

## **Updated Statement of Environmental Effects**

Residential flat building development

**116, 118 & 120 Frenchs Forest Road  
West & 11 Gladys Ave, Frenchs  
Forest**



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# **Updated Statement of Environmental Effects**

## **Residential flat building development**

### **116-120 Frenchs Forest West and 11 Gladys Avenue, Frenchs Forest**

#### **Prepared for Young Assets Holding Pty Limited**

**Greg Boston**  
B Urb & Reg Plan (UNE) MPIA

**Boston Blyth Fleming Pty Ltd**  
**Town Planners**  
(ACN 121 577 768)  
Suite 1/9 Narabang Way  
Belrose NSW 2085  
Tel: (02) 99862535

November 2024

## TABLE OF CONTENTS

### 1.0 INTRODUCTION

### 2.0 SITE DESCRIPTION AND CONTEXT

#### 2.1 The Site

#### 2.2 The Locality

### 3.0 DEVELOPMENT PROPOSAL

### 4.0 STATUTORY PLANNING FRAMEWORK

#### 4.1 Warringah Local Environmental Plan 2011

##### 4.1.1 Zone and Zone Objectives

##### 4.1.2 Height of Buildings

##### 4.1.3 Floor space ratio

##### 4.1.4 Earthworks

##### 4.1.5 Development on sloping land

##### 4.1.6 Part 8 Frenchs Forest Precinct

#### 4.2 Warringah Development Control Plan

- Part C Siting Factors
- Part D Design
- Part G Special Area Controls (Frenchs Forest Road West Neighbourhood)

#### 4.3 State Environmental Planning Policy (Resilience and Hazards) 2021

#### 4.4 State Environmental Planning Policy (Housing) 2021

##### 4.4.1 Affordable housing

##### 4.4.2 Design of residential apartment development

#### 4.5 State Environmental Planning Policy (Sustainable Buildings) 2022

#### 4.5 Section 4.15(1) EP&A Act Considerations

### 5.0 CONCLUSION

**ANNEXURE 1** Legal advice – Site isolation

**ANNEXURE 2** Clause 4.6 variation request - Height of buildings

**ANNEXURE 3** Schedule of Amendments

## 1.0 INTRODUCTION

This updated Statement of Environment or Effects forms a component of a development application (DA2024/0499) proposing the demolition of the existing site structures and the construction of three residential flat buildings consisting of 124 apartments over basement parking. The proposal contains 9 x 1 bedroom apartments, 77 x 2 bedroom apartments and 38 x 3 bedroom apartments. The two basement levels contain a total of 140 residential spaces and, 13 visitor spaces (including 3 car wash bay and 3 Electrical vehicle Charging Spaces) and 17 Car Share spaces. The application also proposes the implementation of a comprehensive site landscape regime.

This updated document has been prepared having regard to the issues identified in Council's issues correspondence of 6 August 2024 in relation to Development Application 2024/0499 and feedback obtained from the Northern Beaches Design and Advisory Panel (DSAP) and the Sydney North Regional Planning Panel (SNRPP).

The amended proposal incorporates a reduced building footprint and massing distribution for the site utilising the south-eastern corner of the property to enhanced layout efficiencies. The amended architectural plans achieve compliant Warringah DCP (WDCP) and ADG setbacks, compliant deep soil landscaping and a combination of ground level and roof top communal open space. The amendments are detailed in the schedule of amendments prepared by the project architect and can be summarised as follows:

- A reduction in number of proposed apartments from 127 to 124.
- The maintenance of compliant FSR.
- The removal of the partially subterranean lower ground floor apartments.
- The reconfiguration of the basement area and the provision of future basement access to 9, 9A and 9B Gladys Avenue.
- The provision of ADG compliant side boundary setbacks at each level.
- The provision of WDCP compliant front boundary setbacks.
- The internal separation between buildings has been increased to 18 metres on levels 4 through 6.
- The provision of both ground and roof top communal open space.

The proposal will require the removal of a number of trees located in the south-eastern corner of the property however the site layout efficiencies and enhanced design amenity achieved through the removal of the trees is compelling within a precinct only recently upzoned for medium density housing and in which the DCP anticipates a relatively hard street wall.



We confirm that the application proposes the dedication of 13 apartments to Council in accordance with clause 6.11 of Warringah Local Environmental Plan 2011 (WLEP 2011) representing 1304.8m<sup>2</sup> of GFA, or >10% of total GFA. Further, the application proposes the provision of an additional 19 affordable housing apartments, representing a total GFA of 1979.3m<sup>2</sup> or >15% of total GFA, in accordance with the affordable housing height and FSR incentive provisions contained within Chapter 2, Part 2, Division 1 Infill affordable housing of State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

The project architect has responded to the client brief to design a contextually responsive building of exceptional quality which takes advantage of the sites superior locational attributes whilst providing high levels of amenity for future occupants. In this regard, the scheme has been developed through detailed site and contextual analysis to identify the constraints and opportunities associated with the development of the site including the height, proximity and orientation of adjoining residential development, available view lines across the site and the sites proximity to the Northern Beaches hospital opposite and the Frenchs Forest Town Centre.

The final design provides for three buildings of exceptional design quality which respond to the irregular shape of the site and the site topography in a highly articulated and modulated building form which provides appropriate deep soil landscape opportunity around the perimeter of the site to ensure that the building sits within a landscaped setting. The development will provide diversity in housing choice on a site ideally suited to medium density housing given its R3 Medium Density Residential zoning, its immediate proximity to the Frenchs Forest Town Centre and in circumstances where the desired future character statement for the Frenchs Forest Locality identifies the suitability of land immediately adjoining local centres for increased residential densities.

Consideration has also been given to the matters arising from formal pre-DA discussions (PLM2023/0050) with Northern Beaches Council and its Design and Sustainability Advisory Panel (DSAP) with the final design representing a considered response to the issues raised. In addition to the design changes recommended by Council and DSAP, this submission is accompanied by legal advice, prepared by Mills Oakley, which responds to the issue in relation to potential isolation of 9, 9A and 9B Gladys Avenue as a consequence of the proposed development. The advice concludes that the proposal does not result in the isolation of these adjoining properties. This advice is at ANNEXURE 1 with the development now incorporating future basement access to these adjoining properties to negate the need for separate vehicular access to and from the Gladys Avenue cul-de-sac.

The building façades have been articulated and modulated in both the horizontal and vertical planes to emphasise the buildings low horizontal massing and to enable the development to respond to the topographical characteristics of the site.

This submission demonstrates that the proposal will not give rise to inappropriate or jarring streetscape, residential amenity, or broader environmental consequences. In preparation of the document consideration has been given to the following statutory planning regime:

- Environmental Planning and Assessment Act, 1979 (the Act),
- Environmental Planning and Assessment Regulation, 2021 (the Regulation),
- Warringah Local Environmental Plan 2011 (WLEP),
- Warringah Development Control Plan 2011 (WDCP),
- Frenchs Forest 2041 Place Strategy (Place Strategy)
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- State Environmental Planning Policy (Transport and Infrastructure) 2022
- State Environmental Planning Policy (Housing) 2021
- The Apartment Design Guide

Amended architectural drawings including floor plans, elevations and sections have been prepared in relation to the development proposed. The application is also accompanied by an Architectural design verification statement, boundary survey, shadow diagrams, traffic impact assessment, landscape plans, arborist report, accessibility report, geotechnical investigation report, BCA report, stormwater management plans, schedule of finishes, BASIX Certificate, waste management plan, QS report and montages.

The proposal is permissible and generally in conformity with the Housing SEPP height and FSR incentive provisions applicable to this form of development on this particular site and compliant with the Controls contained within Warringah Development Control Plan having regard to the form of development anticipated where a development takes advantage of the affordable housing incentive provisions.

The variation to the nil side boundary setback control has been acknowledged and appropriately justified given that the site is not part of the Frenchs Forest Road High Street (as identified in the Frenchs Forest Place Strategy) and is not part of the B4 Mixed use zone. It is separate from the identified retail commercial core further west and therefore nil side boundary setbacks are inappropriate for the proposed development.

We note that Planning Circular PS 23-003 relates to infill affordable housing pursuant to the Housing SEPP with this document containing the following commentary:

*In some cases, the uplift afforded under the Housing SEPP may compromise the ability for a development to achieve strict compliance with local controls contained within a Local Environmental Plan (LEP) or Development Control Plan (DCP). Flexibility should be applied in these instances in order to balance local outcomes with the delivery of more affordable housing.*

*In light of the Government's commitments under the Accord, consent authorities are reminded to consider the delivery of market housing and affordable housing when considering the social impacts and the public interest of a development, as required under section 4.15 of the Environmental Planning and Assessment Act 1979 (the Act).*

*While in many cases the provisions in another EPI will continue to apply when assessing in-fill affordable housing development, development outcomes should be balanced against the Government's policy intent to realise more affordable housing in accordance with the Accord.*

*For example, when considering solar access controls contained within the applicable Local Environmental Plan (LEP), the objective of preserving solar access should be considered whilst facilitating the delivery of affordable housing, which is an objective under clause 15A of the Housing SEPP.*

*Levers such as clause 4.6 Exceptions to development standards of the Standard Instrument Local Environmental Plan 2006 (Standards Instruments LEP) allow the flexible application of development standards.*

Whilst the proposal requires the consent authority to give favourable consideration to a minor variation to the building height development standard, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the topography of the land which makes strict compliance with the building height standard difficult to achieve whilst facilitating the delivery of affordable housing in accordance with the objectives at clause 15A of the Housing SEPP.

The variation will facilitate the provision of roof top communal open space, the orderly and economic use and development of land and a contextually appropriate increase in residential density on a site identified for increased residential densities and upon which the affordable housing incentive provisions contained within the Housing SEPP apply. The accompanying updated clause 4.6 variation request is well-founded.

The site is located in the Northern Beaches Local Government Area (LGA) and as such the application will be assessed by Northern Beaches Council (the Council), pursuant to Part 4 of the Act. The estimated cost is greater than \$30 million dollars and accordingly the proposal is regionally significant development pursuant to Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021. Accordingly, the Sydney North Planning Panel is the consent authority for this application.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the Act. It is considered that the application, the subject of this document succeeds on merit and is worthy of the granting of development consent.

## **2.0 SITE DESCRIPTION AND LOCALITY**

### **2.1 The Site**

The development site comprises the following allotments:

- Lot 14, DP25713, 11 Gladys Avenue,
- Lot 24, DP25713, 116 Frenchs Forest Road West, and
- Lot 2, DP213608, 118 Frenchs Forest Road West, Frenchs Forest
- Lot 1, DP213608, 120 Frenchs Forest Road West, Frenchs Forest

The consolidated development site is irregular shape with a total area of 5740m<sup>2</sup>. The site is bounded by Frenchs Forest Road West to the south and Gladys Avenue to the north.

The ground surface on the site falls approximately 8 metres to the north-north west, from the kerb level of Frenchs Forest Road West to the kerb level of Gladys Avenue.

Four (4) residential dwellings currently occupy the site, with vehicle accesses located at French Forest Road West and Gladys Avenue. The existing lots also contain brick and paved driveways, sheds and retained garden beds.

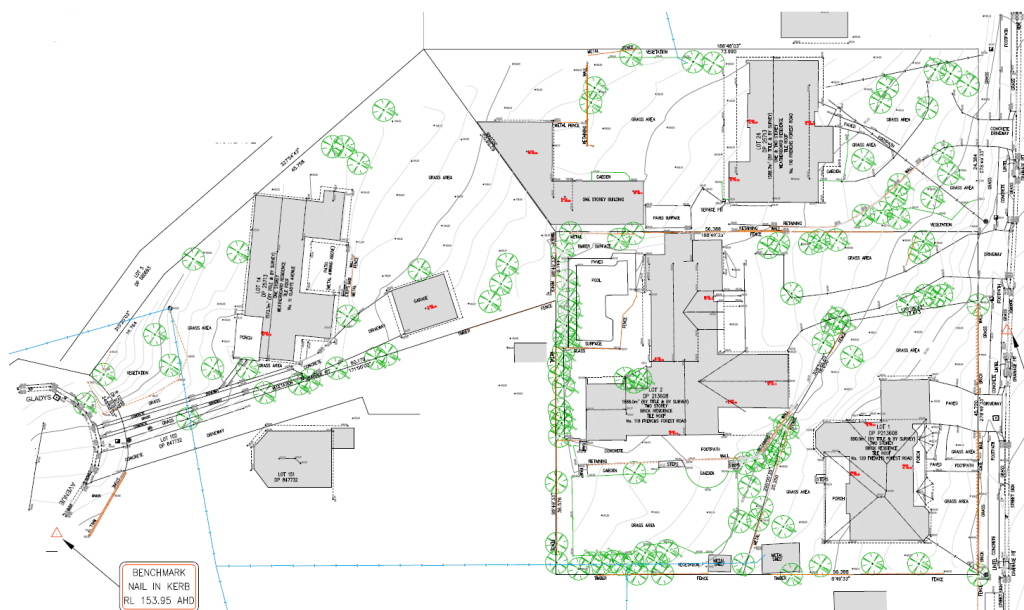
Existing vegetation comprises of grassed garden areas, garden beds and numerous trees of varying heights and species as detailed within the accompanying arborist report prepared by Arbor Express.

