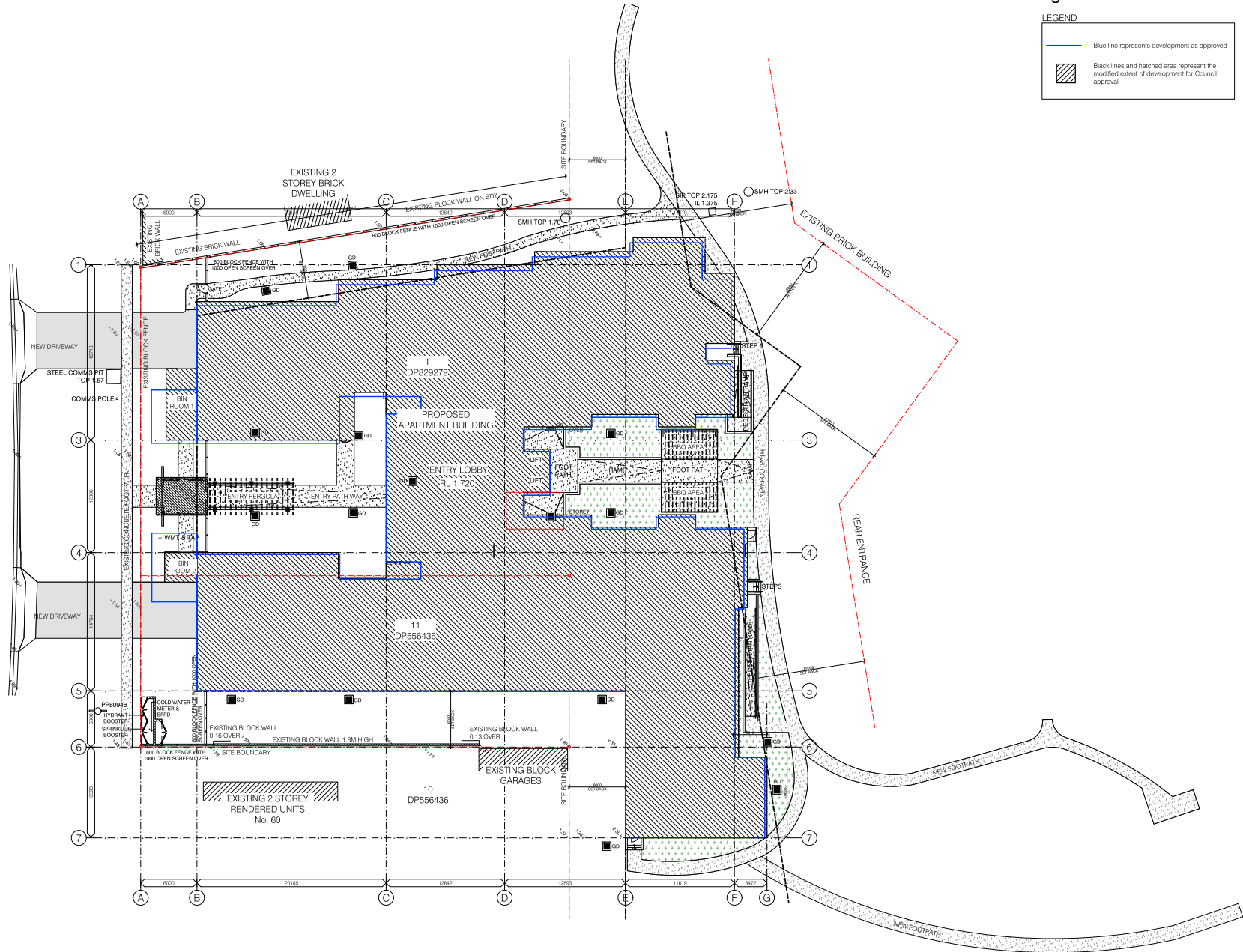


LEGEND

- Blue line represents development as approved
- Black lines and hatched area represent the modified extent of development for Council approval

YAMBA ROAD



FLOOR NAME	FLOOR RL
Level 4	10670
Level 3	7660
Level 2	4650
Level 1	1700

AMENDMENT REGISTER		ISSUE	DESCRIPTION	DATE	INITIALS
A	PRELIM REVIEW			6/04/2021	TRA
B	FOR CONSTRUCTION CERTIFICATE			6/05/2021	TRA

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CLIENT
GCB CONSTRUCTIONS

AUTHORISATION

REG. NO.

KEYPLAN

PROJECT DATE: 10/06/2021



PROJECT NAME
UNITING CARE YAMBA APARTMENTS

LOCATION
56 - 58 YAMBA ROAD YAMBA

STAGE
DETAIL DESIGN

DRAWING
APARTMENT SITE PLAN

SCALE
1:200, 1:1 @ A1

DATE
OCT 20

PROJECT NO.
477500

DRAWING NO.
A1.101

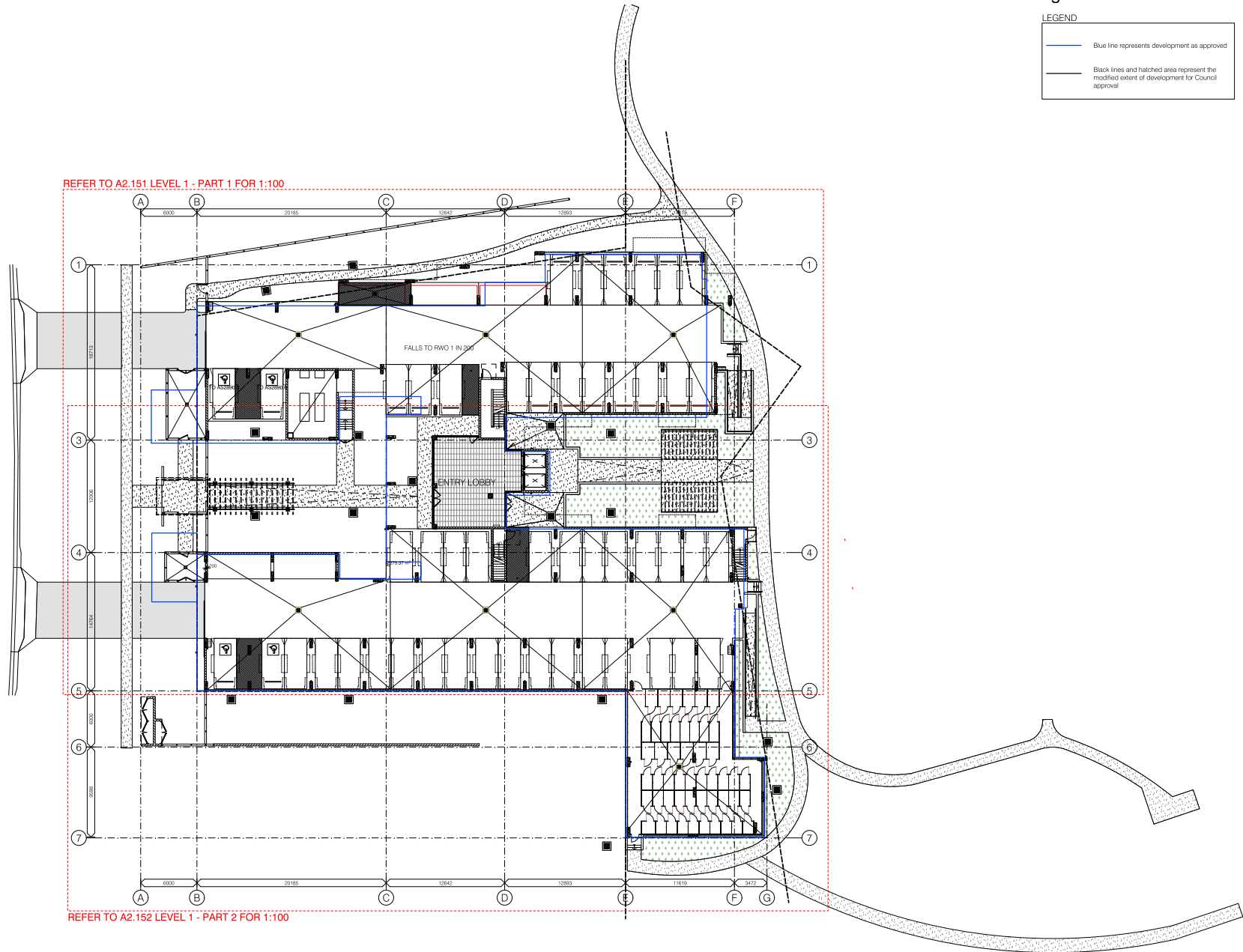
DRAWN
TRA

ISSUE
B



LEGEND

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AMENDMENT REGISTER			
ISSUE	DESCRIPTION	DATE	INITIALS
A	PRELIM REVIEW ISSUE	15/12/2021	TRA
B	PRELIM REVIEW ISSUE	14/01/2022	TRA
C	DRAWING WITH ADJUSTED	23/04/2021	TRA
D	S450 APPLICATION	28/05/2021	TRA

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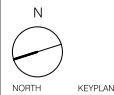
CLIENT
GCB CONSTRUCTIONS

AUTHORISATION

PLOT DATE: 10/06/2021

REG. NO.

10/06/2021



PROJECT NAME
UNITING CARE YAMBA APARTMENTS

LOCATION
56 - 58 YAMBA ROAD YAMBA

STAGE
DETAIL DESIGN

DRAWING
COMBINED FLOOR PLANS 1:200
LEVEL 1 - GROUND

SCALE
 1:200 @ A1

DATE
 OCT 20

PROJECT NO.
 477500

DRAWING NO.
 A2.101

DRAWN
 TRA

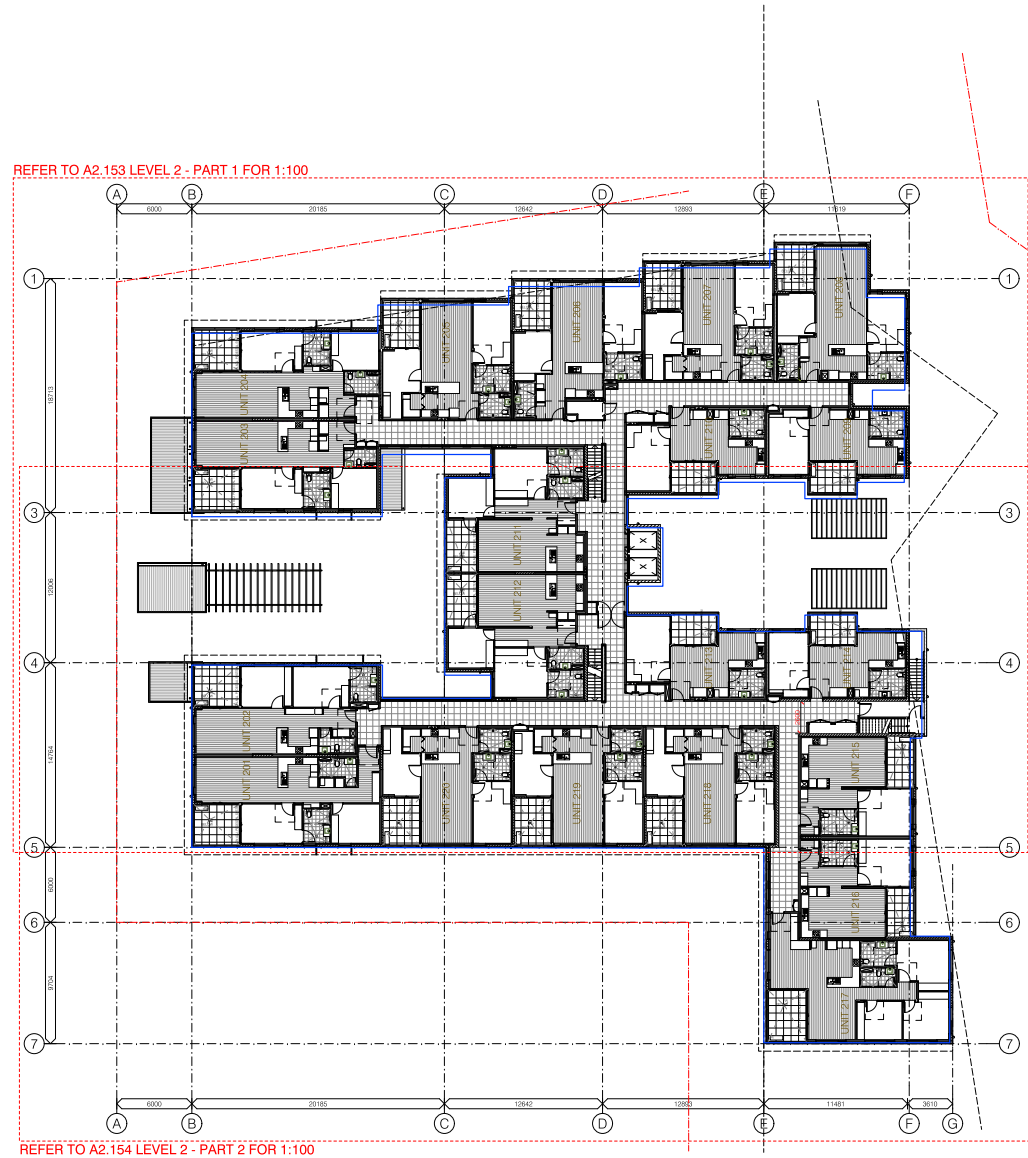
ISSUE
 D

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 Facsimile: 07 5526 8829
 Email: info@bda.com.au
 ABN 71 001 700 201



LEGEND

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AMENDMENT REGISTER			
ISSUE	DESCRIPTION	DATE	INITIALS
A	PRELIM REVIEW ISSUE	15/12/2021	TRA
B	PRELIM REVIEW ISSUE	14/01/2022	TRA
C	PRELIM REVIEW ISSUE	04/04/2021	TRA
D	S450 APPLICATION	28/05/2021	TRA

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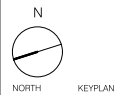
CLIENT
GCB CONSTRUCTIONS

AUTHORISATION

PLOT DATE: 10/06/2022

REG. NO.

