



**DATE: 16 March 2022**

A meeting of the **WAVERLEY LOCAL PLANNING PANEL** will be held by video conference at:

**12PM WEDNESDAY, 23 March 2022**

**QUORUM:** Three Panel members.

**APOLOGIES:** By email to [WLPP@waverley.nsw.gov.au](mailto:WLPP@waverley.nsw.gov.au)

## **AGENDA**

### **WLPP-2203.A Apologies**

### **WLPP-2203.DI Declarations of Interest**

The Chair will call for any declarations of interest.

### **WLPP-2203.1 PAGE 5 1/16 Forest Knoll Avenue, BONDI BEACH NSW 2026 - Alterations and additions to Unit 1, including extension of deck and relocation of tree. (DA-493/2021)**

Report dated 7 March 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be approved for the reasons contained in the report.

### **WLPP-2203.2 PAGE 49 20 Forest Knoll Avenue, BONDI BEACH NSW 2026 - Demolition of dwelling and construction of two new part 2 and 3 storey dwellings with integrated basement parking. (DA-313/2021)**

Report dated 10 March 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be approved for the reasons contained in the report.

### **WLPP-2203.3 PAGE 122 5 Kenneth Street, TAMARAMA NSW 2026 - Alterations and additions to an existing Residential Flat Building including additions at each floor level, new upper storey addition, landscaping works, a new swimming pool and strata plan update. (DA-413/2021)**

Report dated 14 March 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be approved for the reasons contained in the report.

### **WLPP-2203.4 PAGE 204 28 Lyons Street, DOVER HEIGHTS NSW 2030 - Demolition of dwelling and construction of a new two storey dwelling with integrated parking and a swimming pool. (DA-348/2021)**

Report dated 14 March 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be approved for the reasons contained in the report.



**WLPP-2203.5****PAGE 262**

**1 Lyons Street, DOVER HEIGHTS NSW 2030 - Alterations and additions to dwelling including first floor addition, internal lift, rooftop terrace and rooftop garden above the existing garage. (DA-538/2021)**

Report dated 13 March 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be approved for the reasons contained in the report.

**WLPP-2203.6****PAGE 318**

**49 Beaumont Street, ROSE BAY NSW 2029 - Alterations and additions to the rear portion of the ground floor to an existing dwelling. (DA-541/2021)**

Report dated 9 March 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be approved for the reasons contained in the report.

**WLPP-2203.7****PAGE 348**

**168 Hastings Parade, NORTH BONDI NSW 2026 - Demolition of building on 168 Hastings Parade and significant alterations and additions of the existing building on 170 Hastings Parade to provide for a single dwelling house with basement parking and swimming pools across both properties. (DA-369/2021)**

Report dated 9 March 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be approved for the reasons contained in the report.

**WLPP-2203.8****PAGE 453**

**68 Chaleyer Street, ROSE BAY NSW 2029 - Review of decision seeking alterations and additions to semi-detached dwelling including new front car space and external spiral stair at rear. (DA-216/2021/1)**

Report dated 9 March 2022 from the Development and Building Unit.

**Council Recommendation:** That the review application be refused for the reasons contained in the report.

**WLPP-2203.9****PAGE 479**

**105 Hewlett Street, BRONTE NSW 2024 - Modification to increase building height and changes to driveway levels and various other alterations. (DA-265/2019/A)**

Report dated 9 March 2022 from the Development and Building Unit.

**Council Recommendation:** That the modification application be approved for the reasons contained in the report.

**WLPP-2203.10**

**PAGE 516**

**152 Blair Street, NORTH BONDI NSW 2026 - Alterations and additions to a semi-detached dwelling, including first floor addition , garage and patio above. (DA-12/2022)**

Report dated 9 March 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be approved for the reasons contained in the report.

**WLPP-2203.11**

**PAGE 561**

**61 Reina Street, NORTH BONDI NSW 2026 - Alterations and additions to semi-detached dwelling including first floor extension (DA-485/2021)**

Report dated 13 March 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be approved for the reasons contained in the report.



## Report to the Waverley Local Planning Panel

Application number	DA-493/2021
Site address	1/16 Forest Knoll Avenue, BONDI BEACH
Proposal	Alterations and additions to Unit 1, including extension of deck and relocation of tree
Date of lodgement	16 November 2021
Owner	Ms L R K Dempsey
Applicant	Ms L R K Dempsey
Submissions	Nil
Cost of works	\$122,000
Principal Issues	<ul style="list-style-type: none"> <li>Floor space ratio exceedance (FSR); and</li> <li>Deck and landscaping.</li> </ul>
Recommendation	That the application be <b>APPROVED</b> in accordance with the conditions contained in the report

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for alterations and additions to Unit 1 including extension of the living room and bedroom, extension of the outdoor deck and relocation of the frangipani tree, at the site known as 1/16 Forest Knoll Avenue, Bondi Beach.

The principal issues arising from the assessment of the application are as follows:

- FSR exceedance; and
- Deck and landscaping.

The assessment finds these issues acceptable, as the proposed extension to Unit 1 is a moderate increase in floor space that will not give rise to an increase in overall density of the residential flat building (RFB), given it is to remain a one-bedroom unit. The application does not propose to significantly alter the bulk and scale of the RFB, and the environmental amenity of neighbouring properties and the locality would be preserved.

Conditions of consent are recommended to require the proposed extended deck to be reduced to avoid encroachment over the common property garages and to require the planting of native shrubs within the boundary of the subject unit.

No submissions were received in response to notification.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

The application is referred to the Waverley Local Planning Panel (WLPP) for determination having regard to the variation sought to FSR (>10% exceedance).

### 1.2. Site and Surrounding Locality

A site visit was carried out on 27 January 2022.

The site is identified as Lot 1 in SP 11332, known as Unit 1 of 16 Forest Knoll Avenue, BONDI BEACH.

The site is irregular in shape with a frontage to Forest Knoll Avenue, measuring 9.905m. It has an area of 425.4m<sup>2</sup> and falls from the south towards the north by approximately 8.8m.

The site is occupied by a three-storey RFB, containing five units in total. The ground floor level contains Unit 1, the subject unit and two levels above each containing two units. The site comprises three single garages at street level.



The site is adjoined by three storey RFBs to the east and west of the subject site. The locality is characterised by a variety of low to medium residential development.

**Figures 1 to 4** are photos of the site and its context.

	
<p><b>Figure 1: Subject site, No. 16 Forest Knoll Avenue</b></p>	<p><b>Figure 2: Unit 1 – ground floor</b></p>
	
<p><b>Figure 3: Neighbouring property to the east, No. 14 Forest Knoll Avenue</b></p>	<p><b>Figure 4: Neighbouring property to the west, No. 18 Forest Knoll Avenue</b></p>

### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- PD-38/2018, Pre-DA for alterations and additions to Unit 5, including attic level addition, various internal alterations, and landscaping.
- DA-268/2021, Alterations and additions to Unit 1 including enlarging outdoor deck and relocate frangipani tree. The application was rejected for the following reasons:
  - The applicant did not address the prohibition of the 'residential flat building' use in the R2 Low Density Residential Zone under *Waverley Local Environmental Plan 2012* (Waverley LEP 2012) or establish the application of existing use rights.
  - The application did not include floor plans of the whole building to enable the overall gross floor area of the building, including the proposed extension to Unit 1 to be measured, for

the purposes of assessing the proposal against the applicable FSR development standard under the Waverley LEP 2012.

#### 1.4. Proposal

The development application seeks consent for alterations and additions to Unit 1, including:

- extension of the living room and bedroom and access provided to the front private open space from the bedroom;
- extension of the existing deck; and
- relocation of the frangipani tree from under the balcony of Lot 2 to the eastern corner of the new deck.

#### 1.5. Background

The development application was lodged on 16 November 2021 and deferred on 22 November 2021 for the following reasons:

##### 1. Application of existing use rights

*An assessment of the relevant existing use rights provisions under Division 4.11 of the Environmental Planning and Assessment Act 1979 (the Act) and Part 5 of the Environmental Planning and Assessment Regulation 2000 (the Regulations) is required. The SEE is required to be updated to address the prohibited use and the application of existing use rights.*

##### 2. Calculation of gross floor area

*The Gross Floor Area (GFA) Calculation Plan calculates GFA of each room, rather than the whole of the floor area.....The calculation of GFA needs to be amended to....include the whole floor area and not on a per room basis.*

On 26 November 2022, the applicant provided a response to the deferral letter, including a revised GFA plan reflecting the correct calculation methodology, an amended Statement of Environmental Effects (SEE) reflecting the revised GFA and FSR calculations and additional information to address the issue of existing use rights.

On 2 March 2022, Council requested that the applicant reissue a set of architectural plans with the correct calculations on each page of the plans to reflect the revised GFA calculations submitted to Council on 26 November 2022.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

## 2.1. 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. Existing Use Rights

The application relies on 'existing use rights' provisions under Division 4.11 of the Act and Part 5 of the *Environmental Planning and Assessment Regulation 2000* (the Regulations). The applicant has satisfactorily demonstrated that existing use rights apply in their application.

Part 5 of the Regulations allows an existing use to be enlarged, expanded, intensified, altered or extended subject to development consent. Clause 4.67 *Regulations respecting existing use* of the Act states the following:

- (1) *The regulations may make provision for or with respect to existing use and, in particular, for or with respect to—*
  - (a) *the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and*
  - (b) *the change of an existing use to another use, and*
  - (c) *the enlargement or expansion or intensification of an existing use.*
  - (d) *(Repealed)*
- (2) *The provisions (in this section referred to as the incorporated provisions) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.*
- (3) *An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.*
- (4) *Any right or authority granted by the incorporated provisions or any provisions of an environmental planning instrument extending, expanding or supplementing the incorporated provisions do not apply to or in respect of an existing use which commenced pursuant to a consent of the Minister under section 4.33 to a development application for consent to carry out prohibited development.*

In *Saffioti v Kiama Municipal Council [2018] NSW LEC 1426* (Saffioti 2018) a Commissioner of the LEC considered the issue of whether the controls in a Development Control Plan (DCP) could be considered in assessing the merits of an application for development consent for development with existing use rights. The Commissioner decided that the relevant controls in the DCP could be considered, as the Act provides that any provisions of an environmental planning instrument (EPI) which would derogate from the provisions in the Regulations have no effect. In Saffioti 2018, the Commissioner found that as a DCP is not an EPI, section 4.67(3) does not apply to the provisions of such an instrument. The Commissioner

also considered provisions of the Local Environment Plan (LEP) and found that only those provisions of the LEP which could have the effect of prohibiting the development derogated from the incorporated provisions and therefore could not be taken into account.

The Applicant appealed against the Commissioner's findings to a Judge of the Court on questions of law. The appeal was heard by the Chief Judge of the Court and failed on all grounds.

What can be taken away from *Saffioti 2018*, is that provisions of an EPI (eg. a LEP) may establish factual pre-conditions that a consent authority must be satisfied exist in order to grant development consent or fix developmental standards. An applicant seeking development consent to enlarge, expand or intensify an existing use must comply with any such provisions.

Such provisions will not derogate from the existing use 'incorporated provisions' in the Regulations. They will only do so (and have no effect for the purpose of section 4.67(3) of the EPA Act) if they derogate from the entitlement to make the relevant development application.

Previously, existing use rights have been assessed as if the provisions of the Waverley LEP 2012 (WLEP) and Waverley Development Control Plan 2012 (WDCP) do not apply and can only be used as a guide to development in as much as they control development upon surrounding sites. Existing Use Right assessments have been based upon four questions as set out in *Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71*.

Given the outcome of *Saffioti 2018*, the assessment of existing use rights should be considered against both the development standards of the Waverley LEP 2012 and the controls of the Waverley DCP 2012 as detailed within this report.

### 2.1.2. State Environmental Planning Policies (SEPPs)

The following SEPPs apply and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP 55 Remediation of Land.
- SEPP 65 (Design Quality of Residential Apartment Development).

A detailed discussion is provided for *SEPP 65 (Design Quality of Residential Apartment Development)*, as follows:

#### *SEPP 65 (Design Quality of Residential Apartment Design)*

The application was not referred to the Waverley Design Advisory Excellence Panel (DEAP) as the proposal comprises minor alterations and additions to the existing RFB in relation to Unit 1 only. Notwithstanding, an assessment against the nine design quality principles under Schedule 1 of SEPP 65 has been undertaken as set out in **Table 1** below.



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

Principle	Planning Comment
1. Context and Neighbourhood	The proposal is considered to respond and contribute to its context, by utilising currently underutilised space to improve the amenity of Unit 1. The proposal is compatible with the desired future character of the area and responds appropriately to the local context.
2. Built form and Scale	The proposal seeks to extend the existing living spaces within the envelope of the existing dwelling. Given the sites elevation above street level, the proposal would be largely obscured from the streetscape. The proposed deck would be fitted with privacy screens consistent with the existing privacy screen arrangement on the site.
3. Density	While the proposal seeks a further breach of Council's FSR development standard, the breach would not increase density in terms of the number of units or bedrooms within the unit. The proposal would improve the amenity of the occupants of Unit 1, without detracting from the amenity of the occupants of other units within the RFB or the amenity of neighbouring properties.
4. Sustainability	The proposal is considered to represent good sustainable design
5. Landscape	The proposal would not impact on the landscape character of the streetscape and would improve the appearance of the outdoor living space with the relocation of the frangipani tree within the front setback.
6. Amenity	The proposal would provide a significant improvement in the amenity for the occupants of the unit.
7. Safety	Safety would be maintained under the proposal.
8. Housing Diversity and Social Interaction	The proposal is considered to promote housing diversity through incorporation of a currently underutilised space within the front setback of Unit 1 to improve the amenity of the only ground floor unit within the block. The proposal would not be to the detriment of the other units in the block and would enable an appropriate planning outcome to be achieved.
9. Aesthetics	The proposal seeks to retain the existing features of the built form, including the privacy screens on the sides of the extended deck, relocation of the decorative leadlight window in the bedroom to the kitchen window on the eastern side of the unit and relocation of the frangipani tree from under the balcony of Lot 2 to the front of the RFB on the eastern side of the extended deck.

### *Apartment Design Guide*

Clause 6A of SEPP 65 requires that development control plans (DCPs) 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 DCP contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. An assessment against the provisions within the ADG is provided in **Table 2** of this report.

**Table 2: Apartment Design Guide**

Design Criteria	Compliance	Comment
<b>3F Visual privacy</b>		
<ul style="list-style-type: none"> <li>Min separation distances from buildings to side and rear boundaries:</li> <li>Up to 12m (4 storey) – 6m habitable &amp; 3m non-habitable</li> </ul>	Yes	Visual privacy would be maintained as a result of the proposal. The extended living area is setback from the eastern side boundary by 970mm and 1.18m from the western side boundary. The proposed deck is setback 1.1m from the eastern side boundary and 5.2m from the western side boundary. The proposed setbacks are consistent with the existing setbacks. The proposal includes obscured glazing and privacy screens and is considered to have a negligible impact on the privacy of the adjoining properties to the east and west.
<b>4A Solar and daylight access</b>		
<ul style="list-style-type: none"> <li>Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight between 9am-3pm mid-winter</li> <li>A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter.</li> </ul>	Yes	The proposal would not alter solar access within the RFB or on neighbouring properties.
<b>4B Natural ventilation</b>		
<ul style="list-style-type: none"> <li>All habitable rooms are naturally ventilated</li> </ul>	Yes	All habitable rooms are provided with at least one window for natural ventilation.
<b>4C Ceiling heights</b>		
<ul style="list-style-type: none"> <li>Habitable rooms – 2.7m</li> <li>Non-habitable rooms – 2.4m</li> </ul>	Yes	The ceiling heights within all units comply with the minimum requirement, providing a ceiling height of 2.8m.
<b>4D Apartment size and layout</b>		
<p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"> <li>1 Bed = 50 m<sup>2</sup></li> </ul> <p>Every habitable room must have a window in an external wall with a total minimum glass</p>	Yes	Unit 1 has an existing area of 52m <sup>2</sup> and proposes an increase in floor space of 15m <sup>2</sup> increasing the total floor area to 67m <sup>2</sup> . The proposed development complies with the minimum internal area requirements.

Design Criteria	Compliance	Comment
area of not less than 10% of the floor area of the room.		
<b>4E Private open space and balconies</b>		
All apartments provide primary balcony as follows: <ul style="list-style-type: none"> <li>1-bed – 8m<sup>2</sup> &amp; 2m depth</li> </ul>	Yes / No	<p>The proposed extended deck has a total area of 11m<sup>2</sup>. The deck is proposed to extend over a small section of the common area above the garages. A condition of consent is recommended to require the deck be reduced in length so that the deck does not extend over the common area.</p> <p>The design of the extended deck is integrated into, and contributes to, the architectural form and detail of the building.</p>
<b>4F Common circulation and spaces</b>		
<ul style="list-style-type: none"> <li>Max of 8 units accessed off a circulation core on a single level</li> </ul>	Yes	There is no change to the common circulation space within the RFB.
<b>4G Storage</b>		
In addition to kitchens, bathrooms and bedrooms, the following is provided: <ul style="list-style-type: none"> <li>1-bed – 6m<sup>3</sup></li> </ul>	Yes	An appropriate amount of storage is provided within the existing unit.

### 2.1.3. 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 3: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is not inconsistent with the aims of the Waverley LEP 2012
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R2 Low Density Residential Zone	No (existing use rights apply)	The proposal is defined as alterations and additions to a 'residential flat building, which is a prohibited use in the R2 zone. The application relies on existing use rights for development consent, which have been satisfactorily established.
<b>Part 4 Principal development standards</b>		

Provision	Compliance	Comment
4.3 Height of buildings <ul style="list-style-type: none"> <li>8.5m</li> </ul>	No	The existing height of the building is 11.9m, measured from the ridge to the finished floor level of the ground floor. The proposal does not seek to increase the height of the building and therefore the building will remain at the existing height of 11.9m.
4.4 Floor space ratio <ul style="list-style-type: none"> <li>0.5:1 (212.7m<sup>2</sup>)</li> </ul>	No	The FSR of the existing building is 0.65:1, with a total GFA of 280m <sup>2</sup> . The proposal seeks to increase the GFA of the building by 15m <sup>2</sup> , increasing the FSR of the building to 0.69:1 (295m <sup>2</sup> ).
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 FSR development standard. A detailed discussion of the variation to the development standard 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.

#### *Clause 4.6 Exceptions to Development Standards*

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR of 0.5:1. The proposed development has an FSR of 0.69:1, exceeding the standard by 82.3m<sup>2</sup> equating to a 38% variation. The proposal seeks to increase GFA by 15m<sup>2</sup> to a total of 295m<sup>2</sup>.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

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

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The proposed alterations and additions are located at ground floor level and will not result in any increase in existing building height on the site. The existing 3 storey building height is maintained.*
  - (ii) *The existing building is 3 storeys, with a pitched roof and was constructed many decades before the first planning controls were introduced. The subject land is adjoined either side by existing 3 storey residential flat buildings, both of which have FSR's exceeding 0.5:1.*
  - (iii) *FSR concessions apply for dwelling houses on lots of less than 550m<sup>2</sup> pursuant to clause 4.4A of WLEP 2012, with the result that many single dwelling sites in the locality have comparable FSR's with that envisaged in the proposed development.*
  - (iv) *Unit 1 will remain as a 1 bedroom unit. There is no increase in density in terms of the number of units, bedrooms or population density.*
  - (v) *The existing three storey residential flat buildings at No's 14, 16 and 18 define both the existing and future character of this section of the street. Given the very conservative maximum building height limit of 8.5m and maximum FSR of only 0.5:1, these 3 apartment buildings will remain in the longer term and continue to define the residential flat building character at the southwest end of Forest Knoll Avenue.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) *The existing residential flat building on the site and the adjoining residential flat building at No. 18 are both setback behind rows of garages located at the front boundary street level and have large, elevated timber decks extending forward of the 1st & 2nd storeys of each of the buildings.*
  - (ii) *The screening effect of the garaging at street level combined with the existence of elevated decks above the ground floor level terrace of the subject Unit 1 enables the proposed extension to be accommodated below the elevated decks above so that it substantially subsumed within the existing built form.*
  - (iii) *The proposed addition is not readily seen from neighbouring properties or the public domain. On the southeast side of Forest Knoll Avenue, the proposed addition is substantially screened from view by the existing garaging at street level. From the northwest side of Forest Knoll Avenue, the combination of separation distance and the screening effect of existing garaging ensures minimal visual impact. Relocation of the existing frangipani to near the eastern side boundary will further screen the proposed addition from view.*
  - (iv) *The numerical FSR non-compliance results in no increase in environmental impact compared to no increase in FSR and offers the benefit of facilitating alterations and additions which provide for an integrated building form within the existing building, as a whole and substantially improved occupant amenity. In this situation where there are material benefits from allowing flexibility in the application of the FSR development standard, coupled with the*

*absence of any adverse impacts, there is reasonable justification for contravening the development standard.*

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

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that the objectives of the development standard are achieved notwithstanding non-compliance with the standard, to address clause 4.6(3)(a) of Waverley LEP 2012. The applicant states that the existing building was constructed prior to the current planning controls resulting in a number of medium density RFBs located within a low density residential area. Crucially, the proposal would not result in an increase in density, in terms of the number of bedrooms within the unit or number of units within the RFB. The proposed additional floor space is considered discreet and within the envelope of the existing building and would provide

significant improvement in the amenity of the unit, without adversely impacting on the amenity of adjoining residential development.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard, particularly stating that the numerical FSR non-compliance results in no increase in environmental impact and enables an integrated built form within the existing building envelope while significantly improving occupant amenity. This provides reasonable justification for contravening the development standard.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the FSR development standard are as follows:

- (b) To provide an appropriate correlation between building maximum heights and density controls.*
- (c) To ensure that buildings are compatible with the bulk and scale of the desired future character of the locality.*
- (d) To establish limitations on the overall scale of development to preserve environmental amenity of neighbouring properties and the locality.*

The applicant states that the permissible 8.5m maximum building height is designed to provide for a two-story built form with a pitched roof and that the subject site is adjoined by three storey RFBs on either side, both of which have FSR's that exceed the 0.5:1 development standard. Council is of the view that the proposed extension to Unit 1 is a moderate increase in floor space that will not give rise to an increase in overall density of the RFB. While Unit 1 would increase in size by 15m<sup>2</sup>, it would remain a one-bedroom unit.

Importantly, the desired future character of the locality would be maintained as a low to medium density residential area. The application does not propose to significantly alter the bulk and scale of the RFB, and Unit 1 would largely remain as it currently appears from the streetscape. In addition, the scale of the proposed additional floor space within Unit 1 would not give rise to unacceptable environmental amenity impacts, with the current environmental amenity of neighbouring properties and the locality being maintained.

The objectives of the R2 Low Density Residential zone are as follows:

*(a) To provide for the housing needs of the community within a low density residential environment.*

*(b) To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

*(c) To maximise public transport patronage and encourage walking and cycling.*

The proposal would better meet the housing needs of the occupant and be more aligned with current expectations for one bedroom units in the Bondi Beach area. In addition, the proposal does not include additional car parking and is located within walking distance of public transport and other services. Accordingly, the proposal is considered to achieve the objectives of the R2 zone.

### Conclusion

For the reasons provided above the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R2 Low Density Residential zone.

#### 2.1.4. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 is on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

#### 2.1.5. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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

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

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
3. Landscaping and Biodiversity	Yes	Satisfactory. The proposal does not propose specific landscaping however a condition of consent is recommended to require a planting of native shrubs along the length of the existing brick wall to demarcate the common property area above the garage and the extended area of private open space.
5. Vegetation Preservation	Yes	Council's Tree Management Officer confirmed that the relocation of the frangipani tree is



Development Control	Compliance	Comment
		acceptable and the proposed location appropriate.
6. Stormwater	Yes	Satisfactory.
7. Accessibility and Adaptability	Yes	Satisfactory.
10. Safety	Yes	Satisfactory.
12. Design Excellence	Yes	Satisfactory. The proposal would maintain the existing features of the RFB and the proposed materials and finishes would be sympathetic to the materiality of the existing building.

**Table 5: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>3.3 Setbacks</b>		
3.3.1 - Street setbacks <ul style="list-style-type: none"> <li>Consistent street setback</li> </ul>	Yes	<p>Due to the irregular shaped front boundary, the front setback of the building varies. Unit 1 has an existing front setback of 11.9m, measured from the eastern side of the façade to the front boundary and 9.7m, measured from the western side of the façade to the front boundary.</p> <p>The proposal seeks to reduce the front setback to 10.3m, measured from the eastern side of the facade and 7.7m, measured from the western side of the façade.</p> <p>Despite the reduced front setback, the RFB would continue to be consistent with the front setback of the RFB to the west, No. 18 Forest Knoll Avenue. No. 14 Forest Knoll Avenue to the east, has a much greater setback however given the configuration of the frontages along this section of Forest Knoll Avenue and mature street trees, the proposal would preserve and contribute to the landscape character of the street.</p>
3.3.2- Side and rear setbacks <ul style="list-style-type: none"> <li>Minimum side setback: 1.5m</li> <li>Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback</li> </ul>	Acceptable on merit  N/A	<p>The proposal would not reduce side setbacks. The proposed extension would be setback a minimum of 970mm from the eastern side boundary and 1.18m from the western side boundary. The side setbacks of the proposed extension have been increased compared to the existing building's side setbacks and are therefore acceptable.</p> <p>The proposal does not seek to alter the rear setback of the RFB.</p>

Development Control	Compliance	Comment
<b>3.5 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> <li>Removal of original architectural features not supported.</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposal would maintain a consistent scale and appearance as the existing building. The proposed extension would not alter the envelope of the building and the original architectural character, including external finishes and materiality of the RFB would be maintained. The existing privacy screens would be retained and extended to the sides of the extended deck.</p>
<b>3.7 Fences and walls</b>		
<p><i>Front fence:</i></p> <ul style="list-style-type: none"> <li>Maximum height 1.2m</li> <li>Maximum 2/3 solid</li> <li>Maximum height of 1.8m and solid when secondary wall set within property if required for traffic noise</li> </ul>	N/A	<p>The existing RFB does not comprise a front fence, given the configuration of garages at street level.</p> <p>The proposed extended deck includes a new railing across the front of the deck, which would replace and match the existing balcony railing.</p>
<b>3.9 Landscaping</b>		
<ul style="list-style-type: none"> <li>Comply with part B3-Landscaping and Biodiversity</li> </ul>	N/A	<p>The landscaping provisions relate to the whole of the RFB. See below the table for further discussion on landscaping within the Unit 1.</p>
<b>3.11 Private Open Space</b>		
<p>3.11.1 – Courtyards</p> <ul style="list-style-type: none"> <li>Private Courtyards – min 25m<sup>2</sup> area and 3m width and depth</li> <li>Planting to be provided</li> <li>Private open space not to be provided at the front, unless a buffer it provided</li> <li>Max gradient 1 in 10</li> </ul> <p>3.11.2 – Balconies/decks</p> <ul style="list-style-type: none"> <li>Balcony additions to match the character of the building</li> <li>Should not dominate the façade</li> <li>Located to maximise solar access and privacy</li> <li>Balustrades to allow views and casual surveillance of the street &amp; privacy</li> </ul>	<p>Acceptable on merit</p> <p>Acceptable with condition</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposal includes provision of access from the bedroom to a private courtyard within the front setback, formalising the use of this underutilised outdoor space associated with Unit 1. The application states that landscaping would be maintained with steppingstones provided to the garden. A condition of consent is recommended to require additional planting to be provided.</p> <p>The proposed extension to the deck is considered to match the character and appearance of the existing building. The Visual Impact Plan (DA 500) submitted with the application shows that the extension of the deck would not be visible from the streetscape, given the elevation of the unit above street level. The proposal would therefore not dominate the façade.</p> <p>The location of the extended deck and the proposed balustrade is consistent with the existing balcony and is appropriate on that basis.</p> <p>Notwithstanding, given that the deck is proposed to extend over a small section of the common property area above the garages, Council is of the</p>

Development Control	Compliance	Comment
		view that the deck should be reduced to avoid encroaching over common property. See below the table for further discussion.
<b>3.13 Solar access and overshadowing</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to a minimum of 70% of units in the development on 21 June</li> <li>Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June.</li> </ul>	<p>Yes</p> <p>Yes</p>	Given that the proposed works would be within the existing envelope of the building, there would be no impact on solar access within the site or on adjoining sites.
<b>3.14 Views and view sharing</b>		
<ul style="list-style-type: none"> <li>Minimise view loss through design</li> <li>Views from public spaces to be maintained.</li> </ul>	<p>Yes</p> <p>Yes</p>	The application would not give rise to view loss impacts, nor would there be views from public spaces that would be impacted by the proposal.
<b>3.15 Visual privacy and security</b>		
<ul style="list-style-type: none"> <li>Dwellings to be orientated to the street with entrances and street numbering visible</li> <li>Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened</li> <li>Privacy be considered in relation to context density, separation use and design.</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposed extension to Unit 1 and associated deck would be orientated towards the street.</p> <p>The deck is at ground floor level and would not overlook neighbouring units or neighbouring properties. The deck would be fitted with privacy screens to match the existing privacy screen treatment on the balcony.</p> <p>The proposal includes obscured glazing on the eastern elevation, offering additional mitigation to potential privacy issues for the subject unit and neighbouring property to the east. Given the proposed mitigation measures, the proposal is not anticipated to impact on visual privacy of adjoining and neighbouring units, nor is the proposal likely to diminish visual privacy of the occupants of Unit 1 and is therefore acceptable.</p>
<b>3.19 Acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	The proposed extended deck would be accessed off the living areas within Unit 1. The RFB comprises front facing balconies at each level and therefore the proposal is consistent with the

Development Control	Compliance	Comment
		existing configuration of private open spaces within the building.

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

### *Deck and landscaping*

The application seeks to relocate the existing frangipani tree currently growing on the western side of Unit 1 beneath the balcony of Lot 2 above. Relocation of the tree is supported, as it will provide a larger area for the tree to grow and to receive more sunlight. In addition, relocation of the frangipani to the eastern side of the front setback, would provide a positive contribution to the landscape character of the street.

The application proposes to extend the existing deck (adjacent to living area) to total area of 11m<sup>2</sup>. The deck is proposed to overhang the common property garages resulting in an encroachment over common property. The common property above the garages is only accessible through the private open space of Unit 1 however Council is of the view that the deck should not overhang the common property and should be reduced to avoid any encroachment. Accordingly, a condition of consent is recommended to require the northern extent of the proposed deck to be reduced in area by a minimum of 2m<sup>2</sup>, to prevent encroachment over common property.

The proposal also includes glass sliding doors from the bedroom to the private open space on the western side of Unit 1 with steppingstones provided to the front garden. The application states that existing landscaping within the front setback would be maintained. A condition of consent is recommended to require native shrub planting within the boundary of the subject unit along the length of the existing brick wall and provided at a minimum depth of 500mm, to demarcate the private and common property spaces.

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified 14 days in accordance with the *Waverley Community Development Participation and Consultation Plan*.

No submissions were received.

## 2.5. Public Interest

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

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Stormwater

Council's Infrastructure Services reviewed the application and raised no objections from a stormwater drainage perspective, subject to the recommended conditions of consent.

### 3.2. Tree Management

Council's Tree Management Officer reviewed the application and noted that the proposed transplantation of the *Plumeria* (Frangipani) is supported. Standard conditions to be imposed.

### 3.3. Fire safety

Council's Fire Safety Engineer reviewed the application and noted that that there may be a number of non-compliances with the Building Code of Australia (BCA). All new building works must comply with the BCA, in particular, the protection of openings and fire resistance levels of building elements. There were no objections to approval of the proposal subject to imposition of conditions of consent, requiring all building work to be carried out in accordance with the BCA.

## 4. CONCLUSION

The development application seeks consent for alterations and additions to Unit 1 including extension of the living room and bedroom, enlarging the outdoor deck and relocation of the frangipani tree, at the site known as 1/16 Forest Knoll Avenue, Bondi Beach.

The principal issues arising from the assessment of the application are as follows:

- FSR exceedance; and
- Deck and landscaping.

The assessment finds these issues acceptable, as the proposed extension to Unit 1 is a moderate increase in floor space that will not give rise to an increase in overall density of the RFB, given it is to remain a one-bedroom unit. The application does not propose to significantly alter the bulk and scale of the RFB, and Unit 1 would largely remain as it currently appears from the streetscape. The desired future character of the locality would be maintained as a low to medium density residential area and the environmental amenity of neighbouring properties and locality would be preserved.

Conditions of consent are recommended to require a small reduction of the deck to avoid encroachment over the common property garages and to require the planting of native shrubs within the boundary of the subject unit along the length of the existing brick wall.

No submissions were received in response to notification.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

*Development and Building Unit (DBU) Decision:*



The application was reviewed by the DBU at the meeting on 1 February 2022 and the DBU determined:

(a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: A Rossi, K Johnstone

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Alana Jelfs	Angela Rossi
Senior Development Assessment Planner	Manager, Development Assessment (Central) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 3 March 2022	Date: 7 March 2022

*Reason for WLPP referral:*

1. Departure from any development standard in an EPI by more than 10%

## **APPENDIX A – CONDITIONS OF CONSENT**

### **A. APPROVED DEVELOPMENT**

#### **1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

(a) Architectural Plans prepared by Virginia Kerridge Architect including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA 100, Rev A	Proposed Site Plan	2 March 2022	2 March 2022
DA 110, Rev A	Proposed Ground Floor Plan	2 March 2022	2 March 2022
DA 200, Rev A	Proposed Elevation North	2 March 2022	2 March 2022
DA 210, Rev A	Proposed Elevation East	2 March 2022	2 March 2022
DA 220, Rev A	Proposed Elevation West	2 March 2022	2 March 2022
DA 300, Rev A	Proposed Section	2 March 2022	2 March 2022
DA 401, Rev A	Landscape Plan	2 March 2022	2 March 2022
DA 400, Rev A	Site Waste Recycling Management Plan	2 March 2022	2 March 2022

(b) BASIX Certificate/s

Except where amended by the following conditions of consent.

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

The application is approved subject to the following plan amendments;

- (a) The northern extent of the proposed deck (adjacent to living area of Unit 1) is to be reduced in area by a minimum of 2m<sup>2</sup>, to avoid encroachment over the common property garages.
- (b) The Landscape Plan is to be updated to include the planting of native shrubs within the boundary of Unit 1 along the length of the existing brick wall. The planting is to extend for a minimum length of 7m at a depth of 500mm.
- (c) A schedule of materials and finishes that match the existing residential flat building are to be provided for approval.

The amendments are to be approved by the **Manager, Development Assessment** or **delegate** prior to the issue of any Construction Certificate. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

#### **3. TRANSPLANTATION OF *PLUMERIA* TREE**

The *Plumeria* (Frangipani) tree is to be transplanted to the location identified on the Landscape Plan DA 401.

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 in accordance with AS4970-2009 "Protection of trees on construction sites.

Note: In the event trees are found damaged, dying or dead because of works at any time during the construction period or due to negligence/damage by the applicant/agent/contractor, the full bond amount or part thereof will be forfeited.

#### **4. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

#### **5. BUILDING CODE OF AUSTRALIA**

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



## B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

### GENERAL REQUIREMENTS

#### 6. 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 the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

### CONTRIBUTIONS, FEES & BONDS

#### 7. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 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:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) 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 are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the *Environmental Planning and Assessment Regulation 2000*, the levy must be paid in accordance with the following:
  - (i) A development valued at \$100,000 or less will be exempt from the levy;
  - (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any 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.

## **8. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of \$ **3,700.00** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **9. 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 of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any 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.

## **CONSTRUCTION & SITE MATTERS**

## **10. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

## **11. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

## **12. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

## **FIRE SAFETY**

### **13. ESSENTIAL SERVICES – EXISTING BUILDING**

Details of the currently implemented and proposed essential fire safety measures shall be submitted to Council, with the Construction Certificate, in the form of a Fire Safety Schedule. This Schedule shall be prepared by a person competent to do so and shall specify the minimum standard of performance for each essential fire safety measure included in the Schedule.

At the completion of the installation, a Final Fire Safety Certificate shall be attached to the Occupation Certificate, 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) found 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.

### **14. FIRE SAFETY UPGRADING WORKS**

- (a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, **UNIT 1** must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):
  - (i) The subject units must be separated from other adjoining sole occupancy units and internal common areas by building elements that comply with the fire resistance performance requirements set out in CP2 and CP8 of Volume 1 of the Building Code of Australia;
  - (ii) Smoke hazard management - Part E2; and
  - (iii) Sanitary and other facilities - Part F2.
- (b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, an alternative building solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.
- (c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 4.55 of the Act to be lodged with Council to amend this consent.
- (d) Prior to the commencement of any required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate.

Note: The provisions of Clause 94 of the *Environmental Planning and Assessment Regulation 2000* have been considered in the assessment of the proposed development.

## **STORMWATER & FLOODING**

### **15. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and include:

- (a) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- (b) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.
- (c) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

#### **Notes:**

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

### **16. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with

Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

#### ENERGY EFFICIENCY & SUSTAINABILITY

#### **17. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

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

*A Site Waste and Recycling Management Plan (SWRMP) - Part 1 and 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* 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.

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

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

### **PRIOR TO ANY WORKS**

#### **19. 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.

#### **20. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

**Note:** Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

### **DEMOLITION & EXCAVATION**

#### **21. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;

- *Protection of the Environment Operations Act 1997.*

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority 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 SafeWork 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.

## **22. CONTROL OF DUST ON CONSTRUCTION SITES (IMPOSE FOR ANY CONSTRUCTION WORKS)**

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 (e.g. 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.

### CONSTRUCTION MATTERS

## **23. 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) Sundays and public holidays.
- (b) 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.

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2017.

## **24. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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

## **25. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002, clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

## **26. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be 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 the construction of a higher level of the building.

## **27. 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 location 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.



## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS**

#### **28. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

#### **29. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

#### **30. CERTIFICATION OF CONSTRUCTED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

#### **31. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

## **E. ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council’s standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

### **AD2. SYDNEY WATER REQUIREMENTS (DON’T INCLUDE IF A SECTION 73 CERTIFICATE IS REQUIRED)**

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

### **AD3. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual’s responsibility to anticipate

and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on 1800 810 443.

#### **AD5. ALTERATIONS AND ADDITIONS ONLY**

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

#### **AD6. BONDI - ROSE BAY SAND BODY**

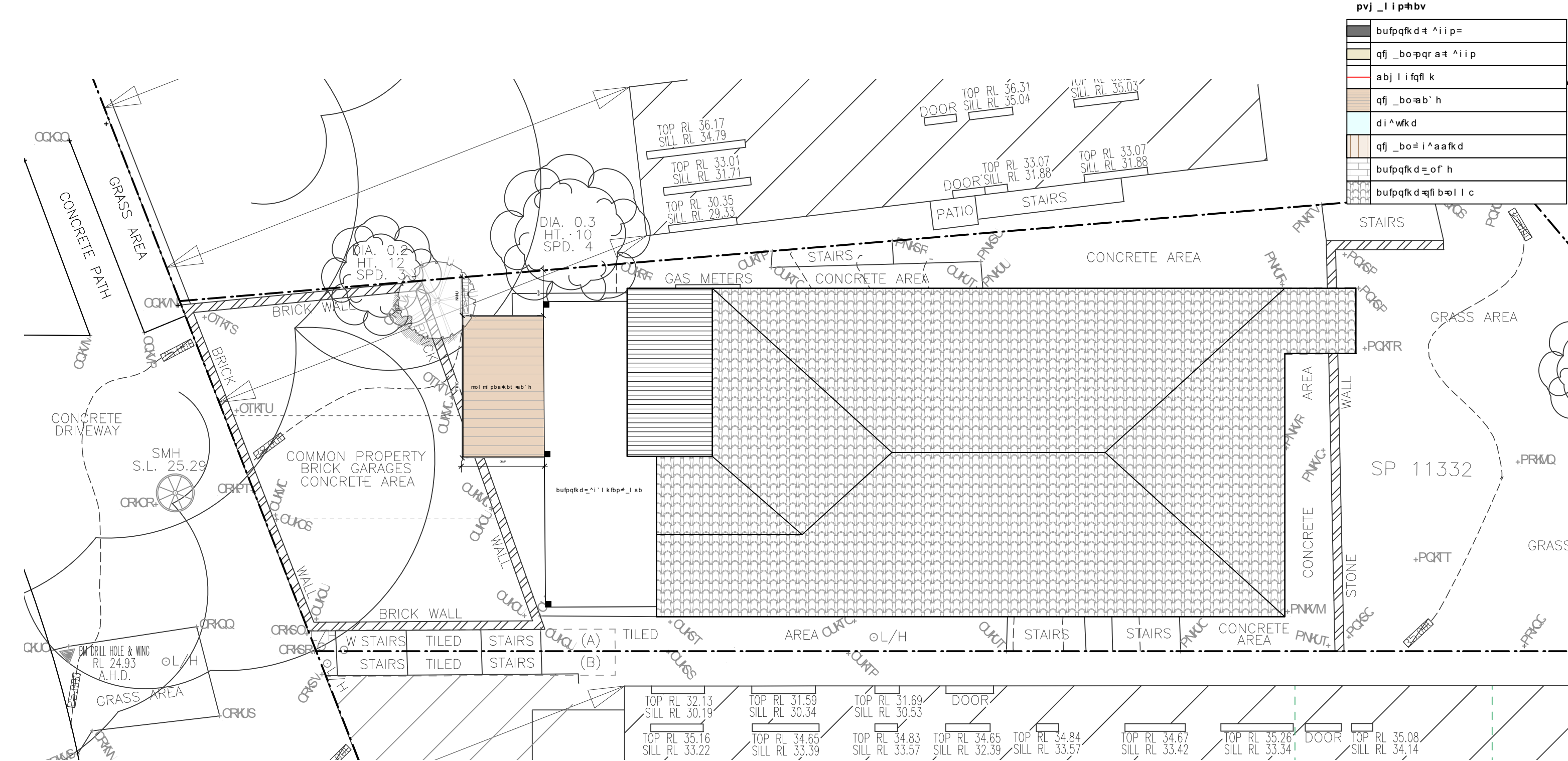
This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

#### **AD7. TREE REMOVAL/PRESERVATION**

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

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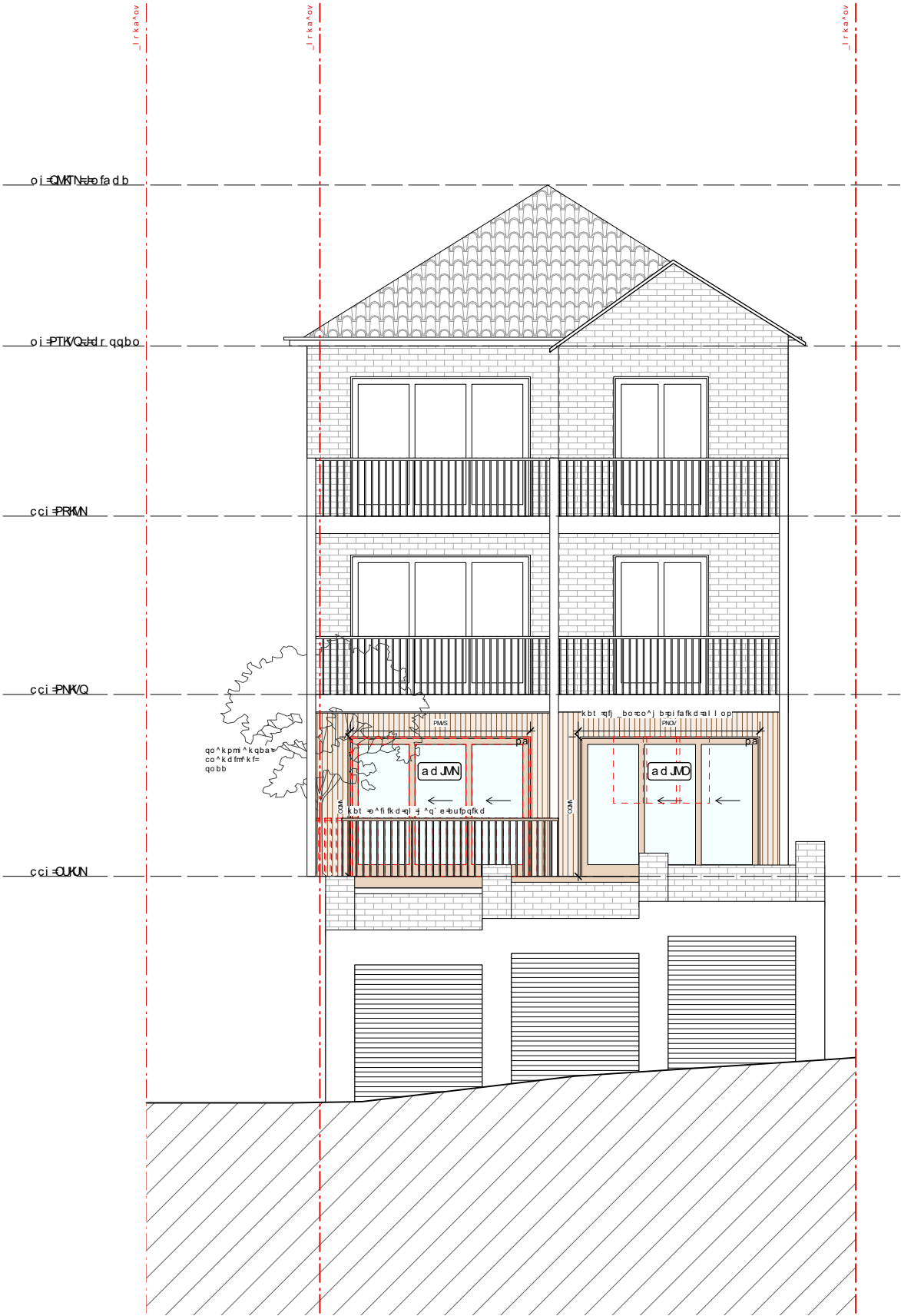
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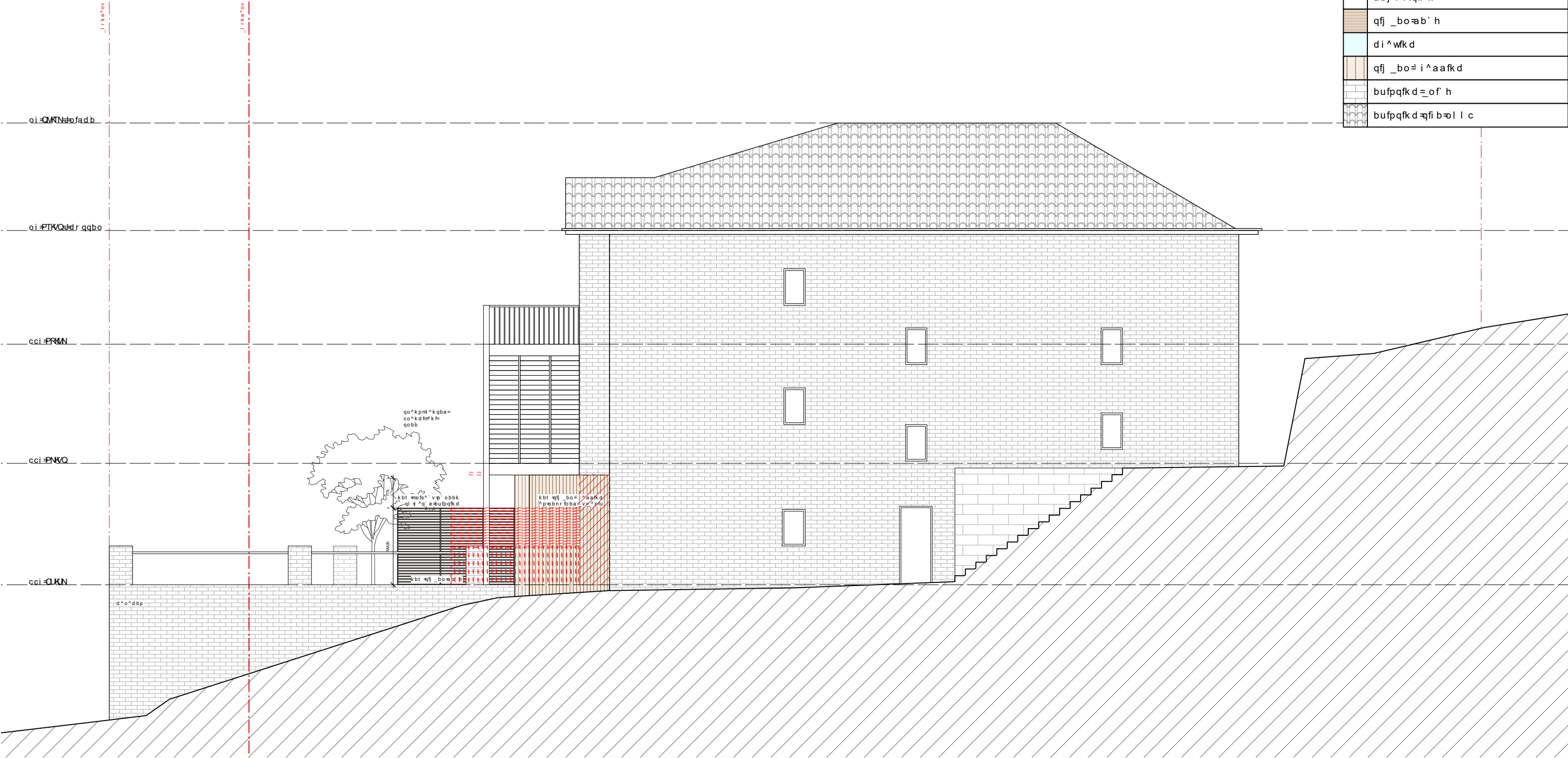
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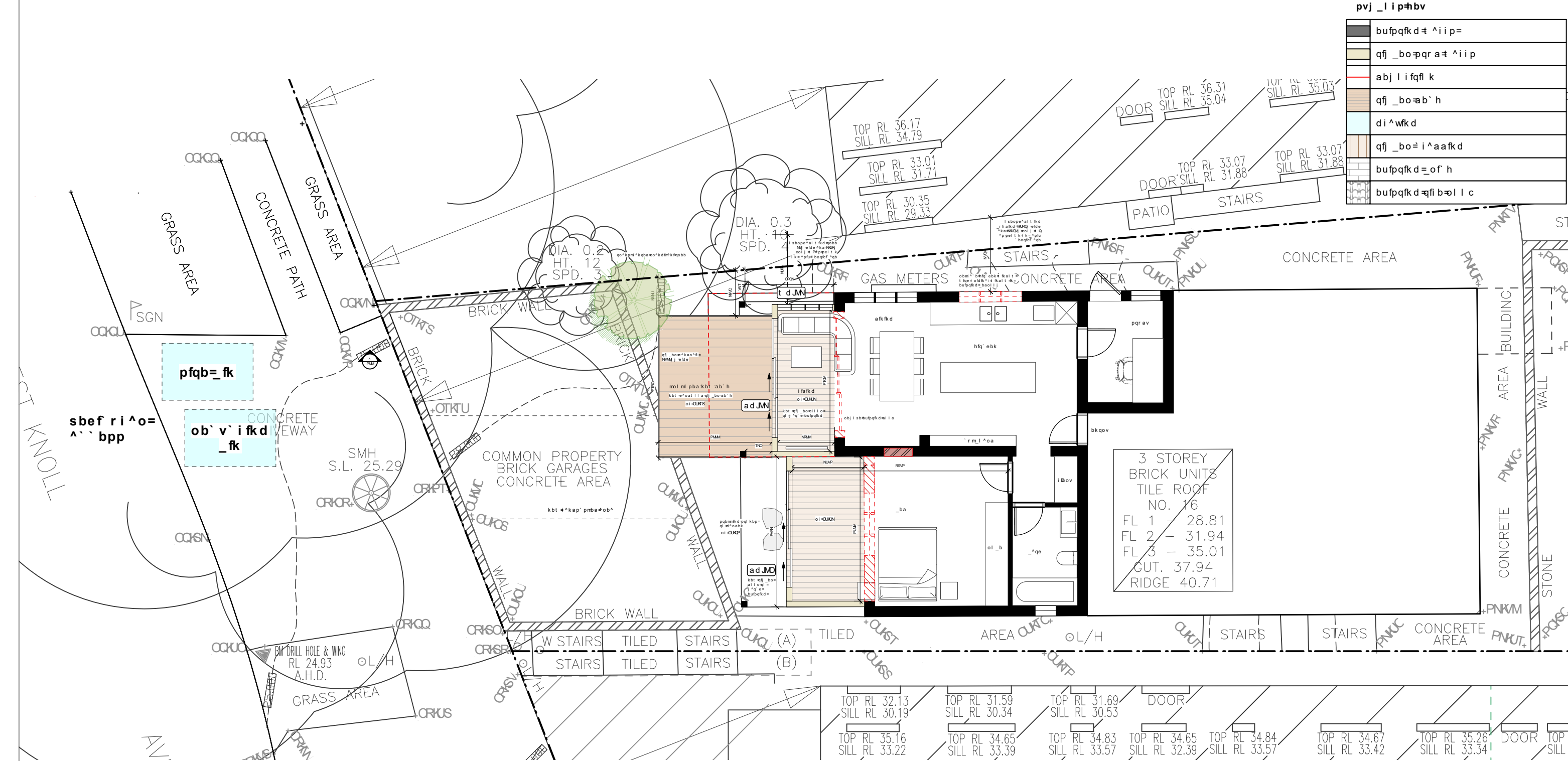
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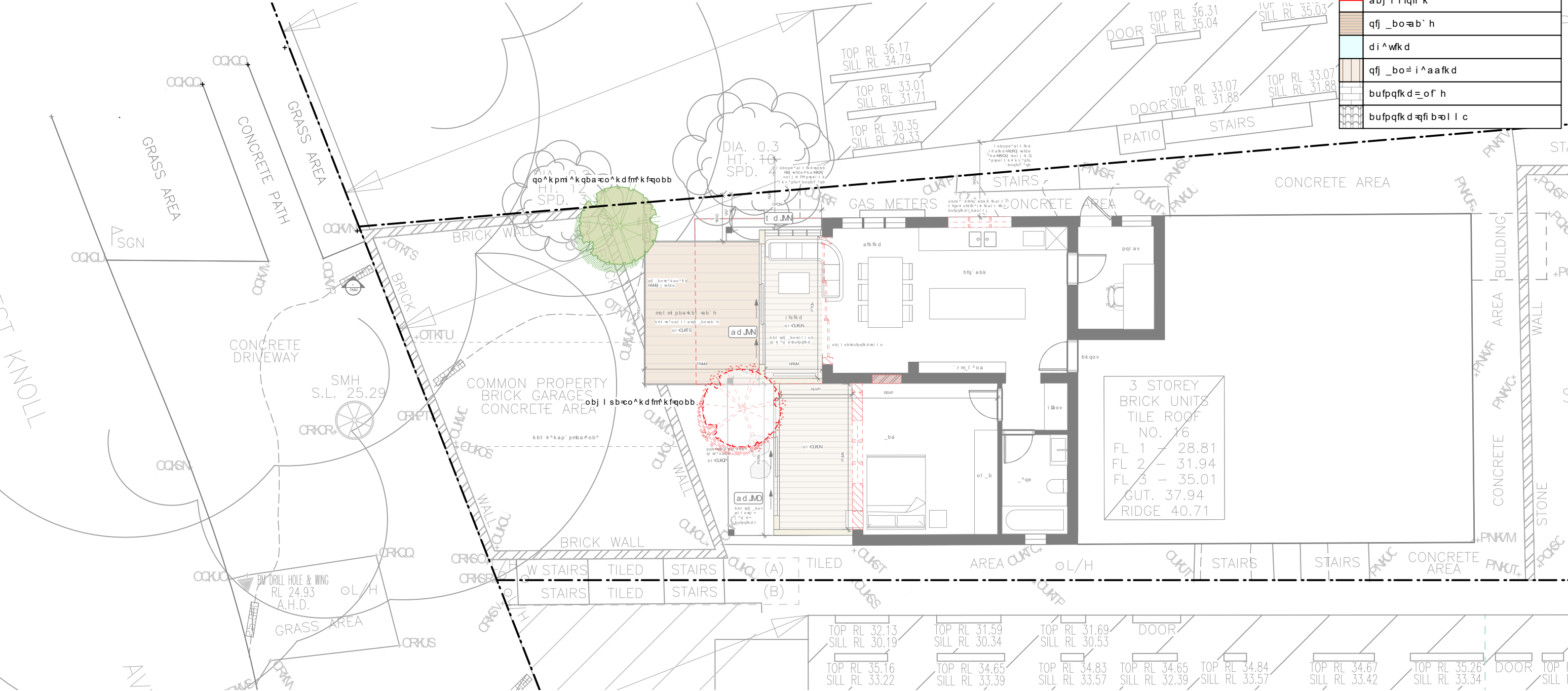
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Construction	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check									
Insulation requirements												
<p>The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m2, b) insulation specified is not required for parts of altered construction where insulation already exists.</p> <table> <tr> <th>Construction</th> <th>Additional insulation required (R-value)</th> <th>Other specifications</th> </tr> <tr> <td>suspended floor with enclosed subfloor: framed (R0.7).</td> <td>R0.60 (down) (or R1.30 including construction)</td> <td></td> </tr> <tr> <td>external wall: framed (weatherboard, fibro, metal clad)</td> <td>R1.30 (or R1.70 including construction)</td> <td></td> </tr> </table>		Construction	Additional insulation required (R-value)	Other specifications	suspended floor with enclosed subfloor: framed (R0.7).	R0.60 (down) (or R1.30 including construction)		external wall: framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)		✓	✓
Construction	Additional insulation required (R-value)	Other specifications										
suspended floor with enclosed subfloor: framed (R0.7).	R0.60 (down) (or R1.30 including construction)											
external wall: framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)											
		✓										

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Building Sustainability Index [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au)

BASIX Certificate number: A410570

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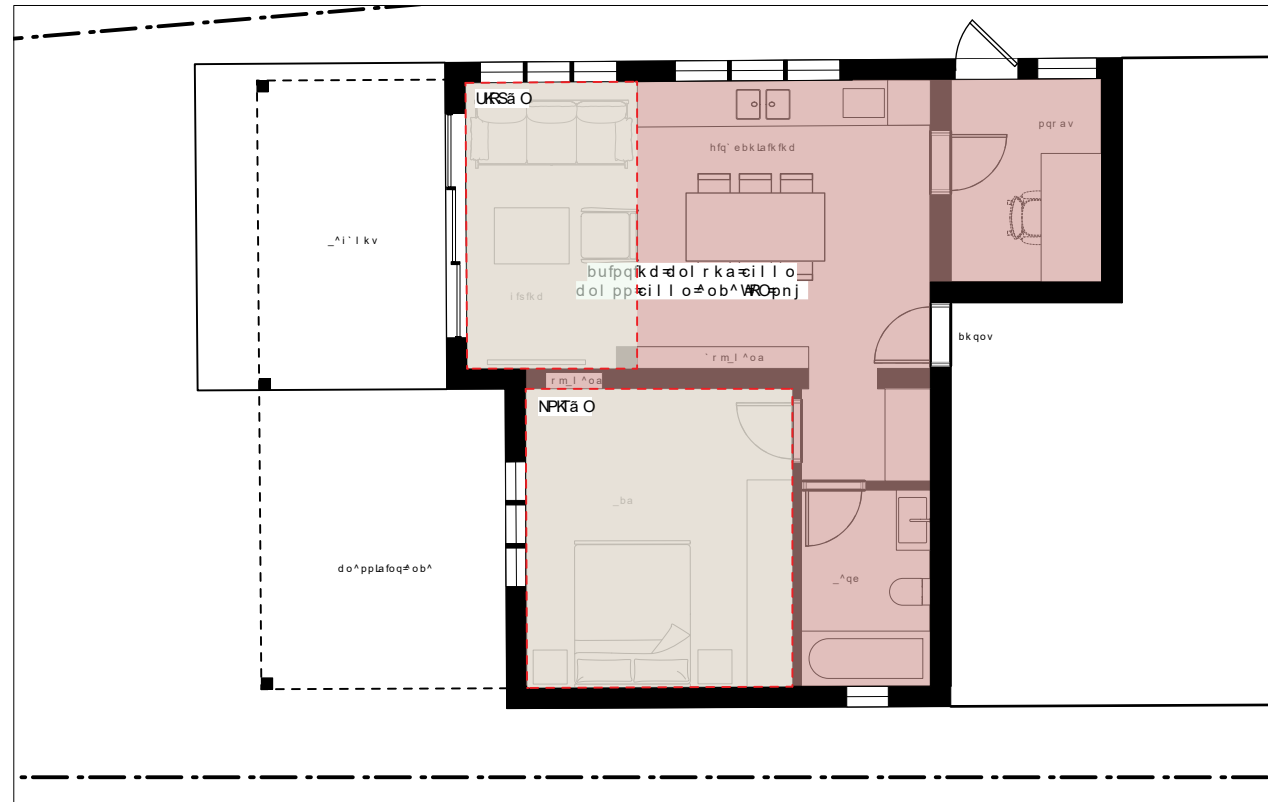
Glazing requirements						Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
<b>Windows and glazed doors</b>								
The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door.						✓	✓	✓
The following requirements must also be satisfied in relation to each window and glazed door:							✓	✓
Each window or glazed door with improved frames, or pyrolytic low-e glass, or clear/air gap/clear glazing, or toned/air gap/clear glazing must have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. The description is provided for information only. Alternative systems with complying U-value and SHGC may be substituted.							✓	✓
For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill.						✓	✓	✓
Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35.							✓	✓
Pergolas with fixed battens must have battens parallel to the window or glazed door above which they are situated, unless the pergola also shades a perpendicular window. The spacing between battens must not be more than 50 mm.							✓	✓
Overshadowing buildings or vegetation must be of the height and distance from the centre and the base of the window and glazed door, as specified in the 'overshadowing' column in the table below.						✓	✓	✓
<b>Windows and glazed doors glazing requirements</b>								
Window / door no.	Orientation	Area of glass inc. frame (m2)	Overshadowing		Shading device	Frame and glass type		
			Height (m)	Distance (m)				
W1	N	7.4	0	0	eave/verandah/pergola/balcony >=900 mm	timber or uPVC, single pyrolytic low-e, (U-value: 3.99, SHGC: 0.4)		
W2	N	7.4	0	0	eave/verandah/pergola/balcony >=900 mm	timber or uPVC, single pyrolytic low-e, (U-value: 3.99, SHGC: 0.4)		
W3	E	5.9	10	1.85	none	timber or uPVC, single pyrolytic low-e, (U-value: 3.99, SHGC: 0.4)		
W4	E	1.7	9.852	1.949	none	timber or uPVC, single pyrolytic low-e,		

Planning, Industry & Environment

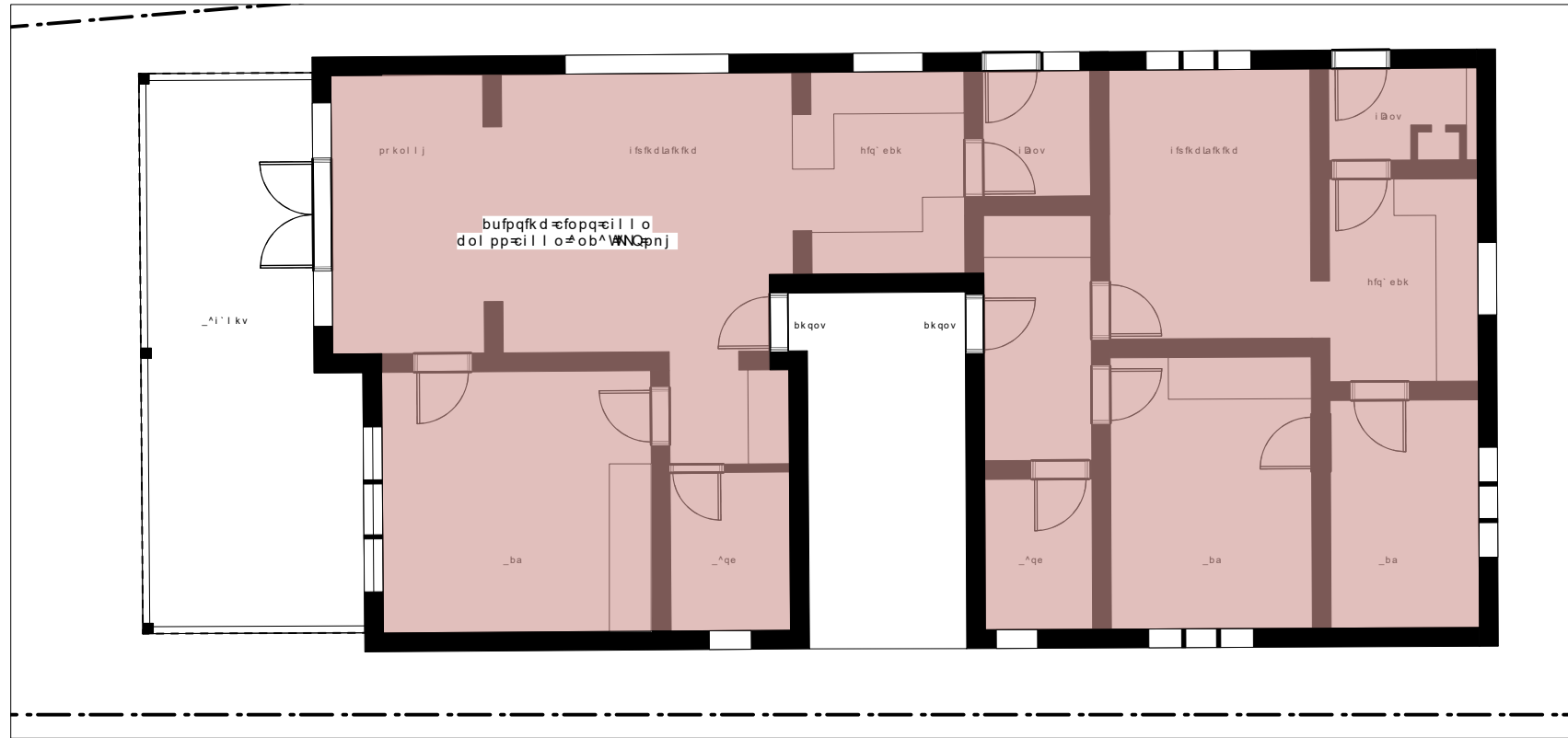
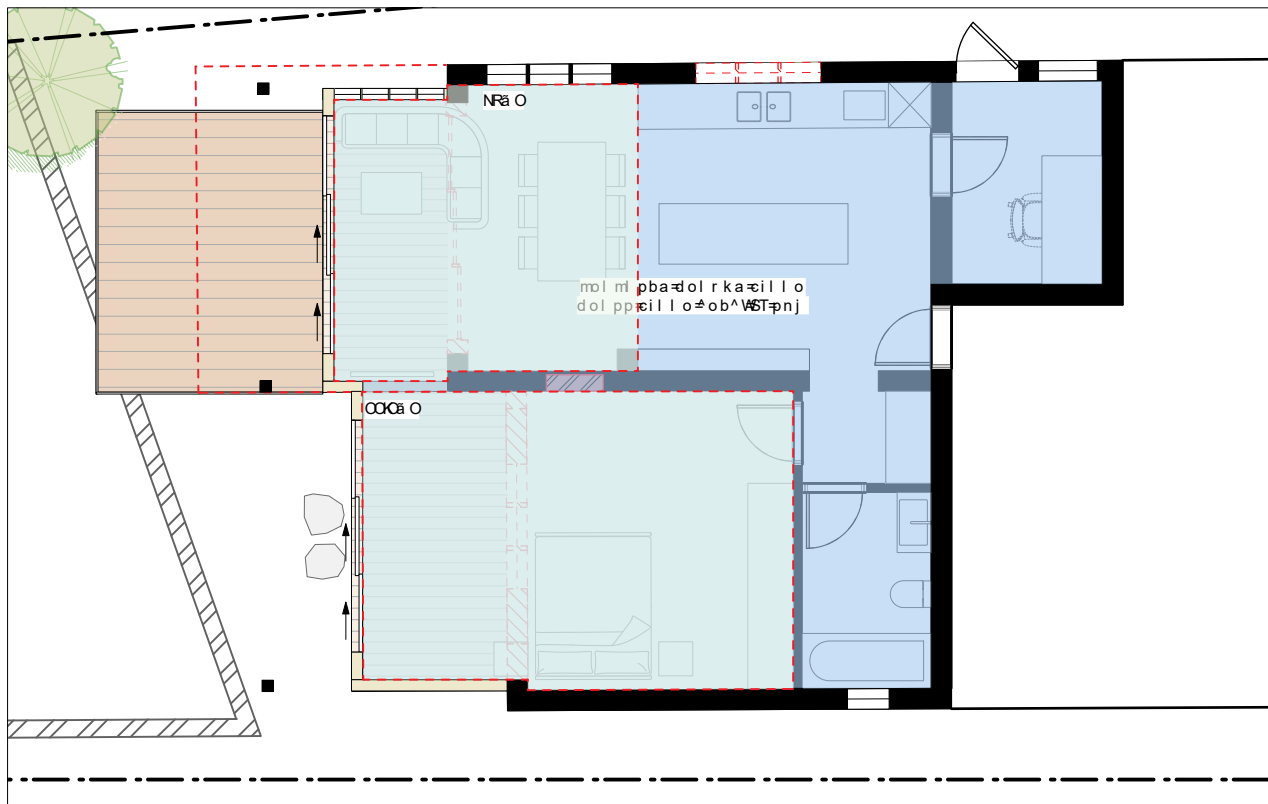
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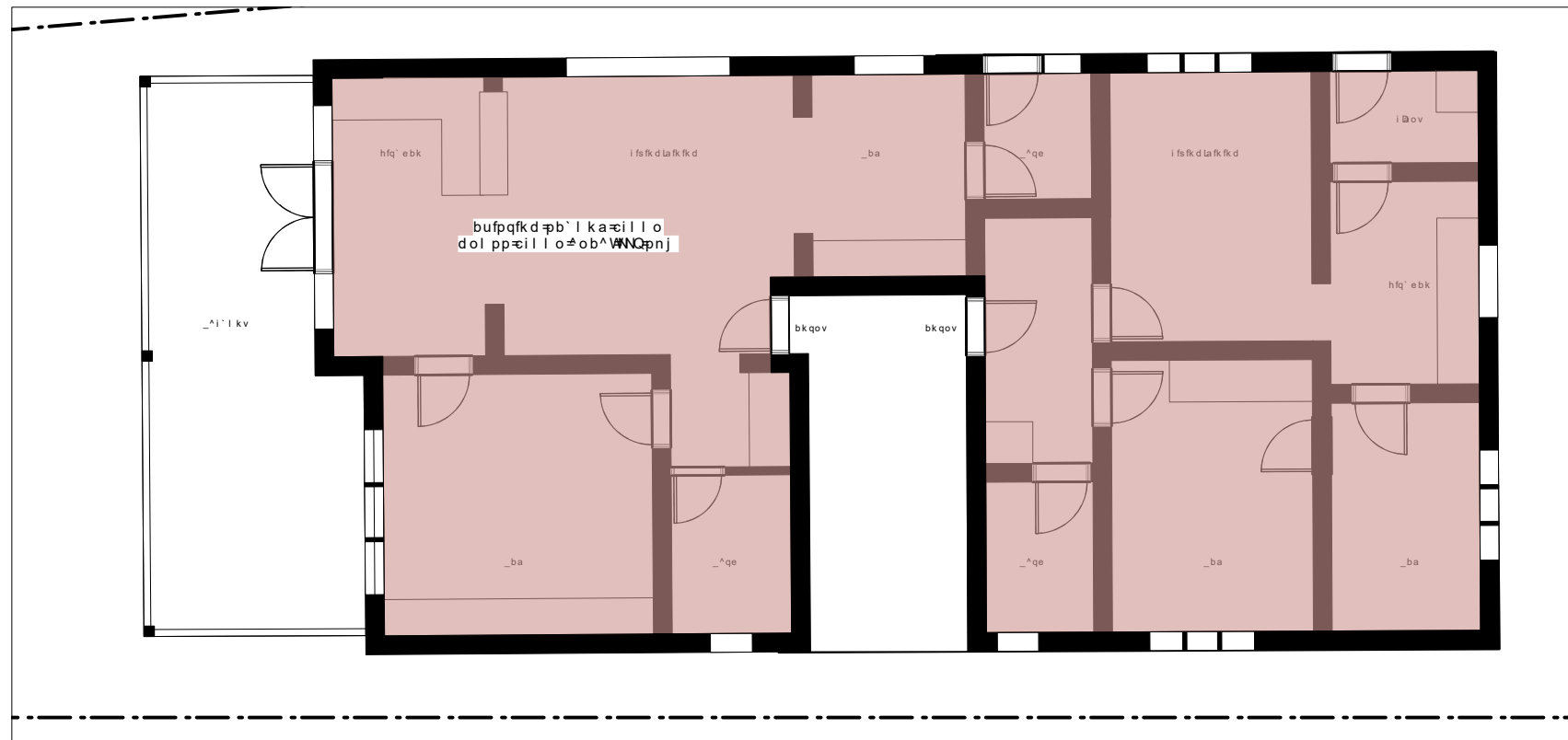
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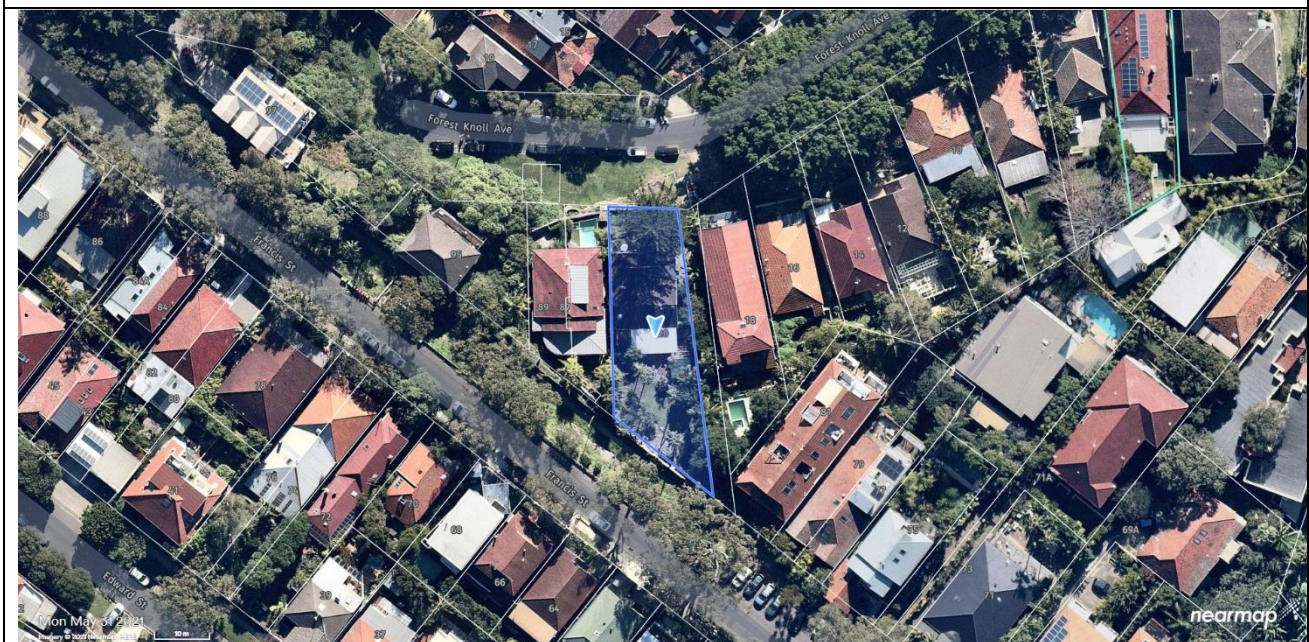
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## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-313/2021
<b>Site address</b>	20 Forest Knoll Avenue BONDI BEACH
<b>Proposal</b>	Demolition of dwelling and construction of two new part 2 and 3 storey dwellings with integrated basement parking
<b>Date of lodgement</b>	06/08/2021
<b>Owner / Applicant</b>	Ms C J Elliott and Mr R J Gadd
<b>Submissions</b>	41 submissions from 31 known properties
<b>Cost of works</b>	\$3 211 087
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>Height, FSR</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report.

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for the demolition of the existing dwelling and construction of two new dwellings with integrated basement parking at the site known as 20 Forest Knoll Avenue, Bondi Beach.

The principal issues arising from the assessment of the application are as follows:

- The proposed dwelling fronting Francis Street exceeds the height development standard by 270mm or 3.2%.
- The proposal has an FSR of 0.72:1 exceeding the development standard by 152.9m<sup>2</sup> or 44%.
- The proposed dwelling fronting Francis Street seeks to vary the side setback control of the DCP.

The assessment finds these issues acceptable. There is a previous consent for Torrens title subdivision into two allotments however this consent has not yet been carried out. The site area of each lot will be 347.6m<sup>2</sup> with a maximum FSR development standard of 0.72:1 per lot. Upon subdivision both dwellings will have an FSR of 0.72:1 complying with the applicable development standard. In this regard, the non-compliance is a technical non-compliance in that the lots have not yet been subdivided and the proposed dwellings have been designed to respond to the future subdivision of the site.

The height variation is contained to a small part of the dwelling located internal to the site (ie, set back from boundaries). The height variation will not result in unreasonable amenity impacts upon surrounding properties. Additionally, both proposed dwellings, including the Francis Street dwelling which breaches the height development standard, are lower than surrounding development, and as such will not be out of character with the height, bulk, scale and character of the surrounding area. The height non-compliance relates only to a small portion of the Francis Street dwelling, with the remainder of the building being significantly lower than the maximum height permitted.

A total number of 41 submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out by the Assessment Officer in September 2019 during the assessment of a previous subdivision application on this site.

The site is identified as Lot 11 DP 10439, known as 20 Forest Knoll Avenue, Bondi Beach. The site has a northern frontage to Forest Knoll Avenue of approximately 12.80m, an eastern boundary of



approximately 53.88m, a southern frontage to Francis Street of 23.445m and a western boundary of 39.275m. The site has an area of 695.2m<sup>2</sup> and falls from the south towards the north by approximately 8m.

The subject site has dual frontage to both Forest Knoll Avenue and Francis Street. There is an existing single storey dwelling on the site which sits above the street level of Forest Knoll Avenue, above a sandstone cliff to a maximum height of approximately 3.7m which extends in front of the property to the west and extends around the western end of Forest Knoll Avenue. At the top of the cliff is a pedestrian access way into the adjoining property to the west, with a section of this walkway supported on a brick wall constructed on the cliff. There is no vehicular access to the site and pedestrian access is via a public pathway running along the eastern boundary of the site between Forest Knoll Avenue and Francis Street.

The subject site is adjoined by a three-storey residential flat building to the east and a multi-storey attached dual occupancy to the west. The locality is characterised by a variety of residential developments including detached and semi-detached dwellings and residential flat buildings.

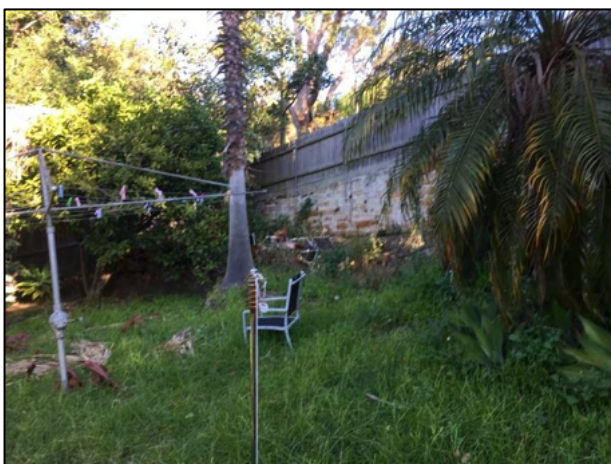
**Figures 1 to 4** are photos of the site and its context.



**Figure 1:** Site viewed from Forest Knoll Avenue



**Figure 2:** Site viewed from Francis Street



**Figure 3:** Internal view of the site (note retaining wall and fence which presents to Francis Street)



**Figure 4:** Existing dwelling on the Forest Knoll side of the site

### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- **DA-144/2019** for subdivision of the site into two Torrens title lots was approved by the Development and Building Unit (DBU) on 18/10/2019.
- **TPO-85/2020** for the removal of one Norfolk Island Pine from front yard of house was refused on 24/03/2020 for the following reason:

*It was assessed that there is no horticultural / arboricultural reason to remove this tree. The retaining wall is a single brick fence which could be repaired without removing the tree. If you are concerned about the tree and retaining wall we recommend that you employ an arborist to conduct an inspection.*

### 1.4. Proposal

The development application seeks consent for the demolition of all buildings on the site and construction of a new detached dual occupancy development.

The dwelling located on the northern allotment fronting Forest Knoll Avenue (hereafter referred to as the Forest Knoll dwelling in this report) will provide four bedrooms over two levels with a swimming pool in the south-western corner of that allotment.

The dwelling located on the southern allotment will front Francis Street (hereafter referred to as the Francis St dwelling in this report) and provide four bedrooms over two levels above a basement providing a laundry and mudroom. A swimming pool will be located along the northern boundary of this allotment.

A shared basement car park is proposed accessed from Forest Knoll Avenue providing two car spaces and storage for each dwelling. A turntable is proposed to allow vehicles to enter and exit the site in a forward direction.





**Figure 5:** Photomontage of the dwelling fronting Forest Knoll Avenue



**Figure 6:** Photomontage of the dwelling fronting Francis Street

### 1.5. Background

The development application was lodged on 06/08/2021 and deferred on 26/08/2021 for further information relating to the sufficiency of the submitted shadow diagrams. Sufficiently detailed shadow diagrams were provided to Council on 02/09/2021.

After preliminary assessment of the application, it was deferred on 22/11/2021 for the following reasons (summarised):

1. Although subdivision of the site has been approved, this has not legally been carried out as yet. As such the proposed development is over one site and the floor space ratio (FSR) of that single site applies to the development (0.5:1). In this regard, a written request to vary the FSR development standard under Clause 4.6 of Waverley Local Environmental Plan 2012 (WLEP) is technically required.
2. Where a dwelling exceeds the height development standard an increased setback to 1200mm from the side boundary is required. Given the height variation is contained to the western side of the Francis Street dwelling, the setback of this dwelling from the western side boundary is required to be increased to 1200mm.
3. The setback of the Francis Street dwelling from Francis Street is required to be increased to better align with the adjoining properties (note the previous DA for subdivision provided a setback of 3.5m for future dwelling) It is noted that a large void over the living area pushes the dwelling further toward Francis Street which could be overcome by reducing or deleting the void.
4. The front setback of the dwelling fronting Forest Knoll also juts forward (based on an average between either side) and should be setback to better align (particularly the front north western corner at level 1).
5. There is to be no pedestrian access to/from the pedestrian pathway along the eastern boundary of the site. In this regard, an alternate entrance access via the northern boundary to the Forest Knoll dwelling is required.
6. Inaccuracies in the plans and calculations.
7. Stormwater matters.
8. Further information required including internal elevations, details of the construction works and treatment/maintenance of pedestrian access across the front of the site during construction, privacy of swimming pool and fire protection of windows.

Amended plans and information were provided to Council on 01/02/2022 and 15/02/2022 and form the subject of the assessment within this report.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. 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. State Environmental Planning Policies (SEPPs)

The following SEPPs apply and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP 55 Remediation of Land.
- SEPP (Vegetation in Non-Rural Areas) 2017.

A detailed discussion is provided for the SEPP (Vegetation in Non-Rural Areas) 2017 as follows:

*SEPP (Vegetation in Non-Rural Areas) 2017*

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (the Vegetation SEPP) regulates the clearing of vegetation that is below the Biodiversity Offset Scheme threshold referred to in the Biodiversity Conservation Act 2016.

In accordance with Part 3 of the Vegetation SEPP, a permit is required from Council to clear any vegetation in an area identified:

- i. Any vegetation on Land identified as 'Biodiversity' on the Terrestrial Biodiversity Map in WLEP 2012;
- ii. Any vegetation on Land identified as 'Biodiversity Habitat Corridor' in WDCP2012; or
- iii. A tree identified on the Waverley Significant Tree Register; or
- iv. A tree or vegetation that forms part of a Heritage Item or is within a Heritage Conservation Area;
- v. Any tree with a height of five metres or greater and trunk width of 300mm or greater at ground level; or
- vi. Any tree with a canopy spread of five metres or greater and trunk width of 300mm or greater at ground level.

The proposal includes the removal of 8 trees from the site and as such an Arborist's Report was submitted with the application. Council's Tree Management Officer reviewed the application and raises no issues with the removal of the trees.

### 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
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the LEP.
<b>Part 2 Permitted or prohibited development</b>		
2.6 Subdivision – consent requirements	N/A	Development consent has already been obtained for the Torrens title subdivision of the site into two allotments each with an area of 347.6m <sup>2</sup> .

Provision	Compliance	Comment
Land Use Table  R2 Low Density Residential Zone	Yes	The proposal is defined as a dual occupancy, which is permitted with consent in the R2 zone.
<b>Part 4 Principal development standards</b>		
4.1 Minimum subdivision lot size • 325m <sup>2</sup>	N/A	Development consent has already been obtained for the Torrens title subdivision of the site into two allotments each with an area of 347.6m <sup>2</sup> .
4.3 Height of buildings • 8.5m	No	<b>Forest Knoll dwelling:</b> Maximum height of 7.65m complying with the development standard.  <b>Francis St dwelling:</b> Maximum of 8.77m exceeding the development standard by 270mm or 3.2%.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio • 0.5:1 (347.6m <sup>2</sup> ) • Site area of 695.2m <sup>2</sup>	No	Although subdivision into two Torrens title allotments has been previously approved, this consent has not yet been activated or carried out. As such, the proposal must be considered against the parent lot. The proposal has an FSR of 0.72:1 exceeding the development standard by 152.9m <sup>2</sup> or 44%.
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 development standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	Yes	The subject site is not heritage listed or contained within a conservation area. However, Francis Street is a landscape conservation area (C43).  The proposal will not harm the landscape character of the conservation area with no removal of street trees proposed. The proposed dwelling will be low set on the Francis Street elevation presenting as single storey given that the lower level is contained below the footpath level. The proposed dwelling will not dominate the streetscape being substantially lower in height than surrounding development.

Provision	Compliance	Comment
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulfate soils	Yes	The proposed works are unlikely to encounter acid sulfate soils. However, a condition has been included in the consent conditions in the event that acid sulfate soils are encountered during excavation.
6.2 Earthworks	Yes	The proposal includes extensive excavation of the site. Accordingly, a preliminary geotechnical assessment has been submitted with the application providing recommendations for the construction phase of the proposal. All standard conditions in relation to excavation are included within the consent conditions including the requirement for more detailed geotechnical assessment as part of the construction certificate.

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

#### *Clause 4.6 Exceptions to Development Standards (Height)*

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height development standard of 8.5m. The proposed development has a height of 8.77m, exceeding the standard by 270mm equating to a 3.2% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

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

The applicant seeks to justify the contravention of the height development standard on the following basis:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

- (i) *Despite the proposed development's non-compliance with the applicable height development standard, the proposal is consistent with the desired low-density character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls. Further to this, the proposed dwellings are in lesser exceedance of the height development standard than that of the adjoining properties.*
- (ii) *The proposal is a high-quality architectural design that appropriately responds to the site's topographical constraints, providing two new dwellings that are compatible with the existing and emerging character of the area. The proposal replaces an ageing building with high-quality contemporary dwellings providing greater internal and external amenity for the inhabitants. The dwelling will be a positive contribution to both Forest Knoll Avenue and Francis Street and the desired future character of the area. The additional height relates to a limited portion of the rear of the dwelling on No. 85 Francis Street and is a function of the site's steeply sloping topography and will not be visible from the street.*
- (iii) *The likely impact on solar access to neighbouring properties in relation to the noncompliance has been considered in light of the shadow diagrams prepared by And Associates (separately submitted). Given the siting and extent of the noncompliance, any additional impact is likely to be negligible and present at 3:00pm, falling onto the public pathway to the east of the site, and therefore having no impact on neighbouring dwellings.*
- (iv) *The area of noncompliance comprises a small portion of roof form, external wall and a small portion of the master bedroom window on the first floor of the dwelling at No. 85 Francis Street. It is noted, this window is obscured by a privacy screen, and therefore there are no privacy impacts as a result of the noncompliance. Further, no views have been identified to be affected as a result of the height noncompliance either.*
- (v) *It is noted, from both the Francis Street and Forest Knoll Avenue streetscape, the development is within the LEP height limit. The additional height is a consequence of the steep topography in the land, which is evident with the adjoining residential development, also in breach the LEP height control. Accordingly, the height noncompliance is not readily discernible when viewed from the street and further, has no impact on the proposal being in line the existing development and desired future character of the locality.*

(b) That there are sufficient environmental planning grounds to justify contravening the standard:

- (i) *The proposal will be consistent with the character of the surrounding low density residential environment, which consists of developments that respond to the steep sloping topography of the area. As previously mentioned, when viewed within the streetscapes, the proposal will present as a compliant building form, lower in overall height than the neighbouring residential buildings.*
- (ii) *The noncompliance is a result of the uneven topography of the land and not an unreasonable development proposal. The additional height will occur at the rear of the dwelling on No. 85*



*Francis Street, and due to the steep terrain and levels in relation to the street, will not be visible from either street frontage.*

- (iii) The proposal will maintain the amenity of neighbouring dwellings in respect of privacy, solar access and views.*
- (iv) The proposed dwellings will be a positive contribution to the streetscape, replacing an ageing building with two new architecturally designed dwellings. The dwelling will provide an appropriate transition in building heights when viewed in conjunction with the adjoining developments, which already mentioned, are further in exceedance of the height development standard than the proposed.*
- (v) The proposal is well-articulated at the elevations and the use of natural materials on the external façade such as exposed brick will ensure the sandstone wall will remain a prominent feature in the Forest Knoll Avenue Streetscape. The protection of significant existing trees within the subject site, as well as generous landscaping will also be provided throughout to soften the building, and enhance the streetscape presentation, contributing to the established green setting.*

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

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*

- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The applicant has provided sound justification establishing that the proposal is consistent with the objectives of the height development standard and the zoning.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The environmental planning grounds used to justify the breach are well-considered and sound.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the height development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*
- (b) to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,*
- (c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,*
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

Objectives (b) and (c) are not relevant to the subject site.

The height non-compliance relates only to the Francis Street dwelling, with the Forest Knoll dwelling being compliant with the development standard. The proposal provides two dwellings, each presenting to a street frontage as a low set contemporary dwelling. The Francis Street dwelling exceeds the development standard toward the rear of this dwelling where the site slopes steeply toward Forest Knoll Avenue. The area of non-compliance is a small breach on the north-eastern corner of the dwelling which

is set back from both side boundaries and adjoining properties. This minor variation will not result in unacceptable impacts upon the streetscape on either street frontage.

As detailed in subsequent sections of this report, the height variation does not result in unreasonable additional overshadowing beyond that which would occur with a compliant form. The minor height variation will not result in unreasonable amenity impacts in terms of loss of significant views or privacy. Additionally, both proposed dwellings, including the Francis Street dwelling which breaches the height development standard, are lower than surrounding development, and as such will not be out of character with the height, bulk, scale and character of the surrounding area. The height non-compliance relates only to a small portion of the Francis Street dwelling, with the remainder of the building being significantly lower than the maximum height permitted.

The proposal is considered to be consistent with objectives (a) and (d) of the height development standard.

The objectives of the R2 zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise public transport patronage and encourage walking and cycling.*

The proposal will increase the housing stock and variety of dwelling types within the locality without unreasonable environmental impacts upon surrounding properties. The proposal is consistent with that expected within a low density residential environment, providing two dwellings each addressing a separate street frontage. The proposal will not interfere with any surrounding land uses or services used by residents of the surrounding area. The site is conveniently located within proximity of public transport and the Campbell Parade and Hall Street shopping areas. The provision of parking compliant with the provisions of the DCP, contributes to the maximisation of public transport patronage and encourages walking and cycling. The proposal is consistent with the relevant objectives of the R2 zone.

### Conclusion

For the reasons provided above the requested variation to the height development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height development standard and the R2 zone.

### *Clause 4.6 Exceptions to Development Standards (FSR)*

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.5:1. The proposed development has an FSR of 0.72:1, exceeding the standard by 152.9m<sup>2</sup> equating to a 44% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

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

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *It is our opinion that the proposal satisfies Test 1 established in Wehbe and for that reason, the development standard is unreasonable and unnecessary in this instance.*
  - (ii) *The site has recently been approved to be subdivided into two separate Torrens title lots. As such, the proposed dwellings have been designed in accordance with this approved subdivision and the maximum allowable FSR for each lot. Assessment of the FSR based on the site as a whole would be unreasonable considering Council has already approved for the site to be subdivided into two separate lots. The proposed FSR for each dwelling when assessed under the two separate lots (as approved under DA144/2019) is fully compliant with the LEP control.*
  - (iii) *The proposal will demolish an aging building with limited street appeal and construct two contemporary dwellings with a high level of amenity for the future occupants. The proposal will rejuvenate the subject site bringing it more in alignment with the contemporary designs of the surrounding residential development. It will provide two contemporary, well designed dwellings that are contextually appropriate in scale and form for the area. The building has been designed to maintain neighbours' and local amenity and contribute positively to the streetscape and local character.*
  - (iv) *Environmental amenity of the neighbouring properties and locality has been considered within the proposal. Shadow Diagrams prepared by And Associates indicate that the proposed development will cast some additional shadow onto the rear private open space of the adjoining dwelling at No. 87 Francis Street in the morning period, as well as some minimal additional shadow on the private open space of the adjoining property to the east at No. 18 Forest Knoll Avenue, within the afternoon. Considering this, the additional shadow from the proposal is not considered to be unreasonable and is consistent with the DCP requirements for solar access.*

- (v) *In terms of visual privacy, the proposed dwellings have been assessed and, in our opinion, preserve amenity for the neighbouring properties in this respect. Minimal glazing is proposed on the eastern and western elevations facing the adjoining properties, and the proposed balcony on the first floor of the dwelling on No. 20 Forest Knoll Avenue has orientation to the street. Further to this, privacy between the two proposed dwellings has also been considered within the design by using the topography of the land to incorporate a stepped design and varied levels between the dwellings to provide a high level of screening from high boundary walls along the shared rear boundary line. Part of the master bedroom window on the first floor at No. 85 Francis Street with orientation to No. 20 Forest Knoll Avenue has also been fitted with a privacy screen.*
  - (vi) *In our assessment of view impacts, the dwellings to the south of the subject site fronting Francis Street elevated due to the topography of the land, and therefore have sightlines well above the subject site. It has also been determined there are no significant views across the site from the adjoining properties fronting Forest Knoll Avenue due to existing mature street trees, as well as the surrounding development.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The non-compliance is a result of the recently approved subdivision of the site into two separate Torrens title lots under DA144/2019, not having been legally carried out. Accordingly, the proposed dwellings technically require assessment based on the site as a whole, which results in an FSR less than that would be allowed on the two separate lots under Clause 4.4A.*
  - (ii) *Assessment of the FSR based on the site as a whole would be unreasonable considering Council has already approved for the site to be subdivided into two separate lots. This will ultimately result in the underdevelopment of these approved lots by not allowing the potential maximum allowable FSR already approved due to a technicality. Further to this, the proposed works have been demonstrated to have no unreasonable effects on neighbouring amenity with regard to overshadowing, privacy and views when compared to the existing building.*
  - (iii) *The proposal will demolish an aging building with limited street appeal and construct two contemporary dwellings with a high level of amenity for the future occupants. The subject site will be rejuvenated with high-quality design, which is in line with the desired future character of the locality*

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

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and

- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The applicant has provided sound justification establishing that the proposal is consistent with the objectives of the FSR development standard and the zoning.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The environmental planning grounds used to justify the breach are well-considered and sound.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the FSR development standard 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 and scale of the desired future character of the locality,*
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.*

Objective (a) is not relevant to this site.

Upon subdivision into two allotments as previously approved, each site will contain a dwelling. The site area of each approved lot is 347.6m<sup>2</sup> with a maximum FSR development standard of 0.72:1 per lot. Upon subdivision both dwellings will have an FSR of 0.72:1 complying with the applicable development standard. In this regard, the non-compliance is a technical non-compliance in that the lots have not yet been subdivided.

The proposal provides a dwelling on each future allotment that will be an appropriate bulk and scale each presenting to the streetscape on either Francis Street or Forest Knoll Avenue. The Francis Street dwelling will present to that street as a single storey dwelling with the lower level being contained below the level of the street. The Forest Knoll dwelling will present as a two-storey dwelling sitting above the street. Neither dwelling will dominate the streetscape in which it is contained, providing a well designed contemporary dwelling with appropriate materials and finishes. Each dwelling will step with the slope of the land presenting to each street and the public walkway adjoining the site with an appropriate low density scale that could reasonably be expected given the low density residential zoning of the site. In this regard, the proposal is consistent with the desired future character of the locality.

As detailed throughout this report, the proposal will not have unreasonable impacts upon the amenity of surrounding properties particularly in regard to view impacts, overshadowing and privacy.

Accordingly, the proposal is considered appropriate for the site particularly after activation of the previous subdivision consent. The proposal is considered consistent with objectives (b), (c) and (d) of the FSR development standard.

The proposal is consistent with the objectives of the R2 zone as discussed above.

### Conclusion

For the reasons provided above the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R2 zone.

### 2.1.3. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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
1. Waste	Yes	Satisfactory
2. Ecologically Sustainable Development	Yes	Satisfactory
3. Landscaping and Biodiversity	Yes	Satisfactory
5. Vegetation Preservation	Yes	<p>The proposal includes the removal of 8 trees from the site and as such an Arborist's Report was submitted with the application. Council's Tree Management Officer reviewed the application and raises no issues with the removal of the trees.</p> <p>The proposal includes the retention of a large <i>Araucaria heterophylla</i> (Norfolk Island Pine) within the front yard of the Forest Knoll Avenue dwelling. An Arborist Report was provided with the application which includes methods for retention of this tree. Council's Tree Management Officer has reviewed the Arborist Report and has advised that provided that the recommendations by the Arborist are followed the tree will survive and not be destabilised. The Arborist report and recommendations made within are included in the consent conditions.</p>
6. Stormwater	No	The stormwater details have been reviewed by Council's Stormwater Engineers and are considered unsatisfactory. Notwithstanding, conditions have been recommended which are included in Appendix A to address this matter post-consent.
8. Transport  Minimum parking rate: • Nil Maximum parking rate: • 2 spaces for 3 or more bedrooms.	Yes	<p>The proposal provides for four car spaces, two per dwelling, complying with the maximum permitted under the DCP. The garage design and location are satisfactory.</p> <p>A turntable is proposed to ensure vehicles enter and leave the site in a forward direction.</p>



Development Control	Compliance	Comment
9. Heritage	Yes	Satisfactory (refer to Table 1)
10. Safety	Yes	Satisfactory
12. Design Excellence	Yes	Satisfactory
14. Excavation	Yes	<p>The excavation does not add to the bulk and scale of the building with the basement garage being located fully below ground level. As discussed in Section 2.1.3 of this report, although the proposal will result in cutting into a natural stone wall, in this instance this is considered acceptable. The basement opening has been positioned where there is an existing brick structure to minimise the loss of the remaining sandstone rock face.</p> <p>The retaining walls along the side boundaries will step with the slope of the site to minimise the impact of high walls and present with an appropriate scale to the public accessway.</p> <p>The majority of the basement will be set back at least 900mm from the boundaries of the site except along the western boundary where the setback will be reduced to 500mm. The reduced setback along this boundary is due to the positioning of the opening to align with the brickwork at the rock face. This position will allow the retention of the remaining sandstone rock face on Forest Knoll Avenue.</p> <p>A Preliminary Geotechnical Report was submitted with the application outlining measures to minimise impacts on adjoining properties and on the groundwater table. The level of documentation provided is appropriate for the development assessment stage. Further detailed documentation, testing and reports from a Geotechnical Engineer and Structural Engineer is required during the construction certification stage of the works as required by condition.</p>
16. Public Domain	Yes	Satisfactory subject to conditions recommended by Council's Public Domain Department as discussed in Section 3 <i>REFERRALS</i> of this report.

**Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
	Yes	The proposal does not contravene the general objectives of this part of the DCP.
<b>2.1 Height</b>		
Flat roof dwelling house <ul style="list-style-type: none"> <li>Maximum wall height of 7.5m</li> </ul>	No	<p>Each dwelling has been designed to be largely contained within the 7.5m wall height controls stepping with the slope of the site in both a north-south and east-west (cross-fall) direction.</p> <p>There are various points where each dwelling will exceed the 7.5m wall height controls however the majority of each dwelling will be compliant with only minor sections extruding above.</p> <p>A large part of the Francis Street dwelling is concealed below the surrounding street and footpath rising above the footpath level of Francis Street by only a single storey. The minor variation to the wall height control is considered acceptable.</p> <p>The height of each dwelling is considered acceptable as previously discussed in this report.</p>
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>Predominant front building line</li> <li>Predominant rear building line at each floor level</li> </ul>	Yes	There is no predominant front or rear setback in the vicinity of the site. Refer to detailed discussion following this table.
2.2.2 Side setbacks <ul style="list-style-type: none"> <li>Minimum of 0.9m (for height up to 8.5m)</li> <li>Minimum of 1.2m for dwellings exceeding development standard</li> </ul>	<div>Yes</div>   <div>No</div>	<p>The Forest Knoll dwelling is a minimum of 900mm from the side boundaries.</p> <p>The Francis Street dwelling exceeds the development standard and should have a side setback of 1.2m. Refer to discussion following this table.</p>
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> <li>Replacement windows to complement the style</li> </ul>	Yes	The proposal provides a dwelling on each future allotment that will be an appropriate bulk and scale each presenting to the streetscape on Francis Street and Forest Knoll Avenue.

Development Control	Compliance	Comment
<p>and proportions of existing dwelling</p> <ul style="list-style-type: none"> <li>Significant landscaping to be maintained.</li> <li>Porticos only permitted where a character of the streetscape</li> </ul>		<p>The Francis Street dwelling will present to that street as a single storey dwelling with the lower level being contained below the level of the street. The Forest Knoll dwelling will present as a two-storey dwelling sitting above the street.</p> <p>Neither dwelling will dominate the streetscape in which it is contained, providing a well designed contemporary dwelling with appropriate materials and finishes. Each dwelling will step with the slope of the land presenting to each street and the public walkway adjoining the site with an appropriate low density scale.</p> <p>The landscaping and finishes adjoining the public domain consider the pedestrian experience within the laneway.</p> <p>Additionally, the green roof on the roof of each dwelling will improve views over the site from the roadway and footpath in Francis Street and the properties beyond.</p>
<b>2.4 Fences</b>		
<p><i>Front:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> </ul> <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.8m</li> </ul>	No	<p>The front fence across the Forest Knoll frontage is 1m high which is acceptable in this streetscape.</p> <p>The proposed boundary wall across the Francis Street frontage will be 2m high, being slightly higher than the existing paling fence along this boundary. The adjoining property to the west, No. 87 Francis Street, has a high paling fence along this boundary which the plans indicate that the proposed wall will align with. The new boundary wall should be no higher than the adjoining boundary fence along Francis Street to ensure consistency within the streetscape and as such a condition to this effect is recommended.</p> <p>The side boundary walls are appropriate to the slope of the land and the level of excavation proposed for the site. The height of the boundary treatment along the shared boundary with No. 87 Francis Street is largely the same as the existing boundary treatment.</p>
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of</li> </ul>	Yes	<p>The proposal is unlikely to result in unreasonable privacy impacts upon surrounding properties for the following reasons:</p>

Development Control	Compliance	Comment
<p>neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design</p> <ul style="list-style-type: none"> <li>• External stairs are not acceptable.</li> <li>• Maximum size of balconies: <i>10m<sup>2</sup> in area</i> <i>1.5m deep</i></li> <li>• Roof tops to be non-trafficable unless predominant in the immediate vicinity</li> </ul>		<ul style="list-style-type: none"> <li>• Windows are predominantly oriented toward the front and rear where separation distances from surrounding properties are sufficient to ensure minimal privacy impacts.</li> <li>• Privacy of surrounding sites has been considered by way of screening or orientating windows to the front and rear. Windows to habitable rooms are located overlooking the street or at the lower level where fencing will largely obscure views.</li> <li>• Windows oriented toward the eastern side boundary (overlooking the public walkway) at the first floor level are screened or to rooms of low use with fewer privacy impacts. Those that are not screened (ie, the master bedroom window) are located a sufficient distance from the boundary to ensure no unreasonable privacy impacts to properties on the other side of the public walkway.</li> <li>• The Forest Knoll dwelling provides a balcony at the front overlooking the street with sufficient distance from the adjoining property. This balcony has a width of 1.43m and area of 9m<sup>2</sup> complying with the DCP controls.</li> </ul>
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>• Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>• Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> <li>• Avoid unreasonably overshadowing of solar collectors (including habitable windows).</li> </ul>	Yes	<p>The proposed dwellings have been designed to ensure that the main living areas are north facing to receive optimal solar access. Each dwelling will provide at least one area of private open space that is also north facing.</p> <p>There will be some marginal additional overshadowing of adjoining properties however due to the orientation of the site the shadows are not centred on one single property throughout the day. The north-south orientation of the site, results in overshadowing of the adjoining property to the west in the morning hours, clearing that property and falling on Francis Street to the south at midday and then adjoining properties to the east in the afternoon hours.</p> <p>Overshadowing as a result of a compliant development form is not considered unreasonable and the test becomes whether any non-compliance results in additional unreasonable impacts. The proposal complies with the built form controls of the LEP and DCP,</p>

Development Control	Compliance	Comment
		<p>with the exception of the Francis Street dwelling with minor variations to the side setback control on the western side and the height development standard. The side setback variation has been assessed and is considered reasonable as discussed following this table. The variation to the height development standard is minor and is a consequence of the slope of the land. The variation is contained to the north-eastern corner of this dwelling set back from the side boundaries. Any additional overshadowing due to this variation is likely to fall within the overshadowing from the compliant development form.</p> <p>The overshadowing as a result of the construction of two separate dwellings is a consequence of the reasonable redevelopment of the site into two allotments (previously approved). It can reasonably be expected that upon subdivision of the site, each allotment will contain a dwelling generally within the height and FSR development standard, each addressing a separate street frontage. Any associated overshadowing as a result of a dwelling on each site is considered reasonable.</p>
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	Yes	There are no known significant views expected to be impacted by the subject proposal.
<b>2.8 Car parking</b>		
<b>2.8.1 Design Approach</b> <ul style="list-style-type: none"> <li>Parking only allowed where site conditions permit</li> <li>Designed to complement the building and streetscape</li> </ul>	Yes	Refer to detailed discussion following this table.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Car parking structures to be behind the front building line</li> <li>Driveways are to be located to minimise the loss of on street parking</li> <li>Parking to be provided from secondary streets or lanes where possible.</li> </ul>		
2.8.2 Parking rates	Yes	Parking rates are set by Part B8 of Waverley DCP 2012. The proposal provides 2 spaces per dwelling complying with the maximum control.
2.8.3 Location <ul style="list-style-type: none"> <li>Behind front building line for new dwellings</li> <li>Existing development to be in accordance with the hierarchy of preferred car parking locations</li> </ul>	Yes	The garage will be located within a shared basement accessed from Forest Knoll Avenue.
2.8.4 Design <ul style="list-style-type: none"> <li>Complement the style, massing and detail of the dwelling</li> <li>Secondary in area and appearance to the design of the residences</li> <li>Gates to have an open design</li> <li>Exposed natural rock faces and heritage listed sandstone walls must not be removed for any car parking.</li> </ul>	Yes	Refer to detailed discussion following this table.
2.8.5 Dimensions <ul style="list-style-type: none"> <li>5.4m x 2.4m per vehicle</li> </ul>	Yes	The car spaces comply with the minimum dimensions.
2.8.6 Driveways <ul style="list-style-type: none"> <li>Maximum of one per property</li> <li>Maximum width of 3m at the gutter (excluding splay)</li> <li>Crossings not permitted where 2 on street spaces are lost</li> </ul>	Yes	<p>The proposal provides one driveway to the basement garage with a width of 3.2m which has been reviewed by Council's Traffic Manager and is considered acceptable.</p> <p>Two on-street parking spaces will be retained between the nearest driveway to the east and the subject driveway. As such, the proposal will result in the loss of only one on-street space</p>





Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Min 600m<sup>2</sup> detached dwellings</li> <li>Second dwelling must: <ul style="list-style-type: none"> <li>address a street or lane</li> <li>Max GFA 110m<sup>2</sup></li> <li>Not exceed max FSR</li> </ul> </li> <li>Provide a min 5.5m<sup>2</sup> courtyard between each dwelling</li> </ul>		<p>has been previously approved. In this regard, the dual occupancy controls are not strictly relevant to this site.</p> <p>Notwithstanding, the parent site exceeds 600m<sup>2</sup> with each dwelling addressing alternate streets. Each dwelling will also provide substantially more than the minimum size for the courtyard. The rear dwelling exceeds 110m<sup>2</sup> however given the Torrens title subdivision of the site previously approved and that each site sits within separate streets, this is an appropriate response.</p>

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

### *Setbacks*

#### Front setbacks:

The image below (NearMap) demonstrates that due to the irregular subdivision pattern both on Forest Knoll Avenue and Francis Street, there are no clear predominant front and rear setbacks on either street.



**Figure 7:** Aerial image showing setbacks in both streets noting that the subject site is marking with an arrow (Source: NearMap)



On the Forest Knoll Avenue frontage the amended proposal steps between the greater setback of 87 Francis Street and the reduced front setback of 18 Forest Knoll Avenue. This is considered acceptable.

On the Francis Street frontage, there are varying front setbacks for buildings along this side of the street with Nos. 75, 95 and 97 being built up to the front alignment and varied setbacks to the remaining buildings within vicinity of the site. In this regard, the proposal was amended to increase the first floor level setback from Francis Street slightly to a consistent 3m with the lower level being 2m in sections. The lower level is contained below the level of the street and will not be visible from the public domain. The increased upper level setback is considered appropriate in the streetscape providing improved amenity to the adjoining properties by stepping the bulk of the building on the side boundaries.

#### Side setbacks:

The Francis Street dwelling slightly exceeds the height development standard for a small portion of the roof in the north-eastern corner over the master bedroom. Technically where the proposal exceeds the development standard, an increased side setback of 1200mm is required and the Francis Street dwelling provides only 900mm from the side boundaries.

The site adjoins a public walkway along the eastern boundary of the site and as such, a 900mm setback from this side boundary is considered appropriate, particularly as the majority of the dwelling exceeds the minimum on this side.

The western side boundary is shared with No. 87 Francis Street. The height variation is 270mm or 3.2% which is a minor exceedance that will be set back from the western side boundary by approximately 3m. The side elevation of the Francis Street dwelling that adjoins the western boundary has a varying height of 6.3m-8m being a minimum of 500mm below the height control. As such, the bulk of the building along the boundary and as viewed from the public domain, is not excessive or out of character with surrounding properties. As detailed previously, the proposal does not result in unreasonable amenity impacts upon adjoining properties, including with the reduced side boundary setback. In this regard, an increased side setback of 1200mm in this instance is not considered necessary and the 900mm setback from the western boundary is supported.

#### *Car parking*

The proposal includes a shared basement garage accessed by both dwellings from Forest Knoll Avenue. Given the difference in the level of the street from the front property boundary on Francis Street, Forest Knoll Avenue is the most appropriate location for vehicular access. To access the garage, an opening will be required in the existing natural rock face on Forest Knoll Avenue. However, the opening is proposed to be located where the rock wall has been covered with brickwork to support a pedestrian accessway to No. 87 Francis Street adjoining the front boundary of the subject site (refer to images below).



**Figure 8:** Site viewed from Forest Knoll Avenue showing pedestrian walkway to No. 87 Francis Street across the front of the site



**Figure 9:** Pedestrian accessway to No. 87 Francis Street in front of the site

The DCP states that no parking may be permitted on site where it will have a detrimental impact on the character of the streetscape, heritage item or heritage conservation area, or health of a significant tree. Additionally, exposed natural rock faces and heritage listed sandstone walls must not be removed for any car parking.

The site is not a heritage item or located within a conservation area. The proposal has been designed to retain a Norfolk Island Pine within the front setback of the site and an Arborist Report has been submitted in support. This has been previously discussed in this report and is considered acceptable.

The proposal includes the rebuilding of the pedestrian walkway supported by works to the wall beneath to create the basement garage. As demonstrated in the photomontage in **Figure 5** of this report, the works will result in a visual improvement to this wall and the accessway, rectifying the visual effect of the previous works. The works are considered to have a beneficial outcome for the streetscape and in this instance, can be supported.

In order to further improve the appearance a condition will require that existing sandstone rock face to Forest Knoll Avenue shall be retained and/or reinstated (ie, stone salvaged and reused on site). Any replacement stone shall be of a suitable quality to match the existing and adjoining walls and the wall is to be a block work wall and not a clad wall.

From a Fire Safety/NCC perspective, the provision of a shared carpark below the Forest Knoll dwelling results in a change of building classification (Class 2 and 7 in lieu of Class 1A) and subsequently increased fire safety measures will be required. This will be dealt with via conditions of consent. It is anticipated that the access for the Francis St dwelling will occur via an easement/right of way (given Torrens title subdivision approval has already occurred) which will be conditioned to prior to addressed at Occupation Certificate stage.

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified for 14 days in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was not notified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified, for the following reasons:

- The proposed amendments, including increased front and rear setbacks, lowering of the height, modification of a pool fence and the removal of the pedestrian entry from the public accessway are minor and will not introduce new impacts upon surrounding properties.

A total of 41 unique submissions were received from 31 known properties as detailed in Table 5.

**Table 4: Number of and where submissions were received from.**

Count	Property Address
1.	2 Forest Knoll Avenue BOND I BEACH
2.	2/11 Forest Knoll Avenue BOND I BEACH
3.	13 Forest Knoll Avenue BOND I BEACH
4.	16 Forest Knoll Avenue BOND I BEACH
5.	4/16 Forest Knoll Avenue BOND I BEACH
6.	1/18 Forest Knoll Avenue BOND I BEACH
7.	2/18 Forest Knoll Avenue BOND I BEACH
8.	3/18 Forest Knoll Avenue BOND I BEACH
9.	4/18 Forest Knoll Avenue BOND I BEACH
10.	6/18 Forest Knoll Avenue BOND I BEACH
11.	19 Forest Knoll Avenue BOND I BEACH
12.	60 Francis Street BOND I BEACH
13.	62 Francis Street BOND I BEACH
14.	64 Francis Street BOND I BEACH
15.	66 Francis Street BOND I BEACH
16.	68 Francis Street BOND I BEACH
17.	69 Francis Street BOND I BEACH
18.	70 Francis Street BOND I BEACH
19.	72 Francis Street BOND I BEACH

20.	77 Francis Street BOND BEACH
21.	81 Francis Street BOND BEACH
22.	1/81 Francis Street BOND BEACH
23.	2/81 Francis Street BOND BEACH
24.	3/81 Francis Street BOND BEACH
25.	5/81 Francis Street BOND BEACH
26.	6/81 Francis Street BOND BEACH
27.	8/81 Francis Street BOND BEACH
28.	87 Francis Street BOND BEACH
29.	106 Francis Street BOND BEACH
30.	62 Lamrock Avenue BOND BEACH
31.	Bond Precinct Committee
32.	No address provided - 5

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the recommendation:

- Overshadowing and loss of solar access.
- Privacy
- Excavation
- Setbacks
- FSR and height
- Removal of trees and protection of the Norfolk Island Pine tree.
- Danger of the Norfolk Island Pine being undermined by the excavation – potential safety issue.
- Out of character with the street.
- Stormwater
- Traffic and parking
- Consistency with the zone objectives
- Landscaping and open space

All other issues raised in the submissions are summarised and discussed below.

**Issue:** The shadow diagrams cut off and do not show the entire overshadowing impact.

**Response:** Amended shadow diagrams were provided which have been used in the assessment of this application.

**Issue:** Loss of property value

**Response:** This is not a planning matter for consideration.

**Issue:** Loss of outlook from windows whereas there were previously views into a back yard rather than at a building.

**Response:** Torrens title subdivision of the site into two lots has previously been approved and as such it can reasonably be expected that a dwelling will be constructed on the rear allotment. There are no controls for loss of outlook however it should be noted that the proposal generally complies with the height, FSR and setback controls for the site. This indicates that the proposal is not an overdevelopment of the site. It cannot reasonably be expected that sites will not be developed to allow neighbouring properties to have a view into their yard.

**Issue:** Demolition of the existing dwelling will result in loss of character.

**Response:** The existing dwelling on the site is not heritage listed or contained within a conservation area. The area is proposed to be part of the 'Bondi O'Brien Estate Conservation Area' under the Waverley Heritage Policy. This policy will inform the comprehensive review of the LEP and DCP however at the time of lodgement of this application the conservation area has no statutory weight.

**Issue:** Construction matters including noise and disturbance, potential impacts upon existing buildings, construction access, traffic and parking, dilapidation reports, hoardings, laneway access etc

**Response:** Council cannot refuse an application due to potential issues and/or disturbance during construction. Standard conditions of consent are recommended in relation to all construction and excavation works in addition to the requirements for dilapidation reports for properties that may be subject to potential damage.

**Issue:** The area in front of the site where the driveway will be located is used as a park by local children.

**Response:** Forest Knoll Avenue has a reserve at the end of the street for use by local children and the public. The reserve is a small public park/reserve located to the west of the site at the end of Forest Knoll Avenue. The proposal includes a 3.2m wide driveway over part of the grassed area in front of the natural stone wall in this part of the street. There is no reason why this area, and the Forest Knoll Reserve, cannot continue to be used by local children as the basement car park will allow vehicles to enter and exit the site in a forward direction, allowing sightlines to people using the grassed verge.

**Issue:** A more detailed Geotechnical Report should be provided.

**Response:** Conditions of consent are recommended addressing this matter.

**Issue:** Shadow diagrams should be provided for summer and for throughout the day.

**Response:** The DCP requires shadow diagrams for the winter solstice between 9am and 3pm. The winter solstice is the day of greatest overshadowing and as such, shows the 'worst case scenario'. There is very minimal overshadowing on the summer solstice.

**Issue:** Two dwellings on the site is not low density development. The proposal is out of character with the density of the area.

**Response:** Single dwellings and dual occupancy development are low density development permitted within the R2 zone. The proposal is not out of character with the zoning or the density of the area which is comprised of a mixture of detached and semi-detached dwellings and residential flat buildings with existing use rights. Residential flat buildings are located to the east of the site including at 81 Francis Street and 18 Forest Knoll Avenue.

**Issue:** Insufficient notification.

**Response:** Notification was carried out in accordance with the *Waverley Community Development Participation and Consultation Plan* with all properties that, in the opinion of the Assessing Officer, would be impacted being notified.

**Issue:** Actions of the owner after purchasing the property.

**Response:** The previous actions of the owner are irrelevant to the development application. Only the structure is subject to assessment.

**Issue:** Shrubs within the public walkway should not be removed.

**Response:** There are no works proposed within the walkway with all work contained on the subject site. There will be clearing of vegetation and some trees from the subject site as part of the development however the landscape plan indicates extensive planting adjoining the laneway and a green roof over both dwellings which will contribute to the landscape setting of the site.

**Issue:** Concerns that the solar panels will cause glare to surrounding properties.

**Response:** Environmental sustainability, including solar panels, are encouraged for new dwellings. Solar panels are highly unlikely to cause glare that would warrant the refusal of the application.

**Issue:** Insufficient information submitted (montages, arborist report, geotechnical report, stormwater, shadow diagrams).

**Response:** The information submitted has been considered and is acceptable for assessment purposes at the development application stage. Further detailed reports, where necessary, are required by conditions of consent prior to the issue of a Construction Certificate, or otherwise throughout the construction process.

**Issue:** The FSR is incorrect excluding areas that should be included.

**Response:** The amended plans have corrected the previously incorrect FSR calculations.

**Issue:** Insufficient deep soil provided on site.

**Response:** The DCP does not require 'deep soil' for dwelling house development however 15% of the site must be '*landscaped area*'. Landscaped area is defined as '*a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area*'. The proposal provides 18% of the site as landscaped area for the Forest Knoll dwelling and 29% for the Francis Street dwelling as previously discussed within this report.

## 2.5. Public Interest

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

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Traffic and Development

The application was assessed in relation to traffic and parking with no issues raised. Recommended conditions are included in Appendix A.

### 3.2. Stormwater

Conditions were recommended which are included in Appendix A.

### 3.3. Tree Management

No issues were raised with the removal of trees from the site. As previously discussed, Council's Tree Management Officer has reviewed the Arborist Report and has advised that provided that the recommendations by the Arborist are followed, the large Norfolk Island Pine in the front setback of the Forest Knoll site will survive and will not be destabilised. Recommended conditions are included in Appendix A.

### 3.4. Land Information (numbering)

Conditions were recommended which are included in Appendix A.

### 3.5. Public Domain

The following comments were provided by Council's Public Domain Department:

1. *Access for the Forest Knoll dwelling should be limited to via the Forest Knoll Avenue frontage with no access from the drainage reserve/public pathway permitted. The access should be maintained/upgraded and shared with the neighbouring property. The drainage easement (public accessway) is assigned a Lot and DP (Lot 20, DP 10439) and as such the applicant would need to*

*obtain a right-of-way easement (i.e. easement for access) from the land owner. This would not be supported as Council is obliged to provide access to the site across the boundary between the land and the public road. Access to the site is able to be gained from the front boundary by way of the path adjoining the front boundary.*

A condition to this effect, and other recommended by the Public Domain Department, are included in Appendix A.

#### 4. CONCLUSION

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

##### *Development and Building Unit (DBU) Decision:*



The application was reviewed by the DBU at the meeting on 22/02/2022 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *A Rossi, B Matlawski and K Johnstone*

#### 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning 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	Angela Rossi
Senior Development Assessment Planner	Manager, Development Assessment (Central) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 03/03/2022	Date: 10/03/2022

##### *Reason for WLPP referral:*

2. Contentious development (10 or more objections)
3. Departure from any development standard in an EPI by more than 10%



## **APPENDIX A – CONDITIONS OF CONSENT**

### **A. APPROVED DEVELOPMENT**

#### **1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

- (a) Architectural Plans prepared by Turco and Associates including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA 002 Rev. 01	Site Analysis	January 2022	01/02/2022
DA 001	Demolition Plan	January 2022	01/02/2022
DA 100 Rev. 01	Garage Plan	January 2022	01/02/2022
DA 101 Rev. 01	Level Ground & Basement Plan	January 2022	01/02/2022
DA 102 Rev. 01	Level 1 & Level Ground Plan	January 2022	01/02/2022
DA 103 Rev. 01	Level Roof & Level 1 Plan	January 2022	01/02/2022
DA 104 Rev. 01	Level Roof Plan	January 2022	01/02/2022
DA 200 Rev. 01	Street Elevations	January 2022	01/02/2022
DA 201 Rev. 01	Elevations	January 2022	01/02/2022
DA 300 Rev. 01	Sections	January 2022	01/02/2022
DA 301 Rev. 01	Sections	January 2022	01/02/2022
DA 302 Rev. 01	Sections	January 2022	01/02/2022
DA 153 Rev. 01	Materials Page	January 2022	01/02/2022
DA 154 Rev. 01	Materials Page	January 2022	01/02/2022

- (b) Landscape Plan No. 2021-009 (2 pages), all Revision A and documentation prepared by Ture Form Landscape Architecture, dated 29/05/2021 and received by Council on 06/08/2021.
- (c) BASIX and NatHERs Certificates.
- (d) Geotechnical Investigation Report prepared by JK Geotechnics Reference 34161Brpt dated 25 June 2021 and received by Council on 06/08/2021.
- (e) Arboricultural Impact Assessment prepared by Abnorba Arbor dated 20/06/21 and received by Council on 06/08/2021.
- (f) The Site Waste and Recycling Management Plan (SWRMP) Part 1.

Except where amended by the following conditions of consent.

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

The application is approved subject to the following plan amendments;

- (a) The new boundary wall along Francis Street on the southern boundary of the site should be no higher than the adjoining boundary fence at 87 Francis Street to ensure consistency within the streetscape.
- (b) No access to the site from the drainage reserve (public accessway) along the eastern boundary of the site is permitted. The site fronting Forest Knoll Avenue is required to be accessed from the

northern (front) boundary of the site with a pathway to the front door along the eastern side boundary.

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

### **3. DOMESTIC HEATERS**

The provision of solid fuel heating is prohibited.

### **4. TEMPORARY PEDESTRIAN ACCESS TO 87 FRANCIS STREET**

If the pedestrian access way across the northern boundary of the site fronting Forest Knoll Avenue is restricted, blocked or otherwise inaccessible due to the construction works, a temporary pedestrian accessway is to be provided from Forest Knoll Avenue footpath to 87 Francis Street, Bondi Beach. The details of the temporary accessway are to be submitted to Council's Executive Manager, Infrastructure Services (or delegate) for approval prior. No works to provide temporary access to this property shall commence until approval is granted by Council.

The temporary pedestrian accessway must be constructed prior to any works that will restrict, block or otherwise make inaccessible the existing pedestrian path directly adjoining the northern boundary of the site. At least thirty (30) days notice, in writing, shall be given to the properties at 87 and 89 Francis Street prior to the removal of access to the public path adjoining the northern boundary.

Once the permanent pedestrian pathway to No. 87 and 89 Francis Street has been restored at the completion of the works on this part of the site, the temporary accessway shall be removed and disposed of, at the Applicant's cost, within 30 days of completion, or prior to the issue of an Occupation Certificate, whichever occurs first.

## **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **GENERAL REQUIREMENTS**

#### **5. 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 the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

#### **6. 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 applicable requirements of Part 6, before any work commences.

### **CONTRIBUTIONS, FEES & BONDS**

#### **7. SECTION 7.12 CONTRIBUTION**

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 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:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) 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 are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

(b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;

- (i) A development valued at \$100,000 or less will be exempt from the levy;
- (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or
- (iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any 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.

## **8. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of \$34,767 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **9. 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 of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any 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.

## **CONSTRUCTION MATTERS**

## **10. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

## **11. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

## **12. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical 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.

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.

## **13. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

## **14. GROUND ANCHORS**

Where any ground anchors (i.e. rock or sand anchors) are proposed to extend beyond the property boundary beneath roadways and other Council property, details must be submitted to and approved by Council's Executive Manager, Infrastructure Services (or delegate) and will be subject to fees. For further information regarding this, please contact [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) on 9083 8886.

Separate approval will be required for ground anchors beneath roadways governed by the Roads and Maritime Services.

## **15. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE APPLICATION**

An application to obtain a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be made prior to the issue of the relevant Construction Certificate. The application must be made through an authorised Water Servicing Coordinator.

For more information about making an application to obtain a Section 73 Compliance Certificate, please consult Sydney Water's website.

Following this application, a "Notice of Requirements" will be provided by Sydney Water that outlines any requirements of works to be completed prior to the issue of the Section 73 Compliance Certificate.

Please make early contact **with the Coordinator**, as building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

## **STORMWATER & FLOODING**

### **16. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plan prepared by LT Urban Engineering Pty Ltd, Project No. 21-005P, Dwg No. 21-005P-01 (Revision 6, dated 14/02/2022), 21-005P-02 (Revision 4, dated 13/12/2021), 21-005P-02A (Revision 3, dated 14/02/2022), 21-005P-03 (Revision 5, dated 01/02/2022), 21-005P-03A (Revision 2, dated 01/02/2022), 21-005P-04 (Revision 5, dated 01/02/2022), 21-005P-05 (Revision 6, dated 14/02/2022), 21-005P-06 (Revision 6, dated 14/02/2022), 21-005P-07 (Revision 5, dated 01/02/2022), 21-005P-10 (Revision 6, dated 14/02/2022), 21-005P-11 (Revision 3, dated 14/02/2022), 21-005P-12 (Revision 1, dated 13/12/2021), 21-005P-13 (Revision 2, dated 01/02/2022) & 21-005P-14 (Revision 2, dated 01/02/2022) are considered **unsatisfactory**.

The applicant must submit amended plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- a) The plans shall provide details of any required On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted. Any OSD system is to be designed for the 1% Annual Exceedance Probability (AEP) storm event.
- b) The plans shall provide a complete and detailed OSD design including multiple cross-sections (drawn to a suitable scale), proposed construction materials, and full orifice details. Any below ground OSD tank structure shall be cast in-situ concrete based. A certificate from a registered structural engineer certifying the structural adequacy of the OSD tank structure is to be provided.
- c) The building works appear to be located within the path of the natural runoff caused by the localised upstream catchment from the rear. Given that the site incorporates OSD, the engineer shall demonstrate that the water caused from the upstream catchment can be captured and redirected to the legal point of discharge via a swale and pipe or pit and pipe system along the boundaries wholly within private property (independent of the OSD system). Calculations in relation to the upstream catchment and the proposed system shall be submitted to Council demonstrating that the proposed system has sufficient capacity to capture and discharge the 1% AEP storm.

- d) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be submitted.
- e) Show sub-soil drainage restricted from entering the basement areas of the building and the stormwater drainage system by waterproofing and tanking the basement areas of the building.
- f) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the 1% AEP storm event shall be provided.
- g) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath shall be provided.
- h) You are advised that Council's records indicate an existing stormwater conduit owned by Council is situated within the drainage reserve adjacent to the property and within the Forest Knoll Avenue road reserve fronting the property. The applicant is required to engage a Registered Surveyor or a suitably qualified and practising professional to investigate the exact location of the existing stormwater pipe (this shall include the pipe size, obvert, invert and any necessary levels needed as part of this proposal).

The existing pipeline is to be overlayed onto the stormwater management plan and resubmitted to Council. Detailed sections are to be provided to demonstrate that all proposed structural support elements are located away from the zone of influence of the existing stormwater conduit. A Registered Structural Engineer is to provide certification certifying the aforementioned requirements.

- i) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

## **ENERGY EFFICIENCY & SUSTAINABILITY**

### **17. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

## **WASTE**

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

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* 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.

## **LANDSCAPING & TREES**

### **19. GREEN ROOF LANDSCAPING DETAILS**

The construction certificate landscape plans are to comply with the controls for green roofs in Part B3.1 of the *Waverley Development Control Plan 2012* including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 – 1).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species;
- (c) The green roof is to be designed to be a non-trafficable area (with no balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

A qualified landscape architect must review the design and verify that it complies with the above requirements.

## **TRAFFIC MANAGEMENT**

### **20. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

## **PUBLIC DOMAIN**

### **21. PUBLIC DOMAIN IMPROVEMENTS**

The public domain is to be upgraded along the Forest Knoll Avenue frontage of the development site in accordance with the current Waverley Council Development Control Plan (DCP) and Public Domain Technical Manual (PDTM) at the time of engineering plan approval. A public domain plan for the following works shall be submitted to, and approved by the Executive Manager, Infrastructure Services, or delegate prior to the issue of the Construction Certificate.

- Pedestrian footpath
- Vehicular Crossing
- Kerb and gutter
- Stormwater infrastructure located within the Council Public Domain
- Undergrounded utility connections (Electrical, Communications inclusive)
- Landscape and street tree plantings

### **22. PUBLIC INFRASTRUCTURE WORKS**



All Public infrastructure works traversing the development frontage Forest Knoll Avenue must be completed to Council's satisfaction at no cost to Council.

Full engineering design drawings must be prepared by a suitably qualified engineering professional, submitted to Council, and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The Applicant must submit plans and specifications for the following infrastructure works to Council's Public Domain Engineer:

- a) Footpath, Kerb and Gutter: The existing footpath, kerb and gutter along Forest Knoll Ave frontage to be reconstructed and upgraded. Details of the footpath treatments and surface type details to be advised by Council at the time of Engineering plan approval.
- b) Any existing or proposed utility pillars on the site frontages to be either underground or inside the property boundary of the proposed development. Applicant must liaise with the relevant authorities for their approval and communicate to Council with written confirmation, before executing any works.

### **23. PUBLIC UTILITIES AND SERVICE ALTERATIONS**

Any utility services and all public infrastructure which require alteration due to works associated with the development, both internally and externally of the development boundary, shall be altered at the Applicant's expense. This includes both temporary and permanent alterations. Upon notifying Council, the Applicant must comply with the requirements (including financial costs) of the relevant utility service provider (e.g. Ausgrid, Sydney Water, Telstra, TfNSW or similar) in relation to any connections, repairs, relocations, replacements and/or adjustments to public infrastructure or services affected by the proposed works.

Written approval from the applicable Public Authority shall be submitted to Council along with the Public Domain design plans submission.

### **24. NOTICE OF INTENTION TO COMMENCE PUBLIC DOMAIN WORKS**

Prior to commencement of the public domain works notice shall be submitted to Council's Public Domain Engineer. This notice shall include the name and insurance details of the Contractor who will be responsible for the construction works, and details of the managing site supervisor/engineer. The applicant is also responsible for obtaining all Road Activity Permits required for the works, from the respective authorities.

### **25. PUBLIC DOMAIN PRE-CONSTRUCTION MEETING**

To ensure all public infrastructure works approved under this consent will be completed to Council's satisfaction and a program of required inspections is established, a preconstruction meeting shall be arranged with Council's engineering inspector/s prior to works commencing on site.

### **26. PUBLIC DOMAIN ENGINEERING INSPECTIONS**

To ensure all public infrastructure engineering works required by Council under this consent will be constructed to Council satisfaction, inspection(s) will be required, and compliance certificates must be

obtained from Council's Public Domain Engineer for the road pavement, kerb and gutter, stormwater, footpath paving, undergrounding, street trees and landscape hold points.

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

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **PRIOR TO ANY WORKS**

#### **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. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

#### **29. USE OF FILL ON SITE**

All fill imported on to the site shall be free of building and other demolition waste, and contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 of the Protection of the Environment Operations Act, 1997 and

Sampling and analysis of the fill material should be conducted in accordance with the NSW EPA Sampling Design Guidelines (1995) to ensure that the material is not contaminated.

Any other waste derived material the subject of a resource recovery exemption under cl. 51A of the *Protection of the Environmental Operations (Waste) Regulations 2014* that is permitted to be used as fill material.

Any waste derived material the subject of resource exemption received at the development site must be accompanied by documentation as to the materials compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

## **DEMOLITION & EXCAVATION**

### **30. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- *Protection of the Environment Operations Act 1997*.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority 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 SafeWork 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.

### **31. CONTROL OF DUST ON CONSTRUCTION SITES**

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 (e.g. 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.

### **32. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

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 2014.

### **33. 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.

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 excavation is to be managed by a practising structural engineer.

### **34. MANAGEMENT OF ACIDIC SULFATE SOIL**

Following the demolition stage, but prior to the construction stage, further investigations for Acid Sulfate soils shall be undertaken by a suitably qualified expert. Should the subject site show evidence of acid sulphate soils, the following shall apply:

- (a) To address issues arising from the natural acidity of the soil on-site, any concrete that is in contact with this soil is to be designed to restrict acid and sulphate attack. The Cement and Concrete Association of Australia Technical Note TN57 is to be adhered to for precautionary measures.
- (b) Prior to the commencement of any works, the applicant shall nominate an appropriately qualified Environmental Scientist to supervise the management of acid sulphate soils. The Scientist shall:
  - i. Provide an acceptance in writing to supervise the aforementioned works to ensure compliance with the relevant conditions of Development Consent.
  - ii. On completion of the works certify that the aforementioned works have been constructed in compliance with the approved plans, specifications and conditions of consent.
- (c) The nominated supervising Environmental Scientist shall certify that the management of acid sulphate soil was undertaken in accordance with the Development Consent. Prior to the use or occupation of the building (or Occupation Certificate being issued), the Principal Contractor / Developer shall submit to Waverley Council a copy of the aforementioned Certificate.

## **CONSTRUCTION MATTERS**

### **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 Sundays and public holidays.

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.

Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

#### **36. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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

#### **37. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

#### **38. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be 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.

#### **39. 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 location 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.

#### **40. TREATMENT OF BOUNDARY WALLS**

The walls approved on the eastern and western boundaries with the neighbouring property and the public accessway are to be finished to the same standard as the remaining building and not left unfinished to ensure a consistent visual appearance.

#### **41. SANDSTONE WALL**

The existing sandstone wall to Forest Knoll Avenue shall be retained and/or reinstated (i.e. stone salvaged and reused on site). Any replacement stone shall be of a suitable quality to match the existing and adjoining walls/rock face. The wall is to be a block work wall and not a clad wall. The wall shall be constructed using appropriate tradesmen skilled in traditional block work construction.

#### **42. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

#### **43. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS**

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa 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/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure
- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans MUST be submitted to Sydney Water at least 14 days prior to commencement of building operations.

## **TREE PROTECTION AND REMOVAL**

### **44. TREE PROTECTION**

All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

**Trees to be removed as per the Arborist Report prepared by** Arborist Report prepared by Liam Strachan  
Abnoba Arbor. Dated: 20/06/2021

<b>Tree No.</b>	<b>Species</b>	<b>Location</b>	<b>Action</b>
T 2	<i>Pittosporum undulatum</i> (Sweet Pittosporum)	On site	Remove as per Arborist report
T 3	<i>Archontophoenix</i> spp. (Alex/Bagalow Palm)	On site	Remove as per Arborist report
T 4	<i>Washingtonia robusta</i> (Mexican Fan Palm)	On site	Remove as per Arborist report
T 5	<i>Washingtonia robusta</i> (Mexican Fan Palm)	On site	Remove as per Arborist report
T 6	<i>Washingtonia robusta</i> (Mexican Fan Palm)	On site	Remove as per Arborist report
T 7	<i>Camellia japonica</i> cvs (Camellia)	On site	Remove as per Arborist report
T 8	<i>Cupressus</i> species (Conifer)	On site	Remove as per Arborist report
T 10	<i>Pittosporum undulatum</i> (Sweet Pittosporum)	On site	Remove as per Arborist report

**Trees to be retained as per the Arborist Report prepared by** Arborist Report prepared by Liam Strachan  
Abnoba Arbor. Dated: 20/06/2021

<b>Tree No.</b>	<b>Species</b>	<b>Location</b>	<b>Action</b>
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T 1	Araucaria heterophylla (Norfolk Island Pine)	On site	Retain as per Arborist report. (Trunk protection, ground protection, exclusion zone, project arborist involvement, temporary irrigation, root stimulation, shoring)
T 9	Persea americana (Avocado)	On site	Retain as per Arborist report. (Trunk protection, ground protection, exclusion zone)
T 11	Brachychiton acerfolius (Illawarra Flame Tree)	Council laneway	Retain as per Arborist report. (Exclusion zone)
T 12	Syzigium austral (Brush cherry)	Council laneway	Retain as per Arborist report. (Exclusion zone)
T 13	Syagrus romanzoffiana (Cocos Palm)	Council laneway	Retain as per Arborist report. (Exclusion zone)
T 14	Yukk a sp	Council laneway	Retain as per Arborist report. (exclusion zone)
T 15	Yukk a sp	Council laneway	Retain as per Arborist report. (Exclusion zone)

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.

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.

Soil levels are not to be changed around any trees.

To prevent compaction within the root zone, excavation undertaken within the specified radius of the trunks of the following trees must be hand dug. Beyond this radius, mechanical excavation is permitted, when root pruning by hand along the perimeter line of such works is completed. Any hand excavation must be carried out in the presence of experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

- 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 on neighbouring properties require pruning, 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.**
- If any trees on Council owned land require pruning, the applicant is to supply an tree pruning report from an Arborist with AQF level 5 qualification or above with photos showing the branches that need to be removed.
- If approval is granted the applicant may prune the tree at their expense, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

#### **VEHICLE ACCESS & PUBLIC DOMAIN WORKS**

##### **45. 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.

Note: Prior to the submission of the vehicle crossing application, works as executed drawings shall be submitted to Council for the approval of the Executive Manager Creating Waverley confirming the finished levels of the internal driveway between the property boundary and the garage floor comply with the approved driveway long sections.

#### **STORMWATER**

##### **46. PRE-CONSTRUCTION STORMWATER PIPE CCTV DILAPIDATION REPORT**

Prior to doing any works, internal inspection of Council's stormwater conduit within the drainage reserve adjacent to the property and within the Forest Knoll Avenue road reserve fronting the property to determine its structural and serviceability condition must be carried out by a Closed Circuit Television (CCTV) by an approved contractor. The report is to be submitted to Council's Executive Manager, Infrastructure Services (or delegate) for its review. No works on Council's stormwater infrastructure shall commence until given approval by Council.

## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **47. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### **48. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM**

- a. A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared, stamped and signed by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, the detention facility, rainwater harvesting facility and other drainage related infrastructure. An original or a colour copy must be submitted to Waverley Council. Where changes have occurred, the Council approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.
- b. A suitably qualified and practising Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### **49. WORK-AS-EXECUTED PLAN – PUBLIC DOMIAN**

To ensure public infrastructure works required under the consent are completed in accordance with approved plans and specifications, a Work-as-Executed plan of the works, prepared by a registered surveyor is to be submitted to the principal certifying Authority and Council for review with any required rectification works completed and approved by Council prior to issue of any Occupation Certificate.

The W.A.E plans are to note all departures clearly in red on a copy of the approved Construction Certificate plans and certification from an experienced chartered civil engineer shall be submitted to support all variations from approved plans.

### **50. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD**

Prior to the issue of an Occupation Certificate, a “Positive Covenant” and “Restriction on the Use of Land” shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

#### **51. POST-CONSTRUCTION STORMWATER PIPE CCTV DILAPIDATION REPORT**

Prior to the issue of the Occupation Certificate, a post-construction CCTV report shall be submitted to Council on the stormwater conduit within the drainage reserve adjacent to the property and within the Forest Knoll Avenue road reserve fronting the property at least up to the next pit downstream of the proposed works. This is to ensure Council's stormwater infrastructure is adequately protected and there are no damages due to proposed construction activities and property drainage connections.

An electronic closed circuit television report (track mounted CCTV camera footage) prepared by an accredited operator that assesses the condition of the existing drainage line adjacent to the site is required. The report is to be dated and submitted to, and accepted by Council's Executive Manager, Infrastructure Services (or delegate).

The report shall be used by Council's Executive Manager, Infrastructure Services (or delegate) to assess whether any rectification works will be required. The applicant shall obtain written approval from Council's Executive Manager, Infrastructure Services (or delegate) prior to the issue of the Occupation Certificate.

#### **52. RAINWATER HARVESTING AND REUSE**

The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.

#### **53. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

#### **54. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA**

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design;
- (b) Evidence that the swimming pool/outdoor spa has been registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>);

- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council;
- (d) A copy of the occupation certificate must be submitted to Council.

Note: Swimming/spa pool pumps are restricted from use 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 2017.

#### **55. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS**

The issue of a final Compliance Certificate from the Council Engineer will be withheld should there be any outstanding fees and charges applicable to the development. This includes but not limited to fees applicable for engineering plans assessment and work inspection fees.

The refund of any damage and/or security deposits will be subject to satisfactory restoration and rectification of all civil infrastructure that have dilapidated as a result of the construction activities associated with this development consent.

To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works completed by the applicant/developer following completion of the development. The defects liability period shall commence from the date of issue of the Occupation Certificate for the development. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period.

#### **56. RIGHT OF ACCESSWAY**

Prior to the issue of an Occupation Certificate or the issue of a Subdivision Certificate for the land, an easement shall be created for a 'right of accessway' benefiting the Francis Street dwelling granting right of access to the basement garage for vehicles and pedestrians.

#### **57. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE**

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

#### **58. ALLOCATION OF STREET NUMBER**

The subdivision of the property has led to the following allocation of primary address numbers for a dual occupancy Torrens title subdivision:

- No. 20 Forest Knoll Avenue for the north allotment.
- No. 85 Francis Street for the south.

The primary address site numbers for the properties shall be a minimum of 75mm high, shall be positioned 600mm-1500mm above ground level on the site boundaries, located near the entry points and clearly visible from Forest Knoll Avenue and Francis Street.

The primary address site numbers are to be positioned on the site prior to the issue of the Occupation Certificate.

Any variation to the above premises numbering requires a new application for a Change of street number and/or address to be lodged with Council.

## **E. ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council’s standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

### **AD2. SYDNEY WATER REQUIREMENTS**

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

### **AD3. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual’s responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

#### **AD5. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

#### **AD6. TREE REMOVAL/PRESERVATION**

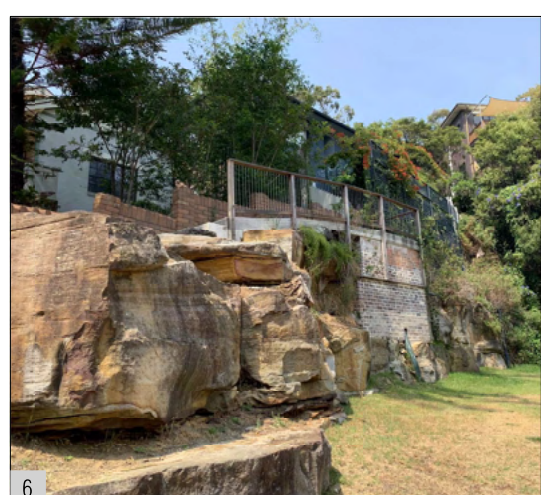
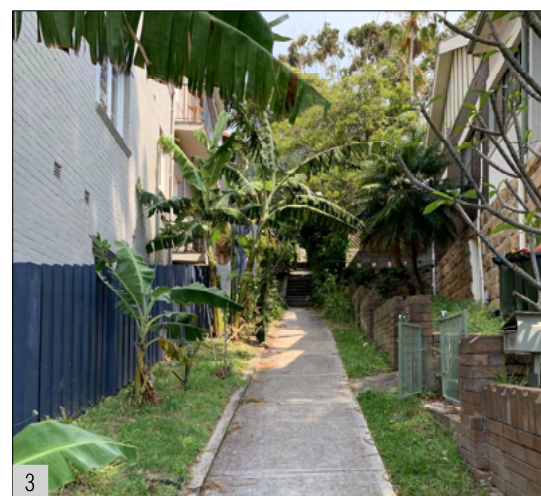
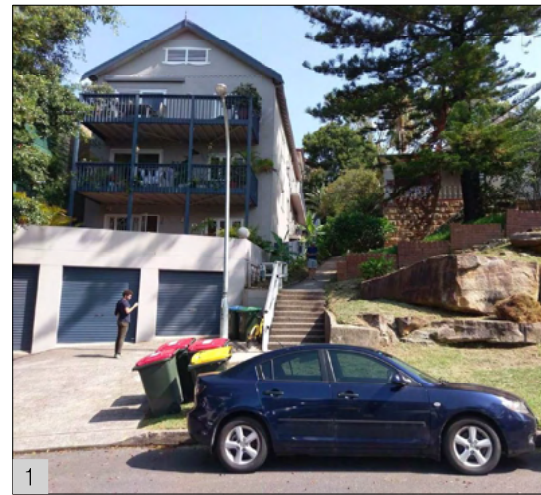
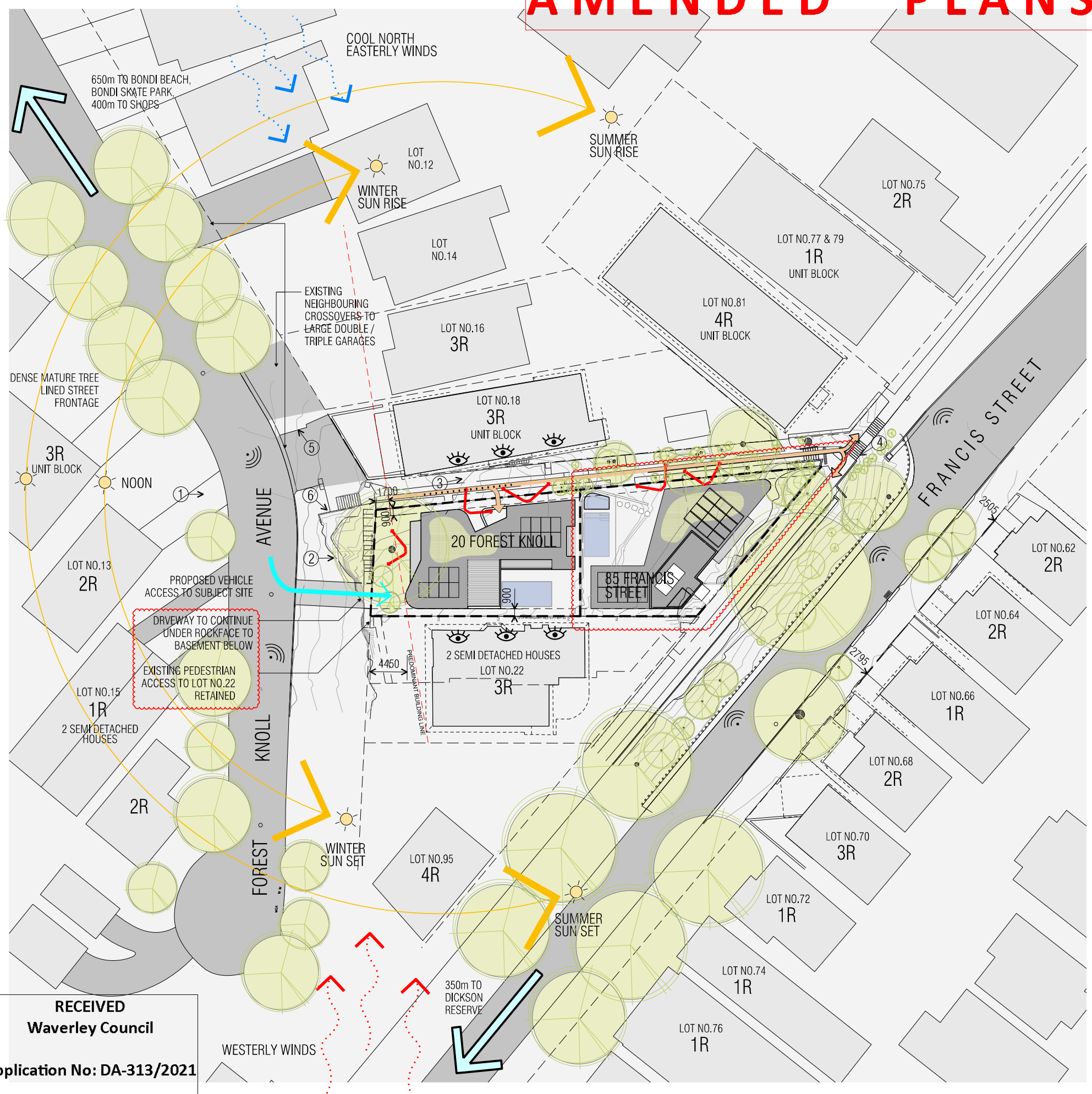
Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

#### **AD7. STORMWATER MANAGEMENT**

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.



# AMENDED PLANS



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Waverley Council  
Application No: DA-313/2021  
Date Received: 01/02/2022

BONDI HOUSES  
20 FOREST KNOLL AVENUE, BONDI BEACH, NSW  
85 FRANCIS STREET, BONDI BEACH, NSW

SITE ANALYSIS  
DA 002 | REV 01

1:250 @ A1  
1:500 @ A3  
JANUARY 2022

TA1942  
GADD & ELLIOTT

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# AMENDED PLANS

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FOREST KNOLL AVENUE

EXISTING NORFOLK PINE TO  
BE RETAINED AND  
PROTECTED TO ARBORIST'S  
SPECIFICATION.

EXISTING DWELLING  
TO BE DEMOLISHED.  
DILAPIDATED BRICK  
WALL TO REMOVED.

