2017] NSWLEC 1332. This case concerned the erection of two semi-detached dwellings and the approval of an associated subdivision. In this decision it was not necessary for any firm ruling to be made. However, the Commissioner said at [66] that it appeared ‘logical’ that the floor space ratio should be calculated with reference to the post development building form and subdivision.

The second decision is *Marrickville Development No.3 Pty Ltd v Inner West Council* [2019] NSWLEC 1132. This decision also concerned the erection of two semi-detached dwellings and the approval of an associated subdivision. In this decision the Commissioner accepted (at [29]-[31]) that the development should be regarded as being carried out on two or more lots.

Accordingly, the proposed GFA and FSR according to the site area of each proposed allotment is summarised in **Table 4**.

Table 4 GFA and FSR for proposed lots

Land Parcel	Lot Area	GFA	FSR	% Variation
Western portion lot (the residential and retail lot)	4,885 sqm	9,176 sqm	1.88:1	+25%
Eastern portion lot (the pub and hotel lot)	3,616 sqm	4,312 sqm	1.19:1	-20.6%

The proposed subdivision will result in an FSR on the pub and hotel lot that is less than the 1.5:1 FSR control that applies to the site. The applicant, therefore, commits that a covenant will be placed on the eastern lot to restrict the creation of additional GFA and FSR as a future redevelopment opportunity. This is consistent with the provisions at clause 4.5(9) of RLEP 2012 which state:

*(9) **Covenants to prevent “double dipping”** When development consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.*



## 5. RELEVANT ASSESSMENT FRAMEWORK

Clause 4.6 of RLEP 2012 includes provisions that allow for exceptions to development standards in certain circumstances. The objectives of clause 4.6 of RLEP 2012 are:

- (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.*

Clause 4.6 provides flexibility in the application of planning provisions by allowing the consent authority to approve a DA that does not comply with certain development standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for and from the development.

In determining whether to grant consent for development that contravenes a development standard, clause 4.6(3) requires that the consent authority consider a written request from the applicant that seeks to justify the contravention of the development by demonstrating:

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

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied that the applicant's written request adequately addresses each of the matters listed in clause 4.6(3). The consent authority should also be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which it is proposed to be carried out (clause 4.6(4)(a)(ii)).

Clause 4.6(4)(b) requires the concurrence of the Planning Secretary to have been obtained. In deciding whether to grant concurrence, subclause (5) requires that the Secretary consider:

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

The concurrence of the Secretary can be assumed to have been granted for the purpose of this variation request in accordance with the Department of Planning Circular *PS 20-005 'Variations to development standards'*, dated 5 May 2020. This circular is a notice under clause 64 of the *Environmental Planning and Assessment Regulation 2000* and provides for assumed concurrence. A consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given.

The Secretary can be assumed to have given concurrence if the matter is determined by a Sydney district or regional planning panel or the Land and Environment Court (by way of section 34 agreement or hearing).

This Request demonstrates that compliance with the maximum FSR prescribed for the site in clause 4.4 of RLEP 2012 is unreasonable and unnecessary, that there are sufficient environmental planning grounds to justify the requested variation and that the approval of the variation is in the public interest because it is consistent with the development standard and zone objectives.

In accordance with clause 4.6(3), the applicant requests that the FSR development standard be varied.

## 6. ASSESSMENT OF CLAUSE 4.6 VARIATION

The following sections of the report provide a comprehensive assessment of the request to vary the development standard relating to FSR in accordance with clause 4.4 of RLEP 2012.

Detailed consideration has been given to the following matters within this assessment:

- *Varying development standards: A Guide*, prepared by the Department of Planning and Infrastructure dated August 2011.
- Relevant planning principles and judgements issued by the NSW Land and Environment Court (LEC).

The following sections of the report provide detailed responses to the key questions required to be addressed within the above documents and clause 4.6 of the RLEP 2012.

### 6.1. IS THE PLANNING CONTROL A DEVELOPMENT STANDARD THAT CAN BE VARIED? – CLAUSE 4.6(2)

The maximum FSR prescribed by clause 4.4 of RLEP 2012 is a development standard capable of being varied under clause 4.6(2) of RLEP 2012.

The proposed variation is not excluded from the operation of clause 4.6(2) as it does not comprise any of the matters listed within clause 4.6(6) or clause 4.6(8) of RLEP 2012.

### 6.2. IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE? – CLAUSE 4.6(3)(A)

Historically, the most common way to establish whether a development standard was unreasonable or unnecessary was by satisfying the first method set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827. This method requires that the objectives of the standard be achieved despite the non-compliance with the standard.

This was recently re-affirmed by the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [16]-[17]. Similarly, in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 at [34] the Chief Judge held that “*establishing that the development would not cause environmental harm and is consistent with the objectives of the development standards is an established means of demonstrating that compliance with the development standard is unreasonable or unnecessary*”.

This Request addresses the first method outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827. This method alone is sufficient to satisfy the ‘unreasonable and unnecessary’ requirement.

The Request also addresses the third method, that the underlying objective or purpose of the development standard would be undermined, defeated or thwarted if compliance was required with the consequence that compliance is unreasonable (*Initial Action* at [19] and *Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]). Again, this method alone is sufficient to satisfy the ‘unreasonable and unnecessary’ requirement.

- ***The objectives of the standard are achieved notwithstanding non-compliance with the standard*** (the first method in *Wehbe v Pittwater Council* [2007] NSWLEC 827 [42]-[43])

The specific objectives of the FSR development standard as specified in clause 4.4 of RLEP 2012 are detailed in **Table 5**. An assessment of the consistency of the proposed development with each of the objectives is also provided.

Table 5 Assessment of consistency with clause 4.4 objectives

Objectives	Assessment
<i>To ensure that the size and scale of development is compatible with</i>	The desired future character of the locality exists <b>before</b> and <b>informs</b> the establishment of the height and scale of developments in the neighbourhood or area ( <i>Woollahra Municipal Council v SJD</i>

Objectives	Assessment
<p><i>the desired future character of the locality,</i></p>	<p><i>DB2 Pty Ltd</i> [2020] NSWLEC 115 at [59]). This necessarily means that the desired future character of the neighbourhood or area can be evaluated by reference to matters other than only the provisions of LEP establishing the zoning, the permitted and prohibited development, and the development standards for permitted development in the zone (<i>SJD DB2</i> at [59]). In this case, this means that the desired future character of the locality can be evaluated by reference to matters other than the building height and FSR established by the height and FSR development standards in clauses 4.3 and 4.4 (cf <i>SJD DB2</i> at [59]). The desired future character must take into account the form of the developments that have been approved (<i>SJD DB2</i> at [27], [43], [45] and [53]-[54]). The desired future character for a locality can evolve over time, responding not only to the provisions of the LEP but also to developments carried out in accordance with development consents granted (<i>SJD DB2</i> at [53]-[54]).</p> <p>The Coogee local centre is an established, mixed-use area influenced by Coogee Beach, the iconic heritage item within the site and Inter-War shop top housing along Coogee Bay Road. The diverse architectural styles and scale of development evident in the area define the desired future character surrounding the site.</p> <p>The site plays a significant role in defining an iconic tourist hub identity for the Coogee Local Centre due to its prominent location at the corner of Coogee Bay Road and Arden Street. As noted by Roseth SC [at 22] in <i>Project Venture Developments v Pittwater Council</i> [2005] NSWLEC 191 (<b>Project Venture</b>):</p> <p><i>“Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.”</i></p> <p>In order to test whether a proposal is compatible with its context, Roseth SC identifies two questions that should be asked.</p> <p><i>Are the proposal’s physical impacts on surrounding development acceptable?</i></p> <p>The proposal’s physical impacts on surrounding development are acceptable on the following grounds:</p> <ul style="list-style-type: none"> <li>▪ Built form has been modulated to step up away from the heritage listed façade with a three storey street wall (ground floor retail with residential above) scale along Coogee Bay Road commensurate with heritage items and contributory buildings in the locality. The street wall has been designed to reflect the 10.5m DCP wall height, and to align with the scale of development to the west of Vicar Street, and along the northern frontage of Coogee Bay Road opposite the subject site.</li> </ul>

Objectives	Assessment
	<ul style="list-style-type: none"> <li>▪ The majority of the façade to Coogee Bay Road is retained, so to ensure continuous presentation of the façade's rhythm and scale to the public domain, including the bay window forms which characterise this façade.</li> <li>▪ The upper level massing is heavily recessed and much smaller than the lower building levels. The fourth floor is set back 6.2 metres with the fifth storey element set back 9.5 metres. Such design characteristics avoid adverse amenity impacts to neighbouring properties in terms of sunlight, privacy, and views.</li> <li>▪ Balconies and apartment layouts are orientated in an east-west layout where possible and oriented to provide casual surveillance to the public domain and minimise privacy impacts on surrounding development.</li> <li>▪ Overshadowing on neighbouring properties is generally caused by the building envelope which complies with the height of buildings standard and reflects setback controls in the ADG and Randwick DCP.</li> <li>▪ While there are non-compliances with the FSR control, the overall massing has been developed to ensure the proposed development does not detrimentally impact on any view corridors, as illustrated in the Addendum View Sharing Assessment prepared by Urbis (refer to <b>Appendix B</b>).</li> </ul> <p><i>Is the proposal's appearance in harmony with the buildings around it and the character of the street?</i></p> <p>Overall, the proposal has been designed to remain sympathetic to both the heritage character of the Coogee Bay Hotel and relevant DCP controls including the 10.5 metre street wall control. In summary:</p> <ul style="list-style-type: none"> <li>▪ Due to the size of the site and the provision of public benefit incorporating a publicly accessible laneway and eat street, and the proposal's relationship to the heritage hotel, massing is distributed to the edge of the site rather than through the centre. The design remains compatible with the characteristic building form of the locality including increased ground floor activation.</li> <li>▪ Building massing associated with the residential component in the western portion of the site has been sensitively located to reflect existing built form massing and ensure adequate visual separation is provided between the heritage listed pub and contemporary elements on site.</li> <li>▪ A new wing is proposed on the southern portion of the site fronting Arden Street which reflects the height, scale and form of the original hotel building to the north of the beer garden. The proposed massing visually anchors the site's south east corner</li> </ul>

Objectives	Assessment
	<p>and creates a marker to enter the site through the eat street precinct.</p> <ul style="list-style-type: none"> <li>▪ The development provides well-articulated street frontages, comprising a combination of building indentations and modulation to assist with breaking up building form. Heritage façades along Coogee Bay Road are retained and replicated in form to maintain the fine grain character of built form within the Coogee Local Centre. This is especially achieved along Coogee Bay Road towards Vicar Street with the use of brick materials to frame the rhythm of tenancy widths along this street frontage. Further, the characteristic bay windows to Coogee Bay Road are retained at this northern façade.</li> <li>▪ To retain the desired streetscape character, the new development provides a three storey street wall along the street frontages. This reflects the 10.5 metre DCP control for the site and delivers a coherent built edge to the street. The upper levels above the height limit are set back from the predominant street wall with an additional setback above the fourth storey, reducing the scale and visual bulk of the development. The increased upper setback also ensures the proposed development avoids adverse amenity impacts to neighbouring properties in terms of sunlight, privacy, and views.</li> <li>▪ The residential components of the proposed development along the Coogee Bay Road street wall provide vertical recessed elements between dwellings with balconies inset into the façade. These design elements provide deep vertical expression which reflects the fine-grained pattern and rhythm of the streetscape with contemporary design. Above the street wall, changes to materiality and balcony form are proposed to reduce the potential 'ziggurat' built form and reduce the overall building bulk and scale.</li> </ul> <p>Overall, the proposed FSR on the site is compatible with that of surrounding development both along Coogee Bay Road and Vicar Street including the Crowne Plaza and residential developments along Vicar Street. There is precedent for development along Coogee Bay Road and within the Coogee local centre exceeding the 1.5:1 FSR control as illustrated in FSR analysis prepared by Fender Katsalidis (<b>Appendix A</b>).</p> <p>The built form strategy for the site has been thoroughly planned to ensure it provides an holistic approach to the redevelopment. The proposal draws on elements that respond to the scale and proportionality of the existing streetscapes that surround the site, including prevalent street wall height at the boundary, but also utilises the size of the site to reflect a taller character away from the street frontages where this does not detract from the streetscape character.</p>

Objectives	Assessment
	<p>The tallest built form has been located where the existing boutique hotel built form already exceeds the 12m height limit. The tallest elements of the shop top housing building are setback 6m from the Vicar Street frontage above a 10.5m street wall height which defines the public realm and street edge. The taller elements are not viewed from the immediately adjacent public domain and do not detract from the streetscape character as experienced by a pedestrian or vehicle passenger.</p>

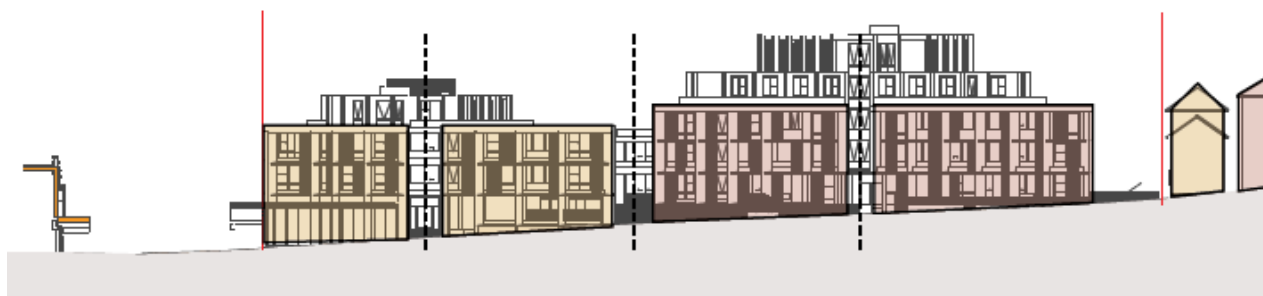
Figure 9 Elevation identifying the retention of the fine grain character of Coogee Bay Road



Source: Fender Katsalidis

	<p>Having regard to the above, the proposal is consistent and compatible with the desired future character, scale and density of development within the locality, despite the FSR non-compliance.</p>
<p><i>To ensure that buildings are well articulated and respond to environmental and energy needs.</i></p>	<p>The overall design has responded to materiality, form and rhythm of development in the locality and provides a well-articulated built form to 'break up' the massing and deliver visual interest. As illustrated in <b>Figure 9</b> and <b>Figure 10</b>, the high-quality façade treatments include the following features:</p> <ul style="list-style-type: none"> <li>▪ Cohesive street wall height, with recessive upper levels that utilise setbacks and lightweight finishes to reduce the massing.</li> <li>▪ Large areas of fenestration at ground level to maximise opportunities for active and vibrant street frontages.</li> <li>▪ Taller elements are separated from the heritage item.</li> </ul>

Figure 10 Fine grain articulation along Vicar Street



Source: Fender Katsalidis

The proposed design adopts simple passive strategies to reduce the demand for resources whilst providing optimal amenity for future

Objectives	Assessment
	<p>residents. These passive strategies will be supplemented with building systems which seek to further reduce ongoing resource. Proposed sustainability strategies include:</p> <ul style="list-style-type: none"> <li>▪ The proposed dwellings have been oriented to provide a good level of solar access in mid winter, providing passive heating and improving daylight penetration in the winter months.</li> <li>▪ Living areas are located outboard to the east and west and typically inboard to the north.</li> <li>▪ Robust material selection has been specifically chosen to reduce the need for ongoing maintenance requirements.</li> <li>▪ Building fabric is to be specified with industry standard insulation values to reduce heat transfer and reliance on artificial heating and cooling and provide an appropriate level of thermal comfort.</li> <li>▪ All windows are intended to be double glazed.</li> <li>▪ Ceiling fans are to be incorporated as per BASIX requirements</li> <li>▪ High efficiency appliances will be specified to reduce on-going water and power consumption.</li> <li>▪ 80% of all proposed gardens are to include Indigenous or low water use species to reduce water consumption.</li> <li>▪ PV Systems are to be provided as per BASIX requirements.</li> </ul>
<p><i>To ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,</i></p>	<p>The design of the proposed development has considered the heritage value of the Coogee Bay Hotel, a local heritage item (item I48), and also the general heritage characteristics of the locality. The site is not within a heritage conservation area, however there are a number of built heritage items within the vicinity of the site including:</p> <ul style="list-style-type: none"> <li>▪ 'James Robertson Fountain' located across Arden Street to the east (local item I47),</li> <li>▪ 'Sandstone wall' along the length of Coogee Beach to the east (local item I57),</li> <li>▪ 'Residential Flat Building' at 101 Brook Street (local item I64) located approximately 100m to the north-west,</li> <li>▪ 'Federation House' at 113 Brook Street (local item I67) located approximately 80m to the west,</li> <li>▪ 'St Nicolas Rectory' at 123-123A Brook Street (local item I68) located approximately 70m to the south-west, and</li> <li>▪ 'St Nicolas Anglican Church' at 125 Brook Street (local item I69) located approximately 90m to the south-west.</li> </ul>

Objectives	Assessment
	<p>As outlined in the Heritage Impact Statement that accompanies the DA (and forms part of the Request), the five-storey development is set behind the principal heritage buildings and primary view corridors to the site.</p> <p>Continuity of the northern façade character is ensured through retention of the Coogee Bay Road frontage including bay window elements. Adaptive re-use of the front rooms at Level 1 ensures that the heritage character of the site is maintained to the public domain despite these elements not being specifically heritage listed.</p> <p>The overall built form allows adequate visual separation between the historic and new forms within the site which allows the original buildings to be appreciated within the surrounding context. The contemporary design of the development will also deliver a simple backdrop to the heritage buildings, which will retain their prominence within the site.</p> <p>The proposed separation ensures the taller element is read as a backdrop to and does not detract from the appearance or prominence of the heritage item from public views including from Coogee Beach and surrounding public reserves such as Dolphin Point.</p> <p>Given the heritage buildings within the site will be retained and remain dominant in views from the foreshore, the proposal will not alter the existing visual relationship with the James Robertson Fountain and sandstone wall. In addition, the proposed four and five storey elements within the development sit at a lower topography and is physically removed from the other heritage items in the vicinity of the site. The massing of the development is compatible with the mixed character and setting of these heritage items, which include buildings of various scales and ages.</p>

<p><i>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.</i></p>	<p>Establishing consistency with this objective does not require a comparison between the merits of a complying scheme and the proposed scheme to determine if the development achieves the objectives of the standard: <i>Britely Property Pty Ltd v Randwick City Council (No 2)</i> [2020] NSWLEC 1389 at [103].</p> <p>The proposal has been designed, positioned and orientated to ensure the additional FSR does not adversely impact on the amenity of adjoining and neighbouring properties as outlined in the following subsections.</p> <p><b>Visual Bulk</b></p> <p>The design responds to the location of the existing taller built form elements on site – at the south western corner of the site and stepping down Coogee Bay Road – to ensure that building bulk and</p>
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view amenity impacts to surrounding residential properties and the public domain are avoided.

In *Britely Property Pty Ltd v Randwick City Council* (No 2) [2020] NSWLEC 1389, in considering the objective, Commissioner Dickson notes (at [103]):

*'I am satisfied that the approach required by the test in cl 4.6 of LEP 2012 is not a comparison between the merits of a complying scheme and the proposed scheme to determine if the development achieves the objectives of the standard'.*

The proposal preserves the visual quality of the Coogee Bay Hotel as an important landmark by retaining the original heritage pub building (despite its existing height contravention). A six metre publicly accessible laneway separates the taller mixed use component which will sit comfortably at the west of the site replacing the current boutique hotel building and other low quality buildings along Vicar Street.

The residential element of the proposal generally maintains the existing two storey street wall along the Coogee Bay Road before stepping up to three storeys at the corner of Vicar Street to create a distinct street corner. The heritage facades of the original pub and Coogee Bay Road are maintained with buildings not considered to not have heritage significance towards Vicar Street replaced with contemporary development. The contemporary building has been designed to retain a similar verticality to maintain the streetscape character.

The upper levels above the 10.5 metre street wall are setback then stepped, with a minimum 6.2 metre setback for Level 4 and a 9.5 metre setback at Level 5. Level 5 provides one residential dwelling and rooftop plant areas which are generally located in the location of the existing boutique hotel.

As shown in **Figure 11**, the recess to the upper levels reduces the massing of the building and ensures the proposal does not overwhelm the pedestrian scale of the street. A change in materiality and colour from solid masonry stone and brick clad to zinc sheet defines the upper levels as a light weight structure, independent in massing and design from the lower levels.

The setback areas of the stepped form incorporate private balconies, landscaped roofs and perimeter edge planting which add depth and contrast to the massing of the building to ameliorate visual bulk. In addition, vertical indents are provided along the western façade to modulate and further breakdown the building's interface with Vicar Street and ensures that there is no amenity impact arising from the perception of visual bulk.

Overall, the contravention of the FSR control does not adversely impact on the amenity of adjoining and neighbouring land when compared to existing built form on site and maintains a three-storey

street wall which reflects the intended streetscape character in the Coogee local centre.

### Privacy

The proposed shop top housing is set back a minimum of 7.735 metres from the boundary adjacent to the residential building at 17 Vicar Street, with an increased setback at Level 4 and 5 of 13 to 16 metres. This provides adequate building separation in accordance with the requirements of the Apartment Design Guide (ADG). The main living areas and balconies of the southern wing of the development have been oriented east or west and therefore away from 17 Vicar Street.

The proposal is separated across Vicar Street from residential dwellings on the western side of the street. The residential dwellings above the 12m height limit will look over the top of the immediately adjacent dwellings to the west and will cause no greater privacy impact than that generated by the existing boutique hotel building presently on the site.

The proposed southern hotel wing has considered privacy impacts on the adjacent 230 Arden Street residential building. This overall built form improves the acoustic impacts associated with the existing beer garden to the adjacent residential building.

Privacy amenity impacts to surrounding dwellings have therefore successfully been avoided through building design and the height non-compliance will not detrimentally impact the visual privacy of neighbouring properties.

In summary, the proposed development does not adversely impact on the amenity of adjoining and neighbouring land in comparison to a compliant built form and provides sufficient separation and acoustic measures to maintain visual and acoustic privacy.

Figure 11 North Elevation



Source: Fender Katsalidis

### View Sharing

Revised View Sharing Addendum Report (**Appendix B**) was prepared to inform the overall massing of the proposed development in collaboration between Urbis and ae design partnership.

As shown earlier in **Figure 3**, the site sits in a low central bowl surrounded by sloping topography. The visual catchment is therefore constrained and views to scenic and valuable features from the public domain, including Arden Street, Goldstein Reserve and Coogee Bay would remain unaffected by the proposed development.

As outlined in the Heritage Impact Statement prepared by Weir Phillips, no significant view corridors to or from nearby heritage items will be impacted by the development.

The massing of the building was also informed by detailed view impact analysis and has been prepared as part of ongoing discussions between the applicant and respondent's urban design experts ae design partnership and GMU respectively. A series of design changes respond to initial feedback provided by Council and the Sydney East Planning Panel in relation to DA 437/2021. Overall, the proposed massing represents a collective response to urban design and view issues which seek to retain access to the most highly valued parts of existing views for the closest and potentially most affected residents.

This impact analysis informed the location of building massing on the site which responds to:

- The height of the existing boutique hotel
- View lines to Wedding Cake Island
- View lines to Dolphin Point
- View lines to the northern headland of Coogee Beach.

To inform the Revised View Sharing Addendum Report, 27 dwellings were inspected and views from 18 dwellings were modelled using photomontages (prepared by Urbis) or accurate architectural overlays using survey data (prepared by Fender Katsalidis and ae design partnership).

Views were taken from 18 dwellings including representative locations selected and prepared by Urbis (refer to **Figure 12**). Seven additional views requested by Randwick City Council were prepared by ae design partnership (refer to **Figure 13**). All these 25 views were analysed in detail and assessed against the principles of *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 (Tenacity). The detailed view impact analysis of the proposed built form massing is contained in the View Analysis Assessment enclosed in **Appendix B**.

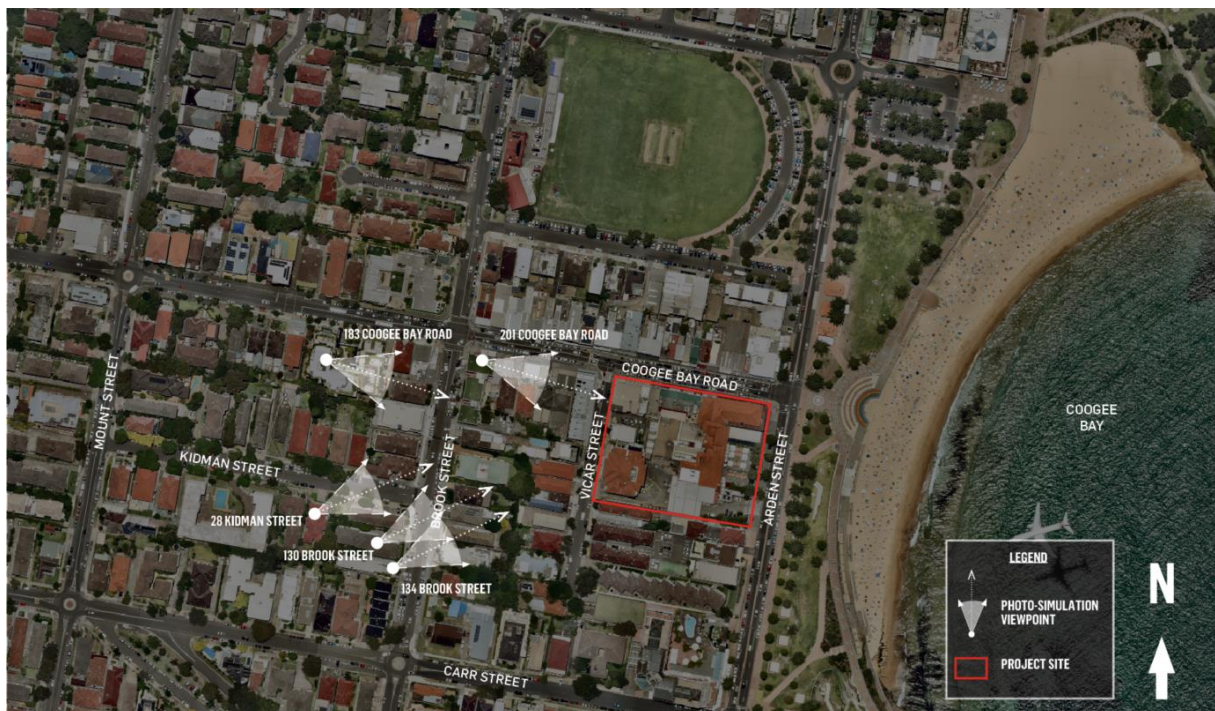


Figure 12 Photomontage locations undertaken by Urbis



Source: Urbis

Figure 13 Photomontage locations undertaken by ae design partnership



Source: Urbis

Given the wide visual catchment investigated as part of the design development for the site, and the resultant assessment of the view impact anticipated to be generated by the proposed building form, the overall visual impacts on neighbouring properties is considered negligible and is acceptable having regard to the level of analysis

undertaken to inform the proposed built form. Overall, the view corridor:

- Successfully promotes reasonable view sharing outcomes, as it allows for the retention of south-easterly views to the majority of Wedding Cake Island from close residential dwellings.
- Promotes access to views of open ocean and sea-sky horizon in easterly and north-easterly views.

The views identified in the Revised View Sharing Addendum Report represent the 'worst case' view from identified location, with dwellings generally retaining views to other locations in the locality which will not be impacted by the proposed development.

As noted by Roseth SC [at 26] in Tenacity:

*"Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured."*

This is not the case for any of the dwellings inspected, where the majority of views from each dwelling are largely unaffected and the scenic quality of the views are not predominantly characterised by highly valued features as defined in Tenacity.

Based on the ratings identified in paragraphs 26-29 of Tenacity, the proposed massing results in nil impacts for one dwelling, negligible or less view impacts for eight dwellings, negligible-minor view impacts for six dwellings, minor view impacts for two dwellings and a moderate view impact for one dwelling.

It is noted that the seven viewpoints requested for analysis by Council demonstrate no view loss to residents.

Three dwellings most affected by potential view loss include 5/119 and 1/113 Brook Street (minor) and 17 Vicar Street (moderate) noting that moderate is a mid-range rating using the Tenacity scale.

#### 5/119 Brook Street (refer to **Figure 14**)

The view impact rating is minor when considering all relevant factors including the quantum of view loss, the room types to be affected and availability of other, unaffected views from the whole dwelling and access via the side boundary and compliance with controls. New built form generally replaces existing built form with a minor additional loss of a short section of open water. The non-compliant element of the building largely affects only areas of undifferentiated water and a section of sea-sky horizon. These features are not considered to be scenic or highly valued in Tenacity terms compared to highly scenic whole views. The view impact for the whole dwelling is acceptable in the context of the wider views available, which remain unaffected.

#### 1/113 Brook Street (refer to **Figure 15**)

The view impact rating is minor when all relevant factors are considered. This includes consideration of the quantum and scenic quality of view loss, how the views are obtained and compliance with controls. In Tenacity terms, the view to be lost is not highly valued relative to other types of views identified in the planning principle. The partial view of open undifferentiated water is not part of a whole view that is predominantly characterised by scenic or highly valued feature such as land-water interface, icons or locally known unique features such as Dolphin Point or Wedding Cake Island. **All water views (scenic features) that are blocked by compliant massing below the 12 metre height control.** The additional massing sought creates minimal view loss and does not adversely impact this dwelling.

#### 17 Vicar Street (refer to Figure 16)

The moderate view impact for 17 Vicar Street is reasonable and acceptable given that it is entirely caused by built form which sits significantly below the LEP height control and is therefore fully compliant with controls that are relevant to view loss. Views to be lost are not considered as scenic or highly valued in Tenacity terms.

**All view loss is caused by massing which complies with the 12 metre height control and sits significantly below it.** This view loss will be experienced from a living area and first floor bedroom. **Importantly, no parts of the additional height sought as part of the Clause 4.6 variation are visible.**

As noted by Roseth SC [at 26] in Tenacity:

Views across side boundaries are acknowledged as being more difficult to retain by Roseth SC [at 27] in Tenacity. The loss of this partial predominantly characterised by the view loss does not create any significant view loss or view impacts and as such the view sharing outcome is positive, reasonable and acceptable. The partial view of open undifferentiated water is not part of a whole view that is predominantly characterised by scenic or highly valued feature such as land-water interface, icons or locally known unique features such as Dolphin Point or Wedding Cake Island. All water views (scenic features) are blocked by massing which is compliant with the LEP height development standard. On balance notwithstanding a moderate view impact rating overall, the view sharing outcome is acceptable.

In summary, when compared to a compliant building envelope it is demonstrated that:

- Out of 27 dwelling inspections, potential view loss was modelled for 18 dwellings and rated as minor or less in all cases except for one dwelling.
- The additional height and GFA sought in all views only blocks areas of sky or open water. No additional scenic or highly



valued features would be revealed through a further reduction in height or GFA.

- In the majority of views analysed (17 out of 18) the overall composition and scenic quality of views will not change significantly as a result of the proposed envelope. The moderate view impact for 17 Vicar Street is reasonable and acceptable given that it is entirely caused by built form which sits significantly below the height control therefore is fully compliant with controls that are relevant to view loss.
- The visual effects of the proposed envelope are low, the extent of view loss is minor or less for all but one dwelling, the upper and non-complying parts of the s34 proposed envelope predominately block features that are not scenic or combine to form highly valued views as defined in Tenacity.

Overall, views are maintained from the assessed viewpoints to the key landscape and coastal elements, in a manner commensurate with what would be achieved from a compliant building height (where existing built elements do not currently exceed these heights). Considering the likely view impacts across the subject site's immediate and wider potential visual catchment, based on the 25 representative views analysed and the low view impact ratings, the proposed development, with its contravention, does not adversely impact on the amenity of adjoining and neighbouring land in terms of views.

Figure 14 Current and proposed views from 5/119 Brook Street



Picture 4 Existing view

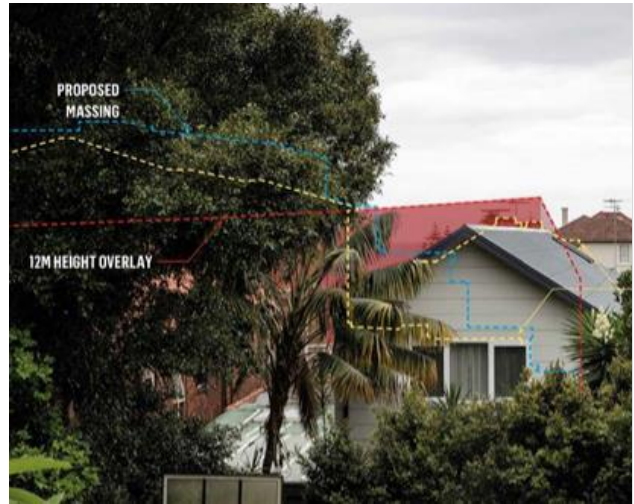


Picture 5 Proposed view (the views of undifferentiated water largely impacted by only height-compliant building mass)

Figure 15 Current and proposed views from 1/113 Brook Street



Picture 6 Existing view



Picture 7 Proposed view (only building form that is compliant with the height control is visible)

Figure 16 Current and proposed views from 17 Vicar Street



Picture 8 Existing view

Source: Urbis



Picture 9 Proposed view (only building form that is compliant with the height control is visible)

### Overshadowing

Shadow diagrams for the proposed development have been prepared Fender Katsalidis to address potential overshadowing impacts on adjacent properties. These diagrams demonstrate the following:

- During the morning period, the additional shadows will largely fall over Vicar Street to the west and south-west between 9am to 9.30am. There will be some limited overshadowing to the front setbacks of the residential properties on the western side of Vicar Street, however this is limited to before 9.30am and ensures that there is no material overshadowing to those properties on the western side of Vicar Street at midwinter. Minor additional overshadowing caused by compliant built form impacts the rear communal pen space of both 17 and 19 Vicar Street.



- Between 11am and 2pm, the proposed built form results in a reduction of shadow impacts on 17 Vicar Street with the top level receiving solar access to all windows.
- From 11am onwards, there will be some additional shadows to the private open space of 17 and 19 Vicar Street to the south. The additional shadows are supplemented by the reduction of shadows across both sites.
- Between 1pm and 3pm, the additional shadows will have minor impacts on the communal open space associated with 19 and 21 Vicar Street. The proposal will not adversely impact on the future redevelopment potential of these properties given these are largely unencumbered by shadows during the morning period (9am-12pm).

