



16 September 2019

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

12.00 PM WEDNESDAY 25 SEPTEMBER 2019

QUORUM: Three Panel members.

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

OR

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

AGENDA

WLPP-1909.A Apologies

WLPP-1909.DI Declarations of Interest

The Chair will call for any declarations of interest.

WLPP-1909.1 PAGE 5 59-69 Oxford Street, Bondi Junction - Proposed first use as a pub (hotel) to ground floor with associated signage (DA-79/2019)

Report dated 11 September 2019 from the Development and Building Unit.

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

WLPP-1909.2 PAGE 59 193 Bronte Road, Queens Park - Partial demolition of building and additions to create a five-storey shop top housing building (part heritage listed) (DA-271/2018)

Report dated 13 September 2019 from the Development and Building Unit.

Recommendation: That the application be granted deferred commencement consent in accordance with the conditions contained in the report.

WLPP-1909.3 PAGE 134 60 Watson Street, Bondi - S8.3 Review application seeking the construction of hardstand and fencing within front setback (DA-6/2019/1)

Report dated 13 September 2019 from the Development and Building Unit.

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

WLPP-1909.4**PAGE 159**

1 Bay Street, North Bondi - Demolition of the existing dual occupancy (duplex) and erection of a three storey dwelling house with basement storage, services and swimming pool. (DA-456/2018)

Report dated 6 September 2019 from the Development and Building Unit.

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

WLPP-1909.5**PAGE 204**

96 Glenayr Avenue, Bondi Beach - Alterations and additions to the existing building including updated shopfronts, alterations to residential units, change of use to shop top housing development, Stratum and Strata Title Subdivision (DA-490/2018)

Report dated 12 September 2019 from the Development and Building Unit.

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

WLPP-1909.6**PAGE 275**

62 Gilgandra Road, North Bondi - Modification to approved development, including altered internal layout, additional floor space, new awning and various other alterations (DA-216/2018/A)

Report dated 12 September 2019 from the Development and Building Unit.

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

WLPP-1909.7**PAGE 323**

67 Hardy Street, Dover Heights - Alterations and additions to dwelling house (DA-56/2019).

Report dated 12 September 2019 from the Development and Building Unit.

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

WLPP-1909.8

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105 Military Road, Dover Heights - Demolition of existing dwelling house and the erection of a three storey dual occupancy, swimming pools and strata subdivision (DA-425/2018)

Report dated 16 September 2019 from the Development and Building Unit.

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

WLPP-1909.9

PAGE 411

7 Lancaster Road Dover Heights - Review of refusal of decision for alterations and additions to a dwelling including new first floor. (DA-242/2018/1)

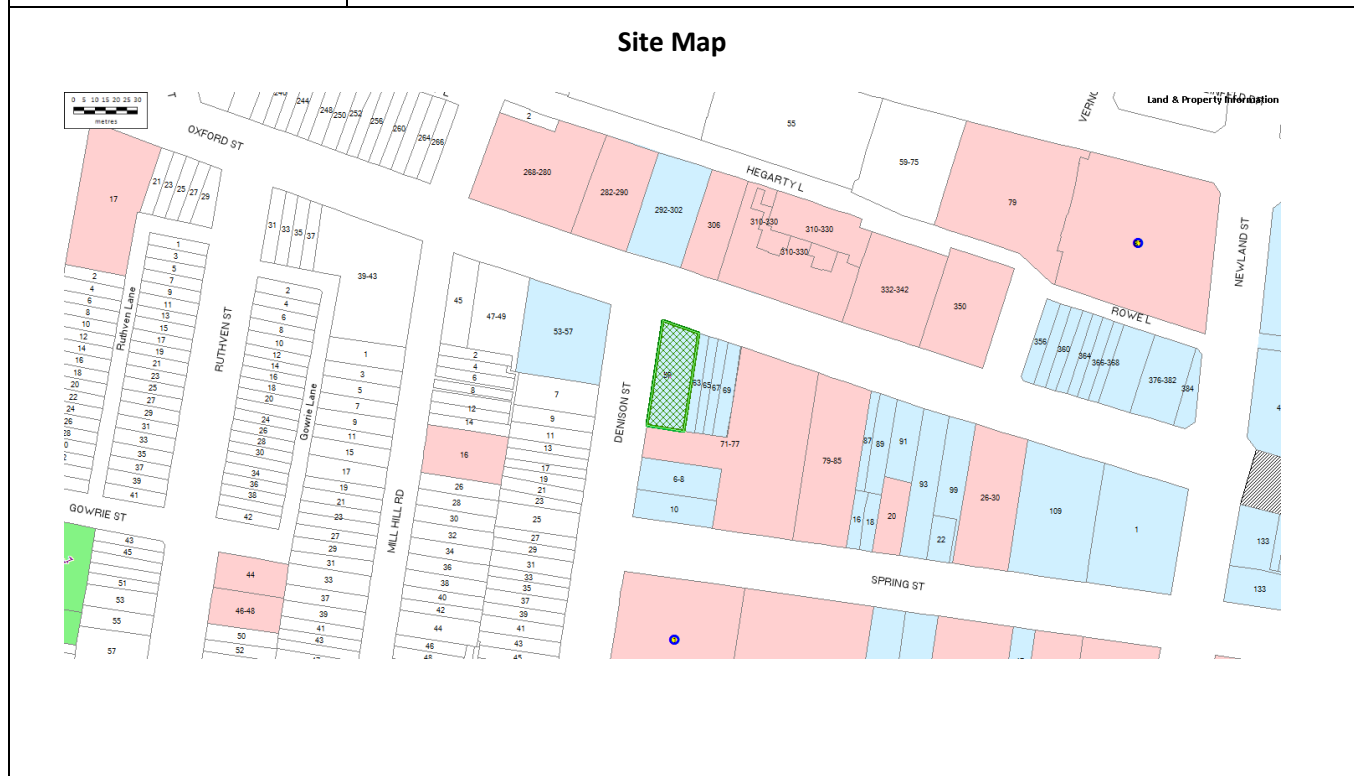
Report dated 9 September 2019 from the Development and Building Unit.

Recommendation: That the application be refused in accordance with the reasons contained in the report.



Report to the Waverley Local Planning Panel

| | |
|---------------------------|---|
| Application number | DA-79/2019 |
| Site address | 59-69 Oxford Street, Bondi Junction |
| Proposal | Proposed first use as a pub (hotel) to ground floor with associated signage |
| Date of lodgement | 13 March 2019 |
| Owner | MHH Project Pty Ltd |
| Applicant | Urbis |
| Submissions | Four submissions |
| Cost of works | \$256,223 |
| Issues | <ul style="list-style-type: none"> Noise and amenity Hours of operation |
| Recommendation | That the application be APPROVED |



1. PREAMBLE

1.1 Site and Surrounding Locality

The site is identified as Lots 1, 2, 3, 4, 5 in DP 229496, known as 59-69 Oxford Street, Bondi Junction. It is located on the southern side of Oxford Street on the corner with Denison Road.

The site is currently undergoing construction for a fourteen-storey mixed use building containing retail uses at ground level, commercial and residential uses at the first floor level and residential units from levels 3-12. Vehicular access to six levels of basement is provided from Denison Street.

Adjoining the site to the east is a mixed use development at 71-77 Oxford Street, which directly adjoins both the eastern and southern boundaries. Across the road from the site are mixed use buildings which are constructed or approved to be at the 38m height limit. The area is evolving, responding to the height and floor space uplift which occurred in gazettal of the Bondi Junction Local Environmental Plan 2010, superseded by the current LEP.

1.2 Relevant History

The following applications are relevant to the subject site:

- **DA-585/2015** for the partial demolition of existing structures and construction of a new mixed use development with commercial and retail uses at ground and first floor and 60 residential apartments was approved by the former Waverley Development Assessment Panel (WDAP), now known as the Waverley Local Planning Panel, on 28 September 2016. The approval included commercial uses at ground level (intended for use as a pub), including retaining the heritage facades and front rooms of the terraces at 63-69 Oxford Street for commercial/retail use.
- **DA-585/2015/A** sought consent for two additional residential storeys resulting in a total of 62 dwellings for the development, additional basement parking and an offer to enter a planning agreement to provide a monetary contribution towards public benefits which includes public domain improvements and affordable housing. The application was approved by the WDAP on 26 July 2017.
- **DA-585/2015/B** for internal and external modifications, increase in height (up to 750mm), additional basement levels and car parking to the approved mixed use development was approved by the WDAP on 26 April 2017.
- **DA-585/2015/C** sought to modify the wording of condition 40 regarding the Energy Assessment report was determined under delegation on 14 August 2017.
- **DA-585/2015/D** for modifications to extend garden terraces, additional windows on east elevation, conversion of commercial space to serviced apartments, pergolas on level 2 and other internal and external changes was approved by the Development and Building Unit (DBU) on 15 June 2018.
- **DA-585/2015/E** for modifications to increase height and alter internal layout to approved mixed use development was approved by the DBU on 11 January 2019.

The current application, **DA-79/2019**, was deferred on 25 June 2019 to provide the following information:

- As per the condition of consent in DA-585/2015/E, the open perforated screen to the gaming room on Denison Street is not supported as it is inconsistent with the controls for active street frontages within Part B16 of DCP 2012.
- Show on the plans, or in section, the recommendations of the Acoustic Report particularly in regards to the acoustic treatment of the ceiling. The recommendations will result in a 500mm thick acoustic treatment over the heritage section and it is unclear if this will impact upon the ground floor windows. Please provide a section through this part of the building showing the acoustic treatment.
- Show how the inactive louvres above the doors and windows of the pub will be treated (ie, where will the metal sheeting be located?).
- It is unclear from the elevations the new work that is proposed. The plans should only be in colour where there is new work, this should be notated on the plans and the SEE must state that for which consent is being sought.
- Please also show the location and number of seating/chairs for the restaurant portion of the pub.
- A waste management plan with greater detail.

Amended information/plans were provided to Council on 9 July 2019 and 5 September 2019 and form the subject of the assessment within this report.

1.3 Proposal

The proposal seeks consent for the use of the ground floor retail as a pub (hotel liquor licence). The pub will provide restaurant seating and bar areas, kitchen and toilet facilities.

The proposal seeks consent for trading hours of Monday to Saturday, 7.00am to 12.00am (midnight) and Sundays, 10.00am to 10.00pm. Consent is sought for 250 patrons and 20 staff.

The proposal includes signage as follows:

- Four business identification signs. One wall sign on the Oxford Street elevation, one fascia awning sign on the corner of Oxford and Denison Streets and two under awning signs.
- One under awning business identification sign associated with a future smaller tenancy on Denison Street.
- Two sets of building identification wall signs on the Denison Street façade.

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 SEPP 64 Advertising and Signage

In accordance with clause 8 of SEPP 64, Council must not grant development consent unless it is satisfied that the proposed signage is consistent with the objectives of the SEPP and the assessment criteria set out under Schedule 1 of the SEPP.

The signage is compatible with the relevant aims of the SEPP and Schedule 1. The signage is compatible with the visual character of the area, suitably located with appropriate scale and proportions and will be of high quality finish and design.

2.1.2 Waverley Local Environmental Plan 2012 (LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

| Provision | Compliance | Comment |
|---|------------|--|
| Part 1 Preliminary | | |
| 1.2 Aims of plan | Yes | The proposal is consistent with the objectives of the LEP. |
| Part 2 Permitted or prohibited development | | |
| Land Use Table B4 Mixed Use Zone | Yes | <p>The use is defined as a 'pub' which is a 'food and drink premises' which is a type of 'retail premises' which is a type of 'commercial premises'. Therefore, the proposal is defined as commercial premises, which is permitted with consent in the B4 zone.</p> <p>The proposal is consistent with the zone objectives in that it contributes to the mixture of compatible land uses in the area and integrates a suitable retail use in an accessible location.</p> |
| Part 5 Miscellaneous provisions | | |
| 5.10 Heritage conservation | Yes | The four terrace form shops on the Oxford Street frontage of the site are listed as items of local heritage significance. Consent has previously been granted for conservation |

| Provision | Compliance | Comment |
|---|------------|--|
| | | <p>and restoration of the shop/ residences to the depth of the principle rooms in conjunction with construction of a multi-level mixed use building.</p> <p>The subject proposal does not alter the main building form or the heritage-listed shopfronts, these works having been previously approved under DA-585/2015. The external works proposed under this application relate predominantly to new signage.</p> <p>The proposed external signage and external window design of the new ground floor exterior are considered to have a cohesive relationship with the retained and restored shop fronts to the listed shop/terraces to the eastern side of the Oxford Street frontage.</p> |
| Part 6 Additional local provisions | | |
| <p>6.5 Active street frontages in the Bondi Junction Centre</p> <p>In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.</p> | Yes | <p>The proposed use as a pub (food and drink premises) is a '<i>retail premises</i>' as defined by the LEP consistent with the requirements of this clause.</p> <p>The proposed use continues to provide an active street frontage along Oxford Street.</p> |

2.1.3 Waverley Development Control Plan 2012 - Amendment No 6 (Waverley DCP 2012)

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

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

| Development Control | Compliance | Comment |
|---|------------|--|
| <p>1. Waste</p> <p>1.4.1.1 Storage</p> <ul style="list-style-type: none"> Bin storage area to be provided with rates in B1-2 1.4.1.3 – Commercial 1.4.1.4 – Mixed Use Development 1.4.2 – Access and Collection 1.4.3 – Amenity 1.4.4- Management | Yes | <p>A Site Waste and Recycling Management plan has been submitted with the application to address waste disposal during construction. Condition of consent will be imposed regarding ongoing waste on site.</p> <p>The tenancy is provided with a storage area beneath the site in basement level 1. The waste management plan indicates that this will be used as a cellar for the pub use.</p> <p>The commercial bin storage is located in a waste room convenient to the pub and the loading bay for waste collection by a private contractor.</p> <p>Council's Waste Officer has reviewed the proposal and the waste management plan submitted with the proposal and recommended conditions relating to the number of bins and ongoing management of waste.</p> |
| 7. Accessibility and adaptability | Yes | <p>A condition will require compliance with the Building Code of Australia (BCA) which addresses the access standards.</p> <p>A condition is also provided regarding the provision of sanitary facilities (accessible or otherwise) to meet the requirements of the BCA.</p> |
| <p>8. Transport</p> <p>8.2 – On Site Parking Zone 1</p> <ul style="list-style-type: none"> Car parking Provision Rates <p>8.3 – Loading Facilities</p> | Yes | <p>The provision of parking was considered during the assessment of the original application for the redevelopment of the site.</p> <p>The building provides 8 retail/commercial spaces for the use of all retail components of the building. The DCP requires a minimum of nil and a maximum of 8 for the pub use, with which the proposal complies.</p> <p>A retail loading space is located adjacent to the cellar in basement level 1 and a loading dock directly adjacent to the service entry to the pub</p> |

| Development Control | Compliance | Comment |
|---|---------------------------|---|
| | | <p>at ground floor level. These approved loading areas are considered appropriate for the pub use.</p> <p>The site is located in a highly accessible location within proximity of public transport links. The proposed use is consistent with the previous use of the site for retail/commercial purposes and will not generate the need for additional parking (beyond that already provided within the redevelopment of the site) or increase traffic to an unreasonable degree.</p> |
| 9. Heritage | Yes | Refer to Table 1. |
| 10. Safety | Yes | The proposed use provides activity on Oxford Street with glazed openable doors and windows with outlook to the street. The pub will open out to the Oxford Street frontage orientating noise and activity toward the active street frontage. |
| 15. Advertising and Signage 15.1 Design and location 15.2 Site Specific Controls <ul style="list-style-type: none"> ○ Bondi Junction ○ Mixed Development Buildings ○ Heritage significant buildings 15.3 Sign specific controls | Yes Yes Yes | <p>The signage relates to the building and complements the streetscape character. All signage is located at the ground floor level and relates to the pub use. The signage is discreet, integrated into the building façade and does not detract from, or dominate, the character of the heritage listed shopfronts.</p> <p>The signage will not impact upon the amenity of surrounding properties due to the location at the ground level within a retail strip and the size of the signs being well under the maximum 20m² permitted by the DCP . The signs will be illuminated by way of LED strip backlighting and downlights.</p> <p>The proposal also includes signage for the other retail tenancies fronting Denison Street which consists of an under awning sign and a wall sign. These are considered to be consistent with the DCP and appropriately located.</p> <p>The proposed signage is generally consistent with the DCP controls for Bondi Junction, mixed use development, heritage significant buildings and sign specific controls.</p> <p>The DCP requires that awning fascia signs are not illuminated. The proposal includes backlighting of the awning fascia sign wrapping around the</p> |

| Development Control | Compliance | Comment |
|---------------------|------------|--|
| | | curved awning at the corner with Denison Street. A condition will require that this sign is not illuminated. |

Table 3: Waverley DCP 2012 – Part D1 Commercial and Retail Development Compliance Table

| Development Control | Compliance | Comment |
|---|------------|--|
| 1.1 Other Policies, Strategies and Standards | | |
| 1.2 Design | | |
| 1.1.1 Frontages | Yes | The approved façade of the pub provides an active street frontage. The proposed use will continue this and allow casual surveillance of the street. |
| 1.1.3 Lighting | Yes | The premise is required to be appropriately illuminated during trading hours for security. However a condition is included within Appendix A requiring that lighting does not unreasonably impact upon adjoining residential properties. |
| 1.1.3 General Amenity | Yes | <p>Conditions in Appendix A require compliance with the relevant legislation and standards relative to food premises.</p> <p>A detailed Plan of Management (POM) has been provided which outlines security measures to be implemented during operations. The POM is referenced in the conditions of consent and must be complied with during operations.</p> <p>The proposal has been amended since it was first submitted to remove a perforated screen on the Denison Street frontage which would allow part of the gaming room to also be a smoker's room. Further amended plans has removed the gaming and smoking room from the proposal.</p> |
| 1.1.4 Noise | Yes | An acoustic report has been submitted which is discussed in detail following this table. |
| 1.3 Hours of operation | | |
| B4 Mixed Use: (a) General base trading hrs: Mon-Sat: 7am–11pm Sun: 7am–10pm (b) Extending trading hrs (trial basis): Mon-Sun: 7am- midnight | Yes | The proposal seeks consent for trading hours of: <ul style="list-style-type: none"> Monday to Saturday, 7.00am to 12.00am (midnight); and Sundays, 10.00am to 10.00pm. |

| Development Control | Compliance | Comment |
|---------------------|------------|---|
| | | This issue is discussed in detail following this table. |

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

Noise and amenity

The subject site is located within a precinct that has higher night time activities with shops and entertainment establishments within proximity of the site. For this reason, the background noise levels in the vicinity are higher than a purely residential area. Additionally, the site has historically been used as a pub (previously being 'The Mill Hill Hotel') and as such, there has long been an existing impact similar to that which is currently proposed.

Notwithstanding, the use as a pub is considered to be a noise generating use and as such, an acoustic assessment was required to be submitted. The Acoustic Report by Acoustic Logic provides an assessment of the anticipated noise generation from the use to nearby residential receivers. The report was referred to Council's Environmental Health Department and no issues were raised subject to the imposition of conditions (included in Appendix A).

The acoustic report concludes that '*provided that the recommendations in section 7 of this report are adopted, noise emissions to all nearby development will be compliant with the requirements of the Waverley Council DCP, NSW Office of Liquor and Gaming, the NSW EPA Noise Policy for Industry and Australian Standard AS2107:2016*'.

The recommendations in section 7 of the acoustic report include measures to minimise noise disturbance to surrounding properties which are summarised below:

- The pub is to cease trading at 12am.
- Amplified music noise level within the pub, including any live music, is to be limited to a spatially averaged sound pressure level of 75dB(A)_{L₁₀} internally.
- Maximum of 250 patrons and 20 staff members permitted within the pub at any given time.
- All glazing to the pub is to be minimum 6.38mm laminated glazing with acoustic seals. Doors are to be installed with all gaps minimised.
- Any inactive louvres along the façade of the pub (located above the external entry door and glazing of the pub) are to be blanked off with sheet metal.
- Acoustic separation in the floor/ceiling construction separating the pub from the apartments directly above.
- Doors to be fitted with self-closing mechanisms.
- Speakers are to be vibration isolated from the building structure.
- Detailed review of mechanical plant undertaken at Construction Certificate stage.
- Signs to limit noise.
- Complaint register.
- Garbage retained within the premises and removed after 7am on the following day.
- The door remains closed after 10pm except for patron ingress/egress.

The acoustic report, including all recommendations, is referenced in the conditions of consent ensuring that the measures listed are carried out. A number of conditions in Appendix A are also relevant to the recommendations above.

A Plan of Management (POM) is also required for a pub use which was submitted with the application. The POM outlines the procedures under which the pub must operate and the POM is subject to review (as required by condition). The POM indicates that the internal noise from the use can be contained and to ameliorate any impact from patrons leaving the premises late at night, through a number of measures including the following (summarised):

- Adherence to the responsible service of alcohol within the small bar.
- Signage requesting patrons to depart quickly and quietly, respecting the amenity of nearby residents.
- Management controls to manage patron departure particularly at night and at closing times to ensure that patrons leaving development in a prompt and orderly manner. This would include the placement of security staff outside the building near closing time, and at other times as required, to direct and quickly disperse patrons away from the premises.
- When required, all queuing shall be outside of the entrance doors and extend away from any adjacent residential dwellings to minimise noise transmission from patrons queuing to enter the premises.
- A licensed uniformed security officer will be on patrol each evening from Friday to Saturday inclusive from 08:30 pm till half an hour after closing of the hotel premises to ensure patrons leave the premises in a quiet and orderly manner. Security officers will patrol the street frontages of Oxford Street and Denison Street.

Conditions within Appendix A will require that the POM is adhered to at all times and that it is subject to periodic review. There are also a number of conditions that seek to minimise impact upon surrounding residential properties including, but not limited to, noise levels, no spruikers, amusement machines or the like, glass sorting only within certain times, CCTV requirements etc. These conditions are standard for licensed venues and mitigate impacts upon the amenity of surrounding residential properties.

The premises may provide amplified background music within the pub and conditions regarding noise emissions are also included.

Given the above analysis and the recommended conditions of consent, the proposed use is considered to be acceptable.

Hours of operation

DCP 2012 allows the following base trading hours within the B4 Mixed Use Zone:

General base trading hours:

- (i) Monday to Saturday: 7.00am to 11.00pm; and
- (ii) Sunday: 7.00am to 10.00pm.

Extended trading hours on a 1-year trial basis will be considered up to:

- (i) 7.00am to midnight, seven days a week.

The application proposes hours of 7.00am to midnight, Monday to Saturday and 10.00am to 10.00pm, Sundays. Permission is sought for staff to be on the premises for one hour before opening and after closing for preparation, maintenance and cleaning.

The proposed hours of operation are consistent with DCP 2012 subject to the granting of a renewable trial period. The DCP allows extended trading hours on a temporary basis, to enable Council to assess the ongoing management performance of the premises and the impact on the neighbourhood amenity. It also requires that new premises must operate for a minimum of 6 months before an application for extended trading hours can be lodged.

It is noted that the pub has not yet started trading and as such there is no record of the performance of the premises and management. However, the site has historically been used as a hotel (ie, pub) since approximately 1886 with the current hotel liquor license issued in 1939. In this regard, there is an established use on the site with a record of performance. The application seeks consent for the same trading hours as the previous pub on the site, the Mill Hill Hotel.

There are a number of other pubs within Bondi Junction with approval for similar trading hours to that which the subject proposal seeks consent with details provided Table 4 below:

Table 4: Approved trading hours of pubs within Bondi Junction

| Hotel name: | Address: | Core Hours: | Extended hours: |
|--|--------------------|---|---|
| The Nelson | 232 Oxford Street | Mon-Sat: 8am-12am (midnight) Sun: 10am-10pm | Expired |
| The Eastern | 500 Oxford Street | Mon-Sat: 5am-3am Sun: 10am – 12am (midnight) | Expired |
| Tea Gardens Hotel | 4A Bronte Road | Mon-Sun: 7am-12am (midnight) | Expired |
| The Grand Hotel (formerly Cock N Bull) | 73-89 Ebley Street | Mon-Wed: 7am-12am (midnight) Thurs-Sat: 7am-1am Sun: 7am-10pm | Thurs-Sat: 1am-2am Mon-Sun: 6am-7am Special days: 12am-2am (no more than 15 days per calendar year) |

The above table indicates that other pubs within Bondi Junction have been granted core hours consistent with that proposed, and in this regard, the hours would not be out of character with the area. The proposed pub is within an area with high accessibility to public transport, taxis and car parking areas.

Historically Council has rarely had issues with the operation of the previous hotel on the site. This indicates good operation and ongoing management and is a basis for assuming the same will occur with the new pub premises, albeit with a more comprehensive development consent in place.

There a number of other matters outlined within the DCP to be taken into consideration when assessing extended trading hours and it is considered that the premises satisfies these. In this regard, an extension of trading hours to midnight from Monday to Saturday is considered warranted. The recent practice of Council in the consideration of extended trading hours to pubs and hotels is to grant consent by way of a reviewable condition rather than temporary extended trading hours. This

allows the extended trading hours to continue, without the need to renew the consent periodically, provided the pub demonstrates good performance and management. In the instance of substantiated complaints to Council, the conditions enable the extended trading hours to be reviewed and/or wound back, if necessary. A reviewable condition to this effect is included in Appendix A.

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

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

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

Table 5: Summary of property addresses that lodged a submission

| Property |
|---|
| 310-330 Oxford Street, Bondi Junction |
| 8 Spring Street, Bondi Junction |
| 202/268-280 Oxford Street, Bondi Junction |
| Mill Hill Bondi Junction Precinct Committee |

Issue:

- **Hours of operation.**
- **Anti-social behaviour.**
- **Parking and traffic.**

Response: These issues have been discussed in detail previously in this report.

Issue: *The predicted noise levels within the Acoustic Report are extremely low. A further acoustic report is requested.*

Response: Council has no reason to believe that the acoustic assessment is incorrect. Council's Environmental Health Officer raises no objection to the application and has provided conditions of consent to ensure that during the use of the premises noise levels are contained to acceptable levels.

Issue: *Loss of diversity and individuality of the heritage buildings by integrating them with pub tenancy. The pub should be contained in the previous footprint and not form part of the heritage frontages.*

Response: The footprint of the commercial space at the ground floor level was considered and approved during the assessment of the original applications for the redevelopment of the entire site. This has been approved and cannot be revisited as part of this application. This application is only for the use and fitout of the previously approved commercial space.

2.5 Public Interest

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

3. REFERRALS

3.1 Heritage

The following comments were provided by Council's Heritage Architect:

The proposed external signage and external window and metal screen design of the new ground floor exterior are considered to have a cohesive relationship with the retained and restored shop fronts to the listed shop/terraces to the eastern side of the Oxford Street frontage.

No additional recommendations are made in relation to the application.

3.2 Fire Safety

Conditions were recommended which are included in Appendix A.

3.3 Environmental Health

No objections were raised to the proposal and recommended conditions are included in Appendix A.

3.4 Waste and Recycling

During assessment of the application additional information was requested in regards to the storage of kegs and other goods associated with the pub use, and the location of waste storage areas and collection points. This information was provided on 9 July 2019.

The Sustainable Waste Officer noted that the current commercial waste room is not likely to be large enough to accommodate the amount of waste to be generated by the use. As such, conditions have been provided with options for larger bins or more frequent collection. The recommended conditions are provided in Appendix A.

3.5 NSW Police

Commentary was sought from the NSW Police regarding the proposal. At the time of finalising this assessment report, comments had not yet been received.

4. SUMMARY

The proposal seeks consent for the use of the ground floor retail as a pub with trading hours of Monday to Saturday, 7.00am to 12.00am (midnight) and Sundays, 10.00am to 10.00pm. The pub will provide restaurant seating and bar areas, kitchen and sanitary facilities with 250 patrons and 20 staff.

The site has historically been used as a pub with the most recent use being the Mill Hill Hotel. An Acoustic Report and Plan of Management (POM) were provided with the application and both are considered satisfactory. Conditions of consent in regards to noise, disturbance, adherence to the acoustic report and the POM and operational conditions are included in Appendix A. Subject to the recommended conditions of consent, the proposal for the first use of the ground floor commercial premises as a pub is considered reasonable and is supported.

The application was notified and four submissions were received. The issues raised are detailed and considered within this report. Most issues raised are considered satisfied by conditions of consent or otherwise unjustifiable as a means of refusal of the application.

The application is recommended for approval.

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 (MR, BMcN,
EF, AR) by:**

Kylie Lucas
Senior Development Assessment Planner

Angela Rossi
Manager, Development Assessment (Central)

Date: 05/09/2019

Date: 11/09/2019

Reason for referral:

4 Sensitive development:

(d) New licensed premises requiring one of the following liquor licences:

- (i) A club licence under the *Registered Clubs Act 1979*
- (ii) A hotel (general bar) licence under the *Liquor Act 2007***
- (iii) An on-premises licence for public entertainment venues under the *Liquor Act 2007*

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

(a) Architectural Plan Nos, tables and documentation prepared by TEAM 2 Architects as follows:

| Plan Nos | Revision | Dated | Received by Council |
|-----------------|-----------------|--------------|----------------------------|
| DA-1002A | A | 01/03/2019 | 09/07/2019 |
| DA-2003A | A | 03/07/2019 | 09/07/2019 |
| DA-2004A | B | 03/07/2019 | 09/07/2019 |
| SK101 | | undated | 05/09/2019 |
| DA-2410 | B | 03/07/2019 | 09/07/2019 |
| DA-2510 | B | 03/07/2019 | 09/07/2019 |
| DA-7000 | A | 01/03/2019 | 09/07/2019 |
| DA-7001 | A | 01/03/2019 | 09/07/2019 |
| DA-7002 | A | 01/03/2019 | 09/07/2019 |
| DA-7003 | A | 01/03/2019 | 09/07/2019 |
| DA-7004 | A | 01/03/2019 | 09/07/2019 |

(b) Noise Impact Assessment reference 20190173.1/0503A/R1/JL prepared by Acoustic Logic Consultancy dated 5/03/2019 and received by Council on 13 March 2019;

(c) The Waste Management Statement prepared by Elephants Foot Recycling Solutions dated 2 July 2019 and received by Council on 09/07/2019;

(d) A Council approved plan of management.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

(a) The awning fascia sign shall not be illuminated consistent with the signage controls of Development Control Plan 2012 (Amendment 6).

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

3. GAMING AND SMOKING ROOMS

No smoking and/or gaming room (or equivalent) is approved or implied under this consent. Any future development of this nature shall be subject to separate development consent.

4. OXFORD STREET FRONTAGE

The Oxford Street frontage shall remain an active street frontage with clear views into and out of, the premises. In this regard, there shall be clear glazing and no enclosures, including advertising, structures, a smoking and/or gaming room, and any other like obstructions, on this elevation.

5. PLAN OF MANAGEMENT

The Plan of Management shall be amended/updated to include details of all operational and management procedures of the premises. The plan of management is to include;

- (a) Venue Management Plan (relating to patron capacity, approved hours of operation, any trial periods, noise conditions, handling of complaints, staffing roles and responsibilities)
- (b) Security Management Plan (relating to tasking and deployment of security personnel, patrons within the premises and their exit and dispersal from the area, and other such operational matters to ensure compliance with relevant regulatory requirements)
- (c) Alcohol Management Plan (relating to the behavior of patrons, liquor practices, including the responsible service of alcohol)
- (d) The POM shall also provide details to satisfy conditions relating to the gaming room and Community Liaison Committee.
- (e) Any other such operational matters to ensure compliance with relevant regulatory requirements.

The POM shall be approved by Council's Director, Waverley Futures (or delegate) prior to the issuing of any occupation certificate.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. 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 may be obtained from Waverley Council Customer Service Centre or downloaded from: www.waverley.nsw.gov.au/publications/

- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.
- (c) Should a section 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 Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

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

Advisory Note

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

7. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of \$6457.90 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.

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 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.

9. 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 & the Assessment Act, 1979 and Form 7 of Schedule 1 of the Regulations; and
- (c) Council is given at least two days notice in writing of the intention to commence the building works.

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

10. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT

A "Construction Vehicle and Pedestrian Plan of Management" (CVPPM) is to be approved by Council prior to the issue of a Construction Certificate and the undertaking of any demolition, excavation, remediation or construction on the site.

The CVPPM shall provide details of the following:

- (a) The proposed route to be taken by demolition/construction vehicles in the Waverley Council area when accessing and exiting the site.
- (b) The type and size of demolition/construction vehicles. Trucks with dog trailers and semi trailers may not be approved for use if it is considered with the information submitted that such vehicles cannot adequately and safely gain access to and from the site or where access into or out of the site may not be possible without the need to remove an unsatisfactory number of vehicles parked on the roadway adjacent to or opposite the site.
- (c) The location of truck holding areas remote from the site should Council not give approval for demolition/construction vehicles to stand on the roadway in the vicinity of the site.
- (d) Traffic control measures to be put in place when trucks, manoeuvring in the vicinity of the site, will interfere with the free flow of traffic.
- (e) The location and materials of construction of temporary driveways providing access into and out of the site.

- (f) The location and length of any proposed Works/Construction Zones. Note: such zones require the approval of the Waverley Traffic Committee and Council prior to installation.
- (g) The hours of operation of demolition/construction vehicles.
- (h) The number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.
- (i) How it is proposed to cater for the safe passage of pedestrians past the site. The details shall include:
 - the route required to be taken by pedestrians including signage and any other control measures that will need to be put in place to direct and keep pedestrians on the required route;
 - any obstructions such as street furniture, trees and bollards etc., that may interfere with the safe passage of pedestrians;
 - the type(s) of material on which pedestrians will be required to walk;
 - the width of the pathway on the route;
 - the location and type of proposed hoardings;
 - the location of existing street lighting.

11. SITE WASTE AND RECYCLING MANAGEMENT PLAN

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

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

12. EROSION, SEDIMENT AND POLLUTION 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 exiting 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.

13. ENGINEERING DETAILS

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

14. TRADE WASTE

The applicant is to confer with Sydney Water and enter into, where applicable, a 'Trade Service Agreement' with the Authority pursuant to the Trade Waste Policy. Details of the Authority's requirements are to be submitted to and approved by Council or an Accredited Certifier prior to the issue of the Construction Certificate. Trade wastewater is defined as "trade waste and any liquid, and any substance contained in it, which may be produced at the premises".

15. SANITARY FACILITIES TO BE PROVIDED IN ACCORDANCE WITH BCA

- a) The subject tenancy must be provided with sanitary facilities (i.e. location, number and type of facility) in accordance with the requirements of Part F2 of the Building Code of Australia. *NB. Should common facilities be used to achieve compliance, it will be necessary to determine what other tenancies share that facility in calculating population numbers.*
- 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.

16. BCA & FIRE SAFETY UPGRADING WORKS

- a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Clauses 93 and 94 of the Environmental Planning and Assessment Regulation 2000, the subject tenancy 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) Access for people with a disability - Part D3;
 - (vii) Fire fighting equipment – Part E1;
 - (viii) Smoke hazard management – Part E2;
 - (ix) Emergency lighting, exit signs and warning systems – Part E4;
 - (x) Sanitary and other facilities – Part F2;
 - (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, 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.

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

17. DEMOLITION AND CONSTRUCTION WASTE

The applicant must meet the following objectives for sustainable demolition and construction waste management;

- a. To minimise the amount of construction waste that is sent to landfill
- b. To minimise waste generated during demolition and construction.
- c. To increase efficiency of development and encourage sustainable practices.
- d. To maximise the re-use of clean excavated material, concrete, bricks and timber.
- e. To ensure the safe removal and disposal of hazardous building materials.

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

- a. A construction waste storage area is to be located within the property boundary and is to be identified on the site plans as part of the SWRMP.
- b. Separate construction waste collection bins or construction waste storage areas are to be provided giving consideration to slope, drainage, vegetation, access and handling requirements and may include:
 - (i) Landfill waste;
 - (ii) Recyclable waste;
 - (iii) Materials to be re-used on-site; and / or
 - (iv) Excavation materials (refer to Annexure B1-1 for common building materials that can be re-used and recycled).
- h. Waste that can be recycled or reclaimed is to be identified in the SWRMP, as well as the intended methods for recovery and reclamation.
- i. All sandstone must be re-used on site or reclaimed through an appropriate contractor.
- j. Asbestos and other hazardous material is to be managed under the Protection of the Environment Operations Act 1997, in accordance with the provisions of Safe Work NSW, and Council's Asbestos Policy.
- k. Materials that cannot be reused or recycled must be:
 - l. Disposed of at a State Government approved facility and specified in the SWRMP; and
 - m. Disposed of via a contractor that operates in accordance with the Proximity Principle outlined in State Government Legislation.
- n. Records are to be retained on-site demonstrating lawful disposal of waste.
- o. Easy vehicular access to waste and recycling material storage areas must be provided and detailed in the SWRMP.

- p. Construction materials are to be stored away from waste and recycling materials to enable easy access for waste collectors. Skip bins are to be utilised and located in accordance with Council's building waste and hoardings policy.
- q. All materials are to be stored in way that:
 - (i) Prevents damage from the elements, and reduces odour, health risks and windborne litter; and
 - (ii) Prevents impacts to the environment under State Government Legislation (including stormwater pollution and runoff).

18. NOISE - ACOUSTIC REPORT

An acoustic investigation of the proposed mechanical plant, equipment, refrigeration motors and associated units shall be undertaken by a suitably qualified acoustic consultant describing and assessing the impact of noise emissions to nearby sensitive receivers is to be submitted with the Construction Certificate. The investigation shall include, but not be limited to:

- (a) The identification of sensitive noise receivers potentially impacted by the proposal;
- (b) The quantification of the existing acoustic environment at the receiver locations (measurement techniques and assessment period should be fully justified and in accordance with relevant Australian Standards and the NSW Environment Protection Authority (EPA) requirements);
- (c) The formation of a suitable assessment criteria having regard to the guidelines contained in the NSW EPA Industrial Noise Policy;
- (d) The identification of operational noise producing facets of the development and the subsequent predictions of resultant noise at the identified sensitive receiver locations from the operation of the use. Where appropriate the predication procedures must be justified and include an evaluation of prevailing atmospheric conditions that may promote noise propagation;
- (a) A statement indicating that the mechanical plant and equipment will comply with the relevant criteria together with details of acoustic control measures that will be incorporated into the development/use, will not create adverse noise impacts to surrounding development.

19. ACOUSTIC CERTIFICATION

- (a) Prior to the issue of a Construction Certificate, an acoustic report prepared by a suitably qualified acoustic consultant is to be submitted to the Principal Certifying Authority and the Council, certifying that the construction documentation incorporates all required measures required to satisfy the noise conditions set out in this consent.
- (b) Any management measures recommended in the acoustic report shall be incorporated into a Plan of Management, which shall be submitted to Council for approval.

20. HOARDING

To ensure the site is contained during construction, a hoarding may be required for the approved works. If required, the hoarding shall 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.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

21. 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.

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. OBSTRUCTION TO PUBLIC AREAS

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

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

24. TOILET FACILITIES

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

25. COMPLIANCE WITH SAFE WORK NSW

All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.

26. 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.

27. DEMOLITION & SITE PREPARATION

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

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

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:

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

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

29. BUILDING CODE OF AUSTRALIA

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

30. BUILDING LEGISLATION AMENDMENT (QUALITY OF CONSTRUCTION ACT) - INSPECTIONS (COMMERCIAL CLASS 5, 6, 7, 8 AND 9)

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

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

The specified **MANDATORY** inspections are:

In the case of a Class 5, 6, 7, 8 or 9 building:

- (a) at the commencement of the building work;
- (b) prior to covering any stormwater drainage connections; and
- (c) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

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

- (a) sediment control measures prior to the commencement of building work;

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

31. 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.

32. FIRE SAFETY

A building in respect of which there is a change of building use must comply with the Category 1 Fire Safety Provisions applicable to the proposed new use.

33. CONSTRUCTION AND FITOUT OF FOOD PREMISES

- (a) The floor of the food premises must be finished in an approved non-absorbent material, evenly laid, or graded and drained to a trapped floor waste.
- (b) The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other rigid, smooth-faced impervious material.
- (c) Ceilings within the food preparation and storage areas must be free of gaps and open joints and must be finished with an impervious sealed material. Drop in panels are not permitted in food preparation areas, food storage areas or areas where open food is displayed or served.
- (d) Hand wash basin/s, with hot and cold running water mixed through a common spout, hand wash soap and hand drying facilities must be provided in all food preparation/bar areas.

- (e) A double bowl sink or two compartment tub (the capacity of which must be capable of fitting all food contact equipment) must be provided in the food preparation area, in addition to the hand basin,

OR

A single bowl sink and a dishwasher must be provided in the food preparation or designated area, (where all the food contact equipment will fit in the dishwasher) in addition to the hand basin.

- (f) The cooking appliances require an approved air handling system designed in accordance with AS1668.1-1998 and AS1668.2-1991 or alternative solution satisfying the performance objectives of the Building Code of Australia.

34. COOLROOM

The coolroom shall be constructed in accordance with the Building Code of Australia, Section G1.2 Refrigerated Chambers, strong rooms and vaults.

35. 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.

36. 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.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

37. 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.

38. FOOD PREMISES

The following requirements apply to premises that commercially provide food:

- (a) The premises must comply with the Food Act, 2003 and the Food Standards Code there under;
- (b) The applicant must arrange for an inspection by Council's Environmental Health Officer Surveyor prior to Occupation;
- (c) Notification of the businesses Food Safety Supervisor must be provided prior to operation.
- (d) The premises are to be registered with Council prior to the issue of the Occupation Certificate;
- (e) The premises must be constructed in accordance with the requirements of Council's "Policy for fit-out and construction of food premises". Copies of the policy can be purchased at Council's Customer Service Centre; and
- (f) The proprietor must pay any fees incurred by the carrying out of food safety inspections as determined by Council's Pricing Policy, Fees and Charges.

39. GENERAL REGULATORY PREMISES

The proprietor of the food business shall:

- (a) Arrange for an inspection by Council's Environmental Health Officer prior to occupation.
- (b) Be registered with Council prior to occupation.
- (c) Pay any fees incurred by the carrying out of health regulation inspections as determined by Council's Pricing Policy, Fees and Charges.

40. ACOUSTIC REPORT RECOMMENDATIONS

The "recommendations" as outlined in the acoustic report prepared by Acoustic Logic Consultancy PTY LTD [Reference No.20190173.1/0503A/R1/JL] dated 5 March 2019 shall be implemented.

A Certificate of Compliance prepared by a suitably qualified acoustic consultant is to be submitted to Council certifying that the recommendations made in the above report have been satisfied and Council's noise criteria has been met prior to the issue of an Occupation Certificate.

41. ACOUSTIC CERTIFICATION - PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

- (a) Prior to the issue of any Occupation Certificate, an acoustic report prepared by a suitably qualified acoustic consultant is to be submitted to the Principal Certifying Authority, certifying that all acoustic recommendations have been incorporated into the development.
- (b) The report is to include the Noise Compliance Verification Report as specified in condition titled 'Sound amplification equipment – noise compliance verification report'.

42. ACOUSTIC CERTIFICATION - POST-OCCUPATION CERTIFICATE

Within the first 60 days of use of the premise commencing, attended acoustic monitoring must be undertaken in accordance with the following:

- (a) The compliance testing is to be carried out at the operator's expense and is to be undertaken by a suitably qualified acoustic or consulting engineer (approved by Council acting reasonably) who is independent of any acoustic engineers or firms involved in the development application or supervision of the construction or fitout at the subject premises.
- (b) The Council or its consultant may attend and monitor the acoustic compliance testing. The operator's consultant may attend the monitoring provided that it is a term of engagement that such consultant does not advise the operator as to when the testing is to be undertaken.
- (c) The acoustic consultant must:
 - i. Notify the Council when the measurements will take place;
 - ii. measure and verify that the noise emanating from the premises complies with these conditions;
 - iii. if necessary, make recommendations to ensure that the noise emanating from the premises complies with these conditions; and,
 - iv. submit a report including recommendations to Council within 21 days of completing the measurements.
- (d) The noise measurement must:
 - i. be undertaken on a date notified to and agreed by the Council;
 - ii. be undertaken without the knowledge of the applicant, manager/management or operator of the premises;
 - iii. be taken on a night when the premises is operating at or near maximum patron capacity and an allowance made in the noise readings to account for maximum patron capacity;
 - iv. include all sensitive noise receivers and elevated receptor locations;
 - v. have a duration of 15 minutes for any individual measurement sample; and,
 - vi. include the time period from 9pm to 30 minutes after closing time.
- (e) The locations of noise compliance testing shall include as a minimum the most affected habitable room of each of the following apartments of the subject building:
 - i. Serviced Apartments SA101 to SA110 on level 1 (three 15min samples 11.00pm-midnight and one sample midnight-1am);
 - ii. Apartments U101 to U103 on level 1 (three 15min samples 11.00pm-midnight and two samples midnight-1am);
 - iii. Apartments U202 to U205 on level 2 (three 15min samples 11.00pm-midnight and two samples midnight-1am); and
 - iv. The above apartments that have windows of a habitable room facing Oxford Street or Denison Street (three 15min samples between 9.00pm-10pm with all the windows facing the street fully open).

- (f) In addition, Council may specify other locations for noise compliance testing.
- (g) The compliance report shall provide details of when the testing was undertaken and by whom and details of the number of patrons within the various areas of the premises at the time the testing was undertaken and details of what mechanical plant was in operation. The report must specify whether there is compliance or non compliance and any recommendations to be implemented to achieve compliance.
- (h) If there are any matters of non-compliance with the conditions of consent, the premises is required to implement any recommendations of the compliance report within 30 days of receipt of that report. A further compliance test shall be undertaken (in accordance with (a)-(g) above) to assess the effectiveness of the additional noise control measures and that report is to be provided to Council within 10 days of the further test.
- (i) If there is non-compliance with conditions of consent prior to midnight then the use of the premises must cease at 10.00pm until such time as the consultant who prepared the compliance report certifies that the recommendations in the compliance report have been implemented.
- (j) If there is non-compliance with conditions of consent after midnight then the use of the premises shall cease at midnight until such time as the consultant who prepared the compliance report certifies that the recommendations in the compliance report have been implemented.
- (k) Conditions (h), (i) and (j) continue to apply until such time as the acoustic compliance testing and the resulting compliance report certify that there is no non-compliance with conditions of consent.
- (l) In the event that a non-compliance can only be remedied by a restriction on the number of patrons in any space, then the Plan of Management shall be modified so as to give effect to this restriction and the operator shall implement that restriction.

E. OPERATIONAL CONDITIONS DURING OCCUPATION

43. HOURS OF OPERATION

(a) Hours of Operation

Internal Area: The hours of operation for the indoor area of the premises is restricted to:

**Monday to Saturday: 7.00am to 11.00pm; and
Sunday: 10.00am to 10.00pm.**

- (b)** Irrespective of sub clause (a), the set-up and clean-up for the premises may occur for one hour before and one hour after the approved hours of operation. During this time, the premises shall not trade nor be open to the public.

44. REVIEWABLE CONDITION PERMITTING EXTENDED TRADING HOURS

Notwithstanding condition 43 ('Hours of Operation') of this consent and subject to condition 45 ('Review condition permitting review of extended trading hours') of this consent, the premises may trade as follows ("**the extended trading hours**"):

Monday to Saturday: 11.00pm – 12.00am

45. REVIEWABLE CONDITION PERMITTING REVIEW OF THE EXTENDED TRADING HOURS

- (a) Condition 43 ('Hours of Operation') of this consent is subject to review condition 45 ('Review condition permitting review of the extended trading hours').
- (b) The purpose of this review condition is:
- (i) To enable Council to review the environmental performance of the use and operation of the premises during the extended trading hours;
 - (ii) To enable the Council to change **the extended trading hours** in condition 44 ('Reviewable condition permitted extended trading hours') after carrying out a review.
- (c) Condition 44 will be reviewed not earlier than 1 (one) year from the date of this determination. The Council may change condition 44 on review.
- (d) The operator of the premises will be given not less than 14 days written notice that a review of condition 46 is to be carried out under this condition. The Council may notify such other persons as it thinks fit of the review. The Council must take into account any submissions made by a person (including the operator) that are received within 14 days after notice is given to the person of that review.
- (e) Consideration of the review will include, but not be limited to:
- (i) compliance of the premises in terms of security and its general management;
 - (ii) number and nature of substantiated complaints regarding the operation of the premises received by Council or the NSW Police Force;
 - (iii) compliance with conditions of consent and the Plan of Management;
 - (iv) any comments received from the NSW Police Force; and
 - (v) any other matters considered relevant to the environmental evaluation of the premises.
- (f) Conditions 43, 44 and 45 apply during the period that sections 80A (10B)-(10E) of the *Environmental Planning and Assessment Act 1979* remains in force. In the event Section 80A (10B)-

(10E) of the *Environmental Planning and Assessment Act 1979* is repealed or amended in such a way so as to prevent a review of the extended trading hours, the extended trading hours will cease to apply on the one year anniversary of this determination.

- (g) If the Council makes a decision to change reviewable condition 44 and:
 - (i) An appeal against that decision is lodged within 7 days of service of the determination in respect of the decision; and
 - (ii) The appeal is prosecuted by the appellant with diligencethen the operator may continue to trade during the extended hours until the Land and Environment Court has finally determined the appeal.

46. MAXIMUM PATRON CAPACITY

- (a) The approved patron capacity for the premises is limited to:

***Total of 270 persons
(inclusive of 250 patrons and 20 persons that are staff, security and/or entertainers)***

- (b) Management are responsible for ensuring the number of patrons in the premises does not exceed the approved capacity specified in sub clause (a).
- (c) If more than 20 staff, security and entertainers is required (combined total), then a reduction in patron numbers shall occur accordingly (that is, there shall be a maximum of 270 persons on the premises at any one time).

47. SIGNAGE TO BE DISPLAYED

- (a) Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near each entry to the premises. The signage shall state:

*Approved hours of operation – Internal area
Monday to Saturday: 7.00am to 12.00am
Sunday: 10.00am to 10.00pm*

*Approved patron capacity:
Total of 270 persons
(comprising a maximum of 250 patrons and 20 staff)*

Upon leaving please respect local residents by minimising noise

- (b) Signage specified above is to be erected prior to the commencement of operations.
- (c) Any amendments to trading hours shall be reflected in the signage required in subclause (a) above.

48. OPERATION IN ACCORDANCE WITH PLAN OF MANAGEMENT (POM)

- (a) The operation and management of the premises shall be in accordance with a POM approved by Council.
- (b) The approved POM shall be filed with Council and the Licensing Police of the Local Police Command prior to the commencement of operations

- (c) If, in circumstances where better management or improved amenity outcomes can be achieved by amendments to this POM, any such amendments shall be made in consultation with the Local Police Command. The updated POM is to be provided to Council and the Police.
- (d) An independent review of the Plan of Management may be undertaken by the Council or the Licensing Police of the Local Police Command upon providing the applicant with written notice.

49. SECURITY MANAGEMENT PLAN

Security is to be undertaken in accordance with the approved Security Management Plan within the approved Plan of Management. Any modifications to security procedures is to be updated in the plan of management and a copy provided to Council and Licensing Police for their records.

50. LIQUOR SALE / SUPPLY / CONSUMPTION (HOTELIER'S LICENCE)

- (a) No liquor may be sold, supplied or consumed on the premises except with the approval and authorisation from the relevant Liquor Authority.
- (b) The sale and/or supply of liquor must cease 15 minutes prior to the cessation of the respective hours of operation for the specified indoor and outdoor seating areas.
- (c) No patron shall be permitted to take glasses or open containers of liquor off the premises.

51. LIQUOR LICENSING ACCORD

The Licensee is encouraged to join and adopt the principles and terms of the local Liquor Licensing Accord (For information visit the Eastern Suburbs Liquor Accord website: www.esla.net.au/).

52. NEIGHBOURHOOD AMENITY

The management of the premises:

- (a) Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
- (b) Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by Council, the Management is to employ private security staff to ensure that this condition is complied with.
- (c) Shall record in a Register kept at the premises full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.
- (d) Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in the Register.

53. COPIES OF CONSENTS AND MANAGEMENT PLANS

A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Managements must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or OLGR Authorised Officers.

54. COMMUNITY LIASON COMMITTEE

The licensee or senior management nominee of the premises is to attend a Precinct meeting when invited by the convenor of the relevant committee. Notice of any meeting shall be provided to the Hotel no later than 7 days prior to the committee meeting.

The Hotel representative should make themselves known at the committee meeting and their attendance should be recorded in the minutes of the meeting.

The Plan of Management is to be amended to reflect this condition.

55. DELIVERY OF GOODS

Loading and unloading of vehicles and delivery of goods to the land shall at all times be carried out within the site. For all goods, deliveries shall occur via the loading dock, accessed from Denison Street.

The area set aside for car parking as shown on the approved plans shall be used for the parking of vehicles and for no other purpose, with the exception of loading bays.

Keg delivery shall at all times occur in the loading bay only within the basement carpark. Delivery vehicles shall be limited to those vehicles capable of being accommodated within the basement carpark/loading bay. A register of deliveries shall be kept on site that includes time and date of loading/unloading to the loading bay.

56. ENTERTAINMENT NOISE

Musical instruments, drums and percussion or amplified sound in the form of DJs, live bands and performers are not permitted on the premises without the written approval of Council, which may be granted subject to conditions.

57. SOUND AMPLIFICATION EQUIPMENT - NOISE COMPLIANCE VERIFICATION REPORT

- (a) All speakers shall be installed with vibration isolation mounting.
- (b) All sound amplification equipment used on the premises must be controlled by a Root Mean Square (RMS) noise limiter (compression ratio greater than or equal to 20:1) (Limiter). The Limiter settings shall be adjusted by a suitably qualified acoustic consultant to ensure that the Noise Use (Licensed Premises) condition specified here-in is complied with.
- (c) The Limiter must be connected directly to the power amplifiers without intervening electronics and housed in a tamper-proof cabinet which shall be kept locked at all times. Keys shall be held in safe-keeping by the licensee only.
- (d) Prior to commencement of use of any sound amplification equipment, the acoustic consultant must submit a Noise Compliance Verification Report to Council which must include:

- i. A schematic of the sound amplification system, including all source inputs, processors, amplifiers and speakers.
 - ii. Make and model of all sound amplification equipment installed.
 - iii. The final settings of the Limiter and amplifiers.
 - iv. The basis for selection and details of a reference music track to be used for setting the Limiter (Reference Music Track). The music type used must be typical of the loudest music used at the premises. The Reference Music Track shall be held in safe keeping by the licensee in a locked cabinet.
 - v. The LA10 (1/1 octave bands 31.5Hz to 8kHz) sound level shall be measured at the Reference Position when the Reference Music Track is played at a level at which the Limiters are operating at maximum compression and maximum output (Reference Sound Level).
 - vi. The basis for selection of the Reference Position (in the centre of the dance floor area or centre of the venue space or at a specific distance from the main loudspeakers) shall be provided.
 - vii. Verification that the Reference Sound Level is not exceeded irrespective of any volume or other adjustment settings on the mixing desk or ancillary electronic equipment connected to the inputs of the Limiters.
 - viii. An assessment of compliance with the Noise Use (Licensed Premises) condition specified here-in at the most affected residence locations when the sound amplification system is producing the Reference Sound Level.
 - ix. If alternative Limiter settings are required to satisfy the Noise Use (Licensed Premises) condition at other times of the day or night, then a description and assessment of those alternative Limiter settings in accordance with the requirements of this clause.
 - x. Where external windows or doors of the premises are to be kept open for operational reasons, identification of the proposed methods to be adopted to ensure that noise levels emitted from the premises comply with the Noise Use (Licensed Premises) condition specified here-in. The use of automatic mechanical or electronic methods shall be utilised where feasible and reasonable rather than reliance upon intervention by personnel.
- (e) The Noise Compliance Verification Report shall be submitted to Council for approval.
- (f) No modifications to the sound amplification equipment shall be made without approval of Council. Any modifications will require submission of an updated Noise Compliance Verification Report.

58. NOISE FROM SPEAKERS

All speakers shall:

- (a) be placed on anti-vibration mountings;
- (b) be completely independent of the building structure (particularly where there is a residential portion in the building); and
- (c) be positioned so noise does not emanate in the direction of residential premises.

59. NOISE COMPLAINTS

If, during on-going use of the premises, substantiated complaints of breaches of noise emission conditions and/or the Protection of the Environment Operations Act, 1997 occur, an acoustic report assessing the impact of the operation will be required to be carried out by a suitably qualified acoustic consultant. The report is to be submitted to the satisfaction of Council. The investigation shall include, but not be limited to:

- (a) The identification of sensitive noise receivers potentially impacted by the proposal;
- (b) The quantification of the existing acoustic environment at the receiver locations (measurement techniques and assessment period should be fully justified and in accordance with relevant Australian Standards and NSW Environment Protection Authority (EPA) requirements) and the conditions of this consent;
- (c) The formation of a suitable assessment criteria having regard to the Conditions of Consent and guidelines contained in the NSW EPA Industrial Noise Policy;
- (d) The identification of operational noise producing facets of the use and the subsequent measurements of resultant noise at the identified sensitive receiver locations from the operation of the use;
- (e) A statement indicating that the operation of the premises complies with the conditions of this consent together with details of acoustic and/or management control measures that will be incorporated into the development/use, will not create adverse noise impacts to surrounding development.

60. CLOSURE OF WINDOW / DOOR OPENINGS

To minimise any transmission of noise from the premises to nearby residential buildings:

- (a) The window / door openings on all frontages shall be closed by 10.00pm each day (excluding the main principle entranceway that may be opened when being utilised for entry and exit purposes).
- (b) The doors and windows leading to and from internal areas of the premises shall be acoustically sealed.

61. MANAGEMENT OF PATRONS

- (a) The main principle doorway, situated on the splayed corner of Oxford Street and Denison Street shall be used by all persons after 10pm each day.
- (b) On peak trade days, any queueing of patrons waiting to gain access to the premises, shall queue along the Oxford Street frontage (and not along the Denison Street frontage).

62. SURVEILLANCE CAMERAS TO BE MAINTAINED ON THE PREMISES (LICENSED VENUES)

The Management must maintain a closed-circuit television (CCTV) system on the premises. The CCTV system must comply with the following requirements:

- (a) Internal cameras must record continuously from opening time until one hour after the premises are required to close (or, in the case of premises that are not required to cease trading, continuously at all times),
- (b) External cameras must operate continuously;
- (c) It must record in digital format and at a minimum of 15 frames per second,

- (d) Any recorded image must specify the time and date of the image;
- (e) The system's cameras must cover:
 - i. all entry and exit points of the premises,
 - ii. the footpath immediately adjacent to the premises,
 - iii. any rear access points to the premises, and
 - iv. all publicly accessible areas (other than toilets) on the premises.
- (f) Cameras must have the ability to record viewable footage in low light environments;
- (g) Any cameras monitoring the entry and exit points of the premises, shall provide recorded images in which the picture quality and detail is sufficient to enable the identity of person/s to be established.
- (h) CCTV recordings must be retained for at least 30 days.
- (i) Signage shall be clearly displayed adjacent to the principal entry alerting persons entering the premises that CCTV is in operation.
- (j) Ensure that at least one member of staff is on the premises at all times the premises is trading who is able to access and fully operate the system, including downloading and producing recordings of CCTV footage.
- (k) Provide any recordings made by the system to an Authorised Council or Police Officer within 24 hours of any request by an Authorised Council or Police Officer to provide such recordings.

63. AMUSEMENT MACHINES & THE LIKE

The installation of jukeboxes, pinball machines, pool tables or similar amusement machines will not be permitted without the written consent of Council. Only approved gaming devices may occur.

64. NO BARBECUE OR CHARCOAL TYPE COOKING

This approval does not permit the installation of barbecue or charcoal type cooking appliances. Comprehensive details must be submitted with a formal application to Council for approval prior to the installation of any such equipment.

65. LITTER PATROLS

Litter patrols are to be undertaken in the general vicinity of the premises. Such patrols will take place intermittently during the hours of operation with the final patrol conducted at the cessation of trade. A litter patrol Register must be maintained and kept on the premises at all times detailing date, time of patrol, staff member responsible, and manager's signature.

66. WASTE

- a. The proposal must have a storage for a minimum;
 - **Commercial:**

- 4 x 660L Mobile Garbage Bins (MGBs) for general waste collected twice daily or 2 x 1100L MGBs for general waste collected daily
 - 2 x 660L MGBs for recycling collected daily
 - Bulky storage space is allocated for kegs, milk/bread crates, cardboard and/or packaging and is clearly marked on the drawings
 - Include a monitoring program post-construction to monitor the frequency of collections to ensure minimal excess waste/litter issues and adjust frequency of collection accordingly.
- b. All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B of Waverley Council Development Control Plan 2012. All waste and recycling storage rooms must be graded and drained to the sewerage system and approved by Sydney Water.
 - c. The proposal must have a system for the convenient transportation of waste and recyclables to the communal waste and recycling storage area (i.e. service lift dedicated for the transportation of waste).
 - d. Details of ongoing waste management strategy are to be documented within the SWRMP and reviewed every 5 years to employ updated waste reduction strategies and technologies.
 - e. Waste storage space is to be designed with flexibility to accommodate a future change in use to a use with a higher waste generation rate.
 - f. Kitchens, office tea rooms, and the like are to be designed with enough space for the interim storage of recyclable, organic and regular waste in separate receptacles.
 - g. Sufficient space must be allocated within the building for the storage of reusable items such as crates, kegs, bulky cardboard and pallets that is off the public domain.
 - h. Separate space must be allocated for the storage of liquid wastes and oils etc. The liquid waste storage areas must be undercover, bunded and drained to a grease trap. The area must be underground or within the building.
 - i. Liquid waste (including waste oil) from grease traps must only be removed by licensed contractors approved by Sydney Water and NSW EPA.
 - j. The grease traps must be constructed, approved, and the trade waste management contracts finalised with Sydney Water prior to any tenant occupancy.
 - k. All new developments are to provide adequate storage for waste to accommodate future change of uses including grease traps.
 - l. All businesses at this development must have written evidence, held on-site, of a valid and current contract with a licensed collector of waste and recycling.
 - m. Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
 - n. Organic waste should be either treated in a composting or worm farming system or stored in a Council approved bin or skip (refer to Annexure B1-5).

- o. Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
- p. The storage of bins on the kerbside on public land and kerbside is not permitted at any time.
- q. All waste and recycling must be inside Council approved bins or skips, with lids closed to reduce littering, stormwater pollution, odour and vermin.
- r. Ongoing management of the property is to be in accordance with the approved SWRMP to ensure that appropriate waste and recycling services are provided.
- s. Waste generated by a development must not exceed the maximum permitted generation rates for the building use.

67. DISPLAY OF WASTE MANAGEMENT PLAN

The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan. An additional copy of the plan shall be displayed in a secure, visible and accessible position within or adjacent to the waste storage area. The approved Waste Management Plan must be complied with at all times during occupation.

68. GLASS CRUSHER

All glass bottles and other glass waste must be reduced to glass shards (by way of a glass crusher located within the premises) prior to the removal of such waste from the premises.

69. NOISE FROM GLASS REMOVAL

Glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied / transferred within the premises and removed in containers.

70. GLASS SORTING, CRUSHING OR COLLECTION

No bottle or glass sorting, recycling or collection shall take place between 8.00pm on any day and 8am Monday to Friday, 9am Saturday and 10am Sundays and Public Holidays.

This condition is imposed to protect the amenities of neighbouring residents.

71. LIGHTING

- (a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.
- (b) All external lighting fixtures should be vandal resistant.
- (c) Lighting should be carefully considered in areas covered by CCTV to allow for optimum viewing.
- (d) Lighting should be free of obstructions, such as tree branches, pipes, etc.

- (e) Transition lighting should also be used throughout the site to reduce vision impairment, i.e. impairment caused by walking from dark to light places and light to dark places.

72. ROLLER SHUTTERS

The installation of roller shutters or grilles, in front of, or in place of a standard window or shop front is prohibited. Council Policy requires the retention of a glass shop front for window display purposes.

Should increased security be desired, then consideration should be given to applying shatter-resistant film or replacing existing shop window glass with laminated glass.

73. NO SPRUIKERS

Spruikers (with or without sound amplification) shall not operate without the prior written consent of Council.

74. NO ENTERTAINMENT EXTERNAL TO THE PREMISES

No sound reproduction device nor any form of entertainment is to be operated external to the premises.

Speakers must not be installed and music must not be played to the public domain. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas / public domain.

75. LIQUOR LICENSE PREMISES - NOISE EMISSIONS

- (a) The LA10 noise level emitted from the licensed premises shall not exceed the LA90 background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 7:00am and midnight at the boundary of any affected residence.
- (b) The LA10 noise level emitted from the licensed premises shall not exceed the LA90 background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between midnight and 7:00am at the boundary of any affected residence.
- (c) The LA10 noise level emitted from the licensed premises shall not exceed the LA90 background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) at any time within any habitable room of any affected residence.
- (d) Notwithstanding compliance with the above, the noise emitted from the licensed premises shall not be audible within any habitable room of any affected residence between the hours of midnight and 7:00am.

NOTE: Where this condition is inconsistent with the requirements imposed by the governing Liquor Authority, the more stringent conditions shall prevail.

'affected residence' includes a lot in the strata scheme or any other strata scheme, premises for short-term accommodation and hospitals.

'boundary' includes any window or elevated window of an affected residence.

The 'LA10' may be taken as the average maximum A-weighted Fast Response sound level emitted from the premises.

The 'LA90' shall be measured in the absence of any noise from the premises (including mechanical plant noise).

When measuring noise levels inside a habitable room of an affected residence pursuant to sub-clause (c.) above, noise levels shall be measured with external windows and doors of the affected residence closed. Any air-conditioning or mechanical ventilation systems servicing the affected residence shall not be operating during the measurement other than that required to satisfy the ventilation provisions of the Building Code of Australia (NCC).

Terms in this clause shall have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.
(Reason: To ensure the amenity of surrounding land uses)

76. CERTIFICATION OF MECHANICAL EXHAUST

The mechanical exhaust ventilation system is to comply with the approved plans and specifications in addition to Australian Standards AS 1668 (part 1, 1998 and part 2, 2012). A Certificate of Test together with a copy of the final test figures is to be submitted by a competent person and approved by the Principle Certifying Authority prior to the issue of the Occupation Certificate.

77. MECHANICAL VENTILATION SYSTEMS

- (a) The premises are to be ventilated in accordance with the requirements of the Building Code of Australia & relevant Australia Standards.
- (b) Any proposed mechanical ventilation system shall comply with the Australian Standard AS 1668 - 1991 (Parts 1 and 2). Prior to installation, the design is to be certified by a person competent to do so. At completion of the installation of the system and prior to the issue of the Occupation Certificate, the work shall be certified by a person competent to do so. The certification shall include:
 - (i) inspection, testing and commissioning details;
 - (ii) date of inspection, testing and commissioning details;
 - (iii) the name and address of the individual who carried out the test; and
 - (iv) a statement that the service has been designed, installed and is capable of operating to the above standard.

78. NOISE - MECHANICAL PLANT

Noise associated with mechanical plant, machinery and ancillary fittings shall not give rise to any one or more of the following:

- (a) Transmission of "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.
- (b) An LAeq(15min) noise level that exceeds the LA90 background noise level by more than 5dB when measured or assessed at the boundary of any affected residence. The measured noise level must be corrected in accordance with the NSW EPA 'Industrial Noise Policy' Modifying Factors.
- (c) An LAeq(15min) noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) that exceeds the LA90 background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) within any habitable room of any affected residence.

- (d) Notwithstanding compliance with (b) and (c) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any affected residence between the hours of midnight and 7.00am.

When measuring noise levels inside a habitable room of an affected residence pursuant to sub-clause (c) above, noise levels shall be measured with external windows and doors of the affected residence closed. Any air-conditioning or mechanical ventilation systems servicing the affected residence shall not be operating during the measurement other than that required to satisfy the ventilation provisions of the Building Code of Australia (NCC).

'affected residence' includes a lot in the strata scheme or any other strata scheme, premises for short-term accommodation and hospitals.

'boundary' includes any window or elevated window of an affected residence.

Terms in this clause have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

79. REFRIGERATION UNITS & MECHANICAL PLANT

All refrigeration motors/units and other mechanical plant are to be installed within the building in an acoustically treated plant room. In this regard, adequate provision is to be made within the confines of the building for any refrigeration motors/units or other mechanical plant associated with the use of the building.

80. MECHANICAL EXHAUST MAINTENANCE

A maintenance program is to be implemented for the mechanical exhaust ventilation system that includes the cleaning of the entire system from the hood to the top of the flue at the discharge point at six (6) monthly intervals.

81. LOCATION OF GREASE TRAP

The grease trap is not to be located in areas where food, equipment or packaging materials are handled or stored in accordance with the requirements of AS 4674-2004 "Design, Construction and Fitout of food premises". The grease trap room must have a piped connection to the boundary so that it can be emptied.

Note: Sydney Water also have requirements for grease arrestors that you need to comply with.

82. INTRUDER ALARM

- (a) The premises shall be fitted with an Intruder alarm system that has been designed and installed to the Australian Standard (Domestic and Commercial Alarm Systems).
- (b) A duress facility should be incorporated into the system to enable staff to activate the system manually in the event of an emergency, such as a robbery.
- (c) Intruder alarm/s associated with the development must operate only in accordance with the requirements of Clause 53 of the *Protection of the Environment Operations (Noise Control) Regulation 2008* under the *Protection of the Environment Operations Act, 1997*.

83. NO FLASHING SIGNS

The use of flashing lights, flashing illuminated signs and the like is prohibited.

84. LOCATION OF SIGNS

No advertising signs or notices are to be affixed to the windows of the premises.

85. NO SIGNS OR GOODS ON PUBLIC AREA

Portable signs or goods for sale or display must not be placed on the footway or other public areas, without the prior approval of Council.

86. FIRE SAFETY – EXITS

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

87. FIRE SAFETY MAINTENANCE

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

NOTE:

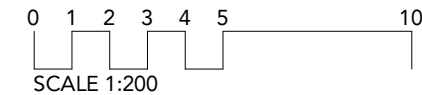
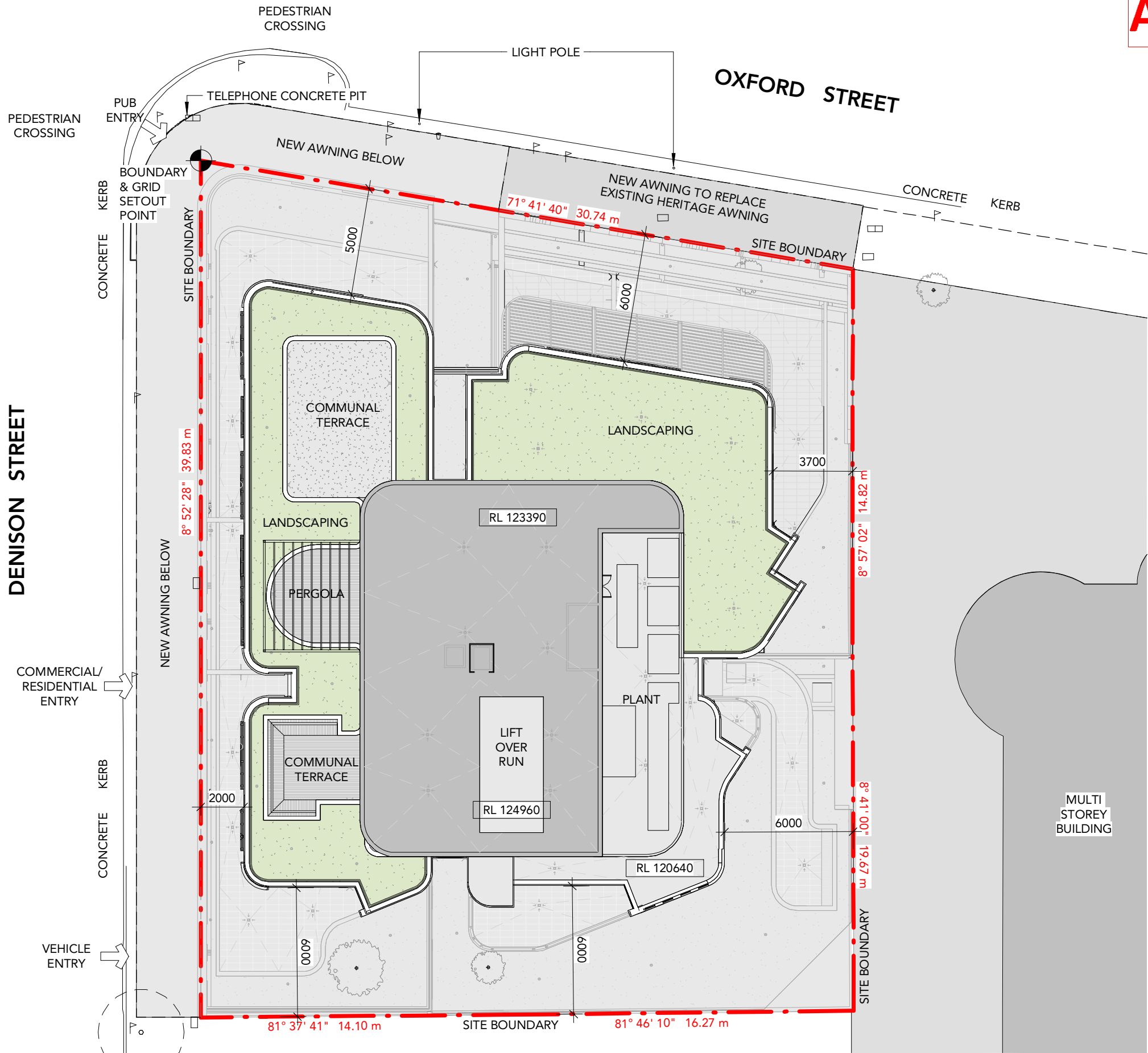
In these conditions, reference to a suitably qualified acoustic consultant means an individual who possesses the qualifications to render them eligible for membership of both the Australian Acoustics Society and Institution of Engineers Australia at the grade of member or an individual who is employed by a member firm of the Association of Australian Acoustic Consultants. (Reason: To ensure the amenity of surrounding land uses)

AMENDED

RECEIVED
Waverley Council

Application No: DA-79/2019

Date Received: 09/07/2019



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KEY TO ARCHITECTURAL DRAWINGS:

1. Architectural drawings shall be read in conjunction with other consultant drawings and specifications. Any discrepancies shall be referred to team 2 architects before proceeding with work.
2. All dimensions and levels are in millimeters unless noted otherwise. No dimension shall be obtained by scaling the drawing.
3. All dimensions to be checked on site with any discrepancies referred to team 2 architects before proceeding with work.
4. All work to be carried out in accordance with the requirements of the principal certifying authority, current ncc & australian standards.

PRELIMINARY

| REV | REVISION DESCRIPTION | DATE |
|-----|----------------------|------------|
| A | DA ISSUE | 01-03-2019 |
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| | | |
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Project:
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59-69 Oxford Street,
Bondi Junction, NSW 2022



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REG VIC: 19340

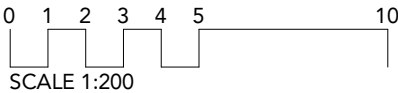
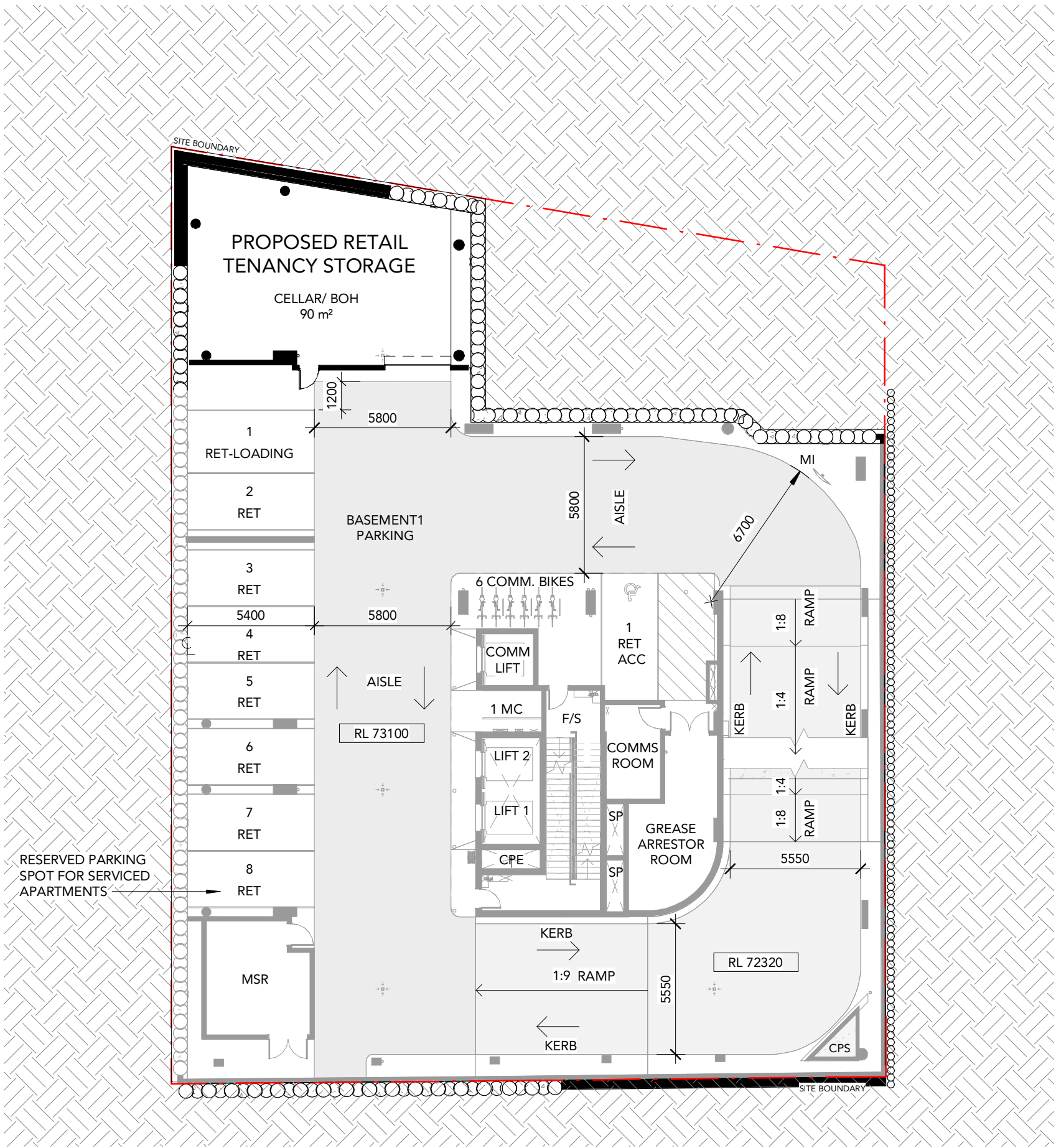
Title:
Site Plan

| | | | |
|--------------------------------|--------------------------|-------------------|-------------------|
| Project #: 746 | Scale: 1 : 200 | Drw: JL | Ckd: IN |
| Drawing No: DA-1002A | | Rev: | |

A48

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RESERVED PARKING
SPOT FOR SERVICED
APARTMENTS

MSR

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| PRELIMINARY | | |
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| REV | REVISION DESCRIPTION | DATE |
| A | UPDATED DA ISSUE | 03-07-2019 |
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Project:
New Life Bondi Junction
59-69 Oxford Street,
Bondi Junction, NSW 2022

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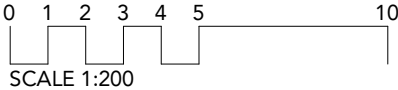
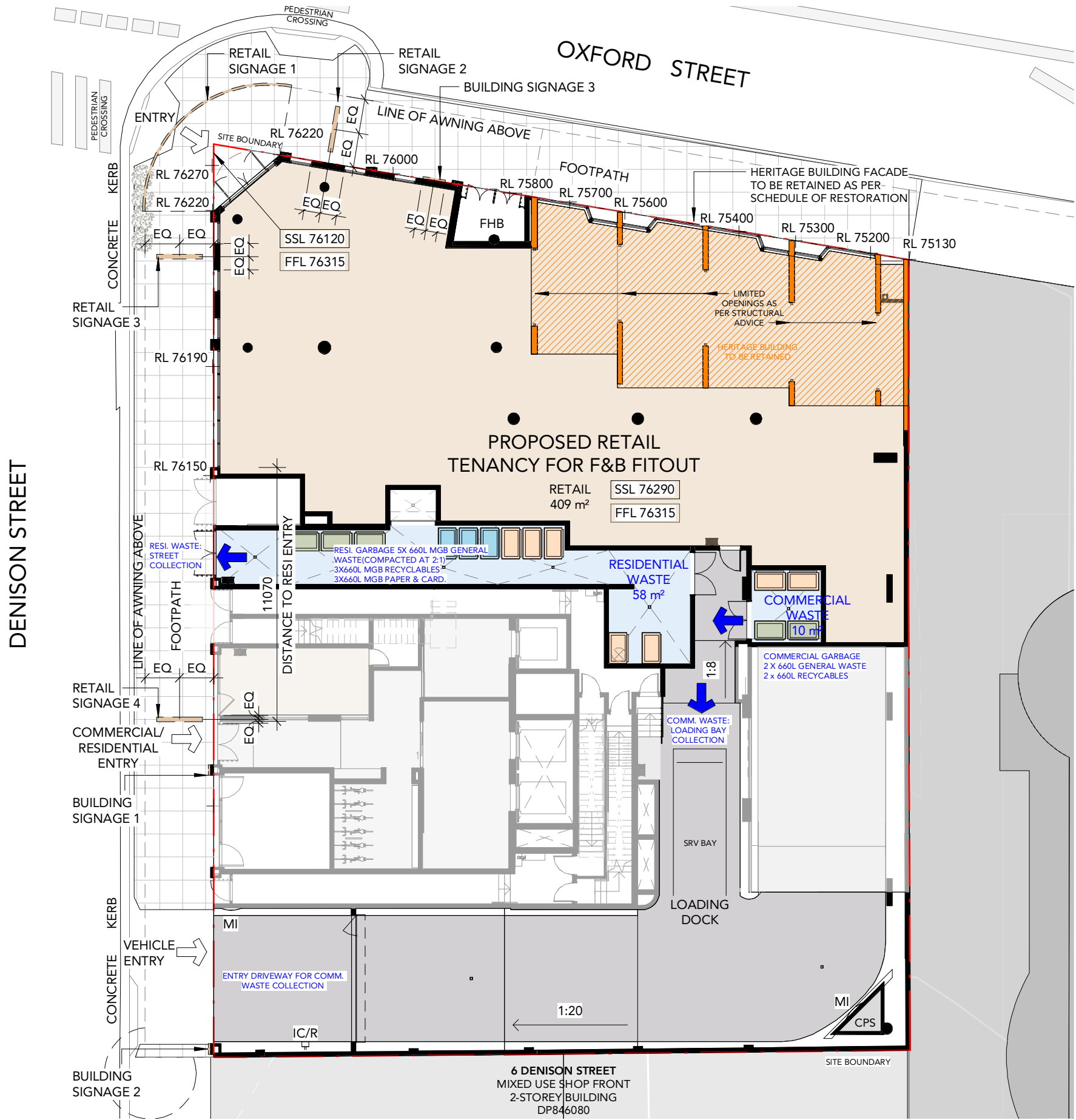
MELBOURNE
313/737 Burwood Road
Hawthorn East VIC 3123
ABN: 72 104 833 507
REG VIC: 19340

Title:
Basement 1 Floor Plan- Signage & Fitout

| | | | |
|--------------------------------|--------------------------|--------------------|-------------------|
| Project #: 746 | Scale: 1 : 200 | Drw: JL | Ckd: IN |
| Drawing No: DA-2003A | | Rev: A49 | |

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|-----|----------------------|------------|
| A | DA ISSUE | 01-03-2019 |
| B | UPDATED DA ISSUE | 03-07-2019 |

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REG VIC: 19340

Title:
Ground Floor Plan- Signage & Fitout
Project #:
746
Scale:
1 : 200
Drw:
JL
Ckd:
IN
Drawing No:
DA-2004A
Rev:

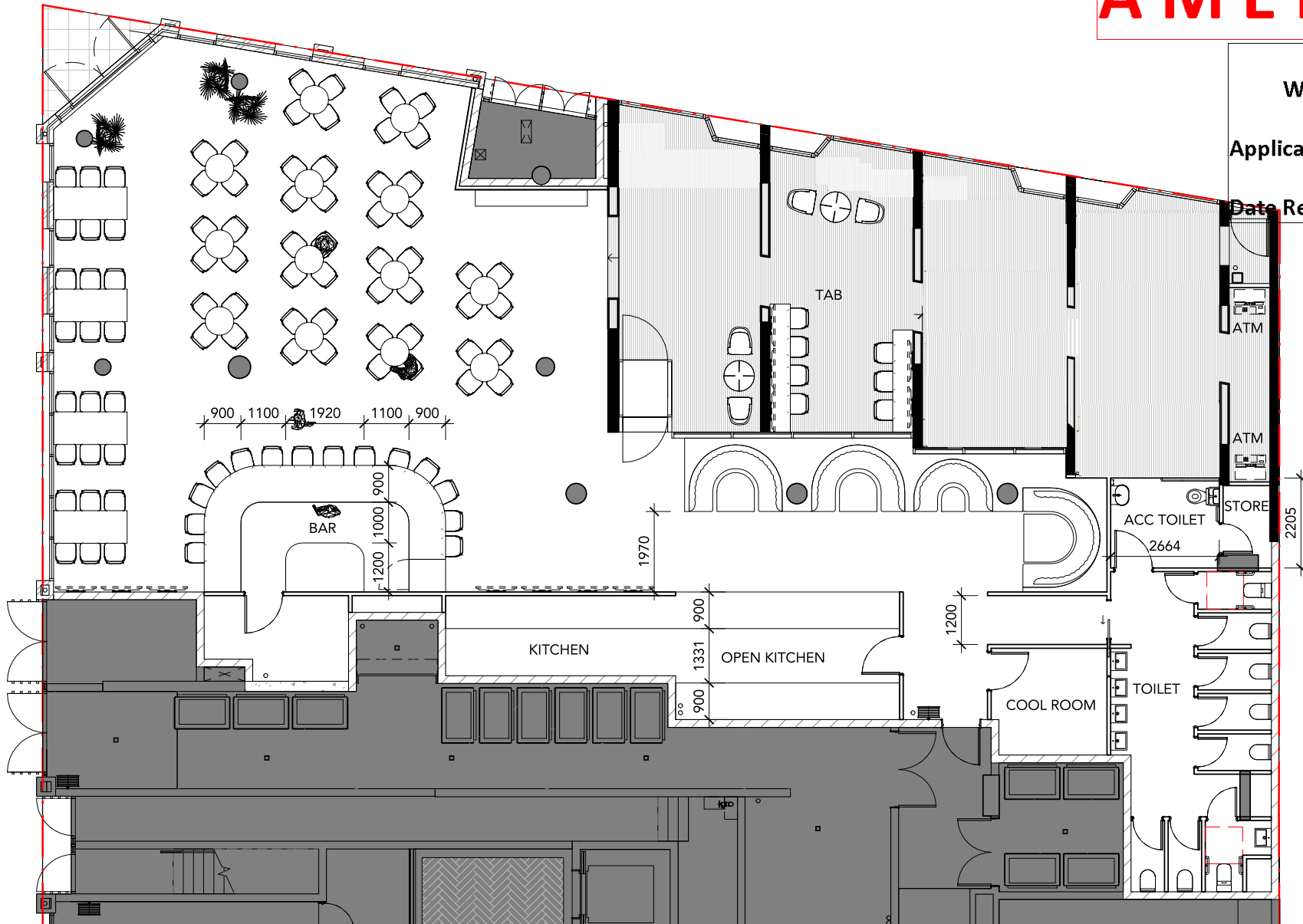
B50

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Date Received: 05/09/2019



1

Ground Floor - Option 4

Scale: 1 : 100



RESTAURANT BONDI JUNCTION

0 1 2 5m
SCALE 1:100 @A3

Concept Option 1 - Floor Plan

Project No: 861

Drawing No: SK101

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ARCHITECTS

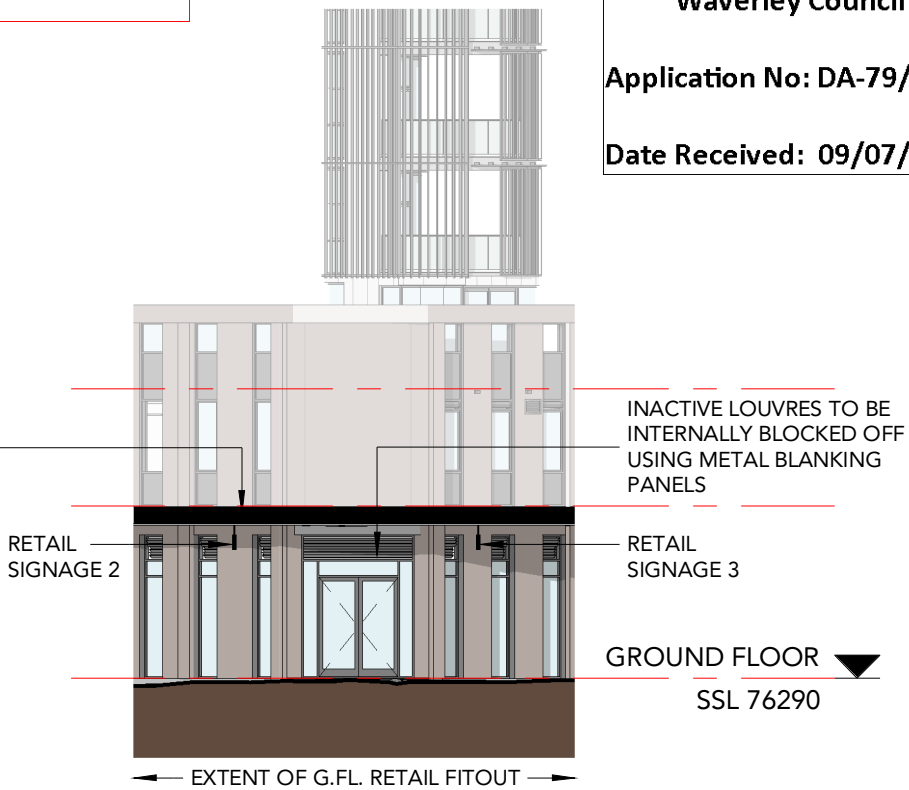
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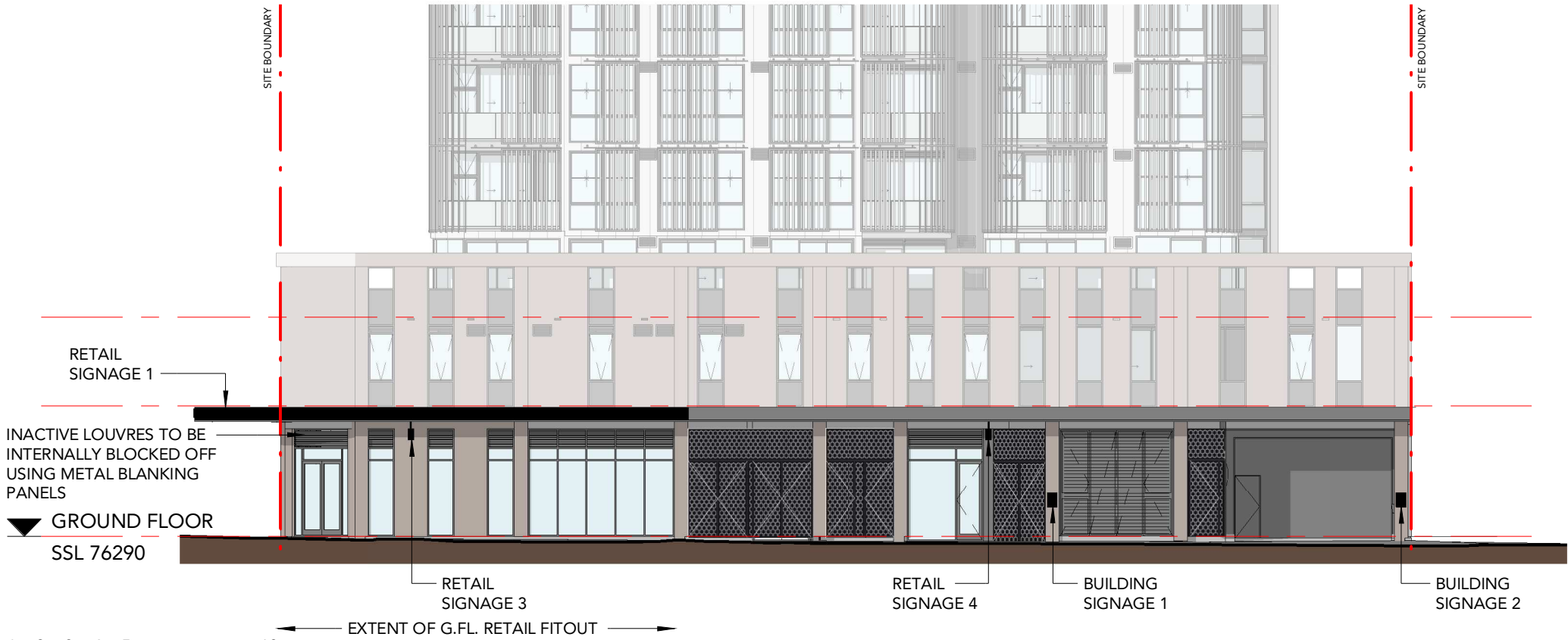
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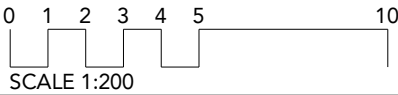
1 SIGNAGE- NORTH ELEVATION
1 : 200



2 SIGNAGE- NORTH WESTERN ELEVATION
1 : 200



3 SIGNAGE- WEST ELEVATION
1 : 200



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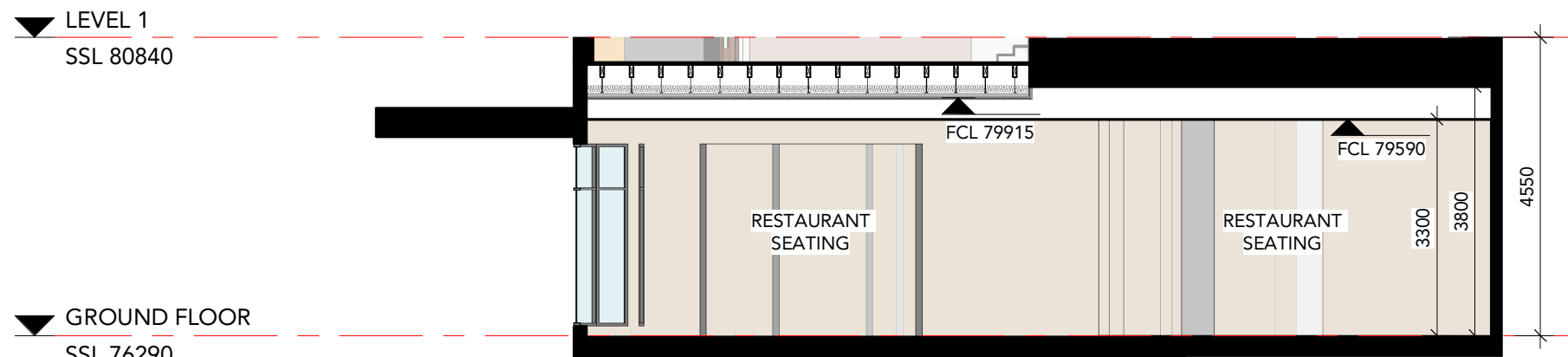
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Elevations- Signage & Fitout
Project #:
746
Scale:
1 : 200
Drawing No:
DA-2410
Drw:
JL
Ckd:
IN
Rev:

AMENDED

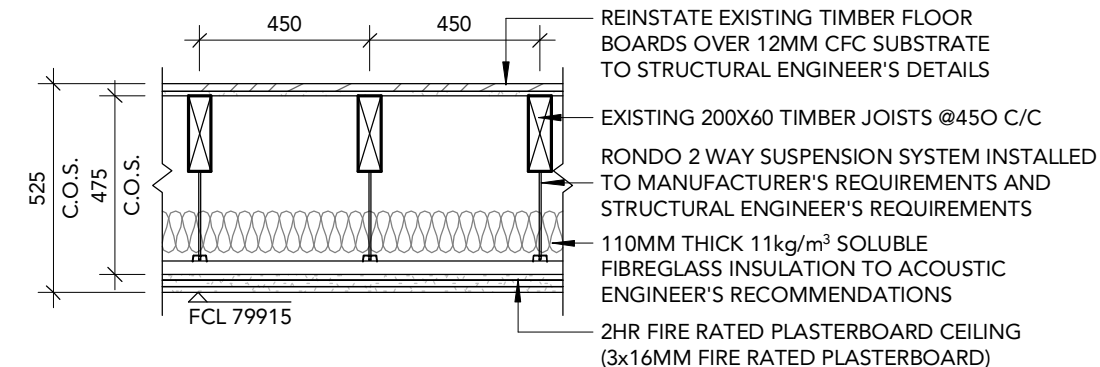
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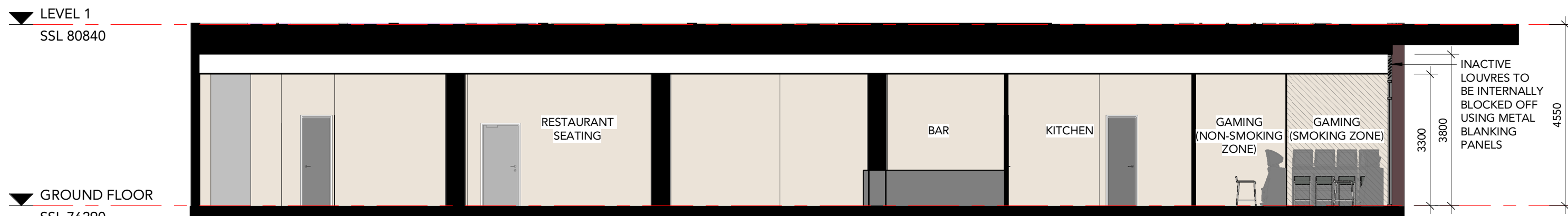
Date Received: 09/07/2019



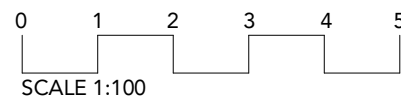
1 RETAIL FITOUT SECTION 1
1 : 100



3 LVL 1 HERITAGE FLOOR TO G.FL. CEILING DETAIL
1 : 20



2 RETAIL FITOUT SECTION 2
1 : 100



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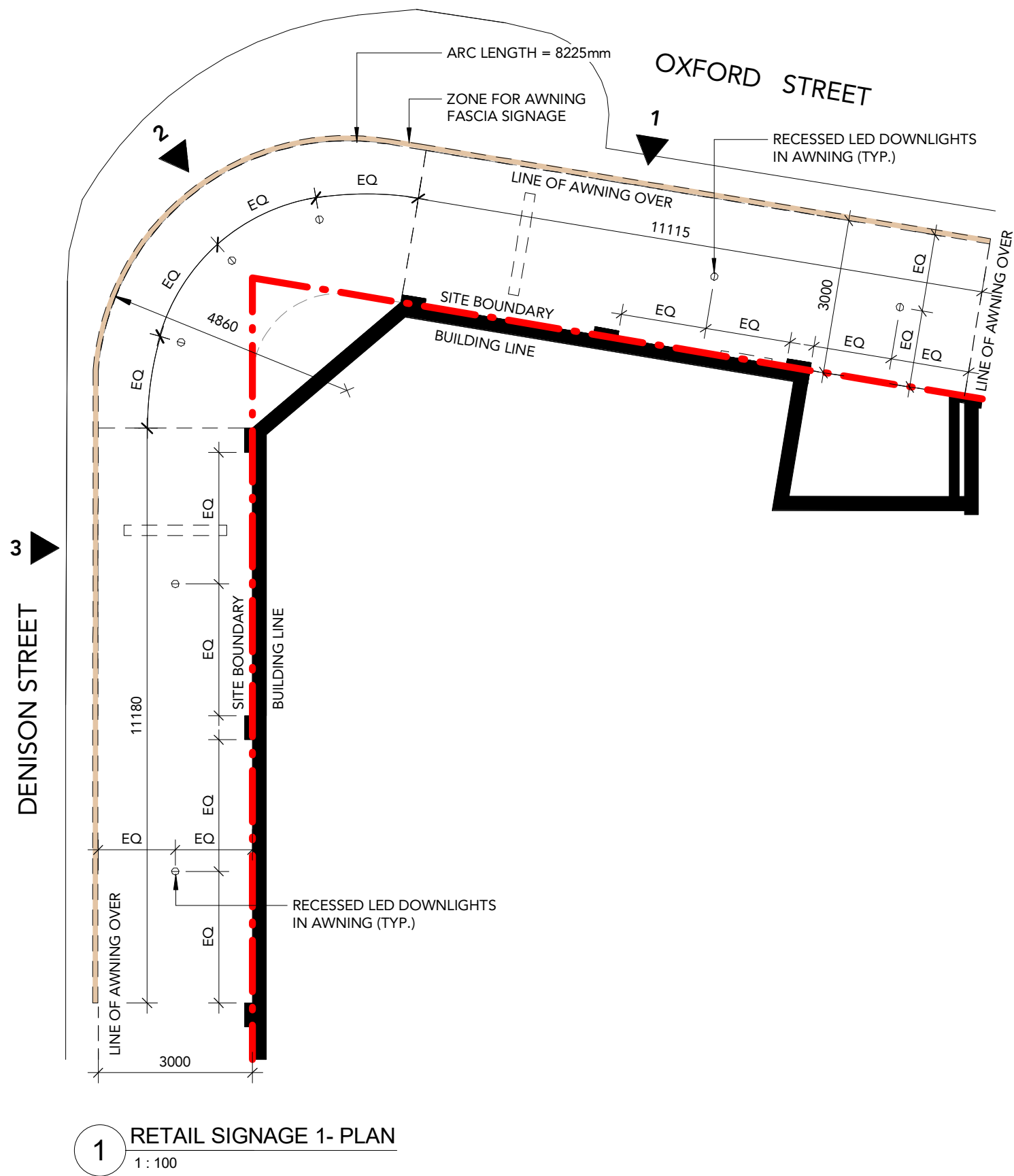
Project:
New Life Bondi Junction
59-69 Oxford Street,
Bondi Junction, NSW 2022

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ABN: 72 104 833 507
REG VIC: 19340

Title:
Retail Fitout Sections

| Project #: | Scale: | Drw: | Ckd: |
|-------------|--------------|------|------|
| 746 | As indicated | JL | IN |
| Drawing No: | Rev: | | |
| DA-2510 | | | |

B53



EXAMPLES

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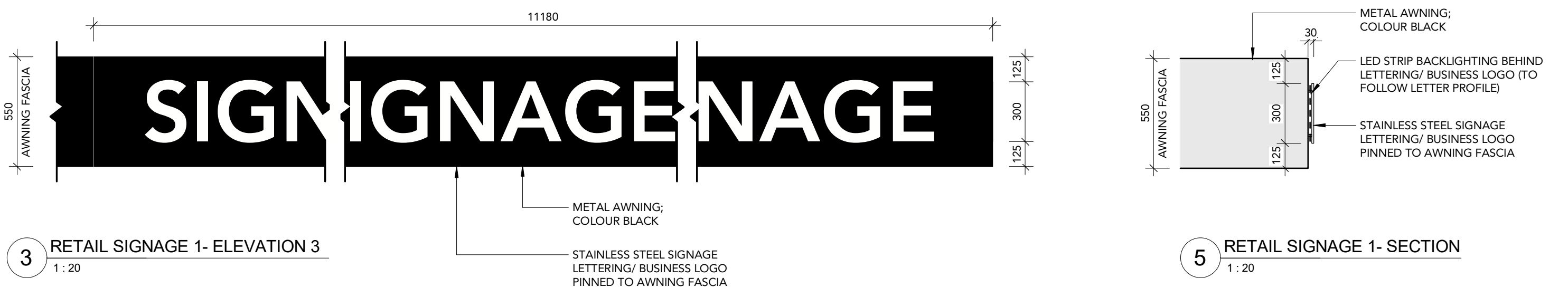
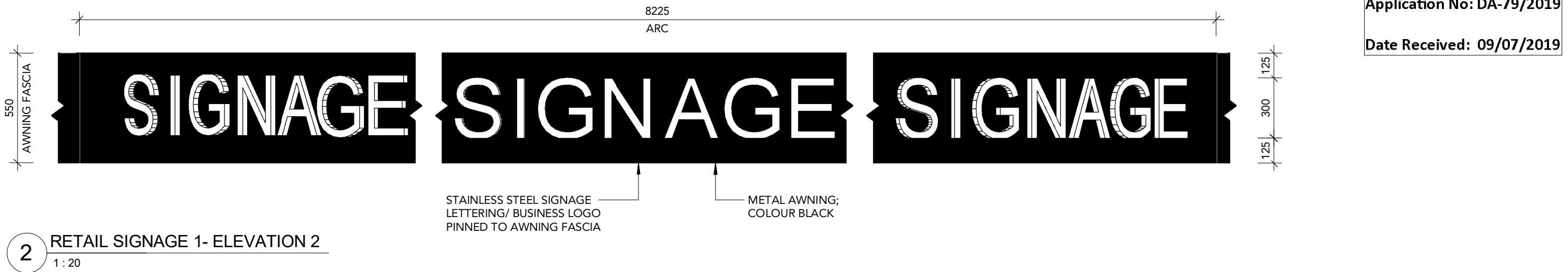
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| Project: New Life Bondi Junction 59-69 Oxford Street, Bondi Junction, NSW 2022 | |
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|-------------------------------------|-----------------------|------------|------------|
| Title: Details- Retail Signage 1 | | | |
| Project #: 746 | Scale: 1 : 100 @A3 | Drw: JL | Ckd: IN |
| Drawing No: DA-7000 | | Rev: | |



AND POSTS TO BE
D WITH DULUX
ACE 9116F ALL SIDES.

