

**DA NO:** DA-2021/123/A

**ADDRESS:** 46, 48 & 48A EASTERN VALLEY WAY, NORTHBRIDGE

**PROPOSAL:** INTERNAL AND EXTERNAL CHANGES TO APPROVED DEVELOPMENT INCLUDING MODIFICATIONS TO RL'S, GROSS FLOOR AREA, LANDSCAPING AND ASSOCIATED WORKS .

**RECOMMENDATION:** APPROVAL

**ATTACHMENTS:**

1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. ASSESSMENT UNDER *WLEP 2012*
4. ASSESSMENT UNDER *WDCP 2006 & WDCP 2023*
5. ASSESSMENT OF LANDSCAPE AREA
6. SECTION 4.56 ASSESSMENT
7. SECTION 4.15 ASSESSMENT (INCL ASSESSMENT OF ONE SUBMISSION)
8. SCHEDULE OF CONDITIONS
9. NOTIFICATION MAP

**RESPONSIBLE OFFICER:** RITU SHANKAR - TEAM LEADER

**AUTHOR:** ANTHONY BLUE - CONTRACTOR: SENIOR DEVELOPMENT ASSESSMENT PLANNER

**REPORT DATE:** 2 JULY 2024

**MEETING DATE FOR ED:** ELECTRONIC DETERMINATION

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## **1. PURPOSE OF REPORT**

The purpose of this report is to seek determination by Willoughby Local Planning Panel (WLPP) of modification application DA-2021/123/A. The application seeks consent for internal and external changes to the approved development including modifications to RL's, gross floor area, landscaping and associated works at 46, 48 & 48A Eastern Valley Way, Northbridge.

The application is required to be referred to the WLPP for determination because the original application was refused by the WLPP. The application was subsequently approved by the Court. The Local Planning Panels Direction states that "Councils should also make arrangements for the determination of modification applications under section 4.56 of the Act by either the local planning panel or council staff". There is no specific delegation to staff at present and it was determined to be necessary to refer the application to the Panel.

## **2. OFFICER'S RECOMMENDATION**

**THAT the Willoughby Local Planning Panel:**

**2.1 Approve Development Application DA-2021/123/A for internal and external changes to approved development including modifications to rl's, gross floor area , landscaping and associated works at 46, 48 & 48A Eastern Valley Way, Northbridge NSW 2063, subject to conditions contained in Attachment 8, for the following reasons:**

- 2.1.1 The modifications are a result of detailed design of engineering services,
- 2.1.2 The modifications have been designed to maintain compliance with the height limits under *Willoughby LEP 2012* and minimise impacts due to overshadowing,
- 2.1.3 The proposed reduction in deep soil zone and soft landscaping has been minimised by good design, and
- 2.1.4 The modifications are generally considered to be minor and of minimal environmental impact.

### 3. BACKGROUND

The site is located on the western side of Eastern Valley Way, Northbridge and consists of three separate properties. A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 1**.

The original development application DA-2021/123 for demolition of existing dwellings and structures, amalgamation of lots, construction of a four-storey residential flat building consisting of six (6) apartments and three by three-storey multi-dwelling buildings consisting of seven dwellings, basement car parking, landscaping and associated works at 46-48A Eastern Valley Way, Northbridge was refused by the Willoughby Local Planning Panel on 9 August 2022.

The reasons for the decision were:

1. Pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development proposal is non-compliant with
  - *State Environmental Planning Policy - Design Quality of Residential Apartment Development* and the accompanying Apartment Design Guide in relation to communal open space, visual privacy and solar access, and
  - Clause 4.3 of *WLEP 2012* in relation to height.
2. Pursuant to Section 4.15 (1)(a)(iii), *Environmental Planning and Assessment Act 1979*, the proposal in its current form does not comply with *Willoughby Development Control Plan* in relation to density and height, site coverage, side setbacks, private open space, recreational area, soft landscaping, streetscape landscaping, privacy and solar access.
3. Pursuant to Section 4.15 (1)(a)(iii), *Environmental Planning and Assessment Act 1979*, the proposal in its current form does not comply with *Willoughby Development Control Plan* in relation to urban design, streetscape and character because of the excessive use of aluminium sheeting on the elevations, particularly the southern elevation.
4. Pursuant to Section 4.15 (1)(b) of the *Environmental Planning and Assessment Act 1979*, the likely impacts of that development on the built environment are unacceptable.
5. Pursuant to Section 4.15 (1)(c) of the *Environmental Planning and Assessment Act 1979*, the proposal is unsuitable in its site context.
6. Pursuant to Section 4.15 (1)(d) of the *Environmental Planning and Assessment Act 1979*, the proposed development fails to adequately address the relevant issues raised in the public submissions.
7. Pursuant to Section 4.15 (1)(e) of the *Environmental Planning and Assessment Act 1979*, having regard to the insufficient information contained in the application, the development's non-compliances with *Willoughby Local Environmental Plan 2012* and

*Willoughby Development Control Plan* and the amenity impacts generated, the approval of the proposed development is not considered to be in the public interest.

The applicant lodged an appeal with the Land and Environment Court.

Following a conciliation conference held on 23 January, 8 February and 1 March 2023, the court upheld the appeal. During the conciliation, amended plans were submitted by the applicant. These amended plans included a reduction in height, reduced footprint of the top floor of the RFB, increased northern side setbacks, increased deep soil zone, increased separation between townhouses, increased soft landscaping, the introduction of additional material into the elevations of the RFB, modifications to reduce privacy impacts and the retention of an additional existing tree.

Conditions 2 and 3 of the consent required further amended plans to be submitted for approval by the Director of Planning at Council, confirming the inclusion of a list of changes to the plans approved in condition 1.

Amended plans, as required by conditions 2 and 3, were submitted on 13 October 2023. Following review, a series of iterations of the plans were progressively received between October 2023 and 16 April 2024, to adequately address the requirements of the conditions.

The Director of Planning approved the amended plans by letter dated 14 May 2024.

#### Current Modification Application

The current modification application was lodged on 23 February 2024.

Initially, it was discussed with the applicant the potential to include the changes to the plans, required by conditions 2 and 3 of the original consent, in the modification application.

The applicant advised that it was preferred to finalise the conditions to allow works to commence on site without waiting for the modification application to be determined. Consequently, progress on the modification application was paused pending the finalisation of the amended plans under the consent issued by the court.

On 23 May 2023, the applicant was requested to amend the modification application to:

1. Accurately represent any change to overshadowing of the adjoining property at 44 Eastern Valley Way as a result of the proposed modification, and
2. Consider design changes, including the location of the OSD tank, to minimise the impact on the area of soft landscaping.

