



19 February 2018

A meeting of the **WAVERLEY DEVELOPMENT ASSESSMENT PANEL** will be held on Level 3, Waverley Council Chambers, Cnr Bondi Road and Paul Street, Bondi Junction at:

11.00 AM WEDNESDAY, 28 FEBRUARY 2018

QUORUM: Three Panel members.

APOLOGIES: By e-mail to WDAP@waverley.nsw.gov.au

OR

Late notice by telephone to the WDAP Co-ordinator on 9083 8273.

AGENDA

WDAP-1802.A **Apologies**

WDAP-1802.DI **Declarations of Interest**

The Chair will call for any declarations of interest.

WDAP-1802.1 **PAGE 4** **1 Kippara Road, DOVER HEIGHTS – Alterations and additions including a roof terrace (DA-487/2017)**

Report dated 12 February 2018 from the Development and Building Unit.

Recommendation: That the application be approved in accordance with the conditions contained in the report.

WDAP-1802.2 **PAGE 34** **8 Blake Street, Rose Bay – Demolish existing dwelling and garage and construction of two storey dual occupancy development each with a swimming pool and strata subdivision (DA-379-2016/A)**

Report dated 5 February 2018 from the Development and Building Unit.

Recommendation: That the application be approved in accordance with the conditions contained in the report.

WDAP-1802.3 **PAGE 68** **67-69 Penkivil Street, Bondi – Demolition of existing dwellings and construction of a new four-storey residential flat building containing 12 units, basement car park and strata subdivision (DA-531/2015/A)**

Report dated 15 February 2018 from the Development and Building Unit.

Recommendation: That the application be approved in accordance with the conditions contained in the report.

110 Lamrock Avenue, Bondi Beach – Alterations and additions to an existing mixed use building, including internal alterations, window changes and new storage to rear (retrospective works) (DA-121/2017)

Report dated 13 February 2018 from the Development and Building Unit.

Recommendation: That the application be approved in accordance with the conditions contained in the report.



Report to the Waverley Development Assessment Panel

Application number	DA-487/2017
Site address	1 Kippara Road, DOVER HEIGHTS
Proposal	Alterations and additions including a roof terrace
Date of lodgement	14 November 2017
Owner	Mr J Schaeffer & Ms B Dalton
Applicant	Auric Projects Pty Ltd
Submissions	8 submissions were received
Cost of works	\$100,000
Issues	Non-compliance with height of buildings development standard, submissions
Recommendation	That the application be approved subject to conditions



1. PREAMBLE

1.1 Site And Surrounding Locality

A site visit was carried out on 15 December 2017.

The site is identified as Lot A in DP 344780, known as 1 Kippara Rd, Dover Heights. The subject site is located on the southern side of Kippara Rd being sited up to the Loombah Rd intersection to the east. The site has an area of 947.7 m² and the site falls from the front towards the rear by approximately 3.3m and also from east to west to approximately 2.0m.

The site is occupied by a two and three storey detached rendered dwelling with vehicular access provided from the eastern side of the site to a double garage, accessed from Loombah Rd and also to a single garage accessed from Kippara Rd.

A swimming pool is located within the front yard area.

The locality is characterised predominately with large residential dwellings.



Figure 1: Site viewed from the corner of Kippara Rd and Loombah St, looking south. (Source: Google Maps)

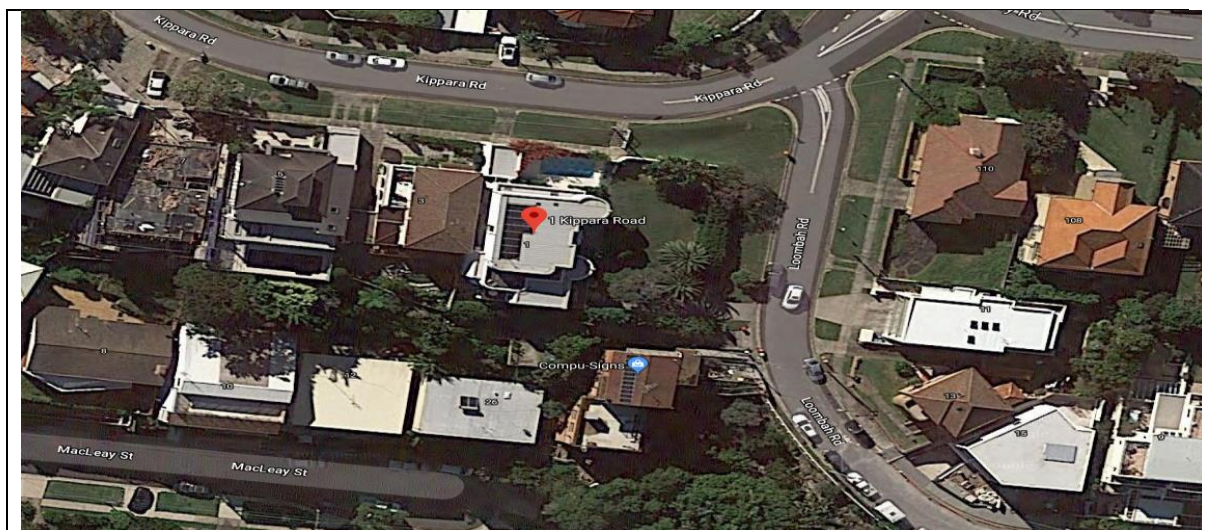


Figure 2: Aerial view of subject and adjoining sites. (Source: Google maps)

1.2 Relevant History

A review of Council's records indicates the most recent approvals on the site are:

- DA-41/2005 – Alterations and additions including additional storey garage and swimming pool – approved 5 May 2005.
- DA-41/2005/A – Amended application to effect alterations and additions – approved 23 Nov 2007.
- DA-41/2005/B - Modification for access step ladder from first floor to the roof platform above – refused 7 Oct 2008. The roof terrace was proposed within the circular section of the roof area on the extreme north-eastern corner of the roof.
- DA-41/2005/1 – Review of determination for rear roof terrace with access ladder – application withdrawn 6 Feb 2009.
- CD-53/2017 - Change window sizes and location on existing dwelling – approved 16 May 2017.
- DA-6/2017 - Alterations and additions to existing dwelling, including widening of carport, new car turntable, widen pedestrian entry to Kippara Rd and general landscaping – approved 3 April 2017.
- DA-82/2017 - Proposed rooftop terrace over existing dwelling – application withdrawn 21 June 2017.

1.3 Proposal

The development application seeks Council consent for alterations and additions to the dwelling house, comprising:

- Provision of a 20m² roof terrace centrally located within the existing roof area. Access to the roof terrace is through a study, at first floor level, by retractable attic ladder.
- The roof terrace will be contained by frameless glass balustrade to comply with the BCA.

2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 79C of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1 Section 79C (1)(a) Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning polices (SEPPs), and development control plans.

2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A standard condition is recommended ensuring the measures detailed in the BASIX Certificate are implemented.

2.1.2 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal meets the aims of Waverley LEP 2012.
Part 2 Permitted or prohibited development		
Land Use Table R2 Low Density Residential Zone	Yes	The proposal is defined as alterations and additions to a 'dwelling house'. Dwelling houses are permitted with consent in the R2 zone.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> 8.5m 	No	<p>The overall building height is RL74.84 AHD, being the top of the 1m high glass balustrade above the existing parapet, thereby providing a height of 11.07m, which is the level of the balustrade at RL74.84 AHD above the existing ground level below at RL66.77. The proposal varies the height of buildings development standard by 2.57m or 30%.</p> <p>The current non-compliant dwelling has a height to the parapet of RL73.84 providing a height of 10.07m being a variation of the development standard by 1.57m or 18.47%.</p> <p>The height variation between the existing parapet and the proposed frameless glass balustrade is 1m or 11.53%.</p>
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio	N/A	The proposal does not include additional floorspace.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height of buildings development standards. A detailed discussion of the variation to the development standards is presented below this table.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

Exceptions to Development Standards

Clause 4.3 Height of buildings

The proposal has an overall building height of 11.07m, which exceeds the height of buildings development standard of 8.5m prescribed under clause 4.3 of Waverley LEP 2012 by 2.57m or 30%.

The current non-compliant dwelling has a height to the parapet of RL73.84 providing a height of 10.07m being a variation of the development standard by 1.57m or 18.47%.

Therefore, the height variation between the existing parapet and the proposed frameless glass balustrade is 1m or 11.53%.

A written request pursuant to clause 4.6 of Waverley LEP 2012 has been made, seeking to vary the development standard. The justification presented in the written request is summarised as follows:

- The proposal does not change the overall building height of the dwelling house as it does not change the floor levels and parapet height of the dwelling.
- The overall building height of the dwelling is compatible with that of other dwellings in the vicinity of the site.
- No additional overshadowing caused by the proposal.
- The building height variation will not affect views as the balustrade is clear glass.
- The proposal maintains the building bulk and scale of the dwelling house.
- The proposal will not result in adverse streetscape impacts.
- The variation will not compromise the intent of the development standard as it satisfies the relevant objectives of the development standard. The proposal is therefore in the public interest.

Excerpt from applicant's Cl 4.6 – Exceptions to Development Standards – Height of Building:

The applicant submits that the consent authority can and should be satisfied of each of these requirements of Clause 4.6(4), for all of the reasons set out in this request, and also having regard to the context of this particular site, in this particular locality; and having regard to compliance with the height development standard with the exception of a balustrade.

As indicated, it is our opinion that the proposal is in the public interest. In accordance with Test 1 in Wehbe and Clause 4.6(4)(a)(ii) an assessment of the proposal against both the objectives of the standard and the zone has been undertaken. The consideration of the objectives of the standard is set out in this submission and in our opinion, the proposal is consistent.

A detailed assessment of the proposal against the objectives of the zone is undertaken in the submitted Statement of Environmental Effects. From this, it is our opinion that the proposal is consistent with the zone objectives and should be supported. For these reasons it is our opinion that the variation is appropriate, consistent with the intent of Clause 4.6 and should be supported.

The variation of the height of buildings development standard is generally well founded on the basis of the variation causing minimal environmental impact on adjoining properties and the wider locality and its consistency with relevant objectives of the R2 zone and objectives of the height of buildings development standard.



Figure 3: East elevation of subject site viewed from the upper floor front western bedroom of 15 Loombah Rd, Dover Heights being the adjoining premises across the the road to the east.

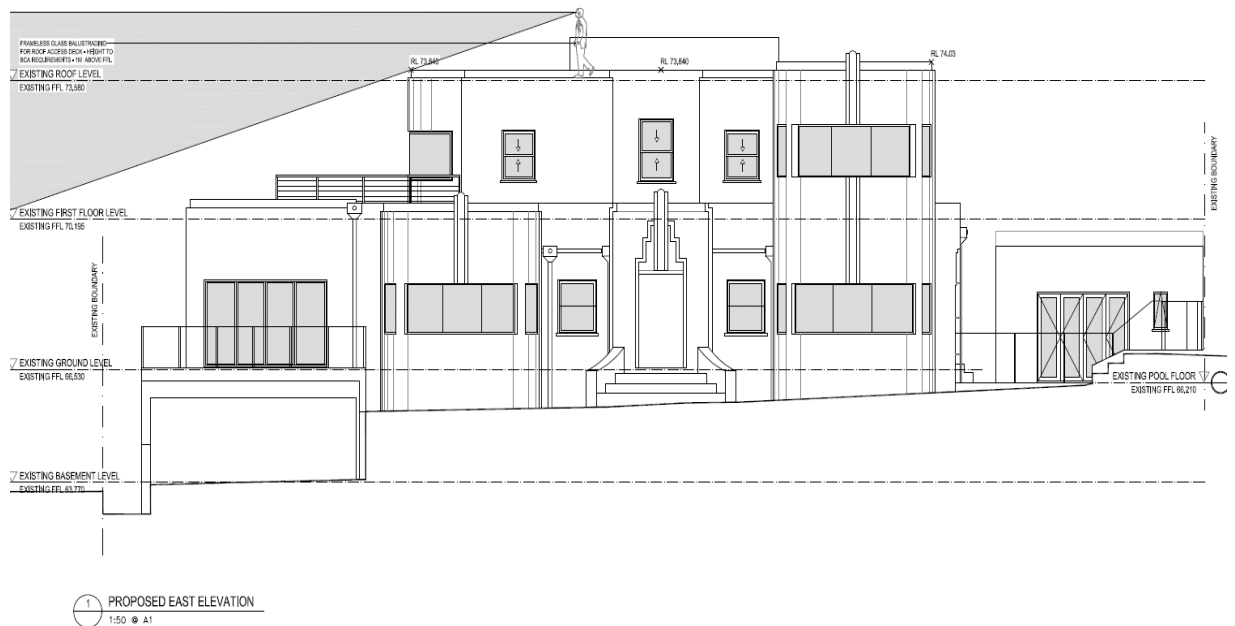


Figure 4: East Elevation of proposal as seen from 15 Loombah Rd, Dover Heights.

2.1.3 Waverley Development Control Plan 2012 - Amendment No 5 (Waverley DCP 2012)

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
8. Transport	Yes	The proposal generally complies with the relevant objectives and controls relating transport and on-site car parking.

Table 3: Waverley DCP 2012 – Part C1 Dwelling House and Dual Occupancy Development Compliance Table

Development Control	Compliance	Comment
1.1 Height		
1.1.1 Flat roof dwelling house <ul style="list-style-type: none"> Maximum overall building height of 7.5m 	No	The overall building height of the proposal is 11.05m. The variation to the height of buildings development standard of 8.5m has been addressed in the previous section of the report. The non-compliance with the DCP building height control is considered acceptable and the overall building height of the dwelling house appropriately satisfies relevant objectives under this section of the DCP.
1.1.2 External wall height <ul style="list-style-type: none"> Maximum external wall height of 7m 	N/A	The proposal utilises a flat roof form and therefore the external wall height control does not apply.
1.2 Setbacks		
1.2.1 Front and rear building lines <ul style="list-style-type: none"> Predominant front building line Predominant rear building line at each floor level 	N/A	No change to front and rear building setbacks of the dwelling house.
1.2.2 Side setbacks <ul style="list-style-type: none"> Minimum of 1.2m for ground and first floor levels and 1.5m for second floor level 	Yes	No change is proposed to the side building setbacks of the dwelling house.
1.4 Streetscape and visual impact		
	Yes	The proposal successfully maintains the Art - Deco architecture of the dwelling house when viewed from Kippara Road and Loombah Road. The proposed roof terrace is partially concealed behind the existing parapet and the proposed

Development Control	Compliance	Comment
		balustrade is clear glass. The proposal will not result in adverse streetscape impacts.
1.8 Visual and acoustic privacy		
<i>Maximum size of balconies:</i> <ul style="list-style-type: none"> • 10m² in area • 1.5m deep 	See discussion below	The proposal incorporates a roof top terrace comprising a trafficable area of 20m ² . See discussion on the suitability of the roof top terrace.
1.10 Views		
	See discussion below	See discussion on views.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

Visual and acoustic privacy

The proposal includes a roof top terrace comprising a trafficable area of 20m². Roof terraces are generally discouraged in the Waverley local government area, however small roof terraces may be appropriate, particularly in Dover Heights. Planning control (e) under section 1.8 of Part C1 of Waverley DCP 2012 sets out circumstances where roof terraces are appropriate, which are extracted as follows:

- (i) *Developments contiguous to the subject site include a roof terrace;*
- (ii) *They will not result in unreasonable amenity impacts such as overlooking and loss of privacy and acceptable noise;*
- (iii) *They should not exceed 15m² in area;*
- (iv) *They are provided for casual and infrequent activity and not as an extension of private open space or entertaining areas; and*
- (v) *Any access must be provided within the envelope of the main building and there are to be no access hoods or lift overruns proposed above the main roof level. Operable skylights and hydraulic lifts are acceptable where they finish generally flush with the roof level.*

With regard to the DCP control which permits roof top terraces only if the proposed development is contiguous to another site having a roof terrace, a recent Land and Environment Court case was upheld as the definition of contiguous was not defined and hence the Court dismissed this control and approved the roof terrace (**Chiefari v Waverley Council [2017] NSWLEC 1567**) at 172 Hastings Parade, Bondi ('the subject site') to add a 15m² roof top terrace and access stair under an existing skylight. The design included a transparent glass balustrade.

Commissioner Susan Dixon had made the following consideration/findings;

- 15. *Following my observations at the view I accept that there are numerous balconies/roof terraces on properties within the Ben Buckler area (as identified on Exhibit 4). While the Court heard tedious evidence from the planners as to whether the roof terrace/balcony at 151 Hasting Street (deemed to be the nearest private open space extending from a roof) was in fact a roof terrace or balcony – which included an examination of the development plans*

approved by the Council in about 2007 - and discussion about the features which distinguish a roof terrace I must agree with the applicant's submission that not much turns on this.

- 16. The EP&A Act and for that matter controls (e)(ii) and (v) of the DCP invite a consideration of the acceptability of the impacts of a proposal. In my opinion it is entirely unhelpful to get caught up defining the type of private open space which is obviously accessed from the roof space at 151 Hasting Parade in circumstances where the proposal is otherwise acceptable on a merit assessment under s 79C of the EP&A Act.*
- 17. The EP&A Act is clear (albeit in respect of a development application) that a DCP provision cannot rise above the statutory planning scheme in the LEP to introduce more onerous standards: s 79C(3A) of the EP&A Act. While the section does not refer to a modification application it is not unreasonable in this case to accept as part of the public interest that an ambiguous and arbitrary provision in a DCP such as control (e)(i) cannot operate to displace a merit assessment which supports an approval of a proposal.*
- 18. Based on my observations at the site view and the evidence as it evolved during the hearing I prefer Mr Nash's assessment of the proposal and interpretation of the DCP control. The term "contiguous" must mean "near" and on that basis if it is necessary to identify a roof terrace near the site to justify this proposal (which is entirely acceptable in my view on its merits) the private open space at 151 Hasting Parade fits the bill. Control (e)(i) is satisfied.*
- 19. More importantly I accept Mr Nash's assessment that the 15m² proposed roof top terrace will provide a modest casual outdoor space from which to enjoy iconic views of Bondi Beach and the surrounding cliffs which are not otherwise available from the dwelling. I am also satisfied on the evidence of Mr Nash that the space is likely to be used infrequently because it is not an extension of a private open space or an entertaining area. It is accessed via an open able skylight and the DCP accommodates such access to a roof terrace: control (e)(v) of section 1.8.*
- 20. In my assessment the proposal achieves the relevant objectives and controls in the DCP as identified by Mr Nash. It does not generate unacceptable privacy or amenity concerns. The proposed balustrade will preclude people from overlooking other properties despite the concern raised by the neighbour at 155 Hastings Parade. Given the size and location of the balcony it is unlikely to generate unacceptable noise because it is not accessed from a main living area and cannot hold a large crowd. In any event, there are several other balconies and terraces within the dwelling accessed from living areas which no doubt will be utilised more freely and frequently by the applicant and his guests.*
- 21. In my view this terrace is very much a secondary private open space albeit with views to iconic Bondi Beach. As such it is not based on my observations an unusual feature of the area. As the*

Council's submission to the exhibition of the Amendment No 2 to the Waverly DCP 2012 acknowledges:

"In Ben Buckler the "horse has bolted" on roof top terraces, and they are a defining feature of the area. In this locality a certain level of reduced privacy is mutually accepted by the community for the shared mutual benefit of improved views to the ocean and Bondi Beach".

22. I have considered the objections raised by some of the local residents in writing and email and I am satisfied that their concerns about privacy, overlooking and noise have been adequately addressed by the modifications to the design and the size of the proposal. I accept Mr Nash's evidence that there are no unacceptable adverse impacts generated by this proposal. I do not wish to labour Mr Layman's evidence in respect of the need for the proposed terrace as this matter is clearly not a relevant in circumstances where it is agreed that there are no privacy or overlooking impacts generated by the proposal (Exhibit 3 at 2.2.1.1). Nor is his concern about precedent because it must be accepted that each case necessarily turns on its own facts: Goldin & Anor v Minister for Transport Adminstrating the Ports Corporation and Waterways Management Act 1995 (2002) 121 LGERA 101; [2002] NSWLEC 75 at [7]. And, while Mr Layman raised issue about a possible loss of solar access to dwelling to the south by the proposed opaque privacy screen in the absence of shadow diagrams demonstrating as much I am not prepared to refuse the proposal on that basis and rely on Mr Nash' assessment that there is no issue in this regard based on his calculations in the witness box.

23. While I acknowledge that the Council has over recent years attempted to limit roof terraces in certain circumstances, and to that end amended its DCP three times (Exhibit 3 at 2.3.1.1) it does not seem reasonable to me to require the refusal of this roof top terrace where there are no adverse amenity impacts on neighbouring residences, compliance with the numerical requirements and no adverse streetscape impact arising from a proposal. Inevitably, the Council's DCP must be assessed under s 79C(1)(a)(ii) on the facts and evidence as presented at the time and weighted appropriately against all relevant considerations. After carrying out such a weighted assessment under s 79C of the EP&A Act there is no planning basis to refuse this proposal.

24. Accordingly, the Court orders:

- 1. The appeal is upheld.*
- 2. The application to modify development consent no. 486/2013 to include a roof top terrace of not more than 15m², including a glass balustrade and opaque glass privacy screen at 172 Hasting Parade, Bondi is approved subject to the Council's proposed conditions of consent.*
- 3. The Exhibits are returned apart from Exhibits 2 and B.*

Figure 5: Nearby dwellings with roof terraces.



Roof terraces ●

Another relatively recent Land and Environment Court decision for a roof terrace was at **11 Loombah Rd, Dover Heights**, DA-334/2014/A, which was upheld by the court. Appeal No: 11197 of 2015 (Alexakis Building Pty Ltd V Waverley Council) before Commissioner Susan O’Neill with the following relevant information from the judgement;

2 Expert planning evidence

22. *The applicant relied on the expert planning evidence of Mr Anthony Betros and the Council relied on the expert planning evidence of .Ms Kerry Gordon.*
23. *The planning experts agreed on the following in relation to the amended proposal (exhibit F):*
 - *The deletion of the structure over the stair access to the roof top terrace deals with the Council’s contention regarding height and any breach of the height development standard by the glass balustrade is of no concern.*
 - *The use of ‘self-cleaning glass’ in the balustrade and the reduction of the height of the balustrade deals with the Council’s contention regarding any impact of the proposal of views from 9 Loombah Road towards the city and 108 Military Road towards Bondi Beach. In addition, a condition of consent has been added at no. 62 requiring no furniture or pot plants to be left on the roof top terrace when it is not in use so as to not obstruct the existing views over the roof top of the dwelling at 11 Loombah Road.*

- *The existing roof terrace at 14 Loombah Road is “adjacent” to the site when considering the terms of control (d) at Part C, Section 1.8 of DCP 2012 Am 4 and as such, roof terraces are characteristic in the vicinity of the site.*
 - *The distance of the roof top terrace from 108 Military Road and the reduced area of the roof top terrace to 15sqm, results in a proposal with acceptable privacy impacts on 108 Military Road.*
24. *The planning experts agreed that the proposed roof top structures (in the original proposal which included a glass structure over the stair extension) would be “technically over the height limit due to the excavated basement and ground level which were associated with the approval and construction of the subject dwelling” (Mr Betros in exhibit 3, paragraph 11), to which Ms Gordon adds, “It is acknowledged that AB’s comments that the breach is increased due to the excavation for the garage approved with the development is correct, however, even were the roof terrace proposed with the original application it would have resulted in a breach of the height control. The roof structure is, in part, over the garage of the previously existing dwelling which, according to the survey, had a level of RL 67.82, resulting in a height of 9.43m or a breach of 930mm” (Ms Gordon in exhibit 3, paragraph 23).*

3 Submissions

25. *The applicant submits that the word “adjacent” in control (d) at Part C, Section 1.8 of DCP 2012 Am 4 should be construed loosely as being “near to” or “in the neighbourhood of”. I accept the applicant’s submission and I am satisfied that there are existing roof top terraces in the vicinity of the site.*

4 Consideration

26. *I accept the agreed evidence of the planning experts that the amended proposal in exhibit F addresses the contentions raised by Council.*
27. *I do not accept the planning experts agreement that the height of the proposal is to be determined either by taking existing ground level as the excavated level of the site as it is now or the excavated level of the site under the garage of the recently demolished dwelling on the site, on the basis of the same reasoning set out in my judgment *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 at [35] – [41].*
28. *As a modification application to a development consent, it is appropriate to consider the existing ground levels on the site survey submitted as part of the development application package. The site contours are drawn on the site survey (exhibit A) in the unbuilt upon areas of the site. Joining up the contours to determine the overall topography of the hill on which the site is located, the existing ground level under the proposed roof top terrace at the lowest*

point was approximately RL 68.4. The glass balustrade of the amended proposal is RL 76.95, resulting in an overall height at the highest point of 8.55m. I am satisfied that the amended proposal is consistent with the height of buildings development standard in LEP 2012.

5 Conclusion

29. I accept the agreement of the planning experts that the amended proposal in exhibit F addresses the contentions raised by Council and that the amended proposal can be granted consent, subject to the conditions of consent at Annexure "A".

6 Orders

30. The orders of the Court are:

1. By consent, the appeal is upheld.
2. Modification Application No. DA 344/2014/A to add a roof top terrace to an approved three storey dwelling is approved, subject to the consolidated conditions of consent at Annexure "A".
3. The exhibits, other than exhibits 2 and F, are returned.

The Statement of Environmental Effects (SEE) argues that the existing dwelling provides active and passive open space areas and therefore the primary function of the terrace is not intended to be an extension of these outdoor entertainment areas. The intention of the proposal is to provide a private area for infrequent enjoyment of the surrounding views towards Bondi Beach, the Pacific Ocean and the Harbor in addition to providing a maintenance platform for the swimming pool heaters located on the existing roof.

In terms of amenity impacts, the terrace is located centrally within the roof area, and towards the eastern side of the dwelling house. The terrace is accessed via a pull down attic ladder from the upper floor level study of the dwelling house. The area of the terrace is 20m², and exceeds the maximum area of 15m² for roof terraces where in-principle support is given in accordance with control (e). It is considered that the size of the terrace should be reduced to a maximum area of 15m² in accordance with control (e)(iii) in section 1.8 of Part C1 of Waverley DCP 2012.

Views

Clause 1.10 View of Part C1 in the Waverley DCP 2012 outlines the objectives and controls relating the assessment of views and view loss.

There has been eight (8) submissions from nearby residences including the neighbour immediately across the road (No.15 Loombah Rd) to the east of the site in regards to potential view loss resulting from the proposed roof terrace. Views are currently enjoyed from this dwelling out to the west across the roof of the subject site to the City Skyline, the Harbour, the Sydney Opera house and the Sydney Harbour Bridge.

Council's view sharing objectives under Waverley DCP 2012 require that views are shared, providing equitable access to views from dwellings. This objective provides a general guide when assessing

potential view loss, further expanded by guiding principles of the Land & Environment Court as follows:

The judgement in *Tenacity Consulting v Waringah Council (2004)* resulted in a four step assessment in regards to view sharing: the impact on neighbours, as follows:

1. *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

The existing views from the objector's property comprise distant views of the City Skyline, the Harbour, the Sydney Opera house and the Sydney Harbour Bridge.

2. *The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

The view is obtained from the front of the site and are viewed from a standing position within the dwelling from the front first floor bedroom and attached deck.

3. *The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

The views in question are available from the first floor main bedroom area of the dwelling and the attached deck on the front elevation.

There are no views obtained from living areas of 15 Loombah Rd as the living areas are at ground floor level. The existing views from the front first floor bedroom of 15 Loombah Rd would be retained over the subject site.

The extent of the view loss is considered to be negligible.

4. *The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.*

If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

It is considered that there would be a negligible view loss resulting from the roof terrace proposed, as the most impacted property at 15 Loombah Rd retains the views obtained from an upper floor bedroom and not a living area or kitchen. It is considered that the roof terrace development is not excessive in bulk and scale and is further conditioned to be limited to 15m².

Subsequently, the question that is left to be asked is whether a more skilful design could provide the applicant with some development potential and amenity, whilst at the same time reducing the impact on the views of neighbours. The proposal is for a roof terrace which is screened by existing parapet with frameless clear balustrade, which is considered to have the least possible impact on the subject and adjoining sites and the streetscape.

Therefore, having regard to the proposed roof terrace access, usage being for infrequent enjoyment of the surrounding views towards Bondi Beach, Pacific Ocean and Sydney Harbour, in addition to providing a maintenance platform for the swimming pool heaters located on the existing roof, it is considered that there would be negligible view loss impact involving iconic views from the neighbouring property namely 15 Loombah Road. It is considered that the proposal is reasonable and therefore supported as proposed, with the condition that the deck be reduced to a maximum area of 15m² having dimensions of 4.90m by 3.06m.

2.2 Section 79C(1)(b) – Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

2.3 Section 79C(1)(c) – Suitability of the Site for the Development

The site is considered to be suitable for the proposed development.

2.4 Section 79C(1)(d) – Any Submissions

The application was notified for 14 days and a site notice erected on the site, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

Eight submissions were received. The issues raised in the submissions are summarised and discussed below.

Property
Unit 5a/ 56 Military Rd
110 Military Rd
122 Military Rd
2A Kippara Rd
3 Kippara Rd
13 Loombah Rd
15 Loombah Rd
16 Loombah Rd

Issue: Loss of iconic views

Response: Issue discussed in section 2.1.3

Issue: Non-compliance to height development standard

Response: Issue discussed in section 2.1.2

Issue: Non-compliance with WDCP 2012

Response: Issue discussed in section 2.1.3

Issue: loss of amenity – noise due to usage

Response: The Statement of Environmental Effects (SEE) argues that the existing dwelling provides active and passive open space areas and therefore the primary function of the terrace is not intended to be an extension of these outdoor entertainment areas. The intention of the proposal is to provide a private area for infrequent enjoyment of the surrounding in addition to providing a maintenance platform for the swimming pool heaters located on the existing roof.

In terms of amenity impacts, the terrace is located centrally within the roof area, and towards the eastern side of the dwelling house. The terrace is accessed via a pull down attic ladder from the upper floor level study of the dwelling house. The area of the terrace is 20m², exceeds the maximum area of 15m² for roof terraces. It is considered that the size of the terrace should be reduced to a maximum area of 15m² in accordance with control (e) (iii) in section 1.8 of Part C1 of Waverley DCP 2012.

2.5 Section 79C(1)(e) – Public Interest

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

3. REFERRALS

Nil requested.

4. SUMMARY

The application involves the construction of a roof terrace to the dwelling house at the site known as 1 Kippara Road, Dover Heights. The main issues in the assessment of the application are non-compliance with height of buildings development standard, loss of iconic views and visual and

acoustic privacy from the roof terrace. The issues have been considered acceptable, for reasons outlined in the report, and the issue relating to the deck size area has been addressed by way of condition of development consent as outlined in the recommendation.

The application attracted eight public submissions. No councillor submission was made.

The application is recommended for approval.

5. RECOMMENDATION TO WAVERLEY DEVELOPMENT ASSESSMENT PANEL

That the Development Application be **APPROVED** by the Waverley Development Assessment Panel subject to the Conditions in Appendix A:

Report prepared by:

**Application reviewed and agreed on behalf of
the Development and Building Unit by:**

Paul Yachmennikov
Senior Development Assessment Planner

Arif Faruqi
Manager, Development Assessment (North)

Date: 16 January 2018

Date: 12 February 2018

Reason for referral:

- 1 Development Applications for Class 1 and 10 buildings that receive 4 or more unresolved objections.

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

- (a) Architectural Plan/Dwg Nos: 0.30 RT, 0.40 RT, 0.50 RT, 0.51 RT, 0.52 RT, 0.53 RT and 0.60 RT, all Issue B, tables and documentation prepared by Thomas Hamel & Associates, dated 05.06.2017, and received by Council on 14 November 2017;

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

- a) The proposed roof top terrace is to be limited to a maximum area of 15m² to comply with the Waverley Development Control Plan 2012. In this regard the dimensions of the roof top terrace are to be 4.90m by 3.06m with the maximum RL not exceeding 74.84.

3. USE OF ROOF TERRACE

No furniture or other items (including pot plants) are to be left on the roof top terrace when the terrace is not in use.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. SECTION 94A CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 94A of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to council:
 - (1) Where the total development cost is less than \$500,000:
"Waverley Council Cost Summary Report"; or,
 - (2) Where the total development cost is \$500,000 or more:
"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports may be obtained from Waverley Council Customer Service Centre or downloaded from: www.waverley.nsw.gov.au/publications/

- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.
- (c) Should a section 96 modification result in any change to the total cost of the work, the Section 94A contribution is to be revised and amended. Prior to the issue of the Construction Certificate,

evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

Waverley Council Development Contributions Plans 2006 may be inspected at Waverley Council Customer Service Centre.

Advisory Note

- A development valued at \$100,000 or less will be exempt from the levy.
- A development valued at \$100,001 - \$200,000 will attract a levy of 0.5%.
- A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

5. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of **\$2,500** must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

This deposit (cash or cheque) or guarantee must be established prior to the issue of the Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion of the building work to the person who paid the deposit.

6. LONG SERVICE LEVY

A long service levy, as required under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of a Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

7. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with Section 81A(2) of the Environmental Planning & Assessment Act, 1979; and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of appointment in accordance with Section 81(A)(2)(b) of the Environmental Planning and the Assessment Act, 1979 and Form 7 of Schedule 1 of the Regulations; and
- (c) Council is given at least two days Notice in writing of the intention to commence the building works.

The owner/applicant may make application to Council or an Accredited Certifier for the issue of a Construction Certificate and to be the Principle Certifying Authority.

8. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) Checklist 2 shall be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the Construction Certificate. In this regard, Council expects demolition and excavated material to be reused and/or recycled wherever possible.

The builder and all subcontractors shall comply with the approved SWRMP Part 1 and 2 at all times during construction. At least one copy of the SWRMP is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

9. EROSION, SEDIMENT AND POLLUTION CONTROL

Erosion, sediment and pollution control measures are to be implemented on this site. These measures are to be in accordance with Council's Stormwater Policy and are to be implemented prior to commencement of any work or activities on or around the site. Details of these measures are to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.

10. ENGINEERING DETAILS

Structural details prepared and certified by a practicing Structural Engineer being furnished to Council or Accredited Certifier in connection with all structural components prior to the issue of a Construction Certificate.

11. ENGINEERING DETAILS - CERTIFICATE OF ADEQUACY

A Certificate of Adequacy prepared by a practicing Structural Engineer, certifying the adequacy of the existing building structure to carry the extra load of the proposed **roof terrace** is to be provided to Council or the Accredited Certifier prior to the issue of a Construction Certificate.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

12. PRIOR TO SITE WORKS

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) the name and permit number of the owner/builder who intends to do the work; and
- (c) any change to these arrangements for doing of the work.

13. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the Home and Building Act, 1989. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

14. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

15. TOILET FACILITIES

Toilet facilities being provided on the work site in accordance with the requirements of Sydney Water.

16. NO USE OF ORGANOCHLORIN PESTICIDES

The use of organochlorin pesticides as termite barriers in new development is prohibited pursuant to Council Policy. Only physical barriers are to be used for termite control. The building shall comply with Australian Standard 3660: Protection of building from subterranean termites - prevention, detection and treatment of infestation.

17. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS

All site works complying with the occupational health and safety requirements of WorkCover NSW.

18. SOIL AND WATER MANAGEMENT PLAN

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to SSROC's Soil and Water Management Brochure and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction. This Plan shall be implemented prior to commencement of any works or activities. All controls in the Plan shall be maintained at all time. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.

19. STOCKPILES

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

20. LOCATION OF BUILDING OPERATIONS

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

21. ALL BUILDING MATERIALS STORED ON SITE

All building materials and any other items associated with the development are to be stored within the confines of the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

22. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2000.

23. BUILDING CODE OF AUSTRALIA

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

24. BUILDING LEGISLATION AMENDMENT (QUALITY OF CONSTRUCTION) ACT - INSPECTIONS (DWELLING HOUSES CLASS 1 AND 10)

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) and in accordance with the Building Legislation (Quality of Construction) Act 2002 and the Environmental Planning and Assessment Regulations. Also, documentary evidence of compliance with the relevant terms of conditions of development consent and standards of construction detailed in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction and/or issue of an Occupation Certificate.

MANDATORY Critical Stage Inspections **MUST** be carried out by the PCA for work undertaken during specified stages of construction and prior to issuing an Occupation Certificate.

The specified **MANDATORY** inspections are:

In the case of a Class 1 and 10 building:

- (a) at the commencement of building work;
- (b) prior to covering of the framework for any floor, roof or other building element; and
- (c) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required to be undertaken by the PCA:

Note: Certification may be required from a suitably qualified person, in relation to specialist matters, verifying that particular works satisfy the relevant requirements of the Building Code of Australia and standards of construction.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

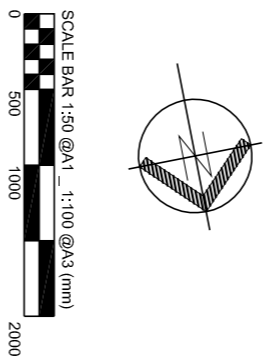
25. FINAL OCCUPATION CERTIFICATE

The Principal Certifying Authority prior to occupation or use of the development must issue a final Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning & Assessment Act, 1979 have been satisfied.

- GENERAL DIMENSIONS ON SITE PRIOR TO ANY CONSTRUCTION OR
 - REFER TO THOMAS HAMEL'S SCHEDULES FOR FINISHES, PLUMBING FIXTURES &
 REQUIREMENTS
 - REPAIR AND MAKE GOOD TO ALL SURFACES, WINDOWS & DOORS AS REQUIRED.
 - NEW ITEMS EXISTING ON ALL PLUMBING & ELECTRICAL.

DEMOLISH - MAKE GOOD ALL SURROUNDS AND
 ANY STRUCTURAL COMPONENTS TO COMPLY WITH
 RELEVANT STANDARDS

NEW WALL



DESCRIPTION:	ISSUE:	DATE:
PRELIMINARY ROOF ACCESS CONCEPT	A	24.03.2017
ROOF ACCESS - REVISIONS	B	05.06.2017

STAGE:	DATE:
ROOF ACCESS CONCEPT	
PROPOSED FIRST FLOOR DA PLAN (A1)	

DRAWING NAME:
**PROPOSED FIRST FLOOR
 DA PLAN (A1)**

CLIENT:

SCHAEFFER RESIDENCE
 1 KIPPARA ROAD
 DOVER HEIGHTS 2130

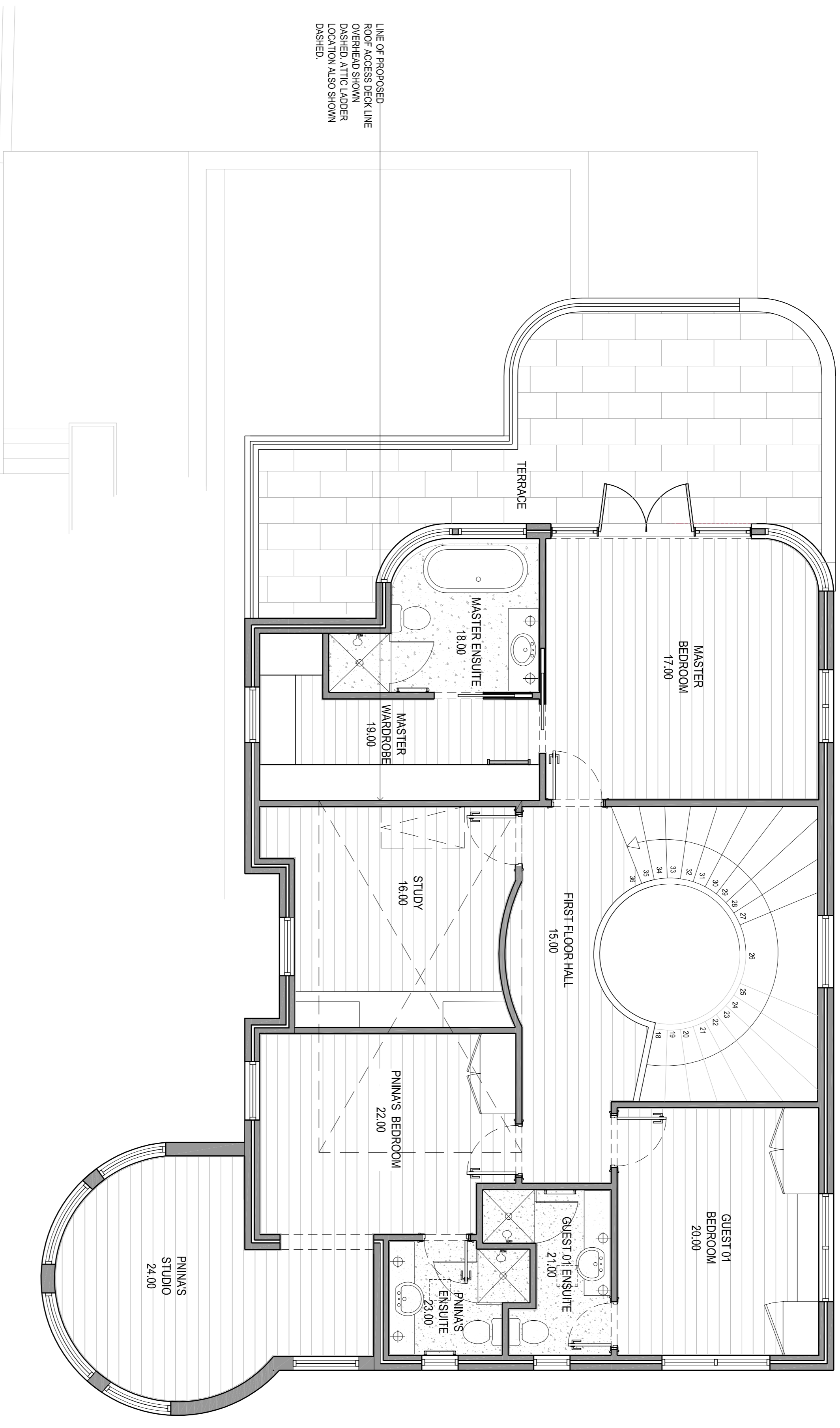
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0.30 RT	B	05.06.2017

THOMAS HAMEL
 & ASSOCIATES

78 RENNICK STREET,
 REDFERN NSW 2016
 TEL. (02) 9699 3688 FAX (02) 9699 3600

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 documents, the documents are prepared on the basis of information provided to us.
 quality of construction, accessibility, no, open form or design of building, or
 construction or any other work not included as part of the improvement specifications.

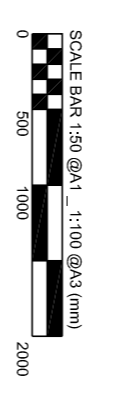
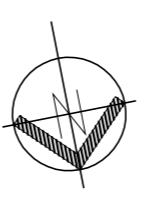


1
 1:50 @ A1
PROPOSED FIRST FLOOR

- GENERAL DIMENSIONS ON SITE PRIOR TO ANY CONSTRUCTION OR
- REFER TO THOMAS HAMEL'S SCHEDULES FOR FINISHES, PLUMBING FIXTURES & REQUIREMENTS
- REPAIR AND MAKE GOOD TO ALL SURFACES WINDOWS & DOORS AS REQUIRED.
- NEW VERBS EXISTING FOR ALL PLUMBING & ELECTRICAL.

