



Approved Development:	Demolition of existing structures and construction of a residential apartment building containing 38 apartments and 3 basement parking levels
Proposed Modification:	S4.56 modification to DA18/0323 - amendments to the driveway, basement garage and filtration tank, fence height increase and reinstatement of green wall
Property:	S/P 545, S/P 9336, S/P 48254, 5 Ozone Street, Cronulla
Applicant:	The Trustee For Ozone Cronulla Unit Trust
Owner	Strata Plan 48254 Proprietors
File Number:	DA18/0323
Application Number:	MA24/0086 PAN-428218
To be determined by:	Senior Manager/Council staff under delegated authority
Report from:	Senior Development Planner (Daniel Lukic)

REPORT SUMMARY

REASON FOR THE REPORT

In accordance with Section 2.16(6)(c) of the Environmental Planning and Assessment Act 1979, the Sydney South Planning Panel (SSPP) resolved to '*delegate to the Senior Manager, Development Services from Sutherland Shire Council the power to make a determination as the consent authority in accordance with Section 4.56 from the Environmental Planning and Assessment Act 1979*'.

PROPOSED MODIFICATION

The application seeks consent for modifications to the approved residential flat building approved under DA18/0323. The changes sought involve the following:

- Changes to Basement Level 3: parking allocation from Apartments G02 and 205 and from Apartment 403 to 502.
- Changes to Basement Level 1: amend location of the filtration tank, garage door added to parking area for Apartment 801, reallocation of parking for Apartment 403.
- The changes to the parking allocation will not reduce the total number of onsite parking spaces.
- Ground Floor changes: changes to the drainage and filtration system location, increased grate size of inlet pit, reconfiguration of landscaping (species mix, raised planter depth), reinstatement of

greenwall, driveway gradient changes, boundary fence and associated raised planters to increase in height from 0.4m to 1m.

- Level 1 changes: reinstatement of greenwall.
- Landscaping changes.

The modifications detailed above will require changes to the following conditions of consent:

- Condition 1 Plan Table.
- Condition 12 Internal Driveway, Parking and Manoeuvring.
- Condition 14 Stormwater.
- Condition 20 Landscaping Works.

THE SITE

The site is irregular in shape with a total area of 1,592m². It has a primary eastern frontage to Ozone Street of 53.42m, a northern frontage to Ocean Grove Avenue of 30.22m and a southern frontage to Cecil Monroe Avenue of 24.37m. Its western boundary has a length of 56.38m, excluding a 3.06m return of a “dog leg” part way along the boundary. The site has a slight fall of just over 1m from its north-western corner (RL16.5) to its south-eastern corner (RL15.46).

The site was occupied by 3 apartment buildings, each being 3 storeys in height with car parking on the ground floor. These buildings have been demolished and the building approved under DA18/0323 (and subsequent modifications) is currently under construction. There are 10 on-street parking spaces in Ozone Street directly adjacent to the site along with 3 street trees in tree “blisters”.

Fourteen and eighteen Gerrale Street adjoin the site to the west. The former is occupied by a 4-storey mixed use building containing ground floor commercial and apartments over. The latter is occupied by a 2 – 3 storey apartment building that has been subject to a DA (DA18/0349) that was approved by the LEC. The consent includes demolition of the building and construction of a mixed-use development with a height of 9 storeys.

The site is located at the eastern edge of Cronulla Centre. Cronulla railway station is a 6-minute walk from the site.

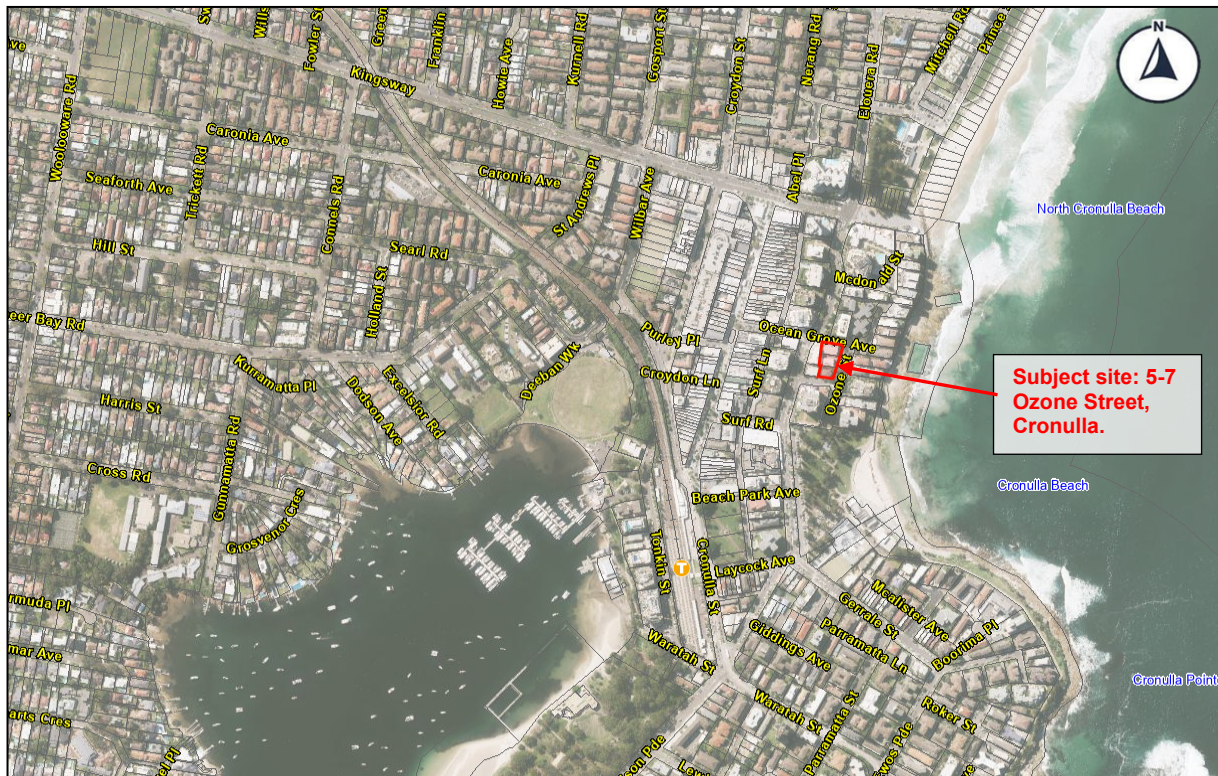


Image 1: Location Photograph



Image 2: Aerial Photograph

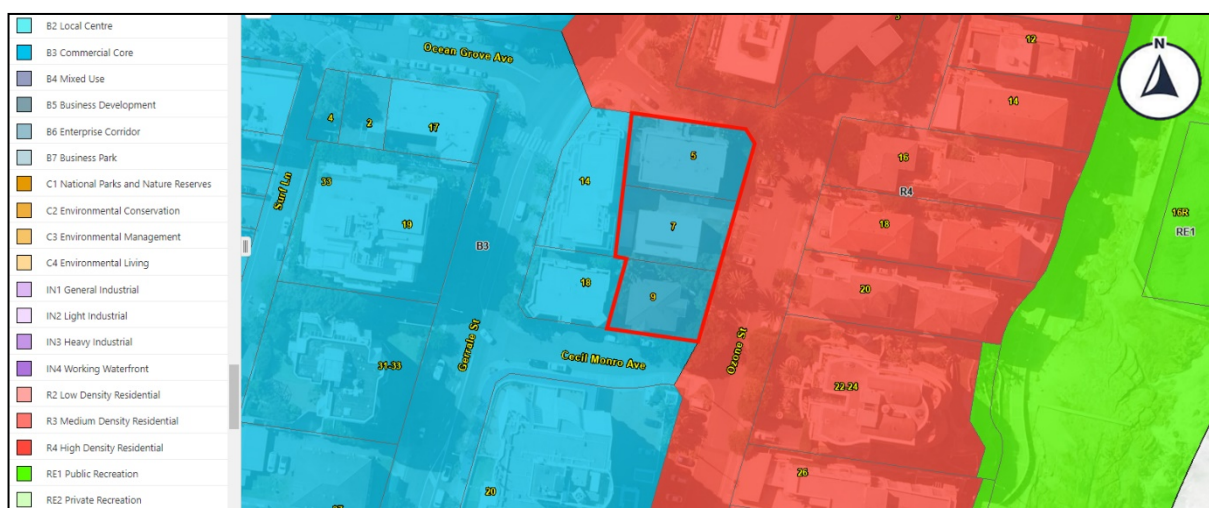


Image 3: Zoning Map

ASSESSMENT OFFICER'S RECOMMENDATION

1.0 THAT:

A. That pursuant to the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, the requested modification to Development Consent No. DA18/0323 dated 2 April 2019 for Demolition of existing structures and construction of a residential apartment building containing 38 apartments and 3 basement parking levels (Modified - 23 November 2020) at S/P 545, S/P 9336, S/P 48254, 5 Ozone Street, Cronulla be approved.