NO.18  
1, 2 & 3 STOREY  
BRICK UNITS

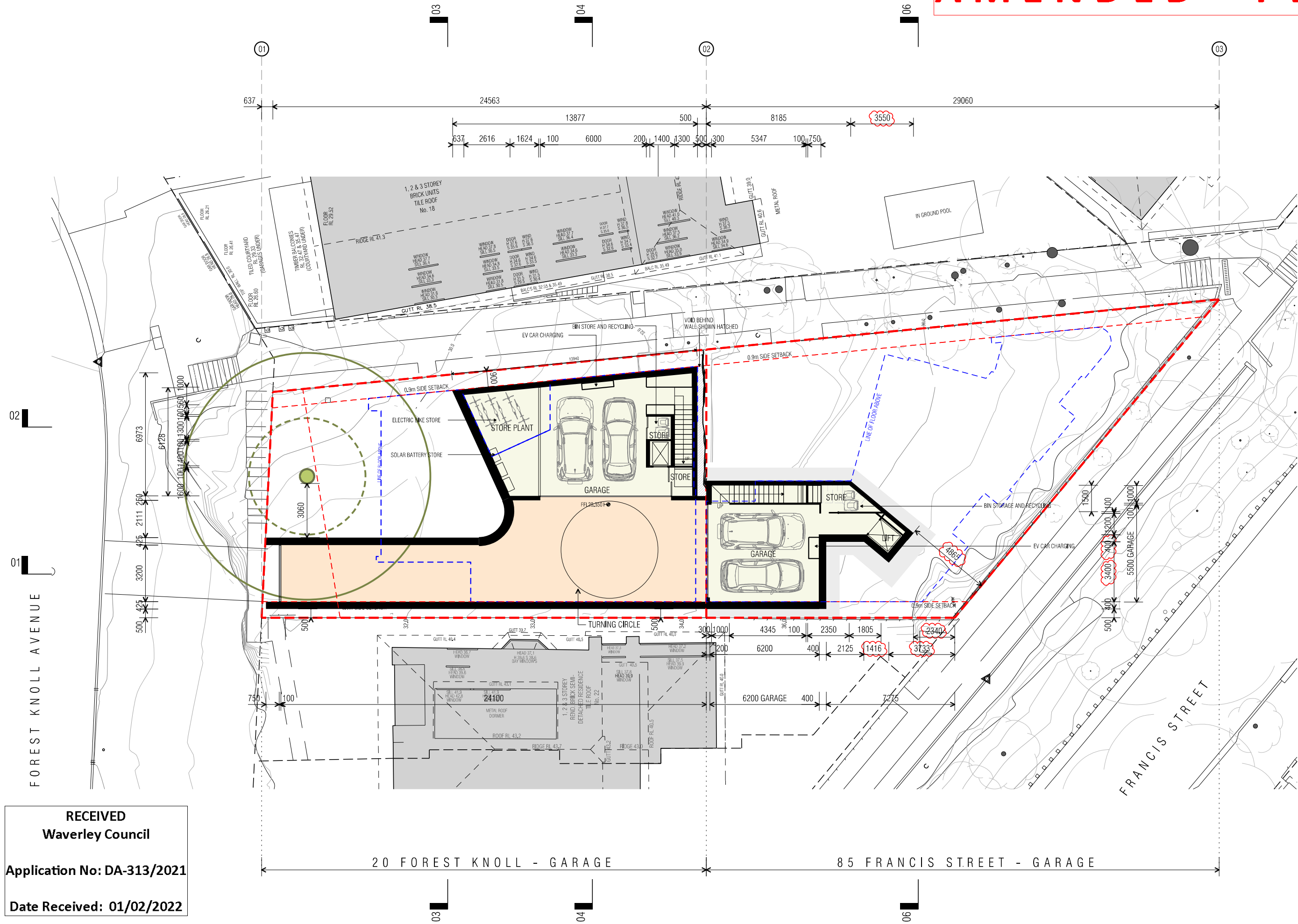
LANEWAY

EXISTING TWO STOREY  
DWELLING

NO.22  
1, 2 & 3 STOREY RENDERED  
BRICK SEMI DETACHED  
RESIDENCES

FRANCIS STREET





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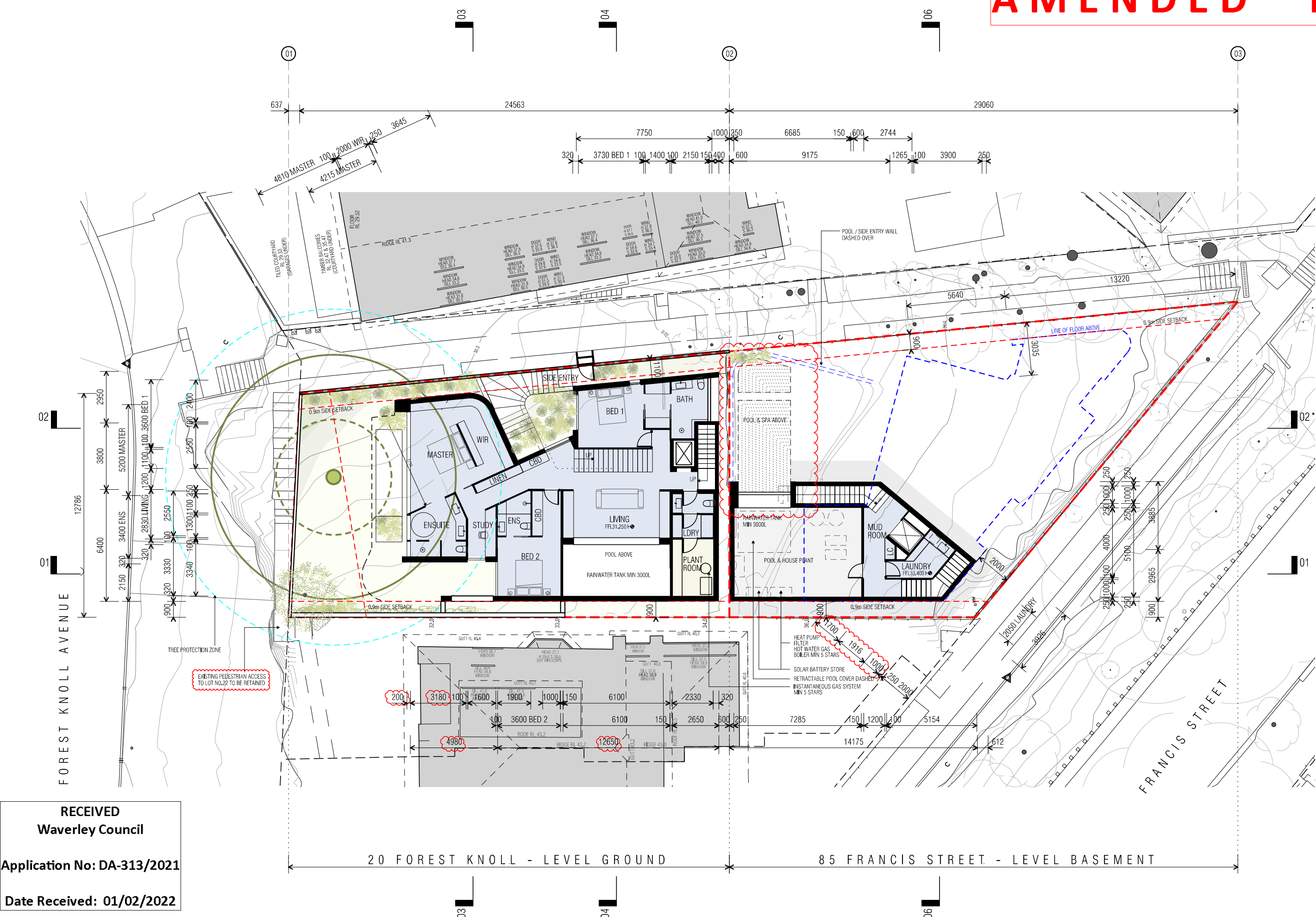


# AMENDED PLANS



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BONDI HOUSES  
20 FOREST KNOLL AVENUE, BONDI BEACH, NSW  
85 FRANCIS STREET, BONDI BEACH, NSW

LEVEL GROUND & BASEMENT PLAN  
DA 101 | REV 01

1:100 @ A1  
1:200 @ A3  
JANUARY 2022



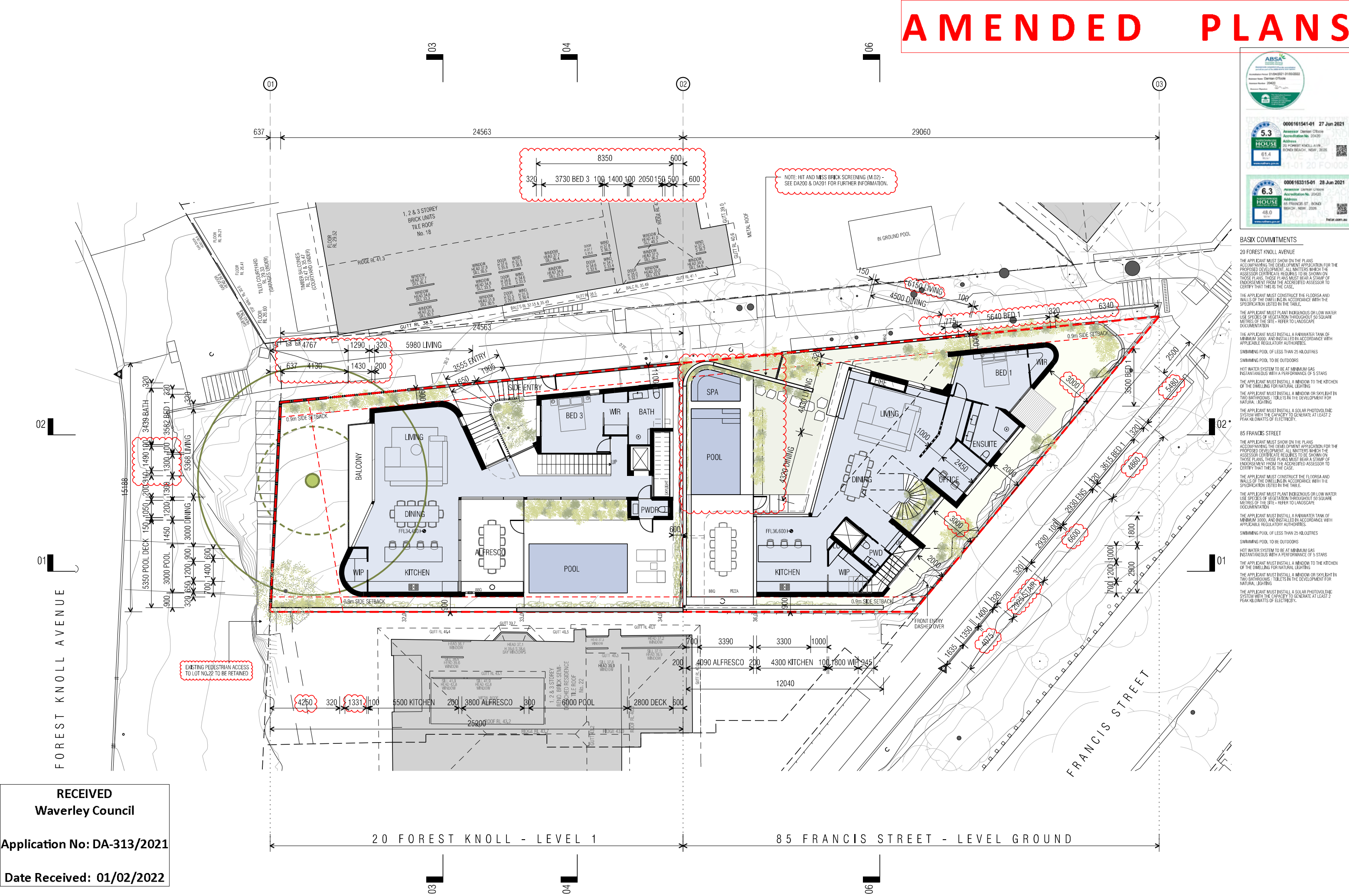
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AMENDED PLANS





0006161541-01 27 Jun 2021  
Assessor: Daniel O'Leary  
Accreditation No: 20420  
Address: 20 FOREST KNOLL AVENUE, BONDI BEACH, NSW, 2026



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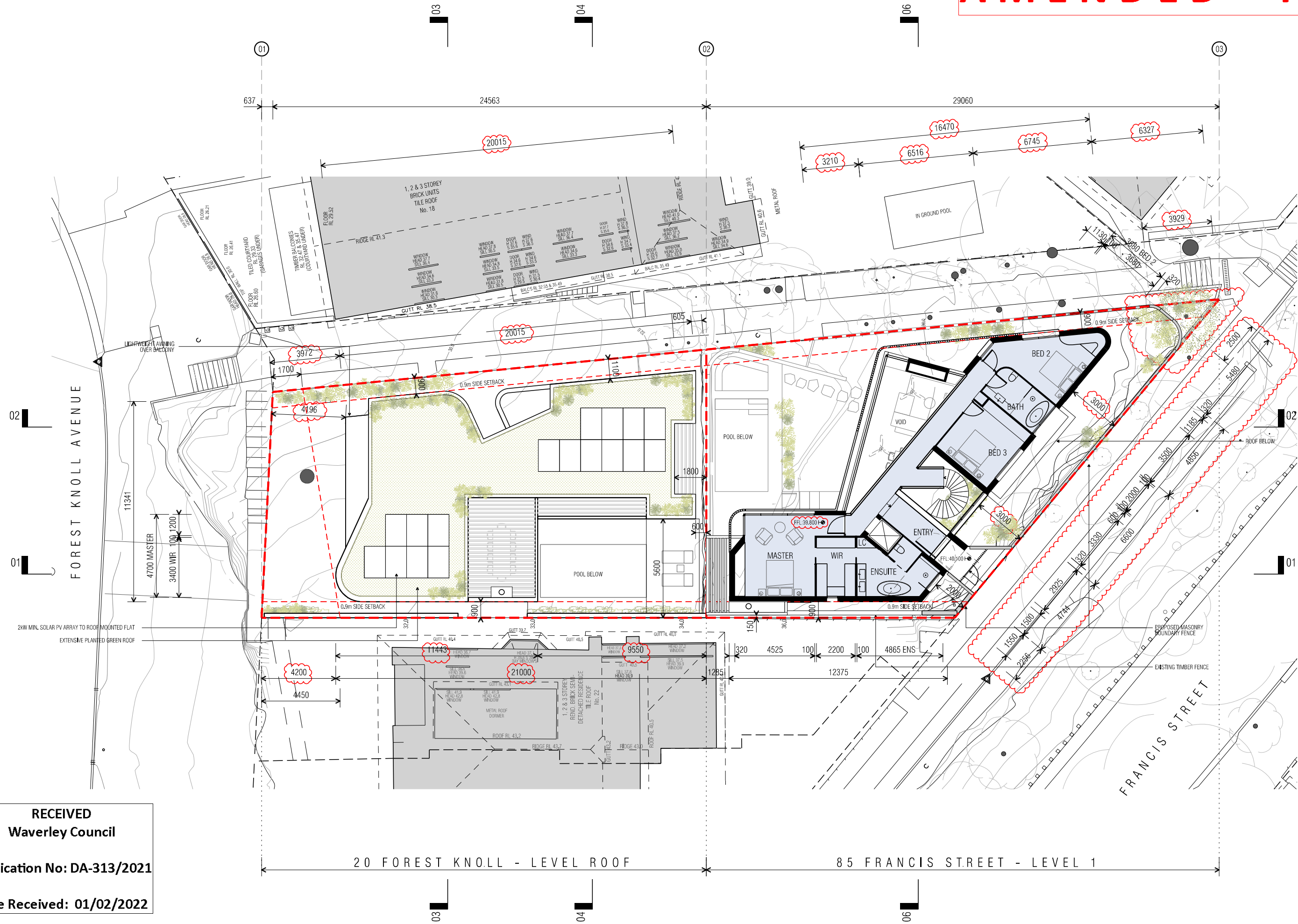
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LEVEL ROOF & LEVEL 1 PLAN  
DA 103 | REV 01

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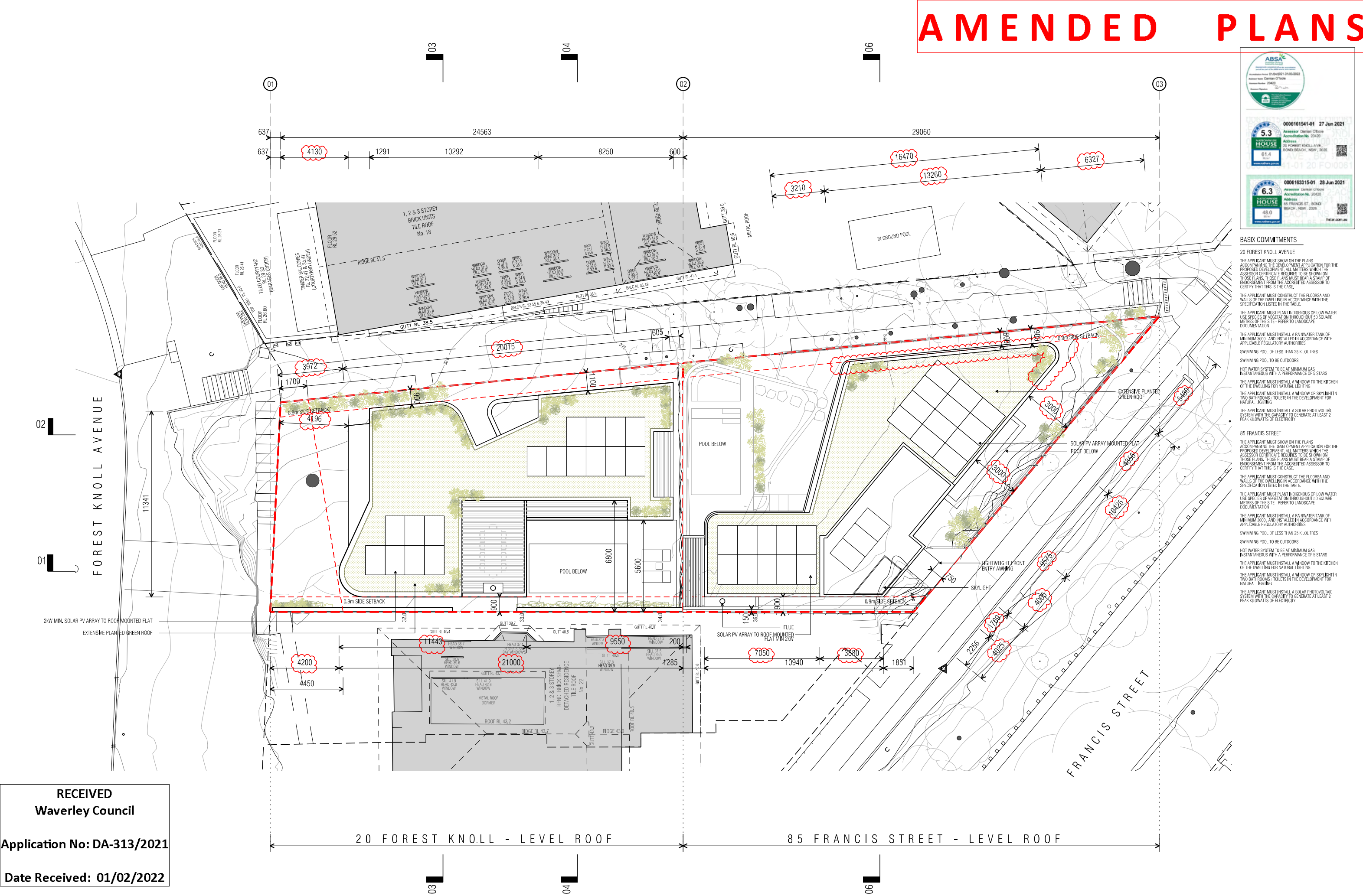
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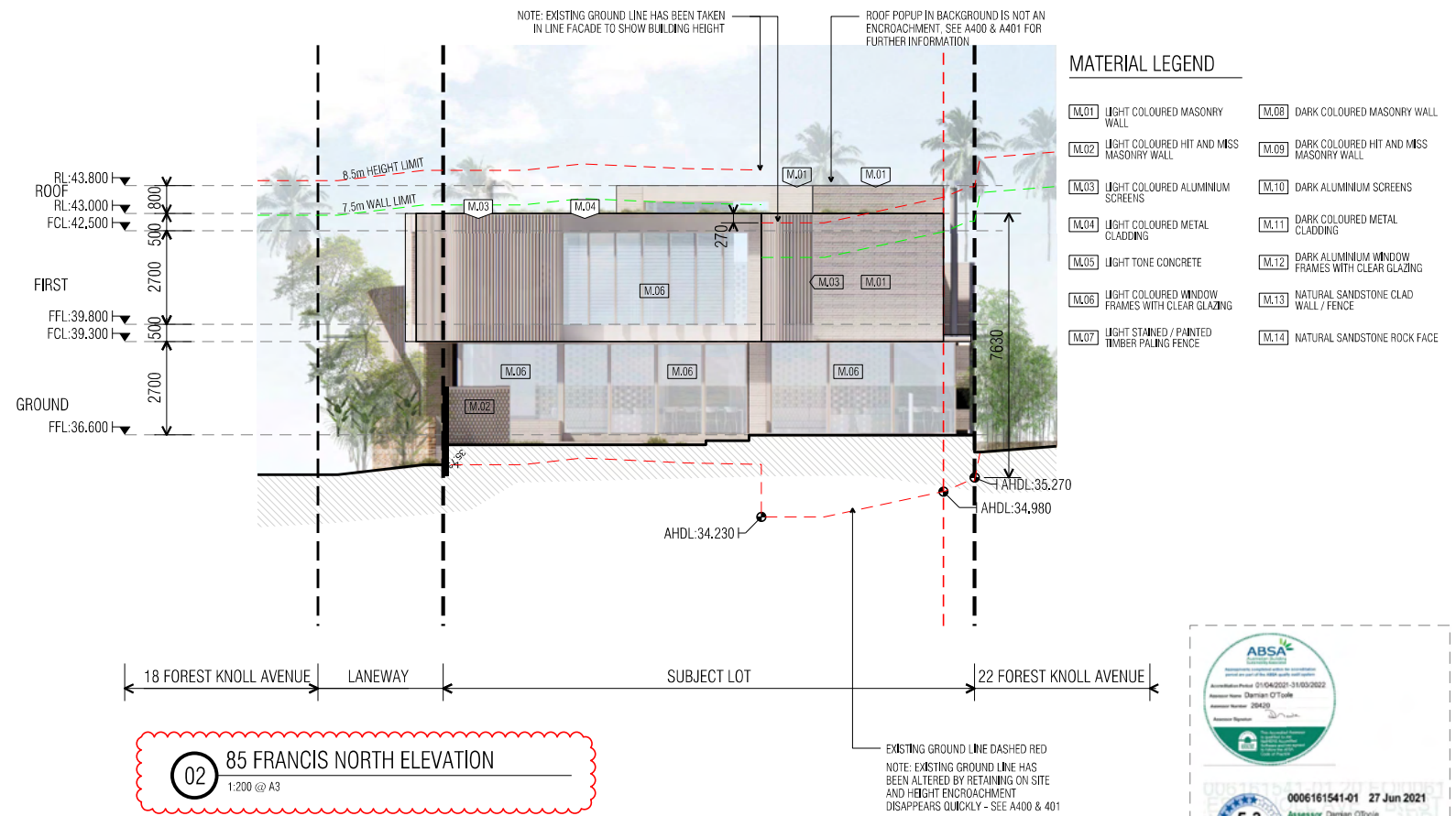
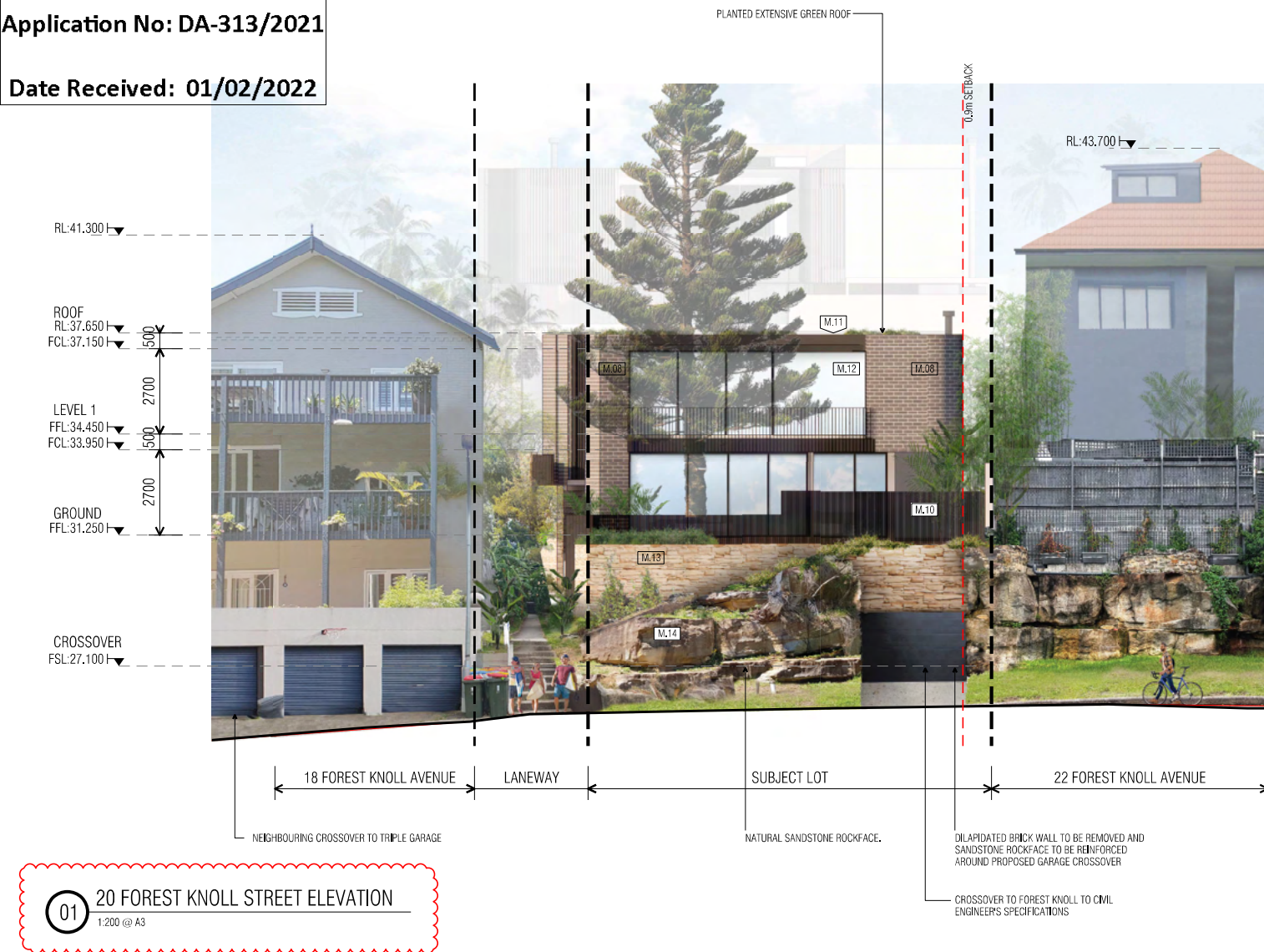
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  - THE APPLICANT MUST INSTALL A WINDOW OR SKYLIGHT IN TWO BATHROOMS / TOILETS IN THE DEVELOPMENT FOR NATURAL LIGHTING
  - THE APPLICANT MUST INSTALL A SOLAR PHOTOVOLTAIC SYSTEM WITH THE CAPACITY TO GENERATE AT LEAST 2 PEAK KILOWATTS OF ELECTRICITY.

**RECEIVED**  
**Waverley Council**

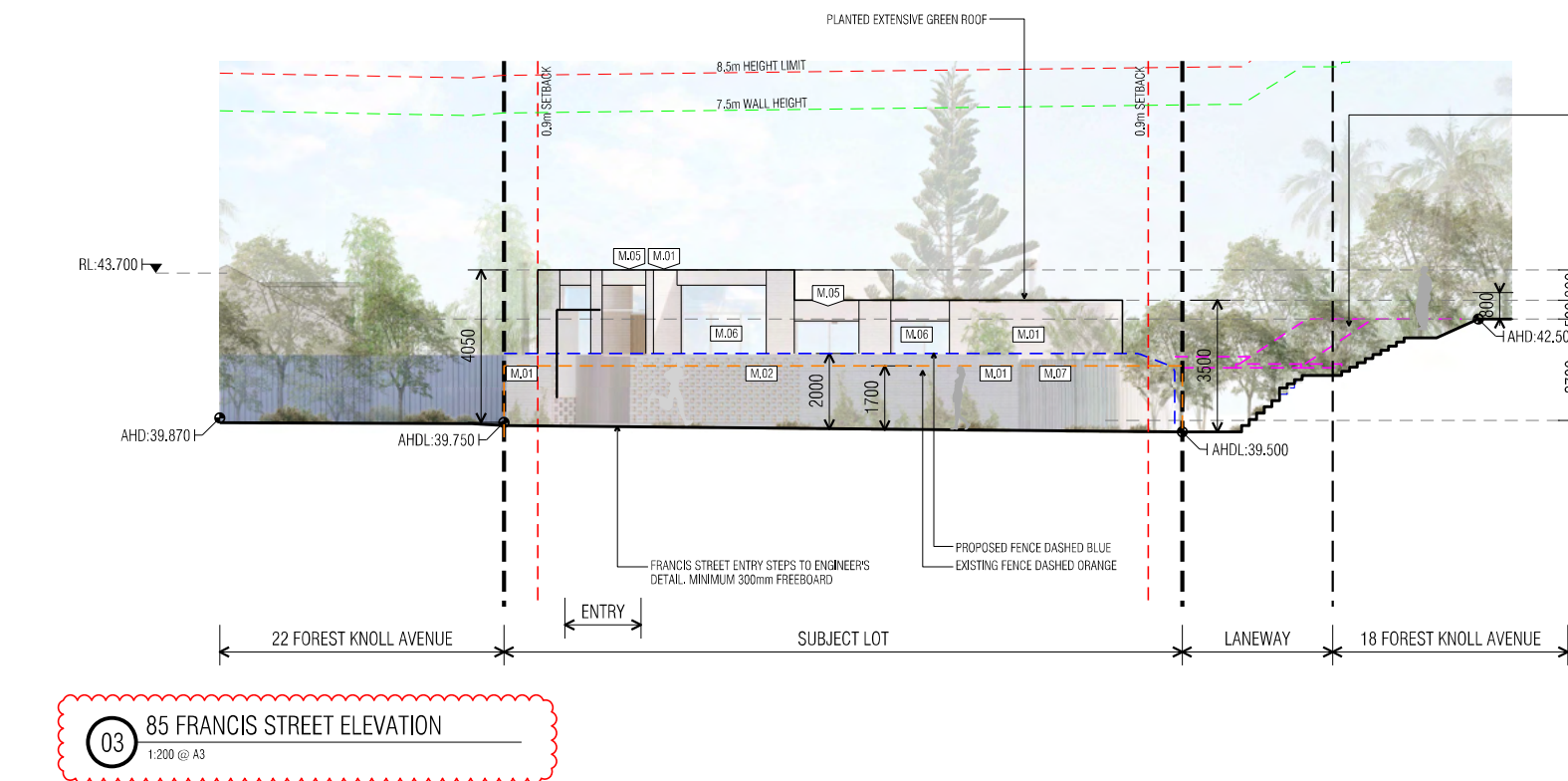
**Application No: DA-313/2021**

**Date Received: 01/02/2022**

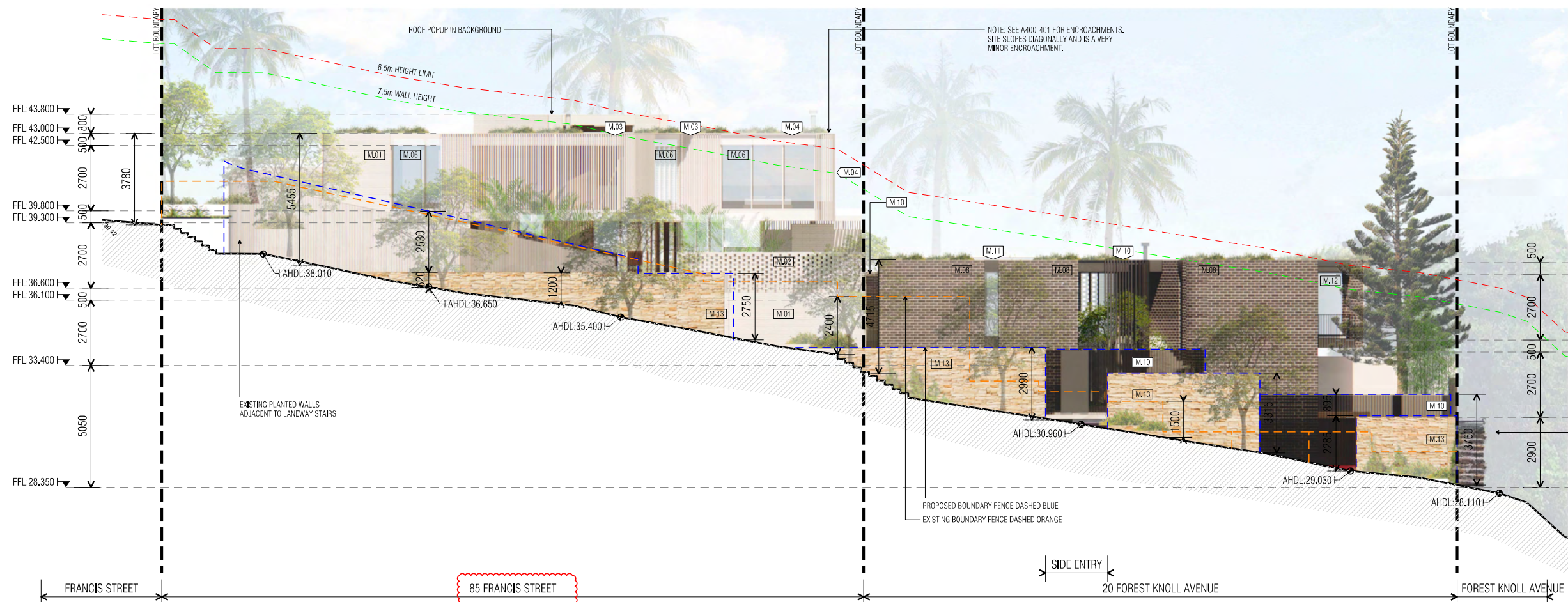




## AMENDED PLANS



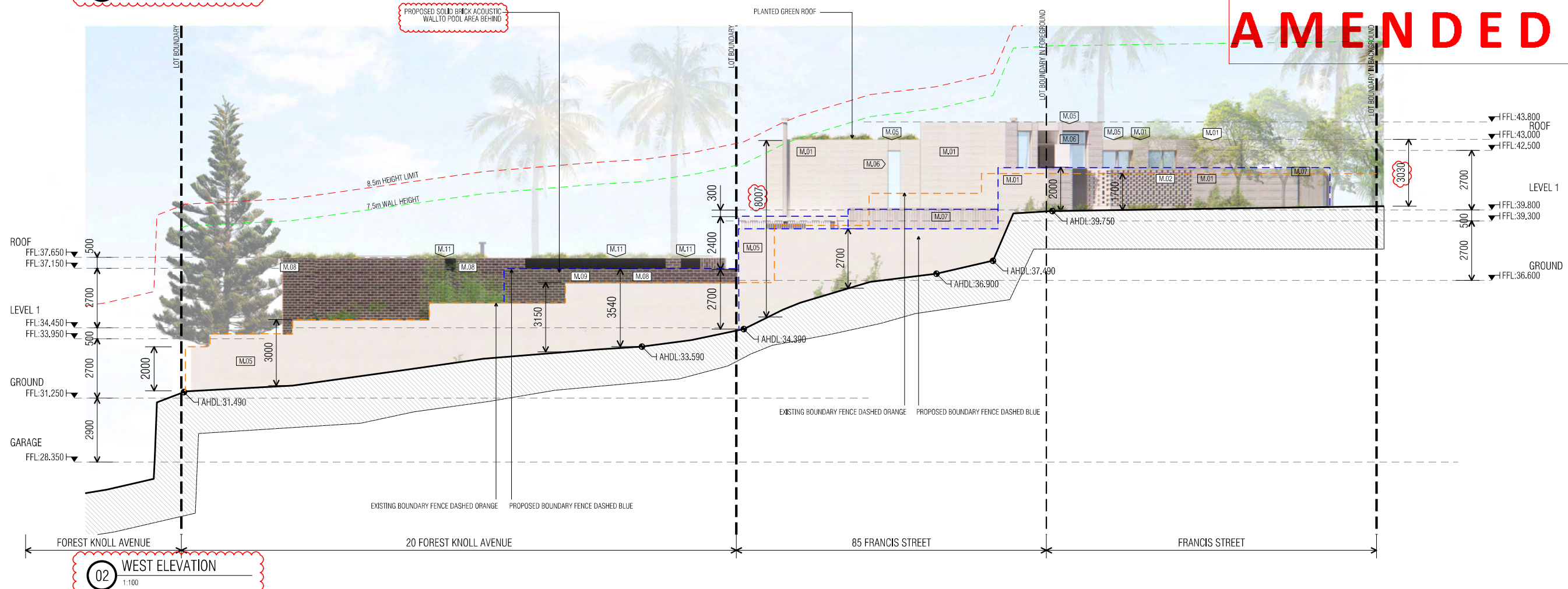




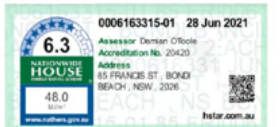
#### MATERIAL LEGEND

M.01 LIGHT COLOURED MASONRY WALL	M.08 DARK COLOURED MASONRY WALL
M.02 LIGHT COLOURED HIT AND MISS MASONRY WALL	M.09 DARK COLOURED HIT AND MISS MASONRY WALL
M.03 LIGHT COLOURED ALUMINIUM SCREENS	M.10 DARK ALUMINIUM SCREENS
M.04 LIGHT COLOURED METAL CLADDING	M.11 DARK COLOURED METAL CLADDING
M.05 LIGHT TONE CONCRETE	M.12 DARK ALUMINIUM WINDOW FRAMES WITH CLEAR GLAZING
M.06 LIGHT COLOURED WINDOW FRAMES WITH CLEAR GLAZING	M.13 NATURAL SANDSTONE CLAD WALL / FENCE
M.07 LIGHT STAINED / PAINTED TIMBER PALING FENCE	M.14 NATURAL SANDSTONE ROCK FACE

**AMENDED PLANS**



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**Waverley Council**  
 Application No: DA-313/2021  
 Date Received: 01/02/2022



**BONDI HOUSES**  
 20 FOREST KNOLL AVENUE, BONDI BEACH, NSW  
 85 FRANCIS STREET, BONDI BEACH, NSW

**ELEVATIONS**  
 DA 201 | REV01

1:100 @ A1  
 1:200 @ A3  
 JANUARY 2022

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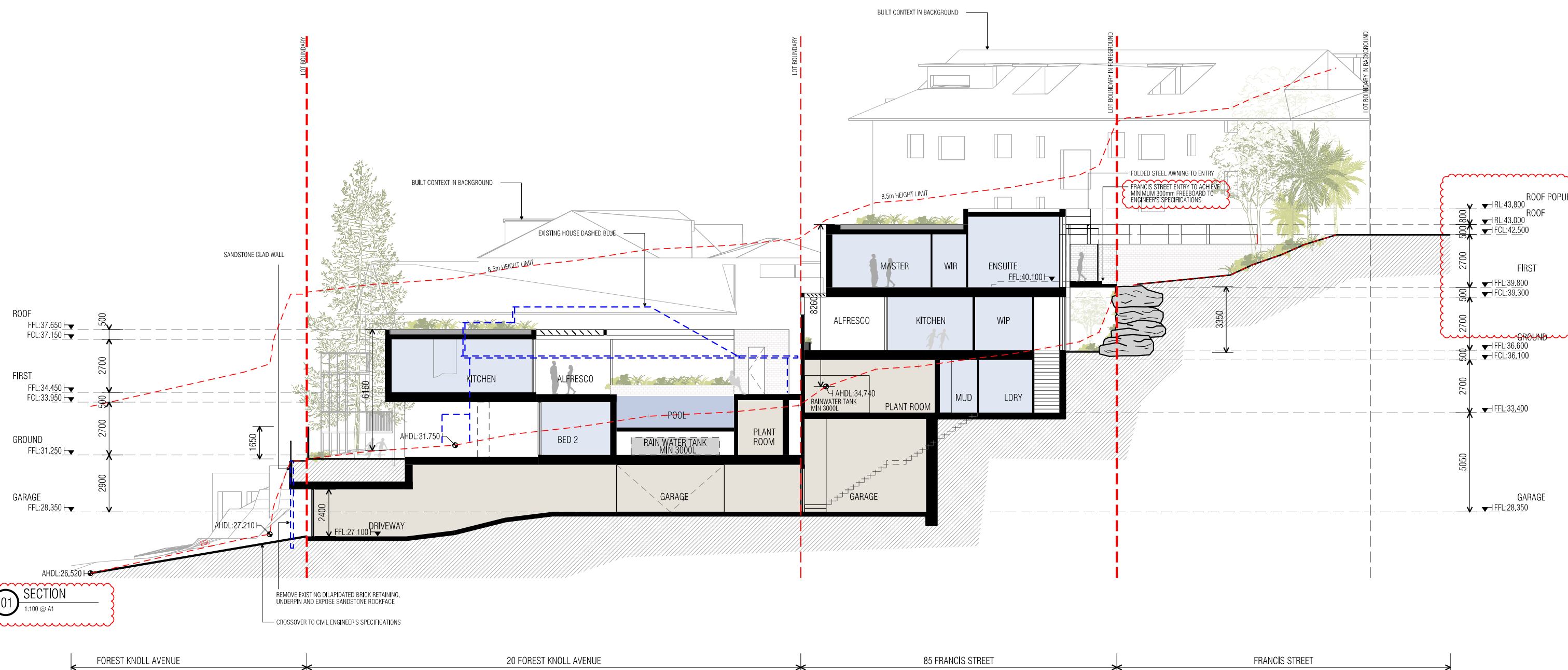
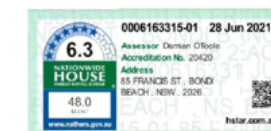


# AMENDED PLANS

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Waverley Council

Application No: DA-313/2021

Date Received: 01/02/2022



**BONDI HOUSES**  
20 FOREST KNOLL AVENUE, BONDI BEACH, NSW  
85 FRANCIS STREET, BONDI BEACH, NSW

SECTIONS  
DA 300 | REV01

1:100 @ A1  
1:200 @ A3  
JANUARY 2022

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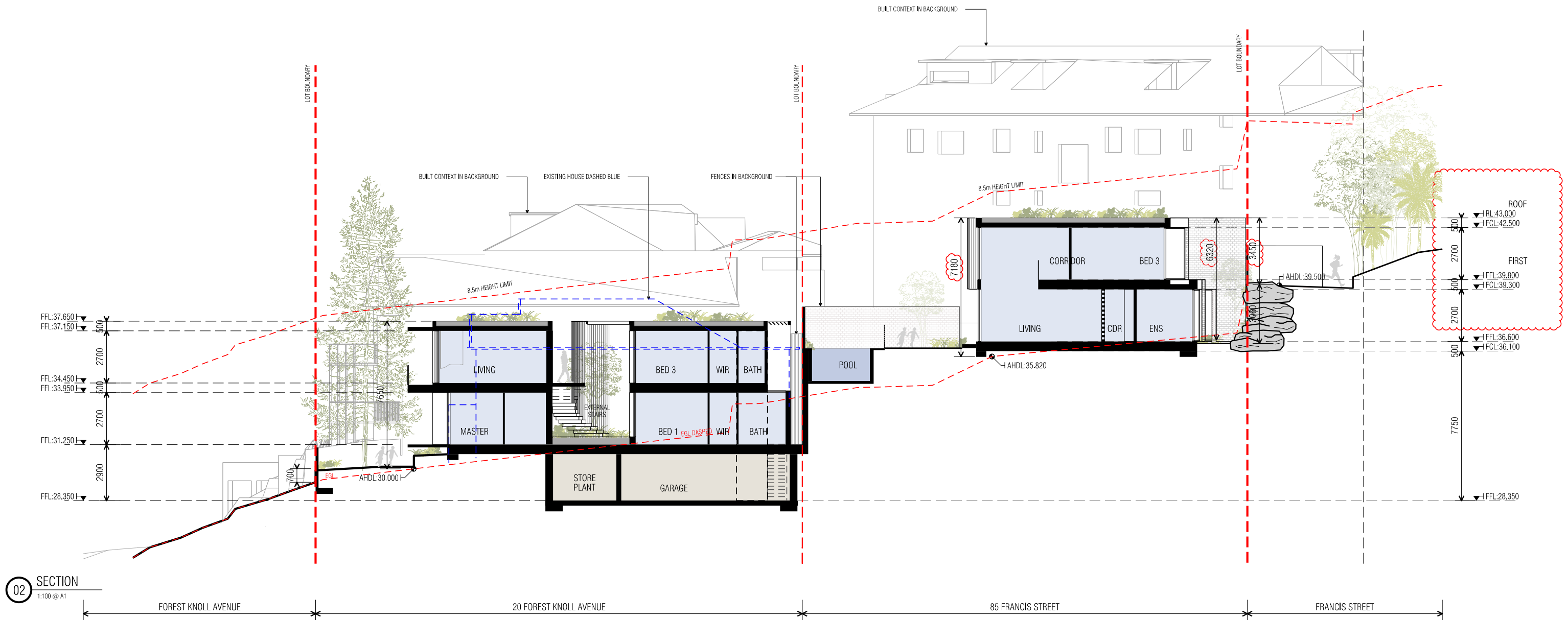
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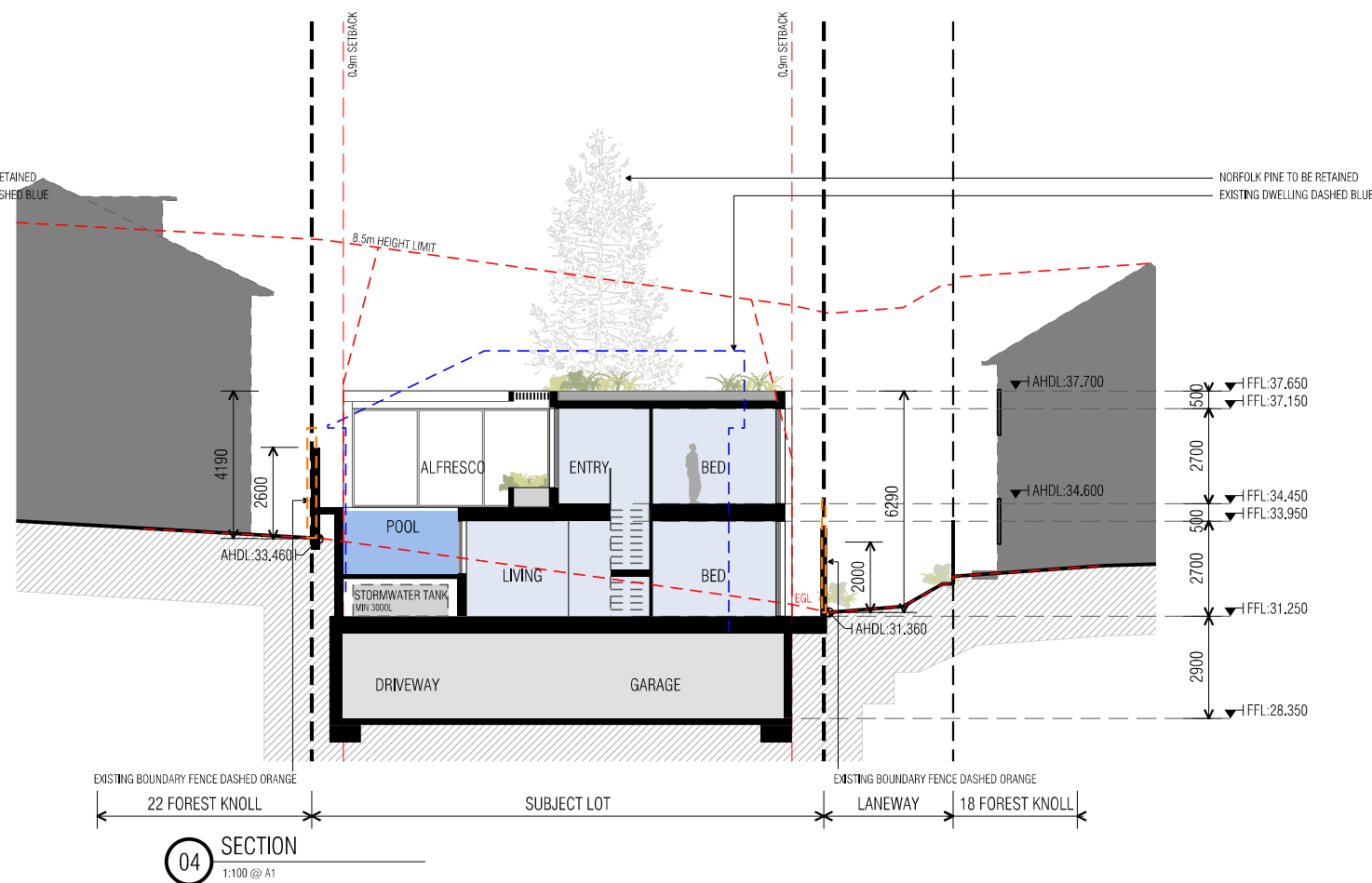
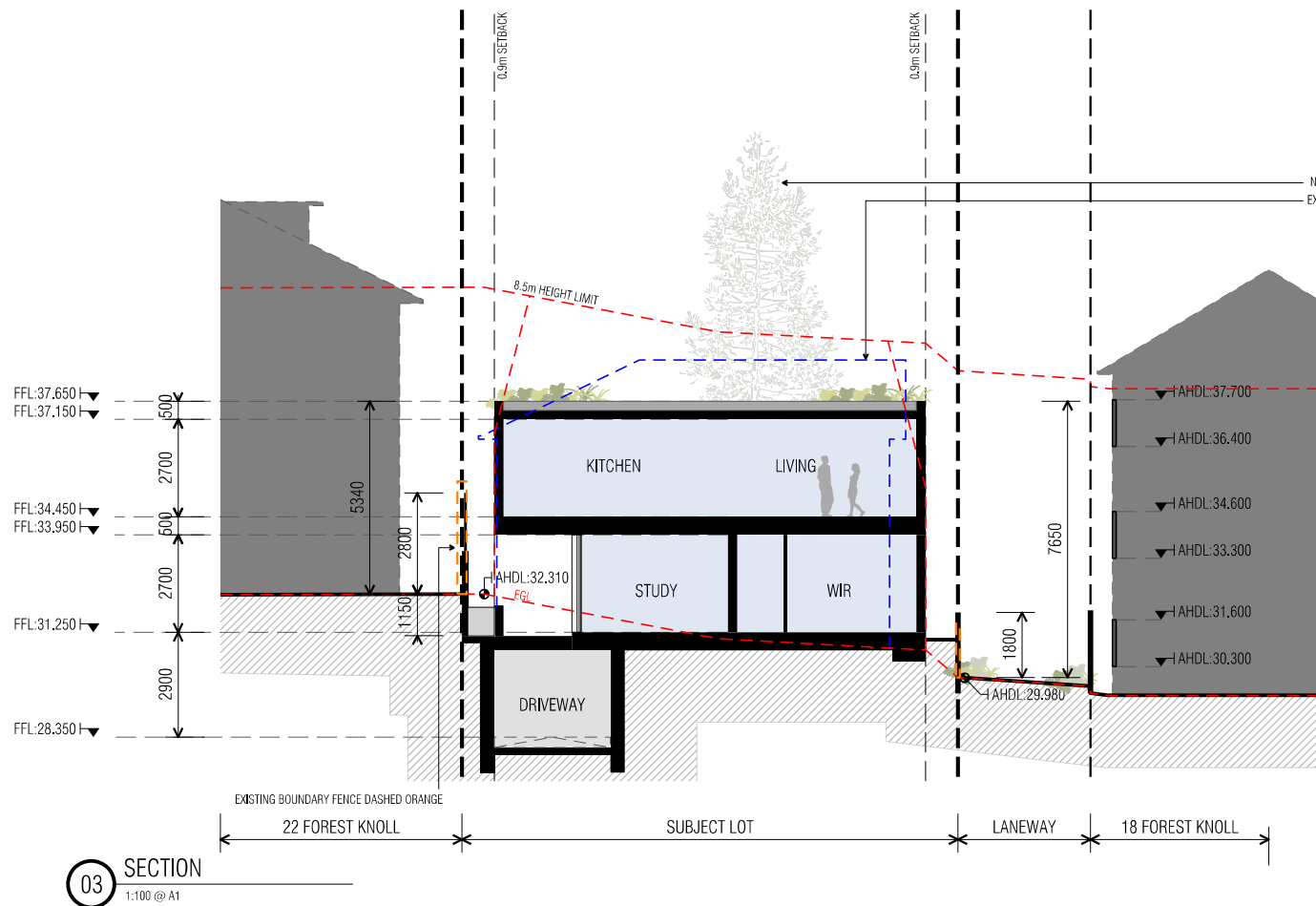
# AMENDED PLANS

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Waverley Council

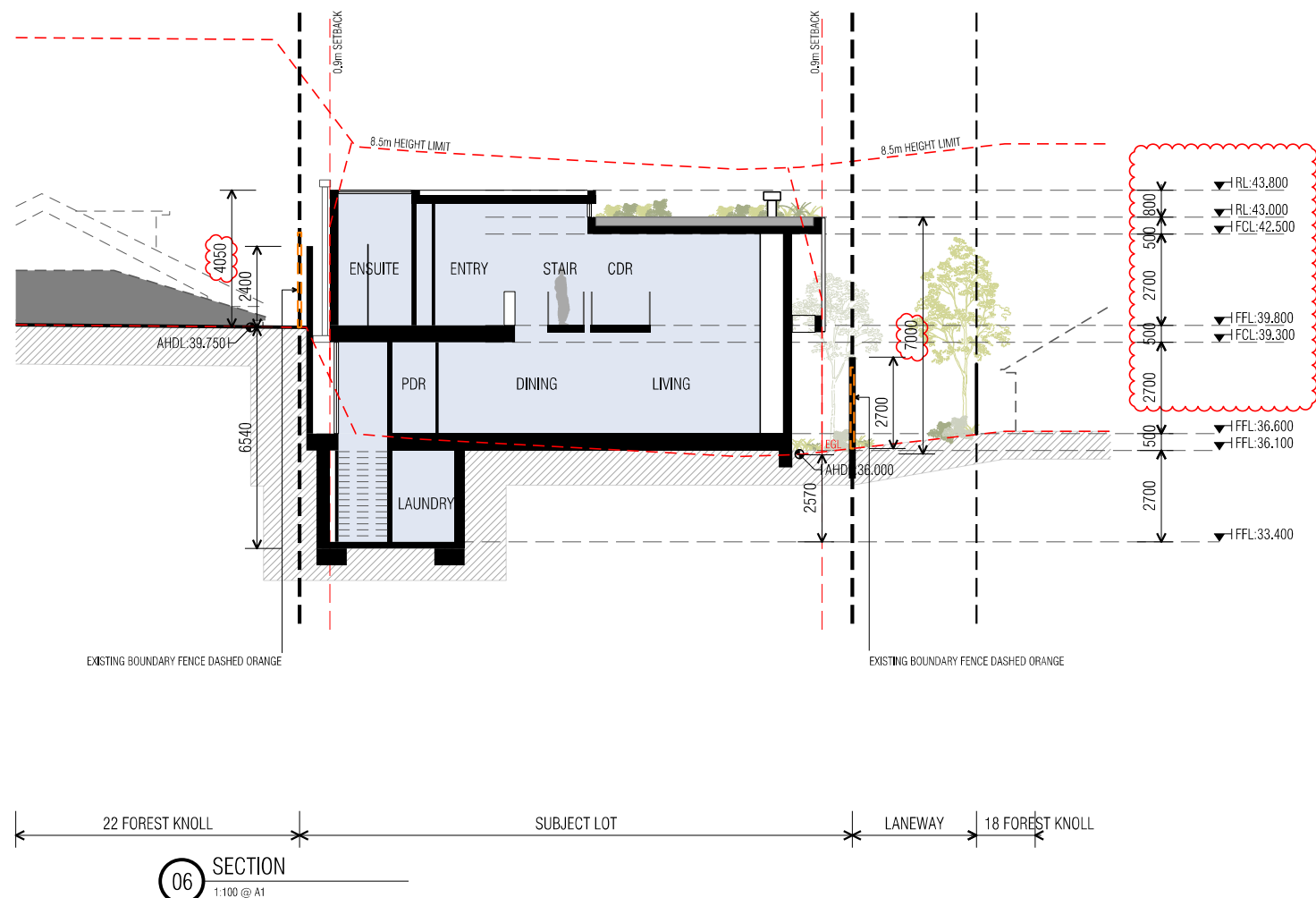
Application No: DA-313/2021

Date Received: 01/02/2022





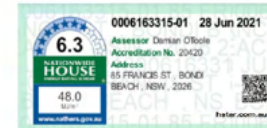
# AMENDED PLANS



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**Waverley Council**

Application No: DA-313/2021

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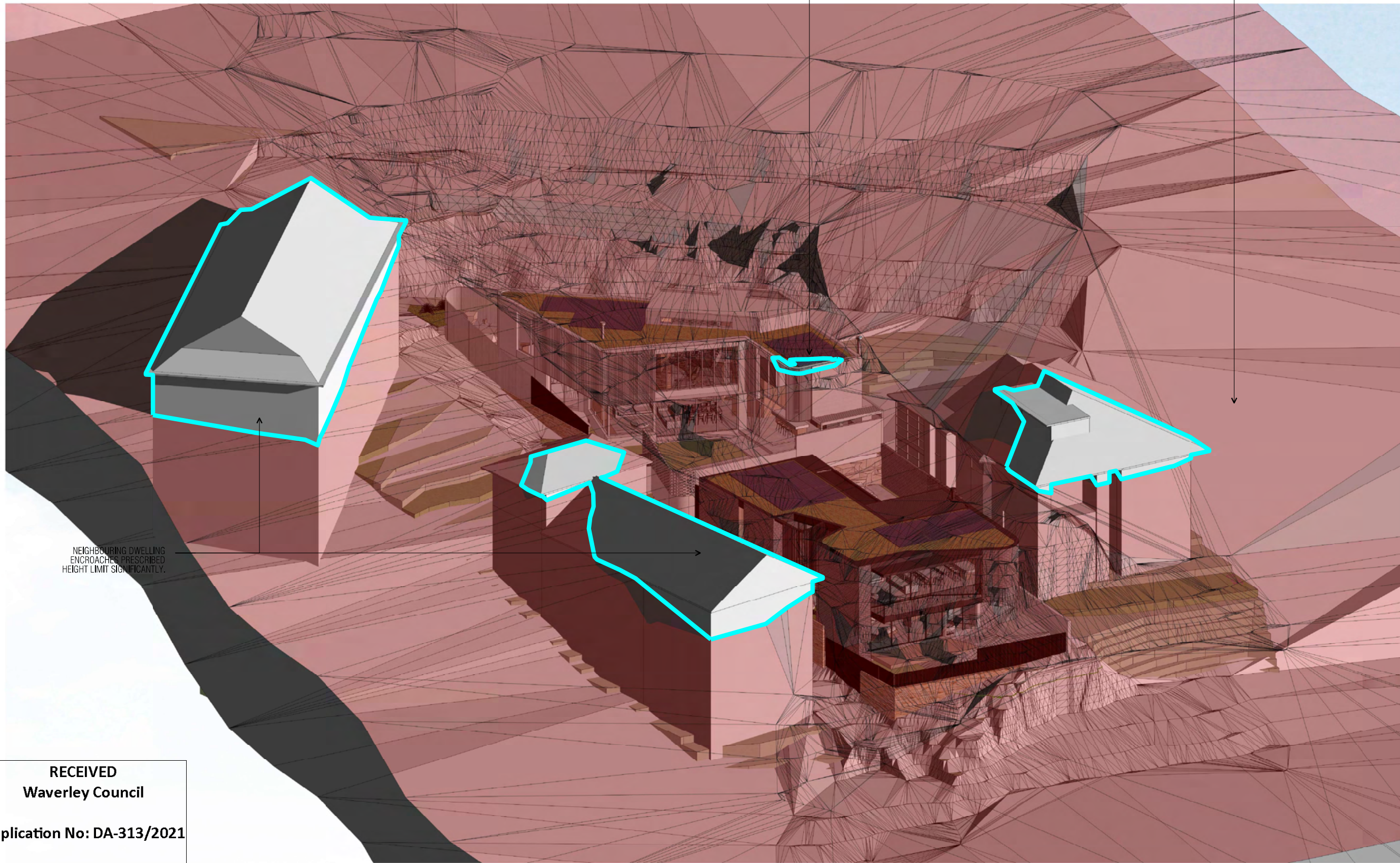


# AMENDED PLANS

PROPOSED DWELLING ONLY PROTRUDES FROM THE HEIGHT LIMIT FOR A SMALL PORTION OF THE REAR UNIT (UNIT FACING FRANCIS STREET) AND THIS IS ONLY DUE TO SITE TOPOGRAPHY AND UNEVEN LAND FALL ACROSS THE SITE.

ADDITIONALLY, THE HEIGHT LIMIT DEPARTURE IS TOWARDS THE CENTRE OF THE SITE AND FORMS PART OF A CANTILEVERING VOLUME LEAVING VISUAL BULK MINOR COMPATIVELY.

NEIGHBOURING DWELLINGS PROVIDE STRONG CONTEXTUAL BASIS FOR ENCROACHING HEIGHT LIMIT.



NEIGHBOURING DWELLING ENCROACHES PRESCRIBED HEIGHT LIMIT SIGNIFICANTLY.

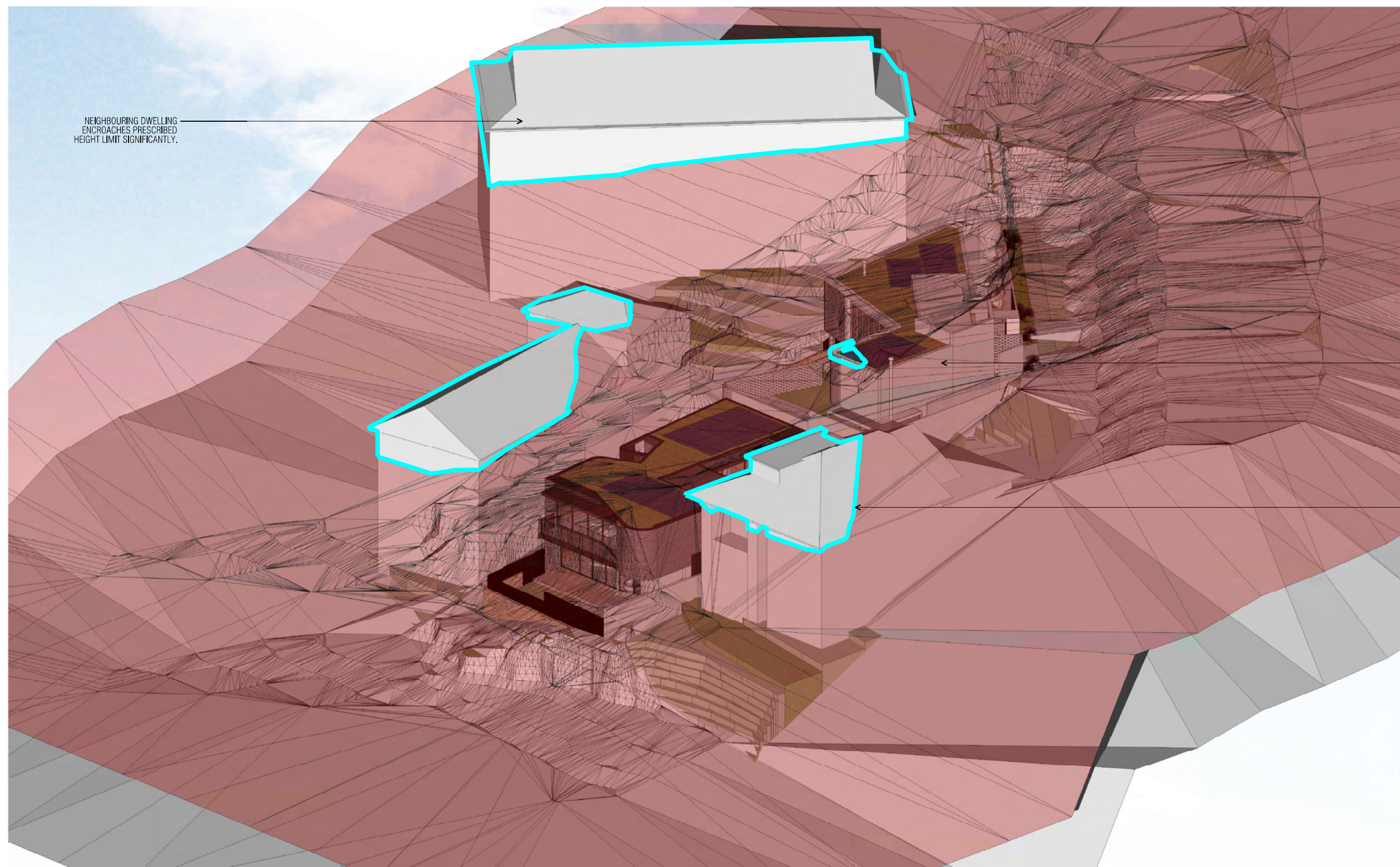
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Waverley Council

Application No: DA-313/2021

Date Received: 01/02/2022



# AMENDED PLANS



MINOR ENCROACHMENT INTO  
HEIGHT LIMIT IN LINE WITH  
SURROUNDING CONTEXT.

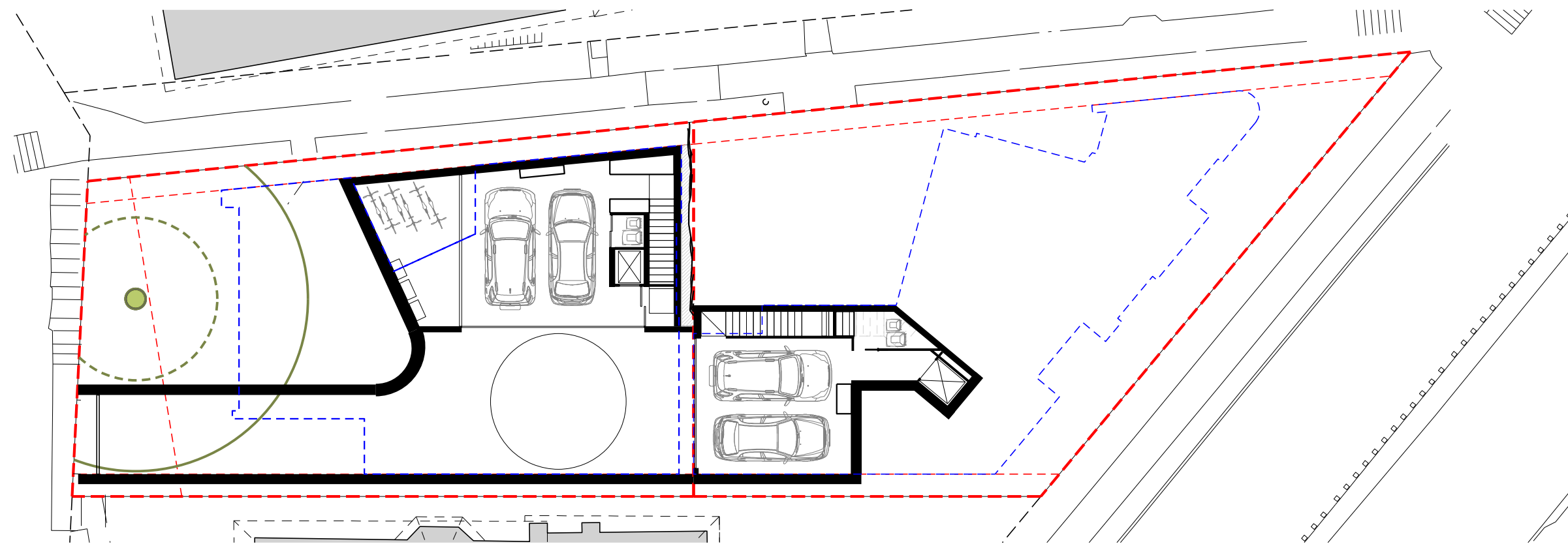
NEIGHBOURING DWELLING  
ENCROACHES PRESCRIBED  
HEIGHT LIMIT SIGNIFICANTLY.

RECEIVED  
Waverley Council

Application No: DA-313/2021

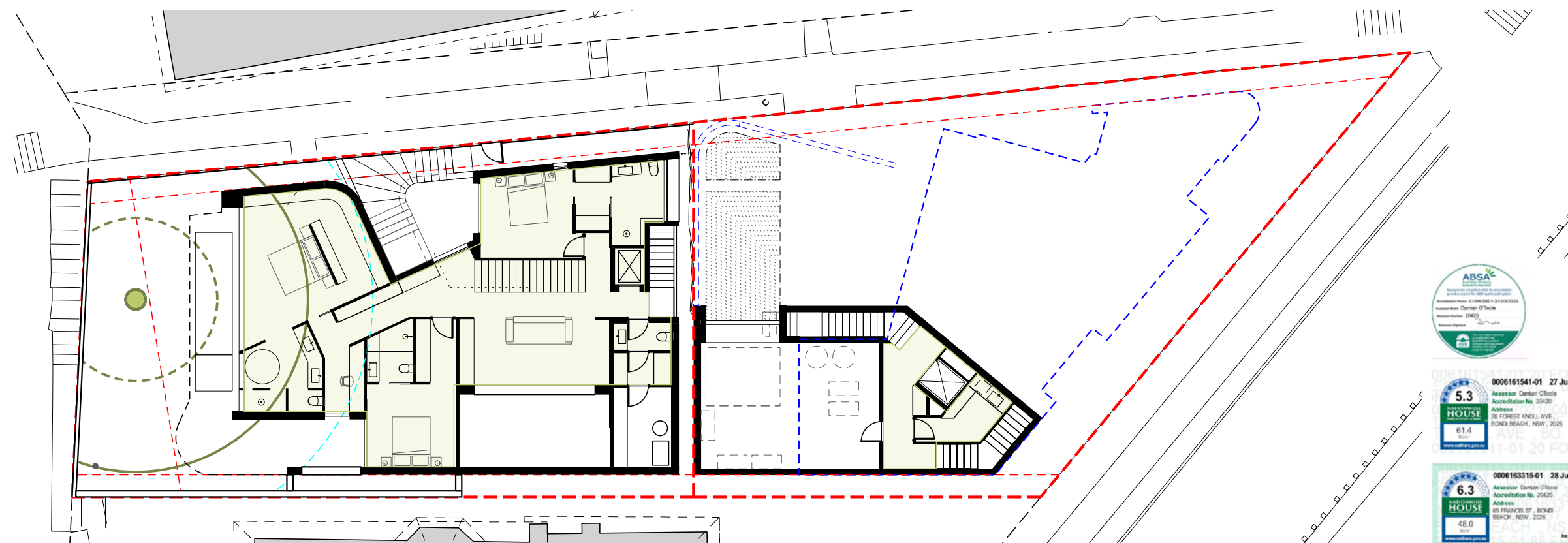
Date Received: 01/02/2022





01 20 FOREST KNOLL - GARAGE

02 85 FRANCIS STREET - GARAGE



03 20 FOREST KNOLL - LEVEL GROUND

04 85 FRANCIS STREET - BASEMENT

#### AREA SCHEDULE

##### 85 Francis Street

Open Space (sqm)	159.21
Open Space (%)	46%
Open Space within Front Setback (%)	91%
Landscape Area within Front Setback (%)	85%
Private Open Space	109.5
Landscape Area (sqm)	104.4
Landscape Area (%)	30%

Site Area 347.6

##### 20 Forest Knoll Avenue

Open Space (sqm)	178.90
Open Space (%)	51%
Open Space within Front Setback (%)	100%
Landscape Area within Front Setback (%)	88%
Landscape Area (sqm)	111.3
Landscape Area (%)	32%
Private Open Space	114.2

Site Area 347.6

#### AREA SCHEDULE

##### 20 Forest Knoll Avenue

Level - Garage	74.6
Level G - Lower Ground	140.6
Level 01 - First Floor	110.4
<b>Total GFA</b>	<b>251.0</b>
<b>Allowable GFA</b>	<b>251.2</b>
<b>Area over max.GFA</b>	<b>-0.2</b>
<b>Actual Plot Ratio</b>	<b>0.722</b>
<b>Required Plot Ratio</b>	<b>0.723</b>
Site Area	695.2

#### AREA SCHEDULE

##### 85 Francis Street

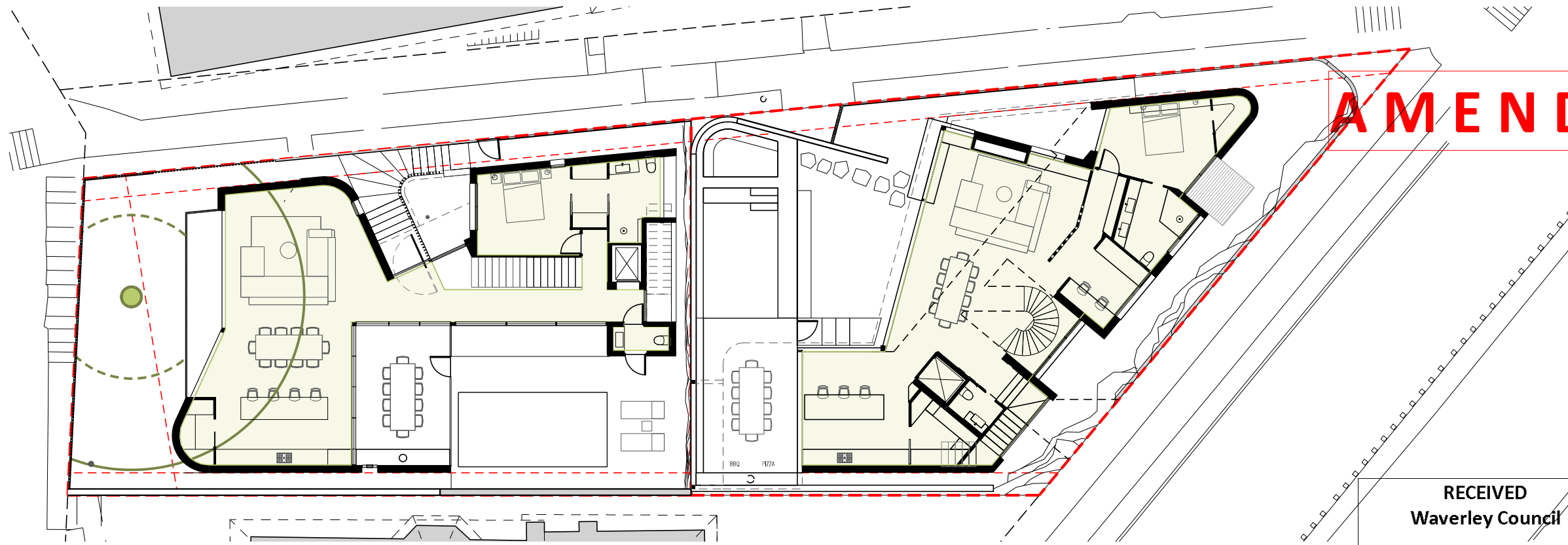
Level Garage	64.0
Level 00 - Basement	15.0
Level G - Lower Ground	131.3
Level 01 - First Floor	103.2
<b>Total GFA</b>	<b>249.5</b>
<b>Allowable GFA</b>	<b>251.2</b>
<b>Area over max.GFA</b>	<b>-1.7</b>
<b>Actual Plot Ratio</b>	<b>0.718</b>
<b>Required Plot Ratio</b>	<b>0.723</b>
Total Site Area	695.2



AMENDED PLANS



# AMENDED PLANS



01 20 FOREST KNOLL - LEVEL 1

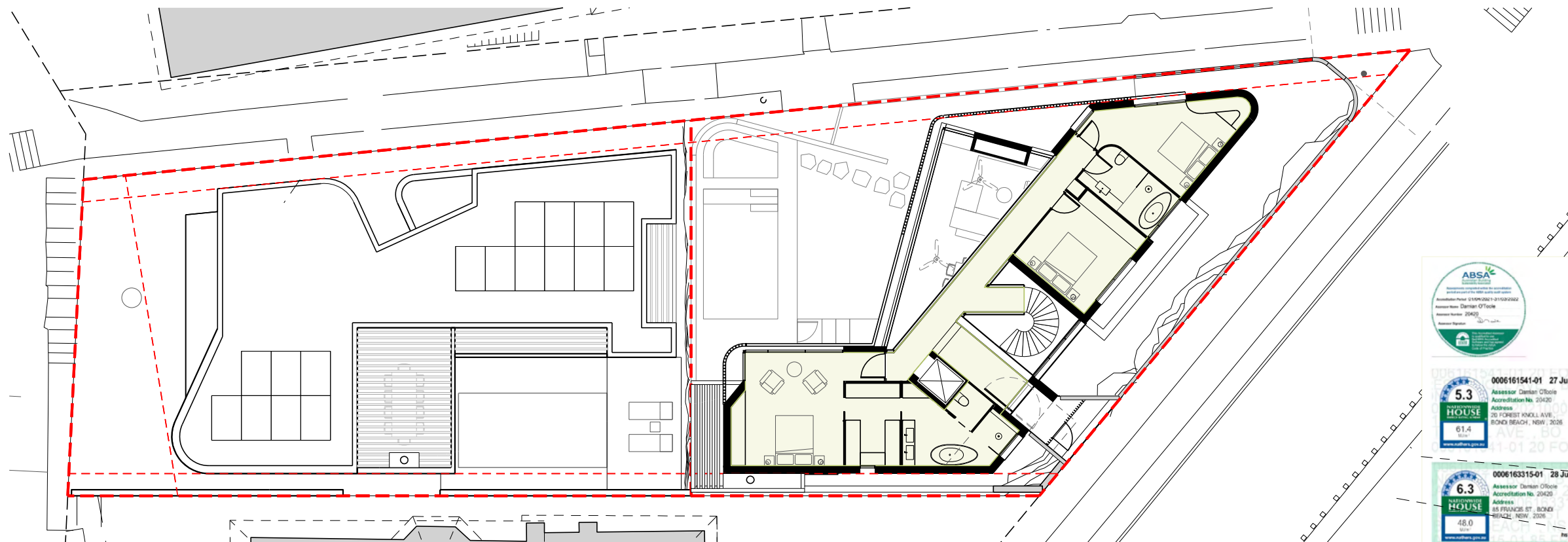
02 85 FRANCIS STREET - LEVEL GROUND

RECEIVED  
Waverley Council  
Application No: DA-313/2021  
Date Received: 01/02/2022

## AREA SCHEDULE

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Open Space (sqm)	159.21
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Open Space within Front Setback (%)	91%
Landscape Area within Front Setback (%)	85%
Private Open Space	109.5
Landscape Area (sqm)	104.4
Landscape Area (%)	30%
<b>Site Area</b>	<b>347.6</b>

<b>20 Forest Knoll Avenue</b>	
Open Space (sqm)	178.90
Open Space (%)	51%
Open Space within Front Setback (%)	100%
Landscape Area within Front Setback (%)	88%
Landscape Area (sqm)	111.3
Landscape Area (%)	32%
Private Open Space	114.2
<b>Site Area</b>	<b>347.6</b>



03 20 FOREST KNOLL - ROOF

04 85 FRANCIS STREET - LEVEL 1

## AREA SCHEDULE

<b>20 Forest Knoll Avenue</b>	
Level - Garage	74.6
Level G - Lower Ground	140.6
Level 01 - First Floor	110.4
<b>Total GFA</b>	<b>251.0</b>
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<b>Area over max.GFA</b>	<b>-1.7</b>
<b>Actual Plot Ratio</b>	<b>0.718</b>
<b>Required Plot Ratio</b>	<b>0.723</b>
<b>Total Site Area</b>	<b>695.2</b>







## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-413/2021
<b>Site address</b>	5 Kenneth Street, TAMARAMA
<b>Proposal</b>	Alterations and additions to an existing Residential Flat Building including additions at each floor level, new upper storey addition, landscaping works, a new swimming pool and strata plan
<b>Date of lodgement</b>	30 September 2021
<b>Owner</b>	Proprietors of Strata Plan 16101
<b>Applicant</b>	David Mitchell Architects
<b>Submissions</b>	12 submissions of objection, plus 3 letters of support
<b>Cost of works</b>	\$3,267,00.00
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• View Impacts</li> <li>• Side setbacks</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for alterations and additions to an existing Residential Flat Building including additions at each floor level, new upper storey addition, landscaping works, a new swimming pool and strata plan at the site known as 5 Kenneth Street, TAMARAMA.

The principal issues arising from the assessment of the application are as follows:

- View impacts
- Side setbacks
- Front fence height

The assessment finds these issues acceptable on balance as the development has been designed as a conservative built form in relation to the adjacent buildings on either side.

A total number of 12 submissions of objection were received (plus 3 letters of support) and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 25 October 2021.

The site is identified as SP 16101, known as 5 Kenneth Street, TAMARAMA.

The site is a regular shaped allotment with a 12.19m frontage to the southern side of Kenneth Street and an area of 561.9m<sup>2</sup>. The site is occupied by a part 1 part 2 storey residential flat building containing 3 owner occupied dwellings. A double garage is located on the Kenneth Street frontage.

The site falls from the front (north) boundary to the rear (south) by approximately 6.8m.

Adjoining to the east is a part 2 part 3 storey residential flat building containing 6 dwellings. To the west is a part 3 part 4 storey residential flat building containing 7 dwellings.

Opposite the site to the north are dwelling houses, a dual occupancy and residential flat buildings.



Figures 1 to 8 are photos of the site and its context.



**Figure 1: Subject site as viewed from Kenneth Street**



**Figure 2: Subject site as viewed from Kenneth Street showing No. 3 Kenneth St immediately to the west**



**Figure 3: Subject site as viewed from Kenneth Street**



**Figure 4: No. 7 Kenneth Street immediately to the east of the subject site**



**Figure 5: Streetscape context showing 12, 14 and 16 Kenneth Street to the north of the subject site**



**Figure 6: Rear of subject site looking north**



**Figure 7: No. 7 Kenneth Street as viewed from the rear of the subject site**



**Figure 8: No. 3 Kenneth Street as viewed from the rear of the subject site**

### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- DA-161/2011 - Demolition of existing building and construction of part 2, part 4 storey residential flat building containing four units, basement parking for eight cars and strata subdivision, approved by the Land and Environment Court on 17 June 2013. This consent was never enacted upon and has since lapsed.

### 1.4. Proposal

The development application seeks consent for alterations and additions to a residential flat building, specifically the following:

- Substantial demolition of the lower ground level unit and storage area;
- Construction of a unit including 2 bedrooms, 1 bathroom, a kitchen and dining room, outdoor terrace, and underground swimming pool;
- Extension of the ground floor unit to include 1 bedroom, 1 bathroom, kitchen, living room, dining room, north facing courtyard and a south facing balcony;
- An undercover courtyard/clothes drying area is proposed underneath the existing garage for access to the unit on the first floor;
- Extension of the first floor to include 3 bedrooms, 2 bathrooms, a study, a 2 balconies;
- Reconstruct the entrance to provide Unit 2 with a separate entrance on the eastern side;
- Construction of an attic level within the proposed roof form to include a kitchen, living room and south facing balcony; and
- Reconstruction of front fence and roof over existing garage.

### 1.5. Background

The development application was lodged on 30 September 2021 and deferred on 2 November 2021 for the following reasons:

1. **Floor Space Ratio:** The FSR calculated by the application was incorrect and needed additional clarification. Amended plans were sought, or a clause 4.6 written request to vary the development standard.
2. **View Loss:** A view impact assessment was requested for multiple properties that were likely to be impacted.
3. **Visual and Acoustic Privacy:** Additional information was sought for the south facing balconies and the potential overlooking impacts to the neighbouring properties.
4. **Attic and Roof Design:** A response against Part C3.6 *Attic and Roof Design* of the Waverley Development Control Plan 2012 (Waverley DCP 2012) was requested to enable a full assessment.
5. **Waste:** The proposed waste storage was not appropriate for the number of units.
6. **Front Fence:** The style and design of the front fence was not in keeping with the character of the area.
7. **Pedestrian Access and Entry:** The pedestrian access for Unit 3 was inappropriate and undesirable for a new entrance.
8. **Solar Access:** A response to Part C3.13 *Solar Access* of the Waverley DCP 2012 was requested to enable a full assessment.
9. **Missing/Incorrect Information:** Additional information was sought with regard to the information provided within the SEE in relation to Part C3 of the Waverley DCP.

On 9 February 2022, additional information was submitted, including the following documents and architectural amendments:

- The total GFA on site was reduced to comply with the maximum FSR allowed on site;
- A view impact assessment was submitted with the application;
- Additional information was provided on the plan regarding overlooking to neighbouring properties;
- The SEE was updated to include a response to all parts of Part C3 of the Waverley DCP 2012;
- The bin storage area was amended, along with the style and design of the front fence; and
- The pedestrian entrance for Unit 3 was amended.

On 23 February 2022, a further set of amended architectural plans were submitted to provide for the minimum required number of bins on site and the GFA was slightly reduced on Level 2.

The plans submitted on 9 February and 23 February 2022 form the basis of this report.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. 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. State Environmental Planning Policies (SEPPs)

The following SEPPs apply and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP 55 Remediation of Land.
- SEPP (Coastal Management) 2018.

A detailed discussion is provided for relevant SEPP as follows:

#### *SEPP (Coastal Management) 2018*

SEPP Coastal Management applies to the subject site as it is wholly located within the Coastal Environment Area (i.e. defined by clause 13) and a Coastal Use Area (i.e. defined by clause 14) .

Clause 13 of the SEPP states that development within the Coastal Environment Area must not be granted development consent unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the matters for consideration outlined in **Table 1** of this report.

**Table 1: Clause 13 of SEPP (Coastal Management) 2018 Matters for Consideration Table**

Matters for consideration	Compliance
<i>(a) has considered whether the proposed development is likely to cause an adverse impact on the following:</i>	
<i>(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	The development will have no adverse impact on safe access to such locations.
<i>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</i>	There will be no adverse effect on views, overshadowing, and wind funnelling from public places to the foreshore.
<i>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</i>	The proposed development will not impact on the visual amenity or scenic qualities of the coastal headland.
<i>(iv) Aboriginal cultural heritage, practices and places,</i>	The site has already been disturbed by the existing development and use, therefore it is unlikely that any Aboriginal cultural heritage items or places will be impact as a result of the proposal.
<i>(v) cultural and built environment heritage, and</i>	The development is not listed as a heritage item, located within a conservation area or located in close proximity to either.
<i>(b) is satisfied that:</i>	



Matters for consideration	Compliance
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	The development has been designed and sited to avoid adverse impacts, as outlined within this assessment report.
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	As above.
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	As above.
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	The proposed development is appropriate for the lot.

Clause 15 states that *development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

Planners Comment: The proposed development is not anticipated to cause increased risk of coastal hazards on the subject site or surrounding land, as outlined within this report. The development has been reviewed by Council's public domain officer who is satisfied that the proposal will not impact on the coastal zone in relation to risk of hazards.

### 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 2: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The development is consistent with the aims of the plan
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R3 medium density residential Zone	Yes	The proposal is defined as multi dwelling house, which is permitted with consent in the R3 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>9.5m</li> </ul>	Yes	The application proposes an overall height of 9.5m measuring from the existing floor level (25.23AHD) to the top of the ridge (34.73AHD). This has been checked against the survey plan provided and is correct.

Provision	Compliance	Comment
4.4 Floor space ratio <ul style="list-style-type: none"> <li>0.6:1 or 337.1m<sup>2</sup></li> </ul>	Yes	The development proposes an FSR of 0.6:1, which complies with the development standard.
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulfate soils	Yes	The site contains 'Class 5' acid sulfate soils. The site is located greater than 500m from land known as containing Classes 1, 2, 3 or 4 acid sulfate soils. The proposal does not involve excavation deeper than 5m below AHD. Therefore, the proposed development is not expected to disturb or expose acid sulfate soils.
6.2 Earthworks	Yes	Some excavation works are proposed to accommodate the proposed development; the extent of excavation would not warrant geotechnical investigation. Appropriate conditions of consent are recommended to ensure excavation works do not unduly disturb neighbouring properties and the public domain.

### 2.1.3. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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

**Table 3: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory. A Site Waste Management Plan was submitted.
2. Ecologically Sustainable Development	Yes	Satisfactory. A BASIX certificate was submitted.
3. Landscaping and Biodiversity	Yes subject to conditions	Council's Biodiversity officer has reviewed the landscape plan and requested amendments to provide for 50% indigenous or local native plants. This has been recommended as a condition of consent.
4. Coastal Risk Management	Yes	Satisfactory. The development will have no adverse impact on the coastal risk management of the area.
5. Vegetation Preservation	Yes	Council's tree management officer has reviewed the design and raised no issues with the proposed tree removal on site.
6. Stormwater	Yes	Satisfactory. Refer to section 3 of this report on referral commentary in relation to stormwater.
7. Accessibility and Adaptability	Yes	Satisfactory.

Development Control	Compliance	Comment
12. Design Excellence	Yes	Satisfactory.
14. Excavation	Yes	The excavation located under the existing garage has been proposed as a “drying area” for Unit 2. However, this area is completely undercover and enclosed with open louvres on each side. This area is highly unlikely to provide an adequate clothes drying area and is not located near the laundry of Unit 2, or on the same level as Unit 2. Furthermore, this space will result in privacy impacts to the courtyard of Unit 1 (as discussed later in this report). The space will result in unnecessary excavation on site that does not provide any benefit and it is recommended that this space be removed from the plans as a condition of consent.

**Table 4: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>3.1 Site, scale and frontage</b>		
<ul style="list-style-type: none"> <li>Minimum frontage: 15m – R3 zone</li> </ul>	Acceptable	The site maintains a frontage of 12.19m, which does not comply with this control. In support of this non-compliance, it is noted that the subject site already contains 3 units and the development proposes to maintain 3 units on site. The redevelopment of the existing 3 units on site will not result in site isolation and is considered acceptable in this instance.
<b>3.2 Height</b>		
<ul style="list-style-type: none"> <li>Maximum external wall height: 7m</li> </ul>	Acceptable	The development proposes a maximum external wall height of 8.7m at its highest point. This is a direct result of the natural slope of the land. In context with the two adjacent properties on either side, the proposed building will sit lower than both built forms and will sit compatibly within the street. From the street, the building is viewed as a two storey dwelling. The non-compliance is limited to the middle section of the building. The non-compliant external wall height will not impact on overshadowing or visual bulk to the building and is considered acceptable in this instance.
<b>3.3 Setbacks</b>		
<b>3.3.1 - Street setbacks</b> <ul style="list-style-type: none"> <li>Consistent street setback</li> </ul>	Yes	The development proposes a front setback of 7.3m, which is more than that of the two adjacent buildings on either side.
<b>3.3.2- Side and rear setbacks</b> <ul style="list-style-type: none"> <li>Minimum side setback: 1.5m</li> </ul>	Acceptable	Level 1 proposes side setbacks measuring 2.1m and 1.6m, which complies with the control.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback</li> <li>Deep soil along side boundary min 2m wide</li> </ul>		<p>The extension of the ground level proposes side setbacks of 1.3m to the east and 2.1m to the west, with a 1.1m setback for the western window splay. Whilst the majority of the ground floor setbacks comply with the control, the window splay for W10 has been designed to break up the solid wall and provide visual interest. The non-compliance of the setback will not result in additional overshadowing or view impacts to the neighbouring properties and is therefore considered acceptable.</p> <p>The lower ground floor proposes setbacks measuring 1.3m and 1.1m on either side to match that of the level above. As this level is located on the ground floor and will not impact on overlooking, overshadowing, or views, it is considered acceptable.</p> <p>The building proposes to sit slightly further towards the rear when compared to the existing building on site. The setback has been proposed as a stepped approach between No. 3 and 7 Kenneth Street. Each level is then set further back to step down in line with the natural slope of the land. In the context of the surrounding area, the proposed rear setback is conservative in relation to the existing surrounding development and is acceptable.</p> <p>A deep soil strip is proposed along the eastern side boundary with a width of 1.3m. Whilst this does not comply with the 2m minimum stipulated within the control, it is noted that the development is utilising the existing setbacks and it is an improvement from the existing landscaping on site.</p>
<b>3.4 Length and depth of buildings</b>		
<ul style="list-style-type: none"> <li>Maximum building length: 24m</li> <li>Façade to be articulated</li> <li>Maximum unit depth: 18m</li> </ul>	Yes	<p>The development proposes a maximum building length of 9.3m, which complies with the control.</p> <p>The façade has been designed to be well articulated and sits compatibly within the street.</p> <p>The maximum unit depth on site is 12m and complies with the control.</p>
<b>3.5 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> </ul>	Yes	<p>The building has been designed as a single storey with attic above as viewed from the streetscape. This results in the streetscape view of a maximum</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Corner sites to address both streets as primary frontages</li> <li>Removal of original architectural features not supported.</li> </ul>		2 storey built form. The majority of the built form is located in the rear as the natural land slopes down. From the street, the development will be viewed as a conservative design in comparison to the residential flat buildings along the southern side of Kenneth Street.
<b>3.6 Attic and roof design</b>		
<ul style="list-style-type: none"> <li>Attic must be wholly within the pitched roof form</li> <li>Not exceed 50% of the floor area of the floor below</li> <li>Not contain independent dwellings and must be accessed via internal stairs</li> <li>Be naturally ventilated</li> <li>Minimum room width: 3m</li> <li>Minimum floor to ceiling height for at least 2/3 of the floor area: 2.4m</li> </ul>	Yes	<p>The second floor has been designed as an attic level addition that is built into the roof design. The attic level is located wholly within the roof form and does not exceed 50% of the floor area of the floor below.</p> <p>The attic is accessed via internal stairs from Unit 2 on the level below and is naturally ventilated through the south facing balcony.</p> <p>The attic level complies with the minimum room widths and floor to ceiling heights stipulated in this control.</p>
<b>3.7 Fences and walls</b>		
<p><i>Front fence:</i></p> <ul style="list-style-type: none"> <li>Maximum height 1.2m</li> <li>Maximum 2/3 solid</li> <li>Maximum height of 1.8m and solid when secondary wall set within property if required for traffic noise</li> </ul> <p><i>Side fence:</i></p> <ul style="list-style-type: none"> <li>Maximum height: 1.8m</li> </ul> <p><i>Rear fence:</i></p> <ul style="list-style-type: none"> <li>Maximum height: 1.8m</li> </ul>	Acceptable	<p>The front fence is proposed to be reconstructed to the same height as the existing front fence on site, which is 2.1m. Whilst this does not strictly comply with the numerical control, it is noted that front fences along the southern side of Kenneth Street maintain similar front fence heights. The streetscape is characterised by garages along the front boundary and high front fencing. The proposal is in keeping with that character and the redesign of the front fence sit in context with the existing character.</p> <p>No change is proposed to the side or rear boundary fencing.</p>
<b>3.8 Pedestrian access and entry</b>		
<ul style="list-style-type: none"> <li>Entry at street level and respond to pattern within the street</li> <li>Accessible entry</li> <li>Separate to vehicular entry</li> <li>Legible, safe, well-lit</li> </ul>	Yes	The pedestrian access has been designed for Units 1 and 3 to be located along the western boundary and Unit 2 located along the eastern boundary. The access and entrance are clear from the street and provides for a sense of address for each unit.
<b>3.9 Landscaping</b>		
<ul style="list-style-type: none"> <li>Comply with part B3-Landscaping and Biodiversity</li> </ul>	Acceptable	40% of the site is proposed to be dedicated to landscaped area.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>• Minimum of 30% of site area landscaped.</li> <li>• 50% of the above is to be deep soil.</li> </ul>		<p>47% of the landscaped area is proposed as deep soil landscaping, which does not comply with the control by 7.6m<sup>2</sup>. In support of this non-compliance, it is noted that the exiting built form and natural slop of the land limits the opportunities for landscaping on site. In the context of the surrounding area, the extent of deep soil landscaping is compatible with neighbouring properties and is considered acceptable.</p> <p>Council's Biodiversity officer has reviewed the landscape plan and has requested that amendments are made to ensure that 50% of all plants are indigenous or local native in order to comply with Part B3 of the Waverley DCP 2012. This has been recommended as a condition of consent.</p>
<b>3.11 Private Open Space</b>		
<p>3.11.1 – Courtyards</p> <ul style="list-style-type: none"> <li>• Private Courtyards – min 25m<sup>2</sup> area and 3m width and depth</li> <li>• Planting to be provided</li> <li>• Private open space not to be provided at the front, unless a buffer it provided</li> <li>• Max gradient 1 in 10</li> </ul> <p>3.11.2 – Balconies/decks</p> <ul style="list-style-type: none"> <li>• Balcony additions to match the character of the building</li> <li>• Should not dominate the façade</li> <li>• No wrap around balconies</li> <li>• Located to maximise solar access and privacy</li> <li>• Balustrades to allow views and casual surveillance of the street &amp; privacy</li> </ul>	Yes	<p>Unit 1 proposes a courtyard with a total area of 40m<sup>2</sup> and a depth of 4m, which complies with the control. Whilst the courtyard is located at the front of the site, the fact that it sits one level below the street level will result in no overlooking impacts from the public footpath. Furthermore, Unit 1 proposes a balcony on the southern side which will maintain full privacy.</p> <p>The proposed balconies located on the southern side of the development have been designed for maximum views to the Ocean and Tamarama Beach. Whilst they will not receive direct sunlight, it is considered that the outlook from these balconies is a preferred option in this case. For this reason, the balconies comply with the objectives of this control.</p>

Development Control	Compliance	Comment
<b>3.13 Solar access and overshadowing</b>		
<ul style="list-style-type: none"> <li>• New development should maintain at least two hours of sunlight to solar collectors on adjoining properties in mid winter.</li> <li>• Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June.</li> </ul>	Yes	<p>Shadow diagrams have been submitted with the application demonstrating that whilst the proposed building will result in some additional overshadowing, it will mainly cast over solid walls of the neighbouring properties. The development will comply with this control of the DCP.</p> <p>It is noted that the development will not provide direct sunlight to any of the south facing balconies to the subject site which would not comply with the control. In support of this non-compliance, it is noted that the balconies have been designed to gain maximum views to the ocean (similar to nearby properties) and will face the rear, rather than the street. It is considered that this is a preferred outcome and is acceptable for this reason.</p>
<b>3.14 Views and view sharing</b>		
<ul style="list-style-type: none"> <li>• Minimise view loss through design</li> <li>• Landscaping on sites adjacent to a Council park or reserve should be sympathetic to soften the public/private interface.</li> <li>• Views from public spaces to be maintained.</li> </ul>	Acceptable	See discussion below this table.
<b>3.15 Visual privacy and security</b>		
<ul style="list-style-type: none"> <li>• Dwellings to be orientated to the street with entrances and street numbering visible</li> <li>• Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened</li> <li>• Privacy be considered in relation to context density, separation use and design.</li> <li>• Prevent overlooking of more than 50% of private open space of lower level dwellings in same development</li> </ul>	Yes	<p>All units will have entrances to the street with clear, visible numbering.</p> <p>The proposed south facing balconies will have some opportunity for overlooking to the neighbouring properties on either side of the subject site. Whilst this does not technically comply with the control, it is noted that views are obtained across the subject site towards the ocean and Tamarama. It is considered that the view sharing between properties is preferred and some overlooking for this reason is acceptable.</p> <p>The proposed “clothes line/drying area” is located underneath the existing garage and will have exclusive access to Unit 2 above. In order to discount this area as calculable floor space, the applicant has amended the plans to provide open louvres on all sides to appear as an open area. This area will have walls on all sides and a roof covering</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Roof tops are to be non-trafficable, unless there is a predominance of roof terraces in the immediate vicinity of the site.</li> </ul>		<p>the entire area. The space will also have direct views into the private open space of the courtyard to Unit 1 due to the open louvred approach. The area will not receive any direct sunlight and as it is located one level below the ground line at the street, it is unlikely that it will be appropriate for clothes drying/hanging. Furthermore, the area requires unnecessary excavation on site and it is unknown whether this will impact on the stability of the existing garage above. As this area is considered to be completely inappropriate and unnecessary, it is recommended that a condition of consent be imposed to remove this area altogether.</p> <p>Trafficable rooftops are not proposed on this site.</p>
<b>3.16 Dwelling size and layout</b>		
<ul style="list-style-type: none"> <li>Max habitable room depth for single aspect dwelling is 8m from a window</li> <li>Max width of dwelling over 15m deep is min 4m</li> <li>All habitable rooms to have a window</li> <li>Provide a range of dwelling types and sizes</li> <li>Min sizes Studio = 35m<sup>2</sup> 1 bedroom = 50m<sup>2</sup> 2 bedroom = 80m<sup>2</sup> 3 bedroom = 100m<sup>2</sup></li> <li>Flexible design</li> <li>Accessible and Adaptable</li> </ul>	Yes	<p>The maximum width of all units does not exceed 15m and none are single aspect.</p> <p>All habitable rooms will be provided with a window that will allow adequate natural ventilation and daylight.</p> <p>The size of units comply with the control and are as follows:</p> <ul style="list-style-type: none"> <li>Unit 1 (1 bed): 118.85m<sup>2</sup></li> <li>Unit 2 (3 bed): 132m<sup>2</sup></li> <li>Unit 3 (2 bed): 86.1m<sup>2</sup></li> </ul>
<b>3.17 Ceiling Heights</b>		
<ul style="list-style-type: none"> <li>Min 2.7m floor to ceiling height residential floors</li> <li>Min 2.4m floor to ceiling height attic levels</li> </ul>	Yes	The proposed ceiling heights range from 2.75m to 3.6m, which complies with the control.
<b>3.18 Storage</b>		
<p>In addition to kitchen cupboards and bedroom wardrobes, min storage required is:</p> <ul style="list-style-type: none"> <li>Studio and 1 bed = 6m<sup>3</sup></li> <li>2 bed = 8m<sup>3</sup></li> <li>3 or more bed = 10m<sup>3</sup></li> </ul>	Yes Subject to conditions	Whilst the site is more than capable of providing adequate storage on site, this has not been shown on the architectural plans. A condition has been recommended to show the location of storage for each unit in compliance with this control.



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>All to provide bulk storage are in basement or ancillary structure</li> </ul>		
<b>3.19 Acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	The units have been successfully designed to locate noisy areas away from quiet areas.
<b>3.20 Natural Ventilation</b>		
<ul style="list-style-type: none"> <li>All dwellings to be naturally cross-ventilated</li> <li>Building to be orientated to maximise breezes</li> <li>Ceiling fans are to be provided in all habitable rooms.</li> </ul>	Yes	<p>All units have been designed to be cross ventilated in order to maximise breezes throughout each level.</p> <p>A condition is recommended to provide ceiling fans in all habitable rooms.</p>
<b>3.21 Building services</b>		
<ul style="list-style-type: none"> <li>Services are to be integrated into the design of buildings (garbage rooms, mail boxes, fire hydrants boosters, electrical substations, down pipes, plant rooms, satellite/communications structures</li> <li>Outdoor Communal clothes drying area to be provided</li> <li>Plant rooms away from entry communal and private open spaces and bedrooms.</li> <li>Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge</li> </ul>	Yes	<p>All building services have been designed to be integrated into the building and the style of the overall site from the streetscape.</p> <p>All units are provided with sufficient space for clothes drying on site.</p> <p>No services structures are proposed to be placed on the rooftop.</p>

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

### *View Impacts*

Clause 2.7 Views of Part C2 in the Waverley DCP 2012 outlines the objectives and controls relating the assessment of views and view loss. The development proposes a replacement dwelling that will see an increase in the overall height from the existing dwelling, by the equivalent of an additional storey, and also provide a greater rear setback on the first floor level than presently exists.

Submissions were received by No.'s 3, 10 and 14 Kenneth Street raising concerns relating to view impacts as a result of the proposed development. It was requested of the applicant that view impacts from the following properties be assessed:

- 2 Kenneth Street
- North and east facing units of 3 Kenneth Street
- 4 Kenneth Street
- 6 Kenneth Street
- 8 Kenneth Street
- All south facing units of 10 Kenneth Street
- 12 Kenneth Street
- 14 Kenneth Street

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 and Environment Court as follows. The judgement in *Tenacity Consulting v Warringah Council (2004)* resulted in a four step assessment in regard to view sharing. The applicant has submitted their own view analysis including photographs prepared by David Mitchell Architects and SJB, received by Council on 9 February 2022.

An assessment against all four steps has been undertaken below.

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.*
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.*
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.*
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.*

2 Kenneth Street, Tamarama



**Figure 9:** View from level 1 balcony showing the outline of the proposed built form



**Figure 10:** View from level 2 balcony showing the outline of the proposed built form

The existing views from No. 2 Kenneth Street are views of the Pacific Ocean and eastern coastal headline looking south. The views in the figures above have been taken from a standing position on the balconies of Level 1 and 2. The views are maintained across some properties, however the main view is down Gaerloch Avenue.

As can be seen from the figures above, some views of the ocean will be obscured from the proposal when looking south east, however the main view of the ocean and coastline down Gaerloch Avenue will be maintained. The impact on this property is considered to be minimal and is considered acceptable in this instance, specifically as the proposal complies with the height and FSR development standards.

#### 4 Kenneth Street, Tamarama



**Figure 11:** View from level 1 balcony showing the outline of the proposed built form

The front facing balcony of No. 4 Kenneth Street maintains some views of the ocean and coastline looking down Gaerloch Avenue. As can be seen from the image above, no views will be impacted as a result of this development as there are no current views of the ocean looking south east. The impacts on this property are therefore negligible.

#### 6 Kenneth Street, Tamarama





**Figure 12:** View from level 2 bedroom showing the outline of the proposed built form



**Figure 13:** View from level 2 balcony showing the outline of the proposed built form



The views from No. 6 Kenneth Street are all provided from the bedroom and balcony of Level 2 on site. The existing views from this level include ocean and horizon views across the subject site and views of the coastline and a partial view of Tamarama Beach looking down Gaerloch Avenue. The figures above have been taken from a standing position and demonstrate the area that has the most potential impact.

The figures above demonstrate that some views will be obscured by the development when looking south east across the subject site. The view that will be obstructed are minimal and will have little impact on the overall outlook from this property, particularly considering the main view is through Gaerloch Avenue. As such, the view impact from No. 6 Kenneth Street is considered moderate, however, the proposal complies with the height and FSR development standard on a site that is presently underdeveloped. Subsequently, the proposal presents a reasonable form of development having regard to the controls and view impacts are deemed as not unreasonable.

#### 8 Kenneth Street, Tamarama



**Figure 14:** View from level 1 living room showing the outline of the proposed built form



**Figure 15:** View from level 2 stair landing showing the outline of the proposed built form



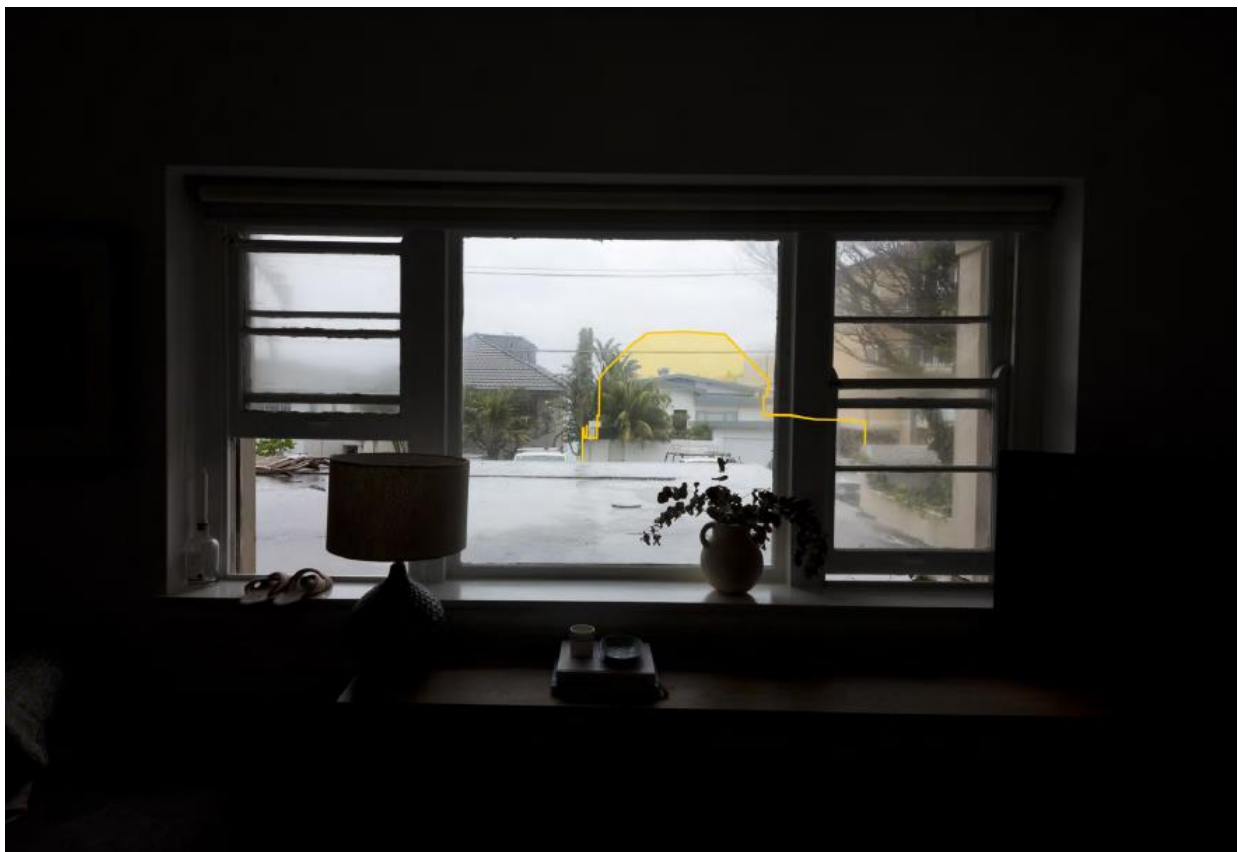
**Figure 16:** View from level 3 study showing the outline of the proposed built form

As shown above, there are currently no views from Level 1 of No. 8 Kenneth Street. The views from Level's 2 and 3 are of the ocean and eastern coastline, looking over the subject site and between the side setbacks of No. 3 Kenneth Street. At Level 2 the view incorporates the water/headland interface, whilst at Level 3, the view is wholly of the ocean. The images have been taken from a standing position, which best shows the most impacted view from each room.

The view from Level 2 is from a stair landing, which is not considered to be a habitable area, nor is it considered to be an area that allows the congregation of people within the home. As such, this view is not considered to be from a significant location. Notwithstanding, the view from the Level 2 window is considered to be moderate as it maintains both ocean and coastline views. The proposed development will result in some view loss of the ocean and part of the coastline when looking directly south. Partial views will be maintained along the western boundary between No. 3 and 5 Kenneth Street of the ocean and coastline. As this window is does not service a habitable room, it is considered that the overall impact is minor and would not unduly disrupt the overall outlook from the dwelling as a whole.

The view from Level 3 is from a bedroom/study and provides more ocean and coastline views, that are partially obstructed by the existing dwellings along the southern side of Kenneth Street. The proposed building will obstruct some water views, however, will maintain the majority of the significant view lines of the ocean, horizon, and coastline. It is considered that the impact from this window is minor and acceptable in this instance.

#### Ground level unit, 10 Kenneth Street, Tamarama



**Figure 17:** View from ground floor level unit showing the outline of the proposed built form

As shown in Figure 17 above, there are currently no views of the water or coastline from the ground floor. As such, there will be no impact on views as a result of the proposed development. No further investigation is required.

Level 1 unit, 10 Kenneth Street, Tamarama



**Figure 18:** View from the balcony of the first floor unit showing the outline of the proposed built form. View is from a seated position





**Figure 19:** View from the balcony of the first floor unit showing the outline of the proposed built form. View is from a standing position



**Figure 20:** View from the living room of the first floor unit showing the outline of the proposed built form. View is from a standing position





**Figure 21:** View from the living room of the first floor unit showing the outline of the proposed built form. View is from a seated position



**Figure 22:** View from the bedroom of the first floor unit showing the outline of the proposed built form. View is from a standing position



**Figure 23:** View from the bedroom of the first floor unit showing the outline of the proposed built form. View is from a seated position

Views obtained from the first floor unit of No. 10 Kenneth Street are maintained looking directly south over the roof of the subject site's existing building. The views obtained include partial views of the ocean and the eastern coastline including the water/headland interface. The current views from all south facing windows of this unit are already obstructed by the existing buildings on the southern side of Kenneth Street. Images have been taken from a standing and seated position to best demonstrate the overall impacts of the development from this property.

As shown in the figures above, the proposed development will have moderate to significant view impacts to this unit, as it will impact on both water, headland interface and coastline views. As the development complies with the Waverley LEP development standards, the question that is left to be asked is whether a more skilful design could provide the applicant with the same development potential and amenity, whilst at the same time reducing the impact on the views of neighbours. Section 2.7 -Views (c) and (d) of the DCP states that *"Lower density residential accommodation is to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks"*. The view lost is generally a result of the addition of the roof and attic level above the existing first floor. From the street, the development will be viewed as a single storey building with a roof/attic level above. The design of the second floor to sit within the roof form has been proposed to limit the view impacts as much as possible, by providing an angled pitch to the roof. This enables some views to be maintained across both sides of the building. Furthermore, the proposed built form as viewed from Unit 10 is conservative within the streetscape and has been designed to limit view impacts as much as possible.

Whilst the existing partial views will be impacted by this development, some views will be maintained of the ocean on both side boundaries and the coastline above the proposed roof top. Overall, the proposed development is considered to have provided a skilful design that will cause the least impact to whilst maintaining as much view as possible to No. 10 Kenneth Street. The design of the development and the impact this will have on No. 10 Kenneth Street is therefore considered acceptable in this instance.

Level 2 unit, 10 Kenneth Street, Tamarama



**Figure 24:** View from the living room of the unit on the second floor showing the outline of the proposed built form. View is from a standing position



**Figure 25:** View from the living room of the unit on the second floor showing the outline of the proposed built form. View is from a seated position



**Figure 26:** View from the dining room of the unit on the second floor showing the outline of the proposed built form. View is from a seated position





**Figure 27:** View from the balcony of the unit on the second floor showing the outline of the proposed built form



**Figure 28:** View from the bedroom of the unit on the second floor showing the outline of the proposed built form



The views from the second floor unit of No. 10 Kenneth Street are obtained looking directly south across the rooftops of the existing dwellings on the southern side of Kenneth Street. The views that are maintained include ocean views and views of the eastern coastline. There are 4 vantage points in which these views are obtained; the living room, dining room, bedroom, and balcony. As shown in Figures 14-28 above, the development will have some impact on views of the water, however will not impact on the coastline/headland interface views either from a standing or sitting position. The views impacts are considered to be relatively minor as the majority of views will be maintained from all vantage points. The impacts are therefore considered to be acceptable in this instance.

#### 12 Kenneth Street, Tamarama



**Figure 29:** View from the balcony showing the outline of the proposed built form

As the existing building at No. 12 Kenneth Street is only two storeys in total, the only views are obtained from the balcony as shown above. The views do not include any ocean or coastline and therefore the development would have no impact from this property. As there will be no impact, no concerns are raised from No. 12 Kenneth Street.

14 Kenneth Street, Tamarama



**Figure 30:** View from the first floor balcony showing the outline of the proposed built form



**Figure 31:** View from the second floor balcony showing the outline of the proposed built form

The existing views from the units at No. 14 Kenneth Street are maintained across the rooftops of the existing buildings along the southern side of Kenneth Street. The views that are obtained include ocean views and views of the eastern coastline. As shown in the images above, the proposed development will not extend further than the existing built form at No. 3 Kenneth Street. As such, no views will be impacted from this property.

Unit 2, 3 Kenneth Street, Tamarama



**Figure 32:** View from the Bedroom 1 showing the outline of the proposed built form





**Figure 33:** View from the Bedroom 2 showing the outline of the proposed built form



**Figure 34:** View from the balcony looking directly south

The existing views from unit 2 in No. 3 Kenneth Street are maintained from the two bedroom windows and the south facing balcony. The views from both bedrooms contain ocean views that are partially obstructed by the existing building at No. 7 Kenneth Street. The views from the bedrooms are maintained over the side boundary of the subject site directly through the middle of the property.

As shown in the images above, the proposed building will obscure a large part of the ocean view from Bedroom 2 and a small part of the ocean view from Bedroom 1. Figure 34 shows the existing view from the south facing balcony, which services the living and dining room. The views from the living room and balcony will not be impacted by the development, due to its located further south.

Step 3 above states that *“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.”* When assessing the extent of impact, it is important to note that the southern views from the living room and balcony are more significant than bedrooms. Additionally, the views must be assessed from the unit as a whole, rather than each individual room. It is considered in this instance that whilst the views from the bedrooms will be impacted, the views from the principal living areas will be maintained completely. The views from the living room and balcony are considered to be far more significant and worthy of retention. For this reason, the impact from this unit is considered acceptable in this case.

#### Unit 3, 3 Kenneth Street, Tamarama

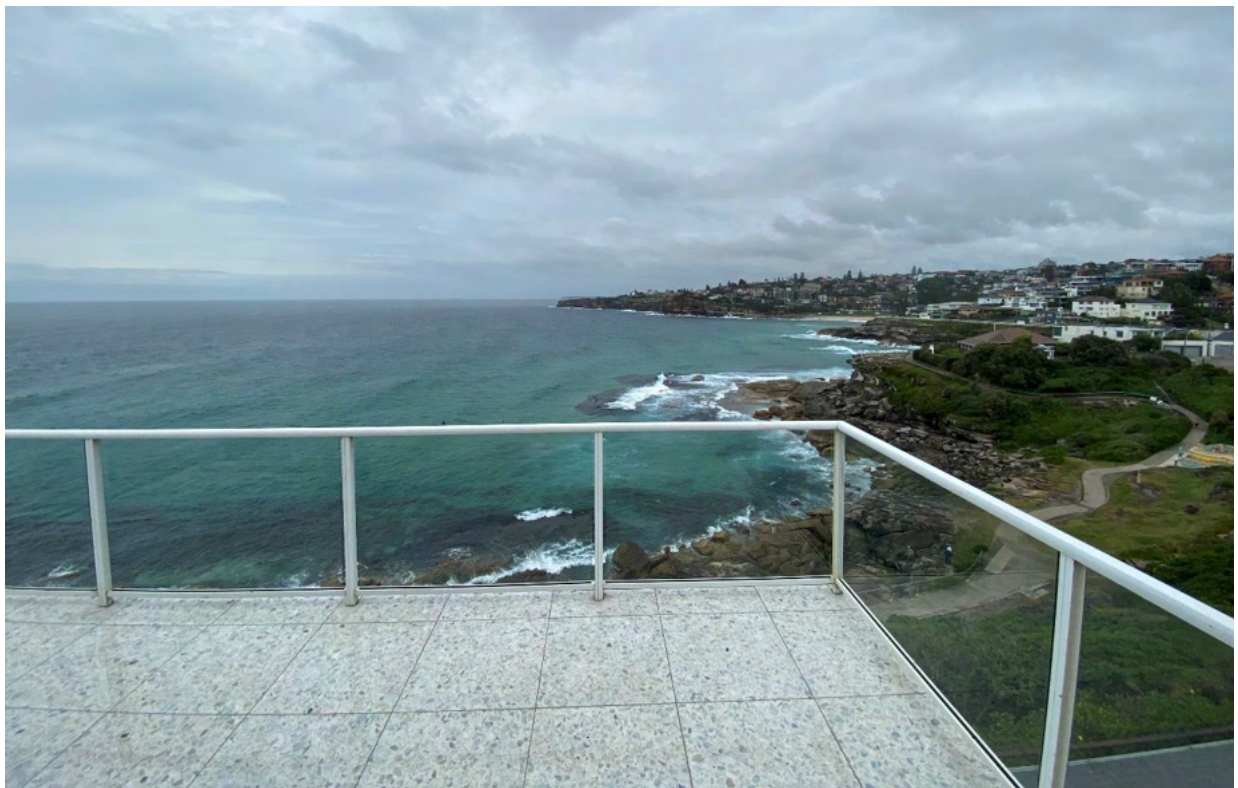


**Figure 35:** View from the Bedroom 1 showing the outline of the proposed built form





**Figure 36:** View from the Bedroom 2 showing the outline of the proposed built form



**Figure 37:** View from the balcony looking directly south

Similar to Unit 2, the existing views from unit 3 in No. 3 Kenneth Street are maintained from the two bedroom windows and the south facing balcony which services the living room. The views from both bedrooms contain ocean views that are partially obstructed by the existing building on the subject site and No. 7 Kenneth Street. The views from the bedrooms are maintained over the side boundary of the subject site directly through the middle of the property.

Ocean views from Bedroom's 1 and 2 are only visible when standing against the wall and will be partially obstructed as a result of the development. However these bedroom will still maintain some views of the ocean and horizon when looking further south should the proposed building be constructed. The main views from the living room and balcony will not be obstructed at all and are considered to be the most significant and important to retain. The impact on Unit 3 overall is therefore considered to be low to moderate. As the development proposal a compliant built form, the impact is considered to be reasonable when assessing the unit as a whole, and support is provided.

#### Unit 4, 3 Kenneth Street, Tamarama



**Figure 38:** View from the Bedroom 1 showing the outline of the proposed built form





**Figure 39:** View from the Bedroom 2 showing the outline of the proposed built form



**Figure 40:** View from the living room looking directly south

The views from Unit 4 are currently obtained from the east facing bedrooms windows and the south facing living room window and balcony. The east facing bedroom windows include views of the ocean across the side setbacks of the subject site. These views are currently obscured by the existing building at No. 7 Kenneth Street located further east.

As shown in Figures 38-40 above, the only view that will be impacted by the development is partial ocean views from Bedroom 1. However, this bedroom will still maintain some ocean views looking further south. On balance, the overall impact to this unit is considered to be relatively minor considering the only impacted room is part of a partial view from a bedroom. As this is not considered to be a highly important room for the purposes of views, the impacts are considered to be reasonable.

Unit 5, 3 Kenneth Street, Tamarama



**Figure 41:** View from the north facing balcony showing the outline of the proposed built form



**Figure 42:** View from Bedroom 1 showing the outline of the proposed built form



**Figure 43:** View from Bedroom 2 showing the outline of the proposed built form



The views obtained from unit 5 are all views looking south east across the subject site's property boundary. The views include partial ocean views that are already obstructed by the existing buildings at 5 and 7 Kenneth Street. As the balcony faces directly north, the only view from this area is from the eastern edge looking back through the property.

As all views from this unit are currently obstructed, they are considered to be low to moderate in significance. As shown in the figures above, the view loss as a result of the development from the bedrooms are minimal and will have little impact on the overall outlook from both windows. The impact from the north facing balcony will include the obstruction of some ocean views looking south east, however views will be maintained down the side boundary. The impact from the balcony is considered to be reasonable on merit and when assessing the unit as a whole development. For this reason, support is granted.

Unit 6, 3 Kenneth Street, Tamarama



**Figure 44:** View from Bedroom 1 showing the outline of the proposed built form



**Figure 45:** View from Bedroom 2 showing the outline of the proposed built form

Due to the height of Unit 6 above the natural ground level, the existing views from both bedrooms will not be impacted, as can be seen in the images above. Therefore no overlooking concerns are raised from this unit.

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified for 14 days between 12 October and 29 October in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was not notified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified, for the following reasons:

- The amendments resulted in a reduction in the overall GFA on site and therefore resulted in a less impact to surrounding properties.

A total of 12 unique submissions of objection plus 3 letters of support were received from the following properties:

**Table 5: Number of and where submissions were received from.**

Count	Property Address
1.	<i>No address provided</i>
2.	14 Kenneth Street, Tamarama V
3.	2/3 Kenneth Street, Tamarama
4.	1/10 Kenneth Street, Tamarama
5.	5/10 Kenneth Street, Tamarama
6.	4/7 Kenneth Street, Tamarama
7.	4/10 Kenneth Street, Tamarama
8.	6/10 Kenneth Street, Tamarama
9.	4/10, 6/10 & 8 Kenneth Street, Tamarama (combined submission)
10.	8 Kenneth Street, Tamarama
11.	2/10 Kenneth Street, Tamarama
12.	3/3, 4/3, 5/3 & 6/3 Kenneth Street, Tamarama (combined submission)
13.	7 Kenneth Street (letter of support)
14.	6/7 Kenneth Street, Tamarama (letter of support)
15.	3/7 Kenneth Street, Tamarama (letter of support)

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- View loss
- Overshadowing
- Overlooking
- Visual bulk
- Non-compliance in building height
- Non-compliance in DCP controls including side setbacks, landscaping, front fence height and deep soil

All other issues raised in the submissions are summarised and discussed below.

**Issue:** The development will increase the demand on street parking

**Response:** The development proposes to reconstruct the existing 3 units on site and complies with the parking rates provided in the Waverley DCP 2012.

**Issue:** The proposal has incorrectly been described as ‘alterations and additions’ rather than a new development, which allows greater non compliances with the development standards

**Response:** The development proposes alterations and additions to the existing building as parts of the building are proposed to remain. Any non-compliance with the DCP is assessed on merit and is discussed in the body of the report.

**Issue:** The proposal as 'alterations and additions' rather than a new building results in a reduced scope of community notification.

**Response:** The application has been notified in accordance with the *Waverley Community Development Participation and Consultation Plan*. The process and scope of notification would be the same for alterations and additions and a new development.

**Issue:** inconsistencies within the Statement of Environmental Effects (SEE)

**Response:** The inconsistencies within the SEE are minor in nature and have been taken into account by the DA Officer.

## 2.5. Public Interest

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

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Fire Safety

Council's Fire Safety officer has reviewed the design and made the following comments:

*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);*
- iii. inadequate fire services and equipment (i.e. Section E of BCA); and*
- iv. Inadequate health and amenity (i.e. Section F of BCA).*

*Pursuant to Clauses 94 of the Environmental Planning and Assessment Regulations 2000, Council must:*

- a) In determining a development application to which this clause applies, a consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.*

*To assist in determining whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia, the applicant was requested to submit a Fire Safety Upgrade report. To date, no report has been supplied to Council for consideration.*

*Given the non-compliances identified above and the extent of works being carried out under the subject application, it is considered reasonable to have the existing building upgraded to comply with Sections C, D, E and parts of F of the Building Code of Australia.*

Conditions have been recommended in Appendix A.

### 3.2. Waste Management

Council's Waste Management officer has reviewed the design and made the following comments:

*The number of waste and recycling bins is sufficient. However, the following recommendations apply:*

*It is noted that there are two separate storage areas; each area must have a minimum of:*

- *1 x 240L MGB general waste*
- *1x 240L MGB container recycling*
- *1 x 240L MGB paper recycling*

*The storage areas must be screened from public access.*

*Space to store bulky waste and problem waste awaiting collection.*

Conditions have been recommended to ensure the above bin areas are maintained on site.

### 3.3. Stormwater

No stormwater plan has been submitted with the application. Council's Stormwater engineer has recommended condition requiring the applicant to provide this prior to the issuing of the Construction Certificate.

### 3.4. Tree Management

Council's Tree Management officer has reviewed the design and made the following comments:

*On inspection, it was noted that on site there were no trees of any significance, the trees possess no outstanding attributes worthy of retention due to being weed species and their removal is supported.*

*Architectural plan prepared by David Mitchell, DWG: DA 1001; Date 30/07/2021 is satisfactory.*

*Landscape plan prepared by Dangar Barin Smith, DWG: LP01-D1821; Rev D; Date 27/08/2021 is satisfactory.*

Standard conditions have been recommended in Appendix A.



### 3.5. Information Management & Technology

Council's GIS officer has reviewed the proposal and raised no issues, subject to standard conditions which have been included in Appendix A.

### 3.6. Biodiversity

Council's Biodiversity officer has reviewed the design and made the following comments:

*The property lies within the identified coastal biodiversity corridor, so under the DCP Section 3.2.2 (a) A minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1.*

*The Landscape Plans received on 30 September 2021 do not comply with this control.*

This will be included as a condition of consent.

### 3.7. Public Domain

Council's GIS officer has reviewed the proposal and raised no issues, subject to standard conditions which have been included in Appendix A.

## 4. CONCLUSION

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

#### *Development and Building Unit (DBU) Decision:*



The application was reviewed by the DBU at the meeting on 22 February 2022 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *A Rossi and B Matlawski*

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Katie Johnstone	Angela Rossi
Senior Development Assessment Planner	Manager, Development Assessment (Central)

	(Reviewed and agreed on behalf of the Development and Building Unit)
<b>Date: 3 March 2022</b>	<b>Date: 14 March 2022</b>

*Reason for WLPP referral:*

1. Contentious development (10 or more objections)

## APPENDIX A – CONDITIONS OF CONSENT

### **A. APPROVED DEVELOPMENT**

#### **1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

- (a) Architectural Plans prepared by David Mitchell Architects of Project No. 3172, including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA1101 Rev. B	Lower Ground Level Plan	28/01/2022	09/02/2022
DA1103 Rev. B	Ground Level Plan	28/01/2022	09/02/2022
DA1103 Rev. C	Level 1 Plan	23/02/2022	23/02/2022
DA1104 Rev. C	Level 2 Plan	23/02/2022	23/02/2022
DA1105 Rev. B	Roof Plan	28/01/2022	09/02/2022
DA1201 Rev. C	Section A	23/02/2022	23/02/2022
DA1202 Rev. B	Section A	28/01/2022	09/02/2022
DA1203 Rev. B	Section B	28/01/2022	09/02/2022
DA1204 Rev. B	Section C	28/01/2022	09/02/2022
DA1205 Rev. B	Section D	28/01/2022	09/02/2022
DA1301 Rev. C	North Elevation	23/02/2022	23/02/2022
DA1302 Rev. B	South Elevation	28/01/2022	09/02/2022
DA1303 Rev. B	West Elevation	28/01/2022	09/02/2022
DA1304 Rev. B	West Elevation Section	28/01/2022	09/02/2022
DA1305 Rev. B	East Elevation	28/01/2022	09/02/2022
DA1306 Rev. B	East Elevation Section	28/01/2022	09/02/2022

- (b) Landscape Plan No. D1821 (5 pages in total) Rev. D prepared by Dangar Barin Smith, dated 27/08/2021 and received by Council on 30/09/2021
- (c) BASIX Certificate
- (d) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 30/09/2021

Except where amended by the following conditions of consent.

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

The application is approved subject to the following plan amendments;

- (a) In order to limit excavation on site and avoid privacy impacts to Unit 1, no excavation is approved under the existing garage. In this regard, the “Unit 2 Outdoor Clothes Line / Drying Area” and associated access stairs is not approved and shall be deleted from the plans. The internal stairs between this area and level 1 shall be deleted and the front balcony of unit 2 shall be reduced in size accordingly.

- (b) The window to the unit 1 WC on the ground level plan (accessed from the adjacent bedroom 1) shall be relocated to the side passage elevation (in lieu of opening onto the deleted unit 2 clothes drying area).
- (c) Minimum storage areas are to be shown on the architectural plans in accordance with the minimum areas required by the controls of Part C3.18 *Storage* of the Waverley DCP 2012.
- (d) Ceiling fans are to be provided in all habitable rooms in accordance with the controls of Part 3.20 *Natural Ventilation* of the Waverley DCP 2012;
- (e) Window operation shall be shown on all plans.
- (f) As insufficient details have been provided on the cabana adjacent to the pool, it shall be deleted from the plans.

The amendments are to be approved by the **Manager, Development Assessment or delegate** prior to the issue of any Construction Certificate. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

## **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **GENERAL REQUIREMENTS**

#### **3. 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 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 the Environmental Planning & Assessment Act, 1979 and Environmental Planning and Assessment Regulation 2000 and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

#### **4. 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.

### **CONTRIBUTIONS, FEES & BONDS**

#### **5. SECTION 7.12 CONTRIBUTION**

A cash contribution is payable to Waverley Council pursuant to section 7.12 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:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) 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 are in the Waverley Council Contributions Plan 2006, available on Council's website.



(b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;

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

Prior to the issue of any 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.

## **6. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of **\$65,340.00** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be established prior to the issue of any 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 all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **7. 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 the Principal Certifying Authority prior to the issue of any 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.

## **8. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The Applicant is to pay to Council fees for the assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

## **CONSTRUCTION MATTERS**

## **9. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the

hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and applicable fees paid, prior to the erection of the hoarding.

#### **10. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan shall be prepared in accordance with Waverley Council's Water Management Technical Manual be installed and maintained until construction activities have been completed and the site is fully stabilised. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

#### **11. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical 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.

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.

#### **12. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

#### **13. GEOTECHNICAL RISK MANAGEMENT**

The following geotechnical risk management measures must be followed:

- a) The Applicant to comply with Waverley Council *Costal Risk Management Policy* and *Waverley Risks and Hazards Vulnerability Study Part 1 and Part 2, Reference No.301015-02526-CS-REP-0001, dated December 2011.*
- b) Prior to construction certificate, a qualified Geotechnical Engineer must be engaged to review the structural compatibility and construction methodology. Any proposed excavations shall be undertaken with minimal vibration methods, with a PPV below 5mm/s (Maximum Peak Particle Velocity). This review shall be approved by the Principle Certifying Authority and submitted to Council's Infrastructure Services for records.
- c) During the bulk excavation stages, a qualified supervising engineer will be required to be presented on site for the duration of these works. A daily log is to be kept and submitted to the Principle Certifying Authority.

#### **STORMWATER & FLOODING**

#### **14. STORMWATER MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- a) The plans shall provide details of any required On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- b) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- c) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided.
- d) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- Since a sewer main runs through the property, plans must also be presented to a Sydney Water Tap in<sup>TM</sup> for their approval.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

**ENERGY EFFICIENCY & SUSTAINABILITY**

## **15. BASIX**

All requirements of the BASIX Certificate documentation are to be shown on the Construction Certificate plans and documentation.

### **WASTE**

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

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* 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.

## **17. WASTE STORAGE AREAS**

The development must meet the following minimum waste storage requirements:

- (a) Residential 2 x 3-bedroom and 1 x 1-bedroom units
  - i. 2 x 240L Mobile Garbage Bins (MGBs) for general waste (collected weekly)
  - ii. 2 x 240L MGBs for paper and cardboard recycling (collected fortnightly)
  - iii. 2 x 240L MGBs for container recycling (collected fortnightly)
  - iv. 1 x 240L MGB for garden organic waste should this be generated at the development.
- (b) Space to store bulky waste and problem waste awaiting collection.
- (c) All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B1 of the Waverley Council Development Control Plan 2012 to the satisfaction of the Principal Certifying Authority.

### **LANDSCAPING & TREES**

## **18. GREEN ROOF LANDSCAPING DETAILS**

The construction certificate landscape plans are to comply with the controls for green roofs in Part B3.1 of the *Waverley Development Control Plan 2012* including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 – 1).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species
- (c) The green roof is to be designed to be a non-trafficable area (with no balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

A qualified landscape architect must review the design and verify that it complies with the above requirements.

## **19. LANDSCAPE WORKS IN A HABITAT CORRIDOR**

A landscape plan is to be submitted to and approved by Council's Executive Manager, Environmental Sustainability (or delegate) with a plant species list with a minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1. of the *Waverley Development Control Plan 2012*.



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

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **PRIOR TO ANY WORKS**

#### **20. 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.

#### **21. DILAPIDATION SURVEYS**

A comprehensive pre-demolition dilapidation surveys for the purpose of assessing vibration effects is required. The report is to cover at a minimum the following neighbouring properties of 3 Kenneth Street and 7 Kenneth Street. The report is to be submitted to Principle Certifying Authority and Waverley Council.

#### **22. PRE-DEMOLITION DILAPIDATION REPORT**

To ensure Council's infrastructure is adequately protected a pre-demolition dilapidation report on the existing public infrastructure within the vicinity of the proposed development and along the travel routes of all construction vehicles is to be submitted to Council. The report shall detail, but not be limited to, the location, description, and photographic record (in colour) of any observable defects to the following infrastructure where applicable:

- Road pavement
- Kerb and gutter
- Footpath
- Drainage pits and lintels
- Traffic signs
- Any other relevant infrastructure.

The report is to be dated, submitted to, and accepted by Council's Public Domain Engineer, prior to any work commencing on the site. All fees and charges associated with the collation of this report shall be at the cost of the Applicant.

### **DEMOLITION & EXCAVATION**

#### **23. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority 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 SafeWork 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.

## **24. CONTROL OF DUST ON CONSTRUCTION SITES**

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 (e.g.: 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.

## **25. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

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 2014.

## **26. 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.

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 excavation is to be managed by a practising structural engineer.

## **CONSTRUCTION MATTERS**

### **27. 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) Sundays and public holidays;
- (b) 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.

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2017.

### **28. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

### **29. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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

### **30. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

### **31. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be 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.

### **32. 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 location 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

### **33. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS**

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa 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/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure
- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans **MUST** be submitted to Sydney Water at least 14 days prior to commencement of building operations.

### **FIRE SAFETY**

### **34. BUILDING CODE OF AUSTRALIA**

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

### **35. ESSENTIAL SERVICES - EXISTING BUILDING**

Details of the currently implemented and proposed essential fire safety measures shall be submitted to Council, with the Construction Certificate, in the form of a Fire Safety Schedule. This Schedule shall be prepared by a person competent to do so and shall specify the minimum standard of performance for each essential fire safety measure included in the Schedule.

At the completion of the installation, a Final Fire Safety Certificate shall be attached to the Occupation Certificate, 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) found 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.

### **36. FIRE SAFETY UPGRADING WORKS**

- a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, all existing areas of the building must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):
- (i) Fire resistance and stability – Part C1;
  - (ii) Compartmentation and separation – Part C2;
  - (iii) Protection of openings – Part C3
  - (iv) Provision for escape – Part D1;
  - (v) Construction of exits – Part D2;
  - (vi) Fire fighting equipment – Part E1;
  - (vii) Smoke hazard management – Part E2;
  - (viii) Emergency lighting, exit signs and warning systems – Part E4;
  - (ix) Sanitary and other facilities – Part F2;
  - (x) Room heights – Part F3;
  - (xi) Light and ventilation – Part F4; and
  - (xii) Sound transmission and insulation - Part F5.
- b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, a performance solution in accordance with Part A2 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.
- c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 4.55 of the Act to be lodged with Council to amend this consent.
- d) Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate.

Note: The provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of the proposed development.

## 6. TREE PROTECTION AND REMOVAL

### 37. STREET TREES TO BE RETAINED/TREE PROTECTION

No existing street trees shall be removed without Council approval. 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) event 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 in accordance with AS4970-2009 "Protection of trees on construction sites.

## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **38. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, the Principal Certifying Authority must issue an Occupation Certificate. The Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### **39. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

### **40. CERTIFICATION OF CONSTRUCTED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### **41. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### **42. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD**

Prior to the issue of an Occupation Certificate, a "Positive Covenant" and "Restriction on the Use of Land" shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

#### **43. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE**

A Waste Management Plan must be submitted to Council's Executive Manager, Environmental Sustainability (or delegate) and include including the following where relevant.

- (a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)
- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) The role and responsibility of managing composting facilities (if provided).
- (d) Clear signage identifying the different bin types and storage area for bulky household waste and problem waste must be displayed.
- (e) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (f) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of bins, 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.
- (g) All waste and recycling bins must only be placed out on Council footpath for collection the evening prior to the designated waste collection day and retrieved from the kerbside as early as possible.
- (h) The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan.
- (i) At no times shall bins be stored on the public domain (e.g. footpaths).

#### **44. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA**

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design
- (b) Evidence that the swimming pool/outdoor spa have been registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>)
- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council
- (d) A copy of the occupation certificate must be submitted to Council

Note: Swimming/spa pool pumps are restricted from use 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 2017.

**45. ALLOCATION OF STREET NUMBER**

- a) The redevelopment of the property has led to the following allocation of primary and sub-address numbers for a strata subdivision:
  - a. No. 5 - primary address site number
  - b. Kenneth Street primary address location.
- b) The primary address site number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level, located near the pedestrian entry points and be clearly visible on the site boundary that fronts Kenneth Street.
- c) The following sub-addressing will apply:
  - a. Nos. 1-3 for the sub-addresses within the building correlating with Nos. 1-3 on the floor plans for the building.
- d) The address number for a sub-address site shall consist of the sub-address followed by the number of the primary address site.
- e) The address number for a sub-address site shall not consist of the primary address number on its own.
- f) The address number for a sub-address site shall not consist of the primary address number with an alpha suffix.
- g) 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.
- h) The primary and sub-address site numbers are to be positioned on the site prior to the issue of the Occupation/Subdivision Certificate.
- i) Any variation to the above premises numbering requires a new application for a Change of street number and/or location to be lodged with Council.

## E. ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au), in person (at Council's Customer Service Centre) or via post service.
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition)
- Include DA reference number
- Include condition number/s seeking to be addressed
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14days. Times may vary or be delayed if information is not received in this required manner.
- Any queries, please contact Council's Duty Planner on [duty.planner@waverley.nsw.gov.au](mailto:duty.planner@waverley.nsw.gov.au)

### AD2. SYDNEY WATER REQUIREMENTS

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

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.

### AD3. DIAL BEFORE YOU DIG



Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

#### **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

#### **AD5. ALTERATIONS AND ADDITIONS ONLY**

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

#### **AD6. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

#### **AD7. BONDI - ROSE BAY SAND BODY**

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

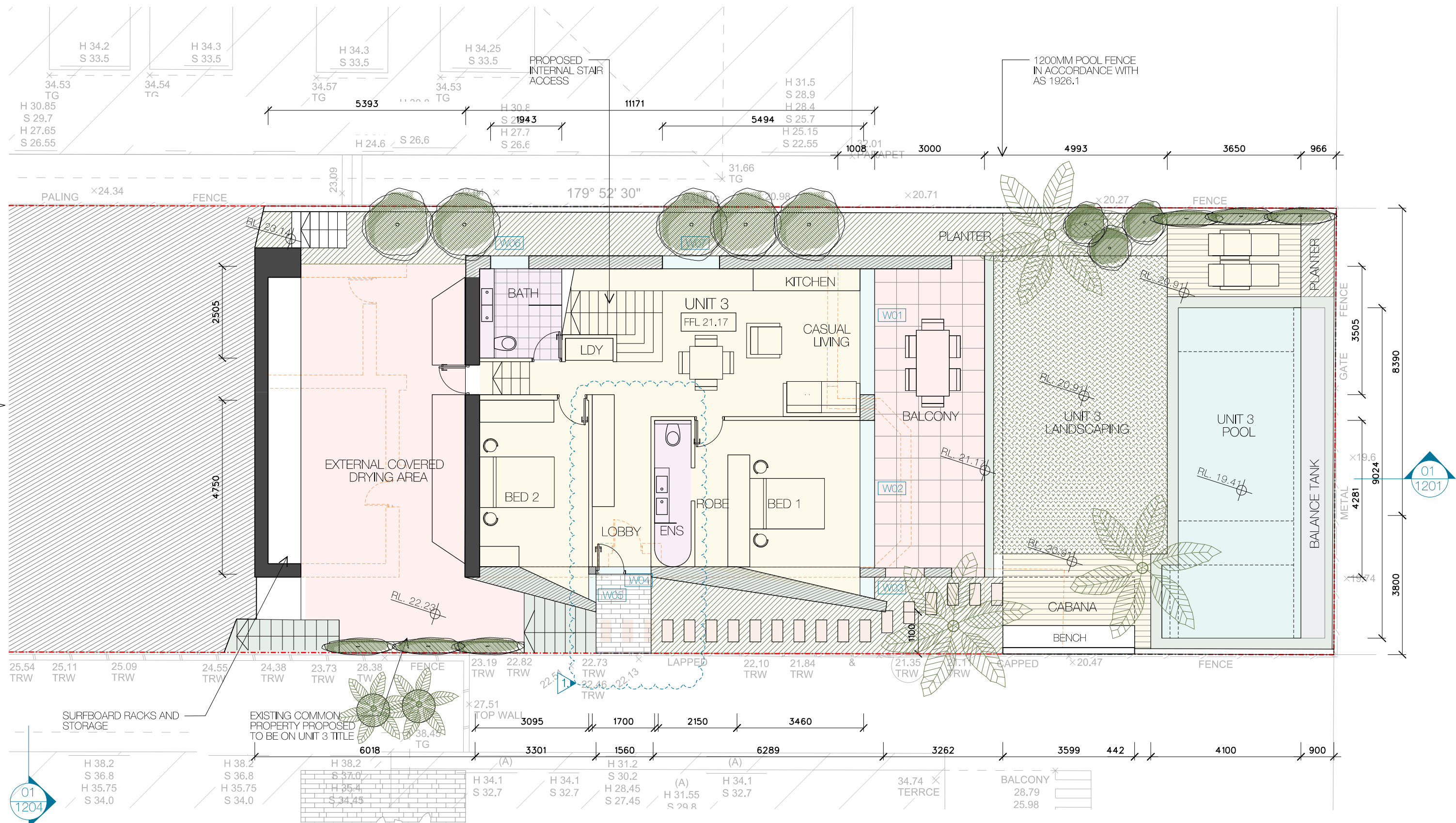
Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

#### **AD8. TREE REMOVAL/PRESERVATION**

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

#### **AD9. WASTE MANAGEMENT PLAN REVIEW**

After 5 years of operation under this development consent, the Approved Waste Management Plan is to be reviewed to ensure that the details including contracts, roles and responsibilities, commercial tenants (if relevant) are current. The updated plan is to supersede the previous plan.



