

**Item 4.****Development Application: 357 Glebe Point Road, Glebe - D/2021/711**

File No.: D/2021/711

**Summary**

**Date of Submission:** 30 June 2021. Amended plans received on 14 October 2022, 17 November 2022, 28 February and 25 July 2023.

**Applicant:** Visionland Glebe Pty Ltd

**Architect/Designer:** DKO Architecture /Archer Office

**Developer/Owner:** Visionland Glebe Pty Ltd

**Planning Consultant:** The Planning Studio

**Heritage Consultant:** Paul Davies Pty Ltd

**DAP:** 16 September 2021

**Cost of Works:** \$32,065,000

**Zoning:** The site is zoned E1 - Local Centre under the Sydney Local Environmental Plan (Sydney LEP 2012). The proposed use is for residential accommodation, which is permissible with consent.

**Proposal Summary:** Approval is sought for the demolition of existing structures on-site relating to the Metropolitan Remand Centre (MRC) building, associated site works including tree removal, remediation, excavation, and construction of:

- A part 3, part 7 storey residential flat building fronting Ferry Lane; and
- 7x two storey, 3 bedroom terraces fronting the corner of Ferry Lane and Avon Street.

Two basement levels are proposed with vehicular access from Ferry Lane.

Bidura House and its garden, which is situated at the Glebe Point Road frontage of the site, is a State Listed Heritage Item (SHR: 01994) known as 'Bidura House

Group'. The heritage item and its curtilage are to be retained and the building used as a single residence, with conservation works proposed and a new garage structure facilitating vehicular access from Ferry Lane.

The proposal is Integrated Development under the Heritage Act 1977, requiring approval from the Heritage Council of NSW. General Terms of Approval were received on 8 April 2022.

The application is referred to the Local Planning Panel (LPP) as the proposal is for 'sensitive development', where the '*State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development*' applies.

The subject application requires amendment of the Court approved concept envelope. A Section 4.56 application (D/2017/582/A) has been lodged concurrently with the subject DA. This modification application is also being reported to LPP this cycle and is recommended for approval. Subject to the approval of D/2017/582/A, the subject development application will be consistent with the concept development consent.

A competitive design alternatives process was held with DKO Architecture and Archer Office selected as producing the winning scheme. The proposal as amended is considered to exhibit design excellence.

A preliminary assessment of the application identified several departures from the winning design competition scheme. These included sustainability initiatives (ground sourced heat pumps, solar panels, zero fossil fuel design), the architectural expression and subtlety in material selection, the articulation and facade composition, as well as the integration of plantings to terrace edges and vertical green climbing frames. Council staff also identified concerns about the relationship and interface between Bidura House and the new development, as well as trees, contamination, flooding, public domain, traffic and waste. These issues have been largely addressed through the resubmission of amended plans and additional information over the course of assessment. The amended proposal is more consistent with the winning scheme and the recommendations of the selection panel.

The proposed development exceeds the maximum 9 metre building height standard by up to 1.56 metres (17%) relating to the terraces on the corner of Ferry Lane and Avon Street, and landscaped area to the level 2 podium of the residential flat building. The non-compliance to the terraces and the residential flat building is largely a consequence of complying with flood planning requirements. The podium exceedance is 1.27 metres or

14.1% and relates to planters at the northern elevation of the development.

A request to vary the Clause 4.3 'Height of Buildings' development standard has been submitted in accordance with Clause 4.6 of the Sydney LEP 2012. The statement demonstrates that compliance with the standard is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the E1 - Local Centre land use zone and Height of Buildings development standard, and the proposed departure to building height is supported in this instance.

The application was notified and advertised for 28 days between 8 July and 6 August 2021. 69 submissions were received. Following submission of amended plans, the application was re-notified for a period of 28 days between 18 January and 16 February 2022. 21 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.

The site is subject to a planning agreement to dedicate land on Ferry Lane and the corner of Avon Street to Council for footpath widening. The draft planning agreement has been prepared and placed on public exhibition for a 28-day period from 3 February to 6 March 2023.

Subject to conditions, the proposal is generally consistent with the applicable planning provisions including Sydney LEP 2012 and Sydney Development Control Plan (Sydney DCP) 2012. Proposed non-compliances have been assessed as having merit in this case and are addressed in the report. The proposal exhibits design excellence, with a high standard of architectural design, materials and detailing and a built form that is consistent with the future desired character of the area.

It is recommended that a deferred commencement condition be imposed requiring the execution and registration of the planning agreement, once finalised, on the title of the land prior to the consent becoming operational.

**Summary Recommendation:** The development application is recommended for deferred commencement approval.

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979
- (ii) Heritage Act 1977
- (iii) SEPP (Resilience and Hazards) 2021
- (iv) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
- (v) SEPP (BASIX) 2004
- (vi) SEPP (Transport and Infrastructure) 2021
- (vii) SEPP (Biodiversity and Conservation) 2021
- (viii) NSW Apartment Design Guideline 2015
- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) City of Sydney Development Contributions Plan 2015

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings (B1 - B4)
- C. Clause 4.6 Variation Request - Height of Buildings
- D. Competitive Design Alternatives Report
- E. Draft Planning Agreement

## Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.3 'Height of buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2021/711 subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

The application is recommended for deferred commencement approval for the following reasons:

- (A) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney LEP 2012, that compliance with the 'Height of buildings' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney LEP 2012;
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the E1 - Local Centre zone and the 'Height of buildings' development standard;
  - (iii) the proposal has been assessed against the aims and objectives of the relevant planning controls including SEPP 65, Sydney LEP 2012 and Sydney DCP 2012. Where non compliances exist, they have been demonstrated to be acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent;
  - (iv) the proposal is consistent with the amended concept approval for the site, being D/2017/582/A; It is consistent with the design intent of the winning scheme of a competitive design process. The scale, form, articulation, materiality and architectural contribution of the proposed development is consistent with the site pursuant to Sydney DCP 2012 and the proposed development is consistent with the desired future character of the locality. The development satisfies design excellence provisions pursuant to Clause 6.21 of Sydney LEP 2012; and
  - (v) the proposal is appropriate within its setting and is a mixed-use development comprising a compatible use that will support the vitality of the area, consistent with the desired future character for the locality.

## Background

### The Site and Surrounding Development

1. 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 5,556 square metres.
2. 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.
3. The south-west part of the site fronting Glebe Point Road is occupied by a two storey Victorian Regency-style house circa 1860, with a detached Italianate ballroom (circa 1871-1875) and formal front garden known as 'Bidura House'.
4. 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 is now vacant. 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.
5. 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.
6. The Glebe tunnel of the Inner West Light Rail corridor traverses the southern corner of the site (Glebe Point Road).
7. 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 (C29).
8. Bidura House was used as part of the MRC building for administration and meeting purposes up until the closure of the children's court in 2017. It is currently vacant.
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

### Refusal of Concept Development Application - D/2015/1398

17. On 26 October 2016, a Land and Environment Court appeal for the deemed refusal of a concept development application was dismissed.
18. The proposal was for the conservation of Bidura House Group, demolition of the existing Metropolitan Remand Centre, building envelopes for residential use with basement parking and associated site works.

### Concept Development Application - D/2017/582

19. On 7 December 2018, development consent was granted by the Land and Environment Court for the concept development application.
20. 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.
21. The subject development application for the detailed design proposal requires amendments to the approved concept envelope. A Section 4.56(2) modification of consent was lodged on 30 June 2021 to incorporate these variations, including:



- (a) increase the heights of the residential flat building and terrace building envelopes, with changes to setbacks and building separation; and
  - (b) changes to the extent of articulation zones of both the residential flat building and terrace building envelopes.
22. The Section 4.56(2) modification D/2017/582/A is being assessed concurrently with the subject Development Application. The modification is also being reported to the Local Planning Panel (LPP) for determination and is recommended for approval.
23. The proposed detailed setbacks, sections and elevations of the concept Section 4.56(2) modification are provided below.

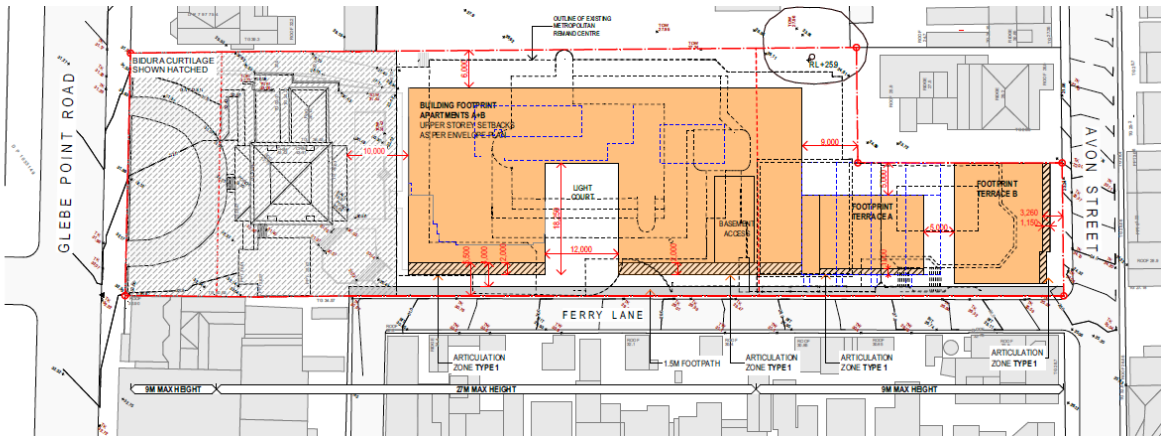


Figure 19: Proposed envelope plan footprint

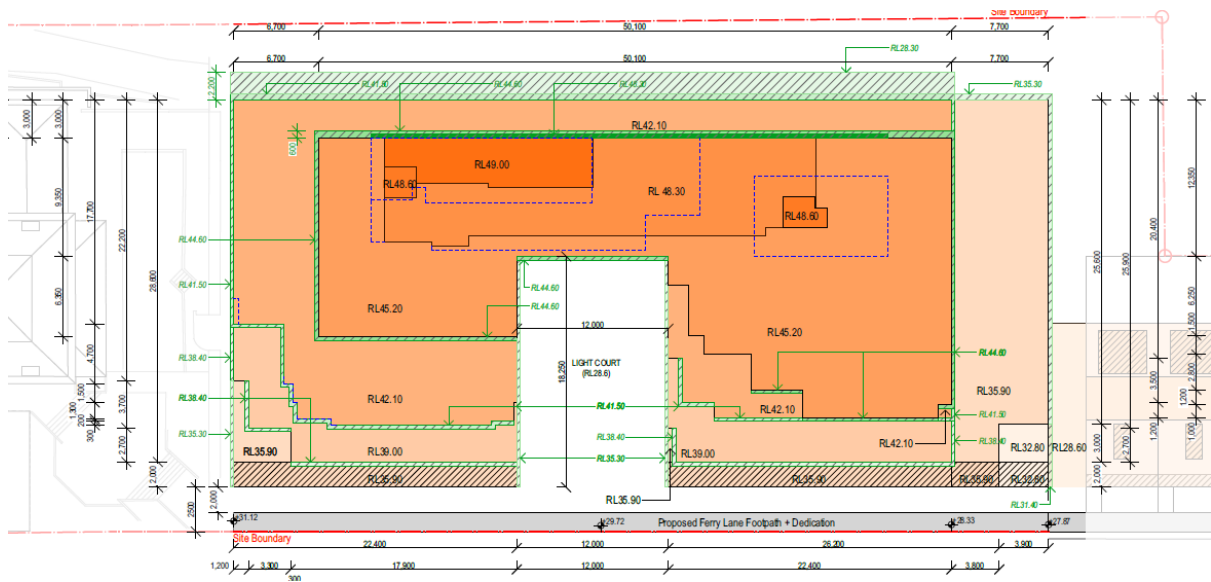


Figure 20: Proposed envelope detail/setbacks: residential flat building (green areas indicate articulation zone)

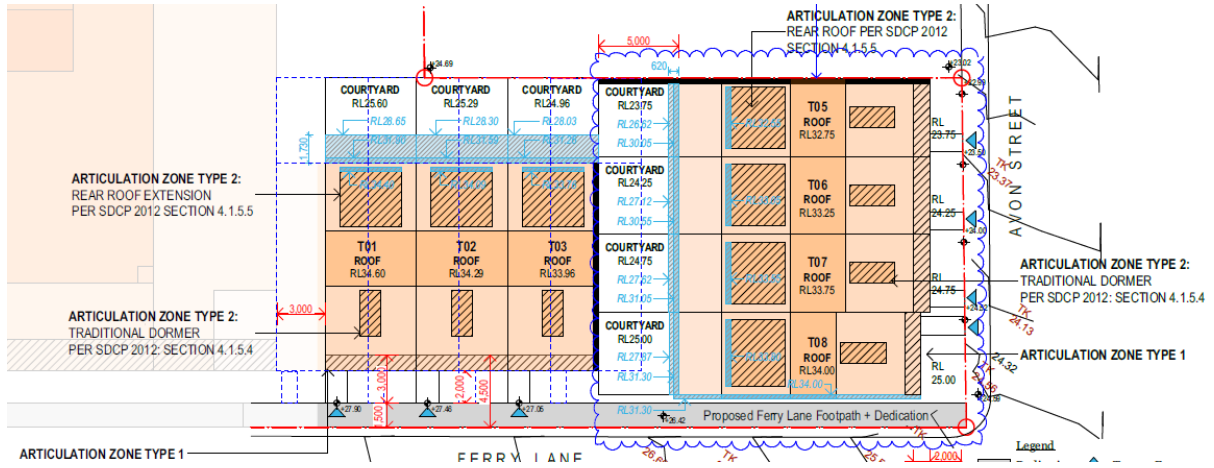


Figure 21: Proposed envelope detail: terraces (blue areas indicate articulation zone)

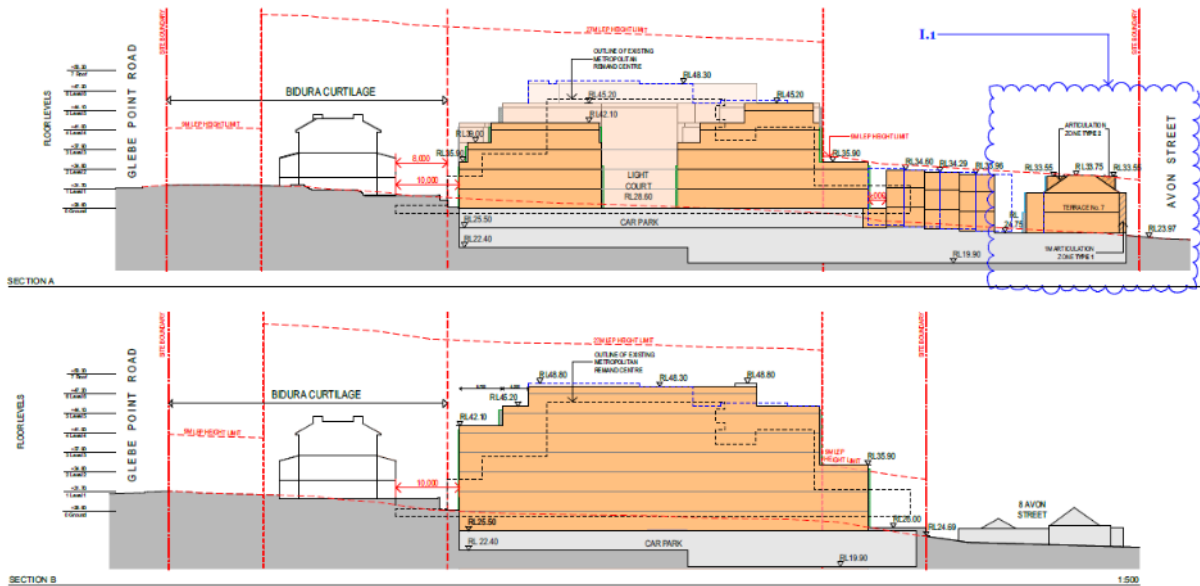


Figure 22: Proposed envelope sections (A+B)

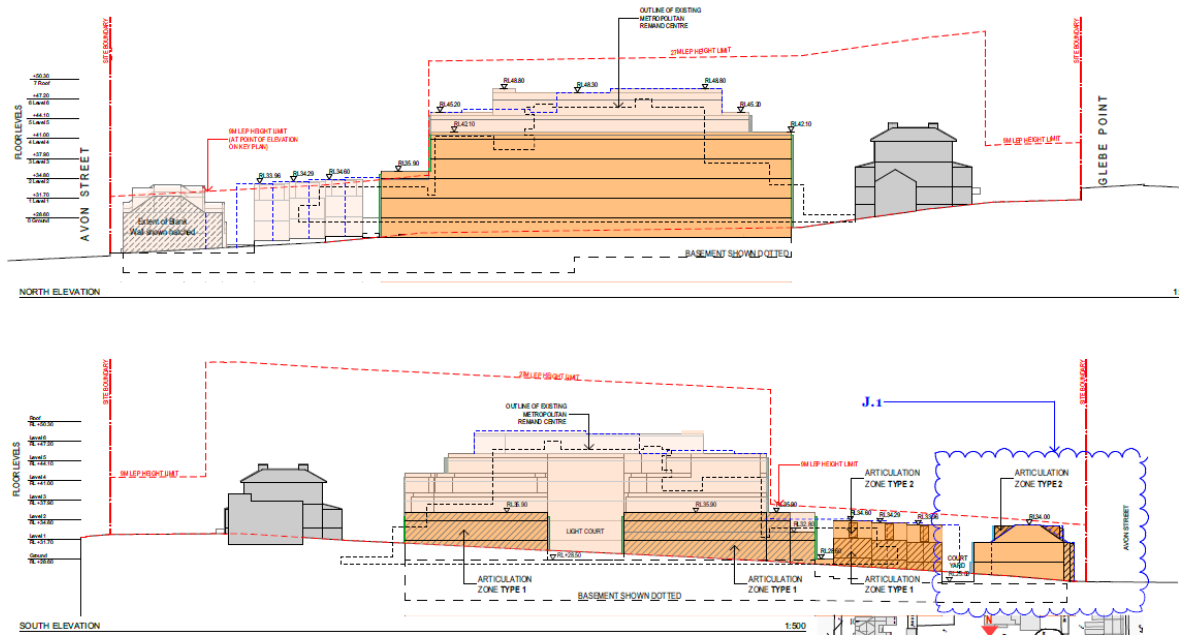


Figure 23: Proposed envelope elevations (north and south)

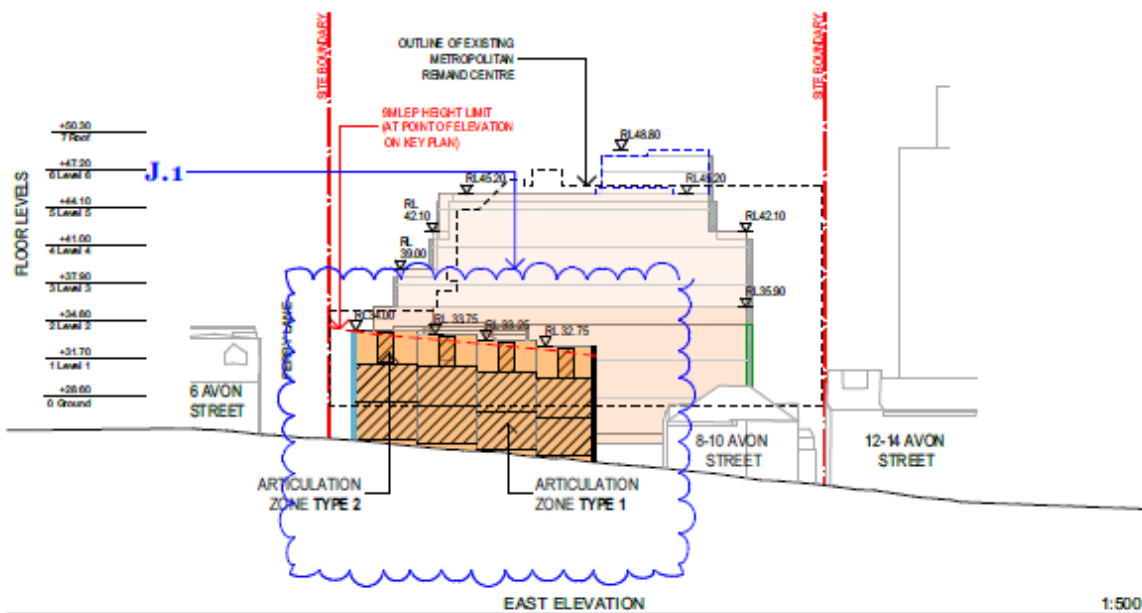
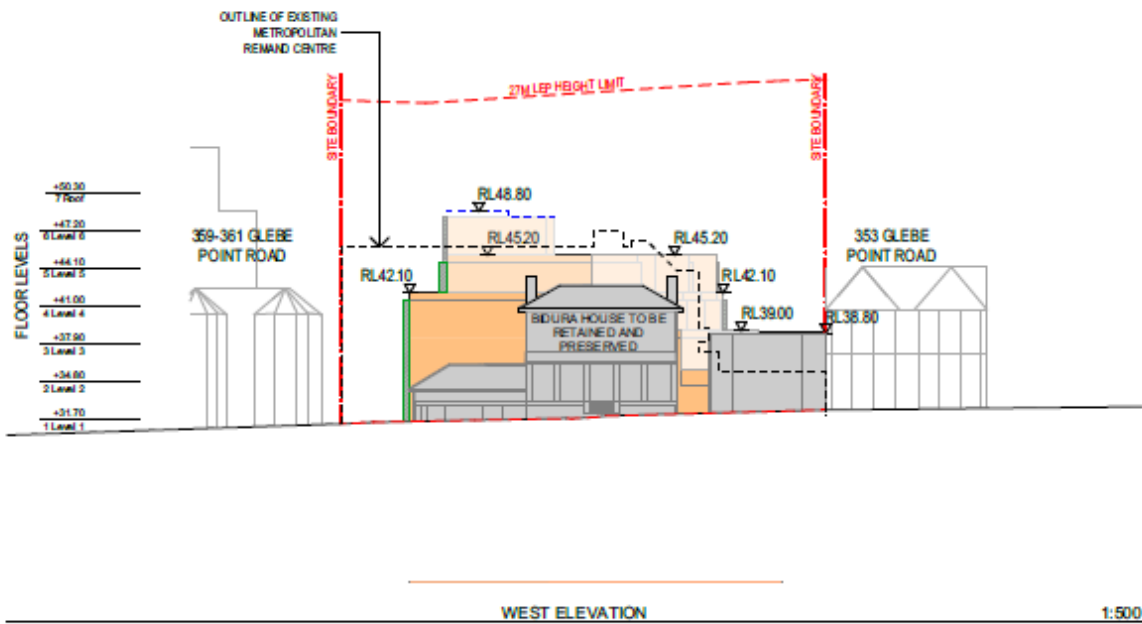
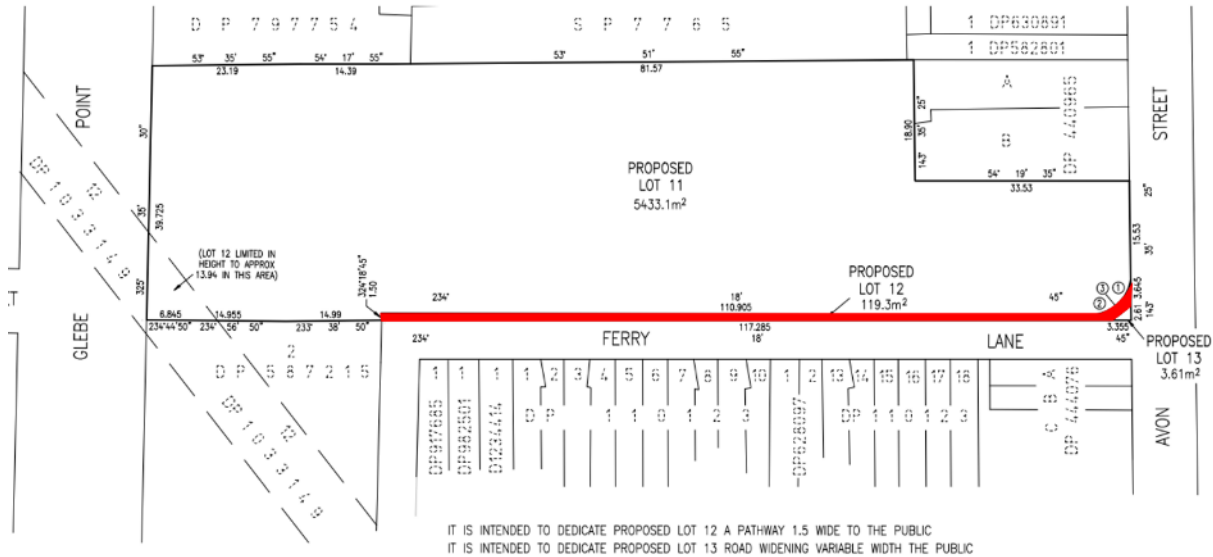


Figure 24: Proposed envelope elevations (west and east)

**Planning Agreement**

- 24. 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.

25. 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.
26. The area to be dedicated to Council is indicated in red the site plan below:



**Figure 25:** Site plan depicting land dedication for footpath widening on Ferry Lane

27. The planning agreement does not affect Section 7.11 Contributions applicable under the City of Sydney Development Contributions Plan 2015.
28. 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. Refer to Attachment E.

**Competitive Design Alternatives Process**

29. 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.
30. The developer did not seek additional height or floor space ratio (FSR) as part of the competitive design process.
31. DKO Architecture and Archer Office were 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 in the assessment report.



Figure 26: Proposed photomontage of the residential flat building, Ferry Lane elevation



Figure 27: Proposed photomontage of the Avon Street terraces

## Design Amendments

32. Following lodgement of the application and commencement of the preliminary assessment, a request for additional information relating to contamination, the plans for Bidura House Group, waste management, clarification of solar data and the design for environmental performance online template was sent to the applicant on 5 July and 4 August 2021.
33. The applicant provided the drawings for Bidura, as well as the detailed site investigation report on 8 July 2021, then provided the additional waste, solar data and environmental performance information on 11 October 2021.
34. After finalisation of a preliminary assessment of the proposal by Council staff, the application and the Section 4.56(2) modification application D/2017/582/A were presented to the City's Design Advisory Panel (DAP) on 16 September 2021.
35. The DAP provided the following advice in relation to the applications:
  - (a) The Panel was concerned that many of the recommendations and issues raised by the design competition jury had not been addressed. The Panel also agreed with the City's assessment and issues raised:
    - (i) The scheme does not comply with ADG requirements and should be amended to do so.
    - (ii) The scheme meets minimum requirements of BASIX but does not deliver the multiple sustainability propositions that made the development a competition winning entry.
    - (iii) There is no consistency between the competition winning scheme and the proposal. The architectural expression and subtlety in material selection from the competition scheme has been lost.
  - (b) The Panel noted that the carport structure which terminates Ferry Lane and blocks the long views down Ferry Lane is not a good outcome for the site. The competition scheme has a better site arrangement, and this should be retained.
  - (c) The heritage consultant has not provided commentary on the landscape design as required, and their advice should be sought.
36. Written correspondence was subsequently sent to the applicant on 26 October 2021, including requests for:
  - (a) amendments to adhere to the winning scheme's architectural design strategy, its arrhythmic articulation and facade composition, focusing on the use of high quality natural/integral materials, careful design resolution, clearer detail of the bridge soffit materiality and integration of plantings to terrace edges and vertical green climbing frames;
  - (b) further consideration of the relationship and interface between Bidura House and the new development (including a site plan depicting both the proposed envelope and landscape works to Bidura House as well as the apartment block and terraces);

- (c) the heritage landscape assessment prepared by Taylor Brammer as part of the concept approval and design competition process to be referred to and analysed as part of the DA landscape design report;
  - (d) details regarding specific landscape works proposed to the curtilage of Bidura House;
  - (e) a heritage interpretation plan, as per Condition 7 (Heritage Interpretation Plan) of D/2017/582;
  - (f) reconsideration of the location of the proposed public artwork at Bidura House given the intention to use it as a private residence;
  - (g) the amendments to the Bidura House Curtilage (proposing to exclude the pedestrian path to Glebe Point Road) be withdrawn as they cannot be assessed as part of a development application;
  - (h) clarification relating to the works identified as future by the Schedule of Conservation Work (to Bidura House under S57 of the Heritage Act 1977) will happen at a later date;
  - (i) amendments relating to ADG solar access compliance and building separation;
  - (j) retention of design competition ESD measures;
  - (k) view analysis of the increased footprint of the penthouse at rooftop, as viewed from Avon Street;
  - (l) privacy treatments to the lower ground rooms to Ferry Lane;
  - (m) a peer review of the contamination documentation submitted with the application;
  - (n) a flood report, stormwater quality assessment and public domain levels;
  - (o) an analysis of traffic movements within and around the site, as well as provision of service, visitor and bicycle spaces;
  - (p) recalculation of waste requirements based on once weekly collection;
  - (q) a new survey;
  - (r) a Planning Agreement Offer in accordance with Condition 15 (Dedication of Widening) of D/2017/582;
  - (s) rectification of errors relating to the physical and 3D CAD models; and
  - (t) amendments to the plans demonstrating that the proposed detailed design is wholly located within the modified Concept envelope as well as demonstrating the relationship with the approved envelope.
37. The applicant provided amended plans and documentation in response to the above on 11 January 2022, with the exception of contamination, flooding, stormwater, and public domain levels. A letter of interim advice was submitted on 24 February 2022.



38. Following re-notification and completion of the preliminary assessment of the amended application; a further request for additional information was sent to the applicant on 24 February 2022. This was in relation to discrepancies between the survey and architectural drawings to the splay corner at Ferry Lane and Avon Street, as well as reiterating that a flood report, stormwater report and public domain levels were required for assessment. Additionally, it was requested that updated BASIX commitments be outlined, the NatHERS stamped plans be resubmitted and the online design environmental performance template be completed correctly.
39. Further clarification was sought from the applicant regarding landscape matters on 18 March 2022.
40. A workshop / meeting was held with the applicant on 24 March 2022, where it was requested that swept paths be provided for City garbage trucks turning left from Ferry Lane onto Avon Street; a traffic management plan be prepared if any changes to the direction of traffic within Ferry Lane are proposed; amendments to clearance heights be carried out to allow for a City garbage truck to enter and exit the site safely; landscape amendments be provided; and the public art plan be supported by information confirming a local First Nations community representative be reinstated in the Public Art reference group, consultation with the Metropolitan Local Aboriginal Land Council be carried out, and an Indigenous cultural consultant be engaged to facilitate the community engagement.
41. Draft amendments to the plans were submitted on 12 April and 16 May 2022, with the final issue of documentation submitted on 2 June 2022.
42. Council staff further requested additional information on 22 July 2022 relating to the flood assessment, public domain levels and gradients, the planning agreement offer, waste management concerns and swept paths. Amended plans were submitted on 30 August 2022.
43. On 16 September 2022, a request for a consolidated landscape plans that were consistent with the architectural drawings was sent to the applicant. The request also specified that there were concerns with the design of the Avon Street terraces in terms of their depth (from kitchen to glass line), screening to bedroom windows of some apartments; and the use of clear glazing to the first floor Ferry Lane balconies without privacy measures. Amended plans addressing the above, including sketches for landscape modifications were submitted on 14 October 2022.
44. The applicant was provided with feedback on 14 October 2022 with regard to the landscape sketches, advising that the vertical greening as proposed was unlikely to succeed as indicated by the submitted photomontages. A meeting was also held with the applicant on 3 November 2022 to discuss what was required from a landscape and tree management perspective to finalise the assessment. Amended plans and documentation in response to the landscape concerns, were submitted on 17 November 2022.
45. A request for additional information, specifying a reassessment of the location of any of the neighbouring Camphor Laurel tree roots within the subject site, as well as whether the proposed stormwater design is a viable option (as pipes would be located close to the tree roots), was sent to the applicant on 3 February 2023.
46. An updated Arborist report and plans depicting the stormwater design were submitted by the applicant on 28 February 2023.

47. The applicant also provided a consolidated set of drawings and revised Clause 4.6 variation statement addressing the updated zoning and height non-compliance for the residential flat building on 25 July 2023.
48. The assessment provided in this report is based on the amended application and additional information outlined above.

### Proposed Development

49. The proposal, as amended, is for the redevelopment of the site, comprising demolition of the Metropolitan Remand Centre and associated structures, remediation, excavation and construction of a part 3 part 7 storey residential flat building incorporating 56 residential apartments accessed via Glebe Point Road and Ferry Lane, 7x 2 storey terraces to the corner of Ferry Lane and Avon Street and retention and use of Bidura House as a single residence. Vehicular access for the residential flat building and terraces is via a shared basement to Ferry Lane.
50. Works to Bidura House and its curtilage comprise a new retaining wall, landscape works, demolition of the existing vehicle ramp to Glebe Point Road and the construction of a new garage for vehicular access to Ferry Lane with a green roof.
51. As part of a planning agreement between the City and the Developer, land to create a minimum 1.5 metre wide footway along the development frontage to Ferry Lane is to be dedicated to Council and embellished. 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.
52. Approval is also sought for the removal of 17 trees, and retention (and protection) of a mature Camphor Laurel.
53. The residential flat building has an overall height of 23.1 metres. The terraces, at their highest point, will have a height of 10.56 metres. The proposal will have an FSR of 1.36:1 (7,546 square metres).
54. Building materials include a mix of metal and masonry. The terraces and lower levels of the residential flat building comprise a masonry palette with light and dark brick detailing, while upper levels of the residential flat building are clad in dark metallic steel. The new garage structure forming part of Bidura House is to be of masonry construction.
55. Floor by floor details are as follows:
  - (a) Basement 3
    - (i) Parking for 29 vehicles (7 terrace spaces, 18 residential apartment spaces and 4 residential accessible spaces);
    - (ii) Bin room, bulk waste and storage areas, pump room/services;
    - (iii) 72 x bicycle spaces;

- (b) Basement 2
  - (i) Parking for 23 vehicles (20 apartment spaces and 3 accessible spaces);
  - (ii) Pump room/services, bin room;
- (c) Basement 1
  - (i) Parking for 19 vehicles (5 apartment spaces, 3 accessible spaces, 1 car share, 9 visitor spaces and 1 accessible visitor space);
  - (ii) Chamber substation, storage areas, switch room;
- (d) Lower ground floor
  - (i) Lower ground level of 7x terraces to the corner of Avon Street and Ferry Lane. The terraces overall contain a lower ground, ground level and attic level);
  - (ii) Fire hydrant booster to Ferry Lane
  - (iii) 4x 1 bedroom apartments, 3x 2 bedroom apartments;
  - (iv) Music room and communal open space;
- (e) Ground floor
  - (i) 4x 1 bedroom, 7x 2 bedroom, 2x 3 bedroom
- (f) Level 1
  - (i) 1x 1 bedroom, 5x 2 bedroom, 1x 3 bedroom;
- (g) Level 2
  - (i) 1x 1 bedroom, 7x 2 bedroom, 3x 3 bedroom
- (h) Level 3
  - (i) 1x 1 bedroom, 4x 2 bedroom, 4x 3 bedroom;
- (i) Level 4
  - (i) 3x 2 bedroom, 3x 3 bedroom
- (j) Level 5
  - (i) 1x 3 bedroom, communal rooftop area
- (k) Rooftop
  - (i) Solar panels, air conditioning/plant enclosure, car park exhaust openings.

56. Plans and elevations of the proposed development are provided below.



**Figure 28:** Proposed photomontage of the north elevation of the residential flat building



**Figure 29:** Proposed photomontage of the central courtyard to Ferry Lane



**Figure 30:** Proposed photomontage of the Ferry Lane elevation of the residential flat building



**Figure 31:** Proposed photomontage of the east facing facade of the residential flat building



Figure 32: Proposed photomontage of the terraces to the corner of Ferry Lane and Avon Street

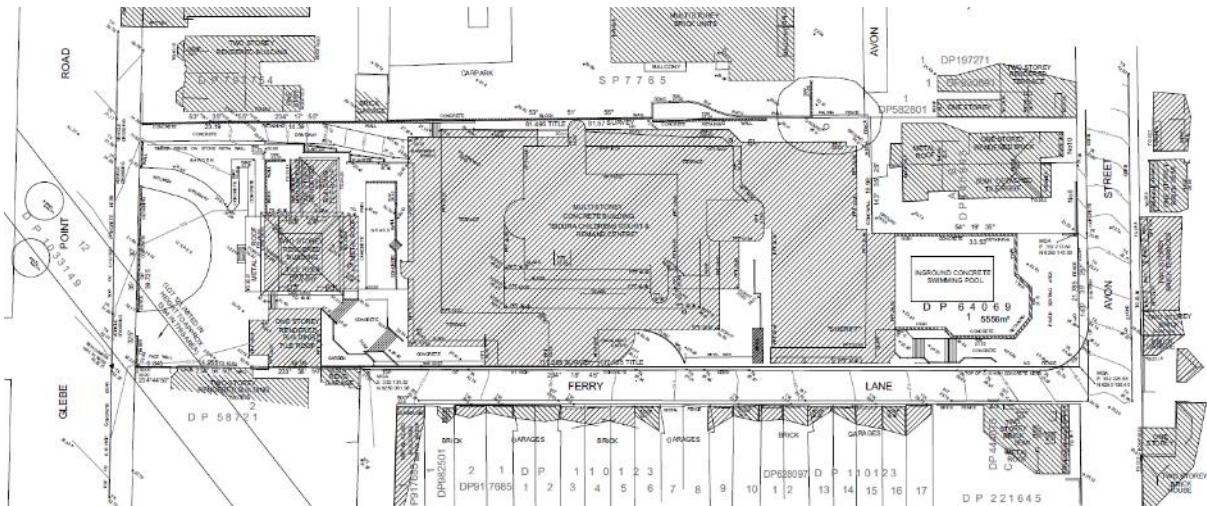


Figure 33: Existing site plan

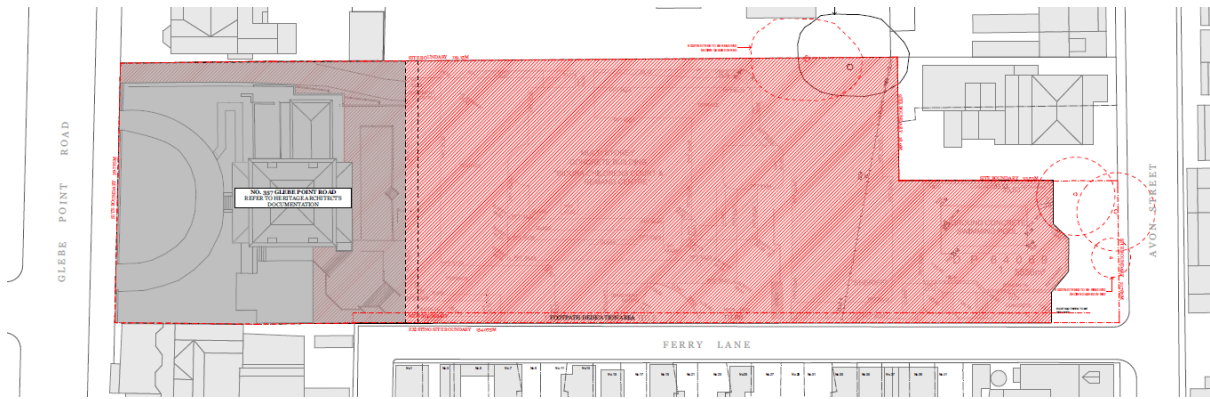


Figure 34: Proposed demolition plan (red shaded areas to be demolished)

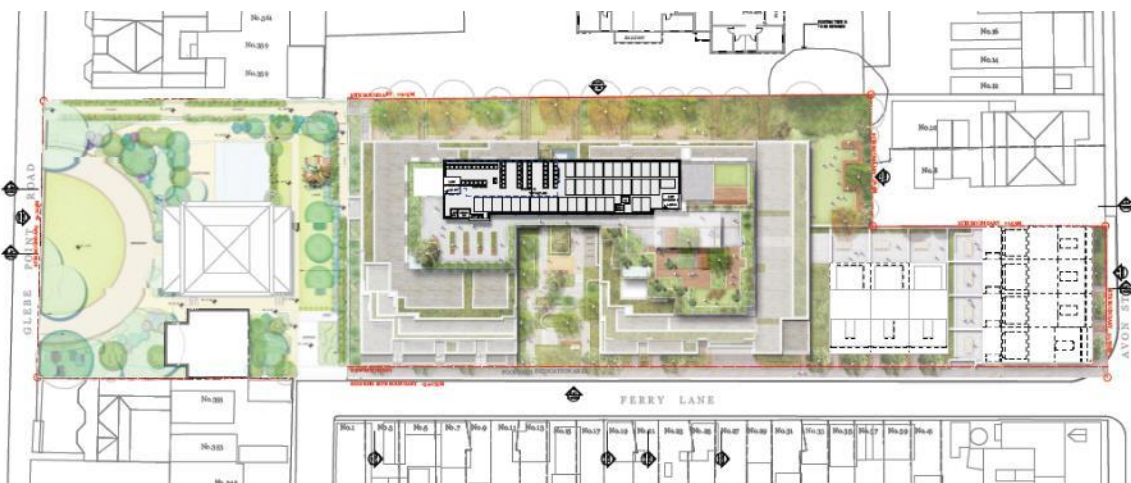


Figure 35: Proposed site plan depicting Bidura House to the left, the residential flat building (centre) and the Ferry Lane/Avon Street terraces to the right



Figure 36: Proposed south elevation (Ferry Lane)



Figure 37: Proposed east elevation - Terraces (Avon Street)

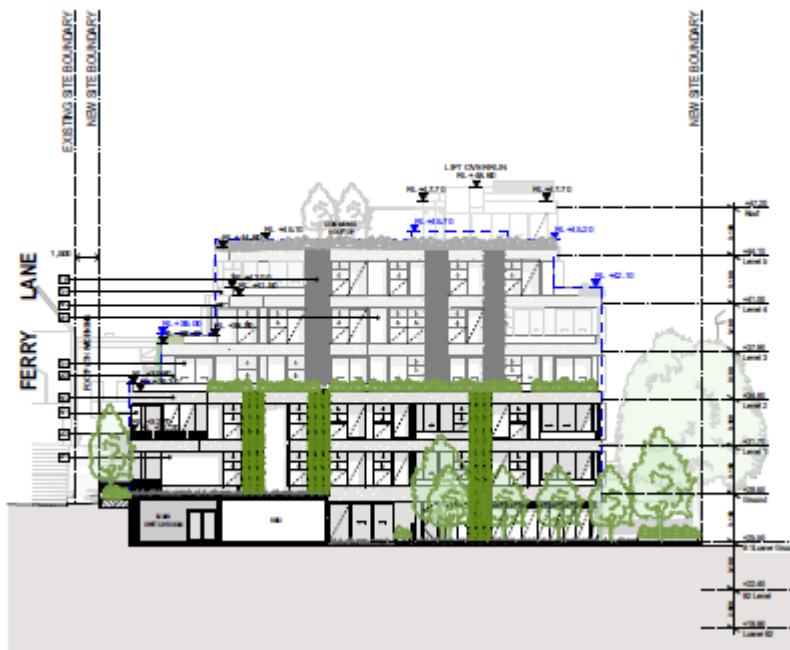


Figure 38: Proposed east elevation - Residential Flat Building





Figure 39: Proposed north elevation

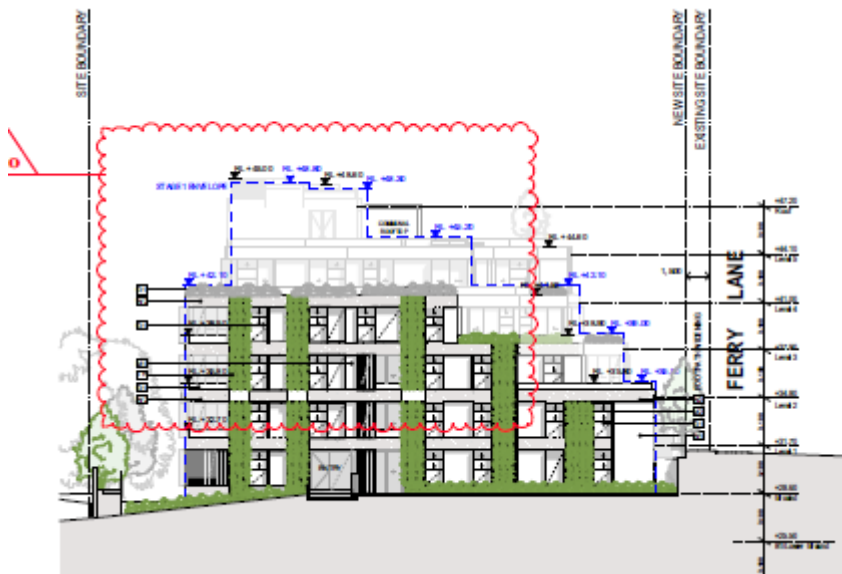


Figure 40: Proposed west elevation - Residential Flat Building



Figure 41: Proposed west elevation - Bidura House (Glebe Point Road)



Figure 42: Proposed basement level 2/3 plan



Figure 43: Proposed basement level 1 / lower ground



Figure 44: Proposed ground floor

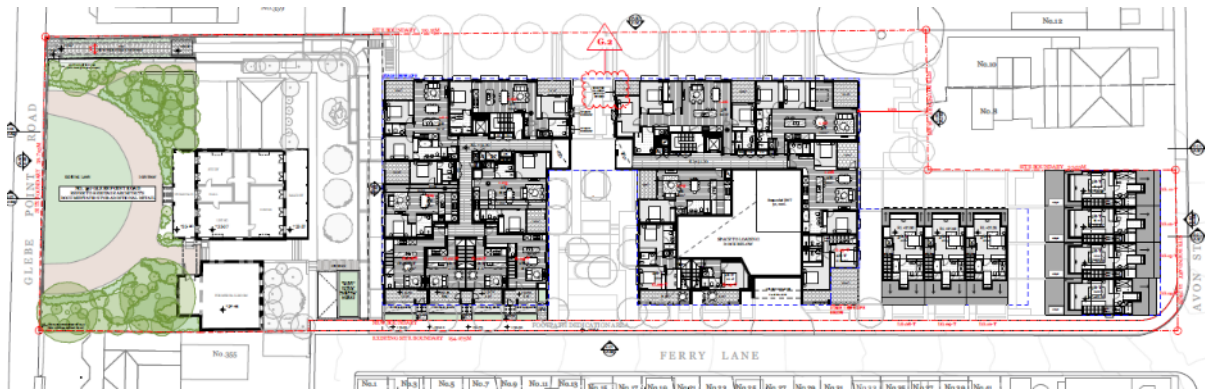


Figure 45: Proposed level 1 plan

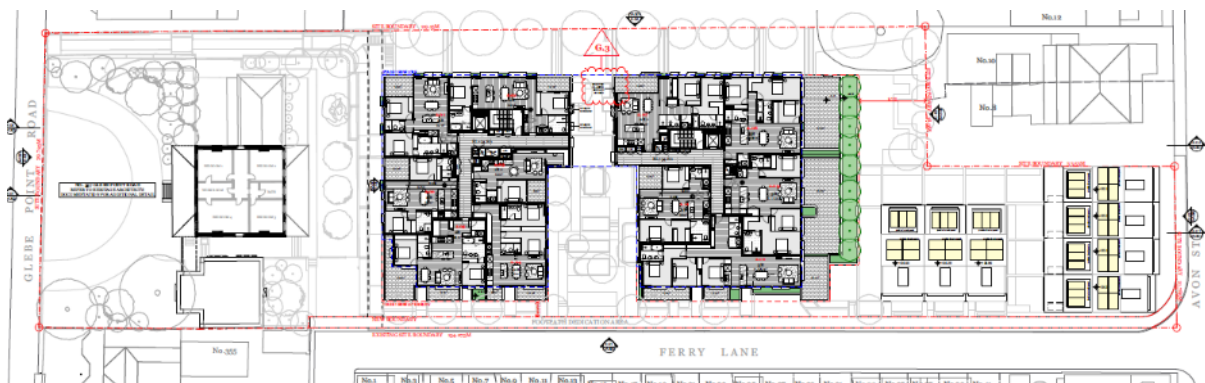


Figure 46: Proposed level 2 plan

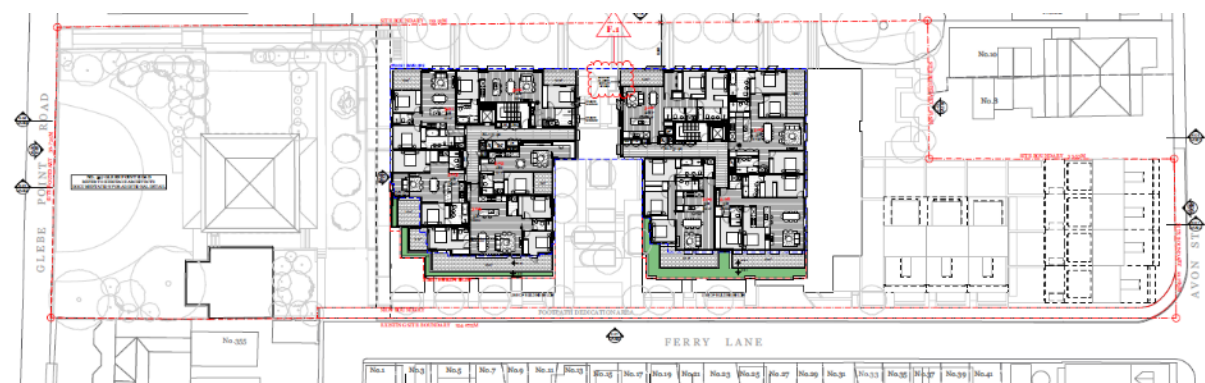


Figure 47: Proposed level 3 plan

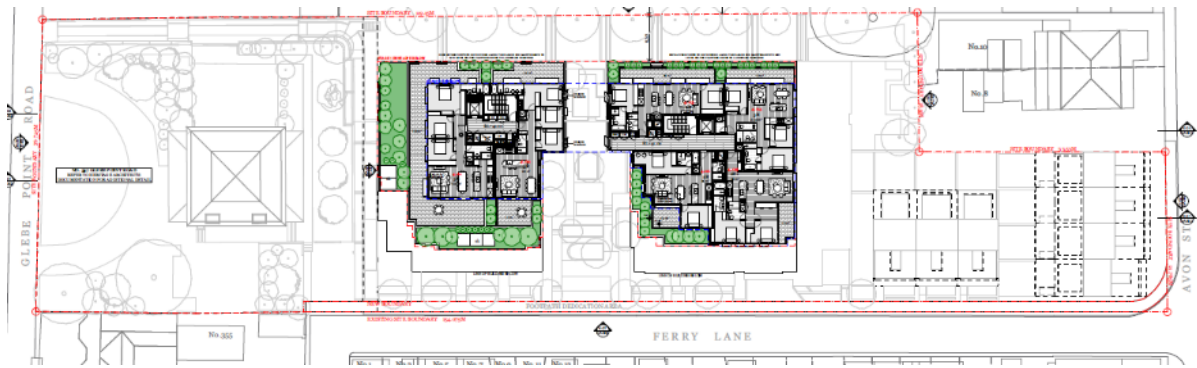


Figure 48: Proposed level 4 plan

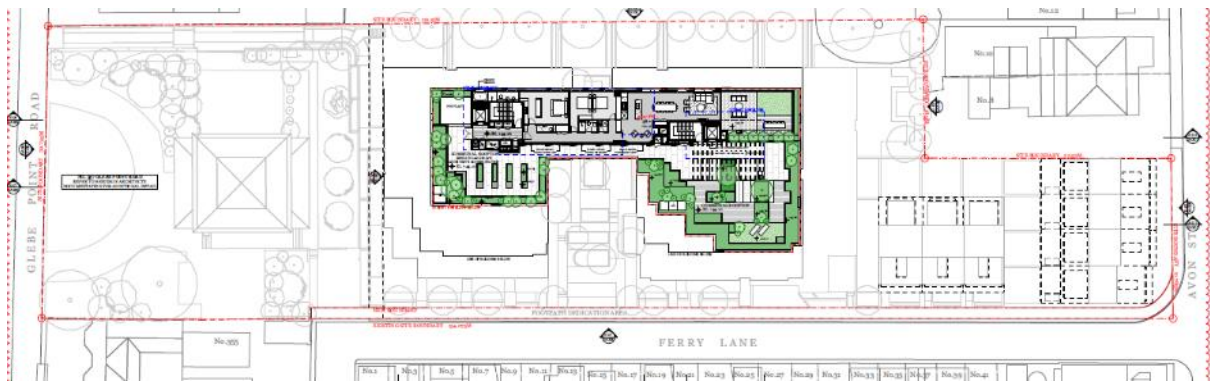


Figure 49: Proposed level 5 plan

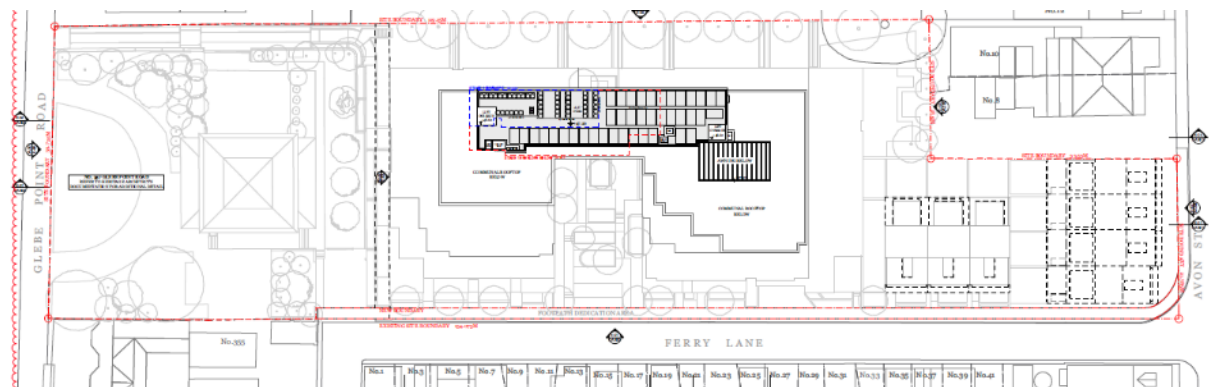


Figure 50: Proposed roof plan



Figure 51: Proposed west elevation (Glebe Point Road) - Bidura House



Figure 52: Proposed east elevation - Bidura House

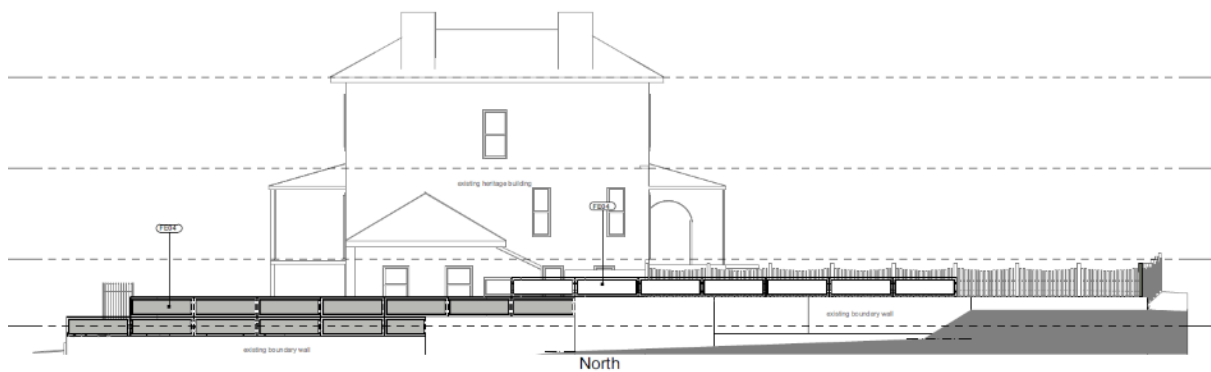


Figure 53: Proposed north elevation - Bidura House

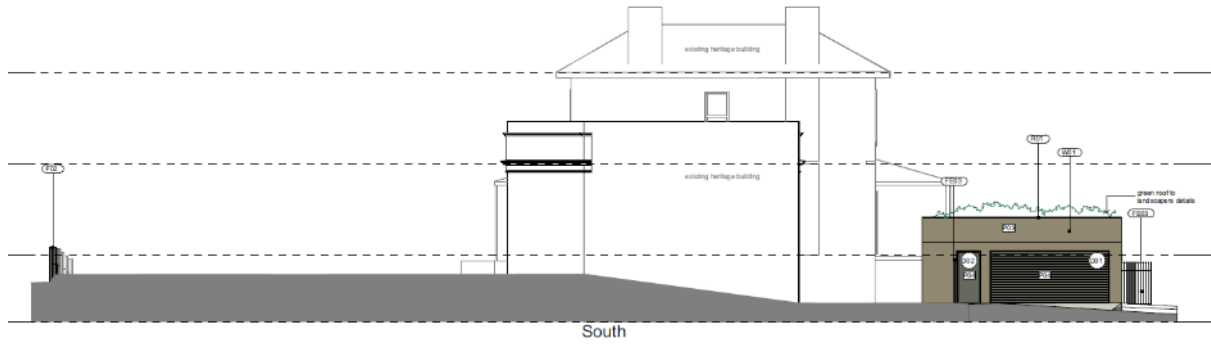


Figure 54: Proposed south elevation (Ferry Lane) - Bidura House



Figure 55: Existing first floor (left), ground floor (centre) and lower ground floor (right) plan - Bidura House



**Figure 56:** Proposed Ferry Lane footpath dedication (red) and road dedication (yellow)

### Assessment

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

### Heritage Act 1977

58. 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'.
59. The application proposes works to Bidura House and its curtilage, including a new retaining wall, landscape works, demolition of the existing vehicle ramp to Glebe Point Road and the construction of a new garage to Ferry Lane.
60. As Integrated Development requiring approval under the Heritage Act 1977, 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.
61. In correspondence dated 6 August 2021, Heritage Council requested that any proposed changes to the curtilage of Bidura House Group be withdrawn. Further to this, on 25 January 2022, the Heritage Council requested additional information from the applicant, specifically relating to the timing around exempt conservation works, as well as landscape and archaeology.
62. Amendments relating to the above were submitted by the applicant on 24 December 2021 and 24 February 2022.
63. On 18 February 2022, the NSW Heritage Council were advised of all submissions received during both exhibition periods.
64. On 13 April 2022, the Heritage Council of NSW issued the General Terms of Approval subject to recommended conditions which are included in the Notice of Determination.

65. It is also noted that the Heritage Council was advised of the landscape amendments relating to Bidura House Group on 22 February 2023 and that the approval notice included references to superseded architectural plans for the redeveloped portion of the site, but no response was received during the assessment period.

## State Environmental Planning Policies

### State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4

#### Remediation of Land

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
33. The subject site where demolition and excavation is to occur contains the Metropolitan Remand Centre, basement carparking, an inground swimming pool, associated hardstand structures and landscaping.
34. The site history indicates that the fill materials used to achieve current levels at the site have potential for contamination due to historical industrial activities in the Glebe area, as well as demolition of the previous dwellings located at the site and unknown sources of fill. Other identified potential areas of concern were the laundry room (industrial washers and dryers), the lift motor and plant room (housing air conditioners and a diesel generator), switch room and substation within the site. The dry cleaner to the northwest is also a potential offsite source of contamination.

#### *Contamination within the subject site (excluding land to be dedicated / transferred to Council)*

35. The proposal is accompanied by a Preliminary Environmental Site Assessment, Detailed Site Investigation, Geotechnical Investigation, Remedial Action Plan (RAP) and Letter of Interim Advice.
36. Site investigations have identified concentrations of lead and Polycyclic Aromatic Hydrocarbons (PAHs) in fill within the western landscaped areas of Bidura House, above the health based residential land use criteria. Low concentrations of toluene and naphthalene were detected but are not considered by the Site Auditor to pose a risk to future site occupants. Testing was also carried out to determine any migration of contamination from the nearby dry cleaner. The plume may extend to the east and cross the site boundary in the north-east of the site but is not confirmed.
37. The RAP proposes excavation of fill materials to a depth of 0.3 metres, covering an area of approximately 5 metres x 15 metres. The final extent of excavation for remediation is to be confirmed by validation monitoring.
38. Given the quantity of impacted soils anticipated to require remediation, the Site Auditor agrees with the RAP recommendation for offsite disposal, as it is considered the most appropriate and time effective method of remediation. With regard to the plume, further soil vapour sampling is to be undertaken in this area prior to demolition of structures. If any impact is identified which would warrant remediation works, an addendum to the RAP will be prepared for Auditor review prior to implementation during remedial works.



39. The Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
40. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

*Land to be dedicated / transferred to Council*

41. Parts of the site along Ferry Lane and Avon Street are to be dedicated to the City as part of this development application and the planning agreement. Because of this, the City is required to be satisfied that the dedicated land can be delivered in a suitable state without the need for long term maintenance (i.e. environmental management plans).
42. The RAP has been reviewed by the City's Public Domain Unit, who are satisfied that the land will be satisfactorily remediated.

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

43. The aim of State Environmental Planning Policy (SEPP) 65 is to improve the design quality of residential apartment development in New South Wales.
44. When determining an application for a residential flat development of three or more floors and containing four or more apartments, SEPP 65 requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 1.
45. The proposal has been designed by DKO Architecture (as lead) and Archer Office. A design verification statement prepared by Nicholas Byrne, who is a registered architect for DKO Architecture has been submitted. The statement verifies that the development meets SEPP 65 design quality principles.
46. An assessment of the proposal against the design quality principles is provided as follows:

**(a) Principle 1: Context and Neighbourhood Character**

The site is located within the E1 – Local Centre zone which permits residential developments and is in close proximity to Glebe Light Rail Station (approx. 200m) as well as bus routes on Glebe Point Road and Wigram Road. The site is approximately 2.5km to the west of the Sydney CBD.

The design responds to the local context by providing appropriate street walls, heights and setbacks to the low scale development to Ferry Lane and Avon Streets, as well as incorporating masonry elements that respond to the fine grain terrace context of the adjacent Glebe Point Heritage Conservation Area.

The proposal provides an appropriate land use within the E1 zone, contributing to the vitality of the immediate locality and the broader City of Sydney Local Government Area. The proposal is generally in accordance with the objectives of the SLEP 2012 and the SDCP 2012, subject to the recommended conditions.

**(b) Principle 2: Built Form and Scale**

The development is acceptable with regard to the height development standard in the Sydney LEP 2012, given the proposed variation to the control relates largely to the roof elements associated with the terraces, as discussed elsewhere in this report.

The proposal is compliant with the maximum floor space ratio control for the site contained in the Sydney Local Environmental Plan 2012.

Appropriate street level massing reduces the bulk and scale of the proposal and provides good visual amenity. The proposal presents a 2-storey street wall height to Ferry Lane and Avon Street, with the upper levels of the building setback from the laneway to provide an appropriate transition in scale.

The development by way of its form and scale is generally consistent with the controls and that envisaged by the concept development approval and subsequent amendment (D/2017/582/A).

**(c) Principle 3: Density**

The proposal complies with the maximum floor space development standard, and the development provides a suitable number and variety of apartment types, with appropriate amenity for occupants. The proposed overall density of development is consistent with that envisaged under the relevant planning controls and is acceptable given the context.

The development will accommodate 63 dwellings, which is an appropriate level of residential density for the site, given its proximity to established infrastructure, public transport, and community and recreation facilities.

The proposed density of the new building does not result in unacceptable levels of amenity impact for neighbouring properties or future residents of the development.

**(d) Principle 4: Sustainability**

The proposal is compliant with the requirements of BASIX in terms of thermal comfort and meets the required water and energy targets. An appropriate condition is recommended to ensure that the development complies with the commitments contained on its BASIX certificate.

**(e) Principle 5: Landscape**

A mix of hard and soft landscaping is provided, with opportunities for passive and active recreation. Where required, landscaping has been incorporated to mitigate visual privacy, particularly between dwellings and the communal open space areas as well as along the Ferry Lane boundary. Deep soil zones across the site allows for canopy tree planting.

The covered and uncovered communal areas at ground level and at level 5 will provide residents and visitors with space for passive recreation. The communal area at ground floor in particular connects to the main pedestrian lobby area accessed via Ferry Lane and Glebe Point Road. Communal spaces with restricted access (for residents only) will accommodate seating pedestrian paths and extensive planting, as well as social spaces with BBQs, tables and chairs.

**(f) Principle 6: Amenity**

The proposal incorporates apartment planning that can deliver a high level of amenity for future occupants. Floor plans have been configured to maximise solar access and ventilation and provide compliant apartment and room sizes.

Compliance with amenity controls regarding the relevant provisions of the ADG is detailed in the table below.

**(g) Principle 7: Safety**

The proposal is broadly in line with the principles for Crime Prevention Through Environmental Design (CPTED).

The development provides new opportunities for passive surveillance of existing streets and will increase street activity. The Ferry Lane frontage is now activated through the presence of residential apartments and lobbies. The Ferry Lane and Avon Street corner, similarly, will be activated by the entries to the residential terraces.

**(h) Principle 8: Housing Diversity and Social Interaction**

The proposal includes a mix of two-storey maisonette apartments, through apartments and single aspect apartments, offering an appropriate variety of apartment types across the development.

The development will accommodate 63 dwellings and provide the following mix:

- (i) 12 x 1 bedroom apartments (19%)
- (ii) 29 x 2 bedroom apartments (46%); and
- (iii) 22 x 3 bedroom apartments (35%).

The proposed unit mix is broadly consistent with that envisaged under the Sydney DCP 2012, however there is a minor non-compliance with the requirement for 5-10% of apartments to be studios. This is acceptable.

The proposal provides 10 adaptable apartments which equates to 15% of the total dwellings, complying with the Sydney DCP 2012 requirement.

**(i) Principle 9: Aesthetics**

The proposed built form presents a contemporary, well-modulated and articulated development, using a variety of architectural elements and materials to provide visual interest. The proposed materials are supported, and the overall design will positively contribute to the aesthetic qualities of the streetscape.

The amended design is generally consistent with the competition winning scheme, which was considered by the selection panel to be capable of exhibiting design excellence with regard to materiality and architectural expression.

47. 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.
48. 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	<p>The depth of the building at its greatest extent, is 28.4 metres. At level 4 the depth reduces to 22 metres.</p> <p>However, the building at ground floor is well within the concept building envelope, and the proposed articulation of the facade helps to reduce building depth in most areas.</p> <p>The depth of individual apartments generally achieve compliance. with the design of the development ensuring that adequate light and ventilation is achieved for each dwelling. Accordingly, the aims of the building depth provisions have been met.</p>

<b>2F Building Separation</b>	<b>Compliance</b>	<b>Comment</b>
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul> <p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul>	Acceptable	<p>The proposal generally complies with recommended building separation distances. Where separation distances are not achieved, the proposal incorporates design features to ameliorate visual privacy concerns for future occupants and adjoining properties.</p> <p>The proposed development has been generally designed in accordance with the concept building envelopes which do not achieve the ADG setback and separation provisions.</p> <p>See further assessment under the discussion section.</p>
At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.	Yes	The building form and setbacks of the residential flat building are appropriate for the terrace typology at the change in zoning.

<b>3B Orientation</b>	<b>Compliance</b>	<b>Comment</b>
Overshadowing of neighbouring properties is minimised during midwinter	Yes	<p>Detailed analysis has been provided to quantify the overshadowing impact to the rear of the Ferry Road properties at Nos. 3 to 41.</p> <p>See discussion section.</p>

<b>3D Communal and Public Open Space</b>	<b>Compliance</b>	<b>Comment</b>
Communal open space has a minimum area equal to 25% of the site.	Yes	The application proposes communal open space at lower ground, ground floor

3D Communal and Public Open Space	Compliance	Comment
		and rooftop, with a total area of 960sqm, or 25%
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	It is acknowledged that the ground floor communal open space is constrained by overshadowing from the surrounding built form throughout the day, particularly during winter.  The proposal, however, provides solar access to at least 50% of the lower ground and rooftop communal open space, which is considered to be the principal usable area as per ADG requirements.

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	A continuous deep soil zone is provided at the northern boundary of the site with an area of 452sqm or 12% of the site area and a minimum depth of 6 metres which complies.

3F Visual Privacy	Compliance	Comment
Up to four storeys (12 metres): <ul style="list-style-type: none"> <li>• 6m between habitable rooms / balconies</li> <li>• 3m between non-habitable rooms</li> </ul> Five to eight storeys (25 metres): <ul style="list-style-type: none"> <li>• 9m between habitable rooms / balconies</li> <li>• 4.5m between non-habitable rooms</li> </ul>	Acceptable	The proposal does not achieve the minimum ADG separation requirements but does provide generally acceptable visual privacy outcomes.  The proposal has been generally designed in accordance with the concept building envelopes which do not achieve the ADG setback and separation provisions for visual privacy.  Refer to the further assessment under the Discussion heading.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open	Yes	Apartment layouts are designed to locate sensitive rooms and spaces away

<b>3F Visual Privacy</b>	<b>Compliance</b>	<b>Comment</b>
circulation space by the apartment's service areas.		<p>from internal communal corridors and spaces.</p> <p>At ground floor there is one bedroom window (within G.01) facing the pedestrian link to Glebe Point Road, however it is to be fitted with an opaque treatment and is separated by planting.</p> <p>Additionally, there are bathroom and bedroom windows of G.02 and G.10 facing the reflection pool; and similarly these windows are fitted with frosted glazing and hoods to limit sightlines.</p>

<b>4A Solar and Daylight Access</b>	<b>Compliance</b>	<b>Comment</b>
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	44 out of 63 dwellings achieve solar access in accordance with the objective, which is 70%.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	9 apartments or 14% do not receive direct sunlight between 9am and 3pm at midwinter.

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	41 of the dwellings achieve natural cross ventilation, which is 63%.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	No cross through apartments or terraces exceed a depth of 18 metres.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	Floor to floor heights of at least 3.1 metres are provided which achieve 2.7 metre floor to ceiling heights.
Non-habitable rooms: 2.4m	Yes	Floor to floor heights of at least 3.1 metres are provided which can achieve 2.4 metre floor to ceiling heights.
Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.	Yes	All apartments are provided with floor to floor heights of at least 3.1 metres, which can achieve 2.4 to 2.7 metre floor to ceiling heights.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	No	<p>The development provides 3.1 metre floor to floor height at ground floor as the proposal is for residential accommodation only.</p> <p>Given that development has been designed with no opportunity for commercial tenancies within the site, and the context of low scale residential to Ferry Lane and Avon Street, where the new buildings are located, it is unlikely that the development would be converted to commercial in any capacity at ground or first floor.</p>

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> <li>• 1 bed: 50m<sup>2</sup></li> <li>• 2 bed: 70m<sup>2</sup></li> <li>• 3 bed: 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase</p>	Yes	All apartment sizes comply with the minimum area requirements.



<b>4D Apartment Size and Layout</b>	<b>Compliance</b>	<b>Comment</b>
the minimum internal area by 12m <sup>2</sup> each.		
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	All habitable rooms throughout the development are naturally ventilated. There are some studies at ground floor where a window is visible, but not directly connected to the room.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	The proposal includes minor exceedances of the 8m depth requirement to some of the open plan living layouts (between 8-9.4m). However, these apartments have adequate amenity as the living areas are dual aspect and will receive ample natural light.
8m maximum depth for open plan layouts.		
Minimum area for bedrooms (excluding wardrobes): <ul style="list-style-type: none"> <li>• master bedroom: 10m<sup>2</sup></li> <li>• all other bedrooms: 9m<sup>2</sup></li> </ul> Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	Apartments are provided bedrooms and living areas in accordance with minimum recommended internal areas and widths.
Living and living/dining rooms minimum widths: <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>		
4m minimum width for cross over and cross through apartments.	Yes	Cross through apartments are provided with a minimum width of 4 metres as recommended.

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
Studio apartments are to have a minimum balcony area of 4m <sup>2</sup> with a minimum depth of 1m.	Yes	The proposed balconies meet the minimum size and dimension

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
<p>One bed apartments are to have a minimum balcony area of 8m<sup>2</sup> with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m<sup>2</sup> with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m<sup>2</sup> with a minimum depth of 2.4m.</p>		<p>requirements specified for the number of bedrooms per apartment.</p>
<p>Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m.</p>	Acceptable	<p>The majority of apartments at ground level are provided with a consolidated area of private open space in accordance with the objective.</p> <p>There are, however, 7 dwellings to Ferry Lane that have split level courtyards, that is one at ground floor and one at level 1. Each dwelling has at least 15sqm of private open, with at least one of the levels having a minimum depth of 3 metres.</p>

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
<p>The maximum number of apartments off a circulation core on a single level is eight (8).</p>	Yes	<p>The maximum number of units for each lift is 8 per level.</p>
<p>Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.</p>	Yes	<p>No living room or bedroom windows open directly onto circulation spaces.</p>

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	All common circulation spaces have access to natural light and ventilation.

<b>4G Storage</b>	<b>Compliance</b>	<b>Comment</b>
Minimum storage provision facilities: <ul style="list-style-type: none"> <li>• Studio: 4m<sup>3</sup></li> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3 bed: 10m<sup>3</sup></li> </ul> (Minimum 50% storage area located within unit)	Yes	Adequate storage is provided within each apartment and at basement level in accordance with ADG requirements.

<b>4J Noise and Pollution</b>	<b>Compliance</b>	<b>Comment</b>
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	The design groups similar uses and services together to ensure the acoustic privacy of the dwellings are maintained. This includes locating waste facilities within the lowest basement level.

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

49. A BASIX Certificate has been submitted with the development application.
50. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

51. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

**Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network****Clause 2.48 Determination of development applications – other development**

52. The application is subject to Clause 2.48 of the SEPP as the development involves the penetration of ground within 2m of an underground electricity power line/assets to Glebe Point Road and Avon Street.
53. As such, the application was referred to Ausgrid for a period of 21 days, who advised on 24 July 2021 that the proposal was supported subject to conditions. These conditions are included in Attachment A.

**Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors****Clause 2.97 – Development adjacent to rail corridors**

54. The application is adjacent to the rail corridor and was subsequently referred to Transport for NSW (TfNSW) for comment. TfNSW have recommended conditions which are included in the Notice of Determination.

**Clause 2.98 – Excavation in, above, below or adjacent to rail corridors**

55. The application is adjacent to the Glebe Tunnel of the Inner West Light Rail corridor and was subsequently referred to Transport for NSW (TfNSW) for comment. TfNSW advised in correspondence dated 18 August 2021 that the proposed works are to occur outside of the protection zone relating to the tunnel. Therefore, no comments were required.

**Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017**

56. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.
57. The SEPP states that the Council must not grant consent for the removal of vegetation within heritage sites or heritage conservation areas unless Council is satisfied that the activity is minor in nature and would not impact the heritage significance of the site.
58. The application affects 18 trees, with 17 proposed for removal and 1 tree to be retained. See Figures 57 and 58 below.



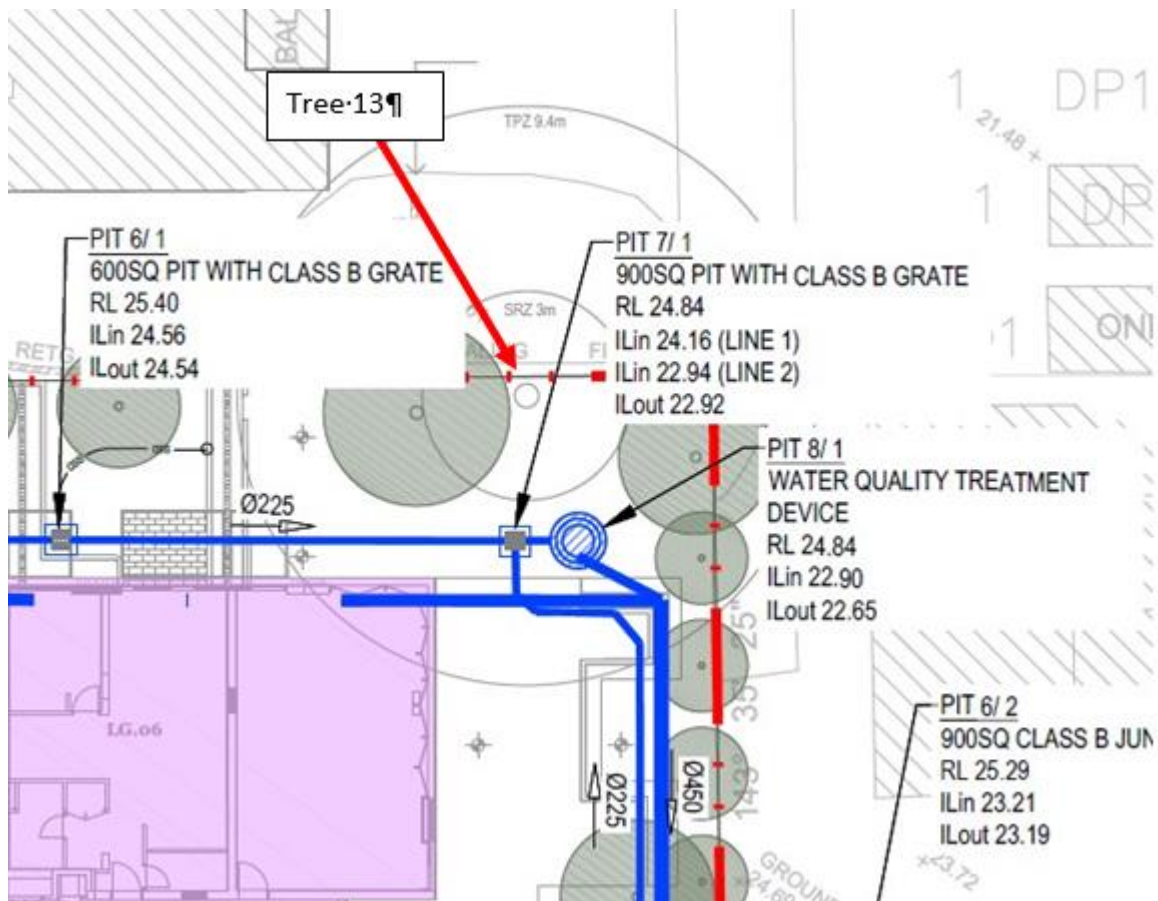
**Figure 57:** Aerial view of site, with affected trees identified and numbered. Tree 13, to be retained, is circled in red.



**Figure 58:** Existing site plan with affected trees identified and numbered. Tree 13, to be retained, is circled in red.

- 59. The trees to be removed are identified as Nettle, Cocos Palms, She Oak, White Cedar, Cheese and Canary Island Date Palm trees.

60. Condition 10(c) of the concept approval D/2017/582 requires the retention of the Camphor Laurel known as Tree 13.
61. A site inspection and supporting documents submitted with the proposal confirm that Tree 13 has a structural root zone (SRZ) of 3 metres and a tree protection zone (TPZ) of 9.4 metres. The tree is located approximately 4.5 metres from the existing ground floor outer wall and approximately 6.9 metres from the proposed basement outer wall.
62. There is an existing concrete slab approximately 2.5m wide extending from the base of the existing outer wall toward Tree 13. A portion of this slab is within the SRZ of this tree. It is unclear of the thickness of the slab; however, the applicant has estimated this would be between 150mm – 200mm. It is likely that tree roots would be located underneath this slab.
63. The arborist report states that *'if it appears the roots of Tree 13 have been using the existing concrete slab as structural support then remediation works may be needed to ensure this tree has adequate structural support at the base to prevent wind throw in a storm since the tree leans away from the existing site.'*
64. It is recommended that the section of slab located within the SRZ of Tree 13 remain in situ to prevent possible future failure of the tree.
65. Stormwater plans submitted with the application do not indicate the distances of the proposed stormwater, pit and water quality treatment device from Tree 13 and the proposed building footprint however the plan indicates the stormwater and pits will be located outside of the SRZ. Nonetheless, Council's Tree Management Officer has advised that it is safe to assume that the location of the stormwater and pits will be in close vicinity to the underside of the existing concrete slab that should be retained. See Figure 59 below depicting the proposed location of the stormwater system in proximity to Tree 13.



**Figure 59:** Proposed stormwater plan with the system and pits indicated in blue, the proposed building footprint in purple and Tree 13 trunk and approximate canopy indicated

66. Given the likelihood of significant roots being located in this area around the proposed stormwater system and pits, it is recommended that the stormwater and pit locations are relocated further towards the proposed building footprint within the area between the existing outer wall and proposed basement. Root mapping in the vicinity of the installation locations within the TPZ of Tree 13 is recommended to determine the extent of roots in this area as per recommendations from the Arborist Statement.
67. A condition is recommended for the proposed stormwater system and pits to be setback from the tree based on root mapping investigations, for the existing concrete slab to remain in-situ where located within the structural root zone of Tree 13 and for a detailed pruning specification plan for scaffolding/building line clearances around Tree 13 to be specified (including a Tree Protection Plan).
68. It is noted that additional tree plantings are proposed within the site's interface with Bidura House, as well as within other areas of the site and as part of the dedication of land to Council for footpath widening along Ferry Lane. Subject to the above recommendation and the new plantings, the proposal is considered to satisfactorily address the SEPP, and will not have an adverse impact on the heritage significance of the site, the streetscape and the heritage conservation area with regard to tree canopy.

## Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment

69. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
70. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

71. 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 accommodation 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	<p>Maximum building heights of 9 metres and 27 metres apply to the site.</p> <p>The application proposes a height of up to 21.46 metres to the residential flat building, where the 27 metres height control applies.</p> <p>Part of the residential flat building falls within the 9 metre height limit, at level 2 to the north-east elevation. The height is 10.27 metres, which results in a variation of 14.1%.</p> <p>The 9 metre height limit also applies to Bidura House and its curtilage, as well as the Ferry Lane and Avon Street frontages of the site. The terraces are up to 10.56</p>



Provision	Compliance	Comment
		metres in height, to Ferry Lane, which is a 17% variation to the height development standard.  A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.
4.4 Floor space ratio	Yes	A maximum floor space ratio of 1.5:1 or 8,289sqm is permitted.  A floor space ratio of 1.36:1 or 7,546sqm is proposed, which complies.
4.6 Exceptions to development standards	Yes	The proposed development seeks to vary the development standard prescribed under Clause 4.3 'Height of buildings'. A Clause 4.6 variation request has been submitted with the application.  See further details in the 'Discussion' section below.

#### Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	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 (1763), known as 'House "Bidura" including interiors, former ball room and front garden'. The site is located within the Glebe Point Road Heritage Conservation Area (C29).  The use of Bidura House, construction of a garage to Ferry Lane and landscape works to the garden areas of the item have been reviewed and are supported by the Heritage Council of NSW. Appropriate conditions relating to Bidura House are included in the General Terms of Approval, set out in Attachment A. Refer to 'Heritage' in the Discussion section.  Whilst the entire site is listed as contributory under the Sydney DCP 2012, consent has been granted as part

Provision	Compliance	Comment
		<p>of the concept approval D/2017/582 for the in-principle demolition of the Metropolitan Remand Centre and associated structures.</p> <p>The concept approval has also set out building envelopes and setbacks for the new development where it meets the curtilage of Bidura House group. The detailed design development application adheres to the approved envelope and setbacks at this interface, allowing the setting of the State Heritage Item to be maintained.</p> <p>The redevelopment of the site is sympathetic to the character and appearance of the conservation area through the provision of a 2-3 storey built form to Ferry Lane for the residential flat building, setbacks provided to upper levels, and the siting of the two storey terraces with attic additions to the corner of Ferry Lane and Avon Street.</p> <p>This street wall height provides a transition between the one and two storey traditional and contemporary terrace typologies of the heritage conservation area and the upper levels of the residential flat building.</p> <p>The terraces incorporate masonry materiality and architectural expression similar to the terrace typology of the area.</p>
5.21 Flood planning	Yes	<p>The site is identified as being subject to flooding.</p> <p>A Flood Statement Report was submitted with the application which determined that all entry locations satisfy Council's Flood Planning Level (FPL) requirements.</p> <p>The application has been reviewed by Council's Flooding Engineers and has been found to be acceptable.</p> <p>The development is able to comply with the City's Interim Floodplain</p>

Provision	Compliance	Comment
		Management Policy and satisfies the provisions of the standard.

### Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21C Design excellence 6.21D Competitive design process	Yes	<p>The proposal was the winner of a competitive design alternatives process and has retained the key elements of the winning proposal while addressing recommendations made by the Jury for improvements. These recommendations are detailed further in the Issues section of this report.</p> <p>As elected by the applicant, no additional height or FSR was awarded as part of the competitive design alternatives process.</p> <p>The proposal responds appropriately to the concept approval conditions and planning controls where required, and the built form is compatible with the heritage character of the area, providing appropriate transition in scale to the State Heritage Listed Bidura House, as well as adjacent contributory terraces across Ferry Lane and Avon Street.</p> <p>The proposal achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The proposal presents a high standard of architectural design and the overall materiality, articulation and architectural expression of the development is in keeping with the relevant planning controls and reflecting the desired future character of the area.</p> <p>The proposal will have a positive contribution to the public domain through the provision of footpath widening and</p>

Provision	Compliance	Comment
		planting of street trees, particularly along Ferry Lane.  The development therefore achieves design excellence.

**Part 7 Local provisions – general**

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.4 Dwelling houses, attached dwellings and semi-detached dwellings  7.5 Residential flat buildings, dual occupancies and multi dwelling housing	Yes	A maximum of 77 car parking spaces are permitted.  70 residential and visitor car parking spaces (including accessible spaces for both residents and visitors), which complies with the relevant development standards.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	N/A	The detailed design development application was lodged prior to the introduction of Clause 7.13 on 1 July 2021, and is therefore excluded and not subject to an affordable housing contribution.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils.  Preliminary and detailed site investigation reports were submitted with the application, both of which identify that the site is not located within an area with significant risk.  The preparation of an Acid Sulfate Soils Management Plan is therefore not required.
7.20 Development requiring or authorising preparation of a development control plan	Yes	The proposed building is located outside of Central Sydney, with a site area that exceeds 5,000sqm. A site specific DCP is therefore required.

Provision	Compliance	Comment
		<p>This is a detailed design application submitted in accordance with concept approval D/2017/582. Pursuant to Section 4.23 of the EP&amp;A Act, the concept application was submitted in lieu of a site-specific development control plan to satisfy the control.</p> <p>Subject to approval of D/2017/582/A, the development is consistent with the concept approval and therefore satisfies the provisions of the control.</p>

## Development Control Plans

### Sydney Development Control Plan 2012

72. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

#### Section 2 – Locality Statements

73. The site is located within the Glebe Point Road locality. The proposed development is in keeping with the unique character and the design principles of the Glebe Point Road locality in that it retains the two storey State Heritage Listed Bidura House and its gardens as viewed from Glebe Point Road, using it as a single residence.
74. The proposed residential flat building is setback from Bidura House, and its built form aligns to and addresses Ferry Lane, incorporating setbacks to transition to the fine grain terraces along Ferry Road.
75. The two storey terraces to be located in 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.

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements 3.1.1 Streets, lanes and footpaths 3.1.5 Public art	Yes	<p>The planning agreement for the development site identifies land dedication to Ferry Lane and the splay corner of Avon Street for footpath widening. The associated public domain and landscaping works to embellish the footpath are to be carried out in accordance with the planning agreement, and before the issue of an Occupation Certificate.</p>

Provision	Compliance	Comment
		<p>The proposed development has been designed to actively address the laneway, with appropriate residential uses, making a positive contribution to the public domain.</p> <p>The submitted public art strategy has been reviewed by the City's Public Art Unit, who are generally supportive of the concept. A condition is recommended requiring the finalised strategy to be submitted to Council for approval prior to the issue of a construction certificate for above ground works.</p>
3.2. Defining the Public Domain	Yes	The proposal will enhance the public domain by removing vehicular access to Glebe Point Road, as well as dedicating land to Council along the Ferry Lane and Avon Street frontages of the site for footpath widening and the planting of street trees.
3.3 Design Excellence and Competitive Design Processes	Yes	A competitive design alternatives process for the site was conducted to select the project architect. The selection panel deemed the entry of DKO Architecture and Archer Office as the design most capable of achieving design excellence.
3.5 Urban Ecology	Yes, subject to conditions	<p>The proposal involves the removal of 17 trees within the site boundary. These trees are within the footprint of the approved concept envelopes and their removal is supported.</p> <p>One tree, known as Tree 13 (Camphor Laurel) at the boundary of the site at 2A Forsyth Street is required to be retained as per Condition 10 of the concept approval. As discussed under the SEPP Biodiversity and Conservation) 2021, a condition is to be imposed to relocate the proposed stormwater system, and for root mapping investigation to occur prior to construction of the development in order to ensure its retention.</p> <p>Conditions have also been recommended for landscaped and deep soil areas to accommodate mature tree</p>

Provision	Compliance	Comment
		planting as per the submitted landscape plans and design report.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Yes	<p>The proposal has been designed to the FPL and is acceptable in terms of flood planning.</p> <p>Conditions are recommended requiring the detailed design of stormwater (as well as its relocation in relation to Tree 13) and onsite detention prior to the issue of a construction certificate.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Conditions recommended by the City's Specialist Surveyor with regard to any future subdivision are included in Attachment A.
3.9 Heritage	Yes	<p>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 (1763), known as 'House "Bidura" including interiors, former ball room and front garden'. The site is located within the Glebe Point Road Heritage Conservation Area (C29).</p> <p>The approval for the use of Bidura House, construction of a garage to Ferry Lane and landscape works to the garden areas of the item have been reviewed and supported by the Heritage Council of NSW as part of their General Terms of Approval, as discussed elsewhere in this report. Refer to 'Heritage' in the Discussion section.</p> <p>The demolition of the Metropolitan Remand Centre has been approved in principle as part of concept consent D/2017/582.</p> <p>The redevelopment of the site is sympathetic to the character and appearance of the conservation area through the provision of a 2-3 storey built form to Ferry Lane for the</p>

Provision	Compliance	Comment
		<p>residential flat building, with setbacks to upper levels, and the siting of the two storey terraces with attic additions to the corner of Ferry Lane and Avon Street. This street wall height provides a transition between the one and two storey traditional and contemporary terrace typologies of the heritage conservation area and the upper levels of the residential flat building.</p> <p>The residential flat building and the terraces incorporate masonry materiality and architectural expression that contributes to the heritage nature of the streetscape and conservation area.</p>
3.11 Transport and Parking	Yes	<p>The proposal provides sufficient bicycle parking for residents and visitors. These are located throughout the development, including on the ground floor adjacent to building entries as well as in the basement.</p> <p>The proposal includes 1 dedicated car share space, a loading area/dock for a Council garbage truck. The location and design of these spaces complies with the DCP requirement.</p> <p>Appropriate conditions are recommended to ensure the residential, visitor and accessible spaces are allocated appropriately.</p>
3.12 Accessible Design	Yes	<p>The proposed development meets the requirements of Section 3.12 of the Sydney DCP 2012, as it includes the provision of 17% (10/56) of apartments as adaptable dwellings.</p> <p>Conditions are recommended in Attachment A to ensure that the proposal provides appropriate access and facilities for persons with disabilities, in accordance with the Sydney DCP 2012 and the Building Code of Australia.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The safety and security of the public domain and the site is enhanced by the proposed increase in activity within the</p>



Provision	Compliance	Comment
		<p>site and casual surveillance of the surrounding streets from the residential apartments, terraces and adaptive reuse of Bidura House.</p> <p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>
3.14 Waste	Yes	<p>The development includes waste chutes serving each floor and bulky storage areas within the basement levels.</p> <p>The proposal also includes the provision for on-site waste collection by Council waste vehicles.</p> <p>A range of waste management conditions are recommended in Attachment A to ensure waste is managed on the site in accordance with Section 3.14 of the Sydney DCP 2012.</p>
3.17 Contamination	Yes	<p>As discussed above in relation to the SEPP (Resilience and Hazards) 2021, the City's Health and Building Unit has reviewed the preliminary site investigation report, the detailed site investigation report, the remedial action plan and interim advice submitted to satisfy both the SEPP and the DCP.</p> <p>The advice received advises that, subject to conditions relating to contamination in Attachment A, the site can be made suitable for the proposed development.</p>

## Section 4 – Development Types

### 4.1 Single Dwellings, Terraces and Dual Occupancies

Provision	Compliance	Comment
4.1.1 Building height	Yes	<p>The site is permitted a maximum building height of 2 storeys to Ferry Lane and Avon Street. Notwithstanding, the concept approval D/2017/582/A specifies a 2 storey building envelope for terraces to the corner of Ferry Lane and Avon</p>

Provision	Compliance	Comment
		<p>Street, where the proposed 7 terraces are sited.</p> <p>No changes to height, bulk and scale are proposed to Bidura House, which is two storeys and is to be used as a single residence.</p> <p>The proposed terraces are 2 storeys in height with attic additions and complies.</p>
4.1.2 Building setbacks	Yes	<p>The proposed terraces relate to the existing setback patterns along Avon Street, respecting the predominant rear building line.</p> <p>No changes are proposed to setbacks relating to Bidura House.</p>
<p>4.1.3 Residential amenity</p> <p>As demonstrated below, the proposed development will have acceptable residential amenity and will not have unreasonable impacts on the residential amenity of neighbouring properties.</p>		
4.1.3.1 Solar access	Yes	<p>The DCP 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.</p> <p>The proposal is accompanied by a shadow analysis prepared in accordance with the controls, providing a comparison between the originally approved concept envelope and the proposed detailed design development.</p> <p>The proposed terraces and Bidura House achieve 2 hours of solar access to their own private open space and living areas in accordance with the control.</p> <p>The proposed terraces will have no adverse impact on solar access to neighbouring terraces on Avon Street given they are to the north of the subject site.</p>

Provision	Compliance	Comment
4.1.3.3 Landscaping 4.1.3.4 Deep soil planting	Yes	<p>Landscape plans have been submitted demonstrating adequate planting, canopy cover and deep soil to each terrace.</p> <p>The Heritage Council of NSW has requested consolidated landscape plans to be submitted as part of any Section 60 application for Bidura House, and for appropriate tree species to be planted in the rear garden.</p>
4.1.3.5 Private open space	Yes	Private open space is provided to the rear of each terrace, covering an area of approximately 23-29sqm per dwelling, with minimum dimension of 3 metres.
4.1.3.6 Visual privacy	Yes	The rear windows of each terrace at level 1 and attic are to be fitted with aluminium framed louvres to control sightlines between the terraces and the residential flat building.
4.1.4 Alterations and additions		
4.1.4.1 General	Yes	<p>The terraces are designed to have a first floor addition that does not extend beyond the predominant rear building alignment set along Avon Street.</p> <p>The development respects the form, scale and setbacks of the streetscape.</p>
4.1.5 Roof alterations and additions		
4.1.5 Roof alterations and additions	Yes	The terraces have been designed to have front dormer windows and rear roof extensions that reference the heritage controls contained in Sections 4.1.5.4 and 4.1.5.5 of the Sydney DCP 2012. The attic additions are to be metal clad to appear lightweight and contemporary in comparison to the traditional heritage dormers found in Avon Street, Ferry Street and the surrounding conservation area, which is an appropriate response for infill development.
4.1.7 Fences	Yes	The proposed front fences to each terrace are approximately 1.4 metres in height, allowing for passive surveillance.

Provision	Compliance	Comment
		The fences are constructed of brick base with metal posts in Dulux Monument and are in keeping with the character of the area.
4.1.9 Car parking	Yes	Car spaces for the terraces are incorporated into the shared basement for the residential flat building.  Bidura House has a separate garage structure that has been assessed as appropriate by Heritage Council of NSW, subject to details of materials and finishes.

#### 4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height	Partial compliance	The development is designed at 7 storeys at its highest point.  See further height assessment under the heading Discussion.
4.2.2 Building setbacks	Yes	There are no specified building setbacks for this site. The development complies with the setbacks of the amended concept envelope (D/2017/582/A). The setbacks within the development and between neighbouring properties are acceptable.
4.2.3 Amenity 4.2.3.1 Solar access 4.2.3.5 Landscaping	Yes	The DCP 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.  The proposal is accompanied by a shadow analysis prepared in accordance with the control, providing a comparison between the originally approved concept envelope and the proposed detailed design development.

Provision	Compliance	Comment
		<p>The analysis identifies that the existing low scale residential terraces opposite the site across Ferry Lane are not adversely affected by the proposed development. Those sites that did not achieve 2 hours solar access under the concept approval originally, have not had solar access reduced further by the proposal. This is discussed in further detail under the heading 'Overshadowing'.</p> <p>The proposal has acceptable amenity regarding solar access, overshadowing, open space and ventilation and noise as outlined in the SEPP 65 and ADG assessment above.</p> <p>The landscaping design is acceptable, subject to the landscape conditions recommended in Attachment A.</p> <p>Integrated design measures have been incorporated within the design to address visual privacy within the development site and to adjoining properties. See discussion section.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The proposed development provides an acceptable built form with fine grain architectural character, with its scale, modulation and facade articulation designed to respond appropriately to its context on Ferry Lane and Avon Street, and as viewed from Glebe Point Road.</p> <p>The proposed break in the building separates the massing, and allows visual and physical connectivity through the site, particularly to landscaped common open areas. This break is continued on the upper levels as viewed from Ferry Lane, reducing its scale and impact to the public domain.</p>
4.2.5 Types of development	Yes	<p>The proposal generally provides a perimeter block building with communal open space in the middle that is visually connected to the public domain.</p>

Provision	Compliance	Comment
4.2.6 Waste and recycling Management	Yes	Each dwelling has adequate space to manage waste. Garbage chutes, along with additional space for bins and storage of bulky goods are provided and are accessible on each level.  Waste is collected from within the basement via an internal loading bay.
4.2.7 Heating and cooling infrastructure	Yes	Heating and cooling infrastructure is located in a centralised area at rooftop, with air conditioning and hot water plant areas provided as required. The plant and lift overrun areas are setback from the edge of the building and not visible from the public domain.
4.2.8 Letterboxes	Yes	A mailroom is provided within the lobby of the building.

**Discussion**

**Clause 4.6 Request to Vary a Development Standard**

76. The site is subject to maximum height controls of 27 metres across the middle of the site (approximately) and 9 metres to Bidura House and 'L' shaped section of the site to Avon Street and Ferry Lane. See Figure 60 below.



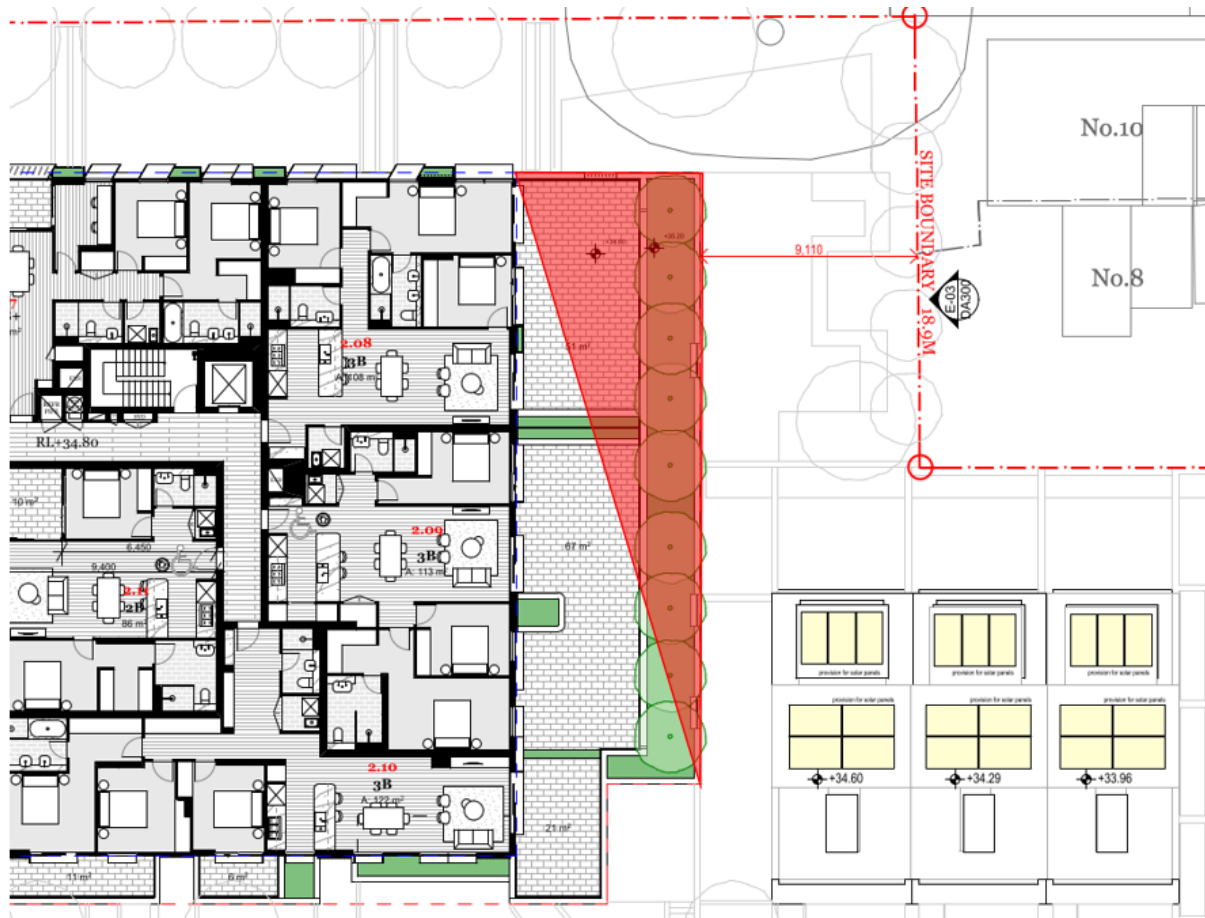
**Figure 60:** Sydney LEP 2012 Height of Buildings Map depicting maximum permitted heights for the site and surrounding development. The subject site is outlined in red.

77. It is noted that no design excellence bonus for height applies to the development.

78. The development proposes maximum building heights as follows:

Building	Height Permitted under SLEP 2012	Proposed	Variation %
Bidura House garage	27 metres	3.4 metres	N/A
Residential Flat Building	9 - 27 metres	21.46 metres, which is sited within the 27 metre control, and complies.  Part of the building falls within the 9 metre height limit, at level 2 to the north-east elevation. The height is 10.27 metres, which doesn't comply.	14.1% where the height limit is 9 metres
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%

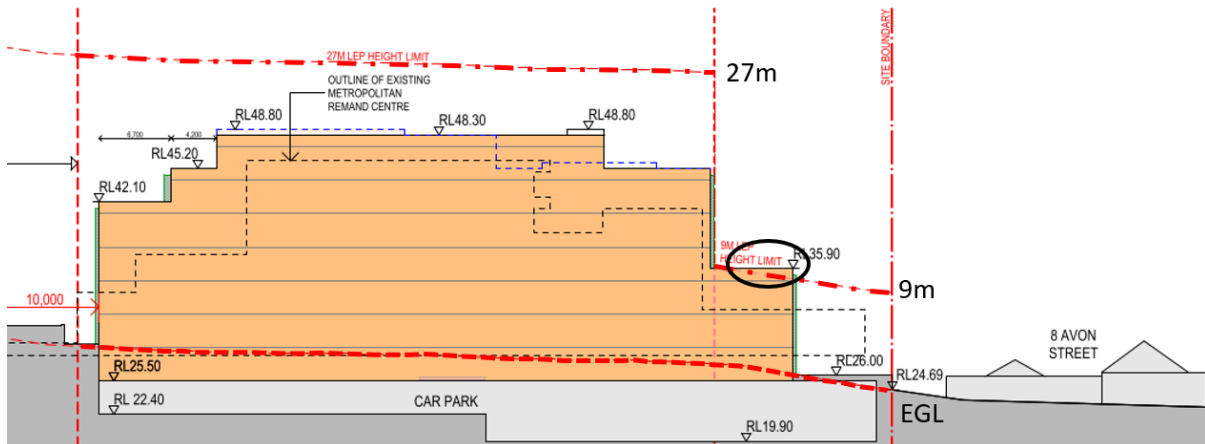
79. The variation to the height of level 2 of the residential flat building, is due to the location of in-built planters/green roof adjoining the balconies at the north-eastern elevation. See Figure 61 below depicting the extent of non-compliance.



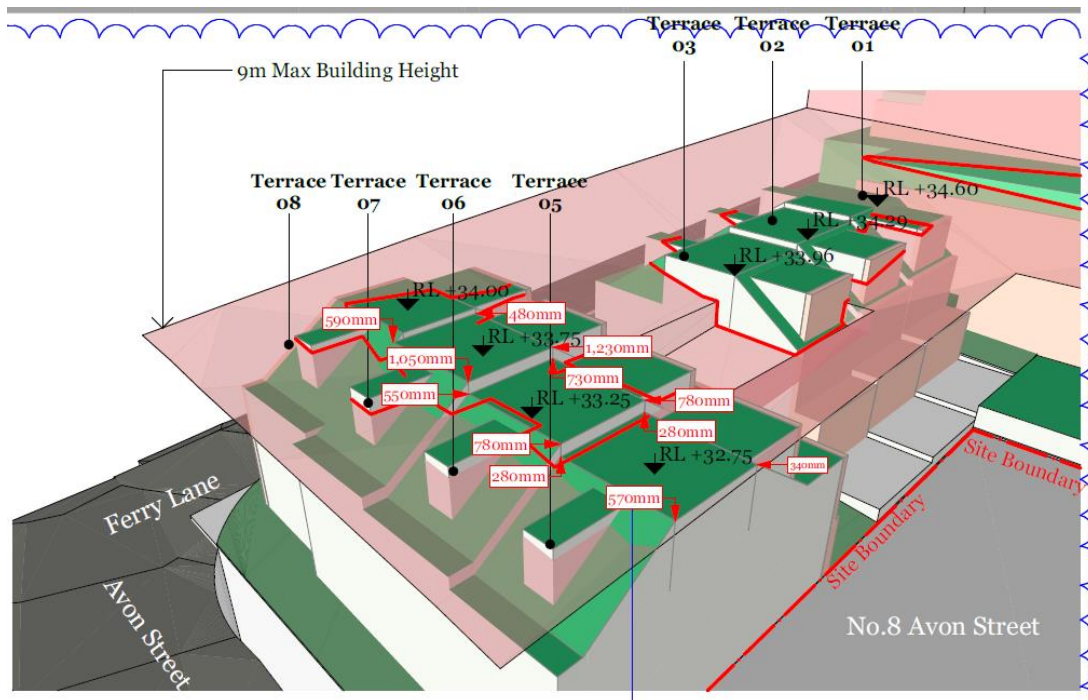
**Figure 61:** Proposed location of 9 metre height control non-compliance at level 2 of residential flat building.

80. The variation to the height of the terraces is both caused by the existing ground level being measured in the concept approval from the site survey boundaries, rather than the existing swimming pool on-site (which is lower); and the need to raise the proposed terrace levels to meet updated flood requirements.
81. The extent of the variation to the LEP building height control is illustrated in Figures 62, 63 and 64 below.

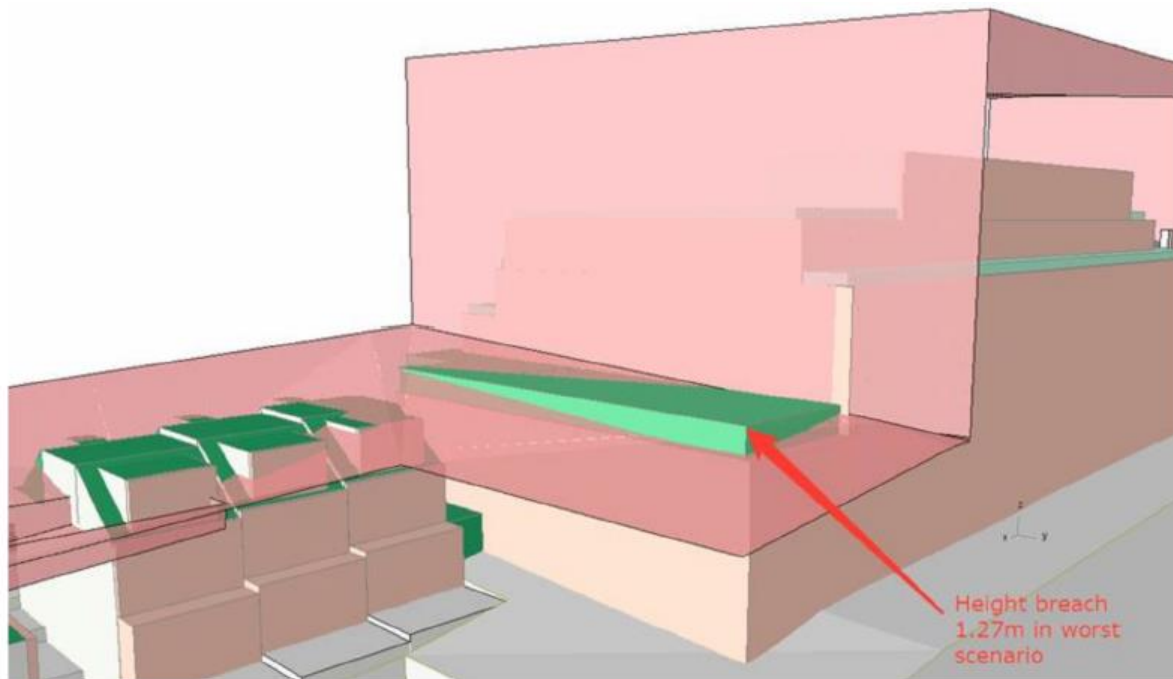




**Figure 62:** Proposed residential flat building envelope non-compliance depicted above the maximum permitted 9 metre height plane, which is outlined in black



**Figure 63:** Proposed terrace envelope non-compliances depicted above the maximum permitted 9 metre height plane, which is outlined in red. Note: Green areas represent additional areas beyond the concept approval. Terraces 04-07 to Avon Street are labelled as 'Terraces 05-08', reflecting the numbering of the original approval, with terrace 04 omitted.



**Figure 64:** Proposed terrace and podium envelope non-compliances depicted above the maximum permitted 9 metre height plane, which is outlined in red. Note: Green areas represent additional areas beyond the concept approval.

82. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
  - That there are sufficient environmental planning grounds to justify contravening the standard;
  - The proposed development will be consistent with the objectives of the zone; and
  - The proposed development will be consistent with the objectives of the standard.

83. A copy of the applicant's written request is provided at Attachment C.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

84. The applicant seeks to justify the contravention of the 'Height of buildings' development standard on the following basis:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

- (i) The applicants statement refers to the first of the five tests established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The test seeks to demonstrate that the objectives of the standard are achieved notwithstanding non-compliance with the numerical standard.
- (ii) The applicant states that the development satisfies the objectives of Clause 4.3 Height of buildings development standard. The objectives of Clause 4.3 and the applicant's justification are provided below:

Objectives of Clause 4.3 Height of buildings

- (i) to ensure the height of development is appropriate to the condition of the site and its context,
  - (ii) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,
  - (iii) to promote the sharing of views,
  - (iv) to ensure appropriate height transitions from Central Sydney and Green Square to adjoining areas,
- (iii) The proposed maximum building height is 10.56 metres, using the approach adopted in *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582.
  - (iv) The subject application was granted a Concept Envelope approval under D/2017/582, with maximum RLs for the building envelopes of 8 terraces within the subject location. In granting these maximum RLs, the Court considered these maximum heights to be suitable and consistent with the objectives of Clause 4.3, and appropriate to the condition of the site and its context.
  - (v) At the time of the Concept DA's original consent, 'existing ground level' was measured as an average of the survey points at the boundaries of the site. However, since then, further clarification has been provided as to how to measure 'existing ground level' when a site is developed, but in areas where survey RLs can be taken. Although the subject site is 'developed,' at the rear of the site, where the terraces and part of the residential flat building are proposed to be located, sits a landscaped area comprising a swimming pool, retaining walls and a sunken paved courtyard. As these locations can be surveyed, D/2021/711 has measured 'existing ground level' from the survey points in the landscaped pool, garden and courtyard, which sit lower. The overall heights of Terraces 1-3 to Ferry Lane have not increased above the approved maximum RLs (where the greatest variation of 17% takes place).
  - (vi) In addition, slight increases have subsequently been required to the height of Terraces 4-7 in order to meet Council's updated flood management requirements. The maximum increase in the height of these terraces is 75cm, which has no visible impact on the surrounding context of the area.

- (vii) The minor changes to the building height for Terraces 4-7 will continue to ensure an appropriate height transition between new development and the surrounding buildings in the conservation area. The terraces will step in a similar manner to the surrounding buildings on Avon Street and Ferry Lane and will be of a contextually appropriate height to surrounding buildings.
  - (viii) The height variation of residential flat building at level 2 podium, results from a combination of the change in measurement of existing ground level as highlighted above, to meet updated flood management requirements and to provide a better design outcome through the provision of a non-trafficable green roof at the edge of the built form. The height breach mostly occurs at the northern elevation and cannot be viewed from Ferry Lane or the surrounding public domain.
  - (ix) The proposed terraces, level 2 of the residential flat building and the minor elements that exceed the LEP height control, will not create any impact on local views or outlook.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The applicant refers to *Turland v Wingecarribee Shire Council [2018] NSWLEC 1511*, *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* to demonstrate sufficient environmental planning grounds to justify contravening the standard and not simply promote the benefits of carrying out the development as a whole.
  - (ii) the variation sought is as a result of the particular environmental planning grounds related to the site's existing topography – including a swimming pool and sunken internal landscaped area compared to the higher surrounding public domain such as footpaths and the street carriage. In addition, Council's revised flood protection controls have required that the finished floor level of the residential flat building as it meets the low scale terraces, as well as Terraces 4-7 be slightly raised, which creates a minor additional height variation for these elements of the development.
  - (i) The proposed development elements that exceed the 9m height limit are mostly within the approved concept envelope of the building, and do not increase the existing maximum building height of the dwellings beyond that previously approved for Terraces 1-3. In this regard, they have no adverse environmental impacts.
  - (ii) The only additional height relates to level 2 podium of the residential flat building and Terraces 4-7, due to the need to lift the finished floor level to comply with Council's updated flood planning controls. The building height increase is a maximum of 1.27 metres to the podium, and 75cm to the terraces facing Avon Street and will not create any additional impacts with respect to view loss, overshadowing or privacy.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

85. Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being 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 standard; and
- (b) 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.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

- 86. The applicant has correctly referred to the test established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Specifically, the applicant has addressed the first part of the test by demonstrating that the development meets the objectives of Clause 4.3, notwithstanding non-compliance with the numerical standard.
- 87. The applicant references the breach of the control being in relation to the incorrect measurement of existing ground level at concept approval stage; and accommodating flood planning levels for level 2 podium of the residential flat building and the terraces facing Avon Street. As noted by the applicant, the overall height of terraces 1-3 have not changed compared to the concept approval. The change in height across the residential flat building and terraces 1-7 does not unreasonably add to the bulk and scale of the development when viewed from the public domain and surrounding buildings.

Does the written request adequately address those issues at clause 4.6(3)(b)?

- 88. The statement provides environmental planning grounds specific to the circumstances to justify the extent of non-compliance with the Height of Buildings development standard.
- 89. The area of non-compliance is relatively minor and as it is confined to attic additions, and roof elements, and does not unreasonably add to the bulk and scale of the building when viewed from the public domain and surrounding buildings.
- 90. The proposal will not create unacceptable impacts on the amenity of surrounding properties with regard to views, solar access and visual privacy.

Is the development in the public interest?

- 91. With regard to varying development standards, the public interest is deemed as being protected where a development meets the objectives of the zone and the development standard sought to be varied.
- 92. The relevant objectives of the building height development standard are:
  - (a) To ensure the height of development is appropriate to the condition of the site and its context,
  - (b) To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,
  - (c) To promote the sharing of views,

- (d) To ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas.
93. Terraces 1-3 on Ferry Lane comply with the approved concept consent building height envelope, resulting in an appropriate height in relation to the site's context on Ferry Lane.
94. The height of terraces 4-7 on Avon Street are generally consistent with other 2 storey terraces along Avon Street and provide an appropriate transition from the taller residential flat building within the site to the 1-2 storey buildings within the heritage conservation area.
95. The height of the podium at level 2 of the residential flat building is at largely located at the north elevation and cannot be viewed from Ferry Lane or the public domain. The planters/green roof provide an improved design outcome, and amenity for surrounding residents.
96. The proposed exceedance in height will not impact on any views or result in any adverse amenity impacts to surrounding development.
97. The objectives of the E1 - Local Centre zone are:
- (a) To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
  - (b) To encourage investment in local commercial development that generates employment opportunities and economic growth.
  - (c) To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
  - (d) To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
  - (e) To maximise public transport patronage and encourage walking and cycling.
98. The residential development proposes quality dwellings that meet the needs of the community and sympathetic to the surrounding conservation area.
99. The provision of the proposed development will enable future residents to live in an accessible location to surrounding employment opportunities including the Sydney CBD, Sydney University, RPA Hospital and Glebe Point Road.
100. The proposed development will be of high-quality, utilising a range of dwelling types and employing best practice environmental and design outcomes consistent with Council's strategic planning for residential development in Glebe.
101. Whilst non-residential uses were initially explored by the proponent, the highly residential nature of surrounding streets meant that commercial development would not be appropriate. Notwithstanding, there are communal spaces, public art and a pedestrian link through the site that are all connected at ground floor to enable activation of the site.

102. The development seeks to maximise public transport patronage and encourage walking and cycling through the provision of bicycle parking facilities.
103. The proposal is in the public interest because it is consistent with both the objectives of the height development standard and the objectives of the E1 Local Centre zone.

#### Conclusion

104. For the reasons provided above the requested variation to the 'Height of buildings' development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives building height development standard and the E1 - Local Centre zone.

#### **Consistency with Concept Approval (D/2017/582/A)**

105. Pursuant to Section 4.24(2) of the Environmental Planning and Assessment Act 1979, where a concept development application for a site remains in force, a determination of any further development application in respect to that site cannot be inconsistent with the concept development consent.
106. The concept approval relating to this proposal is D/2017/582. A Section 4.56 modification has been submitted to modify the concept approval to ensure consistency with the subject detailed design application. These modifications largely relate to height and building envelope and have been assessed as acceptable, as outlined in the assessment report for D/2017/582/A submitted concurrently with this application. The subject application is assessed on the basis that the modification application has been approved.
107. As outlined below, the detailed design proposal is consistent with the key conditions imposed on the concept development consent as modified, and the consent authority is satisfied that the development is substantially the same.
  - (a) Condition 2 Approved Development
    - (i) The proposal is consistent with the approved plans in the concept approval (as amended).
  - (b) Condition 4 Building Height
    - (i) The detailed proposal complies with the building height of the concept approval, as amended by D/2017/582/A.
  - (c) Condition 5 Design Competition
    - (i) The applicant undertook a competition design alternatives process, whereby DKO Architecture and Archer Office were named the winning scheme.
    - (ii) The winning scheme has formed the basis of this detailed design development application.

- (d) Condition 6 Public Art
  - (i) The proposal is accompanied by a preliminary public art plan for a project to be known as 'Shape Shifter', located within the forecourt/common area accessed from Ferry Lane. The preliminary public art plan has been accepted by the Public Art Team and an appropriate condition is recommended for the detailed plan to be prepared and approved prior to any above ground works being carried out. Refer to Attachment A.
- (e) Condition 7 Heritage Interpretation Plan
  - (i) A heritage interpretation plan has been submitted with the development application, identifying areas within the grounds of Bidura House, as well as within the redeveloped area of the site for interpretive panels, graphic images and materials. The plan has been reviewed by the City's Heritage Specialist and a condition is recommended for final details of the interpretation panels, images and the like to be submitted to Council for approval and installed prior to an Occupation Certificate being issued. Refer to Attachment A.
- (f) Condition 9 Conservation Works to the Bidura House Group
  - (i) The development application is accompanied by a Section 57(2) exemption assessment under the Heritage Act 1977 for conservation works to Bidura House. The schedule of conservation works has been reviewed by the Heritage Council of NSW and incorporated into the General Terms of Approval. Refer to Attachment A.
- (g) Condition 10 Landscaping of the Site
  - (i) Condition 10 requires the Camphor Laurel tree to be retained. Whilst the tree is being retained as part of the subject proposal, some further design refinements are required to ensure its protection and viability into the future, as discussed under the heading SEPP (Biodiversity and Conservation) 2021.
  - (ii) As per part (d) of the condition, the design competition was informed by the Landscape Heritage Assessment of Bidura House, prepared by Taylor Brammer. This assessment was also referenced as part of the detailed design development application in accordance with part (e)(i).
  - (iii) In relation to Bidura House Group, the condition also requires the landscape treatment and design to relate appropriately to the use of the State Heritage Item, and for any access through the grounds of the item to the redevelopment portion of the site not to dominate the visual setting of Bidura House. The application proposes a pedestrian path around the curtilage of the heritage item, and along the northern side boundary to Glebe Point Road (where the existing driveway to the basement MRC building is located). This element, along with the landscape details have been assessed by the Heritage Council of NSW as acceptable, and form part of the General Terms of Approval, as included in Attachment A.



- (h) Condition 15 Dedication of Widening
- (i) Condition 15 requires any subsequent detailed development application to include an intention to dedicate, for road purposes, free of cost to Council, a widening along the site frontage to Ferry Lane (at 1.5 metres) for a pedestrian footway.
- (ii) The applicant has submitted a Planning Agreement Offer in accordance with this condition.

### Competitive Design Panel Recommendations

108. The competitive design panel selected the scheme presented by DKO Architecture and Archer Office as the winning entrant. In the opinion of the Panel, this scheme was most capable of achieving design excellence, subject to the retention of, and improvement on, a number of key design aspects.
109. As detailed in the table below, the amended design responds to the key recommendations made by the Panel and retains the design integrity and key aspects of the winning scheme.

Merits and Items for Improvement	
Panel Recommendation	DA Response
Lobbies and main entrance: General lobby quality should be enhanced by introduction of further natural light into the common corridors.	The lobbies and main entrance have been redesigned to enable access to natural light and improve their amenity.
<p>Landscaped open space: Further investigation and evidence to be provided regarding the successful delivery of the landscaping and communal open spaces including ownership and management / maintenance program. The panel was not convinced about the courtyard being designated as a genuine public open space being an appropriate response.</p> <p>Planting: Plants are intrinsic to the architectural expression and successful design delivery. The submitted DA scheme will need to comprehensively demonstrate how the landscaping will be effectively maintained over the life cycle of the building;</p>	<p>The amended proposal incorporates the vertical trellis plantings seen in the winning design competition scheme.</p> <p>To resolve concerns about the viability of the facade greening (at 18.6 metres high), the proposal retains lower ground planters to the north and adds level 2 planters bolted to the facade on the north and western elevations. The landscape report submitted with the application includes sections to demonstrate the various planting facade conditions e.g. steel mesh structures allowing for 3 plant species.</p> <p>Maintenance access will be at points primarily from the planter box level with safety clip-on points on the rooftop levels.</p> <p>The building rooftop is setback with a smaller footprint than the 4 levels below making landscape maintenance from the</p>

Merits and Items for Improvement	
	<p>roof to inaccessible facade planters by rope access unfeasible. Anchor points are therefore proposed to Level 4 private terraces for rope access maintenance of inaccessible Level 2 facade planters.</p> <p>To ensure all greening proposed is maintained, it is recommended that the owners corporation require that all facade greening be maintained by landscape contractors qualified working at height, abseiling or other system is proposed for ongoing safe access for landscape maintenance and facade cleaning. An appropriate condition has been included in Attachment A.</p>
<p>Building facade: The abstracted simplicity of the apartment building facades will demand high-quality materials and careful design resolution. Natural/integral materials and finishes should be introduced to create a convincing architectural interplay with more cost effective coated surfaces.</p> <p>The bridge soffit needs to be attractive and contribute to the architectural expression. If this is intended as a location for the public art installation, then consideration of maintenance will need to be factored into the detailed design;</p>	<p>The amended proposal utilises a palette comprising polished exposed aggregate precast concrete to provide a robust base, with zinc and dark metal cladding for the residential flat building. The variety of materials, colours and textures reinforce the articulation of the facade.</p> <p>The public art installation is to be located within the courtyard area beneath the bridge soffit, although final details are to be determined as part of the detailed public art plan. An appropriate condition has been imposed, as included in Attachment A.</p>
<p>Apartment circulation: The amenity of apartment circulation corridors needs to be improved to address their length and improve access to natural light.</p> <p>Consideration to extend the eastern lift core allowing equitable direct access to roof for the eastern tower residents;</p>	<p>The amended design provides for reduced corridors to ensure access to natural light.</p> <p>The detailed design has incorporated an extension of the eastern lift core to allow equitable direct access to the communal open space at rooftop.</p>
<p>Apartment layout: There are a number of apartment layouts that should be further refined in the next stage, including refinement of unit planning and terrace home internal planning;</p>	<p>The amended proposal incorporates repeating layouts, reducing any complexity of the apartment planning.</p> <p>The terraces have also been further refined to provide as much natural light</p>

Merits and Items for Improvement	
	and ventilation to each habitable room as possible, with depths of floorplates reduced.
Terraces: The relationship between the interior and exterior of the terraces houses does not correlate. The external character of the development, including refinement of the terrace house design should be further refined;	<p>The terraces have been redesigned with clear, logical entrances (e.g. front gate is located directly opposite the front door).</p> <p>The materiality of the terraces has been amended since the design competition, providing masonry brick in colour palettes in keeping with surrounding development and the character of the heritage conservation area.</p>
Eastern Lift Core: Subject to ensuring no solar impacts, and noting that this would be outside the Stage 1 envelope, (and therefore subject to merit assessment as part of the Stage 2 detailed DA), consideration could be given to extend the eastern lift core to allow equitable direct access to the roof for eastern tower residents;	The detailed design has incorporated an extension of the eastern lift core to allow equitable direct access to the communal open space at rooftop. As discussed in further detail below under the heading 'Overshadowing', the additional bulk at rooftop level does not result in any adverse solar access impacts to surrounding development.
ESD: The panel supports the thoughtful and integrated approach to sustainability, encouraging the development team to ensure these initiatives are carried through into the Stage 2 DA;	<p>Most ESD initiatives have been reinstated, which results in a 7.8 Star NatHERS rating. Solar panels have also been relocated from the terraces to the rooftop of the residential flat building.</p> <p>The only ESD initiative that has not remained in the scheme is the ground sourced heat pump. The applicant advised that:</p> <ul style="list-style-type: none"> <li>• There are limited providers to install and operate a ground sourced heat pump, which requires specialist skills given there is no fixing after it is installed.</li> <li>• The ongoing maintenance and cost is high for strata residents.</li> <li>• The installation of closed loop pipes that run 100m deep under the residential flat building cannot be repaired if they fail or break. As such if a resident's loop breaks,</li> </ul>

Merits and Items for Improvement	
	<p>they will need to then retrofit an air conditioning condenser unit to provide air conditioning which would need to be placed on a balcony.</p> <p>Given the above reasons, the omission of a ground sourced heat pump from the development is considered acceptable.</p>
<p>Servicing: The proposed waste management area and dock appear too tight, to be addressed in design development;</p>	<p>The proposed waste management area has since been redesigned, allowing for a Council garbage truck to enter into the ground floor loading bay to collect residential waste in accordance with DCP requirements.</p>
<p>Non-compliance of Level 5 north setback: The dwellings facing the northern boundary on level 5 do not comply with ADG setback requirements. This is a matter for further consideration in design development;</p>	<p>The non-compliant setback at level 5 remains and is discussed in further detail under the heading 'Building Separation and Visual Privacy'.</p>
<p>Balcony access on Level 2: There is no use proposed for the terrace space on the eastern side of Level 2. Without access to adjoining apartments, this will become an eyesore overtime. Further consideration on the provision of balcony access to the terrace to area should be investigated to address this issue;</p>	<p>The amended proposal has incorporated balcony access to the terrace area on level 2, with plantings.</p>
<p>Interface with Bidura House: Further consideration of the interface with Bidura House should be undertaken during design development for Stage 2 DA when the use has been established. A commercial or public use may benefit from a greater interaction with the space in between the buildings – including an entry. Additional information regarding how the building engages with the public link is also required.</p>	<p>Bidura House is proposed to be used as a single residence which is supported.</p> <p>The amended proposal is accompanied by detailed drawings demonstrating the landscaped interface between the heritage item and the new residential flat building.</p> <p>Given the proposed use as a single residence, greater interaction between the two uses is not encouraged. However, the landscaped areas clearly delineate between public and private spaces, allowing for a public link between the residential flat building and Glebe Point Road (along the northern</p>

Merits and Items for Improvement	
	side boundary) that does not dominate the visual setting of Bidura House.

**Height in storeys**

- 110. The Sydney DCP 2012 permits a maximum of 5 storeys to the section of the site where the residential flat building is to be sited. Notwithstanding, the original concept approval envisioned a building envelope of up to 6 storeys in this location.
- 111. The detailed development application proposes to retain the scale of the building to Ferry Lane as approved, which has a two storey street wall height and upper levels (2-4) set back, and provide 5 storeys to the northern elevation. However, an additional storey has been introduced at lower ground level to the north elevation, resulting in a 7 storey component in the centre of the site. The extent of non-compliance is illustrated below.



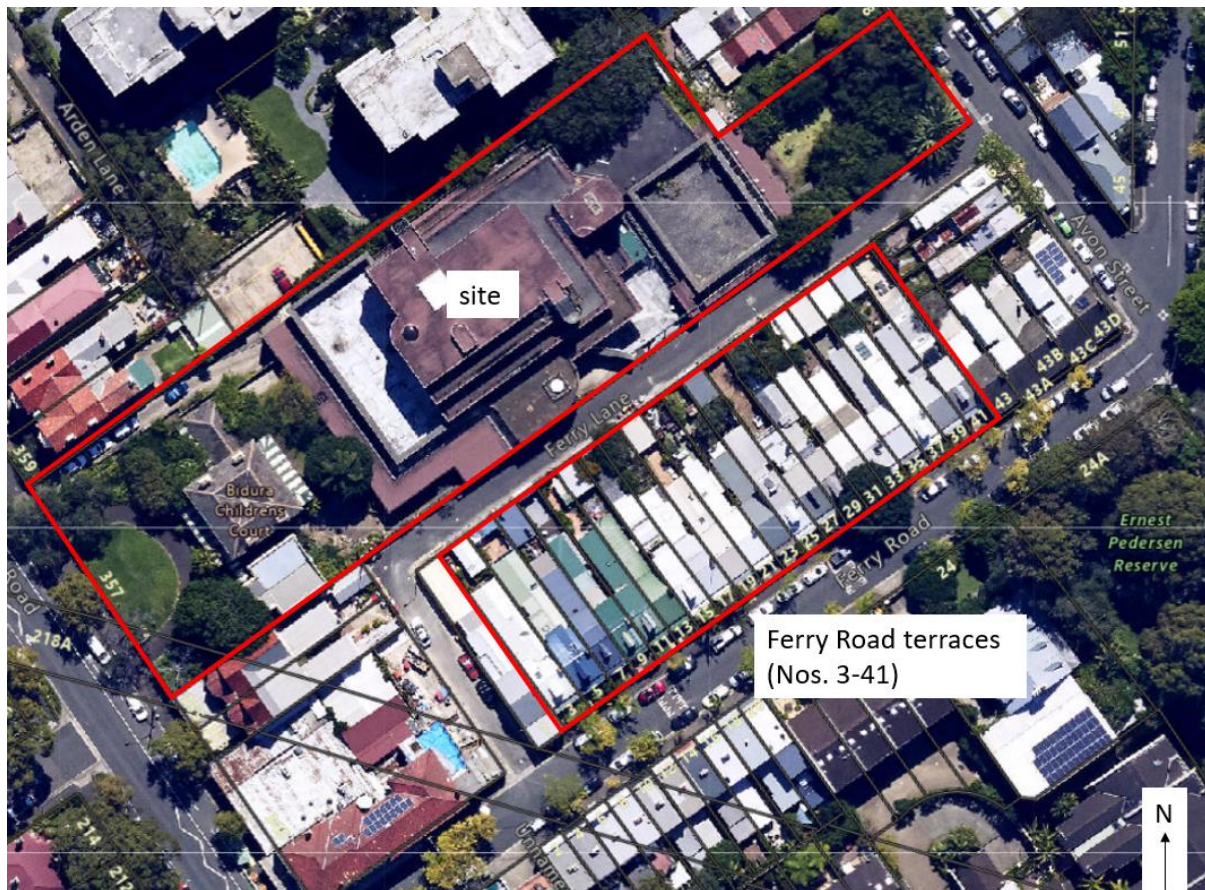
**Figure 65:** Proposed section through the residential flat building, illustrating height in storeys non-compliance

- 112. The departure from the height in storeys control is supported as follows:
  - (a) The residential flat building has a 2 storey street wall height to Ferry Lane, as required by the concept approval. By positioning the lowest heights along this frontage, overshadowing impacts to existing low scale terraces to the south of the site is minimised.
  - (b) Levels 4 and 5 are setback from Ferry Lane by 9.6 and 17.3 metres respectively, and the northern boundary by 6.14 and 9.1 metres respectively, meaning the upper levels are not readily apparent in the streetscape or when viewed from adjoining boundaries.

- (c) The upper floors, in particular level 5, are articulated as a series of metallic volumes that enable these levels to be viewed as independent, recessive elements of the building.
  - (d) The proposal is well below the permitted LEP Height of Buildings control for the residential flat building, which is 27 metres.
  - (e) The gross floor area (GFA) for levels 4 and 5 does not result in a non-compliance with the FSR control as the proposal complies with the maximum GFA.
  - (f) The additional levels do not result in any significantly adverse amenity or overshadowing impacts, as discussed in further detail in this report.
113. The proposal as currently designed does not generate any substantial or significantly adverse environmental impact compared to a compliant building envelope as demonstrated elsewhere in this report. The non-compliances with the building height in storeys control is considered acceptable in this instance and is supported.

### **Overshadowing**

114. 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.
115. The proposal is accompanied by a shadow analysis prepared in accordance with the control. This is in order to assess the impact of the height increase and extension of the approved building envelopes at level 5 and rooftop associated with the eastern lift core, beyond that approved under D/2017/582. The solar impact analysis is discussed within the assessment of D/2017/582/A being reported to LPP concurrently.
116. 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 66 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 66:** The subject site (outlined in red) and residential properties at 3-41 Ferry Road (across Ferry Lane) (outlined in red)

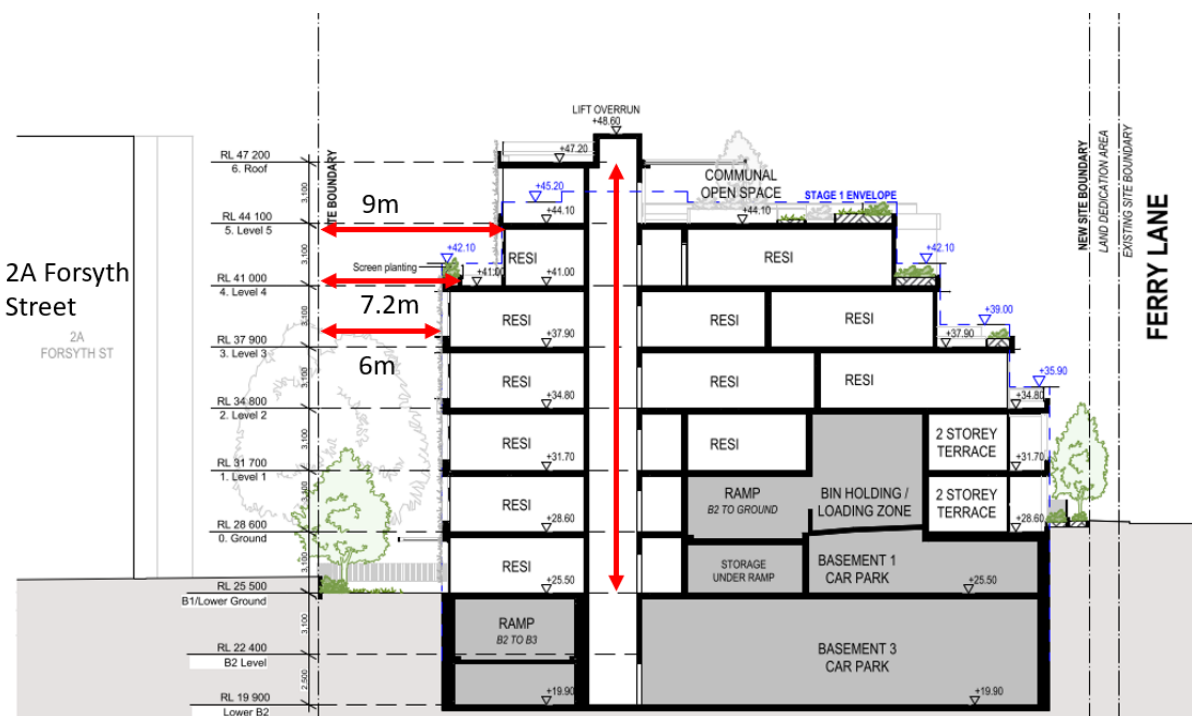
117. The analysis is provided at 15 minute intervals from 9am to 3pm at the winter solstice, depicting shadows from the concept approval and proposed amendments, as well as solar access to each property's private open space.
118. The analysis indicates that whilst seven properties will have a reduction 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 two 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.
119. The solar analysis also demonstrates that the changes to the extent of level 5 and the rooftop 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).
120. The proposal will not result in unacceptable impacts on solar access to adjoining properties and is acceptable in this regard.

### **Building Separation and Visual Privacy**

#### *Building separation to the property boundary and within the site at upper levels*

121. The Apartment Design Guide (ADG) outlines the minimum required separation distances from buildings to side boundaries and within sites as follows:
- (a) 6 metres for buildings up to 4 storeys high

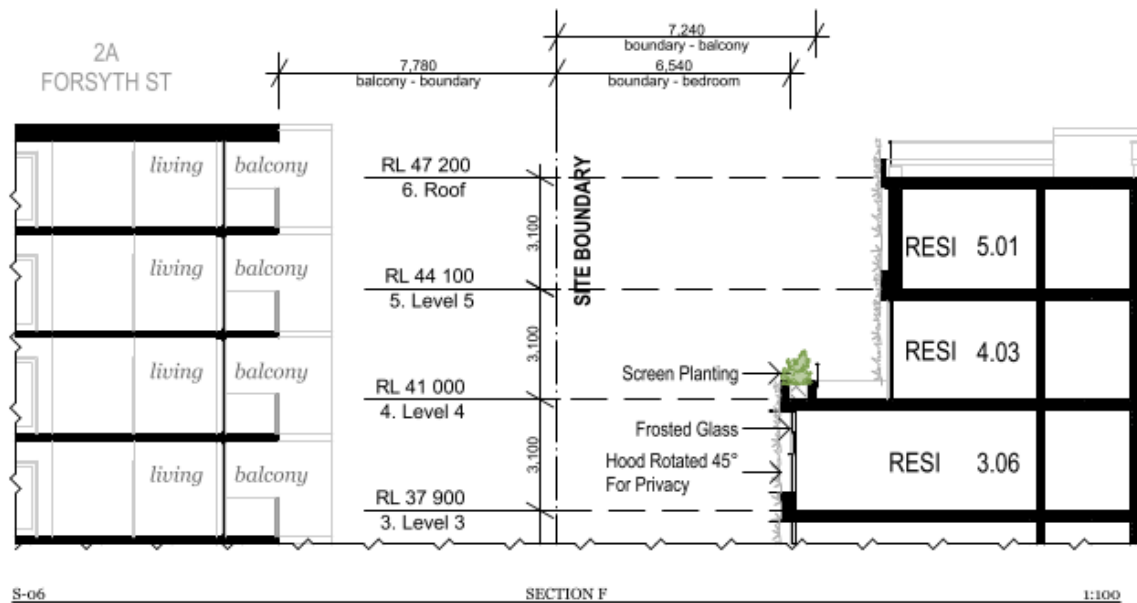
- (b) 9 metres for buildings between 5 and 8 storeys high.
- 122. The proposal generally meets the building separation design criteria outlined in the ADG and is contained within the concept approval envelope (as amended). Ferry Lane apartments maintain a separation of 9 metres at ground floor to the rear of Ferry Road terraces, which increases to 9.4 metres at level 2 (where the 6 metre setback applies) and 15.2 metres at level 4 (where the 9 metre setback applies).
- 123. Concerns have been raised via submissions regarding privacy to Ferry Street properties. Noting the compliant separation distances above, the apartments facing Ferry Lane at ground floor are fitted with fixed metal screens, and levels 1-2 are fitted with frosted glazed balustrades. Conditions are recommended requiring the submission of details relating to the privacy measures to ensure these elements offer appropriate levels of privacy for future occupants and surrounding development.
- 124. Apartments with habitable windows and balconies facing the rear of Avon Street properties have a setback of 9.1 metres at level 2 (where 6 metre setback applies), and a minimum setback of 16.8 metres at level 3 and above (where the 9 metre setback applies).
- 125. A variation to the ADG requirement is proposed to the northern property boundary, adjoining 2A Forsyth Street for levels 3 and 4. With the introduction of an additional level at lower ground at this boundary, level 3 is now considered to be the 5th storey of the development. Therefore, the approved 6 metre setback within the concept approval at level 3 no longer complies. At level 4, whilst the building facade is setback 9 metres in accordance with the ADG there are balconies that are setback 7.2 metres.



**Figure 67:** Building separation - between the subject site at levels 3 and 4 to the northern property boundary

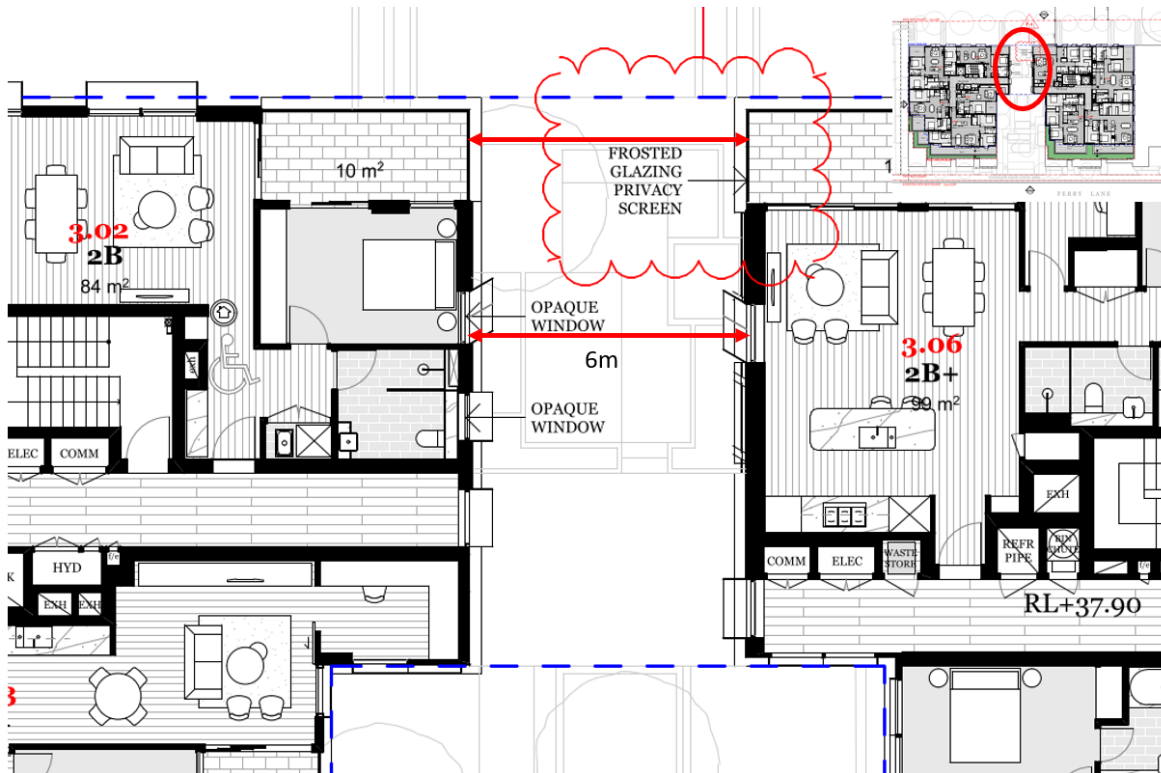


126. Potential for overlooking from apartments within the site has been addressed via the inclusion of frosted glass and angled hoods rotated 45 degrees for privacy at level 3, and screen planting provided at the edge of level 4 balconies. See Figure 68 below.



**Figure 68:** Building separation - between the subject site at levels 3 and 4 to the northern property boundary and 2A Forsyth Street. Screen planting and privacy treatments noted.

127. In addition to the above, there are some internal corners between the bays of the residential flat building that vary ADG building separation design criteria. At levels 1 to 4, the separation between the two bays is 6 metres, with windows and balconies of apartments located directly across from each other. Similarly to levels 3 and 4 at the boundary above, windows and balconies are to be fitted with frosted or opaque glazing, with angled hoods fitted to windows to prevent direct sightlines into bedrooms and living room spaces, whilst still providing adequate light and ventilation. See Figure 69 below.

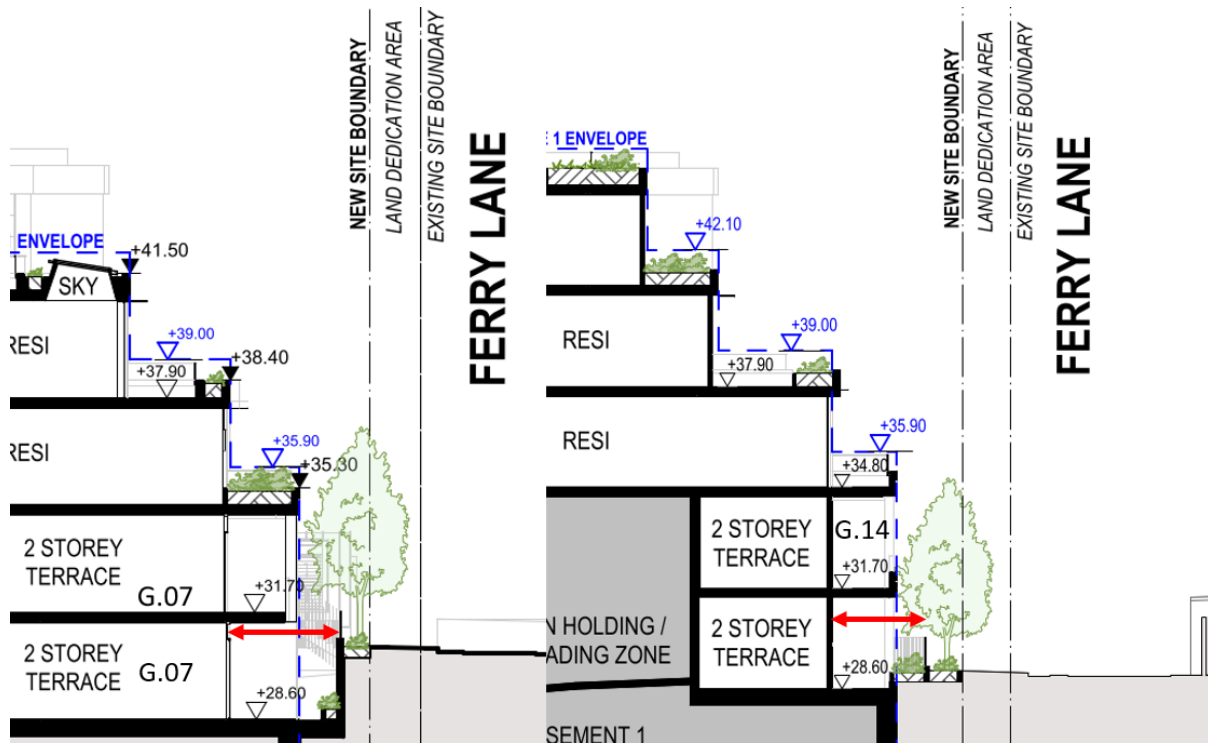


**Figure 69:** Building separation - bays within the subject site, level 3 floor plan provided (but typical of levels 1-4). Privacy treatments are noted.

128. The proposed privacy measures will provide an acceptable level of visual privacy within the site and to adjoining properties and are supported.

#### *Visual privacy to Ferry Lane apartments*

129. Below ground apartments have been provided within the residential flat building orientated towards Ferry Lane. These apartments (G.05 - G.09 and G.14) have been designed as maisonette apartments, with uses located below ground being limited to bedrooms for apartments G.05 to G.08 (approximately 2m below Ferry Lane. Apartments G.09 and G.14 with living rooms, are only marginally lower than Ferry Lane at 650mm.
130. The glass line of the bedrooms and living spaces are setback a minimum of 4 metres from the property boundary / retaining wall in order to provide natural light and ventilation into these rooms and allow adequate space for landscaping (see Figure 70). Living, dining and kitchen areas of apartments G.05 to G.08 are located on level 1. G.09 and G.14 have bedrooms at the upper level. This layout for apartments G.05 to G.08 in particular, ensures solar access is provided to living spaces and allows the passive surveillance of Ferry Lane. Given the minor difference in levels for apartments G.09 and G.14 compared to Ferry Lane, the location of living areas at ground floor are considered appropriate.



**Figure 70:** Minimum 4 metres setback to glass line, for apartments G.07 and G.14

131. The below grade bedrooms and living areas are afforded privacy through the addition of climbing planters, allowing for outlook, and access to light and ventilation without creating a sense of enclosure (see Figures 71 and 72). Below grade apartments are acceptable in this instance.



**Figure 71:** Photomontage of below grade apartment G.06 and its interface with Ferry Lane, with privacy treatments proposed



**Figure 72:** Photomontage of below grade apartment G.09 and its interface with Ferry Lane, with privacy treatments proposed

### **Ferry Lane and Avon Street land dedication**

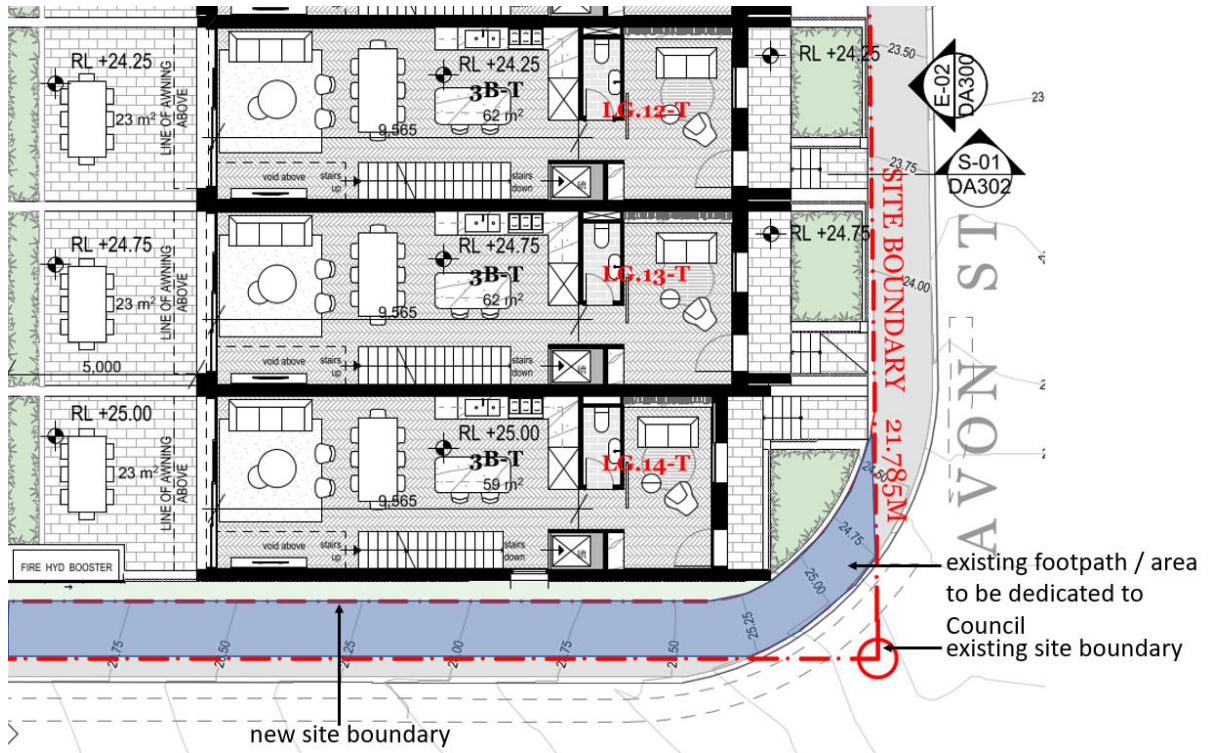
132. The site is subject to a planning agreement, resulting from Condition 15 'Dedication of Widening' of the concept consent. The planning agreement is for the dedication and embellishment of land to create a minimum 1.5 metre wide footway along the development frontage to Ferry Lane. All land to be 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. As discussed elsewhere in this report, no Long Term Environmental Management Plan is required for the footway.

133. The area to be dedicated to Council is indicated in red the site plan below (Figure 73):



**Figure 73:** Proposed Ferry Lane footpath dedication (red) and road dedication (yellow)

134. Currently the footpath and splay corner to Ferry Lane and Avon Street is located within the boundary of the subject site. The amended design seeks to retain the current location of the footpath and adjust the footprint of the corner terrace (noted as LG.14-T on the floor plan so that it does not encroach onto the land to be dedicated to Council (see Figure 74).

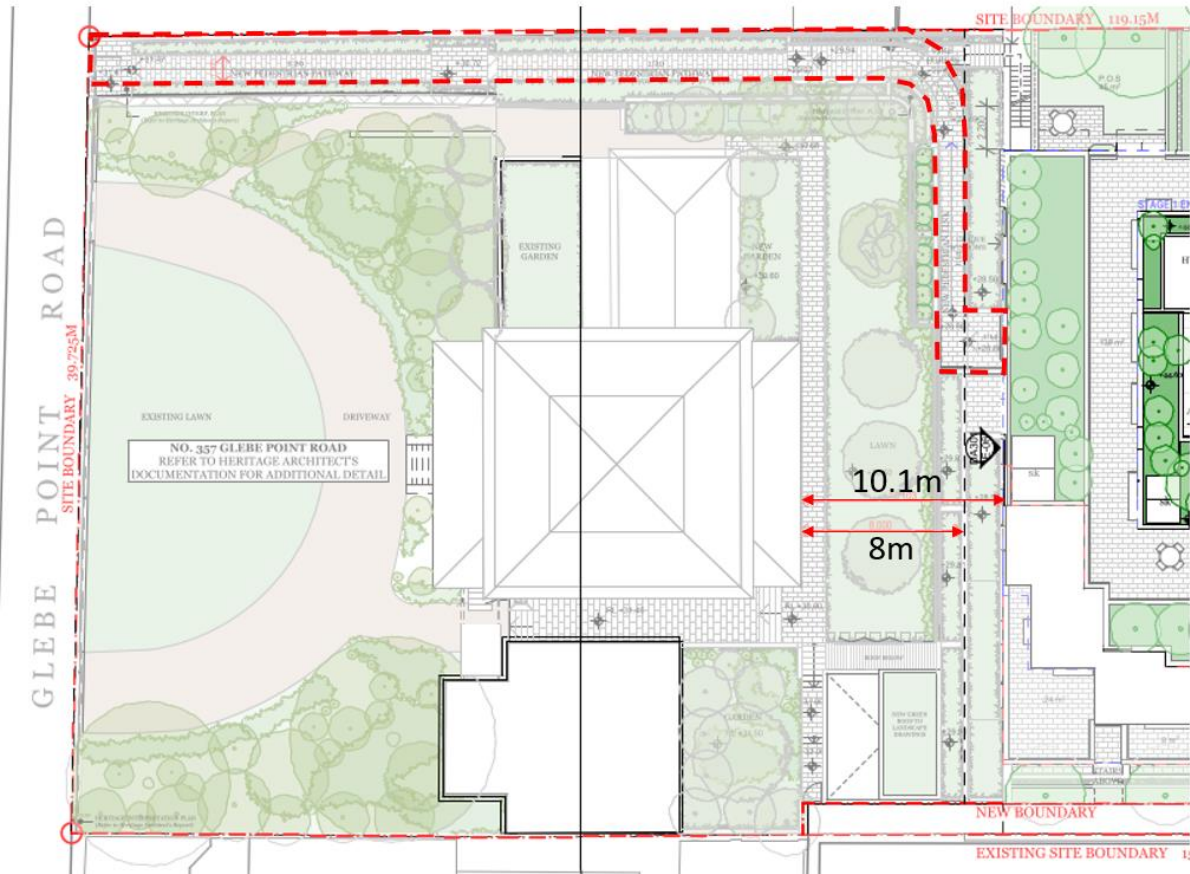


**Figure 74:** Proposed Ferry Lane footpath dedication (red) and road dedication (yellow)

135. The setback of the corner terrace and retention of the current location of footpath is considered an acceptable design approach with minimal impact on its presentation in the streetscape. The minor setback will ensure adequate access to the footpath and allow for City garbage trucks to turn out of Ferry Lane and onto Avon Street as is the current situation, which is a positive public domain outcome.
136. The design of the land to be dedicated to Council will be finalised as part of the public domain submission.
137. 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. A copy of the draft planning agreement is provided in Attachment E.
138. In light of the above, it is recommended that a deferred commencement condition be imposed requiring the execution and registration of the planning agreement, once finalised, on the title of the land prior to the consent becoming operational.

### Heritage

139. 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 (C29).
140. Bidura House was used as part of the Metropolitan Remand Centre Building for administration and meeting purposes. The use ceased in 2017 and is vacant.
141. The application proposes the adaptive reuse of Bidura House as a single residence, as well as the construction of a modest garage addition to Ferry Lane and landscape works to the garden areas of the item. The landscape works are accompanied by heritage assessment carried out by Taylor Brammer Landscape Architect.
142. As discussed elsewhere in this report, proposed use and works to the heritage item have been reviewed and are supported by the Heritage Council of NSW. The City's Heritage Specialist has also recommended conditions with regard to the submission and implementation of a Heritage Interpretation Plan recognising the history of Bidura House, its gardens and the former Metropolitan Remand Centre.
143. The proposed residential flat building within the site maintains a building separation of at least 10 metres to the facade of Bidura House, with a 4 storey building wall height as per the concept envelope approval D/2017/582. This ensures that the setting of Bidura House Group can still be interpreted and is not overwhelmed by the new development when viewed from Glebe Point Road, in accordance with Section 3.9.5 of the Sydney DCP 2012.
144. Sections of landscaping and a new pedestrian link delineate the boundary of Bidura House and its curtilage, with the link running along the northern boundary of the site connecting the residential flat building to Glebe Point Road. The pedestrian link is preferred over the existing driveway, as identified by Section 3.11.11 of the Sydney DCP 2012, where vehicle access to Glebe Point Road is not encouraged. See Figures 75 and 76 depicting the interface between Bidura House and the residential flat building, and the proposed connection to Glebe Point Road



**Figure 75:** Proposed site plan detailing interface between Bidura House Group and the residential flat building; with the pedestrian connection outlined by red dashed lines





**Figure 76:** Proposed section detailing interface between Bidura House Group and the residential flat building

145. Appropriate conditions relating to Bidura House, including the General Terms of Approval, are set out in Attachment A.

## Consultation

### Internal Referrals

The application was discussed with Council's:

- (a) Building Services Unit;
- (b) Environmental Health Unit;
- (c) Heritage and Urban Design Unit;
- (d) Landscape Officer;
- (e) Public Art;

- (f) Public Domain Unit;
- (g) Safe City Unit;
- (h) Land Surveyors;
- (i) Sustainability Officer;
- (j) Transport and Access Unit;
- (k) Tree Management Unit; and
- (l) Waste Management Unit.

146. The above advised that the proposal, as amended, generally addresses the matters raised throughout the assessment, and is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

### **External Referrals**

147. The application was referred to the following external referral bodies for review:

- (a) Heritage Council of NSW;
- (b) Transport for New South Wales;
- (c) Sydney Water;
- (d) Ausgrid; and
- (e) New South Wales Police.

148. Comments from all the relevant external referral requirements are addressed or included in the recommended conditions of consent in Attachment A where relevant.

### **Sydney Airport**

149. 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.

150. 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**

151. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 28 days between 8 July 2021 and 6 August 2021. A total of 223 properties were notified and 69 submissions were received.

152. Following submission of amended plans, the application was re-notified for a period of 28 days between 18 January 2022 and 16 February 2022. 21 submissions were received.
153. It is noted that most submissions received for D/2021/711 were also submitted as part of D/2017/582/A, which is being assessed concurrently.
154. The submissions raised 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 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 under the heading Clause 4.6 request to vary a development standard. 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 still within the height limit.

The concept approval was 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, height in storeys and amenity impacts to surrounding development have been discussed in great detail within this report and have been assessed as acceptable.

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

Setbacks have been 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 have been 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:** The proposal complies with the floor space ratio requirement outlined in the Sydney LEP 2012. The Developer has provided gross floor area calculations that include the site area and floor area of Bidura House Group, and these are 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 train 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 under the heading Consistency with the Concept Approval and Overshadowing. The detailed information provided with regard to overshadowing is adequate for assessment.

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 complaint handling procedure in place.
- During demolition, shoring and construction phases, damage will be caused 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:** Appropriate construction management conditions are recommended to manage noise, waste, dust and traffic.

Conditions relating to dilapidation reports being carried out for surrounding affected properties, as well as bank guarantees relating to public domain damage have been included in the proposed conditions of consent.

Standard construction hours of work are to be conditioned. No extended construction hours are recommended as part of this application.

(e) Traffic Impacts

- On-street parking spaces are limited, and 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:** The proposed car parking rates comply with LEP and DCP requirements. Parking permit eligibility is a separate matter to the assessment process.

The Traffic Impact Assessment submitted with the application demonstrates the proposed development will not give rise to an adverse increase in traffic and congestion in the locality.

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, ample bicycle parking is provided for residents and visitors to encourage sustainable modes of transport to reduce congestion on local roads.

(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.

**Response:** The amendment to the curtilage of Bidura House Group is no longer proposed as part of this application.

The walkway from the residential flat building to Glebe Point Road was included in the concept approval and further refined as part of the detailed design development application. The design and location of the walkway has been assessed as acceptable by the Heritage Council of NSW and included in the General Terms of Approval.

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.

(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.
- 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:** The amended proposal is accompanied by site plans and landscape plans depicting the grounds of Bidura House Group and the redevelopment of the rest of the site.

The applicant has elected to lodge the development application as Integrated Development, where the Heritage Council of NSW has issued their General Terms of Approval in relation to Bidura House Group. This includes conditions relating to the submission of a Section 60 application, the preparation and implementation of a Heritage Interpretation Plan as well as support for the use of Bidura House as a single residence and the new garage to Ferry Lane. The Heritage Council has also assessed the schedule of conservation works and requested that they be implemented prior to the issue of an Occupation Certificate.

The Public Art Plan is conditioned to ensure that any proposed artwork carefully represents the heritage and historic significance of the site and its previous uses, including the Metropolitan Remand Centre.

(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 in this regard. This ensures that the setting of Bidura House Group can still 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 proposal for demolition of the existing building and construction of residential accommodation has been assessed as acceptable, as demonstrated in this report.

(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 terraces 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.

(l) 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.

Conditions are recommended limiting the hours of use of communal indoor and outdoor areas, to ensure the amenity of surrounding properties is protected.

(m) Trees

- Trees shouldn't be removed
- The street trees on Ferry Road are to be protected from construction trucks.

**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, as discussed within this report. Conditions are recommended to protect street trees where relevant.



## (n) Landscape

- The landscape plans are missing critical details, with a lack of deep soil planting areas to achieve tree canopy targets, particularly along the site's frontage to Ferry Lane.
- The landscape plans need to include a heritage analysis of Bidura House Group.

**Response:** Amended landscape plans have been submitted over the course of the assessment demonstrating the intent of the proposed landscape design for the residential flat building.

Similarly, Bidura House Group was accompanied by a heritage analysis of the gardens by Taylor Brammer Landscape Architect, as requested by the Heritage Council of NSW during its assessment. The heritage analysis has been included in the General Terms of Approval, and standard conditions imposed in relation to the overall landscape design for the redevelopment of the site, as referenced in Attachment A.

## (o) 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, ensuring City garbage trucks and emergency vehicles can safely enter and exit the laneway as is the current situation.

## (p) 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. Details are to form part of the public domain plan submission, which has been included as a condition within Attachment A.

- (q) 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.

- (r) 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 scale, form, articulation and architectural contribution of the proposed development is considered to be appropriate to the site and the surrounding context.

- (s) Concept approval

- Will D/2017/582/A be determine before consideration is given to the detailed design application?
- 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.

- (t) Property values

- Property values will be affected.

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

- (u) Privacy to adjoining properties

- The residential flat building will look down onto Ferry Road properties.
- The residential flat building will look directly into 2A Forsyth Street apartments and Avon Street properties.

**Response:** Refer to the detailed discussion provided in relation to visual privacy and building separation. Adequate separation is provided to limit privacy impacts. Where required, privacy measures are to be installed.

- (v) 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.

- (w) 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.

- (x) 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:** The application is accompanied by a Geotechnical Report that advises the ground profile is predominantly sandstone bedrock, with no groundwater issues present or expected to be an issue for the proposed basement. An appropriate condition is recommended for additional bore hole testing to occur to address concerns about the subterranean water courses and the impact on adjoining properties, along with a demolition and excavation work method statement.

- (y) 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 development has 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 is provided to 62% of the development, which complies.

- (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 should not 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, setting the desired bulk and scale for the site.

## Financial Contributions

### Contribution under Section 7.11 of the EP&A Act 1979

155. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
156. Credits have been applied for the most recent approved/known uses of the site. Bidura House was used as office/meeting rooms associated with the Metropolitan Remand Centre, which in itself operated as a Remand Centre and Children's Court, with holding, office and meeting rooms.
157. The court functions are not defined in the City of Sydney Development Contributions Plan 2015. The closest and most appropriate definitions in this instance are 'office premises' 3 storeys and under (Bidura House) and 4 or more storeys (MRC Building). The applicant has provided gross floor area plans for both buildings, with Bidura House having an existing a gross floor area of 466sqm. The MRC building has an existing gross floor area of 3,770sqm.
158. A contribution of \$795,883.46 applies to 64 dwellings (including Bidura House), with a credit of 193.6 workers.
159. A condition relating to this development contribution has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contribution to be paid prior to the issue of a construction certificate.

### Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

160. 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. As such, the development as a whole is excluded and is not subject to a Section 7.13 affordable housing contribution.

## Relevant Legislation

161. Environmental Planning and Assessment Act 1979.
162. Heritage Act 1977.

## Conclusion

163. The application proposes the demolition of existing structures, including the Metropolitan Remand Centre, tree removal, remediation, excavation and construction of a part 2/4/7 storey residential flat building containing apartments fronting Ferry Lane, 7x 2 storey terraces with attic additions to the corner of Ferry Lane and Avon Street, 2 basement levels with vehicular access to Ferry Lane. The State Heritage Listed Bidura House Group, comprising Bidura House, its ballroom and garden, is to be retained, conserved and used as a single residence with a new garage structure to Ferry Lane.
164. The proposal is consistent with the amended concept approval, being D/2017/582/A.

165. The development exceeds the maximum 9 metre building height standard by 1.27 metres for the residential flat building (at level 2 podium) and up to 1.56 metres for the Ferry Lane/Avon Street terraces, in order to accommodate compliant flood planning levels. A request to vary Clause 4.3 'Height of Buildings' development standard has been received in accordance with Clause 4.6 of the Sydney LEP 2012. The statement demonstrates that compliance with the standard is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the land use zone and height of buildings development standards and the proposed departure to building height is supported in this instance.
166. Subject to conditions, the proposal is generally consistent with the applicable planning provisions including SEPP 65, SLEP 2012 and SDCP 2012. Proposed non-compliances have been assessed as having merit in this case and are addressed in the report. Conditions are recommended to address non-compliances where appropriate.
167. The proposal represents design excellence, with a high standard of architectural design, materials and detailing and a built form that is consistent with the existing and future desired character of the area.
168. The proposal is Integrated Development under the Heritage Act 1977, requiring approval from the Heritage Council of NSW. General Terms of Approval were received from the Heritage Council of NSW on 8 April 2022.
169. The site is subject to a planning agreement to dedicate land on Ferry Lane and the corner of Avon Street to Council for footpath widening. The draft planning agreement has been prepared and placed on public exhibition for a 28 day period from 3 February to 6 March 2023.
170. It is recommended that a deferred commencement condition be imposed requiring the execution and registration of the planning agreement, once finalised, on the title of the land prior to the consent becoming operational.
171. The development is in the public interest and is recommended for deferred commencement approval, subject to the conditions in Attachment A.

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