DEMOLISH - MAKE GOOD ALL SURROUNDS AND ANY STRUCTURAL COMPONENTS TO COMPLY WITH RELEVANT STANDARDS

NEW WALL



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ROOF ACCESS - REVISIONS	B	05.06.2017

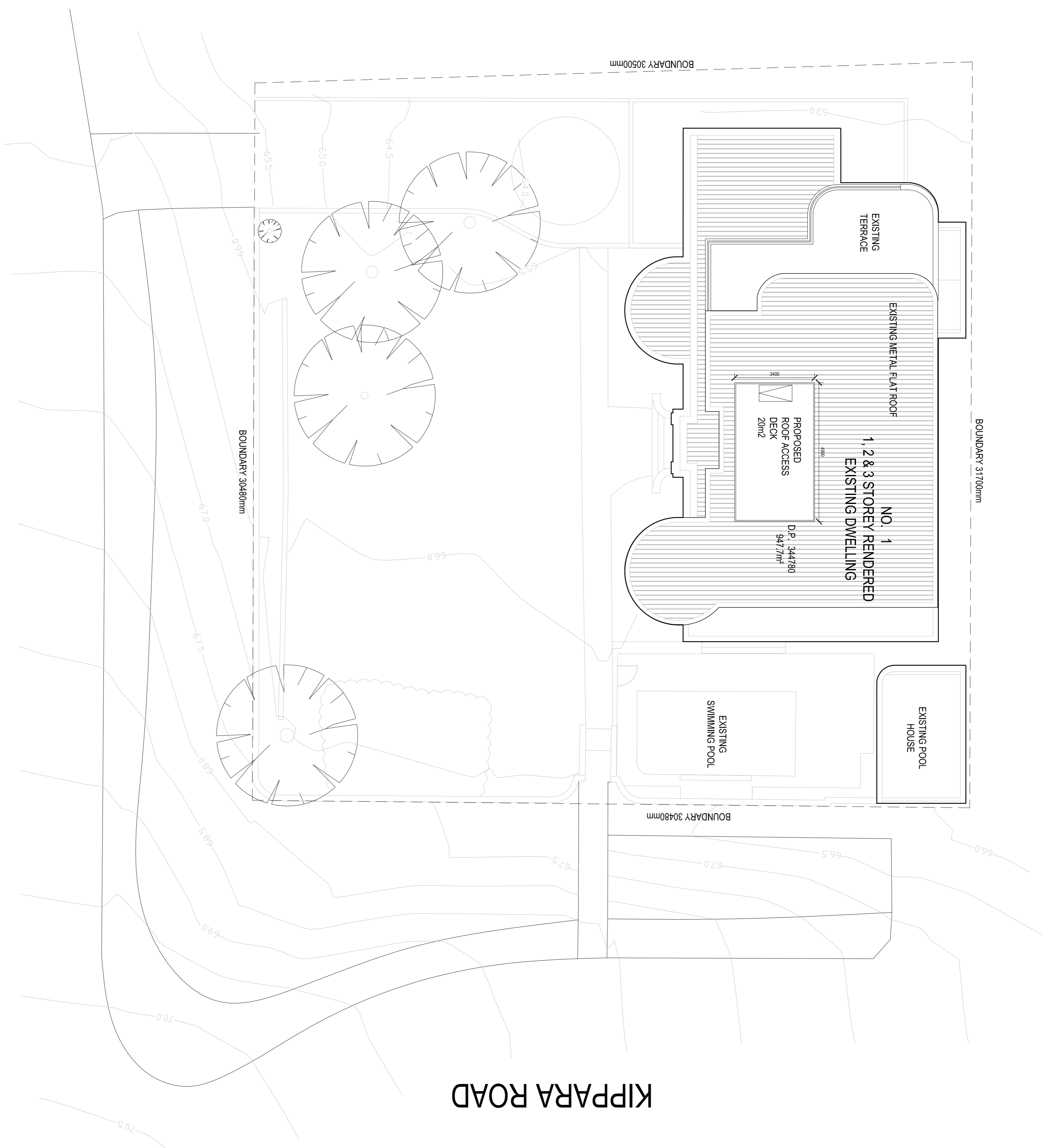
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DRAWING NAME:	PROPOSED ROOF PLAN
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CLIENT:
 SCHAEFFER RESIDENCE
 1 KIPPARA ROAD
 DOVER HEIGHTS 2130

DRAWING NO:	ISSUE	DATE:
0.40 RT	B	05.06.2017

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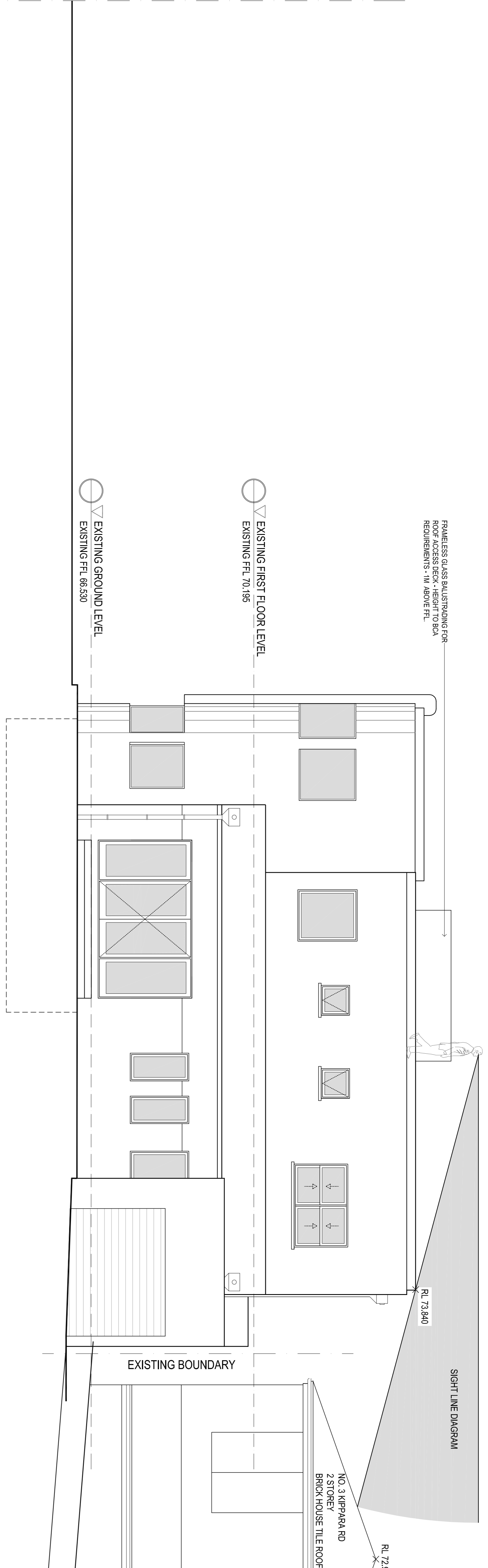
MILITARY ROAD

KIPPARA ROAD

1. DEMOLISH - MAKE GOOD ALL SURROUNDINGS AND RELEVANT STANDARDS

2. PROPOSED LANDSCAPE WORKS REFER TO LANDSCAPE DESIGNER'S DRAWINGS FOR DETAILS.

EXISTING BOUNDARY



1 PROPOSED NORTH ELEVATION
1:50 @ A1

FRAMELESS GLASS BALUSTRADE FOR ROOF ACCESS DECK - HEIGHT TO BCA REQUIREMENTS - 1M ABOVE FFL
EXISTING FFL 73.580

EXISTING FIRST FLOOR LEVEL
EXISTING FFL 70.195

EXISTING GROUND LEVEL
EXISTING FFL 66.530

EXISTING BASEMENT LEVEL
EXISTING FFL 63.770

EXISTING BOUNDARY

SIGHT LINE DIAGRAM

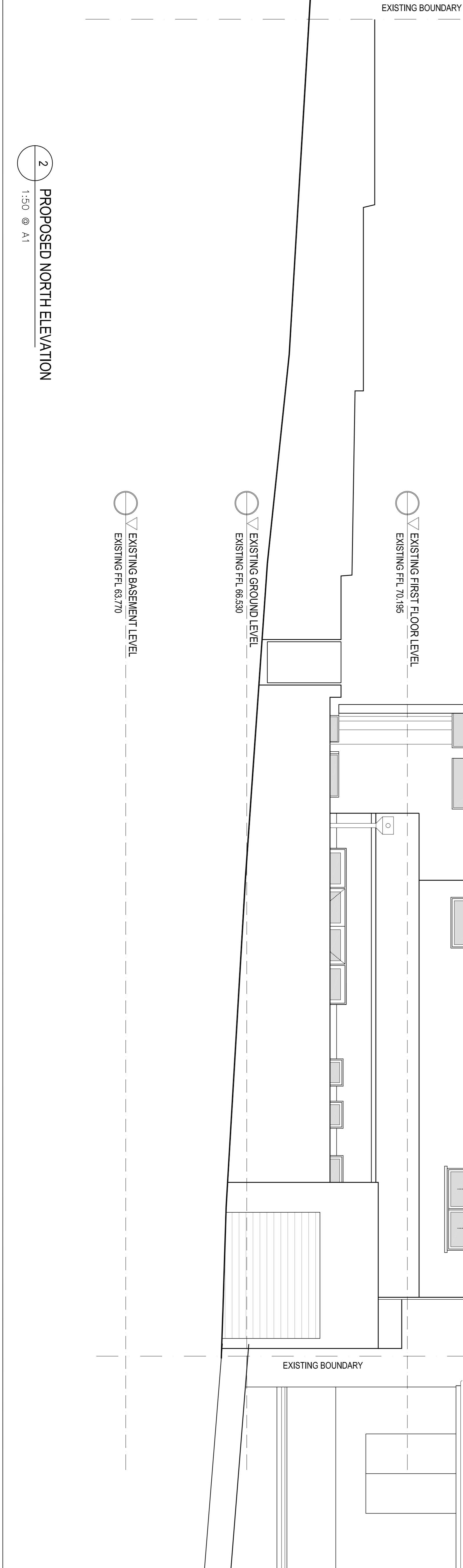
NO. 3 KIPPARA RD
2 STOREY
BRICK HOUSE TILE ROOF

EXISTING BOUNDARY

SIGHT LINE DIAGRAM

NO. 3 KIPPARA RD
2 STOREY
BRICK HOUSE TILE ROOF

EXISTING BASEMENT LEVEL
EXISTING FFL 63.770



2 PROPOSED NORTH ELEVATION
1:50 @ A1

FRAMELESS GLASS BALUSTRADE FOR ROOF ACCESS DECK - HEIGHT TO BCA REQUIREMENTS - 1M ABOVE FFL
EXISTING FFL 73.580

EXISTING FIRST FLOOR LEVEL
EXISTING FFL 70.195

EXISTING GROUND LEVEL
EXISTING FFL 66.530

EXISTING BASEMENT LEVEL
EXISTING FFL 63.770

EXISTING BOUNDARY

SIGHT LINE DIAGRAM

NO. 3 KIPPARA RD
2 STOREY
BRICK HOUSE TILE ROOF

EXISTING BOUNDARY

SIGHT LINE DIAGRAM

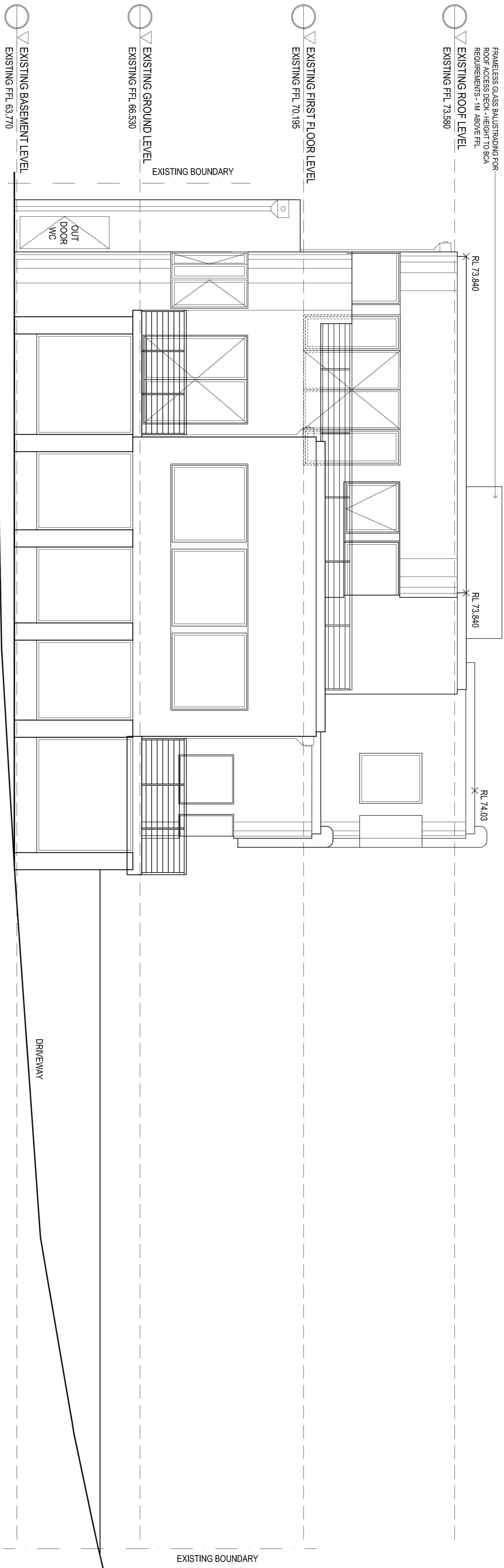
NO. 3 KIPPARA RD
2 STOREY
BRICK HOUSE TILE ROOF

EXISTING BASEMENT LEVEL
EXISTING FFL 63.770

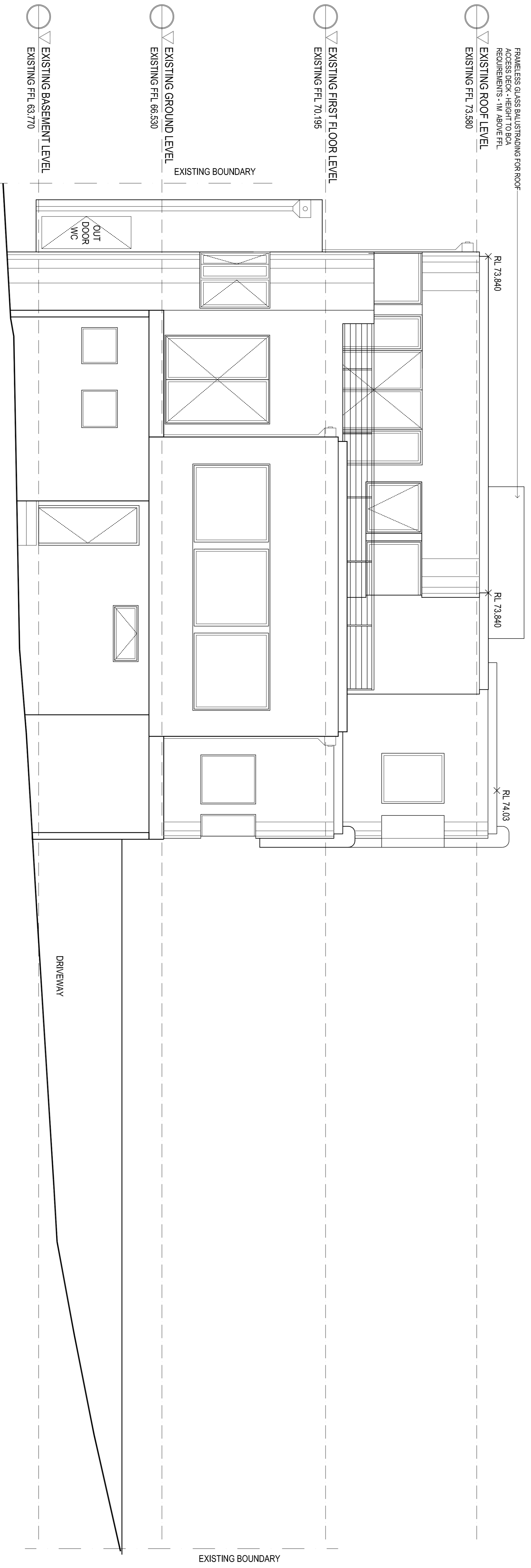
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ROOF ACCESS - REVISIONS	B	05.06.2017
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DRAWING NAME:	PROPOSED NORTH ELEVATION (A1)	
CLIENT:	SCHAEFFER RESIDENCE 1 KIPPARA ROAD DOVER HEIGHTS 2130	
DRAWING NO:	ISSUE	DATE:
0.50 RT	B	05.06.2017
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1. DEMOLISH MAKE GOOD ALL SURROUNDINGS AND RELEVANT FINISHES

2. PROPOSED LANDSCAPE WORKS REFER TO LANDSCAPE DESIGNER'S DRAWINGS FOR DETAILS.



1
1:50 @ A1
PROPOSED SOUTH ELEVATION



2
1:50 @ A1
PROPOSED SOUTH ELEVATION

DESCRIPTION:	ISSUE:	DATE:
PRELIMINARY ROOF ACCESS CONCEPT	A	24.02.2017
ROOF ACCESS - REVISIONS	B	05.06.2017

STAGE:
ROOF ACCESS CONCEPT

DRAWING NAME:
PROPOSED SOUTH ELEVATION DA (A1)

CLIENT:
SCHAFFER RESIDENCE
1 KIPPARA ROAD
DOVER HEIGHTS 2130

DRAWING NO: 0.52 RT
ISSUE: B
DATE: 05.06.2017

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1. DETAIL - MAKE GOOD ALL SURROUNDINGS AND RELEVANT STANDARDS

2. PROPOSED LANDSCAPE WORKS REFER TO LANDSCAPE DESIGNER'S DRAWINGS/DETAILS.

DESCRIPTION:	ISSUE:	DATE:
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ROOF ACCESS - REVISIONS	B	05.06.2017

STAGE:
ROOF ACCESS CONCEPT

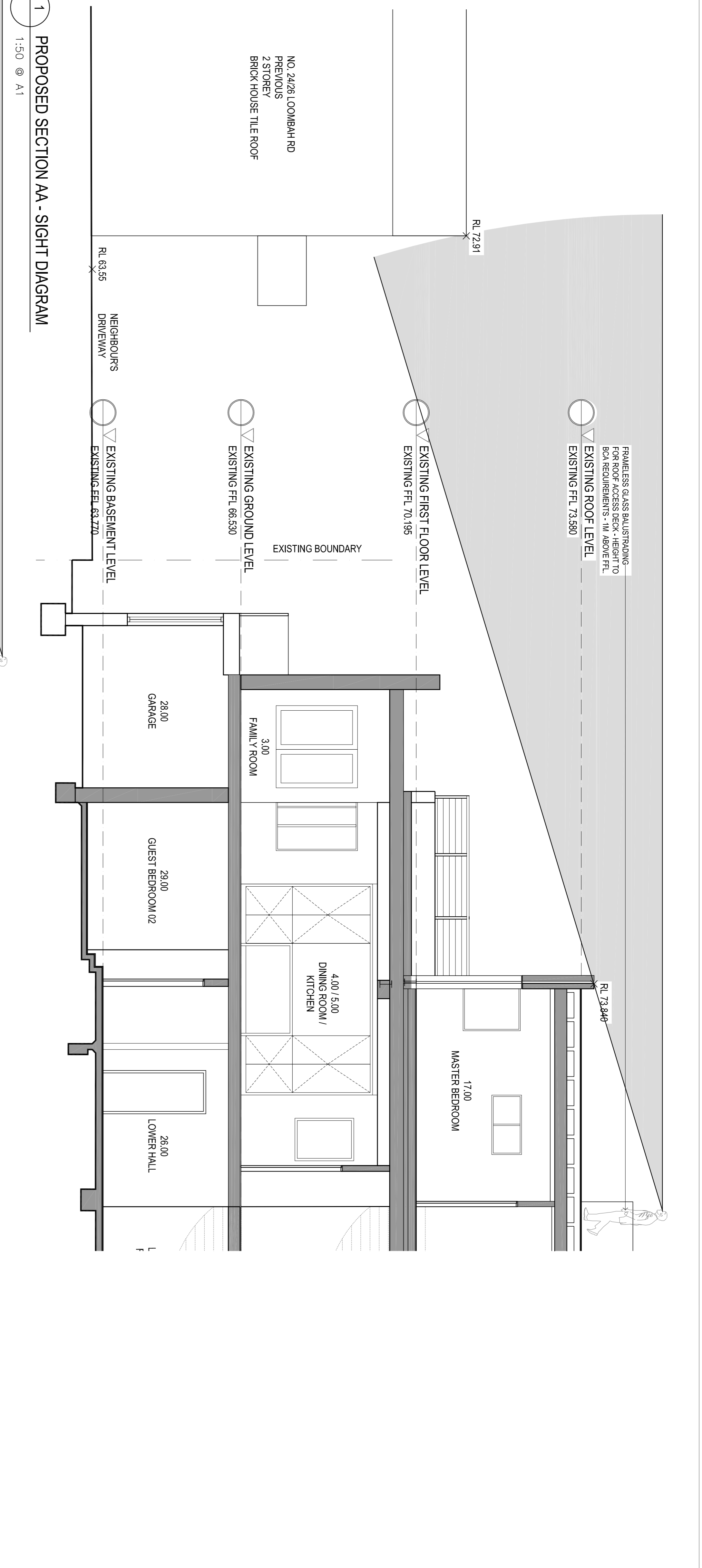
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CLIENT:
SCHAFFER RESIDENCE
1 KIPPARA ROAD
DOVER HEIGHTS 2130

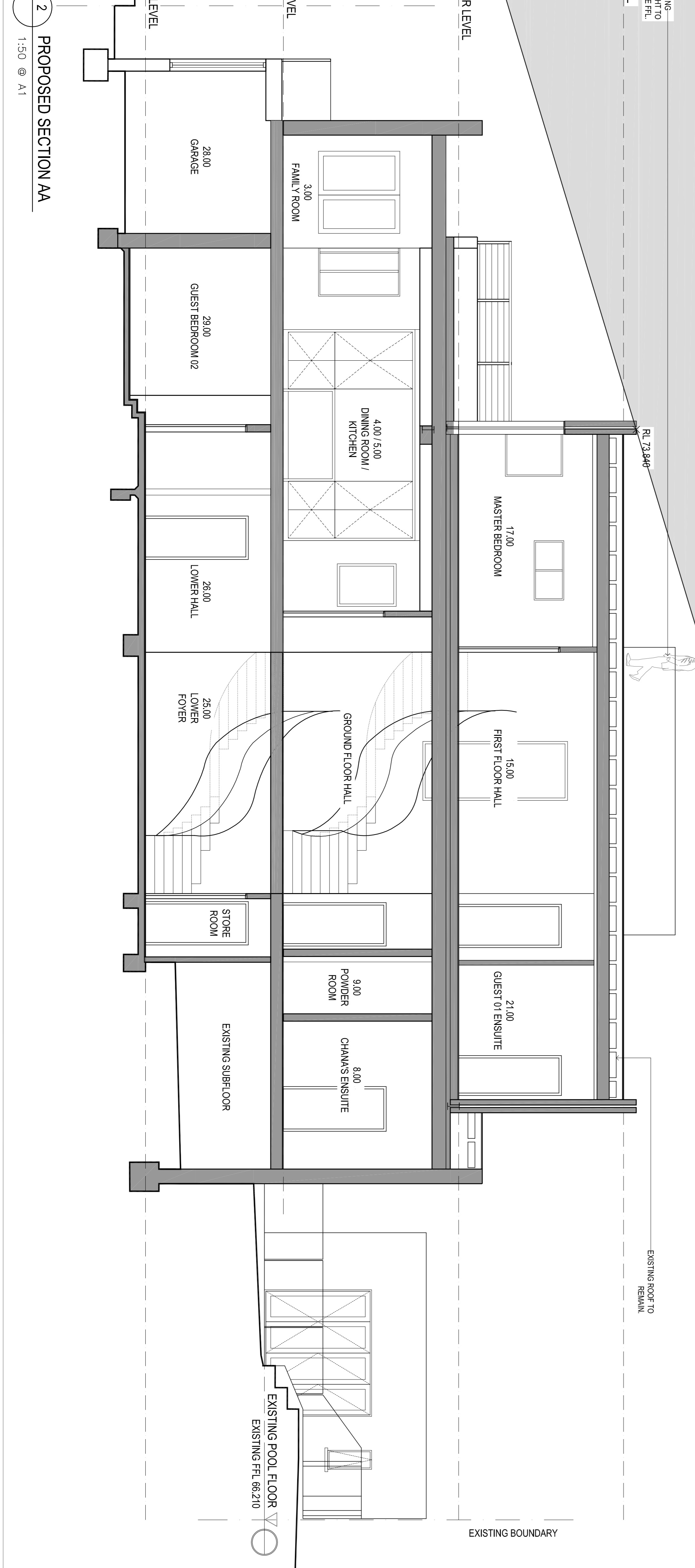
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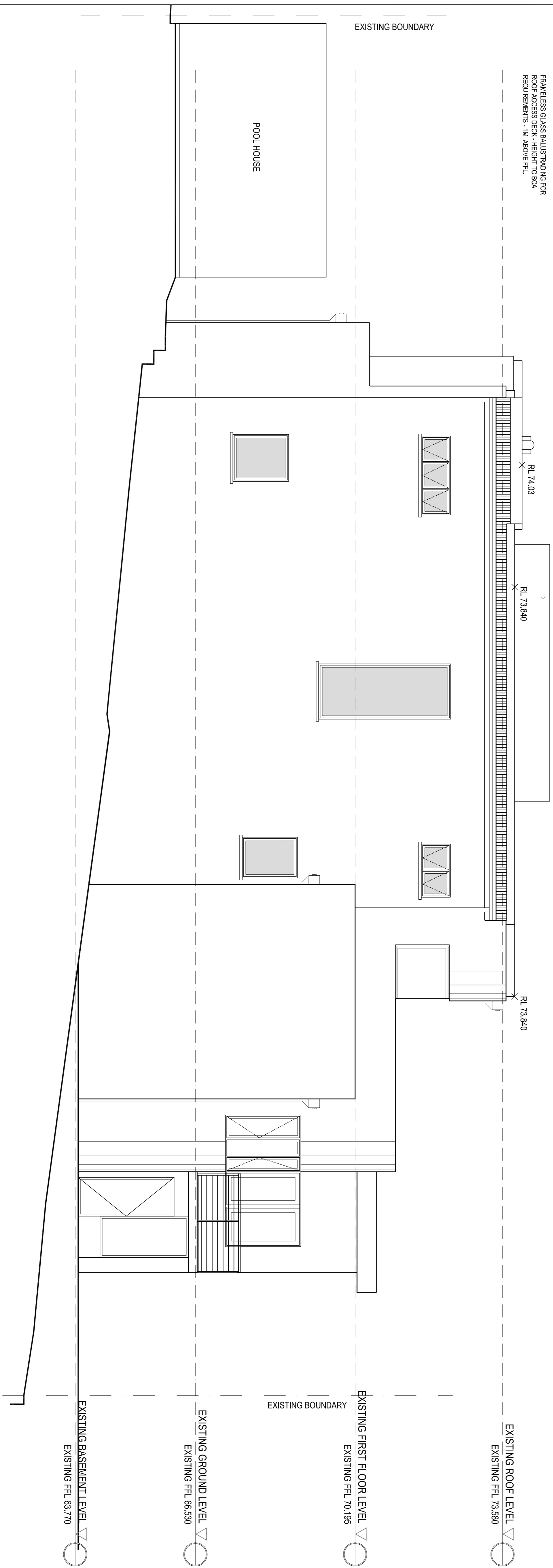
1 PROPOSED SECTION AA - SIGHT DIAGRAM
 1:50 @ A1



2 PROPOSED SECTION AA
 1:50 @ A1



PROPOSED LANDSCAPE WORKS REFER TO LANDSCAPE DESIGNER'S DRAWINGS FOR DETAILS.

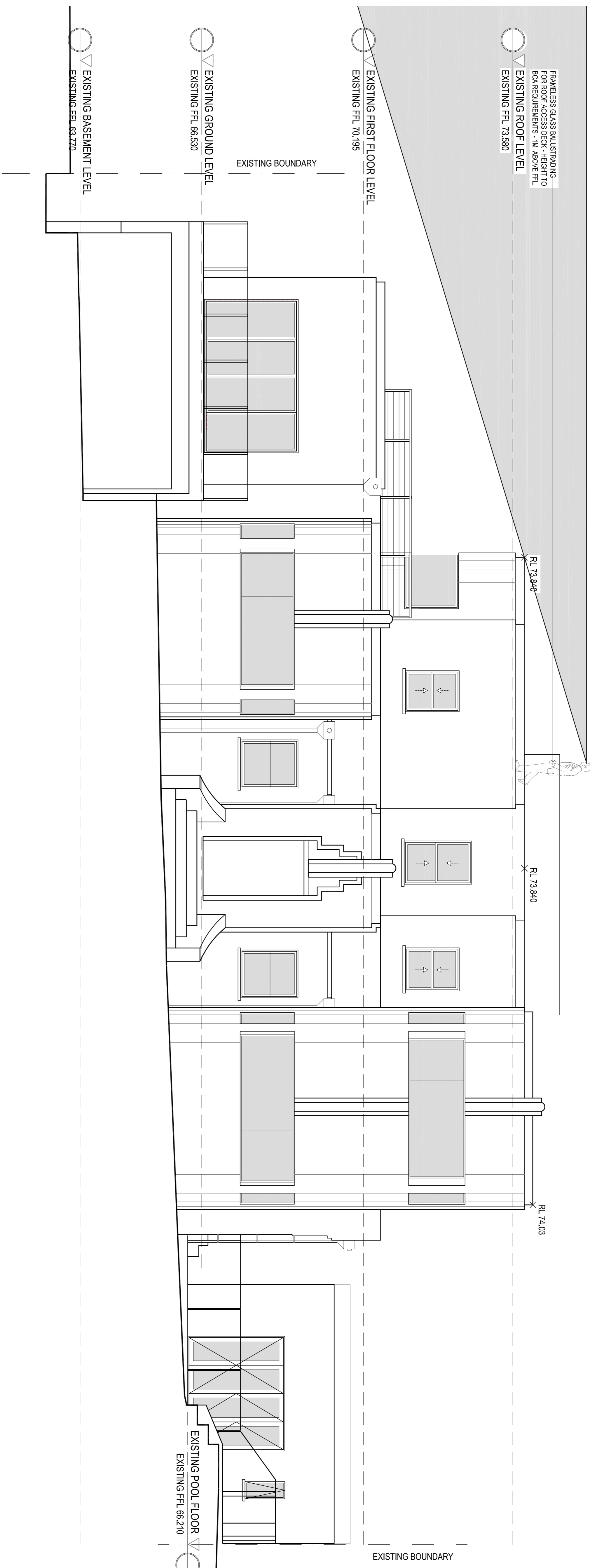


1
1:50 @ A1
PROPOSED WEST ELEVATION

DESCRIPTION:	ISSUE:	DATE:
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ROOF ACCESS - REVISIONS	B	05.06.2017
STAGE:		
ROOF ACCESS CONCEPT		
DRAWING NAME:		
PROPOSED WEST ELEVATION (A1)		
CLIENT:		
SCHAEFFER RESIDENCE		
1 KIPPARA ROAD		
DOVER HEIGHTS 2130		
DRAWING NO:	ISSUE	DATE:
0.53 RT	B	05.06.2017

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DESCRIPTION:	ISSUE:	DATE:
PRELIMINARY ROOF ACCESS CONCEPT	A	24.02.2017
PRELIMINARY ROOF - REVISIONS	B	05.06.2017

STAGE:
ROOF ACCESS CONCEPT

DRAWING NAME:
PROPOSED EAST ELEVATION (A1)

CLIENT:
**SCHAEFFER RESIDENCE
1 KIPPARA ROAD
DOVER HEIGHTS 2130**

DRAWING NO:	ISSUE	DATE:
0.51 RT	B	05.06.2017

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Section 96 Modification



Report to Waverley Development Assessment Panel

Application number	DA-379-2016/A
Site address	8 Blake Street, Rose Bay
Proposal	Minor envelope changes including extension of master bedroom wall, creation of studio nook and other internal changes
Approved development description	Demolish existing dwelling and garage and construction of two storey dual occupancy development each with a swimming pool and strata subdivision
Date of lodgement	4 December 2017
Owner	Gabriella Ratner and Michael Moses
Applicant	Bureau SRH
Submissions	Six submissions
Issues	Overlooking, Floorspace Ratio, Rear setback, bulk & massing
Recommendation	That the application be APPROVED

Site Map



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 17 January 2018.

The site is identified as Lot 2 DP1011696, known as 8 Blake Street, Rose Bay. The subject site is located on the northern side of Blake Street. The site is rectangular in shape with a southern front boundary measuring 16.575m, eastern and western side boundaries measuring 35.08m and a rear northern boundary measuring 16.33m. The site has an area of 577.1m² and is relatively flat.

The site is under construction vide development consent DA 379/2016 approved by Council on 7 February 2017.

The subject site is adjoined by a two storey detached dwelling to the west and a single storey dwelling to the east. The locality is characterised by predominantly residential developments including dual occupancy developments and detached dwellings. A similar dual occupancy development is located on the opposite side of Blake Street at 1 Blake Street.



Figure 1: Subject site frontage



Figure 2: Site viewed from the rear also showing adjoining property at No.6 Blake Street



Figure 3: Site viewed from the rear also showing adjoining property at No.10 Blake Street



Figure 4: Site viewed from the rear also showing adjoining property to the rear at No.5 Roberts Street

1.2 Details of Approved Development

The previous DA for demolition of existing dwelling and construction of dual occupancy development and strata subdivision was approved on 7 February 2017

The approved scheme was revised to address concerns which had been raised at that time of assessment. These matters related to the overall bulk and scale of the development and the revisions included a reduction in the floor space ratio, reduced height of wall to garages on the boundary, reduced size of balconies and increased rear setback.

1.3 Proposal

The application has been lodged as a section 96 (1A) application and provides for the following modifications to the approved development:

- Extend master bedroom for both dwellings at first floor level by 1.2m towards the rear.
- Articulation voids on side elevations partially infilled to create internal study nook at first floor level.
- Removal of voids at first floor level between master bedrooms
- Other associated minor internal and external alterations including raising of side parapet walls at ground level by a maximum of 0.3m, deletion/alterations of windows, relocating skylights and air-conditioning units.

2. ASSESSMENT

The following matters are to be considered in the assessment of this modification application under sections 79C and 96 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1 Section 96 Considerations

Section 96 (1A) applications - the modification are considered to have minimal environmental impact. The application has been compared to the essential nature of the development as originally approved and it is considered to be *substantially the same development*. The application has been notified and submissions considered as discussed further in the report.

2.2 Section 79C (1)(a) Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

2.2.1 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposal are outlined below:

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan
Part 2 Permitted or prohibited development		
Land Use Table R2 - Low Density Residential	Yes	The proposal is defined as dual occupancy, which is permitted with consent in the R2 zone.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> A maximum height of 8.5m is permitted. 	Yes	The proposed height is 7.5m, the modifications do not alter this.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> A maximum FSR of 0.5:1 	No (See discussion below)	The approved FSR is 0.67:1 The proposed modified FSR would be 0.73:1
4.6 Exceptions to development standards	Yes	The applicant has addressed Clause 4.6 as part of the previous approval, and the non-compliant FSR is discussed in the issues section below.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley LEP 2012.

Floor Space Ratio

The proposed modifications would increase the FSR namely through an extension of the master bedrooms, extensions of walls within side articulation voids and removal of rear voids at first floor level. It is noted that as part of the previous scheme the FSR was reduced to be closer to the DCP requirements (although still non-compliant).

However, the initial scheme was of a much larger scale than these modifications are proposing and they would not result in a return to a development of a similar size to that which was revised.

The voids between the master bedrooms at rear first floor level are essentially internal courtyards, they are not visible at any point surrounding the property. Their removal would not result in any perceivable difference to the external building envelope and as such their deletion is supported.

The partial infilling of the side articulation voids would not encroach into the recommended setback area and would only result in slightly reduced voids. They would remain set back from the side elevation by approximately 1m so as to retain articulation.

The master bedrooms at first floor level would be extended out by 1.2m, however this extension would be set back from the side boundaries by 2.8m. This would result in the balconies extending back by an additional 1m beyond what has been approved, which does not manifest in any discernible additional impact in terms of overshadowing or overlooking.

The amended proposal is generally acceptable in regards to the controls of Waverley LEP and amenity impacts. Therefore the variation to the FSR control of the development is considered acceptable and is substantially the same as approved.

2.2.2 Waverley Development Control Plan 2012 - Amendment No 5 (Waverley DCP 2012)

The relevant matters to be considered under the Waverley DCP 2012 for the proposal are outlined below:

Table 1: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	The approved application was accompanied by a SWRMP and the proposal generally complies with all relevant objectives and controls relating to waste removal and management.
2. Energy and water conservation	Yes	<p>The approved application was accompanied by a BASIX certificate. A revised BASIX Certificate would be required given changes to windows and skylights.</p> <p>A condition of consent is recommended to require a revised BASIX Certificate to reflect the modifications to the development prior to the issue of a modified Construction Certificate.</p>

Table 2: Waverley DCP 2012 – Part C1 Dwelling House, Dual Occupancy, Secondary Dwelling, Semi-Detached Dwelling and Terrace Development Compliance Table

Development Control	Compliance	Comment
1.1 Height		
1.1.1 Flat roof dwelling house <ul style="list-style-type: none"> Maximum overall building height of 7.5m 	Yes	The proposal with the flat roof has a maximum height of 7.5m. No change in height is proposed.
1.2 Setbacks		
1.2.1 Front and rear building lines <ul style="list-style-type: none"> Predominant Front Ground – 3m First – 3m Predominant rear building line at each floor level Ground – 10m-12m First – approx. 16m First floor level setback from rear building line at ground floor level 	N/A No (see discussion below) Yes	No change to front building setback from approved. Rear proposed ground – 11m (main wall) - 9m (covered pergola) Rear proposed first – 13.6m (wall) - 12m (covered balcony) 2.6m (building main wall to building main wall)
1.2.2 Side setbacks <ul style="list-style-type: none"> Minimum of 0.9m 	No	Proposed side setback is nil to garages and 900mm for rest of the development. No changes are proposed to side setbacks of the dwellings.
1.8 Visual and acoustic privacy		
Elevated balconies to have screening <i>Maximum size of balconies:</i> <ul style="list-style-type: none"> 10m² in area 1.5m deep 	Yes Yes	The rear first floor balconies would be extended out by 1m beyond what has been approved. They would be set in from each boundary by 3m and privacy screening would be retained as previously approved. Proposed area: 5m ² (rear balcony) Proposed depth: 1.5m (rear balcony)
1.9 Solar access		
<ul style="list-style-type: none"> Minimum of three hours of sunlight to minimum of 50% of living areas and principal open space areas on 21 June Minimum of three hours of sunlight maintained to minimum of 50% of living areas and principal open space areas of adjoining properties on 21 June 	Yes	Shadow diagrams have been submitted which demonstrate little to no impact on solar access received by neighbouring properties during the winter solstice as a result of the modifications beyond what has been approved.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

Rear First Floor Setback

The proposed rear first floor setback would be reduced by 1m (at the balconies) or 1.2m (at the main rear wall) to incorporate the extension to the master bedrooms. The extension would be set back from the side boundaries by 2.8m to allow for a greater side setback from the boundary, where only 900mm is required as a minimum. Privacy screening would be retained for the approved balconies.

Given that the additional space at first floor level would be set well back from the side and rear boundaries and building lines it is not considered that the bulk and massing of the revised scheme would be detrimental to the amenity of surrounding residents.

The ground floor rear setback which was conditioned to be increased to 11m during the initial assessment of the application has been maintained which is generally in line with No.6 Blake Street and greater than what is existing for No.10 Blake Street. The extension of the first floor towards the rear by 1200mm is considered to have acceptable impact given that this extension provides a 2.8m setback from each side boundary and is well below the maximum building height. The articulation at first floor level provides sufficient relief to break up the appearance of the rear façade.

Privacy

The void facing the east boundary with 6 Blake Street would overlook a kitchen window, as the internal space created is intended to be used as a study nook there could be an adverse effect on privacy at the adjoining property. Although full height windows have been approved within this void the larger setback would have limited overlooking, the partial infilling brings the windows closer to the boundary. However, translucent fixed glazing is proposed which will ensure there is no impact on overlooking.

The balconies at first floor would be 1m closer to the rear façade of 5 Roberts Street which faces directly onto the site, it is not considered that this would result in any additional loss of privacy beyond what has been approved.

The properties at 3 and 7 Roberts Street are sufficiently shielded by the footprint of 5 Roberts Street (which covers the full footprint of the site), existing high fencing and vegetation also act as visual barriers so that there would be no additional loss of privacy from this minor modification at first floor level.

The privacy screening on the balconies would be retained as approved therefore limiting overlooking to 6 and 10 Blake Street. Given the size of the rear gardens and positioning of the balconies which are set back from both the side and rear building lines the viewing potential into neighbouring outdoor space would be limited. Furthermore, the balconies serve bedrooms which are not heavily trafficable areas.

It is considered that the design of the first floor is appropriate in the context of adjoining development, is suitably setback from the rear ground level building line and is appropriately articulated.

2.3 Section 79C(1)(b) – Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

2.4 Section 79C(1)(c) – Suitability of the Site for the Development

The site is considered to be suitable for the proposed development.

2.5 Section 79C(1)(d) – Any Submissions

The modification application was notified for 21 days, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

Six submissions were received. The issues raised in the submissions are summarised and discussed below.

Table 3: Summary of property addresses that lodged a submission

Property
6 Blake Street, Rose Bay
10 Blake Street, Rose Bay
1 Roberts Street, Rose Bay
3 Roberts Street, Rose Bay
5 Roberts Street, Rose Bay
7 Roberts Street, Rose Bay

Issue: Loss of privacy

Response: This issue has been addressed above under Part 2.2.2 of this report. The modifications do not unreasonably impact upon privacy levels beyond the approved scheme, the proposed extension of the rear balconies/bedroom is set in from the side and rear building lines, reducing impact on privacy. The first floor partial infilling of the side voids would include fixed translucent windows.

Issue: Increase in FSR

Response: This issue has been addressed under part 2.2.1 of this report.

Issue: Increase in bulk/massing and return to initial scheme which was revised.

Response: This issue has been addressed above under parts 2.2.1 & 2.2.2 of this report. The additional space is limited to a small area at first floor level set 2.8m back from the side boundaries and 2.6m back from the rear ground floor building line of the development itself. The bulk/massing of the scheme as a whole will not change substantially to what has been approved.

Issue: Site notice not displayed

Response: A site notice for this application was not required.

2.6 Section 79C(1)(e) – Public Interest

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

3. SUMMARY

The proposal seeks modifications to the building envelope at rear first floor level and at first floor side articulation voids with associated alterations. These are considered to be minor in nature and retain the overall form and design of the building with little or no impact on the amenity of surrounding residents beyond what has already been approved.

The proposal would be substantially the same as that which has been approved and is therefore considered acceptable subject to conditions.

5. RECOMMENDATION TO WAVERLEY DEVELOPMENT ASSESSMENT PANEL

That the Section 96 Modification Application be **APPROVED** by the Waverley Development Assessment Panel subject to the Conditions in Appendix A.

Report prepared by:

**Application reviewed and agreed on behalf of
the Development and Building Unit by:**

Fergus Freeney
Development Assessment Planner

Arif Faruqi
Manager, Development Assessment (North)

Date: 5 February 2018

Date: 5 February 2018

Reason for referral:

- 1 Development Applications for Class 1 and 10 buildings that receive 4 or more unresolved objections.

