

**101 Military Road, Dover Heights - Significant alterations and additions to detached dwelling including first floor additions, double garage, roof terrace and swimming pool (DA 576/2009).**

Report dated 8 July, 2010 from the Development & Building Unit.

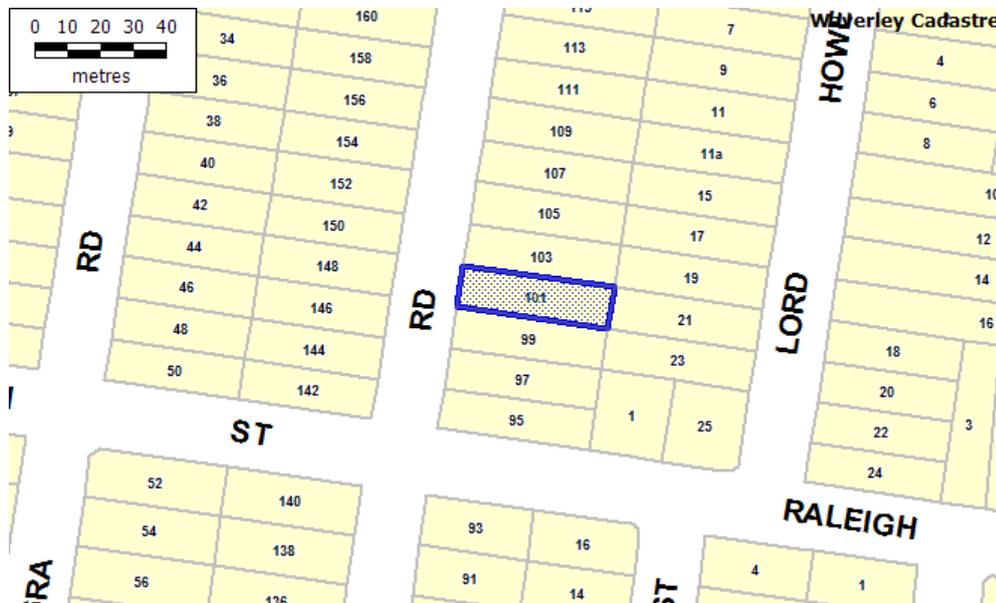
**Recommendation:** That the application be approved in accordance with the conditions contained in this report.

**Saved By: Councillor Guttman-Jones, Seconded by Councillor Coburn**

**Reasons: View loss and impact on neighbouring properties**

<b>Development Assessment Report of Dwelling</b>	
Development Application No.	<b>DA 576/2009</b>
Address	<b>101 Military Road, Dover Heights</b>
Lodgement Date	<b>9 November 2009, amended 30 April 2010</b>
Proposal	<b>Significant alterations and additions to detached dwelling including first floor additions, double garage, roof terrace and swimming pool</b>
Zoning and relevant controls	<ul style="list-style-type: none"> <li>• Residential 2(a) according to Waverley LEP 1996</li> <li>• Waverley Development Control Plan (WDCP) 2006</li> </ul>
Owner	<b>Ms G Panselinos</b>
Applicant	<b>Ms G Panselinos</b>
Submissions	<b>Original application - 4 submissions; Amended application -4 submissions</b>
Issues	<b>Height, FSR, view loss, elevated deck / roof terrace</b>
Recommendation	<b>That the application be APPROVED</b>

Site Map



## **1. PREAMBLE**

### **1.1 The Site and its Locality**

The subject property is located on the eastern side of Military Road, near the intersection with Raleigh Street, Dover Heights. The site is rectangular in shape with a frontage to Military Road of 12.8m and length of 45.72m. The site has a total area of 585.2sq.m with a significant fall of approximately 3m from rear (east) down towards the front of the property (west).

Presently existing on the site is an elevated (due to slope of land) single storey dwelling with a single garage integrated within the building at the front. Adjoining the subject site to the north is a two-three storey dwelling with garage beneath and pitched roof, while to the south is a single storey dwelling with single garage beneath.

The site is not listed as an item of heritage significance and is not within a heritage conservation area.

### **1.2 Background**

A search of Council records indicate the following property history:

- DA 140/2003 approved 16 April 2003 for alterations and additions including a hardstand carspace, new front fence and gates.

In regards to the subject application, the following background is applicable:

*9 November 2009:* Application lodged with Council. The application was notified for fourteen (14) days to adjoining property owners and four submissions were received.

*18 February 2010:* The application was deferred to address the following issues of concern:

- Reduce height, gross floor area and subsequently the bulk and scale of proposed works.
- View loss implications and preference for flat roof to maintain views to properties at rear.
- Privacy concerns for number and size of decks/balconies;
- Landscaping compliance in front setback and requirement for landscape plan to be amended showing all trees on site;
- Stormwater details and requirement for OSD system;
- Streetscape impact and request for front portico to be deleted.

*30 April 2010:* Amended plans received and the application renotified for fourteen (14) days and four submissions were received.

The application is assessed having regard to amended plans received to Council on date 30 April 2010.

### **1.3 Proposal Description - Amended**

The following significant alterations and additions are proposed:

- Extension of existing single garage to new double garage with storage and internal access at basement level;
- Internal reconfiguration to basement and ground floor levels with new terrace/balcony to front and rear;

- New first floor addition comprising master bedroom with ensuite and walk in robe, three additional bedrooms and bathrooms, sitting room, bar and side courtyard providing external access to roof terrace above.
- New first floor balconies to front and rear of dwelling;
- New in-ground swimming pool in rear yard area.
- Roof terrace.

## 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.

### 2.1 Section 79C(1)(a) Planning Instruments.

#### 2.1.1 Waverley Local Environmental Plan 1996

<b>LEP 1996 – Compliance Check</b>	
<b>Control</b>	<b>Compliance</b>
Clause 3 – Specific Aims	Yes
Clause 10 – Zone Objectives	Yes
Clauses 21-26 – Environmental Considerations	Yes
Clause 30 – Aesthetic Appearance of Development	N/A
Part 4 – Heritage Provisions	N/A

The application has been assessed having regard to the relevant provisions of the LEP and is acceptable.

#### 2.1.2 Waverley Development Control Plan 2006, Part D1 – Dwelling House & Dual Occupancy Development

<b>COMPLIANCE CHECK</b>			
<b>Control</b>	<b>Standard</b>	<b>Proposed</b>	<b>Compliance</b>
Height	<ul style="list-style-type: none"> <li>• Flat roof – 7.5m</li> </ul>	<ul style="list-style-type: none"> <li>• 7m at rear to 8.1m to front</li> </ul>	<b>No</b>
Excavation	<ul style="list-style-type: none"> <li>• Max. 3m depth</li> <li>• Max. 50% of footprint</li> <li>• Site slope &gt;25% - require geotech</li> <li>• Min. side boundary setback 1m</li> </ul>	<ul style="list-style-type: none"> <li>• &lt;3m depth</li> <li>• &lt;50% building footprint;</li> <li>• Min 1m side setback</li> </ul>	<b>Yes</b>
Floor Space Ratio (Site Area 585.2sq.m)	<ul style="list-style-type: none"> <li>• 0.5:1 (292.6sq.m)</li> </ul>	<ul style="list-style-type: none"> <li>• 0.66:1 (389.72sq.m)</li> <li>• Difference: 97sq.m</li> </ul>	<b>No</b>
Setbacks	<ul style="list-style-type: none"> <li>• Side 900mm</li> <li>• Front and rear est. building line</li> </ul>	<ul style="list-style-type: none"> <li>• Side: minimum 1400mm</li> <li>• Front and rear alignment maintained</li> </ul>	<b>Yes</b>
Front fencing	<ul style="list-style-type: none"> <li>• 1.2 metres</li> </ul>	<ul style="list-style-type: none"> <li>• 1.6m, open design above 1.2m</li> </ul>	<b>Yes</b>