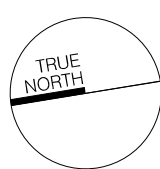
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# AMENDED PLANS

MATERIAL/HATCH KEY			
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	DEMOLITION		CONCRETE
	ROOF TILES		FIBRE CEMENT / CEMENT RENDER
	PAVING		STONE / EARTH
	BRICK		STEEL, GALVANISED IRON
	ALUMINIUM		EXISTING STRUCTURE RETAINED
	PROPOSED NEW STRUCTURE		

RECEIVED  
Waverley Council  
Application No: DA-413/2021  
Date Received: 09/02/2022

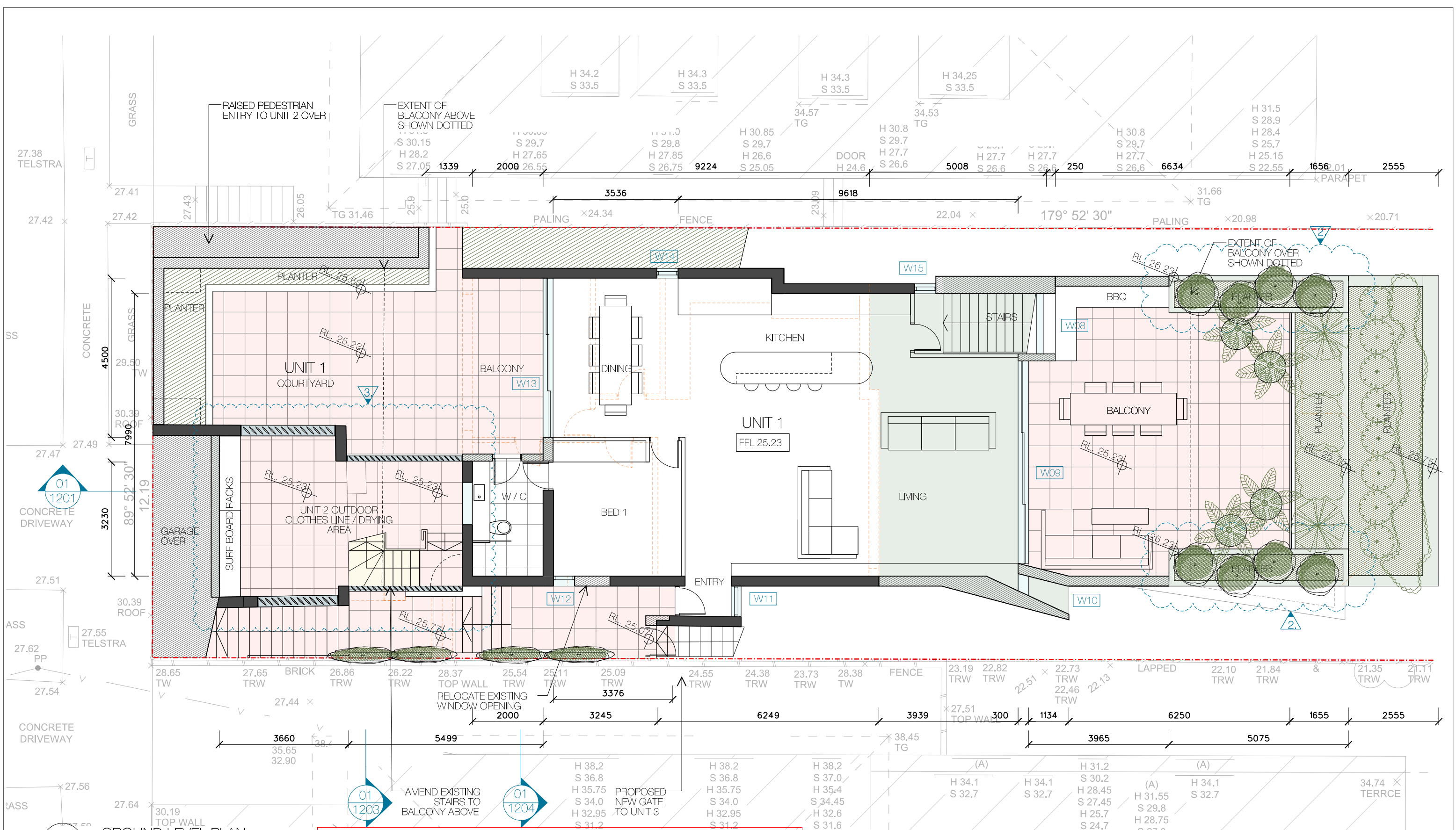
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NSW architects reg no. - 9017  
project: 5 KENNETH ST, TAMARAMA



client  
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













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# AMENDED PLANS

## MATERIAL/HATCH KEY

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	DEMOLITION		BRICK		CONCRETE		PROPOSED NEW STRUCTURE
	ROOF TILES		STEEL, GALVANISED IRON		FIBRE CEMENT / CEMENT RENDER		
	PAVING		ALUMINIUM		STONE / EARTH		

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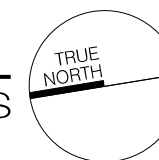
Date Received: 09/02/2022

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client  
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& SONYA PARNES

drawing:  
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PLAN

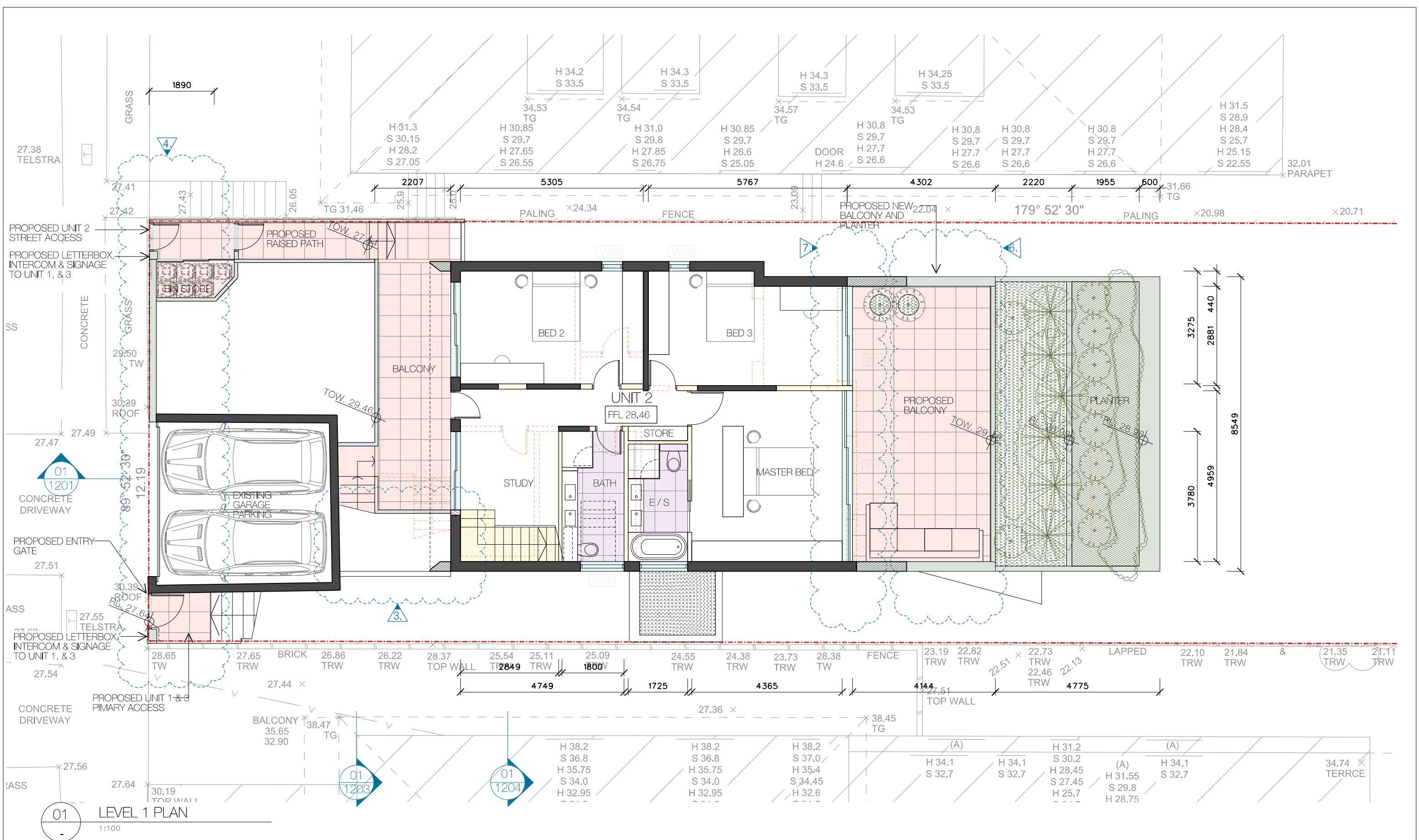
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date:  
28.01.22

drawing issue:  
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**01** LEVEL 1 PLAN  
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**MATERIAL/HATCH KEY**

TIMBER	INTERNAL TILES	GLASS	EXISTING STRUCTURE RETAINED
DEMOLITION	BRICK	CONCRETE	PROPOSED NEW STRUCTURE
ROOF TILES	STEEL, GALVANISED IRON	FIBRE CEMENT / CEMENT RENDER	
PAVING	ALUMINIUM	STONE / EARTH	

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TAMARAMA

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**TRUE NORTH**

client  
PETER & ROSIE METZNER, BRAD & SONYA PARNES

drawing:  
**LEVEL 1 PLAN**

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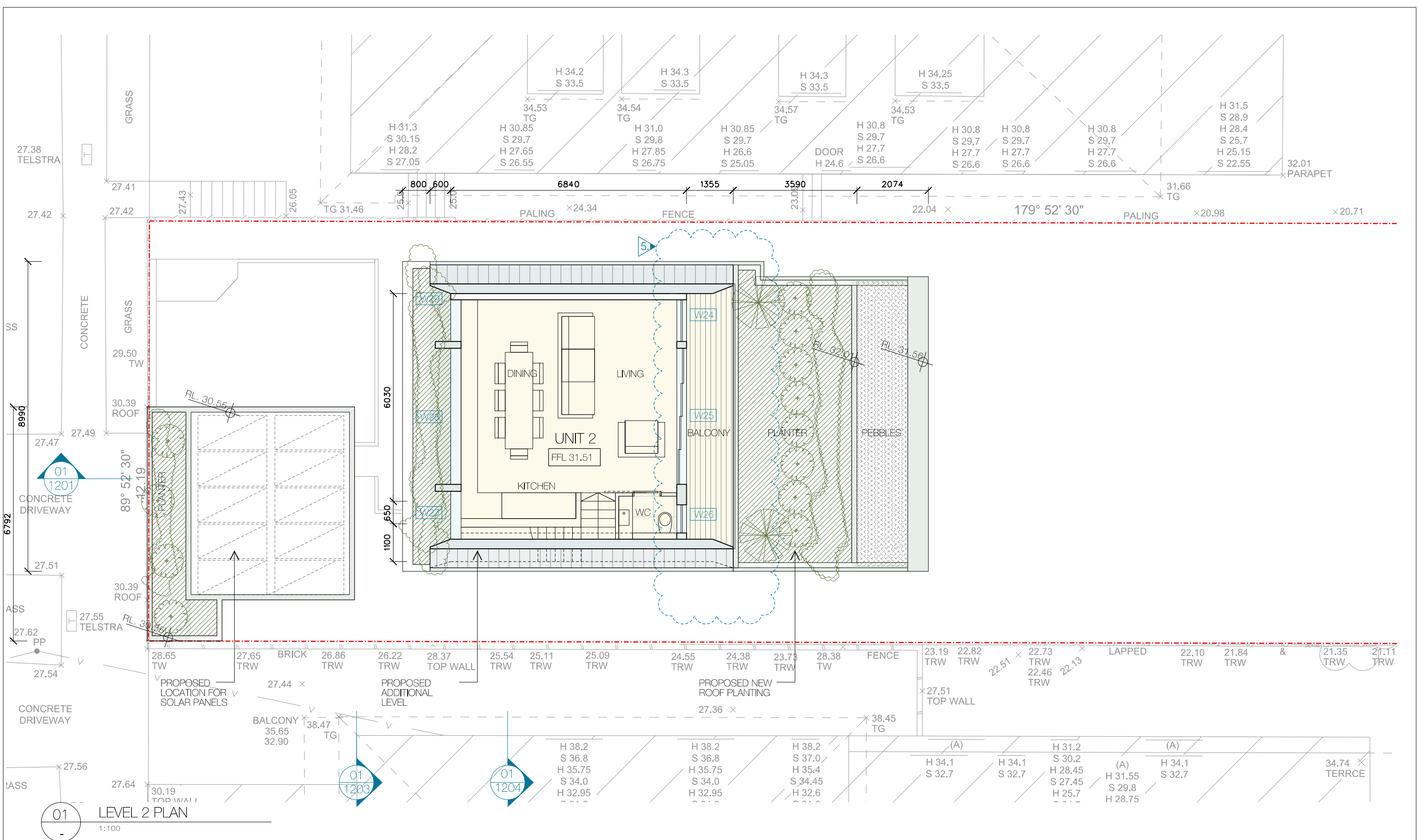
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**MATERIAL/HATCH KEY**

TIMBER	INTERNAL TILES	GLASS	EXISTING STRUCTURE RETAINED
DEMOLITION	BRICK	CONCRETE	PROPOSED NEW STRUCTURE
ROOF TILES	STEEL, GALVANISED IRON	FIBRE CEMENT / CEMENT RENDER	
PAVING	ALUMINIUM	STONE / EARTH	

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job no.  
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client  
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drawing:  
**LEVEL 2 PLAN**

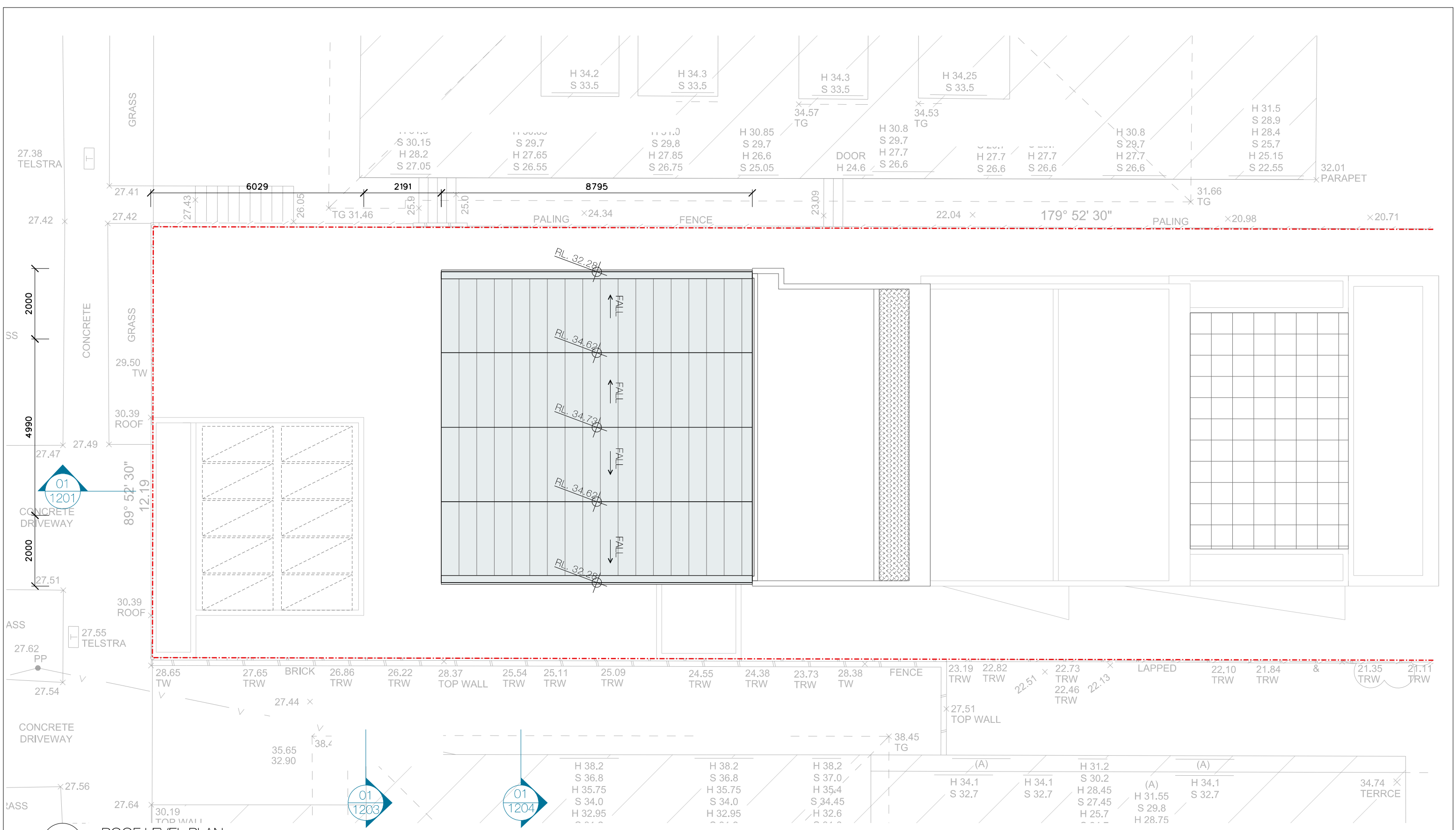
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date:  
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drawing issue:  
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ROOF LEVEL PLAN

# AMENDED PLANS

MATERIAL/HATCH KEY					
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	DEMOLITION		BRICK		CONCRETE
	ROOF TILES		STEEL, GALVANISED IRON		FIBRE CEMENT / CEMENT RENDER
	PAVING		ALUMINIUM		STONE / EARTH
	EXISTING STRUCTURE RETAINED		PROPOSED NEW STRUCTURE		

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job no.  
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client  
PETER & ROSIE METZNER, BRAD & SONYA PARNES

drawing:  
ROOF PLAN

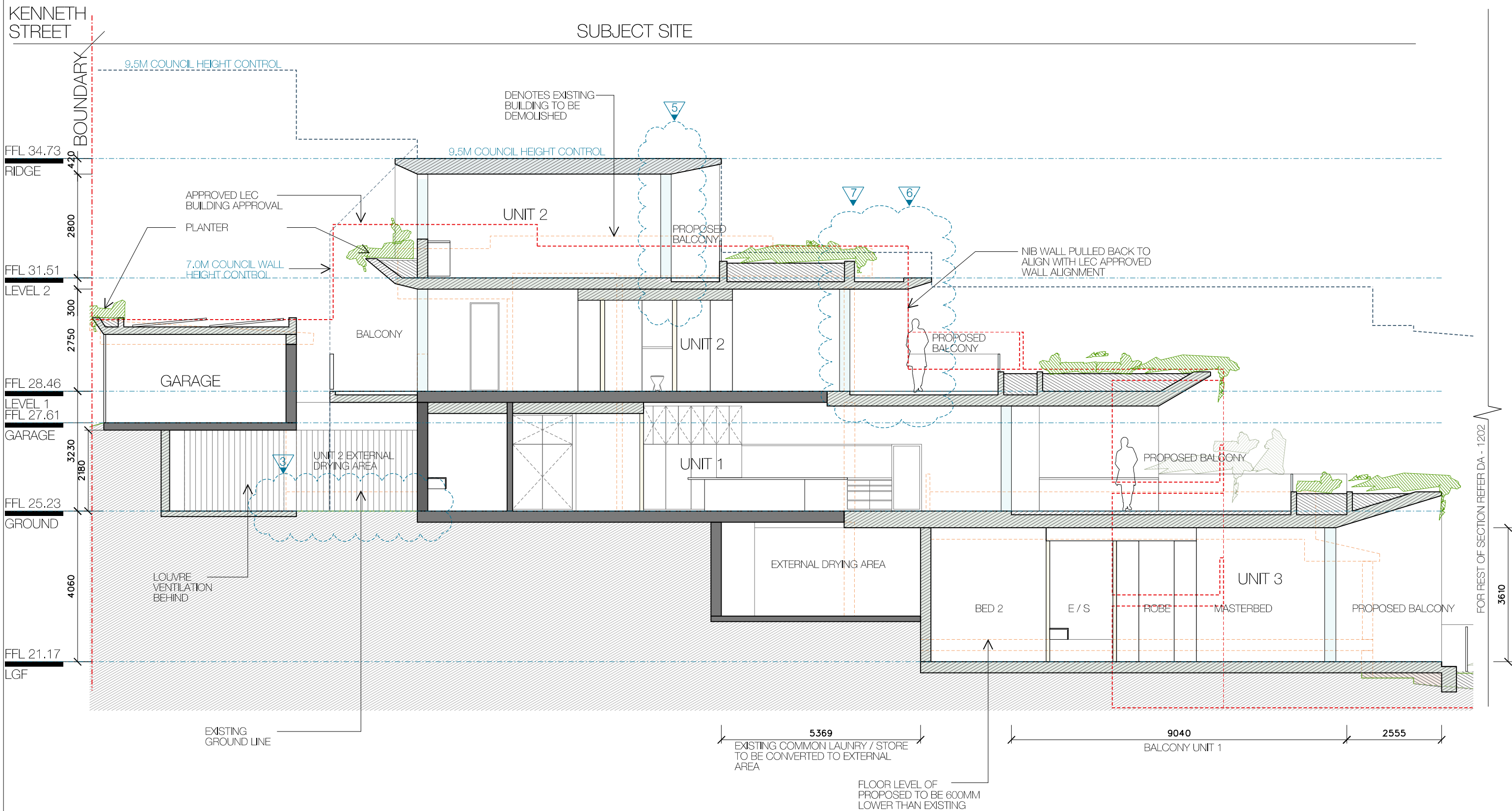
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MATERIAL/HATCH KEY			
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	PAVING		ALUMINIUM
	GLASS		CONCRETE
	FIBRE CEMENT / CEMENT RENDER		STONE / EARTH
	EXISTING STRUCTURE RETAINED		PROPOSED NEW STRUCTURE

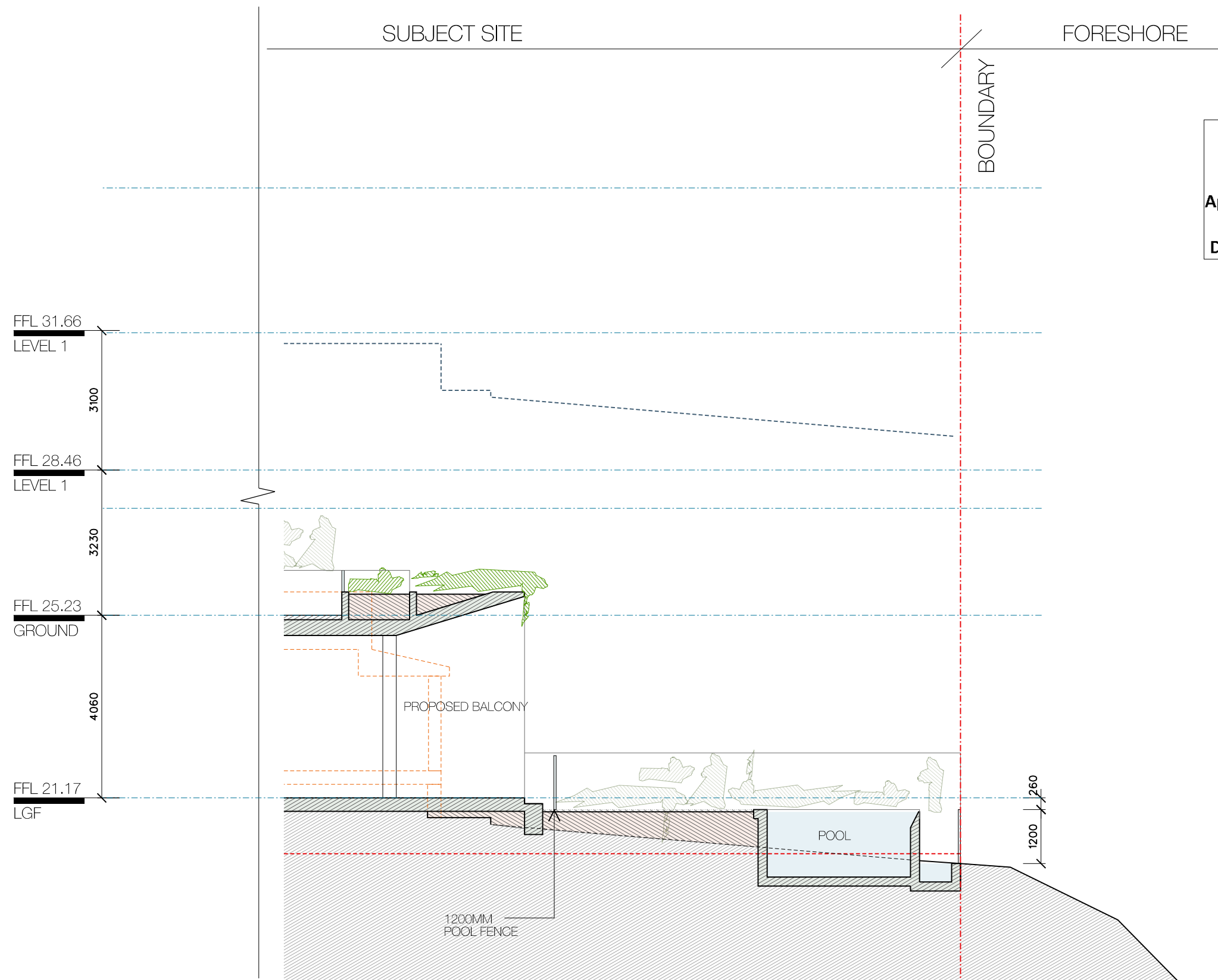
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job no.  
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client  
PETER & ROSIE METZNER, BRAD  
& SONYA PARNES  
drawing:  
SECTION A  
drawing no.  
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Waverley Council















Application No: DA-413/2021

Date Received: 09/02/2022

01 SECTION A  
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# AMENDED PLANS

## MATERIAL/HATCH KEY

	TIMBER		INTERNAL TILES		GLASS		EXISTING STRUCTURE RETAINED
	DEMOLITION		BRICK		CONCRETE		PROPOSED NEW STRUCTURE
	ROOF TILES		STEEL, GALVANISED IRON		FIBRE CEMENT / CEMENT RENDER		
	PAVING		ALUMINIUM		STONE / EARTH		

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TAMARAMA

job no.  
3172

client  
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& SONYA PARNES

drawing:  
SECTION A

drawing no.  
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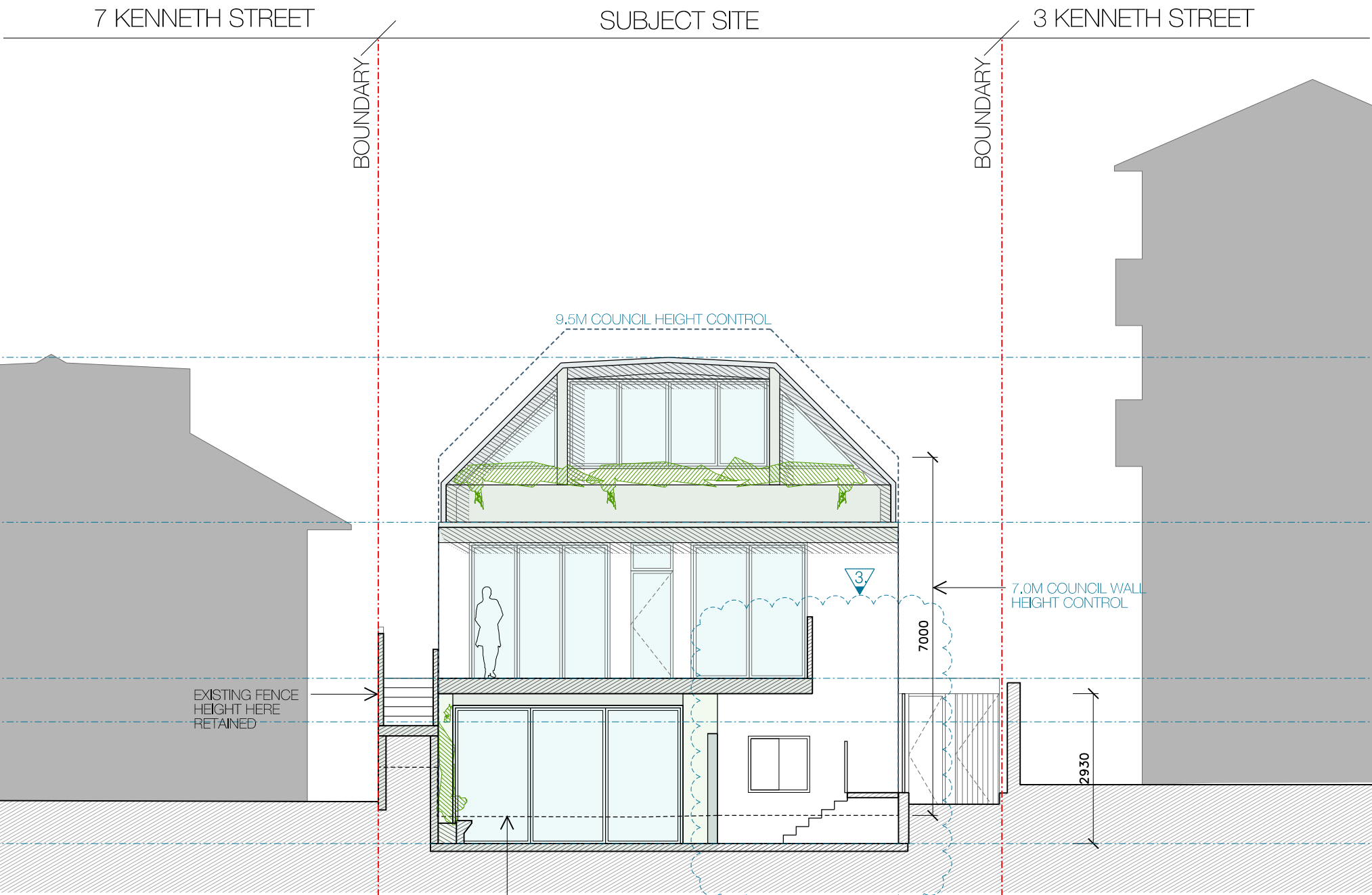
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01 SECTION B  
1:100

# AMENDED PLANS

## MATERIAL/HATCH KEY

	TIMBER		INTERNAL TILES		GLASS		EXISTING STRUCTURE RETAINED
	DEMOLITION		BRICK		CONCRETE		PROPOSED NEW STRUCTURE
	ROOF TILES		STEEL, GALVANISED IRON		FIBRE CEMENT / CEMENT RENDER		
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drawing:  
SECTION B

drawing no.  
DA 1203

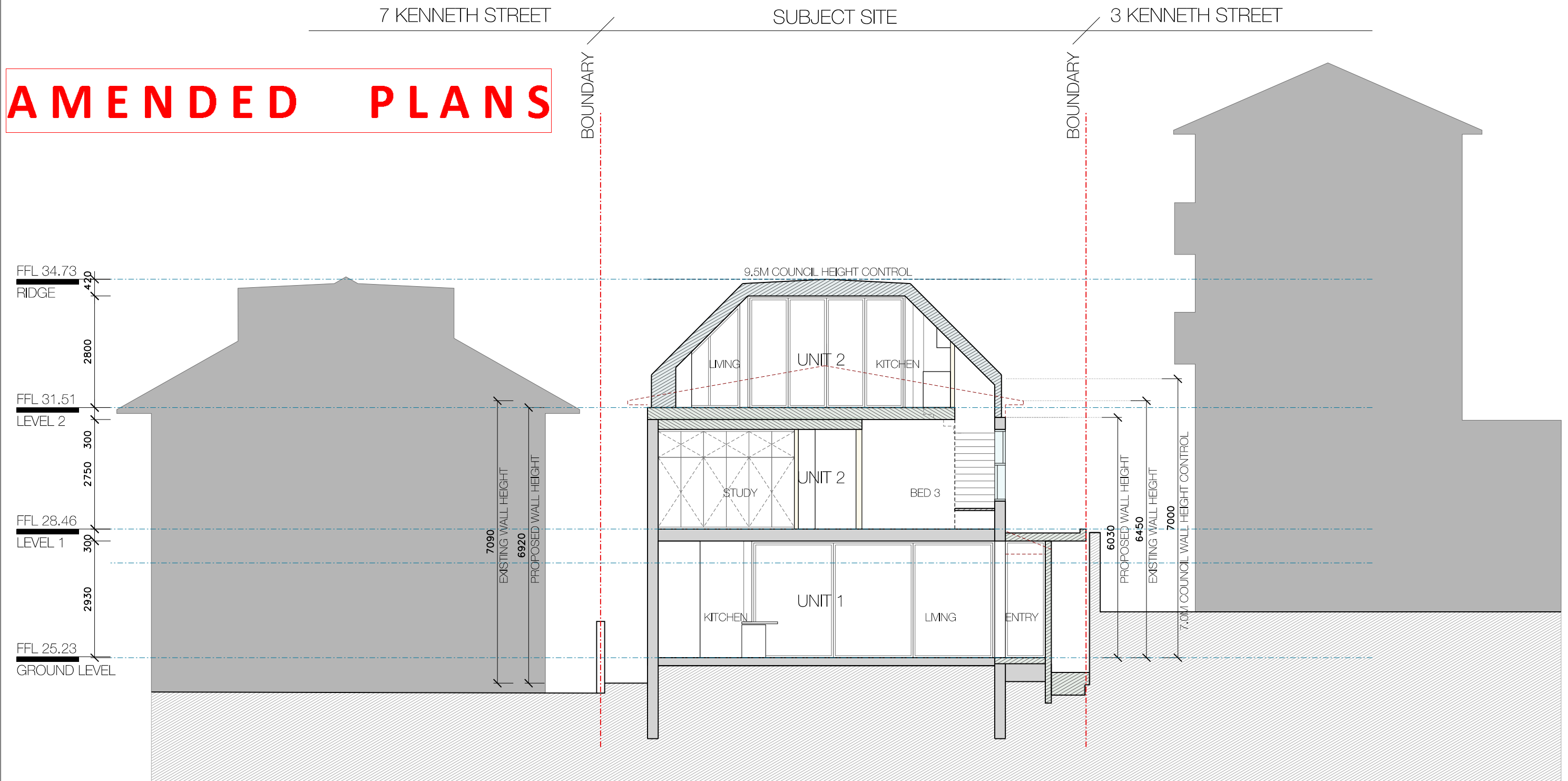
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# AMENDED PLANS



01 SECTION C  
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	ROOF TILES		STEEL, GALVANISED IRON		FIBRE CEMENT / CEMENT RENDER		
	PAVING		ALUMINIUM		STONE / EARTH		

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drawing:  
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date:  
28.01.22

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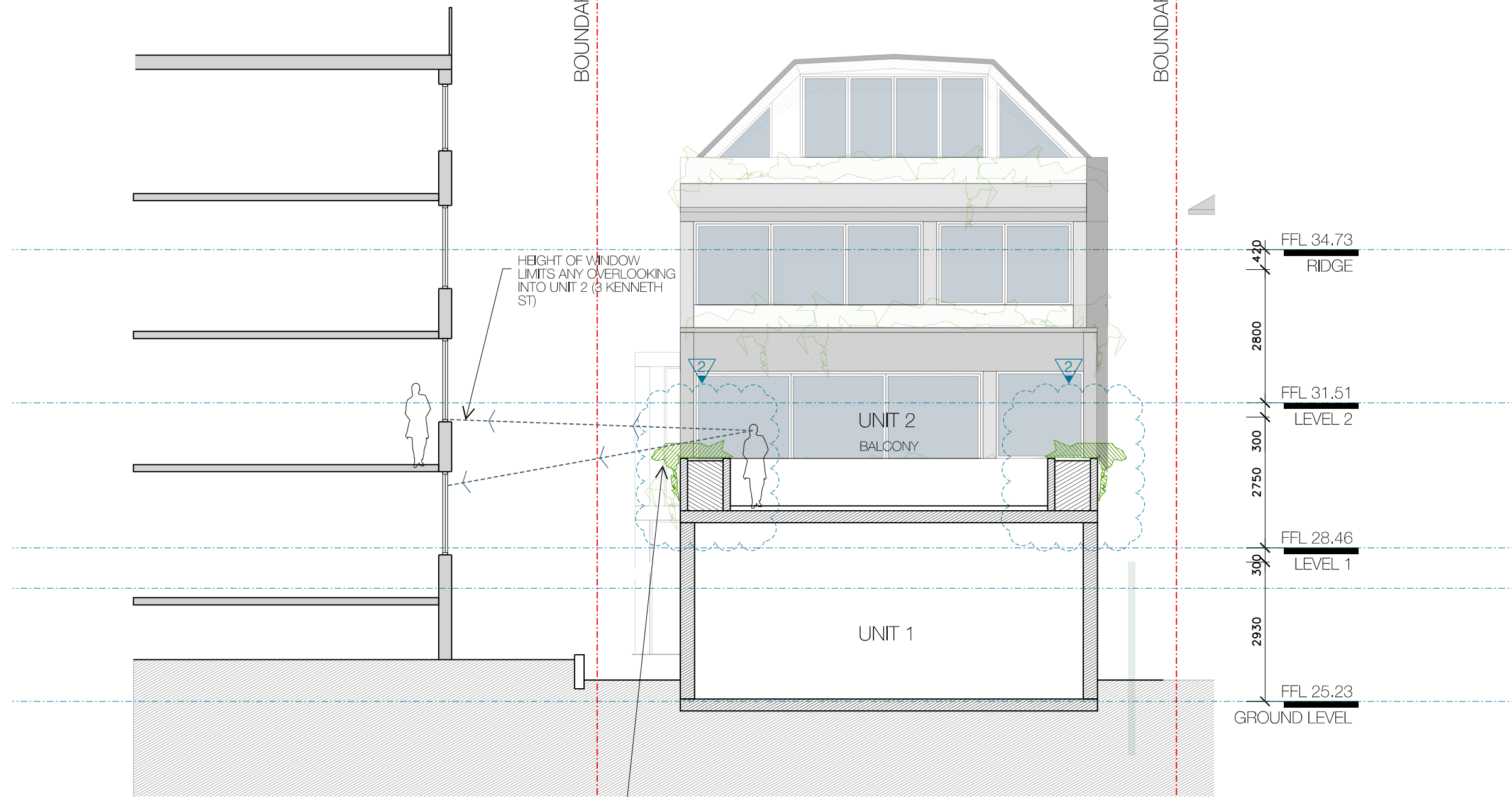
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SUBJECT SITE

7 KENNETH STREET

BOUNDARY

BOUNDARY



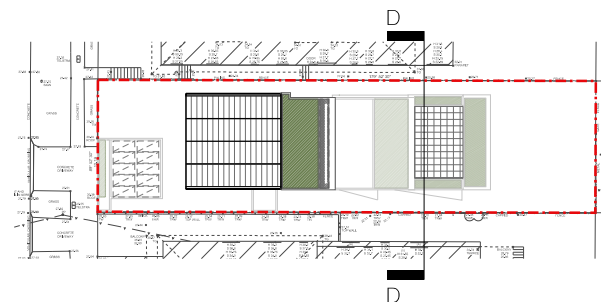
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02  
-

KEY - ROOF PLAN  
1:700

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drawing:  
SECTION D

drawing no.  
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date:  
28.01.22

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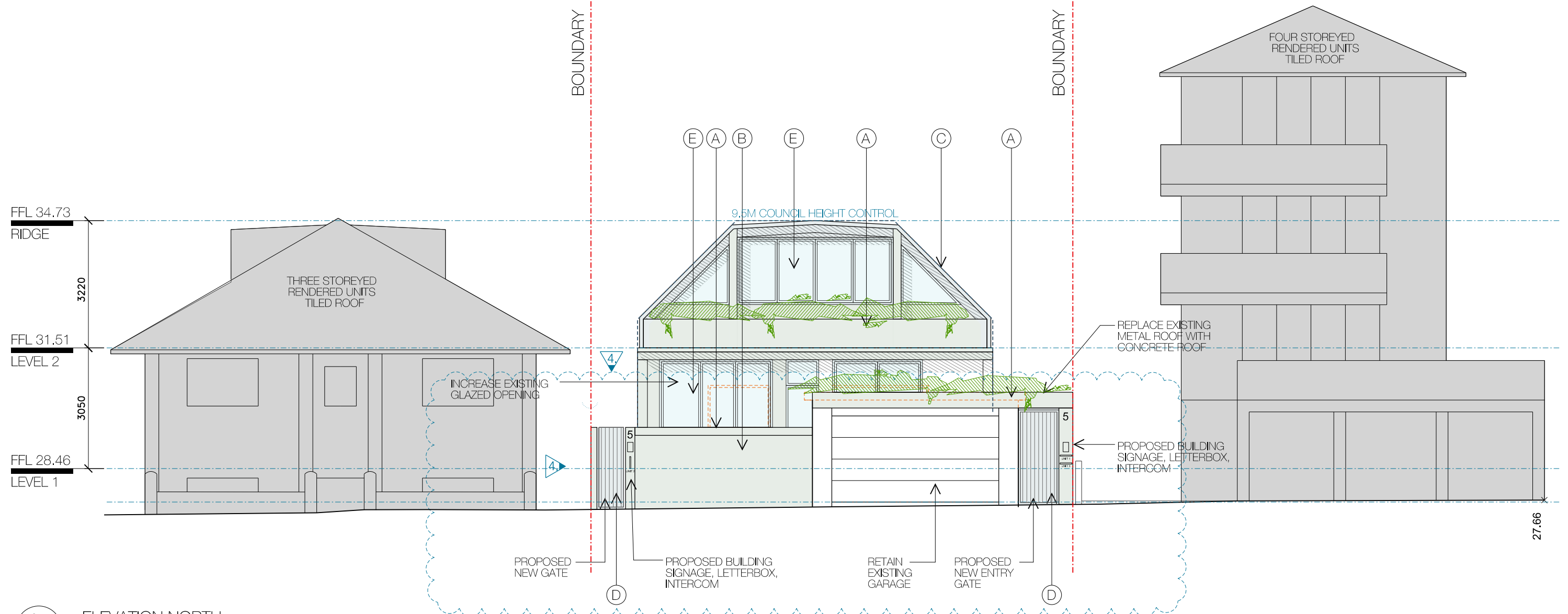
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drawing issue:  
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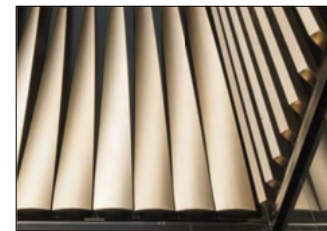
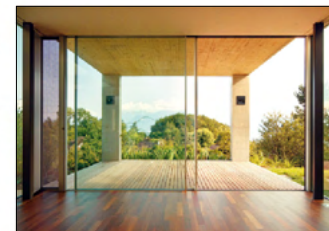
7 KENNETH STREET

SUBJECT SITE

3 KENNETH STREET



01 ELEVATION NORTH  
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(A) OFF FORM CONCRETE

(B) RENDER FINISH  
(PAINTED WHITE)(C) STANDING SEAM ZINC  
CLADDING

(D) STEEL BALUSTRADE

(E) ALUMINIUM FRAMED  
GLASS WINDOWS/DOORS  
- BLACK(F) ALUMINIUM LOUVRE  
SCREEN

## MATERIAL/HATCH KEY

	TIMBER		INTERNAL TILES		GLASS		EXISTING STRUCTURE RETAINED
	DEMOLITION		BRICK		CONCRETE		PROPOSED NEW STRUCTURE
	ROOF TILES		STEEL, GALVANISED IRON		FIBRE CEMENT / CEMENT RENDER		
	PAVING		ALUMINIUM		STONE / EARTH		

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Application No: DA-413/2021

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TAMARAMA

job no.  
3172

client  
PETER & ROSIE METZNER, BRAD  
& SONYA PARNES

drawing:  
ELEVATION  
NORTH

scale:  
1:100 @A3

0m 1m 2m 5m

drawing no.  
DA 1301  
date:  
23.02.22

drawing issue:  
C



3 KENNETH STREET

SUBJECT SITE

7 KENNETH STREET

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Waverley Council

Application No: DA-413/2021

Date Received: 09/02/2022

BOUNDARY

BOUNDARY

(B)

(A)

(E)

(C)

(A)

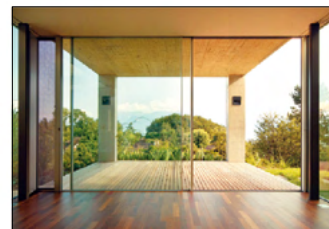
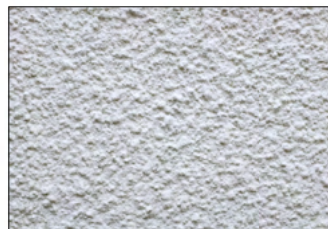
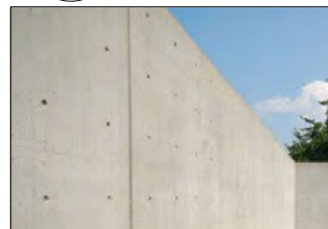
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2800  
FFL 31.51  
LEVEL 2  
300  
2750  
FFL 28.46  
LEVEL 1  
400  
2830  
FFL 25.23  
GROUND  
450  
3610  
FFL 21.17  
LGF

POOL FENCE

1230

01 ELEVATION SOUTH

1:100



(A) OFF FORM CONCRETE

(B) RENDER FINISH  
(PAINTED WHITE)

(C) STANDING SEAM ZINC  
CLADDING

(D) STEEL BALUSTRADE

(E) ALUMINIUM FRAMED  
GLASS WINDOWS/DOORS  
- BLACK

(F) ALUMINIUM LOUVRE  
SCREEN

MATERIAL/HATCH KEY

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	DEMOLITION		BRICK		CONCRETE
	ROOF TILES		STEEL, GALVANISED IRON		FIBRE CEMENT / CEMENT RENDER
	PAVING		ALUMINIUM		STONE / EARTH

	EXISTING STRUCTURE RETAINED
	PROPOSED NEW STRUCTURE

AMENDED PLANS

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job no.  
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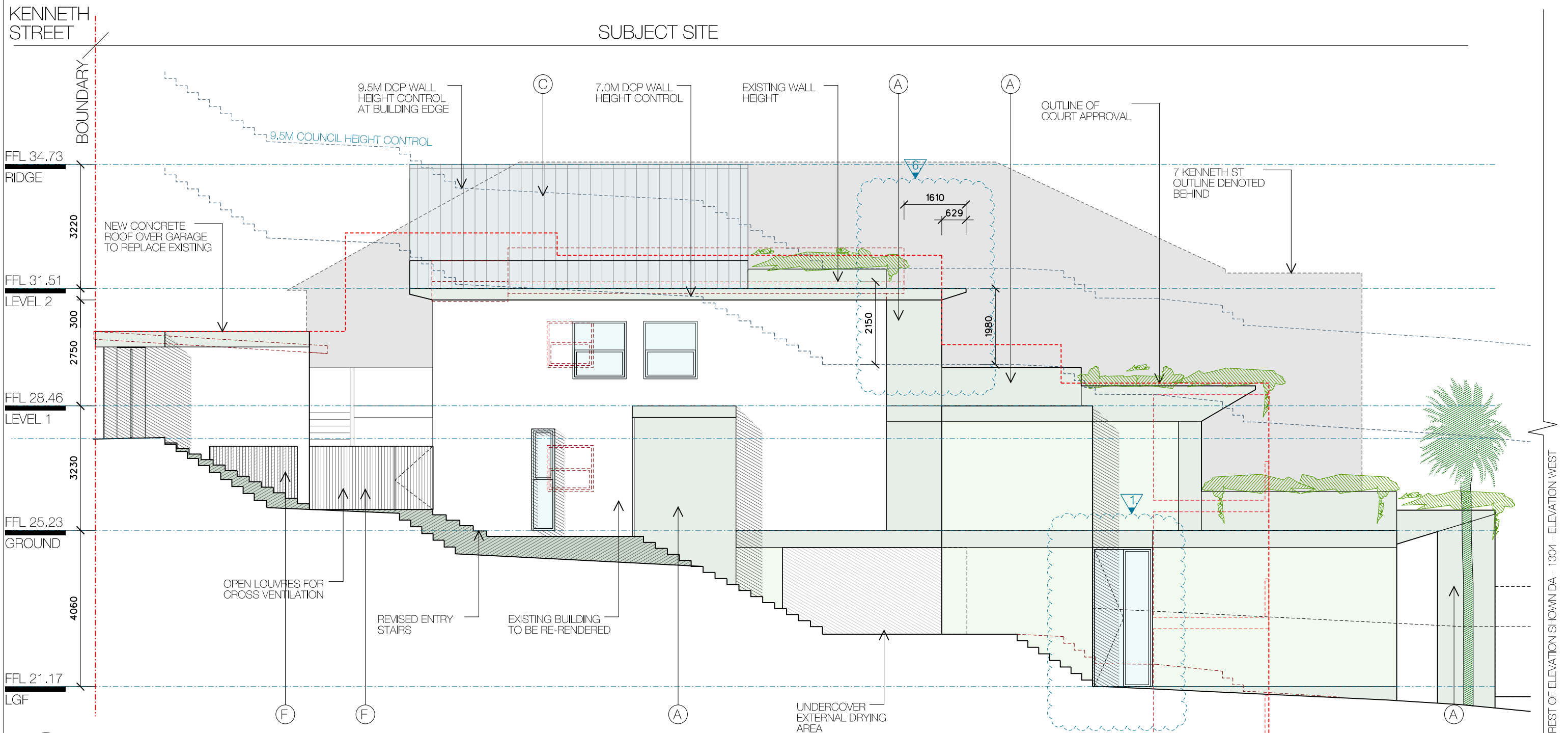
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drawing no.  
DA 1302  
date:  
28.01.22

drawing issue:  
B



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MATERIAL/HATCH KEY					
	TIMBER		INTERNAL TILES		GLASS
	DEMOLITION		BRICK		CONCRETE
	ROOF TILES		STEEL, GALVANISED IRON		FIBRE CEMENT / CEMENT RENDER
	PAVING		ALUMINIUM		STONE / EARTH
	EXISTING STRUCTURE RETAINED		PROPOSED NEW STRUCTURE		

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job no.  
 3172

client  
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 & SONYA PARNES

drawing:  
**ELEVATION WEST**

drawing no.  
**DA 1303**

date:  
 28.01.22

scale:  
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drawing issue:  
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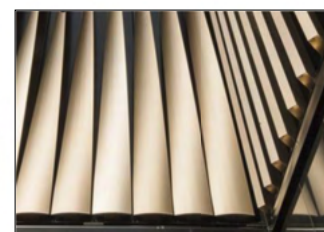
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Page 200 of 611

















FORESHORE

Date Received: 09/02/2022



(F) ALUMINIUM LOUVRE  
SCREEN

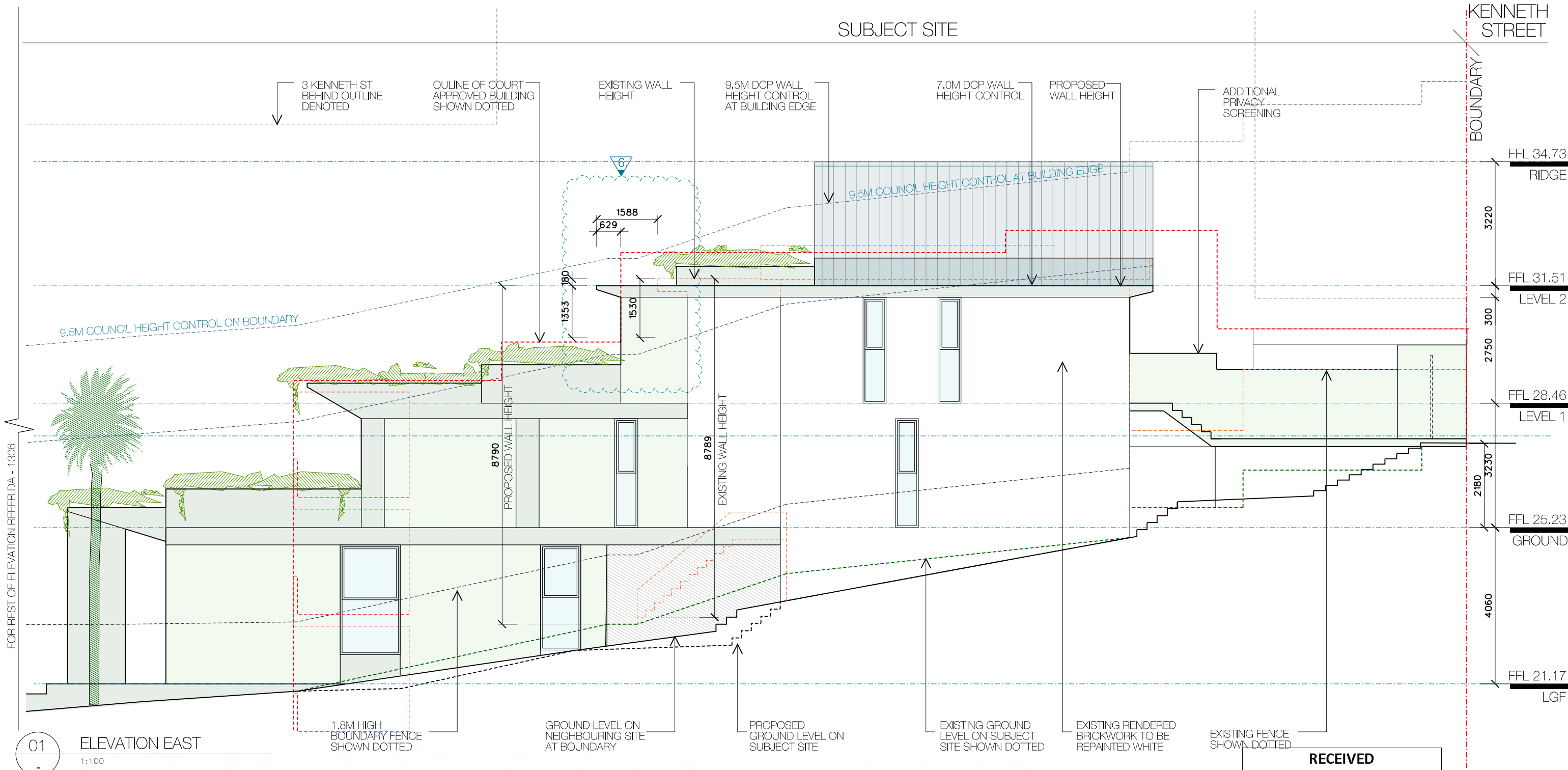
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	ROOF TILES		STEEL, GALVANISED IRON		FIBRE CEMENT / CEMENT RENDER
	PAVING		ALUMINIUM		STONE / EARTH

 EXISTING STRUCTURE RETAINED  
 PROPOSED NEW STRUCTURE

job no.  
3172

drawing issue:  
B

Page 201 of 611



(A) OFF FORM CONCRETE

(B) RENDER FINISH  
(PAINTED WHITE)

(C) STANDING SEAM ZINC  
CLADDING

(D) STEEL BALUSTRADE

(E) ALUMINIUM FRAMED  
GLASS WINDOWS/DOORS  
- BLACK

(F) ALUMINIUM LOUVRE  
SCREEN

MATERIAL/HATCH KEY

	TIMBER		INTERNAL TILES		GLASS
	DEMOLITION		BRICK		CONCRETE
	ROOF TILES		STEEL, GALVANISED IRON		FIBRE CEMENT / CEMENT RENDER
	PAVING		ALUMINIUM		STONE / EARTH

	EXISTING STRUCTURE RETAINED
	PROPOSED NEW STRUCTURE

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drawing:  
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drawing no.  
**DA 1305**  
date:  
28.01.22

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drawing issue:  
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FORESHORE

SUBJECT SITE

BOUNDARY

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OUTLINE DENOTED

FFL 25.23  
GROUND

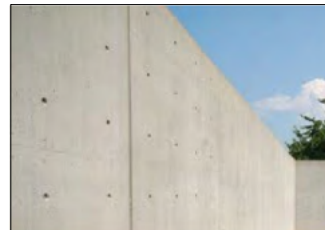
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1000  
4060

FFL 21.17  
LGF

1.8M POOL FENCE SHOWN  
DOTTED FOR CLARITY

FOR REST OF SECTION REFER DA - 1202

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(PAINTED WHITE)















(C) STANDING SEAM ZINC  
CLADDING

(D) STEEL BALUSTRADE

(E) ALUMINIUM FRAMED  
GLASS WINDOWS/DOORS  
- BLACK

(F) ALUMINIUM LOUVRE  
SCREEN

MATERIAL/HATCH KEY

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	PAVING		ALUMINIUM		STONE / EARTH		

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drawing:  
ELEVATION  
WEST

drawing no.  
DA 1306  
date:  
28.01.22

scale:  
1:100 @A3

drawing issue:  
B

0m 1m 2m 5m





## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-348/2021
<b>Site address</b>	28 Lyons Street, Dover Heights
<b>Proposal</b>	Demolition of existing dwelling and construction of a new two storey dwelling with integrated parking and a swimming pool
<b>Date of lodgement</b>	1 September 2021
<b>Owner</b>	Mr J Abrams
<b>Applicant</b>	Belle Design Group
<b>Submissions</b>	Five (5) submissions
<b>Cost of works</b>	\$898,425.00
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• FSR</li> <li>• Building wall height</li> <li>• Visual and acoustic privacy</li> <li>• View loss</li> <li>• Portico and front fence</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report.

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for demolition of existing dwelling and ancillary structures and tree removal, and construction of a new two storey dwelling, relocation of vehicular access, new pool and cabana at the rear and associated landscaping at the site known as 28 Lyons Street, Dover Heights.

The principal issues arising from the assessment of the application are as follows:

- FSR
- Building wall height
- Visual and acoustic privacy
- View loss
- Portico and front fence

The assessment finds these issues acceptable subject to conditions to increase the rear setback of the alfresco area from the rear boundary, installation of privacy treatments to window openings, and acoustic treatments to pool equipment enclosure and air conditioning units. A condition has been recommended to delete the portico and amend the front fence to comply with the height and openness requirements for front fences under the Waverley DCP 2012.

The Clause 4.6 written request seeking variation to the FSR development standard is considered to be well founded and the proposed bulk and scale of the dwelling is compatible with the character of surrounding dwellings and the streetscape.

A total number of five (5) submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

Site visits were carried out on 9 September and 16 December 2021.

The site is identified as Lot 123 in DP 11822, known as 28 Lyons Street, Dover Heights.

The site is irregular in shape with a frontage to Lyons Street, measuring 21.185m, a western (rear) boundary measuring 10.67m and northern and southern side boundaries measuring 40.235m and 41.635m, respectively. It has an area of 640.8m<sup>2</sup> and is generally flat.



The site is occupied by a one storey detached dwelling with a single car detached garage and carport at the rear with a driveway along the northern side boundary.

The site is adjoined by two storey detached dwellings to the west, east and south at Nos. 26 and 30 Lyons Street and Nos. 92 and 94 Liverpool Street. Existing developments to the north of the site, on the opposite side of Lyons Street comprise a mix of one and two storey detached dwellings. The locality is characterised by a variety of low density residential development.

**Figures 1 to 9** are photos of the site and its context.



**Figure 1:** View of subject site looking south along Lyons Street



**Figure 2:** View of No. 30 Lyons Street and subject site looking south-west from the eastern end of Lyons Street



**Figure 3:** View of existing development immediately to the north-west of subject site on Lyons Street



**Figure 4:** Existing development opposite subject site on the northern side of Lyons Street.



**Figure 5:** Existing rear elevation of dwelling and garage from the rear yard, looking north



**Figure 6:** Existing rear yard, looking south-west from the eastern side boundary



**Figure 7:** Adjacent properties (fronting Liverpool Street) to the west of the site, looking west from the rear yard



**Figure 8:** View of the rear of existing dwellings to the west of the site, looking north-west from rear yard



**Figure 9:** View of the rear of No. 30 Lyons Street across the eastern side boundary of the site, looking north-east

### **1.3. Relevant Development History**

A search of Council's records revealed no recent and relevant development history for the site.

### **1.4. Proposal**

The development application seeks consent for demolition of the existing dwelling and ancillary structures, and construction of a new two storey dwelling house with excavation for a basement level, a swimming pool and cabana at the rear, specifically the following:

#### **Basement**

- Guest bedroom with ensuite;
- Media room;
- Storeroom; and
- Lift and stair access.

#### Ground Floor

- Entry portico at the front boundary fronting Lyons Street;
- Open plan living area and alfresco area to the rear,
- Rumpus room;
- Laundry;
- Externally accessed WC adjacent to the eastern side boundary;
- Poll pump and heating unit adjacent to the eastern side boundary;
- Pool, spa and cabana to the rear;
- Stairs and lift access;
- 2 car garage; and
- Removal of 3 trees and associated landscaping.

#### First Floor

- 3 bedrooms with ensuites and a study;
- Rear balcony to master bedroom; and
- Stairs and lift access.

#### Roof

- 4 skylights; and
- Solar panels.

### **1.5. Background**

The development application was lodged on 1 September 2021 and deferred on 8 September 2021 for the following reasons:

1. Additional details on architectural drawings required including details of extent of excavation along the western boundary and RLs of the new pathway along the western boundary.
2. Media room within the basement level is a habitable room and is required to have a window to the external wall.
3. First floor rear balcony exceeds the maximum balcony dimensions and area permitted under the Waverley DCP 2012 and do not comprise adequate privacy screening. The balcony is required to be reduced in size to no greater than 10m<sup>2</sup> and 1.5m in depth, and incorporate privacy screening to minimise privacy impacts on adjoining properties.
4. Incorrectly calculated gross floor area (GFA) plans need to be revised to include the stairs (counted twice across three floor levels) and the storage area on the ground floor. A revised Clause 4.6 written justification is required in response to the revised GFA calculations.
5. Elevational shadow diagrams, at hourly intervals, are required to clearly show additional overshadowing of windows at No. 30 Lyons Street.
6. Amended stormwater management plans are to be submitted including information regarding ground level and grading of levels adjacent to the proposed building in accordance with the requirements of the National Construction Code, and FFL of the basement, ground and first

floors, surface levels of the upstream pit and the dimension, surface and invert levels of all pits and diameter and grade of drainage pipes are to be shown on the plans.

7. OSD system located below the driveway must accurately reflect the longitudinal profile of the driveway and any proposed pump out system discharging to Council's street gutter shall be connected to a stilling pit and gravity line (minimum 1% fall) before discharged to Council's street gutter.
8. Evidence to be provided demonstrating a genuine attempt at gaining an easement for drainage at downstream properties.
9. Seepage water must not discharge directly or indirectly to Council's gutter. The proposed discharge of subsoil drainage is to be viewed and amended where necessary to comply with Council's Water Management Technical Manual.

Amended plans were submitted on 29 September 2021 in response Council's deferral letter. The amended plans included the following:

- RLs on architectural drawings and clarification of excavation adjacent to the western side boundary;
- External windows to the media room in the basement;
- Reduction in the size of the first floor rear balcony to 5.8m<sup>2</sup> and 1.5m in depth;
- Revised GFA calculations and Clause 4.6 written justification;

On 5 October 2021, the applicant submitted written correspondence from the downstream property owner refusing to grant permission for a drainage easement. This has been noted by Council's Stormwater Engineer.

On 25 February 2021, the applicant submitted an amended landscape plan incorporating indigenous and local native plants within the front and rear yards to satisfy the minimum requirements for a site located within the biodiversity habitat corridor under the Waverley DCP 2012.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. 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. State Environmental Planning Policies (SEPPs)

The following SEPPs apply and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP 55 Remediation of Land.
- SEPP (Vegetation in Non-Rural Areas) 2017.



### 2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 is on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### 2.1.3. 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
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is not inconsistent with the aims of the Plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table <ul style="list-style-type: none"><li>R2 Low Density Residential Zone</li></ul>	Yes	The proposal is defined as a dwelling, which is permitted with consent in the R2 Low Density Residential zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"><li>8.5m</li></ul>	Yes	The proposal has a maximum building height of 8.15m measured to the roof ridge.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"><li>0.5:1 (320.4m<sup>2</sup>)</li></ul>	No	The proposal has a FSR of 0.59:1 (376m <sup>2</sup> ) resulting in a variation of 18% to the FSR development standard. The extent of the variation to the FSR development standard is equivalent to the gross floor area of the proposed basement level.
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 FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 6 Additional local provisions</b>		
6.2 Earthworks	Yes	The proposal seeks to excavate to a depth of 3.3m for a basement level. The proposal is consistent with the provisions for earthworks under this part of the Waverley LEP. Consideration of the requirements for excavation under Part B14 of the Waverley DCP 2012. See discussion in the report below.
6.4 Terrestrial biodiversity	Yes	The site is located within the coastal biodiversity habitat corridor under Part B3 of the Waverley DCP 2012. Council's Urban Ecology Co-ordinator has reviewed the



Provision	Compliance	Comment
		landscape plan and raises no objection to the proposed plant species.

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

#### *Clause 4.6 Exceptions to Development Standards*

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum or minimum FSR development standard of 0.5:1. The proposed development has a FSR of 0.59:1, exceeding the standard by 55.6m<sup>2</sup> equating to a 18% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

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

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *Despite the proposed development's non-compliance with the applicable FSR development standard, the proposal is consistent with the desired low-density character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls.*
  - (ii) *The proposed single dwelling is fully compliant with the building height control in the LEP, as well as the boundary setback controls within the DCP. As previously mentioned, the FSR of the dwelling when excluding the habitable rooms in the basement level, is compliant with the maximum FSR allowable on the subject site. Therefore, the GFA to which the variation to the control relates to does not prohibit the appropriate correlation between maximum building height and density controls, given any non-compliance with the FSR control is not visible from the public domain, as it is below the ground level.*
  - (iii) *Accordingly, the proposed dwelling is compatible with the bulk and scale of the of the surrounding development, being two storeys and of a compliant building envelope as seen from the streetscape.*

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The proposal will be consistent with the character of the surrounding low-density residential environment, which is made up predominantly of single dwellings, which range from single to two and three storeys in height. When viewed within the streetscape, the proposal will present as a compliant building form, with fully compliant boundary setbacks and overall building height. Further to this, as the area of FSR exceeding the maximum can be confined to the basement level, the building as viewed from the public domain, would not change if the proposal was made to be compliant with the FSR control.*
  - (ii) *The proposed dwelling will be a positive contribution to the streetscape, replacing an ageing building with a new architecturally designed dwelling.*
  - (iii) *The dwelling will provide an appropriate transition in building height and bulk and scale when viewed in conjunction with the adjoining developments.*

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

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) *to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) *to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) *to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) *to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it*

*applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

The applicant also notes various development applications in the vicinity of the site where similar scale proposals for the construction of a new two storey dwellings that sought variation to the FSR development standard has been approved by Council. In these instances, the exceedance to the FSR development standard varied between 27.7% at No. 82 Liverpool Street, 9.9% at No. 84 Liverpool Street, 4% at No. 92 Liverpool Street and 13.4% at No 9 Lyons Street were considered acceptable as the proposals were consistent with the bulk, scale and built form within the streetscape and did not result in any unreasonable environmental impacts.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard.

In this instance, the extent of the FSR variation is contained within the basement level which is not visible from the street or adjoining properties and does not present additional building bulk that detracts from the existing character of the streetscape. The proposed two storey dwelling is contained within a compliant building envelope and complements the low density character of the street and locality. It is also noted that the proposal will not result in any unreasonable amenity impacts such as overshadowing, loss of views or loss of privacy to adjoining properties.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the FSR development standard are as follows:

*(b) to provide an appropriate correlation between maximum building heights and density controls,*

*(c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,*

*(d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.*

The proposal is contained within a compliant building envelope in accordance with the building height development standard, setback controls, subject to condition to increase the rear building line. The extent of the variation to the FSR development standard is contained within the basement level, is not

visible from the public domain or adjoining properties and presents a two storey dwelling that is compatible with the bulk and scale of existing surrounding developments. The proposal has also demonstrated that surrounding properties will not be adversely affected by unreasonable overshadowing, loss of views or privacy impacts given it is contained within the permissible building envelope.

The objectives of the R2 Low Density Residential zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise public transport patronage and encourage walking and cycling.*

The proposal is consistent with the objective of the zone to provide housing within a low density residential environment. In particular, the proposal replaces a single storey detached dwelling with a contemporary two storey dwelling that is consistent with the bulk and scale of surrounding low density residential developments in the locality.

#### Conclusion

For the reasons provided above the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R2 Low Density Residential zone.

#### **2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9**

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
1. Waste	Yes	Satisfactory.
2. Ecologically Sustainable Development	Yes	Satisfactory.
3. Landscaping and Biodiversity	Yes	Satisfactory.
5. Vegetation Preservation	Yes	Three (3) trees are proposed to be removed. Council's Tree Management Officer has reviewed the proposal and raises no objection to the removal of the trees as two of the trees are dead and one is under 5m in height.

Development Control	Compliance	Comment
6. Stormwater	Yes	Satisfactory, subject to conditions requiring preparation of detailed stormwater management and OSD system plans.
8. Transport  Parking Zone 2 Minimum parking rate: Nil Maximum parking rate: <ul style="list-style-type: none"> <li>2 spaces for 3 or more bedrooms</li> </ul>	Yes	The proposal provides for 2 car spaces. Its design and location are satisfactory.
12. Design Excellence	Yes	Satisfactory.
14. Excavation	Yes	The proposed excavation satisfies the objectives and controls as the extent of excavation will not result in any adverse environmental impacts and will not result in additional building bulk or scale of the dwelling when viewed from the street or surrounding properties.

**Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
<ul style="list-style-type: none"> <li>Appropriate bulk and scale to low density residential development in the vicinity</li> <li>Does not detract from the amenity of adjoining properties</li> <li>Does not have significant view impacts on adjoining properties and the public domain</li> <li>High design quality</li> </ul>	Yes	The proposal does not contravene the general objectives of this part of the DCP.
<b>2.1 Height</b>		
Pitched roof dwelling house <ul style="list-style-type: none"> <li>Maximum external wall height of 7m</li> </ul>	Partial compliance	<p>From the front elevation, the building wall height at the gable roof section of the façade has a building wall height of 8m, however the central portion of the dwelling (at the entry) measures 7m.</p> <p>Along the eastern side elevation the proposal has a building wall height of 6.7m and complies with the maximum wall height control. The proposal has a building wall height of between 7.2m and 7.5m on the western side elevation with the</p>



Development Control	Compliance	Comment
<p>Flat roof dwelling house</p> <ul style="list-style-type: none"> <li>Maximum wall height of 7.5m</li> </ul>	Yes	<p>extent of the non-compliance increasing from the front to the rear of the dwelling.</p> <p>On the rear elevation, the wall height measures between 7.5m-8m, exceeding the wall height control as the top of the gable roof. The extent of non-compliance is contained within the permissible building height development standard and setback controls, and presents a 2 storey built form that complements the scale of surrounding developments and the streetscape.</p> <p>The centre section of the dwelling as viewed from the north and south elevations have a wall height of 7m and 6.6m, respectively and comprises flat roof forms. This portion of the dwelling complies with the maximum wall height control for both pitched and flat roof dwellings and is acceptable.</p>
<b>2.2 Setbacks</b>		
<p>2.2.1 Front and rear building lines</p> <ul style="list-style-type: none"> <li>Predominant front building line</li> </ul>	Yes	<p>The front building line of the ground and first floors are consistent with the predominant front building setbacks of surrounding properties particularly to the west of the site. The front building line of No. 30 Lyons Street to the west of the site is an anomaly within the predominant front setback as the site is orientated to the north-east and is an irregularly shaped allotment.</p>
<ul style="list-style-type: none"> <li>Predominant rear building line at each floor level</li> </ul>	Partial Compliance	<p>The proposed ground floor rear building line, measured to the southern side of the alfresco area is 11.78m. The rear building line of immediately adjoining properties to the east and west as well as properties further to the west do not consists of a predominant setback. As such, it is considered appropriate for the proposal to align with the average rear building line of the immediately adjoining properties. See discussion below.</p> <p>The first floor rear building line, measured to the proposed balcony is setback 18.2m from the rear boundary and is setback from the average first floor rear setback of 12.55m. The built form of the first floor is generally consistent with the immediately adjoining properties and will not result in any unreasonable amenity impacts, subject to conditions addressing privacy screening to the rear first floor balcony.</p>

Development Control	Compliance	Comment
2.2.2 Side setbacks <ul style="list-style-type: none"> <li>Minimum of 0.9m</li> </ul>	Yes	<p>The proposed ground floor is setback between 900mm and 2m from the eastern side boundary and between 1m and 2.6m from the western side boundary.</p> <p>The first floor is setback between 1.3m and 4.3m from the eastern side boundary and between 1.64m and 2.6m from the western side boundary.</p>
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> </ul>	Yes	<p>The proposal has a two storey form that is consistent with the building height development standard and is contained within a permissible building envelope. The proposal is consistent with the predominant built form and scale of two storey dwellings within Lyons Street and complements the character of the streetscape.</p>
<ul style="list-style-type: none"> <li>Significant landscaping to be maintained.</li> </ul>	Yes	<p>The proposed landscaped areas within the front building line and the rear private open space is consistent with landscaped areas to surrounding properties and is appropriate, subject to conditions requiring details of plant species to comply with minimum requirements for native species and maximum mature tree heights not exceeding 4.5m within the front building setback.</p>
<ul style="list-style-type: none"> <li>Porticos only permitted where a character of the streetscape</li> </ul>	No	<p>The proposed portico at the property boundary fronting Lyons Street has dimensions of 2m, a height of 3m with a 2.4m high solid anodised steel gate.</p> <p>There are no existing porticos immediately adjoining the site to properties on the western side of Lyons Street and is not a predominant element within the streetscape.</p> <p>The design of the portico and adjacent front fence (as discussed below) do not contribute to passive surveillance or the existing character of the streetscape and is not supported. See discussion below.</p>
<b>2.4 Fences</b>		
<i>Front:</i> <ul style="list-style-type: none"> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> </ul>	No	<p>The proposal has a solid front fence measuring between 1.2m and 1.5m to the existing ground level and a stainless steel vehicular gate comprising open vertical bars. The solid fencing is inconsistent with the requirement for front fences and is not supported in its current form. See discussion below.</p>

Development Control	Compliance	Comment
<i>Side and Rear:</i> <ul style="list-style-type: none"> <li>Maximum height of 1.8m</li> </ul>	Yes	Existing 1.8m high side and rear boundary fences are to be retained.
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design</li> </ul>	Yes	<p>The windows to the east and west side elevations are either off set from the windows of adjoining properties or appropriately treated with translucent glazing. At the ground floor level, windows on the western elevation do not directly align with adjoining habitable room windows or are sufficiently screened by the existing 1.8m high side boundary fence. The proposed full height fixed glazed window to the internal stairs will consist of translucent glazing and will not result in any loss of privacy for No. 26 Lyons Street.</p> <p>On the first floor level, windows on the eastern elevation provide adequate privacy between the site and the adjoining dwelling except for window FF.W4 which will potentially overlook the private open space and ground floor windows at No. 30 Lyons Street. The window is a secondary window to the proposed bedroom which has larger windows on the northern elevation. A condition has been imposed requiring privacy treatment to the window such as translucent glazing to minimise privacy impacts on the adjoining property.</p> <p>On the western elevation, window FF.W13 from the proposed study is directly opposite a habitable room window on the first floor of No. 26 Lyons Street. The study also has two windows on the northern elevation. To maintain adequate privacy to the adjoining property, a condition has been recommended requiring window FF.W13 to consist of translucent glazing.</p>
<ul style="list-style-type: none"> <li>Maximum size of balconies: <i>10m<sup>2</sup> in area</i> <i>1.5m deep</i></li> </ul>	Yes	<p>The first floor rear balcony accessed from the Master Bedroom has a depth of 1.5m and an area of 5.8m<sup>2</sup> which complies with maximum requirements for an elevated balcony. The balcony is setback 18.2m from the rear boundary and does not extend beyond the rear building or balconies of adjoining properties. A first floor rear balcony at No. 94 Liverpool Street, to the south of the site, is setback approximately 9m from the shared boundary and will have a separation of approximately 27.4m from the proposed first floor balcony. Given that the proposed balcony is accessed from a bedroom with a substantial</p>

Development Control	Compliance	Comment
		<p>setback from the rear boundary, the proposal will not result in any unreasonable overlooking or loss of privacy to No. 94 Liverpool Street.</p> <p>The balcony is acceptable subject to a condition to install privacy screening along eastern and western sides to a height of 1.6m above the finished floor level of the balcony to minimise overlooking to the private open space of adjoining properties.</p>
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> </ul>	No	The proposal provides a minimum of 3 hours solar access to the north facing rumpus room on the ground floor. Due to the north to south orientation of the lot and the design seeking to provide a better connection between living area and private open space, opportunities for direct solar access to living areas and private open space is restricted. The orientation of the lot and living areas to the south is consistent with immediately surrounding properties and is acceptable.
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> </ul>	Yes	The proposal will result in some additional overshadowing to the rear private open space at No. 26 Lyons Street at 9am on 21 June and to the northern side boundary
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> </ul>	Yes	The proposal will not impact on any existing views from surrounding public spaces.
<ul style="list-style-type: none"> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	Yes	The proposed dwelling is compliant with the predominant front building line of surrounding properties and will maintain view sharing for properties to the west to views of the ocean. The rear building line at the ground and first floors do not extend beyond the rear building line of No. 30 Lyons Street and will not result in any significant loss of views of the ocean from the rear of the property immediately to the west (No. 26 Lyons Street). See discussion below.
<b>2.8 Car parking</b>		
<b>2.8.1 Design Approach</b> <ul style="list-style-type: none"> <li>Parking only allowed where site conditions permit</li> </ul>	Yes	The site has an existing vehicle crossing, driveway and on site carparking adjacent to the western side boundary. The proposal to relocate the vehicle crossing further to the east to provide

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Designed to complement the building and streetscape</li> <li>Car parking structures to be behind the front building line</li> <li>Driveways are to be located to minimise the loss of on street parking</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>access to a double garage is consistent with the design and location for on site car parking at surrounding properties as the garage is located behind the front building line.</p> <p>The proposal will not result in loss of street parking and will not adversely impact the existing character of the street. streetscape or available street parking.</p> <p>The proposed garage is located behind the predominant front building line of surrounding properties.</p>
2.8.2 Parking rates	Yes	Parking rates are set by Part B8 of Waverley DCP 2012.
2.8.3 Location <ul style="list-style-type: none"> <li>Behind front building line for new dwellings</li> <li>Existing development to be in accordance with the hierarchy of preferred car parking locations</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>The garage is located behind the predominant front building line and is consistent with the location of garages to surrounding properties.</p>
2.8.4 Design <ul style="list-style-type: none"> <li>Complement the style, massing and detail of the dwelling</li> <li>Secondary in area and appearance to the design of the residences</li> <li>Gates to have an open design</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposed garage is integrated into the front façade and design of the dwelling, and is consistent with existing surrounding developments. The garage will not dominant the front façade of the dwelling. The vehicular gate along the front boundary is of an open design and complies with the requirements of the DCP.</p>
2.8.5 Dimensions <ul style="list-style-type: none"> <li>5.4m x 2.4m per vehicle</li> </ul>	Yes	The proposed double garage has internal dimensions of 2.9m x 5.6m per vehicle.
2.8.6 Driveways <ul style="list-style-type: none"> <li>Maximum of one per property</li> <li>Maximum width of 3m at the gutter (excluding splay)</li> <li>Crossings not permitted where 2 on street spaces are lost</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposal replaces the existing driveway with a new driveway measuring 2.9m at the gutter. The proposal does not result in a net loss of more than 1 street car parking space. Council's Traffic Engineer has reviewed the proposal and raises no objection to the proposal, subject to conditions included in the recommendation.</p>
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% (256.3m<sup>2</sup>) of site area</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>A total of 403.6m<sup>2</sup> (63%) of open space is provided including the first floor rear balcony.</p>



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Overall landscaped area: 15% of site area</li> <li>Minimum area of 25m<sup>2</sup> for private open space</li> <li>Front open space: 50% (62.3m<sup>2</sup>) of front building setback area</li> <li>Front landscaped area: 50% (31.2m<sup>2</sup>) of front open space provided</li> <li>Outdoor clothes drying area to be provided</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Not shown on plans</p>	<p>A total of 150.7m<sup>2</sup> (24%) of landscaped area is provided within the front and rear yards.</p> <p>A private open space area immediately adjacent to the alfresco area has an area of 75m<sup>2</sup> and consists of lawn.</p> <p>The proposal provides 124.5m<sup>2</sup> of open space within the front setback, which is double the minimum requirement.</p> <p>A total of 66.7m<sup>2</sup> of landscaping is proposed within the front open space.</p>
<b>2.10 Swimming pools and spa pools</b>		
<ul style="list-style-type: none"> <li>Located in the rear of property</li> <li>Pool decks on side boundaries must consider visual privacy</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>The proposed swimming pool is located along the rear boundary and the pool decks adjacent is 1.8m below the top to the side boundary fence to the east and a cabana with a brick wall along the western side boundary. The proposal will not result in any unreasonable privacy impacts on immediately adjoining properties.</p>
<b>2.16 Secondary dwellings and ancillary buildings</b>		
<ul style="list-style-type: none"> <li>Minor building integrated into landscaped open space and not exceeding 10% (64.08m<sup>2</sup>) of the lot size</li> <li>Maximum wall height of 2.1m on the boundary</li> <li>Maximum building height of 2.4m</li> <li>Design of roof must not conflict aesthetically with dwelling or adjoining properties.</li> <li>Must not adversely impact amenity of neighbouring property</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposed cabana at the south-western corner of the site is adjacent to the pool and pool deck located along the rear southern boundary of the site. The cabana has a dimension of 6.1m x 2m (12.2m<sup>2</sup>, 1.9% of the site area) and a floor to ceiling height of 2.1m. The overall height of the structure is 2.25m measured from the proposed pool deck. The building height of the cabana has a height of between 2.6m -2.7m measured from the existing ground level. A condition has been imposed to ensure that the cabana has a maximum wall height of 2.1m and building height of 2.4m measured at the property boundary to minimise amenity impacts on adjoining properties.</p> <p>The flat metal roof is consistent with roof forms of ancillary buildings and structures with the rear yards of dwellings in the locality and will not result in any unreasonable amenity impacts on adjoining properties. The cabana will not project significantly above the existing 1.8m side and rear boundary fences (subject to condition as</p>

Development Control	Compliance	Comment
		discussed above) and will not result in unreasonable overshadowing, visual bulk and scale or loss of privacy as solid walls are proposed along the south and west boundaries with the opening to the cabana orientated to the proposed pool to the east.

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

### *Rear Building Line*

The proposed ground floor rear building line, measured to the southern side of the alfresco area is 11.78m from the rear boundary. As the immediately adjoining dwellings at Nos. 26 and 30 Lyons Street do not have a consistent rear building line and the rear building line of dwellings further to the west also vary, it is considered appropriate to define the rear building line as the average between the rear building lines of adjoining properties which is calculated at 12.75m. In this regard, the proposed ground floor rear building line projects beyond the average rear building line by 970mm and the non-compliance is not supported as it will set an undesirable precedent. It is recommended that the alfresco area be reduced in depth by 970mm to comply with the average rear building line which will also reduce the bulk of the alfresco roof from adjoining properties. As the proposed alfresco area has a depth of 4.59m and the recommendation to reduce the depth by 970mm will have minimal impact on the design and usability of the alfresco area. A condition requiring amendment to the alfresco area and the rear building line has been included in Appendix A.

### *View Loss*

Section 2.7 in Part C2 details all objectives and strategies for public and private domain views and view sharing, which generally seek to reduce impacts on existing views and vistas from the private and public domain.

The proposal will not result in any loss of views from the public domain and is considered consistent with the objectives and provisions of the DCP.

During the notification period, view loss concerns were raised by the neighbouring property to the west of the site. Potential view loss impacts particularly from the rear of No. 26 Lyons Street has been assessed in accordance with the NSW Land and Environment Court Planning Principle based on *Tenacity Consulting v Warringah [2004] NSWLEC 140*. The view sharing planning principle requires a four step assessment to determine if view sharing is reasonable 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.*

- 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.*
- 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).*
- 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.*

No. 26 Lyons Street currently has views of the ocean from east facing window openings on the first floor and the rear first floor balcony as shown in **Figures 10 to 15**. The view from the bedroom window towards the ocean across is across the side boundary and front building line of the subject site. The view of the ocean is more prominent from a standing position as shown in **Figure 11**. View of the ocean is partially obscured by the roof of No. 30 Lyons Street and landscaping within the front building line between the subject site and No. 30 Lyons Street.

Photographs of existing outlook from the private open space at the rear of No. 26 Lyons Street (**Figures 12 and 13**) indicate that there are no views of the water at the ground floor level. Principal living areas at No. 26 Lyons Street are orientated to the south and do not have views.

A first floor bedroom with a window to the eastern elevation currently has views of the water across the side boundary and over the roof of the existing garage and dwelling (**Figure 14**). The first floor rear balcony of No. 26 Lyons Street currently has views of the water when looking east across the side boundary with the subject site and across the rear yards of No. 30 Lyons Street and No. 94 Liverpool Street, properties further to the east (**Figure 15**).



**Figure 10:** North-eastern outlook from first floor bedroom window of No. 26 Lyons Street



**Figure 11:** Looking east from first floor window on the eastern elevation of No. 26 Lyons Street



**Figure 12:** Looking east from the rear ground floor deck at No. 26 Lyons Street



**Figure 13:** Looking south-east from rear ground floor deck at No. 26 Lyons Street



**Figure 14:** Looking south-east across the side boundary from first floor bedroom window at No. 26 Lyons Street



**Figure 15:** Looking east from rear first floor balcony at No. 26 Lyons Street

Whilst the view of the water from the bedrooms and the rear first floor balcony are considered valuable, the views are not categorised as iconic views. All views of the ocean from No. 26 Lyons Street are also obtained across a side boundary which is difficult to retain given the proposal is contained within a compliant building envelope and is consistent with the predominant front building line of adjoining properties, achieves the minimum required side setbacks to the east and west boundaries and does not

extend beyond the rear building line of No. 30 Lyons Street. As discussed above, it is recommended that the rear building line of the ground floor alfresco area be further setback to the average rear building line of Nos. 26 and 30 Lyons Street to minimise visual bulk and obstruction of views to the water when viewed from No. 26 Lyons Street.

The extent of impacts on existing views from the rear first floor balcony is limited to the area immediately adjacent to the rear building line of the existing dwelling. As shown on the architectural plans, the proposed alfresco roof extends 2.8m from the rear of the existing dwelling and has a height of 3.5m which is 700mm above the existing gutter. The proposed alfresco roof will appear similar to a pergola structure and will not contribute to excessive building bulk when viewed from No 26 Lyons Street. Whilst the proposal will have some impact on the extent of existing views of the ocean immediately adjacent to the proposed rear building line, the remaining outlook to the ocean from the first floor balcony will be retained and is not adversely affected by the proposal.

The proposal will be contained within a complaint building envelope, subject to increase of the rear building line to be consistent with the average rear building line of adjoining properties, and complements the bulk and scale of surrounding developments. In this instance, the view loss impact is considered reasonable and will not adversely impact on the adjoining property.

#### *Portico and Front Fence*

The proposed portico located at the centre of the front property boundary measures 2m x 2m, has a height of 3m and a 2.4m high solid anodised steel gate fronting Lyons Street. The portico is contrary to the provisions of the DCP and will detract from the character of the streetscape as there are no existing porticos immediately adjoining the site to properties on the western side of Lyons Street. It is noted that a portico exists at No. 15 Lyons Street to the north-east of the site however a search of Council records have not found a development consent for the structure.

The portico adjoins a solid front fence measuring between 1.2m and 1.5m in height (from the existing ground level) which is inconsistent with design provisions for front fences which permits front fences to a maximum height of 1.2m comprising of a 600mm high base and open fence design to at least 50% openness above.

The design of the portico and adjacent front fence will not contribute to passive surveillance between the site and the public domain, is out of character with the style of front fences within the streetscape and is not acceptable. A condition has been included recommending the deletion of the portico and amendment to the design of the front fence to comply with the requirements of the Waverley DCP 2012.

## **2.2. Other Impacts of the Development**

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



### 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

### 2.4. Any Submissions

The application was notified for 14 days between 29 September 2021 and 15 October 2021 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

A total of five (5) unique submissions were received from the following properties:

**Table 4: Number of and where submissions were received from.**

Count	Property Address
1.	24 Lyons Street, Dover Heights (2 submissions)
2.	26 Lyons Street, Dover Heights
3.	30 Lyons Street, Dover Heights
4.	94 Liverpool Street, Dover Heights

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- View Loss
- Loss of privacy
- Wall height
- Overshadowing
- Size of cabana
- Portico and streetscape impacts

All other issues raised in the submissions are summarised and discussed below.

**Issue:** *Windows on the western elevation will result in light spill.*

**Response:** The window to the stairs will comprise translucent glazing and is setback 2.6m from the western side boundary and approximately 3.9m from adjacent window openings at No. 26 Lyons Street. The setback of the proposed ground and first floors at the location of the stairs is significantly greater than the minimum required side setback of 900mm and is not considered to result in unreasonable amenity impacts in the adjoining property.

**Issue:** *Height of western side boundary fence up to 2.6m should be reduced to 1.8m to minimise view loss and overshadowing.*

**Response:** The proposal seeks to retain the existing 1.8m high western side boundary fence except at the south-eastern corner to construct the cabana. A condition restricting the overall height of the cabana to be no greater than 2.4m with a maximum wall height of 2.1m at the property boundary has been

included in the recommendation to minimise amenity impacts on adjoining properties. Compliance with the ancillary building controls under the Waverley DCP 2012 is supported.

**Issue:** *Proposed palm trees and Frangipani trees in the front and rear yards will obscure views.*

**Response:** The amended landscape plan has replaced the originally proposed palm trees and Frangipani within the front and rear yards with 3 x Heath Banksia (*Banksia integrifolia*) in the front and 1 x Tuckeroo (*Cupaniopsis anacardioides*) along the eastern side boundary in the rear yard. The selection of native species within the front yard have mature heights of approximately 4.5m and will not adversely obscure views of the ocean from the adjoining property. Given the orientation of existing ocean views from the rear first floor balcony at No. 26 Lyons Street, the proposed location of the proposed Tuckeroo will not significantly impact existing views and is acceptable.

**Issue:** *The height of the alfresco area roof is excessive and will obstruct views and sunlight to No. 26 Lyons Street.*

**Response:** The roof to the alfresco area at the rear will not result in unreasonable loss of views of the ocean from the first floor rear balcony at No. 26 Lyons Street which has views of the ocean, across the side boundary, from the rear building line of No. 30 Lyons Street and across the rear yards of the subject site, No. 30 Lyons Street and 94 Liverpool Street. The rear setback of the alfresco area, subject to condition, will be increased a further 900mm and be positioned behind the existing ground floor rear building line at No. 30 Lyons Street. Given the angle of the view from No. 26 Lyons Street, the proposal will not result in any significant impact on existing views. As shown in the shadow diagrams, the proposal will maintain compliant solar access to the private open space at No. 26 Lyons Street.

**Issue:** *Pool equipment adjacent to the eastern side boundary and air conditioning equipment should be relocated away from adjacent bedrooms windows.*

**Response:** The pool equipment located adjacent to the eastern side boundary will be contained in an acoustically treated enclosure to minimise noise impacts on the adjoining property. The location of air condition equipment has not been shown on the plans. Conditions have been included in the recommendation to ensure the installation of any air conditioning units must be appropriately located and acoustically treated to minimise noise impacts on adjoining properties.

**Issue:** *Landscaping along the rear boundary should comprise of 4m high plantings.*

**Response:** The proposal seeks to retain the existing rear boundary fence and plant 12 x NZ Christmas Bush along the length of the rear fence adjacent to the pool. These plants are capable of growing to a mature height of approximately 5m.

## **2.5. Public Interest**

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

### 3. REFERRALS

The following internal and external referral comments were sought:

#### 3.1. Traffic and Development

Council's Traffic Engineer has reviewed the proposal and advises that the proposal is compliant with relevant traffic and parking controls, except for the 4m wide vehicle crossover at the street which exceeds the maximum width of 3m. A condition has been recommended to require the width of the vehicle crossover to be reduced to no greater than 3m.

No objection is raised to the design and location of the garage and vehicle access to the site, subject to conditions that have been included in Appendix A.

#### 3.2. Stormwater

Council's Stormwater Engineer has reviewed the proposal and has raised no objection to the proposal, subject to conditions requiring detailed stormwater management plans being prepared particularly address drainage from the stone and tile pathway adjacent to the western side boundary. Relevant stormwater management conditions have been included in Appendix A.

#### 3.3. Tree Management

Council's Tree Management Officer has reviewed the proposal and raises no objection to the proposed removal of three trees on the subject site as identified in the submitted Arborist Report and the proposed landscape plan.

#### 3.4. Environmental Sustainability

Council's Urban Ecology Co-ordinator has reviewed the proposal and raises no objection to the amended landscape plan as it provides adequate indigenous and local native plants as identified in the Waverley DCP 2012m and will contribute to the character of the biodiversity habitat corridor.

### 4. CONCLUSION

The development application seeks consent for demolition of the existing dwelling and ancillary structures, tree removal and construction of a new two storey dwelling, relocation of vehicular access, new pool and cabana at the rear and associated landscaping at the site known as 28 Lyons Street, Dover Heights.

The principal issues arising from the assessment of the application are as follows:

- FSR
- Building wall height
- Visual and acoustic privacy
- View loss

The assessment finds these issues acceptable subject to conditions to increase the rear setback of the alfresco area from the rear boundary, installation of privacy treatments to window openings and acoustic treatments to pool equipment enclosure and air conditioning units. The Clause 4.6 written request seeking variation to the FSR development standard is considered to be well founded and the proposed bulk and scale of the dwelling is compatible with the character of surrounding dwellings and the streetscape.

A total number of five (5) submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received. There is no conflict of interest for this application.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

***Development and Building Unit (DBU) Decision:***

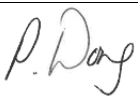

The application was reviewed by the DBU at the meeting on 22 February 2022 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *A Rossi, B Matlawski and K Johnstone*

**5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL**

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Peggy Wong	Angela Rossi
<b>Senior Development Assessment Planner</b>	<b>Manager, Development Assessment (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date: 1 March 2022</b>	<b>Date: 14 March 2022</b>

***Reason for WLPP referral:***

3. Departure from any development standard in an EPI by more than 10%

## **APPENDIX A – CONDITIONS OF CONSENT**

### **Conditions of the development consent**

#### **A. APPROVED DEVELOPMENT**

##### **1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

(a) Architectural Plans prepared by Rooz + Rooz Design including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
1.0	Site Plan	22.09.2021	29.09.2021
1.1	Basement Plan	22.09.2021	29.09.2021
1.2	Ground Floor Plan	22.09.2021	29.09.2021
1.3	First Floor Plan	22.09.2021	29.09.2021
1.4	Roof Plan	22.09.2021	29.09.2021
1.6	Demolition Plan	22.09.2021	29.09.2021
1.7	Ground floor Plan w Demolished	22.09.2021	29.09.2021
2.1	North (Street) Elevation	22.09.2021	29.09.2021
2.2	North Elevation	22.09.2021	29.09.2021
2.3	East Elevation	22.09.2021	29.09.2021
2.4	South Elevation	22.09.2021	29.09.2021
2.5	West Elevation	22.09.2021	29.09.2021
3.1	Section AA	22.09.2021	29.09.2021
3.2	Section BB	22.09.2021	29.09.2021
3.3	Section CC	22.09.2021	29.09.2021
3.4	Section DD	22.09.2021	29.09.2021

(b) Landscape Plan No. 5.6 and documentation prepared by Rooz + Rooz Design, dated 22 September 2021 and received by Council on 29 September 2021

(c) BASIX Certificate

(d) Arborist Report prepared by The Ents Tree Consultancy dated 11 June 2021, and received by Council on 1 September 2021

(e) Schedule of external finishes and colours, Drawing No. 5.3 prepared by Rooz + Rooz Design and received by Council on 29 September 2021

(f) The Site Waste and Recycling Management Plan (SWRMP) Part 1 1 September 2021

Except where amended by the following conditions of consent.

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

The application is approved subject to the following plan amendments;

(a) The portico adjacent to the northern property boundary is not approved and is to be deleted from the drawings. The front entry gate and fence shall be limited to 1.2m above footpath level.



- (b) The southern side of the ground floor alfresco area including the supports and roof immediately above, is to be setback an additional 970mm from the southern property boundary, to a rear building line of 12.75m (measured from rear boundary).
- (c) The building height of the pool cabana structure must not be greater than 2.4m with a maximum wall height of 2.1m when measured at the western and southern boundaries.
- (d) Translucent glazing is required for first floor windows on the east and west elevations (Windows FF.W4, FF.W12 and FFW.13) to prevent direct overlooking of adjacent windows of neighbouring properties immediately to the east and west.
- (e) Privacy screens are to be provided on the east and west sides of the rear first floor balcony and designed to mitigate overlooking to adjoining properties. The privacy screens are to be of a light weight material (such as timber or obscure glazing) and be a minimum of 1.6m high when measured from the finished floor level of the balcony.
- (f) New/replacement boundary fencing to the side and rear boundaries shall be limited in height to 1.8m measured from existing ground level of the adjoining property.

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

### **3. DOMESTIC HEATERS**

The provision of solid fuel heating is prohibited.

## **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **GENERAL REQUIREMENTS**

#### **4. 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 the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

#### **5. 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 applicable requirements of Part 6, before any work commences.

### **CONTRIBUTIONS, FEES & BONDS**

#### **6. SECTION 7.12 CONTRIBUTION**

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 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:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) 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 are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

(b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;

- (i) A development valued at \$100,000 or less will be exempt from the levy;
- (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or
- (iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any 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.

## **7. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of **\$22,900** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **8. 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 of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any 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.

## **CONSTRUCTION MATTERS**

### **9. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

### **10. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

#### **11. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical 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.

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.

#### **12. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

### **STORMWATER & FLOODING**

#### **13. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plan prepared by Soliman Hanna & Associates, Job No. 21-076, Drawing No. D1, D2, D3 & D4, Revision B, dated 22/09/2021, are considered unsatisfactory.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- (a) The plans shall provide details of any required On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be submitted.
- (b) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be submitted.
- (c) Full hydraulic details and pump manufacturers specification of any proposed pump out system shall be provided. The pump out system must be connected to a stilling pit and gravity line before discharged to Council's street gutter.
- (d) Seepage water must not be directly or indirectly discharged to Council's street gutter.
- (e) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating the

proposed stormwater drainage system can cater for the relevant design storm event shall be provided.

- (f) The pipeline within the footpath verge of Lyons Street must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres and fall by gravity at 1% minimum.
- (g) A grated trench drain shall be provided across the (garage entrance/driveway/street boundary) within private property. Unless otherwise sized by a Hydraulic Stormwater Engineer, the dimensions of the trench grate shall be no less than 300 mm wide by 100 mm deep at the shallow end and have a “bottom” slope of 2%. This trench drain shall be connected to an approved drainage system.
- (h) Any affected Council’s infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council’s title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council’s contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday).

#### **14. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council’s Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council. An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

### **ENERGY EFFICIENCY & SUSTAINABILITY**

#### **15. BASIX**

All requirements of the BASIX Certificate documentation are to be shown on the Construction Certificate plans and documentation.

### **WASTE**

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

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials



to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* 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.

## **LANDSCAPING & TREES**

### **17. GREEN ROOF LANDSCAPING DETAILS**

The construction certificate landscape plans are to comply with the controls for green roofs in Part B3.1 of the *Waverley Development Control Plan 2012* including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 – 1).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species.
- (c) The green roof is to be designed to be a non-trafficable area (with no balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

A qualified landscape architect must review the design and verify that it complies with the above requirements.

## **TRAFFIC MANAGEMENT**

### **18. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

### **19. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

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

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **PRIOR TO ANY WORKS**

#### **20. 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.

### **DEMOLITION & EXCAVATION**

#### **21. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- *Protection of the Environment Operations Act 1997*.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority 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 SafeWork 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.

## **22. CONTROL OF DUST ON CONSTRUCTION SITES**

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 (e.g. 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.

## **23. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

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 2014.

## **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.

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 excavation is to be managed by a practising structural engineer.

## **CONSTRUCTION MATTERS**

### **25. 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 Sundays and public holidays.

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.

Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

### **26. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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

## **27. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

## **28. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be 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.

## **29. 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 location 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.

## **30. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

## **31. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS**

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa 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/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure
- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans MUST be submitted to Sydney Water at least 14 days prior to commencement of building operations.

## **TREE PROTECTION AND REMOVAL**

### **32. TREE PROTECTION**

All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

## **VEHICLE ACCESS & PUBLIC DOMAIN WORKS**

### **33. NEW VEHICLE CROSSING**

A new vehicle crossing is to be provided to access the proposed garage. 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.

Note: Prior to the submission of the vehicle crossing application, works as executed drawings shall be submitted to Council for the approval of the Executive Manager Creating Waverley confirming the finished levels of the internal driveway between the property boundary and the garage floor comply with the approved driveway long sections.

### **34. 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

### **35. DRIVEWAY DIMENSIONS**

The driveway shall be a maximum width of 3.0 metres from the property boundary to the street with 0.45 metre splays at the street.



## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **36. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### **37. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

### **38. CERTIFICATION OF STORMWATER SYSTEM**

Prior to 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.

### **39. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA**

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design;
- (b) Evidence that the swimming pool/outdoor spa has been registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>);
- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council;
- (d) A copy of the occupation certificate must be submitted to Council.

Note: Swimming/spa pool pumps are restricted from use 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 2017.

### **40. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM**

- (a) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, basement

pump-out facility, the detention facility, rainwater harvesting facility and other drainage related infrastructure. An original or a colour copy must be submitted to Waverley Council. Where changes have occurred, the Council approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.

- (b) A suitably qualified and practising Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

#### **41. ON-SITE STORMWATER DETENTION CERTIFICATION**

The submission of certification by a suitably qualified and practising Engineer for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the system prior to the release of the Occupation Certificate.

#### **42. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD**

A “Restriction on the Use of Land” and “Positive Covenant” shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services. The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate/use of the building. All associated costs shall be borne by the applicant.

#### **43. PLANNED PREVENTATIVE MAINTENANCE SCHEDULE FOR PUMP OUT SYSTEM**

The registered proprietor shall be required to submit written intent to establish and maintain a Planned Preventative Maintenance (PPM) schedule of any pump out system prior to the issue of Occupation Certificate. Council will not be liable for any claims for damages arising from the failure of the system. Evidence shall be submitted to the Executive Manager, Infrastructure Services or delegate prior to the issue of the Occupation Certificate.

## **E. OPERATIONAL MATTERS**

### **AMENITY & SAFETY**

#### **44. AIR CONDITIONING UNITS**

Air conditioning units are to be installed in a location that minimises noise impacts to adjoining properties. If air conditioning units are located adjacent to side boundaries and in close proximity to window openings of adjoining properties, it must be contained within an acoustically treated enclosure to ensure that it is within the acceptable limits.

#### **45. RAINWATER HARVESTING AND REUSE**

The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.

## **ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council’s standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

### **AD2. SYDNEY WATER REQUIREMENTS**

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

### **AD3. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual’s responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

#### **AD5. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

#### **AD6. TREE REMOVAL/PRESERVATION**

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

#### **AD7. SITE RECTIFICATION WORKS**

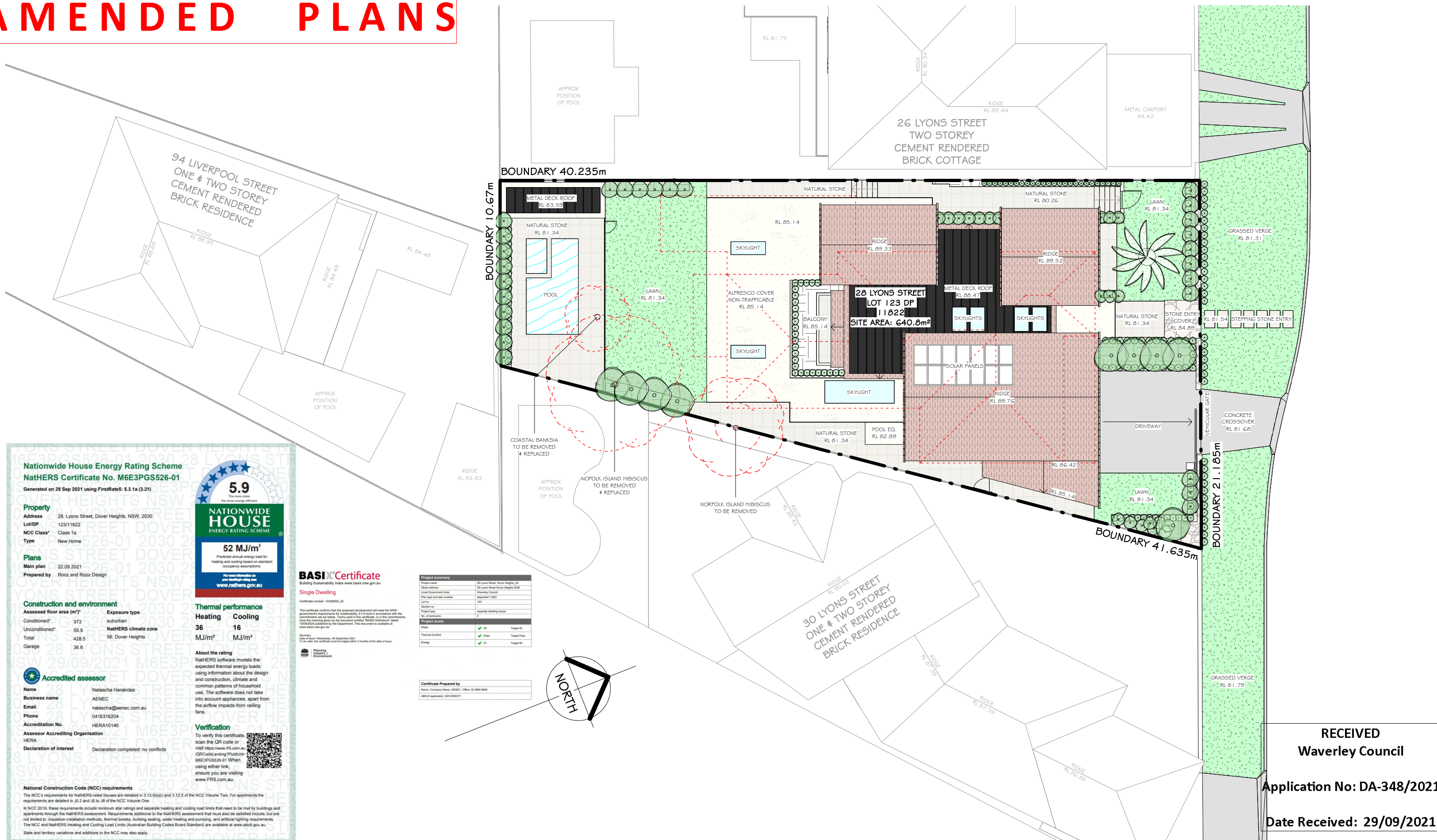
The vacant site is to be maintained in a safe and secure manner. Fencing is to be erected around the perimeter of the site once demolition has been completed to secure the site. The site is to be protected from windblown soil loss and stormwater erosion at all times.

If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:

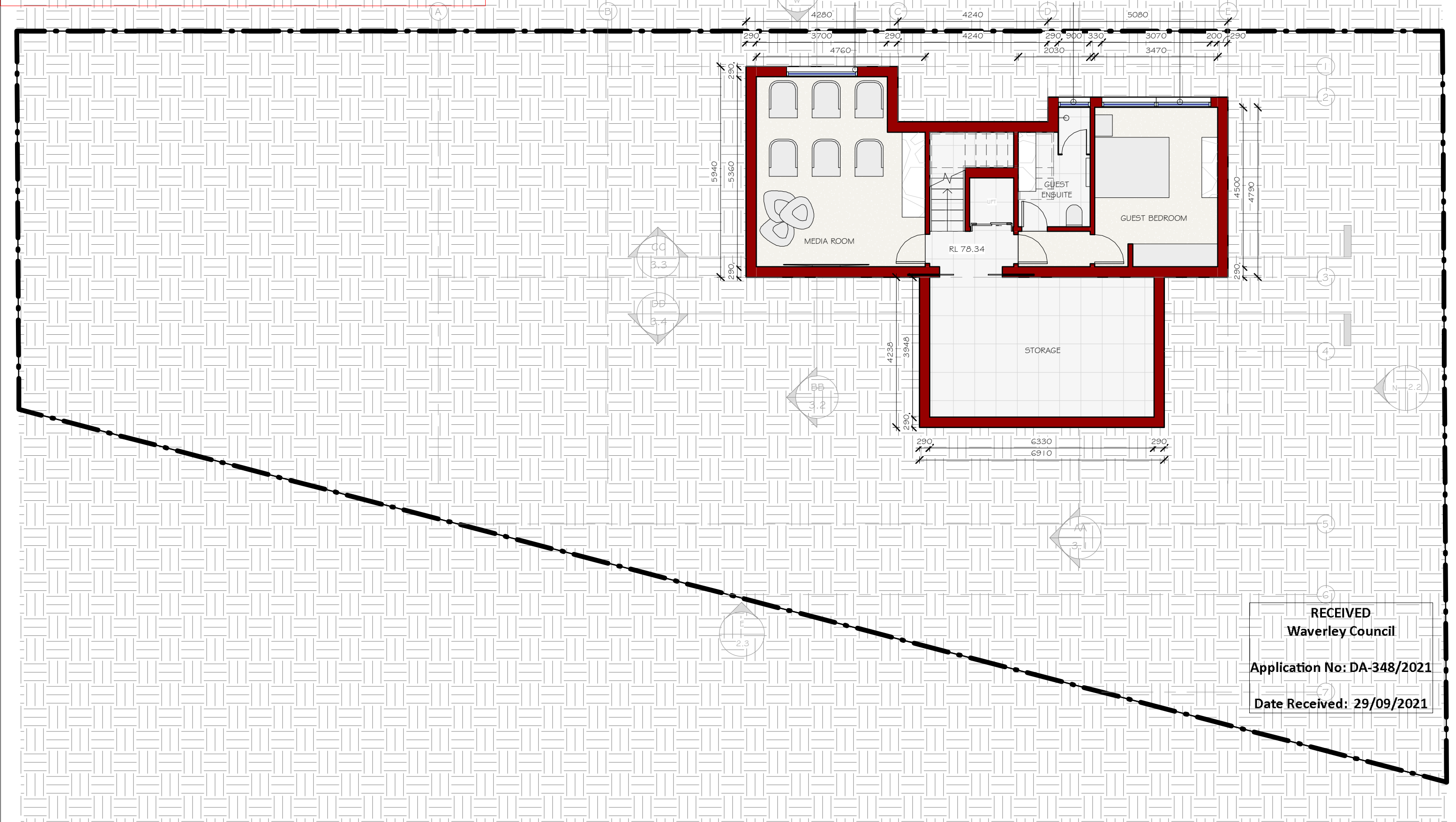
- (i) Require certain works including but not limited to:
  - (a) make the building/site safe and of an appearance acceptable to Council.
  - (b) Allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
  - (c) For the hole to be covered to allow it to be landscaped and made attractive from any public vantage point.
  - (d) AND to call on such bank guarantee to cover the cost thereof.
- (ii) In the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the costs of the works.



# AMENDED PLANS



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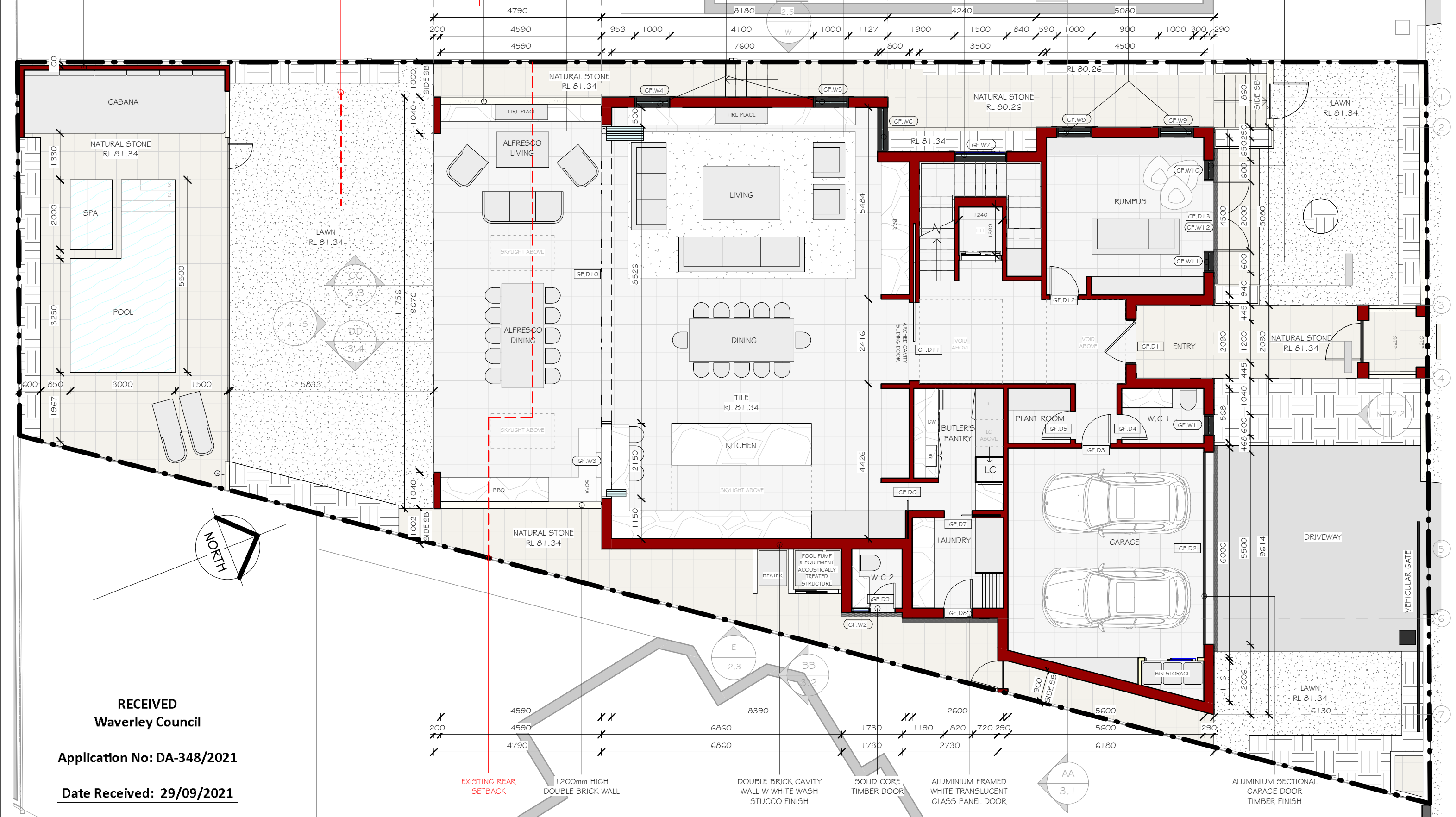


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Waverley Council  
Application No: DA-348/2021  
Date Received: 29/09/2021

<div>ROOZ + ROOZ DESIGN</div>	<p><b>BELLE DESIGN GROUP</b></p> <p>JOSEPH ROOZ B.Sc. (Arch) UNSW JEREMY ROOZ B. Arch UTS</p> <p>59 GEORGE STREET DOVER HEIGHTS, 2030 T 02 9371 1122 F 02 9388 3938 M 0412 631 705 E joe@rooz.com.au www.rooz.com.au</p>	<p>THIS DRAWING IS THE PROPERTY OF BELLE DESIGN GROUP PTY. LTD. THE COPY OF THIS DRAWING IS NOT PERMITTED WITHOUT PRIOR WRITTEN APPROVAL. THE WORK IS TO BE COMPLETED WITH BCA, SAA CODES &amp; RELEVANT BY-LAWS. THE BUILDING/ MANUFACTURER SHALL CHECK DIMENSIONS, R.L. GROUND LINES &amp; CONSTRUCTION ON SITE PRIOR TO COMMENCEMENT OF WORK. USE FIGURED DIMENSIONS ONLY. DO NOT SCALE FROM THESE PLANS. BUILDERS NOTE: NOTIFICATION MUST BE MADE TO BELLE DESIGN GROUP PTY. LTD. IN WRITING SEVEN (7) DAYS PRIOR TO COMMENCEMENT OF EXCAVATION &amp; OR DEMOLITION.</p> <p>ABN54626301534 ACN 002697350</p>	<p>Drawing Name: Basement Plan</p> <p>Address: 28 Lyons St, Dover Heights</p> <p>Client: Abrams &amp; Wolman</p>	<div><p>ME3P05528-01 29 Sep 2021 Assessor: Natascha Haskides Accreditation No: HERA10140 Address: 28 Lyons Street Dover Heights NSW 2030 https://www.nbs.com.au/GBC/crediting/assessors/assessors.aspx</p></div>	<p>Key:</p> <table><tr><td>STUCCO</td><td>CONCRETE</td><td>TILE</td><td>TIMBER</td></tr><tr><td>METAL/STEEL</td><td>BRICK</td><td>CARPET</td><td>EXISTING</td></tr><tr><td>GLASS</td><td>NATURAL STONE</td><td>SANDSTONE</td><td>DEMOLISHED</td></tr></table>	STUCCO	CONCRETE	TILE	TIMBER	METAL/STEEL	BRICK	CARPET	EXISTING	GLASS	NATURAL STONE	SANDSTONE	DEMOLISHED	<p>Date: 22.09.2021</p> <p>Scale: 1 : 100</p> <p>Drawn By: JR</p> <p>Checked By: JR</p> <p>DA DRAWINGS</p> <p>Dwg No: 1.1</p>
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**ROOZ + ROOZ  
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ABN54626301534 ACN 002697350

Drawing Name:  
Ground Floor Plan  
Address:  
28 Lyons St, Dover Heights  
Client:  
Abrams & Wolman

ME3P05528-01 29 Sep 2021  
5.9  
Accreditation No. HERA10140  
Natascha Hatzidakis  
28 Lyons Street  
Dover Heights  
NSW 2030  
https://www.rba.com.au/GBC/crediting/crediting-requirements.aspx

Key:

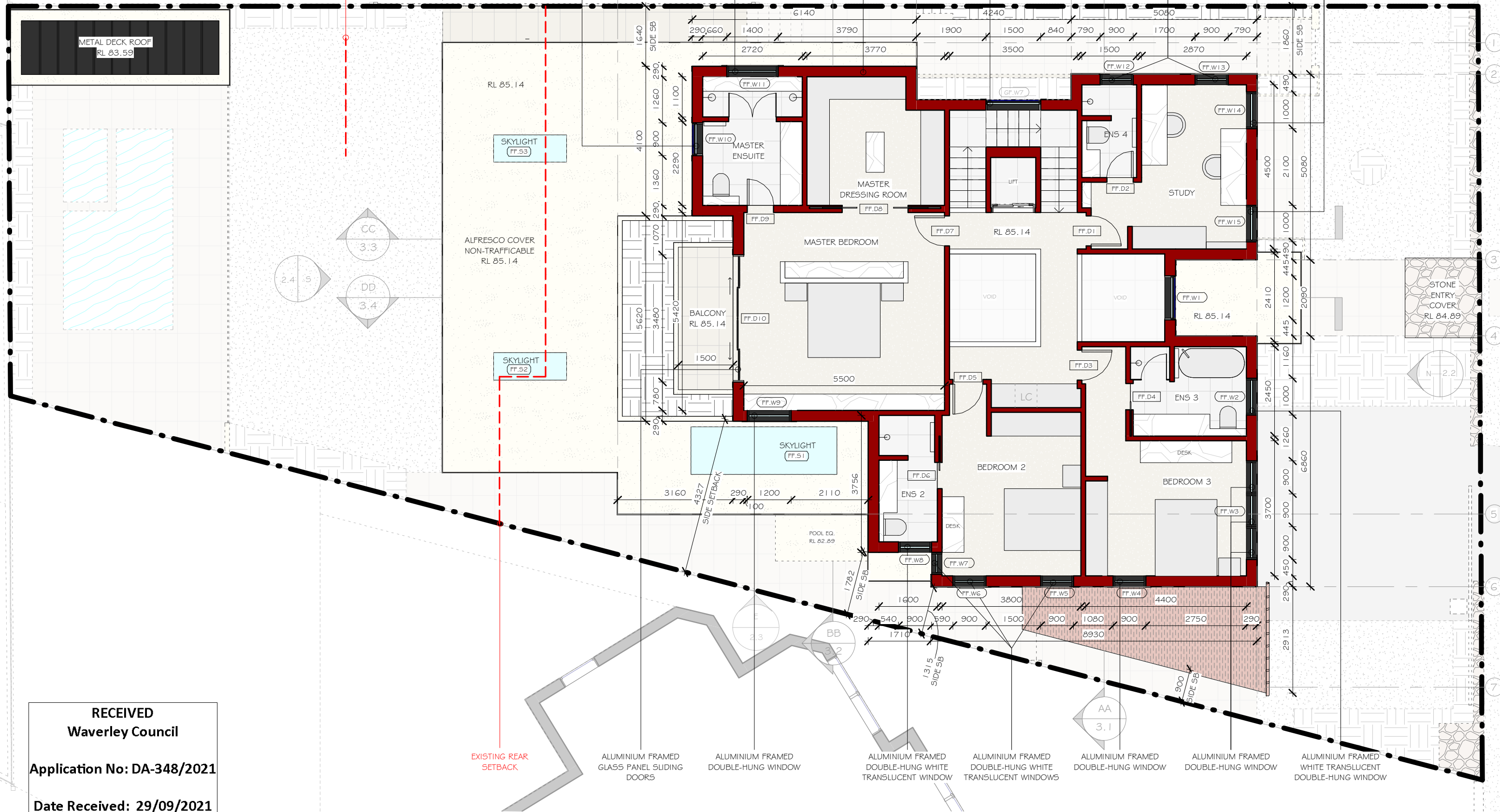
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Date: 22.09.2021  
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Checked By: JR  
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NORTH:

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DRAWINGS

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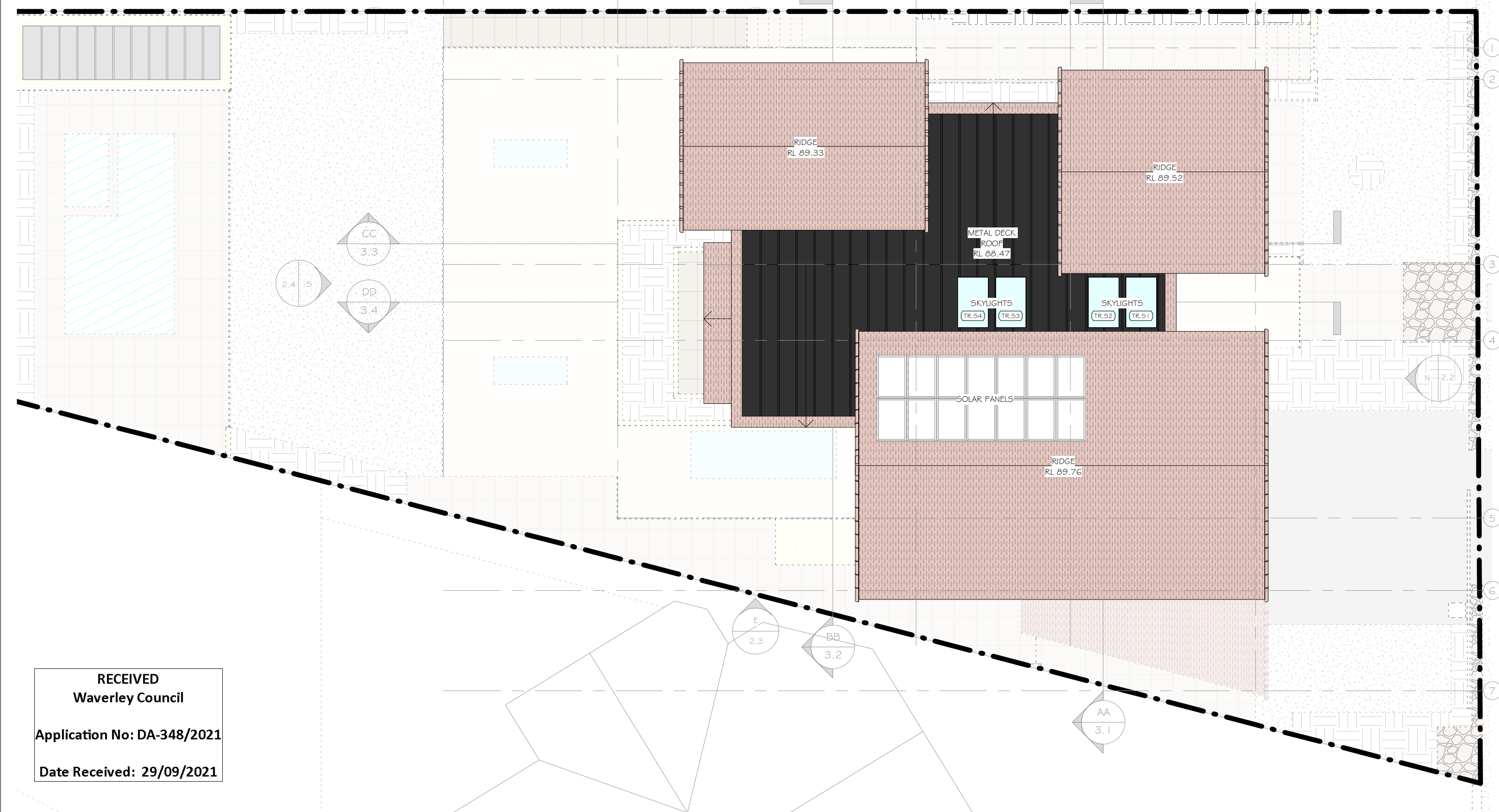


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STUCCO	CONCRETE	TILE	TIMBER														
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EXCAVATION & OR DEMOLITION.

Drawing Name:  
Roof Plan

Address:

28 Lyons St, Dover Heights

Client:  
Abrams & Wolman



Key:

 STUCCO

**METAL/STEEL**

GLASS

CONCRETE



NATURAL STONE

 TILE CARPET

E  SANDSTONE



EXISTING

 DEMOLISHED

NORTH: 

DA  
DRAWINGS

Date: 22.09.2021

Scale: 1 : 100

Drawn By: JR

Checked By: JR

Dwg No: 1.4



# AMENDED PLANS

COASTAL BANKSIA  
TO BE REMOVED  
& REPLACED

NORFOLK ISLAND  
HIBISCUS  
TO BE REMOVED  
& REPLACED

NORFOLK ISLAND  
HIBISCUS  
TO BE REMOVED

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ROOZ + ROOZ  
DESIGN

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ABN54626301534

ACN 002697350

Drawing Name:  
Demolition Plan

Address:

28 Lyons St, Dover Heights

Client:

Abrams & Wolman



Key:

STUCCO	CONCRETE	TILE	TIMBER
METAL/STEEL	BRICK	CARPET	EXISTING
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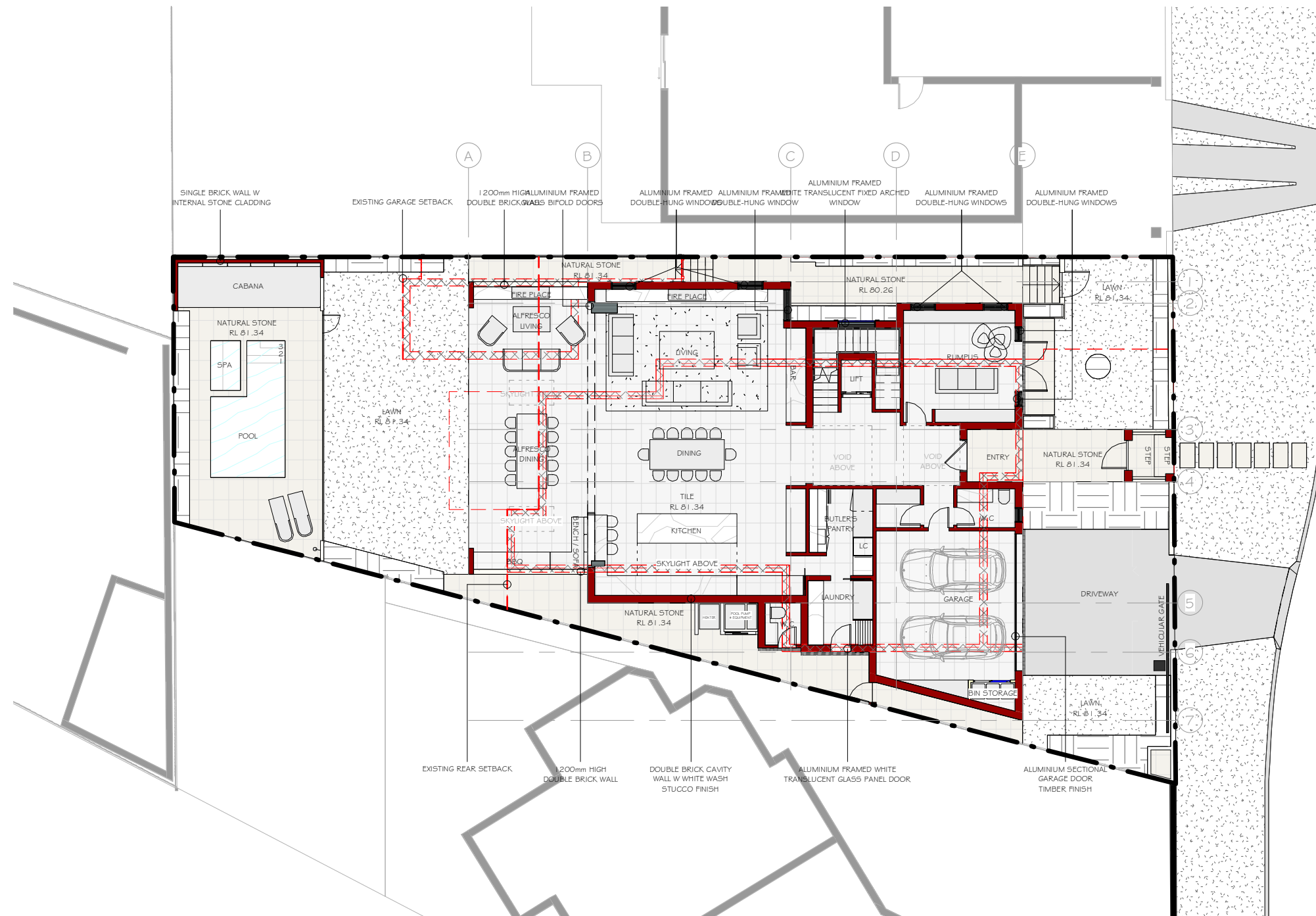
Checked By: JR

NORTH:

DA  
DRAWINGS

Dwg No: 1.6

# AMENDED PLANS



RECEIVED  
Waverley Council

Application No: DA-348/2021

Date Received: 29/09/2021

**ROOZ + ROOZ  
DESIGN**

**BELLE DESIGN GROUP**

JOSEPH ROOZ B.Sc. (Arch) UNSW  
JEREMY ROOZ B. Arch UTS

59 GEORGE STREET  
DOVER HEIGHTS, 2030  
T 02 9371 1122  
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ABN54626301534 ACN 002697350

**Drawing Name:**  
Ground Floor Plan w Demolished

**Address:**  
28 Lyons St, Dover Heights

**Client:**  
Abrams & Wolman

## Key:

STUCCO	CONCRETE	TILE	TIMBER
METAL/STEEL	BRICK	CARPET	EXISTING
GLASS	NATURAL STONE	SANDSTONE	DEMOLISHED

NORTH:

DA  
DRAWINGS

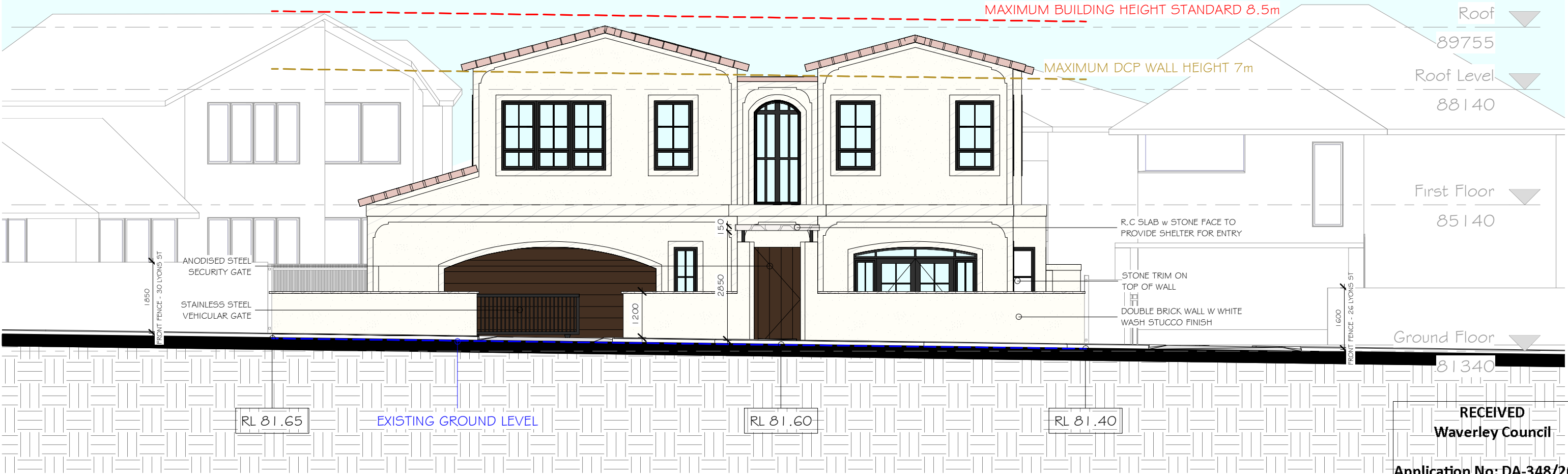
Date: 22.09.2021  
Scale: 1 : 200  
Drawn By: JR  
Checked By: JR  
Dwg No: 1.7

# AMENDED PLANS

CAUTION – ALL OF THE ITEMS BELOW MUST BE ADHERED BY FOR NATHERS TO BE VALID

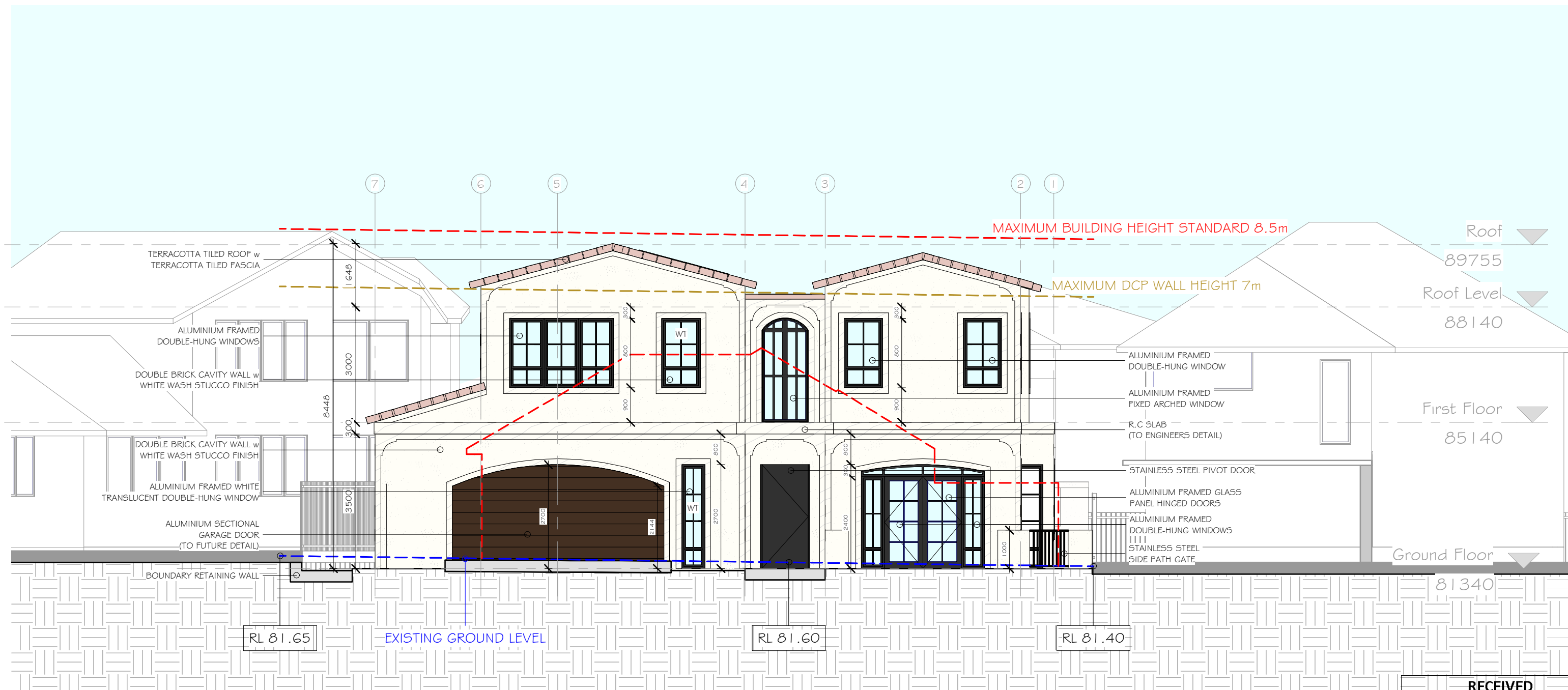
## NOTES:

- ALL DOWNLIGHTS TO BE:
  - APPROVED NON-VENTILATED
  - WITH FIRE-RATED COVER/SHIELD TO ALLOW CONTINUOUS INSULATION LED TYPE. IF HALOGEN LIGHT ARE TO BE INSTALLED THIS CERTIFICATION IS NOT VALID
- ALL VENTS AND WALL OPENINGS INSTALLED TO BE “THE SEALED” TYPE
- ALL INSULATION IS TO BE INSTALLED IN ACCORDANCE NCC PART 3.12.1.1
  - CREATION OF CONTINUOUS THERMAL BARRIER
  - COMPLIANCE WITH AS4859
  - MAINTAINING THICKNESS OF BULK INSULATION AND AIR GAPS FOR REFLECTIVE INSULATION
- BUILDING SEALING AS PER NCC PART 3.12.3
  - WEATHER SEALS AND DRAFT EXCLUDERS
  - DRAFT STOPPER CAPS
- SERVICES AS RER NCC PART 3.12.5
  - INSULATION OF SERVICES, PIPING AND DUCTWORK



<p><b>ROOZ + ROOZ DESIGN</b></p>	<p><b>BELLE DESIGN GROUP</b></p> <p>JOSEPH ROOZ B.Sc. (Arch) UNSW JEREMY ROOZ B. Arch UTS</p> <p>59 GEORGE STREET DOVER HEIGHTS, 2030 T 02 9371 1122 F 02 9388 3938 M 0412 631 705 E joe@rooz.com.au www.rooz.com.au</p>	<p>THIS DRAWING IS THE PROPERTY OF BELLE DESIGN GROUP PTY. LTD. THE COPY OF THIS DRAWING IS NOT PERMITTED WITHOUT PRIOR WRITTEN APPROVAL. THE WORK IS TO BE COMPLETED WITH BCA, SAA CODES &amp; RELEVANT BY-LAWS. THE BUILDING/ MANUFACTURER SHALL CHECK DIMENSIONS, R.L. GROUND LINES &amp; CONSTRUCTION ON SITE PRIOR TO COMMENCEMENT OF WORK. USE FIGURED DIMENSIONS ONLY. DO NOT SCALE FROM THESE PLANS. BUILDERS NOTE: NOTIFICATION MUST BE MADE TO BELLE DESIGN GROUP PTY, LTD. IN WRITING SEVEN (7) DAYS PRIOR TO COMMENCEMENT OF EXCAVATION &amp; OR DEMOLITION.</p> <p>ABN54626301534 ACN 002697350</p>	<p><b>Drawing Name:</b> North (Street) Elevation</p> <p><b>Address:</b> 28 Lyons St, Dover Heights</p> <p><b>Client:</b> Abrams &amp; Wolman</p>	<p><b>Key:</b></p> <table><tr><td>STUCCO</td><td>CONCRETE</td><td>TILE</td><td>TIMBER</td><td>MAX HEIGHT</td></tr><tr><td>METAL/STEEL</td><td>BRICK</td><td>CARPET</td><td>EXISTING</td><td>MAX WALL HEIGHT</td></tr><tr><td>GLASS</td><td>NATURAL STONE</td><td>SANDSTONE</td><td>DEMOLISHED</td><td>EXISTING GROUND</td></tr></table>	STUCCO	CONCRETE	TILE	TIMBER	MAX HEIGHT	METAL/STEEL	BRICK	CARPET	EXISTING	MAX WALL HEIGHT	GLASS	NATURAL STONE	SANDSTONE	DEMOLISHED	EXISTING GROUND	<p><b>Date:</b> 22.09.2021</p> <p><b>Scale:</b> 1 : 100</p> <p><b>Drawn By:</b> JR</p> <p><b>Checked By:</b> JR</p> <p><b>DA DRAWINGS</b></p> <p><b>Dwg No:</b> 2.1</p>
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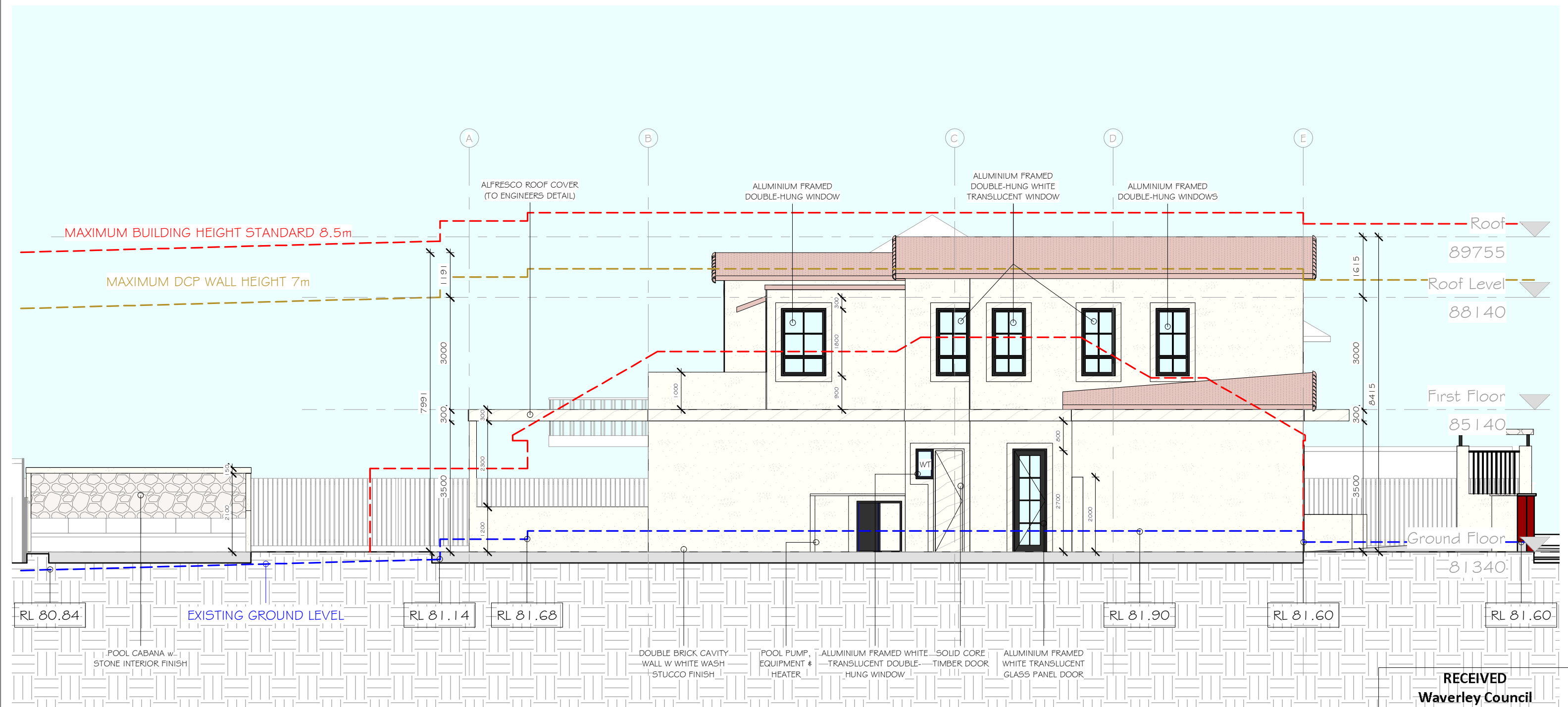
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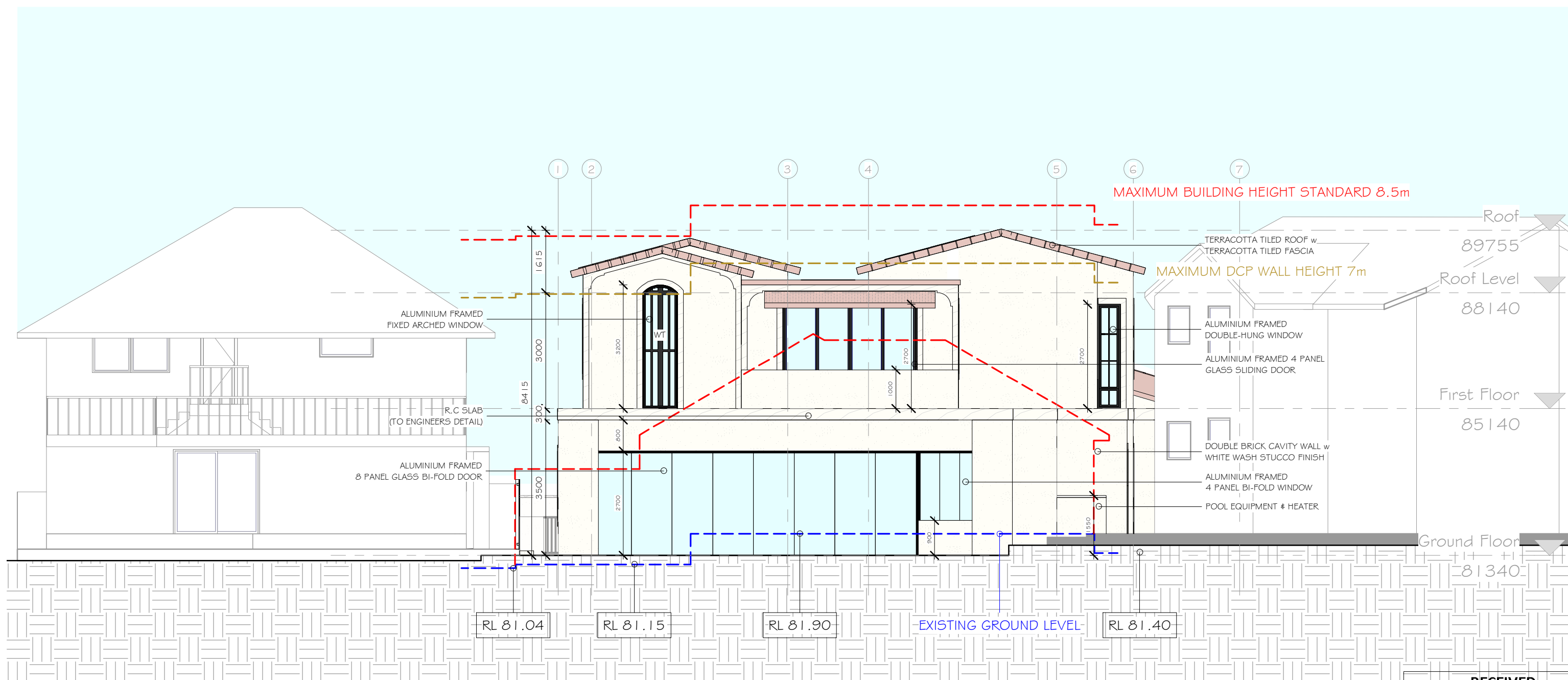
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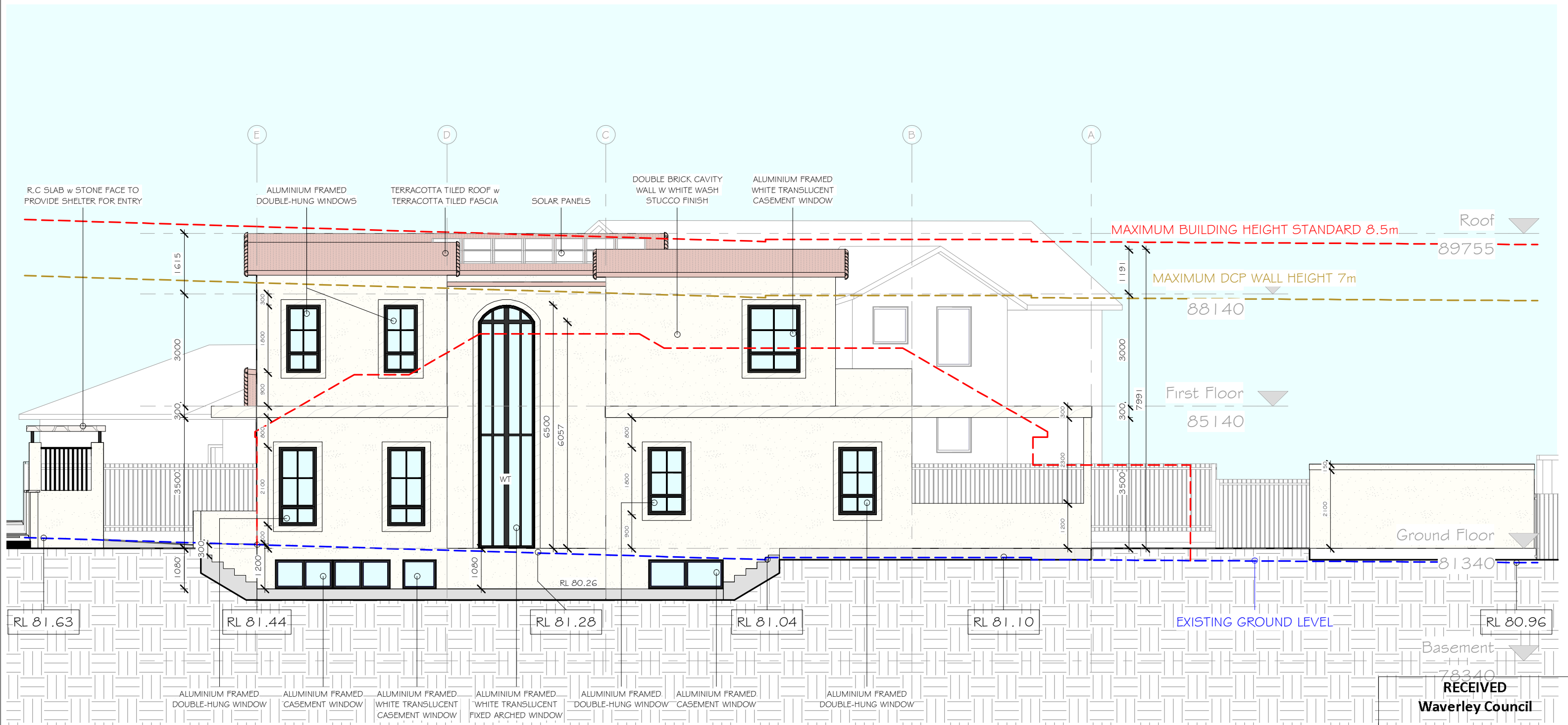
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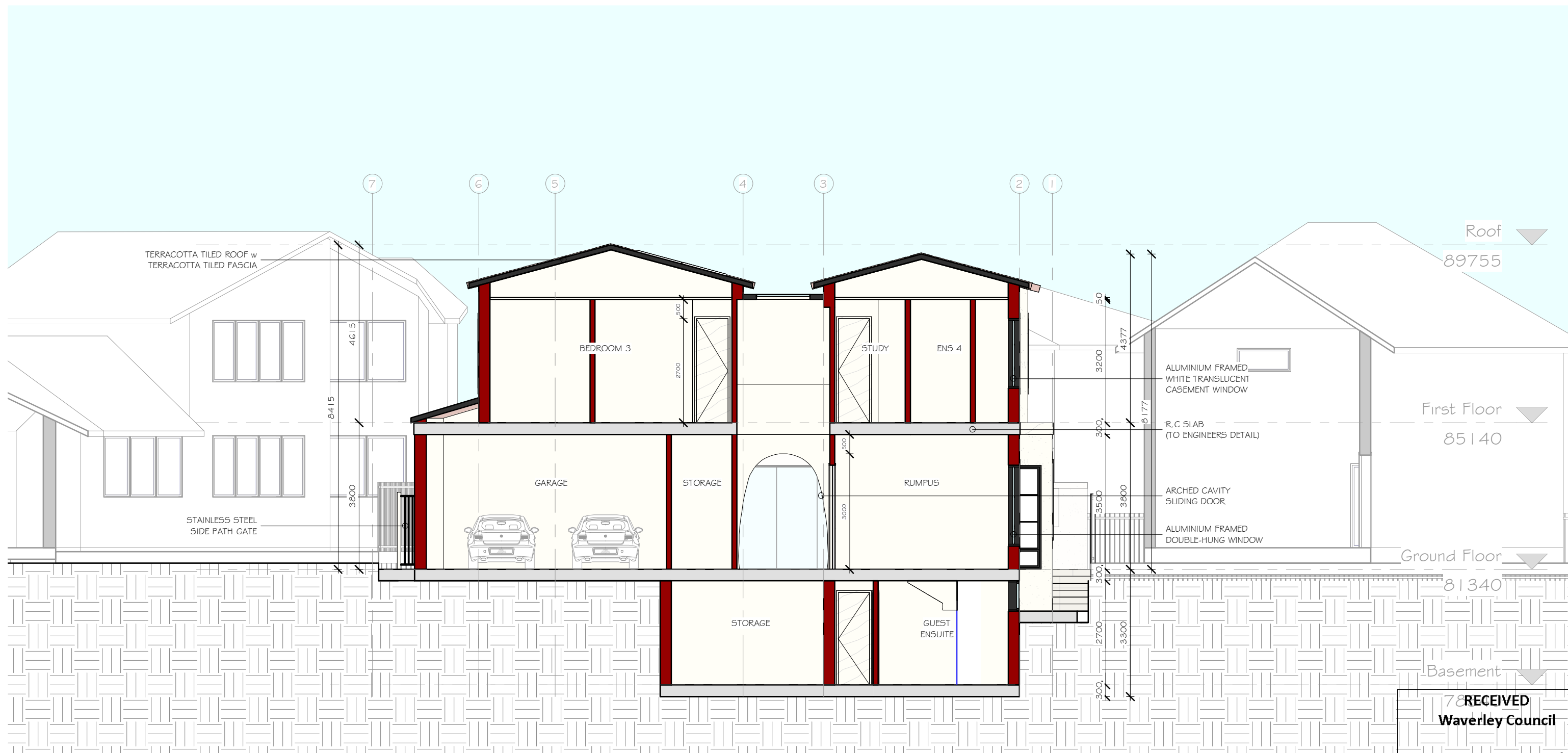
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DA  
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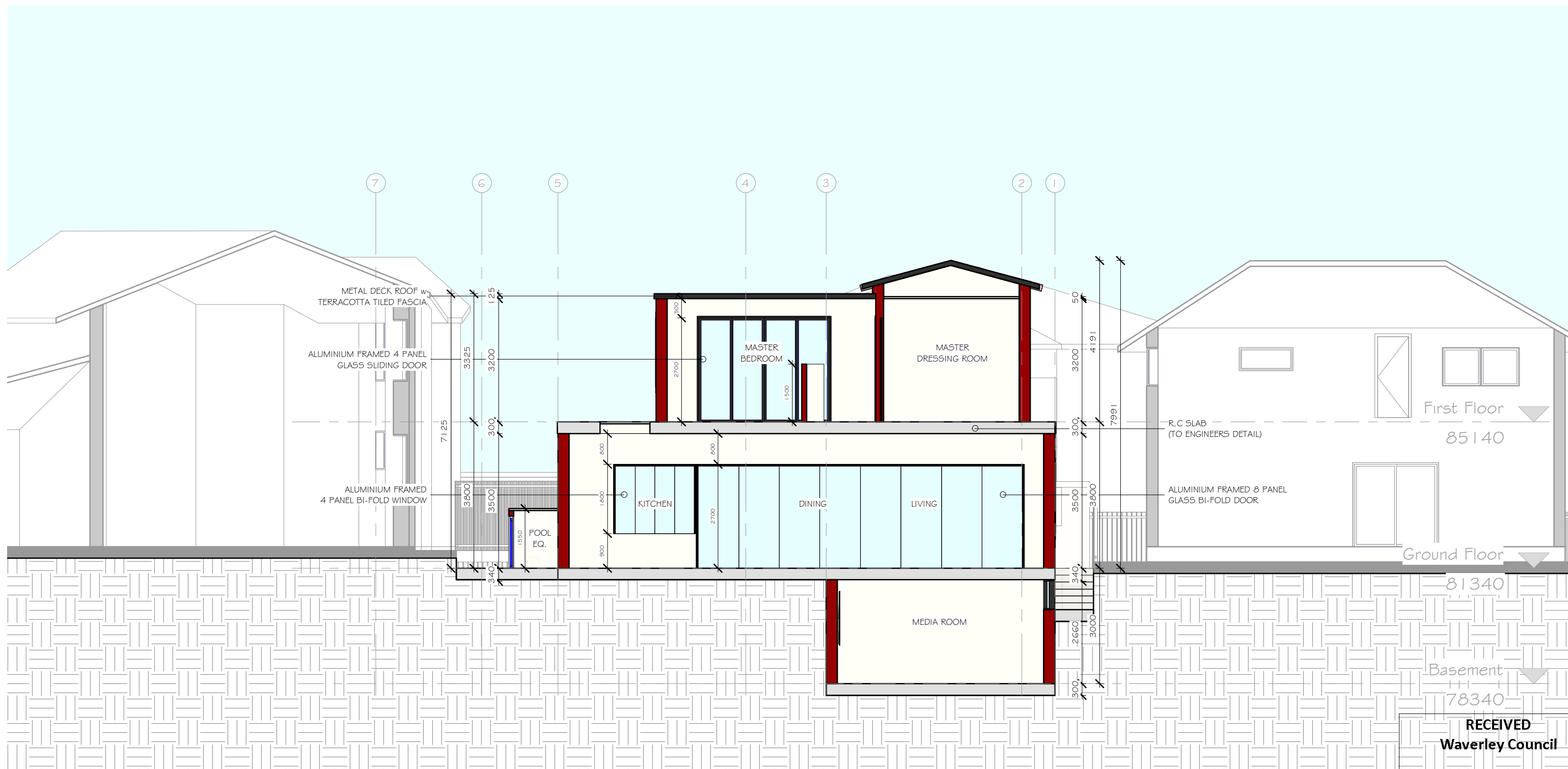
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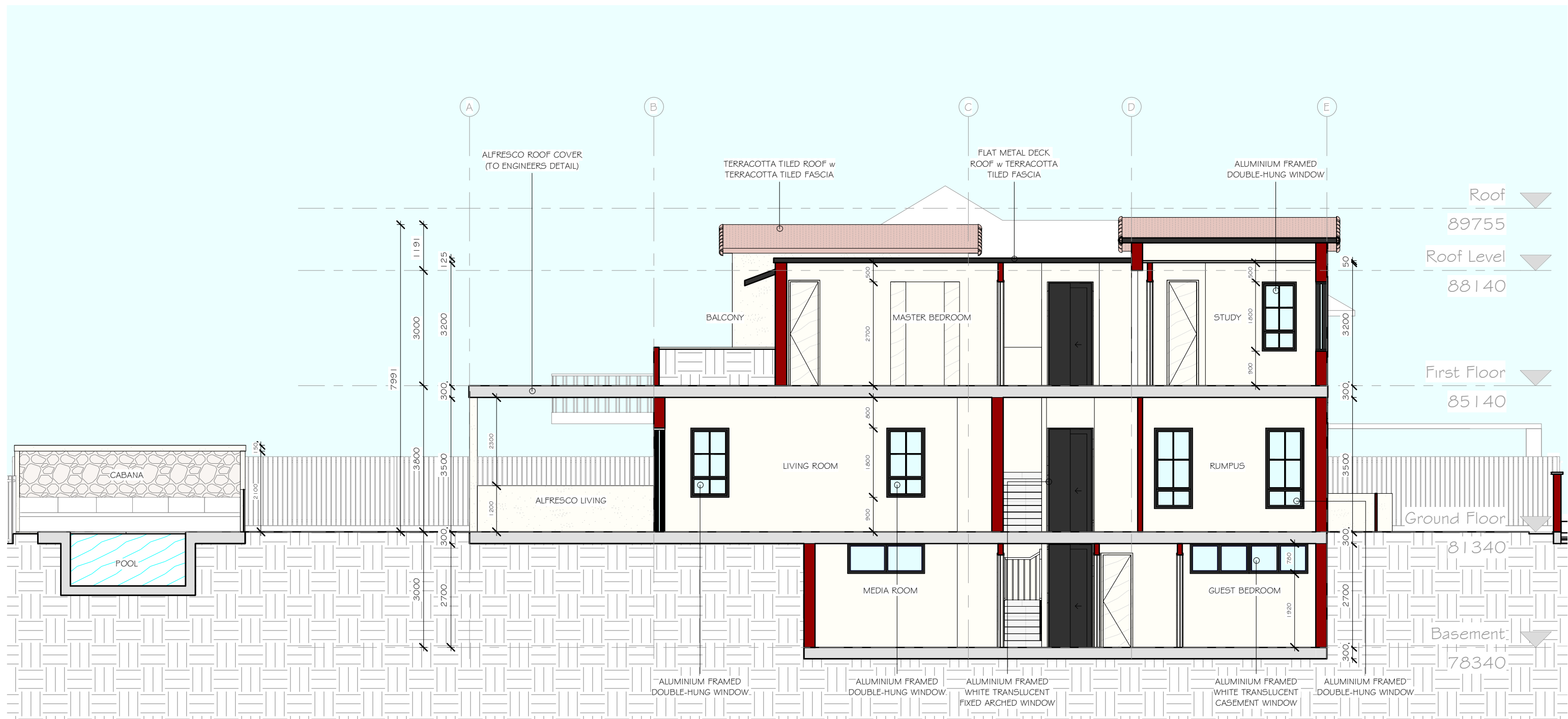
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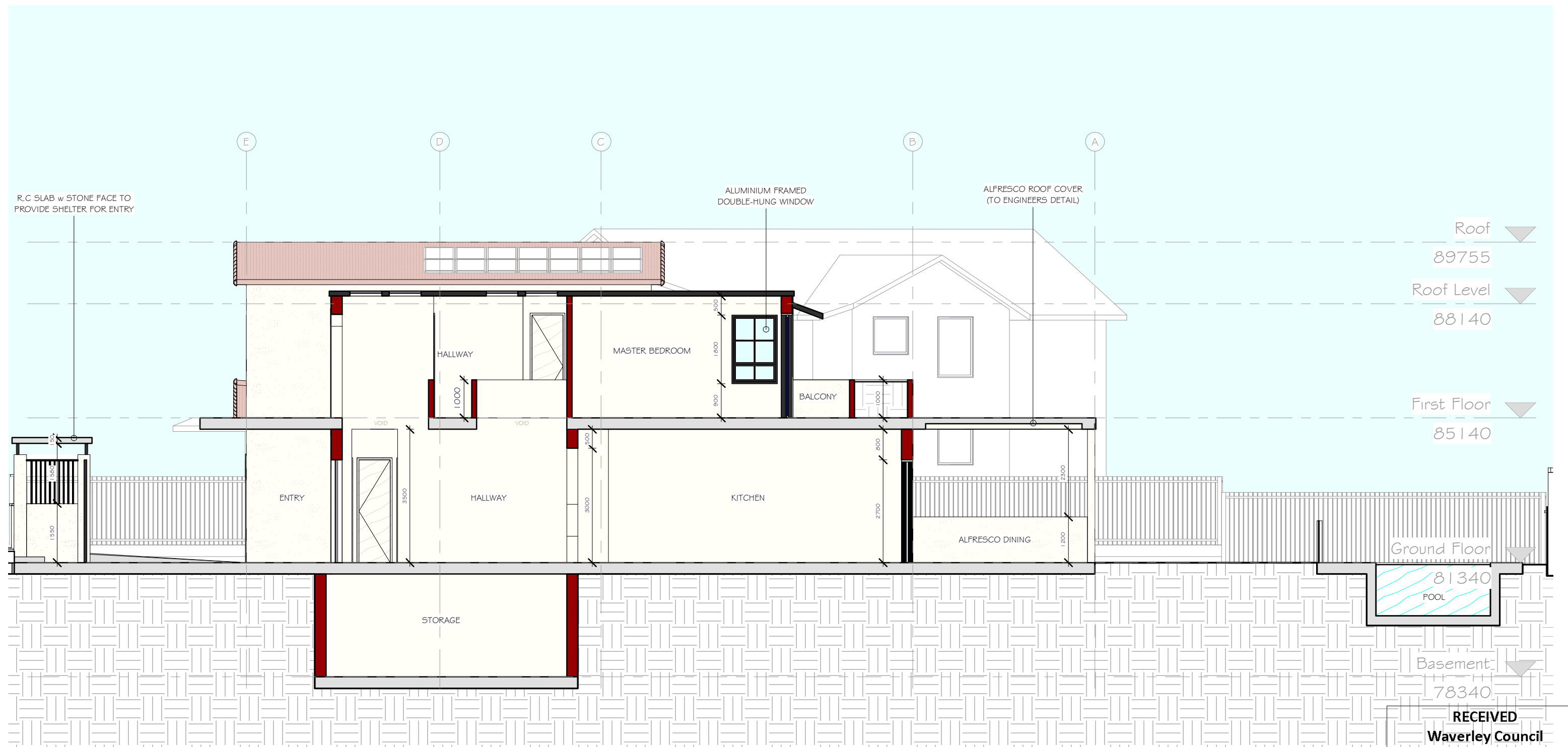
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STUCCO	CONCRETE	TILE	TIMBER	MAX HEIGHT																
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Section DD

**Address:**  
28 Lyons St, Dover Heights

**Client:**  
Abrams & Wolman

**Key:**

STUCCO	CONCRETE	TILE	TIMBER	MAX HEIGHT
METAL/STEEL	BRICK	CARPET	EXISTING	MAX WALL HEIGHT
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**Date:** 22.09.2021

**Scale:** 1 : 100

**Drawn By:** JR

**Checked By:** JR

**DA DRAWINGS**

**Dwg No:** 3.4



## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-538/2021
<b>Site address</b>	1 Lyons St, Dover Heights
<b>Proposal</b>	Alterations and additions to a dwelling including a first floor addition, internal lift, rooftop terrace and rooftop garden above the existing garage
<b>Date of lodgement</b>	8 December 2021
<b>Owner</b>	Mrs N S Allen
<b>Applicant</b>	Nadine Nakache Design Pty Ltd
<b>Submissions</b>	One
<b>Cost of works</b>	\$1,396,143
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Breach to Floor Space Ratio; and</li> <li>• Visual privacy.</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report.

### SITE MAP



(Source: Nearmaps, 2022)

## 1. PREAMBLE

### 1.1. Executive Summary

The Development Application (DA) seeks consent for alterations and additions to a dwelling including a first floor addition, internal lift, rooftop terrace and rooftop garden above the existing garage at the site known as 1 Lyons Street, Dover Heights.

The principal issues arising from the assessment of the application are as follows:

- Breach to FSR; and
- Visual privacy.

The assessment finds these issues acceptable as a well-founded clause 4.6 variation has been submitted and they may be dealt with via recommended conditions of consent.

One submission was received and the issues raised in the submission have been considered and addressed in this report and in the recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 8 February 2022.

The site is identified as Lot 109 in DP11822, known as 1 Lyons Road, Dover Heights.

The site is rectangular in shape with a southern to Lyons Street, measuring 16.21m. It has an area of 720.7m<sup>2</sup> and falls from the north (rear) to the south (front) by approximately 1.89m.

The site is occupied by a part-two, part-three storey detached dwelling with vehicle access from Lyons Road to an attached double garage.

The site is adjoined by two storey detached dwellings to either side. The locality is characterised by majority detached dwelling houses.

**Figures 1 to 3** are photos of the site and its context.





**Figure 1:** Front of the subject site from Lyons St, looking north.



**Figure 2:** Rear of dwelling from private open space, looking south.



**Figure 3.** Private open space, looking north-east.

### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- Building Application (BA)-792/1997 to construct an additional storey to a dwelling was approved on 3 December 1997.
- BA-449/1998 to construct a new garage was approved on 9 October 1998.

### 1.4. Proposal

The DA seeks consent for alterations and additions to a dwelling including a first floor addition, internal lift, rooftop terrace and rooftop garden above the existing garage, specifically the following:

#### Lower Ground Floor

- Demolition of:
  - Internal and external walls; and
  - Internal stairs to the ground floor.
- Construction of:
  - Stairs to ground floor above;
  - Subfloor plant room;
  - Lift;



- External door to garage; and
- Landscaping works including an ancillary building (shed).

#### Ground Floor

- Demolition of:
  - Internal and external walls;
  - Internal stairs to first floor; and
  - Pitched roof to garage for a flat green roof.
- Construction of:
  - Stairs to first floor;
  - Lift;
  - Window alterations;
  - Powder room, laundry and butlers pantry; and
  - Addition to rear patio.

#### First Floor

- Demolition of internal and external walls.
- Construction of:
  - Three secondary bedrooms, one of which has an ensuite;
  - Linen closet;
  - Bathroom;
  - Master bedroom with en suite and walk-in-robe;
  - Rear balcony;
  - Front balcony; and
  - Side balcony with stairs to access to roof-top terrace.

#### Roof

- Demolition of existing roof; and
- Construction of new roof with associated roof-top terrace

### 1.5. Background

The DA was lodged on 8 December 2021 and deferred on 22 February 2022 for the following reasons:

1. The rear (two storey) awning was to be deleted.
2. The garage roof was to be fitted with a balustrade to its northern side to restrict access between the existing terrace and the proposed flat roof top and the entire area of the garage roof was to be landscaped to form a green roof to soften the built form and restrict access.
3. The first floor balcony on the western side was to be fixed with a privacy, and it was to be placed along the entire western opening of this balcony to maintain visual privacy to 117 Military Road. The privacy screen was to be angled to increase visual privacy to this neighbouring property.
4. The roof-top terrace was to be restricted in area to no more than 15m<sup>2</sup>
5. The following amendments were to be made to the rear first floor balcony:
  - i. A fixed privacy screen with a minimum height of 1.8m was to be placed on both side elevations of this balcony to maintain visual privacy.

- ii. The area of the balcony was to be reduced to no more than. It was recommended that it is setback further from the external side walls of the first floor.
6. The area of the front first floor balcony was to be reduced to no more than 10m<sup>2</sup>.
7. Additional visual privacy measures were to be implemented to windows labelled W07-W10.
8. The proposed garden shed encroached upon Council's side setback control of 0.9m and was not supported in the location. Excavation within 0.9m of the side boundary was also not permitted in accordance with Part B14, Control (I) of the Waverley DCP 2012. Therefore, the proposed garden shed along the side boundary was to be relocated.

The following amendments were made to the plans received by Council on 1 March 2022:

- A retaining wall was proposed 0.9m from the western boundary to avoid excavation on the boundary;
- The garden shed was slightly modified;
- The garage roof was amended to a green roof;
- A reduction to the size of the front and rear first floor balconies;
- A reduction to the size of the roof terrace;
- The two storey rear awning was reduced to single storey;
- A privacy screen to western side of the side balcony was added;
- Obscure glazing 1.6m from the ground floor FFL was added to W07-W10.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this DA under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. 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. State Environmental Planning Policies (SEPPs)

The following SEPPs apply and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP 55 Remediation of Land.

#### 2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### 2.1.3. 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
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal meets the aims of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table Low Density Residential 'R2' Zone	Yes	The proposal is defined as alterations and additions to a dwelling house, which is permitted with consent R2 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>8.5m</li> </ul>	Yes	The development has an overall height of 8.5m.
4.4 Floor Space Ratio (FSR) <ul style="list-style-type: none"> <li>Lot Size: 720.7m<sup>2</sup></li> <li>Max FSR: 0.5:1</li> <li>Max GFA: 360.35m<sup>2</sup></li> </ul>	No	<b>TOTAL GFA: 405.5m<sup>2</sup></b> <b>TOTAL FSR: 0.56:1</b>  The proposal exceeds the maximum permitted GFA by 45.15m <sup>2</sup> or 12.5%.
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 FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 6 Additional local provisions</b>		
6.2 Earthworks	Yes. Conditions recommended.	The plans have been amended by modifying the location of excavation to be set off 0.9m from the western boundary.  There is a small portion of excavation on the boundary for the garden shed. However, this is acceptable as it is only for a small area, with appropriate conditions recommended.

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

#### *Clause 4.6 Exceptions to Development Standards - FSR*

The application seeks to vary the FSR development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.5:1. The proposed development has a FSR of 0.56:1, exceeding the standard by 45.15m<sup>2</sup> equating to a 12.5% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

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

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The proposal meets the relevant objectives of FSR

**Objective (b): To provide an appropriate correlation between maximum heights and density controls.**

*The proposed dwelling, minor variation to the FSR development standard and the resultant building envelope and bulk is compatible with the existing scale and residential character of the locality and does not impact on the Lyons Street streetscape, or overall building siting and location.*

*The additional FSR will not result in substantial bulk as it is an existing area on the lower ground-floor with the overall building form being below the maximum building height.*

*The proposed development provides an articulated two-storey built form above an existing lower ground-floor area with the general presentation to the street being retained.*

*The proposed GFA is compatible with the surrounding developments' bulk and scale, maintaining the predominant two-storey low density residential setting.*

*The FSR exceedance is minor and will not be easily discernible from the public domain and will not impact neighbours' amenity, as demonstrated in the Statement of Environmental Effects (SEE).*

*Furthermore, the proposal is consistent with the maximum building envelope and private open space requirements and sits well within envelope of the development and existing scale and residential character of the locality.*

*It is considered that the proposed building envelope will not result in any unacceptable adverse impacts on the surrounding urban environment in terms of urban design, built form, overshadowing, residential amenity, wind impacts or impacts on utilities infrastructure.*

**Objective (c): To ensure the buildings are compatible with the bulk and scale of the desired further character of the locality.**

*As noted above and throughout the SEE submitted with the application, the scale of the dwelling is compatible with the characteristics of the site and the locality in general.*

*The site is located in Dover Heights within the R2 Low Density Residential area. The zone and area are characterised by a mix of single dwellings, dual occupancies, semi-detached dwellings, townhouses and residential flat buildings of a range of styles and design.*

*Older dwellings are being replaced by more modern rendered flat-roof buildings, as either single dwellings or dual occupancy developments as part of the emerging contemporary character.*

*The proposed alterations and additions to the existing dwelling will present as two storeys above a part-lower ground-floor. This design, bulk and scale is consistent with the height, bulk and scale of new developments and recently approved local residential developments.*

*The proposed building envelope is an appropriate correlation with the size of the site and the extent of the development as it is consistent with the overall building envelope and setbacks in the locality. It maintains the existing low density residential presentation to the street and is consistent with other more recent developments and approvals in the locality.*

*The proposed floor space does not prevent the site from complying with other key controls in relation to setbacks, private open space and general amenity or impacts on the neighbouring properties.*

**Objective (d): To establish limitations on the overall scale of the development to preserve the environmental amenity of neighbouring properties and locality.**

*The proposed alterations and additions to the existing dwelling is of an appropriate bulk, scale and appearance consistent with the general character of Lyons Street and the R2 zone in general.*

*The proposal provides an improvement to the overall streetscape presentation by providing a high-quality, contemporary design. It will enhance the site's street presentation, positively contribute to the locality's emerging character and provide appropriate interfaces with the public domain and adjoining dwellings.*

*The variation enables reasonable redevelopment of a site currently comprising an older dwelling lacking in resident amenity. The additional floor area will not significantly affect the single dwelling appearance.*

*The proposed development will not impact on any iconic Harbour or City views.*

*Overall, the new dwelling will provide greatly improved housing conditions with additional housing stock and bedrooms to accommodate a young family within a well-located and highly sought-after suburb close to the Sydney CBD, services and public transport.*

(ii) The proposal meets the objectives of zone.

**a. To provide for the housing needs of the community within a low density residential environment.**

*The proposed development will provide a new contemporary style development that provides additional housing and housing options for a growing population and demand for suburban Sydney residential accommodation.*

*The proposed development provides a positive response to the site's locational characteristics and will be a positive addition to and complements the existing character, height, bulk and scale of existing dwellings in the immediate vicinity.*

**b. To enable other land uses that provide facilities or services to meet the day to day needs of residents.**

*This objective is not relevant as the proposed use is a dwelling house.*



**c. To maximise public transport patronage and encourage walking and cycling.**

*The proposed development will increase the density and capability of the site to support a family in a location in close proximity to a number of local services, recreational areas, schools and public transport corridors.*

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The proposed built form is a well-considered response to the particular constraints of the site, in particular the site topography and existing topography and lower ground-floor level.*
  - (ii) *The proposed areas of non-compliance will not be easily discernible or visible from the public or private domain.*
  - (iii) *The proposed floor space does not prevent the site from complying with other key controls in relation to setbacks, landscaping and general amenity impacts on the neighbouring properties.*
  - (iv) *The proposed building envelope is an appropriate correlation with the size of the site and the extent of the development as it is consistent with the overall building envelope and setbacks in the locality. It maintains the existing low density residential presentation to the street and is consistent with other more recent developments and approvals along Lyons Street and in the locality in general.*
  - (v) *To achieve a fully compliant FSR it would either require the first-floor addition to be reduced or the existing lower ground-floor to be deleted and infilled. A reduction in the first-floor area would result in an underutilisation of the site and a building envelope that would be inconsistent with the controls and general setting of the area.*
  - (vi) *Overall, the proposed building envelope and floor space is an appropriate correlation with the size of the site and the extent of the development as it is consistent with the overall building envelope and setbacks in the locality.*
  - (vii) *Allowing a variation to the height standard, in the context of this particular site, the existing height and building form and this particular design, would promote:*
    - *the proper and orderly development of land; and*
    - *good design and amenity of the built environment**which are express objectives of the Environmental Planning and Assessment Act 1979 (Section 1.3(c) and (g)).*

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

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and

- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This is sound justification as it appropriately demonstrates that despite the numerical non-compliance with FSR, the proposed development meets the objectives of both the FSR and the zone.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant has demonstrated that the proposed dwelling is of an appropriate size and scale that meet many other controls and objectives in both the Waverley LEP 2012 and the Waverley DCP 2012 to provide a dwelling that does not impact upon the environmental amenity of neighbouring properties.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the FSR development standard are as follows:

**Objective (b): *To provide an appropriate correlation between maximum heights and density controls.***

The proposed works comply with the maximum permitted height of 8.5m. The proposed dwelling has been well-designed to ensure an appropriate correlation of height and density by ensuring the GFA is situated within a compliant building envelope (i.e. height and setbacks).

**Objective (c): *To ensure the buildings are compatible with the bulk and scale of the desired further character of the locality.***

The proposed bulk and scale of the development meets the desired future character of the area, being a dwelling of an appropriate size that does not negatively impact the environmental amenity of neighbouring properties.

In the case of this proposal, it complies with the height and setback controls to ensure it does not result in unreasonable view loss, overshadowing or visual privacy impacts.

**Objective (d): *To establish limitations on the overall scale of the development to preserve the environmental amenity of neighbouring properties and locality.***

As touched on above, the proposal does not result in unreasonable view loss, overshadowing or visual privacy impacts.

No objections have been received about view loss from neighbouring properties. Despite this, the dwelling sits in an acceptable building envelope respecting both the height and setback controls.

With the lot orientated north-south, situated on the northern side of Lyons Street, the proposal will not impact neighbouring properties in terms of unreasonable loss of solar access, with majority of the shadowing falling on the public domain.

The plans have been amended to ensure a privacy screen is fixed to the western side of the side balcony and to be fixed to windows W7-W10 to at least 1.6m from FFL. Additionally, privacy measures are recommended to be conditioned.

The objectives of the R2 zone are as follows:

***To provide for the housing needs of the community within a low density residential environment.***

The proposal provides housing needs for the current residents who reside in the community of Dover Heights.

Conclusion

For the reasons provided above the requested variation to the FSR is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR standard the R2 zone.

#### 2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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
1. Waste	Yes	The bins are located in a satisfactory location. Appropriately screened from the street, whilst providing an easy travel path for kerbside collection.
2. Ecologically Sustainable Development	Yes	The submitted BASIX Certificate is supported.
5. Vegetation Preservation	Yes	Council's Tree Officer does not object to the proposal.
6. Stormwater	Conditions recommended.	Council's Stormwater Engineers supports the application subject to recommended conditions of consent.
8. Transport	N/A	No changes proposed to off-street parking or vehicle access.
12. Design Excellence	Yes	The proposed works are well designed in order to relate well to the existing dwelling.
14. Excavation	Conditions recommended.	The plans have been amended by providing excavation 0.9m from the western boundary. There is a small portion of excavation on the boundary for the garden shed. However, this is considered to be acceptable.

**Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
	Yes	The proposal does not contravene the general objectives of this part of the Waverley DCP 2012.
<b>2.1 Height</b>		
Flat roof dwelling house <ul style="list-style-type: none"> <li>Maximum wall height of 7.5m</li> </ul>	Acceptable on merit.	The proposal has a wall height of 7.6m. This minor breach is supported as it does not breach the overall height of 8.5m, complies with setbacks and does not result in unreasonable shadowing.
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines	Yes	<u>Ground Floor</u> The front and rear building lines of the ground floor will not alter.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Predominant front building line</li> <li>Predominant rear building line at each floor level</li> </ul>		<p><u>First Floor - Front</u> The proposed external wall and balustrading to the front of the first floor will not extend past 7 Lyons St.</p> <p><u>First Floor - Rear</u> The rear external wall and balcony to the first floor will not extend past what is existing.</p> <p><u>Rear Awning</u> The rear awning will not extend past the existing rear ground floor awning.</p>
<p>2.2.2 Side setbacks</p> <ul style="list-style-type: none"> <li>Minimum of 0.9m (for height up to 8.5m)</li> </ul>	Acceptable	<p>The proposed addition is setback at least 0.9m from the side boundaries.</p> <p>The proposed garden shed is positioned below the existing side boundary fence. Therefore, it will not result in adverse amenity impacts to neighbouring properties despite being constructed on the boundary.</p>
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> <li>Replacement windows to complement the style and proportions of existing dwelling</li> </ul>	Yes	The proposed additions are well designed in order to relate well to the existing dwelling.
<b>2.4 Fences</b>		
<p><i>Front:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> </ul>	Yes	<p>The low height boundary fence to the front boundary is retained.</p> <p>A retaining wall and fence are proposed behind the front boundary. This is of an appropriate height and scale.</p>
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design</li> </ul>	Acceptable, conditions recommended	<p><u>Windows</u> The proposed windows to the ground floor of the eastern elevation and lower ground floor of the western elevation will have their outlook obstructed by the existing side boundary fences.</p> <p>The proposed windows to the ground floor western elevation have obscure glazing to a height of 1.6m from FFL, increasing visual privacy.</p> <p>W14 and W15 on the first floor are located adjacent to bathrooms and are recommended to</p>





Development Control	Compliance	Comment
areas of adjoining properties on 21 June.		
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	N/A	No objections were received in relation to view loss.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> </ul>	Yes	Over 40%
<ul style="list-style-type: none"> <li>Overall landscaped area: 15% of site area</li> </ul>	Yes	Over 15%
<ul style="list-style-type: none"> <li>Minimum area of 25m<sup>2</sup> for private open space</li> </ul>	Yes	Over 25m <sup>2</sup>
<ul style="list-style-type: none"> <li>Front open space: 50% of front building setback area</li> </ul>	N/A	No change to the front open space.
<ul style="list-style-type: none"> <li>Front landscaped area: 50% of front open space provided</li> </ul>	Yes	Over 50%
<b>2.10 Swimming pools and spa pools</b>		
	N/A	The swimming pool is existing.
<b>2.16 Secondary dwellings and ancillary buildings</b>		
<ul style="list-style-type: none"> <li>Floor area not to exceed 10% of the lot</li> <li>Max wall height of 2.1m on the boundary</li> <li>Max height of 2.4m</li> </ul>	Acceptable	<p>The garden shed does not exceed 10% of the lot size.</p> <p>The garden shed has a height of 2.5m. This is acceptable on merit as it is below the height of the existing side boundary fence.</p>

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified for 28 days between 16 December 2021 and 20 January 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

A total of one unique submission was received from the following properties:

- 117 Military Road, Dover Heights

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the recommendation:

- Visual privacy impacts from roof-top terrace, western side balcony and area above the garage.
- Breach to FSR;
- Wall height;
- Against the public interest; and
- Setbacks.

All other issues are address below:

**Issue:** *Breach in FSR creates a sense of enclosure.*

**Response:** Despite the development exceeding FSR, it complies with height and setback controls and is considered acceptable.

## 2.5. Public Interest

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

## 3. REFERRALS

The following internal referral comments were sought:

### 3.1. Traffic and Development

Council's Traffic Engineer has recommended conditions of consent.

### 3.2. Stormwater

Council's Stormwater Engineer has recommended conditions of consent.

### 3.3. Tree Management

Council's Tree Officer has recommended conditions of consent.

## 4. CONCLUSION

The DA seeks consent for alterations and additions to a dwelling including a first floor addition, internal lift, rooftop terrace and rooftop garden above the existing garage at the site known as 1 Lyons Street, Dover Heights.

The principal issues arising from the assessment of the application are as follows:

- Breach to FSR; and
- Visual privacy.

The assessment finds these issues acceptable as a well-founded clause 4.6 variation has been submitted and they can be dealt with via recommended conditions of consent.

One submission was received and the issues raised in the submission have been considered and addressed in this report and in the recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

***Development and Building Unit (DBU) Decision:***



The application was reviewed by the DBU at the meeting on 15/02/2022 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: A Rossi, B McNamara, B Matlawski and J Elijah

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Joseph Somerville	Bridget McNamara
Development Assessment Planner	Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 9 March 2022	Date: 13 March 2022

***Reason for WLPP referral:***

1. Departure from any development standard in an EPI by more than 10%

## APPENDIX A – CONDITIONS OF CONSENT

### A. APPROVED DEVELOPMENT

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by Nadine Nakache Design including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA 1.0 / Rev B	Site Plan	01/03/2022	01/03/2022
DA 1.1 / Rev B	Lower Ground Floor Demolition Plan	01/03/2022	01/03/2022
DA 1.2 / Rev B	Ground Floor Demolition Plan	01/03/2022	01/03/2022
DA 1.3 / Rev B	First Floor Demolition Plan	01/03/2022	01/03/2022
DA 1.4 / Rev B	Roof Demolition Plan	01/03/2022	01/03/2022
DA 1.5 / Rev B	Lower Ground Floor Plan	01/03/2022	01/03/2022
DA 1.6 / Rev B	Ground Floor Plan	01/03/2022	01/03/2022
DA 1.7 / Rev B	First Floor Plan	01/03/2022	01/03/2022
DA 1.8 / Rev B	Roof Plan	01/03/2022	01/03/2022
DA 2.0 / Rev B	South Elevation	01/03/2022	01/03/2022
DA 2.1 / Rev B	East Elevation	01/03/2022	01/03/2022
DA 2.2 / Rev B	North Elevation	01/03/2022	01/03/2022
DA 2.3 / Rev B	West Elevation	01/03/2022	01/03/2022
DA 3.0 / Rev B	Long Section	01/03/2022	01/03/2022
DA 3.1 / Rev B	Cross Section View North	01/03/2022	01/03/2022
DA 3.2 / Rev B	Cross Section View South	01/03/2022	01/03/2022

(b) BASIX Certificate

(c) Schedule of external finishes and colours received by Council on 14/12/2021.

(d) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 8/12/2021.

Except where amended by the following conditions of consent.

#### 2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

(a) A fixed privacy screen or translucent glazing is to be fixed to the entire area of window (W) W14 and W15.

(b) A fixed privacy screen is to be erected on the eastern side of the rear first floor balcony, 1.6m from the FFL of this balcony.

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.



### **3. APPROVED USE - DWELLING HOUSE WITH STUDIO**

This application approves the use of the principle dwelling on site as a single unit dwelling house only, with a shed on the side boundary.

No approval is granted or implied for the shed to be used as a domicile.

### **4. NON-TRAFFICABLE AREAS**

(a) The green roof to the garage is to be non-trafficable.

(b) The trafficable area of the roof-top terrace is not to exceed 15m<sup>2</sup>.

## **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **GENERAL REQUIREMENTS**

### **5. 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 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 the Environmental Planning & Assessment Act, 1979 and Environmental Planning and Assessment Regulation 2000 and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

### **6. 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.

### **CONTRIBUTIONS, FEES & BONDS**

### **7. SECTION 7.12 CONTRIBUTION**

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 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:

(i) Where the total development cost is less than \$500,000:

**"Waverley Council Cost Summary Report"; or,**

(ii) 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 are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

(b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;

(i) A development valued at \$100,000 or less will be exempt from the levy;

(ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or

(iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any 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.

## **8. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of **\$27,922.86** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be established prior to the issue of any 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 all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **9. 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 the Principal Certifying Authority prior to the issue of any 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.

## **10. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The Applicant is to pay to Council fees for the assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with

Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

## **CONSTRUCTION MATTERS**

### **11. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and applicable fees paid, prior to the erection of the hoarding.

### **12. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

### **13. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical 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.

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.

### **14. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

### **15. ENGINEERING CERTIFICATE OF ADEQUACY**

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

## **16. STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS**

Prior to the issue of a Construction Certificate, a report or certification from a practicing structural engineer must be submitted to the Principal Certifying Authority to explain how the retained building elements, such as building facades are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.

### **STORMWATER & FLOODING**

## **17. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plan prepared by A K Y Civil Engineering, Project No. 21029, Drawing No. H-01 & H-02, Revision B, dated 14/10/2021 is considered unsatisfactory.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- a) The plans shall provide details of any required On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- b) The plans shall provide a complete and detailed OSD design including multiple cross-sections at a suitable scale, proposed construction materials, and full orifice details.
- c) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be submitted.
- d) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- e) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided.
- f) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- g) Any proposed pipeline within the footpath verge of Lyons Street must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres or reinforced concrete and fall by gravity at 1% minimum.

- h) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system (independent of any OSD system).
- i) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath shall be provided.
- j) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

## ENERGY EFFICIENCY & SUSTAINABILITY

### **18. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

## WASTE

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

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* 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.



## LANDSCAPING & TREES

### **20. GREEN ROOF LANDSCAPING DETAILS**

The construction certificate landscape plans are to comply with the controls for green roofs in Part B3.1 of the *Waverley Development Control Plan 2012* including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 – 1).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species
- (c) The green roof is to be designed to be a non-trafficable area (with no balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

A qualified landscape architect must review the design and verify that it complies with the above requirements.

## TRAFFIC MANAGEMENT

### **21. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

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

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

## PRIOR TO ANY WORKS

### **22. 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.

### **23. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

## **DEMOLITION & EXCAVATION**

### **24. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority 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 SafeWork 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.

### **25. CONTROL OF DUST ON CONSTRUCTION SITES**

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 (e.g.: 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.

## **26. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED**

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 2014.

## **27. 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.

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 excavation is to be managed by a practising structural engineer.

## **CONSTRUCTION MATTERS**

## **28. 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 Sundays and public holidays.

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.

Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

## **29. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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

## **30. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002*, clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

### **31. CERTIFICATE OF SURVEY – LEVELS**

All construction works are to be 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.

### **32. 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 location 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

### **TREE PROTECTION AND REMOVAL**

### **33. TREE PROTECTION**

All trees on site and adjoining properties, including street trees are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

### **34. STREET TREES TO BE RETAINED/TREE PROTECTION**

No existing street trees shall be removed without Council approval. 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 in accordance with AS4970-2009 "Protection of trees on construction sites.

## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **35. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### **36. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

### **37. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM**

- a. A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared, stamped and signed by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, the detention facility, rainwater harvesting facility and other drainage related infrastructure. An original or a colour copy must be submitted to Waverley Council. Where changes have occurred, the Council approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.
- b. A suitably qualified and practising Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### **38. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD**

Prior to the issue of an Occupation Certificate, a “Positive Covenant” and “Restriction on the Use of Land” shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.



## E. ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au), in person (at Council's Customer Service Centre) or via post service.
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition)
- Include DA reference number
- Include condition number/s seeking to be addressed
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14days. Times may vary or be delayed if information is not received in this required manner.
- Any queries, please contact Council's Duty Planner on [duty.planner@waverley.nsw.gov.au](mailto:duty.planner@waverley.nsw.gov.au)

### AD2. SYDNEY WATER REQUIREMENTS

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

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.

### AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in

NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

#### **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

#### **AD5. ALTERATIONS AND ADDITIONS ONLY**

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

#### **AD6. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

#### **AD7. TREE REMOVAL/PRESERVATION**

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

#### **AD8. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

#### **AD10. RAINWATER HARVESTING AND REUSE**

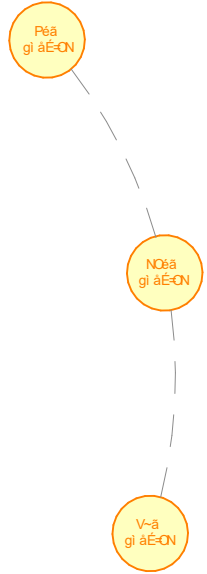
The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.








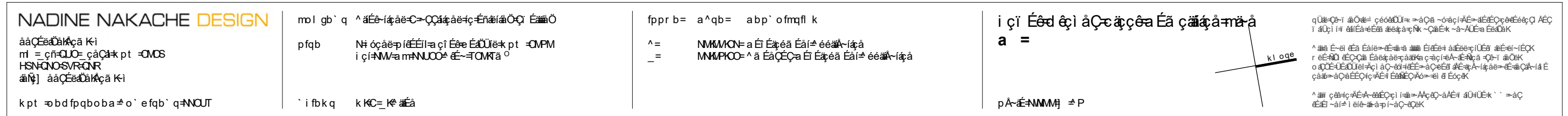
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**Waverley Council**  
**Application No: DA-538/2022**  
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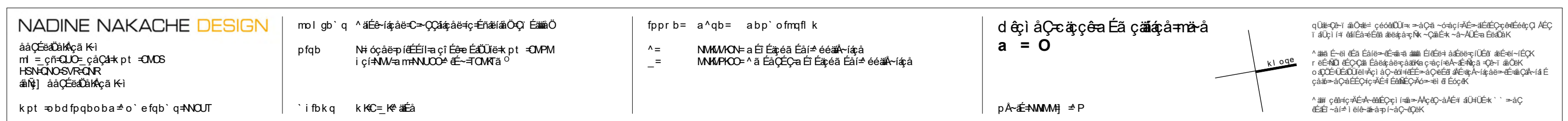
<p><b>NADINE NAKACHE DESIGN</b></p> <p>aaCéaakçã Ki  mi = çñ=QUO= çãÇãk pt =QMS  HSN=QMSVR=QNR  a[N] aaCéaakçã Ki</p> <p>kpt æbdpqqbobaæ o`eqfb`q=NCUT</p>	<p>mol gb` q a^Ée=íqæ=C=ÇÇiaæ=çç=ñabíÖÇ ÉæÖ</p> <p>pfqb Ní çáæ=piÉÉí=ai çí Éæ ÉáÜíæk pt =QPM  i çí=NM=am+NUOæ æ=çç=QMTã°</p> <p>` i fbkq kKC=Kæ ææ</p>	<p>fppr b= a^qb= abp`ofmqfl k</p> <p>^= NMM/MON= a í Éææá Éáiæ ééæñ=íqã  _= MNM/PIO= ^á ÉaÇÇÇa í Éææá Éáiæ ééæñ=íqã</p>	<p>páÉ=ma-a  a =</p>  <p>pA-æ=NMMH æP</p>	<p>qÜæ=Çæ=í æÖæ= çéæÜí=í æÇã ~óæçí=Éæ=æÉÇçææÉæçQ æÉÇ  í aÜçí í æÉæ=Éææ ææçãçNk ~ÇæÉk ~a=AUæ=ÉæáK</p> <p>^ææ í=éí æá Éaíæ=æçæ ææ æíææí æææçíÜæ æÉ=í=ÉÇK  r æñ=Ü æÇÇa Éææçææçãææ çãçí=æA-æñçã ~Ç=í æÖæK  o æÇ=ÜæÜí=í çí æÇ=í=í æÇæÉ æÉæA-íqææ=æçÇA-íá é  çãæ=áÇæÉÇç=æí ÉæÉÇæ=æí éÇçK</p> <p>^æ çæç=ç=æA-ææççí íæ=AAçÇç=ææí aÜ=ÜæK `` æÇ  ææí ~áiæí éíæ=æçí í=æÇ=æçK</p>
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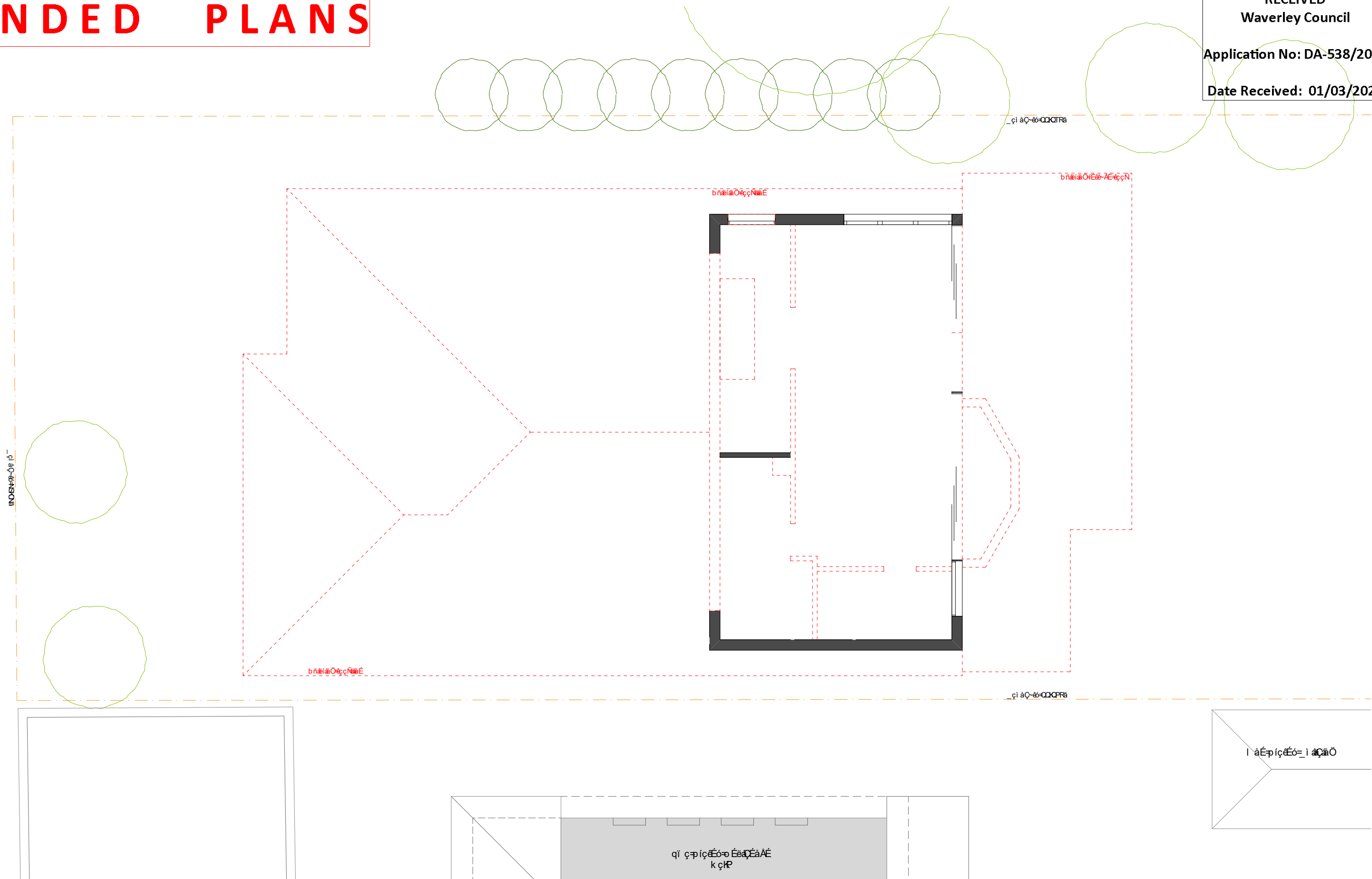


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NADINE NAKACHE DESIGN

ââÇÊââKâ Ki  
mI = çñ=QUO= çâÇâkpt =QVDS  
HSNQNOSVRQNR  
ââÇÊââKâ Ki

kpt æbdfpqbobâ Æ o` efbq` q=NCUT

mol gb` q ^âÊê-îâæ=C=ÇÇââæçç=ÊâââÖÇ ÊââÖ

pfqb Nî óçâæ=piâÊÊI=âçî Êæ ÊâÜÊkpt =QVPM  
i çî=NM/am=NUOO Æ=ÏOMTâ °

` i fbk q k KC= K æÊâ

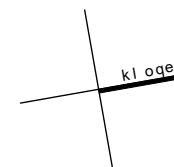
fpr b= a^qb= abp` ofmqfl k

^= NMM/MON= a Êî ÊâÊâ Êâî Æéââ-îââ  
\_= MN&PKOO= ^ â ÊâÇÊÇâ Êî ÊâÊâ Êâî Æéââ-îââ

câî=câççâ Êâ çââçâ=ââ

a =

pA=Æ=NMMMj æP



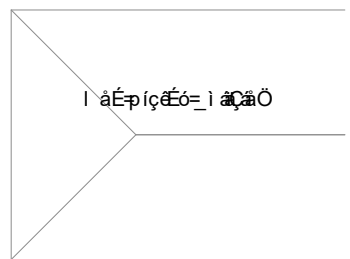
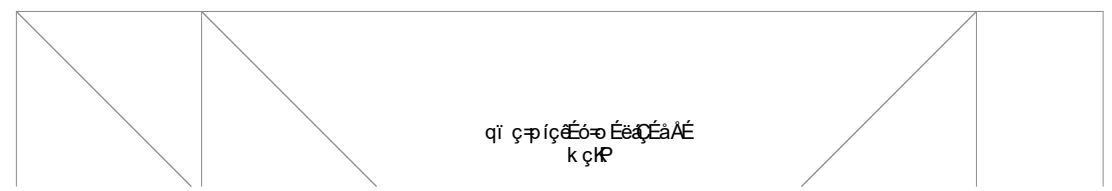
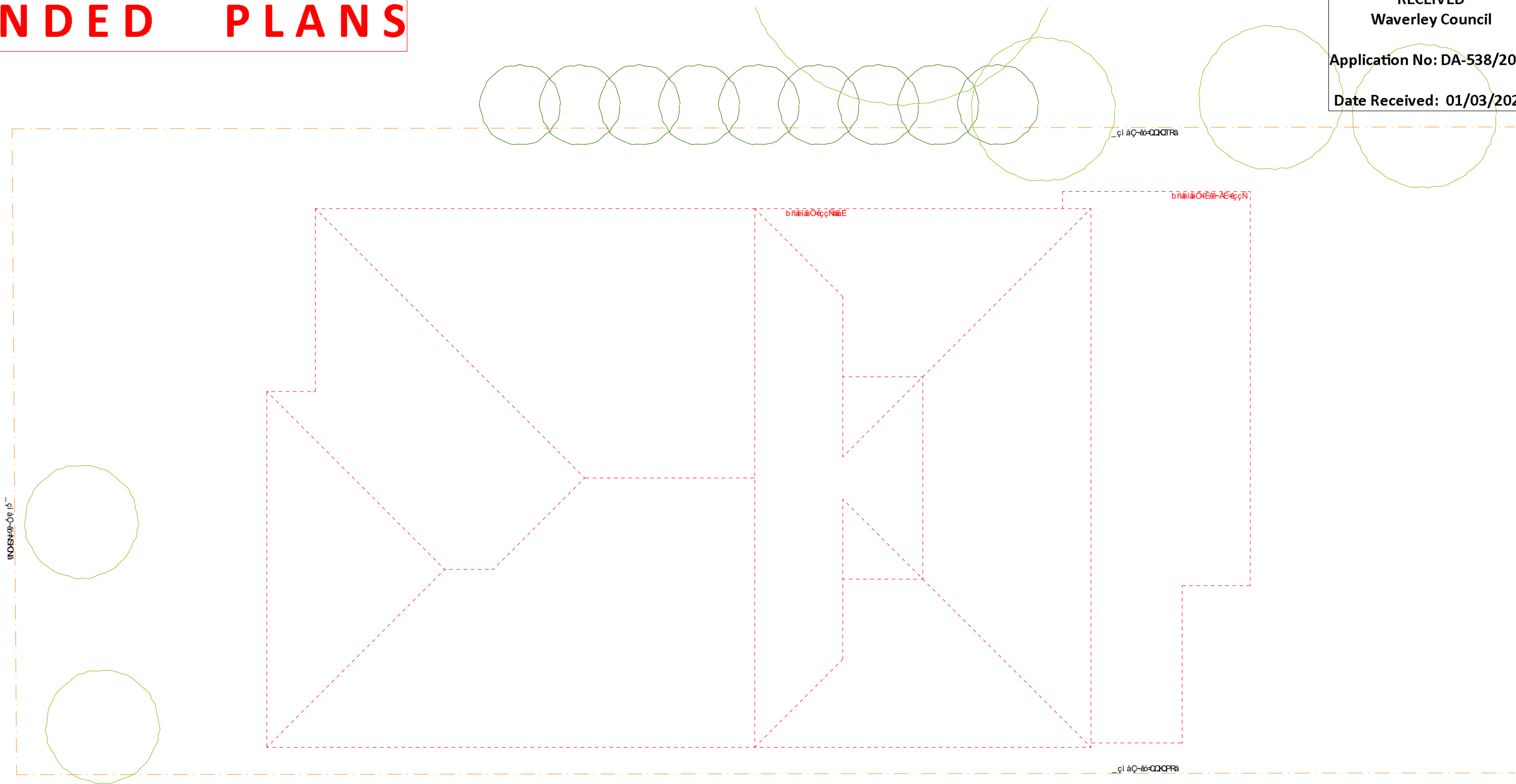
qÜæ=Çê-î æÖæ= çóóâÜ= æÇâ ~óâçî=Æ=âÊÇÇæÊæÇQ AEÇ  
Ï âÜçî I ï æîÊæ=Êæ ææçâçNk ~ÇâÊk ~â-AUEa ÊââK


^ââ Ê=âî Êâ Êâîæ=Æ=ââ æâ ÊîÊæ=âææçîÜÊâ æÊæî=îÊÇK  
r æÊâÜ ÊÇÇâ Êâæçâæçâââçâ çâçî=âA=Æ=ââ Çâ-î æÖæK  
o âÇÊ=UEâÜÊI=âçî âÇ=âî=Æ=âÇ=Êâ æÊçâA-îââæ=Æ=âÇâ-îâ Ê  
çââ=âÇâÊÇÇ=Æ=â ÊâÊÇÇ=âî æ ÊóçK

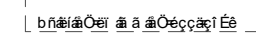
^ââ çæçç=Æ=â=ââÇÇî I=â=âÇÇÇ=âÆ=â âÜ=ÜÊk ` ` =âÇ  
Êâî ~âî=î Êîæ=ââçî=âÇ=æÇK

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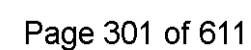


<p><b>NADINE NAKACHE DESIGN</b></p> <p>aaÇEäDÄÇä Ki  ml = çñ=QUO= çäÇä pt =OMDS  HSNQNOSVR=QNR  äñj] ääÇEäDÄÇä Ki</p> <p>kpt æbdfpqbobä o` efbq` q=INOUT</p>	<p>mol gb` q ^ äÉe-íqäæ=C=ÇÇäqäæ=ç=ÉñäíäÖÇí ÉæÖÖ</p> <p>pfqb Nñ óçäæ=piÉÉíla çí Éæ ÉäÜiæ=pt =OMPM  i çí=NM/a=NUCO= æ=íOMTä °</p> <p>` i fbk q k KC= K æÉä</p>	<p>fppr b= a^qb= abp` ofmqfl k</p> <p>^= NMM/MON= a áí Éäqéä Éäíä ééäA-íqä  _= NMM/POC= ^ á ÉäÇÇä áí Éäqéä Éäíä ééäA-íqä</p>	<p>oççÑä Éä çäçä=ä=ä  <b>a =</b></p>  <p>pÄ=ä=NM/M æP</p>	<p>qÜæ=Ç=í äÖæ= çéæäÜí= æ=äÇä -óäçí=Æ=äÉÉÇçæÉæÇÇí ÄÉÇ  í äÜçí í= äíÉä=Éäæ äæqäqNk -ÇäÉä k -ä=ÄÜÉä ÉääÖK</p> <p>^ ääÉ=é=äí Éäíä=æ=äñ=ä äíÉäí=äææqíÜä äÉ=äí=íÉÇK  r é=äíÜ äÉÇÇä Éäqäæqäæäqä çäçí=ä=äñä=Ç=í äÖæK  o äÜÉ=ÜäÜäíäçí äÇ=äí=ÉÉ=äÇ=Éä äÉ=äA-íqäæ=æ=äÇä-íäÉ  çäæ=äÇäÉÉÇç=äí ÉäÉÇÇäÇ=äí éÉÇäK</p> <p>^ ää çäçç=ÆA=æÉÇçí í=ä=ÄäÇÇ=äÉ=ä äÜ=ÜÉ=ä` æ=äÇ  äÉäí=äí=í äíÉä=ä=äpí=äÇ=äÖäK</p>
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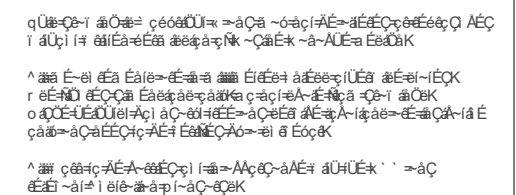


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$$pfb^{\Delta}ob^{\wedge} = \quad = \quad = \quad TCM\bar{M}\bar{a}^0 =$$
$$\text{dol } pp \in \text{il } l \text{ o}^A \text{ ob}^A = \quad = \quad = \quad =$$

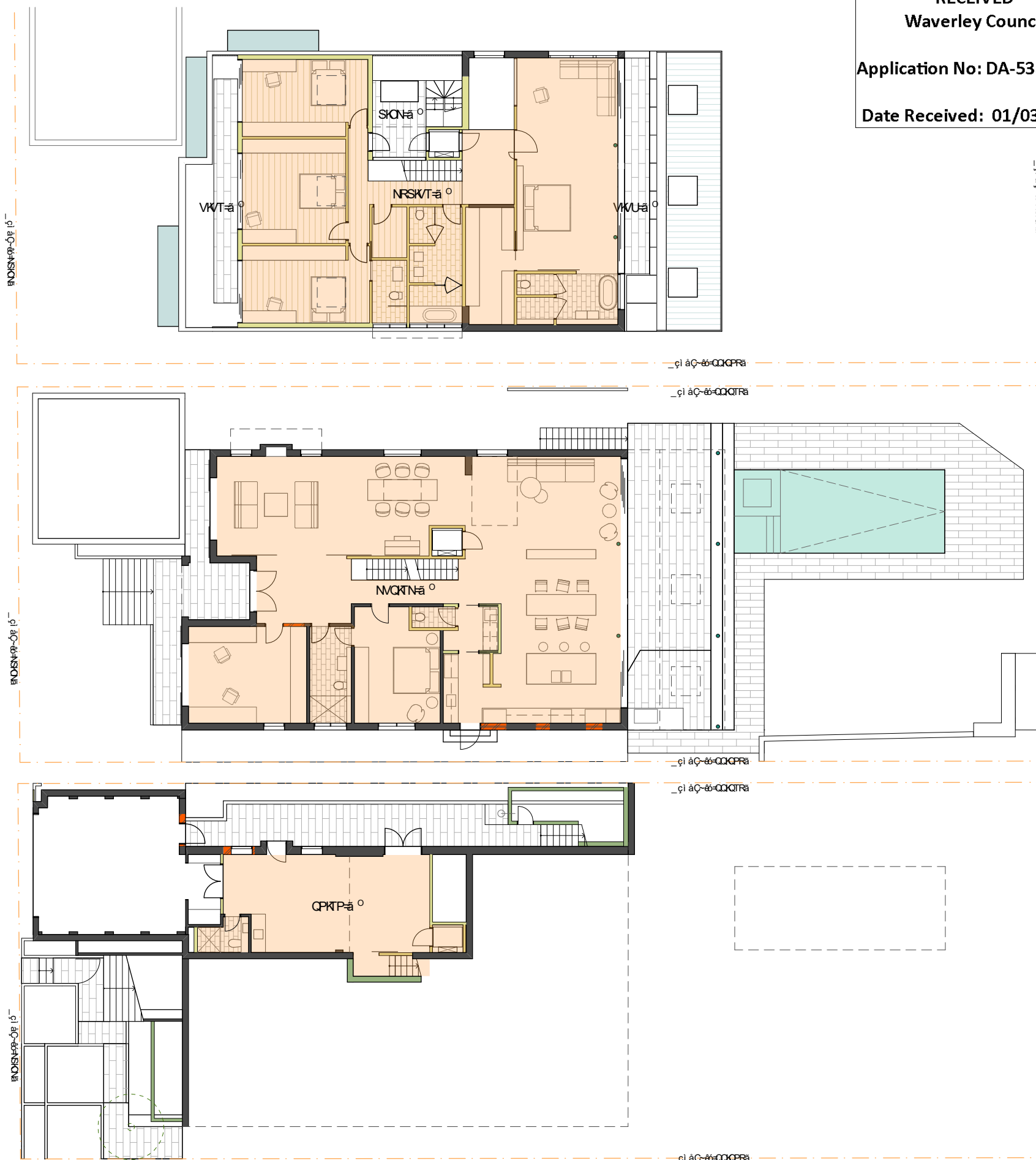
cāi-cācē=	=	=	=TMUTā=
dēi-ācē=	=	=	OMTMA=
i cī Eedēi-ācē=	=	=	QSKSā=

[illegible]

$d c^{\wedge} \in \mathcal{C}^{\infty}(M; T^{*} M)$

d c^=d êçì àÇcäçê

d c^ ÷ ç ĭ Ê ê ð å Ç ç æ ç ê NMM



NADINE NAKACHE DESIGN

aaQÉaÄäKã K-i  
 mI = çñ=QUO= çãÇa k pt =CMDS  
 HSN=QNO-SVR=QNR  
 a[n] aaQÉaÄäKã K-i

k p t    $\oplus$  b d f p q b o b a  $\neq$  o ` e f q b ` q  $\neq$  NOUT

mol gb` q ^āÉē-íāāē=C~Qāāāē=ç=ÉñæíāÖ-Qí ÉāāÖ

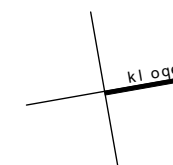
pfb Nî óçäëpíÉÉil=a çî Éëë ÉäÜëk pt =MPM  
i çî=NM=a m=NUOÄ É~=OMTä<sup>0</sup>

$$\|f\|_{K^A} = \|f\|_{K^A} \quad \text{if } f \in K^A$$

fppr b= a^qb= abp` ofmqfl k

$$\begin{aligned} \wedge &= \text{NMN} \text{ION} = a \text{ Éi Éa éã Éai}^{\wedge} \text{ ééã}^{\wedge} \text{ íã}^{\wedge} \\ &= \text{NMN} \text{IOO} = \wedge \text{ã Éa ÉC} \text{a Éi Éa éã Éai}^{\wedge} \text{ ééã}^{\wedge} \text{ íã}^{\wedge} \end{aligned}$$

d êçëë=çäçê<sup>A</sup> êÉ~ë

$$a =$$
$$p \wedge \sim q \neq \text{NOM} \neq p$$


qÜä-Qü-i äÖä= çéöäÜi= aÇä ~ö-aç:ÄE-aEÄÇçEäEäÇQ ÄEÇ  
i äÜç: i äiEä=Eä äEäaÇNk ~ÇäE~ ä~ÄÜEäEäaK

[illegible]

^ äñ çñ=ç ÄÉ=Ä-ññÇçì í=Ä=ÄÇçç~äÄÉ: äÜ=ÜÉ:~` ` =&Ç  
äñ ~äí=ì ëíé~ä~ä~í~äC~éöK







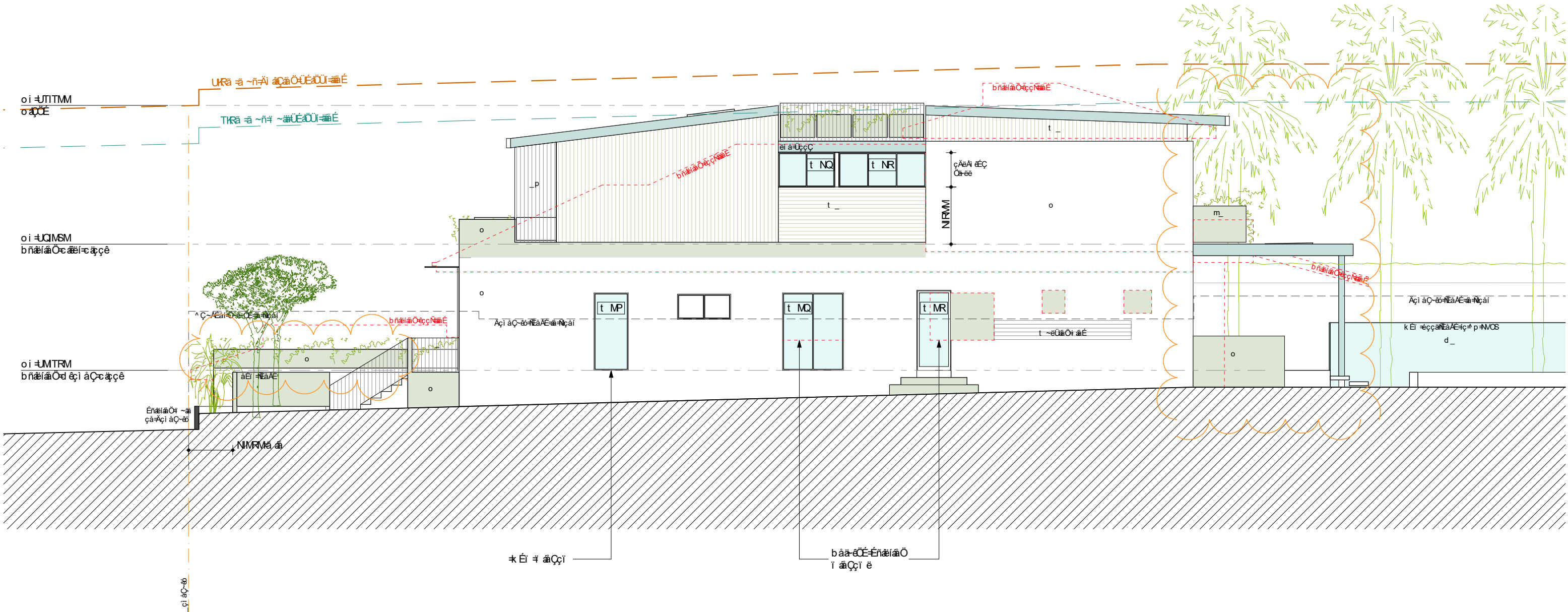
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p= Éí~ap ÜÉÉí~o ççññÖ  
o = o ÉaÇÉÉÇ~éçááö  
t \_= t É~iÜÉáÇ~éç= á~ÇÇññÖ  
\_p= ~iíÉa~pAÉÉÉa  
m \_= m~áíÉÉ~ ~á éíé~ÇÉ  
\_ = Éí~á~ ~á éíé~ÇÉ  
d \_= d á~éé~Á~á éíé~ÇÉ



NADINE NAKACHE DESIGN

ááÇÉááAçã Kí  
mí = çñ~QUO~ çáÇã~pt ~MOS  
HSNQNOSVRQNR  
ññ] ááÇÉááAçã Kí

kpt ~bdfpqbobã~o` efqb` q~NOUT

móí gb` q ^áÉé~íçãé~Ç~ÇÇáçãéç~ññññÖÇ ÉñññÖ

pfqb Ní óçáé~píéÉí~açí Éé~ÉáÜíé~kpt ~MPM  
í çí~NM/~am~NUO~Á É~TOMTã °

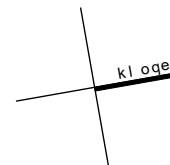
` í fbk q k KC~\_KÉ áÉá

fppr b= a^qb= abp` ofmqñ k

^= NMM/MON= a Éí Éáçéá Éáí~ééá~íçã  
\_ = MNM/KCO= ^ á ÉaÇÉÇã Éí Éáçéá Éáí~ééá~íçã

b~éí~báí ~íçã  
a ~O

pÁ~É~NMMH ~P

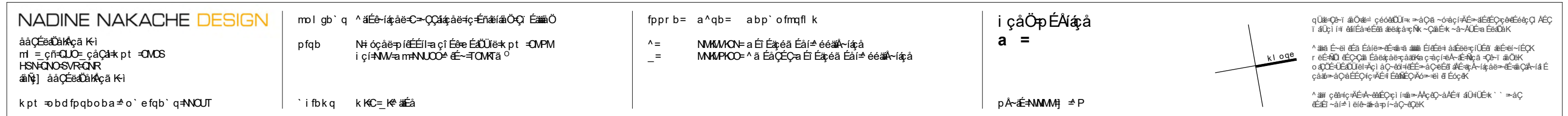


qÜñ~Çé~í ññññ= çéóáÜí~ =áÇã ~óáçí~ÁÉ~áÉáÇÇéééçÇ AÉÇ  
í áÜçí í~ éñíÉa~éÉñ áéçãç~ñ~ÇñÉ~ ~á~AÜÉa ÉéáÜK  
^ññ É~éí Éá Éáíé~É~ñ~ññ Éíééç~ááééç~íÜÉñ áÉéí~íÉÇK  
r éÉññÜ ÉÇÇÇñ Éáéçãéçãááññ ç~ççí~É~ñ~ñ~çã ~Çã~í ññññ  
o áÜÇÉ~ÜÉáÜí~Açí áÇ~éí~éÉ~áÇ~éÉñ áÉçã~Á~íçãé~É~ñÇã~íá É  
çãñ~áÇãÉÇÇç~ÁÉ~í ÉñññÇ~Aó~éí é ÉóçãK  
^ññ çéñ~ç~ÁÉ~á~áÉÇçí í~ñ~Á~ç~áÇ~á~ÁÉ~í áÜí~ÜÉ~k` ~ =áÇ  
Ééí~áí~í éíé~ñ~á~p í~áÇ~éÇK





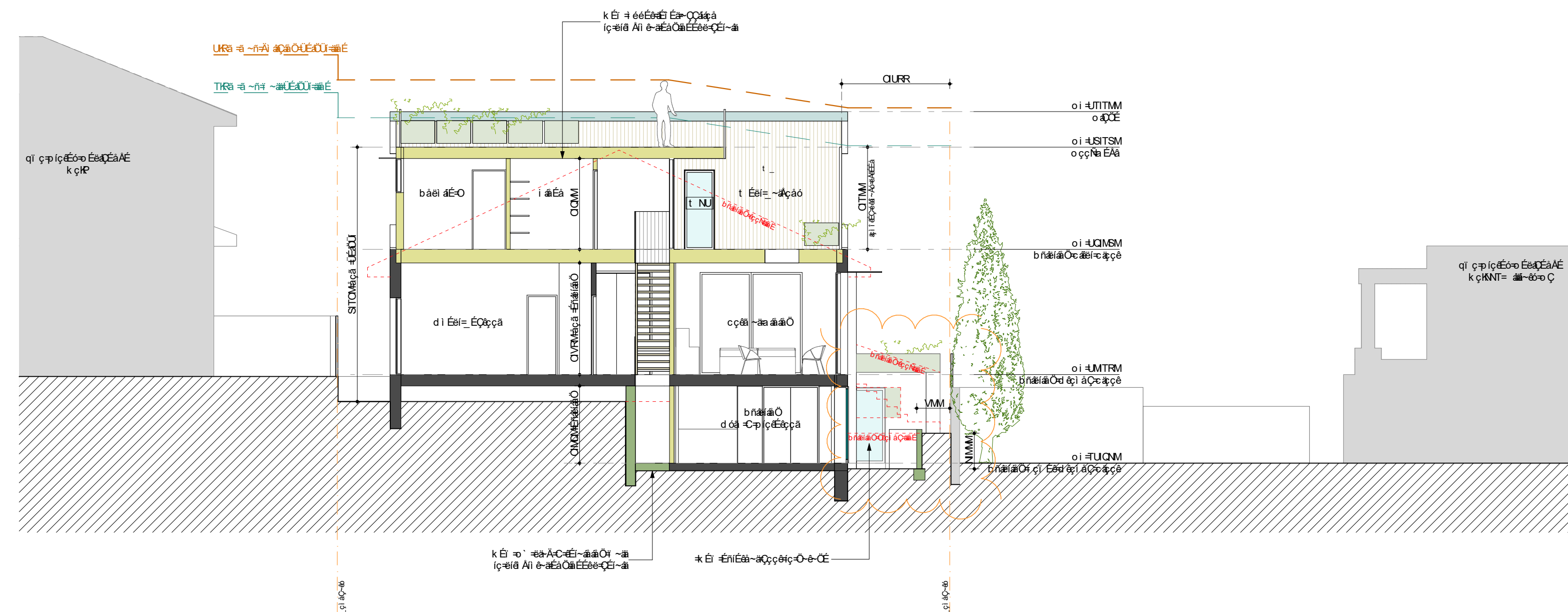
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NADINE NAKACHE DESIGN

aaQÉaDãKã K-i  
 mI = çñ=QUO=çãK pt =OMDS  
 HSN=QNO-SVR=QNR  
 a[n] aaQÉaDãKã K-i

k p t    $\oplus$  b d f p q b o b a  $\neq$  o ` e f q b ` q  $\neq$  NOUT

mol gb` q ^ áÉêíäæ=C~CCáäæ=fç=ÉñæíäÖ=Ç: ÉääÖ

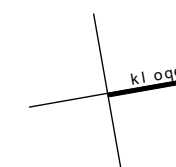
pfbq Nĩ óçãẽ=piÉÉĩ=çĩ Éẽ ÉãÜẽk pt =QPM  
i çĩ=NM=amNUOã É~=TOMã<sup>0</sup>

$$\|f\|_{K^A} = \|f\|_{K^A} \quad \text{if } f \in K^A$$

fppr b= a^qb= abp` ofmgfl k

$$\begin{aligned} \wedge &= \text{NMNMN} = a \text{ Eí Éá } \epsilon \tilde{a} \text{ Éá } \wedge \text{ ééá } \tilde{\text{í}} \tilde{a} \\ &= \text{NMNPO} = \wedge \tilde{a} \text{ Éá } \epsilon \tilde{C} a \text{ Eí Éá } \epsilon \tilde{a} \text{ Éá } \wedge \text{ ééá } \tilde{\text{í}} \tilde{a} \end{aligned}$$
$$a = 0$$

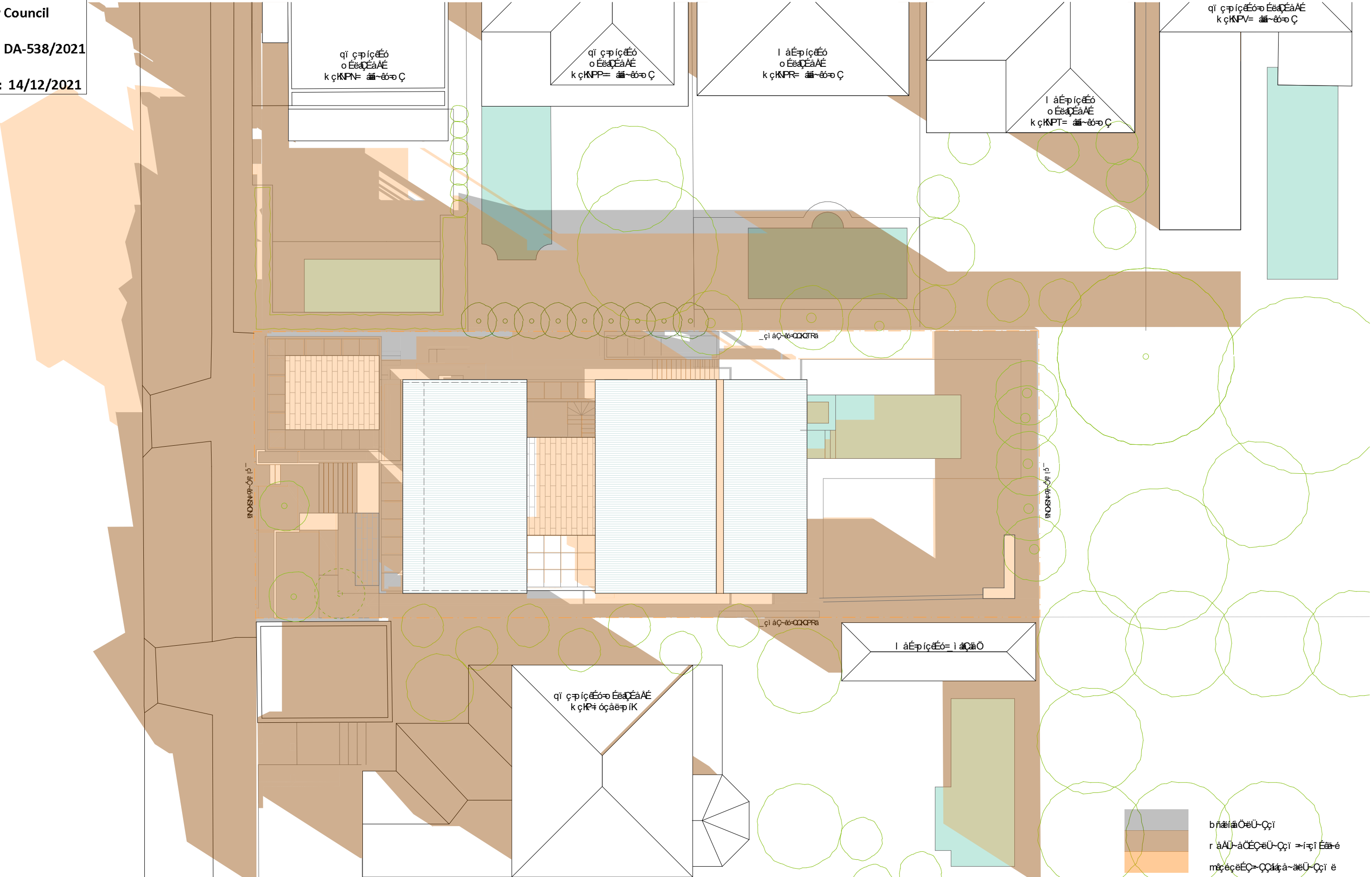
$p \wedge \sim q \Rightarrow \neg (p \vee q) \Rightarrow P$



qÜë=Cë~i äÖë= céóáÜW= =>äÇä ~ó=äçí=Äë=>äÉÉÇçóéÉéçQ ÄÉÇ  
i äÜçí=í äíÉä=Éä äéä=äÇK ~ÇäÉK ~ä~ÄÜ=ä ÉäÄK

[illegible]

^ äñ çëç÷ÆA~æÉÇç|íä=ÄÇäÇ~âÆë äÜHÜEκ` ` =äÇ  
æä ~ä!ä| ëlê~ä~äp|~äC-äöK



NADINE NAKACHE DESIGN

ääÇεääKā Kī

ml = çñ=QUC= çäÇä\*pt =QVDS

HSNQNOSVRQNR

ääÇεääKā Kī

kpt æbdfpqbobaΔo`efqb`q=NCUT

mol gb` q ^ääέ-íçää=C>ÇÇääæçç=ÉñääÖÇ ÉääÖ

pfqb

Ni όçää-πíçέI=äçí Έεε ÉäÜie\*pt =QVPM

i çí=NM/am=NUOΔ έ=TCMKA °

` i fbk q

k KC=Kε äέä

fpr b= a^qb= abp` ofmqfl k

^=

MMMN=a Eí Έäεää ÉäíΔ ééää-íçä

pÜ-Ççí ε=V~ā γι äέ=QN

a =

pÄ-έ=NMNMj ≠P

qÜæ=Çè-í äÜæ= çóöäÜi= =>äÇä ~óäçí=Äε=ääέÇçèééçQ ÄέÇ

í äÜçí í γ äüíEä-eÉä äéçäçNk ~ÇäÉk ~ä-AÜEä ÉäÜäK

^äää É=äí äÇä Éäíè=>έ=äää äää Éíέéçí äääéçγIÜÉä äέ=éí~IÉÇK

r éέ=äÜ äέÇ=Çä ÉäéçäéçäääKä çäçí=äA-äéNçä =Çè-í äÜäK

o äÜÇE=ÜEäÜéí=Äçí äÇ=äí=ääE=>äÇéÉä äE=äA-íçää=>έ=ääÇä-íä É

çää=>äÇäέÇç=ÄE=í ÉääéÇ=Äó=>äí ä ÉóçäK

^ää çää=ç=ÄE-A-ääéÇçí í=ää=>ÄçäÇ=äÄE=í äÜ=ÜE=K ` ` =>äÇ

έέäí ~äí=í éíè=ää=πí=äÇ=äÇäK

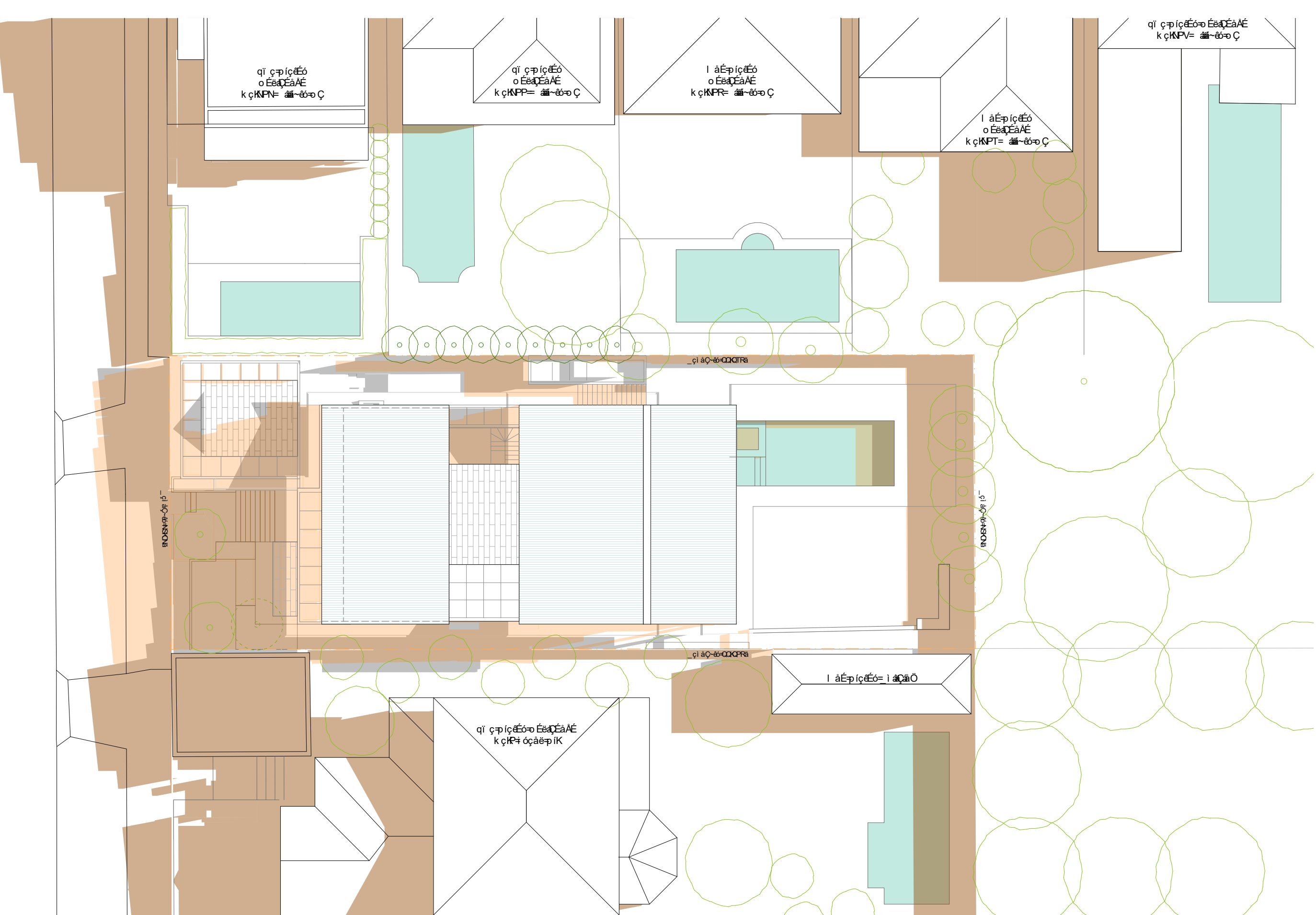
bñääíäÖèÜ-Ççí

r äÄÜ~äÖéÇèÜ-Ççí =>íçí Έää-é

mäçäçéÉÇ>ÇÇäää~äèÜ-Ççí è

kí oge

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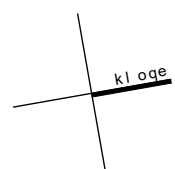


**NADINE NAKACHE DESIGN**  
 ááÇÉááAçã Ki  
 ml = çñ-çUO= çãÇã-k pt -çMDS  
 HSNçNO-SVRçNR  
 áñç] ááÇÉááAçã Ki  
 kpt æbdfpqboba ð o` efqb` q=çNçUT

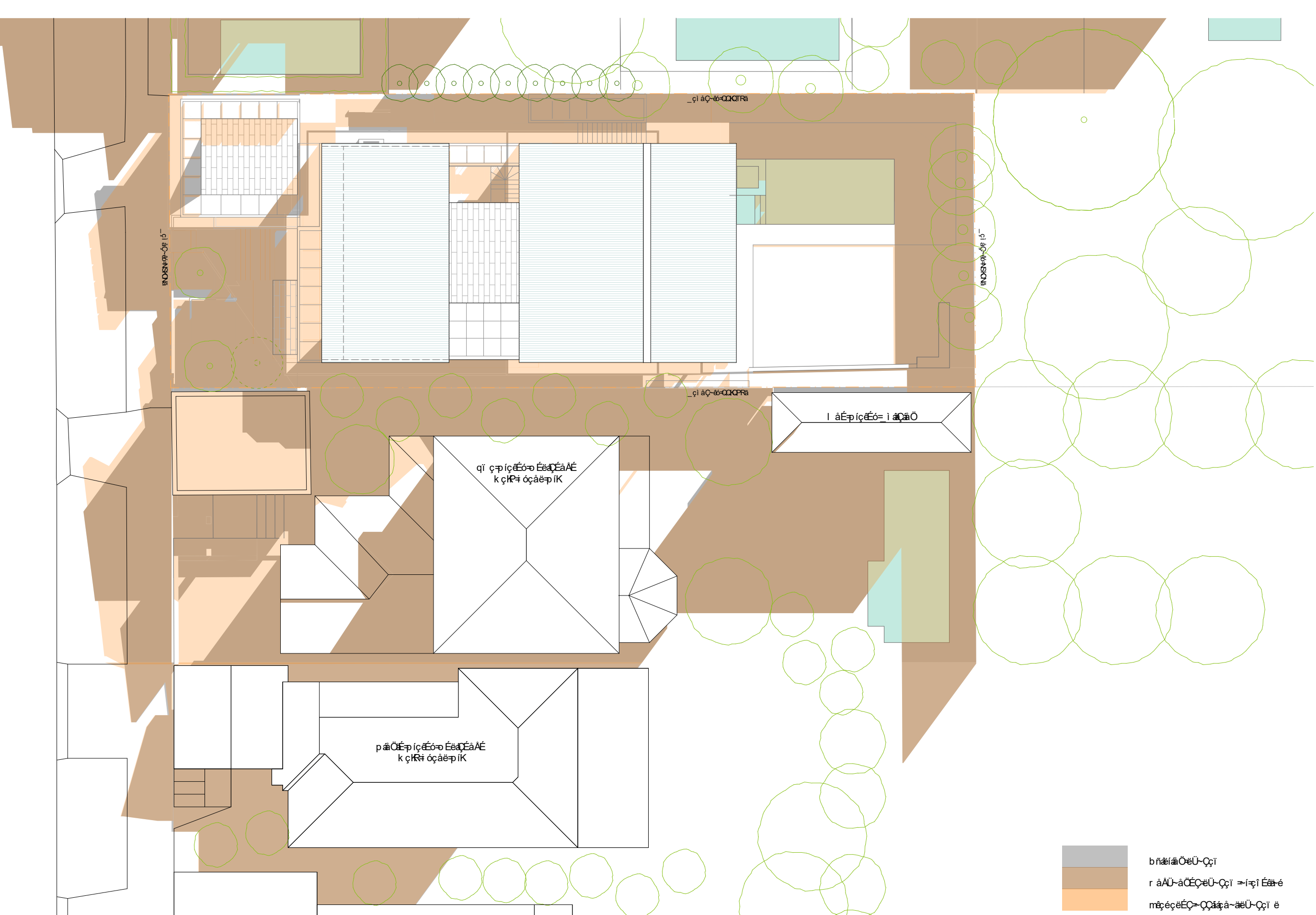
mol gb` q ^áÉe-íçæè-C>ÇÇaçæçç-ÉñáíáÖç ÉáñÖ  
 pfqb Ní óçáè-píáÉíI=çí Éæ ÉáÜíè-k pt -çMPM  
 i çí=NM/am=NUOç É=çOMKí o  
 ` i fbk q k KC= K æÉá

fppr b= a^qb= abp` ofmqfl k  
 ^= NMNMçN=a Éí Éáçáá Éáí ð ééá~íçã

pÜ-Ççí è=NOèã çí áÉ=çN  
**a =**  
 pA-æ=NMçM ç P



qÜæçè-i áñæ= çóááÜí= =>áÇa ~óççí=ÁÉ=>áÉÉÇçèééççQ ÁÉÇ  
 í áÜçí í ç áñíEa-eÉæ áæççáççNk ~ÇáÉç ~á-AÜEa ÉeáðK  
 ^áæ É=èí æá Éáíè=>æ=æa áññ Éíæèç áææççíÜÉæ áÉ=èí-íÉÇK  
 r æÉ=ñÜ æÇÇæ Éáæççæççááæçç çççí=æA-æ=ñçã ~Çè-i áñÖK  
 o áÇÇE=UEáÜíèI=çí áÇ-èí=æÉ=áÇèÉæ áÉ=çA-íçáæ=>æ=çÇA-íá É  
 çáá=>áÇáÉÉÇç-ÁÉ=í ÉáñÉÇçAó=>æí æ ÉóççK  
 ^áñ çæççç=ÁE-A-ááÉÇçí í=á=>MççÇç-áÁÉ=í áÜíÜEç` ` =>áÇ  
 æáá ~áí=í éíè-áççíI=áÇ-æÇK



- bñāíāÖeÜ~Çç'i
- r āÄÜ~āÖÉÇeÜ~Çç'i ðíç'i Éā~é
- māçéçÉÉÇ~ÇÇāā~āeÜ~Çç'i ē

NADINE NAKACHE DESIGN

āāÇÉāāKā Ki

ml = çñ=QUO= çāÇā\*pt =QVDS

HSNQNOSVRQNR

āāÇÉāāKā Ki

kpt ðbdfpqboba ðo` efqb` qñNOUT

mol gb` q ^āÉē~īāçāē=C>ÇÇāāçēç=ÉñāíāÖÇ ÉāñÖ

pfqb

Nñ óçāē~píēÉí~āçí Éē ÉāÜíē~kpt =QVPM

i çí~NM/amñNUOÄ É~TQMTā °

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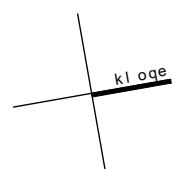
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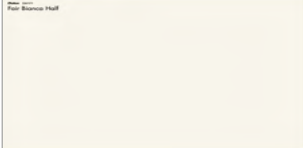
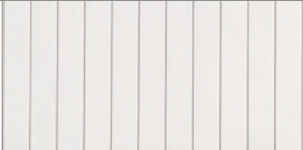


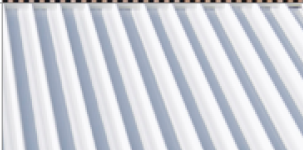




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							RECEIVED Waverley Council
Finishes Key	Type	Product Description	Product Code/ Colour	Image	Area	Notes	
RM-1	Rendered Masonry	Acrylic Render Textured finish	Dulux Monument TBC		<ul style="list-style-type: none"> <li>Existing brickwork to garage</li> <li>Existing brickwork to front boundary fence</li> <li>Proposed walls to front setback landscaped area</li> </ul>		Application No: DA-538/2021 Date Received: 14/12/2021
RM-2	Rendered Masonry	Acrylic Render Textured finish	Dulux Fair Bianca Half TBC		<ul style="list-style-type: none"> <li>Existing brickwork to dwelling</li> </ul>		
WB-1	Weatherboard Cladding	Linear grooved sheet cladding Paint finish	Dulux Fair Bianca Half TBC		<ul style="list-style-type: none"> <li>Proposed new framed addition to dwelling</li> </ul>		
BS-1	Batten Screen	Aluminium batten system Powdercoat finish	White		<ul style="list-style-type: none"> <li>Proposed new south balcony privacy screens</li> </ul>		
BS-2	Batten Screen	Aluminium batten system Powdercoat finish	Black Wenge		<ul style="list-style-type: none"> <li>New garage door</li> <li>Proposed new front fence &amp; gate</li> <li>Privacy screening to west balcony and roof deck</li> </ul>		
MS-1	Metal Sheet	Lysaght steel Colorbond Finish	Surfmist TBC		<ul style="list-style-type: none"> <li>Proposed new roof areas</li> </ul>		
W_#	Glazing	Aluminium framed Powdercoat finish	Duratec Finish: Matt1 Colour: Zeus Black		<ul style="list-style-type: none"> <li>Existing window &amp; door frames</li> <li>Proposed new window &amp; door frames</li> </ul>		
MB-1	Metal Balustrade	Mild steel Powdercoat Finish	Duratec Finish: Satin Colour: Zeus Black		<ul style="list-style-type: none"> <li>New balconies</li> </ul>		
PB-1	Planter boxes	Prefabricated			<ul style="list-style-type: none"> <li>Balconies and terraces</li> </ul>		
	Paving	Bluestone			<ul style="list-style-type: none"> <li>Balconies and terraces</li> </ul>		

NADINE NAKACHE DESIGN

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info@nndesign.com.au

NSW REGISTERED ARCHITECT 11287

PROJECT

Alterations & additions to existing dwelling

SITE

1 Lyons Street, Dover Heights NSW 2030  
Lot 109 DP 11822 Area 720.7m<sup>2</sup>

CLIENT

N. & B. Allen

ISSUE

A

DATE

10.09.21

DESCRIPTION

Development Application

Schedule of Materials and Finishes

DA 2.4

Scale 1:50 @ A3

NORTH



This drawing is Copyright © and may not be altered or reproduced without written permission of Nadine Nakache Design.

All measurements are in millimetres unless otherwise stated. Use figured dimensions only. Do not scale from drawings. Ridge heights, boundary, tree and service locations are indicative only and need to be verified by a surveyor.

All work to be carried out in accordance with the NCC and relevant Australian Standards.

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## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-541/2020
<b>Site address</b>	49 Beaumont Street, Rose Bay
<b>Proposal</b>	Alterations and additions to the rear portion of the ground floor to an existing dwelling
<b>Date of lodgement</b>	9 December 2021
<b>Owner</b>	Mrs G M Reichman
<b>Applicant</b>	P & S Design and Construction Pty Ltd
<b>Submissions</b>	Nil
<b>Cost of works</b>	\$132,990
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>Breach to Floor Space Ratio</li> </ul>
<b>Recommendation</b>	That the application be APPROVED for the reasons contained in the report.

### SITE MAP



(Source: Nearmap, 2022)



## 1. PREAMBLE

### 1.1. Executive Summary

The DA seeks consent for alterations and additions to the rear portion of the ground floor to an existing dwelling at the site known as 49 Beaumont Street, Rose Bay.

The principal issue arising from the assessment of the application relates to a breach to FSR. However, a well-founded Clause 4.6 Variation submitted by the applicant has demonstrated that the breach satisfactorily meets Clause 4.6(3) (a) and (b) of the Waverley Local Environment Plan (Waverley LEP 2012) as it meets the objectives of the zone and development standard and does not result in unreasonable environmental impacts.

No submissions were received. The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 8 February 2022. The site is identified as Lot 1 in DP1149568, known as 49 Beaumont Street, Rose Bay.

The site is a battle-axe lot with a 2.455m wide frontage to Beaumont Street to an access handle. The site has an area of 489.8m<sup>2</sup> and falls from the rear (south) to the front (north) by approximately 3m.

The site is occupied by a three level dwelling, with shared basement parking with the front dwelling (No. 49A), however only two storeys are visible above ground level. The site is surrounded by low density residential built form. **Figures 1 to 3** are photos of the site and its context.



**Figure 1:** Rear of dwelling as viewed from the private open space, looking north.



**Figure 2:** Private open space, looking south.



**Figure 3:** Rear patio with the underside of the existing awning, looking west. This is the location of the proposed extension.

### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- DA-314/2018 for alterations and additions including bathroom renovation, increasing window size and shade was approved by Council on 4 October 2018.

### 1.4. Proposal

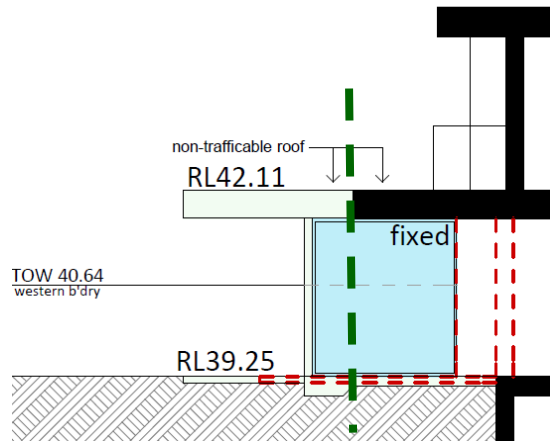
The DA seeks consent for a rear addition to the ground floor (limited to the underside of the existing awning), increasing the size of the kitchen and family room for wheelchair access.

### 1.5. Background

The DA was lodged on 9 December 2021 and deferred on 21 February 2022 for the following reasons:

- The rear external wall was not to extend past the existing awning (as dotted green below).
- Any proposed awning (past the external rear wall) was to be constructed of a lightweight material and was to be retractable.





**Figure 4.** Rear external wall to not extend past the existing overhang (as dotted green). (Source: P & S Design and Construction Pty Ltd, 2022).

Amended plans were lodged on 1 March 2022, with the following amendments:

- a. The rear external wall was further setback as to not protrude past the existing awning (as demonstrated in **figure 4** above).
- b. An increase to the size of the rear patio was removed; and
- c. An increase to the width of the awning was removed.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this DA under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. 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. State Environmental Planning Policies (SEPPs)

The following SEPPs apply and have been considered acceptable in the assessment of this DA:

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP 55 Remediation of Land.

#### 2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### 2.1.3. 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
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal meets the aims of the Waverley LEP 2012.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table <i>Low Density Residential 'R2' Zone</i>	Yes	The proposal is defined as alterations and additions to a dwelling, which is permitted with consent in the R2 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>8.5m</li> </ul>	Yes	The proposed rear addition has an overall height of 2.5m. The rear addition will be constructed below the existing awning.
4.4 Floor Space Ratio (FSR); and 4.4A Exceptions to FSR <ul style="list-style-type: none"> <li>Lot Size: 489.8m<sup>2</sup></li> <li>Max GFA: 277.3m<sup>2</sup></li> <li>Max FSR: 0.57:1</li> </ul>	No	Total GFA: 387.56m <sup>2</sup> Total FSR: 0.79:1  The development exceeds the development standard by 110.26m <sup>2</sup> or 39.8%. However, the additional GFA is 18.93m <sup>2</sup> or 6.8%.
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 FSR development standard. A detailed discussion of the variation to the development standard 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.

#### *Clause 4.6 Exceptions to Development Standards - FSR*

The application seeks to vary the FSR development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.57:1. The proposed development has a FSR of 0.79:1, exceeding the standard by 110.26m<sup>2</sup> equating to a 39.8% variation. However, the additional GFA attributes 18.93m<sup>2</sup> or 6.8%.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

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

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) The proposal meets the relevant objectives of FSR:

***Objective (b): To provide an appropriate correlation between maximum building heights and density controls.***

*The proposal will not alter the maximum height of the dwelling; the rear addition is located below an existing single storey awning and cannot be seen from the public domain; thus, the perceived bulk of the structure will not be altered.*

***Objective (c): To ensure that buildings are compatible with the bulk and scale of the desired future character of the locality.***

*The proposal would not alter the existing bulk or scale of the dwelling when viewed from the public domain; therefore, the character of the locality will not be impacted by the change.*

***Objective (d): To establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.***

*The effects of bulk and scale would be minimised by:*

- *The topography of the site and the surrounding area.*
- *The location of the contravening floor space is wholly located below an existing cantilevered concrete slab.*
- *No additional shadows will be created by the additional FSR.*
- *The proposed extension sits below the eastern and southern boundary walls and fences; thus, the extension will not be visible to the adjoining properties to the east and south.*
- *No view corridors will be impacted by the extension.*
- *The current level of privacy between the subject site and adjoining properties will be maintained.*

- (ii) The proposal meets the objectives of the R2 zone:

***To provide for the housing needs of the community within a low-density residential environment.***

*The proposal would provide for the housing needs of the site with the provision of a larger kitchen and living area that will facilitate the ongoing use of the property by a person with a disability.*

***To enable other land uses that provides facilities or services to meet the day to day needs of residents.***

*The proposal would increase the variety of accommodation available in the area as the resulting enlarged kitchen will facilitate the use of the property by a person with a disability.*

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) *The provision of a free-standing dwelling with a swimming pool that is fully accessible to a person with a disability.*
  - (ii) *Existing boundary walls and significant planting to remain intact.*
  - (iii) *No unaccepted impacts on the amenity of adjoining properties.*
  - (iv) *No changes or impacts on the streetscape or character of Rose Bay.*

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

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) *to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) *to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) *to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) *to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This is sound justification as it clearly demonstrates that the objectives of the standard are met.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant has justified that the proposal will have no impacts on the streetscape as well as no impacts to the amenity of adjoining properties.

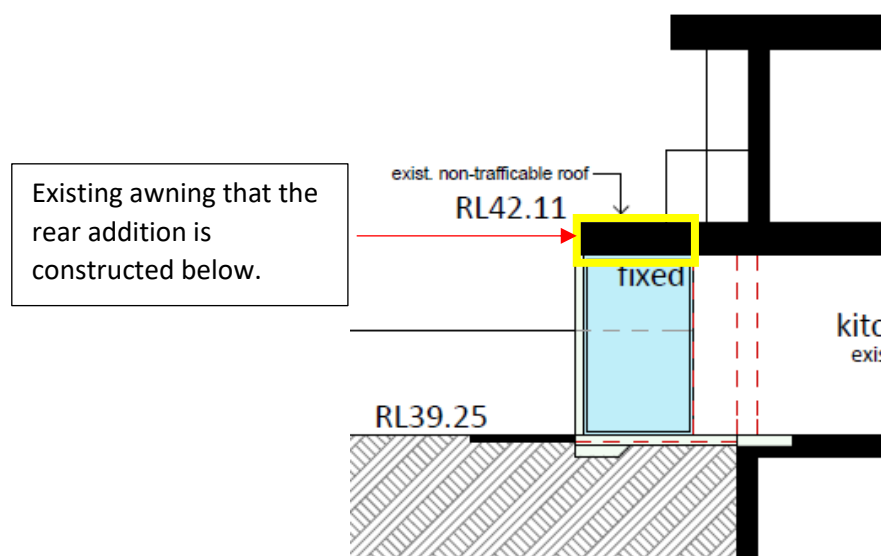
Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the FSR development standard are as follows:

**Objective (b): To provide an appropriate correlation between maximum building heights and density controls.**

The proposal is appropriately positioned below an existing awning. This results in the rear addition having an appropriate correlation between building height and density.



**Figure 5.** Rear addition constructed under the existing rear awning. (Source: P & S Design and Construction Pty Ltd, 2022).

**Objective (c): To ensure that buildings are compatible with the bulk and scale of the desired future character of the locality.**

The proposed rear addition is limited to being single storey and is positioned below an existing awning, and therefore does not result in unreasonable bulk or scale.

**Objective (d): To establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.**



The proposed rear addition is positioned below an existing awning and will not result in unreasonable visual privacy, shadowing or view loss impacts to surrounding developments as discussed in greater detail within **Table 3** of this report.

The objectives of the R2 zone are as follows:

***To provide for the housing needs of the community within a low-density residential environment.***

The proposal will cater for wheelchair access for the resident of the dwelling.

### Conclusion

For the reasons provided above the requested variation to the FSR is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR and the R2 zone.

#### 2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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
1. Waste	Conditions recommended.	Conditions regarding the management of construction waste are recommended.
2. Ecologically Sustainable Development	Yes	The submitted BASIX Certificate is satisfactory.
5. Vegetation Preservation	N/A	Tree removal is not proposed.
6. Stormwater	Conditions recommended.	Council's Stormwater Engineer has recommended conditions of consent.
12. Design Excellence	Yes	The proposed addition will be of a scale and utilise materials that will blend in well with the existing dwelling.

**Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
	Yes	The proposal does not contravene the general objectives of this part of the DCP.
<b>2.1 Height</b>		
Flat roof dwelling house <ul style="list-style-type: none"> <li>Maximum wall height of 7.5m</li> </ul>	Yes	The proposed addition will have a wall height of 2.5m. The rear addition will be constructed below the existing awning.

Development Control	Compliance	Comment
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>Predominant rear building line at each floor level</li> </ul>	Yes	The rear addition has been amended to not extend past the existing awning. Therefore, there is no change to the existing rear building line.
2.2.2 Side setbacks <ul style="list-style-type: none"> <li>Minimum of 0.9m (for height up to 8.5m)</li> </ul>	Yes	The rear addition is setback more than 0.9m from each side boundary.
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> <li>Replacement windows to complement the style and proportions of existing dwelling</li> </ul>	Yes	The proposed works are located to the rear of the dwelling and therefore will not have an impact on the streetscape.
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design</li> </ul>	Yes	The ground floor windows will have their outlook obstructed by side boundary fencing.
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> </ul>	Yes	As this is a ground floor rear addition that will be constructed under an existing awning, the proposal will not result in any additional overshadowing.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> </ul>	Yes	Over 40%
<ul style="list-style-type: none"> <li>Overall landscaped area: 15% of site area</li> </ul>	Yes	No change to landscaped area is proposed.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Minimum area of 25m<sup>2</sup> for private open space</li> </ul>	Yes	Over 25m <sup>2</sup>
<b>2.12 Battle axe blocks</b>		
<ul style="list-style-type: none"> <li>Maximum of one storey in height</li> <li>Alignment to take reference from dwellings on adjacent sites</li> </ul>	Yes	The one storey rear addition is acceptable for the battle axe lot.

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified for 28 days between 15 December 2021 and 19 January 2021 (Holiday Period) in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Nil objections were received.

## 2.5. Public Interest

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

## 3. REFERRALS

The following internal referral comments were sought:

### 3.1. Stormwater

An internal referral was sought from Council's Stormwater Engineer, who supported the application subject to recommended conditions of consent.

## 4. CONCLUSION

The DA seeks consent for alterations and additions to the rear portion of the ground floor to an existing dwelling at the site known as 49 Beaumont Street, Rose Bay.

The principal issues arising from the assessment of the application relates to a breach to FSR. However, a well-founded Clause 4.6 Variation submitted by the applicant has demonstrated that the breach

satisfactory meets Clause 4.6(3) (a) and (b) of the Waverley LEP 2012 as it meets the objectives of the zone, development standard and does not result in unreasonable environmental impacts.

No submissions were received.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

***Development and Building Unit (DBU) Decision:***



The application was reviewed by the DBU at the meeting on 15 February 2022 and the DBU determined:

(a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *A Rossi, B McNamara, B Matlawski and J Elijah.*

**5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL**

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A:

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Joseph Somerville	Bridget McNamara
Development Assessment Planner	Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 1 March 2022	Date: 9 March 2022

***Reason for WLPP referral:***

1. Departure from any development standard in an EPI by more than 10%

## Attachment A - Conditions of the development consent

### A. APPROVED DEVELOPMENT

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

- (a) Architectural Plans prepared by P & S Design and Construction Pty Ltd of Project No: 2021/210871 including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
2	Site / Roof Plan	February 2022	01/03/2022
4	Ground Floor Plan	February 2022	01/03/2022
5	Southern and Western Elevations	February 2022	01/03/2022
6	Eastern Elevation and Section A	February 2022	01/03/2022

- (b) BASIX Certificate
- (c) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 9 December 2021.

Except where amended by the following conditions of consent.

### B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

#### GENERAL REQUIREMENTS

#### 2. 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 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 the Environmental Planning & Assessment Act, 1979 and Environmental Planning and Assessment Regulation 2000 and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

#### 3. 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.

#### CONTRIBUTIONS, FEES & BONDS

#### **4. SECTION 7.12 CONTRIBUTION**

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 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:

(i) Where the total development cost is less than \$500,000:

**"Waverley Council Cost Summary Report"; or,**

(ii) 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 are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

(b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;

(i) A development valued at \$100,000 or less will be exempt from the levy;

(ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or

(iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any 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.

#### **5. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of \$3,700.00 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be established prior to the issue of any 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 all of works associated with this consent (including the required public works) 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 the Principal Certifying Authority prior to the issue of any 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. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

## **CONSTRUCTION MATTERS**

### **8. HOARDING**

To ensure the site is contained during construction, if hoarding is required for the approved works which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and applicable fees paid, prior to the erection of the hoarding.

### **9. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

### **10. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

## STORMWATER & FLOODING

### **11. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- a) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- b) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.
- c) Seepage water must not be directly or indirectly discharged to Council's street gutter.
- d) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

#### Notes:

- Since a sewer main runs through the property, plans must also be presented to a Sydney Water Tap in™ for their approval.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday) The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

## ENERGY EFFICIENCY & SUSTAINABILITY

### **12. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

## WASTE

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

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* 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.

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

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

## PRIOR TO ANY WORKS

### **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.

## DEMOLITION & EXCAVATION

### **15. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;

- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority 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 SafeWork 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.

## **16. CONTROL OF DUST ON CONSTRUCTION SITES**

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 (e.g.: 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.

## **CONSTRUCTION MATTERS**

### **17. 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 Sundays and public holidays.

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.



Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

#### **18. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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

#### **19. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002*, clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

#### **20. 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 location 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

### **TREE PROTECTION AND REMOVAL**

#### **21. STREET TREES TO BE RETAINED/TREE PROTECTION**

No existing street trees shall be removed without Council approval. 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 in accordance with AS4970-2009 "Protection of trees on construction sites.

### **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

#### **22. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### **23. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

### **24. CERTIFICATION OF CONSTRUCTED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### **25. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

## **E. ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au), in person (at Council's Customer Service Centre) or via post service.
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition)
- Include DA reference number
- Include condition number/s seeking to be addressed
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.

- Please note in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14days. Times may vary or be delayed if information is not received in this required manner.
- Any queries, please contact Council's Duty Planner on [duty.planner@waverley.nsw.gov.au](mailto:duty.planner@waverley.nsw.gov.au)

## **AD2. SYDNEY WATER REQUIREMENTS**

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

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.

## **AD3. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

## **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

## **AD5. ALTERATIONS AND ADDITIONS ONLY**

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

**AD6. TREE REMOVAL/PRESERVATION**

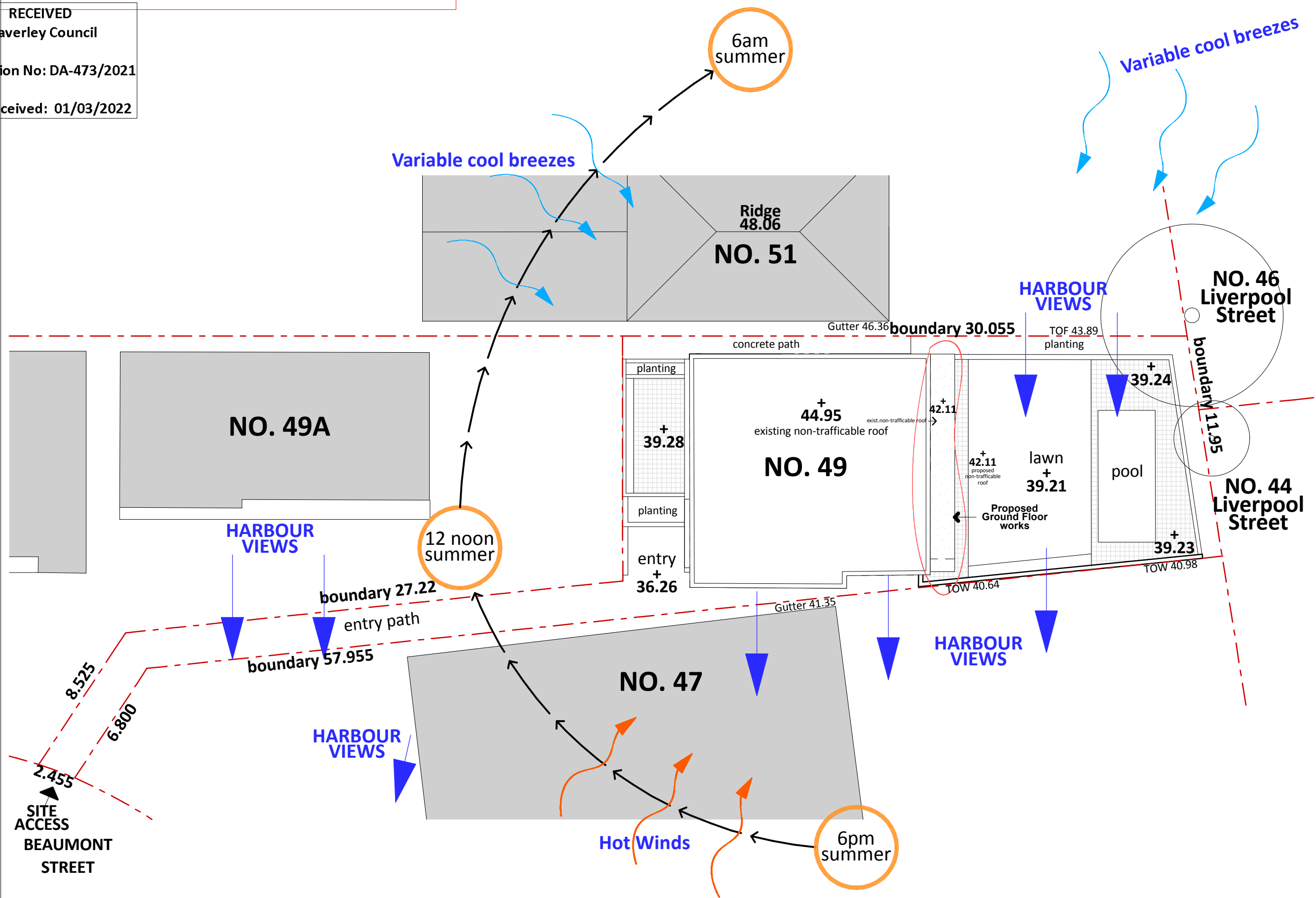
Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

**AD7. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-473/2021  
Date Received: 01/03/2022



## SITE ANALYSIS

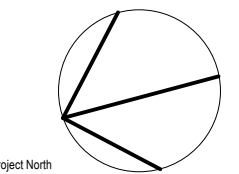
Lot 1 D.P. 1149568  
Site Area - 489.8m<sup>2</sup>

P & S Design and Construction Pty Ltd

PH: 02 9389 0028  
MOBILE: 0418 245 177  
ADDRESS: PO BOX 54 BONDI 2026

All new works to comply with Updated Basix Certificate No. A440960\_02 - 28.02.2022

- Minimum 40% all new or altered light fixtures to be fitted with fluorescent, compact fluorescent, or light-emitting-diode(LED) lamps.
- New windows to be standard aluminium with single clear glass - U-value: 7.63, SHGC: 0.75.
- New ceiling to have 100mm foil backed insulation.
- New external walls to be R1.7 including construction.



The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.

Project Name  
**MR. & MRS. REICHMAN**  
Project Name  
**ALTERATIONS & ADDITIONS**  
No. 49 BEAUMONT STREET,  
ROSE BAY, NSW 2029

Drawing Title:  
**SITE ANALYSIS**

Scale: **1:200** Date: **FEBRUARY 2022**

Status: **DA** Checked By: **SF**

Project No:  
**2021/210871** Drawing No.:  
**1 of 8**

Plot Date: 28/02/2022



# AMENDED PLANS

RECEIVED  
Waverley Council

Application No: DA-473/2021

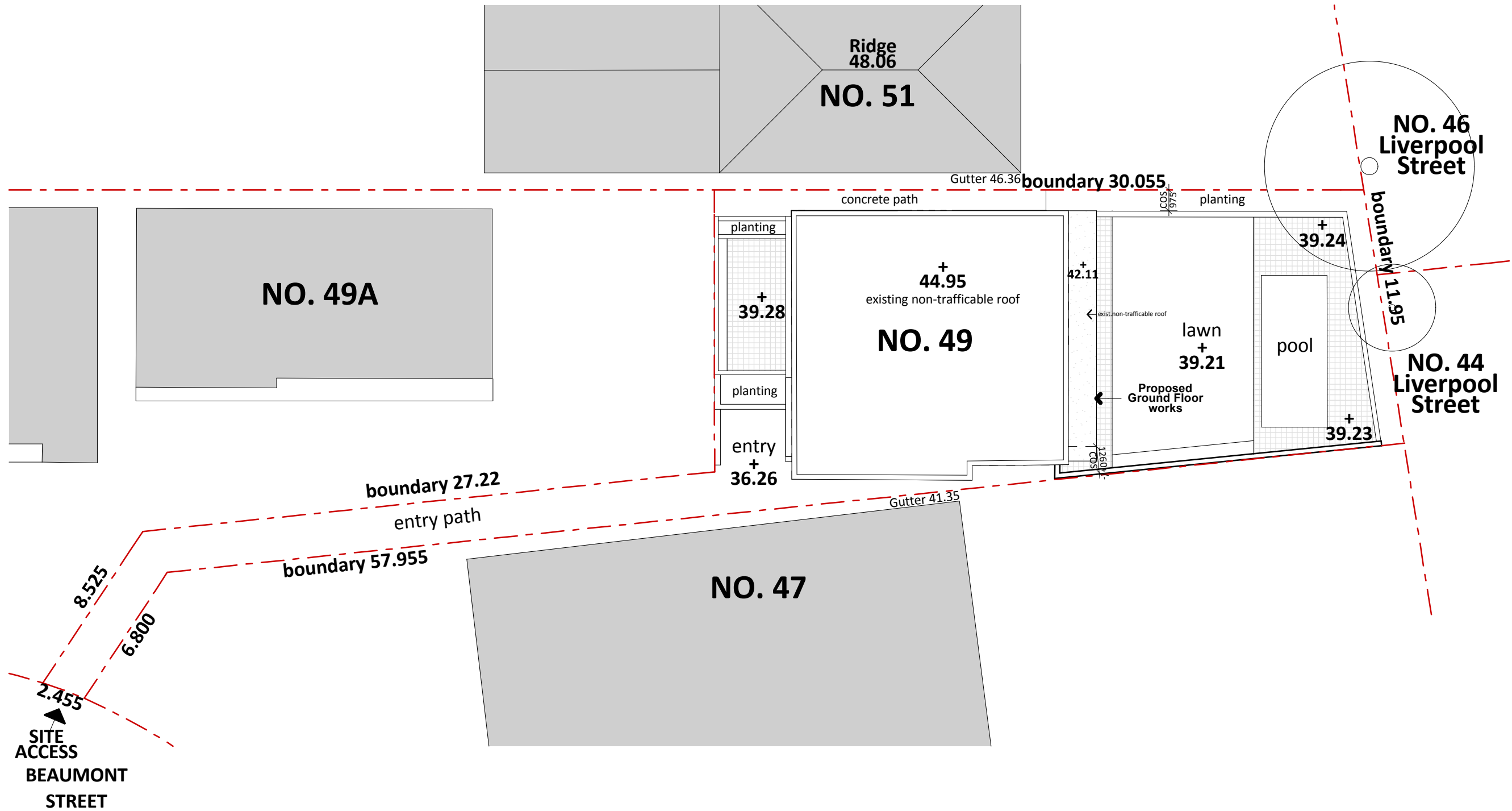
Date Received: 01/03/2022

P & S Design and Construction Pty Ltd

PH: 02 9389 0028  
MOBILE: 0418 245 177  
ADDRESS: PO BOX 54 BONDI 2026

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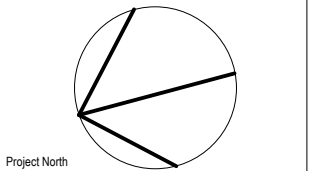
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**SITE & ROOF PLAN**

Lot 1 D.P. 1149568

Site Area - 489.8m<sup>2</sup>



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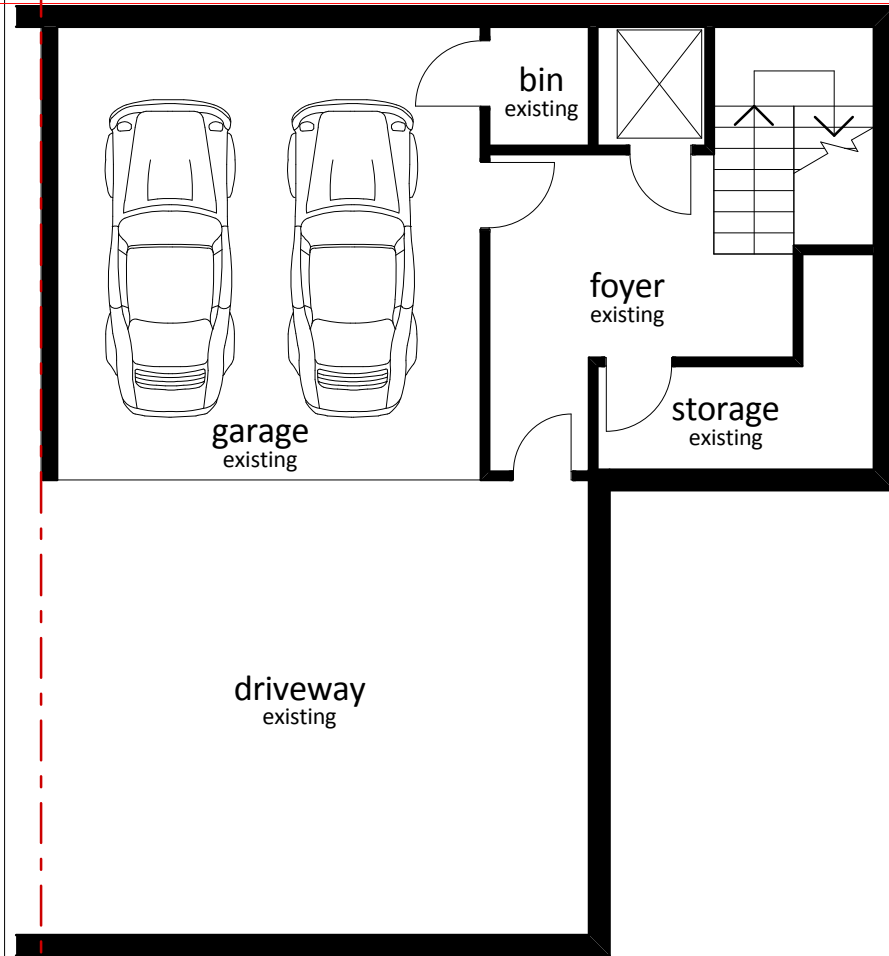
Project Name  
**MR. & MRS. REICHMAN**  
Project Name  
**ALTERATIONS & ADDITIONS**  
No. 49 BEAUMONT STREET,  
ROSE BAY, NSW 2029

Drawing Title:  
**SITE / ROOF PLAN**

Scale: <b>1:200</b>	Date: <b>FEBRUARY 2022</b>
Status: <b>DA</b>	Checked By: <b>SF</b>
Project No: <b>2021/210871</b>	Drawing No.: <b>2 of 8</b>

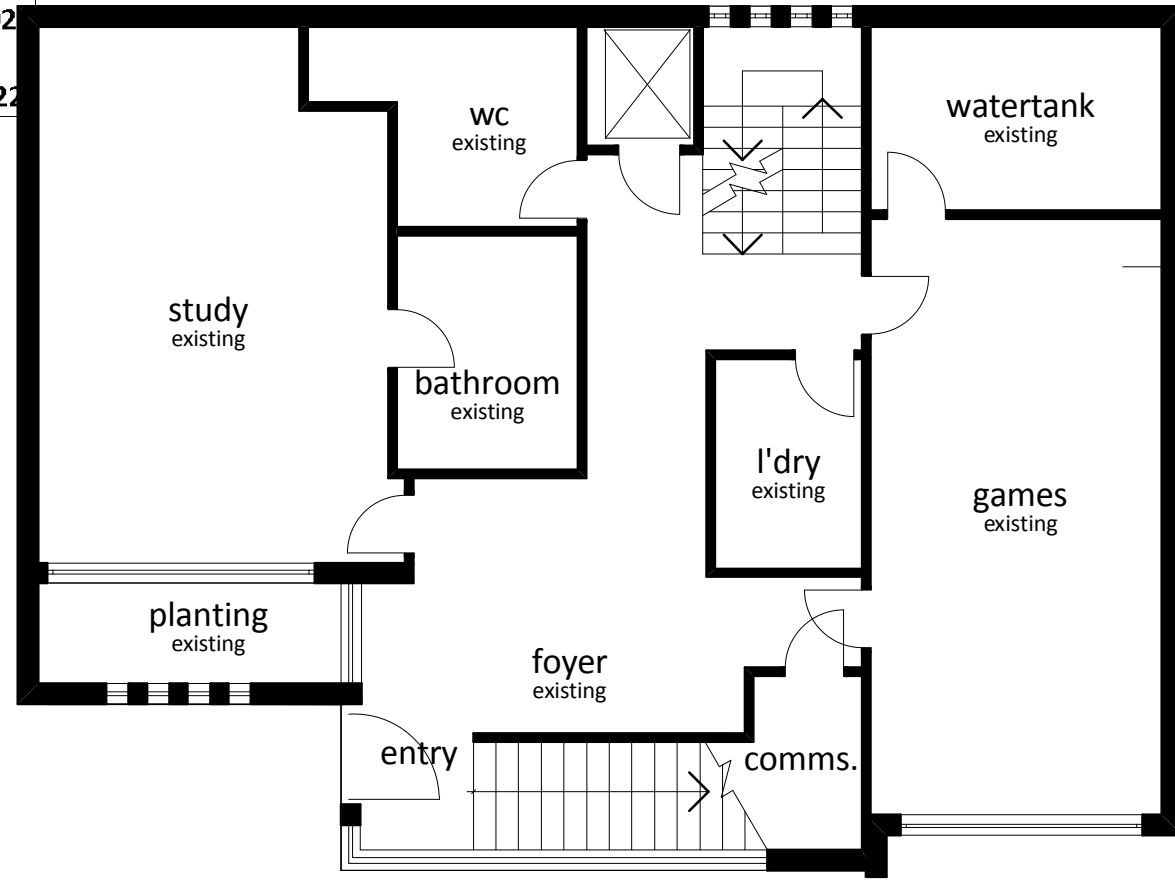
Plot Date: 28/02/2022

# AMENDED PLANS

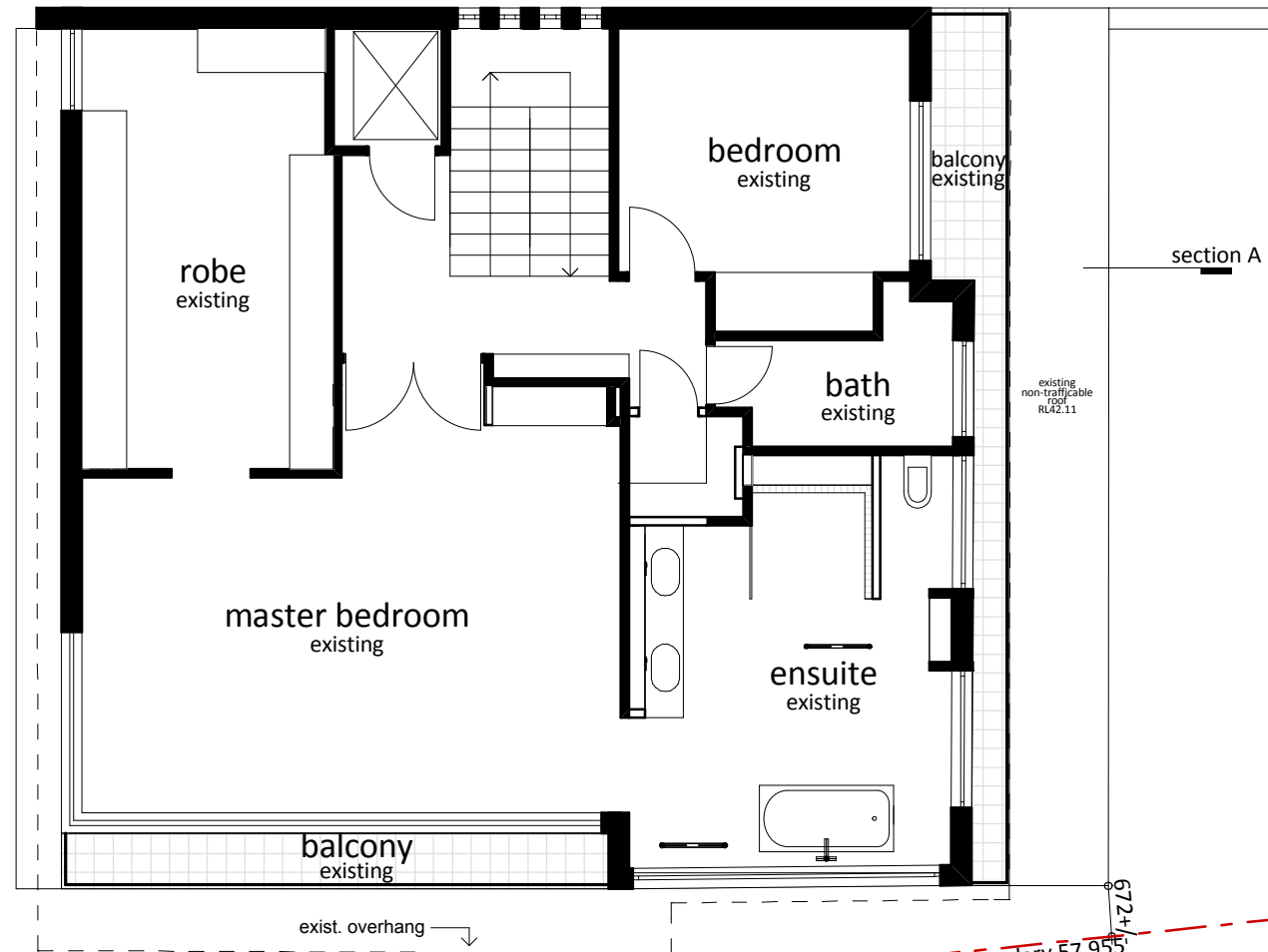


**BASEMENT FLOOR PLAN**

RECEIVED  
Waverley Council  
Application No: DA-473/2022  
Date Received: 01/03/2022



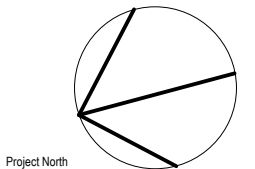
**LOWER GROUND FLOOR PLAN**



**FIRST FLOOR PLAN**

P & S Design and Construction Pty Ltd  
PH: 02 9389 0028  
MOBILE: 0418 245 177  
ADDRESS: PO BOX 54 BONDI 2026

All new works to comply with Updated Basix Certificate No. A440960\_02 - 28.02.2022  
- Minimum 40% all new or altered light fixtures to be fitted with fluorescent, compact fluorescent, or light-emitting-diode(LED) lamps.  
- New windows to be standard aluminium with single clear glass - U-value: 7.63, SHGC: 0.75.  
- New ceiling to have 100mm foil backed insulation.  
- New external walls to be R1.7 including construction.



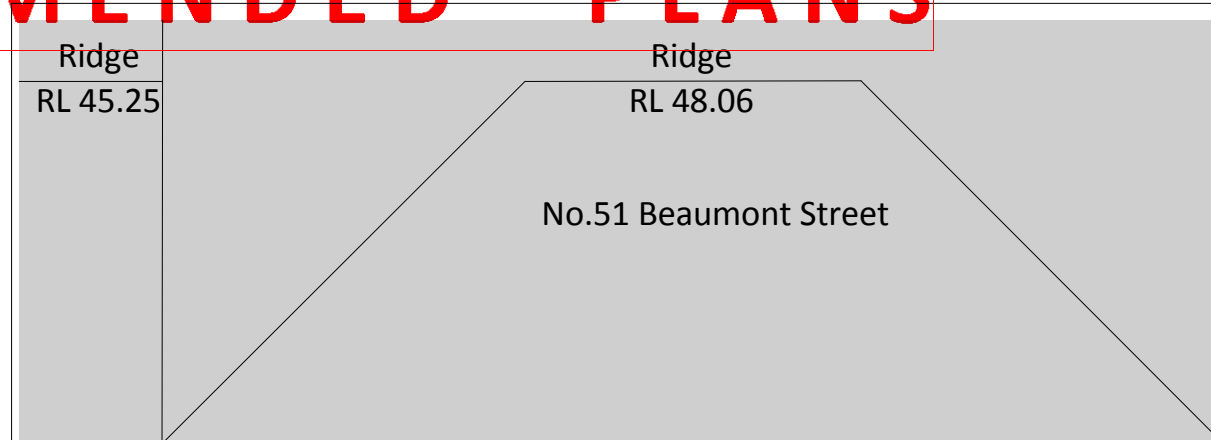
The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.

Project Name  
**MR. & MRS. REICHMAN**  
Project Name  
**ALTERATIONS & ADDITIONS**  
No. 49 BEAUMONT STREET,  
ROSE BAY, NSW 2029

Drawing Title:  
**FLOOR PLANS - BSMT, LGF, 1ST**

Scale: <b>1:100</b>	Date: <b>FEBRUARY 2022</b>
Status: <b>DA</b>	Checked By: <b>SF</b>
Project No: <b>2021/210871</b>	Drawing No.: <b>3 of 8</b>
Plot Date:	28/02/2022

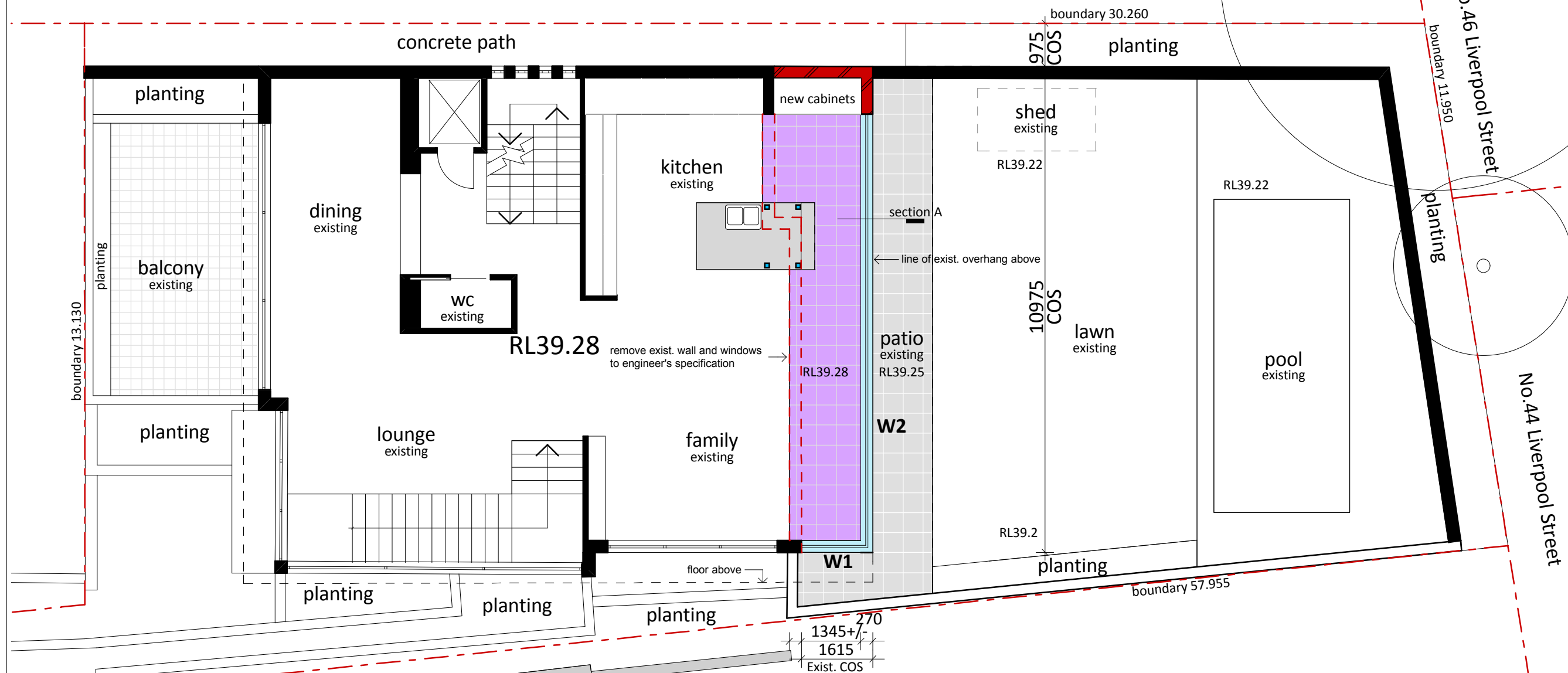
# AMENDED PLANS



RECEIVED  
Waverley Council

Application No: DA-473/2021

Date Received: 01/03/2022



## GROUND FLOOR PLAN

P & S Design and Construction Pty Ltd

PH: 02 9389 0028  
MOBILE: 0418 245 177  
ADDRESS: PO BOX 54 BONDI 2026

All new works to comply with Updated Basix Certificate No. A440960\_02 - 28.02.2022

- Minimum 40% all new or altered light fixtures to be fitted with fluorescent, compact fluorescent, or light-emitting-diode(LED) lamps.
- New windows to be standard aluminium with single clear glass - U-value: 7.63, SHGC: 0.75.
- New ceiling to have 100mm foil backed insulation.
- New external walls to be R1.7 including construction.

Project North

The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.

Project Name  
**MR. & MRS. REICHMAN**

Project Name  
**ALTERATIONS & ADDITIONS**

No. 49 BEAUMONT STREET,  
ROSE BAY, NSW 2029

Drawing Title:  
**FLOOR PLANS - GF**

Scale: **1:100** Date: **FEBRUARY 2022**

Status: **DA** Checked By: **SF**

Project No: **2021/210871** Drawing No.: **4 of 8**

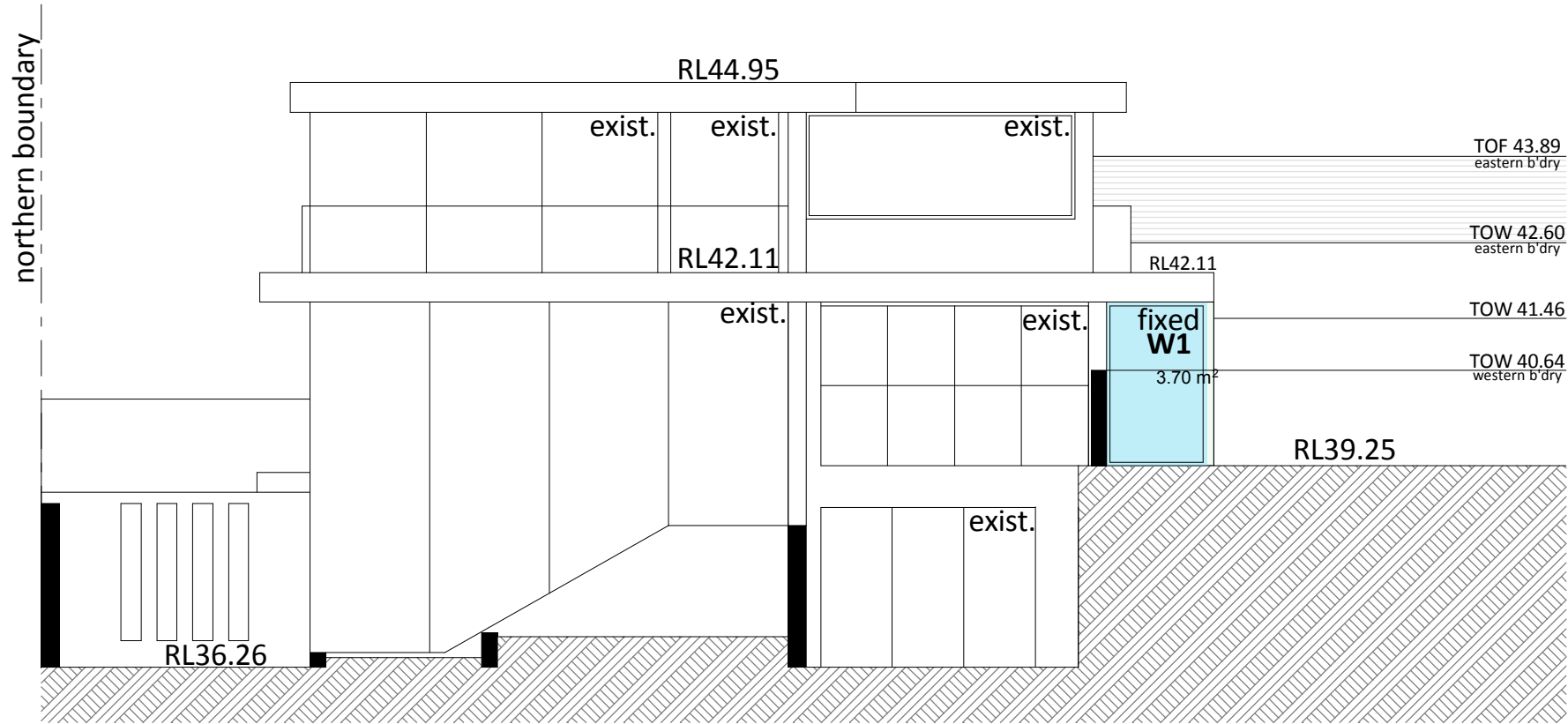
Plot Date: 28/02/2022

# AMENDED PLANS

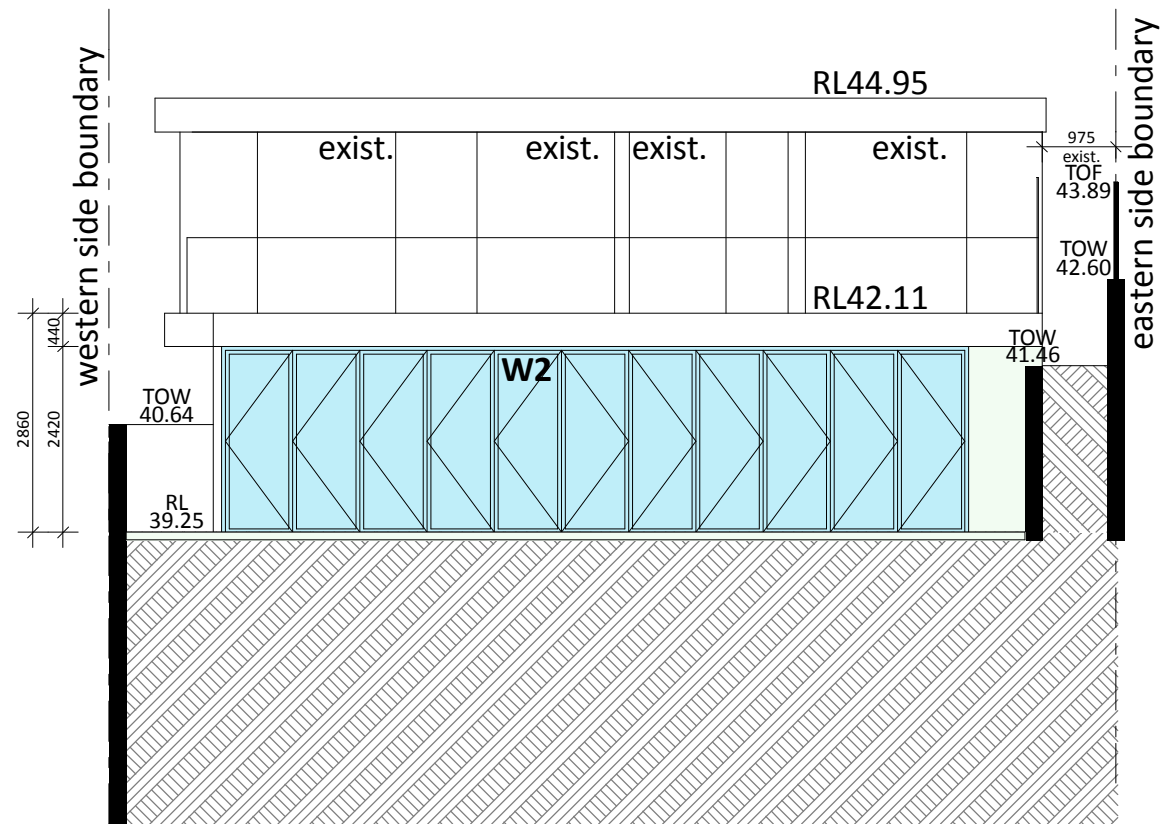
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Waverley Council

Application No: DA-473/2021

Date Received: 01/03/2022



**WEST ELEVATION**



**SOUTH (REAR) ELEVATION**

P & S Design and Construction Pty Ltd

PH: 02 9389 0028  
MOBILE: 0418 245 177  
ADDRESS: PO BOX 54 BONDI 2026

All new works to comply with Updated Basix Certificate No. A440960\_02 - 28.02.2022

- Minimum 40% all new or altered light fixtures to be fitted with fluorescent, compact fluorescent, or light-emitting-diode(LED) lamps.
- New windows to be standard aluminium with single clear glass - U-value: 7.63, SHGC: 0.75.
- New ceiling to have 100mm foil backed insulation.
- New external walls to be R1.7 including construction.

Project North

The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.

Project Name  
**MR. & MRS. REICHMAN**  
Project Name  
**ALTERATIONS & ADDITIONS**  
No. 49 BEAUMONT STREET,  
ROSE BAY, NSW 2029

Drawing Title:  
**SOUTH & WEST ELEVATIONS**  
Note: As the works are minor only the elevations where changes are made have been supplied. No changes made on the east elevation.

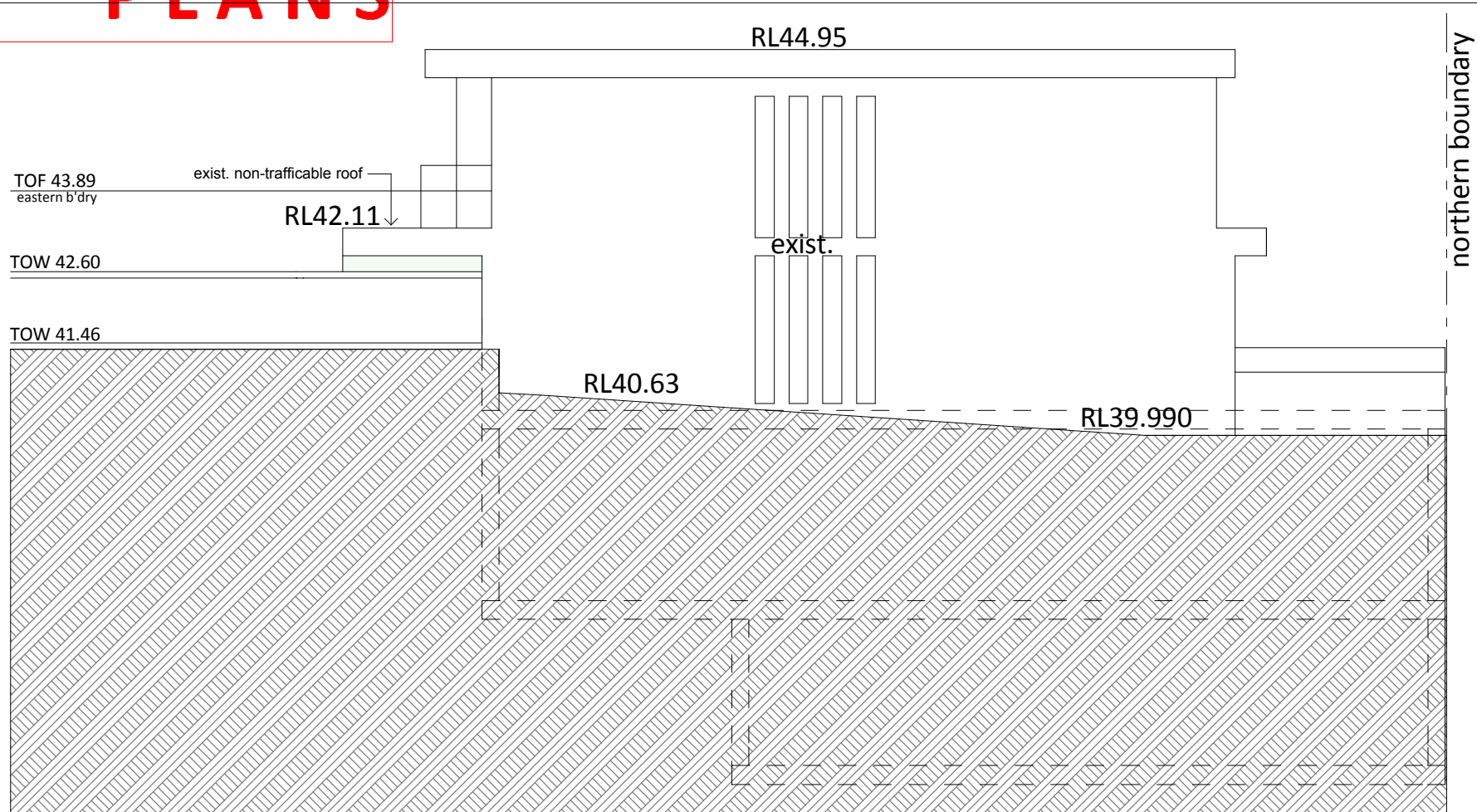
Scale: <b>1:100</b>	Date: <b>FEBRUARY 2022</b>
Status: <b>DA</b>	Checked By: <b>SF</b>
Project No: <b>2021/210871</b>	Drawing No.: <b>5 of 8</b>
Plot Date:	28/02/2022

# AMENDED PLANS

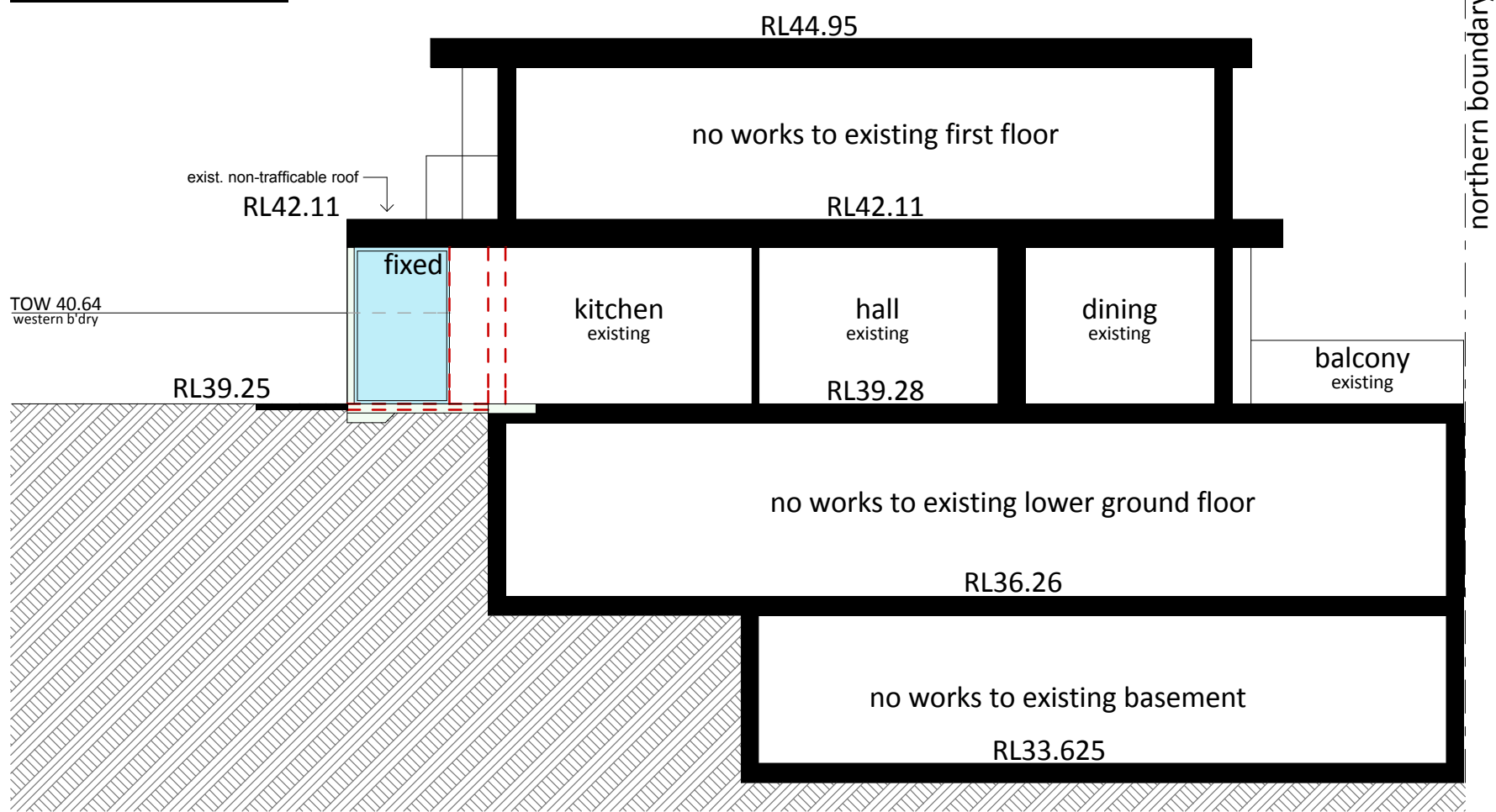
RECEIVED  
Waverley Council

Application No: DA-473/2021

Date Received: 01/03/2022



**EAST ELEVATION**



**SECTION A**

P & S Design and Construction Pty Ltd

PH: 02 9389 0028  
MOBILE: 0418 245 177  
ADDRESS: PO BOX 54 BONDI 2026

All new works to comply with Updated Basix Certificate No. A440960\_02 - 28.02.2022

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The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.

Project Name  
**MR. & MRS. REICHMAN**

Project Name  
**ALTERATIONS & ADDITIONS**

No. 49 BEAUMONT STREET,  
ROSE BAY, NSW 2029

Drawing Title:  
**EAST ELEVATION/SECTION A**

Note: As the works are minor only the elevations where changes are made have been supplied. No changes made on the east elevation.

Scale: **1:100** Date: **FEBRUARY 2022**

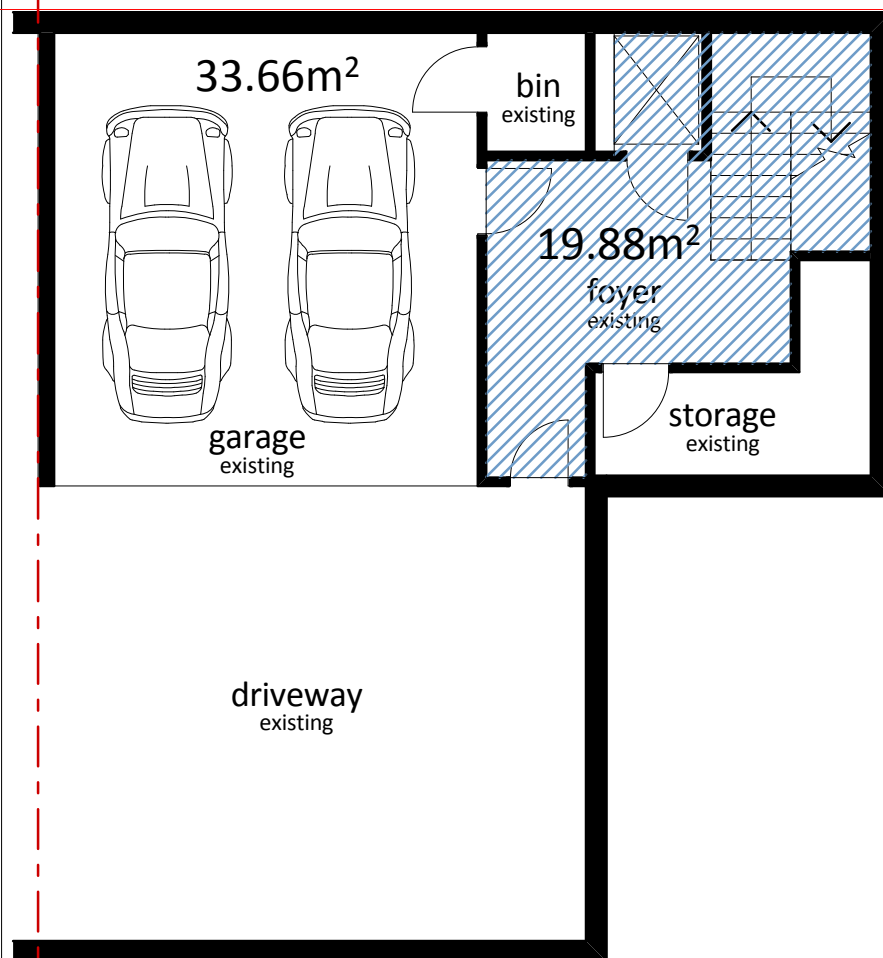
Status: **DA** Checked By: **SF**

Project No:  
**2021/210871** Drawing No.:  
**6 of 8**

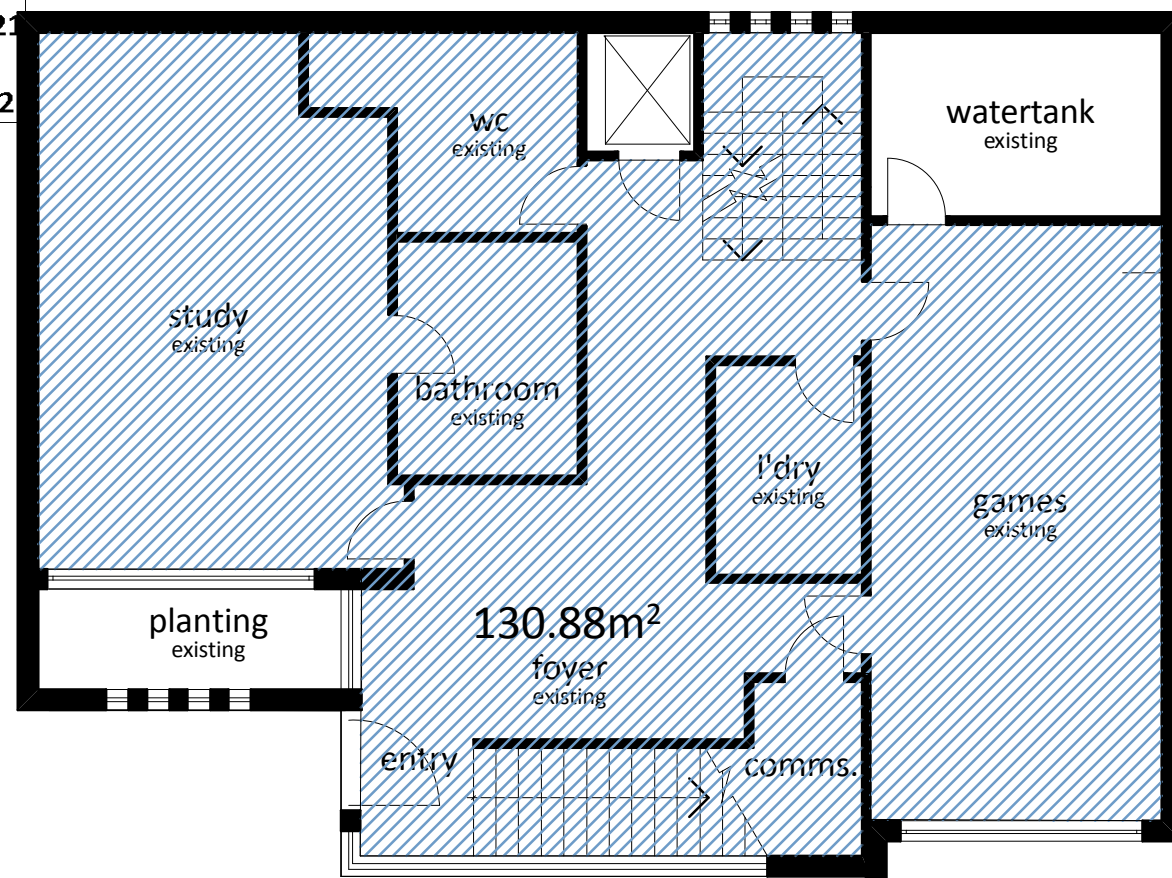
Plot Date: 28/02/2022



# AMENDED PLANS



RECEIVED  
Waverley Council  
Application No: DA-473/2021  
Date Received: 01/03/2022

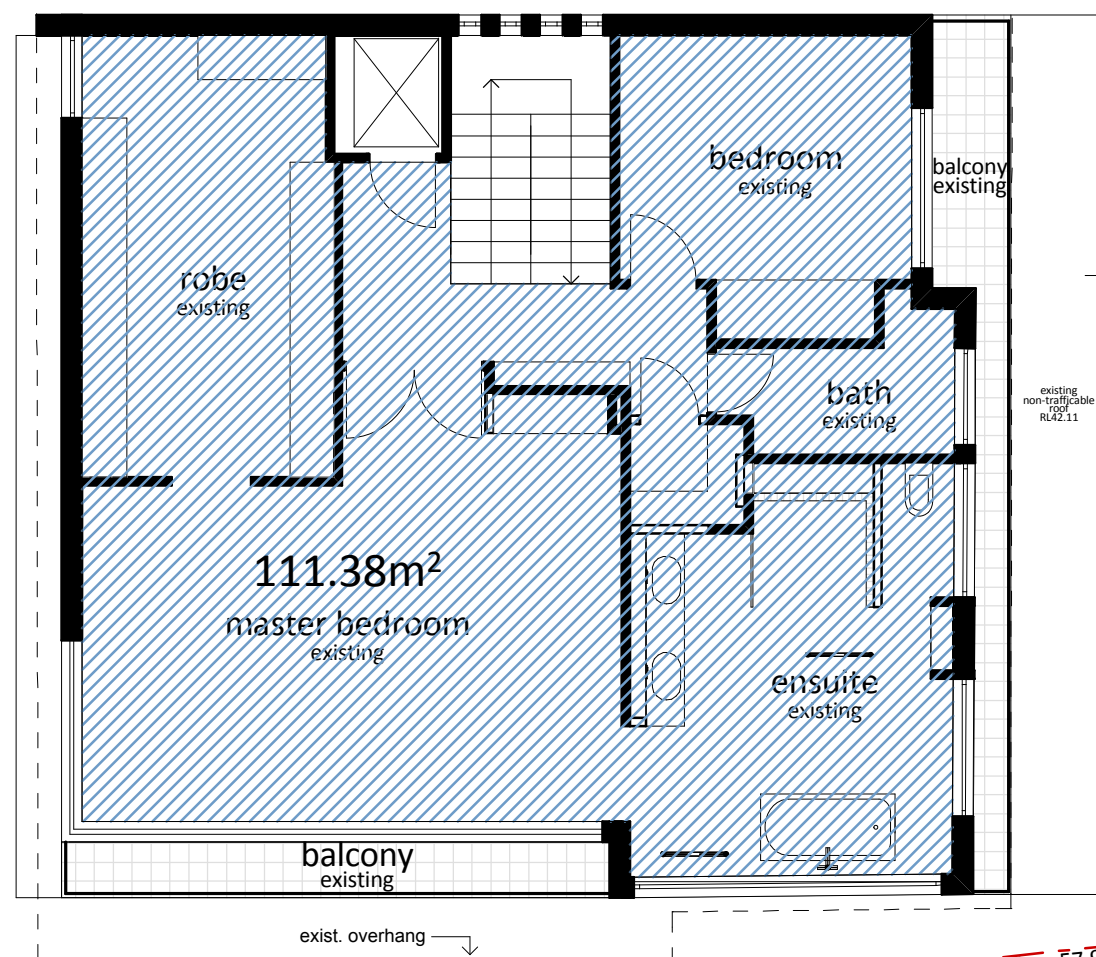


section A

All new works to comply with Updated Basix Certificate No. A440960\_02 - 28.02.2022

- Minimum 40% all new or altered light fixtures to be fitted with fluorescent, compact fluorescent, or light-emitting-diode(LED) lamps.
- New windows to be standard aluminium with single clear glass - U-value: 7.63, SHGC: 0.75.
- New ceiling to have 100mm foil backed insulation.
- New external walls to be R1.7 including construction.

BASEMENT FLOOR PLAN



section A

FIRST FLOOR PLAN

Project North

The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.

Project Name  
**MR. & MRS. REICHMAN**  
Project Name  
**ALTERATIONS & ADDITIONS**  
No. 49 BEAUMONT STREET,  
ROSE BAY, NSW 2029

Drawing Title:

**CALCULATIONS - BSMT, LGF, 1ST**

Scale: 1:100

Date: FEBRUARY 2022

Status: DA

Checked By: SF

Project No:

2021/210871

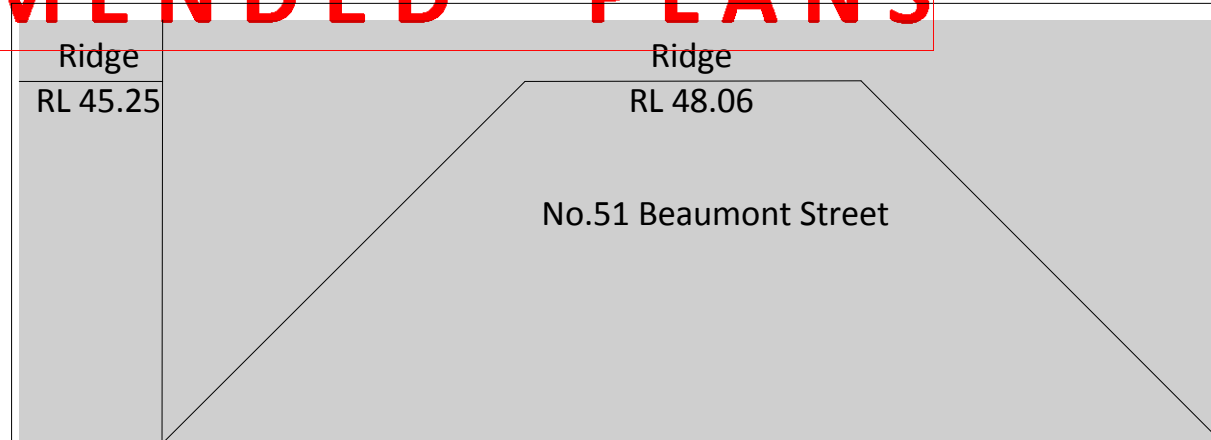
Drawing No.:

7 of 8

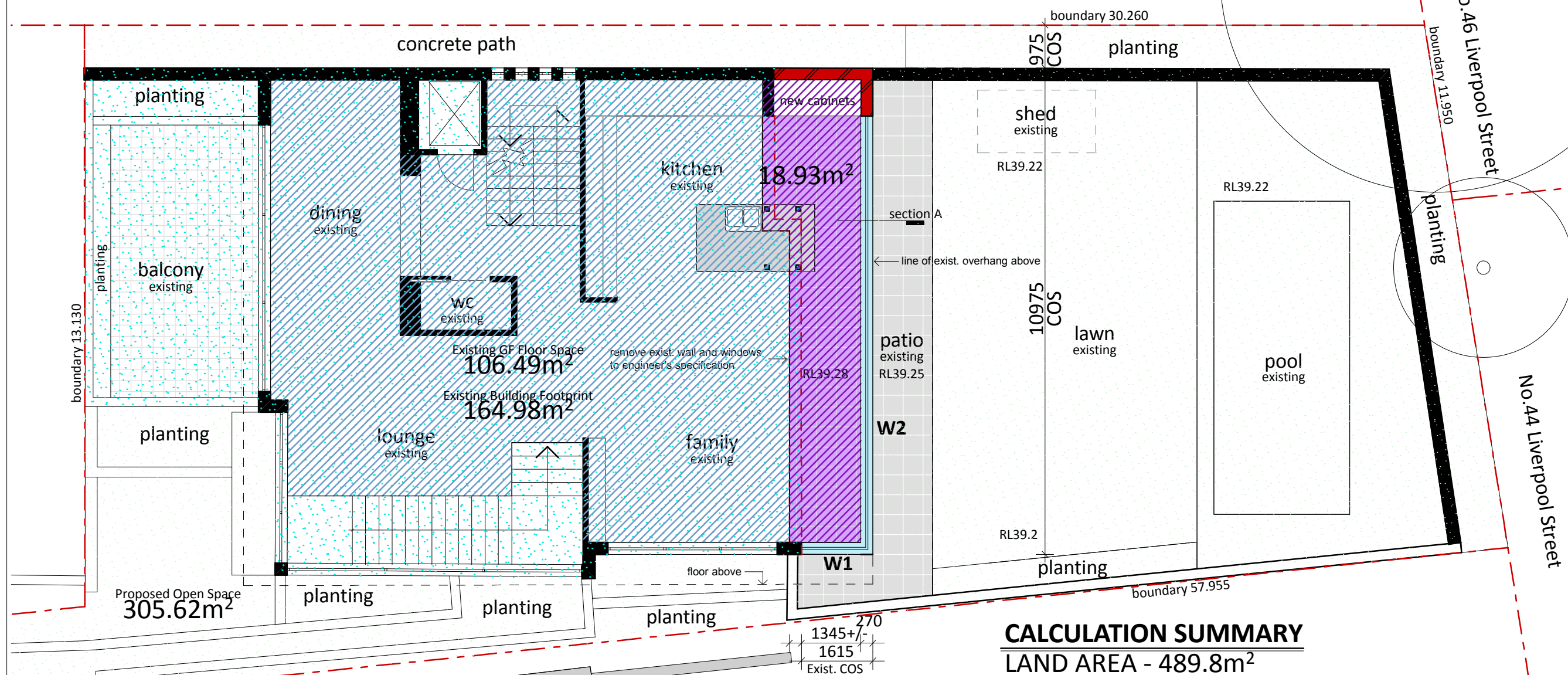
Plot Date:

28/02/2022

# AMENDED PLANS



RECEIVED  
Waverley Council  
Application No: DA-473/2021  
Date Received: 01/03/2022



## GROUND FLOOR PLAN

## CALCULATION SUMMARY

LAND AREA - 489.8m<sup>2</sup>

AREA	EXISTING	PROPOSED
BASEMENT	19.88m <sup>2</sup>	19.88m <sup>2</sup>
LOWER GROUND	130.88m <sup>2</sup>	130.88m <sup>2</sup>
GROUND	106.49m <sup>2</sup>	125.42m <sup>2</sup>
FIRST	111.38m <sup>2</sup>	111.38m <sup>2</sup>
<b>TOTAL</b>	<b>368.63m<sup>2</sup></b> (0.753:1)	<b>387.56m<sup>2</sup></b> (0.791:1)

## LANDSCAPING

OPEN SPACE 40% required	324.82m <sup>2</sup> = 66%+	305.62m <sup>2</sup> = 62%+
LANDSCAPE 15% required	145.28m <sup>2</sup> = 29.6%+	145.28m <sup>2</sup> = 29.6%+

P & S Design and Construction Pty Ltd  
PH: 02 9389 0028  
MOBILE: 0418 245 177  
ADDRESS: PO BOX 54 BONDI 2026

All new works to comply with Updated Basix Certificate No. A440960\_02 - 28.02.2022  
- Minimum 40% all new or altered light fixtures to be fitted with fluorescent, compact fluorescent, or light-emitting-diode(LED) lamps.  
- New windows to be standard aluminium with single clear glass - U-value: 7.63, SHGC: 0.75.  
- New ceiling to have 100mm foil backed insulation.  
- New external walls to be R1.7 including construction.

Project North  
The builder shall check and verify all dimensions and verify all errors and omissions to the Architect. Do not scale the drawings. Drawings shall not be used for construction purposes until issued by the Architect for construction.

Project Name  
**MR. & MRS. REICHMAN**  
Project Name  
**ALTERATIONS & ADDITIONS**  
No. 49 BEAUMONT STREET,  
ROSE BAY, NSW 2029

Drawing Title:  
**CALCULATIONS - GF**

Scale: **1:100** Date: **FEBRUARY 2022**

Status: **DA** Checked By: **SF**

Project No:  
**2021/210871** Drawing No.:  
**8 of 8**

Plot Date: 28/02/2022





## Report to the Waverley Local Planning Panel

Application number	DA-369/2021
Site address	168 & 170 Hastings Parade NORTH BONDI
Proposal	Demolition of existing building on 168 Hastings Parade and significant alterations and additions of the existing building on 170 Hastings Parade to provide for a single dwelling house with basement parking and swimming pools across both properties.
Date of lodgement	13 September 2021 (Amended on 21 February 2022)
Owner	Proprietors of Strata Plan 4413 & Ms G M Molnar
Applicant	SJB Architects
Submissions	Two submissions received (one in support).
Cost of works	\$5,500,000
Principal Issues	<ul style="list-style-type: none"> <li>• Non-compliances with the height of buildings and floor space ratio (FSR) development standards;</li> <li>• Excess off-street car parking; and</li> <li>• Coastal management considerations.</li> </ul>
Recommendation	That the application be <b>APPROVED</b> in accordance with the conditions contained in the report.

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The development application relates to two lots, known as 168-170 Hastings Parade, North Bondi and seeks consent for demolition of building on 168 Hastings Parade, and significant alterations and additions of the existing building on 170 Hastings Parade to provide for a single dwelling house with basement parking and swimming pools across both lots.

The principal issues arising from the assessment of the application are as follows:

- Non-compliances with the height of buildings and FSR development standards under Waverley Local Environmental Plan 2012 (Waverley LEP 2012);
- Excess off-street car parking; and
- Coastal management considerations.

The assessment finds these issues acceptable on merit as they have been demonstrated to not result in adverse amenity impacts upon neighbouring properties and the surrounding public domain, including the scenic qualities of the Coastline. The applicant's clause 4.6 written requests are also well-founded to contravene the height of buildings and FSR development standards. However, the excess or third off-street car parking space is not supported as it varies the maximum car parking rate of two spaces for a dwelling house comprising three or more bedrooms. A condition of consent is recommended to limit off-street car parking to two.

A total number of two submissions, one of which expressed support for the proposed development, were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 1 November 2021.

The site is comprised of two lots, each identified and known as:

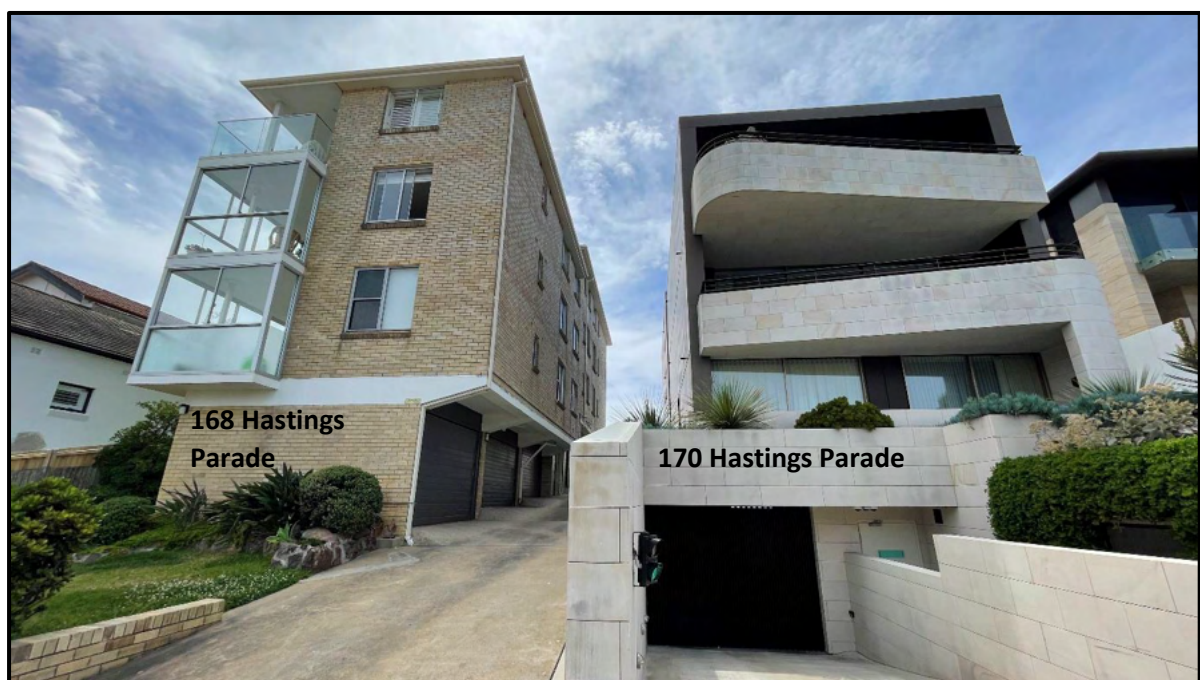
- SP 4413 or 168 Hastings Parade, North Bondi; and
- Lot 1 in DP 1222495 or 170 Hastings Parade, North Bondi.

The site is irregular in shape with an overall western frontage to Hastings Parade measuring 24.38m. It has an overall area of 1,041.1m<sup>2</sup> and gradually slopes upwards from Hastings Parade toward its rear boundary, which is defined by the cliff edge, by approximately 3.6m.

The site is occupied by a four-storey residential flat building, including ground floor garages and comprising six units, on its northern lot (i.e. 168 Hastings Parade) and a three-storey dwelling house with basement carpark, a rooftop terrace and an in-ground rear swimming pool on its southern lot (i.e. 170 Hastings Parade) with vehicular access provided from Hastings Parade.

The site is adjoined by a single storey semi-detached dwelling to the north at 166 Hastings Parade and a two storey dwelling with basement carpark to the south of the site at 172 Hastings Parade. The locality is known as the 'Ben Buckler' peninsular and is characterised by a variety of low and medium density residential development, ranging from large-scale dwelling houses and walk-up residential flat buildings.

**Figures 1 to 4** are photos of the site and its context.

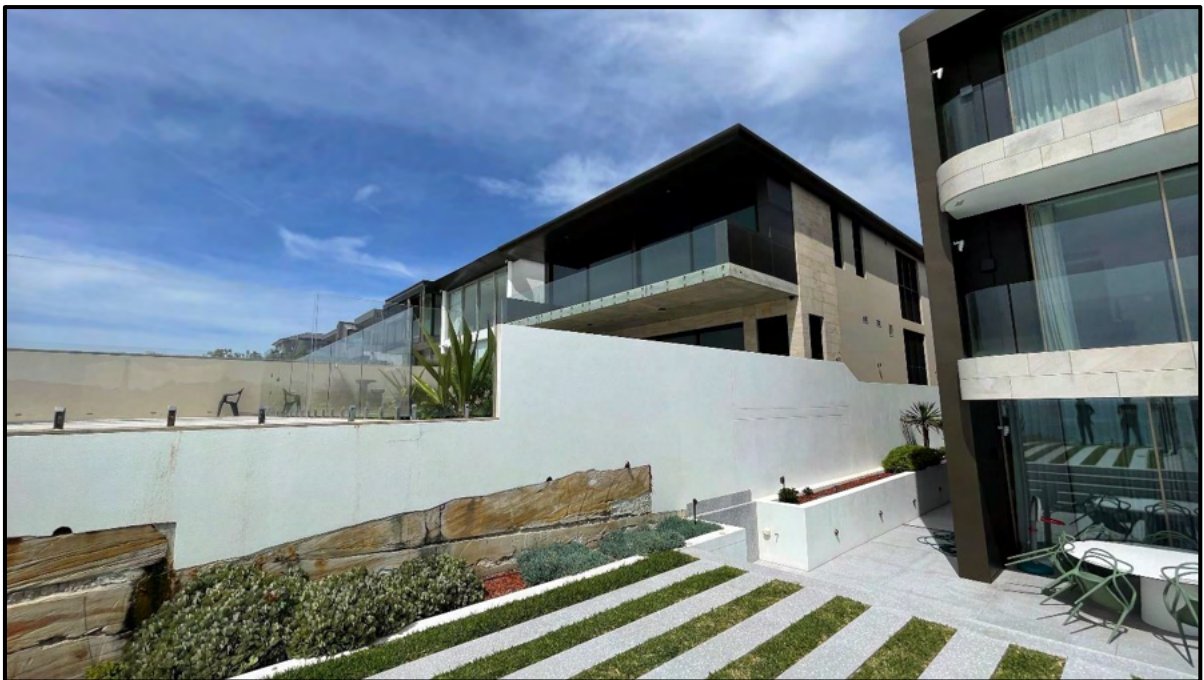


**Figure 1:** The subject site as viewed from Hastings Parade, looking east.





**Figure 2:** The rear of the site, looking north-west from the rear yard of part of the site known as 170 Hastings Parade.



**Figure 3:** The rear of part of the site known as 170 Hastings Parade, looking south-west to the rear of neighbouring buildings to the south of the site.



**Figure 4:** The northern side setback area of the existing building on part of the site known as 168 Hastings Parade, looking west to the southern side of the neighbouring dwelling to the north of the site at 166 Hastings Parade (right hand side of photo).

### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site, principally relating to part of the site known as 170 Hastings Parade:

- DA-526/2015 was approved by the Land and Environment Court on 28 November 2016. The approval was for the demolition of the existing dwelling house and the erection of a residential flat building with basement parking and strata subdivision.
- DA-526/2015/A was approved on 10 October 2017 for modifications to the residential flat building, including internal layout and window changes to all levels, pool in the rear and other landscaping and fence alterations to the rear.
- DA-526/2015/B was approved on 23 August 2018 for modifications including a new roof terrace serving the top floor apartment and changes to the front and rear balconies.
- SC-17/2019 was approved on 2 May 2019 for Strata Subdivision of new residential flat building into 9 lots.
- SC-40/2019 for the termination of Strata Scheme SP 99380 lots 1-3 was approved on 29 October 2020.
- DA-311/2020 for the conversion of an existing residential flat building to a single dwelling and associated alterations and landscaping was approved on 21 December 2020. This DA was approved with a variation to the FSR development standard of 125% or 367.75m<sup>2</sup>.

## 1.4. Proposal

The development application (DA), as amended on 21 February 2022, seeks consent for demolition of existing structures on the site known as 168 Hastings Parade and significant alterations and additions to the dwelling house on part of the site known as 170 Hastings Parade, to provide for a single dwelling house and swimming pools on both lots, specifically the following:

### Basement and Street Level

- Reconfiguration and expansion of existing layout of basement carpark northwards on part of the site known as 168 Hastings Parade.
- Provision of three off-street car parking spaces.
- Provision of bulk storage and other storage areas.
- Retention of gym.
- Provision of plant, detention and rainwater tanks and garbage store.
- New landscaped street entry and wall, including a stair connecting street level and ground floor level of the development.

### Lower Ground Floor Level

- Two x guest bedrooms with ensuite bathrooms and front terraces.
- Wine store, dark room, drying room and laundry.
- Drying court to the southern side.
- Retention of southern side passageway, which is intended as 'maintenance access'.