APPENDIX A – CONDITIONS OF CONSENT TO BE MODIFIED

A. Amended Conditions

1. APPROVED DEVELOPMENT

The development must be in accordance with:

- (a) Amended Architectural Plans and documentation prepared by 'Bureau SRH' dated 9 December 2016 stamp received by Council on 12 December 2016 and including:

Drawing No.	Date
DA100 Revision C, Site Plan	9/12/2016
DA102 Revision C, Ground Floor Plan	9/12/2016
DA103 Revision C, First Floor Plan	9/12/2016
DA104 Revision C, Roof Plan	9/12/2016
DA200 Revision C, S + E Elevations	9/12/2016
DA201 Revision C, N + W Elevations	9/12/2016
DA302 Revision C, Long Section	9/12/2016

- i. As amended by Architectural Plan nos. (S96)100 A; 104 A; 105A; 106 A; 200 A, 201 A, 302 A; 400 A; 401 A, 402 A, 501AA;*

(ADDED DA-379/2016/A)

- (b) The BASIX Certificate;
- (c) Pool Details Plan DA600A Revision A dated 11 November 2016 and stamp received by Council on 14 November 2016;
- (d) Arboricultural Impact Assessment Report prepared by Redgum Horticultural and dated 2 August 2016;
- (e) Landscape Plan Drawing No: 1452.GD.01 dated August 2016 prepared by Greenland Design;
- (f) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

Except where amended by the following conditions of consent.

B. New Conditions

- 1a. Prior to issue of construction certificate a revised BASIX Certificate taking into account modifications approved under this application shall be submitted to Council.*

(ADDED DA-379/2016/A)

APPENDIX B – FULL SET OF CONDITIONS

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

- (a) Amended Architectural Plans and documentation prepared by 'Bureau SRH' dated 9 December 2016 stamp received by Council on 12 December 2016 and including:

Drawing No.	Date
DA100 Revision C, Site Plan	9/12/2016
DA102 Revision C, Ground Floor Plan	9/12/2016
DA103 Revision C, First Floor Plan	9/12/2016
DA104 Revision C, Roof Plan	9/12/2016
DA200 Revision C, S + E Elevations	9/12/2016
DA201 Revision C, N + W Elevations	9/12/2016
DA302 Revision C, Long Section	9/12/2016

- i. As amended by Architectural Plan nos. (S96)100 A; 104 A; 105A; 106 A; 200 A, 201 A, 302 A; 400 A; 401 A, 402 A, 501AA;

(ADDED DA-379/2016/A)

- (b) The BASIX Certificate;
- (c) Pool Details Plan DA600A Revision A dated 11 November 2016 and stamp received by Council on 14 November 2016;
- (d) Arboricultural Impact Assessment Report prepared by Redgum Horticultural and dated 2 August 2016;
- (e) Landscape Plan Drawing No: 1452.GD.01 dated August 2016 prepared by Greenland Design;
- (f) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

Except where amended by the following conditions of consent.

1a. BASIX Certificate

Prior to issue of construction certificate a revised BASIX Certificate taking into account modifications approved under this application shall be submitted to Council.

(ADDED DA-379/2016/A)

2. GENERAL MODIFICATIONS

The proposal shall be amended as follows:

- (a) The proposed rear setback from the north boundary to the ground floor main wall of the building shall be increased to a minimum of 11 metres;
- (b) A privacy screen to a height of 1,800mm shall be erected along the western side of the first floor rear balcony of the western dwelling to reduce privacy impacts to the adjoining western properties;
- (c) A privacy screen to a height of 1,800mm shall be erected along the eastern side of the first floor rear balcony of the eastern dwelling to reduce privacy impacts to the adjoining eastern property;
- (d) The proposed air conditioning units located on the roof at first floor level and beside the rear first floor balconies are to be relocated centrally in between the two balconies and being away from the adjoining properties to reduce acoustic privacy impacts to the adjoining properties to the east and west;
- (e) A privacy screen to a height of 1,800mm (above deck level) is to be erected to the western side of the rear ground level deck of the western dwelling to reduce privacy impacts to the adjoining western property;
- (f) Solid section of front fence to be reduced to a maximum of 600mm with the top half of the front fence being an open design with a minimum open area of 50% up to an overall height of 1,200mm;

The amendments are to be approved by Council prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

3. DOMESTIC HEATERS

The provision of solid fuel heating/cooking appliances is prohibited.

4. INSTALLATION OF AIR CONDITIONING

Air conditioning unit(s) installed within the building shall:

- (a) Be located a minimum of 1.5 metres from a boundary.
- (b) Be located behind the front building line and if visible suitable screened and located in an appropriate location.
- (c) Not be adjacent to neighbouring bedroom windows.
- (d) Not reduce the structural integrity of the building.
- (e) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
 - (ii) before 7.00am and after 10.00pm on any other day.
- (f) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (e).

5. INTRUDER ALARM

Intruder alarm/s associated with the development must operate only in accordance with the requirements of Clause 53 of the *Protection of the Environment Operations (Noise Control) Regulation 2008* under the *Protection of the Environment Operations Act, 1997*.

6. USE OF DWELLING

Each dwelling is to be used only as a single unit dwelling house.

7. SWIMMING POOLS

The following requirements apply to the use and operation of the approved pool:

- (a) The pool water being treated by an approved water treatment and filtration unit.
- (b) The pool is to be fitted with a cover that shall be fitted when the pool is not in use to minimise evaporation and conserve water.
- (c) To prevent noise nuisance to surrounding properties, the pool filtration motor and pump unit is to be housed within a ventilated soundproof enclosure.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. SECTION 94A CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 94A of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to council:
 - (1) Where the total development cost is less than \$500,000:
"Waverley Council Cost Summary Report"; or,
 - (2) Where the total development cost is \$500,000 or more:
"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports may be obtained from Waverley Council Customer Service Centre or downloaded from: www.waverley.nsw.gov.au/publications/

- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.
- (c) Should a section 96 modification result in any change to the total cost of the work, the Section 94A contribution is to be revised and amended. Prior to the issue of the Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

Waverley Council Development Contributions Plans 2006 may be inspected at Waverley Council Customer Service Centre.

Advisory Note

- A development valued at \$100,000 or less will be exempt from the levy.
- A development valued at \$100,001 - \$200,000 will attract a levy of 0.5%.
- A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

9. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of **\$25,000** must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

This deposit (cash or cheque) or guarantee must be established prior to the issue of the Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion of the building work to the person who paid the deposit.

10. LONG SERVICE LEVY

A long service levy, as required under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of a Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

11. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- a. A Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with Section 81A(2) of the Environmental Planning & Assessment Act, 1979; and
- b. A Principal Certifying Authority has been appointed and Council has been notified of appointment in accordance with Section 81(A)(2)(b) of the Environmental Planning & Assessment Act, 1979 and Form 7 of Schedule 1 of the Regulations; and
- c. Council is given at least two days notice in writing of the intention to commence the building works.

The owner/applicant may make application to Council or an Accredited Certifier for the issue of a Construction Certificate and to be the Principle Certifying Authority.

12. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) Checklist 2 shall be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the

Construction Certificate. In this regard, Council expects demolition and excavated material to be reused and/or recycled wherever possible.

The builder and all subcontractors shall comply with the approved SWRMP Part 1 and 2 at all times during construction. At least one copy of the SWRMP is to be available on site at all times during construction. Copies of demolition and construction waste docket that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

13. EROSION, SEDIMENT AND POLLUTION CONTROL

Erosion, sediment and pollution control measures are to be implemented on this site. These measures are to be in accordance with Council's Stormwater Policy and are to be implemented prior to commencement of any work or activities on or around the site. Details of these measures are to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.

14. HOARDING REQUIRED

A standard A/B Class hoarding designed and constructed in accordance with the requirements of the Work Cover Authority being erected on the street alignments of the property, prior to the commencement of building operations, and such hoardings to be maintained during the course of building operations. Details of the hoarding are to be provided to Council prior to issue of the Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

15. STORMWATER MANAGEMENT

The submitted stormwater drainage plans prepared by Engineering Studio, Job No. 16597, drawing number C00.01, C01.01, C01.02 C02.01, C02.02, C02.03 (all Revision B), dated 6 September 2016, have been checked and considered satisfactory with respect to stormwater details.

- (a) Prior to issuance of occupation certificate, certification is to be provided from a suitably qualified hydraulics engineer, that the stormwater system has been **constructed** in accordance with the approved stormwater management plans and to best engineering practice.
- (b) Under the current design, the orifice diameter must be 80mm for each of the discharge control pits (DCP)
- (c) The On-site Stormwater Detention (OSD) system for Unit 1 and Unit 2 must work independently of each other and must not be connected in any way.

Note: Since a sewer main runs through the property, plans must also be presented to a Sydney Water Quick Check Agent for their approval.

16. ENGINEERING DETAILS

Structural details prepared and certified by a practicing Structural Engineer being furnished to Council or Accredited Certifier in connection with all structural components prior to the issue of a Construction Certificate. This is to include the existing underground storage area.

17. NEW VEHICLE CROSSINGS

New vehicle crossings are to be provided to access the proposed **garages**. A separate application is required for the vehicle crossings, with all work to be carried out with the approval of and in accordance with the requirements of Council.

18. VEHICULAR ACCESS - FINISHED LEVEL

The finished level at the property boundary on **both** sides of each vehicle crossing is to be **30mm above** the existing concrete footpath.

19. ROOFWATER GUTTERING

All new or replacement roof guttering is to comply with the requirements of the Building Code of Australia and Australian Standard AS 3500 *Plumbing & Drainage Standards* to ensure that collected roof water does not flow back into the building.

20. BASIX

The undertakings provided in the BASIX Certificate shall be provided for in the Construction Certificate plans and documentation prior to the issue of the Construction Certificate. If required, a modified BASIX Certificate shall be provided that reflects the development as approved (eg addressing any modification required via conditions of consent). Any significant works (ie any works not able to be considered as Exempt and Complying Development) that result from changes to the BASIX Certificate or conflict with conditions of consent require Council's consent.

The Principal Certifying Authority shall be responsible for ensuring that all the undertakings are satisfied prior to the issue of an Occupation Certificate.

The above condition is a prescribed condition under the Environmental Planning and Assessment Act Regulations clause 97A and the above BASIX commitments are mandatory and cannot be modified under Section 96 of the *Environmental Planning and Assessment Act 1979*.

21. USE OF RENEWABLE TIMBERS

Council requires, wherever possible, the use of renewable timbers and/or plantation timbers such as Radiata Pine or Oregon as an alternative to the use of non-renewable rainforest timber products in buildings so as to help protect the existing areas of rainforest. In this regard, a schedule of proposed timber products to be used in the building is to be submitted for approval by the Principle Certifying Authority prior to the issue of the Construction Certificate. Where the applicant is to use timbers not recommended in Council's Policy, reasons are to be given why the alternative timbers recommended cannot be used.

22. TREE MANAGEMENT AND PROTECTION

Landscape plan prepared by Greenland Design Landscape Architects , Dwg No 1452.GD.01: issue: A. dated August 2016 is satisfactory and is to be used as the approved landscape plan.

Arboricultural Impact Assessment Report prepared by Redgum Horticultural/Arboricultural Consultants. Dated: 2 August 2016 is satisfactory and is to be used as the approved arborist report.

- The applicant **may remove the *Melaleuca armillaris*** (Bracelet Honey Myrtle) street tree. (East side).
- Situated on the nature strip at the front of the property is one mature Paperbark (*Melaleuca quinquenervia*). This tree is in good to excellent condition. **Tree to be retained and protected with a bond of \$5,000 to be lodged with Council**

Trees to be retained

Trees to be retained as per Arboricultural Impact Assessment Report prepared by Redgum Horticultural/Arboricultural Consultants. Dated: 2 August 2016.

Tree No.	Species	Location	Action
1	<i>Melaleuca quinquenervia</i>	Street tree	Retain and protect within a Tree Protection Zone (TPZ) as per the Tree Protection Plan.
4	<i>Archontophoenix cunninghamiana</i>	Neighbouring Property	Retain and protect within a Tree Protection Zone (TPZ) as per the Tree Protection Plan. - Neighbouring Property Specimen
5	<i>Butia capitata</i>	Neighbouring Property	Retain and protect within a Tree Protection Zone (TPZ) as per the Tree Protection Plan. - Neighbouring Property Specimen
8	<i>Fraxinus angustifolia</i>	Neighbouring Property	Retain and protect within a Tree Protection Zone (TPZ) as per the Tree Protection Plan. - Neighbouring Property Specimen

Trees to be removed

Trees to be removed as per Arboricultural Impact Assessment Report prepared by Redgum Horticultural/Arboricultural Consultants. Dated: 2 August 2016.

Tree No.	Species	Location	Action
3	<i>Melaleuca armillaris</i>	Street tree	Remove as per Arborist report.
7	<i>Melaleuca quinquenervia</i>	On-site	Remove as per Arborist report.
6	<i>Phoenix roebelenii</i> (Pygmy Date Palm)	On-site	Retain and protect within a Tree Protection Zone (TPZ) as per the Tree Protection Plan. Specimen could be transplanted

23. STREET TREE PROTECTION

The existing Paperbark tree on the nature strip at the front of the property is to be protected for the duration of the construction works.

Precautions shall be taken when working near trees to ensure their retention, including the following:

- Do not store harmful or bulk materials or spoil under or near trees;
- Prevent damage to bark and root system;
- Do not use mechanical methods to excavate within root zones;
- Do not add or remove topsoil from under the drip line;
- Do not compact ground under the drip line;
- Do not mix or dispose of liquids within the drip line of the tree; and

(g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

No existing street trees shall be removed without Council approval. A 1.8m high chain link wire fence or the like shall be erected around the existing street trees to protect them from damage during construction. Where approval is granted for the removal of a street tree the applicant is to pay for its replacement with a super advanced tree of a species nominated by Council.

24. TREE BOND

A bond of \$5,000 is to be lodged with Council either as cash or by way of an unconditional bank guarantee to ensure the protection and maintenance of the street tree at the front of the property. The bond is to be lodged prior to the issue of a Construction Certificate.

The sum will be forfeited to the Council at its discretion for a breach of these requirements, and will be refunded twelve (12) months from the issue of the Occupation Certificate subject to the satisfaction of Council.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

25. PRIOR TO SITE WORKS

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- a. the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- b. the name and permit number of the owner/builder who intends to do the work; and
- c. any change to these arrangements for doing of the work.

26. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the Home and Building Act, 1989. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

27. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

28. EXCAVATION AND BACKFILLING

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

29. EXCAVATION BELOW FOOTINGS

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made, at their own expense, must:

- (a) preserve and protect the building from damage; and
- (b) if necessary, must underpin and support the building in an approved manner; and
- (c) must, at least seven days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

30. OBSTRUCTION TO PUBLIC AREAS

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building; then:

- (a) a hoarding fence must be erected between the building site and the public place of the proposed building and the public place. If necessary, an awning sufficient to prevent any substance from, or in connection with, the work falling into the public place, is also to be erected;
- (b) the work is to be kept lit during the time between sunset and sunrise if the work may be of a sort of danger to persons using the public place; and
- (c) a hoarding, fence or awning is to be removed when it is no longer required for the purpose it was provided.

31. TOILET FACILITIES

Toilet facilities being provided on the work site in accordance with the requirements of Sydney Water.

32. NO USE OF ORGANOCHLORIN PESTICIDES

The use of organochlorin pesticides as termite barriers in new development is prohibited pursuant to Council Policy. Only physical barriers are to be used for termite control. The building shall comply with Australian Standard 3660: Protection of building from subterranean termites - prevention, detection and treatment of infestation.

33. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

At least five (5) days prior to the demolition, renovation work or alterations and additions to any building constructed before 1987, the person acting on the consent shall submit a Work Plan prepared

in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) confirm that no asbestos products are present on the subject land; or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by WorkCover NSW (catalogue WC03561)
- (d) describe the method of demolition;
- (e) describe the precautions to be employed to minimise any dust nuisance; and
- (f) describe the disposal methods for hazardous materials.

34. DEMOLITION & SITE PREPARATION

Hazardous or intractable wastes arising from the demolition process being removed and disposed of in accordance with the requirements NSW WorkCover Authority and the NSW Environment Protection Authority (EPA), and with the provisions of:

- (a) Work Health & Safety Act 2011;
- (b) Work Health & Safety Regulation 2011;
- (c) Protection of the Environment Operations Act 1997 (NSW) and
- (d) NSW EPA Waste Classification Guidelines 2009.

35. DILAPIDATION REPORTS

Dilapidation surveys must be conducted and dilapidation reports prepared by a practising professional engineer (structural) of all buildings, (both internal and external), including ancillary structures located on land adjoining the site and of such further buildings located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration. The survey must identify which properties are within the likely 'zone of influence'.

These properties must include (but are not limited to) **6 and 10 Blake Street, 5 Roberts Street, Rose Bay** and any others identified to be in the zone of influence in the Dilapidation Survey.

The dilapidation reports must be completed and submitted to Council and the Principal Certifying Authority with or prior to the Notice of Commencement and prior to the commencement of any development work. The adjoining building owner(s) must be given a copy of the dilapidation report for their building(s) prior to the commencement of any work.

Please note the following:

- (a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- (b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- (c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.

- (d) Council will not become directly involved in disputes between the Developer, its contractors and the owners of neighbouring buildings.
- (e) In the event that access for undertaking the dilapidation survey is denied the applicant is to demonstrate in writing to the satisfaction of the Council that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

36. ASBESTOS REMOVAL

All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover NSW Friable Class A Asbestos Removal Licence or where applicable a Non-friable Class B (bonded) Asbestos Removal Licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by WorkCover NSW (catalogue no.WC03561) and Waverley's Asbestos Policy.

37. PROHIBITION OF ASBESTOS RE-USE

No asbestos products are to be reused on site.

38. ASBESTOS REMOVAL SIGNAGE

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400m x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.

39. SKIPS AND BINS

No asbestos laden skips or bins are to be left in any public place without the approval of Council.

40. NOTIFICATION OF ASBESTOS REMOVAL

All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.

41. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS

All site works complying with the occupational health and safety requirements of WorkCover NSW.

42. SOIL AND WATER MANAGEMENT PLAN

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to SSROC's Soil and Water Management Brochure and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction. This Plan shall be implemented prior to commencement of any works or activities. All controls in the Plan shall be maintained at all time. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.

43. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVED SOILS

That prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste classification guidelines 2009. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the NSW EPA.

44. STOCKPILES

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath, roadway or neighbouring property and shall be protected with adequate sediment controls.

45. LOCATION OF BUILDING OPERATIONS

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

46. TEMPORARY DIVERSION OF ROOF WATERS

Stormwater from roof areas shall be linked via a temporary downpipe to Council's stormwater system immediately after completion of the roof area. Inspection of the building frame will not occur until this is completed.

47. ALL BUILDING MATERIALS STORED ON SITE

All building materials and any other items associated with the development are to be stored within the confines of the property. No materials are to be stored on Council's footpath, nature strip or road reserve without prior Council approval.

48. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

(a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends;

(b) Sundays and public holidays;

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2000.

49. USE OF HEAVY EARTH MOVEMENT EQUIPMENT

Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

50. BUILDING CODE OF AUSTRALIA

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

51. BUILDING LEGISLATION AMENDMENT (QUALITY OF CONSTRUCTION) ACT - INSPECTIONS (DWELLING HOUSES CLASS 1 AND 10)

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) and in accordance with the Building Legislation (Quality of Construction) Act 2002 and the Environmental Planning and Assessment Regulations. Also, documentary evidence of compliance with the relevant terms of conditions of development consent and standards of construction detailed in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction and/or issue of an Occupation Certificate.

MANDATORY Critical Stage Inspections **MUST** be carried out by the PCA for work undertaken during specified stages of construction and prior to issuing an Occupation Certificate.

The specified **MANDATORY** inspections are:

In the case of a Class 1 and 10 building:

- (a) at the commencement of building work;
- (b) after excavation for, and prior to the placement of, any footings;
- (c) prior to pouring any in-situ reinforced concrete building element;
- (d) prior to covering of the framework for any floor, roof or other building element;
- (e) prior to covering any waterproofing in any wet areas;
- (f) prior to covering any stormwater drainage connections; and
- (g) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required to be undertaken by the PCA:

- (a) sediment control measures prior to the commencement of building work;
- (b) foundation material prior to undertaking building work;
- (c) shoring of excavation works, retaining walls, piers, piling or underpinning works;
- (d) steel reinforcement, prior to pouring concrete;
- (e) prior to covering timber or steel framework for floors, walls and roofing, including beams and columns;
- (f) prior to installation of fire resisting construction systems (ie fire rated ceilings and walls); and

Note: Certification may be required from a suitably qualified person, in relation to specialist matters, verifying that particular works satisfy the relevant requirements of the Building Code of Australia and standards of construction.

52. CERTIFICATE OF SURVEY - LEVELS

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished

ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

53. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the actual situation of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

54. ENCROACH BEYOND THE BOUNDARIES

No portion of the proposed new building including the footings and roof eaves, to encroach beyond the boundaries of the subject property.

55. IN-SINK WASTE DISPOSAL SYSTEMS

The installation of in-sink waste disposal systems is prohibited.

56. WATER PROOFING

The floor and wall surfaces of the proposed wet areas being protected against water in accordance with the Building Code of Australia. The wet areas are to be examined and certified by an Accredited Certifier.

Note: Water proofing is to be in accordance with AS 3740 - Water Proofing of Wet Areas within residential buildings.

57. HOT TAP WATER SCALDING

To reduce the incidence of hot tap water scalding and, for the purpose of energy efficiency, all new or replacement hot water systems shall deliver hot water to a maximum 50 degrees Celsius at the outlet of all sanitary fixtures used for personal hygiene.

58. SMOKE ALARM SYSTEM

A smoke alarm system is to be installed within the building in accordance with the requirements of the Building Code of Australia.

59. SERVICE PIPES

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

60. WORK OUTSIDE PROPERTY BOUNDARY

All work outside the property boundary is to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense.

61. TREE PRESERVATION

A tree preservation order exists in the Waverley Local Government Area. Before any site can be developed, an application must be made in writing to Council prior to removal of any other tree/trees not identified in this Development Approval. Should permission be granted, the applicant will receive a permit to proceed.

62. VEHICLE TO BE PARKED WITHIN THE SITE

Any vehicle utilising the garages and hard stand area is to be parked fully within the confines of the site and is not to park over the public footway at any time.

63. POOL DRAINAGE

Waste waters from the proposed pool being discharged into Sydney Water's sewerage system and in this regard, approved plans **MUST** be submitted to Sydney Water at least fourteen (14) days prior to commencement of building operations.

64. CONSTRUCTION OF SWIMMING POOLS

The following applies to the construction of swimming pools:

- (a) Reinforcement is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete;
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool being installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules;
- (c) To minimise the likelihood of accidental drowning, the swimming pool is to be provided with a child resistant safety fence, designed and constructed in accordance with the requirements of Australian Standard AS 1926.1-2012 Swimming pool safety - Safety barriers for swimming pools. This fencing is to be erected and inspected by the Principal Certifying Authority prior to the pool being filled with water; and
- (d) A final inspection of the completed pool is to be carried out by the Principal Certifying Authority prior to the pool being filled with water.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

65. FINAL OCCUPATION CERTIFICATE

The Principal Certifying Authority prior to occupation or use of the development must issue a final Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning & Assessment Act, 1979 have been satisfied.

66. POOL SIGN

An approved sign outlining details of resuscitation techniques for adults, children and infants must be placed in a prominent position, close to the pool prior to filling the pool with water. Signs are available from Council's Planning & Environmental Services Department.

67. SWIMMING/SPA POOL PUMP - RESTRICTIONS

Swimming/spa pool pumps are restricted from being used and operated between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2008. On the spot fines may be imposed should breaches occur.

68. SWIMMING POOL REGISTRATION

The swimming pool is to be registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>) and a Certificate of Compliance obtained for the pool barrier is required to be submitted to Council prior to the issue of an Occupation Certificate.

69. LANDSCAPE PLAN

The site is to be landscaped in accordance with the approved landscaped plan with the landscape works completed prior to the issue of the Occupation Certificate.

70. LIGHTING

Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.

71. SUBDIVISION

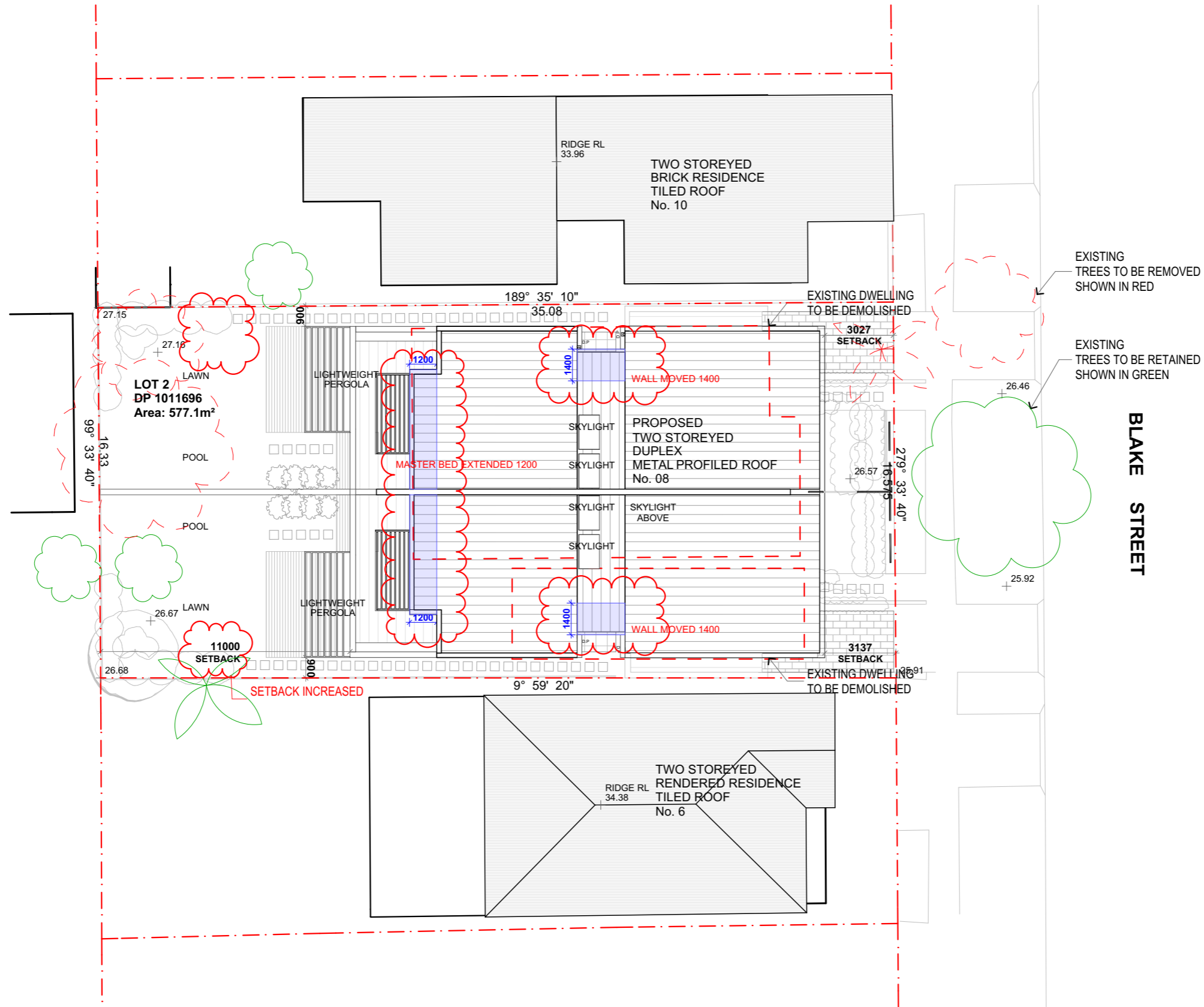
A Subdivision Certificate must be obtained from Council in accordance with Section 109C(d) of the Environmental Planning and Assessment Act, 1979 prior to the registration of the subdivision plans.

72. SYDNEY WATER

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website www.sydneywater.com.au/customer/urban/index or telephone 13 20 92.**

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the subdivision plan/occupation of the development.



01 SITE PLAN
1:200

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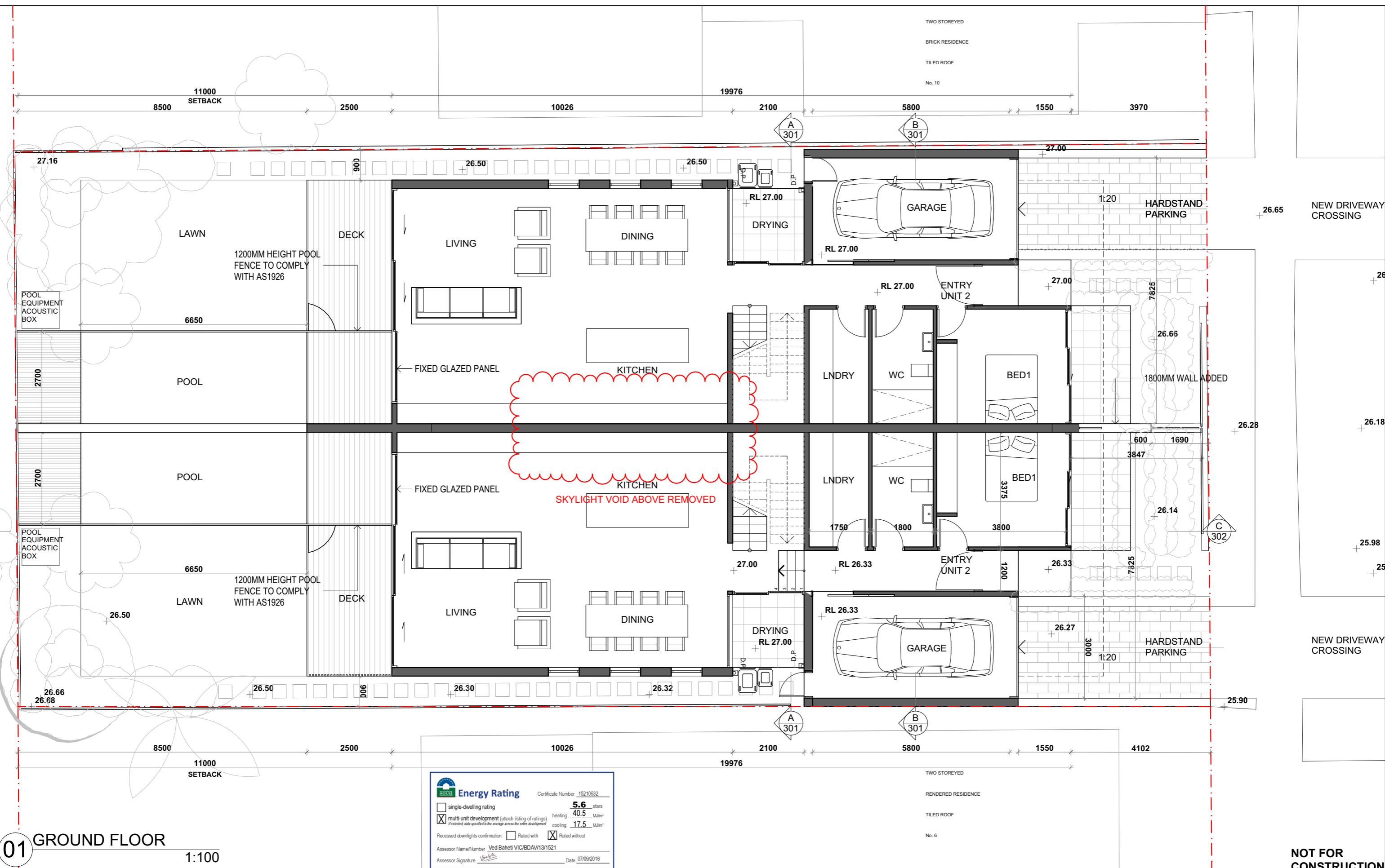
LEGEND:

	INDICATES CHANGES TO BUILDING ENVELOPE
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PROPOSED DUPLEX		
REV	DATE	DESCRIPTION
A	30-Nov-17	

8 BLAKE STREET, ROSE BAY, 2029		PROJECT No. 16067
STAGE: SECTION 96	DRAWING TITLE: SITE PLAN	DRAWING No. S96-100
SCALE @ A3: 1:200	CLIENT: MORGAN PROJECTS CHECKED: HHH DRAWN: DAP APPROVED: HHH	REVISION: A 61

30-Nov-17 8:32 AM T:\21000 PROJECTS\16067_8 Blake St, Rose Bay\8 - CURRENT DRAWING FILES\SRH\16067_8 Blake St, Rose Bay_S96.dwg



01 GROUND FLOOR
1:100

Energy Rating Certificate Number 15210632

single-dwelling rating **5.6** stars

multi-unit development (attach listing of ratings) heating **40.5** MJ/m²

If selected, data specified is the average across the entire development cooling **17.5** MJ/m²

Recessed downlights confirmation: Rated with Rated without

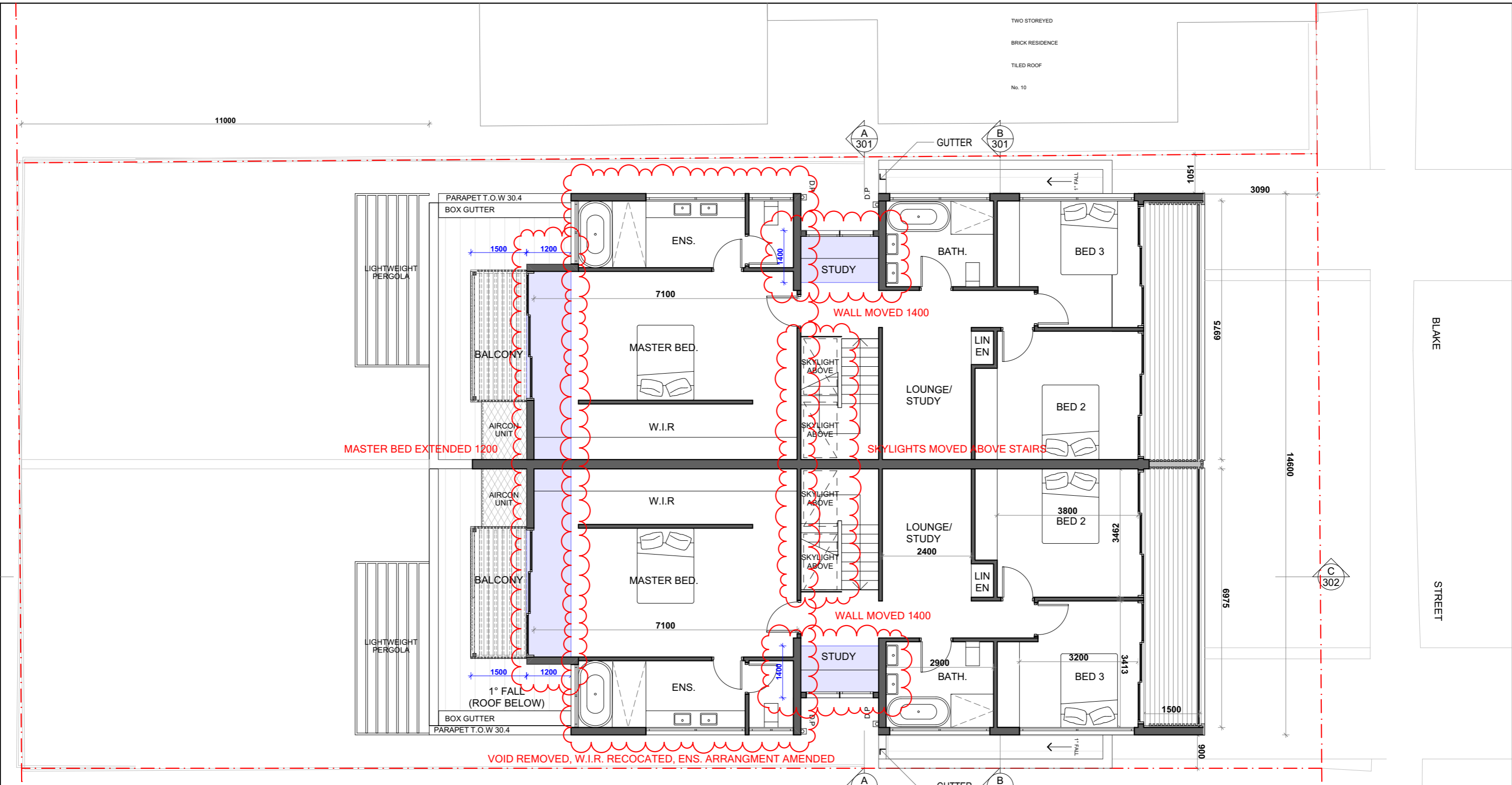
Assessor Name/Number Ved Baheti VIC/BDAA/13/1521

Assessor Signature *Ved Baheti* Date 07/09/2016

BUREAU SRH architecture STUDIO 3 2 VERONA STREET PADDINGTON NSW 2021 AUSTRALIA ABN: 94 115 880 834 TEL: +61 2 9380 4666 admin@bureau.srh.com		PROPOSED DUPLEX		8 BLAKE STREET, ROSE BAY, 2029		PROJECT No: 16067																							
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01 FIRST FLOOR

1:100

Energy Rating Certificate Number 15210632

single-dwelling rating **5.6** stars

multi-unit development (attach listing of ratings) heating **40.5** MJ/m²

cooling **17.5** MJ/m²

Recessed downlights confirmation: Rated with Rated without

Assessor Name/Number: Ved Baheti VIC/BD4V/13/1521

Assessor Signature: *Ved Baheti* Date: 07/09/2016

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PROPOSED DUPLEX		
REV	DATE	DESCRIPTION
A	30/11/2017	

8 BLAKE STREET, ROSE BAY, 2029 PROJECT No. 16067

STAGE: **SECTION 96** DRAWING TITLE: **FIRST FLOOR PLAN** DRAWING No. **S96-105**

SCALE AT A3: **1:100** CLIENT: **MORGAN PROJECTS** CHECKED: **HHH** REVISION: **A 63**

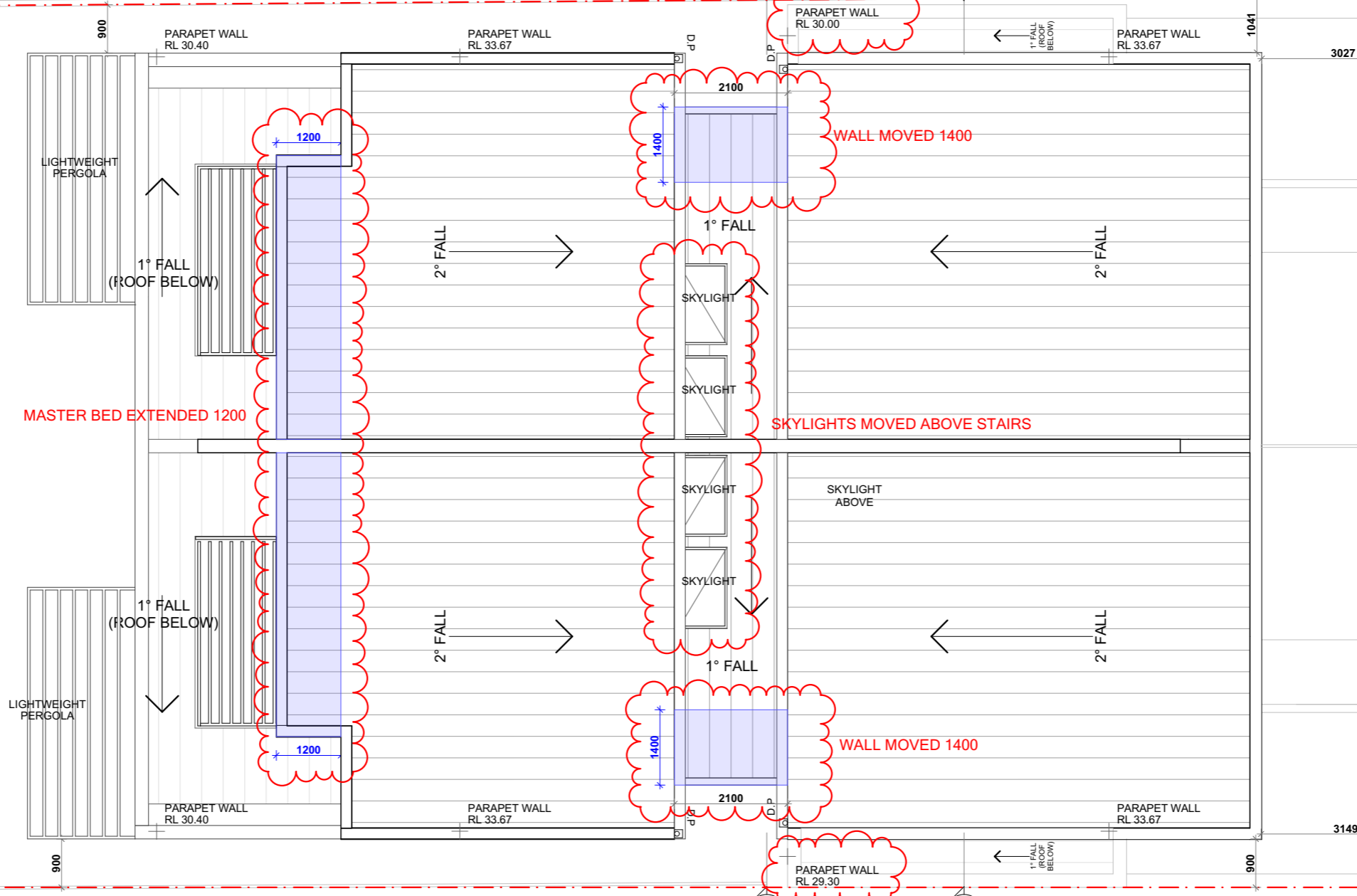
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TWO STOREYED
BRICK RESIDENCE
TILED ROOF
No. 10

PARAPET WALL INCREASED IN HEIGHT BY 300mm



BLAKE STREET

Energy Rating Certificate Number 15210632

single-dwelling rating **5.6** stars

multi-unit development (attach listing of ratings) heating **40.5** MJ/m²

If selected, data specified is the average across the entire development cooling **17.5** MJ/m²

Recessed downlights confirmation: Rated with Rated without

Assessor Name/Number Ved Baheti VIC/BD/AV/13/1521
Assessor Signature *Ved Baheti* Date 07/09/2016

TWO STOREYED
RENDERED RESIDENCE
TILED ROOF
No. 6

PARAPET WALL INCREASED IN HEIGHT BY 200mm

01 ROOF PLAN 1:100

NOT FOR CONSTRUCTION

PROJECT No. 16067
DRAWING No. **S96-106**
REVISION: **A 64**

BUREAU SRH architecture STUDIO 3 2 VERONA STREET PADDINGTON NSW 2021 AUSTRALIA ABN: 94 115 880 834 TEL: +61 2 9380 4666 admin@bureau.srh.com		PROPOSED DUPLEX		8 BLAKE STREET, ROSE BAY, 2029		PROJECT No. 16067																		
NOMINATED ARCHITECT: SIMON HANSON # 6739 THIS DRAWING SHALL BE READ IN CONJUNCTION WITH ALL OTHER ARCHITECTURAL & CONSULTANT DRAWINGS & SPECIFICATIONS & WITH SUCH OTHER WRITTEN INSTRUCTIONS OR SKETCHES AS MAY BE ISSUED DURING THE COURSE OF THE CONTRACT NOTIFY ARCHITECT OF ANY DISCREPANCIES BEFORE PROCEEDING WITH WORK MATERIALS & WORKMANSHIP SHALL BE IN ACCORDANCE WITH THE SPECIFICATION, CURRENT SAA CODES, BUILDING REGULATIONS & THE REQUIREMENTS OF ANY OTHER RELEVANT STATUTORY AUTHORITIES CONTRACTORS SHALL VERIFY ALL DIMENSIONS ON SITE AND NOTIFY ARCHITECT OF ANY DISCREPANCIES USE FIGURED DIMENSIONS ONLY COPYRIGHT, ALL RIGHT RESERVED THIS DRAWING IS COPYRIGHT AND CONFIDENTIAL APART FROM ANY FAIR DEALINGS AS PERMITTED UNDER COPYRIGHT & MAY NOT BE REPRODUCED BY ANY PERSON WITHOUT WRITTEN PERMISSION OF THE ABOVE COMPANY & IS NOT TO BE USED IN ANY MANNER PREJUDICIAL TO THE INTERESTS OF THAT COMPANY THIS DRAWING AND ATTACHED SHEET REMAIN THE PROPERTY OF BUREAU SRH PTY LTD		LEGEND: INDICATES CHANGES TO BUILDING ENVELOPE		<table border="1"> <thead> <tr> <th>REV</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>30/11/2017</td> <td></td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>		REV	DATE	DESCRIPTION	A	30/11/2017											STAGE: SECTION 96 DRAWING TITLE: ROOF PLAN SCALE @ A3: 1:100		CLIENT: MORGAN PROJECTS CHECKED: HHH DRAWN: DAP APPROVED: HHH	
REV	DATE	DESCRIPTION																						
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10/12/2017 10:22:17 Z:\0000\PROJECTS\SRH\007 - 8 Blake St, Rose Bay - SRH B.dwg

