



20 May 2020

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

12.00 PM WEDNESDAY, 27 MAY 2020

QUORUM: Three Panel members.

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

AGENDA

WLPP-2005.A Apologies

WLPP-2005.DI Declarations of Interest

The Chair will call for any declarations of interest.

WLPP-2005.1 PAGE 4 1/4 Cross Street, Bronte – Alterations and additions to unit 1 (ground floor) within a residential flat building (DA-13/2020/1)

Report dated 14 May 2020 from the Development and Building Unit.

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

WLPP-2005.2 PAGE 28 203–209 Bronte Road, Waverley (Robin Hood Hotel) – Internal alterations to the basement, ground and first floors to provide a restaurant on the first floor and improve back of house and bathroom facilities throughout the Hotel (DA-368/2019)

Report dated 15 May 2020 from the Development and Building Unit.

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

WLPP-2005.3 PAGE 81 9–11 Andrews Avenue, Bondi – Demolition of dwellings and construction of two semi-detached dwellings with integrated garage, Torrens title subdivision, tree removal and swimming pools at rear (DA-59/2020)

Report dated 12 May 2020 from the Development and Building Unit.

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

WLPP-2005.4**PAGE 140**

5/62 Fletcher Street, Bondi – Review of decision seeking alterations and additions to unit 5 including internal reconfiguration and extension into subfloor area (DA-281/2019/1)

Report dated 15 April 2020 from the Development and Building Unit.

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

WLPP-2005.5**PAGE 177**

310 Bondi Road, Bondi – Alterations and additions to the existing heritage listed dwelling and construction of a residential flat building to the rear facing Cutler Street (DA-382/2019)

Report dated 12 May 2020 from the Development and Building Unit.

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

WLPP-2005.6**PAGE 250**

155 Curlewis Street, Bondi Beach – Alterations and change of use of premises to a gymnasium (F45 Training) (DA-506/2017/A)

Report dated 12 May 2020 from the Development and Building Unit.

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

WLPP-2005.7**PAGE 263**

115 Murrivier Road, North Bondi – Review of previous refusal seeking alterations to single dwelling to provide a hardstand car space (DA-342/2019/1)

Report dated 14 May 2020 from the Development and Building Unit.

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



WAVERLEY
COUNCIL

Report to the

Waverley Local Planning Panel

Application number	DA-13/2020/1
Site address	1/4 Cross Street, BRONTE
Proposal	Alterations and additions to Unit 1 (ground floor) within a Residential Flat Building
Date of lodgement	3 April 2020
Owner	Proprietors of Strata Plan 49910
Applicant	Uri T Designs
Submissions	Nil
Cost of works	\$45,000
Issues	Front building line, encroachment on private open space, streetscape, Floor to ceiling heights
Recommendation	That the application be REFUSED

Site Map



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was not carried out, as the assessment officer is familiar with the site, undertaking a site inspection on 4 March 2020 for DA-13/2020.

The site is identified as SP 49910, known as 1/4 Cross Street, BRONTE. It is located on the eastern side of Cross Street.

The site is occupied by a part-two, part-three storey Residential Flat Building (RFB) with an attic. The building encompasses five units. The subject unit, Unit 1 is located on the ground floor, facing Cross Street. There is a large Eucalyptus within the front setback, adjoining the existing deck.

The subject site is adjoined by a detached dwelling to the south and a dual-occupancy to the north. The locality is characterised by a variety of residential developments, including dual occupancies, detached dwellings and RFBs.



Figure 1: Subject site frontage.



Figure 2: Private Open Space and location of proposed works.

1.2 Relevant History

BA-28/1995

Construct alterations and additions including balconies to existing dwelling.
Approved: 08 February 1995

DA-150/2015

Alterations and additions to existing dwelling (Unit 1 – subject unit) including landscaping changes and modifications to windows.
Approved: 18 June 2015

DA-338/2016

Alterations and additions to Unit 4 including attic conversion, new balcony & dormer.
Approved: 22 November 2016

DA-338/2016/A

Section 96 (1) To remove condition 37 relating to a site audit statement.
Approved: 05 June 2017

DA-13/2020 (the subject of this review)

Alterations and additions to Unit 1 (ground floor) within a RFB, which involved the removal of internal and external walls to open and extend the existing living room, dining room and

kitchen into the existing courtyard area of the ground floor unit by 1m and replace the existing timber deck in the courtyard with a new permeable deck.

Refused: 10 March 2020

Refused for the following reasons:

- Exceedance to Floor Space Ratio (FSR);
- Inconsistent with FSR objectives;
- Non-consistent front building line;
- Non-compliant private open space;
- Non-compliant floor to ceiling heights; and
- Lack of materials and finishes schedule.

1.3 Proposal

The application is for alterations and additions to Unit 1 within a RFB, consisting of:

- The removal of internal and external walls to open and extend the existing living room, dining room and kitchen into the existing courtyard area of the ground floor unit by 0.6m; and
- Replace the existing timber deck in the courtyard with a new permeable deck.