On 24 June 2024, the applicant submitted amended plans:

1. Demonstrating no significant change to the extent of overshadowing on 44 Eastern Valley Way during the winter solstice as a result of the modification, and
2. Changes to the location of the OSD tank and other minor changes to minimise loss of soft landscaping.

#### **4. DISCUSSION**

The modification application proposes:

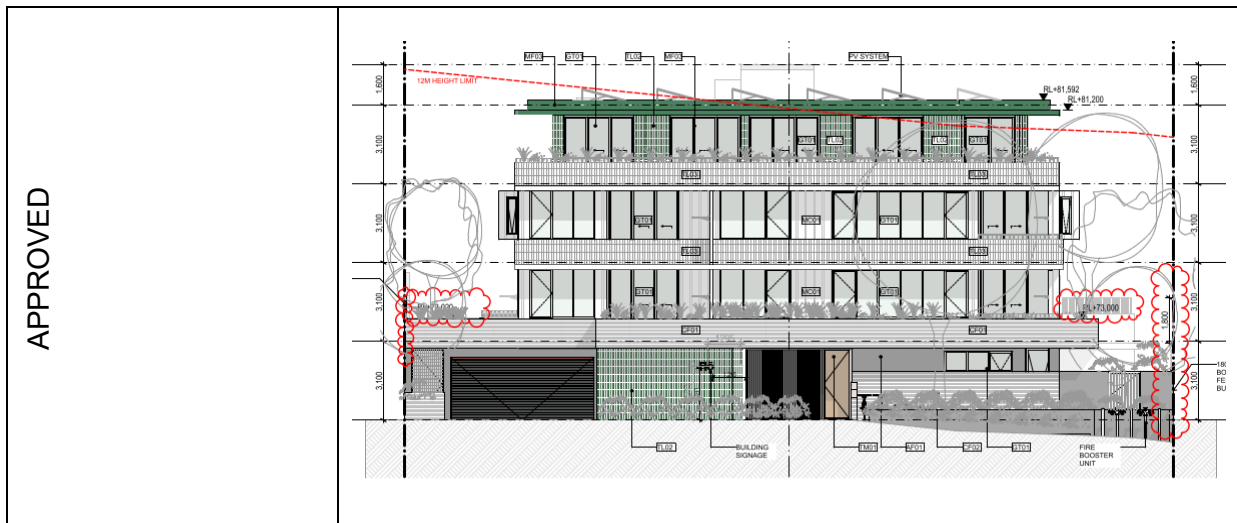
- 1) Increases in floor levels and eaves levels to accommodate additional clearances in floor slabs due to changes to the NCC, specifically:
  - a) Level 1 RL for Townhouses 01, 02, 03, 04 is elevated by 150mm from RL 75.200 to RL 75.350,
  - b) Level 2 RL for Townhouses 01, 02, 03, 04 is elevated by 300mm from RL 78.300 to RL 78.600,

- c) Level 1 RL for Townhouses 05, 06, 07 is elevated by 150mm from RL 75.700 to RL 75.850,
  - d) Level 1 RL for Townhouses 05, 06, 07 is elevated by 300mm from RL. 78.800 to RL 79.100,
  - e) Eaves RL for Townhouse 1 is elevated 500mm from RL 80.504 to RL 81.004,
  - f) Eaves RL for Townhouse 2 is elevated 300mm from RL 81.354 to RL 81.654,
  - g) South Eaves RL for Townhouses 03, 04 is elevated 330mm from RL 80.984 to RL 81.314,
  - h) South Eaves RL for Townhouses 05,06&07 is elevated 500mm from RL 80.814 to RL 81.314.
- 2) GFA increased by 6m<sup>2</sup> in the residential flat building due to reduced size of lift shaft,
  - 3) Hydrant booster location shifted (to achieve the required clearances affected by the bus stop relocation).
  - 4) Deep Soil Area reduced to 247m<sup>2</sup> (12.0% of site area) and total soft landscaping reduced to 758m<sup>2</sup> (36.9% of site area), due to relocated hydrant booster and increased hard surface area around the loading dock. The changes to the loading dock provide direct pedestrian access to the building and contain inspection pits for the OSD tank.

Figure 1 provides a comparison of the approved and proposed front elevation. The main difference is the relocation of the water hydrant to the centre of the site.

Figure 2 provides a comparison of the approved and proposed southern side elevation. The changes are an increase in the floor and eave levels of the townhouses.

Figure 3 shows a comparison of the approved and proposed rear elevation. The increased floor and eave heights have been offset by reducing the pitch of the roof to maintain the same overall approved building heights of the townhouses.



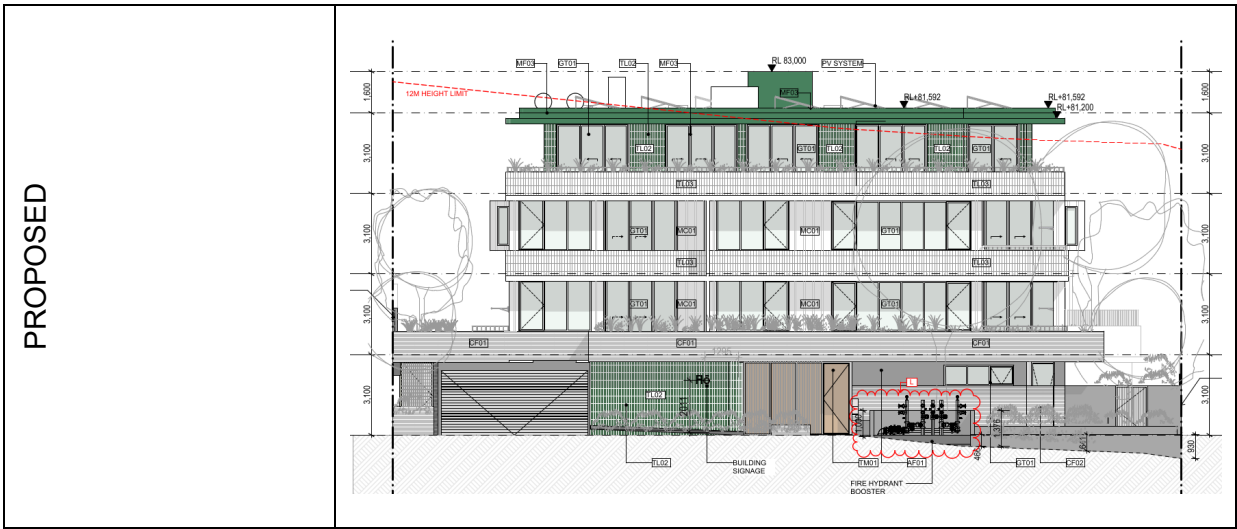
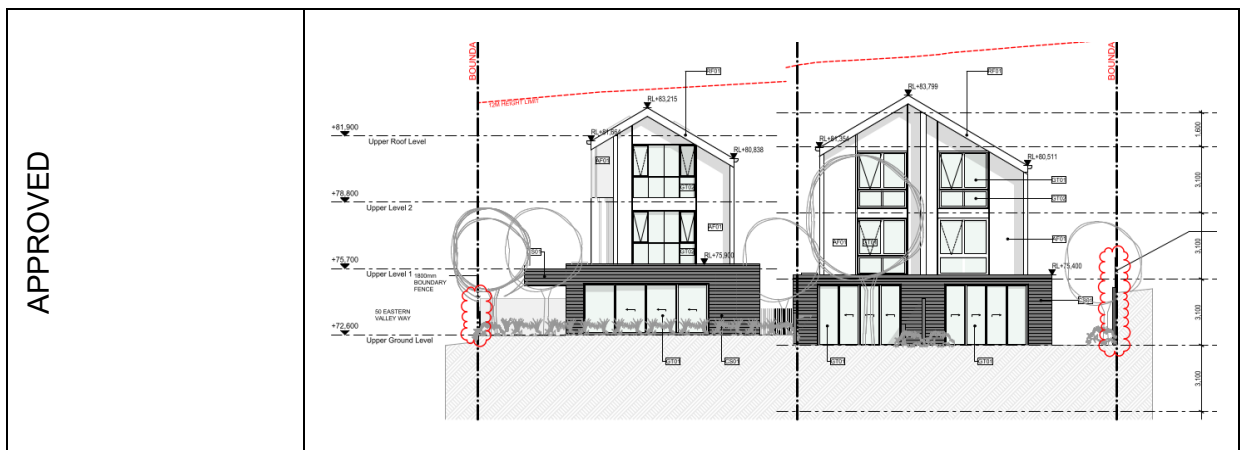


Figure 1 Comparison: Front Elevation



Figure 2 Comparison: Southern Side Elevation



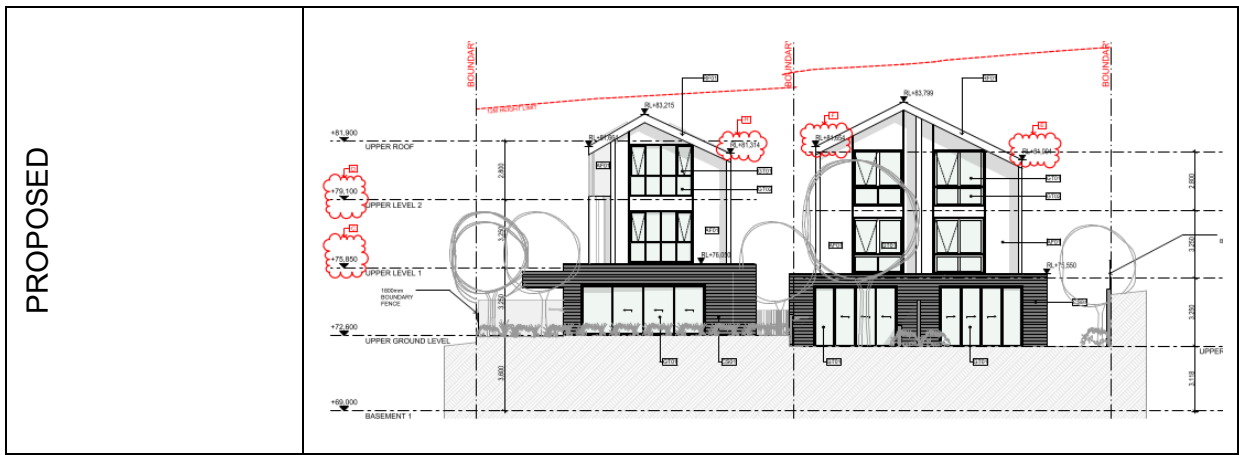


Figure 3 Comparison: Rear Elevation

Figure 4 provides a comparison of the approved and proposed Landscape Plan for the front setback area. The approved plan did not reflect the impact of the OSD tank beneath the loading dock and the inadequate soil depth available without raised planter beds. The proposed plan provides for raised planter beds with losses to the landscaped area to provide for OSD inspection grates and pedestrian access to the front entry to the RFB.

Figure 5 provides a comparison of the approved and proposed Landscaped Areas within the front setback area.

Close analysis of the approved plans revealed that the actual available area of deep soil zone was less than the area notated on the plans. The actual area was 269m<sup>2</sup> (not 282m<sup>2</sup>). The actual proposed reduction in deep soil zone is 22m<sup>2</sup> to 247m<sup>2</sup>, being a reduction from 13.1% to 12.0% of the site area.