No 06

No 8

No 10

LEGEND

- CR-01 CEMENT RENDER 01
 - CR-02 CEMENT RENDER 02
 - TGD TIMBER FINISH GARAGE DOOR
 - ADW ALUMINIUM DOOR/WINDOW
 - MC METAL CLADDING
 - TB TIMBER BATTENS
 - FG FIXED GLAZING
 - GBAL GLASS BALUSTRADE
- NOTE: SEE MATERIALS BOARD FOR FINISHES

Energy Rating Certificate Number 15210532

single-dwelling rating **5.6** stars

multi-unit development (attach listing of ratings) heating **40.5** MJ/m²

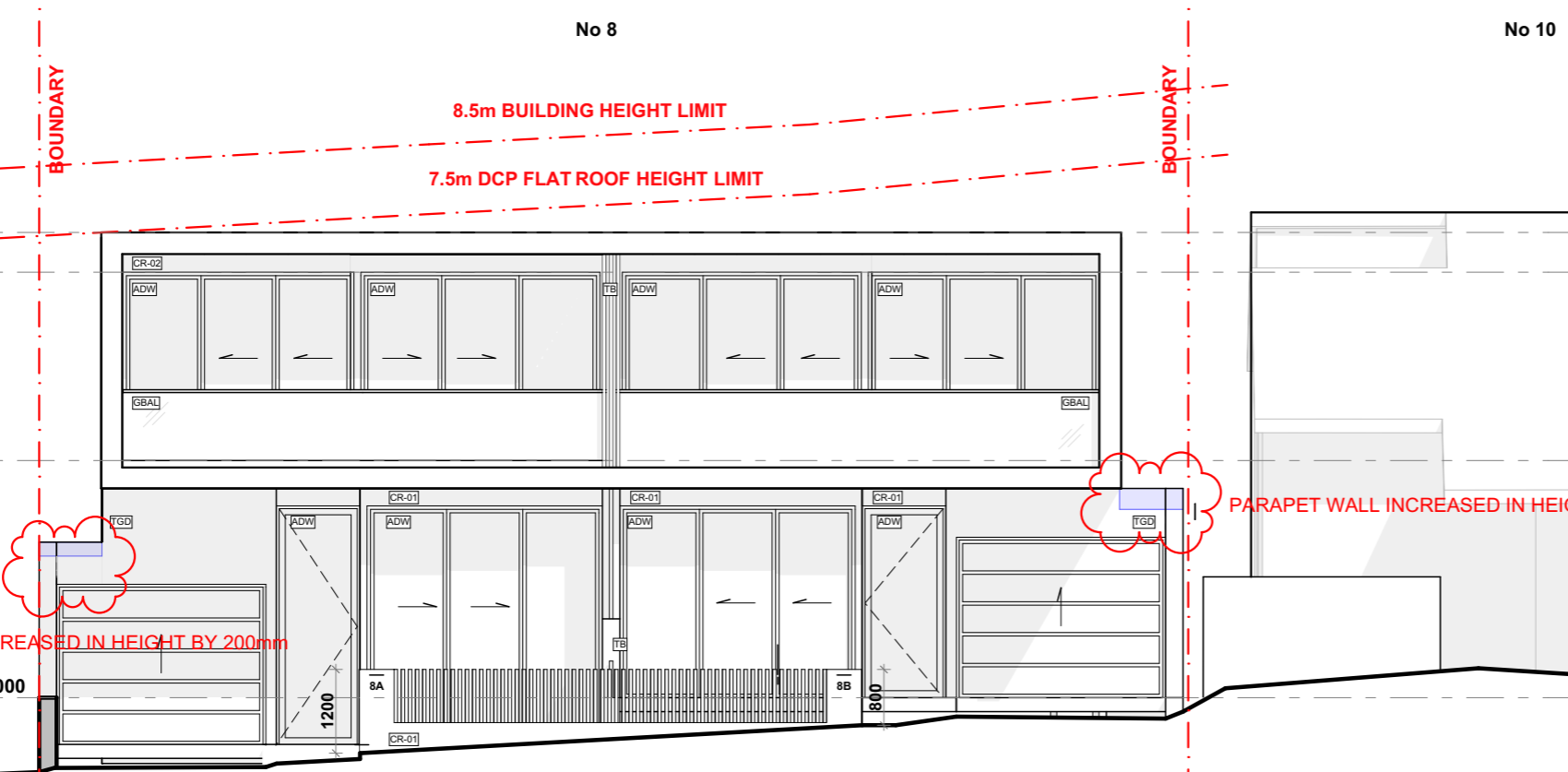
if selected, data specified is the average across the entire development cooling **17.5** MJ/m²

Recessed downlights confirmation: Rated with Rated without

Assessor Name/Number Ved Baheti VIC/BDAA/13/1521

Assessor Signature *Ved Baheti* Date 07/09/2016

ROOF RL: 33.670
 CEILING RL: 33.100
 2700
 FIRST FLOOR RL: 30.400
 3400
 GROUND FLOOR RL: 27.000



PARAPET WALL INCREASED IN HEIGHT BY 300mm

PARAPET WALL INCREASED IN HEIGHT BY 200mm

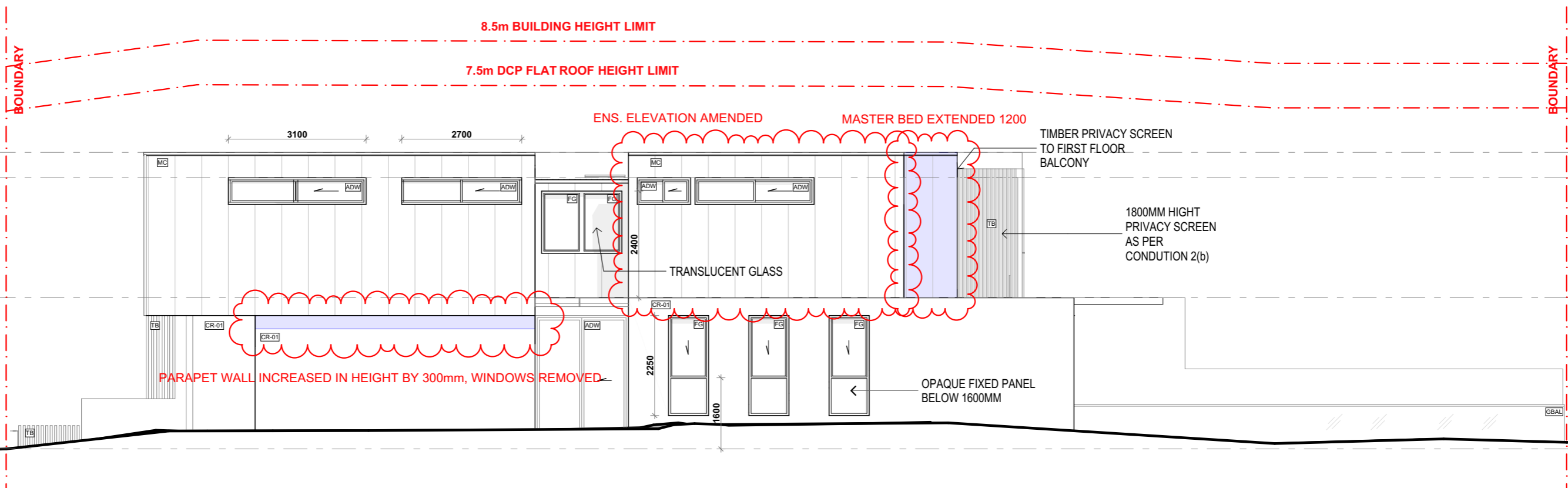
01 SOUTH ELEVATION

1:100

8.5m BUILDING HEIGHT LIMIT

7.5m DCP FLAT ROOF HEIGHT LIMIT

ROOF RL: 33.670
 CEILING RL: 33.100
 2700
 FIRST FLOOR RL: 30.400
 3400
 GROUND FLOOR RL: 27.000



PARAPET WALL INCREASED IN HEIGHT BY 300mm, WINDOWS REMOVED

ENS. ELEVATION AMENDED

MASTER BED EXTENDED 1200

TIMBER PRIVACY SCREEN TO FIRST FLOOR BALCONY

1800MM HIGHT PRIVACY SCREEN AS PER CONDUCTION 2(b)

OPAQUE FIXED PANEL BELOW 1600MM

02 EAST ELEVATION

1:100

NOT FOR CONSTRUCTION

BUREAU SRH | architecture STUDIO 3 | 2 VERONA STREET | PADDINGTON | NSW | 2021 | AUSTRALIA |
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LEGEND:

REV	DATE	DESCRIPTION
A	30-Nov-17	

PROPOSED DUPLEX

REV	DATE	DESCRIPTION
A	30-Nov-17	

8 BLAKE STREET, ROSE BAY, 2029		PROJECT No: 16067
STAGE: SECTION 96	DRAWING TITLE: S + E ELEVATIONS	DRAWING No: S96-200
SCALE @ A3: 1:100	CLIENT: MORGAN PROJECTS	CHECKED: HHH
	DRAWN: DAP	APPROVED: HHH
		REVISION: A 65

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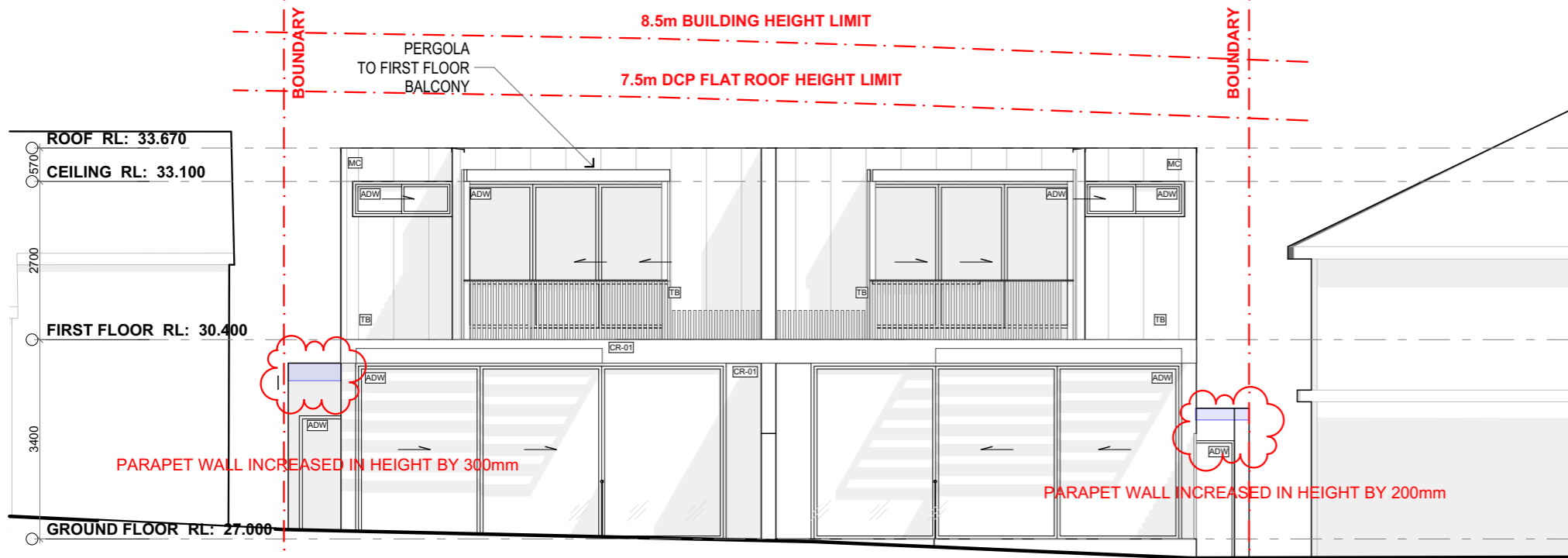
No 08

No 8

No 6

LEGEND

- CR-01 CEMENT RENDER 01
 - CR-02 CEMENT RENDER 02
 - TGD TIMBER FINISH GARAGE DOOR
 - ADW ALUMINIUM DOOR/WINDOW
 - MC METAL CLADDING
 - TB TIMBER BATTENS
 - FG FIXED GLAZING
 - GBAL GLASS BALUSTRADE
- NOTE: SEE MATERIALS BOARD FOR FINISHES



01 NORTH ELEVATION
1:100

Energy Rating Certificate Number 15210632

single-dwelling rating

multi-unit development (attach listing of ratings)

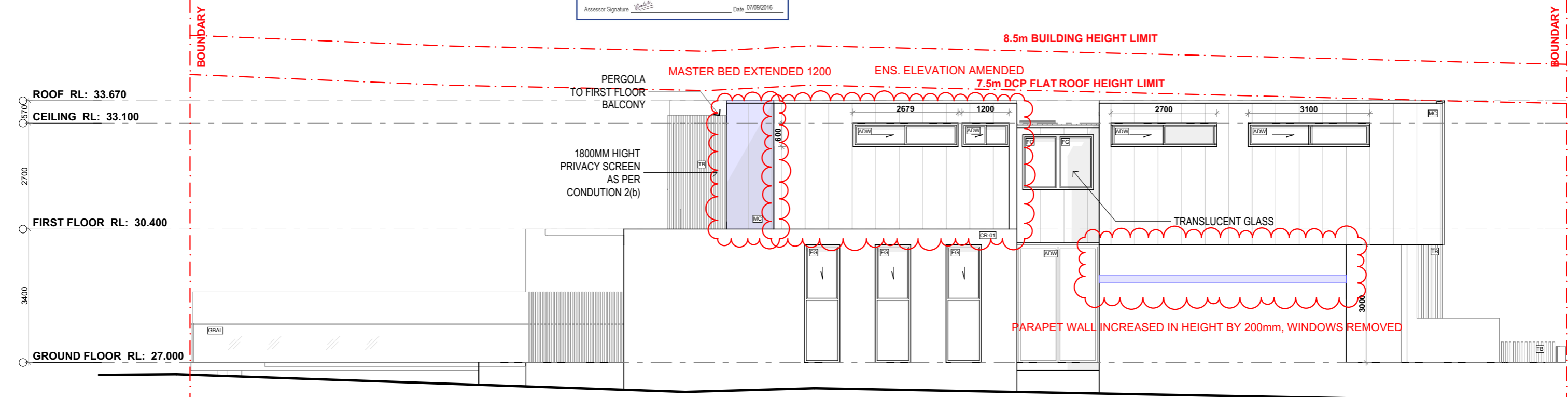
heating 40.5 MJ/m²

cooling 17.5 MJ/m²

Recessed downlights confirmation: Rated with Rated without

Assessor Name/Number Ved Baheti VIC/BD/AV/13/1521

Assessor Signature *Ved Baheti* Date 07/09/2016

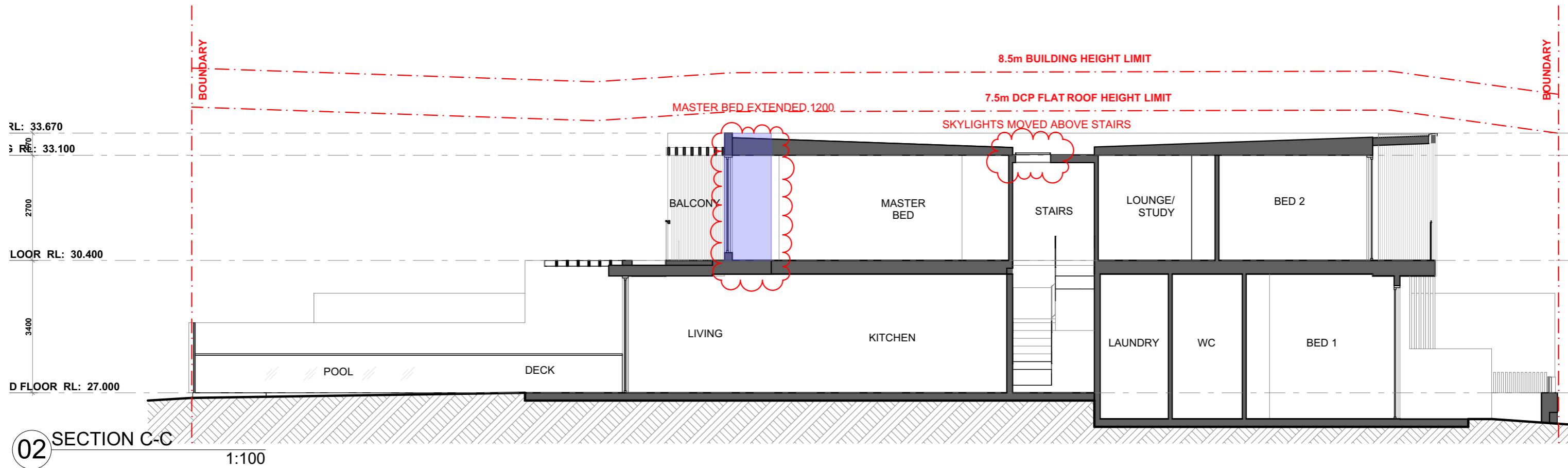


02 WEST ELEVATION
1:100

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		REV DATE DESCRIPTION		SCALE @ A3:		CLIENT: MORGAN PROJECTS CHECKED: HHH	
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Energy Rating Certificate Number 15210632

single-dwelling rating

multi-unit development (attach listing of ratings) heating 40.5 MJ/m² cooling 17.5 MJ/m²

Recessed downlights confirmation: Rated with Rated without

Assessor Name/Number Ved Baheti VIC/BD/AV/13/1521

Assessor Signature *Ved Baheti* Date 07/09/2016

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BUREAU SRH architecture STUDIO 3 2 VERONA STREET PADDINGTON NSW 2021 AUSTRALIA ABN: 94 115 880 834 TEL: +61 2 9380 4666 admin@bureau.srh.com	PROPOSED DUPLEX		8 BLAKE STREET, ROSE BAY, 2029		PROJECT No: 16067																		
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REV	DATE	DESCRIPTION																					
A	30-Nov-17																						
		SCALE @ A3: 1:100	CLIENT: MORGAN PROJECTS CHECKED: HHH DRAWN: DAP APPROVED: HHH	REVISION: A 67																			

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Report to the Waverley Development Assessment Panel

Application number	DA-531/2015/A
Site address	67-69 Penkivil Street, Bondi
Proposal	Modification to approved residential flat building including internal reconfiguration, additional bay windows, enlarge basement and attic level with offer to enter a Planning Agreement
Approved development description	Demolition of existing dwellings and construction of a new four-storey residential flat building containing 12 units, basement car park and strata subdivision
Date of lodgement	20 December 2016
Owner	Ciderbridge Pty Ltd
Applicant	MHN Design Union Pty Ltd
Submissions	Two submissions
Issues	FSR; Transport and parking; Excavation; Overshadowing; Pedestrian access and amenity
Recommendation	That the application be APPROVED



1. PREAMBLE

1.1 Site and Surrounding Locality

The sites are identified as Lots 1, 2 and 3, DP 736495 known as 67 Penkivil Street, and Lot 1 DP 529701 known as 69 Penkivil Street, Bondi. The sites are located on the western side of Penkivil Street approximately 70m north of the intersection with Bondi Road.

The combined sites (the site) are rectangular in shape with north and south (side) boundaries measuring 60.05m and 59.51m respectively and east (front) and west (rear) boundaries measuring 20.27m and 20.105m respectively. The combined sites have an area of 1208.5m² and a fall of 2-3m from the rear to the front.

The site is occupied by a pair of two-storey semi-detached dwellings with vehicular access to a double carport provided from Penkivil Street at the front. The site also contains a single storey outbuilding within the rear yard.

The subject site is adjoined by four-storey residential flat buildings on both sides and dwelling houses at the rear. The eastern side of Penkivil Street is characterised by residential flat buildings up to nine storeys in height whilst the western side has residential flat buildings ranging from four to nine storeys in height.



Figure 1: Combined site viewed from Penkivil Street (Image Google Earth)



Figure 2: Subject site frontage



Figure 3: Rear elevation of the building



Figure 4: Outbuilding within the rear setback

1.2 Details of Approved Development

DA-531/2015 for the demolition of the existing dwellings on the site and construction of a new four-storey residential flat building containing 12 units, basement car park and strata subdivision was approved by the Waverley Development Assessment Panel (WDAP) on 10 June 2016. Condition No. 2 of this consent requires the following:

2. GENERAL MODIFICATIONS – ARCHITECTURAL DESIGN RESOLUTION

The plans are to be amended as follows and additional information submitted:

- (a) *Privacy screening, to a height of at least 1800mm from finished floor level, must be provided to all side boundaries of all balconies where there are no solid walls proposed. The screening must extend for the full depth of each balcony and shall be fixed so that views into adjoining properties are inhibited.*
- (b) *Ceiling fans (to be shown on the drawings) should be provided in all habitable rooms.*
- (c) *Large scale part elevations/part sections will need to be provided, detailing the intended façade design, providing indicative construction details and representing proposed materials and colours. In this regard, 1:50 scale sections and elevations of the facades are required.*

- (d) *The ground floor is to be amended to relocate the pedestrian entry generally to the centre of the building between Units G01 and G02.*

The amendments are to be approved by Council prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

Conditions 2(a) to (c) were recommended by the Development and Building Unit (DBU) whilst condition 2(d) was imposed by the WDAP.

After preliminary assessment of the current application, **DA-531/2015/A**, the application was deferred on 16 March 2017 for the following reasons:

- *The pop-out windows in the living areas (the most eastern and western pairs) should be deleted from both levels.*
- *The common stair to the top floor should be redesigned so that it stays within the roof form.*
- *The fully glazed stairwell should be detailed with the uppermost panel being openable to exhaust hot air when afternoon summer sun reaches the glass.*
- *Reduce the overhang of the roof on the east and west (currently about 2m of overhang each end). The balcony is the level below and could have more effective shelter / balcony roof and will improve the street elevation.*
- *All habitable rooms should have ceiling fans shown on the drawings.*
- *Solar protection of windows, particularly on the north elevation, is inconsistent and needs to be rectified. Weather protection should also be considered for the protruding windows.*
- *The stacked combination of ceramic tiles, metal cladding, timber cladding, metal sandwich panel, obscured glass cladding and attic roof cladding seems overstated. The colours and materials are not well defined on the External Finishes drawing.*
- *Large scale drawings that illustrate the construction proposed should be submitted as part of the application.*
- *Storage should be provided within the basement car park and within each unit to meet the requirements of the Apartment Design Guide.*
- *Condition 42 requires 3 motorcycle spaces which are not shown on the plans.*
- *Condition 48 requires basement storage which is not shown on the plans.*
- *Condition 51 requires storage for bins which is not shown on the plans.*
- *Condition 5 requires amendments to the landscape plan that are not shown on the plans.*

Amended plans were received by Council on 2 May 2017 and form the subject of this assessment report.

1.3 Proposal

The application has been lodged as a section 96(2) application and provides for the following modifications to the approved development:

- Enlargement of the size of the basement car park and associated excavation to increase the number of parking spaces from 17 to 21 spaces.
- Extension of the approved attic to provide a full upper floor level providing two additional three-bedroom units. The double level units approved within the attic and connected to the level below are modified to individual units contained on a single level (refer to next criteria).
- Units G.03, G.04, 2.03 and 2.04 reduced from 3-bedroom to 2-bedroom units. Unit 2.02 converted to a 1-bedroom unit. Units 2.02, 2.03 and 2.04 converted to single level units.

- Extension of the lobby, common stairs and lift to the roof level to provide access to the two new units at Level 3.
- Provision of separate entries/gates to the courtyard space of the ground floor units fronting the street (G.01 and G.02).
- The width of the balconies at the upper floor levels are to be reduced marginally to provide larger living areas.
- The provision of bay windows on the side elevations of the approved building above ground level.
- Internal alterations including such amendments as additional exit stairs, minor reconfiguration of units, alterations to fenestration on all elevations.

The modified proposal will result in an additional two units overall providing 14 units within the development. The unit mix will be 4 x 1-bedroom, 8 x 2-bedroom and 2 x 3-bedroom units.

Consent is also sought for Condition 2(a) of the original consent to be modified to provide side boundary screening of the balconies only at the rear and for Condition 2(d) to be deleted to allow the main lobby and pedestrian entry to the building to be centrally located on the site.

There are a number of other associated conditions which refer to the number of units, car spaces, plan numbers, amendments etc that are also proposed to be modified and/or deleted as part of this application.

2. ASSESSMENT

The following matters are to be considered in the assessment of this modification application under sections 79C and 96 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1 Section 96 Considerations

Section 96 (2) applications - the modifications, if approved, are substantially the same development as the original consent. Council has consulted any relevant Minister or Authority and notified the application and considered submissions as discussed further in the report.

2.2 Section 79C (1)(a) Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning polices (SEPPs), and development control plans.

2.2.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A standard condition is recommended ensuring the measures detailed in the BASIX Certificate are implemented.

2.2.2 SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

2.2.3 SEPP 65 Design Quality of Residential Flat Development

The original Section 96 application was referred to the Joint Randwick/Waverley SEPP 65 Design Review Panel on 13 February 2017. The Panel's comment of the proposed development with regard to the nine design quality principles under SEPP 65 are set out in **Table 1** below. The amended plans were not referred to the Panel again and a Planning comment is included in the table below addressing each of the Panel's comments in regards to the amended proposal:

Table 1: Assessment against the Nine Design Quality Principles under SEPP 65

Principle	Panel's Comment	Planning Comment
1. Context & Neighbourhood	<i>The neighbourhood has high amenity as it is well served by public transport, close to shops, services and open space, and is a suitable location for more apartments.</i>	Agreed.

Principle	Panel's Comment	Planning Comment
2. Built form and Scale	<p><i>The scale and built form is generally consistent with the controls except that a part of the current proposal exceeds the 12.5m LEP height limit by up to 600mm. The Panel considers this acceptable if other parts of the proposal are reduced in bulk and impacts on neighbours are reduced accordingly:</i></p> <ul style="list-style-type: none"> - <i>Reduce the width of the north west steel framed awning and add some awning/weather.</i> - <i>Protection/sunshading to the north facing windows on the east end of the Ground Floor to the 2.7m high doors.</i> - <i>The proposal has pop out windows (L1 and L2, north elevation and south elevation). The ones in the living rooms (the most eastern and western pairs) should be deleted from both levels.</i> - <i>Redesign the common stair to the top floor so that it stays within the roof form</i> - <i>Reduce the overhang of the roof on the east and west (currently about 2m of overhang each end). The balcony is the level below and could have more effective shelter / balcony roof and the street elevation will be better for it.</i> - <i>Move the top floor to the north to sit on the walls below and increase the separation of the top floor from the southern neighbour.</i> <p><i>A number of these recommendations were made at DA stage and the Panel considers the reduction of bulk an important issue for this site.</i></p>	Refer to section following this table for discussion regarding the amended plans.
3. Density	<p><i>The DA met the FSR control of 0.9:1 and now 1.038:1 is proposed. The Panel would support the extra floor space if the bulk of the building is reduced as noted above.</i></p>	The building has an acceptable bulk with the amendments requested predominantly being incorporated into the amended plans.

Principle	Panel's Comment	Planning Comment
4.Sustainability	<p><i>All apartments should enjoy cross ventilation, however the Panel is concerned with the window design that seems to have been chosen for aesthetic reasons rather than to achieve good light and ventilation options for the occupants.</i></p> <p><i>All habitable rooms should have ceiling fans shown on the drawings. Fans help to reduce the need for air-conditioning and can substantially increase comfort levels and reduce energy consumption.</i></p> <p><i>Solar protection of windows, particularly on the north elevation, is inconsistent and needs to be rectified. Weather protection should also be considered for the protruding windows.</i></p> <p><i>The fully glazed stairwell should be detailed with the uppermost panel being openable to exhaust hot air when afternoon summer sun reaches the glass.</i></p>	<p>The windows on the front and rear are substantial in size however in the original approval smaller slot windows were provided on the side elevations. The narrow slot windows were used due to windows on the opposing elevations of adjoining buildings and the need to maintain privacy. Therefore although larger windows on the side elevations would have resulted in greater amenity within the development, it would be at the loss of amenity (privacy) to the neighbouring buildings. On balance, the slot windows proposed were considered acceptable.</p> <p>The amended application alters the slot windows to pop-out windows orientated toward the front of the site. This will further reduce privacy impacts upon the neighbouring property and enables a larger window pane than the approved slot windows. In this regard, the amended windows are considered appropriate.</p> <p>Ceiling fans were required by condition 2(b) of the original consent and are shown on the amended plans. Accordingly condition 2(b) can be deleted as part of this application.</p> <p>The amended plans provide solar and weather protection to all pop-out windows on the northern elevation.</p> <p>The amended plans provide the uppermost panel of the common stairs as openable.</p>
5. Landscape	<p><i>Satisfactory. The addition of stairs from the western private open spaces to the common open space is acceptable.</i></p>	<p>Agreed.</p>

Principle	Panel's Comment	Planning Comment
6. Amenity	<i>The apartments are reasonably well designed and are slightly in excess of the minimum areas recommended in the ADG. Generally they should offer high amenity.</i>	Agreed.
7. Safety	<i>Satisfactory.</i>	Agreed.
8. Housing Diversity and Social Interaction	<i>Satisfactory.</i>	Agreed.
9. Aesthetics	<p><i>This overall is a good design, but it runs the risk of being overcomplicated. The stacked combination of ceramic tiles, metal cladding, timber cladding, metal sandwich panel, obscured glass cladding and attic roof cladding seems overstated. The colours and materials are not well defined on the External Finishes drawing - it is more like a mood board than a DA or Section 96 document.</i></p> <p><i>Large scale drawings that illustrate the construction proposed should be submitted as part of the application</i></p>	<p>The Section 96 application does not include changes to the materials and finishes. These were approved as part of the original application and cannot be revisited now.</p> <p>Condition 2(c) of the original consent requires the provision of large scale drawings.</p>

Built form and scale

The amended plans address the majority of issues raised by the SEPP 65 Panel as follows:

- **Panel comment:** *Reduce the width of the north west steel framed awning and add some awning/weather protection/sunshading to the north facing windows on the east end of the Ground Floor to the 2.7m high doors.*

Planning comment: The awning at the ground floor level at the rear was approved as part of the original application and does not form part of this modification application.

- **Panel comment:** *The proposal has pop out windows (L1 and L2, north elevation and south elevation). The ones in the living rooms (the most eastern and western pairs) should be deleted from both levels.*
- **Planning comment:** The pop-out windows to living areas on Levels 1 and 2 have been deleted and replaced with regular windows.
- **Panel comment:** *Redesign the common stair to the top floor so that it stays within the roof form.*

Planning comment: The flat roof form of the original roof over the common stairs has been amended to a skillion to be consistent with the main roof design of the building. The common stairs are now contained within the roof form.

- **Panel comment:** *Reduce the overhang of the roof on the east and west (currently about 2m of overhang each end). The balcony is the level below and could have more effective shelter / balcony roof and the street elevation will be better for it.*

Planning comment: The Architect has advised that *‘the depth of the overhang does not extend beyond the neighbouring buildings and comfortably fits within the front setbacks. This element also helps shelter the top floors. Architecturally it helps unify the building adding depth to the front elevation and we believe is integral to this design’*. Notwithstanding, the overhang was approved as part of the original development and the relationship to the balconies on the second floor level is not part of the modification application.

- **Panel comment:** *Move the top floor to the north to sit on the walls below and increase the separation of the top floor from the southern neighbour.*

Planning comment: The modified proposal incorporates a minor setback of the upper floor level from the level below providing minor relief to the bulk of the northern wall of the proposal. The overshadowing and privacy impacts of the proposal are considered reasonable (discussed in detail in subsequent sections of this report) and as such relocating the top floor further to the north is not considered necessary.

Given the above analysis, it is considered that the amended plans address the relevant issues raised by the SEPP 65 Panel and can be supported.

Clause 6A Development control plans cannot be inconsistent with Apartment Design Guide

Clause 6A of SEPP 65 requires that DCP’s cannot be inconsistent with the Apartment Design Guide (ADG) in respect of the following:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. DCP 2012 contains provisions in relation to the above criteria and as such, these provisions of the DCP no longer have effect.

An assessment against the provisions within the ADG is provided in the table below and these controls have been deleted from Table 5 relating to the DCP as they are no longer relevant.

Table 2: Apartment Design Guide

Design Criteria	Compliance	Comment
3F Visual privacy		
<ul style="list-style-type: none"> Min separation distances from buildings to side and rear boundaries: Up to 12m (4 storey) – 6m habitable & 3m non-habitable 	No	The approved development provides 4.5m side boundary setbacks. The proposal will slightly encroach upon this setback only by way of the bay windows extending marginally beyond the approved envelope. Given the small size of the windows and that the window panes are orientating views away from adjoining properties, this minor encroachment is considered reasonable.
<ul style="list-style-type: none"> Increased separation of 3m where adjoins a lower density zone 	N/A	The ADG requires 9m separation from the proposed building to the rear boundary. The proposed modifications do not alter the approved rear setback of 16m.
4A Solar and daylight access		
<ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight between 9am-3pm mid-winter A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter. 	Yes	<ul style="list-style-type: none"> The amended proposal provides 71% of units with at least 2 hours mid-winter (approved scheme provided 75%). All units are dual aspect and as such all receive some direct sunlight mid-winter. <p>The amended proposal is consistent with the remaining objectives of this part of the ADG ensuring that daylight access is satisfactory and incorporating shading in the warmer months.</p>
4B Natural ventilation		
<ul style="list-style-type: none"> All habitable rooms are naturally ventilated Number of units with natural cross ventilation is maximised: <ul style="list-style-type: none"> At least 60% of units naturally ventilated 	Yes	<ul style="list-style-type: none"> All habitable rooms are provided with at least one window for natural ventilation. All units have dual aspects and in this regard, 100% of the units can be naturally cross ventilated. <p>The proposal uses a combination of full height openable doors, pop-out windows and skylights to achieve appropriate cross ventilation within the building.</p>
4C Ceiling heights		
<ul style="list-style-type: none"> Habitable rooms – 2.7m Non-habitable rooms – 2.4m 	Yes	The ceiling heights within all units comply with the minimum requirement of 2.7m including the additional two units proposed for Level 3.
4D Apartment size and layout		
<p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"> Studio = 35 m² 	Yes	All units have internal areas in excess of the minimum ADG requirements. In this regard, the proposed modified units sizes and layout are

Design Criteria	Compliance	Comment
<ul style="list-style-type: none"> • 1 Bed = 50 m² • 2 Bed = 70 m² • 3 Bed = 90 m² • Add 5m² for each additional bathroom (above 1) • Add 12m² for each additional bedroom <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p>		<p>acceptable.</p> <p>All new rooms are provided with windows for light and ventilation. Each bedroom is adequate in size with appropriate windows.</p> <p>All kitchens are separate to the circulation spaces.</p> <p>The modified proposal is consistent with the objectives of this part of the ADG.</p>
4E Private open space and balconies		
<p>All apartments provide primary balcony as follows:</p> <ul style="list-style-type: none"> • 1-bed – 8m² & 2m depth • 2-bed - 10m² & 2m depth • 3+bed - 12m² & 2.4m depth • Ground level, min 15m² & 3m depth 	Yes	<p>100% of the units are provided with a balcony or courtyard accessed from the main living areas that meets the minimum requirements of the ADG in terms of area and depth.</p> <p>The balconies and courtyards are accessed from the main living area and face east and west.</p> <p>The design of the balconies and courtyards is integrated into, and contributes to, the architectural form and detail of the building. The finishes of the balconies is consistent with the contemporary palette of materials in the building overall. Screens or solid side walls where necessary are provided to enhance privacy.</p>
4F Common circulation and spaces		
<ul style="list-style-type: none"> • Max of 8 units accessed off a circulation core on a single level 	Yes	<p>Four units are accessed from the lobby on each level with two units accessed from the lobby at the top floor.</p>
4G Storage		
<p>In addition to kitchens, bathrooms and bedrooms, the following is provided:</p> <ul style="list-style-type: none"> • 1-bed – 6m³ • 2-bed – 8m³ • 3+bed – 10m³ 	Yes	<p>The proposal provides separate storage within each apartment and a storage cage allocated to each parking space.</p> <p>Condition No. 48 of the original consent requires the provision of storage areas within the basement allocated to each unit with size requirements consistent with the ADG. The modification application has been amended to address this condition by providing combined bike stores and cages with a size of around 5 cubic metres. Additional storage is also provided within</p>

Design Criteria	Compliance	Comment
		each unit. This is considered appropriate to satisfy the requirements of the ADG and is supported. Condition No. 48 can therefore be deleted being satisfied by the modification application.

2.2.4 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposal are outlined below:

Table 3: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The modified proposal is consistent with the aims of the LEP.
Part 2 Permitted or prohibited development		
Land Use Table R3 Medium Density Residential Zone	Yes	The proposal is defined as <i>residential flat building</i> , which is permitted with consent in the R3 zone. The proposal is consistent with the objectives of the zone.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> 12.5m 	No	The maximum height of the modified proposal is 13.5m exceeding the development standard. However, the amended proposal incorporates an architectural roof feature which is the element which exceeds the height. The architectural roof feature is discussed under Part 5.6 of this table and is considered acceptable.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> 0.9:1 	No	The modified proposal increases the FSR to 1.038:1 exceeding the FSR development standard by 277m ² or 15%.
4.6 Exceptions to development standards	See discussion	The application is not accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the development standards as an assessment under clause 4.6 is not required for section 96 applications. A detailed discussion of the variation to the FSR development standard is presented below this table.

Part 5 Miscellaneous provisions		
5.6 Architectural roof features	Yes	<p>The amended proposal exceeds the height development standard through the incorporation of an architectural roof feature that contains plant and highlight windows to the units at Level 3.</p> <p>The architectural roof feature has been designed to hide the plant and provide further solar access and ventilation to the proposed new independent units at the roof level. The roof feature will not result in unreasonable additional overshadowing, is a decorative element of the building, does not include floor space and is not reasonably capable of being modified to be floor space and is not an advertising structure. In this regard, the architectural roof feature is considered appropriate and is supported.</p>
5.10 Heritage conservation	Yes	<p>The site is not heritage listed or within a conservation area. However No. 69 Penkivil Street adjoins a heritage listed building at the rear, No. 96 Anglesea Street (Item 13), a Victorian Federation House.</p> <p>The modified proposal continues to be set well back from the property at the rear being over 16m from the rear boundary. The proposed development is not located within the same street as the heritage item and will not affect the streetscape appearance of this building. The modified proposal will not harm the significance of Item No. 13.</p>
Part 6 Additional local provisions		
6.2 Earthworks	Yes	<p>The proposal includes additional excavation to provide an enlarged basement car park. All standard conditions in regards to the excavation continue to apply.</p>

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

Floor Space Ratio

The proposal has an overall floor space ratio of 1.038:1, which exceeds the floor space ratio development standard of 0.9:1 prescribed under clause 4.4 of Waverley LEP 2012 by 277m² in gross floor area or 15%.

A written request pursuant to clause 4.6 of Waverley LEP 2012 seeking to vary the development standard is not required for Section 96 applications and as such, has not been submitted. The test

for Section 96 applications relates to the development being ‘substantially the same development’ as the original approval. The proposal satisfies this test.

Notwithstanding, the FSR of the proposed modification must still be considered against the relevant objectives of the LEP. The objectives of the FSR development standard within the LEP are:

Clause 4.4 Floor Space Ratio

(1) The objectives of this clause are as follows:

- (a) to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,*
- (b) to provide an appropriate correlation between maximum building heights and density controls,*
- (c) to ensure that buildings are compatible with the bulk, scale, streetscape and existing character of the locality,*
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality.*

Objective (a) is not relevant to this application.

The proposal exceeds the height development standard only by way of the architectural roof feature which does not contain habitable floor space as discussed in Table 3 above. The proposed modification will result in a building with bulk and scale which is commensurate with adjoining properties, and the existing and desired future character of the locality. The proposed modifications expand the approved upper floor level to provide independent units without substantially increasing the bulk and scale of the approved building form. The proposal is considered to be consistent with objectives (b) and (c).

The proposed modifications will not result in unreasonable amenity impacts on adjoining properties or the locality as discussed in detail in previous and subsequent sections of this report consistent with objective (d).

The applicant has submitted an undertaking to Council regarding their commitment to enter into a planning agreement for the additional gross floor area in accordance with the *Waverley Council Planning Agreement Policy 2014* (the Policy). The Policy states:

“Council may consider ... applications for development up to 15% above the maximum gross floor area permitted under clause 4.4 of Waverley LEP 2012”.

The Policy provides a mechanism to address the public benefit offset of additional reasonable impacts from developments exceeding development standards. The offer to enter into a planning agreement addresses the public benefit aspect of maintaining the FSR development standard when Council considers a variation with the standard by way of assessing and determining a development application.

The proposed development is in keeping with other proposals that have sought additional floor space up to 15% over the FSR development standard. Proposals which have been granted approval with 15% additional floor space have demonstrated that where there will be additional impacts, they are considered minor and were accepted on the balance of public benefit offered by a monetary contribution in accordance with the Policy.

The fundamental principle of the Policy is that any benefit that arises from agreement to vary development standards is shared between developer and the community and must be acceptable on environmental impact grounds. The reasonableness of impacts associated with the additional floor space of the proposed development has been considered against the likely public interest (i.e. public domain improvements in the area), which has been found to be acceptable in this instance. The reasonableness relates to the merits of this case only as discussed in the body of this assessment report.

The proposal complies with the 15% cap on additional floor space specified in the Policy and is in accordance with other variations which have been permitted in conjunction with public benefits or purpose, such as affordable housing, public domain works or the like. The proposed development is not against the public interest as it complies with the limitations set in the Policy.

A suitable public purpose or benefit is considered to be provided in the form of the forthcoming execution of a planning agreement, which would contribute to public works or a similar public benefit within the catchment of the site. A condition will be imposed for the planning agreement to be entered into by the applicant as has been agreed to.

The proposed development is considered to be an orderly and efficient use of the site that is within the R3 Medium Density Residential Zone. The built form and density of the development are appropriate in achieving the objectives of the R3 zone, specifically providing a variety of housing types and for the housing needs of the community within a medium density residential environment. Given the acceptability of the form and density of the development, the variation of the FSR development standard does not raise any matter of significance for State or regional environmental planning.