An aerial location/context photograph is at Figure 1 over page.



**Figure 1** - Aerial location/context photograph

Details of the existing lot details are shown in the survey extract at Figure 2 below. Images of the site are contained in Figures 3 to 6 below.



**Figure 2** - Survey extract of development site





**Figure 3 - 116 Frenchs Forest Road West**



**Figure 4 - 118 Frenchs Forest Road West**





**Figure 5 – 120 Frenchs Forest Road West**



**Figure 6 – 11 Gladys Avenue**



## 2.2 The Locality

The portion of Frenchs Forest Road West (an arterial road) adjacent to the site comprises of eight lanes, with no parking on either side of the street. The Frenchs Forest Road West public road reserve adjacent to the site contains a footpath, street lighting and overhead high voltage electrical cables. Bus stops are located on both side of Frenchs Forest Road West at a distance of approximately 10m to the west of the site.

The northern side of Frenchs Forest Road West is currently characterised by low density residential development, predominantly one and two storey dwelling houses. However, the northern side of Frenchs Forest Road West (including the subject site) forms part of the Frenchs Forest Road West Neighbourhood in the Frenchs Forest Town Centre, with a desired future character for high quality, medium-rise apartment buildings.

Northern Beaches Hospital is located on the southern side of Frenchs Forest Road West, opposite the subject site. The future Town Centre is further to the west along Frenchs Forest Road West, to the south-west of the subject site.

Aerial images of the site and its surrounds is provided in Figure 1 on the previous page. Images of development surrounding the site are provided below (Figures 7 - 11).



**Figure 7** – Northern Beaches Hospital, on the opposite (southern side of Frenchs Forest Road West (source: NBP)



**Figure 8 – Forest High School (source: Google Maps)**



**Figure 9– Frenchs Forest Police Station (source: Google Maps)**

To the east of the site is No.114 Frenchs Forest Road, a single storey clad and brick residential dwelling with tile roof set back around 1.5 metres from the site boundary. To the west of the site is No.122 Frenchs Forest Road, a single storey brick residential dwelling with tile roof set back approximately 2.0metres from the site boundary





**Figure 10** - Photograph of adjoining 114 Frenchs Forest Road West



**Figure 11** - Photograph of adjoining 122 Frenchs Forest Road West and bus stop

### 3.0 DEVELOPMENT PROPOSAL

The amended proposal involves the demolition of the existing site structures and the construction of three residential flat buildings consisting of 124 apartments over basement parking. The proposal contains 9 x 1 bedroom apartments, 77 x 2 bedroom apartments and 38 x 3 bedroom apartments. The two basement levels contain a total of 140 residential spaces and, 13 visitor spaces (including 3 car wash bay and 3 Electrical vehicle Charging Spaces) and 17 Car Share spaces. The application also proposes the implementation of a comprehensive site landscape regime.

The amended development is depicted on the following accompanying architectural plans prepared by Brewster Murray Architecture and the detailed schedule of amendments at **ANNEXURE 3**:

#### DA SHEET LIST

A000	COVER SHEET & PHOTOMONTAGE	A
A001	PHOTOMONTAGE - BIRD'S EYE VIEW	A
A002	DA SHEET LIST & DEVELOPMENT SUMMARY	A
A003	SITE CONTEXT PLAN	A
A004	SITE ANALYSIS	A
A005	APARTMENT SCHEDULE	A
A007	CONSTRUCTION MANAGEMENT PLAN	A
A008	DEMOLITION PLAN	A
A009	EXCAVATION PLAN	A
A101	BASEMENT 2	A
A102	BASEMENT 1	A
A103	MEZZANINE LEVEL	A
A104	GROUND FLOOR	A
A105	LEVEL 1-3	A
A106	LEVEL 4	A
A107	LEVEL 5	A
A108	LEVEL 6	A
A109	ROOF LEVEL	A
A120	BUILDING A - GROUND	A
A301	SECTIONS - SHEET 1	A
A302	SECTIONS - SHEET 2	A
A401	3D MASSING / HEIGHT PLANE DIAGRAM 1	A
A402	3D MASSING / HEIGHT PLANE DIAGRAM 2	A
A403	3D MASSING / HEIGHT PLANE DIAGRAM 3	A
A411	SHADOW DIAGRAM - 21 JUNE @ 9AM	A
A412	SHADOW DIAGRAM - 21 JUNE @ 12PM	A
A413	SHADOW DIAGRAM - 21 JUNE @ 3PM	A
A501	GFA CALCULATIONS	A
A502	CROSS VENTILATION - SHEET 1	A
A503	CROSS VENTILATION - SHEET 2	A
A504	SOLAR ACCESS - SHEET 1	A
A505	SOLAR ACCESS - SHEET 2	A
A511	SOLAR EYE VIEW_21 JUNE 9AM	A
A512	SOLAR EYE VIEW_21 JUNE 10AM	A
A513	SOLAR EYE VIEW_21 JUNE 11AM	A
A514	SOLAR EYE VIEW_21 JUNE 12PM	A
A515	SOLAR EYE VIEW_21 JUNE 1PM	A
A516	SOLAR EYE VIEW_21 JUNE 2PM	A

#### DA SHEET LIST

A121	BUILDING A - LEVEL 1-3	A
A122	BUILDING A - LEVEL 4-6	A
A123	BUILDING A - ROOF	A
A130	BUILDING B - GROUND FLOOR	A
A131	BUILDING B - LEVEL 1-3	A
A132	BUILDING B - LEVEL 4-6	A
A133	BUILDING B - ROOF	A
A140	BUILDING C - GROUND FLOOR	A
A141	BUILDING C - LEVEL 1-3	A
A142	BUILDING C - LEVEL 4	A
A143	BUILDING C - LEVEL 5	A
A144	BUILDING C - ROOF	A
A201	ELEVATIONS - SHEET 1	A
A202	ELEVATIONS - SHEET 2	A
A203	ELEVATIONS - BLDG A - NORTH & SOUTH	A
A204	ELEVATIONS - BLDG A - EAST & WEST	A
A205	ELEVATIONS - BLDG B - NORTH & SOUTH	A
A206	ELEVATIONS - BLDG B - EAST & WEST	A
A207	ELEVATIONS - BLDG C - NORTH & SOUTH	A
A208	ELEVATIONS - BLDG C - EAST & WEST	A
A517	SOLAR EYE VIEW_21 JUNE 3PM	A
A531	ADAPTABLE LAYOUT - TYPE 1	A
A532	ADAPTABLE LAYOUT - TYPE 2	A
A540	COMMUNAL OPEN SPACE	A
A541	COMMUNAL OPEN SPACE - SOLAR 9AM - 12PM	A
A542	COMMUNAL OPEN SPACE - SOLAR 1PM - 3PM	A
A545	DEEP SOIL DIAGRAM	A
A601	MOOD BOARD & MATERIALS	A
A602	AFFORDABLE HOUSING	A

We confirm that the application proposes the dedication of 13 apartments to Council in accordance with clause 6.11 of Warringah Local Environmental Plan 2011 (WLEP 2011) representing 1304.8m<sup>2</sup> of GFA, or >10% of total GFA. Further, the application proposes the provision of an additional 19 affordable housing apartments, representing a total GFA of 1979.3m<sup>2</sup> or >15% of total GFA, in accordance with the affordable housing height and FSR incentive provisions contained within Chapter 2, Part 2, Division 1 Infill affordable housing of State Environmental Planning Policy (Housing) 2021 (Housing SEPP). These apartments are nominated on the table on plan A602(A).

Specifically, the application provides for the following built form outcome:

## Basements 1 and 2

These basement levels incorporate the following:

7 PARKING REQUIREMENTS				
	Rate (per unit)	Units	Required	Proposed
<b>Residential</b>				
	<i>Maximum Rate</i>			
1 Bed	0.6	9	5.4	6
2 Bed	1	77	77	77
3 Bed	1.5	38	57	57
		<b>total</b>	<b>139.4</b>	<b>140</b>
Accessible	10% of all dwellings	124	12.4	13
Visitor	0.1 spaces per dwelling	124	12.4	13
Car Wash Space	1 car wash bay per 50 units	124	2.4	3
<i>Minimum Rate</i>				
Car share space	2 spaces per 15 units	124	16.5	17
Electric Vehicle Charging Space	2% of dwellings or 2 per development (whichever is greater)	124	2.5	3
Motorcycle Parking	0.5 spaces per dwelling	124	62	64
<b>Bicycle Parking</b>				
Residential Bicycle	2 spaces per dwelling	124	248	248
Visitor Bicycle	0.25 spaces per dwelling	124	31	31

Designated areas for residential storage, waste and bulky waste storage, and plant room/ service areas are also nominated. Lift wells provide access to the three residential flat buildings above.

The residential apartments are spread across 3 residential buildings as depicted on the Apartment schedule plan A005(A). Each apartment has direct access to private open space areas with ADG compliant solar access and cross ventilation achieved as detailed on the architectural plans and within the accompanying design verification statement.

Whilst the proposal requires the removal of a number of trees as detailed within the accompanying arborist report such tree removal is reasonably anticipated given the R3 Medium Density Residential zoning of the land and their location relative to a logical building footprint. Such tree loss is appropriately compensated for through the implementation of the enhanced site landscape regime as depicted on the accompanying landscape plans prepared by Conzept. These landscape plans incorporate both deep soil and on slab landscape treatments which will soften and screen the development as viewed in the round and ensure that the building sits within a landscaped setting.

All stormwater will be collected and disposed of directly into the existing council's existing kerb inlet pit in Gladys Avenue as depicted on the accompanying stormwater management plans prepared by Acor Consultants.

The acceptability of the proposed excavation is detailed in the accompanying geotechnical investigation prepared by Green Geotechnics with the extent of excavation deemed acceptable subject to the imposition of standard conditions regarding construction management. Finally, the acceptability of the car parking design arrangement and the development's level of accessibility are detailed in the accompanying Traffic and Parking Assessment Report prepared by Genesis Traffic and the Access Design Assessment Report prepared by Accessibility Building Solutions.

## 4.0 STATUTORY PLANNING FRAMEWORK

### 4.1 Warringah Local Environmental Plan 2011

#### 4.1.1 Zone and Zone Objectives

The subject property is zoned R3 Medium Density Residential pursuant to the provisions of WLEP 2011 with residential flat buildings permissible with consent in the zone. The zone objectives are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that medium density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*
- *To ensure that medium density residential environments are of a high visual quality in their presentation to public streets and spaces.*

The residential flat building is defined as follows:

***residential flat building*** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The application proposes the construction of 124 residential apartments within three residential flat buildings appropriately defined as a residential flat building and therefore is permissible with consent in the zone.

The development will provide for the housing needs of the community within a medium density residential environment and to that extent is consistent with the zone objectives as outlined. Accordingly, there is no statutory impediment to the granting of consent.