Elevated external decks	<ul style="list-style-type: none"> <li>• 10sqm in area</li> <li>• 1.5m depth</li> </ul>	<ul style="list-style-type: none"> <li>• Ground floor: Front – 13sq.m, &lt;2m depth; Rear – As existing (38.7sq.m, 4m depth)</li> <li>• First floor: Front – 16.4sq.m, &lt;2.3m depth, Rear – 19.2sq.m, &lt;3.2m depth,</li> </ul>	<b>No</b>
Roof terrace	<ul style="list-style-type: none"> <li>• 15sq.m in area</li> </ul>	<ul style="list-style-type: none"> <li>• 26.25sq.m</li> </ul>	<b>No</b>
Vehicular Access and Parking	<ul style="list-style-type: none"> <li>• No. of spaces: 2</li> <li>• Dimensions (5.5 m × 2.5m)</li> <li>• Behind building setback</li> </ul>	<ul style="list-style-type: none"> <li>• 2 spaces</li> <li>• 5.5 x 6m</li> <li>• Contained within building</li> </ul>	<b>Yes</b>
Landscaping	<ul style="list-style-type: none"> <li>• 40% of site area</li> <li>• 15% of site as soft</li> <li>• 50% of front lands.</li> <li>• 50% of front lands as soft</li> </ul>	<ul style="list-style-type: none"> <li>• 42.5% of site area</li> <li>• 23% of site as soft</li> <li>• 56% of front lands.</li> <li>• 66.5% of front lands as soft</li> </ul>	<b>Yes</b>

### Height

The proposed development presents as a flat roof design with a roof deck at the front of the dwelling with a curved roof to the rear section. The non-compliance with regard to height is generally located towards the front of the site having an overall height of 8.1m largely a direct result of the slope of the land, whilst at the rear the height complies, being 6.8m.

Currently the ridge height of the existing dwelling is RL82.92 being of a single storey, pitched roof, built form with basement garage below at the front of the site. The amended proposal seeks to construct the flat/curved roof development to RL 84.23 being the top of the roof deck balustrade (RL 83.99 to top of roof), thereby above the existing development on the site.

The objectives of the height controls in the DCP are to minimise the bulk and scale impacts of dwelling upon the streetscape and adjoining properties, to ensure acceptable solar access and to minimise loss of views to adjoining properties. In this case the dwelling matches the scale of the emerging development in the street, with sufficient side and rear setbacks, and appropriate bulk.

Due to the height non-compliance, shadow diagrams have been submitted demonstrating that due to the significant slope of the land, additional shadows to be cast (at Winter solstice, considered the most severe part of the year with regard to shadowing) will fall over the adjoining property to the south (99 Military Road). During the mornings, the increase is minimal and primarily over the adjoining front yard, whilst in the afternoon it will be more so over the subject site and property to the south, however, the proposed development complies at the rear with Council's height control. In this instance, given the orientation of the sites (east/west), any additional level to the subject premises is likely to increase shadowing to the properties to the south. Nonetheless, the proposal does ensure that a minimum of 3hours sunlight is maintained to the private open space areas of the adjoining properties, and is considered reasonable in this instance.

In regard to view loss specifically as a direct result of the height exceedance, inspections from properties to the rear were undertaken, as these properties (fronting Lord Howe St) enjoy harbour views to the east over and above the properties on Military Road. As is evident in the photographs on file, the proposed development, being compliant with height at the rear

of the dwelling is not considered to adversely impact on views obtained from these properties at the rear. The amended design of the proposal allows for views of iconic features (ie Harbour Bridge and City skyline) to be maintained from these properties, whereby a more comprehensive discussion is contained below in section 2.1.3 of the report.

Therefore, for these reasons the proposal is not considered to adversely impact on the amenity of adjoining properties, particularly with regard to view loss, solar access and the sloping nature of the site and is considered acceptable in this instance. To ensure accurate height levels are achieved, a height of RL 84.23 for the entire development shall be outlined within the conditions of consent to ensure height controls are achieved in accordance with the plans.

### ***Floor Space Ratio***

The proposal provides for 97sq.m above the Council's floor space ratio controls. The objectives of this control is to ensure new development is an acceptable size and bulk in relation to the size and shape of the allotment and to minimise negative impacts upon adjoining sites, as well as being in character with surrounding development.

The proposed building is typical of the emerging development in this area with regards to its bulk. A large portion of the non-compliance is contained within the basement level (70sq.m) and does not unreasonably impact on the bulk and scale of the development, due to the natural topography of the site.

Additionally, bulk related impacts such as overshadowing are not unreasonable. As such, a deviation from Council's controls is not considered unreasonable in this instance and is supported. The bulk and scale of the proposed development responds to the sloping topography by employing a step-effect in design and is considered to be in keeping with the character of the surrounding area and amenity of neighbouring properties.

### ***Elevated external decks / Roof terrace***

The proposal does not comply with Council's controls regarding the depth and overall size of elevated external decks, which aims to minimise the visual and acoustic privacy impacts upon adjoining properties.

The balconies on the ground and first floor levels at the front are considered reasonable as they predominantly overlook the public domain of Military Road, whilst offering distant views of the city and having negligible impact upon visual and acoustic privacy to the surrounding locality. While the rear ground floor terrace is generally the same size as that currently existing and less than 500mm above the existing ground level thereby providing an extension to the backyard area without the detriment of overlooking, considered acceptable.

The rear first floor balconies are accessed from bedrooms, considered low-use activity rooms, providing planters to either side. Whilst over the allowable size, it primarily overlooks the back yard area of the site. However, to further mitigate privacy impacts, it is recommended privacy screening be installed along either side of the balcony (on the outer side to the planting), considered to adequately address privacy impacts to adjoining properties in this instance.

In relation to the roof terrace, it is considered its purpose is primarily to take advantage of harbour and city views and would be unlikely to be used for entertaining purposes. The roof terrace has been amended from original lodgement to be reduced in size, centred more to the front and centre of the dwelling, and incorporates transparent balustrading to maintain views through. It is not directly adjacent to the proposed living/entertaining areas of the dwelling and there is also a generous entertaining terrace adjacent to the family room/living areas at ground floor level. As such, it is assumed that this deck would not become the primary

entertaining terrace for the dwelling. Sightlines into adjoining properties from the roof deck are considered minor due to its siting at the front/centre of the property, predominantly overlooking the public domain and adjoining roof tops. Furthermore, a planter box or privacy screen is not considered appropriate, as this could lead to future view-sharing conflict to the adjoining properties to the east.

As a result, any overlooking into the adjoining properties is limited and not considered unreasonable.

### 2.1.3 Other Matters

#### Views

The proposed development has the potential to result in some loss of views, particularly to the properties at the rear of the subject site (properties fronting Lord Howe St), due to the slope of the land and the distant views of the city and harbour available to the west. Whilst properties at the rear are sited on higher ground than the subject site, the proposed development in seeking an additional level and roof terrace above has the potential to impact on harbour and skyline views to some properties. This aspect was raised as a matter of concern and subsequently deferred, whereby the amended application has deleted the roof terrace enclosure.

The NSW Land and Environment Court has articulated general principles with regard to views (see [Tenacity Consulting v Warringah Council \[2004\] NSWLEC 140](#)). This case states:

*The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, a four-step assessment should be used:*

*(a) 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.*

*(b) 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.*

*(c) 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.*

*(d) 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.*

Having regard to these principles, to avoid any additional view loss, would be to refuse the application. With regard to the properties sited to the rear (namely 21 and 23 Lord Howe St), inspection from these premises revealed the following:

The view from the upper level (primary living area) of 21 Lord Howe Street, a two storey dwelling when looking to the west over the subject site allows for views of the harbour, city skyline and Harbour Bridge.

The proposed development seeks to build to a height of RL 84.23 being the top of the roof deck balustrade (RL 83.99 to top of rear roof). For comparison purposes, the ridge height of the existing dwelling is RL 82.92 and therefore the variance in overall heights between the existing and proposed additions is 1310mm. The height of the proposed dwelling would be compatible with the height of No.99 Military Rd, which has a height of RL 84.05, indicating that the proposed development is unlikely to impact on skyline or Harbour Bridge views to this property, though may impede some outlook over Rose Bay.

In this instance, the view impact is considered minor whereby iconic views (ie Harbour Bridge, City skyline and Sydney Tower) are likely to be maintained.

In relation to the view from 23 Lord Howe Street, a single storey dwelling, located south east to the subject site (diagonal at the rear), views of the Harbour Bridge and parts of the Opera House sails are visible (from kitchen / study area) over the subject site, through the clearing in vegetation on the site.