2.2.5 Waverley Development Control Plan 2012 - Amendment No 5 (Waverley DCP 2012)

The relevant matters to be considered under the Waverley DCP 2012 for the proposal are outlined below:

Table 4: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	<p>The modified proposal provides a waste storage room within the basement car park for the storage of 13 bins and an area for the storage of bulk waste. Access to Penkivil Street for collection is via the ramped driveway or the lift to the ground floor level.</p> <p>The proposal is consistent with the objectives of this part of the DCP.</p>
2. Energy and water conservation	Yes	<p>An amended BASIX Certificate was provided with the application.</p> <p>Appropriate openings continue to be provided on all elevations for adequate cross ventilation and solar access for all units. Shading is provided to the western and eastern elevation windows.</p> <p>The proposal is consistent with the objectives and controls within this part of the DCP.</p>
5. Tree preservation	Yes	<p>The modified application includes changes to the landscaping plan to address conditions of consent imposed in the original application.</p> <p>Condition 5 of the consent requires the following amendments to the landscape plan:</p> <p>(a) <i>A landscape buffer is to be provided along the western (rear) boundary of the site so as to screen/reduce the visual impact of the development upon properties at the rear on Anglesea Street. Trees to be planted should be evergreen trees with a minimum mature growth height of 5m.</i></p> <p>(b) <i>Provision for a street tree and tree pit at the front of the site on Penkivil Street with specifications and tree species to be approved by Council.</i></p> <p>(c) <i>A landscape strip is to be provided along the southern boundary adjacent to the boundary fence for the entire length of the property.</i></p> <p>The amended plans provide a row of <i>Tristanopsis</i></p>

Development Control	Compliance	Comment
		<p>'Luscious' (Water gums) along the rear boundary of the site. These trees are evergreen and can grow from 7-10m and are considered suitable to satisfy Condition 5(a). This condition can be deleted as part of this application.</p> <p>The amended landscape plan provides a tree pit and street tree at the front of the site complying with Condition 5(b). This condition can be deleted as part of this application.</p> <p>The amended plans provide a landscaping strip along the southern boundary of the site, however this condition was imposed by the WDAP in response to the requirement to alter the entry to the building. The Applicant has requested the removal of this condition and as detailed later in this report, this is supported. In this regard it is considered that this condition can also be deleted.</p> <p>The modified proposal was referred to Council's Tree Preservation Officer and conditions were provided which are included in Appendix A.</p>
<p>7. Accessibility and adaptability</p> <ul style="list-style-type: none"> • 10-15 units – 1 adaptable unit • 1 accessible car space per adaptable unit 	<p>Yes</p>	<p>The amended plans retain Unit 1.02 as an adaptable unit and retain the accessible car spaces (one resident space and one visitor space) within the basement.</p>
<p>8. Transport</p> <p>Parking Zone 2 Requirements:</p> <ul style="list-style-type: none"> • Residential parking: 20 spaces • Visitor parking: 2 spaces • Bicycle parking: 14 residential, 1 visitor • Loading spaces: 0 • Motorcycle parking : 3 spaces 	<p>No</p>	<p>The proposal provides 21 spaces for residents and visitors whereas the DCP requires 22 spaces.</p> <p>Refer to discussion following the tables in this report in regards to this issue.</p>
<p>10. Safety</p>	<p>Yes</p>	<p>The modified proposal continues to be consistent with the objectives and controls within this part of the DCP.</p>

Table 5: Waverley DCP 2012 – Part C2 Multi Unit and Multi Dwelling Housing Compliance Table

Development Control	Compliance	Comment
2.1 Special character areas		
Bondi Heights Special Character Area	Yes	<p>The modified proposal continues to be consistent with the desired future character stipulated within the DCP in that it includes extensive landscaping to enhance the landscape character of the site. The front and rear setbacks provide appropriate areas for planting and vegetation.</p> <p>The low front boundary wall is retained to allow views into the landscaped front setback and to contribute to the landscape quality of the street. Pedestrian gates have been added to the front boundary to provide secondary entrance to the two front ground floor units ensuring that there is a sense of ownership of the landscaped front setback.</p> <p>The modified proposal is consistent with the objectives of this part of the DCP and the desired future character of the area.</p>
2.3 Height		
<ul style="list-style-type: none"> Maximum external wall height: 9.5m 	No	<p>The proposal continues to provide wall heights compliant with the DCP requirement as the extended upper floor level retains a minor setback on the northern elevation. The only part of the building which will exceed the wall height by approximately 1000mm is the common stairs which has been extended to the roof level. The amended plans provide a skillion roof over the stairs to reduce impact upon the adjoining southern property. The wall non-compliance is for a minor section of the building and is considered acceptable.</p>
2.4 Excavation		
<ul style="list-style-type: none"> Minimum setback of 1.5m from side boundaries Under building footprint except main access ramp Basements no more than 1.2m out of the ground 	<p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p>	<ul style="list-style-type: none"> Northern side = 1640mm Southern side = 350mm The extended basement carpark extends beyond the footprint of the building. Carpark below ground. <p>Refer to discussion following tables for detailed analysis of this issue.</p>
2.8 Building design and streetscape		
<ul style="list-style-type: none"> Respond to streetscape Sympathetic external finishes 	<p>Yes</p> <p>N/A</p>	<p>The modified proposal continues to provide a well designed contemporary building of similar bulk and scale to surrounding residential flat buildings.</p>

Development Control	Compliance	Comment
		<p>The proposed building is located between two 4-storey buildings of similar bulk, height and scale and would fit well into its context.</p> <p>The modified proposal retains the approved external materials and finishes.</p>
2.9 Attic and roof design		
<ul style="list-style-type: none"> Roof design contributes to the overall design and performance of development Roof design should contribute to the streetscape character 	Yes	<p>The original proposal provided an attic level connected to the units below. The modification application seeks to extend the attic to the north and provide dormer windows on the southern elevation to provide two independent units within the modified roof form. In this regard, the upper level is no longer considered an attic and as such the attic controls no longer apply.</p> <p>The new roof form contributes to the overall design of the building and performance by providing ventilating skylights to the upper level units. The roof design is consistent with the contemporary design of the building and contributes to the streetscape character.</p>
2.12 Pedestrian access and entry		
<ul style="list-style-type: none"> Entry at street level Accessible entry Legible, safe, well-lit 	<p>Yes</p> <p>Yes</p> <p>Yes</p>	Refer to discussion following this table in regards to this issue.
2.13 Landscaping		
<ul style="list-style-type: none"> Minimum of 30% of site area landscaped: approved = 362m² 50% of the above is to be deep soil: 181m² 	<p>Yes</p> <p>Yes</p>	<p>The proposal continues to provide 362m².</p> <p>The proposal increases the extent of the basement level in order to provide increased parking to comply with Amendment 5 of the DCP. The basement has also been increased to provide storage cages and bicycle parking. This has pushed the basement further toward the side boundaries. However the proposal continues to provide 220m² of landscaping over deep soil which equates to 61% of the landscaped area.</p>
2.16 Solar access and overshadowing		
<ul style="list-style-type: none"> Minimum of three hours of sunlight to a minimum of 70% of units during winter solstice Adjoining properties to retain minimum of three hours of sunlight during winter solstice 	<p>N/A</p> <p>Yes</p>	<p>These controls are overridden by the ADG control. Refer to the ADG table in regards to this issue.</p> <p>This issue is discussed in detail in the following section of this report.</p>

Development Control	Compliance	Comment
2.18 Visual privacy and security		
<ul style="list-style-type: none"> Prevent overlooking of more than 50% of private open space of lower level dwellings in same development 	Yes (subject to condition)	<p>The proposed modifications include expanded balconies at the topmost level at the front and rear of the building associated with two new units. The balconies are offset from the unroofed balconies below giving opportunities for clear views down to these balconies.</p> <p>This has been discussed with the Architect and it was agreed that a privacy screen, particularly on the street elevation, would impact upon the architectural integrity of the design of the building. In this regard, it is considered that a planter 1m wide extending from the balcony edge would be more effective in inhibiting views down into the balconies below. A condition to this effect is included in Appendix A.</p>
2.24 Building services		
<ul style="list-style-type: none"> Must have a minimum of 2m setback from the building edge 	Yes	The proposal includes an architectural roof feature containing the roof level plant. The roof feature will conceal the plant from the street and is integrated into the design of the building.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

Transport and parking

DCP 2012 (Amendment 5) makes changes to the parking provision requirements for residential flat buildings. The original application was assessed under DCP 2012 (Amendment 4) which required a minimum of 10 and maximum of 20 spaces for residents and no visitor parking. The original proposal provided 17 spaces for residents.

Conditions imposed on the original consent require the following:

- No. 41 requires 16 bicycle spaces.
- No. 42 requires 3 motorbike spaces.

The subject modification under Amendment 5 requires 20 parking spaces for residents and 2 visitor spaces (total of 22 spaces). Given the increase in the number of units from 12 to 14 the modification also requires 14 bicycle spaces plus one visitor bicycle space (total of 15 bike spaces). The modified proposal continues to require the provision of 3 motorbike spaces also.

The modification application seeks to substantially increase the size of the basement carpark to provide 18 resident parking spaces (including one accessible space), 3 visitor parking spaces (including one accessible space), 14 combined bike/general storage cages, 4 visitor bicycle spaces and 3 motorbike spaces.

Given that 20 resident's parking spaces and 2 visitor spaces are required by the DCP, a condition will require that the parking spaces be allocated appropriately. The amended proposal provides a

shortfall of one resident space however there is limited scope to provide further excavation to provide this additional space in order to retain an unexcavated area of 6m at the rear of the site to provide a substantial landscape buffer. The variation to the parking control is considered appropriate in this regard.

The proposal provides the appropriate amount of bicycle parking and more visitor bicycle spaces than required and as such, condition no. 41 is to be modified to reflect this in Appendix A.

Excavation

The modification application substantially increases the size of the basement car park in order to comply with increased parking requirements under DCP 2012 (Amendment 5). The original application required a minimum of 11 spaces and a maximum of 21 spaces. The parking requirements of the DCP have since been increased and there is now no minimum parking requirement. In this regard, the proposal requires 22 spaces.

In order to provide the additional parking spaces, the motorbike parking and the ADG storage, the modification application reduces the side and rear setbacks of the basement car park. The rear setback is 6m and northern side is 1.64m both complying with the DCP however the southern side setbacks is 350mm being less than the 1.5m required.

The retention of the 6m setback at the rear allows a landscaping buffer between the subject development and the lower density residential dwellings at the rear. This is considered necessary in order to alleviate impact upon these properties. The proposal continues to retain landscaping along both side boundaries however this will only partially be in deep soil. Appropriate conditions have been included on the consent in relation to the excavation and these will be retained as part of this modification. On balance it is considered appropriate to vary the side setback at the basement level subject to appropriate conditions of consent.

Overshadowing

Shadow diagrams were provided which include shadow impacts in elevation on the northern elevation of the adjoining property to the south, 71 Penkivil Street.

The adjoining residential flat building at No. 71 Penkivil Street has balconies and associated living area doors/windows orientated to the front and rear of the building. Council's records of the approved building from 1971 and more recent internet searches (real estate listings) generally indicate that the northern side elevation of this building contains the bedroom windows, secondary dining room windows, bathroom, laundry and kitchen windows of units within this building.

The shadow elevations indicate the following impact in terms of No. 71 Penkivil Street:

- The top floor units will retain 3 hours of sunlight to the windows on the side elevation.
- There will be additional overshadowing of the windows to the mid-level units at 12pm and 3pm however the living area (dining and kitchen) windows will retain adequate solar access.
- The lower level side windows are overshadowed from 9am to 3pm however this is predominantly consistent with the original approval.

It should be noted that the main living area windows of all units at No. 71 Penkivil Street are oriented either toward the front (east) or the rear (west) and as such, these units receive solar access to the

main windows in the morning and the afternoon which will not be impacted by the proposed development.

Given the above analysis, it is considered that the proposal will not result in unreasonable additional overshadowing of adjoining property.

Pedestrian access and entry

The application seeks consent for modification of Condition No. 2 (a) to provide side boundary screening of the balconies only at the rear and for Condition 2(d) to be deleted to allow the main lobby and pedestrian entry to the building to be centrally located on the site as originally proposed.

Condition 2(a) was recommended by the Development and Building Unit (DBU) and requires the following:

(a) Privacy screening, to a height of at least 1800mm from finished floor level, must be provided to all side boundaries of all balconies where there are no solid walls proposed. The screening must extend for the full depth of each balcony and shall be fixed so that views into adjoining properties are inhibited.

The applicant argues that the balconies at the front do not cause additional privacy impact as the building to the north has no windows that could be looked into from these balconies and the front setback area of that site provides driveway access only and as such no private gardens will be overlooked. The building to the south has an open balcony on the same corner of Level 1 however planting along the boundary will provide sufficient screening in this location. The balcony above on Level 2 has side boundary screening and Level 3 balcony is set back.

The main reason that modification of this condition is sought is to maintain the architectural integrity of the building as the open corner is integral to the design of the building and adding high screens will have a negative impact on the way it is viewed from the street.

The arguments put forth by the applicant are agreed and as such, it is recommended that the condition be amended to require that the screening of the side boundaries of the balconies be limited to those at the rear (refer to Appendix A).

Condition 2(d) was imposed by the WDAP and requires the following:

(d) The ground floor is to be amended to relocate the pedestrian entry generally to the centre of the building between Units G01 and G02.

The Applicant provided the following arguments in relation to maintaining the entry to the building as proposed in the centre of the building accessed from the southern side setback:

- *Adding a compliant width corridor through the building would add an additional 1.5-2m width at the base of the building intruding into the DCP side setback, reducing separation to neighbouring buildings and amenity for residents on both sides.*
- *Alternatively if the footprint of the ground floor was not enlarged and the direct street access not sufficient, the units would be reduced in size to a point of non-compliance with the ADG. This would force the removal of a street facing ground floor unit, reducing street activation as a result.*

Under such an outcome, the burden (loss of one unit) placed on the landowner by requiring strict compliance with the condition, would be disproportionate to any adverse consequence attributable to retaining the side main entrance and direct access to the street front units (relying on comments made in an analogous context, in Botany Bay Council v Saab Corp [2011] NSWCA 308[15]).

- *The original and amended design matches the entry sequence of the adjoining building to the south. This mirrored condition aids in privacy as building separation is enlarged. Additional planting along the side boundary has also been included in the amended scheme.*
- *In the amended scheme, direct street access has been added to the 2 street facing units, aiding in street activation.*

Once again, the arguments put forth by the Applicant are agreed and it is recommended that Condition 2(d) be deleted (refer to Appendix A).

Notwithstanding, it is noted that the imposition of Condition 2(d) is outside the scope of a general modifications condition of consent. In order to satisfy this condition, the building essentially needs to be redesigned, either by way of reduced side setbacks or internal reconfiguration of all units in order to accommodate a relocated common entry. This may also result in a loss of at least one ground floor unit and then subsequent modifications to the window placement, basement parking and number of spaces provided. Essentially the relocation of the entrance is a deferral matter involving the substantial redesign of the building to accommodate. This is not simply a condition of consent.

2.3 Section 79C(1)(b) – Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

2.4 Section 79C(1)(c) – Suitability of the Site for the Development

The site is considered to be suitable for the proposed development.

2.5 Section 79C(1)(d) – Any Submissions

The modification application was notified for 21 days and a site notice erected on the site, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

Three submissions were received which includes one letter in support of the application. The issues raised in the submissions are summarised and discussed below.

Table 6: Summary of property addresses that lodged a submission

Property
72 Anglesea Street, Bondi
74 Anglesea Street, Bondi
1/71 Penkivil Street, Bondi (letter of support)

Issue: The condition requiring the planting height of the tree buffer along the rear boundary should be increased from 5m to 8m due to the increased privacy impacts from additional height and number of units.

Response: This issue was raised in the original assessment report requesting that the trees on the rear boundary have a mature height of 12m for privacy. The following is an excerpt from the original report addressing this matter:

It is acknowledged that trees to a height of 2-3m may not improve privacy between the subject site and those at the rear, however 12m high species will result in quite significant overshadowing. Given the presence of existing large trees between these properties and the site and the planting of a 12m high species of tree in the north-eastern rear corner, further trees with a minimum mature height of 5m may be more appropriate for privacy and reduced overshadowing. This also enables these trees to be covered by Council's Tree Preservation Order (TPO) ensuring any pruning or removal at a later date is subject to consent under the TPO. A condition requiring that the landscape plan is amended to include a buffer along the rear boundary is included in Appendix A.

A new landscape plan has been provided as part of the modification application. The modified plan includes tree species along the rear boundary with an estimated mature height of 6m which satisfies Condition No. 5(a) of the original consent. Notwithstanding, an internet search of the proposed tree species *Tristanopsis 'Luscious'* indicates that these trees have a mature height of 7-12m.

The objector has now requested plants with a minimum mature height of 8m and shall be maintained at a minimum of 4m.

The proposed modifications do not increase the finished floor level of the topmost level of the building which remains at RL89.5. The modifications expand the upper floor level to provide independent units at this level whereas in the original approval this level provided bedrooms that were connected to the level below. Trees to a height of 6m will reasonably inhibit viewing from the balcony into the rear yard of the adjoining dwellings at the rear given that the topmost unit balcony is set back from the rear boundary by 16m. Notwithstanding, the tree species chosen may result in a greater height than indicated on the landscaping plan given that tree growing websites indicate the mature height as 7-12m. In this regard, it is considered unnecessary to increase the height of the trees in the landscaping buffer further as a result of the proposed modifications.

Issue: The letter of support – the proposal has been designed to maintain solar access to adjoining units which is to be commended.

Response: This issue has been discussed in detail previously in this report.

2.6 Section 79C(1)(e) – Public Interest

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

3. REFERRALS

3.1 Driveways – Creating Waverley

Conditions were provided which are included in Appendix A of this report.

3.2 Tree Management – Clean and Attractive Waverley

Conditions were provided which are included in Appendix A of this report.

3.3 Tree Management – Clean and Attractive Waverley

Conditions were provided which are included in Appendix A of this report.

3.4 Strategic Planning – Shaping Waverley

The application was referred to Council's Strategic Planner in regards to the offer to enter into a planning agreement. The following condition was provided (refer to Appendix A):

128. PLANNING AGREEMENT

1. *The owner/ applicant to:*
 - (i) *Enter into an Agreement in accordance with Waverley's Planning Agreement Policy 2014 prior to the issue of any Construction Certificate for the development that relates to works contained in (the Development Application number); and*
 - (ii) *Pay a monetary contribution amount of \$583,152 prior to the issue of any Occupation certificate for the Development*
 - (iii) *A Planning Agreement will be entered into under Section 93F of the Environment Planning and Assessment Act 1979 between the owner of the land the subject of the Development, the applicant and Council.*
2. *In accordance with the said offer, the Planning Agreement shall make provision in respect to the following:*
 - (i) *The Planning Agreement shall be registered upon the title to the land the subject of the Development prior to the issue of any Construction Certificate for the Development*
 - (ii) *The owner/ applicant shall provide Council with a Bank Guarantee to secure the payment of the Monetary Contribution prior to the issue of any Construction Certificate for the Development which is:*
 - *In a form acceptable to Council and from an institution acceptable to Council*
 - *Irrevocable*
 - *Unconditional*
 - *With no end date*

3. *The payment of the Monetary Contribution to Council is to be made prior to the issue of any Occupation Certificate for the Development, and is to be applied towards a public purpose in accordance with the Agreement and Council's Planning Agreement Policy 2014.*

4. SUMMARY

The application seeks consent for modifications to the approved residential flat building including internal reconfiguration, additional bay windows, enlargement of basement and attic level to provide two additional units with an offer to enter a Planning Agreement.

The proposal has an overall floor space ratio of 1.038:1, which exceeds the floor space ratio development standard of 0.9:1 prescribed under clause 4.4 of Waverley LEP 2012 by 277m² in gross floor area or 15%.

The proposed development is considered to be an orderly and efficient use of the site that is within the R3 Medium Density Residential Zone. The built form and density of the development are appropriate in achieving the objectives of the R3 zone, specifically providing a variety of housing types and for the housing needs of the community within a medium density residential environment. Given the acceptability of the form and density of the development, the variation of the FSR development standard is considered acceptable.

The application was notified and three submissions were received, including one submission in support of the application. This issues raised include the height of the landscaping buffer along the rear boundary and that the proposal has been designed to maintain solar access to adjoining units which is to be commended.

The application is recommended for approval.

5. RECOMMENDATION TO WAVERLEY DEVELOPMENT ASSESSMENT PANEL

That the Section 96 Modification Application be **APPROVED** by the Waverley Development Assessment Panel subject to the Conditions in Appendix A:

Report prepared by:

**Application reviewed and agreed on behalf of
the Development and Building Unit by:**

Kylie Lucas
Senior Development Assessment Planner

Emma Finnegan
**Acting Manager, Development Assessment
(Central)**

Date: 14 February 2018

Date: 15 February 2018

Reason for referral:

- 4 Applications for review of decisions made by the Panel

APPENDIX A – CONDITIONS OF CONSENT TO BE MODIFIED

A. Amended/Deleted Conditions

1. APPROVED DEVELOPMENT

The development must be in accordance with:

- (a) Architectural Plan Nos D10_**AC** – D16_**AC** (inclusive), and DA20_**AC** – DA25_**AC** (inclusive), tables and documentation prepared by MHNDUNION, dated ~~20.11.15~~ **07.04.17**, and received by Council on date ~~20 November 2015~~ **2 May 2017**,
- (b) Landscape Plan No. 5144-01 Issue ~~CE~~ and documentation prepared by Peter Glass and Associates, dated ~~13/11/15~~ **06/04/17**, and received by Council on ~~20 November 2015~~ **2 May 2017**;
- (c) BASIX Certificate;
- (d) Arboricultural Impact Assessment Report prepared by Earthscape Horticultural Services dated November 2015 and received by Council on 20 November 2015;
- (e) Accessibility Report prepared by ABE Consulting dated 18 November 2015 and received by Council on 20 November 2015;
- (f) Schedule of external finishes and colours received by Council on ~~20 November 2015~~ **2 May 2017**;
- (g) Draft Strata Subdivision Plan Sheets 1-6 Issue **AB** drawn by Eric Scerri dated ~~13-11-15~~ **7-12-16** and received by Council on ~~20 November 2015~~ **20 December 2016**; and
- (h) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

Except where amended by the following conditions of consent.

AMENDED DA-531/2015/A

2. GENERAL MODIFICATIONS – ARCHITECTURAL DESIGN RESOLUTION

The plans are to be amended as follows and additional information submitted:

- (a) Privacy screening, to a height of at least 1800mm from finished floor level, must be provided to ~~all the~~ side boundaries of ~~all~~ balconies **at the rear of the building** where there are no solid walls proposed. The screening must extend for the full depth of each balcony and shall be fixed so that views into adjoining properties are inhibited. **(AMENDED DA-531/2015/A)**
- (b) ~~Ceiling fans (to be shown on the drawings) should be provided in all habitable rooms.~~ **SATISFIED BY DA-531/2015/A.**

- (c) Large scale part elevations/part sections will need to be provided, detailing the intended façade design, providing indicative construction details and representing proposed materials and colours. In this regard, 1:50 scale sections and elevations of the facades are required.
- (d) ~~The ground floor is to be amended to relocate the pedestrian entry generally to the centre of the building between Units G01 and G02. DELETED DA-531/2015/A.~~
- (e) **A planter with a width no less than 1000mm shall be provided to the southern edge of the balconies at Level 3 associated with Units 3.01 and 3.02 to inhibit overlooking down to the balconies below. (ADDED DA-531/2015/A)**

The amendments are to be approved by Council prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

5. AMENDED LANDSCAPE PLAN

The Landscape Plan is to be amended by the following changes:

- (a) ~~A landscape buffer is to be provided along the western (rear) boundary of the site so as to screen/reduce the visual impact of the development upon properties at the rear on Anglesea Street. Trees to be planted should be evergreen trees with a minimum mature growth height of 5m. SATISFIED BY DA-531/2015/A.~~
- (b) ~~Provision for a street tree and tree pit at the front of the site on Penkivil Street with specifications and tree species to be approved by Council. SATISFIED BY DA-531/2015/A.~~
- (c) ~~A landscape strip is to be provided along the southern boundary adjacent to the boundary fence for the entire length of the property. SATISFIED BY DA-531/2015/A.~~

The amended landscape plan is to be submitted to the Council for approval prior to the issue of a Construction Certificate.

39. VEHICLE ACCESS RAMP

Widths, radii, gradients and gradient changes on the vehicular access ramp being in accordance with Australian Standard 2890.1 Parking Facilities - Off Street Car Parking. Details of the geometric design and proposed levels of the access ramp between the layback and the basement car park being submitted to Council for the approval of the Executive Manager, Creating Waverley prior to the issue of the Construction Certificate.

A splay shall be provided on the fencing on the northern side of the driveway and on the mailbox wall on the southern side of the driveway to improve driver sight lines of pedestrians on the Penkivil Street footpath in accordance with section 3.2.4 of AS2890.1:2004 – Off Street Carparking. The amended plans shall be submitted to Council for approval of the Executive Manager, Creating Waverley prior to the issue of the Construction Certificate.

AMENDED DA-531/2015/A

41. BICYCLE PARKING

A total of ~~16~~ **18** (minimum) bicycle parking spaces are to be provided, allocated in the following manner:

- (a) ~~12~~ **14** residential bicycle spaces;
- (b) 4 visitor bicycle space (minimum ~~2~~ **1** located at the ground floor level);

Such spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks and are to be located within the ground floor foyer or adjacent within any forecourt or within the basement car parking area.

Details are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate.

AMENDED DA-531/2015/A

43. ACCESSIBLE CAR SPACE

A minimum of one car space for the vehicles of people with disabilities in all new or refurbished buildings which provide between 10 and 50 car parking spaces, and 2 for those which provide between 50 and 100 car spaces.

The car spaces shall be identified and reserved at all times and be in the vicinity of a lift or as close as possible to public areas and facilities. The car spaces shall have minimum dimensions of 3.2m x 5.5m and minimum headroom clearance of 2.5m for vehicles fitted with a roof mounted wheelchair rack.

A notice shall be displayed at the entrance to the car park and at each change in direction indicating the location of car spaces and the maximum headroom for vehicles.

The vehicle circulation/shared area adjacent to the mobility parking spaces shall be provided with bollards as per AS2890.6:2009 – Parking for people with disabilities

Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

AMENDED DA-531/2015/A

48. BASEMENT STORAGE

~~The basement level general storage area is to provide storage areas, allocated to each unit in the development. Storage is to be allocated to individual units in accordance with the following minimum requirements (excluding bicycle parking/storage areas):~~

- ~~a) — 1 bedroom unit: 6m³ of storage, and~~
- ~~b) — 2 bedroom unit: 8m³ of storage,~~
- ~~c) — 3+ bedroom unit: 10m³ of storage~~

~~The amendments are to be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979,~~

SATISFIED BY DA-531/2015/A.

119. ALLOCATION OF STREET NUMBER

~~The redevelopment of the property has lead to the following allocation of premises numbers:~~

- ~~• No. 67 Penkivil Street for the building (primary premises);~~
- ~~• Nos. 1-12 for the units (sub-premises) within the building correlating with Nos. 1-12 on the floor plans for the building.~~

~~The primary premises number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary that fronts Penkivil Street. The primary and sub-premises numbers are to be positioned on the site prior to the issue of the Occupation Certificate.~~

The redevelopment of the property has led to the following allocation of primary and sub-premises numbering for a strata subdivision with multiple street frontages:

- No. 67 - primary address site number
- Penkivil Street primary address location.

The primary premises number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary that fronts Penkivil Street.

The following sub-addressing will apply:

As the redevelopment has multi-level sub-addressing the following sub-addressing will apply;

- Nos. G01 -G04 for the sub-addresses within the building correlating with Nos. 1-4 on the floor plans for the building,
- Nos. 101-104 for the sub-addresses within the building correlating with Nos. 5-8 on the floor plans for the building,
- Nos. 201-304 for the sub-addresses within the building correlating with Nos. 9-12 on the floor plans for the building.
- Nos. 301-302 for the sub-addresses within the building correlating with Nos. 13-14 on the floor plans for the building.

The address number for a sub-address site shall consist of the sub-address followed by the number of the primary address site.

The address number for a sub-address site shall not consist of the primary address number on its own.

Sub-address numbers shall be applied in a logical sequence and within a primary address site shall be unique regardless of the type of the address.

The primary and sub-address numbers are to be positioned on the site prior to the issue of the Subdivision/Occupation Certificate and Council notified of the corresponding sub-address numbers to lot number prior to the issue of the Occupation Certificate.

Any variation to the above premises numbering requires a new application to be lodged with Council.

AMENDED DA-531/2015/A

121. PARKING

- (a) Ownership of car park lot spaces within the basement shall be limited to parties owning a lot within the buildings on-site.
- (b) A minimum of one car space and a maximum of two car spaces shall be allocated to any residential unit/dwelling to ensure equitable allocation overall.
- (c) The area adjoining Space No. ~~1321~~ designated as 'Vehicle Circulation Area' on the approved plans shall remain as a shared zone, with no vehicle to be parked in this area. The Strata Subdivision plan shall be amended to accurately reflect this.
- (d) Car parking and storage spaces shall not be independent lots, but rather part lots attached to units in the Subdivision Plans.

AMENDED DA-531/2015/A.

B. New Conditions

128. PLANNING AGREEMENT

- 1. The owner/ applicant is to:
 - (i) Enter into an Agreement in accordance with Waverley's Planning Agreement Policy 2014 prior to the issue of any Construction Certificate for the development that relates to works contained in DA-531/2015/A; and
 - (ii) Pay a monetary contribution amount of \$583,152 prior to the issue of any Occupation certificate for the Development
 - (iii) A Planning Agreement will be entered into under Section 93F of the Environment Planning and Assessment Act 1979 between the owner of the land the subject of the Development, the applicant and Council.
- 2. In accordance with the said offer, the Planning Agreement shall make provision in respect to the following:
 - (i) The Planning Agreement shall be registered upon the title to the land the subject of the Development prior to the issue of any Construction Certificate for the Development

(ii) The owner/ applicant shall provide Council with a Bank Guarantee to secure the payment of the Monetary Contribution prior to the issue of any Construction Certificate for the Development which is:

- In a form acceptable to Council and from an institution acceptable to Council
- Irrevocable
- Unconditional
- With no end date

3. The payment of the Monetary Contribution to Council is to be made prior to the issue of any Occupation Certificate for the Development, and is to be applied towards a public purpose in accordance with the Agreement and Council's Planning Agreement Policy 2014.

APPENDIX B – FULL SET OF CONDITIONS

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

- (a) Architectural Plan Nos D10_C – D16_C (inclusive), and DA20_C – DA25_C (inclusive), tables and documentation prepared by MHNDUNION, dated 07.04.17, and received by Council on date 2 May 2017,
- (b) Landscape Plan No. 5144-01 Issue E and documentation prepared by Peter Glass and Associates, dated 06/04/17, and received by Council on 2 May 2017;
- (c) BASIX Certificate;
- (d) Arboricultural Impact Assessment Report prepared by Earthscape Horticultural Services dated November 2015 and received by Council on 20 November 2015;
- (e) Accessibility Report prepared by ABE Consulting dated 18 November 2015 and received by Council on 20 November 2015;
- (f) Schedule of external finishes and colours received by Council on 2 May 2017;
- (g) Draft Strata Subdivision Plan Sheets 1-6 Issue B drawn by Eric Scerri dated 7-12-16 and received by Council on 20 December 2016; and
- (h) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

Except where amended by the following conditions of consent.

AMENDED DA-531/2015/A

2. GENERAL MODIFICATIONS – ARCHITECTURAL DESIGN RESOLUTION

- (a) Privacy screening, to a height of at least 1800mm from finished floor level, must be provided to the side boundaries of balconies at the rear of the building where there are no solid walls proposed. The screening must extend for the full depth of each balcony and shall be fixed so that views into adjoining properties are inhibited.
(AMENDED DA-531/2015/A)
- (b) *SATISFIED BY DA-531/2015/A.*
- (c) Large scale part elevations/part sections will need to be provided, detailing the intended façade design, providing indicative construction details and representing proposed materials and colours. In this regard, 1:50 scale sections and elevations of the facades are required.
- (d) *DELETED DA-531/2015/A.*

- (e) A planter with a width no less than 1000mm shall be provided to the southern edge of the balconies at Level 3 associated with Units 3.01 and 3.02 to inhibit overlooking down to the balconies below. (ADDED DA-531/2015/A)

The amendments are to be approved by Council prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

3. FENCING

The plans are to be amended as follows:

- (a) Boundary fencing along the north and south side boundaries shall be limited to a height of 1800mm (measured above existing ground level) extending from the front building line to the rear of the site. The boundary fencing along either side of the site, between the front building line and front fence of the site, shall taper from 1800mm down to 1200mm at front boundary.
- (b) Rear (western) boundary fencing shall be limited to a height of 1800mm above existing ground level.
- (c) The front fencing shall be limited in height to 1200mm above existing ground level. The section of front fence above 1000mm shall be of an open design (minimum 50% open).

The amendments are to be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

4. TREE PRUNING ON ADJOINING PROPERTIES

Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building will require consent under a separate Tree Preservation Order (TPO) application for works to the trees. No works can occur to these trees without a valid TPO.

The TPO application shall be supported by an Arborist report prepared by an Arborist with AQF level 5 qualification or above, certifying that the affected trees will be maintained in a healthy manner after the pruning works, to the satisfaction of Council's Tree Management Officer.

A valid TPO for the works to the trees is to be presented to the Certifying Authority prior to the issue of the relevant Construction Certificate and prior to any pruning of trees.

5. AMENDED LANDSCAPE PLAN

The Landscape Plan is to be amended by the following changes:

- (a) SATISFIED BY DA-531/2015/A.
- (b) SATISFIED BY DA-531/2015/A.

(c) SATISFIED BY DA-531/2015/A.

The amended landscape plan is to be submitted to the Council for approval prior to the issue of a Construction Certificate.

6. PUBLIC DOMAIN WORKS

The following public domain works, required by virtue of the scale of the development, are to be provided at the applicant's expense:

- (a) Upgrade of pavement, kerb and guttering to entire frontage of Penkivil Street, including the closure of all redundant vehicle crossings.
- (b) Provision on 1 tree pit and the planting of 1 street tree in this pit, along the frontage of Penkivil Street.

Details of the works set out above are to be submitted and approved by Waverley Council's Director, Waverley Futures regarding the proposed works to Council's footpath prior to the commencement of works. In this regard, the following additional requirements shall apply:

- (i) All works to the footpath/roadway surrounding the site are to be upgraded in accordance with Council's Public Domain Improvements Plan. The detailed design and configuration of all works shall be to the satisfaction of Council's Director, Waverley Futures.
- (ii) All pavement treatments and location of tree pits to be approved by Council.
- (iii) The tree pit size, planting species and location are to be approved by Council.

7. APPROVED DESIGN - RESIDENTIAL FLAT DEVELOPMENT

The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building, without the approval of Council.

8. ARCHITECT TO SUPERVISE DESIGN

The preparation of the Construction Certificate plans shall be supervised and be to the satisfaction of a **qualified designer** in accordance with the requirements of State Environmental Planning Policy No. 65 - Design Quality of Residential Flats.

9. INSTALLATION OF AIR CONDITIONING

Any air conditioning unit(s) installed within the building shall:

- (a) Be located a minimum of 1.5 metres from a boundary.
- (b) Be located behind the front building line and if visible suitable screened and located in an appropriate location.
- (c) Not be adjacent to neighbouring bedroom windows.

- (d) Not reduce the structural integrity of the building.
- (e) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
 - (i) Before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
 - (ii) Before 7.00am and after 10.00pm on any other day.
- (f) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (e).

10. USE OF COMMON PROPERTY

No exclusive use of common property (other than for approved storage) shall occur without the prior consent of Council.

11. NOISE FROM BUILDING WORKS - RESTRICTED ACTIVITIES

Where there is a strong community reaction to noise associated with demolition, excavation and/or construction, Council may require respite periods by restricting the hours that the specific noisy activity can occur.

Notes: If this is imposed, Council will take into account:

1. Times identified by the community when they are less sensitive to noise
2. If the community is prepared to accept a longer period of construction in exchange for restrictions on construction times.

12. NOISE - MECHANICAL PLANT

Noise associated with mechanical plant shall not give rise to any one or more of the following:

- (a) Transmission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* to any place of different occupancy.
- (b) A sound pressure level at any affected property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use. The source noise level must be assessed as a LAeq, 15 minute.
- (c) Notwithstanding compliance with (a) and (b) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.
- (d) A Certificate is to be submitted at the completion of all work and prior to the issue of an Occupation Certificate, from a suitably qualified Acoustic Engineer. The Certificate is to certify all plant and equipment complies with the terms of approval in relation to noise.

13. NOISE EMISSIONS

The use of the premises shall not give rise to:

- (a) Transmission of "Offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy;
- (b) A sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard 1055.

14. DOMESTIC HEATERS

The provision of solid fuel heating/cooking appliances is prohibited.

15. TELECOMMUNICATION FACILITIES ON MULTI-UNIT DWELLINGS

Telecommunication facilities on new multi-unit dwellings are opposed. The Owners' Corporation is prohibited from entering into leasing agreements with telecommunication companies to erect or install any commercial telecommunication device (other than for the explicit use of the occupants) on the building.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

16. SECTION 94A CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 94A of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to council:
 - (1) Where the total development cost is less than \$500,000:
"Waverley Council Cost Summary Report"; or,
 - (2) Where the total development cost is \$500,000 or more:
"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports may be obtained from Waverley Council Customer Service Centre or downloaded from:
www.waverley.nsw.gov.au/publications/

- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.
- (c) Should a section 96 modification result in any change to the total cost of the work, the Section 94A contribution is to be revised and amended. Prior to the issue of the Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

Waverley Council Development Contributions Plans 2006 may be inspected at Waverley Council Customer Service Centre.

Advisory Note

- A development valued at \$100,000 or less will be exempt from the levy.
- A development valued at \$100,001 - \$200,000 will attract a levy of 0.5%.
- A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

17. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of \$50,000 must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

This deposit (cash or cheque) or guarantee must be established prior to the issue of the Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion of the building work to the person who paid the deposit.

18. LONG SERVICE LEVY

A long service levy, as required under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of a Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

19. NO BUILDING WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, including demolition, must not be commenced until:

- (a) A Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with Section 81A(2) of the Environmental Planning & Assessment Act, 1979; and
- (b) A Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with Section 81(A)(2)(b) of the Environmental Planning & Assessment Act, 1979 and Form 7 of Schedule 1 of the Regulations; and
- (c) Council is given at least two days Notice in writing of the intention to commence the building works.

The owner/applicant may make application to Council or an Accredited Certifier for the issue of a Construction Certificate and to be the Principle Certifying Authority.

20. HOARDING

Hoarding designed and constructed in accordance with the requirements of the Work Cover Authority is to be erected on the street alignments of the property, prior to the commencement of building operations, and such hoardings are to be maintained during the course of building operations. Details of the hoarding are to be provided to Council prior to issue of the Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

21. ESSENTIAL SERVICES - NEW BUILDING

Details of the proposed essential fire safety measures/services shall be submitted to Council with the application for a Construction Certificate or be attached to the Construction Certificate, including a certificate, prepared by a person competent to do so, setting out the:

- (a) Basis of design;
- (b) Standard to which the system is to be installed; and
- (c) All relevant documentation, including all drawings such as wiring diagrams, duct layouts, hydraulic schematics etc and calculations shall be submitted for Council's records.

At the completion of the installation, certification containing the following information shall be attached to the application for an Occupation Certificate or to the Occupation Certificate:

- (a) Inspection, testing and commissioning details;
- (b) Date of inspection, testing and commissioning;
- (c) The name and address of the individual who carried out the test; and
- (d) A statement that the service has been designed, installed and is capable of operating to the above standard.

22. ARCHITECT TO SUPERVISE DESIGN - CONSTRUCTION CERTIFICATE DOCUMENTATION

The preparation of the Construction Certificate plans shall be supervised and be to the satisfaction of a qualified designer in accordance with the requirements of State Environmental Planning Policy No. 65 - Design Quality of Residential Flats.

In accordance with clause 143a of the Environmental Planning and Assessment Regulations 2000, the Principal Certifying Authority must not issue a construction certificate unless it has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted.

23. EXTERNAL FINISHES

A schedule of external finishes shall be submitted for Council's consideration and approval prior to the issue of the Construction Certificate. The schedule shall include details of proposed external walls and roofing materials in the form of either trade brochures or building samples. Where specified, the schedule shall also include window fenestration and window frame colour details, as well as fencing, paving and balustrading details and guttering colour and profile.

24. GEOTECHNICAL ENGINEERS REPORT

A geotechnical report, regarding the stability of the subject site and stating that damage should not occur to any adjoining premises as a result of the proposed bulk excavation, driven type piles and shoring works, is to be submitted to the Principal Certifying Authority, Council and the owners of adjoining premises. The report is to be submitted prior to the issue of a Construction Certificate and commencement of any such works on the site.

25. ENGINEERING DETAILS

Structural details prepared and certified by a practicing Structural Engineer being furnished to Council or Accredited Certifier in connection with all structural components prior to the issue of a Construction Certificate.

26. DETAILS OF BULK EXCAVATION, SHORING OR PILE CONSTRUCTION

A report shall be prepared by a suitably qualified and practising Structural Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works. The Report shall be submitted to the Principal Certifying Authority, Council and the owners of adjoining properties prior to the issue of a Construction Certificate.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

27. SERVICE AUTHORITIES

The applicant is to seek approval from Sydney Water regarding any possible modification to the service authorities infrastructure prior to the issue of a Construction Certificate.

28. ENERGY AUSTRALIA

The applicant to confer with Energy Australia to obtain that authority's needs for the provision and location of a kiosk type distribution centre on the subject land, and if deemed necessary, the applicant to make available land to that Authority for the siting of such kiosk/sub-station. Documentary evidence of compliance is to be provided to the satisfaction of the Principle Certifying Authority prior to the issue of the Construction Certificate.

29. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) Checklist 2 shall be submitted to the Principal Certifying Authority for approval in accordance with Part B1, Waverley DCP 2012 prior to the issue of the Construction Certificate. In this regard, Council expects demolition and excavated material to be reused and/or recycled wherever possible.

The builder and all subcontractors shall comply with the approved SWRMP Part 1 and 2 at all times during construction. At least one copy of the SWRMP is to be available on site at all

times during construction. Copies of demolition and construction waste docket that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

30. EROSION, SEDIMENT AND POLLUTION CONTROL

Erosion, sediment and pollution control measures are to be implemented on this site. These measures are to be in accordance with Council's Stormwater Policy and are to be implemented prior to commencement of any work or activities on or around the site. Details of these measures are to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.

31. STORMWATER MANAGEMENT

- (a) The Stormwater plans by itm design, Job No. 15/123, Drawing No. H-DA-00, H-DA-01 and H-DA-02 (3 Sheets), dated 17 November 2015, have been checked and are ***not*** satisfactory with respect to the stormwater details. The drawings do not comply with the Waverley Development Control Plan 2012 and the Waverley Council Water Management Technical Manual with respect to:
- i. Stormwater disposal system to be connected to the council's below ground drainage system as the site discharge is more than 25 l/s. The connection details are also required as per clause 2.2.1, Waverley Council's Water Management Technical Manual 2014.
 - ii. Details of proposed pit are required. The proposed gully pit to be constructed as per Council STD drawing D1 (drawing available on request to Council's Stormwater Engineer).
 - iii. An engineering design of the proposed stormwater lines is required including a Hydraulic Grade Line (HGL) analysis of pipes from OSD tank to new proposed pit, new proposed pit to existing Council's Stormwater Drainage pit (#39309). The long section information is to include existing services crossing, existing surface levels, pipe invert and obvert levels.
 - iv. A plan for reinstatement work of the footpath, nature strip, road and Kerb & Gutter is required as per council standard drawings R1 & D8 is required (drawing available on request to Council's Stormwater Engineer).
 - v. Details of backfilling and road restoration works is required as per Waverley Council's Standard Drawing D7 (drawing available on request to Council's Stormwater Engineer).
 - vi. Contractor to apply for relevant Footpath and Road Opening Permit prior to commencement of drainage works.
- (b) Amended details addressing clause (a) are to be submitted and approved by Council's Executive Manager, Creating Waverley demonstrating compliance, prior to the issue of a Construction Certificate.
- (c) Certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Water Management Technical Guidelines. Stormwater system details are to be submitted in accordance with the Waverley Development Control Plan 2012 - Part B prior to the issue of a Construction Certificate.