FRAME ALL
REMOVAL/
OF
LIGHTING.

Technical drawing of a metal awning. The drawing shows a side view of a rectangular metal frame with a total length of 3000 and a height of 200. The frame is composed of two main horizontal sections, each 2000 long, separated by a 500 gap. The top and bottom rails are 100 high, and the side rails are 30 high. The drawing includes dimensions for the frame, the gap, and the overall length. Annotations include 'FRAME ALL REMOVAL/ OF LIGHTING.' and 'WALL EDGE'.

WALL EDGE

EDGE OF METAL AWNING OVER

Technical drawing of a retail signage elevation. The drawing shows a side view of a sign structure. Key components and dimensions include:

- METAL AWNING:** Located at the top of the structure.
- AWNING SOFFIT LEVEL:** Indicated by a red dashed line.
- LIGHT BOX FIXED TO SOFFIT; FRAME AND POSTS POWDERCOATED WITH DULUX ELECTRO BLACK ACE 9116F.** The light box is mounted on the soffit and contains the word "Signage".
- BLACK PERSPEX BASE WITH WHITE PERSPEX LETTERING/ BUSINESS LOGOS (BACKLIT) - BOTH SIDES.** The base is located below the light box.
- Dimensions:**
 - Overall width: 2000
 - Overall height: 400
 - Light box width: 500
 - Light box height: 200
 - Light box depth: 500
 - Light box frame thickness: 50
 - Light box post diameter: 50
 - Light box post spacing: 300

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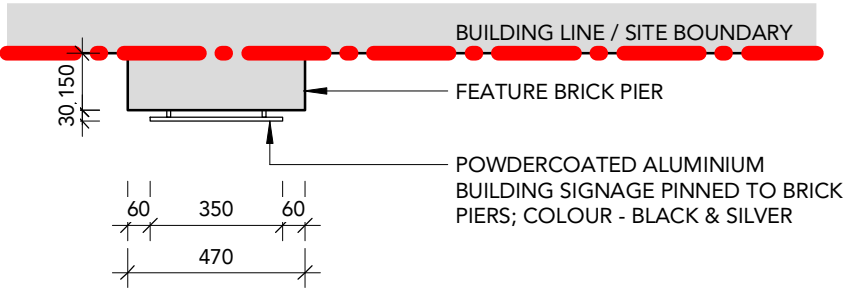
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|-------------|------------|------|------|
| Project #: | Scale: | Drw: | Ckd: |
| 746 | 1 : 20 @A3 | JL | IN |
| Drawing No: | Rev: | | |
| DA-7002 | AFC | | |

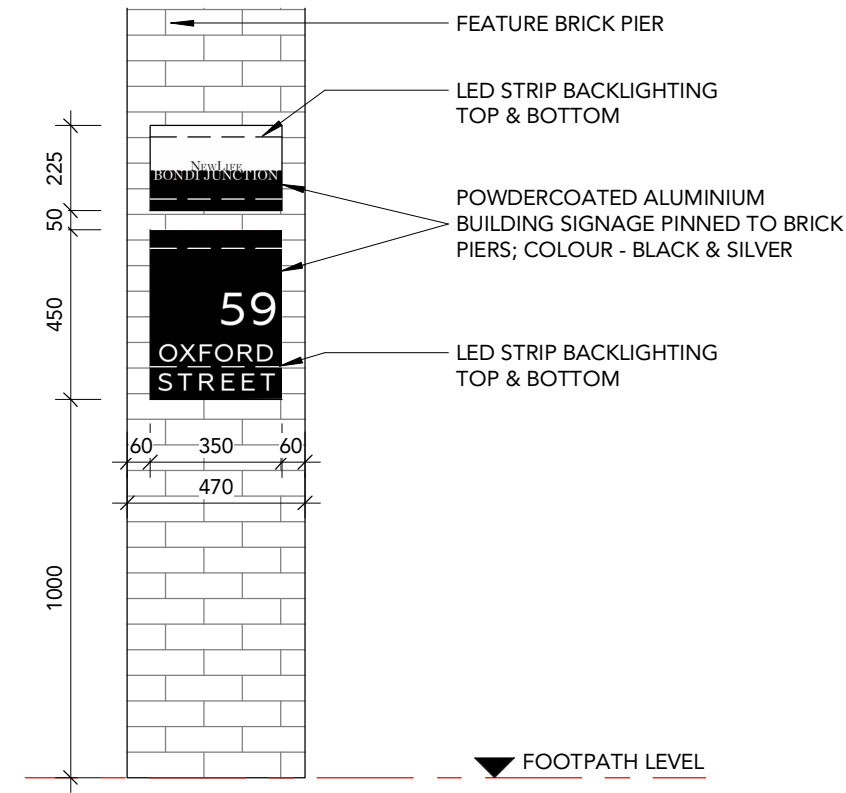
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Technical drawing of a window frame showing dimensions and levels. The drawing includes a vertical section of the frame with a height of 400 and a width of 200. The frame is divided into three vertical sections, with the outer sections having a width of 30. A horizontal dashed line indicates the 'AWNING SOFFIT LEVEL'. A vertical dashed line indicates the centerline of the frame.

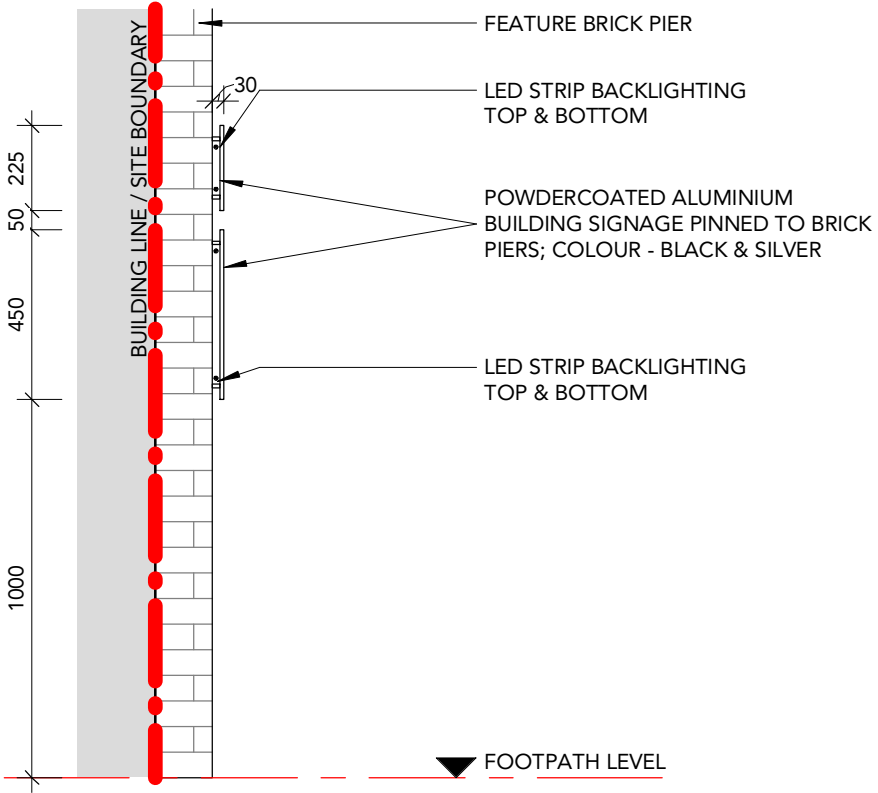
3 RETAIL SIGNAGE 2/3/4- SIDE ELEVATION
1 : 20



1 BUILDING SIGNAGE 1/2- PLAN
1 : 20



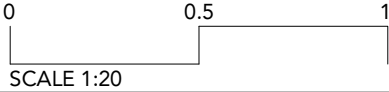
2 BUILDING SIGNAGE 1/2- ELEVATION
1 : 20



3 BUILDING SIGNAGE 1/2- SECTION
1 : 20



EXAMPLES



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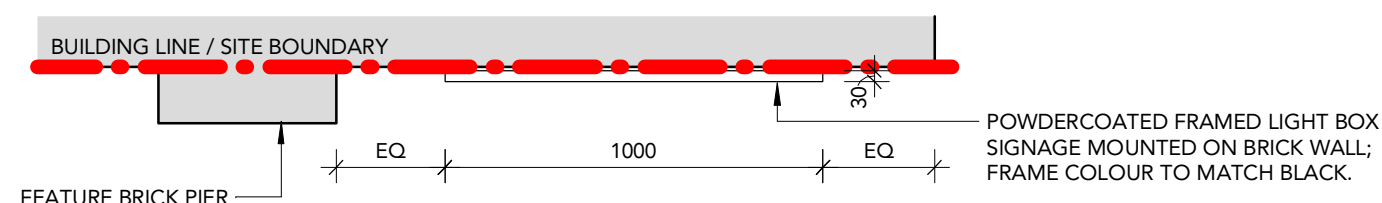
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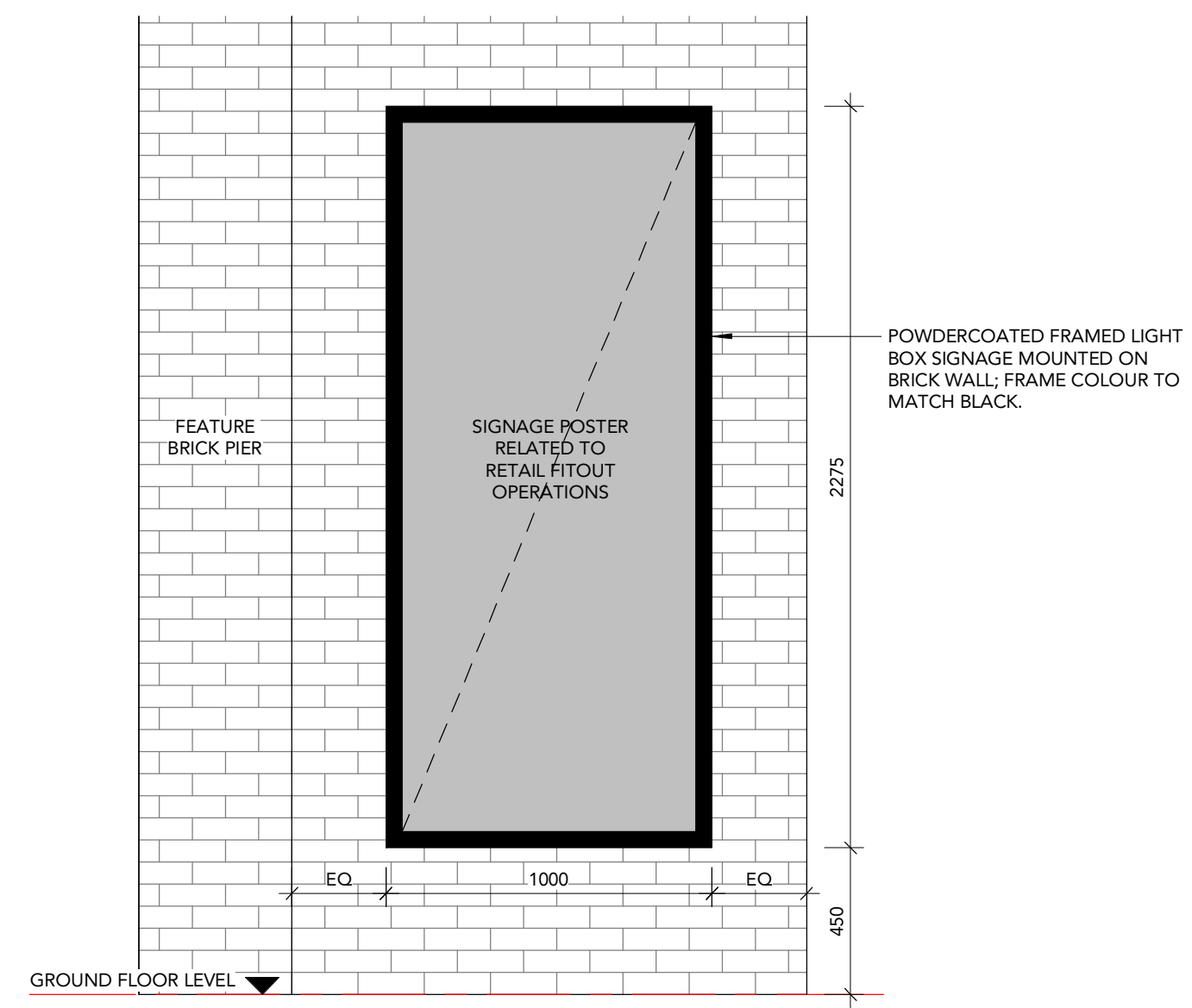
Title:
Details- Building Signage 1 & 2

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| Drawing No: DA-7003 | | Rev: | |

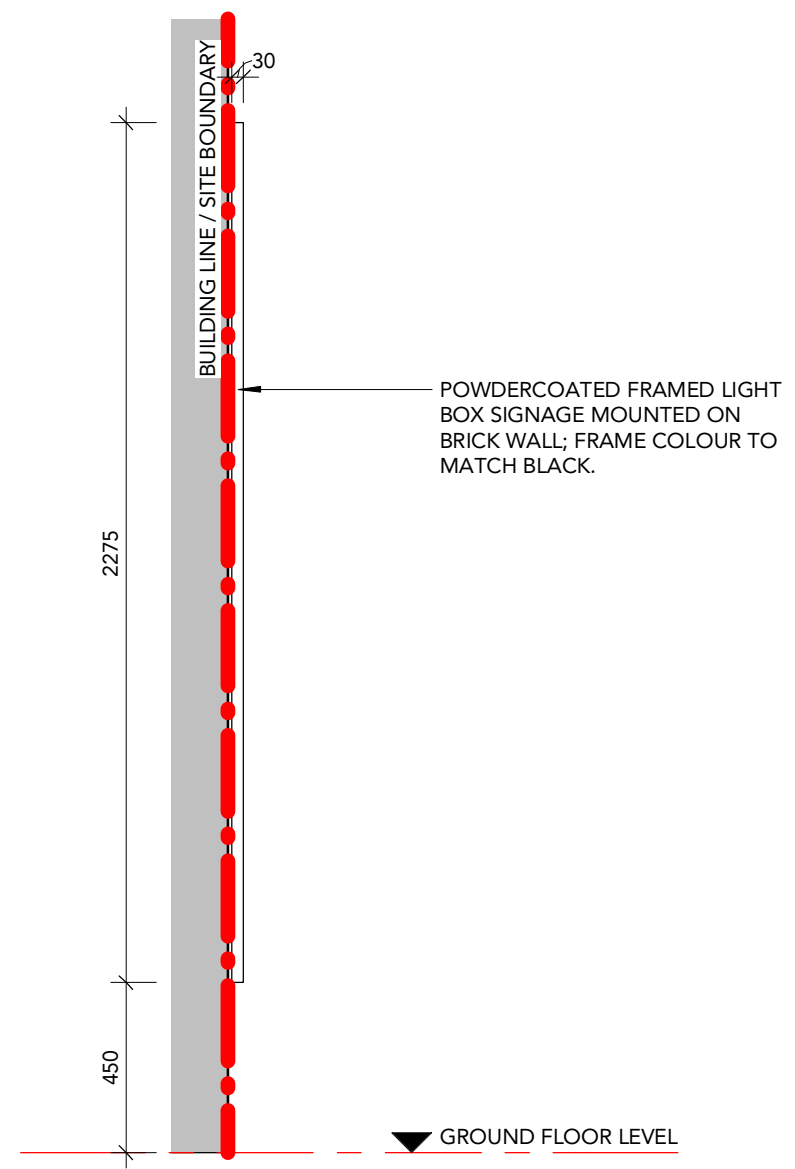
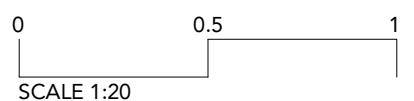
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1 BUILDING SIGNAGE 3- PLAN
1 : 20



2 BUILDING SIGNAGE 3- ELEVATION
1 : 20



3 BUILDING SIGNAGE 3- SECTION
1 : 20



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Project:
New Life Bondi Junction
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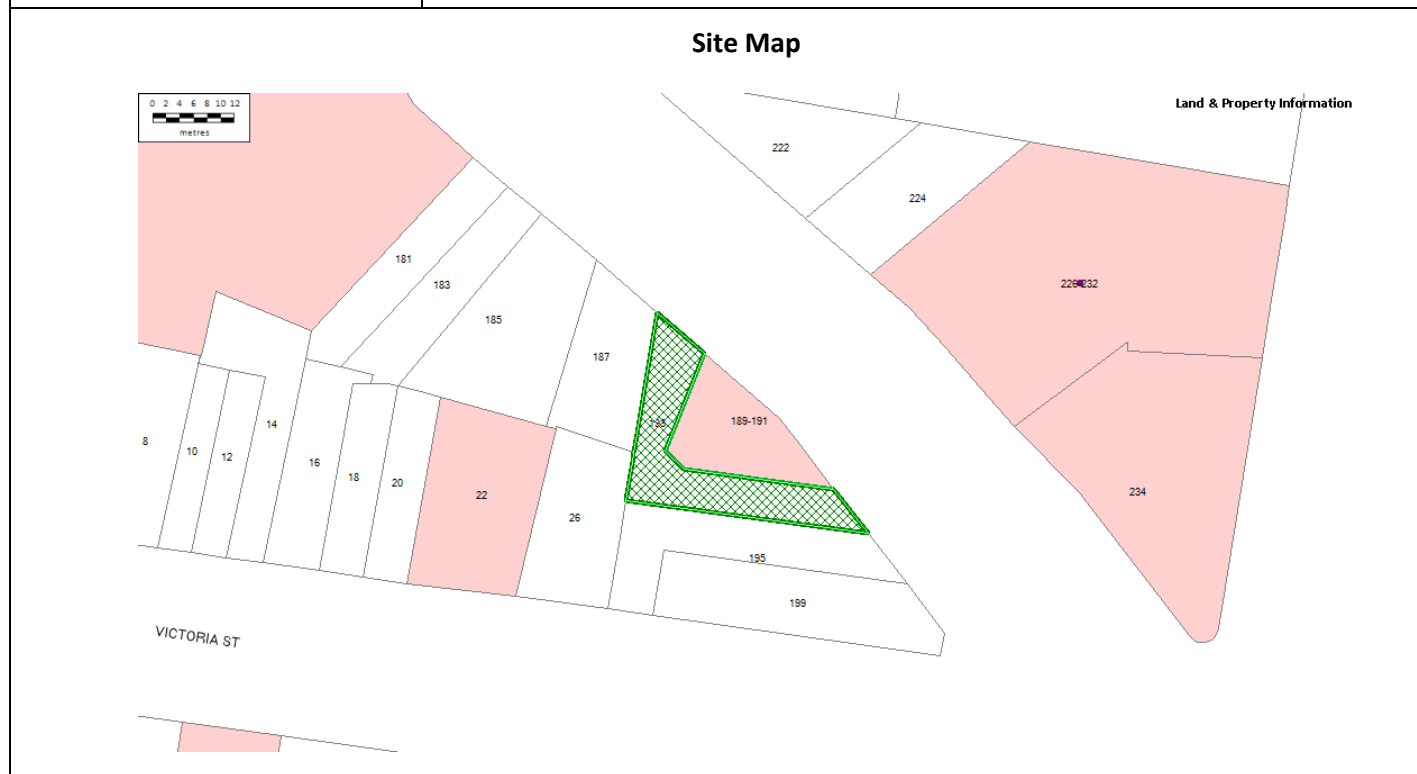
Title:
Details- Building Signage 3

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|------------------------|------------------|------------|------------|
| Project #: 746 | Scale: 1 : 20 | Drw: JL | Ckd: IN |
| Drawing No: DA-7004 | | Rev: | |



Report to the Waverley Local Planning Panel

| | |
|---------------------------|--|
| Application number | DA-271/2018 |
| Site address | 193 Bronte Road, Queens Park |
| Proposal | Partial demolition of building and additions to create a five-storey shop top housing building (part heritage listed) |
| Date of lodgement | 26 July 2018 |
| Owner | Ms P A Mora and Mr C J Elliott |
| Applicant | Chris Elliot Architects P/L |
| Submissions | <ul style="list-style-type: none"> • Original proposal – 17 submissions (1 in support) • Amended proposal – 5 submissions (1 in support) |
| Cost of works | \$1 936 200 |
| Issues | Existing Use Rights, heritage conservation |
| Recommendation | That the application be granted a DEFERRED COMMENCEMENT CONSENT |



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 15 November 2018.

The site is located to the north-west of where Bronte and Carrington Roads intersect with Victoria Street (Charing Cross). The site is irregularly shaped, like a boomerang, formed around the site known as 189-191 Bronte Road. The site has two frontages to Bronte Road.

The site is generally flat with an overall site area of 198m². Existing on the southern part of the site is a two-storey heritage listed building containing a ground floor shop with dwelling above, while on the northern part of the site is a single storey commercial premises previously used for the cutting and sale of glass and mirrors. Presently this premises is used for the storage of vehicles in associated with the car repair shop in the adjoining property at 187 Bronte Road.

Adjoining the site to the south are other retail shops, to the north is a car repair shop, while in the centre of the site (known at 189-191 Bronte Rd) is a 2-3 storey mixed-use building containing 3 shops on ground floor level and two residential units above. Opposite the site are other residential and commercial uses.

The site forms part of the Charring Cross commercial centre, which contains various retail shops and commercial services. In addition, Bondi Junction Commercial Centre is located 500m to the north.

The building situated on the southern part of the site is identified as a heritage item. It forms part of a group of heritage buildings identified as 189-199 Bronte Road. The site is also located within the Charing Cross Urban Heritage Conservation Area.



Figure 1: Subject site frontage to southern part of the site containing heritage listed building



Figure 2: Subject site frontage to northern part of the site (red building in centre is the subject site)

1.2 Relevant History

DA-377/2012 for partial demolition and construction of new mixed use building containing residential units and ground floor retail (2 shops) was approved on 8 July 2013. This consent was for a three-storey building on the northern part of the site containing a shop at ground level with two one-bedroom units above. The consent also included extensions to the heritage-listed dwelling on the southern part of the site including a three-storey addition to the rear. This consent included external stairs to each of the units within the rear courtyard of the site.

According to Council records, no Construction Certificate has been issued for the above works and subsequently this consent has lapsed.

Current application:

After preliminary assessment, the subject application, **DA-271/2018** was deferred to address the following matters (generally):

- *'Existing Use Rights' under Division 4.11 of the Environmental Planning and Assessment Act has not been adequately established.*
- *The proposal should not exceed the envelope of the previously approved development on the site under DA-377/2012. Additional height and FSR will not be accepted on this site given the tight configuration of the site and impacts upon surrounding properties. In this regard, the upper two levels proposed shall be deleted.*
- *The parking space shall be deleted and the shop front shall align with the street boundary. In this way the retail use could be separated from the residential use with the bathrooms and bin storage contained within or adjacent to the shop area and the rear deep soil area could be communal landscaped space for the residential component.*

- The units shall be provided with private open space with a minimum area of 10m² and 2.5m depth.

Heritage:

In order to retain cohesion of new works with the streetscape, existing buildings and the adjacent Conservation Area, the above issues should be addressed namely:

- Better articulation of the north-western side elevation.
- Further design development of the interface of the street awing and the adjacent awning.
- Restoration works to the existing building. These works will be subject to a 'Deed of Agreement' with a Schedule of Works.

Design Excellence Panel:

- From Bronte Road there is a significant and unacceptable excess in built form that is not commensurate with a cohesive streetscape.
- The 'rear' setback of the new building would best align with the eastern neighbour's courtyard and an open stair and courtyard configuration is considered to provide area for a tree and potential for good light and ventilation to the proposed building.
- The need for a basement level and the costs of excavation could be reviewed. Risers from the basement plant may be difficult to achieve with the proposed floor-to-floor heights. Commercial space requires a minimum ceiling height of 3.3m.
- BCA advice should be sought in relation to access requirements, lift, WC's, fire separation, etc.
- While the proposal attempts to promote qualities of sustainable design, the features appear limited to just solar p/v panels on the roof and natural cross ventilation that does not appear well founded. Elevations do not show a clear indication of openable windows that create cross ventilation without opening sliding doors.
- There are large areas of glazing to both north and west elevations that have limited or no shading, and better provision for minimising heat gain and need for mechanical ventilation is needed.
- Retention of the existing car space is not an acceptable result given the impact this would have on a sustainable retail use at ground level. Given the easy access to public transport the removal of the car space would be supported, but there should be provision for bicycle storage to serve commercial and retail tenants as well as residents.
- Scope for street tree planting to enhance the public domain could be used as an offset for the minimal landscaping, and would complement the trees indicated along the footpath of the adjacent site.
- The general level of amenity for this proposal is of concern to the Panel, as the apartments will be conflicted by potential visual and aural privacy issues from the lightwell configuration at the rear that is very close to other nearby properties.
- Apart from BCA and access code compliance, this cross over of circulation space for differing uses is not considered as acceptable, and would likely be of concern to residents. The stair also lacks any generosity of space for passing, pausing to unlock doors, social interaction, etc. and the passage way is also the bin route.
- There could also be future impacts when development on the adjacent property at 187 Bronte Road is developed, or from current automotive operations in its existing built form.
- Circulation around the apartments is poor, with corridors 400mm-500mm wide around the bathroom/kitchens and front doors from the stair opening across the narrow corridors.
- Rearrangement of the street entry to provide a more open and transparent frontage could be supported subject to separation from the retail and layout of the services and meter cupboards.
- The side elevation treatment needs consideration, and how this may be complementary to 187 Bronte Road when it is developed.

- *The façade materials should be supported with sample boards and detailed 1:20 sections to show how the elevations are resolved, together with an indication of the rain water collection and associated.*

Amended plans and information were received by Council on 30 May 2019 and renotified to surrounding properties. These plans and documentation form the basis of the assessment within this report.

1.3 Proposal

The application seeks consent for the demolition of the existing single storey building on the northern part of the site and the construction of a three-storey shop top housing development with basement below. The northern building will provide a shop at ground level fronting Bronte Road with two one-bedroom units above with access to a communal roof terrace.

The application also seeks consent for an addition to the rear of the heritage-listed property on the southern portion of the site which also fronts Bronte Road. No works are proposed to the front part of this property which fronts Bronte Road. The proposed addition is located at the rear and involves the demolition of existing structures and the construction of a new single storey addition for use as sanitary facilities and bin storage.

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 SEPP (Building Sustainability Index – BASIX) 2004

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

An amended BASIX Certificate was not received and as such a condition of deferred commencement regarding this issue is included in Appendix A.

2.1.2 SEPP 55 Remediation of Land

Clause 7 of the SEPP requires Council to consider whether the land is contaminated. The site is currently occupied by a commercial premises (northern portion) previously used for the cutting and retail sales of mirrors and glass and currently used for the storage of vehicles in relation to a vehicle repairs station in the adjoining property. The southern part of the site is used for shop-top housing. The northern part of the site could therefore be contaminated.

In the deferral process of the application, additional information in this respect was sought and details regarding previous uses were provided. This information was reviewed by Council's Environmental Health Officer and found to be insufficient. In this regard, a condition of deferred commencement is

recommended in Appendix A addressing this matter. Conditions for post-consent works are also provided in Appendix B.

2.1.3 SEPP 65 Design Quality of Residential Flat Development

SEPP 65 applies to shop top housing that is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and contains at least 4 or more dwellings.

The amended proposal provides a building of three-storeys however contains only three dwellings. In this regard, SEPP 65 does not apply to the development.

The original proposal was for a building with five-storeys which was referred to the Design Excellence Panel on 15 October 2018. The Panel's comments in relation to the original development with regard to the nine design quality principles under SEPP 65 and a planning response to each comment are set out in **Table 1** below. The amended application was not referred to the DEP as SEPP 65 and the design excellence clause within LEP 2012 does not apply. Notwithstanding, the comments from the DEP can be used as a guide and as such are included in this report as they relate to the amended application.

For ease of understanding, discussion within the following table relates only to the new shop top housing on the northern portion of the site as the amendments largely remove works to the heritage-listed building on the southern portion of the site.

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

| Principle |
|---|
| Principle 1: Context and Neighbourhood <p><i>Along Bronte Road there is a range of mixed use 2-3 storey buildings and single storey buildings with commercial or light industrial uses. On the site at 189-191 Bronte Road there is DA approval for a new 3 storey mixed use development that would be adjacent to the subject site on its southern and eastern boundaries. To the west at 187 Bronte Road there is an automotive services business in a single level building of no particular distinction. Until that site is developed however, any west facing façade for this proposal will need to avoid the creation of a long, unrelieved boundary wall.</i></p> <p>Planning comment: The amended proposal has reduced the height of the development by two storeys along the western elevation of the site. The exposed wall above the car repair shop to the west now includes a mix of materials for visual interest including off form concrete and painted render. This is now considered acceptable (also refer to Heritage Architect comments in Section 3 of this report).</p> |
| Principle 2: Built Form and Scale <p><i>The Panel was very concerned about the general configuration of this proposal and appearance of over-development on a very tight site. A Pre-DA meeting with the Panel might have been a valuable exercise to determine a supportable envelope.</i></p> <p><i>From Bronte Road there is a significant and unacceptable excess in built form that is not commensurate with a cohesive streetscape. The Applicant acknowledged that there was an attempt to achieve an outcome with exceedance of the height limit, but even with this issue there are still ADG non-compliant ceiling heights and setbacks that make the residential component and floor layouts incapable of being supported by the Panel.</i></p> |

The Panel recommended alternative uses and massing options be reviewed to address these issues, and any drawings should clearly indicate where height planes and setbacks are relevant. Furthermore, there needs to be some indication of potential future impacts that would result from development of 187 Bronte Road.

The Panel suggests that a 'rear' setback would best align with the east neighbour's courtyard and that an open stair and courtyard configuration is considered to provide area for a tree and potential for good light and ventilation to the proposed building.

The need for a basement level and the costs of excavation could be reviewed. Risers from the basement plant may be difficult to achieve with the proposed floor-to-floor heights. Commercial space requires a minimum ceiling height of 3.3m.

BCA advice should be sought in relation to access requirements, lift, WC's, fire separation, etc.

Planning comment: The amended proposal has reduced the building by two storeys and is well below the height development standard of 12.5m. The proposal now incorporates a roof terrace with stair housing to this level above the three-storey mass at the street front. The stair housing is set well back from Bronte Road and will not be readily visible within the streetscape context.

The rear setback is varied at each level, aligning with the courtyard at the ground level, extending slightly beyond at the first floor level and being set back to align with the western building at the second floor level. The setbacks proposed are considered acceptable as these enable a clear area at the rear for a garden area and deep soil. This area adjoins residential properties to the south which front Victoria Street.

Ceiling heights are discussed in detail in later sections of this report.

A condition regarding BCA compliance is included in Appendix A.

Principle 3: Density

The Panel does not agree that a higher density should be supported on this site that is close to double the FSR of 0.9:1 under Waverley LEP 2012. While there may be a market demand for such units as proposed, their configuration and amenity are deficient as well as being non-compliant with the Waverley planning controls and ADG guidelines in many aspects.

It is recommended that the Applicant consider alternative uses such as commercial co-working spaces for any further DA application, and this could still provide a mixed-use outcome with the retention of the existing apartment.

Planning comment: The amended proposal has reduced the FSR to 1.46:1 (the original proposal was 1.75:1). FSR is discussed in detail under Section 2.1.4 of the report.

Principle 4: Sustainability

While the proposal attempts to promote qualities of sustainable design, the features appeared limited to just solar p/v panels on the roof and natural cross ventilation that does not appear well founded. Elevations do not show a clear indication of openable windows that create cross ventilation without opening sliding doors.

There are large areas of glazing to both north and west elevations that have limited or no shading, and better provision for minimising heat gain and need for mechanical ventilation is needed.

Retention of the existing car space is not an acceptable result given the impact this would have on a sustainable retail use at ground level. Given the easy access to public transport the removal of the car space would be supported, but there should be provision for bicycle storage to serve commercial and retail tenants as well as residents.

Planning comment: The amended proposal incorporates glazed louvres for cross ventilation, sun shading louvres over windows to control solar access and a green roof surrounding the roof terrace. The car space has also been deleted to enable greater activation with a retail space being introduced and bicycle hooks have been provided within the rear yard.

The amended plans are considered to satisfactorily address the matters raised by the DEP in regards to sustainability.

Principle 5: Landscape

The landscaping is limited to minimal provision of planters, and some potential deep soil planting and in the small rear garden that is substantially in shade. There needs to be more input to how this could be satisfactorily achieved.

Scope for street tree planting to enhance the public domain could be used as an offset for the minimal landscaping, and would complement the trees indicated along the footpath of the adjacent site.

Planning comment: The amended proposal has retained the rear corner of the site for deep soil and planting. The proposal also introduces a green roof over the new building. A condition of consent requires the planting of a new street tree in front of the northern portion of the site.

Given the limited unbuilt upon area already existing on site, the tight arrangement of the subject site and those adjoining, there is very limited scope to provide landscaping beyond that already proposed. In this regard, the landscaping is considered acceptable.

Principle 6: Amenity

The general level of amenity for this proposal is of concern to the Panel, as the apartments will be conflicted by potential visual and aural privacy issues from the lightwell configuration at the rear that is very close to other nearby properties.

As proposed there is a shared access corridor and stairs serving apartments and the commercial space, and this crosses over the outdoor seating area of the retail space. Apart from BCA and access code compliance, this cross over of circulation space for differing uses is not considered as acceptable, and would likely be of concern to residents. The stair also lacks any generosity of space for passing, pausing to unlock doors, social interaction, etc. and the passage way is also the bin route.

There could also be future impacts when development on the adjacent property at 187 Bronte Road is developed, or from current automotive operations in its existing built form.

Circulation around the apartments is poor, with corridors 400mm-500mm wide around the bathroom/kitchens and front doors from the stair opening across the narrow corridors.

Planning comment: The amended proposal contains the entry and bin storage for the shop toward the front of the site near Bronte Road. The new shop no longer has access to the rear yard and the entrances to residential units with a door blocking access along the corridor. The passageway is sufficiently sized given that it provides access to only three units. The use of the passageway as a bin route is unavoidable given the constraints of the site and is accepted.

The amended plans improve the remaining issues raised by the DEP.

Principle 7: Safety

The continuing provision for a car park space is not supported, and would likely create issues of safety as well as loss of street front activation.

Rearrangement of the street entry to provide a more open and transparent frontage could be supported subject to separation from the retail and layout of the services and meter cupboards.

Option A shown in the SEE would appear to provide the best result, with potential for retail space directly accessed from the footpath and possibly able to be opened up for a suitable café use.

Planning comment: The amended plans address these matter by deleting the front car space, rearranging the entry to the shop and the residential units and widening of the side corridor at the street front to provide entry to the shop.

Principle 8: Housing Diversity and Social Interaction

As a proposal for 2 new apartments there are serious limitations in their configuration and layouts. To comply with the height limit it does not appear that these apartments could be more than 1 bedroom, and private open space for apartment 2 is deficient. Without any communal open space, the inclusion of ground level retail space for a possible café could be a positive contribution to social interaction.

Planning comment: The amended plans provide two one-bedroom units which is within the limitations of the site. The proposal is now well under the 12.5m height development standard. The retention of the shop and provision of a communal roof terrace will provide social interaction for residents.

Principle 9: Aesthetics

The simple contemporary language of the proposed façade and relationship to relative parapet heights adjacent is commended. However, the side elevation treatment needs consideration, and how this may be complementary to 187 Bronte Road when it is developed.

The façade materials should be supported with sample boards and detailed 1:20 sections to show how the elevations are resolved, together with an indication of the rain water collection and associated drainage.

Planning comment: The amended proposal has addressed the relationship with 187 Bronte Road and provides satisfactory treatment of the exposed western side boundary wall. The façade materials are considered satisfactory.

2.1.4 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 |
|---|------------|---|
| Part 1 Preliminary | | |
| 1.2 Aims of plan | Yes | The proposal is consistent with the aims of the LEP. |
| Part 2 Permitted or prohibited development | | |
| 2.6 Subdivision – consent requirements | N/A | The proposal does not include subdivision. |
| Land Use Table R3 – Medium Density Residential Zone | No | <p>The existing use of the site is defined as ‘shop-top housing’ which is prohibited in the R3 zone.</p> <p>The applicant has investigated the history of the use of the part of the site directly adjoining 187 Bronte Road and provides the following information:</p> <p><i>Since 1986 (and possibly prior to that) the garage at the “rear” of the property (the site) has been used as a commercial premises with two tenants - initially a glass and mirror shop and more recently an automotive services company who were (and still are) using it, and the space in front, for the sale of car mirrors and tyres and for storage and parking.</i></p> <p>The uses on site, being commercial at ground level with residential above, are defined as shop top housing.</p> <p>The existing uses were approved and operating prior to the LEP prohibiting the use within the zone and as such is considered to be an Existing Use under Division 4.11 of the EP&A Act.</p> <p>Refer to the following section of this report for detailed discussion.</p> |
| Part 4 Principal development standards | | |
| 4.3 Height of buildings <ul style="list-style-type: none"> 12.5m | Yes | The proposal has a maximum height of 10.58m complying with the development standard. |

| Provision | Compliance | Comment |
|---|----------------|--|
| | | Notwithstanding, the site has existing use rights and as such, the development standards of the LEP do not apply. |
| 4.4 Floor space ratio <ul style="list-style-type: none"> 0.9:1 Site = 198sqm | No | Total GFA = 289.27sqm FSR = 1.46:1 Exceeds by 111sqm or 62% The site has existing use rights and as such, the development standards of the LEP do not apply. Notwithstanding, these standards can be used to guide development for the site as discussed in the following section of this report. |
| 4.6 Exceptions to development standards | See discussion | The application is not accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 as the provisions of the LEP do not apply given 'Existing Use Rights'. A detailed discussion of the variation to the development standard is presented below this table. |
| Part 5 Miscellaneous provisions | | |
| 5.10 Heritage conservation | Yes | <p>The site is heritage listed in Waverley LEP 2012 and is located within the Charing Cross Urban Conservation Area. The site forms part of a group of heritage-listed buildings (item 411) from 189-199 Bronte Road described as <i>'late Victorian commercial/residential buildings'</i>.</p> <p>The existing two-storey southern building and retail frontage retains cohesion with the group and provides a significant contribution to the streetscape.</p> <p>The proposal retains the heritage-listed building on the southern part of the site with the only works being the demolition of later additions at the rear. The new addition at the rear will not impact upon the heritage significance of the item or the conservation area.</p> <p>In relation to the new shop top housing on the northern part of the site, the following comments were provided by Council's</p> |

| Provision | Compliance | Comment |
|---|------------|---|
| | | <p>Heritage Architect in regards to the amended proposal:</p> <p><i>'The location at a crank in the alignment of Bronte Road provides increased prominence to the site and substantial exposure to side elevations of the now three-story development. Success of the application in addressing heritage and urban planning issues will lie in the quality of detailing and finishes proposed for new works and the interface of these with the existing fabric and setting.</i></p> <p><i>Following previous recommendations, the amended application has provided some articulation to the north-west side elevation with alternating off form concrete and rendered panels.</i></p> <p><i>...The street awning has now been raised to a height reflecting that of the existing shop awnings to the south.</i></p> <p><i>The amended building height has reduced impact upon the setting. The overall form now displays cohesion with the setting, streetscape and Conservation Area opposite'.</i></p> <p>Furthermore, the amended proposal limits any work to the heritage listed section of the building. Given the scale of redevelopment works of the site, it is recommended that restoration works occur to the heritage component of the site to ensure its maintained into the future. A condition requiring a schedule of works, adopted through a Deed of Agreement is recommended for imposition. Therefore, given the comments of the Heritage Architect and the amended design addressing comments previously made, the amended proposal is considered acceptable, subject to conditions.</p> |
| Part 6 Additional local provisions | | |
| 6.2 Earthworks | Yes | The proposal includes excavation of a level below the footprint of the new building at the northern half of the site. All standard conditions in relation to excavation are |

| Provision | Compliance | Comment |
|-----------|------------|--|
| | | included in Appendix B and as such the excavation proposed is considered acceptable. |

The use of the building is considered to be an Existing Use under Division 4.11 of the EP&A Act. Clause 44 in Part 5 of the *Environmental Planning and Assessment Regulation 2000* allows an existing use to be rebuilt subject to development consent.

The Regulations provide that an existing use may only be altered, extended or rebuilt on the land to which the existing use was erected before the relevant date, but does not provide further restrictions/requirements in regard to the assessment of the application. The merit assessment of this development application is therefore to be considered under Section 4.15 of the Environmental Planning and Assessment Act 1979 having regard to relevant provisions of the LEP and DCP in as much as they control development on surrounding sites.

In this regard, the provisions of the LEP do not apply and can only be used as a guide. Therefore, an Exception to a Development Standard in regards to the FSR development standard is not required.

Exceptions to Development Standards

Clause 4.4 Floor space ratio (FSR)

The proposal has an overall FSR of 1.46:1, which exceeds the FSR development standard of 0.9:1 prescribed Waverley LEP 2012 by 111m² in gross floor area or 62%. The existing building has an FSR of approximately 0.81:1 (160m²) and the proposal will increase this to 1.46:1 (289.27m²) representing an increase in gross floor area of 129m².

The objectives of the FSR development standard are as follows:

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

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

Objective (a) is not relevant to the subject site.

The proposal has a maximum height of 10.58m to the top of the stair housing located centrally on the roof which is 1.92m or 15% lower than the height development standard. The main building is 9.41m to the parapet at Bronte Road which is 3.09m or 25% lower than the development standard. Notwithstanding compliance with the height development standard, the proposal significantly exceeds the FSR development standard of 0.9:1.

The proposal provides appropriate form and massing at the street front which is consistent with the pattern of development along this part of Bronte Road. The properties to the south along Bronte Road are built up to all front and side boundaries providing a strong unbroken street wall. The subject proposal is a continuation of that pattern and complements the character of the existing building and the group of heritage-listed buildings. The nil side boundary setbacks are consistent with adjoining properties and the streetscape.

The proposal is below the maximum height permitted by the LEP development standard however exceeds the FSR. The subject site is within a row of shop-top housing with the group of buildings being heritage listed. The maximum FSR development standard relates to permissible uses within the zone being residential flat buildings, which when designed as a new development would allow for greater setbacks resulting in reduced floor space. However the subject site is mixed use development with a consistent street wall and nil setbacks on all boundaries consistent with the pattern of development of this group of buildings. This results in the buildings having a greater FSR than a permissible residential flat building (albeit lower height). Given the heritage listing of the site, and the resultant desire to maintain the existing buildings, the higher FSR is considered appropriate on this site. The extensions to the southern part of the site are contained to the rear of the building and will retain the significant heritage portion of the building. Subsequently, the additional bulk to the site (from existing) is largely contained along the northern Bronte Road frontage where presently the existing building is single storey.

The subject site is contained within a row of shop-top housing with the most recent approval at 189-191 Bronte Road (located in the centre of the southern and northern parts of the subject site) giving consent for alterations and additions to create a three-storey shop-top housing development. This consent referenced the approved shop-top housing at the subject site (which has since expired). Extensions to 189-191 Bronte Road were designed to provide a consistent parapet height and complement the position of floor levels and windows of this now expired consent. Even though this consent has expired, it is linked to the existing consent at 189-191 Bronte Road. In this regard, the subject proposal has been significantly amended to maintain a consistent parapet height with the approval at 189-191 and a similar built form with complementary proportions.

The subject proposal has been designed to respond to the adjoining approval (not yet constructed) with a consistent parapet height and design sympathetic to the approved additions to the adjoining property providing a cohesive streetscape.

The proposal will not result in unreasonable overshadowing impacts, unreasonable loss of visual or acoustic privacy or detrimental amenity impacts upon surrounding properties (discussed in detail later in this report).

The proposal is considered to be consistent with objectives (b), (c) and (d).

The amended building height reduces impact upon the setting however it is acknowledged that the proposal exceeds the FSR to a significant degree. The proposal does not include any work to the existing heritage-listed building on the site which is currently in need of restoration. As a public benefit for the proposed additional floor space above the control, it is recommended that conservation and maintenance, including restoration of damaged detailing, is undertaken to the heritage-listed building on the site as part of a Heritage Deed of Agreement. A condition to this effect is included in Appendix B.

Given the above analysis, the FSR of the proposal is considered appropriate and consistent with the relevant objectives of the LEP and can be supported.

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

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

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

| Development Control | Compliance | Comment |
|-----------------------------------|------------|--|
| 1. Waste | Yes | <p>The proposal provides a waste storage area for the new shop adjacent to the shop entry. A bin storage area for the existing shop within the existing heritage building is provided within the rear yard, as is the bin storage for the residential units. Although this arrangement is not ideal, this is the existing arrangement currently employed on site for the existing shop. Given the limited scope of works to the heritage listed building, this is considered appropriate for the site.</p> <p>The application was referred to Council's Sustainable Waste Officer and conditions were provided which are within Appendix B. The waste collection and storage on site is considered acceptable.</p> |
| 2. Energy and water conservation | Yes | <p>As detailed previously, the amended design incorporates louvres to aid cross ventilation and shading devices to control solar access.</p> <p>The proposal is consistent with the objectives and controls within this part of the DCP.</p> |
| 5. Tree preservation | Yes | <p>There is a single small tree on site which is being retained.</p> <p>Additionally, a condition from Council's Public Domain Engineer requires a planting of a street tree in front of the new northern building.</p> |
| 6. Stormwater | Yes | <p>The application was referred to Council's Stormwater engineer and were not satisfactory. An appropriate condition is included in Appendix B.</p> |
| 7. Accessibility and Adaptability | Condition | <p>A condition is included in Appendix B requiring a Building Code of Australia (BCA) report to be submitted post consent to address access and BCA matters.</p> |

| Development Control | Compliance | Comment |
|---------------------|------------|--|
| 8. Transport | No | <p>The existing unit and shop have no parking on site which is an existing situation. Given that little work is proposed to this building it would be onerous to require parking.</p> <p>The proposed new northern building includes two new one-bedroom units which under the DCP would require 1 car space. No parking is required for the shop.</p> <p>The proposal is unlikely to increase traffic to an unreasonable degree and no additional parking is appropriate given the site constraints and built form of the building without side setbacks and the mixed use nature of the group of buildings.</p> <p>The provision of parking would impact unreasonably upon the public domain on Bronte Road, the heritage qualities of the group of buildings and there is insufficient area on site to provide parking underground. The heritage-listed status of the group of buildings is considered of a higher order than the provision of parking. The site is within proximity of Bondi Junction centre and the public transport and amenities it provides. In this regard, the provision of no parking on site is supported.</p> |
| 9. Heritage | Yes | Refer to discussion in Table 2. |
| 10. Safety | Yes | <p>The existing heritage building which is to be retained has access to the rear residential area to access bins and sanitary facilities. Access to the residential unit over the shop is via the shared path with the shop however, this is an existing situation and due to the constraints of the site and the limited scope of works to the heritage-listed building, this is a necessity.</p> <p>Notwithstanding, the new works have been designed to separate the retail and residential components to ensure safety and security.</p> <p>New balconies overlooking Bronte Road have been provided which increases passive surveillance of the street.</p> <p>The proposal is considered to be consistent with the objectives and controls within this part of the DCP.</p> |

Table 4: Waverley DCP 2012 – Part C2 Multi Unit and Multi Dwelling Housing Compliance Table

| Development Control | Compliance | Comment |
|--|------------|--|
| 2.2 Site, scale and frontage | | |
| <ul style="list-style-type: none"> Minimum frontage: 15m | No | <p>The site is uniquely shaped being essentially a boomerang shape with two frontages to Bronte Road. The existing heritage-listed building on the southern part of the site is being retained. The new northern building is on a part of the site which is 6.5m wide.</p> <p>The desired future character controls anticipate a built form which corresponds with the rhythm of surrounding properties. The site forms part of a group of heritage-listed buildings with a similar width to the subject site. The proposal retains the rhythm and proportions of the group and as such, the variation to the minimum frontage control is considered acceptable.</p> |
| 2.3 Height | | |
| <ul style="list-style-type: none"> Maximum external wall height: 9.5m | No | <p>The proposal will have wall heights of 9.41m except in the centre of the northern building where the wall height is 10.58m. This will adjoin another building approved to build to the boundary and is therefore acceptable. The main building is under the height control.</p> |
| 2.4 Excavation | | |
| <ul style="list-style-type: none"> No fill to raise levels | No | <p>Fill is proposed within the rear yard of the site which will necessitate the provision of a higher fence along the southern boundary with 195 Bronte Road to ensure privacy is maintained. The raised ground level at the rear is largely due to creating accessible paths and spaces. This is unlikely to detrimentally impact upon the adjoining property given the density of structures in this area and is considered acceptable.</p> |
| <ul style="list-style-type: none"> Minimum setback of 1.5m from side boundaries | No | <p>Setback of 1m on each side however all standard conditions in relation to excavation are included in Appendix B. Given the width of the site, the setbacks are not considered to be unreasonable.</p> |
| <ul style="list-style-type: none"> Under building footprint except main access ramp | Yes | <p>Contained under footprint of building.</p> |
| <ul style="list-style-type: none"> Basements no more than 1.2m out of the ground | Yes | <p>Contained fully below ground.</p> |
| 2.5 Setbacks | | |

| Development Control | Compliance | Comment |
|---|------------------|--|
| 2.5.1 Street setbacks <ul style="list-style-type: none"> Consistent street setback | Yes | The proposal has a consistent street setback with adjoining properties, providing a continuation of the nil front and side boundary setbacks. |
| 2.5.2 Side and rear setbacks <ul style="list-style-type: none"> Minimum side setback: 4.5m | No | The subject extension will be built up to the side setback however, again, this is consistent with the pattern of development within the group of buildings. |
| <ul style="list-style-type: none"> Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback | Yes | The rear setbacks of both the southern and northern buildings have been increased providing a small courtyard in the southern corner of the site. As previously discussed, the rear setbacks of the new northern building are considered acceptable. |
| <ul style="list-style-type: none"> Deep soil along side boundary min 2m wide | No | The proposal cannot meet the deep soil requirement due to the width of the site and the built form within the streetscape. This is accepted on this site. |
| 2.6 Length and depth of buildings | | |
| <ul style="list-style-type: none"> Maximum building length: 24m | Yes | The maximum length of the building at the street is 6.5m. |
| <ul style="list-style-type: none"> Maximum unit depth: 18m | Yes | The maximum depth of the new units is 17.9m. |
| <ul style="list-style-type: none"> Maximum depth of single aspect unit: 8m | N/A | No single aspect units. |
| 2.8 Building design and streetscape | | |
| <ul style="list-style-type: none"> Respond to streetscape Sympathetic external finishes | Yes Yes | <p>The subject proposal has been designed to respond to the adjoining approval (not yet constructed) with a consistent parapet height and design sympathetic to the additions to the adjoining property.</p> <p>The proposed materials are sympathetic and complementary to surrounding development.</p> |
| 2.10 Fences and walls | | |
| <i>Side fence:</i> <ul style="list-style-type: none"> Maximum height: 1.8m <i>Rear fence:</i> <ul style="list-style-type: none"> Maximum height: 1.8m | No | As previously discussed, the southern boundary wall will exceed 1800mm however this is considered acceptable to ensure privacy. |
| 2.12 Pedestrian access and entry | | |
| <ul style="list-style-type: none"> Entry at street level Accessible entry Legible, safe, well-lit | Yes No Yes | Entry to both the retail and residential units is provided at street level. The entry to the new retail shop is accessible however no lift is provided to the residential units, all being above ground level. A condition is included in Appendix |

| Development Control | Compliance | Comment |
|--|------------|---|
| | | <p>B requiring a Building Code of Australia (BCA) report to be submitted post consent to address access and BCA matters.</p> <p>As has been discussed extensively in this report, the subject site is constrained by the heritage-listed building on the site and the site width and shape.</p> |
| 2.13 Landscaping | | |
| <ul style="list-style-type: none"> Minimum of 30% of site area landscaped: 59m² | Yes | The proposal provides 87m ² of landscaped area (44% of the site) in the form of a deep soil area in the rear corner of the site and a roof terrace surrounded by landscaped planters. |
| <ul style="list-style-type: none"> 50% of the above is to be deep soil: 29.5m² | No | The rear courtyard provides 17m ² of deep soil. The proposal cannot meet the deep soil requirement due to the width of the site and the built form within the streetscape. The rear courtyard size has been increased to provide a buffer to the adjoining properties and retain a communal area of open space. This is accepted on this site. |
| 2.14 Communal open space | | |
| <ul style="list-style-type: none"> Minimum 15% communal (R3 zone): 30m² | Yes | The proposal provides 25m ² in the roof terrace and a 20m ² rear courtyard for communal use which equates to 23% of the site. A condition will require that the roof terrace be reduced to 15m ² (discussed later) which will continue to comply with the DCP at 18% of the site. |
| <ul style="list-style-type: none"> Minimum dimensions: 6m x 6m | No | The rear courtyard is 4.5m x 4.5m and the roof terrace, approximately 9m x 3m. This is considered sufficient given that there are only three units within the development, two of which have their own private balconies. |
| <ul style="list-style-type: none"> Minimum of 30% of communal area must receive three hours of sunlight | Yes | Subject to a condition reducing the roof terrace to 15m ² the roof terrace will equate to 43% of the communal area and will receive sufficient solar access. |
| <ul style="list-style-type: none"> Accessible | No | As previously discussed, accessible access to the upper levels has not been provided as part of this application and a BCA report is required by condition. |
| 2.15 Private open space | | |
| <ul style="list-style-type: none"> Minimum of 75% of dwellings to have private open space | Yes | Two of the three units (67%) will be provided with a balcony. The unit without a balcony is existing and is contained within the heritage- |

| Development Control | Compliance | Comment |
|---|-------------------------------|--|
| <ul style="list-style-type: none"> Accessed from main living area <p>2.15.2 Balconies/Decks</p> <ul style="list-style-type: none"> Minimum area: 10m² Minimum depth: 2.5m | | <p>listed southern building. No changes are proposed to this unit except for a new bathroom at ground level. Given this is the existing situation this is considered acceptable.</p> <p>Within the proposed new building, both apartments will have access to balconies with a total area of 10m² however with limited depth. Both apartments will also have access to communal open space in the rear yard and at the roof terrace. On balance, it is considered that all apartments have access to acceptable private and communal open space to meet user needs.</p> |
| 2.16 Solar access and overshadowing | | |
| <ul style="list-style-type: none"> Minimum of three hours of sunlight to a minimum of 70% of units during winter solstice | Yes | The proposed new building is orientated in a northerly direction providing optimal solar access to the balconies and living area windows overlooking Bronte Road. |
| <ul style="list-style-type: none"> Adjoining properties to retain minimum of three hours of sunlight during winter solstice | Yes | <p>Shadow diagrams were provided with the application. There will be additional overshadowing of adjoining structures spread throughout the day. The majority of the additional overshadowing is minor and will not result in unacceptable loss of solar access to adjoining residential properties, being likely to fall within existing shadows.</p> <p>It is noted that there will be increased shadowing of commercial premises to the south of the site, including the outdoor space associated with 195 Bronte Road which is currently used as a day care centre. This property is located to the south of the subject site and a degree of additional overshadowing is an inevitable consequence of redevelopment of the site particularly given the height control of 12.5m.</p> |
| 2.17 Views and view sharing | | |
| <ul style="list-style-type: none"> Minimise view loss to adjoining and adjacent properties | Yes | Refer to discussion following this table. |
| 2.18 Visual privacy and security | | |
| <ul style="list-style-type: none"> Prevent overlooking of more than 50% of private open space of lower level | Yes (subject to condition) | The proposed roof terrace is located overlooking Bronte Road and has an area of 25m ² . Given that it is set back from all boundaries, surrounded by landscaped planters, and positioned to be |

| Development Control | Compliance | Comment |
|---|------------|--|
| <p>dwellings in same development</p> | | <p>orientated away from the windows of adjoining properties, the roof terrace is unlikely to have a detrimental impact upon the privacy of adjoining properties. The “Superstudio” Planning Principles are also satisfied by the proposal as there is limited area for communal open space elsewhere on the site. However, the roof terrace exceeds the maximum 15m² control of the DCP. The larger the terrace the greater the potential for impacts and as such, a condition recommending it be reduced to comply with the DCP is provided in Appendix B.</p> <p>The proposal also includes new balconies on the front and rear of the proposed new building on site. The balconies at the front overlook Bronte Road which is considered acceptable. The balcony and windows at the rear are to bedrooms which are rooms of low use with limited privacy impacts. The new balcony is not dissimilar to other structures on surrounding properties and in this regard, there is a degree of mutual overlooking within the area. Notwithstanding, the balcony is set back from the edges of the building below to prevent direct downward viewing and windows on the rear elevation provide further screening to inhibit overlooking.</p> <p>The proposal has been assessed in regards to visual and acoustic privacy impacts and is considered reasonable in this regard.</p> |
| 2.19 Apartment size and layout | | |
| <ul style="list-style-type: none"> Single aspect units no deeper than 8m from a window | N/A | There are no single aspect units. |
| <ul style="list-style-type: none"> Width of an apartment over 15m deep to be 4m or greater | Yes | Apartment 2 is greater than 15m deep however has two window walls and a minimum width (where habitable rooms are located) of 4m. |
| <ul style="list-style-type: none"> Should provide mix of 1, 2 and 3 bedroom units | Yes | The proposal provides two new 1-bedroom apartments and retains the existing 2-bedroom apartment. This mix is considered appropriate. |
| <p><i>Minimum unit size:</i></p> <ul style="list-style-type: none"> 1 Bedroom: 50m² | Yes | Apartment 2 is 51.7m ² . Apartment 3 is 55.3m ² . |
| 2.20 Ceiling heights | | |
| <ul style="list-style-type: none"> Minimum height of 2.7m for residential floors | No | The ceiling heights of all levels are slightly substandard than that required by the DCP. |

| Development Control | Compliance | Comment |
|--|------------|--|
| | | The height of the northern building is constrained by the height of the existing parapet of the group of heritage buildings. In order to provide a building that complements the heritage group, the parapet level and ceiling heights must be generally consistent resulting in lower ceiling heights at each level. Given the need to provide a cohesive streetscape appearance and a sympathetic addition to the group of heritage buildings, the lower ceiling heights, in this instance, are considered acceptable. |
| 2.21 Storage | | |
| Minimum size: • 1 Bedroom: 6m ³ | Yes | Both new apartments are provided with adequate storage |
| 2.22 Acoustic privacy | | |
| • Internal amenity by locating noisy areas away from quiet areas | Yes | The new apartments have a similar layout with living areas at the front and bedrooms at the rear. |
| 2.23 Natural ventilation | | |
| • Minimum of 60% of units cross-ventilated | Yes | Both new apartments have two window walls and louvres adjacent to windows for cross ventilation. |

Table 5: Waverley DCP 2012 – Part D1 Commercial and Retail Development Compliance Table

| Development Control | Compliance | Comment |
|---------------------|------------|---|
| 1.1 Design | | |
| 1.1.1 Frontages | Yes | <p>The front windows and openings have been designed to be sympathetic with the overall proportions of the building and that approved for the adjoining property at 189-191 Bronte Road. The new shop will have windows capable of having an active display function.</p> <p>An awning is included on the new building which is stepped slightly within the streetscape, consistent with the slope along the street.</p> <p>The proposal is considered to be consistent with the objectives and controls of this part of the DCP.</p> |
| 1.1.2 Lighting | N/A | This part of the DCP is relevant to commercial fitouts which does not form part of this proposal. |

| Development Control | Compliance | Comment |
|-------------------------------|------------|---|
| 1.1.3 Amenity | Yes | <p>A shaft to the roof for ducting and plant for the retail shop is provided to ensure that retrofitting for food uses in the future is not required.</p> <p>There is sufficient room within the basement for plant and storage.</p> |
| 1.2 Noise | | |
| | Yes | <p>The controls in this part of the DCP relate to the use of the retail premises. The use of the shop has not been nominated as part of this application. A condition requiring separate development consent for the shop is included in Appendix B.</p> <p>Appropriate noise conditions in relation to mechanical plant is included in Appendix B.</p> |
| 1.3 Hours of operation | | |
| | N/A | The use of the shop has not been nominated as part of this application. A condition requiring separate development consent for the shop is included in Appendix B. |

Table 6: Waverley DCP 2012 – Part E3 Local Village Centres Compliance Table

| Development Control | Compliance | Comment |
|------------------------------|------------|--|
| 3.1 Specific controls | | |
| Charing Cross Small Village | Yes | <p>The amended proposal complements the height, facades and roof lines of the existing heritage listed building group to the south providing a continuation of the built form of this group of buildings.</p> <p>The design of the new northern building is consistent with the regular division of frontages to the heritage listed group.</p> <p>The proposal is considered to be consistent with the desired future character objectives of this part of the DCP.</p> |
| 3.2 Generic controls | | |
| 3.2.1 Land uses | Yes | The proposal retains an existing commercial premises in the heritage-listed southern building and provides a new commercial premises at the ground level of the new northern building. The upper level in the amended proposal are exclusively residential. |

| Development Control | Compliance | Comment |
|---------------------------------------|------------|---|
| | | <p>The ground level commercial premises is consistent with the width and rhythm of the group of buildings of which it forms a part.</p> <p>The proposal is considered to be consistent with the objectives and controls of this part of the DCP.</p> |
| 3.2.2 Public domain interface | Yes | <p>The proposal is consistent with the public domain interface objectives by providing a street edge building with separate retail and residential entries. The new building is consistent with the height, width and rhythm of existing buildings in the street and forms an extension to the heritage listed group which is complementary to said group.</p> <p>The new shop front will provide a display function to the street comprised of clear glazing.</p> <p>The vehicle entry previously proposed, has now been removed given the principle street frontage of the site.</p> |
| 3.2.3 Built form | Yes | <p>The proposal is consistent with the Annexure diagrams applicable to the site providing a three-storey street edge design with awning at the ground level. The remaining annexures are not relevant given the unique characteristics of the site, the density of surrounding development and the heritage-listed group of buildings of which it forms a part.</p> <p>The proposal provides a deep soil zone at the rear where it adjoins a residential property on Victoria Street.</p> <p>The depth of the new units and the retail shop are specific to the unique characteristics of this site and comply with the requirements of this part of the DCP.</p> |
| 3.2.4 Building facade articulation | Yes | <p>The amended proposal provides a new building which is designed and detailed to have a strong street address, enhance the streetscape and achieve the desired future character of the Charing Cross small village.</p> |
| 3.2.5 Buildings of historic character | Yes | <p>The proposal retains the existing heritage-listed building with no works to the street façade. The</p> |

| Development Control | Compliance | Comment |
|---|------------|---|
| | | proposed new northern building is designed to be an infill development to the group of buildings and respects the height, parapet and rhythm of the group. |
| 3.2.6 Building services and site facilities | | <p>Waste storage areas are located to the rear of the site for the residential properties and concealed from the street for the new commercial shop.</p> <p>The rear corner of the boomerang-shaped site is retained as landscaping for the residential component of the development. The new commercial shop addresses the street with activities concentrated toward Bronte Road to ensure that commercial activities do not interfere with residential uses toward the rear.</p> <p>The proposal is considered to be consistent with the relevant objectives and controls of this part of the DCP.</p> |

Views and view sharing

The proposal may result in some loss of view of the City skyline from adjoining properties which currently enjoy views over the undeveloped northern portion of the site. The following photo was provided by 189-191 Bronte Road taken from an upper floor bedroom window:



Photo (above): upper level unit of 189-191 Bronte Road, view from upper level bedroom over subject site (Source: submission from this adjoining site)

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

The view achieved is a horizon view with a small portion being City Skyline. From this property, the view of the City is minor as it is not a whole view being only partially visible. The view is over the side boundary of the subject site however the rear of No. 189-191 Bronte Road due to the unique shape of the site. The view is from bedrooms with the living areas of this property being orientated toward Bronte Road.

The subject proposal does not have planning controls that are strictly applicable given that it relies on 'Existing Use Rights' however the controls applicable to the site are used to guide development. The surrounding sites have a height development standard of 12.5m however the existing streetscape on Bronte Road is comprised of two to four-storey buildings. The subject site seeks a three-storey building which is well below the 12.5m height control. The height and built form of the proposal is consistent with the form of development within the street. That part of the proposal that will impact upon the view relates to the rear setback of the new northern building. Given the setback is consistent with the setbacks on the property from which the objection was received, the impact upon the view, although unfortunate, is not considered unreasonable.

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

The original application was notified for 21 days and a site notice erected on the site, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. Seventeen submissions (16 in objection and one in support) were received.

The amended application was notified for 14 days in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. Five submissions (four in objection and one in support) were received. The issues raised in the submissions to the amended proposal are summarised and discussed below.

Table 7: Summary of property addresses that lodged a submission

| Property |
|---|
| 26 Victoria Street, Queens Park (letter of support) |
| 195 Bronte Road, Queens Park |
| 12 Victoria Street, Queens Park |
| 14 Victoria Street, Queens Park |
| Charing Cross Precinct Committee |

Issue: Design is an improvement to Bronte Road. The current building is an eyesore.

Response: This is agreed (to some extent) as discussed in detail throughout this report.

Issue:

- ***Bulk, scale and overdevelopment of the site.***
- ***FSR and height.***
- ***Visual and acoustic privacy.***
- ***Landscaping is insufficient.***
- ***Heritage.***
- ***Overshadowing and solar access.***
- ***Excavation.***
- ***Lack of parking.***

Response: These issues are discussed in detail elsewhere in this report.

Issue: *The existing sewer cannot accommodate the additional residential units.*

Response: This detail is not required to be assessed at the development application stage. A condition is included in Appendix B requiring a Section 73 certificate to be obtained from Sydney Water.

Issue: *Impacts during construction.*

Response: All standard conditions are included in Appendix B in regards to construction. Council cannot refuse an application due to impacts during construction.

Issue: *The previous approval for this site has expired and should not be taken into consideration during the assessment of this application.*

Response: The subject proposal has been assessed against the current controls and the merits of the subject application as detailed in this report.

Issue: *The proposal will set a precedent in the area.*

Response: All applications are assessed individually. Notwithstanding, the built form of the proposed development is following the precedent already set by other properties within the vicinity. The precedent for this development is already set by the existing buildings and the desired future character controls of the DCP (as discussed in this report).

2.5 Public Interest

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

3. REFERRALS

3.1 Heritage – Shaping Waverley

Following initial comments from Council's Heritage Architect, the proposal was amended to address a number of matters raised including those relating to heritage. The following comments were provided by Council's Heritage Architect in regards to the amended proposal:

The location at a crank in the alignment of Bronte Road provides increased prominence to the site and substantial exposure to side elevations of the now three-storey [above ground] development. Success of the application in addressing heritage and urban planning issues will lie in the quality of detailing and finishes proposed for new works and the interface of these with the existing fabric and setting. Conservation and restoration of existing heritage listed fabric should also be included in the works as a means of enhancing and integrating the new works into the established setting.

Following previous recommendations, the amended application has provided some articulation to the north- west side elevation with alternating off form concrete and rendered panels.

It was previously noted that:

“The proposed treatment of the street elevation at the north-eastern frontage is significantly lower than that approved to the adjacent shop fronts, the awning lowered to a height more reflective of the adjacent motor garage opening. There is some cohesion provided by this but also a lack of consistency with the more substantial shop fronts to which the building appears an extension.”

The street awning has now been raised to a height reflecting that of the existing shop awnings to the south.

The amended building height has reduced impact upon the setting. Subject to conservation and restoration of the listed heritage fabric the overall form now displays cohesion with the setting, streetscape and Conservation Area opposite.

Recommendations

As a public benefit for the proposed additional floor space, it is recommended that conservation and maintenance including restoration of damaged detailing is undertaken to the listed heritage fabric at 193 Bronte Road under a Heritage Deed of Agreement forming a condition of any consent to the current application.

3.2 Stormwater – Creating Waverley

The stormwater plans were assessed by Council’s Stormwater Engineers and found unsatisfactory. A condition of consent in this regard is included in Appendix B.

3.3 Sustainable Waste - Sustainable Waverley

Conditions were provided which are included in Appendix B.

3.4 Fire Safety - Building Waverley

Conditions were provided which are included in Appendix B.

3.5 Health - Safe Waverley

Conditions were provided which are included in Appendix A and B.

3.6 Public Domain - Creating Waverley

Conditions were provided which are included in Appendix B.

4. SUMMARY

The application seeks consent for the demolition of the existing single storey building on the northern part of the site and the construction of a three-storey shop top housing development with basement below. The northern building will provide a shop at ground level fronting Bronte Road with two one-bedroom units above with access to a communal roof terrace. The application also seeks consent for an addition to the rear of the heritage-listed property on the southern portion of the site which also fronts Bronte Road.

The use of the building is considered to be an Existing Use under Division 4.11 of the EP&A Act. Clause 44 in Part 5 of the *Environmental Planning & Assessment Regulation 2000* allows an existing use to be rebuilt subject to development consent.

The merit assessment of this development application is therefore to be considered under Section 4.15 of the Environmental Planning and Assessment Act having regard to relevant provisions of the LEP and DCP in as much as they control development on surrounding sites.

The proposal has been substantially amended since originally submitted with the major amendment being the deletion of two storeys from the height of the new building.

The amended proposal provides appropriate form and massing at the street front which is consistent with the pattern of development along this part of Bronte Road. The properties to the south along Bronte Road are built up to the all side boundaries providing a strong unbroken street wall. The subject proposal is a continuation of that pattern and complements the character of the existing building and the group of heritage-listed buildings. The proposal is also consistent with the desired future character controls of the DCP. The proposal is considered to have no unreasonable impacts upon the amenity of surrounding properties.

The original and amended proposals were notified. The initial notification resulted in 17 submissions (including one in support) and the renotification of the amended plans resulted in five submission (including one in support).

The application is recommended for approval.

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
Senior Development Assessment Planner

Angela Rossi
Manager, Development Assessment (Central)

Date: 18/8/19

Date: 13/9/19

Reason for referral:

- 1 Conflict of interest
- 2 Contentious development (10 or more objections)

APPENDIX A – DEFERRED COMMENCEMENT CONDITIONS

That the Council grant deferred commencement consent in accordance with the provisions of Section 4.16 (3) of the Environmental Planning and Assessment Act 1979.

The consent is not to operate until the applicant has satisfied Council as to the following matters:

- 1) An updated BASIX certificate reflecting the changes in the amended plans shall be provided.
- 2) A Preliminary Environmental Site Assessment or a Detailed Environmental Site Assessment prepared by a NSW Environment Protection Authority (EPA) accredited site auditor is to be submitted to Council certifying that the site is suitable for the intended use. Conditions on the SAS shall form part of the consent.

This development consent does not operate until the applicant satisfies Waverley Council, in accordance with the regulations, as to the matters specified in the above conditions and Waverley Council confirms such satisfaction in writing.

These conditions must be satisfied within 1 year of the date of this consent.

APPENDIX B – CONDITIONS OF CONSENT

Upon satisfying the consent authority as to the matters in Attachment A, the following conditions will apply.

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

(a) Architectural Plans prepared by Chris Elliott Architects as follows:

| Drawing Number/ rev | Plan description | Date | Received by Council |
|----------------------------|-------------------------|-------------|----------------------------|
| DA-01-B Rev. B | Site Plan Roof Plan | 28/05/2019 | 30/05/2019 |
| DA-02-B Rev. B | Basement Floor Plan | 28/05/2019 | 30/05/2019 |
| DA-03-B Rev. B | Ground Floor Plan | 28/05/2019 | 30/05/2019 |
| DA-04-B Rev. B | First Floor Plan | 28/05/2019 | 30/05/2019 |
| DA-05-B Rev. B | Second Floor Plan | 28/05/2019 | 30/05/2019 |
| DA-06-B Rev. B | Roof | 28/05/2019 | 30/05/2019 |
| DA-07-B Rev. B | Section BB | 28/05/2019 | 30/05/2019 |
| DA-08-B Rev. B | South Elevation | 28/05/2019 | 30/05/2019 |
| DA-09-B Rev. B | West Elevation | 28/05/2019 | 30/05/2019 |
| DA-10-B Rev. B | North Elevation | 28/05/2019 | 30/05/2019 |

(b) BASIX Certificate;

(c) Schedule of external finishes and colours received by Council on 30 May 2019; and

(d) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The proposal shall be amended as follows:

(a) The roof terrace of the new northern building shall be reduced to a maximum of 15m² in area to reduce visual and acoustic privacy impacts upon surrounding properties;

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

3. HERITAGE CONSERVATION STRATEGY AND HERITAGE DEED OF AGREEMENT

A Heritage Conservation Strategy prepared by a suitably qualified heritage consultant is to be provided to the satisfaction of Council for exteriors and interiors of the heritage listed building on the site, with

significant detailing identified and retained in an interpretable manner. This Strategy is to be approved by Council prior to the issue of a Construction Certificate and will become the 'approved heritage works'.

During the course of design development and implementation of works to the heritage item in accordance with the above, the applicant is to retain the services of a suitably qualified Heritage Architect as an expert. The Heritage Architect shall be empowered by the applicant to discuss matters directly with Council's Heritage Architect.

Prior to the issue of a Construction Certificate, the Heritage Architect is to certify that the works are to be carried out in accordance with the Conservation Strategy.

Prior to the issue of an Occupation Certificate, the Heritage Architect is to certify that the works have been completed in accordance with the Conservation Strategy.

The owner(s) of the premises shall enter into and execute a Deed of Agreement with and acceptable to Waverley Council to ensure that the 'approved heritage works' to 193 Bronte Road, Queens Park are completed. The Deed of Agreement shall ensure that:

- (a) An occupancy certificate is not released prior to the completion of the '*approved heritage works*';
- (b) Any future owner of the site is also required to enter into the Deed of Agreement;
- (c) Measures by which the heritage items are to be protected during the construction process and a commitment to remediation work in the event that there is any damage.
- (d) The Council has a right at any time to inspect the property for the purposes of investigating the measures by which the heritage items are being protected from damage and the way in which the works in the Conservation Strategy are being carried out; and
- (e) The Deed of Agreement must be prepared and executed prior to the issue of a Construction Certificate for any part of the development. The cost of the preparation and registration of all legal and associated expenses is to be met by the owner(s) or applicant. The Deed must be acceptable to Council.

4. HERITAGE CONSERVATION

- (a) A suitably qualified Heritage Conservation Architect shall be retained to supervise and monitor works to the heritage listed building.
- (b) Periodic inspection of conservation and adaptive reuse works is to be arranged with Council and to be carried out by the consultant heritage architect in conjunction with Council's Heritage Architect or Heritage Planner.
- (c) External and internal colour schemes and finishes schedules are to be approved by Council's Heritage Architect prior to the issue of a construction certificate. In this regard, materials and finishes are to be restricted to the range of heritage colours sympathetic to the historical character of the area.

- (d) Where changes are required due to discovery of unforeseen structural or material issues, these are to be first discussed with Council's Heritage Officer in conjunction with a site inspection (where required). Inspection fees apply.
- (e) Provisions for mail, security and boundary and external lighting shall be provided for approval by Council's Heritage Officer prior to the issue of a construction certificate.
- (f) The proposed works are to be carried out in a manner that minimises demolition, alterations, and new penetrations/fixings to the significant fabric of the existing building, which is listed as a Heritage Item.

5. ALTERATIONS AND ADDITIONS ONLY

This consent is for alterations and additions to the existing building only and should during the course of certification or construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment. This will require compliance with the planning controls, including SEPP (Building Sustainability Index: BASIX) 2004.

6. SEPARATE APPLICATION FOR USE, SIGNAGE AND FITOUT

The use, fit-out, signage or proposed hours of operation for the commercial tenancies on the ground floor level of the new infill building have not been proposed in this application, therefore these elements require the separate approval from Council, unless deemed exempt development under *State Environmental Planning Policy (Exempt and Complying Development) 2008*.

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 the appointment in accordance with Section 81(A)(2)(b) of the Environmental Planning & assessment Act, 1979 and Form 7 of Schedule 1 of the Regulations; and
- (c) Council is given at least two days Notice in writing of the intention to commence the building works.

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

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 may be obtained from Waverley Council Customer Service Centre or downloaded from: www.waverley.nsw.gov.au/publications/

- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.
- (c) Should a section 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 Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

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

Advisory Note

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

- A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

9. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of \$26,650 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. PUBLIC DOMAIN IMPROVEMENTS

The public domain is to be upgraded along the entire site's frontage to Bronte Road in accordance with Waverley Development Control Plan (DCP) 2012 (Amendment 5) and the 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, Creating Waverley prior to the issue of the Construction Certificate.

- Pedestrian footpath;
- Road pavement;
- Kerb and gutter;
- Stormwater infrastructure located on the Council kerb;
- Street light poles;
- Street furniture;
- Landscape and street tree plantings.

12. PUBLIC INFRASTRUCTURE WORKS

Public infrastructure works shall be designed and constructed as outlined in this condition of consent. The approved works must be completed to Council's satisfaction at no cost to Council.

Full design engineering drawings to be prepared by a suitably qualified and experienced engineering professional and be submitted to Council for the approval of the Executive Manager, Creating Waverley prior to the issue of the Construction Certificate.

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

- a) Reconstruct the existing footpath traversing the Bronte Road frontage in accordance with the current Waverley Council Development Control Plan (DCP) and Public Domain Technical Manual (PDTM) at the time of engineering plan approval. The proposed footpath material, profile to be advised by Council.
- b) Replace all kerb and gutter traversing the Bronte Road frontage. Any stormwater kerb lintel infrastructure within the extent of kerb and gutter works shall be replaced. Proposed kerb profiles are to be provided to ensure proper connections to existing kerb and gutter along the street frontage. The existing vehicular crossing layback must be removed and reconstructed as kerb and gutter.
- c) A street tree shall be planted in the nature strip along the street frontage of the site. The tree must have a minimum pot size of 400 litres and shall be certified as grown to Natspec specifications with a minimum height of 2500mm from the top of the container to the apical tip. The tree species and planting location to be approved by Council.
- d) The proposed tree within the Council verge will require the installation of a suitable tree pit, surround and root barriers as per the Waverley Council Public Domain Technical Manual. All proposed tree species, location and tree size to be approved by Council Officer.
- e) Any existing or proposed utility pillars on the Bronte Road frontage to be relocated 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.
- f) All mains electrical connections to the development must be routed underground. Council will not accept the erection of newly placed electricity columns within the Council's public domain to support the new development.
- g) Communicate the relocation/adjustment of all public utility 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. All the requirements of the relevant Public Authority shall be complied with

Notes:

- Depending on the complexity of the proposed public domain works, the Council's review of each submission of the plans may take a minimum of six (6) weeks.
- 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 public domain design submissions; however Council's title block shall not be replicated.

13. GROUND ANCHORS

Prior to works commencing on site, a plan, showing the location and type of all ground anchors that will be required to extend beyond any of the existing or proposed boundaries of the site shall be submitted to Council for the approval of the Executive Manager, Creating Waverley. Any ground anchors that are proposed to extend beyond the property boundary into adjoining land, must provide Council with written evidence of owners consent (from affected properties) for such works.

Please note, a fee will be applied for each anchor approved to extend into a road reserve.

14. 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.

15. FIRE SAFETY UPGRADING WORKS

- a) In addition to all new works fully complying 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) Access for people with a disability – Part D3 (to the extent necessary in order to comply with the Disability (Access to Premises – Buildings) Standard 2010;
 - (vii) Fire fighting equipment – Part E1;
 - (viii) Smoke hazard management – Part E2;
 - (ix) Emergency lighting, exit signs and warning systems – Part E4;
 - (x) Sanitary and other facilities – Part F2;
 - (xi) Room heights – Part F3;
 - (xii) Light and ventilation – Part F4; and
 - (xiii) 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, 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 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 and Strata Subdivision 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.

16. FIRE SAFETY WORKS TO BE REVIEWED BY A REGISTERED HERITAGE ARCHITECT

The required fire safety works recommended in any BCA report are to be reviewed by a registered Heritage Architect to ensure that these works are generally consistent with the heritage significance of the building. In this respect, the project's Heritage Architect and Building Surveyor must jointly confer and agree on these works. These works may be modified to address a balance between retention of the heritage significance of the building and contemporary building standards.

The Heritage Architect's report is to be provided as an addendum to the approved and suitably modified Building Code of Australia Compliance Report prior to release of the construction certificate for the building."

17. ARCHIVAL RECORDING OF EXISTING BUILDINGS

A brief archival record (at a minimum the front and rear elevations, details of notable elements of each building eg the awning and foyers) shall be prepared of the existing building for deposit in Waverley Council's Archive (2 hard copies and 1 digital copy to be submitted). This record must be carried out prior to the removal of any significant building fabric or furnishings from the site and must be submitted to Council prior to the commencement of any demolition work and the issue of a Construction Certificate. The record shall comprise photographic documentation of the site and its context, and the exteriors and interiors of the existing building(s), photographed where appropriate, using a camera/lens capable of 'perspective correction', comprising:

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

18. MATERIALS AND FINISHES FOR HERITAGE BUILDINGS

Samples of external materials and finishes shall be submitted to Council for approval prior to the issue of the relevant Construction Certificate. In this regard, materials and finishes are to be restricted to the range of heritage colours sympathetic to the historical character of the area with the applicant to confer with Council prior to the preparation of the samples.

19. SERVICE AUTHORITIES

The applicant is to seek approval from the relevant service authorities regarding any possible modification to the existing infrastructure within the vicinity of the site prior to the issue of a Construction Certificate. This includes, but not limited to, power poles, pits or other underground services, as well as Sydney Water regarding any possible modification to the service authority's infrastructure.

20. HOARDING

To ensure the site is contained during construction, a hoarding may be required for the approved works. If required, the hoarding shall 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.

21. 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.

22. ENGINEERING DETAILS

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

23. ENGINEERING DETAILS - CERTIFICATE OF ADEQUACY

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

24. DETAILS OF BULK EXCAVATION, SHORING OR PILE CONSTRUCTION

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

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

25. SITE WASTE AND RECYCLING MANAGEMENT PLAN

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

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

26. EROSION, SEDIMENT AND POLLUTION 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 exiting 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.

27. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT

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

The CVPPM shall provide details of the following:

- a. The proposed route to be taken by demolition/construction vehicles in the Waverley Council area when accessing and exiting the site.
- b. The type and size of demolition/construction vehicles. Trucks with dog trailers and semi trailers may not be approved for use if it is considered with the information submitted that such vehicles cannot adequately and safely gain access to and from the site or where access into or out of the site may not be possible without the need to remove an unsatisfactory number of vehicles parked on the roadway adjacent to or opposite the site.
- c. The location of truck holding areas remote from the site should Council not give approval for demolition/construction vehicles to stand on the roadway in the vicinity of the site.
- d. Traffic control measures to be put in place when trucks, manoeuvring in the vicinity of the site, will interfere with the free flow of traffic.
- e. The location and materials of construction of temporary driveways providing access into and out of the site.
- f. The location and length of any proposed Works/Construction Zones. Note: such zones require the approval of the Waverley Traffic Committee and Council prior to installation.
- g. The hours of operation of demolition/construction vehicles.
- h. The number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.
- i. How it is proposed to cater for the safe passage of pedestrians past the site. The details shall include:
 - The route required to be taken by pedestrians including signage and any other control measures that will need to be put in place to direct and keep pedestrians on the required route
 - Any obstructions such as street furniture, trees and bollards etc., that may interfere with the safe passage of pedestrians
 - The type(s) of material on which pedestrians will be required to walk
 - The width of the pathway on the route
 - The location and type of proposed hoardings
 - The location of existing street lighting

NOTE:

Prior to the preparation of the CVPPM, the applicant or their representative shall:

- i. Make contact with Council's Senior Traffic Engineer to discuss information required at (a) to (j) above.
- ii. Be aware swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, may need to be submitted to Council for all truck movements that are to take place within the Council area prior to an approval being issued for the CVPPM.
- iii. Be aware of and take into account the cumulative effect that truck movement from the development site and other development sites in the vicinity that are either under construction or have development approval will have on roads leading to and from the site.

28. STORMWATER MANAGEMENT

- (a) The stormwater management plans prepared by Chris Elliot Architects, Sheet No. B, dated May 2019 have been checked and considered **not satisfactory** with respect to stormwater details. The

drawings do not comply with the Waverley Development Control Plan 2012 in reference to Waverley Council's Water Management Technical Manual.

- i. On-site Stormwater Detention (OSD) and its details are required (e.g. location, cross and long sections and dimensions of OSD tank, top water level, orifice centreline level) along with completed mandatory checklist as set out in page 22 of Waverley Council's Water Management Technical Manual is required.
- (b) Amended details addressing clause (a) are to be submitted and approved by Council's Executive Manager, Creating Waverley demonstrating compliance, prior to the issue of a Construction Certificate.
- (c) Certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Water Management Technical Guidelines. Stormwater system details are to be submitted in accordance with the Waverley Development Control Plan 2012 - Part B prior to the issue of a Construction Certificate.

29. NOISE MANAGEMENT PLAN - DEMOLITION, EXCAVATION AND CONSTRUCTION

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

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

30. ACOUSTIC SEPARATION

Appropriate acoustic separation of the retail level from the residential level shall be incorporated into the design to ensure that any future use of the retail shops does not unreasonably impact upon

the acoustic amenity of the residential units. Details are to be provided to the Principle Certifying Authority prior to the issue of a Construction Certificate.

31. NOISE ATTENUATION IN RESIDENTIAL FLAT BUILDINGS

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

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

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

32. ACCESS TO MAIN ENTRY

Access in accordance with AS1428.1 shall be provided to and within the main entrance and exit points of the development. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

33. UNISEX ACCESS TOILET

The unisex sanitary facility provided in the ground floor level commercial tenancy in the infill building that provides public sanitary facilities shall be designed in accordance with AS1428.1.

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

34. ACCESSIBLE SIGNAGE

Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory or wherever directional signage or information is provided in the building. Such signage shall have regard to the provisions of AS1428.1.

35. 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*.

36. LANDSCAPED SLABS

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

37. TREE PRUNING ON ADJOINING PROPERTIES

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

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

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

38. ENERGY AUSTRALIA

The applicant to confer with Energy Australia to obtain that authority's needs for the provision and location of a kiosk type distribution centre on the subject land, and if deemed necessary, the applicant to make available land to that Authority for the siting of such kiosk/sub-station. Any such provision shall be integrated into the design of the building's materials and finishes with regard to streetscape presentation if visible to the street.

Documentary evidence of compliance is to be provided to the satisfaction of the Principle Certifying Authority prior to the issue of the Construction Certificate.

39. SITE CONTAMINATION - REMEDIATION WORKS

- (a) Remediation and validation works shall be carried out in accordance with the approved Remedial Action Plan.
- (b) Any variation to the Remedial Action Plan shall be approved by the Accredited Site Auditor and Council in writing prior to the commencement of any work. The applicant must inform the PCA in writing of any proposed variation to the remediation works. The PCA shall approve these variations in writing prior to commencement of works.
- (c) Prior to the commencement of any work, other than demolition or excavation in association with remediation of the site, a Site Audit Statement is to be submitted to and approved by Council clearly stating that the site is suitable for the proposed use.

40. SITE CONTAMINATION - VALIDATION REPORT

- (a) After completion of the remedial works, a copy of the Validation Report shall be submitted to Council. The Construction Certificate shall not be issued until Council approves this Validation Report. The report shall be prepared with reference to the NSW Environment Protection Authority (EPA) guidelines, Consultants Reporting on Contaminated Sites and shall include:
- (b) Description and documentation of all works performed;
- (c) Results of validation testing and monitoring;
- (d) Validation results of any fill imported on to the site;
- (e) Details of how all agreed clean-up criteria and relevant regulations have been complied with; and
- (f) Clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

41. 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.

42. 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.

43. OBSTRUCTION TO PUBLIC AREAS

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

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

44. 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.

45. TOILET FACILITIES

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

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'.

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

Please note the following:

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

47. COMPLIANCE WITH SAFE WORK NSW

All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.

48. POTENTIAL DEWATERING OF THE SITE

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

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

49. SOIL AND WATER MANAGEMENT PLAN

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

50. 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.

51. SEDIMENT REMOVAL FROM VEHICLE WHEELS

A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed in accordance with the approved Soil and Water Management Plan for the site prior to the commencement of any site works or activities.

52. 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.

53. DEMOLITION & SITE PREPARATION

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

- (a) Work Health & Safety Act 2011;

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

54. 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 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.

55. DEMOLITION AND CONSTRUCTION WASTE MANAGEMENT

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

- (a) Separate collection bins or areas for the storage of waste is to be provided (giving consideration to slope, drainage, vegetation, access and handling requirements including:
 - (i) Landfill waste;
 - (ii) Recyclable waste;
 - (iii) Materials to be re-used on-site; and / or
 - (iv) Excavation materials.
 See Annexure B1-1 of the Waverley DCP for common building materials re-use and recycling potential.
- (b) A 100% re-use of sandstone is required.
- (c) All storage areas/ containers are to be located within the property boundary and indicated on the site plans / drawings as part of the SWRMP.
- (d) Where space on a development is limited, approval may be granted by Council to place a skip on a footpath or other public area in line with Part B of Waverley DCP 2012 (amendment 6).
- (e) Waste and recycling containers/skips may only be provided by persons/companies holding a current permit granted by Council.
- (f) Asbestos and other hazardous material is to be managed under the Protection of the Environment Operations Act. For further information go to Councils Asbestos Policy 2005 and www.nsw.gov.au/fibro and www.workcover.nsw.gov.au.

- (g) Materials that cannot be reused or recycled should be disposed of at an 'approved' landfill and specified in the SWRMP.
- (h) Records are to be retained on-site demonstrating lawful disposal of waste.
- (i) Easy vehicular access to waste and recycling material storage areas must be provided.
- (j) Construction materials are to be stored away from waste and recycling materials to enable easy access for waste collectors.
- (k) All waste and recycling is to be stored to prevent damage by the elements, odour, health risks and windborne litter.

56. 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).

57. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover NSW Friable Class A Asbestos Removal Licence or where applicable a Non-friable Class B (bonded) Asbestos Removal Licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by WorkCover NSW (catalogue no.WC03561) and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm 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.

58. REMEDIATION REQUIREMENTS

The following requirements apply to the remediation works required on-site:

- (a) A sign displaying the contact details of the remediation contractor (and site facilitator if different to remediation contractor) shall be displayed on the site adjacent to the site access. This sign shall be displayed throughout the duration of the remediation works. Owners and/or occupants of the premises adjoining the site shall be notified, in writing, at least seven days prior to the commencement of remediation works.
- (b) Remediation work shall not be carried out within 4 metres of the base of a tree, or adversely affect the appearance, health or stability of a tree, where works affecting the tree require Council approval.
- (c) Remediation work shall not be undertaken on land containing an item of environmental heritage where the consent of Council is required.
- (d) A covenant being registered on the title of the land giving notice of the former use and contamination of the site and the existence of the encapsulated cells containing contaminated material.
- (e) A covenant being registered on the title of the land binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated materials, including the discharge or prevention of discharge there from any contaminants or for any works required by the NSW Environment Protection Authority (EPA).

59. REMEDIATION WORKS REQUIRED

All exposed areas shall be progressively stabilised and revegetated on the completion of remediation works. Remediation work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am and 1pm on Saturdays with no work to be carried out on Sundays or public holidays.

60. USE OF FILL ON SITE

All fill imported on to the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported onto the site shall also be compatible with the existing soil characteristics for site drainage purposes.

Council may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported on to the site should be validated by either one or both of the following methods during remediation works;

- (a) Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) 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.

The only waste derived fill material that may be received at the development site is:

- (a) virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act 1997*), or
- (b) any other waste derived material the subject of a resource recovery exemption under cl. 51A of the *Protection of the Environmental Operations (Waste) Regulations 2005* 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.

61. SITE HEALTH & SAFETY PLAN

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

- (a) hazard identification and control
- (b) site security
- (c) personal protective equipment
- (d) work zones and decontamination procedures
- (e) contingency plans and incident reporting
- (f) environmental monitoring.

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

62. DEMOLITION REQUIREMENTS

Following demolition activities the soil must be tested by a person with suitable expertise, to ensure the soil lead levels are below acceptable health criteria for residential areas. The soil investigation being carried out in accordance with the NSW Environment Protection Authority (EPA) "Guidelines for Consultants Reporting on Contaminated Sites". An approved NSW Environment Protection Authority (EPA) Auditor, in accordance with the NSW EPA's "Guidelines" shall issue a Site Audit Statement at the completion of the investigation, for the NSW Site Auditor Scheme.

63. SITE AUDIT STATEMENT

A Site Audit Statement (SAS) prepared by a NSW Environment Protection Authority (EPA) accredited site auditor is to be submitted to Council certifying that the site is suitable for the intended use prior to the issuing of a construction certificate. Conditions on the SAS shall form part of the consent.

Where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council these conditions should be discussed with Council before the Site Audit Statement is issued.

64. BUILDING CODE OF AUSTRALIA

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

65. FIRE SAFETY

A building in respect of which there is a change of building use must comply with the Category 1 Fire Safety Provisions applicable to the proposed new use.

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

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

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

The specified **MANDATORY** inspections are:

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

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

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

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

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

67. BUILDING LEGISLATION AMENDMENT (QUALITY OF CONSTRUCTION ACT) - INSPECTIONS (COMMERCIAL CLASS 5, 6, 7, 8 AND 9)

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

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

The specified **MANDATORY** inspections are:

In the case of a Class 5, 6, 7, 8 or 9 building:

- (a) at the commencement of the building work;
- (b) prior to covering any stormwater drainage connections; and
- (c) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

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

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

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

68. 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.

69. 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.

70. 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.

71. 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
- 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.

72. CARE TO BE TAKEN DURING CONSTRUCTION

The proposed works are to be carried out in a manner that minimises demolition, alterations, and new penetrations/fixings to the significant fabric of the existing building, which is listed as a Heritage Item.

73. 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.

74. 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.

75. BALCONIES NOT TO BE ENCLOSED

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

76. 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.

77. MECHANICAL VENTILATION SYSTEMS

- (a) The premises are to be ventilated in accordance with the requirements of the National Construction Code & relevant Australia Standards.
- (b) All proposed mechanical ventilation system shall comply with the Australian Standard AS 1668 (Parts 1 and 2). Prior to installation, the design is to be certified by a person competent to do so.

At completion of the installation of the system and prior to the issue of the Occupation Certificate, the work shall be certified by a person competent to do so. The certification shall include:

- (i) inspection, testing and commissioning details;
- (ii) date of inspection, testing and commissioning details;
- (iii) the name and address of the individual who carried out the test; and
- (iv) a statement that the service has been designed, installed and is capable of operating to the above standard.

78. 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.

79. 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's Executive Manager, Creating Waverley, the Applicant must comply with the requirements (including financial costs) of the relevant utility service provider (e.g. Ausgrid, Sydney Water, Telstra, RMS or similar) in relation to any connections, repairs, relocations, replacements and/or adjustments to public infrastructure or services affected by the proposed works.

80. PUBLIC AREAS AND RESTORATION WORKS

Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas due to construction activities must be made safe to the general public and be regarded as a high level priority. This includes, but not limited to works performed for the purpose of connection/s to public utilities, including repairs of damaged infrastructure. Should Council discover any unsafe construction activities within the public areas surrounding the development, the works must be resolved immediately to the satisfaction of Council.

81. WORKS ON PUBLIC ROADS

Any works performed in, on or over a public road reserve pursuant to this consent must be carried out in accordance with this consent and with the Road/Footpath Opening Permit issued by Council as required under Sections 138 and 139 of the Roads Act 1993.

82. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

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

83. 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 of the Contractor who will be responsible for the construction works, and the contact details of the managing site supervisor/engineer.

Engineer who will be responsible for providing the certifications required at the hold points during construction, and also obtain all Road Activity Permits required for the works.

84. NOTIFICATION OF ADJOINING OWNERS AND OCCUPIERS

The Applicant shall provide the adjoining owners and occupiers' written notice of the proposed public domain works a minimum two weeks prior to commencement of construction. The notice is to include a contact name and number should they have any enquiries in relation to the construction works. The duration of any interference to neighbouring driveways shall be minimised; and driveways shall be returned to the operational condition as they were prior to the commencement of works, at no cost to the owners.

85. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS

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 engineer for the following hold points:

Kerb and Gutter & Footpath Paving

- After completion of formwork and prior to casting of concrete
- After full completion and restoration

Road Pavement

- Subgrade trim & compacted
- Binder course spread & consolidated
- After Wearing course laid and full completion

Landscape

- After full completion and restoration

All applicable engineering inspection fees in accordance with Council's Management Plan are to be fully paid prior to issue of Construction Certificate for the works. A minimum 48 hours' notice will be required when booking for the site inspections.

The Principal Certifying Authority shall not issue any Occupation Certificate until Council has conducted a final inspection of the completed works and has issued a final compliance certificate certifying satisfactory completion of the works.

86. AWNINGS

The awning shall:

- (a) Extend along the entire Bronte Road northern frontage of the site (ie, not required to existing heritage listed building).
- (b) Be minimum 3m in width (extending out from building façade);
- (c) Have a height between 3.1 – 4.2m measured above footpath level, that steps/tapers with the topography of the site;
- (d) Be offset a minimum of 600mm behind the kerb.

87. 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.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

88. 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.

89. SYDNEY WATER

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

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

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

90. STORMWATER

Prior to the issue of an Occupation Certificate, certification is to be provided from a suitably qualified hydraulics engineer, that the stormwater system has been **constructed** in accordance with the approved stormwater management plans and to best engineering practice.

91. WASTE AND RECYCLING STORAGE AND COLLECTION - USE

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

- **Residential** (weekly collection of general waste and fortnightly collection of recycling)
 - 1 x 240L Mobile Garbage Bins (MGB) for general waste
 - 1 x 240L MGB for container recycling
 - 1 x 240L MGB for paper and cardboard recycling
 - A minimum of 1 x 240L MGB for excess waste
 - 1 x 140L MGB for garden organics should this type of waste be generated at the property
- **Commercial**
 - 2 x 240L MGBs for general waste
 - 1 x 240L MGB for comingled recycling (containers and paper)
 - Extra storage for milk and bread crates, packaging and boxes is to be provided

(b) All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 of Waverley Council Development Control Plan 2012. All waste and recycling storage rooms must be graded and drained to the sewerage system and approved by Sydney Water.

- (c) All unwanted bulky household items must be stored within the individual units on the property.
- (d) The proposal must have a method for the convenient transportation of waste and recyclables to the communal waste and recycling storage area (i.e. chute systems or a service lift dedicated for the transportation of waste).
- (e) Sufficient space must be allocated on-site for the storage of reusable items such as crates and pallets that is off the public domain.
- (f) All businesses at this development must have written evidence, held on-site, of a valid and current contract with a licensed collector of waste and recycling.
- (g) All new developments are to provide adequate storage for waste to accommodate future change of uses.
- (h) Composting facilities which meet all design requirements set in Annexure B1-5 of the Waverley Council Development Control Plan must be provided at this development.
- (i) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of waste receptacles, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.
- (j) The storage of bins on the kerbside on public land and kerbside is not permitted at any time.

92. LIGHTING

- (a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.
- (b) All external lighting fixtures should be vandal resistant.
- (c) Lighting should be carefully considered in areas covered by CCTV to allow for optimum viewing.
- (d) Lighting should be free of obstructions, such as tree branches, pipes, etc.
- (e) Transition lighting should also be used throughout the site to reduce vision impairment, i.e. impairment caused by walking from dark to light places and light to dark places.
- (f) All external area lights and carparks to multi-unit dwellings shall be on sensor switches to save energy and reduce light spill to the sky; low voltage solar powered lights to front entry footpaths are acceptable for continuously illuminated lighting.

93. ALLOCATION OF STREET NUMBER

The following allocation of premises addressing applies for Lot 3 DP 503965:

- 193 Bronte Road, Queens Park

Any variation to the above premises numbering or requirements for alternative premises numbering for properties with for the multiple access points and/or dual frontages will require a separate application for a Change of Street number and/or address be lodge with Council.

94. PARKING PERMITS

In accordance with Council's Policy, Residents Preferred Parking permits will **not** be issued for this development when completed.