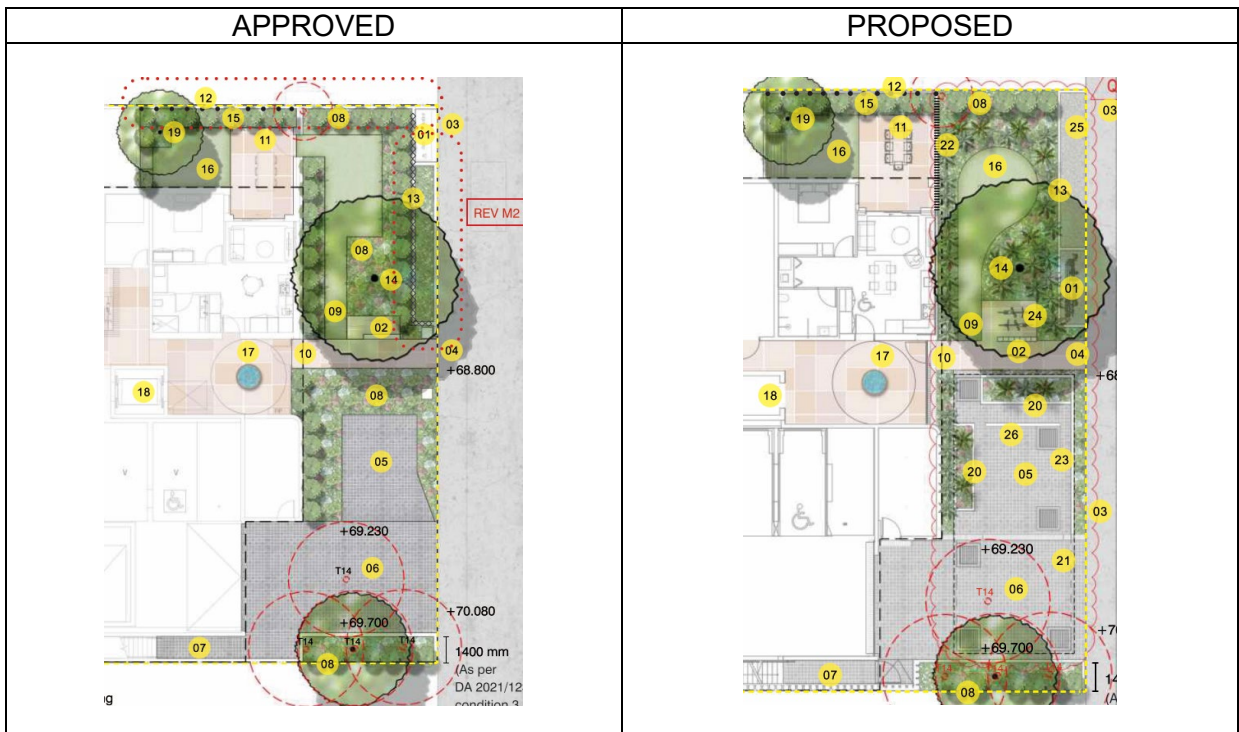


Figure 4 Comparison Front Setback Landscaping

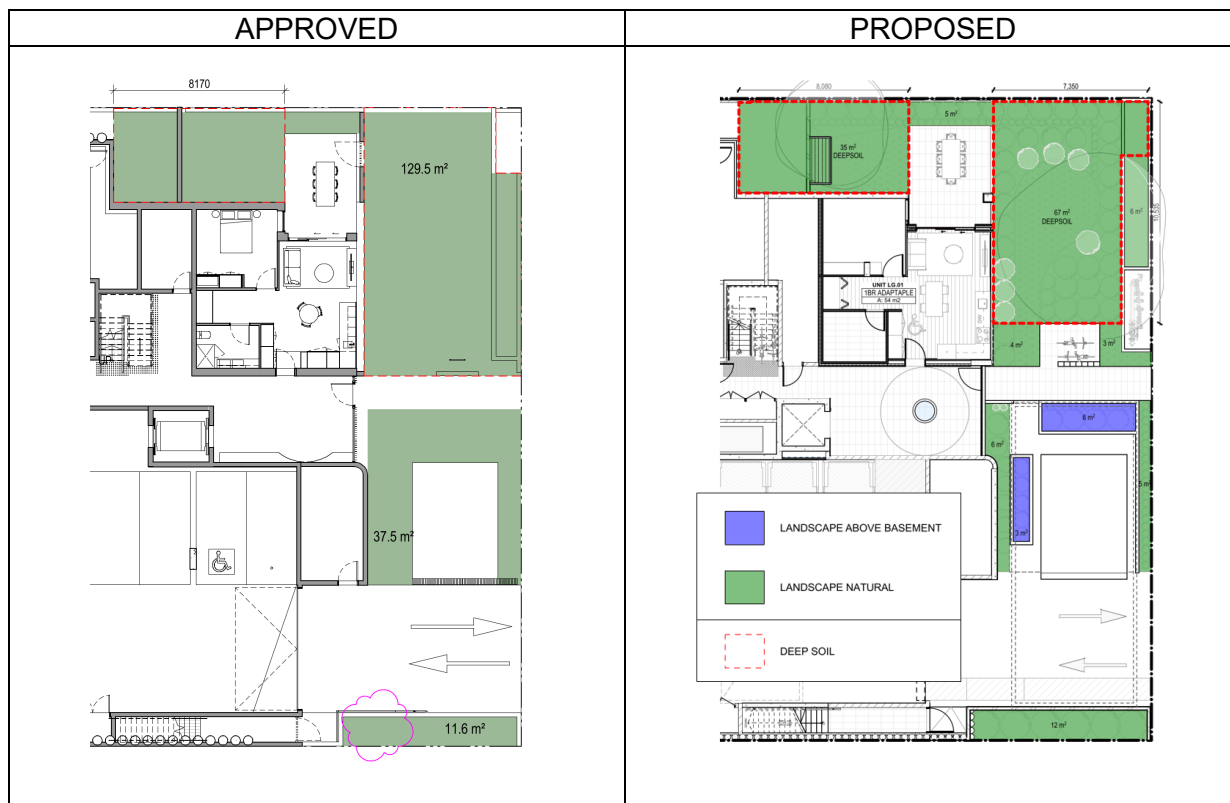


Figure 5 Comparison Landscape Area and Deep Soil Zone

The controls and development statistics that apply to the subject land are provided in **Attachment 2**.

The increase in FSR within the RFB requires assessment under the provisions of *Willoughby Local Environmental Plan 2012 (WLEP)*. An assessment in accordance with the relevant controls in *WLEP* is provided in **Attachment 3**.

The changes to the floor and eave height of the townhouses result in changes to the overshadowing of the neighbouring property to the south. *WDCP 2006* and *WDCP 2023* provide the relevant controls for assessing this impact. An assessment in accordance with the relevant controls in *WDCP 2006* and *WDCP 2023* is provided in **Attachment 4**.

The changes to the landscaped area and deep soil zone are assessed under the controls in the Apartment Design Guideline (ADG), *WDCP 2006* and *WDCP 2023*. An assessment in accordance with the relevant controls is provided in **Attachment 5**.

An assessment in accordance with s4.56 of the *Environmental Planning and Assessment Act* (EP&A Act) is provided in **Attachment 6**.

An assessment in accordance with s4.15 of the EP&A Act is provided in **Attachment 7**.

The issues within the submissions objecting to the proposal and the assessing officer's response are included in the assessment in **Attachment 7**.

The **WLPP plans** used for this assessment can be found under the DA tracking functionality for this application on Council's website:

<https://eplanning.willoughby.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=537054>

## **5. CONCLUSION**

The modification application DA-2021/123/A has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP*, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in **Attachment 8**.



ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO



Figure 6 Development Site - Aerial Imagery

The site is comprised of 46, 48 and 48A Eastern Valley Way, Northbridge, creating an L-shaped parcel. The following cadastral lots make up the site:

- Lot 2 DP 544081 – 46 Eastern Valley Way,
- Lot 1 DP 528691 – 48 Eastern Valley Way,
- Lot 1 DP 999869 – 48A Eastern Valley Way.

The site is located on the western side of Eastern Valley Way, Northbridge and consists of three separate properties, each of which was occupied by a detached dwelling house. These have now been demolished in preparation for the development.

The site has an (eastern) frontage to Eastern Valley Way of 30.48m, a stepped southern side boundary with a combined length of 86.8m, a northern side boundary of 86.48m and a stepped rear (western) boundary with a combined length of 30.48m. The total site area is 2,052.2m<sup>2</sup>.

The site slopes up from the northern street frontage corner, about 3.8m to the rear boundary. Along the shorter side, it slopes up more steeply, about 4m.

**ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS**

<b><i>Willoughby Local Environmental Plan 2012 Zoning:</i></b>	R3 Medium Density Residential
Existing Use Rights	No
Additional Permitted Use	No
Conservation area	No
Aboriginal Heritage	No
Heritage Item	No
Vicinity of Heritage Item	No
Natural Heritage Register	No
Bushfire Prone Area	No
Foreshore Protection Area	No
Flood related planning control	No
Adjacent to classified road	Yes
Road/lane widening	No
<b><i>BASIX SEPP</i></b>	Yes
Acid Sulphate Soil Category	5
Development near Lane Cove Tunnel	No
Contaminated Land	No
Adjacent / above Metro	No
Housing <i>SEPP</i>	Applies to RFB Component. Apartment Design Guideline applies.
<i>State Environmental Planning Policy (Transport and Infrastructure) 2021 – Road</i>	No relevant considerations in respect to the modification.
<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021;</i>	No relevant considerations in respect to the modification.
<i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>	No relevant considerations in respect to the modification.
Relevant policies and resolutions	<i>WDCP 2006, WDCP 2023, ADG.</i>

**Referrals**

Building services	No issues or change in conditions required.
Landscape	Considered reasonable. No change in conditions required.

ATTACHMENT 3: ASSESSMENT UNDER WLEP 2012

		Approved	Proposed	Standard	Numerical Compliance
	<b>Site Area</b> 2,052m <sup>2</sup>				-
CI.4.3	<b>Height (m)</b>	12.665m	12.665m	12m	No change
CI.4.4 & CI. 4.4A	<b>GFA (m<sup>2</sup>)</b>	1,748.5m <sup>2</sup> (excluding 54m <sup>2</sup> affordable housing)	1,754.5m <sup>2</sup> (excluding 54m <sup>2</sup> affordable housing)	1846.8m <sup>2</sup> (excluding 54m <sup>2</sup> affordable housing – see discussion of Clause 6.8 below)	Yes
	<b>FSR</b>	0.852:1	0.855:1	0.9:1	
CI.6.8	<b>Affordable housing</b>	Unit G02 to be affordable housing (54m <sup>2</sup> )	AH GFA/GFA on 46 & 48 EVW = 54m <sup>2</sup> /607m <sup>2</sup> = 4.0%	4% of GFA located on 46 & 48 EVW = 607m <sup>2</sup> x 4% = 53.96m <sup>2</sup>	Yes

**ATTACHMENT 4: ASSESSMENT UNDER WDCP 2006 AND WDCP 2023.**

Side Setbacks

		<b>WDCP 2006</b>		
		<b>Side Setback Control</b>	<b>Required</b>	<b>Compliance</b>
<b>Approved</b>	Wall height = 7.7m Setback = 4.26m	For walls 2 storeys and < 8m in height: minimum 3m	3m	Yes
<b>Proposed</b>	Wall height = 8.2m Setback = 4.26m	For walls 3+ storeys in height: 3m for the ground floor level of the building with an increase of 1.2m for each storey of the building above the ground floor level. The total required setback is to apply to all floors from the 3 <sup>rd</sup> floor up.	5.4m	No
		<b>WDCP 2023</b>		
		<b>Side Setback Control</b>	<b>Required</b>	<b>Compliance</b>
<b>Approved</b>	Wall height = 7.7m Setback = 4.26m	1.5m for 1 and 2 storey dwellings + 1.2m for each level above 2 storeys	2.7m	Yes
<b>Proposed</b>	Wall height = 8.2m Setback = 4.26m	1.5m for 1 and 2 storey dwellings + 1.2m for each level above 2 storeys	2.7m	Yes

Assessment

Under *WDCP 2006*, the increase in wall height from 7.7m to 8.2m results in the exceedance of the 8m height threshold requiring substantially increased side setbacks. However, *WDCP 2023* adopts less restrictive side setback requirements. The proposal complies with *WDCP 2023*.

A variation to the setback requirements under *WDCP 2006* requires consideration of the amenity impacts as a result of the non-compliance. In this case, due to the local topography, the site to the south is higher than the development site, minimising visual impacts of the non-compliance and is considered to be acceptable. The impact on solar access and overshadowing is assessed below.

Solar Access and Overshadowing

*WDCP 2006* provided the following control:

- The north facing windows of living areas and the principal portion of the recreational open space of adjoining residential buildings should have at least 3 hours of sunlight between 9am and 3pm on June 22.