32. NOISE ATTENUATION IN RESIDENTIAL FLAT BUILDINGS

Noise attenuation is to be achieved in all residential units within the building by a minimum of the following standards:

- (a) A wall shall have a Field Sound Transmission Class (FSTC) of not less than 50 if it separates sole occupancy units or a sole occupancy unit from a stairway, public corridor, hallway or the like;
- (b) A wall separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit shall have a FSTC of not less than 55;
- (c) A wall or floor shall have a FSTC of not less than 55 if it separates a sole occupancy unit from a plant room;
- (d) A floor separating sole occupancy units must not have a FSTC of less than 50; and
- (e) A floor separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit shall have an Impact Isolation Class of not less than 55.

Details are to be provided on the plans to the satisfaction of the Principal Certifying Authority prior to the issue of the Construction Certificate.

33. NOISE MANAGEMENT PLAN - DEMOLITION, EXCAVATION AND CONSTRUCTION

A site specific noise management plan must be submitted to the Council for approval and comment prior to the issue of a construction certificate and complied with during any building works. The plan must be prepared by a suitably qualified person who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants. The plan must include but not be limited to the following:-

- (a) Confirmation of the level of community consultation that has and will be undertaken with Building Managers/occupiers/residents of noise sensitive properties likely to be affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (b) Confirmation of noise methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with Council's noise criteria.
- (c) What course of action will be undertaken following receipt of a complaint concerning site noise emissions?
- (d) Details of any noise mitigation measures that have been outlined by an acoustic engineer or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring property to a minimum.

- (e) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

34. BASIX

The undertakings provided in the BASIX Certificate shall be provided for in the Construction Certificate plans and documentation prior to the issue of the Construction Certificate. If required, a modified BASIX Certificate shall be provided that reflects the development as approved (eg addressing any modification required via conditions of consent). Any significant works (ie any works not able to be considered as Exempt and Complying Development) that result from changes to the BASIX Certificate or conflict with conditions of consent require Council's consent.

The Principal Certifying Authority shall be responsible for ensuring that all the undertakings are satisfied prior to the issue of an Occupation Certificate.

The above condition is a prescribed condition under the Environmental Planning and Assessment Act Regulations clause 97A and the above BASIX commitments are mandatory and cannot be modified under Section 96 of the *Environmental Planning and Assessment Act 1979*.

35. USE OF RENEWABLE TIMBERS

Council requires, wherever possible, the use of renewable timbers and/or plantation timbers such as Radiata Pine or Oregon as an alternative to the use of non-renewable rainforest timber products in buildings so as to help protect the existing areas of rainforest. In this regard, a schedule of proposed timber products to be used in the building is to be submitted for approval by the Principle Certifying Authority prior to the issue of the Construction Certificate. Where the applicant is to use timbers not recommended in Council's Policy, reasons are to be given why the alternative timbers recommended cannot be used.

36. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT

Prior to the issue of a Construction Certificate, the applicant is to submit a "Construction Vehicle and Pedestrian Plan of Management" (CVPPM) for the approval of the Executive Manager, Creating Waverley

The CVPPM shall provide details of the following:

- a) The proposed route to be taken by demolition/construction vehicles in the Waverley Council area when accessing and exiting the site.
- b) The type and size of demolition/construction vehicles. Trucks with dog trailers and semi trailers may not be approved for use if it is considered with the information submitted that such vehicles cannot adequately and safely gain access to and from the site or where access into or out of the site may not be possible without the need to remove an unsatisfactory number of vehicles parked on the roadway adjacent to or opposite the site.

- c) The location of truck holding areas remote from the site should Council not give approval for demolition/construction vehicles to stand on the roadway in the vicinity of the site.
- d) Traffic control measures to be put in place when trucks, manoeuvring in the vicinity of the site, will interfere with the free flow of traffic.
- e) The location and materials of construction of temporary driveways providing access into and out of the site.
- f) The location and length of any proposed Works/Construction Zones. Note: such zones require the approval of the Waverley Traffic Committee and Council prior to installation.
- g) The hours of operation of demolition/construction vehicles.
- h) The number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.
- i) How it is proposed to cater for the safe passage of pedestrians past the site. The details shall include:
 - i. The route required to be taken by pedestrians including signage and any other control measures that will need to be put in place to direct and keep pedestrians on the required route
 - ii. Any obstructions such as street furniture, trees and bollards etc., that may interfere with the safe passage of pedestrians
 - iii. The type(s) of material on which pedestrians will be required to walk
 - iv. The width of the pathway on the route
 - v. The location and type of proposed hoardings
 - vi. The location of existing street lighting

37. LONG SECTION OF DRIVEWAY

Long sections drawn along both edges of the driveway shall be submitted to Council for the approval of the Executive Manager, Creating Waverley prior to issue of the Construction Certificate.

The long section drawings shall:

- (a) Be drawn at a scale of 1:25
- (b) Include reduced levels (RL's) of the Penkivil carriageway, the kerb and gutter, footpath and paving within the property and the basement car park floor.
- (c) Include existing and design levels.
- (d) Include ground clearance of the B85 design vehicle using the ground clearance template contained in Appendix C of AS 2890.1: 2004 Off Street Car Parking.

38. VEHICULAR ACCESS

Vehicular access and gradients of vehicle access driveway(s) within the site are to be in accordance with Australian Standard 2890.1 Parking Facilities - Off Street Car Parking with details provided on the plans prior to the issue of the Construction Certificate.

39. VEHICLE ACCESS RAMP

Widths, radii, gradients and gradient changes on the vehicular access ramp being in accordance with Australian Standard 2890.1 Parking Facilities - Off Street Car Parking. Details of the geometric design and proposed levels of the access ramp between the layback and the basement car park being submitted to Council for the approval of the Executive Manager, Creating Waverley prior to the issue of the Construction Certificate.

A splay shall be provided on the fencing on the northern side of the driveway and on the mailbox wall on the southern side of the driveway to improve driver sight lines of pedestrians on the Penkivil Street footpath in accordance with section 3.2.4 of AS2890.1:2004 – Off Street Carparking. The amended plans shall be submitted to Council for approval of the Executive Manager, Creating Waverley prior to the issue of the Construction Certificate.

AMENDED DA-531/2015/A

40. VEHICULAR ACCESS CONTROL SYSTEM

An electronically operated vehicular access control system shall be provided on the access ramp in order to minimise the incidence of more than one vehicle being on the ramp at any one time and to give priority to those entering the car park. Details are to be shown on the plans prior to the issue of the Construction Certificate.

41. BICYCLE PARKING

A total of 18 (minimum) bicycle parking spaces are to be provided, allocated in the following manner:

- (a) 14 residential bicycle spaces;
- (b) 4 visitor bicycle space (minimum 1 located at the ground floor level);

Such spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks and are to be located within the ground floor foyer or adjacent within any forecourt or within the basement car parking area.

Details are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate.

AMENDED DA-531/2015/A

42. MOTORCYCLE PARKING

A total of 3 motorcycle spaces (minimum) are to be provided in the basement level. The spaces shall be identified and marked accordingly.

Details are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate.

43. ACCESSIBLE CAR SPACE

A minimum of one car space for the vehicles of people with disabilities in all new or refurbished buildings which provide between 10 and 50 car parking spaces, and 2 for those which provide between 50 and 100 car spaces.

The car spaces shall be identified and reserved at all times and be in the vicinity of a lift or as close as possible to public areas and facilities. The car spaces shall have minimum dimensions of 3.2m x 5.5m and minimum headroom clearance of 2.5m for vehicles fitted with a roof mounted wheelchair rack.

A notice shall be displayed at the entrance to the car park and at each change in direction indicating the location of car spaces and the maximum headroom for vehicles.

The vehicle circulation/shared area adjacent to the mobility parking spaces shall be provided with bollards as per AS2890.6:2009 – Parking for people with disabilities

Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

AMENDED DA-531/2015/A

44. ACCESS

The development shall be provided with access and facilities for people with disabilities in accordance with AS1428.1-2009 Design for Access and Mobility Part 1: General Requirements for Access. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

45. ACCESS TO MAIN ENTRY

Access in accordance with AS1428.2 shall be provided to and within the main entrance and exit points of the development. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

46. ACCESSIBLE SIGNAGE

Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory or wherever directional signage or information is provided in the building. Such signage shall have regard to the provisions of AS1428.2.

47. ADAPTABLE HOUSING

Access in accordance with AS4299 - Adaptable Housing shall be provided to at least one unit in the development. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

48. BASEMENT STORAGE

SATISFIED BY DA-531/2015/A.

49. ARCHIVAL RECORDING OF EXISTING BUILDINGS

A brief archival record (at a minimum the front and rear elevations, details of notable elements of each building eg the awning and foyers) as per the NSW Heritage Office Guidelines shall be prepared of the existing building for deposit in Waverley Council's Archive (2 hard copies and 1 digital copy to be submitted).

This record must be carried out prior to the removal of any significant building fabric or furnishings from the site and must be submitted to Council prior to the commencement of any demolition work and the issue of a Construction Certificate. The record shall comprise photographic documentation of the site and its context, and the exteriors and interiors of the existing building(s), photographed where appropriate, using a camera/lens capable of 'perspective correction', comprising:

- (a) Adjacent buildings, building elevations, and important interior and exterior architectural spaces and features of the building/site;
- (b) A summary report of the photographic documentation; and
- (c) Photographic catalogue sheets, which are referenced to a site plan and floor plan, no larger than A3 paper size, and indicating the location and direction of all photos (black & white prints and slides) taken.

50. FENCE NOT TO ENCROACH BEYOND BOUNDARIES

No portion of the proposed fence, including the footings, is to encroach beyond the boundaries of the subject property. Alternatively, documentary evidence that the owner of the adjoining property has no objection to the construction of the party fence wall on the common boundary between these properties is to be submitted to Council prior to the issue of a Construction Certificate.

51. WASTE AND RECYCLING STORAGE AND COLLECTION

- (a) The proposal must have a bin storage point for a minimum;

Residential:

- 4 x 240L Mobile Garbage Bin (MGB) for general waste,
- 4 x 240L MGB for recyclables,
- 1 x 240L MGB for garden organics (if required)
- Additional space is to be made available for an extra 1 x 240L MGB for general waste, 1 x 240L MGB for recyclables and 1 x 240L MGB for paper/cardboard.

- (b) The waste and recycling storage room must be built to meet all appropriate design requirements set in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 of Waverley Council Development Control Plan 2012.

- (c) The development must have rooms or caged areas with a minimum volume 4m³ available for the storage of discarded residential bulky waste, such as old furniture, awaiting Council pick up.
- (d) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of waste receptacles, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.
- (e) Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
- (f) All waste and recycling receptacles must be removed from the kerbside as soon as possible on the same day as the collection service.

The above matters are to be shown in the Construction Certificate drawings and submitted to the satisfaction of Council's Sustainable Waverley staff prior to the issue of a Construction Certificate.

52. LANDSCAPED SLABS

Details shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of water-proofing and drainage of the concrete slabs over which landscaping is proposed.

53. STREET PLANTINGS – PENKIVIL STREET

All work outside the property boundary are to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense. Such works shall comply with the following:

- (a) One street tree shall be planted in the footpath along the Penkivil Street frontage of the site. The tree is to have a minimum pot size of 400 litres and shall be certified as grown to Natspec specifications with a minimum height of 2500mm from the top of the container to the apical tip. The tree species to be approved by Council's Strategic Tree Planning Officer.
- (b) A consulting arborist is to submit specifications and design for tree pits for the street trees with the Construction Certificate for approval by Council's Strategic Tree Planning Officer. The design is to include measures to minimise tree root conflict with any adjacent services/infrastructure and the installation of a tree guard (Derwent - available from Arborgreen) installed to manufacturer's specifications.
- (c) The consulting arborist is to provide details for cut-outs for the awning at the front of the building to allow for existing and future tree growth for these trees. This awning modification is to be shown on all submitted plans.

Details are to be submitted to Council for approval by Council's Strategic Tree Planning Officer prior to the issue of a Construction Certificate.

54. TREE REMOVAL

Trees to be removed as per Arboricultural Impact Assessment Report prepared by Andrew Morton Earthscape Horticultural Services Date: November 2015 :

Tree No.	Species	Location	Action
1	<i>Ligustrum lucidum</i> (Large-leaved Privet)	On-site	Remove as per Arborist report.
6	<i>Ficus rubiginosa</i> (Port Jackson Fig)	On-site	Remove as per Arborist report.
8	<i>Ficus rubiginosa</i> (Port Jackson Fig)	On-site	Remove as per Arborist report.
12	<i>Celtis sinensis</i> (Chinese Hackberry)	On-site	Remove as per Arborist report.
13	<i>Ficus rubiginosa</i> (Port Jackson Fig)	On-site	Remove as per Arborist report.
14	<i>Persea Americana</i> (Avocado Pear)	On-site	Remove as per Arborist report.
17	<i>Howea forsteriana</i> (Kentia Palm)	On-site	Remove as per Arborist report.
18	<i>Ligustrum lucidum</i> (Large-leaved Privet)	On-site	Remove as per Arborist report.
19	<i>Ligustrum lucidum</i> (Large-leaved Privet)	On-site	Remove as per Arborist report.
20	<i>Ligustrum lucidum</i> (Large-leaved Privet)	On-site	Remove as per Arborist report.
21	<i>Banksia integrifolia</i> (Coast Banksia)	On-site	Remove as per Arborist report.
22	<i>Plumeria acutifolia</i> (Frangipani)	On-site	Remove as per Arborist report.

In line with Council's policy to maintain and increase tree cover in the Council area, all trees where consent has been given to remove are to be replaced with local native trees of minimum container size of 45 litres / height of 1.5 metres.

These replacement trees are to be clearly shown on an amended landscape plan, prior to the issue of a Construction Certificate.

55. TREE RETENTION

Trees to be retained on adjoining properties as per Arboricultural Impact Assessment Report prepared by Andrew Morton Earthscape Horticultural Services Date: November 2015.

All trees to be retained in accordance with recommended Tree Protection Measures (Section 10). Install Tree Protection Fence in accordance with Section 10.3.

Tree No.	Species	Location	Action
2	<i>Howea forsteriana</i> (Kentia Palm)	Adjoining property	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Tree Protection Fence in accordance with Section 10.3.
3	<i>Howea forsteriana</i> (Kentia Palm)	Adjoining property	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Tree Protection Fence in accordance with Section 10.3.
4	<i>Ailanthus</i>	Adjoining	Retain in accordance with recommended

	altissima (Tree of Heaven)	property	Tree Protection Measures (Section 10). Install Tree Protection Fence in accordance with Section 10.3.
5	Ailanthus altissima (Tree of Heaven)	Adjoining property	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Tree Protection Fence in accordance with Section 10.3.
7	Cupressus sempervirens 'Stricta' (Italian Cypress)	Adjoining property	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Tree Protection Fence in accordance with Section 10.3.
8.1	Araucaria columnaris (Cook Pine)	Adjoining property	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Tree Protection Fence in accordance with Section 10.3.
9	Archontophoenix cunninghamii (Bangalow Palm)	Adjoining property	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Tree Protection Fence in accordance with Section 10.3.
10	Archontophoenix cunninghamii (Bangalow Palm)	Adjoining property	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Tree Protection Fence in accordance with Section 10.3.
11	Cinnamomum camphora (Camphor Laurel)	Adjoining property	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Tree Protection Fence in accordance with Section 10.3.
15	Cyathea cooperi (Rough Tree Fern)	Adjoining property	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Tree Protection Fence in accordance with Section 10.3.
16	Camellia japonica (Camellia)	Adjoining property	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Tree Protection Fence in accordance with Section 10.3.

Trees to be retained and protected shall be clearly shown on any construction plans.

Tree protection measures are to be installed prior to any work (including demolition). The tree retention measures identified in the submitted and approved Arborist Report are to be adhered to at all times. Evidence by means of an arborist report and/or photographic evidence showing site context are to be submitted and approved by Waverley Council's Tree Management Officer prior to the commencement of any work including demolition.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

56. PRIOR TO SITE WORKS

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) The name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) The name and permit number of the owner/builder who intends to do the work; and
- (c) Any change to these arrangements for doing of the work.

57. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the Home and Building Act, 1989. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

58. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

59. SITE HEALTH & SAFETY PLAN

A Site Health & Safety Plan is to be prepared prior to the commencement of works by a person competent to do such Plan. All works are to be carried out in accordance with this Plan. This Plan shall include:

- (a) Hazard identification and control
- (b) Site security
- (c) Personal protective equipment
- (d) Work zones and decontamination procedures
- (e) Contingency plans and incident reporting environmental monitoring

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the Principal Certifying Authority immediately.

60. OBSTRUCTION TO PUBLIC AREAS

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building; then:

- (a) A hoarding fence must be erected between the building site and the public place of the proposed building and the public place. If necessary, an awning sufficient to prevent any substance from, or in connection with, the work falling into the public place, is also to be erected;
- (b) The work is to be kept lit during the time between sunset and sunrise if the work may be of a sort of danger to persons using the public place; and
- (c) A hoarding, fence or awning is to be removed when it is no longer required for the purpose it was provided.

61. TOILET FACILITIES

Toilet facilities being provided on the work site in accordance with the requirements of Sydney Water.

62. NO USE OF ORGANOCHLORIN PESTICIDES

The use of organochlorin pesticides as termite barriers in new development is prohibited pursuant to Council Policy. Only physical barriers are to be used for termite control. The building shall comply with Australian Standard 3660: Protection of building from subterranean termites - prevention, detection and treatment of infestation.

63. DILAPIDATION REPORTS

Dilapidation surveys must be conducted and dilapidation reports prepared by a practising professional engineer (structural) of all buildings, (both internal and external), including ancillary structures located on land adjoining the site and of such further buildings located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration. The survey must identify which properties are within the likely 'zone of influence'.

These properties must include (but are not limited to) 65 and 71 Penkivil Street, 70 – 98 Anglesea Street, and any others identified to be in the zone of influence in the Dilapidation Survey.

The dilapidation reports must be completed and submitted to Council and the Principal Certifying Authority with or prior to the Notice of Commencement and prior to the commencement of any development work. The adjoining building owner(s) must be given a copy of the dilapidation report for their building(s) prior to the commencement of any work.

Please note the following:

- (a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- (b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- (c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- (d) Council will not become directly involved in disputes between the Developer, its contractors and the owners of neighbouring buildings.
- (e) In the event that access for undertaking the dilapidation survey is denied the applicant is to demonstrate in writing to the satisfaction of the Council that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

64. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

At least five (5) days prior to the demolition, renovation work or alterations and additions to any building constructed before 1987, the person acting on the consent shall submit a Work Plan prepared in accordance with Australian Standard AS260-2001, Demolition of Structure and a Hazardous Materials Assessment by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land; or
- (c) Particularise a method of safely disposing of the asbestos in accordance with the Code of Practice for the Safe Removal of Asbestos NOHSC 2002 (1998);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

65. DEMOLITION & SITE PREPARATION

Hazardous or intractable wastes arising from the demolition process being removed and disposed of in accordance with the requirements NSW WorkCover Authority and the NSW Environment Protection Authority (EPA), and with the provisions of:

- (a) Work Health & Safety Act 2011;
- (b) Work Health & Safety Regulation 2011;
- (c) Protection of the Environment Operations Act 1997 (NSW) and
- (d) NSW EPA Waste Classification Guidelines 2009.

66. CONTAMINATING MATERIAL REQUIRED TO BE REMOVED

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (eg: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices. They shall also adopt work practices in accordance with the requirements of Safe Work Australia's National Standard for the Control of Inorganic Lead at Work (NOHSC: 1012 (1994) and NOHSC: 2015(1994).
- (c) All lead-contaminated materials being disposed of in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines 2009 and the Protection of the Environment Operations Act 1997 (NSW).

67. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover NSW Friable Class A Asbestos Removal Licence or where applicable a Non-friable Class B (bonded) Asbestos Removal Licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by WorkCover NSW (catalogue no.WC03561) and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400m x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

68. DEMOLITION AND CONSTRUCTION WASTE MANAGEMENT

The applicant must ensure that the waste generated during the demolition and construction phase complies with the following;

- (a) Separate collection bins or areas for the storage of waste is to be provided (giving consideration to slope, drainage, vegetation, access and handling requirements including:
 - (i) Landfill waste;
 - (ii) Recyclable waste;
 - (iii) Materials to be re-used on-site; and / or
 - (iv) Excavation materials.
 See Annexure B1-1 of the Waverley DCP for common building materials re-use and recycling potential.
- (b) A 100% re-use of sandstone is required.
- (c) All storage areas/ containers are to be located within the property boundary and indicated on the site plans / drawings as part of the SWRMP.
- (d) Where space on a development is limited, approval may be granted by Council to place a skip on a footpath or other public area in line with Part B of Waverley DCP 2012.
- (e) Waste and recycling containers/skips may only be provided by persons/companies holding a current permit granted by Council.
- (f) Asbestos and other hazardous material is to be managed under the Protection of the Environment Operations Act. For further information go to Councils Asbestos Policy 2005 and www.nsw.gov.au/fibro and www.workcover.nsw.gov.au.
- (g) Materials that cannot be reused or recycled should be disposed of at an 'approved' landfill and specified in the SWRMP.
- (h) Records are to be retained on-site demonstrating lawful disposal of waste.
- (i) Easy vehicular access to waste and recycling material storage areas must be provided.
- (j) Construction materials are to be stored away from waste and recycling materials to enable easy access for waste collectors.
- (k) All waste and recycling is to be stored to prevent damage by the elements, odour, health risks and windborne litter.

69. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS

All site works complying with the occupational health and safety requirements of WorkCover NSW.

70. FOOTPATH PROTECTION

The footpath and driveway must have a protective cover e.g. duckboards or plates to ensure these are not damaged during the course of demolition and/or construction. The protective measure is to be installed prior to the commencement of any works on the site.

71. SOIL AND WATER MANAGEMENT PLAN

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to SSROC's Soil and Water Management Brochure and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction. This Plan shall be implemented prior to commencement of any works or activities. All controls in the Plan shall be maintained at all time. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.

72. STOCKPILES

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

73. POTENTIAL DEWATERING OF THE SITE

Should dewatering of the site be required, the onus is on the developer to:

- (a) Undertake the necessary site investigations prior to construction;
- (b) Prove that a water table is present or absent;
- (c) Assess the feasibility of alternative construction methods;
- (d) Assess the potential contaminated site, acid sulphate soil and saline intrusion issues;
- (e) Design an appropriate and safe dewatering system;
- (f) Apply for a dewatering licence,
- (g) Provide a detailed geotechnical and hydrogeological report regarding construction dewatering and monitoring;
- (h) Design and implement a monitoring program;
- (i) Monitor, analyse, interpret and report on dewatering to Council. DWE and possibly DECC throughout construction;
- (j) Inform Council of unexpected site conditions (such as water tables or high seepage rates) and subsidence issues.

74. LOCATION OF BUILDING OPERATIONS

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

75. ALL BUILDING MATERIALS STORED ON SITE

All building materials and any other items associated with the development are to be stored within the confines of the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

76. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends;
- (b) Sundays and public holidays; and

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2000.

77. EXCAVATION TO BE MANAGED BY STRUCTURAL ENGINEER

Bulk excavation is to be managed by a practising structural engineer, in accordance with the specification for shoring and support, as detailed in the approved Construction Certificate.

78. USE OF HEAVY EARTH MOVEMENT EQUIPMENT

Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

79. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Excavation, proposed or undertaken in the certification or construction of the development, that results in additional habitable or non-habitable floor space (including storage) shall require the submission of a new development application or Section 96 application to modify the approved development. During consideration of this application construction work on site shall cease without prior agreement of Council. Failure to comply with this condition may lead to Council prosecuting or taking a compliance action against the development for breach of its consent.

80. EXCAVATION AND BACKFILLING

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

81. EXCAVATION BELOW FOOTINGS

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made, at their own expense, must:

- (a) Preserve and protect the building from damage; and
- (b) If necessary, must underpin and support the building in an approved manner; and
- (c) Must, at least seven days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

82. BUILDING CODE OF AUSTRALIA

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

83. BUILDING LEGISLATION AMENDMENT (QUALITY OF CONSTRUCTION) ACT - INSPECTIONS (RESIDENTIAL FLAT DEVELOPMENT AND OTHER RESIDENTIAL CLASS 2, 3 AND 4)

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) and in accordance with the Building Legislation (Quality of Construction) Act 2002 and the Environmental Planning and Assessment Regulations. Also, documentary evidence of compliance with the relevant terms of conditions of development consent and standards of construction detailed in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction and/or issue of an Occupation Certification.

MANDATORY Critical Stage Inspections MUST be carried out by the PCA for work undertaken during specified stages of construction and prior to issuing an Occupation Certificate.

The specified MANDATORY inspections are:

In the case of a Class 2, 3 and 4 building:

- (a) At the commencement of the building work;
- (b) Prior to covering of waterproofing in any wet area for a minimum of 10% of rooms with wet area within a building;
- (c) Prior to covering any stormwater drainage connections; and
- (d) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required to be undertaken by the PCA:

- (a) Sediment control measures prior to the commencement of building work;
- (b) Foundation material prior to undertaking building work;
- (c) Shoring of excavation works, retaining walls, piers, piling or underpinning works;
- (d) Steel reinforcement, prior to pouring concrete;
- (e) Prior to covering timber or steel framework for floors, walls and roofing, including beams and columns;
- (f) Prior to installation of fire resisting construction systems (ie fire rated ceilings and walls).

Note: Certification may be required from a suitably qualified person, in relation to specialist matters, verifying that particular works satisfy the relevant requirements of the Building Code of Australia and standards of construction.

84. FIRE SAFETY - EXITS

Exits and paths of travel to exits are to be kept clear and at all times to provide clear access to exits and provide a safe passage for occupants to open space in accordance with Section D of the BCA.

85. FIRE SAFETY MAINTENANCE

Access to all essential fire safety measures, such as fire hydrants, fire hose reels, portable fire extinguishers and the like must be maintained at all times and not be blocked or obstructed by furniture, equipment or the like.

86. CERTIFICATE OF SURVEY - LEVELS

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

87. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the actual situation of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

88. ENCROACH BEYOND THE BOUNDARIES

No portion of the proposed works including the footings and roof eaves, to encroach beyond the boundaries of the subject property.

89. WATER PROOFING

The floor and wall surfaces of the proposed wet areas being protected against water in accordance with the Building Code of Australia. The wet areas are to be examined and certified by an Accredited Certifier.

Note: Water proofing is to be in accordance with AS 3740 - Water Proofing of Wet Areas within residential buildings.

90. IN-SINK WASTE DISPOSAL SYSTEMS

The installation of in-sink waste disposal systems is prohibited.

91. HOT TAP WATER SCALDING

To reduce the incidence of hot tap water scalding and, for the purpose of energy efficiency, all new or replacement hot water systems shall deliver hot water to a maximum 50 degrees Celsius at the outlet of all sanitary fixtures used for personal hygiene.

92. SERVICE PIPES

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

93. SMOKE ALARM SYSTEM

A smoke alarm system is to be installed within the building in accordance with the requirements of the Building Code of Australia.

94. ROOFWATER GUTTERING

All new or replacement roof guttering is to comply with the requirements of the Building Code of Australia and Australian Standard AS 3500 *Plumbing & Drainage Standards* to ensure that collected roof water does not flow back into the building.

95. RESIDENTIAL FLAT BUILDINGS - BALCONIES NOT TO BE ENCLOSED

The private open balconies attached to the proposed building are not to be enclosed at any future time, in accordance with the provisions of Council's General Policy. In this regard, the door openings within the external walls adjoining the private open balconies to be constructed so as to prevent the penetration of rain or other waters to the inner part of the building.

96. TREE PROTECTION

Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

97. TREE PLAN

All trees to be retained on the site are to be protected by AS 4970 – 2009 Protection of trees on development sites and by the conditions below.

All trees, shrubs or vegetation on the subject or neighbouring sites identified for retention and within 7.5m of the building work are to be provided with tree protection measures as described below.

All trees, shrubs or vegetation on the subject site are to be provided with a tree guard and a notice on each guard indicating "This tree is the subject of a Tree Preservation Order by Waverley Council." This notice is to be in place prior to commencement of any building or demolition work. Only trees with the approval of Council for removal may be removed from the site.

***TPZ**- Tree Protection Zone

TPZ – A 1.8m chain link wire fence or the like shall be erected around the above trees to be retained to protect them from damage during construction. Fencing is not to be removed until all building work has been completed. Fencing to be installed to the dimensions outlined in the table above. All tree protection fencing shall comply with AS 4970 – 2009 Protection of trees on development sites.

The maintenance of this TPZ shall be maintained as per AS4970 – 2009, Section 4.6.

Established boundary fences or site boundary fences are to remain in place at all times to physically protect any existing trees or vegetation on neighbouring sites. If fences are to be removed and replaced this process shall be undertaken in the most minimal time possible.

If tree roots are exposed during this process and they are to be exposed for any more than 24 hours then a protective absorbent covering is to run the length of the exposed boundary. This covering is to be kept moist to prevent the drying out of roots.

Any backfilling material required due to excavation shall meet the requirements of AS 4419-2003 Soils for landscaping and garden use. Any backfilling material shall also be conducive to promoting root development and growth.

Soil levels are not to be changed around any trees on the subject or neighbouring properties.

No mechanical excavation shall be undertaken within the tree canopy spread (within the dripline) or within 2.0m from the middle of the trunk (whichever is greater) of any tree, shrub or vegetation that is protected under Waverley Council's Tree Preservation Order.

If any tree roots are exposed during any approved works then roots smaller than 30mm are to be pruned as per the specifications below. Any roots greater than 30mm are to be assessed by a qualified arborist before any pruning is undertaken.

If tree roots are required to be removed for the purposes of constructing the approved works they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

It is the arborist's responsibility to determine if such root pruning is suitable. If there are any concerns regarding this process then Waverley Council's Tree Management Officer is to be contacted to make final determination.

If any trees or vegetation on the subject property require pruning and are covered by Waverley Council's Tree Preservation Order an Application to Prune or Remove Trees on Private Property is must be presented to Council for processing.

If any trees on neighbouring properties require pruning and are covered by Waverley Council's Tree Preservation Order then permission must be gained from the owner of the tree(s) and an Application to Prune or Remove Trees on Private Property is then to be presented to Council for processing.

There are to be no underground services installed within 2.0 metres from the middle of the trunk of any trees to be planted, or 1.0 metres from the edge of any proposed garden bed.

98. STREET TREE PLANTING - RESIDENTIAL ZONES

The proposed street planting to Penkivil Street (species, size and spacing) is to be undertaken in accordance with Council's requirements and the following:

- (a) Adequate drainage with specifications showing continuous interconnected tree channel pits with a minimum size of 1sqm;
- (b) Solid cast aluminium tree guards and root barriers in accordance with Council's Tree Management Policy;
- (c) A protective wire mesh guard with a minimum height of 1.5m shall be erected and secured around each tree;
- (d) Planting areas within 1m of concrete structures shall have a flexible root barrier installed around the perimeter of the planting hole.

99. NEW VEHICLE CROSSING

A new vehicle crossing is to be provided to access the proposed **basement car park**. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

100. EXISTING VEHICLE CROSSING IS TO BE CLOSED

The existing vehicle crossing is to be closed and all work associated with the closure is to be carried out with the approval of, and in accordance with, the requirements of Council

101. BASEMENT MANOUVREING SPACES

The manoeuvring space allocated as such on the approved architectural plans shall be signposted and marked to Council's satisfaction in order for the space not to be used for parking at any time.

102. FOOTPATH AND KERB/ GUTTER UPGRADE

The footpaths and kerb and gutters surrounding the site are to be upgraded at the applicant's expense.

In this regard, the applicant is to confer with Council's Executive Manager, Creating Waverley prior to commencement of works on the footpath area. A detailed plan of the works required on Council's road reserve/footpath area being submitted to Council for the approval of the Executive Manager, Creating Waverley prior to those works commencing.

103. CONVEX MIRRORS

Convex mirrors being placed inside the site at the vehicular access ramp for drivers when exiting the site to view pedestrians and vehicles approaching from either direction along Penkivil Street.

104. PARKING SPACES

The resident car parking spaces in the basement are to be clearly line marked and signposted.

105. TRAFFIC LIGHT/SIGNAL

A traffic light/signal system, to the satisfaction of the Executive Manager, Creating Waverley, being installed to allow access for one vehicle only at a time on the vehicular access ramp to the basement car park area.

106. RELOCATION OF PARKING SIGNS

Where necessary, the applicant shall meet the cost of the relocation/installation of any traffic or parking control signs.

107. WORK OUTSIDE PROPERTY BOUNDARY

All work outside the property boundary is to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense.

108. NO WORKS BEYOND BOUNDARIES

No portion of the proposed fencing, support columns, including the footings, is to encroach beyond the boundaries of the subject property.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

109. OCCUPATION CERTIFICATE

The Principal Certifying Authority prior to occupation or use of the development must issue a final Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning & Assessment Act, 1979 have been satisfied.

110. SYDNEY WATER

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website www.sydneywater.com.au/customer/urban/index or telephone 13 20 92.**

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the subdivision plan/occupation of the development.

111. ARCHITECT TO SUPERVISE DESIGN - OCCUPATION CERTIFICATE DOCUMENTATION

In accordance with clause 154A of the Environmental Planning and Assessment Regulations 2000, the Principal Certifying Authority must not issue an occupation certificate to authorise a person to commence occupation or use of the development unless it has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued.

112. STORMWATER

Prior to the issue of an Occupation certificate, certification is to be provided from a suitably qualified hydraulics engineer, that the stormwater system has been **constructed** in accordance with the approved stormwater management plans and to best engineering practice

113. LANDSCAPE CONSULTANT

A qualified Landscape and/or Arboricultural Consultant shall be retained for the duration of the construction of the development. The Consultant shall submit to the Principal Certifying Authority a Certificate of Practical Completion stating the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established. The Certificate shall be lodged upon satisfactory completion of the landscaping works and prior to the issue of the Occupation Certificate.

114. WASTE AND RECYCLING STORAGE AND COLLECTION - USE

- (a) Composting facilities onsite must meet all design requirements set in Annexure B1-5 of the Waverley Council Development Control Plan.
- (b) Sufficient space must be allocated on-site for the storage of reusable items such as crates and pallets.
- (c) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (d) The path for bins between the waste and recycling storage area and the vehicle collection point must be free of steps and kerbs.
- (e) All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 of Waverley Council Development Control Plan 2012.
- (f) The proposal must have a system for the convenient transportation of waste and recyclables to the communal waste and recycling storage area (i.e. chute systems or a service lift dedicated for the transportation of waste).
- (g) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of waste receptacles, cleaning of storage areas and booking

and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.

- (h) Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
- (i) All waste and recycling bins must only be placed out on Council footpath for collection no earlier than 5:30 p.m. on the day prior to the designated waste collection day and retrieved from the kerbside as early as possible.
- (j) Should a collection vehicle be required to drive onto the property to collect waste and recycling bins, the site must be designed to allow collection vehicles to enter and exit the property in a forward direction and have adequate vehicle clearance. In addition, all access roads and driveways must comply with BCA, AS and Annexure B1-3 in the Waverley Development Control Plan 2012.

The above matters are to be detailed and submitted to the satisfaction of the Principal Certifying Authority prior to the occupation of the development.

115. WAVERLEY DIGITAL MODEL

Prior to the issue of an Occupation Certificate an accurate 'as built' digital model of the building must be submitted to Council's Waverley Futures Department for use in the Waverley Digital Model.

- (a) A digital model of the building must be generated at a scale of 1:1 with units of measurement in metres and include the following:
 - (i) A building envelope which includes all elements affecting shadow analysis;
 - (ii) Accurate placement of glazing, balconies, roof pitches, terraces, roof services and any other prominent external design features;
 - (iii) A ground level terrain showing accurate RLs extending to site boundaries.
- (b) All models must be generated in accordance with Council's Guidelines: Submitting Digital 3D Models. Further information and technical requirements can be obtained from Council's E-Planning (3D Modelling) Officer, Shaping Waverley.

Notes:

- This model will update previous version/s submitted at Development Application stage.
- Any future modifications (under Section 96 of the Environmental Planning and Assessment Act) that affect the external configuration of the building (from the ground level and up), will require the submitted model to be amended.

116. FIRE SAFETY UPGRADE AND LINEN PLAN

Fire safety upgrading works being undertaken in accordance with recommendations identified in the Fire Safety Upgrade Assessment Report.

In this regard, the Occupation Certificate shall not be released by Council or an accredited certifier, until all fire safety upgrading works are completed and a Final Fire Safety Certificate

has been submitted to Council, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:-

- (a) Has been assessed by a properly qualified person; and
- (b) Has been found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

117. PUBLIC DOMAIN WORKS COMPLETED

All public domain works are to be completed to the agreed design and standard to the satisfaction of the Executive Manager, Creating Waverley prior to the issue of an Occupation Certificate.

118. LIGHTING

- (a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.
- (b) All external lighting fixtures should be vandal resistant.
- (c) Lighting should be carefully considered in areas covered by CCTV to allow for optimum viewing.
- (d) Lighting should be free of obstructions, such as tree branches, pipes, etc.
- (e) Transition lighting should also be used throughout the site to reduce vision impairment, i.e. impairment caused by walking from dark to light places and light to dark places.
- (f) All external area lights and carparks to multi-unit dwellings shall be on sensor switches to save energy and reduce light spill to the sky; low voltage solar powered lights to front entry footpaths are acceptable for continuously illuminated lighting.

119. ALLOCATION OF STREET NUMBER

The redevelopment of the property has led to the following allocation of primary and sub-premises numbering for a strata subdivision with multiple street frontages:

- No. 67 - primary address site number
- Penkivil Street primary address location.

The primary premises number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary that fronts Penkivil Street.

The following sub-addressing will apply:

As the redevelopment has multi-level sub-addressing the following sub-addressing will apply;

- Nos. G01 -G04 for the sub-addresses within the building correlating with Nos. 1-4 on the floor plans for the building,
- Nos. 101-104 for the sub-addresses within the building correlating with Nos. 5-8 on the floor plans for the building,
- Nos. 201-304 for the sub-addresses within the building correlating with Nos. 9-12 on the floor plans for the building.
- Nos. 301-302 for the sub-addresses within the building correlating with Nos. 13-14 on the floor plans for the building.

The address number for a sub-address site shall consist of the sub-address followed by the number of the primary address site.

The address number for a sub-address site shall not consist of the primary address number on its own.

Sub-address numbers shall be applied in a logical sequence and within a primary address site shall be unique regardless of the type of the address.

The primary and sub-address numbers are to be positioned on the site prior to the issue of the Subdivision/Occupation Certificate and Council notified of the corresponding sub-address numbers to lot number prior to the issue of the Occupation Certificate.

Any variation to the above premises numbering requires a new application to be lodged with Council.

AMENDED DA-531/2015/A

120. VEHICLE ACCESS

All vehicles entering and exiting the site from Penkivil Street shall do so in a forward direction at all times.

121. PARKING

- (a) Ownership of car park lot spaces within the basement shall be limited to parties owning a lot within the buildings on-site.
- (b) A minimum of one car space and a maximum of two car spaces shall be allocated to any residential unit/dwelling to ensure equitable allocation overall.
- (c) The area adjoining Space No. 21 designated as 'Vehicle Circulation Area' on the approved plans shall remain as a shared zone, with no vehicle to be parked in this area. The Strata Subdivision plan shall be amended to accurately reflect this.
- (d) Car parking and storage spaces shall not be independent lots, but rather part lots attached to units in the Subdivision Plans.

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122. PARKING PERMITS

In accordance with Council's Policy, Residents Preferred Parking permits will **not** be issued for this development when completed.

123. NOISE ATTENUATION CERTIFICATE

On completion of any building containing residential units and prior to the issue of the Occupation Certificate the applicant shall:

- (a) Engage and an Australian Association Acoustic Consultant to conduct a test for noise attenuation to classify the buildings performance on the National Star Rating Table and to confirm compliance with Condition; and
- (b) Lodge with Council for public record, the noise attenuation star rating results.

124. NOISE – PLANT AND EQUIPMENT

A Certificate is to be submitted to Council at the completion of all work and prior to the issue of an Occupation Certificate, from a suitably qualified Acoustic Engineer. The Certificate is to certify all plant and equipment including mechanical supply and exhaust ventilation systems (including the car park) and lift motors comply with the terms of approval in relation to noise.

125. SLIP TESTS OF COMMON AREAS

Common area tiles should not have slippery finishes. Slip tests should be undertaken in wet conditions.

126. TACTILE NUMBER IN LIFT

The applicant is advised that with regard to the provision of the lift in the building, it will be necessary for tactile numbers to be placed on each level of the building and within the lift to assist visually impaired people.

127. SUBDIVISION

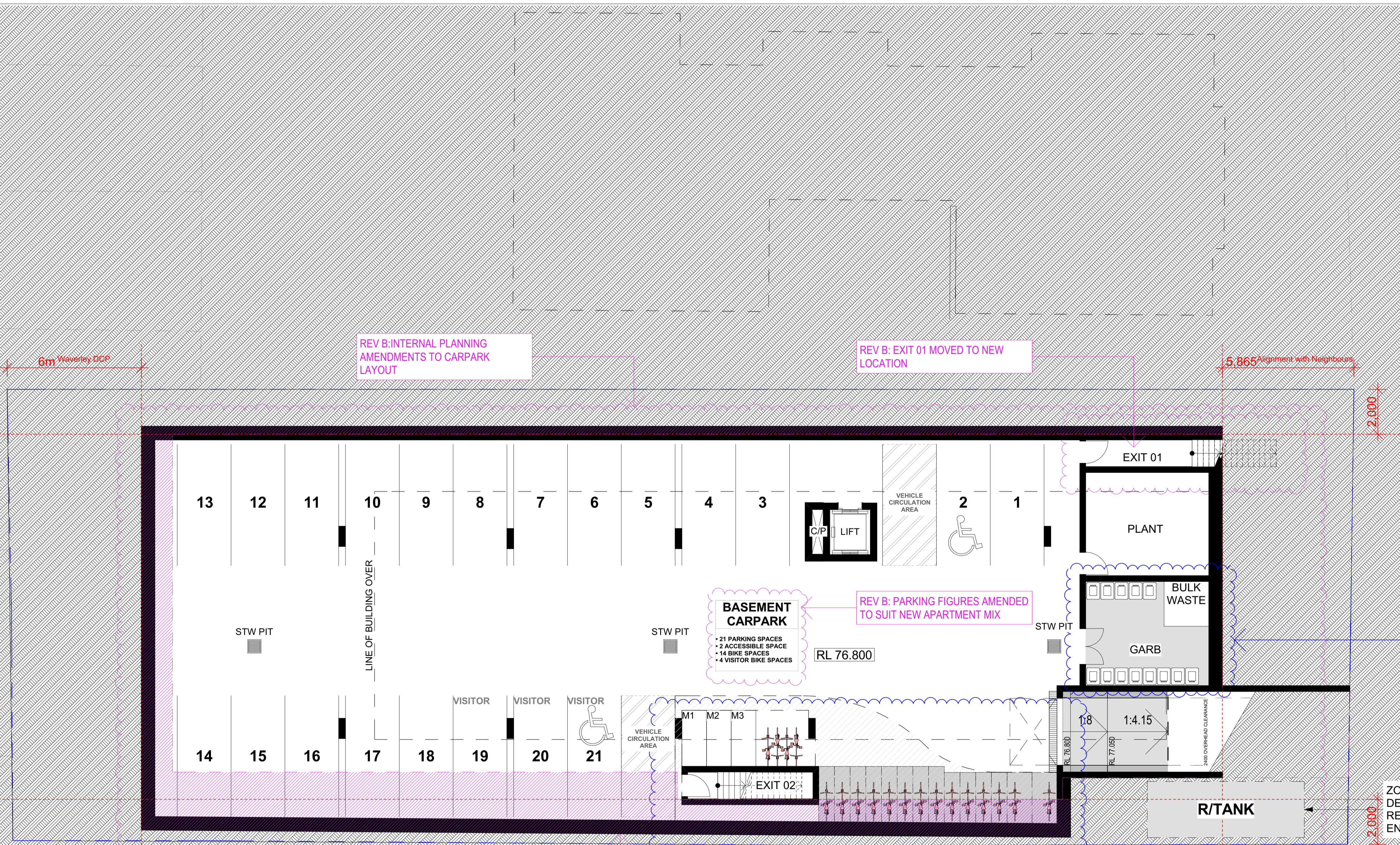
A Subdivision Certificate must be obtained from Council in accordance with Section 109C (d) of the Environmental Planning and Assessment Act, 1979 prior to the registration of the subdivision plans.