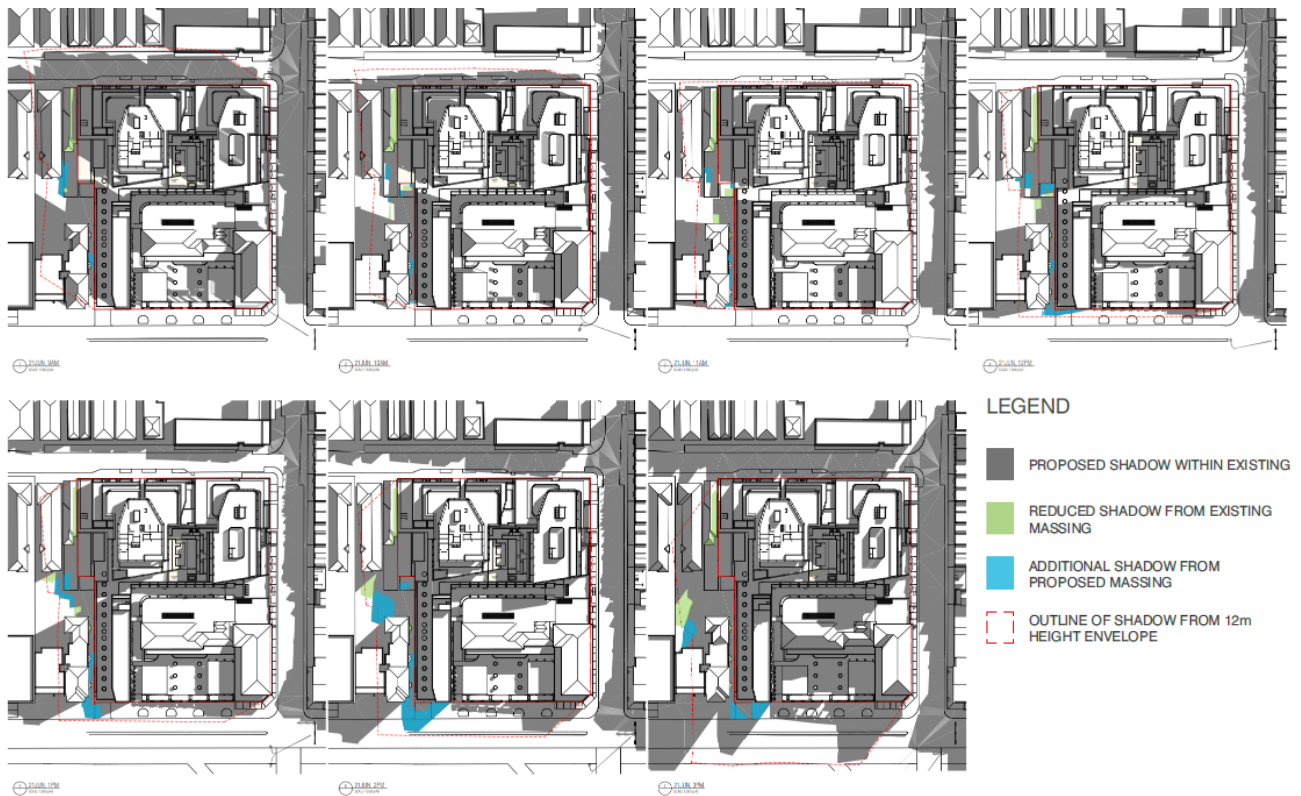
Further analysis was undertaken to address the potential impacts on 230 Arden Street (refer to **Figure 18** Figure 18) which is summarised below:

- At 9.00am, four windows are overshadowed compared to the existing built form. It is acknowledged that the additional shadow impact is caused by built form well below the 12 metre height plane.
- Between 10.00am to 12.00pm, three windows are partially overshadowed by built form which sits well below the 12 metre height plane. The proposed built form results in a reduction of shadows to the rear communal open space improving solar access.
- Between 1.00pm and 2.00pm, two windows are partially overshadowed by built form which sits well below the 12 metre height plane. There is improved solar access to the rear communal area.
- Between 2.00pm and 3.00pm, two windows are partially overshadowed by built form which sits well below the 12 metre height plane. The proposed built form also overshadows a portion of the rear communal area with the majority of the communal area already overshadowed by existing building. This is supplemented by improved solar access to the western portion of the communal space.

Considering the above, the proposed built form, with the proposed contravention, will not adversely impact on the amenity of adjoining and neighbouring land in terms of overshadowing.

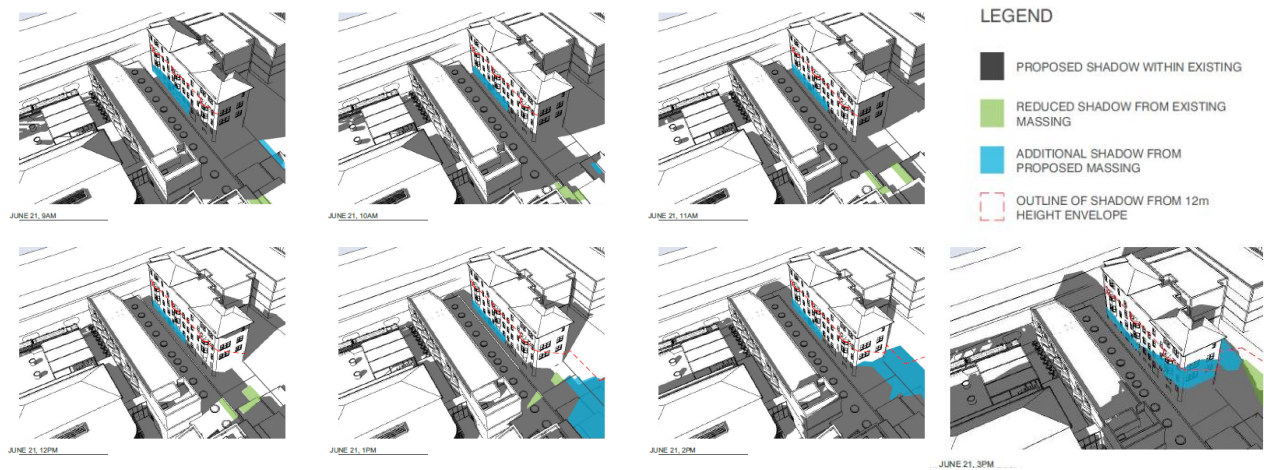
This view is reached based on the analysis carried out for residential properties during the Winter Solstice on June 21. The shadow diagrams indicate that the proposal including non-compliant built form will not result in any additional overshadowing during the Spring Equinox (22 September) or the Autumn Equinox (22 March).

Figure 17 Proposed shadow diagrams for mid winter



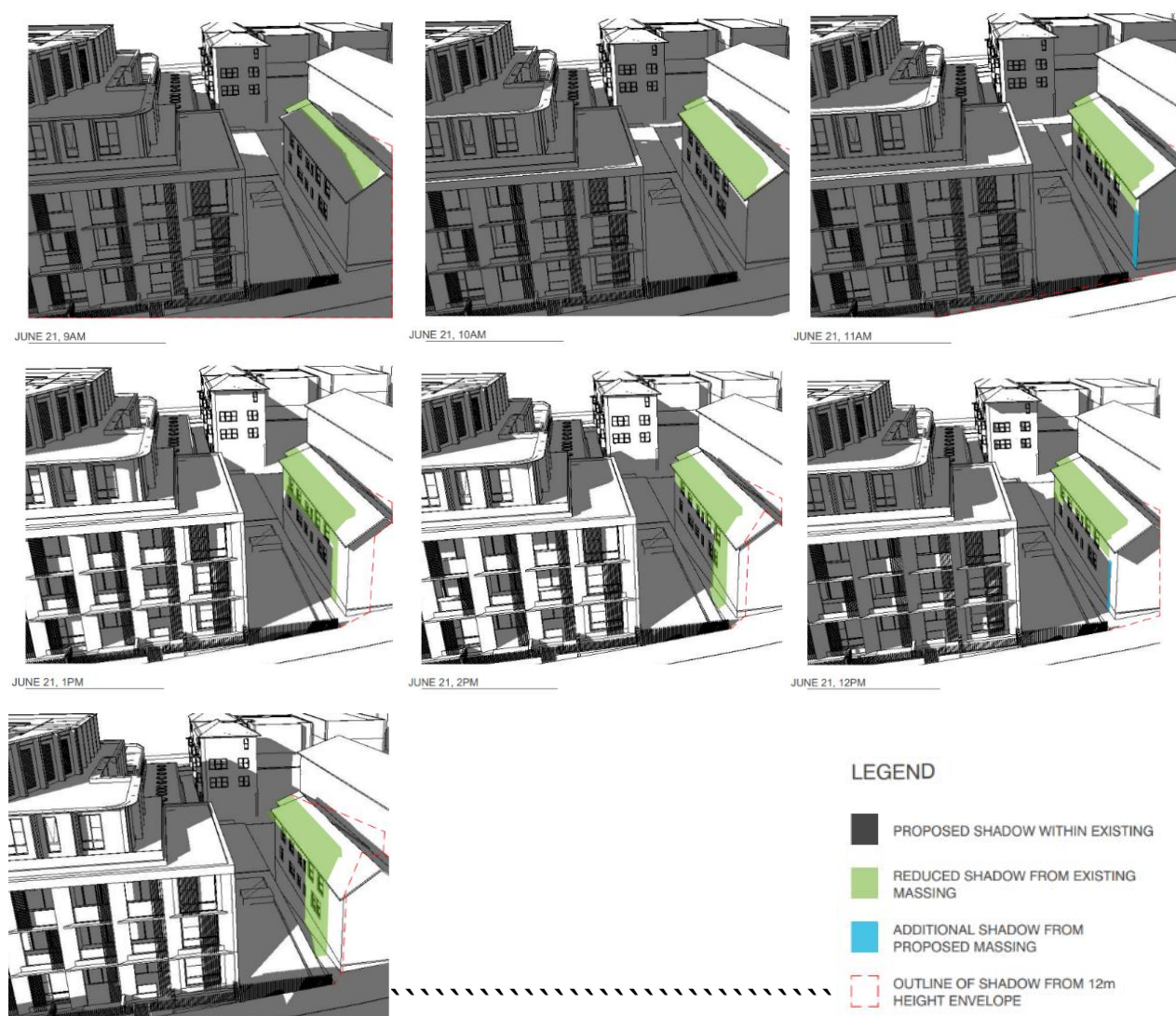
Source: Fender Katsalidis

Figure 18 Proposed shadow diagrams for mid winter – Impacts on 230 Arden Street



Source: Fender Katsalidis

Figure 19 Proposed shadow diagrams for mid winter – Impacts on 17 Vicar Street



Source: Fender Katsalidis

Based on the analysis contained in **Table 4**, the objectives of the development standard are achieved, notwithstanding the non-compliance with the standard.

- **The underlying object or purpose would be undermined, if compliance was required with the consequence that compliance is unreasonable** (the third method in *Wehbe v Pittwater Council* [2007] NSWLEC 827 [42]-[43] as applied in *Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24])

Two objectives of the development standard would be undermined if compliance was required.

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

The proposed FSR non-compliance permits a redistribution of the building mass anticipated by the planning controls away from the Coogee Bay Hotel. This:

- allows for outdoor dining to be retained as well as the expansion of retail and tourism uses on site; and
- maintains a significant portion of heritage fabric along Coogee Bay Road with adequate separation between heritage elements and the four and five storey residential wings towards the west of the site.

The redistribution of building mass maintains the understanding of this heritage item and the contribution that the site makes to Coogee

Bay. The design approach respects the heritage components of the site and acknowledges the sense of identity Coogee Bay Hotel presents to the community, present and past.

A design approach that sought to deliver the gross floor area anticipated for the site within in a height compliant envelope would be suboptimal — and would undermine this objective.

It would likely involve a reduction in the size of the outdoor dining area and/or a reduction (or removal) of the proposed separation between the new building form to the west and the existing Coogee Bay Hotel.

The demolition of the non-compliant existing Coogee Bay Hotel roofline would seriously degrade the heritage significance of the hotel and would thwart the achievement of this objective.

*(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.*

The proposal will deliver significant public benefits, including the reinvigoration of the iconic pub in a manner that more closely caters to the lifestyle and demands of the local community, significant improvements to the public domain interface of the local centre and delivery of a publicly accessible and vibrant 'eat street' precinct.

By not exploiting the potential height and associated additional GFA for these portions of the development there is an improved amenity impact on the adjoining and neighbouring land, in terms of reduced visual bulk.

### **6.3. ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD? – CLAUSE 4.6(3)(B)**

The Land & Environment Court judgment in *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, assists in considering whether there are sufficient environmental planning grounds to justify a variation from the development standard. Preston J observed:

*“...in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and*

*...there is no basis in Clause 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development”*

Strict compliance with the development standard would not deliver any meaningful benefits to the owners or occupants of the surrounding properties or the general public in the particular circumstance and would lead to a suboptimal outcome in land use planning terms.

The proposed gross floor area exceedance for the overall site is 736.5sqm.

The western portion lot is proposed to accommodate 9,176sqm, at a floor space ratio of 1.88:1 (a 25 per cent increase on the permitted floor space ratio of 1.5:1).

The eastern portion lot is proposed to accommodate 4,312sqm, at a floor space ratio of 1.19:1 (a 20.6 per cent **reduction** on the permitted floor space ratio of 1.5:1).



If the floor space ratio standard was to be applied to the overall site, the variation solely relates to the additional 736.5sqm (being the 6 per cent variation).

However, applying the decision in *Lam and Marrickville Development No 3* we need to consider the western portion and the eastern portion lot separately. On this basis the proposed contravention relates to the western portion lot only (at 25 per cent variation). This contravention should be seen in the context that the eastern portion lot is to be 20.6 per cent below the maximum floor space ratio.

There are two distinct aspects as to why there are sufficient environmental planning grounds to justify the contravention of the floor space ratio standard.

Firstly, the contravention is, in part, justified by a sympathetic redistribution for planned gross floor area from the eastern portion lot to the western portion lot.

Secondly, the contravention is, in part, justified by the proposed demolition and replacement of the height non-compliant boutique hotel (the replacement being termed the 'south wing' in the Request).

In relation to the first aspect of the justification, the planned building mass is being shifted from the eastern portion lot to the western portion lot to:

- Achieve the planned level of intensity for the overall site (noting that the 736.5sqm overall site exceedance is separately justified below);
- Provide for the retention of the Coogee Bay Hotel;
- Avoid any proposal to add substantial structures to the existing form of the Coogee Bay Hotel; and
- Ensure an appropriate setting for the Coogee Bay Hotel (including the retention of the outdoor dining area).

The redistribution of building mass maintains the understanding of this heritage item and the contribution that the site makes to Coogee Bay. The design approach respects the heritage components of the site and acknowledges the sense of identity Coogee Bay Hotel presents to the community, present and past.

**Figure 20** and **Figure 21** below show the proposed relationship between the existing Coogee Bay Hotel on the eastern part of the site and the proposed new built form on the western part of the site.

Figure 20 Proposed site plan perspective looking east to Coogee Beach



Source: Fender Katsalidis

Figure 21 Proposed site plan perspective looking west



Source: Fender Katsalidis

A proposal that complied with the floor space ratio controls for each of the two proposed new lots to be created would not allow this sympathetic re-massing of planned gross floor area to occur. If the planned gross floor area for the site were to be achieved (which is desirable given the site's proximity to transport and services) it would necessitate far more intrusive works in and around the Coogee Bay Hotel heritage building.

In relation to the second aspect of the justification, the current permitted floor space ratio (1.5:1) should be assumed to have been set in harmony with the current maximum permitted building height (12 metres). That is, the RLEP assumes that, generally speaking, a built form of 1.5:1 may be reasonably delivered within the constraints of the 12-metre height limit.

Where there is an existing building that is proposed to be replaced and that existing building protrudes above the height plane, a variation to height and floor space ratio standards may be justified to facilitate that replacement. This is particularly the case when the proposed replacement building represents a better outcome than the existing building.

Drawing numbers SK125.1-SK125.3 illustrate and provide calculations for:

- Proposed gross floor area above the 12-metre height plane generally in the location of the existing boutique hotel (the south wing);
- Proposed gross floor area above the 12-metre height plane to northern wing; and
- Existing gross floor area above the 12-metre height plane boutique hotel.

These drawings form part of the clause 4.6 Request (as Appendix C).

The proposed gross floor area that is contained within the height contravention of the proposed south wing is 1,871sqm.

The 736.5sqm floor space ratio overall site exceedance can, therefore, be **entirely** attributed to 39 per cent of the non-height compliant part of the south wing.

To be clear, only 736.5sqm of additional non-compliant gross floor area is facilitated by the height contravention. This is less than the 878sqm in gross floor area that is contained within the existing boutique hotel's exceedance of the 12-metre height plane.

The south-wing height non-compliance is illustrated in **Figure 22** below.

Figure 22 12 metre height plane of Vicar Street southern wing



Picture 10 Vicar Street southern wing (south east view)

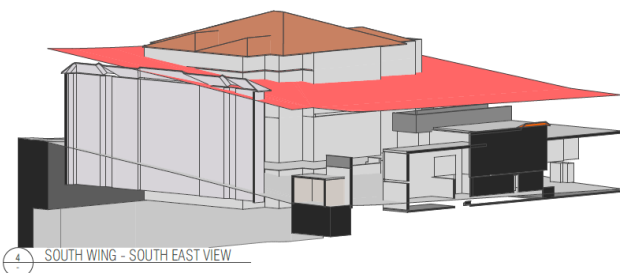
Source: Fender Katsalidis



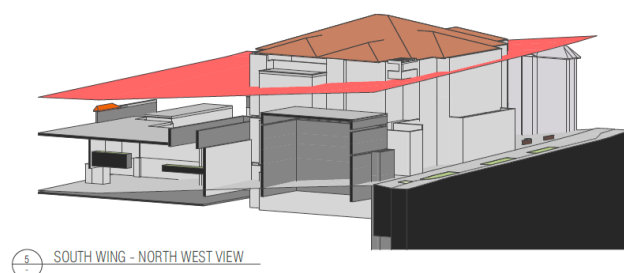
Picture 11 Vicar Street southern wing (north west view)

The south wing height non-compliance is situated in generally the same location as the existing non-height compliant boutique hotel. The existing 19-metre high boutique hotel is shown (in the context of the whole site) in **Figure 5** above. **Figure 23** below shows the existing non-compliant height with greater detail.

Figure 23 Existing boutique hotel height-non-compliance



Picture 12 Existing Boutique Hotel (south east view)



Picture 13 Existing Boutique Hotel (north west view)

Source: Fender Katsalidis

The proposed development has — in respect of the south wing non-compliance — been designed to have no material additional adverse impact in terms of visual bulk, loss of privacy, overshadowing and views beyond that caused by the existing boutique hotel (which would be demolished).

Additionally, the boutique hotel is less compatible with the desired future character of the locality than the proposed replacement building form. Vicar Street is currently populated by a loose arrangement of unrelated built form with inactive openings. This is a long frontage and merits a new, active and diverse set of buildings along it. The new built form maintains a 10.5 metre street wall with the fourth floor set back approximately 6.2 metres and the fifth storey element set back 9.5 metres. The overall design and dual lobbies allow the building to present as two separate buildings when viewed from the street with distinct materiality and articulation used for each wing to reflect the changing character from Coogee Bay Road to Vicar Street. The proposal has also been specifically designed with consideration of the importance of the Coogee Bay foreshore public spaces and prominent scenic landmarks including Dolphin Point and Wedding Cake Island.

The demolition of the boutique hotel and its replacement with the proposed new built form that:

- Is more compatible with the desired future character of the locality;
- Is no less compatible with the scale and character of heritage contributory buildings on the site;
- Has no material additional adverse impact in terms of the visual bulk, loss of privacy, overshadowing and views than the existing boutique hotel; and
- Is of planning benefit to the community.

It is established in the Land and Environment Court that a clause 4.6 request seeking a contravention may be upheld on the basis that the proposed non-compliant form will replace (and is superior to) an existing non-compliant form.

In *Citrus Pty Ltd v Inner West Council* [2019] NSWLEC 1558 Senior Commissioner Dixon considered a clause 4.6 request seeking a height contravention for a new advertising sign that was to replace an existing non-compliant advertising sign. The new sign had a similar scale and was in proportion to the existing building with signage (at [51]). The finish and appearance of the signage was to have a relationship to the associated building design and streetscape. The written request demonstrated that the proposal would not change any important features of the building or existing streetscape and thereby would not dominate the streetscape or skyline (at [51]-[52]). The proposal would also remove a roof sign and reduce the existing visual clutter (at [54]).

Importantly, the fact that the proposal was adding visual interest by replacing the existing (non-compliant) outdated, bulky signage format was considered relevant when establishing whether there were sufficient environmental planning grounds to justify the contravention (at [52]). The clause 4.6 request was upheld (at [59] and [97]).

The facts on the south wing aspect of this matter are plainly analogous to those in *Citrus*. In particular:

- The new south wing has a similar scale and massing to the existing boutique hotel;
- The finish and appearance of the new building fits in well with the streetscape and will have a positive visual impact (relative to the existing non-compliant built form);
- The new building is of a more contemporary (and superior) design and is better adapted to modern needs;
- The south wing component of the building will not dominate the streetscape or skyline; and
- The overall development provides for new modern hotel space on site.

If the floor space ratio contravention is not approved in relation to the south wing, it will inevitably mean that the existing boutique hotel will remain and the planning benefits from the re-development of this aspect of the site will be lost.

The proposed additional GFA above the 1.5:1 FSR is less than is already approved on the site by DA599/95 (but is distributed in a way that enables the site to provide improved public benefits to the community). DA599/95 has been physically commenced. The proponent commits not to construct new works under the existing development consent and, if development consent to this application is granted and acted upon, to surrender the consent prior to the issue of the final occupation certificate for the new development.

Additionally, the increased GFA made possible by the contravention affords public benefits for the local and broader community and reflects the desired future character of Coogee.

The Coogee Local Centre is envisioned in Randwick Local Strategic Planning Statement (**LSPS**) to transform into an 'Iconic Open Space and Recreation & Tourist Hub'. The existing Coogee Bay Hotel is an established, well-known destination and the retention and upgrades to this historic landmark will directly benefit the local and broader community.

In brief, the built form (when improvements are compared to the likely compliant built form) achieves the desired future character for the area, is consistent with the objectives of clause 4.4 and is a superior outcome for the site (when compared with the likely compliant development).

Additionally, the proposed development, notwithstanding the non-compliance with the floor space ratio standard, better achieves important statutory goals (when compared with a compliant development). The superior outcome, in terms of statutory planning goals, combined with the absence of meaningful additional adverse environmental impacts are environmental planning grounds that justify the contravention.

The relevant environmental grounds and the statutory planning goals achieved are as follows:

- The contravention is consistent with the objects of the *Environmental Planning and Assessment Act 1979* by promoting the orderly and economic use and development of the land and promoting and delivering good design and amenity. This is achieved by delivering the planning level of intensity for the overall site (plus an additional 736.5sqm of gross floor area associated with the replacement of the existing boutique hotel), whilst avoiding any more intrusive development affecting the Coogee Bay Hotel heritage building.
- The proposed distribution of building mass is superior to one that would be necessitated by a compliant development. This achieves the key objectives below:
  - The following objectives of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**):



- Section 1.3(c) to 'promote the orderly and economic use and development of land';
  - Section 1.3(g) to 'promote good design and amenity of the built environment'.
- The following aims of the RLEP:
- Clause 1.2(2)(a) to 'foster a liveable city that is accessible, safe and healthy with quality public spaces and attractive neighbourhoods and centres';
  - Clause 1.2(2)(b) to 'support a diverse local economy and business and employment opportunities for the community';
  - Clause 1.2(2)(c) to 'support efficient use of land, vibrant centres, integration of land use and transport, and an appropriate mix of uses'; and
  - Clause 1.2(2)(d) to 'achieve a high standard of design in the private and public domain that enhances the quality of life of the community'.
- The proposed development achieves the objectives of the development standard prescribed in clause 4.4 of the RLEP, as described in **Section 6.2** above and achieves the objectives of the B2 Local Centre zone as described within **Section 6.5** below. The proposal seeks to reinvigorate the operation of the Coogee Bay Hotel site and adjacent foreshore by creating a new space for the community with a modern, family friendly focus. It will also provide an opportunity to redevelop the western portion lot with an intensity and mix of uses that is complementary to the character of this established town centre. The additional FSR being sought for the residential component will increase the opportunity for these objectives to be met while avoiding material adverse impacts upon the site and neighbouring sites. This achieves the key objectives below:
- The following objectives of the EP&A Act:
- Sections 1.3(c) and (g) as quoted above; and
  - Section 1.3(f) to 'promote the sustainable management of built and cultural heritage';
- The following aims of the RLEP:
- Clauses 1.2(2)(a), (b), (c), (d) as quoted above;
  - Clause 1.2(2)(i) to 'protect and enhance and protect the environmental qualities of Randwick';
  - Clause 1.2(2)(j) to 'ensure the conservation of environmental heritage, aesthetic and coastal character of Randwick';
  - Clause 1.2(2)(l) to 'promote an equitable and inclusive social environment'; and
  - Clause 1.2(2)(m) to 'promote opportunities for social, cultural and community activities.
- The proposed FSR (1.58:1) is less than the FSR previously approved for the site (1.84:1) under development consent DA599/95. That consent has been activated through the construction of the boutique hotel and could therefore be completed. The current proposal provides far superior public benefits including greater visual separation and appreciation of the heritage buildings within the site, improved pedestrian connections through the site, including the delivery of the eat street precinct and associated retail tenancies. The range of land uses are also considered to be more complementary to the local centre compared to the previous approval and will directly benefit the local and broader community. This achieves the key objectives below:
- The objectives in Sections 1.3(c) and (g) of the EP&A Act as quoted above; and
- The aims in clauses 1.2(2)(a), (b), (c), (d) (i) and (j) of the RLEP as quoted above.
- There are unique circumstances at the site which warrant the provision of increased massing, including:
- The presence of a historic landmark within the site, which must be protected and allow an appreciation of this prominent and iconic asset.
  - The significant size of the site, which is positioned along the main street, centrally within the local centre and at a low point of the valley. This allows for a contravention that, on smaller sites, would

normally adversely impact on adjoining and neighbouring land. The size of this site better allows for the management of impacts within the site.

The proposed development (with its non-compliance with the floor space ratio development standard) has been carefully designed taking into consideration these unique characteristics of the site to avoid adverse impacts upon the site and its surroundings. This achieves the key objectives below:

- The objectives in Sections 1.3(c), (f) and (g) of the EP&A Act as quoted above; and
- The aims in clauses 1.2(2)(d), (i) and (j) of the RLEP as quoted above.
- The additional GFA made possible by the contravention will not result in detrimental environmental impacts having regard to the following:
  - The holistic approach to the redevelopment of the site results in an improved relationship between built form on the site and the setting of the heritage item.
  - The proposed development maintains adequate solar access to the surrounding public domain and neighbouring residential properties.
  - The proposed street wall height preserves the integrity of the streetscapes, and has been designed to respond sensitively to the scale, form and materiality of the desired future character. The proposed development retains the street corners and addresses the various street frontages and new through-site link with visually interesting facades.
  - The placement of built form in the areas of existing taller elements within the site results in limited view sharing impacts. Whilst the proposal will result in some changes to the views from neighbouring properties, many of these changes are plainly beneficial. Overall, the development does not adversely impact on the amenity of adjoining and neighbouring land in terms of loss of views.

As noted above, this promotes good design and amenity of the built form and achieves the key objectives below:

- The objectives in sections 1.3(c) and (g) of the EP&A Act as quoted above; and
- The aims in clauses 1.2(2)(d), (i) and (j) of RLEP as quoted above.

The contravention will better allow the re-development of the site to contribute to the revitalisation of the Coogee local area for the following reasons:

- The increased residential densities proposed on the site, will increase the demand for local businesses and services and therefore generate additional retail spending.
- The contravention will better allow for a mix of proposed residential development that provides additional housing choice suitable for the range of households in the area, including young families, retirees and individuals. This will support a diverse population. The additional GFA facilitates this as well as ensuring that adequate retail and commercial services are also provided to meet the needs of these households. This achieves the key objectives below:
  - in the *Environmental Planning and Assessment Act 1979* (EP&A Act) – the objectives in sections 1.3(c), (g) and (h) as quoted above; and
  - in the RLEP 2012 – the aims in
    - clauses 1.2(2)(b), (c), (d), (i) and (j) as quoted above; and
    - clause 1.2(2)(f) to ‘facilitate sustainable population and housing growth’; and
    - clause 1.2(2)(g) to ‘encourage the provision of housing mix...that meets the needs of people of different ages and abilities in Randwick’.

In summary, there are sufficient environmental planning grounds to justify contravening the development standard.

For completeness we note that the size of the variation (6% for the overall site and 25% for the western portion lot) is not in itself, a material consideration as whether the variation should be allowed. There is no constraint on the degree to which a consent authority may depart from a numerical standard under clause 4.6: *GM Architects Pty Ltd v Strathfield Council* [2016] NSWLEC 1216 at [85].

Some examples that illustrate the wide range of commonplace numerical variation to development standards under clause 4.6 (as it appears in the Standard Instrument) are as follows:

- In *Baker Kavanagh Architects v Sydney City Council* [2014] NSWLEC 1003 the Land and Environment Court granted a development consent for a three storey shop top housing development in Woolloomooloo. In this decision, the Court, approved a floor space ratio variation of 187 per cent.
- In *Abrams v Council of the City of Sydney* [2019] NSWLEC 1583 the Court granted development consent for a four-storey mixed use development containing 11 residential apartments and a ground floor commercial tenancy with a floor space ratio exceedance of 75 per cent (2.63:1 compared to the permitted 1.5:1).
- In *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386, the Land and Environment Court approved a residential flat building in Randwick with a 55 per cent exceedance of the height limit (at its highest point) and a 20 per cent exceedance of the floor space ratio control.
- In *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 the Court granted development consent to a six-storey shop top housing development with a floor space ratio exceedance of 42 per cent (3.54:1 compared to the permitted 2.5:1).
- In *Artazan Property Group Pty Ltd v Inner West Council* [2019] NSWLEC 1555 the Court granted development consent for a three storey building containing a hardware and building supplies use with a floor space ratio exceedance of 27 per cent (1.27:1 compared to the permitted 1.0:1).
- In *Stellar Hurstville Pty Ltd v Georges River Council* [2019] NSWLEC 1143 the Land and Environment Court granted development consent for 12-storey residential tower, on the basis of a clause 4.6 request, with a floor space ratio exceedance of 8.3 per cent.
- In *88 Bay Street Pty Ltd v Woollahra Municipal Council* [2019] NSWLEC 1369 the Land and Environment Court granted development consent for a new dwelling house, swimming pool and landscaping at 6 Bayview Hill Road, Rose Bay with a height exceedance of 49 per cent (14.16m compared to the permitted 9.5m).
- In *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582, the Court granted a development consent for a residential flat building. In this decision, the Court approve a floor space ratio variation of 85 percent (from 0.65:1 to 1.21:1).

In short, clause 4.6 is a performance-based control so it is possible (and not uncommon) for large variations to be approved in the right circumstances.

## **6.4. HAS THE WRITTEN REQUEST ADEQUATELY ADDRESSED THE MATTERS IN SUB-CLAUSE (3)? – CLAUSE 4.6(4)(A)(I)**

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

Each of the sub-clause (3) matters are comprehensively addressed in this written request, including detailed consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The written request also provides sufficient environmental planning grounds, including matters specific to the proposal and the site, to justify the proposed variation to the development standard.

## **6.5. IS THE PROPOSED DEVELOPMENT IN THE PUBLIC INTEREST? – CLAUSE 4.6(4)(B)(II)**

Clause 4.6(4)(a)(ii) states development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the proposal will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the zone.

The consistency of the development with the objectives of the development standard is demonstrated in **Table 5** above. The proposal is also consistent with the land use objectives that apply to the site under RLEP 2012. The site is located within the B2 Local Centre zone. The proposed development is consistent with the relevant land use zone objectives as outlined in **Table 6** below.

Table 6 Assessment of compliance with land use zone objectives

Objective	Assessment
<p><i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i></p>	<p>The proposal includes a range of commercial and residential uses together with an improved hotel and pub offering within the site. The contravention of the FSR control allows for additional residential development to be provided above the activated ground plane in the location of existing hotel and residential accommodation. The proposal will also result in improved hotel facilities on site and the introduction of a new eat street precinct which provides a through site connection between Coogee Bay Road and Arden Street.</p> <p>Overall, the proposal would result in the following benefits:</p> <ul style="list-style-type: none"> <li>▪ Significant improvement in the range of retail and non-retail facilities that would be available to residents of the Coogee local centre.</li> <li>▪ The proposed development incorporates a limited provision of retail specialty shops and thus residents will continue to frequent other centres/shops in the surrounding area, for a broader retail selection. In addition, the proposed retail specialty floorspace will provide greater choice for residents of Coogee and the surrounding suburbs.</li> <li>▪ The creation of additional employment which would result from the project, both during the construction period, and more importantly, on an ongoing basis once the development is complete and operational.</li> </ul>
<p><i>To encourage employment opportunities in accessible locations.</i></p>	<p>The proposal will facilitate the creation of new jobs within the development, which is close to transport connections to other centres and employment opportunities.</p> <p>The FSR exceedance allows for additional residential accommodation on site while still allowing for an activated ground floor level fronting the main street of Coogee Bay Road. The exceedance of FSR associated with the new southern wing of the hotel provides additional rooms for hotel guests to assist with the ongoing operation of the hotel.</p> <p>Overall, the proposal will expand upon the existing level of employment provided by the Coogee Bay Hotel and other existing premises. It is anticipated that approximately 90 ongoing jobs will be created as a result of the proposal. It is estimated that an additional 790 jobs will be created indirectly from the proposal.</p> <p>The development will deliver residential accommodation in an area of high accessibility and amenity, as part of a genuine mixed use development. The increased residential densities proposed on the site will increase the demand for local businesses and services.</p>
<p><i>To maximise public transport patronage and encourage walking and cycling.</i></p>	<p>Coogee is a highly accessible local centre within the Randwick LGA. The proposed development provides a mix of uses on the ground floor providing a more diverse range of land uses on site available for public use.</p>

Objective	Assessment
	<p>The high frequency of buses available on Arden Street frontage provide access to other local and strategic centres and employment hubs including:</p> <ul style="list-style-type: none"> <li>▪ 370 - Leichhardt via Glebe, Newtown, University of NSW and University of Sydney</li> <li>▪ 372 - Central Station via Surry Hills and Anzac Parade</li> <li>▪ 373 - Circular Quay via Elizabeth Street, Oxford Street and Anzac Parade</li> <li>▪ 374 - Circular Quay via Elizabeth Street, Central Station, Surry Hills and Anzac Parade</li> <li>▪ 353 - Eastgardens/Bondi Junction via Maroubra</li> <li>▪ X73 - Museum Station via Randwick Shopping Centre.</li> </ul> <p>The site's proximity to Coogee Beach and iconic coastal walking tracks including the 6km Bondi to Coogee Coastal Track, encourages walking and active lifestyles.</p> <p>The proposed development seeks to contribute to attractive streetscapes, providing opportunity for walking and cycling. New links and pedestrian connections are proposed through the site including an eat street precinct improving pedestrian connections and activation of the site compared to the current vacant buildings and at-grade parking and loading dock located in the middle of the site. The publicly accessible laneway linking Coogee Bay Road to Arden Street and retail offerings along Coogee Bay Road will provide active frontages with commercial premises to maximise street surveillance and reflect the current character of the area.</p>
<p><i>To enable residential development that is well-integrated with, and supports the primary business function of, the zone.</i></p>	<p>Residential accommodation is proposed in the form of shop-top housing. The design is integrated with a mix of uses on site and supports the commercial operation of ground floor tenancies. Introduction of residential accommodation on the site, to the extent proposed, will ensure that the range of employment uses on the site including the Coogee Bay Hotel can continue to operate in a successful and responsible manner, catering to the lifestyle and market demand expected of an operation in this location.</p> <p>FSR analysis undertaken by Fender Katsalidis has identified a number of properties within the B2 Local Centre which exceed the 1.5:1 FSR control. These properties are generally shop-top housing providing ground floor retail premises with one to storeys of residential accommodation above.</p>
<p><i>To facilitate a high standard of urban design and pedestrian amenity that contributes to</i></p>	<p>The proposal has been designed to respond to the heritage significance of the site and the surrounding streetscape and public domain character, whilst also increasing activation of the ground floor plane. The proposed development maintains compliance with the 10.5 metre street wall requirement reflecting the fine-grained pattern and rhythm of the</p>



Objective	Assessment
<p><i>achieving a sense of place for the local community.</i></p>	<p>streetscape along Coogee Bay Road. The design and materiality of the podium facades contribute to the modulated and regular proportioning of shopfronts, which will contribute to the streetscape character and sense of place along Coogee Bay Road. Residential accommodation above the street wall is set back to emphasise the streetscape character of the Coogee village centre.</p> <p>It has been an intentional design decision not to replicate the red brick of the adjoining heritage pub along the Coogee Bay Road and Vicar Street corner, but rather compliment the material by choosing lighter colours which relate to the geology of the Coogee Bay area while retaining the brickwork along Coogee Bay Road. Further along Vicar Street and opposite the surrounding residential flat buildings, red brick and concrete is introduced to respond to the local fine grain of the neighbourhood and create two distinct built forms along Vicar Street.</p> <p>Improvements to the public domain interface will be realised along Coogee Bay Road and Vicar Street including the introduction of a publicly accessible laneway and associated eat street precinct. The new 5-6 metre wide laneway will encourage ground level engagement and draw pedestrians into the site. It is intended that the new eat street will provide a new public place for the local community, whilst revitalisation of the pub and beer garden will improve the amenity and experience of pub patrons.</p>
<p><i>To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.</i></p>	<p>A careful design response has ensured that the proposed development is replacing the existing taller elements in the site. Further, the scale of upper levels has been reduced through increased setbacks and use of lightweight materials, which will result in a reduction in visual impacts on neighbouring properties and from the public domain.</p> <p>The new development introduced along the western and southern boundaries will result in some view loss from neighbouring residents, however on balance views from surrounding properties will be relatively unaffected with the proposed development located in areas where taller buildings are already present on site. The proposal will also result in a beneficial view sharing outcome for some dwellings.</p> <p>The proposed development demonstrates a high level of consistency with the Apartment Design Guide. Where minor variations to numerical standards are proposed, consistency with the relevant objectives have been demonstrated. As highlighted previously, overshadowing and privacy impacts on adjoining properties will be minimised and potential acoustic impacts from the future operation will be ameliorated through the implementation of acoustic screening.</p>
<p><i>To facilitate a safe public domain.</i></p>	<p>The proposal will deliver a vibrant public domain that is highly accessible for future site users and provides a pedestrian oriented environment with a high degree of permeability.</p> <p>The street frontages and eat street precinct incorporate active retail uses which spill out onto the public domain to provide passive</p>

Objective	Assessment
	<p>surveillance for future uses. The residential apartments located above public domain areas offer additional passive surveillance opportunities.</p> <p>The proposal will assist with creating a safer day and night-time environment by removing Selina's night club and transitioning the pub to a more welcoming environment for families. Plans of Management have also been prepared for the publicly accessible laneway, communal open spaces and the pub and function use on site to ensure ongoing safe operation and management of the site.</p>

The above table demonstrates the proposed development will be in the public interest notwithstanding the proposed variation to the FSR development standard as it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

## 6.6. HAS THE CONCURRENCE OF THE PLANNING SECRETARY BEEN OBTAINED? – CLAUSE 4.6(4)(B) AND CLAUSE 4.6(5)

The Secretary can be assumed to have concurred to the variation under Department of Planning Circular PS 20-005 'Variations to development standards', dated 5 May 2020. This circular is a notice under clause 64(1) of the *Environmental Planning and Assessment Regulation 2000*.

