Item 3.

Section 4.56 Application: 357 Glebe Point Road, Glebe - D/2017/582/A

File No.: D/2017/582/A

Summary

Date of Submission: 30 June 2021

Amended plans received 30 August 2022

Applicant: Visionland Glebe Pty Ltd

Architect: DKO Architecture

Developer/Owner: Visionland Glebe Pty Ltd

Planning Consultant: The Planning Studio

Heritage Consultant: Paul Davies Pty Ltd

DAP: 16 September 2021

Cost of Works: \$29,060,507

Zoning: The site is zoned E1 - Local Centre under the Sydney

Local Environmental Plan (SLEP) 2012. The development

relates to building envelopes for residential accommodation and is permissible with consent.

Proposal Summary: This Section 4.56(1) application seeks to modify the

concept approval for building envelopes accommodating a 6 storey residential flat building with a 2 level basement, and 8 x two storey plus attic dwellings, the retention of Bidura House Group, demolition of the Metropolitan Remand Centre, and associated site works including tree

removal.

Specifically, the modifications include revisions to height and bulk (at roof, levels 4 and 6 in particular) as well as introduction of an additional storey to the residential flat building envelope, an increase in height to the terrace building envelope and a reduction in the number of terraces from 8 to 7 with resultant changes to building separation, an updated solar analysis and amendments to the extent of approved facade articulation zones.

The current concept was approved by the Land and Environment Court on 16 November 2018.

The proposed modifications principally involve altering the approved building envelopes to align with the winning design competition scheme and the detailed design development application.

The proposed modifications will deliver consistency between staged development applications for the site, as required under Section 4.24 of the Environmental Planning and Assessment Act, 1979.

The detailed design development application (D/2021/711) is being presented to the Local Planning Panel (LPP) concurrently for approval. Both the concept modification and the detailed design development application are referred to the LPP for determination as the overall proposal is for 'sensitive development', where the 'State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development' applies.

The application was notified between 8 July 2021 and 23 July 2021. 74 submissions were received as a result of this notification. Following submission of amended plans, the application was re-notified for a period of 14 days between 18 January 2022 and 2 February 2022. 10 submissions were received. The submissions raised concerns about loss of solar access, privacy impacts, bulk and scale impacts, traffic generation and congestion, as well as construction impacts (including air pollution, vibration and noise), and heritage concerns regarding Bidura House Group and the Metropolitan Remand Centre. These concerns and further issues are addressed within this report.

As amended, the proposed building envelopes are considered to be substantially the same as previously approved and contextually appropriate.

The detailed design application will be considered concurrently by the LPP under D/2021/711, demonstrating that a generally compliant scheme can be provided within the amended envelope. Consequently, the amendment is recommended for approval.

Summary Recommendation:

The development application is recommended for approval, subject to conditions.

Development Controls:

- (i) Environmental Planning and Assessment Act, 1979;
- (ii) Heritage Act 1977;
- (iii) State Environmental Planning Policy No. 65 -Design Quality of Residential Apartment Development
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Development Control Plan 2012

Attachments:

- A. Amended Conditions of Consent
- B. Amended Building Envelope Drawings
- C. Solar Impact Analysis
- D. Concept Approval Land and Environment Court Judgement

Recommendation

It is resolved that consent be granted to Section 4.56 Application No. D/2017/582/A subject to the amendment of the following conditions (with modifications shown in **bold italics** (additions) and strikethrough (deletions), as follows:

(2) APPROVED CONCEPT DEVELOPMENT

- (a) Subject to the conditions of this consent, a concept plan consent is granted for building envelopes for a residential development to accommodate a 6 storey residential apartment building with a 2 level basement, and **8 7** x two storey plus attic dwellings, including the retention of Bidura House Group, demolition of the Metropolitan Remand Centre, and associated site works including tree removal.
- (b) Any detailed development application must be in accordance with the following drawings prepared by DKO:

Drawing Name	Drawing Number	Architect	Date
Envelope Plan: Footprint	A1.2 _€ <i>Rev. I</i>	DKO	28/11/2018 28/04/2022
Envelope Plan: Upper Storey Setbacks	A1.3 _F <i>Rev. J</i>	DKO	28/11/2018 18/08/2022
Envelope Detail: Apartment	A1.4 <u>_E</u> _ <i>Rev. I</i>	DKO	28/11/2018 28/04/2022
Envelope Detail: Terrace dwellings	A1.5 _G <i>Rev. J</i>	DKO	04/12/2018 18/08/2022
Envelope: Sections 1/2	A1.6 _G Rev. I	DKO	04/12/2018 18/08/2022
Envelope Sections: 2/2	A1.7 _G Rev. I	DKO	04/12/2018 28/04/2022
Envelope: Elevations 1/2	A1.8 _G <i>Rev. J</i>	DKO	04/12/2018 18/08/2022
Envelope: Elevations 2/2	A1.9 _G Rev. J	DKO	04/12/2018 18/08/2022

Reference Sections	A1.13_ F Rev. H	DKO	04/12/2018 22/06/2021
Reference Sections	A1.14_ F <i>Rev. I</i>	DKO	04/12/2018 28/04/2022
Reference Sections	A1.15 _E Rev. J	DKO	04/12/2018 18/08/2022
Compliance drawings			
Site Plan- Existing	A1.1_A	DKO	19/12/2017
Demolition Plan	A2.1_A	DKO	19/12/2017

and as amended by the conditions of this consent.

- (c) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.
- (d) The detailed apartment building design is to include elements within the articulation zone to create a consistent two storey scale to Ferry Lane.
- (e) Lift overrun levels shown in plans are to include lift overruns and building plant only.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development as modified is substantially the same as was originally approved and is consistent with the requirements of Section 4.56(1) of the Environmental Planning and Assessment Act, 1979.
- (B) The proposed modifications ensure that the detailed design development application is consistent with the concept approval to satisfy Section 4.24(2) of the Environmental Planning and Assessment Act, 1979.
- (C) The increased height and bulk of the building envelopes are in keeping with the desired future character of the area and will not adversely impact the amenity of the surrounding area. These variations are reasonable and justified with regard to the detailed design development application D/2021/711.
- (D) The proposed building envelopes are capable of accommodating a future building design which is capable of exhibiting design excellence in accordance with Clause 6.21C of the Sydney Local Environmental Plan 2012.

Background

The Site and Surrounding Development

- 2. The site has a legal description of Lot 1 and DP 64069, known as 357 Glebe Point Road, Glebe. It is irregular in shape with an area of approximately 5,556sqm.
- 3. The site has a primary street frontage of 39.73 metres to Glebe Point Road, 117.29 metres to Ferry Lane and 21.79 metres to Avon Street.
- 4. The south-west part of the site fronting Glebe Point Road is occupied by a two storey Victorian Regency style house c1860, with a detached Italianate ballroom (c1871-1875) and formal front garden known as 'Bidura House'.
- 5. The central and north-eastern part of the site is occupied by a predominantly 5 storey reinforced concrete framed building (with 2 levels of basement car parking), known as the former Metropolitan Remand Centre (MRC). The building, purpose built for use as a remand centre and children's court for the former State Department of Youth and Community Services (YACS), opened in 1983. The remand centre ceased in February 1985, however the Children's Court functions remained on site. The centre has now been vacated. The building is accessed via pedestrian entries and vehicle entries from both Glebe Point Road and Ferry Lane. A landscaped area is located in the eastern corner of the site, near the intersection of Ferry Lane and Avon Street, which is publicly accessible.
- 6. The site slopes down from Glebe Point Road (south-west) to Avon Street (north-east), with a total change in level of approximately 10 metres.
- 7. The Glebe tunnel of the Inner West Light Rail corridor traverses the southern corner of the site (Glebe Point Road).
- 8. The curtilage of Bidura House and its garden is listed as a State Heritage Item (SHR: 01994), known as 'Bidura House Group'. The site is also listed as a Local Heritage Item under the Sydney LEP 2012 (I763), known as 'House "Bidura" including interiors, former ball room and front garden'. The site is located within the Glebe Point Road Heritage Conservation Area (C25).
- 9. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds



Figure 2: Bidura House viewed from Glebe Point Road



Figure 3: Bidura House (centre) and ballroom (right) linked via cover walkway (2017)



Figure 4: Rear of Bidura House (left) and existing relationship with the Metropolitan Remand Centre (MRC) (2017)



Figure 5: Glebe Point Road driveway to the MRC, with neighbouring residential flat building at 2A Forsyth Street to the left, and Bidura to the right



Figure 6: MRC building (north elevation) viewed from 2A Forsyth Street



Figure 7: MRC building viewed from Ferry Lane (south elevation)



Figure 8: View of Ferry Lane looking west. No. 6 Avon Street is to the left, the subject site is to the right.