B. That Development Application No. DA18/0323 for Demolition of existing structures and construction of a residential apartment building containing 38 apartments and 3 basement parking levels (Modified - 23 November 2020) at S/P 545, S/P 9336, S/P 48254, 5 Ozone Street, Cronulla be modified as follows:

1. Approved Plans and Documents

The development must be undertaken substantially in accordance with the BASIX certificate, details and specifications set out on the following approved plans:

Plan Number	Reference	Prepared by	Date
S4.56_DA000 Revision E	Cover Sheet	PBD Architects	27 March 2020
S4.56_DA000 Revision F	Cover Sheet	PBD Architects	26 April 2022
S4.56_DA100 Revision F	Basement 3 Plan	PBD Architects	19 November 2020
S4.56_DA100 Revision G	Basement 3 Plan	PBD Architects	26 April 2022
S4.56 DA100 Revision H	Basement 3 Plan	PBD Architects	14.3.24
S4.56_DA101	Basement 2 Plan	PBD Architects	19 November

Revision F			2020
S4.56_DA101 Revision G	Basement 2 Plan	PBD Architects	26 April 2022
S4.56_DA102 Revision F	Basement 1 Plan	PBD Architects	19 November 2020
S4.56_DA102 Revision G	Basement 1 Plan	PBD Architects	26 April 2022
S4.56 DA102 Revision H	Basement 1 Plan	PBD Architects	14.3.24
S4.56_DA103 Revision E	Ground Floor Plan	PBD Architects	16 April 2020
S4.56_DA103 Revision G	Ground Floor Plan	PBD Architects	8 February 2021
S4.56_DA103 Revision J	Ground Floor Plan	PBD Architects	27 May 2022
S4.56 DA103 Revision L	Ground Floor Plan	PBD Architects	25.6.24
S4.56_DA104 Revision E	Level 1 Plan	PBD Architects	16 April 2020
S4.56_DA104 Revision H	Level 1 Plan	PBD Architects	8 February 2021
S4.56_DA104 Revision J	Level 1 Plan	PBD Architects	27 May 2022
S4.56 DA104 Revision K	Level 1 Plan	PBD Architects	14.3.24
S4.56_DA105 Revision E	Level 2 Plan	PBD Architects	16 April 2020
S4.56_DA105 Revision H	Level 2 Plan	PBD Architects	8 February 2021
S4.56_DA105 Revision J	Level 2 Plan	PBD Architects	27 May 2022
S4.56_DA106 Revision E	Level 3 Plan	PBD Architects	16 April 2020
S4.56_DA106 Revision H	Level 3 Plan	PBD Architects	8 February 2021
S4.56_DA106 Revision J	Level 3 Plan	PBD Architects	27 May 2022
S4.56_DA107 Revision E	Level 4 Plan	PBD Architects	16 April 2020
S4.56_DA107	Level 4 Plan	PBD Architects	8 February

Revision H			2021
S4.56_DA107 Revision J	Level 4 Plan	PBD Architects	7 July 2021
S4.56_DA107 Revision K	Level 4 Plan	PBD Architects	27 May 2022
S4.56_DA108 Revision E	Level 5 Plan	PBD Architects	16 April 2020
S4.56_DA108 Revision H	Level 5 Plan	PBD Architects	8 February 2021
S4.56_DA108 Revision J	Level 5 Plan	PBD Architects	7 July 2021
S4.56_DA108 Revision L	Level 5 Plan	PBD Architects	27 May 2022
S4.56_DA109 Revision E	Level 6 Plan	PBD Architects	16 April 2020
S4.56_DA109 Revision H	Level 6 Plan	PBD Architects	8 February 2021
S4.56_DA109 Revision K	Level 6 Plan	PBD Architects	27 May 2022
S4.56_DA110 Revision E	Level 7 Plan	PBD Architects	16 April 2020
S4.56_DA110 Revision H	Level 7 Plan	PBD Architects	8 February 2021
S4.56_DA110 Revision J	Level 7 Plan	PBD Architects	7 July 2021
S4.56_DA110 Revision L	Level 7 Plan	PBD Architects	27 May 2022
S4.56_DA111 Revision F	Level 8 Plan	PBD Architects	16 April 2020
S4.56_DA111 Revision H	Level 8 Plan	PBD Architects	8 February 2021
S4.56_DA111 Revision K	Level 8 Plan	PBD Architects	27 May 2022
S4.56_DA112 Revision D	Roof Terrace Plan	PBD Architects	16 April 2020
S4.56_DA112 Revision F	Roof Terrace Plan	PBD Architects	19 February 2021
S4.56_DA112 Revision G	Roof Terrace Plan	PBD Architects	26 April 2022
S4.56_DA113	Roof Plan	PBD Architects	18 March 2020

Revision C			
S4.56_DA113 Revision E	Roof Plan	PBD Architects	19 February 2021
S4.56_DA113 Revision F	Roof Plan	PBD Architects	26 April 2022
S4.56_DA200 Revision B	East Elevation Ozone Street	PBD Architects	18 March 2020
S4.56_DA200 Revision G	East Elevation Ozone Street	PBD Architects	19 February 2021
S4.56_DA200 Revision H	East Elevation Ozone Street	PBD Architects	7 July 2021
S4.56_DA200 Revision K	East Elevation Ozone Street	PBD Architects	27 May 2022
S4.56 DA200 Revision L	East Elevation Ozone Street	PBD Architects	14.3.24
S4.56_DA202 Revision C	West Elevation	PBD Architects	27 March 2020
S4.56_DA202 Revision H	West Elevation	PBD Architects	19 February 2021
S4.56_DA202 Revision J	West Elevation	PBD Architects	26 April 2022
S4.56 DA202 Revision K	West Elevation	PBD Architects	14.3.24
S4.56_DA203 Revision B	North Elevation Ocean Grove Rd	PBD Architects	18 March 2020
S4.56_DA203 Revision G	North Elevation Ocean Grove Rd	PBD Architects	19 February 2021
S4.56_DA203 Revision K	North Elevation Ocean Grove Rd	PBD Architects	27 May 2022
S4.56 DA203 Revision L	North Elevation Ocean Grove Avenue	PBD Architects	14.3.24
S4.56_DA201 Revision B	South Elevation Cecil Monroe Ave	PBD Architects	18 March 2020
S4.56_DA201 Revision G	South Elevation Cecil Monroe Ave	PBD Architects	19 February 2021
S4.56_DA201 Revision H	South Elevation Cecil Monroe Ave	PBD Architects	26 April 2022
S4.56 DA201 Revision J	South Elevation Cecil Munro Avenue	PBD Architects	14.3.24
S4.56_DA300	Section A	PBD Architects	11 September

Revision A			2019
S4.56_DA300 Revision C	Section A	PBD Architects	19 February 2021
S4.56_DA300 Revision D	Section A	PBD Architects	26 April 2022
S4.56_DA300 Revision E	Section A	PBD Architects	14.3.24
S4.56_DA301 Revision A	Section B	PBD Architects	11 September 2019
S4.56_DA301 Revision C	Section B	PBD Architects	19 February 2021
S4.56_DA301 Revision D	Section B	PBD Architects	7 July 2021
S4.56_DA301 Revision D	Section B	PBD Architects	26 April 2022
S4.56_DA301 Revision E	Section B	PBD Architects	14.3.24
S4.56_DA302 Revision B	Section C	PBD Architects	19 February 2021
S4.56_DA302 Revision C	Section C	PBD Architects	26 April 2022
S4.56_DA302 Revision D	Section C	PBD Architects	14.3.24
S4.56_DA400 Revision C	Material Finishes	PBD Architects	18 March 2020
S4.56_DA400 Revision E	Material Finishes	PBD Architects	8 February 2021
S4.56_DA400 Revision F	Material Finishes	PBD Architects	26 April 2022
S4.56_502 Revision A	Storage Diagram	PBD Architects	11 September 2019
DA05.03 Revision H	Driveway Ramp Section	Vic Lake Architect	6 November 2018
S4.56 DA310 Revision A	Driveway Ramp Alteration	PBD Architects	1.7.24
DA05.04 Revision H	Section Detail Façade	Vic Lake Architect	7 November 2018
S4.56_DA600 Revision A	Adaptable Unit	PBD Architects	11 September 2019
S4.56_DA601	Adaptable Unit	PBD Architects	11 September

Revision A			2019
S4.56_DA602 Revision A	Adaptable Unit	PBD Architects	11 September 2019
S4.56_DA603 Revision B	Livable Unit	PBD Architects	18 March 2020
DA06.07 Revision H	Communal Open Storage	Vic Lake Architect	6 November 2018
DA06.30 Revision H	Construction Management Plan – Stage One	Vic Lake Architect	20 March 2018
DA06.31 Revision A	Construction Management Plan – Stage Two	Vic Lake Architect	20 March 2018
DA06.32 Revision A	Construction Management Plan – Stage Three	Vic Lake Architect	20 March 2018
DA06.48 Revision H	Planting Pocket	Vic Lake Architect	7 November 2018
17A09_DA_C000 Revision 01	Cover Sheet, Drawing Schedule, Notes & Locality Sketch	Henry & Hymes	31 July 2018
17A09_DA_C100 Revision 01	Stormwater Management Plan	Henry & Hymes	31 July 2018
CI-520-02 Revision H	Stormwater Drainage Plan – Basement 1	Stantec	15.3.24
17A09_DA_200 Revision 01	OSD Tank Sections and Details	Henry & Hymes	31 July 2018
CI-520-01 Revision I	Stormwater Drainage Plan – Ground Floor	Stantec	15.3.24
CI-526-02 Revision H	Stormwater Drainage – Details – Sheet 2	Stantec	2.7.24
L-0001/D	Coversheet	Habit8	2 February 2021
L-0001/G	Coversheet	Habit8	27 April 2022
17-0679L L01 Revision Q	Paving and Planting Schedule	Habit8	31 January 2019
17-0679L L01	Landscape Plan – Ground Level (South Western)	Habit8	31 January 2019
L-1001/D	Landscape Layout Plan	Habit8	2 February