### Ground Floor Level

- An open plan formal dining, living, kitchen and family room.
- A combined 'snug' room and study with front balcony.
- Powder and water closets.
- Provision of a partially above-ground swimming pool in the north-west corner of the site.
- Provision of in-ground circular pool/spa in the south-eastern corner of the site.
- Provision of covered outdoor entertaining area in the northern side of the site, including barbeque and servery facilities.
- Provision of covered outdoor sofa adjacent to pool/spa.
- Extensive landscaping of the northern, eastern (up to the cliff edge) and southern sides.

### First Floor Level

- Three x bedrooms with ensuites and access to either front and rear balconies.
- A master bedroom complete with an extensive dressing room and an expansive ensuite bathroom with access to front and rear balconies.



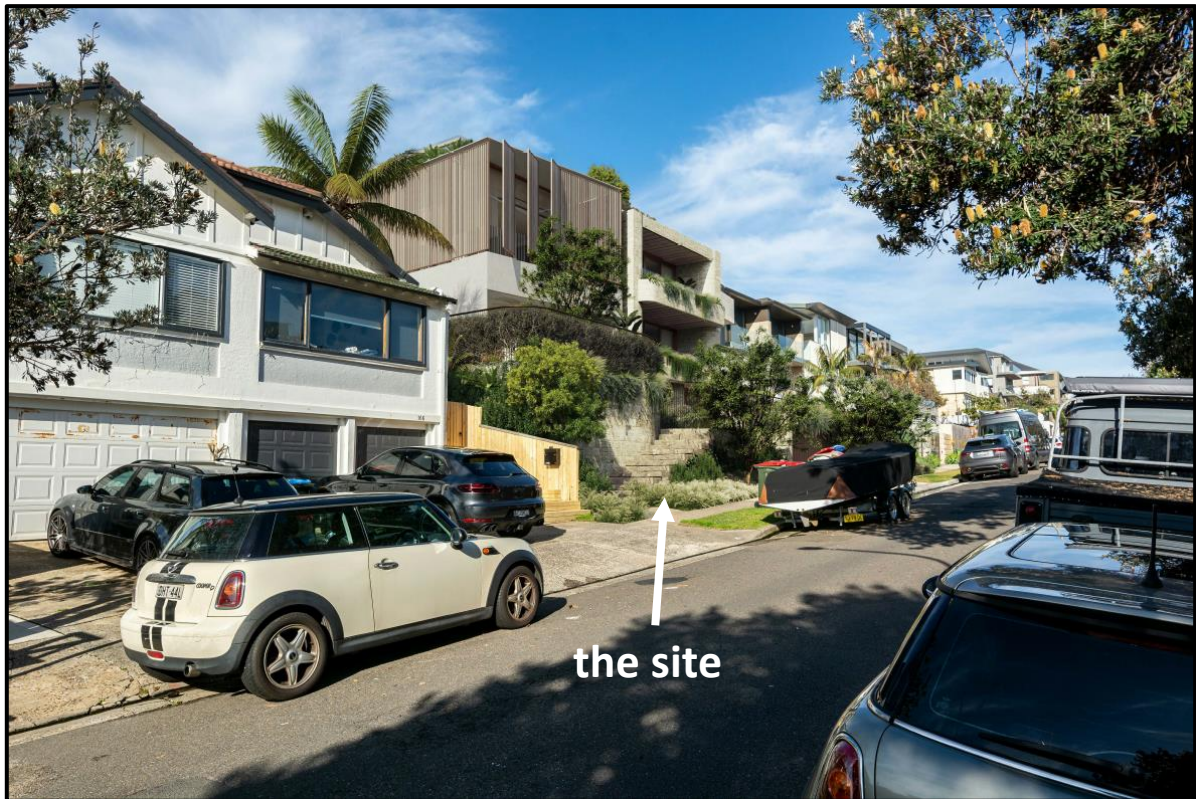
### Roof Level

- Roof terrace with associated open vergola accessed by fixed stair lobby (which is also intended as a light well).
- Expansive green roof.
- Provision of a small roof plant zone to accommodate mechanical condensers.

The DA also seeks consent for a series of earthworks, including excavation and fill, as well as new sandstone retaining walls along the eastern cliff edge of the site with balustrades on top. Some new boundary fences are proposed, particularly along the northern side boundary. It also seeks consolidation of the two lots that form part of the site. The proposed development is visualised in a series of photomontages prepared by the project architect, which are provided in **Figures 5** and **6** in this report.



**Figure 5:** Photomontage of the proposed development, looking north-east from Hastings Parade (Source: SJB Architects)



**Figure 6:** Photomontage of the proposed development, looking south-east from Hastings Parade (Source: SJB Architects)



**Figure 7:** Photomontage of the proposed development as viewed within the Ben Buckler Peninsular, looking north-east from the southern end of the Bondi Bay Area (Source: SJB Architects)



## 1.5. Background

The DA was lodged on 13 September 2021 and an additional information request was made on 17 September 2021 for the following:

1. Greater details on shadow analysis documentation, including showing shadowing impact of a compliant building envelope to aid the consideration of the clause 4.6 written requests in terms of whether the environmental amenity of neighbouring properties is preserved by the proposed development.
2. Preparation of a streetscape elevation to assess and consider the compatibility of the proposed development with the prevailing built form quality of the street.
3. Removal of 'draft' watermark on clause 4.6 written requests.
4. Clarification on whether the DA seeks consolidation of the two existing lots that are part of the site.
5. A commitment to reusing and recycling as many building materials of the existing dwelling house as possible.

Council received additional information in relation to the matters raised above on 30 September 2021.

Following its preliminary assessment, the DA was deferred on 2 December 2021 for the following reasons:

1. The extent and the nature of the breach of the height of buildings development standard under Waverley LEP 2012 would cause unreasonable amenity impacts on neighbouring properties. Design changes were recommended to delete the rumpus room on the uppermost floor level and further increases to the building height of the proposed retained building on part of the site known as 170 Hastings Parade.
2. The roof terrace, roof spa and green roof were deemed unreasonable in terms of noise impacts upon neighbouring properties. Design changes were recommended to delete the roof spa and reduce the trafficable areas of the roof terrace and green roof to a conventional and reasonable size akin to domestic development.
3. Clarification on site area and FSR calculations. Design changes were recommended to delete the third or excess off-street car parking space in the basement car park and increasing the rear and front buildings lines on each floor level of the development.
4. Additional information and recommended design changes on reducing the extent of proposed works adjacent to the cliff edges of the site.
5. Street wall and public domain interface improvements, including reduction of height and bulk of the street walls and fences.
6. Formal adoption of design amendments negotiated with the owners of the neighbouring property to the north of the site at 166 Hastings Parade in amended plans.

7. Stormwater system is inadequate and is recommended to be redesigned in accordance with Council's Stormwater Policy.

Council received amended plans and additional information on 21 February and 2 March 2022. The amendments made to the plans and scope of the proposed development, in its original form when the DA was lodged on 13 September 2021, are summarised as follows:

- Rooftop rumpus room has been deleted and replaced with an open vergola shade structure with its roof level being at RL43.910, representing a reduction of overall building height of 0.15m and gross floor area of 29m<sup>2</sup>.
- The trafficable area of the roof terrace together with has been reduced from 43m<sup>2</sup> to 15m<sup>2</sup>.
- Roof spa/pool has been deleted.
- The green roof of the development has been expanded and designed such that it is non-trafficable (only for maintenance purposes).
- The wall/building height of the southern and south-western component of the existing building on 170 Hastings Parade has not been exceeded by the amended proposal as the southern roof parapet has been set further back from the southern boundary of the site so as to not generate additional overshadowing impact on the neighbouring property to the south of the site at 172 Hastings Parade.
- The street fence/wall has been deleted along the Hastings Parade or front boundary and the principal pedestrian gate relocated from the street frontage to the top of the entry stair.
- Reduced works along the cliff face/edge of the site to preserve more of the natural terrain at this section of the site.
- In addition to the amendments made above, the applicant chose to make the following amendments to the plans following consultation with the neighbouring property to the north of the site at 166 Hastings Parade:
  - a widened landscape zone along the northern side boundary;
  - a privacy screen with a height of 1.6m included between the two properties;
  - the north-eastern cliff lookout reorientated away from the neighbouring property;
  - deletion of a pool amenity block (outbuilding); and
  - deletion or provision of non-trafficable zones along the northern part of the terraces of Levels 1 and 2 of the development.

The applicant has amended the substance of the clause 4.6 written requests based on the reduction of the overall building height and floor space ratio of the amended for of the proposed development. They have also provided further planning grounds and justification for the height of the vergola and stair/light well on the roof of the development and further details of the depth of the swimming pool in the north-western corner of the site.

The amended plans and documents did not change the design and scope of the proposed development in such a way that would result in additional and/or greater impacts than those of the original form (and publicly notified) development. Therefore, these amended documents were not required to be publicly notified as per section the renotification procedures outlined in the *Waverley Community Development Participation and Consultation Plan*. These amended documents form the basis for the assessment of this DA.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. 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. State Environmental Planning Policies (SEPPs)

The following SEPPs apply and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP 55 Remediation of Land.
- SEPP (Coastal Management) 2018.
- SEPP (Vegetation in Non-Rural Areas) 2017.
- SEPP (Affordable Rental Housing) 2009 (this SEPP was ‘saved’ and still applies as the DA was lodged prior to its repeal in November 2021). It is worth noting that the existing residential flat building on the site is not deemed a ‘low-rental residential building’ as per clauses 47 and 49 of this SEPP as it is Strata-titled, therefore, the loss of this residential flat building does not require a monetary contribution for affordable housing.

A detailed discussion is provided for the relevant SEPPs as follows:

##### *SEPP (Coastal Management) 2018*

SEPP Coastal Management applies to the subject site as it is wholly located within the Coastal Environment Area (i.e. defined by clause 13) and a coastal use area (i.e. defined by clause 14) .

Clause 13 of the SEPP states that development within the Coastal Environment Area must not be granted development consent unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the matters for consideration outlined in **Table 1** of this report.

**Table 1: Clause 13 of SEPP (Coastal Management) 2018 Matters for Consideration Table**

Matter for Consideration	Compliance	Comment
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	Yes	Satisfactory.
(b) coastal environmental values and natural coastal processes,	Yes	<p>Satisfactory. The development is compatible with the prevailing and emerging built form character of the Ben Buckler peninsular, specifically relating to perceived building height and FSR of dwellings within the immediate visual catchment of the site.</p> <p>The development is architecturally designed and comprises considerable landscaping in the form of deep soil planting and on structures, such as roofs. The amended proposal has also reduced the extent of cut and fill adjacent to the cliff edge, preserving as much of the natural form/terrain of the cliff faces as possible. Retaining walls and other works are mostly comprised of sandstone material, which are visually compatible with the natural sandstone composition of the Coastline. Therefore, the development will not appear visually jarring within the coastal environmental area.</p>
(c) the water quality of the marine estate (within the meaning of the <i>Marine Estate Management Act 2014</i> ), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	Yes	No impact on water quality.
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	Yes (by condition)	The site is within a known habitat corridor, which necessitates the provision of native landscaping on the site. The landscape plan has been examined by Council's Urban Ecology Co-ordinator, who considers the landscape plan inadequate from a biodiversity perspective. In this regard, a condition of consent is recommended to require the landscape plan to comply with relevant biodiversity controls in Waverley Development Control Plan 2012 as well as requiring the plan remove the use of

Matter for Consideration	Compliance	Comment
		Pennisetum species as this is an invasive species in coastal environments.
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	Yes	No impact on access to and within public open spaces.
(f) Aboriginal cultural heritage, practices and places,	N/A	There is no known impact on Aboriginal cultural heritage, practices and places as the site does not contain any identifiable archaeological relics.
(g) the use of the surf zone.	Yes	No impact on the use of surf zone.

Clause 14 of the SEPP states that development consent must not be granted for development on land within the Coastal Use Area unless the consent authority has considered and is satisfied with the following matters for consideration outlined in **Table 2** of this report.

**Table 2: Clause 14 of SEPP (Coastal Management) 2018 Matters for Consideration Table**

Matter for Consideration	Compliance	Comment
<b>(a) ...the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—</b>		
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	Yes	No impact.
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	Yes	The proposed development will not result in any overshadowing and loss of views from public places to foreshores, given that the site immediately adjoins the cliff edge of the Coastline, which is a consistent pattern of all properties on the northern and eastern side of Hastings Parade. Further, the site is sited on top of the escapement of the Ben Buckler peninsular (when viewed from the Pacific Ocean), and is unlikely to contribute to wind funnelling effects within the vicinity of the site.
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	Yes	The proposed development will be visible within the Ben Buckler Peninsular when viewed from the Bondi Bay area (refer to <b>Figure 7</b> of this report). Despite it exceeding the height of buildings and floor space ratio (FSR) development



Matter for Consideration	Compliance	Comment
		standards under Waverley LEP 2012, as explained and demonstrated in section 2.1.3 of this report, the perceived building bulk, scale and height of the development will be commensurate with those of neighbouring dwellings on the same eastern side of Hastings Parade. Therefore, the proposed development is not expected to appear intrusive or incongruous with the prevailing built form character and scenic qualities of the surrounding Coastline. The development will not lose or impact on views of the scenic qualities of the Coastlines enjoyed within the public and private domain, such as views of the ocean, headlands, cliff faces and rock platforms.
(iv) Aboriginal cultural heritage, practices and places,	N/A	There is no known impact on Aboriginal cultural heritage, practices and places as the site does not contain any identifiable archaeological relics.
(v) cultural and built environment heritage, and	Yes	There are no identifiable cultural and built environment heritage items or areas within the site and its immediate context. Nonetheless, the design and architecture of the proposed development, including its landscape scheme, are sensitive to the coastal context of the site.
<b>(b) ...the consent authority is satisfied that:</b>		
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	Yes	Satisfactory.
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	Yes	Satisfactory.
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	Yes	Satisfactory.
<b>(c) ...the consent authority has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</b>		
	Yes	Despite the proposed development exceeding both the height of buildings and FSR development standards under Waverley LEP 2012, it is compatible with surrounding buildings in terms of its bulk, scale, size and height as well

Matter for Consideration	Compliance	Comment
		as architectural and aesthetical qualities. The development will be in keeping with the coastal and built environment qualities of the coastal locality.

### 2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### 2.1.3. Waverley LEP 2012

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

**Table 3: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	Satisfactory.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R3 Medium Density Residential Zone	Yes	The proposed development is defined as a 'dwelling house', which is permitted with consent in the R3 zone. The development meets the relevant objectives of the R3 Zone, which is explained below <b>Table 3</b> of this report.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>9.5m</li> </ul>	No	The overall building height of the proposed development is determined by the roof or top level of the vergola and stairwell at RL43.91, which measures 15.81m above a corresponding existing ground level of RL28.100, which is the basement garage level of the existing development on 170 Hastings Parade. The development varies the development standard by 6.31m or 66%.
4.4 Floor space ratio (0.6:1 for anything other than low density residential) and 4.4A Exceptions to floor space ratio	No	The proposed development has an overall gross floor area (GFA) of 807m <sup>2</sup> , which achieves a FSR of 0.77:1. The development varies the development standard by 286.45m <sup>2</sup> of GFA or 55%.

Provision	Compliance	Comment
<ul style="list-style-type: none"> <li>0.5:1 (for site areas greater than 550m<sup>2</sup>)</li> <li>Site Area: 1,041.1m<sup>2</sup></li> <li>Max. GFA: 520.55m<sup>2</sup></li> </ul>		
4.6 Exceptions to development standards	See discussion	The application is accompanied by written requests pursuant to clause 4.6 of Waverley LEP 2012 to vary the height of buildings and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulfate soils <ul style="list-style-type: none"> <li>Class 5</li> </ul>	Yes	The site contains Class 5 acid sulfate soils, however, the proposed works are not expected to disturb, expose or drain acid sulfate soils or cause environmental damage given that the proposed development will not involve excavation below the Australian Height Datum and is not adjacent to other classes of acid sulfate soils. Therefore, an acid sulfate soils management plan is not required.
6.2 Earthworks	Yes	The development involves earthworks in the form of excavation and fill. The application is accompanied by a geotechnical report, which was reviewed by Council's Public Domain Engineer, who raised no objection to the substance and recommendations made in the Report. Standard conditions of consent relating to excavation and fill are recommended, including giving effect to recommendations made in the Geotechnical Report.

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

#### *Clause 4.6 Exceptions to Development Standards*

The application seeks to vary the maximum height of buildings development standard in clause 4.3 and FSR development standard in clause 4.4 under Waverley LEP 2012.

#### Building Height

The site is subject to a maximum height of buildings development standard of 9.5m. The proposed development has an overall building height of 15.81m, exceeding the standard by 6.31m, equating to a 66% variation.

The applicant's written request highlights that the existing residential flat building on 168 Hastings Parade has an overall building height of 16.07m (determined by its roof ridge level of RL44.170), which is 0.26m higher than the overall building height of the proposed development. The amended form of the subject development slightly reduced the overall building height of the original form of the development from 15.96m by 0.15m due to the deletion of the shallow pitched roof above the now deleted rumpus room on its roof level. The applicant also highlights that the measurement of the overall building height of the development is exaggerated by the existing ground level being determined as the excavated basement level of the existing dwelling house at 170 Hastings Parade, which is approximately 4m below the existing ground levels of other parts of the site that are not directly above the existing basement level.

#### FSR

The site is subject to a maximum FSR development standard of 0.5:1. The proposed development has an FSR of 0.77:1 exceeding the standard by 286.45m<sup>2</sup> of GFA, equating to a 55% variation.

The applicant highlights that the overall GFA of the proposed development is notably less than the combined overall GFA of the two existing buildings on the site, which measures 1,120.3m<sup>2</sup>. The development reduces the existing overall GFA on the site by 313.3m<sup>2</sup>. The applicant also states that the existing dwelling house on part of the site known as 170 Hastings Parade varied the applicable FSR development standard by 126% or an approximate excess of 367.75m<sup>2</sup> of GFA when its conversion from a residential flat building to dwelling house was approved via DA-311/2020.

Two separate written requests have been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written requests has been provided to the Waverley Local Planning Panel for consideration.

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

The applicant seeks to justify the contravention of the **height of buildings** development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The objectives of the development standard are achieved notwithstanding non-compliance with the development standard.*

- (ii) *The environmental amenity of neighbouring properties, as determined by shadow, privacy and view impacts, are preserved to the extent anticipated by a building height compliant development and is significantly improved compared to the existing situation. This is principally due to the overall building height of the proposed development being lower than the existing residential flat building on the site as well as the proposed development providing greater setbacks, privacy, and solar access and lesser visual bulk compared with the existing situation. Therefore, the proposed development provides greater environmental amenity to neighbouring properties, particularly to the north of the site. The environmental amenity of the neighbouring property to the south of the site is entirely preserved by the amended form of the proposed development.*
- (iii) *The northern side aspects of balconies and the roof terrace (amended to be fully compliant with the maximum trafficable area control) of the proposed development will result in fewer privacy impacts upon the neighbouring northern property compared with the side-facing windows and balconies of all six units in the existing residential flat building on the site.*
- (iv) *The overshadowing analysis of the proposed development demonstrates that there are no adverse impacts upon the neighbouring southern property caused by the non-compliance with the development standard and the redistribution and reduction of GFA.*
- (v) *The proposed development appropriately shared views and there is no additional view loss or impact attributable to the non-compliance with the development standard.*
- (vi) *The environmental amenity of the locality is not adversely impacts by the non-compliance of the development standard as the proposed development offers an improved streetscape presentation through landscaping and reduction of exposed car parking to the street.*
- (vii) *Strict compliance would be deemed unreasonable or unnecessary as the existing buildings already exceed the development standard and the proposal is principally for alterations and additions to the building at 170 Hastings Parade. Strict compliance with the development standard would unreasonably restrict the overall building height of the development as it the measurement of its overall building height is required to be measured from the excavated basement level of the building at 170 Hastings Parade, resulting in the loss of one or more storeys of the proposed development.*
- (viii) *The proposed development is compatible with the bulk, scale, streetscape and desired future character of the locality as it removes a bulky circa 1970s residential flat building that has reduced side setbacks and replaces it with a two-three storey building form reflective of the desired future character of the Ben Buckler Peninsular, which comprise properties that are double or triple fronted.*
- (ix) *The alterations and additions to the building on part of the site at 170 Hastings Parade are modest and the resultant bulk, scale and streetscape presentation of this part of the development will remain compatible with the desired future character of the locality.*
- (x) *The building at 170 Hastings Parade was approved at a compliant building height of 9.5m above existing ground level (prior to the basement of the building being built). The overall*



*building height of the proposed development is exaggerated by the extant basement level on the site.*

- (xi) The proposed development is consistent and satisfies the relevant objectives of height, setbacks and streetscape and visual impact controls as well as the desired future character objectives of Ben Buckler in Waverley Development Control Plan 2012 (DCP), which demonstrates that, despite numerical non-compliances, is compatible with the desired future character of the locality. The applicant refers to section 4.15(3A) (b) of the Act that encourages consent authorities to flexibly apply DCP provisions and allow reasonable alternative solutions that achieve the objects of controls/standards.*
  - (xii) The above-ground streetscape presentation of the development is two to three storeys, which is consistent and compatible with all new surrounding developments in Hastings Parade and Ben Buckler generally. Refer to extracts of streetscape elevations of the existing and proposed situations in **Figures 8 and 9** of this report.*
  - (xiii) The uppermost part of the building (i.e. vergola and stairwell) are set back more than 13m from the street boundary of the site and set in from both side edges of the building, and will be imperceptible at street level.*
  - (xiv) The applicant undertook a detailed urban design analysis during their design development of the proposal, which took into consideration the local built form character of the site. This has demonstrated the design excellence qualities and facets of the proposed development.*
  - (xv) The proposed development makes a positive contribution to the interface between public and private domain, extending an existing building with a consistent height that continues to perceived building height of newer development on the same eastern side of Hastings Parade. The landscaping within the front setback of the development will provide a particularly positive interaction with the public domain.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:**
- (i) Demolition of the residential flat building reduces the overall building height and FSR of existing buildings on the site that provides for improved outcomes for the amenity of neighbouring properties and the subject site.*
  - (ii) The non-compliance with the development standard is required for any building form to the on part of the site at 168 Hastings Parade in order to have an appropriate height relationship to the existing building at 170 Hastings Parade.*
  - (iii) The overall building height of the proposed development is necessary to achieve design excellence on the site and provide an appropriate correlation between height and FSR development standards as well as compliance with key DCP objectives for height, setbacks and visual bulk.*
  - (iv) The overall building height is necessary to satisfy object 1(g) of the Act in relation to promoting good design and amenity of the building environment, whereas a compliant*

*height would be incongruent with surrounding buildings and remaining portion of the building.*

- (v) The non-compliance offers access to the approved and existing rooftop area through a stairwell that improves amenity of the dwelling without adverse impacts on neighbouring properties given its setback and modest scale.*
- (vi) The development is consistent with the objectives of the development standard and the zone.*

The applicant seeks to justify the contravention of the **FSR** development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:*
  - (i) The objectives of the development standard are achieved notwithstanding non-compliance with the development standard.*
  - (ii) The finished building height of the development appropriately correlates with density controls, despite the calculable maximum building height exceeding the relevant development standard. The extent of this exceedance is exaggerated by the existing ground level being taken from excavated basement levels as part of the measurement of the development's overall building height. This is demonstrated by the dwelling house on 170 Hastings Parade fully complied with the height of buildings development standard when it was approved and before its basement level was built. Further, the proposed development has a lower building height than that of the residential flat building on 168 Hastings Parade.*
  - (iii) The density of the proposed development relative to the site is appropriate as it provides a built form that meets the objectives of the setback and height controls in the DCP, and will be perceived as a two to three storey building commensurate with all recent surrounding development in Hastings Parade that also vary the FSR development standard.*
  - (iv) Given the generous northern side setback of the proposed development and the performance of the development against relevant control in the DCP, the breach in FSR will not result in the development being perceived as excessively bulky or incongruous with the height of buildings development standard.*
  - (v) The proposed development is compatible with the bulk, scale, streetscape and desired future character of the locality as it removes a bulky circa 1970s residential flat building that has reduced side setbacks and replaces it with a two-three storey building form reflective of the desired future character of the Ben Buckler Peninsular, which comprise properties that are double or triple fronted.*
  - (vi) The existing residential flat building at 168 Hastings Parade does not set the benchmark for compatibility, however, the building on 170 Hastings Parade, being only recently accepted by Council as satisfying objective (c) of the FSR development standard in DA-311/2020, despite its 113% variation to the FSR development standard, suggests a reasonable benchmark.*

- (vii) *The proposed development provides a predominantly compliant response to relevant controls and objectives in the DCP, despite technical and numeric non-compliances with controls due to the double-block nature of the development.*
  - (viii) *The applicant undertook a detailed urban design analysis during their design development of the proposal, which took into consideration the local built form character of the site. This has demonstrated the design excellence qualities and facets of the proposed development.*
  - (ix) *The proposed development achieves all relevant objectives of the Ben Buckler Special Character Area outlined in the DCP due to its proposed landscape contribution when viewed from the public domain, its rhythm of buildings from the street, boxy proportions and view sharing and generous side setbacks.*
  - (x) *The environmental amenity of neighbouring properties, as determined by shadow, privacy and view impacts, are preserved to the extent anticipated by a FSR compliant development and is significantly improved compared to the existing situation. This is principally due to the overall GFA of the proposed development being less than the combined overall GFA of the existing buildings on the site as well as the proposed development providing greater setbacks, privacy, and solar access and lesser visual bulk compared with the existing situation. Therefore, the proposed development provides greater environmental amenity to neighbouring properties, particularly to the north of the site. The environmental amenity of the neighbouring property to the south of the site is entirely preserved by the amended form of the proposed development. This is further demonstrated in succeeding sections of this report.*
  - (xi) *Strict compliance would be unreasonable or unnecessary as the existing buildings on the site already exceed the FSR development standard and the proposed development reduces the FSR/GFA of each building at 170 Hastings Parade and 168 Hastings Parade by 8% and 57%, respectively. Strict compliance cannot be reasonably achieved as this would require the owners to remove some 600m<sup>2</sup> of existing gross floor area from the site.*
  - (xii) *Ordinarily, a redevelopment of this scale and value would increase or maintain GFA, whereas the proposed development significantly reduced the existing quantum of GFA by 313.3m<sup>2</sup> or 28%. Following demolition of the building at 168 Hastings Parade, less than half of the GFA from 1698 Hastings Parade is being redistributed on the site. Any further reduction of floor space would threaten the viability of economic development on the site.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *Following demolition of the residential flat building at 168 Hastings Parade, a variation to the FSR development standard is caused by redistribution of floor space on the combined site. The net reduction of 313.3m<sup>2</sup> or 28% of GFA allows for improved outcomes for the amenity of the neighbouring sites and the subject site.*
  - (ii) *The overall GFA of the proposed development is necessary to provide any building form on the northern portion of the site (i.e. 168 Hastings Parade), and if this portion were to be fully*

*converted to landscaped area, the development would still vary the development standard with the remaining building on the southern portion (i.e. 170 Hastings Parade) of the site.*

- (iii) The overall GFA is required to facilitate attainment of the desired future character objectives of the Ben Buckler Special Character Area outlined in the DCP. Without a variation to the development standard, there would be a notable disruption to the rhythm of buildings' frontage to the street.*
- (iv) The overall GFA is necessary to achieve design excellence on the site and provide an appropriate correlation between height and FSR development standards as well as compliance with key DCP objectives for height, setbacks and visual bulk.*
- (v) The overall GFA is necessary to satisfy object 1(g) of the Act in relation to promoting good design and amenity of the building environment, whereas a compliant height would be incongruent with surrounding buildings and remaining portion of the building.*
- (vi) The amount of retained GFA necessary to satisfy object 1(c) of the Act, which seeks to promote the orderly and economic use and development of the land (while it already offers a reduction of GFA across the site by 28%), if required to be reduced any further, would undermine the viability of a development on this site, causing the preservation of an existing circa 1970s building that is incompatible with the desired future character of the locality.*
- (vii) The development is consistent with the objectives of the development standard and the zone.*

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

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

It is considered that the applicant has adequately addressed that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*

- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This is soundly justified as the applicant has sufficiently demonstrated that, despite the sheer extent of non-compliances with the development standards encountered by the proposed development, the objectives of these standards are achieved, particularly given that the non-compliances will not manifest in adverse impacts that would compromise the environmental amenity of neighbouring properties and surrounding public spaces immediately adjoining and within the visual catchment of the site. Further, the applicant has successfully proven that the perceived building height, bulk and scale of the proposed development are consistent and compatible with the predominant existing, emerging and desired future built form characteristics of the Ben Buckler section of Hastings Parade. This locality is generally characterised by two to three storeys, commonly atop an exposed basement or podium style garage, and large-scale dwelling houses that are purely contemporary in architectural and aesthetical expression. In this regard, the proposed development is contextually appropriate. Further assessment and discussion of these planning issues are provided in proceeding sections of this report.

The observation made by the applicant of the existing basement level of the dwelling house on 170 Hastings Parade artificially exaggerating the measurement of the overall building height of the development is valid. If this basement were not to exist, the proposed development would have a far lesser overall building height measurement that would be closer to compliance with the development standard.

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

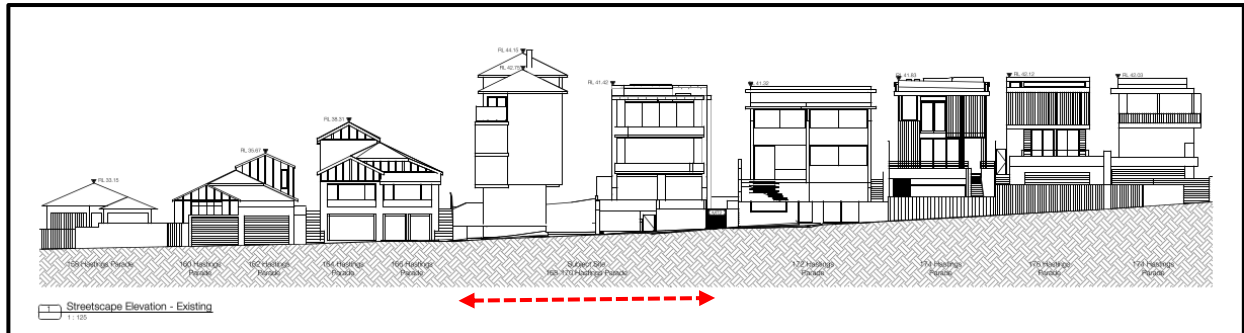
The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard.

### ***Height of Buildings***

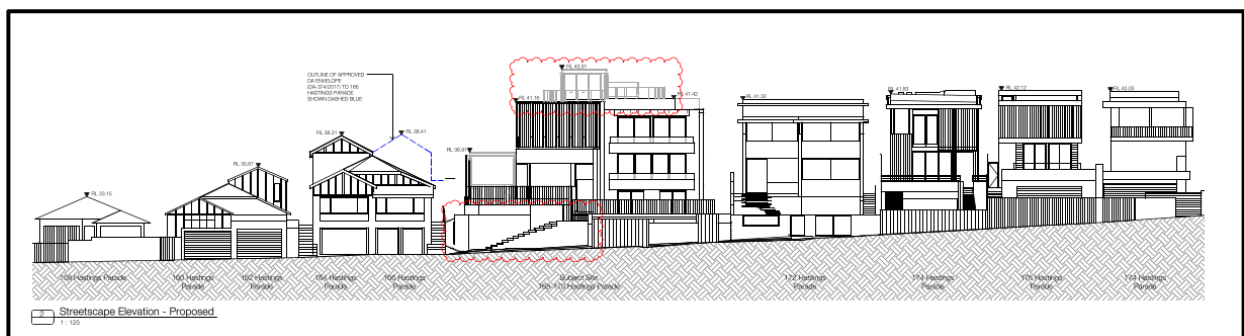
The applicant establishes sufficient environmental planning grounds or reasonable justification to vary the height of buildings development standard. The demolition of the residential flat building, which measures slightly higher than the proposed development, however, is perceived to be lower than the proposed development given the difference in perceived building height by the number of storeys from Hastings Parade, will provide improved environmental amenity of neighbouring properties, particularly



that to the immediate north of the site at 166 Hastings Parade, given increased side building setbacks and removal of side-facing balconies and window openings that presently serve six units in this building. The residential flat building can also be perceived as intrusive within the emerging and desired future streetscape character and its removal and replacement by the proposed development will achieve greater consistency with this streetscape character. This is successfully demonstrated in the applicant's streetscape elevational analysis, which are extracted in **Figures 8** and **9** of this report.



**Figure 8:** Streetscape elevation of the existing developments on the site, showing its relationship to the predominant building bulk, scale and height of buildings within visual catchment of site. (Source: SJB Architects)



**Figure 9:** Streetscape elevation of the existing developments on the site, showing its relationship to the predominant building bulk, scale and height of buildings within visual catchment of site. (Source: SJB Architects)

The applicant adequately establishes sufficient planning grounds for the non-compliance with the development standard encountered by the proposed expanded part of the dwelling on 168 Hastings Parade to achieve a consistent building height and floor levels with the retained dwelling house on 170 Hastings Parade. As seen in the streetscape elevations in **Figures 8** and **9**, that consistency correlates well with building heights of comparable dwelling houses on the same eastern side of Hastings Parade and to the south of the site. The grounds for non-compliance to achieve design excellence and consistency with relevant built form, streetscape and visual impact objectives in the DCP are also justified. Further, the applicant has adequately demonstrated that, despite the non-compliance, the development is consistent with the objectives of the development standard, given the compatibility of the development with the desired future character of the locality and the absence of adverse impacts that would compromise the environmental amenity of neighbouring properties and surrounding public spaces.

## **FSR**

The applicant establishes sufficient environmental planning grounds or reasonable justification to vary the FSR development standard. The principal argument that any development of the two lots that form part of the site would ordinarily vary the FSR development standard is satisfactory as the development seeks to retain the building envelope of the dwelling house on 170 Hastings Parade, which already exceeds the FSR development standard, while also expand it northwards onto 168 Hastings Parade. The hypothetical of converting 168 Hastings Parade wholly to landscaped area, for the sake of compliance with the development standard, would also not achieve full compliance and would also result in a substantial break or disruption of the rhythm of buildings within the streetscape. This would be an undesirable outcome as the desired future character objectives of the Ben Buckler locality that are articulated in the DCP explicitly discourages this outcome. Therefore, there are sufficient grounds to vary the FSR development standard in this instance to achieve consistency with the desired future built form character of the locality, as well as, achieving design excellence and consistency with the objectives of the development standard and relevant built form, streetscape and visual impact objectives in the DCP.

### Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the **height of buildings** development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

The relevant objectives of the **FSR** development standard are as follows:

- (b) to provide an appropriate correlation between maximum building heights and density controls,*
- (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,*
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.*

The objectives of the R3 Medium Density Residential Zone are as follows:

- To provide for the housing needs of the community within a medium density residential environment.*
- To provide a variety of housing types within a medium density residential environment.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise public transport patronage and encourage walking and cycling.*

The applicant has reasonably justified consistency of the development against the relevant objectives of both development standards and the R3 zone in their written requests. The development has been demonstrated to preserve the environmental amenity of neighbouring properties, the surrounding public domain and locality given it:

- does not reduce sunlight to habitable windows and private open space areas of neighbouring properties in mid-winter, particularly, the immediately neighbouring property to the south of the site at 172 Hastings Parade;
- results in a minor net increase of overshadowing of the front yard of a property on the western side of Hastings Parade for less than one hour and on the road reserve of Hastings Parade for less than two hours in the morning in mid-winter;
- appropriately shares public and private views, testament to the DA not receiving any public objection in relation to view loss;
- does not result in adverse visual and acoustic privacy on neighbouring properties;
- is compatible with the desired future character of the streetscape and locality in terms of building height, bulk, scale and architecture;
- positively contributes to the physical definition of the street network by providing commensurate perceived building heights and proportions with comparable dwelling houses to the south of the site; and
- correlates well with other density controls, such as open space, landscaped area and setback controls in the DCP.

The dual non-compliances will not render the development inconsistent with the objectives of the R3 Zone, in that:

- it provides for a contemporary, “high amenity” and large-scale housing layout, meeting the housing needs of the community and providing a variety of housing types within a medium density residential development; and
- by condition to limit off-street car parking to two spaces for the development (refer to **Table 4** of this report for further assessment), it will maximise public transport patronage and walking and cycling opportunities.

While the applicant has principally highlighted that there has been a net reduction of building height and FSR from the combined site comprising a residential flat building of six units and a dwelling house, this DA converts a considerable amount of that combined overall existing GFA/FSR that is currently distributed across seven dwellings/units to just one dwelling house, resulting in a net loss of six units/dwellings in the Waverley local government area (LGA). While this could be perceived as an undesirable planning

outcome, particularly in relation to housing affordability issues facing Sydney, there are no tangible or applicable statutory development standards and non-statutory planning controls that would prevent this outcome from occurring. Further, this outcome cannot be treated as reasonable grounds to refuse development consent to the DA in the context of clause 4.6 of Waverley LEP 2012 as the preservation, or prevention of net loss, of housing stock in the Waverley LGA is not explicitly articulated in an objective for both development standards and the R3 zone.

#### Conclusion

For the reasons provided above the requested variation to the height of buildings and FSR development standards is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings and FSR development standards and the R3 Zone.

#### 2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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

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

Development Control	Compliance	Comment
1. Waste	Yes	Waste, recycling and green waste bins will be stored in a dedicated room adjacent to the vehicular entry point of the basement car park level of the development.  The applicant was asked to provide a statement or undertaking to commit to demolition and construction waste reduction commitments in relation to environmental sustainability practices given that the dwelling house on 170 Hastings Parade has recently been constructed in the past couple of years. The commitments made in the applicant's statement dated 20 September 2021 will be affirmed by condition of consent.
2. Ecologically Sustainable Development	Yes	The proposed development meets baseline commitments set by SEPP BASIX. It also demonstrates some commitment to passive design through its floor planning and extent and orientation of fenestration, as well as capitalising on natural sea breezes and access to sunlight and daylight.
3. Landscaping and Biodiversity	Yes	The proposed development provides for deep soil planting, expansive green roofs and planting on other built structures. The green roof has

Development Control	Compliance	Comment
		<p>been designed to be non-trafficable and to allow access for maintenance only with a 'maintenance safety rail' surrounding its perimeter. A condition of consent is recommended to require fixed balustrading along the perimeters of the trafficable roof terrace so as to prevent the green roof becoming part of an expanded roof terrace during occupation of the development.</p> <p>Refer to section 3 of this report on referral commentary in relation to biodiversity as the site is within a known habitat corridor.</p>
4. Coastal Risk Management	Yes	<p>The site is within a mapped coastal risk area, and as such, the DA was accompanied by a geotechnical report to examine the geological impacts of the proposed development on the cliff edge and faces of the Ben Buckler Peninsular. The Geotechnical Report was reviewed by Council's Public Domain Engineer, who deemed it adequate. Relevant conditions of consent are recommended to ensure the recommendations made in the Geotechnical Report are adopted during excavation and construction phases of the development.</p>
5. Vegetation Preservation	Yes	<p>Refer to section 3 of this report on referral commentary in relation to tree management.</p>
6. Stormwater	Yes (by condition)	<p>Refer to section 3 of this report on referral commentary in relation to stormwater.</p>
<p>8. Transport</p> <p>Minimum parking rate:</p> <ul style="list-style-type: none"> <li>Nil</li> </ul> <p>Maximum parking rate:</p> <ul style="list-style-type: none"> <li>2 spaces for 3 or more bedrooms.</li> </ul>	No (resolved by condition)	<p>The proposal provides for <b>three</b> off-street car spaces for one dwelling house in the partially retained basement car park of the current dwelling house at 170 Hastings Parade. Given that the maximum amount of off-street car parking for dwellings comprising three or more bedrooms is two spaces and the proposed development provides for three, the applicant has included the third or excess space in the overall GFA/FSR calculations of the development.</p> <p>The DCP allows variations to the maximum parking rates in certain circumstances outlined with the DCP (and reiterated in the 'Development Control' column of this table).</p> <p>The applicant has cited the precedent argument to justify the excess car parking space, specifically, the neighbouring property to the north of the site at 166 Hastings Parade comprising three off-street car parking spaces. A</p>



Development Control	Compliance	Comment
		<p>review of this example reveals that its current approval (by way of modifications and discounted appeals) only provides for a maximum of two off-street car parking spaces.</p> <p>The applicant has also argued that the third car space will improve parking outcomes for Hastings Parade, which is a heavily congested street with limited on-street car parking supply. This would be a valid argument if the proposed development comprised more than one dwelling.</p> <p>Further, when DA-311/2021 was approved to convert the residential flat building to a dwelling house at 170 Hastings Parade, a condition of consent was imposed to reduce the amount of off-street car parking spaces from four to a maximum of two.</p> <p>The applicant acknowledges under the provisions of the DCP, additional spaces can be supported under specified circumstances. In this instance, additional space is not supported as the site has good access to public transport. This is a key outcome of one of the objectives of the R3 Zone. A condition of consent is recommended to delete the excess car parking space. While compliance with this condition of consent will inherently reduce the overall GFA of the development by a fractional extent, the validity of the substance of the applicant's clause 4.6 written request relating to FSR non-compliance remains intact and can be relied upon when determining this DA.</p>
10. Safety	Yes	Satisfactory. The amended form of the development has reduced the height of street walls, which in turn, has improved visibility and surveillance of the street from the dwelling house.
12. Design Excellence	Yes	The proposed development exhibits design excellence through its architectural design, which has been demonstrated to evolve from urban design analysis during its design development, taking into consideration of the built form character, relationship with adjoining and surrounding developments.
14. Excavation	Yes	The provision of fill within the rear section of the site will raise existing ground levels adjacent to side and rear boundaries due to making the finished level of the rear yard flush with the ground floor finished level of the development.

Development Control	Compliance	Comment
		<p>The structural or geological impacts of this can be managed by appropriate conditions as well as adopting the recommendations made in the Geotechnical Report submitted with the application.</p> <p>The existing basement has a nil southern side setback, which is proposed to be retained as part of the proposed development. The development does not increase excavation within 900mm from the southern side boundary of the site.</p>
16. Public Domain	Yes	Satisfactory.

**Table 5: Waverley DCP 2012 – Part C1 – Special Character Areas**

Development Control	Compliance	Comment
<b>1.3 Ben Buckler</b>		
<p>Desired Future Character Objectives</p> <ul style="list-style-type: none"> <li>• Maintain Landscape Character</li> <li>• Maintain rhythm of buildings to the street</li> <li>• Allow ocean glimpses through side setbacks</li> <li>• Respect character and architectural elements</li> <li>• View Sharing</li> </ul>	Yes	<p>The proposed development is consistent and compatible with the desired future character objectives of Ben Buckler as:</p> <ul style="list-style-type: none"> <li>• it provides for generous and expansive landscaped area across its front setback areas;</li> <li>• while its northern side setback is notably greater than those of surrounding buildings to the south of the site, it generally maintains the rhythm of buildings in terms of building heights, bulk, proportion and architecture/articulation (as demonstrated in streetscape elevations shown in <b>Figures 8 and 9</b> of this report);</li> <li>• given the site adjoining the eastern cliff edge/faces and its elevated nature above street level, the development cannot offer ocean glimpses from the public domain through its side setback areas; and</li> <li>• respects and appropriately view shares.</li> </ul>
Controls	Yes	<p>The proposed development, for the most part, complies with the specific controls that aim to implement the desired future character objectives outlined above.</p> <p>The landscape plan shows predominantly ground covers and shrubs within the front setback area (other than the proposed trees within the street verge), which meets the minimum maintenance requirement of control (a). Given that the</p>

Development Control	Compliance	Comment
		<p>development is for a dwelling house and not a residential flat building, communal open space is not provided nor required. The materials palette of the development is complementary and consistent with the aesthetical qualities of the built form character of the locality.</p> <p>The roof terrace of the development is appropriate for the development as it is not for a residential flat building and the site is not deemed as a 'high density' area. The roof terrace is further assessed in <b>Table 6</b> of this report.</p>

**Table 6: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
	Yes	The proposal does not contravene the general objectives of this part of the DCP.
<b>2.1 Height</b>		
Pitched roof dwelling house <ul style="list-style-type: none"> <li>Maximum external wall height of 7m</li> </ul>	N/A	The development utilises a flat roof form.
Flat roof dwelling house <ul style="list-style-type: none"> <li>Maximum wall height of 7.5m</li> </ul>	No (acceptable on merit)	<p>The overall external wall height of the proposed development is measured to the top of the southern roof parapet at RL41.420 and directly above relative existing ground level of RL30.960, which is 10.46m.</p> <p>As explained in section 2.2.3 of this report, the applicant's written request to vary the height of buildings development standard is well-founded, and therefore inherently the non-compliance with this DCP control is considered acceptable given the height of buildings development standard in the LEP is a higher order standard/control than that of this DCP control.</p> <p>Notwithstanding, the proposed development appropriately articulated by fenestration, recesses, and changes to building alignments across its side elevations. These outcomes are anticipated by the wall height control. Further, the non-compliance with this control will not manifest in any adverse overshadowing, visual amenity and view impacts upon neighbouring properties and the surrounding public domain.</p>



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Significant landscaping to be maintained.</li> </ul>		
<b>2.4 Fences</b>		
<p><i>Front:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> </ul> <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.8m</li> </ul>	<p>No (acceptable on merit)</p> <p>Acceptable</p>	<p>The front or street walls/fences exceed the maximum height control of 1.2m, however, these are not traditional front fences given the elevated nature of the site above street level. The street walls have been amended to step in or be recessed from the site's street frontage. The solid component of the walls will be just slightly higher than the front fence of the adjoining property to the south of the site.</p> <p>The walls will predominantly comprise sandstone blockwork and incorporate landscaping in such a way that evoke a sense of place and be visually inviting to the street. Therefore, the non-compliance with the traditional front fence controls can be accepted.</p> <p>The southern side boundary fence shared with 172 Hastings Parade is retained.</p> <p>The northern side boundary treatment includes a 1.8m-wide landscaped strip/zone, which provides an appropriate privacy buffer of the proposed swimming pool and covered outdoor entertaining area on the northern side of the development, thereby protecting the visual and acoustic privacy of the neighbouring northern property at 166 Hastings Parade. This treatment has been carefully designed in consultation and negotiation with the owners of 166 Hastings Parade.</p>
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design</li> </ul>	Yes	<ul style="list-style-type: none"> <li>Window opening across the southern elevation of the development are modest in size and generally serve passive rooms, bathrooms/laundries or are secondary windows to living and active areas.</li> <li>Window openings across the northern elevation of the development are more expansive than those on the southern elevation, however, given the generous northern side setback of the development, these window openings are unlikely to result in undue visual privacy impacts or overlooking of the adjoining property to the north of the site.</li> </ul>



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Maximum size of balconies: <i>10m<sup>2</sup> in area</i> <i>1.5m deep</i></li> <li>Roof tops to be non-trafficable unless predominant in the immediate vicinity and limited to 15m<sup>2</sup></li> </ul>	<p>Partial compliance</p> <p>Yes</p>	<ul style="list-style-type: none"> <li>The terraces or balconies of the development have the following sizes: <ul style="list-style-type: none"> <li>The front terraces on lower ground floor level have a combined area of 18m<sup>2</sup> and a depth of 1.96m.</li> <li>The front balcony on ground floor level has an area of 14m<sup>2</sup> and a depth of 1.97m.</li> <li>The southern-most front balcony on first floor level has an area of 14m<sup>2</sup> and a depth of 2m.</li> <li>The northern-most front balcony on first floor level has an area of 9m<sup>2</sup> and an overall depth of 2.1m.</li> <li>The northern-most rear balcony on first floor level has an area of 10m<sup>2</sup> and an overall depth of 2.1m.</li> <li>The southern-most rear balcony on first floor level has an area of 8m<sup>2</sup> and a depth of 1.1m.</li> </ul> <p>Despite the exceedances of the maximum size controls, these balconies primarily face to the street or Pacific Ocean and are not likely to adversely impact on the visual and acoustic privacy of neighbouring properties.</p> </li> <li>The existing dwelling house on 170 Hastings Parade comprises a roof terrace with an area of approximately 18m<sup>2</sup>. The proposed development retains the roof terrace and shifts it northwards to the centre of the site. As roof terraces are not uncommon in the Ben Buckler area, the continuance of the roof terrace for the development is acceptable. The amended form of the development now comprises a compliant trafficable area of 15m<sup>2</sup>. The trafficable area is surrounded by an expansive green roof and the plans do not indicate an obvious demarcation between these aspects of the development. Therefore, a condition of consent is recommended to require fixed balustrading along the perimeters of the trafficable roof terrace so as to prevent the green roof becoming part of an expanded roof terrace during occupation of the development.</li> </ul>

Development Control	Compliance	Comment
		<ul style="list-style-type: none"> <li>While the roof terrace is accessed via a permanent stairwell, the proposed development has been demonstrated to not impact on available private and public view corridors as well as manifest in other measurable amenity impacts (refer to earlier clause 4.6 discussion in this report) Therefore, this access arrangement can be accepted in this instance.</li> </ul>
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June.</li> <li>Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> <li>Avoid unreasonably overshadowing of solar collectors (including habitable windows).</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<ul style="list-style-type: none"> <li>The living areas and principal private open space areas of the proposed development will receive at least three hours of direct sunlight on 21 June.</li> <li>The shadow diagrams in plan form indicate that the proposed development results in a reduction rather than an increase of existing overshadowing. This is principally explained by the demolition of the residential flat building on 168 Hastings Parade, which has a larger building envelope than the proposed extended part of the retained dwelling house on 170 Hastings Parade. In terms of the additional overshadowing, it is generally confined to the road reserve of Hastings Parade between 9am and 11am on 21 June. There is a slight net increase of overshadowing of the front hardstand parking area of 155 Hastings Parade (on the western side of Hastings Parade and to the south-west of the site) at 9am on 21 June. The net increase is minor and inconsequential to the amenity of this property as the net overshadowing falls within a car parking area.</li> <li>The isometric or 'view from sun' three-dimensional diagrams compare the building envelopes of the existing developments and the proposed (now amended) development and show that there is further reduction of sunlight received to the north-facing habitable window openings of the neighbouring dwelling house to the south of the site at 172 Hastings Parade between 9am and 3pm on 21 June. Further, the proposed development improves sunlight received to the rear yard of this neighbouring southern property at 3pm on 21 June.</li> </ul>

Development Control	Compliance	Comment
		<ul style="list-style-type: none"> <li>Despite exceedances of the height of buildings and FSR development standards, the proposed development is generously set back from the southern side boundary and its front and rear setbacks appropriately align with the predominant front and rear building lines. As demonstrated in the shadowing analysis, the proposed development will improve solar access to the southern neighbouring property and to the surrounding public domain (i.e. Hastings Parade road reserve). Therefore, the net overshadowing impacts of the proposed development are reasonable and acceptable.</li> </ul>
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	Yes	The proposed development appropriately shares public and private views that are available across and over the site.
<b>2.8 Car parking</b>		
<b>2.8.1 Design Approach</b> <ul style="list-style-type: none"> <li>Parking only allowed where site conditions permit</li> <li>Designed to complement the building and streetscape</li> <li>Car parking structures to be behind the front building line</li> <li>Driveways are to be located to minimise the loss of on street parking</li> </ul>	Yes	Satisfactory as car parking is allowable/appropriate for the site.
<b>2.8.2 Parking rates</b>	No (resolved by condition)	Parking rates are set by Part B8 of Waverley DCP 2012.
<b>2.8.3 Location</b> <ul style="list-style-type: none"> <li>Behind front building line for new dwellings</li> </ul>	Yes	Behind front building line and integrated in the building envelope of the development.

Development Control	Compliance	Comment
<b>2.8.4 Design</b> <ul style="list-style-type: none"> <li>Complement the style, massing and detail of the dwelling</li> <li>Secondary in area and appearance to the design of the residences</li> </ul>	Yes	Satisfactory and complementary design.
<b>2.8.5 Dimensions</b> <ul style="list-style-type: none"> <li>5.4m x 2.4m per vehicle</li> </ul>	Yes	Sufficiently dimensioned car parking spaces.
<b>2.8.6 Driveways</b> <ul style="list-style-type: none"> <li>Maximum of one per property</li> <li>Maximum width of 3m at the gutter (excluding splay)</li> <li>Crossings not permitted where 2 on street spaces are lost</li> </ul>	Yes (by condition)	One driveway is proposed to a width greater than 3m. Council's Traffic and Development section objected to the width of the driveway and have recommended by condition of consent to reduce the width of the driveway at the kerbside to a maximum of 3m.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> <li>Overall landscaped area: 15% of site area</li> <li>Minimum area of 25m<sup>2</sup> for private open space</li> <li>Front open space: 50% of front building setback area</li> <li>Front landscaped area: 50% of front open space provided</li> <li>Outdoor clothes drying area to be provided</li> </ul>	Yes  Yes  Yes  Yes  No (acceptable on merit)  Yes	<ul style="list-style-type: none"> <li>The development provides an overall open space area of 585.4m<sup>2</sup>, which occupies 56% of the site area.</li> <li>The development provides an overall genuine landscaped area (excluding landscaping on structures and above the basement) of 167.1m<sup>2</sup>, which occupies 16% of the site area.</li> <li>The cumulative landscaped area (including landscaping on structures, such as the green roof) is 254m<sup>2</sup>, which occupies 24% of the site area.</li> <li>The development provides significantly more than 25m<sup>2</sup> of private open space.</li> <li>The front building setback area (approximately 160m<sup>2</sup>) wholly comprises open space.</li> <li>The front landscaped area is 70.9m<sup>2</sup>, which occupies 44% of the front building setback area. Despite the minor shortfall with the minimum quantum, the front setback area comprises considerable and a mix of soft and hard landscaping (i.e. sandstone boulders). The front setback area will positively</li> </ul>





Development Control	Compliance	Comment
2.16.2 - Ancillary buildings <ul style="list-style-type: none"> <li>Floor area not to exceed 10% of site area</li> <li>Maximum wall height when on a property boundary of 2.1m</li> <li>Maximum overall height of 2.4m</li> </ul>	No (acceptable on merit)	The covered outdoor entertainment area would be considered a 'pergola' and ancillary to the development. It has an overall height of 4m above finished ground floor level. While this is greater than the maximum height control of 2.4m, it is set back at least 1.8m from the northern side boundary of the site and is neatly integrated with the development. Its profile and design were amended in consultation and negotiation with the owners of the adjoining property to the north of the site.

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified between 30 September and 19 October 2021 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and documents, the application was not re-notified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified as described in section 1.4 of this report. This is principally due to the amended plans reducing the extent of non-compliances with the height of buildings and FSR development standards, and in turn, reducing associated environmental impacts, such as overshadowing, privacy and visual bulk impacts, particularly upon neighbouring properties. Despite the inclusion of an open pergola structure on the roof, the height of this structure is not greater than that of the original roof level of the development (as publicly notified) and is sited in such a way that does not introduce or increase the intensity of associated impacts upon neighbouring properties and the streetscape. Further, additional information relating to technicalities, such as revised clause 4.6 written requests, did not change the essence or nature of the proposed development. Having regard to the nature of the amendments to the application, there is no additional net impact on originally affected and notified properties.

A total of two unique submissions were received from the following properties in North Bondi:

- 1/151 Hastings Parade; and
- 172 Hastings Parade.

The submission received from 172 Hastings Parade raised no objection and expressed support for the DA, and therefore, the DA received one objection.

The issue of overshadowing raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation.

All other issues raised in the submissions are summarised and discussed below.

**Issue:** *Whether limitations or compensation for construction impacts are available given the submitter is working from home full time.*

**Response:** The option of compensation is not a matter for consideration for Council in the assessment of this DA. Should the DA be approved, standard conditions of consent will be included to ensure demolition and construction works do not unduly disturb or impact neighbouring properties.

**Issue:** *Reduction of natural light.*

**Response:** The assessment of this DA is required to take into consideration its impacts on direct sunlight rather than natural or day light as there are no planning controls that intend to preserve access to daylight.

## 2.5. Public Interest

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

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Traffic and Development

Council's Traffic and Development Unit reviewed the DA and gave in-principle support the DA, except for the excess or third off-street car parking space and reduction I driveway width. Conditions of consent are recommended, including a design change condition requiring the dwelling house to have a maximum of two off-street car parking spaces.

### 3.2. Stormwater

Council's Public Stormwater Engineer recommended a suite of conditions of consent to ensure that the stormwater system and drainage aspects of the proposed development are compliant with Council's Stormwater Policy. These conditions of consent are adopted in the Recommendation.

### 3.3. Public Domain

Council's Public Domain Officer did not object to the geotechnical report, subject to conditions of consent.

### 3.4. Tree Management

Council's Tree Management Officer observed that there are no trees or vegetation on the site that are worthy of preservation.

### 3.5. Energy Efficiency

Council's Sustainable Development Coordinator confirmed that the proposed development meets the minimum requirements under SEPP BASIX, including accurate and up-to-date energy and thermal comfort targets, as well as providing an accurate Nationwide House Energy Rating Scheme (NatHERS) certificate.

### 3.6. Biodiversity

Council's Urban Ecology Co-ordinator deemed the landscape plan inadequate from a biodiversity perspective. In this regard, a condition of consent is recommended to require the landscape plan to comply with relevant biodiversity controls in Waverley DCP 2012 as well as requiring the plan remove the use of *Pennisetum* species as this is an invasive species in coastal environments.

### 3.7. Property Information

Council's GIS Analyst has allocated the street number of the consolidated lots of the site as 170 Hastings Parade, North Bondi. A condition of consent is recommended to this effect.

## 4. CONCLUSION

The development application relates to two lots, known as 168-170 Hastings Parade, North Bondi and seeks consent for demolition of building on 168 Hastings Parade, and significant alterations and additions of the existing building on 170 Hastings Parade to provide for a single dwelling house with basement parking and swimming pools across both lots.

The principal issues arising from the assessment of the application are as follows:

- Non-compliances with the height of buildings and floor space ratio (FSR) development standards under Waverley Local Environmental Plan 2012 (Waverley LEP 2012);
- Excess off-street car parking; and
- Coastal management considerations.

The assessment finds these issues acceptable, except for the excess off-street car parking space, which is recommended to be deleted by condition.

A total number of two submissions were received, including one in support, and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation. The

application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

***Development and Building Unit (DBU) Decision:***

The application was reviewed by the DBU at the meeting on 30 November 2021 and the DBU determined:

(a) The application should be deferred and amendments required as follows

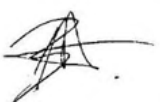

- The rumpus room on the uppermost floor level deleted.
- Reduce roof terrace to a compliant area.
- Delete roof-top spa.
- Street walls reduced
- Reduce three to two off-street car parking spaces.
- Reduce excavation and impacts on cliff edges of site.

Subject to the above deferral matters being satisfied above, the application is recommended for approval.

DBU members: *A Rossi, B McNamara, B Matlawski and J Elijah*

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Ben Magistrale	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 8 March 2022	Date: 9 March 2022

***Reason for WLPP referral:***

1. Departure from any development standard in an EPI by more than 10%

## APPENDIX A – CONDITIONS OF CONSENT

### **A. APPROVED DEVELOPMENT**

#### **1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

(a) Architectural Plans prepared by SJB Architects of Job No. 6414 including the following:

<b>Plan Number / Revision No.</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA-0000 / 8	Cover Sheet and Drawing List	27 January 2022	21 February 2022
DA-0103 / 8	Site Plan – Proposed	27 January 2022	21 February 2022
DA-0301 / 8	Demolition Floor Plan – Basement	27 January 2022	21 February 2022
DA-0302 / 8	Demolition Floor Plan – Lower Ground	27 January 2022	21 February 2022
DA-0303 / 8	Demolition Floor Plan –Ground	27 January 2022	21 February 2022
DA-0304 / 8	Demolition Floor Plan –Level 1	27 January 2022	21 February 2022
DA-0305 / 8	Demolition Floor Plan –Roof	27 January 2022	21 February 2022
DA-0311 / 8	Demolition Elevation – North and East	27 January 2022	21 February 2022
DA-0312 / 8	Demolition Elevation – South and West	27 January 2022	21 February 2022
DA-1001 / 8	Proposed Floor Plan - Basement	27 January 2022	21 February 2022
DA-1002 / 8	Proposed Floor Plan – Lower Ground	27 January 2022	21 February 2022
DA-1003 / 8	Proposed Floor Plan –Ground	27 January 2022	21 February 2022
DA-1004 / 8	Proposed Floor Plan –Level 1	27 January 2022	21 February 2022
DA-1005 / 8	Proposed Floor Plan –Roof Level	27 January 2022	21 February 2022
DA-1006 / 8	Proposed Floor Plan –Roof Plan	27 January 2022	21 February 2022
DA-1411 / 8	Proposed Elevation – North & East	27 January 2022	21 February 2022
DA-1412 / 8	Proposed Elevation – South & West	27 January 2022	21 February 2022
DA-1421 / 8	Streetscape Elevation	27 January 2022	21 February 2022
DA-1501 / 8	Proposed Section 1 & 2	27 January 2022	21 February 2022
DA-1502 / 8	Proposed Section 3	27 January 2022	21 February 2022
SK-1503 / 9	Section through North-West Pool	27 January 2022	2 March 2022
DA-2001 / 5	Schedule of External Finishes	21 July 2021	10 September 2021

(b) Approved Landscape Plans in accordance with conditions 22 and 23 of this development consent.

(c) BASIX and NatHERs Certificates.

(d) Approved Stormwater Details and documentation in accordance with condition 19 of this development consent.

(e) Preliminary Geotechnical Assessment (Reference No. 6512-G1) prepared by AssetGeoEnviro, dated 30 June 2021 and received by Council on 10 September 2021.

- (f) Demolition and Construction Waste Reduction Commitments prepared by HSN Construction, dated 20 September 2021 and received by Council on 30 September 2021.
- (g) The Site Waste and Recycling Management Plan (SWRMP) Part 1.

Except where amended by the following conditions of consent.

## **2. GENERAL MODIFICATIONS**

The application is approved subject to the following plan amendments;

- (a) The development is limited to a maximum of two off-street car parking spaces in accordance with the maximum car parking rates for dwelling houses comprising three or more bedrooms, as specified in Waverley Development Control Plan 2012. In this regard, the third car space is to be deleted.
- (b) In order to ensure that the green roof is non-trafficable and prevent it from being an extension of the trafficable roof terrace, fixed balustrading along the perimeter of the trafficable roof terrace must be provided. The balustrades must be comprised of a transparent material.

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

## **3. DOMESTIC HEATERS**

The provision of solid fuel heating is prohibited.

## **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

### **GENERAL REQUIREMENTS**

## **4. 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 the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

## **5. 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 applicable requirements of Part 6, before any work commences.

## 6. SURRENDER OF DEVELOPMENT CONSENT

Development consent DA-526/2015/B is to be surrendered by the applicant, in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000. The surrender is to be received by Council prior to the issue of any Construction Certificate for works associated with this development consent. The surrender of the consent takes effect when Council receives the notice.

### **CONTRIBUTIONS, FEES & BONDS**

## 7. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 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:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) 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 are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following:
  - (a) A development valued at \$100,000 or less will be exempt from the levy;
  - (b) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or
  - (c) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any 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.

## 8. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of **\$110,000** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **9. 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 of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any 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.

## **10. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The Applicant is to pay to Council fees for the assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

### **CONSTRUCTION & SITE MATTERS**

## **11. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

## **12. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

## **13. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical 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. It should also detail the stability of the cliff faces and the impact of the proposed development on these cliff faces.

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.

#### **14. PRE-CONSTRUCTION DILAPIDATION REPORT**

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) 166 Hastings Pde and 170 Hastings Pde, North Bondi and any others identified to be in the zone of influence in the dilapidation survey.

The dilapidation reports must be completed and submitted to the Principal Certifying Authority and Council's Executive Manager, Infrastructure Services (or delegate) and will be subject to fees. For further information regarding this, please contact [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au), 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.

#### **15. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

## **16. ENGINEERING CERTIFICATE OF ADEQUACY**

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

## **17. GROUND ANCHORS**

Where any ground anchors (i.e- rock or sand anchors) are proposed to extend beyond the property boundary beneath roadways and other Council property, details must be submitted to and approved by Council's Executive Manager, Infrastructure Services (or delegate) and will be subject to fees. For further information regarding this, please contact [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) on 9083 8886.

Separate approval will be required for ground anchors beneath roadways governed by the Roads and Maritime Services.

### **TRAFFIC MANAGEMENT**

## **18. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

### **STORMWATER & FLOODING**

## **19. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plan prepared by itm design Pty Ltd, Job No. 20/282, Drawing No. H-DA-00, H-DA-01, H-DA-02 & H-DA-03, Revision B, dated 31/01/2022 is considered **concept only**.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- (a) The plans shall provide a complete and detailed OSD design including multiple cross-sections (drawn to a suitable scale), proposed construction materials, and full orifice details. The checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- (b) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be submitted.

- (c) Any underground basement shall be protected from possible inundation by surface waters from the street.
- (d) Show an alarm system comprising of basement pump-out failure warning sign together with a flashing strobe light and siren installed at a clearly visible location at the entrance to the basement in case of pump failure. A minimum freeboard of 150 mm from the pump out system to all parking spaces and full hydraulic details and pump manufacturers specification are to be provided.
- (e) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided.
- (f) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

**Notes:**

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

**ENERGY EFFICIENCY & SUSTAINABILITY**

**20. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

**WASTE**

**21. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the

SWRMP Part 2 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.

### **LANDSCAPING & TREES**

#### **22. LANDSCAPE WORKS IN A HABITAT CORRIDOR**

The landscape plans Nos. LP1-D3321 and LP05-D3321 prepared by Dangar Barin Smith, dated 28 January 2022 and received by Council on 21 February 2022 are deemed inadequate by Council's Urban Ecology Co-ordinator. In this regard, the landscape plans are to be amended and approved by Council's Executive Manager, Environmental Sustainability (or delegate) to comply with the following:

- a) The plant species list having a minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1 of the Waverley Development Control Plan 2012. Accordingly, all proposed Russian Olives and Madagascar Dragon Tree are considered trees, and thus the percentage of locally indigenous trees does not meet this requirement. Other misclassifications include: Elephant Bush (a shrub), and Rasp Fern (a ground cover).
- b) The selected Pennisetum species are deleted as this is an invasive species, and that will not be able to be controlled once it invades cliff ledges.

#### **23. GREEN ROOF LANDSCAPING DETAILS**

The construction certificate landscape plans are to comply with the controls for green roofs in Part B3.1 of the Waverley Development Control Plan 2012 including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 – 1 and condition 22 of this consent).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species; and
- (c) The green roof is to be designed to be a non-trafficable area (with no traditional balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

A qualified landscape architect must review the design and verify that it complies with the above requirements.

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

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.



## **PRIOR TO ANY WORKS**

### **24. 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.

### **25. USE OF FILL ON SITE**

All fill imported on to the site shall be free of building and other demolition waste, and contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 of the Protection of the Environment Operations Act, 1997 and

Sampling and analysis of the fill material should be conducted in accordance with the NSW EPA Sampling Design Guidelines (1995) to ensure that the material is not contaminated.

Any other waste derived material the subject of a resource recovery exemption under cl. 51A of the Protection of the Environmental Operations (Waste) Regulations 2014 that is permitted to be used as fill material.

Any waste derived material the subject of resource exemption received at the development site must be accompanied by documentation as to the materials compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

## **DEMOLITION & EXCAVATION**

### **26. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority 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 SafeWork 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.

## **27. CONTROL OF DUST ON CONSTRUCTION SITES**

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 (e.g. 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.

## **28. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

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 2014.

## **29. 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.

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 excavation is to be managed by a practising structural engineer.

### **CONSTRUCTION MATTERS**

## **30. 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 Sundays and public holidays.

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.

Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

### **31. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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

### **32. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002, clause 162A of the Environmental Planning and Assessment Regulation 2000 and the requirements of any other applicable legislation or instruments.

### **33. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be 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 the construction of a higher level of the building.

### **34. 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 location 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.

### **35. TREATMENT OF BOUNDARY WALLS**

The walls approved on the northern and southern side boundaries with neighbouring properties are to be finished to the same standard as the remaining building and not left unfinished to ensure a consistent visual appearance.

### **36. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS**

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa 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/spa is to be installed in accordance with the requirements of *Australian Standard 3000, Part 1 - Wiring Rules*.
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit.
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure.

- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans must be submitted to Sydney Water at least 14 days prior to commencement of building operations.

#### **37. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

#### **VEHICLE ACCESS & PUBLIC DOMAIN WORKS**

#### **38. EXISTING VEHICLE CROSSING IS TO BE MODIFIED**

The existing vehicle crossing to No. 170 Hastings Parade is to be modified to provide access to the proposed basement carpark. The maximum width of the driveway between the property boundary and the street is to be 3.0 metres with 0.45 metre splays at the street. A separate application is required for the modified vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

#### **39. EXISTING VEHICLE CROSSING IS TO BE CLOSED**

The existing vehicle crossing to No. 168 Hastings Parade 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

#### **40. VEHICULAR ACCESS - FINISHED LEVEL TO FOOTPATH**

The finished level at the property boundary on both sides of the vehicle crossing is to be 50mm above the level of the existing concrete footpath.

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

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

#### **CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS**

#### **41. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act 1979 have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

#### **42. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

#### **43. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM**

- (a) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared, stamped and signed by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, basement pump-out facility, the detention facility, rainwater harvesting facility and other drainage related infrastructure. An original or a colour copy must be submitted to Waverley Council. Where changes have occurred, the Council approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.
- (b) A suitably qualified and practising Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

#### **44. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD**

Prior to the issue of an Occupation Certificate, a “Positive Covenant” and “Restriction on the Use of Land” shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

#### **45. PLANNED PREVENTATIVE MAINTENANCE SCHEDULE FOR PUMP OUT SYSTEM**

The registered proprietor shall be required to submit written intent to establish and maintain a Planned Preventative Maintenance (PPM) schedule of the pump out system prior to the issue of Occupation Certificate. Council will not be liable for any claims for damages arising from the failure of the pump out system. Evidence shall be submitted to the Executive Manager, Infrastructure Services or delegate prior to the issue of the Occupation Certificate.

#### **46. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA**

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design;

- (b) Evidence that the swimming pool/outdoor spa has been registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>);
- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council;
- (d) A copy of the occupation certificate must be submitted to Council.

Note: Swimming/spa pool pumps are restricted from use 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 2017.

#### **47. STREET NUMBER**

The consolidation of the properties/parcels has led to the following allocation of address numbering:

- 170 - primary address site number
- Hasting Parade - primary address site location.

The primary address site number for the properties shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary, located near the entry point and be clearly visible from Hastings Parade.

The primary address site number shall be positioned on the site prior to the issue of the Occupation Certificate.

Any variation to the above address numbering requires a new application for a change of street number and/or address to be lodged with Council.

### **E. ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

#### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).



- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council’s standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

#### **AD2. SYDNEY WATER REQUIREMENTS**

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

#### **AD3. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual’s responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra’s network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra’s infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra’s assets in any way, you are required to contact: Telstra’s Network Integrity Team on 1800 810 443.

#### **AD5. ALTERATIONS AND ADDITIONS**

This consent is part for alterations and additions to the existing building on part of the site known as 170 Hastings Parade, North Bondi and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

#### **AD6. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

#### **AD7. BONDI - ROSE BAY SAND BODY**

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

#### **AD8. TREE REMOVAL/PRESERVATION**

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

#### **AD9. SITE RECTIFICATION WORKS**

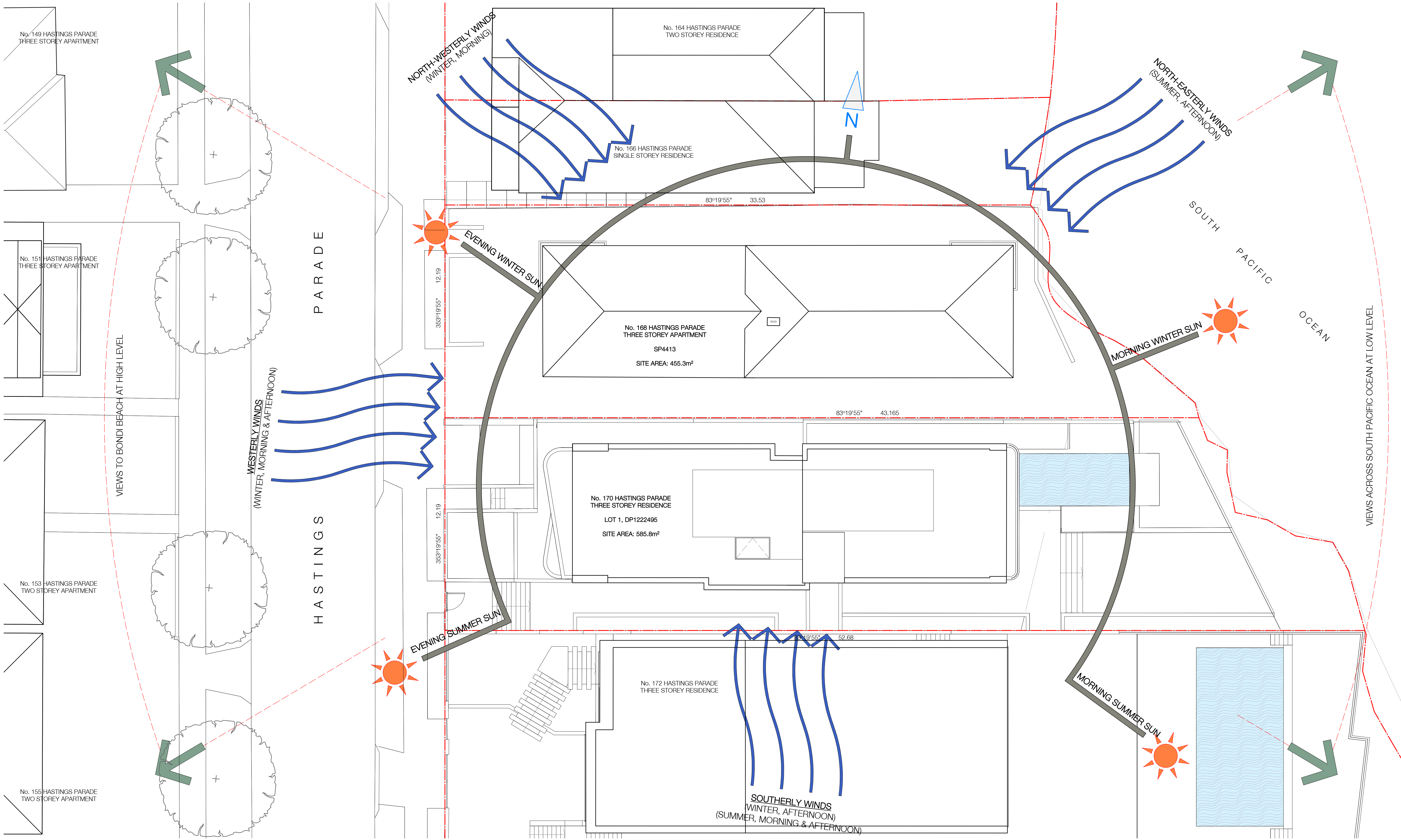
The vacant site is to be maintained in a safe and secure manner. Fencing is to be erected around the perimeter of the site once demolition has been completed to secure the site. The site is to be protected from windblown soil loss and stormwater erosion at all times.

If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:

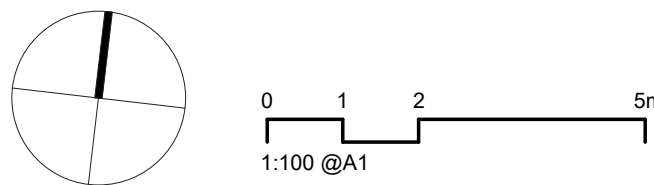
- (a) Require certain works to be carried out, including but not limited to:
  - Make the building/site safe and of an appearance acceptable to Council;
  - Allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point;
  - (For the hole to be covered to allow it to be landscaped and made attractive from any public vantage point.

Council may call on any bank guarantee to cover the cost thereof.

- (b) In the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the costs of the works.



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Nominated Architects: Adam Haddow-7188 | John Pradel-7004



Rev	Date	Revision	By	Chk.
3	02.07.21	FOR COORDINATION		
4	09.07.21	DRAFT DA ISSUE		
5	21.07.21	DA ISSUE		
7	29.11.21	REVISIONS TO CAPTURE NEIGHBOUR CHANGES		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

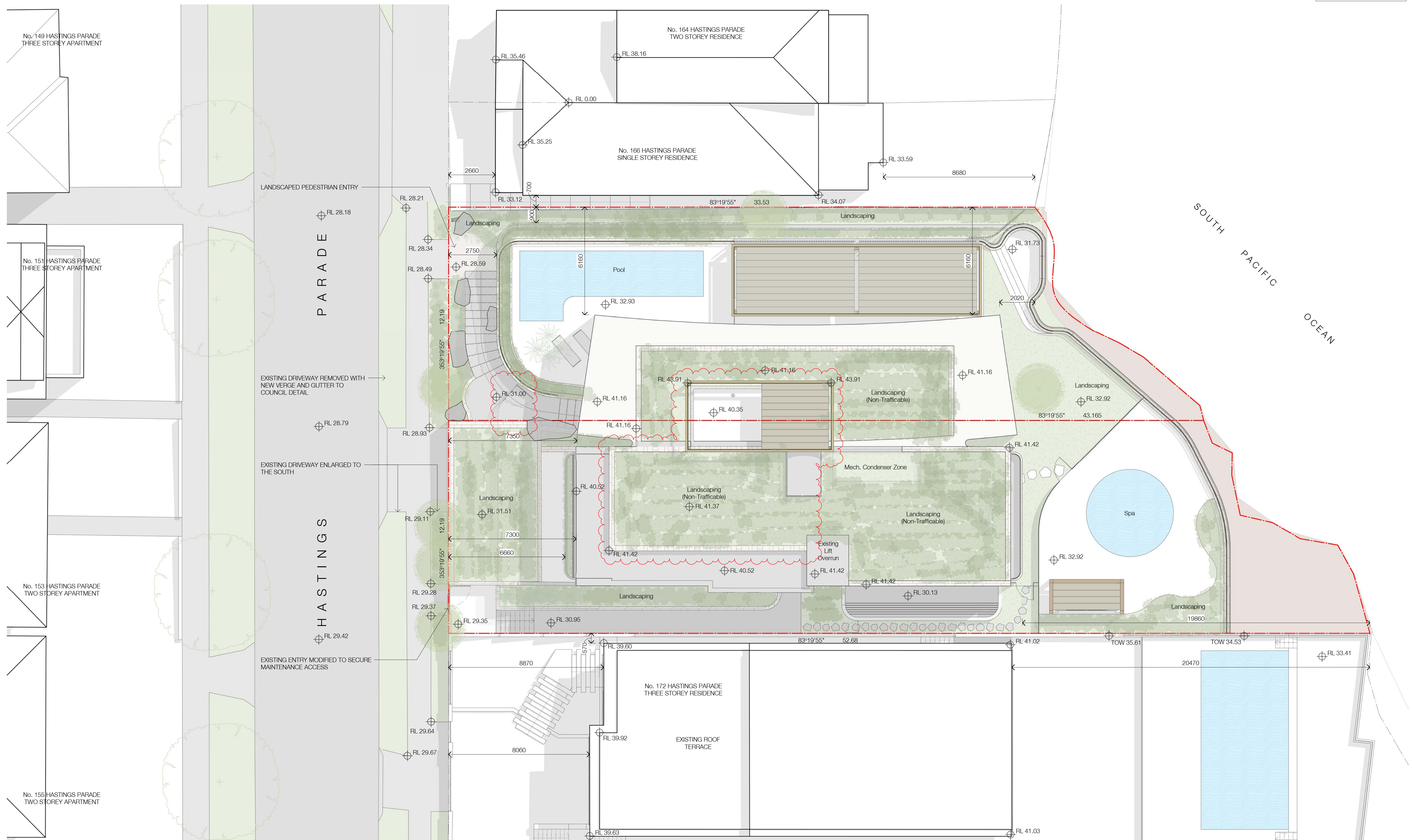
Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
SITE PLAN - ANALYSIS

Date	Scale	Sheet Size
27.01.22	1 : 100	@ A1
Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.		Revision
DA-0102		/ 8

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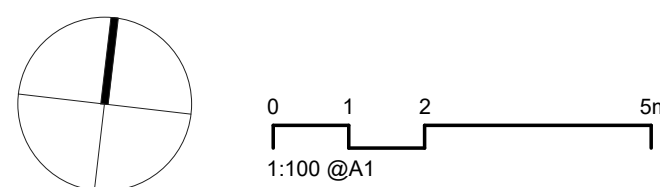






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**Nominated Architects: Adam Haddow-7188 | John Pradel-7004**



Rev	Date	Revision	By	Chk.
2	24.06.21	FOR COORDINATION		
3	02.07.21	FOR COORDINATION		
4	09.07.21	DRAFT DA ISSUE		
5	21.07.21	DA ISSUE		
7	29.11.21	REVISIONS TO CAPTURE NEIGHBOUR CHANGES		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project

**NORTH BONDI RESIDENCE**  
168-170 Hastings Parade  
North Bondi, NSW

Drawing Name

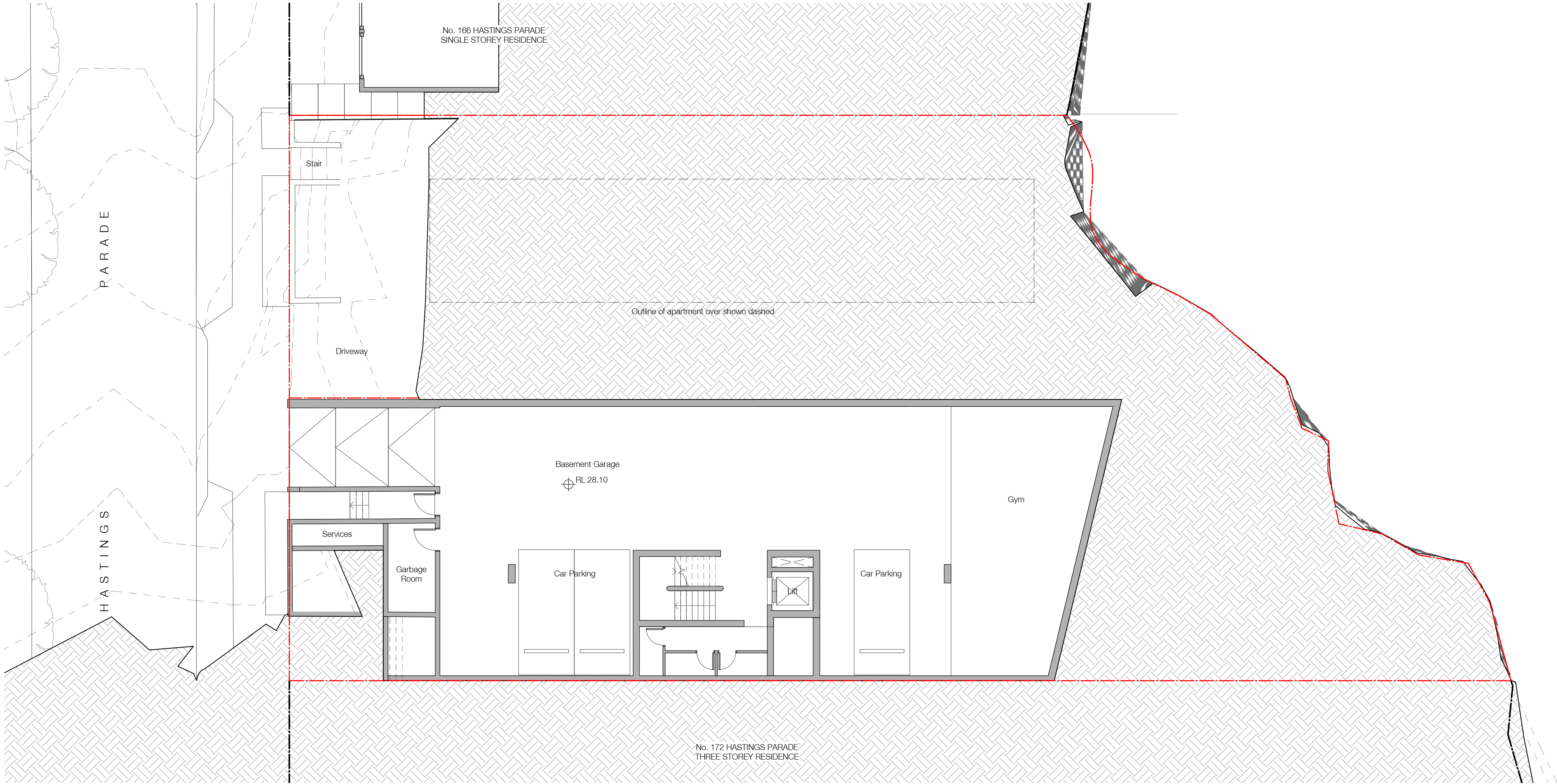
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Date	Scale	Sheet Size
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Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.	Revision	
DA-0103	/ 8	

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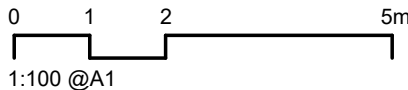
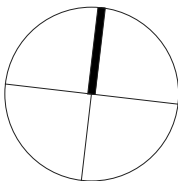






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Nominated Architects: Adam Haddow-7188 | John Pradel-7004



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3	02.07.21	FOR COORDINATION		
4	09.07.21	DRAFT DA ISSUE		
5	21.07.21	DA ISSUE		
7	29.11.21	REVISIONS TO CAPTURE NEIGHBOUR CHANGES		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

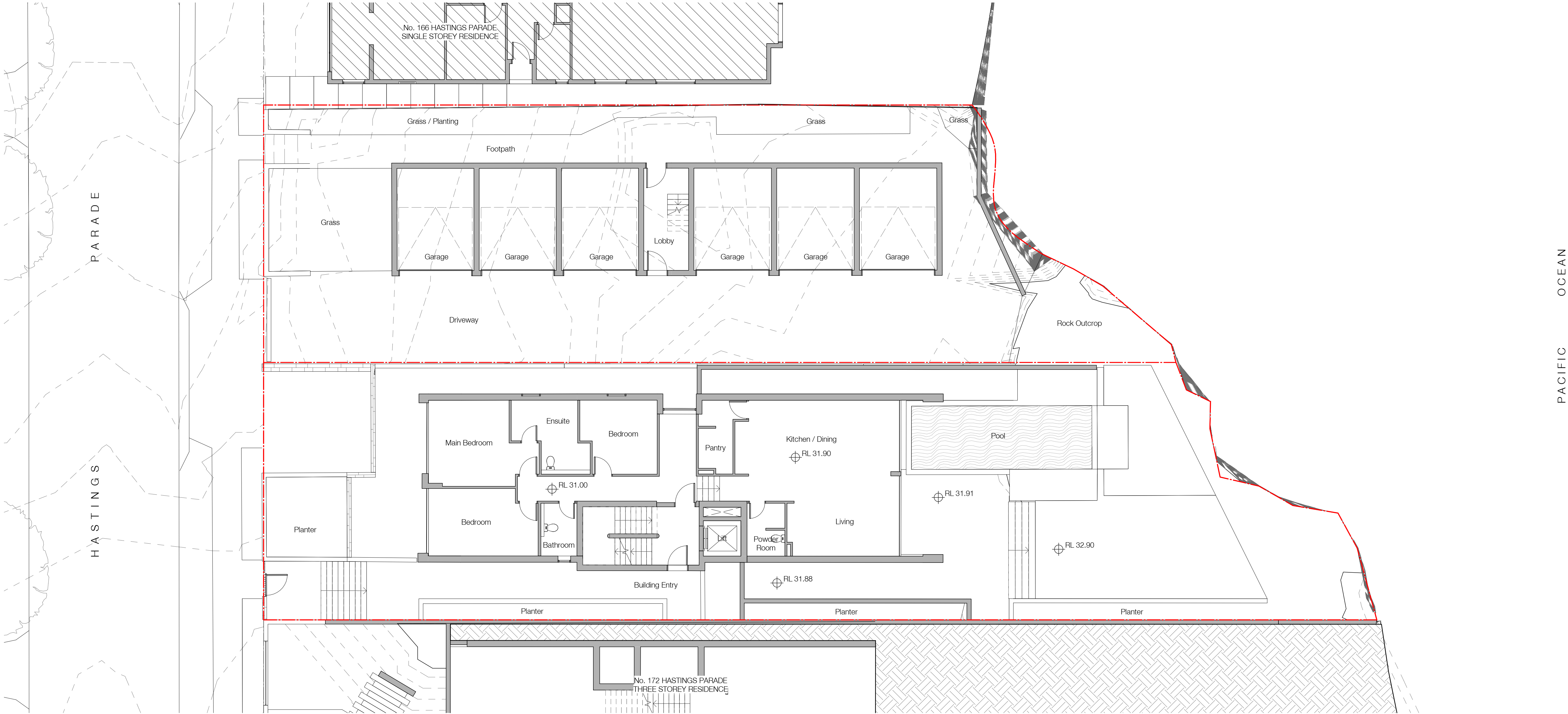
Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
EXISTING FLOOR PLAN - BASEMENT

Date	Scale	Sheet Size
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Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.	Revision	
DA-0201	/ 8	

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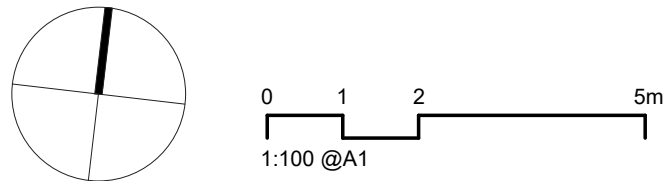






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Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
EXISTING FLOOR PLAN - LOWER GROUND

Date	Scale	Sheet Size
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PB	AH	6414
Drawing No.	Revision	
DA-0202	/ 8	

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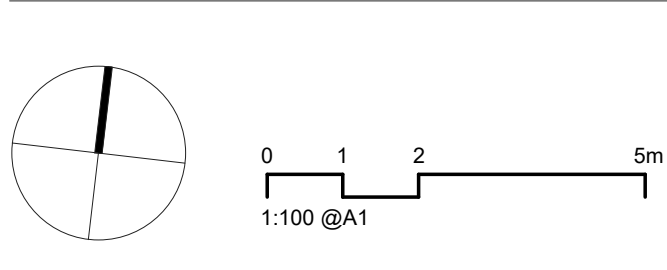






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Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
EXISTING FLOOR PLAN - GROUND

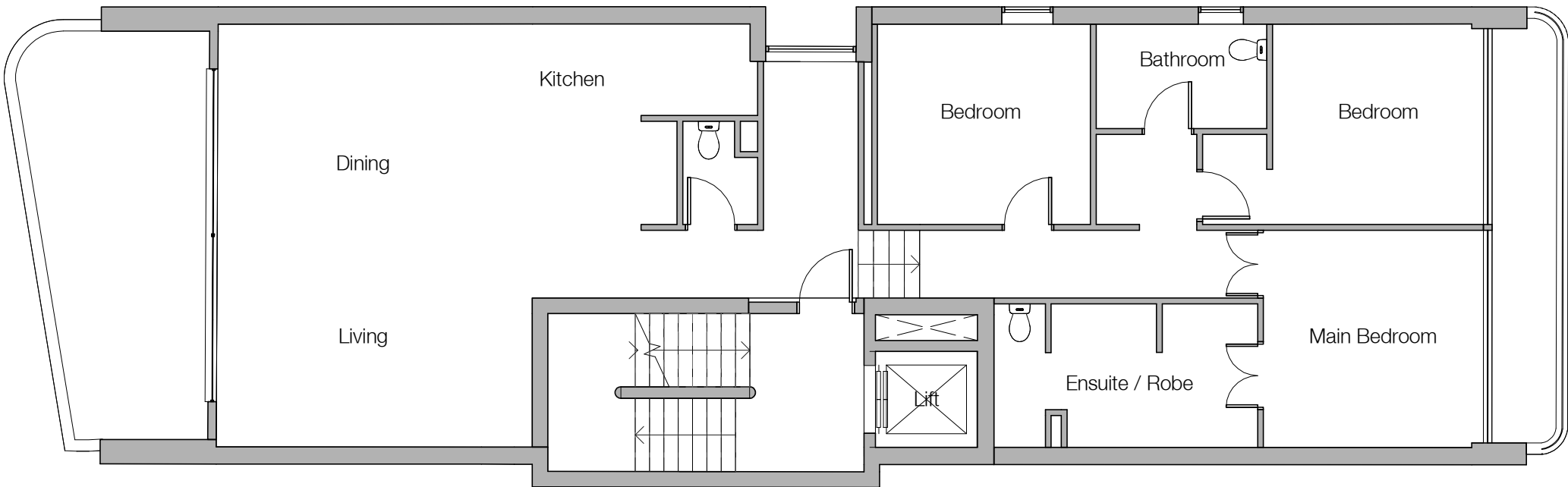
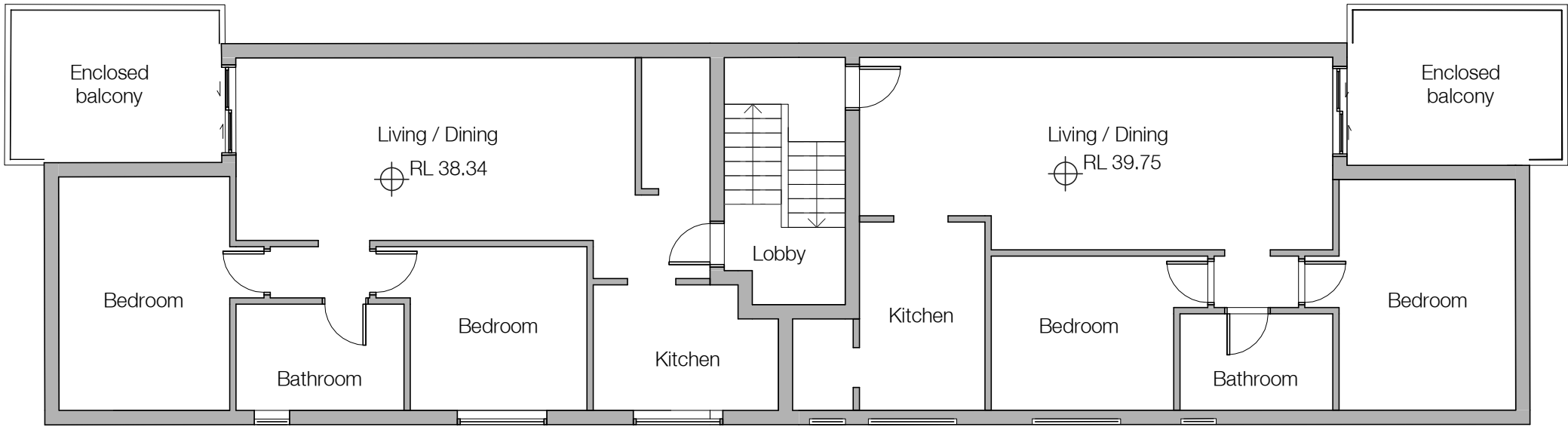
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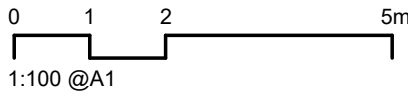
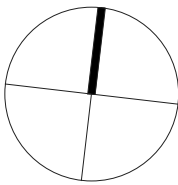
HASTINGS  
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OCEAN  
PACIFIC



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Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
EXISTING FLOOR PLAN - LEVEL 1

Date	Scale	Sheet Size
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Drawing No.	Revision	
DA-0204	/ 8	

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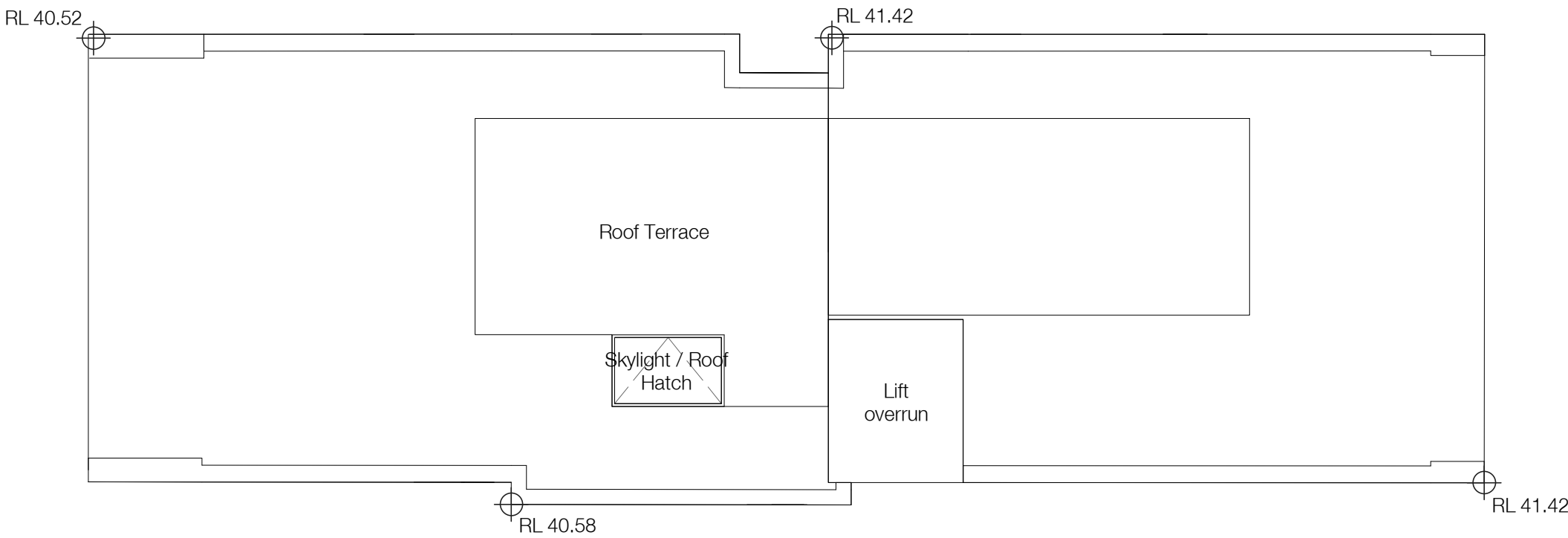
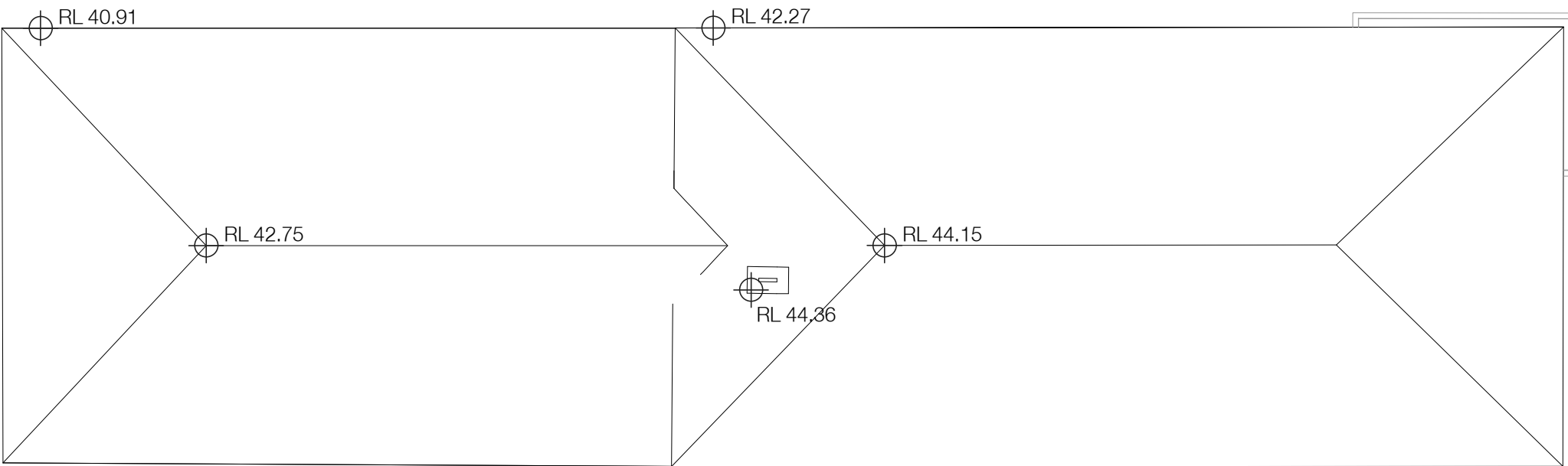
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HASTINGS

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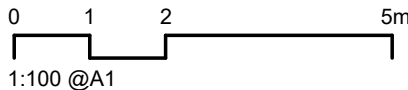
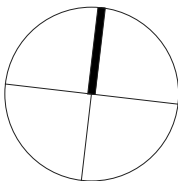
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SINGLE STOREY RESIDENCE



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THREE STOREY RESIDENCE

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8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
EXISTING FLOOR PLAN - ROOF

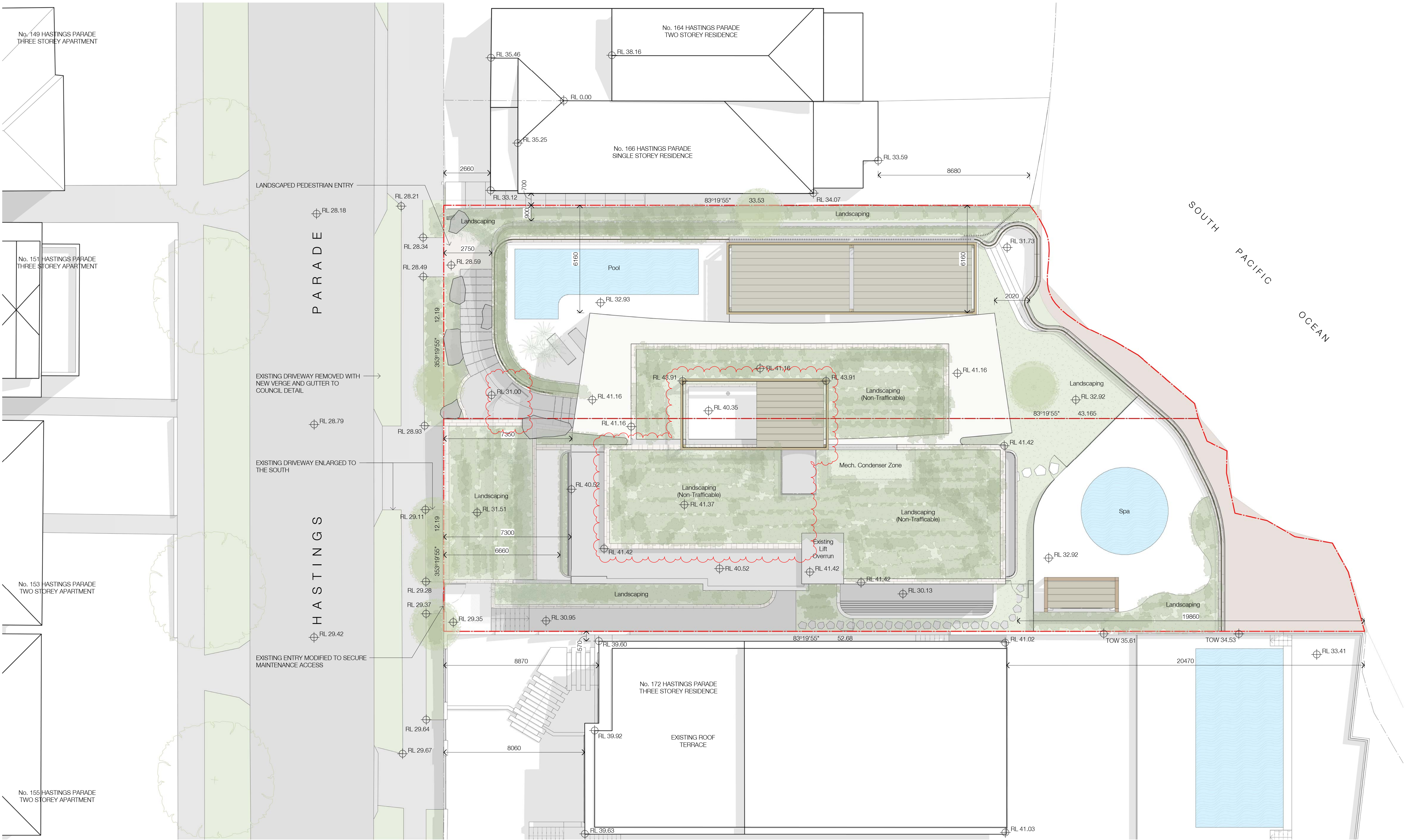
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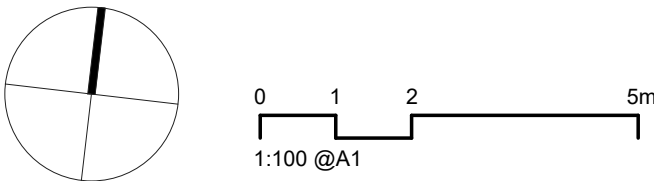




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8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

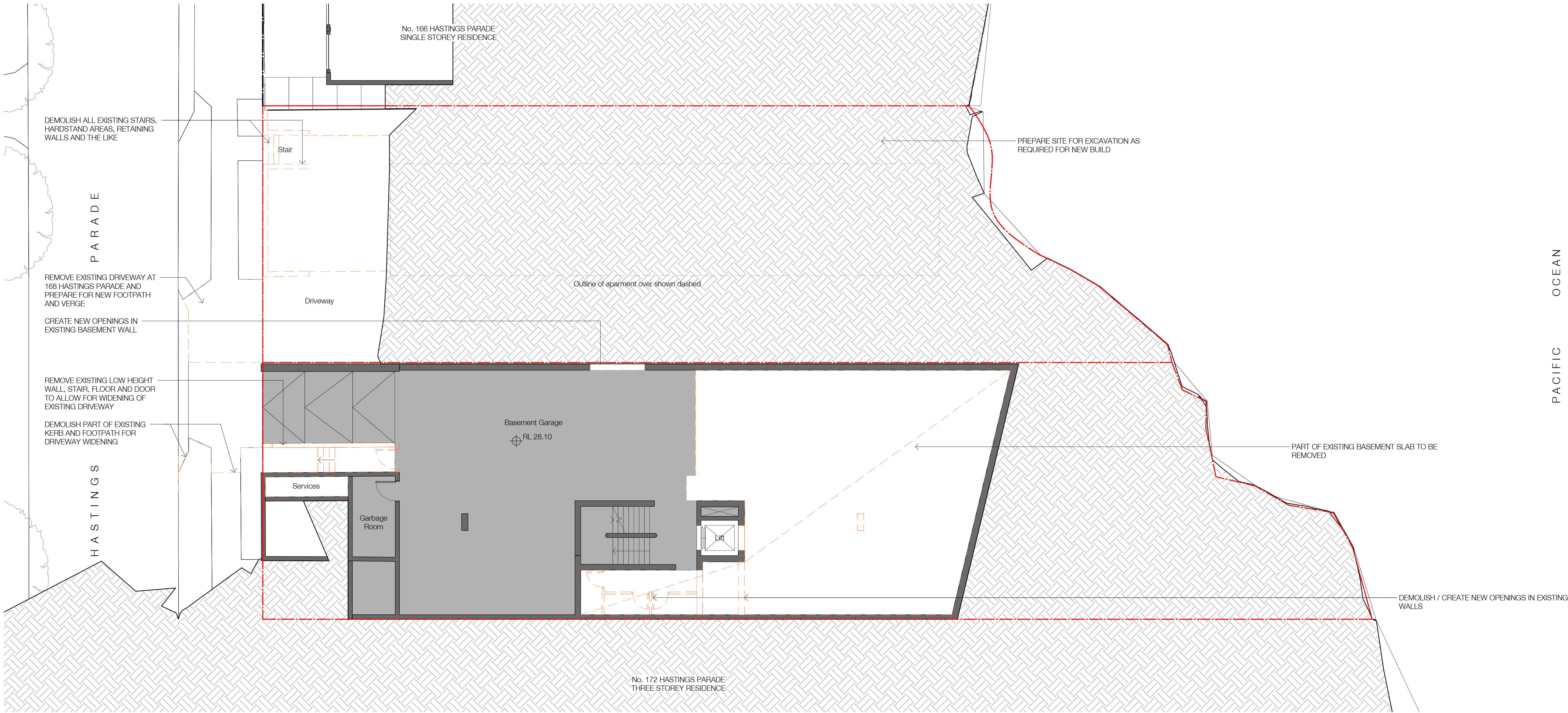
Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
SITE PLAN - PROPOSED

Date  
27.01.22  
Scale  
1 : 100  
Sheet Size  
@ A1  
Drawn  
PB  
Chk.  
AH  
Job No.  
6414  
Revision  
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Drawing No.  
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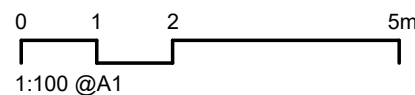
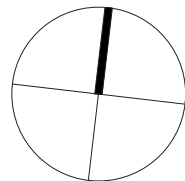






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8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project  
**NORTH BONDI RESIDENCE**  
**168-170 Hastings Parade**  
**North Bondi, NSW**  
Drawing Name  
**DEMOLITION FLOOR PLAN - BASEMENT**

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Drawing No.		Revision
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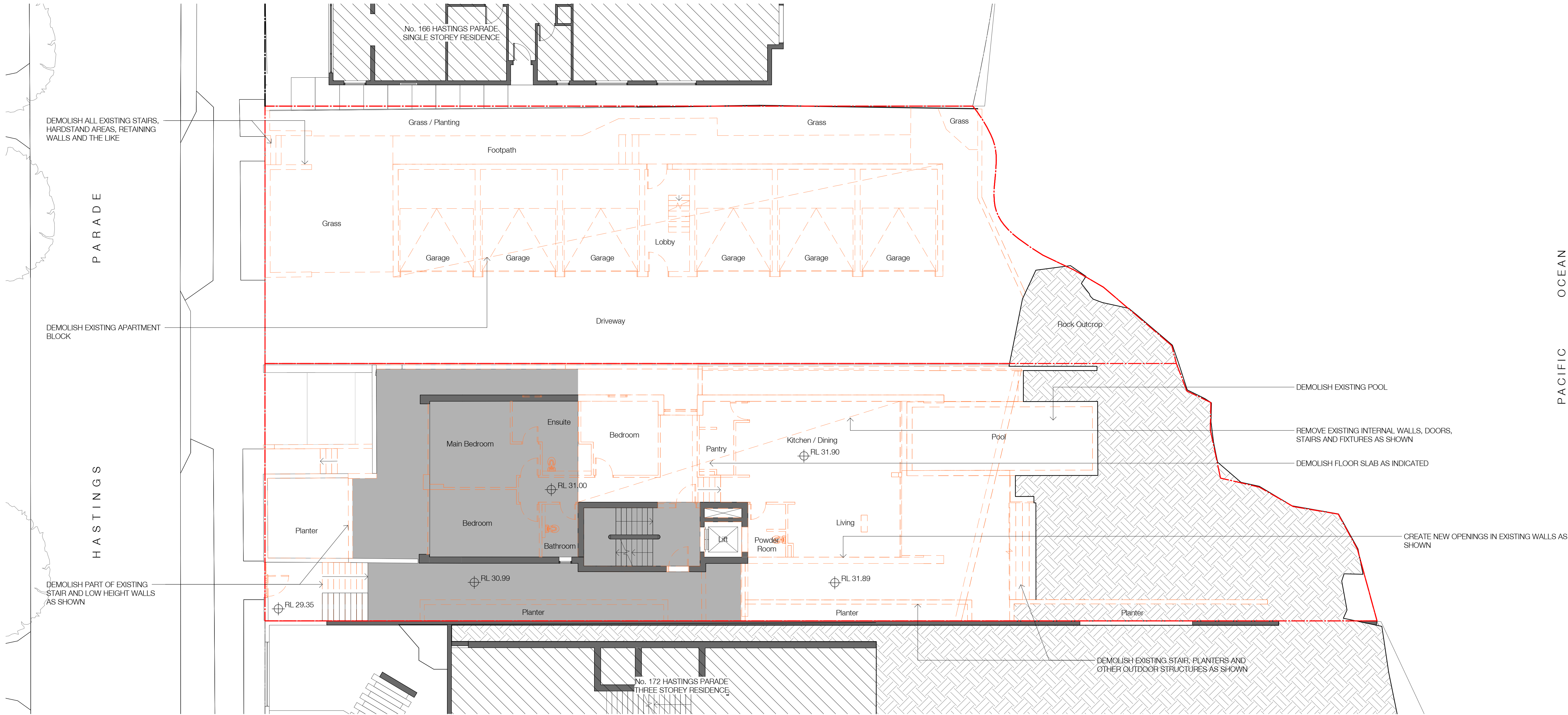
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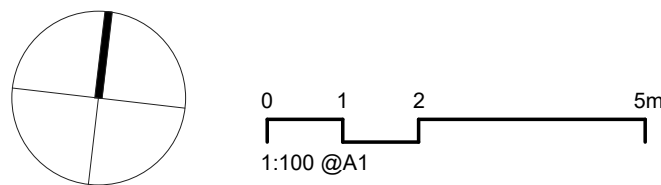
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8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
DEMOLITION FLOOR PLAN - LOWER  
GROUND

Date	Scale	Sheet Size
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Drawing No.	Revision	
DA-0302	/ 8	

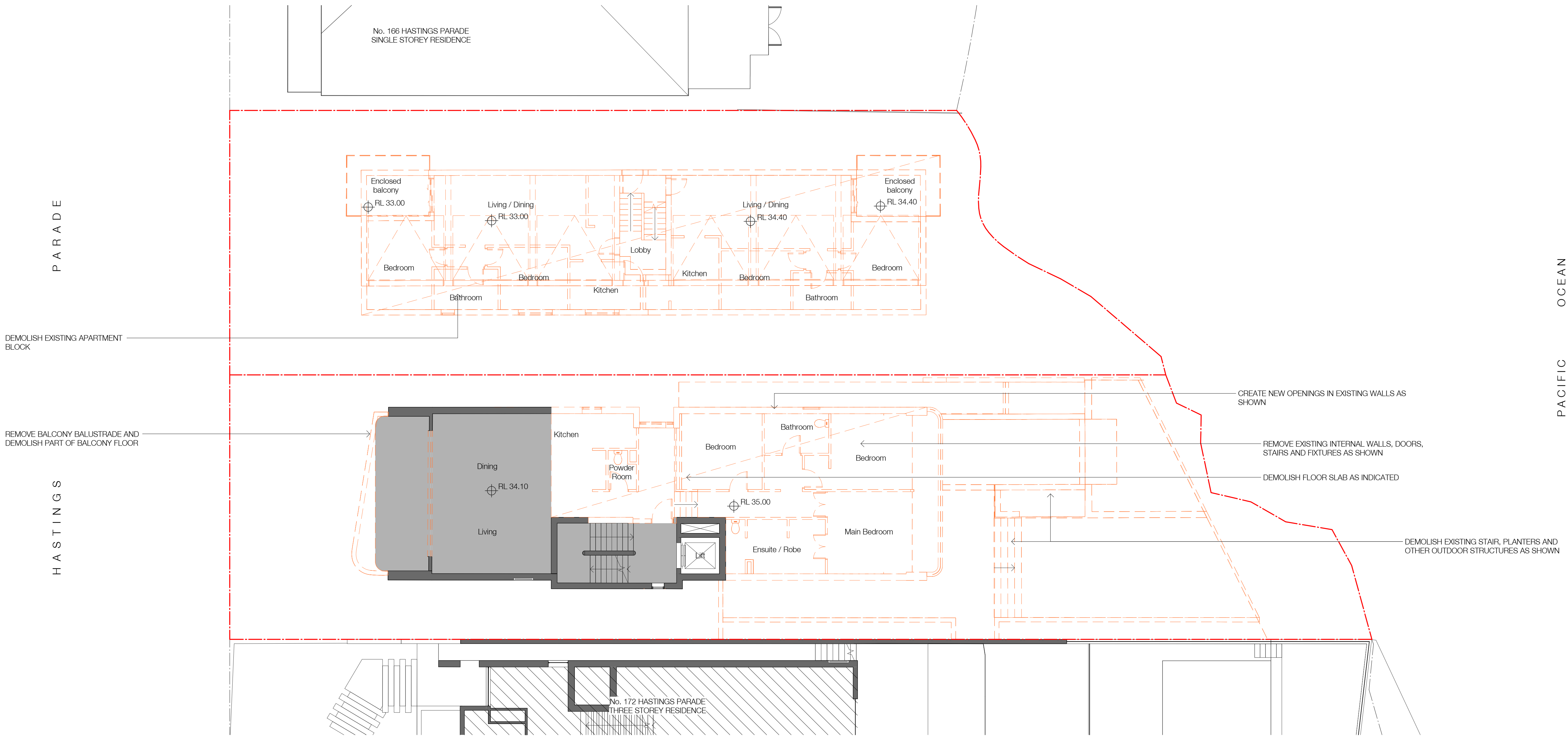
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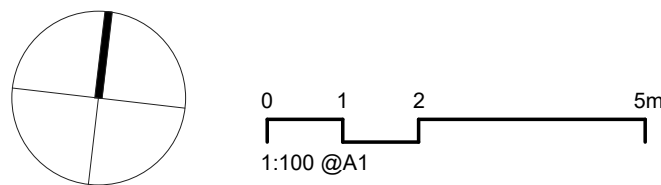






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Project  
**NORTH BONDI RESIDENCE**  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
**DEMOLITION FLOOR PLAN - GROUND**

Date	Scale	Sheet Size
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Drawing No.		Revision
DA-0303		/ 8

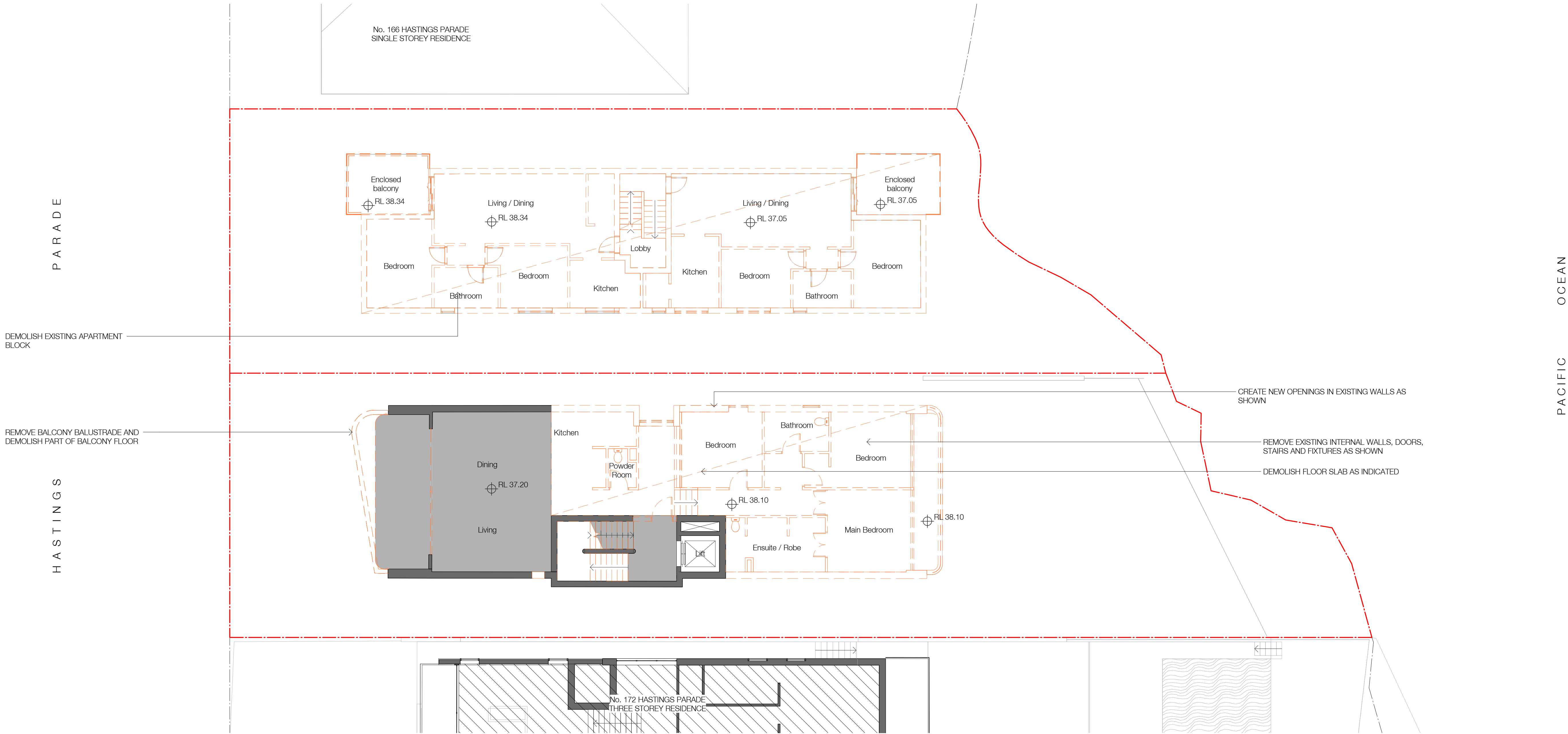
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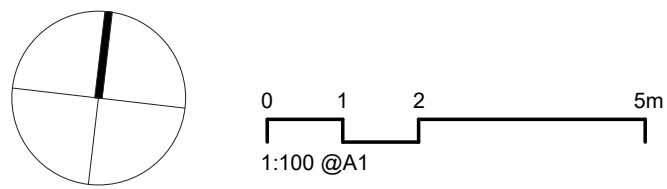
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Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
DEMOLITION FLOOR PLAN - LEVEL 1

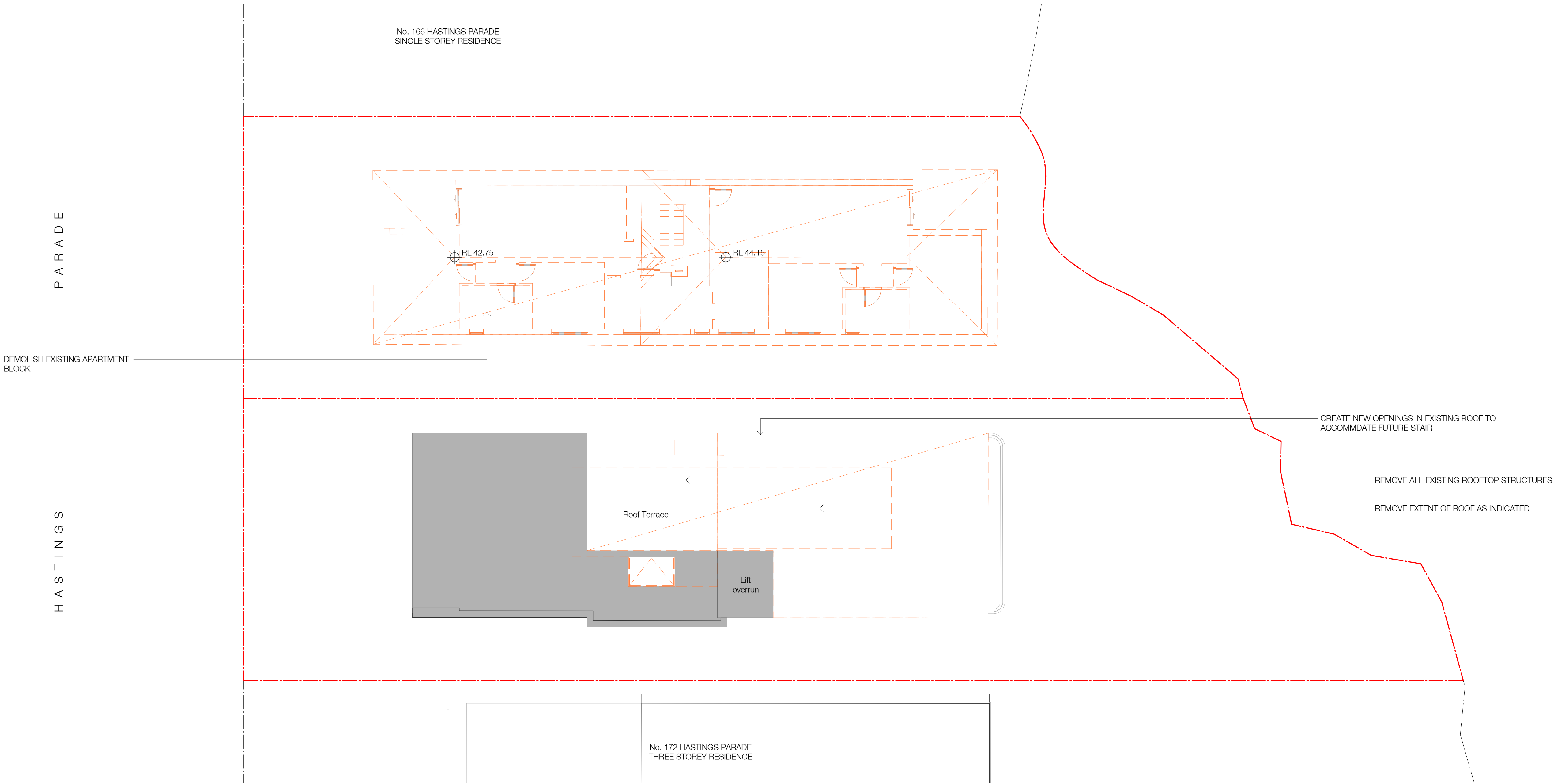
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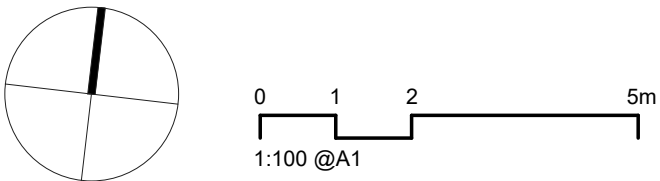
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Project  
**NORTH BONDI RESIDENCE**  
**168-170 Hastings Parade**  
**North Bondi, NSW**  
Drawing Name  
**DEMOLITION FLOOR PLAN - ROOF**

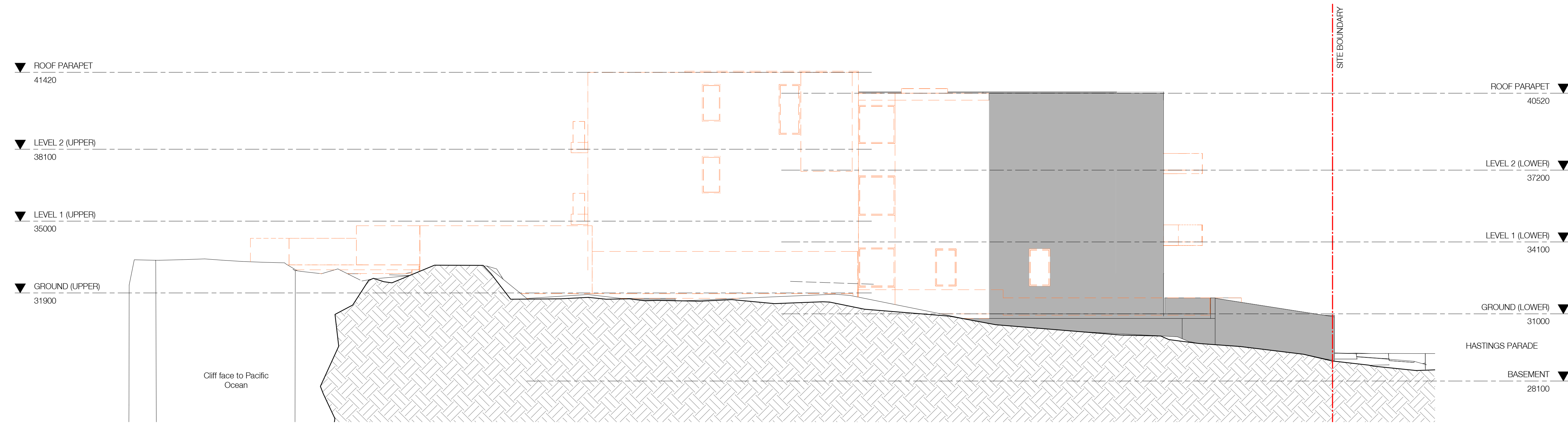
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PB	AH	6414
Drawing No.	Revision	
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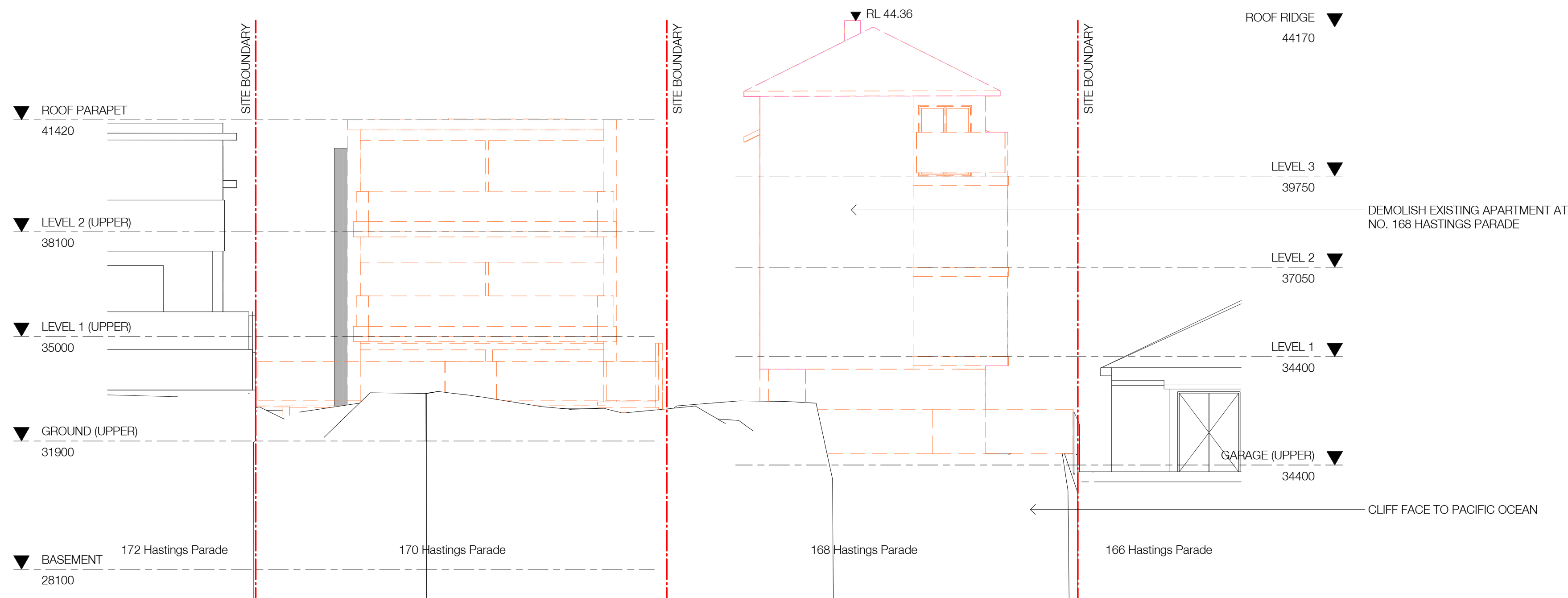
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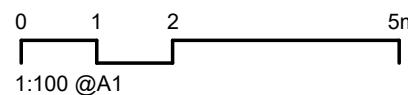


1 Demolition Elevation - North  
1 : 100



2 Demolition Elevation - East  
1 : 100

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3	02.07.21	FOR COORDINATION		
4	09.07.21	DRAFT DA ISSUE		
5	21.07.21	DA ISSUE		
7	29.11.21	REVISIONS TO CAPTURE NEIGHBOUR CHANGES		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

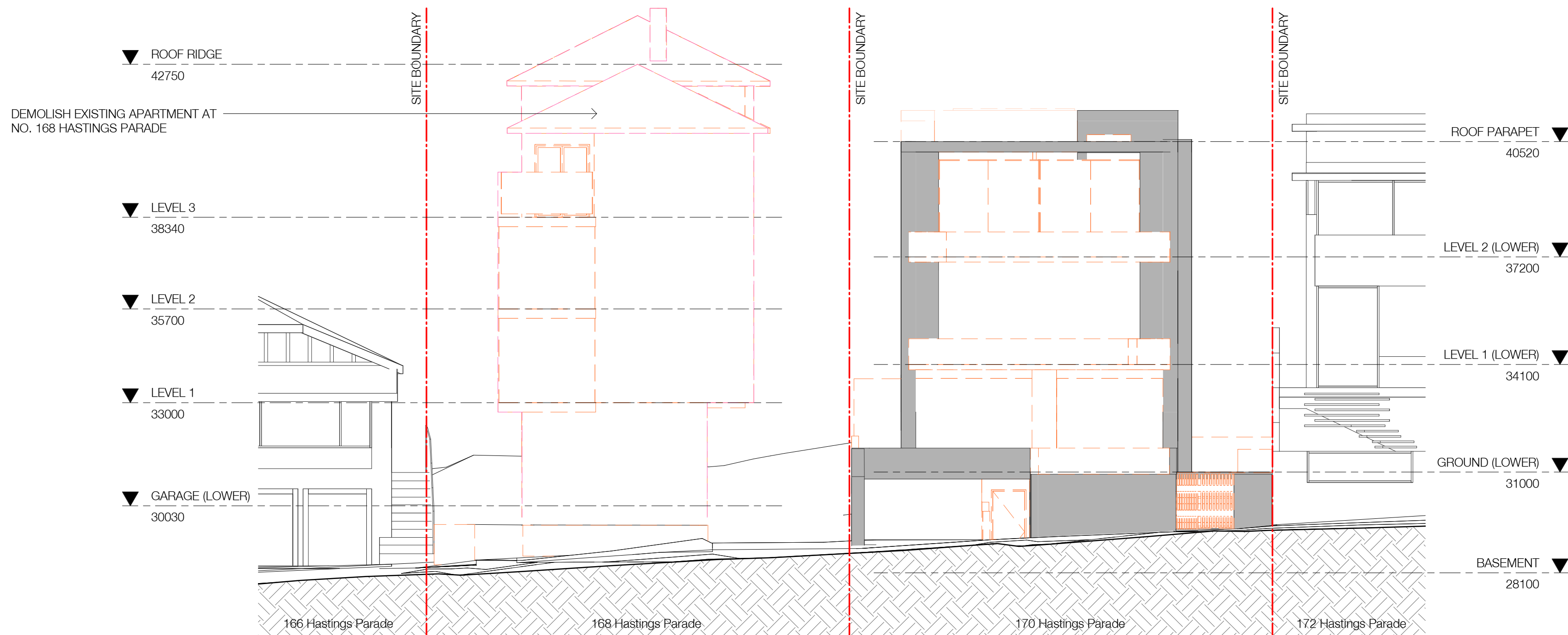
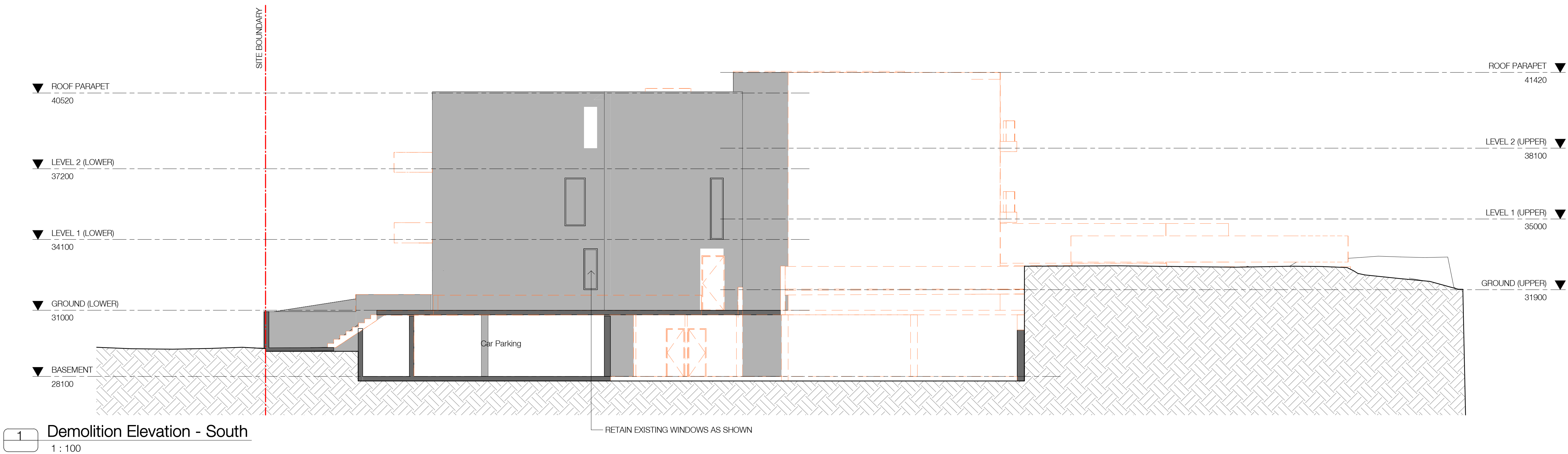
Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
DEMOLITION ELEVATION - NORTH AND EAST

Date  
27.01.22  
Scale  
1 : 100  
Sheet Size  
@ A1  
Drawn  
PB  
Chk.  
AH  
Job No.  
6414  
Drawing No.  
DA-0311  
Revision  
/ 8

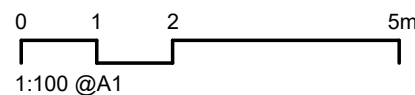
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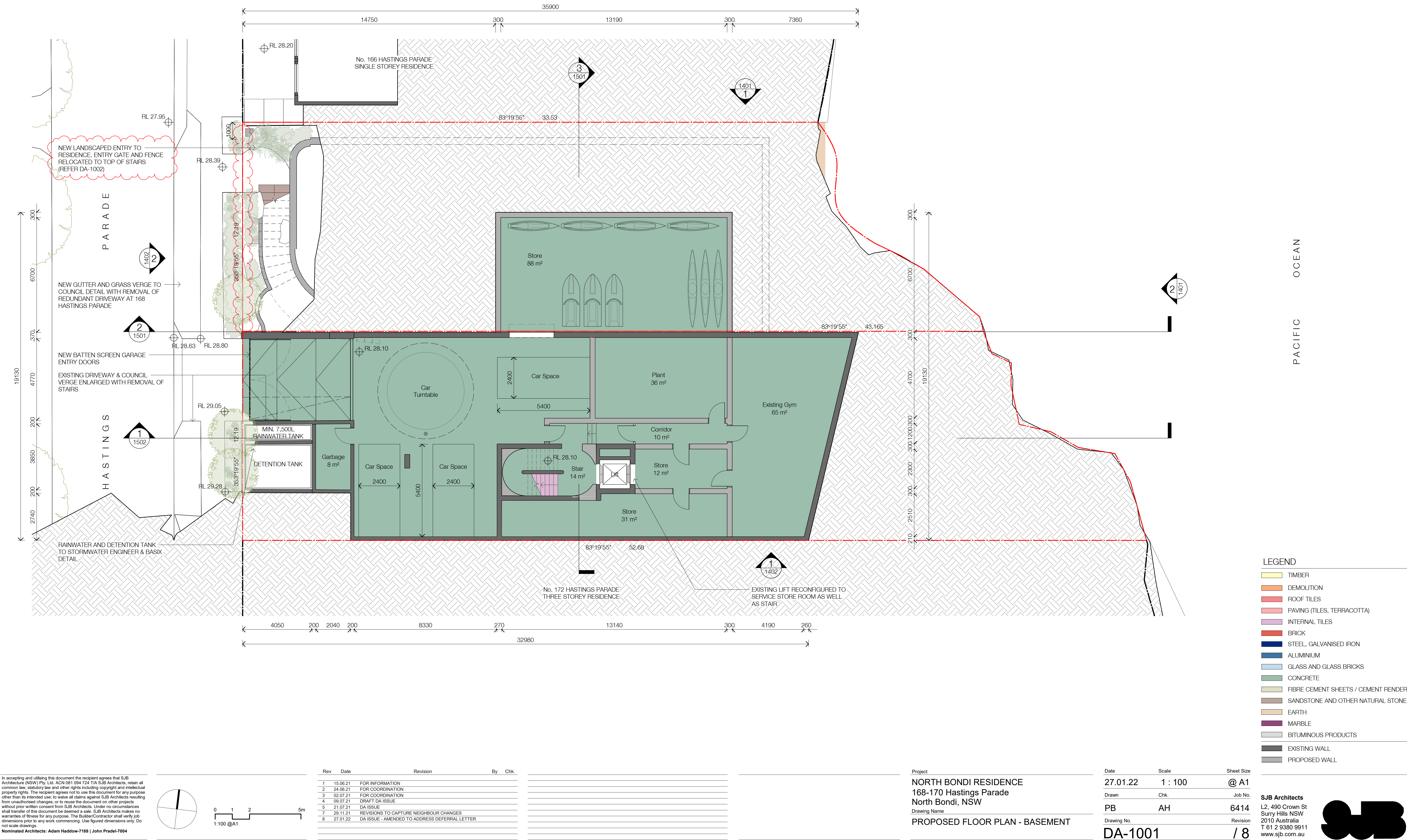
Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
DEMOLITION ELEVATION - SOUTH AND WEST

Date	Scale	Sheet Size
27.01.22	1 : 100	@ A1
Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.		Revision
DA-0312		/ 8

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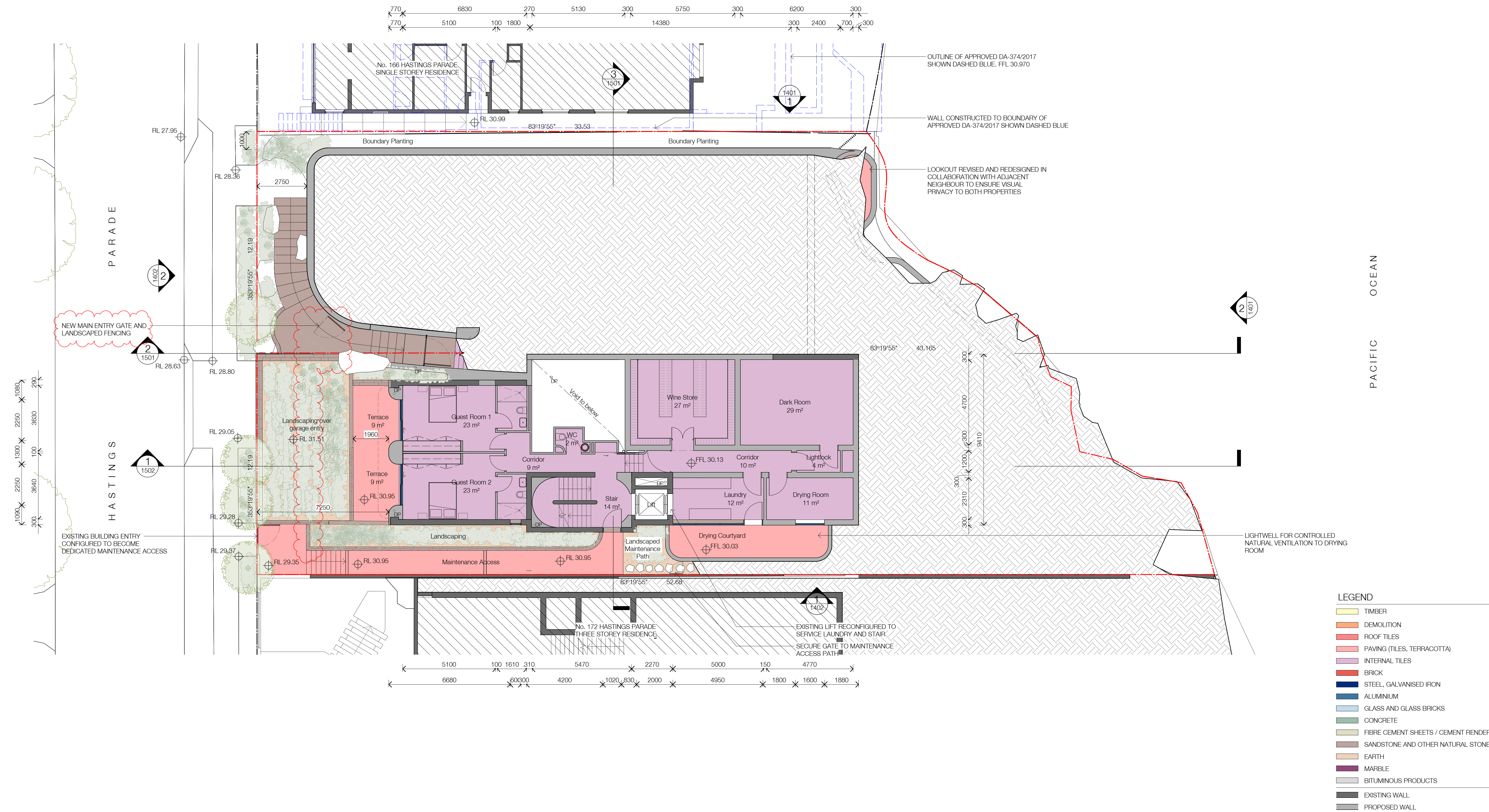






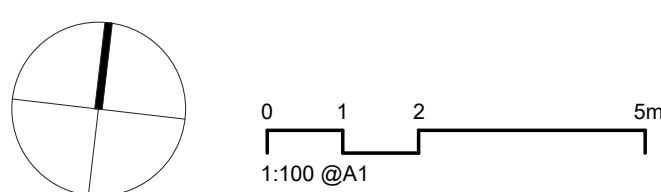


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Project  
**NORTH BONDI RESIDENCE**  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
**PROPOSED FLOOR PLAN - LOWER GROUND**

Date  
**27.01.22**  
Scale  
**1 : 100**  
Sheet Size  
**@ A1**  
Drawn  
**PB**  
Chk.  
**AH**  
Job No.  
**6414**  
Drawing No.  
**DA-1002**  
Revision  
**/ 8**

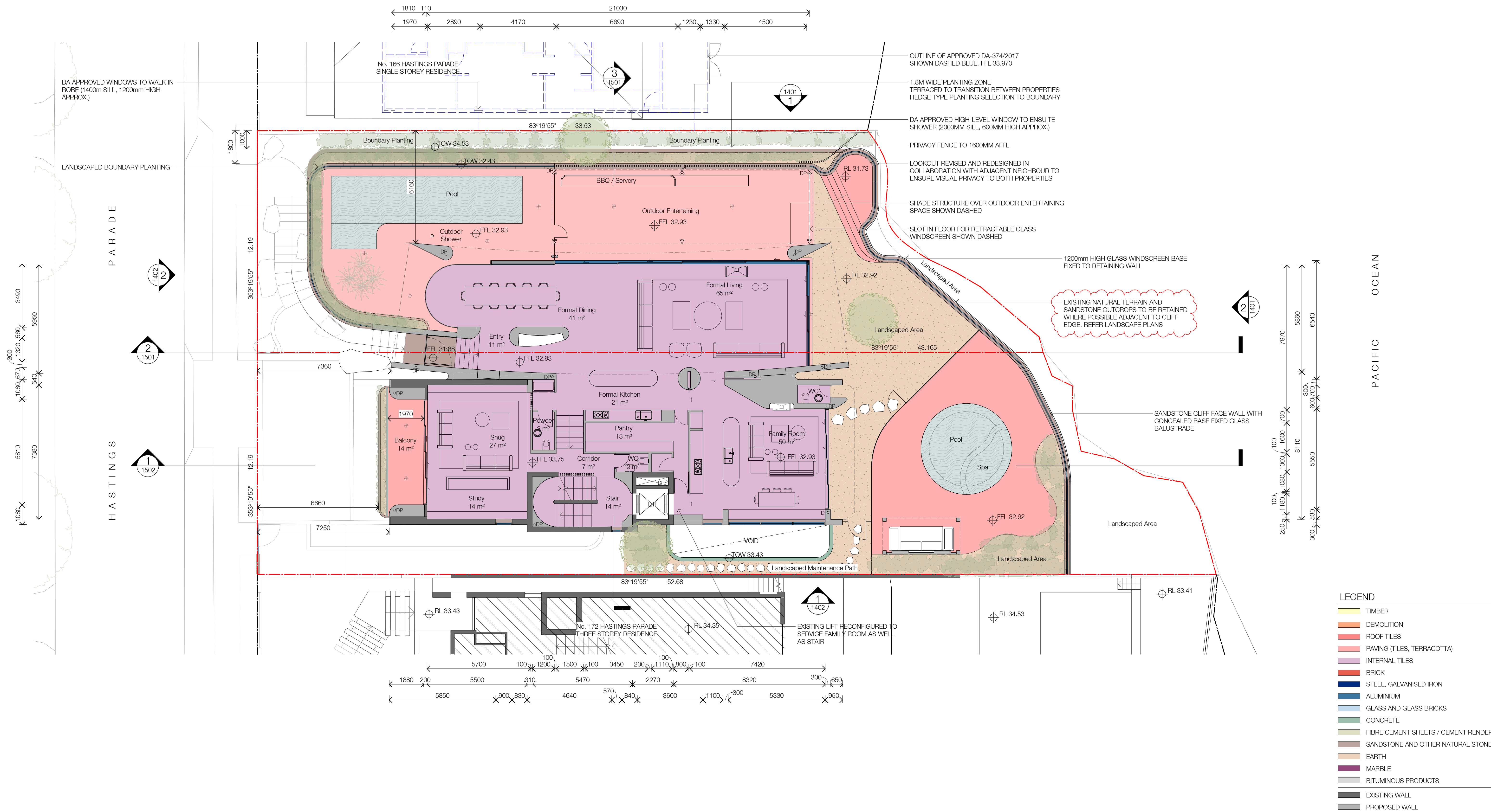
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- TIMBER
  - DEMOLITION
  - ROOF TILES
  - PAVING (TILES, TERRACOTTA)
  - INTERNAL TILES
  - BRICK
  - STEEL, GALVANISED IRON
  - ALUMINIUM
  - GLASS AND GLASS BRICKS
  - CONCRETE
  - FIBRE CEMENT SHEETS / CEMENT RENDER
  - SANDSTONE AND OTHER NATURAL STONE
  - EARTH
  - MARBLE
  - BITUMINOUS PRODUCTS
  - EXISTING WALL
  - PROPOSED WALL

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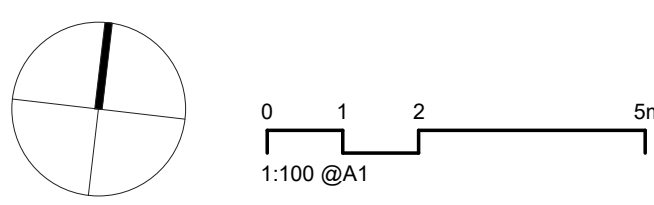




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5	21.07.21	DA ISSUE		
7	29.11.21	REVISIONS TO CAPTURE NEIGHBOUR CHANGES		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
PROPOSED FLOOR PLAN - GROUND

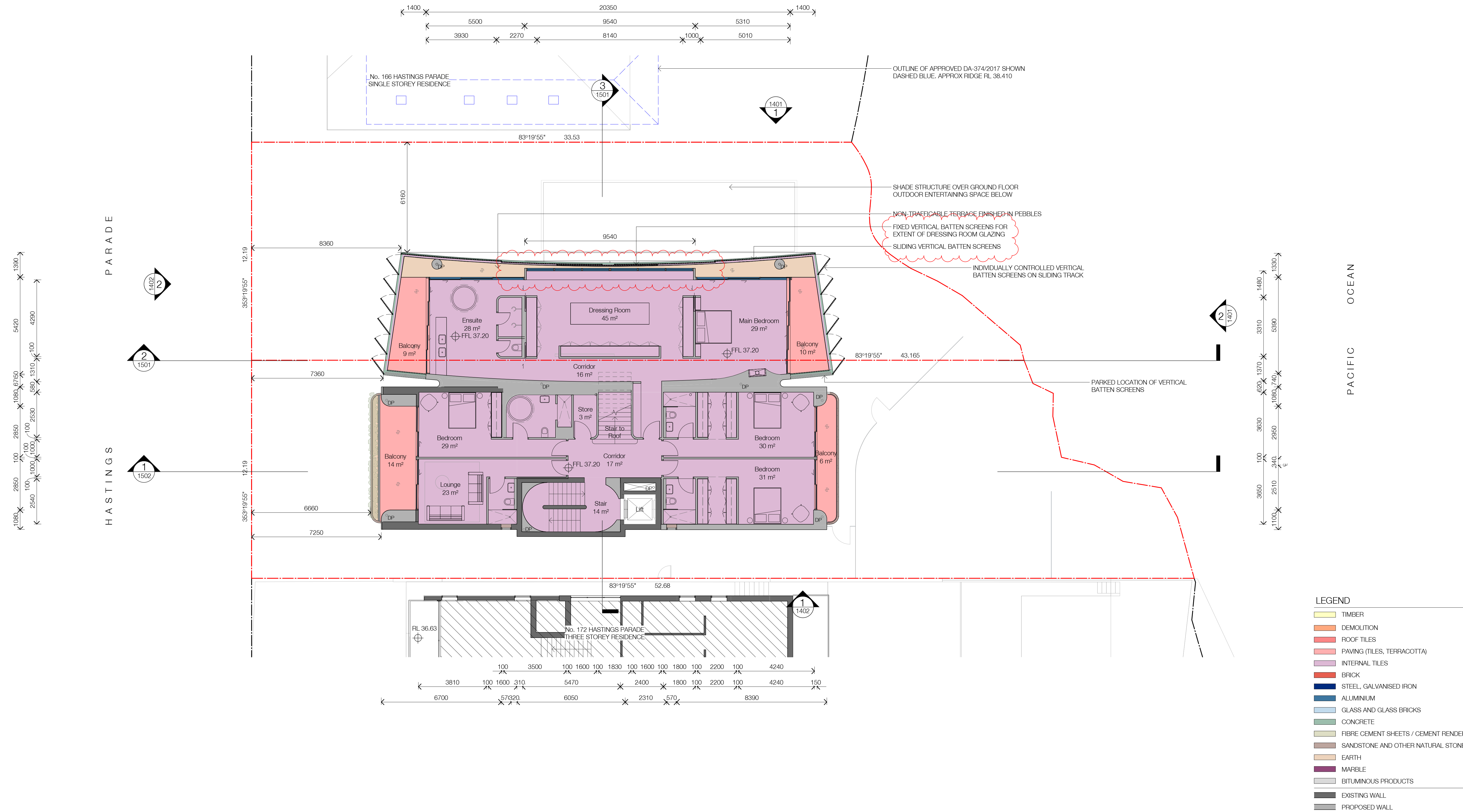
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@ A1  
Drawn  
PB  
Chk.  
AH  
Job No.  
6414  
Drawing No.  
DA-1003  
Revision  
/ 8

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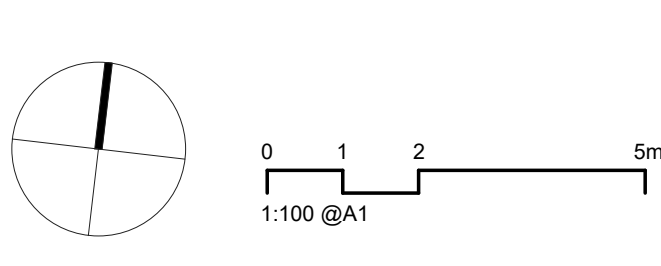


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7	28.11.21	REVISIONS TO CAPTURE NEIGHBOUR CHANGES		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
PROPOSED FLOOR PLAN - LEVEL 1

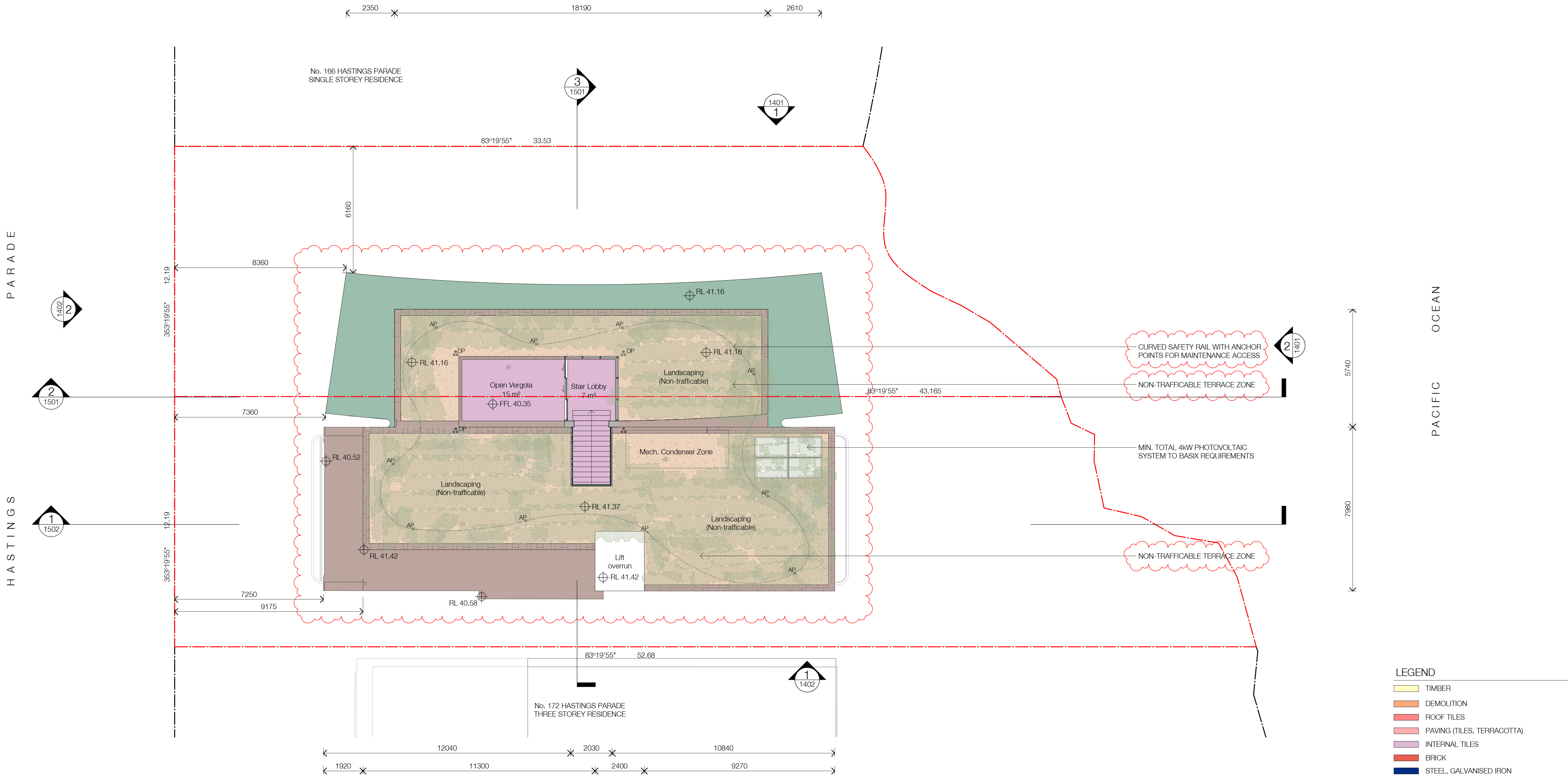
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Scale  
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Drawn  
PB  
Chk.  
AH  
Job No.  
6414  
Drawing No.  
DA-1004  
Revision  
/ 8