95. FIRE SAFETY WORKS

The Occupation Certificate shall not be released by Council or an accredited certifier, until all fire safety works are completed and a Final Fire Safety Certificate has been submitted to Council, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:-

- (a) has been assessed by a properly qualified person; and
- (b) has been found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

96. ACCESS TO UNISEX TOILET

The accessible sanitary facility located on the ground floor level of the infill building must be available to all commercial tenants at all times and access keys to the facility are to be provided and issued to all tenants/occupants prior to issue of an Occupation Certificate.

97. NOISE ATTENUATION CERTIFICATE

On completion of any building containing residential units and prior to the issue of the Occupation Certificate the applicant shall:

- (a) Engage and an appropriately accredited and qualified acoustic engineer to conduct a test for noise attenuation to confirm compliance with Condition 21 of this consent; and
- (b) Lodge with Council for public record, the noise attenuation rating results.

98. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS

To ensure public infrastructure works required under the consent are completed to Council's satisfaction, a final inspection of the completed works is required from Council's engineer. The Occupation Certificate shall not be issued until certification has been obtained from Council confirming the public infrastructure works have been constructed to Council's satisfaction.

Notes:

- The issue of a Compliance Certificate from the Council officer 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.

E. OPERATIONAL CONDITIONS DURING OCCUPATION

99. USE OF ROOF TOP TERRACE

The use of the roof terrace is to be limited to between 7.00am and 10.00pm, 7 days (except New Years Eve), in order to ensure the amenity of the adjoining neighbours and neighbours within the building is not adversely impacted. Appropriate signage must be displayed in the foyer advising residents of the time restrictions for use of roof top terrace. Strata By-Laws reiterating these shall occur on any future Strata Plan.

100. NOISE - MECHANICAL PLANT

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

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

101. DOMESTIC HEATERS/ FIREPLACES

The provision of solid fuel heating/cooking appliances (including wood, coal or other solid fuels) is prohibited. In this regard, use of liquid fuels or gaseous fuels such as gas may be used.

102. ROLLER SHUTTERS

The installation of roller shutters or grilles, in front of, or in place of a standard window or shop front is prohibited. Council Policy requires the retention of a glass shop front for window display purposes. Should increased security be desired, then consideration should be given to applying shatter-resistant film or replacing existing shop window glass with laminated glass.

103. FIRE SAFETY - EXITS

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

104. FIRE SAFETY MAINTENANCE

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

105. TELECOMMUNICATION FACILITIES ON MULTI-UNIT DWELLINGS

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

106. USE OF COMMON PROPERTY

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

107. INSTALLATION OF AIR CONDITIONING

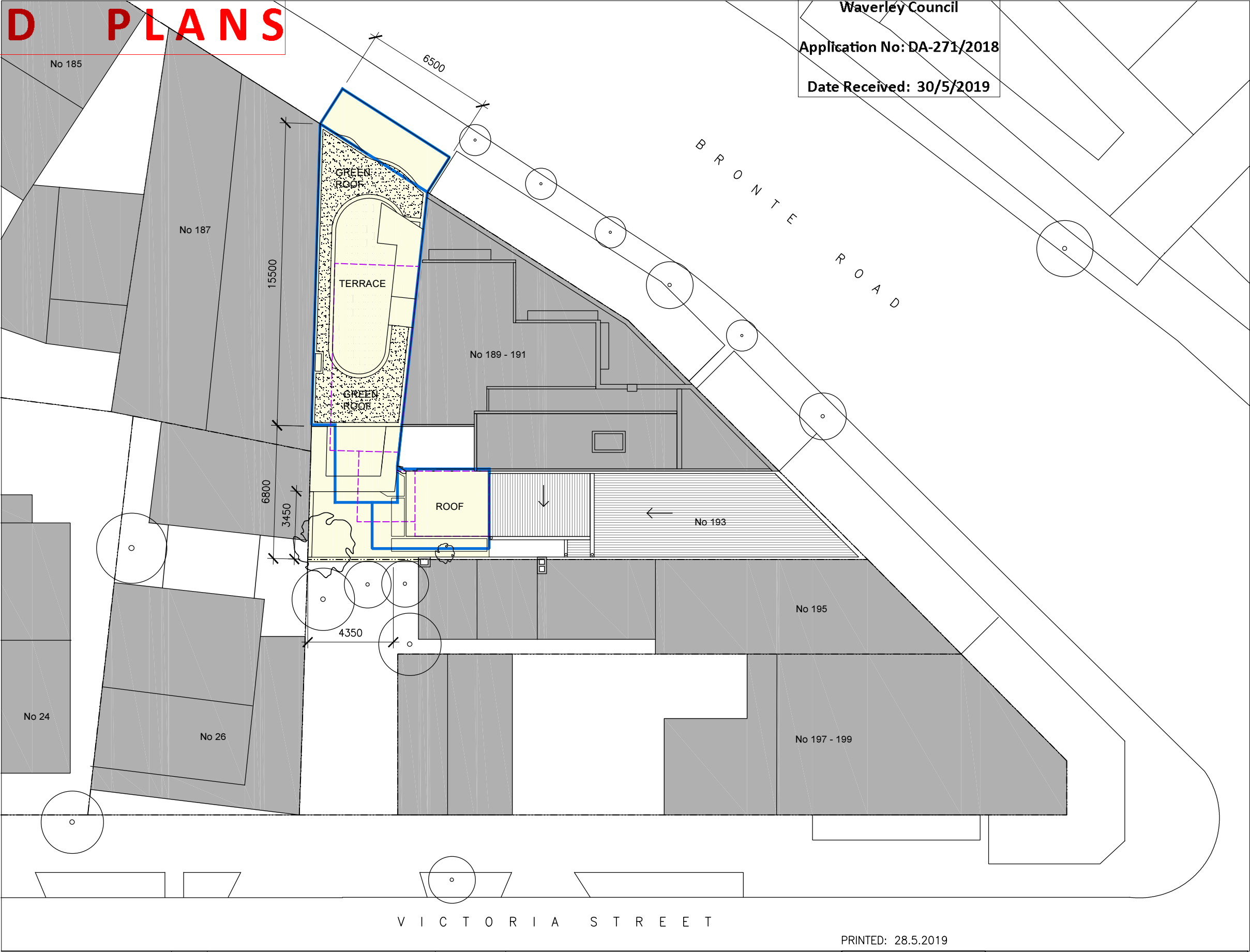
Any air conditioning unit(s) installed within the building shall:

- (a) Be located a minimum of 450mm from a boundary.
- (b) Be located behind the front building line and if visible, suitable screened and located in an appropriate location.
- (c) Not be adjacent to neighbouring bedroom windows.
- (d) Not reduce the structural integrity of the building.
- (e) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
 - (ii) before 7.00am and after 10.00pm on any other day.
- (f) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (e).

AMENDED PLANS

RECEIVED
Waverley Council
Application No: DA-271/2018
Date Received: 30/5/2019

- TO BE DEMOLISHED
- BOUNDARY LINE
- EXTENT NEW WORK
- EXISTING BUILDINGS
- EXTENT OF APPROVED DA-377/2012



SCALE 1:200
0 2 5 10m

PRINTED: 28.5.2019

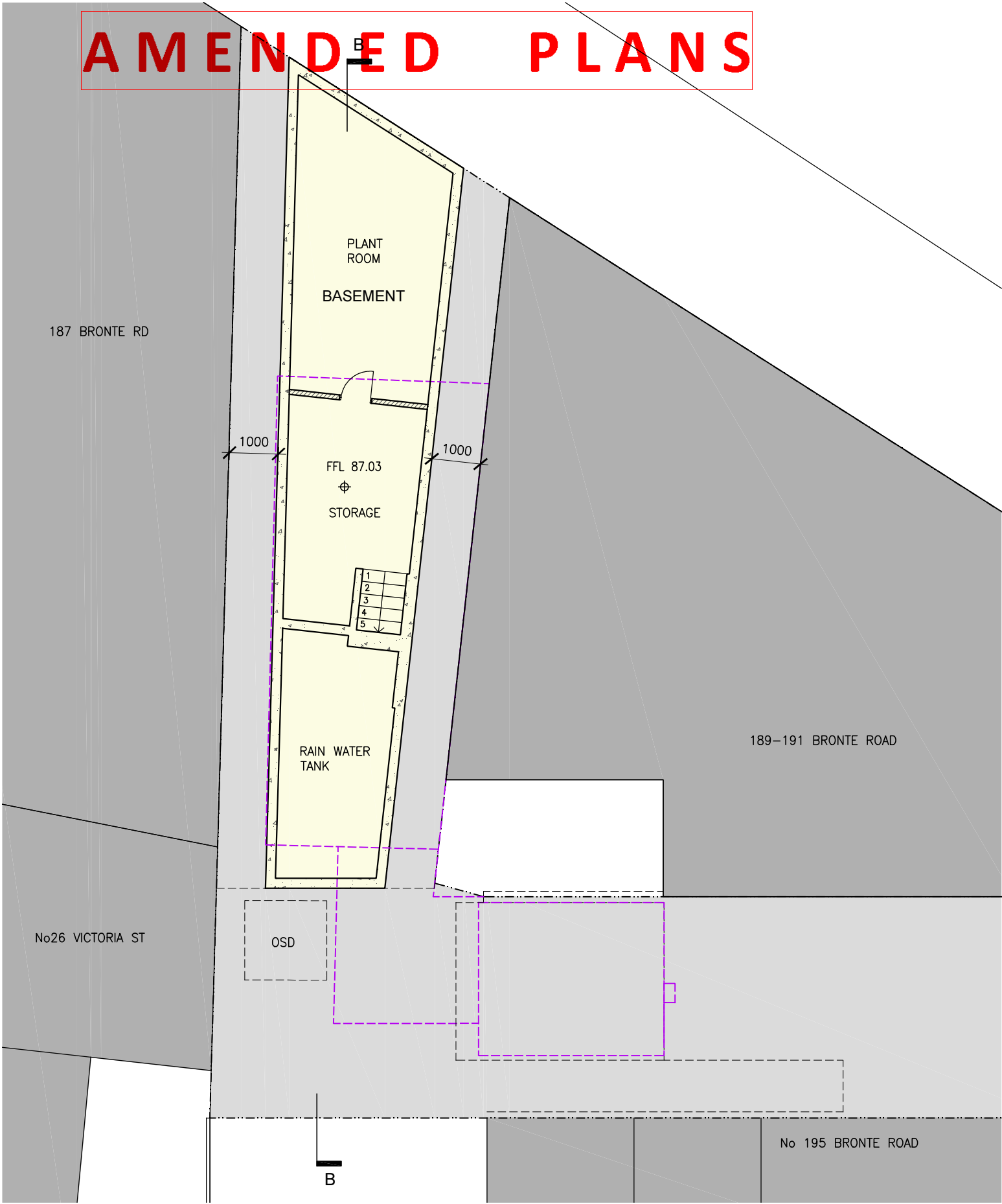
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| | | |
| B | REVISED DA DRAWINGS | 28 - 05 - 19 |
| A | DA DRAWINGS | 23 - 07 - 18 |
| No. | Revisions-Submissions | Date |

CHRIS ELLIOTT ARCHITECTS
193 Bronte Road
Queens Park NSW 2022
Phone: 0412 604 299
e-mail: studio@chriselliottarchitects.com
No 193 BRONTE ROAD QUEENS PARK

CEA

| | | | |
|---------------|-------------|-------------|------------------------|
| Drawing Title | | | SITE PLAN ROOF PLAN |
| Design CE | Drawn RF | Project No. | 1403 |
| Date | MAY - 2019 | Drawing No. | DA-01-B |
| Scale | 1:200 @ A3 | | |

AMENDED PLANS



KEY:
K
L
B
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EX
EXW
COS
TBR
TED
TFD
TBC

KITCHEN
LAUNDRY
BATHROOM
STORAGE
EXISTING
EXISTING BUILDINGS
TO BE REMOVED / DEMOLISHED
TO ENGINEER'S DETAIL
TO FUTURE DETAIL
TO BE CONFIRMED

RECEIVED
Waverley Council
Application No: DA-271/2018
Date Received: 30/5/2019

EXISTING WALL / FLOOR
NEW CONCRETE WALL / FLOOR
NEW BRICK / BLOCK WALL
UNEXCAVATED
EXISTING BUILDINGS
FILL / NEW SOIL
PAVING
PLANTING

MATERIALS AND FINISHES:
P.C. POLISHED CONCRETE
OFC OFF-FORM CONCRETE
CON CONCRETE PAVING
CR CEMENT RENDER + PAINT FINISH TFD

WINDOWS, DOORS AND FIXTURES:
TFSD TIMBER FRAMED SLIDING DOOR
AFW ALUMINIUM FRAMED WINDOW
HSW HORIZONTAL SLIDING WINDOW
FG FIXED GLASS PANEL
GB GLASS BLOCKS
GL GLASS LOUVRES
PS PRIVACY SCREEN

TO BE DEMOLISHED
BOUNDARY LINE
EXTENT OF NEW WORK
EXTENT OF APPROVED DA-377/2012



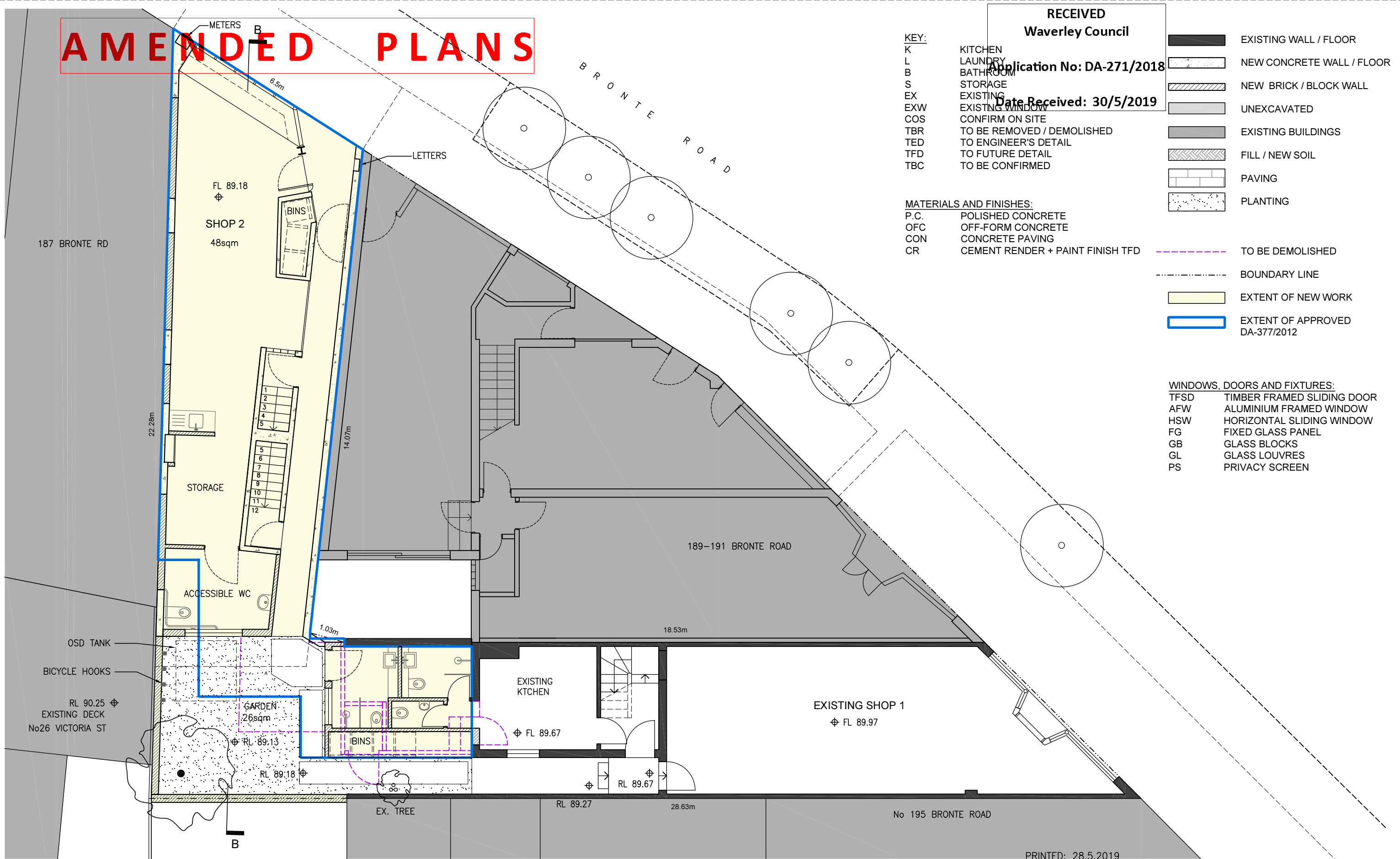
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| B | REVISED DA DRAWINGS | 28 - 05 - 19 |
| A | DA DRAWINGS | 23 - 07 - 18 |
| No. | Revisions-Submissions | Date |

CHRIS ELLIOTT ARCHITECTS
193 Bronte Road
Queens Park NSW 2022
Phone: 0412 604 299
e-mail: studio@chriselliottarchitects.com
No 193 BRONTE ROAD QUEENS PARK

CEA

| | | |
|--------------------------------------|------------------------|---------------------|
| Drawing Title BASEMENT FLOOR PLAN | | |
| Design CE | Drawn RF | Project No. 1403 |
| Date MAY - 2019 | Drawing No. DA-02-B | |
| Scale 1:100 @ A3 | | |

AMENDED PLANS



KEY:
K KITCHEN
L LAUNDRY
B BATHROOM
S STORAGE
EX EXISTING
EXW EXISTING WINDOW
COS CONFIRM ON SITE
TBR TO BE REMOVED / DEMOLISHED
TED TO ENGINEER'S DETAIL
TFD TO FUTURE DETAIL
TBC TO BE CONFIRMED

MATERIALS AND FINISHES:
P.C. POLISHED CONCRETE
OFC OFF-FORM CONCRETE
CON CONCRETE PAVING
CR CEMENT RENDER + PAINT FINISH TFD

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Application No: DA-271/2018
Date Received: 30/5/2019

EXISTING WALL / FLOOR
NEW CONCRETE WALL / FLOOR
NEW BRICK / BLOCK WALL
UNEXCAVATED
EXISTING BUILDINGS
FILL / NEW SOIL
PAVING
PLANTING

TO BE DEMOLISHED
BOUNDARY LINE
EXTENT OF NEW WORK
EXTENT OF APPROVED DA-377/2012

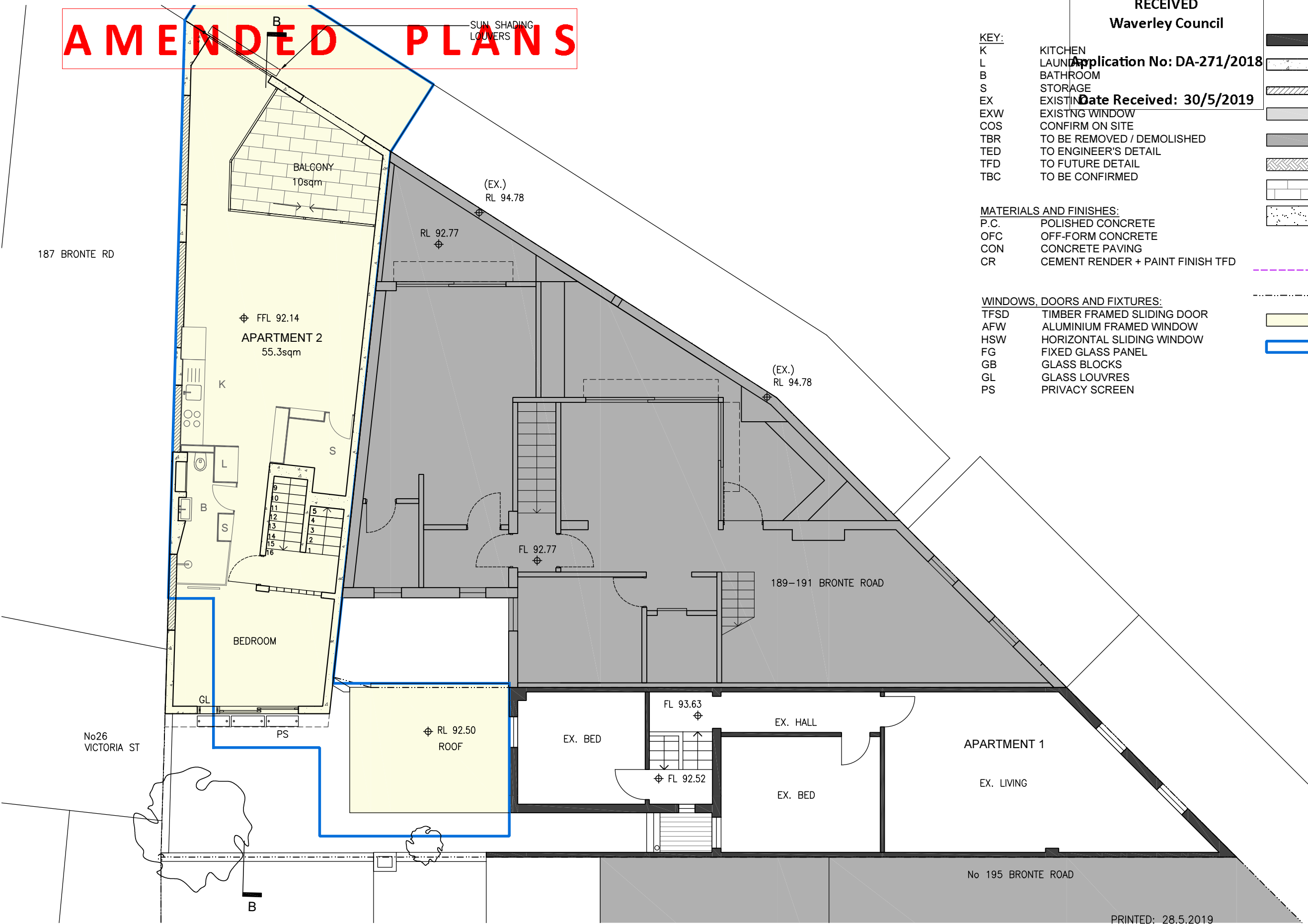
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AFW ALUMINIUM FRAMED WINDOW
HSW HORIZONTAL SLIDING WINDOW
FG FIXED GLASS PANEL
GB GLASS BLOCKS
GL GLASS LOUVRES
PS PRIVACY SCREEN

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| | | | <div>CHRIS ELLIOTT ARCHITECTS</div> <div>193 Bronte Road Queens Park NSW 2022 Phone: 0412 604 299</div> <div>e-mail: studio@chriselliottarchitects.com</div> | <div>CEA</div> | <div>Drawing Title</div> <div>GROUND FLOOR PLAN</div> | | |
| | | | | | <div>Design CE</div> | <div>Drawn RF</div> | <div>Project No.</div> <div>1403</div> |
| | | | | | <div>Date</div> <div>MAY - 2019</div> | | <div>Drawing No.</div> <div>DA-03-B</div> |
| | | | | | <div>Scale</div> <div>1:100 @ A3</div> | | |
| | | | | | | | |
| B | REVISED DA DRAWINGS | 28 - 05 - 19 | | | | | |
| A | DA DRAWINGS | 23 - 07 - 18 | | | | | |
| No. | Revisions-Submissions | Date | No 193 BRONTE ROAD QUEENS PARK | | | | |

AMENDED PLANS



- KEY:
- K KITCHEN
 - L LAUNDRY
 - B BATHROOM
 - S STORAGE
 - EX EXISTING
 - EXW EXISTING WINDOW
 - COS CONFIRM ON SITE
 - TBR TO BE REMOVED / DEMOLISHED
 - TED TO ENGINEER'S DETAIL
 - TFD TO FUTURE DETAIL
 - TBC TO BE CONFIRMED

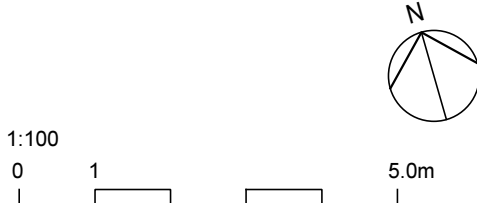
- MATERIALS AND FINISHES:
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 - OFC OFF-FORM CONCRETE
 - CON CONCRETE PAVING
 - CR CEMENT RENDER + PAINT FINISH TFD

- WINDOWS, DOORS AND FIXTURES:
- TFSD TIMBER FRAMED SLIDING DOOR
 - AFW ALUMINIUM FRAMED WINDOW
 - HSW HORIZONTAL SLIDING WINDOW
 - FG FIXED GLASS PANEL
 - GB GLASS BLOCKS
 - GL GLASS LOUVRES
 - PS PRIVACY SCREEN

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Date Received: 30/5/2019

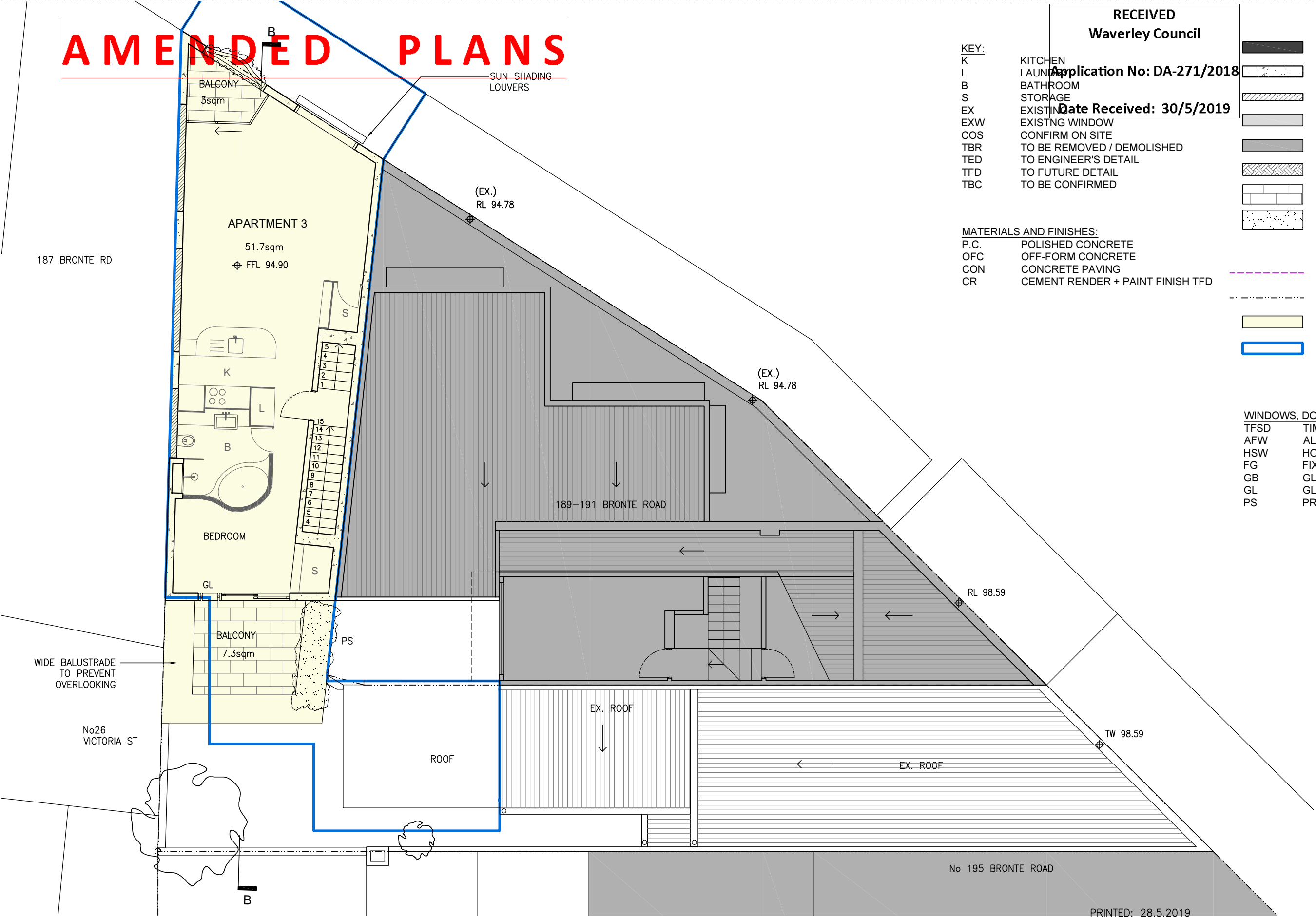
- EXISTING WALL / FLOOR
- NEW CONCRETE WALL / FLOOR
- NEW BRICK / BLOCK WALL
- UNEXCAVATED
- EXISTING BUILDINGS
- FILL / NEW SOIL
- PAVING
- PLANTING
- TO BE DEMOLISHED
- BOUNDARY LINE
- EXTENT OF NEW WORK
- EXTENT OF APPROVED DA-377/2012

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| | | | CHRIS ELLIOTT ARCHITECTS 193 Bronte Road Queens Park NSW 2022 Phone: 0412 604 299 e-mail: studio@chriselliottarchitects.com | CEA | Drawing Title FIRST FLOOR PLAN | | |
| | | | | | Design CE | Drawn RF | Project No. 1403 |
| | | | | | Date MAY - 2019 | Drawing No. DA-04-B | |
| | | | | | Scale 1:100 @ A3 | | |
| | | | | | | | |
| B | REVISED DA DRAWINGS | 28 - 05 - 19 | e-mail: studio@chriselliottarchitects.com | | | | |
| A | DA DRAWINGS | 23 - 07 - 18 | No 193 BRONTE ROAD QUEENS PARK | | | | |
| No. | Revisions-Submissions | Date | | | | | |

AMENDED PLANS



KEY:
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KITCHEN
LAUNDRY
BATHROOM
STORAGE
EXISTING
EXISTING WINDOW
CONFIRM ON SITE
TO BE REMOVED / DEMOLISHED
TO ENGINEER'S DETAIL
TO FUTURE DETAIL
TO BE CONFIRMED

MATERIALS AND FINISHES:
P.C. POLISHED CONCRETE
OFC OFF-FORM CONCRETE
CON CONCRETE PAVING
CR CEMENT RENDER + PAINT FINISH TFD

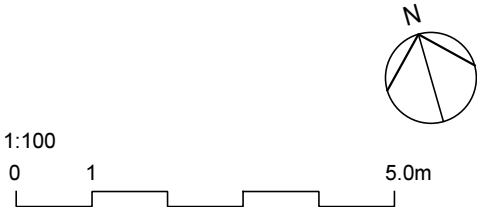
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Waverley Council
Application No: DA-271/2018
Date Received: 30/5/2019

EXISTING WALL / FLOOR
NEW CONCRETE WALL / FLOOR
NEW BRICK / BLOCK WALL
UNEXCAVATED
EXISTING BUILDINGS
FILL / NEW SOIL
PAVING
PLANTING

TO BE DEMOLISHED
BOUNDARY LINE
EXTENT OF NEW WORK
EXTENT OF APPROVED
DA-377/2012

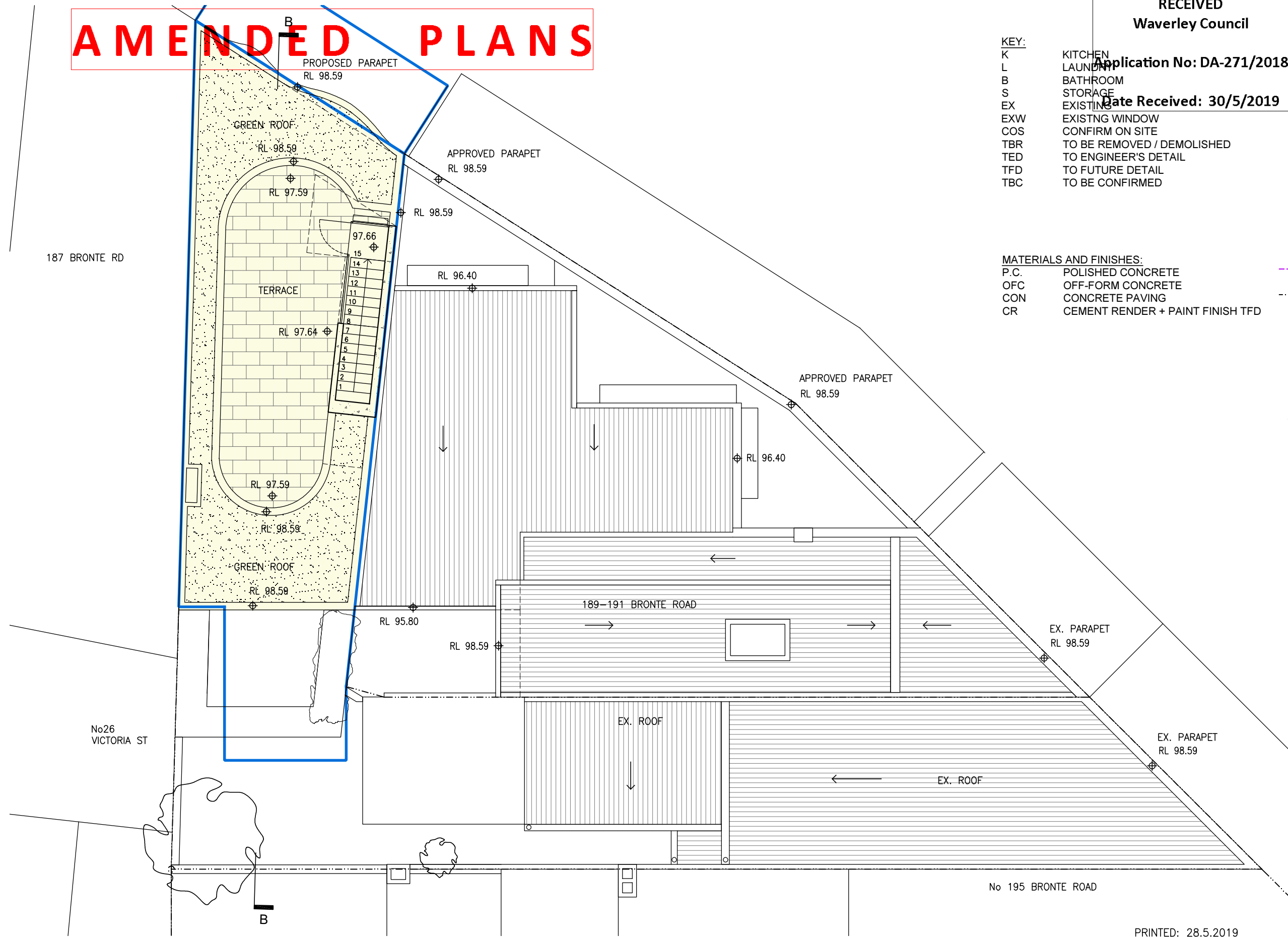
WINDOWS, DOORS AND FIXTURES:
TFSD TIMBER FRAMED SLIDING DOOR
AFW ALUMINIUM FRAMED WINDOW
HSW HORIZONTAL SLIDING WINDOW
FG FIXED GLASS PANEL
GB GLASS BLOCKS
GL GLASS LOUVRES
PS PRIVACY SCREEN

PRINTED: 28.5.2019



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| | | | CHRIS ELLIOTT ARCHITECTS 193 Bronte Road Queens Park NSW 2022 Phone: 0412 604 299 e-mail: studio@chriselliottarchitects.com | CEA | Drawing Title SECOND FLOOR PLAN | | |
| | | | | | Design CE | Drawn RF | Project No. 1403 |
| B | REVISED DA DRAWINGS | 28 - 05 - 19 | | | Date MAY - 2019 | Drawing No. DA-05-B | |
| A | DA DRAWINGS | 23 - 07 - 18 | | | Scale 1:100 @ A3 | | |
| No. | Revisions-Submissions | Date | No 193 BRONTE ROAD QUEENS PARK | | | | |

AMENDED PLANS



KEY:
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TED
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KITCHEN
LAUNDRY
BATHROOM
STORAGE
EXISTING
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CONFIRM ON SITE
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TO FUTURE DETAIL
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Application No: DA-271/2018
Date Received: 30/5/2019

- EXISTING WALL / FLOOR
- NEW CONCRETE WALL / FLOOR
- NEW BRICK / BLOCK WALL
- UNEXCAVATED
- EXISTING BUILDINGS
- FILL / NEW SOIL
- PAVING
- PLANTING

MATERIALS AND FINISHES:
P.C. POLISHED CONCRETE
OFC OFF-FORM CONCRETE
CON CONCRETE PAVING
CR CEMENT RENDER + PAINT FINISH TFD

- TO BE DEMOLISHED
- BOUNDARY LINE
- EXTENT OF NEW WORK
- EXTENT OF APPROVED DA-377/2012

WINDOWS, DOORS AND FIXTURES:
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AFW ALUMINIUM FRAMED WINDOW
HSW HORIZONTAL SLIDING WINDOW
FG FIXED GLASS PANEL
GB GLASS BLOCKS
GL GLASS LOUVRES
PS PRIVACY SCREEN



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| | | | <div>CHRIS ELLIOTT ARCHITECTS</div> <div>193 Bronte Road Queens Park NSW 2022 Phone: 0412 604 299</div> <div>e-mail: studio@chriselliottarchitects.com</div> | <div>CEA</div> | Drawing Title | | | ROOF | | |
| | | | | | Design CE | Drawn RF | Project No. <div>1403</div> | | | |
| B | REVISED DA DRAWINGS | 28 - 05 - 19 | | | Date MAY - 2019 | | | Drawing No. <div>DA-06-B</div> | | |
| A | DA DRAWINGS | 23 - 07 - 18 | | | Scale 1:100 @ A3 | | | | | |
| No. | Revisions-Submissions | Date | No 193 BRONTE ROAD QUEENS PARK | | | | | | | |

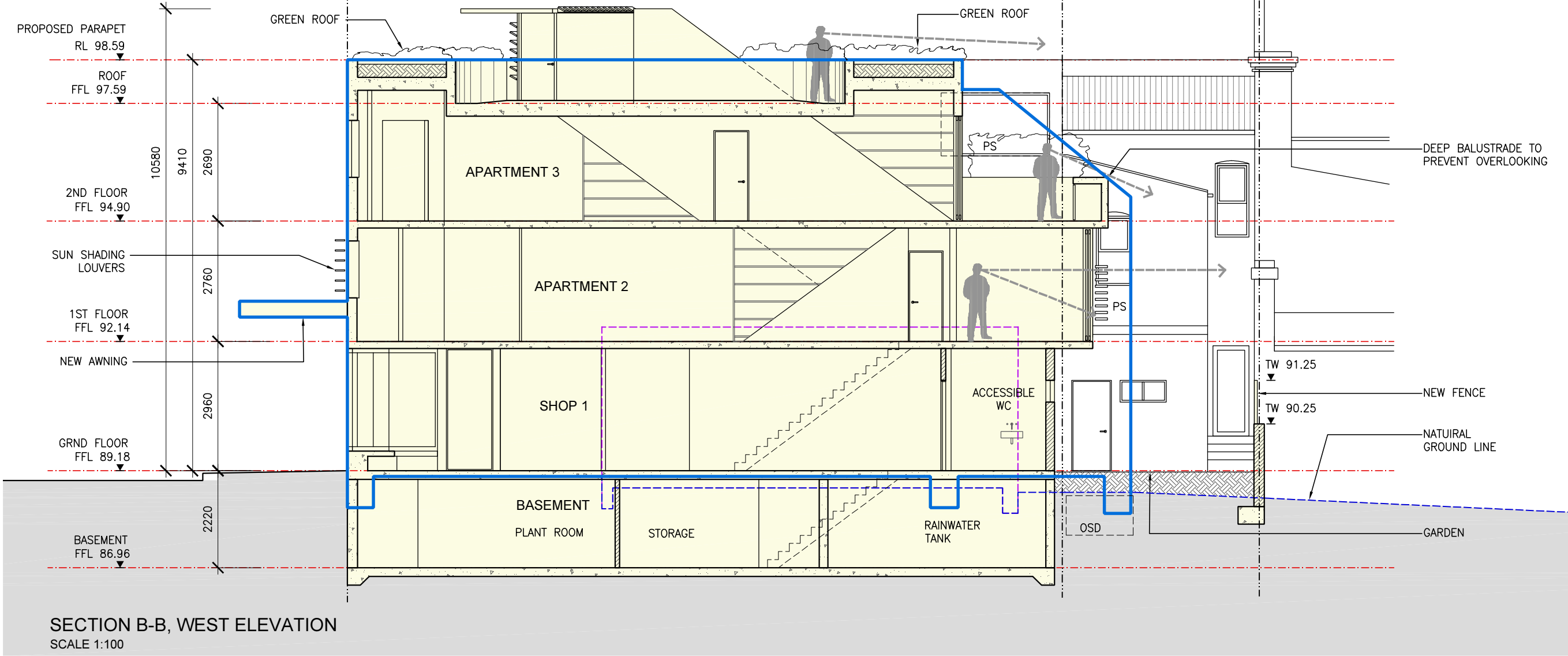
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AMENDED PLANS

12.5m HEIGHT LIMIT

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Date Received: 30/5/2019

PARAPET TO No
195 BRONTE RD



- EXISTING WALL / FLOOR
- NEW CONCRETE WALL / FLOOR
- NEW BRICK / BLOCK WALL
- UNEXCAVATED
- EXISTING BUILDINGS
- FILL / NEW SOIL
- PAVING
- PLANTING

- KEY:
- K KITCHEN
 - L LAUNDRY
 - B BATHROOM
 - S STORAGE
 - EX EXISTING
 - EXW EXISTING WINDOW
 - COS CONFIRM ON SITE
 - TBR TO BE REMOVED / DEMOLISHED
 - TED TO ENGINEER'S DETAIL
 - TFD TO FUTURE DETAIL
 - TBC TO BE CONFIRMED

- MATERIALS AND FINISHES:
- P.C. POLISHED CONCRETE
 - OFC OFF-FORM CONCRETE
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- WINDOWS, DOORS AND FIXTURES:
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 - HSW HORIZONTAL SLIDING WINDOW
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 - GL GLASS LOUVRES
 - PS PRIVACY SCREEN

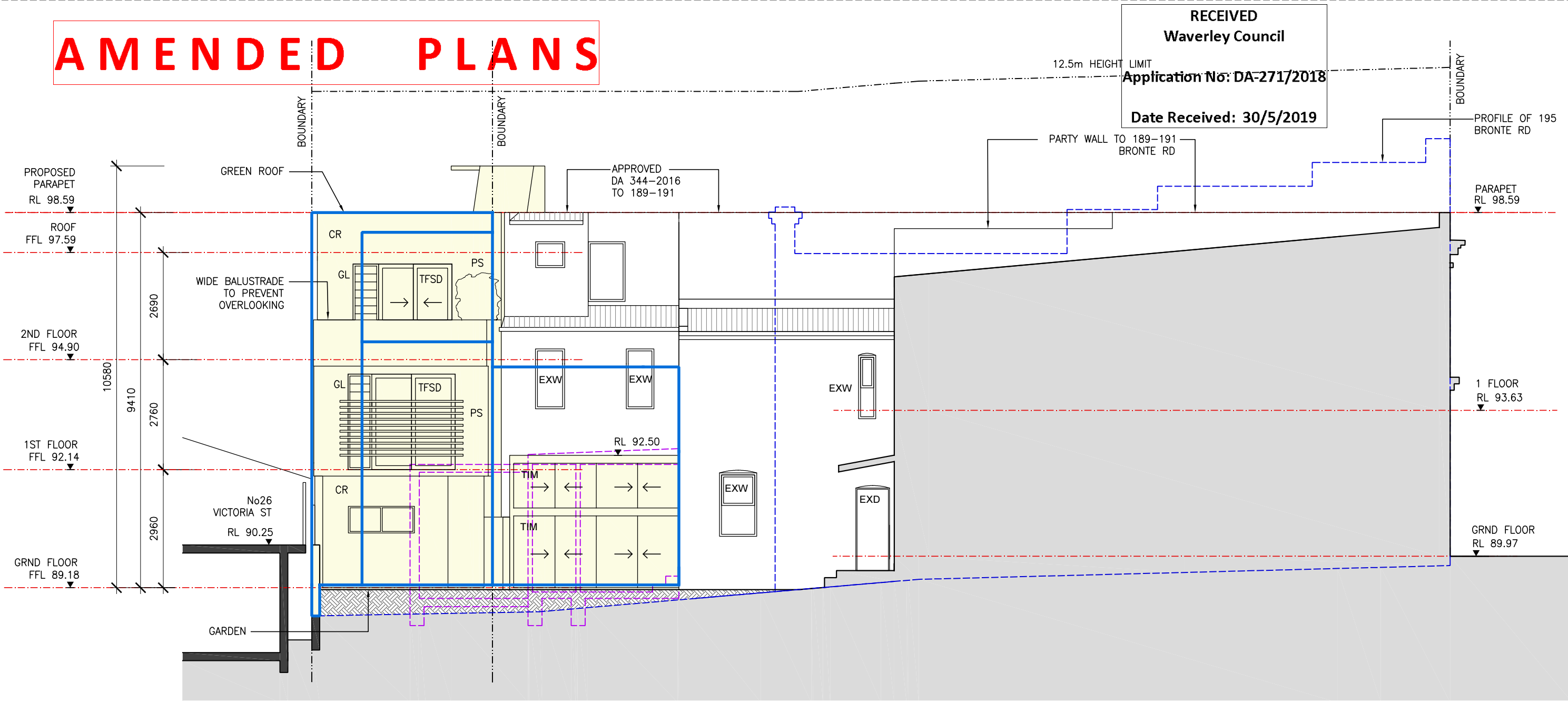


PRINTED: 28.5.2019

- TO BE DEMOLISHED
- BOUNDARY LINE
- EXTENT OF NEW WORK
- EXTENT OF APPROVED DA-377/2012

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| | | | CHRIS ELLIOTT ARCHITECTS 193 Bronte Road Queens Park NSW 2022 Phone: 0412 604 299 e-mail: studio@chriselliottarchitects.com | | CEA | Drawing Title SECTION BB | | |
| | | | | | | Design CE | Drawn RF | Project No. 1403 |
| | | | | | | Date MAY - 2019 | Drawing No. DA-07-B | |
| | | | | | | Scale 1:100 @ A3 | | |
| B | REVISED DA DRAWINGS | 28 - 05 - 19 | | | | | | |
| A | DA DRAWINGS | 23 - 07 - 18 | | | | | | |
| No. | Revisions-Submissions | Date | | | | | | |

AMENDED PLANS



SOUTH ELEVATION
SCALE 1:100

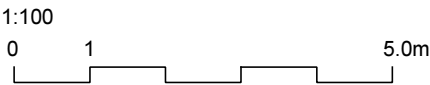
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- NEW CONCRETE WALL / FLOOR
- NEW BRICK / BLOCK WALL
- UNEXCAVATED
- EXISTING BUILDINGS
- FILL / NEW SOIL
- PAVING
- PLANTING

- KEY:
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 - L LAUNDRY
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 - TFD TO FUTURE DETAIL
 - TBC TO BE CONFIRMED

- MATERIALS AND FINISHES:
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 - CON CONCRETE PAVING
 - CR CEMENT RENDER + PAINT FINISH TFD

- WINDOWS, DOORS AND FIXTURES:
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 - HSW HORIZONTAL SLIDING WINDOW
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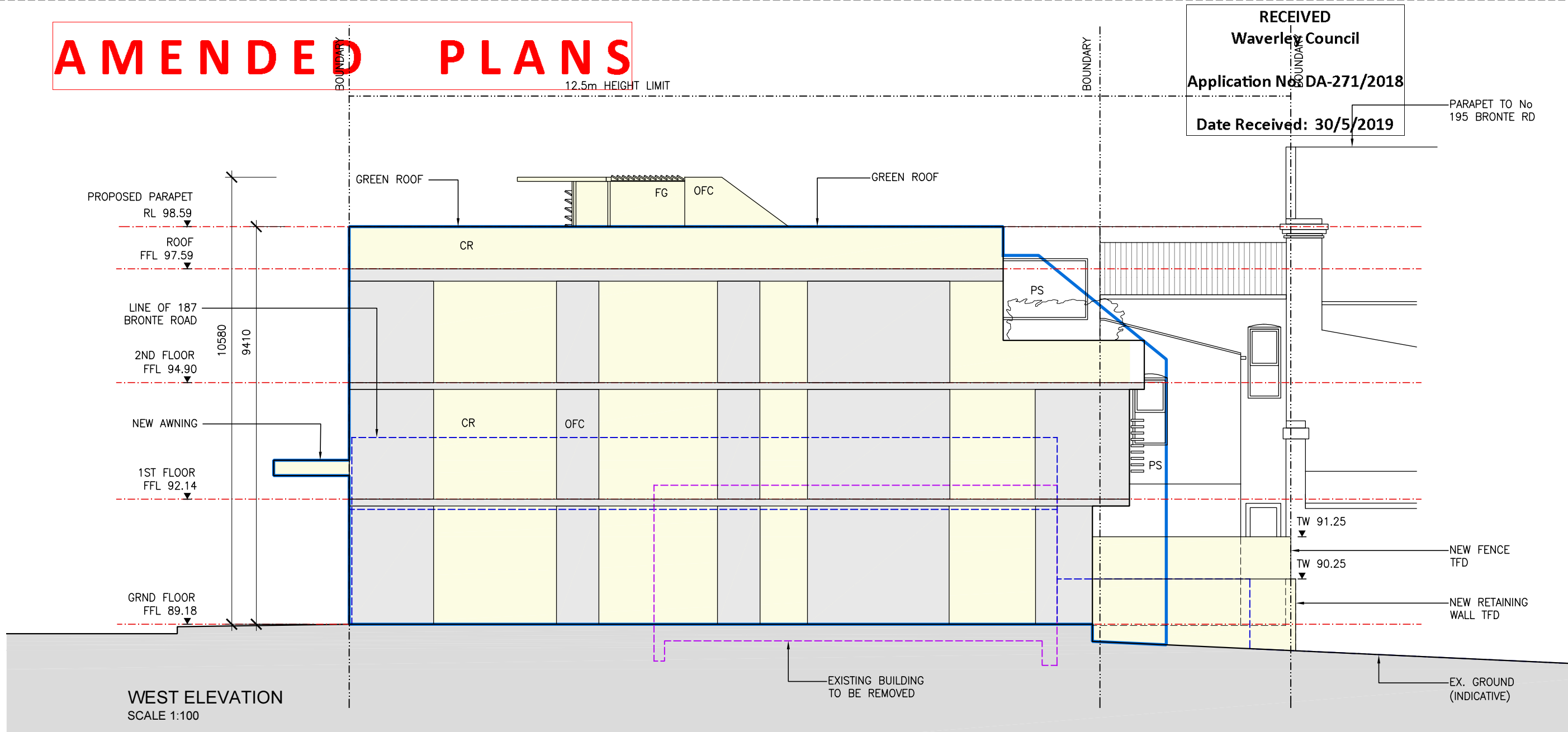
- TO BE DEMOLISHED
- BOUNDARY LINE
- EXTENT OF NEW WORK
- EXTENT OF APPROVED DA-377/2012



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| | | | <div>CHRIS ELLIOTT ARCHITECTS</div> <div>193 Bronte Road Queens Park NSW 2022 Phone: 0412 604 299 e-mail: studio@chriselliottarchitects.com</div> | <div>CEA</div> | Drawing Title SOUTH ELEVATION | | |
| | | | | | Design CE | Drawn RF | Project No. 1403 |
| B | REVISED DA DRAWINGS | 28 - 05 - 19 | | | Date MAY - 2019 | Drawing No. DA-08-B | |
| A | DA DRAWINGS | 23 - 07 - 18 | | | Scale 1:100 @ A3 | | |
| No. | Revisions-Submissions | Date | No 193 BRONTE ROAD QUEENS PARK | | | | |

AMENDED PLANS



- EXISTING WALL / FLOOR
- NEW CONCRETE WALL / FLOOR
- NEW BRICK / BLOCK WALL
- UNEXCAVATED
- EXISTING BUILDINGS
- FILL / NEW SOIL
- PAVING
- PLANTING

- KEY:
- K KITCHEN
 - L LAUNDRY
 - B BATHROOM
 - S STORAGE
 - EX EXISTING
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 - TBC TO BE CONFIRMED

- MATERIALS AND FINISHES:
- P.C. POLISHED CONCRETE
 - OFC OFF-FORM CONCRETE
 - CON CONCRETE PAVING
 - CR CEMENT RENDER + PAINT FINISH TFD

- WINDOWS, DOORS AND FIXTURES:
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 - FG FIXED GLASS PANEL
 - GB GLASS BLOCKS
 - GL GLASS LOUVRES
 - PS PRIVACY SCREEN





- TO BE DEMOLISHED
- BOUNDARY LINE
- EXTENT OF NEW WORK
- EXTENT OF APPROVED DA-377/2012


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|-----|-----------------------|--------------|--|----------------|---------------|-------------|----------------|------|
| | | | <div>CHRIS ELLIOTT ARCHITECTS</div> <div>193 Bronte Road Queens Park NSW 2022 Phone: 0412 604 299</div> <div>e-mail: studio@chriselliottarchitects.com</div> | <div>CEA</div> | Drawing Title | | WEST ELEVATION | |
| | | | | | Design CE | Drawn RF | Project No. | 1403 |
| | | | | | Date | MAY - 2019 | Drawing No. | |
| | | | | | Scale | 1:100 @ A3 | DA-09-B | |
| B | REVISED DA DRAWINGS | 28 - 05 - 19 | No 193 BRONTE ROAD QUEENS PARK | | | | | |
| A | DA DRAWINGS | 23 - 07 - 18 | | | | | | |
| No. | Revisions-Submissions | Date | | | | | | |

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Application No: DA-271/2018
Date Received: 30/5/2019



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|  | TO BE DEMOLISHED |
|  | BOUNDARY LINE |
|  | EXTENT OF NEW WORK |
|  | EXTENT OF APPROVED DA-377/2012 |

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|-----|-----------------------|--------------|---|---|--------------------------------|-------------|----------------------------|--|
| | | | <h1>CHRIS ELLIOTT ARCHITECTS</h1> <p>193 Bronte Road Queens Park NSW 2022 Phone: 0412 604 299</p> <p>e-mail: studio@chriselliottarchitects.com</p> |  | Drawing Title | | NORTH ELEVATION | |
| | | | | | Design CE | Drawn RF | Project No. 1403 | |
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| A | DA DRAWINGS | 23 - 07 - 18 | | | Scale 1:100 @ A3 | | 100 | |
| No. | Revisions-Submissions | Date | | | No 193 BRONTE ROAD QUEENS PARK | | | |

AMENDED PLANS

SCHEDULE OF EXTERNAL FINISHES

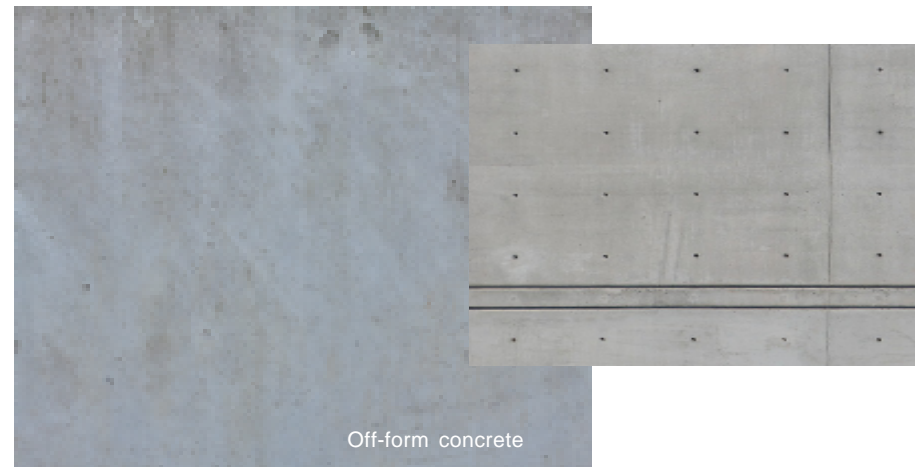
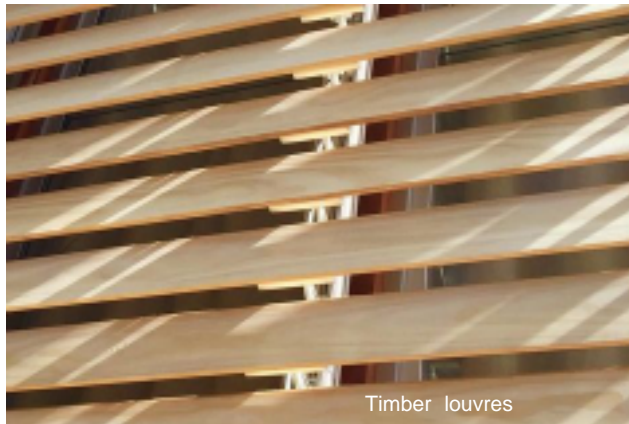
193 Bronte Road, Queens Park

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Waverley Council

Application No: DA-271/2018

Date Received: 30/5/2019

| LOCATION | MATERIAL | FINISH/COLOUR |
|---|---------------------------------|---------------------------|
| Street level external Walls, Eastern and Western walls, roof | Off-form concrete | Dark grey |
| Upper floor external walls | Cement render + Paint finish | White |
| External louvers to windows and skylights to Northern facade | Hardwood planks | Left to weather naturally |



CHRIS ELLIOTT ARCHITECTS



Report to the Waverley Local Planning Panel

| | |
|---------------------------|---|
| Application number | DA-6/2019/1 |
| Site address | 60 Watson Street, BONDI |
| Proposal | S8.3 Review application seeking the construction of hardstand and fencing within front setback |
| Date of lodgement | 15 July 2019 |
| Owner | Matthew Mallos |
| Applicant | Matthew Mallos |
| Submissions | Nil |
| Cost of works | Not provided in subject application (\$62,700 on original DA-6/2019) |
| Issues | Predominance of this form of development, parking at front, heritage character of listed building |
| Recommendation | That the application be APPROVED |



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 30 July 2019.

The site is identified as Lot 1 in DP 591646, known as 60 Watson Street, BONDI. The site is rectangular in shape with a street boundary to the east measuring 6m, northern boundary measuring 42.16m, southern 42.27m and western 5.5m. The site has an area of 248m² and is generally flat.

The site is occupied by a single storey semi-detached dwelling. No vehicle access to the site is currently provided.

The existing dwelling on site is a Heritage Item (No. 68), as is the adjoining semi-detached dwelling (i.e. 62 Watson St) under Schedule 5 of the Waverley Local Environmental Plan 2012 (LEP).

The subject site is adjoined by semi-detached dwellings on either side. The locality is characterised by a variety of residential developments including semi-detached and detached dwellings and residential flat buildings.



Figure 1: Site as viewed from Watson Street

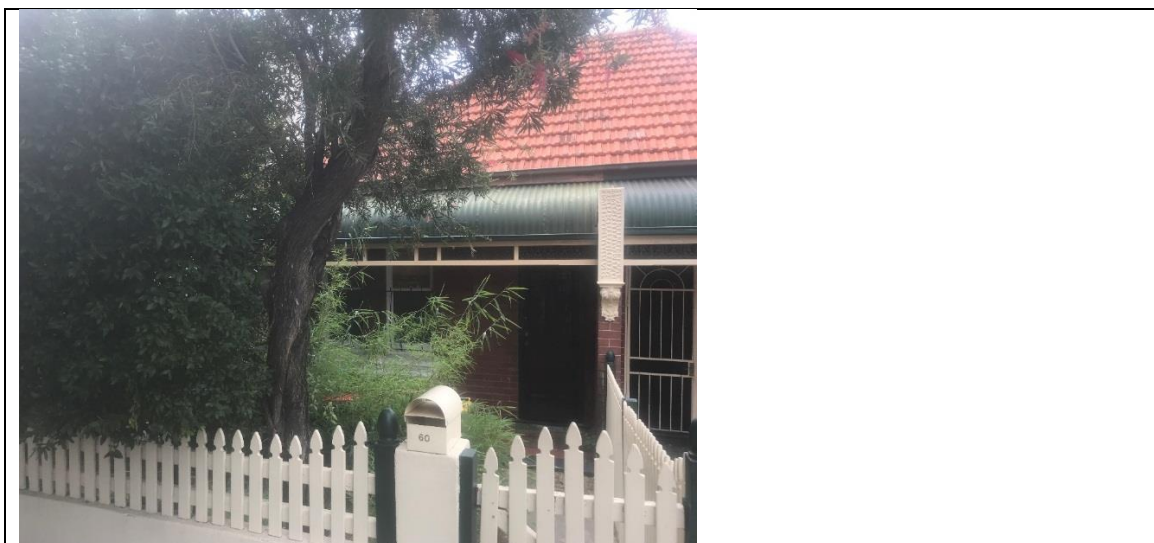


Figure 2: Subject dwelling as viewed from Watson Street



Figure 3: Front yard of subject site

1.2 Relevant History

DA-6/2019: Construction of a carport within the front setback; REFUSED 7 June 2019.

Reasons for refusal:

Having regard to section 4.15(1) of the Environmental Planning and Assessment Act 1979 the development application is refused for the following reasons:

- 1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design or amenity in the built environment.*
- 2. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:*

(i) Part B8 – Transport

Clause 8.1 Streetscape, specifically objective (a) and control (c), as the proposed carport is considered to dominate the appearance of the streetscape. Off street parking is not characteristic of the streetscape and therefore cannot be supported.

(ii) *Part B9 – Heritage*

Clause 9.6 Character and Streetscape, specifically objectives (a) and (b) and controls 9.6.1 (a), (b), (c), controls 9.6.2 (a), (b) in that the proposal is considered to have an adverse impact on the character and streetscape presentation to the dwelling, listed as a heritage item.

(iii) *Part C2- Low Density Residential*

Clause 2.8 Car Parking, specifically objectives (b) and (d), and controls 2.8.1 (Design Approach) and 2.8.3 (Location). The location and design of the carport is not considered to be an appropriate feature in the locality and will have a detrimental impact on the visual appearance of the streetscape.

3. *The proposed development does not satisfy section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, as the proposal will have an undesirable and unacceptable impact on the streetscape, and would adversely impact upon the amenity of the locality and surrounding built environment.*
4. *The proposal is not considered to be in the public interest for the reasons outlined above, contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.*

1.3 Proposal

Application to review a determination of development consent in under section 8.3 of the EP&A Act 1979. DA-6/2019 was REFUSED under staff delegation on 7 June 2019.

The proposal has been amended from original application to delete the carport structure and now seeks consent to undertake the following works forward of the building:

- Demolition of front fence;
- Removal of vegetation;
- Alter levels;
- Construct hardstand (2 concrete wheel strips with grass-crete between); and
- Construct 1.1m high timber picket front fence.

In addition to the above, the proposal seeks the removal of a street tree and the creation of a crossover.

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 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

| Provision | Compliance | Comment |
|--|------------|--|
| Part 1 Preliminary | | |
| 1.2 Aims of plan | Yes | The proposal does not contravene the aims of the plan. |
| Part 2 Permitted or prohibited development | | |
| Land Use Table R2 Low Density Residential Zone | Yes | The proposal is defined as alterations and additions to a semi-detached dwelling, which is permitted with consent in the R2 zone. |
| Part 4 Principal development standards | | |
| 4.3 Height of buildings <ul style="list-style-type: none"> 8.5m | Unchanged | Overall height of building remains unchanged. |
| 4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> 0.83:1 | Unchanged | The proposal does not include additional floor area and therefore the FSR remains unchanged. |
| Part 5 Miscellaneous provisions | | |
| 5.10 Heritage conservation | Yes | The subject dwelling is identified in schedule 5 of the WLEP 2012 as being a Heritage Item (No. 68). The amended application now removes the carport and seeks a hardstand car space at the front of the site, considered to maintain the streetscape presentation of the listed item. |

2.1.2 Waverley Development Control Plan 2012 (Amendment 6)

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 | Subject to condition | <p>A Site Waste & Recycling Management plan (SWRMP) has not been submitted; however, DA-6/2019 was accompanied by a SWRMP which was considered to be appropriate.</p> <p>Conditions of consent are recommended to ensure ongoing waste management on site.</p> |

| Development Control | Compliance | Comment |
|----------------------|------------|---|
| 5. Tree preservation | Yes | A total of 4 trees are proposed for removal from within the site, plus 1 street tree. Supportive documentation has not been submitted; however, DA-6/2019 was accompanied by an arborist report which was considered by Council's Tree Management Officer, who raised no objection to the removal subject to the imposition of replacement tree conditions. |
| 8. Transport | Yes | The proposed hardstand has a satisfactory streetscape impact, following the guidance of the DCP controls. The vehicular access to the site is limited to one cross over, is satisfactorily located and complies with the minimum required dimensions and other technical requirements. |
| 9. Heritage | Yes | The proposed development is a Heritage item and follows the guidance of this part of the DCP. Council's Heritage Architect reviewed DA-6/2019 and raised no issues with the proposal, subject to conditions of consent. |

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

The proposal is defined as a "Semi-detached dwelling" in the LEP.

| Development Control | Compliance | Comment |
|---|------------|--|
| 2.4 Fences | | |
| <i>Front:</i> <ul style="list-style-type: none"> Maximum height of 1.2m Solid section no more than 0.6m high | Yes | The proposal includes a timber picket front fence which measures 1.1m in height above the adjacent footpath level, and is comparable in height, design and material to the fence of the adjoining semi-detached dwelling, also heritage listed. |
| 2.8 Car parking | | |
| 2.8.2 Design Approach <ul style="list-style-type: none"> Parking only allowed where site conditions permit Designed to complement the building and streetscape Car parking structures to be behind the front building line Driveways are to be located to minimise the loss of on street parking | On merit | Site conditions limit locations for the placement of car parking, whether it be in the form of a hardstand or carport. In this instance, a hardstand is proposed forward of the building line and has been designed to minimise hard paved surfaces and maximise landscaped areas. On merit, the proposal is considered to satisfy design approach objectives. |

| Development Control | Compliance | Comment |
|---|------------|---|
| <ul style="list-style-type: none"> Parking to be provided from secondary streets or lanes where possible. | | |
| 2.8.2 Parking rates <i>Maximum rates:</i> <ul style="list-style-type: none"> 1 space for 2 or less bedrooms 2 spaces for 3 or more bedrooms | Yes | The proposal provides on-site parking for 1 vehicle. |
| 2.8.3 Location <ul style="list-style-type: none"> Behind front building line for new dwellings Existing development to be in accordance with the hierarchy of preferred car parking locations | Yes | The proposal is consistent with the hierarchy of preferred car parking locations as set out in control (b)(iii). Justification against control (d) is provided below this table. |
| 2.8.4 Design <ul style="list-style-type: none"> Complement the style, massing and detail of the dwelling Secondary in area & appearance to the design of the residences No part of the façade is to be demolished to accommodate car parking Gates to have an open design | Yes | Refer discussion below this table. |
| 2.8.5 Dimensions <ul style="list-style-type: none"> 5.4m x 2.4m per vehicle | Yes | The hardstand measures 5.7m x 2.9m. Note, 5.7m depth relies upon an overhang into the verandah, presently exhibiting detailed floor finish (tessellated tiles) which will be conditioned to comply. |
| 2.8.6 Driveways <ul style="list-style-type: none"> Maximum of one per property Maximum width of 3m at the gutter (excluding splay) Crossings not permitted where 2 on street spaces are lost | Yes | The proposal results in one driveway crossover to the property. One on-street parking space is lost, however this is offset by the on-site space. |
| 2.9 Landscaping and open space | | |
| <ul style="list-style-type: none"> Front open space: 50% of front building setback area | Yes | Open space remains unchanged as the hardstand (hard paved area) is included in the definition of open space. |

| Development Control | Compliance | Comment |
|---|------------|---|
| <ul style="list-style-type: none"> Front landscaped area: 50% of front open space provided | No | Front landscaped area is reduced by 10.46m ² to 36%. |

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

Car Parking

Location

Part C2 Section 2.8.3, control (d) of the WDCP 2012 states that hardstands forward of the front building line may be permitted where specified criteria are met. In the circumstances of the case, the proposal satisfies a number of these criteria, including the parking for 1 vehicle, achievement of minimum depth requirements, and maintenance of the heritage significance of the building; accordingly, the proposal is considered to accord with the objectives of the provision.

A review of the section of Watson Street between Grove and Birrell Streets has revealed that whilst there is no predominance of carports, garages or the like within close proximity to the subject site, the wider streetscape character is inclusive of driveways; accordingly, the provision of vehicle access to the site is supported.

Design

Part C2 Section 2.8.4, control (c) of the WDCP 2012 states that no element of the street façade/frontage of the building is to be removed or demolished to accommodate car parking. The proposal does not rely upon alterations and/or demolition of any part of the street façade/frontage of the building, and seeks only to demolish the existing front fence. The removal of original fencing is not permitted per Part B9 Section 9.13.1 control (d) however, during the assessment of DA-6/2019, Council's Heritage Architect raised no objection to the demolition of the front fence. Accordingly, these controls are deemed to be satisfied.

Control (f) states vehicle access is not to remove existing street plantings without consent. The proposal seeks the removal of one mature street tree. During the assessment of DA-6/2019, Council's Tree Management Officer raised no objection to the trees removal subject to the imposition of tree replacement conditions, which are included in Appendix A.

Control (i) states that where gates are proposed they should have an open design to allow for improved security by way of street surveillance and are not to open over the footpath, public nature strip or pedestrian path to the front door. The proposed fence does not include gates. Notwithstanding this, included in Appendix A is a condition advising that no part of the fence shall open out over the footpath and/or public nature strip.

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

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

No submissions were received.

2.5 Public Interest

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

3. REFERRALS

3.1 Driveways – Creating Waverley

The application was referred to Council's Traffic Engineers for comment on 16 July 2019 however, comments have not been received within the service standard, i.e. 14 days. Notwithstanding this, in the case of DA-6/2019, Council's Traffic Engineer provided supportive comments which included conditions.

Those original recommended conditions are included in Appendix A.

3.2 Tree Management – Clean & Attractive Waverley

The application was not referred to Council's Tree Management Officer as, in the case of DA-6/2019, Council's Tree Management Officer provided supportive comments regarding the removal of trees within the site and adjacent street tree, subject to the imposition of tree replacement conditions.

Recommended conditions are included in Appendix A.

3.3 Heritage – Shaping Waverley

The application was referred to Council's Heritage Architect for comment on 16 July 2019 however, comments have not been received within the service standard, i.e. 14 days. Notwithstanding this, in the case of DA-6/2019, Council's Heritage Architect provided supportive comments with a recommendation that works closely match the detailing of the existing carport at 62 Watson Street (i.e. adjoining semi-detached dwelling) with no change of materials, location or detailing.

The proposal has a lesser impact as the carport structure is no longer sought and subsequently these comments with regard to the amended form (ie hardstand carspace) are still relevant.

4. SUMMARY

The original application (DA-6/2019) seeking the construction of a carport and associated parking, front fence and driveway was REFUSED under delegation on 7 June 2019.

Subsequently, an application to review a determination of development consent per section 8.3 of the EP&A Act 1979; has been lodged, with an amended design that deletes the carport structure and now seeks consent to undertake the following works forward of the building:

- Demolition of front fence;
- Removal of vegetation;
- Alter levels;
- Construct hardstand (2 concrete wheel strips with grass-crete between); and
- Construct 1.1m high timber picket front fence.

In addition to the above, the proposal seeks the removal of a street tree and the creation of a crossover.

No submissions were received.

No declared conflicts of interest were declared in relation to the site/application.

The application has been assessed against the WLEP, WDCP and provisions of Section 4.15 of the EP&A Act 1979. The Development Building Unit has reviewed the application, and while not unanimous, the majority vote was to support the application.

On merit, the proposal is considered an orderly development which is recommended for approval subject to the imposition of conditions.

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 (MR, EF,
BMcN, AR) by:**

Fiona Koutsikas
Senior Development Assessment Planner

Angela Rossi
Manager, Development Assessment (Central)

Date: 22/08/2019

Date: 13/9/2019

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

- (a) Architectural Plan Nos prepared by 'JPH Architectural Drafting', as follows:

| Plan description | Date | Date received by Council |
|--------------------------------------|--------------|---------------------------------|
| DA 101 – Ground Floor Proposed | 13 July 2019 | 15 July 2019 |
| DA 300 – East & South Elevation E-02 | 13 July 2019 | 15 July 2019 |
| DA 301 – West Elevation E-03 | 13 July 2019 | 15 July 2019 |
| DA 302 – West Elevation E-04 | 13 July 2019 | 15 July 2019 |

- (b) Schedule of external finishes and colours;
- (c) Arborist Report, prepared by 'Dr Treegood', Ref 2018-843 of Job No 62906 dated November 2018 and received by Council on 22 January 2019, as amended by the architectural plans specified above;
- (d) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) Front fence design, height, materials and finishes are to be consistent with the adjoining semi-detached dwelling (i.e. 62 Watson Street).
- (b) The tessellated tiles to the front verandah shall be retained and restored and incorporated into the design of the carspace, particularly with the gradient levels (and long section details required).

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

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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.

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

4. 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.

5. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of \$2,152.50 must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

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

6. LONG SERVICE LEVY

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

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

7. TREE BOND

- (a) A bond of \$10, 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 **newly planted water gum** tree at the front of the property. 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 **water gum** tree is 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.
- (b) 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.

In the event either tree is 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.

8. HOARDING REQUIRED

To ensure the site is contained during construction, if hoarding is required for the approved works, it 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.

9. LONG SECTIONS OF DRIVEWAY

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

The long section drawings shall:

1. be drawn at a scale of 1:25;
2. include reduced levels (RL's) of the Watson Street carriageway, the kerb and gutter, footpath, paving within the property and the hardstand surface;
3. include existing and design levels.

10. 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.

11. EROSION, SEDIMENT AND POLLUTION CONTROL

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

12. FENCE NOT TO ENCROACH BEYOND BOUNDARIES

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

13. SERVICE AUTHORITIES

The applicant is to seek approval from the relevant service authorities regarding any possible modification to the existing infrastructure within the vicinity of the site prior to the issue of a Construction Certificate. This includes, but not limited to, power poles, pits or other underground services.

14. STORMWATER MANAGEMENT

- (a) Certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Water Management Technical Guidelines. Stormwater system details are to be submitted in accordance with the Waverley Development Control Plan 2012 - Part B prior to the issue of a Construction Certificate.
- (b) The hardstand carspace is to be drained to the existing stormwater system.

15. FENCE NOT TO ENCROACH BEYOND BOUNDARIES

No portion of the proposed fence, including the footings, is to encroach beyond the boundaries of the subject property.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

16. 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.

17. 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.

18. 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.

19. 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.

20. COMPLIANCE WITH SAFE WORK NSW

All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.

21. 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).

22. 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 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.

23. 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 400mm x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (a) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

24. 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.

25. 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.

26. 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.

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) 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.

28. 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.

29. FOOTPATH PROTECTION

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

30. NATIONAL CONSTRUCTION CODE (NCC)

All building work must be carried out in accordance with the requirements of the National Construction Code.

31. 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;

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.

32. 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.

33. STREET TREE TO BE REMOVED

Permission is granted to remove the *Lagunaria patersonii* (Norfolk Island hibiscus) tree situated on the adjacent naturestrip, subject to the following:

- (a) All work to be undertaken by qualified arborists (AQF Level3) with full public liability insurance.
- (b) One replacement tree *Tristania laurina* (water gum) is to be planted on the naturestrip midway between the two properties of 60 and 62 Watson Street, Bondi. The replacement tree is to have a minimum pot size of 75 litres and grown to Natspec standard. Suitable trees are available from Alpine nurseries Dural (02 9651 0900). The tree is to be planted by horticulturists/arborists with experience in constructing tree pits and planting large container size trees. A proof of purchase of the trees must be lodged prior to the issue of the construction certificate.
- (c) Tree pits are to be constructed and conform to the specifications listed in the Waverley Technical Manual under Bondi Junction street tree detail.

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.

34. NEW VEHICLE CROSSING

A new vehicle crossing is to be provided to access the proposed **hardstand**. 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.

35. 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.

36. NO WORKS BEYOND BOUNDARIES

No portion of the proposed fence, including the footings, is to encroach beyond the boundaries of the subject property.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

37. 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.

38. 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.

39. LANDSCAPE PLAN

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

40. STORMWATER MANAGEMENT

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.

41. STREET NUMBER/S

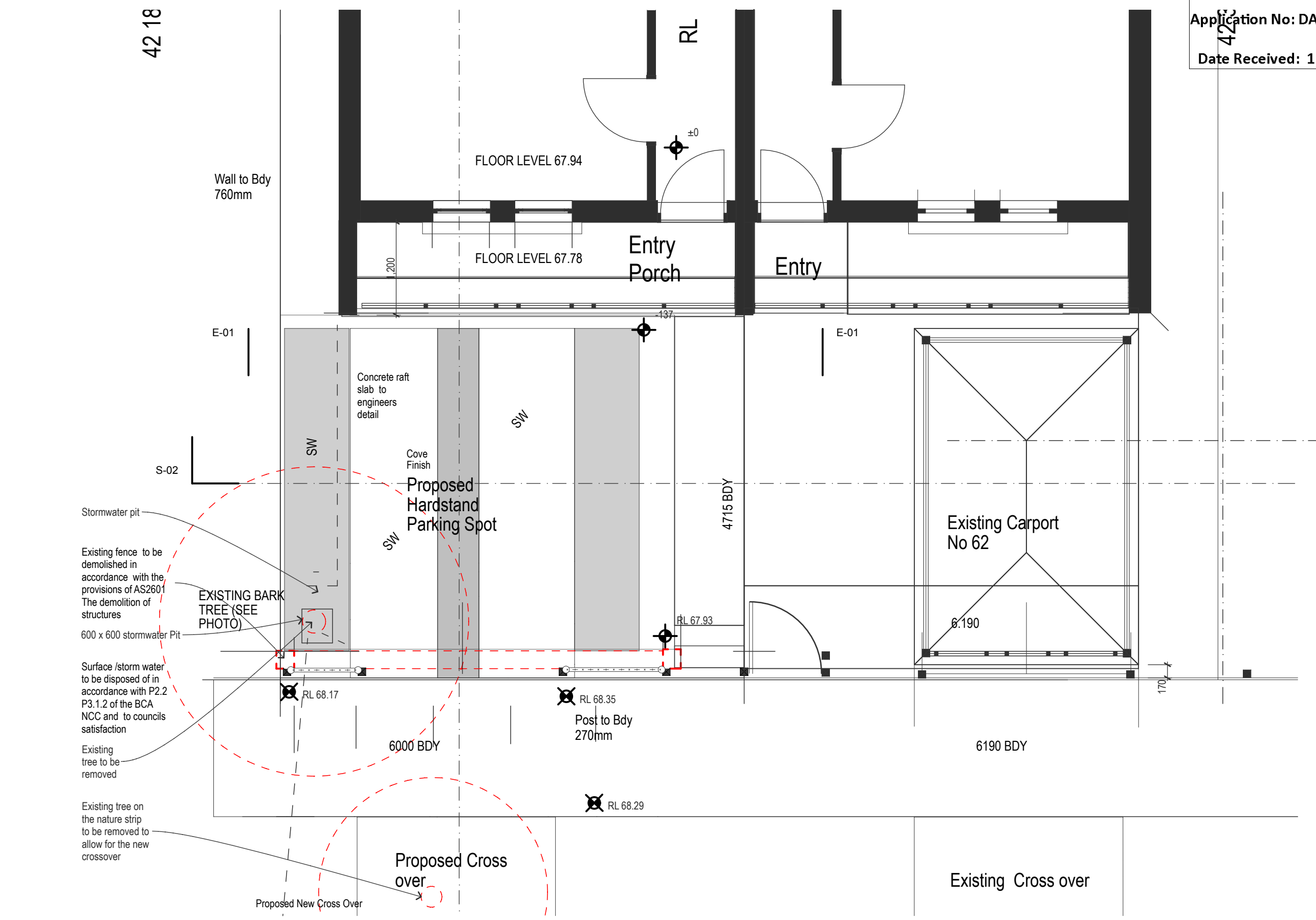
The street number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary that fronts the street. Should the number be fixed to an awning then it shall be a minimum 150mm high.



42. VEHICLE TO BE PARKED WITHIN THE SITE

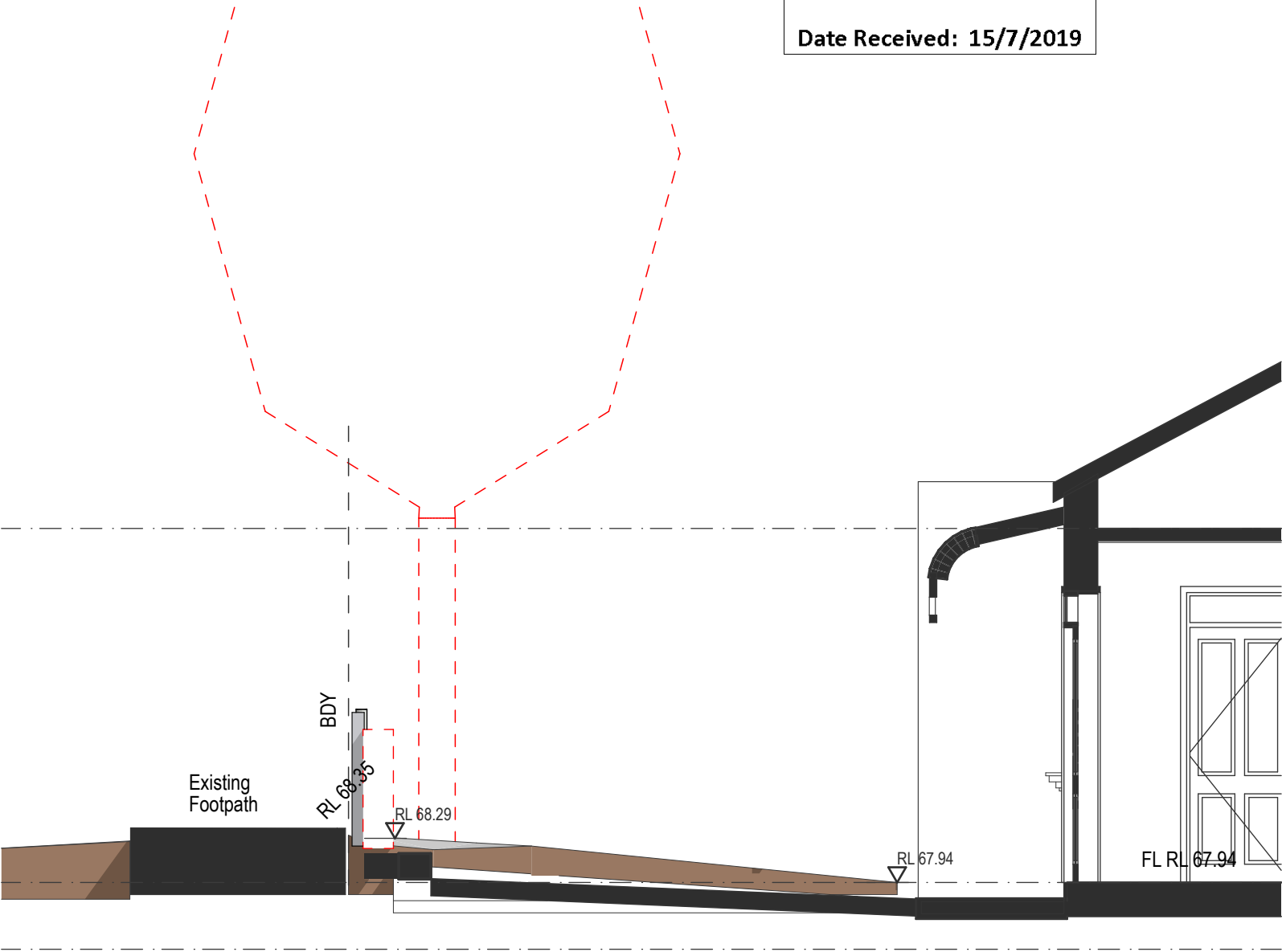
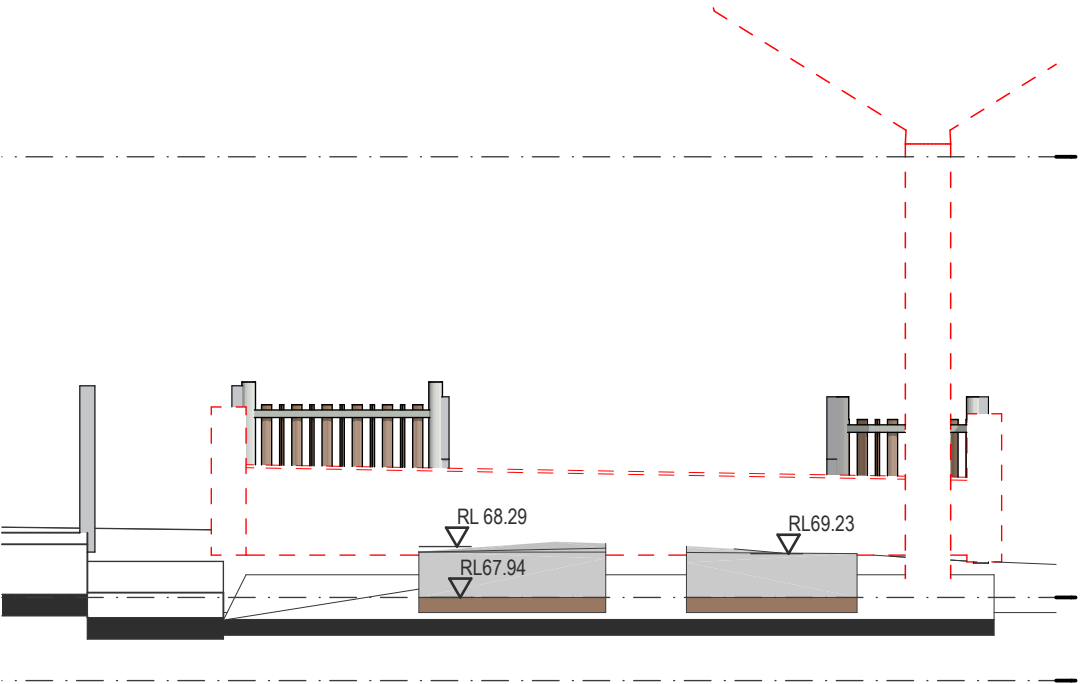
Any vehicles utilising the car space are to be parked fully within the confines of the site and are not to park over the public footway at any time.

43. GATES TO OPEN WHOLLY WITHIN THE SITE

Any vehicle or pedestrian gates are to open wholly within the site, so as not to encroach over the public footway at any time.



| | | | | | | |
|---|---|---|---|--|--------------------|----------------|
|  JPH |  Z <small>General Notes The Builder shall check all dimensions and levels on site prior to construction. Notify any errors, discrepancies or omissions to the architect. Drawings shall not be used for construction purposes until issued for construction. Do not scale drawings. All boundaries and contours subject to survey</small> | JPH Architectural Drafting ABN 58573016058 Address: P.O. Box 7 Waverley NSW 2024 P +61 19 959 564 F +61 19 959 564 E johnpaul@jph.com.au W #Contact Web | PROJECT NAME: Mallos Carport CLIENT: #Client Company 60 Watson street Bondi NSW 2026 Bondi, 2026 P +61 Client Phone Number F +61 Client Fax E #Client E-mail | SITE: 60 Watson street Bondi Waverley NSW 2026 DRAWING TITLE: DA PLANS GROUND FLOOR PROPOSED | REVISION NO. | DRAWN BY: JP |
| | | | | | DRAWING NO. | CHECKED BY: JP |
| | | | | | DA 101 | PROJECT NO. 21 |
| | | | | | Plot Date: 13/7/19 | |



E-01

EAST ELEVATION

1:50

E-02

SOUTH ELEVATION

1:50





General Notes
The Builder shall check all dimensions and levels on site prior to construction.
Notify any errors, discrepancies or omissions to the architect.
Drawings shall not be used for construction purposes until issued for construction.
Do not scale drawings.
All boundaries and contours subject to survey

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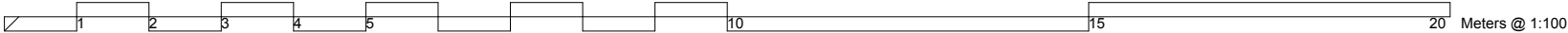
PROJECT NAME :
Mallos Carport
CLIENT :
#Client Company
60 Watson street Bondi NSW 2026
Bondi , 2026
P +6Client Phone Number | F +6Client Fax | E #Client E-mail

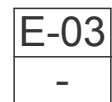
SITE :
60 Watson street Bondi Waverley NSW 2026
DRAWING TITLE :
**DA ELEVATIONS
EAST & SOUTH
ELEVATION E-02**

REVISION NO.

DRAWING NO.
DA 300

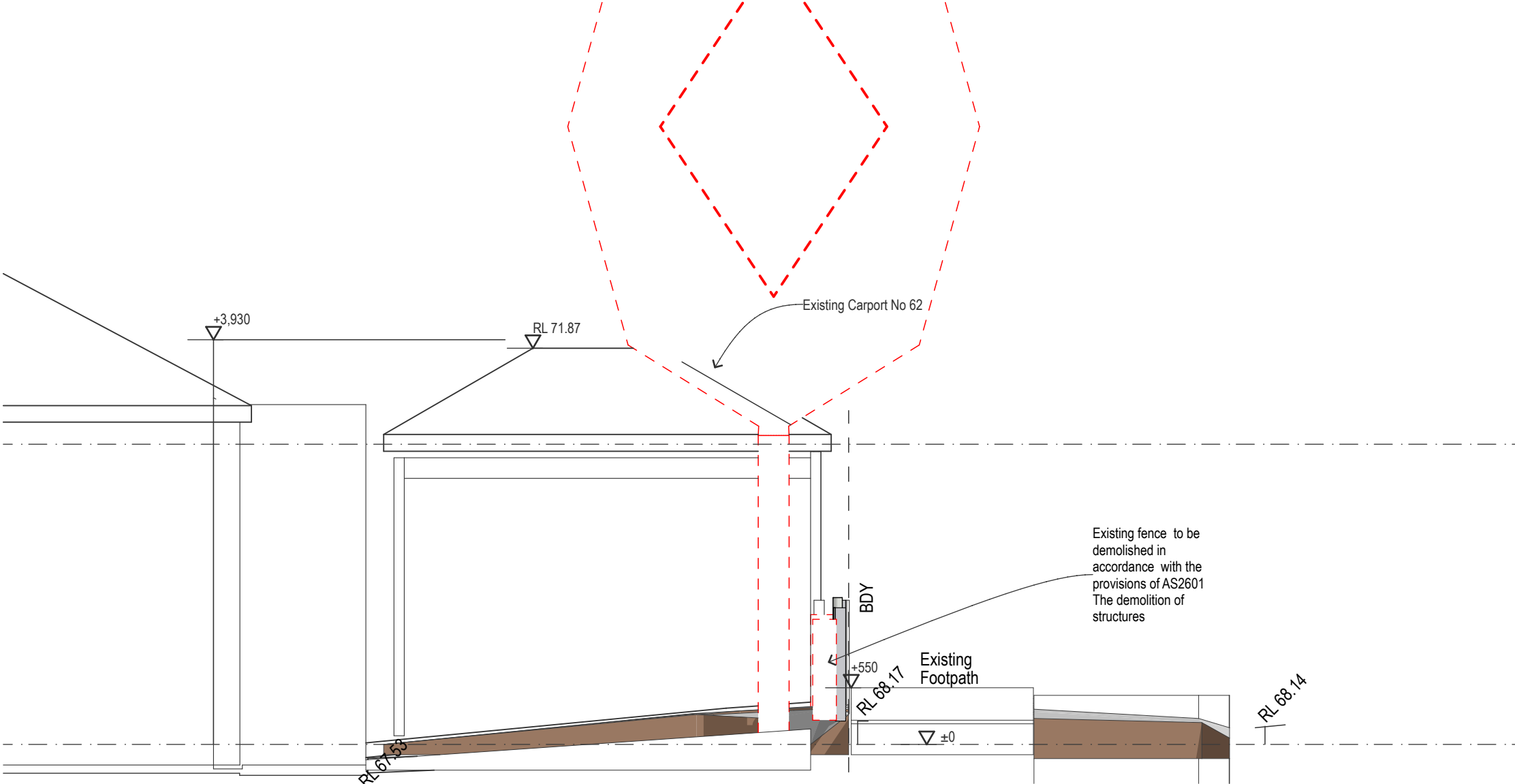
DRAWN BY :
JP
CHECKED BY :
JP
PROJECT NO.
13/7/19
Plot Date:
21





WEST ELEVATION
1:50

157

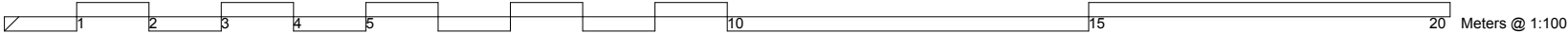


E-04

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NORTH ELEVATION

1:50





Report to the Waverley Local Planning Panel

| | |
|---------------------------|---|
| Application number | DA-456/2018 |
| Site address | 1 Bay Street, North Bondi |
| Proposal | Demolition of the existing dual occupancy (duplex) and erection of a three storey dwelling house with basement storage, services and swimming pool. |
| Date of lodgement | 6 December, 2018 |
| Owner | Proprietors of SP 249 |
| Applicant | MHN Design Union Pty Ltd |
| Submissions | 1 |
| Cost of works | \$2,034,876.00 |
| Issues | FSR non-compliance, neighbour submission |
| Recommendation | That the application be APPROVED. |

Site Map



1. PREAMBLE

1.1 Site And Surrounding Locality

A site visit was carried out on 13 February 2019.

The site is identified as land contained in SP 249 and known as 1 Bay Street, North Bondi. The site is irregular in shape with a northern frontage to Bay Street of 13.82m and area of 484.6m².

The site is occupied by an older style two storey dual occupancy (originally a duplex) with parking.

The subject site is adjoined to the west by a recently constructed two storey semi-detached dwelling over parking. To the south and east are cliffs and the Pacific Ocean. The locality is characterised by a variety of residential developments including semi-detached dwellings, dwelling houses and residential flat buildings, as well as steep cliffs to the ocean.



Figure 1: Site viewed from Bay Street



Figure 2: Site viewed from the end of Hastings Parade

1.2 Relevant History

Site history:

A search of Council's building and development records found the following applications relating to the site:

- BA-384/1993 – Installation of window in existing wall was approved on 29 July 1993.
- BA-409/1998 – Construction of alterations and additions to the existing premises was approved on 2 September 1998.
- LD-563/2000 – Erection of side and rear boundary fences was approved on 5 September 2000.
- DA-32/1997 – Alterations and additions to building was approved on 1 July 2002.
- DA-637/2007 – Re-subdivision of lots and common property in strata plan was approved 23 November 2007.
- SC-8/2008 – Amendment to existing strata plan was approved on 8 April 2008.
- DA-447/2017 – Demolition of building and erection of an attached dual occupancy, pools, car stacker and land subdivision were approved on 14 August 2018. It should be noted that this application included a 42% variation on FSR.

1.3 Proposal

Development consent is sought for the following works:

- Demolition of the existing building.
- Erection of a three storey dwelling house over a basement storage area. The dwelling house will comprise:
 - Basement: Storage, plant room and access. This level is fully underground.
 - Ground floor: Parking for two vehicles in an integrated garage off Bay Street, kitchen, living and dining areas opening onto a rear terrace. A pool at the rear of the site is also proposed.
 - First floor: Four bedrooms and associated bathrooms.
 - Second floor: Living areas and bathroom. A terrace wraps around most of this level.
- The building is serviced by a lift which runs between the basement and upper levels.

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 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

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

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 SEPP (Coastal Management) 2018

The SEPP applies to the subject site as it is wholly located within the Coastal environment area (Clause 13) and a Coastal use area (Clause 14) according to the SEPP.

Clause 13 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 following:

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,

Comment: The proposal will not impact on these matters. Council's Engineers have advised that the stormwater disposal is satisfactory and the proposal has been reviewed by Council's Biodiversity Officer.

- (b) coastal environmental values and natural coastal processes,

Comment: The proposal will not impact coastal processes or compromise coastal environmental values, as outlined above. The site is already developed with a 2 storey duplex.

- (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,

Comment: The proposal will not compromise water quality and stormwater disposal is in accordance with Council's requirements.

- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,

Comment: The proposal will not result in overshadowing of the water and will not impact on the undeveloped headland, or marine or native vegetation and fauna.

- (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,

Comment: There is no access currently on the site and topography would preclude the provision of access.

- (f) Aboriginal cultural heritage, practices and places,

Comment: The proposal will not impact aboriginal heritage, practices or places.

- (g) the use of the surf zone.

Comment: No impact.

Clause 14 states that development consent must not be granted for development on land within the coastal use area unless the consent authority;

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and

Comment: The above have been considered and the proposal is considered satisfactory in this regard.

(b) is satisfied that:

- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

Comment: The above has been considered and the proposal is considered satisfactory in these regards.

(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment: These issues have been taken into account and are considered in the body of the assessment.

Clause 15 states that development in coastal zone generally is not to increase risk of coastal hazards.

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.

Comment: The proposal has been considered in this regard. An objection raised issue with the excavation for the pool being close to the cliff edge and stability of the cliffs to the sea. Council's Engineers requested further information in this regard which was provided in a letter from Crozier Geotechnical Consultants on 3 July 2019. Following consideration of the additional information, Council's Engineers have advised that the pool excavation is satisfactory and suitable conditions are recommended.

2.1.4 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

| Provision | Compliance | Comment |
|---|------------|---|
| Part 1 Preliminary | | |
| 1.2 Aims of plan | Yes | The proposal is consistent with the aims of the plan. |
| Part 2 Permitted or prohibited development | | |
| Land Use Table R3 Medium Density | Yes | The proposal is defined as erection of a dwelling house, which is permitted with consent in the zone. |

| Provision | Compliance | Comment |
|--|----------------|---|
| Part 4 Principal development standards | | |
| 4.3 Height of buildings <ul style="list-style-type: none"> 9.5m | Yes | The proposal complies with the 9.5m height limit. |
| 4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> 0.57:1 (277.2m²). | No | The proposed FSR is 0.8:1 or 388m ² (+111.7m ²) or 41.3%. The previously approved development resulted in a 42% variance. |
| 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 floor space ratio development standard. A detailed discussion of the variation to the development standard is presented below this table. |
| Part 5 Miscellaneous provisions | | |
| 5.1 Relevant consent authority | Yes | Waverley Council is the consent authority. |
| Part 6 Additional local provisions | | |
| 6.1 Acid sulfate soils | Yes | The site is located within an area designated class 5 acid sulfate soils. Relevant conditions will be imposed on the consent to appropriately manage the soils during construction works. |
| 6.2 Earthworks | Yes | A Geotechnical Report has been submitted with the application, and has been reviewed by Council's Manager of Design, Creating Waverley. |

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.

The site is subject to a maximum floor space ratio control of 0.57:1 or 277.2m². The proposed development has a floor space ratio of 0.8:1, exceeding the standard by 111.7m² and equating to a 41.3% variation.

It should be noted that the previous application recently approved on the site was approved for a dual occupancy with an FSR of 0.81:1 or 394m² (42% variation).

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

- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- 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.

Applicants Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the floor space ratio 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 building has been designed to make a positive contribution to the streetscape while minimising impacts on neighbours;
 - (ii) The FSR will allow for a high quality outcome that will contribute to meeting the housing demand in the area;
 - (iii) The proposal satisfies a number of the tests in Wehbe. Including that the proposal, despite its noncompliance will be consistent with the objectives of the standard;
 - (iv) The proposal provides a correlation between an acceptable (and compliant) building height and floor space;
 - (v) Despite the non-compliance, the proposal is consistent with the medium density character of the area;
 - (vi) The proposal provides a bulk and scale that is consistent with that envisaged in Council's controls and is consistent with the objectives of the FSR standard;
 - (vii) There have been numerous DAs approved with non-compliant FSRs over recent times in the locality; and
 - (viii) Whilst the standard has not been abandoned, there have been a large number of variations to the FSR control.
- b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The proposal will not result in adverse impacts on adjoining sites, including solar access and impact on views unreasonably;
 - (ii) Privacy impacts are also considered acceptable;
 - (iii) The development of the site will be of an appropriate scale and bulk to fit into the streetscape in this medium density zone;
 - (iv) There has been a recent approval for a greater FSR on the site; and
 - (v) The proposal will not be inconsistent with existing and future planning objectives for the locality.

Consideration of Applicants 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 standard and the objectives for development within the zone in which the development is proposed to be carried out.

It is noted that a greater FSR on the site may be warranted by the need for a compatible streetscape form in this medium density zone. There is also an existing consent granted 14 August 2018 for a dual occupancy which has a marginally greater FSR approved.

The building is well articulated and will not present as a bulky structure in the street and this section of Ben Buckler.

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 justification 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 would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*

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 standard as outlined above.

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 standard and the objectives for development within the zone in which the development is proposed to be carried out including;

The proposal provides a building of suitable bulk and scale compatible with the streetscape and character of Ben Buckler as well as providing for the future housing needs of the area.

Conclusion

For the reasons provided above the requested variation to the floor space ratio control 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 floor space ratio and the R3 Medium Density zone.

2.1.5 Waverley Development Control Plan 2012 (Amendment 6)

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 | A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction. Condition of consent will be imposed regarding ongoing waste on site. The waste and recycling storage area is located in an area convenient for users of the site. |
| 2. Ecologically sustainable Development | Yes | Given the low scale of this development, these mechanisms are considered to address the objectives of Part B2 of the DCP. Solar panels are proposed for the roof. |
| 3. Landscaping and Biodiversity | Referred for comment | The site is located within a habitat corridor, and the application has been referred to Council's Urban Ecology Coordinator to provide comments. This is discussed at the Referrals section of this report, and relevant conditions will be imposed on the consent. |
| 4. Coastal risk management | Referred for comment | The application proposes a new building and is on land affected by Geotechnical Risk. A Geotechnical Risk Assessment was submitted and reviewed by Council's Engineers and found satisfactory. A suitable condition is recommended. |
| 6. Stormwater | Yes | The stormwater plans submitted with the application are satisfactory. |
| 8. Transport | Yes | The proposed garage has a satisfactory streetscape impact, following the guidance of the DCP controls. The vehicular access to the site is limited to one cross over, is satisfactorily located and complies with the minimum required dimensions and other technical requirements. The car parking proposed compliments the design of the building and streetscape, does not reduce the number of on street spaces or exceed the maximum rate of parking permitted in the parking zone. |
| 14. Excavation | Yes | The proposed excavation does not add to the scale of the building or result in the loss of naturally occurring surface sandstone. |

Table 3: Waverley DCP 2012 – Part C1 – Special Character Areas

| Development Control | Compliance | Comment |
|---|----------------------|--|
| 1.3 Ben Buckler | | |
| <p>Desired Future Character Objectives</p> <ul style="list-style-type: none"> • Maintain Landscape Character • Maintain rhythm of buildings to the street • Allow ocean glimpses through side setbacks • Respect character and architectural elements • View Sharing | Yes | <p>The proposal maintains the landscape character of the area and species have been referred to the Biodiversity Officer for comment</p> <p>The building replaces a two storey duplex in roughly the same location.</p> <p>Ocean views are retained on the northern side.</p> <p>The building proposed is of a contemporary design in an area where there are a mixture of buildings with new builds being contemporary. A view analysis has been submitted and is discussed later in this assessment.</p> |
| <p>Controls</p> <ul style="list-style-type: none"> • Hardy planting • Side setbacks to allow viewing between buildings • Rendered and painted finishes are appropriate • Roof top terraces discouraged | <p>No</p> <p>Yes</p> | <p>The planting schedule requires review and amendment as required by Council's Bio Diversity Officer.</p> <p>On the eastern side of the dwelling house there is no need for a view corridor as it adjoins a reserve, where views are available.</p> <p>Same finishes as approved in DA-447/2017, which were considered acceptable.</p> <p>No roof terrace is proposed, however balconies on upper level is to be provided.</p> |

Table 4: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table

The proposal is defined as a dwelling House in the LEP.

| Development Control | Compliance | Comment |
|--|------------|--|
| 2.0 General Objectives | | |
| <ul style="list-style-type: none"> • Appropriate scale • Does not detract from amenity of other dwellings or view corridors • ESD has been considered • High design standard | Yes | <p>The proposal does not contravene the general objectives of this part of the DCP. The scale is similar to other development in this medium density zone, and to a recent approval on the site.</p> <p>View corridors remain for neighbouring properties.</p> <p>A BASIX proposal has been submitted with the application.</p> <p>Design is modern, and not out of keeping with the area.</p> |

| Development Control | Compliance | Comment |
|--|-------------------------------------|--|
| 2.1 Height | | |
| Flat roof dwelling house <ul style="list-style-type: none"> Maximum wall height of 7.5m | No | Non-compliance on the western side by up to 9.1m. The non-compliant section is for a distance of 7.3m. this is discussed further below. |
| 2.2 Setbacks | | |
| 2.2.1 Front and rear building lines <ul style="list-style-type: none"> Predominant front building line Predominant rear building line at each floor level | Yes Yes | The building observes the front and rear building lines for Bay Street. |
| 2.2.2 Side setbacks <ul style="list-style-type: none"> Minimum of 1.5m | Yes | The building is set back 1500mm from the western boundary. The building is set 900mm for the 2 storey section from the eastern boundary and 3.5m for the third level. |
| 2.3 Streetscape and visual impact | | |
| <ul style="list-style-type: none"> New development to be compatible with streetscape context Significant landscaping to be maintained. | Yes | The building will be satisfactory in the streetscape, which is a mixture of new and older style buildings. There is no significant landscaping on site. |
| 2.5 Visual and acoustic privacy | | |
| <ul style="list-style-type: none"> Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design. External stairs are not acceptable. Maximum size of balconies: <i>10m² in area</i> <i>1.5m deep</i> Roof tops to be non-trafficable unless | Yes Yes No N/A | There are limited openings facing the site to the west. No external stairs are provided. The upper level has terraces around three sides, which exceeds the maximum area and depth. This is discussed further below. |

| Development Control | Compliance | Comment |
|---|------------|--|
| predominant in the immediate vicinity | | |
| 2.6 Solar access | | |
| <ul style="list-style-type: none"> Minimum of three hours of sunlight to living areas and principal open space areas on 21 June Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June | Yes | The site has a north/ south orientation and meets the minimum solar access requirements. |
| 2.7 Views | | |
| <ul style="list-style-type: none"> Views from the public domain are to be maintained Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks. | Yes | <p>Substantial views are retained from public land to the east of the site as well as down the eastern side of the site and between 1 and 3 Bay Street.</p> <p>Views from adjoining sites, whilst affected will be retained. A view analysis has been submitted and discussed below.</p> |
| 2.8 Car parking | | |
| <p>2.8.2 Design Approach</p> <ul style="list-style-type: none"> Parking only allowed where site conditions permit Designed to complement the building and streetscape Car parking structures to be behind the front building line Driveways are to be located to minimise the loss of on street parking Parking to be provided from secondary streets or lanes where possible. | Yes | <p>Parking has been provided within the building envelope for two vehicles.</p> <p>No loss of street parking due to existing parking restrictions.</p> |
| <p>2.8.2 Parking rates</p> <p><i>Maximum rates:</i></p> | | Parking provided at the required rate for a maximum of two cars. |

| Development Control | Compliance | Comment |
|---|---|--|
| <ul style="list-style-type: none"> 2 spaces for 3 or more bedrooms | Yes | |
| 2.8.3 Location <ul style="list-style-type: none"> Behind front building line for new dwellings | Yes | Located behind the front building line. |
| 2.8.4 Design <ul style="list-style-type: none"> Complement the style, massing and detail of the dwelling Secondary in area & appearance to the design of the residences | Yes | Integrated into dwelling house. |
| 2.8.5 Dimensions <ul style="list-style-type: none"> 5.4m x 2.4m per vehicle | Yes | Exceed minimum dimensions |
| 2.8.6 Driveways <ul style="list-style-type: none"> Maximum of one per property Maximum width of 3m at the gutter (excluding splay) Crossings not permitted where 2 on street spaces are lost | Yes No Yes | One wide layback provided. Engineers have not raised an issue with the driveway width as no loss of street parking lost. No on street parking lost due to no parking zone. |
| 2.9 Landscaping and open space | | |
| <ul style="list-style-type: none"> Overall open space: 40% of site area (193.8m²) Overall landscaped area: 15% of site area (72.7m²) Minimum area of 25m² for private open space Front open space: 50% of front building setback area Front landscaped area: 50% of front open space provided Outdoor clothes drying area to be provided | Yes Yes Yes Yes No Not indicated | >200m ² provided. >80m ² provided >25m ² provided 100% provided 26% provided. Conditioned to comply |

| Development Control | Compliance | Comment |
|---|------------|--|
| 2.10 Swimming pools and spa pools | | |
| <ul style="list-style-type: none"> Located in the rear of property | Yes | The pool is located in ground at the rear of the site. |

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

Balcony size

A balcony is provided on the upper level ('attic') of the building. The balcony wraps around the majority of the upper level, and exceeds the maximum width of 1500mm, being of a variable width up to 2.6m wide. The area of the balcony also exceeds the 10m².

While the neighbouring site to the west has not objected, the terrace is considered excessive and may result in adverse privacy impacts in the future. It is recommended to be limited to the eastern and southern facades as shown in the figure below. The remainder of the terrace is to be non-trafficable and could be planted as a green roof. A suitable condition is recommended.

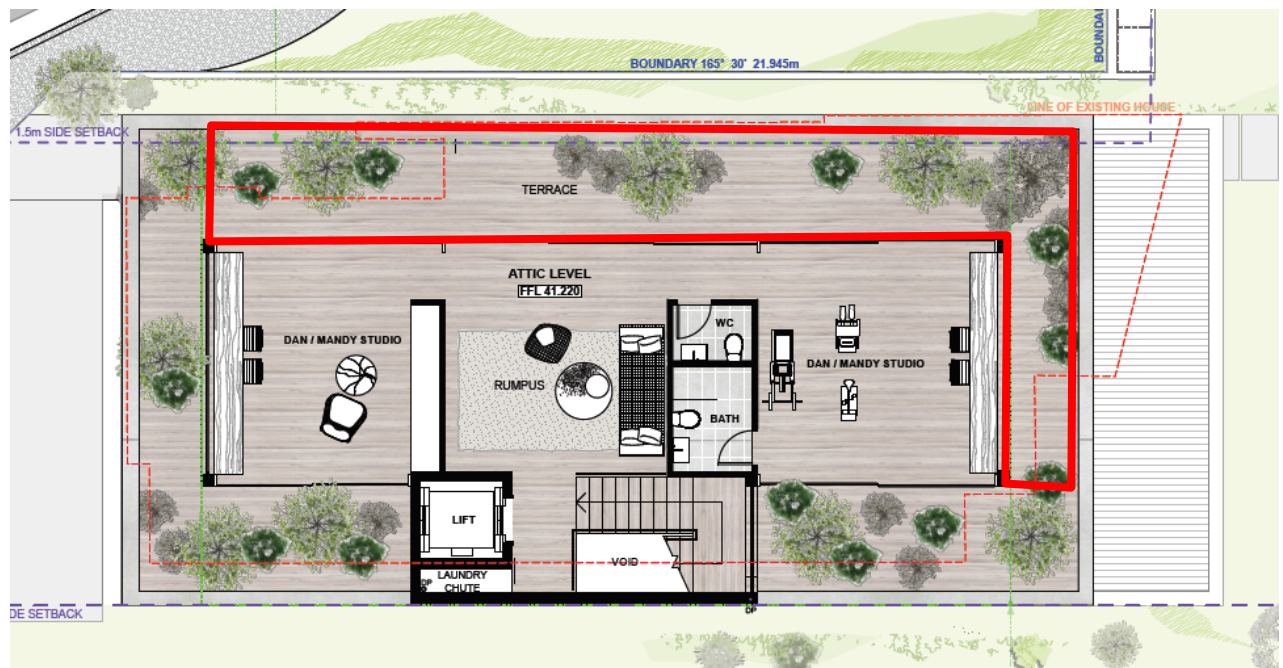


Figure 3: Proposed terrace to be reduced to area highlighted in red

It is noted that 208 Hastings Parade has objected on privacy grounds, which is located to the north east across the road reserve. It is considered that dwelling is a sufficient distance from the subject site and the terrace in this location is acceptable.

View Sharing

An objection was received from 208 Hastings Parade regarding view loss. This site consists of a two storey dwelling with windows along the west and south elevations providing views to the south, south-west and west. The proposal will result in some view loss from this site, however, as demonstrated below, substantial views are retained from this property as a result of the proposed development. A view analysis was submitted by the applicant in response to the objection, as detailed below.



Figure 4: View south-west from the first floor master bedroom at 208 Hastings Parade with proposal shown



Figure 5: View west to the subject site and along Bay Street from the first floor bedroom window at 208 Hastings Parade



Figure 6: View west from the first floor front living room at 208 Hastings Parade

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

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

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

The views affected by the proposed development from 208 Hastings Parade include a loss of a small section of open undifferentiated water and a horizontal band of background landform and residential development which would be visible above the approved development. These features form part of the mid-ground and background composition of a whole view and include scenic features.

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.*

Some views lost are obtained across the front boundary of 208 Hastings Parade from seated and standing positions from the first floor master bedroom's west-facing window. This is the only window in this room from which views are available to the west and south-west. An east-facing window in this room provides views to the east towards the Pacific Ocean.

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.*

Views from the ground floor to the west towards Bondi Beach, and from ground floor living areas and external garden and deck areas to the south, south-east and east that include scenic items, would be exposed to either minor or negligible view loss.

The view most affected by potential view loss is from a first floor bedroom window. The view lost in relation to the additional mass of the proposed development (the 2nd floor attic) includes a horizontal band of residential development and landform at South Bondi, that would be available above the approved development. The 2nd floor mass blocks less of the land-water interface to the south than the previously approved building envelope.

A projection of the ground floor pergola structure to the south and beyond the approved building envelope will cause a minor amount of view loss. This structure blocks a narrow horizontal band of built form and blocks a small area of vegetation, seawall and residential development.

In quantitative terms the proposed development will block more view overall relative to the approved development, however there is also an increase in the view revealed. The part that is revealed includes scenic features that are more highly valued in *Tenacity*, for example, land-water interface south of McKenzies Point compared to the additional parts of the view that are lost which are of less value as defined by *Tenacity*. Therefore, the additional view loss caused includes compositional features that are less valued in *Tenacity* terms such as residential development at South Bondi and open areas of the Pacific Ocean and for this reason attracts less weight when considering the importance of the view loss.

It is considered that the view loss is minor and less than a complying development building envelope.

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.*

While there would be some view lost compared to the approved development, the proposed development could be considered reasonable, as it does not maximise the potential height or width on the site but is cognisant of the need to provide satisfactory view sharing. The small extent of view

lost is of lesser value than the area of view gained.

In summary, the proposed built form would not create significant impacts on public domain views from Bay Street or Hastings Parade; private domain views from neighbouring dwellings are unlikely to be significantly affected by any potential visual impacts; views from 208 Hastings Parade include panoramic scenic views to the south, south-west and west that would be unaffected by the proposed development; and applying the planning principle in Tenacity, it was found that the additional view loss caused by the proposed development relative to the approved development, would be minor.

Front Landscaped Area

At the front of the building, the entire frontage is open space and equates to 37m². This requires 18.5m² of landscaped area. The proposal provides approximately 10m² or 27%. The applicant has indicated a higher level of compliance as they have included paving in their calculation. The deficiency appears to relate to the extensive driveway width. It is suggested this should be splayed to increase the landscaped area and decrease the non-compliance. This could be achieved as the garage space is 6.8m wide (internal) and a suitable condition is recommended.

Wall Height

On the western side of the dwelling house there is a section of wall which exceeds the 7.5m height limit. This section of wall mainly contains the vertical circulation space in the building and is created by the need to go to the upper level. The height standard is intended for dwelling houses in the R2 zone and not the R3 zone where the height limit is 9.5m in lieu of the 8.5m overall height limit. Accordingly, the variation is supported. It is noted this will not unduly impact on the adjoining site and no objection was received from that property.

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

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

One submission was received. The issues raised in the submission are summarised and discussed below.

Summary of property address that lodged a submission

| Property |
|----------------------------------|
| 208 Hastings Parade, North Bondi |

Issue: Excavation and stability of cliffs.

Response: This issue has been considered by Council's Engineers and is discussed in the body of this report. The advice from Council's Engineers and supported by the applicant's geotechnical report, of which recommendations are to be adopted.

Issue: Overdevelopment of the site – Exceeds FSR control and built to the maximum height.

Response: These issues have been addressed in the body of the report. The height standard is not exceeded.

Issue: Loss of privacy

Response: The objector's property is some distance from the subject site, with car parking separating the properties. This has been discussed above.

Issue: Loss of views

Response: This has been discussed above.

2.5 Public Interest

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

3. REFERRALS

3.1 Driveways – Creating Waverley

Council's Engineers have advised that the proposal is satisfactory and provided conditions of consent.

3.2 Stormwater – Creating Waverley

Council's Engineers have advised that the stormwater details have been checked and are satisfactory and provided conditions of consent.

3.3 Coastal Risk Management – Creating Waverley

A Geotechnical report has been submitted with the application. Council's Engineers requested some supplementary information which was submitted and reviewed. Council's Engineers have advised that the proposal is satisfactory.

3.4 Biodiversity

The site is in an area identified as biodiversity applying. Council's Biodiversity Officer has advised that the property lies within the identified coastal biodiversity corridor, and under 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 required to be indigenous or local native plants listed in Annexure B2-1.

The submitted plans do not comply with this requirement.

The submitted plans include only 26.34% locally indigenous plants (*Banksia integrifolia*, *Carpobrotus glaucescens* and *Ficinia nodosa*). Only one tree listed is locally indigenous and none of the listed shrubs are locally indigenous. The submitted plans include a number of exotic species, some which

have the potential to become weedy and damage remnant native bushland along the coastline. A suitable condition is recommended.

4. SUMMARY

This application follows a recent application where approval was granted for the demolition of the dual occupancy and the erection of a dual occupancy and Torrens subdivision. The current proposal is for the demolition of the building and the erection of a three storey dwelling house, with basement and pool.

The proposal is located on land bounded on two sides by cliffs. This has been considered by Council's Engineers and their conclusions based on the Geotechnical Reports submitted are included in this assessment.

The proposal exceeds the maximum FSR permissible in the zone. A clause 4.6 objection was submitted with the application and given the previous approval and circumstances of this site, has been supported.

One submission was received objecting to the proposal and the issues have been discussed in the report.

No Councillor submissions were received. No declarations of conflict were lodged in regard to the application.

On balance, the proposal is supported.

DBU Decision

The application and assessment report have been reviewed by the DBU at the meeting on 12 September 2019 and the DBU determined:

- (a) The application is acceptable.

DBU members: M Reid, A Rossi, B McNamara

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:**

Peter Thomas
Senior Development Assessment Planner

Bridget McNamara
Manager, Development Assessment (North)

Date: 24 July 2019

Date: 6 September 2019

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 MHNDU as follows:

| Pan No. Rev | Plan description | Date | Date received by Council |
|--------------------|----------------------------|------------------|---------------------------------|
| DA03 A | Basement Floor Plan | 26 November 2018 | 6 December 2018 |
| DA04 A | Ground floor Plan | 26 November 2018 | 6 December 2018 |
| DA05 A | First Floor Plan | 26 November 2018 | 6 December 2018 |
| DA06 A | Attic Floor Plan | 26 November 2018 | 6 December 2018 |
| DA07 A | Roof Plan | 26 November 2018 | 6 December 2018 |
| DA08 A | Sections | 26 November 2018 | 6 December 2018 |
| DA09 A | North and South Elevations | 26 November 2018 | 6 December 2018 |
| DA10 A | East and West Elevations | 26 November 2018 | 6 December 2018 |
| DA13 A | External Finishes A | 26 November 2018 | 6 December 2018 |

(b) Landscape Plan No. L-01-L-05 Revision C and documentation prepared by Site Design Studio, dated 22 November 2018, and received by Council on 6 December 2018;

(c) BASIX;

(d) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

(e) Geotechnical Report prepared by Crozier Geotechnical Consultants, reference 20174-14.3, Revision 3, dated 21 November 2018 and submitted to Council on 6 December 2018, and supplemented by the addendum reference 2017-017.2 dated 2 July 2019. The recommendations are to be incorporated in the construction of the proposal.

(f) Stormwater management plans prepared by Northern Beaches Consulting Engineers Pty Ltd, Job 181153, Drawings D01-D04 (Issue A), dated 23 November 2018 and submitted to Council on 6 December 2018.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) The 'attic level' terrace is to be reduced in size. It is permitted to extend from the north-eastern corner of the attic facade to the east and is permitted to wrap around to the south western façade of the attic. It is not permitted to be located on the Bay Street or the western side of the building. The remaining flat roof is to be non-trafficable at all times and may form a green roof.

(b) The landscape plan being amended as follows:

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 DCP Amendment 6.

The submitted plans include only 26.34% locally indigenous plants (*Banksia integrifolia*, *Carpobrotus glaucescens* and *Ficinia nodosa*). Only one tree listed is locally indigenous and none of the listed shrubs are locally indigenous. The submitted plans include a number of exotic species, some which have the potential to become weedy and damage remnant native bushland along the coastline.

(c) The front driveway paving is to be splayed and the amount of soft landscaped area in the front of the site increased to comply with the DCP requirement of clause 2.9 - Landscaping and Open Space.

(d) The provision of an outdoor drying area at the rear of the dwelling house at ground level.

The amendments are to be approved by the **Executive Manager, Building Waverley (or delegate)** prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

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. APPROVED USE -DWELLING HOUSE

This application approves the use of the building on the site for single dwelling house.

4. 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.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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.

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

6. 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.

7. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of \$ 26,650 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

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 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.

9. 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 4.5 tonnes 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.

10. SWEPT WHEEL PATH DRAWINGS

Prior to issue of the Construction Certificate, swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, showing the swept wheel path of a vehicle entering and exiting the garage from Bay Street shall be submitted to Council for the approval of the Executive Manager, Creating Waverley.

The swept wheel path drawings shall:

- (a) Be drawn for the B85, standard design vehicle as described in AS/NZS 2890.1: 2004 Part 1 Off Street Car Parking.
- (b) Accurately show the kerb and gutter, driveways and vehicles parked kerbside on Bay Street both opposite and to the immediate west of the proposed driveway.

- (c) Show the minimum length of driveway layback considered necessary to gain satisfactory access to and from the proposed garage.
- (d) Accurately show the length of the Council's kerb and gutter remaining between the eastern side wing of the existing driveway at No.3 and the western side wing of the proposed driveway at No.1

11. LONG SECTIONS OF DRIVEWAY

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

The long section drawings shall:

- (a) Be drawn at a scale of 1:25
- (b) Include reduced levels (RL's) of the Bay Street carriageway, the kerb and gutter, footpath and paving within the property to the entry to the car stacker.
- (c) Include existing and design levels.
- (d) Include ground clearance of the B85 design vehicle using the ground clearance template contained in Appendix C of AS 2890.1: 2004 Off Street Car Parking.
- (e) Show paving at the property boundary being finished to match Council's existing levels.
- (f) Show all paving on Council's land being sloped/ drained towards the roadway.

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.

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.

13. 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.

14. 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.

15. DILAPIDATION REPORTS

A Dilapidation report should be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. This action is designed to assist all parties should damage occur and is not a preventative action. The dilapidation reports should be completed and submitted to the relevant owner of the affected property, Council and the Principal Certifying Authority prior to undertaking any works that may cause damage

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 is not a condition of consent and cannot be used to prevent the commencement of works or prevent neighbouring buildings being damaged by the carrying out of the development.
- (c) 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.
- (d) Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

16. BASIX

The undertakings provided in the BASIX Certificate documentation 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 Regulation 2000 clause 97A and the above BASIX commitments are mandatory and cannot be modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

17. 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.

18. 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.

19. 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.

20. DOMESTIC HEATERS/ FIREPLACES

The provision of solid fuel heating/cooking appliances (including wood, coal or other solid fuels) is prohibited. In this regard, use of liquid fuels or gaseous fuels such as gas may be used.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

21. 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.

22. 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.

23. CONSTRUCTION SIGNS

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

24. 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.

25. COMPLIANCE WITH SAFE WORK NSW

All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.

26. 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).

27. 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;

28. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

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

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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 Concrete & Aggregates Australia Technical Note TN68 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.
- (d) 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.

35. 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.

36. 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.

37. 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.

38. NATIONAL CONSTRUCTION CODE (NCC)

All building work must be carried out in accordance with the requirements of the National Construction Code.

39. 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; and
- (f) 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.

40. 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 the finished roof level is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

41. 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.

42. NEW VEHICLE CROSSING

The existing vehicle crossing is to be demolished and 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.

43. VEHICLE ACCESS – FINISHED LEVELS

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

44. 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.

45. 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) The finished level of the proposed pool/spa is not to exceed a maximum height of RL35.020 AHD.
- (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.

46. NO WORKS BEYOND BOUNDARIES

No portion of the proposed fence, including the footings, is to encroach beyond the boundaries of the subject property.

47. 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

48. FINAL OCCUPATION CERTIFICATE

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

49. STORMWATER MANAGEMENT

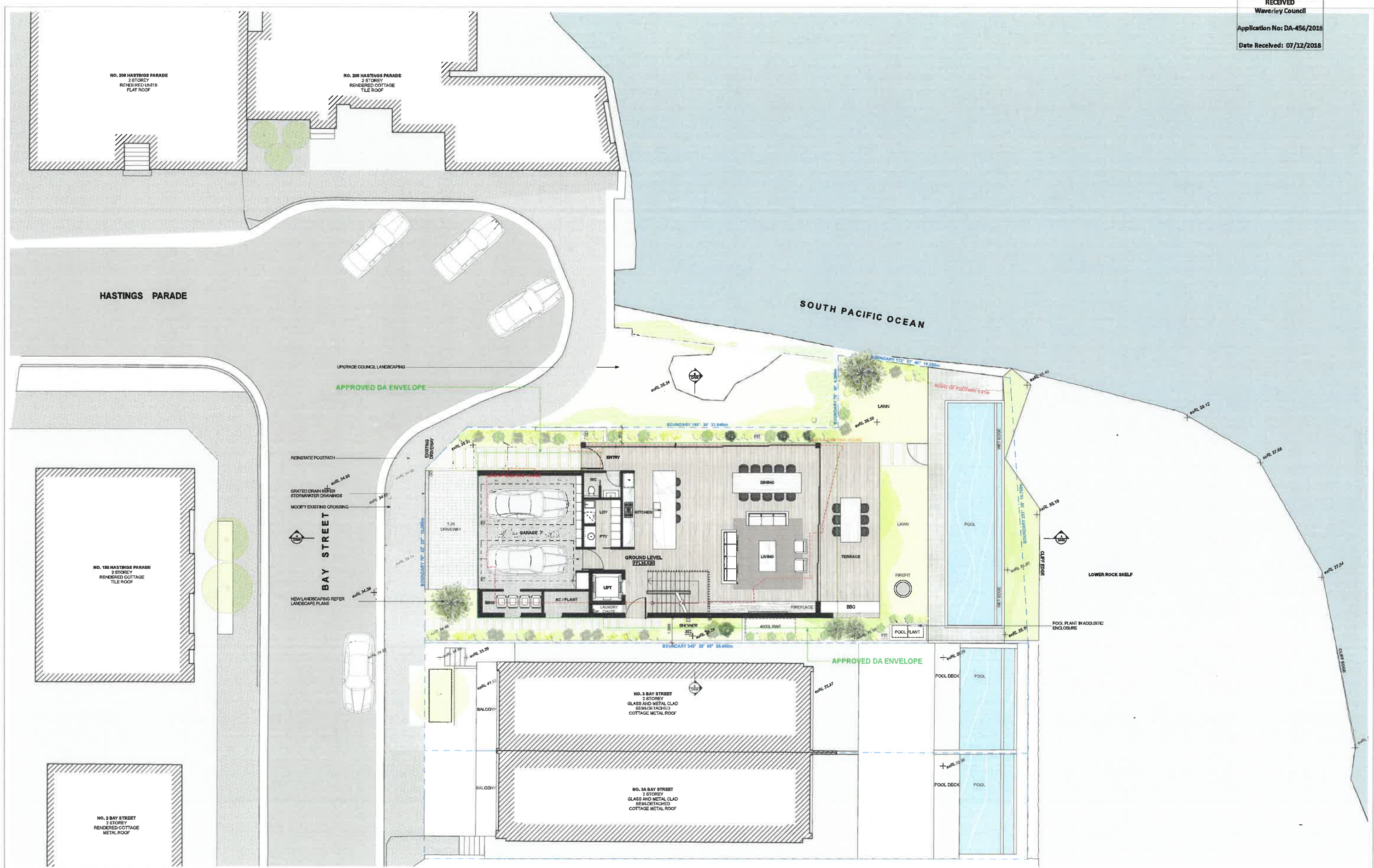
Prior to issue of an occupation certificate, certification is to be provided from a suitably qualified hydraulics engineer, that the stormwater system has been constructed in accordance with the approved stormwater management plans and to best engineering practice.

50. 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.
- (f) 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.
- (g) 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.





REVISIONS

| NO. | DESCRIPTION | DATE |
|-----|--------------------------|------------|
| 1 | DA SUBMISSION TO COUNCIL | 26/11/2018 |

LEGEND

| SYMBOL | DESCRIPTION |
|--------|----------------------|
| BDY | BOUNDARY LINE |
| CONC | CONCRETE |
| CLD | CORRUGATED CLADDING |
| CS | CORRUGATED SCREEN |
| DP | DOWNPIPE |
| EL | EXISTING |
| F | FLOOR |
| FLL | FINISHED FLOOR LEVEL |
| GL | GLASS BALUSTRADE |
| GR | GRADED DRAIN |
| ME | METAL CLADDING |
| OP | OVERFLOW |
| PIT | STORMWATER PIT |
| R | RENDER |
| RL | REDUCED LEVEL |
| RWO | RAINWATER OUTLET |
| RWT | RAINWATER TANK |
| SKY | SKYLIGHT |
| SL | SLIDING GLASS |
| TOP | TOP OF PARAPET |

KEY

| SYMBOL | DESCRIPTION |
|--------|---------------------------------|
| --- | BOUNDARY LINE |
| --- | EXISTING BUILDING |
| --- | EXISTING NEIGHBOURING BUILDINGS |
| --- | EXISTING TREES RETAINED |
| --- | EXISTING TREES REMOVED |
| --- | PROPOSED NEW LANDSCAPING |

GENERAL NOTES

1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA AND LOCAL AUTHORITY REG.
2. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LEVELS.
3. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LEVELS.
4. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LEVELS.
5. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LEVELS.
6. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LEVELS.
7. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LEVELS.
8. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LEVELS.
9. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LEVELS.
10. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LEVELS.

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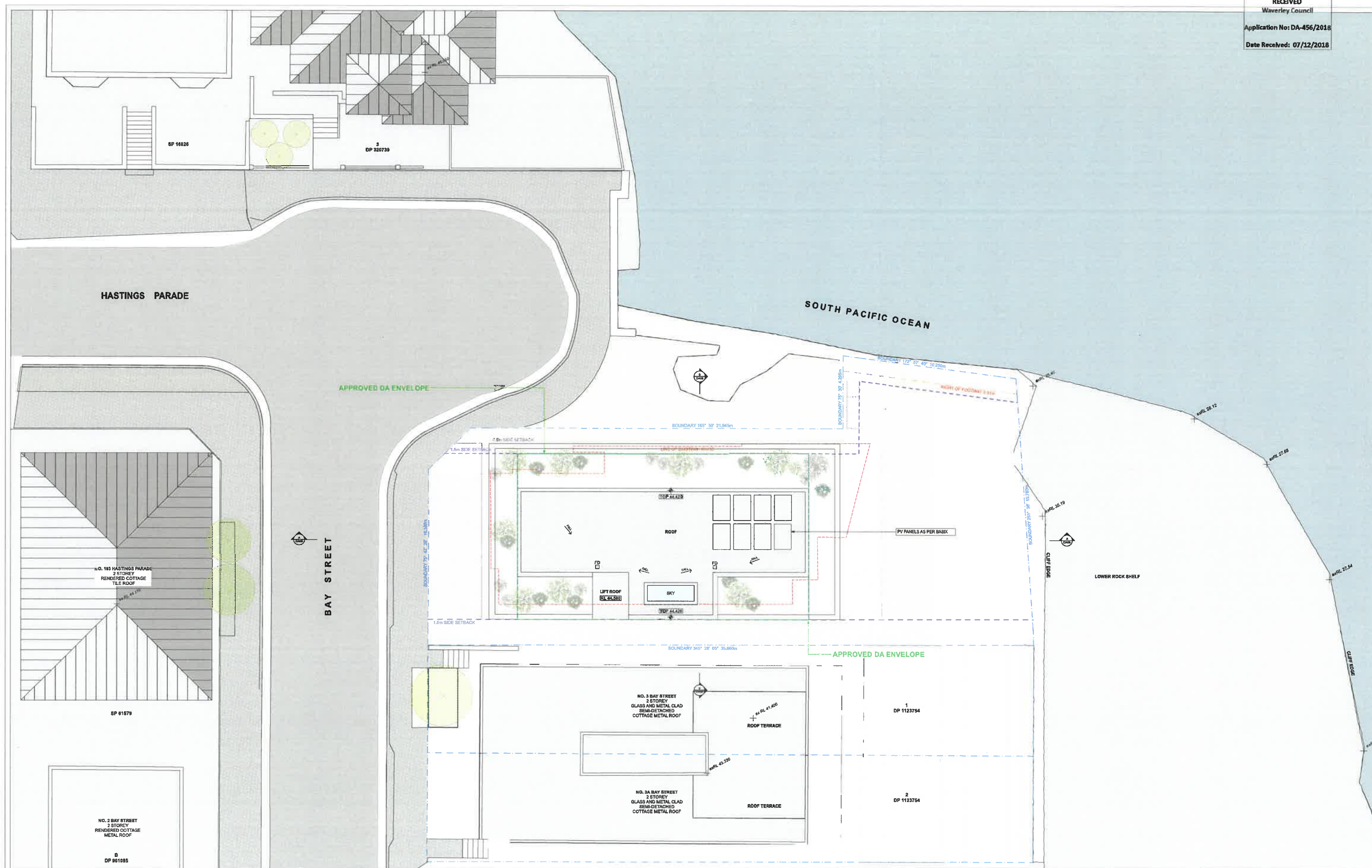
PROJECT:
BAY STREET HOUSES
1 BAY STREET NORTH BONDI NSW 2026

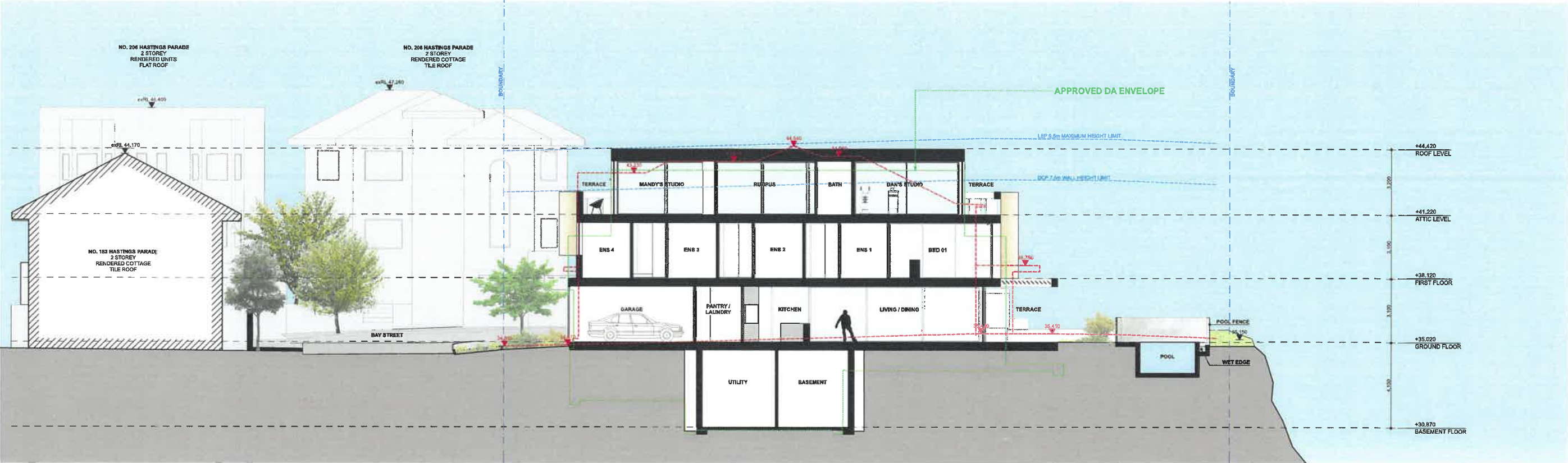
DRAWING:
GROUND FLOOR PLAN (A)

PROJECT NO: 17-029
DRAWN BY: MHNDU
TO SCALE: 1:100 @A1
REV: 2026

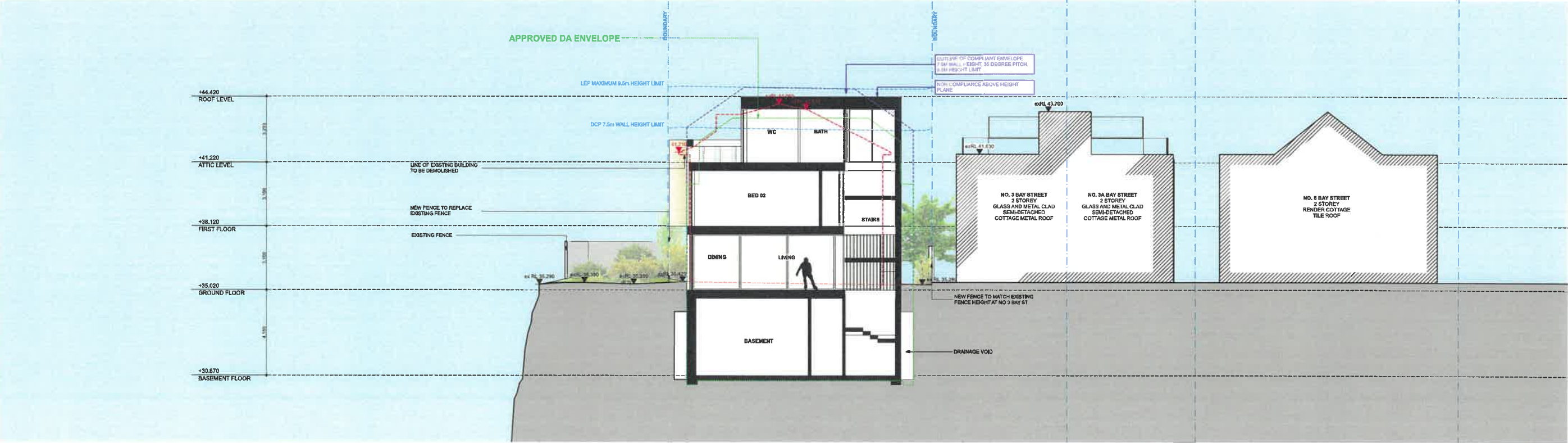
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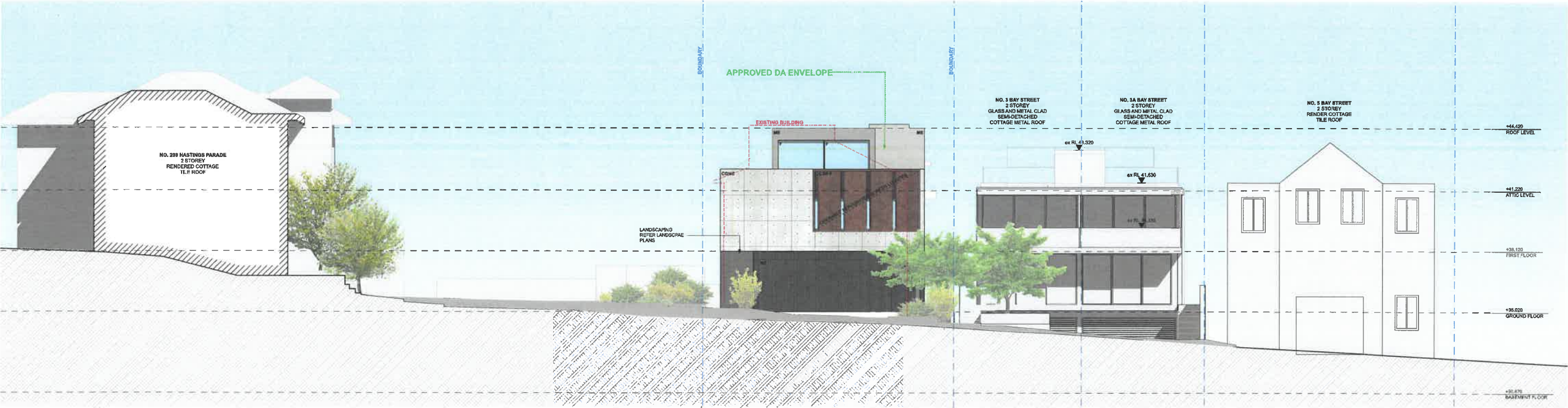
1 SECTION A



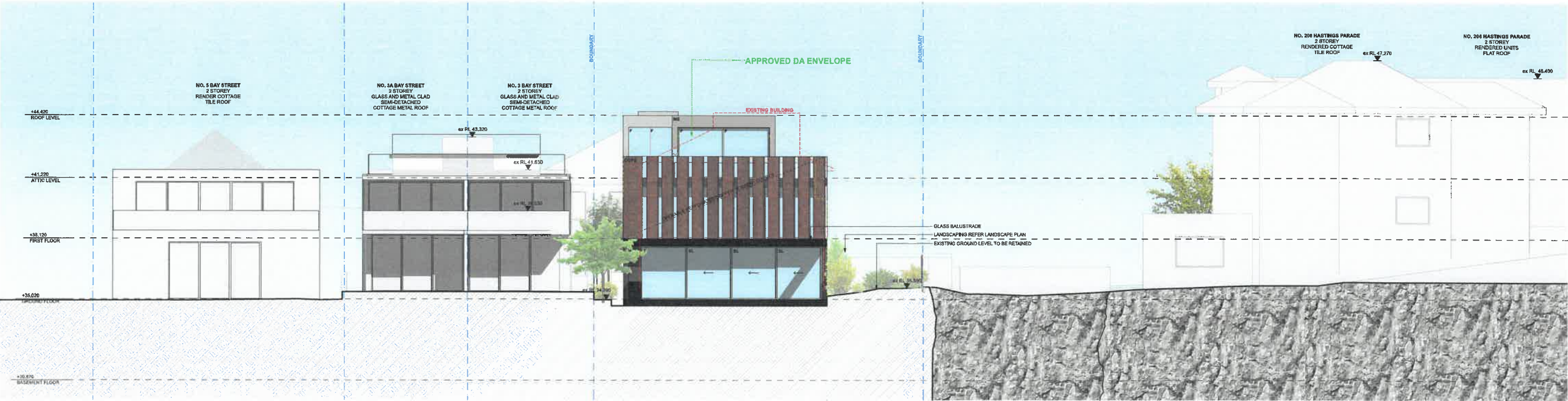
2 SECTION B

| REVISIONS | | LEGEND | | KEY | | GENERAL NOTES | | PROJECT INFORMATION | | |
|-----------|--------------------------|------------|---|--|---|--|--|---|---|--|
| A | DA SUBMISSION TO COUNCIL | 26/11/2018 | BOY CONC COP COPS DP EX F FPL GB GO ME O/P | BOUNDARY LINE CONCRETE COPPER CLADDING COPPER SPOREY DOWNPIPE EXISTING FIXED GLASS FINISHED FLOOR LEVEL GLASS BALUSTRADE GRADED DRAIN METAL CLADDING OVERFLOW | PT R P RL RWD RWY SL TOP | STORMWATER PIT REDUCE PAINT REDUCED LEVEL RAINWATER OUTLET RAINWATER TANK SKYLIGHT SUNSHINE GLASS TOP OF PARAPET | BOUNDARY LINE EXISTING BUILDING EXISTING NEIGHBOURING BUILDINGS EXISTING TREES RETAINED EXISTING TREES REMOVED PROPOSED NEW LANDSCAPING | 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA/AMERICAN STANDARDS/STATUTORY REGULATIONS AND LOCAL AUTHORITY RULES. 2. CONTRACTOR TO ENSURE COMPLETION OF ALL WORKS TO BE COMPLETED WITHIN THE SPECIFIED TIME FRAME. 3. CONTRACTOR TO NOTIFY ALL OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO COMMENCING WORK. 4. ANY TO REVIEW ALL CONTRACTORS DETAILED DRAWINGS / SETTING OUT PRIOR TO CONSTRUCTION. 5. CONTRACTOR TO LAISE WITH ELECTRICAL CONTRACTORS TO DETERMINE ALL WIRING REQUIREMENTS FOR RESIDENTIAL AND COMMERCIAL USE. 6. ALL DIMENSIONS TO BE VERIFIED ON SITE - DO NOT SCALE. 7. ALL WORKS TO BE COMPLETED AGAINST THE FOLLOWING CONSTRUCTION AND ARCHITECT TO BE INCHARGE OF ANY DISCREPANCIES PRIOR TO PROCEEDING WITH NEXT STAGE. | PROJECT NO: 17-029 DRAWN BY: MHNDU TO SCALE: 1:100 @A1 REV: 2026 DRAWING: SECTION A + B (A) DA08 | PROJECT: BAY STREET HOUSES 1 BAY STREET NORTH BONDI NSW DRAWING NO: DA08 |

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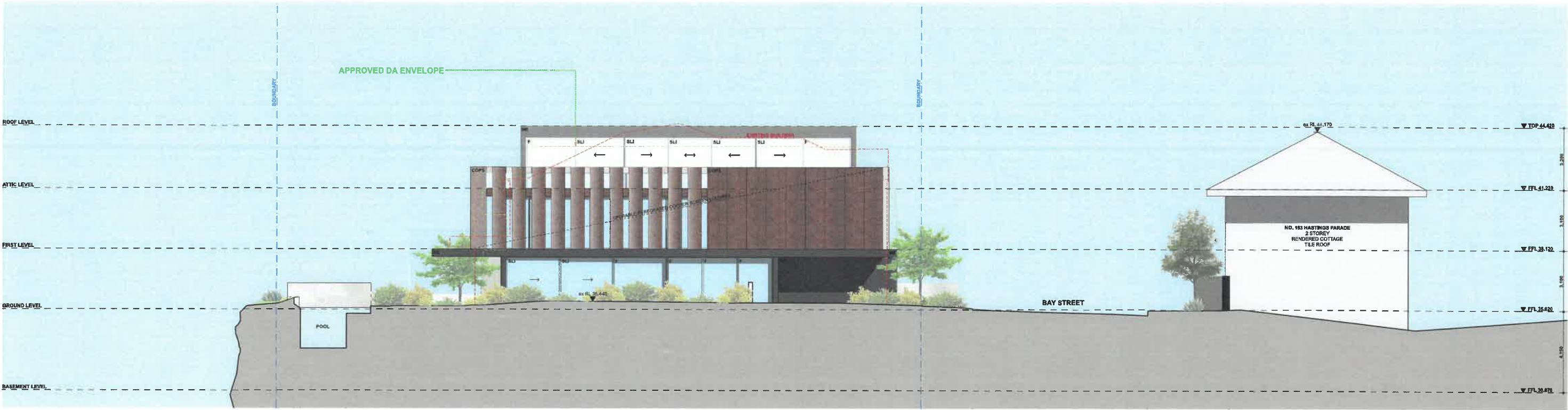
1 NORTH ELEVATION



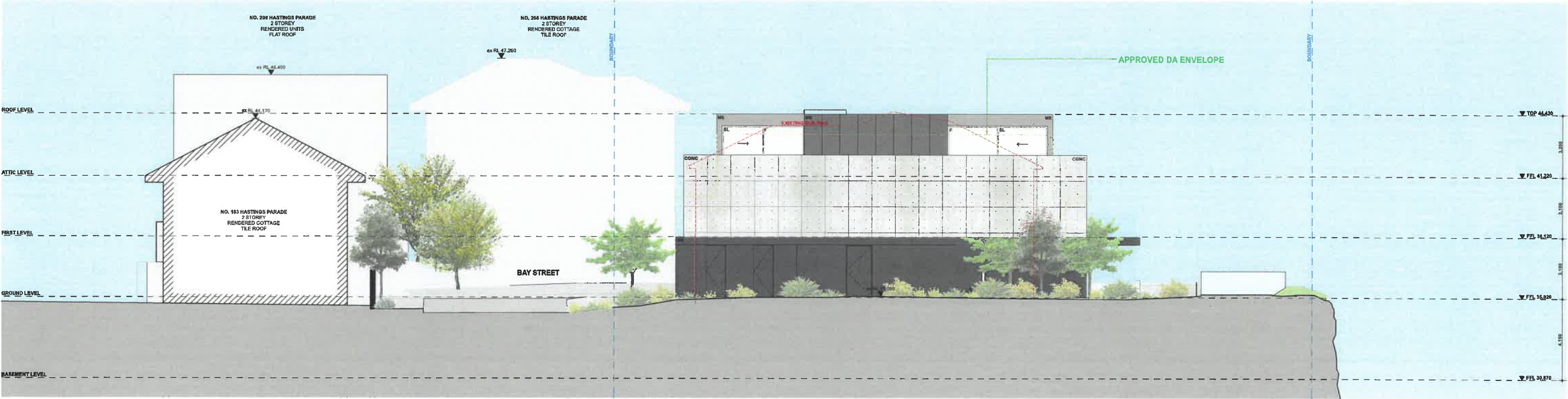
2 SOUTH ELEVATION

| REVISIONS | | LEGEND | | KEY | | GENERAL NOTES | | PROJECT INFORMATION | |
|-----------|--|--------------------------|--|------------|--|---|--|----------------------------------|--|
| A | | DA SUBMISSION TO COUNCIL | | 26/11/2018 | | 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA (AS/NZS 1170) AND THE LOCAL COUNCIL'S REGULATIONS AND BY-LAWS. | | PROJECT NO: 17-029 | |
| | | | | | | 2. CONTRACTOR TO ENSURE COMPLYMENT WITH ALL RELEVANT STANDARDS AND REGULATIONS. | | DRAWN BY: MHNDU | |
| | | | | | | 3. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED PRIOR TO THE START OF CONSTRUCTION. | | TO SCALE: 1:100 @A1 | |
| | | | | | | 4. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED PRIOR TO THE START OF CONSTRUCTION. | | DRAWING NO: DA09 | |
| | | | | | | 5. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED PRIOR TO THE START OF CONSTRUCTION. | | PROJECT: BAY STREET HOUSES | |
| | | | | | | 6. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED PRIOR TO THE START OF CONSTRUCTION. | | 1 BAY STREET NORTH BONDI NSW | |
| | | | | | | 7. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED PRIOR TO THE START OF CONSTRUCTION. | | 2026 | |
| | | | | | | 8. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED PRIOR TO THE START OF CONSTRUCTION. | | DRAWING: NORTH + SOUTH ELEVATION | |
| | | | | | | 9. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED PRIOR TO THE START OF CONSTRUCTION. | | DA09 | |
| | | | | | | 10. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED PRIOR TO THE START OF CONSTRUCTION. | | (A) | |

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1 EAST ELEVATION



2 WEST ELEVATION

| REVISIONS | | LEGEND | | KEY | | GENERAL NOTES | | MHNDUNION | | PROJECT: | | PROJECT NO: 17-029 | |
|-----------|--|--------------------------|--|------------|--|---------------------------------|--|------------------------------|--|------------------------------|--|--------------------------------|--|
| A | | DA SUBMISSION TO COUNCIL | | 20/11/2018 | | BOUNDARY LINE | | 29 HUTCHINSON STREET | | BAY STREET HOUSES | | DRAWN BY: MHNDU | |
| | | | | | | EXISTING BUILDING | | SURREY HILLS SYDNEY NSW 2100 | | 1 BAY STREET NORTH BONDI NSW | | TO SCALE: 1:100 @A1 | |
| | | | | | | EXISTING NEIGHBOURING BUILDINGS | | T +61 2 9101 1111 | | 2026 | | REV: | |
| | | | | | | EXISTING TREES RETAINED | | F +61 2 9101 1100 | | DRAWING: | | EAST + WEST ELEVATION (A) DA10 | |
| | | | | | | EXISTING TREES REMOVED | | www.mhndu.com | | DA10 | | A | |
| | | | | | | PROPOSED NEW LANDSCAPING | | MHNDU Design Pty Ltd | | 18/11/2018 | | 201 | |

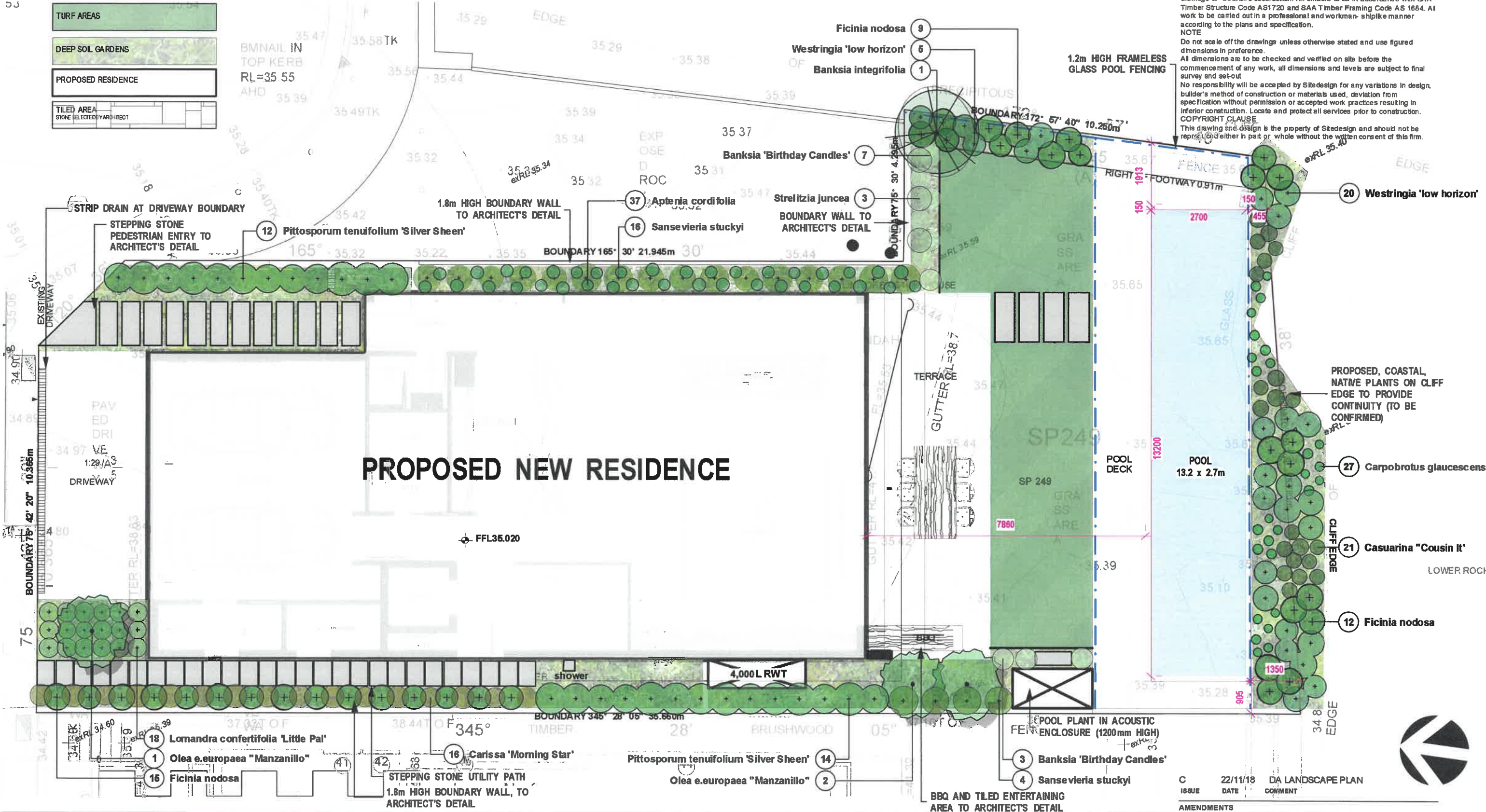
202

LEGEND

| |
|-----------------------------|
| PROPOSED POOL |
| TURF AREAS |
| DEEP SOIL GARDENS |
| PROPOSED RESIDENCE |
| TILED AREA |
| STONE SELECTED BY ARCHITECT |

GENERAL NOTES
All work to be carried out in accordance with the Building Code of Australia, all Local and State Government Ordinances, relevant Australian Standards, Local Authorities Regulations and all other relevant Authorities concerned. All structural work and site drainage to be subject to Engineer's details or certification where required by Council. This shall include r.c. slabs and footings, r.c. and steel beams & columns, wind bracing to AS 1170 and AS 4055, anchor rods or bolts, tie downs, fixings etc., driveway slabs and drainage to Council's satisfaction. All timbers to be in accordance with SAA Timber Structure Code AS1720 and SAA Timber Framing Code AS 1684. All work to be carried out in a professional and workman-like manner according to the plans and specification.
NOTE
Do not scale off the drawings unless otherwise stated and use figured dimensions in preference.
All dimensions are to be checked and verified on site before the commencement of any work, all dimensions and levels are subject to final survey and set-out.
No responsibility will be accepted by Site design for any variations in design, builder's method of construction or materials used, deviation from specification without permission or accepted work practices resulting in inferior construction. Locate and protect all services prior to construction.
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Waverley Council

Application No: DA-456/2018

LANDSCAPE ARCHITECTS // CONSTRUCTION // MAINTENANCE // IRRIGATION

Date Received: 07/12/2018

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| | |
|---------------|---------------------------|
| Project | PROPOSED RESIDENCE |
| Address | 1 BAY STREET, BEN BUCKLER |
| Drawing Title | DETAILED PLAN |
| Client | MHNDU |
| Scale | 1:200@A3 |
| Drawing No. | 6071 |

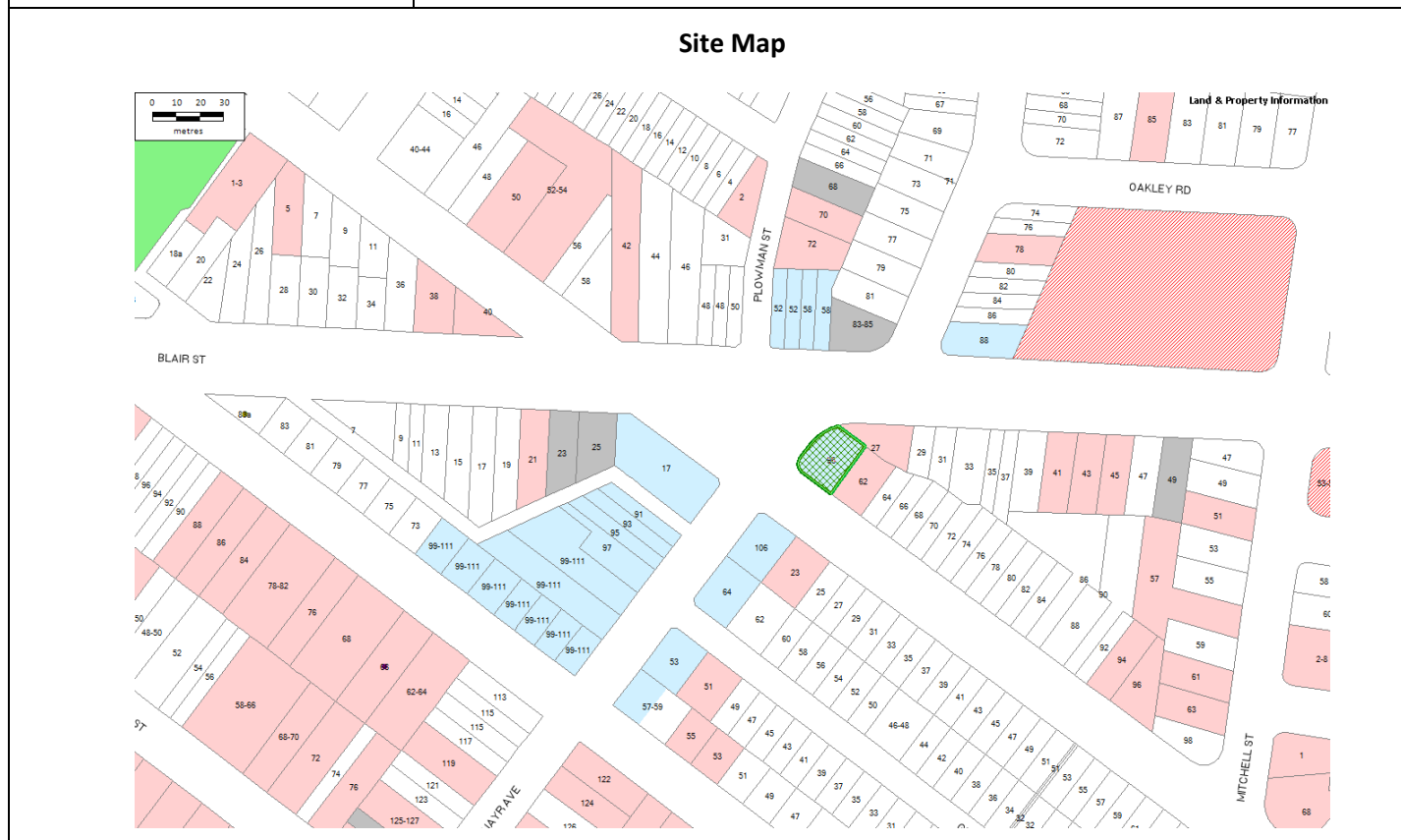
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L-02 C



Report to the Waverley Local Planning Panel

| | |
|---------------------------|--|
| Application number | DA-490/2018 |
| Site address | 96 Glenayr Avenue, Bondi Beach |
| Proposal | Alterations and additions to the existing building including updated shopfronts, alterations to residential units, change of use to shop top housing development, Stratum and Strata Title Subdivision |
| Date of lodgement | 21 December 2018 |
| Owner | McCole Court Pty Ltd |
| Applicant | Mr Joseph Alliker of RAA Architects |
| Submissions | One (original), four (amended) |
| Cost of works | \$4,081,000 |
| Issues | Non-compliant Height and FSR, side setback and separation, visual and acoustic privacy, visual bulk and scale |
| Recommendation | That the application be APPROVED |



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 9 May 2019.

The site is identified as Lot A in DP13903, known as 96 Glenayr Avenue, Bondi Beach. It is located on the south-eastern corner of the intersection of Blair Street and Glenayr Avenue. The site is generally regular in shape with a rounded north and western boundary alignment to Glenayr Avenue and Warners Avenue. The site has an area of 448m² and is generally flat.

Existing development on the site consists of a three storey mixed use development comprising ground level part retail premises and residential units at ground level and above. There is currently a stair access to a communal area consisting of a laundry room and drying areas at the roof top of the subject building. Surrounding development comprises a mix of residential flat buildings, semi-detached and detached dwellings and retail premises.

The site is not listed as a heritage item and is not located within a heritage conservation area.



Figure 1: Subject site frontage viewed from corner Glenayr Ave and Warners Ave



Figure 2: Site viewed from Glenayr Ave

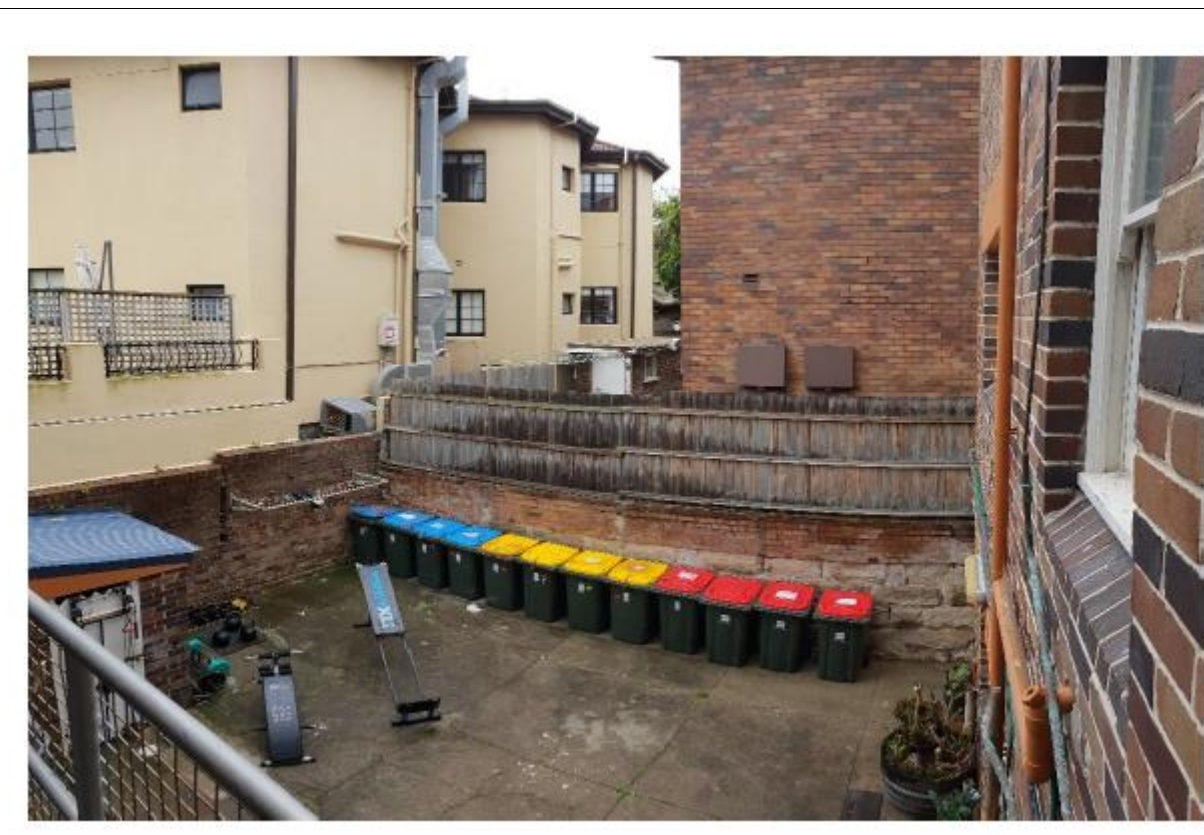


Figure 3: Site viewed at the rear showing the existing outdoor space and bin store (source: Applicant's Statement of Environmental Effects prepared by LK Planning dated 13 December 2018)

1.2 Relevant History

A search of Council's records found the following recent and relevant development applications for the subject site:

DA 457/2014 - for shop No.1 fit-out, alterations and additions and extension to awning was approved on 20 November 2014.

DA-631/2014 - Alterations and additions including extensions to ground level shops and to Units 3 and 6, new balconies and lift, modify waste area, new bicycle storage, building upgrades and roof garden and pergola atop building approved on 21 September 2015. An FSR of 1.8:1 was approved as part of this Development Application.

DA-631/2014/A - Modification to delete condition regarding the BCA, approved on 9 August 2017.

DA-631/2014/B - Modification to facade, balcony alterations and storage to roof approved on 17 January 2018.

DA-631/2014/C - Modification to ground level shops, Units 3 and 6 including new balconies, lift, rooftop garden and various other alterations approved on 13 September 2018.

DA-490/2018: Subject application

The development application, the subject of this assessment report, was deferred on 22 May 2019 to give the applicant an opportunity to submit amended plans and additional information to address issues raised in the preliminary assessment of the application. These matters related to issues raised by the Design Excellence Panel, separation distances, façade changes and use of the rooftop terrace. Amended plans were submitted on 29 July 2019 to address these matters, which are the subject of this assessment report.

1.3 Proposal

The proposal is for alterations and additions to the existing building to create a shop-top housing development containing five (5) shops on the ground floor, renovation and additions to the existing six (6) units above, and privatisation of the existing communal rooftop terrace. Details of the proposal are as follows:

Ground floor

- Conversion of residential Unit 1 to a retail premises (known as Shop 1a).
- Extension of the awning towards the Warners Avenue elevation outside the new shop.
- Alterations and additions to Shops 1 – 4, including indicative kitchen areas for shops 1a, 1b, 2 and 4.
- Separated and internalised waste storage facilities for the retail areas and residential units, as well as centralised mechanical risers for the shops.
- Bicycle storage for the residential units.
- Centralised and internalised shared sanitary facilities with direct access from all 5 shops.
- Alterations to the lobby area and provision of a lift.

First Floor

- Alterations and additions to Units 2, 3 and 4, including extensions into the existing central lightwell section of the building via removal of the metal stairs and bridge entries to the units.

- Unit 3 is provided with a new terrace over the internalised waste areas below with perimeter planting and a balcony to the Warners Avenue elevation.

Second Floor

- Alterations and additions to Units 5, 6 and 7, including extensions into the existing central lightwell section of the building via removal of the metal stairs and bridge entries.
- Unit 6 is provided with a new balcony over the terrace to Unit 3 below and a balcony to the Warners Avenue elevation.

Rooftop level

- Conversion of the existing pitched roof section over the southern portion of the building into dedicated storage areas for each of the 6 units, including an eyelid extension to the central portion of the roof
- Conversion of the existing communal terrace into five (5) distinctly separate spaces for five (5) of the units (Unit 3 will have a first-floor terrace in lieu of a rooftop terrace), including significant planting and landscaping.
- Units 5, 6 and 7 have direct access from their unit to the terrace. Units 2 and 4 access their terraces off the main lobby adjacent to their units.
- A separate and acoustically treated area for air-conditioning units.

Subdivision

- Stratum subdivision into 2 lots; one for retail areas and one for residential areas.
- Strata subdivision of retail stratum lot into 5 strata lots
- Strata subdivision of residential stratum lot into 6 strata lots

(Note: Residential unit numbering on the proposed plans starts at Unit 2.)

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 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

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

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 SEPP 65 Design Quality of Residential Apartment Development

The original proposal was referred to the Design Excellence Panel on 18 March 2019. Comments received from this meeting were forwarded to the applicant in Council's deferral letter of 22 May 2019. Amended plans were submitted on 29 July 2019. The amended application was referred again to the Design Excellence Panel on 19 August 2019. The Panel's comment of the proposed and amended development with regard to the nine design quality principles under SEPP 65 and a planning response to each comment are set out in **Table 1** below:

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

| Principle |
|---|
| <p>Principle 1: Context and Neighbourhood</p> <p><i>The proposed new balconies appear out of character and fussy on the 1:100 scale drawings and the Panel would need to see larger details to be able to make relevant comment. It would seem that the Council has suggested vertical metal balustrading. The Panel considers that simple vertical flat bar balustrading would be appropriate.</i></p> <p><i>The new roof elements and terrace canopy are also lacking in architectural clarity at this stage and have the potential to be a jumble of uncoordinated elements. The applicant notes that this will not be visible from the street however the Panel considers that more design development is needed.</i></p> <p>Planning comment: Noted and conditioned</p> |
| <p>Principle 2: Built Form and Scale</p> <p>Panel members have the following concerns:</p> <ul style="list-style-type: none"> <i>The units all have studies that are big enough to be bedrooms. If they are used as bedrooms they need to comply to controls such as outlook from windows, ventilation and internal dimensions</i> <i>The proposed glass structure over the accessway to the commercial garbage area is considered intrusive. Other methods of reducing noise to the windows above should be investigated.</i> <i>The size of the exhaust riser for commercial kitchens and bin areas should be checked.</i> <i>Clear and easy access to the base of the lightwell needs to be provided. Currently pot plants are shown in this area which indicates that irrigation would also be needed.</i> <i>The separation between Units 2 and 5 bedrooms from the large Unit 3 terrace is still unsatisfactory for acoustic, light spill and privacy reasons. The Unit 3 terrace should be reduced in size to the minimum and the separation increased.</i> <i>The rear (north-east) balcony of Unit 6 should be reconsidered as it will also impact on Units 2, 3 and 5. Unit 6 may be able to be rearranged so that the living areas face the street, winter sunlight access achieved through the roof design, and no balcony provision on the north-east.</i> <i>The rooftop level has many awkward building elements. The roof terrace construction needs to provide good insulation to habitable areas below. A raised paving or decking system should be investigated and details provided.</i> <i>Unshaded glass skylights – the skylight over the spiral stair has the potential to overheat the spaces below.</i> <i>Acoustic requirements for the lift core should be checked where it abuts apartments.</i> <i>The new shopfronts should have glazing heights that complement the existing shopfront glazing heights.</i> <p>Planning comment: The studies are undersized compared to the requirements for minimum size of bedrooms as required by the ADG. The exception to this is the study to Unit 2 which is a hybrid space that can be opened up to enlarge the living room. It is considered that a redesign is not warranted.</p> |

The purpose of the glass awning is to provide weather protection only to access the rear bin area. The use of glass facilitates an openness to this narrow corridor and access to natural light. It is considered a change in materiality is not required.

Roof top spaces will not be visible from surrounding public domain areas. Such detailed design elements can be addressed at the Construction Certificate stage.

Tinted glass is now proposed to skylight.

New shopfront to Warners Avenue frontage to be conditioned for the deletion of metal louvres to frontage windows and to be provided with compatible glazing heights.

Principle 3: Density

Whilst the existing building has an FSR of 1.68:1, additional floor area is created by reducing the size of the existing central light well. This reduces the amenity of the internal rooms and the acceptance of this increase in GFA should be dependent upon the applicant making recommended changes to the internal planning to enhance the proposed internal amenity.

If the issues in this report can be satisfactorily resolved the Panel would have no issue with the proposed FSR.

Planning comment: The applicant has altered the layout to relocate studies to access the lightwell. The issue of non-compliant floor space is addressed below.

Principle 4: Sustainability

The following items should be integrated with the design:

- *Ceiling fans have been added to bedrooms only. If air-conditioning is not part of the proposal (which is to be commended) the Panel recommends ceiling fans in living areas as well.*
- *Window options that provide ventilation and reduce street noise impacts – further work is required.*
- *A raised paver system for the roof to increase heat insulation and reduce sound transmission has been noted on the drawings however it is unclear how this works with floor levels, roof slab falls, stair risers, etc.*
- *There is a possibility to incorporate photovoltaics or solar hot water into the pergola roof design to shade the terrace and reduce energy use*

Planning comment: Noted and conditioned. Photovoltaics are proposed to the roof top.

Principle 5: Landscape

The success of the landscape proposals for the private rooftop gardens, the lightwell and private balconies will rely heavily on landscape maintenance. An automatic irrigation system will be required.

The first floor Terrace U3 is in a densely occupied corner of the site, in close proximity to adjoining buildings and overlooked by the Study and Bedroom 2 of Units 2 and 5. A reduction in the size of the terrace and additional dense planting around its perimeter and between the terrace and bedroom windows will enhance the collective amenity of the space and provide for better privacy.

Planning comment: Noted and conditioned

Principle 6: Amenity

- *Negative impacts of the Unit 3 Terrace need to be reduced.*
- *The balcony for Unit 6 remains an issue and changes to the unit planning might produce a better outcome.*
- *The lack of balconies adjacent to living areas in the existing building is considered a satisfactory outcome as it helps with the retention of the contributory façade.*
- *The Applicant notes that each unit has a private roof terrace area.*

- Window design generally needs more consideration in relation to acoustics and natural ventilation.

Planning comment: Noted and conditioned.

Principle 7: Safety

Fire separation and egress issues should be independently reviewed. This remains an issue and the Panel believes that it should be attended to at DA stage, not left to CC, as changes to the design may be required.

Structural design should be advanced to provide surety that the proposal is achievable. There is no structural information provided.

Planning comment: The applicant has been made aware of the requirements for upgrading to meet the standards for fire safety. This will be addressed at CC stage. Council's Fire Safety Officer has reviewed the scheme and recommended conditions for imposition.

Principle 8: Housing Diversity and Social Interaction

The housing mix is appropriate for the neighbourhood. The Applicant is to be commended for upgrading this prominent building of historic character.

Planning comment: Noted

Principle 9: Aesthetics

It is important that the existing building be carefully restored to maintain its architectural integrity in the long term. Structural work associated with the replacement of floors and the introduction of walls, doors and windows will be critical to ensuring the long-term integrity of the building. High quality and suitably proportioned windows and doors, balustrades, render and brickwork repairs will be essential to achieving a lasting quality aesthetic. Attention to these details will ensure that this local landmark continues to be a fine corner building in its context.

Planning comment: Noted

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

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

- visual privacy,
- solar and daylight access,
- common circulation and spaces,
- apartment size and layout,
- ceiling heights,
- private open space and balconies,
- natural ventilation,
- storage.

If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. An assessment against the provisions within the ADG is provided in the table below.

Table 2: Apartment Design Guide

| Design Criteria | Compliance | Comment |
|--------------------------------------|------------|---------|
| Part 3 Siting the development | | |

| Design Criteria | Compliance | Comment |
|---|------------|--|
| 3B Orientation | | |
| <ul style="list-style-type: none"> Building types and layouts respond to the streetscape and site while optimising solar access within the development | Yes | The reconfiguration of units within the existing building will improve the internal amenity and improve solar access within the development. |
| <ul style="list-style-type: none"> Overshadowing of neighbouring properties is minimised during mid-winter. | Yes | Minor additional shadowing of the rear common open space area of the adjoining property occurs to the south-east at 3pm winter solstice. This is as a consequence of the orientation of the allotments, which is not considered to be unreasonable. Remainder of shadow falls predominantly within existing shadowed areas and over the public domain. |
| 3C Public Domain Interface | | |
| <ul style="list-style-type: none"> Transition between private and public domain is achieved without compromising safety and security. | Yes | It is proposed to change the use of the ground floor residential Unit 1 to a retail space. The amenity of this existing unit is poor. Its proposed use as retail floor space will activate this frontage to Warners Avenue and make it consistent with the B1 zone objectives applicable to the subject site and definition for 'shop top housing'. |
| 3D Communal and Public Open Space | | |
| <ul style="list-style-type: none"> Communal open space has a minimum area equal to 25% of the site | No | It is proposed to privatise the existing rooftop communal open space area, allocating a private area to five of the units within the development. This does not satisfy the requirement for the provision of communal open space contained within the ADG. See further discussion below. |
| 3E Deep Soil Zones | | |
| <ul style="list-style-type: none"> 7% of site area and 3m minimum dimension | No | Given the existing built form on site, which is to be retained and upgraded, there is no opportunity to satisfy this criteria. |
| 3F Visual privacy | | |
| <ul style="list-style-type: none"> Min separation distances from buildings to side and rear boundaries: Up to 12m (4 storey) – 6m habitable and 3m non-habitable Increased separation of 3m where adjoins a lower density zone | No | The existing building does not comply with the minimum separation distances prescribed by the ADG. It is proposed to extend the building at the north-east and south-eastern corner. The proposed addition proposes to provide new terrace area to Unit 3 and rear balcony to Unit 6 which do not comply with the minimum separation distances. This is discussed in further detail below. |
| Part 4 Designing the building | | |
| 4A Solar and daylight access | | |
| <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight | Yes | 80% of units receive at least 2 hours mid-winter. |

| Design Criteria | Compliance | Comment |
|--|-------------------------|--|
| between 9am-3pm mid-winter <ul style="list-style-type: none"> A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter. | No, acceptable on merit | Unit 3 does not receive direct sunlight in mid winter (20%). This is an existing situation due to the location of the unit within the building and its orientation. The unit is to be upgraded with improved amenity. |
| 4B Natural ventilation | | |
| <ul style="list-style-type: none"> All habitable rooms are naturally ventilated Number of units with natural cross ventilation is maximised: <ul style="list-style-type: none"> At least 60% of units naturally ventilated | Yes Yes | All habitable rooms are provided with at least one window for natural ventilation. All units are naturally cross ventilated. |
| 4C Ceiling heights | | |
| <ul style="list-style-type: none"> Habitable rooms – 2.7m Non-habitable rooms – 2.4m | Yes | The ceiling heights within all units comply with the minimum requirement. |
| 4D Apartment size and layout | | |
| The following minimum internal areas apply: <ul style="list-style-type: none"> 2 Bed = 70 m² Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. | Yes | All units have internal areas in excess of the minimum ADG requirements. The proposal achieves compliance with the minimum glazed area to each habitable room. All bedrooms meet the minimum requirements in terms of dimensions and area. All kitchens are separate to the circulation spaces. |
| 4E Private open space and balconies | | |
| All apartments provide primary balcony as follows: <ul style="list-style-type: none"> 2-bed - 10m² & 2m depth | No | All existing units within the development do not have access to their own areas of private open space. The units are proposed to be provided with a balcony or private roof top terrace in an attempt to meet the minimum requirements of the ADG. Having regard to the existing situation, the proposal will enhance the amenity for occupants of the building through the general upgrade of the building and greater outlook to green space (eg over the ground level extension in rear eastern corner upon condition being imposed to vary this area from Unit 3's terrace to a Juliet balcony with green roof). However, having regard to the roof top terrace, these are not supported to be privatised and instead recommended to remain as communal open space. This is discussed in further detail below. |
| 4F Common circulation and spaces | | |

| Design Criteria | Compliance | Comment |
|--|------------|---|
| <ul style="list-style-type: none"> Max of 8 units accessed off a circulation core on a single level | Yes | Only six (6) units proposed within the development |
| 4G Storage | | |
| In addition to kitchens, bathrooms and bedrooms, the following is provided: <ul style="list-style-type: none"> 2-bed – 8m³ | Yes | The proposal provides separate storage within existing pitched roof space which is to be allocated to each unit. The storage provided meets the requirements and objectives of the ADG. |

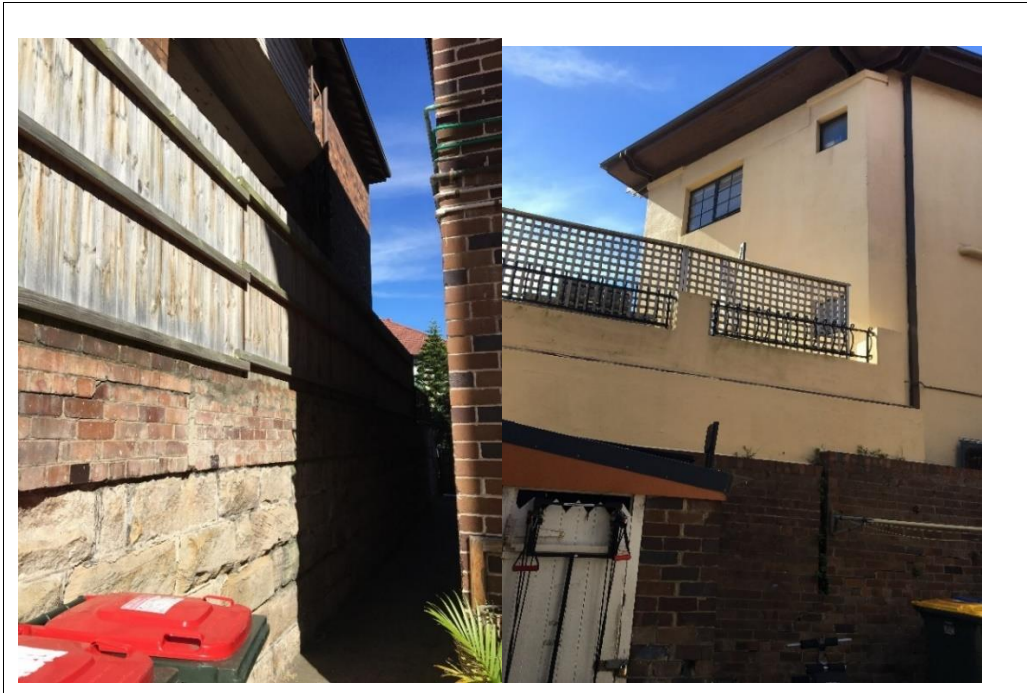
The following is a detailed discussion of the issues identified in the compliance table above in relation to the SEPP 65 ADG.

Visual and acoustic privacy, separation distances and visual bulk and scale impacts

It is proposed to extend the building out at the north-eastern and south-eastern side boundaries of the site. At ground floor level, the new extension is to comprise residential and commercial bin storage areas, toilet facilities associated with the retail uses, OSD tank and part of retail floor space. This area encloses an existing open rear courtyard currently used for bin storage. Walls are proposed to abut side boundaries up to a height of 4.5 metres when measured to the top of the planter box. It is proposed to construct an open terrace area attached to the kitchen and living space of Unit 3 above this extended ground floor space. The proposed useable space of this terrace is to measure 5.7m by 5m and have a total area of 28.5m². The terrace is to be bordered by 900mm high planter boxes to a width of 2.4m on the north-eastern side and 1.4m on its south-eastern side. Unit 3 is also to be provided with a balcony to its Warners Avenue frontage attached to the proposed bedrooms. The proposed wall height to the top of the planter is 4.5m. The wall height will be higher than the existing common boundary fence with No.62 Warners Avenue by approximately 200mm. A 1.7m high acoustic privacy screen is also proposed to sit above the finished floor level.

It is also proposed to provide balconies to the rear kitchen living area and the front bedroom area of Unit 6 located on the second floor level. The new rear balcony is to be setback 1.406 metres from the south-eastern side boundary to the planter box and 2.2m to the useable balcony area. The balcony is to be setback 6m from the north-eastern boundary with No.27 Blair Street.

The property to the north-east at 27 Blair Street, Bondi Beach has an existing rear terrace area abutting its rear boundary and windows that overlook the subject site located within the minimum separation distance. The property to the south-east at 62 Warners Avenue, Bondi Beach is setback approximately 1 metre from the common property boundary with the subject property (less distance to bay windows). The common open space area is located to the rear of this building which will be overlooked by the proposed rear terrace and balcony to Units 3 and 6.



Figures 4 and 5: Site viewed at the rear showing the existing boundary wall height between the subject site and the site to the east at 62 Curlewis Street, Bondi Beach (left) and to the north-east at 27 Blair Street, Bondi Beach (right)

The ADG requires a minimum separation distance from boundaries to balconies of 6m. This separation distance should be increased by 3m when adjacent to a different zone that permits lower density residential development (the subject sites to the north-east and south-east are zoned Medium Density Residential R3). Whilst the existing building does not comply with this control, the further proliferation and exceedance of this breach with the proposed terraces and balconies will result in unreasonable impacts on the amenity of the adjoining properties particularly in regards to visual and acoustic privacy and visual bulk and scale impacts. The location of the proposed terrace to Unit 3 and balcony to Unit 6 also results in a conflict with the internal amenity of Units 2 and 5 within the subject development.

The proposal results in a non-compliance of approximately 564.09m² gross floor area above the development standard. The floor space ratio control applicable to the site is 1:1 and the proposal seeks 2.26:1, being equivalent to 126% over this development standard. This component is discussed in greater detail below, with regard to the Waverley Local Environment Plan section of the report. It is acknowledged that the extent of this breach in a numerical sense seems excessive, however, the majority of this additional floor space sought as part of this DA is contained within the central core with the enclosing of the existing central courtyard/ service area, with the remainder being incorporated within an extended ground floor level.

In assessing the breach, consideration needs to be given as to whether there is any impact on the amenity of the adjoining properties. Despite the large non-compliance with the floor space ratio (FSR), the previously approved FSR of 1.8:1 was considered acceptable as it was contained within the existing bulk of the building and within the already approved height, without adversely impacting the amenity of neighbouring properties. The proposed modifications to the FSR do not increase the height and marginally alters the approved building envelope with the extension of the ground floor level out to the south-eastern and north-eastern boundaries and the enclosing of the central core area.

The building is located within an appropriate height, which although also exceeding the development standard is acceptable as justified above. The enclosing of the central core area will not be visible from

the street frontage nor result in any impacts on the amenity of the adjoining properties in regards to overshadowing, view loss, visual bulk and scale or privacy impacts. Notwithstanding this, the extension of the envelope out to the south-eastern and north eastern boundaries at ground floor level requires design refinement given the extent of wall height proposed, particularly as it presents at the south-eastern boundary to 62 Warners Avenue. (Note: the existing wall height to the property to the north-east extends to approximately the same level as the proposed wall height for part of its length).

The proposed wall height and location of this terrace area is considered to be a poor outcome, impacting negatively on the amenity of the adjoining properties. Whilst the extent of the additional floor space at ground floor level to the boundary in itself is reasonable, the placement of planter boxes and terrace above that space results in unreasonable impacts on visual and acoustic amenity, visual bulk and scale, and solar access impacts. In this regard, it is recommended that the proposed terrace for Unit 3 be removed and replaced with a Juliet balcony. It is also considered that the location of the large rear balcony to Unit 6 in this dense corner of the site will also result in unreasonable visual and acoustic privacy impacts and should also be reduced to a Juliet balcony.

To ameliorate these impacts, it is recommended that the rear balconies/ terraces for Units 3 and 6 be amended to Juliet balconies only and this remaining area over the roof be converted to a green roof, allowing for a landscaping feature/outlook to remain. Whilst not ideal to have a Juliet sized balcony located off the living/ kitchen areas, it is important to note that this Unit 3 still maintains access to a large balcony off its front elevation attached to the bedrooms (improvement on existing), while Unit 6 (as well as all other units) will have access to the roof top terrace.

The rear podium area can then be provided as a non-trafficable green roof which will also reduce the necessity for large planter boxes and wall heights at this location. Subject to the reduction in size of the rear terrace areas to Units 3 and 6, the proposed setbacks, height, private open space and amenity for future occupants and neighbouring properties is maintained despite the increase to floor area. The reduction of the large Unit 3 terrace and Unit 6 balcony also addresses the problem associated with the conflict of use of these private open space areas and the internal amenity of Unit 2 and 5 within the subject development itself.

Communal open space

It is proposed to privatise the existing rooftop communal open space area, allocating a private area to five of the units within the development with the remaining unit allocated its own terrace area at floor level. Whilst this does not satisfy the requirement for the provision of communal open space contained within the ADG, generous private open space areas are to be provided to each individual unit within the development. The following justification was provided by the applicant in response to this issue raised in Council's deferral letter of 22 May 2019.

- *The principal purpose of providing individual spaces on the rooftop is to reduce the extent of noise that can potentially occur as our preference is for smaller passive outdoor areas for the units over the current situation. The current rooftop is large, communal and doesn't have any screens, vegetation or any other measures that reduce noise impacts. The existing communal terrace is a vast area that can accommodate a significant number of people. With such a large roof terrace it is far more likely, and has been experienced on this site, that the occupants of one of the units can cater for a party with numbers akin to a function centre or party venue, more than a typical 'unit party' where numbers are generally limited. By providing private terrace spaces the potential for loud and large gatherings is significantly reduced, whereby only 5 units are proposed to have a roof top terrace that occupies less than a fifth of the total roof area they currently have access to.*

- *Even if all terraces were used at once, the total useable area of is significantly smaller than the communal terrace outcome. Under the conditions of the existing communal roof terrace it is possible to have multiple parties all happening at once, as unlikely as this is. It is just as likely (or unlikely) if the terraces were physically separated into different zones on the communal areas, or if they were allocated to 5 individual units. In reality there is no change to the potential for a number of concurrent gatherings.*
- *The main difference is, however, that the proposed separation of the terraces eliminates the potential for one unit to have a nuisance party over the entire terrace; reduces their capacity to invite hundreds of people; and physically restricts them to a small area 12-17% of the size, centred around a dining table within perimeter planting under a vegetated pergola.*
- *If Council were of the opinion that a Body Corporate would have greater control over a communal terrace than 5 individual terraces, this is a fallacy. The isolation of the communal roof terrace, away from any other units, creates a sense of 'not affecting anyone' as neighbours are unseen. When there are private terraces next to a neighbouring private terrace, the opposite is true and there is an inherent respect for the immediately adjoining neighbour. The Body Corporate has the same powers to control nuisance activity in its by-laws regardless of ownership. Quite simply, whether there is a nuisance occurring from inside a private unit or within the common space, the recourse of the Body Corporate is the same. It also follows that any restriction of use of the terraces established by the Body Corporate could just as easily be applied to a communal terrace as it could private terraces. There is no greater enforcement or likelihood of compliance based on the ownership of the terraces.*
- *As previously stated, acoustic screens are provided adjacent to the Blair Street neighbour on the site of the Unit 5 terrace to further mitigate noise impacts, as requested by that neighbour.*

The rooftop is presently used as a communal outdoor area, with communal laundries and drying facilities. Development consent in previous applications have supported the restoration and invigoration of this space, maintaining it as a communal roof terrace, with the following condition imposed on the previous consent DA-631/2014:

4. USE OF ROOF TOP TERRACE

The use of the roof terrace is to be limited to between 7.00am and 10.00pm, 7 days (except New Year Eve), in order to ensure the amenity of the adjoining neighbours and neighbours within the building is not adversely impacted. Appropriate signage must be displayed in foyer advising residents of the time restrictions for use of roof top terrace.

In this regard, Council does not support the privatisation of the roof tops into separate private landscape zones due to the limited ability to control private use of these areas, visual and acoustic privacy and the undesirable precedence it creates. It would be unreasonable to limit the private use of private spaces to overcome concerns.

Rather, the provision of a rooftop for a genuine communal open space area benefits all occupants of the building (rather than the fortunate few if privatised), allows opportunity to restrict use (such as hours for use) and ensures the onus is on the Body Corporate (as a whole entity) to ensure these areas are maintained. Should privatisation of these areas be sought by the applicant/Body Corporate, then exclusive use of the common property can be sought separate to the development application process. Whilst the applicant may argue the roof top being privatised is a reasonable outcome for this site, Council Officers do not agree.

Accordingly, it is recommended that support for the improvement and landscaping of this roof terrace occur, subject to it remaining for communal use only. In this regard, it is recommended all private access and references be deleted, that perimeter planter boxes (minimum width of 1m and soil depth of 600mm) be provided to enhance the streetscape presentation at this level, there be a restriction of use to 7am – 10pm Monday to Sunday (except on New Years Eve) and outdoor drying facilities be provided. Conditions to this effect are recommended for imposition.

2.1.4 SEPP (Affordable Rental Housing) 2009

Documentary evidence accompanies this application demonstrating that it cannot be ascertained whether or not the existing building contained low rental housing as at 28 January 2000. As the building currently contains low rental dwellings, a SEPP Affordable Rental Housing Report accompanies the application and provides an assessment against the relevant parts of the SEPP.

Under Part 3 Retention of Affordable Housing Clause 49(1) it states that this part is only applicable to those buildings that were low rental at 28 January 2000, and does not apply to any building that becomes low rental after that date. The applicant has outlined that they are unable to provide any information confirming whether or not the building was low rental at that time. Council is unable to find any information providing evidence to say whether or not this building was low rental at that date. *Hampstead Home Units Pty Limited v Woollahra Municipal Council [2016] NSWLEC 169* outlines that unless Council can prove the building was low rental at that date then it cannot apply the contribution from this part of the SEPP. Therefore, the applicant cannot be made to pay a contribution.

2.1.5 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 |
|--|------------|---|
| Part 1 Preliminary | | |
| 1.2 Aims of plan | Yes | The proposal does not contravene the aims of the plan |
| Part 2 Permitted or prohibited development | | |
| 2.6 Subdivision – consent requirements | Yes | Stratum and Strata subdivision is proposed. |
| Land Use Table B1- Neighbourhood Centre | Yes | Shop top housing is permitted with consent in the B1- Neighbourhood Centre Zone and is consistent with the zone objectives. |
| Part 4 Principal development standards | | |
| 4.3 Height of Buildings Maximum 9m | No | The proposed height is 13.45m, a variation of 49%. The existing overall height is to remain unchanged - the height of the proposed new lift and pergola are at 13.45m which will be no higher than the existing building height. This is discussed in further detail below. |
| 4.4 Floor space ratio and Maximum FSR is 1:1 or 448m ² of GFA | No | The proposed FSR for the site is 2.26:1 or 1,012.09m ² of GFA, a variation of 126%. This FSR variation is discussed further below. |

| Provision | Compliance | Comment |
|---|----------------|--|
| 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 and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table. |
| Part 5 Miscellaneous provisions | | |
| 5.10 Heritage conservation | N/A | The site is not heritage listed or located within a conservation area and there are no heritage items within the immediate vicinity of the site. However, due to the character of building, the application was referred to Council's Heritage Advisor for comments (see comments under Referrals section of this report). |
| Part 6 Additional local provisions | | |
| 6.1 Acid sulfate soils | Yes | The site is classified as Class 5. The proposal is unlikely to lower the water 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 height of buildings development standard in Clause 4.3 and floor space ratio (FSR) development standard in Clause 4.4.

Height

The site is subject to a maximum height development standard of 9m. The proposed development has a height of 13.45m exceeding the standard by 4.45m equating to a 49% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Waverley Local Environmental Plan 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.

Applicants 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:

'Strict compliance with the development standard in this case would not be reasonable and is unnecessary, as the non-compliance is a numerical outcome that does not relate to the existing building on the site and is not representative of the desired 3 storey scale demonstrated by a building of historic character. In this particular case, strict compliance is unreasonable as it would hinder the attainment of an improved environmental planning outcome for the site that allows greater utility of the existing building, where there are no adverse material impacts on adjoining properties and the proposal preserves the amenity of the locality. Strict compliance is unnecessary as the objectives of the zone and the development standard are met despite the non-compliance'.

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

'A lack of environmental impacts does not in itself provide for sufficient environmental planning grounds to vary a standard, however it is noteworthy that the non-compliance does not cause any additional overshadowing, view loss, privacy or visual bulk impacts upon the adjoining properties and has an improved impact on the streetscape and locality. The environment planning grounds justifying the variation are:

- The scale of the building is entirely retained, noting the current building has existed on the site above the current height control for 90 years.*
- The controls outlined in the DCP seek to retain buildings of historic character and this proposal will further entrench the building's longevity through strata subdivision.*
- The proposal facilitates the retention, restoration and readaptation of the building.*
- The amenity of all existing residential units is being improved, specifically with the introduction of private open space and removal of impactful lightwell areas around the central courtyard area.*
- The amenity of all existing retail tenancies is being improved, with new shared facilities, improved plant and equipment arrangements and access.*
- That despite the non-compliance, the building satisfies the objectives of the development standard and the zone'.*

Consideration of Applicants 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 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;*
- 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.*

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 standard referencing that the development meets the objectives of Clause 4.3 of the Waverley LEP 2012. The material impact of the proposed development is not unreasonable and does not impact on the integrity of the development standard. There is no net increase in height proposed from the existing building. The addition of lift and pergola is to be sited within the existing height plane. The proposal does not result in any unreasonable impacts having regard to visual bulk or overshadowing subject to amending the proposed rear terrace area and balcony (discussed in further detail elsewhere). There are also no impacts on views as a result of the height non-compliance. In regards to Clause 4.6(3), the design results in a positive outcome for the site, providing an improved design and amenity for its occupants without compromising the amenity of the adjoining properties or the locality.

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 standard and the objectives for development within the zone in which the development is proposed to be carried out including;

Clause 2.1 - Land Use Zone – B1 - Neighbourhood Zone

The objectives of this clause that are relevant to this development are as follows:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To ensure that non-residential uses do not result in adverse impacts on the amenity of existing and future residential premises having regard to building design, operation and activities, transport, traffic generation and the car parking capacity of local roads.*
- *To strengthen the viability of Waverley's existing business centres as places of vitality for investment, employment and cultural activity.*
- *To provide retail facilities and business services for the local community commensurate with the centre's role in the local retail hierarchy.*

The proposed alterations and additions for the purposes of a shop top housing development satisfies these objectives. The development provides housing and commercial uses in a form that is compatible

with the surrounding mixed use character of the area and which is to be contained within the existing and previously approved height plane. Accordingly, the proposal is considered to be in the public interest.

Clause 4.3 - Height of buildings

The objectives of this clause that are relevant to this development are as follows:

- *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;*
- *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 proposal is considered able to comply with the objectives of the height of buildings development standard as environmental amenity is maintained for adjoining properties and the building has a compatible height, bulk and scale subject to a condition requiring amendment to the rear terrace and balcony of Unit 3 and Unit 6. The proposal will not appear of a height, bulk or scale that is inconsistent with surrounding development. The proposal will result in a more increase in overshadowing to the adjoining property to the south-east as a result of the orientation of the allotments, however, it is considered that the proposed shadow impact is not unreasonable. A reduction in wall height at the common boundary is to be addressed as a condition of consent will reduce visual bulk and scale impacts and further assist light access. Accordingly, the proposal is in the public interest and it is therefore considered there are sufficient planning grounds to justify contravening the standard.

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 cl 4.6 of the Waverley Local Environmental Plan 2012. The proposed development would be in the public interest because it is consistent with the objectives of the height development standard and the B1 Neighbourhood Zone.

Floor Space Ratio (FSR)

The site is subject to a maximum FSR development standard of 1:1. The proposed development has an FSR of 2.26:1 or 1,012.09m² equating to a 126% variation or 564.09m². The existing building on site has an FSR of 1.68:1 or a GFA of 753.7m². The alterations and additions proposed under this DA provide for an additional 258.39m² of floor space. This additional floor space is to be sited predominantly within the central core at all levels and to the north-east and south-eastern sides of the site at ground floor level.

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

- (c) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (d) 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.

Applicants 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:

'...in this particular case, strict compliance is unreasonable as it would hinder the attainment of an improved environmental planning outcome for the site that allows greater utility of the existing building, an improved amenity outcome for the existing units and rectification of acoustic and amenity issues on the adjoining properties. The non-compliance relates to an existing built form whereby the minor additions proposed have no material impact and preserves the amenity of the locality. Strict compliance is unnecessary as the objectives of the zone and the development standard are met despite the non-compliance, and in this particular case, the character of the existing building is being retained and restored in a non-intrusive and non-impactful way'.

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

'A lack of environmental impacts does not in itself provide for sufficient environmental planning grounds to vary a standard, however it is noteworthy that the non-compliance does not cause any additional overshadowing, view loss, privacy or visual bulk impacts upon the adjoining properties and has an improved impact on the streetscape and locality. The environment planning grounds justifying the variation are:

- The scale of the building is entirely retained, noting the current building has existed on the site above the current height control for 90 years.*
- The controls outlined in the DCP seek to retain buildings of historic character and this proposal will further entrench the building's longevity through strata subdivision.*
- The proposal facilitates the retention, restoration and readaptation of the building.*
- The amenity of all existing residential units is being improved, specifically with the introduction of private open space and removal of impactful lightwell areas around the central courtyard area.*
- The amenity of all existing retail tenancies is being improved, with new shared facilities, improved plant and equipment arrangements and access.*
- That despite the non-compliance, the building satisfies the objectives of the development standard and the zone.*

It is important to note that the proposed works are part as this current application could have been applied for via a further Section 4.55 application to DA-631/2014/C or taken up the justification of existing use rights given the residential unit on the ground floor. Both of those scenarios would have exempted the proposed works from consideration under clause 4.6 of the LEP, prompting a meritorious assessment rather than the more onerous justification offered in this statement. Nevertheless, the proposal withstands the scrutiny of clause 4.6 considerations as there are sufficient environmental planning grounds to support the variation'.

Consideration of Applicants 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 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 justification 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;*
- 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.*

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 standard referencing that the development meets the objectives of Clause 4.4 of the Waverley LEP 2012. The material impact of the proposed alterations and additions is not unreasonable and does not impact on the integrity of the development standard. The proposal does not result in any unreasonable impacts having regard to visual bulk or overshadowing subject to amending the proposed rear terrace and balcony to Unit 3 and Unit 6 and a reduction of wall height at this location (further discussion above). In regards to Clause 4.6(3), the design results in a positive outcome for the site, providing an improved design and amenity for its occupants without compromising the amenity of the adjoining properties or the locality.

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 standard and the objectives for development within the zone in which the development is proposed to be carried out including;

Clause 2.1 - Land Use Zone – B1 - Neighbourhood Zone

The objectives of this clause that are relevant to this development are as follows:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To ensure that non-residential uses do not result in adverse impacts on the amenity of existing and future residential premises having regard to building design, operation and activities, transport, traffic generation and the car parking capacity of local roads.*
- *To strengthen the viability of Waverley's existing business centres as places of vitality for investment, employment and cultural activity.*
- *To provide retail facilities and business services for the local community commensurate with the centre's role in the local retail hierarchy.*

The existing building on the site is a three-storey building at the street edge with a communal roof terrace. Surrounding properties on Warners Avenue, Blair Street and Glenayr Avenue are generally two and three storeys in scale. The building immediately to the south-east is three storeys with garages to the street frontage at ground floor level and units setback from the front boundary at first and second floor level. To the north-east at 27 Blair Street is a three storey residential flat building also with ground level garages and café at the street frontage then units setback above.

The proposed redevelopment of the site for the purposes of a shop top housing development satisfies these objectives. The development provides housing and retail uses in a form that is compatible with the surrounding mixed-use character of the area. The proposal seeks to amend an existing non-conforming use with the conversion of the ground level residential unit to a retail space. Accordingly, the proposal is considered to be in the public interest.

Clause 4.4 – Floor Space Ratio

The objectives of this clause that are relevant to this development 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, scale, streetscape and 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 minimise the adverse impacts on the amenity of the locality.*

The existing building on site has an FSR of 1.68:1 or a GFA of 753.7m². The alterations and additions proposed under this DA provide for an additional 258.39m² of floor space. This additional floor space is to be sited predominantly within the central core at all levels and to the north-east and south-eastern sides of the site at ground floor level. The siting of the additional floor space within the central core will not be visible from the street or the adjoining properties, resulting in no unreasonable impacts. The location of storage within the roof space is considered to be a suitable response given the lack of adequate storage currently existing on site.

As outlined above, in assessing the breach, consideration needs to be given as to whether there is any impact on the amenity of the adjoining properties. Despite the large non-compliance with the FSR, the previously approved FSR of 1.8:1 was considered acceptable as it was contained within the existing bulk of the building and within the already approved height, without adversely impacting the amenity of neighbouring properties. The proposed modifications to the FSR do not increase the height and marginally alters the approved building envelope with the extension of the ground floor level out to the south-eastern and north-eastern boundaries and the enclosing of the central core area.