The Secretary can be assumed to have given concurrence as the matter will be determined by either the Land and Environment Court or a Sydney district planning panel in accordance with the Planning Circular.

The matters for consideration under clause 4.6(5) are considered below.

- **Clause 4.6(5)(a) – does contravention of the development standard raise any matter of significance for State or regional environmental planning?**

The proposed non-compliance with the FSR development standard will not raise any matter of significance for State or regional environmental planning. It has been demonstrated that the proposed variation is appropriate based on the specific circumstances of the case and would be unlikely to result in an unacceptable precedent for the assessment of other development proposals.

- **Clause 4.6(5)(b) - is there a public benefit of maintaining the planning control standard?**

The proposed development achieves the objectives of the FSR standard and the land use zone objectives despite the technical non-compliance.

It is considered that the strict maintenance of the standard in this instance does not have public benefit as the proposal will involve significant improvements to the public domain interface and streetscape character of the Coogee local centre. This could not be achieved by compliance with the FSR standard. The mix of land uses successfully integrated within the site will create a vibrant environment that will revitalise and stimulate the local economy. It is further noted that the proposal will directly generate employment within the locality.

There is no material impact or benefit associated with strict adherence to the development standard and there is no compelling reason or public benefit derived from maintenance of the standard.

- **Clause 4.6(5)(c) – are there any other matters required to be taken into consideration by the Secretary before granting concurrence?**

Concurrence can be assumed, however, there are no known additional matters that need to be considered within the assessment of the clause 4.6 variation request prior to granting concurrence, should it be required.

## 7. CONCLUSION

This variation request is made pursuant to clause 4.6 of the RLEP 2012. It is reasonable and appropriate to vary the FSR development standard under clause 4.4 to the extent proposed for the reasons detailed within this submission and as summarised below:

- Compliance with the FSR development standard is unreasonable and unnecessary in the circumstances of the proposed development.
- The proposal, notwithstanding the non-compliance, is consistent with the objectives of the FSR standard and the B2 Local Centre zone.
- FSR is generally consistent with other shop-top housing developments in the B2 Local Centre zone. FSR analysis undertaken by Fender Katsalidis demonstrates that a number of buildings within the B2 Local Centre zone have an FSR exceeding their respective FSR development standard of 1.5:1, ranging from 1.6:1 to 2.9:1. This analysis demonstrates that a range of buildings in the local centre exceed the current controls for the zone and the proposed built form and massing is consistent with the existing character of Coogee.
- There are sufficient environmental planning grounds to justify the contravention, which results in a better planning outcome than a strictly compliant development in the circumstances of this particular case.
- There is an absence of any substantive negative environmental impacts arising from the proposed variation.
- The proposed non-compliance with the FSR standard will not result in any matter of significance for State or regional environmental planning.

For the reasons outlined above, and as set out in this Request, the strict application of the development standard is unnecessary and unreasonable in the circumstances, there are sufficient environmental planning grounds that warrant contravention of the standard and it is in the public interest to do so. In the circumstances of this case, flexibility in the application of the FSR development standard should be applied.

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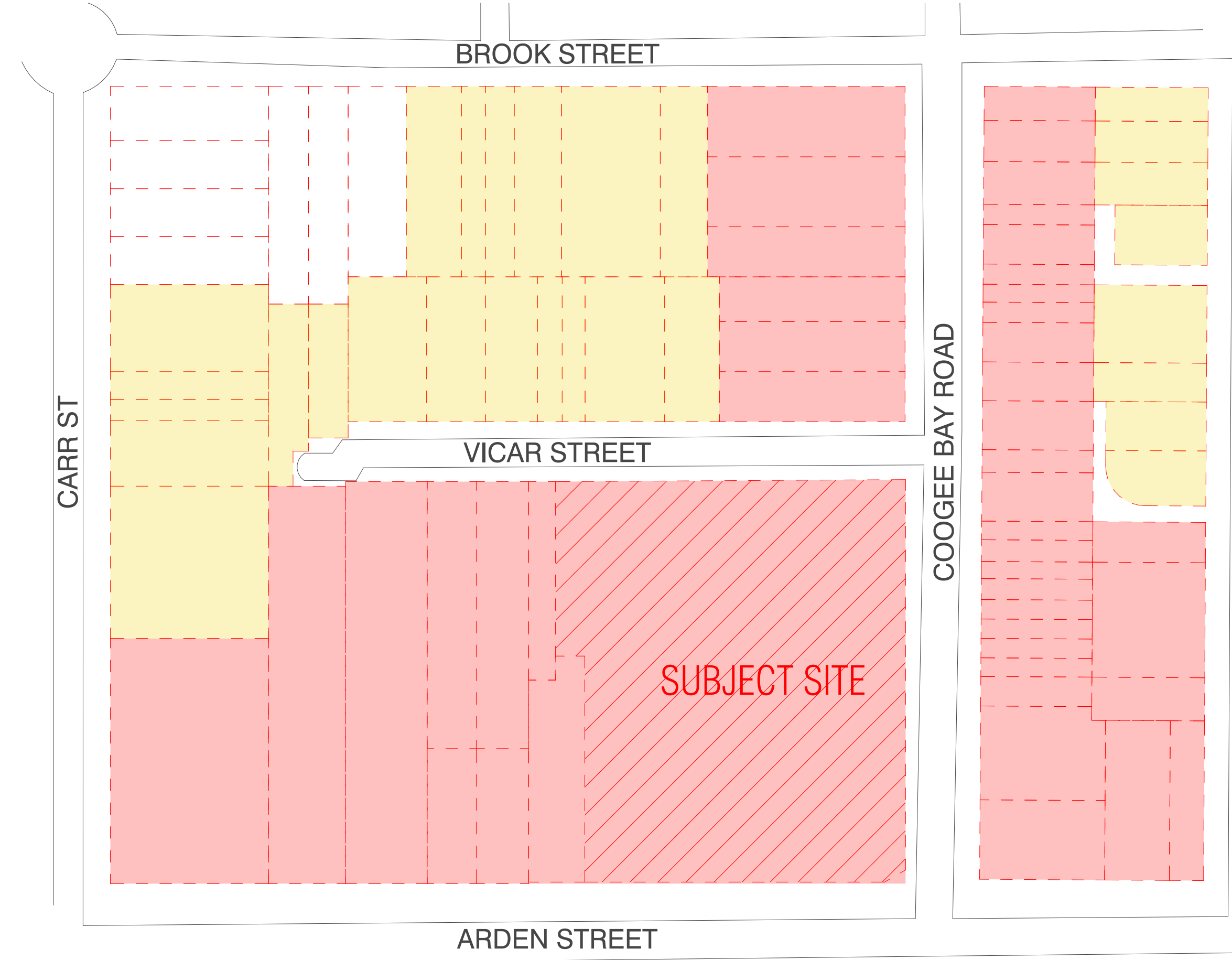
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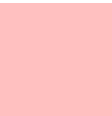
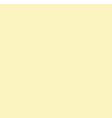
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This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.







-  LEP FSR 1:1.5
-  LEP FSR 1:0.9

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VIA AN AVERAGE EFFICIENCY OF 80% OF THE  
MEASURED GBA

BROOK STREET

VICAR STREET

ARDEN STREET

COOGEE BAY ROAD

CARR ST

886 m<sup>2</sup>

240 m<sup>2</sup>

243 m<sup>2</sup>

291 m<sup>2</sup>

352 m<sup>2</sup>

143 m<sup>2</sup>

126 m<sup>2</sup>

143 m<sup>2</sup>

280 m<sup>2</sup>

275 m<sup>2</sup>

558 m<sup>2</sup>

SUBJECT SITE

4 416 m<sup>2</sup>

449 m<sup>2</sup>

632 m<sup>2</sup>

347 m<sup>2</sup>



SELECTED SITES  
FOR REVIEW

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PROJECT  
253 COOGEE BAY ROAD

DRAWING TITLE  
LOCALITY FSR REVIEW

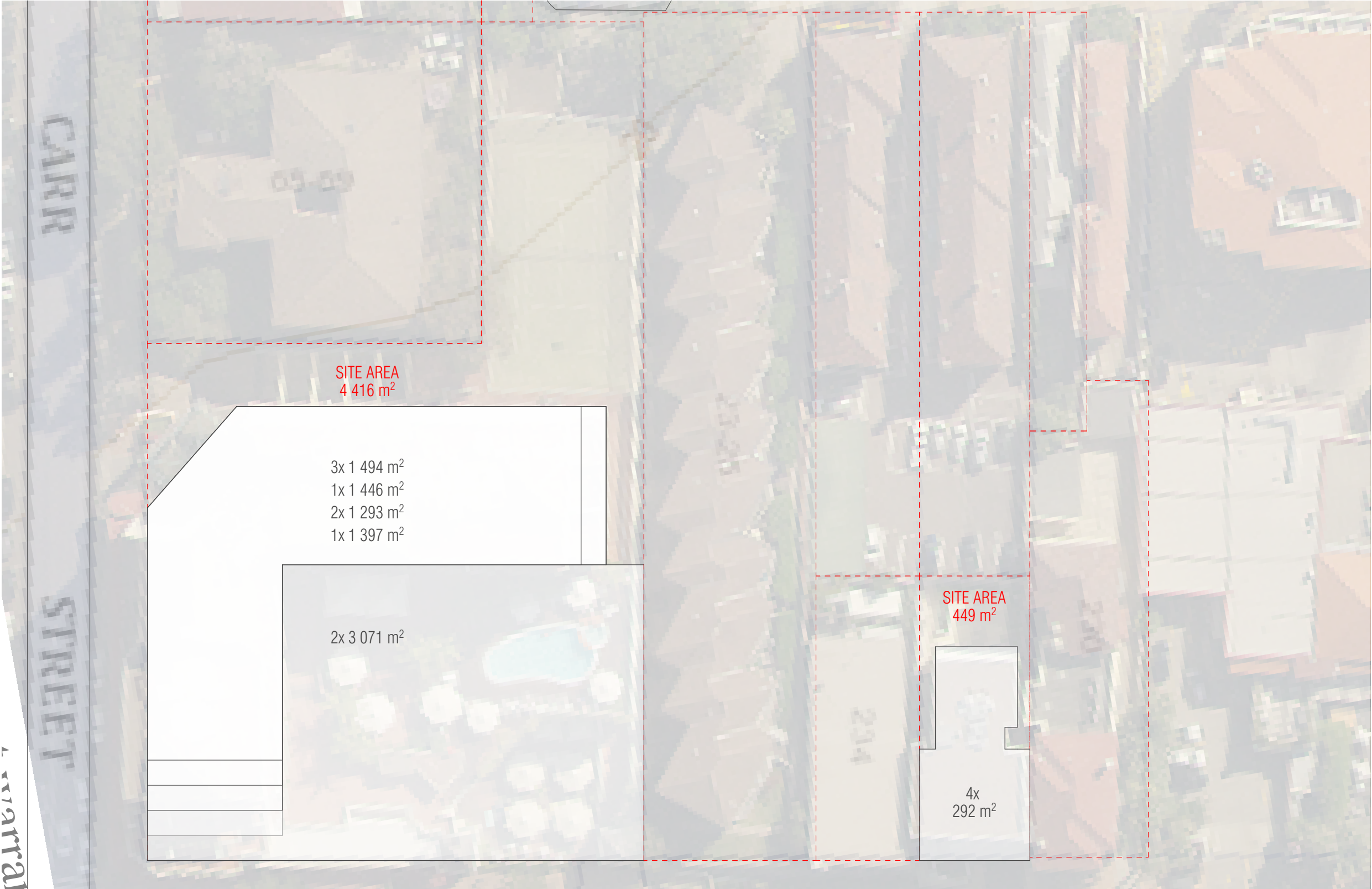


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DATE  
5/07/2021

DRAWING NUMBER  
SK82.2(02)





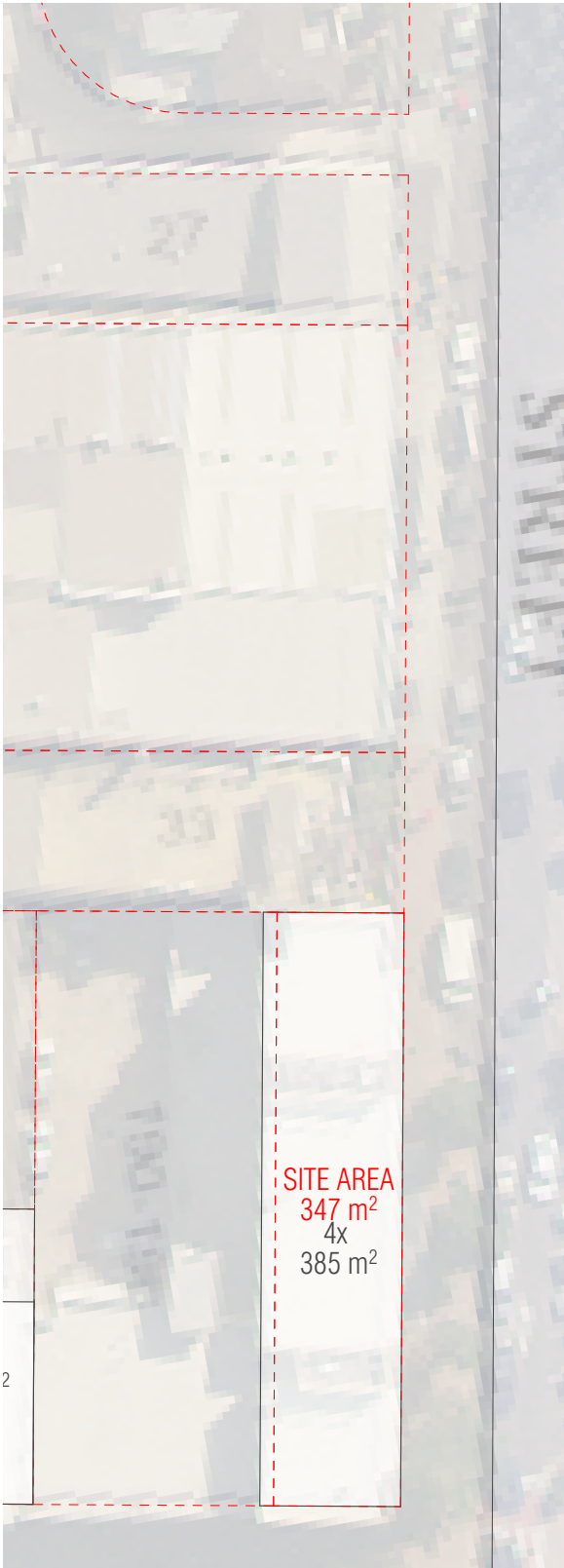
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TOTAL GBA CALCULATED: 16053m<sup>2</sup>  
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**CALCULATED FSR: 1:2.9**

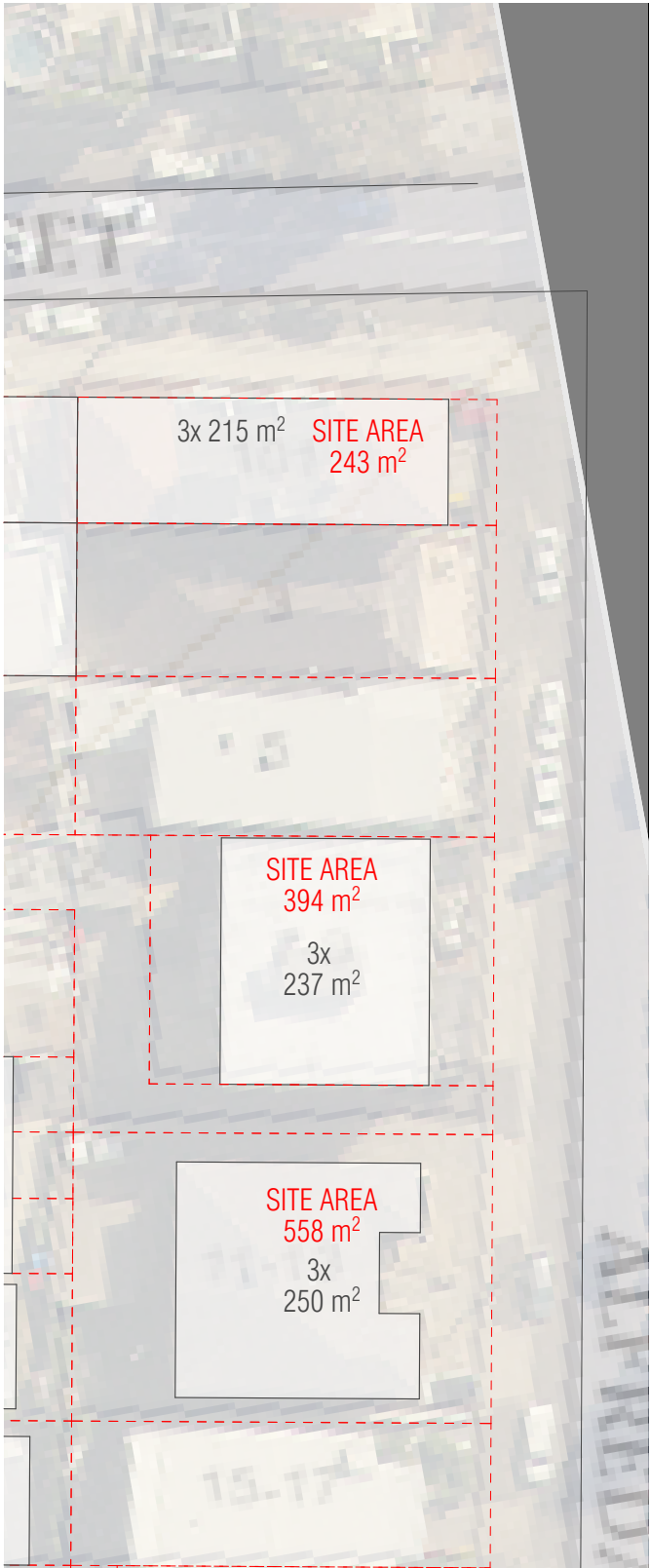
**232 ARDEN ST**

TOTAL GBA CALCULATED: 1168m<sup>2</sup>  
GFA TOTAL CALCULATED: 94m<sup>2</sup>  
ALLOWABLE FSR: 1:1.5  
**CALCULATED FSR 1:2.08**

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**186 ARDEN ST**  
TOTAL GBA CALCULATED: 660m<sup>2</sup>  
GFA TOTAL CALCULATED: 528m<sup>2</sup>  
ALLOWABLE FSR: 1:1.5  
**CALCULATED FSR: 1:3.55**



**101 BROOK ST**  
TOTAL GBA CALCULATED: 645m<sup>2</sup>  
GFA TOTAL CALCULATED: 516m<sup>2</sup>  
ALLOWABLE FSR: 1:0.9  
**CALCULATED FSR 1:2.12**

**7 ALFREDA ST**  
TOTAL GBA CALCULATED: 711m<sup>2</sup>  
GFA TOTAL CALCULATED: 569m<sup>2</sup>  
ALLOWABLE FSR: 1:0.9  
**CALCULATED FSR 1:44**

**11-13 ALFREDA ST**  
TOTAL GBA CALCULATED: 750m<sup>2</sup>  
GFA TOTAL CALCULATED: 600m<sup>2</sup>  
ALLOWABLE FSR: 1:0.9  
**CALCULATED FSR 1:1.07**



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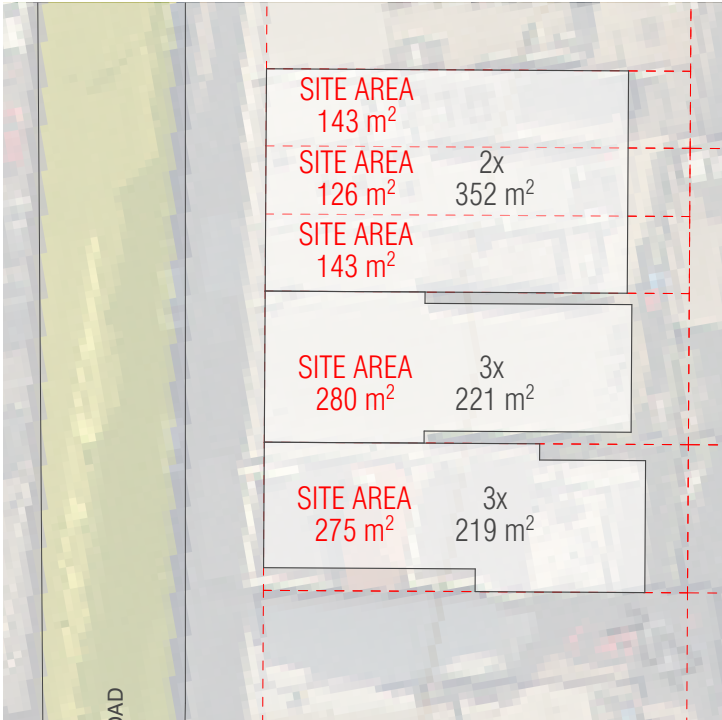




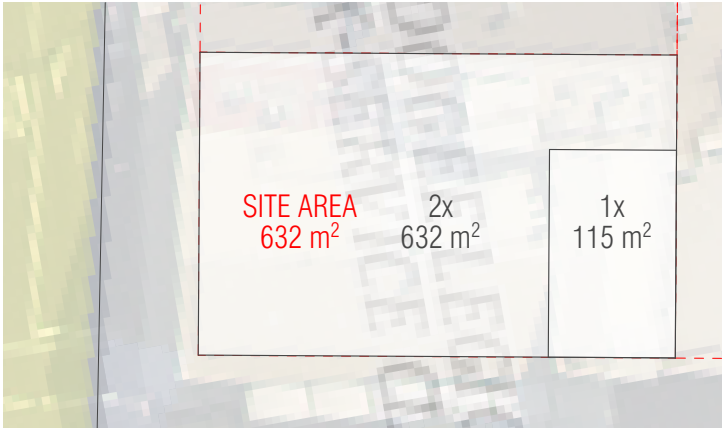
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ALLOWABLE FSR: 1:1.5  
**CALCULATED FSR: 1:2.8**



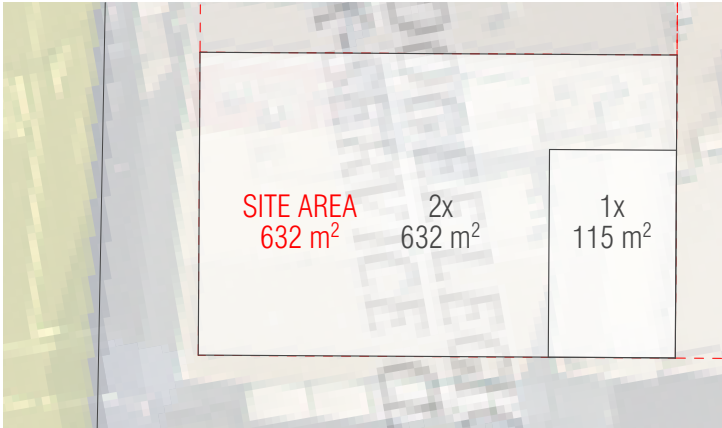
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GFA TOTAL CALCULATED: 384m<sup>2</sup>  
ALLOWABLE FSR: 1:1.5  
**CALCULATED FSR: 1:1.6**



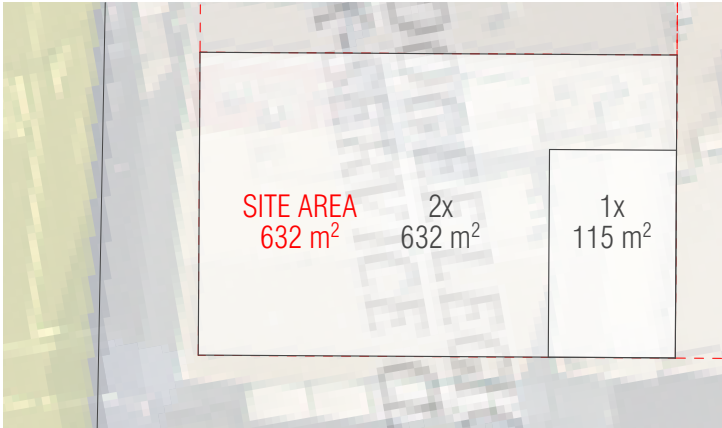
**218-220 COOGEE BAY RD**  
TOTAL GBA CALCULATED: 704m<sup>2</sup>  
GFA TOTAL CALCULATED: 563m<sup>2</sup>  
ALLOWABLE FSR: 1:1.5  
CALCULATED FSR: 1:1.36



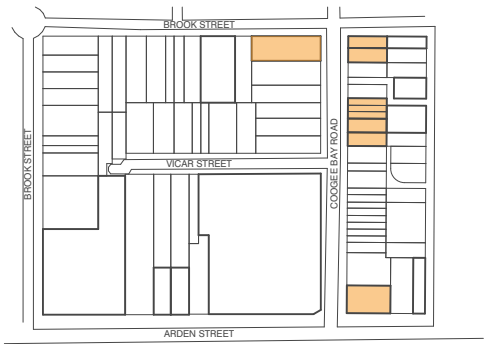
**224 COOGEE BAY RD**  
TOTAL GBA CALCULATED: 663m<sup>2</sup>  
GFA TOTAL CALCULATED: 530m<sup>2</sup>  
ALLOWABLE FSR: 1:1.5  
**CALCULATED FSR: 1:1.89**



**240 COOGEE BAY RD**  
TOTAL GBA CALCULATED: 825m<sup>2</sup>  
GFA TOTAL CALCULATED: 660m<sup>2</sup>  
ALLOWABLE FSR: 1:1.5  
**CALCULATED FSR: 1:2.4**



**200 ARDEN ST**  
TOTAL GBA CALCULATED: 1379m<sup>2</sup>  
GFA TOTAL CALCULATED: 1103m<sup>2</sup>  
ALLOWABLE FSR: 1:1.5  
**CALCULATED FSR: 1:1.74**



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BROOK STREET

ALLOWABLE  
1:1.5  
CALCULATED  
1:6

ALLOWABLE  
1:0.9  
CALCULATED  
1:2.12

ALLOWABLE  
1:1.5  
CALCULATED  
1:2.8

ALLOWABLE  
1:1.5  
CALCULATED  
1:6

ALLOWABLE  
1:0.9  
CALCULATED  
1:1.44

ALLOWABLE  
1:0.9  
CALCULATED  
1:1.07

ALLOWABLE  
1:1.5  
CALCULATED  
1:2.4

ALLOWABLE  
1:1.5  
CALCULATED  
1:89

COOGEE BAY ROAD

VICAR STREET

SUBJECT SITE

ALLOWABLE  
1:1.5  
CALCULATED  
1:2.08

ALLOWABLE  
1:1.5  
CALCULATED  
1:2.9

ALLOWABLE  
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CALCULATED  
1:3.55

ALLOWABLE  
1:1.5  
CALCULATED  
1:1.74

ARDEN STREET

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PROJECT  
253 COOGEE BAY ROAD

DRAWING TITLE  
LOCALITY FSR SUMMARY



SCALE  
1:1000

DATE  
5/07/2021

DRAWING NUMBER  
SK82.6(02)







# COOGEE BAY HOTEL

## VISUAL IMPACT ASSESSMENT REPORT

### (PUBLIC AND PRIVATE VIEWS)

PREPARED FOR THE  
**SIMMATOWN PTY LTD**  
MARCH 2023  
UPDATED FOR DA SUBMISSION



URBIS STAFF RESPONSIBLE FOR THIS REPORT:

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Project Code:	P0032652
Report Ref:	01_RPT_Coogee Bay Hotel_VAR
Version:	A
Report Status:	Issued for review
Date:	March 2023

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# EXECUTIVE SUMMARY

This Visual Assessment Report (VAR) follows two previous detailed submissions prepared in relation to a former submitted DA. The previous reports included detailed baseline information, analysis and assessment from public and private view places.

This updated DA includes lower height and smaller scale built forms compared to previous massing versions.

The updated DA is based on an extensive and collaborative design development process as part of an LEC s34 conciliation process reviewed by a number of built form experts and Council officers.

The updated DA also carefully considers and responds to public and private domain views from view places reviewed and agreed by Council.

The series of design changes made over the last 6 months respond to initial feedback provided by Council and the Sydney East Planning Panel in relation to DA 437/2021.

We note that the changes as proposed are also of low visibility in close and medium distant public domain views.

Public domain views have been investigated from parts of Coogee Bay beach, its promenade and Goldstein Reserve.

The visual effects of the updated DA have been modelled and assessed from 5 key public domain locations identified by Council. Please refer to public domain photomontages for further detail.

The updated DA envelope represents a collective response to urban design and view issues which seeks to retain access the most highly valued parts of existing views for the closest and potentially most affected residents.

The updated DA's envelope includes a wide central low section of built form, that is set significantly below the height control and creates a view corridor which allows for the retention of scenic and highly valued views.

The report includes photomontages which show the proposed envelope in views from the 18 residences including representative locations selected and prepared by Urbis and additional views prepared by AE Design requested by Randwick City Council.

The massing model included in existing photographs from potentially affected dwellings, and photomontages have been prepared by Fender Katsalidis and provided to Urbis and AE Design.

AE Design were responsible for preparing supplementary photomontages from additional dwellings as directed by Council. Original photographs used to prepare those images were taken by Urbis from surveyed locations.

Photomontages show complying built form as a red translucent colour and non-complying built form in blue. All non-complying built form proposed is subject to a Clause 4.6 variation application.

The assessment of view loss in individual views and the overall view impact for each dwelling is based on observations made on site at the time of photography and photomontages which are prepared to satisfy the LECNSW requirements for accuracy.

In this regard, the massing shown and the extent of any view loss caused by the built forms proposed, is as accurate as is possible. Therefore the photomontages can be relied upon by the community and consent authorities for assessment and consideration.

27 dwellings were inspected and views from 18 dwellings were modelled using photomontages (prepared by Urbis and AED).

Views from 18 dwellings were analysed in detail and assessed against the Tenacity Planning principle. This includes the original set of views selected by Urbis for analysis and additional views requested by Council.

## Conclusions

- Views from all 18 dwellings from the original sample of 27 dwellings inspected, have been modelled to inform this assessment.
- The inclusion of the wide view corridor reduces the visual scale of built form along the length of Vicar Street and will create view sharing benefits to all elevated residential locations immediately west, south-west and north-west of the subject site.
- The view corridor successfully promotes reasonable view sharing outcomes, as it allows for the retention of south-easterly views to the majority of Wedding Cake Island from close residential dwellings.
- The view corridor also promotes access to views of open ocean and sea-sky horizon in easterly and north-easterly views that currently enjoy views to it.
- The views are described in terms of the predominant features present where the selected modelled view represents the 'worse case' view focused on the site, noting that each dwelling has access to other views to the north, north-east and south which do not include the subject site and will not be affected.
- 18 views have been modelled and assessed against the Tenacity Planning Principle to guide our assessment of overall view impacts for each whole dwelling.
- All descriptions and ratings are tabulated in the Tenacity Summary Table (Page 74).

- The minor view impact rating is reasonable and acceptable for Brook Street dwellings given that the non-complying parts of the envelope do not block scenic and highly valued features as defined in Tenacity.
- The moderate view impact for 17 Vicar Street is reasonable and acceptable given that it is entirely caused by built form which sits significantly below the LEP height control and is therefore fully compliant with controls that are relevant to view loss. Views to be lost are not considered as scenic or highly valued in Tenacity terms.
- In summary out of 27 dwelling inspections, where potential view loss was modelled for 18 dwellings and rated as minor or less in all cases except for one dwelling.
- The additional height sought in all views, blocks areas of sky or open water so that no additional scenic or highly valued features would be revealed through a further reduction in height.
- In the majority of views analysed (17 out of 18) the overall composition and scenic quality of views will not change significantly as a result of the updated DA envelope.
- The visual effects of the proposed envelope are low, the extent of view loss is minor or less for all but one dwelling, the upper and non-complying parts of the proposed envelope predominately block features that are not scenic or combine to form highly valued views as defined in Tenacity.
- Considering the likely view impacts for the immediate and wider potential visual catchment, based on the 18 representative views analysed, in our opinion the private views and 5 public views, the predominance of low view impacts and ratings, the outcome is reasonable and acceptable.
- View impact ratings for the public domain views are also low. Taking into account all relevant factors and the reasonable sharing of views both for residents, the public and the owners of the subject site, the updated DA can be supported on view sharing and view impact grounds.

# 1.0 PURPOSE OF THIS REPORT

Urbis has been commissioned by the owners of the existing Coogee Bay Hotel and the applicant to provide independent analysis and assessment of potential view-sharing outcomes in relation to the amended Development Application (pared in April 2022).

The advice has been prepared to provide an assessment of potential visual effects of the proposed development on public domain and private domain views. The lead author of this report specialises in the assessment of visual impacts, view loss, and view sharing assessments and in strategic planning for the protection of scenic resources.

This report follows previous view-sharing advice prepared in relation to a previously submitted and deferred DA for the site. This report was based on two private domain view inspections and additional Computer-generated images (CGIs) to represent views from other neighbouring dwellings.

Relevant parts of the previous report for example, descriptions of baseline factors such as visual context, visual character and potential visual catchment remain relevant and are included.