Any first floor addition to the subject site will result in the loss of this view from this property at 23 Lord Howe Avenue. However, should this property be developed in future to be compatible with surrounding development (ie additional level), then views of these icons are likely to be available. In this instance the view loss is severe having regard to this dwelling being single storey. In saying this, it is considered an unreasonable expectation that Harbour views from Dover Heights properties obtained solely from the ground level of dwellings can be adequately maintained having regard to the density of buildings and vegetation evident within this area.

Furthermore, it is noted the application since original lodgement has been amended significantly to reduce the height by more than 1metre, thereby allowing the proposed development to comply with Council height controls over the majority of the dwelling, other than the front portion of the dwelling (600mm over control), noting that the heights are calculated above existing ground level. If calculated purely based on the 'natural' ground levels, given the slope, the heights would comply.

Therefore, as outlined above, the view impact of the proposed amended development is of a scale that the application is considered supportable. The view loss for the property directly at

the rear (21 Lord Howe St) is such that iconic views are maintained, whilst the diagonal rear property (23 Lord Howe St) will have their iconic view compromised, but have the ability of being made available again with future development of a first floor addition scale. This is considered reasonable given the general height compliance discussed above and having regard to surrounding development scale.

### **Streetscape**

The proposed dwelling as depicted in the submitted amended architectural plans is considered to respond adequately to the architectural elements and language of the surrounding built form. The existing streetscape contains an eclectic mix of built form and the proposal does not contradict the existing streetscape. The dwelling is of a conventional design and incorporates architectural features which are consistent with the surrounding dwellings. In this regard, the proposal is considered to make a positive contribution to the existing streetscape and corresponds appropriately with its context.

### **Privacy**

The development proposes balconies at the front of the building (ground and first floor levels), predominantly overlooking the street, and a single balcony at the rear adjoining bedrooms with planters to either side. These balconies to the rear, adjoining bedrooms are considered relatively low use rooms and as such are not considered to result in an unreasonable privacy impacts to the adjoining properties. This balcony predominantly provides an outlook over the rear yard and pool area, whereby larger outdoor areas accessed from public areas of the dwelling (ie living / dining areas) are instead provided elsewhere on-site at lower levels or to the front of dwelling where impact is less. Furthermore, as previously additional privacy measures in the form of privacy screening is recommended to either side of this balcony to further mitigate privacy impacts, considered reasonable.

The proposal also includes a roof terrace which is located towards the front/centre of the dwelling and takes advantage of the city and harbour views to the north west.

It is noted that, Clause 5.6.2 of Council's DCP states that:

*Roof terraces are generally not permitted throughout the Waverley LGA. Small roof terraces (area of less than 15sq.m) may be permitted only in areas where the predominant character includes roof terraces and the proposed roof terrace will not result in unreasonable amenity impacts on the surrounding neighbourhood.*

As outlined previously, the proposed roof terrace is not considered to result in any unreasonable overlooking of the adjoining properties, but rather looks out over adjoining roofs. Additionally, there are various roof terraces of a similar scale, size and design evident in the vicinity. The proposed roof terrace being centrally located in the middle of the roof is considered acceptable and will incorporate clear glazing to the balustrades to maintain views to properties at the rear.

In this regard, given the well considered design of the roof terrace which successfully mitigates the impacts generally associated with roof terraces, and the prevalence of roof terraces within the immediate vicinity, the proposed roof terrace is considered acceptable. However, to further mitigate privacy issues of the external stairwell providing access to the roof terrace, it is recommended screening (eg louvre screening) be installed on the entire northern side of the stairwell courtyard to a height of 2100mm.

### **ESD**

A BASIX Certificate has been submitted with the application, demonstrating compliance with ESD principles.

**Safety and security**

The proposed dwelling provides opportunity for passive surveillance of the street from the first floor bedrooms and balcony. The proposal is considered generally satisfactory with regard to safety and security.

**3 REFERRALS**

**3.1 Internal**

**Technical Services**

The application was referred to Waverley Council's Manager – Traffic and Development who made no objection subject to standard conditions being imposed.

**Public Domain/Tree Preservation**

The application was referred to Waverley Council's Tree Management Officer who made the following comments:

*There are very few trees on this site that are covered by TPO and require removal. A substantial amount of vegetation in the rear yard can be retained provided tree protection fencing is implemented.*

*The only tree that will require removal is a Norfolk Island Hibiscus situated at the front of the property.*

*Recommendations*

*Any approval shall be subject to the imposition of the following conditions.*

**Section 79C(1)(b) - The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.**

The proposal is considered to have a minimal and acceptable impact on the natural and built environment, and no further social or economic impacts are expected as a result of the alterations and additions.

**Section 79C(1)(c) - The suitability of the site for the development.**

Subject to the recommendations being imposed, the proposal represents suitable alterations to a dwelling in the Residential 2(a) zone.

**4. PUBLIC SUBMISSION**

The original application was notified for 14days in accordance with *Waverley Development Control Plan 2006, Part C3 – Advertised and Notified Development.*

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

Property	Location	Summary of Objections
99 Military Rd	Adjoining property to the south	<ul style="list-style-type: none"> <li>• Object to wrap around terrace on ground level accessed from laundry;</li> <li>• Lack of information for pool</li> </ul>

		<p>equipment location;</p> <ul style="list-style-type: none"> <li>• Placement of A/C lack of detail</li> <li>• Insufficient front setbacks;</li> </ul>
1 Raleigh St	Property in vicinity (south east)	<ul style="list-style-type: none"> <li>• Request roof to be flat (rather than curved) / Reflectivity of roof;</li> <li>• View loss;</li> <li>• Placement of A/C – preference to not be located on roof;</li> </ul>
21 Lord Howe St (same owner as No. 23)	Property directly to the rear (east)	<ul style="list-style-type: none"> <li>• View loss;</li> <li>• Reflectivity of roof / Request roof to be flat (rather than curved);</li> <li>• Request height be limited to RL 83.43 and roof terrace to be maximum 30sq.m</li> <li>• Loss of privacy / overlooking from rear balcony;</li> <li>• Lack of information for pool equipment location;</li> <li>• Request for adequate pool fencing;</li> <li>• Placement of A/C – preference to not be located on roof;</li> <li>• Insufficient setbacks;</li> <li>• No indication of lighting for roof terrace;</li> <li>• No indication of eastern boundary fencing;</li> <li>• Existing ground floor rear terrace alleged to be illegally constructed;</li> </ul>
23 Lord Howe St (owner)	Property to the rear (south east)	<ul style="list-style-type: none"> <li>• Reflectivity of roof / Request roof to be flat (rather than curved) / unsympathetic to character of other dwellings in vicinity;</li> <li>• View loss (particularly as single storey cottage);</li> <li>• Request for roof terrace be limited to front of dwelling;</li> <li>• Excessive height;</li> <li>• Insufficient setbacks;</li> <li>• Placement of A/C – preference to not be located on roof;</li> <li>• Loss of privacy / overlooking from rear balcony;</li> <li>• Request for adequate pool fencing;</li> <li>• Discrepancies in plans with regard to vegetation on-site;</li> <li>• Lack of information for pool equipment location;</li> </ul>

23 Lord Howe St (tenant)	Property to the rear (south east)	<ul style="list-style-type: none"> <li>• Excessive height / bulk and scale;</li> <li>• Insufficient setbacks;</li> <li>• Reflectivity of roof / Request roof to be flat (rather than curved) / unsympathetic to character of other dwellings in vicinity;</li> <li>• View loss (particularly as single storey cottage);</li> <li>• Request for roof terrace be limited to front of dwelling / small in size;</li> <li>• Placement of A/C – preference to not be located on roof;</li> <li>• Loss of privacy / overlooking from rear balcony;</li> </ul>
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Upon the application being deferred and amended plans being submitted, the amended application was renotified for 14 days to adjoining property owners in accordance with *Waverley Development Control Plan 2006, Part C3 – Advertised and Notified Development*.

Four submissions were received generally reiterating previous objections. The issues raised in the submission are summarised and discussed below.