10/06/2022



PROJECT NAME
UNITING CARE YAMBA APARTMENTS

LOCATION
56 - 58 YAMBA ROAD YAMBA

STAGE
DETAIL DESIGN

DRAWING
COMBINED FLOOR PLANS 1:200
LEVEL 2

SCALE
1:200 @ A1

DATE
OCT 20

PROJECT NO.
477500

DRAWING NO.
A2.102

DRAWN
TRA

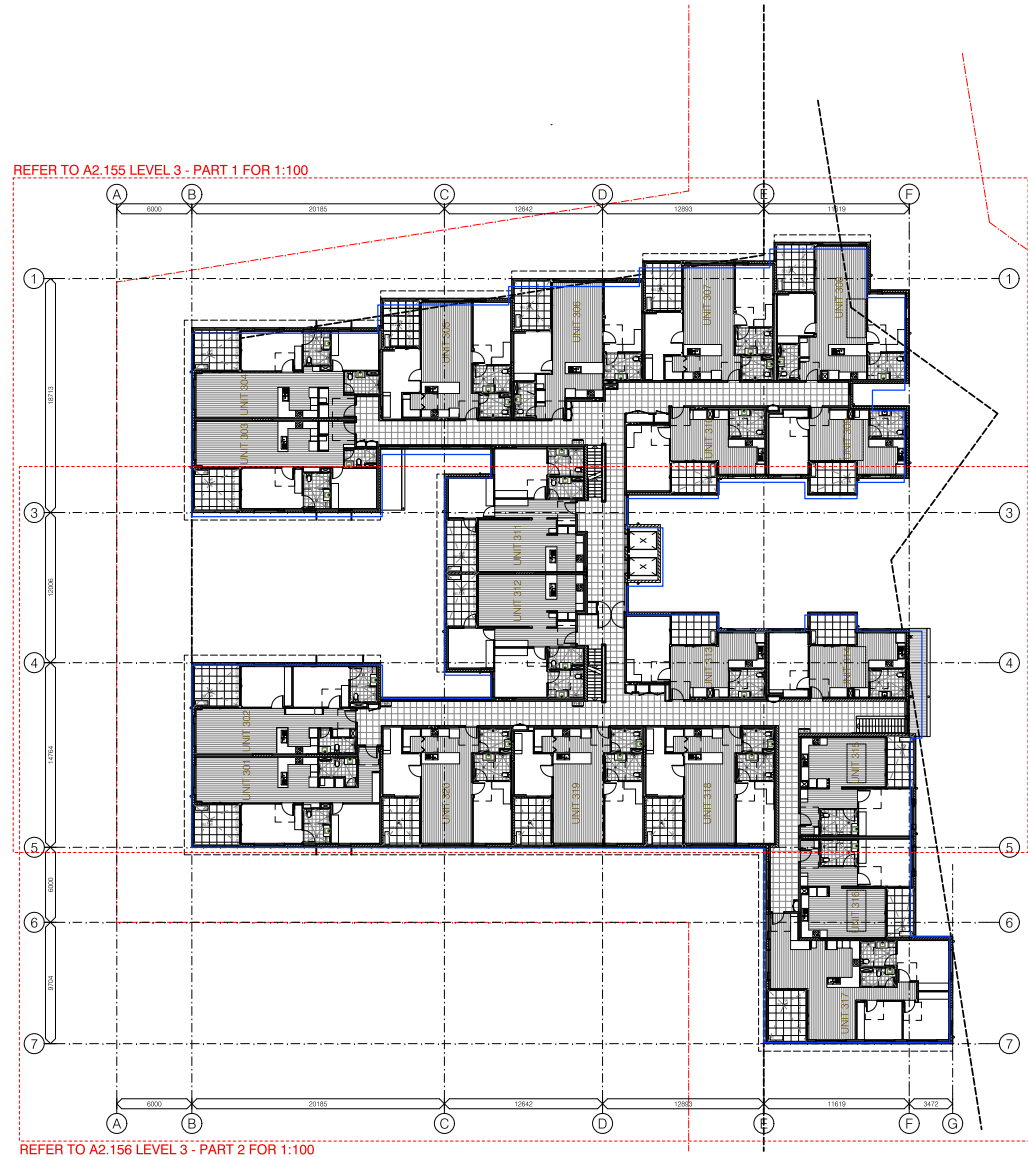
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AMENDMENT REGISTER			
ISSUE	DESCRIPTION	DATE	INITIALS
B	PRELIM REVIEW ISSUE	10/12/2021	TRA
C	PRELIM REVIEW	14/01/2021	TRA
D	SA 35 APPLICATION	28/05/2021	TRA

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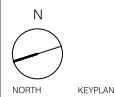
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GCB CONSTRUCTIONS

AUTHORISATION

PLOT DATE: 10/06/2021

REG. NO.

10/06/2021



PROJECT NAME
UNITING CARE YAMBA APARTMENTS

LOCATION
56 - 58 YAMBA ROAD YAMBA

STAGE
DETAIL DESIGN

DRAWING
COMBINED FLOOR PLANS 1:200
LEVEL 3

SCALE
1:200 @ A1

DATE
OCT 20

PROJECT NO.
477500

DRAWING NO.
A2.103

DRAWN
TRA

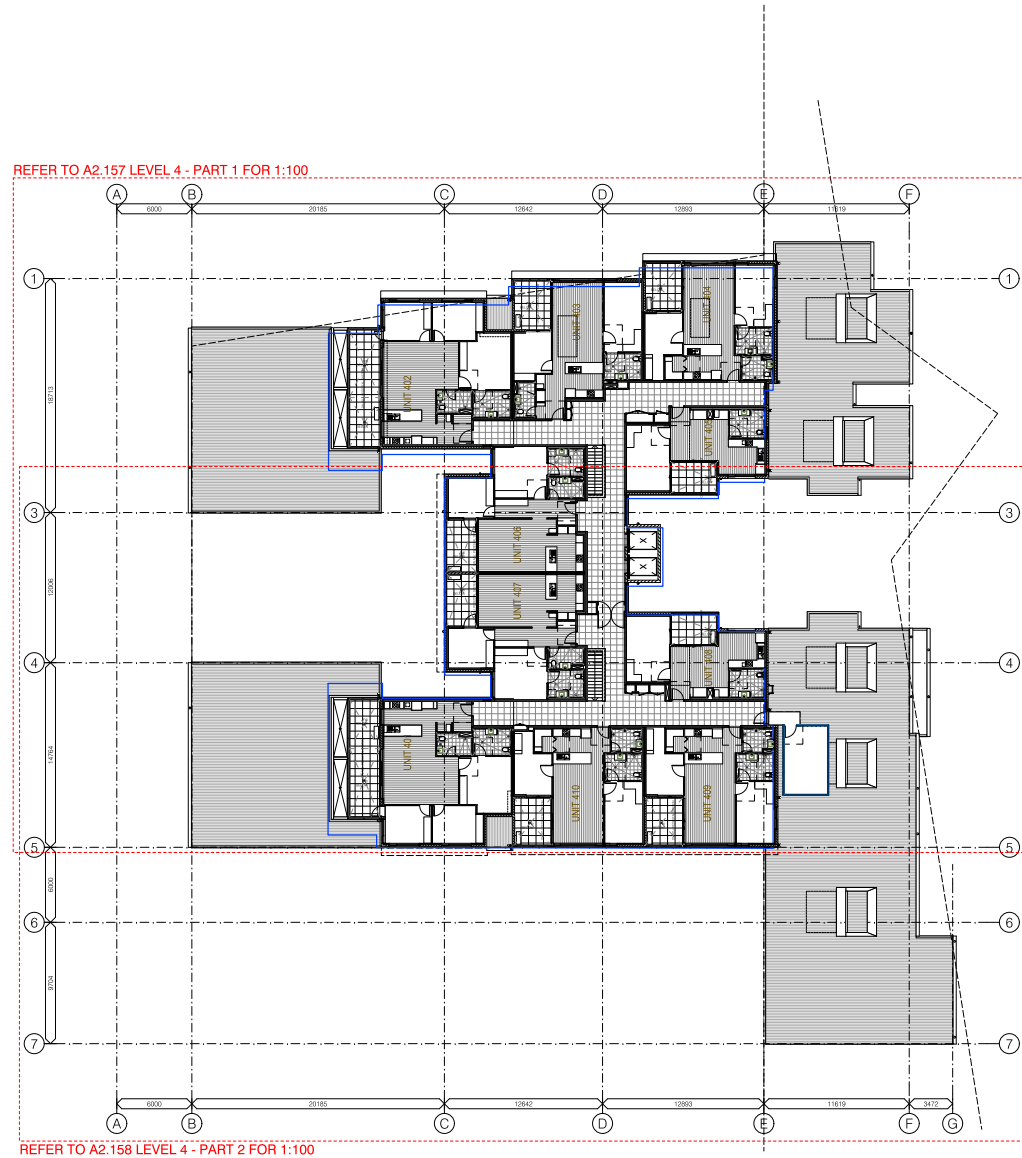
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AMENDMENT REGISTER			
ISSUE	DESCRIPTION	DATE	INITIALS
A	PRELIM REVIEW ISSUE	15/12/2021	TRA
B	PRELIM REVIEW ISSUE	14/01/2022	TRA
C	PRELIM REVIEW ISSUE	04/04/2021	TRA
D	S450 APPLICATION	28/05/2021	TRA

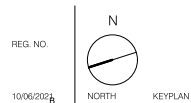
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GCB CONSTRUCTIONS

AUTHORISATION

PLOT DATE: 10/06/2022



PROJECT NAME
UNITING CARE YAMBA APARTMENTS

LOCATION
56 - 58 YAMBA ROAD YAMBA

STAGE
DETAIL DESIGN

DRAWING
COMBINED FLOOR PLANS 1:200
LEVEL 4

SCALE
1:200 @ A1

DATE
OCT 20

PROJECT NO.
477500

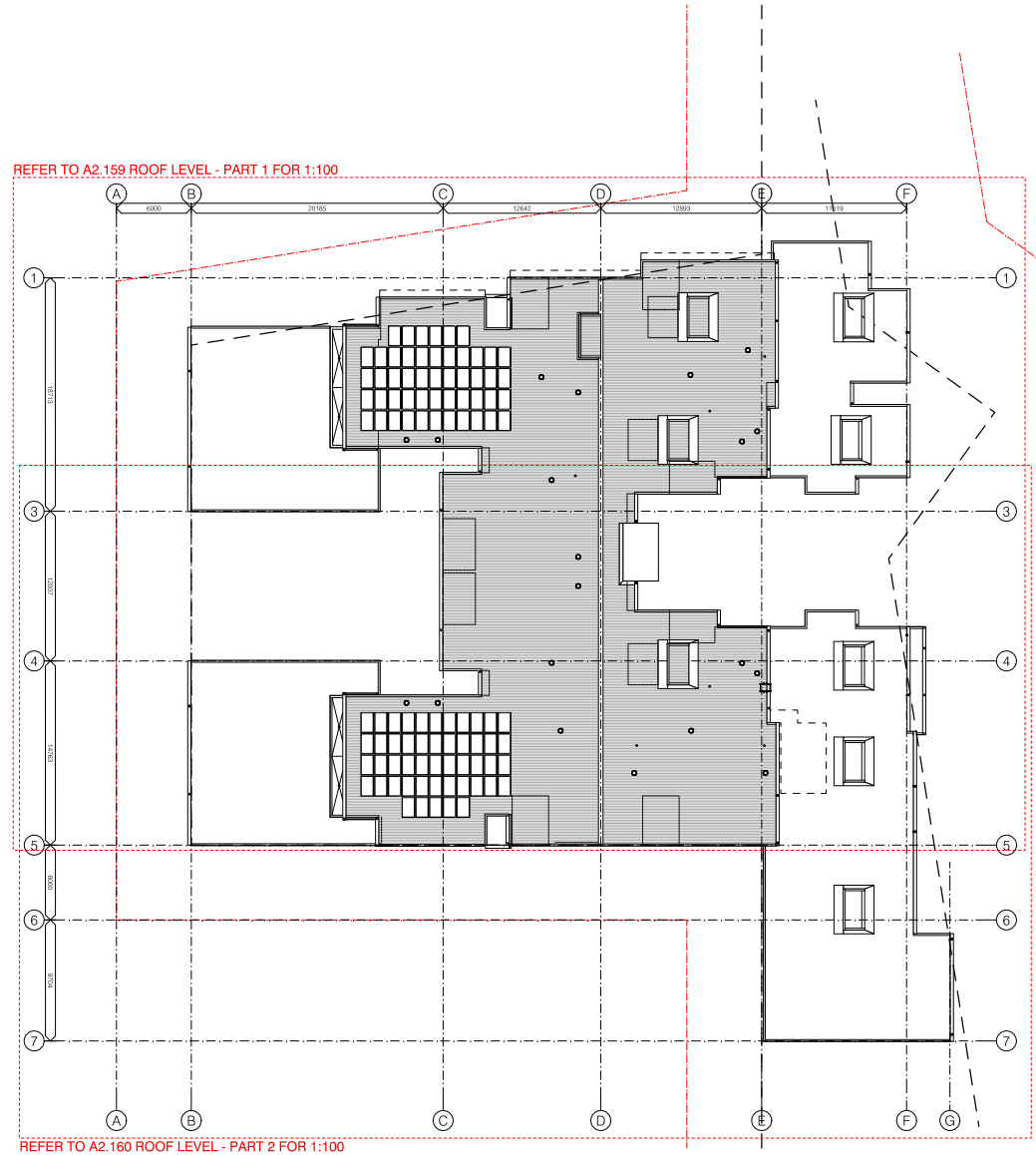
DRAWING NO.
A2.104

DRAWN
TRA

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AMENDMENT REGISTER			
ISSUE	DESCRIPTION	DATE	INITIALS
A	PRELIM REVIEW ISSUE	10/12/2021	TRA
B	PRELIM REVIEW ISSUE	14/01/2021	TRA
C	PRELIM REVIEW ISSUE	04/04/2021	TRA
D	S450 APPLICATION	28/05/2021	TRA

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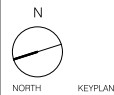
CLIENT
GCB CONSTRUCTIONS

AUTHORISATION

PLOT DATE: 10/06/2021

REG. NO.

10/06/2021



PROJECT NAME
UNITING CARE YAMBA APARTMENTS

LOCATION
56 - 58 YAMBA ROAD YAMBA

STAGE
DETAIL DESIGN

DRAWING
COMBINED FLOOR PLANS 1:200

SCALE
1:200 @ A1

DATE
OCT 20

PROJECT NO.
477500

DRAWING NO.
A2.105

DRAWN
TRA

ISSUE
D

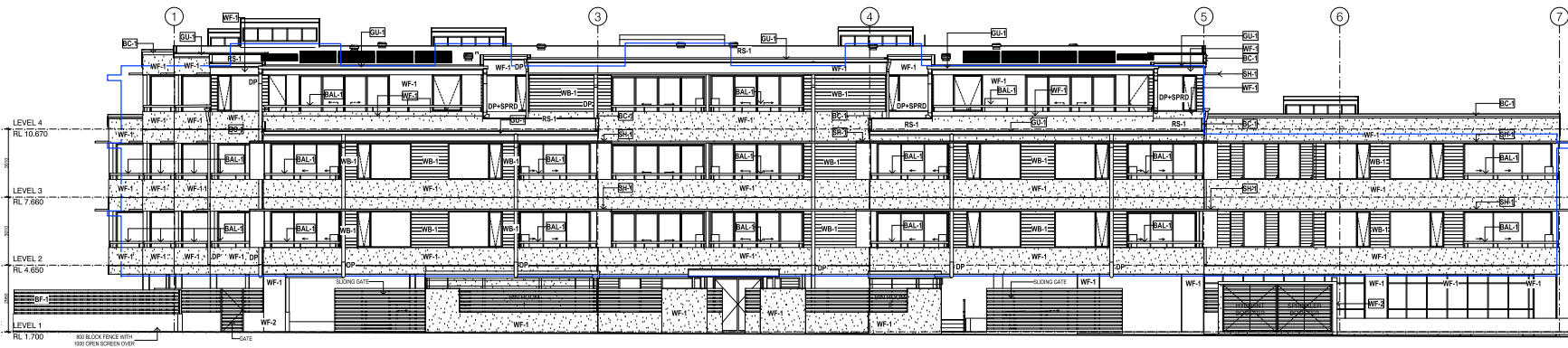
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ISSUE	DESCRIPTION	DATE	INITIALS
A	PRELIM REVIEW ISSUE	19/01/2021	TRA
B	PRELIM REVIEW	28/04/2021	TRA
C	FOR CONSTRUCTION CERTIFICATE	05/05/2021	TRA

EXTERIOR FINISHES

CODE	ELEMENT / ITEM
AC-1	APEX CAPPING
BAL-1	BALUSTRADE
BC-1	BARGE CAPPING
BC-2	BARGE CAPPING
BFM-2	PERGOLA
BSM-2	PERGOLA
BF-1	FENCE
BS	BOX GUTTER
CC-1	ENTRY COLUMN INFIL PANELS
CO-1	BASEMENT FLOOR
COL-1	COLUMN
COL-2	PERGOLA COLUMN
D-01	SOLID DOORS
DP	DOWNPIPE
DP+SPRD	DOWNPIPE & SPREADER
FCP-1	FASCIA
FPF-2	FASCIA ENTRY & BIN STORE
GA-1	SLURRING GATE
GA-2	BIN STORE GATE
GU-1	GUTTER
HR-2	HANDRAIL
LB-1	LETTER BOX
LV-1	MESH LOUVER VENT
RA-1	ROOF ACCESS LADDER
RC-1	RIDGE CAPPING
RF-1	FLASHING
RS-1	ROOFING SYSTEM
SH-1	SUNHOOD
SH-2	SUNHOOD VERTICAL
SS-1	SLAT SCREEN
T-1	TERRAZZO TILE
W-1	DOORS & WINDOWS
WB-1	BLOCK WALLS & WEATHERBOARD
WF-1	EXTERIOR RENDER
WF-2	FENCE
WF-3	ROOF WINDOW SIDING



01 North Elevation
Scale 1:100

LEGEND

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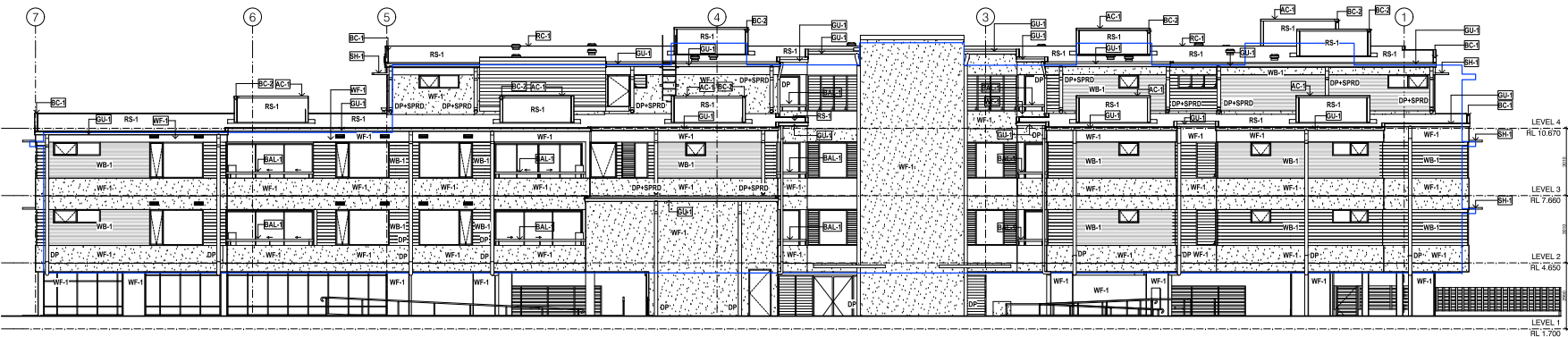
PROJECT
UNITING CARE YAMBA APARTMENTS

LOCATION
56 - 58 YAMBA ROAD YAMBA

STAGE
DETAIL DESIGN

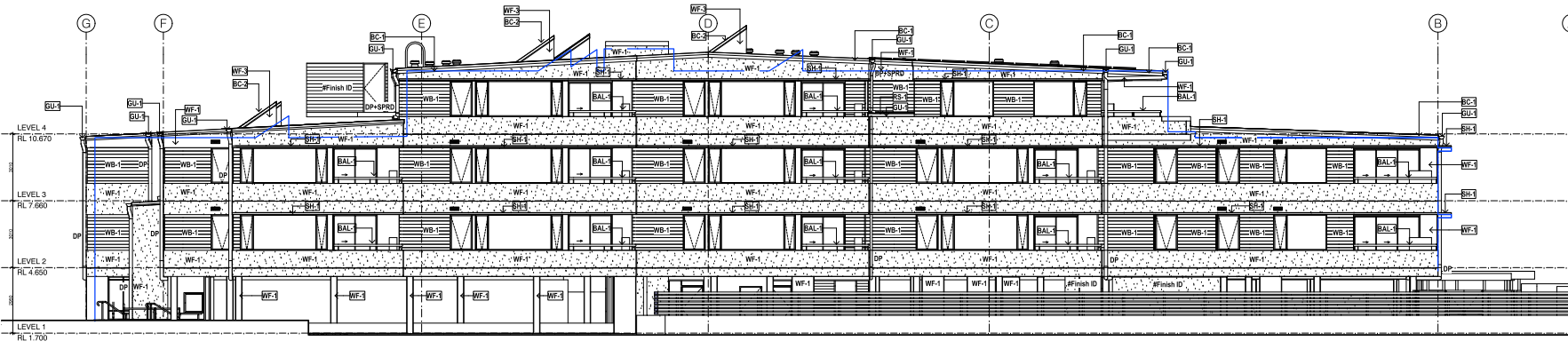
DRAWING TITLE
ELEVATIONS 1

SCALE	DATE	DRAWN
1:100 @ A1	JAN 21	TRA
PROJECT NO.	DRAWING NO.	ISSUE
477500	A3.101	C
PILOT DATE		10/06/2021



02 South Elevation
Scale 1:100

AMENDMENT REGISTER			
ISSUE	DESCRIPTION	DATE	INITIALS
A	PRELIM REVIEW ISSUE	15/01/2021	TRA
B	PRELIM REVIEW	28/04/2021	TRA
C	FOR CONSTRUCTION CERTIFICATE	05/05/2021	TRA



03 East Elevation
 RLay07 Scale 1:100

EXTERIOR FINISHES

CODE	ELEMENT / ITEM
AC-1	APEX CAPPING
BAL-1	BALUSTRADE
BC-1	BARGE CAPPING
BC-2	BARGE CAPPING
BEM-2	PERGOLA
BEM-3	PERGOLA
BF-1	FENCE
BO	BOX GUTTER
CO-1	ENTRY COLUMN INFIL PANELS
CO-1	BASEMENT FLOOR
COL-1	COLUMN
COL-2	PERGOLA COLUMNS
D-01	SOLID DOORS
DP	DOWNPIPE
DP-SPRD	DOWNPIPE & SPREADER
FCP-1	FASCIA
FCP-2	FASCIA ENTRY & BIN STORE
GA-1	SUNING GATE
GA-2	BIN STORE GATE
GU-1	GUTTER
HR-2	HANDRAIL
LB-1	LETTER BOX
LV	MECH LOUVER VENT
RA-1	ROOF ACCESS LADDER
RC-1	RIDGE CAPPING
RF-1	FLASHING
RS-1	ROOFING SYSTEM
SH-1	SUNHOOD
SH-2	SUNHOOD VERTICAL
SO-1	SOFFIT
SS-1	SLAT SCREEN
T-1	TALCOTT TILE
W-1	DOORS & WINDOWS
WB-1	BLOCK WALLS & WEIGHTED REIN
WF-1	EXTERIOR RENDER
WF-2	FENCE
WF-3	ROOF WINDOW SIDING

LEGEND

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KEYPLAN

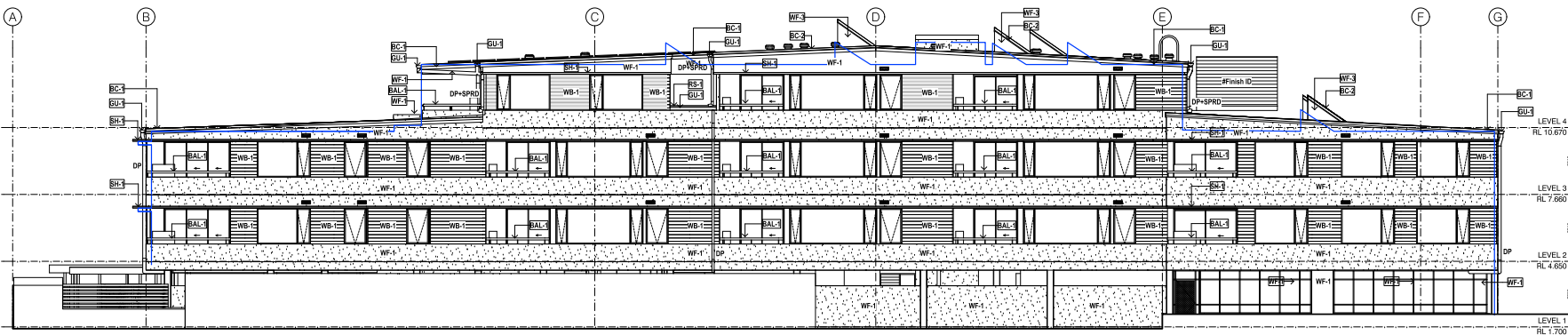
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PROJECT
 UNITING CARE YAMBA APARTMENTS

LOCATION
 56 - 58 YAMBA ROAD YAMBA

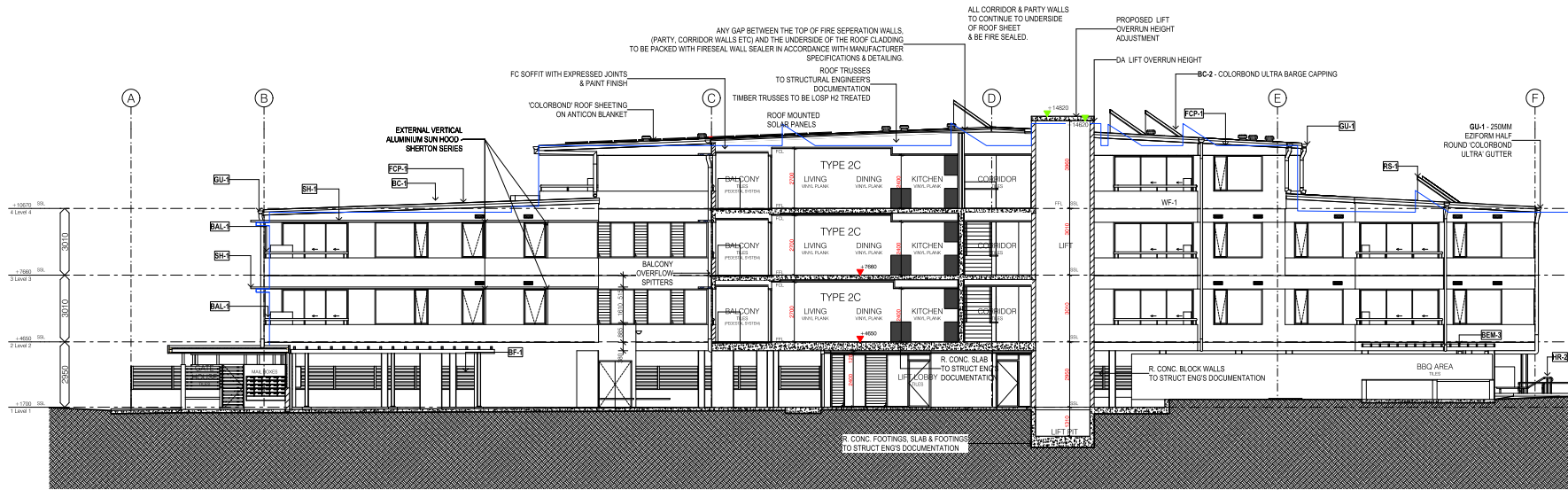


04 West Elevation
 RLay07 Scale 1:100

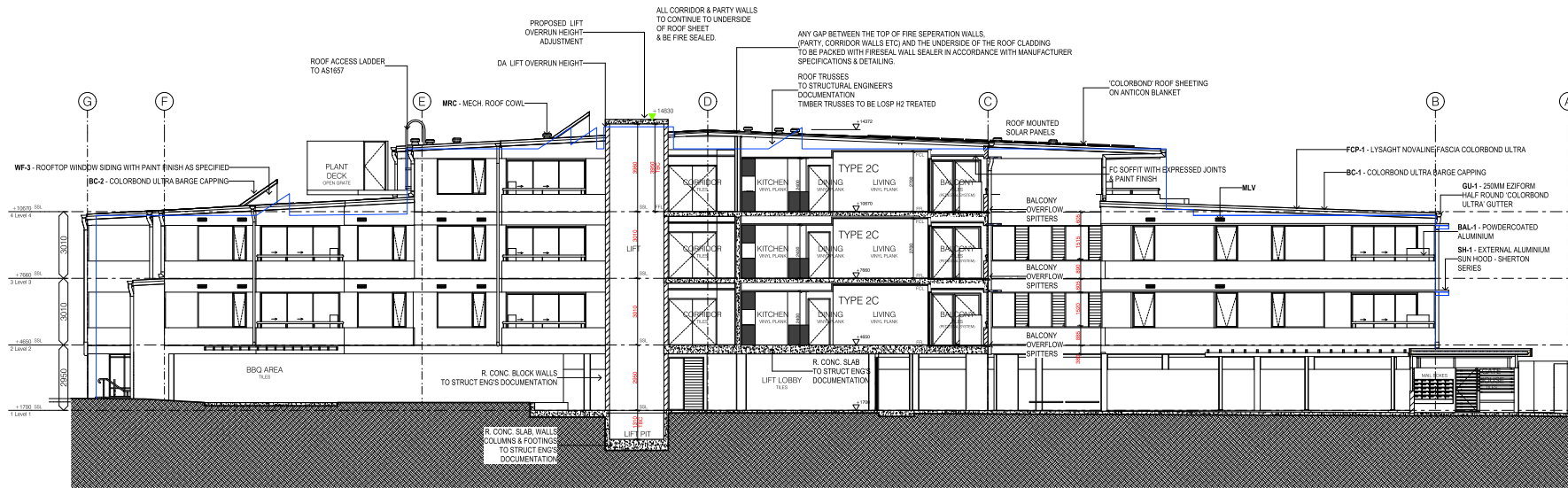
STAGE
 DETAIL DESIGN

DRAWING TITLE
 ELEVATIONS 2

SCALE	DATE	DRAWN	ISSUE
1:100 @ A1	JAN 21	TRA	
PROJECT NO.	DRAWING NO.		
477500	A3.102		C
PLOT DATE:			10/06/2021



SECTION AA
Scale 1:100



SECTION BB
Scale 1:100

AMENDMENT REGISTER			
ISSUE	DESCRIPTION	DATE	INITIALS
A	PRELIM REVIEW ISSUE	27/01/2021	TRA
B	PRELIM REVIEW	05/04/2021	TRA
C	FOR CONSTRUCTION CERTIFICATE	05/05/2021	TRA

EXTERIOR FINISHES	
CODE	ELEMENT / ITEM
AC-1	AREX CAPPING
BAL-1	BALUSTRADE
BC-1	BARGE CAPPING
BC-2	BARGE CAPPING
BM-2	PERGOLA
BSM-3	PERGOLA
BF-1	FENCE
BS	BOX GUTTER
CO-1	ENTRY COLUMN INFIL PANELS
CO-1	BASEMENT FLOOR
COL-1	COLUMN
COL-2	PERGOLA COLUMNS
D-01	SOLID DOORS
DP	DOWNPIPE
DP-SPRD	DOWNPIPE & SPREADER
FCP-1	FASCIA
FCP-2	FASCIA ENTRY & BIN STORE
GA-1	SLUING GATE
GA-2	BIN STORE GATE
GU-1	GUTTER
HR-2	HANDRAIL
LS-1	LETTER BOX
MLV	MECH LOUVER VENT
RA-1	ROOF ACCESS LADDER
RC-1	RIDGE CAPPING
RF-1	FLASHING
RSA	ROOFING SYSTEM
SH-1	SUNHOOD
SH-2	SUNHOOD VERTICAL SOFFIT
SS-1	SALT SCREEN
TL-1	TERRAZZO TILE
W-1	DOORS & WINDOWS
WB-1	BLOCK WALLS & WEATHERBOARD
WF-1	EXTERIOR RENDER
WF-2	FENCE
WF-3	ROOF WINDOW SIDING

LEGEND

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KEYPLAN

CLIENT

GCB CONSTRUCTIONS

PROJECT

UNITING CARE YAMBA APARTMENTS

LOCATION

56 - 58 YAMBA ROAD YAMBA

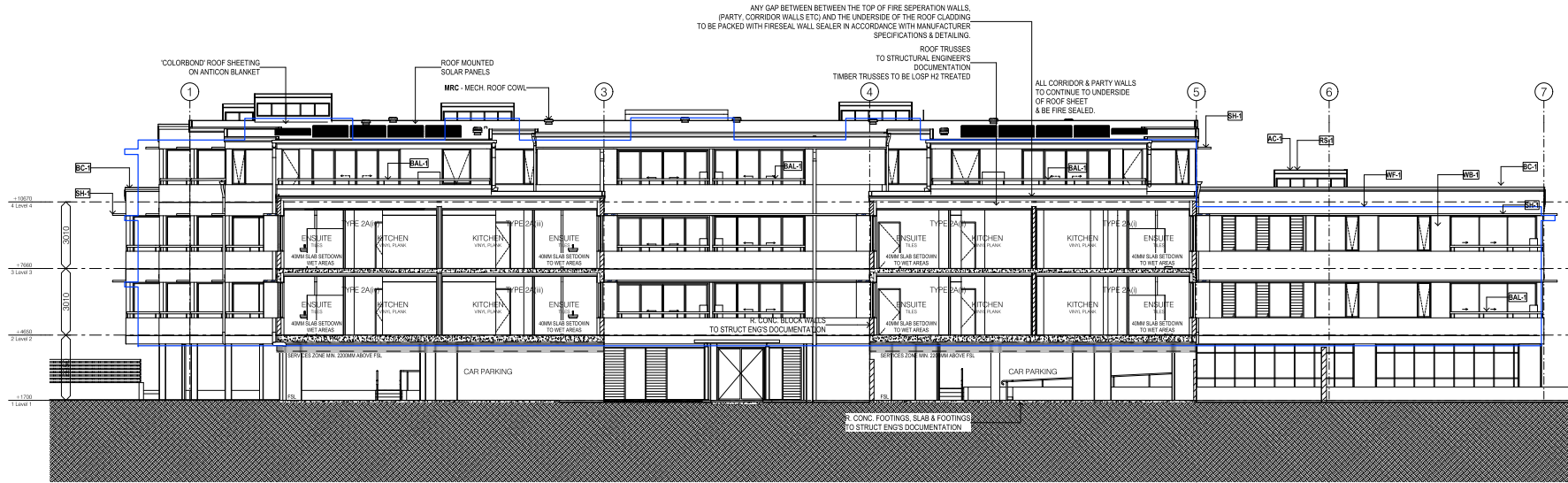
STAGE

DETAIL DESIGN

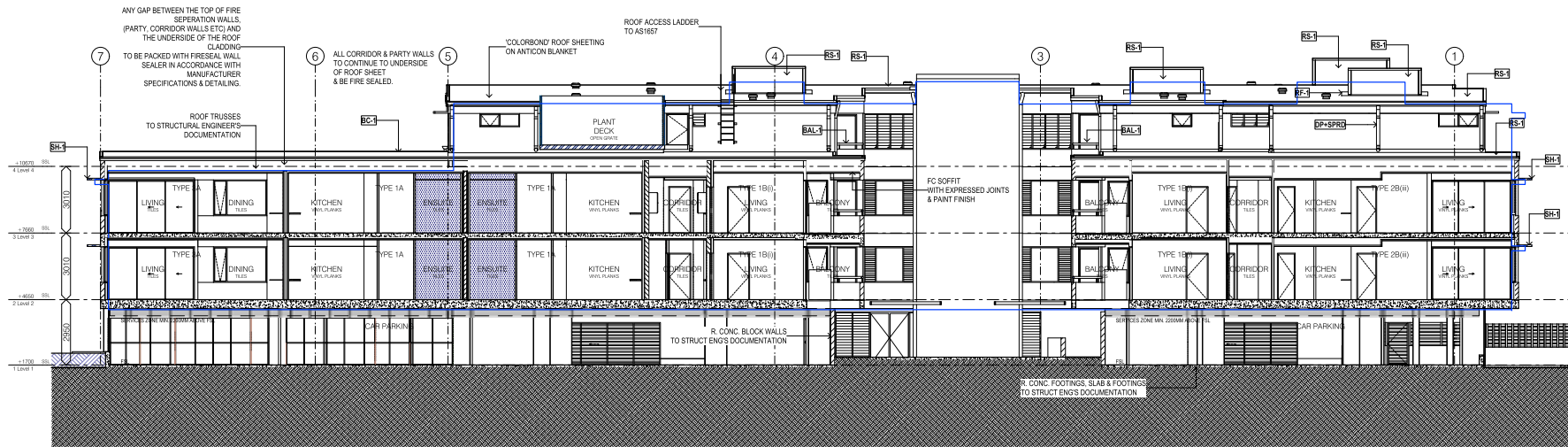
DRAWING TITLE

SECTION A-A + B-B

SCALE	DATE	DRAWN
1:100 @ A1	JAN 21	TRA
PROJECT NO.	DRAWING NO.	ISSUE
477500	A4.101	C
PLOT DATE:	10/06/2021	



SECTION CC
Scale 1:100



SECTION DD
Scale 1:100

AMENDMENT REGISTER

ISSUE	DESCRIPTION	DATE	INITIALS
A	PRELIM REVIEW ISSUE	27/01/2021	TRA
B	PRELIM REVIEW	05/04/2021	TRA
C	FOR CONSTRUCTION CERTIFICATE	05/05/2021	TRA

EXTERIOR FINISHES

CODE	ELEMENT / ITEM
AC-1	APEX CAPPING
BAL-1	BALUSTRADE
BC-1	BARGE CAPPING
BC-2	BARGE CAPPING
BM-2	PERGOLA
BM-3	PERGOLA
BF-1	FENCE
BS	BOX GUTTER
CC-1	ENTRY COLUMN INFIL PANELS
CO-1	BASEMENT FLOOR
CO-2	COLUMN
CO-3	PERGOLA COLUMNS
D-01	SOLID DOORS
DP	DOWNPIPE
DP-SPRD	DOWNPIPE & SPREADER
FC-1	FASCIA
FC-2	FASCIA ENTRY & BIN STORE
GA-1	SLIDING GATE
GA-2	BIN STORE GATE
GU-1	GUTTER
HR-2	HANDRAIL
LB-1	LETTER BOX
LV	MESH LOUVER VENT
RA-1	ROOF ACCESS LADDER
RC-1	RIDGE CAPPING
RF-1	FLASHING
RF-2	FLASHING
RFS-1	ROOFING SYSTEM
SH-1	SUNHOOD
SH-2	SUNHOOD VERTICAL
SO-1	SOFFIT
SS-1	SALT SCREEN
TS-1	TIE-BACK/STAIR TIE
W-1	DOORS & WINDOWS
WB-1	BLOCK WALLS & WEATHERBOARD
WF-1	EXTERIOR RENDER
WF-2	FENCE
WF-3	ROOF WINDOW SIDING

LEGEND

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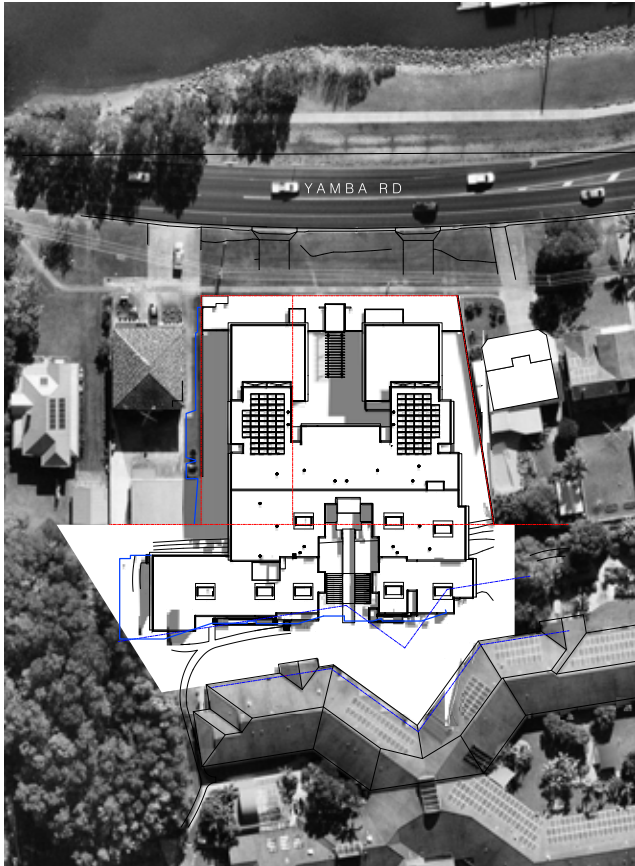
PROJECT
UNITING CARE YAMBA APARTMENTS

LOCATION
56 - 58 YAMBA ROAD YAMBA

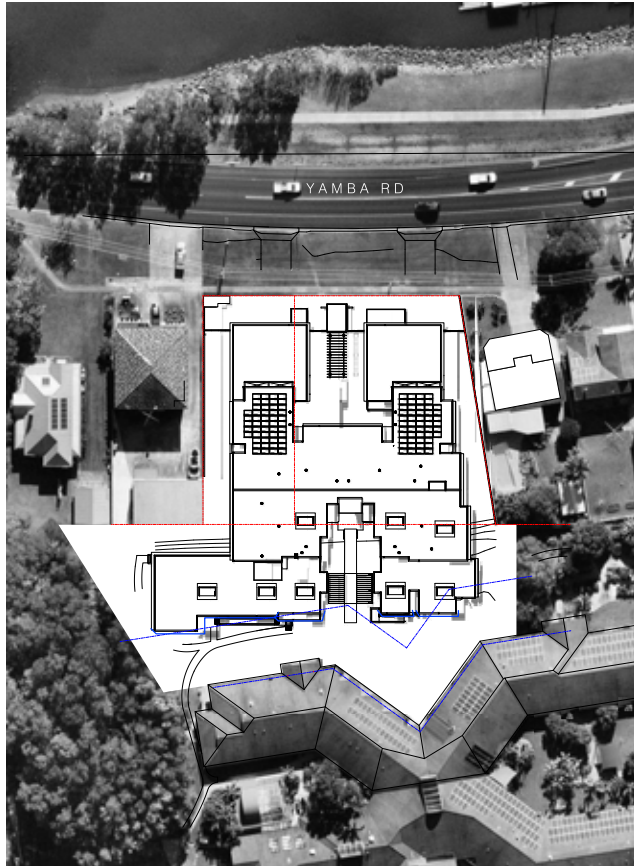
STAGE
DETAIL DESIGN

DRAWING TITLE
SECTION C-C + D-D

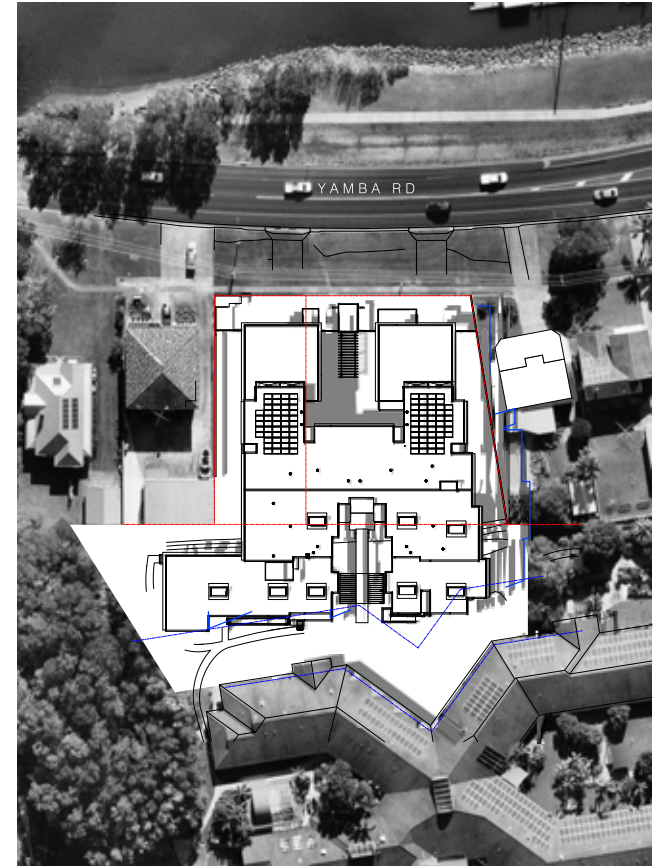
SCALE	DATE	DRAWN
1:100 @ A1	JAN 21	TRA
PROJECT NO.	DRAWING NO.	ISSUE
477500	A4.102	C
PILOT DATE:		10/06/2021



DECEMBER
9AM



DECEMBER
12PM



DECEMBER
3PM

LEGEND

- Blue line represents development as approved
- - - Red dashed line represents lot boundary
- - - Blue dashed line represents 12m setback from existing facility

AMENDMENT REGISTER						
ISSUE	DESCRIPTION	DATE	INITIALS	ISSUE DESCRIPTION	DATE	INITIALS
A	HEIGHT CHANGE REQUEST	28/04/2021				
B	HEIGHT CHANGE REQUEST	3/10/2021				

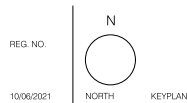
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CLIENT
GCB CONSTRUCTIONS

AUTHORISATION

PLOT DATE:



PROJECT NAME
UNITING CARE YAMBA APARTMENTS

LOCATION
56 - 58 YAMBA ROAD YAMBA

STAGE
DETAIL DESIGN

DRAWING
S4.55 HEIGHT CHANGE
SUN DIAGRAMS - DECEMBER

SCALE
1:500, 1:67.70 @ A1

DATE
OCT 20

PROJECT NO.
477500

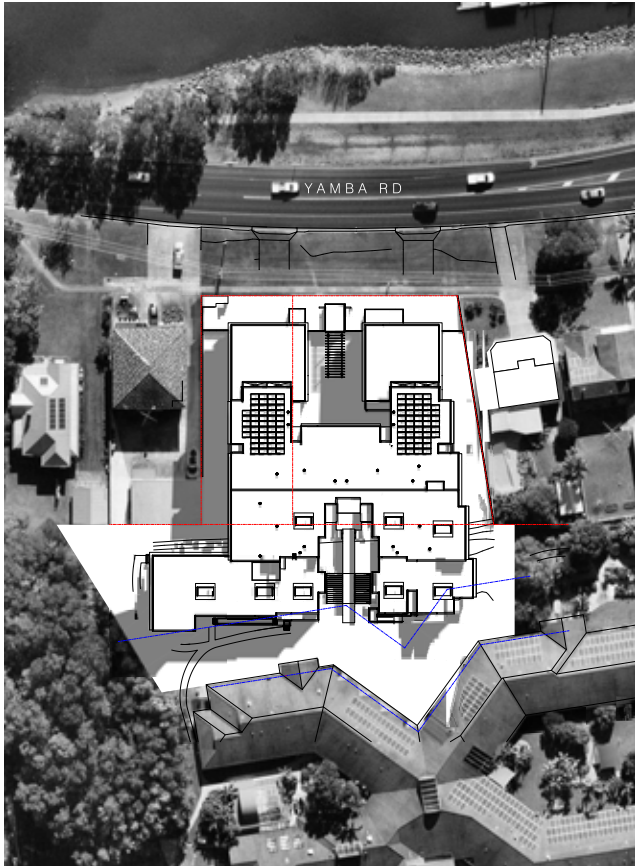
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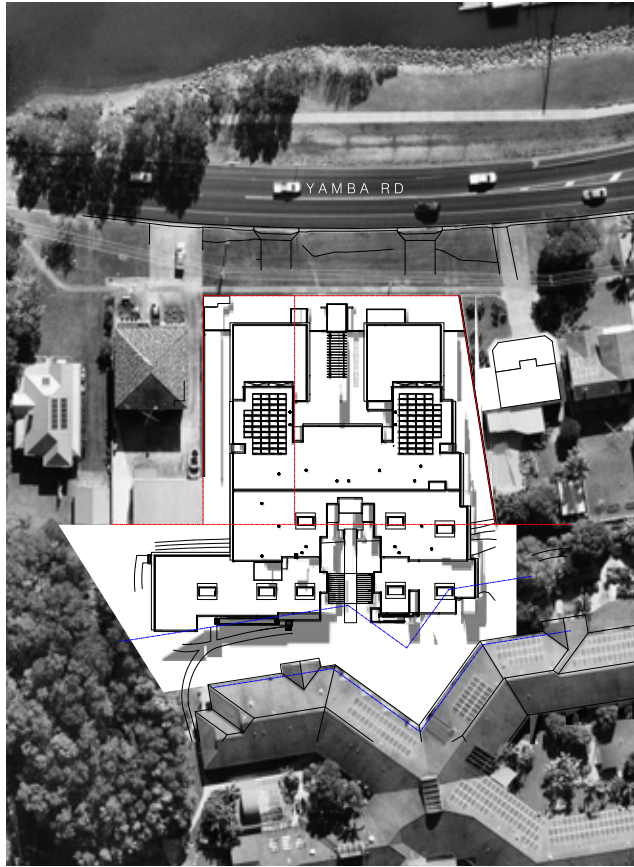
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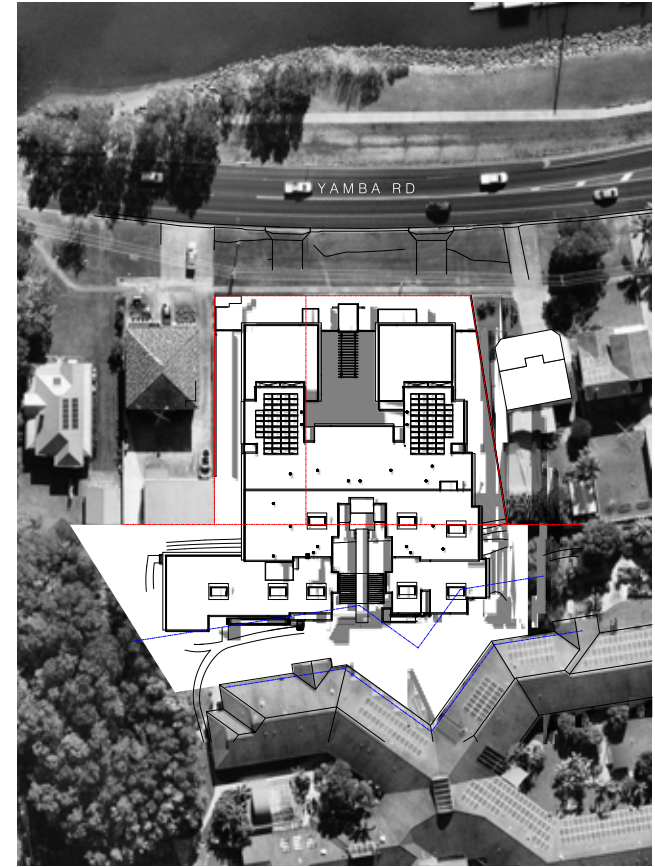
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MARCH 9AM



MARCH 12PM



MARCH 3PM

AMENDMENT REGISTER						
ISSUE	DESCRIPTION	DATE	INITIALS	ISSUE	DESCRIPTION	DATE
A	HEIGHT CHANGE REQUEST	28/04/2021	DT			
B	HEIGHT CHANGE REQUEST	3/10/2021	DT			

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CLIENT
GCB CONSTRUCTIONS

AUTHORISATION

PLOT DATE:

REG. NO.

10/06/2021

NORTH

KEYPLAN

PROJECT NAME
UNITING CARE YAMBA APARTMENTS

LOCATION
56 - 58 YAMBA ROAD YAMBA

STAGE
DETAIL DESIGN

DRAWING
S4.55 HEIGHT CHANGE
SUN DIAGRAMS - MARCH EQUINOX

SCALE
1:500, 1:67.70 @ A1

DATE
OCT 20

PROJECT NO.
477500

DRAWING NO.
SK.101.7

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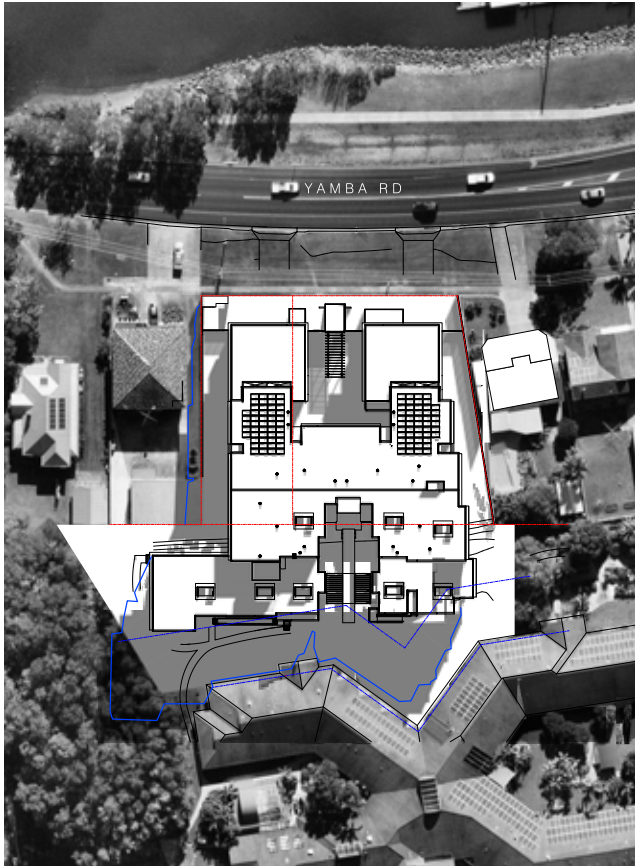
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LEGEND

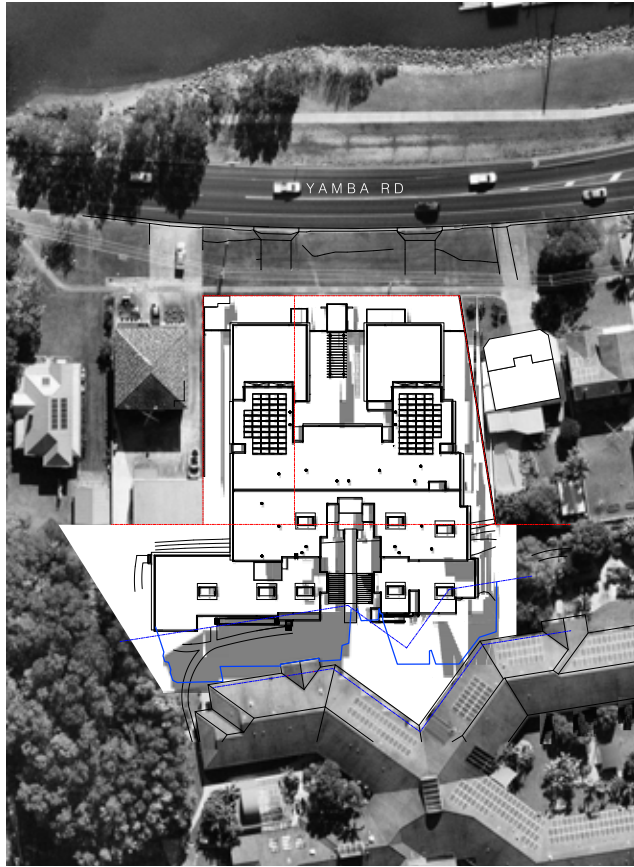
- Red dashed line represents lot boundary
- Blue dashed line represents 12m setback from existing facility

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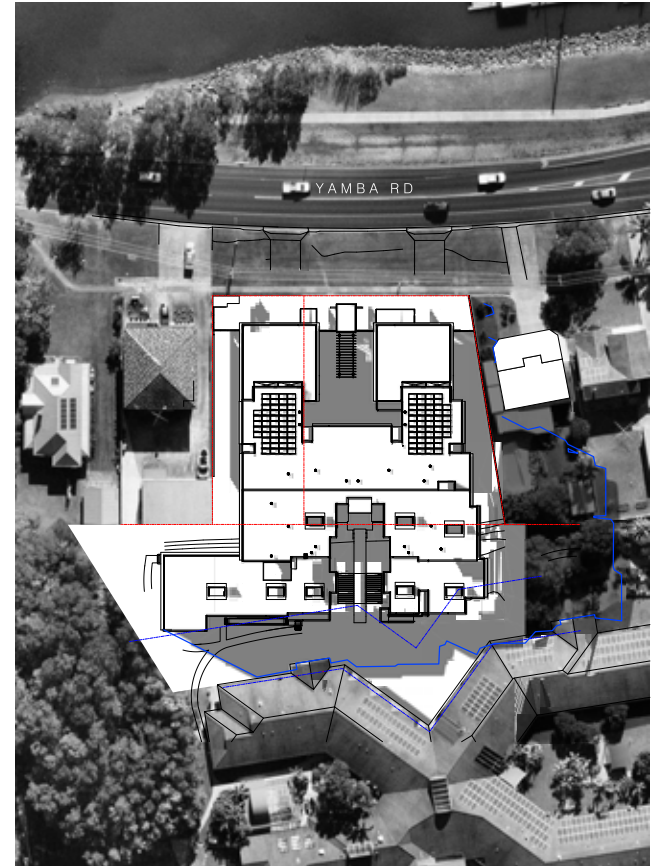
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JUNE 9AM



JUNE 12PM



JUNE 3PM

LEGEND

- Blue line represents development as approved
- - - Red dashed line represents lot boundary
- - - Blue dashed line represents 12m setback from existing facility

AMENDMENT REGISTER							
ISSUE	DESCRIPTION	DATE	INITIALS	ISSUE	DESCRIPTION	DATE	INITIALS
A	HEIGHT CHANGE REQUEST	28/04/2021	DT				
B	HEIGHT CHANGE REQUEST	3/05/2021	DT				

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CLIENT
GCB CONSTRUCTIONS

AUTHORISATION

PLOT DATE:

REG. NO.

10/06/2021

NORTH

KEYPLAN

PROJECT NAME
UNITING CARE YAMBA APARTMENTS

LOCATION
56 - 58 YAMBA ROAD YAMBA

STAGE
DETAIL DESIGN

DRAWING
S4.55 HEIGHT CHANGE SUN DIAGRAMS - JUNE

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PROJECT NO.
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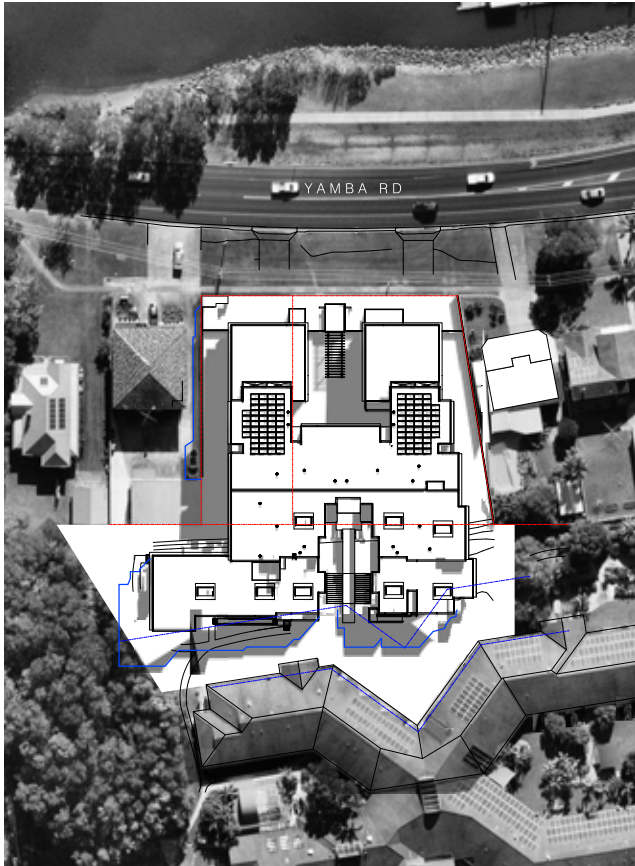
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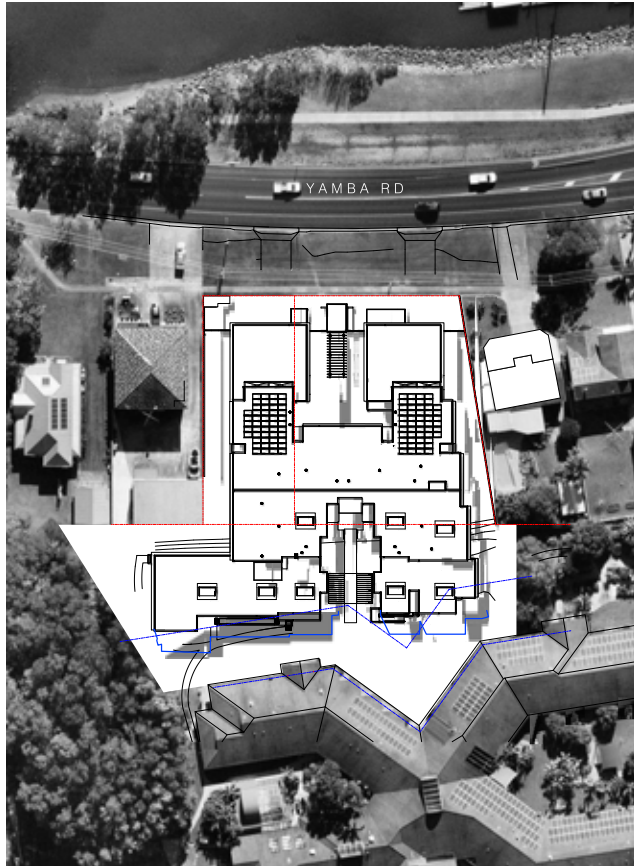
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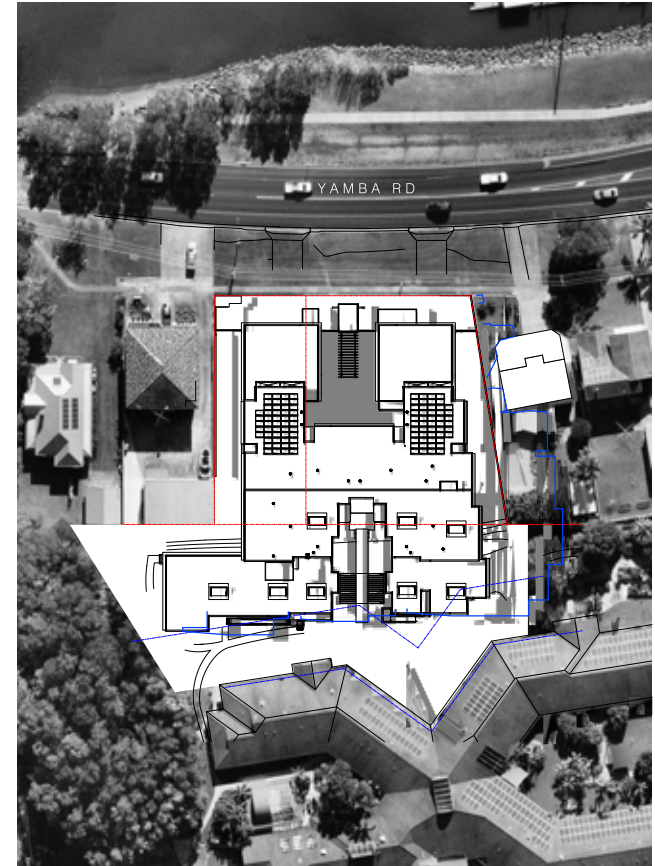
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SEPTEMBER
9AM



SEPTEMBER
12PM



SEPTEMBER
3PM

- LEGEND**
- Blue line represents development as approved
 - - - Red dashed line represents lot boundary
 - - - Blue dashed line represents 12m setback from existing facility

AMENDMENT REGISTER						
ISSUE	DESCRIPTION	DATE	INITIALS	ISSUE DESCRIPTION	DATE	INITIALS
A	HEIGHT CHANGE REQUEST	28/04/2021	DT			
B	HEIGHT CHANGE REQUEST	3/10/2021	DT			

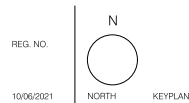
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CLIENT
GCB CONSTRUCTIONS

AUTHORISATION

PLOT DATE:



PROJECT NAME
UNITING CARE YAMBA APARTMENTS

LOCATION
56 - 58 YAMBA ROAD YAMBA

STAGE
DETAIL DESIGN

DRAWING
S4.55 HEIGHT CHANGE
SUN DIAGRAMS - SEPT EQUINOX

SCALE
1:500, 1:67.70 @ A1

DATE
OCT 20

PROJECT NO
477500

DRAWING NO
SK.101.9

DRAWN
DT

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**SECTION 4.55 AMENDMENT
FILE REPORT FORM**

FILE NO:	DA2019/0331
APPLICATION:	MOD2021/0041
APPLICANT:	Uniting Church In Australia
OWNER:	Uniting Church In Australia
LEGAL DESCRIPTION:	Lot 1 DP 829279
PROPERTY ADDRESS:	56 Yamba Road YAMBA NSW 2464
APPROVED DEVELOPMENT:	50 independent seniors' living apartments

REQUESTED AMENDMENT: The applicant has requested an Amendment under Section 4.55(1A) of the Environmental Planning & Assessment Act, in relation to:

ADVERTISING REQUIRED UNDER CPP OR REGULATION? YES

DETAILS & BACKGROUND OF DEVELOPMENT CONSENT:

Council at its meeting of 22 October 2019 (Item 6b.19.034) approved 50 independent seniors' living apartments that front Yamba Road and approved a variation to the 9 metre maximum building height prescribed by clause 4.3 of the Height of Buildings Map in the CVLEP and 8 metre maximum height specified in State Environmental Planning Policy (Housing for Seniors or People with a disability) 2004.

Further changes to the overall building height have now been determined as a result of the finalisation of the detailed design process. These changes have been necessitated in order to achieve compliance with the conditions of approval and other relevant standards. The result will be a marginal increase in height given that the roof pitch needs to be amended to meet the required outcomes. The overall increase in height equates to between approximately 25cm (250mm) and approximately 33cm (330mm).

SECTION 4.15 EVALUATION:

(1) Matters for consideration – General

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:**
- (i) any environmental planning instrument, and**

State Environmental Planning Policy 55 – Remediation of Land

Under the Policy contamination and remediation is required to be considered in determining a development application. A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The area to be developed is not known to have been used for a 'hot-spot' potentially contaminated past uses. The subject land has been vacant since the demolition of a building on 56 Yamba Road with 58 being a vacant lot. It is considered that the subject site is suitable for the proposed use of land.

The proposal does not nominate a change to the current use of the land, being a type of residential use. After carrying out the initial evaluation there is sufficient information demonstrating that the land is suitable for the proposed use in accordance with the Policy. No further investigation is required and the application can be determined in the normal way.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* requires a BASIX Certificate to be submitted for all BASIX affected development; the proposal triggers the need for this certificate. A valid BASIX Certificate has been submitted with the application which sets out the obligations of the applicant in regard to the proposal to reduce greenhouse gas emissions, energy efficiency and reduce potable water consumption. Compliance that these commitments have been met will be required to be demonstrated prior to issue of the Occupation Certificate.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The proposed development is consistent with the following aims of the SEPP as the development will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (b) make efficient use of existing infrastructure and services, and*
- (c) be of good design.*

Residential care facilities are permissible on the R2 zoned land subject to development consent in accordance with Clause 4 (1) of the SEPP. In accordance with Clause 18 of the SEPP, Council must ensure/condition the development that only accommodation of the following is permitted:

- (a) seniors or people who have a disability;*
- (b) people who live within the same household with seniors or people who have a disability;*
- (c) staff employed to assist in the administration of and provision of services to housing provided in accordance with the SEPP.*

A restriction as to user is required to be registered against the title of the property on which development is to be carried out, in accordance with 88E of the Conveyancing Act 1919, limiting the use of any accommodation to which the application relates to the kinds of people referred to above. The DA has been conditioned accordingly.

Under Clause 26 (1) of the SEPP the consent authority must be satisfied by written evidence that residents will have access to:

- (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and*
- (b) community services and recreation facilities, and*
- (c) the practice of a general medical practitioner.*

(2) Access complies with this clause if:

- (a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:

 - (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*
 - (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,*
 - (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or**
- (c) in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division—there is a transport service available to the residents who will occupy the proposed development:

 - (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
 - (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and*
 - (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).**

The residents will have access to a public transport service from the corner of Yamba Road and Freeburn Street through Busways which provides bus services to the area upon Route 380 – Grafton via Maclean. The footpath to this bus stop is relatively flat and is within 150m from the subject site. The bus operates numerous pick up times throughout the day and has a service available on weekends and public holidays. The route provides a service to the Yamba Shopping centre and CBD and a link to the Brisbane to Sydney Service from Maclean. There are medical practitioners, community services, recreation facilities and shops, banks, other retail and commercial services that can be utilised by the proposed development within close proximity of the public transport and therefore the development complies with the provisions of the SEPP.

The proposed development will be connected to reticulated water and sewage facilities in accordance with Clause 28 of the SEPP.

In considering the design principles of Part 3 Division 2, the proposed amendment to the approved development will not detract further from the surrounding character of the neighbourhood amenity or streetscape and provides for visual and acoustic privacy of neighbours in the vicinity of the development area. Generous sided setbacks greater than 5m allow for sufficient landscaping which will add to the streetscape and soften the impact of the development as well as reducing shadowing and overlooking.

Clause 33 (d) of the SEPP provides that *'the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line'* which has been met.

The development has been designed to provide adequate solar access and provides for accessibility, suitable storm water and waste management consistent with the policy.

The proposed development has been designed in accordance with Clause 41 for accessibility and usability of the SEPP. Under Clause 50 of the SEPP, Council **can not** refuse an application for self contained dwelling on the following grounds:

- (a) **building height:** *if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys),*

The approved development allowed for up to 11.7 metres high above the height limit and was approved under a Clause 4.6 variation assessment under the Clarence Valley LEP. Further comments to the height amendment are discussed under comments regarding issues raised in submissions below.

- (b) **density and scale:** *if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,*

The proposal satisfies this criteria.

- (c) **landscaped area:** *if:*
- (i) *in the case of a development application made by a social housing provider—a minimum 35 square metres of landscaped area per dwelling is provided, or*
 - (ii) *in any other case—a minimum of 30% of the area of the site is to be landscaped,*

The total landscaped area complies with the SEPP provisions.

- (d) **Deep soil zones:** *if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the deep soil zone). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres,*

The majority of the deep soil zone is located behind the front building setback and to the side and rear of the development site.

- (e) **solar access:** *if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,*

The solar access details prepared by the applicant shows that the apartments will have solar access to living rooms and private open consistent with the SEPP provisions and Council's benchmark. Further comments to the solar access are discussed under comments regarding issues raised in submissions below

- (f) **private open space for in-fill self-care housing:** *if:*

(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and

(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area,

Note.

The open space needs to be accessible only by a continuous accessible path of travel (within the meaning of AS 1428.1) if the dwelling itself is an accessible one. See Division 4 of Part 4.

Each unit has access to sufficient private open space areas. The area satisfies the dimension requirements for the open space areas with access directly from the living areas of the dwelling.

- (g) *(Repealed)*

- (h) **parking:** *if at least the following is provided:*

(i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or

(ii) 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider.

The parking for this use is to be provided at 1 space per 10 beds and 1 space for 2 staff, requiring a total of 52 spaces to be provided on-site for the existing aged care facility.

However, under the SEPP a total of 1 space per 5 dwellings is to be provided where the application is made by a social housing provider, Uniting is a registered social housing provider. Hence, a minimum of ten (10) parking spaces could be provided to satisfy the SEPP. Car parking for 53 vehicles are proposed by the development and all units proposed have access to 1 undercover car space.

Overall the proposed development is not inconsistent with the principles and requirements of the SEPP, and as such the development is recommended for approval subject to the imposition of suitable conditions.

State Environmental Planning Policy (Non-Rural Vegetation) 2017

There are a number of trees to be removed from the site as a result of the development. Vegetation in any non-rural area of the State that is declared by a development control plan applies. Council's DCP Part E – Native Vegetation Management applies to the R2 Law Density and clearing of native vegetation that is ancillary to a development application must be considered under the application.

The proposed vegetation is a mixture of native species and exotics on a small portion of the lot with the remainder being grassed areas. The application proposes to revegetate the side 6 metre wide setbacks along the boundaries with native vegetation. The removal of the trees will not result in potential adverse impacts on endangered or threatened species, EEC or critical habitat and will be replaced with suitable native vegetation that will enhance the potential ecological value.

State Environmental Planning Policy (Coastal Management) 2018

The subject land is located within the Coastal Use Area and the Coastal Environment Area. Coastal environment areas are areas that are characterised by natural coastal features such as beaches, rock platforms, coastal lakes and lagoons and undeveloped headlands. Marine and estuarine waters are also included. A coastal use area is land adjacent to coastal waters, estuaries and coastal lakes and lagoons.

The SEPP states that development consent must not be granted to development on land that is wholly or partly within the coastal environment area unless the consent authority considers:

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
- (b) coastal environmental values and natural coastal processes,
- (c) the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- (f) Aboriginal cultural heritage, practices and places,
- (g) the use of the surf zone.

The development will not impact on these matters in this location.

The SEPP states that development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,

- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
- (iv) Aboriginal cultural heritage, practices and places,
- (v) cultural and built environment heritage, and
- (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

The bulk, scale and size of the proposed development is one that will dominate the streetscape in this location though not be imposing due to the overall design of the building, recessing or stepping of the upper level to around 17 metres back from Yamba Road. Generous setbacks and provision of landscaping achieves reduced bulk and scale visual impacts. The street and surrounding area contain double storey buildings that impact on the streetscape in regard to size and scale. The development is not considered to have significant adverse impacts in relation to any of the above matters. The design is sensitive to the coastal environment and compatible with the character of the area and will not detract from the scenic quality of the coast. Access to the coastline will not be affected by the development and it will not overshadow the beach or foreshore. The proposed development is considered to be consistent with these matters.

Clarence Valley Local Environmental Plan 2011

The subject land is zoned R2 Low Density Residential under the provisions of the Clarence Valley Local Environmental Plan 2011 (LEP). For the purposes of this application the development is defined as:

seniors housing means a building or place that is:

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
- (c) a group of self-contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),
and that is, or is intended to be, used permanently for:
 - (e) seniors or people who have a disability, or
 - (f) people who live in the same household with seniors or people who have a disability,
or
 - (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,
but does not include a hospital.

Seniors Housing is a form of Residential Accommodation which is permitted with consent within the R2 zone under the provisions of the LEP. The objectives of the zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposed development is not considered to be inconsistent with the objectives of the zone.

Clause 4.3: Maximum Height of Buildings

The applicant has included an application under Clause 4.6 – Exceptions to Development Standards of the CVLEP with the original application.

The proposal is seeking a variation to the height both under the Seniors Living SEPP which sets a maximum height of 8 metres in residential zones and the height specified on the Height of Building Map of the Clarence Valley Local Environmental Plan 2011 (the LEP) which is 9 metres for this site.

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the CVLEP enables a consent authority, in this case the Council, to grant development consent for a development that contravenes a development standard, such as the height of buildings criteria, when Council is satisfied about the following matters:

- That the applicant has made written request seeking to justify the contravention of the development standard and such written request has adequately demonstrated:
 - that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - that there are sufficient environmental planning grounds to justify contravening the development standard;
- The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out; and
- The concurrence of the Secretary has been obtained.

[NOTE: The NSW Department of Planning Circular PS 08-003, dated 9 May 2008, notified that Council can assume the Director-General's concurrence where an environmental planning instrument has adopted clause 4.6 of the Standard Instrument. The CVLEP adopts clause 4.6 of that Instrument.]

The objectives of clause 4.6 are as follows:

- To provide an appropriate degree of flexibility in applying certain development standards to particular development;
- To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The height of buildings development standard is established within clause 4.3 of the CVLEP. The objectives of this clause are as follows:

- To maintain the low scale character of towns and villages in the Clarence Valley;

- (b) To protect the amenity of neighbouring properties by minimising visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public land.

Comment

The Applicant has described the basis for this marginal increase is as follows:

- In order to comply with Condition 16, there is a need to address SEPP 65 (Design quality of residential apartment development). The SEPP requires a 2700mm ceiling height for habitable rooms for the units in the development.
- The plans that were approved by Council has insufficient service zones to account for the necessary pipework to the soffit of the level 2 slab over the ground level. As a result, the approved concept would not achieve compliance with AS2890.1 or SEPP 65 as there was an insufficient ceiling cavity for the installation of sprinklers, electrical fittings and mechanical ductwork to habitable rooms.
- Condition 53 requires compliance with AS2890.1 (Parking facilities – off-street car parking). The identified height deficiencies can be resolved by way of relocating people with disabilities parking spaces (so that they are no impacted by pipework) and the reduction of slab thicknesses.
- The increase in height for the building therefore equates to an additional 25cm (250mm) in terms of the height from the ground to the level of the roof ridge line. This means that there is also an inherent increase in height for the skylights and lift over-run.
- It also to be noted that the eave height for the Level 3 and level 4 is consistent with levels that were approved by Council as part of the development approval.
- The extent of the lift over-run depicted on the approval plans means that ultimately, it did not meet industry standards for servicing. Through on-going liaisons with various suppliers, the applicant has been able to ensure that a lift can be installed such that the lift over-run increases in height by 33cm (330mm) rather than the more standard 70cm (700mm)³. The overall height of the lift over-run will be 14.83m (up from 14.5m as originally approved).
- The overall increase in height for the building of 25cm generally and 33cm at the lift shaft overrun is considered to be insignificant in that it will not be readily visible or prominent. It is noted that the skylights will be the highest point of the building (and not the lift shaft). The increase in height also ensures that various design standards can be appropriately achieved.
- Updated shadow diagrams have been prepared to demonstrate that the marginal increase in the building height does not adversely impact on the surrounding area.

Further changes to the overall building height have now been determined as a result of the finalisation of the detailed design process. These changes have been necessitated in order to achieve compliance with the conditions of approval and other relevant standards. The result will be a marginal increase in height given that the roof pitch needs to be amended to meet the required outcomes. The overall increase in height equates to between approximately 25cm (250mm) and approximately 33cm (330mm).

Common law principles from judgements made by the Land and Environment Court have provided that a modification application can be approved even if it would contravene a development standard.

Consent authorities are required to consider if a modification is substantially the same development (qualitatively and quantitatively) and whether the proposal is not a radical transformation to that approved. A S4.55 modification under the *Environmental Planning and Assessment Act 1979* also requires the consent authority to consider those matters listed in S4.15 which are required under a normal development application. A development standard must also be taken into consideration in the modification application though the considerations required under S4.6 of the LEP do not apply to the modification application as development approval has already been granted.

Under the Residential Zone Development Control Plan clause C15 applies to a Variation to the Maximum Height of a Building and provides:

A variation to the maximum height of buildings as identified on the Clarence Valley LEP 2011 Height of Buildings Map may be achieved by using clause 4.6 (2) Exceptions to development standards in the following circumstances:

(a) to meet flood control requirements of Part D of this DCP only if the fill required is less than 1 metre in height

...

The applicant is not proposing to fill the site, however this reasoning has been included in the justification for the applicants 4.6 variation.

This allowance would potentially reduce the overall height variation by 1 metre in height. The applicant's proposal to include ground level parking negates the requirement to fill the land and achieve a habitable floor level as per Council's Floodplain Management Controls.

The proposed variation to the height requirements and justification to the CVLEP and Seniors Living SEPP when considered against the first of the objectives of 4.3 of the CVLEP would generally be inconsistent with maintaining the low scale character of towns and villages in the Clarence Valley. It is noted that the Design Verification Statement provided with the development likens the building to that of *low-density buildings in coastal towns, such as motels, apartments and small civic buildings, emphasising their use of the horizontal emphasis and light and dark tones to additionally lower the visual scale of the buildings.*

In this respect the development is one that will dominate the streetscape in this location though not be imposing due to the overall design of the building, recessing or stepping of the upper level to around 17 metres from Yamba Road, generous setbacks and provision of landscaping which achieves reduced bulk and scale visual impacts.

The second objective of Clause 4.3 of the CVLEP is *to protect the amenity of neighbouring properties by minimising visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public land.* The objection of the adjoining neighbour has raised issues in regard to the potential loss of privacy and overlooking from the balconies private opens space areas including their swimming pool.

Under the Residential Zones DCP setbacks are required to meet the following objectives:

- *sufficient separation of buildings to provide privacy and sunlight access for neighbouring dwellings,*
- *buildings setback from the street to provide adequate space for landscaping, privacy and an attractive streetscape.*
- *a design that reduces the apparent bulk of the new buildings.*

For the R2 zone buildings setbacks are required as per the following table:

TABLE C5

Maximum height of building (metres)	Side & rear setbacks
Up to 6.5m	900mm
Over 6.5m and up to 9m	1.5 metres
Over 9m and up to 12m	3 metres

Extract R2 zone DCP setback requirements

For buildings over 9 metres and up to 12 metres in height the required setback is 3 metres; the proposal provides minimum side setbacks of 6 metres. The proposal can be considered as being generally consistent with the DCP objectives and would also meet the requirements for buildings over 9 metres and up to 12 metres in height.

There are potential impacts from overshadowing of the private open space areas of adjoining property at 52 Yamba Road in winter afternoons as depicted in the shadow diagrams provided. These are discussed later in this report.

The Residential Zones DCP is silent in regard to the shadow diagrams though there are provisions that are specific to the Yamba Hill section of the DCP. Parts of Yamba Hill that the provisions apply to have a maximum height of 12 metres and the general principles of the provisions of this benchmark can be considered under this application. Section P7 of the DCP (Yamba Hill Controls) provides that '*at least half the private open space of adjoining properties should receive direct sunlight between 10am and 2pm during mid winter*'. The shadow diagrams provided with the proposal show that the shadowing impacts are not apparent until after 2pm in June. The impacts on 52 Yamba Street are not inconsistent with the Yamba Hill Controls.

The proposed landscaping will also impact on the shadowing of the adjoining residences though it is noted that the site has a number of existing large trees that already provide afternoon shading. A detailed landscape plan shows that the proposed plantings will be dense and provide a high degree of privacy once established. Shadowing impacts from vegetation is not required to be considered. The application will be conditioned to comply with the landscape plan and planting details.

Overall the proposal is considered to be consistent with the setback objectives of the DCP in that sufficient separation of buildings is provided and there is sufficient space for landscaping to achieve a suitable level of privacy and sunlight access for neighbouring dwellings. The setbacks, landscaping and design of the building will assist in reducing the apparent bulk and scale of the new building.

Clause 5.10: Heritage Conservation

The subject land is not listed as containing a heritage item and is not within a heritage conservation area. An AHIMS search was requested on 30 May 2019, no sites or places of Aboriginal significance were shown on the site.

Clause 7.1: Acid Sulfate Soils

The subject land is mapped as containing class 2 potential acid sulfate soils which requires consideration where earthworks will be below the surface. As such a preliminary assessment of the soils was undertaken prepared by Environmental Engineering Solutions in a report dated September 2018. The report states that it is unlikely that works associated with the proposal will extend greater than 1m below the surface. Boreholes were taken to a depth of 2.5m across 5 spots across the height with samples taken at 0.5m increments. The report concluded that potential or actual acid sulfate soils were not present on-site to this depth and therefore a management plan is not required.

Clause 7.2: Earthworks

No significant earthworks are proposed in associated with the development, considering current ground levels, to achieve floor heights will not require a significant volume of fill to be imported.

Clause 7.3: Flood Planning Area

The subject land is located within a flood planning area. Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and*
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) incorporates appropriate measures to manage risk to life from flood, and*
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

To meet Council's Floodplain Management Controls the floor level of the primary habitable floor level is to be a minimum of 3.01 metres Australian Height Datum (AHD). Comments on the flood heights is provided above.

Provided the conditions are complied with, the development is not likely to significantly adversely affect flooding behavior in the area or increase risk to life.

Clause 7.8: Essential Services

The subject site has access to reticulated power, sewer, water and storm water drainage. The site also has frontage to a Council maintained road.

- (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified**

the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

There are no proposed environmental planning instruments that apply to the land that is or has been the subject of community consultation or public exhibition.

(iii) any development control plan, and

Residential Zones Development Control Plan 2011

The proposed development is subject to consideration under the Residential Zones DCP. Overall the proposed development was considered to be not inconsistent with the controls of the plan. A full assessment against the DCP provisions is provided below:

Clause	Requirement	Comment
C1. Objectives for development in residential zones	Responsive to site constraints; High quality and sensitive to the character of the locality; Streetscapes which enhance the amenity; Open space and landscaping; Services & Infrastructure Streetscape requirements	The proposed development is functional and high quality. The bulk, scale and size of the proposed development are addressed through design elements, setbacks and landscaping and are not considered to be so out of proportion with existing development in the locality to warrant refusal. Landscaping has been provided well above that required under the Seniors Living SEPP which will enhance the amenity of the neighbourhood. The proposal is sensitive in design and is not considered to greatly detract from the amenity of the existing streetscape.
C13: Building Height controls	Max.9m	See comments under Clause 4.3 and 4.6 of LEP.
C16: Setbacks	Front – 6m Side and Rear – 900mm	Yes – see comments above
C19. Landscaping		See comments made under Seniors Living SEPP.
C24: Services	Water, electricity, sewer, road access	Complies. The proposed development will be connected to all available services.
C25: Development on flood liable land		See comments under Clause 7.3 of LEP.
C27. Development of Land with Acid Sulfate Soils		The land is identified as containing class 2 acid sulfate soils, see comments under Clause 7.1 of LEP.
Part D Floodplain Management Controls		See comments under Clause 7.3 of LEP.

Part E: Vegetation Controls		See comments under State Environmental Planning Policy (Non-Rural Vegetation) 2017.
Part F: Heritage Conservation		See comments under Clause 5.10 of LEP.
Part G: Parking Controls		See comments made under Seniors Living SEPP.
Part H: Sustainable Water Controls		The proposal is to drain to the existing stormwater infrastructure and conditions of consent require a detailed assessment to be provided with the CC to determine if additional detention is required.
J10: Stormwater	Water sensitive design	It will be required that adequate calculations be provided to demonstrate that the proposed catchment area can be accommodated within the existing detention/infiltration basin. These details are to be provided prior to issue of the Building CC.
J12: Provision of services	Provision of services	Complies. The proposed development will be connected to all available services.

- (iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and**

N/A.

- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,**

The proposed development is not considered to be inconsistent with the prescribed matters. The applicant is not proposing any demolition works.

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

The built environment will be impacted upon through the construction of buildings on vacant land. Through appropriate landscaping and design the development the potential impacts are reduced and the adverse impact on the visual amenity or character of the residential area mitigated.

Socially, the proposed development will provide for an overall increase in the availability of seniors living to the Yamba area which has positive benefits to the community through an increase in services. By increasing the supply of seniors living in Yamba it may assist local families keep elder members of the family nearby which will improve social wellbeing of families. The development will also have flow on economic effects through

increases in long term employment opportunities at the facility and also economic benefits during the construction phase if local labour and materials are sought and will have an impact on the local economy through an increase in the population and additional services that may be required.

Conditions have been imposed to ensure compliance with sediment and erosion control and stormwater management requirements to minimise any potential impacts on neighbouring properties and the environment.

(c) the suitability of the site for the development,

In regard to the location of the subject site, the proposal will result in the provision of additional aged housing in an established urban area with suitable access to commercial, recreational and other opportunities. The proposal is not considered to have a detrimental impact on existing services in the area and is generally consistent with surrounding residential development. The proposed development is suitable for the proposed development as approved subject to the imposition of suitable conditions.

(d) any submissions made in accordance with this Act or the regulations,

The development was advertised and exhibited in accordance with the Community Participation Plan. During the exhibition period 4 submissions were received.

Issues raised in submissions

- A. *Overlooking into their yard, loss of winter sunlight, visual impacts, and further 450mm shift closer to boundary (reduced setback) and based on the impacts generated to the application is not substantially the same to that approved. The applicant should rectify the design issues and change should be made within the existing footprint already approved without impaction further on their amenity.*

Comment

In regard to overlooking and visual impacts, if the proposed modification is not approved this will not alleviate the neighbours concerns. By comparison to the building that has been approved on the site there will be no changes to the building layout and design other than a minor raising of the roof and slight increase to the roof pitch. The proposal as approved provides side setbacks of greater than 5 metres which allows for large landscape and tree planting areas to reduce potential overlooking and appearance of the apartments.

Under the Residential Zones DCP setbacks are required to meet the following objectives:

- sufficient separation of buildings to provide privacy and sunlight access for neighbouring dwellings,
- buildings setback from the street to provide adequate space for landscaping, privacy and an attractive streetscape.
- a design that reduces the apparent bulk of the new buildings.

By comparison Council's Residential Development Control Plan (DCP) allows for a 1.5m setback to a 9m high building and a 3m setback for a 12m high building; i.e. as the height of a building increases the side and rear setbacks are also to be increased, the building as approved is considered to have an appropriate proportional setback.

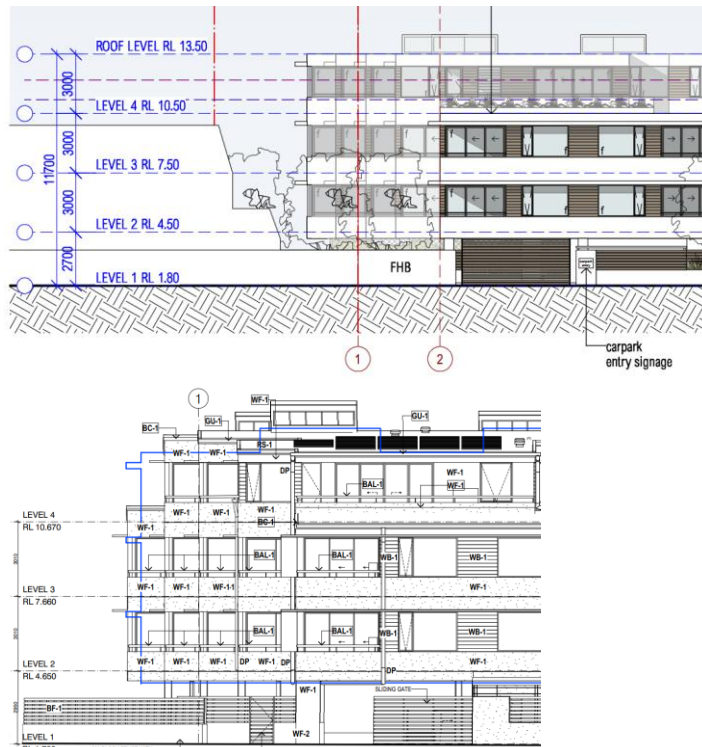
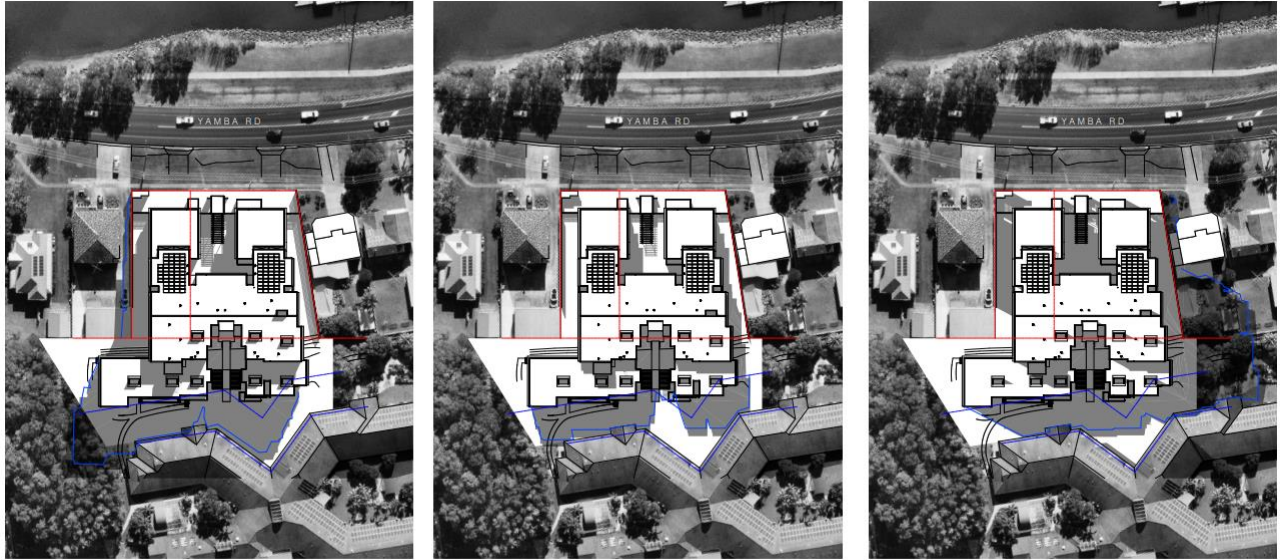


Figure 4 – Approved height, North Elevation and Proposed height and setback changes

In regard to loss of sunlight there will be an additional impact on adjoining property at 52 Yamba Road. The Applicant has provided plans that show the extent of the changes to the development including shadow diagrams. The diagrams show that the increased roof height will slightly increase the extent of shadowing in the afternoon in winter.

The relevant assessment benchmark commonly used under Council's DCP Yamba Hill Controls requires that at least half of the private open space of adjoining properties should receive direct sunlight between 10am and 2pm during mid winter.

Sun diagrams have been provided for June time intervals for 9.00am, 12.00pm and 3.00pm showing that shadowing is at its greatest on the adjoining property some time after 12.00pm (See below). The rear yard of the adjoining property is largely unaffected until in the afternoon and receives sunlight for over 2 hours between 10am and 2pm; the shadowing impacts are not inconsistent with Council's DCP requirement. A comparison has also been provided for difference in shadowing at 3.00pm September.



JUNE 9AM

JUNE 12PM

JUNE 3PM



B. Council is not legally able to modify the building height under a S4.55 application nor should it be considered to be substantially the same application, cumulative impacts and loss of adjoining property values.

Comment

Common law principles from judgements made by the Land and Environment Court have provided that a modification application can be approved even if it would contravene a development standard.

Consent authorities are required to consider if a modification is substantially the same development (qualitatively and quantitatively) and whether the proposal is not a radical transformation to that approved. A S4.55 modification under the *Environmental Planning and Assessment Act 1979* also requires the consent authority to consider those matters listed in S4.15 which are required under a normal development application. A development standard must also be taken into consideration in the modification application though the considerations required under S4.6 of the LEP do not apply to the modification application as development approval has already been granted.