## 2.0 BACKGROUND

This report follows previous visual analysis and assessment work undertaken by Urbis and others. The previous view sharing advice was partly informed by preliminary site investigations undertaken by Dr Richard Lamb, engaged by Urbis in 2018. This advice identified the potential visual catchment of the existing built form on the site (based on visibility of the boutique hotel as the tallest built form present on the site) and residential dwellings that would be most at risk of potential view loss should the existing built form on the site change.

In this regard Dr Lamb identified neighbouring locations which based on his fieldwork observations, analysis of the visual context and likely views access, would be those most likely to be potentially affected by view loss. Views from some neighbouring dwellings were recommended for further analysis during the design development stages.

Previous work undertaken by Urbis in 2020 and 2021 included consideration of the likely effects on private domain views from two neighbouring dwellings and on other dwellings based on constructed CGI images that were used to indicate likely view sharing outcomes. The DA was referred to the Sydney Eastern City Planning Panel (SECPP) on 16 December 2021, where the SECPP deferred the determination to provide the Applicant the opportunity to address a range of issues, including additional view analysis from affected private properties and the public domain be provided. Council also advised that the view loss from private properties and the public domain is a key issue that needs to be addressed.

Council provided a list of submissions received from properties that raised view loss, either from their own property or the public domain, as a concern.

### Response to view loss objections

In response to the 180 objections made in relation to the previous DA which cited view loss or visual impacts, Urbis reviewed and mapped the geographical location of the objector's residences. GIS terrain modelling and LiDar data were used to estimate the highest floor level below the roof ridge height at each residence, in relation to the roof form of the Boutique Hotel. Based on this, Urbis determined that most objectors would either have no or limited access to views of the existing boutique hotel roof or parts of the subject site.

In this way, Urbis could separate more distant locations where although some visibility of the site (the tallest roof) may be visible, it would be highly unlikely to equate to any discernible view loss.

Subsequently, Urbis was able to reduce the scope area to the closest and potentially most affected dwellings, and hand-delivered letters requesting access to approximately 48 premises. In this regard, Urbis narrowed the assessment efforts to dwellings and residential flat buildings located in immediate mid-slope locations to the north-west, west, and south-west.

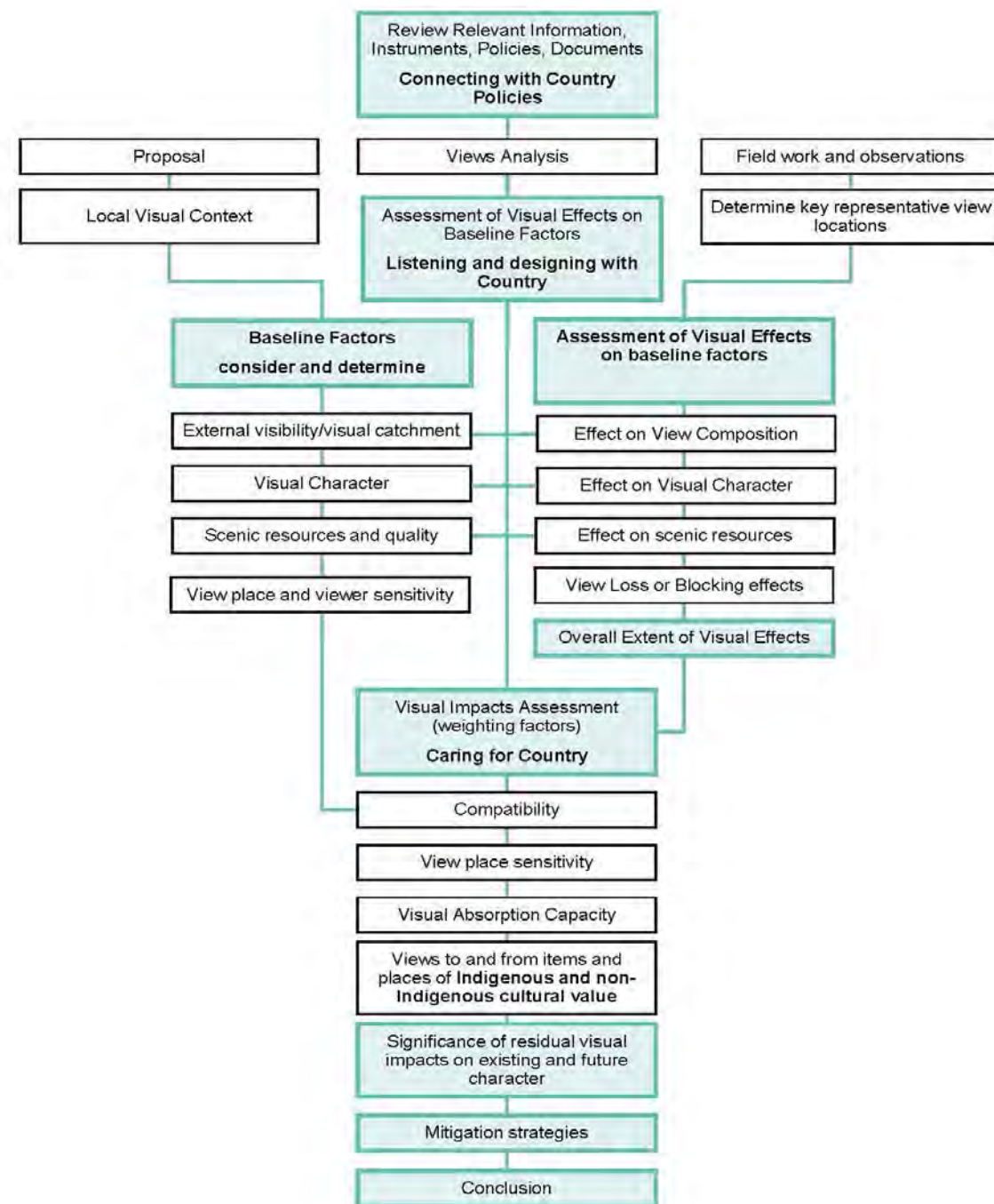
### Views Inspection and identification of view corridors

Based on the responses received, Urbis inspected views from 27 individual dwellings. Following analysis of all views inspected we determined that in simple terms, two key view corridors to scenic and highly valued features (as defined in Tenacity) from two general locations. The two key view corridors; are South-east from approximately the intersection at Coogee Bay Road and Brook Street to Wedding Cake Island, and northeast from the vicinity of Brook Street and Kidman Street to Dolphin Point headland and in particular the

land-water interface were determined to be worthy of protection. Urbis advised the applicant and consultant team that retaining access to these features and incorporating key view corridors for local residents would be reduced view impacts and improve view sharing outcomes for the majority of residents who have access to the two key view corridors and scenic and highly valued features, for example, Dolphins Point headland and Wedding Cake Island.

The view-sharing outcomes in this report have based analysis of view inspections at 5 public domain locations and inspections at 27 private domain locations. Views towards the site were documented from 27 dwellings and following a review, 12 representative views were selected for further analysis and modelling. The 12 views were used to prepare photomontages which include the revised amended DA and have been used to inform view loss, view impacts, and the overall view sharing outcomes assessed against the Tenacity Planning Principle. Urbis also reviewed and assessed the potential impact the proposal will have on five public domain views. Impact on public views is rated according to the Urbis VIA methodology (refer to figure 2 method flow chart)





**Figure 1** VIA Methodology Flowchart

## 3.0 PROPOSED DEVELOPMENT

### Project Description in Visual Terms

The site is located at 253 Coogee Bay Road, 212 Arden street, 227-233 Coogee Bay Road, 5-7 and 15a Vicar Street. This description reflects the main elements of the proposal that will be visible externally. The existing boutique hotel building at the Vicar Street western boundary will be demolished and replaced by a building that is characterised by a broadly 'C' shaped floorplate.

The key heritage components of the site will be retained, and will remain as visually prominent and distinctive elements in all private and public views inspected. The heritage building at the north-eastern corner of the site is retained where internal changes are not visible externally. We note that the changes as proposed are also of low visibility in close and medium distant views from parts of Coogee Bay beach, its promenade and Goldstein Reserve.

The updated DA architectural set of plans prepared by Fender Katsalidis (February 2023) reflects significant change compared to previous iterations of the design and a previously submitted DA.

### Reduced Built Form and View Sharing Corridors

The proposed residential flat building is contemporary in style and includes flat roof forms. The flat roof design extends the built form of the upper storeys to the north and south beyond the existing pitched roof forms, and therefore effectively occupies existing open space.

The setback of the Boutique Hotel will increase the spatial separation between the proposed development and built form along the north side of Coogee Bay road and in so doing widen the view corridor. When considered in easterly views from residences to the west, the proposed envelope will appear as a continuous built form of three storeys which present as low podium form. Above this there are two distinct forms separated by a wide spatial setback.

The northern, taller form includes part of the upper level 4 storey lift overrun which sits above the LEP height control. The wide setback from the 3rd storey roof (above Coogee Bay Road) to the north elevation of the fourth storey and including the wide spatial separation to the southern, taller form, reduce the visual scale of the building. The separation of the two taller forms at the 3rd storey roof level, is in excess of 10 linear metres, creating a generous view corridor and mechanism to promote view sharing.

We note further, than the northern form is characterised by different materialist where the vertical columns are darker in colour compared to the southern lower form. Above level 4 (its 3rd storey) above Vicar Street ground level) the northern form includes wide setbacks to its north and south elevations, so that the form decreases in scale at each storey. The setbacks, separate massing, inclusion of the wide view corridor and differentiated materiality all serve to reduce the perception of visual bulk and scale of the proposal, particularly in easterly views.





**Figure 2** Site Plan Proposed Fender Katsalidis



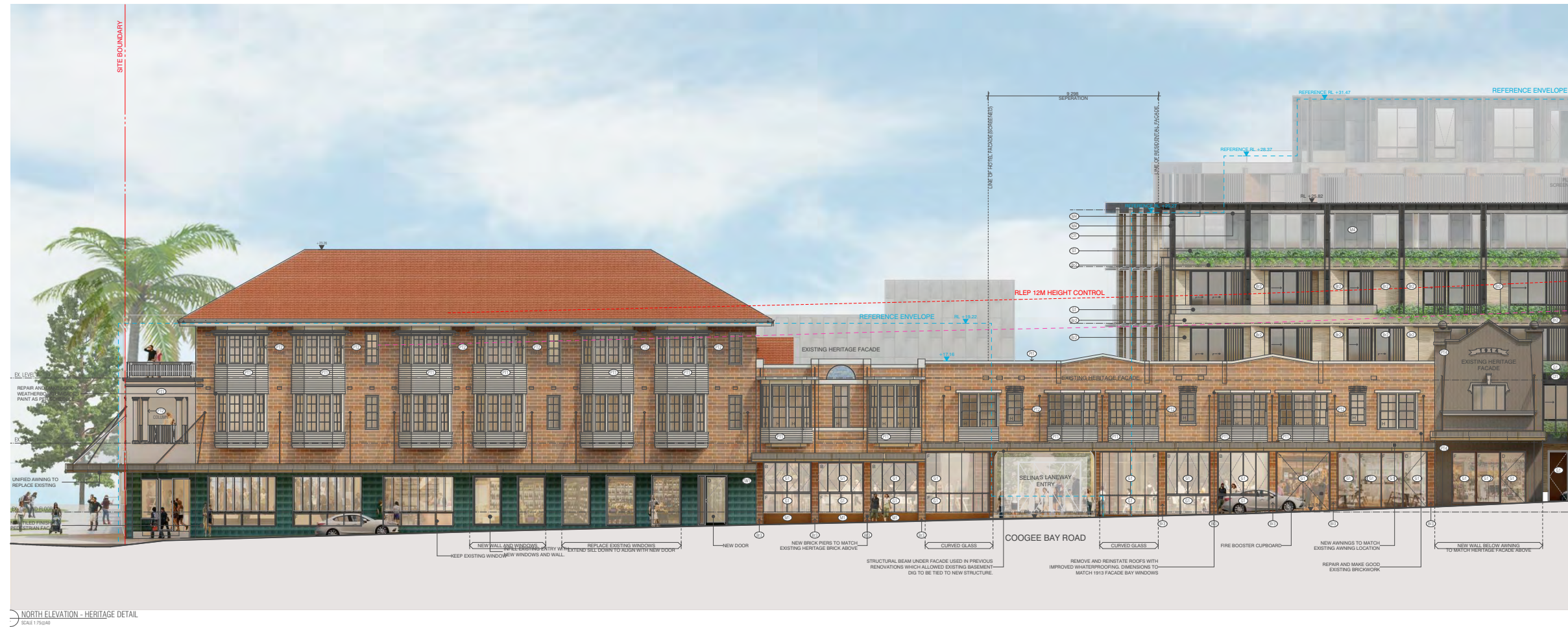
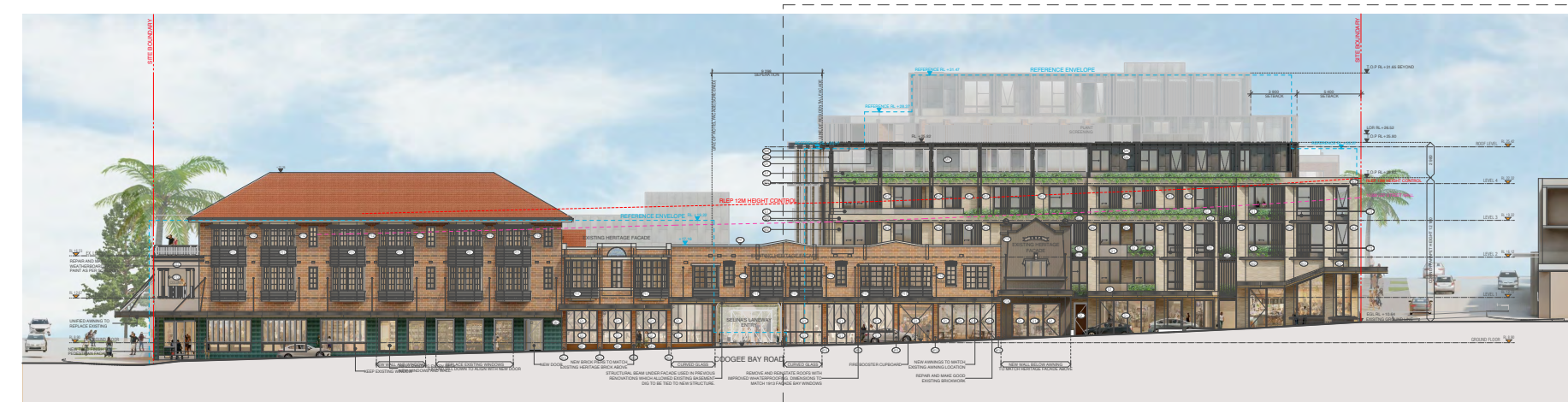


Figure 3 North Elevation Proposed Part 1 Fender Katsalidis

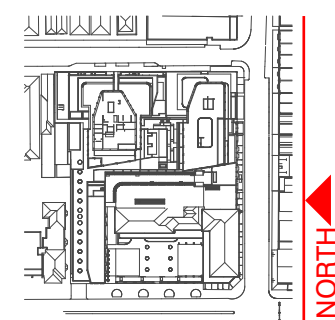




PROPOSED AWNING - PRECEDENT DETAIL



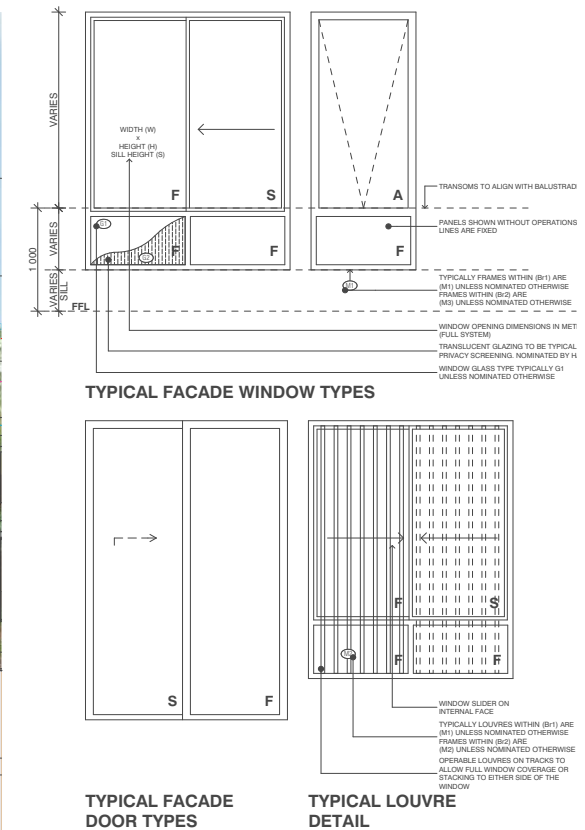
- MATERIALS LEGEND**
- BR1 - BRICK COLOUR MEDIUM
  - BR2 - BRICK COLOUR LIGHT
  - BR3 - REINSTATE HERITAGE BRICK
  - CF1 - CONCRETE NATURAL GREY
  - G1 - GLASS CLEAR
  - G2 - TRANSLUCENT GLASS
  - GS1 - ACOUSTIC GLASS SCREEN
  - LV1 - METAL CLAD SHADING LOUVRE (COLOUR REF TYPICAL LOUVRE DET.)
  - M1 - METAL CLAD BRONZE DARK
  - M2 - METAL CLAD BRONZE MID
  - M3 - METAL CLAD GREY
  - M4 - METAL CLAD ZINC GREY
  - PT1 - OFF-WHITE PAINT LIGHT
  - PT2 - OFF-WHITE PAINT DARK
  - PT3 - BRONZE PAINT
  - PT4 - GREY PAINT
  - ST1 - STONE COLOUR LIGHT
  - TW1 - GLAZED TILE



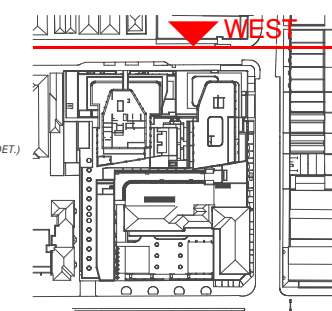
KEY

Figure 4 North Elevation Proposed Part 2 Fender Katsalidis





- MATERIALS LEGEND**
- BR1 - BRICK COLOUR MEDIUM
  - BR2 - BRICK COLOUR LIGHT
  - BR3 - REINSTATED HERITAGE BRICK
  - CF1 - CONCRETE NATURAL GREY
  - G1 - GLASS CLEAR
  - G2 - TRANSLUCENT GLASS
  - GS1 - ACOUSTIC GLASS SCREEN
  - LV1 - METAL CLAD SHADING LOUVER (COLOUR REF TYPICAL LOUVER DET.)
  - M1 - METAL CLAD BRONZE DARK
  - M2 - METAL CLAD BRONZE MID
  - M3 - METAL CLAD GREY
  - M4 - METAL CLAD ZING GREY
  - PT1 - OFF-WHITE PAINT LIGHT
  - PT2 - OFF-WHITE PAINT DARK
  - PT3 - BRONZE PAINT
  - PT4 - GREY PAINT
  - ST1 - STONE COLOUR LIGHT
  - TW1 - GLAZED TILE



**Figure 5** West Elevation Proposed Part 1 Fender Katsalidis

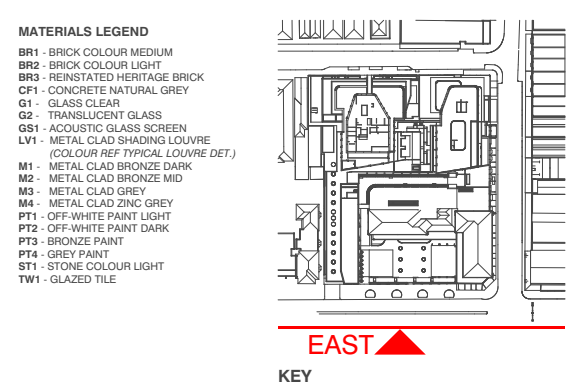
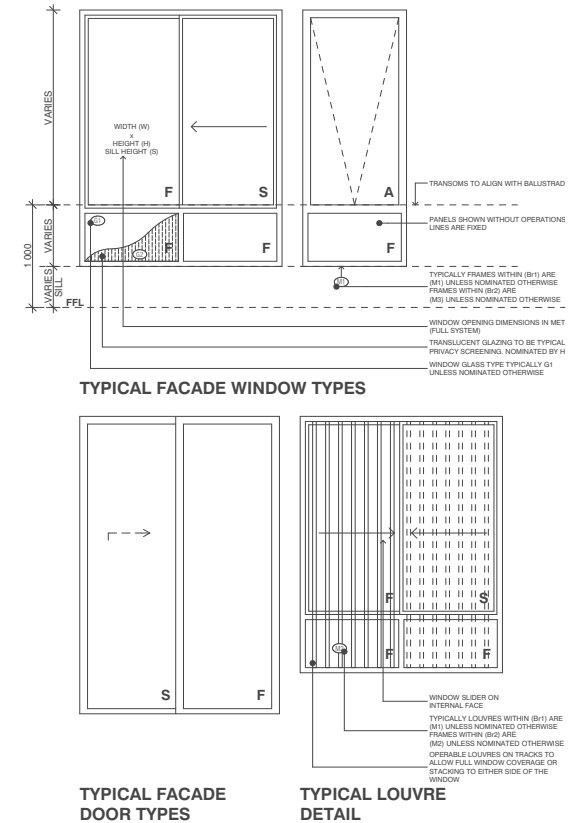
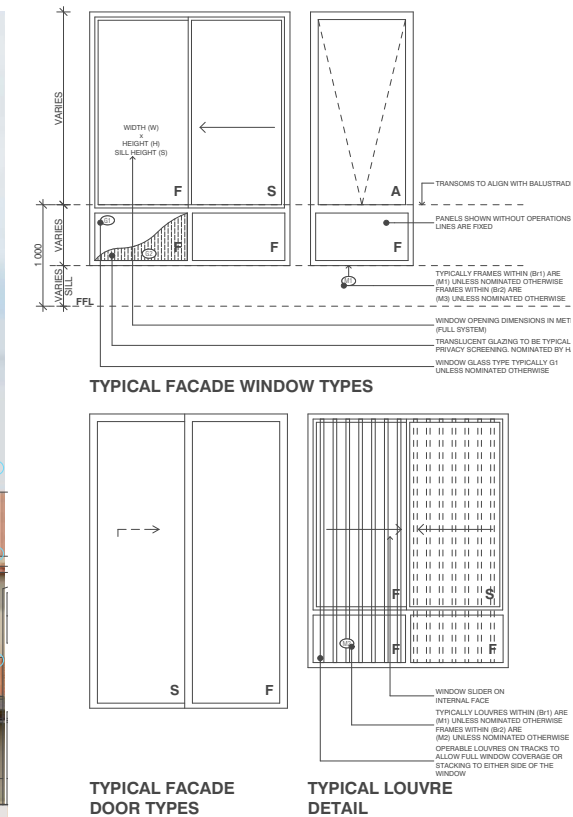
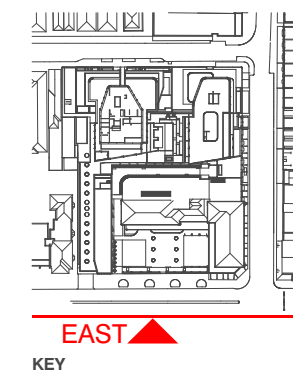


Figure 6 East Elevation Proposed Part 1 Fender Katsalidis

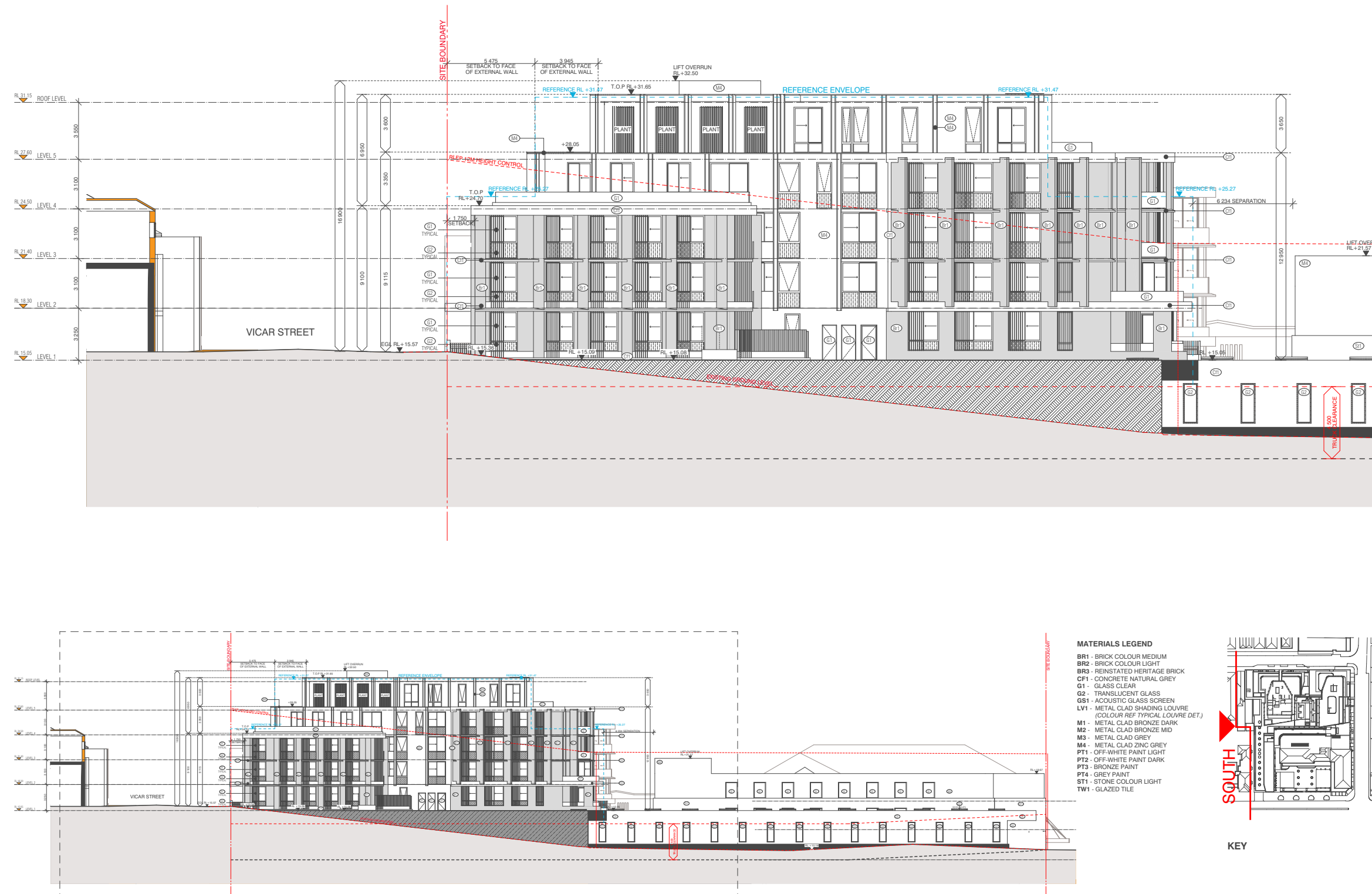




- MATERIALS LEGEND**
- BR1 - BRICK COLOUR MEDIUM
  - BR2 - BRICK COLOUR LIGHT
  - BR3 - REINSTATED HERITAGE BRICK
  - CF1 - CONCRETE NATURAL GREY
  - G1 - GLASS CLEAR
  - G2 - TRANSLUCENT GLASS
  - GS1 - ACOUSTIC GLASS SCREEN
  - LV1 - METAL CLAD SHADING LOUVER (COLOUR REF. TYPICAL LOUVER DET.)
  - M1 - METAL CLAD BRONZE DARK
  - M2 - METAL CLAD BRONZE MID
  - M3 - METAL CLAD GREY
  - M4 - METAL CLAD ZINC GREY
  - PT1 - OFF-WHITE PAINT LIGHT
  - PT2 - OFF-WHITE PAINT DARK
  - PT3 - BRONZE PAINT
  - PT4 - GREY PAINT
  - ST1 - STONE COLOUR LIGHT
  - TW1 - GLAZED TILE



**Figure 7** East Elevation Proposed Part 2 Fender Katsalidis



**Figure 8** South Elevation Proposed Fender Katsalidis



## 4.0 THE SITE & SURROUNDS

### 4.1 EXISTING BUILT FORM ON THE SITE

The site comprises 4 allotments, 212 Arden Street, 227-233 Coogee Bay Road, 5-7 Vicar Street and 15A Vicar Street Coogee. The site has a west-east cross fall so that it slopes downwards from Vicar Street towards Arden Street and beyond to Coogee Bay to the east.

The subject site is a prominent 'landmark' site with frontages to Arden Street to the east, Coogee Bay Road to the north and Vicar Street to the south and includes a number of separate buildings, including the eastern heritage buildings (existing hotel premises).

Existing built form on the site includes a heritage building, a boutique hotel, a liquor store, a 2 storey RFB, retail and commercial businesses with shop top housing, and a through site link between Arden Street and Vicar Street on the southern boundary. The buildings range in height with the boutique hotel being the highest at RL 31.47. We observed that built form is concentrated on the eastern, northern and western boundaries, with greater visual permeability through a site link along the southern boundary of the site from Vicar Street to Arden Street.

212 Arden Street at the north-east corner is listed as a Heritage Item, Coogee Bay Hotel, in Schedule 5 of the Randwick LEP. The heritage building presents as a 1920's style hotel. Originally constructed in the late 1800s the building has been significantly altered since its inception. The building is adjacent to another heritage item which is a 2 storey sandstone rectangular building which extends parallel to Arden Street. The Arden Street site frontage includes a beer garden which is relatively open and undeveloped, characterised by moveable furniture such as umbrellas and a row of mature Phoenix Palms. We observed that additional palms are grouped at the south-east edge of the site. The existing hotel has a nil setback to Arden Street and Coogee Bay Road.

1 Vicar Street is a 3 storey shop top housing with a convenience store and restaurants on the ground floor, and two levels of residential apartments above. There is a setback between 1 and 7 Vicar Street which currently has a small parking and bin storage area. 7 Vicar Street is a 2 storey RFB with 4 units and 9 Vicar Street is a late twentieth century boutique hotel.



Figure 9 Existing built form



## 4.2 BUILT FORM IN THE IMMEDIATE CONTEXT

This description of the immediately surrounding visual context was included in preliminary advice provided by Dr Richard Lamb to the applicant and is replicated here to provide further detail as to the visual setting of the site.

*"The streetscape exposure of the site is limited by existing development, the street pattern, with Arden Street forming the east boundary and by the narrowness of Coogee Bay Road and Vicar Street, as the other two bounding streets.*

*The predominant built form in Vicar Street is interwar to early 20th century residential flat buildings. In Coogee Bay Road, other than on the Site, built form is retail at street level, with shop-top housing of mostly two-storey form other than opposite the hotel at the Arden Street Corner which is slightly higher.*

*The height of buildings in the vicinity of the site is generally lower than three of the prominent buildings on the site, the taller element of the hotel at the corner of Arden Street and Coogee Bay Road, the boutique hotel on Vicar Street near the south-west corner of the Site and the building on the corner of Vicar Street and Coogee Bay Road on the Site."*

The east side of Arden Street is occupied by public open space including Goldstein Reserve which includes an amphitheatre and boardwalk. The public reserve opposite the subject site is relatively open in nature and devoid of built form and characterised by rows of Norfolk Island Palms. The reserve extends to meet a path and retained edge before falling in elevation to meet the beach and further east Coogee Bay beach. Coogee Bay is bordered by the distinctive local headland and rock outcrop known as Dolphin Point to the north and Grant and Trenerry Reserves to the south. At low tide a rock platform known as Wedding Cake Island is visible in the south-east of the bay.



Figure 10 Aerial Site Plan





**Figure 11** Streetscape view location photo reference map





4.3 STREETScape CHARACTER AND RESIDENTIAL DEVELOPMENT



Photo 1. Coogee Bay Road view east towards Coogee Bay



Photo 2. Coogee Bay Road view to south-east, including heritage buildings on the subject site



Photo 3. View south along Vicar Street to residential development along the west side



Photo 4. Side setback between 1 and 7 Vicar Street, where spatial separation allows views of sky access to the east from parts of Vicar Street



Photo 5. Surrounding residential development, detail of 2 Vicar Street. This dwelling was inspected and views recorded confirm that there is no access to scenic or highly valued views from ground or first floor rooms due to the height and form of intervening development



Photo 6. Detail of 8-10 Vicar Street





**Photo 7.** Detail of 12-14 and 18-20 Vicar Street



**Photo 8.** Detail of 23-25 Vicar Street, south of the site



**Photo 9.** Detail of 130-132 Brook Street



**Photo 10.** Detail of 128 Brook Street on the corner of Brook and Kidman Streets



**Photo 11.** Detail of 122 and 124 Brook Street



**Photo 12.** Detail of 120 Brook Street





**Photo 13.** Detail of 117 and 119 Brook Street



**Photo 14.** View east to 109-111 Brook Street from Kidman Street



**Photo 15.** Detail of 109-111 Brook Street. We note the presence of evergreen, tree canopies to the east of this development which is likely to limit views access to the east



**Photo 16.** Side setback between 197 Coogee Bay Road and Adina Apartments at 183 Coogee Bay Road



**Photo 17.** View south-west from south-eastern corner of subject site



**Photo 18.** Arden Street streetscape including 230 Arden Street and other 3 and 4 storey and taller hotel development is present





**Photo 19.** View south-west to subject site from Coogee Bay foreshore



**Photo 20.** Coogee Bay foreshore view south



**Photo 21.** View east from centre of Coogee Bay foreshore



**Photo 22.** View north-west to Dolphin Point from centre of Coogee Bay foreshore



**Photo 23.** View looking south-east from Dolphin Point towards Crown Plaza on Arden Street



**Photo 24.** View looking south-east from Dolphin Point towards subject site





**Photo 25.** Detail view of 11 Kidman Street



**Photo 26.** Detail view of 28 Kidman Street



**Photo 27.** 118 Brook Street and the east elevation of residential flat building at 197 CBH behind.



**Photo 28.** Detail view of residential flat building at 186 Coogee Bay Road from roof top at 201 Coogee Bay Road-



**Photo 29.** Detail view of 201 Coogee Bay Road



**Photo 30.** Detail view of 130-132 Brook Street





**Photo 31.** Detail view of 56 Carr Street



**Photo 32.** Detail view of 41-43 Carr Street



**Photo 33.** Detail view of Adrina residential apartments



**Photo 34.** East block of 14 Kidman Street. Views were inspected from the upper left hand units with easterly view to Coogee Bay



**Photo 35.** Streetscape view from the corner of Kidman and Brook Streets



4.4 VIEWS FROM THE TRAFFICABLE COMMON AREA ROOF TOP ACROSS THE SITE TO PARTS OF COOGEE BAY AND WEDDING CAKE ISLAND



**Photo 36.** View south-east to Wedding Cake Island from north-west corner of roof deck at 201 Coogee Bay Road

This is a view from the trafficable common area roof top across the site to Parts of Coogee Bay and Wedding Cake Island. This view was not selected for modelling given that is not a private or public domain location, and views from here are unlikely to be sustained for long periods of time. Views from other parts of the roof to the east and north-east are unaffected by the proposed development.



**Photo 37.** View east from centre of roof deck at 201 Coogee Bay Road



**Photo 38.** View east from south end of the roof deck at 201 Coogee Bay Road



# 5.0 PUBLIC DOMAIN VIEWS

Urbis inspected a wide range of public domain views from various locations within the visual catchment of the subject site. Among those inspected, Urbis were directed to analyse the visual effects and impacts of the proposal on views from 5 key locations. These are presented in the following pages where the proposed built form is modelled for analysis and has been assigned an impact rating following the application of the Urbis VIA method.

In our opinion, viability is not commensurate with a level of visual impact. A visual impact is derived by considering a number of relevant factors such as scale and nature of change, and its compatibility with the existing visual context and character, and desired future character of the area. Also whether the proposed built form would permanently negatively alter the intrinsic scenic quality of the view.