128. PLANNING AGREEMENT

- 1. The owner/ applicant is to:
 - (i) Enter into an Agreement in accordance with Waverley's Planning Agreement Policy 2014 prior to the issue of any Construction Certificate for the development that relates to works contained in DA-531/2015/A; and
 - (ii) Pay a monetary contribution amount of \$583,152 prior to the issue of any Occupation certificate for the Development

- (iii) A Planning Agreement will be entered into under Section 93F of the Environment Planning and Assessment Act 1979 between the owner of the land the subject of the Development, the applicant and Council.
2. In accordance with the said offer, the Planning Agreement shall make provision in respect to the following:
- (i) The Planning Agreement shall be registered upon the title to the land the subject of the Development prior to the issue of any Construction Certificate for the Development
- (ii) The owner/ applicant shall provide Council with a Bank Guarantee to secure the payment of the Monetary Contribution prior to the issue of any Construction Certificate for the Development which is:
- In a form acceptable to Council and from an institution acceptable to Council
 - Irrevocable
 - Unconditional
 - With no end date
3. The payment of the Monetary Contribution to Council is to be made prior to the issue of any Occupation Certificate for the Development, and is to be applied towards a public purpose in accordance with the Agreement and Council's Planning Agreement Policy 2014.

ADDED DA-531/2015/A



REV B: INTERNAL PLANNING AMENDMENTS TO CARPARK LAYOUT

REV B: EXIT 01 MOVED TO NEW LOCATION

REV B: PARKING FIGURES AMENDED TO SUIT NEW APARTMENT MIX

REV C: BIN STORAGE AMENDED (CONDITION 51)

REV B: BASEMENT WIDENED TO FIT NEW PARKING REQUIREMENTS

REV C: MOTORCYCLE SPACES SHOWN ON PLANS. RELOCATION OF VISITOR BIKES

ZONE FOR DETENTION TANK REFER TO HYDRAULIC ENGINEERS DETAILS

REV C: BASEMENT STORAGE SHOWN ON PLANS (CONDITION 48)

REVISIONS	
A	ISSUE FOR DA 20.11.15
B	S96 16.12.16
C	S96 AMENDMENTS 07.04.17

GENERAL NOTES
 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF PRACTICE...
 2. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS...
 3. CONTRACTOR TO NOTIFY OWNER OF ANY DISCREPANCIES...
 4. ALL WORKS TO BE COMPLETED WITHIN THE SPECIFIED TIME FRAME...
 5. CONTRACTOR TO MAINTAIN ACCESS TO ALL SERVICES...
 6. CONTRACTOR TO PROTECT ALL EXISTING SERVICES...
 7. CONTRACTOR TO PROVIDE PROTECTION FOR ALL SERVICES...
 8. CONTRACTOR TO MAINTAIN RECORDS OF ALL WORKS...
 9. CONTRACTOR TO NOTIFY OWNER OF ANY DISCREPANCIES...
 10. CONTRACTOR TO PROVIDE PROTECTION FOR ALL SERVICES...

ALL CONSTRUCTION TO COMPLY AT MINIMUM WITH BCA CLAUSES & AUSTRALIAN STANDARDS
 CLAUSE 9.1.1: MATERIALS & WORKMANSHIP
 CLAUSE 9.1.2: FIRE RESISTANCE CONSTRUCTION
 CLAUSE 9.1.3: FLOORING
 CLAUSE 9.1.4: WALLS & PARTITIONS
 CLAUSE 9.1.5: ROOFING
 CLAUSE 9.1.6: GLAZING
 CLAUSE 9.1.7: DOORS & WINDOWS
 CLAUSE 9.1.8: STAIRS
 CLAUSE 9.1.9: LIFTS
 CLAUSE 9.1.10: VENTILATION
 CLAUSE 9.1.11: SOUND INSULATION
 CLAUSE 9.1.12: LIGHTNING PROTECTION
 CLAUSE 9.1.13: ELECTRICAL INSTALLATION
 CLAUSE 9.1.14: PLUMBING & MECHANICAL
 CLAUSE 9.1.15: PEST CONTROL
 CLAUSE 9.1.16: SECURITY
 CLAUSE 9.1.17: ACCESSIBILITY
 CLAUSE 9.1.18: SIGNAGE
 CLAUSE 9.1.19: FENCING
 CLAUSE 9.1.20: OTHER

SPECIFICATIONS (refer to specification attachment)
 ALL CONSTRUCTION TO COMPLY AT MINIMUM WITH BCA CLAUSES & AUSTRALIAN STANDARDS
 CLAUSE 9.1.1: MATERIALS & WORKMANSHIP
 CLAUSE 9.1.2: FIRE RESISTANCE CONSTRUCTION
 CLAUSE 9.1.3: FLOORING
 CLAUSE 9.1.4: WALLS & PARTITIONS
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 CLAUSE 9.1.14: PLUMBING & MECHANICAL
 CLAUSE 9.1.15: PEST CONTROL
 CLAUSE 9.1.16: SECURITY
 CLAUSE 9.1.17: ACCESSIBILITY
 CLAUSE 9.1.18: SIGNAGE
 CLAUSE 9.1.19: FENCING
 CLAUSE 9.1.20: OTHER

BASIS COMMITMENTS
 ALL OTHER BASIS COMMITMENTS AS PER BASIS CERTIFICATE AND STAMPED PLANS
 ENERGY OPTIONS - Dwellings
 COOLING: Air conditioner, single phase
 HEATING: Gas or oil
 WATER HEATING: Central water heating
 ENERGY EFFICIENT LIGHTING: LED
 COOK TOPS: Induction
 REFRIGERATOR SPACE: 100L
 CLOTHES WASHERS: 100L

ENERGY OPTIONS - Common Areas
 COMMON AREAS IDENTIFIED
 Car park: Garage Room, plant room
 Air conditioner, single phase
 Lighting: LED
 Water heating: Central water heating
 Energy efficient lighting: LED
 Cook tops: Induction
 Refrigerator space: 100L
 Clothes washers: 100L

WATER OPTIONS
 SHOWERHEADS: 6 STAR
 TOILETS: 6 STAR
 CLOTHES WASHERS: 6 STAR
 BATHROOM TAPS: 6 STAR
 KITCHEN TAPS: 6 STAR
 CENTRAL WATER HEATING: 6 STAR
 STORM WATER TANK: 6 STAR
 PROBLEMS: 6 STAR
 LANDSCAPED AREA TO IRRIGATE: 6 STAR

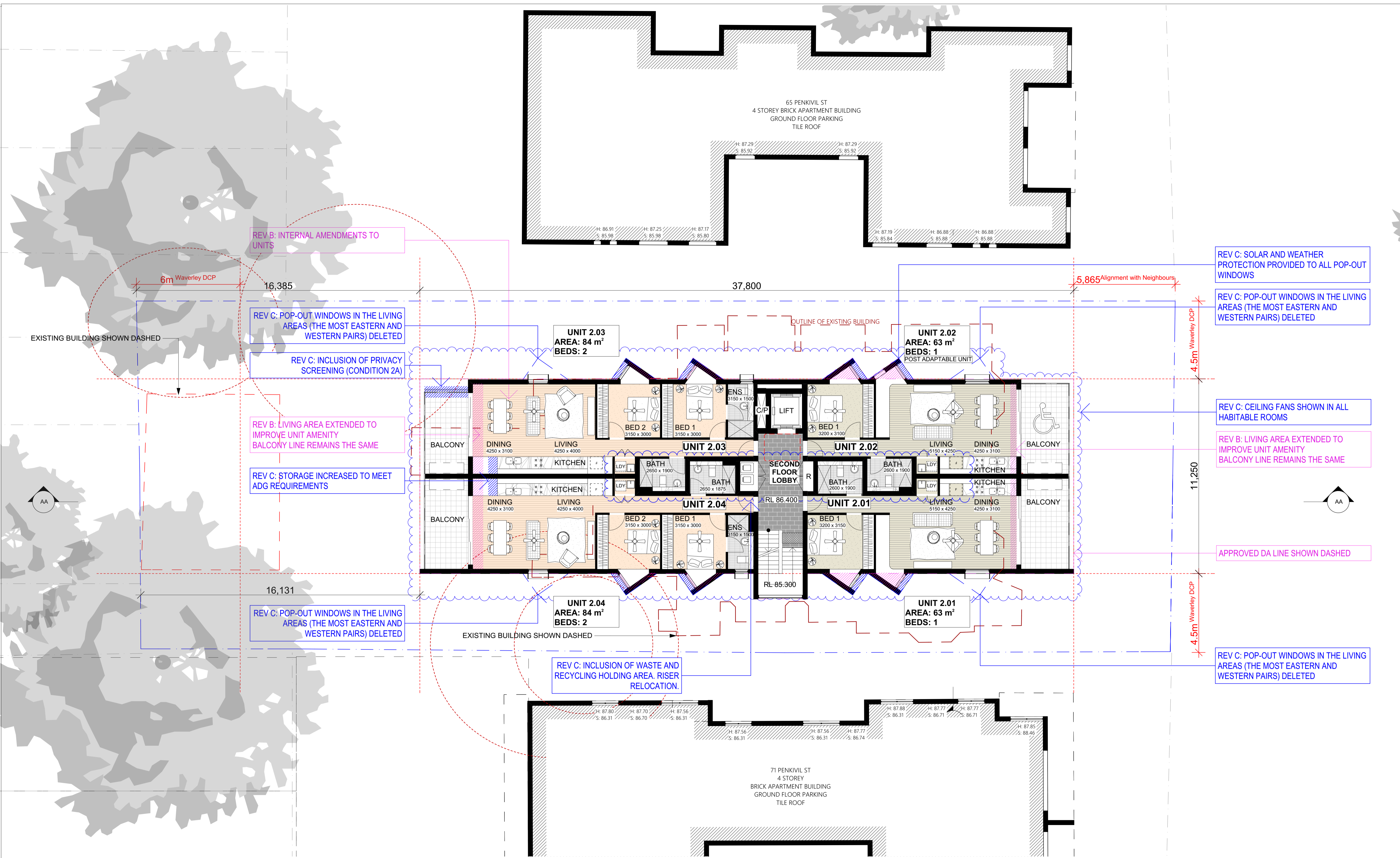
THERMAL COMFORT OPTIONS
 ROOF: R5 insulation (standard) or undercoat, 'light' colour
 CEILING: R5 insulation (standard) or undercoat, 'light' colour
 EXTERNAL WALLS: R5 insulation (standard) or undercoat, 'light' colour
 INTERNAL WALLS: R5 insulation (standard) or undercoat, 'light' colour
 FLOORS: R5 insulation (standard) or undercoat, 'light' colour

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PROJECT: PENKIVIL ST
 67-69 PENKIVIL ST BONDI NSW 2026
 DRAWING: BASEMENT FLOOR PLAN

PROJECT NO: 15-030
 DRAWN BY: MHNDU
 TO SCALE: 1:100 @A1
 DRAWING NO: REV: D11_C

15030_07_A01_Penkivil_Development_Application_016.dwg.mhd
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REVISIONS	ISSUE FOR DA	DATE
A	ISSUE FOR DA	20.11.15
B	S96	16.12.16
C	S96 AMENDMENTS	07.04.17

PLOTTED: 6/04/2017

GENERAL NOTES

- ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA (AS/NZS 1170) AND ALL APPLICABLE STANDARDS.
- CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK.
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ALL CONSTRUCTION TO COMPLY AT MINIMUM WITH BCA CLAUSES & AUSTRALIAN STANDARDS:

CLAUSE 1.1: MATERIALS & FINISHES
 CLAUSE 1.2: CONSTRUCTION
 CLAUSE 1.3: STRUCTURAL
 CLAUSE 1.4: FIRE RESISTANCE
 CLAUSE 1.5: SOUND
 CLAUSE 1.6: ACCESSIBILITY
 CLAUSE 1.7: SMOKE
 CLAUSE 1.8: LIGHTNING
 CLAUSE 1.9: THERMAL COMFORT
 CLAUSE 1.10: ENERGY EFFICIENT
 CLAUSE 1.11: WATER EFFICIENT
 CLAUSE 1.12: WASTE MANAGEMENT
 CLAUSE 1.13: PLANT & EQUIPMENT
 CLAUSE 1.14: SAFETY
 CLAUSE 1.15: GENERAL

SPECIFICATIONS (refer to specification attachment)

CLIMATE ZONE: 8
 WIND SPEED: 10 m/s
 SUNSHINE: 2500 hours
 RAINFALL: 1200 mm
 TEMPERATURE: 15°C
 HUMIDITY: 65%

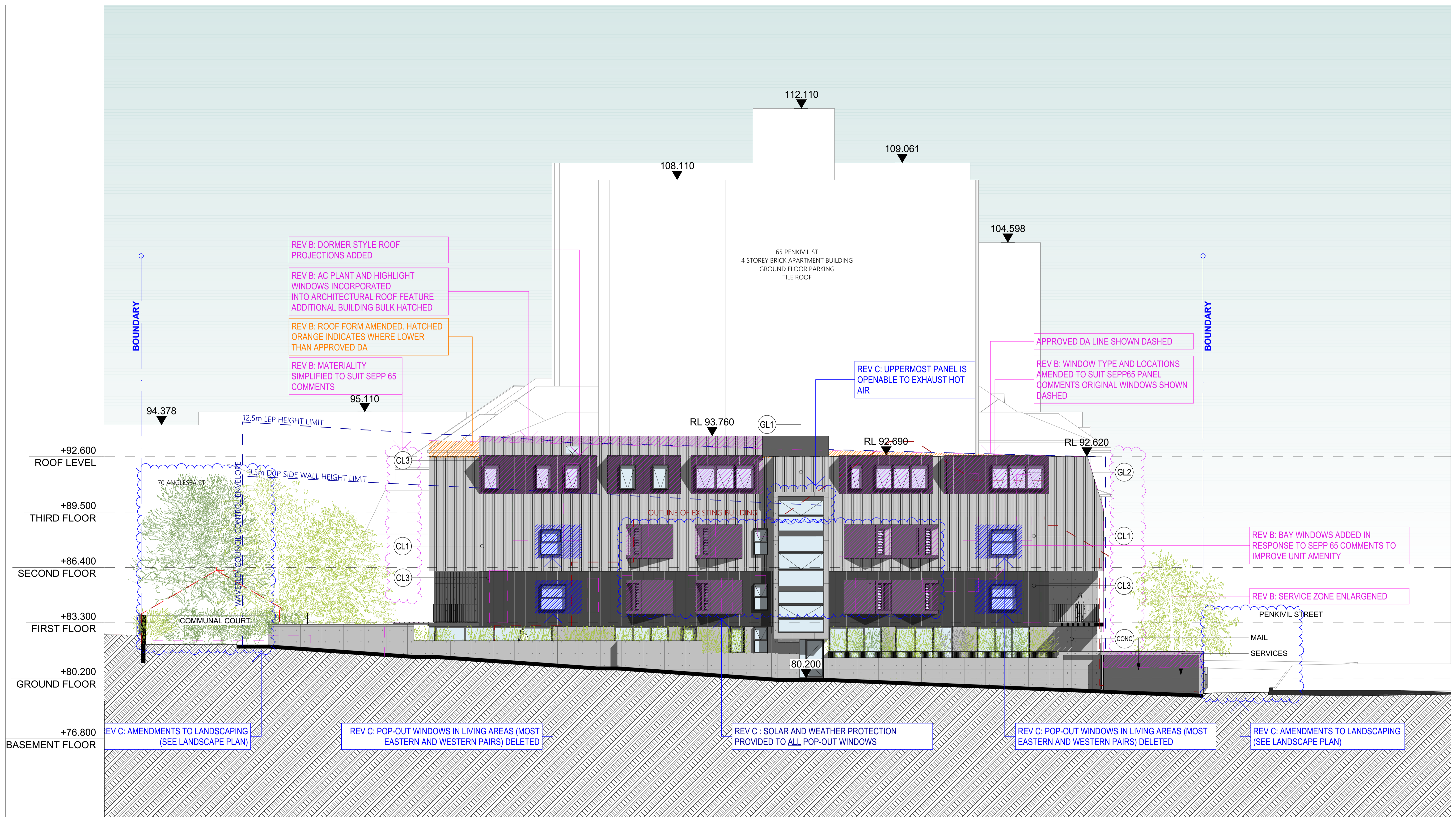
BASIC COMMITMENTS

ENERGY OPTIONS - Dwellings:
 Heating: Air conditioner, single phase
 Cooling: Evaporative cooling, single phase
 Ventilation: Mechanical, single phase
 Water Heating: Electric, single phase
 Hot Water: Electric, single phase
 Clothes Washers: Electric, single phase

ENERGY OPTIONS - Common Areas:
 Heating: Air conditioner, single phase
 Cooling: Evaporative cooling, single phase
 Ventilation: Mechanical, single phase
 Water Heating: Electric, single phase
 Hot Water: Electric, single phase
 Clothes Washers: Electric, single phase

WATER OPTIONS:
 Showers/Baths: 4 STAR
 Toilets: 4 STAR
 Clothes Washers: 4 STAR
 Kitchen Taps: 4 STAR
 Bathroom Taps: 4 STAR
 Dishwashers: 4 STAR
 Storm Water Tanks: 4 STAR
 Pools/Spas: 4 STAR
 Landscaped Area to Irrigate: 4 STAR

THERMAL COMFORT OPTIONS:
 Roof: Metal Deck with R1.0 insulation (standard), Light colour
 Ceilings: 3 STAR
 External Walls: 4 STAR
 Internal Walls: 4 STAR
 Floors: 4 STAR
 Special Glazing Requirements: 4 STAR



REV B: DORMER STYLE ROOF PROJECTIONS ADDED

REV B: AC PLANT AND HIGHLIGHT WINDOWS INCORPORATED INTO ARCHITECTURAL ROOF FEATURE ADDITIONAL BUILDING BULK HATCHED

REV B: ROOF FORM AMENDED. HATCHED ORANGE INDICATES WHERE LOWER THAN APPROVED DA

REV B: MATERIALITY SIMPLIFIED TO SUIT SEPP 65 COMMENTS

REV C: UPPERMOST PANEL IS OPENABLE TO EXHAUST HOT AIR

APPROVED DA LINE SHOWN DASHED

REV B: WINDOW TYPE AND LOCATIONS AMENDED TO SUIT SEPP65 PANEL COMMENTS ORIGINAL WINDOWS SHOWN DASHED

REV B: BAY WINDOWS ADDED IN RESPONSE TO SEPP 65 COMMENTS TO IMPROVE UNIT AMENITY

REV B: SERVICE ZONE ENLARGED

REV C: AMENDMENTS TO LANDSCAPING (SEE LANDSCAPE PLAN)

REV C: POP-OUT WINDOWS IN LIVING AREAS (MOST EASTERN AND WESTERN PAIRS) DELETED

REV C: SOLAR AND WEATHER PROTECTION PROVIDED TO ALL POP-OUT WINDOWS

REV C: POP-OUT WINDOWS IN LIVING AREAS (MOST EASTERN AND WESTERN PAIRS) DELETED

REV C: AMENDMENTS TO LANDSCAPING (SEE LANDSCAPE PLAN)

Legend: External Materials and finishes

- CT1 Ceramic Tile Type 1: Colour to match white
- CL1 Cladding, Type 1: Standing Seam Aluminium Cladding Colour to match charcoal grey
- CL2 Cladding, Type 2: Timber Panel Cladding Teak
- CL3 Cladding, Type 3: Metal sandwich panel Colour to match charcoal grey
- CL4 Cladding, Type 4: Metal sandwich panel Colour Red
- SC1 Screen, Type 1: Vertical aluminium screen powdercoat finish, colour to match CL3
- BL1 Balustrade, Type 1: Steel palacade style balustrade Dulux Ferrodor 801, Natural Grey Finish
- BL2 Balustrade, Type 2: Semi frameless clear glass balustrade.
- GL1 Glass, Obscure, Type 1: Glass, obscure translucent to suit Basix report requirements. Framing system, aluminium, powder coat finish. Framing colour to match charcoal grey
- GL2 Glass, Clear, Type 2: Glass, clear to suit Basix report requirements. Framing system, aluminium, powder coat finish. Framing colour to match charcoal grey

NB: NO AMENDMENTS MADE TO EXTERNAL FINISHES AND MATERIALS FOR ISSUE C

REVISIONS	ISSUE FOR DA	DATE
A	ISSUE FOR DA	20.11.15
B	S96	16.12.16
C	S96 AMENDMENTS	07.04.17

GENERAL NOTES

1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF PRACTICE (AS/NZS 1170) AND THE BUILDING REGULATIONS (AS/NZS 1171).

2. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. MHNDU IS TO BE NOTIFIED OF ANY DISCREPANCIES IN THE DIMENSION AND SETTING OUT OF THE WORK. COPYRIGHT OF DESIGN SHOWN HEREIN IS RETAINED BY MHNDU. AUTHORITY IS REQUIRED FOR ANY REPRODUCTION.

ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS

CLAUSE 1.1: MATERIALS & FINISHES

CLAUSE 1.2: CONSTRUCTION

CLAUSE 1.3: PERFORMANCE OF EXTERNAL WALLS & A FIRE

CLAUSE 1.4: PERFORMANCE OF EXTERNAL WALLS & A FIRE

CLAUSE 1.5: PERFORMANCE OF EXTERNAL WALLS & A FIRE

CLAUSE 1.6: PERFORMANCE OF EXTERNAL WALLS & A FIRE

CLAUSE 1.7: PERFORMANCE OF EXTERNAL WALLS & A FIRE

CLAUSE 1.8: PERFORMANCE OF EXTERNAL WALLS & A FIRE

CLAUSE 1.9: PERFORMANCE OF EXTERNAL WALLS & A FIRE

CLAUSE 1.10: PERFORMANCE OF EXTERNAL WALLS & A FIRE

SPECIFICATIONS (refer to specification attachment)

INTERNAL CLADDING: TO COMPLY WITH BCA CLAUSE 4.4.1 & 4.4.2

EXTERNAL CLADDING: TO COMPLY WITH BCA CLAUSE 4.4.1 & 4.4.2

ROOFING: TO COMPLY WITH BCA CLAUSE 4.4.1 & 4.4.2

WATERPROOFING: TO COMPLY WITH BCA CLAUSE 4.4.1 & 4.4.2

MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS/NZS 1530.6

MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS/NZS 1530.6

MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS/NZS 1530.6

MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS/NZS 1530.6

MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS/NZS 1530.6

BASIX COMMITMENTS

ALL OTHER BASIX COMMITMENTS AS PER BASIX CERTIFICATE AND STAMPED PLANS

ENERGY OPTIONS - Dwellings

COOLING: Air conditioner, single phase, 5.0 star or better and heat pump

HEATING: Air conditioner, single phase, 5.0 star or better

VENTILATION: Mechanical Exhaust Ventilation (MEV) system with thermal bypass, 5.0 star or better

WATER HEATING: Central hot water system, 5.0 star or better

ENERGY EFFICIENT LIGHTING: Compact fluorescent or LED

COOK TOPS: Refrigerator space, 5.0 star or better

CLOTHES WASHERS: 5.0 star or better

ENERGY OPTIONS - Common Areas

COMMON AREAS IDENTIFIED

Car park: Car park, 5.0 star or better

TOILETS: 5.0 star or better

CLOTHES WASHERS: 5.0 star or better

BATHROOM TAPS: 5.0 star or better

SHOWERHEADS: 5.0 star or better

STORM WATER TANK: 5.0 star or better

LANDSCAPED AREA TO IRRIGATE: 5.0 star or better

THERMAL COMFORT OPTIONS

ROOF: R1.0 insulation to all floors above ground level

CEILING: R1.0 insulation to all floors above ground level

EXTERNAL WALLS: R1.0 insulation to all floors above ground level

INTERNAL WALLS: R1.0 insulation to all floors above ground level

FLOORS: R1.0 insulation to all floors above ground level

SPECIAL GLAZING REQUIREMENTS

GLAZING: Glass, clear to suit Basix report requirements. Framing system, aluminium, powder coat finish. Framing colour to match charcoal grey

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PROJECT: PENKIVILL ST

67-69 PENKIVILL ST BOND NSW 2026

DRAWING: SOUTH ELEVATION

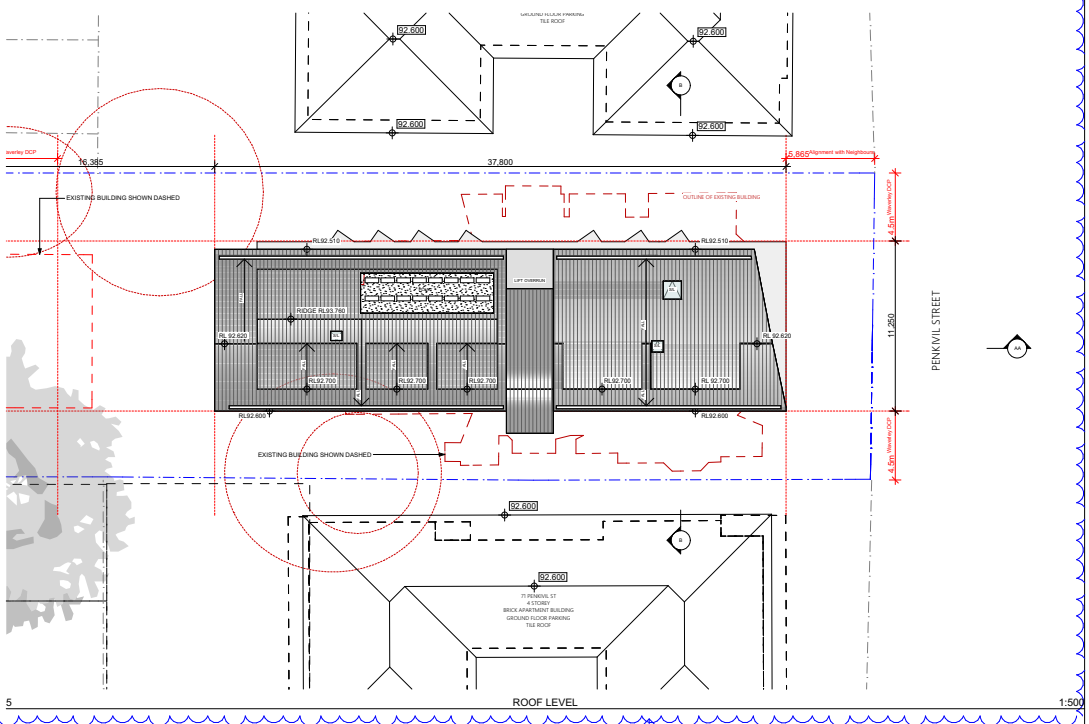
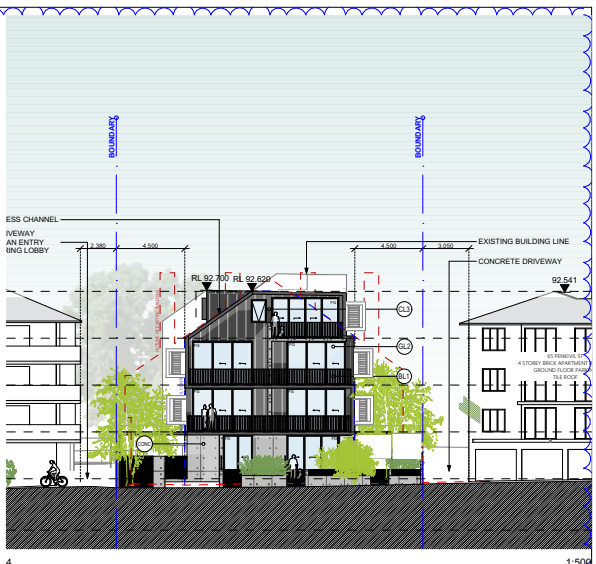
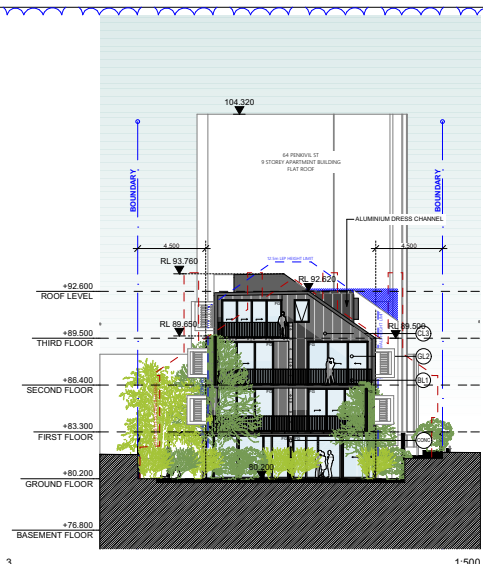
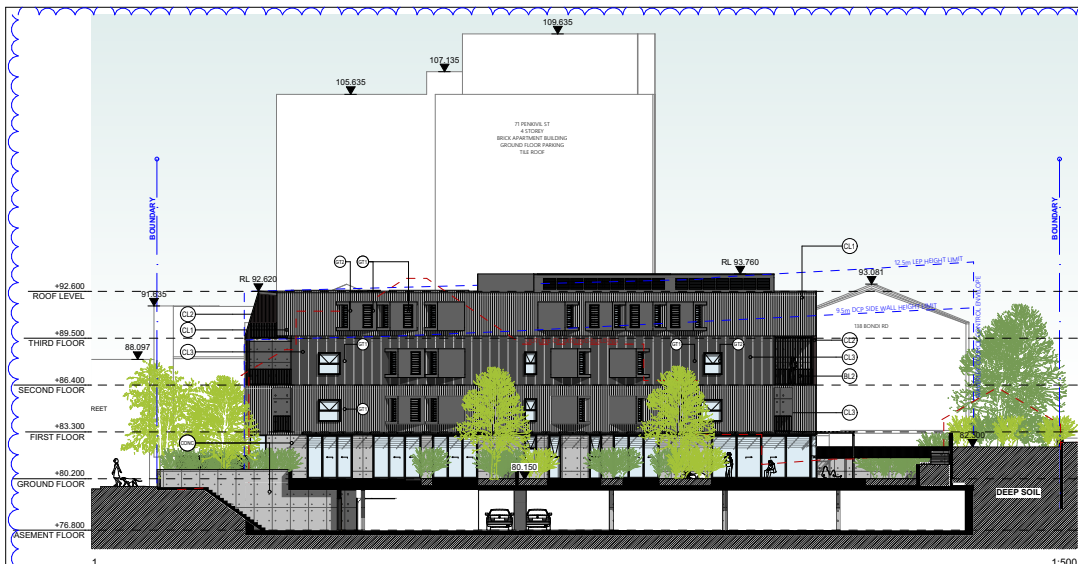
PROJECT NO: 15-030

DRAWN BY: MHNDU

TO SCALE: 1:100 @A1

DRAWING NO: REV:

DA23_C



REV C: UPDATED PLAN AND ELEVATIONS

REVISIONS		PLOTTED: 6/04/2017
A	ISSUE FOR DA	20.11.15
B	S96	16.12.16
C	S96 AMENDMENTS	07.04.17

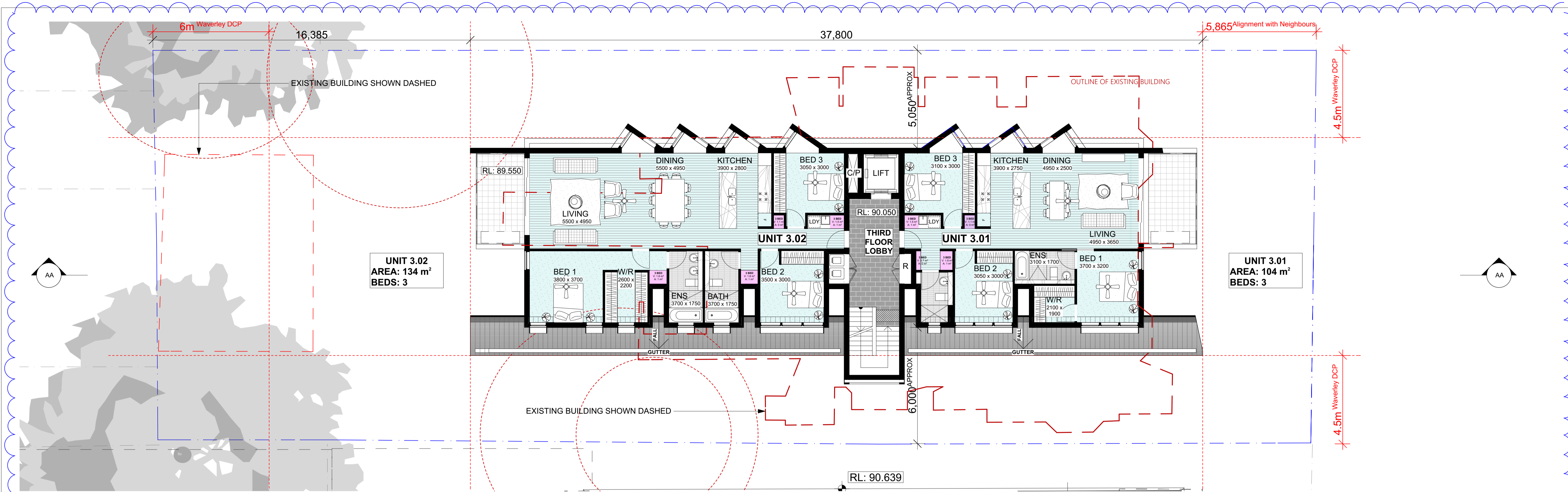
15030_67-69_Penkivil_Development_Application_s96-post-sepp.pdf
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 MHN Design Union Pty Ltd. AEN 94 003 717 682

PROJECT:
 PENKIVIL ST
 67-69 PENKIVIL ST
 BONDI NSW 2026

DRAWING:
 A4 NOTIFICATION PLANS

PROJECT NO: 15-030
DRAWN BY: MHNDU
TO SCALE: @A4
DRAWING NO: REV:
162



NOTE :
MINIMUM OF 50% OF STORAGE FOR EACH APARTMENT IS ALLOCATED WITHIN EACH UNIT AS PER THE ADG.

TOTAL STORAGE					
ID	Zone Name	Zone Number	Net Volume	Requirements	Compliant
0	Bulk Waste	BW	9.6	4.3m3	✓
0.01	2 BED	G.01	9.5	8m3	✓
0.02	2 BED	G.02	10.5	8m3	✓
0.03	2 BED	G.03	11.2	8m3	✓
0.04	2 BED	G.04	11.2	8m3	✓
1.01	1 BED	1.01	9.0	6m3	✓
1.02	1 BED	1.02	9.0	6m3	✓
1.03	2 BED	1.03	8.4	8m3	✓
1.04	2 BED	1.04	8.4	8m3	✓
2.01	1 BED	2.01	9.0	6m3	✓
2.02	1 BED	2.02	9.5	6m3	✓
2.03	2 BED	2.03	8.4	8m3	✓
2.04	2 BED	2.04	8.0	8m3	✓
3.01	3 BED	3.01	11.5	10m3	✓
3.02	3 BED	3.02	12.5	10m3	✓

REV C: STORAGE SCHEDULE

REVISIONS	ISSUE FOR DA	DATE
A	S96	20.11.15
B	S96	16.12.16
C	S96 AMENDMENTS	07.04.17

GENERAL NOTES

- ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA NATIONAL STANDARDS INDUSTRY REGULATIONS AND LOCAL AUTHORITY BYE.
- CONTRACTOR TO CHECK FOR CONSISTENCY BETWEEN MATERIALS IS HANDLED AND APPROVED BY THE DESIGNER FOR CLARIFICATION.
- CONTRACTOR TO VERIFY WORK OF ANY DISCREPANCIES.
- CONTRACTOR TO VERIFY ALL CONTRACTORS (SUBS) DRAWINGS ARE SETTING OUT TO THE SAME POINT OF CONSTRUCTION.
- CONTRACTOR TO VERIFY ALL DIMENSIONS AND REQUIREMENTS ARE ACCURATE.
- ALL DIMENSIONS HAVE BEEN CHECKED ON SITE. CHECK AS NEAR AS POSSIBLE TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. MHNDU IS TO BE NOTIFIED OF ANY DISCREPANCIES IN THE DIMENSION AND SETTING OUT OF THE WORK. COPYRIGHT OF DESIGN SHOWN HEREON IS RETAINED BY MHNDU. AUTHORITY IS REQUIRED FOR ANY REPRODUCTION.

ALL CONSTRUCTION TO COMPLY AT MINIMUM WITH BCA CLAUSES & AUSTRALIAN STANDARDS

SPECIFICATIONS (refer to specification attachment)

BASIC COMMITMENTS

ENERGY EFFICIENT LIGHTING

COOK TOPS

REFRIGERATOR SPACE

CLOTHES WASHERS

ENERGY OPTIONS - Dwellings

ENERGY OPTIONS - Common Areas

WATER OPTIONS

THERMAL COMFORT OPTIONS

REVISIONS

REV B: BASIX UPDATED

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PROJECT: 15-030
PENKIVIL ST

67-69 PENKIVIL ST BOND NSW 2026

DRAWING: STORAGE COMPLIANCE PLAN

PROJECT NO: 15-030
DRAWN BY: MHNDU
TO SCALE: 1:100 @A1
DRAWING NO: REV:
DA39_C



Delegated Report

Application number	DA-121/2017
Site address	110 Lamrock Avenue, Bondi Beach
Proposal	Alterations and additions to an existing mixed use building, including internal alterations, window changes and new storage to rear (retrospective works)
Date of lodgement	10 April 2017 (Additional information received 24 November 2017)
Owner / Applicant	The Owners Strata Plan 80692
Submissions	Seven submissions
Cost of works	\$200 000
Issues	Existing Use Rights; Retrospective works.
Recommendation	That the application be APPROVED

Site Map



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 1 June 2017.

The site is identified as SP 80692, known as 110 Lamrock Avenue, Bondi Beach. The site is rectangular in shape and is located on the corner of Lamrock Avenue and Barracluff Avenue. The front and rear boundaries measure 12.19 metres and side boundaries measure 36.575 metres. The site has an area of 442.6m² and is generally flat.

The site is occupied by a two-storey 'shop-top housing' building (mixed use) with frontage to both Lamrock Avenue and Barracluff Avenue. The shop within the building is located at the front of the site fronting Lamrock Avenue and vehicular access is provided to a triple garage located at the rear of the site accessed from Barracluff Avenue.

The subject site adjoins a pair of semi-detached dwellings at the rear and to the eastern side of the site. Located to the north of the site on the opposite corner is another mixed use building and to the west on the other corner is a semi-detached dwelling. The locality is characterised by a variety of residential developments including semi-detached dwellings and residential flat buildings.



Figure 1: Site viewed from Lamrock Avenue



Figure 2: Site viewed from Barracluff Avenue

1.2 Relevant History

Council records indicate that the original building on the site may have been approved in 1928 for a two-storey mixed use building containing a shop fronting Lamrock Avenue with five residential units. The floor plans are provided below in Figures 3 and 4 (copies of the full plans are on the DA file). These plans most appropriately reflect the building on site from the records that Council retains and have been used as the existing approved plans during this assessment for comparison.

The original building contained 2 x 2-bedroom ground floor units (Units 1 and 2) with access to an enclosed verandah on the Barracluff Avenue frontage. The first floor level contains a two-bedroom unit (Unit 4) with access to an enclosed verandah, a 3-bedroom unit (Unit 3) with access to an enclosed verandah and a three bedroom unit (Unit 5) at the front of the building fronting Lamrock Avenue located above the ground floor shop. This unit is a two level unit with a separate entrance from Lamrock Avenue.

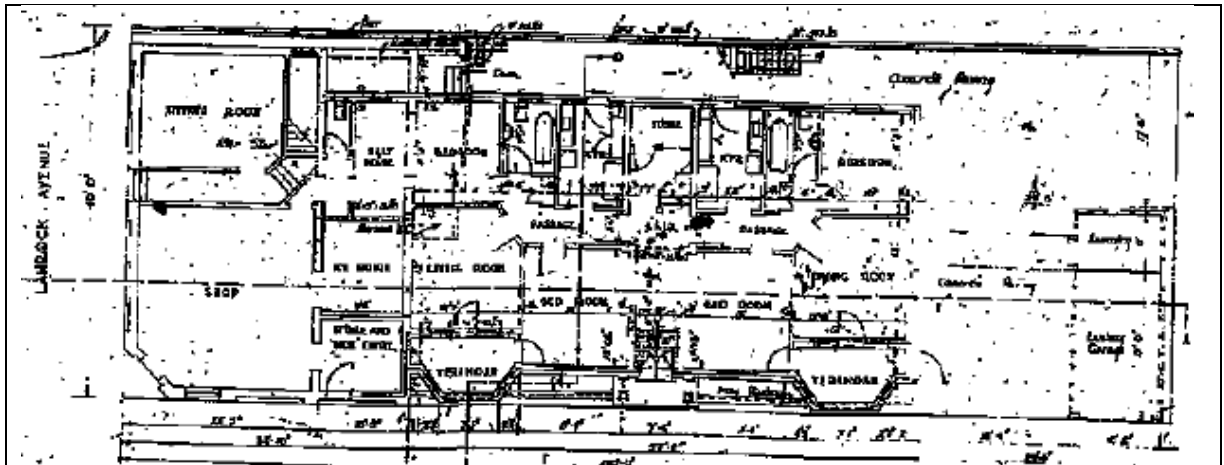


Figure 3: Ground floor plan of building in 1928 (BR28/4381) found in Council's records

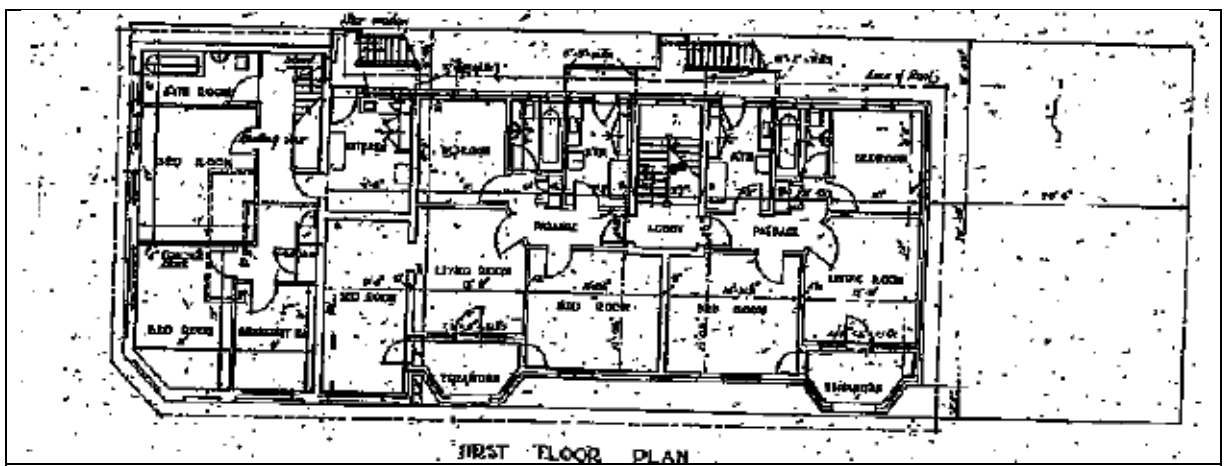


Figure 4: First floor plan of building in 1928 (BR28/4381) found in Council's records

On 14 April 1988 (DA-31/1988), a consent was granted for alterations to Unit 1 for the manufacture of curtains and blinds in association with the existing shop. A condition of this consent required the construction of a triple garage within the rear yard which was subsequently constructed.