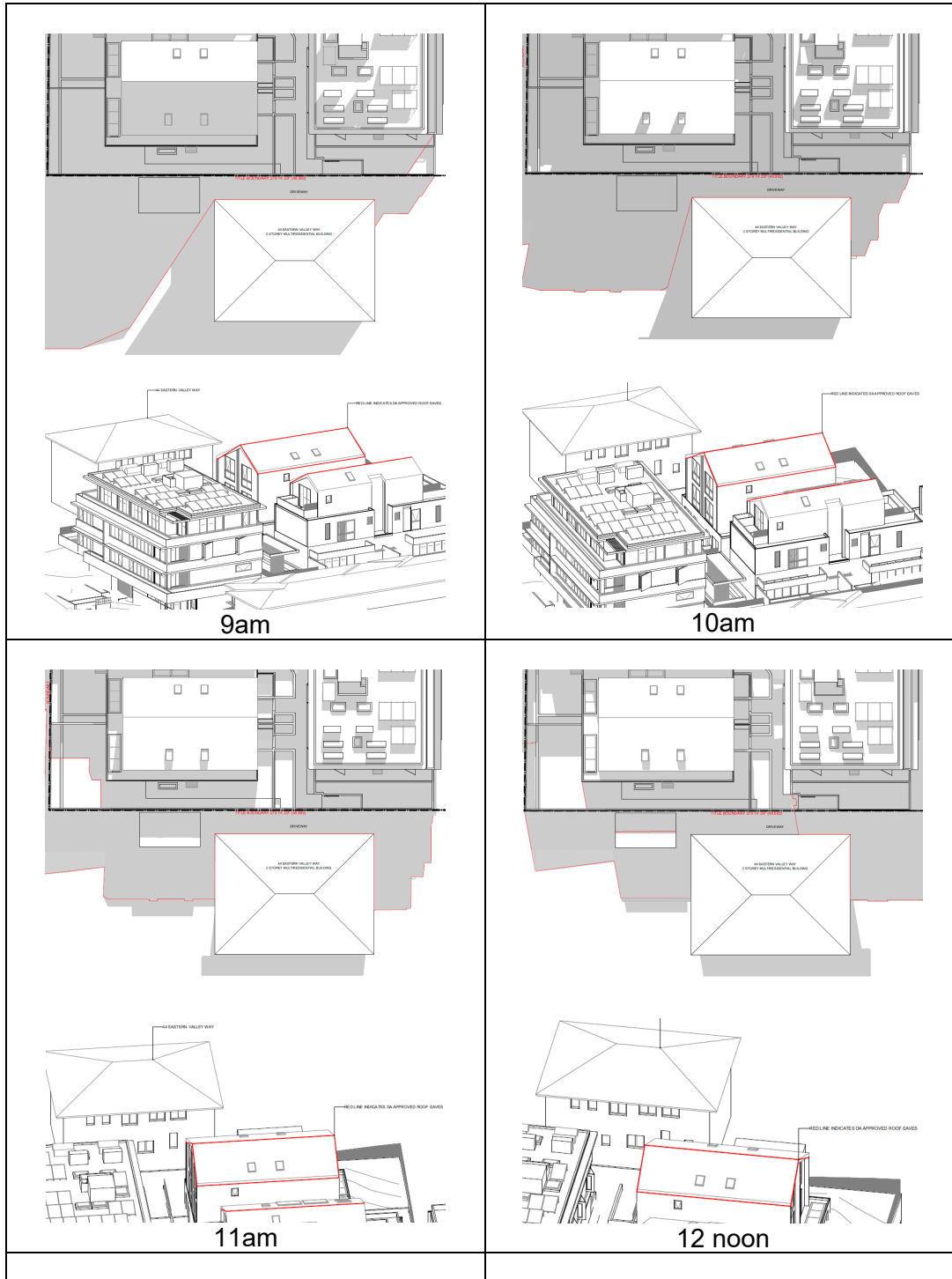
*WDCP 2023* contains similar controls:

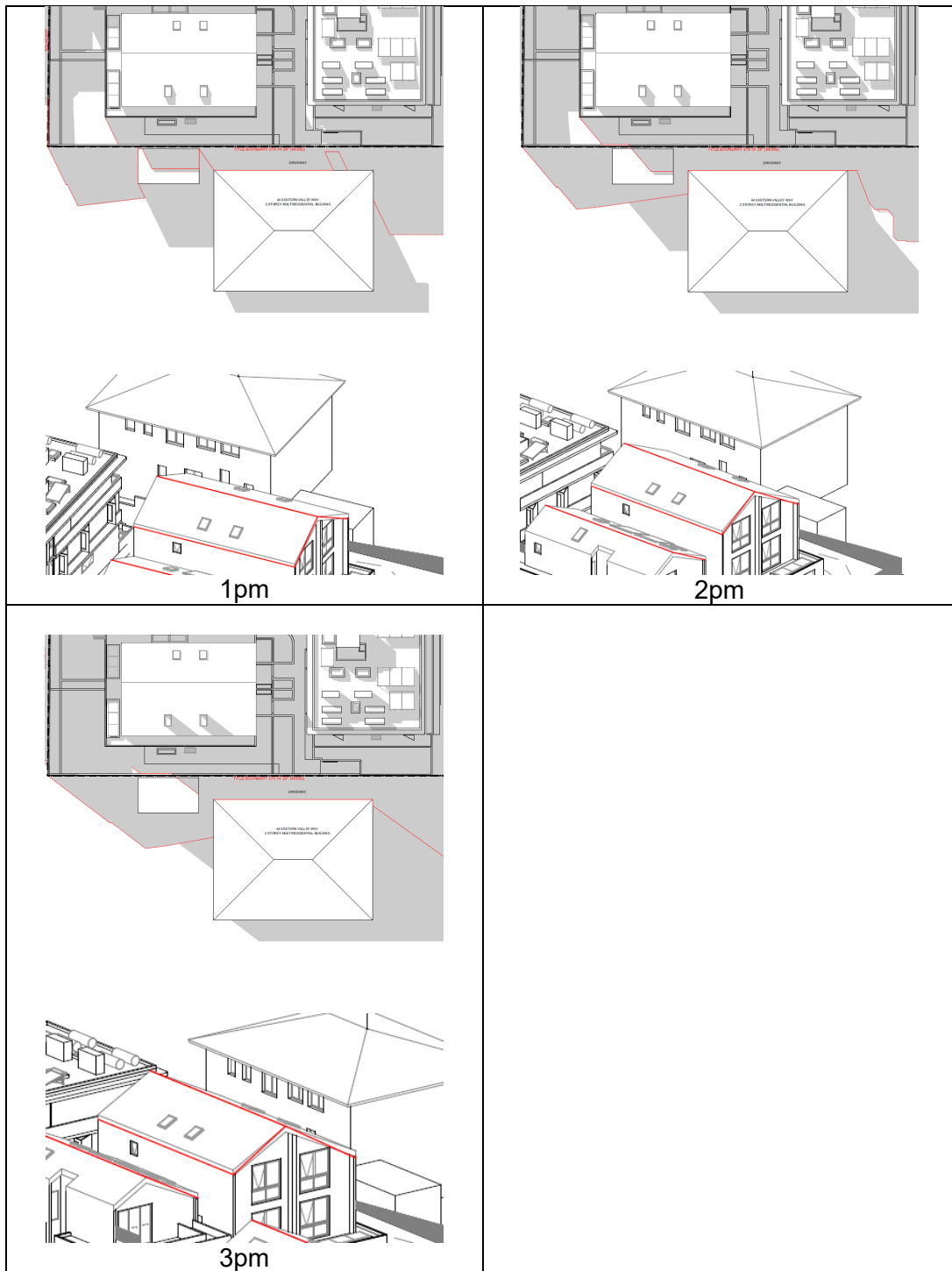
- A minimum of 3 hours of solar access should be maintained to adjoining properties between 9am and 3pm on 21 June to living areas, such as family rooms, rumpus, lounge/dining, kitchen, and the principal open space and recreational areas.
- Note: if the adjoining property already has less than 3 hours of solar access between 9am and 3pm on 21 June to living areas and the principal open space, every reasonable attempt should be made to provide a minimum of 3 hours of solar access).

Figure 6 provides a comparison between the overshadowing of the approved plans (red outline) and the proposed plans (grey shading).