Property	Location	Summary of Objections
99 Military Rd	Adjoining property to the south	<ul style="list-style-type: none"> <li>• Previous request for access to laundry to be lowered has been addressed, though objection remains for roofing structure here;</li> <li>• Request for stormwater run-off impact;</li> <li>• Previous objections reiterated;</li> </ul>
21 Lord Howe St (same owner as No. 23)	Property directly to the rear (east)	<ul style="list-style-type: none"> <li>• Previous objections reiterated;</li> <li>• Object to walkway between roof terrace stairwell and curved roof;</li> <li>• Object to pergolas added;</li> </ul>
23 Lord Howe St (tenant)	Property to the rear (south east)	<ul style="list-style-type: none"> <li>• Previous objections reiterated;</li> </ul>
1 Raleigh St	Property in vicinity (south east)	<ul style="list-style-type: none"> <li>• Previous objections reiterated;</li> <li>• Consistency for roof terrace approval as writer's roof terrace was refused in recent times;</li> </ul>

*Issue: Excessive height, bulk and scale / Request height be limited to RL 83.43*

*Planning comment:* This aspect has been discussed above in the report.

*Issue: Request roof to be flat (rather than curved) / Reflectivity of roof / unsympathetic to character of other dwellings in vicinity;*

*Planning comment:* This aspect has been discussed above in the report. However it should be noted that the curvature section of the roof is limited to the rear of the dwelling and has

been reduced in scope to be compliant with Council's height controls in this section of the dwelling. Additionally, it is noted that Dover Heights exhibits a wide array of architectural styles and designs so the issue of being 'unsympathetic' to other dwellings is not considered justified. Furthermore, to satisfy the concerns of potential reflectivity, a condition will be imposed that the roofing material should be of minimal reflectivity, considered to reasonably address this issue.

*Issue: Request for roof terrace to be maximum 30sq.m / Request for roof terrace be limited to front of dwelling / small in size / Object to walkway between roof terrace stairwell and curved roof;*

*Planning comment:* The roof terrace has been amended to be located in the central front section of the dwelling, with an area of under 30sq.m. These objections as such are considered to have been reasonably addressed, noting that the balustrade of the terrace will be transparent to ensure views are maintained (a condition to this effect shall be imposed) and that overlooking is minimal, being primarily over adjoining roofs or the public domain due to its siting.

*Issue: Object to wrap around terrace on ground level accessed from laundry / Previous request for access to laundry to be lowered has been addressed, though objection remains for roofing structure here;*

*Planning comment:* The issue of the level changes to the side passage adjacent to the laundry leading to the rear yard was raised as a concern within Council's deferral of the application. Amended plans submitted have retained the existing side passage levels with the exception of stairs leading from the laundry with hood (roof) above. Access from this doorway (laundry/WC) is likely to be infrequent and the provision of stairs for access here is considered reasonable given the slope of the land. The provision of a hood over the doorway is also considered acceptable, as this roofing structure is small in area, provides weather protection to the doorway and unlikely to adversely impact on the property opposite.

*Issue: Lack of information for pool equipment location / Request for adequate pool fencing;*

*Planning comment:* A standard condition shall be imposed requiring any pool plant or equipment to be located in a soundproof enclosure, and that the pool be constructed in accordance with relevant legislation that requires appropriate fencing to be installed, considered to adequately address these concerns.

*Issue: Placement of A/C lack of detail / preference to not be located on roof;*

*Planning comment:* A standard condition shall be imposed limiting the location and use of any future air conditioning units for the site, considered to address this issue.

*Issue: Insufficient front setbacks;*

*Planning comment:* The proposal is considered acceptable with regard to the front setbacks of the development. The front building alignment will remain unchanged, whereby new balconies will be constructed at the front, considered reasonable and generally in keeping with surrounding development. Balconies to the front will also reduce the perceived bulk of the building whilst providing casual surveillance to the public domain, considered reasonable.

*Issue: View loss;*

*Planning comment:* This aspect has been discussed above in the report. In relation to view impacts from the property at 1 Raleigh Street, it is noted that at the time of conducting view analyses to other properties (namely 21 and 23 Lord Howe Ave that raised concern on this

issue), this property was inaccessible (neighbours noted the owner away for some time) and thus an inspection was not carried out.

Nonetheless, the property at 1 Raleigh St is located on higher ground to the south-east of the subject site, where views to the Sydney CBD and harbour are envisaged over the subject site. Having regard to the amended plans that seek a building height of RL 84.23 being the top of the roof deck balustrade (RL 83.99 to top of rear roof), and noting that the existing ridge of the adjoining dwellings of 99 Military Rd is RL 84.05 and 103 Military Rd is RL 85.10, the subject site upon completion of the works sits between either side neighbour overall heights. Furthermore, 99 Military Rd, being closer to 1 Raleigh St than the subject site will be 180mm less in height than the proposed development upon completion of works, being a minor difference that is considered unlikely to adversely impact on these iconic views assessed with the information at hand.

*Issue: No indication of lighting for roof terrace;*

*Planning comment:* Standard conditions shall be imposed ensuring any new lighting at the site shall be designed so as not to cause nuisance to neighbouring properties, considered reasonable.

*Issue: Loss of privacy / overlooking from rear balcony;*

*Planning comment:* This aspect has been discussed above. However, it is noted that the majority of objectors raising this issue are those located to the rear, sited on higher ground and therefore have a towering view and outlook over the subject site. The resultant effect is that the subject site is overlooked more so from these properties to the rear rather than vice versa.

*Issue: No indication of eastern boundary fencing;*

*Planning comment:* The proposed works outlined in the application do not indicate changes to the eastern boundary fencing, assumed therefore to remain as existing and indicated on the plan. However a dilapidation report for the rear boundary retaining wall shared with 21 Lord Howe Avenue will be imposed as a condition of consent to address this concern.

*Issue: Existing ground floor rear terrace alleged to be illegally constructed;*

*Planning comment:* The history of the existing ground floor terrace is unknown. Had this been an issue in recent years, then Council has means for complaints to be lodged and appropriate action to be taken. Nonetheless, the application is assessed having regard to the proposed works, that does take into account and consider the existing building form and in this instance the proposed ground floor terrace is considered acceptable for reasons outlined previously in the report.

*Issue: Discrepancies in plans with regard to vegetation on-site;*

*Planning comment:* The application was referred to Council's Tree Management Officer who inspected the property having regard to existing and proposed vegetation for the site. The referral advise is based on an assessment of what actually exists on site (obtained from inspection) and what is proposed, rather than solely based on the plans submitted.

*Issue: Request for stormwater run-off impact;*

*Planning comment:* The amended application has amended the stormwater details to now comply with Council's Part G4 WDCP 2006 controls, as assessed by Council's Technical Services. As such, stormwater run-off and the provision of an OSD system to the site are

considered to reasonably address and be compliant with relevant stormwater controls and issues associated with the new development.

*Issue: Object to pergolas added;*

*Planning comment:* The provision of a pergola, particularly to the rear is not considered to adversely impact upon adjoining properties and provides an opportunity for some cover to outdoor terraces that vegetation can be planted on. As such, the pergolas are acceptable.

*Issue: Consistency for roof terrace approval as writer's roof terrace (1 Raleigh St) was refused in recent times;*

*Planning comment:* The history of this comment is unknown whereby there may be a number of reasons for such. Furthermore, perusal of Council records indicate the most recent planning application for 1 Raleigh St dating back to 1997 when Council policies differed somewhat. Thereby the relevance of such is questionable. Nonetheless, as outlined above in the report, the proposed roof terrace has been accessed having regard to Council controls and the surrounding locality and is considered reasonable.

#### **Section 79C(1)(e) - The public interest.**

It is not considered that the application is against the public interest.

### **5. DEVELOPMENT AND BUILDING UNIT REVIEW**

The DBU gave consideration to the proposal having regard to the matters under Section 79C of the Act. This included the issues raised in submissions to the application and the provisions of Council's Development Control Plan.

The DBU reviewed the proposal and noted that the proposal has been amended to address issues in relation to bulk and scale, building height and view sharing.

The DBU reviewed the proposal and acknowledged that the proposed additional storey will result in loss of views from the ground floor levels of the eastern adjoining properties, however view from first floor levels will be largely retained. The views are considered to be high quality views of Sydney Harbour, Sydney Harbour Bridge and the city skyline. The view impact has been analysed taking into consideration the planning principles of Tenacity Consulting V Warringah and it was considered that the impact resulting from the proposed first floor is considered reasonable given that the height of the building has been lowered and generally complies with height controls. In addition it was noted that only ground floor views from the eastern adjoining properties will be affected and views from the upper floors will be retained. Furthermore having regard to the planning principles on view sharing, expectation to maintain views from ground floor is considered unrealistic. In this regard it is considered that the view sharing concept has been achieved.