On 10 December 1991 (DA-336/1991), consent was granted to strata subdivide the existing mixed use development.

There have also been numerous applications over the years in regards to the use of the ground floor shop. It is not considered necessary to detail each application as they relate to simple change of shop use applications only.

DA-43/2016 for alterations and additions to the existing shop top housing building to provide two new residential units within the roof was refused by the Waverley Development Assessment Panel (WDAP) on 23 November 2016 for the following reasons:

1. *It is recognised the proposal relies on Existing Use Rights however the proposal fails on a merit assessment.*
2. *The proposal fails against the zone objectives for Low Density Residential R2 as the proposal is considered bulky and adversely impacts the privacy and overshadowing of neighbouring and nearby properties.*

3. *The proposal results in unacceptable amenity for future occupants of the subject site as well as impacts upon neighbouring properties given the extent of non-compliance with the Height and FSR development standards of the R2 zone.*
4. *The proposal results in unacceptable streetscape impacts regarding the bulk and scale of the new roof and location, placement, extent and proportion of dormers.*
5. *The proposal results in unacceptable amenity impacts for future occupants given the absence of private open space for apartments.*
6. *Insufficient details have been shown on the plan to properly assess certain elements of the proposal, including and not limited to discrepancies in the plans, stairs along southern side not shown, plans not fully dimensioned, fourth parking space in rear yard not shown, ceiling heights and ridge height not shown on plan.*
7. *The proposal fails to satisfy SEPP 65 Principles, specifically Landscape, Built Form and Scale, Amenity and Sustainability Principles.*
8. *The ceiling height of the attic level appears to be less than the Building Code of Australia minimum for this type of accommodation.*
9. *Any additions within the roof space should be contained within the existing roof form connected to the unit/s below (rather than independent units) and subsequently the proposal fails to meet objectives for attic additions.*
10. *No details of the bin enclosure have been provided.*
11. *The proposal is against the public interest.*

During the assessment of the above application and upon visitation to the site, it was noted that there were a number of unapproved building works that had been carried out to the existing building. As a consequence, a Notice of Intention to Give an Order was issued on 16 January 2017 for the following:

At the subject premises internal alterations have been carried out to all units and the 2 bedroom units has been converted to 3 bedroom units; The passage at the side that adjoins 108 Lamrock Avenue have been divided into private courtyards without prior development consent of a consent authority and a prior construction certificate in a case where both prior development consent and a prior construction certificate are required.

The subject application, **DA-121/2017**, was lodged on 10 April 2017 to rectify the illegal works. After initial assessment, the application was deferred on 7 June 2017 for a Building Code of Australia (BCA) Report. Several reports have been provided over the course of the assessment period each being unsatisfactory in some regard. The final BCA report was provided to Council on 24 November 2017.

1.3 Proposal

The proposal seeks consent for the retrospective approval of alterations and additions to the existing building summarised as follows:

Ground level:

- The conversion of the enclosed verandahs on the western elevation (Barracluff Avenue) to kitchens and associated widening of the opening between the new kitchen and living area. The room in which the previous kitchen was located is then converted to a bedroom/study.
- New tandem car space/storage to the rear of the existing three car garage located partially within the rear communal open space.
- Replacement of windows on the eastern side elevation with sliding doors to provide access to the side setback.
- Conversion of the side setback to courtyards through the provision of timber gates and fencing with an acrylic roof over.
- Timber pergola with an acrylic roof over within the rear communal open space.
- Provision of an ensuite to Unit 5 ground level bedroom and refurbishment of existing bathrooms within other units.

First floor level:

- The enclosure of landings on the eastern side boundary and conversion of windows to sliding doors to provide access to the enclosed landings.
- The conversion of the enclosed verandahs on the western elevation (Barracluff Avenue) in Unit 3 and 4 to kitchens. The former kitchens are converted to another bedroom/study.
- Internal alterations to provide additional ensuites and refurbishment of existing bathrooms.
- Internal alterations to Unit 5 including the relocation of the kitchen and conversion of the former kitchen into an additional bedroom (increasing from 3 to 4 bedrooms), refurbished bathroom and the provision of additional ensuite bathrooms.

2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 79C of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1 Section 79C (1)(a) Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

2.1.1 SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

2.1.2 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is not inconsistent with the aims of the LEP.
Part 2 Permitted or prohibited development		
Land Use Table R2 Low Density Residential Zone	No	The proposal is defined as 'shop top housing', which is prohibited in the R2 zone. The existing building was approved and constructed prior to the LEP prohibiting the use within the zone and as such is considered to be an Existing Use under Division 10 of the Environmental Planning & Assessment Act 1979. Refer to the following section of this report for detailed discussion.
Part 4 Principal development standards		
4.3 Height of buildings • 8.5m ²	N/A	The proposal does not alter the height of the existing building.
4.4 Floor space ratio • 0.62:1 (based on a dwelling in an R2 zone)	No	The subject proposal has an FSR of 1.12:1 however the original building had an FSR of 1.10:1.

Provision	Compliance	Comment
		However the site has existing use rights and as such, the development standards of the LEP do not apply. Notwithstanding, these standards can be used to guide development for the site as discussed in the following section of this report.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	<p>The site is not heritage listed or located within a conservation area. However the site is in vicinity of heritage items being located diagonally opposite Nos. 1 and 3 Barracluff Avenue, two heritage listed properties.</p> <p>The proposed works are contained predominantly within the building or are only obscurely visible from the public domain. As such the proposed works will not impact upon the character of the building or the significance of heritage items within the vicinity.</p>

The use of the building is considered to be an Existing Use under Division 10 of the Environmental Planning & Assessment Act 1979. Clause 44 in Part 5 of the Environmental Planning & Assessment Regulation 2000 allows an existing use to be enlarged, expanded, intensified, altered, extended or rebuilt subject to development consent.

The Regulations provide that an existing use may only be altered, extended or rebuilt on the land to which the existing use was erected before the relevant date, but does not provide further restrictions/requirements in regard to the assessment of the application. The merit assessment of this development application is therefore to be considered under Section 79C of the Environmental Planning and Assessment Act 1979 having regard to relevant provisions of the LEP and DCP in as much as they control development on surrounding sites.

In this regard, the provisions of the LEP do not apply and can only be used as a guide. Therefore an Exception to a Development Standard in regards to the FSR development standard is not required.

Clause 4.4 Floor space ratio

The existing building has an FSR of 1.10:1 and the proposal will increase this to 1.12:1 equating to an additional 7.2m² for the infilling of the landings on the eastern elevation. The conversion of the verandahs to kitchens is not additional floor space as the original plans for the building indicate that these were always enclosed with windows and as such have always been part of the gross floor area of the building. Given the size of the site, if the proposal were for a dwelling house, the FSR development standard would be 0.62:1.

The objectives of the FSR development standard are as follows:

(1) The objectives of this clause are as follows:

- (a) to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,*
- (b) to provide an appropriate correlation between maximum building heights and density controls,*
- (c) to ensure that buildings are compatible with the bulk, scale, streetscape and existing character of the locality,*
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality.*

Objective (a) is not relevant to the subject site.

The majority of the works, with the exception of the infilled landings, involve the internal reconfiguration of the building however do not result in increased floor space or bulk of the building.

The additional floor space will be contained within the eastern side setback of the building and involves the infilling of the landings to external stairs to the side yard of the building. The infilled landings are within 3m of the side boundary and as such fire protection of the openings is required. Additionally, the infilling of the landings enclose the windows to the bedrooms to which they relate and as such impact upon light and ventilation to these rooms. The BCA report indicates that it may require some additional measures to be installed to demonstrate compliance with the Performance Provisions. The infilling of these landings encroaches upon the side boundary setback of the building and negatively impacts upon the amenity of the bedrooms to which they are attached and adjoining properties by increasing visual and acoustic privacy impacts. As such, the infilling of the landings and the additional floor space is not supported.

The removal of the infilled landings will result in the proposal having the same FSR as the existing building on the site, as it was originally approved.

The amended proposal is considered to be consistent with objectives (b), (c) and (d).

Given the above analysis, and subject to the removal of the infilled landings, the FSR of the proposal is considered appropriate and consistent with the relevant objectives of the LEP.

2.1.3 Waverley Development Control Plan 2012 - Amendment No 5 (Waverley DCP 2012)

The proposal has existing use rights and as such the controls of Development Control Plan 2012 do not apply to the development and a merit assessment must be undertaken to determine acceptability of the proposal. However, the site is zoned R2 – Low Density Residential, as are the surrounding sites, and it is considered appropriate to assess the development against the controls for the zoning as these controls are reflective of the pattern of development envisaged for the area and surrounding sites.

Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	<p>The DCP controls for the number of bins to be provided on site are based on the number of units regardless of how many bedrooms each unit contains. The proposal does not result in an increase in the number of units and as such, no additional bins are required.</p> <p>The plans indicate that there will be waste storage in the rear yard which is considered acceptable. There is direct access to the Barracluff Avenue frontage for collection.</p> <p>The proposal is consistent with the objectives and controls within this part of the DCP.</p>
2. Energy and water conservation	Yes	<p>The removal of the enclosed landings by condition, as discussed previously, will result in improved solar access and ventilation to the units.</p> <p>Appropriate openings are retained on all elevations for adequate cross ventilation and solar access.</p> <p>The proposal is consistent with the objectives and controls within this part of the DCP.</p>
8. Transport	No	<p>An assessment of the parking provision is discussed in more detail in the section of this report following compliance tables.</p>
9. Heritage	Yes	<p>Refer to Table 1 for detailed discussion.</p>

Table 3: Waverley DCP 2012 – Part C1 Dwelling House, Dual Occupancy, Secondary Dwelling, Semi-Detached Dwelling and Terrace Development Compliance Table

Development Control	Compliance	Comment
1.2 Setbacks		
1.2.2 Side setbacks <ul style="list-style-type: none"> Minimum of 1.5m 	No	The DCP requires a 1500mm side setback for buildings with a height of 9.5m to 12.5m. The enclosed landings are set 1050mm from the side boundary. Refer to detailed discussion following this table.
1.4 Streetscape and visual impact		
<ul style="list-style-type: none"> Impact upon streetscape 	N/A	The streetscape presentation of the building is as originally approved. The original verandahs were always enclosed with windows and the proposal does not alter this.
1.8 Visual and acoustic privacy		
<ul style="list-style-type: none"> Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design. External stairs are not acceptable. Maximum size of balconies: <i>10m² in area</i> <i>1.5m deep</i> 	No	Refer to detailed discussion following this table.
1.9 Solar access		
<ul style="list-style-type: none"> Minimum of three hours of sunlight to living areas and principal open space areas on 21 June 	Yes	The works are largely contained within the envelope of the existing building on the site and will not result in unreasonable overshadowing of adjoining properties.
1.11 Car parking		
1.11.1 Parking rates <i>Maximum rates:</i> <ul style="list-style-type: none"> 1 space for 2 or less bedrooms 2 spaces for 3 or more bedrooms 	No	Refer to detailed discussion following this table.
1.12 Landscaping and open space		
<ul style="list-style-type: none"> Overall open space: 40% of site area Overall landscaped area: 15% of site area 	No N/A	<ul style="list-style-type: none"> 20% open space. No change to landscaped area.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Minimum area of 25m² for private open space 		Refer to detailed discussion following this table.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

Parking

The parking rates for dwellings in the DCP does not exceed 2 spaces per dwelling with a maximum of 2 dwellings per site (dual occupancy). In this regard, the maximum amount of parking provided on a particular site in the R2 zone should not exceed 4 spaces. Given that this proposal is to be compared to the controls for dwellings houses and dual occupancies, these controls are those that are applicable.

The existing building provides 3 parking spaces on site with a potential fourth tandem space illegally constructed. The tandem space/storage room is not considered appropriate as discussed later in this report as it is constructed over the communal open space at the rear of the site. In this regard, the proposal provides only 3 parking spaces.

The proposed works are contained within the envelope of the building and involve only a reconfiguration of internal areas with no increase in floor space. The site is located within an area that is highly accessible to public transport and local shops. To provide additional parking on site would be to the detriment of the amenity of the site by taking away communal space for parking spaces. Council typically does not encourage rear setbacks being solely utilised for parking with open space being preferred. In this regard, the parking provided on site is considered acceptable.

Side setbacks

The enclosed landings encroach on the side setback controls of the DCP. The side setback at the ground floor level is to remain however has been fenced into two sections with an acrylic roof over for use as private courtyards for the ground floor units.

The enclosed landings are considered inappropriate as discussed in the following section of this report. The encroachment into the side setback is inconsistent with the objectives of the side setback controls in that the proposal does not ensure that the distance between buildings allows adequate solar access, ventilation and privacy. The enclosed landings and side courtyards are to be removed by condition.

Visual and acoustic privacy

The enclosed landings will impact upon the adjoining properties through increased overlooking by encroaching on the side boundary setback. The enclosed landings are not supported and are to be deleted from the proposal (ie, demolished).

The side setback at the ground floor level is to remain however has been fenced into two sections with an acrylic roof over for use as private courtyards for the ground floor units. The original plans for the existing building provide a doorway from the side setback into each unit via the kitchen. The current proposal seeks to widen the doorway with sliding glazed doors and the kitchens are replaced with bedrooms/studies.

The enclosure of the side boundary at ground floor level and the landings at the first floor level effectively contains the entertaining areas for Units 1 and 2 within the narrow side setback. This concentrates activity in this area and given that the building is a residential flat building with typically more residents than a dwelling, results in acoustic privacy impacts to the adjoining dwelling at No. 108 Lamrock Avenue. The current buildings has a lack of communal open space for occupants and as such it is considered more appropriate for the use of the area around the building for the benefit of all occupants. In this regard, a condition will require that the side courtyards including roofing are removed and the side setback should return to communal space.

Notwithstanding, given that the sliding doors replace existing doorways and access to the side courtyards are from bedrooms/studies which are typically rooms of low use, privacy impacts from these doors are not considered unreasonable. In this regard, the sliding doors are considered appropriate and can remain. These doors also provide access to the communal open space for use of the occupants which is encouraged given that the units were never built with private open space for each unit (refer to discussion below under '*Landscaping and private open space*').

Subject to amendments outlined, the proposal will not result in unreasonable visual and acoustic privacy impacts upon surrounding properties.

Landscaping and private open space

The original building plans from 1928 show small verandahs on the west elevation (Barracuff Avenue) that were fully enclosed with windows. In this regard, although they were labelled as verandahs they were in fact internal space and the original building did not provide private open space for each unit. Therefore, the communal outdoor space has always been the only source of open space for the occupants of this building and the enclosure of the verandahs is not illegal work. The internal works to relocate the kitchens is simply internal reconfiguration and is considered acceptable.

The unapproved works involve the construction of a storage area and pergola over the rear open space and the enclosure of the side open space to provide individual private courtyards for the ground floor units. Due to acoustic privacy impacts, the enclosure of the side courtyards is not considered appropriate and will be deleted by condition (discussed in more detail under '*Visual and acoustic privacy*' above).

Prior to the erection of the storage area at the rear, the development would have provided 26% of the site as open space. The rear storage is built over the rear setback and reduces the open space to 20% of the site, being half of the required amount under the DCP. Given that the existing development on the site already does not provide the required amount of open space for the use of residents, any further exacerbation of the existing situation is not considered warranted. In this regard, in order to provide an appropriate area for use of all residents within a suitable location in the rear yard, the storage area is required to be deleted (ie, demolished).

2.2 Section 79C(1)(b) – Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

2.3 Section 79C(1)(c) – Suitability of the Site for the Development

The site is considered to be suitable for the proposed development.

2.4 Section 79C(1)(d) – Any Submissions

The application was notified for 14 days and a site notice erected on the site, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

Seven submissions were received. The issues raised in the submissions are summarised and discussed below.

Table 4: Summary of property addresses that lodged a submission

Property
2 Rickard Avenue, Bondi Beach
4 Rickard Avenue, Bondi Beach
8 Rickard Avenue, Bondi Beach
12 Rickard Avenue, Bondi Beach
100 Lamrock Avenue, Bondi Beach
106 Lamrock Avenue, Bondi Beach
108 Lamrock Avenue, Bondi Beach

Issue: *Increased visual and acoustic privacy impacts due to infilled balconies, side courtyards and associated double doors on the side elevation.*

Response: These issues have been discussed previously in this report.

Issue: *Reduction in number of garages from 4 to 3 results in increased on-street demand.*

Response: This issue has been discussed previously in this report.

Issue: *Additional bedrooms results in greater occupants with associated increased parking demand on-street, increased visual and acoustic privacy impacts, lack of facilities for the number of occupants (bins, external space, fire escapes) and change in the nature of the renters to a younger and more transient demographic.*

Response: The density controls of the LEP relate to floor space and not to the number of bedrooms. In this regard, Council controls cannot restrict the amount of occupants living within a building. The proposal does not increase the floor space of the building, subject to deletion of the infilled balconies as previously discussed, and as such does not result in any greater density than has always existed on this site.

Notwithstanding, as detailed in Section 1.2 (Relevant history) of this report, the original building provided enclosed verandahs with doors leading from a living area to four of the units. Council's records indicate that these verandahs have always been enclosed and therefore technically internal space. These verandah rooms have floor space of approximately 6.5m². By contrast the former kitchen rooms which this application seeks to convert to bedrooms/studies have a floor area of 7.7m². Essentially these rooms have a similar size and given that the verandahs were always internal space, it could reasonably be argued that they could have always been used as bedrooms/studies. Essentially the application is simply for a reconfiguration of the existing internal rooms. Therefore

the only unit which results in an additional bedroom is Unit 5. The other units have simply relocated existing rooms.

Council cannot stipulate the nature of people occupying a building regardless of whether they are renters or owner-occupiers or singles or families.

Conditions will require that the communal open space is reinstated. The number of bins has been previously discussed in this report.

Issue: Additional floor space is excessive.

Response: As previously discussed, conditions will require the removal of the infilled landings and as such, the proposal does not result in additional floor space.

Issue: The works have been carried out illegally and therefore should not be approved. Works do not comply with the BCA.

Response: Council cannot grant retrospective consent for structures already erected on site. However, if these structures are considered acceptable Council can require a Building Certificate for the illegal works and can resolve to take no further action in regards to the unapproved structures. Council cannot seek to punish people via the development application process for illegal works. This is a matter for Council's Building Compliance Division.

In regards to this application, the majority of the illegal works are recommended for removal, including the infilled landings, the roof and fencing to the side courtyards and the rear storage area and pergola. The kitchens are not structural work given that they are located within an existing enclosed area. The works to create a wider opening to the living area are structural works however these openings have no unreasonable impacts upon surrounding properties being internal works and are considered acceptable. The replacement windows on the side elevation are also considered acceptable to remain. As such a Building Certificate will be required for those works considered appropriate to remain (refer to Schedule A).

During the course of the assessment of this application a BCA report was provided which indicated that a number of the illegal works have not been constructed in accordance with the BCA. As there is no development consent being issued for this application, there will be no conditions of consent. In this regard, it is recommended that the development application be referred to Council's Building Compliance Division for follow up in regards to the deficits within the building in regards to the BCA (refer to Schedule B).

Issue: Obstruction of existing fire escapes by courtyards.

Response: The secondary stairs within the side setback are not fire stairs. The BCA Report submitted with the application indicates that fire-isolated stairs are not required as the building has a rise in storeys of only 2. The report states that only 1 exit is required (ie, the internal stairway exiting onto Barracluff Avenue) as the building is less than 25m effective height.

Issue: Part of the rear open space has been built over with storage and as such occupants can no longer use this area and use the side courtyards instead concentrating noise on the side boundary.

Response: As previously discussed in this report, it is agreed that the proposed storage area within the rear communal space should be demolished and reinstated as communal space and that the individual side courtyards should also be demolished and reinstated as communal space.

The glass sliding doors are considered appropriate as they replace solid kitchen doors to the side setback. The kitchens have been relocated and the glass sliding doors provide access to the side setback from bedrooms/studies. These are rooms of low use with fewer privacy impacts than a living area or kitchen. In effect the relocation of the kitchen will result in fewer privacy impacts upon adjoining properties given the lesser privacy impacts of the replacement room.

The removal of side courtyards will not stop occupants from using the side setbacks as the side setback is a communal open space area, it will only stop the privatisation of the side setback for the use of only two units. However generally planning controls do not seek to limit the use of communal open space by occupants and rather seeks to encourage their use through the provision of direct access to these areas. The fact that occupants use the private open space of their own site is not sufficient planning grounds for refusal. Noise from the use of a residential property within a residential zone is not unrealistic or unreasonable.

Issue: Modifications are in breach of the DCP controls (ie, landscaping, communal space, separation distances, visual privacy etc) and the Apartment Design Guide. Units are too small to be 3-bedrooms under the requirements of the ADG.

Response: The DCP has been discussed previously in this report noting that the controls within the DCP for residential flat buildings do not apply as the building has 'existing use rights'. In terms of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65) and the associated Apartment Design Guide (ADG), this also does not apply to this development due to 'existing use rights'. Notwithstanding, SEPP 65 only applies to buildings of three or more storeys **and** four or more dwellings. Given that the building is only two-storeys, the SEPP does not apply regardless of 'existing use rights'.

A merit assessment has been carried out for this proposed development as detailed previously in this report.

2.5 Section 79C(1)(e) – Public Interest

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

3. REFERRALS

3.1 Fire Safety – Building Waverley

A number of BCA reports were provided over the course of the assessment with the following comments being provided in relation to the final report:

An assessment of the proposal revealed that there may be a number of non-compliances with the BCA including, but not limited to: -

- i. possible fire separation issues between sole-occupancy units, fire resistance levels of existing building elements together with protection of openings internally and externally (i.e. Section C of BCA);*

- ii. *access and egress issues pertaining to escape and construction of exits (i.e. Section D of BCA); and*
- iii. *inadequate fire services and equipment (i.e. Section E of BCA);*

The application has been accompanied by a Building Code of Australia Assessment Report prepared by Scott Robshaw of Accurate Fire & Building Consulting, dated 24th November 2017 (Report Number 1748). The subject report identifies existing BCA deficiencies and provides a number of recommendations for the fire safety upgrading of the existing building pursuant to Clauses 94 of the Environmental Planning and Assessment Regulation 2000. The recommendations are considered satisfactory.

The BCA report indicates that a number of the illegal works have not been constructed in accordance with the BCA. As there is no development consent being issued for this application, there will be no conditions of consent. In this regard, it is recommended that the development application be referred to Council's Building Compliance Division for follow up in regards to the deficits within the building in regards to the BCA (refer to Schedule B).

4. SUMMARY

The proposal seeks consent for retrospective consent for alterations and additions to an existing mixed use building, including internal alterations, window changes and new storage at the rear.

The use of the building is considered to be an Existing Use under Division 10 of the Environmental Planning & Assessment Act 1979. The merit assessment of this development application is therefore to be considered under Section 79C of the Environmental Planning and Assessment Act 1979 having regard to relevant provisions of the LEP and DCP in as much as they control development on surrounding sites.

Conditions are recommended which delete the infilling of the landings within the side setback, the reinstatement of the side setback to communal open space through the removal of the private courtyards, the removal of the storage area and pergola at the rear of the site and reinstatement as communal open space. Those parts of the proposal which are considered acceptable is the use of the enclosed verandahs as kitchens, the replacement glazed doors on the eastern elevation and the internal reconfiguration of the units.

Council cannot grant retrospective consent for structures already erected on site. However, if these structures are considered acceptable Council can require a Building Certificate for the illegal works and can resolve to take no further action in regards to the unapproved structures.

The application was notified and seven submissions were received.

It is recommended that Council issue a letter stating that no further action will be taken in regards to the internal works and the new glazed doors on the eastern elevation. The application is then to be referred to Council's Building Compliance Division for further action in regards to the unacceptable illegal works and BCA compliance.

5. RECOMMENDATION TO WAVERLEY DEVELOPMENT ASSESSMENT PANEL

That the Development Application be **APPROVED** by the Waverley Development Assessment Panel subject to the recommendations in Appendix A and B:

Report prepared by:

**Application reviewed and agreed on behalf of
the Development and Building Unit by:**

Kylie Lucas
Senior Development Assessment Planner

Emma Finnegan
**Acting Manager, Development Assessment
(Central)**

Date: 07/02/2018

Date: 13/2/18

Reason for referral:

- 6 Development Applications that, in the opinion of the General Manager or Director Waverley Futures or delegate should be determined by the Panel for public interest reasons.

SCHEDULE A – RETROSPECTIVE WORKS

Retrospective approval cannot be granted for the completed building works as the works have already been completed without first obtaining Council approval.

However, having regard to the circumstances of the case, Council intends to take no further action in this instance subject to:

1. REMOVAL OF STRUCTURES

The following structures are not considered appropriate and shall be demolished within 6 months of the date of this document:

- (a) The storage room along the rear boundary (south eastern corner) of the site and associated roof and pergola. The area shall be returned to communal open space.
- (b) The eastern side courtyards and all associated structures including all fencing and gates. The side setback shall be returned to communal open space.
- (c) The infilled stair landings on the eastern side of the building, including all windows, doors and associated illegal structures. The stairs shall be returned to external stair use only to provide access to the rear and side communal space.

2. BUILDING CERTIFICATE

The applicant shall obtain a Building Certificate from Council for the remaining works, being the internal works to each unit and the new doors on the eastern elevation at ground and first floor level within 6 months of the date of this document.

3. ENGINEERING DETAILS

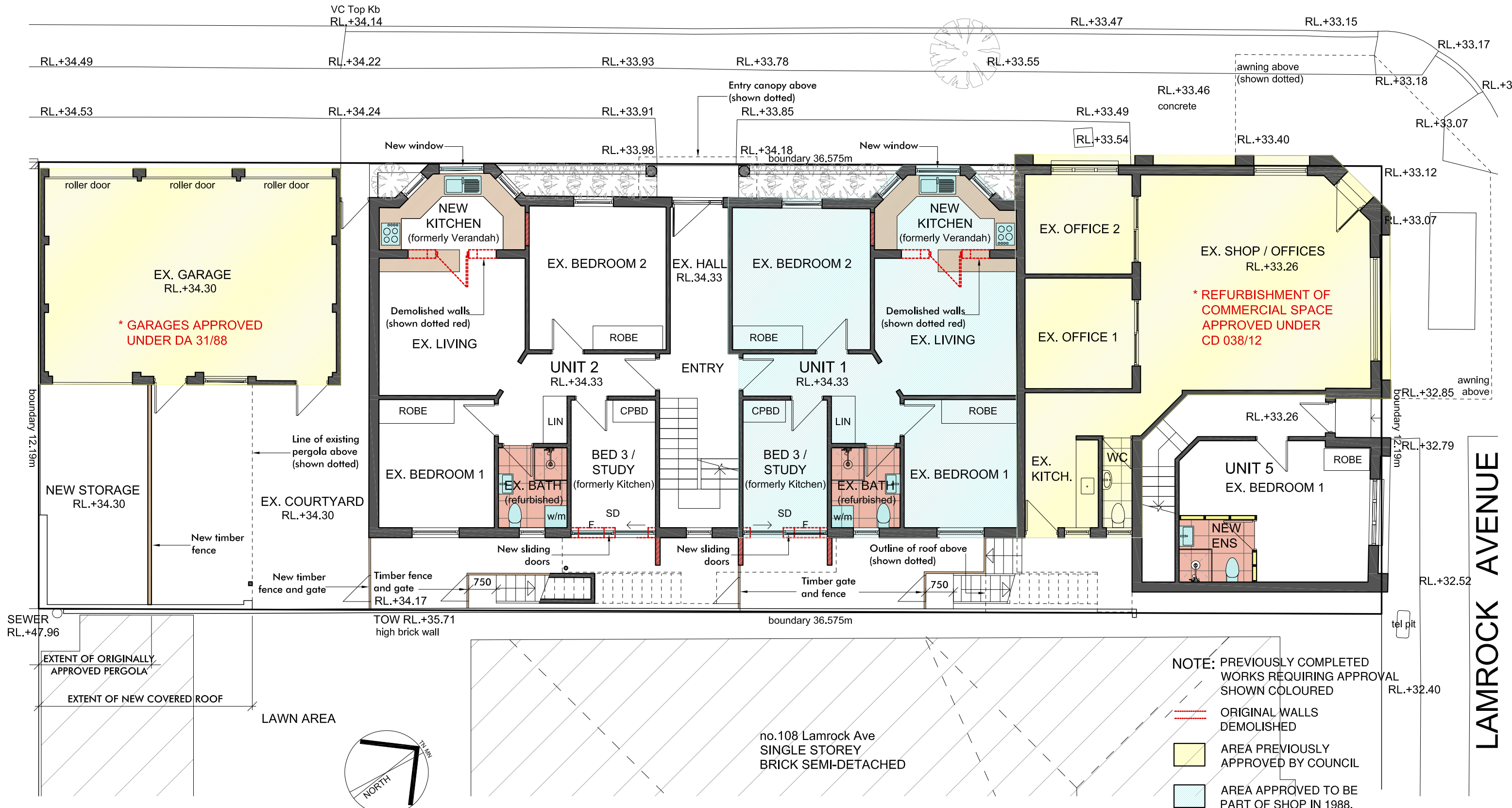
Structural details prepared and certified by a practicing Structural Engineer being furnished to Council or Accredited Certifier in connection with all structural components.

RETROSPECTIVE APPROVAL CANNOT BE GRANTED BY COUNCIL FOR THE COMPLETED BUILDING WORK.

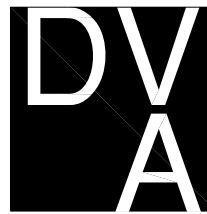
SCHEDULE B – CONDITIONS OF CONSENT

That the application be referred to Council's Building Compliance Division for investigation and appropriate action including in regards to the fire safety issues identified in the Building Code of Australia Assessment Report prepared by Accurate Fire and Building Consulting dated 24 November 2017 and received by Council on 24 November 2017.

BARRACLUFF AVENUE



N.B. THESE DRAWINGS ARE BASED ON ORIGINAL DRAWINGS PRODUCED BY ARCHISPECTRUM



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Previously Completed Alterations & Changes of use to:

**110 Lamrock Avenue,
Bondi (SP 80692)**

Drawing:

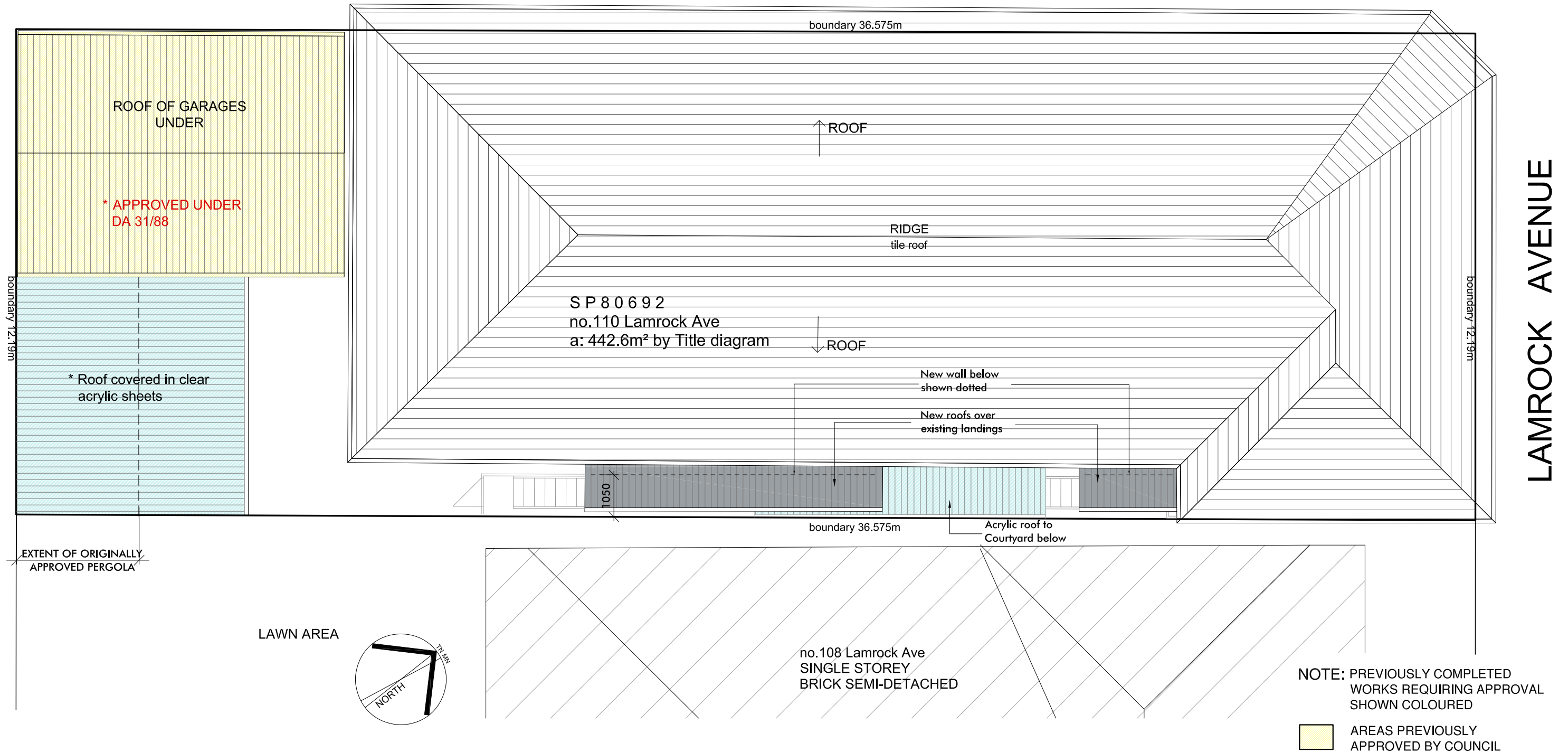
Ground Floor

Issued: 21.3.17

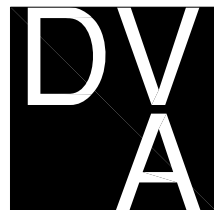
644/01

Amendments:

BARRACLUFF AVENUE



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Previously Completed Alterations
 & Changes of use to:

**110 Lamrock Avenue,
 Bondi (SP 80692)**

Drawing:

Roof Plan

Issued: 21.3.17

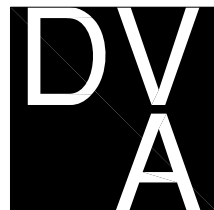
644/03

Amendments:



Lamrock Avenue (North Elevation) - NO CHANGE
Scale 1:100

N.B. THESE DRAWINGS ARE BASED ON ORIGINAL DRAWINGS PRODUCED BY ARCHISPECTRUM



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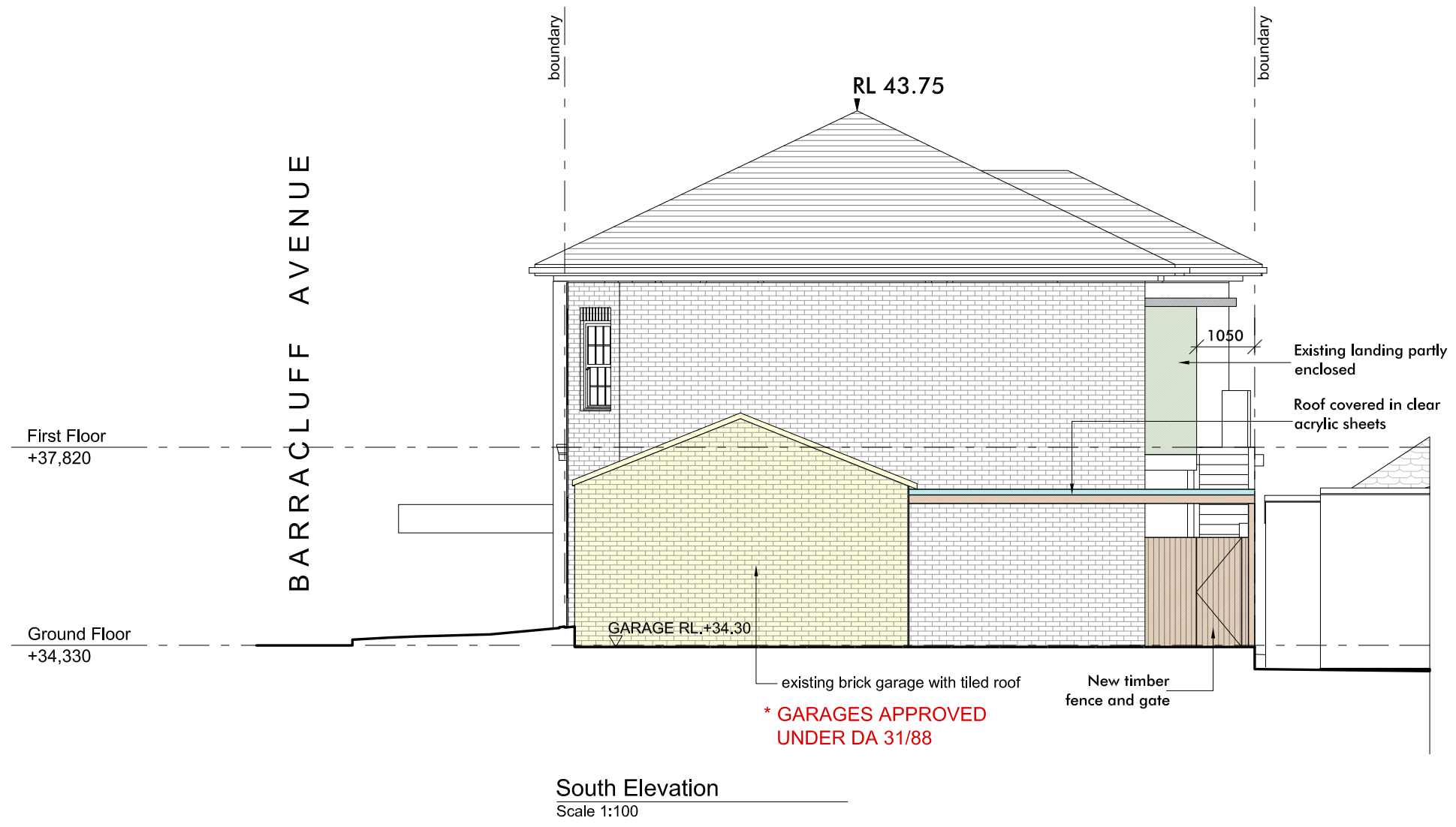
Previously Completed Alterations
& Changes of use to:

Drawing:

Issued: 21.3.17

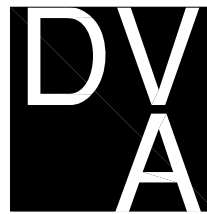
Amendments:

**110 Lamrock Avenue, North Elevation 644/06
Bondi (SP 80692)**



NOTE: PREVIOUSLY COMPLETED WORKS REQUIRING APPROVAL SHOWN COLOURED
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Previously Completed Alterations & Changes of use to:

Drawing:

Issued: 21.3.17

Amendments:

**110 Lamrock Avenue, South Elevation 644/07
 Bondi (SP 80692)**



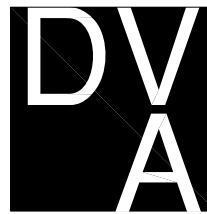
Barracluff Avenue (West Elevation)
Scale 1:100

* GARAGES APPROVED UNDER DA 31/88

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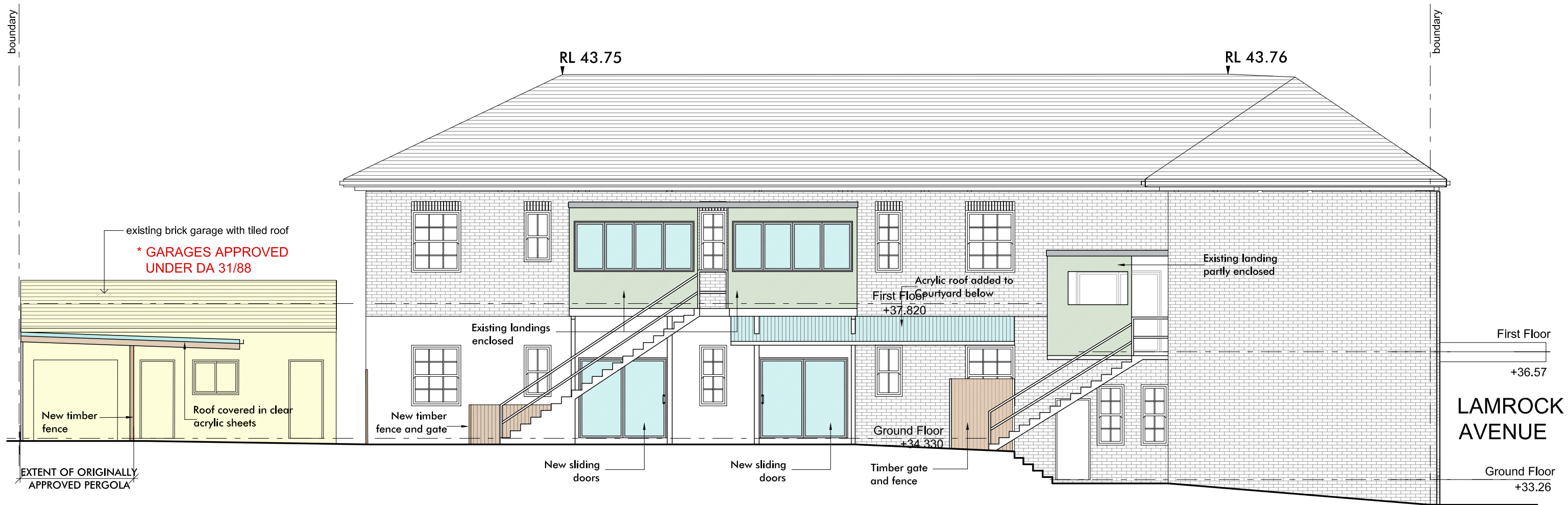
110 Lamrock Avenue, Bondi (SP 80692)

Drawing:

West Elevation 644/04

Issued: 21.3.17

Amendments:



Rear (East Elevation)
Scale 1:100

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Previously Completed Alterations & Changes of use to:

**110 Lamrock Avenue,
Bondi (SP 80692)**

Drawing:

East Elevation 644/05

Issued: 21.3.17

Amendments: