Item	LPP05	- REPORTS -	2/03/22



NORTH SYDNEY COUNCIL REPORTS

NSLPP MEETING HELD ON 02/03/2022 SECTION 4.55 APPLICATION REPORT

Attachments:

1. Site Plan 2. Architectural Plans

ADDRESS/WARD: 182 Kurraba Road, Kurraba Point

APPLICATION No: DA 333/19/4

PROPOSAL: Modifications to a Consent for Alterations and Additions to

Convert a Duplex into a Residential Flat Building with Strata

Subdivision.

PLANS REF:

Plan No.	Rev No.	Description	Prepared by	Dated
DA_100_00	06	Proposed lower ground floor plan (lower)	Daniel Younan & Ass.	24/09/21
DA_100_10	06	Proposed lower ground floor plan (upper)	Daniel Younan & Ass.	24/09/21
DA_100_20	06	Proposed ground floor plan	Daniel Younan & Ass.	24/09/21
DA_100_30	06	Proposed level 1 floor plan	Daniel Younan & Ass.	24/09/21
DA_100_40	06	Proposed level 2 floor plan	Daniel Younan & Ass.	24/09/21
DA_100_50	06	Proposed roof plan	Daniel Younan & Ass.	24/09/21
DA_200_00	06	Proposed south elevation	Daniel Younan & Ass.	24/09/21
DA_200_01	06	Proposed north elevation	Daniel Younan & Ass.	24/09/21
DA_200_02	06	Proposed east elevation	Daniel Younan & Ass.	24/09/21
DA_200_03	06	Proposed west elevation	Daniel Younan & Ass.	24/09/21
DA_300_00	06	Section A-A	Daniel Younan & Ass.	24/09/21
DA_300_01	06	Section B-B	Daniel Younan & Ass.	24/09/21
DA_400_00	05	Finishes & materials	Daniel Younan & Ass.	13/04/21
L-01/2	В	Landscape Plan	Ray Fuggle & Associates	31/01/20
L-02/2	В	Landscape Plan	Ray Fuggle & Associates	31/01/20
DA_800_00	04	Draft Strata Sheet 1	Daniel Younan & Ass.	02/02/20
DA_800_01	04	Draft Strata Sheet 2	Daniel Younan & Ass.	02/02/20
DA_800_02	04	Draft Strata Sheet 3	Daniel Younan & Ass.	02/02/20

OWNER: Anton Kurraba Pty Ltd

APPLICANT: David Rahme

AUTHOR: John McFadden

DATE OF REPORT: 17/02/2022

DATE LODGED: 25/10/21

AMENDED: Nil

RECOMMENDATION: Approval

EXECUTIVE SUMMARY

This application under section 4.55 of the *Environmental Planning and Assessment Act 1979* (EPA Act) seeks to further modify Council's consent No. DA 333/19 for alterations and additions to convert a duplex into a residential flat building with strata subdivision and is reported to the North Sydney Local Planning Panel (NSLPP) for determination as the application involves the modification of a condition imposed by the NSLPP.

On 15 April 2020, the NSLPP approved the initial development application subject to a number of conditions. A subsequent application under section 4.55 of the EPA Act was approved by the NSLPP on 2 June 2021. The consent and s.4.55 modification have been activated and construction has commenced on the site.

The current s.4.55 modification seeks a number of internal and external modifications to the approved development including:

- enclosure of a deck on the lower level of the building and conversion into a study;
- an extension on the northern side for a laundry, changes to fenestration on the northern elevation of the building including the modification to Condition C18 of the modified consent relating to privacy measures;
- extension of the roof overhang to Unit 201 on Level 1;
- various internal floor plan changes to the units; and
- a new ladder access and access hatch to the car stacker pit in order to meet Fire and Rescue
 NSW emergency access requirements.

Council's notification of the proposal has attracted five (5) submissions raising particular concerns about privacy, roof overhang, setbacks, site coverage and landscaping. It is noted that traffic issues during construction, loss of street parking and height issues have also been raised, but these matters are related to the approved overall development rather than the current modifications.

The assessment has considered these concerns as well as the performance of the modification application against Council's planning requirements.

Whilst variations to site coverage and setbacks are proposed, the variations are sufficiently minor to be supported in this case. Further, an additional breach of the height limit is proposed for a corner of the roof, however, as the variation is once again relatively minor and with no significant environmental impacts, it is able to be supported in this instance.

Following this assessment, DA 333/19/4 is considered to be reasonable in the circumstances and is recommended for **approval** subject to conditions.

LOCATION MAP

Property/Applicant • Submitters - Properties Notified



DESCRIPTION OF PROPOSAL

The proposal is for modifications to an approved development for alterations and additions to the existing three storey strata building comprising a total of 4 x 3-bedroom units, over part 4/part 5 levels. A car stacker enclosure for 8 cars was approved at the front of the site in the same position as the existing garages. Strata subdivision of the completed building was also approved.

On 15 April 2020, the NSLPP approved the initial development application subject to a number of conditions. A subsequent application under section 4.55 of the EPA Act was approved for various modifications by the NSLPP on 2 June 2021. The consent and s.455 modification have been activated and construction has commenced on the site.

The current proposal involves the following modifications: -

Lower Ground Floor (Lower):-

- Enclose the open deck on the north eastern corner of Unit 01 and convert into a study;
- Internal replanning of the unit involving reducing the length of bedroom 3, enlarging the bathroom, deleting the cellar and creating an extension 1.055m x 3.2m to provide a laundry; and
- New window to northern elevation.

Lower Ground Floor (Upper):-

- Substitute full length, solid balustrade with obscure/frosted glass to 1.6m with a full height solid blade wall 2.2m long with the remainder of the balcony a solid balustrade with opaque glass screen to 1.6m in height;
- Enlarge ensuite bathroom and window W06 to bedroom 1; and
- Replan/alter internal walls to relocate storeroom and bathroom.

Ground Floor:-

- Substitute full length, solid balustrade with obscure/frosted glass to 1.6m with a full height solid blade wall 2.2m long with the remainder of the balcony a solid balustrade with opaque glass screen to 1.6m in height;
- W16 delete requirement for obscure/frosted glazing to 1.5m for the full height windows/doors;
- Three (3) additional privacy louvres to W18; and
- Provide new ladder access and access hatch to the car stacker pit.