Figure 12 Public Domain View Location Map



# VIEW 01

## VIEW SOUTH-WEST FROM DOLPHIN PT

- Distance class**
- Moderate view
  - 380m

**Existing composition of the view**

This view is characterised by the foreground of native coastal planting and a memorial to victims of the 2002 Bali Bombing and midground of Semi-mature Norfolk Island Pine trees and water along the south side of Dolphin Point. Residential flat buildings and the subject site which appear to be approximately equivalent to six residential storeys in height occupy the background view composition.

**Visual effects of the proposed development on the composition as modelled**

The proposed development is of low visibility and occupies a minor extent of the existing wider view with the development forming one component of the varied background and visual context. The low and separate flat roof forms proposed are compatible with the varied background visual context.

The proposed development does not block important or sensitive views to features of high scenic quality or heritage items. As the proposed development is shown as a simple block-model, its visibility appears heightened when compared with surrounding architectural elements. Once building details including materials, colours and finishes are applied the visual compatibility of the proposed development with its surroundings will increase and therefore reduce its visibility within the visual composition and the potential visual impacts from this location.

Visual effects of proposed development	
Visual Character	low
Scenic Quality of View	low
View Composition	low
Viewing Level	nil
Viewing Period	high
Viewing Distance	high
View Loss & View Blocking Effects	low
Rating of visual effects on variable weighting factors	
Public Domain View Place Sensitivity	high
Visual Absorption Capacity	high
Compatibility with Urban Context and Visual Character	high
Compatibility/compatibility with regulatory framework and DCP objectives	low
Overall Visual Impact Rating	LOW



Figure 13 Key Plan of View 2



Figure 14 View 2 - Existing





**Figure 15** View 2 - Proposed



# VIEW 02

## VIEW FROM DOLPHIN POINT ROCK PLATFORM

- Distance class**
- Moderate view
  - 350m

**Existing composition of the view**

This view is characterised by the foreground composition of Giles Baths, Coogee Bay, rock outcrops, Coogee Beach and Goldstein Reserve. The existing heritage buildings on the subject site are visible through gaps in vegetation where the boutique hotel is partially screened by intervening vegetation. Residential development, and larger built forms such as the Crowne Plaza are visible across the mid-slope locations above and south of the site. The view is characterised by significant beach side and ridgeline vegetation.

**Visual effects of the proposed development on the composition as modelled**

The upper levels of the proposed development will be visible from this location, with the Coogee Bay Hotel and Norfolk Pine trees within Goldstein Reserve filtering elements of the proposal. The proposal will block a minor extent of background residential development and when considered in the broader context, the change in form when viewed within the wider context does not significantly alter the predominant visual character or composition of the view and does not block important or sensitive views to features of high scenic quality or heritage items. We note further that visibility of the proposed development as shown in a simple block-model will be reduced following the application of materials, colours and finishes. These fine-grained details will increase the visual compatibility of the form and scale proposed and reduce the level of potential visual impacts from this location.

Visual effects of proposed development	
Visual Character	low
Scenic Quality of View	low
View Composition	low
Viewing Level	nil
Viewing Period	high
Viewing Distance	high
View Loss & View Blocking Effects	low
Rating of visual effects on variable weighting factors	
Public Domain View Place Sensitivity	high
Visual Absorption Capacity	high
Compatibility with Urban Context and Visual Character	high
Compatibility/compatibility with regulatory framework and DCP objectives	low
Overall visual impact rating	LOW

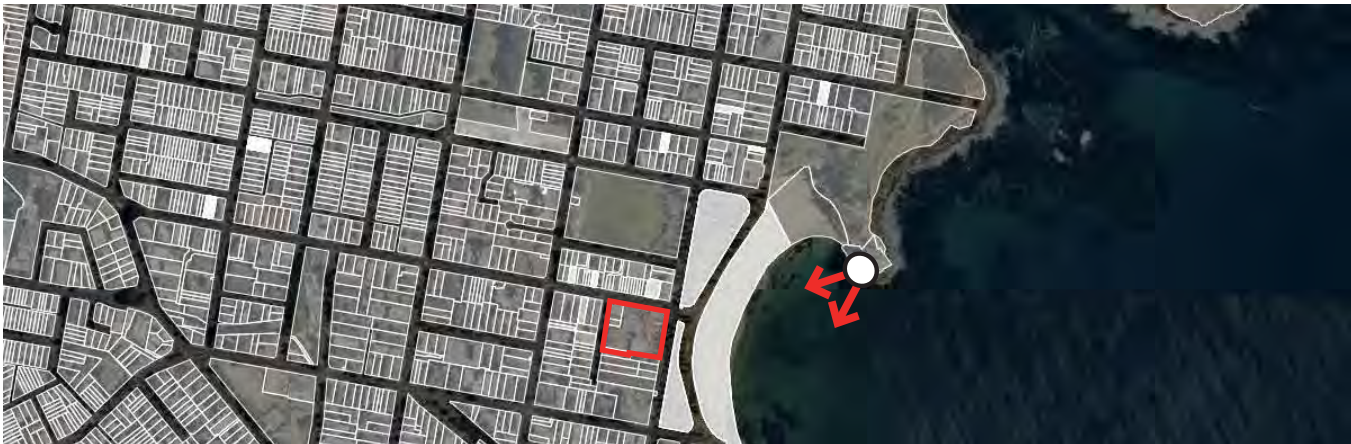


Figure 16 Key Plan of View 2



Figure 17 View 2 - Existing





**Figure 18** View 2 - Proposed



# VIEW 03

## VIEW FROM GOLDSTEIN RESERVE

**Distance class**

- Moderate view
- 340m

**Existing composition of the view**

This view is predominantly characterised by open space, vegetation, parts of Coogee Beach and distant residential development and building development across the lower slopes of South Coogee.. The beach side row of Norfolk Island screens the majority of Coogee Bay Hotels heritage buildings; where parts of the roof forms remain visible among other pitched and gabled roof forms which character the immediate surrounds.

**Visual effects of the proposed development on the composition as modelled**

The proposed development introduces a minor extent of new built form into the view which replaces a small amount of visible built-form beyond the site. The proposed development contributes favourably to the existing visual context that is characterised by varying scale and architectural styles and does not block views to features of high scenic quality or to heritage items.

As a result of the proposed development sitting within a wider view of development, the visual composition remains largely unaffected. The proposed development is shown as a simple block-model where the visual effects of the built form would be less if considering its finished materials and colours.

Building details including materials, colours and finishes increase visual compatibility of the proposed development with its surroundings, therefore reducing its visual impact.

Visual effects of proposed development	
Visual Character	low
Scenic Quality of View	low
View Composition	low
Viewing Level	nil
Viewing Period	high
Viewing Distance	high
View Loss & View Blocking Effects	low
Rating of visual effects on variable weighting factors	
Public Domain View Place Sensitivity	high
Visual Absorption Capacity	high
Compatibility with Urban Context and Visual Character	high
Compatibility/compatibility with regulatory framework and DCP objectives	low
Overall visual impact rating	LOW



Figure 19 Key Plan of View 3



Figure 20 View 3 - Existing





**Figure 21** View 3 - Proposed



# VIEW 04

## VIEW FROM GOLDSTEIN RESERVE (PUBLIC PLAZA)

Distance class

- Close view
- 40m

Existing composition of the view

The view from Goldstein reserve onto the intersection of Arden Street and Coogee Bay Road is predominantly characterised by public space and streetscape along Coogee Bay Road. The heritage buildings of the Coogee Bay Hotel are visually prominent and provide a local visual focal point along the Coogee Bay frontage.

Visual effects of the proposed development on the composition as modelled

The majority of the view is unaffected by the proposal, with the Coogee Bay Hotel and public open space remaining the dominant visual features. The proposed built form is of low visibility from this view place where its additional height cannot be easily perceived. The level of visual effects will be further reduced considering the application of materials and colours, making the flat roof form and massing visually compatible.

The proposal does not visually dominate, or block views to the heritage items on the site or to other important local features. The updated DA massing, form and scale make no significant change to the scenic quality or visual character of this view or others which may be available in the vicinity of the site.

Visual effects of proposed development	
Visual Character	low
Scenic Quality of View	low
View Composition	low
Viewing Level	nil
Viewing Period	low
Viewing Distance	low
View Loss & View Blocking Effects	low
Rating of visual effects on variable weighting factors	
Public Domain View Place Sensitivity	high
Visual Absorption Capacity	high
Compatibility with Urban Context and Visual Character	high
Compatibility/compatibility with regulatory framework and DCP objectives	low
Overall visual impact rating	LOW

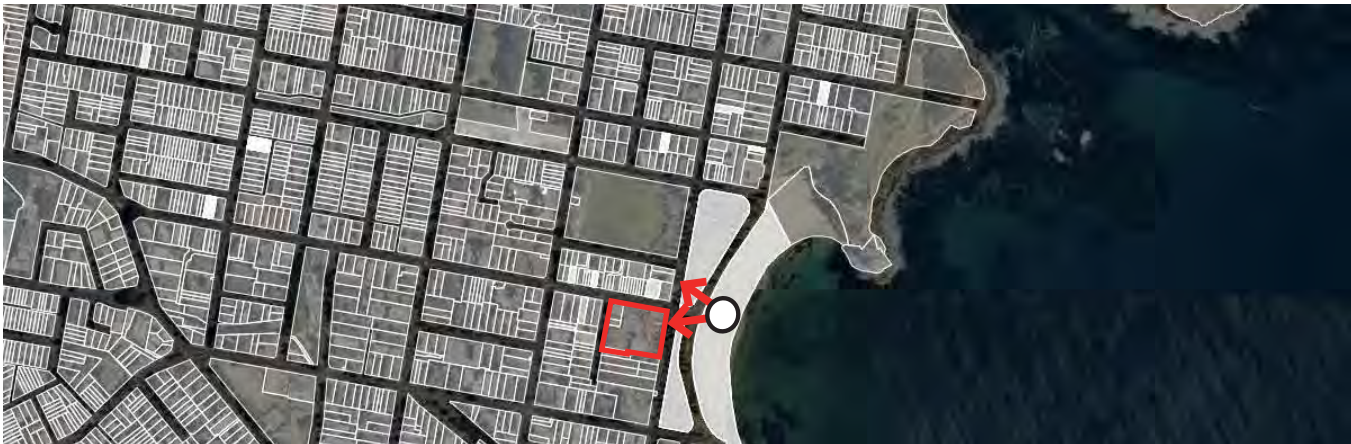


Figure 22 Key Plan of View 3



Figure 23 View 2 - Existing





Figure 24 View 2 - Proposed



# VIEW 05

## VIEW EAST FROM THE INTERSECTION OF MOUNT STREET AND COOGEE BAY ROAD

- Distance class**
- Moderate view
  - 340m

**Existing composition of the view**

This view is characterised by the Coogee Bay Road streetscape to the east which falls in elevation towards the beach. The subject site and existing Coogee Bay Hotel is of low visibility from this distant location. A narrow section or ocean vignette is visible above the view corridor. This is a vernacular public domain view devoid of any high scenic quality or unique values.

**Visual effects of the proposed development on the composition as modelled**

The proposed development is of low visibility from this view place, as a result of existing vegetation and buildings visible along Coogee Bay Road. A minor extent of the northern facade of the proposal will be introduced to this view composition, however does not block elements of high scenic quality.

Building details including materials, colours and finishes will further increase the visual compatibility of the proposed development with its surroundings and reduce its overall visibility, and impact on this view composition.

Visual effects of proposed development	
Visual Character	low
Scenic Quality of View	low
View Composition	low
Viewing Level	nil
Viewing Period	low
Viewing Distance	high
View Loss & View Blocking Effects	low
Rating of visual effects on variable weighting factors	
Public Domain View Place Sensitivity	low
Visual Absorption Capacity	high
Compatibility with Urban Context and Visual Character	high
Compatibility/compatibility with regulatory framework and DCP objectives	low
Overall visual impact rating	LOW



Figure 25 Key Plan of View 5



Figure 26 View 2 - Existing





**Figure 27** View 2 - Proposed



## 6.0 PRIVATE DOMAIN VIEWS

The site sits in a low central 'bowl' surrounded by sloping topography which rises to the south, west and north. In this regard surrounding residential development springs from a similar or higher natural ground level relative to existing and proposed built forms on the site. This situation is likely to facilitate views access towards and across the site.

The private domain visual catchment in relation to the site, based on the external visibility of the tallest built form (boutique hotel roof form) is limited and constrained to immediate areas within Coogee Bay. This extent of visibility (visual catchment) has been tested using Lidar Data Mapping as shown in Figure 35 and 36 and includes residential development west, north-west and south-west of the subject site.

Residential development surrounding the site is predominantly characterised by two to three storey residential flat buildings, isolated individual two storey dwellings and shop top housing on Coogee Bay Road.

Our assessment of likely view access is based on our fieldwork observations regarding relative heights, orientation, window and balcony placement and spatial separation between buildings.

Analysis of images taken from Dolphin Point towards the site highlighted residential lots on Vicar and Brook Streets that may have potential views to the proposed development and beyond to notable scenic features including Dolphins Point and Coogee Bay.

We have inspected views from 27 dwellings within immediate visual context. Viewplace locations are shown at Figure 28.

### URBIS PHOTOMONTAGE VIEW LOCATIONS



Figure 28 View location map



# VIEW PLACE 8 - 1/113 BROOK STREET

## EXISTING VIEW



**Figure 29** Existing view east from 1/113 Brook Street

This view is from the main open-plan living room which occupies the length of the east elevation of this dwelling. Notwithstanding the dwelling is single storey, the views are available from a height that is approximately equivalent to one residential storey above natural ground due to the underlying topographical cross-fall. The view composition is predominantly characterised by foreground vegetation and residential development including dwellings at 14 and 16 Vicar Street. A short section of the distant background between roof forms includes open, undifferentiated water and sea-sky horizon. Open undifferentiated water although 'scenic' in nature, in isolation and as a partial view is not considered as highly valued in *Tenacity* terms. No other views are available from this dwelling that will be affected by the proposed development.

# PROPOSED VIEW

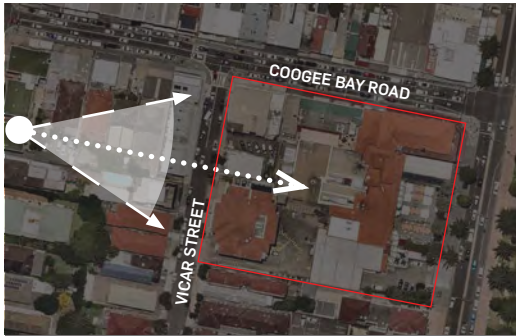


**Figure 30** Proposed view from 1/113 Brook Street. No other views to the east are available from this dwelling.

All of the scenic features in the view are blocked by the lower height and complying parts of the proposed built form. The majority of the built form proposed is located to the north and is heavily screened by dense evergreen vegetation located in neighbouring properties.

Dwelling Address	Description	Photomontage number	<i>Tenacity</i> Step 1, Existing views to be affected?	<i>Tenacity</i> Step 2, From where are the views available?	<i>Tenacity</i> Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in <i>Tenacity</i> - where threshold test is met	Step 4 - summary statement, reasonableness in the context of non-compliance.
1/113 Brook Street	Single storey Federation style semi-detached villa.	View Place 8	A minor part of the view includes a partial water view which is considered to be of some value in <i>Tenacity</i> terms.	Views are gained across a rear boundary, where access to such views should be considered for retention, views are gained from standing positions where more limited views are available from seated positions.	<b>Minor</b>	1,2,3	The view impact rating is minor when all relevant factors are considered. This includes consideration of the quantum and scenic quality of view loss, how the views are obtained etc and compliance with controls. Notwithstanding that access to the partial water view may be valued by the resident, in <i>Tenacity</i> terms the view to be lost is not highly valued relative to other types of views identified in the planning principle. The partial view of open undifferentiated water, is not part of a whole view that is predominantly characterised by scenic or highly valued feature such as land-water interface, icons or locally known unique features such as Dolphin Point or Wedding Cake Island. All water views (scenic features) are blocked by lower complying parts of the proposed development. The additional height sought as part of the Clause 4.6 variation application, creates minimal view loss and no significant amenity impacts for this dwelling. The view sharing outcome is reasonable and acceptable.

**Figure 31** Tenacity Table Summary





## VIEW PLACE 9B - UNIT 19, LEVEL 5, 183 COOGEE BAY ROAD EXISTING VIEW



**Figure 32** Existing view east from unit 19 living room's balcony - level 5 - 183 Coogee Bay Road

This is an easterly view from the east edge of a wide balcony associated with living areas. The foreground of the view is characterised by pitched and flat roof forms of 118 and 120 Brooke Street. The midground composition predominately includes residential dwellings in Brook Street, the existing Coogee Bay Boutique hotel and some vegetation, including the upper parts of the beach side Norfolk Island Pine Trees which indicate the edge of Goldstein Reserve. The background distant view includes open water in Coogee Bay, a section of Wedding Cake Island when available at low tide and a wide section of sea-sky horizon.

## PROPOSED VIEW



**Figure 33** Proposed view

There is no change to the foreground composition or spatial arrangement of built forms in close views. The proposed development introduces a new built form into the mid-ground composition and replaces part of the existing built forms on the site, occupying space which is currently under-developed. The lower complying parts of the proposed development will block a narrow horizontal section of the view including parts of the beach side tree canopy and open water within and beyond Coogee Bay. The additional height sought as shown in blue rises to a height approximately defined by the existing boutique hotel ridgeline and extends to the north and south beyond this existing roof form, to block a minor extent of open and undifferentiated water and some beach-side vegetation. The non-complying upper parts of the proposed development do not block locally significant visual features such as Wedding Cake Island or Dolphin Point. The non-complying upper parts of the proposed development do not dominate the view, significantly alter the scenic quality of the whole view and create a minor extent of view loss. The composition to be lost is not considered as iconic, scenic or highly valued in isolation or a 'whole view' the meaning and formation of which is described in *Tenacity*.



ADDITIONAL VIEWS AVAILABLE FROM UNIT 19, LEVEL 5, 183 COOGEE BAY ROAD



Photo 39 . Existing view north from unit 19 living room's balcony - level 5 - 183 Coogee Bay Road



Photo 40. Existing view northeast from unit 19 living room's balcony - level 5 - 183 Coogee Bay Road



Photo 41 . Existing view east from unit 19 living room's balcony - level 5 - 183 Coogee Bay Road

Dwelling Address	Description	Photomontage number	Tenacity Step 1, Existing views to be affected?	Tenacity Step 2, From where are the views available?	Tenacity Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness in the context of non-compliance.
19/183 Coogee Bay Road	Level 5, east facing unit within the Adina Apartment development.	View Place 9B	The view to be lost includes vegetation, building development and areas of open water, features that are of some value as defined in Tenacity	Standing and seated views over a formal side boundary. We acknowledge that this is considered as a primary view from the dwelling by the resident.	Negligible-minor	1,2,3	The view impact is negligible due to the limited extent of view loss created either side of the Boutique hotel roof form. The limited extent of view loss occurs within a much wider view available from some parts of an expansive balcony and living areas. The majority of the wide arc of view available will remain unaffected by the non-complying built form proposed where views to be lost do not include highly-valued features such as whole views formed by water and land-water interface, icons or locally known unique features such as Dolphins Point or Wedding Cake Island. The proposed development, including the additional height sought as part of the Clause 4.6 variation application, creates minimal view loss and no significant amenity impacts for this dwelling. A reduction in height to meet the LEP control would not reveal more scenic or highly valued features and would not significantly reduce amenity impacts. The view sharing outcome is reasonable and acceptable.

Figure 34 Tenacity assessment table



## VIEWPLACE 9A - UNIT 21, LEVEL 5, 183 COOGEE BAY ROAD EXISTING VIEW



**Figure 35** Existing view east from unit 21 balcony - level 5 - 183 Coogee Bay Road

This is an easterly view from the east edge of a wide balcony associated with living areas. The foreground of the view is characterised by pitched and flat roof forms of 118 and 120 Brooke Street. The mid-ground composition predominately includes residential dwellings in Brook Street, the existing Coogee Bay Boutique hotel and some vegetation, including the upper parts of the beach side Norfolk Island Pine Trees which indicate the edge of Goldstein Reserve. The background distant view includes open water in Coogee Bay, a section of Wedding Cake Island when available at low tide and a wide section of sea-sky horizon

## PROPOSED VIEW



**Figure 36** Proposed View

There is no change to the foreground composition or spatial arrangement of built forms in close views. The proposed development introduces two separate low forms into the mid-ground composition and replaces part of the existing built forms on the site, occupying space which is currently under-developed. The lower complying parts of the proposed development will block a narrow horizontal section of the view including parts of the beach side tree canopy and open water within and beyond Coogee Bay. The two forms are spatially well separated creating a wide view corridor, which reduces the perception of bulk and scale of the proposal.

The additional height sought as shown in blue rises to a height defined approximately by the existing boutique hotel ridgeline and extends to the north and south beyond this existing roof form, to block a minor extent of open and undifferentiated water and the upper canopy of some beach-side vegetation. The non-complying upper parts of the proposed development do not block locally significant visual features such as Wedding Cake Island or Dolphin Point. The non-complying upper parts of the proposed development do not dominate the view, significantly alter the scenic quality of the whole view and create a minor extent of view loss. The composition to be lost is not considered as iconic, scenic or highly valued in isolation or a 'whole view' the meaning and formation of which is described in *Tenacity*.



ADDITIONAL VIEWS AVAILABLE FROM UNIT 21, LEVEL 5, 183 COOGEE BAY ROAD



Photo 42. View east from unit 21 balcony - level 5 - 183 Coogee Bay Road



Photo 43. View northeast from unit 21 balcony - level 5 - 183 Coogee Bay Road



Photo 44. View north from unit 21 balcony - level 5 - 183 Coogee Bay Road

Dwelling Address	Description	Photomontage number	Tenacity Step 1, Existing views to be affected?	Tenacity Step 2, From where are the views available?	Tenacity Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness in the context of non-compliance.
21/183 Coogee Bay Road	Level 5, east facing unit within the Adina Apartment development.	View Place 9A	The view to be lost includes vegetation, building development and areas of open water, features that are of some value as defined in Tenacity	Standing and seated views over a formal side boundary. We acknowledge that this is considered as a primary view from the dwelling by the resident.	Negligible-minor	1,2,3	The view impact is negligible due to the limited extent of view loss created either side of the Boutique hotel roof form. The limited extent of view loss occurs within a much wider view available from some parts of an expansive balcony and associated living areas. The majority of the wide arc of view available will remain unaffected by the non-complying built form proposed where views to be lost do not include highly-valued features such as whole views formed by water and land-water interface, icons or locally known unique features such as Dolphins Point or Wedding Cake Island. The proposed development, including the additional height sought as part of the Clause 4.6 variation application, creates minimal view loss and no significant amenity impacts for this dwelling. A reduction in height to meet the LEP control would not reveal more scenic or highly valued features and would not significantly improve views or amenity. The view sharing outcome is reasonable and acceptable.

Figure 37 Tenacity assessment table



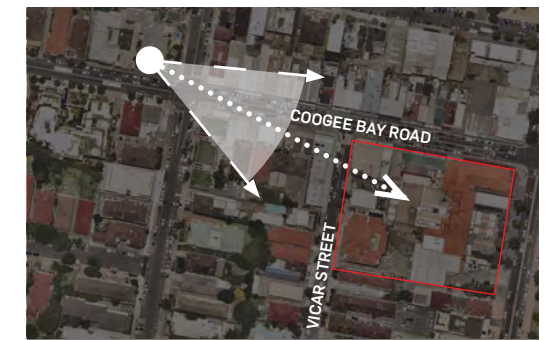
## VIEW PLACE 14B - UNIT 5, LEVEL 3, 180-186 COOGEE BAY ROAD EXISTING VIEW



**Figure 38** Existing view east from unit 5 balcony - level 3 - 180 Coogee Bay Road

This is a north-easterly view from a level three unit balcony, associated with kitchen and living areas. The balcony extends along the entire east and south elevation of the unit, offering expansive views to the north, north-east, and south. The composition is predominantly characterised by a foreground and mid-ground of development including two to four storey buildings. The upper parts of the existing boutique hotel are visible to the south-east. The distant mid-ground and back ground include the Norfolk Island tree canopies along Goldstein Reserve promenade, which filter views of Wedding Cake Island and the wide section of open undifferentiated water and sea-sky horizon beyond.

## PROPOSED VIEW



**Figure 39** Proposed view - including view corridor below the LEP height control to maintain views to Wedding

There is no change to the foreground composition or spatial arrangement of built forms in close views. The central low part of the built form proposed sits significantly below the LEP height control and creates a view corridor through which access to Wedding Cake Island is retained. The view corridor has been designed for this purpose between the northern and southern taller forms, where the resultant re-massing has been located north and south to increase the height of built form above the height control. The additional height sought either side of the designed view corridor blocks a minor amount of open water and vegetation. The additional height sought as shown in blue rises to a height approximately defined by the existing boutique hotel ridgeline and extends to the north of the view corridor blocking a short central section of sea-sky horizon and open areas of sky. We note that sections of sea-sky horizon will be retained within the central view corridor and to the north. The non-complying upper parts of the s34 proposed envelope do not block locally significant features and as such views to be lost are not considered to be iconic, scenic or highly valued in isolation or a 'whole view' the definition of which is described in *Tenacity*. The wider views available to the north-east, north, south and west from this dwelling including to Dolphins Point and Dunningham Reserve are unaffected by the proposed development.



ADDITIONAL VIEWS AVAILABLE FROM UNIT 5, LEVEL 3, 180-186 COOGEE BAY ROAD



Photo 45. View east from unit 5 living room - level 3 - 180 Coogee Bay Road



Photo 46. View northeast from unit 5 dinning room balcony - level 3 - 180 Coogee Bay Road



Photo 47. View east from unit 5 dinning room's balcony - level 3 - 180 Coogee Bay Road

Dwelling Address	Description	Photomontage number	<i>Tenacity</i> Step 1, Existing views to be affected?	<i>Tenacity</i> Step 2, From where are the views available?	<i>Tenacity</i> Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in <i>Tenacity</i> - where threshold test is met	Step 4 - summary statement, reasonableness in the context of non-compliance.
Unit 5 180-186 Coogee Bay Road, Coogee	Level 3 top floor unit located at the north-east edge of this residential flat building. The unit presents elevations to the east and south	View Place 14B	Views affected include a partial view characterised by scenic features	Views are obtained across the formal side boundary of this residential flat building, which has a formal presentation to Coogee Bay Road. We acknowledge that this is considered as a primary view from the dwelling by the resident. Views are available from standing and some seated positions on the balcony and within the dwelling.	<b>Minor -negligible for the whole dwelling.</b>	1,2,3	<p>The view impact rating is minor-negligible, when all relevant factors are considered. This includes consideration of the quantum and quality of view loss caused by the lower and fully complying parts of the proposed development. The parts of the dwelling from which views are affected are accessed via the side boundary and the wider and unaffected views available to scenic compositions including for example all of Dolphins Point headland which are unaffected by the proposed development. The most scenic parts of the south-easterly view to Wedding Cake Island are retained due to the inclusion of a 'view corridor' and built form that sits significantly below the LEP height control.</p> <p>The non-compliant upper parts of the built form proposed do not block views to highly-valued features and predominantly block a minor amount of undifferentiated water and sky. A reduction in height to meet the LEP height control would not reveal more scenic or highly valued features as defined in <i>Tenacity</i>, and would not significantly improve views or amenity. The view sharing outcome is equitable, reasonable and acceptable.</p>

Figure 40 *Tenacity* assessment table



# VIEW PLACE 14A - UNIT 1, LEVEL 2, 180-186 COOGEE BAY ROAD EXISTING VIEW



**Figure 41** Existing view north-east from unit 1 balcony - level 2 - 180.Coogee Bay Road

This is a north-easterly view from a level two unit balcony, associated with kitchen and living areas. The balcony extends along the entire east and south elevation of the unit, offering expansive views to the north, north-east and east. The composition is predominantly characterised by a foreground and mid-ground of development including two to four storey buildings. The upper parts of the existing boutique hotel are visible to the south-east. The distant mid-ground and back ground include the Norfolk Island tree canopies along Goldstein Reserve promenade, which filter views a section of open undifferentiated water and sea-sky horizon beyond.

# PROPOSED VIEW



**Figure 42** Proposed View including central view corridor which sits below the LEP height control and maintains access to a central section of sea-sky horizon.

There is no change to the foreground composition or spatial arrangement of built forms in close views. The lower complying parts of the proposed development will replace buildings roof forms where a short section of sea-sky horizon and beach side tree canopy to the north is retained via the view corridor. The additional height sought either side of the view corridor as shown in blue rises approximately to the height of the existing boutique hotel ridgeline and extends to the north beyond this existing roof form, to block a minor additional section of sea-sky horizon and open areas of sky. The non-complying upper parts of the proposed development do not block locally significant visual features. The composition to be lost is not considered as iconic, scenic or highly valued in isolation or a 'whole view' as described in *Tenacity*. The wider views available to the north-east, north, south and west from this dwelling remain unaffected by the proposed development.



ADDITIONAL VIEWS AVAILABLE FROM UNIT 1, LEVEL 2, 180-186 COOGEE BAY ROAD



Photo 47. View northeast from unit 1 balcony - level 2 -180 Coogee Bay Road



Photo 48. View east from unit 1 living room - level 2 -180 Coogee Bay Road



Photo 49. View south from unit 1 balcony - level 2 -180 Coogee Bay Road

Dwelling Address	Description	Photomontage number	<i>Tenacity</i> Step 1, Existing views to be affected?	<i>Tenacity</i> Step 2, From where are the views available?	<i>Tenacity</i> Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in <i>Tenacity</i> - where threshold test is met	Step 4 - summary statement, reasonableness in the context of non-compliance.
Unit 1 180-186 Coogee Bay Road	Level 2 mid-level unit, directly below level 5 located at the east end of the residential flat building.	View Place 14A	Views affected include a partial view characterised by sea sky horizon and sky. These features are not considered as highly valued in <i>Tenacity</i> .	Views are obtained across the formal side boundary of this residential flat building, which presents to Coogee Bay Road. A similar view composition is available from some seated positions and more limited, constrained views in relation to open-plan living and kitchen areas.	<b>Negligible-minor</b>	1,2,3	The view impact rating is negligible-minor as a result of the combination of the quantum and quality of view loss, retention of other views from the dwelling including to Dolphins Point headland and land-water interface which will remain unaffected by the proposed development. The non-compliant upper parts of the built form proposed do not block views to highly-valued features where the additional height sought (as part of the Clause 4.6 variation application) predominantly blocks areas of sky and a short additional section of sea-sky horizon north of the section blocked by the complying development. The additional height sought blocks a minor extent of view that is not considered as highly valued in <i>Tenacity</i> terms. A reduction in height to meet the LEP height control would not reveal more scenic or highly valued features and would not significantly improve views or amenity. The view sharing outcome is reasonable and acceptable.

Figure 43 *Tenacity* assessment table



## VIEW PLACE 16 - 17 VICAR STREET EXISTING VIEW



**Figure 44** Existing view east from 17 Vicar Street master bedroom's balcony - level 1

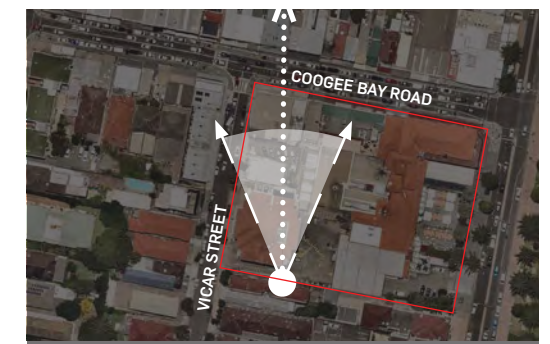
Easterly views are available from both floors at this dwelling. The modelled view is from the main living area. The foreground is constrained by the south elevation brick wall of 15 Vicar Street which bounds the site, low vegetation and the west end of the 3 storey residential flat building at 230 Ardern Street. The gap between built forms reveals a narrow view corridor which includes beach side Norfolk Pines, a section of Coogee Beach and distant open water and sea sky horizon. The lower part of the view includes flat roof forms on the subject site.

## PROPOSED VIEW



**Figure 45** Proposed view

The proposed development includes the demolition of 15 Vicar Street, which is replaced by significantly lower built form including the south arm of the proposed development. The proposed envelope extends to the east sitting well below the LEP height control so that all parts proposed development are fully complying. The complying parts of the proposed development will block the lower part of the view but the long section of sea-sky horizon is retained.





ADDITIONAL VIEWS AVAILABLE FROM 17 VICAR STREET



Photo 50. View northeast from 17 Vicar Street balcony - ground floor



Photo 51. Standing view east from 17 Vicar Street living room - ground floor



Photo 52. Seated view northeast from 17 Vicar Street living room ground floor

Dwelling Address	Description	Photomontage number	Tenacity Step 1, Existing views to be affected?	Tenacity Step 2, From where are the views available?	Tenacity Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness in the context of non-compliance.
17 Vicar Street, Coogee	Two storey dwelling, individual dwelling immediately adjacent to the subject site.	View Place 16	Views affected include a partial open water view	Views are available obliquely, across the side boundary from standing positions at both floors and some seated positions from the first floor.	Minor	1, 2, 3	<p>All view loss is caused by built form that is fully complying with the LEP height control and sits significantly below it. No parts of the additional height sought as part of the Clause 4.6 variation are visible. Notwithstanding, view loss will be experienced from a living area and first floor bedroom. Views across side boundaries are acknowledged as being more difficult . The lower part of the partial view of open undifferentiated water will be lost, however the long section of sea-sky horizon will be retained.</p> <p>The partial view of open undifferentiated water is not part of a whole view that is predominantly characterised by scenic or highly valued feature such as land-water interface, icons or locally known unique features such as Dolphin Point or Wedding Cake Island. All water views (scenic features) are blocked by lower complying parts of the proposed development. On balance notwithstanding a moderate view impact rating overall, the view sharing outcome is acceptable.</p>

Figure 46 Tenacity assessment table



## VIEW PLACE 15 - UNIT 9, LEVEL 3, 41-43 CARR STREET EXISTING VIEW



**Figure 47** Existing view east from unit 9, level 3, living room's balcony - 41 Carr Street

This is a distant easterly view from the eastern balcony associated with the living area and across the side boundary of the development. The foreground includes a variety of vegetation which filters existing views to the open water. The mid-ground view is predominately characterised by residential dwellings and various roof forms. The background view includes open water in Coogee Bay, a wide section of sea-sky horizon and heavily filtered partial views to Dolphins Point. Similar but more constrained compositions are available from a living room window, and bedroom located along the east elevation of the unit.

## PROPOSED VIEW



**Figure 48** Proposed view

There will be no change to the foreground or spatial arrangement of the view. The complying parts of the proposed development will occupy a minor part of the mid-ground composition blocking existing built form. The south end of the non-complying central flat roof blocks a minor extent of water and lower part of a rock platform, south of the boutique hotel roof form. The majority of the section of land-water interface south of Dolphin Point and the extensive section of sea-sky horizon remain visible and unaffected by the proposed development.



ADDITIONAL VIEWS AVAILABLE FROM UNIT 9, LEVEL 3, 41-43 CARR STREET



Photo 56. View east from unit 9 living room - level 3 -41 Carr Street



Photo 57. View east from unit 9 dinning room - level 3 -41 Carr Street



Photo 58. Standing view east from unit6 bedroom - level 3 - 41 Carr Street

Dwelling Address	Description	Photomontage number	Tenacity Step 1, Existing views to be affected?	Tenacity Step 2, From where are the views available?	Tenacity Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness in the context of non-compliance.
9/41-43 Carr Street Coogee	2nd level, 3rd storey north end unit within a residential flat building located along the elevated north side of Carr Street.	View Place 15	Built form, triangular sections of water south of the boutique hotel	Balcony associated with a living area and partial views from bedrooms and partial seated view from living room. All views are gained over a side boundary.	<b>Negligible-minor in relation to complying built form and minor in relation to non-complying built form.</b>	1,2,3	The majority of the proposed development including the additional height sought is heavily screened by vegetation. In this regard the proposal blocks a minor extent of view that is not predominantly characterised by scenic and highly valued items in Tenacity terms . A reduction in height would not significantly improve views or amenity. The view sharing outcome is reasonable and acceptable.