The DBU noted that whilst the FSR of the dwelling exceeds Council's controls, the proposed bulk and scale of the dwelling is compatible with the surrounding existing developments in the area and is unlikely to create an undesirable precedent in the street. The excess floor area is largely contained within the basement level and does not unreasonably impact on the bulk and scale of the development.

Having regard to the above it is considered that the proposal is satisfactory and the application is recommended for approval subject to the conditions given in the report.

## **6. RECOMMENDATION**

That Development Application No. 576/2009 at 101 Military Road, Dover Heights for significant alterations and additions to detached dwelling including first floor additions, double garage, roof terrace and swimming pool be approved by Council, subject to the following conditions:-

### **A. APPROVED DEVELOPMENT**

#### **1. APPROVED DEVELOPMENT**

The development must be in accordance with:

- (a) Amended architectural Plan Nos: A 1000 (Rev B), A 2001 (Rev B), to A 2004 (Rev B), A 3000 (Rev B), A 4000 (Rev C) and A 4001 (Rev B) of Job No. 09-11, tables and documentation prepared by 'Dennis Kourtis Architect' dated Oct 2009, and received by Council on date 30 April 2010;
- (b) Stormwater Discharge Concept Plan and Details Drawing No. 2011-3-1 B, tables and documentation prepared by 'M. Zimmerman & Assoc P/L' dated Oct 2009 and received by Council on date 30 April 2010;
- (c) BASIX Certificate;
- (d) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part G1, Waverley DCP 2006.

except where amended by the following conditions of consent;

#### **2. GENERAL MODIFICATIONS**

The proposal shall be amended as follows:

- (a) Privacy screening to a height of 1800mm shall be installed along the northern and southern side of the first floor rear balcony (on the outer side to the planters).
- (b) Balustrading to roof deck is to be transparent, to allow views to be maintained to adjoining properties.
- (c) The roofing material used shall be of low reflectivity.
- (d) Privacy screening (eg louvre screening) shall be installed on the entire northern side of the stairwell courtyard (first floor level) to a height of 2100mm.
- (e) The development shall be limited to a height of R.L 84.23 as measured to the top of the balustrade of the roof terrace.
- (f) No approval is expressed or implied for louvers to the roof section of the eastern elevation and should be deleted from the plan.

The amendments shall be submitted for the approval of Council prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

#### **3. NEW DEVELOPMENT APPLICATION REQUIRED**

This consent is for alterations and additions to the existing building only and should during the course of certification or construction a significant amount of the remaining fabric of the building be removed, a new development application will be required and need to comply with the relevant planning controls including Basix.

#### **4. DOMESTIC HEATERS**

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

#### **5. 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) Shall not be located on the roof of the dwelling, which may result in view loss to adjoining properties.
- (c) Be located behind the front building line and if visible suitable screened and located in an appropriate location.
- (d) Not be adjacent to neighbouring bedroom windows.
- (e) Not reduce the structural integrity of the building.
- (f) 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):
  - a. before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
  - b. before 7.00am and after 10.00pm on any other day.
- (g) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (f).

#### **6. 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.

#### **7. 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.

## **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 the *"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 Chambers (First Floor) or downloaded from:  
[www.waverley.nsw.gov.au/publications/](http://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.

Waverley Council Development Contributions Plan 2006 may be inspected at Waverley Council Chambers, First Floor, Cnr Paul Street and Bondi Road, Bondi Junction.

#### 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 \$7000 must be provided as security for the payment of the cost of making good any damage that may be caused to any Council property as a consequence of this building work.

This deposit 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 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 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.

#### **12. HOARDING REQUIRED**

If required, a standard 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.

#### **13. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A Site Waste and Recycling Management Plan (SWRMP) Checklist Part 2 shall be submitted to the Principal Certifying Authority for approval in accordance with Part G1, Waverley DCP 2006 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.

#### **14. 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.

#### **15. CONSTRUCTION VEHICLE PLAN OF MANAGEMENT**

Submission of a "Construction Vehicle Plan of Management" for the routing and control of construction vehicles accessing and exiting the site. Such plan to address the hours of

operation, the employees' vehicles, holding areas for vehicles wanting to access the site and truck works and provide a means of ensuring vehicular and pedestrian access to adjoining resident's properties for the duration of the works. The "Construction Vehicle Plan of Management" is to be submitted to Council's Technical Services Division and approved by Council prior to the issue of a Construction Certificate and the undertaking of any demolition, remediation or construction on the site.

#### **16. STORMWATER MANAGEMENT**

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 2006 (Amendment No. 4) - Part G4 prior to the issue of a Construction Certificate.

#### **17. 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.

#### **18. 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 additions is to be provided to Council or the Accredited Certifier prior to the issue of a Construction Certificate.

#### **19. 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 can not be modified under Section 96 of the *Environmental Planning and Assessment Act 1979*.

### **C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION**

#### **20. 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.

**21. 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.

**22. DILAPIDATION REPORT**

A dilapidation report prepared by a practising Structural Engineer shall be submitted to the Principal Certifying Authority, Council and the owners of the adjoining properties prior to the commencement of demolition, bulk excavation or building works, detailing the current condition and the status of the rear boundary retaining wall shared with 21 Lord Howe Avenue.

**23. 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.

**24. 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.

**25. 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.

## **26. 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.

## **27. 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.

## **28. 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.

## **29. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS**

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

## **30. 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

DEC's Managing Urban Stormwater: Construction Activities. 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.

**31. 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.

**32. 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.

**33. 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.

**34. 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.

**35. 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 (and Sunday which form part of public holiday weekends;
- (b) Sundays and public holidays; and
- (c) On the Saturday (except minor renovation or refurbishment to a single dwelling construction) except minor renovation or refurbishment to a single dwelling and Sunday which immediately precede construction) or follow industry Rostered Days , as agreed by the CFMEU and the Master Builders Association of NSW.

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

**36. CONSTRUCTION NOISE**

The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

### 37. **BUILDING CODE OF AUSTRALIA**

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

### 38. **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
- (g) swimming pool fencing prior to filling the pool.

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.

### 39. **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.

#### 40. 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.

#### 41. 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.

#### 42. 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.

#### 43. 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.

#### 44. TREE PLAN

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.

- **Trees to be retained and protected**

Species	Location	Action
Melaleuca sp	Rear yard, Northern boundary	Retain and protect. *TPZ of 4.8 metres from the middle of the trunk to be installed as per conditions below
Norfolk Island Hibiscus	Rear NE corner	Retain and protect *TPZ of 4.2 metres from the middle of the trunk to be installed as per conditions below
Cocos palm	Rear boundary, middle	Retain and protect *TPZ of 3.6 metres from the middle of the trunk to be installed as per conditions below

\*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.

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.

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) of any tree, shrub or vegetation.

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.

#### 45. 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.

- **Trees to be removed**

Species	Location	Action
Palm sp x 3	Rear boundary from SE corner to middle	Remove and replace
Lillipilli	Rear boundary, approximately 3.0 metres in from the fence	Remove and replace
Pittosporum	Rear boundary, approximately 3.0 metres in from the fence	Remove and replace

Avocado	Rear of residence, southern boundary	Remove if required
Norfolk Island Hibiscus	Front of property, SE corner	Remove and replace

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 a local native tree of minimum container size of 75 litres and shall be maintained until they attain a mature height of at least four (4) metres, or whereby they will be protected by Council's Tree Preservation Order.

Two (2) of the replacement trees are to be replanted in the front of the property.

Any replacement tree is to be planted a minimum of 1.0 metres from any boundary, structure or underground services.

Trees shall not be tied to stakes unless support is essential. All advanced trees are to be planted in holes at least 450mm square and 450mm deep, containing good quality soil and humus. In lawn areas, grass is to be kept back for a radius of at least 450mm from stems and trunks, a depression should be formed for the collection of water and the area mulched.

Woodchip mulch is to be installed to a depth of 75-90mm to all mass planted garden areas and around the base of trees in lawn areas. The mulch should be kept at least 50mm away from plant stems to reduce the risk of collar rot.

If the replacement trees are found to be faulty, damaged, dying or dead before being protected by Council's Tree Preservation Order the tree/s shall be replaced with the same species at no cost to Council.

#### **46. 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.

#### **47. 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) The finished level of the proposed pool is not to exceed a maximum height of 100 mm above the existing natural ground level;
- (d) 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 1926-1993 "Fencing for Private Swimming Pools". This fencing is to be erected and inspected by the Principal Certifying Authority prior to the pool being filled with water; and
- (e) 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.

**48. 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.

**D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION**

**49. 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.

**50. 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.

**51. INSPECTION OF POOL**

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.

**52. 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*.

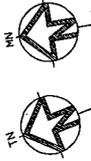
**53. STREET NUMBER/S**

The street 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 the street. Should the number be fixed to an awning then it shall be a minimum 150mm high.

**54. LANDSCAPE PLAN**

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

NOTES:  
 USE FIGURED DIMENSIONS ONLY.  
 DO NOT SCALE.  
 ALL DIMENSIONS TO BE  
 VERIFIED ON SITE.



Amendments:

Issue	Amendment	Date
A	DEVELOPMENT APPLICATION	OCT 2009
B	AMENDED AS REQUESTED	FEB 2010

AREA SCHEDULE  
 PROPOSED FLOOR PLANS

SITE AREA = 586.26<sup>m</sup><sup>2</sup>  
 GFA = 652.00<sup>m</sup><sup>2</sup>  
 GFA ALONG FLOOR AREA = 370.96<sup>m</sup><sup>2</sup>  
 PROPOSED TOTAL FLOOR AREA = 0.54:1

TOTAL LANDSCAPED AREA = 288m<sup>2</sup>  
 TOTAL REQUIRED = 224m<sup>2</sup>  
 TOTAL SOFT LANDSCAPE PROPOSED = 120m<sup>2</sup> = 20%  
 SOFT LANDSCAPE AREA REQUIRED = 88m<sup>2</sup> = 15%

CLIENT

MISS GEORGINA PANSELIJOS  
 101 MILITARY ROAD  
 DOVER HEIGHTS NSW 2030

**DENNIS KOURTIS**  
**ARCHITECT**

23 HENDY AVE  
 COOGEE NSW 2034  
 PHONE: 0414 474 227

PROPOSED ALTERATIONS &  
 ADDITIONS AT

101 MILITARY RD, DOVER HEIGHTS

PROPOSED PLANS

AS SHOWN

OCT 2009

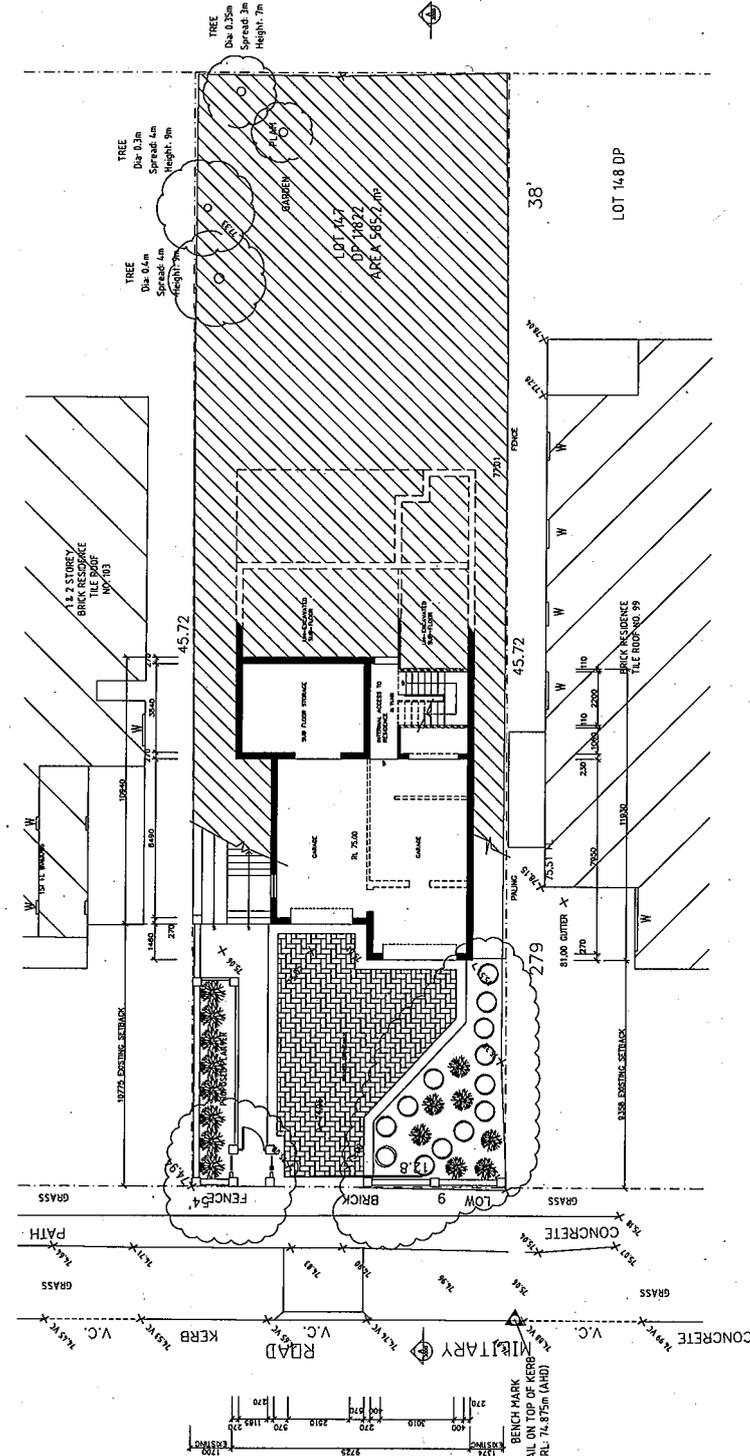
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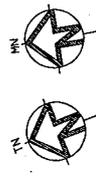
A2001

**DEVELOPMENT APPLICATION**



PROPOSED GARAGE LEVEL PLAN  
 SCALE 1:100

NOTES:  
 1. UNDIMENSIONED DIMENSIONS ONLY.  
 2. DO NOT SCALE.  
 3. ALL DIMENSIONS TO BE VERIFIED ON SITE.



Amendments:  
 Issue Amendment Date  
 A DEVELOPMENT APPLICATION OCT 2009  
 B AMENDED AS REQUESTED FEB 2010