By comparison to the building that has been approved on the site there will be no changes to the building layout and design other than a minor raising of the roof and slight increase to the roof pitch. The development is considered to be substantially the same development to that approved. There are minimal cumulative impacts that arise from the modification proposal as well as perceived impacts to property values.

C. Proposed traffic island, impacts and decreased property value

Comment

To reduce the traffic impacts of the development on Yamba Road, it has been required that the development be restricted to left-in left-out movements. This is to limit the number of conflict points arising from uncontrolled right turn movements in accordance with Austroads 6.10.3.3. This will be enforced by the construction of a raised median along Yamba Road centreline for the full frontage of the development site. Additional signage is to be provided indicating no right turn out of the development. The above requirements will be required as a condition of consent.

SECTION 4.55(1A) : Section 4.55 provides that where the development, the subject of consent, will be substantially the same, the consent may be amended. The requested amendment is reasonable and does not substantially change the approved development. In this instance the consent can therefore be amended under section 4.55(1A).

The determination of the application is considered to be outside of Council staff delegations to determine; therefore the application is forwarded to Council for a decision.

RECOMMENDATION: It is recommended that the consent granted by Council at its meeting of 22 October 2019 (Item 6b.19.034) and issued on 25 October 2019 be amended, pursuant to section 4.55(1A) of the Environmental Planning and Assessment Act 1979, by amending the approved plans as per the amended plans provided in the application.

Report prepared by: Pat Ridgway, Senior Development Planner
Date: 5 August 2021

Attachment E

From: [REDACTED]
Sent: Mon, 26 Jul 2021 12:10:49 +1000
To: "Patrick Ridgway" <Patrick.Ridgway@clarence.nsw.gov.au>; "Council Email" <Council@clarence.nsw.gov.au>
Subject: MOD2021/0041
Attachments: DA Modification objection.pdf

Re Modification of DA

Please forward this objection /submission to appropriate parties. I have not been able to access on-line forms.

Sue Hillery
Apologies and thanks

Patrick Ridgway,
Development and Planning Clarence Valley Council
Submission / Objection to DA Modification
Application Number MOD2021/0041
Proposed Development DA2019/0331

Patrick,

Thank you for extending the closure date of this application from 16th July 2021 to 26th July 2021. As noted earlier it was disappointing that we did not receive the original notification. We would like to officially register our concerns regarding the proposed modification. Unfortunately the on line forms on the CVC website have been difficult to access, therefore I am forwarding the objection to you personally and request that you pass it on to relevant personnel.

When Council approved this development, they did so knowing that we, as future residents of 52 Yamba Road would be significantly impacted. Fifteen balconies from a three story building will look directly into our yard. In winter we will lose the majority of sun in our backyard. The physical impact is enormous, the visual impact shocking and our privacy and lifestyle destroyed.

When the initial DA for this development was lodged, our major concerns were proximity and height. Now there is a request to

1/ Increase Height

2/ Increase proximity to our home.

As owners of 52 Yamba Road, a 450mm shift closer to our boundary will have a significant negative impact. The impact will not only be visual, it will heighten the problem of privacy and shadowing.

Whilst it may be considered 450mm is not a large numeric modification, Council must consider the qualitative impacts as part of this S4.55 application. The bulk/scale of the development is already enormous and totally out of character with the neighbourhood and community.

We are firmly of the view the proposed modification is not substantially the same development based on the impacts generated to our residence.

Council must consider the qualitative impacts of the development in determining whether it is substantially the same. The proponent is not able to simply detail a numeric amendment as being minor without assessing the qualitative impacts. Furthermore, just because there may be minor numeric changes the cumulative impacts of the changes need to be assessed.

We believe if this approach is taken, then the proposed modification should not be approved.

We understand the reason for the modification was an error in planning / design regarding a sprinkler system. This error should be dealt with through modification to the existing built form and within the footprint which has been already approved. As an adjoining resident, it is not our responsibility to be impacted by errors made by others.

In this respect, surely another solution is to install a sprinkler system without impacting on our amenity once again. We raise serious doubts the development would have been approved if the amended setback was sought within the original application.

Again, another solution is requested, and we urge Council to require the applicant to rectify their issues without impacting further on our amenity.

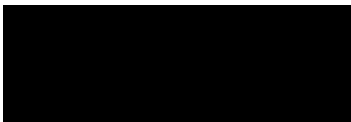
We also seek Council's response to whether the applicant can increase the building height above 9m through a S4.55 application. We are of the view Council is not able to increase any variation of the LEP standards through a S4.55 application and therefore a new Development Application will be required to rectify this issue.

This application should be refused on the following grounds

- There is no justified planning merit to approve the modified design;
- The proposal is not substantially the same development based on both quantitative and qualitative reasons;
- The cumulative impact of the proposed changes is substantial and the proposed development is not substantially the same;
- The cumulative impact of the changes and associated impact upon our amenity (over shadowing, noise, bulk/scale of the development) results in the development not being substantially the same;
- The proponent has not provided adequate justification to seek the variations to the building setbacks against rectifying the design issues within the existing building footprint.
- The height proposed is above 9m and Council is not legally able to modify the building height under a S4.55 application.

We thank you for taking into consideration our submission. We might only be a single resident, however adverse impacts on one residence is still grounds to refuse an application.

Regards Sue and Mike Hillery



From: [REDACTED]
Sent: Fri, 23 Jul 2021 09:34:00 +1000
To: "Patrick Ridgway" <Patrick.Ridgway@clarence.nsw.gov.au>
Subject: Further reasons to decline modifications Uniting Church

Hi Pat,

We were unable to submit our reasons through the Council's submission page.

Just following on from our conversation. These are the reasons we do not want the modification to be approved.

1. The height increase will create further shadowing impacting our property.
2. This is our primary residence and further height increases will impact on our privacy as the units will have balconies that overlook our property.
3. The development already is in far excess of the height restrictions and an increase in height will affect Yamba's character and seaside charm.
4. We are concerned about the changes of the road with talk that a traffic island will be built causing great disruption to our property.

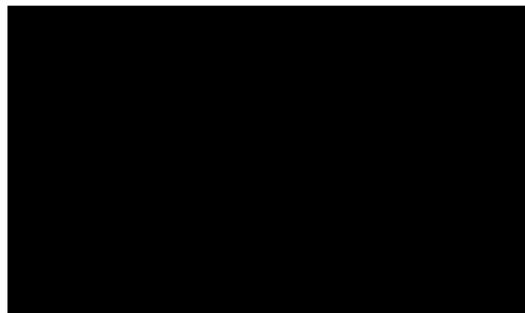
Furthermore, we are worried that our home will decrease in value with further height increases due to the shadowing and curb appeal.

Regards,

Emily and Joe O'Keeffe [REDACTED]

--

Joe O'Keeffe



Exhibition	
Comments	<p>I am one of the owners of Yamba Rd, Yamba and I have been informed by neighbours that there is a proposal to modify the Development Application adjoining our property.</p> <p>I object to any modification to the current DA, height of buildings or increase width of building which would bring the building closer to any of my boundaries etc.</p> <p>My objection is based on</p> <ol style="list-style-type: none"> 1. Overshadowing our property in relation to height. 2. affecting our privacy from the proposed adjoining balconies due to proposed increased height and closer to boundaries. 3. Increased noise affecting our residences and property from the proposed residences and 20 or so balconies, as they are proposed to be higher and closer. 4. Height of building proposed is already far in excess of Council's zoning limitations. 5. Developer having second opportunity to further exceed height limitations without wider community being aware of changes or being consulted. 6. Changes to DA may impact any future subdivision or development, value of our property. 7. Changes will affect the reasonable peace, comfort and privacy of our tenants. 8. Creation of a precedent in neighbourhood affecting Yamba's amenity and character. 9. Developer maybe looking at cheaper building option than originally proposed which requires an increase in height. I have not seen any independent assessment of building costs.

	<p>Does the modification increase the density of the number of units in this development? Are there drawings that show the proposed overshadowing and measurements of the proposed increased footprint?</p> <p>We have not received information/notices regarding the proposes modifications. Can you please email me a copy of the notice and also advise where the notification was sent and evidence that it was sent.</p> <p>As we never received the initial DA application notices for this development we advised Council that any future notifications regarding 60 Yamba Rd Yamba were to be emailed to us using this email address. This is the email our rates notices are sent to & the email we provided the developer for them to contact us (re the proposal for use of our airspace).</p> <p>Please provide me with the Legislation, Section of the Act these notices are required to be served under so we can ensure compliance as we have never received any notices.</p> <p>Also, can you advise if tenants at 60 Yamba Rd Yamba, have received a notice so they can provide their input into this proposal?</p>
Supporting documents	
	<p>I have not made a political donation or gift to any Clarence Valley Council employee or councillor in the last 2 years.</p>

Exhibition	
Comments	<p>We own Yamba Rd, Yamba and we have been informed by neighbours that there is a proposal to modify the Development Application adjoining our property.</p> <p>We object to any modification to the current DA, height of buildings or increase width of building which would bring the building closer to any of our boundaries etc.</p> <p>Our objection is based on</p> <ol style="list-style-type: none"> 1. Overshadowing our property in relation to height. 2. proposal affecting our privacy from the proposed adjoining balconies due to increased height and closer to boundaries. 3. Increased noise affecting our residences and property from the proposed residences and 20 or so balconies, as they are proposed to be higher and closer. 4. Height of building proposed is already far in excess of Council's zoning limitations. 5. Developer having second opportunity to further exceed height limitations without wider community being aware of changes or being consulted. 6. Changes to DA may impact any future subdivision or development, value of our property. 7. Changes will affect the reasonable peace, comfort and privacy of our tenants. 8. Creation of a precedent in neighbourhood affecting Yamba's amenity and character. 9. If developer has miscalculated height requirements why should community be affected let developer look at alternate options, even if options are more expensive for the developer.

	<p>Does the modification increase the density of the number of units in this development? Are there any drawings that show the proposed overshadowing and measurements of the proposed increased footprint?</p> <p>We have not received information/notices regarding the proposes modifications. Can you please email me a copy of the notice and also advise where the notification was sent and evidence that it was sent.</p> <p>As we never received the initial DA application notices for this development we advised Council that any future notifications regarding 60 Yamba Rd Yamba where to be emailed to us using the email address provided. This is the email our rates notices are sent to & the email we provided the developer for them to contact us (re the proposal for use of our airspace).</p> <p>Please provide me with the Legislation, Section of the Act these notices are required to be served under so we can ensure compliance.</p> <p>Also, can you advise if tenants at Yamba Rd Yamba, have received a notice so they can provide their input into this proposal?</p>
Supporting documents	
	<p>I have not made a political donation or gift to any Clarence Valley Council employee or councillor in the last 2 years.</p>

From: [REDACTED]
Sent: Mon, 19 Jul 2021 14:40:54 +1000
To: "Council Email" <Council@clarencenew.gov.au>
Subject: Objection to MOD2012/0041

We own 60 Yamba Rd, Yamba and we have been informed by neighbours that there is a proposal to modify the Development Application adjoining our property.

We object to any modification to the current DA, height of buildings or increase width of building which would bring the building closer to any of our boundaries etc.

Our objection is based on

1. Overshadowing our property in relation to height.
2. affecting our privacy from the proposed adjoining balconies due to increased height and closer to boundaries.
3. Increased noise affecting our residences and property from the proposed residences and 20 or so balconies, as they are proposed to be higher and closer.
4. Height of building proposed is already far in excess of Council's zoning limitations.
5. Developer having second opportunity to further exceed height limitations without wider community being aware of changes or being consulted.
6. Changes to DA may impact any future subdivision or development, value of our property.
7. Changes will affect the reasonable peace, comfort and privacy of our tenants.
8. Creation of a precedent in neighbourhood affecting Yamba's amenity and character.

Does the modification increase the density of the number of units in this development? Are there drawings that show the proposed overshadowing and measurements of the proposed increased footprint?

We have not received information/notices regarding the proposed modifications. Can you please email me a copy of the notice and also advise where the notification was sent and evidence that it was sent.

As we never received the initial DA application notices for this development we advised Council that any future notifications regarding 60 Yamba Rd Yamba were to be emailed to us using this email address. This is the email our rates notices are sent to & the email we provided the developer for them to contact us (re the proposal for use of our airspace).

Please provide me with the Legislation, Section of the Act these notices are required to be served under so we can ensure compliance.

Also, can you advise if tenants at 60 Yamba Rd Yamba, have received a notice so they can provide their input into this proposal?

Karen and Gregory Hembrow
[REDACTED]

From: [REDACTED]
Sent: Mon, 19 Jul 2021 10:44:22 +1000
To: "Council Email" <Council@clarencensw.gov.au>
Subject: 56 Yamba Rd plan alterations

Hi Patrick,

Just expressing our concerns with the proposed plan amendments at 56 Yamba Rd.

There doesn't seem to be any indication of height changes with accurate numbers on the plan.

We are also very interested in the shadow line and those implications. Thankyou .

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From: [REDACTED]
Sent: Mon, 19 Jul 2021 07:29:17 +1000
To: "Council Email" <Council@clarencensw.gov.au>
Subject: Objection 56-58 Yamba Rd

Hi Pat,

We wish to express our concern over the modification that is being proposed at 56-58 Yamba Rd. We are already not happy with the size of this mega structure and the impact it will have on our property. We never thought it would be within the Council's height restrictions to start off with. The Uniting Church is now asking for yet another height increase. We have received plans that have no measurements on the top story and for the overall height increase. We are 100% opposing any further height increases as this will have an impact on our own primary residence.

We have only received this letter from our P.O. Box last week which is a concern when there is an extremely short time frame to make any objections. Another matter that is concerning is that none of the residing home owners have received any correspondence about this matter. We feel like we have been blindsided and given no time to react

I did try to call you between work hours last Friday (16th July 2021) to discuss this matter and wasn't called back. Both us and our neighbours are extremely upset about this proposal and would like the opportunity to object to this ridiculous proposal. Again, there are no measurements on the plan just a blue and black line outlining the approved and requested height increase. We are very disappointed and do not want this to proceed.

If this is approved does this now set a new precedent that Low Density Residential can be 4 storeys high? Are there shadow plans available as we are very concerned this will impact on our own residence.

We would also like the opportunity to meet with all the concerned neighbours to discuss this further with Council. We will be in contact with you during the day to discuss this modification to ensure it does not proceed.

Regards,

Joe and Emily O'keeffe [REDACTED]

Exhibition	
Comments	<p>I am writing to register my opposition to the above Development Application. I am of the view that a development of this type is out of character for Yamba and significantly impacts on the amenity of the area. I see that this is a retrograde step by imposing multiple building levels on a predominantly residential street. Specifically I am opposed to the proposed height of the structure and its imposing presence on surrounding houses. More particularly I am opposed to this recent application to increase the height of the proposed building. This is simply an incremental development process to achieve improved commercial outcomes. I have no doubt that further changes will be sought (either in this development or future developments) under the guise of 'lets submit a preliminary application and we will get the changes we want by making additional applications for 'minor improvements'.</p> <p>I will also register my concerns in the strongest terms about increased traffic flows and volumes arising from this development. Yamba Rd is already incapable of accommodating traffic flows. The increased movement of cars in and out of this development will further exacerbate an already intolerable situation. Further to this I will place on notice the risk of serious motor vehicle accidents arising from hazards associated with access and egress to the property. An alternative route utilising the southern region of Yamba (beyond Carrs Drive) must be actioned as a Council priority.</p> <p>I am strongly opposed to the development generally and the changed height levels in particular. This is just one more step in actions by developers which will have irreversible consequences for the character of Yamba as a quiet and peaceful holiday</p>

	destination.
Supporting documents	
	I have not made a political donation or gift to any Clarence Valley Council employee or councillor in the last 2 years.
Privacy advice	
Disclaimer	
	I agree