Figure 49 Tenacity assessment table



## VIEW PLACE 17A - UNIT 5, 14 KIDMAN STREET EXISTING VIEW



**Figure 50** Existing view northeast from unit 5 balcony - 14 Kidman Street

This is an oblique view is from the north eastern balcony. The foreground composition is characterised by vegetation, roof forms and residential dwellings and part of the Coogee Bay Boutique Hotel. The background view includes Dunngingham Reserve and open water in Coogee Bay, in addition to a Dolphin Point and associated land-water interface. Views from the balcony are available in a wide arc from west to east, such that the proposed development will occupy only a minor part of the much wider panoramic view.

## PROPOSED VIEW



**Figure 51** Proposed view

The height and scale of the complying parts of the proposed development block existing built form and a minor extent of open water to the south as the LEP height plane increases along Vicar Street. The additional height sought as shown in blue will introduce a new contemporary flat-roof form into the mid-ground composition. The non-complying parts of the proposed development block built form, vegetation and a minor extent of open water to the north and south of the Boutique Hotel roof form. All of the scenic and highly valued parts of the view as defined in *Tenacity* are unaffected by the built form proposed.



ADDITIONAL VIEWS AVAILABLE FROM UNIT 5, 14 KIDMAN STREET



Photo 59 . View north from unit 5 balcony - 14 Kidman Street



Photo 60 . View north-west from unit 5 balcony - 14 Kidman Street



Photo 61. View west from unit 5 balcony - 14 Kidman Street

Dwelling Address	Description	Photomontage number	<i>Tenacity</i> Step 1, Existing views to be affected?	<i>Tenacity</i> Step 2, From where are the views available?	<i>Tenacity</i> Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in <i>Tenacity</i> - where threshold test is met	Step 4 - summary statement, reasonableness in the context of non-compliance.
5/14 Kidman Street, Coogee	Three storey dwelling, north end unit, within an expansive residential flat building.	View Place 17A	Views affected include scenic features as defined In <i>Tenacity</i>	Standing and seated views over a formal (technical) property side boundary.	<b>Negligible or less</b>	1,2,3	The proposed development, including the additional height sought as part of the Clause 4.6 variation, does not create any significant view loss or view impacts. A reduction in height to meet the LEP height control would not reveal more scenic or highly valued features and would not significantly improve views or amenity. The negligible view impact is reasonable and the view sharing outcome is acceptable and supportable in our opinion.

Figure 52 *Tenacity* assessment table



## VIEW PLACE 17B - UNIT 3, 14 KIDMAN STREET EXISTING VIEW



**Figure 53** Existing view east from unit 3 balcony - 14 Kidman Street

This view is from the north eastern balcony that has an expansive view from north to south. The foreground composition is characterised by vegetation, roof forms and residential dwellings and a portion of the Coogee Bay Boutique Hotel in the distance. The background view includes Dunningham Reserve and open water in Coogee Bay, in addition to a highly scenic view to Dolphin Point. Views from the balcony are available in a wide arc from west to east, such that the proposed development will occupy only a minor part of the much wider panoramic view.

## PROPOSED VIEW



**Figure 54** Proposed view

The height and scale of the complying parts of the proposed development block existing built form and minor extent of water in the north part of Coogee Bay. The additional height sought as shown in blue will introduce a new contemporary flat-roof form into the mid-ground composition. The non-complying parts of the proposed development including the highest central flat-roof section block existing built form, vegetation and a very minor extent of open water to the north and south of the Boutique Hotel's existing roof form. All of the scenic and highly valued parts of the view as defined in *Tenacity* are unaffected by the built form proposed.



ADDITIONAL VIEWS AVAILABLE FROM UNIT 3, 14 KIDMAN STREET



Photo 61. View northeast from unit 3 balcony - 14 Kidman Street



Photo 62. View north from unit 3 balcony - 14 Kidman Street



Photo 63. View north-west from unit 3 balcony - 14 Kidman Street

Dwelling Address	Description	Photomontage number	Tenacity Step 1, Existing views to be affected?	Tenacity Step 2, From where are the views available?	Tenacity Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness in the context of non-compliance.
3/14 Kidman Street, Coogee	Three storey dwelling, north end unit, within an expansive residential flat building.	View Place 17B	Views affected include scenic features as defined In Tenacity	Standing and seated views over a formal (technical) property side boundary.	Negligible or less	1,2,3	The proposed development, including the additional height sought as part of the Clause 4.6 variation, does not create any significant view loss or view impacts. A reduction in height to meet the LEP height control would not reveal more scenic or highly valued features and would not significantly improve views or amenity. The negligible view impact is reasonable and view sharing outcome is acceptable and supportable in our opinion.

Figure 55 Tenacity assessment table



## VIEW PLACE 18 - UNIT 5, LEVEL 2, 119 BROOK STREET EXISTING VIEW



**Figure 56** Existing close view northeast from unit 5 balcony - level 2 - 119 Brook Street

This view is from the north end of an external balcony of a unit that presents to the north. A similar view is available from the west end of the balcony. The foreground to the east, is characterised by dense vegetation and mid-ground to the north-east by pitched roof forms including neighbouring residential dwellings and the upper levels of the existing Coogee Bay Boutique Hotel. The distant background to the north-east includes the upper topography and vegetation in Dunningham Reserve, isolated residential flat buildings and two sections of sea-sky horizon either side of the Boutique Hotel pitched roof. The northern section reveals wave action in relation to rockshelves and platform north of Dolphin Point. The scenic features available form a partial view, where the wider view available is not predominantly characterised by highly valued scenic features, icons or whole views as defined in *Tenacity*.

## PROPOSED VIEW



**Figure 57** Proposed view

The lower complying parts of the proposed development will replace views of the existing boutique hotel. The additional height sought as shown in blue rises to a similar height to the existing boutique hotel ridgeline but reduces in height as it extends to the north beyond this existing sloped roof. An additional section of distant rock face and wave action will be revealed as a result of the proposed envelope. The non-complying parts of the proposed development block a minor extent of a scenic composition including a section of sea-sky horizon but do not block views to rock outcrops or Dunningham Reserve. The updated DA retains the scenic parts of the view including Dolphin Point headland and distant rock outcrops. The expansive views available to the north-east, north, south and west from this dwelling remain unaffected by the proposed development. Notwithstanding the non-compliant form blocks a section of open water and sea-sky horizon, it does not block a whole view predominantly characterised by highly valued scenic features, icons as defined in *Tenacity*.





ADDITIONAL VIEWS AVAILABLE FROM UNIT 5, LEVEL 2, 119 BROOK STREET



Photo 64 . Seated view east from unit 5 balcony - 119 Brook Street



Photo 65 . View northeast from unit 5 balcony - 119 Brook Street



Photo 66 . View northeast from unit 5 bedroom - 119 Brook Street

Dwelling Address	Description	Photomontage number	Tenacity Step 1, Existing views to be affected?	Tenacity Step 2, From where are the views available?	Tenacity Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness in the context of non-compliance.
5/119 Brook Street	2nd level centrally located unit along the north elevation of this three storey residential flat building.	View Place 18	Views affected include a partial view which includes valued and scenic features as defined in Tenacity.	Standing and seated oblique views from balcony and bedroom across a side boundary. We acknowledge that this is considered as a primary view from the dwelling by the resident.	<b>Negligible in relation to non-complying and complying built form.</b>	1,2,3	The view impact rating is minor when considering all relevant factors including the quantum of view loss, the room types to be affected and availability of other, unaffected views from the whole dwelling and access via the side boundary and compliance with controls. A minor part of the view will be lost where new built form replaces existing built form and a short section of open water. The s.34 envelope reveals additional scenic parts of Dolphin Point via the view corridor where the additional height sought as part of the Clause 4.6 variation application predominantly blocks areas of undifferentiated water and a section of sea-sky horizon. These features are not considered to be scenic or highly valued in Tenacity terms compared to highly scenic whole views. The view impact for the whole dwelling is acceptable in the context of the wider views available, which remain unaffected.

Figure 58 Tenacity assessment table



# VIEW PLACE 7 - PENTHOUSE BALCONY, 57-63 ST PAUL STREET EXISTING VIEW



**Figure 59** Existing view east from unit 79 Penthouse balcony - 57-63 St Paul Street

This view is from the penthouse balcony at the Grove. The view is expansive from north to west, where the immediate foreground is occupied by rooftop and balcony areas. The northerly mid-ground composition includes a range of low-height and density residential development which springs from lower elevation relative to the view place, so that expansive views to the east and north are available including to parts of Randwick and Coogee. The background composition includes a wide arc of view and long section of uninterrupted sea-sky horizon.

# PROPOSED VIEW



**Figure 60** Proposed view

The proposal is of low visibility in this view and others from this dwelling. The complying height envelope blocks a minor amount of open water and is of low visibility from this distance. The proposed development is visible in the distant background at the east end of Coogee Bay Road where it occupies a negligible amount of the view. The height and scale of the proposed development is not highly visible, does not dominate the view or change the predominant visual character or scenic quality of the view. The Proposed development does not block a whole view characterised by scenic features.



ADDITIONAL VIEW AVAILABLE FROM 57-63 ST PAUL STREET



Photo 67. Existing view northeast from unit 79 Penthouse balcony - 57-63 St Paul Street

Dwelling Address	Description	Photomontage number	Tenacity Step 1, Existing views to be affected?	Tenacity Step 2, From where are the views available?	Tenacity Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness in the context of non-compliance.
The Grove 57-63 St Paul Street, Randwick	Five storey aged care dwelling	View Place 7	Water feature	Balcony associated with living areas. Similar views are not available from inside the dwelling.	Negligible or less	1	The proposed development, including the additional height sought as part of the Clause 4.6 variation application, creates minimal view loss and no significant amenity impacts for this dwelling. The view sharing outcome is reasonable and acceptable.

Figure 61 Tenacity assessment table



# 7.0 ADDITIONAL VIEWS REQUESTED BY COUNCIL

201 COOGEE BAY ROAD ROOFTOP

UNIT 3, LEVEL 3, 130 BROOK STREET

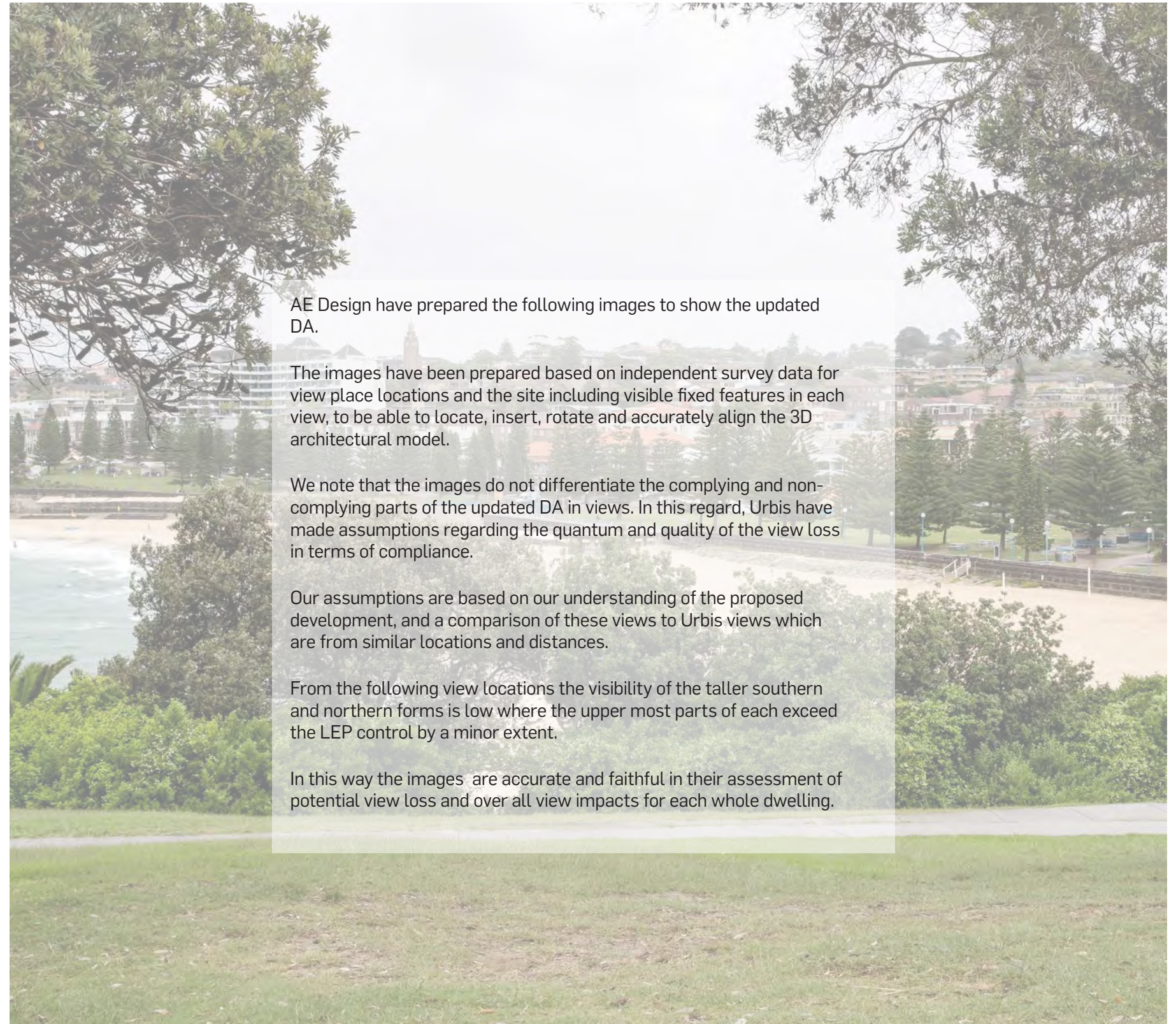
UNIT 16, LEVEL 3, 201 COOGEE BAY ROAD

UNIT 5, LEVEL 3, 134 BROOK STREET

UNIT 12A, LEVEL 3, 28 KIDMAN STREET

UNIT 15, LEVEL 3, 28 KIDMAN STREET

UNIT 22, LEVEL 6, 183 COOGEE BAY ROAD



AE Design have prepared the following images to show the updated DA.

The images have been prepared based on independent survey data for view place locations and the site including visible fixed features in each view, to be able to locate, insert, rotate and accurately align the 3D architectural model.

We note that the images do not differentiate the complying and non-complying parts of the updated DA in views. In this regard, Urbis have made assumptions regarding the quantum and quality of the view loss in terms of compliance.

Our assumptions are based on our understanding of the proposed development, and a comparison of these views to Urbis views which are from similar locations and distances.

From the following view locations the visibility of the taller southern and northern forms is low where the upper most parts of each exceed the LEP control by a minor extent.

In this way the images are accurate and faithful in their assessment of potential view loss and over all view impacts for each whole dwelling.



AE DESIGN PHOTOMONTAGE VIEW LOCATIONS



Figure 62 AE View Location Map



## 201 COOGEE BAY ROAD ROOFTOP EXISTING VIEW



**Figure 63** Existing view looking east towards

Close direct views from the three individual roof top areas to the subject site are available. The foreground composition is predominantly characterised by two and three storey commercial buildings along Coogee Bay Road, including the existing heritage hotel and boutique hotel to the south-east. The mid-ground includes a vignette to Coogee Bay beach and the distinctive columnar Norfolk Island tree canopies and to the north-east the upper parts of Dunningham Reserve at Dolphins Point. The background view includes open undifferentiated water in Coogee Bay, and at low tide wave action associated with the rock platform Wedding Cake Island. This view is only available from the north-eastern most corner of the north roof, where views from the other roof tops do not include Wedding Cake Island

## PROPOSED VIEW



**Figure 64** Proposed view

The complying built form proposed blocks existing development. The additional height sought blocks vegetation, areas of open water where the wide spatial separation between non-complying taller parts of the s.34 envelope creates a view corridor. Inclusion of the view corridor allows for the retention of views from this shared roof top corner to the majority of Wedding Cake Island (when visible at low tide).

ADDITIONAL VIEWS AVAILABLE FROM 201 COOGEE BAY ROAD ROOFTOP



Photo 68. View east from east rooftop

Dwelling Address	Description	Photomontage number	Tenacity Step 1, Existing views to be affected?	Tenacity Step 2, From where are the views available?	Tenacity Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness
5/201 Coogee Bay Road, Coogee	Shared common trafficable roof space, north-east edge.	View requested by Council -overlay prepared by AED	Water views	Standing views from one location from the north-eastern most edge of a roof top over a rear property boundary	Negligible-minor	1,2,3	The impact is reasonable given the access to this view is limited, unlikely to be viewed for sustained periods of time and is not from a private dwelling. The inclusion of the view corridor allows for retention of views to Wedding Cake Island. In addition all other expansive views from the majority of all three roof decks will remain unaffected by the proposed development. Views to Dolphin Point and the beach front and land-water interface visible along the Coogee Bay Road corridor will be unaffected. The view sharing outcome is reasonable and acceptable.

Figure 65 Tenacity assessment table



# UNIT 3, LEVEL 3, 130 BROOK STREET EXISTING VIEW



Figure 66 Existing view looking east from living room balcony

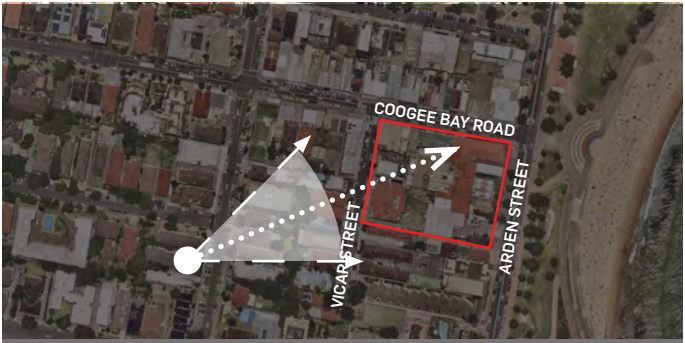
This is a north-easterly view from a level three unit balcony . The foreground composition predominately consists of residential development and vegetation along Brook Street. The mid-ground view includes pitched and flat roof forms including the upper part of the boutique hotel roof form. The background view is expansive and includes parts of Dolphin Point headland, land-water interfaces further north beyond Dunningham Reserve and open water beyond Coogee Bay. Other expansive views are available to the north, north-west and east which will be unaffected by the proposed development.

# PROPOSED VIEW



Figure 67 Proposed view

The height and scale of the proposed development block existing built form. The additional height sought as shown in blue will introduce a new contemporary flat-roof form into the mid-ground composition. The upper-most parts of the proposed development project to the north and south beyond the existing pitched roof, blocking vegetation, a minor extent rock outcrop and short section of open water to the south of the Boutique Hotel roof form. All of the scenic and highly valued parts of the view as defined in *Tenacity* including rock outcrops above the built form proposed, are unaffected by the s.34 proposed envelope and remain visible.





ADDITIONAL VIEWS AVAILABLE FROM UNIT 3, LEVEL 3, 130 BROOK STREET



Photo 69. View north-east from living room terrace



Photo 70. View north from living room terrace

Dwelling Address	Description	Photomontage number	Tenacity Step 1, Existing views to be affected?	Tenacity Step 2, From where are the views available?	Tenacity Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness
3/130 Brook St Coogee	Third floor unit located in a mid-slope location approximate 200m west of the subject site.	View requested by Council -overlay prepared by AED	Land and water views	Standing views from an external balcony	Negligible	1,2,3	The view impact is negligible due to the limited extent of view loss created either side of the Boutique hotel roof form. The limited extent of view loss occurs within a much wider view available. The majority of the wide arc of view available will remain unaffected by the non-complying built from proposed where views to be lost do not include highly-valued features such as whole views formed by water and land-water interface, icons or locally known unique features such as Dolphins Point or Wedding Cake Island. The proposed development, including the additional height sought as part of the Clause 4.6 variation application, creates minimal view loss and no significant amenity impacts for this dwelling. A reduction in height to meet the LEP control would not reveal more scenic or highly valued features and would not significantly reduce view or amenity impacts. The view sharing outcome is reasonable and acceptable.

Figure 68 Tenacity assessment table



# UNIT 16, LEVEL 3, 201 COOGEE BAY ROAD

## EXISTING VIEW



**Figure 69** Existing view looking east from kitchen

This view is from the kitchen of the dwelling at level three. The foreground is predominantly characterised by vegetation, neighbouring dwellings and pitched roofs. The mid-ground view includes residential dwellings and the existing Coogee Bay Boutique Hotel. The background includes a minor part of Dunningham Reserve, vegetation located at Coogee Beach and the ocean to sky horizon.

# PROPOSED VIEW



**Figure 70** Proposed view

The height and scale of the proposed development block existing built form. The additional height sought as shown in blue will introduce two widely spaced, separate sections of contemporary flat-roof form into the mid-ground composition. The upper parts of the proposed development block vegetation, open water between tree canopy and areas of open sky. The upper built form largely blocks or replaces existing built from and does not block features or compositions that are defined as scenic or highly valued in *Tenacity* terms.

ADDITIONAL VIEWS AVAILABLE FROM UNIT 16, LEVEL 3, 201 COOGEE BAY ROAD



Photo 71. View east from bedroom window

Dwelling Address	Description	Photomontage number	Tenacity Step 1, Existing views to be affected?	Tenacity Step 2, From where are the views available?	Tenacity Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness
16/201 Coogee Bay Road	Upper floor south-end unit living room	View requested by Council -overlay prepared by Fenders Katsalidis	Partial open water view	Standing views only from the kitchen only in this dwelling	Negligible or less	N/A	The view impact is negligible or less for the whole dwelling . The proposed development, including the additional height sought as part of the Clause 4.6 does not block scenic and highly valued compositions, creates minimal view loss and no significant amenity impacts for this dwelling. A reduction in height to meet the LEP control would not reveal more scenic or highly valued features. The view sharing outcome is reasonable and acceptable.

Figure 71 Tenacity assessment table



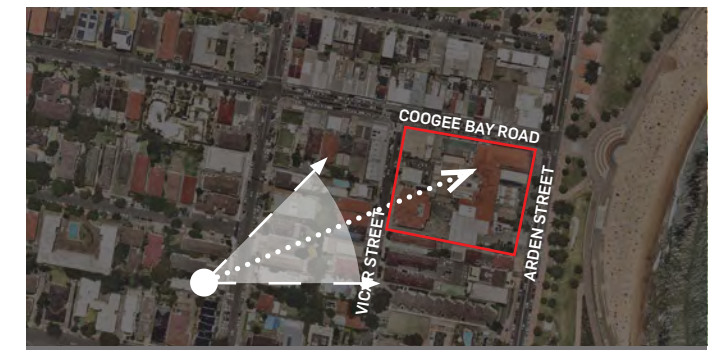
## UNIT 5, LEVEL 3, 134 BROOK STREET EXISTING VIEW



**Figure 72** Existing view looking east from balcony

This view is from the third floor balcony associated with the living area. The view is expansive including a wide arc from north to south with a foreground composition predominately characterised by residential dwellings at Brook Street. The mid-ground is characterised by roofs and vegetation, where the distant background consists of Dunningham Reserve, land water interface and open water.

## PROPOSED VIEW



**PROPOSED MODEL**

**Figure 73** Proposed view

The lower and upper parts of the proposed development are not visible in this view. Access to the subject site is blocked by intervening development. There are no visual effects or view loss caused by the proposed development



ADDITIONAL VIEWS AVAILABLE FROM UNIT 5, LEVEL 3, 134 BROOK STREET



Photo 72. View east from balcony



Photo 73 . View east from living room

Dwelling Address	Description	Photomontage number	TenacityStep 1, Existing views to be affected?	TenacityStep 2, From where are the views available?	TenacityStep 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness
5/134 Brook Street, Coogee	Three storey dwelling, east end unit occupying the full length of the upper floor.	View requested by Council -overlay prepared by AED	N/A	N/A	Nil no view loss	N/A	N/A

Figure 74 Tenacity assessment table



# UNIT 12A, LEVEL 3, 28 KIDMAN STREET EXISTING VIEW



Figure 75 Existing view looking north-east from living room

Views towards the site are available to the east from two rooms via the eastern side boundary. The views from the living room and kitchen are similarly characterised by a foreground of residential development and roofs, mid-ground development including parts of the subject site which are screened by dense vegetation. The distant background includes parts of Dunningham Reserve, a wide section of open water and sea-sky horizon and taller built form to the south.

# PROPOSED VIEW

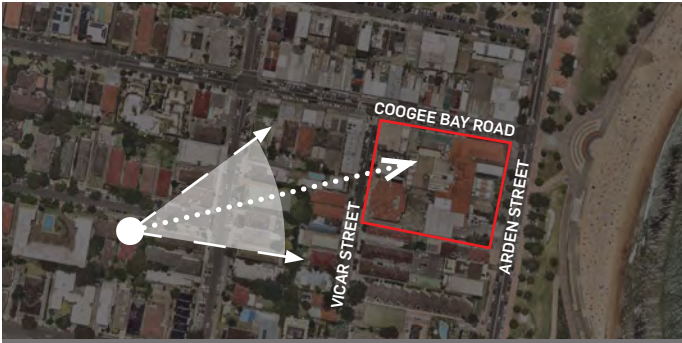


Figure 76 Proposed view

A minor extent of the envelope is visible in the distant background, and is of low visibility where no substantive view loss in either qualitative or quantitative will occur.



ADDITIONAL VIEWS AVAILABLE FROM UNIT 12A, LEVEL 3, 28 KIDMAN STREET



Photo 74 View east from living room



Photo 75. View east from kitchen

Dwelling Address	Description	Photomontage number	Tenacity Step 1, Existing views to be affected?	Tenacity Step 2, From where are the views available?	Tenacity Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness
12a/28 Kidman St Coogee	Three storey residential flat building dwelling in a mid slope location approximately 200m west of the subject site	View requested by Council -overlay prepared by AED	Open water view	Standing views from kitchen and living area	Negligible or less	N/A	The view impact is negligible or less for the whole dwelling . The proposed development, including the additional height sought as part of the Clause 4.6 does not block scenic and highly valued compositions, creates minimal view loss and no significant amenity impacts for this dwelling. A reduction in height to meet the LEP control would not reveal more scenic or highly valued features. The view sharing outcome is reasonable and acceptable.

Figure 77 Tenacity assessment table



# UNIT 15, LEVEL 3, 28 KIDMAN STREET EXISTING VIEW



Figure 78 Existing view looking north-east from living room

Views towards the site are available to the east from two rooms via the eastern side boundary. The views from the living room and kitchen are similarly characterised by a foreground of residential development and roofs, mid-ground development including parts of the subject site the majority of which is heavily screened by dense vegetation. The distant background includes parts of Dunningham Reserve, a section of open water and sea-sky horizon and taller built form to the south.

# PROPOSED VIEW



Figure 79 Proposed view

A limited extent of the proposed built form is visible in the distant background, where no substantive view loss in either qualitative or quantitative will occur.

ADDITIONAL VIEWS AVAILABLE FROM UNIT 15, LEVEL 3, 28 KIDMAN STREET



Photo 76. Close view north-east from kitchen

Dwelling Address	Description	Photomontage number	Tenacity Step 1, Existing views to be affected?	Tenacity Step 2, From where are the views available?	Tenacity Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in Tenacity - where threshold test is met	Step 4 - summary statement, reasonableness
Unit 15 28 Kidman Street	Three storey residential flat building dwelling in a mid slope location approximately 200m west of the subject site	View requested by Council -overlay prepared by Fenders Katsalidis	Open water view	Standing views from living room	Negligible or less	N/A	The view impact is negligible or less for the whole dwelling . The proposed development, including the additional height sought as part of the Clause 4.6 does not block scenic and highly valued compositions, creates minimal view loss and no significant amenity impacts for this dwelling. A reduction in height to meet the LEP control would not reveal more scenic or highly valued features. The view sharing outcome is reasonable and acceptable.

Figure 80 Tenacity assessment table



# UNIT 22, LEVEL 6, 183 COOGEE BAY ROAD

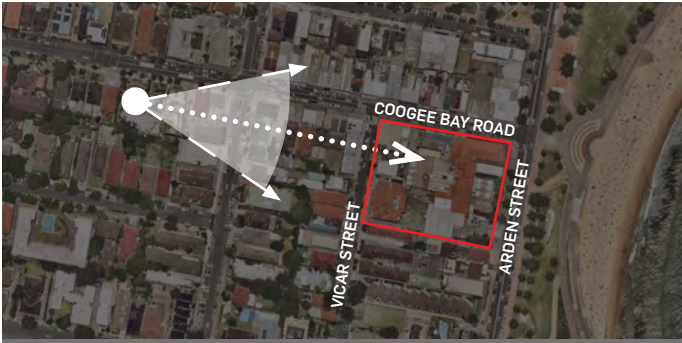
## EXISTING VIEW



**Figure 81** Existing view looking east from balcony

This view is from the level seven balcony, associated with living areas providing an expansive view from north to east. Notwithstanding the view is potentially expansive, tall box hedging included in foreground planter boxes, blocks the majority of standing views to the east.

# PROPOSED VIEW



**Figure 82** Proposed view

The proposed development introduces a narrow horizontal section of built form into the view. The lower parts of the massing proposed are not visible. The additional height sought as shown in blue rises approximately to a height defined by the existing boutique hotel ridgeline and extends to the north and south beyond this existing form, blocking a minor extent of open and undifferentiated water and the upper canopy of some beach-side vegetation. These features are not considered as scenic or highly valued in *Tenacity* terms. The upper parts of the proposed development do not block locally significant visual features such as Wedding Cake Island or Dolphin Point. The upper parts of the proposed development do not dominate the view, significantly alter the scenic quality of the whole view and create a minor or less extent of view loss.



ADDITIONAL VIEWS AVAILABLE FROM UNIT 22, LEVEL 6, 183 COOGEE BAY ROAD



Photo 77. View north from balcony



Photo 78 View north east from balcony.

Dwelling Address	Description	Photomontage number	<i>Tenacity</i> Step 1, Existing views to be affected?	<i>Tenacity</i> Step 2, From where are the views available?	<i>Tenacity</i> Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)	Steps in <i>Tenacity</i> - where threshold test is met	Step 4 - summary statement, reasonableness in the context of non-compliance.
22/183 Coogee Bay Road	Penthouse Level east facing unit	View requested by Council -overlay prepared by Fenders Katsalidis	A short, narrow horizontal section of existing built form, open water and vegetation	Standing views only from an external balcony, via a side property boundary	<b>Negligible or less</b>	1,2,3	The proposed development, including the additional height sought as part of the Clause 4.6 variation application, creates minimal view loss and no significant amenity impacts for this dwelling. The view sharing outcome is reasonable and acceptable.

Figure 83 *Tenacity* assessment table



# 8.0 RELEVANT PLANNING PRINCIPLES

## 8.1 *TENACITY*

View loss is a term which refers to the extent to which a new built form will block an existing view or part of the composition of a view that is currently enjoyed by others. Where a proposed development is likely to adversely affect views from private property, view sharing outcomes are routinely assessed against the Planning Principle established in the Land and Environment Court; *Tenacity* Consulting v Warringah Council [2004] NSWLEC 140 (*Tenacity*).

*Tenacity* is the most widely used and referenced planning principle in relation to the assessment of impacts on private views and view sharing.

The planning principle is described by the Court as a statement of a 'desirable outcome' aimed at reaching a planning decision and defines a number of appropriate matters to be considered in making that decision. Therefore, the importance of the principle is in outlining all relevant matters and or the relationships of those factors to be considered and is not simply a process of listing features in a composition that may be lost and is not limited to an assessment of view loss as shown in a particular view.

In other words, *Tenacity* is a 'recipe' designed to guide decision-making where the end goal is to reach an equitable and reasonable view-sharing outcome.

Prior to undertaking Step 1 of the assessment, Roseth discusses in paragraph 25 the notion of view sharing as quoted below.

*"The notion of view sharing is invoked when a property enjoys existing views, and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it, all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, I have adopted a four-step assessment."*

The planning principle states that consideration should be given to the causes of the visual impact and whether they are reasonable in the circumstances. As stated in the preamble to the four-step process in *Tenacity*, a development that takes the view away from another may notwithstanding be considered reasonable. This is important because it also means that a severe or devastating level of impact can nevertheless be reasonable.

*Tenacity* includes a four-step threshold test, which we understand the steps are sequential and conditional, so that proceeding to further steps may not be required if the conditions for satisfying the preceding threshold test are not met. In other words, view loss may meet the threshold test for Step 1 or 2 but if the view loss is negligible

in quantitative or qualitative terms there may be no utility or purpose served in continuing the assessment and in this regard, *Tenacity* has no work to do. We are aware that in the context of a Clause 4.6 variation, that view or amenity impacts are a determinative criteria and as such all Steps in *Tenacity* should be applied no matter the extent or nature of the view loss.

*Tenacity* does not clearly distinguish between extent (quantity) of view loss and in fact dissuades the use of quantifying view loss, but tends to equate view loss with impact, where the significance or importance of the loss is a matter of judgement and consideration of various relevant factors.

## 8.2 *TENACITY* RATINGS

In arriving at an over all view impact rating it is important to consider all relevant factors in Steps 1, 2 and 3 for the whole dwelling, not just potential view loss as shown in one selected photomontage. In general across the dwellings inspected only views in one direction to the east are affected, where the majority of dwellings enjoy expansive views to the north, north-east, south-east and south.

We have described whole views and partial views, where a 'whole view' is based on the intent described by Senior Counsel Roseth in *Tenacity* as follows;

The *Tenacity* Planning Principle includes a description of what makes a whole view, as being based on the combination of the main scenic features present in the view. This combination of the predominant features in the foreground, mid-ground and background form a whole view.

Further Roseth states that water on its own is of less value compared to compositions where water is combined with land-water interface. For example the loss of a part of Dolphin Point or Wedding Cake island where water and landforms are combined would be considered of greater value than a section of open undifferentiated water in isolation.

Roseth does not refer to a whole view being simply a whole view of a particular, individual feature or even an icon, noting that the presence of part or all of an icon is still relevant.

The views of Coogee Bay including the locally known topographical features of Dolphin Point (rock platforms, cliff and land-water interfaces and Wedding Cake Island visible at low tide) are not in our

## 4.0 *TENACITY* ASSESSMENT SUMMARY

opinion, considered to be 'Iconic' in the sense that they are regionally or internationally recognisable as unique or iconic items. In other words views to Coogee Bay which include those features are not iconic, but rather are highly valued in a holistic sense as part of the wider scenic quality of the view.

It is illogical for a view of low relative scenic quality based on the main characteristics present including existing building development in the foreground and mid-ground (as is the case for many of the views modelled) that an inconsequential extent of view loss could lead to anything other than minor or negligible view impact ratings.

Further to applying the *Tenacity* rating scale, I refer to Roseth's own use of the rating scale in that matter, regarding the loss of a what he describes as a 'magnificent view' available from 7 Bellevue Place. We note that Roseth also clearly defines the 'whole' view this instance as being "the view to the ocean and Manly"

Paragraph 30 of the planning principle is quoted below;

*I would classify the view to the ocean and Manly as highly valuable, what most people would describe as magnificent. It is now available from four levels from the rear. The proposal would obliterate views from the lower three levels from sitting and standing positions. From the fourth level it would obliterate it from sitting positions and reduce it from standing positions. In my opinion, the impact would be severe.*

In this matter, Roseth rates a significant extent of view loss from 3.5 floors and multiple rooms within a dwelling, that is available across a rear boundary from seated and standing positions. Notwithstanding this significant loss of a 'magnificent view' to a whole view characterised by scenic and highly valued features, from all four levels of the dwelling, the view impact is only severe.