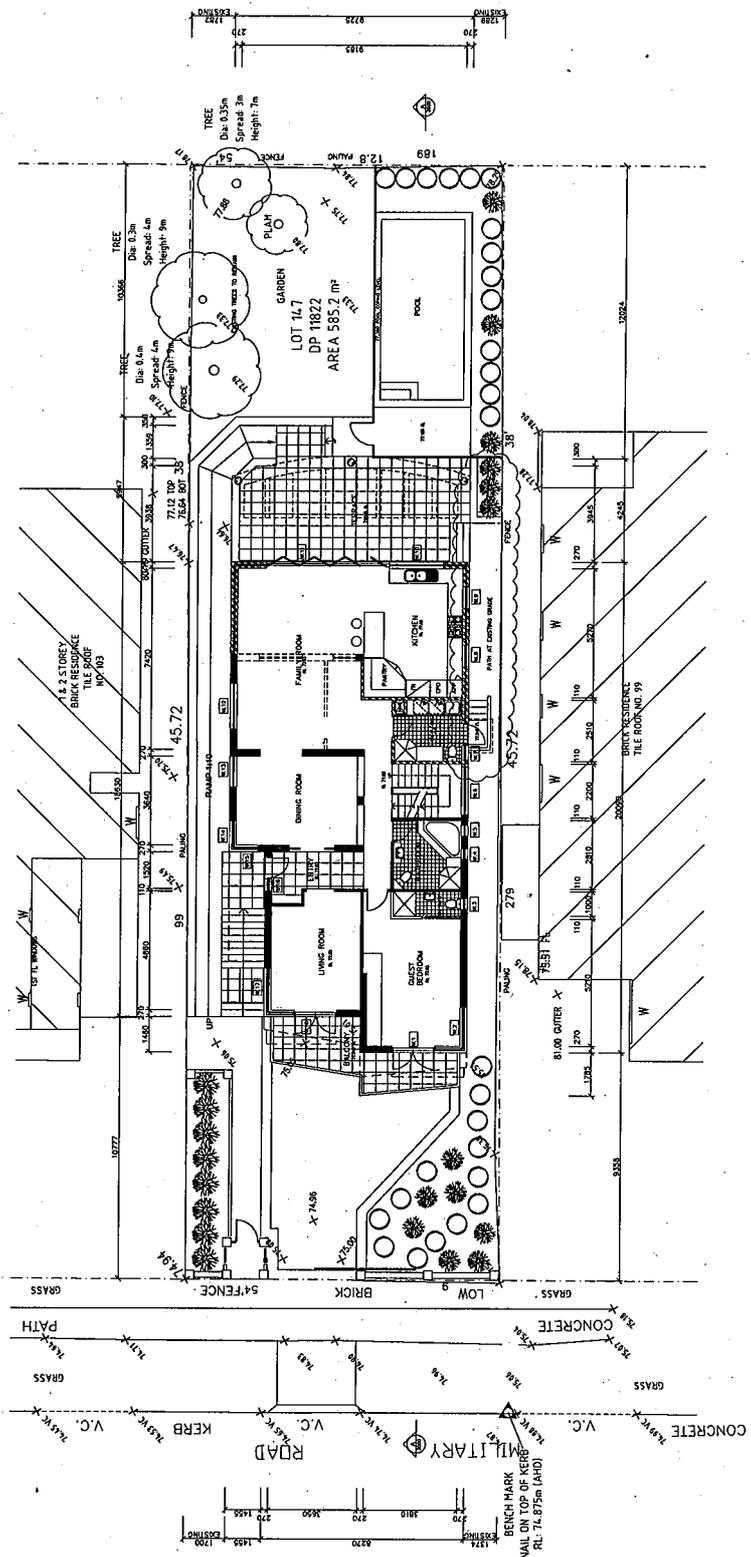
AREA SCHEDULE  
 PROPOSED FLOOR PLANS  
 SITE AREA = 585.2m<sup>2</sup>  
 FSR = 0.51  
 MAX ALLOWABLE FLOOR AREA = 297.6m<sup>2</sup>  
 PROPOSED TOTAL FLOOR AREA = 320.0m<sup>2</sup>  
 PROPOSED FSR = 0.541  
 TOTAL LANDSCAPED AREA = 288m<sup>2</sup>  
 TOTAL REQUIRED LANDSCAPE PROPOSED = 234m<sup>2</sup>  
 SOFT LANDSCAPE AREA REQUIRED = 188m<sup>2</sup> = 52%

CLIENT  
 MRS GEORGINA PANSELINOS  
 101 MILITARY RD, DOVER HEIGHTS  
 DOVER HEIGHTS NSW 2030

DENNIS KOURTIS  
 ARCHITECT  
 23 HENDY AVE  
 COOGEE NSW 2034  
 PHONE: 0414 474 227

PROPOSED ALTERATIONS & ADDITIONS AT 101 MILITARY RD, DOVER HEIGHTS  
 PROPOSED PLANS

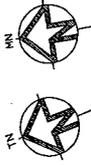
DATE	09-11
AS SHOWN	
DATE	OCT 2009
DATE	DK
REVISION	B
NO	A2002



DEVELOPMENT APPLICATION

PROPOSED GROUND FLOOR PLAN  
 SCALE 1:100

NOTES:  
 USE FIGURED DIMENSIONS ONLY.  
 DO NOT SCALE.  
 ALL DIMENSIONS TO BE  
 VERIFIED ON SITE.



Amendments:  
 Issue Amendment Date  
 A DEVELOPMENT APPLICATION OCT 2009  
 B AMENDED AS REQUESTED FEB 2010

AREA SCHEDULE  
 PROPOSED FLOOR PLANS  
 SITE AREA = 585.72m<sup>2</sup>  
 FSR = 1.0  
 PROPOSED TOTAL FLOOR AREA = 232.64m<sup>2</sup>  
 PROPOSED TOTAL FLOOR AREA = 0.51  
 PROPOSED FSR = 0.51  
 TOTAL LANDSCAPED AREA = 288m<sup>2</sup>  
 TOTAL SOFT LANDSCAPE PROPOSED = 170m<sup>2</sup> + 70%  
 SOFT LANDSCAPE AREA REQUIRED = 88m<sup>2</sup> + 15%

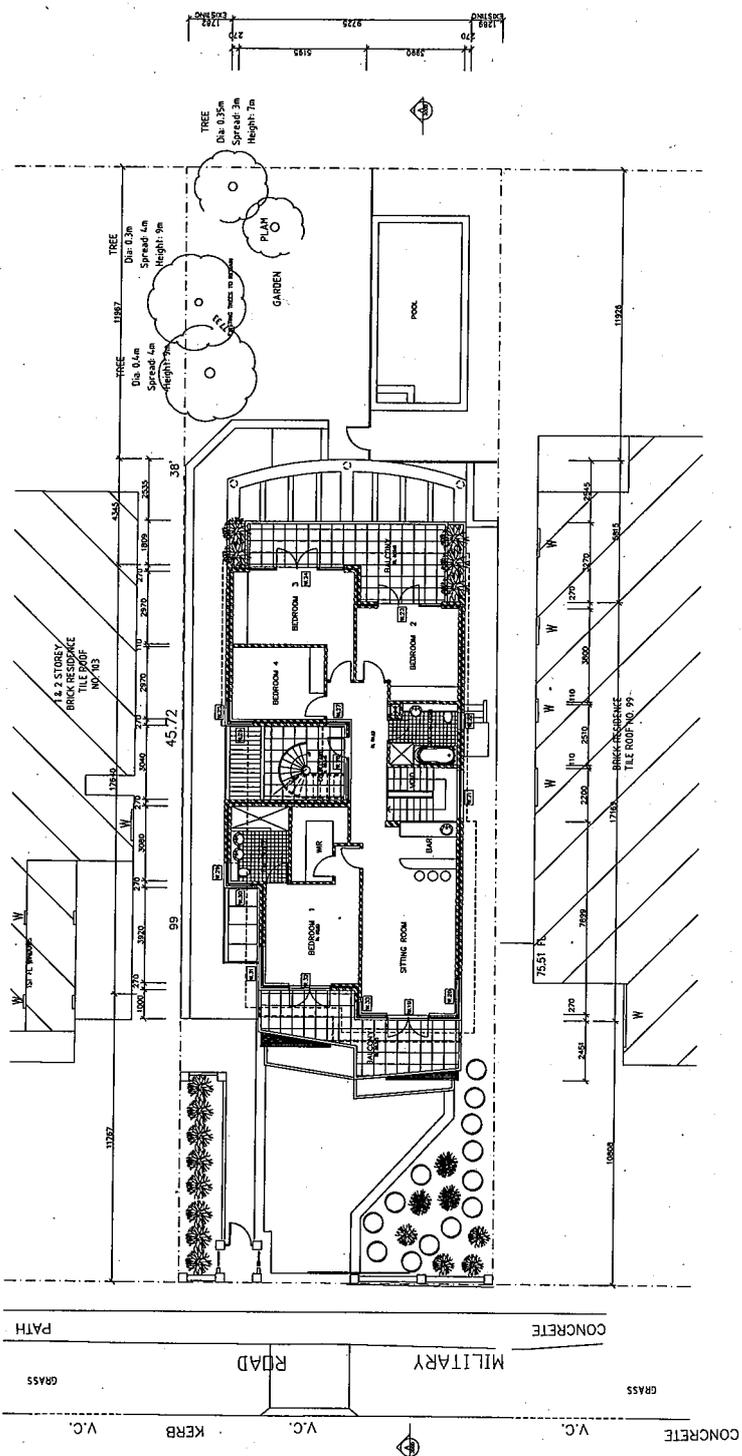
CLIENT  
 MISS GEORGINA PANSELOUS  
 101 MILITARY ROAD  
 DOVER HEIGHTS NSW 2030

DENNIS KOURTIS  
 ARCHITECT  
 23 HENDY AVE  
 COOGEE NSW 2034  
 PHONE: 0414 474 227

PROPOSED ALTERATIONS &  
 ADDITIONS TO  
 101 MILITARY RD, DOVER HEIGHTS  
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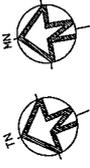
DATE	09 - 11
AS SHOWN	
OCT 2009	
DK	B
A2009	