There is a minor increase in the extent of overshadowing of 44 Eastern Valley Way, as a result of the increased height of wall/eaves to TH01. The northern side setback of 44 Eastern Valley Way contains a driveway access and does not provide functional private open space.

The northern side elevation of 44 Eastern Valley Way will be subject to minor additional overshadowing from about noon. The increase is marginal and not considered to be consequential for the assessment of the modification.





**ATTACHMENT 5: ASSESSMENT OF LANDSCAPE AREA: ADG, WDCP 2006 & 2023**

The development comprises different components and is subject to different development control documents.

The RFB component is subject to the ADG, while the townhouses are subject to *WDCP 2023*, although at the time of original assessment and court determination, it was subject to *WDCP 2006*.

**ADG Requirements**

**Objective 3E-1**

Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality

Design criteria

1. Deep soil zones are to meet the following minimum requirements:

Site Area	Minimum Dimensions	Required Deep soil zone % of site	Approved	Proposed
< 650m <sup>2</sup>	-	7% = 143.65m <sup>2</sup>	269m <sup>2</sup> = 13.1%	247m <sup>2</sup> 12.0%
650-1,500m <sup>2</sup>	6m			
>1,500m <sup>2</sup>	6m			

Design guidance

On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:

- 10% of the site as deep soil on sites with an area of 650m<sup>2</sup> - 1,500m<sup>2</sup>.
- 15% of the site as deep soil on sites greater than 1,500m<sup>2</sup>.

The site has an area of 2,052m<sup>2</sup>.

**WDCP 2006**

*WDCP 2006* provided soft landscaping control for both multi-dwelling housing and residential flat buildings, with no specific requirement for deep soil zones, or minimum dimension of landscaped area:

Section	Control	Required	Approved	Proposed
D.2.10.3	Soft landscaping	35% site area = 718.2m <sup>2</sup>	771.2m <sup>2</sup> = 37.6%	758m <sup>2</sup> = 36.9%

**WDCP 2023**

*WDCP 2023* requires a greater area of soft landscaping for multi-dwelling housing and introduces a control for DSZ, and introduces a control to exclude landscaped areas with a dimension less than 1.5m.

Section	Control	Required	Approved	Proposed
<b>Attachment 2</b>				
d. 3.	Landscaped area	40% site area 820.9m <sup>2</sup>	See below	See below
d.6	Dimensions of all landscaped areas	Minimum length/width of 1.5m (otherwise excluded from calculation)	657.3m <sup>2</sup> = 32.03%	592m <sup>2</sup> = 28.8%
d.4	Deep soil zone	20% site area 410.4m <sup>2</sup>	13.1%	12.0%

Assessment:

The approved and proposed development achieves the Design Criteria of 7% deep soil zone. The approved development did not achieve the Design Guidance of a “possible 15% of the site” for sites greater than 1,500m<sup>2</sup>. The modification further reduces the deep soil zone to less than the possible 15% but still exceeds the criteria. While the minor loss to deep soil zone is disappointing, the proposed landscaping of the site and deep soil zone in the front setback area is considered a reasonable outcome for site.

The approved development complied with the former controls under *WDCP 2006* for minimum landscaped area of 35%. The proposed modification will also comply with the former controls, but the exceedance over the minimum is marginally reduced.

The approved development does not comply with the new controls under *WDCP 2023*, and the proposed modification will result in an additional departure from the minimum landscaped area and deep soil zone.

It is considered unreasonable to apply the new controls under *WDCP 2023* in respect to this modification because to achieve compliance would require significant changes to the approved built form.



**ATTACHMENT 6: SECTION 4.56 ASSESSMENT**

Section 4.56 of the Act provides:

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.

Comment:

- 1) The development is considered to be substantially the same, with only relatively minor changes proposed.
- 2) The application was notified in accordance with Council's adopted Community Participation Plan.
- 3) Each person that made a submission in respect to the original development application was notified of the modification application.
- 4) One submission was received and is assessed in Attachment 6 as a relevant consideration under section 4.15(1).
- 5) Relevant matters under section 4.15(1) are assessed in Attachment 6.
- 6) The Court was the consent authority that granted the consent. The reasons given by the court were to give effect to the agreement reached between the parties at the section 34 conference and not related to a merit assessment of the issues originally in dispute, noting that the applicant submitted amended plans as part of the section 34 conference. The modification application is considered to be a minor change to the plans that formed the basis of the agreement.

**ATTACHMENT 7: SECTION 4.15 ASSESSMENT**

The application has been assessed under the provisions of S.4.15 (79C) of the *Environmental Planning and Assessment Act*.

**Matters for Consideration Under S.4.15 (79C) EP&A Act  
Considered and Satisfactory ✓ and Not Relevant N/A**

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policies (SEPP)</i></li> </ul>	✓
	<ul style="list-style-type: none"> <li>• <i>Local Environmental Plans (LEP)</i></li> </ul>	✓
	<p><b>Comment:</b></p> <p><b><u>State Environmental Planning Policies</u></b> The proposal does not contravene any relevant matters for consideration under the provisions of any <i>SEPP</i>.</p> <p><i>SEPP (Housing) 2021</i> requires assessment in respect to the requirements of the ADG. The proposed modifications do not create a non-compliance with the ADG.</p> <p><b><u>Willoughby LEP 2012</u></b> The modifications do not give rise to a non-compliance with <i>WLEP 2012</i>.</p>	✓
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> <li>• <i>Draft State Environmental Planning Policies (SEPP)</i></li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• <i>Draft Local Environmental Plans (LEP)</i></li> </ul>	N/A
	<b>Comment:</b> There are no relevant draft <i>SEPPs</i> that apply to the subject land.	✓
(a)(iii)	Any development control plans	✓
	<ul style="list-style-type: none"> <li>• <i>Development control plans (DCPs)</i></li> </ul>	✓
	<p><b>Comment:</b></p> <p><b><u>Willoughby DCP 2006 and 2023:</u></b> The original application was assessed under <i>WDCP 2006</i> and the proposed modifications comply with the former controls.</p> <p>Under <i>WDCP 2023</i>, the required soft landscaping area has been increased from 35% to 40% for multi-dwelling housing. It is considered unreasonable to require compliance with the new controls under <i>WDCP 2023</i>.</p>	✓
(a)(iv)	Any matters prescribed by the regulations	✓
	<ul style="list-style-type: none"> <li>• Clause 61 EP&amp;A Regulation-Demolition</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Clause 62 EP&amp;A Regulation-Fire Safety Considerations</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Clause 64 EP&amp;A Regulation-Fire Upgrade of Existing Buildings</li> </ul>	N/A
	<b>Comment:</b> Conditions in respect to demolition were applied to the original consent.	✓
(b)	The likely impacts of the modification	✓
	<ul style="list-style-type: none"> <li>• Context &amp; setting</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Public domain</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Utilities</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Solar Access</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Water and draining</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Waste</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Site design and internal design</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Cumulative impacts</li> </ul>	✓