- LEGEND
- TIMBER
  - DEMOLITION
  - ROOF TILES
  - PAVING (TILES, TERRACOTTA)
  - INTERNAL TILES
  - BRICK
  - STEEL, GALVANISED IRON
  - ALUMINIUM
  - GLASS AND GLASS BRICKS
  - CONCRETE
  - FIBRE CEMENT SHEETS / CEMENT RENDER
  - SANDSTONE AND OTHER NATURAL STONE
  - EARTH
  - MARBLE
  - BITUMINOUS PRODUCTS
  - EXISTING WALL
  - PROPOSED WALL

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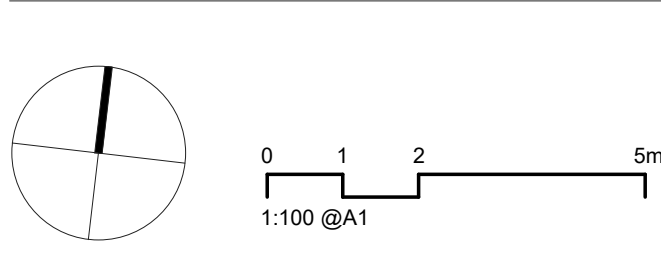
AMENDED PLANS



LEGEND	
	TIMBER
	DEMOLITION
	ROOF TILES
	PAVING (TILES, TERRACOTTA)
	INTERNAL TILES
	BRICK
	STEEL, GALVANISED IRON
	ALUMINIUM
	GLASS AND GLASS BRICKS
	CONCRETE
	FIBRE CEMENT SHEETS / CEMENT RENDER
	SANDSTONE AND OTHER NATURAL STONE
	EARTH
	MARBLE
	BITUMINOUS PRODUCTS
	EXISTING WALL
	PROPOSED WALL

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5	21.07.21	DA ISSUE		
6	27.09.21	ADDITIONAL DA INFORMATION		
7	28.11.21	REVISIONS TO CAPTURE NEIGHBOUR CHANGES		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
PROPOSED FLOOR PLAN - ROOF LEVEL

Date	Scale	Sheet Size
27.01.22	1 : 100	@ A1
Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.		Revision
DA-1005		/ 8

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5	21.07.21	DA ISSUE		
7	29.11.21	REVISIONS TO CAPTURE NEIGHBOUR CHANGES		
8	29.11.21	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project

**NORTH BONDI RESIDENCE**  
168-170 Hastings Parade  
North Bondi, NSW

Drawing Name

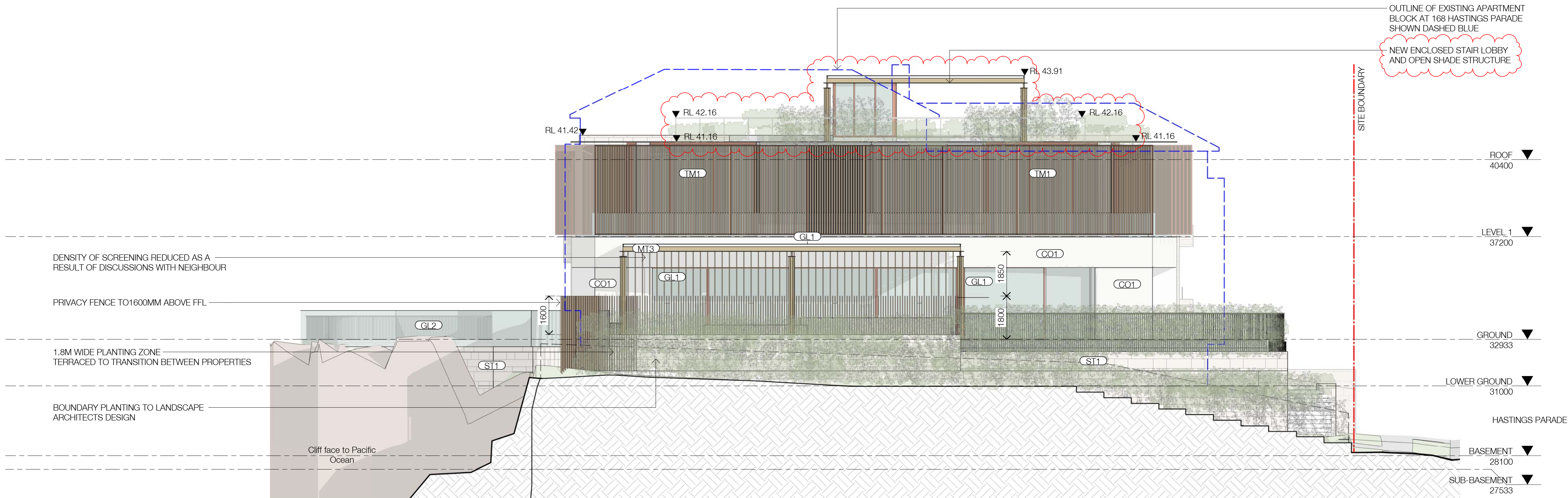
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PB	AH	6414
Drawing No.	Revision	
DA-1006		/ 8

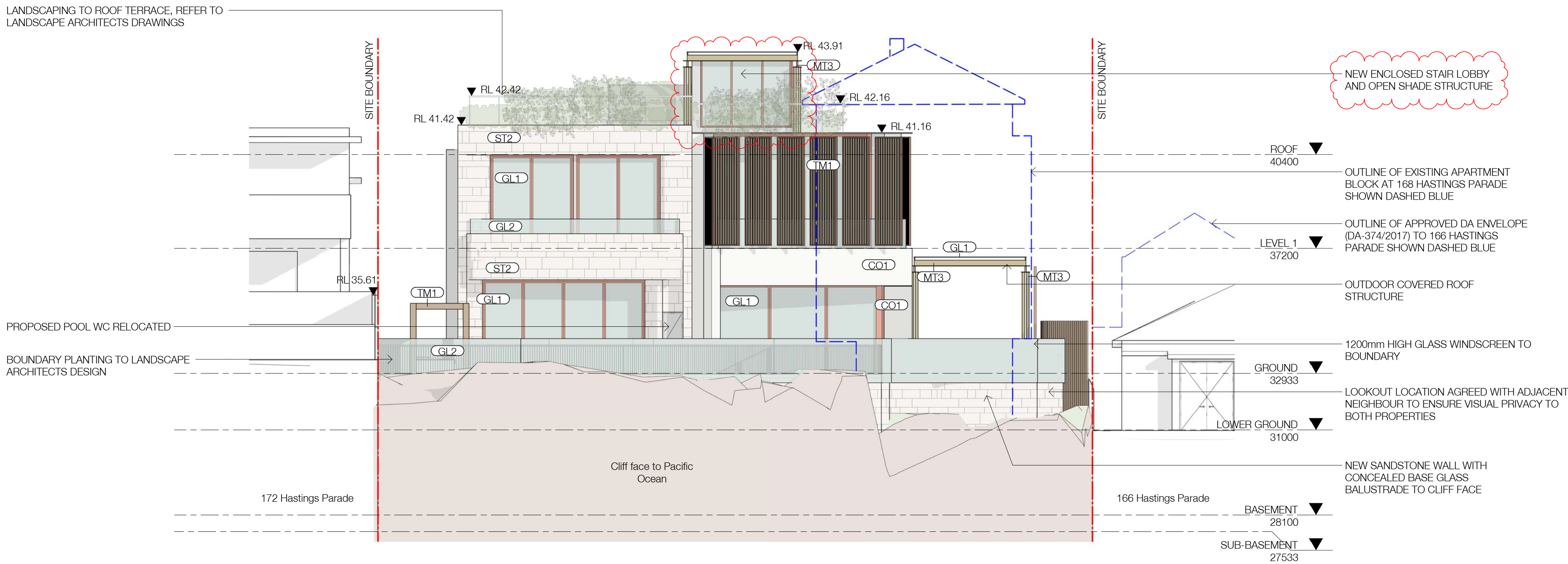
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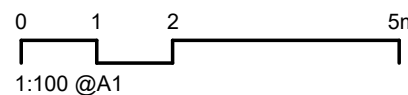
1 North Elevation  
1 : 100



2 East Elevation  
1 : 100

CODE	MATERIAL / FINISH
CO1	CONCRETE, APPLIED TEXTURED FINISH
GL1	GLASS, PERFORMANCE, CLEAR
GL2	GLASS, LAMINATED SAFETY, CLEAR
MR1	METAL ROOF SHEETING
MT1	METAL, MICACEOUS IRON OXIDE, TYPE 1
MT2	METAL, MICACEOUS IRON OXIDE, TYPE 2
MT3	METAL, MICACEOUS IRON OXIDE, TYPE 2
ST1	STONE, SANDSTONE, LARGE FORMAT
ST2	STONE CLADDING, TEXTURED
TM1	TIMBER, TREATED

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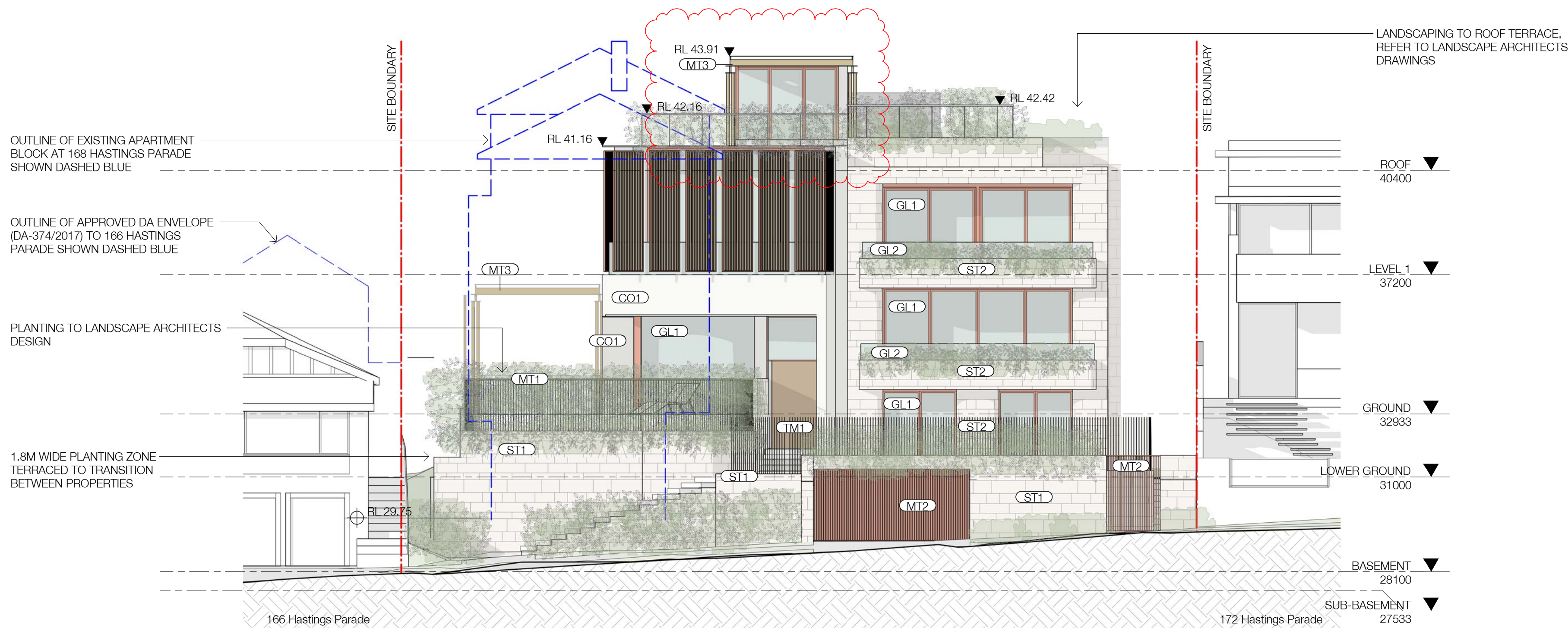
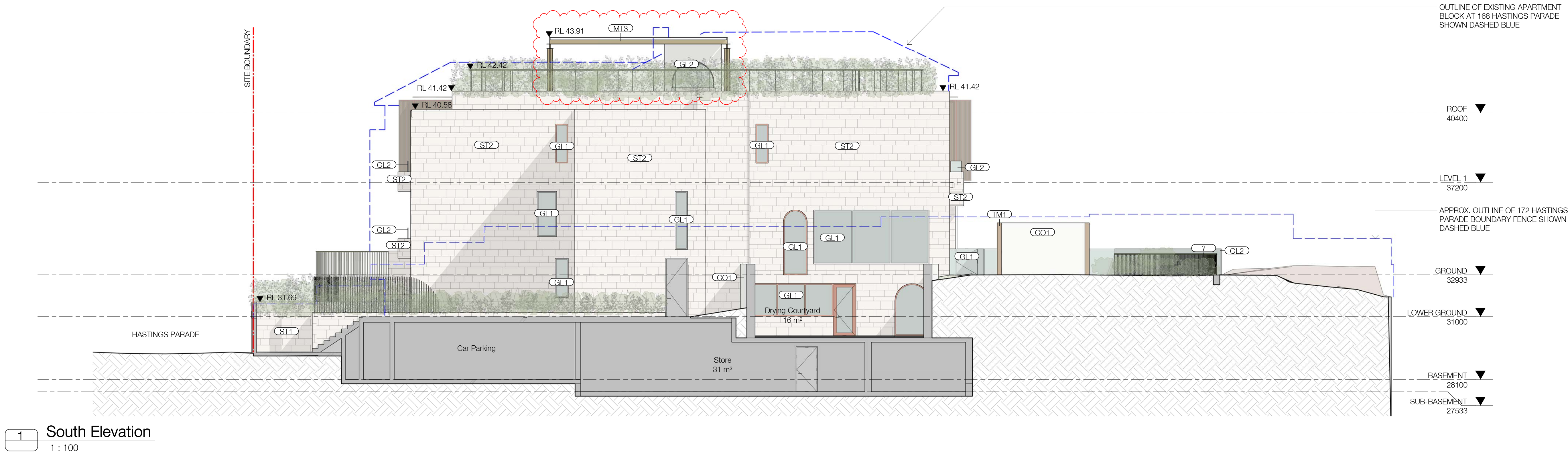
Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
PROPOSED ELEVATION - NORTH & EAST

Date  
27.01.22  
Scale  
1 : 100  
Sheet Size  
@ A1  
Drawn  
PB  
Chk.  
AH  
Revision  
6414  
Drawing No.  
DA-1411  
Revision  
/ 8

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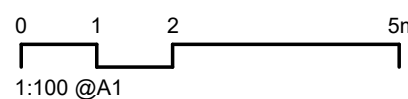






CODE	MATERIAL / FINISH
CO1	CONCRETE, APPLIED TEXTURED FINISH
GL1	GLASS, PERFORMANCE, CLEAR
GL2	GLASS, LAMINATED SAFETY, CLEAR
MR1	METAL ROOF SHEETING
MT1	METAL, MICACEOUS IRON OXIDE, TYPE 1
MT2	METAL, MICACEOUS IRON OXIDE, TYPE 2
MT3	METAL, MICACEOUS IRON OXIDE, TYPE 2
ST1	STONE, SANDSTONE, LARGE FORMAT
ST2	STONE CLADDING, TEXTURED
TM1	TIMBER, TREATED

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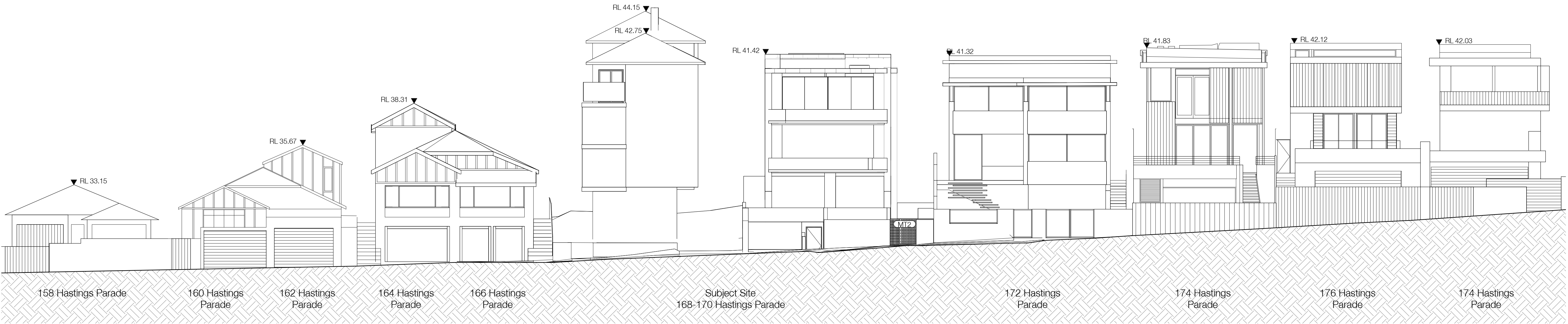
Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
PROPOSED ELEVATION - SOUTH & WEST

Date  
27.01.22  
Scale  
1 : 100  
Sheet Size  
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Chk.  
AH  
Job No.  
6414  
Drawing No.  
DA-1412  
Revision  
/ 8

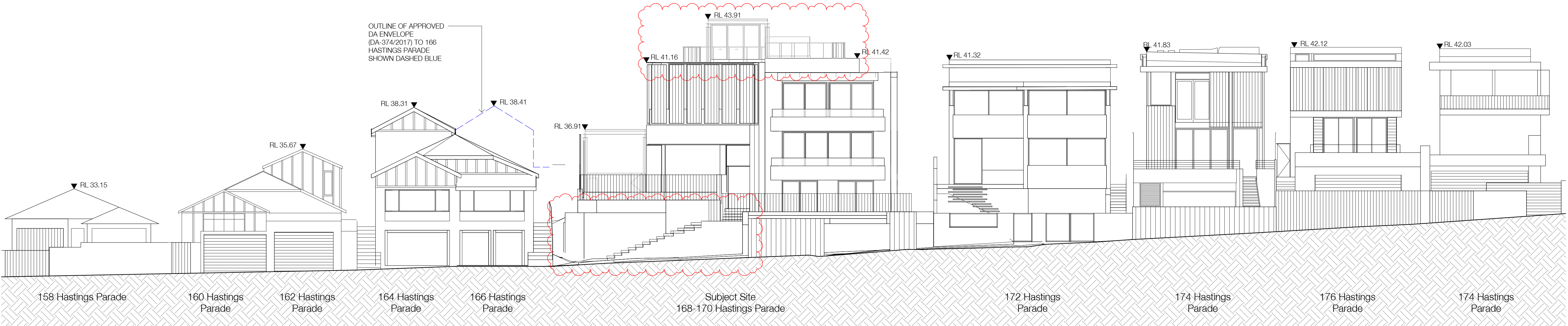
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1 Streetscape Elevation - Existing  
1 : 125



2 Streetscape Elevation - Proposed  
1 : 125

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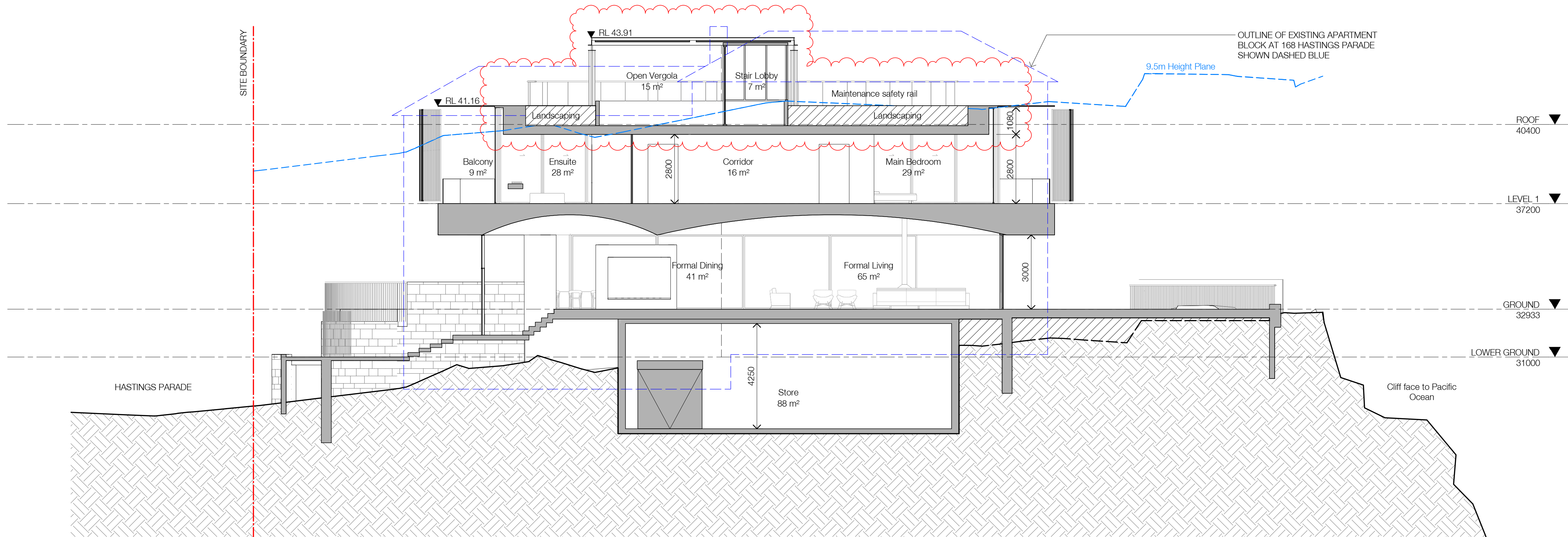
Rev	Date	Revision	By	Chk.
6	27.09.21	ADDITIONAL DA INFORMATION		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
STREETSCAPE ELEVATION

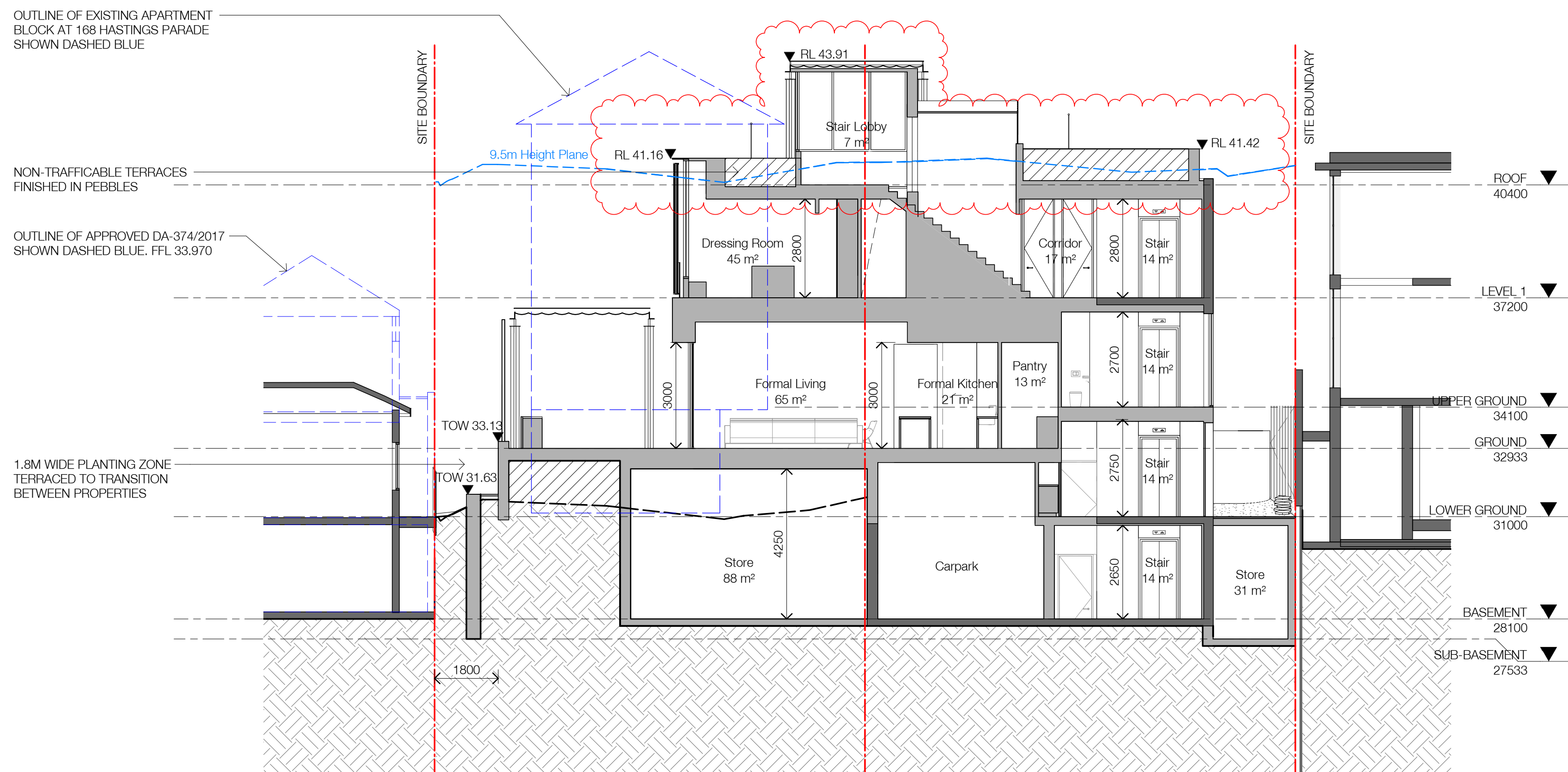
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27.01.22	1 : 125	@ A1
Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.	Revision	
DA-1421	/ 8	

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2 PROPOSED SECTION 1  
1 : 100



3 PROPOSED SECTION 2  
1 : 100

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5	21.07.21	DA ISSUE		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
PROPOSED SECTION 1 & 2

Date  
27.01.22  
Scale  
1 : 100  
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AH  
Job No.  
6414  
Drawing No.  
DA-1501  
Revision  
/ 8

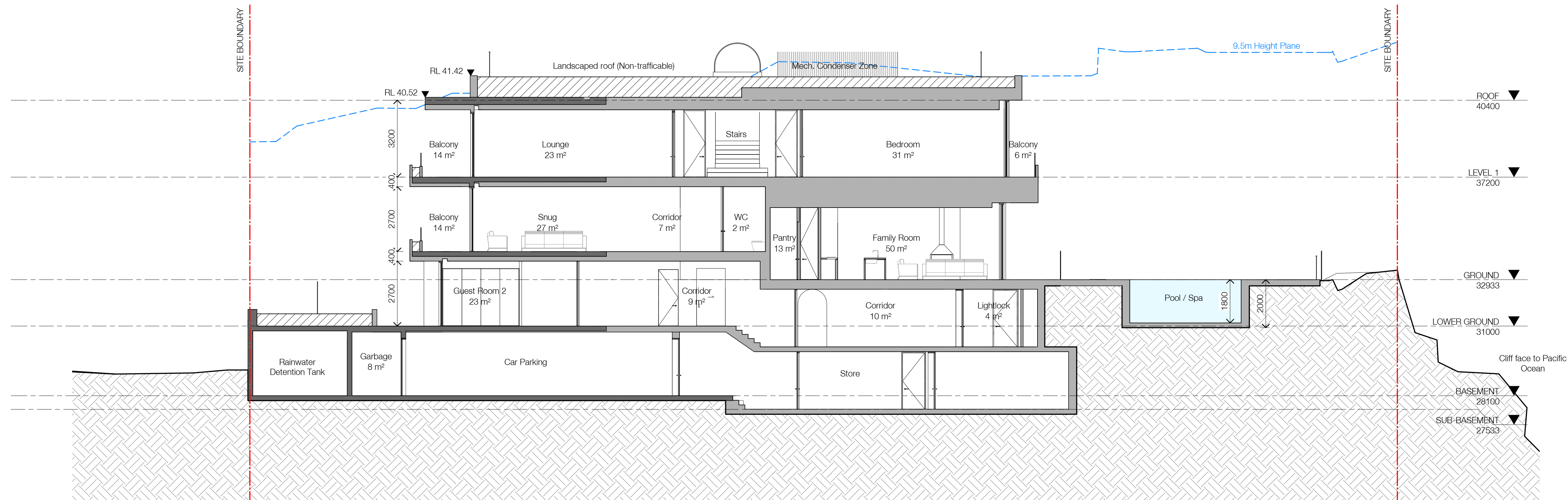
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EXISTING TO BE RETAINED  
PROPOSED WORKS

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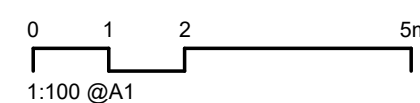




1 PROPOSED SECTION 3  
1 : 100

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**Nominated Architects: Adam Haddow-7188 | John Pradel-7004**

[illegible]

Project

NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW

Drawing Name

PROPOSED SECTION 3

Date	Scale	Sheet Size
27.01.22	1 : 100	@ A1
Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.	Revision	
DA-1502	/ 8	

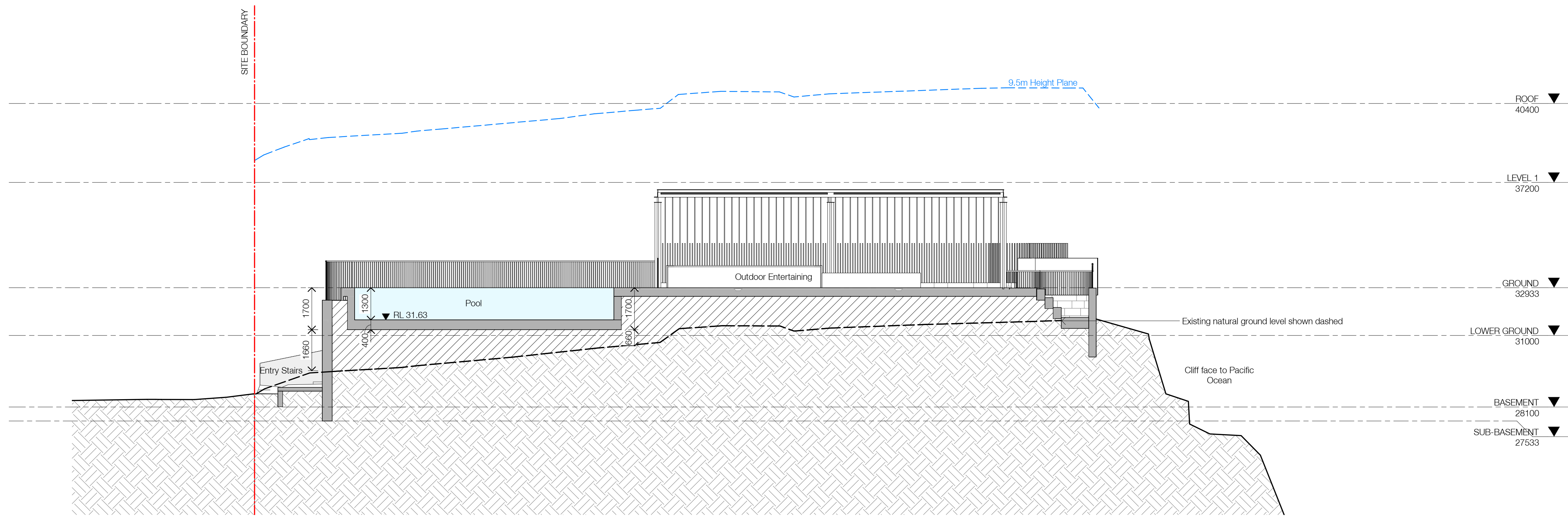
### LEGEND

EXISTING TO BE RETAINED  
PROPOSED WORKS

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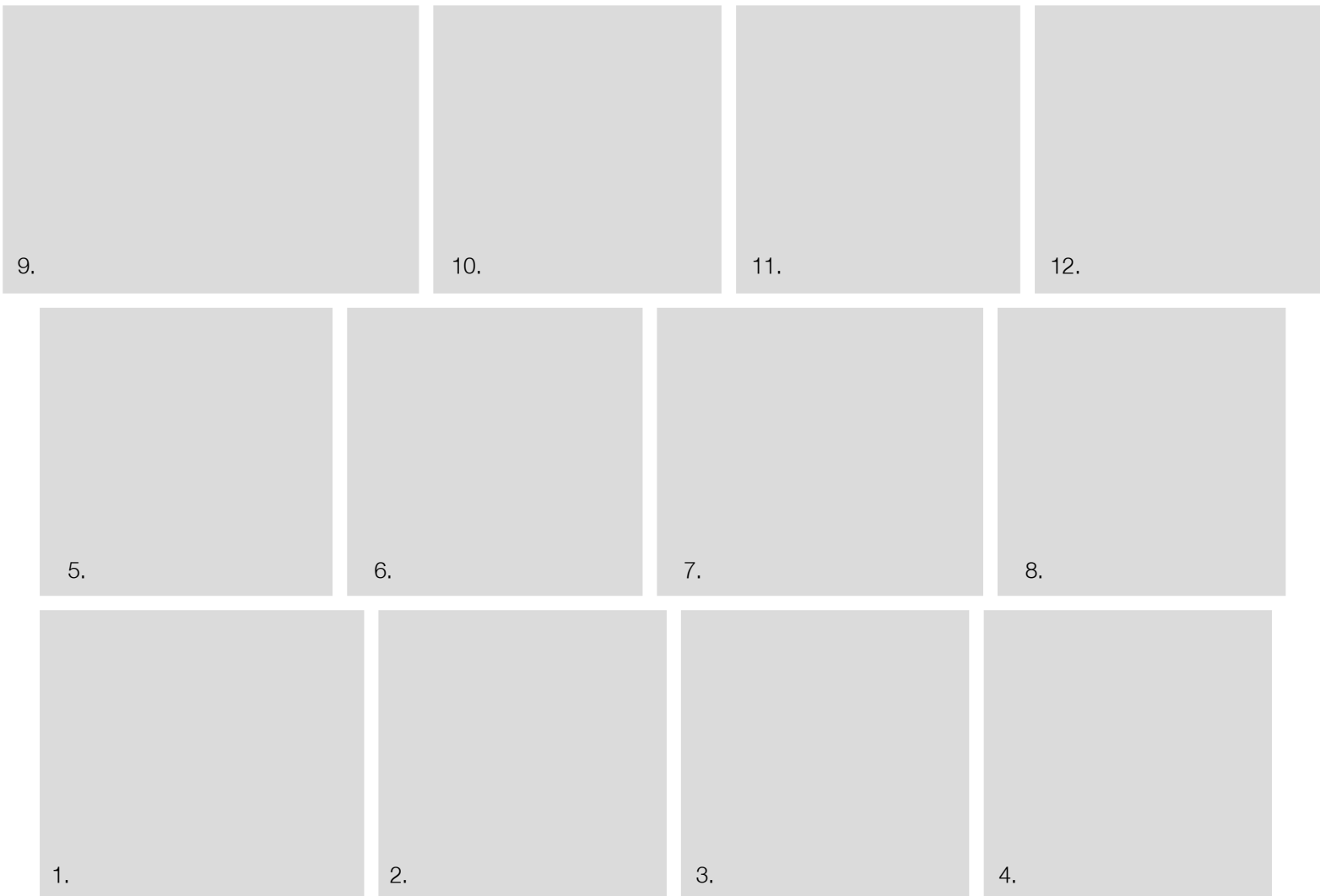
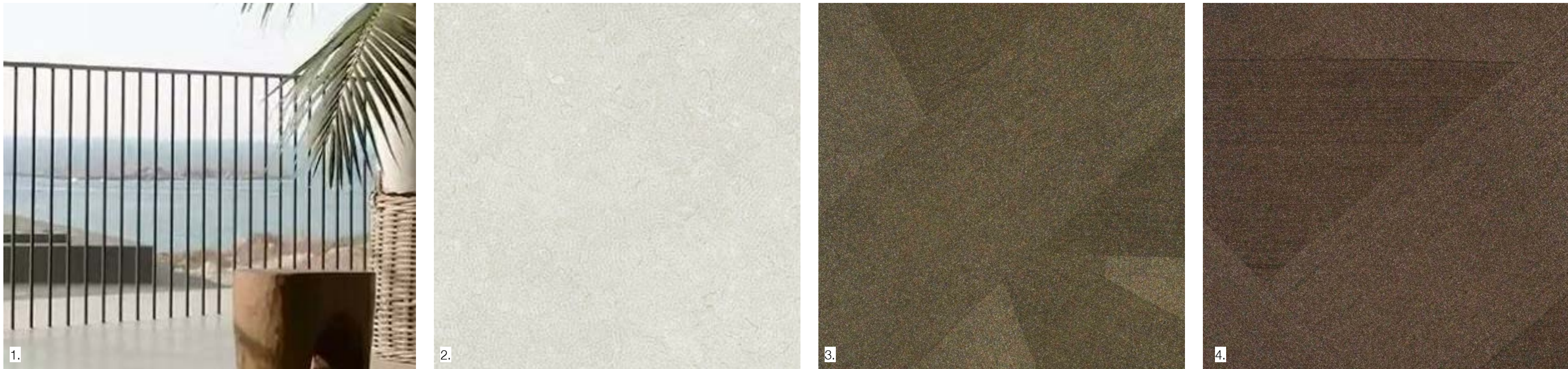






1 SECTION THROUGH NORTH-WEST POOL  
1 : 100





Code	Material / Finish	Tag
1.	Character image: Metal Rod Balustrade	-
2.	Stone, Tumbled Finish	ST1
3.	Metal, Micaceous Iron Oxide, Type 1	MT1
4.	Metal, Micaceous Iron Oxide, Type 2	MT2
5.	Concrete, Applied Textured Finish	CO1
6.	Glass, Performance, Clear	GL1
7.	Timber, Treated	TM1
8.	Stone Cladding, Textured	ST2
9.	Character Image: Pergola with Planting	-
10.	Metal, Micaceous Iron Oxide, Type 3	MT3
11.	Glass, Laminated Safety, Clear	GL2
12.	Metal Roof Sheetting	MR1

Rev	Date	Revision	By	Chk.
2	24.06.21	FOR COORDINATION		
3	02.07.21	FOR COORDINATION		
4	09.07.21	DRAFT DA ISSUE		
5	21.07.21	DA ISSUE		


Project
NORTH BONDI RESIDENCE 168-170 Hastings Parade North Bondi, NSW
Drawing Name
SCHEDULE OF EXTERNAL FINISHES

Date	Scale	Sheet Size
21.07.21	1 : 1	@ A1
Drawn	Chk.	Job No.
TS	AH	6414
Drawing No.		Revision
DA-2001		/ 5







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Nominated Architects: Adam Haddow-7188 | John Pradel-7004

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3	02.07.21	FOR COORDINATION		
4	09.07.21	DRAFT DA ISSUE		
5	21.07.21	DA ISSUE		
7	29.11.21	REVISIONS TO CAPTURE NEIGHBOUR CHANGES		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
PHOTOMONTAGE 1 - VIEW FROM HASTINGS  
PARADE LOOKING SOUTH-EAST

Date	Scale	Sheet Size
27.01.22		@ A1
Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.		Revision
DA-2501		/ 8

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7	29.11.21	REVISIONS TO CAPTURE NEIGHBOUR CHANGES		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project

NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW

Drawing Name

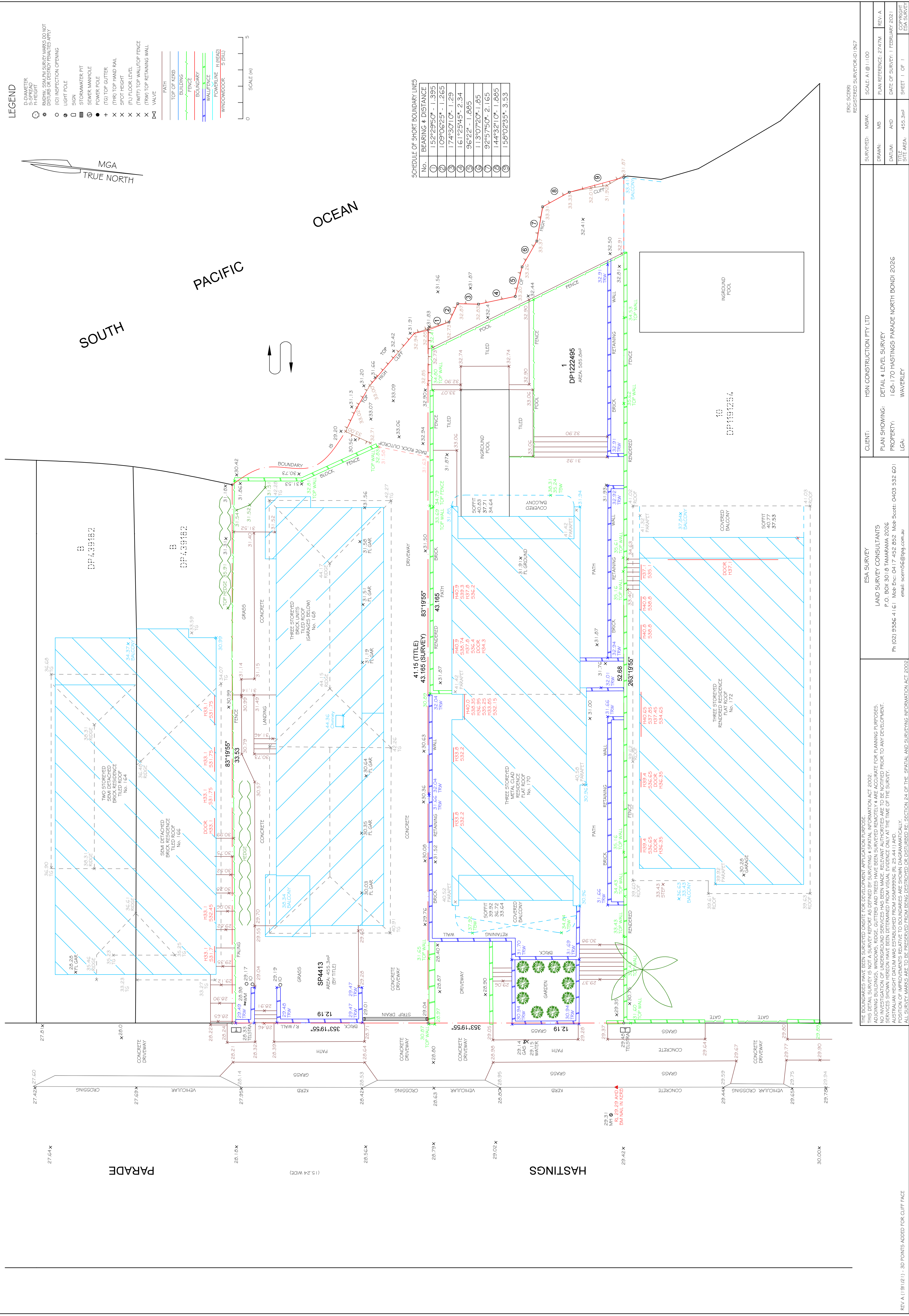
PHOTOMONTAGE 2 - VIEW FROM HASTINGS  
PARADE LOOKING NORTH

Date	Scale	Sheet Size
27.01.22		@ A1
Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.	Revision	
DA-2502	/ 8	

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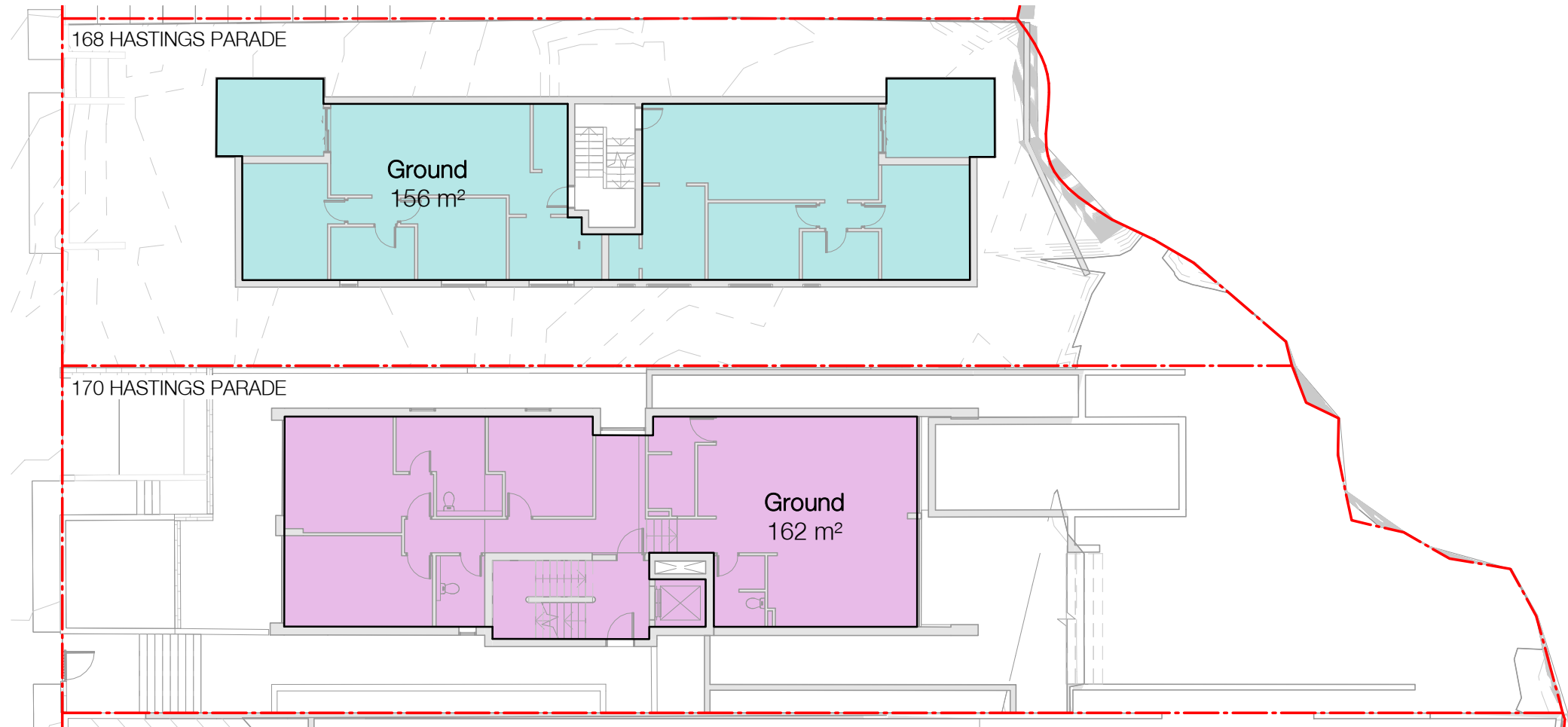








1 Existing GFA - Basement  
1 : 200



2 Existing GFA - Ground Floor  
1 : 200



3 Existing GFA - Level 1  
1 : 200



4 Existing GFA - Level 2  
1 : 200

GFA SCHEDULE - EXISTING

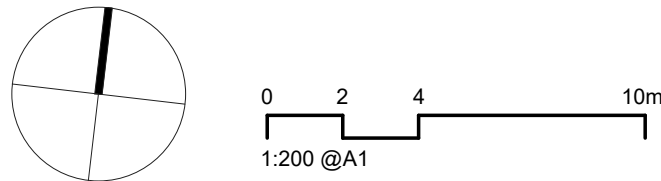
168 Hastings Parade		Site Area: 455.3 m²	
Ground	156 m²	FSR Permitted:	0.6:1
Level 1	156 m²	GFA Permitted:	273.1 m²
Level 2	145 m²	Existing FSR:	1.0:1
Total (168 Hastings Parade):	457 m²	Existing GFA:	457.3 m²

170 Hastings Parade		Site Area: 585.8 m²	
Basement	202 m²	FSR Permitted:	0.5:1
Ground	162 m²	GFA Permitted:	292.9 m²
Level 1	158 m²	Existing FSR:	1.13:1
Level 2	141 m²	Existing GFA:	663 m²
Total (170 Hastings Parade):	663 m²		

Combined Existing GFA & FSR Calculations		Total Site Area: 1,041.1 m²	
168 Hastings Parade	457.3 m²		
170 Hastings Parade	663 m²		
Total GFA:	1,120.3 m²		
Existing FSR:	1.07:1		

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Nominated Architects: Adam Haddow-7188 | John Pradel-7004



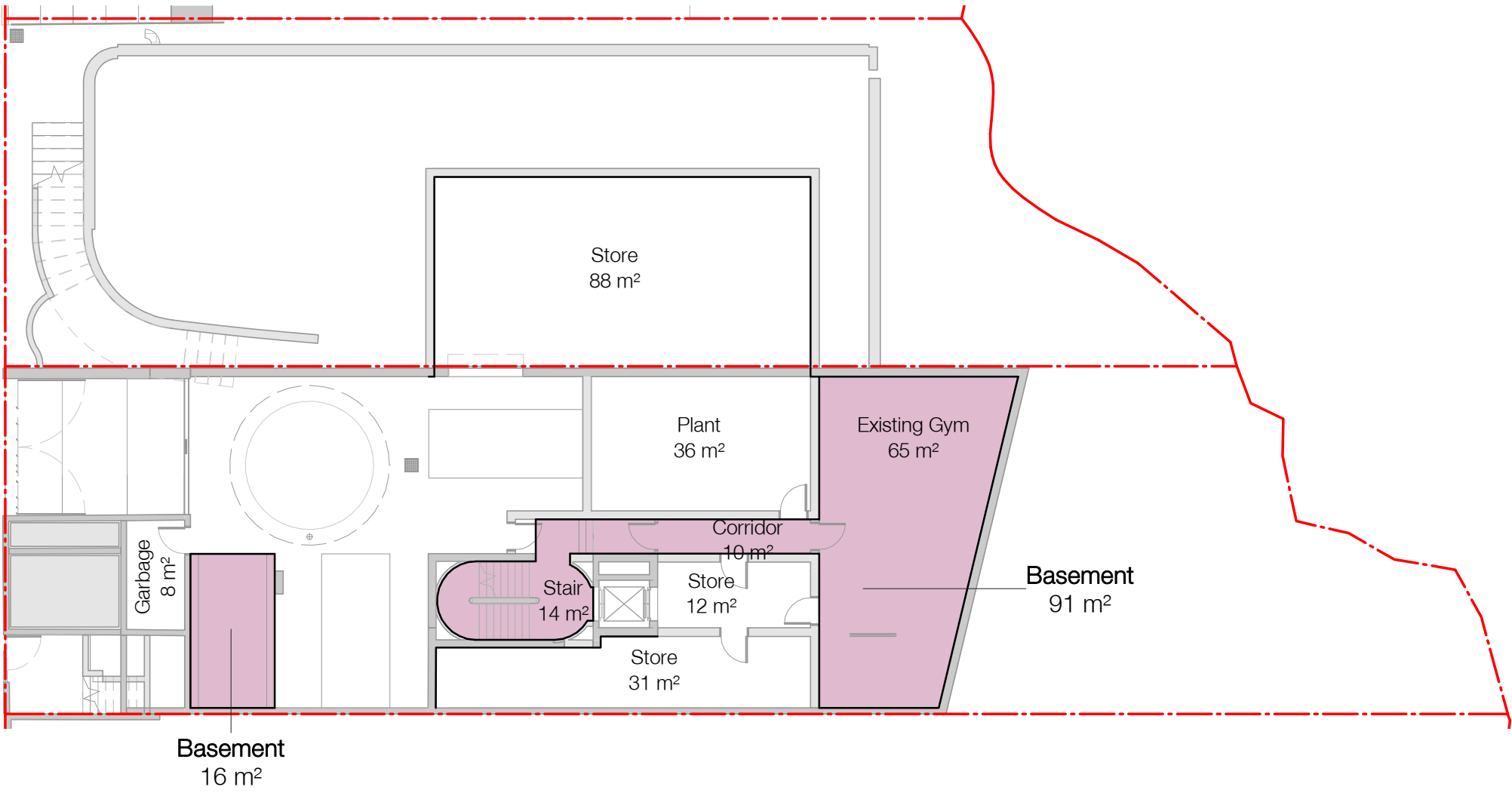
Rev	Date	Revision	By	Chk.
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8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		


Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
GFA ANALYSIS - EXISTING

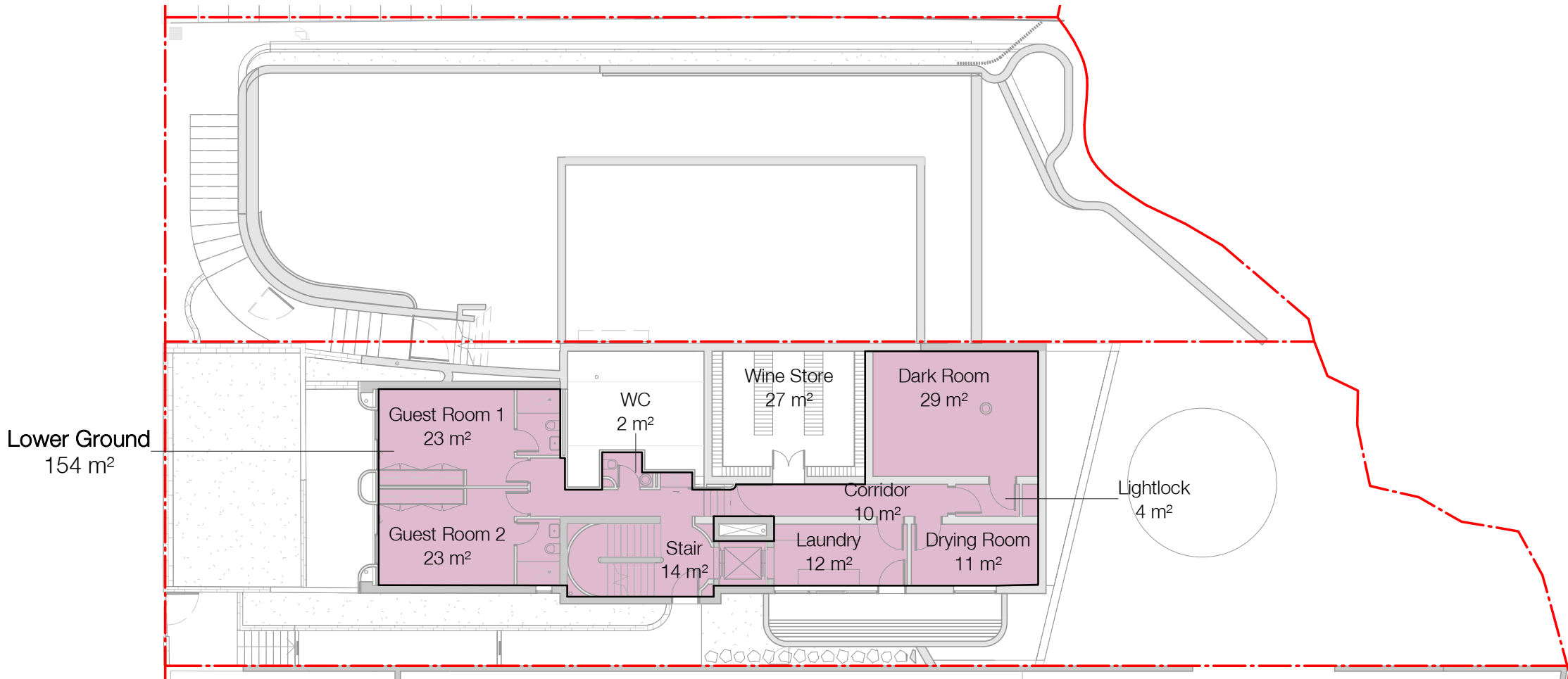
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Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.		Revision
DA-6101		/ 8

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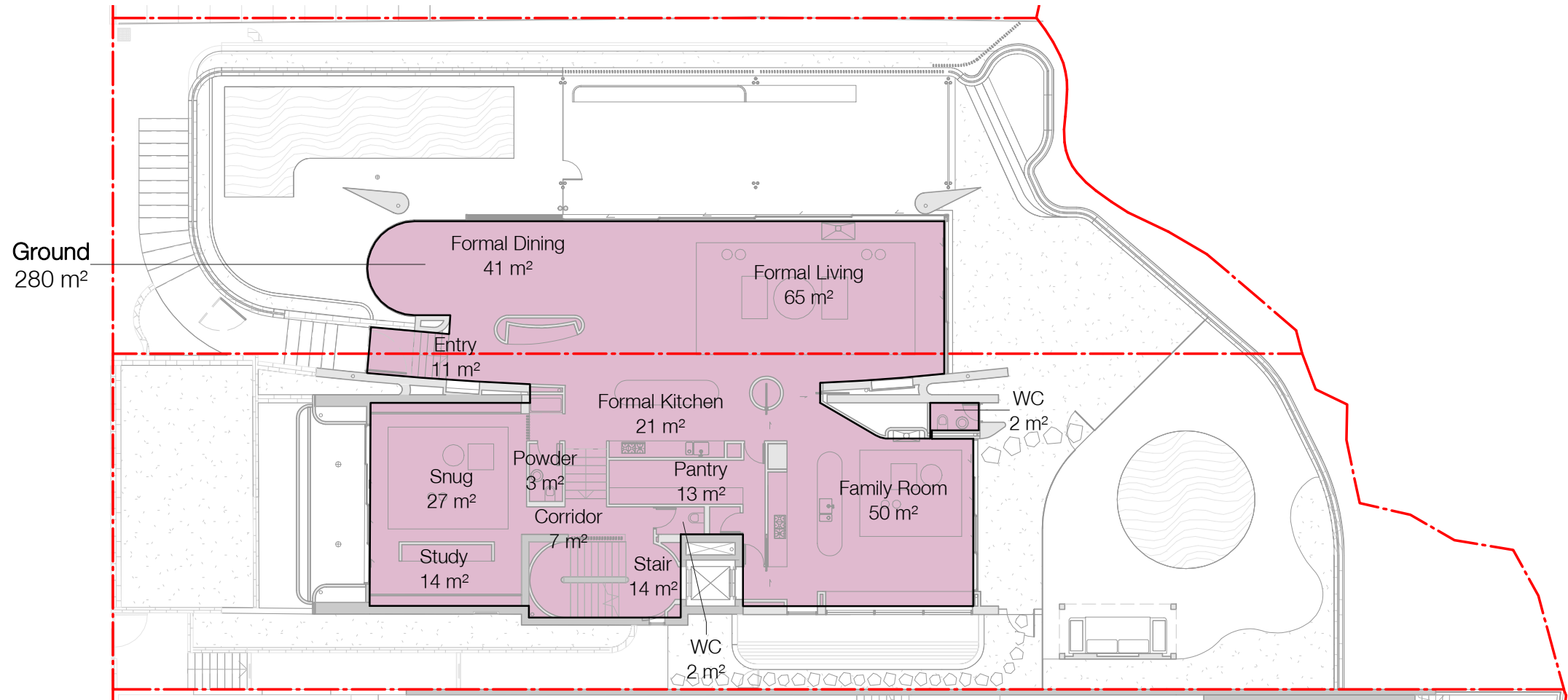




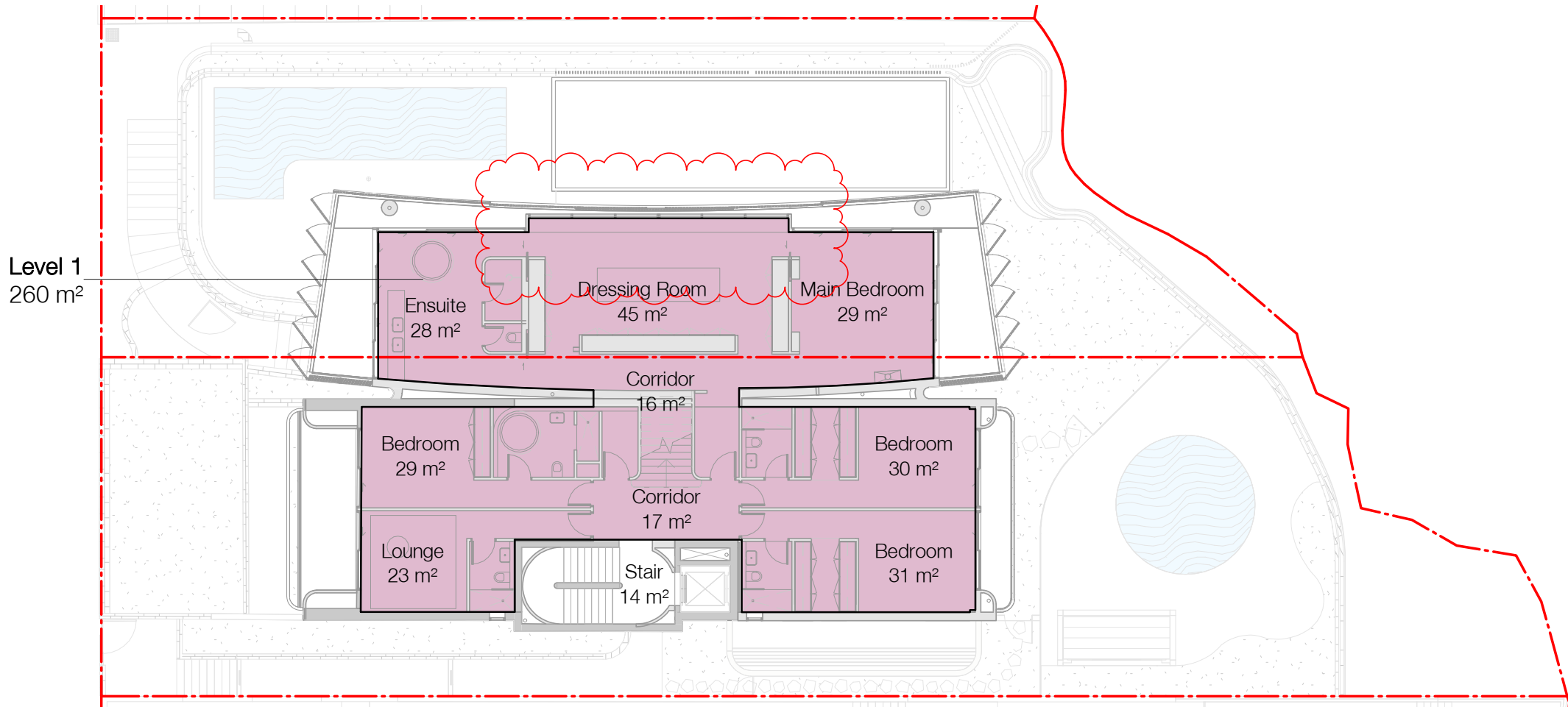
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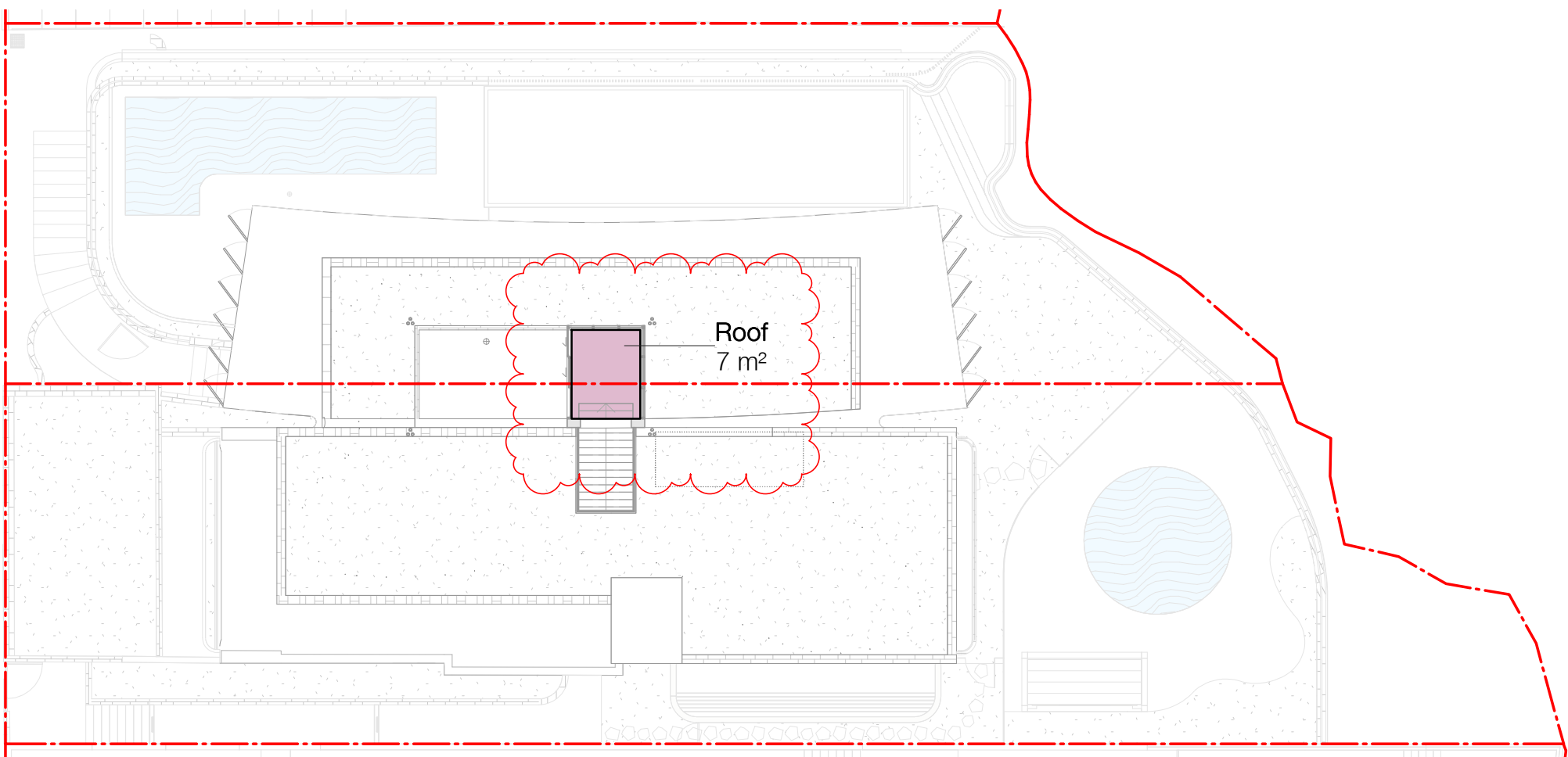
2 Proposed GFA - Lower Ground  
1 : 200



3 Proposed GFA - Ground Floor  
1 : 200



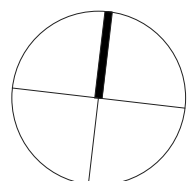
4 Proposed GFA - Level 1  
1 : 200



5 Proposed GFA - Roof  
1 : 200

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Nominated Architects: Adam Haddow-7188 | John Pradel-7004



0 2 4 10m  
1:200 @A1

Rev	Date	Revision	By	Chk.
2	24.06.21	FOR COORDINATION		
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8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
GFA ANALYSIS - PROPOSED

GFA SCHEDULE - PROPOSED

Basement	107 m <sup>2</sup>
Lower Ground	154 m <sup>2</sup>
Ground	280 m <sup>2</sup>
Level 1	260 m <sup>2</sup>
Roof	7 m <sup>2</sup>
Total Proposed GFA:	807 m <sup>2</sup>

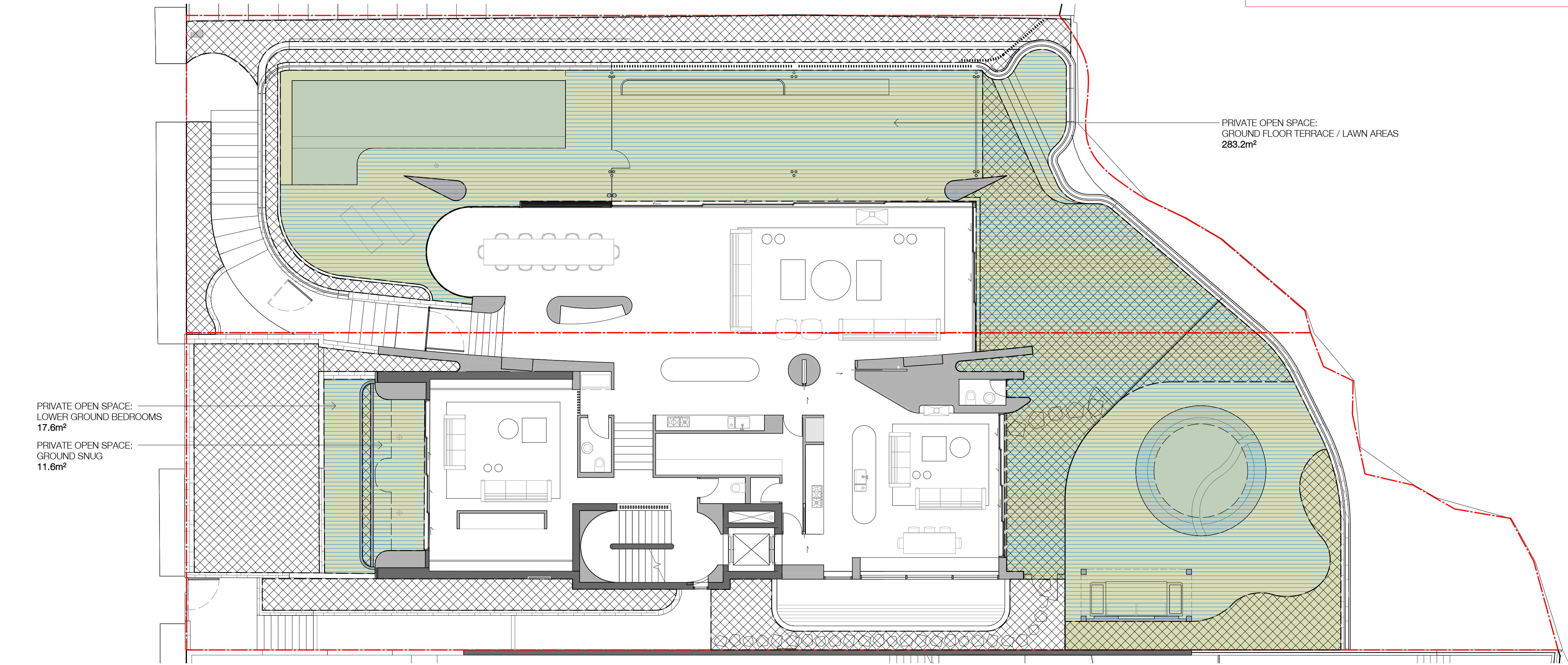
Site Area: 1,041.1 m<sup>2</sup>  
FSR Permitted: 0.5:1  
GFA Permitted: 520.5 m<sup>2</sup>  
Proposed FSR: 0.77:1  
Proposed GFA: 807 m<sup>2</sup>

Date	Scale	Sheet Size
27.01.22	1 : 200	@ A1
Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.		Revision
DA-6102		/ 8

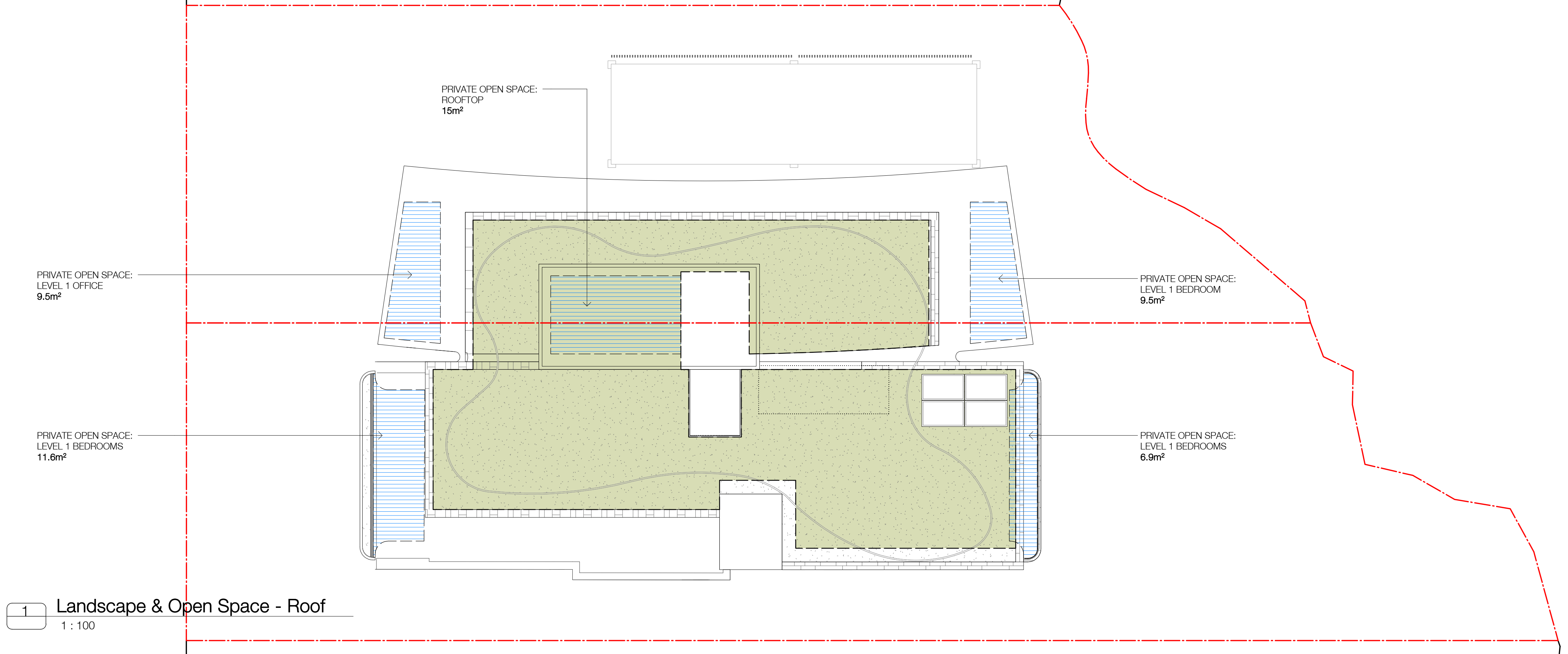
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2 Landscape & Open Space - Ground  
1 : 100



1 Landscape & Open Space - Roof  
1 : 100

OPEN SPACE AND PRIVATE OPEN SPACE SCHEDULE

Minimum Open Space:	416.44 m2 (40% of Site Area)
Minimum Private Open Space:	25 m2

Proposed Open Space:	585.4 m2 (56% of Site Area)
Proposed Private Open Space:	364.9 m2

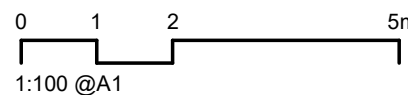
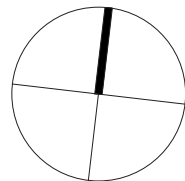
LANDSCAPED AREA SCHEDULE

Minimum Landscaped Area:	156.165 m2 (15% of Site Area)
Proposed Landscaped Area:	254 m2 (24% of Site Area)

Site Area: 1,041.1 m2



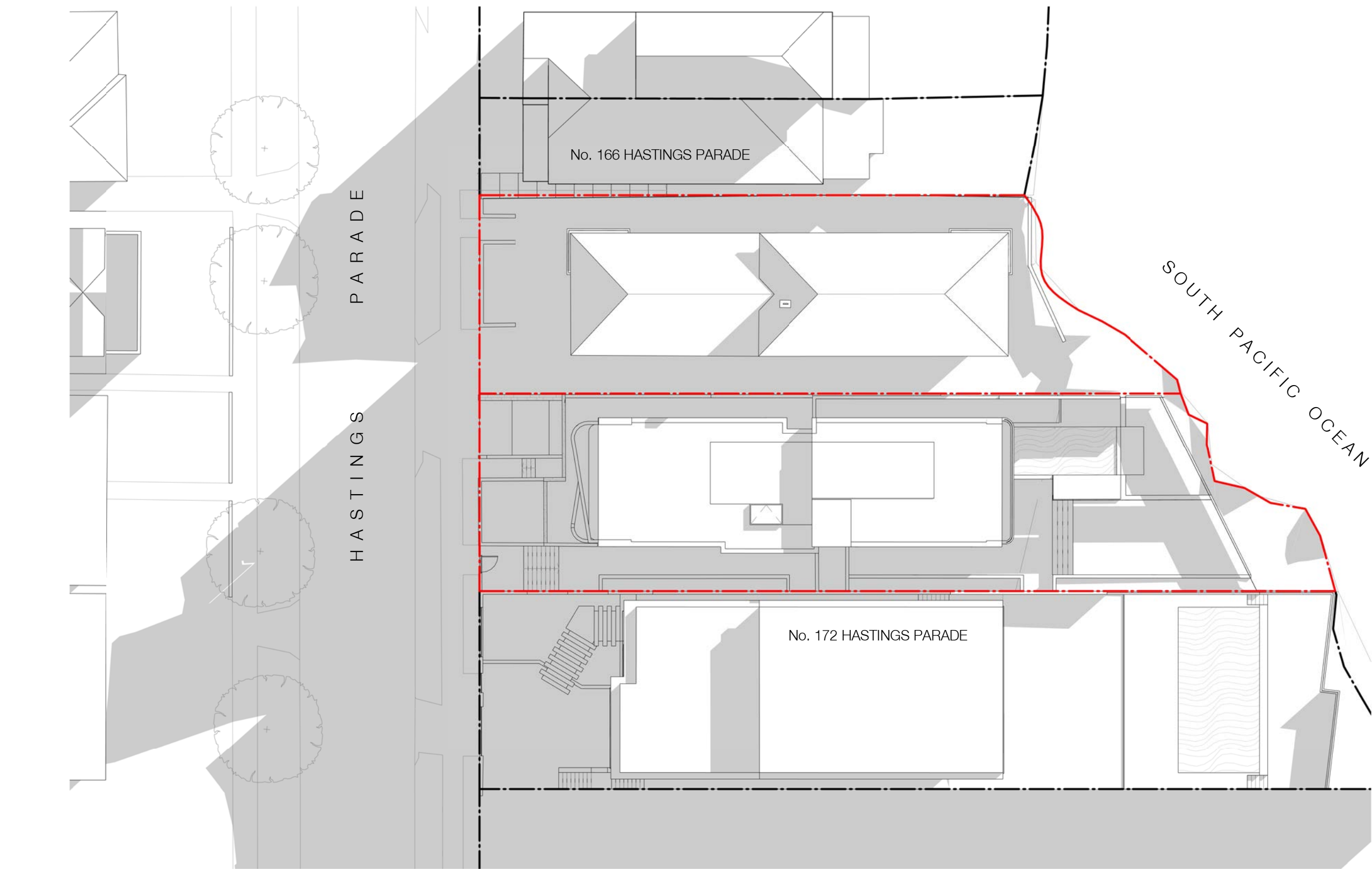
Site Area: 1,041.1 m2



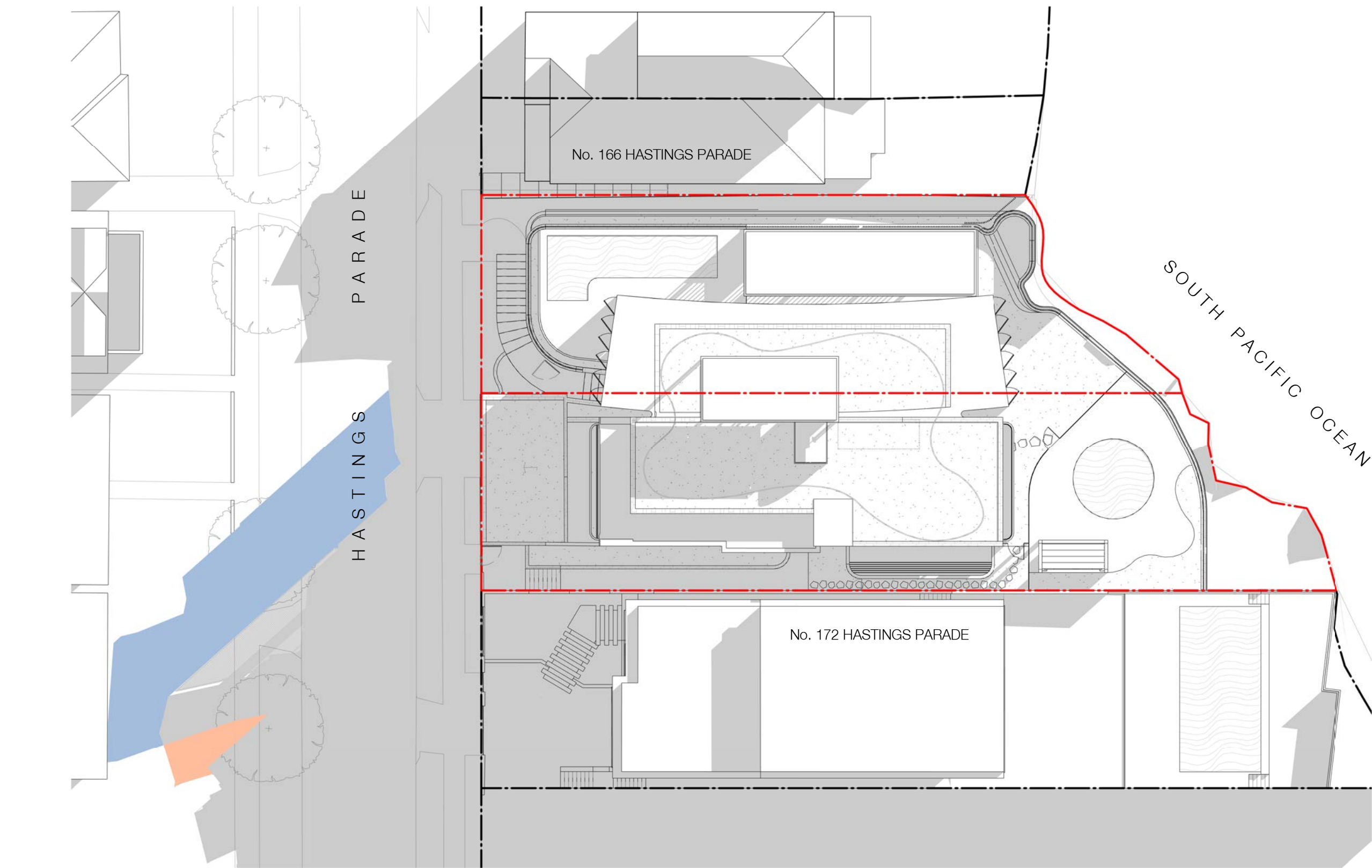
Rev	Date	Revision	By	Chk.
3	02.07.21	FOR COORDINATION		
4	09.07.21	DRAFT DA ISSUE		
5	21.07.21	DA ISSUE		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		



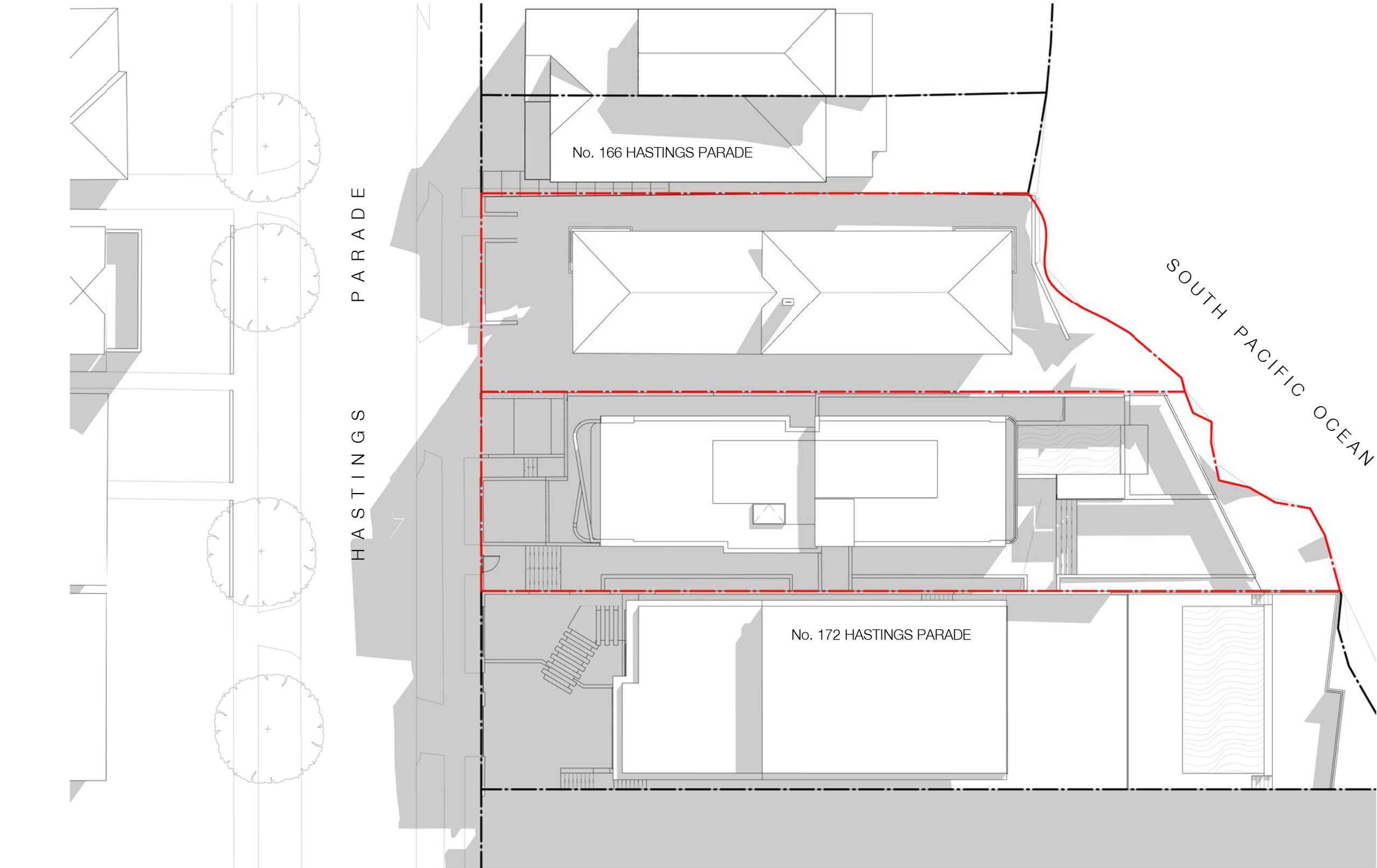




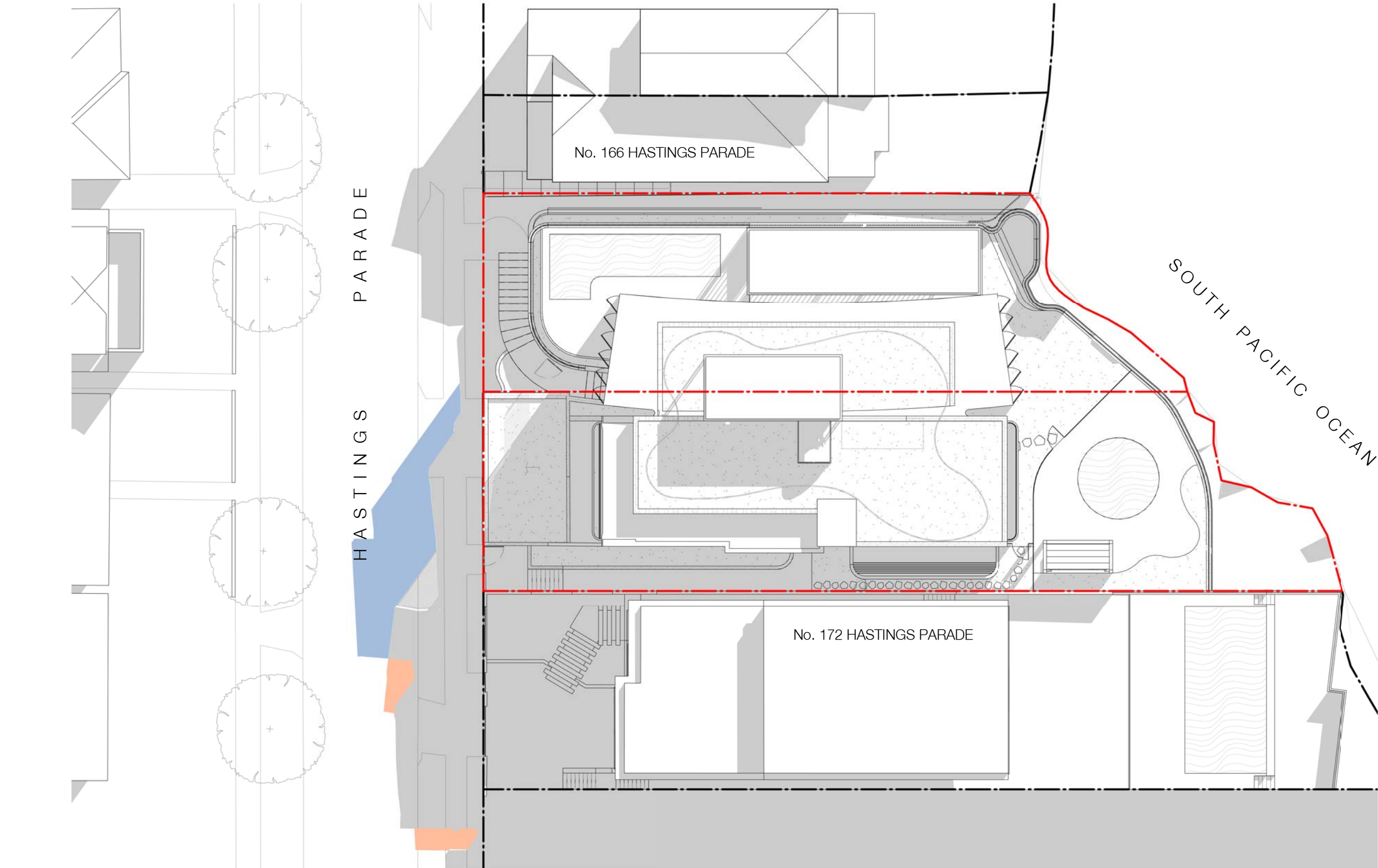
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1 : 250



2 Proposed Winter Solstice 9am  
1 : 250



3 Existing Winter Solstice 10am  
1 : 250



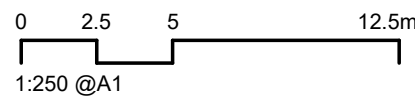
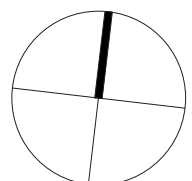
4 Proposed Winter Solstice 10am  
1 : 250

LEGEND

- SHADOW REDUCTION
- SHADOW ADDITION

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Nominated Architects: Adam Haddow-7188 | John Pradel-7004



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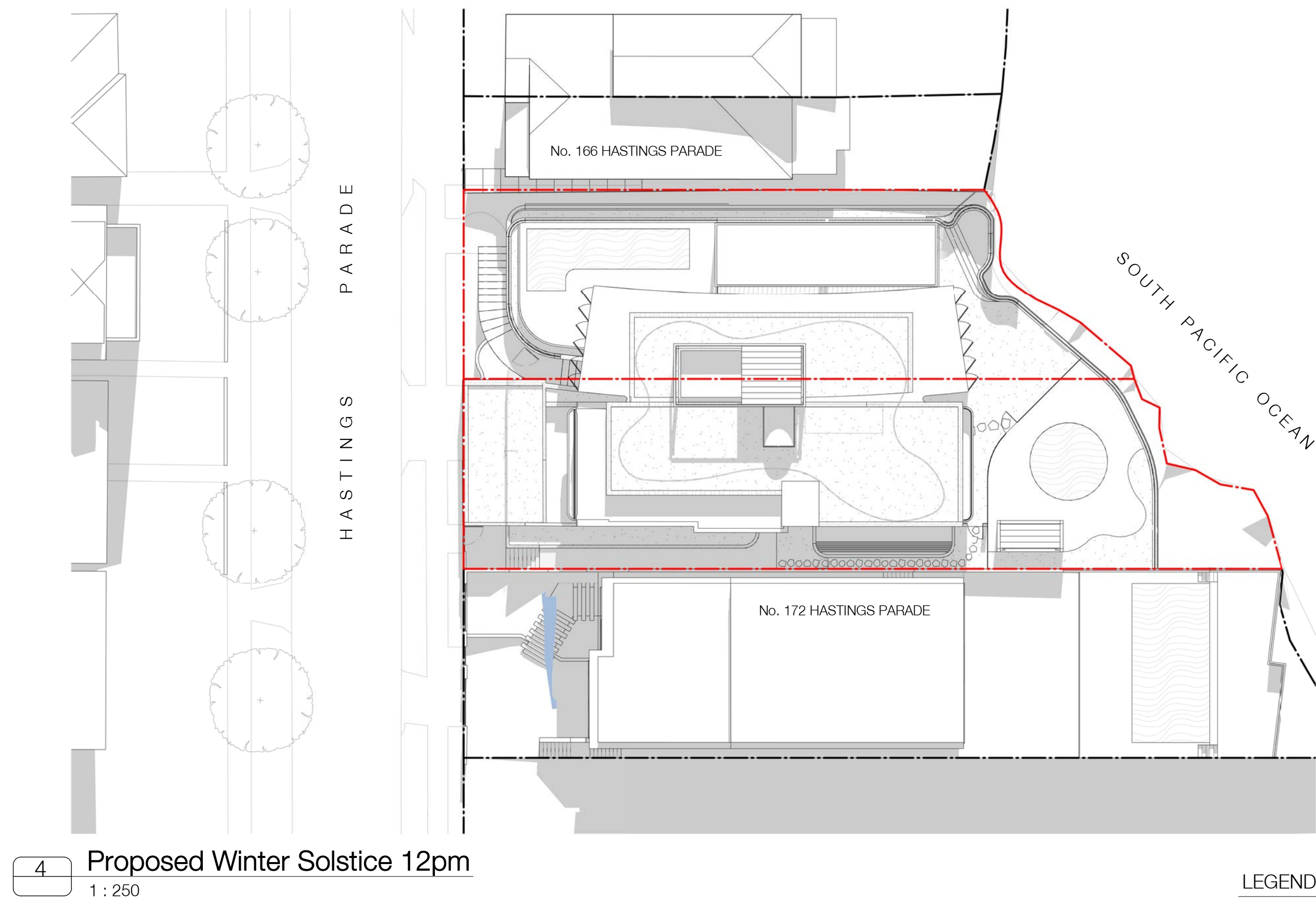
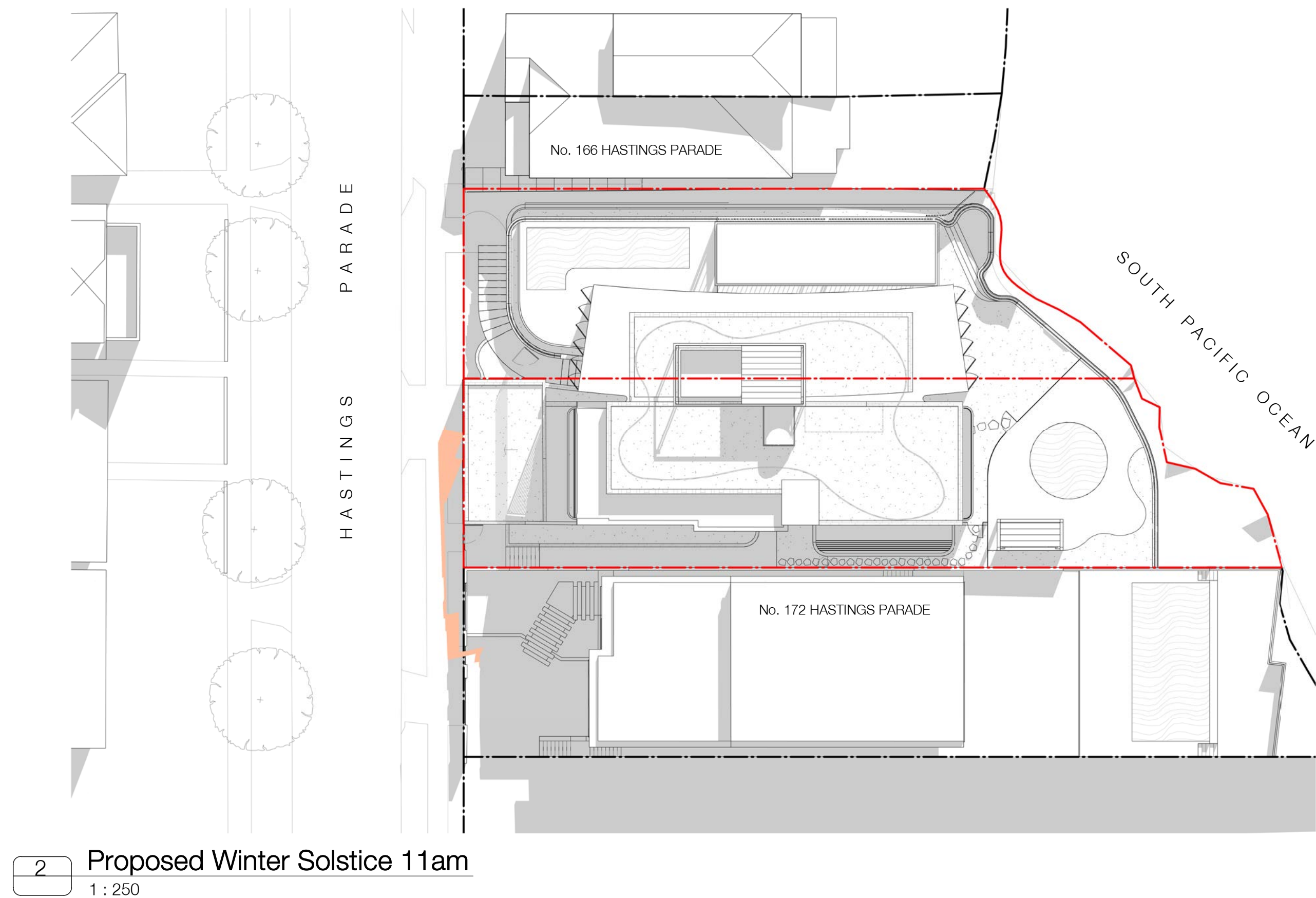
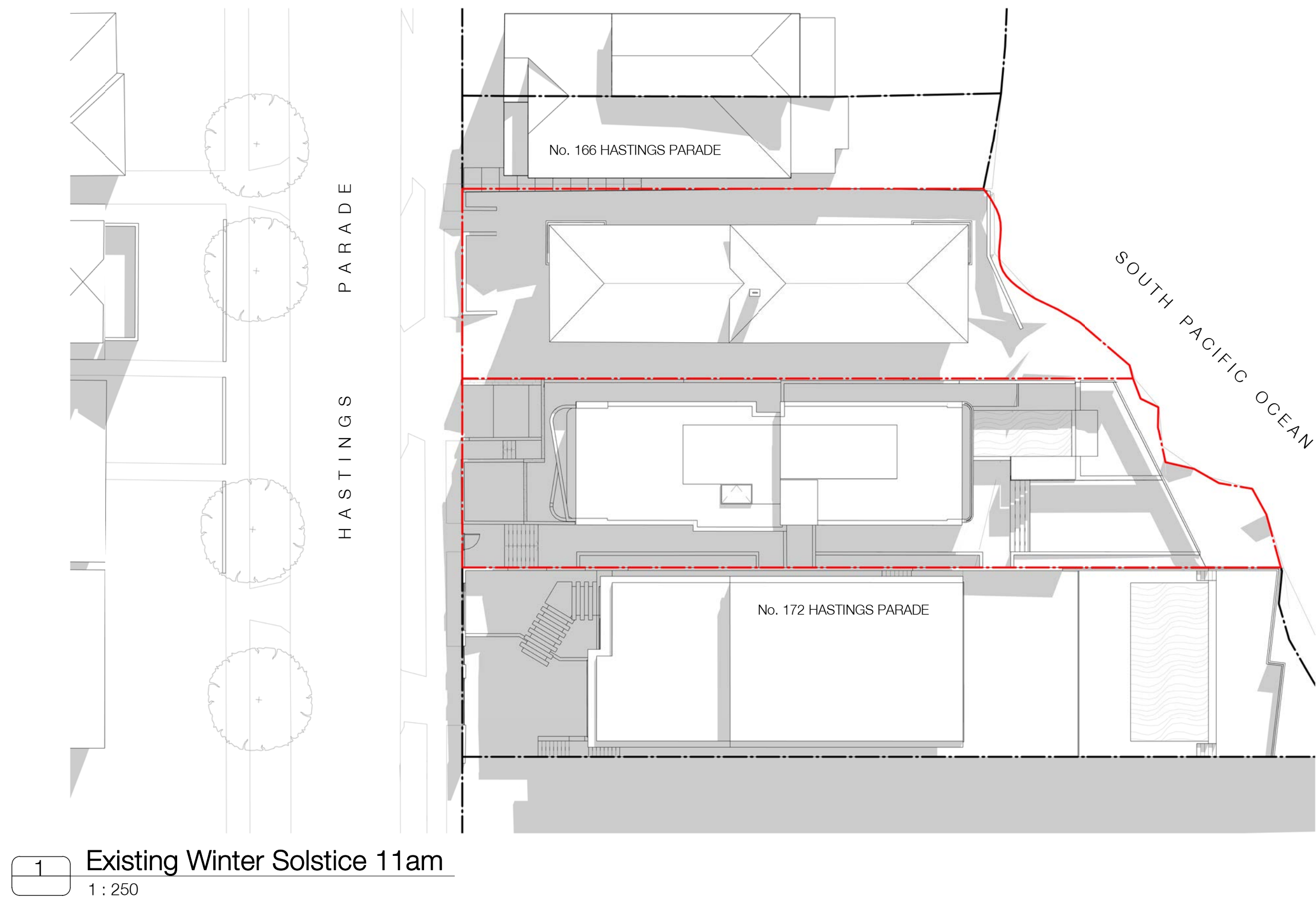
Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
SHADOW DIAGRAM, WINTER SOLSTICE -  
9AM, 10AM

Date	Scale	Sheet Size
27.01.22	As indicated	@ A1
Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.		Revision
DA-6001		/ 8

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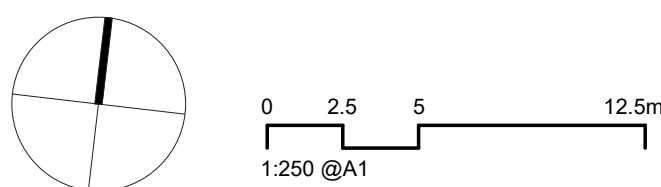


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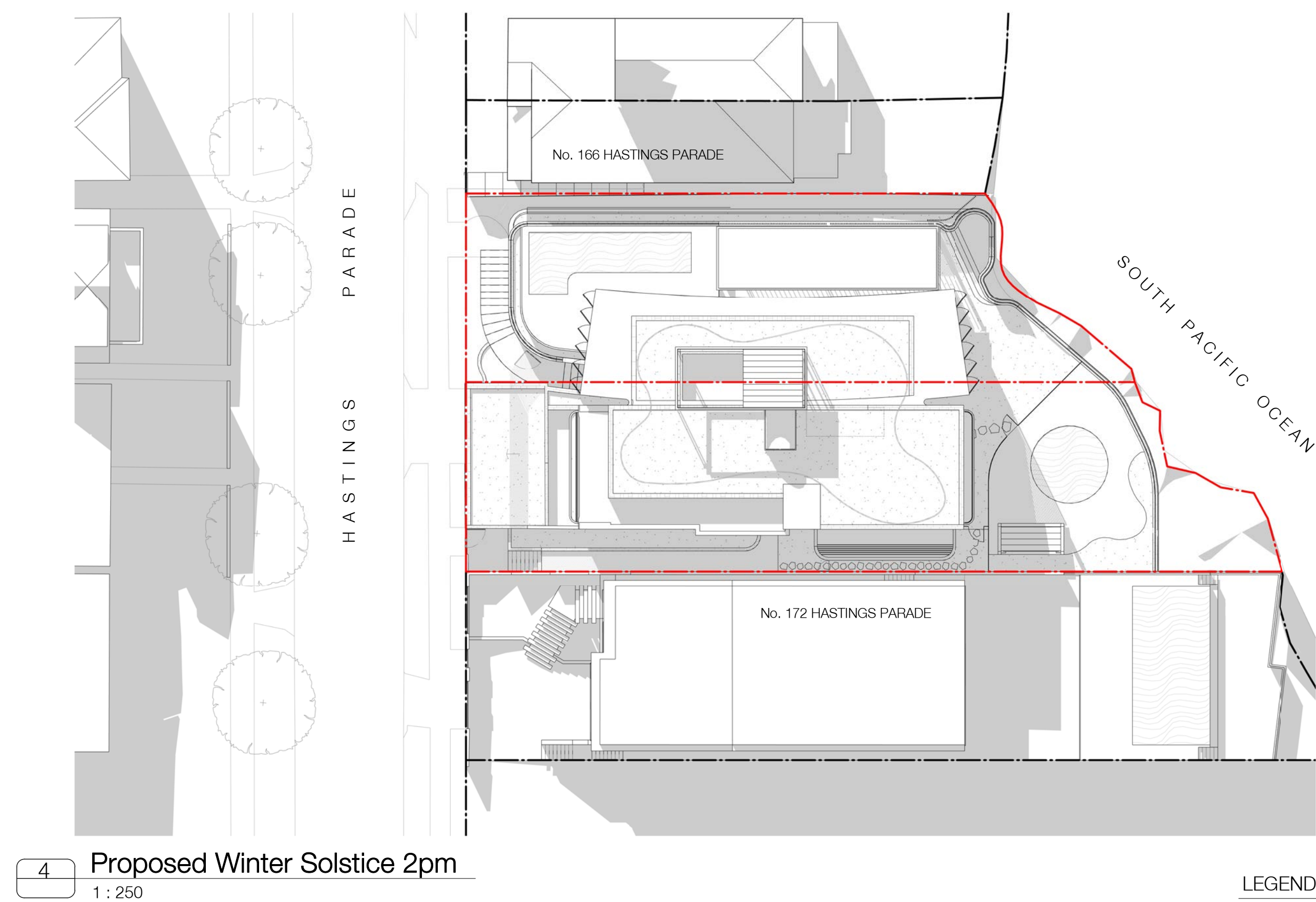
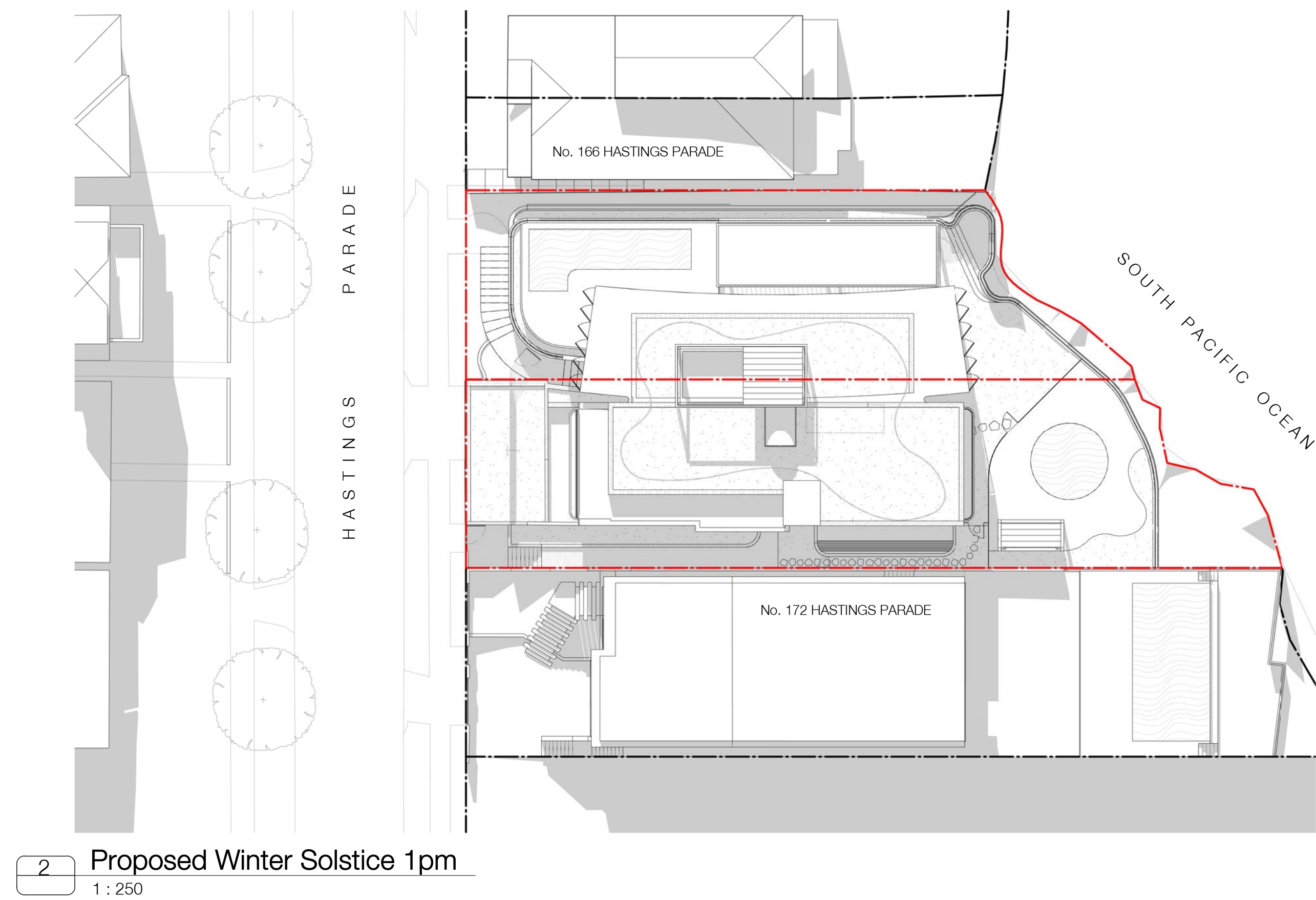
Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
SHADOW DIAGRAM, WINTER SOLSTICE -  
11AM, 12PM

Date	Scale	Sheet Size
27.01.22	As indicated	@ A1
Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.		Revision
DA-6002		/ 8

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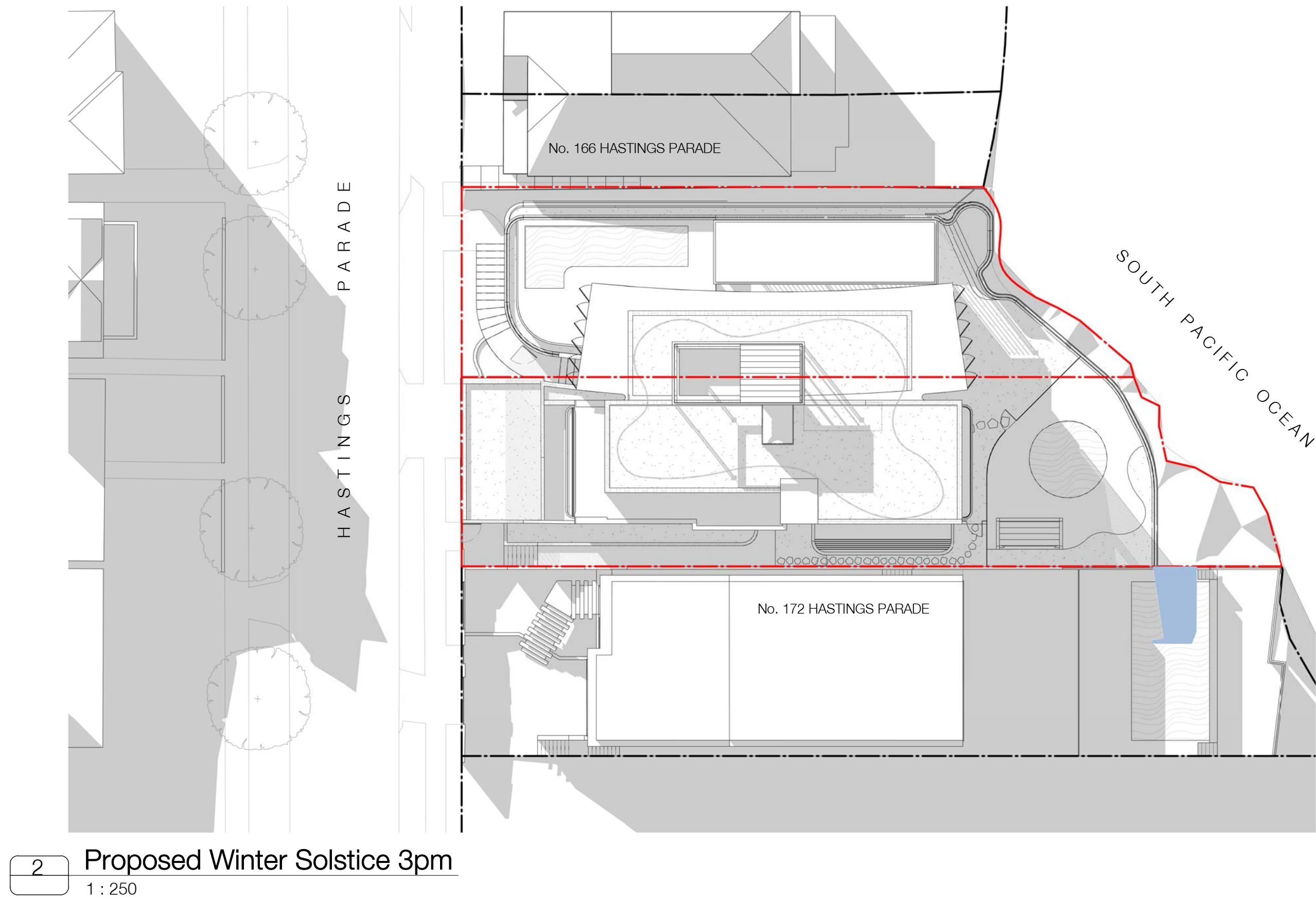
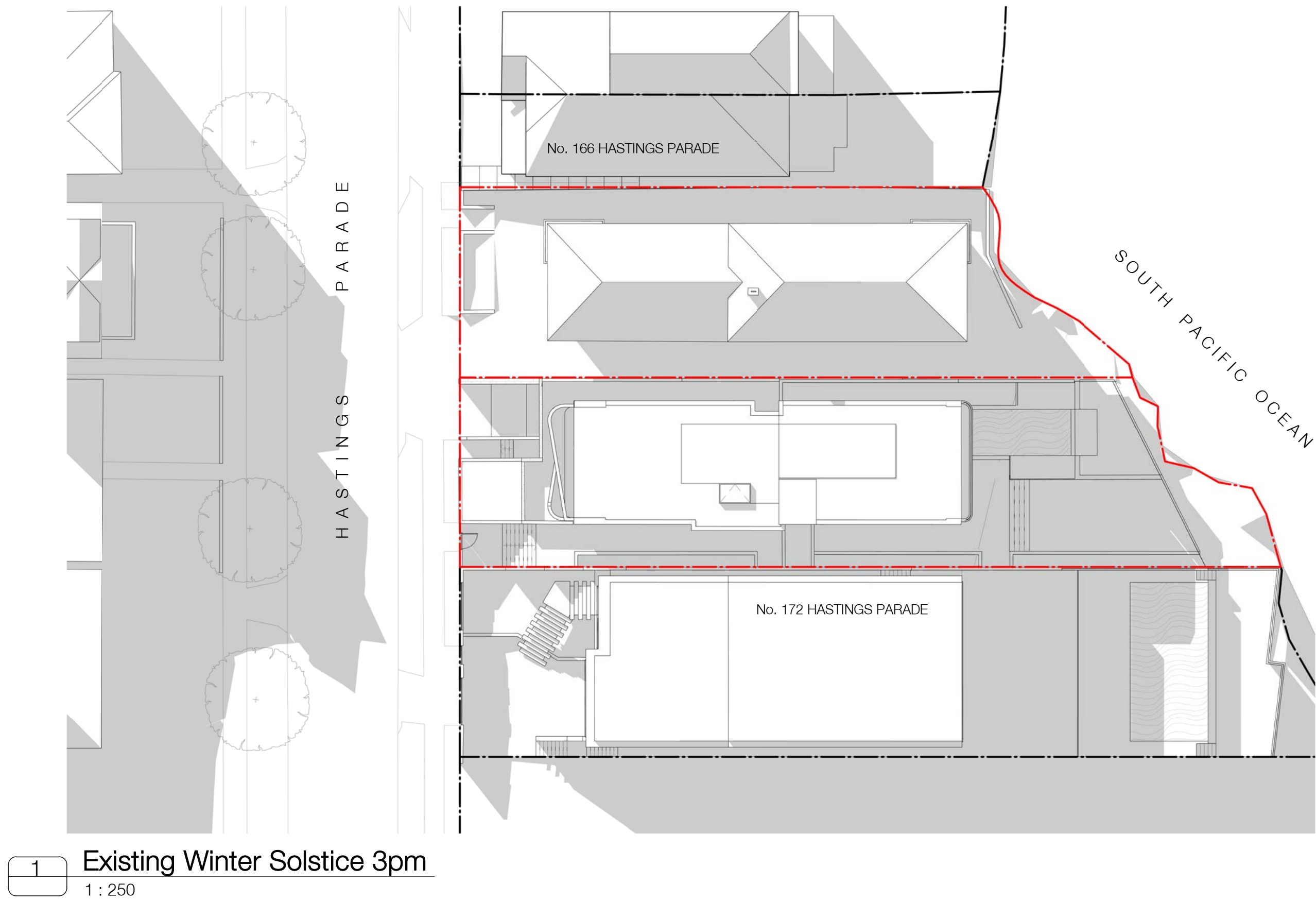


Rev	Date	Revision	By	Chk.
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5	21.07.21	DA ISSUE		
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Date	Scale	Sheet Size
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Drawing No.	Revision	
DA-6003	/ 8	

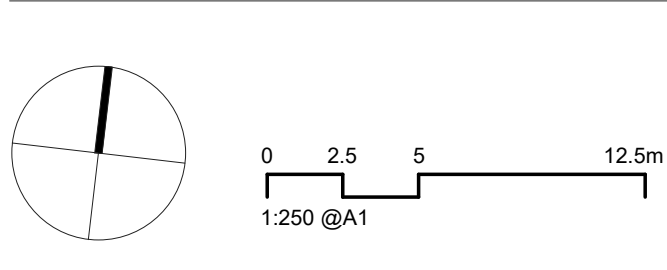
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Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
SHADOW DIAGRAM, WINTER SOLSTICE - 3PM

Date	Scale	Sheet Size
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Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.		Revision
DA-6004		/ 8

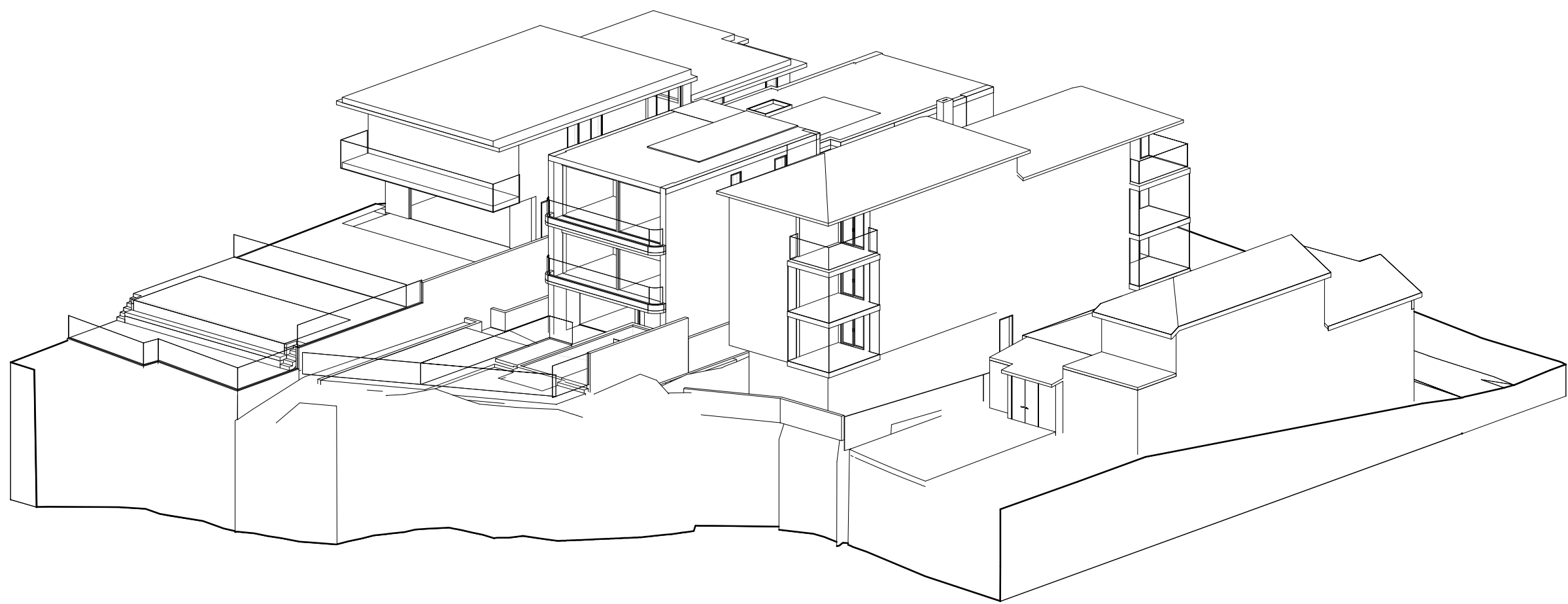
LEGEND

- SHADOW REDUCTION
- SHADOW ADDITION

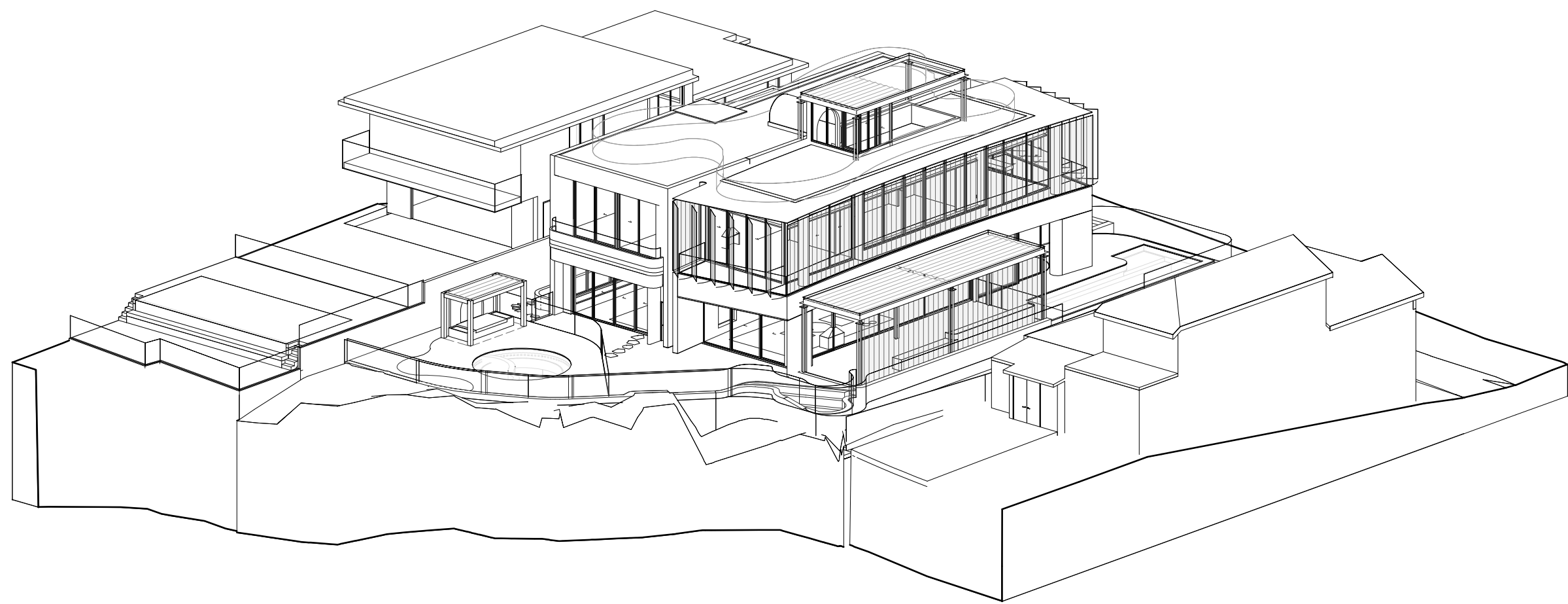
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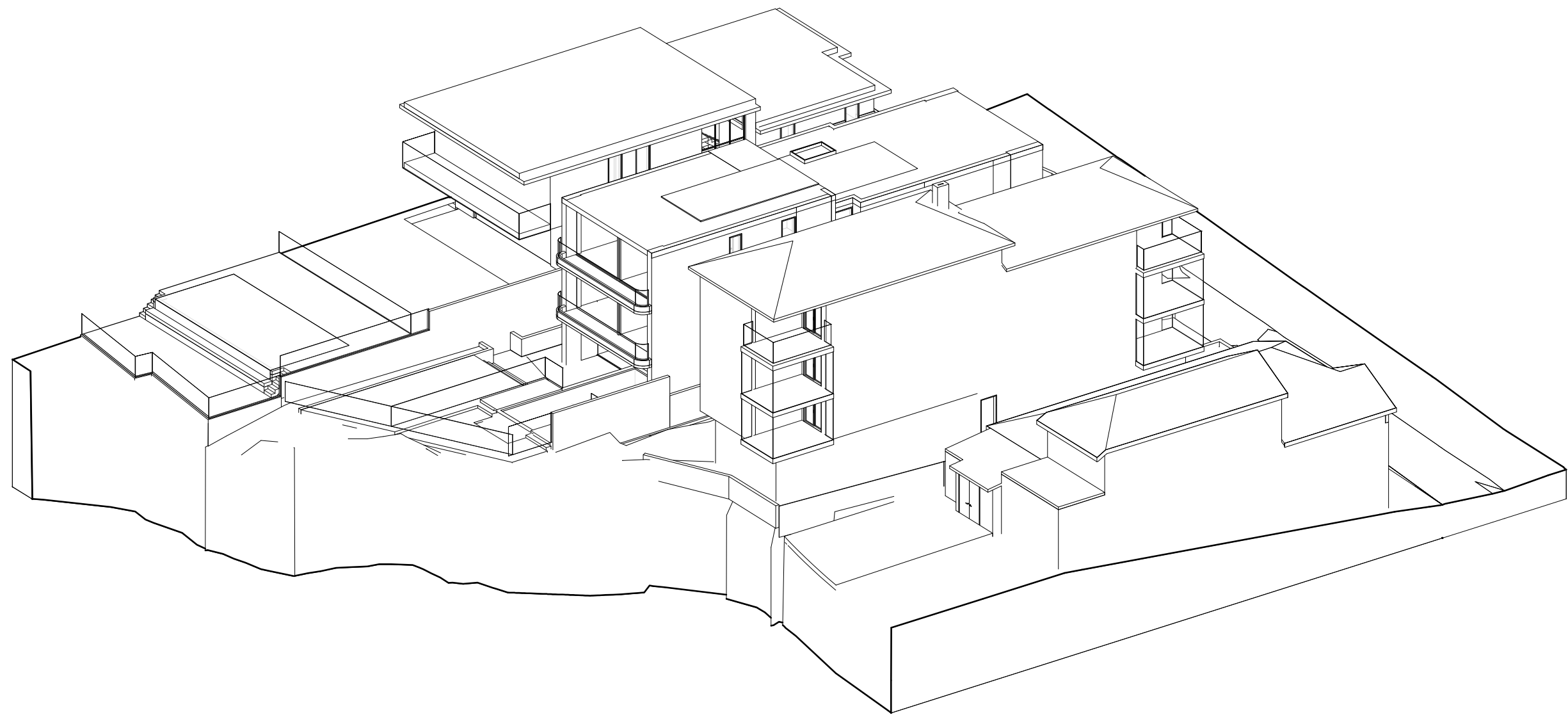




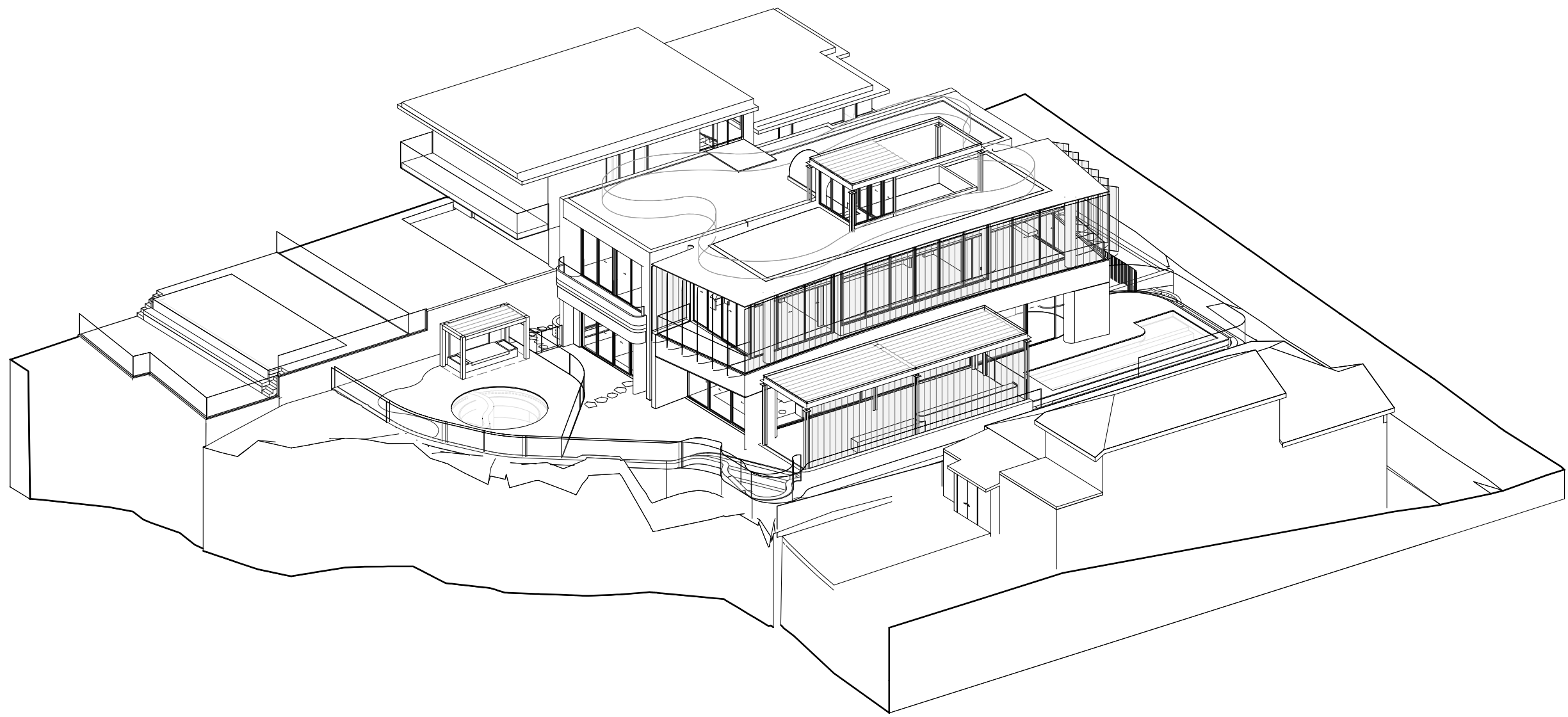
1 Winter 9am (Existing)



2 Winter 9am (Proposed)



3 Winter 10am (Existing)



4 Winter 10am (Proposed)

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Nominated Architects: Adam Haddow-7188 | John Pradel-7004

Rev	Date	Revision	By	Chk.
3	02.07.21	FOR COORDINATION		
4	09.07.21	DRAFT DA ISSUE		
5	21.07.21	DA ISSUE		
6	27.09.21	ADDITIONAL DA INFORMATION		
7	29.11.21	REVISIONS TO CAPTURE NEIGHBOUR CHANGES		
8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

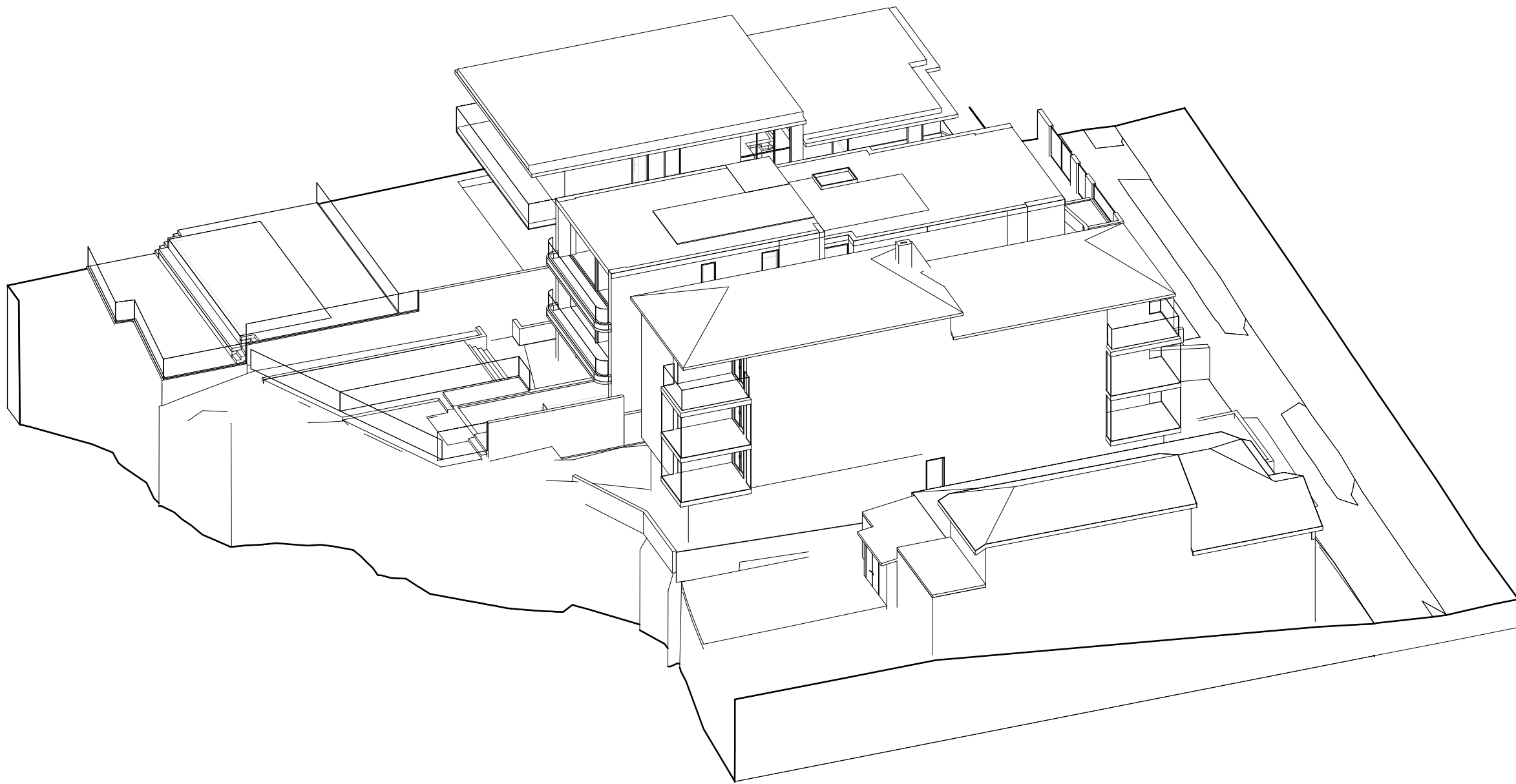
Project
NORTH BONDI RESIDENCE
168-170 Hastings Parade
North Bondi, NSW
Drawing Name
VIEW FROM SUN, WINTER SOLSTICE - 9AM, 10AM

Date	Scale	Sheet Size
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PB	AH	6414
Drawing No.	Revision	
DA-6011	/ 8	

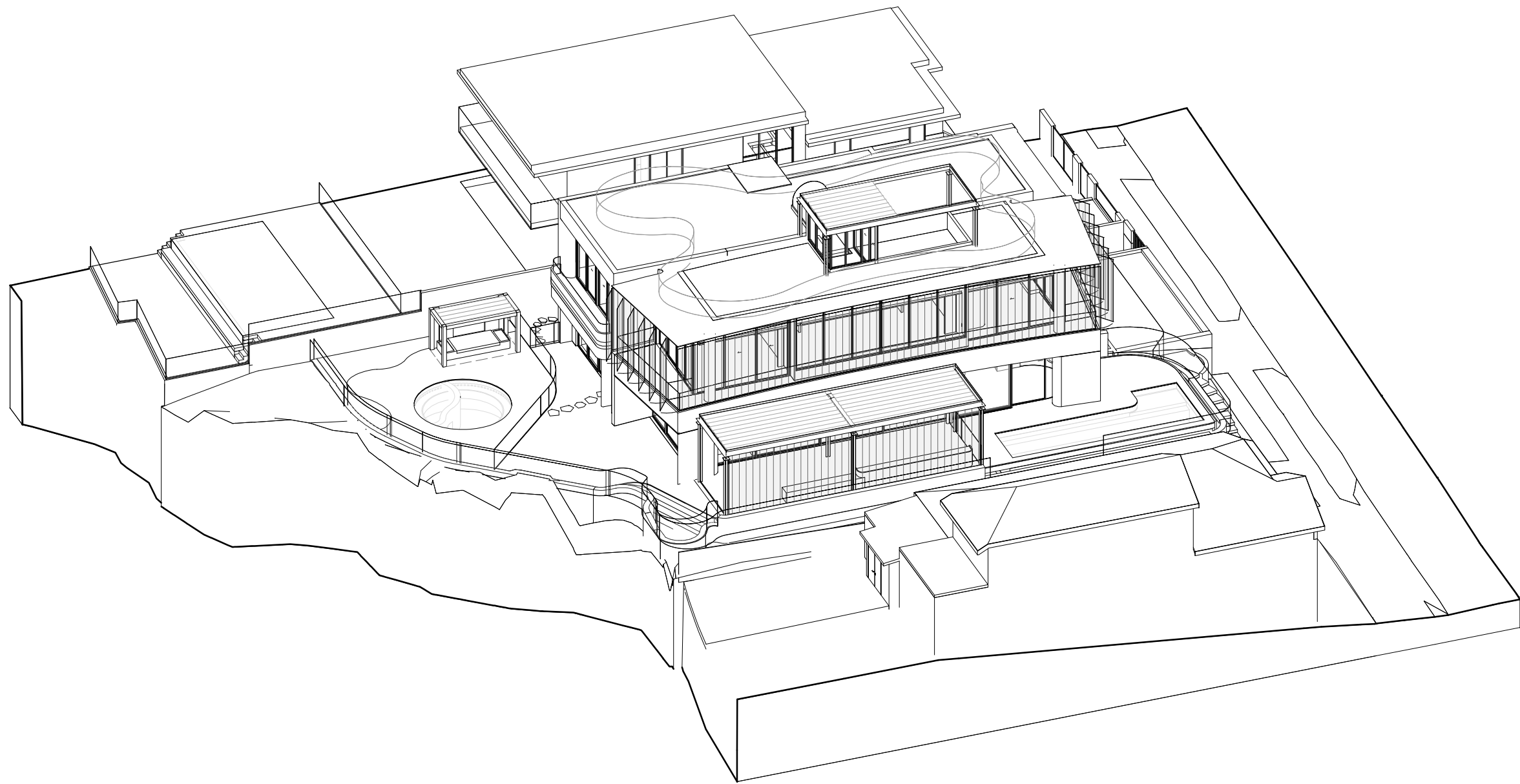
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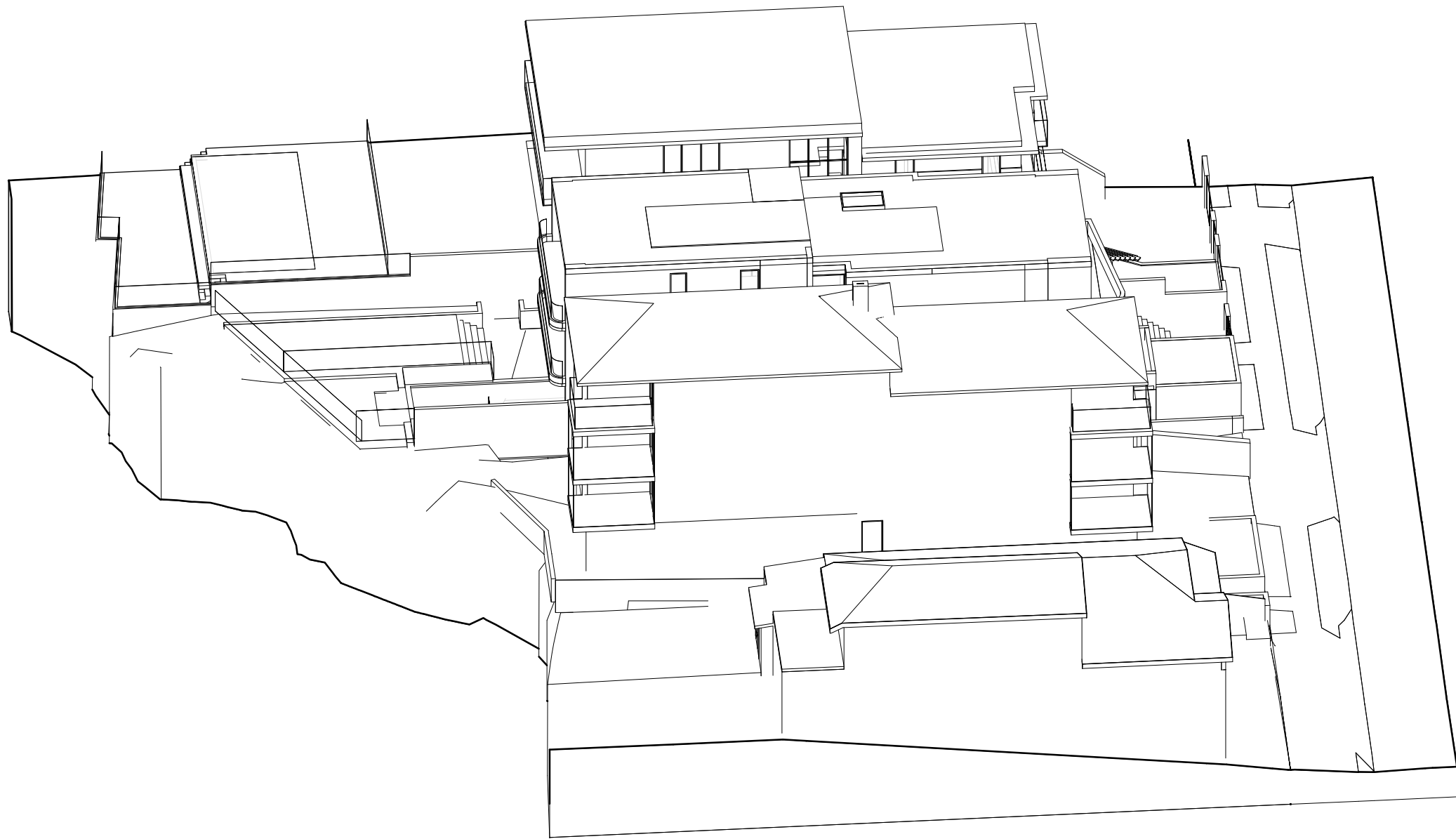




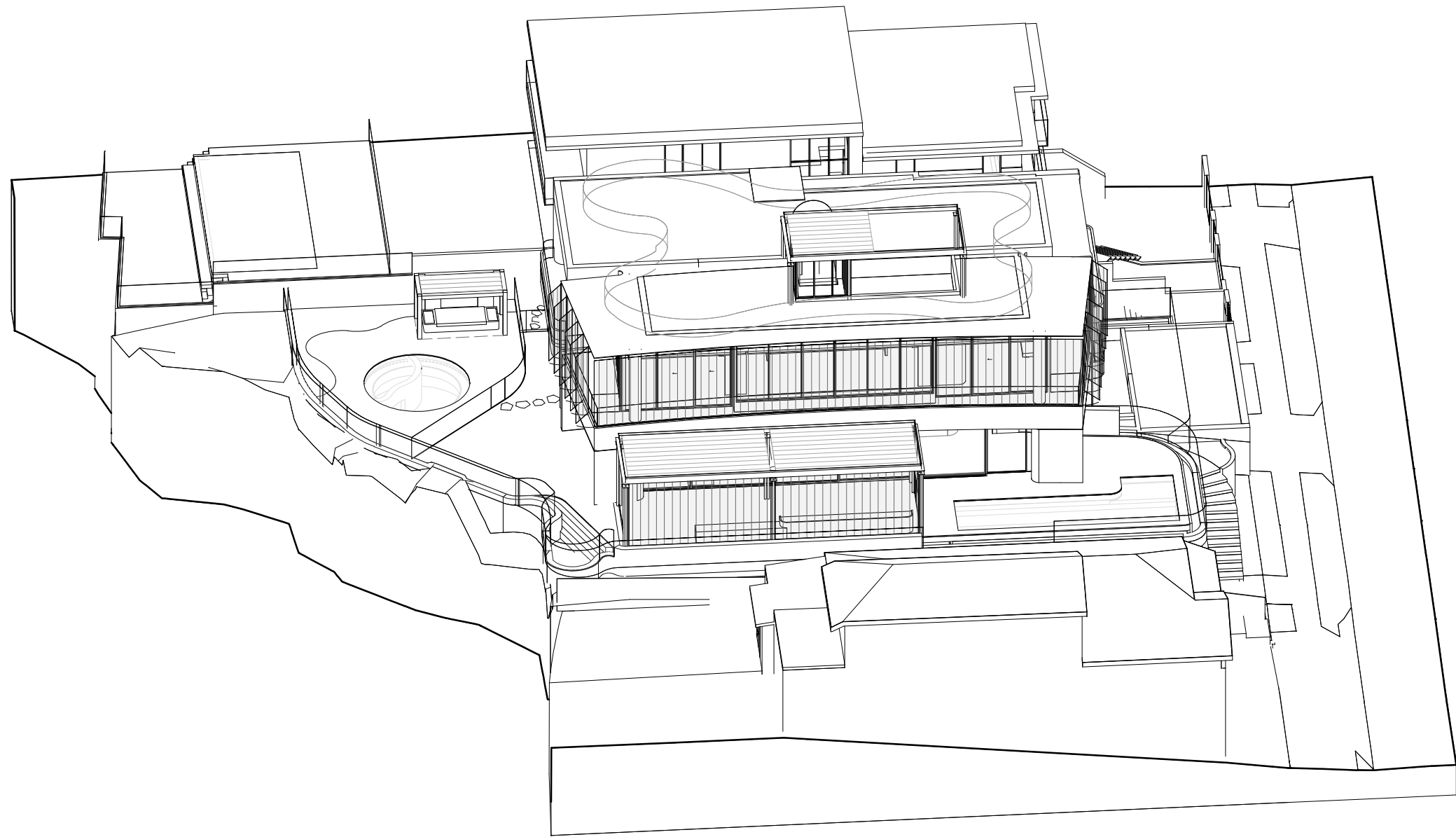
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2 Winter 11am (Proposed)



3 Winter 12pm (Existing)



4 Winter 12pm (Proposed)

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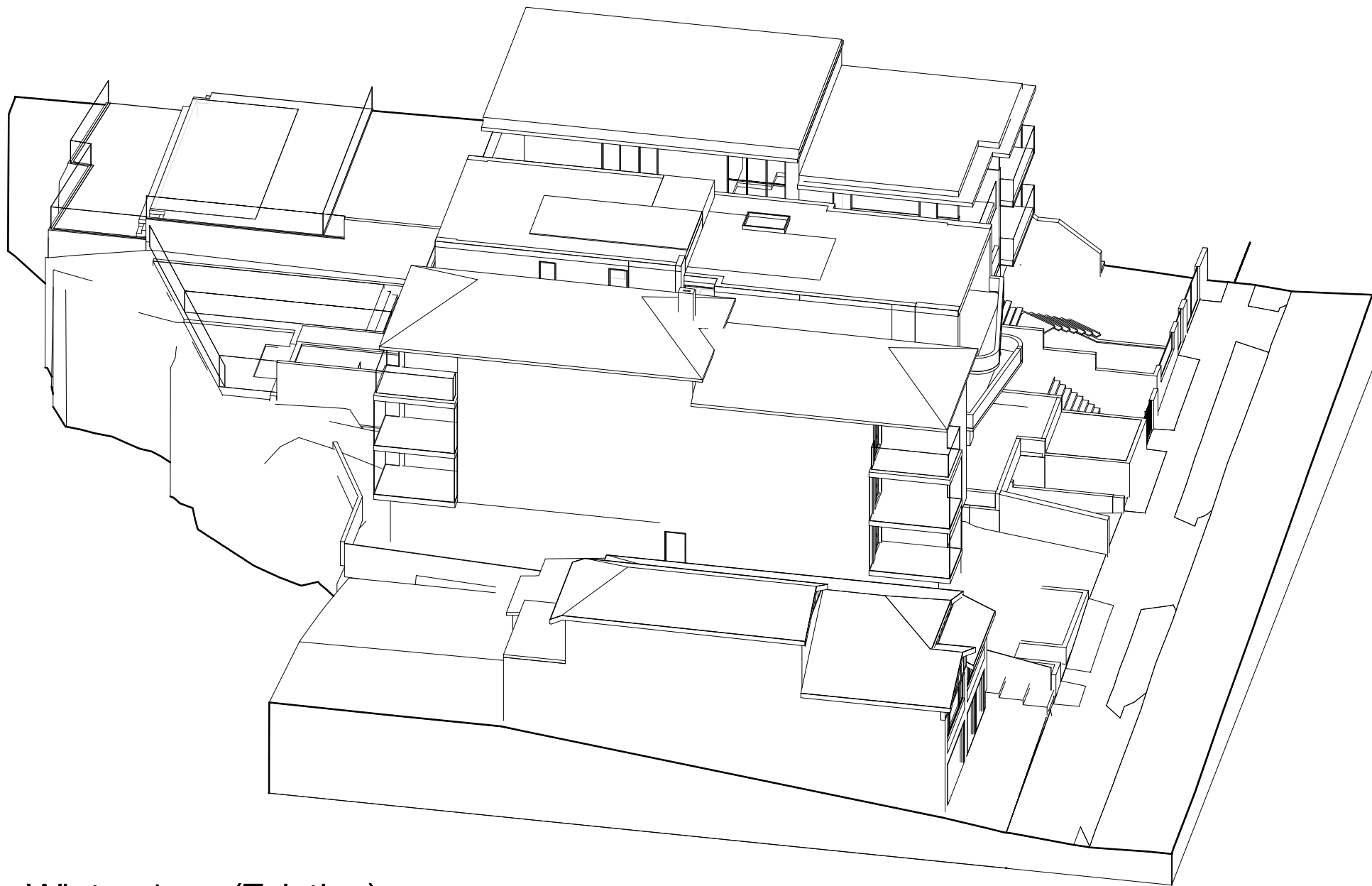
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168-170 Hastings Parade  
North Bondi, NSW  
Drawing Name  
VIEW FROM SUN, WINTER SOLSTICE -  
11AM, 12PM

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Drawing No.		Revision
DA-6012		/ 8

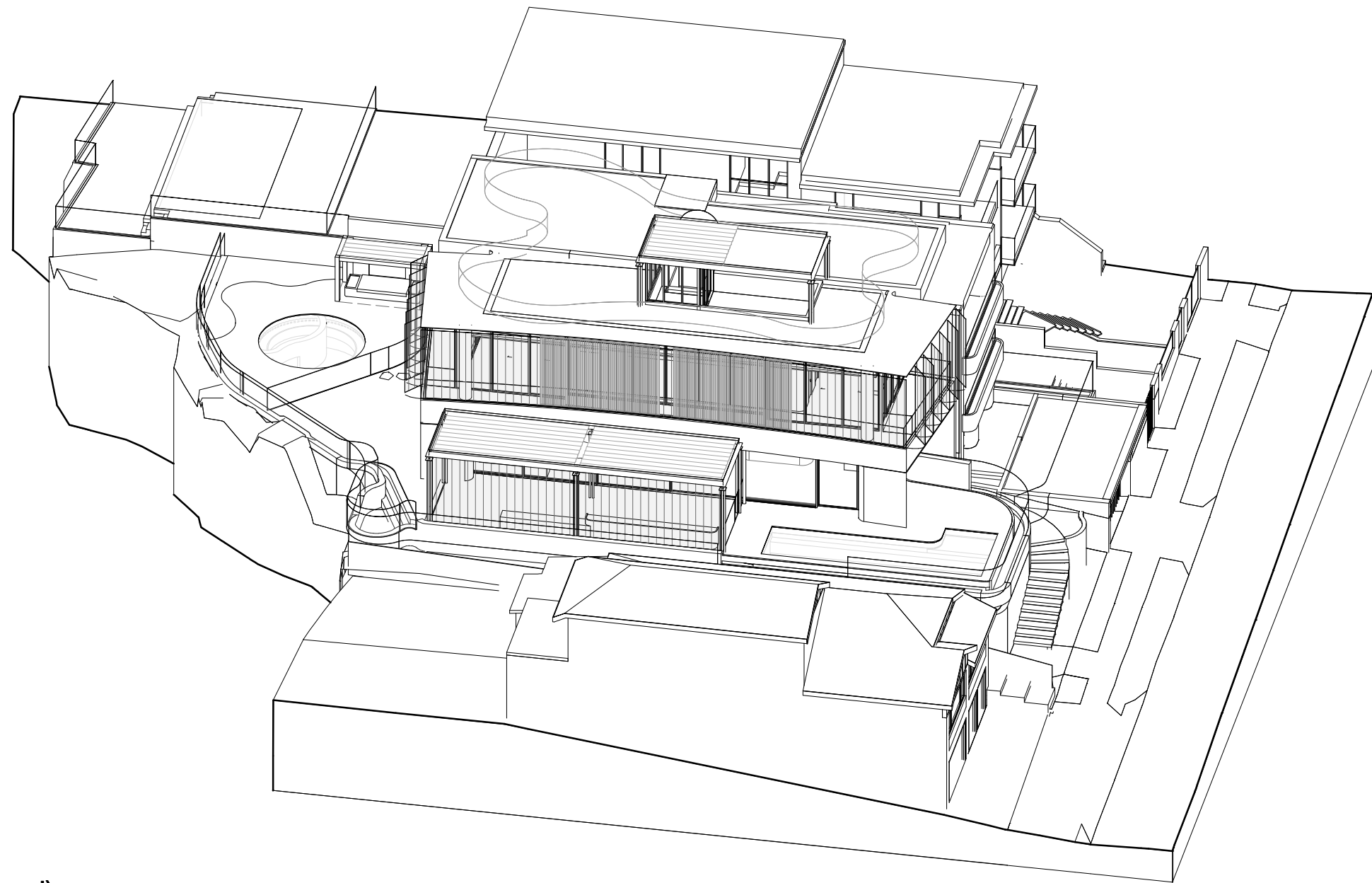
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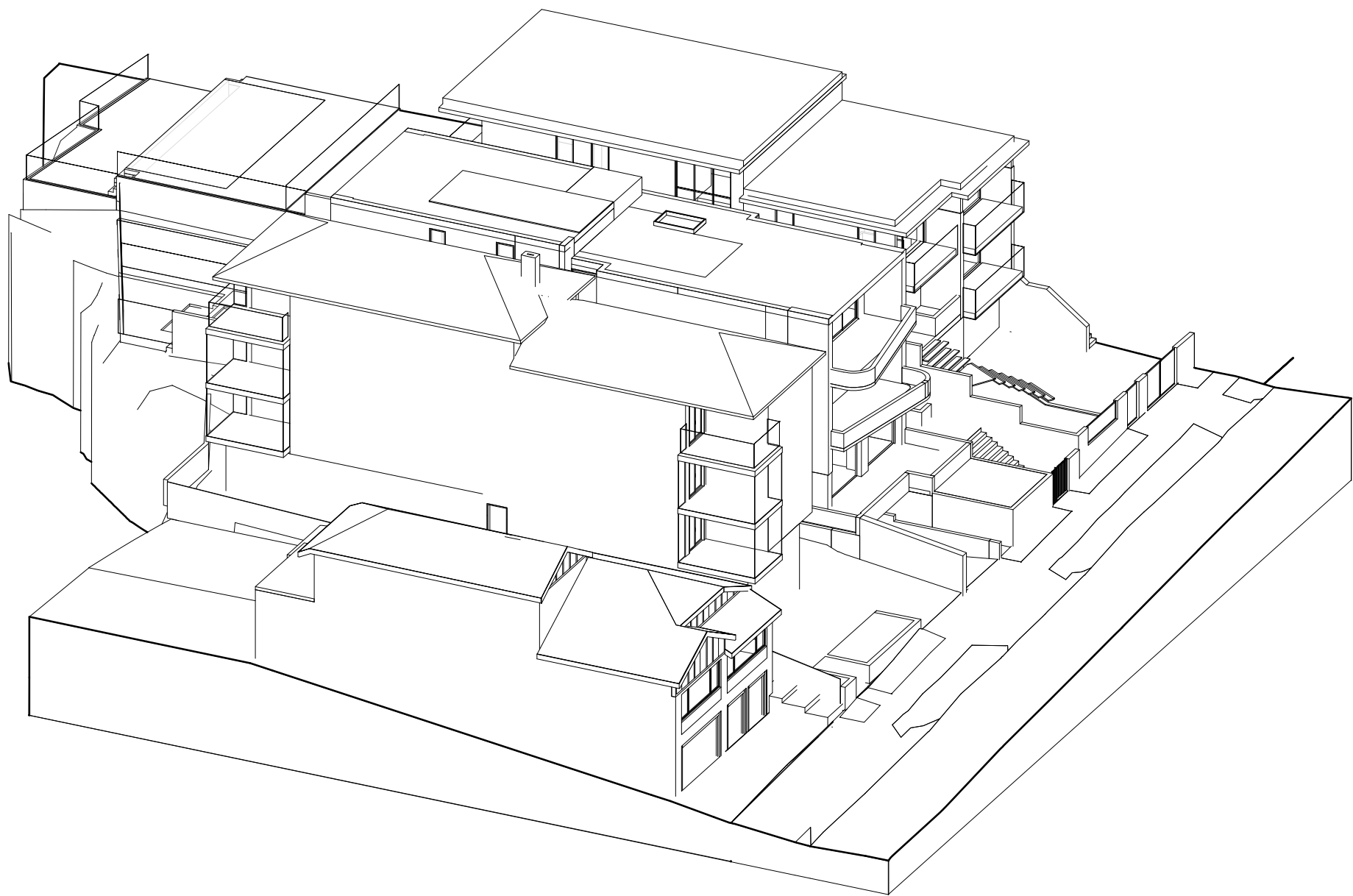




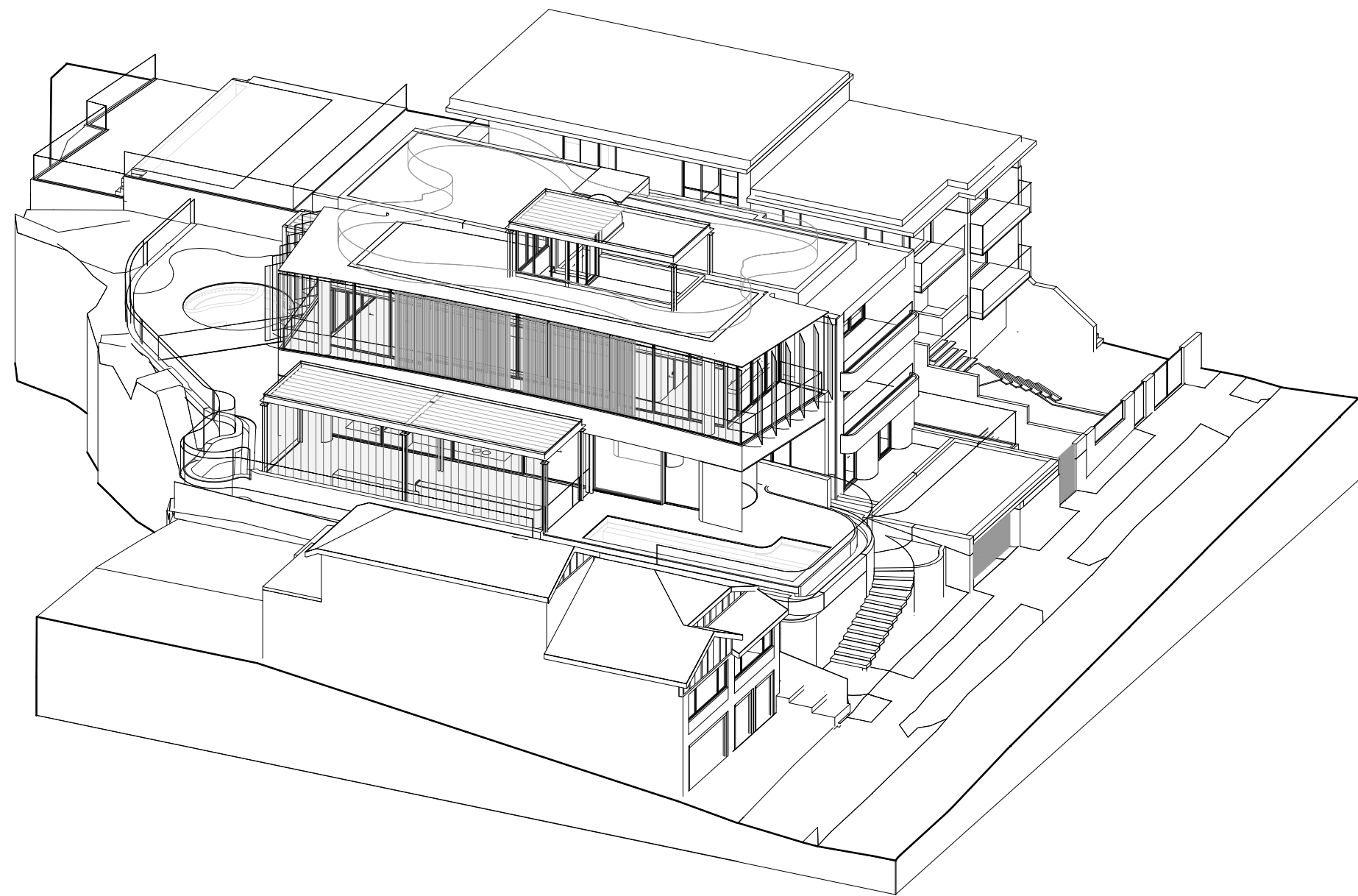
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2 Winter 1pm (Proposed)



3 Winter 2pm (Existing)



4 Winter 2pm (Proposed)

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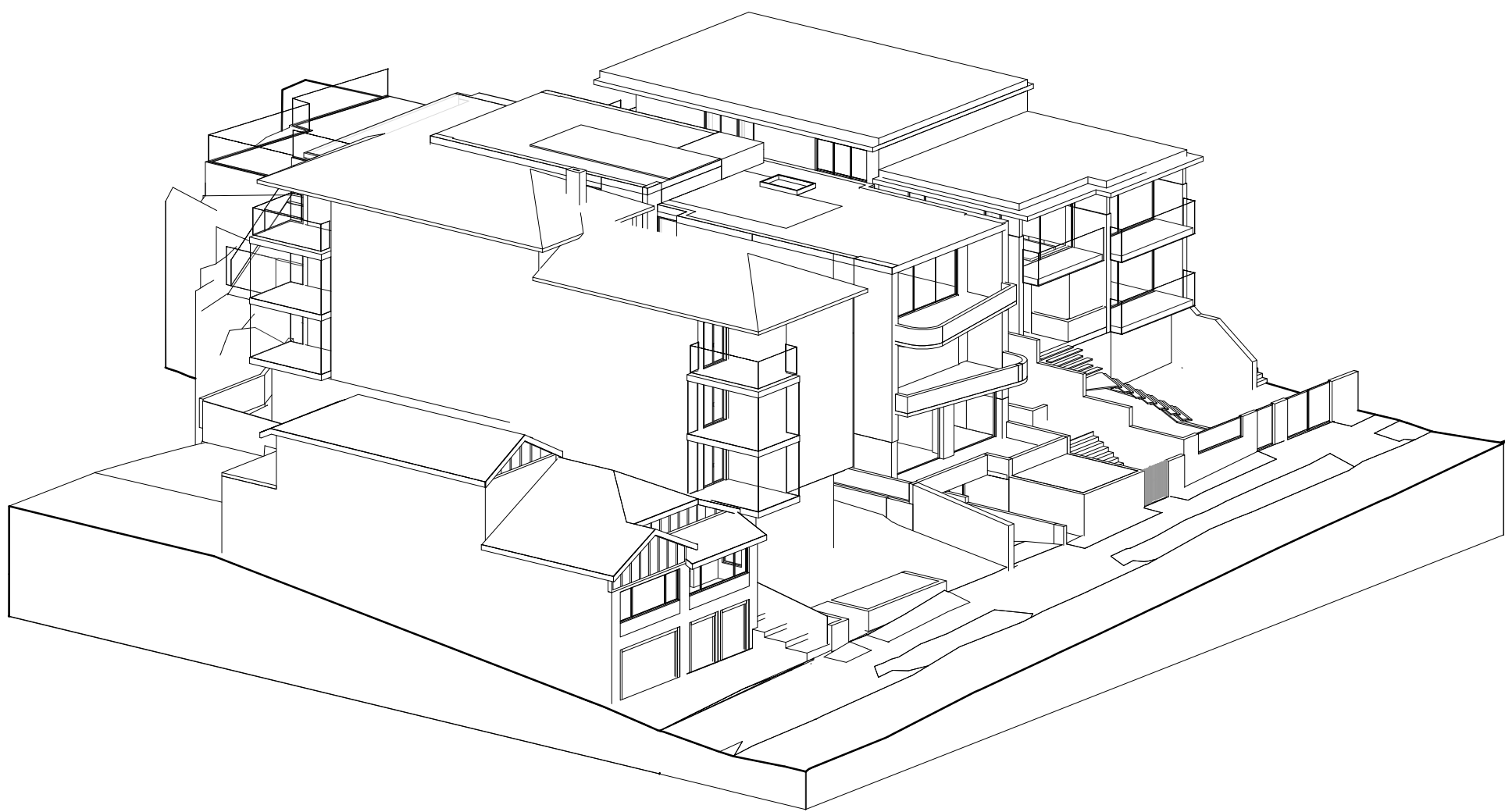

Project
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168-170 Hastings Parade
North Bondi, NSW
Drawing Name
VIEW FROM SUN, WINTER SOLSTICE - 1PM, 2PM

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Drawing No.		Revision
DA-6013		/ 8

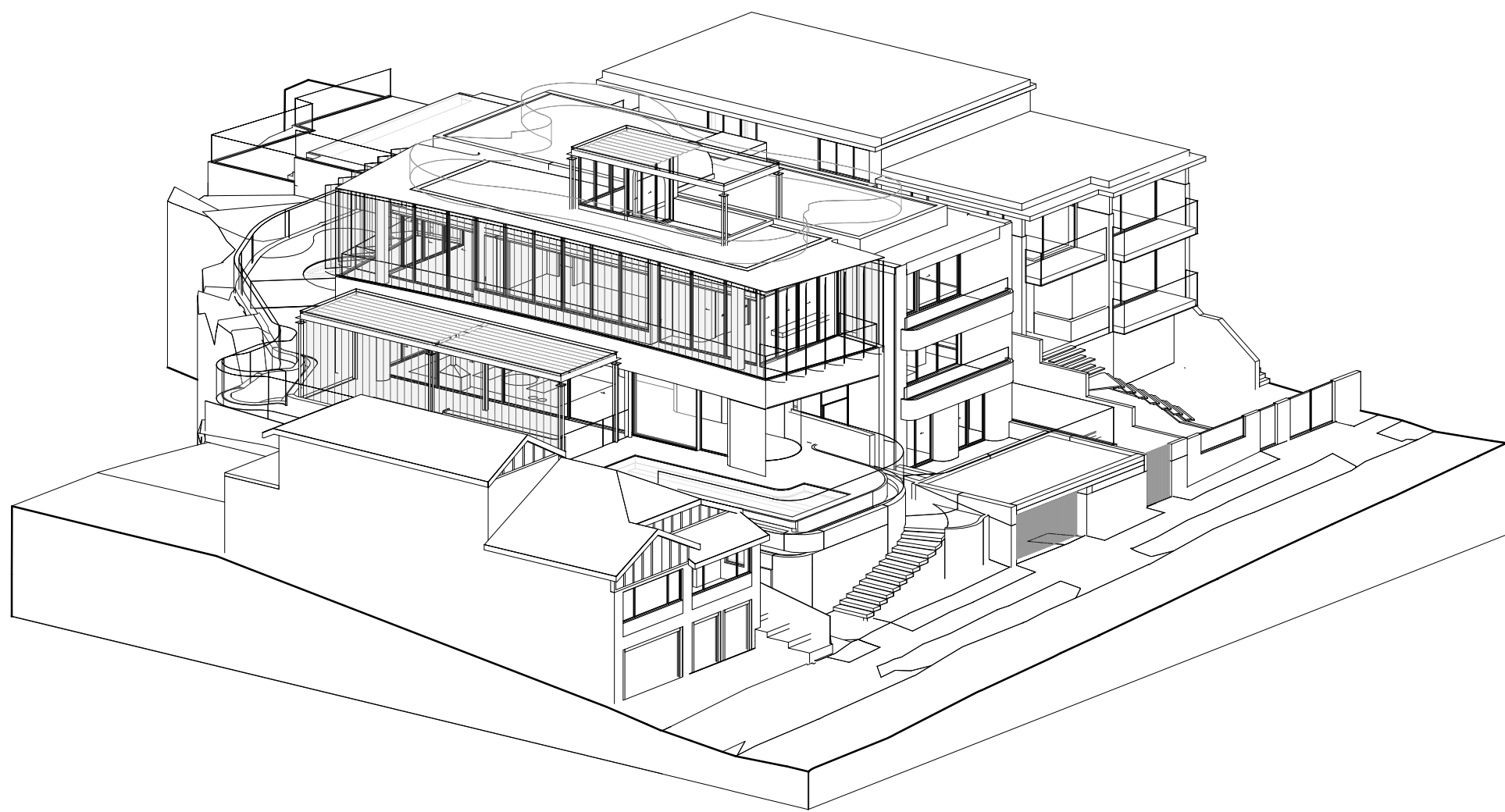
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1

Winter 3pm (Existing)

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Winter 3pm (Proposed)

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8	27.01.22	DA ISSUE - AMENDED TO ADDRESS DEFERRAL LETTER		

Project  
NORTH BONDI RESIDENCE  
168-170 Hastings Parade  
North Bondi, NSW

Drawing Name  
VIEW FROM SUN, WINTER SOLSTICE - 3PM

Date	Scale	Sheet Size
27.01.22		@ A1
Drawn	Chk.	Job No.
PB	AH	6414
Drawing No.		Revision
DA-6014		/ 8

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## AMENDED PLANS

PLANT SCHEDULE				
Botanic Name	Common Name	Mature Height	Pot Size	Qty
<b>Ground Cover &amp; Grasses</b>				
Bougainvillea alba	White Bougainvillea	Climber	250mm	9
Carapobrotus glaucescens	Pig Face	0.3m	140mm	444
Dichondra repens	Kidney Weed	0.2m	140mm	152
Ficinia nodosa	Common Rush	0.7-1m	140mm	152
Hibbertia scandens	Guinea Flower	Climber	140mm	580
Lomandra Tanika	Fine Matt Grass	0.7m	200mm	90
Pennisetum 'Nairay'	Dwarf Fountain Grass	0.6m	200mm	61
Portulacaria afra	Elephant Bush	2.5-4m	200mm	158
Rosmarinus prostratus 'Huntington Carpet'	Prostrate Rosemary	0.2-0.2m	200mm	77
Solanandra maxima	Cup Of Gold	Climber	200mm	9
Zoysia tenuifolia	Zoysia Grass	ground cover	140mm	286
			total	2018
			native	1328
			% native	65.8

Shrubs				
Agave gypsophila	Gypsum Century Plant	0.7m	400mm	20
Agave weberi	Maguey Liso	1m	300mm	4
Aloe 'Big Red'	Big Red Aloe	1m	200mm	25
Doodia aspera	Prickly Rasp Fern	0.35m	200mm	14
Crassula ovata	Jade	0.6m	200mm	20
Dracaena marginata	Madagascar dragon tree	4-6m	100Ltr	3
Elaeagnus angustifolia	Russian Olive	3m	300mm	18
Euphorbia ingens	Candelabra tree	6m	300mm	5
Euphorbia tirucalli	Indian tree spurge	2-3m	200mm	9
Leptospermum laevigatum	Coastal Tea Tree	2-5m	200mm	26
Ligularia reniformis	Tractor Seat	1m	200mm	10
Monstera deliciosa	Fruit Salad Plant	0.5-1.5m	300mm	22
Correa alba	White Correa	1-1.5m	200mm	25
Strelitzia nicholai	Giant Bird Of Paradise	5-7m	300mm	10
Westringia fruticosa	Coastal rosemary	1-2.2m	200mm	108
			total	319
			native	173
			% native	54.23

Trees					
Banksia integrifolia	Coastal Banksia	5-10m	200Ltr	8	
Elaeagnus angustifolia	Russian Olive	5-7m	advanced	5	
Phoenix reclinata	Wild Date Palm	6m	advanced	2	
Plumeria acutifolia	Frangipani	3-5m	advanced	1	
			total	16	
			native	8	
			% native	50	

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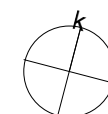
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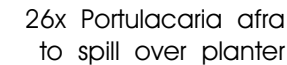




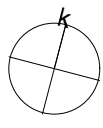
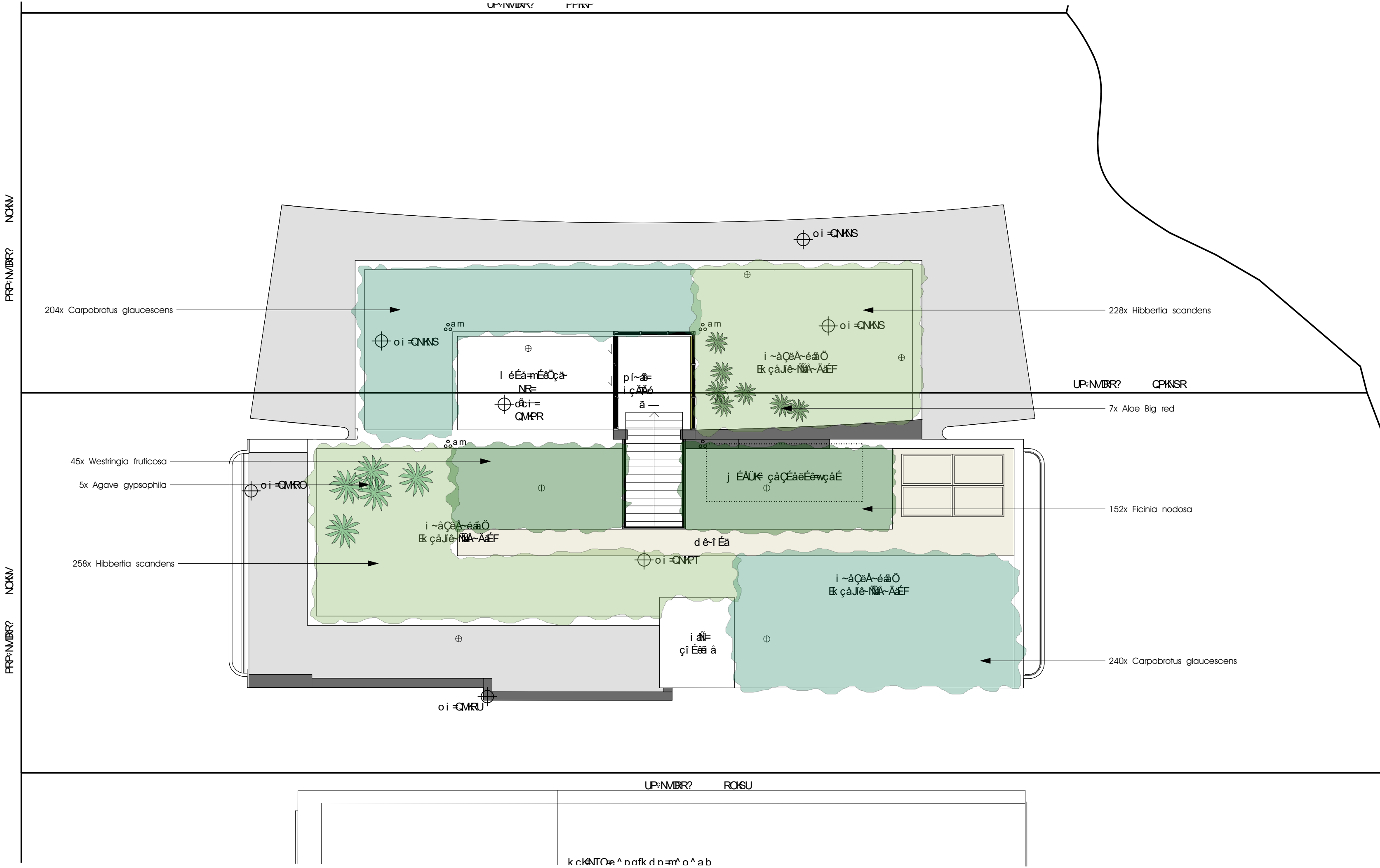




**Application No: DA-369/2021**  
**Date Received: 21/02/2022**



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Waverley Council  
Application No: DA-369/2021  
Date Received: 21/02/2022



Project:  
168-170 Hastings Parade,  
North Bondi, NSW  
Client:  
Molnar

Dwg no:  
LP05-D3321  
Title:  
Landscape Roof

Drawn by: Checked: Scale:  
TS WD 1:100 @ A2  
Issue: Revision: Date:  
01 G 28.01.2022

Landscape Design Sydney Tel: (02) 9316 9044  
53 Cranbrook St Fax: (02) 9316 9055  
Botany NSW 2019  
c/o H&B Landscape Design Pty Ltd  
ABN 68 628 444 444  
10/100 Cranbrook St  
Botany NSW 2019



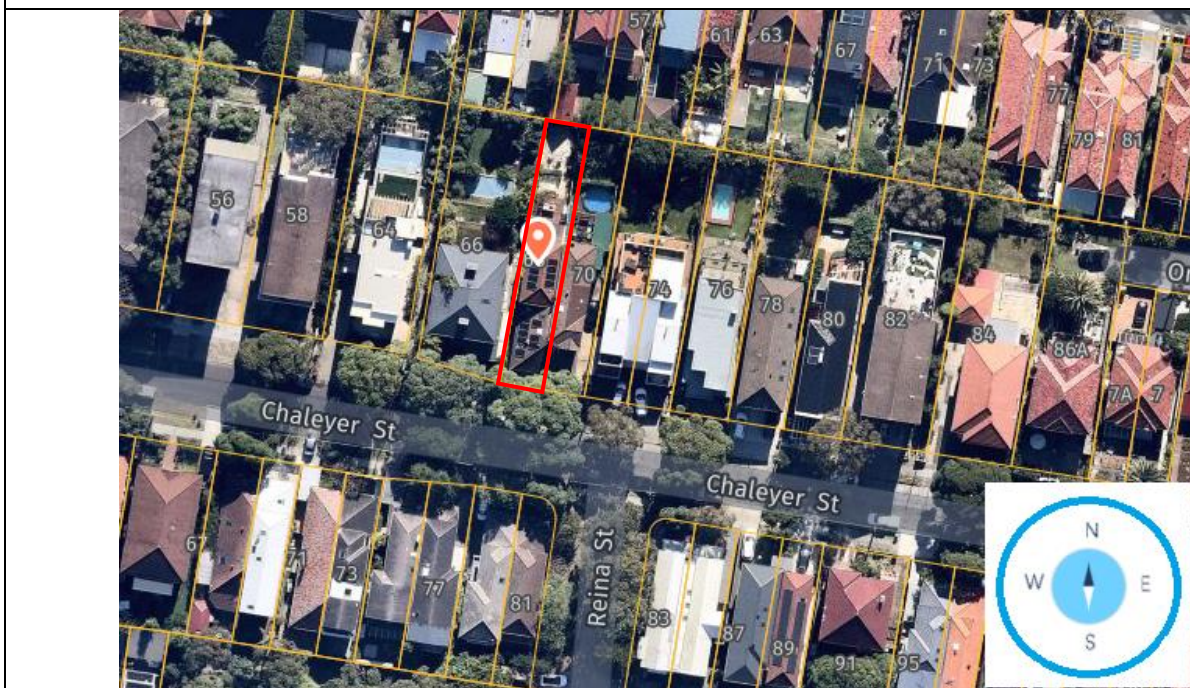
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## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-219/2021/1
<b>Site address</b>	68 Chaleyer Street, ROSE BAY
<b>Description of Development</b>	Review of decision seeking alterations and additions to semi-detached dwelling including new front car space and external spiral stair at rear.
<b>Date of Original Determination</b>	2 August 2021
<b>Date of lodgement</b>	2 December 2021
<b>Owner</b>	Mrs R Taub and Mr S Taub
<b>Applicant</b>	Mr S Taub
<b>Submissions</b>	Four submissions received (three objections and one in support)
<b>Cost of works</b>	\$38,500
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Removal of front façade to accommodate car parking.</li> <li>• Symmetry of semi-detached pair.</li> <li>• Privacy impacts of staircase.</li> </ul>
<b>Recommendation</b>	That the application be <b>REFUSED</b> for the reasons contained in the report.