#### 4.1.2 Height of buildings

Pursuant to clause 4.3 WLEP 2011 the height of any building on 116-120 Frenchs Forest Road West shall not exceed 17.5 metres above existing ground level and the height of any building on 11 Gladys Avenue shall not exceed 13 metres above existing ground level. The stated objectives of this clause are as follows:

- (a) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
- (c) *to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
- (d) *to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

The dictionary to the LEP defines building height to mean:

***building height*** (or ***height of building***) *means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

We note that Council has recently adopted the interpretation of ground level (existing) as that established in the matter of *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582 where at paragraphs 73 and 74 O'Neill C found:

*73. The existing level of the site at a point beneath the existing building is the level of the land at that point. I agree with Mr McIntyre that the ground level (existing) within the footprint of the existing building is the extant excavated ground level on the site and the proposal exceeds the height of buildings development standard in those locations where the vertical distance, measured from the excavated ground level within the footprint of the existing building, to the highest point of the proposal directly above, is greater than 10.5m. The maximum exceedance is 2.01m at the north-eastern corner of the Level 3 balcony awning.*



*74. The prior excavation of the site within the footprint of the existing building, which distorts the height of buildings development standard plane overlaid above the site when compared to the topography of the hill, can properly be described as an environmental planning ground within the meaning of cl 4.6(3)(b) of LEP 2011.*

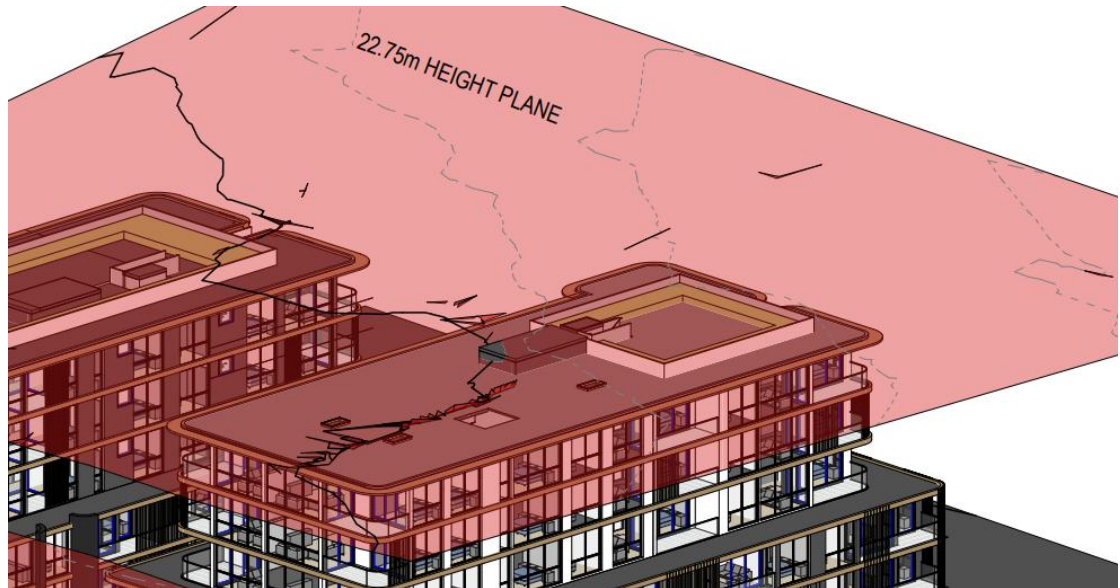
As previously indicated, the application proposes the provision of in-fill affordable housing apartments in accordance with the affordable housing height and FSR incentive provisions contained within Chapter 2, Part 2, Division 1 Infill affordable housing provisions of State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

Applying the 30% building height incentive results in a maximum building height for development across land of between 16.9m and 22.75m.

It has been determined that the south-eastern corner of the lift overrun on Building A breaches the 22.75 metre Housing SEPP building height incentive standard by a maximum of 800mm or 3.5%. In the event that it is determined at law that the height standard within WLEP applies in the event of a breach of the SEPP Housing height standard the variation to this building element would 6.05 metres or 34.5%.

It has also been determined that the lift overrun on Building C breaches the 16.9 metre Housing SEPP building height incentive standard by a maximum of 1.1 metres or 6.5%. In the event that it is determined at law that the height standard within WLEP applies in the event of a breach of the SEPP Housing height standard the variation to this building element would be 5 metres or 38.4%.

The breaching elements are depicted in the plan extracts over page.



**Figure 12** – Plan extract of 22.75 metre building height blanket diagram depicting minor non-compliant projecting element on Building A.



**Figure 13** – Plan extract of 16.9 metre building height blanket diagram depicting minor non-compliant projecting elements on Building C.

Clause 4.6 of WLEP 2011 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*

- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Whilst the proposal requires the consent authority to give favourable consideration to a variation to the building height development standard, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the topography of the land which makes strict compliance with the building height standard difficult to achieve whilst facilitating the delivery of affordable housing in accordance with the objectives at clause 15A of the Housing SEPP.

The variation will facilitate the orderly and economic use and development of land and a contextually appropriate increase in residential density on a site identified for increased residential densities and upon which the affordable housing incentive provisions contained within the Housing SEPP apply. The accompanying clause 4.6 variation request is well-founded (**ANNEXURE 2**).

#### **4.1.3 Floor space ratio**

Pursuant to clause 4.4(2) of WLEP 2011 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 required FSR for Buildings A and B is 2:1 and for Building C is 1:1.

The stated objectives of this control are as follows:

- (a) to limit the intensity of development and associated traffic generation so that they are commensurate with the capacity of existing and planned infrastructure, including transport infrastructure,*
- (b) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,*
- (c) to ensure that buildings, by virtue of their bulk and scale, are consistent with the desired character of the locality,*
- (d) to manage the visual impact of development when viewed from public spaces,*
- (e) to maximise solar access and amenity for public areas.*

As previously indicated, the application proposes the provision of in-fill affordable housing apartments in accordance with the affordable housing height and FSR incentive provisions contained within Chapter 2, Part 2, Division 1 Infill affordable housing provisions of State Environmental Planning Policy (Housing) 2021 (Housing SEPP). Accordingly, the clause 4.4(2) WLEP 2011 FSR provisions do not apply.

#### **4.1.4 Earthworks**

In accordance with the clause 6.2 WLEP 2011 the application is accompanied by a Geotechnical Investigation prepared by Green Geotechnics which assessed the acceptability of the earthworks proposed. Such report contains a number of recommendations which are to be complied with through the construction process and no objection is raised to an appropriately worded condition in this regard.

We consider that this report demonstrates compliance with the 6.2 WLEP 2011 provision.

#### **4.1.5 Development on sloping land**

The site is identified within Areas A and B on the Landslip Risk Map of WLEP 2011. The application is accompanied by a Geotechnical Report by Green Geotechnical Consultants that confirms the suitability of the site in light of the excavation proposed. Further, the application is accompanied by Stormwater Management Plans by Acor Consulting Engineers, demonstrating consistency with Council's Water Management Policy.

As such, Council can be satisfied that the risk associated with landslides in relation to both property and life has been considered, that the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and that the development will not impact on or affect the existing subsurface flow conditions.

#### **4.1.6 Affordable housing**

In accordance with clause 6.11(2) of WLEP 2011, development consent must not be granted unless the consent authority is satisfied that the proportion of the gross floor area of the building used for affordable housing is not less than the amount shown on the Affordable Housing Contributions Scheme Map of WLEP 2011, being 10% in relation to the subject site.

We note that the 10% affordable housing provision applies to all proposed GFA.

We confirm that the application proposes the dedication of 13 apartments to Council in accordance with clause 6.11 of Warringah Local Environmental Plan 2011 (WLEP 2011) representing 1304.8m<sup>2</sup> of GFA, or >10% of total GFA. Further, the application proposes the provision of an additional 19 affordable housing apartments, representing a total GFA of 1979.3m<sup>2</sup> or >15% of total GFA, in accordance with the affordable housing height and FSR incentive provisions contained within Chapter 2, Part 2, Division 1 Infill affordable housing of State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

The dedicated apartments are identified in the plan extract below.

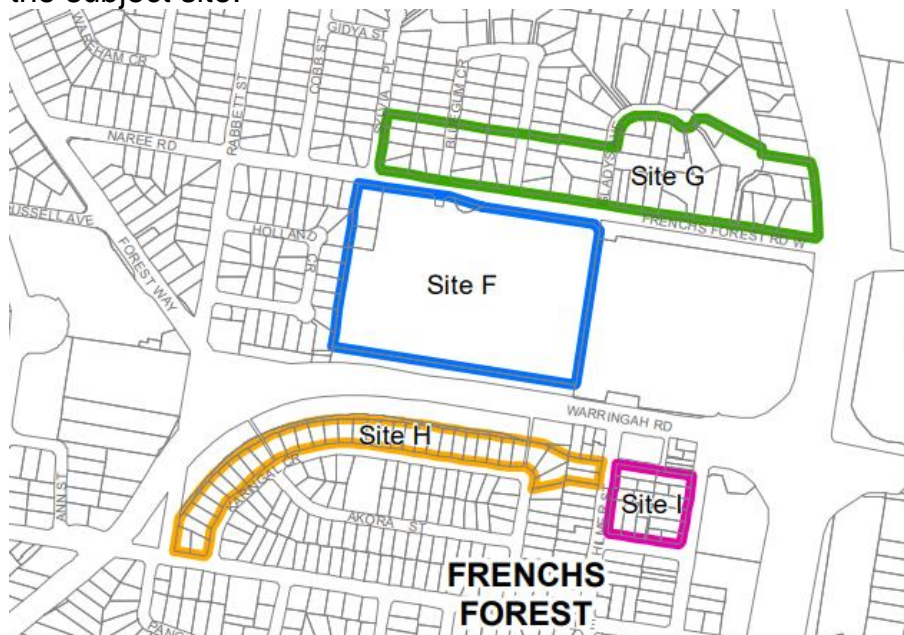
Council Dedication	
UNIT	GFA affordable housing scheme
CG01	335.6
CG02	
CG03	
C101	373.5
C102	
C103	
C104	
C201	373.5
C202	
C203	
C204	
BG05	222.2
BG06	
<b>Total</b>	1304.8
<b>Target</b>	1287.92

This satisfies the minimum 10% affordable housing provision. Consistent with clause 6.11(4) of WLEP 2011, a condition can be imposed requiring the dedication of these units to Council.

#### 4.1.7 Design excellence – Site G

Under the provisions of clause 8.5 of WLEP 2011, development consent cannot be granted unless the consent authority considers that the development exhibits design excellence.

As shown on the Key Sites Map of WLEP 2011 (Figure 14), Site G comprises land to the north of Frenchs Forest Road West, including the subject site.



**Figure 14** - Extract of the Key Sites Map of WLEP 2011 (source: WLEP 2011)

To assist Council in this regard, the relevant matters for consideration identified by clause 8.5(3) of WLEP 2022 are addressed, as follows:

- a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

**Comment:** The proposed development is a highly considered design solution that appropriately responds to the individual context of the site. Brewster Murray, the project architects, have carefully considered the siting of the proposed development to maximise tree retention to ensure consistency with the desired future character whilst also locating individual units to optimise internal amenity.

The application is supported by a Schedule of Materials and Finishes which demonstrates the intended use of high-quality materials, with low maintenance requirements appropriate to the form of development proposed. The materiality of the development is also responsive to the orientation of the building, with lighter materials and greater glazing to the north in order to maximise views and solar access, and heavier materials and reduced glazing to the south in order to minimise street noise and exposure to the arterial road.

The application is supported by a Design Verification Statement by Brewster Murray confirming that the 9 design principles contained within Schedule 9 of SEPP Housing are achieved, and that the development is consistent with the objectives of the ADG.

- b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,*

Comment: The proposed residential flat buildings are well articulated in both the horizontal and vertical planes, with integrated landscaping and high-quality materials to ensure that the bulk and scale is appropriately minimised. As demonstrated in the accompanying photomontages, the resultant development will positively contribute to the Frenchs Forest Road West streetscape and the wider Frenchs Forest Town Centre, with a significant improvement to the quality and amenity of the public domain.

- c) whether the development detrimentally impacts on view corridors,*

Comment: The proposed development will not result in any detrimental impacts upon view corridors and is generally maintained at the height of existing canopy trees. The proposed development is generally reflective of the height and scale of development anticipated on the site in accordance with the affordable housing height and FSR incentive provisions contained within Chapter 2, Part 2, Division 1 Infill affordable housing provisions of the Housing SEPP.

- d) how the development addresses the following matters—*

- i. the suitability of the land for development,*

Comment: The site is suitable for the residential flat building proposed, in that the proposed development is:

- permissible within the R3 Medium Density zone,



- consistent with the objectives of the R3 Medium Density zone, and
- an appropriate built form and landscaped outcome with regard to the size of the site, the relevant standards/controls and the context of the site.

*ii. existing and proposed uses and use mix,*

Comment: The proposed development is residential in nature, consistent with the provisions of the zone. It is noted that the Place Strategy envisioned non-residential ground floor uses and a 'high street' outcome on this site. However, this was ultimately not adopted in WLEP 2011 and WDCP 2011.

*iii. heritage issues and streetscape constraints,*

Comment: The subject site does not contain any known items of heritage significance and is not in the vicinity of any. Further, there are no streetscape constraints that impose a detrimental burden upon the development of the site.

*iv. the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*

Comment: The proposed development has been sited to maximise tree retention, whilst also ensuring appropriate setbacks in light of existing and likely future development on adjoining sites (noting that the area is in transition). The setbacks of the proposal also provide opportunity for deep soil planting to further enhance the landscaped character of the site.