First Floor:-

 Substitute full length, solid balustrade with obscure/frosted glass to 1.6m with a full height solid blade wall 2.2m long with the remainder of the balcony a solid balustrade with opaque glass screen to 1.6m in height;

- W26 delete requirement for obscure/frosted glazing to 1.5m for the full height windows/doors;
- Provide access hatch to the car stacker pit; and
- Provide hydrant boosters/plant in front setback.

Second Floor:-

- Substitute full length, solid balustrade with obscure/frosted glass to 1.6m with a full height solid blade wall 2.2m long with the remainder of the balcony a solid balustrade with opaque glass screen to 1.6m in height;
- Extend pebble roof deck on eastern edge of building by 1.6m to provide increase weather protection for balcony below.

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning R4 High Density Residential
- Item of Heritage No
- In Vicinity of Item of Heritage Yes
- Conservation Area No
- FSBL No
- S7.11 Contributions Plan
- Environmental Planning and Assessment Act 1979
- SREP (Sydney Harbour Catchment) 2005
- SEPP 55 Remediation of Land & Draft SEPP
- SEPP (Building Sustainability Index: BASIX) 2004
- Draft SEPP Environment 2017
- Local Development

POLICY CONTROLS

DCP 2013

DESCRIPTION OF LOCALITY

The site is located on the eastern side of Kurraba Road south of the junction with Shellcove Road. The site is an irregular shaped lot with a combined frontage of 10.795m to Kurraba Road. The northern boundary has a combined length of 46.070m and the southern boundary has a length of 41.7m and the rear eastern boundary has a length of 16.365m. The land has an area of

623.9m².

The land slopes steeply down from the front to rear with a fall of approximately 9m over the length of the site. The surrounding development consists of mostly multi-storey residential flat buildings and two and three storey dwelling houses of various styles and sizes.

To the north of the site at 178 Kurraba Road (street front) is a three storey, red brick residential flat building with a pitched tile roof, comprising 12 units. Also, on the northern side of the site on the opposite side of the driveway and right of way is 176 Kurraba Road, a two-storey rendered and painted dwelling house with a steeply pitched, slat clad roof. The house is listed as a heritage item (10668) of local significance.

To the south of the site at 184a Kurraba Road is a three storey flat building with a pair of double garages at the front with access off the right of way adjoining the southern boundary of the site. The ROW is also shared by a dwelling house to the south east at 184 Kurraba Road. Opposite the site is a multi-storey residential flat building at 143 Kurraba Road.

CHECKING OF PLANS

This application has been checked to ensure that the changes being sought are the only changes included in the submitted plans.

RELEVANT HISTORY

Previous Applications

Date	Action	
15 April 2020	NSLPP approved Development Application 333/19 for substantial	
	alterations and additions to residential flat building to create a part 5	
	storey building containing 4 x 3 bedroom units, 8 car stacker, and	
	associated excavation and landscaping.	
2 June 2021	NSLPP approved a s.4.55 application to modify Consent No 333/19	
	with regard to internal changes including increase in building height	
	by 350mm; change to privacy screens, increased sub floor storage.	
12 October 2021	A s.4.55 application was rejected for minor internal and external	
	adjustments and corrections.	

Current Application

Date	A ction		
25/10/2021	S.4.55 application was lodged for modification of the consent to		
	enable minor alterations to the approved development.		

INTERNAL REFERRALS

Building

The proposed works the subject of this application have not been assessed in accordance with compliance with the National Construction Code of Australia. This would need to be undertaken prior to the issue of an amended Construction Certificate. Should significant changes be required to achieve compliance with NCC standards, a section 4.55 application would be necessary.

HEALTH/ENVIRONMENT

N/A

HERITAGE

Current s.4.55 not referred to Heritage Officer as it is largely consistent in scale and form to what has been previously approved.

ENGINEERING/TRAFFIC

No changes to engineering conditions required.

ENGINEERING/STORMWATER DRAINAGE

No changes to engineering conditions required.

ENGINEERING/GEOTECHNICAL

No changes to engineering conditions required.

LANDSCAPING

Not referred to Landscape Officer as it is largely consistent in scale and form to what has been previously approved.

EXTERNAL REFERRALS

N/A

SUBMISSIONS

On 12 November 2021, Council notified adjoining properties and the Neutral Precinct of the proposed development seeking comment between 12 – 26 November 2021. Council received five (5) submissions. The matters raised in the submissions are listed below:

The issues raised in the submissions are summarised below and addressed later in this report. The original submissions may be viewed by way of DA tracking on Council's website https://www.northsydney.nsw.gov.au/Building Development/Current_DAs and are available for review by NSLPP members.

Basis of Submissions

- Concern regarding the contents of anonymous letter.
- The developer has requested a no stopping / works area between 141 143 Kurraba Road from Nov 2021 Feb 2023.

- The original DA did not request this otherwise there would have been community opposition to the development. Particularly as Council did not enforce the bussing in of workers to the development at 147 151 Kurraba Road. There is no on-street parking for regular visitors / trades for residents in the area as a result of this and now Council is going to take more off street parking away for an excessive amount of time. Please reconsider.
- New Blade Wall to the Balcony on the northern edges.

It is not entirely clear, however according to the revised plan, the privacy screen does not appear to extend beyond the proposed Blade Wall on the northern edge of each balcony (Lower ground floor, (upper) Ground floor, Level 1, Level 2) and therefore will overlook our verandah and the living area, impacting on our privacy.

• Amendment of Condition C18 - Removal of opaque glazing the W16 & W26.

The image provided in the submission is inaccurate. Windows 16 and 26 will look directly onto three of the windows in our first floor and ground floor bedrooms. This issue was discussed at the special meeting with members of the Council prior to the approval. We are disappointed that the developer is now trying to change the decisions that were considered and discussed at length during the meeting.

Roof Overhang

The developer argues for this change largely on the basis of the aesthetics of the building and claims that "the perception of bulk will remain largely unchanged. If the perception is from a distance that view might be reasonable but not so if you live below the large structure as we will have to.