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The section 8.2 review application seeks to review the refusal of DA-219/2021 for alterations and additions to the semi-detached dwelling, including new front car space and external spiral stair at rear at the site known as 68 Chaleyer Street, Rose Bay. The review application has slightly amended the original development application by increasing the landscaped area within the front yard of the site.

The principal reasons why the original development application was refused were as follows:

- Adverse streetscape impacts as the car space would impact on the symmetry of the pair of semi-detached dwellings and result in a poor standard of architectural design;
- Removal of the front façade of the semi-detached dwelling to accommodate car parking;
- Adverse privacy impacts of the external spiral stair upon surrounding properties; and
- The site is not suitable for car parking.

The assessment finds these issues have not been addressed in this review application as the car space continues to be inappropriate for the site, as it will involve removal of part of the street façade of the semi-detached dwelling, resulting in adverse streetscape and visual impacts. Further, the external spiral stair is unreasonable and unnecessary as it will result in adverse visual and acoustic privacy impacts upon neighbouring properties.

A total of four submissions were received, three of which objected to the application. The issues raised in the objections have been considered and addressed in this report and in the Recommendation.

The application is referred to the Waverley Local Planning Panel as the original development application was determined by Council's Development and Building Unit (DBU) and the DBU resolved to recommend refusal of this review application.

The application has been assessed against the relevant matters for consideration under sections 8.2 and 8.3 the *Environmental Planning and Assessment Act 1979*. It is recommended to not change the determination of refusal.

### 1.2. Site and Surrounding Locality

A site visit was carried out during the assessment of the original development application and on 11 January 2022.

The site is identified as Lot 1 in DP 514506 known as 68 Chaleyer Street, Rose Bay.

The site is rectangular in shape with a southern frontage to Chaleyer Street, measuring 6.13m. It has an area of 276.8m<sup>2</sup> (by survey) and the site falls slightly from the east towards the west by approximately 0.4m.



The site consists of a part two, part three-storey semi-detached dwelling with no vehicular access provided on the existing site.

The subject site is adjoined by a semi-detached dwelling to the eastern boundary and residential flat building to the western side. The locality is characterised by a variety of residential developments including semi-detached dwellings, detached dwellings, and residential flat buildings.

**Figures 1 to 3** are photos of the site.



**Figure 1:** Site as viewed from Chaley Street, looking north



**Figure 2:** Front building setback area of dwelling



**Figure 3:** Rear of dwelling

### 1.3. Relevant Development History

The following is recent and relevant development history of the site:

- DA-68/2018 – Alterations and additions with new open car space to existing semi-detached dwelling refused on 25/09/2018. The refusal reasons have been provided below:
  - a. *Part B – Tree Preservation;*
    - i. *Section 5.1 General Provisions and Section 5.2 Protecting Trees on Development Sites, specifically objective (a) as the proposed driveway will result in removal of several large support roots of a significant Brushbox street tree. The removal of the root system is likely to cause the tree to decline and affect the stability of the tree.*
  - b. *Part C1 – Dwelling house, dual occupancy, secondary dwelling, semi-detached dwelling and terrace development;*
    - i. *Section 1.4 Streetscape and Visual Impact, specifically objective (a) and controls (c) as the proposed car space contributes to the dominance of front car parking and driveways in Chaleyer Street and is not considered a positive design outcome for streetscape.*
    - ii. *Section 1.6.1 Built Form, specifically objective (a) and control (a) as the car space results in substantial alterations to the front façade which does not maintain the existing style, form and symmetry of the paired semi-detached dwellings.*
    - iii. *Section 1.11.2 Location, specifically controls (d)(ii) and (iv) as the proposed car space exceeds 45% of the width of the site frontage and the existing front setback of the site does not provide a minimum of 5.4m distance between the building and the front property boundary.*
    - iv. *Section 1.11.3 Design, specifically controls (a), (b) and (c) as the car park does not complement the style of the existing paired semi-detached dwellings and requires removal of the front façade to accommodate car parking. The proposal results in an adverse impact on the unique symmetry and architectural unity of the paired semi-detached dwellings.*

#### 1.4. Details of the Original Determination Subject to Review

The original development application, known as DA-219/2021 for alterations and additions to semi-detached dwelling, including new front car space and external spiral stair at rear, was refused on 2 August 2021 by the DBU.

The principal reasons why the original development application was refused were as follows:

- Adverse streetscape impacts as the car space would impact on the symmetry of the pair of semi-detached dwellings and result in a poor standard of architectural design;
- Removal of the front façade of the semi-detached dwelling to accommodate car parking;
- Adverse privacy impacts of the external spiral stair upon surrounding properties; and
- The site is not suitable for car parking.

## 1.5. Proposal

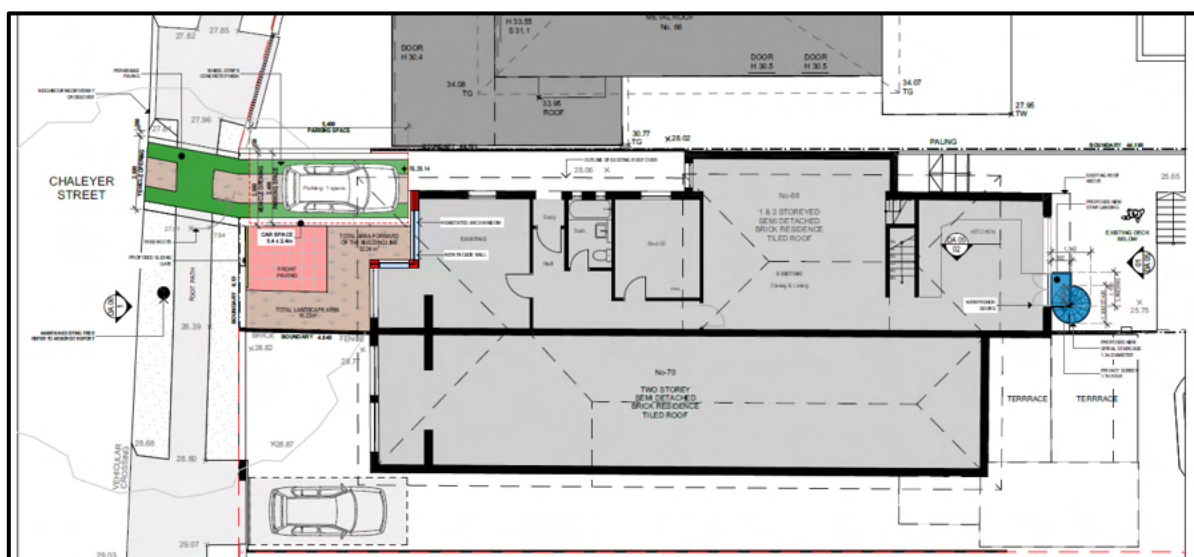
The review application was lodged on 2 December 2021 and seeks to review the determination of the original development application.

The original application sought development consent for alterations and additions to a semi-detached dwelling, specifically the following:

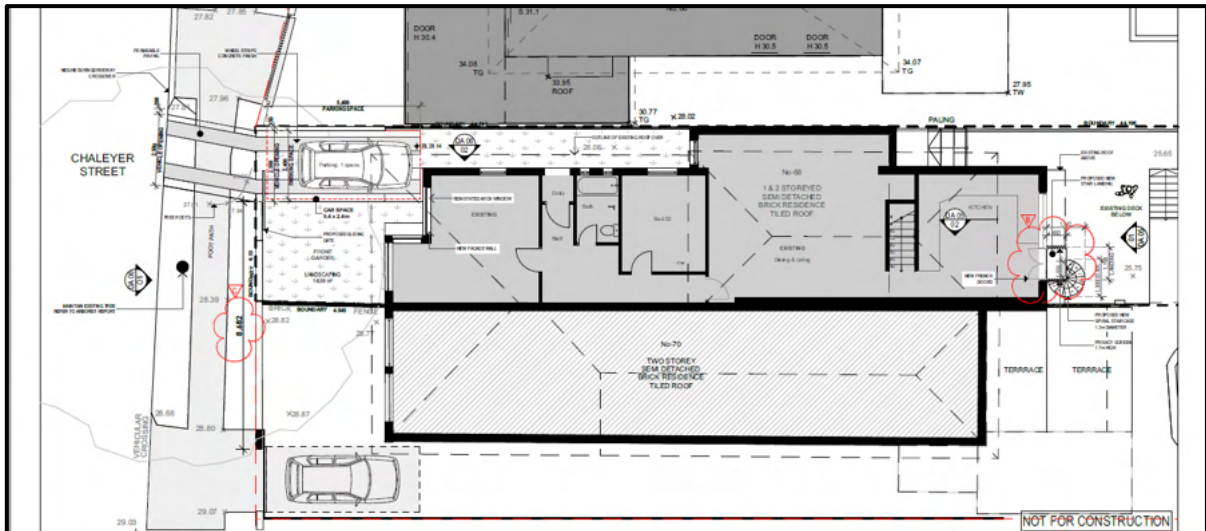
- Demolition of a portion of the front façade of the dwelling to accommodate a new car space at the front of the site in the form of concrete wheel strips;
- The proposed car space dimensions are 5.4m x 2.4m;
- New external stairs at the rear of the dwelling; and
- New French doors to the rear of the first floor level.

The review application has made a slight design amendment to the original application by removing of the originally proposed 'front pavers' to increase landscaped area in the front yard.

The amendments made to the proposal are visualised by comparing the architectural floor plans between the refused original development application and the review application, as shown in **Figures 4 and 5** of this report



**Figure 4:** Floor plan submitted in the refused original development (DA-219/2021)



**Figure 5:** Floor plan submitted in this review application

## 1.6. Background

An additional information request was made on 7 December 2021 for the following:

1. A streetscape analysis that diagrammatically to demonstrate the proposal's impact on on-street car parking, the streetscape and pedestrian and cyclist accessibility and safety.
2. Preparation of a west elevation to show the new west-facing window.
3. A coloured streetscape or south elevation that clearly depicts new works.

The applicant responded to this additional information request on 9 December 2021 by claiming a detailed urban design and streetscape analysis (related to point 1 above) is included in the Statement of Environmental Effects that had already been submitted.

Council received an amended set of architectural plans on 10 December 2021, responding to points 2 and 3 above. This set was publicly notified.

## 2. ASSESSMENT

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

### 2.1. Section 8.3 Considerations

Section 8.3 of the Act enables the consent authority (i.e. Council) to review a previous determination of a development application subject to provisions, such as:

*(2) A determination or decision cannot be reviewed under this Division—*

*(a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or*



*(b) after the Court has disposed of an appeal against the determination or decision.*

*(3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.*

The determination of the original application (DA-219/2021) was made on 2 August 2021 by the Development and Building Unit. The period of right of appeal for the applicant to exercise (referenced in section 8.3(2)(a) of the Act), is 12 months after the date of determination (N.B. this period is extended by special amendments and provisions to the Act and Regulations during the COVID-19 Pandemic). The application is scheduled to be determined by the Waverley Local Planning Panel on 23 March 2022, which satisfies the statutory timeframe to determine this review application.

Council is satisfied that the essential elements of the original application are substantially the same as those of the amended development that is the subject of the review application. The overall scope and description of the development between the two applications remain unchanged.

The review application is assessed against the relevant matters for consideration under section 4.15(1) of the Act, as discussed in the succeeding sections of this report.

## **2.2. Planning Instruments and Development Control Plans**

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

### **2.2.1. State Environmental Planning Policies (SEPPs)**

The following SEPPs apply and have been considered acceptable in the assessment of this review application:

- SEPP 55 Remediation of Land.
- SEPP (Vegetation in Non-Rural Areas) 2017.

### **2.2.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)**

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### **2.2.3. 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
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal meets the relevant aims of Waverley LEP 2012.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R2 Low Density Residential Zone	Yes	The proposal is defined as car parking and alterations to a dwelling, which is ancillary to a dwelling and is permitted with consent in the R2 Low Density Residential Zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings • 8.5m	Yes	The proposal will not exceed the maximum allowable height.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio	Yes	The proposal results in a minor reduction of gross floor area due to the demolition of the front room of the semi-detached dwelling.
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulfate soils	Yes	The site contains 'Class 5' acid sulfate soils. The proposal does not involve substantial excavation that would disturb acid sulfate soils.

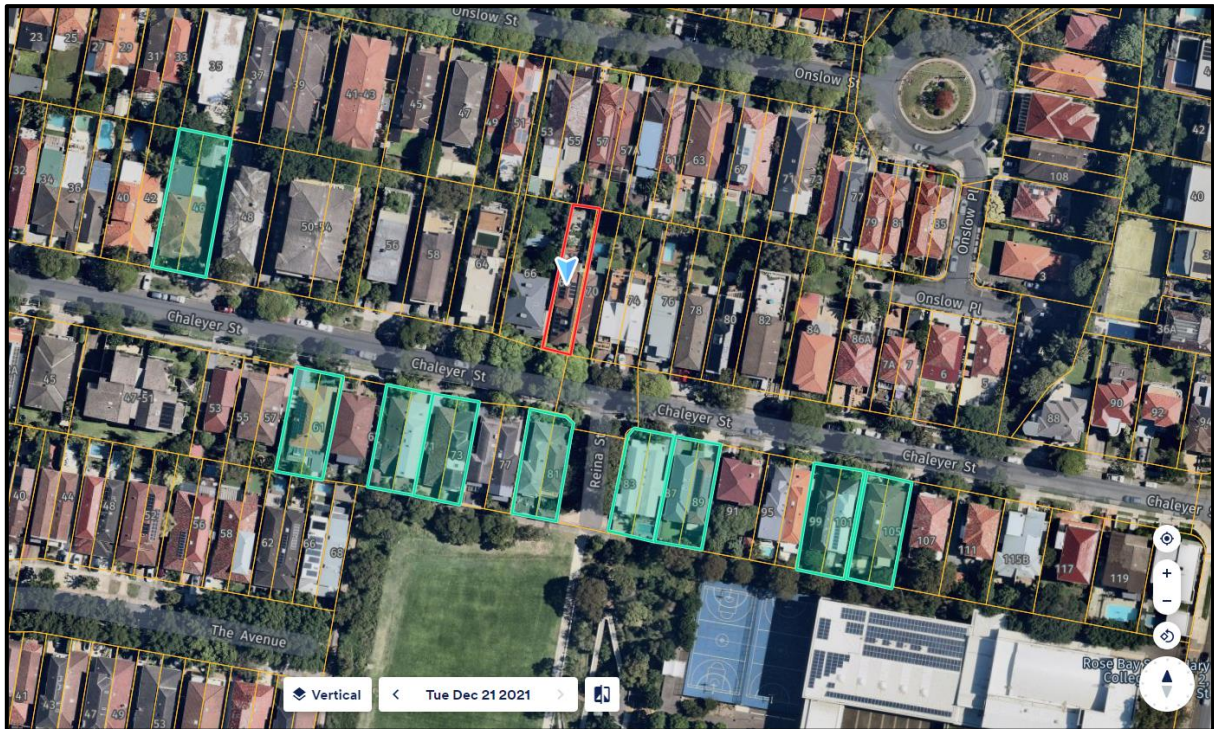
#### 2.2.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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
1. Waste	Yes	Satisfactory.
5. Vegetation Preservation	Yes	The proposal retains the existing Brush Box street tree in the nature strip at the front of the property. Council's Tree Management Officer has reviewed the proposal and raises no objection subject to special conditions, however, the application is recommended for refusal.
6. Stormwater	Yes	Satisfactory.
8. Transport	No	The existing site cannot accommodate a standard car space in the front setback without demolishing the front façade of the semi-detached dwelling.

Development Control	Compliance	Comment
		<p>While the adjoining semi-detached dwelling to the east of the site at 70 Chaleyer Street contains a hardstand within the front setback, the construction of this hardstand did not require any demolition to the dwelling as there is sufficient clearance within the side setback area to provide this car space.</p> <p>Further, there is a consistent pattern of pairs of originally retained semi-detached dwellings in Chaleyer Street (i.e. those that have not been completely redeveloped or rebuilt and have a similar architectural style to that of the subject semi and its adjoining semi to the east) where one semi is set back sufficiently from the outer side boundary, allowing adequate clearance for a car space to its side, with the other semi set back lesser from its outer side boundary, which is the case for the subject semi. These examples are identified on a marked-up aerial photo in <b>Figure 6</b> of this report.</p> <p>Irrespective of the majority of these examples being on the southern side of Chaleyer Street (i.e. on the opposite side to the site), these examples are predominantly within the visual catchment of the site and contribute to the site's streetscape context. Therefore, these examples prove that the site is inappropriate for off-street car parking.</p> <p>The current car parking objectives and controls of the DCP have been implemented to preserve the character of semi-detached dwellings and ensure that car parking does not adversely impact on the dwelling, streetscape and landscape. The removal of part of the front of the dwelling will impact on the symmetry of the semi-detached pair and contribute to undesirable car parking design along Chaleyer Street.</p> <p>In this regard, it is recommended the proposal be refused.</p>
12. Design Excellence	No	<p>The proposed car space is not suitable for the site and the external stairs may result in unreasonable privacy and noise impacts to surrounding properties. It is recommended the application be refused.</p>



**Figure 6:** Marked-up aerial photo identifying (in teal outlines and overlay) pairs of semi-detached dwellings where only one semi of these pairs comprises front or side hardstand spaces or driveways (NB. The subject site is outlined in red)

**Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
	No	The proposed external stairs at the rear of the site are likely to result in adverse privacy impacts to adjoining properties and the removal of the front façade is not sympathetic to the character of the pair of semi-detached dwellings.
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>Predominant front building line</li> <li>Predominant rear building line at each floor level</li> </ul>	No	<p>The proposal seeks to remove part of the existing front building line of the ground floor level to accommodate a car space is not acceptable as it does not comply with car parking controls and does not maintain cohesion with the adjoining semi-detached dwelling.</p> <p>The ground floor street façade of both semi-detached dwellings appears symmetrical in that their front building alignments are identical and comprise identical banks of semi-circular window openings within this same building alignment. The proposed partial demolition of the street façade of the subject semi will disturb this symmetry.</p>



Development Control	Compliance	Comment
<b>2.2.2 Side setbacks</b> <ul style="list-style-type: none"> <li>Minimum of 0.9m</li> </ul>	Yes	The proposal is consistent with side setback controls.
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> <li>Replacement windows to complement the style and proportions of existing dwelling</li> <li>Development must not dominate or erode the character of the streetscape, particularly when viewed from a public place such as parks, reserves, beach or the ocean.</li> </ul>	No	<p>As discussed in <b>Table 2</b> of this report, there is a consistent pattern of pairs of originally retained semi-detached dwellings in Chaleyer Street (i.e. those that have not been completely redeveloped or rebuilt and have a similar architectural style to that of the subject semi and its adjoining semi to the east) where one semi is set back sufficiently from the outer side boundary, allowing adequate clearance for a car space to its side, with the other semi set back lesser from its outer side boundary, which is the case for the subject semi. Therefore, the proposed car space will adversely impact on the streetscape.</p> <p>The demolition of the street façade will erode the established character of the streetscape and semi-detached pair.</p>
<b>2.4 Fences</b>		
<p><i>Front:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> </ul> <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.8m</li> </ul>	Yes	The proposal seeks to demolish the front fence and provide an open design.
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design</li> <li>External stairs are not acceptable.</li> </ul>	No	<p>Control (c) states that external stairs are not acceptable as they do not protect the visual and acoustic privacy of adjoining properties and maintain an appropriate aesthetic quality of development.</p> <p>The proposed external spiral stair at the rear is not acceptable as it is likely to result in unreasonable and unnecessary overlooking impacts to surrounding properties. Further, objections were received from occupants/owners of neighbouring properties on either side of the site in relation to the spiral stair, stating their concern for the loss of privacy due to the stair.</p>
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> </ul>	Yes	The proposal will not impact on existing solar access to the subject property or adjoining properties.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> <li>Avoid unreasonably overshadowing of solar collectors (including habitable windows).</li> </ul>		
<b>2.8 Car parking</b>		
<b>2.8.1 Design Approach</b> <ul style="list-style-type: none"> <li>Parking only allowed where site conditions permit</li> <li>Designed to complement the building and streetscape</li> <li>Car parking structures to be behind the front building line</li> <li>Driveways are to be located to minimise the loss of on street parking</li> <li>Parking to be provided from secondary streets or lanes where possible.</li> </ul>	No	<p>The proposed car space contravenes these controls for the following reasons:</p> <ul style="list-style-type: none"> <li>The existing building and front setback cannot accommodate a standard car space without removing part of the front wall of the semi-detached dwelling.</li> <li>While off-street car parking is characteristic of the streetscape, the majority of the car spaces that are directly in front of dwellings, such as those between number 70 and 80 Chaleyer Street that are referred to in the applicant's Statement of Environmental Effects, were constructed prior to Council's formal car parking policy that has been enforced for over two decades. These are not desirable examples or precedents for the proposal to follow as they are obtrusive elements within the streetscape and are contrary to the desired future character of the street and locality.</li> <li>Removing part of the front façade to accommodate a car space is considered to erode the character of the dwelling and streetscape</li> </ul>
<b>2.8.2 Parking rates</b>	Yes	The proposal provides one car space.
<b>2.8.3 Location</b> <ul style="list-style-type: none"> <li>Behind front building line for new dwellings</li> <li>Existing development to be in accordance with the hierarchy of preferred car parking locations</li> </ul>	No	The existing front building setback area of the site does not provide adequate space for a standard vehicle. The existing length between the building and the front property boundary is approximately 4.5m.

Development Control	Compliance	Comment
<b>2.8.4 Design</b> <ul style="list-style-type: none"> <li>Complement the style, massing and detail of the dwelling</li> <li>Secondary in area and appearance to the design of the residences</li> <li>No part of the façade is to be demolished to accommodate car parking</li> </ul>	No	The proposal seeks to demolish and remove part of the front wall to accommodate a car space, which is not acceptable.
<b>2.8.5 Dimensions</b> <ul style="list-style-type: none"> <li>5.4m x 2.4m per vehicle</li> </ul>	Yes	The proposal provides a 5.4m x 2.4m, however, it is not acceptable for the reasons outlined above.
<b>2.8.6 Driveways</b> <ul style="list-style-type: none"> <li>Maximum of one per property</li> <li>Maximum width of 3m at the gutter (excluding splay)</li> <li>Crossings not permitted where 2 on street spaces are lost</li> </ul>	Yes	One driveway is proposed for one car space; however, the car space is not supported.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> <li>Overall landscaped area: 15% of site area</li> <li>Minimum area of 25m<sup>2</sup> for private open space</li> <li>Front open space: 50% of front building setback area</li> <li>Front landscaped area: 50% of front open space provided</li> </ul>	Yes	<ul style="list-style-type: none"> <li>No changes to existing open space</li> <li>The amended proposal seeks to increase landscaped area in the front yard, which increases the overall landscaped area of the site.</li> <li>No changes to private open space</li> <li>No changes to open space of the front setback</li> <li>The amended proposal seeks to increase front landscaped area, which is an improvement from the existing situation which has nil front landscaped area. However, this improvement cannot compensate for the adverse impacts caused by the proposed car space.</li> </ul>
<b>2.13 Semi-detached dwellings and terrace style development</b>		
<b>2.13.1 - Built form</b> <ul style="list-style-type: none"> <li>To protect the street frontage of the pair of</li> </ul>	No	The proposal seeks to demolish the front wall of the semi-detached dwelling which does not

Development Control	Compliance	Comment
semi-detached dwellings, demolition of one semi-detached dwelling of a semi-detached dwelling pair is not supported. <ul style="list-style-type: none"> <li>Additions to match the style of the original semi-detached dwelling</li> <li>Front verandahs to be maintained.</li> </ul>		maintain cohesion with the adjoining semi-detached dwelling.
2.13.3 - Material finishes and detail for semi-detached dwellings <ul style="list-style-type: none"> <li>Finishes and detailing are to be cohesive with the existing dwelling</li> <li>New windows to have a similar proportion to the existing</li> </ul>	Yes	The proposed materials and finishes maintain cohesion with the existing dwelling.

### 2.3. Other Impacts of the Development

The proposal is considered to have a significant detrimental effect relating to environmental, social or economic impacts on the locality, and is recommended for refusal.

### 2.4. Suitability of the Site for the Development

The site is not considered suitable for the proposal.

### 2.5. Any Submissions

The application was notified between 13 December 2021 and 24 January 2022 (due to the extended notification period before and after the Christmas and New Year festive season) in accordance with the *Waverley Community Development Participation and Consultation Plan*.

A total of four unique submissions were received from the following properties in Rose Bay:

- 66 Chaleyer Street;
- 70 Chaleyer Street;
- 72 Chaleyer Street; and
- 57A Onslow Street (raising no objection).

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- Streetscape impacts of the proposed car space; and



- Privacy impacts and lack of setbacks of external spiral stair.

## 2.6. Public Interest

The proposal is considered to have detrimental effect on the public interest and is recommended for refusal.

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Traffic and Development

Council's Traffic and Development Section did not object to the proposal, however, the site does not provide adequate space to accommodate a car space without removing part of the front wall and the staircase results in privacy impacts, therefore, is not supported.

### 3.2. Stormwater

Council's Stormwater Officer did not object to the proposal, subject to conditions of consent.

### 3.3. Tree Management

Council's Tree Management Officer who did not object to the proposal, subject to conditions of consent.

## 4. CONCLUSION

The application has been assessed against the relevant matters for consideration under sections 8.2 and 8.3 the *Environmental Planning and Assessment Act 1979*. The assessment of the proposal undertaken in the original application has been reviewed and it is recommended to not change the determination of refusal with minor amendments to the original reasons for refusal, given:

- the site is inappropriate for off-street car parking in relation to the insufficient front building setback area of the site and the streetscape context; and
- the external spiral stair to the rear of the semi-detached dwelling will result in unreasonable and unnecessary privacy impacts upon adjoining properties.

### *Development and Building Unit (DBU) Decision:*



The application was reviewed by the DBU at the meeting on 8 February 2022 and the DBU determined:

- (a) The application is not acceptable and should be refused for the reasons in Appendix A.

DBU members: A Rossi, B McNamara, B Matlawski and K Johnstone

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the review application be **REFUSED** by the Waverley Local Planning Panel for the reasons contained in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Ben Magistrale	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 22 February 2022	Date: 9 March 2022

*Reason for WLPP referral:*

1, The original application was refused by the DBU and the DBU has recommended refusal for the review application.

## APPENDIX A – REASONS FOR REFUSAL

Having regard to section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (the Act), the review application is refused for the following reasons:

1. The proposal does not satisfy the objectives of the Act, as stipulated in section 1.3 (g), as the proposal does not promote good design and amenity of the built environment.
2. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Act, as the proposal is contrary to *Waverley Development Control Plan 2012*, in respect to the following provisions:
  - a. Part B8 – *Transport*
    - i. Specifically, objectives (d) and (k), as the proposed car space will adversely impact upon the symmetry of the semi-detached pair and subsequently erode the character of the streetscape.
  - b. Part B12 – *Design Excellence*
    - i. *Clause 12.1 Design*, specifically, objective (a) and controls (b) and (e), as the existing site does not provide adequate space for a standard vehicle and removes part of the front wall of the existing dwelling, which is not considered a high standard of architectural design. The existing site is not suitable to accommodate car parking in the front setback.
  - c. Part C2 – *Low Density Residential Development*
    - i. *Clause 2.0 General Objectives*, specifically, objectives (b), (d) and (e), as the external staircase detracts from the privacy of surrounding properties and the removal of the front wall is not sympathetic to the adjoining semi-detached dwelling.
    - ii. *Clause 2.2 Setbacks*, specifically, objective (f), as the removal of the front wall will create a stepped appearance of the front building line which detracts from the unique symmetry of the semi-detached pair and subsequently detract from the streetscape.
    - iii. *Clause 2.3 Streetscape and visual impact*, specifically, objective (b) and controls (a) and (d), as the proposal results in an adverse impact on the unique symmetry of the semi-detached pair and subsequently erodes the character of the streetscape. The proposed car space contributes to the dominance of front car parking and driveways in Chaleyer Street and is not considered a positive design outcome for the streetscape.
    - iv. *Clause 2.5 Visual and acoustic privacy*, specifically, objectives (a) and (c), and control (c), as the proposed external stairs are likely to result in adverse privacy impacts to surrounding properties.

- v. *Part 2.8 Car Parking*, specifically, objectives (a) and (d), as the proposed car parking is not considered to be appropriately designed and adversely impacts on the character of the semi-detached pair and streetscape.
  - vi. *Clause 2.8.1 Design Approach*, specifically, control (a), as the existing site does not provide adequate space to accommodate a car space at the front setback and the removal of the front wall is considered to erode the character of the dwelling and streetscape.
  - vii. *Clause 2.8.3 Location*, specifically, control (d)(iv), as the existing site does not provide a 5.4m distance between the building and the front property boundary.
  - viii. *Clause 2.8.4 Design*, specifically, control (c), as the proposal removes the front façade of the building to accommodate car parking.
  - ix. *Part 2.13 Semi-detached dwellings and terrace style development*, specifically, objectives (a) and (c), as the proposal does not maintain cohesion with the adjoining semi-detached dwelling.
  - x. *Clause 2.13.1 – Built Form*, specifically, controls (c) and (d), as demolition of the front wall is proposed, and the style of the built form is not maintained across the pair.
3. The proposal does not satisfy section 4.15 (1)(b) of the Act, as the proposal will have an undesirable and unacceptable impact on the existing dwelling and streetscape and would adversely impact upon the amenity of the locality.
  4. The proposal is contrary to section 4.15 (1)(c) of the Act, as the existing site does not provide adequate space for a standard vehicle in the front setback.
  5. In accordance with section 4.15 (1)(d) of the Act, the public submissions were considered, and the proposed external stairs are not considered acceptable due to adverse privacy impacts to surrounding properties.
  6. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as it is not compatible with the existing and desired future character of the locality and the broader Waverley local government area.



# 68 CHALEYER STREET, ROSE BAY

## DA DRAWINGS

### DRIVEWAY AND STAIR PROPOSAL

PREPARED BY:  
NSSTUDIO  
4/306 - 310 NEW SOUTH HEAD ROAD ,  
DOUBLE BAY , 2028  
PH - 9818 2237

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Waverley Council

Application No: DA-219/2021/1

Date Received: 10/12/2021



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### CONSULTANTS

**Engineer**  
STRUCTA CONSULTING ENGINEERS  
P.O. Box 920, Concord 2137  
0404 719 932

**Surveyor**  
ERIC SCERRI & ASSOCIATES PTY LTD  
P.O. Box 3018 Tamarama 2026  
9386 4161

**Arborist**  
KOALA ARBOR CONSULTING ARBORISTS  
Suite 531, 256 Bronte Road  
0418 117 313

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NO

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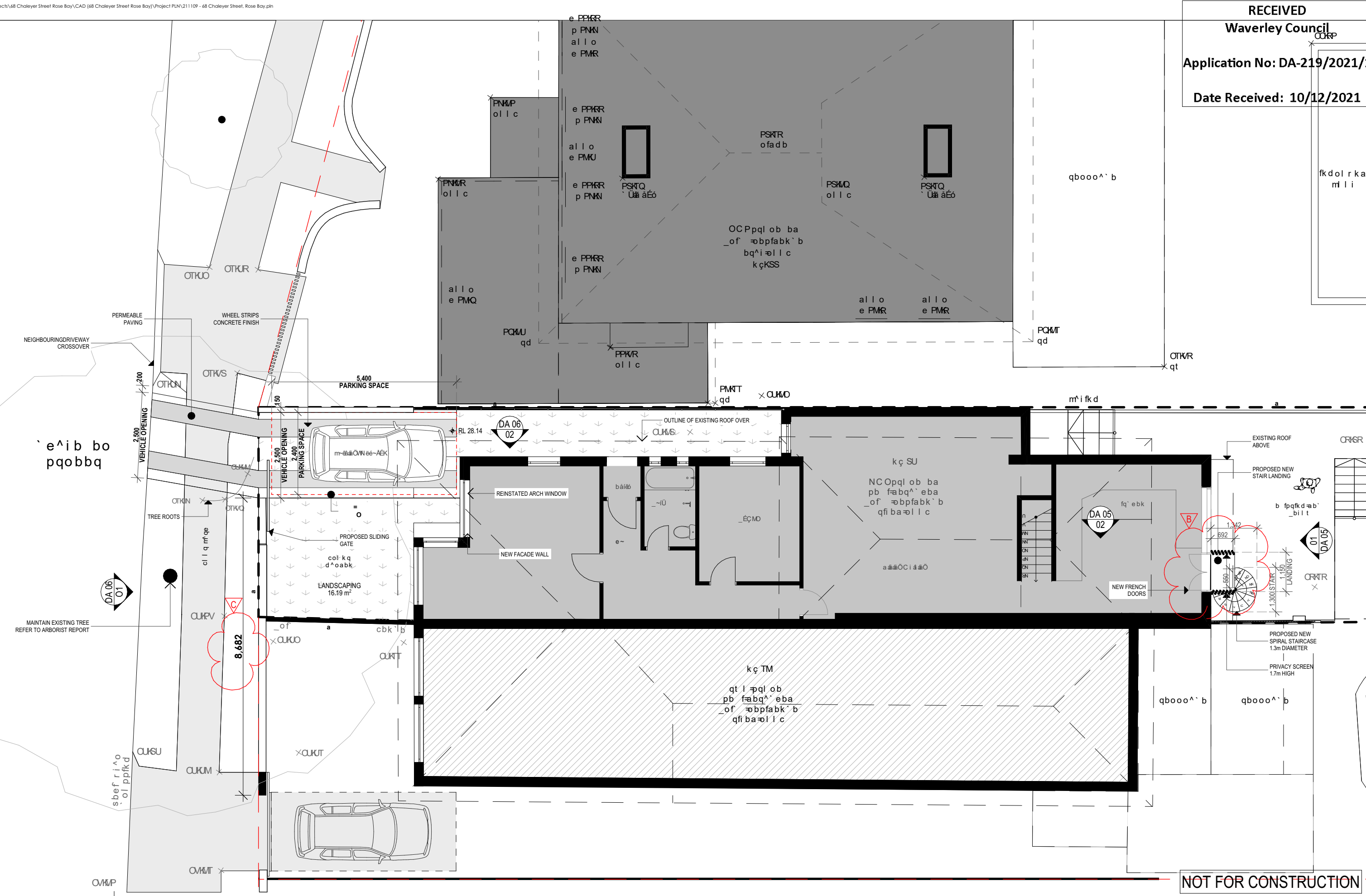
AMENDMENT					Notes 1. CONFIRM SETOUTS, LEVELS & CRITICAL DIMENSIONS PRIOR TO COMMENCEMENT OF AND DURING WORKS. ANY DISCREPANCIES MUST BE REPORTED TO DESIGNER BEFORE PROCEEDING. 2. DO NOT SCALE FROM THIS DRAWING 3. DRAWING TO BE READ IN CONJUNCTION WITH RELEVANT DESIGNER & ENGINEER'S DETAILS AND SPECIFICATIONS. 4. ALL CONSTRUCTION TO COMPLY WITH THE BCA/NCC OF AUSTRALIA AND AUSTRALIAN STANDARDS (AS) 5. ALL MATERIAL TO BE APPROVED IN WRITING BY DESIGNER AND CLIENT THESE DRAWINGS ARE THE COPYRIGHT OF NSSTUDIO	Consultant		NSSTUDIO ARCHITECTURE   INTERIOR DESIGN   HERITAGE QLPMSJPNMK Eµ µp - 2j] æE - d - 4 - a - 1 - 3 E = - - - k - pt - OMUQ MOH/UNU-OOPT 0 5-4 - ] -æ±²± d 5- K - æ K-3 0 µ µ K-æ±²± d 5- K - æ K-3 k - æ - 5 -æ±² E æ µ - 1; 5 E 2 2W -æ±² -æ±² µ 555 -æµ æ E µ KNNMOQ	Project	68 Chaleyer Street, Rose Bay			Description	Alterations & provision of car space + rear stair										
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A	SUBMISSION TO COUNCIL	2021.06.02								Drawing Title	Location Plan / Cover Sheet			Scale	1:2000@A3			Drawing No	DA 00		Amendment	C		
B	AMENDED SUBMISSION TO COUNCIL	2021.11.09																						
C	ADDITIONAL INFORMATION FOR COUNCIL	2021.12.09																						

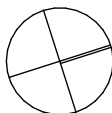
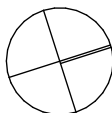




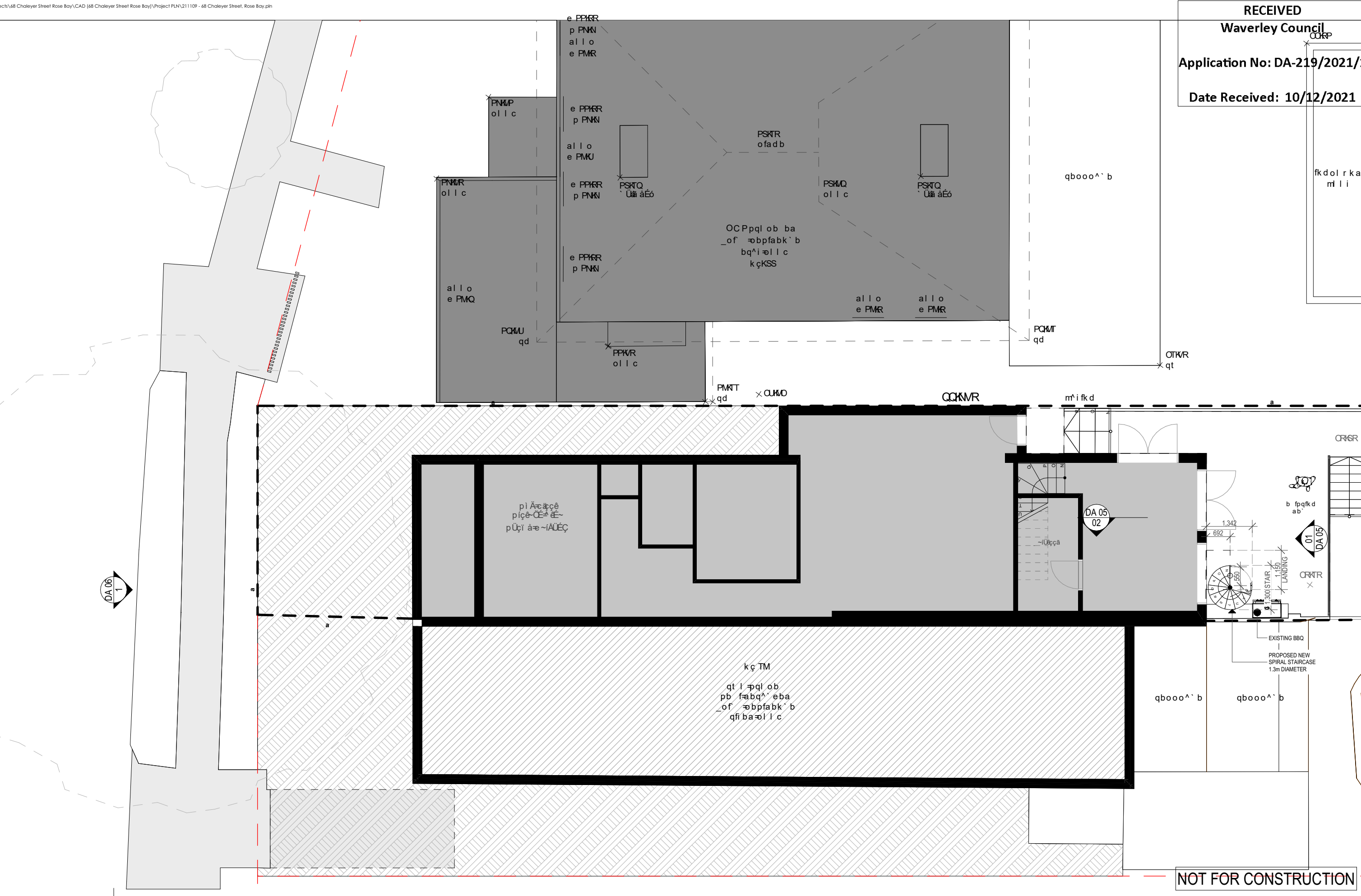
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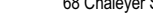
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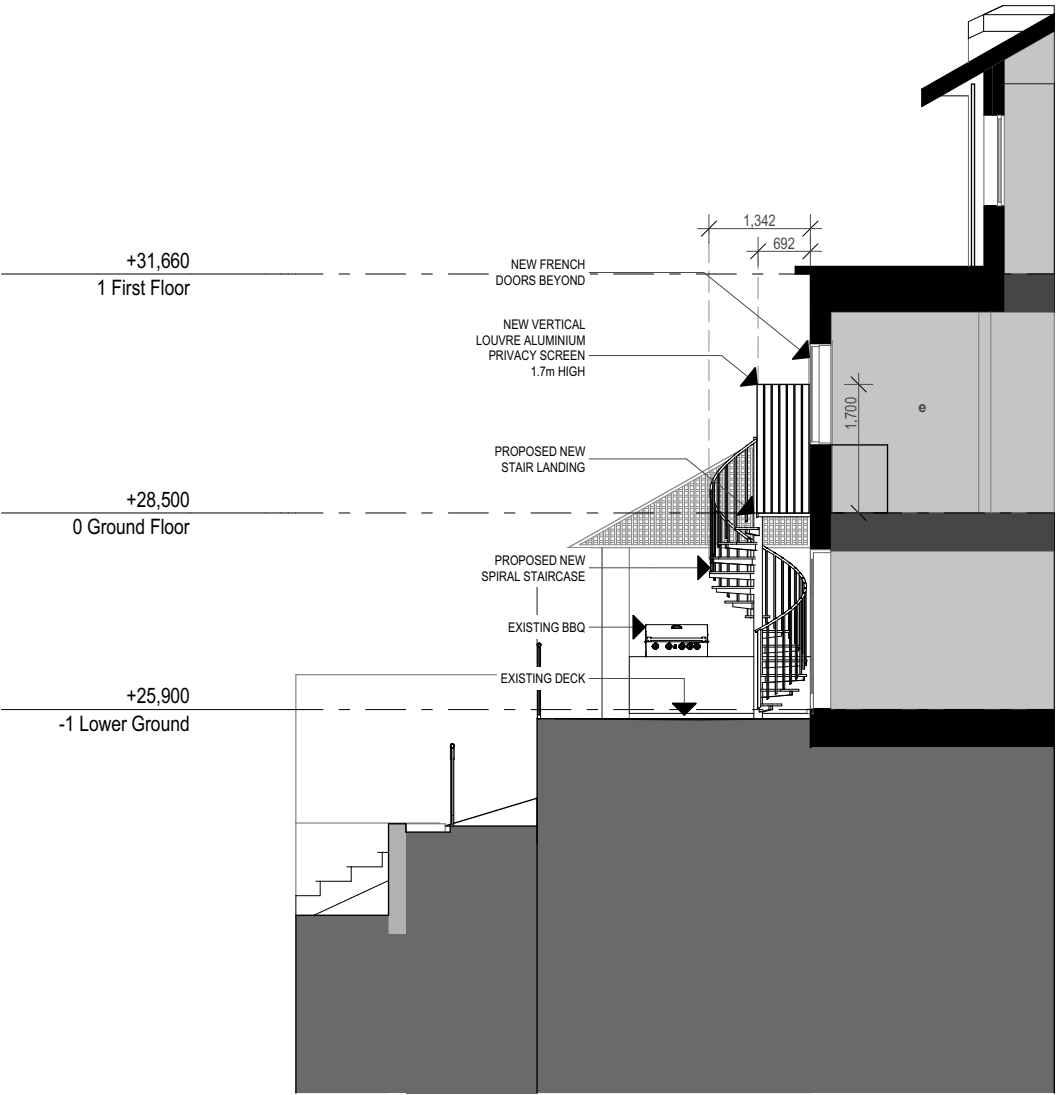
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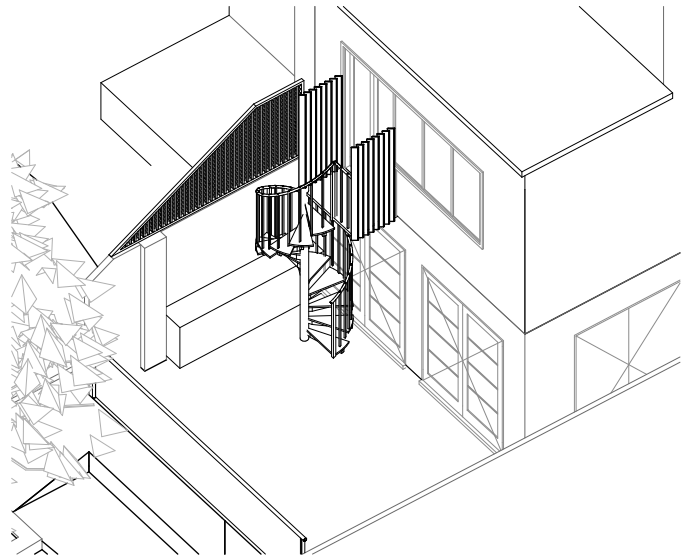
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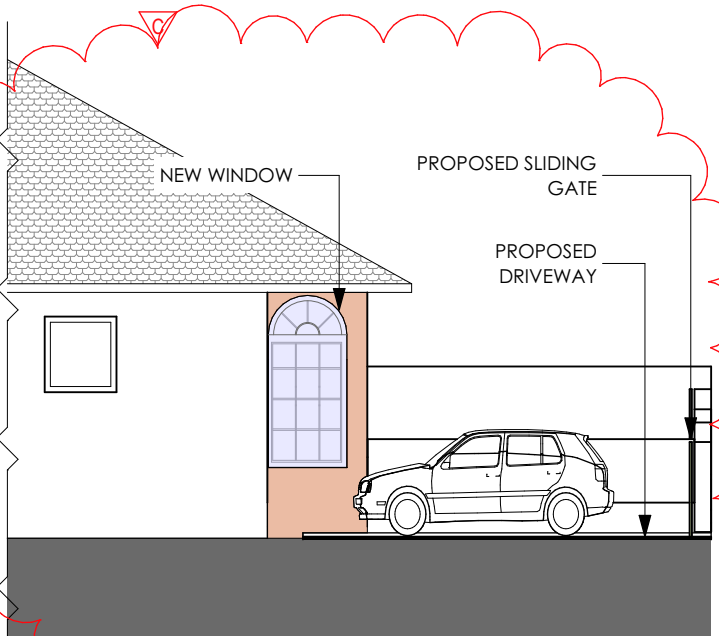


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AMENDMENT					Notes	Consultant	Project	Description			
No.	Description	Issue Date	No.	Description				Drawn	Checked	Project No	Date
A	SUBMISSION TO COUNCIL	2021.06.02			1. CONFIRM SETOUTS, LEVELS & CRITICAL DIMENSIONS PRIOR TO COMMENCEMENT OF AND DURING WORKS. ANY DISCREPANCIES MUST BE REPORTED TO DESIGNER BEFORE PROCEEDING.		68 Chaleyer Street, Rose Bay	LK	NS	R121	4/06/2021
B	AMENDED SUBMISSION TO COUNCIL	2021.11.09			2. DO NOT SCALE FROM THIS DRAWING		Client				
C	ADDITIONAL INFORMATION FOR COUNCIL	2021.12.09			3. DRAWING TO BE READ IN CONJUNCTION WITH RELEVANT DESIGNER & ENGINEER'S DETAILS AND SPECIFICATIONS		Rina and Steven Taub				
					4. ALL CONSTRUCTION TO COMPLY WITH THE BCA/NCC OF AUSTRALIA AND AUSTRALIAN STANDARDS (AS)		Drawing Title	Scale		Drawing No	Amendment
					5. ALL MATERIAL TO BE APPROVED IN WRITING BY DESIGNER AND CLIENT		Elevation and Section - Rear	1:100@A3		DA 05	C
					THESE DRAWINGS ARE THE COPYRIGHT OF NSSTUDIO						



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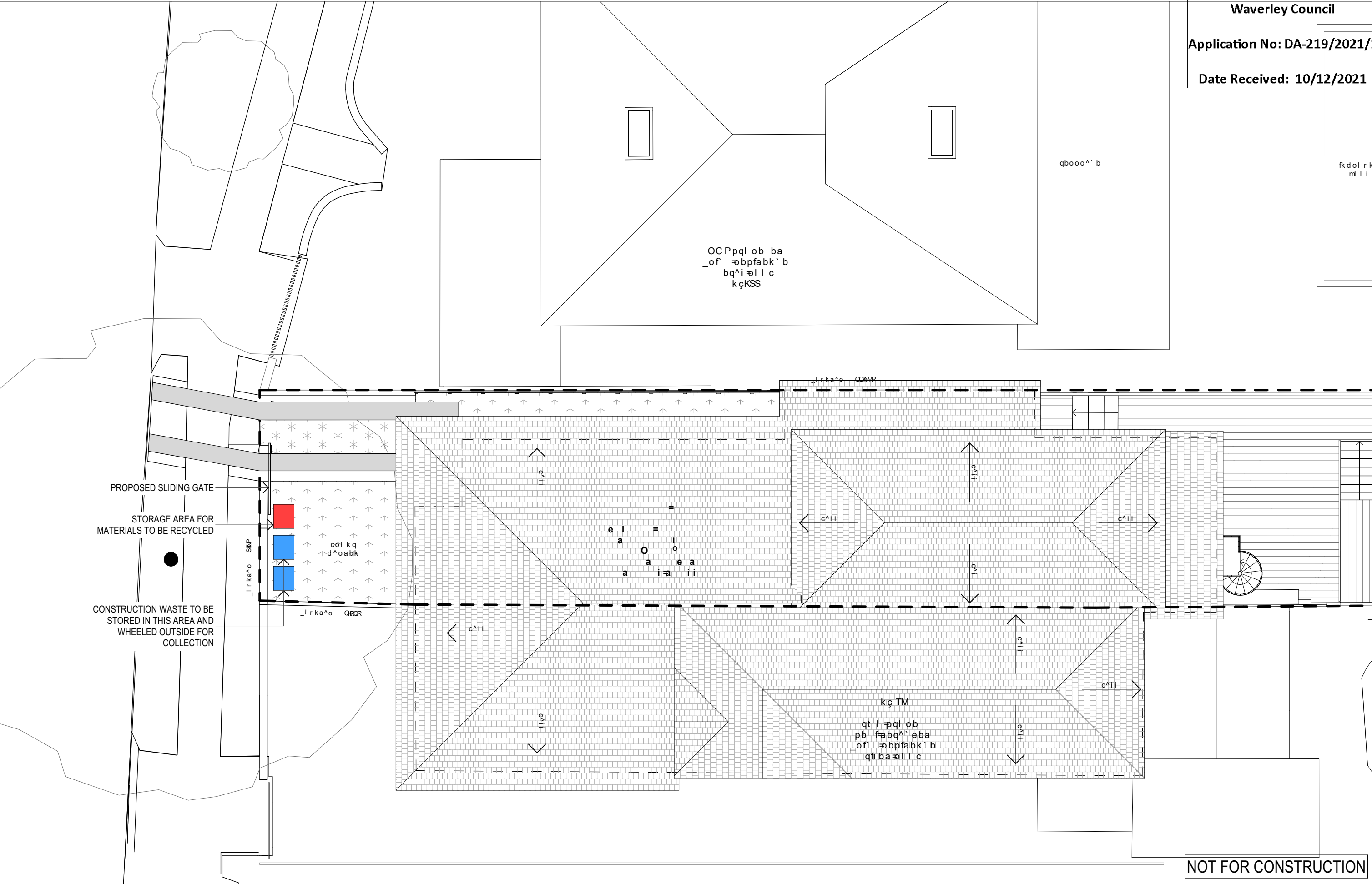


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NOT FOR CONSTRUCTION

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## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-265/2019/A
<b>Site address</b>	105 Hewlett Street, Bronte
<b>Proposal</b>	Modification to increase building height, changes to driveway levels and various other alterations
<b>Description of Approved Development</b>	Demolition of existing dwelling and construction of a part three and part four-storey dwelling house including swimming pool
<b>Date of lodgement</b>	1 December 2021
<b>Owner</b>	Mr T G and Mrs B J Williams
<b>Applicant</b>	Mr T G Williams
<b>Submissions</b>	4 submissions received
<b>Amended cost of works</b>	No change
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>Overall building height</li> </ul>
<b>Recommendation</b>	That the application be APPROVED.

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The modification application seeks to modify development consent, known as DA-265/2019 for the demolition of the existing dwelling and construction of a part three and part four-storey dwelling house including swimming pool at the site known as 105 Hewlett Street, Bronte. In summary, the proposed modifications are for the changes to the driveway gradients, increased height and the removal of two external columns on the second level.

The principal issue arising from the assessment of the application is as follows:

- Non-compliance in overall building height

The assessment finds these issues acceptable as the height increase is minor and would not result in additional amenity impacts relating to overlooking, overshadowing or view impacts.

A total number of four submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out during the assessment of the original development application.

The site is identified as Lot 1 in DP541458, known as 105 Hewlett Street, Bronte. The site is generally regular in shape with a northern front boundary to Hewlett Street measuring 12.19m in length, an eastern side boundary of 19.375m, a southern rear boundary of 10.165m and a west side boundary of 25.315m. The site has a total area of 232.2m<sup>2</sup> and is relatively steep with a significant fall from the front boundary to the rear boundary of 8.04m. Along Hewlett Street, the subject site has a cross-fall (west to east) of 1.67m.

The site was occupied by a part three, part four-storey dwelling house with off-street car parking with an integrated garage accessed from Hewlett Street. The height of the existing pitched roof dwelling was to RL37.78.

The subject site is adjoined to the east by a part two, part three-storey dwelling known as 107 Hewlett Street; to the west of the subject site is a part three, part four-storey brick dwelling with pitched roof; and to the rear, at 8 Bronte Marine Drive, is a three-storey dwelling.

The locality is characterised by predominantly residential dwellings of varying architectural styles and heights. This southern side of Hewlett Street is characterised by dwellings that present as one to two

storeys to Hewlett Street and four storeys at the rear. To the south of the site and within walking distance is Bronte Park and Beach.

### 1.3. Details of Approved Development

The original development application, known as DA-265/2019 for the demolition of the existing dwelling and construction of a part three and part four-storey dwelling house including swimming pool, was granted deferred commencement on 27 November 2019 by the Waverley Local Planning Panel. The deferred commencement condition regarding the driveway was satisfied on 19 December 2019.

The development is currently mid-way through construction.

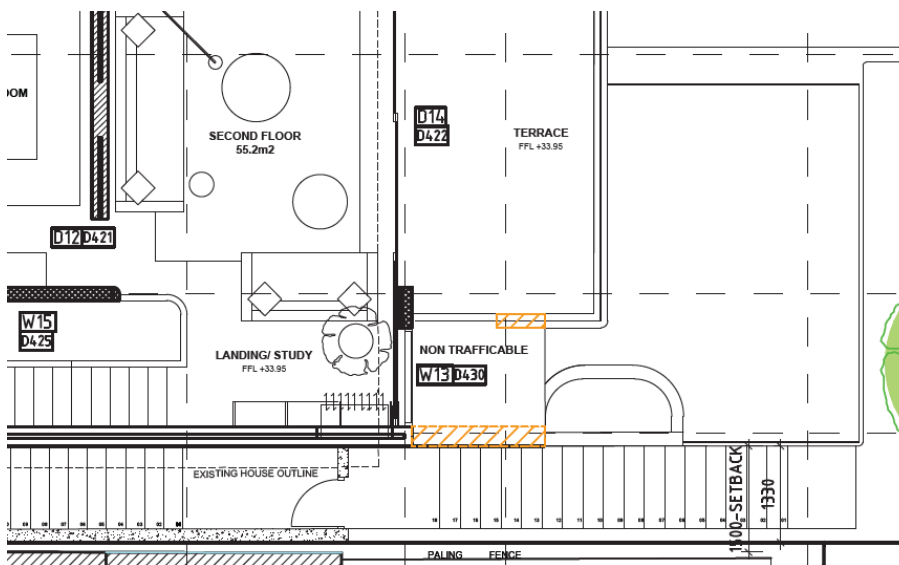
### 1.4. Background

Unauthorised works were conducted on site during the construction phase and a Stop Works Notice has been issued for the site. A Building Certificate under BC-55/2021 has been submitted to Council for the retrospective approval of all unauthorised works. BC-55/2021 is currently still under assessment. These works include reduced side setbacks, relocation of OSD and rainwater tanks, increased FFL's and wall height, reduction in balcony size and removal of planter boxes. These works do not form part of this modification application.

### 1.5. Proposal

The modification application has been submitted under section 4.55(2) of the *Environmental Planning and Assessment Act 1979*. It seeks consent for the following modifications to the approved development:

- Modifications to the driveway gradient entering the property;
- Overall height of building increased by 273mm; and
- Removal of two external columns on the second floor plan along the western side of the terrace and the eastern side of the side stairs (as shown in orange hatched below):



**Figure 1:** Snippet of second floor plan showing the proposed location of the external columns to be removed.

It is important to note that the changes shown in orange on the architectural plans form part of this modification **only**. All other changes shown on the plans form part of the BC currently being assessed at Council. The comments made within this report therefore only relate to the three changes noted above.

## 2. ASSESSMENT

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

### 2.1. Section 4.55 – Modification of consents – generally

The application is made under section 4.55(2) of the Act.

The quantitative and qualitative elements and impacts between the approved development and the development, as proposed to be modified, are not considered overly dissimilar as demonstrated in the following sections of this report. In this regard, the proposal is considered to be *substantially the same* as the originally approved development with regard to matters arising from the NSW Land and Environment Court case of *Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 298*.

The application was publicly notified between 15 December 2021 and 21 January 2022 and four submissions were received. The issues and matters raised in public submissions are discussed in section 2.3.4 of this report.

### 2.2. Evaluation of Matters for Consideration under Section 4.15

In accordance with section 4.55(3) of the Act the following is an assessment of the proposed modifications of the development consent against the relevant matters for consideration under section 4.15(1) of the Act.

#### 2.2.1. Planning Instruments and Development Control Plans

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

##### *State Environmental Planning Policies (SEPPs)*

The following SEPPs apply and have been considered acceptable in the assessment of this modification application:

- SEPP 55 Remediation of Land.
- SEPP (Building Sustainability Index – BASIX) 2004.



### *Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)*

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### *Waverley Local Environmental Plan 2012 (Waverley LEP 2012)*

The land use definition of the approved development as a dwelling house remains unchanged and continues to be permitted development in the R2 zone under Waverley LEP 2012.

The quantities of the approved development, as proposed to be modified, have changed as outlined in **Table 1** of this report in relation to principal development standards under Waverley LEP 2012. All other relevant provisions of Waverley LEP 2012 remain compliant.

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Approved	Proposed Modified	Compliance
4.3 Height of buildings <ul style="list-style-type: none"><li>8.5m</li></ul>	12.04m	12.313m	No

The following is a detailed discussion of exceedances of particular development standard under Waverley LEP 2012 as a result of the approved development, as proposed to be modified.

#### **Height of Buildings**

The proposed modifications result in a net increase of building height of 0.273m, resulting in an overall building height of 12.313m. This culminates in an overall exceedance of the height of buildings development standard by 3.813m or 3.16%. The net increase of building height due to the proposed modifications represents 44.86% of the overall exceedance of the standard.

The applicant has provided some written justification for the non-compliance with the height of buildings development standard and has based the justification on the performance of the proposal against the objectives of the development standard. The relevant objectives of the development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space*

The justification provided by the applicant to support the increased exceedance of the height of buildings development standard is summarised as follows:

- *The increased height is mainly located at the rear of the dwelling, which includes the first and second floor balcony that remains considerably lower than the pre-existing dwelling previously on site.*
- *The additional height proposed as part of this modification is a result of the additional storage area that increased the FFL at the lower floor level. Although a minor building height increase it is important to note that the dwelling previously at the site had height of 11.6m which was readily visible from Hewlett Street. Keeping this in mind the dwelling as modified would still retain a compliant building height to some of the street frontage and below the previous dwelling on site.*
- *The modification will continue to maintain visual amenity to adjoining properties.*
- *In relation to view sharing a view sharing assessment was prepared by Richard Lamb and Associates (RLA) and is submitted separately. It is our opinion that additional height will predominantly maintain and, in some instances, improve view sharing to neighbouring properties.*
- *Privacy to neighbouring properties will be maintained as the terrace areas on the first and second storey will be retained to the rear. The pool screening on the first floor (not modified) will act as a privacy buffer and the reduction in terrace size on the second floor (subject to the BIC) will also reduce any additional overlooking as a result of the increase building height.*
- *Solar access is to be predominantly maintained as approved under DA-265/2019. Slight changes would occur from the approved design to modified design however, none of which would be detrimental to the adjoining properties. It is important to note that the solar diagrams indicate the modified development will predominantly maintain the pre-existing solution on site where the shadow falls across the side boundaries and large portions of the adjacent dwelling rear yards.*
- *When viewed from the street, the proposal maintains the height, bulk and scale of nearby residential dwellings. The development is surrounded by low density residential dwellings typically two to three storeys at the street frontage and up to four storeys at the rear. Accordingly, the design as modified will keep with the character of the streetscape.*

The proposed additional breach in height is considered to be minor and is a result of the construction requiring additional space within the basement. The additional height will not result in additional amenity impacts to the neighbouring including overshadowing, overlooking, view impacts, bulk and scale (as discussed throughout this report). The height will not be discernible from the streetscape compared to what is currently approved on site when viewing the built form as a whole. Overall, the breach in height is considered to be acceptable in this context and location.

The approved development, as proposed to be modified, will achieve and be consistent with the relevant objectives of the height of buildings development standard. Therefore, the exceedance is deemed acceptable and is supported.

**Table 2: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
	Yes	The proposal does not contravene the general objectives of this part of the DCP.
<b>2.1 Height</b>		
Flat roof dwelling house <ul style="list-style-type: none"> <li>Maximum wall height of 7.5m</li> </ul>	No	The proposal achieves a wall height of 7.04m at the front and 12.313m at the rear. The non-compliances are primarily as a result of the steep, sloping nature of the site towards the rear. The extent of the breach beyond the existing building envelope is not considered to result in unreasonable impacts on the adjoining properties, as discussed above.
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> <li>Significant landscaping to be maintained.</li> </ul>	Yes	No changes are proposed to the design of the dwelling as viewed from the street.
<b>2.5 Visual and acoustic privacy</b>		
	Yes	No changes are proposed to the approved terraces, balconies, or windows. The removal of the external columns will not result in additional overlooking to neighbouring properties from the second floor terrace.
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June</li> </ul>	Yes	Shadow diagrams have been provided demonstrating that the additional height proposed as part of this application will not result in a non-compliance to this control.
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly</li> </ul>	Yes	Refer to detailed discussion following this table.

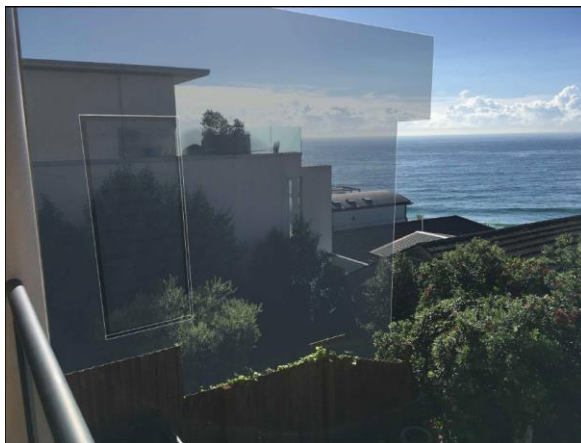
Development Control	Compliance	Comment
from habitable rooms and decks.		
<b>2.8 Car parking</b>		
2.8.2 Design Approach	Yes	The design and location of the garage and the location of the driveway are to remain as approved.
2.8.6 Driveways	Yes	The proposed changes to the driveway gradient have been assessed by Council's Traffic engineers who have raised no concerns. The location is to remain as approved.

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

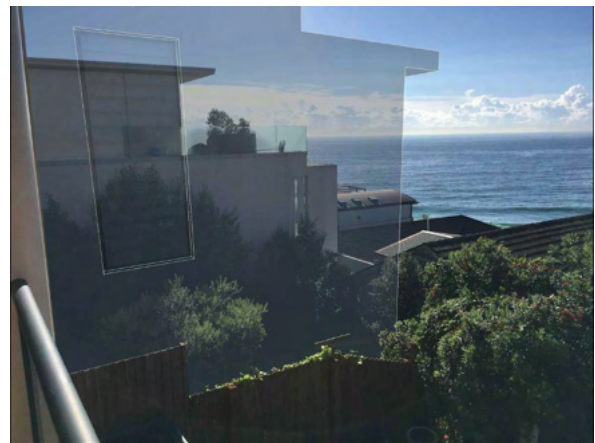
### *View Impact Analysis*

The objectives and strategies for views and view sharing of the DCP generally seek to reduce impacts on existing views and vistas from the private and public domain. The proposal has been assessed against the Land and Environment Court's *Tenacity* principle for view sharing.

The applicant has submitted their own 'View Sharing Assessment', prepared by Richard Lamb and Associates dated 10 November 2021. Photomontages from 103 Hewlett Street were submitted as part of this report as shown in the figures below:



**Figure 2:** View towards subject site from 103 Hewlett Street mid-level balcony showing the approved built form

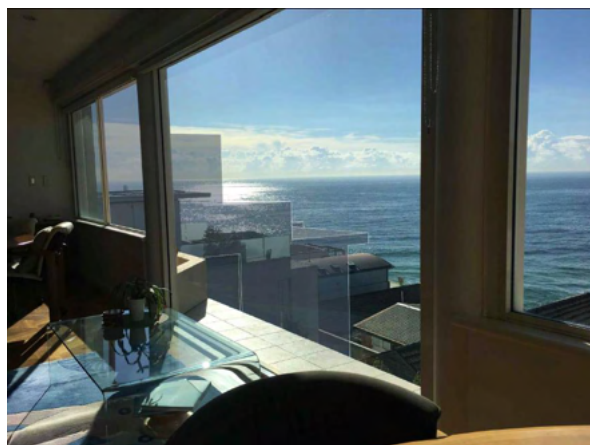


**Figure 3:** View towards subject site from 103 Hewlett Street mid-level balcony showing the proposed built form

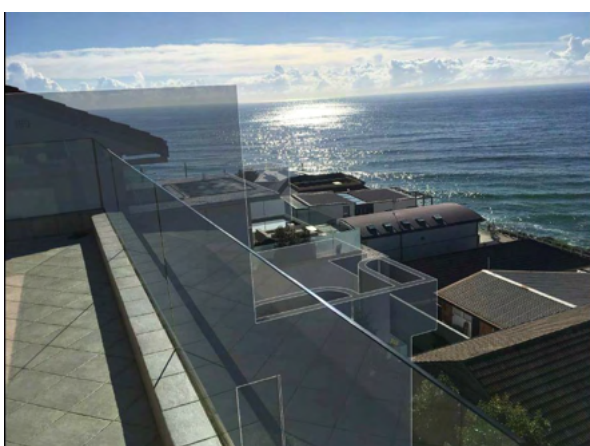




**Figure 4:** View towards subject site from 103 Hewlett Street, street level living area showing the approved built form



**Figure 5:** View towards subject site from 103 Hewlett Street, street level living area showing the proposed built form.



**Figure 6:** View towards subject site from 103 Hewlett Street upper level balcony showing the approved built form



**Figure 7:** View towards subject site from 103 Hewlett Street upper level balcony showing the proposed built form

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 and Environment Court as follows. The judgement in *Tenacity Consulting v Warringah Council (2004)* resulted in a four step assessment in regard to view sharing:

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.*
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.*

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.*
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.*

As shown in the figures above, the removal of the external columns will improve the views from parts of No. 103 Hewlett Street. Furthermore, the additional height will have no impact on the views from the approved design. The stepped form approach and removal of the large column will allow for more ocean views when looking south east from all three levels on the neighbouring site.

As the overall height will sit lower than the height of the existing dwelling on site, any views from the northern side of Hewlett Street (138 & 140 Hewlett Street, and 14 Mirimar Street) will be improved from what was existing on site. Therefore, no issues are raised regarding views from the northern properties.

It is considered that the loss of view is not unreasonable in the circumstances of the case. Accordingly, the proposed development and corresponding view sharing arrangements are considered reasonable and are an appropriate response to the view loss controls in the Waverley DCP 2012 and NSW Land and Environment Court Tenacity view loss planning principle. Therefore, the view loss impacts on 103 Hewlett Street are considered reasonable and supported given the merits of the application.

#### 2.2.2. Other Impacts of the Development

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

#### 2.2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

#### 2.2.4. Any Submissions

The application was notified for 28 days (Christmas period) between 15 December 2021 and 21 January 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

A total of four unique submissions were received from the following properties:

**Table 4: Number of and where submissions were received from.**

Count	Property Address
1.	103 Hewlett Street, BRONTE
2.	101 Hewlett Street, BRONTE
3.	107 Hewlett Street, BRONTE
4.	140 Hewlett Street, BRONTE

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- View impacts from No. 140 Hewlett Street, BRONTE.

All other issues raised in the submissions are summarised and discussed below.

**Issue:** During the excavation, asbestos was found on site and Council did not notify the neighbouring properties.

**Response:** The removal of asbestos on site is a building requirement and does not form part of this application.

**Issue:** The requirement of two trees on the nature strip will inhibit safe access to the neighbouring driveways.

**Response:** The provision of two additional street trees is a condition that was placed on the consent during the original approval and is not proposing to change.

**Issue:** Concerns with increased FSR on site.

**Response:** The FSR is not proposed to increase as part of this modification application.

**Issue:** The building does not comply with the minimum fire separation requirements.

**Response:** The proposed changes do not impact on any fire safety or separation requirements on site.

**Issue:** Unauthorised works on site.

**Response:** The unauthorised works on site form part of an existing Building Information Certificate that is currently being assessed at Council. These works do not form part of this modification application.

**Issue:** Privacy impacts from the swimming pool.

**Response:** No changes are proposed to the location or height of the swimming pool as part of this modification application.

### 2.2.5. Public Interest

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

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Traffic and Development

Council's Traffic engineer have made the following comments:

*The amended driveway long section prepared by Istruct (received on 22/2/2022) was reviewed. Council requires the concrete footpath to be 2.5% crossfall away from the property. The footpath gradients shown on the amended plans are 2.6% to 2.8%. The small variations are acceptable for this site.*

*The amended driveway long section plans show that the RL levels in the proposed boundary is lower than the RL levels of the footpath and at the gutter. It is noted that the amended garage level is raised by 500mm to 1m from the approved driveway long section. A grated drain is proposed prior the garage to collect runoff from the driveway. No objections were raised by Storm Design & Flooding for the modified arrangement.*

*It is also understood that the requirement that the finished level at the property boundary on both sides of the driveway to be 110mm higher than the level of the existing gutter may not be practical for the subject site.*

*Vehicle swept path provided demonstrating that a B85 vehicle is able to access and exit the proposed garage without scraping the bottom of the vehicle. It is our advice that the amended driveway long section is acceptable subject to conditions.*

Conditions have been recommended in Appendix A below.

### 3.2. Stormwater

Council's stormwater engineer has made the following comments:

*From a stormwater and drainage perspective, there are no objections to this modification application. However, to ensure any variations to the approved plans are captured and certified post construction, it's strongly recommended that Condition 55 of the DA Consent is reworded and a new condition is imposed.*

The above changes to the conditions have been recommended in Appendix A below.

## 4. CONCLUSION

The modification application seeks to modify development consent, known as DA-265/2019 for the demolition of existing dwelling and construction of a part three and part four-storey dwelling house including swimming pool at the site known as 105 Hewlett Street, Bronte. In summary, the proposed



modifications are for the changes to the driveway gradients and the removal of two external columns on the second level.

The principal issues arising from the assessment of the application are as follows:

- Non-compliance in overall building height

The assessment finds these issues acceptable as the height increase is minor and would not result in additional amenity impacts relating to overlooking, overshadowing or view impacts.

A total number of four submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against relevant sections of the Act and is recommended for approval subject to conditions of consent.

*Development and Building Unit (DBU) Decision:*



The application was reviewed by the DBU at the meeting on 1 March 2022 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *A Rossi and B Matlawski*

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the modification application be APPROVED by the Waverley Local Planning Panel subject to modified and new conditions in Appendices A and B.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Katie Johnstone	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 1 March 2022	Date: 9 March 2022

*Reason for WLPP referral:*

The consent authority for the original development application was the WLPP, this modification is made under section 4.55(2) of the Act and relates to:

1. Departure from any development standard in an EPI by more than 10%

## APPENDIX A – CONDITIONS OF CONSENT TO BE MODIFIED

### A. Amended Conditions

#### 1. APPROVED DEVELOPMENT

The development must be in accordance with:

(a) The following architectural plans prepared by Juicy Design as follows;

<b>Drawing No.</b>	<b>Dated</b>	<b>Stamp Date Received</b>
D100 Garden Level	15/03/2019	16/08/2019
D101 Lower Level	15/03/2019	16/08/2019
D102 Garage Level	15/03/2019	16/08/2019
D103 First Floor	15/03/2019	16/08/2019
D104 Second Floor	15/03/2019	16/08/2019
D200 Front Elevation	15/03/2019	16/08/2019
D201 Cross Section	15/03/2019	16/08/2019
D202 Rear Elevation	15/03/2019	16/08/2019
D203 Cross Section	15/03/2019	16/08/2019
D204 Cross Section	15/03/2019	16/08/2019
D205 West Elevation	15/03/2019	16/08/2019
D206 Cross Section	15/03/2019	16/08/2019
D207 Cross Section	15/03/2019	16/08/2019
D208 East Elevation	15/03/2019	16/08/2019
D209 Cross Section	15/03/2019	16/08/2019
D107 Landscaping	15/03/2019	16/08/2019

*As amended by the following modifications shown shaded in orange only:*

<b>Drawing No.</b>	<b>Dated</b>	<b>Stamp Date Received</b>
<b>D102 Garage Level</b>	<b>20/10/2021</b>	<b>01/12/2021</b>
<b>D104 Second Floor</b>	<b>20/10/2021</b>	<b>01/12/2021</b>
<b>D200 Front Elevation</b>	<b>20/10/2021</b>	<b>01/12/2021</b>
<b>D202 Rear Elevation</b>	<b>20/10/2021</b>	<b>01/12/2021</b>
<b>D205 West Elevation</b>	<b>20/10/2021</b>	<b>01/12/2021</b>
<b>D208 East Elevation</b>	<b>20/10/2021</b>	<b>01/12/2021</b>

(b) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012;

(c) The stormwater plans prepared by ISTRUCT Consulting Engineers Pty Ltd, Project No. 190317, DWG No. D01 (Rev C), dated 1 October 2019 and received by Council on 01/10/2019;

(d) BASIX Certificate;

(e) Drawing named 'Driveway Crossover & Footpath Excavation Plans & Civil Sections' numbered C01, 190317, Revision A, dated 24/7/2019 drawn by 'iSTRUCT Consulting Engineers and date

Except where amended by the following conditions of consent

**(AMENDED BY DA-265/2019/A)**

## **APPENDIX B – FULL SET OF CONDITIONS**

### **1. APPROVED DEVELOPMENT**

The development must be in accordance with:

(a) The following architectural plans prepared by Juicy Design as follows;

<b>Drawing No.</b>	<b>Dated</b>	<b>Stamp Date Received</b>
D100 Garden Level	15/03/2019	16/08/2019
D101 Lower Level	15/03/2019	16/08/2019
D102 Garage Level	15/03/2019	16/08/2019
D103 First Floor	15/03/2019	16/08/2019
D104 Second Floor	15/03/2019	16/08/2019
D200 Front Elevation	15/03/2019	16/08/2019
D201 Cross Section	15/03/2019	16/08/2019
D202 Rear Elevation	15/03/2019	16/08/2019
D203 Cross Section	15/03/2019	16/08/2019
D204 Cross Section	15/03/2019	16/08/2019
D205 West Elevation	15/03/2019	16/08/2019
D206 Cross Section	15/03/2019	16/08/2019
D207 Cross Section	15/03/2019	16/08/2019
D208 East Elevation	15/03/2019	16/08/2019
D209 Cross Section	15/03/2019	16/08/2019
D107 Landscaping	15/03/2019	16/08/2019

As amended by the following modifications shown shaded in orange only:

<b>Drawing No.</b>	<b>Dated</b>	<b>Stamp Date Received</b>
D102 Garage Level	20/10/2021	01/12/2021
D104 Second Floor	20/10/2021	01/12/2021
D200 Front Elevation	20/10/2021	01/12/2021
D202 Rear Elevation	20/10/2021	01/12/2021
D205 West Elevation	20/10/2021	01/12/2021
D208 East Elevation	20/10/2021	01/12/2021

(b) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012;

(c) The stormwater plans prepared by ISTRUCT Consulting Engineers Pty Ltd, Project No. 190317, DWG No. D01 (Rev C), dated 1 October 2019 and received by Council on 01/10/2019;

(d) BASIX Certificate;

- (e) Drawing named 'Driveway Crossover & Footpath Excavation Plans & Civil Sections' numbered C01, 190317, Revision D, dated 22/02/2022 drawn by 'ISTRUCT Consulting Engineers and date stamped received by Council on 22/02/2022;

Except where amended by the following conditions of consent

**(AMENDED BY DA-265/2019/A)**

**2. ADDITIONAL DA FEE REQUIRED**

Council considers the estimated cost of the proposed building work to be \$2,500,000 in lieu of \$1,200,000 as indicated on the development application form. In this regard, an additional development application fee of \$1,852 is to be paid, prior to the issue of any Construction Certificate.

**3. APPROVED USE -DWELLING HOUSE**

This application approves the use of the building/s on the site for a single dwelling house.

**4. 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.

**5. SOLID FUEL HEATING**

In accordance with the Part B2 of the Waverley DCP 2012 – Amendment 6 the use of solid fuel heating is not permitted to ensure that the renewable energy and energy efficiency targets of the Council are met.

**6. 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**

**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 & 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. SECTION 7.12 CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 7.12 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 are in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
  - (a) A development valued at \$100,000 or less will be exempt from the levy.
  - (b) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% OR
  - (c) A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

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 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended.

Prior to the issue of the amended Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition OR that the cost of works is less than \$100,000.

## 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. STREET TREES

To ensure maximum street tree canopy and continuity of the streetscape the applicant is to plant **Two (2) Hibiscus tiliaceus rubra** trees on the nature strip, each side of the driveway in Hewlett Street.

The following conditions will apply:

- (a) Two (2) Hibiscus tiliaceus rubra trees are planted on the nature strip, each side of the driveway in Hewlett Street. The trees are to be planted prior to the issue of an occupation certificate.
- (b) The trees are to be a Hibiscus tiliaceus rubra of minimum container size of 75 litres and grown to AS-2303:2018 Tree Stock for Landscape use.
- (c) The tree must be planted by a qualified horticulturist experienced in planting trees.
- (d) A bond of \$2000 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 newly planted Hibiscus tiliaceus rubra trees on the nature strip, each side of the driveway in Hewlett Street.
- (e) The bond is to be lodged prior to the issue of a Construction Certificate. The bond will be refunded after 12 months on condition that the two Hibiscus tiliaceus rubra trees are maintained in good condition as determined by Council's Tree Officer. If the tree requires replacing within the bond period, the tree must be replaced within one month of notification from Council and not at the end of the bond period.

## 12. HOARDING REQUIRED

To ensure the site is contained during construction, a hoarding is required for the approved works which is to be designed and constructed in accordance with the requirements of **Safe Work NSW**.

The hoarding is to be erected on the street alignments of the property prior to the commencement of building operations and be maintained during the course of building operations. Details of the hoarding

are to be provided to Council for record and be to the satisfaction of the Principal Certifying Authority 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. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared in accordance with Waverley Council's Water Management Technical Manual and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction (Blue Book). A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be included in the plan for any construction site with vehicles entering and existing the site.

This Plan shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The approved Soil and Water Management Plan must be kept on site, measures shall be implemented prior to commencement of any works or activities and maintained at all times. A copy of the Soil and Water Management Plan must be made available to the Principal Certifying Authority & Council officers on request.

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

Demolition and excavated material to be reused and/or recycled wherever possible and detailed in a Site Waste and Recycling Management Plan (SWRMP) Checklist 2 which is to be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the Construction Certificate.

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.

### **15. GEOTECHNICAL ENGINEERS REPORT**

A Geotechnical Engineers Report is to be submitted which assesses the following;

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The report must make recommendations and conclude that damage should not occur to any adjoining premises as a result of the proposed bulk excavation, driven type piles and shoring works.

The report is to be submitted to the Principal Certifying Authority, Council and the owners of adjoining premises prior to the issue of a Construction Certificate and commencement of any such works on the site.

**16. DETAILS OF 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.

**17. ENGINEERING DETAILS**

Structural details prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works are to be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

**18. 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*.

**19. 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:

- a. Show the size and number of trucks to be used during the various stages of the development.
- b. Show the route to be taken by trucks in (a) above within the Waverley Council area when gaining access to and from the site. Note, 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 in the vicinity of the site, the trucks may not be approved for use.

- c. Show the location and length of any proposed Works/Construction Zones.

Note:

(i) Such zones require the approval of the Waverley Traffic Committee and Council prior to installation.

(ii) It is illegal to park a truck exceeding 4.5tonnes on a roadway for more than one (1) hour unless signs are installed allowing such and illegal to barricade/ reserve a section of roadway without the prior approval of Council.

- d. Indicate the number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.

## **20. NEW VEHICLE CROSSING**

The existing vehicle crossing is to be demolished and a new crossing constructed to provide access to the proposed **garage**. 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.

## **21. DRIVEWAY PAVING**

The paving on Council land shall be plain concrete rather than the cobblestones shown on the driveway plans.

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

## **22. 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.

## **23. 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.

## **24. 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.

**25. 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 hoarding, fencing or awning must be provided to prevent injury and appropriately lit between sunset and sunrise.

**26. COMPLIANCE WITH SAFE WORK NSW**

All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.

**27. 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).

**28. DEMOLITION & SITE PREPARATION**

Hazardous or intractable wastes arising from the demolition process are to be removed and disposed of in accordance with the requirements **SafeWork NSW** and the NSW Environment Protection Authority (EPA), and with the provisions of:

- (a) Work Health & Safety Act 2011;
- (b) Work Health & Safety Regulation 2017;
- (c) Protection of the Environment Operations Act 1997 (NSW) and
- (d) NSW EPA Waste Classification Guidelines 2014;

**29. 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.

### **30. ASBESTOS REMOVAL**

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a Licence in accordance with the requirements of SafeWork NSW. Fire damaged asbestos materials can only be cleaned up by licensed asbestos removalists with a Class A (friable) asbestos removal licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by SafeWork NSW 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.

### **31. 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 modification application.

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.

### **32. 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.

**33. 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.

**34. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED 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 2014. 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.

**35. MANAGEMENT OF ACIDIC SOIL**

Should the subject site show evidence of acid sulphate soils, the following shall apply:

- (a) To address issues arising from the natural acidity of the soil on-site, any concrete that is in contact with this soil is to be designed to restrict acid and sulphate attack. The Cement and Concrete Association of Australia Technical Note TN57 is to be adhered to for precautionary measures.
- (b) Prior to the commencement of any works, the applicant shall nominate an appropriately qualified Environmental Scientist to supervise the management of acid sulphate soils. The Scientist shall:
  - i. Provide an acceptance in writing to supervise the aforementioned works to ensure compliance with the relevant conditions of Development Consent.
  - ii. On completion of the works certify that the aforementioned works have been constructed in compliance with the approved plans, specifications and conditions of consent.
- (a) The nominated supervising Environmental Scientist shall certify that the management of acid sulphate soil was undertaken in accordance with the Development Consent. Prior to the use or occupation of the building (or Occupation Certificate being issued), the Principal Contractor / Developer shall submit to Waverley Council a copy of the aforementioned Certificate.

**36. 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.



**37. 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.

**38. 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
- (c) 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.

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

**39. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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.

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

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.

**40. 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.

**41. NATIONAL CONSTRUCTION CODE (NCC)**

All building work must be carried out in accordance with the requirements of the National Construction Code.

**42. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) and in accordance with the Building Legislation Amendment (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 National Construction Code 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 for a **DWELLING HOUSES including (Class 1 and 10 Buildings)** are:

- (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 (if relevant to the development) 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 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 National Construction Code and standards of construction.

#### **43. 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.

#### **44. 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.

**45. 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.

**46. 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 any properties 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.
- (a) 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.

**47. 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.

**48. TREE PRESERVATION**

A tree preservation order exists in the Waverley Local Government Area. Any trees not identified in this application have not been assessed and separate consent will be required. The application must

be made in writing to Council prior to removal of tree/trees. Should permission be granted, the applicant will receive a permit to proceed.

#### **49. 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.

**Trunk protection** as per AS 4970 – 2009, Section 4.5.3 is to be installed.

Padding to be used shall be non-absorbing or free draining to prevent moisture build up around the part being protected. The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8 metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with 2mm galvanised wire or galvanised hoop strap. The timbers shall be wrapped around the trunk (over the carpet underfelt), but not fixed to the tree to avoid mechanical injury or damage to the trunk. Trunk protection must be installed prior to any site works including demolition and maintained in good condition for the duration of the construction period.

#### **50. 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.

#### **51. CONSTRUCTION OF SWIMMING POOLS**

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa 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/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules;
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit.
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure.
- (e) The finished level of the proposed pool/spa is not to exceed a maximum height of RL 30.472;



- (f) Waste waters from the swimming pool/outdoor spa are to be 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.

**52. NO WORKS BEYOND BOUNDARIES**

No portion of the proposed fence, including the footings, is to encroach beyond the boundaries of the subject property.

**53. SIDE FENCE HEIGHT**

The proposed new side and/or rear boundary fencing around the site is not to exceed a maximum height of 1.8m above the existing ground level of the adjoining property, unless otherwise agreed by the affected neighbour.

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

**54. 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.

**55. STORMWATER MANAGEMENT**

Prior to issuance 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.

Under the current design, the capacity of both the duty and standby pumps to be 9 L/s.

**56. SWIMMING POOL/OUTDOOR SPA CERTIFICATION**

The following must be provided to the Principal Certifying Authority prior to the swimming pool/outdoor spa being filled with water and prior to use;

- (a) The swimming pool/outdoor spa is to be constructed in accordance with the Consulting Engineer's design as shown on the approved plans and is not to be filled with water until a Certificate has been submitted by the construction or consulting engineers design.
- (b) The swimming pool/outdoor spa equipment is to be enclosed in a sound proof enclosure to prevent adverse impacts to adjoining properties.
- (c) An approved sign outlining details of resuscitation techniques for adults, children and infants must be placed in a prominent position, close to the pool/outdoor spa, prior it being filling with water. Signs are available from Council.
- (d) 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.

- (e) The swimming pool/outdoor spa 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.
- (a) The swimming pool/outdoor spa is to be fitted with a cover that shall be fitted when the swimming pool/outdoor spa is not in use to minimise evaporation and conserve water.
- (f) A final inspection of the completed pool is to be carried out by the Principal Certifying Authority to ensure all the above is complied with.

#### **57. 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.

#### **58. 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.

#### **59. 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.

#### **60. PUBLIC DOMAIN WORKS COMPLETED**

All footpath upgrades and public domain works are to be completed to the agreed design and standard for the satisfaction of the Executive Manager, Creating Waverley prior to the issue of an Occupation Certificate.

### **Advice to Applicant**

Your Construction Certificate will not be issued until all the conditions of consent are satisfied.

### **Sydney Water Requirements**

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

### **Dial Before You Dig**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at

www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

## **Telecommunications Act 1997 (Commonwealth)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

HEWLETT

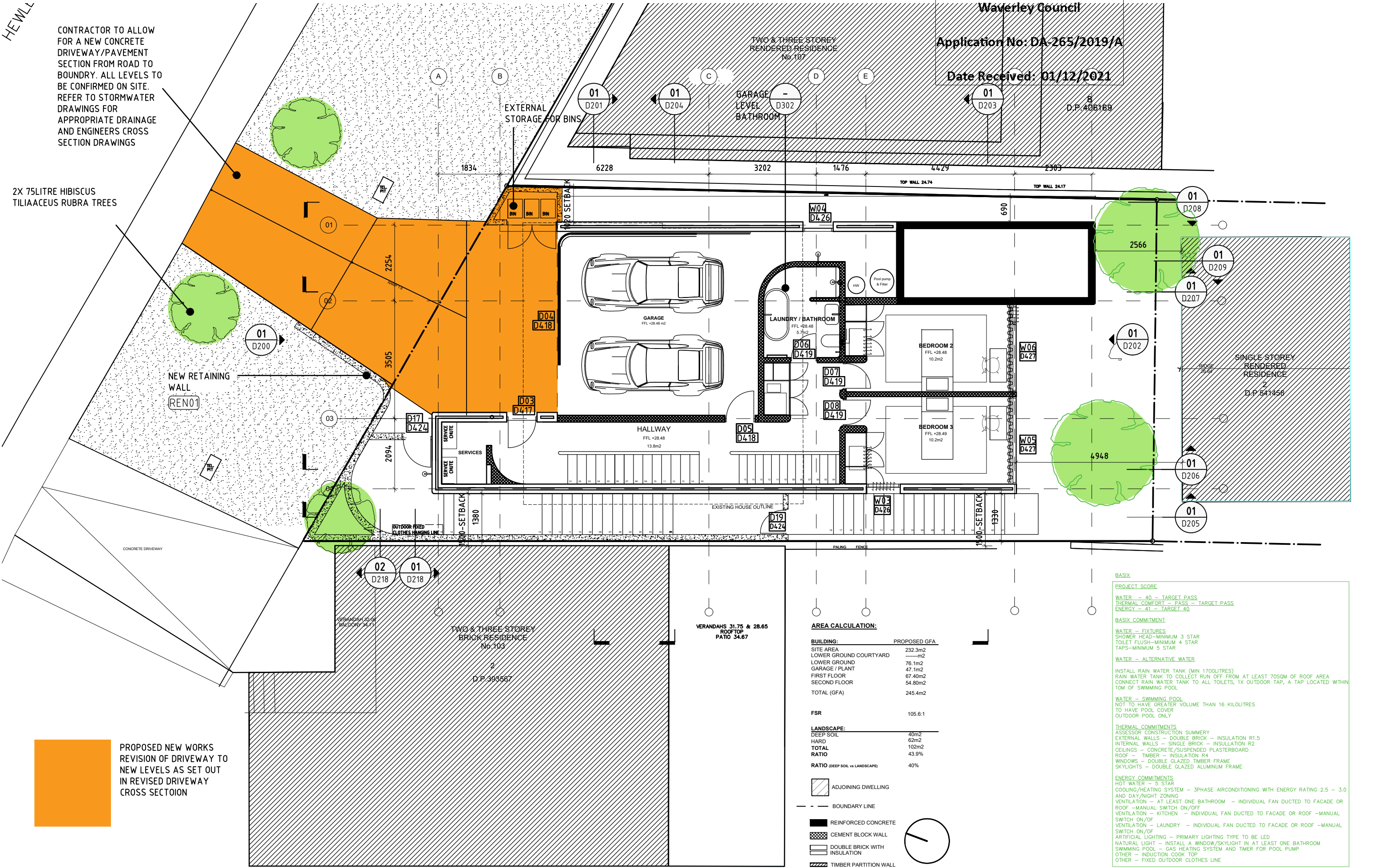
CONTRACTOR TO ALLOW FOR A NEW CONCRETE DRIVEWAY/PAVEMENT SECTION FROM ROAD TO BOUNDARY. ALL LEVELS TO BE CONFIRMED ON SITE. REFER TO STORMWATER DRAWINGS FOR APPROPRIATE DRAINAGE AND ENGINEERS CROSS SECTION DRAWINGS

2X 75LITRE HIBISCUS TILIAACEUS RUBRA TREES

NEW RETAINING WALL  
REN01

CONCRETE DRIVEWAY

PROPOSED NEW WORKS  
REVISION OF DRIVEWAY TO NEW LEVELS AS SET OUT IN REVISED DRIVEWAY CROSS SECTION



AREA CALCULATION:

BUILDING:	PROPOSED GFA
SITE AREA	232.3m2
LOWER GROUND COURTYARD	-----m2
LOWER GROUND	76.1m2
GARAGE / PLANT	47.1m2
FIRST FLOOR	67.40m2
SECOND FLOOR	54.80m2
TOTAL (GFA)	245.4m2

FSR 105.6:1

LANDSCAPE:	
DEEP SOIL	40m2
HARD	62m2
TOTAL	102m2
RATIO	43.9%
RATIO (DEEP SOIL vs LANDSCAPE)	40%

- ADJOINING DWELLING
- BOUNDARY LINE
- REINFORCED CONCRETE
- CEMENT BLOCK WALL
- DOUBLE BRICK WITH INSULATION
- TIMBER PARTITION WALL

**BASIX**  
**PROJECT SCORE**  
WATER - 40 - TARGET PASS  
THERMAL COMFORT - PASS - TARGET PASS  
ENERGY - 41 - TARGET 40  
**BASIX COMMITMENT**  
WATER - FIXTURES  
SHOWER HEAD-MINIMUM 3 STAR  
TOILET FLUSH-MINIMUM 4 STAR  
TAPS-MINIMUM 5 STAR  
**WATER - ALTERNATIVE WATER**  
INSTALL RAIN WATER TANK (MIN 1700LITRES)  
RAIN WATER TANK TO COLLECT RUN OFF FROM AT LEAST 70SQM OF ROOF AREA  
CONNECT RAIN WATER TANK TO ALL TOILETS, 1X OUTDOOR TAP, A TAP LOCATED WITHIN 10M OF SWIMMING POOL  
**WATER - SWIMMING POOL**  
NOT TO HAVE GREATER VOLUME THAN 16 KILOLITRES  
TO HAVE POOL COVER  
OUTDOOR POOL ONLY  
**THERMAL COMMITMENTS**  
ASSESSOR CONSTRUCTION SUMMERY  
EXTERNAL WALLS - DOUBLE BRICK - INSULATION R1.5  
INTERNAL WALLS - SINGLE BRICK - INSULATION R2  
CEILING - CONCRETE/SUSPENDED PLASTERBOARD  
ROOF - TIMBER - INSULATION R4  
WINDOWS - DOUBLE GLAZED TIMBER FRAME  
SKYLIGHTS - DOUBLE GLAZED ALUMINUM FRAME  
**ENERGY COMMITMENTS**  
HOT WATER - 5 STAR  
COOLING/HEATING SYSTEM - 3PHASE AIRCONDITIONING WITH ENERGY RATING 2.5 - 3.0  
AND DAY/NIGHT ZONING  
VENTILATION - AT LEAST ONE BATHROOM - INDIVIDUAL FAN DUCTED TO FACADE OR ROOF -MANUAL SWITCH ON/OFF  
VENTILATION - KITCHEN - INDIVIDUAL FAN DUCTED TO FACADE OR ROOF -MANUAL SWITCH ON/OFF  
VENTILATION - LAUNDRY - INDIVIDUAL FAN DUCTED TO FACADE OR ROOF -MANUAL SWITCH ON/OFF  
ARTIFICIAL LIGHTING - PRIMARY LIGHTING TYPE TO BE LED  
NATURAL LIGHT - INSTALL A WINDOW/SKYLIGHT IN AT LEAST ONE BATHROOM  
SWIMMING POOL - GAS HEATING SYSTEM AND TIMER FOR POOL PUMP  
OTHER - INDUCTION COOK TOP  
OTHER - FIXED OUTDOOR CLOTHES LINE

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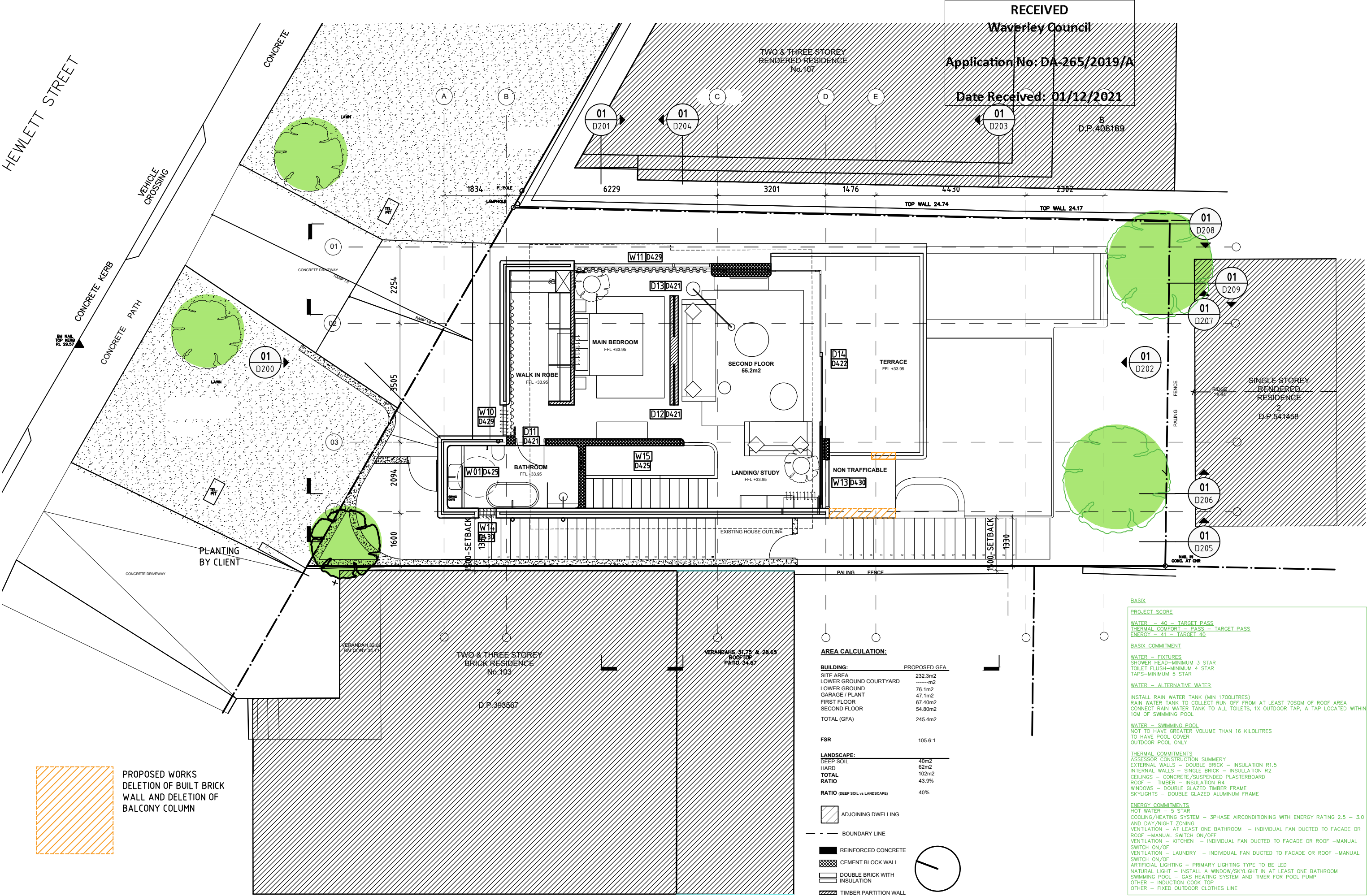
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REV.	DATE	DESCRIPTION
-	-	-

PROJECT 105 HEWLETT STREET BRONTE	DRAWN TW	CHECKED TW
DRAWING TITLE GARAGE LEVEL	SCALE 1:100 @ A3	DATE 20/10/21
	DRAWING STATUS MA - DA 265/2019	REVISION -
	DRAWING NUMBER D102	







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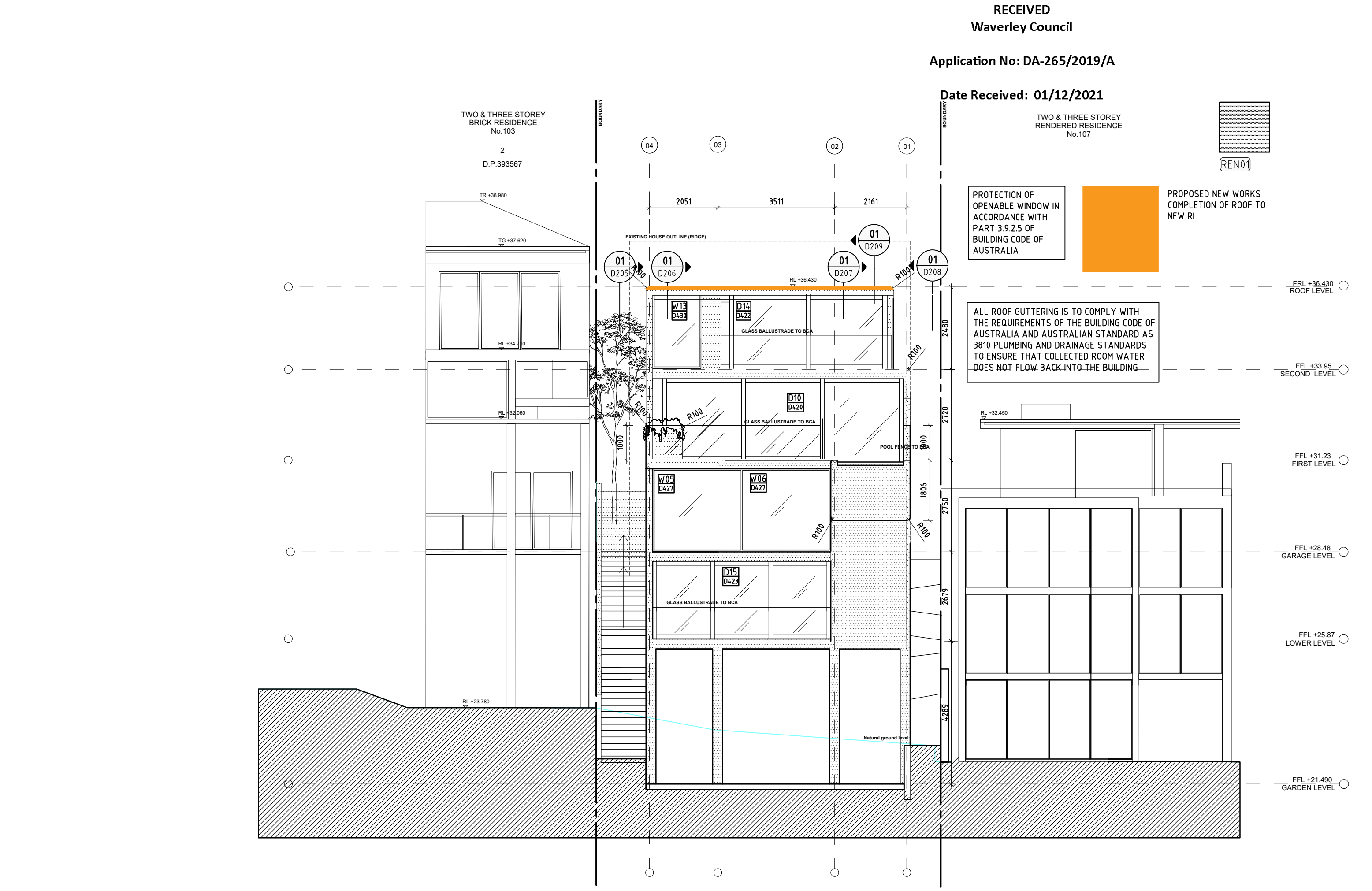
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REV.	DATE	DESCRIPTION
-	-	-

PROJECT 105 HEWLETT STREET BRONTE	DRAWN TW	CHECKED TW
DRAWING TITLE SECOND FLOOR	SCALE 1:100 @ A3	DATE 20 10 21
	DRAWING STATUS MA - DA 265/2019	REVISION -
	DRAWING NUMBER D104	







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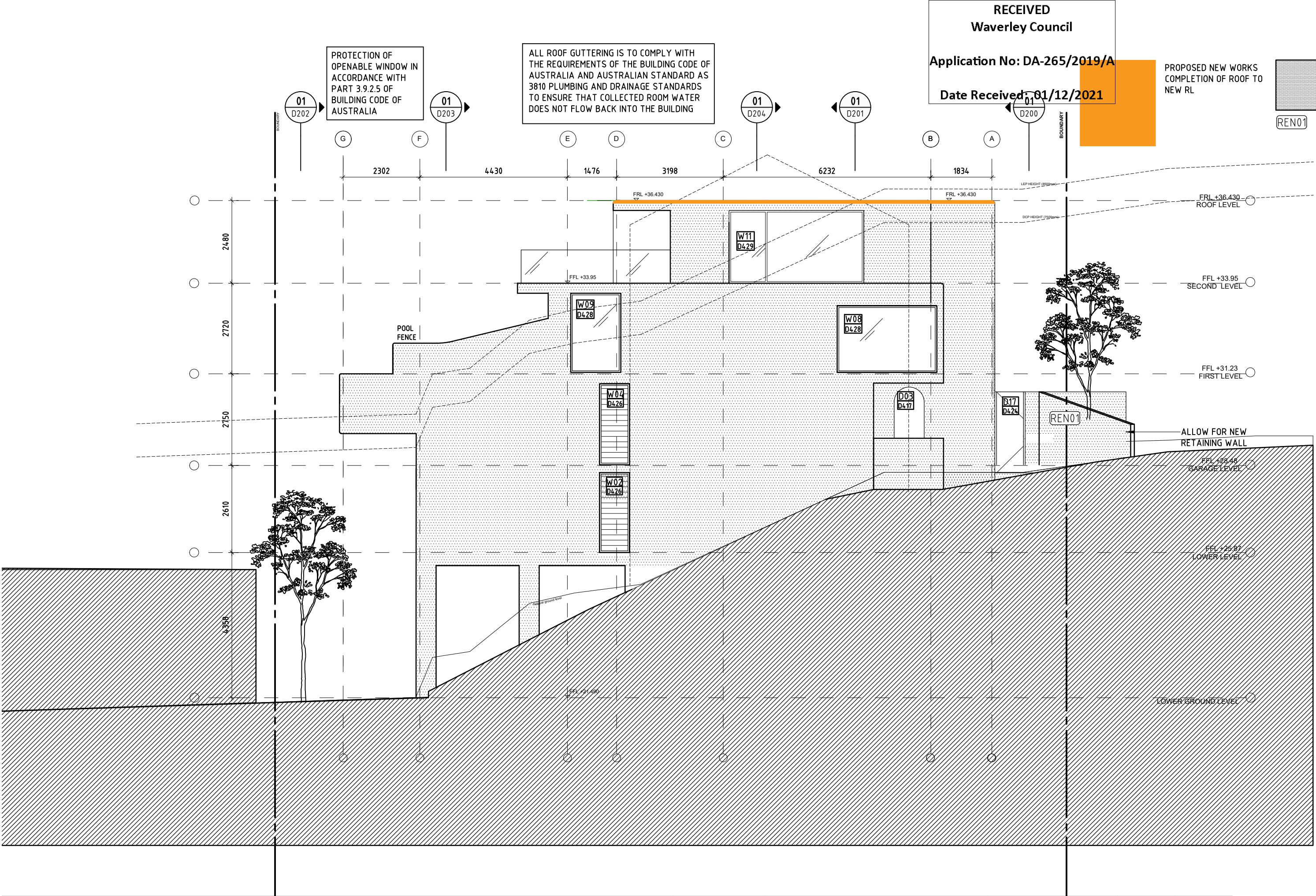
PROJECT		DRAWN	CHECKED
105 HEWLETT STREET BRONTE		TW	TW
		SCALE	DATE
		1:100 @ A3	20/10/21
		DRAWING STATUS	
		MA - DA 265/2019	
DRAWING TITLE		DRAWING NUMBER	REVISION
REAR ELEVATION		D202	-











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REV.	DATE	DESCRIPTION
-	-	-

PROJECT  
105 HEWLETT STREET  
BRONTE  
DRAWING TITLE  
EAST ELEVATION

DRAWN TW	CHECKED TW
SCALE 1:100 @ A3	DATE 20/10/21
DRAWING STATUS MA - DA 265/2019	
DRAWING NUMBER D208	REVISION -

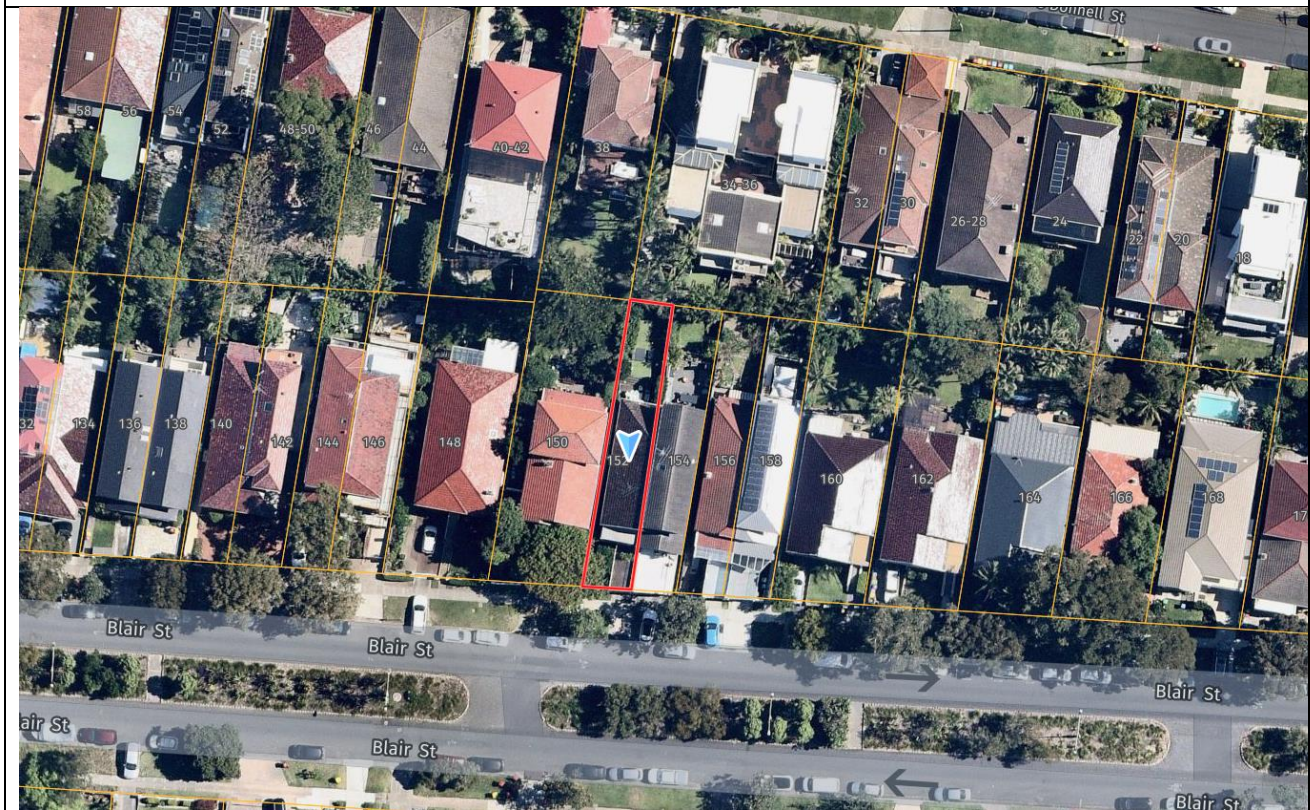




## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-12/2022
<b>Site address</b>	152 Blair Street, NORTH BONDI
<b>Proposal</b>	Alterations and additions to a semi-detached dwelling, including first floor addition, garage and patio above
<b>Date of lodgement</b>	7 January 2022
<b>Owner</b>	Mr C S King
<b>Applicant</b>	Cape Code Australia
<b>Submissions</b>	1 submission received
<b>Cost of works</b>	\$1,043,439
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>Overall building height</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report.

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for alterations and additions to a semi-detached dwelling, including first floor addition, garage and patio above at front at the site known as 152 Blair Street, NORTH BONDI.

The principal issues arising from the assessment of the application are as follows:

- Overall building height

The assessment finds this issue acceptable, as the proposal has been designed to match the adjoining semi-detached dwelling and provide symmetry within the street. The breach in the building height will not result in adverse amenity impacts to neighbouring properties and is supported.

A total number of one submission was received and the issues raised in the submission have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 14 January 2022.

The site is identified as Lot 10 in DP 553503, known as 152 Blair Street, NORTH BONDI.

The site is rectangular in shape with a southern frontage to Blair Street measuring 6.21m. The site has an area of 221.3m<sup>2</sup> and falls from the northern rear boundary towards the southern front boundary by approximately 4.78m.

The site is occupied by a two storey semi-detached dwelling with vehicle access to Blair Street via a single width garage.

The site is adjoined by a detached dwelling to the west and the adjoining semi-detached dwelling (No. 154) to the east. The locality is characterised by a variety of low residential development. **Figures 1 to 4** are photos of the site and its context.





**Figure 1:** Subject site viewed from Blair Street



**Figure 2:** Subject site (left) and adjoining semi-detached dwelling (No. 154) (right) viewed from Blair Street.



**Figure 3:** Neighbouring property to the west at No. 150 Blair Street



**Figure 4:** Streetscape context showing No. 156 & 158 Blair Street, east of the subject site.

### 1.3. Relevant Development History

Council records show there is no relevant planning history for this site.

### 1.4. Proposal

The development application seeks consent for alterations and additions to a semi-detached dwelling, specifically the following:

- Extension of the lower ground level garage to provide for two car parking spaces in tandem;
- Reconstruction of the entry pedestrian path at the front of the site;
- Internal modifications to the ground floor level to include a bedroom, kitchen, dining and living room;
- Reconstruction and extension of the patio above the garage;
- Demolition and reconstruction of the rear deck; and
- First floor addition to include three x bedrooms, two x bathrooms and a juliet balcony at the rear.



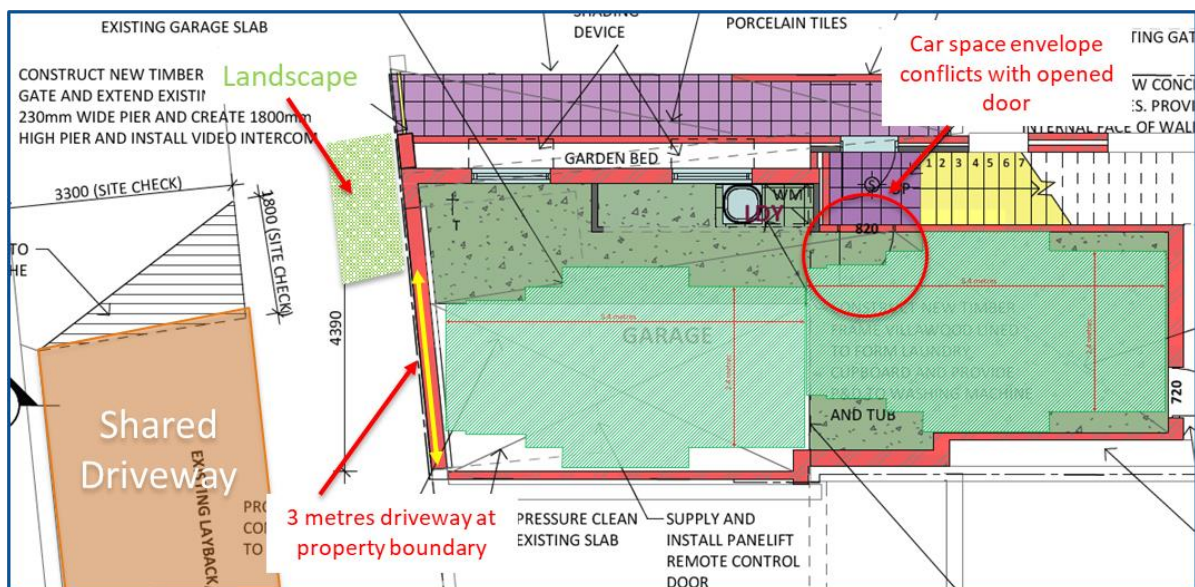
## 1.5. Background

On 28 February 2022, Council's Traffic Engineer made the following comments with regard to the proposed design:

*The proposed garage will accommodate two car parking spaces in tandem arrangement. The inner space adjacent to the stair wall does not strictly comply with Australian Standard AS2890.1:2004 as the opened door will encroach into the car space envelope as shown in the figure below.*

*The approval is to be for one standard car space within the property. The second non-compliant space can be recognised if the door is modified so that it opens into the house as opposed to into the garage.*

*The proposed driveway width / entry width at the property boundary is 4.39 metres. This does not comply with Council's requirements. Modified plans are required demonstrating the garage entry width at the property boundary is to be a maximum of 3.0 metres and retention of the landscape between the garage door and the pedestrian entrance, as shown in the figure below.*



On 3 March 2022, the applicant submitted amended plans to address the above issues. The plans submitted on 3 March 2022 form the basis of this assessment and report.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. 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. State Environmental Planning Policies (SEPPs)

The following SEPPs apply and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP 55 Remediation of Land.

### 2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### 2.1.3. 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
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The development is consistent with the aims of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R3 Medium Density Residential Zone	Yes	The proposal is defined as dwelling house, which is permitted with consent in the R3 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"><li>• 9.5m</li></ul>	No	The development proposes an overall height of 11.28m, which does not comply with the development standard.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"><li>• 0.86:1 or 190.67m<sup>2</sup></li></ul>	Yes	The development proposes an FSR of 0.72:1 or 158.49m <sup>2</sup> , which complies with the development standard.
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 standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulfate soils	Yes	The site contains 'Class 5' acid sulfate soils. The proposal does not involve excavation deeper

Provision	Compliance	Comment
		than 5m below AHD. Therefore, the proposed development is not expected to disturb or expose acid sulfate soils.
6.2 Earthworks	Yes	Some excavation works are proposed to accommodate the proposed development; the extent of excavation would not warrant geotechnical investigation. Appropriate conditions of consent are recommended to ensure excavation works do not unduly disturb neighbouring properties and the public domain.

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

#### *Clause 4.6 Exceptions to Development Standards*

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height of buildings development standard of 9.5m. The proposed development has an overall height of 11.28m, exceeding the standard by 1.78m equating to a 18.74% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

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

The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

- (i) *The Proposed development upper floor addition is set back and sited over the existing building footprint in order to maintain a consistent street rhythm. Due to its location and the fall of the land, it does not obstruct the views of the properties that adjoin from the rear or side. It was designed while taking into consideration the value of the existing views.*
  - (ii) *Irrespective of the minor localised height breach, the proposed development is compatible with the prevailing bulk and scale of development and existing dwellings in the locality.*
  - (iii) *The surrounding context comprises of an eclectic mix of architectural styles and forms, ranges from two & three storey dwellings that likewise accommodates an upper floor component. The proposed, sympathetic three storey dwelling, will positively contribute to the streetscape and will be in keeping with other existing developments. In comparison to the surrounding built form the proposed development would blend into the existing backdrop of the other buildings that have utilised a similar amount or more of their building footprint in the immediate vicinity.*
  - (iv) *The proposal is therefore deemed to be compatible with the height, bulk and scale of the existing character and streetscape. The proposed upper floor component will contribute positively to the street network and public space.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The proposed development is designed to minimise view loss to the public and to adjoining and adjacent properties as much as possible while still providing opportunities for limited views from the proposed development. Views to the east towards Blair Street will be generally unchanged, views to the north, south and west are generally of neighbouring dwellings.*
  - (ii) *Given the local street topography being a consistent north to south fall of land, narrow lot patterns and the presence of numerous two & three storey dwellings in the immediate area, the minor numeric departure in the height control will not cause any detrimental impact to neighbouring dwellings.*
  - (iii) *The extent of the departure is not unlike other proposals. From a planning perspective, the proposal itself creates no environmental planning impacts or issues for the adjoining properties or the streetscape. On environmental planning grounds, the subject site area was considered sufficient to accommodate the addition with no adverse impacts.*

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

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.



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

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

The proposed breach in height is limited to a small portion of the roof section at the front of the site and has been designed to match the existing first floor addition on the adjoining semi-detached dwelling. The non-compliance will not stand out in the streetscape, as it will perfectly match the height, style and design of the attached semi-detached dwelling At No 154. The breach is a direct result of the sloping site and the existing excavation on site for the garage level. It is considered that providing a height compliant built form will have negative impacts on the streetscape character, as it would not match that of the paired dwelling. The breach in height will not sit out of context within the streetscape and will not result amenity impacts to surrounding properties.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard.

The height non-compliance is a result of the significant natural slope of the land and the existing lower ground floor level sitting under the natural ground level. This results in a non-compliance towards the front of the site only and will therefore not result in any amenity impacts to the neighbouring properties. The breach will not cause unreasonable overshadowing to neighbouring properties, overlooking or block significant views. The majority of the dwelling will sit significantly below the maximum building height as it is located further to the rear, which will limit the impact on overlooking and overshadowing. When viewed from a streetscape context, the building matches that of the attached pair and will fit in with the

overall scale and bulk of No. 154 Blair Street. The overall height of the building is therefore considered to be appropriate in the context of buildings in the streetscape.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the height of buildings development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

The components of development above the height control will preserve the environmental amenity of neighbouring properties, including the sharing of views, privacy, and solar access. No views will be impacted by the breach in height. The non-compliance is relatively minor and has been designed to match that of the paired semi-detached dwelling. The dwelling will sit in line with both the adjoining dwellings and is considered to be appropriate within the context of the surrounding area. The breach in height would not be indiscernible from the streetscape and surrounding properties, as the natural slope of the land results in the breach on occurring at the rear of the site.

The objectives of the R3 zone are as follows:

- To provide for the housing needs of the community within a medium density residential environment.*
- To provide a variety of housing types within a medium density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To maximise public transport patronage and encourage walking and cycling*

The development achieves the objectives of the R3 zone, as it will continue to provide for the housing needs within a medium density area by providing sufficient internal and external amenity to the future owners and occupiers of the new dwelling. The development is compatible with the surrounding development and existing character of the area and is supported.

Conclusion

For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the R3 zone.

#### 2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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
1. Waste	Yes	Satisfactory.
2. Ecologically Sustainable Development	Yes	Satisfactory.
3. Landscaping and Biodiversity	Yes	Satisfactory.
4. Tree Preservation	Yes	Satisfactory. Council's Tree Management officer has reviewed the proposal and raised no objection with the removal of the tree within the front setback.
6. Stormwater	Yes	Satisfactory. Refer to section 3 of this report on referral commentary in relation to stormwater.
8. Transport Minimum parking rate: <ul style="list-style-type: none"> <li>0</li> </ul> Maximum parking rate: <ul style="list-style-type: none"> <li>2 spaces for 3 or more bedrooms.</li> </ul>	Yes	The proposal provides for two car spaces. The garage design and location are satisfactory as it is consistent with car parking arrangements along Blair Street.
10. Safety	Yes	Satisfactory.
12. Design Excellence	Yes	Satisfactory.
14. Excavation	Yes	Satisfactory.

**Table 3: Waverley DCP 2012 – Part C1 – Special Character Areas**

Development Control	Compliance	Comment
<b>1.2 North Bondi</b>		
Desired Future Character Objectives <ul style="list-style-type: none"> <li>Maintain streetscape rhythm in building frontages</li> <li>Improve amenity on site and adjoining sites</li> <li>Minor alterations in the roof space.</li> </ul>	Yes	<p>The proposal maintains the established streetscape rhythm, frontage and separation between buildings.</p> <p>The proposal provides improved amenity for the occupants of the site.</p> <p>The proposed addition is comparable to the adjoining semi-detached dwelling and matches the pair as viewed from the street.</p>

Development Control	Compliance	Comment
Controls (e) Buildings should have pitched roofs with red tiles in keeping with the existing character of the area.	Yes	The proposed addition includes a pitched roof form clad in tiles to match that of the adjoining semi-detached dwelling.
(g) The established patterns of materiality and colour where there are existing rows of consistency along a street are to be maintained.	Yes	The proposal is compatible in materiality with the existing dwelling and character of this section of Blair Street.

**Table 4: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
	Yes	The proposal does not contravene the general objectives of this part of the DCP.
<b>2.1 Height</b>		
Pitched roof dwelling house <ul style="list-style-type: none"> <li>Maximum external wall height of 7m</li> </ul>	No	<p>The development proposes an external wall height of 9.6m at the front of the site, which does not comply with the control. The non-compliance is a direct result of the natural slope of the land and the height has been proposed to match that of the adjoining semi-detached dwelling.</p> <p>The proposal is compatible within the streetscape and will not result in adverse amenity impacts to neighbouring properties. Therefore, a variation to this control is supported in this case.</p>
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>Predominant front building line</li> <li>Predominant rear building line at each floor level</li> </ul>	Yes	<p>The basement and ground floor setbacks are proposed to remain unchanged and comply with the predominant setbacks within the street.</p> <p>The first floor addition has been designed to match the front and rear setbacks of the adjoining semi-detached dwelling, which is consistent within the streetscape and complies with the control.</p>
2.2.2 Side setbacks <ul style="list-style-type: none"> <li>Minimum of 1.2m</li> </ul>	Acceptable	The development proposes a side setback of 0.93m for the first floor addition, which does not comply with the 1.2m control. In support of this non-compliance, it is noted that the setback has been designed to match the setback of the existing dwelling levels below. An indent of the first floor along the western side would result in a



Development Control	Compliance	Comment
		<p>poor design outcome and would not be a desired approach.</p> <p>Furthermore, the non-compliance does not result in unreasonable amenity impacts to the neighbouring property, as discussed throughout this report. The minor non-compliance is therefore considered acceptable in this instance.</p>
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> <li>Replacement windows to complement the style and proportions of existing dwelling</li> <li>Significant landscaping to be maintained.</li> </ul>	Yes	<p>The reconstruction of the garage and patio above is a consistent design feature along this section of Blair Street, particularly to the east at No.'s 154, 156 and 158. The style and design is in keeping with the character of the streetscape and is supported.</p> <p>The first floor addition has been designed to match the adjoining semi-detached dwelling at No. 154 Blair so as to read as a pair when viewed from the streetscape. The design of the first floor is compatible within the street and is supported.</p>
<b>2.4 Fences</b>		
<p><i>Front:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> </ul> <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.8m</li> </ul>	Yes	<p>A front gate is proposed along Blair Street measuring 1.2m in height, which complies with the control.</p> <p>No changes are proposed to the existing side and rear boundary fencing.</p>
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design</li> <li>External stairs are not acceptable.</li> <li>Maximum size of balconies: 10m<sup>2</sup> in area 1.5m deep</li> </ul>	<p>Yes</p> <p>Subject to conditions</p>	<p>The ground floor west facing windows servicing the kitchen and dining room will have direct views into windows at No. 150 Blair Street. A condition is recommended to provide obscure glazing to the two windows to limit any overlooking between properties.</p> <p>Similarly, the first floor west facing windows servicing Bedroom 1 and Bedroom 2 will have direct views into a habitable window and the rear private open space at No. 150 Blair Street. A condition is also recommended to provide external screening or obscure glazing to this window to limit overlooking.</p> <p>A Juliet balcony is proposed at the rear of the site that will directly looking onto the rear yard of the subject site. As this balcony services a bedroom, it is not likely that this will be highly trafficked. The balcony would not result in unreasonable amenity</p>

Development Control	Compliance	Comment
		impacts to neighbouring properties and is acceptable.
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> <li>Avoid unreasonably overshadowing of solar collectors (including habitable windows).</li> </ul>	Yes	<p>Shadow diagrams have been submitted that demonstrate the development will cast some overshadowing to neighbouring properties, however all surrounding properties will maintain a minimum of 3 hours of direct sunlight throughout the day. The development therefore complies with this control.</p> <p>No change is proposed to the existing direct sunlight to the rear private open space on site.</p>
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	Yes	No views are likely to be impacts as a result of this development.
<b>2.8 Car parking</b>		
<p>2.8.1 Design Approach</p> <ul style="list-style-type: none"> <li>Parking only allowed where site conditions permit</li> <li>Designed to complement the building and streetscape</li> <li>Car parking structures to be behind the front building line</li> <li>Driveways are to be located to minimise the loss of on street parking</li> <li>Parking to be provided from secondary streets or lanes where possible.</li> </ul>	Yes	The development does not propose to change the location of the garage on site. The proposed extension of the garage is in keeping with the character of garages along this section of Blair Street, as garages along the front boundary are very common in the immediate area.

Development Control	Compliance	Comment
2.8.2 Parking rates	Yes	Parking rates are set by Part B8 of Waverley DCP 2012.
2.8.3 Location <ul style="list-style-type: none"> <li>• Behind front building line for new dwellings</li> <li>• Existing development to be in accordance with the hierarchy of preferred car parking locations</li> </ul>	Yes	The location of the garage is not proposed to change and is compatible with car parking structures in the street.
2.8.4 Design <ul style="list-style-type: none"> <li>• Complement the style, massing and detail of the dwelling</li> </ul>	Yes	The garage has been proposed to match the design and style of garages located along the front boundary, particularly the adjoining semi-detached dwelling at No. 154 Blair Street.
2.8.5 Dimensions <ul style="list-style-type: none"> <li>• 5.4m x 2.4m per vehicle</li> </ul>	Yes	The garage proposes dimensions measuring 3m x 11m, which complies with the controls.
2.8.6 Driveways <ul style="list-style-type: none"> <li>• Maximum of one per property</li> <li>• Maximum width of 3m at the gutter (excluding splay)</li> </ul>	Yes	No change is proposed to the existing crossover and therefore no changes to the street parking are proposed.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>• Overall open space: 40% of site area</li> <li>• Overall landscaped area: 15% of site area</li> <li>• Minimum area of 25m<sup>2</sup> for private open space</li> <li>• Front open space: 50% of front building setback area</li> <li>• Front landscaped area: 50% of front open space provided</li> <li>• Outdoor clothes drying area to be provided</li> </ul>	Acceptable	<p>No change is proposed to the overall open space, landscaped area, or amount of private open space on site.</p> <p>Whilst the development does not strictly comply with the open space and landscaped area within the front setback due to the garage extension, the design of the front setback is compatible with the character of the area and the development along Blair Street.</p>
<b>2.13 Semi-detached dwellings and terrace style development</b>		
2.13.1 - Built form <ul style="list-style-type: none"> <li>• Additions to match the style of the original semi-detached dwelling</li> </ul>	Yes	The proposed first floor addition has been designed to match the style of the adjoining semi-detached dwelling to read as a matched pair in the streetscape.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Existing roof form maintained forward of principal ridgeline</li> </ul>		The first floor addition as viewed from Blair Street will complement the character of the pair of semi-detached dwellings and the surrounding character of the wide streetscape.
<p>2.13.2 - First floor additions to semi-detached dwellings</p> <ul style="list-style-type: none"> <li>First floor addition to be setback from the principal street frontage and maintain the existing front roof slope</li> <li>Additions to be located a minimum of 1m behind the front main gable</li> <li>Limit the rise of the interface with adjoining semi-detached dwelling to 600mm</li> <li>First floor additions should match the style of the additions on the adjoining semi (if relevant).</li> </ul>	Yes	The first floor addition has been designed to match the front setback, materials, style, and character of the attached semi at No. 154 Blair Street. The style and design will complement the pair of dwellings and will sit compatibly within the streetscape.
<p>2.13.3 - Material finishes and detail for semi-detached dwellings</p> <ul style="list-style-type: none"> <li>Finishes and detailing are to be cohesive with the existing dwelling</li> <li>New windows to have a similar proportion to the existing</li> <li>Upper wall finishes to reflect the style and character of the original building.</li> </ul>	Yes	The materials have been proposed to complement the existing dwelling on site and the adjoining semi-detached dwelling. The pair of semi-detached dwellings as viewed from Blair Street will sit comfortably in the surrounding area.

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.



## 2.4. Any Submissions

The application was notified between 12 January and 2 February in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was not renotified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified, for the following reasons:

- The only changes related to an internal door and the opening of the garage door on the streetscape.

A total of one unique submission was received from No. 154 Blair Street, North Bondi.

The following issues raised in the submission have already been discussed and addressed in the body of this report and/or the Recommendation:

- Stormwater issues
- Privacy impacts from the first floor north facing juliet balcony

All other issues raised in the submissions are summarised and discussed below.

**Issue:** The materials and colours should be clarified before support is granted.

**Response:** The applicant has submitted a schedule of materials and finishes that are proposed on site. This is considered acceptable.

**Issue:** The balustrading of the front patio is a poor design.

**Response:** The balustrading is proposed to match the existing balustrading on site and is considered acceptable from a streetscape character perspective.

**Issue:** Inconsistencies in the architectural plans in relation to the front patio.

**Response:** The architectural plans show that the front patio is to be raised from the existing, which is consistent with the height of the patio at No. 154 Blair Street. This is considered acceptable.

**Issue:** The architectural plans show that some of the works encroach onto the property at 154 Blair Street.

**Response:** Noted, a condition will be imposed to ensure all works remain wholly within the property boundary.

**Issue:** Air conditioning units are not shown on the plans.

**Response:** The location or requirement of air condition units is not required to form part of the DA.

**Issue:** Rodent prevention should be included as a condition of consent.

**Response:** Rodent prevention for residential uses is not a planning matter and cannot form part of this consent.

**Issue:** The removal of hazardous materials on site and the request for neighbours to be notified prior to removal.

**Response:** Conditions will be imposed on the consent to removal all materials safely.

**Issue:** Request for a dilapidation report for the adjoining property.

**Response:** A condition is recommended requiring a dilapidation report to ensure no damage occurs to the neighbouring properties.

## 2.5. Public Interest

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

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Traffic and Development

In accordance with Section 1.5 of this report, the issues raised by Council's traffic engineer have been resolved by way of amended plans. No further concerns are raised with regard to traffic.

### 3.2. Stormwater

Council's stormwater engineer has raised no objections to the proposal, subject to conditions being imposed on the consent.

### 3.3. Tree Management

Council's tree management officer has reviewed the proposal and raised no issues with the removal of the tree on site. A condition has been recommended to protect the street tree and provide a tree bond during the construction of the build.

## 4. CONCLUSION

The development application seeks consent for alterations and additions to a semi-detached dwelling, including first floor addition, garage and patio above at front at the site known as 152 Blair Street, NORTH BONDI.

The principal issues arising from the assessment of the application are as follows:

- Overall building height

The assessment finds this issue acceptable, as the proposal has been designed to match the adjoining semi-detached dwelling and provide symmetry within the street. The breach in the building height will not result in amenity impact to neighbouring properties and is therefore supported.