Urbis have used this guidance to inform our view impact ratings for each dwelling.



TENACITYASSESSMENT TABLE - ALL VIEWS MODELLED

Dwelling Address	<i>Overall view impact for whole of dwelling</i> <i>Tenacity</i> Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)
1/113 Brook Street	Minor
19/183 Coogee Bay Road	Negligible-minor
19/183 Coogee Bay Road	Negligible-minor
Unit 5 180-186 Coogee Bay Road, Coogee	<b>Minor in relation to non-complying built from proposed.</b> Negligible in relation to complying built form.  Negligible-Minor
Unit 1 180-186 Coogee Bay Road	Negligible-minor
17 Vicar Street, Coogee	Minor
9/41-43 Carr Street Coogee	Negligible-minor
5/14 Kidman Street, Coogee	Negligible or less
3/14 Kidman Street, Coogee	Negligible or less
5/119 Brook Street	Minor in relation to non-complying and minor complying built form.
The Grove 57-63 St Paul Street, Randwick	Negligible or less

ADDITIONAL VIEWS REQUESTED BY COUNCIL	
Dwelling Address	<i>Tenacity</i> Step 3, Extent of view impacts for whole dwelling (consider room type and use and unaffected views)
5/201 Coogee Bay Road, Coogee	Negligible-minor
3/130 Brook St Coogee	Negligible or less
16/201 Coogee Bay Road	Negligible or less
5/134 Brook Street, Coogee	N/A
12a/28 Kidman St Coogee	N/A
Unit 15 28 Kidman Street	Negligible or less
22/183 Coogee Bay Road	Negligible or less
VIEWS INSPECTED BUT NOT MODELLED	
2/57 St Paul's Street, Randwick	N/A
Unit 4 11 Kidman Street	N/A
18/201 Coogee Bay Road, Coogee	N/A
18/201 Coogee Bay Road, Coogee	N/A
2 Vicar Street	N/A
6/14 Kidman Street, Coogee	N/A
Unit 8 23-25 Vicar Street Unit 8	N/A
Unit 29 23-25 Vicar Street	N/A



# PRIVATE VIEWS INSPECTED

## UNIT 4 - 11 KIDMAN STREET



Photo 1. View east from unit 4 balcony - level 2 - 11 Kidman Street

## UNIT 5- 11 KIDMAN STREET



Photo 2. View northeast from unit 5 balcony - level 3 - 11 Kidman Street

## UNIT 16/201 COOGEE BAY ROAD



Photo 3. View east from unit 16 kitchen's window - level 3 - 201 Coogee Bay Road



Photo 4. View east from unit 16 east bedroom's window - level 3 - 201 Coogee Bay Road



UNIT 12A - 28 KIDMAN STREET



Photo 79 . View east from unit 12A level 3, living room



Photo 80 . View east from unit 12A, 28 Kidman Street



Photo 81 View east from the kitchen 12A level 3 - 28 Kidman Street

UNIT 15 - 28 KIDMAN STREET



Photo 82`. View east from unit 15 living room - level 3 - 28 Kidman Street.



Photo 83 View northeast from unit 15 living room - level 3 - 28 Kidman Street



Photo 84. Close view northeast from unit 15 kitchen - level 3 - 28 Kidman Street



UNIT 18 - 201 COOGEE BAY ROAD



Photo 85. Close view east from unit 18 living room's window - level 3 - 201 Coogee Bay Road



Photo 86 . View east from unit 18 living room's window - level 3 - 201 Coogee Bay Road



Photo 87 . View east from unit 18 kitchen's window - level 3 - 201 Coogee Bay Road

UNIT 3/130 BROOK STREET



Photo 88 . View east from unit 3 living room terrace, level 3, 130 Brook Street



Photo 89 . View northeast from unit 3 living room terrace - level 3 - 130 Brook Street



Photo 90 . View north from unit 3 living room terrace - level 3 - 130 Brook Street



UNIT 5/134 BROOK STREET



Photo 91. View east from unit 5 balcony, level 3, 134 Brook Street



Photo 92 . View east from unit 5 balcony - level 3 - 134 Brook Street



Photo 93 . View east from unit 5 living room- level 3 - 134 Brook Street

2 VICAR STREET



Photo 94 . View east from 2 Vicar Street kitchen balcony - level 2



Photo 95 . Close view east from 2 Vicar Street bedroom balcony - level 3



Photo 96 View east from 2 Vicar Street living room balcony - level 3



201 COOGEE BAY ROAD EAST ROOFTOP



Photo 97 . View east from 201 Coogee Bay Road east building roof top

UNIT 6/14 KIDMAN STREET



Photo 98 . View east from unit 6 bedroom window at 14 Kidman Street

UNIT 5/119 BROOK STREET



Photo 99 . View northeast from living room balcony at 119 Brook Street-level 2

UNIT 8/23-25 VICAR STREET



Photo 100. View north-west from unit 8 balcony at 23-25 Vicar Street



UNIT 22/183 COOGEE BAY ROAD



Photo 101. View north from balcony at 183 Coogee Bay Road-level 6



Photo 102. View northeast from balcony at 183 Coogee Bay Road- level 6



Photo 103 View east from balcony at 183 Coogee Bay Road- level 6



## 9.0 SUMMARY & CONCLUSION

The scheme analysed in this Revised View Sharing report is based on an 'agreed-in-principle' maximum building envelope (the s34 proposed envelope). This envelope has been prepared as part of ongoing without prejudice s34 conference discussions in relation to LECNSW Class 1 appeal case number 2021/00322119, between the applicant and respondent's urban design experts AE Design and GMU respectively.

The proposed envelope modelled by Urbis in photomontages and in overlays prepared by AE Design, shows the visual effects of the proposed development in selected views from 18 dwellings.

The proposed massing has been reduced in height and scale to minimise view loss and improve amenity for dwellings in Coogee Bay. In particular the proposed envelope includes a view corridor where built form sits below the LEP height control and provides for the retention of views to Wedding Cake Island and Dolphin Point in south-easterly and north-easterly views respectively.

Inclusion of the view corridor will benefit the closest and potentially most affected residents whom currently enjoy views to those local, scenic and highly valued.

The updated photomontages show the visual effects of a permissible height form according to the LEP height control of 12m. The complying development is shown in a red colour wash and the upper parts which exceed the height control are shown in a blue colour wash.

The two separate and taller parts of built form included in the proposed envelope which exceed the control are massed to allow for the view corridor and lower section between, as a means to promote a positive and reasonable view sharing outcome for local residents.

The significance of the view loss caused by each component has been assessed in the context of the *Tenacity* Planning Principle.

The s34 proposed envelope overall is reduced in horizontal extent in views from the west where the spatial separation created by the view corridor creates visual permeability through and across the site in relation to mid-slope easterly views.

The inclusion of the wide view corridor, visually reduces the scale along the length of Vicar Street and will create view sharing benefits to all elevated residential locations immediately west, south-west and north-west of the subject site including for example views from residential flat buildings in Brook Street (including those not inspected), Carr Street and units within the Adina Apartments.

Views from all 18 dwellings from the original sample of 27 dwellings inspected, have been modelled in either certifiable photomontages prepared by Urbis or accurate architectural overlays prepared by AE Design as requested by Council and the Court.

The views are described in terms of the predominant features present where the selected modelled view represents the 'worse case' view focussed on the site, noting that each dwelling has access to other views that do not include the subject site and will not be affected.

18 views have been modelled and assessed against the *Tenacity* Planning Principle to guide our assessment of overall view impacts for each whole dwelling.

All descriptions and ratings are tabulated in the *Tenacity* Summary Table above where Urbis found that there would be NIL impacts for 1 dwelling, negligible or less view impacts for 8 dwellings, negligible-minor view impacts for 6 dwellings, minor view impacts for 2 dwellings and a moderate view impact for one dwelling at 17 Vicar Street.

The view impact rating has been carefully considered using SC Roseth's own guidelines as to what constitutes a severe or greater impact. A severe impact is generated when all scenic and highly valued features that form a whole views, from all parts and of a dwelling, are likely to be lost.

This is not the case for any of the dwellings inspected, where the majority of views from each dwelling are largely unaffected, view loss is minor or less, and the scenic quality of the views are not predominantly characterised by highly valued features as defined in *Tenacity*.

Three dwellings most affected by potential view loss include 5/119 and 1/113 Brook Street and 17 Vicar Street, which are all rated as minor. The minor view impact rating is reasonable and acceptable for Brook Street dwellings given that the non-complying parts of the proposed envelope do not block scenic and highly valued features as defined in *Tenacity*.

The minor view impact for 17 Vicar Street is reasonable and acceptable given that it is entirely caused by built form which sits significantly below the height control therefore is fully compliant with controls that are relevant to view loss. Views to be lost are not considered as scenic or highly valued in *Tenacity* terms.

In summary out of 27 dwelling inspections, where potential view loss was modelled for 18 dwellings and rated as minor or less in all cases except for one dwelling.

Considering the likely view impacts across the subject site's immediate and wider potential visual catchment, based on the 18 representative views analysed and the low view impact ratings, in our opinion the view sharing outcome is reasonable and acceptable.

Visual impacts in all public domain views modelled is low and acceptable.

# 10.0 APPENDICES

## APPENDIX 1 PREPARATION OF URBIS PHOTOMONTAGES

### Verification of accuracy- Key Steps

The fundamental requirement to be able to certify photomontages is that there is a 3D architectural model of the proposed development which can accurately located within the composition of a photograph.

In order to be able to certify the accuracy of the photomontage resulting from merging the 3D model and photographs is being able to demonstrate that the 3D model of the proposed building has a good fit to known surveyed markers on the existing building and other fixed features of the site or locality which are shown on the survey plan.

In addition the model must fit realistically into a photographic representation of the site in its context. Fender Katsalidis Architects prepared the 3D model of the proposed development using 3DSMax 2022 with Arnold 5.0 (3D Modelling and Render Engine), AutoCAD 2021, Globalmapper 23 (GIS Data Mapping / Processing) and Photoshop CC 2022 software and provided the model to Urbis , for insertion into base photographs.

### Photographs

Each modelled view was captured by a professional photographer who attended each dwelling and was directed by Urbis Staff. Modelled views were captured with a Canon EOS 1D Mark 2 full frame camera, using 24mm, 35mm and 50mm focal lengths. This camera was mounted on a tripod at approximately 1.6m

The images are of sufficiently high resolution and taken with a variable lens of low distortion. The focal length of the lens used is appropriate for the purpose and has been standardised and stated to assist the photomontage artist. All photomontages are based on a the standardised 35mm focal length lens (FL) using single frame images. Single frame photographs are recommended for modelling as they have one centre of perspective and therefore included limited peripheral distortion at the outer edges of the image. Single frame photographic images are also recommended as the perspective in the 3D model of the proposed development that is generated by the computer, is most closely aligned to the perspective that occurs in a single frame photograph.

The reasons for using a specific focal length is determined by the vertical and horizontal scale of the subject of the view as well as the need to minimise apparent distortion of the images. The subject of the views commonly contains elements of vastly different horizontal and vertical scale, all of which must ideally be visible in each photograph. Given that the most instructive views of the proposed development are from close locations it was not practical to use a 50mm lens due to the horizontal extent of the proposed works could not fit into a single image.

### Certification of accuracy

Urbis have reviewed the photomontages and is satisfied that the above requirements were met. In this regard Urbis can certify, based on the methods used and taking all relevant information into account, that the photomontages comply with the requirements for the preparation of photomontages as set out in the practice direction for the use of visual aids in the Land and Environment Court of New South Wales.



# **COOGEE BAY HOTEL, COOGEE, NSW**

## **VIEW ANALYSIS - PHOTO-SIMULATIONS**

PREPARED FOR

**SIMMATTOWN PTY LTD**

MARCH 2023

**PHOTO-SIMULATIONS PREPARED BY:**

Urbis, Level 10, 477 Collins Street, MELBOURNE 3000.

**DATE PREPARED :**

1 March 2023

**VISUALISATION ARTIST :**

Ashley Poon, Urbis – Lead Visual Technologies Consultant

Bachelor of Planning and Design (Architecture) with over 20 years' experience in 3D visualisation

**LOCATION PHOTOGRAPHER :**

Grant Leslie - PerfectImages Photography

under direction from Jane Maze-Riley, Urbis - Associate Director, National Design

**CAMERA :**

Canon EOS 1D X Mark II - 20 Megapixel digital SLR camera (Full-frame sensor)

**CAMERA LENS AND TYPE :**

Canon EF 24-70mm f/2.8L II USM

**SOFTWARE USED :**

- 3DSMax 2022 with Arnold 5.0 (3D Modelling and Render Engine)
- AutoCAD 2021 (2D CAD Editing)
- Globalmapper 23 (GIS Data Mapping / Processing)
- Photoshop CC 2022 (Photo Editing)

**DATA SOURCES :**

- Point cloud and Digital Elevation Models from NSW Government Spatial Services datasets - Sydney 2020-05
- Aerial photography from Nearmap - 2021-12-21
- Site feature survey received via client - survey dated 2020-02-28
- Proposed 3D model received from Architect - 2023-02-06
- 12m height overlay 3D model received from Architect - 2022-05-23
- Surveyed locations of photo viewpoint locations - 2022-01-19 to 2022-01-20

**METHODOLOGY :**

Photo-simulations provided on the following pages have been produced with a high degree of accuracy to comply with the requirements as set out in the practice direction for the use of visual aids in the Land and Environment Court of New South Wales.

The process for producing these photo-simulations are outlined below:

- Photographs have been taken on site using a full-frame digital camera coupled with a quality lens in order to obtain high resolution photos whilst minimising image distortion. Photos are taken with the camera mounted to a tripod, at a standing height of 1.55m above natural ground level or above floor level. A surveyor has also been engaged to record the locations of the camera setup at each viewpoint location. Photos have been taken at a standard focal length of 50mm. A photo taken using the 50mm focal length on a full-frame camera (equivalent to 40° horizontal field-of-view / 46.8° diagonal field-of-view) is an accepted photographic standard to approximate human vision.
- Using available geo-spatial data for the site, including independent site surveys, aerial photography, digital elevation models and LiDAR point-clouds, the relevant datasets are validated and combined to form a geo-referenced base 3D model from which additional information, such as proposed architecture, landscape and photographic viewpoints can be inserted.
- Layers of the proposed development are obtained from the designers as digital 3D models and 2D plans. All drawings/models are verified and registered to their correct geo-location before being inserted into the base 3D model.
- For each photo being used for the photo-simulation, the photo's survey location, camera, lens, focal length, time/date and exposure information is extracted, checked and replicated within the 3D base model as a 3D camera. A camera match is created by aligning the 3D camera with the 3D base model against the original photo, matching the original photographic location and orientation.
- From each viewpoint, a reference 3D model camera match is generated to verify an accurate match between the base 3D model (existing ground survey/vegetation etc) and original photo. A 3D wireframe image of the 3D base model is rendered in the 3D modelling software and composited over the original photo using the photo-editing software.
- From each viewpoint, the final photo-simulation is then produced by compositing 3D rendered images of the proposed development into the original photo with editing performed to sit the render at the correct view depth. Photographic elements are cross-checked against the 3D model to ensure elements such as foreground trees and buildings that may occlude views to the proposed development are retained. Conversely, where trees/buildings may be removed as part of the proposal, these are also removed in the photo-simulation.

















**COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT**  
VP1 : (PHOTO 1114989) LOOKING WSW, DOLPHINS POINT | PHOTO-SIMULATION

**DISTANCE TO PROJECT - 380M**  
**ORIGINAL PHOTO EXTENT - 35MM VIEW**



DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_1C  
REV: -





ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW





ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW







DISTANCE TO PROJECT - 380M  
ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW



**COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT**  
VP2 : (PHOTO 1114998) LOOKING WSW, DOLPHINS POINT ROCK PLATFORM | PHOTO-SIMULATION

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_2C  
REV: -





50MM STANDARD VIEW - REFERENCE

ORIGINAL PHOTO EXTENT - 35MM VIEW











**COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT**  
VP3 : (PHOTO 11I5017) LOOKING WSW, GOLDSTEIN RESERVE | PHOTO-SIMULATION

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_3C  
REV: -





50MM STANDARD VIEW - REFERENCE

ORIGINAL PHOTO EXTENT - 35MM VIEW



## COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT

VP4 : (PHOTO 11I5029) LOOKING WSW, COOGEE BEACH | EXISTING PHOTO : 2022-01-19 10:26 AEDT

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_4A  
REV: -







**COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT**  
VP4 : (PHOTO 11I5029) LOOKING WSW, COOGEE BEACH | PHOTO-SIMULATION

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_4C  
REV: -





50MM STANDARD VIEW - REFERENCE

ORIGINAL PHOTO EXTENT - 35MM VIEW





ORIGINAL PHOTO EXTENT - 35MM VIEW



**COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT**  
VP5 : (PHOTO 11I5037) LOOKING ESE, MOUNT ST / COOGEE BAY RD INTERSECTION | CAMERA MATCH 3D MODEL TO PHOTO

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_5B  
REV: -





DISTANCE TO PROJECT - 345M  
ORIGINAL PHOTO EXTENT - 35MM VIEW



**COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT**  
VP5 : (PHOTO 11I5037) LOOKING ESE, MOUNT ST / COOGEE BAY RD INTERSECTION | PHOTO-SIMULATION

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_5C  
REV: -





ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW





**COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT**  
VP7 : (PHOTO 11I5046) LOOKING ESE, 79/57-63 ST PAULS ST | CAMERA MATCH 3D MODEL TO PHOTO

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_7B  
REV: -





DISTANCE TO PROJECT - 1030M  
ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW



**COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT**  
VP7 : (PHOTO 1115046) LOOKING ESE, 79/57-63 ST PAULS ST | PHOTO-SIMULATION

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_7C  
REV: -



ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW









DISTANCE TO PROJECT - 70M

ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW



## COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT

VP8 : (PHOTO 11I5060) LOOKING EAST, 1/113 BROOK ST | PHOTO-SIMULATION

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_8C  
REV: -





ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW















3D POINT CLOUD

SURVEY DATA

DIGITAL ELEVATION  
MODEL

ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW



## COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT

VP9B : (PHOTO 11I5080) LOOKING ESE, 19/183 COOGEE BAY RD - LVL 5 | CAMERA MATCH 3D MODEL TO PHOTO

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_9B\_B  
REV: -





**COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT**  
VP9B : (PHOTO 11I5080) LOOKING ESE, 19/183 COOGEE BAY RD - LVL 5 | PHOTO-SIMULATION

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_9B\_C  
REV: -





ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW









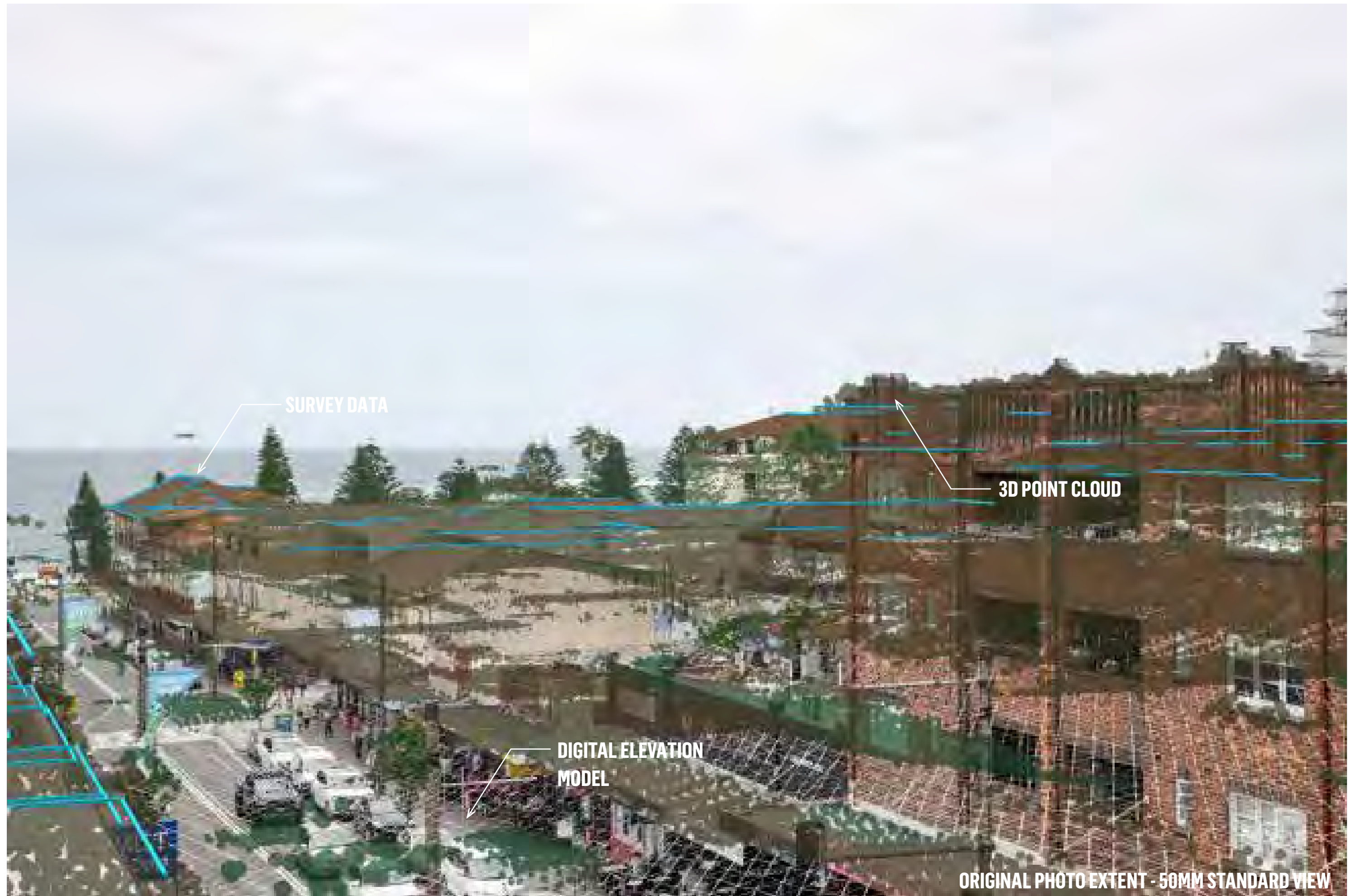




ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW





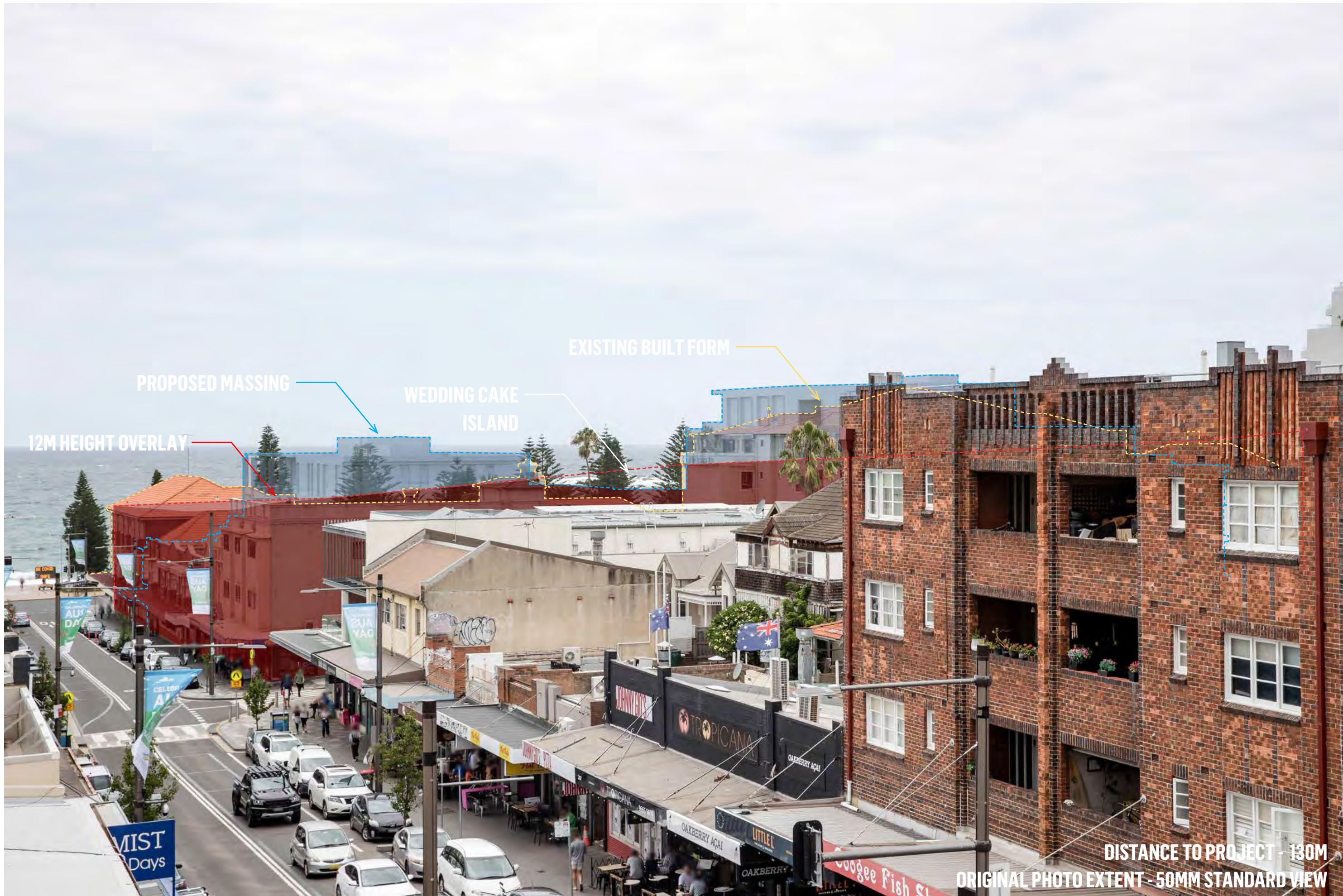


## COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT

VP14B : (PHOTO 11I5132) LOOKING SSE, 5/180-196 COOGEE BAY RD - LVL 3 | CAMERA MATCH 3D MODEL TO PHOTO

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_14B\_B  
REV: -





**COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT**  
 VP14B : (PHOTO 11I5132) LOOKING SSE, 5/180-196 COOGEE BAY RD - LVL 3 | PHOTO-SIMULATION

DATE: 2023-03-01  
 JOB NO: P0037817  
 DWG NO: VP\_14B\_C  
 REV: -





ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW













ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW















ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW



**COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT**  
VP17A : (PHOTO 1115200) LOOKING EAST, 5/14-24 KIDMAN ST | EXISTING PHOTO : 2022-01-20 14:21 AEDT

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_17A\_A  
REV: -



ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW







EXISTING BUILT FORM

PROPOSED MASSING

12M HEIGHT OVERLAY

DISTANCE TO PROJECT - 220M  
ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW



## COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT

VP17A : (PHOTO 1115200) LOOKING EAST, 5/14-24 KIDMAN ST | PHOTO-SIMULATION

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_17A\_C  
REV: -





ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW







**COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT**  
VP17B : (PHOTO 11I5207) LOOKING EAST, 3/14-24 KIDMAN ST | CAMERA MATCH 3D MODEL TO PHOTO

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_17B\_B  
REV: -









ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW





DIGITAL ELEVATION  
MODEL

SURVEY DATA

3D POINT CLOUD

ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW



# COOGEE BAY HOTEL, COOGEE NSW - VIEW SHARING ASSESSMENT

VP18 : (PHOTO 11I5188) LOOKING ENE, 5/119 BROOK ST | CAMERA MATCH 3D MODEL TO PHOTO

DATE: 2023-03-01  
JOB NO: P0037817  
DWG NO: VP\_18B  
REV: -











# APPENDIX 2 AE DESIGN PHOTOMONTAGES



15 September 2022

Jane Maze-Riley  
Urbis  
Level 8 Angel Place, 123 Pitt Street  
Sydney NSW 2000

Dear Jane,

**SIMMATTOWN & CHEUNG PROPERTIES v RANDWICK CITY COUNCIL - PHOTOMONTAGES**  
**Coogee Bay Hotel**

This letter has been prepared to accompany the Photomontages dated 14 September 2022 prepared by ae design partnership to assist with the NSW Land and Environment Court Proceedings 2021/00322119. I confirm that photomontages have been produced in accordance with the NSW Land and Environment Court Photomontage Policy.

Photographs were provided by Urbis and were taken from a height of 1.55m above ground at each vantage point with a *Canon EOS 1D X Mark – 20 Megapixel digital SLR camera (Full-frame sensor)* and lens model *Canon EF 24-70mm f/2.8L II USM* at 24mm, 35mm and 50mm focal lengths.

The data sources used to assist in preparing the photomontages and alignment of the wireframes are:

Data Object	Source
Contours and cadastre	NSW Government Spatial Services
3D aerial	Nearmap
Site survey	Client
Camera location survey	Urbis
12m height blanket 3D model	Fender Katsalidis
Proposed 3D model	Fender Katsalidis

Virtual cameras for each vantage point were created to prepare the photomontages based on the associated camera survey location coordinates and photo focal length in Rhino 7. From these virtual cameras, rendered views have been generated and photomontage into the existing photos using photoshop.

Should you have any further queries regarding the above matter, please contact me on 0419 245 956 or via email on [rohan@aedesignstudio.com.au](mailto:rohan@aedesignstudio.com.au).

Sincerely,  
ae design partnership Pty Ltd

**Rohan Dickson**  
Director

# Coogee Bay Hotel

---

**Additional Views Requested By Council**







EXISTING WIREFRAMES

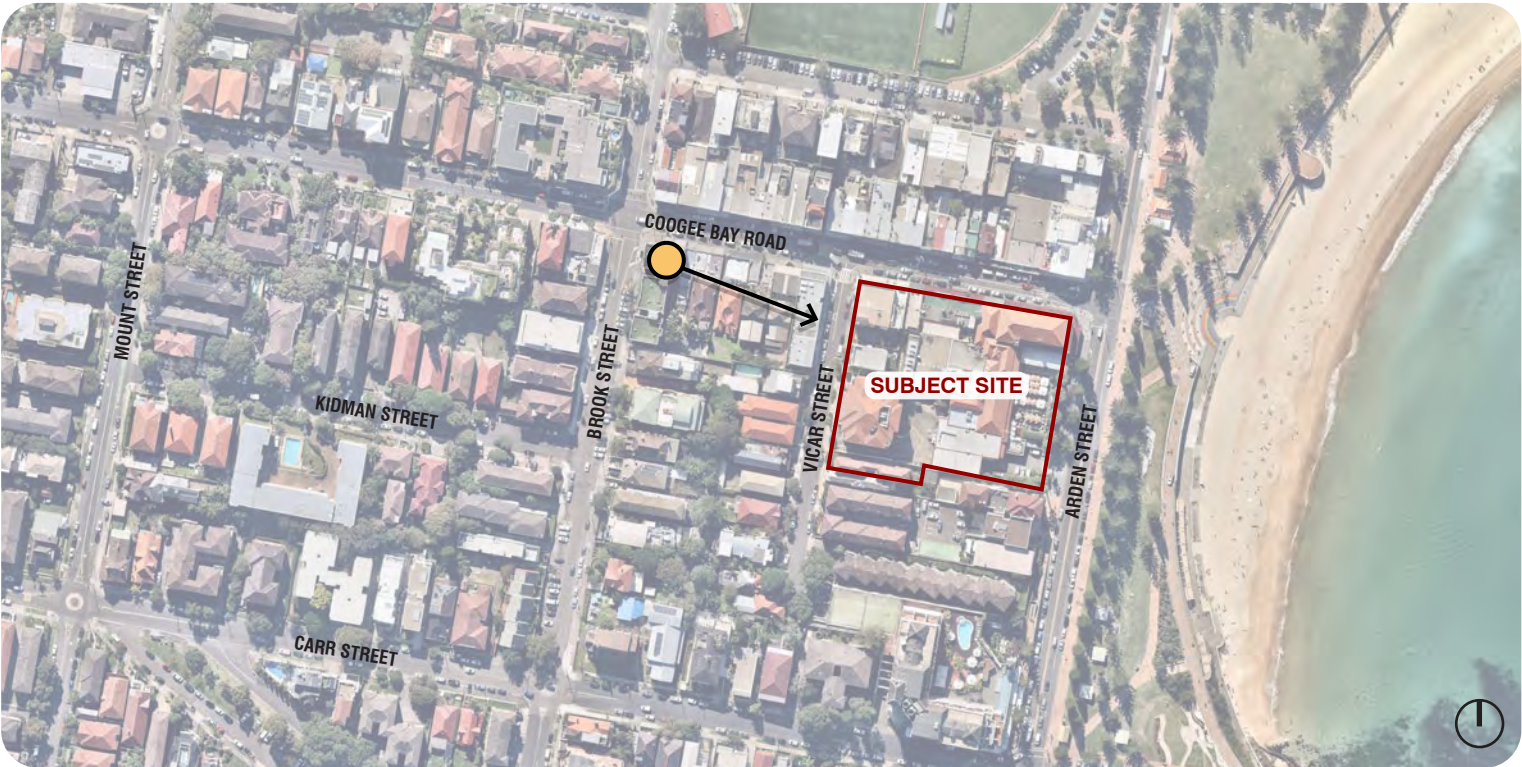


PROPOSED WIREFRAMES



PROPOSED MODEL

PHOTO LOCATION



LEGEND

- Existing Building Wireframes
- Proposed Building Wireframes



COOGEE BAY HOTEL

WITHOUT PREJUDICE

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LOCATION: Unit 5, 201 Coogee Bay Road

FOCAL LENGTH: 35mm

VANTAGE  
POINT  
1

DATE  
15/09/2022  
ISSUE  
A  
SHEET  
01





EXISTING WIREFRAMES

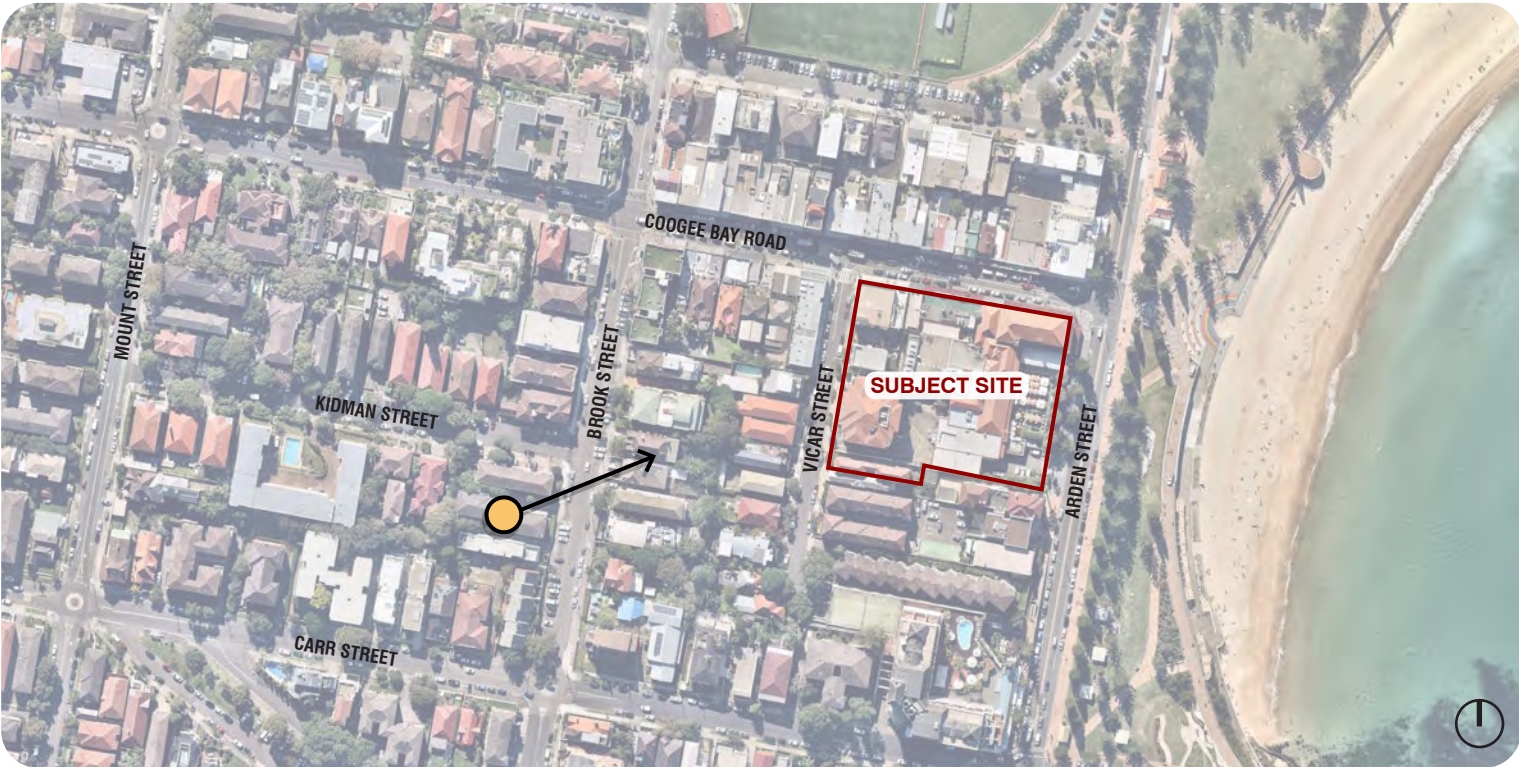


PROPOSED WIREFRAMES



PROPOSED MODEL

PHOTO LOCATION



LEGEND

- Existing Building Wireframes
- Proposed Building Wireframes



COOGEE BAY HOTEL

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LOCATION: Unit 3, 130 Brook Street