Figure 9: Site viewed from the corner of Avon Street and Ferry Lane

- 10. Surrounding development is a mix of commercial and residential uses. Glebe Point Road is oriented north-west to south-east, and occupied by commercial and residential buildings of predominantly one and two storeys in height.
- 11. Immediately neighbouring the site to the south are commercial properties fronting Glebe Point Road at 345, 353 and 355 Glebe Point Road, including the heritage listed Toxteth Hotel (I762) (Figure 10).
- 12. To the north-west, the site adjoins local heritage listed dwellings (I764) at 359-361 Glebe Point Road (Figure 11).
- 13. To the south-west of the site on the opposite side of Glebe Point Road are local heritage listed dwellings (I741) at 216-224 Glebe Point Road (Figure 12).
- 14. To the north of the site are two residential flat buildings at 2 and 2A Forsyth Street, built in the mid 1970s, each with 8 storeys (plus lift overrun/plant) (Figures 13 and 14).
- 15. To the south-east of the site on the opposite side of Ferry Lane, are the rear of single storey dwellings (some with attics and first floor rear additions) that front Ferry Road. These properties have garages or roller doors providing access to Ferry Lane. (Figures 15 and 16).

16. To the north-east and east of the site are one and two storey residential terraces on Avon Street (Figures 17 and 18). Avon Street is a one way street in a south-east to north-west direction of travel.

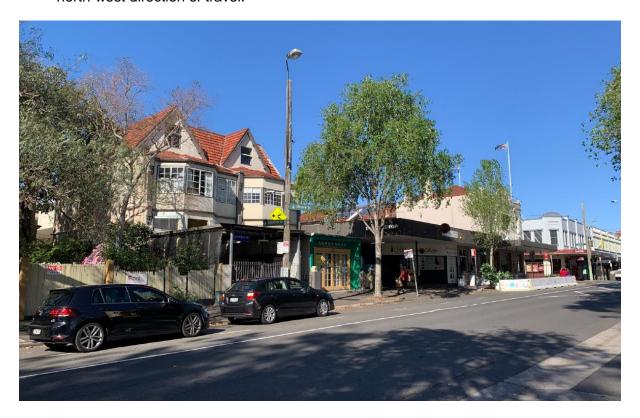


Figure 10: Adjoining commercial properties to the south on Glebe Point Road



Figure 11: Adjoining two storey dwellings at 359-361 Glebe Point Road. Access to the basement of the MRC building from Glebe Point Road is at the centre of the image.



Figure 12: Opposite the site, to Glebe Point Road (Nos. 216, 218 and 220 Glebe Point Road)



Figure 13: Neighbouring residential flat buildings Nos. 2 (centre) and 2A (right) Forsyth Street, viewed from the MRC building (2017)



Figure 14: Neighbouring residential flat building No. 2A Forsyth Street, viewed from the MRC building (2017)



Figure 15: Ferry Road terraces, with the MRC building behind



Figure 16: Rear of MRC building (left) and rear of Ferry Road properties, as viewed from Ferry Lane



Figure 17: Avon Street terraces adjacent to the site



Figure 18: Avon Street terraces opposite the subject site

History Relevant to the Development Application

Concept Development Application - D/2017/582

- 17. On 7 December 2018, development consent was granted by the Land and Environment Court for the concept development application.
- 18. The proposal included a 6 storey residential flat building envelope with a 2 level basement, an 8 x two storey plus attic dwellings contained within a separate building envelope, the retention of Bidura House Group, demolition of the Metropolitan Remand Centre, and associated site works including tree removal.
- 19. The subject Section 4.56(1) modification application seeks to amend the approved concept design to ensure consistency with the detailed design application (D/2021/711, discussed below).
- 20. Plans and sections of the originally approved concept development are provided below.

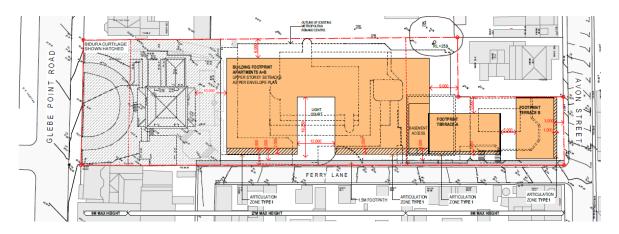


Figure 19: Approved envelope footprint plan

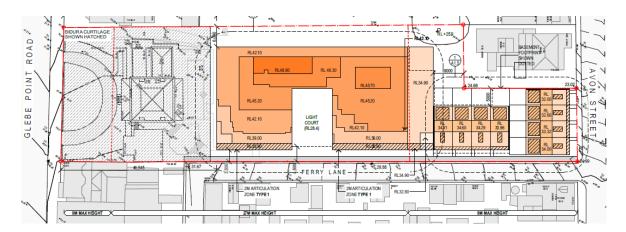


Figure 20: Approved upper storey setbacks plan

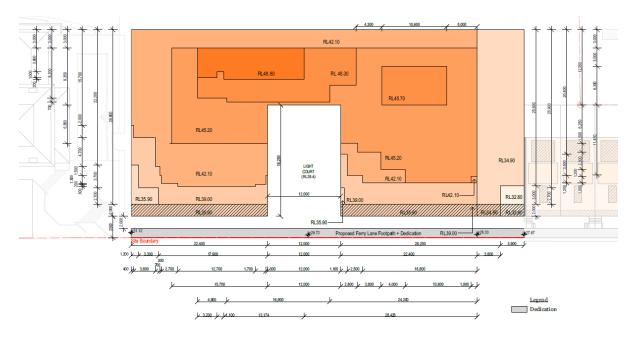


Figure 21: Approved envelope detail: apartments

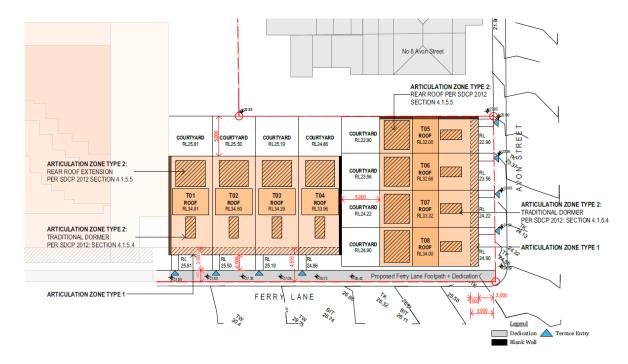


Figure 22: Approved envelope detail: terrace dwellings

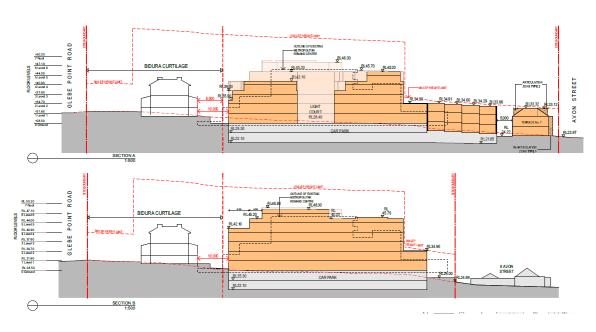


Figure 23: Approved envelope sections (A and B)

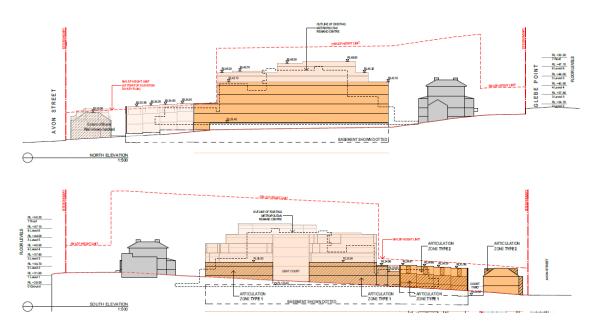
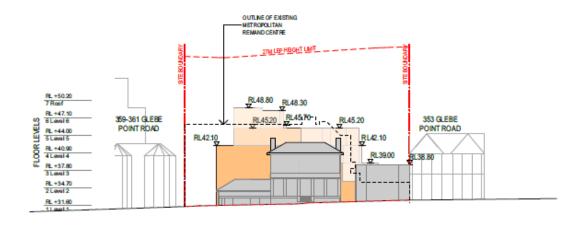


Figure 24: Approved envelope elevations (north and south)



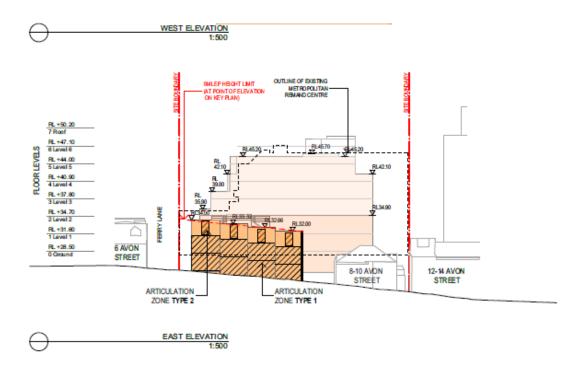


Figure 25: Approved envelope elevations (west and east)

Competitive Design Process

- 21. A competitive design alternatives process was undertaken in accordance with the provisions of Clause 6.21 of the Sydney LEP 2012 and the City of Sydney Competitive Design Policy.
- 22. The developer did not seek additional height or floor space ratio (FSR) as part of the competitive design process.

23. DKO Architecture was selected as the winning entrant by the four member Jury. The Jury considered the winner to demonstrate the potential for design excellence and recommended a number of fundamental aspects of the proposal be retained within the detailed design application. This is discussed further as part of the detailed design development application assessment.

Detailed Design Development Application - D/2021/711

- 24. The detailed design application D/2021/711 has been lodged and has been assessed concurrently with this Section 4.56(1) application.
- 25. D/2021/711 seeks approval for demolition of the Metropolitan Remand Centre and other associated structures, remediation, excavation and construction of a part 3 to part 7 storey residential flat building containing 56 apartments with 3x basement levels for associated car parking, 7 x two storey terraces, use of Bidura House as a single residence, conservation works with new garage to Ferry Lane, landscape works, tree removal and public domain improvements to Ferry Lane for footpath widening and land dedication.
- 26. The application is to be determined by the LPP and is recommended for approval. Refer to the detailed development application (D/2021/711) LPP report.

Planning Agreement

- 27. The site is subject to a planning agreement, resulting from Condition 15 'Dedication of Widening' of the concept consent. The planning agreement is for the dedication and embellishment of land to create a minimum 1.5 metre wide footway along the development frontage to Ferry Lane. All land to be transferred is to be remediated, a pedestrian ramp is to be installed crossing Ferry Lane at Avon Street, with the planting of street trees (100L size at 7m centres) along the length of the lane and relocation (or adjustment) of existing utility services where necessary.
- 28. The planning agreement was placed on public exhibition from 3 February to 6 March 2023. At the time of assessment, the planning agreement has not been executed or registered on title.
- 29. The area to be dedicated to Council is indicated in red the site plan below:

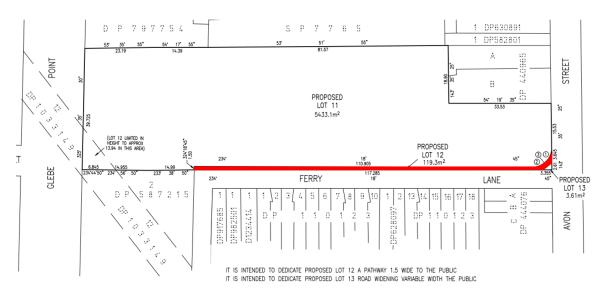


Figure 26: Site plan depicting land dedication for footpath widening on Ferry Lane

- 30. The planning agreement does not affect Section 7.11 Contributions applicable under the City of Sydney Development Contributions Plan 2015.
- 31. The land to be dedicated to Council has been included in the plans submitted for the detailed design development application (D/2021/711) and will be finalised as part of the public domain submission.

Amendments

- 32. Following a preliminary assessment of the proposed detailed design development (D/2021/711) by Council Officers, amendments were requested and have been made to the concept modification building envelopes to ensure consistency between the two applications on 11 January 2021 and 31 August 2022.
- 33. The extent of amendments to the detailed design development application are discussed in greater detail in the assessment report for D/2021/711 being reported to LPP.

Proposed Development

- 34. The Section 4.56(1) modification seeks to amend the concept approval to bring it in line with the subsequent detailed design application.
- 35. The application modifies the existing concept envelopes to:
 - (a) increase the heights of the residential flat building and terrace building envelopes, with changes to setbacks and building separation, allowing for a 7 storey residential flat building envelope and two storey building envelope for 7 terraces: and
 - (b) changes to the extent of articulation zones of both the residential flat building and terrace building envelopes.
- 36. Plans of the amended envelopes are provided below and in Attachment B. Changes to the envelopes are illustrated in the Issues section of this report.

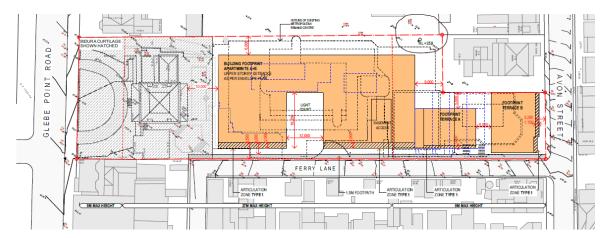


Figure 27: Proposed envelope plan footprint

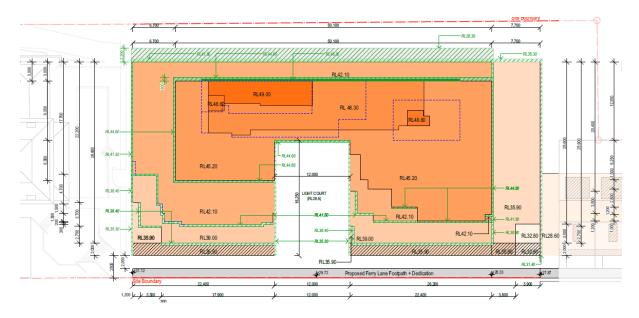


Figure 28: Proposed envelope detail/setbacks: residential flat building (green areas indicate articulation zone)

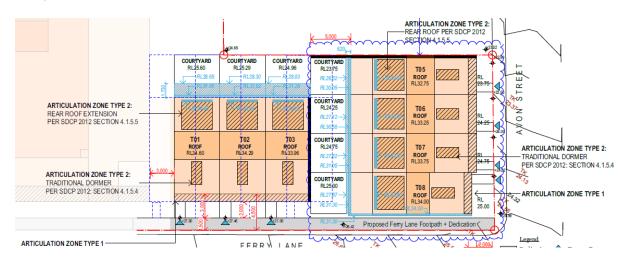


Figure 29: Proposed envelope detail: terraces (blue areas indicate articulation zone)

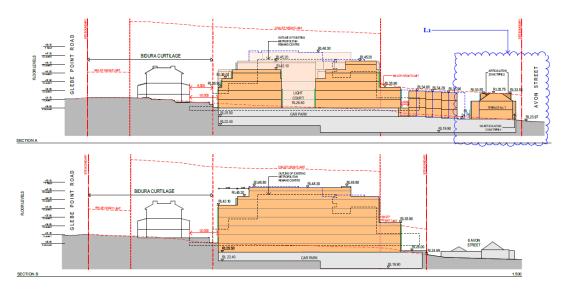


Figure 30: Proposed envelope sections (A+B)

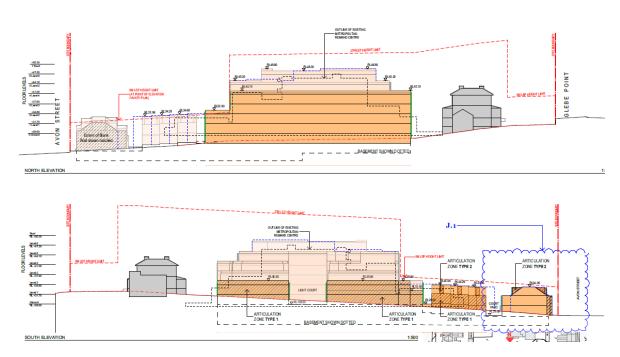
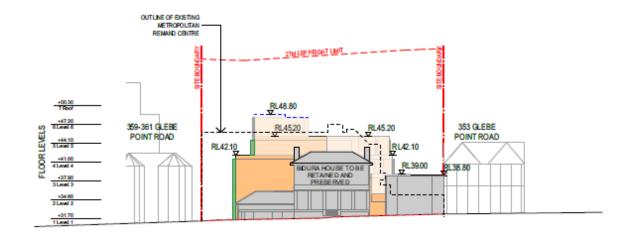


Figure 31: Proposed envelope elevations (north and south)



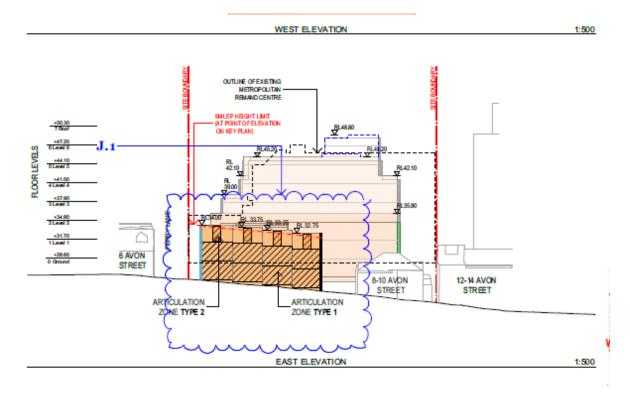


Figure 32: Proposed envelope elevations (west and east)

Assessment

37. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Threshold Test

- 38. The development as proposed to be modified is substantially the same as that originally approved. The location and overall form of the building envelopes are consistent with the intent of the approved concept. The proposed modifications will deliver a 7 storey residential flat building envelope, as well as 7x two storey plus attic extension building envelope, fronting Avon Street and Ferry Lane, similar to that which was approved by the Land and Environment Court. The proposed modifications primarily relate to building height, separation and building elements of the facade.
- 39. Height, footprint and building separation changes are supported as they do not result in unacceptable overshadowing or privacy impacts, and deliver envelopes that are capable of achieving an acceptable level of amenity for future occupants and adjoining properties.
- 40. In accordance with Section 4.56(1A), an assessment against the relevant provisions of Section 4.15(1) of the Environmental Planning and Assessment Act, 1979 are provided under the headings in the Issues section below.

Environmental Planning and Assessment Act, 1979

- 41. Besides the other matters discussed in this report, the previous assessment against the provisions of Section 4.15 of the Environmental Planning & Assessment Act are still relevant.
- 42. A copy of the Land and Environment Court Judgement for D/2017/582 is provided at Attachment D.

Heritage Act 1977

- 43. The State Heritage Register (SHR) listing for Bidura House Group was gazetted on 22 August 2017. The curtilage of Bidura House and its garden is listed as a State Heritage Item (SHR: 01994), known as 'Bidura House Group'.
- 44. A copy of the application was referred to the Heritage Council on 8 July 2021 in accordance with Clause 42 of the Environmental Planning and Assessment Regulation 2021.
- 45. In correspondence dated 6 September 2021, the NSW Heritage Council advised that the original concept application D/2017/582 was not referred as the subject site was not listed at the time of assessment. Noting that the proposed works were occurring outside of the SHR curtilage of Bidura House Group, NSW Heritage Council advised that comments in relation to D/2017/582/A were not warranted.

State Environmental Planning Policies

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development

- 46. The aim of State Environmental Planning Policy (SEPP) 65 is to improve the design quality of residential apartment development in New South Wales.
- 47. SEPP 65 provides that in determining an application for a residential apartment development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality.
- 48. The amended envelopes have been assessed against the design principles of SEPP 65 and the objectives of the Apartment Design Guidelines.
- 49. Consideration has been given to whether the amended building envelopes have the ability to achieve the nine design quality principles set out in Schedule 1 of the SEPP.

(a) Principle 1: Context and Neighbourhood Character

The amended building envelopes allow for a development that is contextually appropriate and consistent with the existing and desired future character of the area.

(b) Principle 2: Built Form and Scale

The amended envelopes are capable of providing a built form that has appropriate massing and scale.

(c) Principle 3: Density

The proposed building envelopes enable the site to achieve the maximum FSR available under the Sydney LEP 2012 without adverse or unacceptable amenity impacts to neighbouring properties.

In addition to the above, the proposed modifications allow the development to achieve a reasonable level of amenity for residential occupants under the Apartment Design Guide.

(d) Principle 4: Sustainability

Detailed design applications are required to comply with BASIX requirements. The detailed design proposal has demonstrated that sustainability targets can be met by the amended envelopes.

(e) Principle 5: Landscape

The amended envelopes allow for ample landscaping to be provided as a transition between Bidura House and the proposed residential flat building, the centre of the site (within the forecourt entry), the Ferry Lane elevation of the site, as well as courtyard gardens for residents and at rooftop within the communal open space area. The development is capable of providing compliant deep soil zones.

(f) Principle 6: Amenity

The amended envelopes can accommodate a development with a reasonable level of amenity for future occupants of the development, as well as adjoining properties.

(g) Principle 7: Safety

The amended envelopes allow for a development that can achieve the principles of Crime Prevention Through Environmental Design (CPTED).

(h) Principle 8: Housing Diversity and Social Interaction

The amended envelopes allow for a development that can provide a suitable mix of dwelling types.

(i) Principle 9: Aesthetics

The amended envelopes are generally consistent with the design competition winning scheme, which was considered by the Jury as the entrant most capable of demonstrating design excellence.

50. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Acceptable	The residential flat building envelope has an overall depth of approximately 30 metres.
		While this exceeds the maximum building depth requirement, it matches the approved overall depth of the concept development.
		Additionally, the concurrent detailed design development application D/2021/711 demonstrates that apartments with compliant 12-18 metre depths can be accommodated within the amended envelope.

2F Building Separation	Compliance	Comment
Up to four storeys (approximately 12 metres): 12m between habitable rooms / balconies 9m between habitable and non-habitable rooms 6m between non-habitable rooms Five to eight storeys (approximately 25 metres): 18m between habitable rooms / balconies 12m between habitable and non-habitable rooms 9m between non-habitable rooms	Assessed as acceptable	The proposal generally complies with the recommended building separation distances and is capable of delivering a development that can provide for an acceptable level of privacy for future occupants and adjoining properties. See discussion section.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	The envelope modifications of the residential flat building do not preclude the required amount of common open space from being delivered at detailed design stage. A total area of approximately 540sqm is provided at lower ground and ground floor. This area, along with the rooftop communal open space provided as part of the detailed design development application will equate to approximately 25.7% of the site area (excluding the Bidura House curtilage).

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Yes	The envelope modifications do not preclude the required amount of deep soil zones from being provided for the site. The detailed design application shows

3E Deep Soil Zones	Compliance	Comment
		that approximately 12% of deep soil planting is provided across the site.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	Section and elevation envelopes show minimum floor to floor heights of 3.1 metres, which are capable of delivering a minimum floor to ceiling height of 2.7 metres.

51. The amended envelopes are considered acceptable and allow for a development that can achieve a high level of compliance with SEPP 65 and the objectives of the Apartment Design Guide.

Local Environmental Plans

Sydney Local Environmental Plan 2012

52. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the E1 - Local Centre zone. The proposed development is defined as residential and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	Maximum building heights of 9 metres and 27 metres apply to the site.
		The residential flat building envelope will have an overall height of 21.46 metres, which complies with the 27 metre height development standard for this part of the site.
		A section of the residential flat building falls within the 9 metre height limit, at level 2 to the north-east elevation. The

Provision	Compliance	Comment
		height is 9.73 metres, which results in a variation of 8%.
		The terrace building envelope will have a height of 10.56 metres, representing a variation of 17% to the 9 metre height control.
		Compliance with Clause 4.3 Height of Buildings development standard is discussed below.
4.4 Floor space ratio	Yes	The detailed design development application demonstrates that the revised building envelope can accommodate compliant FSR.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is listed a heritage item under the Sydney LEP 2012 (I763) ad is located within the Glebe Point Road Heritage Conservation Area (C25).
		The proposed modifications to the building envelopes maintain the approved separation between Bidura House and the new development, with no detrimental impact on the heritage significance of the item.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment		
Division 4 Design excellence				
6.21C Design excellence	Yes	The amended building envelopes and concept development consent D/2017/582 satisfactorily sets expectations for the form, massing, scale, environmental impacts, ESD outcomes, access outcomes, interface with ground level and landscaping outcomes of the development.		

Provision	Compliance	Comment	
7.20 Development requiring or authorising preparation of a development control plan	Yes	The proposed modifications to the approved building envelopes will result in the construction of a building greater than 25 metres above the existing ground level. This triggers the requirement for the preparation of a site-specific DCP under Clause 7.20(2)(b).	
		Section 4.23 of the Environmental Planning and Assessment Act, 1979 allows a concept development application to be lodged in lieu of preparing a DCP.	
		The matters under Clause 7.20(4) of the Sydney LEP 2012 are satisfied by the documentation submitted with the application and the amended conditions in Attachment A.	

Discussion

Building height

53. Clause 4.3 of the Sydney LEP 2012 sets out a maximum building height of 27 metres across the majority of the site, with 9m to Glebe Point Road, Ferry Lane and Avon Street. See Figure 33 below.



Figure 33: Sydney LEP 2012 Height of Buildings Map depicting maximum permitted heights for the site and surrounding development

- 54. The concept approval set maximum building heights of between 20.6 metres and 21.1 metres across the residential flat building envelope, and 9 metres for the approved terrace building envelope at the corner of Ferry Lane and Avon Street.
- 55. The development proposes maximum building heights as follows:

Building	Height Permitted under SLEP 2012	Proposed	Variation %			
Residential Flat Building	9 - 27 metres	21.46 metres, which is sited within the 27 metre control, and complies.	8% where the height limit is 9 metres			
		Part of the building falls within the 9 metre height limit, at level 2 to the northeast elevation. The height is 9.73 metres, which doesn't comply.				
Terrace 1 (Ferry Lane)	9 metres	8.38 metres	N/A			
Terrace 2 (Ferry Lane)	9 metres	9.59 metres	6.5%			
Terrace 3 (Ferry Lane)	9 metres	10.56 metres	17%			
Terrace 4 - DELETED FROM CONCEPT APPROVAL						
Terrace 5 (Avon Street)	9 metres	9.57 metres	6.3%			
Terrace 6 (Avon Street)	9 metres	9.78 metres	8.6%			
Terrace 7 (Avon Street)	9 metres	10.05 metres	11.6%			
Terrace 8 (Avon Street)	9 metres	9.59 metres	6.5%			

56. The application proposes a height of up to 21.46 metres, accommodating an extension at the north-eastern part of the residential flat building envelope. This additional bulk is set back 7.7 metres from level 4, and 60 metres from the Avon Street site boundary. See Figure 34 below illustrating the additional height/extension of envelope.

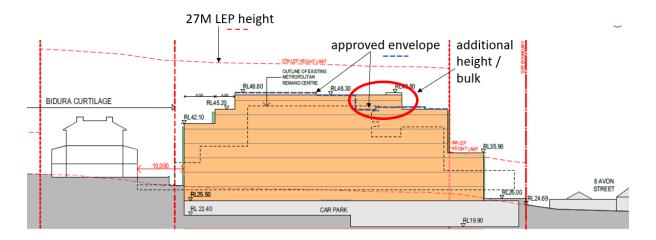


Figure 34: Proposed section depicting residential flat building envelope with additional height (circled in red), 27 metre height limit (red dashed lines), approved building envelope (blue dashed lines)

- 57. This area of additional height forms part of the detailed design refinement of level 5 (both the apartment and equitable access to the rooftop open space via a second lift) at the north-eastern area of the residential flat building envelope.
- 58. A portion of the residential flat building envelope falls within the 9 metre height control, at level 2 to the north-east elevation. The building envelope at this elevation is 9.73 metres, representing an 8% variation to the building height development standard. See Figure 35 below.

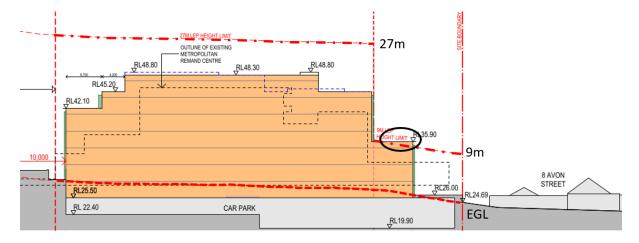


Figure 35: Proposed residential flat building envelope non-compliance depicted above the maximum permitted 9 metre height plane, which is outlined in black

59. The heights of the terraces are also proposed to increase, varying between 9.59 metres and 10.56 metres, representing a 17% variation. The greatest variation occurs to Terrace 03. Elements of the roof, including the top of the attic dormers and rear roof extension sit outside of the approved envelope. See Figure 36 below illustrating the non-compliance with the red 9 metre LEP height plane. Extensions to the approved building envelope are highlighted in green (above ground level).

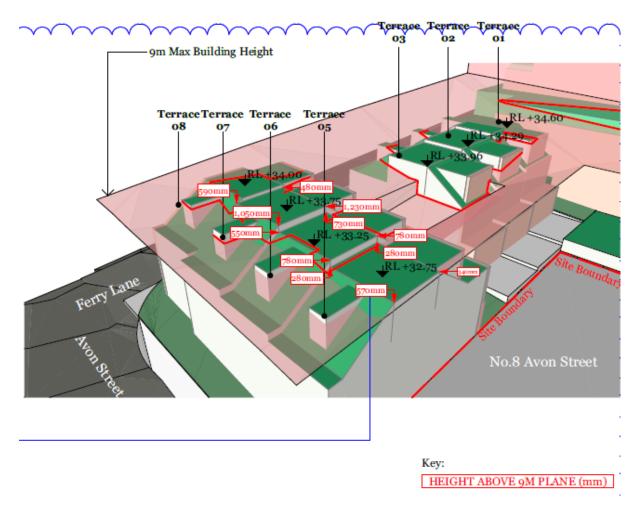


Figure 36: Proposed terrace envelope non-compliances depicted above the maximum permitted 9 metre height plane, which is outlined in red. Note: Green areas represent areas beyond the concept approval. Terraces 04-07 to Avon Street are incorrectly labelled as 'Terraces 05-08'.

- 60. The above changes result in modifications to the approved building envelope. A 3D model of the proposed detailed design and how it fits into the approved building envelope is provided in Figure 37 below.
- 61. Areas beyond the envelope, including the attic roofs of the terraces, level 2 planters and articulation zones are outlined in grey and black. For clarity the additional areas at level 2 and level 5 outside of the approved envelope are circled in red.

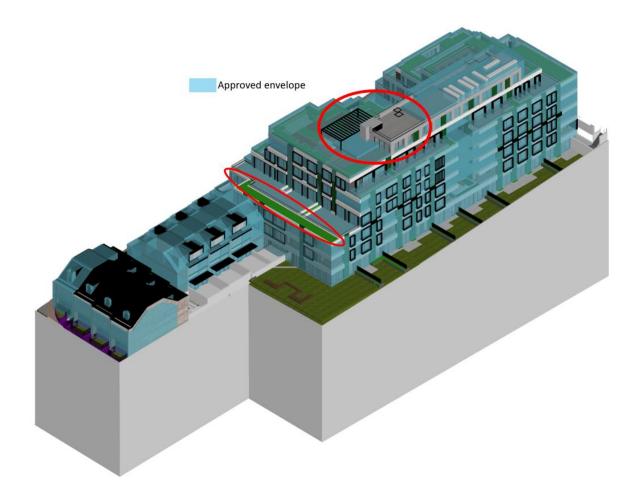


Figure 37: 3D model depicting detailed design proposal D/2021/711 with an overlay of the approved concept envelope in blue. The additional area outside of the envelope at level 5 is circled in red.

- 62. The variation to the height of level 2 of the residential flat building, is due to the location of in-built planters of the balconies at the north-eastern elevation in the detailed design development application.
- 63. The main changes to the approved terrace building envelope results from 'existing ground level' now being measured from the bottom of the existing swimming pool onsite (rather than the survey levels at site boundaries at concept approval) and flood requirements of the detailed design development application.
- 64. To clarify, the heights of terraces 02 and 03, where the greatest variation is located, have not increased above the approved maximum RLs, but do not comply due to the change in measurement of existing ground level. The variations proposed to terraces 05-08 are the result of flood planning levels.
- 65. As a Section 4.56(1) modification application, Clause 4.6 of the Sydney LEP 2012 with regard to requesting a variation to the 'Height of Buildings' development standard does not apply. It is noted however, that a detailed assessment of Clause 4.6 has been carried out as part of D/2021/711 for the detailed design, which also proposes a height variation.

- 66. It is determined that the areas beyond the approved envelope are relatively minor, confined to roof elements and attic additions for the terraces. Overall, the non-compliance with the 9 metre height control to the corner of Ferry Lane and Avon Street does not result in any significantly adverse amenity impacts to surrounding development.
- 67. With regard to level 2 of the residential flat building, the breach of the control is located at the north-eastern elevation of the site and does not affect the Ferry Lane frontage of the site. The non-compliance will not be visible in the streetscape and will have minimal impact on solar access to adjacent properties.
- 68. The applicant has submitted a solar impact analysis in order to assess the potential impact of the extension of the approved building envelope at level 5. The solar impact analysis is included at Attachment C.
- 69. Section 4.2.1.3 of the Sydney DCP 2012 requires development applications to demonstrate the shadow impact on neighbouring development between 9:00am and 3:00pm at the winter solstice. New development must not create any additional overshadowing onto a neighbouring dwelling where that dwelling currently receives less than 2 hours direct sunlight to habitable rooms and 50% of the private open space.
- 70. The detailed solar analysis has been provided to quantify the overshadowing impact of the Ferry Road residential terraces directly opposite the subject site (across Ferry Lane, see Figure 38 below). The terraces at Nos. 3-41 Ferry Road, have private open space to the rear, and most of which have covered garage structures to Ferry Lane.

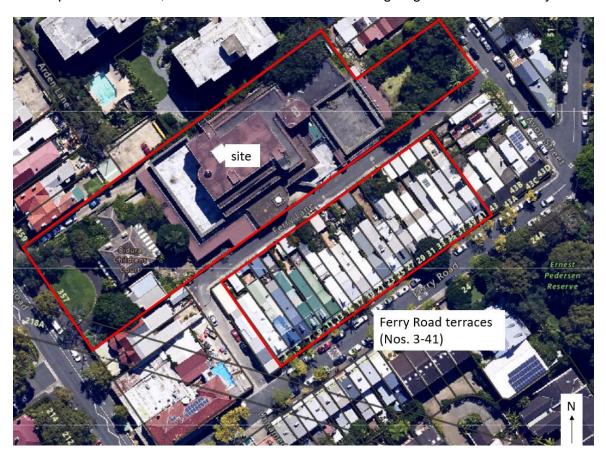


Figure 38: The subject site (outlined in red) and residential properties at 3-41 Ferry Road (across Ferry Lane) (outlined in red)

- 71. The analysis is provided at 15-minute intervals from 9am to 3pm at the winter solstice, depicting shadows from the concept approval and proposed amendments, as well as solar access to each property's private open space.
- 72. The analysis indicates that whilst 7 properties will have a reduction in solar access to their private open space (i.e. 17, 21, 23, 25,27,29 and 39 Ferry Road), they still achieve at least 2 hours of solar access to a minimum of 8sqm of private open space in accordance with Section 4.2.3.1(2) of the Sydney DCP 2012.
- 73. The solar analysis also demonstrates that the modified envelopes do not reduce solar access to the private open space of properties that receive less than 2 hours in accordance with Section 4.2.3.1(3) compared to the concept approval (i.e. 5, 13, 15, 33, 35 and 37 Ferry Road).
- 74. The above demonstrates that the proposed envelope modifications will not result in unacceptable impacts on solar access to adjoining properties.
- 75. Notwithstanding, changes to the bulk and scale of level 5 was a concern raised in the Land and Environment Court Judgement for the concept approval, which is included in Attachment D. Senior Commissioner Dixon noted that "(h)aving observed the site from the rear yards of two properties along Avon Street, and appreciating the overbearing potential of the proposal without amendment, I must accept the Council's experts' evidence that the design change proposed in Exhibit 16 to delete levels 5 and 6 and reduce the lift overrun is necessary on this eastern wing to preserve the remaining amenity these properties in Avon Street presently enjoy. The changes avoid another anomalous tower in this context. In my assessment, the changes will better integrate the new building into the conservation area."
- 76. To address the Court judgement, the applicant has prepared a view analysis, with a perspective from Avon Street depicting the proposed detailed design envelope. See Figure 39 below.



Figure 39: View analysis from Avon Street - perspective depicting detailed design envelope and 2A Forsyth Street in background, No. 8 Avon Street in foreground. Additional elements proposed at level 5 outlined in red.

- 77. As noted above, the changes to level 5 sit within the maximum permitted height control at this section of the site, and setback 7.7 metres from the level 4 building facade below. In addition to this, level 5 is setback 60 metres from the Avon Street frontage. Whilst at 21.46 metres in height at this point, the additional bulk to the eastern elevation of level 5 is not readily apparent and is not considered to be overbearing when viewed from Avon Street. The view analysis for the detailed design demonstrates that only the top of the lift overrun and other lightweight roof elements will be visible.
- 78. In light of the above, the proposed increase in height is supported as the additional bulk will not result in significant detrimental impact to adjoining properties, the streetscape or reduced amenity for future occupants.
- 79. The modified envelopes are also capable of delivering a built form that is consistent with the existing and future desired character of the area. This is demonstrated by the detailed design application.

Changes to footprint

Terraces

80. The proposal seeks to reduce the number of terraces within the building envelope from 8 to 7. This results in minor changes to the location of the terrace footprint as demonstrated below in Figures 40, 41 and 42.

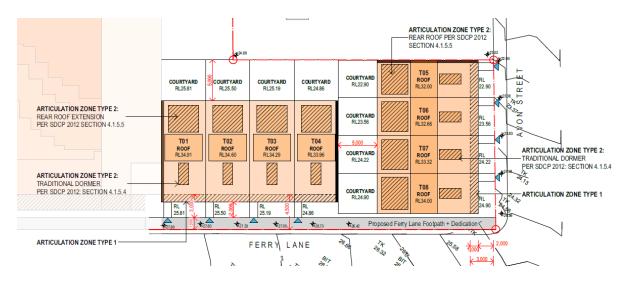


Figure 40: Approved terrace building envelope depicting 8 terraces

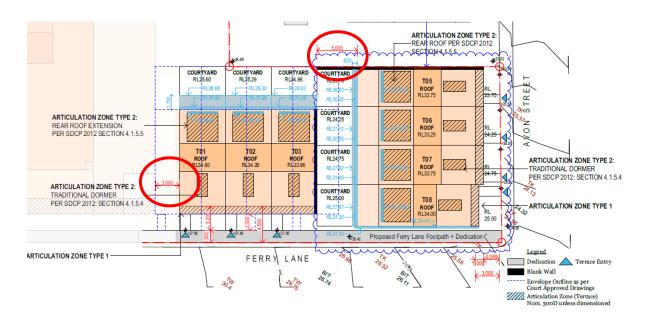


Figure 41: Proposed terrace building envelope, depicting 7 terraces

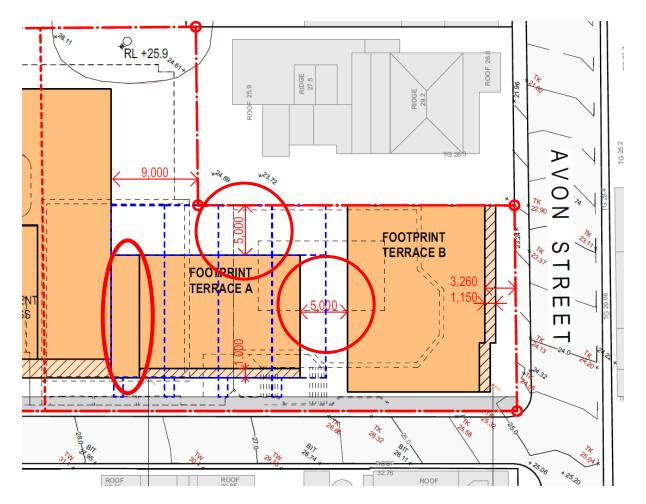


Figure 42: Proposed terrace building envelope demonstrating 5 metre separation between the terraces within the site and to the northern boundary (circled in red), and a separation of 3 metres between the terraces at the residential flat building (circled in red)

- 81. Figures 39 and 40 indicate that the terraces will create a separation of 3 metres to the residential flat building envelope, and retain a distance of 5 metres, both between the terraces and to the northern boundary, as per the concept approval.
- 82. The adjustment of the footprint above facilitates a development that is consistent with the design competition winning scheme and detailed design development application.
- 83. The proposal generally complies with the recommended building separation distances outlined in the Apartment Design Guideline and it is considered that an acceptable level of amenity and privacy can be delivered for future occupants and adjoining properties.

Residential Flat Building

84. The concept approval set a height in storeys of 6 storeys plus rooftop plant for the residential flat building envelope, with setbacks at various points so that the future building could step down to 2 storeys to Ferry Lane

85. The residential flat building envelope will retain the overall massing and scale as it steps down to Ferry Lane, as per the approval. The envelope, however, is to be modified at the northern elevation (facing Nos 2 and 2A Forsyth Street), where an additional storey below existing ground level is introduced. See Figures 43 and 44 below.

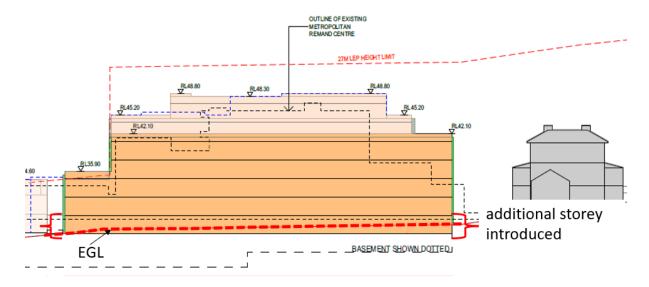


Figure 43: Proposed residential flat building envelope (north elevation) with additional storey introduced below existing ground level. Existing ground level indicated by red dashed lines.

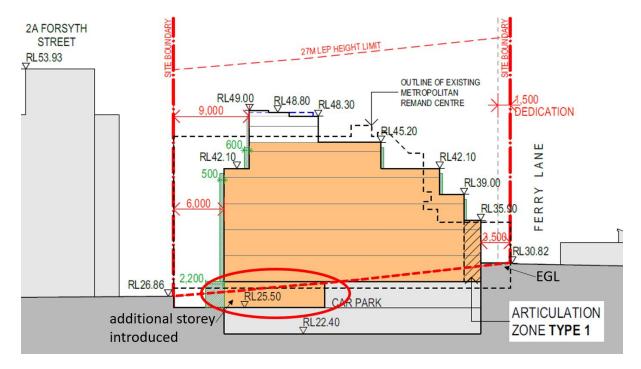


Figure 44: Proposed residential flat building envelope (section C) with additional storey introduced below existing ground level. Existing ground level indicated by red dashed lines.

- 86. The modification results in the concept envelope allowing for a 7 storey building, where the approval provided for 6 storeys, as well as changes to building separation requirements under the Apartment Design Guide (ADG). Previously, the 4th storey at the northern elevation was required to provide a 6 metre setback to the boundary, to facilitate 12 metres building separation between the subject site and 2A Forsyth Street.
- 87. With the additional level introduced below ground, the 4th storey is now known as the 5th storey of the development, where 18 metres (or 9 metres to the boundary) should be provided between habitable rooms/balconies of adjoining development.
- 88. The additional level to the northern elevation sitting below existing ground level has been tested as part of the design competition and the detailed design development application. The potential additional storey will not result in a reduction in amenity as compliant floor to ceiling heights can be delivered for residential uses.
- 89. Overall, the proposal generally complies with the recommended building separation distances outlined in the Apartment Design Guideline and it is considered that an acceptable level of amenity and privacy can be delivered for future occupants and adjoining properties. Where separation distances are not strictly achieved, as detailed above, the detailed design proposal D/2021/711 demonstrates that design features can be developed that ameliorate visual privacy concerns for future occupants and adjoining properties.

Changes to articulation zones

90. The concept modification proposes changes to existing articulation zones as well as the provision of new articulation zones to both the residential flat building envelope and the terrace building envelope. See Figures 45 and 46 below illustrating the articulation zones.

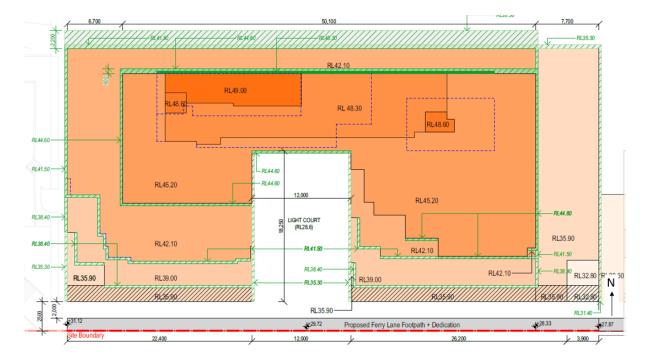


Figure 45: Proposed residential flat building envelope plan with articulation zones depicted in green

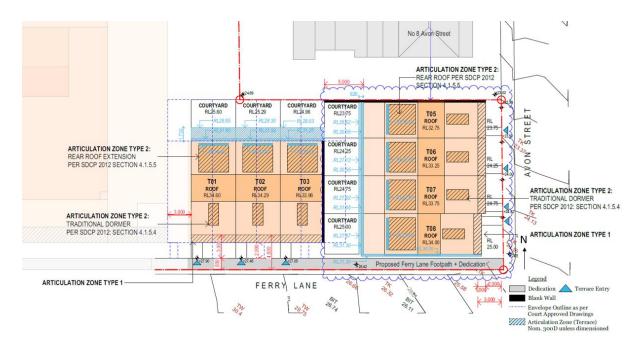


Figure 46: Proposed terrace building envelope plan with articulation zones depicted in blue

- 91. The articulation zones vary between 300mm and 2 metres, containing balconies, verandahs, pergolas, terraces (ground floor north and south elevations) and exterior screens (upper levels) of the residential flat building envelope, and attic dormers/rear roof extensions (roof level) and awnings/screens (ground floor and first floor) of the terrace building envelope.
- 92. The design of the proposal has been advanced through the design competition and detailed design application, with these variations to articulation zones relating to parapets, awnings etc. that do not unreasonably add to the bulk and scale of the development when viewed from the public domain and surrounding buildings. The changes to articulation are therefore supported.

Consultation

Internal Referrals

93. The application was discussed with internal units within Council. The proposal is acceptable subject to conditions.

External Referrals

- 94. The application was referred to Heritage Council, Transport for New South Wales and Ausgrid.
- 95. Comments from all relevant external referrals are addressed or included in the recommended conditions of consent in Attachment A where relevant.

Sydney Airport

- 96. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
- 97. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 do not identify the site as being subject to a height prohibition.

Advertising and Notification

- 98. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 14 days between 8 July 2021 and 23 July 2021. A total of 223 properties were notified (including past objectors) and 74 submissions were received.
- 99. Following submission of amended plans, the application was re-notified for a period of 14 days between 18 January 2022 and 2 February 2022. 10 submissions were received.
- 100. It is noted that most submissions received for D/2017/582/A were also submitted as part of D/2021/711, which is being assessed concurrently.
- 101. The submissions raise the following issues:
 - (a) Height, bulk and scale
 - The height should remain compliant.
 - Excessive bulk and scale.
 - The development provides insufficient setbacks.
 - The height variations are inconsistent with the concept approval and should not be changed.
 - 7 storey development exceeds the Land and Environment Court judgement.
 - Height limitations and setbacks approved by the LEC should remain in place.
 - The proposed height changes are not minor.
 - Level 5 should be removed from the proposal in order to comply with the concept approval.
 - The articulation zones should not be supported. All building features are to fit within the envelope.
 - The two storey terraces now contain an additional storey disguised as an attic space.

Response: A detailed discussion relating to the height non-compliance of the terraces is provided in this report. It is noted that the overall height of the residential flat building complies with the 27 metre height control, and the concept approval. Whilst additional area is introduced at the eastern corner of level 5, this is within the height limit.

The concept approval is designed to allow for a medium density development of this nature, with scaled heights from the northern elevation to Ferry Lane, Avon Street and Bidura House.

The changes to the building envelope, articulation, height in storeys and amenity impacts to surrounding development are discussed in comprehensive detail within this report and are acceptable.

The changes to height and height in storeys are considered appropriate in this instance, and the concept approval D/2017/582/A is to be amended to reflect the proposal and to ensure consistency between the two applications.

Setbacks are provided for the development in accordance with the approved concept envelope and ADG requirements with regard to building separation.

The additions proposed to the terrace row are designed as contemporary attic levels and are considered appropriate in the context of the streetscape.

(b) Density

- Glebe is becoming overdeveloped and its character is disappearing.
- Higher density will lead to increased traffic and reduce overall liveability for current and future residents in the area.
- FSR should be calculated against the site area excluding Bidura House.

Response: Density is assessed under D/2021/711. The concept modification, demonstrates that the overall density of the development is appropriate. The site area and floor area of Bidura House Group is to be considered in any calculation of FSR in this instance, and this is considered acceptable.

The site is located in an E1 Local Centre zone, which permits residential flat buildings as evidenced by development in close proximity to the site. The site is located within walking distance of a number of existing bus services and light rail stations to service current and future occupants.

(c) Overshadowing and solar access

- The breaches to the envelope result in unnecessary overshadowing.
- The proposal results in severely reduced solar access to the rear of Ferry Street terraces and to terraces neighbouring the site on Avon Street.
- The shadow diagrams and solar study are inaccurate.
- There is little access to sunlight for the proposed apartments and terraces.
- Solar access to solar hot water systems on Ferry Road.

Response: Refer to the discussion section with regard to overshadowing. The detailed information provided is adequate for assessment and demonstrates acceptable solar impacts.

The proposed exceedance of height will not result in any significantly adverse overshadowing impacts on adjoining properties compared to the concept approval and complies with Section 4.2.1.3 of the Sydney DCP 2012.

The controls do not protect solar access to roof mounted solar hot water systems.

(d) Construction impacts

- Noise impacts during construction will be significant, particularly as people work from home.
- Conditions should be imposed to minimise time periods for noise generation.
- Neighbours should be notified about construction work, and there should be a complaints handling procedure in place.
- During demolition, shoring and construction phases, damage will be causes to bordering and neighbouring properties.
- Exposure to asbestos, dust.
- Vibration caused by demolition and construction will pose a risk to surrounding homes.
- Construction trucks in Ferry Lane.
- Extended construction hours are unreasonable in a residential area and should be reduced.

Response: The concept modification application relates to building envelopes only. Construction management, including noise, waste, dust and traffic, as well as dilapidation reports and construction hours of work are addressed in the detailed design development application D/2021/711.

(e) Traffic Impacts

- On-street parking spaces are limited, and are likely to be taken by residents of the development.
- Residents have a right to park near their homes.
- This development will exacerbate traffic levels along Glebe Point Road and Forsyth Street.

Response: Parking rates and traffic impact are assessed as part of the detailed development application D/2021/711.

Parking permit eligibility is a separate matter to the assessment process.

The site is in an accessible location, being within walking distance of shops, restaurants, cafes as well as bus routes and Light Rail services. Notwithstanding, the development is required to provide bicycle parking for residents and visitors to encourage sustainable modes of transport to reduce congestion on local roads. This is discussed in the assessment report for D/2021/711.

- (f) Modifications to approval and submission of revised plans
 - There are concerns that further modifications will be lodged to increase the envelope should this be approved.
 - Multiple iterations of the development have been lodged, making it difficult to track changes.
 - Amendments have been submitted to wear down objectors.

Response: The application has been amended and re-notified once for public comment. Additional information outlining and addressing the proposed changes was also placed on the City of Sydney website as part of the exhibition process.

Any further modifications of the development will be subject to a separate, merit-based assessment against the relevant planning controls.

- (g) Bidura House walkway
 - Driveway to Glebe Point Road should be left in its current location, within the curtilage of Bidura House.
 - Council should not request an amendment to the curtilage of Bidura House Group.
 - The proposed walkway to Glebe Point Road will infringe on the heritage significance of Bidura House, with its future desirability permanently compromised.

Response: Amendment to the curtilage of Bidura House Group is not proposed as part of this application.

The walkway from the residential flat building to Glebe Point Road was included in the concept approval and is further refined as part of the detailed design development application.

The removal of the driveway is also supported, as envisioned by Section 3.11.11 of the Sydney DCP 2012 and the Pedestrian Priority Map, which identifies the Glebe Point Road frontage of the site where vehicle access is not encouraged. This is addressed in D/2021/711.

(h) Bidura House

- There is not one plan that shows the heritage item and the proposed development together.
- Bidura House does not currently have service access via Ferry Lane, nor does it have a garage off of Ferry Lane. Neither of these elements are consistent with the heritage home and grounds.

- Bidura House should be publicly accessible.
- The future of Bidura House is unclear and it is concerning.
- No Section 60 application has been submitted.
- The schedule of works does not commit to any timing for the works, and may not be in the best interests of the conservation of Bidura House.
- Conditions should be imposed to ensure Bidura House is used as a single residence, and that the applicant complies with the requirements for conservation works.
- Bidura House should be used as a creative hub.
- A Heritage Interpretation Plan should be submitted.
- The Public Art Plan should be conditioned to take into consideration the Heritage Interpretation Plan as part of the artwork, with community engagement essential.

Response: These elements are addressed in the detailed design development application D/2021/711 that is being reported to LPP concurrently.

- (i) Impact on Bidura House
 - The proposal fails to appreciate the historic building and significant historical value of Glebe.
 - The proposed modifications to the residential flat building will diminish the significance of Bidura House and its surrounds by forming a sheer 4 storey wall directly behind.

Response: As demonstrated throughout the report, the proposal is in keeping with the character of the area for a new development and will not adversely impact the significance of Bidura House Group, or the heritage conservation area.

The 4 storey wall of the proposed residential flat building at the interface with Bidura House is setback more than 10 metres from the heritage item. The height and setbacks proposed at this elevation are consistent with the original concept approval. This ensures that the setting of Bidura House Group can be interpreted and is not overwhelmed by the new development when viewed from Glebe Point Road.

- (j) Metropolitan Remand Centre
 - Why is demolition of the MRC building permitted? It should be preserved.
 - The MRC building could be turned into a co-living building.

Response: In-principle demolition of the Metropolitan Remand Centre was approved as part of the concept development consent D/2017/582.

Whilst adaptive re-use of the building is permitted with consent, the current approval relates to building envelopes for residential accommodation.

(k) Design of the terraces

- The terraces should be setback in line with adjoining properties along Avon Street.
- The terraces should be redesigned to be more in-keeping with established terraces on Avon Street.

Response: As discussed in this report, the two storey terrace envelopes to the corner of Ferry Lane and Avon Street respond appropriately to the scale and significance of contributory buildings within the adjoining Glebe Point Heritage Conservation Area, which are also between 1-2 storeys.

(I) Communal areas

- Rooftop garden area and communal open space will be noisy.
- The "music room" will become a party room.
- The additional lift overrun is only to accommodate a rooftop space which is not required in a heavily populated area.
- Rooftop areas are usually refused as they are a problem, so why should this proposal be any different?

Response: Communal open space is required under SEPP 65, the ADG and Council's controls. Communal open space creates opportunities for safe social interaction, as well as connection to the natural environment that may otherwise not be readily available for residents in an inner-city context.

Communal open space areas have not been locked in as part of the concept modification.

(m) Trees

Trees shouldn't be removed

Response: In-principle approval has been granted for the removal of all trees within the site as part of the concept development consent, with the exception of the Camphor Laurel. The Camphor Laurel is to be protected.

(n) Access to Ferry Lane

- Ferry Lane is not wide enough for emergency vehicles to enter from Ferry Road. What happens if there is a major incident?
- How will garbage trucks be able to drive down Ferry Lane and out onto Avon Street?
- If Ferry Lane is to become one way access funnelling traffic down Avon Street, residents of surrounding streets will be severely affected.

Response: Changes are no longer proposed to the direction of traffic within Ferry Lane, nor the location of the existing footpath at the corner of Ferry Lane and Avon Street as part of the detailed design development application. It is noted however, that this is a concept modification and relates to building envelopes only, and not specific design elements relating to vehicular access.

(o) Ferry Lane footpath

- Whilst it's good to upgrade the footpath on Ferry Lane, the section where it meets Ferry Road should also be upgraded.
- There has been no consideration to reducing summer heat effects on hard surfaces within Ferry Lane.

Response: The suggestion to upgrade the entire footpath within Ferry Lane is noted, however Council cannot compel owners outside of the development site to dedicate land for footpath widening.

Embellishment of the upgraded footpath with street trees and landscaping has been built into the planning agreement.

(p) There is no affordable housing proposed.

Response: Noted, however the planning controls do not require affordable housing to be provided as part of the development. Additionally, the development application was lodged prior to the introduction of the Affordable Housing Contribution Program for sites zoned as Residual Land.

(q) Design excellence

- The proposal creates a structure that fails to complement the area.
- The scope of this development is out of proportion with the modest and well-proportioned older properties in the landscape.

Response: As discussed in this report, the height, bulk and scale of the building envelopes are considered to be appropriate to the site and the surrounding context.

(r) Concept approval

- Will D/2017/582/A be determine before consideration is given to the detailed design application?
- In the development substantially the same?
- What consideration is given to the Land and Environment Court Approval?
- LEC decisions should be sacrosanct.

Response: The concept modification application D/2017/582/A is being reported to LPP for determination at the same time as the subject development application.

The concept modification assessment report has provided an assessment against the relevant key element/s of the Land and Environment Court Approval. Consistency with the concept approval is also discussed within this report.

The proposal has been assessed as being substantially the same as that originally approved. The location and overall form of the building envelopes are consistent with the intent of the approved concept, delivering two building envelopes that are not dissimilar to what was consented to under D/2017/582.

- (s) Property values
 - Property values will be affected.

Response: The submission is noted; however, property values are not a planning consideration.

- (t) Privacy impacts
 - The residential flat building will look down onto Ferry Road properties.
 - Privacy to 2A Forsyth Street and Avon Street.

Response: Refer to the discussion provided in D/2021/711 in relation to visual privacy and building separation. Adequate separation is provided to limit privacy impacts as part of the concept modification to the building envelopes.

(u) The development should provide a pocket park, similar to other large-scale developments.

Response: Noted, however the LEP and DCP controls do not require the provision of any public open space within the site.

(v) The site has been vandalised on numerous occasions. Security should be considered.

Response: The applicant and developer are aware of the concerns and have been working with Council to secure the site.

(w) Surface and subterranean water courses pass through the site currently affecting houses in Avon Street and Ferry Road and have caused problems in the past. Any new work on site will affect future water and damp problems for nearby houses.

Response: Geotechnical issues are addressed as part of the detailed design development application D/2021/711.

- (x) Amenity to the apartments
 - Concerns about the quality of life for future residents in the buildings proposed.
 - A third of apartments will not be cross ventilated.

 Removal of Level 5 (to facilitate two unattached buildings, and removal of music room will allow for additional solar and cross ventilation to units, improving amenity. It will also reduce overshadowing impacts to surrounding properties.

Response: As demonstrated in this report, the building envelopes have been designed to achieve adequate amenity for future occupants, in line with relevant requirements of the planning controls, including SEPP 65 and the ADG.

Natural cross ventilation has been assessed as part of the detailed design development application D/2021/711.

(y) The development should address sewerage issues properly.

Response: Sewerage system/s form part of the detailed design of the development and are not a relevant consideration as part of the subject modification application.

(z) There are already so many apartments in Glebe, with most of them empty.

Response: Noted, however unit occupancy in the suburb as a whole is not a planning consideration.

(aa) The development shouldn't be allowed just because the Metropolitan Remand Centre is there. It does not set the desired bulk and scale for the site.

Response: The building envelopes were approved by the Land and Environment Court. The Court judgement at Attachment D sets the desired bulk and scale for the site.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

102. The development is not subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015 as it is for a concept approval. Appropriate contributions have been levied as part of the detailed design application D/2021/711.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

103. The site is located within the Residual Lands affordable housing contribution area. The proposed development was lodged prior to the introduction of Section 7.13 on 1 July 2021 and is for a concept approval. As such, the development as a whole is excluded and is not subject to a Section 7.13 affordable housing contribution.

Relevant Legislation

- 104. Environmental Planning and Assessment Act, 1979.
- 105. Heritage Act, 1977.

Conclusion

- 106. This Section 4.56(1) modification application proposes altering the approved building envelopes to align with the detailed design development application D/2021/711. The detailed design development application is presented to the LPP concurrently for approval.
- 107. The proposed modifications to the approved building envelope will deliver consistency between staged development applications for the site, as required under Section 4.24 of the Environmental Planning and Assessment Act, 19799.
- 108. The development as proposed to be modified is substantially the same as that originally approved. The location and overall form of the building envelopes are consistent with the intent of the approved concept. As per the originally approved concept application, the proposed modifications will deliver two residential building envelopes, as well as retention of Bidura House Group. The proposed modifications primarily relate to building height, changes to the footprint and separation, as well adjustments to articulation zones.
- 109. The modification to the height of the envelopes allows for the detailed design of rooftop plant, increased lift overrun for access to the rooftop communal open space of the residential flat building, as well as accommodation of flood planning requirements for the terrace buildings. The modifications to articulation zones result in variations of 300mm to 2 metres to allow for detailed facade fenestration and features.
- 110. The modifications to the envelopes are supported as they do not result in unacceptable amenity impacts and deliver envelopes that are capable of achieving an acceptable level of amenity for future occupants and adjoining properties.
- 111. The proposed building envelopes are capable of accommodating future buildings that exhibit design excellence in accordance with Clause 6.21 of the Sydney LEP 2012. The detailed design application D/2021/711 being considered concurrently by the LPP demonstrates that a generally compliant scheme can be provided within the amended envelopes that delivers design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.
- 112. The proposed modifications are therefore in the public interest and are recommended for approval.

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