*v. bulk, massing and modulation of buildings,*

Comment: The composition of each façade comprises key vertical recesses, which not only enhance the internal amenity of the proposal but also serve to break down the apparent size of the development. The massing of the development is further reduced through the incorporation of deep set balconies, integrated landscaping, a skilful mix of materials and increased setbacks at the upper levels.



vi. *street frontage heights,*

Comment: The proposed development has street frontage heights generally reflective of the height and scale of development anticipated on the site in accordance with the affordable housing height and FSR incentive provisions contained within Chapter 2, Part 2, Division 1 Infill affordable housing provisions of the Housing SEPP.

vii. *environmental impacts including overshadowing, wind and reflectivity,*

Comment: The proposal will not result in any unacceptable environmental impacts in terms of overshadowing, wind or reflectivity. Energy efficient design principles are incorporated throughout the design. Residential floor layouts are arranged such that living areas and private open spaces are orientated to increase cross ventilation in the summer and solar penetration during the cooler months with balconies accessible from the principle living area of each apartment.

viii. *the achievement of the principles of ecologically sustainable development,*

Comment: The application is supported by a BASIX Certificate demonstrating that the proposed development can meet relevant performance criteria. Energy efficient design principles are incorporated throughout the design. Residential floor layouts are arranged such that living areas and private open spaces are orientated to increase cross ventilation in the summer and solar penetration during the cooler months with balconies accessible from the principle living area of each apartment. Overall, 87 of 124 or 70% of units have in excess of 2 hours of direct sunlight.

ix. *pedestrian, cycle, vehicular and service access, circulation and requirements,*

Comment: The application is supported by a Traffic and Parking Assessment Report to confirm the suitability of the proposed parking and vehicular circulation arrangements. Further, the application is supported by an BCA and Access Reports to confirm the suitability of proposed pedestrian and disability access arrangements.

x. *the impact on, and proposed improvements to, the public domain,*

Comment: The Frenchs Forest Road West public road reserve was upgraded in association with hospital redevelopment. There are no works proposed to the Frenchs Forest Road West public road reserve.

*xi. the quality and integration of landscape design.*

Comment: The application is accompanied by Landscape Plans by Conzept, demonstrating the retention of numerous existing canopy trees integrated with new landscaping to ensure that the landscaped character of the site is enhanced.

#### **Clause 4.1.8 Minimum site areas**

Under the provisions of clause 8.6 of WLEP 2011, development consent must not be granted to a residential flat building on Site G unless the site area is equal to or greater than 1,400m<sup>2</sup>. The development site is 5740.4m<sup>2</sup> and therefore satisfies this requirement.

Documentation, including legal advice, has been prepared and submitted with this application demonstrating that the proposed development will not result in the isolation of any adjoining properties.

#### **Clause 4.1.9 Minimum Street frontages**

Under the provisions of clause 8.7 of WLEP 2011, development consent must not be granted to a residential flat building on Site G unless the street frontage is equal to or greater than 30m. The development site has a street frontage of 70.1m to Frenchs Forest West and therefore satisfies this requirement.

#### **Clause 4.1.10 Power lines – Site G**

In accordance with clause 8.10 of WLEP 2011, the consent authority must consider whether the development includes adequate measures to ensure that existing power lines on Site G will be relocated underground.

Council has resolved that the undergrounding of the existing power lines for the entire length Frenchs Forest Road West will be undertaken concurrently. The proposal maintains a clear 3.5m setback to Frenchs Forest Road West to facilitate the future undergrounding of the existing power lines, thereby complying with the control.

## 4.2 Warringah Development Control Plan

Warringah DCP contains development controls for the design and construction of buildings and the development of land in Warringah. The proposed development has been assessed against the relevant provisions of Warringah DCP as outlined in the following sections of this report.

Clause	Control	Proposal	Compliance
C2 Traffic, Access and Safety	Vehicle crossing approvals on public roads are to be in accordance with Council's Vehicle Crossing Policy (Special Crossings) LAP-PL413 and Vehicle Access to Roadside Development LAP-PL 315.	The vehicle access point is in Gladys Avenue and will have been designed to comply with Council's requirements as outlined in the accompanying Traffic Impact Assessment (TIA) prepared by Genesis Traffic.	Yes
C4 Stormwater	The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.	The application is supported by Stormwater Management Plans by Acor Consulting Engineers demonstrating consistency with Council's Water Management for Development Policy.	Yes
C7 Excavation and Landfill	Excavated and landfill areas shall be constructed to ensure the geological stability of the work.	Excavation has been minimised in order to maximise tree retention across the site. The application is supported by a Geotechnical Report by Green Geotechnical Consultants confirming the suitability of the site for the extent of excavation proposed.	Yes
C8 Demolition and Construction	All development must comply with the appropriate sections of the Waste Management Guidelines and all	The application is supported by a Waste Management Plan.	Yes

Clause	Control	Proposal	Compliance
	relevant Development Applications must be accompanied by a Waste Management Plan.		
C9 Waste Management	All development must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.	The application is supported by a Waste Management Plan.	Yes
D2 Private Open Space		SEPP Housing prevails.	N/A
D3 Noise	Noise from combined operation of all mechanical plant and equipment must not generate noise levels that exceed the ambient background noise by more than 5dB(A) when measured in accordance with the NSW Industrial Noise Policy at the receiving boundary of residential and other noise sensitive land uses.	The application is supported by an Acoustic Report by Acoustic Logic demonstrating consistency with Council's noise controls.	Yes
D6 Access to Sunlight	At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.	The proposed development does not result in unreasonable overshadowing of areas of private open space of the adjoining properties with more than 3 hours of direct sunlight to be retained during midwinter. SEPP Housing prevails in relation to the solar access requirements for individual units.	Yes

Clause	Control	Proposal	Compliance
D7 Views	Development shall provide for the reasonable sharing of views.	The proposed development is unlikely to result in any unreasonable impacts to views. Whilst views in a northerly direction over the subject site are available from within the hospital, the ground level of the hospital is elevated well above the subject site such that it is these views will be retained.	Yes
D8 Privacy	Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.	The proposed development maintains privacy to adjoining properties, with privacy screens proposed, where required.	Yes
D9 Building Bulk	Orientate development to address the street. Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.	The proposed development is well articulated to ensure that the bulk and scale of the development is appropriately minimised.	Yes
D10 Building Colours and Materials	The colours and materials used for alterations and additions to an existing structure shall complement the existing external building façade.	The proposed development is to be finished in colours and materials that complement the locality.	Yes
D12 Glare and Reflection	Sunlight reflectivity should be minimised.	The proposed development will not result in excessive or unreasonable glare.	Yes
D14 Site Facilities	Site facilities are to be adequate and convenient for users and services and are to have minimal visual impact from public places.	Appropriate site facilities are proposed.	Yes

Clause	Control	Proposal	Compliance
D18 Accessibility and Adaptability	10% adaptable dwellings (10 units)	13 adaptable units The application is supported by an Accessibility Report by Accessible Building Solutions, confirming that the proposal meets the relevant provisions of AS1428.4 and AS4299.	Yes
D20 Safety and Security	Buildings are to overlook streets as well as public and communal places to allow casual surveillance.	The proposed development has appropriate regard for the CPTED principles.	Yes
D22 Conservation of Energy and Water	All development must comply with Council's Water Management Policy.		Yes
E1 Preservation of Trees or Bushland Vegetation		<p>The amended application involves the removal of 71 trees of varying significance. The application is supported by an Arboricultural Impact Assessment Report by Arbor Express which identifies the trees proposed for removal and includes recommendations for the safe retention of other trees within the vicinity of the works proposed.</p> <p>The application is also accompanied by a Landscape Plan by Conzept Landscape Architects to demonstrate the enhancement of landscaping across the site, including the provision of additional native canopy trees.</p>	Yes

Clause	Control	Proposal	Compliance
E10 Landslip Risk	Areas A and B	The application is supported by a Geotechnical Report by Green Geotechnical Consultants confirming the suitability of the site for the extent of excavation proposed.	Yes
<b>Part G9 – Frenchs Forest Town Centre, cl. 5.2 Precinct 05 Frenchs Forest Road West Neighbourhood</b>			
G9:2 Desired future character	Frenchs Forest is an urban forest, with green streets and new open space, making a feature of the forest that has always shaped the site's story.	The proposed development celebrates the existing tree canopy and enhances the landscaped quality of the site.	Yes
G9: 5.2 Precinct 05 Frenchs Forest Road West Neighbourhood	The Frenchs Forest Road West Neighbourhood will provide a contextually appropriate interface to surrounding low density residential areas, whilst increasing housing diversity and activating Frenchs Forest Road West with a range of office, health and medical uses to support the town centre and Hospital.	The proposed development appropriately responds to the individual context of the site.  The proposal does not comprise ground floor office, health or medical uses as this is not permissible on the land.	Yes
Front setback	Provide a 3.5m setback to Frenchs Forest Road West.	Building A setback 3.5m  Building B setback 13m to enable the retention of significant canopy trees	Yes
Side and rear setbacks	Development with a frontage to Frenchs Forest Road West shall have a nil side setback to ensure a continuous frontage to the street.	6m	No See discussion
	A minimum setback of 6.5m to Gladys Ave.	6.5m	Yes

Clause	Control	Proposal	Compliance
	Development fronting Frenchs Forest Road West shall have the fifth floor set back at least 3m from the street wall.	6.5m (3.5m + 3.0m)	Yes
	Development fronting Frenchs Forest Road West and adjoining the right-of-way accessible off Frenchs Forest Road West (known as Bantry Bay Track) shall have the sixth floor set back at least 3m from the street wall.	The site does not adjoin Bantry Bay Track.	N/A
Building Design	Development shall be located to front or address the street. On corner lots, the buildings shall be located to front or address both streets.	The building has been designed to address both Frenchs Forest Road West and Gladys Avenue.	Yes
	Upper floors above the street wall are to be emphasised through a change in architectural expression, material selection and design elements.	The upper levels are notably distinguishable from the street wall below, by virtue of increased setbacks, integrated landscaping, and varied materiality.	Yes
	Building facades are to be articulated into smaller elements or distinctive treatments, at a scale or grain that reflects: <ul style="list-style-type: none"> <li>• Different uses and/or components of the building;</li> <li>• The residential entries and/or lobby; and</li> <li>• The podium and upper levels of the building.</li> </ul>	Each façade is well articulated. The pedestrian entries are highlighted by vertical recesses that extends to the fifth floor of the building. The upper floors notably distinguishable from the street wall below, by virtue of increased setbacks, integrated landscaping, and varied materiality.	Yes
Site consolidation	Proposed lots must have dimensions to enable the siting and construction of a buildings that:	The subject site is suitably sized and dimensioned to accommodate the proposed residential flat building.	Yes



Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> <li>Protect any natural site features;</li> <li>Address the street;</li> <li>Minimise the impact on neighbours' amenity including access to sunlight, daylight, privacy and views;</li> <li>Provide usable outdoor open space;</li> <li>Provide activities for relaxation, recreation, outdoor dining and children's play areas; and</li> <li>Provide convenient pedestrian, bicycle, motor vehicle access and parking.</li> </ul>	<p>Sufficient space is available on site to ensure adequate setbacks to neighbours, landscaped area, private open space areas and convenient access and parking.</p> <p>Consolidation with the site to the north or west would result in greater impacts to trees, inconsistent with the Objectives to ensure that the development is consistent with the desired future character of the locality.</p> <p>Documentation, including legal advice, has been prepared and submitted with this application demonstrating that the proposed development will not result in the isolation of any adjoining properties.</p>	
Materials and finishes	External materials and finishes should appear to be natural, with subdued natural and dark coastal colours. Brighter colour accents are permitted.	A schedule of external finishes accompanies the application.	Yes
	<p>The dominant use of smooth shiny surfaces such as glass, metallics and plastics should be avoided.</p> <p>0</p>	Shiny surfaces do not dominate the façades of the development.	Yes
Landscaped Area	For all residential flat building developments, landscaped area is to be at least 45% of the site area.	Does not apply pursuant to clause 19(2)(b)(ii) of SEPP Housing	N/A

Clause	Control	Proposal	Compliance
	Development must retain and protect any significant trees on the site and adjoining sites. Any tree removal will require offset planting at a ratio of 2 to 1.	A suitable balance is achieved between the retention of existing trees and the development of the site for medium density housing.	Yes
Active street frontages	Building setbacks are to be landscaped and generally free of any structures, basements, car parking or site facilities other than driveways, mail boxes, garbage storage areas and fences.	The resultant setbacks are generally free of structures, excluding those necessary for access.	Yes
	Communal open space shall be located to minimise impact on adjoining neighbours' amenity including privacy and noise.	The amended proposal incorporates a combination of ground level and roof top communal open space representing 25% of the site area. The communal open space will provide good amenity for future occupants of the development but it is also located to avoid impacts to adjoining properties.	Yes
	Active frontages are to be provided for development with frontage to Frenchs Forest Road West and zoned B4 Mixed Use development.	The site is not zoned B4 Mixed Use Development.	N/A
	Continuous awnings are to be provided along Frenchs Forest Road West.	The site is not zoned B4 Mixed Use Development. A continuous awning is inappropriate in these circumstances, noting the lack of non-residential uses at the ground floor.	N/A

Clause	Control	Proposal	Compliance
Parking, basement and basement access	Parking, servicing and loading shall be accommodated internally within the building and screened from the street.	All parking and the loading area is proposed within the basement.	Yes
	Vehicular access is prohibited from Frenchs Forest Road West and Wakehurst Parkway. Despite the above, alternative vehicular access points may be considered for lots east of Bantry Bay Track. This may require concurrence from Transport for NSW.	Vehicular access is proposed via Gladys Avenue	Yes
	All driveways must be located a minimum perpendicular distance of 6m away from any intersection.	The proposed driveway is located in excess of 40m from the nearest intersection.	Yes
	Vehicular access is to be designed to: <ul style="list-style-type: none"> <li>• Separate and clearly differentiate pedestrian and vehicle access;</li> <li>• Minimise the size, quantity and visual intrusion of vehicle access points on the streetscape; and</li> <li>• Ensure that basement entries have an appropriate clearance height that is capable to allow for internal waste collection (where applicable).</li> </ul>	Separate paths of travel are proposed for pedestrians and vehicles. Only one driveway is proposed. The visual impact of the driveway is appropriately minimised. The basement has been designed to accommodate a small rigid vehicle.	Yes
G6: Parking	140 residential spaces (maximum)	140 residential parking spaces	Yes
	13 visitor spaces (maximum)	13 visitor spaces	Yes
	17 car share spaces (minimum)	17 car share spaces	Yes
	3 EV charging stations	3 EV charging stations	Yes

Clause	Control	Proposal	Compliance
	62 motorbike spaces	64 motorbike spaces	Yes
	248 resident bicycle spaces	248 resident bicycle spaces	Yes
	31 visitor bicycle spaces	31 visitor bicycle spaces	
	The provision of parking for people with disabilities must be provided at a rate of 3% of the required parking spaces.	13 spaces	Yes
G7: Contamination			N/A
G9: Sustainability	Development is to reduce the need for active heating and cooling by incorporating passive design measures to ensure that development is resilient to climate change. This includes design, location and thermal properties of glazing, natural ventilation, appropriate use of thermal mass and external shading, including vegetation.	The application is supported by a BASIX Certificate confirming that the proposed development meets or exceed industry standards. The development has been designed to maximise sunlight and ventilation, reducing reliance upon artificial lighting and heating/cooling.	Yes
G9: 9 Water management	The stormwater drainage systems for all developments are to be designed, installed and maintained, as far as is practicable, so as to improve water quality and assist in maintaining stream flow, in accordance with Council's Water Management for Development Policy and Water Sensitive Urban Design & MUSIC Modelling Guidelines and Alluvium Frenchs Forest Planning Precinct Water Sensitive Urban Design Study Strategy	The application is supported by Stormwater Management Plans demonstrating consistency with Council's Water Management for Development Policy.	Yes

Clause	Control	Proposal	Compliance
	(dated December 2019).		
G9: 10 Waste management	All development must comply with the Northern Beaches Council Waste Management Guidelines.	The application is supported by a Waste Management Plan which demonstrates compliance with Council's Waste Management Guidelines.	Yes

Table 1. WDCP compliance Table

### Side setbacks

#### Clause G9: 5.2.3 (Building Setbacks)

Clause 5.2.3 of Part G9 prescribes that the setback to the western and eastern boundaries shall be nil, in order ensure a continuous street frontage. However, noting that the site does not benefit from the additional permitted uses provisions that enable non-residential ground floor uses applicable to other properties along Frenchs Forest Road West, the continuation of the street frontage is inappropriate.

Furthermore, such an outcome would result in the removal of a number of significant canopy trees on the subject site and on adjoining land, inconsistent with the overarching desired character statement that seeks to make a feature of the forest.

The site is located at the eastern end of Frenchs Forest Road West across the road from Frenchs Forest Hospital precinct. The site is not part of the Frenchs Forest Road High Street (as identified in the Frenchs Forest Place Strategy) and is not part of the B4 Mixed use zone. It is separate from the identified retail commercial core further west and therefore nil side boundary setbacks are in appropriate for the proposed development.

### **4.3 State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. The site has been used for residential purposes for an extended period of time with no known prior land uses. In this regard, the potential for contamination is considered to be extremely unlikely.

The site is not identified as a contaminated site on the NSW EPA's list of notified sites, nor is it in the vicinity of any listed sites. The consent authority can be satisfied that the subject site is suitable for the proposed development.

As such, the proposed development is consistent with the provisions of Chapter 4 of this policy.

### **4.4 State Environmental Planning Policy (Housing) 2021**

#### **4.5.1 Affordable housing**

The application the application proposes the provision of an additional 19 affordable housing apartments, representing a total GFA of 1979.3m<sup>2</sup> or >15% of total GFA, in accordance with the affordable housing height and FSR incentive provisions contained within Chapter 2, Part 2, Division 1 Infill affordable housing of State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

We note that the objective of this division is to facilitate the delivery of new infill affordable housing to meet the needs of very low, low and moderate income households.

Pursuant to clause 15C(1), this division applies given that residential flat development is permissible with consent on the land pursuant to WLEP 2011, the proposed affordable housing component is at least 10% and all of the development is carried out within an accessible area, as defined, being within 400m walking distance of a regularly serviced bus stop.

We confirm that in accordance with clause 15C(2) that the 30% FSR bonus proposed in accordance with these provisions is in addition to the 10% affordable housing provision calculated in accordance with clause 6.11 of WLEP 2011.

Pursuant to clause 16, the maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30% based on the minimum affordable housing component calculated in accordance with subsection (2).

The application proposes to take advantage of the 30% additional floor space ratio incentive with 15% of the total GFA available pursuant to these provisions provided as affordable housing. The proposal satisfies this FSR incentive provision subject to the imposition of standard conditions including that prescribed by clause 21 requiring the affordable housing component to be managed by a registered community housing provider for a period of at least 15 years commencing on the day an occupation certificate is issued for the development.

Pursuant to clause 16(3) as the development includes residential flat buildings the maximum building height for a building used for residential flat buildings is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1). Accordingly, a 30% building height incentive applies to the development.

In this regard, we note that clause 4.3 WLEP prescribes a variable maximum building height for development across the land of between 13m and 17.5m. Applying the 30% building height incentive results in a maximum building height for development across land of between 16.9m and 22.75m.

It has been determined that the south-eastern corner of the lift overrun on Building A breaches the 22.75 metre Housing SEPP building height incentive standard by a maximum of 800mm or 3.5%.

It has also been determined that the lift overrun on Building C breaches the 16.9 metre Housing SEPP building height incentive standard by a maximum of 1.1 metres or 6.5%.

The breaching elements are depicted in the plan extracts over page.





**Figure 15** – Plan extract of 22.75 metre building height blanket diagram depicting minor non-compliant projecting element on Building A.



**Figure 16** – Plan extract of 16.9 metre building height blanket diagram depicting minor non-compliant projecting elements on Building C.

Clause 4.6 of WLEP 2011 provides a mechanism by which a development standard can be varied. The objectives of this clause are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*

- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Whilst the proposal requires the consent authority to give favourable consideration to a variation to the building height development standard, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the topography of the land which makes strict compliance with the building height standard difficult to achieve whilst facilitating the delivery of affordable housing in accordance with the objectives at clause 15A of the Housing SEPP.

The variation will facilitate the orderly and economic use and development of land and a contextually appropriate increase in residential density on a site identified for increased residential densities and upon which the affordable housing incentive provisions contained within the Housing SEPP apply. The accompanying clause 4.6 variation request is well-founded (**ANNEXURE 2**).

Clause 19 of SEPP Housing contains nondiscretionary development standards which if complied with prevent the consent authority from requiring more onerous standards for the matters listed.

Clause 19(2)(a) prescribes a minimum site area of 450m<sup>2</sup> which is complied with.

Clause 19(2)(b) prescribes a minimum landscaped area that is the lesser of 35m<sup>2</sup> per dwelling, or 30% of the site area. The proposal provides a minimum landscaped area of 37% (as depicted on the landscape plans) which exceeds the landscaped area provision preventing Council from requiring a more onerous standard.

Clause 20(3) contains design requirement including the need for the consent authority to consider whether the design of the residential development is compatible with the desired future character of the precinct. For the reasons outlined within this submission we consider that the proposal is compatible with the desired future character of the precinct have regard to the in-fill affordable housing incentive provisions of SEPP Housing.

#### **4.5.2 Design of residential apartment development**

Chapter 4 - Design of residential Apartment development within SEPP Housing applies to new residential flat buildings, the substantial redevelopment/refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building.

The proposed development is for the erection of three residential buildings, 6 - 7 storeys, containing 124 dwellings. As per the definition of a 'Residential Flat Building' these provisions apply to the proposed development.

Clause 147(1)(a) of the SEPP requires any development application for residential flat development to be assessed against the design principles contained in Schedule 9. The proposal's compliance with the design quality principles is detailed in the accompanying Architect Design Verification Statement.

Pursuant to clause 147(1)(b) of the SEPP 65 in determining a development application for consent to carry out residential flat development the consent authority is required to take into consideration the Apartment Design Guide. In this regard an Apartment Design Guide compliance table is attached to the accompanying Architect Design Verification Statement.

#### **4.5 State Environmental Planning Policy (Sustainable Buildings)**

The proposed works constitute 'BASIX affected development', as defined by the EP&A Regulation. The application is accompanied by a BASIX Certificate demonstrating that the proposed development can meet relevant performance criteria.

#### **4.6 Matters for Consideration Pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended**

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15(1) of the Act.

##### **The provision of any planning instrument, draft environmental planning instrument, development control plan or regulations.**

The proposal is permissible and generally in conformity with the development standards applicable to this form of development on this particular site and compliant with the General, Development Type and Locality Specific Controls contained within Warringah Development Control Plan and the in-fill affordable housing incentive provisions contained within SEPP Housing.

**The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.**

*Context and Setting*

i) *What is the relationship to the region and local context on terms of:*

- *the scenic qualities and features of the landscape?*
- *the character and amenity of the locality and streetscape?*
- *the scale, bulk, height, mass, form, character, density and design of development in the locality?*
- *the previous and existing land uses and activities in the locality?*

These matters have been discussed in detail in the body of the report.

ii) *What are the potential impacts on adjacent properties in terms of:*

- *relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)?*
- *visual and acoustic privacy?*
- *views and vistas?*
- *edge conditions such as boundary treatments and fencing?*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be acceptable and within the scope of the built form controls.

*Access, transport and traffic*

*Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:*

- *travel demand?*
- *dependency on motor vehicles?*
- *traffic generation and the capacity of the local and arterial road network?*
- *public transport availability and use (including freight rail where relevant)?*
- *conflicts within and between transport modes?*
- *traffic management schemes?*
- *vehicular parking spaces?*

These issues have been discussed in detail in the accompanying Traffic Impact Assessment. It has been determined that the development provides adequate carparking facilities and will not significantly increase traffic generation.

#### *Public domain*

The proposed development will have no additional impact on the public domain (i.e. roads, parks etc.).

#### *Utilities*

This matter has been discussed in detail in the body of this report.

#### *Flora and fauna*

These issues have been discussed in detail in the body of the report. The landscape concept plans accompanying this application propose additional planting and landscaping treatments which will maintain the landscape quality of the site and locality generally.

#### *Waste*

Normal domestic waste collection applies to this development with a waste collection area provided within 6 metres of the Gladys Avenue frontage to facilitate Council waste collection as detailed within the accompanying waste management plan prepared by MRA Consulting.

#### *Natural hazards*

The proposal will be safe from hazards.

#### *Economic impact in the locality*

The proposed development will not have any significant impact on economic factors within the area other than short term employment opportunities during construction.

#### *Site design and internal design*

i) *Is the development design sensitive to environmental conditions and site attributes including:*

- *size, shape and design of allotments?*
- *the proportion of site covered by buildings?*
- *the position of buildings?*
- *the size (bulk, height, mass), form, appearance and design of buildings?*

- *the amount, location, design, use and management of private and communal open space?*
- *landscaping?*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be minimal and within the scope of the policy controls.

ii) *How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation?*
- *building fire risk – prevention and suppression/*
- *building materials and finishes?*
- *a common wall structure and design?*
- *access and facilities for the disabled?*
- *likely compliance with the Building Code of Australia?*

The proposed development can comply with the provisions of the Building Code of Australia as detailed in the accompanying report prepared by Design Right Consulting. The proposal complies with the relevant standards pertaining to health and safety.

#### *Construction*

i) *What would be the impacts of construction activities in terms of:*

- *the environmental planning issues listed above?*
- *site safety?*
- 

The application is accompanied by a waste management plan prepared by MRA Consulting Group in accordance with Council requirements. We anticipate Council applying standard conditions with regards to the amelioration of construction related impacts.

#### **The suitability of the site for the development.**

*Does the proposal fit in the locality?*

- *are the constraints posed by adjacent developments prohibitive?*
- *would development lead to unmanageable transport demands and are there adequate transport facilities in the area?*
- *are utilities and services available to the site adequate for the development?*

The adjacent development does not impose any unusual or impossible development constraints. The site is well located with regards to public transport and utility services. The development will not cause excessive or unmanageable levels of transport demand.

*Are the site attributes conducive to development?*

The site being of moderate grade, adequate area, and having no special physical or engineering constraints is suitable for the proposed development.

**Any submissions received in accordance with this Act or the regulations.**

It is envisaged that the consent authority will appropriately consider any submissions made in relation to the proposed development.

**The public interest.**

It is considered that the public interest is best served in providing certainty in the planning process through encouraging development of good design that satisfies the outcomes contained within the adopted legislative framework.

The development is of a high quality architectural design that provides a positive contribution to the streetscape and is compatible with the form and character anticipated for development within Town Centre precinct. For these reasons the development is considered to be in the public interest.



## 5.0 CONCLUSIONS

This updated Statement of Environment or Effects forms a component of a development application (DA2024/0499) proposing the demolition of the existing site structures and the construction of three residential flat buildings consisting of 124 apartments over basement parking. The proposal contains 9 x 1 bedroom apartments, 77 x 2 bedroom apartments and 38 x 3 bedroom apartments. The two basement levels 140 residential spaces and, 13 visitor spaces (including 3 car wash bay and 3 Electrical vehicle Charging Spaces) and 17 Car Share spaces. The application also proposes the implementation of a comprehensive site landscape regime.

This updated document has been prepared having regard to the issues identified in Council's issues correspondence of 6 August 2024 in relation to Development Application 2024/0499 and feedback obtained from the Northern Beaches Design and Advisory Panel (DSAP) and the Sydney North Regional Planning Panel (SNRPP).

The amended proposal incorporates a reduced building footprint and massing distribution for the site utilising the south-eastern corner of the property to enhanced layout efficiencies. The amended architectural plans achieve compliant Warringah DCP (WDCP) and ADG setbacks, compliant deep soil landscaping and a combination of ground level and roof top communal open space. The amendments are detailed in the schedule of amendments prepared by the project architect and can be summarised as follows:

- A reduction in number of proposed apartments from 127 to 124.
- The maintenance of compliant FSR.
- The removal of the partially subterranean lower ground floor apartments.
- The reconfiguration of the basement area and the provision of future basement access to 9, 9A and 9B Gladys Avenue.
- The provision of ADG compliant side boundary setbacks at each level.
- The provision of WDCP compliant front boundary setbacks.
- The internal separation between buildings has been increased to 18 metres on levels 4 through 6.
- The provision of both ground and roof top communal open space.

The proposal will require the removal of a number of trees located in the south-eastern corner of the property however the site layout efficiencies and enhanced design amenity achieved through the removal of the trees is compelling within a precinct only recently upzoned for medium density housing and in which the DCP anticipates a relatively hard street wall.

We confirm that the application proposes the dedication of 13 apartments to Council in accordance with clause 6.11 of Warringah Local Environmental Plan 2011 (WLEP 2011) representing 1304.8m<sup>2</sup> of GFA, or >10% of total GFA. Further, the application proposes the provision of an additional 19 affordable housing apartments, representing a total GFA of 1979.3m<sup>2</sup> or >15% of total GFA, in accordance with the affordable housing height and FSR incentive provisions contained within Chapter 2, Part 2, Division 1 Infill affordable housing of State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

The final design provides for three buildings of exceptional design quality which respond to the irregular shape of the site and the site topography in a highly articulated and modulated building form which provides appropriate deep soil landscape opportunity around the perimeter of the site to ensure that the building sits within a landscaped setting. The development will provide diversity in housing choice on a site ideally suited to medium density housing given its R3 Medium Density Residential zoning, its immediate proximity to the Frenchs Forest Town Centre and in circumstances where the desired future character statement for the Frenchs Forest Locality identifies the suitability of land immediately adjoining local centres for increased residential densities.

Consideration has also been given to the matters arising from formal pre-DA discussions (PLM2023/0050) with Northern Beaches Council and its Design and Sustainability Advisory Panel (DSAP) with the final design representing a considered response to the issues raised. In addition to the design changes recommended by Council and DSAP, this submission is accompanied by legal advice, prepared by Mills Oakley, which responds to the issue in relation to potential isolation of 9, 9A and 9B Gladys Avenue as a consequence of the proposed development. The advice concludes that the proposal does not result in the isolation of these adjoining properties.

The building façades have been articulated and modulated in both the horizontal and vertical planes to emphasise the buildings low horizontal massing and to enable the development to respond to the topographical characteristics of the site. This submission demonstrates that the proposal will not give rise to inappropriate or jarring streetscape, residential amenity, or broader environmental consequences.

The variation to the nil side boundary setback control has been acknowledged and appropriately justified given that the site is not part of the Frenchs Forest Road High Street (as identified in the Frenchs Forest Place Strategy) and is not part of the B4 Mixed use zone. It is separate from the identified retail commercial core further west and therefore nil side boundary setbacks are in appropriate for the proposed development.

We note that Planning Circular PS 23-003 relates to infill affordable housing pursuant to the Housing SEPP with this document containing the following commentary:

*In some cases, the uplift afforded under the Housing SEPP may compromise the ability for a development to achieve strict compliance with local controls contained within a Local Environmental Plan (LEP) or Development Control Plan (DCP). Flexibility should be applied in these instances in order to balance local outcomes with the delivery of more affordable housing.*

*In light of the Government's commitments under the Accord, consent authorities are reminded to consider the delivery of market housing and affordable housing when considering the social impacts and the public interest of a development, as required under section 4.15 of the Environmental Planning and Assessment Act 1979 (the Act).*

*While in many cases the provisions in another EPI will continue to apply when assessing in-fill affordable housing development, development outcomes should be balanced against the Government's policy intent to realise more affordable housing in accordance with the Accord.*

*For example, when considering solar access controls contained within the applicable Local Environmental Plan (LEP), the objective of preserving solar access should be considered whilst facilitating the delivery of affordable housing, which is an objective under clause 15A of the Housing SEPP.*

*Levers such as clause 4.6 Exceptions to development standards of the Standard Instrument Local Environmental Plan 2006 (Standards Instruments LEP) allow the flexible application of development standards.*

Whilst the proposal requires the consent authority to give favourable consideration to a variation to the building height development standard, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the topography of the land which makes strict compliance with the building height standard difficult to achieve whilst facilitating the delivery of affordable housing in accordance with the objectives at clause 15A of the Housing SEPP.

The building height variation will facilitate the orderly and economic use and development of land and a contextually appropriate increase in residential density on a site identified for increased residential densities and upon which the affordable housing incentive provisions contained within the Housing SEPP apply. The accompanying clause 4.6 variation request is well-founded.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the Act. It is considered that the application, the subject of this document succeeds on merit and is worthy of the granting of development consent.

A handwritten signature in black ink, appearing to read 'Greg Boston', with a stylized flourish at the end.

**Greg Boston**  
B Urb & Reg Plan (UNE) MPIA  
**Director**

## **ANNEXURE 1**

Legal advice – Site isolation

**Separately circulated**

## **ANNEXURE 2**

Clause 4.6 variation request - Height of buildings

**Separately circulated**



## **ANNEXURE 3**

### Schedule of Amendments

# Proposed DA Project Details



NAME OF APPLICANT: HONG HUANG,  
BMPH GROUP PTY LTD

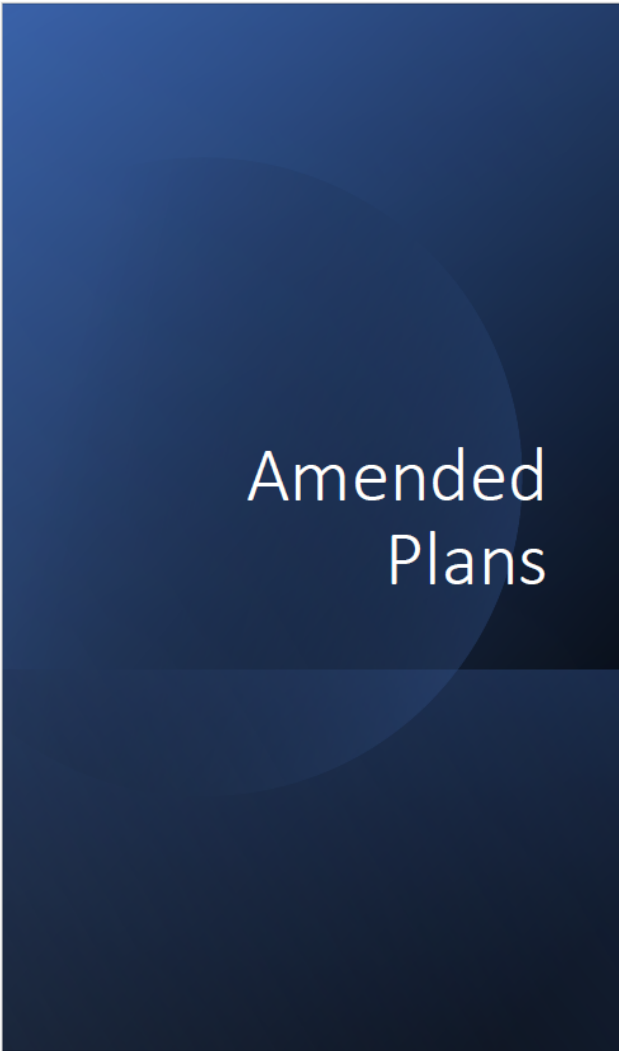


OWNER: YOUNG ASSETS HOLDING PTY LTD



PROPOSAL: PROPOSED DEMOLITION OF THE  
EXISTING SITE STRUCTURES AND THE  
CONSTRUCTION OF THREE RESIDENTIAL FLAT  
BUILDINGS.

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## Amended Plans

The proposed development incorporates an reduced building footprint and massing distribution for the site which utilises the south-eastern corner of the property. These plans provide compliant DCP and ADG setbacks, compliant deep soil landscaping and a combination of ground level and roof top communal open space.

Relevant data is as follows:

- **Total Number of Apartments:** The proposed total of 124 apartments reduced from 127 apartments
- **Gross Floor Area (GFA):** The proposed GFA also remains unchanged.
- **Lower Ground Apartments:** These have been removed from the design.
- **Lower Ground Parking:** These have been removed and basement levels reconfigured.
- **Setbacks:** The setbacks have been increased to 9 meters from the boundary on levels 4 through 6.
- **Internal Separation:** The internal separation between buildings has been increased to 18 meters on levels 4 through 6.
- **Number of apartments per floor:** The proposed number of apartments has been reduced from 10 to 9 per floor.

The proposal will require the removal of a number of trees located in the south-eastern corner of the property however the site layout efficiencies and enhanced design amenity achieved through the removal of the trees is compelling within a precinct only recently upzoned for medium density housing and in which the DCP anticipates a relatively hard street wall.

## Summary of design changes – Street View



Increased front setback – additional 3m to upper levels  
Increased building separation to 12m to lower levels and 18m to upper levels



## Aerial View

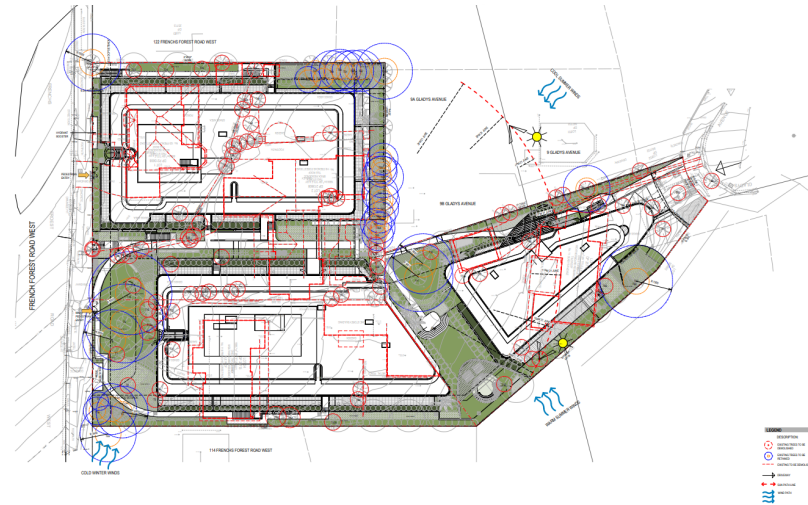


Increased building separation to 12m to lower levels and 18m to upper levels

Increased side boundary separation to 12m to lower levels and 18m to upper levels

Provision of Rooftop Communal Open Space

# Site Analysis



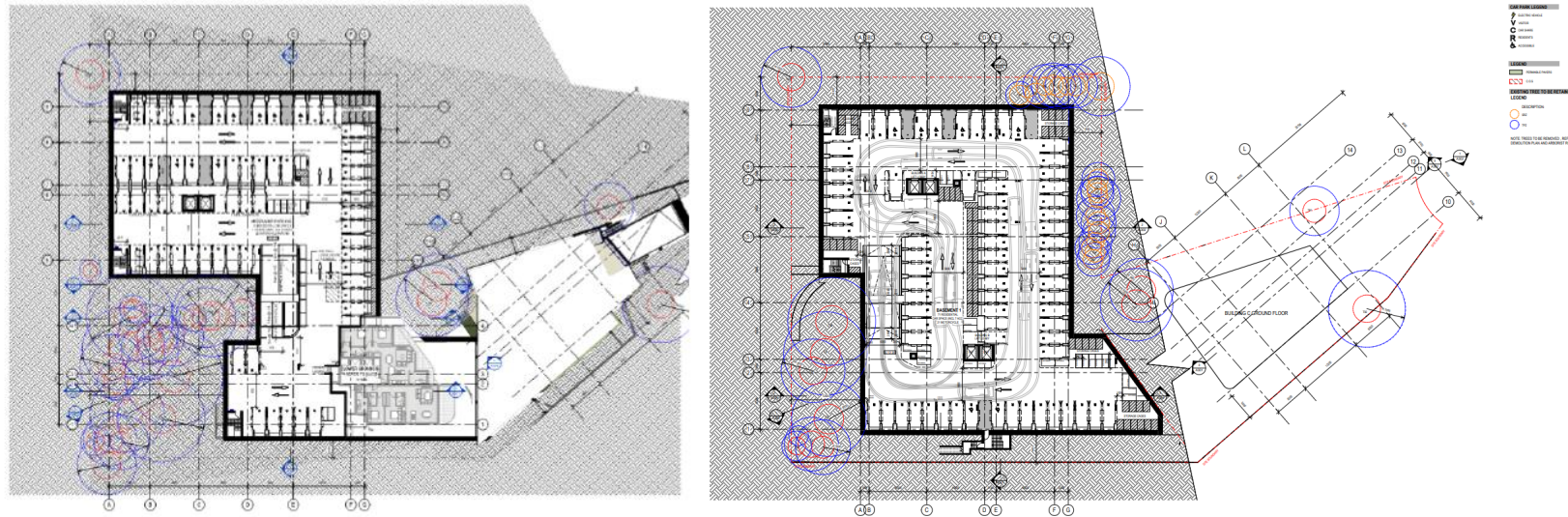
Reduced building footprint to increase deep soil and communal open space;  
Provision of larger communal open space areas;  
Building B moved closer to Frenchs Forest Road West



[illegible]

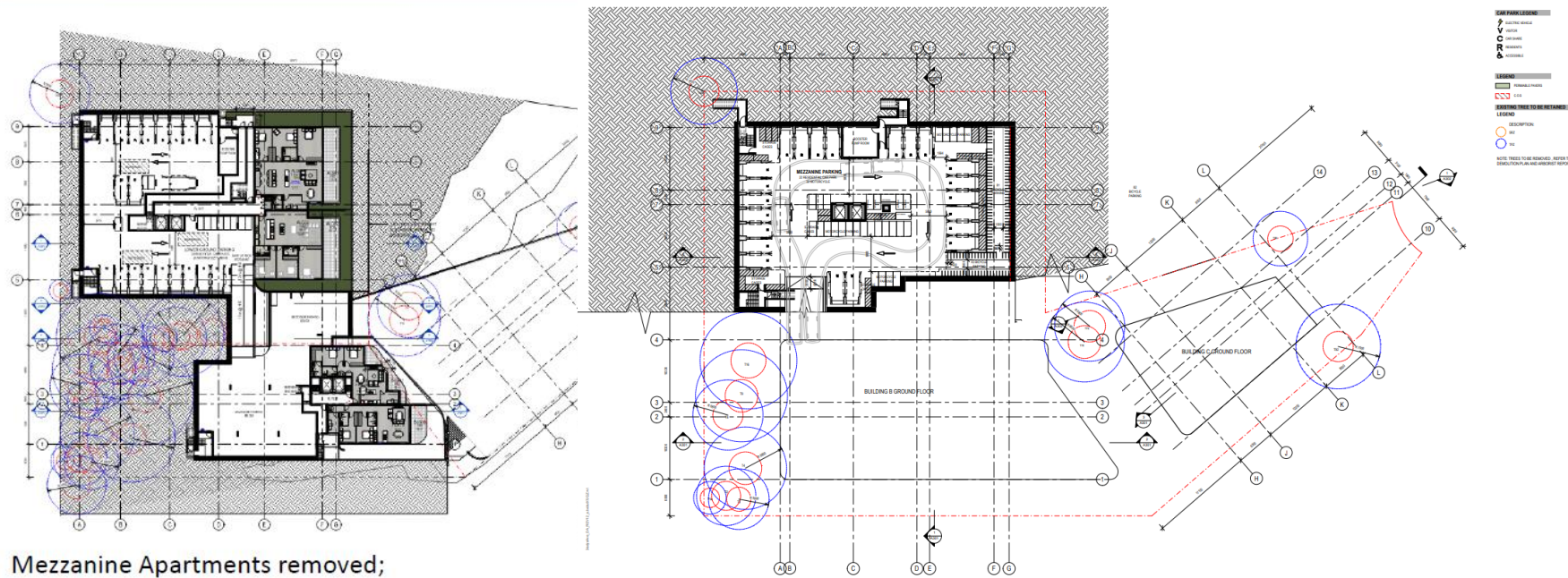


# Basement 1



Basement setback increased from 3m to 5m to boundaries

# Mezzanine



Mezzanine Apartments removed;  
Basement setback increased from 3m to 5m to boundaries

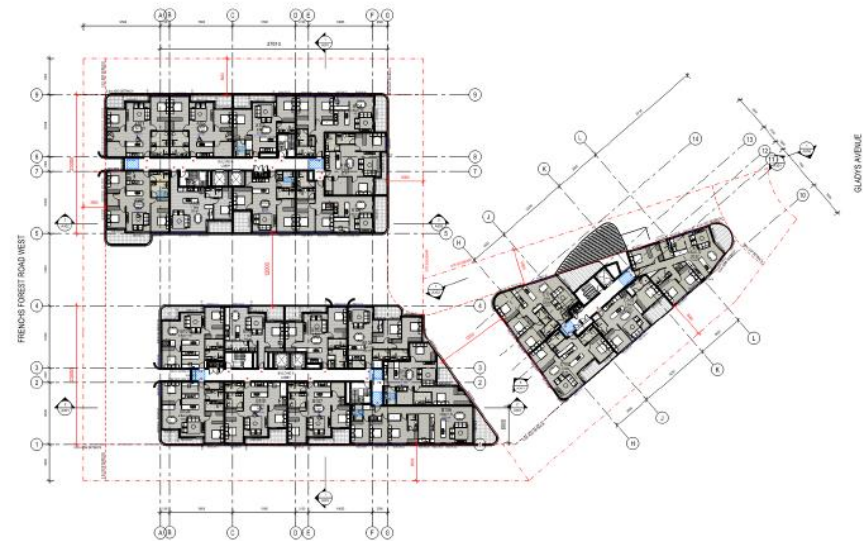
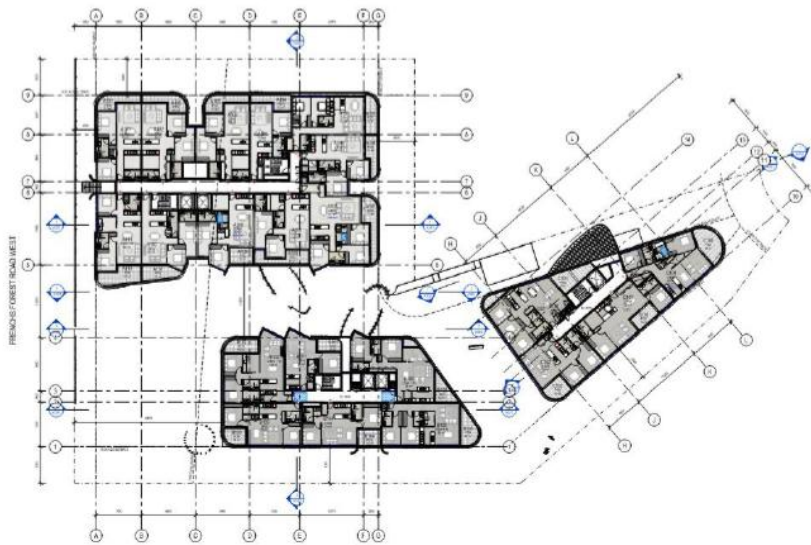
# Ground Level



Reduced building footprint;  
Increased COS;  
Increased separation between buildings to 12m



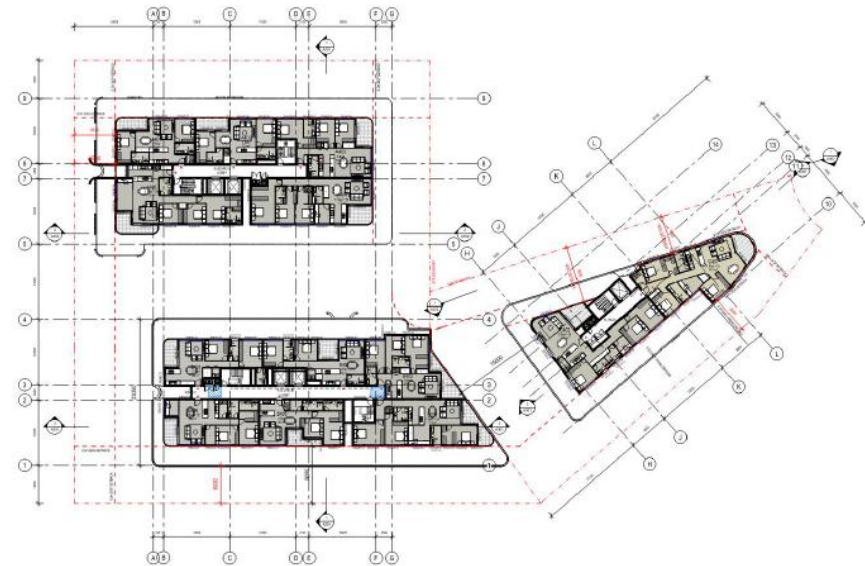
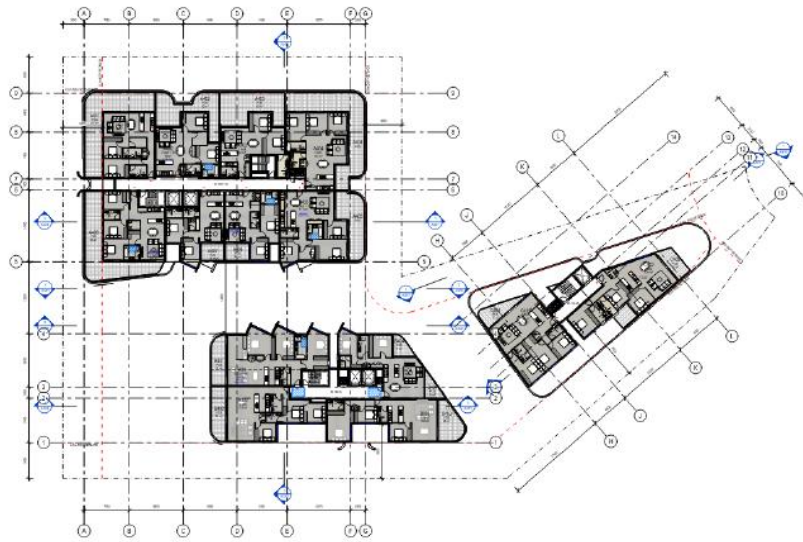
## Level 1-3