FOCAL LENGTH: 55mm

VANTAGE  
POINT  
2

DATE  
15/09/2022  
ISSUE  
A  
SHEET  
02





EXISTING WIREFRAMES



PROPOSED WIREFRAMES



PROPOSED MODEL

PHOTO LOCATION



LEGEND

- Existing Building Wireframes
- Proposed Building Wireframes



COOGEE BAY HOTEL

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LOCATION: Unit 16, 201 Coogee Bay Road

FOCAL LENGTH: 35mm

VANTAGE  
POINT  
3

DATE  
15/09/2022  
ISSUE  
A  
SHEET  
03





EXISTING WIREFRAMES

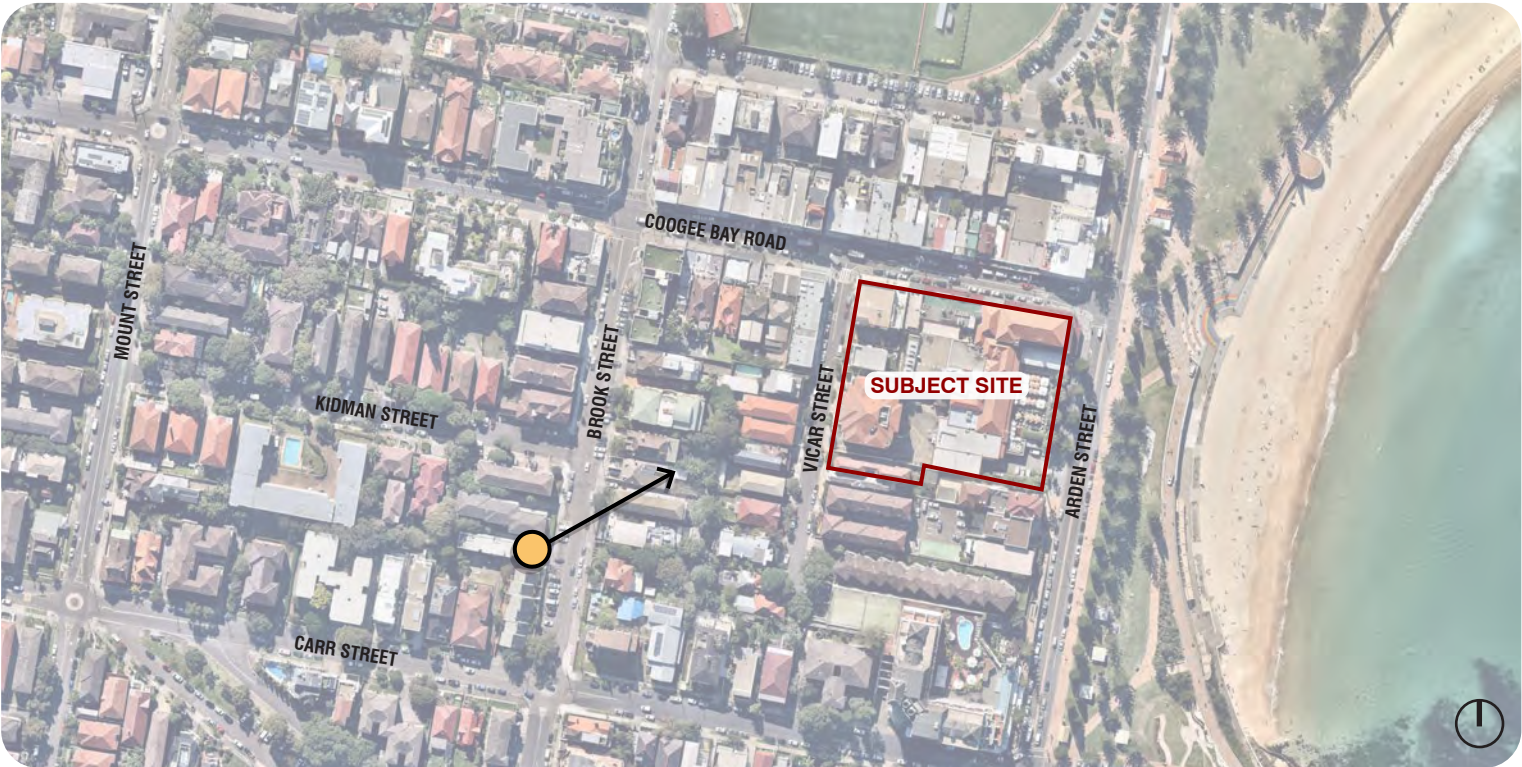


PROPOSED WIREFRAMES



PROPOSED MODEL

PHOTO LOCATION



LEGEND

- Existing Building Wireframes
- Proposed Building Wireframes





EXISTING WIREFRAMES



PROPOSED WIREFRAMES



PROPOSED MODEL

PHOTO LOCATION



LEGEND

- Existing Building Wireframes
- Proposed Building Wireframes





EXISTING WIREFRAMES

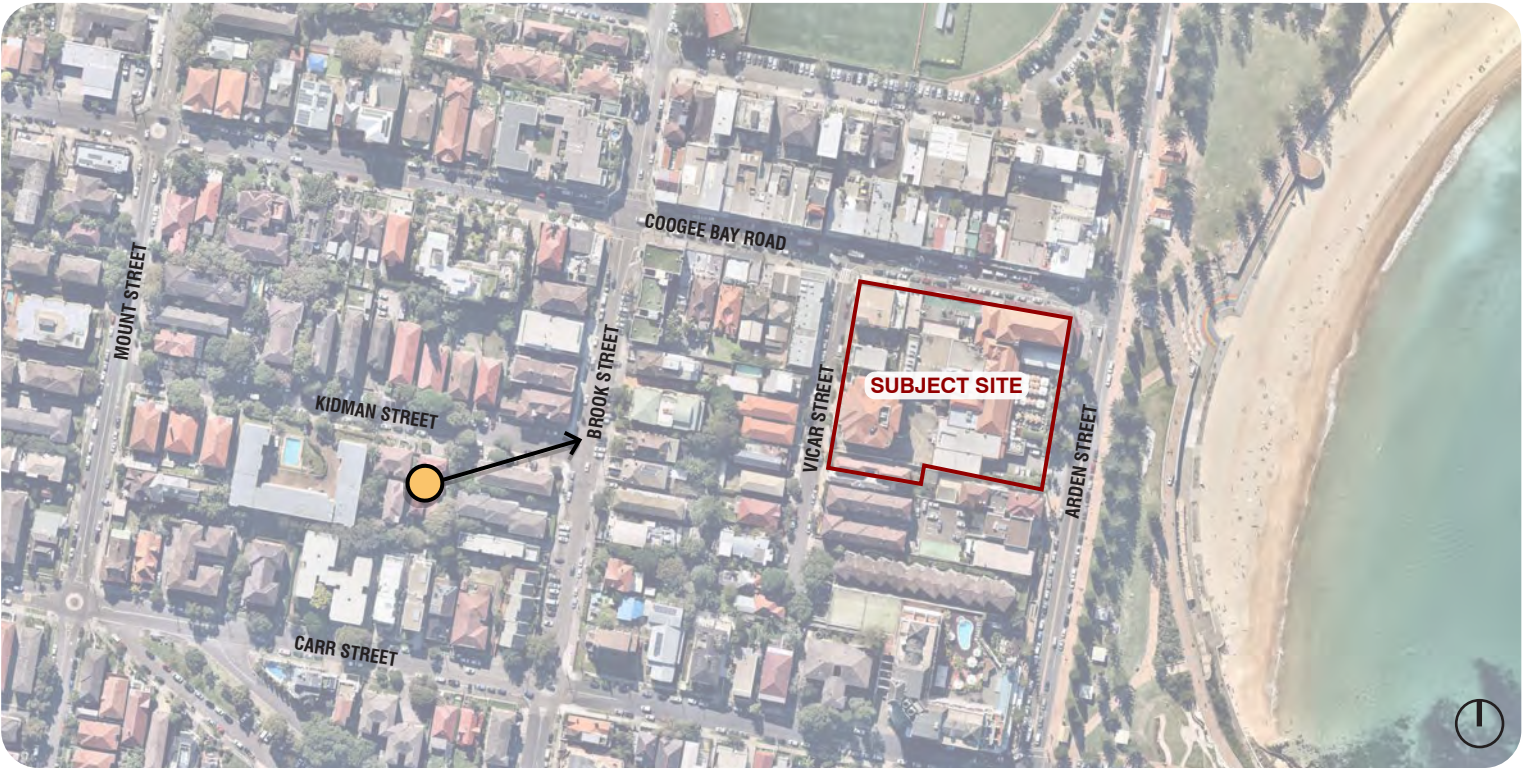


PROPOSED WIREFRAMES



PROPOSED MODEL

PHOTO LOCATION



LEGEND

- Existing Building Wireframes
- Proposed Building Wireframes





EXISTING WIREFRAMES



PROPOSED WIREFRAMES



PROPOSED MODEL

PHOTO LOCATION



LEGEND

- Existing Building Wireframes
- Proposed Building Wireframes



## APPENDIX 3 NEIGHBOURING DWELLINGS



**Photo 7.** Side setback between 1 and 7 Vicar Street, where spatial separation allows views of sky access to the east from parts of Vicar



**Photo 5.** Surrounding residential development, detail of 2 Vicar Street. This dwelling was inspected and views recorded confirm that there is no access to scenic or highly valued views from ground or first floor rooms due to the height and form of intervening development



**Photo 6.** Detail of 8-10 Vicar Street





**Photo 8.** Detail of 12-14 and 18-20 Vicar Street



**Photo 9.** Detail of 23-25 Vicar Street, south of the site



**Photo 10.** Detail of 130-132 Brook Street



**Photo 11.** Detail of 128 Brook Street on the corner of Brook and Kidman Streets



**Photo 12.** Detail of 122 and 124 Brook Street



**Photo 13.** Detail of 120 Brook Street





**Photo 14.** Detail of 117 and 119 Brook Street



**Photo 15.** View east to 109-111 Brook Street from Kidman Street



**Photo 16.** Detail of 109-111 Brook Street. We note the presence of evergreen, tree canopies to the east of this development which is likely to limit views access to the east



**Photo 17.** Side setback between 197 Coogee Bay Road and Adina Apartments at 183 Coogee Bay Road



**Photo 18.** View south-west from south-eastern corner of subject site



**Photo 19.** Arden Street streetscape including 230 Arden Street and other 3 and 4 storey and taller hotel development is present





**Photo 20.** Detail view of 11 Kidman Street



**Photo 21.** Detail view of 28 Kidman Street



**Photo 22.** 118 Brook Street and the east elevation of residential flat building at 197 CBH behind.



**Photo 23.** Detail view of residential flat building at 186 Coogee Bay Road from roof top at 201 Coogee Bay Road-



**Photo 24.** Detail view of 201 Coogee Bay Road



**Photo 25.** Detail view of 130-132 Brook Street





**Photo 26.** Detail view of 56 Carr Street



**Photo 27.** Detail view of 41-43 Carr Street



**Photo 28.** Detail view of Adina residential apartments



**Photo 29.** East block of 14 Kidman Street. Views were inspected from the upper left hand units with easterly view to Coogee Bay



**Photo 30.** Streetscape view from the corner of Kidman and Brook Streets



# EASTERLY VIEWS FROM TRAFFICABLE ROOFTOP 201 COOGEE BAY ROAD



**Photo 31.** View south-east to Wedding Cake Island from north-west corner of roof deck at 201 Coogee Bay Road



**Photo 32.** View east from centre of roof deck at 201 Coogee Bay Road



**Photo 33.** View east from south end of the roof deck at 201 Coogee Bay Road

This is a view from the trafficable common area roof top across the site to Parts of Coogee Bay and Wedding Cake Island. This view was not selected for modelling given that is not a private or public domain location, and views from here are unlikely to be sustained for long periods of time. Views from other parts of the roof to the east and north-east are unaffected by the proposed development. Views from further south as shown in photos 31 and 31 do not include parts of Wedding Cake Island. This view has been modelled by Fender Katsalidis (refer to Photo 82).

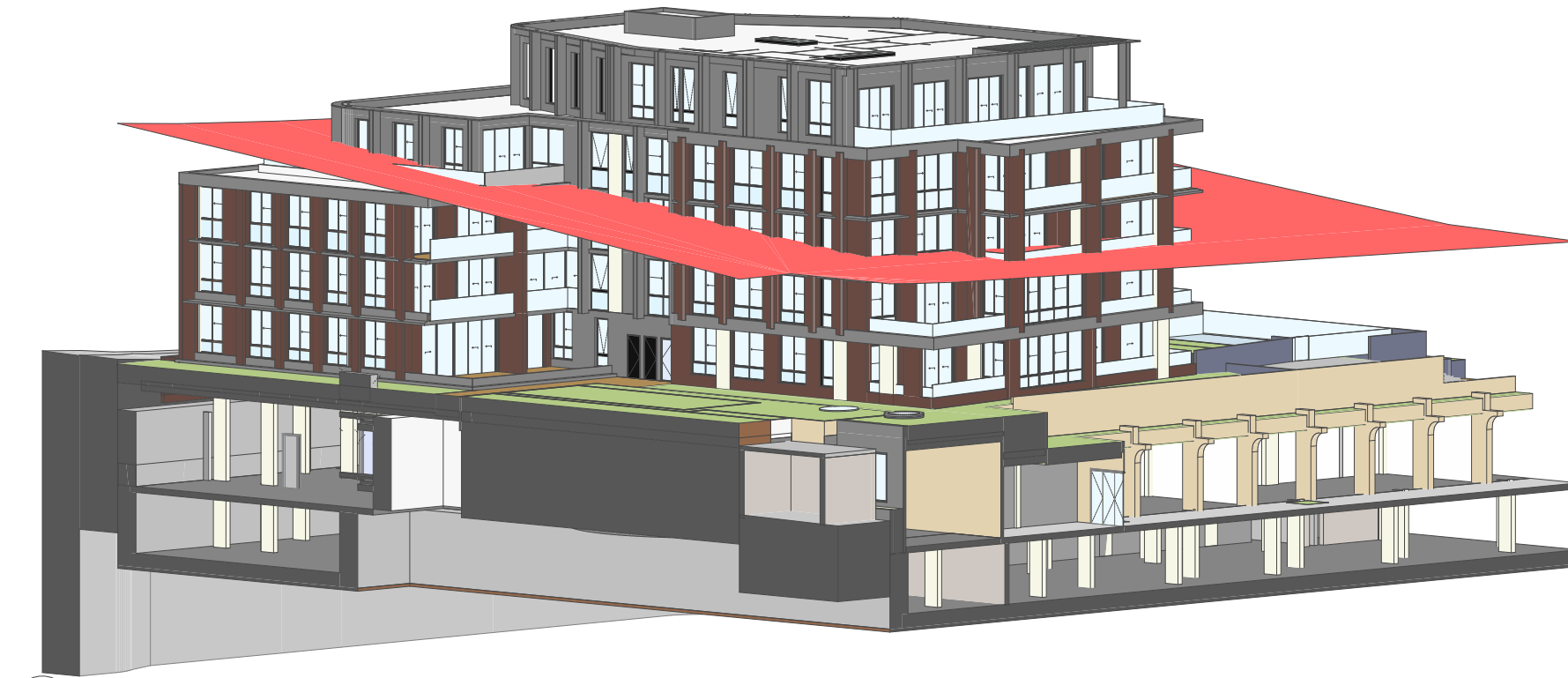




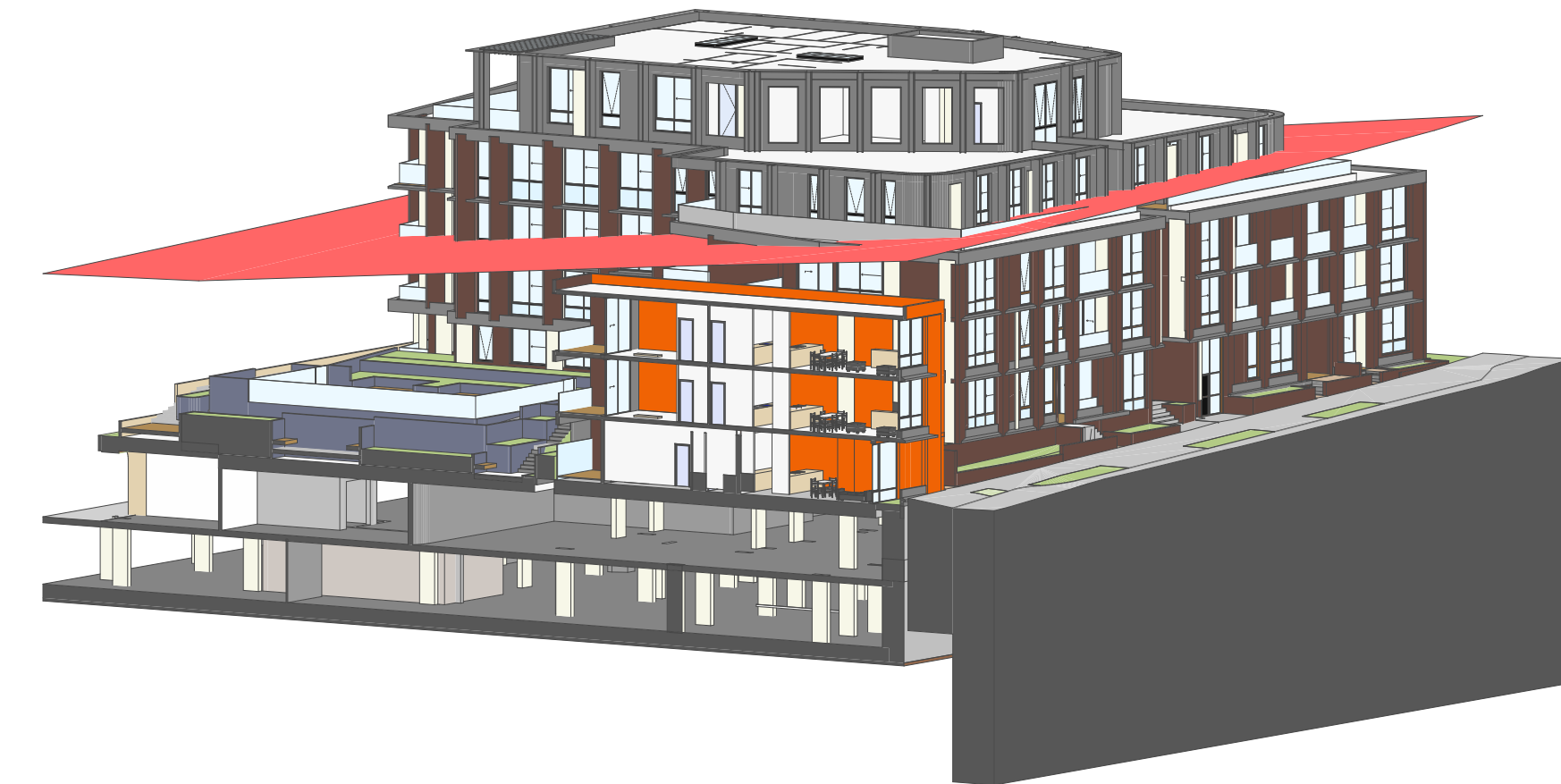




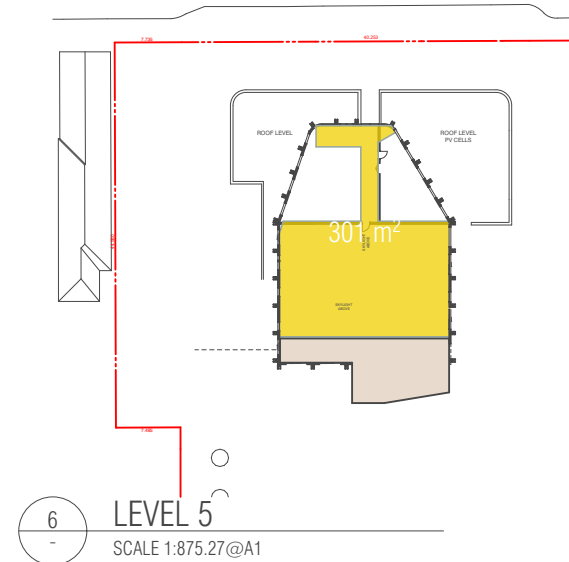
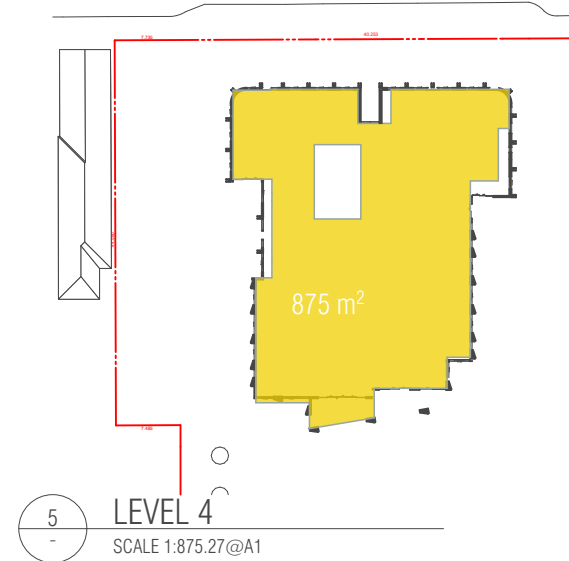
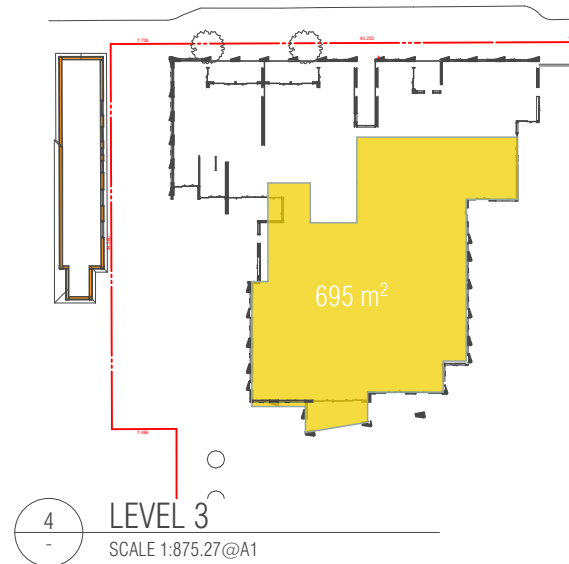




1 SOUTH WING - SOUTH EAST VIEW



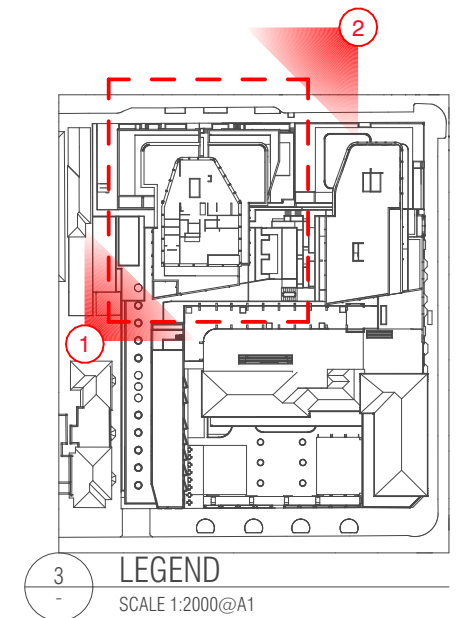
2 SOUTH WING - NORTH WEST VIEW



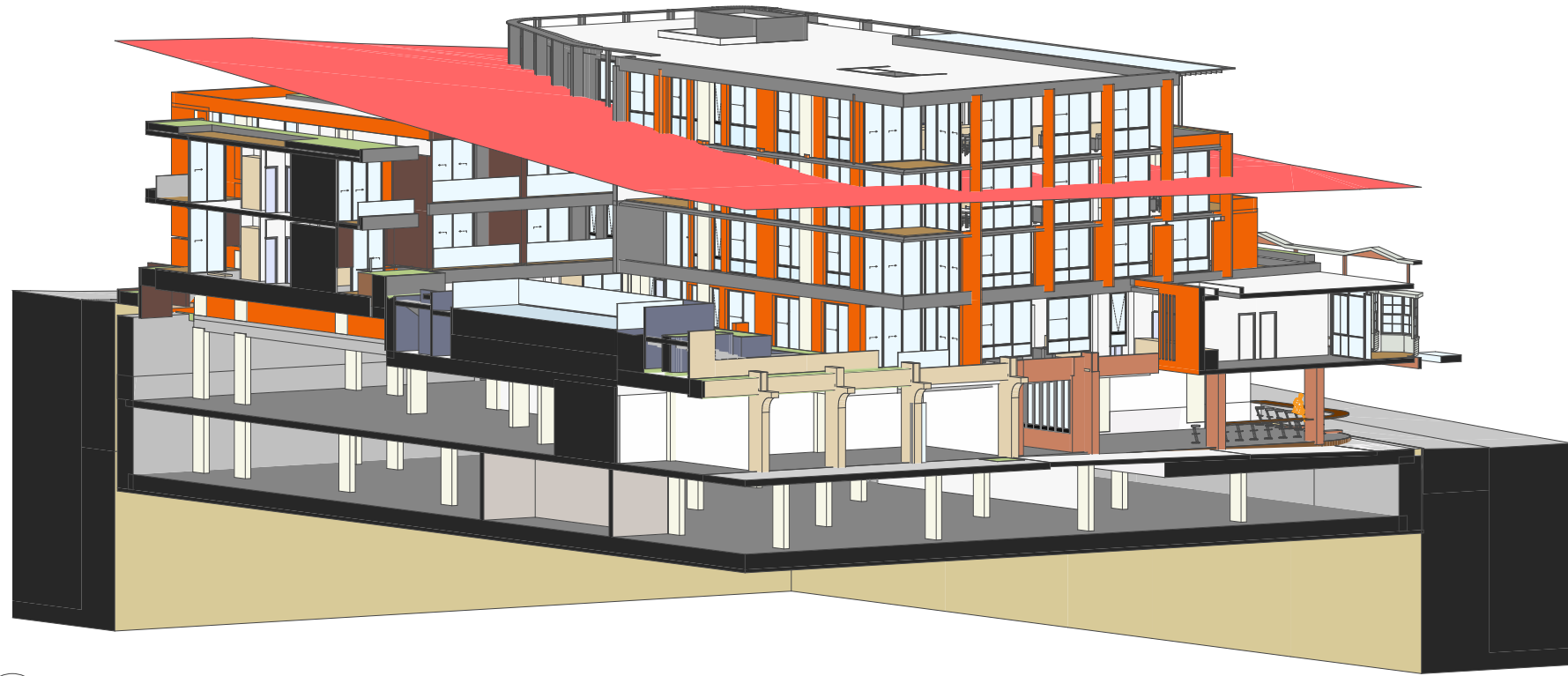
**PROPOSED GFA ABOVE 12M  
HEIGHT PLANE GENERALLY  
IN THE LOCATION OF  
EXISTING BOUTIQUE HOTEL**

LEVELS IMPACTED :  
- LEVEL 03 | 695m<sup>2</sup>  
- LEVEL 04 | 875m<sup>2</sup>  
- LEVEL 05 | 301m<sup>2</sup>

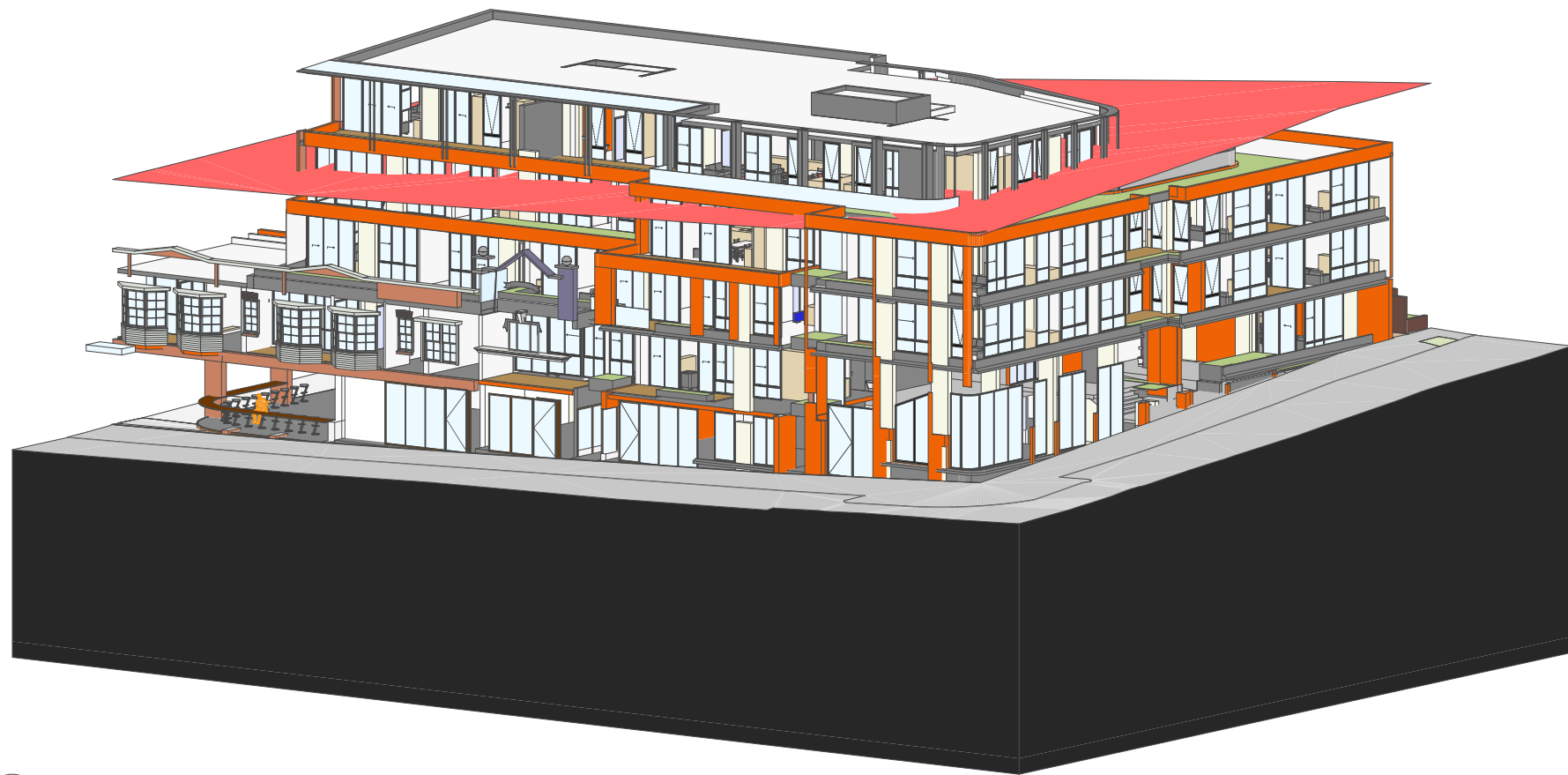
**TOTAL AREA ABOVE 12m HEIGHT  
PLANE 1871m<sup>2</sup>**







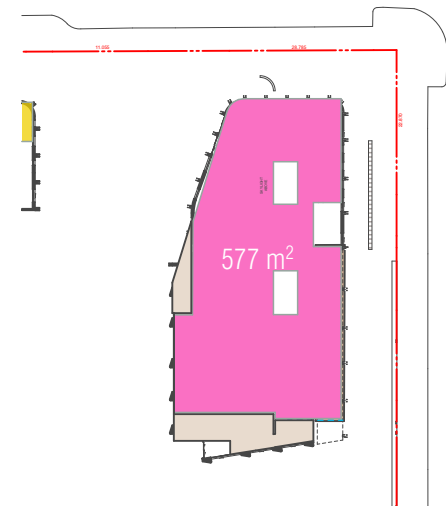
1 NORTH WING - SOUTH EAST VIEW



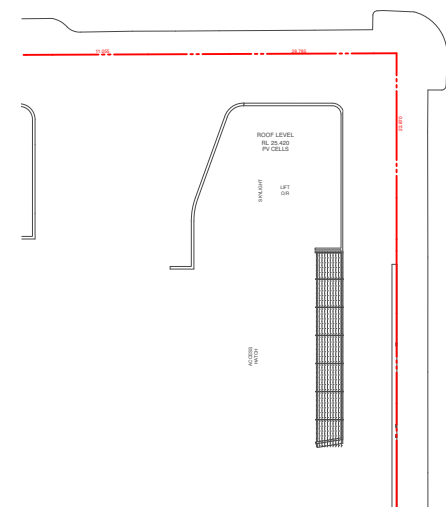
2 NORTH WING - NORTH WEST VIEW



4 LEVEL 3  
SCALE 1:875.27@A1



5 LEVEL 4  
SCALE 1:875.27@A1

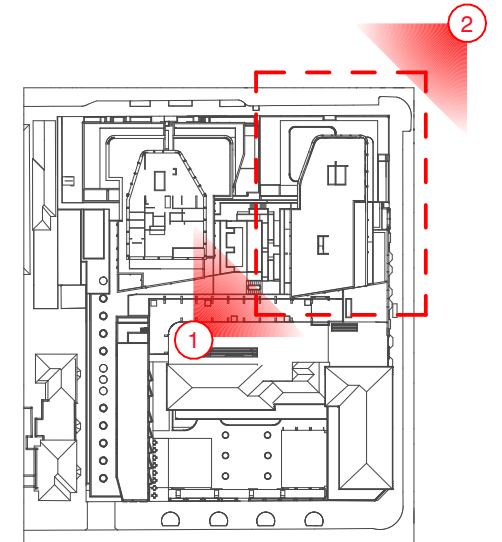


6 LEVEL 5  
SCALE 1:875.27@A1

**PROPOSED GFA ABOVE  
12M HEIGHT PLANE TO  
NORTHERN WING**

LEVELS IMPACTED :  
- LEVEL 03 | 556m<sup>2</sup>  
- LEVEL 04 | 557m<sup>2</sup>

**TOTAL AREA ABOVE 12m HEIGHT  
PLANE 1113m<sup>2</sup>**



3 LEGEND  
SCALE 1:2000@A1