As outlined, the additional floor space at ground floor level in itself does not create impact, however, the placement of planter boxes and terrace above that space results in unreasonable impacts on visual

and acoustic amenity, visual bulk and scale, and solar access impacts. The proposed wall height and location of the rear terrace area is considered to be a poor outcome, impacting negatively on the amenity of the adjoining properties. The extension of the envelope out to the south-eastern and north eastern boundaries at ground floor level requires design refinement given the extent of wall height proposed, particularly as it presents at the south-eastern boundary to 62 Warners Avenue. Removal of this will result in a wall height that sits below the existing fence and wall heights of the adjoining properties.

Subject to the imposition of conditions addressing the above matters, the proposal is considered able to comply with the objectives of the FSR development standard as environmental amenity is maintained for adjoining properties and the building has a compatible height, bulk and scale. Subject to the reduced wall height on the north-eastern and south-eastern boundaries, the proposal will not appear of a height, bulk or scale that is inconsistent with surrounding development.

The upgrading of this building, retention of its significant fabric, upgrading of the façade elements and its modernisation is in the public interest. The approval recommendation will also include a condition requiring an upgrade of the Warners Avenue public domain frontage of the subject site which is also in the public interest. The proposal, subject to appropriate conditions identified above, is considered consistent with the objectives of the FSR development standard with regards to urban design, visual impact and environmental amenity impact matters. It is therefore considered there are sufficient planning grounds to justify contravening the standard.

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 cl 4.6 of the Waverley Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the FSR development standard and the B1 Neighbourhood Zone.

2.1.6 Waverley Development Control Plan 2012

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 | A Site Waste and Recycling Management plan has been submitted with the application to address waste disposal during construction. Condition of consent will be imposed regarding ongoing waste on site. The proposal provides separate waste storage rooms for the commercial use and the residential uses. The residential waste storage is located at the north-eastern side at ground floor level and the commercial waste is stored in a storage room at ground floor level to the rear of the retail shops. The application was referred to Council's Sustainable Waste Officer and conditions were recommended. The waste collection and storage on site is considered acceptable subject to recommended conditions which are included in Appendix B. |
| 2. Ecologically sustainable Development | Yes | The proposal is considered to adequately consider the design of the building in relation to ecologically sustainable development and achieves the objectives of Part B2. |
| 3. Landscaping and Biodiversity | Yes | Given the block edge design of the development there will be very little landscaping on site. |
| 6. Stormwater | Yes | The stormwater plans submitted with the application are satisfactory. |
| 7. Accessibility and adaptability | Partial | <p>The proposal provides a lift to all levels of the building. The shops are accessible from the footpath level. The residential entry is from Glenayr Avenue and also provides access to the foyer and lift. It is noted, however, that existing stairs are located within the main residential lobby which will need to be addressed at CC stage.</p> <p>No adaptable units are required given that only six units are proposed. Conditions regarding BCA compliance are included in Appendix B.</p> |

| Development Control | Compliance | Comment |
|---|--|--|
| 8. Transport Zone 2 <ul style="list-style-type: none"> • Vehicle Access • Car parking Provision Rates - Residential and Retail – minimum Nil • Visitor car parking – minimum one residential car space (1) • Motorcycle Parking – minimum nil • Bike Parking – 7 residential and 3 retail 8.4 – Pedestrian/Bicycle Circulation and Safety | N/A Yes (Nil) No (Nil) Yes (Nil) No Yes | No car parking is proposed on site as existing Nil visitor car parking is proposed on site which is consistent with the existing situation. Given the limited opportunity to provide parking on site due to the upgrading of the existing building, this non-compliance is considered to be reasonable. A total of nine (9) bicycle racks are proposed at the north-eastern side of the site adjacent to the residential bin storage area. It is recommended that three (3) additional racks be provided within the commercial bin storage area. Public domain bicycle racks are available at the frontage of the site which is considered reasonable. |
| 9. Heritage | Yes | The site is not heritage listed or located within a conservation area. There are no heritage items within the immediate vicinity of the site. However, due to the character of building, the application was referred to Council's heritage advisor for comments (see "referrals" for details). |
| 10. Safety | Yes | The proposal has been designed to provide a separate entry to the residential units from Glenayr Avenue. The proposal provides balconies and windows on Warners Avenue overlooking the street and providing passive surveillance of the property frontage. The retail frontages provide activity on Glenayr Avenue also improving the security along this part of the street. The proposal is consistent with the aims and objectives of this part of the DCP. |

Table 5: Waverley DCP 2012 – Part C4 High Density Residential Development Compliance Table

This part applies to development that is subject to State Environmental Planning Policy (SEPP) 65 – Design Quality of Residential Apartment Development, including the residential flat buildings, shop top house or mixed use developments that are 3 or more storeys and contain 4 or more dwellings.

| Development Control | Compliance | Comment |
|--|------------|--------------------------------------|
| 4.1 Site, Scale and Frontage | | |
| The maximum floor space ratio as set by Cl.4.4 of WLEP | No | See discussion above under WLEP 2012 |
| 4.2 Height | | |
| The maximum Height as set by Cl.4.3 of WLEP | No | This matter is discussed above. |

| |
|------------------------|
| 4.4 Streetscape |
|------------------------|

| | | |
|--|--|--|
| <ul style="list-style-type: none"> Setbacks to be consistent with building line along the street Sympathetic external finishes Setbacks above street frontage height are to be included where the adjacent buildings includes upper level setbacks Buildings to be articulated to respond to the streetscape. | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> | <p>It is proposed to extend the building to the Warners Avenue property frontage with the extension to the ground level shop and balconies provided to the units above. The extension to the ground floor level is consistent with the adjoining property to the east which comprises ground floor level garaging to the property frontage. The extension to the units above provide an appropriate transitioning between the existing residential flat building to the east and the block form development comprising the corner component of the existing building to be upgraded.</p> |
| 4.5 Building Design and Streetscape | | |
| <ul style="list-style-type: none"> Building design is to respond to the existing streetscape character of the area. Alterations and additions should demonstrate architectural compatibility with the existing building. The colour and finish of external finishes should be sympathetic to the street and contribute to the overall appearance of the building. Corner sites, each frontage of the development must present as a primary street frontage. The removal of original architectural details and finishes is not supported | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> | <p>The application seeks to retain and upgrade the existing building. The proposed upgrade is complementary of the existing built form on site and demonstrates architectural compatibility with the existing building and the locality.</p> |
| 4.8 Pedestrian access and entry | | |
| <ul style="list-style-type: none"> Entry at street level and respond to pattern within the street Accessible entry Separate to vehicular entry Legible, safe, well-lit | <p>Yes</p> <p>Yes</p> <p>Yes</p> | <p>Accessible entry to each of the retail shops is provided directly from Glenayr Avenue and Warners Avenue.</p> <p>The main residential entry is also provided from Glenayr Avenue and is separate to the retail entries.</p> |
| 4.9 Landscaping | | |
| <ul style="list-style-type: none"> Minimum of 30% of site area landscaped 50% of the above is to be deep soil | <p>No</p> <p>No</p> | <p>The proposal introduces 66.8m² of landscaping onto the site, noting there is currently none. This equates to 15% of the site (and will be increased upon imposing a condition for green roof over ground level extension).</p> |

| | | |
|--|---|---|
| | | <p>The maximum achievable landscaped area has been provided given the mixed-use nature of the site and the building envelope controls.</p> <p>It is not feasible to provide any deep soil on the site and none currently exists. An exemption from this requirement is reasonable.</p> |
| 4.10- Views and view sharing | | |
| <ul style="list-style-type: none"> Minimise view loss through design Views from public spaces to be maintained. | <p>Yes</p> <p>Yes</p> | <p>A site inspection was undertaken on 9 May 2019 which identified that there would be no impacts on views as a result of the proposed development. No submissions were received which identified impacts on views.</p> |
| 4.11 Visual privacy and security – Superseded by the ADG | | |
| 4.12 Acoustic privacy | | |
| <ul style="list-style-type: none"> Sound proofing through acoustic glazing Internal amenity by locating noisy areas away from quiet areas | <p>No, condition</p> <p>Yes</p> | <p>The applicant has provided examples of window glazing types to be used. Any approval to be conditioned to ensure this is implemented. Having regard to the recommendations for the rear terrace to unit 3 at first floor level, the acoustic screen is no longer deemed necessary (separating unit 3 and unit 2 terrace areas). Instead a privacy fin screen will be recommended for the Juliet balcony to Unit 3 allowing for greater outlook from Bed 2 of Unit 2, considered an improvement on amenity.</p> |
| 4.13 Building services | | |
| <ul style="list-style-type: none"> Outdoor Communal clothes drying area to be provided 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) Plant rooms away from entry communal and private open spaces and bedrooms. Building Services setback from walls, edges and front entrances Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge | <p>No</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> | <p>There is no provision of communal open space on site to accommodate a communal outdoor clothes drying area. As discussed within the report, the privatisation of the rooftop terrace is not supported, and shall remain as a communal area. Communal clothes drying facilities shall be imposed via condition.</p> |

Table 6: Waverley DCP 2012 – Part D1 Commercial and Retail Development Compliance Table

| Development Control | Compliance | Comment |
|--|--------------------------|---|
| 1.1 Design | | |
| 1.1.1 Frontages | Yes | The works proposed to upgrade the existing building will promote an active street frontage. It is recommended that windows to the Shop 1a be amended to delete the proposed metal louvres. |
| 1.1.2 Lighting | Yes | Details regarding lighting can be resolved as a condition of consent if the DA is approved. |
| 1.1.3 Amenity <ul style="list-style-type: none"> Incorporate plant rooms and associated facilities required for future use Internal ventilation shaft Design of use to consider impact on residential | No Yes Yes | No details provided however, adequate space has been allocated Riser shown on plans Residential units located above the retail premises to be suitably designed to address any impacts. |
| 1.2 Noise | | |
| | Yes | Noise impacts associated with future tenancies will be subject to separate development applications for each use. |
| 1.3 Hours of operation | | |
| Base trading hours within the B1 zone are Monday to Sunday 7.00am to 10.00pm | Yes | Hours of operation associated with future tenancies to be the subject of separate development applications for each use. |

Table 7: Waverley DCP 2012 – Part E3 Local Village Centres Compliance Table

| Development Control | Compliance | Comment |
|---|--|--|
| 3.1 Specific controls | | |
| 3.1.8 Glenayr Avenue Neighbourhood Centre Objectives: <ul style="list-style-type: none"> To maintain the role and character of the discrete sections that make up the Glenayr Avenue centre, including the provision of local shops, services and residential accommodation for the local community. To effectively manage the retail/commercial and residential interface in the centre, and in particular maintain the strong residential character where it currently exists along Glenayr Avenue. | Yes Yes | Retail is proposed at ground level to activate the street frontage with residential above. |

| Development Control | Compliance | Comment |
|--|----------------------------------|--|
| <ul style="list-style-type: none"> • To ensure an appropriate architectural design and scale for corner site development. • The 'Seven Ways' intersection of Blair Street and Glenayr Avenue should stand as the focus of the Glenayr Avenue precinct. This intersection has the potential to be an even more vibrant and active public space. | <p>Yes</p> <p>Yes</p> | <p>The proposed roof top works will not be visible from the street. Rear additions to building envelope will also not be visible, maintaining an appropriate architectural design and scale.</p> <p>The proposed upgrade of this existing building will ensure that this objective is upheld.</p> |
| 3.2 Generic controls | | |
| <p>3.2.1 Land uses</p> <ul style="list-style-type: none"> • To provide for small shops and services to meet the daily needs of the community • Promote mixed use development • To improve the quality of the built and pedestrian environment, particularly the interface between properties and land use | <p>Yes</p> <p>Yes</p> <p>Yes</p> | <p>The proposal is consistent with the objectives in that it will provide for ground floor retail.</p> <p>The development meets this objective as it promotes mixed-use development.</p> |
| <p>3.2.2 Public domain interface</p> <ul style="list-style-type: none"> • Create well defined local village centres • Ensure ground level retail frontage to the street edge except for heritage listed items • Ensure original shop fronts are retained and restored | <p>Yes</p> <p>Yes</p> <p>Yes</p> | <p>The proposed change of use of the ground level residential unit to retail and its extension to the street frontage upholds this objective.</p> |
| <p>3.2.3 Built form</p> <p>WDCP 2012 Clause 3.2.3 (a) requires development to be consistent with the planning controls relating to height, floor to ceiling heights and setback, outlined for the Glenayr Avenue Neighbourhood Centre in Annexure E3-2 – Typical Built Form for Three Storey Centres.</p> | <p>No</p> | <p>As the application involves a significant refurbishment of the existing building, it is unable to comply with these controls which relate to new development. Notwithstanding, the proposed bulk and scale as it presents to the north-eastern and south-eastern side boundaries is unreasonable as outlined above which is to be addressed by condition.</p> |
| <p>3.2.4 Building facade articulation</p> <p>(c) Balconies to the street facade are to be recessed behind</p> | <p>Yes</p> | |

| Development Control | Compliance | Comment |
|--|------------|--|
| the principal building facade. (d) Balustrades to balconies fronting the street are to be predominantly solid with minimal or no glass. | No | The Design excellence Panel have recommended balcony balustrading be vertical metal balustrading |
| 3.2.6 Building services and site facilities | Yes | Separate commercial and residential garbage and recycling collection and storage areas are proposed. Riser shown on floor plans to service the retail tenancies at ground level |

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

2.2 Other Impacts of the Development

The proposed development is capable of complying with the NCC.

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

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

One (1) submission was received during notification of the original application and four (4) unique submissions were received during notification of the amended application. The issues raised in the submissions are summarised and discussed below.

Table 8: Summary of property addresses that lodged a submission

| Property |
|---|
| 23 Warners Avenue, Bondi Beach (Original) |
| 27 Blair Street, Bondi Beach (Amended) |
| Unit 1/ 62 Warners Avenue, Bondi Beach (Amended) |
| Unit 3/ 62 Warners Avenue, Bondi Beach (Amended) |
| 62 Warners Avenue, Bondi Beach (Unit number not identified) (Amended) |

The following issues raised in the submissions have been previously addressed in the body of the report:

- Visual bulk and scale
- Visual and acoustic privacy
- Overshadowing impact and solar access
- Additional commercial use at ground floor level
- Car parking
- Privatisation of rooftop terrace

2.5 Public Interest

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

3. REFERRALS

3.1 Shaping Waverley – Heritage

Although the subject building is not a listed Heritage Item or located within a Heritage Conservation Area, the original application was referred to Council's Heritage Adviser for comment in regards to the proposed amendments to the building fabric given its historical character. Council's Heritage Adviser raised a number of issues with the original submission which have since been addressed in the amended plans.

3.2 Building Waverley – Fire Safety

Council's Fire Safety officer has reviewed the proposal and advised that the building will be required to be upgraded to comply with the BCA. Any approval recommendation to be conditioned accordingly.

3.3 Shaping Waverley – Strategic

The application was referred to Council's Strategic Planner for comment in regards to the loss of affordable housing which are outlined in the consideration of the SEPP (Affordable Rental Housing) 2009.

No conditions can be imposed regarding affordable rental housing contributions as the applicant has pointed out that the SEPP cannot apply to this development and Council cannot confirm whether or not the dwelling was low rental at 28 January 2000. Therefore, the applicant cannot be made to pay a contribution.

3.4 Sustainable Waverley – Waste

The application was referred to Council's Sustainable Waste Officer for comment. The following comments were provided:

The information detailed in the Site Waste Recycling Management Plan (SWRMP) provided by the applicant is insufficient.

The applicant has underestimated the types and number of bins required for the residential component of the development. For residential properties, bins should be allocated in-line with Waverley's standard services for residential developments as follows:

- *General waste (red-lid)*
- *Container recycling (yellow-lid)*
- *Paper & cardboard (blue-lid)*
- *Garden waste (lime green-lid) should it be generated at the premises*

It also appears the applicant has not provided enough space for bulky unwanted household items such as old furniture and problem waste awaiting Council collection.

The applicant must apply Waverley Council's Development Control Plan 2012 (Amendment 6), which has up to date residential and commercial waste and recycling generation rates to calculate the numbers of bins required.

The applicant also needs to provide more information regarding the proposed transport route and proposed collection point for the residential component of the development, this can be detailed on amendment architectural drawings.

With regards to the commercial component of the proposed development, the applicant needs to provide more information regarding the collection frequency of the number of bins proposed in SWRMP. The Statement of Environmental Effects outlines that the waste and recycling generation for the commercial component of the development has been calculated in accordance with the highest possible generation rate based on all tenancies encompassing 'food and drink' premises. Based on this information it would appear the applicant is proposing for all of the bins (10 for general waste and 3 for recycling) to be collected daily, however further confirmation is required.

In the instance that the applicant is proposing for all bins to be collected daily, due to the location of the development and the number of bins proposed, the bins are not permitted to be presented at the kerbside for collection. Rather, the bins will be required to be transported by a collection contractor to the collection vehicle to be emptied and subsequently returned to the bin room once emptied.

In providing the additional information requested by Council, it is recommended the applicant use the updated Site Waste and Recycling Management Plan template available on Councils website - http://www.waverley.nsw.gov.au/_data/assets/pdf_file/0009/3600/SWRMP_Part1_Form_Final.pdf

Conditions have been provided at Appendix B to address these issues.

3.5 GIS

The application was referred to Council's GIS officer for allocation of street numbering and a condition has been included in the recommendation at Appendix B.

3.6 Public Domain Works

The application was referred to Council's Public Domain works officer who raised no objections subject to conditions contained at Appendix B.

4. SUMMARY

The proposal seeks consent for alterations and additions to the existing building and change of use to a shop top housing development comprising five retail tenancies at ground floor level and six (6) residential units above, along with stratum (into 2 lots) and strata subdivision.

Subject to conditions requiring the deletion of the proposed rear balconies/terrace and replacing with Juliet balconies and green roof over level 1 slab, as well as the roof terrace being for communal use only, the proposal is not considered to have unreasonable impacts upon the amenity of surrounding properties. The proposed development provides for an increase in gross floor area than presently exists, largely due to the infill of the central core of the site which is not considered to result in unreasonable planning impacts.

The notification of the original application attracted submissions from one property and four submissions during the notification of the amended proposal. The issues raised are discussed in this report and are not considered to warrant refusal of the amended application.

Accordingly, the application has been assessed against the Waverley LEP, DCP and the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 and the application is recommended for deferred commencement consent.

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the Development Application be **APPROVED** by the Waverley Local Planning Panel subject to the satisfaction of the deferred commencement matters in Appendix A and Conditions in Appendix B:

Report prepared by:

**Application reviewed and agreed on behalf of
the Development and Building Unit (MR, BMcN,
EF, AR) by:**

Jo Zancanaro
Senior Development Assessment Planner

Angela Rossi
Manager, Development Assessment (Central)

Date: 9 September 2019

Date: 12 September 2019

Reason for referral:

- 3 Departure from any development standard in an EPI by more than 10%
- 4 Sensitive development:
 - (b) SEPP 65 development

APPENDIX A – DEFERRED COMMENCEMENT CONDITIONS

That the Council grant deferred commencement consent in accordance with the provisions of Section 4.16 (3) of the Environmental Planning and Assessment Act 1979.

The consent is not to operate until the applicant has satisfied Council as to the following matters:

1. DESIGN CHANGES AND AMENDED PLANS

- (a) The proposed rear terrace to Unit 3 (north-eastern elevation), associated landscaping and planter boxes, balustrade and acoustic/privacy screening is not approved and shall be deleted from the plans. The following amendments shall occur:
 - a. A Juliet balcony (maximum depth of 500mm) may be provided to the kitchen area to Unit 3 at its north-eastern elevation, maintaining the openings as proposed.
 - b. A 1.6m privacy screen shall be provided along the western side of the Juliet balcony to minimise overlooking into Bed 2 of Unit 2.
 - c. The acoustic / privacy screen to Bed 2, Unit 2 shall be deleted.
 - d. The remaining roof slab shall over this ground level extension shall be amended to a non trafficable green roof. No decking or useable open space area shall be shown on the plans in this area. The area is to be planted as a green roof in accordance with the controls as outlined under Part B3 Section 3.1.3 Green Roofs and Walls of Waverley Development Control Plan 2012. The green roof is to have a minimum soil depth of 300mm.
 - e. The proposed south-eastern and north-eastern boundary wall heights are limited in height to RL16.950 (which is to accommodate depth of soil for green roof).
- (b) The proposed rear balcony to Unit 6 (north-eastern elevation) and associated planter box are not approved and shall be deleted from the plans. A Juliet balcony (maximum depth of 500mm) may be provided to the kitchen area to Unit 6 at its north-eastern elevation. Privacy screening to a height of 1.6m above finished floor level shall be fitted to either side of the Juliet balcony.
- (c) The proposed metal louvres to the ground floor level Shop 1 to Warners Avenue frontage of the subject site are to be deleted. Windows to this shopfront are to be amended to be consistent in height, design and verticality with the existing windows to shop fronts to Glenayr Avenue of the subject building.
- (d) Privatisation of the rooftop terrace area for separate units is not approved and shall be deleted from the plans. The rooftop terrace area shall be maintained as communal open space for use by all residential occupants and landscaped accordingly. The following amendments shall occur:
 - a. Delete all references to individual units on the rooftop terrace.
 - b. Access to the rooftop terrace shall be via common stairwells or the lift only and all other access points (including spiral stairs and access hatches) shall be deleted.
 - c. Provide further detailed design of the roof top elements including the pergola and raised paving or decking system to be installed which demonstrates good insulation to habitable areas below.
 - d. Provision of a communal clothes drying facilities (that is, clothesline).
- (e) Provide colour schedules for the building including guidelines for signage and treatment of awnings.

- (f) An access hatch or door is to be provided to the internal lightwell at first floor level for maintenance purposes.
- (g) Ceiling fans are to be provided to all habitable rooms within the development.
- (h) Provide vertical flat metal bar balustrading to all balconies.

2. AMENDED LANDSCAPE PLAN

An amended Landscape Plan shall be provided detailing the amendments required by the Deferred Commencement conditions matters (contained within Appendix A) and the amended plans / documents listed in Condition 1 of Appendix B. In addition, the Landscape Plan shall:

- (a) Be fitted with automatic irrigation systems to the level 1 green roof and roof top terrace.
- (b) Provide a planter along the street frontage perimeter on the roof top terrace, to provide a green edge to the roof when viewed from the streetscape. The planter shall be 1m in width, with a minimum soil depth of 600mm.
- (c) The landscape design shall be amended to provide a more communal arrangement of planting and design, rather than separate spaces.
- (d) There shall be no net decrease in actual landscaping on the rooftop terrace than had been proposed on roof level. Rather, an increase in landscaping is encouraged.

3. BASIX CERTIFICATE

An updated BASIX certificate reflecting the changes required in deferred commencement condition 1).

This development consent does not operate until the applicant satisfies Waverley Council, in accordance with the regulations, as to the matters specified in the above conditions and Waverley Council confirms such satisfaction in writing.

These conditions must be satisfied within 1 year of the date of this consent.

APPENDIX B – CONDITIONS OF CONSENT

Upon satisfying the consent authority as to the matters in Attachment A, the following conditions will apply.

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

(a) Architectural Plans prepared by RAA Architects Pty Ltd as follows:

| Drawing Number/ rev | Plan description | Date | Received by Council |
|----------------------------|---|--------------|----------------------------|
| 1222-101 Issue B | DA Site Plan Ground Floor Plan, Section AA, Section FF, diagrams FSR calculations | 24 July 2019 | 29 July 2019 |
| 1222-102 Issue B | First Floor, Second Floor and Roof Plans, BASIX | 24 July 2019 | 29 July 2019 |
| 1222-103 Issue B | Elevations | 24 July 2019 | 29 July 2019 |
| 1222-112 Issue B | Sections – additional DA info | 24 July 2019 | 29 July 2019 |

(b) BASIX Certificate;

(c) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

(d) Recommendations contained in the DTS Section J Report prepared by Windtech dated 5 December 2018 and date stamp received by Council on 21 December 2018, as amended by the Architectural Plans outlined at Condition 1 above.

(e) Draft Strata and Stratum Subdivision plans prepared by Christopher Thomas Norton Surveyor Reference Number 39416 SP1 dated 10 December 2018 and stamp date received 21 December 2018, as amended by the Architectural plans outlined at Condition 1 above.

(f) Concept Fire Engineering Strategy prepared by MCD Fire Engineering dated 19 December 2018 and stamp date received by Council on 21 December 2018 as amended by the Architectural plans outlined at Condition 1 above.

Except where amended by the following conditions of consent:

NOTE – Plan references above are likely to change following satisfaction of the deferred commencement matter. As this occurs, condition 1 will be updated to reflect the new documentation.

2. APPROVED DESIGN - RESIDENTIAL FLAT DEVELOPMENT

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

3. ARCHITECT TO SUPERVISE DESIGN

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

4. EXISTING BUILDING TO BE RETAINED IN FACE BRICKWORK

No approval is granted or implied for the rendering and painting of the front façade brickwork. In this regard, the street frontages of the building shall be retained (and restored where relevant) as face brickwork. The parapet detailing / trimmings may be repainted (where presently these have already been painted) in a colour sympathetic to the building's character.

5. SEPARATE APPLICATIONS FOR NON-RESIDENTIAL USE

Specific development consent is required for each individual retail tenancy in connection with the initial usage of any retail or commercial areas within the development, prior to the occupation of the premises.

The ground floor retail/commercial premises are not to be used for residential purposes.

In this regard, compliance with the BCA in respect to the provision of sanitary facilities shall be provided for each retail tenancy. It is recommended that sufficient services for future sanitary facilities be provided to each tenancy to meet future requirements.

6. SEPARATE APPLICATION FOR SIGNAGE

Any proposed advertising structures to be displayed at the premises are to be subject to a separate development application to and approval from Council (if required).

7. PROVISION FOR SHAFT FOR FUTURE FOOD PREMISES

Adequate provision shall be made for the installation of a mechanical exhaust system for future premises where food is prepared internal of the building. This includes the provision of a shaft that complies with the Building Code of Australia, to the roof for the ductwork and the flue of the system.

8. PUBLIC DOMAIN IMPROVEMENTS

The public domain is to be maintained on Blair Street, Glenayr Avenue and Warners Avenue street frontages for the development site in accordance with the current Waverley Council Development Control Plan (DCP) and Public Domain Technical Manual (PDTM) effective at the time of engineering plan approval. The following works shall be agreed by the Executive Manager, Creating Waverley during construction and prior to the issue of the Occupation Certificate.

- (a) Pedestrian footpath

- (b) Vehicular Crossings
- (c) Road pavement
- (d) Kerb & gutter
- (e) Stormwater infrastructure located on the Council kerb
- (f) Street furniture
- (g) Landscape and street tree plantings.

9. 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, RMS or similar) in relation to any connections, repairs, relocations, replacements and/or adjustments to public infrastructure or services affected by the proposed works.

10. PUBLIC AREAS AND RESTORATION WORKS

Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas due to construction activities must be made safe to the general public and be regarded as a high-level priority. This includes, but not limited to works performed for the purpose of connection/s to public utilities, including repairs of damaged infrastructure. Should Council discover any unsafe construction activities within the public areas surrounding the development, the works must be resolved immediately to the satisfaction of Council.

11. WORKS ON PUBLIC ROADS

Any works performed in, on or over a public road reserve pursuant to this consent must be carried out in accordance with this consent and with the Road/Footpath Opening Permit issued by Council as required under Sections 138 and 139 of the Roads Act 1993.

12. BONDI - ROSE BAY SAND BODY

This site is 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. Works may resume on the site pending receipt of express written permission from the NSW National Parks and Wildlife Service. 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.

13. WALL/ FENCE NOT TO ENCROACH BEYOND BOUNDARIES

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

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

14. 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 may be obtained from Waverley Council Customer Service Centre or downloaded from: www.waverley.nsw.gov.au/publications/

- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.
- (c) Should a section 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 Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

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

Advisory Note

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

15. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of **\$180,000** GST exempt, 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.

16. 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.

17. ADDITIONAL DA SUBDIVISION FEE REQUIRED

Review of fees paid for this development application indicate no fees have been paid for the stratum and strata subdivision component. In this regard, an additional development application fee of **\$8662** (being \$6869 for the strata subdivision and \$1793 for the stratum subdivision) is to be paid to Council, prior to the issue of the Construction Certificate.

18. 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 the appointment in accordance with Section 81(A)(2)(b) of the Environmental Planning & assessment Act, 1979 and Form 7 of Schedule 1 of the Regulations; and
- (c) Council is given at least two days Notice in writing of the intention to commence the building works.

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

19. PUBLIC INFRASTRUCTURE WORKS

Public infrastructure works shall be designed and constructed as outlined in this condition of consent. The approved works must be completed to Council's satisfaction at no cost to Council.

Full design engineering drawings to be prepared by a suitably qualified and experienced engineering professional and be submitted to Council for the approval of the Executive Manager, Creating Waverley prior to the issue of the relevant Construction Certificate.

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

- a) Replace all footpath, pavement, kerb and gutter traversing the Warners Avenue frontage. Any stormwater kerb lintel infrastructure within the extent of kerb and gutter works shall be replaced. Proposed kerb profiles are to be provided to ensure proper connections to existing kerb and gutter along the street frontage.

- b) The full renewal and reconstruction of the asphalt pavement for full road width in Warners Avenue. Details of the road pavement treatments and sub-grade details to be advised by Council.
- c) Landscape and update of the street plantings on the development frontage to comply with the 'Local Village' precinct masterplan. Contact Council for further details and specifications at the time of public domain plan submission.
- d) The full public domain traversing the Blair Street and Glenayr Avenue frontages shall be protected from the proposed building works. The applicant will be required to replace any damaged footpath, trees, street furniture, pavement, kerb and gutter at no cost to Council.
- e) 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.
- f) All mains electrical connections to the development must be routed underground. Council will not accept the erection of newly placed electricity columns within the Council's public domain to support the new development.
- g) Communicate the relocation/adjustment of all public utility 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. All the requirements of the relevant Public Authority shall be complied with.

Notes:

- Depending on the complexity of the proposed public domain works, the Council's review of each submission of the plans may take a minimum of six (6) weeks.
- 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 public domain design submissions; however, Council's title block shall not be replicated.
- Council reserve the right to ask for any additional work required on areas damaged by the construction of the building.

20. PRE-CONSTRUCTION DILAPIDATION REPORT

To ensure Council's infrastructure is adequately protected a pre-construction dilapidation report on the existing public infrastructure within the vicinity of the proposed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, 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:

- i. Road pavement
- ii. Kerb and gutter
- iii. Footpath
- iv. Drainage pits and lintels
- v. Traffic signs
- vi. 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.

21. GREEN ROOF

The green roof shall comprise plants selected from the 'Grasses/Sedges' and 'Climbers/Groundcovers' tables in the Planting List in Annexure B2-1 of Part B of Waverley Development Control Plan 2012. The plants shall have a maximum maturity height of 200mm above the roof level.

The green roof is a non-trafficable area and must be irrigated and generally maintainable without requiring frequent access. The irrigation system/process is to be nominated on a landscape plan as part of the Construction Certificate documentation. A balustrade at the perimeter is not, and will not be, permitted to address any safety or other implications from accessing the area for infrequent maintenance purposes.

Direct access to the area (eg a gate or door from the same level, or a fixed stair from the level below) must not be incorporated into the design in order to discourage frequent use.

22. LANDSCAPED SLABS

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

23. 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.

24. BCA AND 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) Access for People with a Disability - Part D3;
 - (vii) Fire fighting equipment – Part E1;
 - (viii) Smoke hazard management – Part E2;
 - (ix) Lift Installations - Part E3;
 - (x) Emergency lighting, exit signs and warning systems – Part E4;
 - (xi) Sanitary and other facilities - Part F2;
 - (xii) Room sizes - Part F3;
 - (xiii) Light and ventilation - Part F4; and
 - (xiv) 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, 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 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 and Strata Subdivision Certificate.

25. ARCHITECT TO SUPERVISE DESIGN - CONSTRUCTION CERTIFICATE DOCUMENTATION

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

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

26. SERVICE AUTHORITIES

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

27. HOARDING

To ensure the site is contained during construction, a hoarding may be required for the approved works. If required, the hoarding shall 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.

28. ENGINEERING DETAILS

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

29. ENGINEERING DETAILS - CERTIFICATE OF ADEQUACY

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

30. SITE WASTE AND RECYCLING MANAGEMENT PLAN

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

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

31. EROSION, SEDIMENT AND POLLUTION 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 exiting 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.

32. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT

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

The CVPPM shall provide details of the following:

- a. The proposed route to be taken by demolition/construction vehicles in the Waverley Council area when accessing and exiting the site.
- b. The type and size of demolition/construction vehicles. Trucks with dog trailers and semi trailers may not be approved for use if it is considered with the information submitted that such vehicles cannot adequately and safely gain access to and from the site or where access into or out of the site may not be possible without the need to remove an unsatisfactory number of vehicles parked on the roadway adjacent to or opposite the site.
- c. The location of truck holding areas remote from the site should Council not give approval for demolition/construction vehicles to stand on the roadway in the vicinity of the site.
- d. Traffic control measures to be put in place when trucks, manoeuvring in the vicinity of the site, will interfere with the free flow of traffic.
- e. The location and materials of construction of temporary driveways providing access into and out of the site.
- f. The location and length of any proposed Works/Construction Zones. Note: such zones require the approval of the Waverley Traffic Committee and Council prior to installation.
- g. The hours of operation of demolition/construction vehicles.
- h. The number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.
- i. How it is proposed to cater for the safe passage of pedestrians past the site. The details shall include:
 - The route required to be taken by pedestrians including signage and any other control measures that will need to be put in place to direct and keep pedestrians on the required route
 - Any obstructions such as street furniture, trees and bollards etc., that may interfere with the safe passage of pedestrians
 - The type(s) of material on which pedestrians will be required to walk
 - The width of the pathway on the route
 - The location and type of proposed hoardings
 - The location of existing street lighting

NOTE:

Prior to the preparation of the CVPPM, the applicant or their representative shall:

- i. Make contact with Council’s Senior Traffic Engineer to discuss information required at (a) to (j) above.
- ii. Be aware swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, may need to be submitted to Council for all truck movements that are to take place within the Council area prior to an approval being issued for the CVPPM.

- iii. Be aware of and take into account the cumulative effect that truck movement from the development site and other development sites in the vicinity that are either under construction or have development approval will have on roads leading to and from the site.

33. STORMWATER MANAGEMENT

Certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Water Management Technical Guidelines. Stormwater system details are to be submitted to Council's Stormwater Engineer for approval in accordance with the Waverley Development Control Plan 2012 - Part B prior to the issue of a Construction Certificate. This is to include the following:

- (a) Since the permissible site discharge is less than 25L/s, the stormwater pipe is to be discharged to the kerb face, instead of to a new proposed council kerb inlet pit.
- (b) At the bend of the stormwater pipe flow direction path, a pit should be installed for inspection purposes.
- (c) Under the current design, the orifice diameter to be 82mm.

34. NOISE ATTENUATION IN RESIDENTIAL FLAT BUILDINGS

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

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

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

35. ACOUSTIC SEPARATION AND GLAZING

The ceilings of the balconies shall be finished with an acoustic treatment to reduce the reflection of noise into the rooms behind them.

Appropriate acoustic separation of the retail level from the residential level shall be incorporated into the design to ensure that any future use of the retail shops does not unreasonably impact upon the acoustic amenity of the residential units.

Appropriate acoustic treatment to glazing to residential units is also to be provided to minimise street noise from traffic and pedestrians.

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

37. 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*.

38. BICYCLE PARKING

A total of nine (9) residential bicycle parking spaces are to be provided adjacent to the residential bin storage area. Three (3) bicycle parking spaces are to also be provided adjacent to the commercial bin storage area. Such spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks.

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

39. BASEMENT STORAGE

The attic level is to provide storage areas, allocated to each unit in the development as indicated on the approved plans. Each individual residential unit is to be allocated at least one storage area.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

40. 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.

41. 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.

42. OBSTRUCTION TO PUBLIC AREAS

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

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

43. 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.

44. 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.

45. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

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

46. NOTIFICATION OF ADJOINING OWNERS & OCCUPIERS

The Applicant shall provide the adjoining owners and occupiers' written notice of the proposed public domain works a minimum two weeks prior to commencement of construction. The notice is to include a contact name and number should they have any enquiries in relation to the construction works. The duration of any interference to neighbouring driveways shall be minimised; and driveways shall be returned to the operational condition as they were prior to the commencement of works, at no cost to the owners.

47. 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.

48. 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 engineer for the following hold points:

Kerb, Gutter & Footpath Paving

- After completion of formwork and prior to casting of concrete
- After full completion and restoration

Road Pavement

- Subgrade trim & compacted
- Binder course spread & consolidated
- After Wearing course laid and full completion

Landscape

- After full completion and restoration

All applicable engineering inspection fees in accordance with Council's Management Plan are to be fully paid prior to issue of Construction Certificate for the works. A minimum 48 hours' notice will be required when booking for the site inspections.

The Principal Certifying Authority shall not issue any Occupation Certificate until Council has conducted a final inspection of the completed works and has issued a final compliance certificate certifying satisfactory completion of the works.

49. TOILET FACILITIES

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

50. DILAPIDATION REPORTS

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

These properties must include (but are not limited to):

- 27 Blair Street, Bondi Beach
- 62 Warners Avenue, Bondi Beach

And any others identified to be in the zone of influence in the Dilapidation Survey.

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

Please note the following:

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

51. DEMOLITION AND CONSTRUCTION WASTE MANAGEMENT

The applicant must meet the following objectives for sustainable demolition and construction waste management;

- a) To minimize the amount of construction waste that is sent to landfill
- b) To minimise waste generated during demolition and construction.
- c) To increase efficiency of development and encourage sustainable practices.
- d) To maximise the re-use of clean excavated material, concrete, bricks and timber.
- e) To ensure the safe removal and disposal of hazardous building materials.

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

- (a) A construction waste storage area is to be located within the property boundary and is to be identified on the site plans as part of the SWRMP.
- (b) Separate construction waste collection bins or construction waste storage areas are to be provided giving consideration to slope, drainage, vegetation, access and handling requirements and may include:
 - a. Landfill waste;
 - b. Recyclable waste;
 - c. Materials to be re-used on-site; and / or
 - d. Excavation materials (refer to Annexure B1-1 for common building materials that can be re-used and recycled).
- (c) Waste that can be recycled or reclaimed is to be identified in the SWRMP, as well as the intended methods for recovery and reclamation.
- (d) All sandstone must be re-used on site or reclaimed through an appropriate contractor.
- (e) Asbestos and other hazardous material is to be managed under the Protection of the Environment Operations Act 1997, in accordance with the provisions of Safe Work NSW, and Council's Asbestos Policy.
- (f) Materials that cannot be reused or recycled must be:
- (g) Disposed of at a State Government approved facility and specified in the SWRMP; and
- (h) Disposed of via a contractor that operates in accordance with the Proximity Principle outlined in State Government Legislation.
- (i) Records are to be retained on-site demonstrating lawful disposal of waste.
- (j) Easy vehicular access to waste and recycling material storage areas must be provided and detailed in the SWRMP.
- (k) Construction materials are to be stored away from waste and recycling materials to enable easy access for waste collectors. Skip bins are to be utilised and located in accordance with Council's building waste and hoardings policy.
- (l) All materials are to be stored in way that:
 - a. Prevents damage from the elements, and reduces odour, health risks and windborne litter; and
 - b. Prevents impacts to the environment under State Government Legislation (including stormwater pollution and runoff).

52. 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 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.

53. DEMOLITION & SITE PREPARATION

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

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

54. 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).

55. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover NSW Friable Class A Asbestos Removal Licence or where applicable a Non-friable Class B (bonded) Asbestos Removal Licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by WorkCover NSW (catalogue no.WC03561) and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm 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.

56. COMPLIANCE WITH SAFE WORK NSW

All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.

57. 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.

58. SOIL AND WATER MANAGEMENT PLAN

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

59. FOOTPATH PROTECTION

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

60. 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.

61. 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.

62. 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.

63. 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.

64. 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.

65. BUILDING CODE OF AUSTRALIA

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

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

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

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

The specified **MANDATORY** inspections are:

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

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

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

- (a) sediment control measures prior to the commencement of building work;
- (b) foundation material prior to undertaking building work;
- (c) shoring of excavation works, retaining walls, piers, piling or underpinning works;
- (d) steel reinforcement, prior to pouring concrete;

- (e) prior to covering timber or steel framework for floors, walls and roofing, including beams and columns;
- (f) prior to installation of fire resisting construction systems (ie fire rated ceilings and walls).

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

67. BUILDING LEGISLATION AMENDMENT (QUALITY OF CONSTRUCTION ACT) - INSPECTIONS (COMMERCIAL CLASS 5, 6, 7, 8 AND 9)

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

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

The specified **MANDATORY** inspections are:

In the case of a Class 5, 6, 7, 8 or 9 building:

- (a) at the commencement of the building work;
- (b) prior to covering any stormwater drainage connections; and
- (c) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

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

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

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

68. 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.

69. RESIDENTIAL FLAT BUILDINGS - BALCONIES NOT TO BE ENCLOSED

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

70. 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.

71. 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.

72. 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's Executive Manager, Creating Waverley, the Applicant must comply with the requirements (including financial costs) of the relevant utility service provider (e.g. Ausgrid, Sydney Water, Telstra, RMS or similar) in relation to any connections, repairs, relocations, replacements and/or adjustments to public infrastructure or services affected by the proposed works.

73. PUBLIC AREAS AND RESTORATION WORKS

Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas due to construction activities must be made safe to the general public and be regarded as a high level priority. This includes, but not limited to works performed for the purpose of connection/s to public utilities, including repairs of damaged infrastructure. Should Council discover any unsafe construction activities within the public areas surrounding the development, the works must be resolved immediately to the satisfaction of Council.

74. WORKS ON PUBLIC ROADS

Any works performed in, on or over a public road reserve pursuant to this consent must be carried out in accordance with this consent and with the Road/Footpath Opening Permit issued by Council as required under Sections 138 and 139 of the Roads Act 1993.

75. AWNINGS

The awning shall:

- (a) Extend along the entire frontage of the site.
- (b) Be minimum 3m in width or consistent in width with the existing Glenayr Avenue awning (extending out from building façade);
- (c) Have a height between 3.1 – 4.2m measured above footpath level, that steps/tapers with the topography of the site or consistent in height with the existing Glenayr Avenue awning;

- (d) Be offset a minimum of 600mm behind the kerb.

76. TREATMENT OF BOUNDARY WALLS

The walls approved on the north-east and south-east boundaries with the neighbouring property are to be finished to the same high standard as the remaining building and not left unfinished to ensure a pleasing aesthetic to adjoining buildings.

77. 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.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

78. 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.

79. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS

To ensure public infrastructure works required under the consent are completed to Council's satisfaction a final inspection of the completed works is required from Council's engineer. The Occupation Certificate shall not be issued until certification has been obtained from Council confirming the public infrastructure works have been constructed to Council's satisfaction.

Notes:

- (a) The issue of a Compliance Certificate from the Council officer 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.
- (b) 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.
- (c) 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.

80. SYDNEY WATER

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

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

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

81. ARCHITECT TO SUPERVISE DESIGN - OCCUPATION CERTIFICATE DOCUMENTATION

In accordance with clause 154A of the Environmental Planning and Assessment Regulations 2000, the Principal Certifying Authority must not issue an occupation certificate to authorise a person to commence occupation or use of the development unless it has received a design verification from a

qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued.

82. STORMWATER

Prior to the issue of an Occupation Certificate, certification is to be provided from a suitably qualified hydraulics engineer, that the stormwater system has been **constructed** in accordance with the approved stormwater management plans and to best engineering practice.

83. WASTE AND RECYCLING STORAGE AND COLLECTION

- (a) The proposal must have a bin storage point for a minimum;
 - **Residential (6 X 2 Bedroom Units)**
 - 3 x 240L Mobile Garbage Bins (MGBs) for general waste compacted at 2:1
 - 3 x 240L MGBs for container recycling
 - 3 x 240L MGBs for paper recycling
 - 1 x 240L MGB for garden organics should this type of waste be generated at the property
 - **Commercial – (Based on 348m² total floor space of ‘food and drink premises’)**
 - 10 x 240L MGB for general waste (collected daily)
 - 3 x 240L MGB for comingled recycling (collected daily)
 - Extra space is required to store bulky cardboard, packaging, milk/bread carts, etc
- (b) Provide a minimum of 4 m² floor space for the storage of bulky unwanted household items such as old furniture awaiting Council collection and 1 m² floor space for the storage problem wastes.
- (c) All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 of Waverley Council Development Control Plan 2012 (amendment 5). All waste and recycling storage rooms must be graded and drained to the sewerage system and approved by Sydney Water.
- (d) There must be at least two separate waste and recycling storage rooms or areas, one for commercial waste and recycling, and one for residential waste and recycling. Storage rooms are to be self-contained and have separate keys and locking systems. A separate bulky waste storage room is also to be provided for residents that is inaccessible to commercial premises.
- (e) The proposal must have a system for the convenient transportation of waste and recyclables to the communal waste and recycling storage area.
- (f) Separate space must be allocated for the storage of liquid wastes and oils etc. The liquid waste storage areas must be undercover, banded and drained to a grease trap. The area is preferably to be within the building, however if circumstances do not permit, an area that is screened from the public and commercial domains may be negotiated with Council.
- (g) Sufficient space must be allocated on-site for the storage of reusable items such as crates and pallets.

- (h) The storage and/or presentation of bins from the commercial components of the development on the kerbside and public land is not permitted at any time.
- (i) All waste and recycling receptacles for the residential component of the development must be put out for kerb-side collection no earlier than the previous evening.
- (j) All waste and recycling receptacles for the residential component of the development must be removed from the kerb-side or laneway as soon as possible on the same day as the collection service.
- (k) Noise and odour generated from the commercial component of the development must not impact on adjoining properties.
- (l) All businesses at this development must have written evidence, held on-site, of a valid and current contract with a licensed collector of waste and recycling.
- (m) All new developments are to provide adequate storage for waste to accommodate future change of uses.
- (n) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of waste receptacles, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.
- (o) Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
- (p) The design of the waste and recycling management system must identify responsibility for cleaning of waste receptacles and storage areas and for the transfer of bins within the property, to the collection point and back to the storage areas.
- (q) Waste generated by a development must not exceed the maximum permitted generation rates for the building use.

84. FIRE SAFETY WORKS

The Occupation Certificate shall not be released by Council or an accredited certifier, until all fire safety works are completed and a Final Fire Safety Certificate has been submitted to Council, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:-

- (a) has been assessed by a properly qualified person; and
- (b) has been found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

85. FIRE SAFETY - EXITS

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

86. FIRE SAFETY MAINTENANCE

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

87. WAVERLEY DIGITAL MODEL

Prior to the issue of an Occupation Certificate an accurate 'as built' digital model of the building must be submitted to Council's Waverley Futures Department for use in the Waverley Digital Model.

- (a) A digital model of the building must be generated at a scale of 1:1 with units of measurement in metres and include the following:
 - (i) a building envelope which includes all elements affecting shadow analysis;
 - (ii) accurate placement of glazing, balconies, roof pitches, terraces, roof services and any other prominent external design features;
 - (iii) a ground level terrain showing accurate RLs extending to site boundaries.
- (b) All models must be generated in accordance with Council's Guidelines: Submitting Digital 3D Models. Further information and technical requirements can be obtained from Council's E-Planning (3D Modelling) Officer, Shaping Waverley.

Notes:

- This model will update previous version/s submitted at Development Application stage.
- Any future modifications (under Section 96 of the Environmental Planning and Assessment Act) that affect the external configuration of the building (from the ground level and up), will require the submitted model to be amended.

88. LIGHTING

- (a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.
- (b) All external lighting fixtures should be vandal resistant.
- (c) Lighting should be carefully considered in areas covered by CCTV to allow for optimum viewing.
- (d) Lighting should be free of obstructions, such as tree branches, pipes, etc.
- (e) Transition lighting should also be used throughout the site to reduce vision impairment, i.e. impairment caused by walking from dark to light places and light to dark places.
- (f) All external area lights to multi-unit dwellings shall be on sensor switches to save energy and reduce light spill to the sky; low voltage solar powered lights to front entry footpaths are acceptable for continuously illuminated lighting.

89. NOISE ATTENUATION CERTIFICATE

On completion of any building containing residential units and prior to the issue of the Occupation Certificate the applicant shall:

- (a) Engage and an Australian Association Acoustic Consultant to conduct a test for noise attenuation to classify the buildings performance on the National Star Rating Table and to confirm compliance with Condition; and
- (b) Lodge with Council for public record, the noise attenuation star rating results.

90. NOISE – PLANT AND EQUIPMENT

A Certificate is to be submitted to Council at the completion of all work and prior to the issue of an Occupation Certificate, from a suitably qualified Acoustic Engineer. The Certificate is to certify all plant and equipment including mechanical supply and exhaust ventilation systems and lift motors comply with the terms of approval in relation to noise.

91. CERTIFICATION OF MECHANICAL EXHAUST

The mechanical exhaust ventilation system is to comply with the approved plans and specifications in addition to Australian Standards AS 1668 (part 1, 1998 and part 2, 2012). A Certificate of Test together with a copy of the final test figures is to be submitted by a competent person and approved by the Principle Certifying Authority prior to the issue of the Occupation Certificate.

92. 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.

93. 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.

94. ALLOCATION OF STREET NUMBER

The stratum/strata subdivision of the properties has led to the following allocation of primary address numbers:

No. 96 Glenayr Avenue for the commercial stratum allotment - proposed Lot 1

The following commercial sub-addressing will apply:

- Shops 1-5 for the commercial sub-addresses within the building correlating with Nos. 1-5 on the proposed Strata Plan.
- Commercial premises will be identified with an address identifier ie Shop 1, Shop 2, Shop 3 etc.

No. 96A Glenayr Avenue for the residential stratum allotment - proposed Lot 2

The following residential sub-addressing will apply:

- 101-106 for the residential sub-addresses within the building correlating with Nos. 1-6 on the proposed Strata Plan

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

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

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

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

95. STRATA SUBDIVISION

In respect to the allocation of storage spaces, those spaces are not permitted to be subdivided as individual allotments and are to be part lots allocated to individual residential or commercial allotments or identified as common property. Parts allotments are to be generally allocated in accordance with the storage requirements of Waverley Development Control Plan 2012.

96. SUBDIVISION

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

Any legal costs associated with the review of this application shall be wholly borne by the applicant.

E. OPERATIONAL CONDITIONS DURING OCCUPATION

97. USE OF ROOF TOP TERRACE

The use of the roof terrace is to be limited to between 7.00am and 10.00pm, 7 days (except New Years Eve), in order to ensure the amenity of the adjoining neighbours and neighbours within the building is not adversely impacted. Appropriate signage must be displayed in the foyer advising residents of the time restrictions for use of roof top terrace. Strata By-Laws reiterating these shall occur on any future Strata Plan.

98. LEVEL 1 GREEN ROOF

The green roof on level 1 shall be non trafficable and accessed for maintenance purposes only.

99. NOISE - MECHANICAL PLANT

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

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

100. NOISE EMISSIONS

The use of the premises shall not give rise to:

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

101. MECHANICAL PLANT

All refrigeration motors/units and other mechanical plant are to be installed within the building in an acoustically treated plant room. In this regard, adequate provision is to be made within the confines of the building for any plant and equipment associated with the use of the building.

102. TELECOMMUNICATION FACILITIES ON MULTI-UNIT DWELLINGS

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

103. INSTALLATION OF AIR CONDITIONING

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

- (a) The condenser units shall be located on the roof, in the centre adjacent to lift overrun.
- (b) Not be adjacent to neighbouring bedroom windows.
- (c) Not reduce the structural integrity of the building.
- (d) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
 - (ii) before 7.00am and after 10.00pm on any other day.
- (e) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (e).
- (f) Not be located on the roof of the development without the separate consent of Council.

104. ROLLER SHUTTERS

The installation of roller shutters or grilles, in front of, or in place of a standard window or shop front is prohibited. Council Policy requires the retention of a glass shop front for window display purposes. Should increased security be desired, then consideration should be given to applying shatter-resistant film or replacing existing shop window glass with laminated glass.

105. NO FLASHING SIGNS

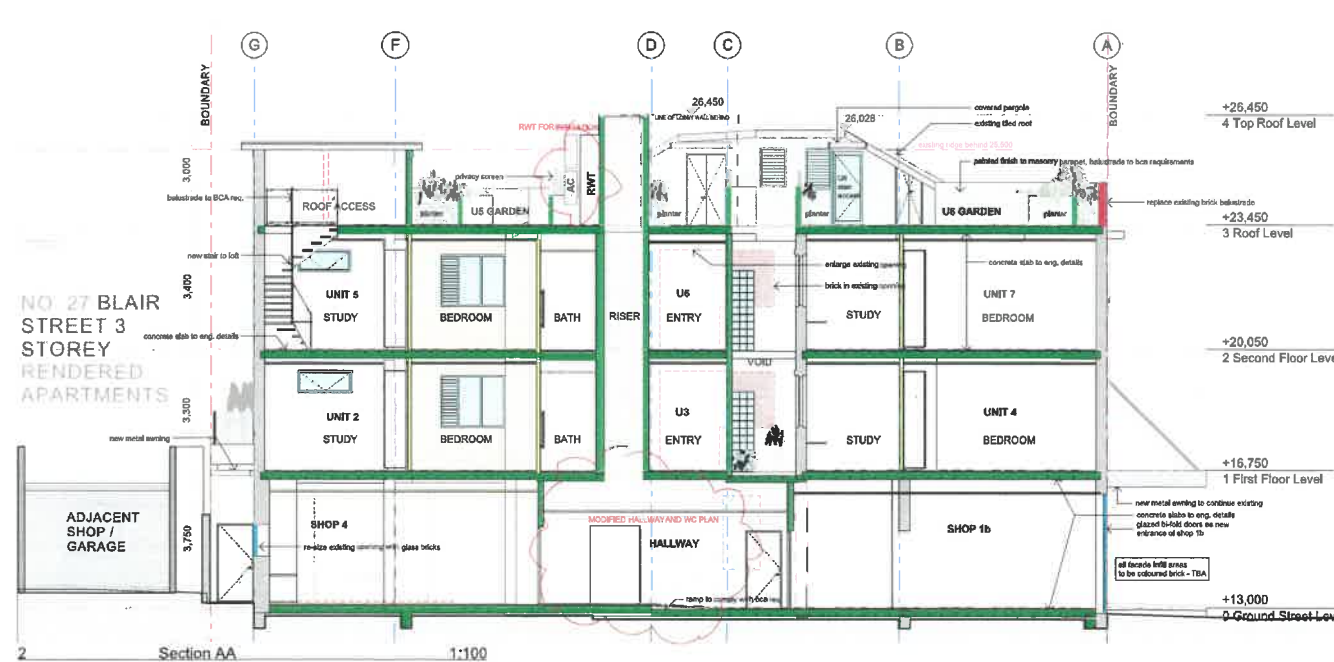
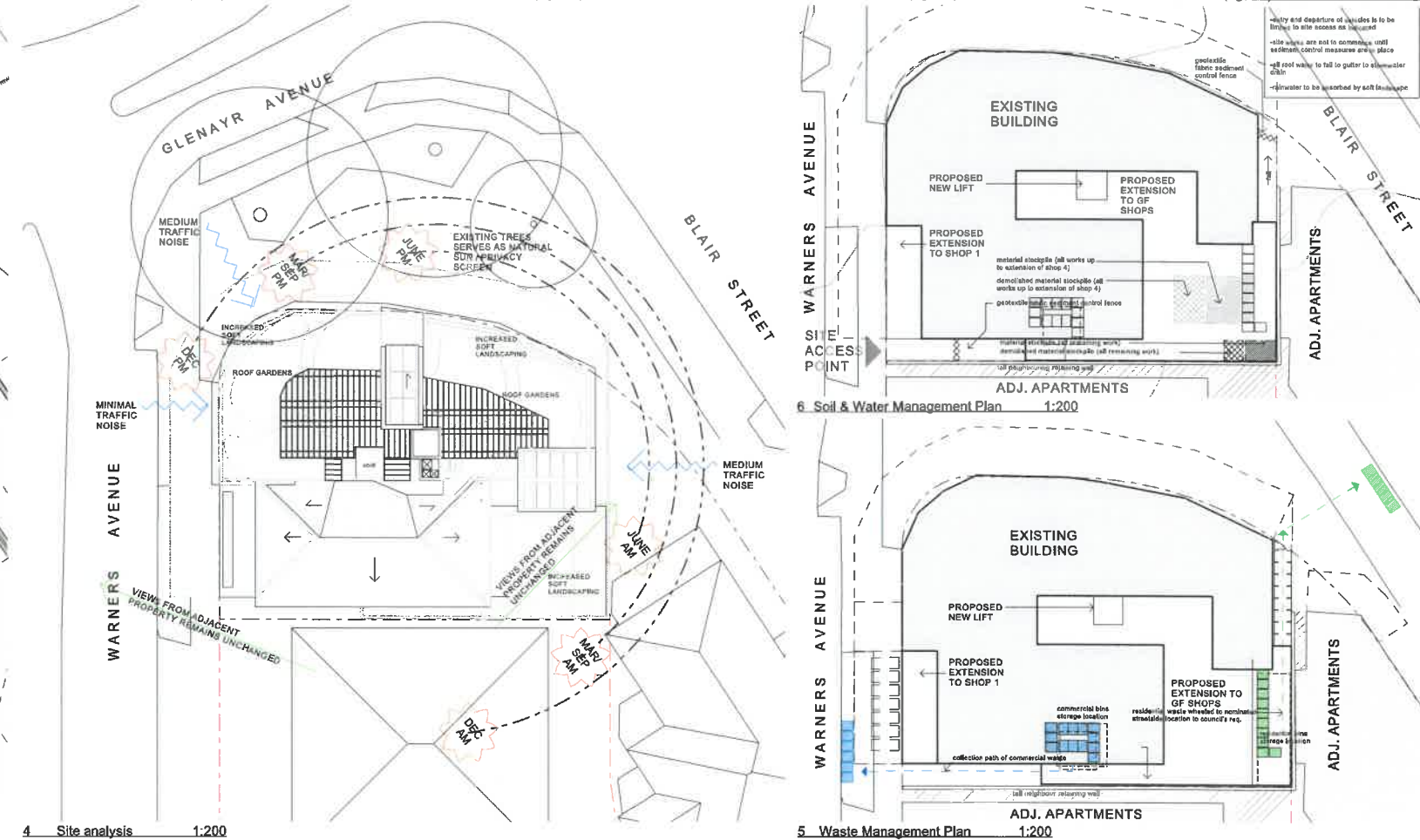
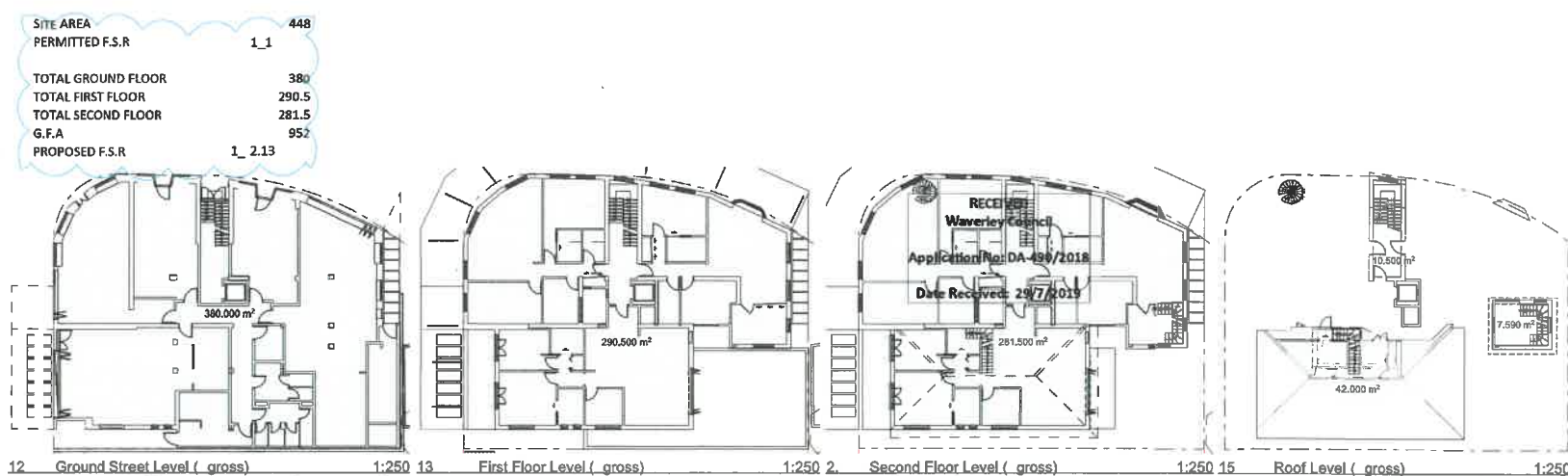
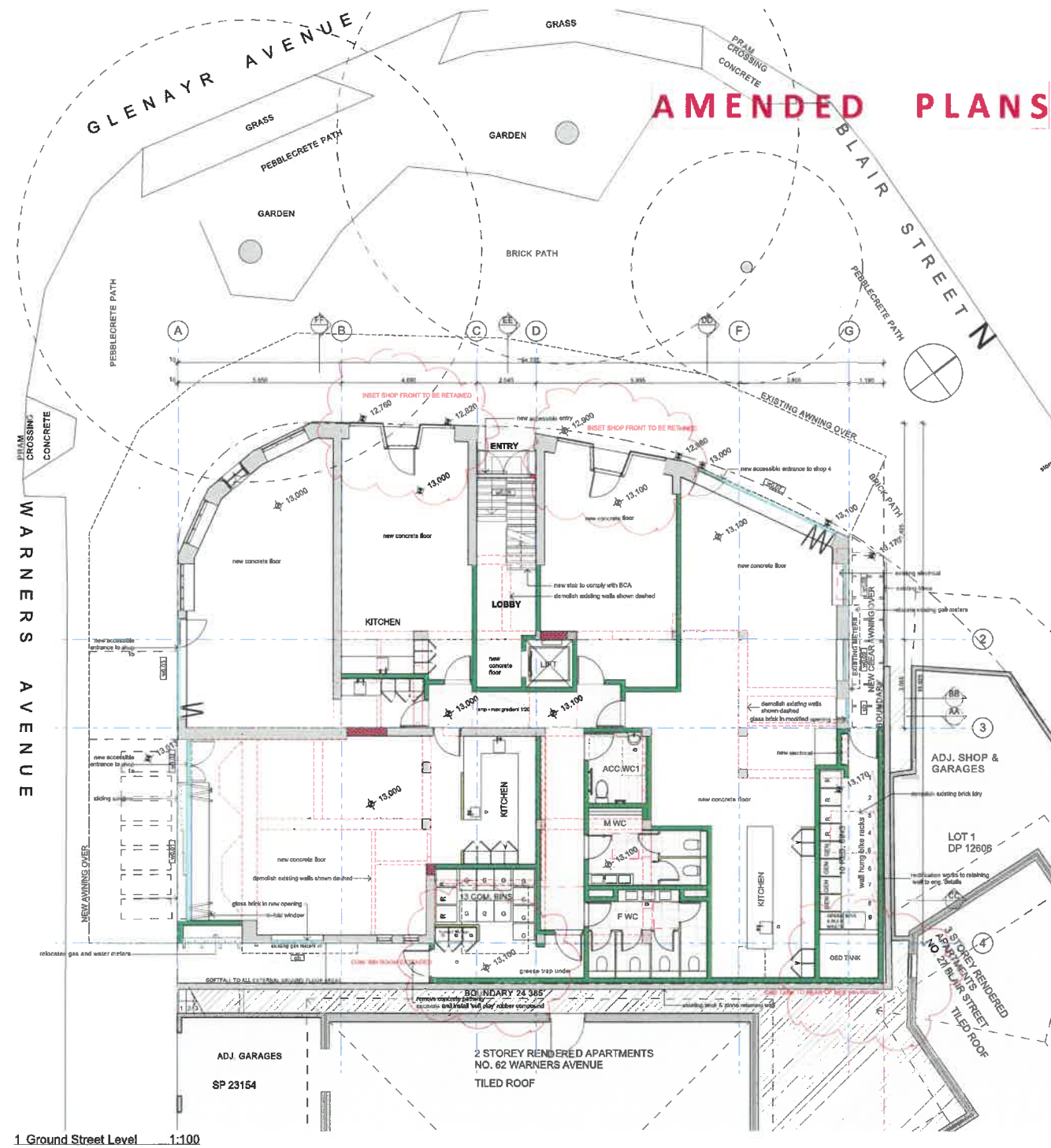
The use of flashing lights, flashing illuminated signs and the like is prohibited.

106. LOCATION OF SIGNS

No advertising signs or notices are to be affixed to the windows of the premises.

107. 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.



Alterations & Additions to
96 Glenayr Avenue
Bondi Beach NSW 2026
for
for McCole Court Pty Ltd

DA Site Plan Ground Floor Plan,
section AA section FF, diagrams
FSR calculations

| | | | |
|--------------|-----------------------|------------|-----------|
| DWG NO. | 1222-101 | ISSUE | B |
| DATE | 24 JUL 2019 | SCALE | 1:100 |
| STATUS | | CHECKED BY | 1:200 |
| PROJECT NAME | 1222GlensyrApartments | | 1:250, 1: |

RAA
A a

RAAarchitects pty ltd
abn 13 618 494 429
nominated architect e. rudolfsson reg.no. 8914

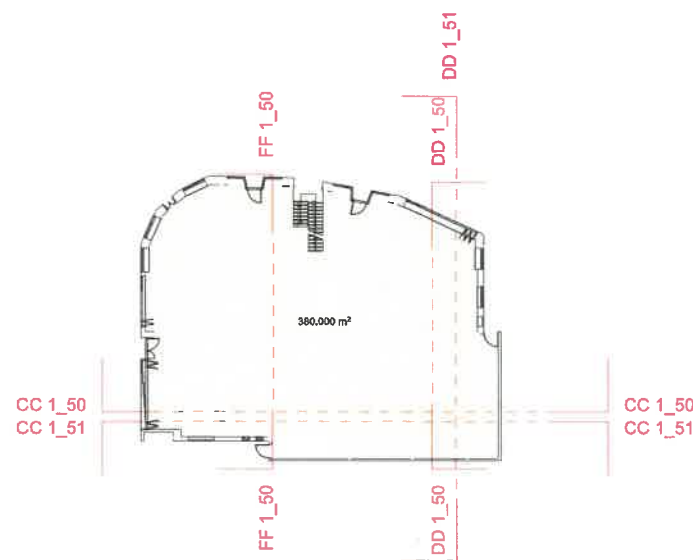
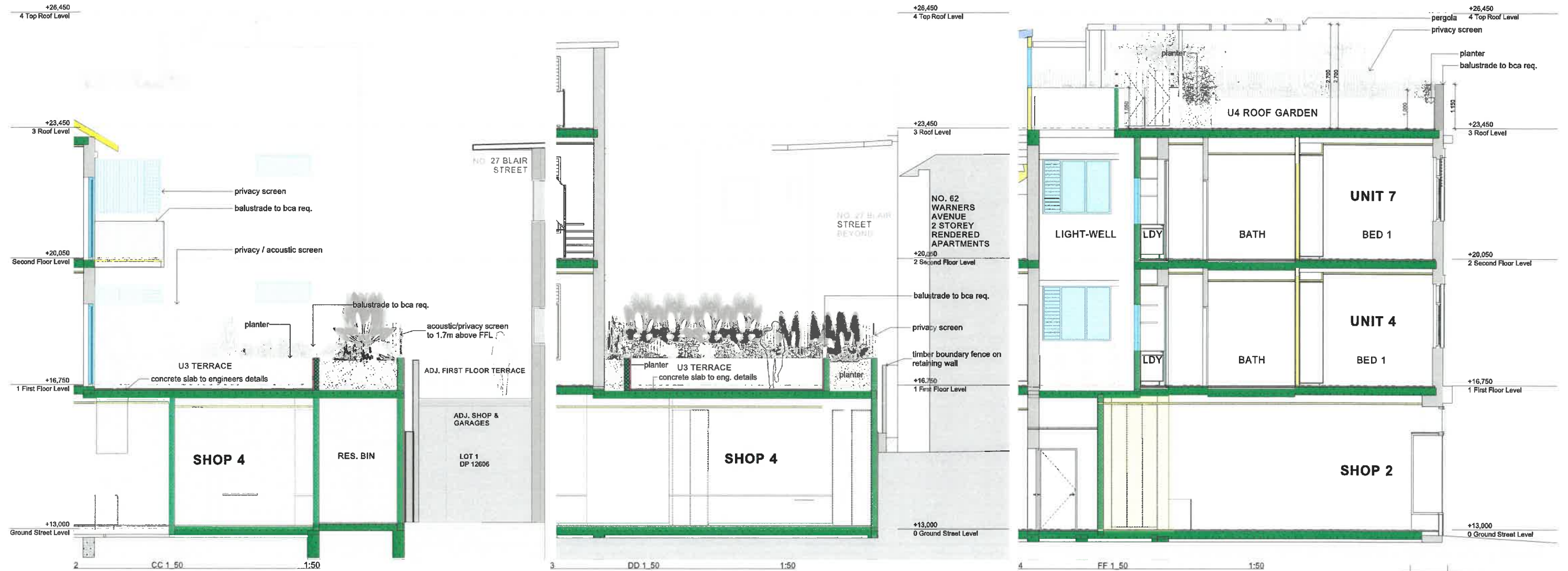
02 9331 1499
info@RAA.net.au

253 Oxford Street, Darlinghurst, New South Wales 1500



AMENDED PLANS

RECEIVED
Waverley Council
Application No: DA-490/2018
Date Received: 29/7/2019



1 plan Ground Street Level (1:50 key plan) 1:250

A 24 JUL 2019 AMENDED DA
DATE AMENDMENTS

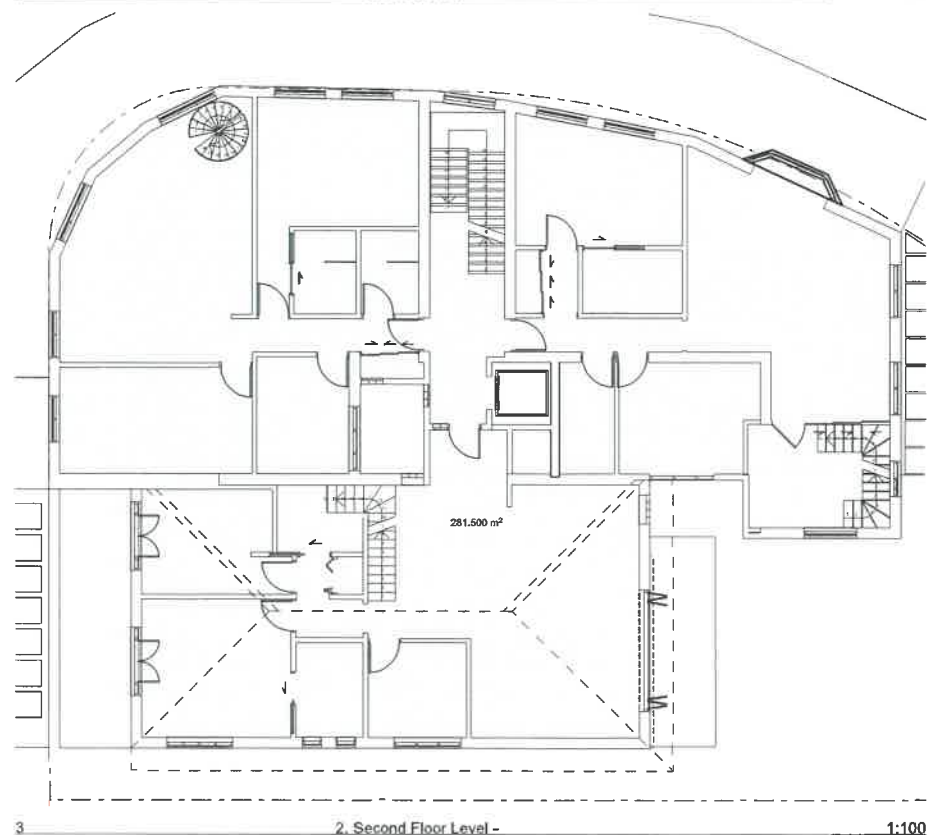
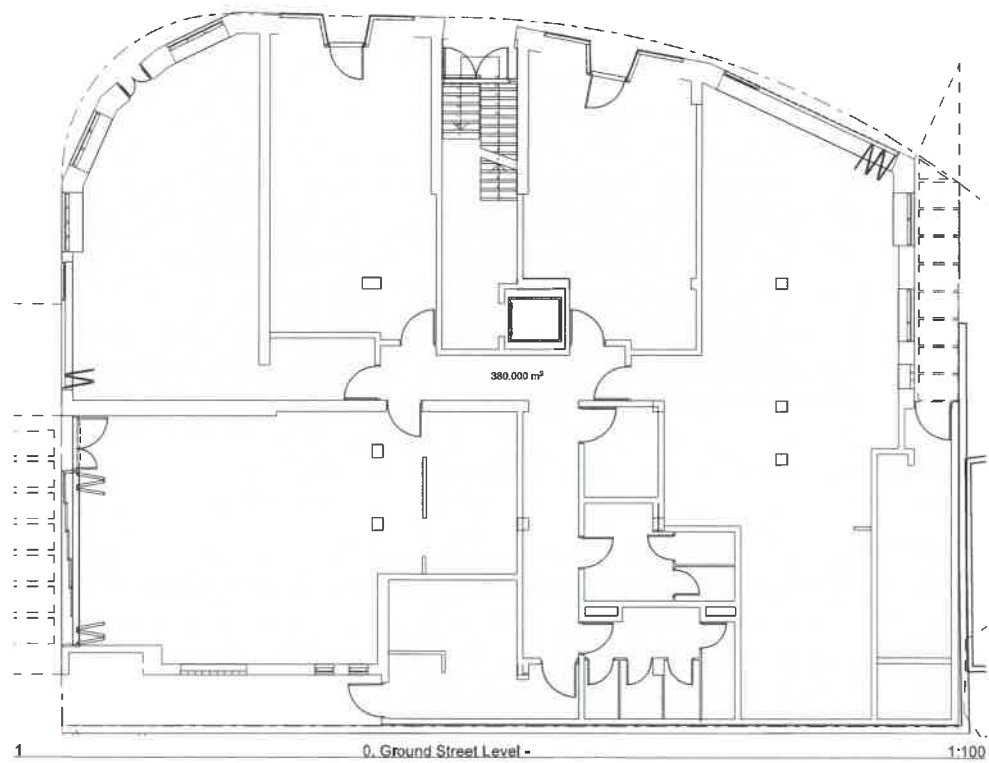
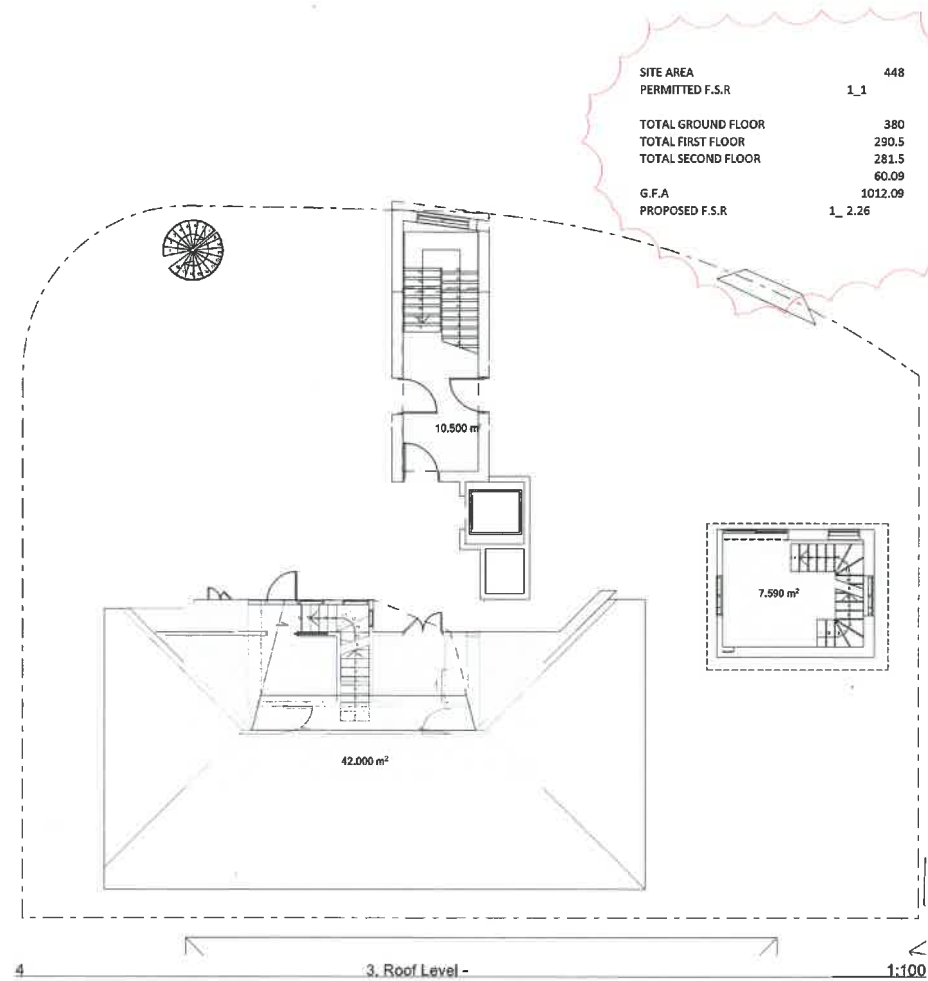
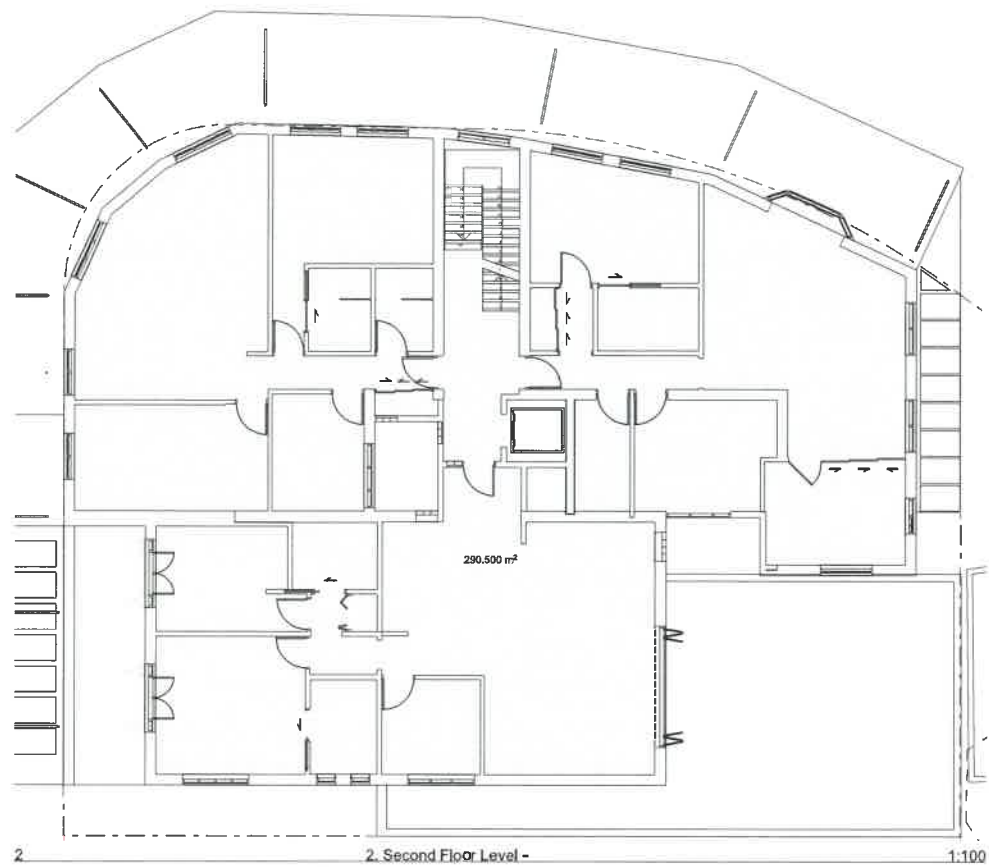
Alterations & Additions to
96 Glenayr Avenue
Bondi Beach NSW 2026
for
for McCole Court Pty Ltd

Sections-additional DA info

DWG NO. 1222-112 ISSUE A
DATE 24 JUL 2019 SCALE 1:250, 1:50
STATUS CHECKED BY
PROJECT NAME 1222GlenayrApartments

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info@raa.net.au



| | | |
|------|--------------|-------------|
| B | 04 SEPT 2019 | AMENDED PSR |
| A | 24 JUL 2019 | AMENDED DA |
| DATE | | AMENDMENTS |

Alterations & Additions to
96 Glenayr Avenue
Bondi Beach NSW 2026
for
McCole Court Pty Ltd

FSR-additional DA info

DWG NO. 1222-114 ISSUE B
DATE 04 SEPT 2019 SCALE 1:100, 1:1
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PROJECT NAME 1222GlenayrApartments

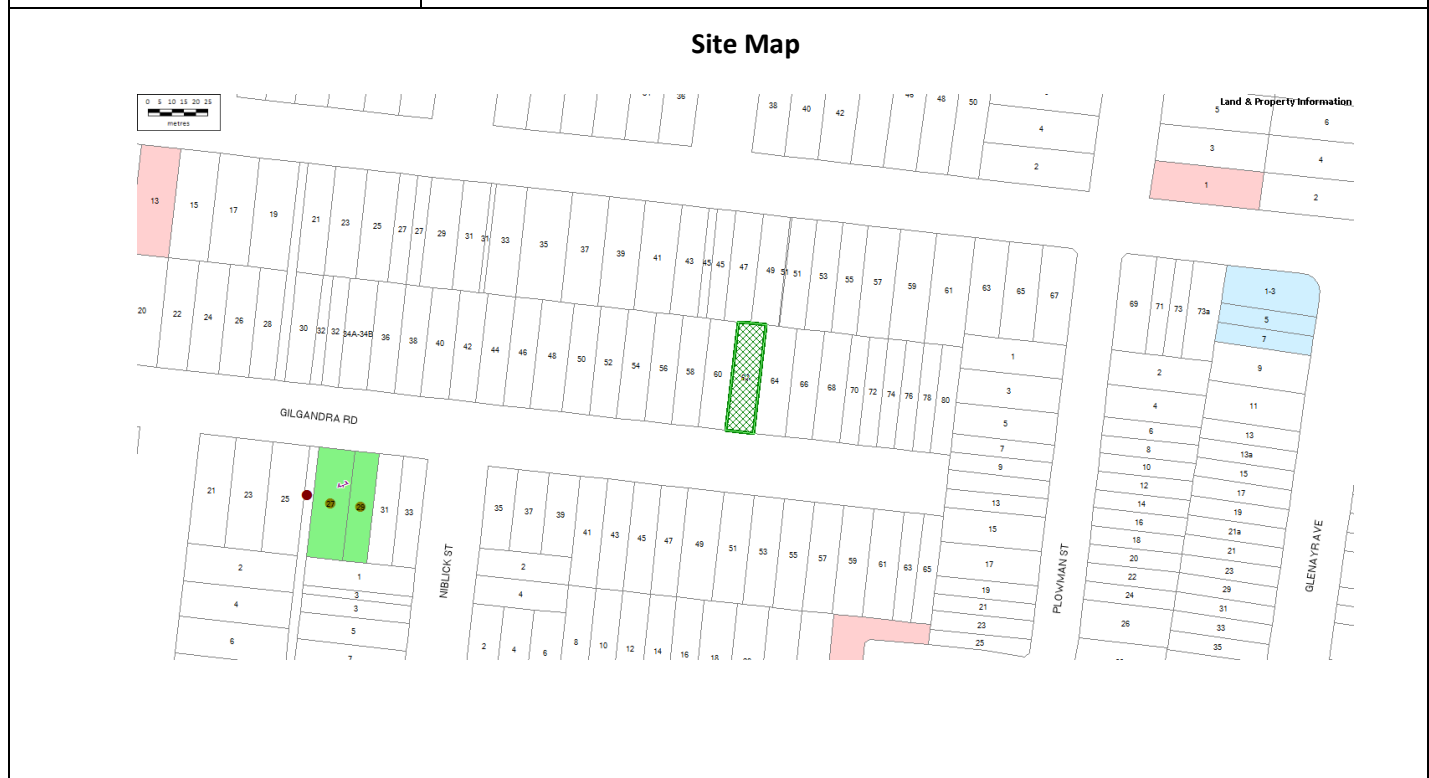
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Report to the Waverley Local Planning Panel

| | |
|---|--|
| Application number | DA-216/2018/A |
| Site address | 62 Gilgandra Road, North Bondi |
| Proposal | Modification to approved development, including altered internal layout, additional floor space, new awning and various other alterations. |
| Approved development description | Demolition of existing dwelling and erection of new part two, part three storey single dwelling with double garage and swimming pool. |
| Date of lodgement | 12 April 2019 |
| Owner | J and J Brown |
| Applicant | MASQ Architecture |
| Submissions | Ten submissions |
| Issues | Floor space ratio; Fencing and swimming pool; Visual and acoustic privacy |
| Recommendation | That the application be APPROVED |



1. PREAMBLE

1.1 Site and Surrounding Locality

The site is identified as Lot 1 in DP 962304, known as 62 Gilgandra Road, North Bondi. The site is rectangular in shape with north (rear) and south (front) boundaries measuring 9.145m, and east and west side boundaries measuring 36.575m. The site has an area of 334.5m² and falls from the front towards the rear by approximately 3.35m.

The site is occupied by a part one and two-storey detached dwelling with vehicular access provided from Gilgandra Road to carport within the front setback of the site.

The subject site is adjoined by a part two and three-storey building to the east and a part one and two-storey dwelling to the west. The western adjoining property at No. 60 Gilgandra Road has recently been granted approval (DA-162/2018) for demolition and construction of a two-storey dwelling. The locality is characterised by predominantly detached dwellings ranging in scale from one to three storeys.



Figure 1: Site viewed from Gilgandra Street



Figure 2: Site viewed from the rear

1.2 Details of Approved Development

DA-216/2018 for demolition of existing dwelling and erection of new part two, part three storey single dwelling with double garage and swimming pool was approved by the Waverley Local Planning Panel on 27 February 2019.

1.3 Proposal

The application has been lodged as a section 4.55 (1A) application and provides for the following modifications to the approved development:

Lower ground floor level:

- Infill approved internal courtyard equating to an additional 29.2m².
- Excavation to the south toward the front of the house to provide basement storage.
- New brick wall and retaining wall along rear (northern) boundary.
- Provision of a larger swimming pool at the rear of the site.
- Internal alterations.

Ground floor level:

- Extension of the dwelling toward the front of the site (south) equating to additional gross floor area (GFA) of 5.7m².
- New windows and internal alterations.

- Minor enclosure of the internal lightwell adjacent to the lift equating to 1.5m².

First floor level:

- Masonry architectural feature on the western side of the front façade.
- New privacy/nib wall extending into front setback on the eastern side.
- Modification of front windows to glazed doors.
- Extension of the western side wall of the stairs further toward the rear for head clearance to the internal stairs and to provide a larger ensuite to one bedroom on this level.
- Extension of the approved internal lightwell to the north (reduction in GFA of 2.6m²) and provision of a planter.
- Extension of the building 600mm further toward the rear (north) equating to increased GFA of 3.7m².
- Window and internal alterations.

Roof level:

- Architectural feature element on front façade extending into front setback.
- New awning on the rear elevation.
- Changes to roof to match extensions and reductions listed above for the first floor level.

External:

- Modification to windows on all elevations, including new windows.
- Changes to finishes including alteration of the eastern side wall of the bin storage area from slatted louvres to brick and removal of mesh screening to the lightwell on the eastern elevation.

There are also a number of modifications that are not indicated on the plans as being modified, however are not part of the original approval, namely:

- New balconies at the rear at the ground floor and first floor levels, and associated balustrading.
- New front balcony at the first floor level.
- Increase in the height of the building overall by 10mm.
- The skillion roof over the front portion of the dwelling has increased substantially in size including being built up to the front wall of the building.

The above works have not been coloured or notated on the plans and as such, have not been adequately notified to adjoining properties as being part of the modifications. As such, these works will not be approved as part of this modification application as they have not been applied for. A condition to this effect is included in the recommendation. The applicant has indicated that a further Section 4.55 modification will be submitted encompassing these works, and others, in the future.

2. ASSESSMENT

The following matters are to be considered in the assessment of this modification application under sections 4.15 and 4.55 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1 Section 4.55 Considerations

Section 4.55 (1A) applications - the modifications are considered to have minimal environmental impact. The application has been compared to the essential nature of the development as originally approved and it is considered to be *substantially the same development*. The application has been notified and submissions considered as discussed further in the report.

2.2 Planning Instruments and Development Control Plans

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

2.2.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the modification application.

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

2.2.2 SEPP 55 Remediation of Land

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

2.2.3 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

| Provision | Compliance | Comment |
|---|------------|--|
| Part 1 Preliminary | | |
| 1.2 Aims of plan | Yes | The modifications are consistent with the aims of the LEP. |
| Part 2 Permitted or prohibited development | | |
| Land Use Table R2 Low Density Residential Zone | Yes | The proposal is defined as a dwelling house, which is permitted with consent in the zone. The modified proposal is consistent with the zone objectives. |

| Provision | Compliance | Comment |
|---|-------------------------------|--|
| Part 4 Principal development standards | | |
| 4.3 Height of buildings <ul style="list-style-type: none"> 8.5m | Yes (subject to condition) | <p>The submitted plans show a minor increase in height by 10mm to 8.6m exceeding the development standard by 10mm.</p> <p>This is a very minor variation to the development standard however, the plans do not indicate this as being a modification and do not address this issue within the submitted documentation. If it is not specified as being a modification then it is not part of the application and Council cannot assess it.</p> <p>The applicant has been advised of this error and have advised Council to delete it by condition. A condition to this effect is included in Appendix A.</p> |
| 4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> 0.74:1 (248m²) Site area = 334.5m ² | No | <p>The approved development has an FSR of 0.74:1 (248m²) complying with the development standard.</p> <p>The subject modification seeks to increase the FSR to 0.86:1 equating to an additional 43.4m² in GFA.</p> <p>The modified proposal exceeds the development standard by 43.4m² or 17.5%.</p> |
| Part 6 Additional local provisions | | |
| 6.1 Acid sulfate soils | Yes | The site is designated Class 5 on the Acid Sulfate Soils Map. The proposed works are unlikely to encounter acid sulfate soils. |
| 6.2 Earthworks | Yes | <p>The proposal includes excavation to provide the lower ground floor level. The excavation provides appropriate setbacks from side and rear boundaries. All standard conditions of consent in relation to excavation imposed on the consent will remain as part of the modification.</p> <p>The excavation is located underground and will not impact upon surrounding properties (subject to compliance with conditions), or the bulk and scale of the building.</p> |

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

Floor Space Ratio

The maximum FSR of the approved building is 0.74:1 complying with the FSR development standard. The modifications seek to increase the FSR by 43.4m² to an FSR of 0.86:1 exceeding the FSR development standard of WLEP by or 17.5% or 43.4m².

A written request pursuant to clause 4.6 of Waverley LEP 2012 seeking to vary the development standard is not required for Section 4.55 applications and as such, has not been submitted. The test for Section 4.55 applications relates to the development being 'substantially the same development' as the original approval. The proposal satisfies this test.

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

- (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 additional floor space sought by the proposed modifications is generally comprised of the following:

- Infill of the approved internal courtyard at the lower ground level (additional 29.2m²).
- Extension of the dwelling toward the front of the site (south) at the ground floor level (additional 5.7m²).
- Minor enclosure of the internal lightwell adjacent to the lift at the ground floor level (additional 1.5m²).
- Extension of the building 600mm further toward the rear (north) at the first floor level (additional 3.7m²).
- The additional extension on the western side of the dwelling at the first floor level to provide clearance for the stairs is a result of providing a larger ensuite to one bedroom at this level. This pushes the stairs further to the north and results in additional calculable floor space.

The infilling of the internal courtyard at the lower ground floor level and minor enclosure at the first floor level will not result in any additional impacts upon adjoining properties by way of overlooking, overshadowing and will not result in visible increased height or bulk to the building.

The ground floor extension to the front is a result of moving the front wall of the dwelling to within the approved garage. The wall is predominantly behind the garage wall and therefore largely concealed. The exception is that the front entry will extend slightly forward, although will still be contained within the envelope and side walls of the approved building (ie, the entry will no longer be recessed). This additional floor space will not impact upon the amenity of surrounding properties and will have an acceptable appearance within the streetscape.

The proposed extension to the rear of the dwelling at the first floor level will be contained within approved side walls. Whereas previously the external wall was set back behind the side boundary walls of the dwelling, the modification will result in the external wall being set flush with the side walls. This will result in no greater amenity impacts upon surrounding properties than the approved dwelling.

The northern extension of the stairs at the first floor level is minor and will not result in unreasonable additional overshadowing of adjoining properties.

The majority of the additional floor space is located within parts of the building that will not impact upon neighbouring properties, or the streetscape. The proposal is consistent with objectives (a) and (d) and can be supported.

Accordingly, it is considered that compliance with the FSR development standard is unnecessary in the circumstances of this case and that there are sufficient environmental planning grounds to justify contravening the development standard. The proposal will be in the public interest as it is consistent with the objectives of the development standard and the zone.

2.2.4 Waverley Development Control Plan 2012 - Amendment No 6 (Waverley DCP 2012)

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

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

| Development Control | Compliance | Comment |
|---|-------------------|---|
| 1. Waste and Recycling | Yes | The proposal includes alteration of the eastern side wall of the bin storage area within the front setback from slatted louvres to brick. This is considered acceptable. No other changes to the waste storage area is proposed. |
| 2. Ecologically sustainable Development | Yes | Given the scale of the development, the proposal is considered to adequately consider the design of the building in relation to ecologically sustainable development and achieves the objectives of Part B2. |
| 14. Excavation | Yes | The proposed excavation does not add to the bulk or scale of the building being located below ground level. Appropriate setbacks are provided and all excavation conditions will remain on the approval. |

| Development Control | Compliance | Comment |
|--|------------|---|
| 2.3 Streetscape and visual impact | | |
| <ul style="list-style-type: none"> New development to be compatible with streetscape context | Yes | The modified proposal will continue to provide a contemporary building with modern finishes that will not be out of character with the street. |
| 2.4 Fences | | |
| <i>Side and Rear:</i> <ul style="list-style-type: none"> Maximum height of 1.8m | No | This issue is discussed in detail following this table. |
| 2.5 Visual and acoustic privacy | | |
| <ul style="list-style-type: none"> Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design. External stairs are not acceptable. Maximum size of balconies: <i>10m² in area</i> <i>1.5m deep</i> Roof tops to be non-trafficable unless predominant in the immediate vicinity | No | Refer to discussion following this table. |
| 2.6 Solar access | | |
| <ul style="list-style-type: none"> Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June | Yes | The modifications will not result in unreasonable additional overshadowing. |
| 2.8 Car Parking | | |
| 2.8.5 Dimensions <ul style="list-style-type: none"> 5.4m x 2.4m per vehicle | Yes | The extension of the front part of the house into the approved garage at ground floor level continues to provide two car spaces of 5.4m length. |
| 2.9 Landscaping and open space | | |
| <ul style="list-style-type: none"> Overall open space: 40% of site area | N/A | <ul style="list-style-type: none"> There is no change to the open space. |

| Development Control | Compliance | Comment |
|---|------------|---|
| <ul style="list-style-type: none"> Overall landscaped area: 15% of site area | Yes | <ul style="list-style-type: none"> 30% landscaped area. |
| <ul style="list-style-type: none"> Minimum area of 25m² for private open space | N/A | <ul style="list-style-type: none"> No change to principal private open space. |
| <ul style="list-style-type: none"> Front open space and landscaped area | N/A | <ul style="list-style-type: none"> No change to front setback. |
| 2.10 Swimming pools and spa pools | | |
| <ul style="list-style-type: none"> Located in the rear of property Pool decks on side boundaries must consider visual privacy | Yes | <p>The swimming pool is located at the rear and modifications will alter the shape of the approved pool to a rectangle across the width of the site.</p> <p>Conditions will require that the pool is not raised out of the ground (refer to discussion following this table). The decking will be at ground level if the pool is not raised and will not impact upon the privacy of adjoining properties.</p> |

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

Fencing and swimming pool

The modifications include the raising of the pool out of the ground on the northern side with associated raising of the ground level adjacent to the rear boundary on the southern side of the pool. This results in a new masonry wall along the rear boundary 1400mm above the raised ground level, however 1800mm above the existing ground level. It is noted however, that this will be a pool fence and therefore will not comply with the Swimming Pools Act at only 1400mm above the level of the pool and would need to be raised to 1800mm high (2200mm on the neighbour's side).

Additionally, the approved landscaping plan shows trees and vegetation are to be planted along the rear boundary of the site within a setback of 900mm to provide screening to the properties at the rear. This will also not comply with the provisions of the Swimming Pools Act which does not allow trees and plants within the climbable zone of the fence. In order to comply with the requirements and provide the screen planting approved in the landscape plan, the pool will need to be set further back from the rear boundary.

In this regard, a condition is recommended requiring that the location of the swimming pool is amended to ensure the screen planting is retained and compliance with the Swimming Pools Act (with the applicant to demonstrate this compliance) is achieved. The condition will also require that the pool is not to be raised above the existing ground level to ensure that the boundary fence is a compliant height. This information was conveyed to the applicant who agreed that a condition would be appropriate.

Visual and acoustic privacy

The proposed new balcony and associated windows on the front elevation overlook the street where privacy levels are low and there is sufficient distance to windows on properties on the opposite side of the street.

Other windows are to an internal lightwell and as such, do not directly face windows or the private open space of adjoining properties. The approved plans provided a mesh privacy screen over the internal lightwell which has been removed as part of this modification. The windows oriented toward the adjoining property are to a hallway which is a non-habitable space within the dwelling with low privacy impacts. All habitable windows face inward to the lightwell so that direct outlook is minimised. In this regard, the removal of the screen is considered acceptable.

All new or relocated windows on the side elevations have been designed or placed to ensure that no unreasonable privacy impacts are experienced at both adjoining properties.

The plans show new balconies on the rear at the ground (elevated) and first floor levels, which have not been coloured and have not been listed in the documentation. The balcony at the first floor level is accessed via the rumpus room and is in excess of Council's DCP in width and in area. A large balcony/deck accessed from a room of high use, at high level, is likely to result in visual and acoustic privacy issues and would not be supported.

The balcony at the first floor level is accessed from a bedroom and is smaller in width. However, the longitudinal section (A2.01) shows that the balustrade ramps up to the edge of the balcony (ie, it is climbable) and it would be unlikely to comply with the Building Code of Australia (BCA).

Although the balconies at the rear cannot be approved, given the above analysis, they would not be supported. In this regard, a condition is included advising that the works that have not been shown on the plans as being modified, are to be removed from the plans, including the balconies at the rear. The sliding doors leading to the balcony at the top floor level area also required to be removed otherwise a balustrade must be erected directly in front to stop access to the roof.

2.3 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

2.4 Suitability of the Site for the Development

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

2.5 Any Submissions

The modification application was notified for 14 days in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

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

Table 4: Summary of property addresses that lodged a submission

| Property |
|---------------------------------|
| 47 Gilgandra Road, North Bondi |
| 49 Gilgandra Road, North Bondi |
| 50 Gilgandra Road, North Bondi |
| 56 Gilgandra Road, North Bondi |
| 60 Gilgandra Road, North Bondi |
| 64 Gilgandra Road, North Bondi |
| 45 Murriverie Road, North Bondi |
| 47 Murriverie Road, North Bondi |
| 49 Murriverie Road, North Bondi |
| 51 Murriverie Road, North Bondi |

Issue:

- *Floor space ratio.*
- *Loss of privacy from balconies both at the front and the rear;*
- *Wall height;*
- *Overshadowing*

Response: These issues have been discussed in detail previously in this report.

Issue: *Rear setback at ground floor level; removal of large tree from the rear yard; number of storeys. The rumpus room should be removed and placed within the underground storage area.*

Response: These are not part of the proposed modifications and were approved in the original application. These elements are approved and cannot be revisited as part of a modification application.

Issue: *The site is not suitably zoned for the proposal.*

Response: The site is zoned R2 Low Density Residential and 'dwelling houses' are permitted. The proposal is permissible within the zoning.

Issue: *Damage from excavation.*

Response: Appropriate setbacks from surrounding properties have been provided to the basement level. All standard conditions in relation to excavation are included on the consent. A condition of the original consent requires dilapidation reports for affected properties.

Issue: *Driveway location and loss of on-street parking; Driveway is wider than the previous approval; The SEE states that the driveway will exceed 3m in width.*

Response: This is not part of the modification application. The driveway has been previously approved in the original application.

The driveway is in the same location as the approval. The driveway is 3m including splays at the gutter crossing and 2.4m wide over the footpath. Given that the DCP allows 3m excluding splays at the kerb and gutter, the proposal is fully compliant with the DCP.

The SEE is incorrect regarding the driveway. Drawing A0.01 is the site plan and shows the width of the driveway. The SEE does not form part of the approval.

Issue: *Larger raised pool will impact upon privacy and the row of trees along the rear boundary has been removed; part of the swimming pool is located within the side setback.*

Response: These issues have been discussed previously in this report.

The swimming pool is not located within the side setback of the dwelling. The pool is located along the rear boundary of the site which is the preferred location for swimming pools being away from windows of adjoining properties.

Issue: *The site plan is incorrect as it shows the existing dwelling at No. 60 rather than the recently approved dwelling.*

Response: It would be incorrect to show a building which is not yet constructed. Notwithstanding, assessment by Council Officers has taken into consideration the building approved for the neighbouring property.

2.6 Public Interest

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

3. REFERRALS

No internal or external referral comments were sought.

4. SUMMARY

The modification application seeks consent for modifications including an altered internal layout, additional floor space, new awning and various other alterations.

There are a number of other modifications to the plans which have not been indicated as being part of the current modification application, and as such, conditions will require that they are removed from the plans and are not approved.

The proposed modifications will exceed the FSR development standard of the LEP, however are considered minor, or alternatively will not impact upon the amenity of surrounding properties, the character of the dwelling or the area. The proposed FSR is considered acceptable and is supported.

The remaining modifications are considered acceptable without unreasonable impacts upon surrounding properties or the streetscape.

The application was notified and ten submissions were received, with issues raised discussed in this report.

The modification is recommended for approval.

DBU Decision

The application and assessment report have been reviewed by the DBU at the meeting on 12 September 2019 and the DBU determined:

- (a) The application is not acceptable.

DBU members: M Reid, A Rossi, B McNamara

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the Section 4.55 Modification 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
Senior Development Assessment Planner

Bridget McNamara
**Manager, Development Assessment
(North/South)**

Date: 5 September 2019

Date: 12 September 2019

Reason for referral:

- 1 Contentious development (10 or more objections)

APPENDIX A – CONDITIONS OF CONSENT TO BE MODIFIED

A. Amended/Deleted Conditions

1. APPROVED DEVELOPMENT

The development must be in accordance with:

- (a) Architectural Plan Nos A0.01, A1.01, A1.02, A1.03, A1.04, A2.01, A3.01, A3.02, A3.03, A3.04, all Revision E, tables and documentation prepared by MASQ Architecture, dated 7/02/2019, and received by Council on date 7 February 2019,
 - (i) As amended by Plan Nos A0.01, A1.01, A1.02, A1.03, A1.04, A2.01, A3.01, A3.02 (west elevation), A3.02 (front elevation), A3.04, A4.01, all Revision A, dated 11/04/19 and received by Council on 12/04/2019; (AMENDED DA-216/2018/A)*
- (b) BASIX Certificate;
- (c) Arboricultural Impact Assessment Report prepared by Arbspec Arboricultural Assessment by Andrew Bouchier dated 13 June 2018 and received by Council on 18 June 2018.
- (d) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012;

except where amended by the following conditions of consent.

2. AMENDED LANDSCAPE PLAN

The landscape plan shall be amended as follows:

- (a) The landscape plan shall be updated to reflect the approved plans and ~~the amended footprint~~ **the requirements of condition 2A. (AMENDED DA-216/2018/A)**

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

B. New Conditions

2A. GENERAL MODIFICATIONS

The proposal shall be amended as follows:

- (a) Those works on the plans which are not coloured, clouded or notated as being an amendment to the approval are not approved and shall be deleted. This includes, but is not limited to, the following:*
 - i. Balconies at the rear at the ground floor and first floor levels, and associated balustrading. The sliding doors leading to the balconies are also required to be removed and replaced with windows with a minimum sill height of 1000mm*

otherwise a balustrade must be erected directly in front of the sliding doors to prevent access to the roof.

- ii. The front balcony at the first floor level and all associated balustrading. The windows leading to the balcony must revert to the approved windows under DA-216/2018).*
 - iii. Increase in the height of the building overall by 10mm.*
 - iv. The skillion roof over the front portion of the dwelling which has increased substantially in size including being built up to the front wall of the building.*
- (b) The location of the swimming pool shall be amended to ensure the approved screen planting along the rear boundary is retained and compliance with the Swimming Pools Act is achieved. This will require that the setback of the pool from the rear boundary is to be increased an amount to be demonstrated by the applicant. The rear boundary fence/wall shall be no higher than 1800mm from the existing ground level. In this regard, the swimming pool shall not to be raised above the existing ground level and fill shall not be used to raise the ground level along the rear boundary.*

The amendments are to be approved by the Executive Manager, Building Waverley (or delegate) prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

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.

(ADDED DA-216/2018/A)

APPENDIX B – FULL SET OF CONDITIONS

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

- (a) Architectural Plan Nos A0.01, A1.01, A1.02, A1.03, A1.04, A2.01, A3.01, A3.02, A3.03, A3.04, all Revision E, tables and documentation prepared by MASQ Architecture, dated 7/02/2019, and received by Council on date 7 February 2019,
 - (i) As amended by Plan Nos A0.01, A1.01, A1.02, A1.03, A1.04, A2.01, A3.01, A3.02 (west elevation), A3.02 (front elevation), A3.04, A4.01, all Revision A, dated 11/04/19 and received by Council on 12/04/2019; (*AMENDED DA-216/2018/A*)
- (b) BASIX Certificate;
- (c) Arboricultural Impact Assessment Report prepared by Arbspec Arboricultural Assessment by Andrew Bouchier dated 13 June 2018 and received by Council on 18 June 2018.
- (d) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012;

except where amended by the following conditions of consent.

2. AMENDED LANDSCAPE PLAN

The landscape plan shall be amended as follows:

- (a) The landscape plan shall be updated to reflect the approved plans and the requirements of condition 2A. (*AMENDED DA-216/2018/A*)

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

2A. GENERAL MODIFICATIONS

The proposal shall be amended as follows:

- (a) Those works on the plans which are not coloured, clouded or notated as being an amendment to the approval are not approved and shall be deleted. This includes, but is not limited to, the following:
 - i. Balconies at the rear at the ground floor and first floor levels, and associated balustrading. The sliding doors leading to the balconies are also required to be removed and replaced with windows with a minimum sill height of 1000mm otherwise a balustrade must be erected directly in front of the sliding doors to prevent access to the roof.

- ii. The front balcony at the first floor level and all associated balustrading. The windows leading to the balcony must revert to the approved windows under DA-216/2018).
 - iii. Increase in the height of the building overall by 10mm.
 - iv. The skillion roof over the front portion of the dwelling which has increased substantially in size including being built up to the front wall of the building.
- (b) The location of the swimming pool shall be amended to ensure the approved screen planting along the rear boundary is retained and compliance with the Swimming Pools Act is achieved. This will require that the setback of the pool from the rear boundary is to be increased an amount to be demonstrated by the applicant. The rear boundary fence/wall shall be no higher than 1800mm from the existing ground level. In this regard, the swimming pool shall not be raised above the existing ground level and fill shall not be used to raise the ground level along the rear boundary.

The amendments are to be approved by the **Executive Manager, Building Waverley (or delegate)** prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

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.

(ADDED DA-216/2018/A)

3. 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 4.55 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.

4. USE OF DWELLING

The premises are to be used only as a single unit dwelling house.

5. FENCING

All side and rear boundary fencing shall comply with State Environmental Planning Policy 2008 (Exempt and Complying Development Codes) or be subject to separate development consent.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. 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 may be obtained from Waverley Council Customer Service Centre or downloaded from:

www.waverley.nsw.gov.au/publications/

- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.
- (c) Should a section 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 Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

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

Advisory Note

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

7. 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.

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 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.

9. NO BUILDING WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

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

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

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

10. HOARDING

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

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

11. 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.

12. SWEPT WHEEL PATH DRAWINGS

In order to minimise the loss of on street parking, the proposed layback/gutter crossing shall be reduced in width. In this regard, prior to issue of the Construction Certificate, swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, showing the swept wheel path of a vehicle entering and exiting each side of the garage from Gilgandra Road shall be submitted to Council for the approval of the Executive Manager, Creating Waverley.

The swept wheel path drawings shall:

1. Be drawn for the B85, standard design vehicle as described in AS/NZS 2890.1: 2004 Part 1 Off Street Car Parking.
2. Accurately show the kerb and gutter, driveways and vehicles parked kerbside on Gilgandra Road both opposite and to the immediate east and west of the proposed driveway.
3. Show the minimum length of driveway layback considered necessary to gain satisfactory access to and from the proposed garage.
4. Accurately show the length of the Council's kerb and gutter remaining between the western side wing of the existing driveway at No.64 and the eastern side wing of the proposed driveway at No.62

13. GEOTECHNICAL ENGINEERS REPORT

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

14. DETAILS OF BULK EXCAVATION, SHORING OR PILE CONSTRUCTION

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

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

15. SITE WASTE AND RECYCLING MANAGEMENT PLAN

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

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

16. EROSION, SEDIMENT AND POLLUTION CONTROL

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

17. STORMWATER MANAGEMENT

- (a) The Stormwater Plan prepared by Zimmerman Engineers, Project No. 2526, Drawing No. 01 (Issue A), dated 12 June 2018 have been checked and considered **not satisfactory** with respect to stormwater details.

The drawings do not comply with the Waverley Development Control Plan 2012 in reference to Waverley Council's Water Management Technical Manual.

- The stormwater from the rear of the property is to be collected and disposed via the proposed stormwater Management system.
- Rain Water Tank (RWT) to be installed separately as per BASIX requirement, and the overflow from the RWT to be directed to OSD tank.
- An updated Stormwater Management Plan along with completed mandatory checklist as set out in page 22 of Waverley Council's Water Management Technical Manual is required.

- (b) Amended details addressing clause (a) are to be submitted and approved by Council's Executive Manager, Creating Waverley demonstrating compliance, prior to the issue of a Construction Certificate.

- (c) Certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Water Management Technical Guidelines. Stormwater system details are to be submitted in accordance with the Waverley Development Control Plan 2012 - Part B prior to the issue of a Construction Certificate.

18. ENGINEERING DETAILS

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

19. BASIX

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

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

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

20. USE OF RENEWABLE TIMBERS

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

21. ROOFWATER GUTTERING

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

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. 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.

26. 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.

27. OBSTRUCTION TO PUBLIC AREAS

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

- (a) a hoarding fence must be erected between the building site and the public place of the proposed building and the public place. If necessary, an awning sufficient to prevent any substance from, or in connection with, the work falling into the public place, is also to be erected;

- (b) the work is to be kept lit during the time between sunset and sunrise if the work may be of a sort of danger to persons using the public place; and
- (c) a hoarding, fence or awning is to be removed when it is no longer required for the purpose it was provided.

28. TOILET FACILITIES

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

29. NO USE OF ORGANOCHLORIN PESTICIDES

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

30. 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'.

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

Please note the following:

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

31. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

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

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

32. DEMOLITION & SITE PREPARATION

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

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

33. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover NSW Friable Class A Asbestos Removal Licence or where applicable a Non-friable Class B (bonded) Asbestos Removal Licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by WorkCover NSW (catalogue no.WC03561) and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.

- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400m x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

34. SKIPS AND BINS

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

35. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS

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

36. SOIL AND WATER MANAGEMENT PLAN

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

37. 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.
- (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.

38. STOCKPILES

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

39. LOCATION OF BUILDING OPERATIONS

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

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. 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.

42. CONSTRUCTION HOURS

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

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

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

43. USE OF HEAVY EARTH MOVEMENT EQUIPMENT

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

44. BUILDING CODE OF AUSTRALIA

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

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

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

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

The specified **MANDATORY** inspections are:

In the case of a Class 1 and 10 building:

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

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

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

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

46. 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.

47. 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.

48. ENCROACH BEYOND THE BOUNDARIES

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

49. IN-SINK WASTE DISPOSAL SYSTEMS

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

50. WATER PROOFING

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

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

51. SMOKE ALARM SYSTEM

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

52. 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.

53. 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.

54. CONSTRUCTION OF SWIMMING POOLS

The following applies to the construction of swimming pools:

- (a) Reinforcement is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete;
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool being installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules;
- (c) The finished level of the proposed pool is not to exceed a maximum height of RL 11.540 as indicated on the approved plans;
- (d) To minimise the likelihood of accidental drowning, the swimming pool is to be provided with a child resistant safety fence, designed and constructed in accordance with the requirements of Australian Standard AS 1926.1-2012 Swimming pool safety - Safety barriers for swimming pools. This fencing is to be erected and inspected by the Principal Certifying Authority prior to the pool being filled with water; and
- (e) A final inspection of the completed pool is to be carried out by the Principal Certifying Authority prior to the pool being filled with water.

55. POOL DRAINAGE

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

56. 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.

57. VEHICULAR ACCESS - FINISHED LEVEL

The finished level at the property boundary on **both** sides of the vehicle crossing is to match the level of the existing concrete footpath.

58. 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.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

59. 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.

60. 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*.

61. STREET NUMBER

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. The street number is to be positioned on the site prior to the issue of the Occupation Certificate.

62. POOL SIGN

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

63. INSPECTION OF POOL

A final inspection of the completed pool is to be carried out by the Principal Certifying Authority prior to the pool being filled with water.

64. SWIMMING/SPA POOL PUMP - RESTRICTIONS

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

65. SWIMMING POOL REGISTRATION

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

66. SWIMMING POOLS

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

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

67. STORMWATER MANAGEMENT

Prior to the issue of an occupation certificate, certification is to be provided from a suitably qualified hydraulics engineer, that the stormwater system has been constructed in accordance with the approved stormwater management plans and to best engineering practice.

313/77 DUNNING AVENUE ROSEBERY NSW 2018

RECEIVED
Waverley Council
T: 02 9662 3500 E: office@masqarchitecture.com
Application No: DA-216/2018/A
Date Received: 12/4/2019

W: www.masqarchitecture.com



| Window ID | Window type | U-value | SHGC |
|--------------|---|---------|------|
| AL-013-39 A | AL-013-39 A AI Sliding Door DG LightBridge-4-10Ar-4 | 2.6 | 0.50 |
| AL-026-47 A | AL-026-47 A AI Boutique Fixed Lite Window DG LightBridge-4-10Ar-4 | 2.1 | 0.52 |
| AL-039-01 A | AL-039-01 A Aluminium Louvre Window (WL) SG 6Clr | 5.8 | 0.61 |
| AL-012-04 A | AL-012-04 A AI Sliding Door SG 4Clr | 6.1 | 0.72 |
| AL-006-01 A | AL-006-01 A AI Double Hung SG 5Clr | 5.9 | 0.72 |
| AL-003-01 A | AL-003-01 A AI Sliding Window SG 3Clr | 6.2 | 0.78 |
| AL-001-04 A | AL-001-04 A AI Awning SG 4Clr | 5.8 | 0.65 |
| ALM-001-01 A | ALM-001-01 A Aluminium A SG Clear | 6.7 | 0.57 |
| AL-025-04 A | AL-025-04 A AI Boutique Fixed Lite Window SG 4Clr | 5.7 | 0.75 |

Key construction and insulation materials

(see following pages for details)

Construction: **Brick Veneer**

Concrete

Suspended Concrete Slab

Insulation:

R2.5 wall insulation

R2.0 ceiling insulation

No floor insulation

Glazing:

AL-025-04 A AI Boutique Fixed Lite

Window SG 4Clr

PROJECT NO: 0858

DATE: April 2019

PROJECT: 62 GILGANDRA ROAD
NORTH BONDI 2026

CLIENT: J AND J BROWN

ISSUE: **SECTION 4.55 APPLICATION
FOR COUNCIL**

DRAWING LIST:

| | |
|-------|--------------------------|
| A0.00 | COVER SHEET (THIS SHEET) |
| A0.01 | SITE PLAN |
| A1.01 | LOWER GROUND FLOOR PLAN |
| A1.02 | GROUND FLOOR PLAN |
| A1.03 | FIRST FLOOR PLAN |
| A1.04 | ROOF PLAN |
| A2.01 | LONGITUDINAL SECTION |
| A3.01 | EAST ELEVATION |
| A3.02 | WEST ELEVATION |
| A3.03 | SOUTH ELEVATION |
| A3.04 | NORTH ELEVATION |
| A6.02 | COMPLIANCE TABLE |

6.7

43.5 MJA/m²

www.nathers.gov.au

Certificate no.: 0002630107-01

Assessor Name: Ian Fry

Accreditation no.: VIC/BDAM/12/1441

Certificate date: 10 Apr 2019

Dwelling Address: 62 Gilgandra Road North Bondi, NSW 2026

www.nathers.gov.au

RECEIVED

Waverley Council

Application No: DA-216/2018/AD.P.962091

Date Received: 12/4/2019

1

01

SITE PLAN

Scale: 1:125

BRICK DWELLING

TILE ROOF

No. 60

ARCHITECTURAL FEATURE

ELEMENT ADDED TO FRONT

OF BUILDING

MINOR ALTERATION TO BUILDING

ENVELOPE TO ALLOW MINIMUM

CLEARANCE TO INTERNAL STAIRCASE

1

D.P.962304

334.5m²

APPROVED FRONT LINE OF BUILDING AS

PER DEVELOPMENT APPLICATION

2 STOREY

RENDERED DWELLING

METAL ROOF

No. 64

1

D.P.664801

BRICK SHED

NOTE

Do not scale off this drawing. Use figured dimensions only. All building works must be set out by a registered surveyor prior to the commencement of construction. All works along boundary must be wholly within the site. Any existing encroachments must be notified immediately. Any works above existing encroachments must be wholly within the site. The builder shall check & verify all dimensions, notations and the like on site prior to the commencement of any building and/or earthworks. Should any discrepancy between the documentation and any other written document directly related to this project arise, the builder shall notify the architect in writing, immediately for resolution.

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| No. | Date | REVISION | By |
|-----|----------|------------------------|----|
| A | 11/04/19 | FOR COUNCIL SUBMISSION | FD |

M/SQ

QUINTON MARGALIT SMUSKOWITZ ARCHITECTS PTY LTD

313/77 Dunning Avenue Rosebery NSW 2018

P: 02 9662 3500 www.masqarchitecture.com

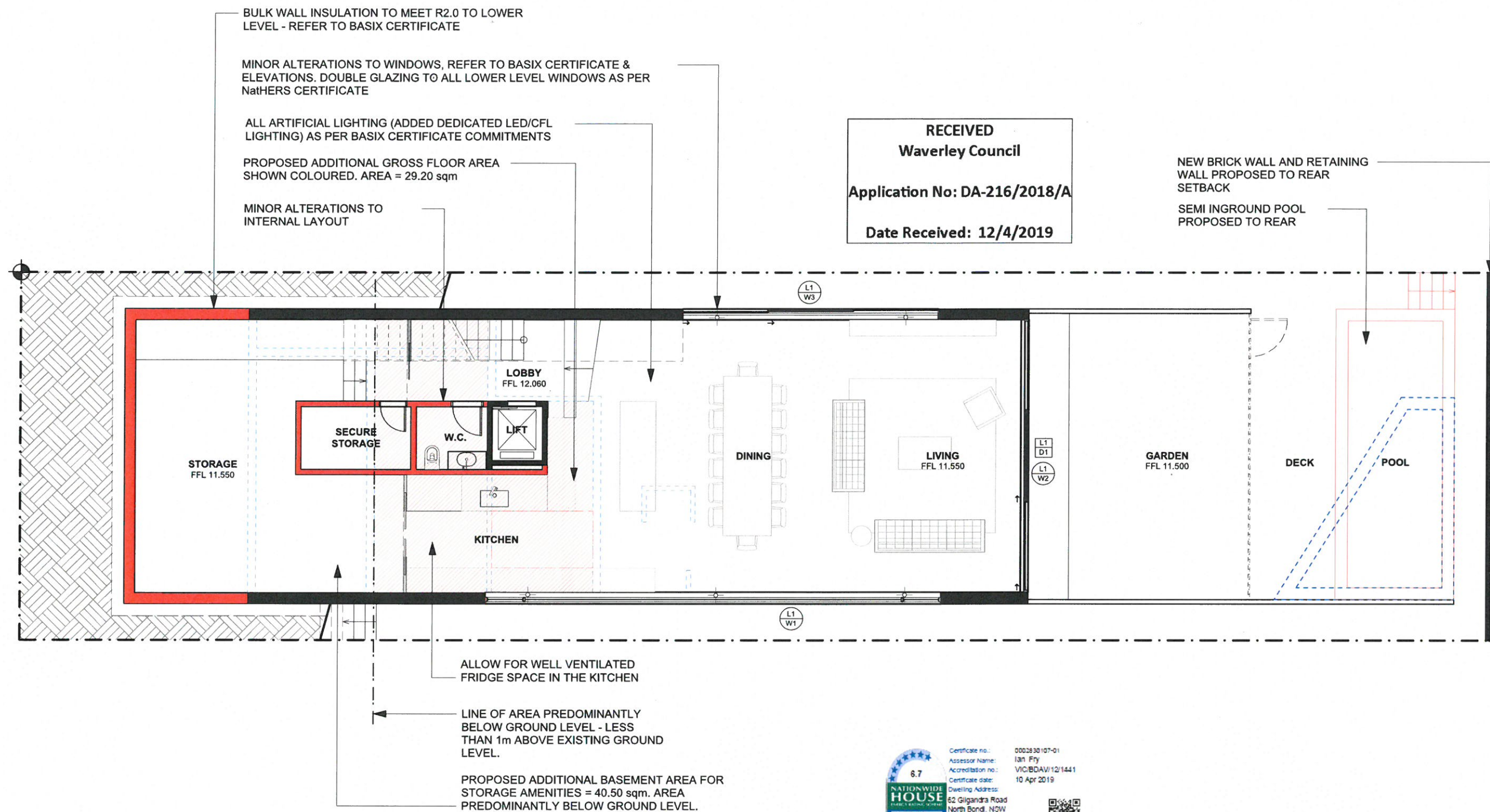
nominated architect Ted Quinton - reg no 6880

PROJECT: 62 GILGANDRA ROAD

CLIENT: JONATHAN & JANET BROWN

ADDRESS: 62 GILGANDRA ROAD NORTH BONDI 2026

| | | |
|---------------------------------|--|---------------|
| DRAWING: SECTION 4.55 SITE PLAN | | JOB NO: 0858 |
| DRAWN BY: FD | | DWG NO: A0.01 |
| CHECKED BY: TQ | SCALE: 1:125 | REVISION: A |
| TYPE: S4.55 | ORIGINAL DRAWING (A1) SIZE: A4 REDUCTION: 15.35% | |
| DWG DATE: January 2019 | PLOT DATE: 11/4/19 | |



02 LOWER LEVEL FLOOR PLAN
Scale: 1:100

| NOTE | | | |
|---|----------|------------------------|----|
| Do not scale off this drawing. Use figured dimensions only. All building works must be set out by a registered surveyor prior to the commencement of construction. All works along boundary must be wholly within the site. Any existing encroachments must be notified immediately. Any works above existing encroachments must be wholly within the site. The builder shall check & verify all dimensions, notations and the like on site prior to the commencement of any building and/or earthworks. Should any discrepancy between the documentation and any other written document directly related to this project arise, the builder shall notify the architect in writing, immediately for resolution. | | | |
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| No. | Date | REVISION | By |
| A | 11/04/19 | FOR COUNCIL SUBMISSION | FD |

M/SQ
QUINTON MARGALIT SMUSKOWITZ ARCHITECTS PTY LTD
313/77 Dunning Avenue Rosebery NSW 2018
P: 02 9662 3500 www.masqarchitecture.com
nominated architect Ted Quinton - reg no 6880

PROJECT:
62 GILGANDRA ROAD
CLIENT:
JONATHAN & JANET BROWN
ADDRESS:
**62 GILGANDRA ROAD
NORTH BONDJ 2026**

| DRAWING | | | | JOB NO: |
|--|-------|-----------------------------|----------------------|-----------|
| SECTION 4.55 LOWER LEVEL PLAN | | | | 0858 |
| DRAWN BY: | FD | SCALE: | 1:100 | DWG NO: |
| CHECKED BY: | TQ | ORIGINAL DRAWING: 641 SIZE: | A4 REDUCTION: 35.35% | REVISION: |
| TYPE: | S4.55 | DWG DATE: | January 2019 | A |
| | | PLOT DATE: | 11/4/19 | |

REFLECTIVE FOIL TO EXTERNAL WALLS AND
BULK WALL INSULATION TO MEET R2.5
COMPLIANCE TO GROUND FLOOR WALLS -
REFER TO BASIX CERTIFICATE

STAIR CONFIGURATION MODIFIED.
STAIR AMENDED TO CORRECT FLOOR
TO FLOOR DISTANCE

ADDITIONAL FLOOR AREA PROPOSED
SHOWN COLOURED. AREA = 5.70 sqm

NEW LOW LEVEL WINDOW
PROPOSED

REC
Waverl



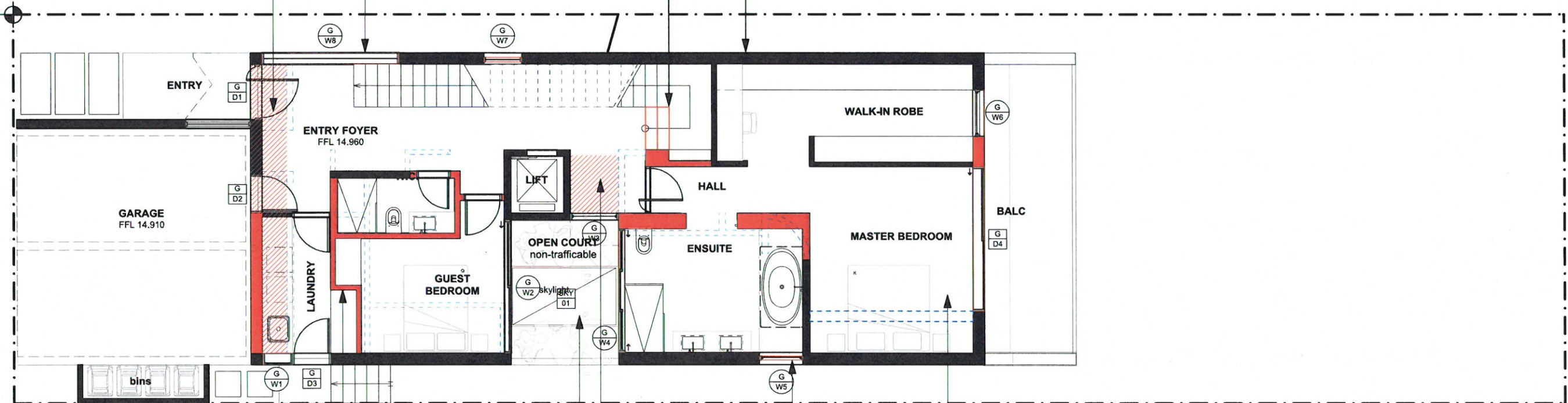
Certificate no.: 0002830107-01
Assessor Name: Ian Fry
Accreditation no.: VIC/BDAM/12/1441
Certificate date: 10 Apr 2019

Dwelling Address:
62 Gilgandra Road
North Bondi, NSW
2026



Application No: DA-216/2018/A

Date Received: 12/4/2019



MINOR INTERNAL
ALTERATIONS TO LAYOUT

NEW SKYLIGHT PROPOSED
TO KITCHEN BELOW

NEW WINDOW
PROPOSED

ADDITIONAL FLOOR AREA PROPOSED
SHOWN COLOURED. AREA = 1.50 sqm

ALL ARTIFICIAL LIGHTING (ADDED
DEDICATED LED/CFL LIGHTING) AS PER
BASIX CERTIFICATE COMMITMENTS

03

GROUND FLOOR PLAN

Scale: 1:100

NOTE

Do not scale off this drawing. Use figured dimensions only. All building works must be set out by a registered surveyor prior to the commencement of construction. All works along boundary must be wholly within the site. Any existing encroachments must be notified immediately. Any works above existing encroachments must be wholly within the site. The builder shall check & verify all dimensions, notations and the like on site prior to the commencement of any building and/or earthworks. Should any discrepancy between the documentation and any other written document directly related to this project arise, the builder shall notify the architect in writing, immediately for resolution.

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| No. | Date | REVISION | By |
|-----|----------|------------------------|----|
| A | 11/04/19 | FOR COUNCIL SUBMISSION | FD |

M/SQ

QUINTON MARGALIT SMUSKOWITZ ARCHITECTS PTY LTD

313/77 Dunning Avenue Rosebery NSW 2018
P: 02 9662 3500 www.masqarchitecture.com
nominated architect Ted Quinton - reg no 6880

PROJECT:

62 GILGANDRA ROAD

CLIENT:

JONATHAN & JANET BROWN

ADDRESS:

62 GILGANDRA ROAD
NORTH BONDI 2026



DRAWING:

SECTION 4.55
GROUND FLOOR PLAN

| | |
|------------------------|-------------------------------------|
| DRAWN BY: FD | SCALE: 1:100 |
| CHECKED BY: TQ | ORIGINAL DRAWING (A4 SIZE): 11/4/19 |
| TYPE: S4.55 | AS REDUCTION: 35.35% |
| DWG DATE: January 2019 | PLOT DATE: 11/4/19 |

JOB NO: 0858

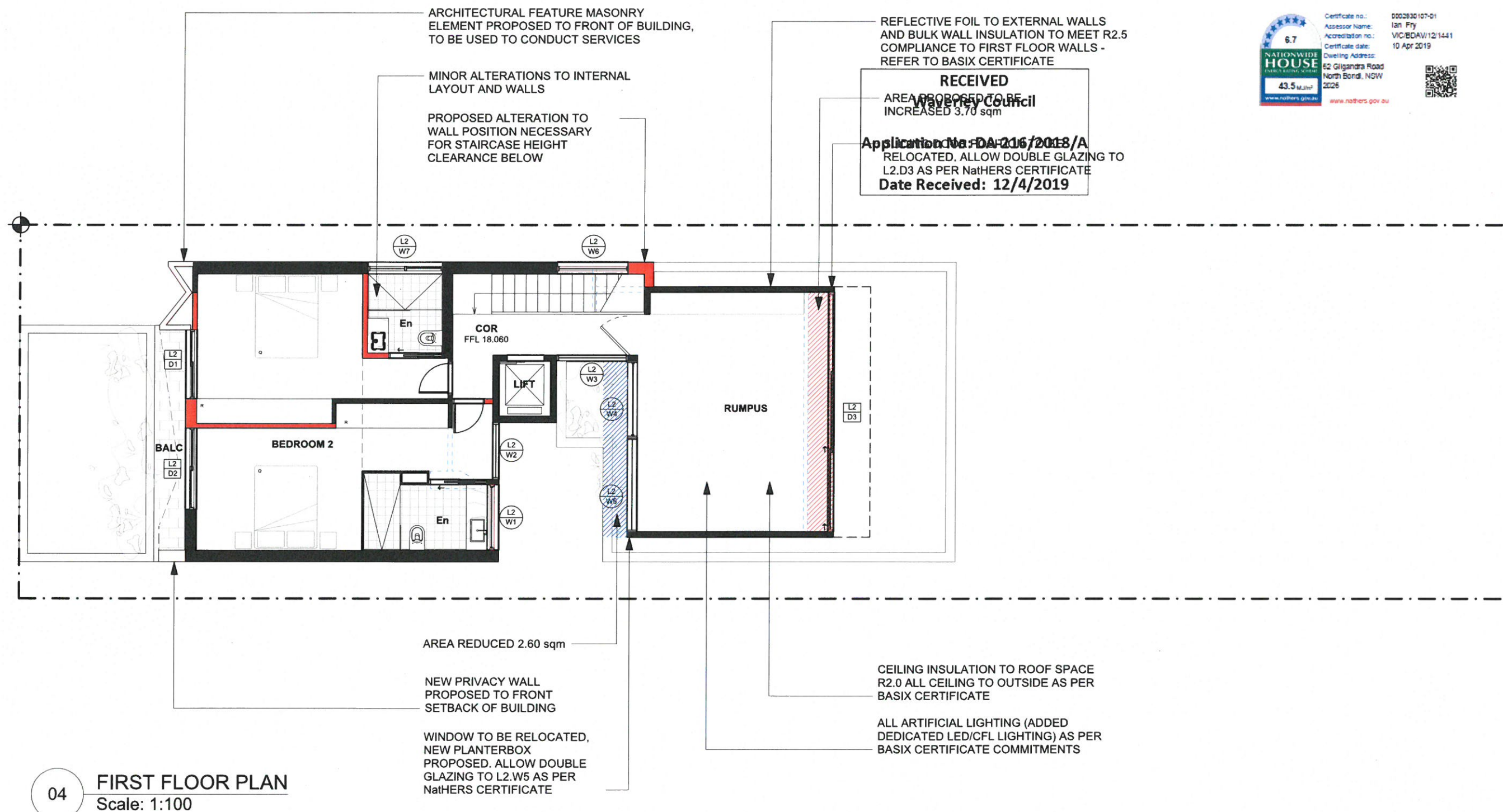
DWG NO: A1.02

REVISION:
A



REFLECTIVE FOIL TO EXTERNAL WALLS AND BULK WALL INSULATION TO MEET R2.5 COMPLIANCE TO FIRST FLOOR WALLS - REFER TO BASIX CERTIFICATE

RECEIVED
Waverley Council
AREA PROPOSED TO BE INCREASED 3.70 sqm
Application No: DA-2016/2018/A
RELOCATED. ALLOW DOUBLE GLAZING TO L2.D3 AS PER NATHERS CERTIFICATE
Date Received: 12/4/2019



04 FIRST FLOOR PLAN
Scale: 1:100

| | | | |
|--|----------|------------------------|----|
| NOTE Do not scale off this drawing. Use figured dimensions only. All building works must be set out by a registered surveyor prior to the commencement of construction. All works along boundary must be wholly within the site. Any existing encroachments must be notified immediately. Any works above existing encroachments must be wholly within the site. The builder shall check & verify all dimensions, notations and the like on site prior to the commencement of any building and/or earthworks. Should any discrepancy between the documentation and any other written document directly related to this project arise, the builder shall notify the architect in writing, immediately for resolution. This work is not to be copied or reproduced in any form without the prior written permission of the author. This document has been prepared solely for the purposes intended. | | | |
| A | 11/04/19 | FOR COUNCIL SUBMISSION | FD |
| No. | Date | REVISION | By |

M/SQ
QUINTON MARGALIT SMUSKOWITZ ARCHITECTS PTY LTD
313/77 Dunning Avenue Rosebery NSW 2018
P: 02 9662 3500 www.masqarchitecture.com
nominated architect Ted Quinton - reg no 6880

PROJECT:
62 GILGANDRA ROAD
CLIENT:
JONATHAN & JANET BROWN
ADDRESS:
62 GILGANDRA ROAD
NORTH BONDI 2026

| | | |
|---|--|-----------------------|
| DRAWING: SECTION 4.55 FIRST FLOOR PLAN | | JOB NO: 0858 |
| DRAWN BY: FD CHECKED BY: TQ TYPE: S4.55 | | DWG NO: A1.03 |
| SCALE: 1:100 ORIGINAL DRAWING (A3 SIZE) DWG DATE: January 2019 | | REVISION: A |
| PLOT DATE: 11/4/19 | | |

Certificate no.: 0002830107-01

Assessor Name: Ian Fry

Accreditation no.: VIC/BDAM/12/1441

Certificate date: 10 Apr 2019

Dwelling Address: 62 Gilgandra Road North Bondi, NSW 2026

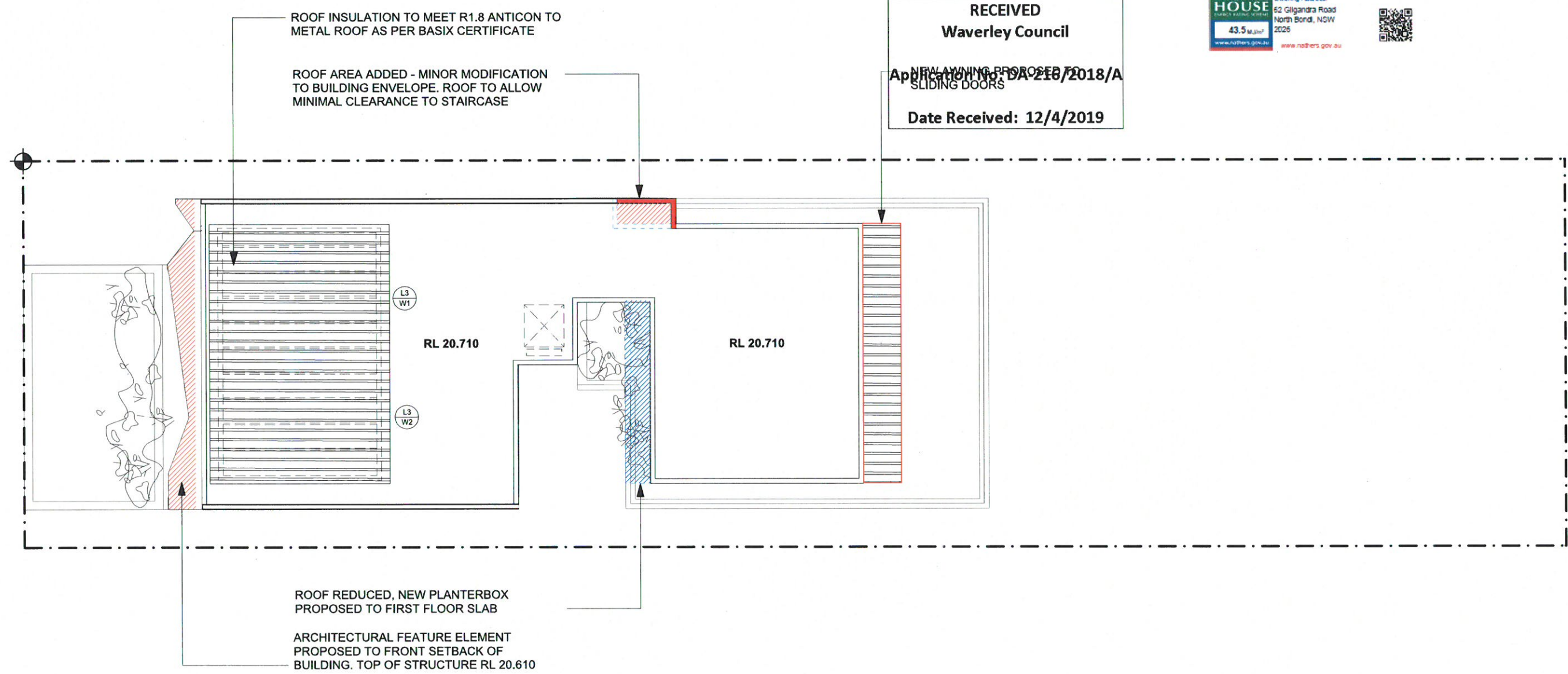
www.natshs.gov.au

RECEIVED
Waverley Council

NEW LAYING PROPOSED FOR SLIDING DOORS

Application No: DA-218/2018/A

Date Received: 12/4/2019



05

ROOF PLAN

Scale: 1:100

6.7

NATIONWIDE HOUSE

ENERGY RATING 6.7

43.5 MJ/m²

www.nathers.gov.au

Certificate no.: 0002830107-01

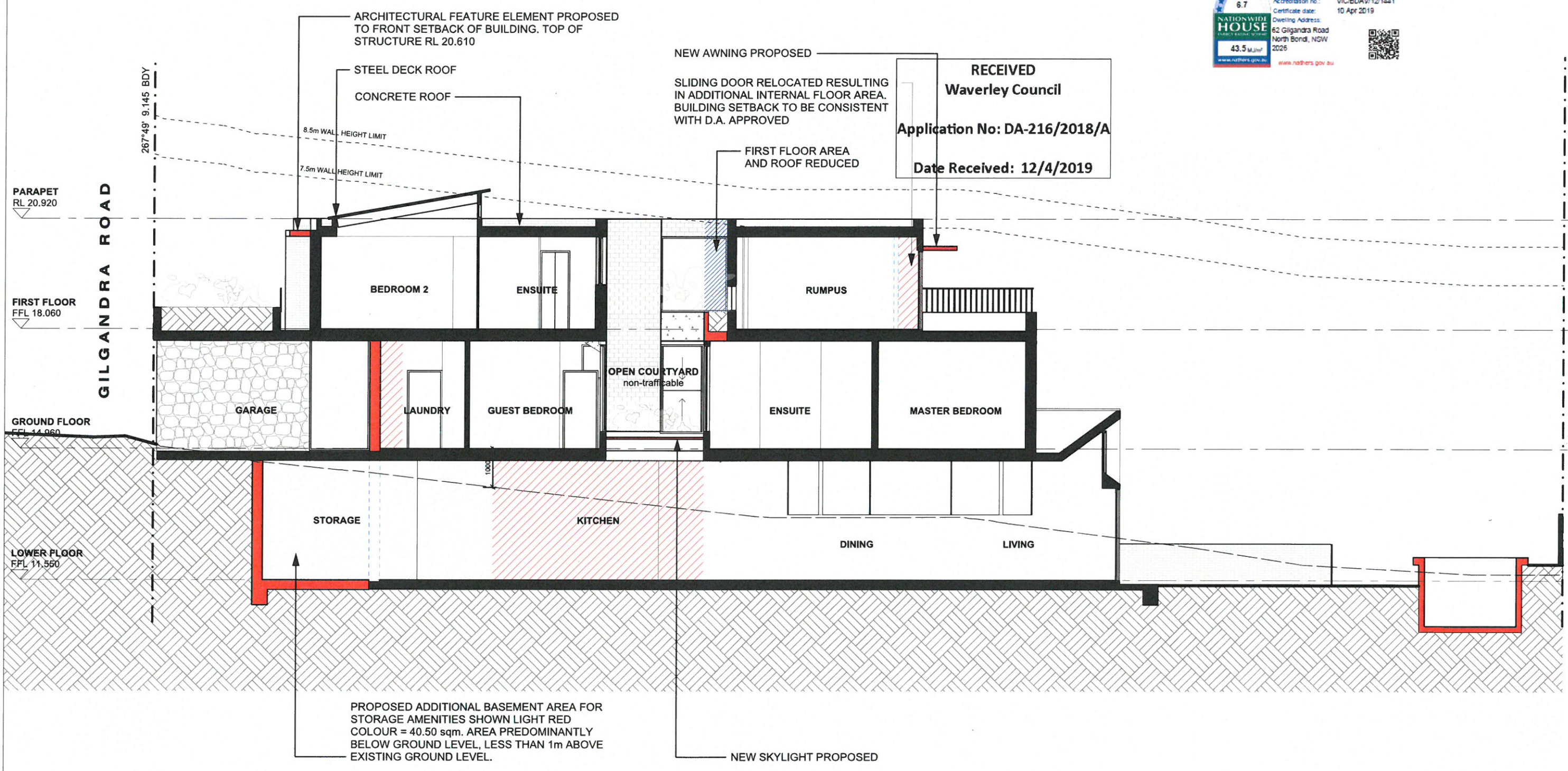
Assessor Name: Ian Fry

Accreditation no.: VIC/BDAM/12/1441

Certificate date: 10 Apr 2019

Dwelling Address: 62 Gilgandra Road North Bondi, NSW 2026

www.nathers.gov.au



A-A LONGITUDINAL SECTION
Scale: 1:100

NOTE

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| No. | Date | REVISION | By |
|-----|----------|------------------------|----|
| A | 11/04/19 | FOR COUNCIL SUBMISSION | FD |

M/SQ

QUINTON MARGALIT SMUSKOWITZ ARCHITECTS PTY LTD

313/77 Dunning Avenue Rosebery NSW 2018

P: 02 9662 3500 www.masqarchitecture.com

nominated architect Ted Quinton - reg no 6880

PROJECT: 62 GILGANDRA ROAD

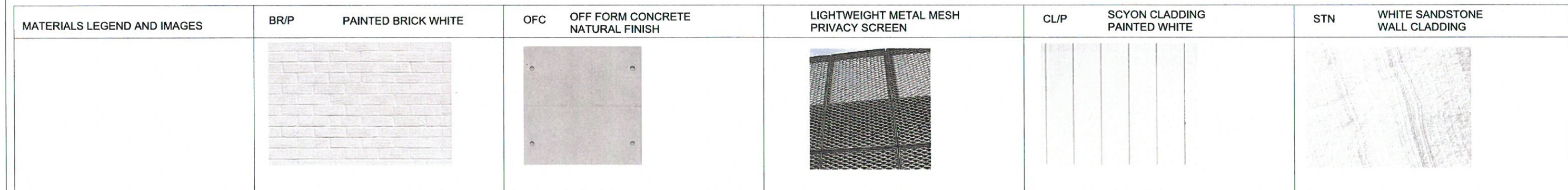
CLIENT: JONATHAN & JANET BROWN

ADDRESS: 62 GILGANDRA ROAD NORTH BONDI 2026

| DRAWING: LONGITUDINAL SECTION | | | | JOB NO: 0858 |
|-------------------------------|------------------------|-------------------------------|-------------------|---------------|
| DRAWN BY: FD | | | | DWG NO: A2.01 |
| CHECKED BY: TQ | SCALE: 1:100 | ORIGINAL DRAWING DAT SIZE: A4 | REDUCTION: 35.35% | REVISION: A |
| TYPE: S4.55 | DWG DATE: January 2019 | PLOT DATE: 11/04/19 | | |



Application No: DA-216/2018/A
PROPOSED AWNING TO TOP OF
SLIDING DOORS MAX. 900mm
Date Received: 12/4/2019



| | | | |
|-----|----------|------------------------|----|
| | | | |
| A | 11/04/19 | FOR COUNCIL SUBMISSION | FD |
| No. | Date | REVISION | By |

313/77 Dunning Avenue Rosebery NSW 2018
P: 02 9662 3500 www.masqarchitecture.com
nominated architect Ted Quinton - reg no 6880

PROJECT:
62 GILGANDRA ROAD

CLIENT:
JONATHAN & JANET BROWN

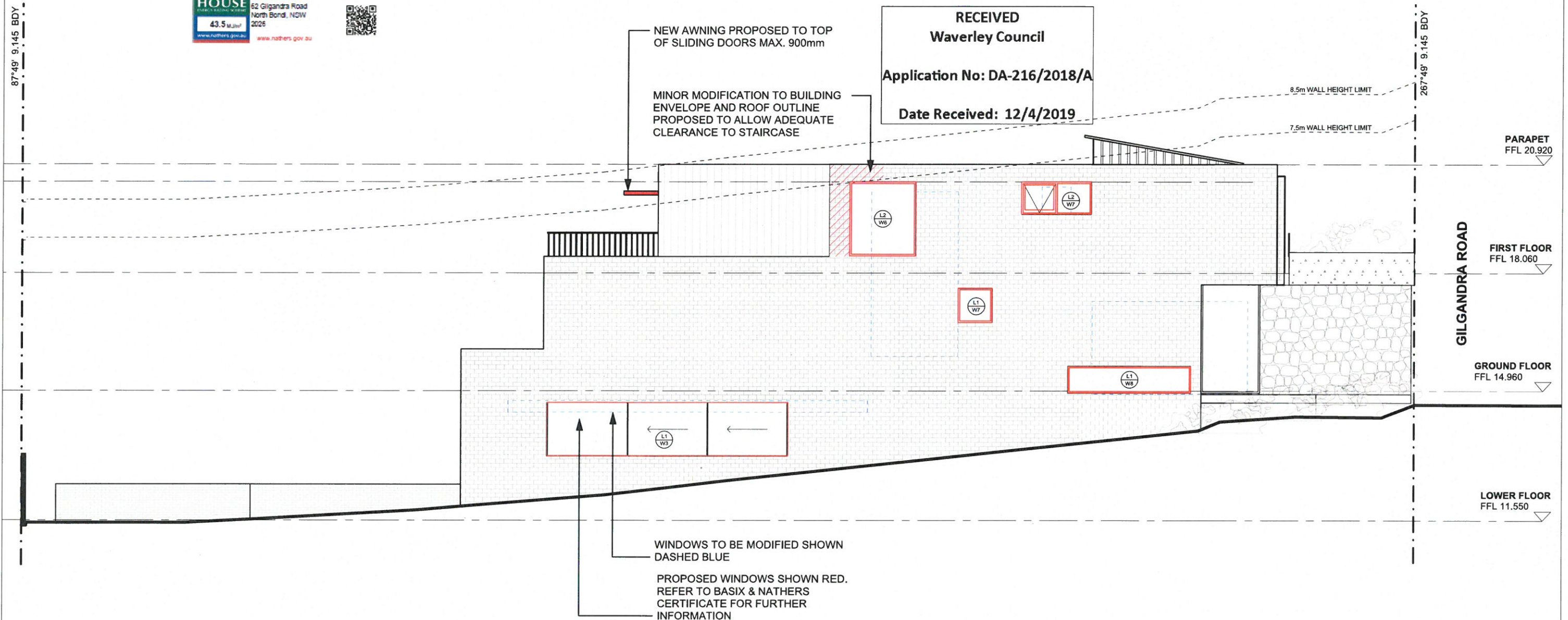
ADDRESS:
62 GILGANDRA ROAD
NORTH BONDI 2026

| | | |
|---------------------|--|-----------|
| DRAWN BY: FD | SCALE: 1:100 | REVISION: |
| CHECKED BY: TQ | ORIGINAL DRAWING @A1 SIZE. A4 REDUCTION: 35.35%. | A |
| TYPE: \$4.55 | DWG DATE: January 2019 PLOT DATE: 11/4/19 | |

REVISION: **A**

Certificate no.: 0002830/107-01
 Assessor Name: Ian Fry
 Accreditation no.: VIC:EDAV/12/1441
 Certificate date: 10 Apr 2019
 Dwelling Address: 62 Gilgandra Road North Bondi, NSW 2026
 www.nathers.gov.au

6.7
NATIONWIDE HOUSE
 ENERGY RATING 4.5
 43.5 M²



| MATERIALS LEGEND AND IMAGES | BR/P | PAINTED BRICK WHITE | OFC | OFF FORM CONCRETE NATURAL FINISH | LIGHTWEIGHT METAL MESH PRIVACY SCREEN | CL/P | SCYON CLADDING PAINTED WHITE | STN | WHITE SANDSTONE WALL CLADDING |
|-----------------------------|------|---------------------|-----|----------------------------------|---------------------------------------|------|------------------------------|-----|-------------------------------|
| | | | | | | | | | |

NOTE

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M/SQ

QUINTON MARGAULT SMUSKOWITZ ARCHITECTS PTY LTD

313/77 Dunning Avenue Rosebery NSW 2018
 P: 02 9662 3500 www.masqarchitecture.com
 nominated architect Ted Quinton - reg no 6880

PROJECT: 62 GILGANDRA ROAD

CLIENT: JONATHAN & JANET BROWN

ADDRESS: 62 GILGANDRA ROAD NORTH BOND 2026

DRAWING: WEST ELEVATION

JOB NO: 0858

DWG NO: A3.02

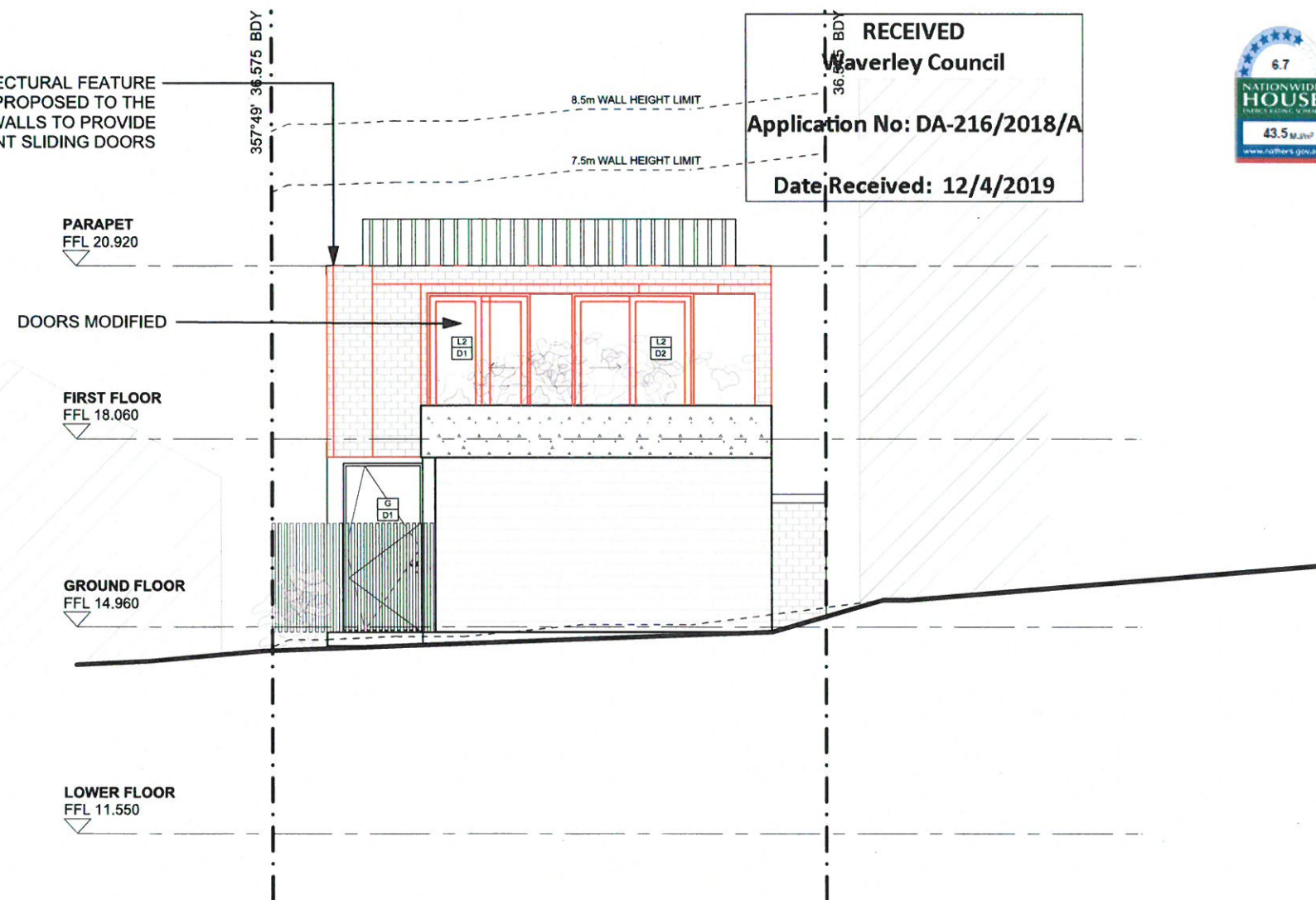
REVISION: A

DRAWN BY: FD SCALE: 1:100

CHECKED BY: TQ ORIGINAL DRAWING GAY SEE. A4 REDUCTION: 35.35%

TYPE: S4.55 DWG DATE: January 2019 PLOT DATE: 11/04/19

NEW ARCHITECTURAL FEATURE
ELEMENT PROPOSED TO THE
FACADE. WALLS TO PROVIDE
PRIVACY TO FRONT SLIDING DOORS



| MATERIALS LEGEND AND IMAGES | BR/P PAINTED BRICK WHITE | OFC OFF FORM CONCRETE NATURAL FINISH | LIGHTWEIGHT METAL MESH PRIVACY SCREEN | CL/P SCYON CLADDING PAINTED WHITE | STN WHITE SANDSTONE WALL CLADDING |
|-----------------------------|-----------------------------|--|--|---|---|
| | | | | | |

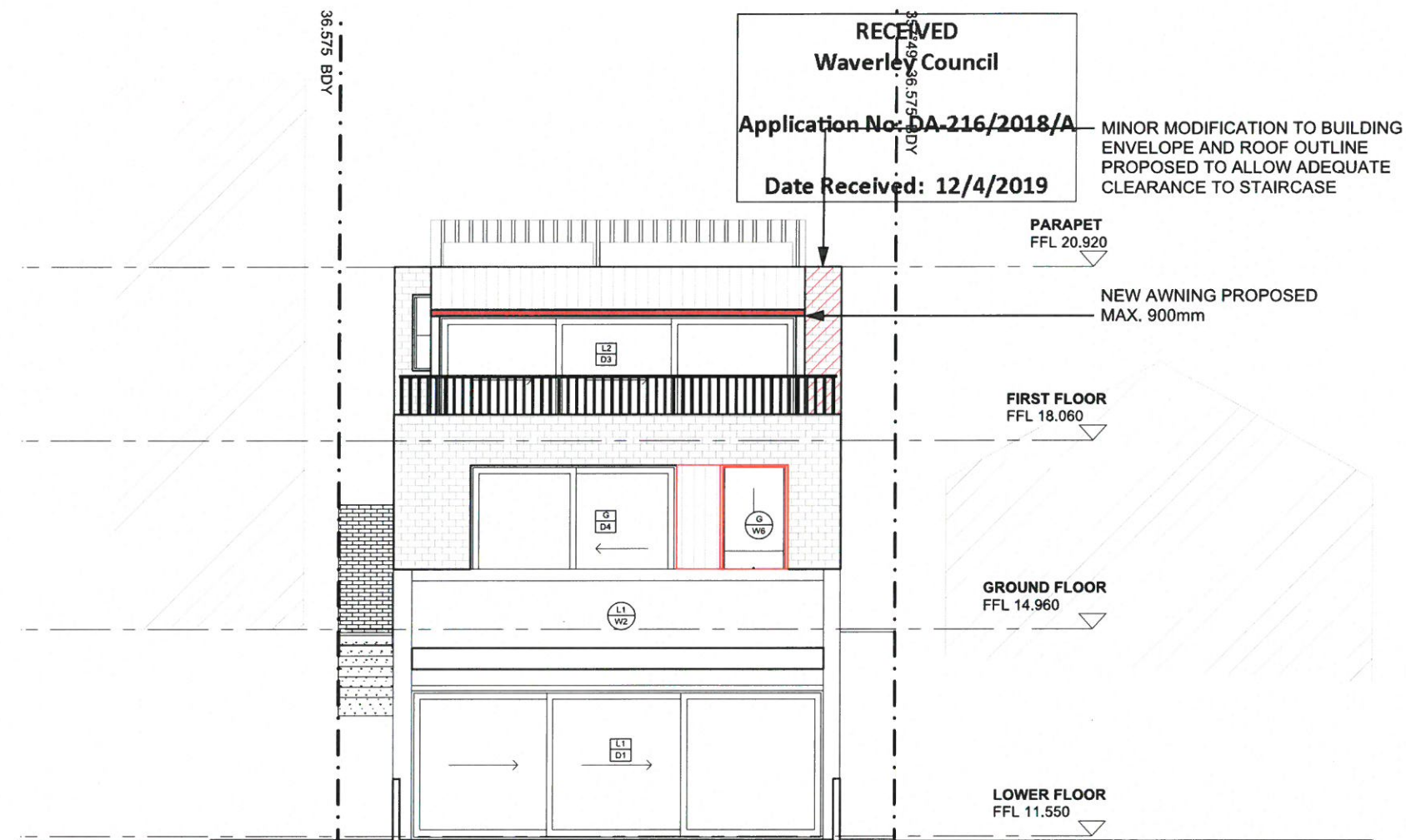
| | | | |
|---|----------|------------------------|----|
| NOTE | | | |
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| A | 11/04/19 | FOR COUNCIL SUBMISSION | FD |
| No. | Date | REVISION | By |

M/SQ
QUINTON MARGALIT SMUSKOWITZ ARCHITECTS PTY LTD

313/77 Dunning Avenue Rosebery NSW 2018
P: 02 9662 3500 www.masqarchitecture.com
nominated architect Ted Quinton - reg no 6880

PROJECT:
62 GILGANDRA ROAD
CLIENT:
JONATHAN & JANET BROWN
ADDRESS:
62 GILGANDRA ROAD
NORTH BONDI 2026

| | | |
|-----------------------------------|--------------------|--|
| DRAWING: WEST ELEVATION | | JOB NO: 0858 |
| DRAWN BY: FD | | DWG NO: A3.02 |
| CHECKED BY: TO | | REVISION: A |
| TYPE: S4.55 | SCALE: 1:100 | ORIGINAL DRAWING (A1) SIZE: A4 REDUCTION: 35.35% |
| DWG DATE: January 2019 | PLOT DATE: 11/4/19 | |



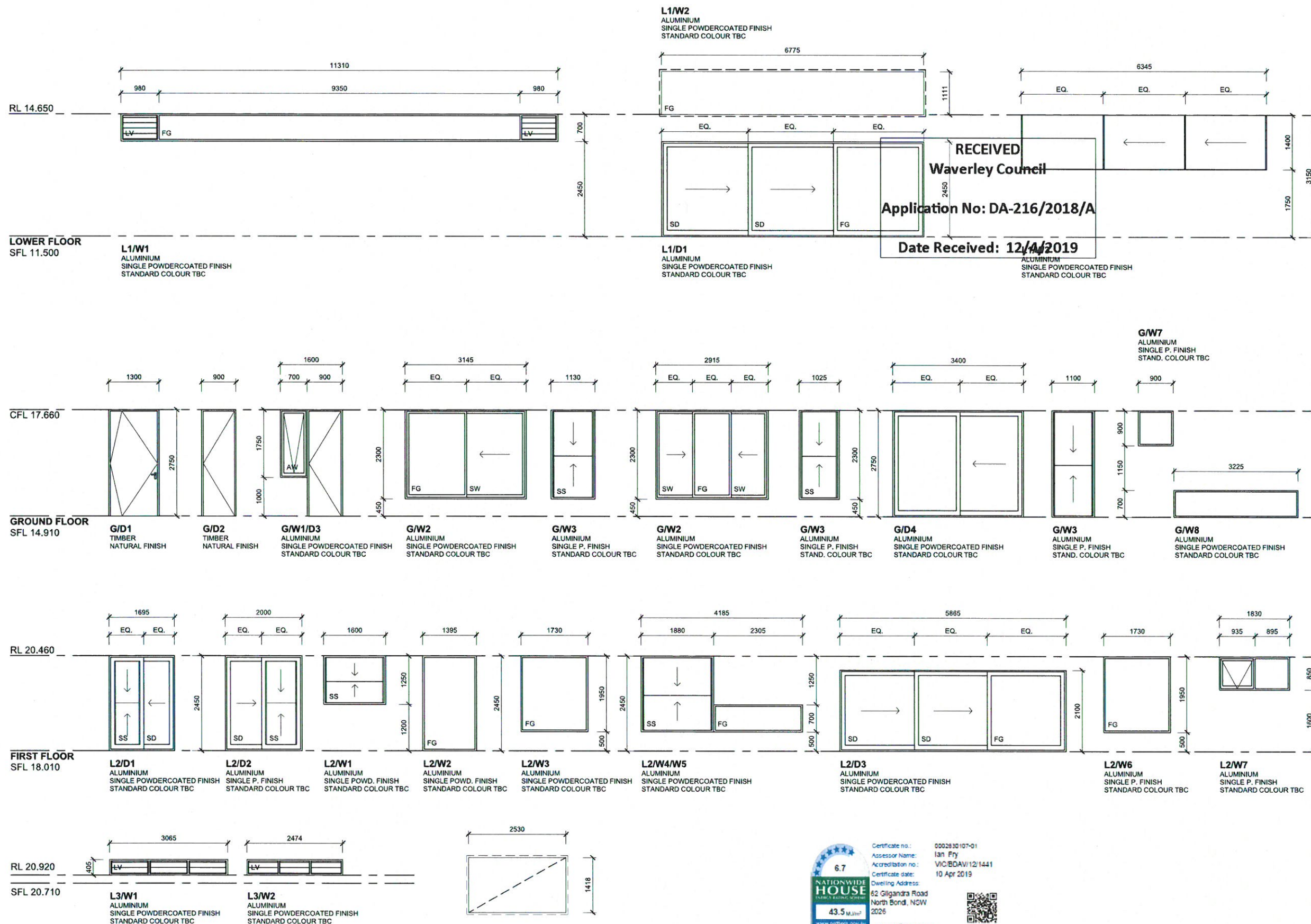
| MATERIALS LEGEND AND IMAGES | BR/P PAINTED BRICK WHITE | OFC OFF FORM CONCRETE NATURAL FINISH | LIGHTWEIGHT METAL MESH PRIVACY SCREEN | CL/P SCYON CLADDING PAINTED WHITE | STN WHITE SANDSTONE WALL CLADDING |
|-----------------------------|-----------------------------|--|--|---|---|
| | | | | | |

| | | | |
|--|----------|------------------------|----|
| NOTE | | | |
| Do not scale off this drawing. Use figured dimensions only. All building works must be set out by a registered surveyor prior to the commencement of construction. All works along boundary must be wholly within the site. Any existing encroachments must be notified immediately. Any works above existing encroachments must be wholly within the site. The builder shall check & verify all dimensions, notations and the fix on site prior to the commencement of any building and/or earthworks. Should any discrepancy between the documentation and any other written document directly related to this project arise, the builder shall notify the architect in writing, immediately for resolution. | | | |
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| A | 11/04/19 | FOR COUNCIL SUBMISSION | FD |
| No. | Date | REVISION | By |

M/SQ
QUINTON MARGALIT SMUSKOWITZ ARCHITECTS PTY LTD
313/77 Dunning Avenue Rosebery NSW 2018
P: 02 9662 3500 www.masqarchitecture.com
nominated architect Ted Quinton - reg no 6880

PROJECT:
62 GILGANDRA ROAD
CLIENT:
JONATHAN & JANET BROWN
ADDRESS:
62 GILGANDRA ROAD
NORTH BONDI 2026

| | | |
|------------------------------------|---|---------------|
| DRAWING: NORTH ELEVATION | | JOB NO: 0858 |
| DRAWN BY: FD | | DWG NO: A3.04 |
| CHECKED BY: TO | | REVISION: A |
| TYPE: S4.55 | SCALE: 1:100 ORIGINAL DRAWING (A1) SIZE: A4 REDUCTION: 35.35% DWG DATE: January 2019 PLOT DATE: 11/04/19 | |



LEGEND

| OPENING TYPE | |
|--------------|-------------------------------|
| AW | AWNING WINDOW |
| AAW | AUTOMATED AWNING WINDOW |
| SS | SASHLESS WINDOW (REF: ANEETA) |
| D | DOOR |
| DH | DOUBLE HUNG WINDOW |
| FFW | FIXED FRAMELESS GLASS WINDOW |
| FG | FIXED GLASS |
| HW | HINGED WINDOW |
| MH | MANHOLE |
| SD | SLIDING DOOR |
| SGD | SLIDING GLASS DOOR |
| STK | STACKING SLIDING DOOR |
| SK | SKYLIGHT |
| SW | SLIDING WINDOW |

ALUMINIUM WINDOWS AND DOORS
SINGLE POWDERCOATED FINISH; COLOUR TO BE MONUMENT COLOURBOND (MATT 1011) OR SIMILAR FROM STANDARD COLOUR RANGE. HARDWARE COLOUR TO BE STAINLESS STEEL. FOR FRAME DIMENSIONS, REFER TO THIRD DOCUMENT "DOORS & WINDOWS SECTION PROFILES" PROVIDED BY WINDOW MANUFACTURER AND APPROVED BY ARCHITECT.

EXTERNAL DOORS
CUSTOM DOOR TO MATCH EXTERNAL WALL CLADDING; NARROW VERTICAL WOODEN BOARDS PANEL SECURITY SHUTTER, DOORS TO COMPLY WITH RELEVANT BUSHFIRE ATTACK LEVEL (SEE SECTION BELOW). HANDLE AND LOCK TBC.

GLAZING
REFER TO BASIX CERTIFICATE. AS PER STANDARD, MINIMUM 638 LAMINATED GLASS. WINDOWS AND DOORS TO BE FITTED WITH TOUGHENED GLASS AND COMPLIANT WITH RELEVANT BUSHFIRE ATTACK LEVEL (SEE SECTION BELOW).

- NOTES**
1. ALL WINDOWS ARE VIEWED FROM THE OUTSIDE;
 2. ALL DIMENSIONS AND SIZES TO BE VERIFIED ON SITE BY WINDOW MANUFACTURER PRIOR TO MANUFACTURE;
 3. ALL GLAZING TO BE IN ACCORDANCE WITH AS2047;
 4. ALL WINDOWS + DOORS TO BE INSTALLED ON SUB-SILLS UNLESS OTHERWISE NOTED;
 5. ALL WINDOWS + DOORS TO HAVE FLYSCREENS UNLESS OTHERWISE NOTED.
 6. PLEASE REFER TO ALL ARCHITECTURAL DOCUMENTATION - PLANS, SECTIONS AND ELEVATIONS - AND TO PLAN AND SECTION DETAILS.

NOTE

Do not scale off this drawing. Use figured dimensions only. All building works must be set out by a registered surveyor prior to the commencement of construction. All works along boundary must be wholly within the site. Any existing encroachments must be notified immediately. Any works above existing encroachments must be wholly within the site. The builder shall check & verify all dimensions, notations and the like on site prior to the commencement of any building and/or earthworks. Should any discrepancy between the documentation and any other written document directly related to this project arise, the builder shall notify the architect in writing, immediately for resolution.

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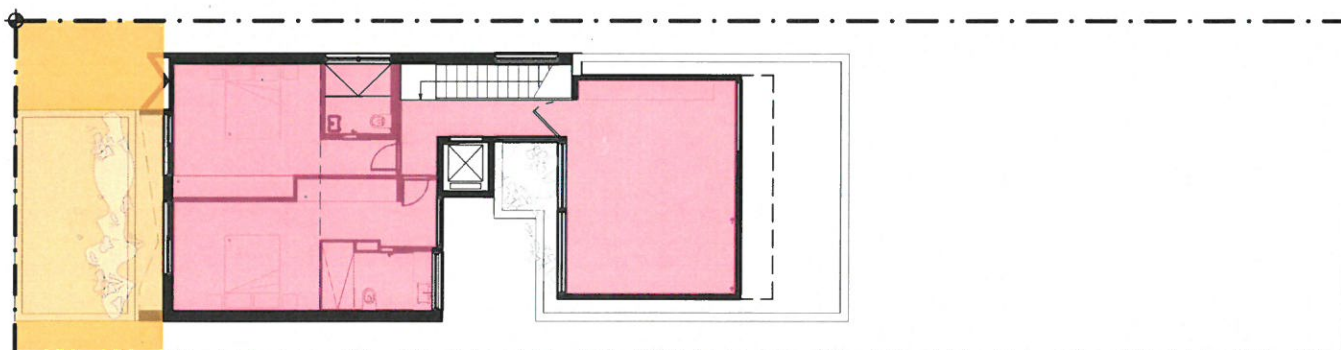
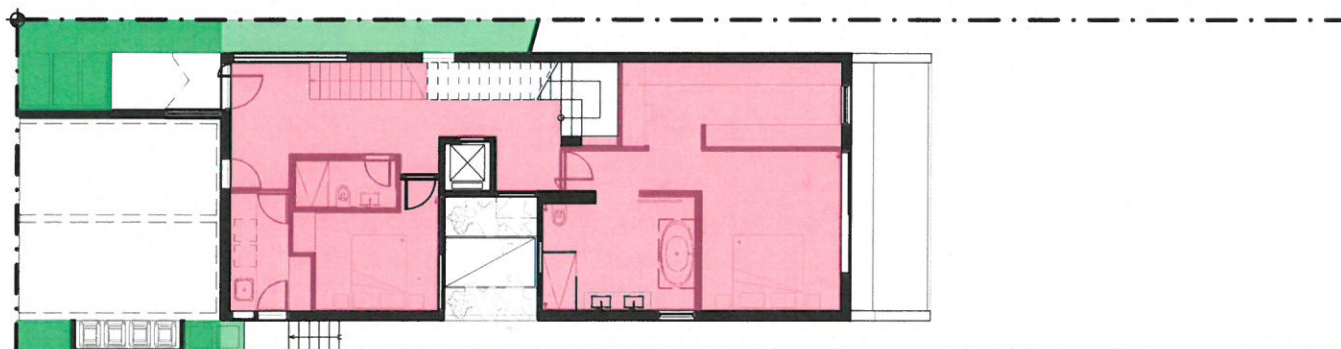
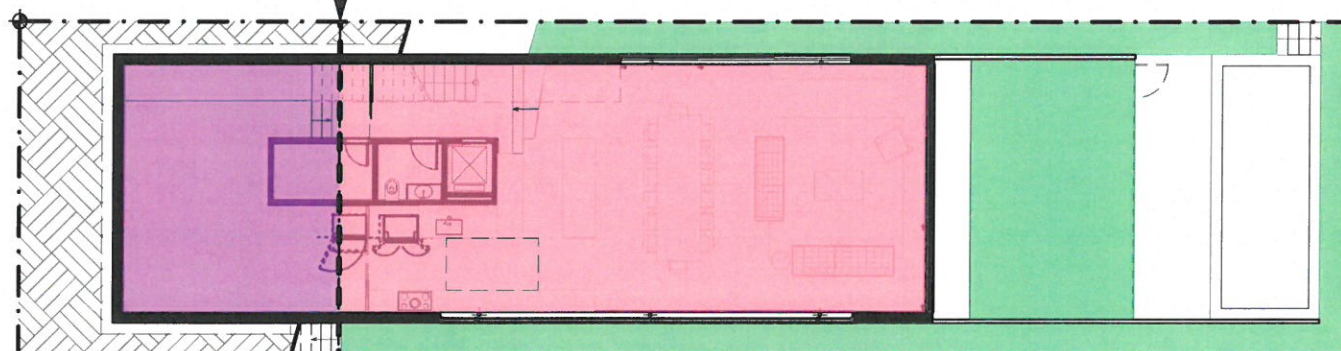
| No. | Date | REVISION | By |
|-----|----------|------------------------|----|
| A | 11/04/19 | FOR COUNCIL SUBMISSION | FD |

M/SQ
QUINTON MARGALIT SMUSKOWITZ ARCHITECTS PTY LTD
313/77 Dunning Avenue Rosebery NSW 2018
P: 02 9662 3500 www.masqarchitecture.com
nominated architect Ted Quinton - reg no 6880

PROJECT:
62 GILGANDRA ROAD
CLIENT:
JONATHAN & JANET BROWN
ADDRESS:
62 GILGANDRA ROAD
NORTH BONDI 2026

| | | |
|---|---------------------------|------------------|
| DRAWING: WINDOWS & DOORS SCHEDULE | | JOB NO: 0858 |
| DRAWN BY: FD | | DWG NO: A4.01 |
| CHECKED BY: TO | SCALE: 1:100 | REVISION: A |
| TYPE: \$4.55 | DWG DATE: January 2019 | |
| | PLOT DATE: 11/4/19 | |

BASEMENT LINE (DEFINED AS 'THE SPACE OF A BUILDING WHERE THE FLOOR LEVEL OF THAT SPACE IS PREDOMINANTLY BELOW GROUND LEVEL (EXISTING) AND WHERE THE FLOOR LEVEL OF THE STOREY IMMEDIATELY ABOVE IS LESS THAN 1 METRE ABOVE GROUND LEVEL (EXISTING)').



RECEIVED COMPLIANCE TABLE CALCULATION Waverley Council

| | | |
|--|-------------------|----------------------------|
| Application No: DA-216/2018/A | | |
| LOWER GROUND FLOOR AREA: | 149.10 sqm | (Approved: 76 sqm) |
| Date Received: 12/4/2019 | -40.50 sqm | (Basement) |
| GROUND FLOOR AREA: | 102.20 sqm | (Approved: 95 sqm) |
| FIRST FLOOR AREA: | 78.60 sqm | (Approved: 77 sqm) |
| TOTAL: | 289.40 sqm | (Approved: 248 sqm) |
| FSR: 289.40 sqm / 334.50 sqm = 0.86:1 | | |

| | | |
|------------------------------|-------------------|-----------------------|
| TOTAL SITE AREA: | 334.50 sqm | |
| OPEN SPACE: | 157.30 sqm | 47% (min. 40%) |
| LANDSCAPED AREA: | 101.50 sqm | 30% (min. 15%) |
| FRONT OF SITE AREA: | 37.10 sqm | |
| OPEN SPACE: | 13.60 sqm | 36% (min. 50%) |
| LANDSCAPED OPEN AREA: | 11.30 sqm | 83% (min. 50%) |



| | | | |
|---|----------|------------------------|----|
| NOTE | | | |
| Do not scale off this drawing. Use figured dimensions only. All building works must be set out by a registered surveyor prior to the commencement of construction. All works along boundary must be wholly within the site. Any existing encroachments must be notified immediately. Any works above existing encroachments must be wholly within the site. The builder shall check & verify all dimensions, notations and the like on site prior to the commencement of any building and/or earthworks. Should any discrepancy between the documentation and any other written document directly related to this project arise, the builder shall notify the architect in writing, immediately for resolution. | | | |
| This work is not to be copied or reproduced in any form without the prior written permission of the author. This document has been prepared solely for the purposes intended. | | | |
| A | 11/04/19 | FOR COUNCIL SUBMISSION | FD |
| No. | Date | REVISION | By |

M/SQ
QUINTON MARGALIT SMUSKOWITZ ARCHITECTS PTY LTD

313/77 Dunning Avenue Rosebery NSW 2018
P: 02 9662 3500 www.masqarchitecture.com
nominated architect Ted Quinton - reg no 6880

PROJECT:
62 GILGANDRA ROAD
CLIENT:
JONATHAN & JANET BROWN
ADDRESS:
62 GILGANDRA ROAD
NORTH BONDI 2026



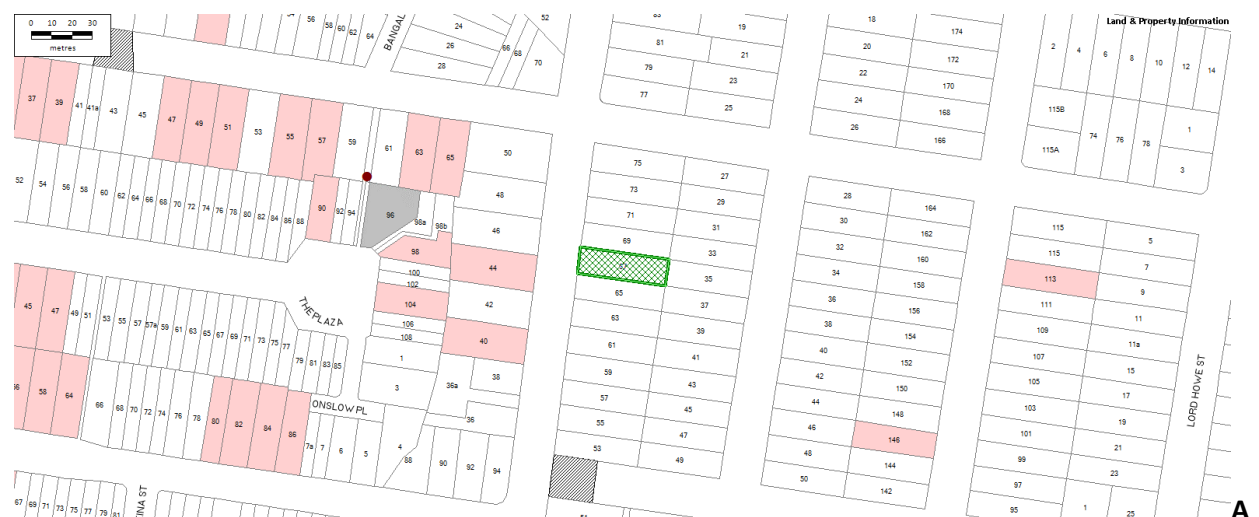
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|-----------------|--------------|-----------------------------|----------------------|
| DRAWING: | SECTION 4.55 | JOB NO: | 0858 |
| GFA CALCULATION | | DWG NO: | A6.02 |
| DRAWN BY: | FD | SCALE: | 1:100 |
| CHECKED BY: | TQ | ORIGINAL DRAWING (A3) SIZE: | A4 REDUCTION: 35.35% |
| TYPE: | S4.55 | DWG DATE: | January 2019 |
| | | PLOT DATE: | 11/04/19 |
| | | REVISION: | A |



Report to the Waverley Local Planning Panel

| | |
|---------------------------|--|
| Application number | DA-56/2019 |
| Site address | 67 Hardy Street, Dover Heights |
| Proposal | Alterations and additions to dwelling house |
| Date of lodgement | 22 February 2019 (amended on 20 May 2019) |
| Owner | M A Belin-Wayne |
| Applicant | R Nahum |
| Submissions | Two submissions received in relation to the original plans |
| Cost of works | \$1,000,000 |
| Issues | Non-compliance with FSR development standard; side setback; landscaping and swimming pool. |
| Recommendation | That the application be APPROVED subject to conditions of consent. |

Site Map



1. PREAMBLE

1.1 Site And Surrounding Locality

A site visit was carried out on 1 April and 2 September 2019.

The site is described as Lot 18 DP 11822 and is known as 67 Hardy Street, Dover Heights. The site has a frontage of 12.8m to the eastern side of Hardy Street and an area of 558.9m². The site has a fall from the front to the rear of around 3.2m. Located on the site is a part two, part three storey dwelling house with a single garage at the front excavated into the site. The dwelling house is located well above street level.

Adjoining the site to the north is a two storey dwelling house and to the south is a part one, part two storey dwelling house. To the rear are two storey dwelling houses and opposite are dwelling houses and associated garages. The locality is residential in nature, with mainly dwelling houses and garages built up to the front boundary.



Figure 1: Site viewed from Hardy Street.



Figure 2: Site viewed from rear.

1.2 Relevant History

The relevant development history of the site is as follows:

- L-156/2002 - Approved 27 September 2002
First floor alterations and additions to dwelling house.
- DA-156/2002/A - Approved 20 February 2007
Modification to approved alterations and additions to dwelling house.
- DA-156/2002/B - Approved 11 September 2013
Modification to include retaining wall and retain existing side entry.

In terms of the subject application, the application was deferred on 2 April 2019 to provide the applicant the opportunity to amend the proposal in light of issues raised in the preliminary assessment, as follows:

- FSR and a clause 4.6 variation request;
- The location of the lift shaft on the boundary breaks the DCP setback requirement and should be reviewed;
- Lift specifications, especially noise;
- Privacy impacts of swimming pool and is contrary to the objectives of C2 2.10(b) and (c) of the Waverley DCP Amendment 6;
- The ancillary building, being the cabana exceeds the maximum height limits; and
- Details and compliance regarding landscaping.

Amended plans and information were received on 20 May and 10 September 2019 and form the assessment of this application.

1.3 Proposal

Development consent is sought to carry out the following works to the site:

- Extend the excavation at the front of the site and enlarge the single garage to a double, with a garbage storage room and lift access to upper levels;
- Internal alterations to the dwelling house;
- Landscape areas over the garage and basement excavation;
- Alterations to the front entry and portico;
- Additions to the master bedroom on first floor;
- Alterations and some additional windows
- Lift;
- Alteration to the roof materials; and
- Construct a pool with privacy screens.

These amended plans were publicly exhibited and the plans did not attract any submissions.

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 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

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

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 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 |
|---|----------------|--|
| Part 1 Preliminary | | |
| 1.2 Aims of plan | Yes | The proposal is consistent with the aims of the plan. |
| Part 2 Permitted or prohibited development | | |
| Land Use Table R2- Low Density Residential Zone | Yes | The proposal is defined as a 'dwelling house', which is permitted with consent in the R2 zone. |
| Part 4 Principal development standards | | |
| 4.3 Height of buildings <ul style="list-style-type: none"> 8.5m | Yes | <p>The proposed additions do not extend higher than the existing building height (that is measured to the top of balustrades surrounding the existing roof terrace).</p> <p>The highest point of the proposed works (i.e. the enclosure of the rear first floor terrace for an ensuite bathroom) would have an overall building height of 6.7m. The 'like for like' replacement of the existing pergola roof over the front uppermost terrace does not change the overall building height of the existing development.</p> |
| 4.4 Floor space ratio <ul style="list-style-type: none"> 0.5:1 or 279.5m² | No | <p>The existing dwelling house has a gross floor area (GFA) of 356m², which achieves a floor space ratio (FSR) of 0.63:1; an exceedance of 76.5m².</p> <p>The proposal increases the GFA of the dwelling house by 41m² to a total GFA of 397m², which achieves a FSR of 0.71:1. The resultant altered dwelling house will exceed the development standard by 117.5m² or 42%.</p> |
| 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. |
| Part 5 Miscellaneous provisions | | |
| 5.1 Relevant consent authority | Yes | Waverley Council is the consent authority. |
| Part 6 Additional local provisions | | |
| 6.2 Earthworks | Yes | A Geotechnical Report has been submitted with the application and its recommendations will have effect by way of conditions of consent. |

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.

The site is subject to a maximum floor space ratio control of 0.5:1 (279.5m²). The proposed development has a FSR of 0.71:1, exceeding the standard by 117.5m² and equating to a 42% variation.

It should be noted that the existing dwelling house already exceeds the FSR of 0.5:1 by 76.5m² and the additional proposed floor space is 41m². The additional floor space is located mainly as infill of existing balconies and is contained within the existing building envelope.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the 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.

Applicants 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 height of the building is consistent with adjoining properties and other development in the area and the additional floor space bears no added impact on scale and bulk of the dwelling house.
 - (ii) The bulk and scale of the dwelling house is consistent with the streetscape.
 - (iii) The front setback (where the majority of the proposed additional floor space is proposed) complies with the DCP requirement and remains consistent with the front setback of the adjoining sites and with the pattern of front setbacks.
 - (iv) The proposal retains the existing rear setback as the additional floor area is an infill of a recessed balcony.
 - (v) The proposed additional floor space will not result in impacts on deep soil landscaped areas contained within the front and rear setbacks.
- b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The increase in the floor space will occur in only two locations:
 - The enclosure of part of the front first floor balcony to increase the size of the bedroom, this balcony already has two side walls and is roofed. Setbacks remain compliant.

- The enclosure of the rear semi-enclosed balcony which is centrally located between the two rear bedrooms.

The Objection adequately argues that the additional GFA will not result in adverse environmental impacts on the adjoining sites, and indeed the amended application has not attracted any objections. The location of the additions will not result in an excessive bulky appearance to the dwelling house, no additional overshadowing and given its elevated location will have limited viewing potential from public places.

Consideration of Applicants 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 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 the following justification 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.*

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 standard by referencing one of the tests/justifications under *Wehbe v Pittwater Council* (2007) 156 LGERA 446. The applicant has addressed how the proposal achieves the objectives of the development standard despite the non-compliance encountered and this is explained in detail below. The proposal will have a similar visual bulk to adjoining and nearby dwelling houses. The elevated nature of the dwelling house also limits the street appearance of the dwelling house and the additional GFA is unlikely to be discernible.

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 standard and the objectives for development within the zone in which the development is proposed to be carried out including;

The objectives of the development standard and how the proposed development meets each objective are discussed as follows:

- (a) *to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,*

Objectives (a) is irrelevant in this instance as the site is located outside of the Bondi Junction Centre.

- (b) *to provide an appropriate correlation between maximum building heights and density controls,*

The proposal does not increase the actual and perceived overall building height given the additions are predominately infills of terraces and balconies. The existing development is viewed as three storeys from the street and the proposal maintains this street presentation of the development. The proposal effectively does not change the perceived building envelope of the existing development in this regard. Overall, the proposed development is consistent with objective (b).

- (c) *to ensure that buildings are compatible with the bulk, scale, streetscape and desired future character of the locality,*

The proposal will not discernibly alter the perceived building bulk and scale of the existing development. Therefore, the development will remain consistent with the prevailing built form character of the Dover Heights locality. Overall, the proposed development is consistent with objective (c).

- (d) *to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality.*

Given the proposal does not discernibly alter the building envelope of the existing development, the proposal will not result in additional or exacerbate existing impacts arising from the development upon the amenity of neighbouring properties and the locality in terms of view loss impact, overshadowing and privacy. The perceived bulk and scale of the development remains consistent with those of the built form character of Dover Heights. Overall, the proposed development is consistent with objective (d).

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.*

The applicant has justified the non-compliance by arguing that the proposal improves the functionality and layout of the existing dwelling that are specifically sought by a section of the community within the low density residential environment of Dover Heights. This justification satisfies the first objective of the zone, which is the only relevant objective for this development. The second objective relates to land uses other than residential and is irrelevant to the assessment of this application.

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 cl 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 the FSR standard and the R2 Low Density Residential zone.

2.1.4 Waverley Development Control Plan 2012 (Amendment 6)

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 | A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction. The waste and recycling storage area is located in an area convenient for users of the site. |
| 2. Ecologically sustainable Development | Yes | Given the low scale of this development, the proposal is considered to address the objectives of Part B2 of the DCP. |
| 8. Transport | Yes | The proposed garage has a satisfactory streetscape impact, following the guidance of the DCP controls and is similar to others located in the embankment. The vehicular access to the site is limited to one cross over, is satisfactorily located and complies with the minimum required dimensions and other technical requirements. |
| 14. Excavation | Yes | The proposed excavation does not add to the scale of the building or result in the loss of visible naturally occurring sandstone. |

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

The proposal is defined as a “Dwelling House” in the LEP.

| Development Control | Compliance | Comment |
|--|------------|--|
| 2.0 General Objectives | | |
| <ul style="list-style-type: none"> • Appropriate scale • Does not detract from amenity of other dwellings or view corridors • ESD has been considered • Alterations & additions are sympathetic in bulk & scale to the character of the area • High design standard | Yes | The proposal does not contravene the general objectives of this part of the DCP. |
| 2.2 Setbacks | | |
| 2.2.1 Front and rear building lines | Yes | The front and rear building lines are maintained. |

| Development Control | Compliance | Comment |
|---|------------|---|
| <ul style="list-style-type: none"> Predominant front building line Predominant rear building line at each floor level | | |
| 2.2.2 Side setbacks <ul style="list-style-type: none"> Minimum of 0.9m | No | <p>The proposed basement excavation and lift shaft are proposed up to the southern boundary of the site.</p> <p>The pool concourse is proposed up to the southern and northern side boundaries.</p> <p>See discussion below.</p> |
| 2.3 Streetscape and visual impact | | |
| <ul style="list-style-type: none"> New development to be compatible with streetscape context | Yes | The proposal maintains the overall character of the existing dwelling house and is compatible with other development in the street. |
| <ul style="list-style-type: none"> Replacement windows to complement the style & proportions of existing dwelling | Yes | Alterations are complementary to the original contemporary design of the existing development. |
| <ul style="list-style-type: none"> Significant landscaping to be maintained. | Yes | There is no significant landscaping on the site. |
| 2.5 Visual and acoustic privacy | | |
| <ul style="list-style-type: none"> Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design. | Yes | Windows in the additions are minimal and not directly opposite windows of adjoining dwellings. The majority of windows coloured across the elevations are a replacement of existing windows with the exception of the windows across the southern elevation serving the laundry and study on ground floor (denoted as 'W04' and 'W05' on the plans) and the bedroom on first floor level (denoted as 'W12' on the plans). These windows serve passive and non-habitable rooms and therefore are not expected to adversely affect the visual privacy of the adjoining property to the south of the site. |
| <ul style="list-style-type: none"> External stairs are not acceptable. | N/A | Existing balconies are being reduced by the additional floor area proposed. |
| <ul style="list-style-type: none"> Maximum size of balconies: <i>10m² in area</i> <i>1.5m deep</i> | Yes | The roof terrace is existing and not part of the application. |
| <ul style="list-style-type: none"> Roof tops to be non-trafficable unless | N/A | |

| Development Control | Compliance | Comment |
|---|------------|---|
| predominant in the immediate vicinity | | |
| 2.6 Solar access | | |
| <ul style="list-style-type: none"> Minimum of three hours of sunlight to living areas and principal open space areas on 21 June Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June | Yes | No change to solar access to neighbours as additional floor area is infill and does not discernibly add to the building envelope of the existing development. |
| 2.7 Views | | |
| <ul style="list-style-type: none"> Views from the public domain are to be maintained Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks. | Yes | The proposed lift shaft (in its original position) caused concern for the adjoining neighbour at 65 Hardy Street in terms of impact on views. The amended plans have addressed this matter as the lift shaft has been set back further into the site and no longer extends past the front building line of the existing dwelling house. |
| 2.8 Car parking | | |
| 2.8.1 Design Approach | | |
| <ul style="list-style-type: none"> Parking only allowed where site conditions permit | Yes | Parking is currently provided on-site in an existing single garage excavated into the site. |
| <ul style="list-style-type: none"> Designed to complement the building and streetscape | Yes | Retains existing sandstone appearance. |
| <ul style="list-style-type: none"> Car parking structures to be behind the front building line | No | Basement parking is proposed within the front building line area. Parking exists in an excavated garage on the site. See discussion below. |
| <ul style="list-style-type: none"> Driveways are to be located to minimise the loss of on street parking | Yes | No increased loss. |
| <ul style="list-style-type: none"> Parking to be provided from secondary streets or lanes where possible. | N/A | |
| 2.8.2 Parking rates | Yes | Two spaces are provided in lieu of the current single space. |

| Development Control | Compliance | Comment |
|--|--|--|
| <p><i>Maximum rates:</i></p> <ul style="list-style-type: none"> 1 space for 2 or less bedrooms 2 spaces for 3 or more bedrooms | | |
| <p>2.8.3 Location</p> <ul style="list-style-type: none"> Behind front building line for new dwellings Existing development to be in accordance with the hierarchy of preferred car parking locations | No | The spaces are located within the front building line. They are, however, located in excavation and are not visible from the street. The street appearance will remain unchanged. See discussion below. |
| <p>2.8.4 Dimensions</p> <ul style="list-style-type: none"> 5.4m x 2.4m per vehicle | Yes | The spaces meet the minimum size dimensions. |
| <p>2.8.5 Driveways</p> <ul style="list-style-type: none"> Maximum of one per property Maximum width of 3m at the gutter (excluding splay) Crossings not permitted where 2 on street spaces are lost | <p>Yes</p> <p>Existing</p> <p>N/A</p> | The proposal utilises the existing single gutter crossing. |
| 2.9 Landscaping and open space | | |
| <ul style="list-style-type: none"> Overall open space: 40% of site area (223.5m²) Overall landscaped area: 15% of site area (83.8m²) Minimum area of 25m² for private open space Front open space: 50% of front building setback area (81.9m²) Front landscaped area: 50% of front open space provided (41m²) Outdoor clothes drying area to be provided. | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p> | <ul style="list-style-type: none"> The proposal has an overall open space area of 369.8m² (66.2% of site area). The proposal has an overall landscaped area of 164.5m² (29.4% of site area). The site provides for more than 25m² of private open space area. 100% of the front building setback area is open. 39% of 36.2m² of front landscaped area (i.e. deep soil). See discussion. Adequate space is required in the rear yard to provide an outdoor clothes drying area. |

| Development Control | Compliance | Comment |
|--|------------|--|
| 2.10 Swimming pools and spa pools | | |
| <ul style="list-style-type: none"> Located in the rear of property | Yes | The pool is located at the rear of the site. |
| <ul style="list-style-type: none"> Pool decks on side boundaries must consider visual privacy | Yes | The amended proposal provides side walls/ privacy screens which have not been objected to by the neighbours. |

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

Excavation and Lift Well

The basement access from the garage to the lift shaft is provided in excavation up to the southern boundary. The lift shaft has been located further back in the site than originally proposed to meet the requirements of the adjoining neighbour in relation to maintaining their views. A geotechnical report was submitted with the application, which includes the recommendations from the report to ensure safe excavation techniques are employed should be adopted and recommended as conditions of consent. This would address any matters arising regarding site stability due to excavation.

Swimming Pool

The pool is located at the rear of the site. In this area there is a section of exposed rock, which whilst not a significant feature on the site has caused the applicant to locate the pool above ground with a concourse height of 1.5m. The concourse is located around the pool and up to the northern and southern side boundaries of the site. Screen walls have been provided at the ends of the concourse to assist with privacy of the neighbour at 65 Hardy Street. To improve this situation and not allow people to go up to the corner of the wall and concourse edge, it is recommended that a planter be provided to the northern and southern ends of the concourse with planting to be maintained to assist with privacy to the adjoining sites. Existing neighbouring trees on the site to the east will provide adequate privacy to the adjoining Wallangra Road property.

Location of parking

The existing parking on the site is located within an embankment at the front of the property. The existing parking is a single garage constructed out of sandstone. The proposal utilises the same access and seeks to provide additional parking at basement level within the front building line. This area will not be visible from the street. Accordingly, as there will be no visual impact or visual domination of the front of the site by parking, no objection is raised to the location of the proposed parking.

Landscaping and outdoor drying area

The building has a substantial setback to Hardy Street of over 12m. The front landscaped area is elevated and not visible from the street and comprises rock with topsoil. The front open space area is also located over the proposed basement excavation for the car parking. The landscape design includes the introduction of a minor amount of additional topsoil and the re-landscaping of the area with a combination of planters and grassed areas. The additional fill at the front of the site will not impact neighbouring properties and will assist with providing sufficient soil depth for planting. The increase is variable but less than 300mm.

Given the compliance with other landscape criteria, the elevated location of the landscaped area, the nature of adjoining landscaped areas and the increased usability of the space and its improved amenity the variation to landscaped area at the front of the site is supported.

2.2 Impacts of the Development

The proposed development is capable of complying with the BCA.

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

The application was notified originally for 14 days in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

Two submissions were originally received from residents at 35 Wallangra Road and 65 Hardy Street.

The application was deferred and amended plans submitted. The applicant indicated that they discussed the proposal with the adjoining neighbours and amendments were made to the plans, specifically:

- the relocation of the lift shaft away from the view corridor enjoyed by 65 Hardy Street;
- clarification that the external eastern wall of the proposed infill of the rear first floor balcony would not extend higher than that the roof parapet;
- replacement of the green synthetic grass on the roof terrace to avoid glare to neighbours at 35 Wallangra Road.

The amended plans were re-notified and no objections were received. The neighbour at 35 Wallangra Road formally withdrew their objection as part of the process and it is assumed that the neighbour at 65 Hardy Street has had their concerns addressed by the amended plans.

2.5 Public Interest

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

3. REFERRALS

3.1 Driveways – Creating Waverley

Council's Traffic Engineer raised no objection and provided conditions of approval.

4. SUMMARY

The application seeks development consent for alterations and additions to the existing dwelling house and is in the form of mainly infill of existing partially enclosed balconies. The main issue is that the existing dwelling house already is in excess of the maximum FSR of 0.5:1 and the proposal seeks

to increase the floor space further. It is noted in support of the proposal that the additions are within the existing building envelope and will not detrimentally impact on the scale and bulk of the building.

A written request was made under clause 4.6 of Waverley LEP 2012 and the assessment finds the written request generally well-founded and sufficient to support the non-compliance with the FSR development standard.

The amended proposal will also not impact neighbouring properties and no objections were submitted in relation to the amended plans.

The application is referred to the Waverley Local Planning Panel as the development exceeds the FSR development standard by more than 10%.

The application has been assessed against the matters for consideration under section 4.15 of the Act, and is recommended for approval, subject to conditions of consent.

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
Senior Development Assessment Planner

Bridget McNamara
Manager, Development Assessment North

Date: 10 September 2019

Date: 12 September 2019

Reason for 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) The following architectural drawings prepared by R.D Nahum and known as Project No. 18.498:

| Plan No. | Plan description | Revision No / Date | Date received by Council |
|-----------------|---|---------------------------|---------------------------------|
| DA 0-7 | Existing + proposed site location plan | B October 2018 | 20 May 2019 |
| DA 1-7 | Existing + proposed garage floor plan | B October 2018 | 20 May 2019 |
| DA 2-7 | Existing + proposed lower ground floor plan | B October 2018 | 20 May 2019 |
| DA 3-7 | Existing + proposed ground floor plan | B October 2018 | 20 May 2019 |
| DA 4-7 | Existing + proposed first floor plan | B October 2018 | 20 May 2019 |
| DA 5-7 | Existing + Proposed North-East Elevation & Cross section A-A | B October 2018 | 20 May 2019 |
| DA 6-7 | Existing + Proposed South-West, North-West & South-East Elevation | B October 2018 | 20 May 2019 |

(b) BASIX Certificate;

(c) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

(d) Geotechnical Report prepared by JK Geotechnics. Reference 32068Zrpt dated 29 November 2018 and submitted to Council on 22 February, 2019. The recommendations in this report are to be applied to this consent.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments:

(a) Planter boxes shall be provided along the full extent of the northern and southern sides of the pool concourse with a minimum width of 900mm. The stair leading from the rear yard to the pool concourse shall be relocated accordingly. The purpose of this condition is to increase privacy to adjoining sites from the concourse and prevent casual overlooking from points close to the boundary.

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

3. ALTERATIONS AND ADDITIONS ONLY

This consent is for alterations and additions to the existing building only and should during the course of certification or construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment. This will require compliance with the planning controls, including SEPP (Building Sustainability Index: BASIX) 2004.

4. 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.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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.

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

6. 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.

7. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of \$26,650.00 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

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 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.

9. HOARDING REQUIRED

To ensure the site is contained during construction, if required a hoarding 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.

10. 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.

11. SWEPT WHEEL PATH DRAWINGS

Prior to issue of the Construction Certificate, swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, showing the swept wheel path of a vehicle entering and exiting each of the garage spaces shall be submitted to Council for the approval of the Executive Manager, Creating Waverley.

The swept wheel path drawings shall:

- a. Be drawn for the B85, standard design vehicle as described in AS/NZS 2890.1: 2004 Part 1 Off Street Car Parking.
- b. Show the minimum length of opening and clearances required at the property boundary to cater for the design vehicle swept wheel path.

12. 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).

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.

13. 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.

14. 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.

15. 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.

16. SANDSTONE WALL

The existing sandstone wall to Hardy Street 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. 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.

Details of the works, including provision for storage of stone if required and grade of matching stone, shall be provided for in the Construction Certificate plans to the satisfaction of the Principal Certifying Authority.

17. DILAPIDATION REPORTS

A Dilapidation report should be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. This action is designed to assist all parties should damage occur and is not a preventative action. The dilapidation reports should be completed and submitted to the relevant owner of the affected property, Council and the Principal Certifying Authority prior to undertaking any works that may cause damage

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 is not a condition of consent and cannot be used to prevent the commencement of works or prevent neighbouring buildings being damaged by the carrying out of the development.
- (c) 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.
- (d) Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

18. ON-SITE STORMWATER DETENTION DETAILS

On-Site Stormwater Detention (OSD) tank and its details are required to be submitted and approval by Council's Executive Manager, Creating Waverley prior to the issue of a Construction Certificate. Details to include dimensions, cross & long sections, top water level, details of discharge control pit, orifice plate including orifice diameter and depth of water above centreline of orifice etc. Please refer to the Waverley Council Water Management Technical Guidelines for more information.

19. BASIX

The undertakings provided in the BASIX Certificate and documentation 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 Regulation 2000 clause 97A and the above BASIX commitments are mandatory and cannot be modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

20. LANDSCAPED SLABS

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

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

21. 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.

22. 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.

23. CONSTRUCTION SIGNS

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

24. 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.

25. COMPLIANCE WITH SAFE WORK NSW

All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.

26. 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;

27. 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 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.

28. 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 400mm 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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

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.

34. NATIONAL CONSTRUCTION CODE (NCC)

All building work must be carried out in accordance with the requirements of the National Construction Code.

35. 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; and
- (f) 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.

36. CERTIFICATE OF SURVEY – LEVELS

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans.

37. STREET TREES TO BE RETAINED

No existing street trees shall be removed without Council approval, (other than those shown for approval in this consent, where relevant). 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.

38. 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.

39. VEHICULAR ACCESS - FINISHED LEVEL

The finished level at the property boundary on **both** sides of the vehicle crossing is to match the level of the existing concrete vehicle crossing.

40. 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) The finished level of the proposed pool/spa is not to exceed a maximum height of RL60.400;
- (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.

41. NO WORKS BEYOND BOUNDARIES

No portion of the proposed fence, including the footings, is to encroach beyond the boundaries of the subject property.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

42. FINAL OCCUPATION CERTIFICATE

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

43. STORMWATER MANAGEMENT

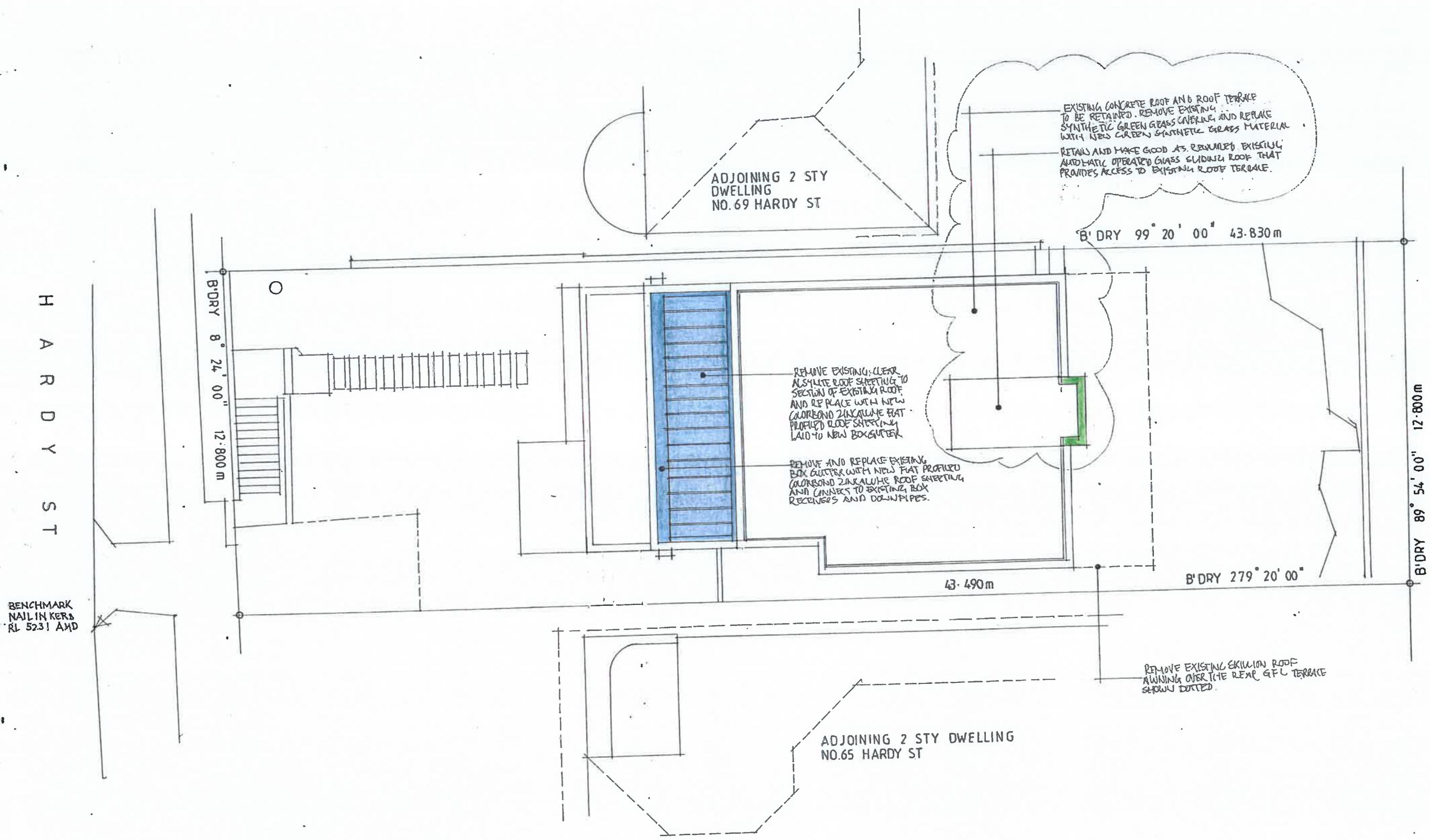
Prior to issue of an occupation certificate, certification is to be provided from a suitably qualified hydraulics engineer, that the stormwater system has been constructed in accordance with the approved stormwater management plans and to best engineering practice.

44. 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.



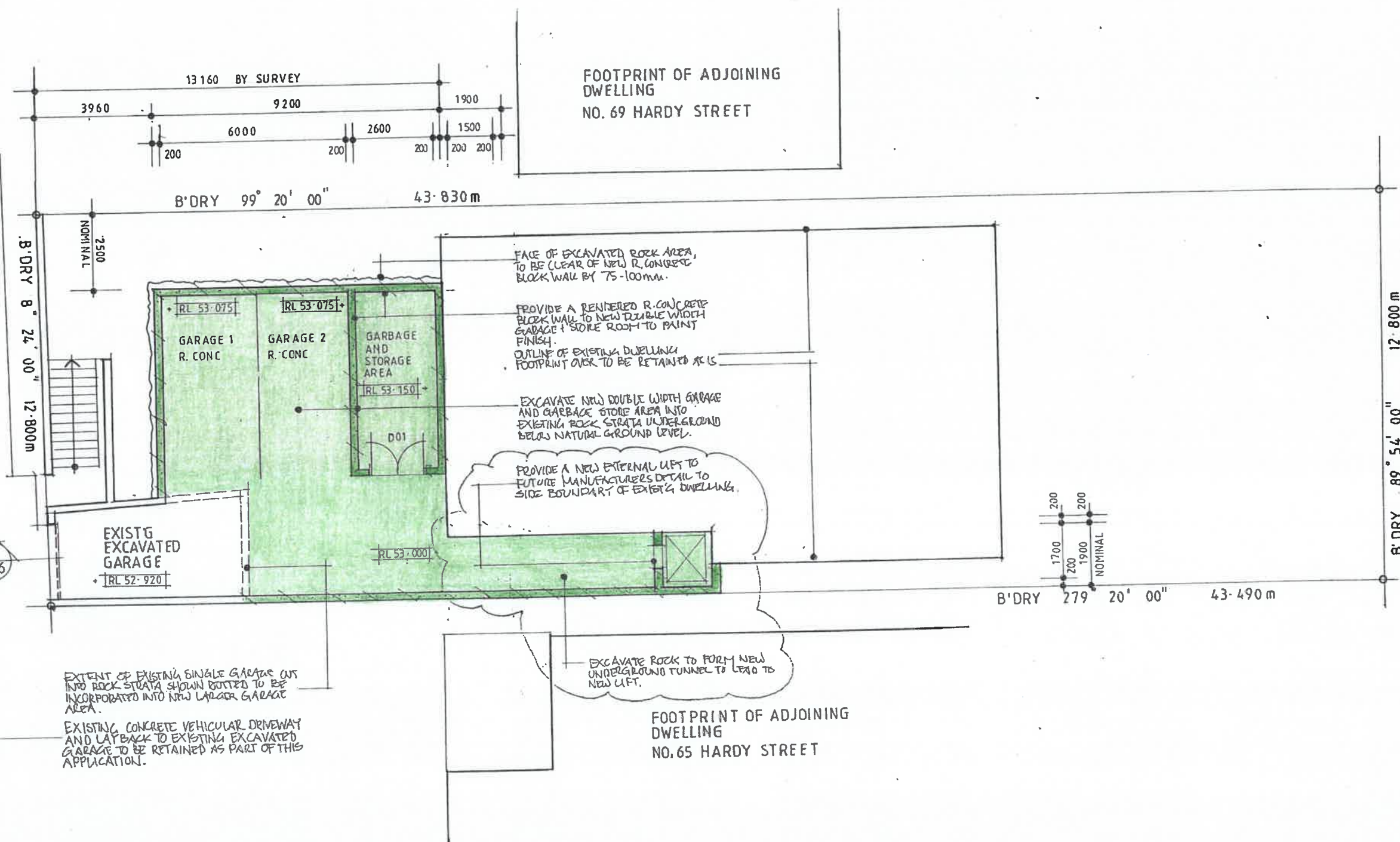
1 EXIST'G + PROPOSED
SITE LOCATION PLAN + ROOF PLAN
SCALE 1:100

SITE AREA 558.9 sqm, LOT 18 DP11822.

| | | | |
|-------------------|--------------------------------------|------------------------------|--|
| PROJECT NORTH | RD NAHUM ARCHITECT | PROJECT NO 18.498 | PROPOSED ADDITIONS AND ALTERATIONS TO NO. 67 HARDY STREET DOVER HEIGHTS, NSW. |
| | P.O. BOX 130 ROSE BAY NSW 2029 | DRAWING NO ISSUE DA 0-7.B | |
| | | DATE OCT 2018 | |
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1 EXISTING + PROPOSED
GARAGE FLOOR PLAN.
SCALE 1:100

SITE AREA 558.9 sqm
LOT 18, DP 118 22

ALL LEVELS SHOWN ON ARCH. DRAWINGS ARE TO A.H.D.

RECEIVED

Waverley Council

Application No: DA-56/2019

Date Received: 20/05/2019



R.D. NAHUM
ARCHITECT

P.O. BOX 130
ROSE BAY
NSW 2029

PROJECT NO
18.498
DRAWING NO ISSUE
DA1-7 B
DATE
OCT 2018

PROPOSED ADDITIONS
AND ALTERATIONS TO:
NO. 67 HARDY STREET
DOVER HEIGHTS, NSW.

H A R D Y S T R E E T

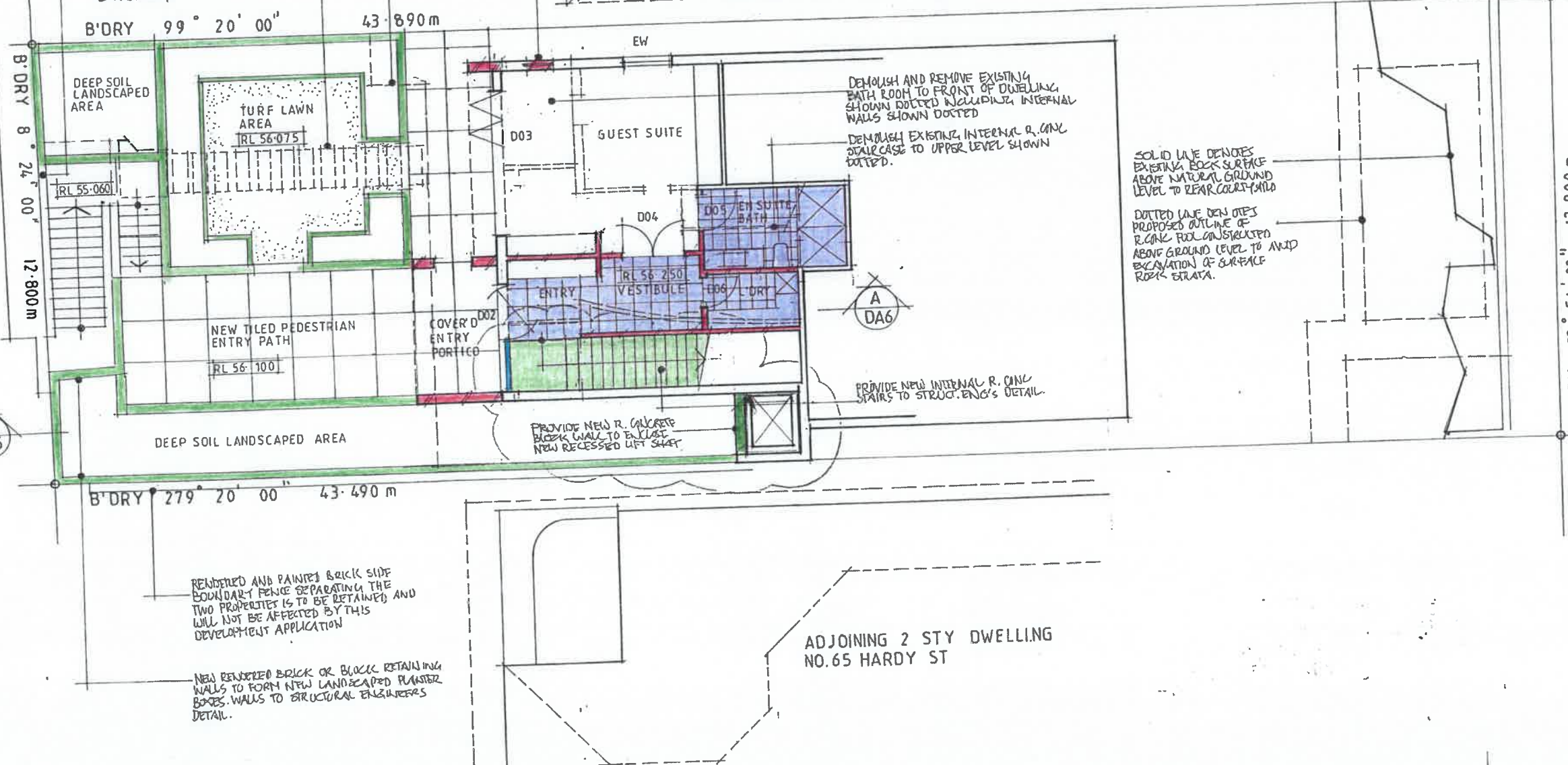
BRICK UP AND RENDER EXISTING WINDOW OPENING TO WINDOWS IN EX BATH ROOM SEEN TO BE STRIPPED OUT.

DEMOLISH AND REMOVE EXISTING TIMBER DECKING ADJACENT TO FRONT OF DWELLING SHOWN DOTTED

DEMOLISH AND REMOVE EXISTING PAVING STONES SHOWN DOTTED BELOW.

REMOVE EXISTING RUSTED WROUGHT IRON BALUSTRADE ABOVE FRONT BOUNDARY WALL. RAISE HEIGHT OF EXIST'G BOUNDARY WALL TO FORM NEW BALUSTRADE TO FRONT ENTRY STEPS.

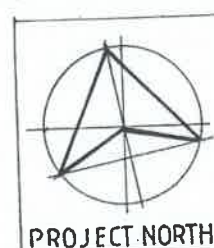
ADJ 2 STY DWELLING NO.69 HARDY ST



1 EXISTING + PROPOSED LOWER GROUND FLOOR PLAN
SCALE 1:100

SITE AREA 558.9 sqm LOT 18 DP 11822
ALL LEVELS SHOWN ON ARCH DRAWINGS ARE TO AHD

EXISTING + PROPOSED GROSS FLOOR AREA TO LGFL 80.5 sqm



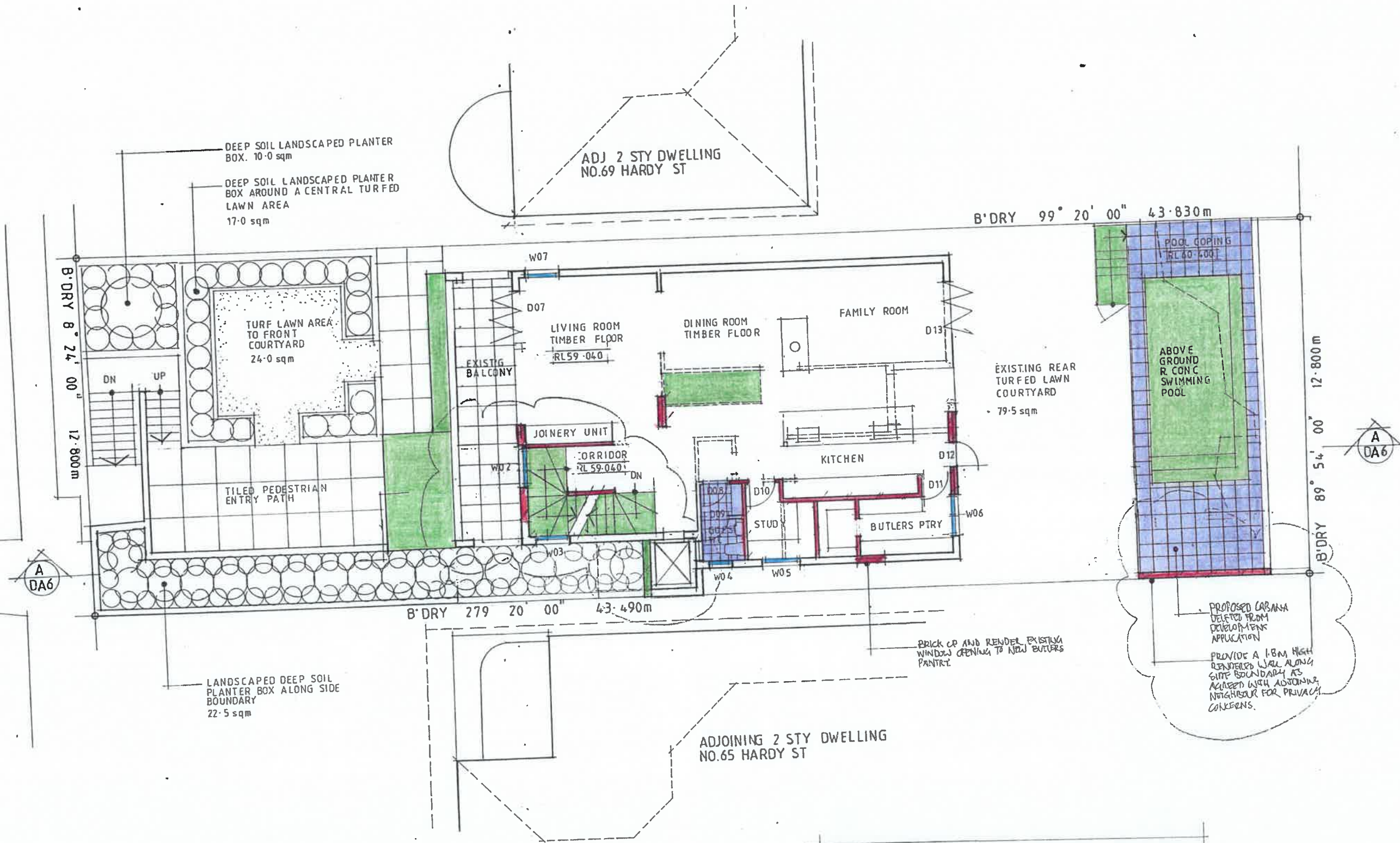
R D NAHUM
ARCHITECT
P.O. BOX 130
ROSE BAY
NSW 2029

PROJECT NO
18.498
DRAWING NO
DA 2-7
DATE
OCT 2018

PROPOSED ADDITIONS
AND ALTERATIONS TO
NO. 67 HARDY STREET
DOVER HEIGHTS, NSW

RECEIVED
Waverley Council
Application No: DA-56/2019
Date Received: 20/05/2019

H A R D Y S T R E E T



1 EXISTING + PROPOSED GROUND FLOOR PLAN

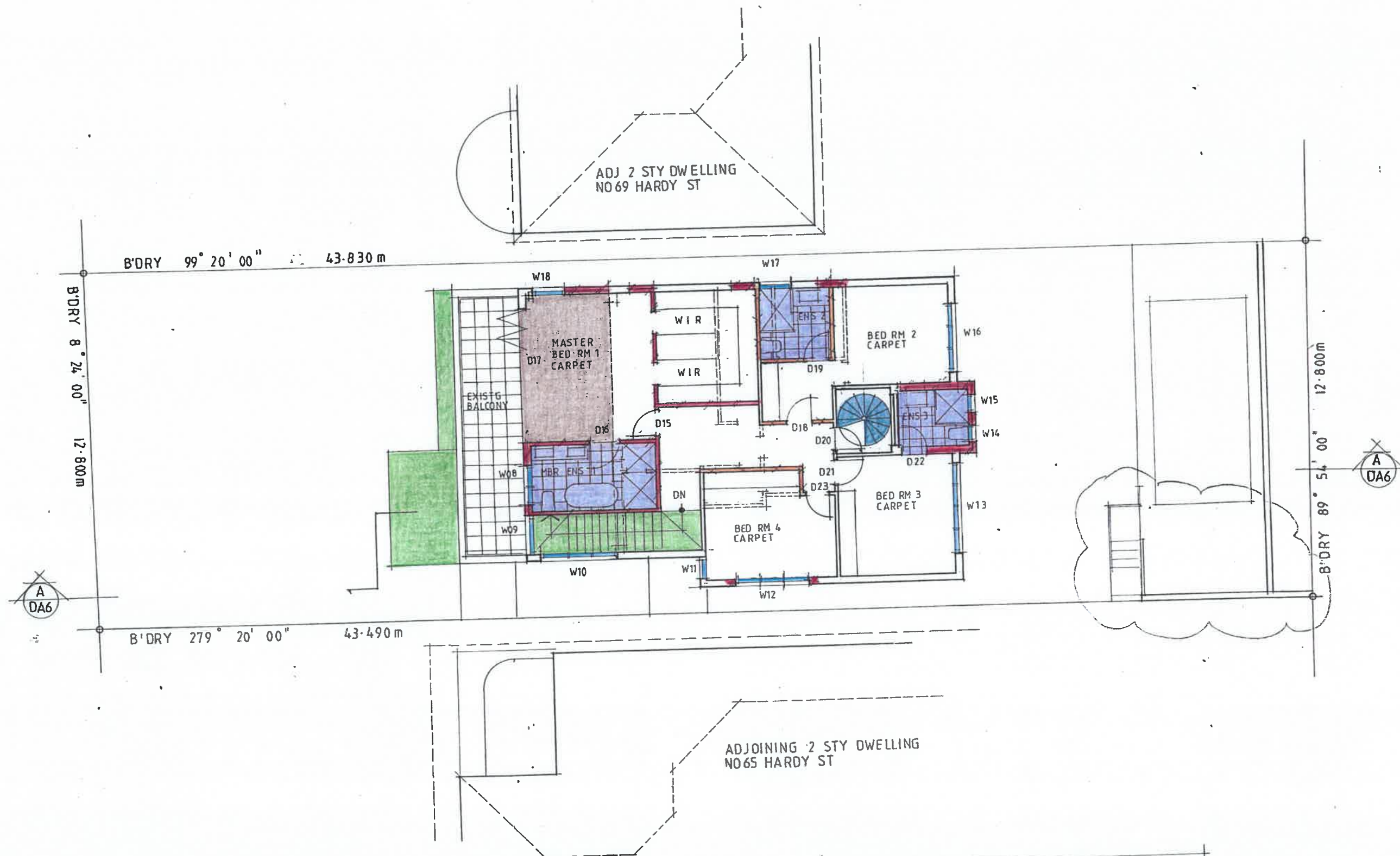
SCALE 1:100
 SITE AREA 558.9 sqm, LOT 18, DP 11822
 ALL LEVELS SHOWN ON ARCH DRAWINGS ARE TO AHD.

| | |
|----------------------------------|-----------|
| EXISTING GROSS FLOOR AREA TO GFL | 154.0 sqm |
| PROPOSED GROSS FLOOR AREA TO GFL | 158.5 sqm |

| | | | |
|-------------------|--|--|---|
| PROJECT NORTH | R D NAHUM ARCHITECT P.O. BOX 130 ROSE BAY NSW 2029 | PROJECT NO 18.498 | PROPOSED ADDITIONS AND ALTERATIONS TO NO.67 HARDY STREET DOVER HEIGHTS, NSW. |
| | | DRAWING NO. ISSUE DA 3-7 B DATE OCT 2018 | |

RECEIVED
 Waverley Council
 Application No: DA-56/2019
 Date Received: 20/05/2019

H A R D Y S T R E E T



1 EXISTING + PROPOSED
FIRST FLOOR PLAN
SCALE 1:100

SITE AREA 558.9sqm LOT 18, DP11822
ALL LEVELS SHOWN ON ARCH. DRAWINGS ARE TO AHD.

EXISTING GROSS FLOOR AREA TO FFL 122.0 sqm
PROPOSED GROSS FLOOR AREA TO FFL 158.0 sqm



PROJECT NORTH

R D NAHUM
ARCHITECT
P.O. BOX 130
ROSE BAY
NSW 2029

PROJECT NO
18.498
DRAWING NO ISSUE
DA 4-7 B
DATE
OCT 2018

PROPOSED ADDITIONS
AND ALTERATIONS TO
NO. 67 HARDY STREET
DOVER HEIGHTS, NSW.

RECEIVED

Waverley Council

Application No: DA-56/2019

Date Received: 20/05/2019

RL 65.280

TOP OF EXIST'G REAR
PARAPET WALL

DELETE CABINA SHOWN DATED
ALONG SIDE BOUNDARY FROM
ORIGINAL DEVELOPMENT
APPLICATION AND PROVIDE A
1.8M HIGH RENDERED WALL AS
AGREED WITH ADJOINING
NEIGHBOUR FOR PRIVACY
REASONS.

RL 59.040

EXISTING GROUND
FLOOR LEVEL

RL 56.250

EXISTING LOWER GROUND
FLOOR LEVEL

RL 52.920

EXIST'G GARAGE FLOOR
LEVEL

REMOVE EXIST'G OPAQUE GLASS PANEL AND
BRICK UP AND RENDER OPENING AROUND SHOWER
NEW WINDOW.

NEW COVERED ENTRY PORCH TO NEW
FRONT DOOR LOCATION.

BRICK UP AND RENDER EXISTING
WINDOW OPENINGS AS SHOWN
HATCHED

REMOVE EXISTING WINDOW TO
OPENING AND FOR NEW WINDOW TO
MATCH NEW OTHER WINDOWS.

REMOVE EXISTING WINDOW TO EX
GROUND FLOOR LEVEL BATH ROOM
BRICK UP OPENING AND RENDER WALL
TO MATCH NEW EXTERNAL WALL
FINISH.

1 EXISTING + PROPOSED
NORTH-EAST ELEVATION

SCALE 1:100

RL 65.280

RL 62.000 nominal

RL 59.040

RL 56.250

RL 52.920

MBR ENS

BED RM 4

BED RM 3 D22

LIVING RM

DINING RM

FAMILY RM

D04

2 CROSS SECTION A-A

RECEIVED
Waverley Council
Application No: DA-56/2019
Date Received: 20/05/2019

R D NAHUM
ARCHITECT

P.O. BOX 130
ROSE BAY
NSW 2029

PROJECT NO
18-498

DRAWING NO ISSUE
DA5-7 B

DATE
OCT 2018

PROPOSED ADDITIONS
AND ALTERATIONS TO
NO.67 HARDY STREET
DOVER HEIGHT, NSW.

RL 65.280
TOP OF EXIST'G PARAPET WALL

RL 62.000
EXISTING FIRST FLOOR
LEVEL

RL 59.040
EXIST'G GROUND FLOOR LEVEL
OF DWELLING

RL 56.250
EXIST'G GROUND FLOOR
ENTRY LEVEL OF DWELLING

RL 52.920
EXIST'G GARAGE
FLOOR LEVEL

REMOVE EXISTING OPAQUE GLASS
WINDOW PANEL TO SIDE OF
EXISTING BEDROOM BRICK UP AND
RENDER EXIST'G OPENING AND
AROUND HIGHLIGHT WINDOW

PROVIDE NEW ALUMINIUM
FRAMED LOUVERED WINDOW TO
SUIT EXISTING WALL OPENING

DENILISH AND REMOVE EXISTING
BALCONY & ROOF OVER SHOWN
DOTTED ALONG SIDE BOUNDARY
AND CONSTRUCT NEW LIFT SHAFT
FOR NEW LIFT

HEIGHT OF NEW LANDSCAPED
PLANTER BOX WALL ALONG SIDE
BOUNDARY OF PROPERTY

NEW RENDERED BRICK WALL TO
PAINT FINISH TO PROPOSED
FRONT ENTRY PORTICO

RENDERED BRICK WALL TO EXTERNAL
LIFT SHAFT ALONG SOUTHERN SIDE
BOUNDARY TO STRUCTURAL ENGINEERS
DETAIL

BRICK UP AND RENDER EXIST'G
WINDOW OPENING TO MATCH
EXISTING EXTERNAL WALL FINISH.
NEW R. CONCRETE STEPS TO STRUCTURAL
ENGINEERS DETAIL LEADING TO
RAISED CONCRETE POOL COPING.

RENDERED WALL TO PAINT FINISH
TO CABANA STRUCTURE ALONG SOUTH
SIDE BOUNDARY

EXISTING EXPOSED ROCK SHELF ABOVE
NATURAL GROUND LEVEL SHOWN DOTTED
TO BE RETAINED

EXISTING GLASS BALUSTRADE TO ROOF
TERRACE TO BE RETAINED AND MADE GOOD
AS REQUIRED.

HEIGHT OF NEW INFILL BRICK WALL
NOT TO EXCEED HEIGHT OF EXISTING
PARAPET WALL.
DELETE PROPOSED CABANA OF POOL LEVEL
AND PROVIDE 1.0M HIGH RENDERED WALL
FOR PRIVACY

1 EXISTING + PROPOSED
SOUTH-WEST ELEVATION
SCALE 1:100

RL 65.280
TOP OF EXIST'G PARAPET WALL

RL 62.000 nom
EXISTING FIRST FLOOR
LEVEL

RL 59.040
EXIST'G GROUND FLOOR LEVEL
OF DWELLING

RL 56.250
EXIST'G GROUND FLOOR
ENTRY LEVEL TO DWELLING

RL 52.920
EXIST'G GARAGE FLOOR
LEVEL

EXISTING GLASS BALUSTRADE TO EXISTING
ROOF TERRACE TO BE RETAINED OR MADE
GOOD AS REQUIRED

SETBACK EXTERNAL
RENDERED CONCRETE BLOCK WALL TO
EXTERNAL LIFT SHAFT BACK TO EXISTING
SEMI-ENCLOSED BALCONY ON SIDE BOUNDARY

ALUMINIUM FRAMED GLASS
TO SECTION OF EXISTING BALCONY

COVERED PORTICO TO FRONT ENTRY DOOR

EXISTING SINGLE WIDTH GARAGE ENTRY
TO GARAGE EXCAVATED INTO ROCK TO BE
RETAINED

2 EXISTING + PROPOSED
NORTH-WEST ELEVATION TO HARDY ST
SCALE 1:100

HEIGHT OF NEW INFILL BRICK WALL NOT TO
EXCEED HEIGHT OF EXISTING PARAPET WALL
BRICK UP AND RENDER EXISTING FIRST FLOOR
LEVEL ENCLOSED SUNROOM TO FORM NEW
BATH ROOM

REMOVE EXISTING WINDOWS AND DOORS TO EX
FAMILY ROOM, BRICK UP AND RENDER OPENING
AROUND NEW CHALKER WINDOW AND DOOR TO
NEW BUTLERS PANTRY AND KITCHEN.

3 EXISTING + PROPOSED
SOUTH-EAST ELEVATION

RECEIVED
Waverley Council
Application No: DA-56/2019
Date Received: 20/05/2019

R D NAHUM
ARCHITECT
P.O. BOX 130
ROSE BAY
NSW 2029

PROJECT NO
18-498
DRAWING NO ISSUE
DA 6-7 B
DATE
OCT 2018

PROPOSED ADDITIONS
AND ALTERATIONS TO
NO.67 HARDY STREET
DOVER HEIGHTS, NSW.



Report to the Waverley Local Planning Panel

| | |
|---------------------------|--|
| Application number | DA-425/2018 |
| Site address | 105 Military Road, Dover Heights |
| Proposal | Demolition of existing dwelling house and the erection of a three storey dual occupancy, swimming pools and strata subdivision |
| Date of lodgement | 20 November 2018 (amended on 27 June 2019) |
| Owner | G and R Kosmin |
| Applicant | Kosmin C/- VRM Architects |
| Submissions | Two submissions received in relation to the original plans |
| Cost of works | \$2,205,317 |
| Issues | Height and FSR non-compliances, wall height, rear building line and views. |
| Recommendation | That the application be APPROVED subject to conditions of consent |

Site Map



1. PREAMBLE

1.1 Site And Surrounding Locality

A site visit was carried out on 4 March and 2 September 2019.

The site is identified as Lot 145 DP 11822 and is known as 105 Military Road, Dover Heights. The site is rectangular in shape with a western frontage to Military Road of 12.8m and an area of 585.3m². The site falls from the rear towards the street by approximately 3m.

The site is occupied by a three storey dwelling house, being two residential levels over ground level parking.

The subject site is adjoined by three storey dwelling houses (with the lower levels being ground level parking). To the rear in Lord Howe Street, are dwelling houses and opposite, across Military Road, are part two and three storey dwelling houses. The locality is characterised by a variety of residential developments mainly large dwelling houses and dual occupancies.



Figure 1: Site viewed from Military Road



Figure 2: Rear of site.

1.2 Relevant History

There is no relevant previous development history of this site.

In terms of the subject application, the application was deferred on 21 May 2019 to provide the applicant an opportunity to resolve issues raised in the preliminary assessment of this application. The terms/issues of the deferral are as follows:

- Height and Floor Space compliance;
- Loss of views;
- Deletion of roof top terrace and access;
- Height and design of front fence and deletion of gatehouses;
- Provision of single driveway splay;
- Additional landscaping;
- Side boundary setback of the garage; and
- Excavation from boundaries.

Council received amended plans and information in response to the above deferral matters on 27 June 2019, which for the most part satisfied these matters, including the deletion of the roof terraces. The plans were publicly exhibited and did not attract any submissions. Two submissions were received based on the original plans. Refer to section 2.4 of this report for a summary.

The assessment of this application relies on the amended plans received by Council on 27 June 2019.

1.3 Proposal

The amended development application seeks to:

- Demolish the existing dwelling house and swimming pool;
- Erect a three storey attached dual occupancy, where the ground level is mainly parking and laundry with the two residential floors over with front and rear balconies;
- Installation of two swimming pools at the rear of each dwelling; and
- Strata subdivision of the development into two lots.

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 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

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

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 Waverley Local Environmental Plan 2012

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

Table 1: Waverley LEP 2012 Compliance Table

| Provision | Compliance | Comment |
|---|------------|---|
| Part 1 Preliminary | | |
| 1.2 Aims of plan | Yes | The proposal is consistent with the aims of the plan. |
| Part 2 Permitted or prohibited development | | |
| Land Use Table R2 – Low Density Zone | Yes | The proposal is defined as a ‘dual occupancy (attached)’ which is permitted with consent in the zone. |

| Provision | Compliance | Comment |
|--|----------------|--|
| Part 4 Principal development standards | | |
| 4.3 Height of buildings <ul style="list-style-type: none"> 8.5m | No | The proposed development has an overall building height of 8.66m, measured to the top roof level of RL 83.46 from the lowest existing ground level directly below of RL 74.8. The development varies the development standard by 0.16m or 1.8% |
| 4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> 0.5:1 (a maximum GFA of 292.65m²) | No | The proposed development has an overall gross floor area of 387m ² , which provides a floor space ratio of 0.66:1. The development exceeds the development standard by 94.35m ² or 32%. |
| 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 and floor space ratio development standards. A detailed discussion of the variation to the development standards is presented below this table. |
| Part 5 Miscellaneous provisions | | |
| 5.1 Relevant consent authority | Yes | Waverley Council is the consent authority. |
| Part 6 Additional local provisions | | |
| 6.2 Earthworks | No | Earthworks are confined to the building envelope and pools and not considered excessive. Standard conditions are recommended to address the proposed excavation. |

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

Clause 4.3 Height of Buildings

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

The site is subject to a maximum height of buildings control of 8.5m. The proposed development has an overall building height of 8.66m, exceeding the standard by 0.16m equating to a 1.8% variation.

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

- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- 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.

Applicants 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 development is consistent with objectives of the development standard.
 - (ii) Strict compliance would undermine the proposal achieving orderly and economic use and development of the site as encouraged by section 1.3(g) of the Act.
 - (iii) Strict compliance would result in a reduction in housing supply and housing choice and would consequently adversely impact on the community.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The non-compliance principally occurs due to the topography of the site.
 - (ii) The overall building height of the development is appropriate to the zone and surrounding residential area.
 - (iii) The areas of non-compliance with the development standard will not result in unreasonable impacts on neighbouring properties beyond that of a compliant building height.
 - (iv) The building envelope (i.e. height, bulk and scale) of the proposed development is consistent with that of surrounding dual occupancy development.
 - (v) The building form of the development provides an appropriate height, bulk and scale to the site.
 - (vi) The proposal will add to delivering a mix of well-designed housing that meets Sydney's growing population.
 - (vii) The development will not significantly impact on the amenity of adjoining occupiers.
 - (viii) The proposal will not result in any unreasonable privacy intrusion or loss of daylight access to adjacent properties and maintains adjoining development's views.

Consideration of Applicants 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 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 of the following justification 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;*

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 standard because the objectives of the standard are achieved despite the non-compliance, in reference to one of the justifications/tests arising from *Wehbe v Pittwater Council* (2007) 156 LGERA 446. They have outlined the minimal consequences of the non-compliance upon the environmental amenity of surrounding properties and the streetscape and sufficiently argued that these consequences are reasonable. They have also highlighted that the extent of the non-compliance is minimal and inconsequential and have provided a convincing argument that strict compliance would be burdensome on the proposal achieving orderly and economic use of the site to accommodate additional housing stock in the locality. Discussion below justifies how the development achieves the objectives of the development standard and the zone objectives despite the non-compliance with 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 standard and the objectives for development within the zone in which the development is proposed to be carried out. This is explained below.

The objectives of the development standard and how the proposed development meets each objective are discussed 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,*

The proposed development will not result in impacts that would be detrimental to the environmental amenity of neighbouring properties in relation to privacy, solar access, visual impact and view sharing. The development has been amended to reduce the extent of the non-compliance with the height of buildings development standard. This in turn has reduced impacts on views towards Sydney Harbour and the city skyline and these impacts are now deemed reasonable as the development successfully shares views between the development itself and neighbouring properties to the east. Overall, the proposed development is consistent with objective (a).

- (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,*

Objectives (b) and (c) are irrelevant in this instance as the site is located outside of the Bondi Junction Centre.

- (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 perceived building height, bulk and scale of the proposed development are commensurate to those of recently constructed dual occupancy developments within the immediate locality. The applicant has referenced a recently approved dual occupancy development at 113 Military Road in arguing that the proposed development is compatible with the height, bulk and scale of the desired future character of the locality. This is an appropriate comparison to make as the overall building heights of the development at 113 Military Road is similar to that of the proposed development. The proposed development does provide for adequate building articulation across its street elevation through varied materials and finishes and use of balconies and fenestration. Overall, the proposed development is consistent with objective (d).

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.*

The applicant has justified the non-compliance by arguing that the development adds to the supply of well-designed housing that meets the needs of Sydney's growing population and improving the quality of family dwellings in the area. This justification satisfies the first objective of the zone, which is the only relevant objective for this development. The second objective relates to land uses other than residential and is irrelevant to the assessment of this application.

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 cl 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 the development standard and the R2 zone.

Clause 4.4 Floor space ratio

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

The site is subject to a maximum FSR control of 0.5:1. The proposed development has a FSR of 0.66:1 exceeding the standard by 94.35m² equating to a 32% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the 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.

Applicants 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 development is consistent with objectives of the development standard.
 - (ii) Strict compliance would undermine the proposal achieving orderly and economic use and development of the site as encouraged by section 1.3(g) of the Act.
 - (iii) Strict compliance would result in a reduction in housing supply and housing choice and would consequently adversely impact on the community.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The non-compliance primarily relates to the development providing for an additional dwelling onsite and subsequently additional gross floor area over what currently exists on site.
 - (ii) The building bulk and scale of the proposed development are similar to those of existing surrounding development and the recently approved dual occupancy development at 113 Military Road, which has a FSR of 0.78:1.
 - (iii) A reduction of gross floor area to achieve compliance with the FSR development standard would serve no material planning purpose other than strict numerical compliance for no particular benefit.
 - (iv) The building form of the development provides an appropriate height, bulk and scale to the site.
 - (v) The proposal will add to delivering a mix of well-designed housing that meets Sydney's growing population.
 - (vi) The development will not significantly impact on the amenity of adjoining occupiers.
 - (vii) The proposal will not result in any unreasonable privacy intrusion or loss of daylight access to adjacent properties and maintains adjoining development's views.

Consideration of Applicants 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 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 justification 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;*

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 standard because the objectives of the standard are achieved despite the non-compliance, in reference to one of the justifications/tests arising from *Wehbe v Pittwater Council* (2007) 156 LGERA 446. They have outlined the minimal consequences of the non-compliance upon the environmental amenity of surrounding properties and the streetscape and sufficiently argued that these consequences are reasonable. They have also highlighted that the extent of the non-compliance is contextually appropriate in Dover Heights and have convincingly argued that compliance with the standard is unnecessary and unreasonable in this instance. Discussion below justifies how the development achieves the objectives of the development standard despite the non-compliance.

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 standard and the objectives for development within the zone in which the development is proposed to be carried out. This is explained below:

The objectives of the development standard and how the proposed development meets each objective are discussed as follows:

- (a) *to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,*

Objectives (a) is irrelevant in this instance as the site is located outside of the Bondi Junction Centre.

- (b) *to provide an appropriate correlation between maximum building heights and density controls,*

While the proposed development has greater gross floor area (GFA) than that of the existing development on the site, the proposed development is no higher than the existing development. This is factually correct as the existing development has a pitched roof with its ridge higher than the roof parapet of the proposed development. On this basis, the applicant has adequately convinced that the height, bulk and scale of the proposed development achieves an appropriate building envelope for the site, which is compatible with the prevailing built form character of Dover Heights. Overall, the proposed development is consistent with objective (b).

- (c) *to ensure that buildings are compatible with the bulk, scale, streetscape and desired future character of the locality,*

The FSR of the proposed development is commensurate with that of existing and recently approved developments within the immediate vicinity, particularly dual occupancy development. The applicant justifies the compatibility of the proposed development with the streetscape and desired future character of the locality by referencing the recently approved dual occupancy development at 113 Military Road. This is a reasonable comparison to make as contemporary and recent dual occupancy development within Dover Heights exceed the maximum FSR development standards. In this regard, the proposed development will not set an undesirable precedent and is consistent to be compatible with the prevailing bulk, scale, streetscape and desired future character of the locality. Overall, the proposed development is consistent with objective (c).

- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality.*

The applicant has adequately justified that the non-compliance with the FSR development standard will not have adverse impacts upon the environmental amenity of neighbouring properties and the locality in general. The amended form of the development has reduced the exceedance of both the height of buildings and FSR development standards, which has resulted in successful view sharing for both the development itself and neighbouring properties to the east. Further, the proposal will not result in unreasonable impacts on solar access, privacy and ventilation for neighbouring properties. The building setbacks of the proposed development are considered appropriate and generally consistent with setback controls in Waverley Development Control Plan 2012, which demonstrates that the overall scale of the development (despite the non-compliance with the FSR development standard) is appropriate. Overall, the proposed development is consistent with objective (d).

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.*

The applicant has justified the non-compliance by arguing that the development adds to the supply of well-design housing that meets the needs of Sydney's growing population and improving the quality of family dwellings in the area. This justification satisfies the first objective of the zone, which is the only relevant objective for this development. The second objective relates to land uses other than residential and is irrelevant to the assessment of this application.

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 cl 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.

2.1.4 Waverley Development Control Plan 2012 (Amendment 6)

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 | <p>A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction. Condition of consent will be imposed regarding ongoing waste on site.</p> <p>The waste and recycling storage area is located in an area convenient for users of the site.</p> |
| 2. Ecologically sustainable Development | Yes | <p>The proposal incorporates passive design, contains rainwater tanks and a condition will be imposed to ensure that solid fuel heating is not used.</p> <p>Given the low scale of this development, these mechanisms are considered to address the objectives of Part B2 of the DCP.</p> |
| 5. Tree preservation | Yes | No significant trees on site. |
| 6. Stormwater | No | The stormwater plans submitted with the application are not satisfactory and do not comply with the Water Management Technical Manual. This matter can be addressed as a condition of consent. |
| 8. Transport | Yes | <p>The proposed garages have a satisfactory streetscape impact, following the guidance of the DCP controls.</p> <p>The vehicular access to the site has been amended to one cross over, is satisfactorily located and complies with the minimum required dimensions and other technical requirements.</p> <p>The proposed car parking compliments the design of the building and streetscape, is behind the front building line and does not exceed the maximum rate of parking permitted in the parking zone.</p> |
| 13. Subdivision | Yes | The site is too small to be Torrens subdivided. The applicant therefore seeks to strata subdivide the building and land. The strata subdivision is not prohibited and does not contravene 4.1 of the Waverley LEP 2012. |
| 14. Excavation | Yes | The proposed excavation does not add to the scale of the building or result in the loss of naturally occurring sandstone. |

The proposal is defined as a “Dual Occupancy” in the LEP.

370

| Development Control | Compliance | Comment |
|---|-----------------------------|---|
| <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> Maximum height of 1.8m | | <p>not dissimilar to that of front fences within the streetscape and is therefore acceptable.</p> <p>No details of side or rear fences provided. Separate consent would be required for boundary fences that do not meet the exempt development provisions under the Exempt and Complying Development Codes SEPP.</p> |
| 2.5 Visual and acoustic privacy | | |
| <ul style="list-style-type: none"> Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design. | Yes | <p>Windows to side elevations are highlight with a minimum sill height of 1.9m, with the exception of the splash-back windows serving the kitchens (denoted as 'W08' and 'W09'). These windows could encourage overlooking of adjoining properties as sightlines through these windows would not be obscured by side boundary fences. Nonetheless, these windows do not directly face windows and principle private open space areas of the adjoining properties to the north and south of the site, and therefore, will not significantly affect the visual privacy of these properties.</p> |
| <ul style="list-style-type: none"> External stairs are not acceptable. | No (acceptable on merit) | <p>External stairs are proposed to the side passageways and will not unreasonably overlook the adjoining properties given the stairs are located within the front portion of the site.</p> |
| <ul style="list-style-type: none"> Maximum size of balconies: <i>10m² in area</i> <i>1.5m deep</i> | Yes | <p>The front (on ground and first floor levels) and rear (on first floor level) balconies exceed the maximum size controls for balconies. The exceedance encountered by the front balconies will not have adverse consequences on the visual and acoustic privacy of adjoining properties given these balconies face the street and away from habitable rooms and private open space areas of these adjoining properties.</p> <p>Privacy screens with a maximum height of 1.6m are included along the external sides of the balconies to discourage sightlines between the development and its adjoining properties to the north and south in any case. Details of the screens are recommended to be conditioned.</p> <p>While the rear balconies do not impact on privacy of adjoining properties, they substantially exceed the standard and encroach upon the pattern of rear building line established by surrounding development to the north and south of the site.</p> |

| Development Control | Compliance | Comment |
|---|---|--|
| | | detrimentally affect the amenity of the adjoining property to the south of the site. |
| 2.7 Views | | |
| <ul style="list-style-type: none"> Views from the public domain are to be maintained Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks. | <p>Yes</p> <p>Yes</p> | <p>Public domain views are not affected.</p> <p>The original form of the proposed development was considered to impact on views of adjoining properties to the east of the site. The development has been amended in this regard and will increase views of the city skyline from 17 Lord Howe Street. See discussion below.</p> |
| 2.8 Car parking | | |
| <p>2.8.2 Design Approach</p> <ul style="list-style-type: none"> Parking only allowed where site conditions permit Designed to complement the building and streetscape Car parking structures to be behind the front building line Driveways are to be located to minimise the loss of on street parking | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> | <p>Existing site has vehicle access.</p> <p>Parking is similar to others in the street.</p> <p>Parking is incorporated into the building envelope.</p> <p>The driveways have been amended to form one single-width cross over, which then splays and widens inside the site to connect to the two double garages of each dwelling.</p> |
| <p>2.8.2 Parking rates</p> <p><i>Maximum rates:</i></p> <ul style="list-style-type: none"> 2 spaces for 3 or more bedrooms | <p>Yes</p> | <p>Each dwelling contains 3 or more bedrooms and have a maximum of 2 car parking spaces.</p> |
| <p>2.8.3 Location</p> <ul style="list-style-type: none"> Behind front building line for new dwellings | <p>Yes</p> | <p>Parking located within the building envelope.</p> |
| <p>2.8.4 Design</p> <ul style="list-style-type: none"> Complement the style, massing and detail of the dwelling Secondary in area & appearance to the design of the residences | <p>Yes</p> <p>Yes</p> | <p>The proposed parking is integrated into the building design.</p> <p>Design is subservient to the dwellings.</p> |

| Development Control | Compliance | Comment |
|--|--|--|
| <ul style="list-style-type: none"> Gates to have an open design | Yes | Light-weight vehicular gates are proposed. |
| 2.8.5 Dimensions <ul style="list-style-type: none"> 5.4m x 2.4m per vehicle | Yes | Meets minimum dimensions. |
| 2.8.6 Driveways <ul style="list-style-type: none"> Maximum of one per property Maximum width of 3m at the gutter (excluding splay) | Yes Yes | One provided. Crossing 3m wide at gutter. |
| 2.9 Landscaping and open space | | |
| <ul style="list-style-type: none"> Overall open space: 40% of site area (234.12m²) Overall landscaped area: 15% of site area (87.7m²) Minimum area of 25m² for private open space Front open space: 50% of front building setback area Front landscaped area: 50% of front open space provided Outdoor clothes drying area to be provided | Yes Yes Yes No Yes | <ul style="list-style-type: none"> The proposal provides for 298.8m² of overall open space area (51% of site area). The proposal provides for 160.4m² of overall landscaped area (27% of site area). The proposal provides for more than 25m² of private open space. The proposal provides for all its front building setback area as open space (89.3m²). The provides for 44.3m² of front landscaped area, which is just 50% of the proposed front open space area. Outdoor clothes drying areas provided in rear yards of each dwelling. |
| 2.10 Swimming pools and spa pools | | |
| <ul style="list-style-type: none"> Located in the rear of property Pool decks on side boundaries must consider visual privacy | Yes | Each property will be provided with a plunge pool at the rear. The cross-section through one of the pools demonstrates that the pools are underground and will not extend discernibly above existing ground level. |
| 2.15 Dual Occupancy Development | | |
| <ul style="list-style-type: none"> Min 450m² attached dwellings Appearance as single dwelling | Yes Yes | Site area is 585.3m ² . Both dwellings front the street and the building will appear like a pair of semi-detached dwellings. |

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

Wall Height – Flat Roof Building

Waverley DCP 2012 sets a wall height limit for flat roofed buildings of 7.5m. The proposal complies at the rear; however, towards the front given the fall in the site, the proposal exceeds the limit of 7.5m by up to 1m. Ceilings within the development are 2.7m and not considered excessive. The variation is supported on the same basis as the exception to the height of buildings development standard under clause 4.6 of Waverley LEP 2012 is supported, in that no adverse environmental impacts upon neighbouring properties and the streetscape will arise.

Rear Setback

The setbacks of the development towards the rear boundary vary. The proposal will align with the rear boundary of the new building to the north of the site except for the rear balconies which will encroach past. To lessen the associated impact of this encroachment, a condition of consent is recommended to reduce the depth of the rear balconies to a maximum of 1.5m as per the maximum depth control of 1.5m in section 2.5 of Part C2 of Waverley DCP 2012.

Views

There are partial views over the property west towards Sydney harbour and the city skyline from the adjoining property to the east at 17 Lord Howe Street. This property was inspected to identify and observe the views and the views were recorded by way of photography - see **Figures 3 and 4** below.



Figure 3 – Views from adjoining dwelling house to the east of subject site at 17 Lord Howe Street, looking west directly over the site



Figure 4 – Views from adjoining dwelling house to the east of subject site at 17 Lord Howe Street, looking west directly over the site (zoomed-in photo)

A submission was received from the owners/occupiers of 17 and 19 Lord Howe Street, objecting to the original form of the proposed development by claiming view loss impact. The application was deferred in part to encourage the proposed development to comply with the height of buildings development standard and to delete the roof terraces in order to improve and preserve the existing extent and composition of views enjoyed by 17 Lord Howe Street.

While the amended form of the development encounters a minor non-compliance with the height of buildings development standard at the front (western) end of the proposed development, the development utilises a flat roof and will be lower than the uppermost ridge line of the roof of the existing development on the subject site. In this regard, the development opens and improves the extent and composition of views enjoyed by the adjoining properties at 17 and 19 Lord Howe Street. The owners/occupiers of these properties did not make a submission on the amended plans and it can be assumed that their concerns on view loss impact have been resolved by the amended plans.

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

The application was initially notified for 14 days, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

Two submissions were received from the following properties in Dover Heights:

- 17 Lord Howe Street
- 19 Lord Howe Street.

The following issues raised in the submissions have been previously addressed in this report:

- non-compliance with height of buildings and FSR development standards;
- view loss impact.

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

Issue: *Objection to roof terraces and loss of privacy and overshadowing impact due to balustrades associated with terraces.*

Response: Agreed. The application was deferred to delete the roof terraces. The amended form of the development does not include roof terraces.

2.5 Public Interest

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

3. REFERRALS

3.1 Driveways – Creating Waverley

Council's Engineers had concern regarding the provision of two driveways to the property and have required this be reduced to a single splayed crossing to reduce the loss of street parking. The application was deferred in part due to this and the amended form of the development has resolved this matter now that a single-width crossover is proposed.

3.2 Stormwater – Creating Waverley

Council's Manager, Design of the Creating Waverley department found the stormwater plans unsatisfactory. A condition of consent is recommended to require stormwater plans to be amended in accordance with Council's Stormwater Policy to the satisfaction of the Creating Waverley department prior to the release of the relevant construction certificate.

3.3 Land Information Officer

Council's Land Information Officer has nominated sub-addresses for the new dual occupancy dwellings. A condition of consent is recommended to require street numbers to be erected in accordance with the nominated sub-addresses for the dwellings.

4. SUMMARY

Development consent is sought to demolish the existing dwelling house and pool and erect an attached dual occupancy, pools and Strata subdivision. The main issues in the assessment of the application are as follows:

- non-compliance with the height of buildings and FSR development standards;
- wall height;
- rear building line;
- views.

The assessment finds these matters acceptable on planning merit. The applicant's written requests made under clause 4.6 of Waverley LEP 2012 are found to be well-founded to support contravening the development standards under Waverley LEP 2012.

The application initially attracted two submissions based on the form of the development originally submitted and the issues raised in the submissions have been addressed in the assessment of the application, which led to the application be deferred for design change. Amended plans were publicly exhibited and did not attract any submission.

The application is referred to the Waverley Local Planning Panel as the development exceeds the FSR development standard by more than 10%.

The application has been assessed against the matters for consideration under section 4.15 of the Act, and is recommended for approval, subject to conditions of consent.

DBU Decision

The application was reviewed by the DBU at the meeting on 3 September 2019 and the DBU determined that the application is acceptable and should be approved, subject to the conditions in Appendix A. DBU members: M Reid, A Rossi, B McNamara and E Finnegan

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:

Ben Magistrale
Senior Development Assessment Planner

Date: 10 September 2019

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

Bridget McNamara
Manager, Development Assessment
(North/South)

Date: 16 September 2019

Reason for referral

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

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

(a) Architectural Plans prepared by Van Rooijen Meyers Architects as follows:

| Drawing Number/ rev | Plan description | Date |
|----------------------------|----------------------------|-------------|
| A00-RevA | Site Plan | 29/5/19 |
| A01-RevA | Proposed Basement | 29/5/19 |
| A02-RevA | Proposed Ground Floor | 29/5/19 |
| A03-RevA | Proposed First Floor | 29/5/19 |
| A04-RevA | Proposed Elevation (North) | 29/5/19 |
| A05-RevA | Proposed Elevation (South) | 29/5/19 |
| A06-RevA | Proposed Elevation (East) | 29/5/19 |
| A07-RevA | Proposed Elevation (West) | 29/5/19 |
| A08-RevA | Proposed Section (1 & 3) | 29/5/19 |
| A09-RevA | Proposed Section (2) | 29/5/19 |

(b) Landscape Plan Nos L01-L04 (Project No. 873-18) prepared by Discount Landscape Plans, dated 16 October 2018 and received by Council on 20 November 2018;

(c) Draft Strata Plan dated 19 November 2018, and received by Council on 20 November 2018;

(d) BASIX Certificate;

(e) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The proposal shall be amended as follows:

(a) The depth of the rear first floor balconies of the development shall be reduced to a maximum of 1.5m in depth. The blade wall is to be reduced to match.

(b) The landscape plan shall be amended to reflect the amended form of the development shown in condition 1(a).

(c) The draft Strata Plan shall be amended to reflect the amended form of the development shown in condition 1(a).

(d) Details of the materials, including privacy screens.

The amendments are to be approved by the **Executive Manager, Building Waverley (or delegate)** prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

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. 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.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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 & 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.

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

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:
 - (1) Where the total development cost is less than \$500,000:
"Waverley Council Cost Summary Report"; or,
 - (2) Where the total development cost is \$500,000 or more:
"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

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

- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.
- (c) Should a section 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 Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

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

Advisory Note

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

6. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of **\$26,650** 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.

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 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.

8. 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 and Assessment Act, 1979; and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with Section 81(A)(2)(b) of the Environmental Planning and 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.

9. HOARDING REQUIRED

To ensure the site is contained during construction and if required, a hoarding 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.

10. DETAILS OF BULK EXCAVATION, SHORING OR PILE CONSTRUCTION

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

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

11. EROSION AND 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).

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.

12. 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.

13. ENGINEERING DETAILS

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

14. DILAPIDATION REPORTS

A Dilapidation report should be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. This action is designed to assist all parties should damage occur and is not a preventative action. The dilapidation reports should be completed and submitted to the relevant owner of the affected property, Council and the Principal Certifying Authority prior to undertaking any works that may cause damage.

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 is not a condition of consent and cannot be used to prevent the commencement of works or prevent neighbouring buildings being damaged by the carrying out of the development.
- (c) 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.
- (d) Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

15. 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 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.

16. STORMWATER MANAGEMENT

The stormwater management plans prepared by ALAN.L.WRIGHT & ASSOC, Project No. 1089, Sheet No. A1 (Rev 0), dated September 2018 are not satisfactory with respect to stormwater details. In this regard, amended stormwater plans are to be submitted for the approval of Council's Executive Manager, Creating Waverley prior to the release of the relevant construction certificate. The amended stormwater plans should comply with Waverley Council's Water Management Technical Manual and shall address the following matters:

- (a) An updated Stormwater Management Plan including On-site Stormwater Detention (OSD) and its details are required (e.g. Location, cross & long sections and dimensions of OSD tank, top water level, orifice centreline level) along with completed mandatory checklist as set out in page 22 of Waverley Council's Water Management Technical Manual is required.
- (b) Pump details are to be provided including pump curves.
- (c) Details are to be for the overflow from rain water tank to be discharged into the O.S.D tank. All levels are to be provided.
- (d) Surface levels and invert levels of all pits to be provided. Slope and invert levels of all pipes are to be included on the updated Stormwater Management Plan.
- (e) Provide details of how the pump is connected between the On-Site Detention Tank and Water Reuse Tank.

17. SWEPT WHEEL PATH DRAWINGS

Prior to issue of the Construction Certificate, swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, showing the swept wheel path of a vehicle entering and exiting each of the garages from Military Road shall be submitted to Council for the approval of the Executive Manager, Creating Waverley.

The swept wheel path drawings shall:

- (a) Be drawn for the B85, standard design vehicle as described in AS/NZS 2890.1: 2004 Part 1 Off Street Car Parking.
- (b) Accurately show the kerb and gutter, driveways and vehicles parked kerbside on Military Road to the immediate north and south of the proposed driveways.
- (c) Show the minimum length of driveway laybacks considered necessary to gain satisfactory access to and from the proposed garages in order to minimise the loss of on-street parking.

- (d) Show the minimum length of opening and clearances required at the property boundary to cater for the design vehicle swept wheel path.
- (e) Accurately show the length of the Council's kerb and gutter remaining between the southern side wing of the existing driveway at No.107 and the northern side wing of the proposed driveway at No.105 as well as between the northern side wing of the existing driveway at No.103 and the southern side wing of the proposed driveway at No.105.

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. LANDSCAPED SLABS

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

20. SERVICE AUTHORITIES

The applicant is to seek approval from the relevant service authorities regarding any possible modification to the existing infrastructure within the vicinity of the site prior to the issue of a Construction Certificate. This includes, but not limited to, power poles, pits or other underground services.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

21. 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.

22. 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.

23. CONSTRUCTION SIGNS

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

24. TOILET FACILITIES

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

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. 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.

27. 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;

28. ASBESTOS REMOVAL

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

29. 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.

30. 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.

31. 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.

32. 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.

33. COMPLIANCE WITH SAFE WORK NSW

All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.

34. 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.

35. CONSTRUCTION HOURS

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

- (a) The Saturday (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.

36. NATIONAL CONSTRUCTION CODE (NCC)

All building work must be carried out in accordance with the requirements of the National Construction Code.

37. 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; and
- (f) 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.

38. 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 roof parapet 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 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.

40. TREE PRESERVATION

A tree preservation order exists in the Waverley Local Government Area. Before any site can be developed, an application must be made in writing to Council prior to removal of tree/trees. Should permission be granted, the applicant will receive a permit to proceed.

41. STREET TREES TO BE RETAINED

No existing street trees shall be removed without Council approval, (other than those shown for approval in this consent, where relevant). 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.

42. 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.

43. NEW VEHICLE CROSSING

A new single vehicle crossing is to be provided to access the proposed garages. 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.

44. 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.

45. VEHICULAR ACCESS - FINISHED LEVEL

The finished level at the property boundary on **both** sides of the vehicle crossing is to be **50mm above** the existing concrete footpath.

46. 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 fourteen **(14) days prior** to commencement of building operations.

47. NO WORKS BEYOND BOUNDARIES

No portion of the proposed fence, including the footings, is to encroach beyond the boundaries of the subject property.

48. SIDE AND REAR FENCE HEIGHT

The overall height of any new side and rear fence shall not exceed 1.8m above ground level (finished) along the rear and side boundaries of the site, when measured from the adjoining property. Note: Ground level (finished) means the ground surface after completion of any earthwork (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.

D. COMPLIANCE PRIOR TO AN OCCUPATION CERTIFICATE OR COMMENCEMENT OF USE

49. 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.

50. SUBDIVISION

Prior to the registration of the linen plans, a Subdivision Certificate must be obtained from Council or an Accredited Certifier in accordance with section 6.4(d) of the *Environmental Planning and Assessment Act 1979*.

Linen plans and six copies of these plans are to be submitted to Council or Accredited Certifier in accordance with section 6.4(d) of the *Environmental Planning and Assessment Act 1979*.

51. ALLOCATION OF STREET NUMBER

The redevelopment of the property has led to the following allocation of primary address and sub-address numbering for a strata subdivisions dual occupancy:

- No. 105 - primary address site number (common property strata)
- Military Road - primary address location.

As the redevelopment has sub-address sites the following sub-addressing will apply;

- No. 105A for the north allotment - proposed Lot 1 on the draft plans for the building,
- Nos. 105B for the south allotment - proposed Lot 2 on the draft plans for the building.

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

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

The sub-address numbers for the properties shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundaries located near the entry points and clearly visible from Military Road. The sub-address numbers are to be positioned on the site prior to the issue of the Occupation/Subdivision Certificate

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

52. STORMWATER MANAGEMENT

Prior to issuance of occupation certificate, certification is to be provided from a suitably qualified hydraulics engineer, that the stormwater system has been constructed in accordance with the approved stormwater management plans and to best engineering practice.

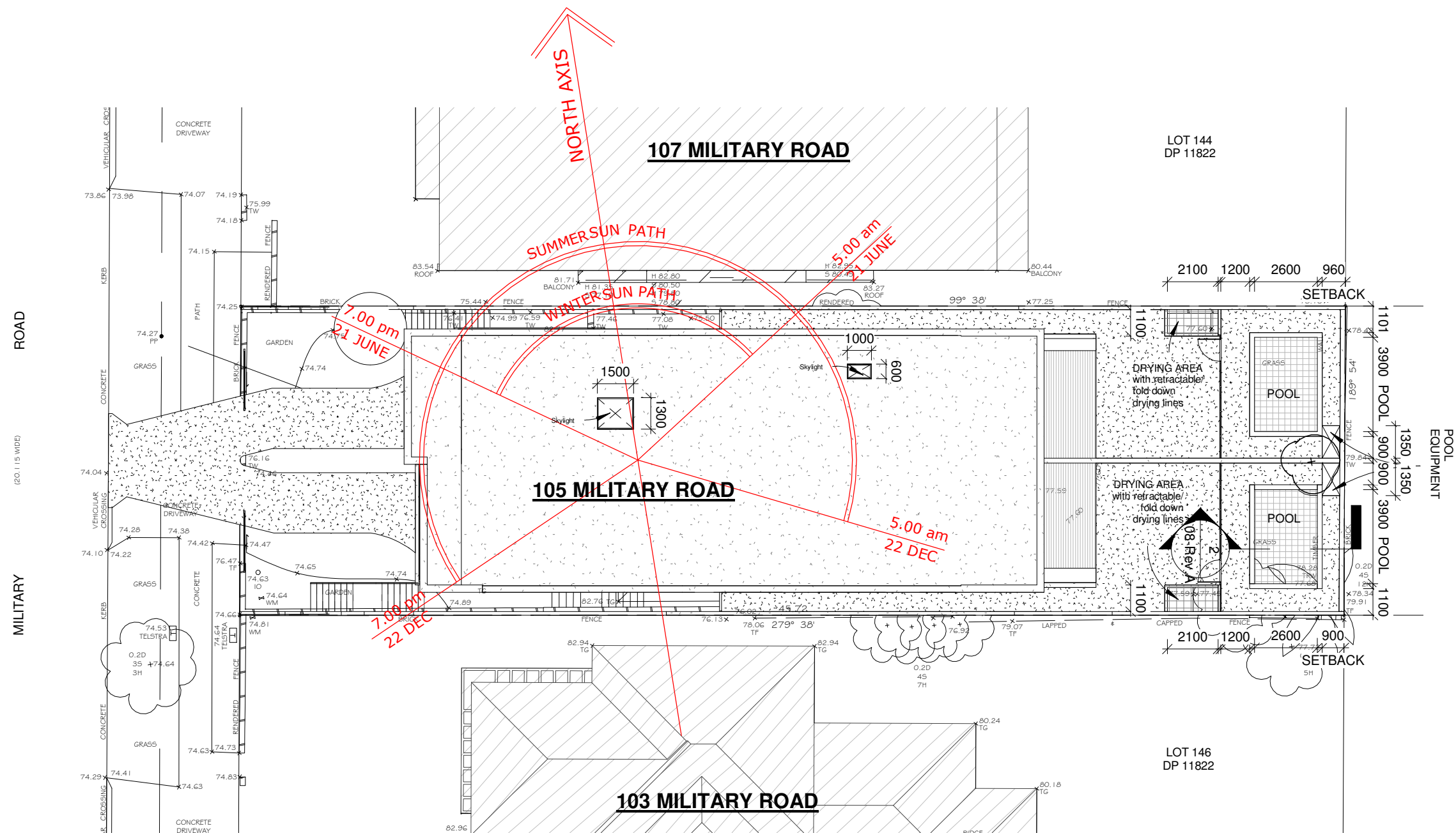
53. SWIMMING POOL/OUTDOOR SPA CERTIFICATION

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.

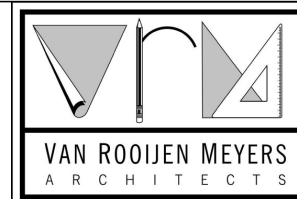
- (a) The swimming pool/outdoor spa is to be fitted with a cover that shall be fitted when the swimming pool/outdoor spa is not in use to minimise evaporation and conserve water.
- (f) A final inspection of the completed pool is to be carried out by the Principal Certifying Authority to ensure all the above is complied with.

Proposed Site Plan



| | | | | | |
|---|-----------------------|----------------|-----|-------------|------|
| PROJECT: Mr G & Mrs R Kosmin New Dual Occupancy Residential 105 Military Road, Dover Heights | Site Plan | | NO. | DESCRIPTION | DATE |
| | SCALE: 1 : 200 | DRAWN: SM | | | |
| | DATE: 29 MAY 19 | JOB NO: 873-18 | | | |
| | DRAWING NO: A00-Rev.A | | | | |
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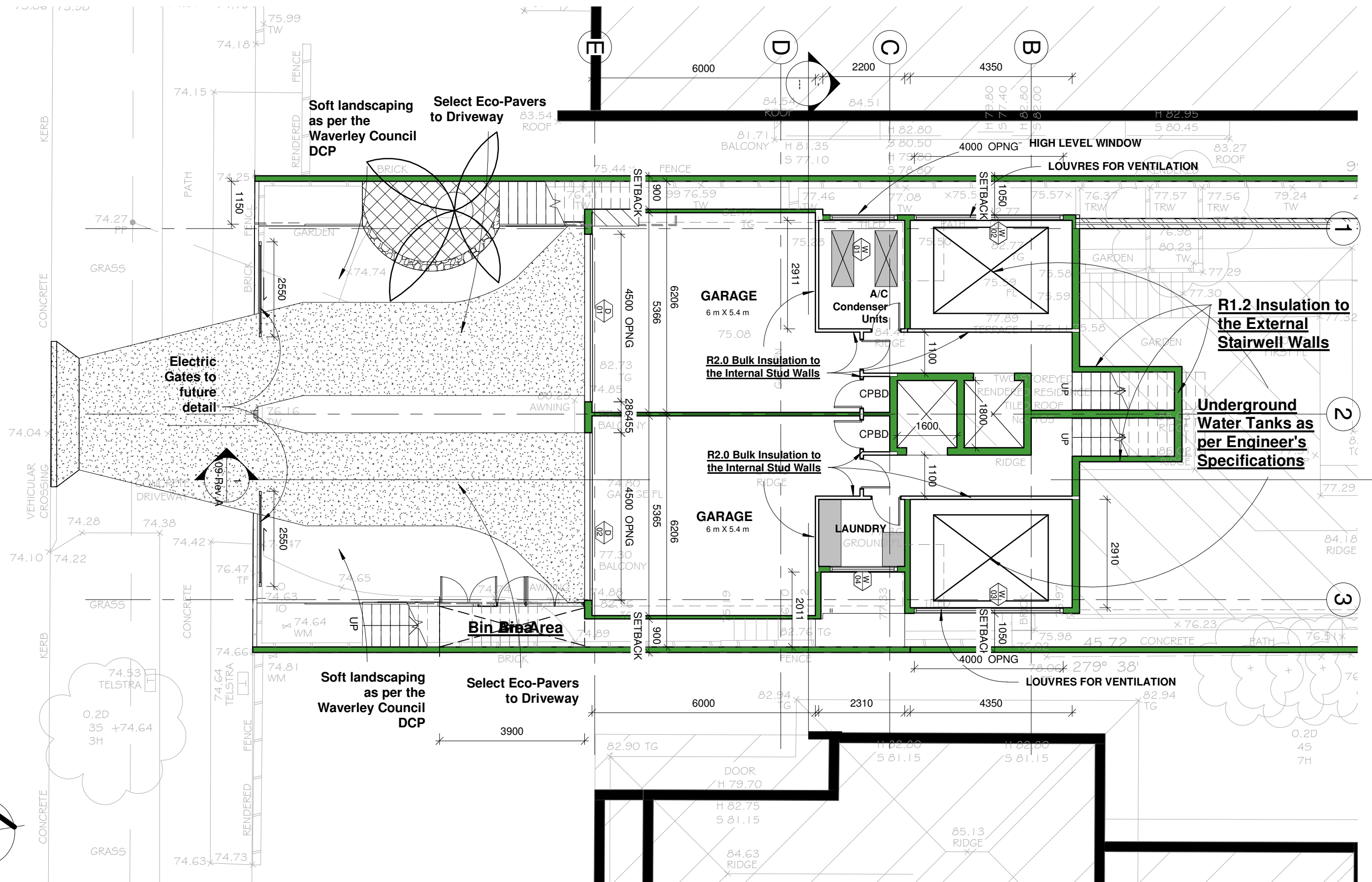
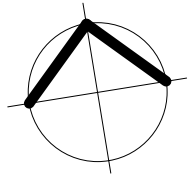
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FAX: (02) 9371 0114
ARNOLD VAN ROOIJEN, AIA
GARY MEYERS, AIA #4980

Proposed Basement Level

ROAD

(20.115 WIDE)

MILITARY



PROJECT: Mr G & Mrs R Kosmin

New Dual Occupancy Residential
105 Military Road,
Dover Heights

Proposed Basement

SCALE: 1 : 100

DRAWN: SM

DATE: 29 MAY 19

JOB NO: 873-18

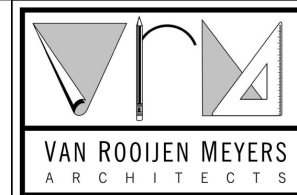
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DESCRIPTION

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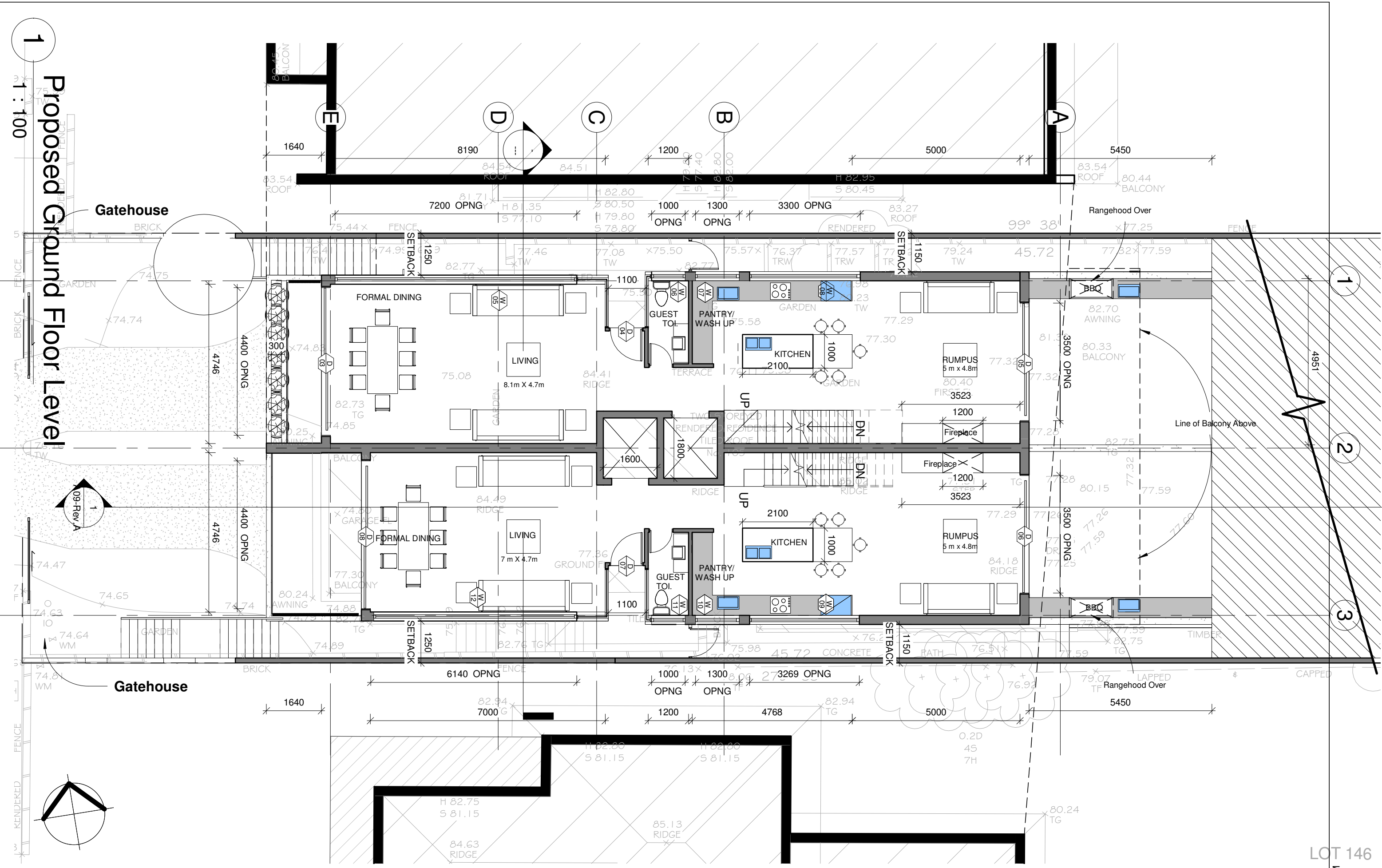
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1
1:100

Proposed Ground Floor Level

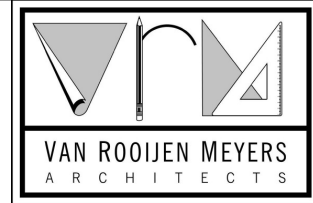


PROJECT: Mr G & Mrs R Kosmin
New Dual Occupancy Residential
105 Military Road,
Dover Heights

| Proposed Ground Floor | |
|-----------------------|----------------|
| SCALE: 1 : 100 | DRAWN: SM |
| DATE: 29 MAY 19 | JOB NO: 873-18 |
| DRAWING NO: A02-Rev.A | |

| NO. | DESCRIPTION | DATE |
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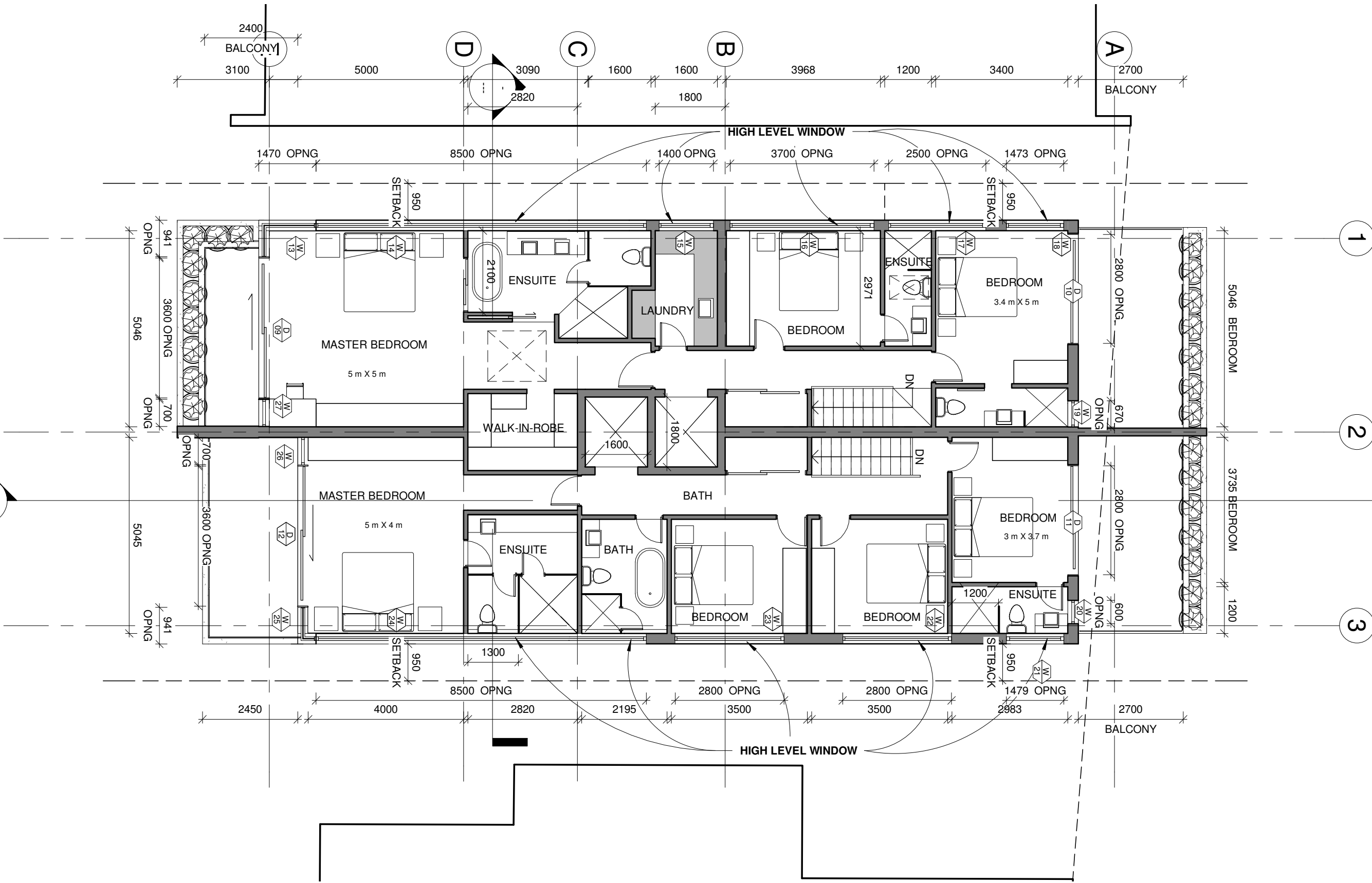
LOT 146

396
2019 1:23:55 PM

1

1 : 100

Proposed First Floor Level

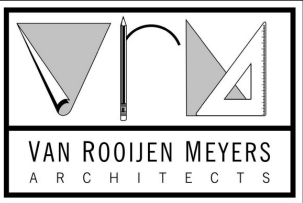


PROJECT: Mr G & Mrs R Kosmin
New Dual Occupancy Residential
105 Military Road,
Dover Heights

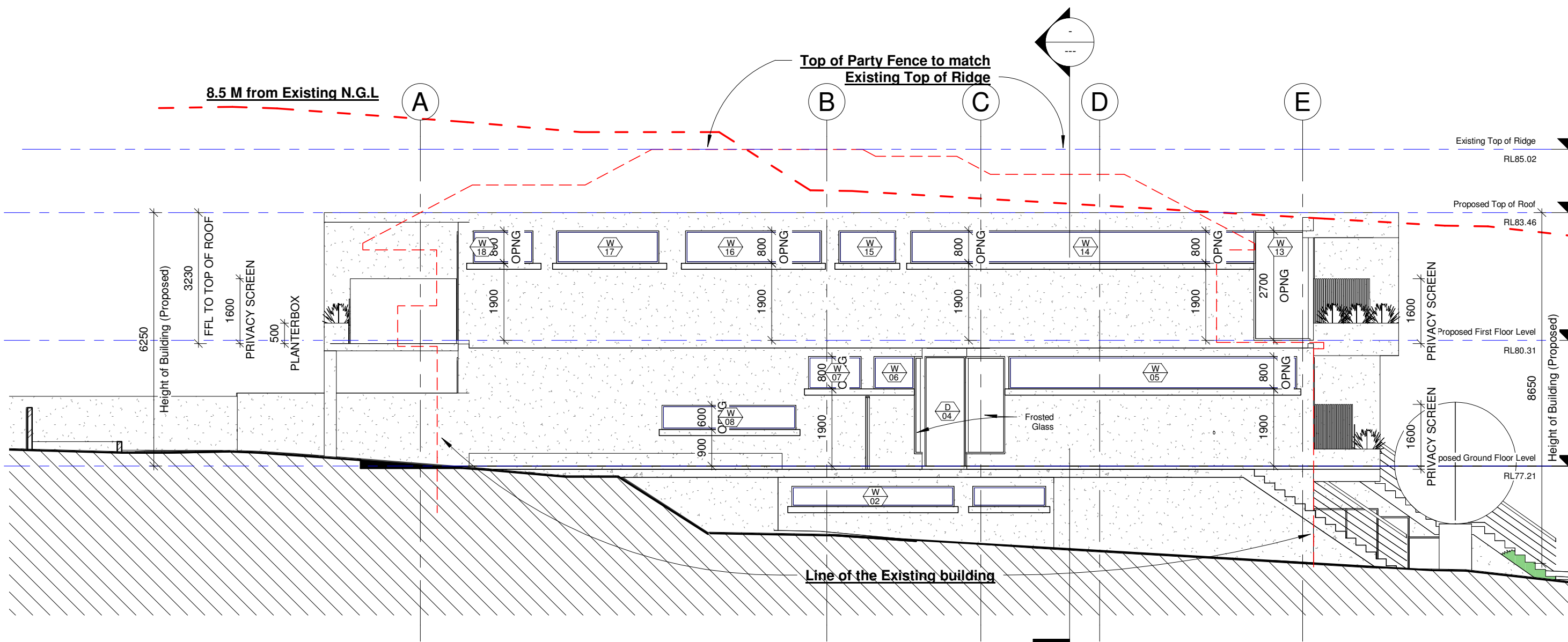
| Proposed First Floor | |
|-----------------------|----------------|
| SCALE: 1 : 100 | DRAWN: SM |
| DATE: 29 MAY 19 | JOB NO: 873-18 |
| DRAWING NO: A03-Rev.A | |

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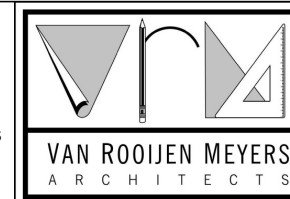
1 Proposed Northern Elevation
1 : 100

PROJECT: Mr G & Mrs R Kosmin
New Dual Occupancy Residential
105 Military Road,
Dover Heights

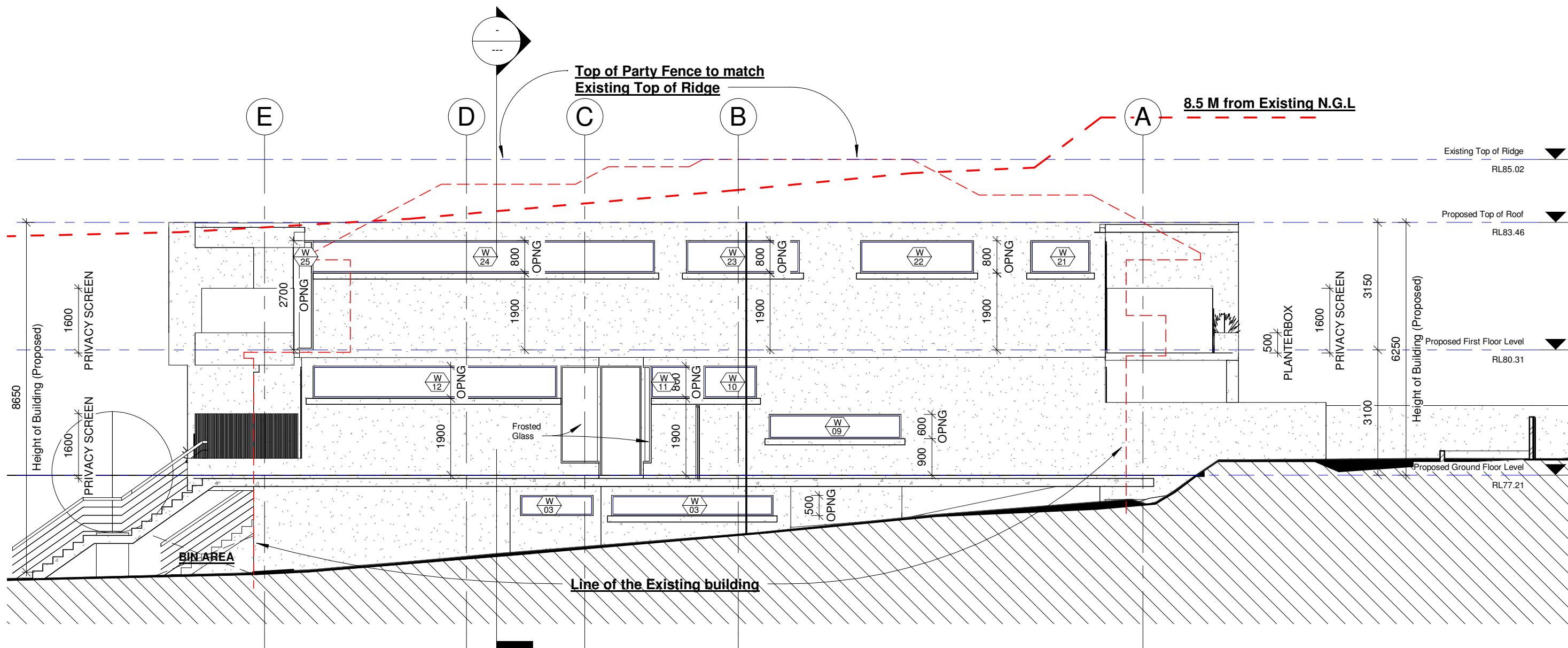
Proposed Elevation
SCALE: 1 : 100
DATE: 29 MAY 19
DRAWN: SM
JOB NO: 873-18
DRAWING NO: A04-Rev A

| NO. | DESCRIPTION | DATE |
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| A | Preliminary design | 03 MAR 10 |
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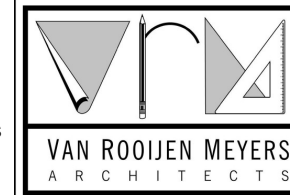
1 Proposed Southern Elevation
1 : 100

PROJECT: Mr G & Mrs R Kosmin
New Dual Occupancy Residential
105 Military Road,
Dover Heights

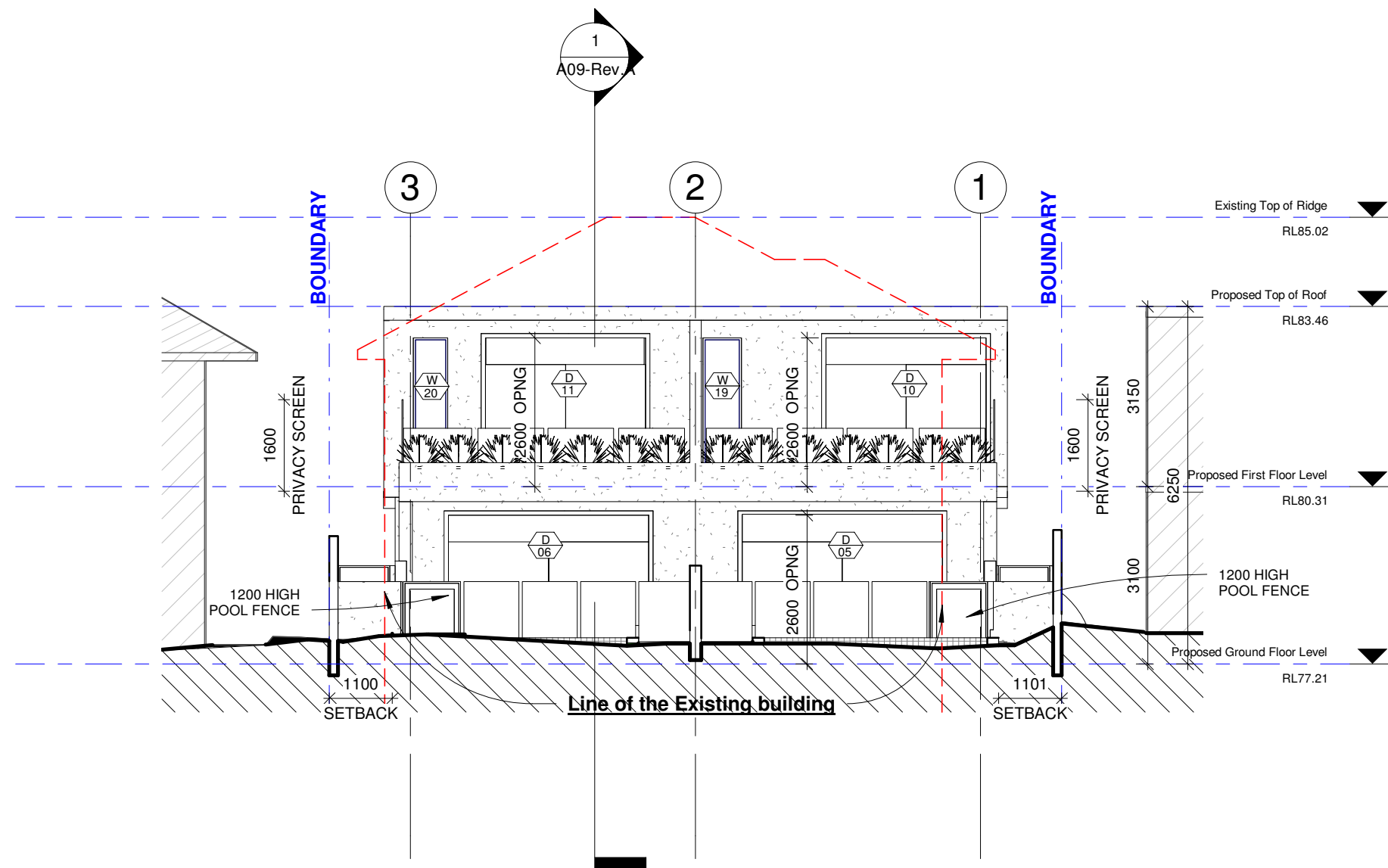
Proposed Elevation
SCALE: 1 : 100
DATE: 29 MAY 19
DRAWN: SM
JOB NO: 873-18
DRAWING NO: A05-Rev.A

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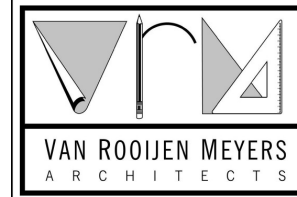
1 Proposed Eastern Elevation
1 : 100

PROJECT: Mr G & Mrs R Kosmin
New Dual Occupancy Residential
105 Military Road,
Dover Heights

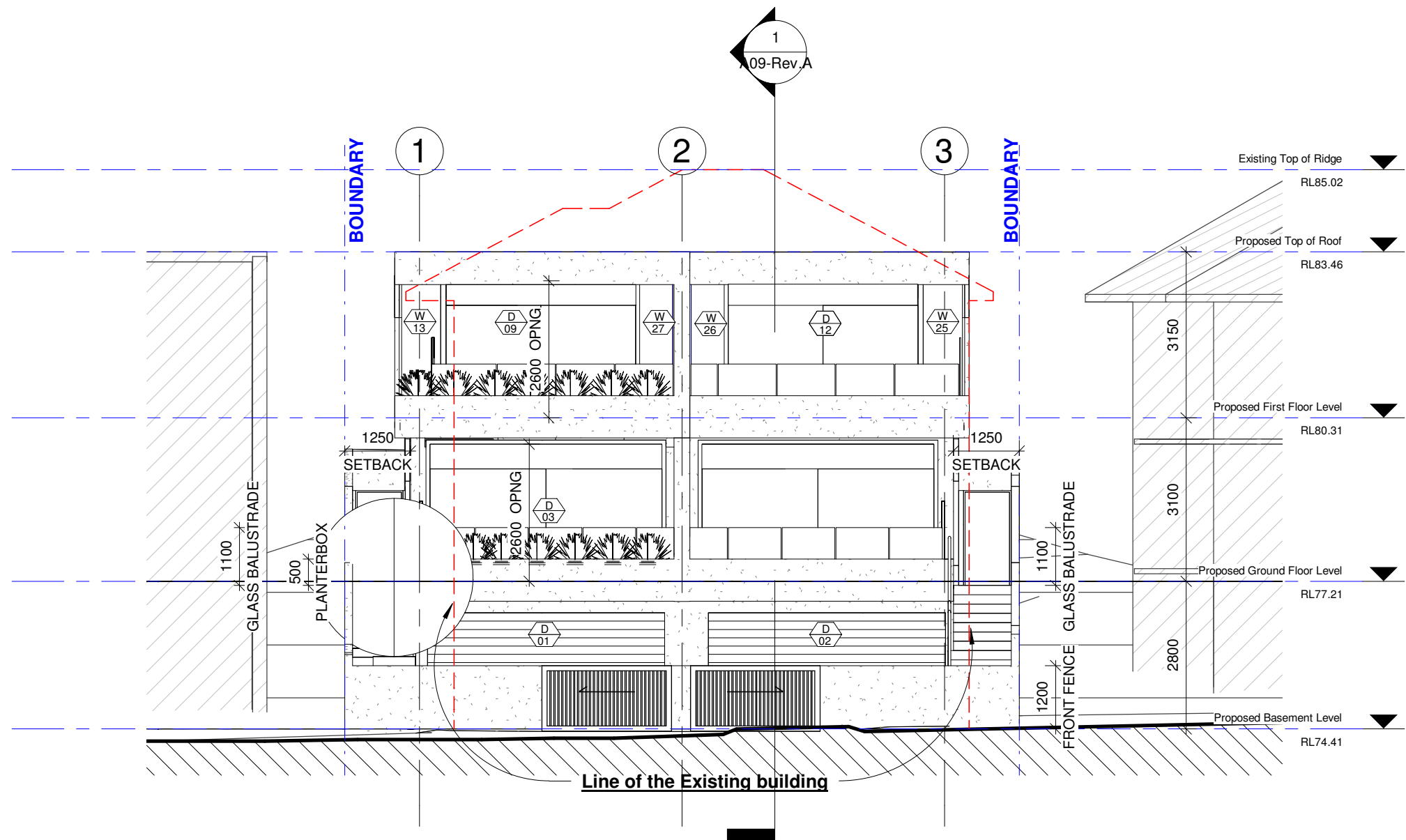
Proposed Elevation
SCALE: 1 : 100
DATE: 29 MAY 19
DRAWN: SM
JOB NO: 873-18
DRAWING NO: A06-Rev.A

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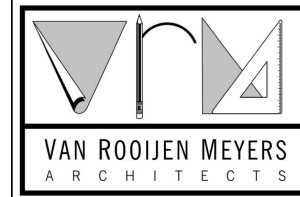
2 Proposed Western Elevation
1 : 100

PROJECT: Mr G & Mrs R Kosmin
New Dual Occupancy Residential
105 Military Road,
Dover Heights

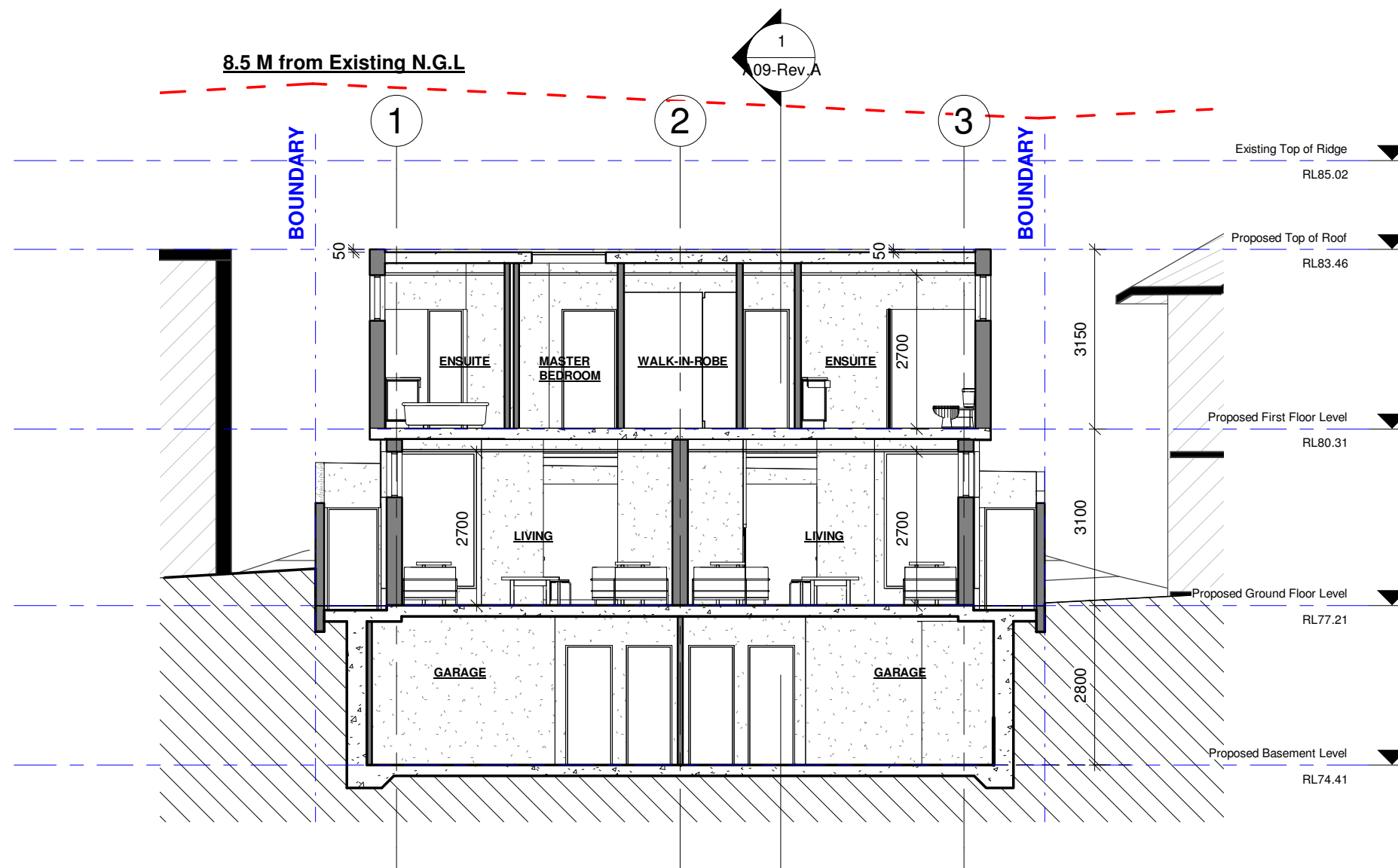
Proposed Elevation
SCALE: 1 : 100
DATE: 29 MAY 19
DRAWN: SM
JOB NO: 873-18
DRAWING NO: A07-Rev.A

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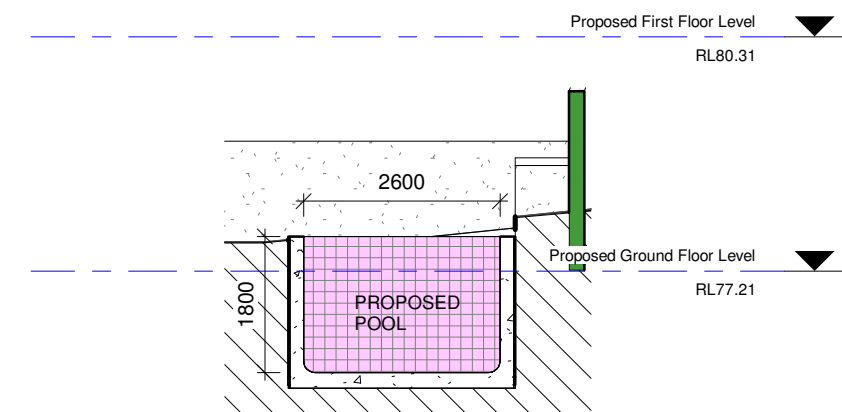
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1 Section 1
1 : 100



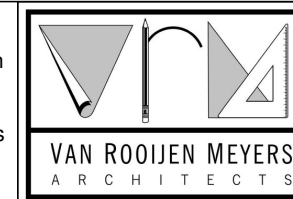
2 Section 3 - Pool
1 : 100

PROJECT: Mr G & Mrs R Kosmin
New Dual Occupancy Residential
105 Military Road,
Dover Heights

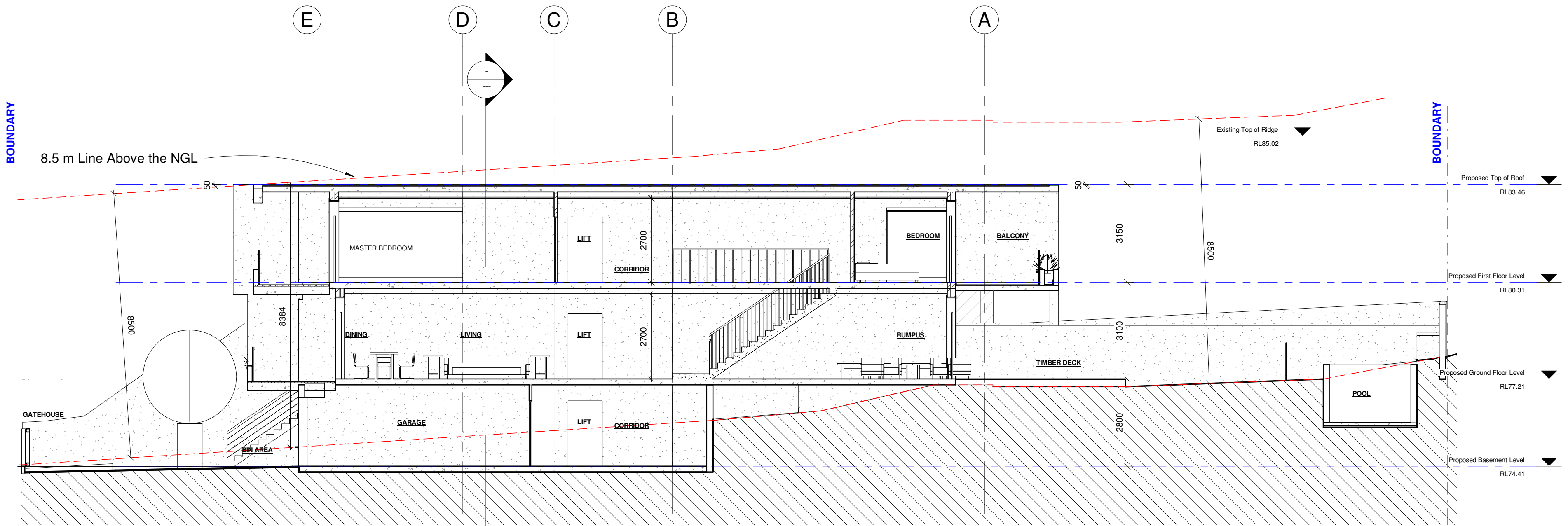
Proposed Section
SCALE: 1 : 100
DATE: 29 MAY 19
DRAWN: SM
JOB NO: 873-18
DRAWING NO: A08-Rev.A

| NO. | DESCRIPTION | DATE |
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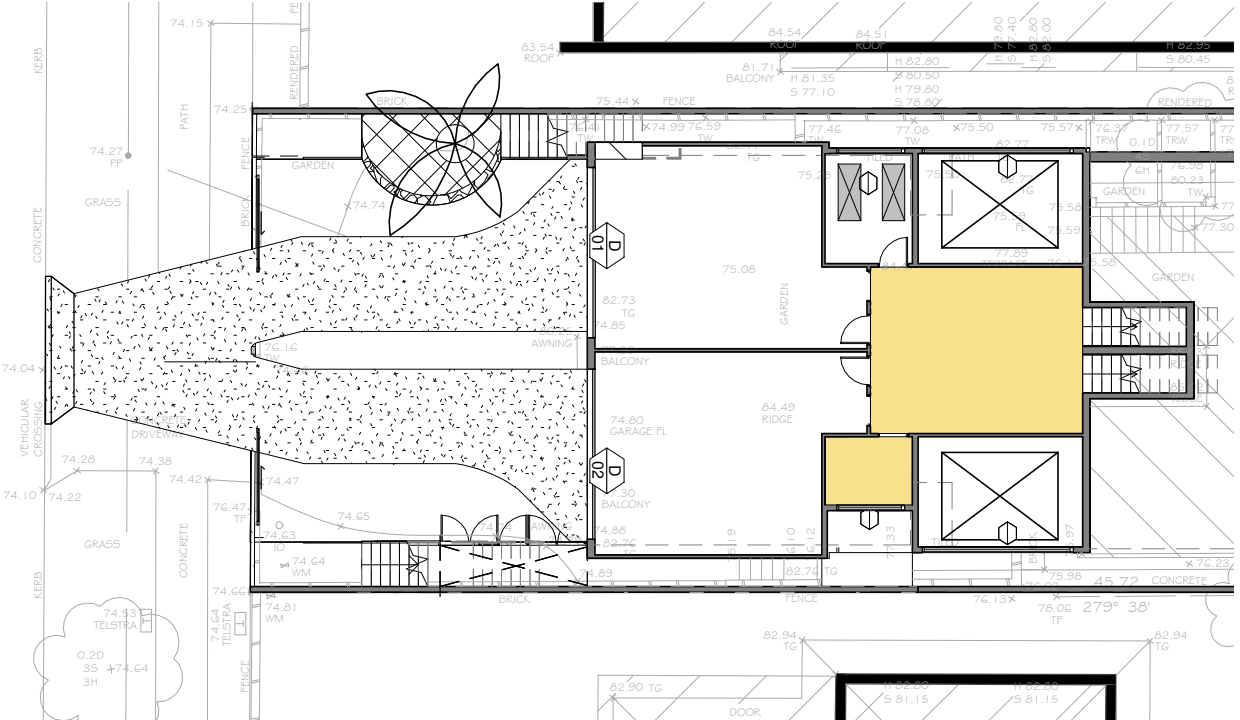
1 Section 2
1 : 100

1

Proposed Basement - FSR Areas

1 : 200

ROAD
(20.115 WIDE)
MILITARY

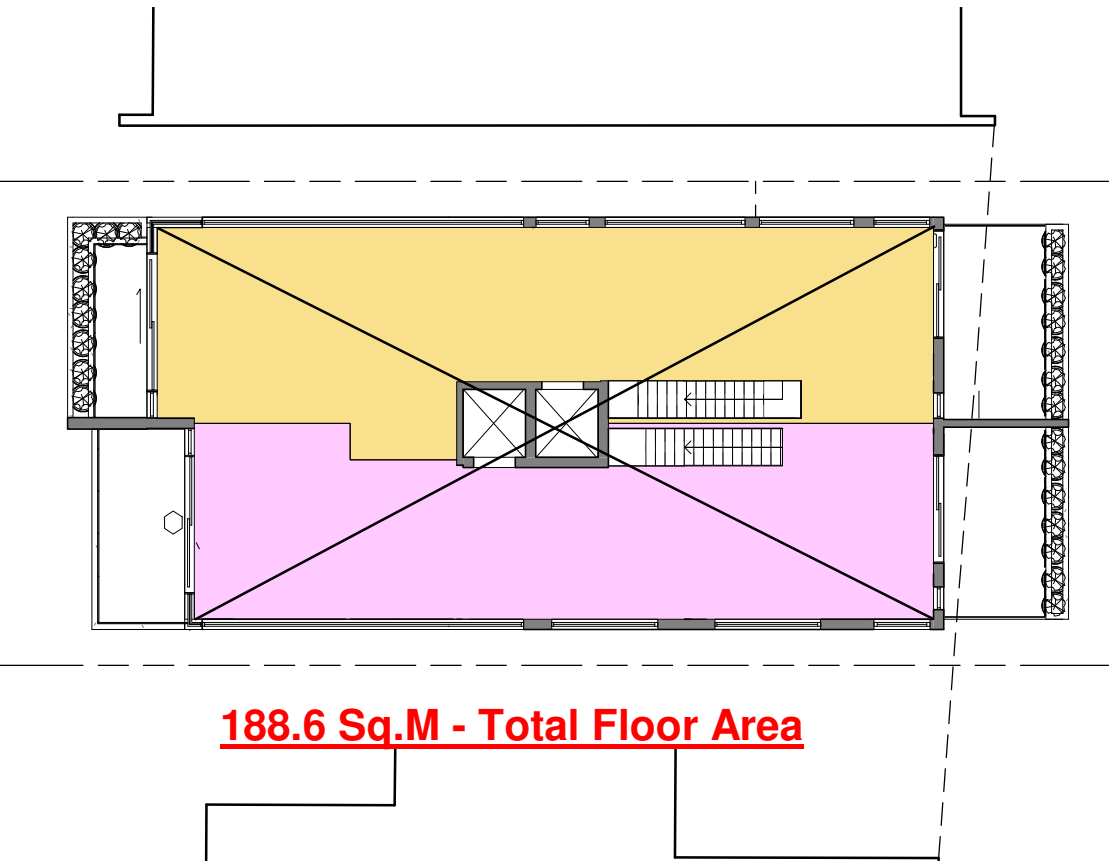


26.7 Sq.M - Total Floor Area

3

1 : 200

Proposed First Floor - FSR Areas



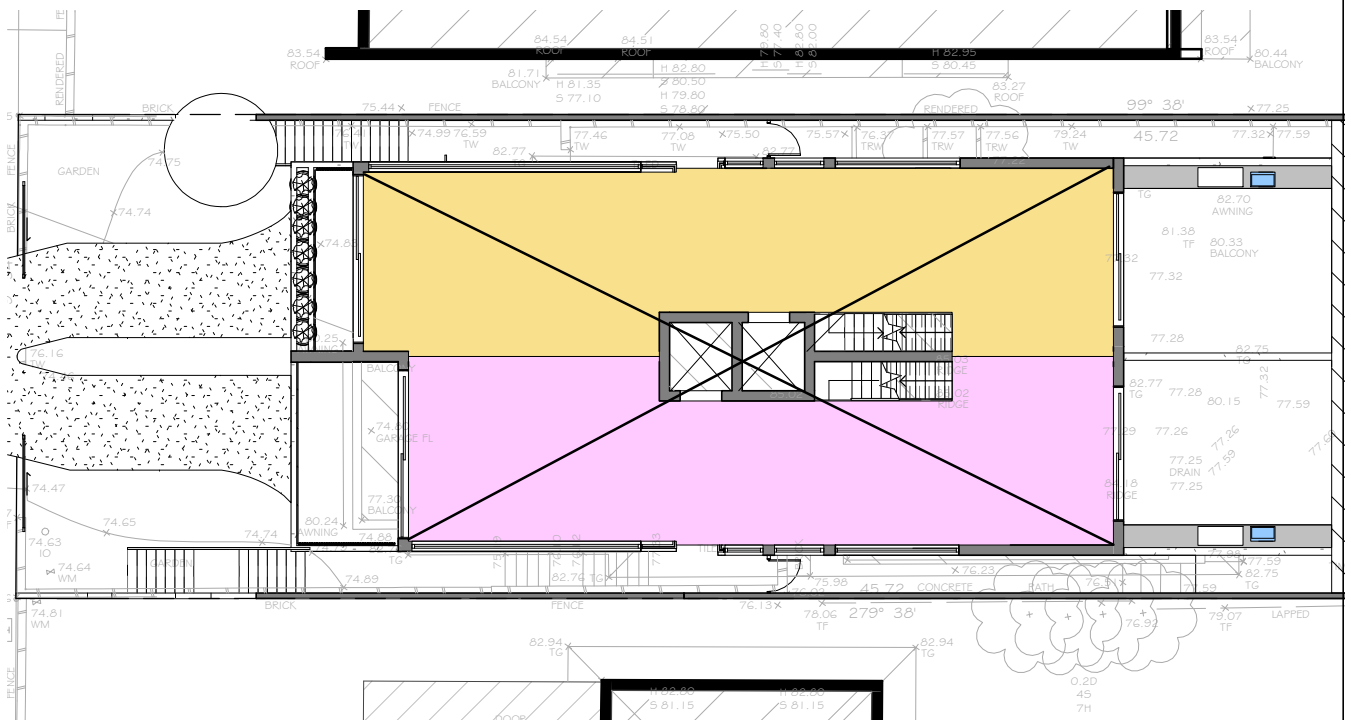
188.6 Sq.M - Total Floor Area

2

Proposed Ground Floor - FSR Areas

1 : 200

AMENDED



171.7 Sq.M - Total Floor Area

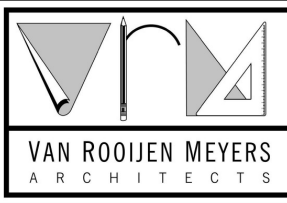
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Date Received: 06/09/2019

PROJECT: Mr G & Mrs R Kosmin
New Dual Occupancy Residential
105 Military Road,
Dover Heights

| FSR Calculations | |
|------------------|----------------|
| SCALE: 1 : 200 | DRAWN: SM |
| DATE: 29 MAY 19 | JOB NO: 873-18 |
| DRAWING NO: A21 | |

| NO. | DESCRIPTION | DATE |
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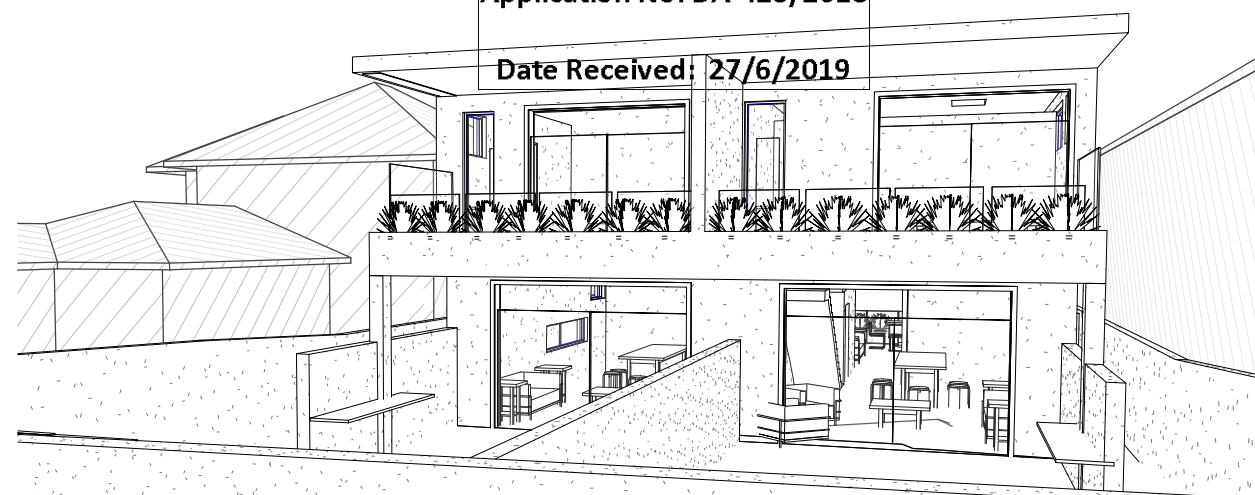
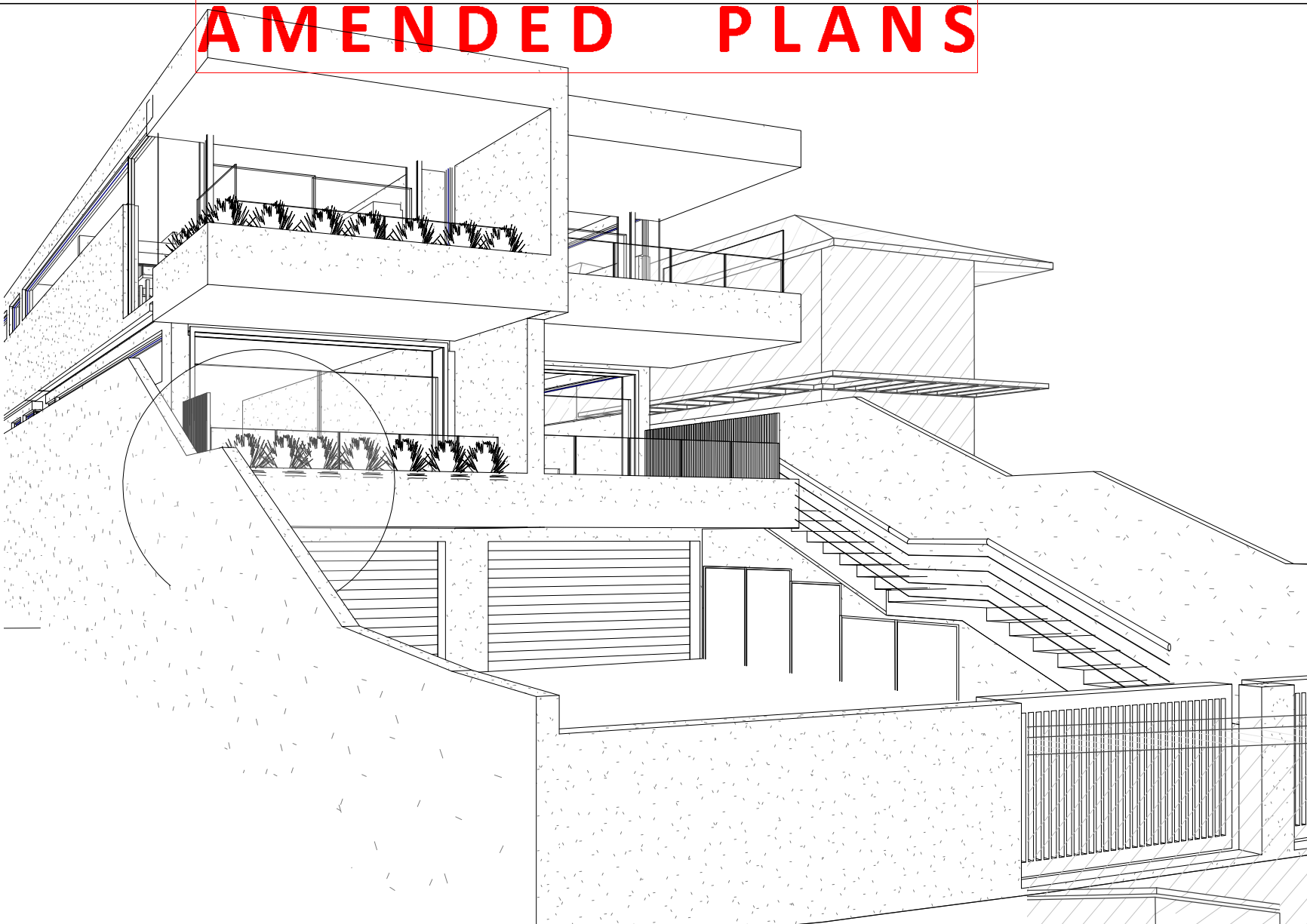
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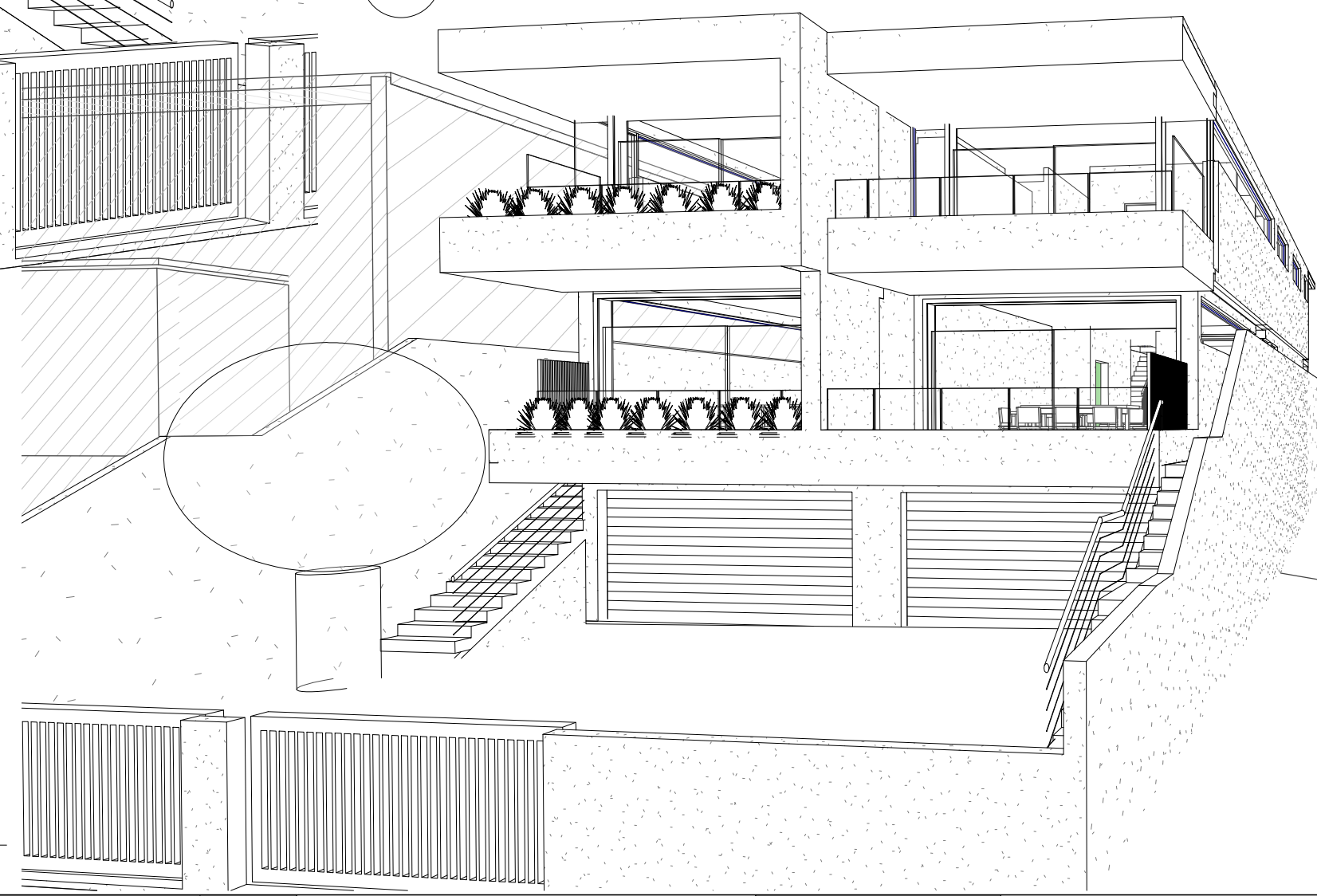
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3 3D View 3

2 3D View 2

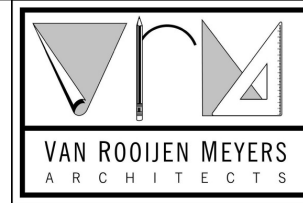


1 3D View 1

PROJECT: Mr G & Mrs R Kosmin
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Dover Heights

| 3D | | NO. | DESCRIPTION | DATE |
|-----------------|----------------|-----|-------------|------|
| SCALE: | DRAWN: SM | | | |
| DATE: 29 MAY 19 | JOB NO: 873-18 | | | |
| DRAWING NO: A12 | | | | |

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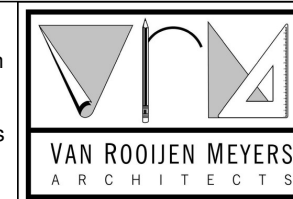


1 3D2

PROJECT: Mr G & Mrs R Kosmin
New Dual Occupancy Residential
105 Military Road,
Dover Heights

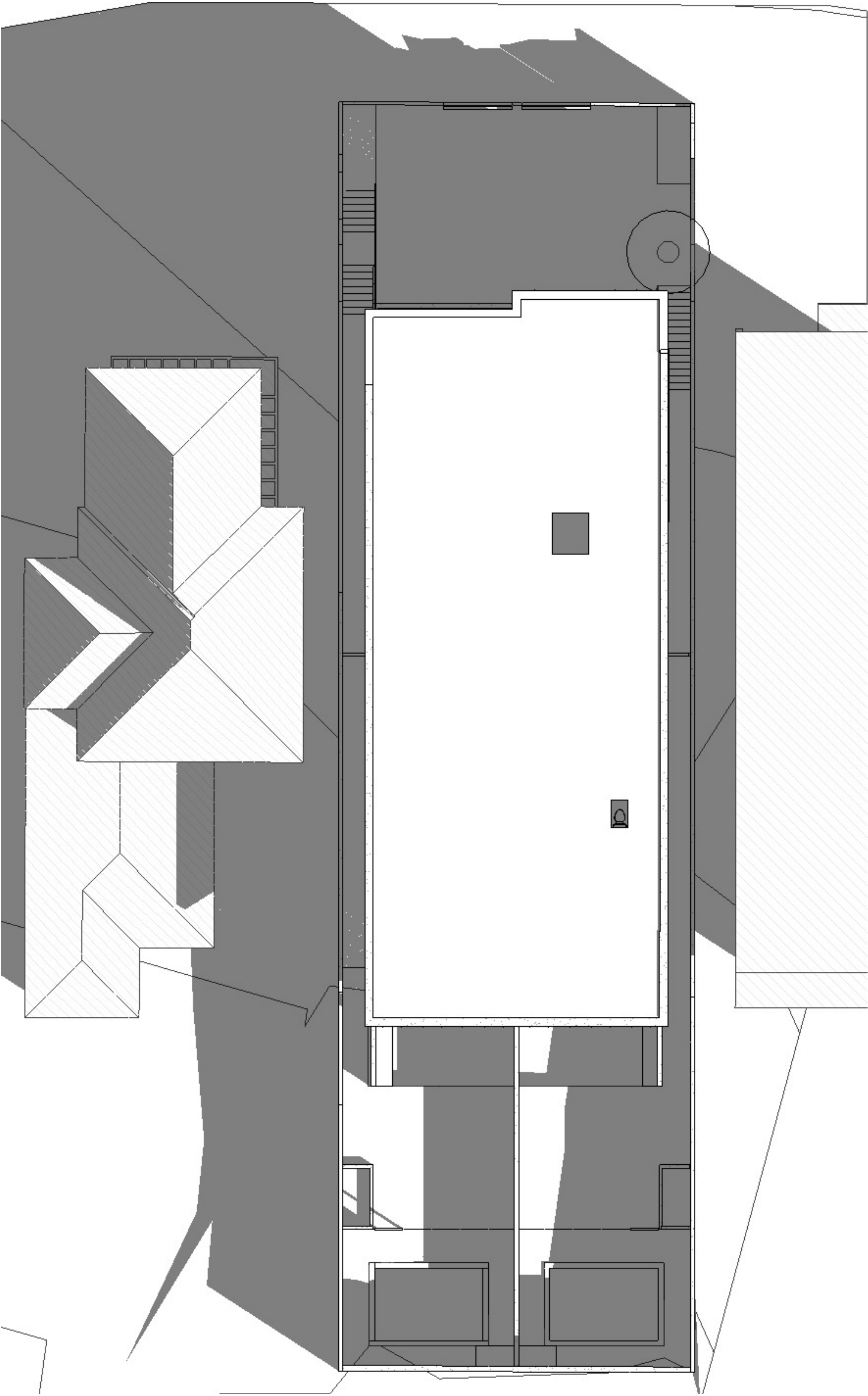
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| DATE: 29 MAY 19 | JOB NO: 873-18 | | | |
| DRAWING NO: A13 | | | | |

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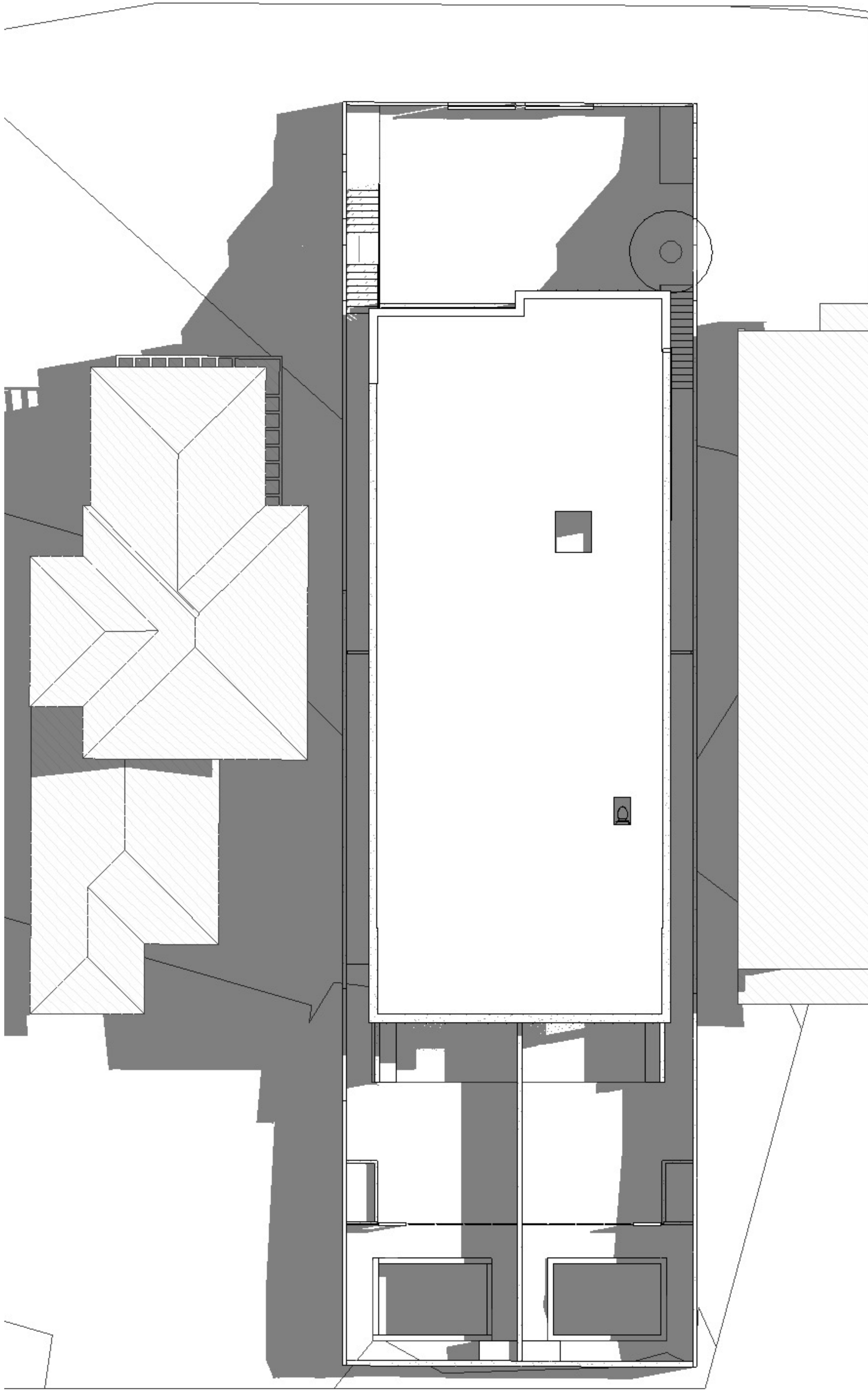


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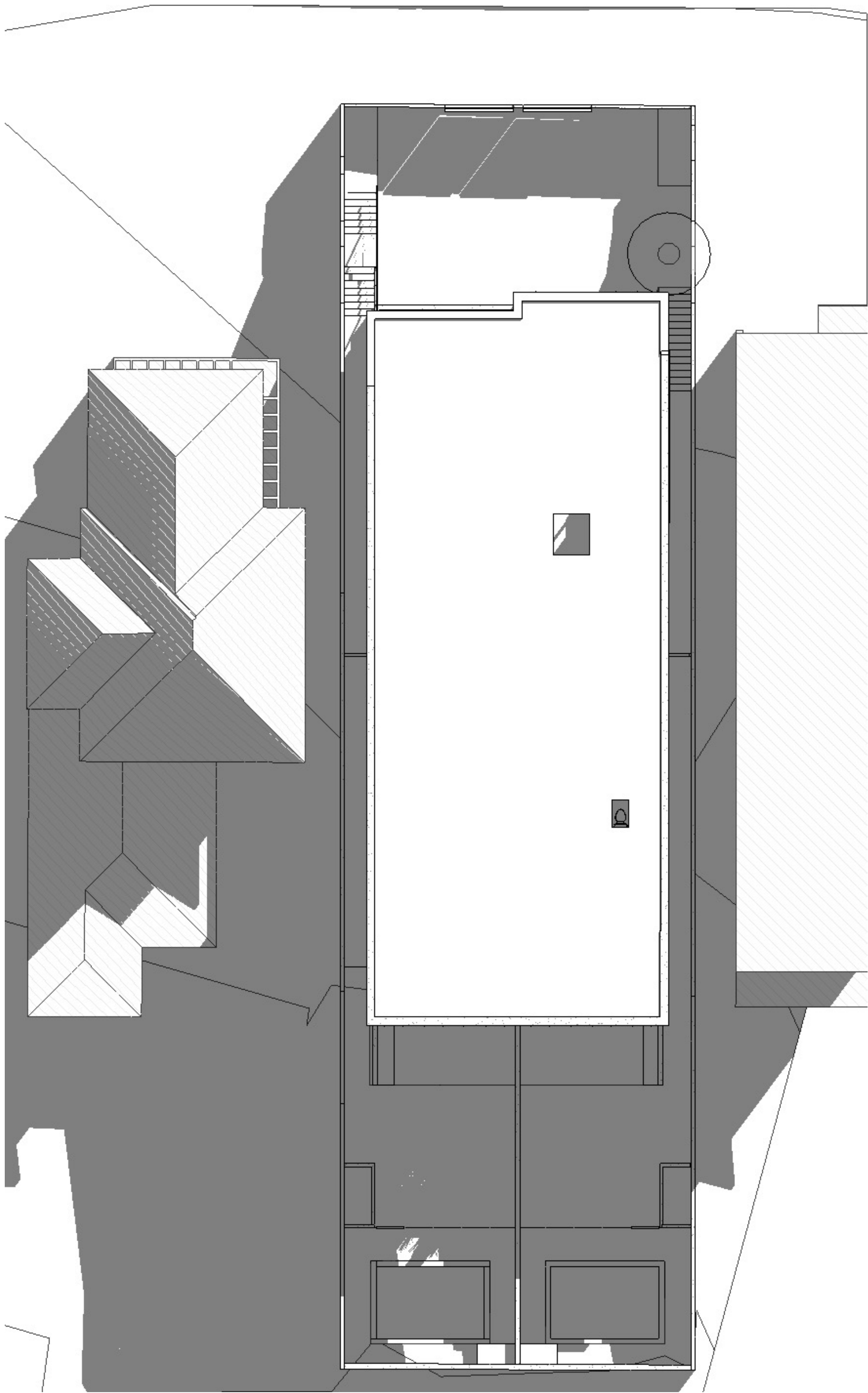
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PROPOSED WINTER SOLSTICE - 9 AM



PROPOSED WINTER SOLSTICE - 12 PM



PROPOSED WINTER SOLSTICE - 3 PM

PROJECT: Mr G & Mrs R Kosmin

New Dual Occupancy Residential

105 Military Road,
Dover Heights

Proposed Shadows - Winter Solstice

SCALE:

DRAWN: SM

DATE: 29 MAY 19

JOB NO: 873-18

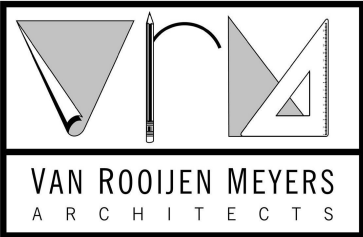
DRAWING NO: A10-Rev.A

No.

Description

Date

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EXISTING WINTER SOLSTICE - 9 AM

EXISTING WINTER SOLSTICE - 12 PM

EXISTING WINTER SOLSTICE - 3 PM

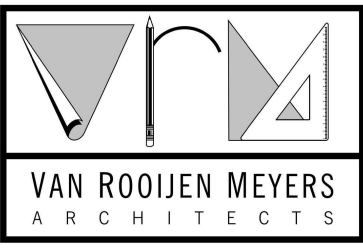
PROJECT: Mr G & Mrs R Kosmin

New Dual Occupancy Residential

105 Military Road,
Dover Heights

| Existing Shadows - Winter Solstice | | No. | Description | Date |
|------------------------------------|----------------|-----|-------------|------|
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| DATE: 29 MAY 19 | JOB NO: 873-18 | | | |
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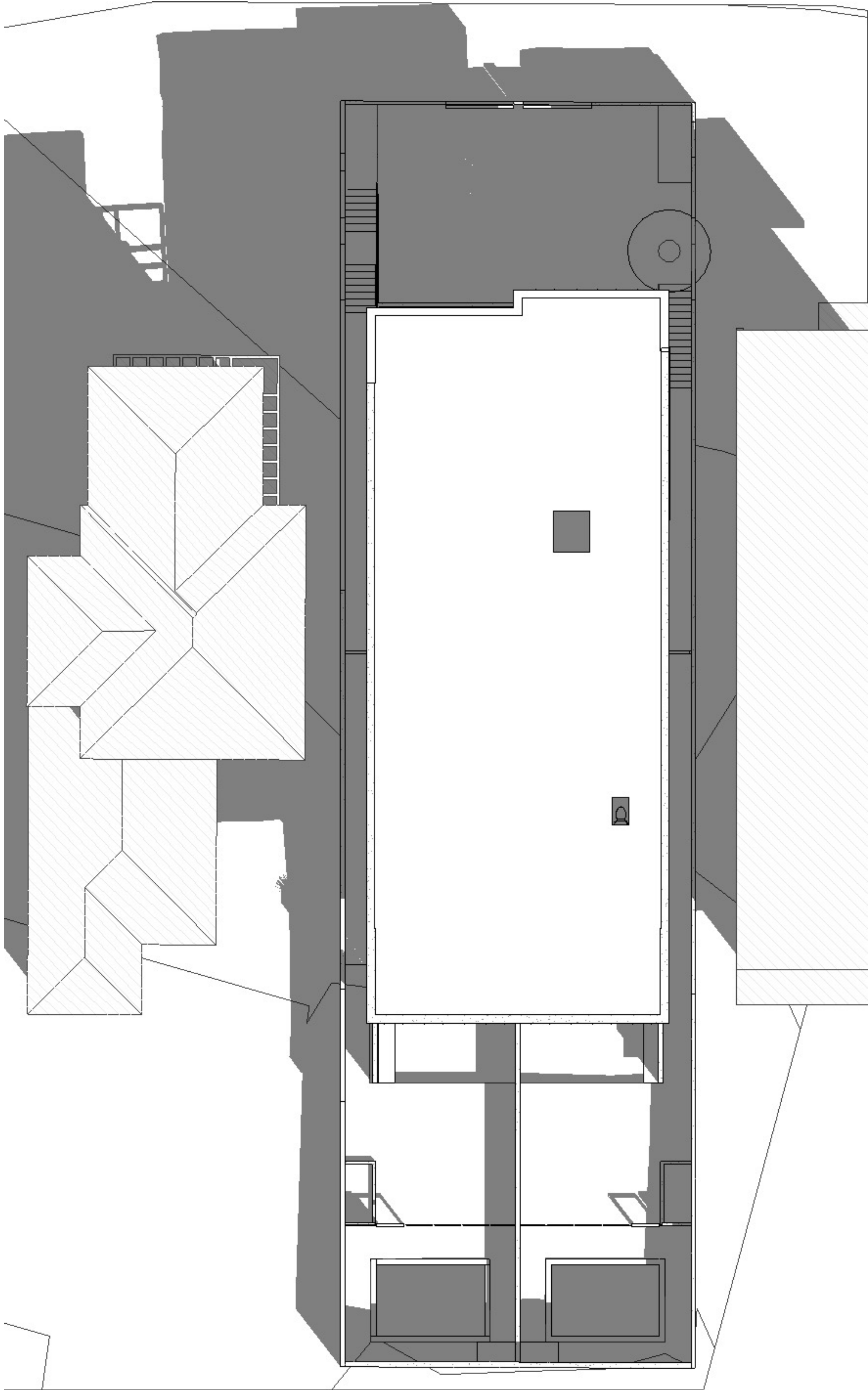
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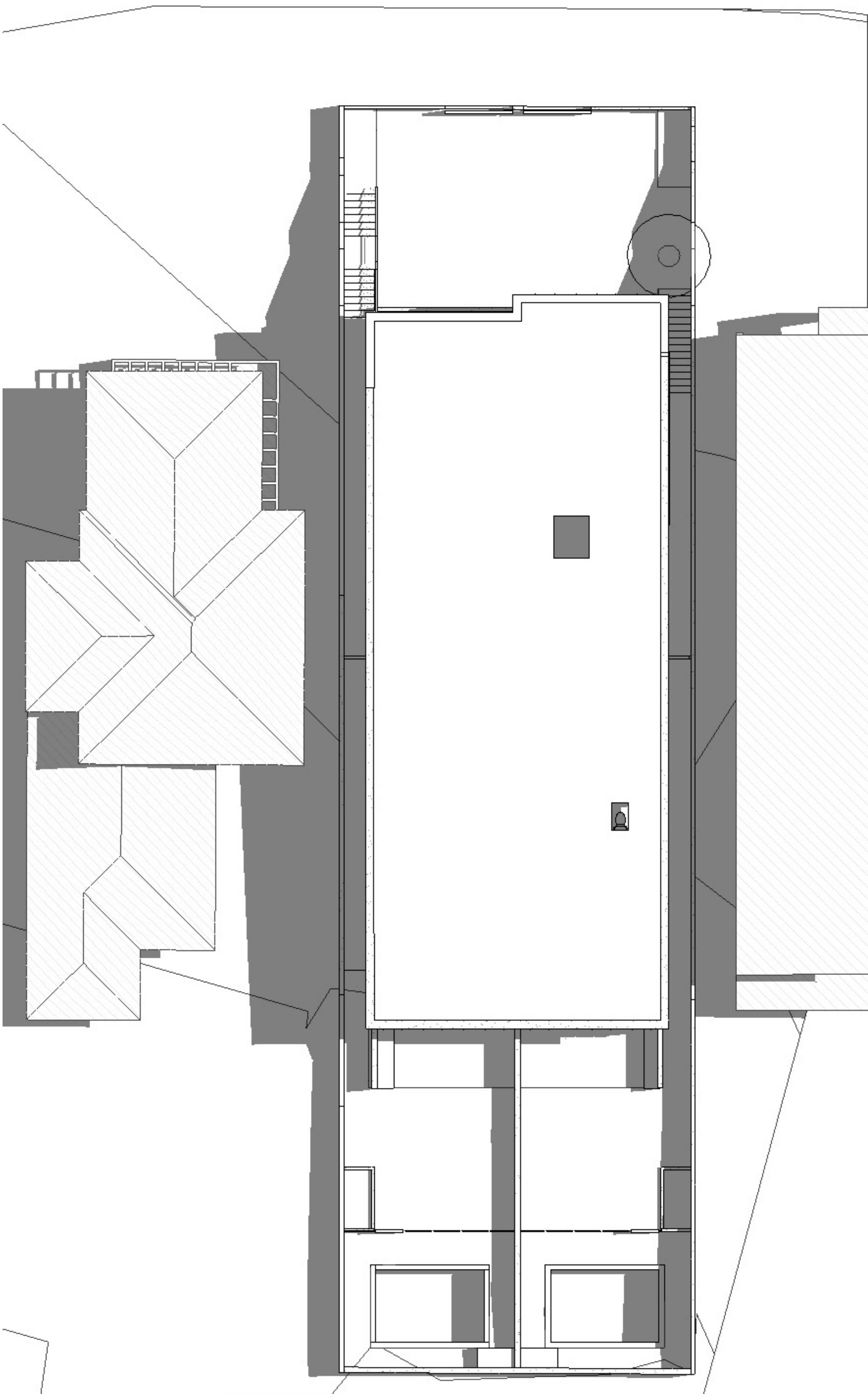
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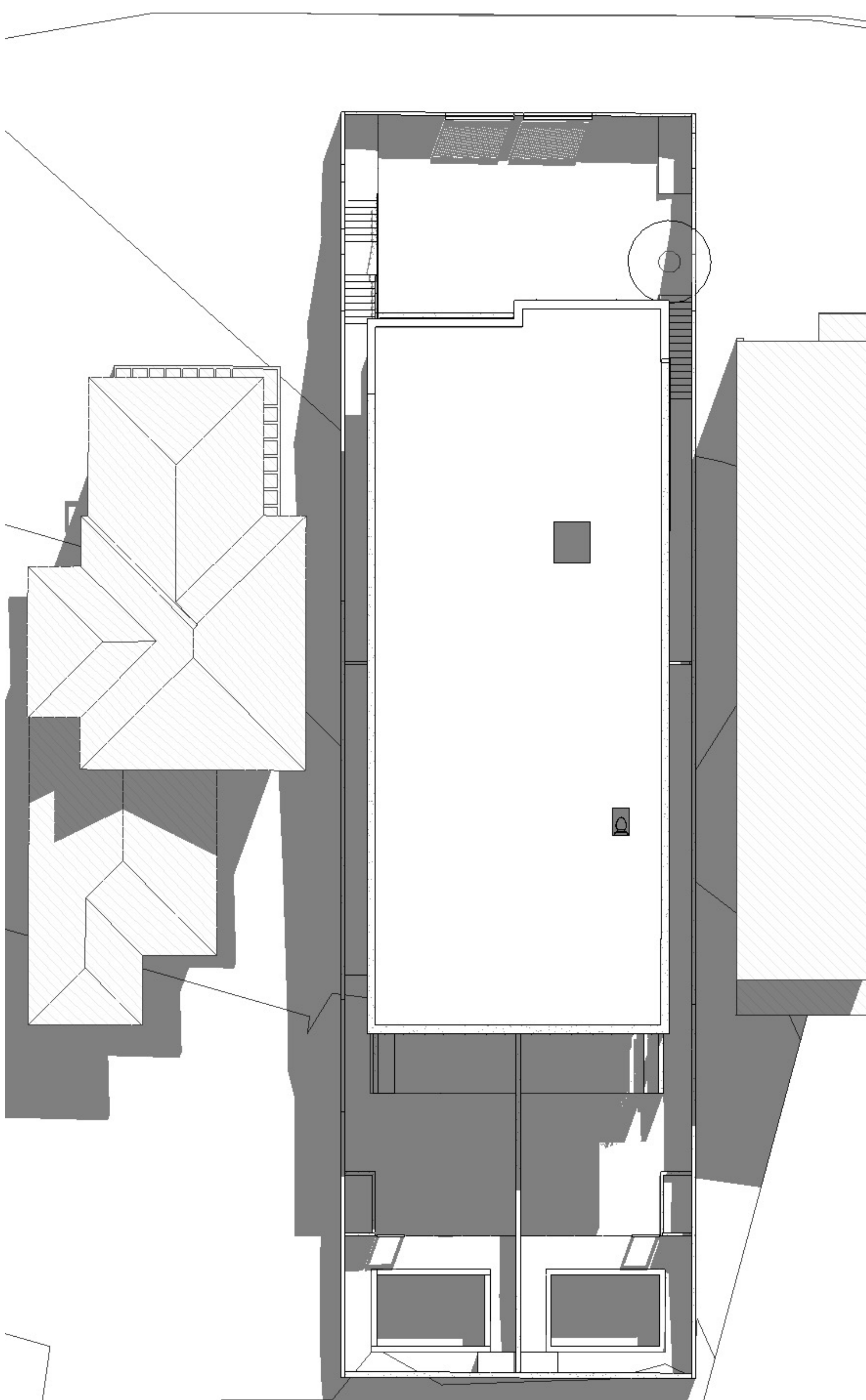
RECEIVED
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Date Received: 06/09/2019



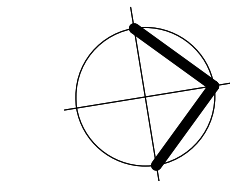
PROPOSED AUTUMN EQUINOX - 9 AM



PROPOSED AUTUMN EQUINOX - 12 PM



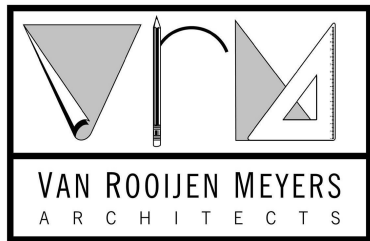
PROPOSED AUTUMN EQUINOX - 3 PM



PROJECT: Mr G & Mrs R Kosmin
New Dual Occupancy Residential
105 Military Road,
Dover Heights

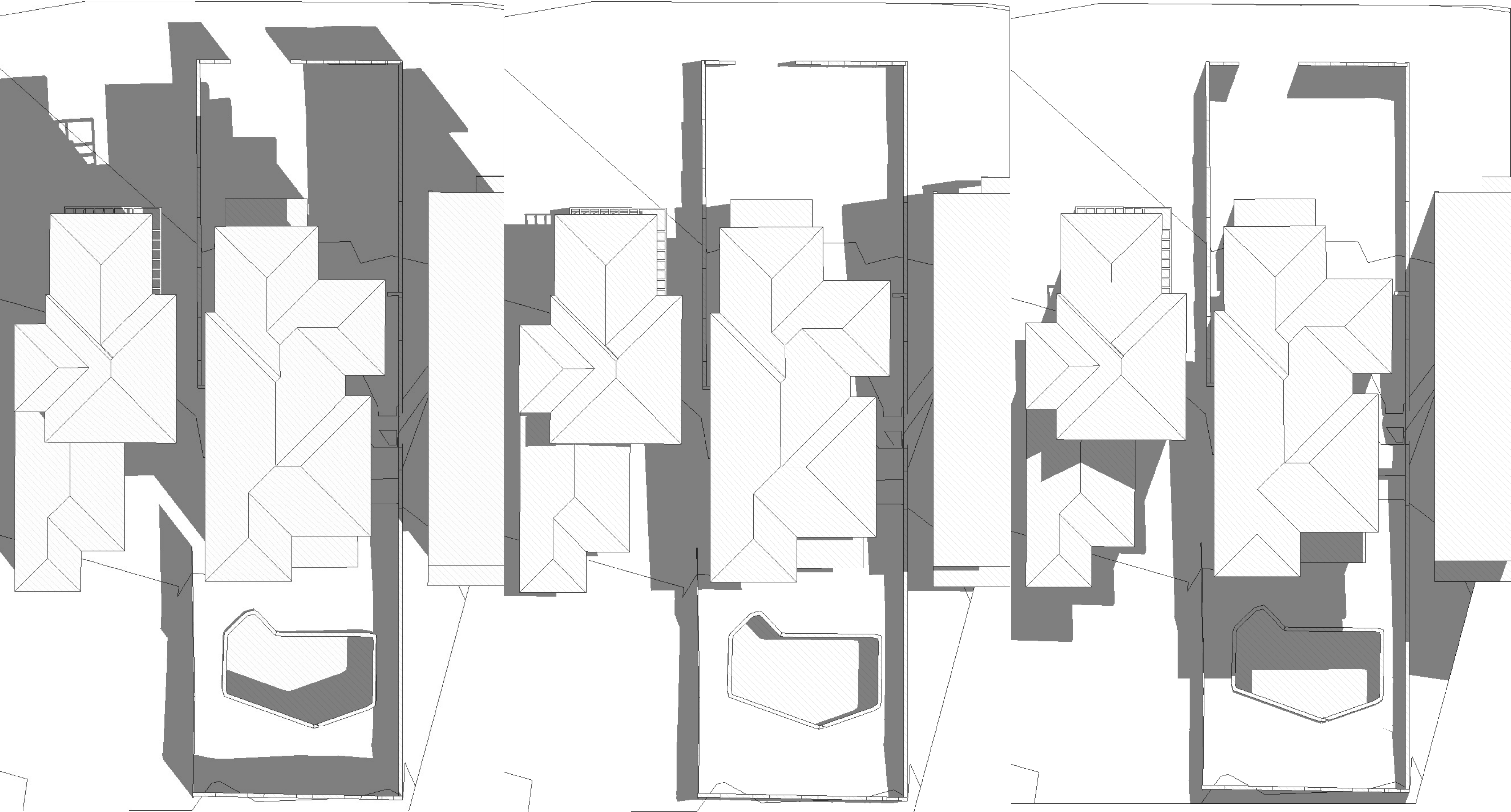
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| DRAWING NO: A11-Rev.A | | | | |

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EXISTING AUTUMN EQUINOX - 9 AM

EXISTING AUTUMN EQUINOX - 12 PM

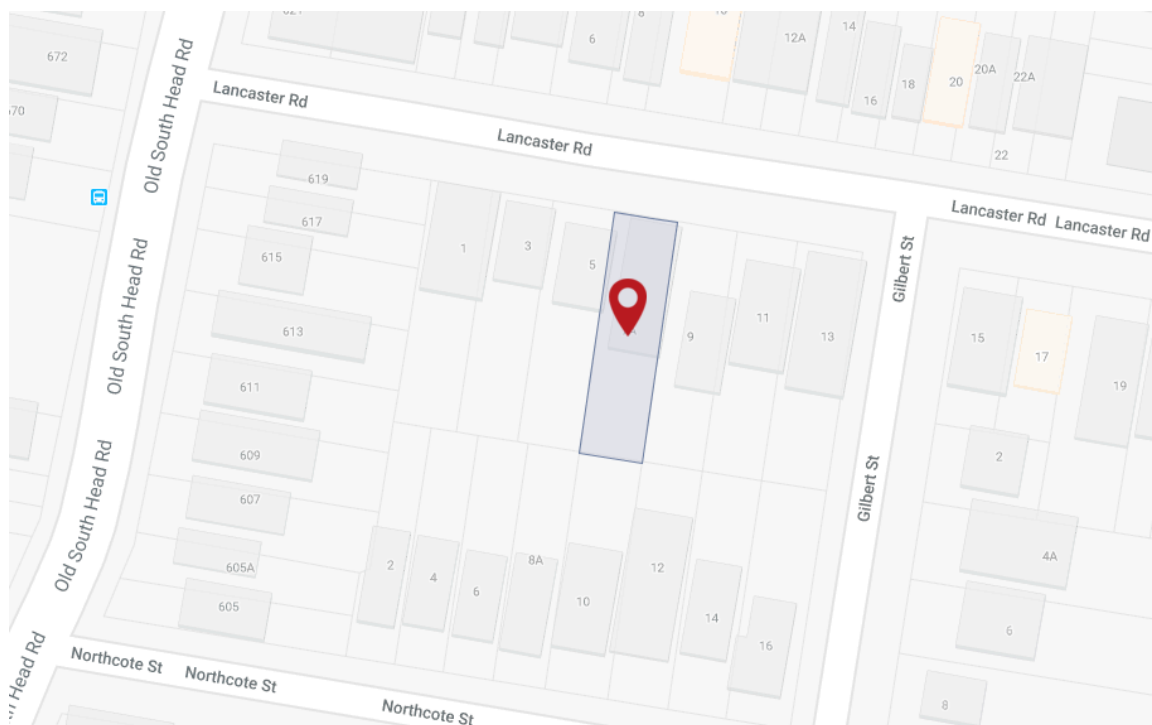
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Report to the Waverley Local Planning Panel

| | |
|---------------------------|--|
| Application number | DA-242/2018/1 |
| Site address | 7 Lancaster Road DOVER HEIGHTS |
| Proposal | Review of refusal of decision for alterations and additions to a dwelling including new first floor. |
| Date of lodgement | 5 July 2019 |
| Owner | Cassandra Spies & Graeme Spies |
| Applicant | Castlepeake Consulting |
| Submissions | 3 submissions received |
| Cost of works | \$1,347,061.98 |
| Issues | Non-compliant floor space ratio, building height and view loss. |
| Recommendation | That the application be REFUSED |

Site Map



1. PREAMBLE

1.1 Site and Surrounding Locality

The site is identified as Lot 18, Section A, in DP4185, known as 7 Lancaster Road, DOVER HEIGHTS. The site is rectangular in shape with a frontage width of 12.19m and a depth of 47.245m. The site has an area of 575.8m² and falls from the front towards the rear by approximately 3.8m. The site has a north/south orientation.

The site is currently occupied by a single storey, part two-storey dwelling house with a swimming pool within the rear yard.

The subject site is adjoined by two-storey dwelling houses either side. The locality is typically characterised by two storey dwelling houses.

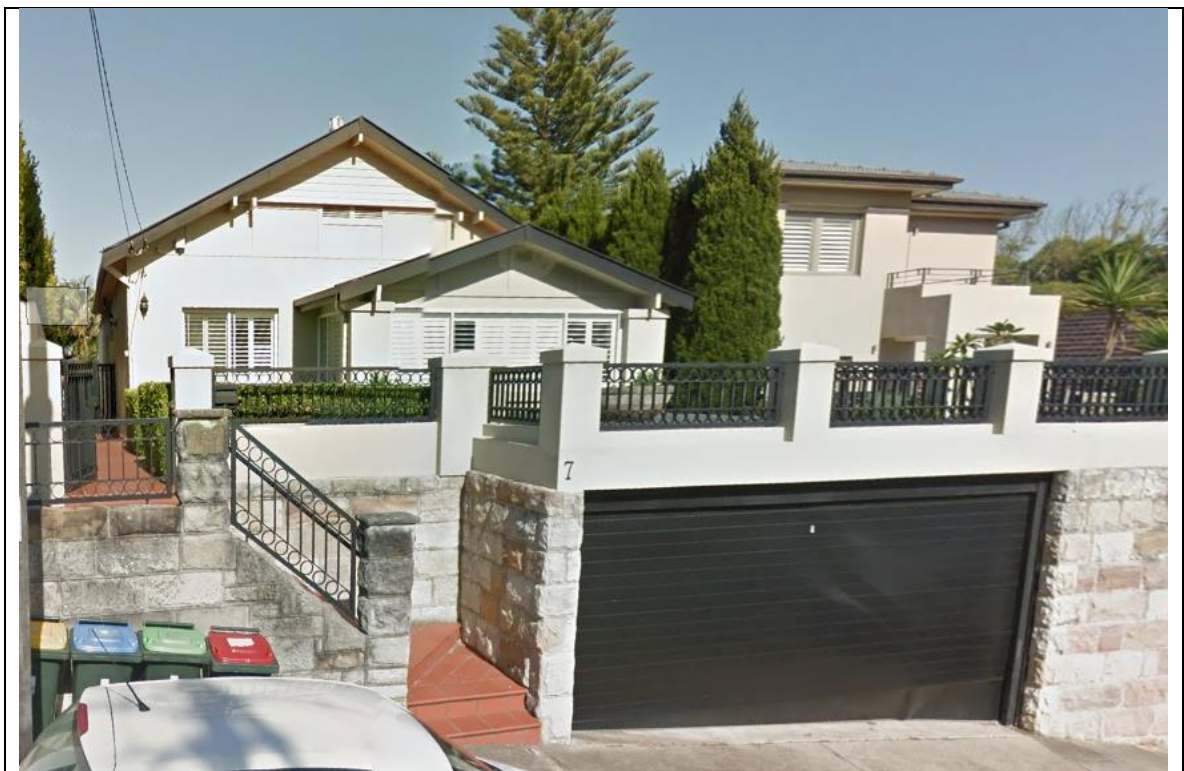


Figure 1: Subject site frontage



Figure 2: Rear elevation of subject dwelling – facing north.

1.2 Relevant History

The original development application subject to this review (DA-242/2018) was refused under delegation for the following reasons: -

- The proposal exceeded the height of buildings and floor space ratio development standards.
- The submitted Clause 4.6 written request did not adequately address Clause 4.6(3) (a) & (b) of the Waverley Local Environmental Plan 2012.
- The proposal resulted in an unacceptable loss of views from surrounding properties to the Sydney Opera House and Harbour Bridge.

Clarification of plans was sought from the applicant on 20 August 2019; in particular, concern was raised regarding the use of the numerous sub-floor areas within the basement. The applicant stated that the subfloor space within the basement is proposed to partly remain to limit the amount of habitable floor space on this level.

As per Council's Procedure Note, this application is referred to the Waverley Local Planning Panel for determination as this application involves the review of a decision to refuse an application made by the Development and Building Unit (DBU).

1.3 Proposal

The application proposes alterations and additions to a dwelling. Specifically, the development involves the following: -

- Alterations and additions to the basement.
- Alterations and additions to the ground floor.
- New first floor addition.

2.0 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 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal.

2.1.2 SEPP 55 Remediation of Land

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


2.1.3 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 |
|--|------------|---|
| Part 1 Preliminary | | |
| 1.2 Aims of plan | Yes | Proposal contributes to the provision of a range of housing types to meet the needs of the community. |
| Part 2 Permitted or prohibited development | | |
| Land Use Table R2 – Low Density Residential Zone | Yes | The proposal involves alterations and additions to a dwelling house, which is permitted with consent in the R2 zone. |
| Part 4 Principal development standards | | |
| 4.3 Height of buildings <ul style="list-style-type: none">8.5m | No | According to the submitted architectural plans, the overall height of the building is approximately 8.6m (Refer Section C on Drawing No. DA09). It is noted that in the absence of the providing an RL of existing ground level on this section, the overall height has been scaled off the plan. |

| Provision | Compliance | Comment |
|---|------------|---|
| | | The applicant has therefore not adequately demonstrated compliance with this development standard. In addition, a clause 4.6 request to vary the height of buildings development standard has not been submitted, therefore in accordance with Clause 4.6 (3) and (4), development consent cannot be granted to the development. |
| <p>4.4 Floor space ratio and</p> <p>4.4A Exceptions to floor space ratio</p> <ul style="list-style-type: none"> 0.5:1 (based on site area of 575.8m²) | No | <p>The applicant has stated that the development results in an FSR of 0.54:1 (based on a calculated GFA of 313.72m²). This equates to a 25.82m² or 8.9% variation. The applicant has not correctly calculated the GFA as the stairs should be counted twice where a 'third' level is proposed.</p> <p>Assessing officer calculation:-</p> <p>Basement – 32m²</p> <p>Ground – 177m²</p> <p>First - 116.2m²</p> <p>Total GFA = 325.2m², which equates to an FSR of 0.56:1. A variation of 12.95% or 37.3m² is proposed.</p> <p>It is noted that there are numerous areas within the basement which have been marked as 'subfloor plant room', 'sub-floor cellar' and 'sub-floor store' in an attempt to reduce the overall GFA of the building.</p> <p>A new subfloor/void area has also been introduced to the western portion of the 'basement'. No explanation has been provided by the applicant as to why this area is required given this area is currently open space below the existing terrace on level 1 (Refer photograph below).</p> |

| Provision | Compliance | Comment |
|---|----------------|---|
|  <p>Proposed new subfloor area</p> <p>Existing gym/rumpus</p> <p>Figure 3: Rear elevation of subject dwelling – facing north.</p> | | |
| 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 floor space ratio 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.

The site is subject to a maximum FSR control of 0.5:1 (based on site area of 575.8m²). The applicant has stated that the proposed development results in an FSR of 0.54:1 (based on a calculated GFA of 313.72m²). This equates to a 25.82m² or 8.9% variation. However, the applicant has not correctly calculated the GFA as the stairs should be counted twice where a 'third' level is proposed. On this basis, the submitted clause 4.6 written request has provided inaccurate information.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the 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.

Applicants 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 is consistent with the relevant objectives of the FSR development standard.*
 - (ii) *it is unnecessary to comply with the maximum FSR control in this instance as the proposal is contextually compatible with the surrounding developments; does not result in additional amenity impacts to neighbouring properties over a compliant form; and is consistent with the desired future character.*
 - (iii) *It is our opinion that the underlying objective or purpose outlined above would be defeated if compliance with the maximum FSR was necessary. The bulk at the street front is consistent with nearby buildings and may mean demolition of the existing building. Reductions would result in an incongruous form in the locality, which is a poor urban design outcome and contrary to Clause 4.4(1)(c).*
 - (iv) *While the standard has not been abandoned or destroyed, it is important to note that Council has, on multiple previous occasions, consented to proposals in the locality with a Floor Space Ratio that exceeded the development standard.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) *This report demonstrates the proposed new mixed use development will be compatible with nearby and future development. The additional FSR will be compatible with the existing streetscape of Lancaster Road, and therefore has no effect on streetscape amenity or existing characteristics of the precinct. The deletion of the pergola has resulted in improved amenity for neighbours and a more consistent built form.*
 - (ii) *Further reductions of the FSR would unnecessarily complicate orderly and economic development of the land in accordance with the intentions of the zoning and with the objectives of the Environmental Planning and Assessment Act 1979.*
 - (iii) *The proposals compliance with the maximum building height in the LEP and setback requirements shows the proposal is consistent with the desired future character of Lancaster Road and the wider area.*
 - (iv) *The proposal is compatible in the streetscape in terms of height and overall bulk. The alterations and additions are thoughtfully designed, with a high level of amenity and have a similar built form to nearby approvals.*

Consideration of Applicants 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 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)?

The applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case; however has referenced one or more of the following justification 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;*
- 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 justification provided within the written request does not adequately demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. The proposal does not preserve the environmental amenity of neighbouring properties as the proposal results in an unacceptable loss of views to No. 11 Lancaster Road.

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

The submitted clause 4.6 written request has satisfied clause 4.6(3)(b) in that the applicant has provided environmental planning grounds to justify contravening the development standard.

However, the justification provided within the written request does not adequately *demonstrate* that there are sufficient environmental planning grounds to justify contravening the development standard, as the proposal will result in an unreasonable environmental impact upon neighbouring properties with regard to loss of views, which is discussed further below.

Is the development in the public interest?

The proposed development will not be in the public interest because it is not consistent with the objectives of the FSR standard. In particular, the proposed development does not preserve the environmental amenity of No. 11 Lancaster Road regarding loss of views. This is discussed in detail below.

Conclusion

For the reasons provided above, the requested variation to the FSR is not supported. While the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6(3) of the Waverley LEP 2012, the proposed development is not in the public interest because it is inconsistent with the objectives of the FSR standard.

Loss of views

The owners of No. 11 Lancaster Road Dover Heights have raised concerns over loss of views to the Harbour Bridge and Opera House. In determining the impact of the view loss, reference has been made to the Land and Environment Court's Principle on views and view sharing as discussed in *Tenacity Consulting v Warringah Council* [2004] NSWLEC140.

The below aerial photograph provides a snapshot of where the view analysis was undertaken at No. 11 Lancaster Road.



Figure 4: Subject site (red pin) and neighbouring properties, including 11 Lancaster Road (red dots indicate approximate location where photos were taken from)

The owners of No. 11 Lancaster Road currently have uninterrupted views of the Harbour Bridge and the Opera House, across the western side property boundary from living rooms and the front terrace, as demonstrated by the photographs below.



Figure 5: This photograph was taken from the front terrace of No. 11 Lancaster Road.



Figure 6: This photograph was taken from the living room of No. 11 Lancaster Road, noting the views across the subject site.



Figure 7: This photograph was taken from the living room of No. 11 Lancaster Road, noting the views across the subject site.

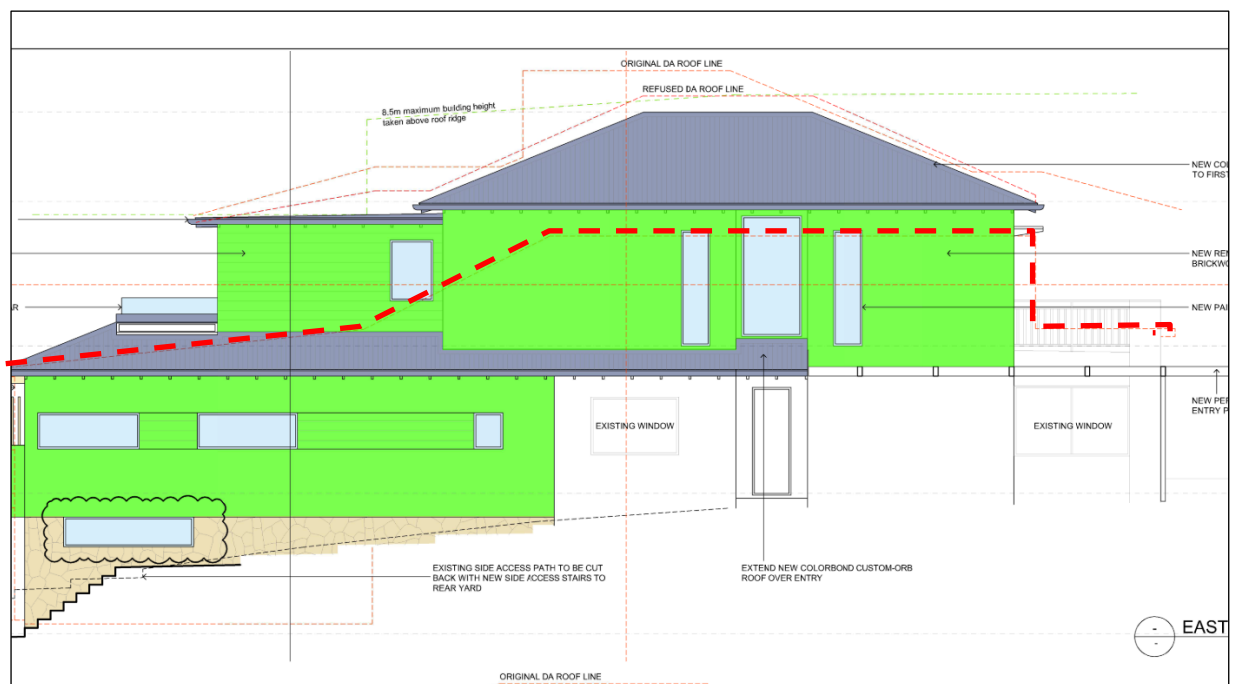


Figure 8: This extract from the submitted eastern elevation demonstrates the increase in height from the existing roofline (red dashed line represents the existing roofline)

The proposed development will more than likely obliterate the view of the Harbour Bridge and the Opera House from the living area of No. 11 Lancaster Road. Furthermore, it is considered that a more skilful design would likely reduce the impact on views (*Tenacity Consulting v Warringah Council* [2004] NSWLEC140).

Whilst it is acknowledged that views obtained across a side boundary are more difficult to protect (*Tenacity Consulting v Warringah Council* [2004] NSWLEC140), it is likely that views obtained across the side boundary, from the living room, may be retained if the proposal complied with the FSR and height of buildings development standards.

When having regard to the above, the loss view is considered unreasonable in this instance where the application proposes a departure from the floor space ratio development and height of buildings development standard.

2.1.4 Waverley Development Control Plan 2012 (Amendment 6)

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 | No | A Site Waste & Recycling Management plan has not been submitted |
| 5. Tree preservation | Yes | Council's Tree Management Officer advised the proposal will not adversely affect the health of surrounding vegetation. |
| 6. Stormwater | No | The stormwater plans submitted with the application are not satisfactory and do not comply with the Water Management Technical Manual. |
| 14. Excavation | Yes | Excavation is not proposed within 900mm of side boundaries. |

Table3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table

The proposal is defined as a "Dwelling House" in the LEP.

| Development Control | Compliance | Comment |
|---|------------|---|
| 2.1 Height | | |
| Pitched Roof dwelling house <ul style="list-style-type: none"> Maximum external wall height of 7m | No | The proposal exceeds the prescribed wall height by 200mm on the western elevation. |
| 2.2 Setbacks | | |
| 2.2.1 Front and rear building lines <ul style="list-style-type: none"> Predominant front building line | Yes | The front building line varies along the southern side of Lancaster Road, east of Gilbert Street. Many houses have decks within the front setback to maximise views over the harbour to the Harbour Bridge and Sydney Opera House. The proposed first floor addition aligns with the existing ground level, which is considered |

| Development Control | Compliance | Comment |
|--|---|--|
| <ul style="list-style-type: none"> Predominant rear building line at each floor level | | <p>acceptable, however, as discussed above will impact on views.</p> <p>Rear building alignment is maintained at ground level. The rear building alignment of the first floor is considered appropriate (measured at approx. 21m from the rear boundary), noting that there is not a consistent rear building alignment within this portion of Lancaster Road.</p> |
| <p>2.2.2 Side setbacks</p> <ul style="list-style-type: none"> Minimum of 0.9m | Yes | <p>The first floor addition proposes setbacks of between 1.4m and 1.75m from the side eastern boundary and 2.15m and 2.445m from the western boundary. Additions to the basement and ground floor comply with minimum requirements.</p> <p>Therefore, the proposal adequately satisfies this development control.</p> |
| 2.3 Streetscape and visual impact | | |
| <ul style="list-style-type: none"> New development to be compatible with streetscape context | Yes | <p>The scale and siting of the proposed addition is generally consistent with surrounding development and will not dominate the streetscape.</p> |
| 2.5 Visual and acoustic privacy | | |
| <ul style="list-style-type: none"> Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design. External stairs are not acceptable. Maximum size of balconies: <i>10m² in area</i> <i>1.5m deep</i> | <p>Yes</p> <p>Acceptable on merit.</p> <p>Acceptable on merit</p> | <p>Large living area windows are orientated to the rear of the site at ground level, and as such will not result in direct overlooking to neighbouring properties.</p> <p>Side facing windows at ground level and first floor have otherwise been limited and are of a suitable size to maintain the privacy of neighbouring properties.</p> <p>External stairs are currently located on the eastern side of the ground floor (rear) deck to provide access to the lower ground level private open space. The revised plans have relocated the stairs to the western side of the deck, which will be partially screened thus minimising direct overlooking.</p> <p>First floor balcony fronting onto Lancaster Road has an area of approximately 12m², which is considered appropriate given the context of the locality.</p> |

| Development Control | Compliance | Comment |
|--|---------------------|---|
| | | The size of the rear first floor balcony has been reduced to comply with the numerical requirement of 10m ² . Privacy screening would have been imposed via a condition of consent if the application were to be approved. |
| 2.6 Solar access | | |
| <ul style="list-style-type: none"> Minimum of three hours of sunlight to living areas and principal open space areas on 21 June | Acceptable on merit | Due to the unfavourable site orientation (the rear of the site having a southern orientation), living areas within the subject dwelling and private open space will not receive compliant solar access. |
| <ul style="list-style-type: none"> Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June | Acceptable on merit | <p>The shadows prepared by the architect demonstrate that the proposal will result in some additional overshadowing to neighbouring properties, however is not considered unreasonable given the unfavourable solar orientation of adjoining private open space and living areas.</p> <p>It is noted that some overshadowing is to be expected within an urban context. Notwithstanding this, the application is recommended for refusal.</p> |
| 2.7 Views | | |
| <ul style="list-style-type: none"> Views from the public domain are to be maintained Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks. | No | <p>The proposal will result in an unacceptable loss of views to the Sydney Opera House and Harbour Bridge from neighbouring properties at No. 11 and No. 13 Lancaster Road.</p> <p>Refer to detailed discussion under Section 2.1.3 above.</p> |
| 2.9 Landscaping and open space | | |
| <ul style="list-style-type: none"> Overall open space: 40% of site area | Yes | 59% open space provided (342.14m ² /575.8m ²). |
| <ul style="list-style-type: none"> Overall landscaped area: 15% of site area | Yes | 31% landscaped area proposed (180 ² /575.8m ²) |
| <ul style="list-style-type: none"> Minimum area of 25m² for private open space | Yes | Min 25m ² private open space proposed. |
| <ul style="list-style-type: none"> Front open space: 50% of front building setback area | | Existing arrangement |

| Development Control | Compliance | Comment |
|---|------------|----------------------|
| <ul style="list-style-type: none"> Front landscaped area: 50% of front open space provided | | Existing arrangement |

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have a significant detrimental effect relating to environmental, social or economic impacts on the locality and is recommended for refusal.

2.3 Suitability of the Site for the Development

The site is not considered to be suitable for the proposed development.

2.4 Any Submissions

The application was notified 14 days in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

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

Table 3: Summary of property addresses that lodged a submission

| Property |
|---------------------------------|
| 1 Lancaster Road DOVER HEIGHTS |
| 5 Lancaster Road DOVER HEIGHTS |
| 11 Lancaster Road DOVER HEIGHTS |

Issue: Non-compliant Building Height

Response: As discussed under Section 2.1.3 of this report, the proposal does not comply with the height of buildings development standard. A clause 4.6 request to vary the height of buildings development standard has not been submitted, therefore in accordance with Clause 4.6 (3) and (4), development consent cannot be granted to the development.

Issue: Non-compliant Floor Space Ratio (FSR)

Response: As discussed under Section 2.1.3 of this report, the proposal does not comply with the FSR development standard and a Clause 4.6 was submitted. However, the justification provided within the written request does not adequately demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, as the proposal will result in an unreasonable environmental impact upon neighbouring properties with regard to loss of views.

Issue: Unsatisfactory Clause 4.6

Response: As mentioned above, the submitted Clause 4.6 request to support a variation to FSR do not adequately address subclause (3) and (4) of this part of Clause 4.6 of the LEP. No Clause 4.6 was submitted for the exceedance of Building Height.

Issue: Non-compliant setbacks

Response: On merit the proposal is generally consistent with the DCP regarding setbacks. Refer to discussion under 2.1.4 of this report. Notwithstanding this, the application is recommended for refusal.

Issue: Visual and Acoustic Privacy

Response: On merit the proposal is generally consistent with the DCP regarding visual and acoustic privacy. Refer to discussion under 2.1.4 of this report. Notwithstanding this, the application is recommended for refusal.

Issue: Loss of views

Response: The proposal will result in an unacceptable loss of views given departure from the FSR and Height of buildings development standard. Refer to discussion under 2.1.3 of this report.

2.5 Public Interest

The proposal will have a detrimental effect on the public interest and is not supported.

3. REFERRALS

3.1 Stormwater

Internal referral comments have been sought from Council's Design team. The plans have been examined and are considered not satisfactory with regard to stormwater details. Ordinarily a condition of consent would have been imposed for adequate stormwater details to be provided prior to the issue of the construction certificate.

3.2 Tree Management

Internal referral comments have been sought from Council's Tree Management team. Council's Tree Management Officer advised that surrounding trees will not be impacted by the proposed development.

3.3 Public Domain

Internal referral comments have been sought from Council's Public Domain Engineer as a portion of the existing garage and steps encroach into the public domain, which is over a separate lot and DP owned by Council. Conditions of consent were recommended. Notwithstanding this, the application is recommended for refusal.

4. SUMMARY

The proposal seeks consent for the alterations and additions to dwelling including new first floor and extension of the basement. The proposed development has an FSR of 0.56:1, exceeding Clause 4.4 Floor Space Ratio by 37.3m² equating to a 12.95% variation. The applicant's written request has addressed the matters required to be addressed by cl 4.6(3) of the Waverley LEP 2012, however the proposed development is not in the public interest because it is inconsistent with the objectives of the FSR standard.

The submitted architectural plans, show that the overall height of the building is approximately 8.6m, thus departing from Clause 4.3 Height of Buildings. A Clause 4.6 request to vary the height of buildings development standard has not been submitted, therefore in accordance with Clause 4.6 (3) and (4), development consent cannot be granted to the development.

Notwithstanding the above, the proposal results in an unacceptable loss of views to the Sydney Opera House and Harbour Bridge from No. 11 Lancaster Road. The view loss is considered unreasonable in this instance where the application proposes a departure from the floor space ratio development and height of buildings development standard.

The non-compliances stated in this report result in a development that is not appropriate for the site. In this regard the proposal is not supported.

The original proposal was notified, and 3e submissions were received. The matters raised are discussed in this report under Section 2.4.

DBU Decision

The application and assessment report have been reviewed by the DBU at the meeting on 3 September 2019 and the DBU determined:

- (a) The application is not acceptable and should be refused for the reasons in Appendix A.

DBU members: M Reid, A Rossi, B McNamara, E Finnegan

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the Development 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:**

Lauren Saunders
Senior Development Assessment Planner

Bridget McNamara
**Manager, Development Assessment
(North/South)**

Date: 6 September 2019

Date: 9 September 2019

Reason for referral:

| | |
|---|--|
| 1 | Departure from any development standard in an EPI by more than 10% |
| 2 | Review of a decision to refuse an application |

APPENDIX A – REASONS FOR REFUSAL

Having regard to section 4.15(1) of the Environmental Planning and Assessment Act 1979 the development application is refused for the following reasons:

1. The proposal is in breach of section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, in particular the following provisions:
 - a. Waverley Local Environmental Plan 2012 (WLEP 2012) Clause 4.3(2) as the proposal exceeds the height of buildings standard.
 - b. Clause 4.6(3)(a) and (b) of the WLEP 2012, as a written request has not been submitted to justify the breach of the height of buildings development standard. In the absence of a well-founded Clause 4.6 written request justifying the contravention of the height of buildings development standard it is not possible for the proposed development to be approved.
 - c. Clause 4.4(2) of the WLEP 2012 as the proposal exceeds the maximum floor space ratio standard.
 - d. Clause 4.4(1) of the WLEP 2012 as the proposed is inconsistent with Objective (d) as the proposal does not preserve the environmental amenity of neighbouring properties with regard to view loss.
 - e. Clause 4.6(3)(a) of the WLEP 2012 as the applicant has not demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, as the proposal is inconsistent with Objectives (d) of Clause 4.4 Floor Space Ratio.
 - f. Clause 4.6(3)(b) of the WLEP 2012 as the applicant has not demonstrated that there are sufficient environmental planning grounds to justify contravening the floor space ratio development standard as the proposal will result in an unreasonable environmental impact upon neighbouring properties as well as the desired future character of the locality.
 - g. Clause 4.6(4)(a)(ii) of the WLEP 2012, as the consent authority is not satisfied that the request is in the public interest as the proposal is not consistent with the Objectives (d) of Clause 4.4 Floor Space Ratio.
2. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design and amenity in the built environment.
3. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
 - a. Part C2 – Low Density Residential Development.

Clause 2.7 Views, specifically objectives (a) and (b) and control (c), as the proposal results in an unacceptable loss of views from surrounding properties to the Sydney Opera House and Harbour Bridge.

4. The proposed development does not satisfy section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, as the proposal will have an adverse environmental impact upon the amenity of the locality and surrounding built environment due to the loss of views from surrounding properties to the Sydney Opera House and Harbour Bridge.
5. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the development does not comply with Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio and is therefore considered unsuitable for the site as the applicant has not adequately demonstrated sufficient environmental planning grounds to justify contravening the development standard.
6. The proposal is not considered to be in the public interest for the reasons outlined above contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.

Date Received: 05/07/2019

9AM
21ST DEC

COOL NORTH-EASTERLY
BREEZES

SUMMER SOLSTICE

LANCASTER ROAD

WINTER
SOLSTICE

3PM 21ST DEC

3PM 
21ST JUNE

OUTLINE OF EXISTING DWELLING TO BE
RETAINED WITH NEW UPPER LEVEL ----
ADDITION ADDED

5 LANCASTER ROAD

VIEW

EXISTING POOL AND POOL AREA TO BE
RETAINED

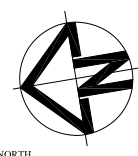
SANDSTONE COLUMNS TO SUPPORT NEW
DECK ABOVE

VIEW

EXISTING PINE TREE TO NEIGHBOURS PROPERTY

HOT WESTERLY WINDS

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| | | | | | | | | | |
| DA2 | GENERAL REVISION - ISSUE COUNCIL FOR REVIEW APPLICATION | 03.07.19 | BK | BK | | | | | |
| DA | ISSUE FOR DEVELOPMENT APPLICATION | JULY '18 | BK | BK | | | | | |
| REVISION | AMENDMENT OR REASON FOR ISSUE | ISSUE DATE | DRAWN | CHECKED | REVISION | AMENDMENT OR REASON FOR ISSUE | ISSUE DATE | DRAWN | CHECKED |



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7/136 Willoughby Rd, Crows Nest NSW 2065 P +61 2 9437 1800 F +61 2 9437 1044

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Architecture
Interior Design

www.castlepeak.com.au

| | |
|---------------|--------------------|
| Drawing Title | SITE ANALYSIS PLAN |
|---------------|--------------------|

Project
SPIES RESIDENCE- 7 LANCASTER RD. DOVER HEIGHTS

Registered Architects
M. Oxenham - Reg No. 7130

B. Kwong - Reg No. 7125

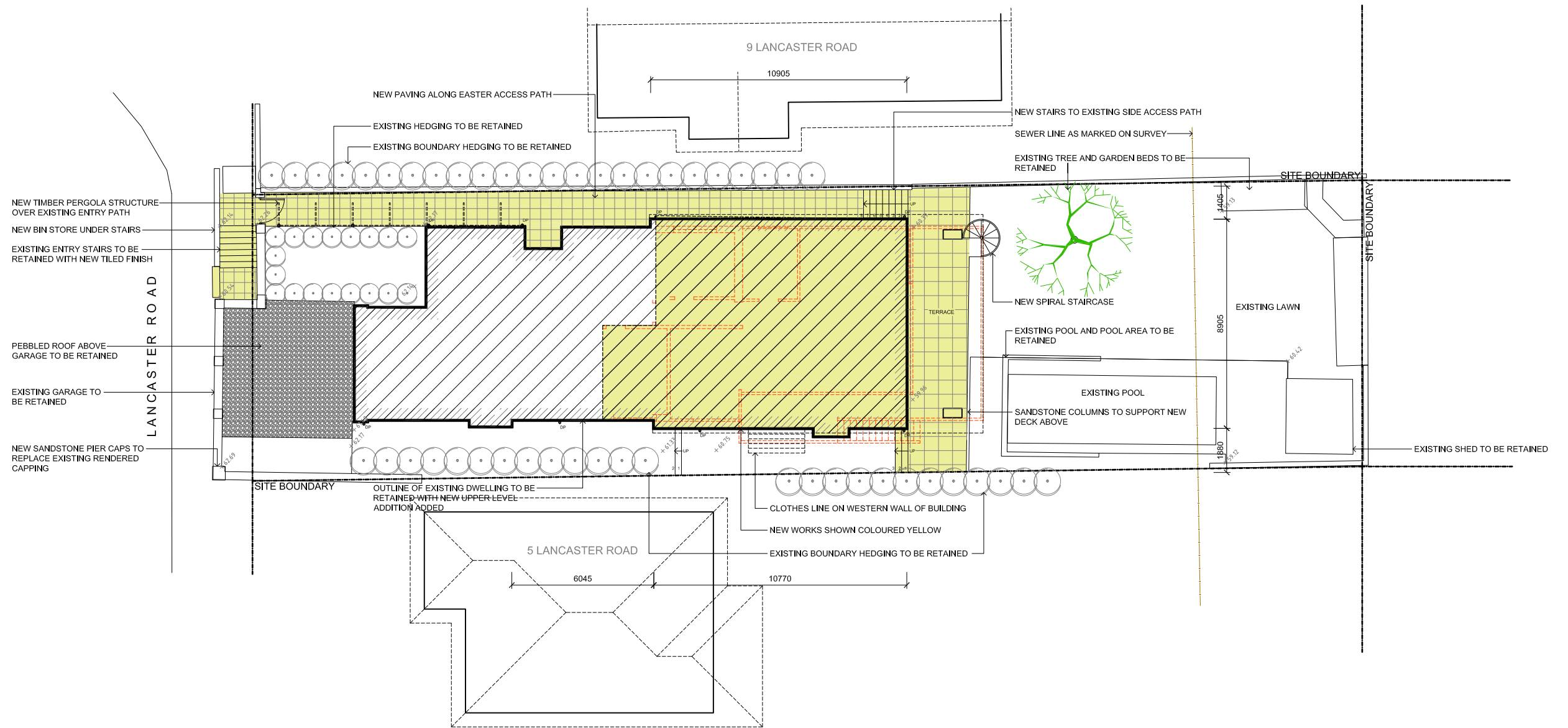
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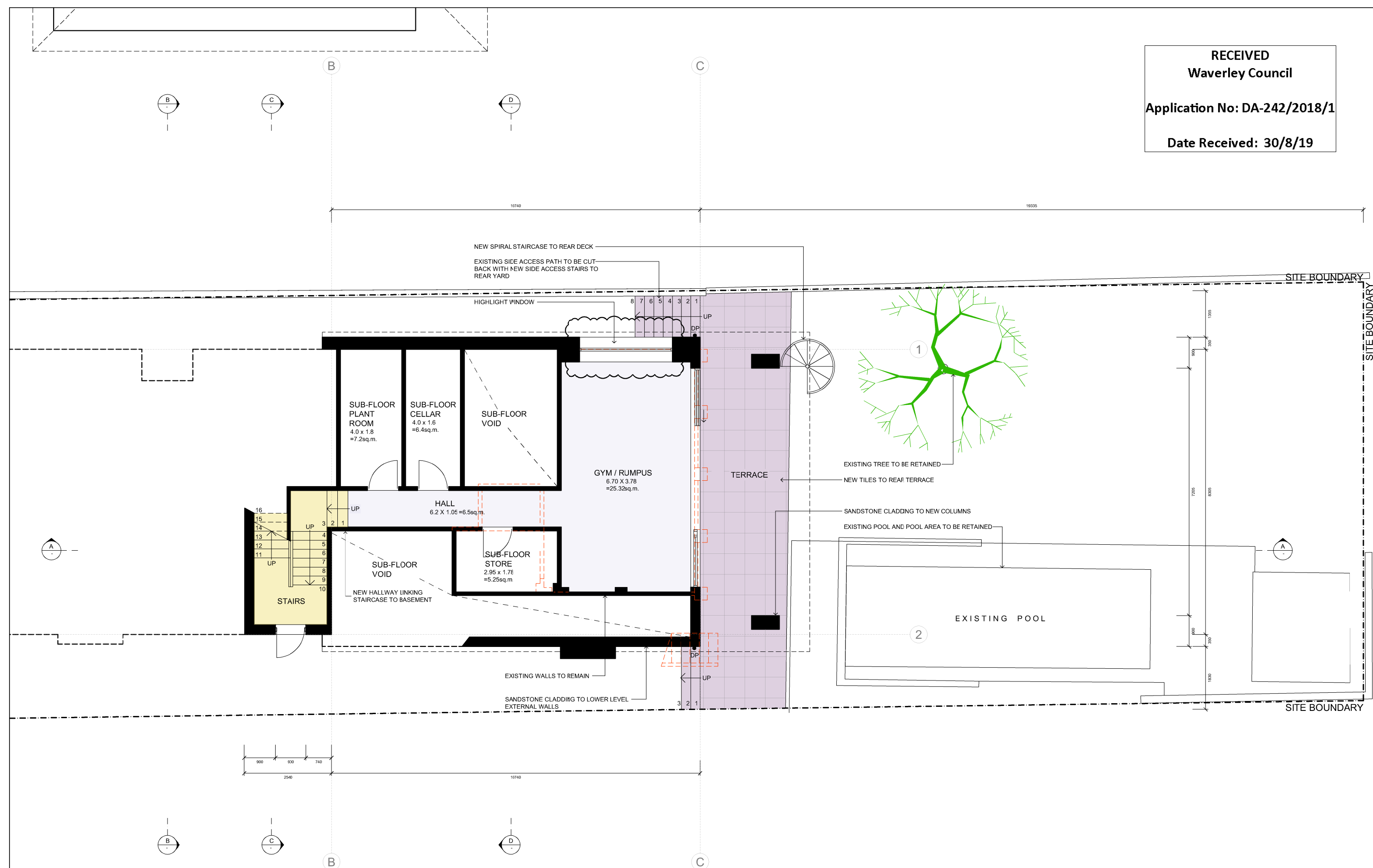
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Revision

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Waverley Council
Application No: DA-242/2018/1
Date Received: 05/07/2019

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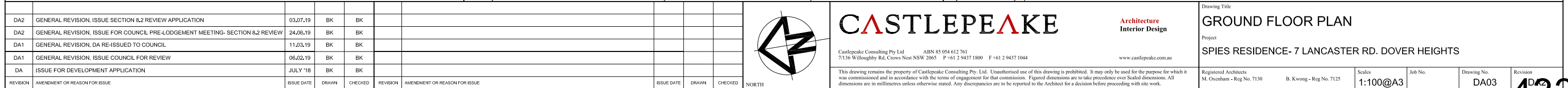
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Waverley Council

Application No: DA-242/2018/1

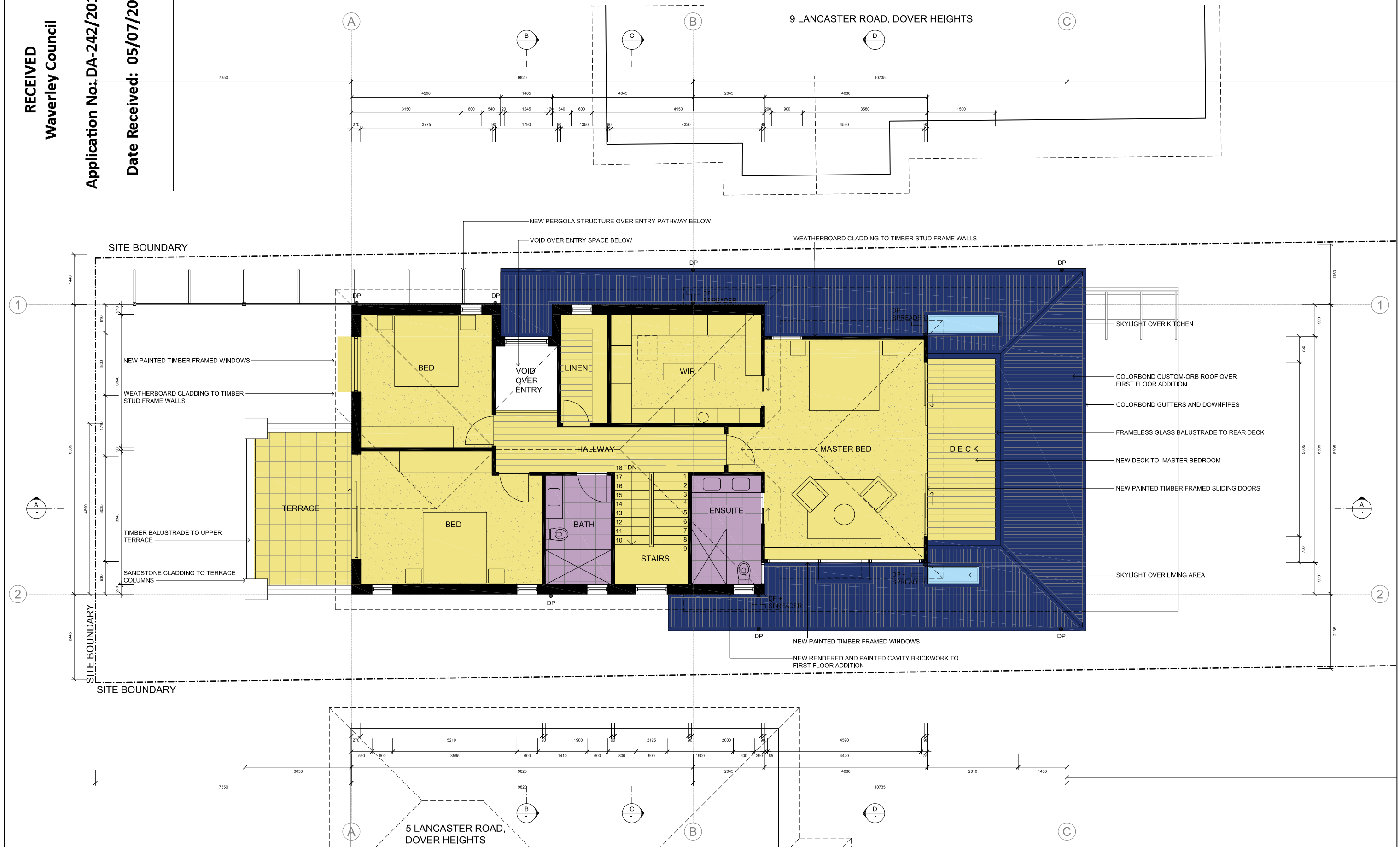
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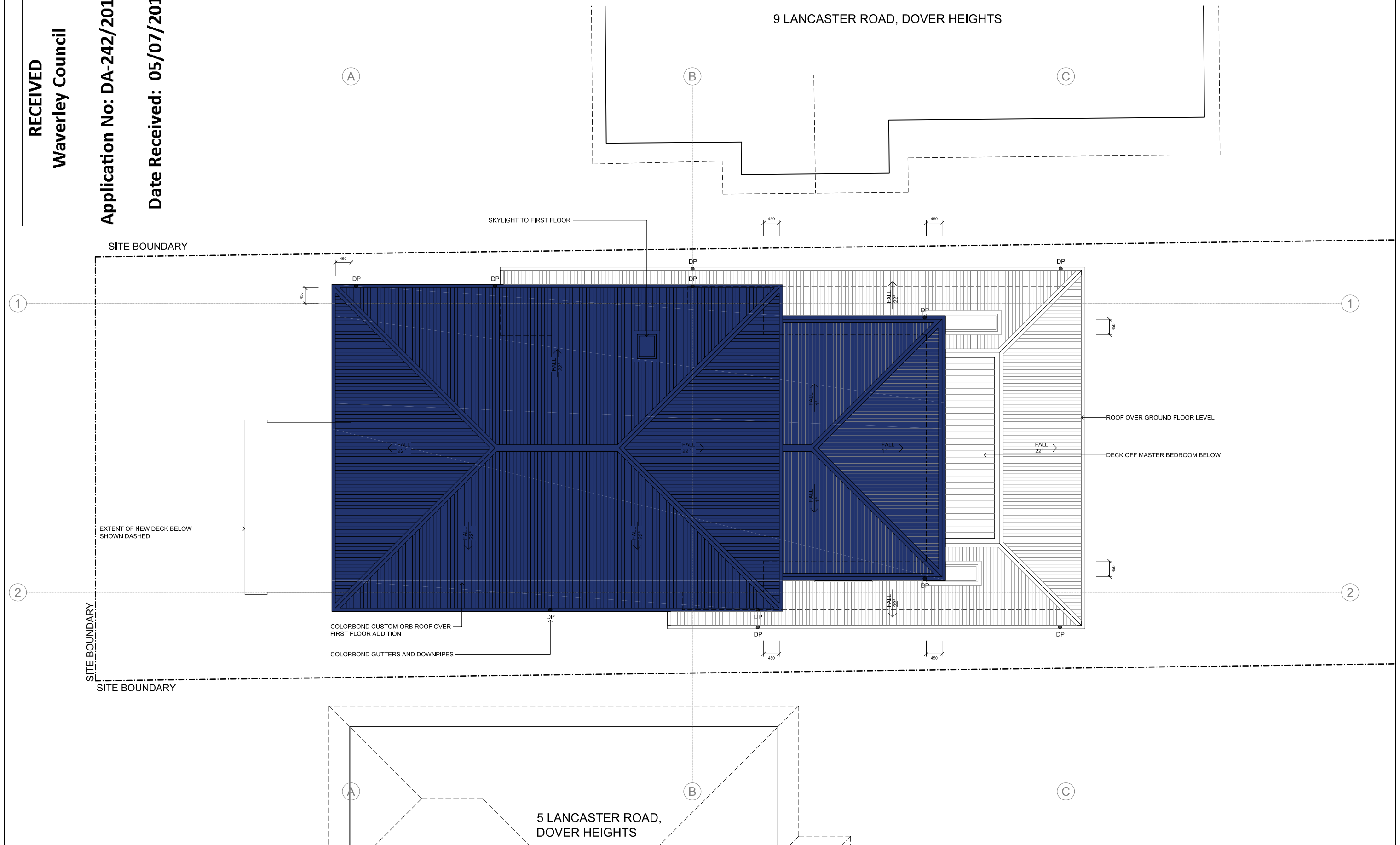
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Application No: DA-242/2018/1

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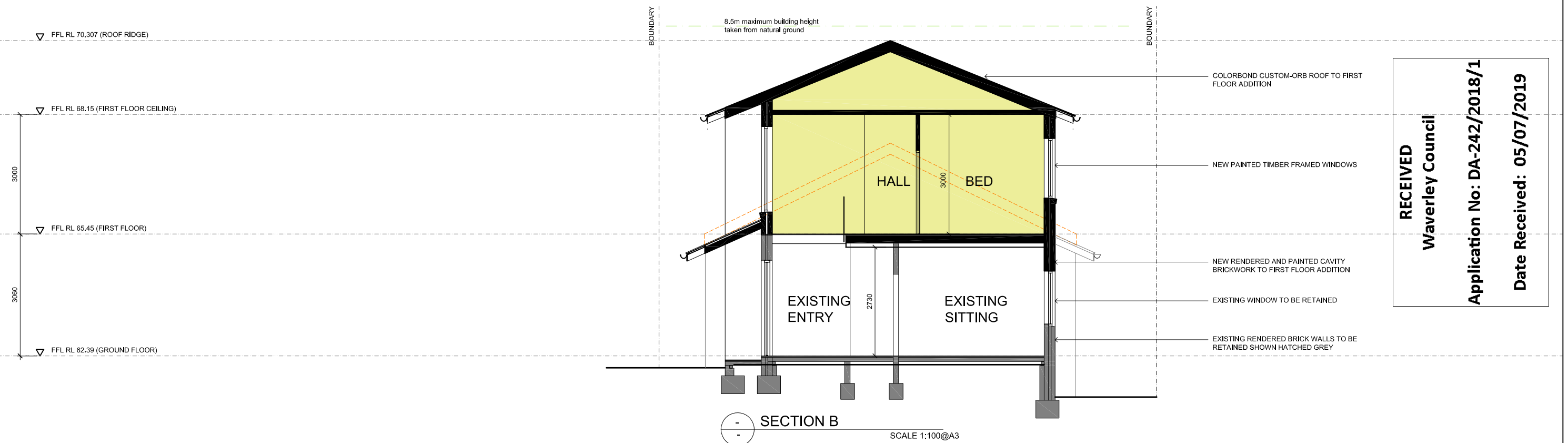
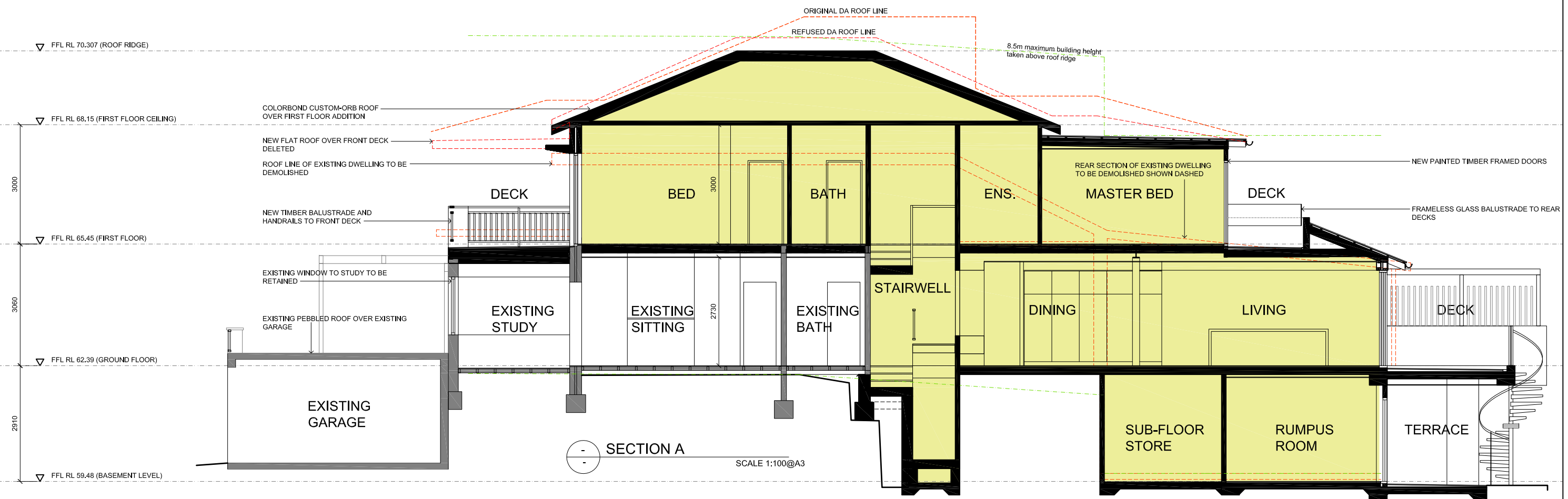
Nominated Registered Architects
Mark Oxenham - Reg No. 7130
Martin Hall - Reg No. 9854

| | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 |
|------|------|------|------|------|------|------|
| 1997 | 100 | 100 | 100 | 100 | 100 | 100 |
| 1998 | 100 | 100 | 100 | 100 | 100 | 100 |
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Date Received: 30/8/19



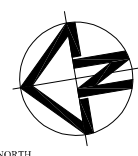
FLOOR SPACE RATIO CALCULATIONS

PROPOSED FLOOR SPACE RATIO

| | |
|----------------|------------------------|
| BASEMENT FLOOR | = 31.82m ² |
| GROUND FLOOR | = 168.60m ² |
| FIRST FLOOR | = 113.30m ² |

TOTAL = 313.72m² or 0.54:1 (25.82m² / 8.9% ABOVE MAX. FSR)

NOTE - 1) INTERNAL STAIRS COUNTED ONCE (UPPER LEVEL)
2) BASEMENT PLANT ROOM, STORE, CELLAR AND SUB-FLOOR SPACE EXCLUDED FROM FLOOR AREA.

[illegible]

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Project

SPIES RESIDENCE- 7 LANCASTER RD. DOVER HEIGHTS

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Scales
1:200@A3

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