One submission was received and the issues raised in the submission have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

*Development and Building Unit (DBU) Decision:*



The application was reviewed by the DBU at the meeting on 1 March 2022 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *A Rossi and B Matlawski*

**5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL**

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Katie Johnstone	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 3 March 2022	Date: 10 March 2022

*Reason for WLPP referral:*

1. Departure from any development standard in an EPI by more than 10%

## APPENDIX A – CONDITIONS OF CONSENT

### A. APPROVED DEVELOPMENT

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

- (a) Architectural Plans prepared by Cape Cod of Project No. 8143, including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
Page 2 of 15 Rev. F	Site Plan	<i>Undated</i>	03/03/2022
Page 3 of 15 Rev. F	Lower Ground Floor Demolition Plan	<i>Undated</i>	03/03/2022
Page 4 of 15 Rev. F	Proposed Lower Ground Floor Plan	<i>Undated</i>	03/03/2022
Page 5 of 15 Rev. F	Ground Floor Demolition Plan	<i>Undated</i>	03/03/2022
Page 6 of 15 Rev. F	Proposed Ground Floor Plan	<i>Undated</i>	03/03/2022
Page 7 of 15 Rev. F	Proposed First Floor Plan	<i>Undated</i>	03/03/2022
Page 8 of 15 Rev. F	Proposed Roof Plan	<i>Undated</i>	03/03/2022
Page 9 of 15 Rev. F	South and West Elevation Plan	<i>Undated</i>	03/03/2022
Page 10 of 15 Rev. F	East and North Elevation Plan	<i>Undated</i>	03/03/2022
Page 11 of 15 Rev. F	Section Plan	<i>Undated</i>	03/03/2022
Page 13 of 15 Rev. F	Window Door and Skylight Schedule	<i>Undated</i>	03/03/2022
Page 14 of 15 Rev. F	Window Door and Skylight Schedule	<i>Undated</i>	03/03/2022
Page 15 of 15 Rev. F	Window Door and Skylight Schedule	<i>Undated</i>	03/03/2022

- (b) Landscape Plan prepared by Cape Cod Rev. D, and received by Council on 07/01/2022
- (c) BASIX Certificate
- (d) Schedule of external finishes and colours received by Council on 07/01/2022
- (e) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 07/01/2022

Except where amended by the following conditions of consent.

#### 2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) In order to limit direct overlooking to No. 150 Blair St, obscure glazing or external privacy screens are to be provided up to a height of 1.6m above finished floor level to the ground floor west facing windows servicing the kitchen and dining room;
- (b) The first floor west facing windows servicing Bedroom 1 and Bedroom 2 are to have obscure glazing or external privacy screens up to a height of 1.6m above finished floor level, in order to limit overlooking into the habitable windows and private open space of No. 152 Blair Street.

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.



## B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

### GENERAL REQUIREMENTS

#### 3. 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 the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

#### 4. 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 applicable requirements of Part 6, before any work commences.

### CONTRIBUTIONS, FEES & BONDS

#### 5. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 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:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) 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 are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
- (i) A development valued at \$100,000 or less will be exempt from the levy;
  - (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any 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.

## **6. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of \$20,868 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **7. 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 of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any 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.

## **8. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The Applicant is to pay to Council fees for the assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

## **9. TREE BOND**

A bond of \$2,000 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.

## **CONSTRUCTION MATTERS**

### **10. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

### **11. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan shall be prepared in accordance with Waverley Council's Water Management Technical Manual be installed and maintained until construction activities have been completed and the site is fully stabilised. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

### **12. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical 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.

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.

### **13. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

### **14. ENGINEERING CERTIFICATE OF ADEQUACY**

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

## **15. EXISTING PARTY WALL IS TO BE EXTENDED**

The existing separating wall is to be extended to the underside of the roof in accordance with the requirements of the National Construction Code. All work to the separating wall must be contained within the boundaries of the subject site only, unless agreement between neighbours for work affecting both sides of a separating wall, including written consent of all owners of all properties upon which work will take place has been obtained.

## **STORMWATER & FLOODING**

### **16. STORMWATER MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plan prepared by Kneebone & Beretta Consulting Pty Ltd, Drawing No. 92382A-D1, dated 21.12.2021, is considered concept only.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- a) The plans shall provide a complete and detailed OSD design including multiple cross-sections, proposed construction materials, and full orifice details. The checklist as set out in Council's Water Management Technical Manual shall be completed and submitted. A certificate from a registered structural engineer certifying the structural adequacy of any below ground OSD tank structure is to be provided. Any below ground OSD tank structure shall be structurally designed to adequately withstand all service loads and provide adequate service life (50 years).
- b) Seepage water must not be directly or indirectly discharged to Council's street gutter.
- c) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- d) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided.
- e) A silt arrestor stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- f) Any proposed pipeline within the footpath verge of Blair Street must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres and fall by gravity at 1% minimum.
- g) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system (independent of any OSD system).



- h) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

## ENERGY EFFICIENCY & SUSTAINABILITY

### **17. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

## WASTE

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

*A Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* 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.

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

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

## PRIOR TO ANY WORKS

### **19. 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.

### **20. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners on request.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

## DEMOLITION & EXCAVATION

### **21. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority 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 SafeWork 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.

## **22. CONTROL OF DUST ON CONSTRUCTION SITES**

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 (e.g.: 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.

## **23. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

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 2014.

## **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.

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 excavation is to be managed by a practising structural engineer.

## **CONSTRUCTION MATTERS**

## **25. 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 Sundays and public holidays.

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.

Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

## **26. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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

## **27. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

## **28. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

## **29. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be 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.

## **30. 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 location 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

## **31. STRUCTURAL STABILITY OF ADJOINING SEMI-DETACHED DWELLING'S ROOF**

Adequate measures are to be undertaken to ensure structural stability and water proofing of the existing roof over the adjoining semi-detached dwelling having particular regard to the following:

- (a) Adequate measures are undertaken to secure the existing rafters and ridge to the brickwork of the party wall; and
- (b) Adequate measures are undertaken to ensure that the roof where it abuts the extended party wall is water proofed.

## **TREE PROTECTION AND REMOVAL**

### **32. STREET TREES TO BE RETAINED/TREE PROTECTION**

No existing street trees shall be removed without Council approval. 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) event 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 in accordance with AS4970-2009 "Protection of trees on construction sites.

### **33. STREET TREE PROTECTION**

The existing *Banksia integrifolia* (coast Banksia) on the naturestrip at the front of the property in 152 Blair Street 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:

- (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.

**Trunk protection** as per AS 4970 – 2009, Section 4.5.3 is to be installed.

Padding to be used shall be non-absorbing or free draining to prevent moisture build up around the part being protected.

The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8 metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with 2mm galvanised wire or galvanised hoop strap. The timbers shall be wrapped around the trunk (over the carpet underfelt), but not fixed to the tree to avoid mechanical injury or damage to the trunk. Trunk protection must be installed prior to any site works including demolition and maintained in good condition for the duration of the construction period.

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.

## **VEHICLE ACCESS & PUBLIC DOMAIN WORKS**

### **34. EXISTING VEHICLE CROSSING IS TO BE MODIFIED**

The existing vehicle crossing is to be modified to provide access to the proposed garage. A separate application is required for the modified vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

**35. VEHICULAR ACCESS - FINISHED LEVEL TO FOOTPATH**

The finished level at the property boundary on **both** sides of the vehicle crossing is to be **50mm above** the level of the existing concrete footpath

**36. DRIVEWAY**

The driveway is to be 3.0 metres wide at the property boundary.

**37. HEADROOM CLEARANCE**

The headroom clearance within the garage is to be a minimum of 2.2 metres.

**D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

**38. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, the Principal Certifying Authority must issue an Occupation Certificate. The Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

**39. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that all the undertakings in the approved BASIX certificate have been completed.

**40. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM**

- a) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared, stamped and signed by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, the detention facility and other drainage related infrastructure. An original or a colour copy must be submitted to Waverley Council. Where changes have occurred, the Council approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.
- b) A suitably qualified and practising Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

#### **41. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD**

Prior to the issue of an Occupation Certificate, a “Positive Covenant” and “Restriction on the Use of Land” shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

#### **E. ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

##### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au), in person (at Council’s Customer Service Centre) or via post service.
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition)
- Include DA reference number
- Include condition number/s seeking to be addressed
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note in some circumstances, additional fees and/or additional documents (hard copy) may be required.

- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.
- Any queries, please contact Council's Duty Planner on [duty.planner@waverley.nsw.gov.au](mailto:duty.planner@waverley.nsw.gov.au)

## **AD2. SYDNEY WATER REQUIREMENTS**

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

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.

## **AD3. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

## **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

## **AD5. ALTERATIONS AND ADDITIONS ONLY**

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.



**AD6. EXCAVATION TO BE LIMITED**

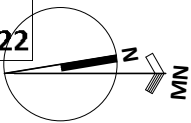
Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

**AD7. TREE REMOVAL/PRESERVATION**

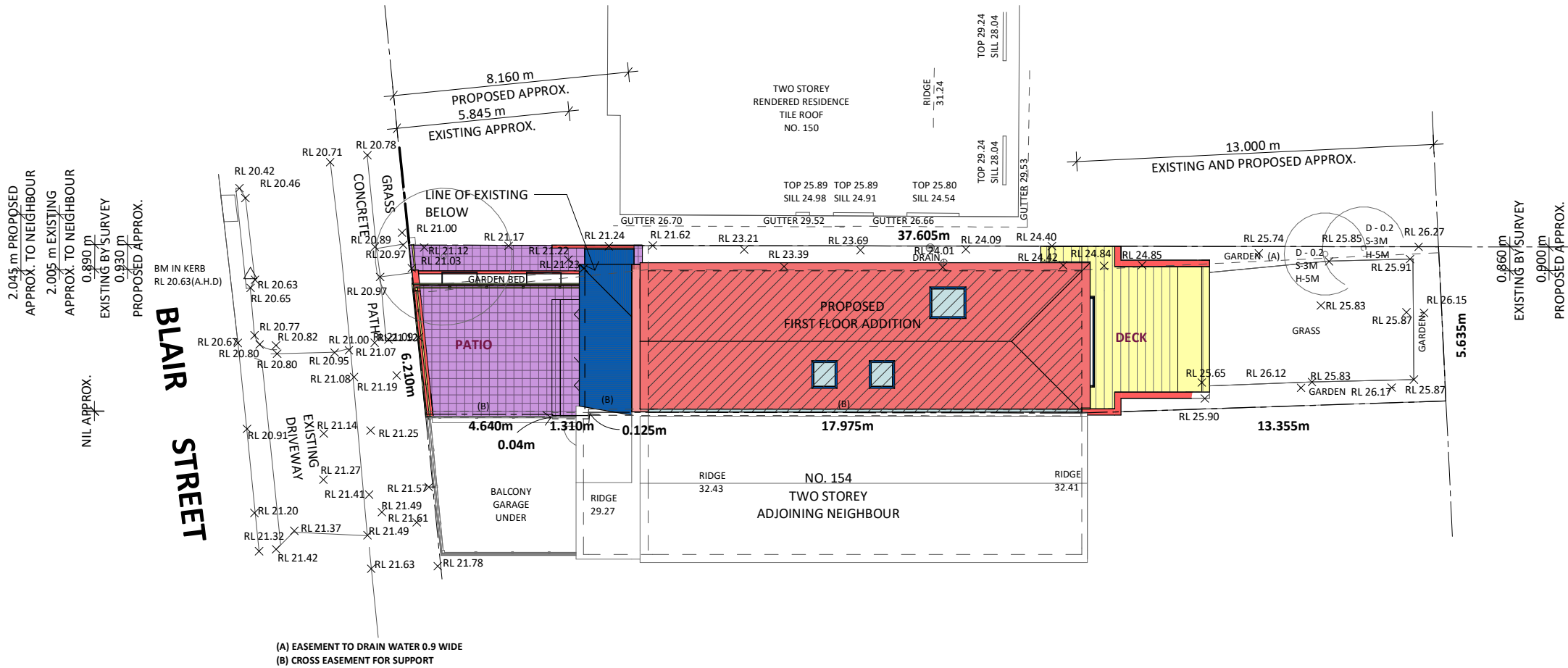
Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

Application No: DA-12/2022

Date Received: 03/03/2022



PROPERTY INFORMATION		
PROPERTY NO.	LOT NO.	DP NO.
152	10	DP553503
SITE AREA INFORMATION		
BY TITLE & BY SURVEY (m2)		
221.30		



SITE PLAN 1 : 200

TOTAL FLOOR AREA		
SITE AREA	AREA	% FSR
221.3	158.49 m²	71.62
INCLUDED AREAS		
LEVEL		AREA
GROUND FLOOR		80.34 m²
FIRST FLOOR		69.17 m²
GARAGE FLOOR		8.98 m²
TOTAL		158.49 m²
EXCLUDED AREA		
NAME		AREA
GARAGE		39.97 m²
GROUND FLOOR STAIR VOID		3.87 m²
FIRST FLOOR STAIR VOID		3.52 m²

PROPOSED ADDITION FOR:  
8143 MR C KING. 152 BLAIR STREET, NORTH BONDI NSW 2026



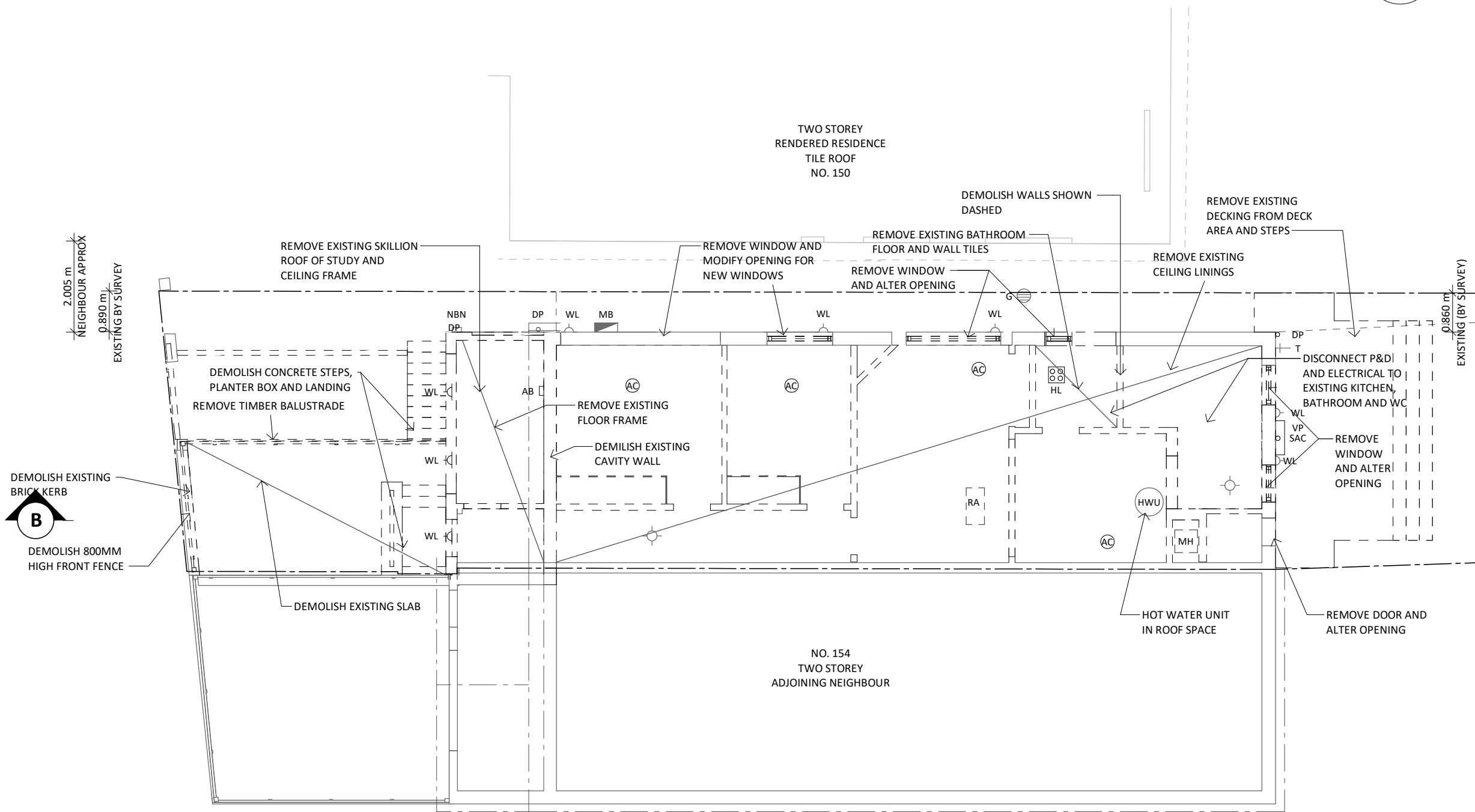




Application No: DA-12/2022  
Date Received: 03/03/2022

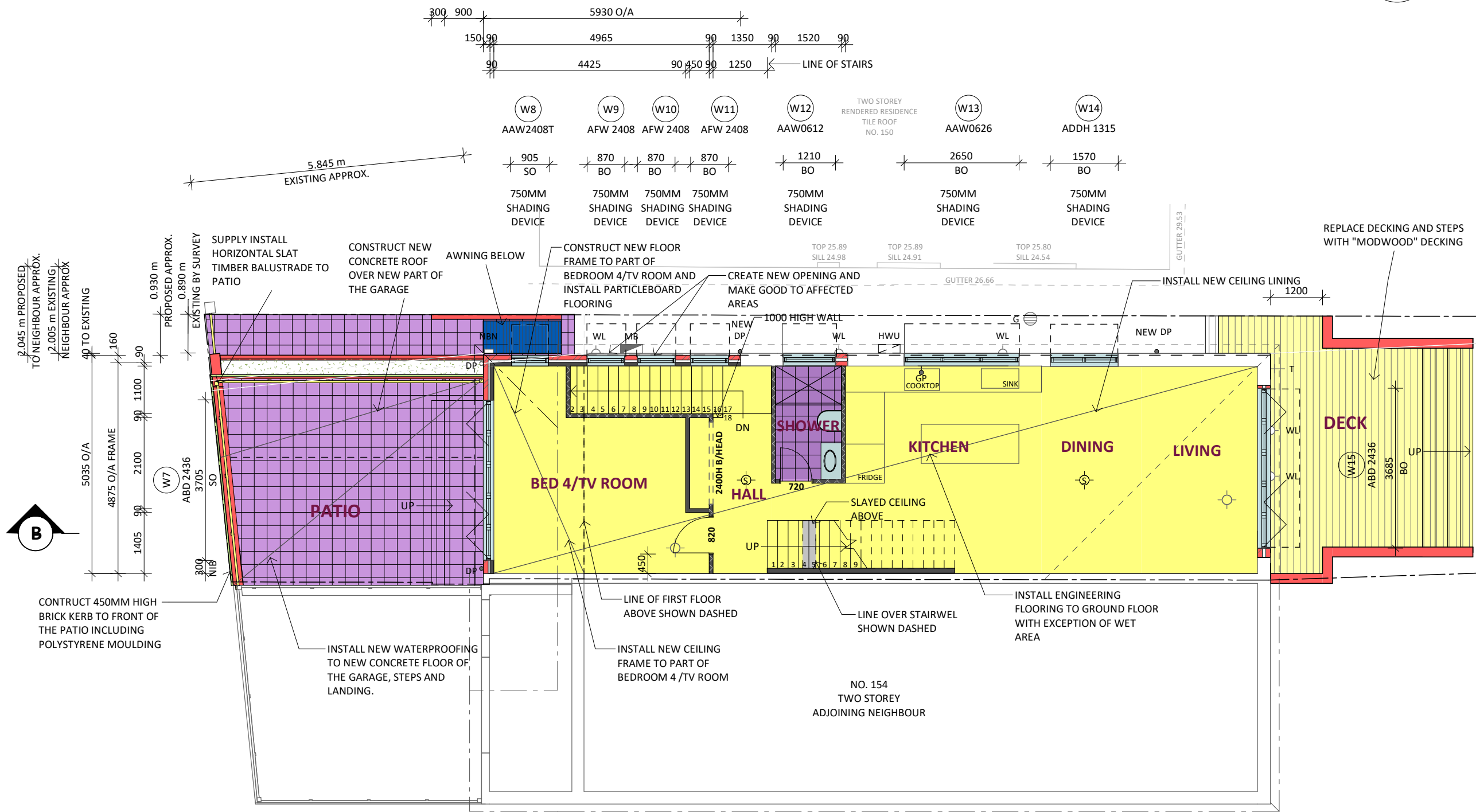
SERVICES LEGEND

DESCRIPTION	
RA	AIR CONDITIONER RETURN AIR GRILL
AC	AIRCONDITIONER DUCTED
SAC	AIRCONDITIONING COMPRESSOR
AB	ALARM BOX
DP	DOWNPIPE - PVC
T	GARDEN TAP
G	GULLY
HL	HEATER/LIGHT/FAN UNIT
HWU	HOT WATER UNIT - ROOF SPACE
MH	MANHOLE
MB	METERBOX
TB	NBN
SD	SMOKE DETECTOR - EXISTING
VP	VENT PIPE
WL	WALL LIGHT



GROUND FLOOR DEMOLITION PLAN 1 : 100

SERVICES LEGEND	
DESCRIPTION	
DP	DOWNPIPE - PVC
DP	DOWNPIPE INTO EXISTING U/TURN - PVC
T	GARDEN TAP
GP	GAS POINT
G	GULLY
HWU	HOT WATER UNIT - ROOF SPACE
HWU	HOT WATER UNIT - WALL MOUNTED
MB	METERBOX
TB	NBN
SD	SMOKE DETECTOR - EXISTING
SD	SMOKE DETECTOR - NEW
WL	WALL LIGHT



PROPOSED GROUND FLOOR PLAN 1 : 100

AREA (m²)	
NAME	AREA
GROUND FLOOR AREA	80.34 m²
GROUND FLOOR STAIR VOID	3.87 m²

# AMENDED PROPOSED FIRST FLOOR PLANS

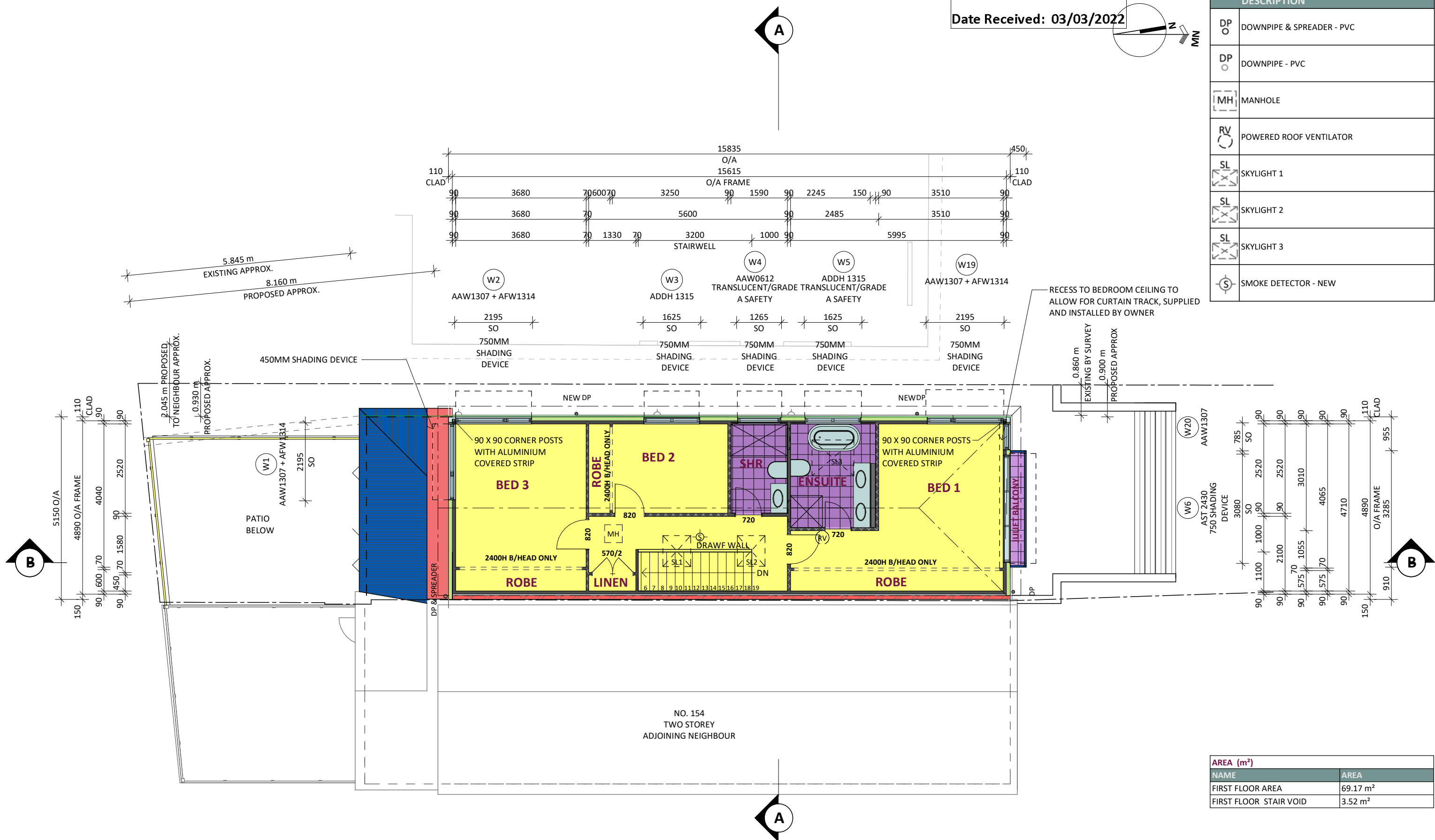
RECEIVED  
Waverley Council

Application No: DA-12/2022

Date Received: 03/03/2022

## SERVICES LEGEND

DESCRIPTION	
DP O	DOWNPIPE & SPREADER - PVC
DP	DOWNPIPE - PVC
MH	MANHOLE
RV	POWERED ROOF VENTILATOR
SL	SKYLIGHT 1
SL	SKYLIGHT 2
SL	SKYLIGHT 3
S	SMOKE DETECTOR - NEW



PROPOSED FIRST FLOOR 1 : 100

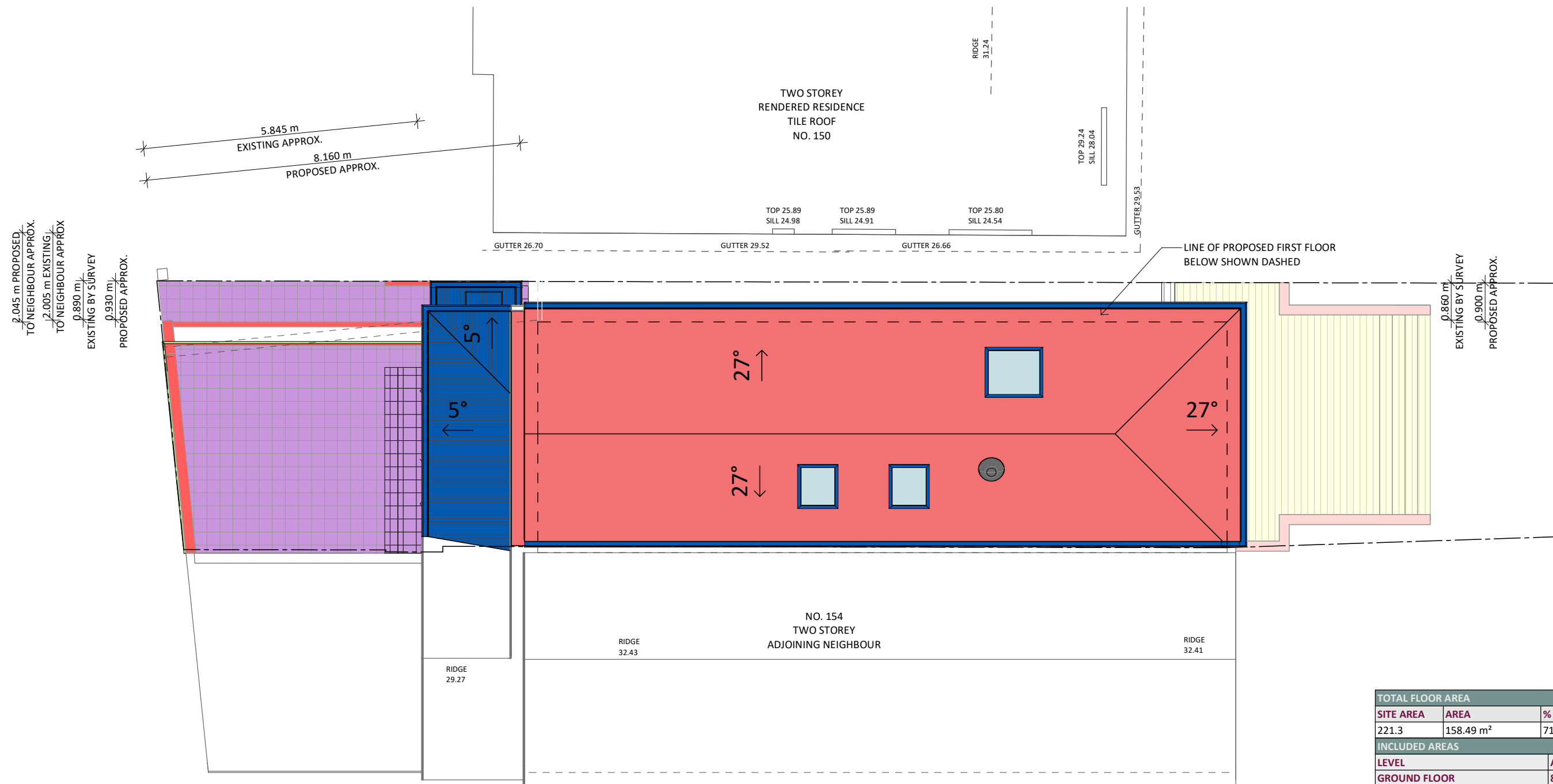
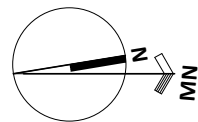
PROPOSED ADDITION FOR:  
8143 MR C KING. 152 BLAIR STREET, NORTH BONDI NSW 2026

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WORKING PLANS PAGE 7 OF 15 ISSUE F

REVIT VERSION V014





TOTAL FLOOR AREA		
SITE AREA	AREA	% FSR
221.3	158.49 m²	71.62
INCLUDED AREAS		
LEVEL		AREA
GROUND FLOOR		80.34 m²
FIRST FLOOR		69.17 m²
GARAGE FLOOR		8.98 m²
TOTAL		158.49 m²
EXCLUDED AREA		
NAME		AREA
GARAGE		39.97 m²
GROUND FLOOR STAIR VOID		3.87 m²
FIRST FLOOR STAIR VOID		3.52 m²

PROPOSED ROOF PLAN 1 : 100



# AMENDED ELEVATIONS PLANS

RECEIVED  
Waverley Council

Application No: DA-12/2022

Date Received: 03/03/2022

MAXIMUM RIDGE  
RL: 32.540

U/SIDE FF CEILING  
RL: 30.982

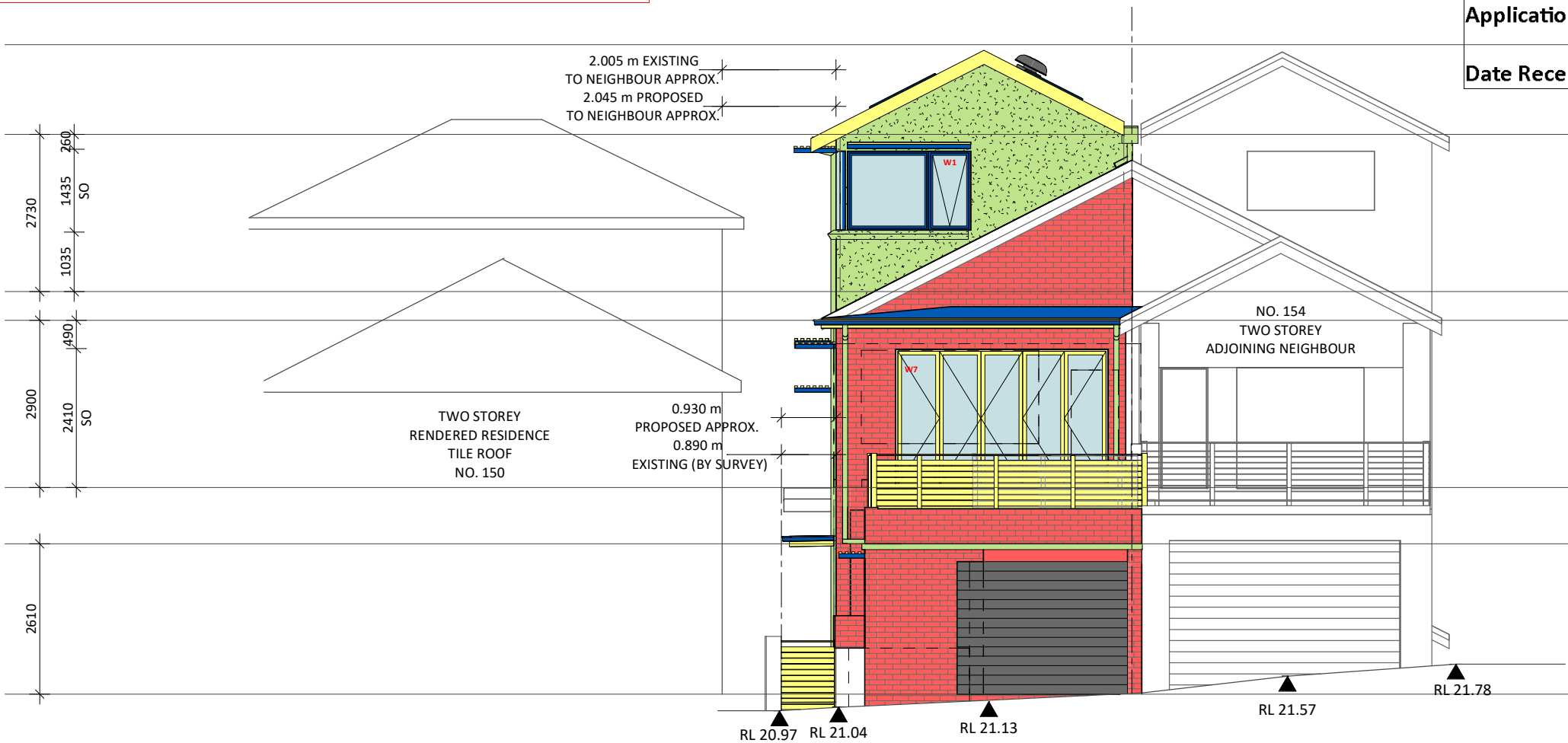
FIRST FLOOR  
RL: 28.252

U/SIDE OF GF CEILING  
RL: 27.752

GROUND FLOOR  
RL: 24.850

U/SIDE OF GARAGE CEILING  
RL: 23.870

GARAGE FLOOR  
RL: 21.260



SOUTH ELEVATION 1 : 100



WEST ELEVATION 1 : 100

PROPOSED ADDITION FOR:  
8143 MR C KING. 152 BLAIR STREET, NORTH BONDI NSW 2026

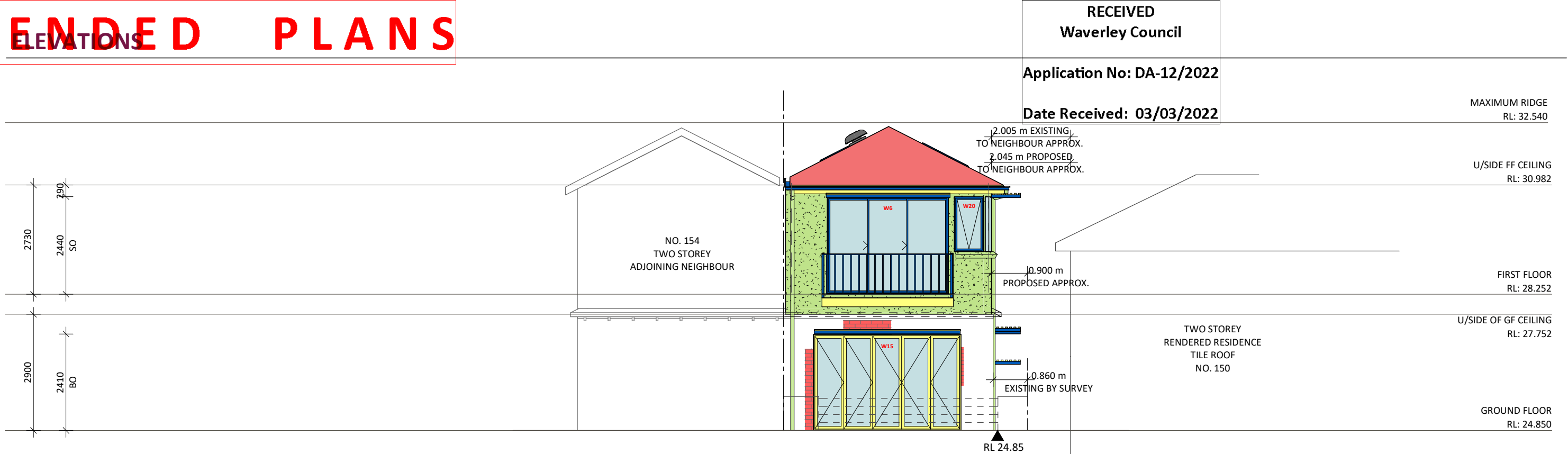
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WORKING PLANS PAGE 9 OF 15 ISSUE F

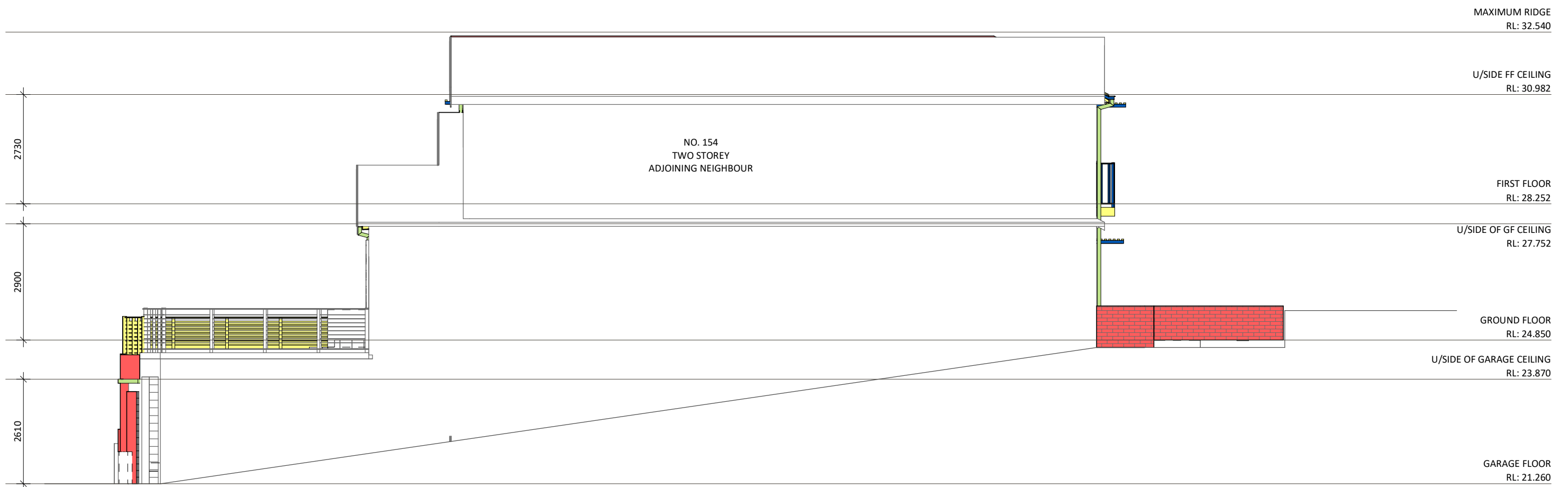
REVIT VERSION V014

Cape Cod  
AUSTRALIA

# AMENDED PLANS



NORTH ELEVATION 1 : 100



EAST ELEVATION 1 : 100

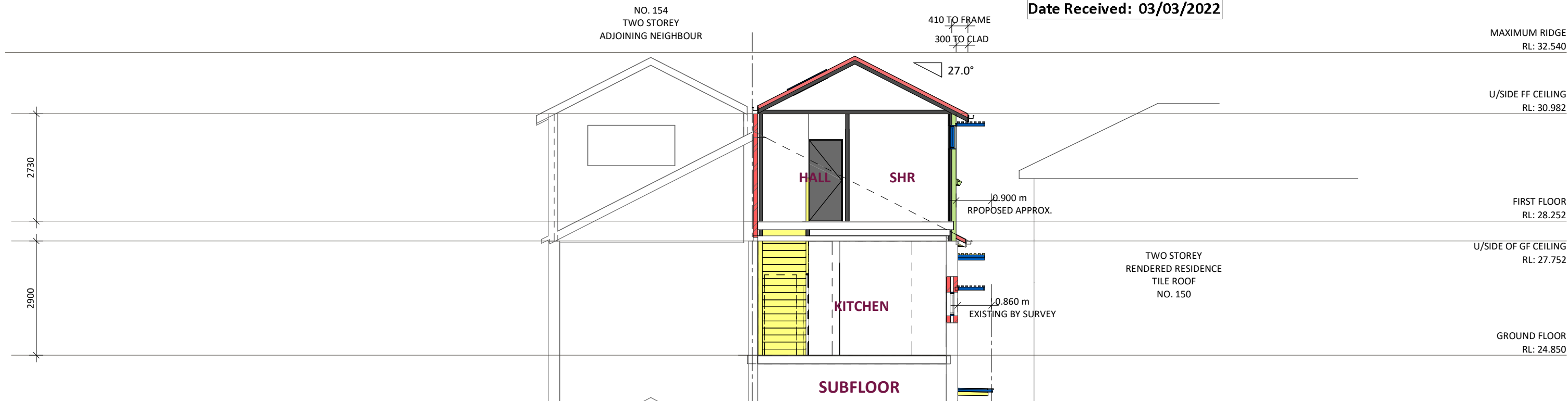
PROPOSED ADDITION FOR:  
8143 MR C KING. 152 BLAIR STREET, NORTH BONDI NSW 2026

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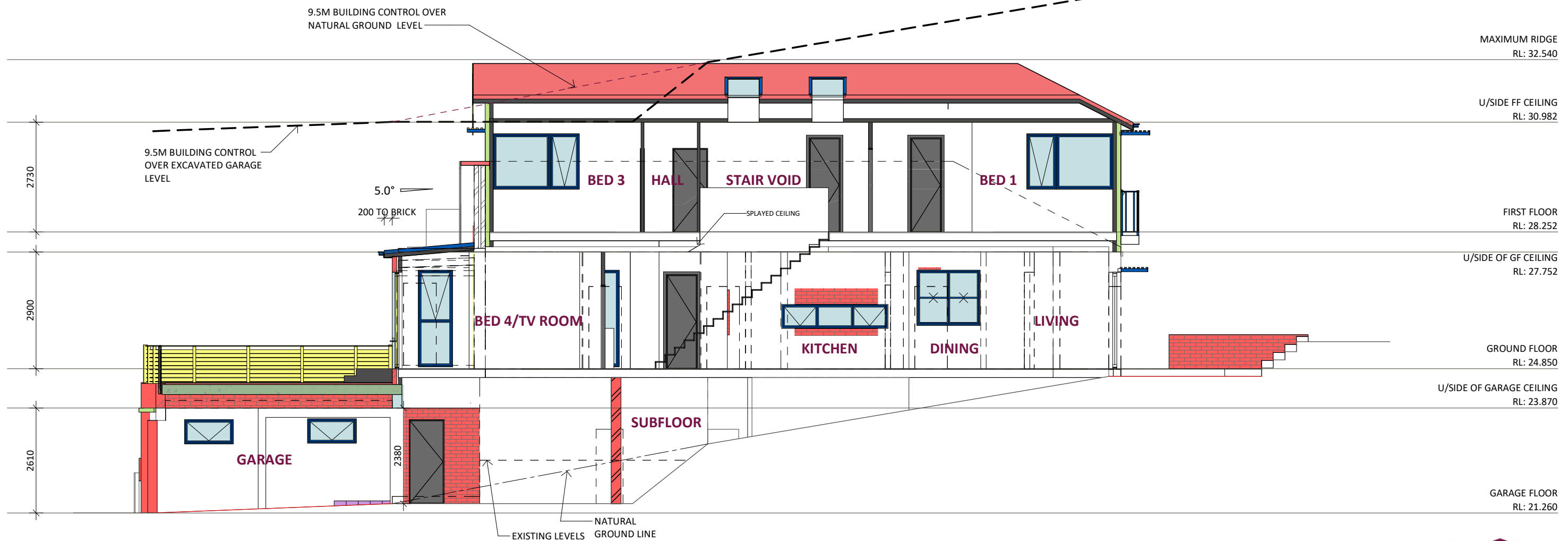
WORKING PLANS PAGE 10 OF 15 ISSUE F

REVIT VERSION V014





SECTION AA 1 : 100



SECTION BB 1 : 100

PROPOSED ADDITION FOR:  
8143 MR C KING. 152 BLAIR STREET, NORTH BONDI NSW 2026

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ROOF SYSTEMS						Application No: DA-12/2022			
ROOF COVERING MATERIAL	ROOF SARKING	ROOF INSULATION	BARGE MATERIAL	FASCIA MATERIAL	GUTTER & DP MATERIAL		GUTTER PROFILE	EAVE LINING	CEILING LINING
PROVIDE ALL NEW CONCRETE SHINGLE ROOF TILES "CAMBRIDGE" TO PROPOSED FIRST FLOOR ADDITION	NON PERMEABLE FOIL SARKING	R3.0 FIBREGLASS INSULATION BATTS TO FIRST FLOOR ADDITION CEILING AREA (165mm)	DAR TIMBER	DAR TIMBER	PREFINISHED ZINCALUME GUTTER. PVC DOWNPIPE.		QUAD	4.5mm FIBRE CEMENT SHEET	10mm PLASTERBOARD. 6.0mm FIBRE CEMENT SHEET TO WET AREAS..
REPLACE ROOF TILES WITH NEW "CAMBRIDGE" CEMENT SHINGLES TILES TO GROUND FLOOR ROOF	NA	NA	MAINTAIN EXISTING	MAINTAIN EXISTING	MAINTAIN EXISTING		MAINTAIN EXISTING	NA	NA
PRE-FINISHED ZINCALUME ROOF SHEETING - SPEEDDECK PROFILE	ALUMINIUM FOIL BACKED "ANTICON" INSULATION BLANKET	R3.0 FIBREGLASS INSULATION BATTS TO GROUND FLOOR CEILING AREA (165mm)	NOT APPLICABLE	DAR TIMBER	PREFINISHED ZINCALUME GUTTER. PVC DOWNPIPE.		QUAD	4.5mm FIBRE CEMENT SHEET	10mm PLASTERBOARD

FLOOR SYSTEMS			
FLOOR STRUCTURE	FLOORING OVER	FLOOR FINISH	SPECIAL NOTES
FLOOR JOISTS TO STRUCTURAL DETAILS	19MM STRUCTURAL PARTICLEBOARD	FOR CARPET FINISH BY OWNER	TILED "JULIET BALCONY OVER 15mm STRUCTURAL PLYWOOD FLOOR
FLOOR JOISTS TO STRUCTURAL DETAILS	19MM STRUCTURAL PARTICLEBOARD	SELECTED TILES	

HOT WATER UNIT		
	DESCRIPTION	CONNECTION
<div>HWU<div></div></div>	HOT WATER UNIT - WALL MOUNTED	REPLACE EXISTING WITH NEW "RINNAI INFINITY 26"

EXTERNAL WALL SYSTEMS			
WALL STRUCTURE	INSULATION	INTERNAL LINING	GABLE FINISH
COMMON BRICKWORK TO PARTY WALL	NOT APPLICABLE	10mm GYPSUM PLASTERBOARD	NOT APPLICABLE
COMMON BRICKWORK FOR RENDER AND PAINT FINISH	NOT APPLICABLE	10mm GYPSUM PLASTERBOARD	
75mm POLYSTYRENE WALL SHEETING OVER POLYSTYRENE CORE WALL INSULATION WITH APPLIED TEXTURE PAINT FINISH	R2.0 FIBREGLASS INSULATION BATTS TO FIRST FLOOR EXTERNAL WALL FRAME (90mm)	10mm GYPSUM PLASTERBOARD. 6mm WET AREA BOARD TO WET AREAS	75mm POLYSTYRENE WALL SHEETING OVER POLYSTYRENE CORE WALL INSULATION WITH APPLIED TEXTURE PAINT FINISH

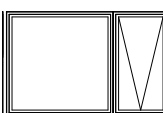
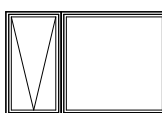
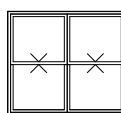

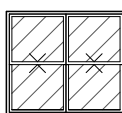
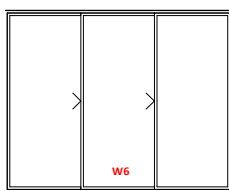
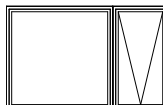
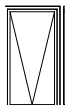
INTERIOR WALLS			
WALLS STRUCTURE	WIDTH	WALL INSULATION	WALL INTERNAL LINING
70 x 35 STUDS @ 450 CENTRES	70 mm	R2.0 SOUND SCREEN (70mm)	10mm GYPSUM PLASTERBOARD
90 x 35 STUDS @ 450 CENTRES	90 mm	R2.0 SOUND SCREEN (70mm)	6mm WET AREA BOARD TO WET AREAS

STAIRS					
STAIR TYPE	DESCRIPTION	WIDTH	NO. OF RISERS	RISER HEIGHT	TREAD DEPTH
CLOSED TIMBER	MAPLE TREADS & RISERS TO LOWER GROUND FLOOR	1100 mm OVERALL STRINGER	18	189 mm	240 mm
OPEN TIMBER	MAPLE TREADS TO FIRST FIRST FLOOR	1000 mm OVERALL STRINGER	19	179 mm	240 mm

INTERNAL DOORS		
DOOR DESCRIPTION	DOOR TYPE	FINISH TYPE/MODEL
INTERNAL DOOR - SINGLE HINGED: 2340 X 720	SOLID CORE	PRIMED HARDBOARD FOR PAINT FINISH
INTERNAL DOOR - SINGLE HINGED: 2340 X 820	SOLID CORE	PRIMED HARDBOARD FOR PAINT FINISH
INTERNAL DOOR - DOUBLE HINGED: 2340 X 570	SOLID CORE	PRIMED HARDBOARD FOR PAINT FINISH
CC GARAGE DOOR: CC GARAGE DOOR - PANELIFT 2340H	AS SELECTED	AS SELECTED

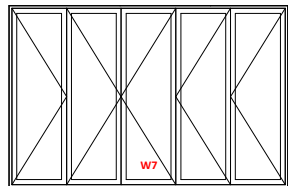
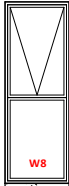





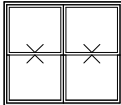
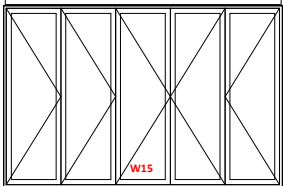
FIXINGS		
CORNICES	SKIRTINGS	WINDOW ARCHITRAVES (INTERNAL)
SHADOWLINE	FINGER JOINTED EX 150mm X 25mm	SET PLASTERBOARD REVEALS



BASIX CERTIFICATE NUMBER: A434941 WIND LOAD: TBA TERRAIN: TBA						ALUMINIUM STEGBAR WINDOWS: EX-STOCK COLOURS: PEARL WHITE GLOSS, ADO GREY GLOSS, NOTRE DAME, SURFMIST. DESIGNER'S COLOURS AVAILABLE: POTTERY SATIN, DEEP OCEAN MATT										Application No: DA-12/2022				STONE BEIGE, WOODLAND GREY, CUSTOM BLACK, ANODISED 20UM CLEAR, WHITE BIRCH GLOSS, HAMERSLEY BROWN SATIN, PRIMROSE GLOSS							
STANDARD NOTES: <ul style="list-style-type: none"><li>WINDOWS &amp; DOORS ARE DRAWN AS VIEWED FROM OUTSIDE. IMAGE IS NOT TO SCALE.</li><li>ALL WINDOWS COME WITH "KEYED ALIKE" LOCKS</li><li>SOME WINDOW OPENINGS MAY BE RESTRICTED TO COMPLY WITH THE NCC 3.9.2.6 (REFER WINDOW SCHEDULE SPECIAL NOTES)</li></ul>						Date Received: 03/03/2022																					
																											
W1		W2		W3		W4		W5		W6		W19		W20													

GLAZED WINDOW & DOOR: FIRST FLOOR

#	ROOM	ELEVATION	WINDOW INFORMATION									INSECT SCREEN INFORMATION			SPECIAL NOTES
			MANUFACT.	CODE	FRAME MATERIAL	FRAME COLOUR	REVEAL SIZE	TYPE	CONFIG	WINDOW GLAZING ALUMINIUM	RESTRICTOR (NCC REQUIRED)	FRAME MATERIAL	FRAME COLOUR	MESH MATERIAL	
W1	BED 3	SOUTH ELEVATION	STEGBAR	AAW1307 + AFW1314	PREFINISHED ALUMINIUM	MONUMENT	130mm	AWNING	FX	6.38 LAMINATED CLEAR	RESTRICT TOP SASH TO OPEN NO LOWER THAN 1700mm ABOVE FLOOR LEVEL AND RESTRICT BOTTOM SASH OPENING TO 125MM TO COMPLY WITH NCC	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOWS
W2	BED 3	WEST ELEVATION	STEGBAR	AAW1307 + AFW1314	PREFINISHED ALUMINIUM	MONUMENT	130mm	AWNING	XF	6.38 LAMINATED CLEAR	RESTRICT TOP SASH TO OPEN NO LOWER THAN 1700mm ABOVE FLOOR LEVEL AND RESTRICT BOTTOM SASH OPENING TO 125MM TO COMPLY WITH NCC	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOWS
W3	BED 2	WEST ELEVATION	STEGBAR	ADDH 1315	PREFINISHED ALUMINIUM	MONUMENT	130mm	DOUBLE HUNG	XX	6.38 LAMINATED CLEAR	RESTRICT TOP SASH TO OPEN NO LOWER THAN 1700mm ABOVE FLOOR LEVEL AND RESTRICT BOTTOM SASH OPENING TO 125MM TO COMPLY WITH NCC	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOWS
W4	SHR	WEST ELEVATION	STEGBAR	AAW0612	PREFINISHED ALUMINIUM	MONUMENT	130mm	AWNING	X	6.38 LAMINATED CLEAR	NA	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOWS, TRANSLUCENT/GRADE A SAFETY
W5	ENSUITE	WEST ELEVATION	STEGBAR	ADDH 1315	PREFINISHED ALUMINIUM	MONUMENT	130mm	DOUBLE HUNG	XX	6.38 LAMINATED CLEAR	NA	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOWS, TRANSLUCENT/GRADE A SAFETY
W6	BED 1	NORTH ELEVATION	STEGBAR	AST 2430	PREFINISHED ALUMINIUM	MONUMENT	130mm	STACKING	XXF	6.38 LAMINATED CLEAR LOW E	NA	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOWS
W19	BED 1	WEST ELEVATION	STEGBAR	AAW1307 + AFW1314	PREFINISHED ALUMINIUM	MONUMENT	130mm	AWNING	FX	6.38 LAMINATED CLEAR	RESTRICT TOP SASH TO OPEN NO LOWER THAN 1700mm ABOVE FLOOR LEVEL AND RESTRICT BOTTOM SASH OPENING TO 125MM TO COMPLY WITH NCC	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOWS
W20	BED 1	NORTH ELEVATION	STEGBAR	AAW1307	PREFINISHED ALUMINIUM	MONUMENT	130mm	AWNING	X	6.38 LAMINATED CLEAR LOW E	RESTRICT TOP SASH TO OPEN NO LOWER THAN 1700mm ABOVE FLOOR LEVEL AND RESTRICT BOTTOM SASH OPENING TO 125MM TO COMPLY WITH NCC	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOWS



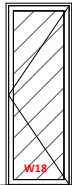
																		
W7	W8	W9	W10	W11	W12	W13	W14	W15										

GLAZED WINDOW & DOOR: GROUND FLOOR

#	ROOM	ELEVATION	WINDOW INFORMATION									INSECT SCREEN INFORMATION			SPECIAL NOTES
			MANUFACT.	CODE	FRAME MATERIAL	FRAME COLOUR	REVEAL SIZE	TYPE	CONFIG	DEC. BARS	WINDOW GLAZING ALUMINIUM	FRAME MATERIAL	FRAME COLOUR	MESH MATERIAL	
W7	BED 4/TV ROOM	SOUTH ELEVATION	STEGBAR	ABD 2436	PREFINISHED ALUMINIUM	MONUMENT	140mm	BI FOLD DOOR	5L	NONE	6.38 LAMINATED CLEAR	BY OWNER	BY OWNER	BY OWNER	ALUMIERE WINDOWS
W8	BED 4/TV ROOM	WEST ELEVATION	STEGBAR	AAW2408T	PREFINISHED ALUMINIUM	MONUMENT	140mm	AWNING	X_F	NONE	6.38 LAMINATED CLEAR	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOWS
W9	BED 4/TV ROOM	WEST ELEVATION	STEGBAR	AFW 2408	PREFINISHED ALUMINIUM	MONUMENT	170mm	FIXED	F	NONE	6.38 LAMINATED CLEAR	N/A	N/A	NA	ALUMIERE WINDOWS
W10	BED 4/TV ROOM	WEST ELEVATION	STEGBAR	AFW 2408	PREFINISHED ALUMINIUM	MONUMENT	170mm	FIXED	F	NONE	6.38 LAMINATED CLEAR	N/A	N/A	NA	ALUMIERE WINDOWS
W11	BED 4/TV ROOM	WEST ELEVATION	STEGBAR	AFW 2408	PREFINISHED ALUMINIUM	MONUMENT	170mm	FIXED	F	NONE	6.38 LAMINATED CLEAR	N/A	N/A	NA	ALUMIERE WINDOWS
W12	SHOWER	WEST ELEVATION	STEGBAR	AAW0612	PREFINISHED ALUMINIUM	MONUMENT	170mm	AWNING	X	NONE	6.38 LAMINATED CLEAR	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOWS, TRANSLUCENT/GRADE A SAFETY
W13	KITCHEN	WEST ELEVATION	STEGBAR	AAW0626	PREFINISHED ALUMINIUM	MONUMENT	170mm	AWNING	XFX	NONE	6.38 LAMINATED CLEAR	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOWS
W14	DINING	WEST ELEVATION	STEGBAR	ADDH 1315	PREFINISHED ALUMINIUM	MONUMENT	170mm	DOUBLE HUNG	XX	NONE	6.38 LAMINATED CLEAR	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOWS
W15	LIVING	NORTH ELEVATION	STEGBAR	ABD 2436	PREFINISHED ALUMINIUM	MONUMENT	170mm	BI FOLD DOOR	5L	NONE	6.38 LAMINATED CLEAR	BY OWNER	BY OWNER	BY OWNER	ALUMIERE WINDOWS

# AMENDED PLANS

## WINDOW, DOOR & SKYLIGHT SCHEDULE

RECEIVED Waverley Council									
BASIX CERTIFICATE NUMBER: A434941 WIND LOAD: TBA TERRAIN: TBA									
<b>STANDARD NOTES:</b> <ul style="list-style-type: none"><li>WINDOWS &amp; DOORS ARE DRAWN AS VIEWED FROM OUTSIDE. IMAGE IS NOT TO SCALE.</li><li>ALL WINDOWS COME WITH "KEYED ALIKE" LOCKS</li><li>SOME WINDOW OPENINGS MAY BE RESTRICTED TO COMPLY WITH THE NCC 3.9.2.6 (REFER WINDOW SCHEDULE SPECIAL NOTES)</li></ul>									
ALUMINIUM STEGBAR WINDOWS: <u>EX-STOCK COLOURS</u> : PEARL WHITE GLOSS, ADO GREY GLOSS, NOTRE DAME, SURFMIST. <u>DESIGNER'S COLOURS AVAILABLE</u> : POTTERY SATIN, DEEP OCEAN MATT									
Application No: DA-12/2022 Date Received: 03/03/2022									
<div><div> W16</div><div> W17</div><div> W18</div></div>									

GLAZED WINDOWS & DOORS: LOWER GROUND FLOOR														
#	ROOM	ELEVATION	WINDOW INFORMATION								INSECT SCREEN INFORMATION			SPECIAL NOTES
			MANUFACT.	CODE	FRAME MATERIAL	FRAME COLOUR	REVEAL SIZE	TYPE	CONFIG	WINDOW GLAZING ALUMINIUM	FRAME MATERIAL	FRAME COLOUR	MESH MATERIAL	
W16	GARAGE	WEST ELEVATION	STEGBAR	AAW0612	PREFINISHED ALUMINIUM	MONUMENT	170mm	AWNING	X	6.38 LAMINATED CLEAR	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOW
W17	LDY	WEST ELEVATION	STEGBAR	AAW0612	PREFINISHED ALUMINIUM	MONUMENT	170mm	AWNING	X	6.38 LAMINATED CLEAR	ALUMINIUM	MONUMENT	FIBREGLASS	ALUMIERE WINDOW
W18	LANDING	WEST ELEVATION	STEGBAR	QH 2409	PREFINISHED ALUMINIUM	MONUMENT	170mm	HINGED	X	6.38 LAMINATED CLEAR	BY OWNER	BY OWNER	BY OWNER	TRANSLUCENT GLAZING

SKYLIGHTS						
CODE	TYPE	MANUFACT. CODE	HEIGHT	WIDTH	GLAZING	
SL1	M04 780 x 980	FS 2004 (FIXED)	980	780	SKYLIGHT TIMBER, INTERNAL/ ARGON FILL/ CLEAR EXTERNAL, (U-VALUE: 2.5, SHGC: 0.456)	
SL2	M04 780 x 980	FS 2004 (FIXED)	980	780	SKYLIGHT TIMBER, INTERNAL/ ARGON FILL/ CLEAR EXTERNAL, (U-VALUE: 2.5, SHGC: 0.456)	
SL3	S06 1140 x 1180	VSE 2004 (ELECTRIC) WITH BLIND OVER	1180	1140	SKYLIGHT TIMBER, INTERNAL/ ARGON FILL/ CLEAR EXTERNAL, (U-VALUE: 2.5, SHGC: 0.456)	



## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-485/2021
<b>Site address</b>	61 Reina Street, North Bondi
<b>Proposal</b>	Alterations and additions to semi-detached dwelling including first floor extension
<b>Date of lodgement</b>	10 November 2021
<b>Owner</b>	Mr M A and Mrs A M Durante
<b>Applicant</b>	Mr M A Durante
<b>Submissions</b>	One submission in support
<b>Cost of works</b>	\$343,853
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Building height</li> <li>• Solar access</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report.

### SITE MAP



## 1. PREAMBLE

### 1.1 Executive Summary

The development application seeks consent for alterations and addition to semi-detached dwelling including internal reconfiguration of the ground and first floor. The proposal also includes first floor additions to the southern side boundary at the site known as 61 Reina Street, North Bondi.

The principal issues arising from the assessment of the application are as follows:

- Building height
- Solar access
- Landscape area

The assessment finds these issues acceptable as the proposal maintains a bulk and scale that is consistent with the scale of surrounding developments and will not result in any unreasonable amenity impacts on surrounding properties.

A total of one submission was received in support of the DA. No Councillor submissions were received.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2 Site and Surrounding Locality

A site visit was carried out on 20 December 2021.

The site is identified as Lot 1 in DP 200834, known as 61 Reina Street, North Bondi.

The site is rectangular in shape with a frontage to Reina Street, measuring 6.52m. It has an area of 237.2m<sup>2</sup> and it falls from the rear to the front by approximately 3.61m.

The site is occupied by a two storey semi-detached dwelling with vehicular access provided from Reina Street to an existing garage at lower ground level.

The site is adjoined by two storey semi-detached dwellings to the north and south. The semi-detached dwelling to the north is a pair with the subject site. The semi-detached dwelling to the south is a pair with No. 57 Reina Street.

The locality is characterised by a variety of low density residential development comprising predominately two storey detached and semi-detached dwellings.

**Figures 1 to 3** are photos of the site and its context.





**Figure 1:** View of site and adjoining properties looking east from Reina Street



**Figure 2:** Existing rear elevation of subject dwelling looking west from rear yard



**Figure 3:** Looking east along the southern side setback

### 1.3 Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- DA-830/2002 was approved on 23 December 2002 for construction of an inground swimming pool;
- DA-209/2012 was approved on 12 July 2012 for alterations and additions to the rear of the two storey dwelling including new timber bifold doors at the ground floor level, raise level adjacent to the southern side setback to match the level of the rear yard and enclose the rear first floor balcony for a bedroom with new windows on the east and south elevations; and
- Complying Development Certificate (CDC21/0099/01) was approved on 17 September 2021 for alterations and additions to provide a laundry and rumpus on the lower ground floor, stairs to ground floor and new pedestrian pathway from the street to the side boundary. The proposal

also includes internal alterations and new window openings on the ground and first floor levels, and a new swimming pool at the rear with associated decking and landscaping. The works associated with CDC21/0099/01 have not commenced.

## **1.4 Proposal**

The development application seeks consent for alterations and additions to the semi-detached dwelling, specifically the following:

### Lower ground floor

- New bin storage enclosure adjacent to the northern side boundary within the front building setback;
- New pedestrian gate along the southern side setback, setback 1.2m from the front property boundary; and
- New stairs along southern side setback to ground floor entry.

### Ground floor

- Relocation of entry door;
- New timber stairs and landscaping along the southern side boundary;
- Increase setback of ground floor rear building line (WD10) by 1m and replace with additional timber decking;
- New BBQ area above pool filter along the northern side boundary and new landscape planter adjacent to the pool; and
- Replace tile roof with metal cladding roof.

### First floor

- Raise the roof slope and gutter to the front portion of the first floor by 430mm (RL34.27 to RL34.70);
- Extension of the southern external wall to the rear portion of the first floor by 500mm to the southern side boundary and rise roof slope and gutter by 884mm (RL34.27 to RL35.154);
- New highlight window (WD20) to walk in robe on southern elevation;
- Alterations to approved windows WD14 and WD15 to provide higher sill heights to 1.72m above the finished floor level;
- Remove window WD16 from void to provide two windows (WD16 and WD17) to Bedroom 2 on the southern elevation;
- New window (WD29) on the southern elevation to Bedroom 3;
- Three new skylights; and
- Weatherboard cladding to external walls and replace tile roof with metal cladding roof.

## **1.5 Background**

On 10 January 2022, the applicant submitted a proposed boundary fence plan for the southern side boundary, as agreed by the owners of the subject site and the adjoining property at No. 59 Reina Street.

On 21 February 2022, the applicant submitted an amended gross floor area (GFA) calculations plan confirming the proposed GFA and floor space ratio (FSR).

On 1 March 2022, the applicant was advised by Council's assessment officer that the extent of additional overshadowing resulting from the raised roof and extension of the first floor adjacent to the southern side boundary had not adequately demonstrated that the variation to the building height development standard satisfied the objectives of the development standard, particularly preserving environmental amenity of adjoining properties.

On 9 March 2022, the applicant submitted amended plans lowering the proposed gutter line of Bedroom 1 to RL34.70 and a reduction in FSR as the existing southern wall to the walk in robe and ensuite to Bedroom 1 is to be retained. Amended shadow diagrams were submitted demonstrating the amended proposal reduces overshadowing impacts to the first floor window openings at No. 59 Reina Street and is able to provide direct sunlight to 50% of the centrally located window (a study) and bathroom window between 12noon and 3pm on 21 June. A revised Clause 4.6 written justification seeking variation to the height of building development standard was submitted addressing the objectives of the development standard and environmental impacts on adjoining properties.

## **2. ASSESSMENT**

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### **2.1 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. State Environmental Planning Policies (SEPPs)**

The following SEPPs apply and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP 55 Remediation of Land.

#### **2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)**

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### 2.1.3. 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
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is not inconsistent with the aims of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table <ul style="list-style-type: none"> <li>R2 – Low Density Residential Zone</li> </ul>	Yes	The proposal is defined as dwelling, which is permitted with consent in the R2 Low Density Residential zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>8.5m</li> </ul>	No	The existing dwelling has a height of 9.609m measured to the roof ridge. The proposal has a total height of 9.67m (1.17m and 13.76% variation to the development standard), but does not alter the height of the existing roof ridge.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> <li>0.84:1 (200.2m<sup>2</sup>)</li> </ul>	Yes	The proposal has a FSR of 0.83:1 (196.18m <sup>2</sup> ).
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 building height development standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulfate soils	Yes	The site is identified as containing Class 5 Acid Sulfate soils. The scope of the proposal, which does not involve any excavation works will not disturb existing soils and will not result in any environmental impacts.

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

#### *Clause 4.6 Exceptions to Development Standards*

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.



The site is subject to a maximum building height development standard of 8.5m. The proposed development has a building height of 9.67m, exceeding the standard by 1.17m equating to a 13.76% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

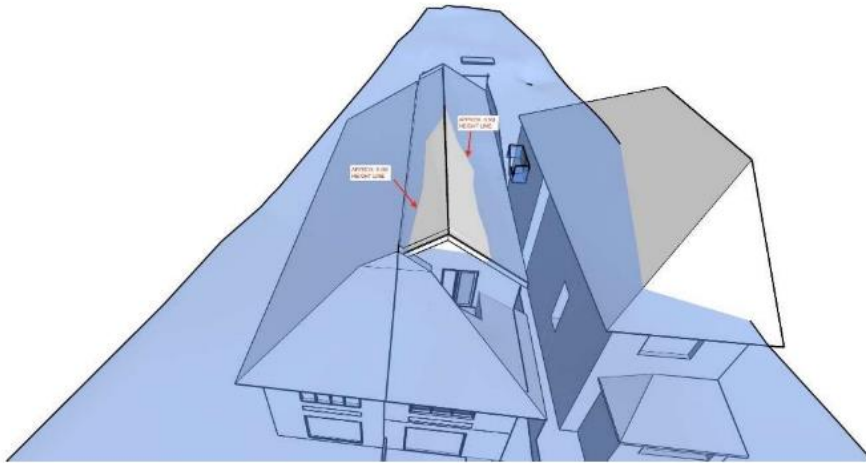
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

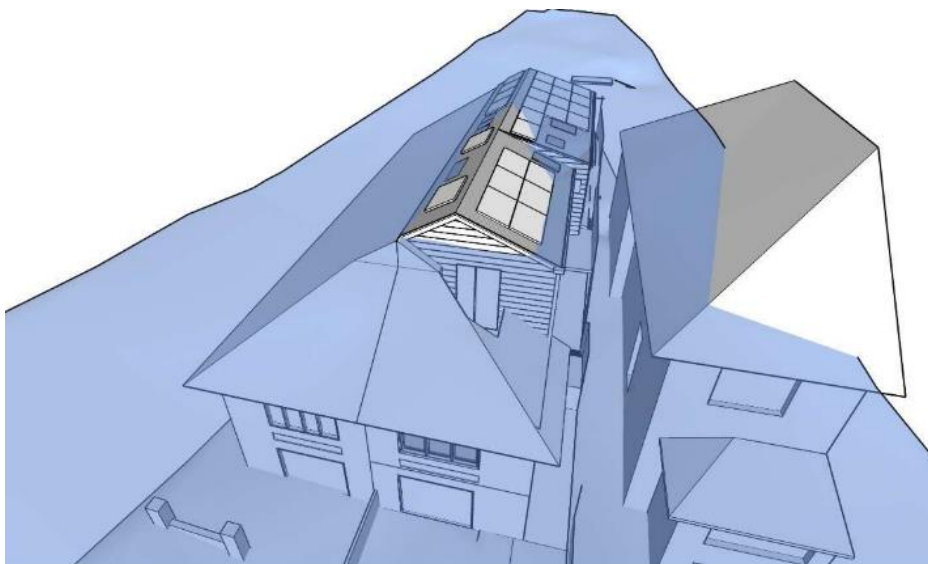
#### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the building height development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The existing built form departs from the standard (see **Figure 4** below).*
  - (ii) *A significant portion of the dwelling complies with the standard.*
  - (iii) *The proposed works above the height control do not unreasonably add to the perceived height, bulk and scale.*
  - (iv) *The proposal maintains compliance with the FSR development standard, setback controls and provides greater landscaping.*
  - (v) *Compliance with the development standard will require demolition of the dwelling and is economically impractical.*
  - (vi) *The resultant height, bulk and scale of the semi-detached dwelling is similar to that of neighbouring and nearby development.*
  - (vii) *The proposed works departing from the standard do not result in any identifiable amenity impacts.*
  - (viii) *The height of the building does not preclude redevelopment of the adjacent properties.*



**Figure 2:** Building height of existing dwelling (8.5m building height plane shown in blue)



**Figure 3:** Extent of proposed roof beyond the building height development standard (8.5m building height plane shown in blue)

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *Compliance with the development standard would require demolition of the existing built form and is economically impractical and inconsistent with the objects of the Act.*
  - (ii) *The increases in height by 6cm is visually imperceptible.*
  - (iii) *The change in pitch, gutter levels and design of the southerly extension at the first floor will increase amenity for the occupants with a more uniform internal head height, increased daylight and ventilation.*
  - (iv) *The side setback to the southern boundary are greater than that required.*
  - (v) *The pitched roof form enables the renewed provision of skylights and photovoltaic solar collectors.*

- (vi) *The proposed built form sits comfortably within its established and likely future built form context.*
- (vii) *The development is not an overdevelopment of the site as it satisfies the objectives of the R2 Low Density Residential zone, height of building and FSR development standards.*
- (viii) *The proposed height will not preclude the redevelopment of adjacent properties.*

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

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) *to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) *to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) *to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) *to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justifications (a) and (c) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The proposal has demonstrated that it achieves the relevant objectives of building height development standard as it will not significantly alter the correlation between the FSR and building height controls as it does not exceed the FSR development standard, is compatible with the bulk

and scale of existing, provides compliant building wall height and side setbacks, and is consistent with the desired future character of development in the locality. Strict compliance with the development standard would be unreasonable in this instance as the existing dwelling has a building height that exceeds the development standard and compliance with the development standard would require demolition of the dwelling.

The proposal will not result in any unreasonable amenity impacts on neighbouring properties as additional overshadowing to the first floor bedroom and bathroom windows to No. 59 Reina Street is the result of a compliant built form that complies with the building height and FSR development standards.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. In particular, the proposal does not exceed the existing building height of the dwelling, is compliant with the FSR development standard and built form controls that are applicable to the site. The proposed bulk and scale will complement the existing and desired future character for dwellings in the locality and will not result in any unreasonable amenity impact on adjoining properties. The proposal is appropriate as it satisfies the objectives of the development standard and the R2 Low Density Residential Zone.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the building height development standard are as follows:

*(a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*

*(d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

The extent of the variation to the building height development standard is minor, having regard to the existing building height of the dwelling which currently exceeds the development standard, and satisfies the objectives as the resulting bulk and scale will not detract from the existing scale of the dwelling and will not adversely impact on the amenity of the adjoining property or the public domain. In particular, the proposal will not result in any additional overshadowing of adjacent private open space or windows to principal living areas, or have any impacts on existing views from adjoining properties or public spaces.

The objectives of the R2 Low Density Residential zone are as follows:



- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise public transport patronage and encourage walking and cycling.*

The proposal is consistent with the objectives of the R2 Low Density Residential Zone has the existing two storey dwelling will be retained and is compatible with the low density residential character of the locality.

#### Conclusion

For the reasons provided above the requested variation to the building height development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of building height development standard and the R2 Low Density Residential zone.

#### **2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9**

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
1. Waste	Yes	Satisfactory.
2. Ecologically Sustainable Development	Yes	Satisfactory.
5. Vegetation Preservation	Yes	Two trees located within the front building setback are proposed to be removed. Council's Tree Management Officer has raised no objection to the removal of the trees as they are not identified as significant species.
6. Stormwater	Yes	No stormwater management plan has been submitted however given the scope of the proposed works, Council's Stormwater Engineer raises no objection to the proposal, subject to imposition of stormwater management conditions which have been included in Appendix A.
12. Design Excellence	Yes	Satisfactory.

**Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
<ul style="list-style-type: none"> <li>Low density development is appropriate for the lot size and is sympathetic in bulk, scale and character of the area</li> <li>Does not detract from the amenity of neighbouring properties or views from the public domain</li> <li>High design quality</li> </ul>	Yes	The proposal does not contravene the general objectives of this part of the DCP.
<b>2.1 Height</b>		
Pitched roof dwelling house <ul style="list-style-type: none"> <li>Maximum external wall height of 7m</li> </ul>	Partial compliance	<p>The existing front wall height of the semi-detached dwelling measures 5.1m and will be retained. Given the topography of the site falling from the rear to the front boundary and the existing lower ground floor level (RL26.56), the existing building wall height behind the front roof slope of the semi-detached dwelling varies between 5.2m (rear) and 7.6m (behind the front roof slope). The proposal will increase the wall height behind the front roof slope (Bedroom 1) to 8.1m which results in further non-compliance with the building wall height control. However, the increase will provide a floor to ceiling height of 2.5m to the bedroom along the southern side, enhances internal amenity whilst being contained within the permissible building envelope.</p> <p>The external wall of walk in robe and ensuite has a wall height of 7.1m and 7m, respectively. The 100mm non-compliance with the building wall height control adjacent to the southern boundary will not be discernible and will not contribute to visual bulk given the topography of the land sloping from the rear to the front of the site.</p> <p>The proposed increase in wall height on the first floor increases the floor to ceiling height of the existing ensuite to 2.4m along the southern side and complies with the floor to ceiling height for non-habitable rooms under the BCA. The building wall height from the external wall of Bedroom 3 to the centrally located internal void (blank wall) along the southern elevation varies between 6m</p>



Development Control	Compliance	Comment
		<p>The height of the solid fence, excluding the open trellis measures a maximum of 1.8m from the subject site and between 2m and 2.8m when measured from No. 59. The proposed open trellis above part of the side boundary fence has a height between 400mm and 700mm.</p> <p>Although the side boundary fence exceeds the maximum fence height of 1.8m, the proposal will provide the desired privacy for the subject site and the owners at No. 59 who has agreed to the fence design and provided written support for the proposal.</p>
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design</li> <li>External stairs are not acceptable.</li> <li>Maximum size of balconies: <i>10m<sup>2</sup> in area</i> <i>1.5m deep</i></li> <li>Roof tops to be non-trafficable unless predominant in the immediate vicinity</li> </ul>	Yes	<p>The proposed window openings on the first floor southern elevation to the ensuite and bathroom (WD14 and WD15) comprise of highlight windows with sill heights of 1.72m above the first floor finished floor level. The windows are in similar locations to the approved windows under the CDC and will not result in any additional privacy impacts on the adjacent property at No. 59 Reina Street.</p> <p>The proposed windows to Bedroom 2 (WD16 and 17) are not aligned with existing first floor windows at No. 59 Reina Street. The proposed windows will not result in any unreasonable amenity impacts and are acceptable.</p> <p>The proposed window (WD19) to Bedroom 3 has views over the ground floor roof and private open space at No. 59 Reina Street. To minimise any privacy impacts it is recommended that WD19 be installed with translucent glazing. A condition has been included to require privacy treatment to the window in Appendix A.</p>
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> </ul>	<p>No – as existing</p> <p>Acceptable</p>	<p>The proposal does not result in any change to existing solar access to private open space and windows to living areas within the subject site. The private open space is currently extensively overshadowed by the existing dwelling and the adjoining semi-detached dwelling to the north between 9am and 12noon with some direct sunlight to the rear private open space and pool between 12noon and 3pm on 21 June.</p> <p>The proposal does not change existing solar access to the private open space or living areas of the adjoining property immediately to the south (No.</p>



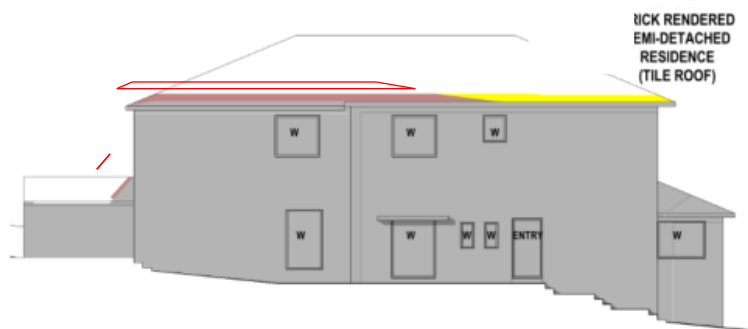
Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Avoid unreasonably overshadowing of solar collectors (including habitable windows).</li> </ul>	Yes	<p>59 Reina Street). The proposal will have additional overshadowing to the roof of the covered area adjacent to the private open space at 12noon but it does not result in any additional amenity impacts.</p> <p>The proposal will result in some additional overshadowing to the north facing first floor windows to a bedroom, study and bathroom at No. 59 Reina Street between 12noon and 3pm on 21 June. No change is proposed to existing shadows at 9am on 21 June. See further discussion below.</p>
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	Yes	There are no existing significant views from adjoining properties or the public domain that will be impacted by the proposal.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area (94.88m<sup>2</sup>)</li> <li>Overall landscaped area: 15% of site area (35.58m<sup>2</sup>)</li> <li>Minimum area of 25m<sup>2</sup> for private open space</li> <li>Front open space: 50% of front building setback area (9.3m<sup>2</sup>)</li> <li>Front landscaped area: 50% of front open space provided</li> <li>Outdoor clothes drying area to be provided</li> </ul>	<p>No</p> <p>No</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>Not shown on plans</p>	<p>The proposal provides a total open space measuring 92m<sup>2</sup> (39% of the site area) including an additional 12m<sup>2</sup> from the existing open space for the site. The non-compliance of 2.88m<sup>2</sup> is negligible and does not affect the 25m<sup>2</sup> of useable private open space or the amenity for occupants.</p> <p>The open space within the front building setback measures 16.3m<sup>2</sup> (87.63%) which complies with the minimum requirement. However, the landscaped area comprising the existing planter measures 3m<sup>2</sup> (18.4%) and does not comply with the minimum required landscape areas within the front open space. The non-compliance is acceptable in this instance as the proposal provides a suitable bin storage area, separate pedestrian access to the dwelling entry along the southern side boundary from the street and does not detract from the streetscape.</p> <p>The location of private open space and landscaping across the site is consistent with surrounding properties.</p>



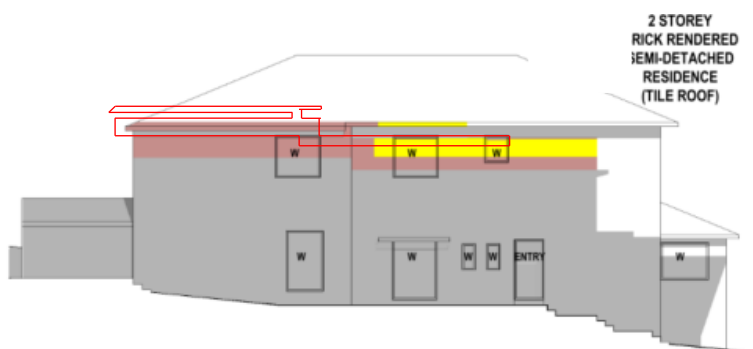
The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

### *Solar access*

The proposed first floor extension will result in additional overshadowing of the existing north facing first floor windows at No. 59 Reina Street including overshadowing of the eastern most bedroom window between 9am and 3pm, 50% of the centrally located window (study) and a minor portion of the western most window (bathroom) at the sill level at 12noon (see **Figures 6 to 8** below).



**Figure 4:** Proposed shadow impacts to No. 59 Reina Street at 9am on 21 June (additional shadowing outlined in red, sunlight shown in yellow)



**Figure 5:** Proposed shadow impact to No. 59 Reina Street at 12noon on 21 June (additional shadowing outlined in red, sunlight shown in yellow)



**Figure 6:** Proposed shadow impact to No. 59 Reina Street at 3pm on 21 June (additional shadowing outlined in red, sunlight shown in yellow)

The part of the first floor addition that exceeds the height of building development standard (part of the roof slope near the roof ridge) does not result in any additional overshadow impacts on the adjoining property. Additional overshadowing to the first floor windows immediately to the south of the subject site is a result of a compliant built form that does not exceed the building height or FSR development standards and is setback 900mm from the side boundary. The portion of the proposed addition that causes additional overshadowing to the eastern most window at No. 59 Reina Street between 12noon and 3pm on 21 June is also compliant with the maximum building wall height controls.

As shown on the shadow diagrams the proposal does not result in any change to the existing solar access to living areas and principal private open space of adjoining properties between 9am and 3pm, on 21 June. As the proposal does not result in any additional solar access impacts to adjoining private open space or living areas it is considered acceptable and consistent with the solar access requirements under Section 2.6 in Part C2 of the Waverley DCP 2012.

The proposal is considered acceptable on balance, as the proposal achieves BCA compliant floor to ceiling heights along the southern portions of existing first floor habitable and non-habitable rooms to improve internal amenity for occupants of the dwelling and the built form, except for a portion of the roof slope adjoining the existing roof ridge, is contained within a permissible building envelope and does not result in unreasonable amenity impacts across a side boundary to the adjoining property immediately to the south of the site.

#### **2.1.5 Other Impacts of the Development**

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

#### **2.1.6 Suitability of the Site for the Development**

The site is considered suitable for the proposal.

#### **2.1.7 Any Submissions**

The application was notified for 14 days between 17 November and 1 December 2021 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

A total of one unique submission in support of the proposal was received from No. 59 Reina Street, North Bondi.

#### **2.1.8 Public Interest**

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

### **3. REFERRALS**

The following internal and external referral comments were sought:



### 3.1 Stormwater

Council's Stormwater Engineer has reviewed the proposal and noted that no stormwater management plan has been submitted however, stormwater management matters can be adequately addressed by recommended conditions which have been included in Appendix A.

### 3.2 Tree Management

Council's Tree Management officer has reviewed the proposal and raises no objection to the removal of two trees in the front building setback as the trees are not identified as a significant species or worthy of retention.

## 4. CONCLUSION

The development application seeks consent for alterations and addition to semi-detached dwelling including internal reconfiguration of the ground and first floor. The proposal also includes first floor additions to the southern side boundary at the site known as 61 Reina Street, North Bondi.

The principal issues arising from the assessment of the application are as follows:

- Building height
- Solar access

The assessment finds these issues acceptable as the proposal maintains a bulk and scale that is consistent with the scale of surrounding developments and will not result in any unreasonable amenity impacts on surrounding properties.

A total of one submission was received in support of the application. No Councillor submissions were received and there are no declared conflict of interest on the application.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

#### *Development and Building Unit (DBU) Decision:*

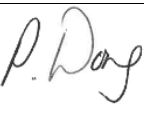

The application was reviewed by the DBU at the meeting on 1 March 2022 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *A Rossi, B McNamara and B Matlawski, K Johnstone*

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Peggy Wong	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 10 March 2022	Date: 13 March 2022

### *Reason for WLPP referral:*

1. Departure from any development standard in an EPI by more than 10%

## APPENDIX A – CONDITIONS OF CONSENT

### Conditions of the development consent

#### A. APPROVED DEVELOPMENT

##### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by Ricci Bloch Architecture including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
DA-02, Rev B	Proposed site/roof plan	08.03.2022	09.03.2022
DA-04, Rev A	Proposed lower ground floor plan	15.10.2021	10.11.2021
DA-06, Rev A	Proposed ground floor plan	15.10.2021	10.11.2021
DA-08, Rev B	Proposed first floor plan	08.03.2022	09.03.2022
DA-09, Rev B	Existing & proposed front elevation (west)	08.03.2022	09.03.2022
DA-11, Rev B	Proposed side elevation (south)	08.03.2022	09.03.2022
DA-12, Rev A	Existing & proposed rear elevation (east)	15.10.2021	10.11.2021
DA-14, Rev B	Proposed long section AA	08.03.2022	09.03.2022
DA-15, Rev B	Existing & proposed short section BB	08.03.2022	09.03.2022
DA-16, Revision A	External Materials & Finishes	15.10.2021	10.11.2021
DA-21, Rev B	Proposed southern boundary fence diagram	10.01.2022	10.01.2022

(b) BASIX Certificate

(c) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 10 November 2021

Except where amended by the following conditions of consent.

##### 2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) Privacy treatment to the glazing of Window WD19 on the first floor south elevation is to comprise of translucent glazing to minimise direct overlooking to the rear private open space of the adjoining property.
- (b) The front roof slope of the existing semi-detached dwelling is to remain tiled to match the existing material and finish of the front roof of No. 63 Reina Street, North Bondi.

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

## **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **GENERAL REQUIREMENTS**

#### **3. 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 the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

#### **4. 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 applicable requirements of Part 6, before any work commences.

### **CONTRIBUTIONS, FEES & BONDS**

#### **5. SECTION 7.12 CONTRIBUTION**

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 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:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) 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 are provided in the Waverley Council Contributions Plan 2006, available on Council's website.



(b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;

- (i) A development valued at \$100,000 or less will be exempt from the levy;
- (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or
- (iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any 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.

## **6. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of **\$8,940.00** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **7. 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 of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any 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.

## **CONSTRUCTION MATTERS**

### **8. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

### **9. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

#### **10. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

#### **11. ENGINEERING CERTIFICATE OF ADEQUACY**

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

#### **12. EXISTING PARTY WALL IS TO BE EXTENDED**

The existing separating wall is to be extended to the underside of the roof in accordance with the requirements of the National Construction Code. All work to the separating wall must be contained within the boundaries of the subject site only, unless agreement between neighbours for work affecting both sides of a separating wall, including written consent of all owners of all properties upon which work will take place has been obtained.

#### **13. STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS**

Prior to the issue of a Construction Certificate, a report or certification from a practicing structural engineer must be submitted to the Principal Certifying Authority to explain how the retained building elements, such as building facades are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.

### **STORMWATER & FLOODING**

#### **14. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- (a) The plans shall provide details of any required On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.

- (b) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- (c) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.
- (d) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system (independent of any OSD system).
- (e) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- (f) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

**Notes:**

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday)

## **15. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

## **ENERGY EFFICIENCY & SUSTAINABILITY**

### **16. BASIX**

All requirements of the BASIX Certificate are to be shown on the Construction Certificate plans and documentation.

## **WASTE**

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

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* 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.

## **TRAFFIC MANAGEMENT**

### **18. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

### **19. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.



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

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **PRIOR TO ANY WORKS**

#### **20. 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.

### **DEMOLITION & EXCAVATION**

#### **21. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- *Protection of the Environment Operations Act 1997.*

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority 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 SafeWork 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.

## **22. CONTROL OF DUST ON CONSTRUCTION SITES**

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 (e.g. 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.

## **CONSTRUCTION MATTERS**

### **23. 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 Sundays and public holidays.

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.

Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

### **24. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

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

### **25. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

### **26. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be 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.

## **27. 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 location 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.

## **28. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

## **29. STRUCTURAL STABILITY OF ADJOINING SEMI-DETACHED DWELLING'S ROOF**

Adequate measures are to be undertaken to ensure structural stability and water proofing of the existing roof over the adjoining semi-detached dwelling having particular regard to the following:

- (a) Adequate measures are undertaken to secure the existing rafters and ridge to the brickwork of the party wall; and
- (b) Adequate measures are undertaken to ensure that the roof where it abuts the extended party wall is water proofed.

## **TREE PROTECTION AND REMOVAL**

### **30. TREE PROTECTION**

All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

### **31. STREET TREES TO BE RETAINED/TREE PROTECTION**

No existing street trees shall be removed without Council approval. 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 in accordance with AS4970-2009 "Protection of trees on construction sites.

## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a

Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **32. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### **33. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

### **34. CERTIFICATION OF CONSTRUCTED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### **35. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### **36. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD**

Prior to the issue of an Occupation Certificate, a "Positive Covenant" and "Restriction on the Use of Land" shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.



The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

## **E. ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council’s standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

### **AD2. SYDNEY WATER REQUIREMENTS**

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

### **AD3. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon

contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

**AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

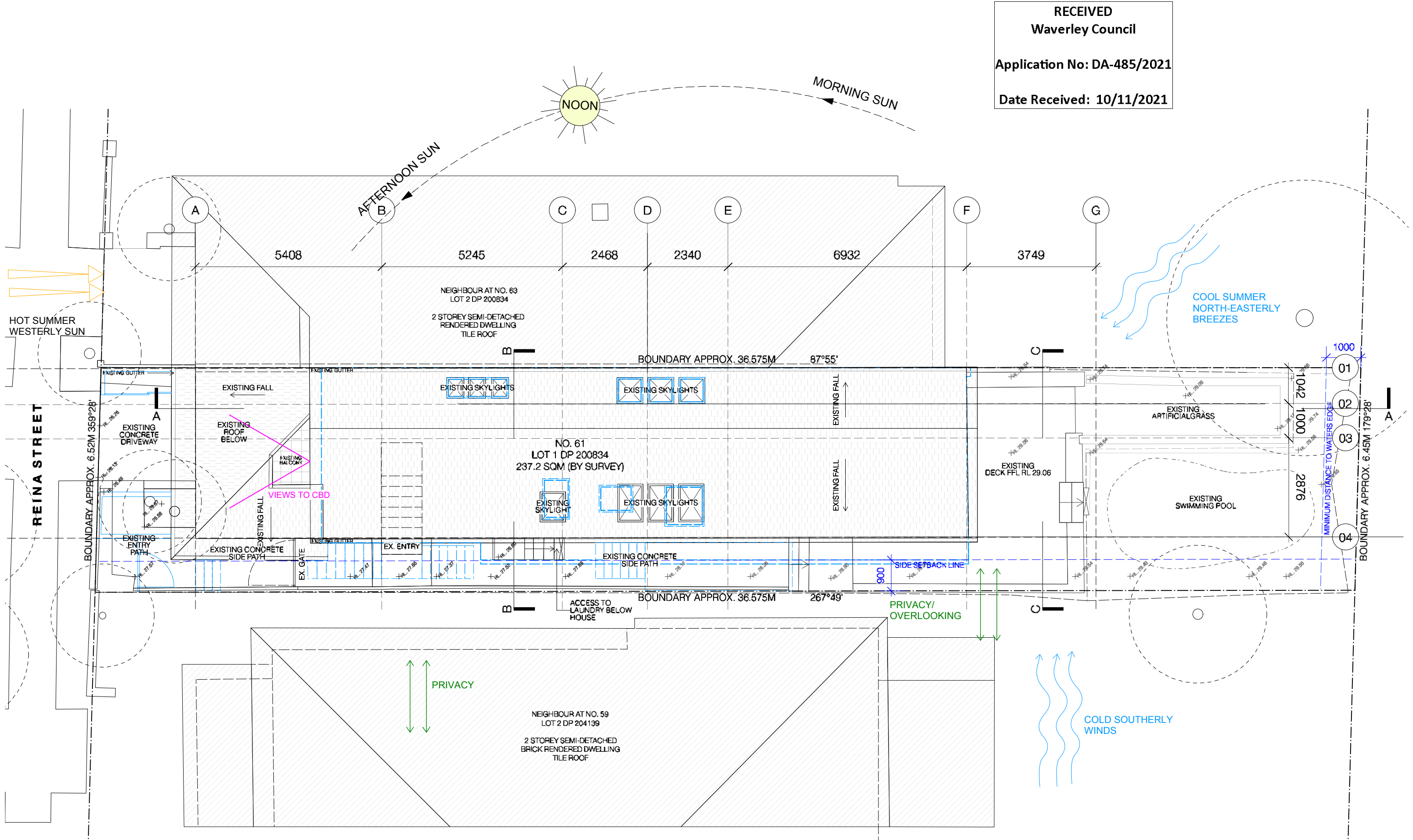
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

**AD5. ALTERATIONS AND ADDITIONS ONLY**

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

**AD6. TREE REMOVAL/PRESERVATION**

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.



RECEIVED  
Waverley Council

Application No: DA-485/2021

Date Received: 10/11/2021

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**NOTES**  
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**PROJECT**  
DURANTE HOUSE  
**CLIENT**  
ALISON AND MICHAEL DURANTE  
**PROJECT ADDRESS**  
61 REINA STREET, NORTH BONDI NSW 2026

**DRAWING**  
EXISTING SITE/SITE ANALYSIS PLAN  
**SCALE**  
1:100

**DRAWING NO.**  
DA-01  
**DATE**  
20.11.20

**REV NO.**  
A

**DATE**  
15.10.21

**REVISION**  
A

**ISSUE**  
ISSUE TO COUNCIL - DA SUBMISSION



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Waverley Council

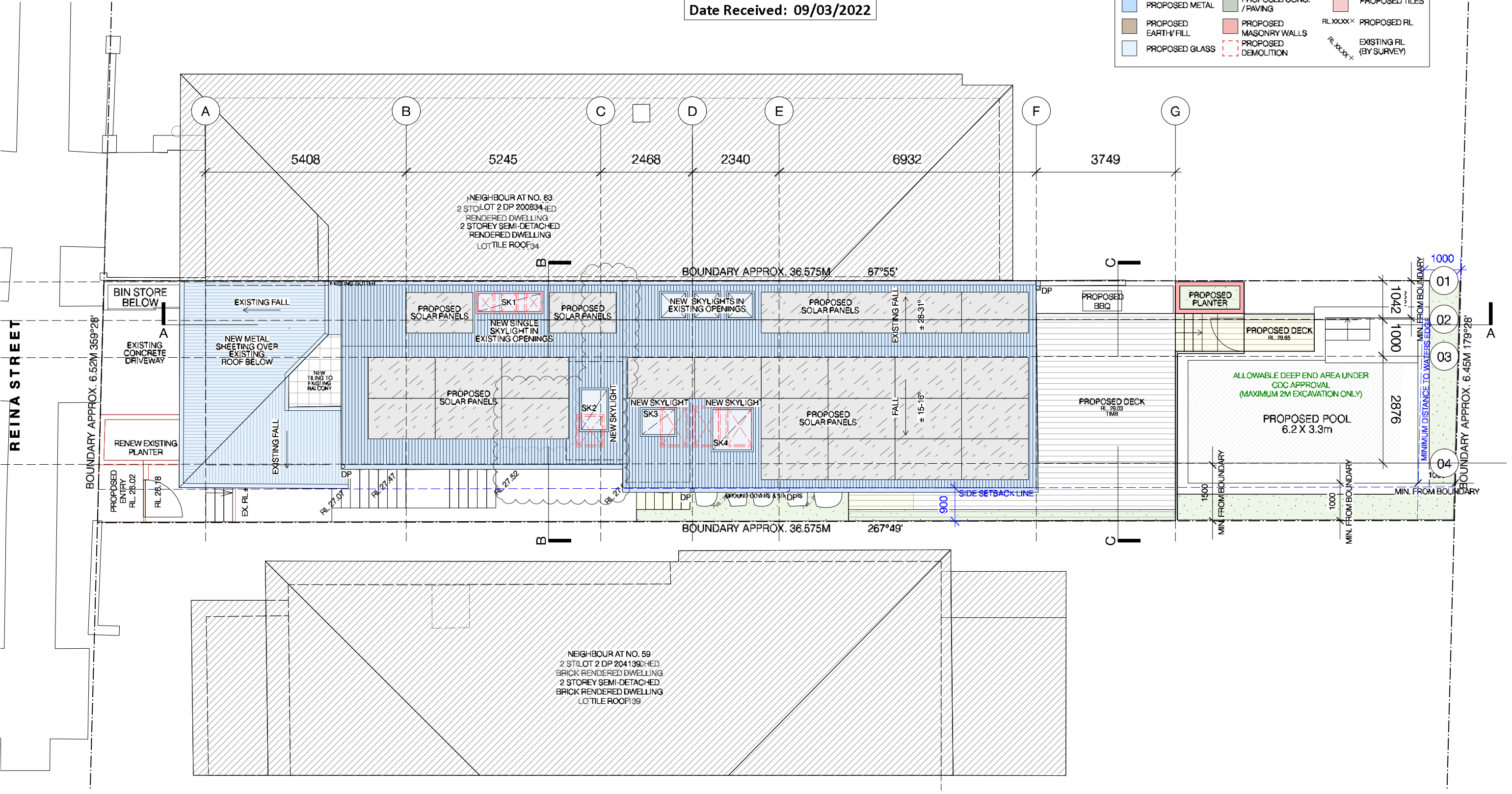
Application No: DA-485/2021

Date Received: 09/03/2022

# AMENDED PLANS

KEY:

CDC APPROVAL	PROPOSED TIMBER	EXISTING WALLS
PROPOSED METAL	PROPOSED CONC. / PAVING	PROPOSED TILES
PROPOSED EARTH/FILL	PROPOSED MASONRY WALLS	RL XXXX-X PROPOSED RL
PROPOSED GLASS	PROPOSED DEMOLITION	RL XXXX-X EXISTING RL (BY SURVEY)



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**CLIENT**  
ALISON AND MICHAEL DURANTE  
**PROJECT ADDRESS**  
61 REINA STREET, NORTH BONDI NSW 2026

**DRAWING**  
PROPOSED SITE/ROOF PLAN  
**SCALE**  
1:100

**DRAWING NO.**  
DA-02  
**DATE**  
20.11.20

**REV NO.**  
B

**DATE**  
15.10.21  
08.03.22

**REVISION**  
A  
B

**ISSUE**  
ISSUE TO COUNCIL - DA SUBMISSION  
ISSUE TO COUNCIL - UPDATED ISSUE





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**DRAWING**  
EXISTING LOWER GROUND FLOOR PLAN

**SCALE**  
1:100

DATE	REVISION	ISSUE
15.10.21	A	ISSUE TO COUNCIL - DA SUBMISSION

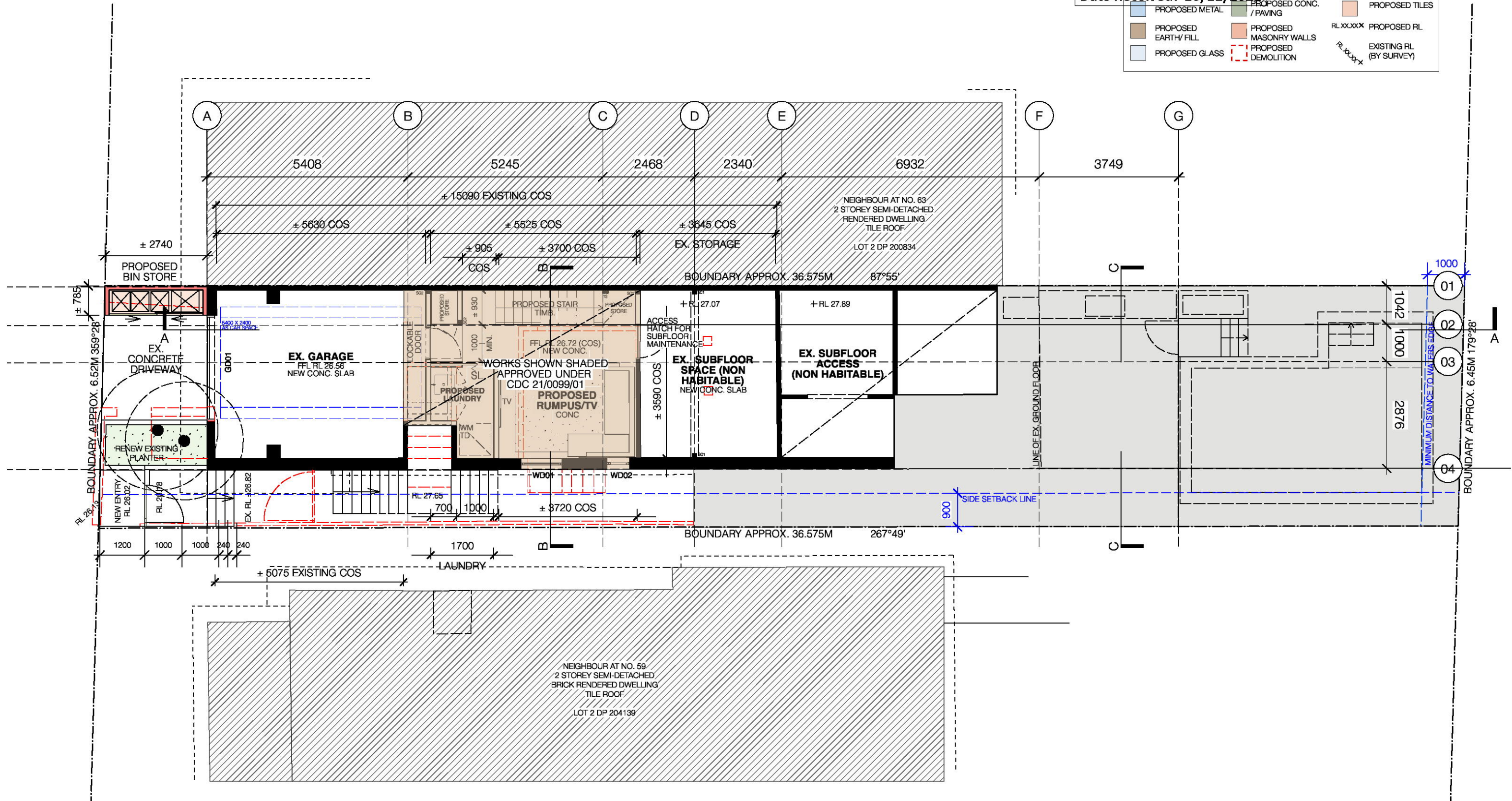




Application No: DA-485/2021

Date Received: 10/11/2021

PROPOSED TIMBER	EXISTING WALLS
PROPOSED CONC. / PAVING	PROPOSED TILES
PROPOSED MASONRY WALLS	PROPOSED RL
PROPOSED DEMOLITION	EXISTING RL (BY SURVEY)
PROPOSED METAL	
PROPOSED EARTH/FILL	
PROPOSED GLASS	
CDC APPROVAL	



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PROJECT

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CLIENT  
ALISON AND MICHAEL DURANTE  
PROJECT ADDRESS  
61 REINA STREET, NORTH BONDI NSW 2026

DRAWING

PROPOSED LOWER GROUND FLOOR PLAN

SCALE

1:100

DRAWING NO.

DA-04

DATE

20.11.20

REV NO.

A

DATE

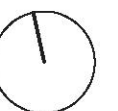
15.10.21

REVISION

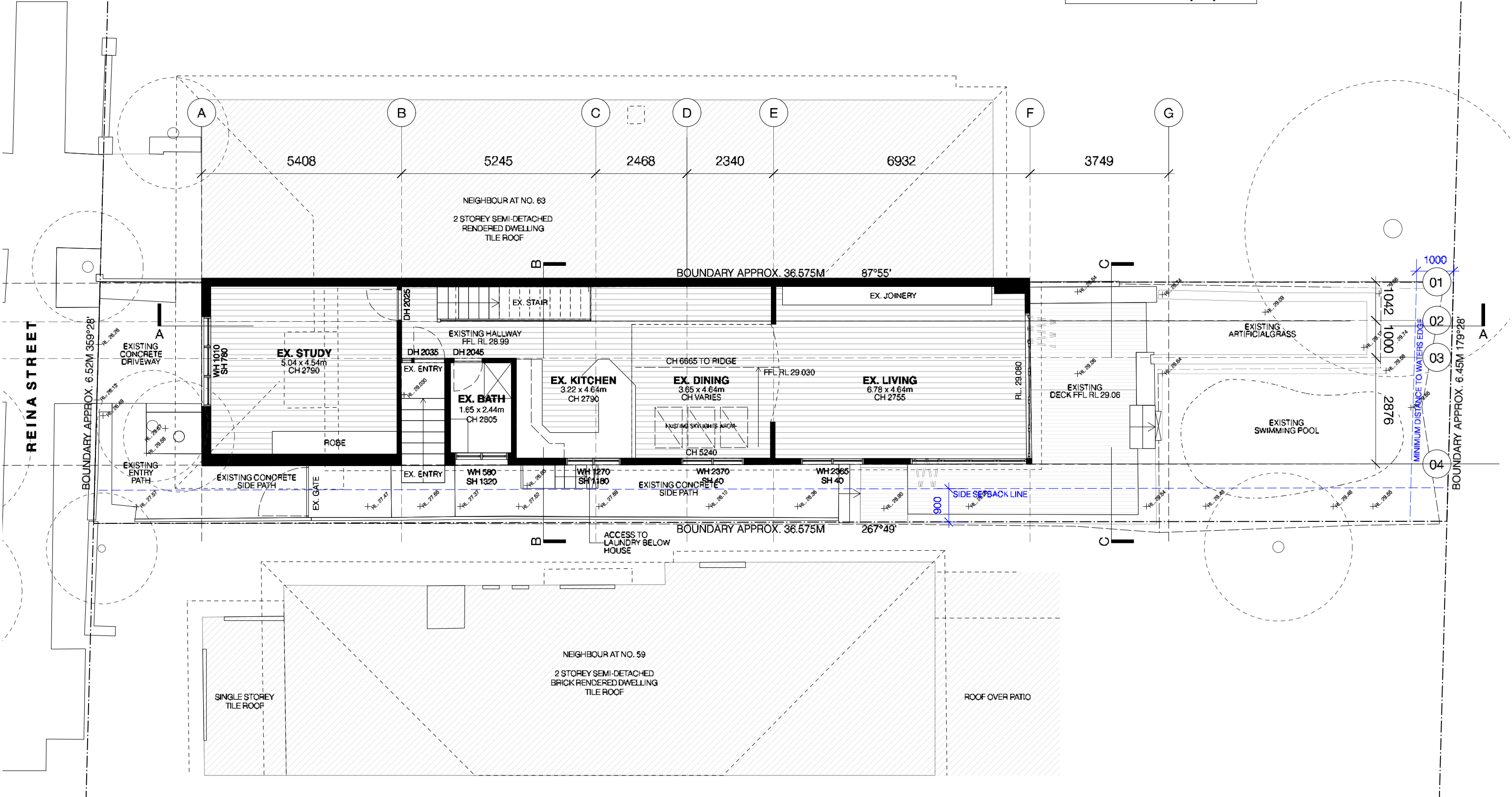
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**CLIENT**  
ALISON AND MICHAEL DURANTE  
**PROJECT ADDRESS**  
61 REINA STREET, NORTH BONDI NSW 2026

**DRAWING**  
EXISTING GROUND FLOOR PLAN  
**SCALE**  
1:100

**DRAWING NO.**  
DA-05  
**DATE**  
20.11.20

**REV NO.**  
A

**DATE**  
15.10.21

**REVISION**  
A

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ISSUE TO COUNCIL - DA SUBMISSION

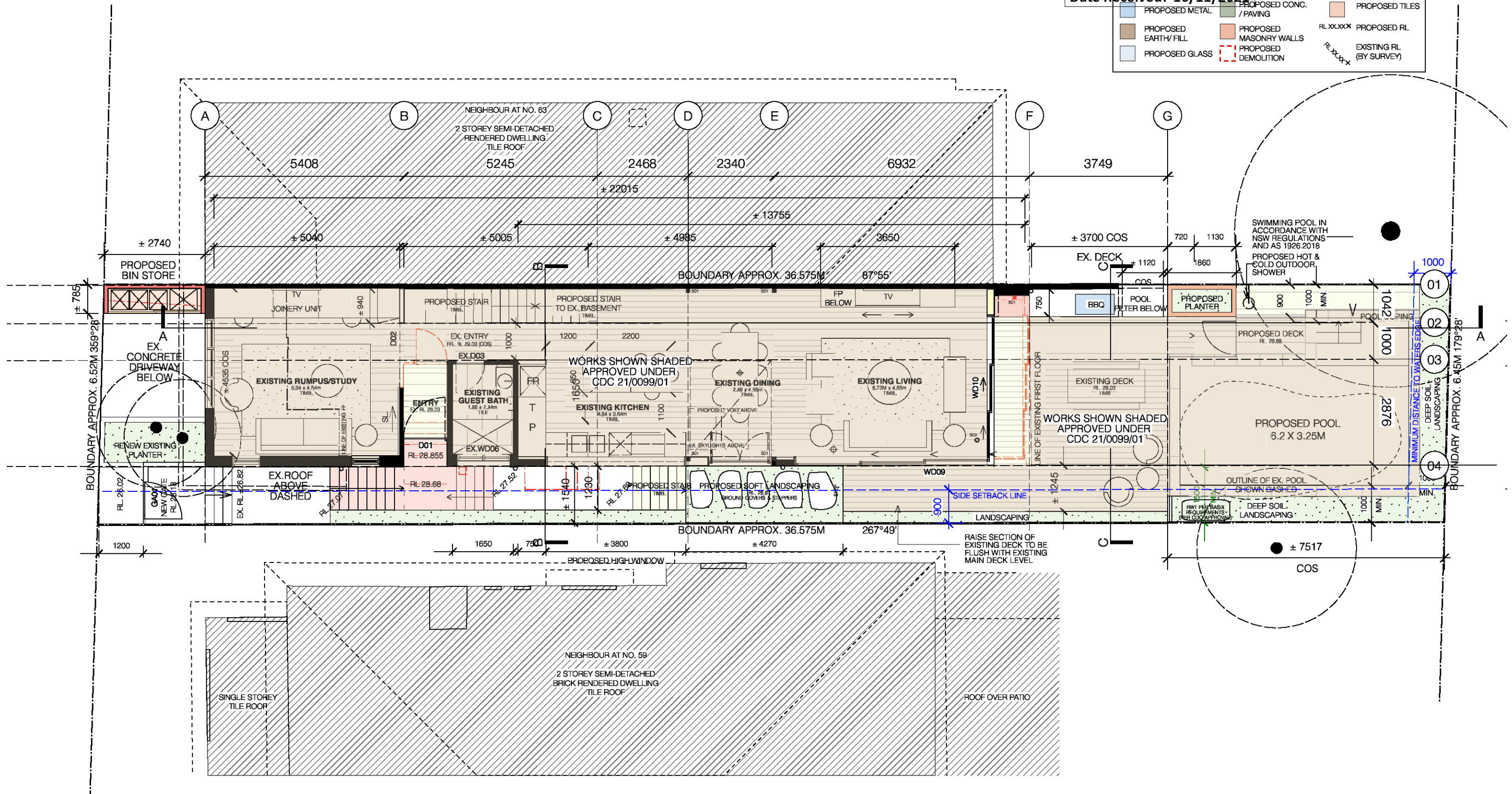




Application No: DA-485/2021

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CDC APPROVAL	PROPOSED TIMBER	EXISTING WALLS
PROPOSED METAL	PROPOSED CONC. / PAVING	PROPOSED TILES
PROPOSED EARTH/FILL	PROPOSED MASONRY WALLS	PROPOSED RL
PROPOSED GLASS	PROPOSED DEMOLITION	EXISTING RL (BY SURVEY)



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DRAWING

PROPOSED GROUND FLOOR PLAN

SCALE

1:100

DRAWING NO.

DA-06

DATE

20.11.20

REV NO.

A

DATE

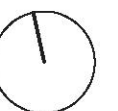
15.10.21

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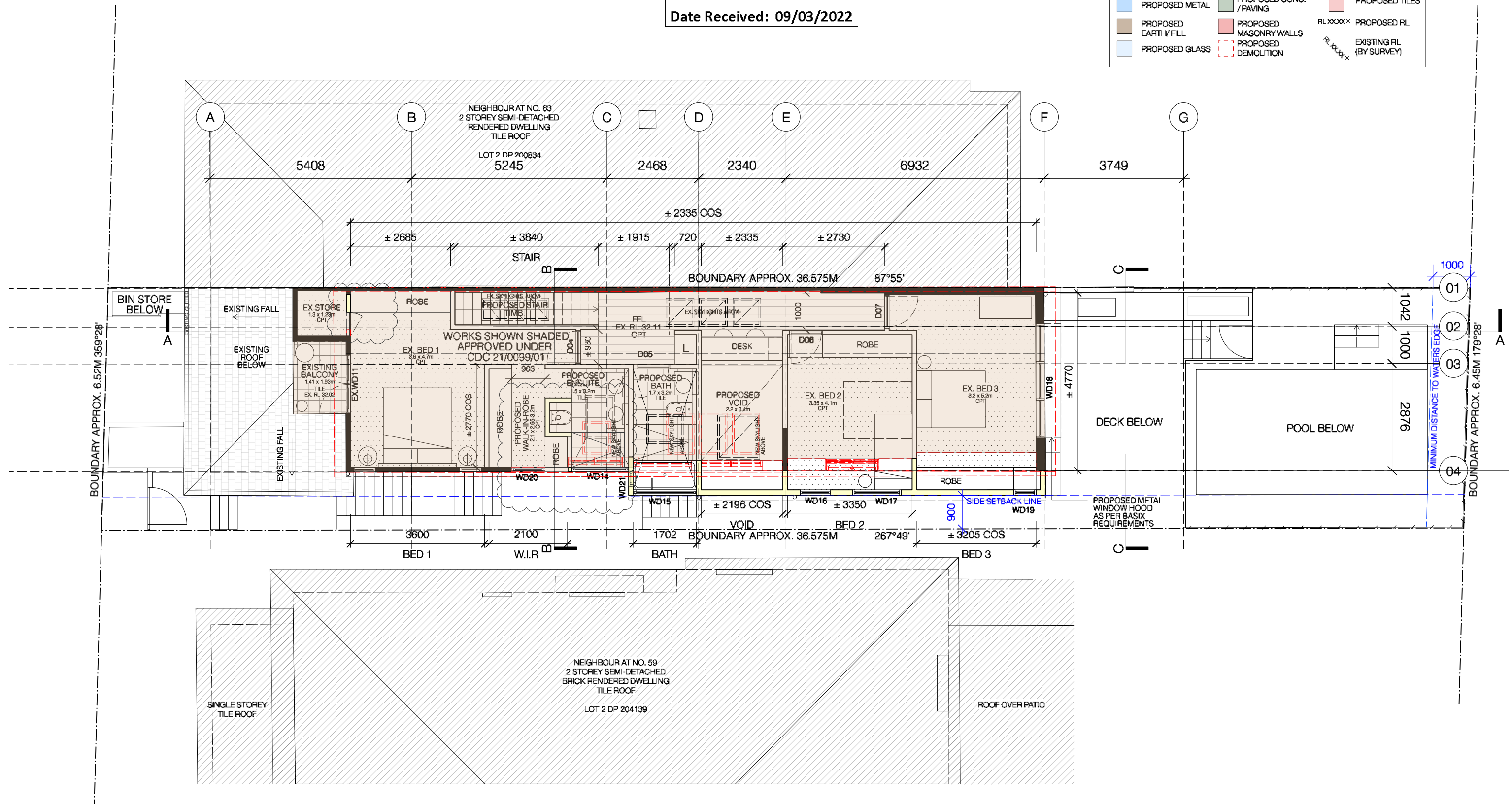
Application No: DA-485/2021

Date Received: 09/03/2022

# AMENDED PLANS

## KEY:

CDC APPROVAL	PROPOSED TIMBER	EXISTING WALLS
PROPOSED METAL	PROPOSED CONC. / PAVING	PROPOSED TILES
PROPOSED EARTH/FILL	PROPOSED MASONRY WALLS	PROPOSED RL
PROPOSED GLASS	PROPOSED DEMOLITION	EXISTING RL (BY SURVEY)



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## PROJECT

DURANTE HOUSE

## CLIENT

ALISON AND MICHAEL DURANTE

## PROJECT ADDRESS

61 REINA STREET, NORTH BOND NSW 2026

## DRAWING

PROPOSED FIRST FLOOR PLAN

## SCALE

1:100

## DRAWING NO.

DA-08

## DATE

20.11.20

## REV NO.

B

## DATE

15.10.21  
08.03.22

## REVISION











A  
B

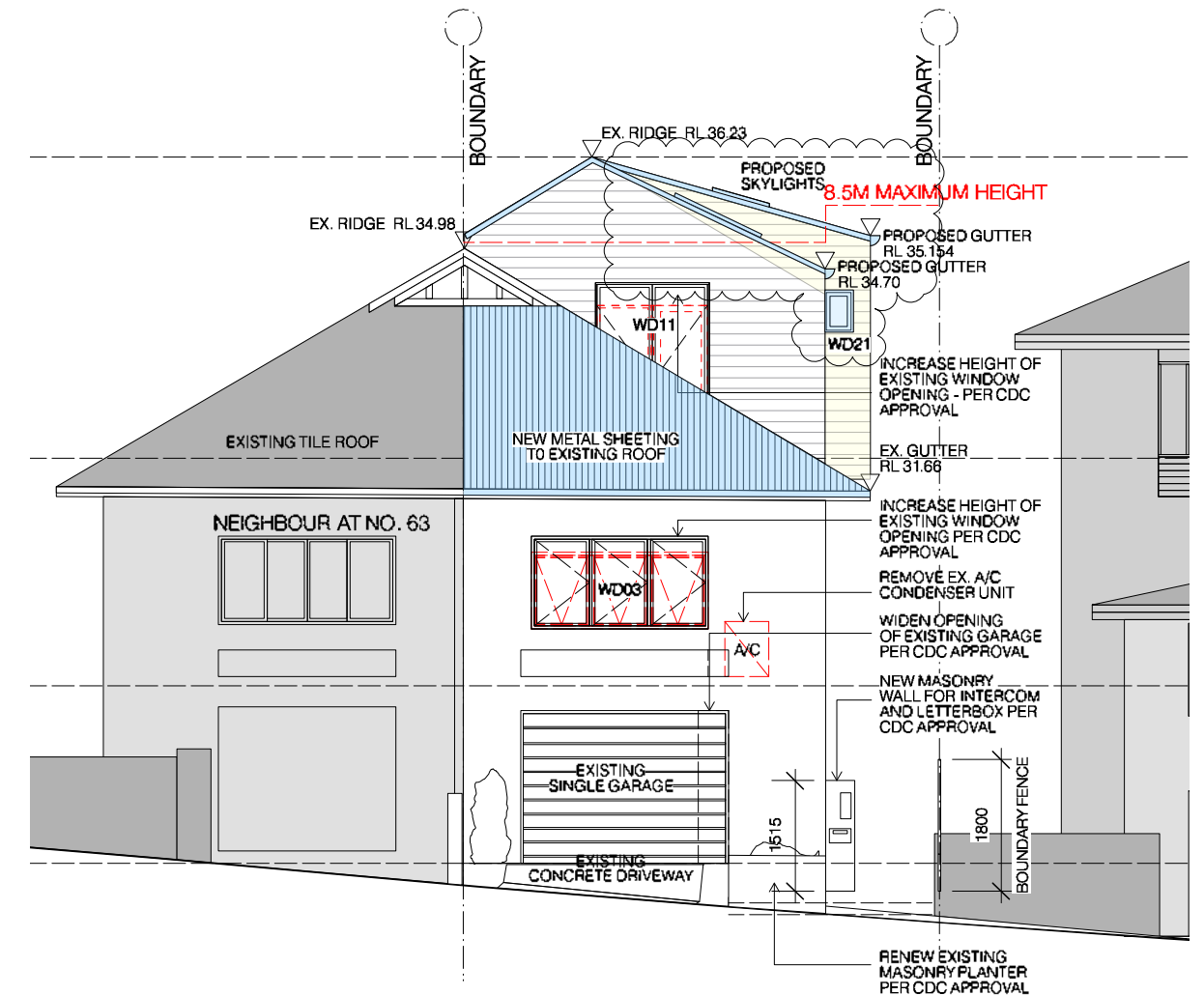
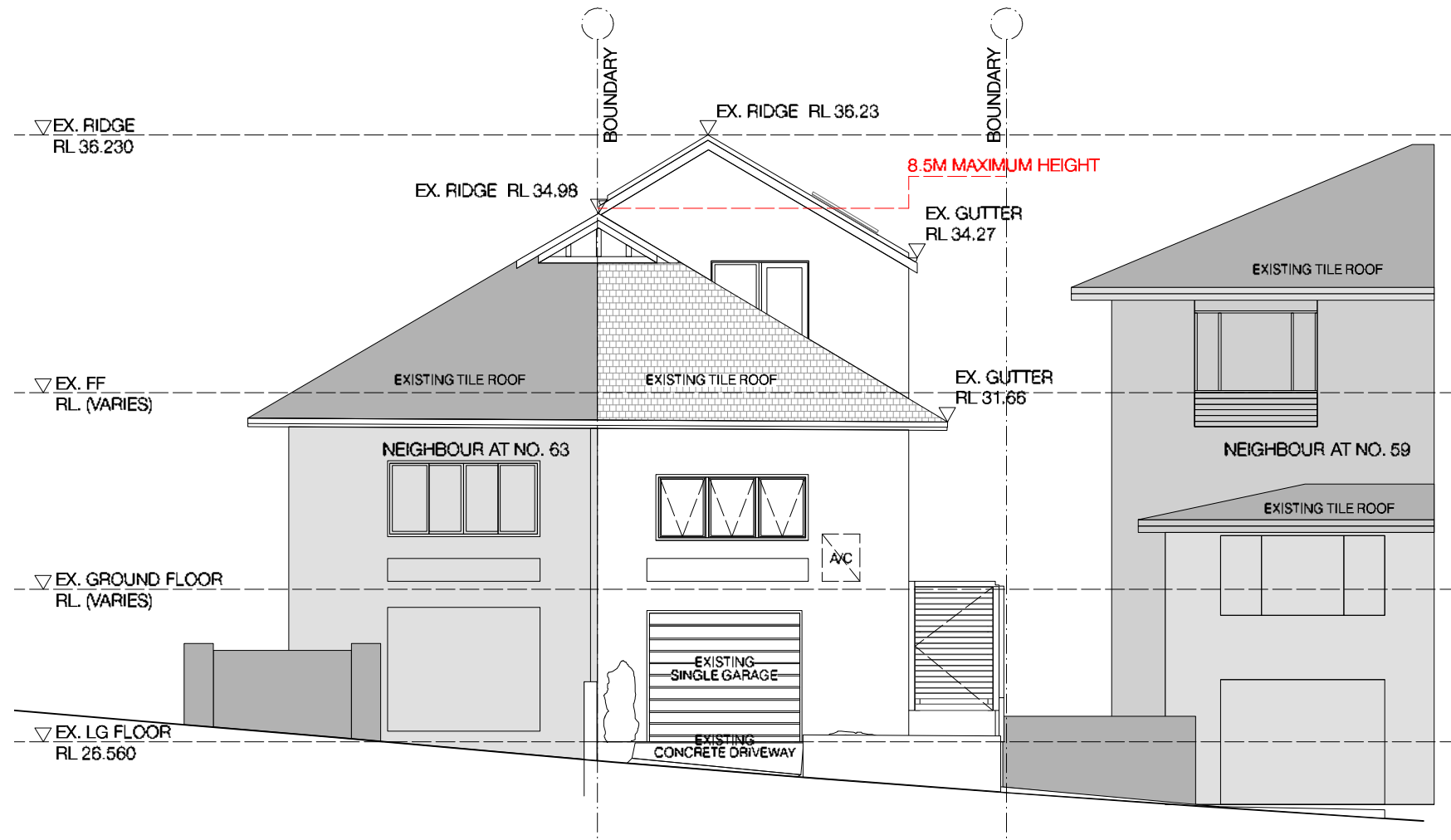
## ISSUE

ISSUE TO COUNCIL - DA SUBMISSION  
ISSUE TO COUNCIL - UPDATED ISSUE

# AMENDED PLANS

KEY:

	CDC APPROVAL		PROPOSED TIMBER		EXISTING WALLS
	PROPOSED METAL		PROPOSED CONC. / PAVING		PROPOSED TILES
	PROPOSED EARTH/FILL		PROPOSED MASONRY WALLS	RLXXXXX	PROPOSED RL
	PROPOSED GLASS		PROPOSED DEMOLITION	RLXXXXX	EXISTING RL (BY SURVEY)



01

EXISTING FRONT ELEVATION (WEST)  
1:100

02

PROPOSED FRONT ELEVATION (WEST)  
1:100

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#### PROJECT

DURANTE HOUSE

#### CLIENT

ALISON AND MICHAEL DURANTE

#### PROJECT ADDRESS

61 REINA STREET, NORTH BOND NSW 2026

#### DRAWING

EXISTING & PROPOSED FRONT ELEVATION (WEST)

#### SCALE

1:100

#### DRAWING NO.

DA-09

#### DATE

20.11.20

#### REV NO.

B

#### DATE

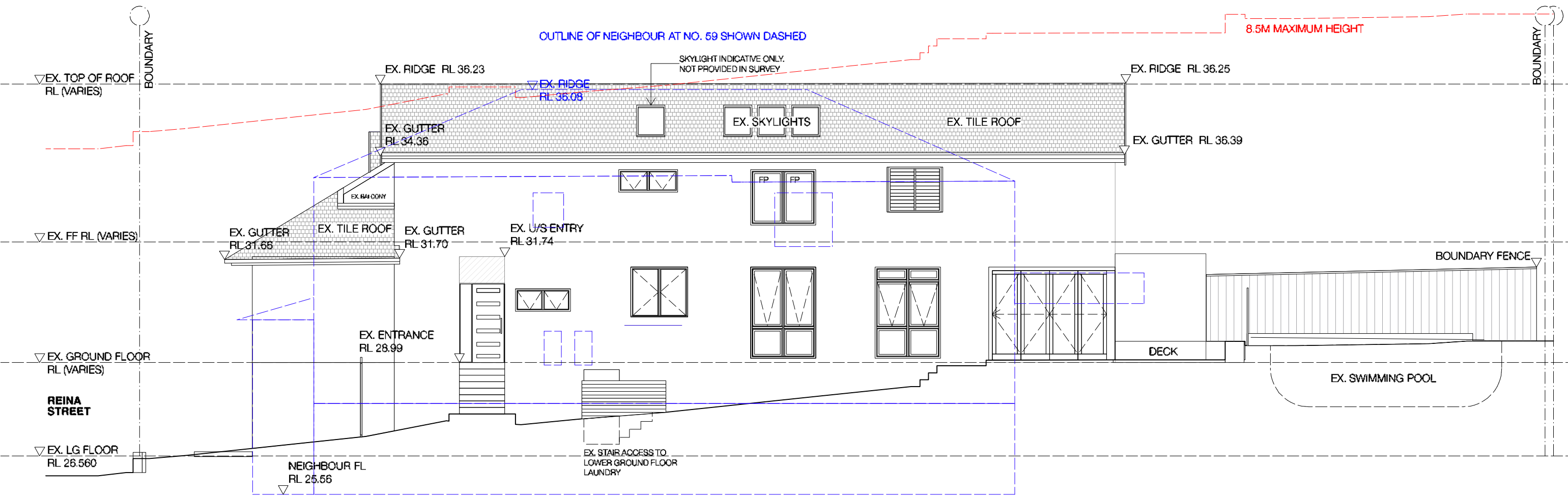
15.10.21  
08.03.22

#### REVISION

A  
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01

EXISTING SIDE ELEVATION (SOUTH)  
1:100

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**PROJECT**  
DURANTE HOUSE  
**CLIENT**  
ALISON AND MICHAEL DURANTE  
**PROJECT ADDRESS**  
61 REINA STREET, NORTH BOND NSW 2026

**DRAWING**  
EXISTING SIDE ELEVATION (SOUTH)  
**SCALE**  
1:100

**DRAWING NO.**  
DA-10  
**DATE**  
20.11.20

**REV NO.**  
A

**DATE**  
15.10.21

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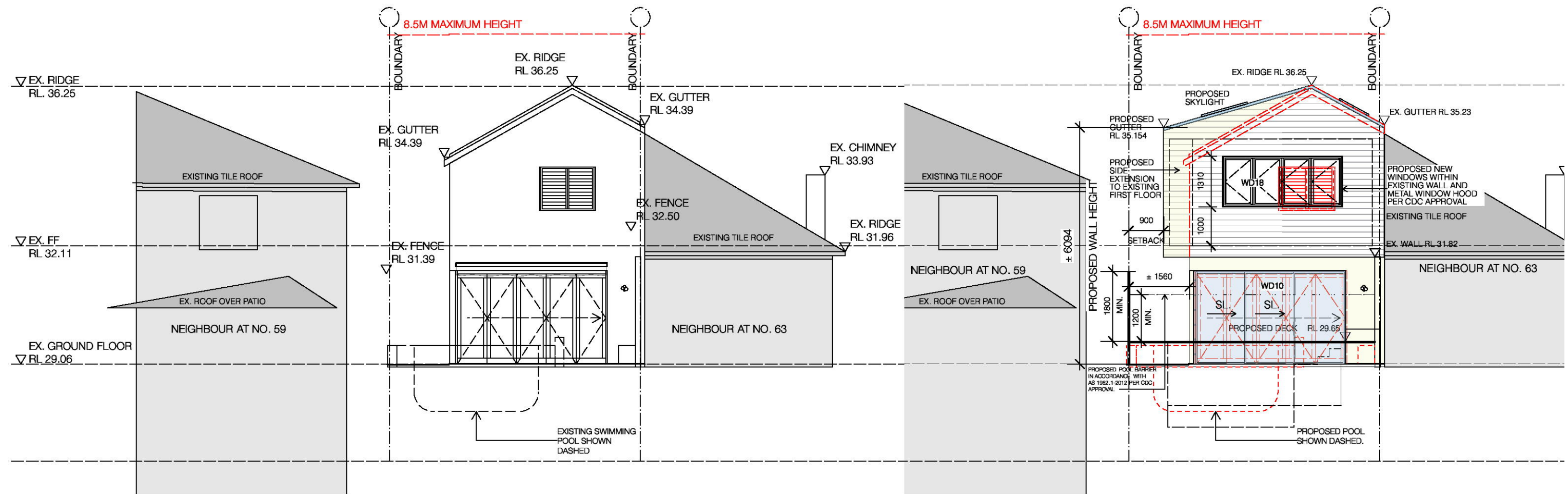




Application No: DA-485/2021

Date Received: 10/11/2021

PROPOSED TIMBER	EXISTING WALLS
PROPOSED CONC. / PAVING	PROPOSED TILES
PROPOSED MASONRY WALLS	PROPOSED RL
PROPOSED DEMOLITION	EXISTING RL (BY SURVEY)
PROPOSED EARTH/FILL	
PROPOSED GLASS	
PROPOSED METAL	
CDC APPROVAL	



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#### PROJECT

DURANTE HOUSE  
CLIENT  
ALISON AND MICHAEL DURANTE  
PROJECT ADDRESS  
61 REINA STREET, NORTH BONDI NSW 2026

#### DRAWING

EXISTING & PROPOSED REAR ELEVATION (EAST)  
SCALE  
1:100

#### DRAWING NO.

DA-12  
DATE  
20.11.20

#### REV NO.

A

#### DATE

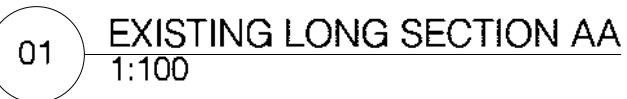
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## PROJECT

DURANTE HOUSE

CLIENT

ALISON AND MICHAEL DURANTE

## PROJECT ADDRESS

61 REINA STREET, NORTH BOND NSW 2026

### DRAWING

EXISTING LONG SECTION AA

## SCALE

1:100

## DRAWING NO.

DA-13

## DATE \_\_\_\_\_

20.11.20

## REV NO.

A

## DATE \_\_\_\_\_

15.10.21

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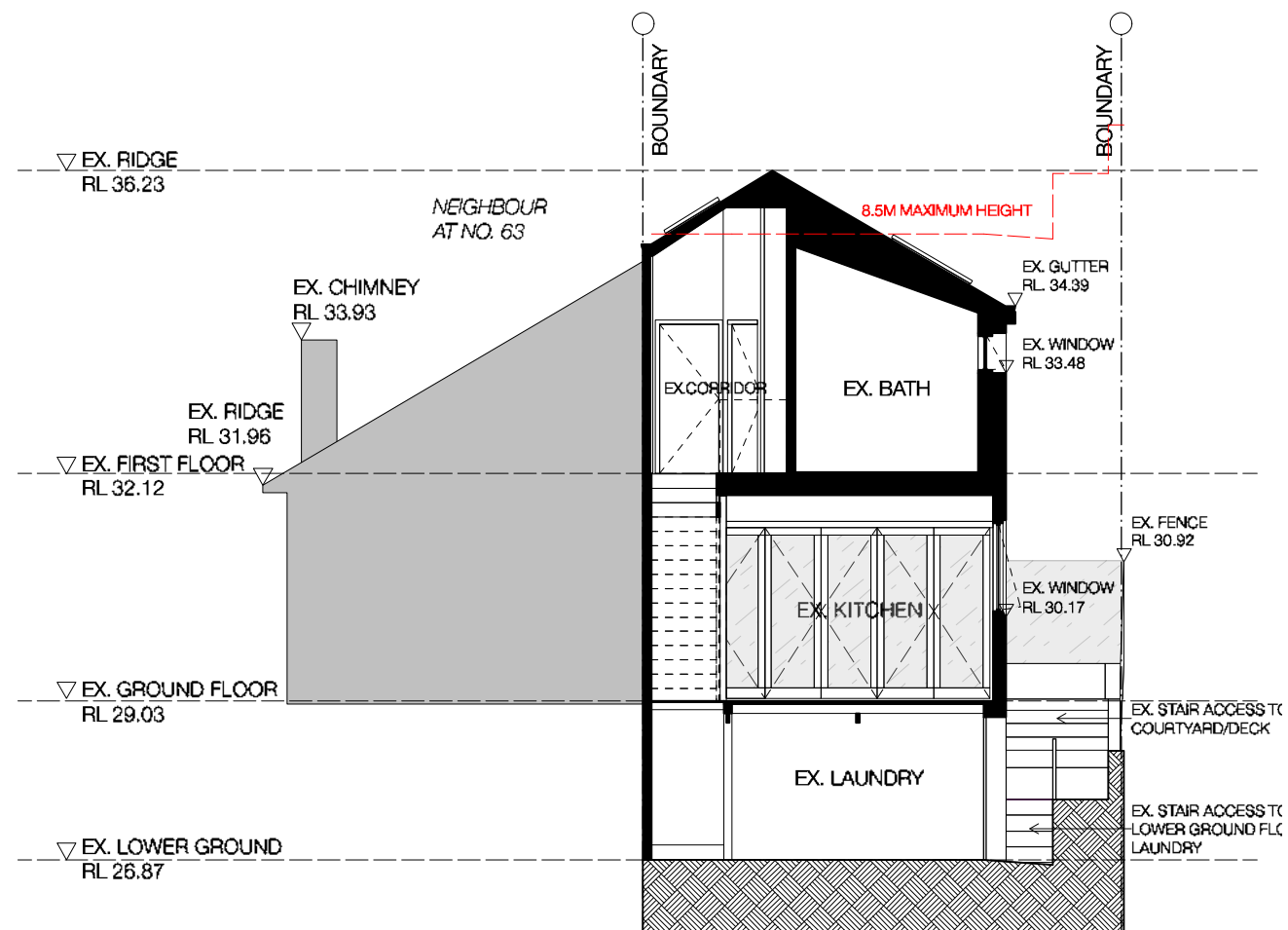
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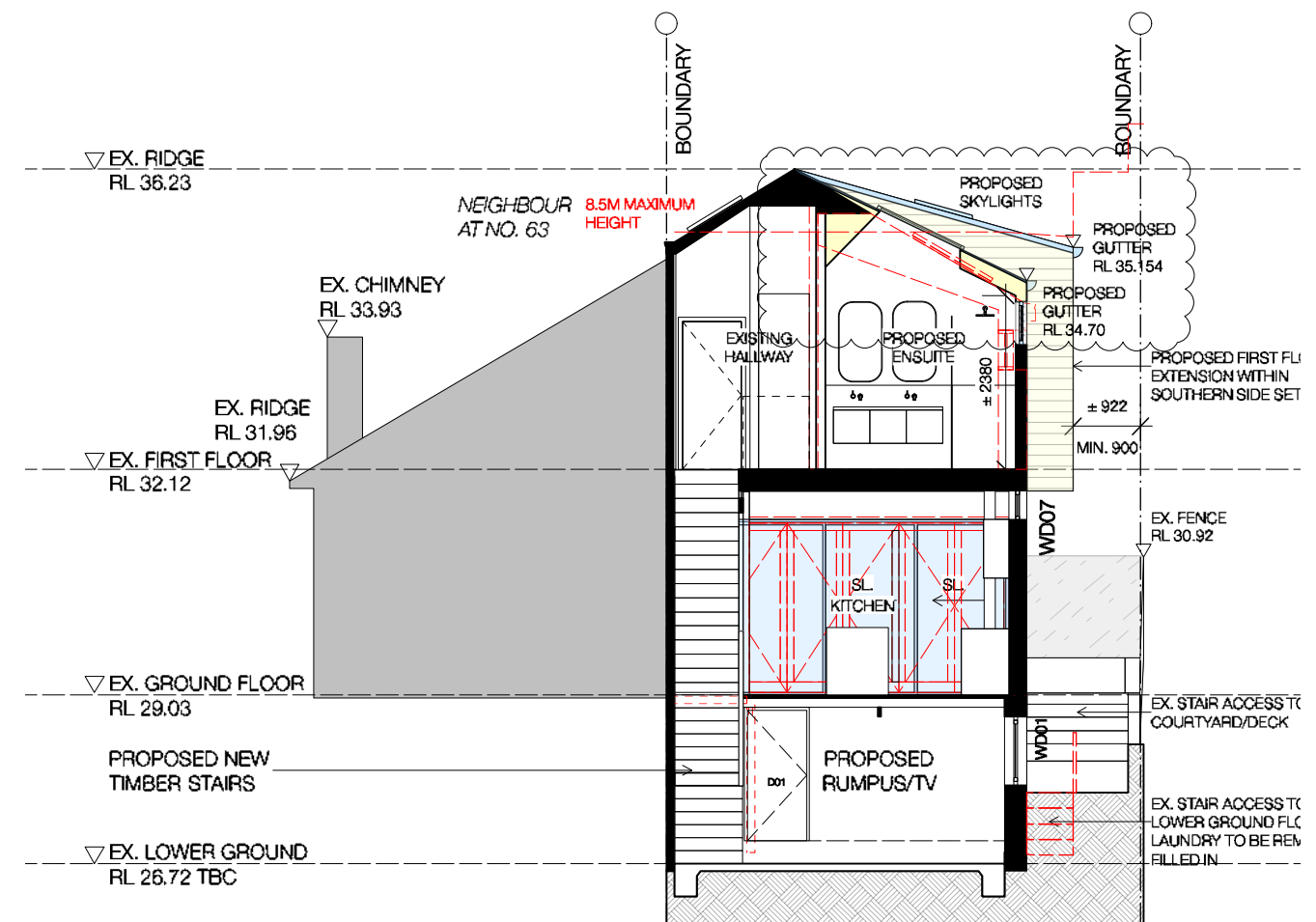
Date Received: 09/03/2022

# AMENDED PLANS

KEY:					
	CDC APPROVAL		PROPOSED TIMBER		EXISTING WALLS
	PROPOSED METAL		PROPOSED CONC. / PAVING		PROPOSED TILES
	PROPOSED EARTH/FILL		PROPOSED MASONRY WALLS	RL XXXX X	PROPOSED RL
	PROPOSED GLASS		PROPOSED DEMOLITION	RL XXXX X	EXISTING RL (BY SURVEY)



01 EXISTING SHORT SECTION BB  
1:100



02 PROPOSED SHORT SECTION BB  
1:100

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**PROJECT**  
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**CLIENT**  
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**PROJECT ADDRESS**  
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**DRAWING**  
EXISTING & PROPOSED SHORT SECTION BB  
**SCALE**  
1:100

**DRAWING NO.**  
DA-15  
**DATE**  
20.11.20

**REV NO.**  
B

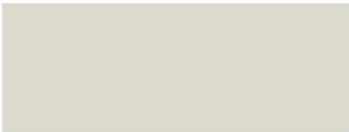
**DATE**  
15.10.21  
08.03.22

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HORIZONTAL WEATHERBOARD CLADDING TO EXISTING FIRST FLOOR  
EXTENSION, PAINTED WHITE, ALUMINIUM WINDOWS POWDERCOAT



SURFMIST METAL ROOFING  
TO FIRST FLOOR



TIMBER DECKING



MONUMENT METAL  
ROOFING TO FRONT ROOF



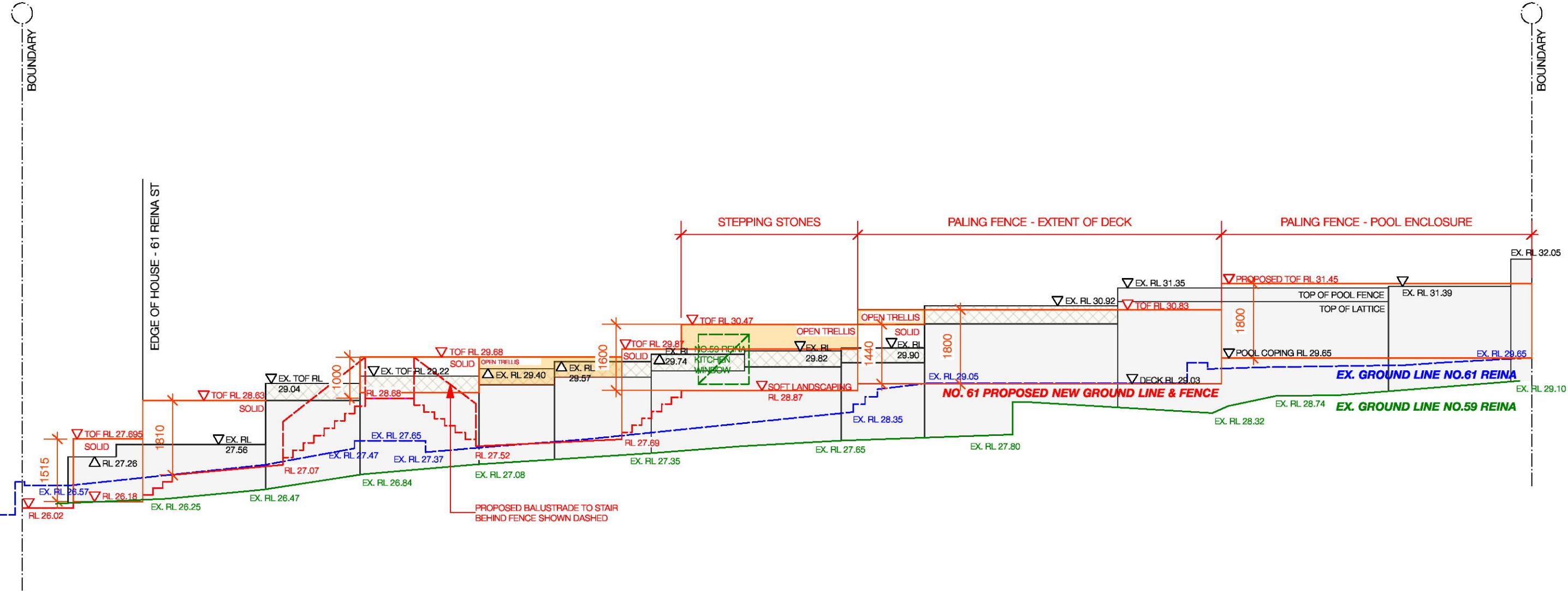
EXISTING RENDERED WALLS,  
REPAINTED WHITE



PROPOSED REAR PERSPECTIVE

AMENDED PLANS

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Date Received: 10/01/2022

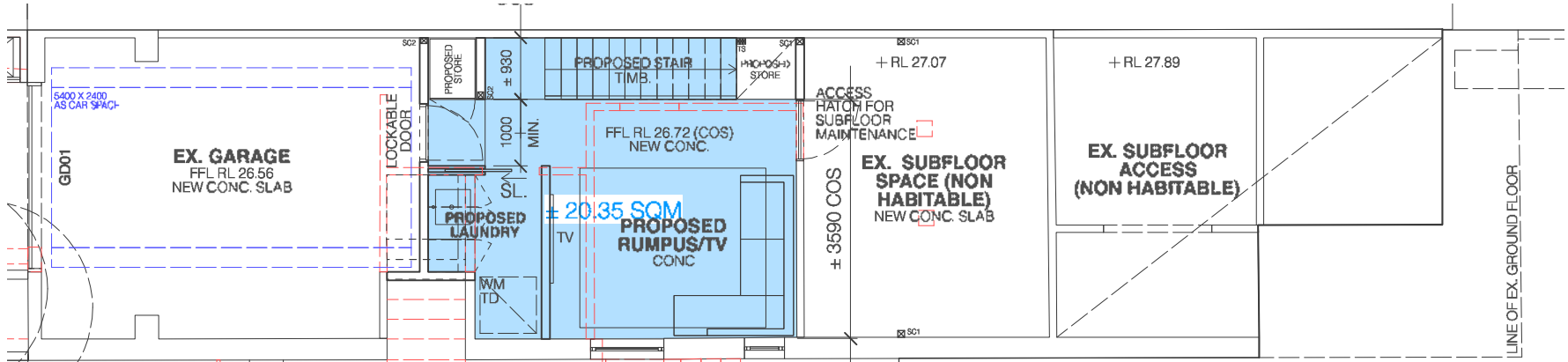


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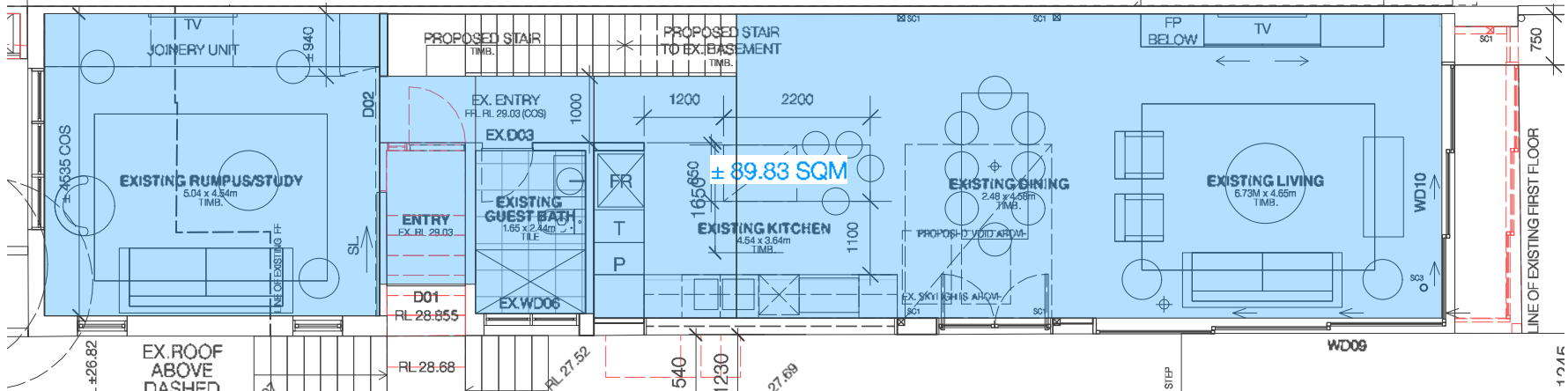


# AMENDED PLANS

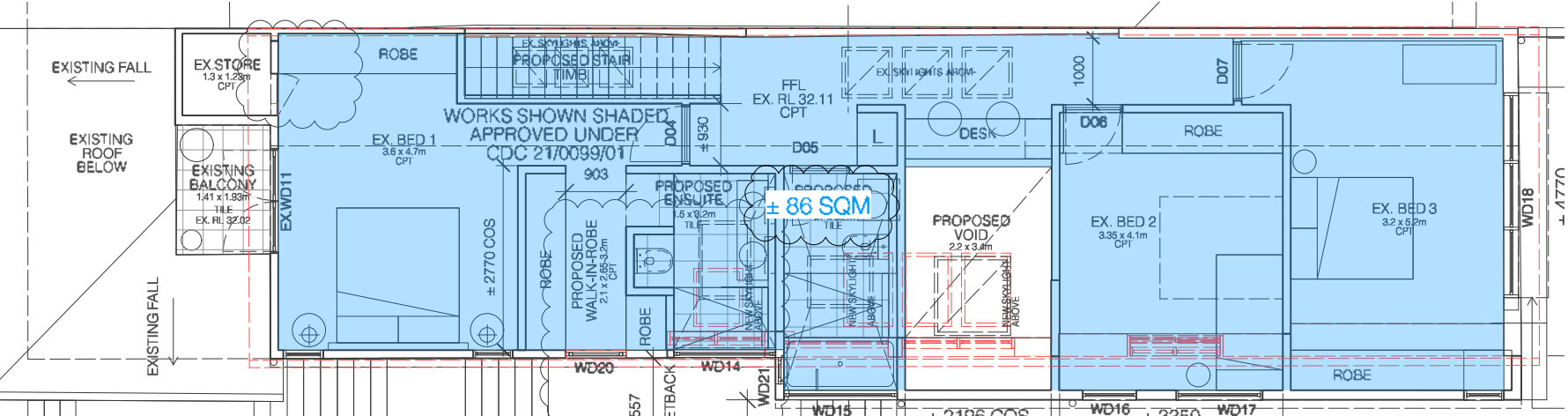
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Application No: DA-485/2021  
Date Received: 09/03/2022



01 PROPOSED LGF - FLOOR AREA  
1:100



02 PROPOSED GF - FLOOR AREA  
1:100



03 PROPOSED FF - FLOOR AREA  
1:100

## FSR CALCULATIONS:

	EXISTING	PROPOSED
SITE AREA:	237.2 SQM (BY SURVEY)	
LOWER GROUND FLOOR	N/A	± 20.35 SQM
GROUND FLOOR	± 94 SQM	± 89.83 SQM
FIRST FLOOR	± 69 SQM	± 86 SQM
GFA (BUILDING)	± 163 SQM	± 196.18 SQM
FSR (BUILDING)	0.69:1	0.83:1

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**CLIENT**  
ALISON AND MICHAEL DURANTE  
**PROJECT ADDRESS**  
61 REINA STREET, NORTH BOND NSW 2026

**DRAWING**  
FSR CALCULATIONS - PROPOSED  
**SCALE**  
1:100

**DRAWING NO.**  
DA-18  
**DATE**  
20.11.20

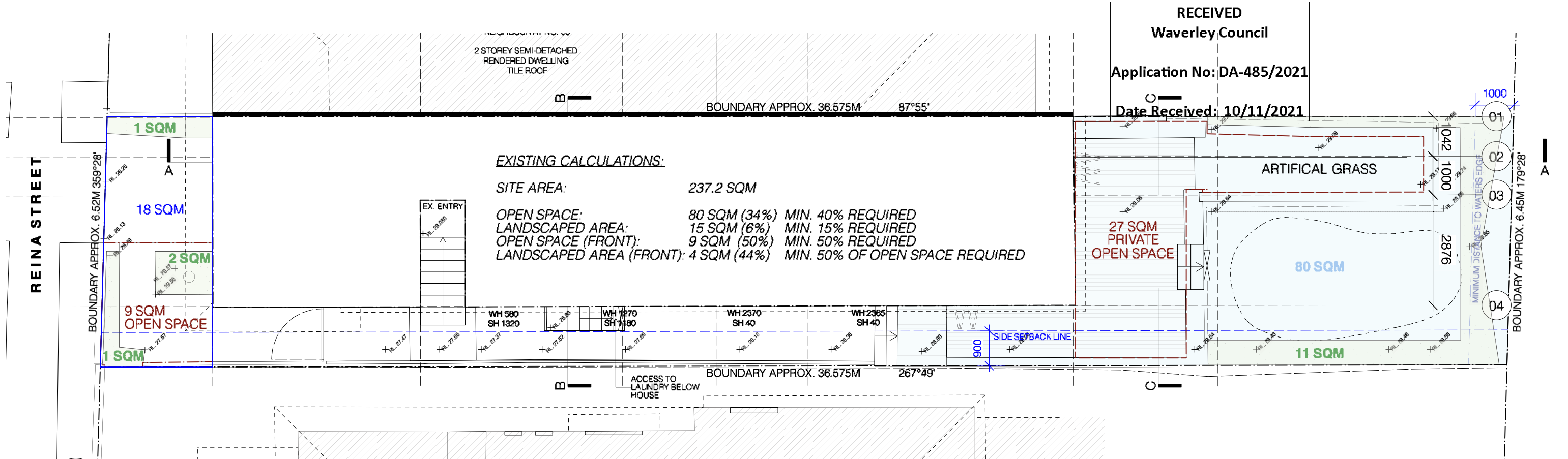
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C

**DATE**  
15.10.21  
21.02.22  
09.03.22

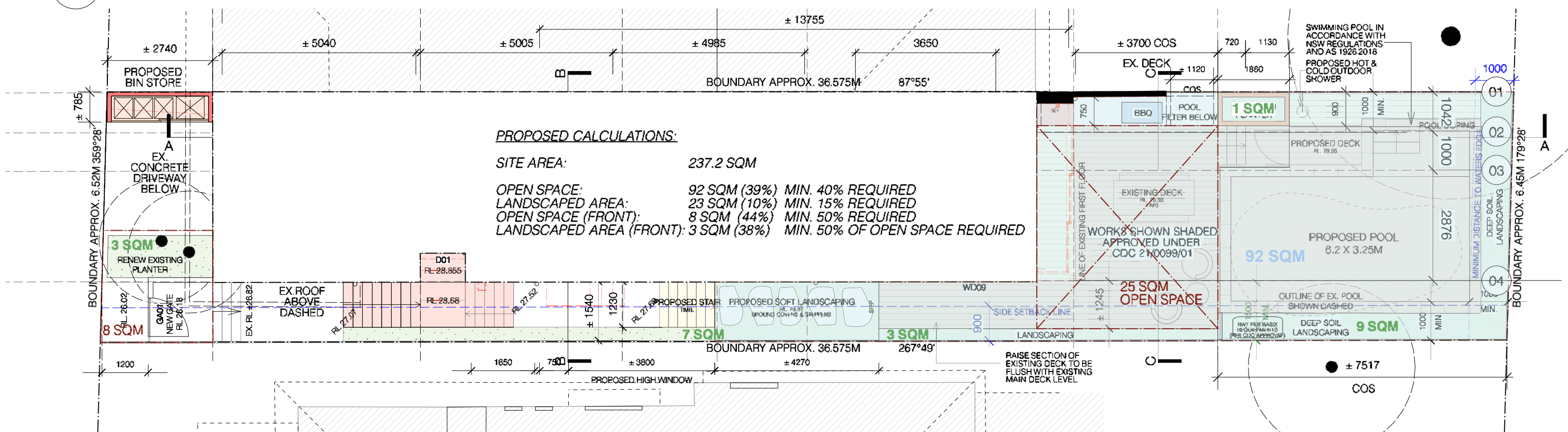
**REVISION**  
A  
C  
C

**ISSUE**  
ISSUE TO COUNCIL - DA SUBMISSION  
UPDATED ISSUE TO COUNCIL  
ISSUE TO COUNCIL - AMENDED DA





01 EXISTING LANDSCAPE CALCULATIONS  
1:100



02 PROPOSED LANDSCAPE CALCULATIONS  
1:100

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**PROJECT ADDRESS**  
61 REINA STREET, NORTH BOND NSW 2026

**DRAWING**  
LANDSCAPE CALCULATIONS  
**SCALE**  
1:100

**DRAWING NO.**  
DA-19  
**DATE**  
20.11.20

**REV NO.**  
A

**DATE**  
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