DEVELOPMENT APPLICATION



PROPOSED FIRST FLOOR PLAN  
 SCALE 1:100

NOTES:  
 USE FIGURED DIMENSIONS ONLY.  
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Amendments:  
 Issue: Amendment  
 Date:  
 A DEVELOPMENT APPLICATION OCT 2009  
 B AMENDED AS REQUESTED FEB 2010

AREA SCHEDULE  
 PROPOSED FLOOR PLANS  
 SITE AREA = 585.2m<sup>2</sup>  
 FSR = 0.51  
 MAXIMUM FLOOR AREA = 298.4m<sup>2</sup>  
 PROPOSED TOTAL FLOOR AREA = 272.1m<sup>2</sup>  
 PROPOSED FSR = 0.54:1  
 TOTAL LANDSCAPED AREA = 288m<sup>2</sup>  
 TOTAL SOFT LANDSCAPE PROPOSED = 170m<sup>2</sup> \* 20%  
 SOFT LANDSCAPE AREA REQUIRED = 85m<sup>2</sup> \* 15%

CLIENT:  
 MISS GEORGINA PANSELINGS  
 101 MILITARY ROAD  
 DOVER HEIGHTS NSW 2030

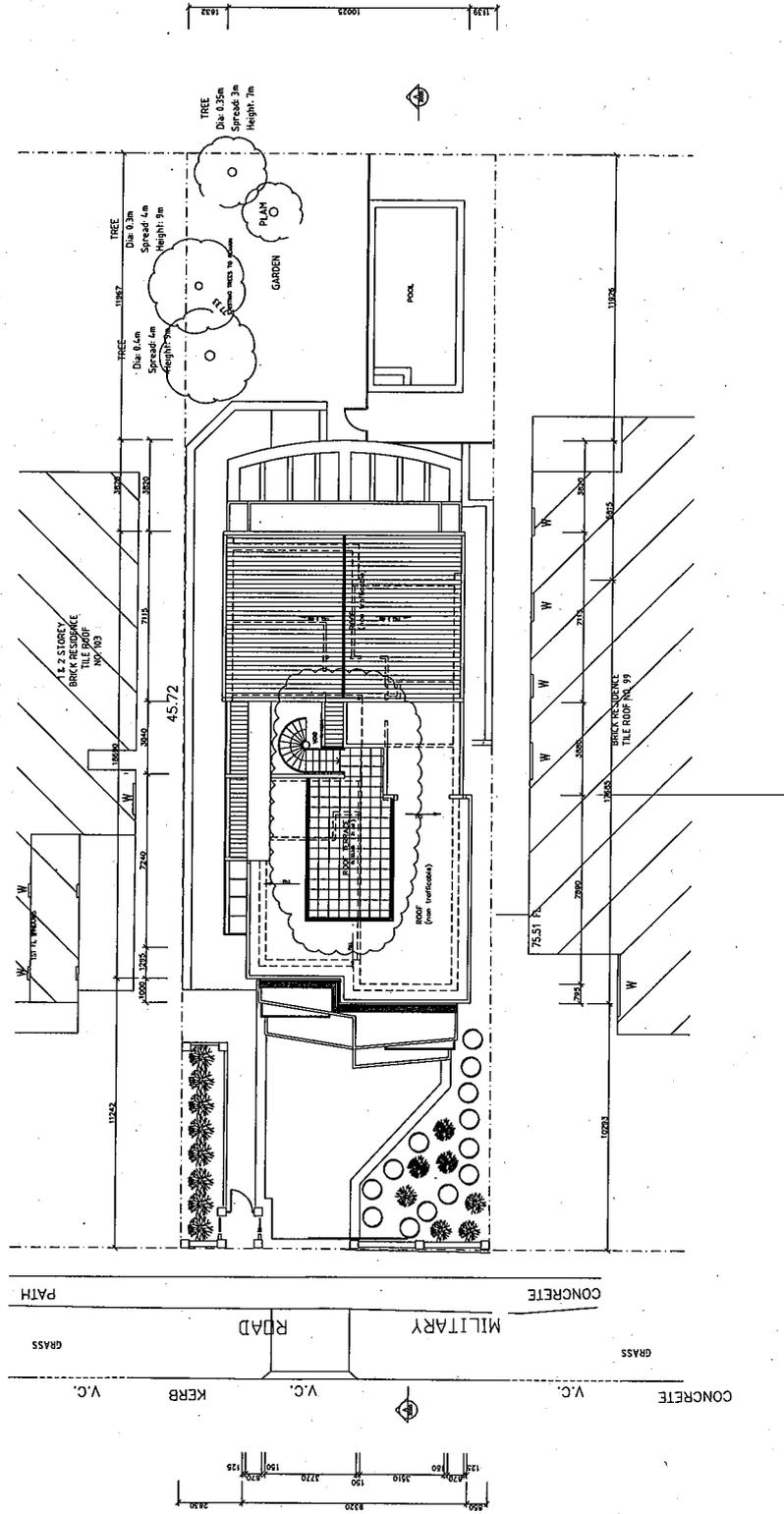
DENNIS KOURTIS  
 ARCHITECT

23 HENDY AVE  
 COOGEE NSW 2034  
 PHONE: 0414 474 227

PROPOSED ALTERATIONS &  
 ADDITIONS AT  
 101 MILITARY RD, DOVER HEIGHTS

PROPOSED PLANS

DATE	AS SHOWN	DATE	09 - 11
DATE	OCT 2009	DATE	
DATE	DK	DATE	B
DATE		DATE	A2009/4



PROPOSED ROOF PLAN  
 SCALE 1:100

DEVELOPMENT APPLICATION



NO.	DESCRIPTION	DATE	BY	CHECKED
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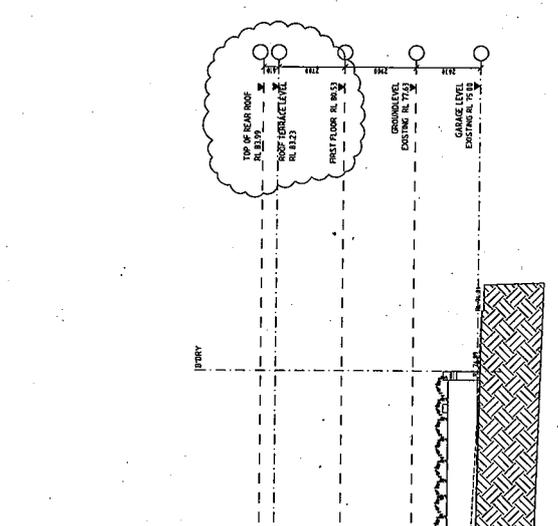
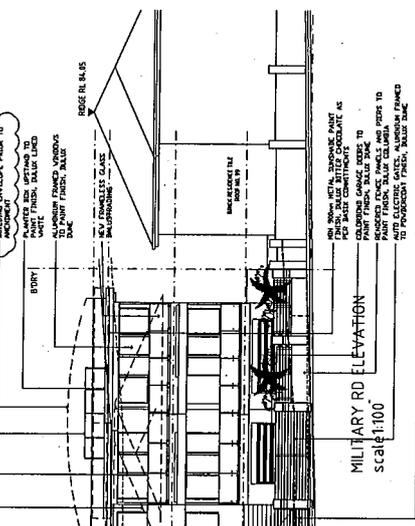
Amendment	Date
A DEVELOPMENT APPLICATION	OCT 2009
B AS SHOWN AS REQUESTED	MARCH 2010
C IMPROVEMENTS TO NORTH ELEVATION	JULY 2010

CLIENT  
 MESS GEORGIAN PANELINGS  
 101 MILITARY ROAD  
 DOVER HEIGHTS NSW 2030

DENNIS KOURTIS  
 ARCHITECT  
 23 HENDY AVE  
 COOGEE NSW 2034  
 PHONE: 0414 474 227

PROPOSED ALTERATIONS &  
 ADDITIONS  
 101 MILITARY RD, DOVER HEIGHTS

PROPOSED ELEVATIONS	
AS SHOWN	09-11
OCT 2009	
DK	C
A-4000	



DEVELOPMENT APPLICATION

PROPOSED NORTH ELEVATION  
 SCALE 1:100