- (Identical issues to submission above)
- I make this submission response to the above development application, to which a modification has recently been lodged (DA 333/19/4).
- I am concerned about the non-compliant setbacks to my driveway (along the southern boundary of the subject property) shown in the architectural plans.
- The plans show a new 10 metre long wall at zero setback to my property to a height of up to 3.5 metres above the existing ground level of my driveway. They also show a new 3.8 metre long wall at a setback of approximately 0.9 metres to my property to a height of 11.5 metres above the existing ground level of my driveway.
- Apart from the obvious adverse environmental impacts of these significant non-compliances with Council's Development Control Plan there are also safety issues. Adjacent to the new noncompliant walls are access points to a storage area, fire stair and stair to the yard.
- These, together with the proposed bicycle/motorcycle parking, will create pedestrian traffic along
 my driveway. The new non-compliant walls will obscure the vehicular view of pedestrians
 entering the driveway from the access points and the pedestrian view of vehicles travelling along
 the driveway.
- The zero setback wall, in particular, will remove any refuge for pedestrians along the very narrow driveway. These safety issues will be particularly acute when vehicles are reversing along the driveway, as they now must as a consequence of other aspects of the development.
- The former building at 182 Kurraba Road incorporated a vehicular ramp at the bottom of my driveway. This ramp provided a turning area which facilitated forward travel in both directions along the driveway. The removal of this ramp means that vehicles must now reverse along the driveway.
- The combination of reversing vehicles and unsighted pedestrians on a narrow sloping driveway, devoid of adequate refuge, presents an unacceptable safety risk. Further safety issues arise from vehicles exiting the proposed stacker garage at 182 Kurraba Road.
- These vehicles will reverse across my driveway adjacent to the 10 metre long zero setback wall. Both pedestrians travelling up the driveway and drivers reversing across it will be unsighted as a consequence of the new wall.

- I also note that the proposed amendment incorporates a further setback non-compliance, with a laundry to be relocated within 0.6 metres of the boundary with my property. Like the other non-compliances, above, this is neither existing nor close to compliance. This further non-compliance is without merit.
- It has been brought to my attention that the plans exhibited for community consultation incorporate substantial errors. Existing ground lines and NSLEP height limit lines are materially inaccurate. There are also material inaccuracies in the site coverage and landscaped area schedules.
- These inaccuracies must be remedied and accurate plans exhibited to the community for a further period to ensure proper consultation in accordance with Council's obligations. In accordance with my obligations, I advise that I am a presently serving Councillor with North Sydney Council.
- Height of building exceedance
- Setback non-compliance
- Site cover/landscaping

Neutral Precinct Meeting Tuesday 9 November 2021

DA 333/2019 – 182 Kurraba Road Kurraba Point. Modifications of the consent to enable minor alterations to the approved development. Submissions by 26 November. Noted – no affected resident attended the meeting.

CONSIDERATION

Council is required to assess the s.4.55 application under the EPA Act having regard to the following matters:

Section 4.55 (2)

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
- (c) it has notified the application in accordance with—
 - (i) the regulations, if the regulations so require, or
 - (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
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be

Comments are provided on the above matters in section 4.55 (2) as follows:

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all),'

This modified proposal includes relatively minor internal and external modifications to the development which will have minor effects on the building façade, envelope and site coverage however the development is substantially the same development approved via DA333/19.

The siting of the building and setbacks, site coverage and landscaping will generally maintain compliance with the planning controls of the DCP, with the exception of a minor increase in site coverage, a small side setback encroachment and minor reduction in landscaping although in the latter case, the overall level of landscaping would still be compliant.

The height and scale and appearance of the building in the streetscape of this part of Kurraba Road and from adjoining and adjacent proprieties will be relatively unchanged, however, the extension of the level 2 rear pebble deck will project slightly further out of the rear of the building, otherwise, the proposal is considered to be "substantially the same".

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent,'

The proposal did not require any referral to another public authority.

(c) Whether the application has been notified and, if so, were there any submissions. The application was notified to adjoining properties and the Precinct under section 3.6 of the North Sydney Community Engagement Protocol inviting comment on the proposal. Council received five (5) submissions that are discussed later in this report.

Pursuant to section 4.55 (3) in the EPA Act, Council must also consider the matters that need to be addressed under section 4.15 (Evaluation) and the reasons for the original approval.

MATTERS FOR CONSIDERATION UNDER SECTION 4.15 (Evaluation)

SREP (Sydney Harbour Catchment) 2005

Having regard to the SREP (Sydney Harbour Catchment) 2005 and the Sydney Harbour Foreshores and Waterways Area DCP 2005, the proposed development is not considered to be detrimental to the Harbour and will not unduly impose upon the character of the foreshore given the site's location. As such, the development is acceptable having regard to the provisions contained within SREP 2005 and the Sydney Harbour Foreshores and Waterways DCP 2005.

SEPP 55 - Remediation of Land & Draft SEPP

The provisions of SEPP 55 require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has only previously been used for residential purposes and as such is unlikely to contain any contamination; therefore, the requirements of SEPP 55 and the Draft SEPP have been satisfactorily addressed.

SEPP (Vegetation in Non-Rural Areas) 2017

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) works together with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

The proposal meets the objectives of the SEPP because there would be no clearance of native vegetation or any material impacts on bushland (if any) in the vicinity of the subject site.

Draft Environment SEPP 2017

This draft SEPP proposes to integrate the provisions of seven (7) SEPPs/SREPs including SREP (Sydney Harbour Catchment) 2005. The majority of the current provisions of SREP (Sydney Harbour Catchment) 2005 would be transferred to the draft SEPP with necessary updates and some amendments.

The proposal would not offend the relevant provisions of the draft SEPP due to the nature of the proposed development as the development is not highly visible from the harbour and will have negligible impacts on the scenic quality and the ecology of Sydney Harbour and its foreshores.

North Sydney Local Environmental Plan 2013 (NSLEP 2013)

The modification application will be consistent with the objectives of the R4 High Density Residential Zone and the objectives of the height of buildings standard of the LEP. Clause 4.3 - Height of buildings.

The modified proposal involves a minor projection of the pebble deck roof over the rear balcony of Unit 201, on Level 1, this projection will encroach slightly into the 12m height plane on the northern side of the development. The approved design already involves a breach of the 12m height of buildings standard on part of the north east corner of the roof. The modified proposal involves a minor increase in that breach caused by the roof projection.

The additional breach can be seen in Figure 1 below and its only purpose is the provide better weather protection for the unit below. The top of the roof or deck is non trafficable.

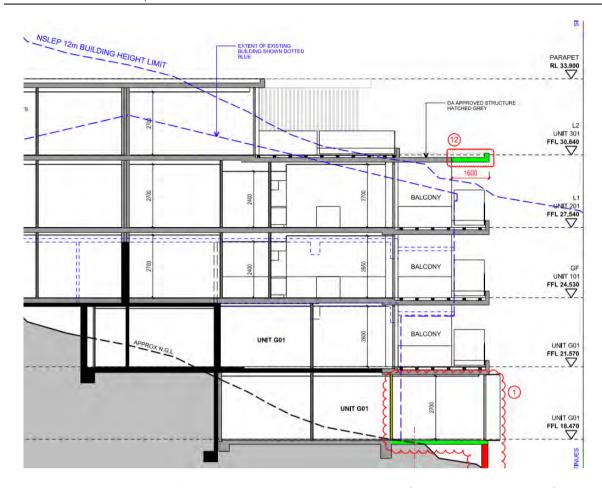


Figure 1 – Excerpt of Section A- A drawing No DA_300_00 (Daniel Younan & Assoc)

As no significant impacts will occur as a result of the roof projection, the minor variation would not be inconsistent with the objectives of the standard in terms of compatibility with the local area character, not significantly affecting bulk and scale, and improving amenity for the residents.

As a clause 4.6 submission was accepted for the existing height breach in this area of the building, in previous applications, it was not considered necessary to revisit the issue. Furthermore, it is noted that s.4.55 of the EPA Act does not require a written request under clause 4.6 of the LEP to be submitted for any modification application.

North Sydney Development Control Plan 2013 (NSDCP 2013)

The modified proposal involves only minor changes to the overall design, setbacks and provision of landscaping and will therefore be consistent with the relevant objectives and planning controls of the DCP.

The following provisions of the DCP are relevant for the purposes of assessing the suitability of the proposed amendments to the approved building any potential adverse impacts on neighbouring properties:

Section 1.3.6 - Views

Objectives

- O1 To protect and enhance opportunities for vistas and views from streets and other public places.
- O2 To protect and enhance existing views and vistas from streets and other public spaces.
- O3 To provide additional views and vistas from streets and other public spaces where opportunities arise.
- O4 To encourage view sharing as a means of ensuring equitable access to views from dwellings, whilst recognising development may take place in accordance with the other provisions of this DCP and the LEP.

The minor projection further into the height plane of the approved development will not involve any significant impact on any views or vistas to or from neighbouring dwellings compared with the views maintained across the side of the building and over the roof of the approved development.

A view analysis was submitted with the proposal and appears to support this position.

Section 1.3.7 Solar access

Objectives

O1 To ensure that all dwellings have reasonable access to sunlight and daylight.

Provisions

- P1 Developments should be designed and sited such that solar access at the winter solstice (21st June) provides a minimum of 3 hours between the hours of 9.00am and 3.00pm to:
 - (a) any solar panels;
 - (b) the windows of main internal living areas;
 - (c) principal private open space areas; and
 - (d) any communal open space areas. located on the subject property and any adjoining residential properties.

Note: Main internal living areas excludes bedrooms, studies, laundries, storage areas. P2 Despite P1 above, living rooms and private open spaces for at least 70% of solar access between the hours of 9.00am and 3.00pm at the winter solstice (21st June).

The increase in the projection of the roof above the level 1 rear deck will not involve any significant change to the solar access achieved to the proposed units and solar access will also be maintained to the adjoining property to the south compared with the approved development. Mid-winter shadow diagrams are provided in the plans attached to this report and indicate minimal increase in shadowing in comparison with the existing approved building.

Section 1.3.8 Acoustic privacy

Objective

O1 To ensure all residents are provided with a reasonable level of acoustic privacy.

The modified proposal will not affect acoustic privacy between the units.

Section 1.3.10 Visual privacy

Objectives

O1 To ensure that existing and future residents are provided with a reasonable level of visual privacy.

The proposal does involve changes to the windows, privacy screens and louvres on the north side of the building. Some of the changes are acceptable such as the installation of blade walls to the north east corners of the rear decks. However, the request to delete the requirement for obscure glazing to windows W16 and W26 is not considered in the interests of privacy to adjoining neighbours and as such, this request is not supported.

Section 1.4.5 Siting

No changes to the siting of the building.

Section 1.4.6 Setbacks

Objectives

- O1 To reinforce the characteristic pattern of setbacks and building orientation within the street.
- O2 To control the bulk and scale of buildings.
- O3 To provide separation between buildings.
- O4 To preserve the amenity of existing dwellings and provide amenity to new dwellings in terms of shadowing, privacy, views, ventilation and solar access.

A minor encroachment of the laundry on the lowest level, Lower Ground Floor (Lower) is proposed to the 1.5m side setback requirement of the DCP. This encroachment is of the order of 850mm, for a length of only 3.2m and is almost 50% in excavation. It is not considered this variation will create any adverse impacts and so it is not objected to.

Section 1.4.7 Form, massing & scale

Objectives

O1 To ensure the size of new buildings are consistent with surrounding, characteristic buildings and they are not significantly larger than characteristic buildings.

The height, form and scale of the building and the appearance of the building will not be significantly different compared with the development already approved.

Section 1.4.9 - Dwelling entry

The approved building entry is maintained at the front with identifiable direct entry from the street.

Section 1.4.14 - Front Fences

No changes are proposed to the approved front fencing.

Section 1.5.5 Site Coverage

Objectives

- O1 To ensure that development is balanced and in keeping with the optimum capacity of the site with no over development.
- O2 To ensure that development promotes the existing or desired future character of the neighbourhood.
- *O3* To control site density.
- O4 To limit the building footprint so as to ensure adequate provision is made for landscaped area and private open space.

A maximum of 45% site cover for a residential flat building in the R4 High Density Residential Zone is recommended. The extension of the laundry at the lower ground floor (lower) will add 3.84m² of site cover to the existing 285m², resulting in 46% site cover. It is not considered the 1% variation will compromise the objectives of the control or materially impact further on the amenity of neighbours.

Section 1.5.6 Landscape Area

Objectives

- O1 The specific objectives of the landscaped area controls are to:
 - (a) promote the character of the neighbourhood;
 - (b) provide useable private open space for the enjoyment of residents;
 - (c) provide a landscaped buffer between adjoining properties;
 - (d) maximise retention and absorption of surface drainage water on site;
 - (e) minimise obstruction to the underground flow of water;
 - (f) promote substantial landscaping, including trees which will grow to a minimum height of 15m;
 - (g) control site density;
 - (h) minimise site disturbance;
 - (i) contributes to streetscape and amenity; and
 - (j) allows light to penetrate between buildings

A minimum landscaped area of 40% of the site area is required and a maximum unbuilt upon area comprising driveways, paved areas and paved areas above basements of 15% of the site area is required for residential flat buildings in the R4 High Density Residential Zone. The proposed laundry extension will reduce the landscaped area by 3.84m² resulting in a compliant 41% of the site area still being included as landscaped area.

Section 10 - Car parking and Transport

There will be no change to the provision of car parking and access to the car stackers.

Matters prescribed by the Regulations.

There are no matters prescribed by the Regulations that are applicable to the subject application to modify the development consent.

The likely impacts of the proposed development on both the natural and built environment, and the social and economic impacts in the locality.

There will be no adverse impacts on the natural and built environment arising from the changes proposed and as outlined. The modification application will not involve any potential adverse social or economic impacts in the locality.

Suitability of the site for the development

The site has a long history of residential use. The modification of the development as proposed will not alter the suitability of the site in this high-density residential zone for its intended use as a residential flat building.

The public interest

The public interest is considered in terms of compliance and consistency with the relevant planning controls applicable to the proposed development. The use of the land for residential purposes is consistent with the objectives for this high-density residential zone and the desired future character objectives for this part of North Sydney.

The modification of the development will maintain consistency with the objectives of the zone, the objectives of the height of buildings standard, as well as the relevant objectives and controls of the DCP and despite some minor variations in relation to setbacks and site coverage, the proposal would not be contrary to the public interest.

SEPP 65 Design Quality of Residential Apartment Development

The proposal is assessed below against the design quality principles in SEPP65.

Principle 1: Context and neighbourhood character – The proposed design and materials are considered to be acceptable. The design is contemporary, however, is considered suitable in its context. The proposal is to retain the existing three storey building on the site and to alter and add to it to create a modern residential flat building.

Principle 2: Built form and scale – The proposed built form and scale is considered to respond to its context. The overall building height is between three and four storeys, responding to the limited width and topography of the site. Its scale is considered to be contextual in its surroundings.

Principle 3: Density – The proposed density is considered appropriate for the site. Each apartment is considered to be provided with an above average level of amenity.

Principle 4: Sustainability – An amended BASIX Certificate has been provided. Compliant levels of solar access and cross ventilation are achieved.

Principle 5 – Landscape – No changes. The proposal is considered acceptable with regards to landscaping.

Principle 6: Amenity – All apartments will be provided with natural cross ventilation and solar access to their primary living areas. The proposed design overall provides an acceptable level of amenity for all apartments.

Principle 7: Safety – The proposal raises no known issues of safety and security.

Principle 8: Housing diversity and social interaction – The development provides for three and four bedroom apartments which is considered acceptable for such a small development.

Principle 9: Aesthetics –The proposed building aesthetics of the modified proposal are similar to the original approved plans.

Apartment Design Guide (ADG)

The proposed development has also been considered against the Apartment Design Guide and is considered to be generally acceptable.

SECTION 7.11 CONTRIBUTIONS PLAN

There are no changes to the density of the development that would warrant additional contributions.

Assessment of the modifications:-

Lower ground floor (lower):-

Enclose the open deck on the north eastern corner of Unit 01 and convert into a study;

Comment: No objection is raised to this as it is within the envelope of the building

 Internal replanning of the unit involving reducing the length of bedroom 3, enlarging the bathroom, deleting the cellar and creating an extension 1.055m x 3.2m to provide a laundry;

Comment: No objection is raised, although an encroachment is proposed into an existing landscaped area. The location of the extension is discreet and will not result in any significant impacts.

New window to northern elevation.

Comment: No objection to the window to the new study room.

Lower ground floor (upper):-

 Substitute full length, solid balustrade with obscure/frosted glass to 1.6m with a full height solid blade wall 2.2m long with the remainder of the balcony a solid balustrade with opaque glass screen to 1.6m in height;

Comment: Supported. This solid wall will result in increased privacy for neighbours, the remaining section of northern balcony will have obscure glazing to 1.6m above a masonry wall.

Enlarge window W06 and ensuite bathroom to bedroom 1;

Comment: No objection raised to this modification to a bathroom window.

Replan/alter internal walls to relocate storeroom and bathroom;

Comment: Internal modifications, no objection.

Ground Floor:-

• Substitute full length, solid balustrade with obscure/frosted glass to 1.6m with a full height solid blade wall 2.2m long with the remainder of the balcony a solid balustrade with opaque glass screen to 1.6m in height;

Comment: Supported. This solid wall will result in increased privacy for neighbours, the remaining section of northern balcony will have obscure glazing to 1.6m above a masonry wall.

 W16 – Delete requirement for obscure/frosted glazing to 1.5m for the full height windows/doors;

Comment: Not supported. This measure was agreed upon for privacy reasons and vegetation cannot be relied upon for permanent screening.

Three (3) additional privacy louvres to W18;

Comment: Supported.

Provide new ladder access and access hatch is proposed to the car stacker pit;

Comment: Supported – safety reasons.

First Floor:-

• Substitute full length, solid balustrade with obscure/frosted glass to 1.6m with a full height solid blade wall 2.2m long with the reminder of the balcony a solid balustrade with opaque glass screen to 1.6m in height;

Comment: Supported. This solid wall will result in increased privacy for neighbours, the remaining section of northern balcony will have obscure glazing to 1.6m above a masonry wall.

 W26 - Delete requirement for obscure/frosted glazing to 1.5m for the full height windows/doors;

Comment: Not supported. This measure was agreed upon for privacy reasons, vegetation cannot be relied upon for permanent screening.

Provide access hatch to the car stacker pit;

Comment: Supported – safety reasons

Second Floor:-

• Substitute full length, windows with obscure/frosted glass on a 1m balustrade with a full height solid blade wall 2.5m long with the reminder of the balcony open;

Comment: Not fully supported, the previous s.455 modification application required privacy screening along the length of this façade. It is recommended to leave condition C18 unchanged in this regard.

• Extend pebble roof deck on eastern edge of building by 1.6m to provide increase weather protection for balcony below.

Comment: No objection to this extension, and minor height variation, as it will increase weather protection or unit 201.

ENVIR	CONSIDERED	
1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	N/a
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant s.4.15/s.4.55 considerations of Environmental Planning and Assessment Act 1979	Yes

SUBMITTERS CONCERNS

The application was notified to adjoining properties and the Neutral Precinct. Council received five (5) submissions where the following matters were raised:-

1) No stopping work area/ lack of on-street parking

Comment: The issue of traffic management was addressed with the original Development Approval, although it is acknowledged that Construction phase will create parking issues.

2) New blade walls to northern elevation do not extend along façade;

Comment: The remainder of the northern elevation on levels lower floor upper, ground level and level 1, will have a masonry wall with 1.6m opaque glass screen above as indicated on the elevation plan DA_200_01. Level 2 will have Condition C18.

3) Removal of opaque glazing on W16 & W26

Comment: The removal of this glazing is not supported and condition C18 will remain in force in this respect.

4) Roof overhang impact

Comment: It is not considered the roof overhang (or extension) will have any significant impact on any neighbours and it is recommended for approval.

5) Neither the developer, nor the Council notified us of the earlier applications

Comment: The notification map and Council's record system indicates that registered owners and occupiers were notified of the previous applications.

6) We suggest that the wall should cover the entire side of all balconies in the development.

Comment: Applications for modifications of consent cannot generally revisit other issues of an approval not related to the modifications proposed.

7) The proposed building has increased in height from below RL33.900

Comment: The current overall building height of RL 33.900 indicated in this application is identical to the height approved by the previous s.4.55 modification approved by the NSLPP on 2 June 2021.

8) In addition, the screens on balconies on the N/E side of building have been reduced from a height of 1.8m (on Approved Plan 9/6/2021) to 1.6m

Comment: There are only northern and eastern elevations in this case due to the orientation of the lot, however it is noted the screens have been reduced from 1.8m to 1.6m. A privacy screen height 1.6m is generally considered an adequate height to provide visual privacy for most situations.

9) Concern to non-compliant setbacks, 'new' 10m wall on the southern boundary, 'new' 3.8m long wall (fire stairs) setback 900mm to southern boundary.

Comment: The 'new' 10m wall on the southern boundary and shorter 3.8m wall to the fire stairs were approved in the original DA 333/19 consent and s.4.55 modification. (See **Fig 2** below).

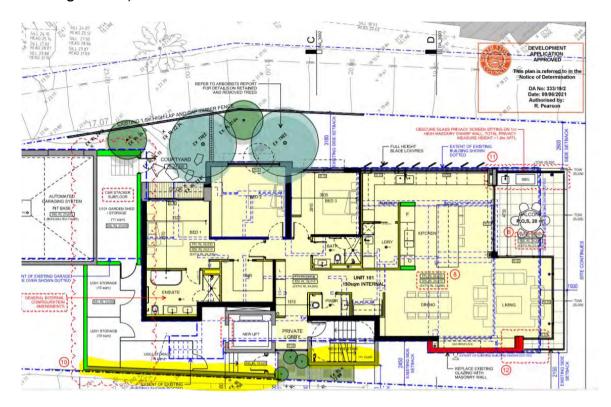


Figure 2 - 10m & 3.8m wall highligted yellow on stamped plans for s.4.55 DA 333/19/2 issued 9.6/2021.

Both of the walls highlighted in **Figure 2** have been previously approved and not the subject of this current s4.55 modification.

10) Turning area, vehicle ramp removed from 'private' driveway. Vehicles from 'stacker garage' will reverse across driveway, visibility pedestrian safety issues.

Comment: The vehicle stacker, manoeuvring of vehicles in the driveway (which is a 'right of carriageway', safety issues were considered by Council's Traffic Engineer in the original assessment of DA 333/19. No objection was raised by that officer at the time and no changes to these parking arrangements are proposed by the current S4.55 application.

11) New encroachment by laundry wall to 0.6m.

Comment: There is a new 3.2m wide encroachment into the 1.5m southern setback requirement by the laundry on the Lower Ground Floor Plan (Lower). This has been mentioned in the report and being substantially in excavation, will have little impact on the adjoining property or driveway.

12) Errors/inaccuracies in plans, existing ground lines, site coverage and landscaping areas inaccurate. Inaccuracies must be remedied and plans readvertised.

Comment: The overall height of the building has already been approved, and no change is proposed by the current application, with the possible exception of a minor roof encroachment to Unit 201's balcony roof. Whilst some modifications to the landscaped area and site coverage are proposed, these have been assessed as having minimal impact and are recommended for approval. It is not considered the proposal requires renotification.

Anonymous Letter

An anonymous letter was circulated to residents near the proposed development and forwarded Council, the letter raised the following issues:-

Height of building exceedance

Comment: This claim is incorrect as the current proposed maximum height of RL 33.900 is identical to the maximum height of RL 33.900 proposed in the previous application to Council and approved by the NSLPP on 2 June 2021.

Setback non-compliance

Comment: This claim is valid as there is one, relatively minor, setback encroachment by the current application, however, this issue has been addressed within this report.

Site cover/landscaping

Comment: There is a minor non- compliance with site coverage. However, the 41% landscaped area still complies with the minimum requirement and the 1% excess in site coverage is not considered to be a fatal flaw to the application.

PUBLIC INTEREST

The proposal is considered to be in the public interest for the reasons stated throughout this report.

CONCLUSION

The proposal has been considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and is found to be generally satisfactory.

This modification application seeks various internal and external changes to the building and requests modifications to Condition A1 of the development consent to include a reference to the amended plans. A change is also sought to Condition C18 to allow the deletion of the requirement for obscure glass for two windows.

Whilst most of the variations are supportable, the modifications to windows W16 and W26 are not supported and screening will also have to be employed on the level 2 northern balcony.

Minor variations to the site coverage, and setbacks are proposed but these are justifiable in this case. Further, the minor roof projection into the maximum building height plane will not create significant environmental impacts and could be supported.

The proposed modifications are considered to be generally consistent with the originally approved development application and s.4.55 of the EPA Act.

Furthermore, the modifications do not result in any material amenity impact to adjoining properties or the surrounding area. The proposed modifications are consistent with the reasons for the granting of development consent to the originally approved development and the modification application is considered to be acceptable.

Having regard to the provisions of section 4.55 & 4.15(1) of the EPA Act, the proposed development (as modified) is substantially the same development as originally consented to. The application is therefore recommended for approval.

RECOMMENDATION

PURSUANT TO SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THAT the North Sydney Planning Panel exercising the functions of Council approve the modification of development consent DA 333/19 dated 24 April 2020 (as amended 2 June 2021) in respect of a proposal for alterations and additions to convert a duplex into a residential flat building with strata subdivision at No. 182 Kurraba Road, Kurraba Point under the provisions of section 4.55 of the *Environmental Planning and Assessment Act 1979* only insofar as it will provide for the following:

To delete Condition A1 and C18 of the consent and insert in lieu thereof the following new conditions, namely:

Development in Accordance with Plans/documentation

A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions and this consent.

Plan No.	Rev No.	Description	Prepared by	Dated
DA_100_00	06	Proposed lower ground floor plan	Daniel Younan & Ass.	24/09/21
		(lower)		
DA_100_10	06	Proposed lower ground floor plan	Daniel Younan & Ass.	24/09/21
		(upper)		
DA_100_20	06	Proposed ground floor plan	Daniel Younan & Ass.	24/09/21
DA_100_30	06	Proposed level 1 floor plan	Daniel Younan & Ass.	24/09/21
DA_100_40	06	Proposed level 2 floor plan	Daniel Younan & Ass.	24/09/21
DA_100_50	06	Proposed roof plan	Daniel Younan & Ass.	24/09/21
DA_200_00	06	Proposed south elevation	Daniel Younan & Ass.	24/09/21
DA_200_01	06	Proposed north elevation	Daniel Younan & Ass.	24/09/21
DA_200_02	06	Proposed east elevation	Daniel Younan & Ass.	24/09/21
DA_200_03	06	Proposed west elevation	Daniel Younan & Ass.	24/09/21
DA_300_00	06	Section A-A	Daniel Younan & Ass.	24/09/21
DA_300_01	06	Section B-B	Daniel Younan & Ass.	24/09/21
DA_400_00	05	Finishes & materials	Daniel Younan & Ass.	13/04/21

Plan No.	Rev No.	Description	Prepared by	Dated
L-01/2	В	Landscape Plan	Ray Fuggle & Associates	31/01/20
L-02/2	В	Landscape Plan	Ray Fuggle & Associates	31/01/20
DA_800_00	04	Draft Strata Sheet 1	Daniel Younan & Ass.	02/02/20
DA_800_01	04	Draft Strata Sheet 2	Daniel Younan & Ass.	02/02/20
DA_800_02	04	Draft Strata Sheet 3	Daniel Younan & Ass.	02/02/20

(Reason:

To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Privacy

C18. The following privacy devices are to be provided:

Privacy Measures	Windows/location details
Ensuite Windows – Obscure or frosted glazing to	W39
whole window.	
Doors/Full Height Windows – Obscure or	W16; W26; W37; W41
frosted glazing to lower part to a minimum height	
of 1500mm above the finished floor level.	
Windows – Bottom half of window to be obscure or	W17; W18; W27; W28; W40
frosted glazing or external fixed louvres directed to	
block overlooking of neighbour's windows	
Privacy Screens – Balconies	Balcony on the northeast corner on: Level 2
Solid balustrades and obscure or frosted glass	
screens to a height of 1.6m above finished floor	
level are to be provided to the northern edges of	
balconies at the nominated locations	

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

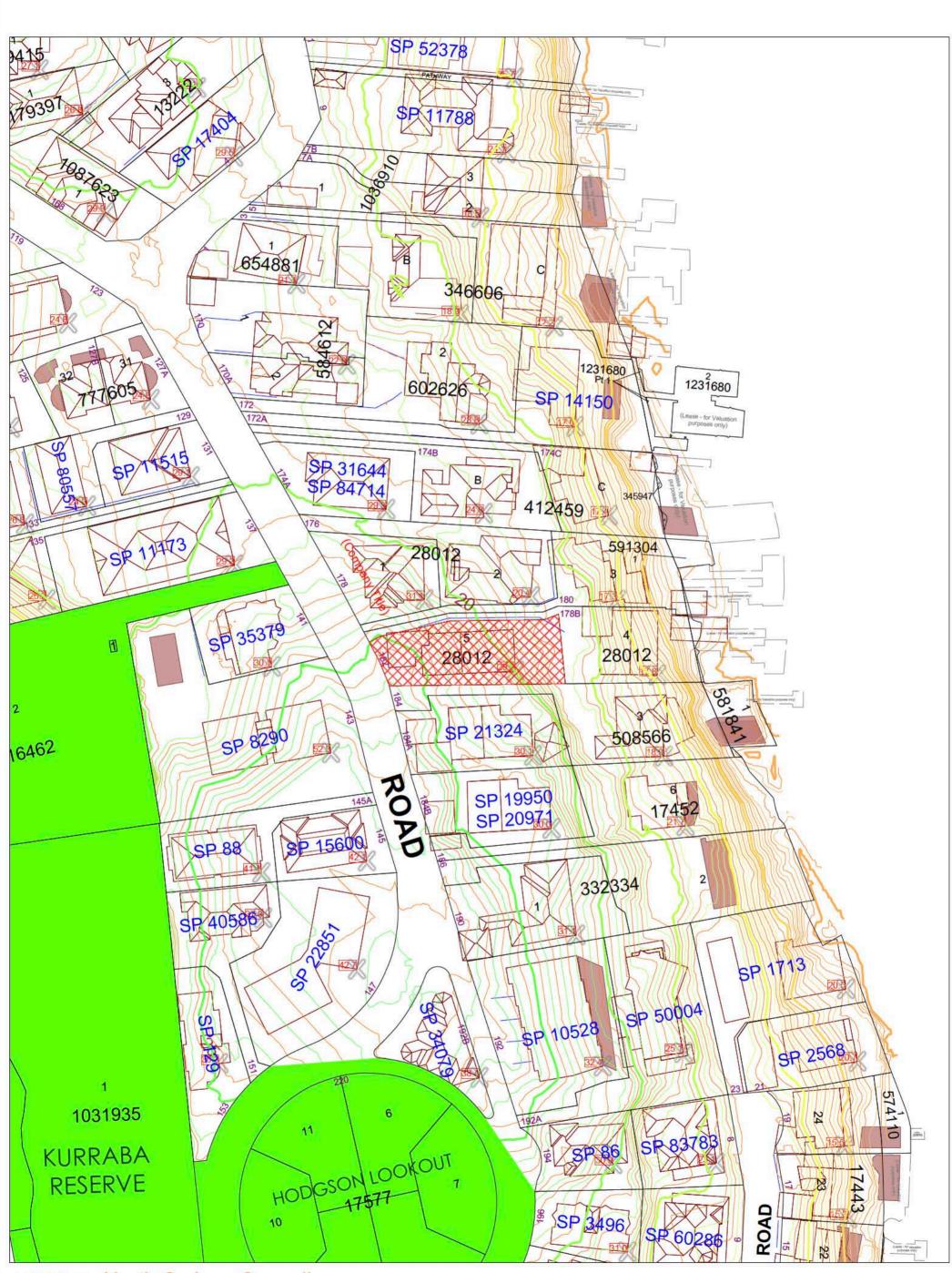
(Reason:

To ensure an adequate level of privacy is provided to adjoining properties located at Nos. 176 and 178 Kurraba Road)

JOHN MCFADDEN CONSULTANT PLANNER

GEORGE YOUHANNA EXECUTIVE ASSESSMENT PLANNER

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES





North Sydney Council
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182 KURRABA ROAD, KURRABA POINT, NSW, 2089

1912

DA_100_00

06

NEW / MODIFIED STRUCTURE

NOT FOR CONSTRUCTION

acn: 168 655 249 abn: 13 935 429 944 nominated architect: daniel younan nsw arb 9215

RESIDENTIAL FLAT BUILDING

182 KURRABA ROAD, KURRABA POINT, NSW, 2089

SP 14129

PROJECT NO.

1912

DRAWING NO.

DA_100_10

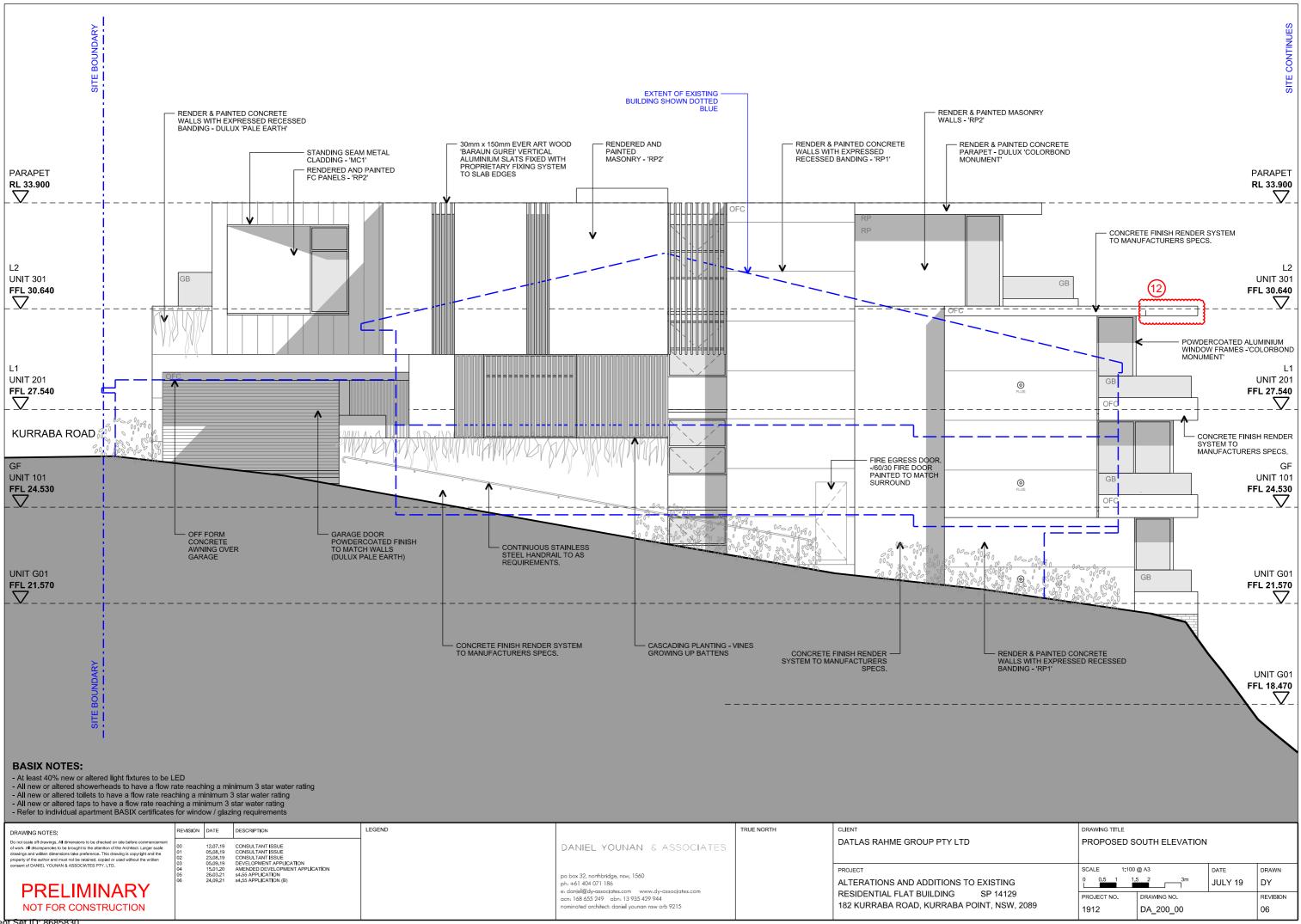
REVISION

06

DA APPROVED STRUCTURE

NEW / MODIFIED STRUCTURE

NOT FOR CONSTRUCTION



PARAPET RL 33.900 RP2 L2 **UNIT 301** FFL 30.640 ∇ W 30 1600 **UNIT 201** FFL 27.540 RENDERED BLADE WALL W 20 RP1 TYPICAL OPAQUE
GLASS PRIVACY
SCREEN TO 1.6m HIGH **UNIT 101** FFL 24.530 W 09 1600 UNIT G01 FFL 21.570 W 02 W 01 UNIT G01 FFL 18.470 LEGEND TRUE NORTH REVISION DATE DESCRIPTION DATLAS RAHME GROUP PTY LTD PROPOSED NORTH ELEVATION CONSULTANT ISSUE
CONSULTANT ISSUE
CONSULTANT ISSUE
DEVELOPMENT APPLICATION
AMENDED DEVELOPMENT APPLICATION
94.55 APPLICATION (B) DANIEL YOUNAN & ASSOCIATES SCALE 1:100 @ A3 DRAWN po box 32, northbridge, nsw, 1560 ph: +61 404 071 186 JULY 19 ALTERATIONS AND ADDITIONS TO EXISTING DY **PRELIMINARY** RESIDENTIAL FLAT BUILDING SP 14129 PROJECT NO. DRAWING NO. REVISION acn: 168 655 249 abn: 13 935 429 944 nominated architect: daniel younan nsw arb 9215 182 KURRABA ROAD, KURRABA POINT, NSW, 2089 NOT FOR CONSTRUCTION 1912 DA_200_01 06 Version: 1, Version Date: 26/10/2021

Document Set ID: 8685830