**Matters for Consideration Under S.4.15 (79C) EP&A Act  
 Considered and Satisfactory ✓ and Not Relevant N/A**

	<b>Comment:</b> No significant impacts as a result of the proposed modification.	✓
(c)	The suitability of the site for the development	✓
	<ul style="list-style-type: none"> <li>Does the proposal fit in the locality?</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Are the site attributes conducive to this development?</li> </ul>	✓
	<b>Comment:</b> It is considered that the proposal reasonably fits in the locality. The site is suitable for the development.	✓
(d)	Any submissions made in accordance with this Act or the regulations	✓
	<ul style="list-style-type: none"> <li>Public submissions</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Submissions from public authorities</li> </ul>	NA
	<p><b>Comment:</b> One submission was received. The submission notes that the design report submitted with the modification application shows a swimming pool in the rear yard of Townhouse 7 and is concerned about the impacts of the pool.</p> <p>The design report is dated April 2021, and evolution of the design since the original design report has resulted in the swimming pool being deleted. Consequently, the concerns raised in the submission will not arise as a result of the development of modification application.</p>	✓
(e)	The public interest	✓
	<ul style="list-style-type: none"> <li>Federal, State and Local Government interests and Community interests</li> </ul>	✓
	<b>Comment:</b> The proposal will not adversely impact the character of the locality and therefore approval of the application is in the public interest.	✓

**ATTACHMENT 8: SCHEDULE OF CONDITIONS**

**SCHEDULE**

Development Consent DA- is modified as follows:

**A. Condition No. 1 is amended to read as follows:**

**1. Approved Plan/Details**

The development must be in accordance with the following consent plans:

Type	Plan No.	Plan Title	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Architectural	TP00.03	Demolition Plan	E	22.02.23	Rothelowman
	TP01.00	Lower Ground	P	22.02.23	
	TP01.02	Ground	P	22.02.23	
	TP01.03	Level 1	P	22.02.23	
	TP01.04	Level 2	K	22.02.23	
	TP01.05	Roof and Site Plan	H	22.02.23	
	TP02.01	Elevations – North and West	H	22.02.23	
	TP02.02	Elevations – South and Street	H	22.02.23	
	TP02.03	West – Apartment Building South – TH03 &04	H	22.02.23	
	TP02.04	Materials and Finishes	E	22.02.23	
	TP03.01	Sections – 1, 2, 3	H	22.02.23	
	TP03.02	Sections – 4, 5, 6, 7, 8	J	22.02.23	
	TP03.03	Driveway Sections	H	22.02.23	
	Landscape	7	Landscape Masterplan	J	
8		Lower Ground	J	20.02.2023	
9		Ground	J	20.02.2023	
10		Section A - Communal Open Space	J	20.02.2023	
11		Section B - Northern Boundary	J	20.02.2023	
12		Section C - Southern Boundary	J	20.02.2023	
13		Section D – Southern Boundary	J	20.02.2023	

the application form and any other supporting documentation submitted as part of the application.

*As modified by the following plans approved by the Planning Director in the letter dated 9 May 2024 and required by conditions 2 and 3 of this consent and listed:*

Type	Plan No.	Plan Title	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Architectural	A1001	Basement 1 Plan	C	08/01/2024	Architecture Design Studio
	A1002	Ground Floor Plan	C	08/01/2024	
	A1003	Level 1 Plan	B	08/01/2024	
	A1004	Level 2 Plan	B	08/01/2024	
	A1005	Roof Plan	C	08/01/2024	

	A1006	Fence and Screening Plan	D	27/03/2024	
	A1401	North Elevation	E	08/01/2024	
	A1402	South Elevation	C	08/01/2024	
	A1403	East Elevation	C	08/01/2024	
	A1404	West Elevation	B	08/01/2024	
	A1501	Section A, B	A	11/10/2023	
	A1502	Section C, D E	A	11/10/2023	
	A1503	Section F – I	D	13/11/2023	
	A0003	Materials and Finishes	B	20/10/2023	
Landscape	02	Contents Page	M2	11.04.2024	LandFX
	07	Landscape Masterplan	M2	11.04.2024	
	08	Lower Ground	M2	11.04.2024	
	09	Ground	M2	11.04.2024	
	10	Section A - Communal Open Space	M2	11.04.2024	
	11	Section B - Northern Boundary	M2	11.04.2024	
	12	Section C - Southern Boundary	M2	11.04.2024	
	13	Section D – Southern Boundary	M2	11.04.2024	

*As modified by the following plans (DA-2021/123/A):*

Type	Plan No.	Plan Title	Revision/ Issue No.	Plan Date (as Amended)	Prepared by
Architectural	A010	Site Plan	03	05/02/2024	ADS Architects
	A101	Basement Floor Plan	04	25/06/2024	
	A102	Ground Floor Plan	04	25/06/2024	
	A103	Level 1 Floor Plan	04	25/06/2024	
	A104	Level 2 Floor Plan	04	25/06/2024	
	A121	Roof Plan	04	25/06/2024	
	A141	North Elevation	04	25/06/2024	
	A142	South Elevation	04	25/06/2024	
	A143	East Elevation	04	25/06/2024	
	A144	West Elevation	04	25/06/2024	
	A151	Section A-B	04	25/06/2024	
	A152	Section C, D, E	04	25/06/2024	
	A153	Section F – I	05	25/06/2024	
Landscape	02	Contents Page	Q	19.06.2024	LandFX
	07	Landscape Masterplan	Q	19.06.2024	
	08	Lower Ground	Q	19.06.2024	
	09	Ground	Q	19.06.2024	
	10	Fence and Screening Plan	Q	19.06.2024	
	11	Section A - Communal Open Space	Q	19.06.2024	
	12	Section B - Northern Boundary	Q	19.06.2024	
	13	Section C - Southern Boundary	Q	19.06.2024	
	14	Section D – Southern Boundary	Q	19.06.2024	

the application form and any other supporting documentation submitted as part of the application, except for:

- (a) any modifications which are “Exempt Development” as defined under S.4.1(1) of the *Environmental Planning and Assessment Act 1979*;
- (b) otherwise provided by the conditions of this consent.  
(Reason: Information and ensure compliance)

**B. Comply with all other conditions of the original development consent.**

ATTACHMENT 9: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2021/123/A

At: 46, 48 & 48A Eastern Valley Way, NORTHBRIDGE NSW 2063