	01		2021
L-1001/G	Landscape Layout Plan 01 Ground Level	Habit 8	27 April 2022
17-0679L L02 Revision-Q	Landscape Plan – Ground Level (North Western)	Habit8	31 January 2019
L-1002/D	Landscape Layout Plan 02	Habit 8	2 February 2021
L-1002/G	Landscape Layout Plan 02 Ground Level	Habit 8	27 April 2022
17-0679L L03 Revision-Q	Landscape Plan – Ground Level (South Eastern)	Habit8	31 January 2019
L-003/D	Landscape Layout Plan 03	Habit 8	2 February 2021
L-1003/G	Landscape Layout Plan 03 Ground Level	Habit 8	27 April 2022
17-0679L L04 Revision-Q	Landscape Plan – Ground Level (North Eastern)	Habit8	31 January 2019
L-004/D	Landscape Layout Plan 04	Habit 8	2 February 2021
L-1004/G	Landscape Layout Plan 04 Ground Level	Habit 8	27 April 2022
17-0679L L05 Revision-Q	Landscape Planting Plan Ground Level (South Western)	Habit8	31 January 2019
L-2001/D	Landscape Planting Plan 01	Habit 8	2 February 2021
L-2001/G	Landscape Planting Plan 01 Ground Level	Habit 8	27 April 2022
17-0679L L06 Revision-Q	Landscape Planting Plan – Ground Level (North Western)	Habit8	31 January 2019
L-2002/D	Landscape Planting Plan 02	Habit 8	2 February 2021
L-2002/G	Landscape Planting Plan 02 Ground Level	Habit 8	27 April 2022
17-0679L L07 Revision-Q	Landscape Planting Plan – Ground Floor (South	Habit8	31 January 2019

	Eastern)		
L-2003/D	Landscape Planting Plan 03	Habit 8	2 February 2021
L-2003/G	Landscape Planting Plan 03 Ground Level	Habit 8	27 April 2022
17-0679L L08 Revision Q	Landscape Planting Plan – Ground Floor (North Eastern)	Habit8	31 January 2019
L-2004/D	Landscape Planting Plan 04	Habit 8	2 February 2021
L-2004/G	Landscape Planting Plan 04 Ground Level	Habit 8	27 April 2022
L-2005/G	Landscape Planting Plan Roof Terrace Unit 801	Habit 8	27 April 2022
L-2006/G	Landscape Planting Plan Roof Terrace Unit 802	Habit 8	27 April 2022
17-0679L L09 Revision Q	Landscape Planting – Roof Terrace (Southern)	Habit8	31 January 2019
17-0679L L10 Revision Q	Landscape Plan – Roof Terrace (Northern)	Habit8	31 January 2019
L-3001/D	Landscape Sections	Habit 8	2 February 2021
L-3001/G	Landscape Sections	Habit 8	27 April 2022
L-3002/D	Landscape Sections	Habit 8	2 February 2021
L-3002/G	Landscape Sections	Habit 8	27 April 2022
L-3003/D	Landscape Elevation Ozone St	Habit 8	2 February 2021
L-4001/D	Specification Notes and Maintenance Program	Habit 8	2 February 2021
L-4001/G	Specification Notes and Maintenance Program	Habit 8	27 April 2022
L-4002/D	Landscape Details	Habit 8	2 February 2021
L-4002/G	Landscape Details	Habit 8	27 April 2022
L-4003/D	Landscape Details	Habit 8	2 February 2021
L-4003/G	Landscape Details	Habit 8	27 April 2022

L-0001(L)	Coversheet	Habit8	25.6.24
L-1001(L)	Landscape Layout Plan 01 - Ground Level	Habit8	25.6.24
L-1002(L)	Landscape Layout Plan 02 - Ground Level	Habit8	25.6.24
L-1003(L)	Landscape Layout Plan 03 - Ground Level	Habit8	25.6.24
L-1004(L)	Landscape Layout Plan 04 - Ground Level	Habit8	25.6.24
L-2001(L)	Landscape Planting Plan 01 – Ground Level	Habit8	25.6.24
L-2002(L)	Landscape Planting Plan 02 – Ground Level	Habit8	25.6.24
L-2003(L)	Landscape Planting Plan 03 – Ground Level	Habit8	25.6.24
L-2004(L)	Landscape Planting Plan 04 – Ground Level	Habit8	25.6.24
L-3001(L)	Landscape Sections	Habit8	25.6.24
L-3002(L)	Landscape Sections	Habit8	25.6.24
L-3003(L)	Landscape Sections	Habit8	25.6.24
L-4001(L)	Specification Notes and Maintenance Program	Habit8	25.6.24
L_4002(L)	Landscape Details	Habit8	25.6.24
L_4003(L)	Landscape Details	Habit8	25.6.24

(Modified – ~~29 November 2022~~)

and any details on the application form and on any supporting information received with the application except as amended by the following conditions.

Note: The following must be submitted to Sutherland Shire Council prior to the commencement of any building work.

- i) A Construction Certificate.
- ii) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.
- iii) Notification of the commencement of building works with a minimum of 2 days' notice of such commencement.

12. Internal Driveway, Parking and Manoeuvring

A. Design

The internal driveway profile, parking and manoeuvring areas must be designed in accordance with the

approved architectural plans except where modified by the following:

- i) Align with Access and Alignment levels issued by Council's Public Domain Unit.
- ii) The convex mirror located on the caretakers office wall of basement 01 is to be deleted Traffic light system are to be provided instead with the priority given to entering traffic.
- iii) A 1m x 1m splayed corner must be provided on the eastern wall of the basement ramp within Basement 01 reducing the size of the waste room to facilitate suitable manoeuvring to and from the ramp.
- iv) The internal driveway must be paved or concreted and must be finished in materials other than plain or exposed aggregate concrete.
- v) Provide adequate sight distance for the safety of pedestrians using the footpath area.
- vi) Provide a maximum grade of 5% for the first 13 metres inside the property boundary.
- vii) Comply with AS2890.1(2004) user class 1A, in relation to the design of vehicular access, parking and general manoeuvring for the B85 vehicle.
- viii) Comply with AS2890.2(2002) in relation to the design of vehicular access, parking and general manoeuvring for the HRV vehicle.
- ix) The maximum longitudinal grade of the driveway must not exceed 25%.

x) The new garage door proposed for Unit 801, the double garage must have a minimum door opening of 5.15m wide x 2.2m high clear of any necessary hinges, jambs or fixtures required for the operation of garage doors or any services within the garage area.

14. Stormwater Drainage

A. Design

The stormwater drainage system must be designed in accordance with the approved stormwater drainage design drawing; Australian Standard AS3500.3:2015; the BASIX Certificate issued for this development; Sutherland Shire Environmental Specification - Stormwater Management. Except where modified by the following:

- ~~i) A detailed drainage design supported by drainage calculations must demonstrate the management of stormwater flow / discharge for all events up to the 100 ARI storm event. This must include roof gutters / downpipes and in-ground drainage lines and the on-site detention system. Deleted~~
- ~~ii) A layout of the drainage system showing existing and proposed pipe sizes, type, class, grades, lengths, invert levels, finished surface levels and location of all pipes with levels reduced to Australian Height Datum. Impacts on existing trees must be indicated on the plan. Deleted~~
- iii) Water from pathways and access driveways shall be prevented from entering the road reserve as surface flow. This can be achieved by constructing a box drain at the boundary equipped with a 300mm wide grate and frame to collect the flow or directing the flow to a sag pit within the property.
- iv) The rate of discharge of stormwater from the site to a drainage system under Council's control must be controlled so that it does not exceed the pre-development rate of discharge. Any

required on-site detention facility must be designed to cater for all storm events up to the Recurrence Interval of 1 in 100 years.

- v) A new kerb inlet pit and associated lintel must be provided within Cecil Monro Avenue to facilitate the private connection to Councils piped system.
- vi) All levels reduced to Australian Height Datum.
- vii) The pipeline within the footpath verge must be a hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres or reinforced concrete.
- viii) The rainwater tank must have minimum volume of 4m³ and 5m³ for OSD as approved plans.**

20. Landscaping Works

A. Design

The landscaping works must be designed in accordance with the approved Landscape Plan except where modified by the following:

- i) The approved landscape plans are to be amended to reflect the approved architectural plans and conditions of consent.
- iii) Clearly show on plan existing trees to be removed /retained including tree numbering in accordance with the arborist report OR provide a separate existing tree plan and schedule.
- iv) Tree Protection Zones (TPZ) / the location of tree protective fencing must be shown on plan for all existing trees and/or natural site features to be retained and protected.
- v) Provide minimum soil depths AND volumes when planting over slab in accordance with the Apartment Design Guide as follows:
 - 1200mm depth for large trees (12-18m tall)
 - 1000mm depth for medium trees (8-12m tall)
 - 800mm depth for small trees (6-8m tall)
 - 600mm for shrubs.
 - 300-450mm for ground covers.
 - 200mm depth for turf
- vi) The Communal Open Space (COS) to the northwestern corner of the site must accommodate a universal toilet, BBQ, basic kitchen facilities and furniture as shown on the landscape plans referenced in condition 1 of this consent.
- vii) All landscape retaining walls and planter boxes must be constructed in masonry, stone or gabions. Timber is not acceptable.
- viii) Each ground floor unit must be provided with a clothesline easily accessible from the laundry.
- ix) All planted and turf areas including those on slab must be provided with a water-efficient irrigation system and taps at 25m centres, connected to a pump and the rainwater tank or mains, to enable effective plant establishment and maintenance.
- x) The private open space of each ground floor dwelling must be provided with one tap, connected to mains water.
- xi) To improve coverage and reduce weeds and maintenance, planting densities in all planting areas including planter boxes must achieve a minimum of 4 plants per square metre.

- xii) To reduce long term maintenance of planting beds turf species must be native grass such as *Zoysia macrantha* 'Nara' or Buffalo grass varieties.
- xiii) Screening trees capable of attaining a minimum of 12m height at maturity are to be installed in a minimum 200L pot size at the following locations on the ground floor.
 - 1. 3 to Cecil Monro Avenue frontage
 - 2. 9 to Ozone Street frontage
 - 3. 4 to Ocean Grove Avenue
- xiv) ~~The paved entry area in front of unit G03 providing access to the front north eastern communal space must be converted to garden and planted. The planting bed and turf is to continue from the communal open space to the front pathway into entrance of the building.~~
- xv) The total number of shrubs to be planted along the three frontages of the site must be designed as shown on the landscape plans referenced in condition 1 of this consent, except be increased in numbers to 385 shrubs.
- xvi) The planter box wall (PW) (including screen fence) to the private open space of unit G04 is to be setback 1m min from the back of the services wall that will accommodate the FHB and GM.
- xvii) The palisade fence must be designed as shown on the landscape plans referenced in condition 1 of this consent, by being installed on the wall that encloses the concreted bin collection area only and not be of a height greater than 1.5m.
- xviii) Eleven (11) star jasmine creepers are to be planted underneath the three magnolia trees above the driveway entrance to drape over the wall.
- xix) The front fence is to be finished in sandstone cladding and constructed no greater than **400mm** **1m** in height when measured from natural ground level.

The applicant must engage a suitably qualified Landscape Designer or Landscape Architect to oversee any design changes to the approved Landscape Plan and amendments required above. Details of these design changes must be included in the documentation submitted with the application for a Construction Certificate.

(Modified – 29 November 2022)

Notes:

A Landscape Designer is a person eligible for membership of the Australian Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

If demolition works to occur prior to the Construction Certificate being issued, tree protection measures must be installed prior to commencement of demolition.

53. Design Changes Required

A. Before Construction

The following design changes must be implemented:

- i) Aluminium privacy screens (as shown as PS on the Material Finishes plan S4.56_DA400, issue C, dated 18 March 2020) are to be installed wrapping around the north western corner of each unit on levels 1 to 7.
- ii) (Deleted – 7 June 2021)
- iii) The front fence is to be finished in sandstone cladding and constructed no greater than 400mm in height when measured from natural ground level.
- iv) The combined height of the planter walls and palisade fence is to be no greater than 1.5m in height when measured from the finished ground floor terrace levels.
- v) The palisade fence as shown on the landscape plans referenced in condition 1 of this consent is to be installed on the wall that encloses the concreted bin collection area only and not exceed 1.5m in height. (Modified – 29 November 2022)
- vi) The planter box wall (PW) (including screen fence) to the private open space of Unit G04 is to be setback 1m min from the back of the services wall that will accommodate the FHB and GM.
- vii) (Deleted – 29 November 2022)
- viii) **To remove the inconsistencies between the ground floor and the northern elevation plan and ensure a positive streetscape outcome, the raised planter shown directly in front of the power kiosk must be replaced with a gate comprising vertical palisade elements that are consistent with the approved perimeter fencing height and materials. The gate will give access to the kiosk and must have a nil street setback. The gate materials must be certified by the PCA and/or a suitably qualified or practicing fire engineer.**

ASSESSMENT OFFICER'S COMMENTARY

2.0 DESCRIPTION OF PROPOSED MODIFICATION

An application has been made under the provisions of Section 4.56 of the Environmental Planning and Assessment Act, 1979 (the Act) to modify the terms of Development Consent No.DA18/0323. The original development was determined by the NSW Land and Environmental Court (LEC) on 2 April 2019.

The specific modification sought to the approved development involves the following:

- Changes to Basement Level 3: parking allocation and changes.
- Changes to Basement Level 1: amend location of the filtration tank, garage door added to parking area for Apartment 801, parking changes.
- Ground Floor changes: changes to filtration system location, increased grate size of inlet pit, reconfiguration of landscaping (species mix, raised planted depth), reinstatement of greenwall, driveway gradient changes, boundary fence to increase in height.
- Level 1 changes: reinstatement of greenwall.

Refer to Section 10 for an in depth assessment of all proposed changes.

3.0 APPROVED DEVELOPMENT

Development Consent No.DA18/0323 issued on 2 April 2019 by the LEC granted approval for the demolition of all existing structures and the construction of a nine storey residential apartment building containing 38 apartments. The development includes a mix of 1, 2 and 3 bedroom apartments, three levels of basement car parking accessed from a new driveway at the southwestern corner off Cecil Monroe Avenue. The development provides 71 residential spaces, 2 visitor/car wash spaces, 2 trade/service vehicle spaces, storage and services.

The development consent issued by the NSW LEC has since been modified by multiple modification applications. Refer to Section 4 for more information.

The detailed development assessment report in relation to this development under Section 4.15 of the EP&A Act is attached to Development Application file No.DA18/0323 and the subsequent modification applications. At present the development is under construction.

4.0 BACKGROUND INFORMATION

A history of the development proposal is as follows:

- DA18/0323 was considered by SSPP on 21 November 2018 and the panel agreed to defer the determination for the following reasons:
 1. *The adverse impacts of the development, in particular view loss, have been addressed as per the relevant considerations in the LEP.*
 2. *The amended design addresses the comments of Council's Design Review Forum (DRF) at their meeting on 25 October 2018. This submission is to be reconsidered by the DRF and*

their comments along with an updated Design verification statement be provided to the Panel.

An amended report, including the applicant's submissions be prepared by Council is to be submitted to the Panel for their reconsideration of the application.

- An appeal was lodged with the LEC, and the development application was approved on 2 April 2019.
- MA19/0303 was submitted increasing the number of units from 32 to 38 (resulting in some changes to conditions of consent) and was determined by way of approval by the SSPP on 13 May 2020.
- MA20/0232 was submitted to modify condition 19 relating to the registration of the plan of consolidation and road dedication and was determined by way of approval by the SSPP on 2 April 2019.
- DA20/0606 was submitted to amalgamate units 702 and 703 to create one unit and was approved under delegation on 14 December 2020.
- DA20/0614 was submitted for alterations and amalgamation of units 403/404 and 502/503 and was approved under **delegation** on 14 December 2020.
- MA20/0412 was submitted 17 February 2021 seeking to make internal changes to the three basement levels of the building. This application was approved by SSPP at its meeting held on 27 May 2021.
- MA21/0080 was approved to modify the ground floor private open space areas, minor internal changes, window modifications, change to booster location, increase in height and floor space ratio, change to façade cladding and amendments to landscaping. This application was approved by SSPP at its meeting held on 17 June 2021.
- MA21/0270 was submitted on 17 August 2021 seeking to amend condition 6 to incorporate separate approvals for the amalgamation of units 403/404, 502/503, and 702/703. The application was determined by way of approval by the SSPP on 16 December 2021.
- MA22/0137 was lodged on 26 May 2022 seeking consent to change cladding materials, raise planter heights, delete a water feature within the communal open space, delete a portion of the green landscape wall, revise the pool design and adjacent planters, landscaping changes, amend paving in front of G03, internal changes to Units 105, 403, 504, 702 802 and 802, changes within the basement and delete the condition to provide clotheslines on above floor balconies below the balustrade due to an inability to achieve BCA Compliance. The application was determined by way of approval by the SSPP on 29 November 2022.

Comment [SM]: ditto

5.0 APPLICATION HISTORY

A history of the modification application is as follows:

- The current application was submitted on 22 April 2024.
- On 8 May 2024, an email was sent to the applicant requesting the lodgement of engineering design plans relating to changes to the drainage system.
- On 14 May 2024, a formal request for more information (RFI) was sent via the NSW Planning Portal requesting the lodgement of the engineering design plans referred above.
- On 15 May 2024, a revised planning statement and stormwater plans were lodged.

- On 4 June 2024, the application was formally neighbour notified.
- On 11 June 2024, an email was sent to the applicant requesting clarifications as the landscape plans proposed level changes between the verge and the basement access and along the site's common boundary with Cecil Munro Avenue. The email also sought written clarification on the extent of the proposed changes on the landscaping plans as a number of annotations were made but the planning statement was silent on these modifications.
- On 12 June 2024, a site inspection was undertaken.
- On 12 June 2024, an email was sent to the applicant requesting clarification on the basement access ramp changes, particularly as the ramp has been constructed and if the changes had already been undertaken. The applicant advised that the driveway ramp had been constructed but grades did not satisfy AS2890.1 and the modification seeks approval to regrade the ramp to ensure compliance.
- On 28 June 2024, a second RFI was sent requesting detailed long sections of the basement access ramp and further drainage information, specifically discharge rates and calculation addressing Chapter 38 of SSDCP2015.
- On 9 July 2024, the following information was lodged: stormwater details and plans, landscaping plans, a traffic impact assessment report, architectural details, revised long sections and a revised planning statement. The planning statement was revised and advised:
 - Proposed level changes in at the verge and adjacent to basement access on Cecil Munro Avenue is not sought by this MA.
 - Landscaping plans have been amended to reflect the previously approved architectural plans to avoid ambiguity.
 - Surface material surrounding the power substation has been changed.
 - Changes to the landscape plan are primarily around the revised stormwater system and infrastructure.
- Council's planning officer clarified matters with the applicant relating to parking allocation, topographical matters in the planning statement and landscaping details.

6.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application or after a request from Council, the applicant has provided adequate information to enable an assessment of this application.

7.0 NATURE OF MODIFICATION SOUGHT

This application proposes the modification of Development Consent No. DA18/0323 pursuant to Section 4.56 of the EP&A Act. Section 4.56 states:

4.56 Modification by consent authorities of consents granted by the Court

(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if—

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has notified the application in accordance with—*
 - (i) the regulations, if the regulations so require, and*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*
- (1A) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*
- (1B) (Repealed)*
- (1C) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

An assessment of the type of modification proposed has been carried out in accordance with the provisions of the Environmental Planning and Assessment Regulation 2021 (EP&AR 2021) and a Section 4.56 is the appropriate type of modification application. The application is considered to be substantially the same for which consent was originally granted.

8.0 PUBLIC PARTICIPATION

As the application involves modification under Section 4.56 of the EP&A Act, the application was notified in accordance with the provisions of Appendix 1 of the Sutherland Shire Community Engagement

Strategy 2023 (SSCES). 250 adjoining or affected owners were notified of the proposal and no submissions were received.

9.0 STATUTORY CONSIDERATIONS

The subject land is located within the E2 Commercial Core Zone pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a residential flat building is a permissible land use within the zone subject to consent.

The following Environmental Planning Instruments, Development Control Plan (DCP), Codes or Policies are relevant to this application:

- Sutherland Shire Local Environmental Plan 2015 (SSLEP2015).
- Sutherland Shire Development Control Plan 2015 (SSDCP2015).

10.0 COMPLIANCE

10.1 Sutherland Shire Local Environmental Plan 2015.

The modification application does not generate any contraventions to any applicable development standards.

10.2 Sutherland Shire Development Control Plan 2015.

The modification application does not generate any non-compliances to any applicable planning controls contained in SSDCP2015.

11.0 SPECIALIST COMMENTS

The application was referred to the following internal specialists for assessment and the following comments were received:

11.1 Development Engineer

The application was referred to Council's Assessment Team Engineer due to the changes proposed to the access ramp and other changes within the basement. Following a review of the revised plans and information, no issues have been raised and two new sub-conditions are imposed, specifically relating to the new garage door being installed to Unit 801's garage and the minimum capacity of the new onsite detention tank.

12.0 ASSESSMENT

A detailed assessment of the application has been carried out having regard to the matters for consideration under Section 4.15 of the EP&A Act.

The following matters are considered important to this application.

12.1 Proposed Modification

Each of the proposed modifications are addressed below under separate headings:

a) Changes to the driveway access grades.

The applicant has advised that the ramp has been constructed and following inspection, it was established that the connection between the ramp and basement entrance is too steep and short for a B85 passenger motor vehicle. The applicant engaged a traffic engineer who reviewed the ramp and advised that the works are required to ensure the ramp gradient and transitions satisfy AS2890.1 and Chapter 36 from SSDCP2015.

The first image below shows a single transition between the ramp from the verge and the basement entry, and the ramp gradient had a maximum 5% grade for 13m. The second image shows two transitions, each being 2m long, to address the shortcomings of the constructed access. The proposal will alter the ramp grades to 3.6% for 10.98m and then 9.7% for the following 2m.

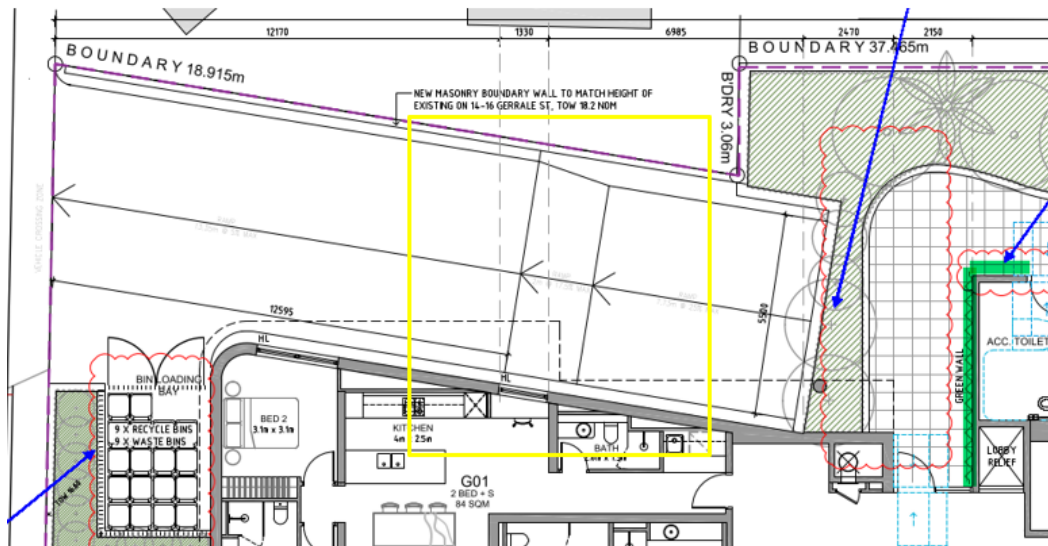


Image 4: The approved basement access ramp

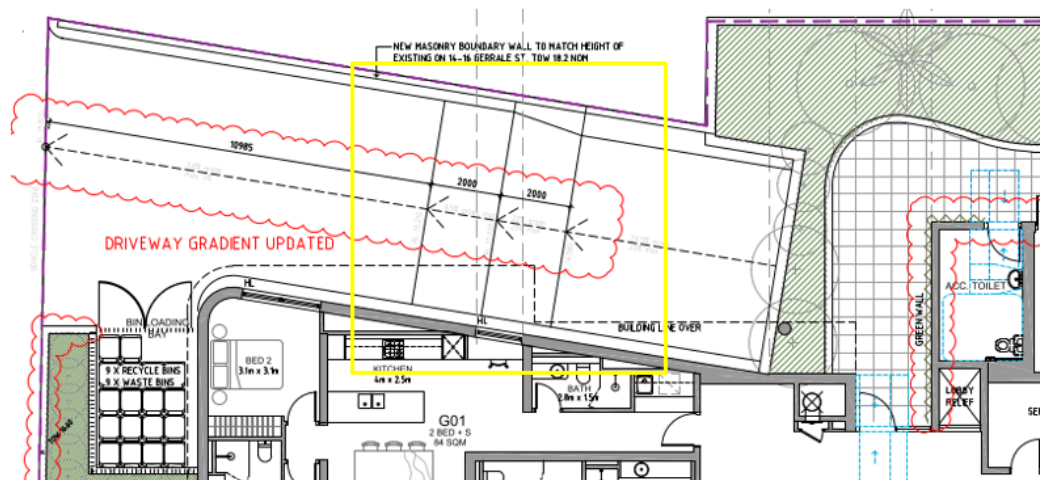


Image 5: The modified basement access ramp

Following detailed assessment, no issues have been raised by the Assessment Team's Engineer and the changes are supported.

b) Reallocation of car spaces within basement.

Changes are required to ensure each apartment has a minimum one parking space in accordance with the parking controls in SSDCP2015 and as required by Condition 46, which states:

46. Car Parking Allocation

A. Before Subdivision

Car parking must be allocated to individual strata lots as part of their unit entitlement.

Visitor parking and trades or service vehicle spaces and/or car wash bays must be designated as common property on any strata plan.

Parking must be allocated on the following basis:

- *Residential dwellings: 71 spaces*
- *Residential visitors/Car wash bay spaces: 2 spaces*
- *Trades or service vehicle spaces: 2 spaces*
- *Motorcycle: 3 spaces*
- *Bicycle: 8 spaces*
- *Residential dwellings: a minimum of one parking space per dwelling is required.*

(Modified – 29 November 2022)

Consent is sought for the following:

(i) Basement Level 3

- One car parking space allocated for Unit 205 to be reallocated to Unit G02.

The approved Basement Level 3 shows Apartment 205 has 3 parking spaces allocated and Apartment G02 did not have any parking entitlement. This MA seeks to reallocate one of the three parking spaces allocated to Apartment 205 to ensure that each apartment has one parking entitlement.

The reallocation of one parking space from Apartment 205 to G02 does not create any shortfall or non compliance to the parking control contained in SSDCP2015. Therefore, the proposal is supported.

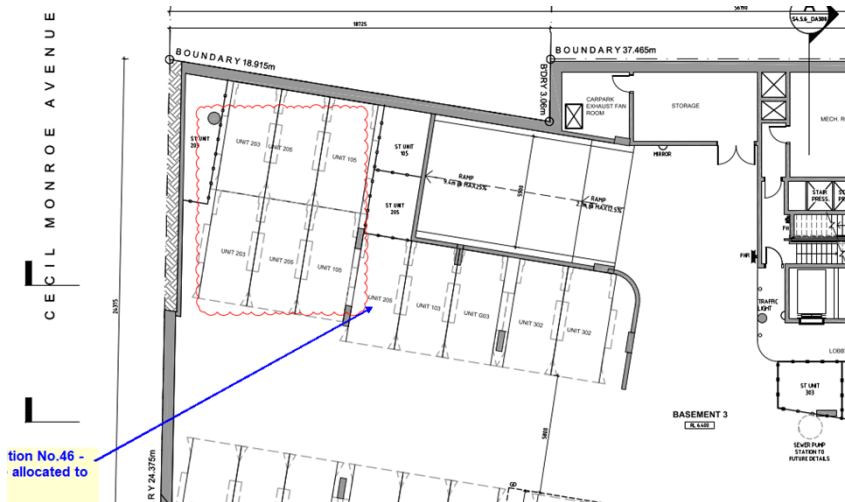


Image 6: Plan extract of the approved basement level 3 layout

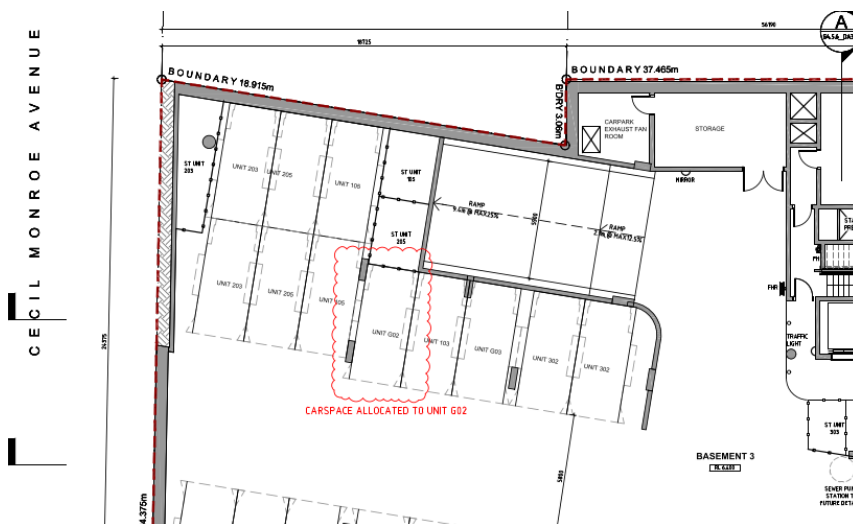


Image 7: Plan extract of the proposed basement level 3 layout

- Car parking spaces for Unit 403 are reallocated to Unit 502.

The approved Basement Level 3 plan shows Apartment 403 has 3 parking spaces, and Basement Level 1 plan shows Apartment 502 has 3 parking spaces. Essentially, the proposal is to swap the parking

entitlements between the levels. As there is no loss in parking spaces and apportionment remains the same, the change is supported.

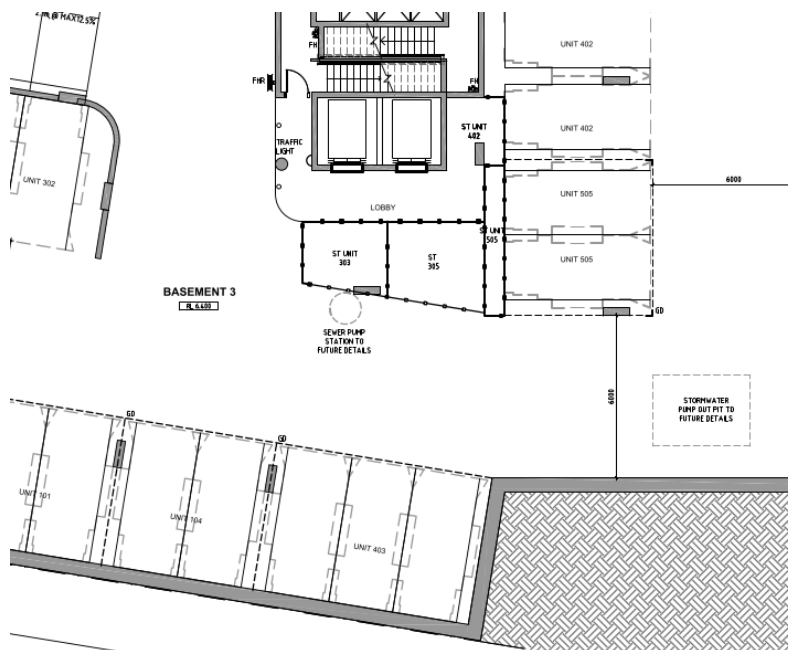


Image 8: Plan extract of the approved basement level 3 layout

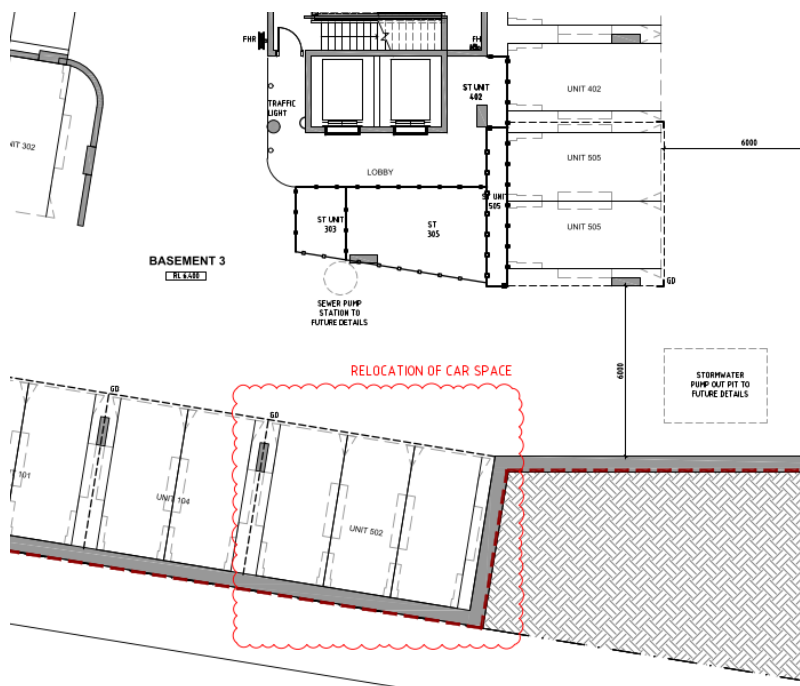


Image 9: Plan extract of the proposed basement level 3 layout

(ii) Basement Level 1

- A garage door is proposed to be added to Unit 801's parking and storage area.

The approved plans show there is no security for the parking and storage area for this apartment. The installation of a garage door does not reduce the aisle width and/or impact turning movements of these car spaces and the parking spaces opposite the garage. The modification is supported, subject to conditions.

- Comment [SM]:** Bit confusing

[illegible]

Architectural floor plan of a building with red annotations indicating proposed changes. The plan shows a lobby, stairs, elevator, and several units. Red dashed lines and circles highlight areas for modification: a garage door addition near Unit 801, a relocation of a car space near Unit 802, and a new fire door near Unit 801. A red dashed line also outlines a section of the building's exterior wall.

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c) Changes to drainage system.

The original application approved the drainage vessel/onsite detention (OSD) tank in the southwest corner of the site with a pipe connection to the kerb. The OSD tank was partly located adjacent to Apartment G01 and its private open space area and extends into the landscape strip adjacent to Cecil Munro Avenue.

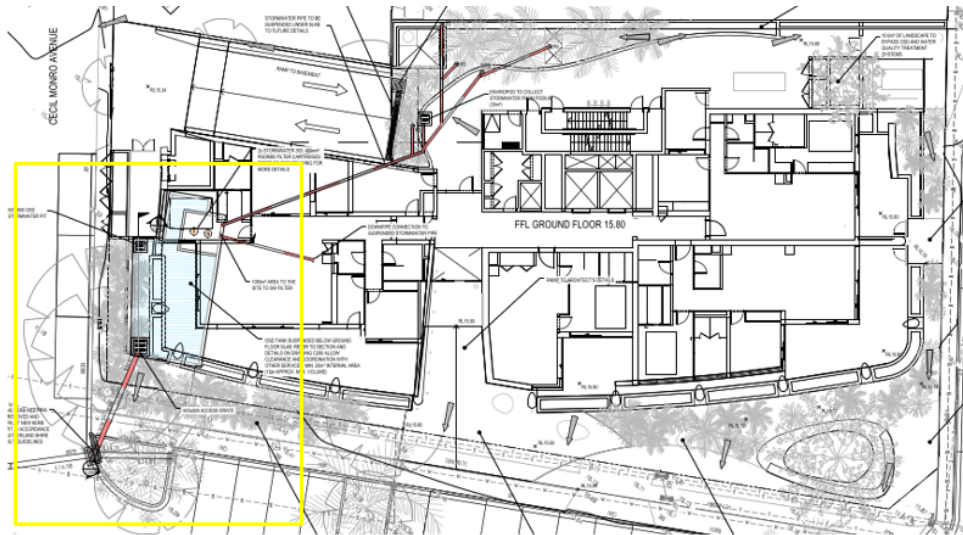


Image 13: Original approved civil plan showing drainage infrastructure.

The location was altered in Modification Application MA21/0080 where the onsite detention basin was moved northward from the corner and located in front of the private open space area of Apartment G01. There were no civil plans or any details in the application proposing to relocate the OSD system, but some notations were made on the architectural plans. The Construction Certificate drawings from CC21/0486 showed the approved location aligning with MA21/0080.

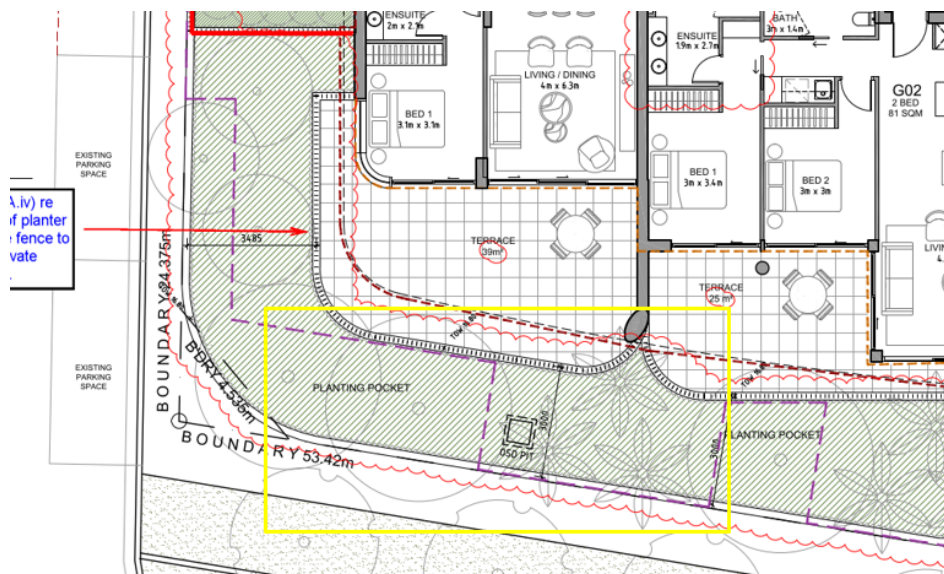


Image 14: MA plan showing the change in the OSD location away from the corner.

The current modification application seeks to retain the OSD tank in the location referred above, but the application seeks approval for:

- A revised pipe alignment and connection to the kerb.
- The installation of a new water treatment ('Jellyfish') tank to the south of the OSD tank.
- Internal changes to pipe location and sizes as a result of the new water treatment tank.

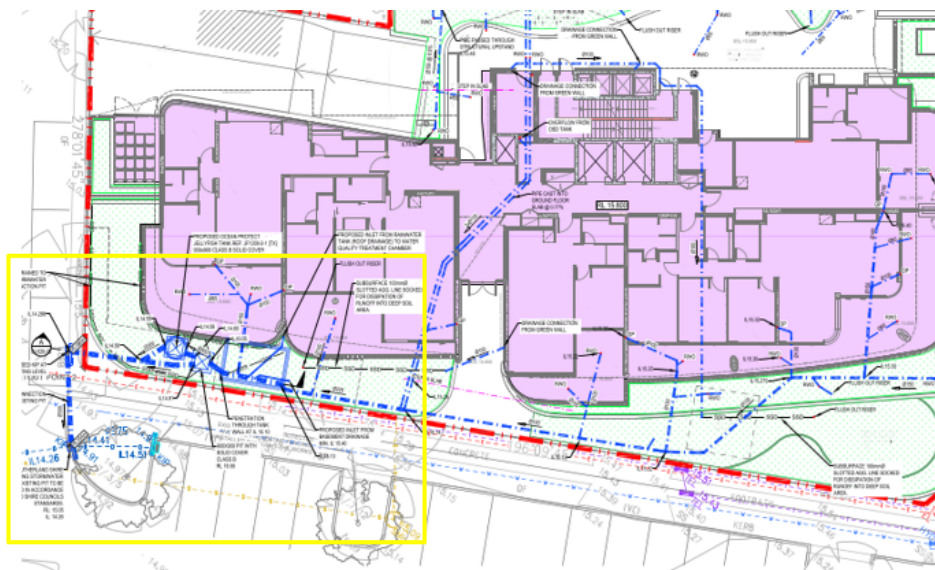


Image 15: Proposed civil plan showing the OSD, the new Jellyfish tank and drainage pipe detail.

Initially Council's Engineers raised some concerns with the proposal and a request for more information was sought. Following a review of revised information and details, no objections are raised.

From a landscaping perspective, the tanks will be located below the raised planter beds located adjacent to Cecil Munro Avenue and Ozone Street. The soil depth above the infrastructure will be 1m which will allow for medium sized trees to be planted, resulting in minimal visual impacts and/or impact the ability for landscaping to grow and reach maturity.

d) Increase boundary fence height.

The approved height of the fence/raised planter along the northeastern part of Ozone Street was 1.2m above the existing ground level and this provided sufficient soil depth for the approved landscaping. In November 2022, a modification application was approved, and a condition was imposed limiting the fence/raised planter to no higher than 0.4m. It was determined that the 0.4m raised planter would not provide sufficient soil/growth media and that a depth of 1m is required to ensure the long term health and survival of the landscaping, particularly as this will allow for the planting of canopy trees.

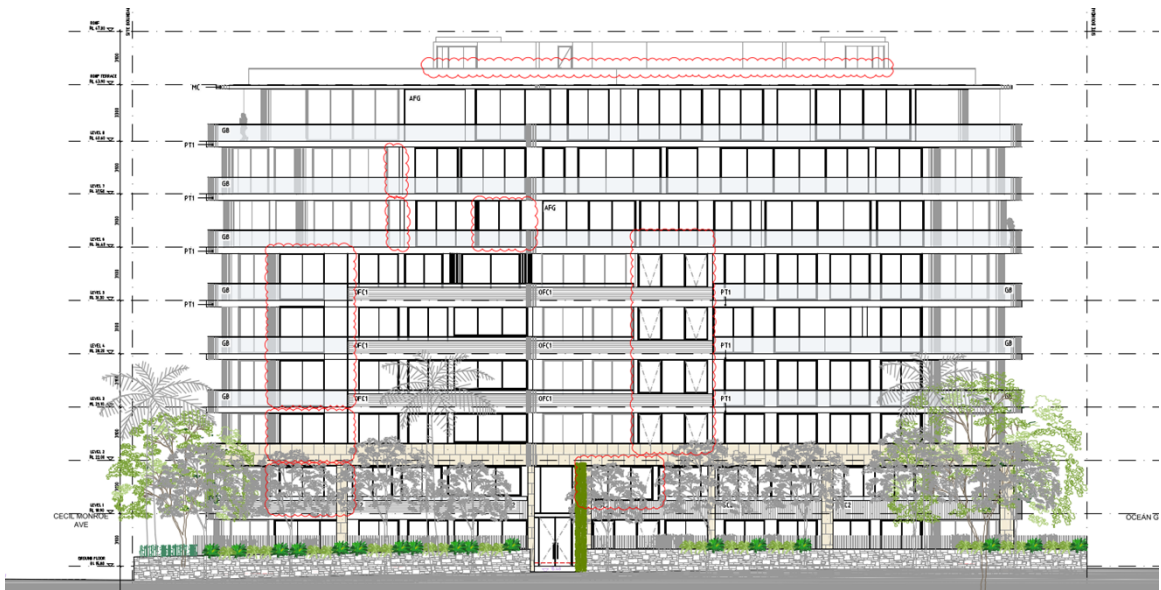
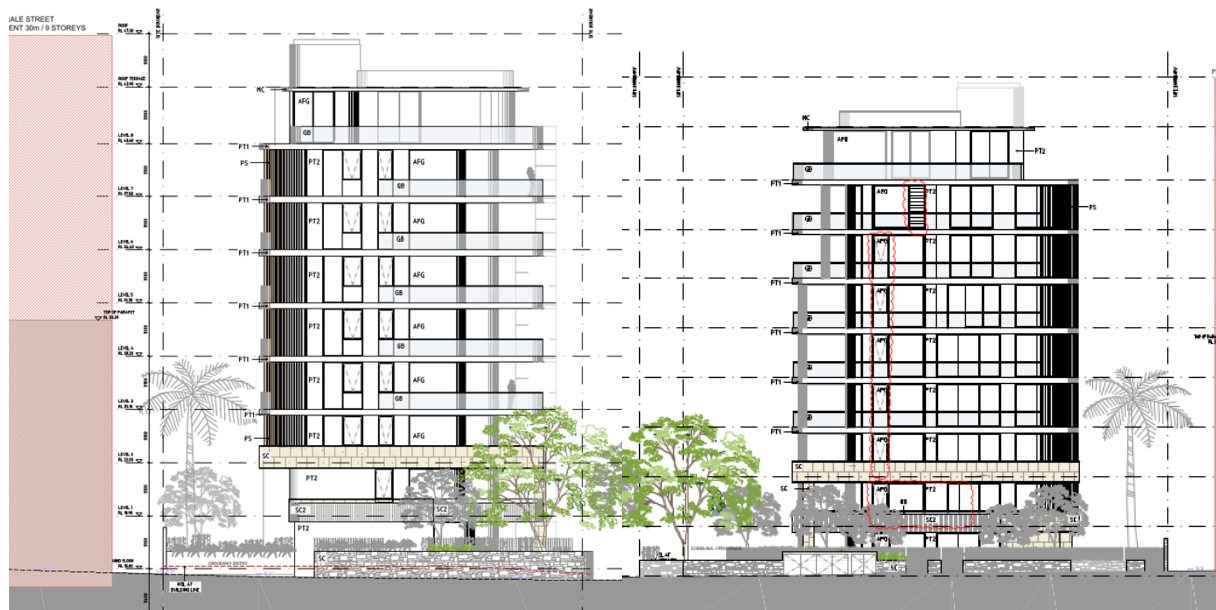


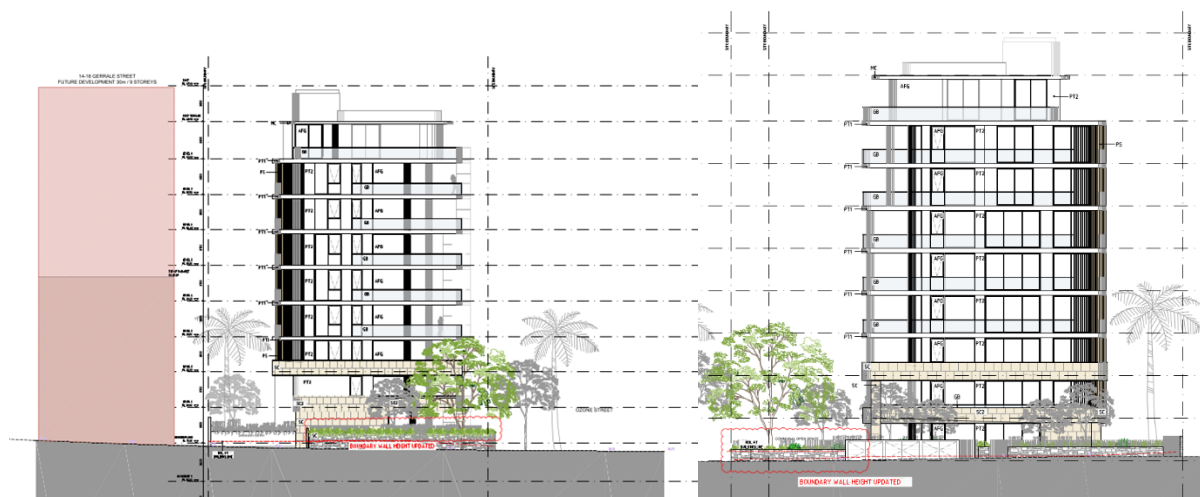
Image 16: The approved fence/raised planter treatment along the Ozone Street elevation.



Image 17: The proposed fence/raised planter treatment along the Ozone Street elevation.



Images 18 and 19: The approved fence/raised planter treatment along the Ocean Grove Ave and Cecil Munro Avenue elevations respectively.



Images 20 and 21: The proposed fence/raised planter treatment along the Ocean Grove Ave and Cecil Munro Avenue elevations respectively.

The lifting of the raised planter will ensure the long term health and survival of landscaping for the site and will achieve the landscaping outcomes required by the SSDCP2015. From the public domain and at the human scale, the increased height of the raised planters will not be discernible and will also aid in improving the building aesthetic of the front elevation of the building form.

e) Reinstall the greenwall landscaping.

Consent is sought to reinstall the greenwall on the first floor. In a previous modification application, it was deleted, but the applicant has recognised that the landscaping feature will provide the future

residents with a higher level of amenity and will better reflect the building character as defined in the assessment of the original application.

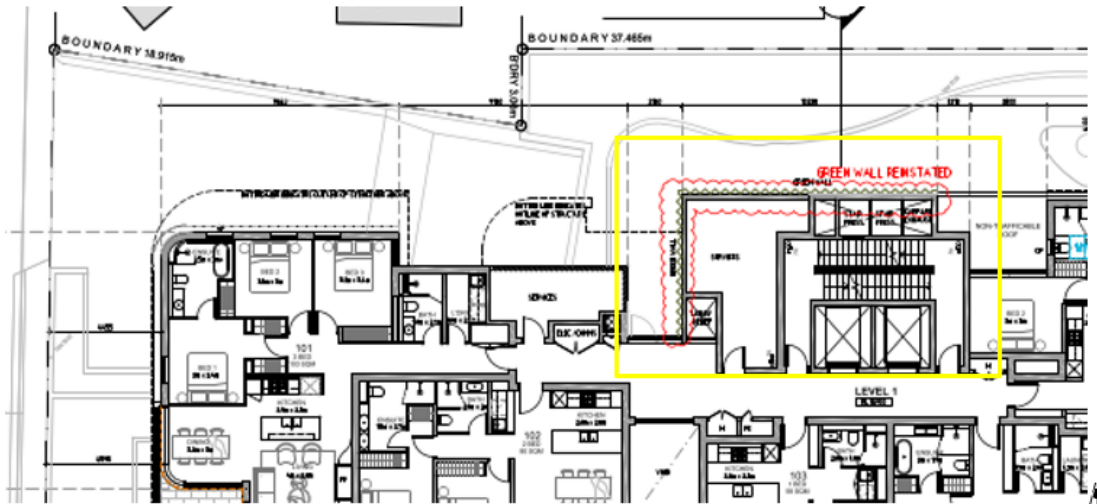


Image 22: Plan showing the reinstatement of the green wall.

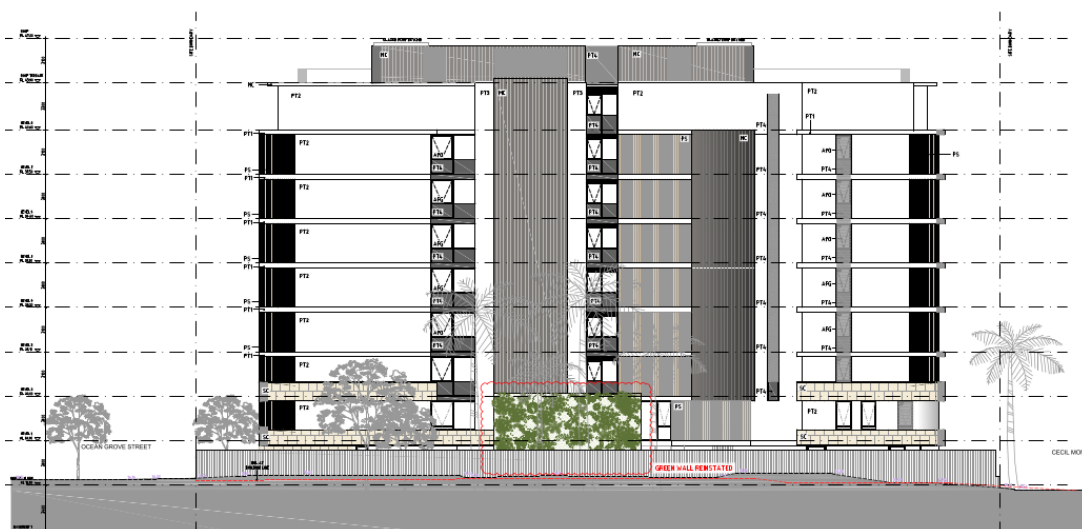


Image 23: The proposed reinstated green wall in elevation

No issues are raised, as the reinstatement of this landscaping element will result in improved building aesthetic outcomes.

f) Landscape Plan changes.

The modification application proposes the following changes to the landscape plans:

- Ensure the plans align with the previously approved architectural plans.
- Reflect the changes sought by this MA, relating to the increased height of the raised planters adjacent to Ozone Street and Cecil Munro and Ocean Grove Avenues, stormwater design changes.
- Different landscaping species mix throughout the ground floor and communal open space areas, including podium planting towards the western boundary.

A review of the stamped landscaping plans approved in MA22/0137 shows there are inconsistencies with the architectural plan set approved in the same modification application. Essentially, the plan ensures alignment and consistency and reflect the changes that are proposed as discussed in Section 10.

Regarding changes to the landscaping species, the site is not located within a Greenweb zone, nonetheless it still needs to ensure compliance with Council's landscape objectives and outcomes. A detailed review has been undertaken and it has revealed:

- Species have been changed, but the landscape aesthetic outcomes will still be achieved.
- In response to deeper raised planters along the boundaries adjacent to Ozone Street and Ocean Grove and Cecil Munro Avenues, medium/tall trees have been replaced with larger species.
- Additional planting is proposed in some areas, complementing what has already been approved (basement hood, along the western property boundary and south of the substation facility).
- Some understory changes within the raised planter that fronts Ozone Street, particularly alternate species being used and an increase in larger plants being used. Larger plants located adjacent to the POS area of Apartment G04 has a reduction in large plant numbers, and this appears to have been done to ensure there is no overcrowding and allow for plants to achieve maturity.
- The landscaping plan approved by MA22/0137 showed a 1.6m wide footpath and a 2m wide landscape strip between the path and the on-street parking spaces with a number of trees to be planted in the landscape strip. The trees within the grassed verge between the site and Ozone Street are deleted, as the approved Frontage/Public Domain Works Plan issued by Sutherland Shire Council requires the verge to be constructed using a combination of pavers and concrete for the full width of the verge.

Based on the merits of the proposal, the revised landscape changes are supported.

10.3 Conflict between plans and streetscape outcomes

A review of the application has revealed there is a misalignment between the ground floor and the northern elevation plan. The former shows the power kiosk will have an open aperture to the northern property boundary and the latter showing a raised planter across this part of the site. The raised planter is not supported as this will prevent 24 hour access to the infrastructure by the relevant power authority. A condition is imposed for the deletion of the raised planter immediately in front of the kiosk.

To ensure a positive building and streetscape aesthetic is achieved, a condition is imposed for the installation of a 1.8m high palisade gate across the full width of the kiosk aperture and the colour must be consistent with the raised planter box treatment.

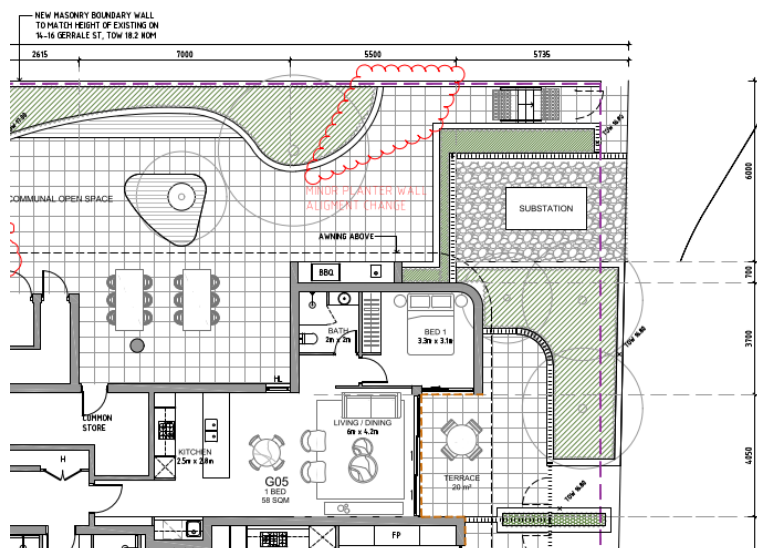


Image 24: Ground floor plan extract.



Image 25: Northern elevation plan extract.

13.0 DEVELOPER CONTRIBUTIONS

Section 7.11 contributions were levied on the original DA18/0323. The proposed modification does not increase the demand for public facilities and therefore the Section 7.11 contributions remain unchanged.

14.0 DECLARATIONS OF AFFILIATION, GIFTS AND POLITICAL DONATIONS

Section 10.4 of the EP&A Act requires the declaration of donations/gifts in excess of \$1000. In addition, the application form requires a general declaration of affiliation. In relation to this development application no declaration has been made.

15.0 CONCLUSION

The subject land is located within the E2 Commercial Core Zone pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a residential flat building is a permissible land use within the zone with development consent from Council.

In response to public exhibition, no submissions were received.

This application satisfies the requirement that the development to which the consent as modified relates will remain substantially the same development as that originally granted consent.

The application has been assessed having regard to the matters for consideration under Section 4.15 of the EP&A Act, together with the provisions of SSLEP2015 and all relevant Council DCPs, Codes and Policies. Following detailed assessment, it is considered that the modification application No MA24/0086 is supported.

The officer responsible for the preparation of this Report is:

Author: Daniel Lukic

Assessment Officer

Date: 27 August 2024

Review by: Meredith Bagnall

Team Leader

Date: 18 September 2024

Determined by: Sue McMahon

Senior Manager Development Services

Date: 25 September 2024

Electronically published by Administration Officer: MW