Increased separation between buildings to 12m;

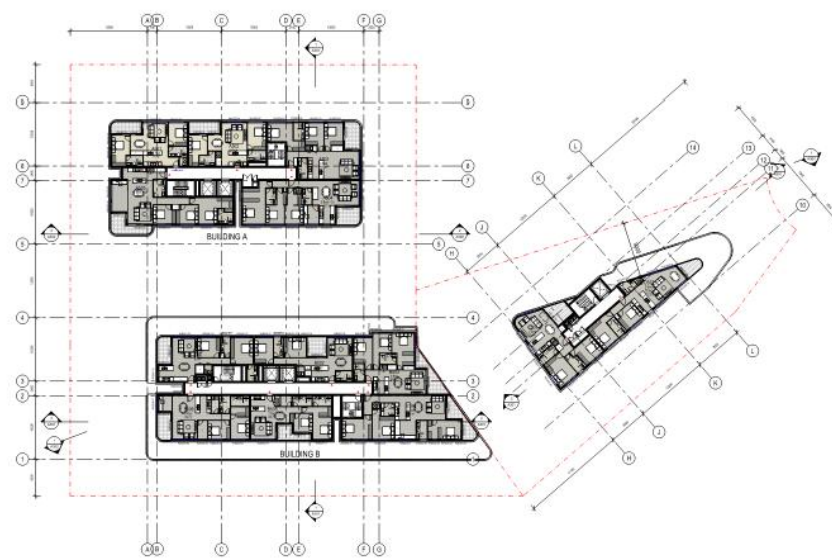
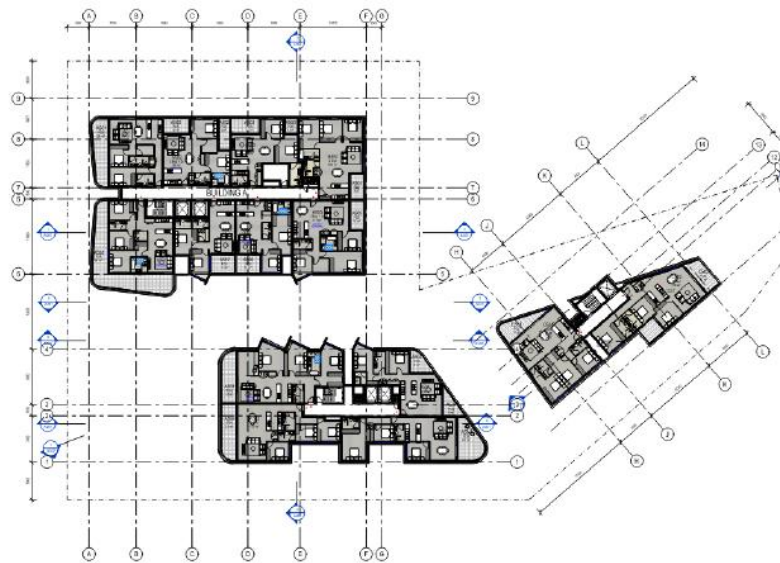
Reduced number of apartments per floor from 10 to 9 apartments for building A and B and 4 apartments for building C;

## Level 4



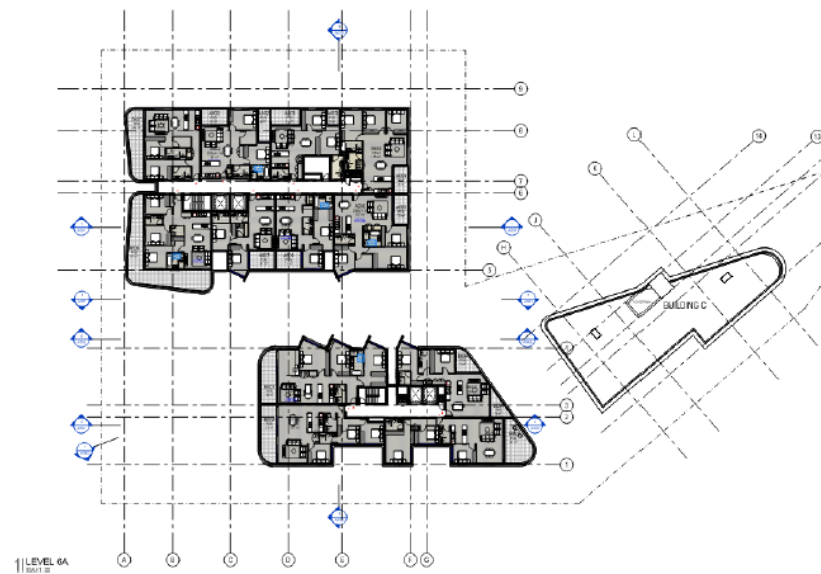
Increased separation between buildings to 18m;  
Building separation of 15m between building B and C (high windows)

## Level 5

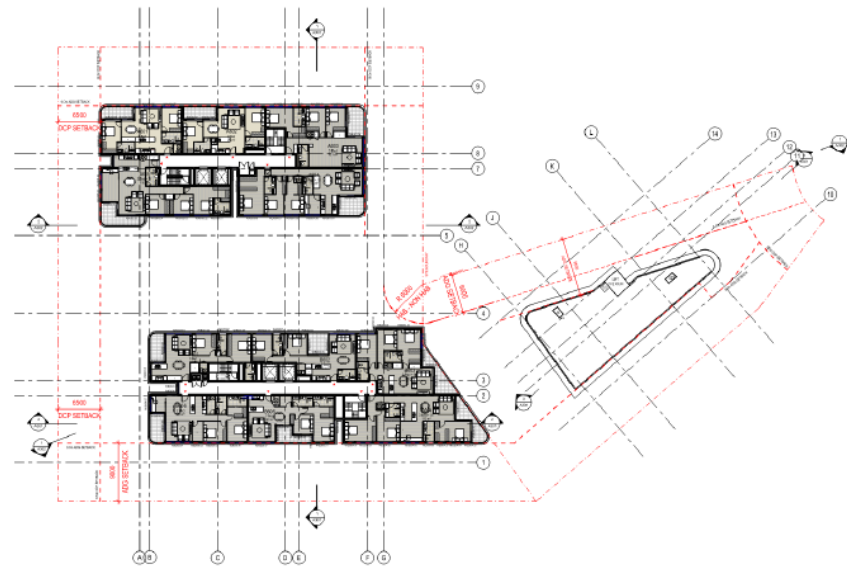


Increased separation between buildings to 18m;  
Building separation of 15m between building B and C (high windows)

# Level 6

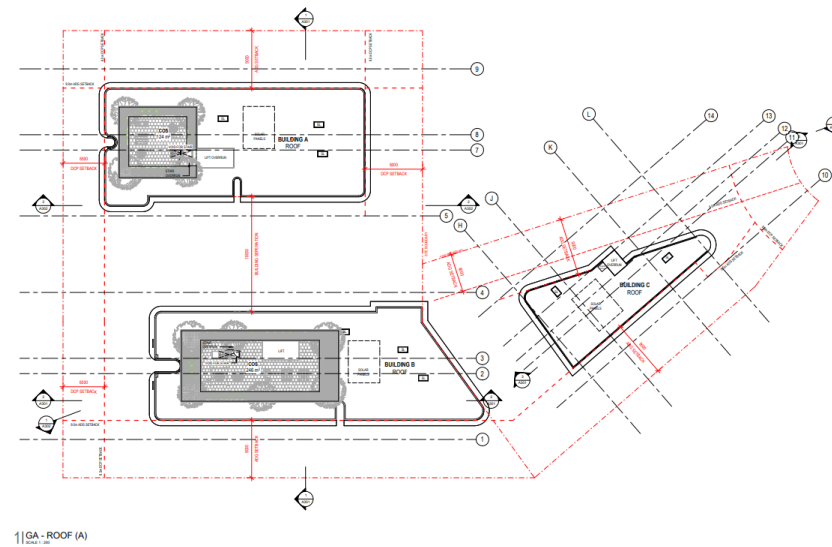
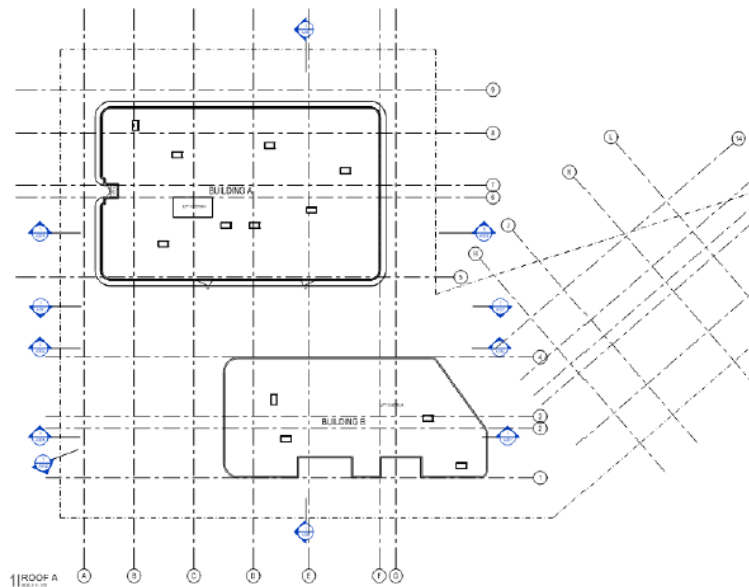


Increased separation between buildings to 18m;





# Roof



Communal Open Space provided to roof top level of buildings A and B;  
Solar panels provided to roof level of all buildings;

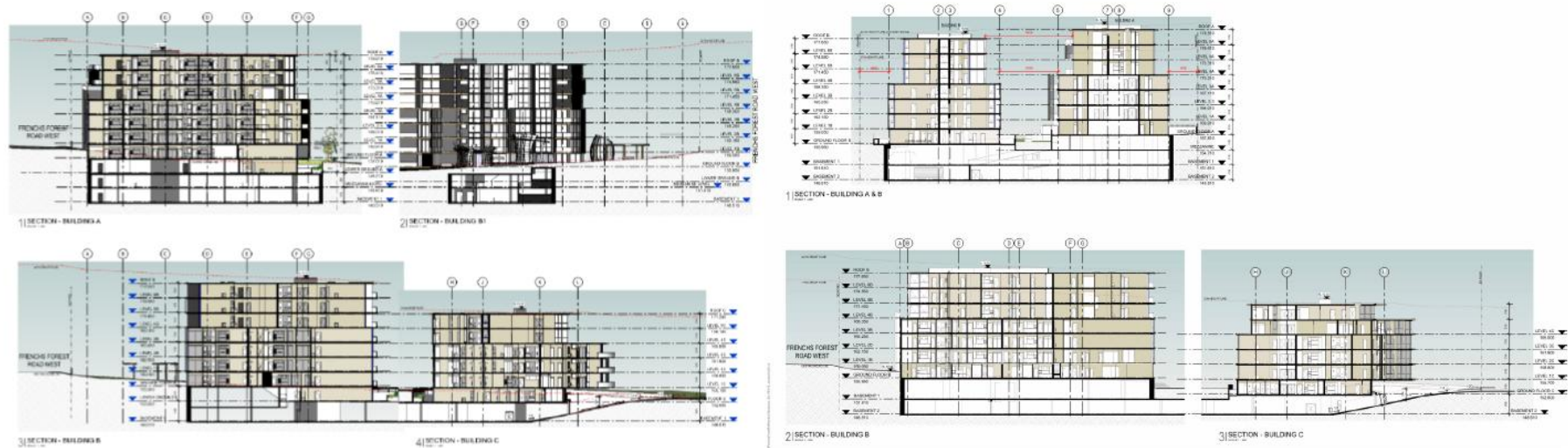


# Elevations



Reduced building footprint and increased building separation

# Sections



All building separation compliant with ADG building separation guidelines;