2. ASSESSMENT

The following matters are to be considered in the assessment of this application under sections 4.15 and 8.3 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1 Section 8.3 Considerations

Section 8.3 of the Act enables Council to review a previous determination of a development application subject to the following provisions:

(2) *A determination or decision cannot be reviewed under this Division:*

(a) *after the period within which any appeal may be made to the Court has expired if no appeal was made, or*

(b) *after the Court has disposed of an appeal against the determination or decision.*

(3) *In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.*

The determination of the original development application was made on 10 March 2020. The period of the right of appeal for the applicant to exercise (referenced in section 8.3(2)(a) of the Act), is six months after the date of determination. The application is scheduled to be determined by the Waverley Local Planning Panel on 27 May 2020, which satisfies the statutory timeframe to determine this review application.

Council is satisfied that the essential elements of the development, the subject of the original development application, are substantially the same as the development that is the subject of this

review application. The overall scope and description of the development between the two applications remain unchanged.

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 not been submitted with the application as the cost of works is below \$50,000.

2.2.2 SEPP 55 Remediation of Land

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

2.2.3 SEPP 65 Design Quality of Residential Flat Development

SEPP 65 applies to the erection, conversion or substantial redevelopment or refurbishment of a RFB.

The subject works relate to the removal of internal and external walls to open and extend the existing living room, dining room and kitchen into the existing courtyard area of the lower ground floor unit by 0.6m and replace the remaining hard paved existing courtyards with a new permeable deck.

Given the relatively minor nature of the works, they are not considered to be substantial redevelopment of the RFB, and therefore is not required to be assessed against SEPP 65.

2.2.4 Waverley Local Environmental Plan 2012 (WLEP)

The relevant matters to be considered under the WLEP for the proposed development are outlined below:

Table 1: WLEP Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	No	The proposal does not meet the aims of the WLEP.
Part 2 Permitted or prohibited development		
Land Use Table Low Density Residential 'R2' Zone	No. Existing Use Rights Apply.	The proposal is defined as a RFB, which is prohibited in the R2 zone. The existing building was approved and constructed prior to the WLEP prohibiting the use within the zone and as such is considered to be an Existing Use under Division 4.11 of the Environmental Planning & Assessment Act 1979.

Provision	Compliance	Comment
		A detailed discussion regarding Existing Use Rights will be held below this table.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> 8.5m 	Yes	The proposed additions will have an overall height of 2.76m.
4.4 FSR <ul style="list-style-type: none"> Permitted FSR: 0.5:1 Permitted GFA: 220.45m² Site Area (survey under DA-338/2016): 440.9m² 	No. Clause 4.6 provided.	<p>The assessment relied on the calculations provided in the assessment under DA-338/2016.</p> <p>The existing RFB has a Gross Floor Area (GFA) of 319.65m².</p> <p>The proposed addition will result in an additional GFA of 4.6m².</p> <p>TOTAL GFA: 319.65m² + 4.6m² = 324.25m²</p> <p>Therefore, the proposal will have an overall GFA of 324.25m² and an FSR of 0.74:1.</p> <p>The proposal exceeds the allowable GFA by 103.8m² or a variation of 47.1%.</p>
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of WLEP to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The subject site is located within acid sulfate soils 5. However, the proposal is not likely to disturb, expose or drain acid sulfate soils and cause environmental damage.

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

Existing Use Right

The existing development on the site is defined as a 'RFB' under the WLEP. The proposed works are for alterations and additions to the RFB, which is prohibited in the Low Density Residential 'R2' Zone pursuant to the land use table under the WLEP.

The site benefits from existing use rights. The site has been used as a RFB prior to the effect of WLEP and has continued this use since the WLEP came into effect. Although no direct record of the development consent has been provided, a report from Council dated 8 February 1995 relating to BA-28/1995 made reference to the subject building being an existing RFB. The Statement of Environmental Effects provided by the applicant under DA-13/2020 identifies the building as having been approved and constructed in the 1930's which dates back before Council's records. Therefore, the building is existing as a RFB and benefits from existing use rights. Clause 41 of the Environmental

Planning and Assessment Regulations 2000 (the Regs) sets out certain development works allowed with respect to an existing use, and is outlined below:

- (1) *An existing use may, subject to this Division:*
- (a) *be enlarged, expanded or intensified, or*
 - (b) *be altered or extended, or*
 - (c) *be rebuilt, or*
 - (d) *be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or*
 - (e) *if it is a commercial use—be changed to another commercial use (including a commercial use that would otherwise be prohibited under the Act), or*
 - (f) *if it is a light industrial use—be changed to another light industrial use or a commercial use (including a light industrial use or commercial use that would otherwise be prohibited under the Act).*

The proposal involves altering and extending one of the five units of the existing RFB, and is compliant with Clause 43 of the Regs. In this regard, the proposal is able to rely on existing use rights to overcome the prohibition of the use of the existing development under the WLEP.

Note: *The Statement of Environmental Effects under DA-13/2020 provides evidence that the use benefits from Existing Use Rights. However, the Statement of Environmental Effects under this review of determination lacks such detail. Although the Statement of Environmental Effect in this application addresses the reasons of refusals under DA-13/2020, it should still establish the Existing Use Rights of the lot.*

Clause 4.6 Exceptions to Development Standards

The application seeks to vary the FSR development standard in Clause 4.4 of the WLEP.

The site is subject to a maximum FSR control of 0.5:1. The site already the maximum FSR control and the proposed development will result in an additional 4.6m² of GFA, resulting in an overall FSR of 0.74:1, exceeding the standard by 103.8m² equating to a 47.1% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the WLEP 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.

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 meets objective 4.4(b) of the WLEP as the works (that exceed the FSR) provide a suitable setback from the lots boundaries and are located within the general footprint of the building. This does not result in the development contributing to the bulk of the dwelling from adjoining properties or the public*

domain. Additionally, the proposed addition is below the maximum building height permitted;

- (ii) The proposal meets objective 4.4(c) of the WLEP as the proposal is setback from the edges of the building, not contributing to the overall bulk and scale of the building and the proposal is compatible with the desired future character of the area which consists of enlarged two-three (2-3) storey residential buildings;*
- (iii) The proposal meets objective 4.4(d) of the WLEP as the proposal will not contribute towards an undesirable environmental amenity of neighbouring properties, as the siting and location of the additional GFA will not result in an adverse impact upon the amenity of the broader locality;*
- (iv) The overall height of the proposal remains compliant with clause 4.3(2) of the WLEP;*
- (v) The additional non-compliant floor space is predominantly sited within the existing approved footprint and bulk of the residential flat building which will have an imperceptible impact upon adjoining properties or as viewed from adjoining properties and the public domain; and*
- (vi) The proposal fulfils the objectives of that standard and the zone.*

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

- (i) The development allows for the use of the site for low density housing;*
- (ii) The proposal will enhance the existing streetscape;*
- (iii) It will maintain the amenity for future occupants of the site and minimise impacts upon adjoining properties;*
- (iv) the proposal maintains an overall finished built form which is appropriate for the site and accordingly the floor space breach is not associated with an excessive built form; and*
- (v) flexibility in this instance will allow for the site to be developed with no discernible impacts beyond a fully compliant scheme;*

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 clause 4.6(3)(a) of the WLEP, however it has been concluded that further non-compliance with the standard is unreasonable or unnecessary in the circumstances of the case as demonstrated within this report. Despite this, the applicant 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)?

Although, the submitted clause 4.6 written request has satisfied clause 4.6(3)(b) of the WLEP in that the applicant has sought to provide environmental planning grounds to justify contravening the development standard; Council does not agree with the planning grounds provided.

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 the desired future character of the area.

Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent with the objectives of the particular standard, including;

WLEP, Clause 4.4(1)(c) *to ensure that buildings are compatible with the bulk, scale, streetscape and desired future character of the locality*, as the proposal will result in a non-compliant front building line.

WLEP, Clause 4.4(1)(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*, as the proposal would create a negative precedence of a reduced non-compliant front setback.

Conclusion

For the reasons provided above, the requested variation to the FSR control 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 WLEP, the proposed development is not in the public interest because it is inconsistent with the objectives of the FSR development standard and has not demonstrated sufficient grounds to further breach the FSR.

2.2.5 Waverley Development Control Plan 2012 (WDCP)

The relevant matters to be considered under the WDCP for the proposed development are outlined below:

Table 2: WDCP – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	The waste and recycling storage area is located in an area convenient for users of the site.
12. Design Excellence	No	The proposal does not result in design excellence. The proposal will result in an ad hoc addition to the existing building and is not supported. In addition, the finishes are not appropriate. Although the proposed external wall will match the existing, the metal roofing and aluminium window frames will read as a clear addition that would not compliment the inter-war RFB building.

Table 3: WDCP – Part C3 Medium Density Residential Development Compliance Table

The proposal is defined as a 'RFB' that is not subject to assessment under SEPP 65 Design Quality of Residential Apartment Development" in the WLEP.

Development Control	Compliance	Comment
3.2 Height		
	Yes	The controls do not stipulate maximum wall height in an 'R2' zone. The proposed wall height of 2.5m is acceptable.
3.3 Setbacks		
3.3.1 - Street setbacks • Consistent street setback	No. See Discussion.	The proposed ground floor front setback will be reduced from the existing. The proposal will not maintain the predominant front building line along the street, as detailed in Figure 3 below.
3.3.2- Side and rear setbacks • Minimum side setback: 0.9m	Yes Yes	The proposal will not result in a reduced side setback to the existing building. The proposed addition is setback more than 0.9m from each side boundary.
• Deep soil along side boundary min 2m wide	Yes	The proposal will not have any impact on the deep soil zone to side boundaries.
3.5 Building design and streetscape		
• Respond to streetscape • Sympathetic external finishes	No	The finishes of the wall to match the existing finish of the building is supported. However, the proposed black metal roof and associated aluminium window frames are not supported as it will not respect the existing RFB, which encompasses white timber window frames. Any roof addition should be similar in colour to the existing roof.

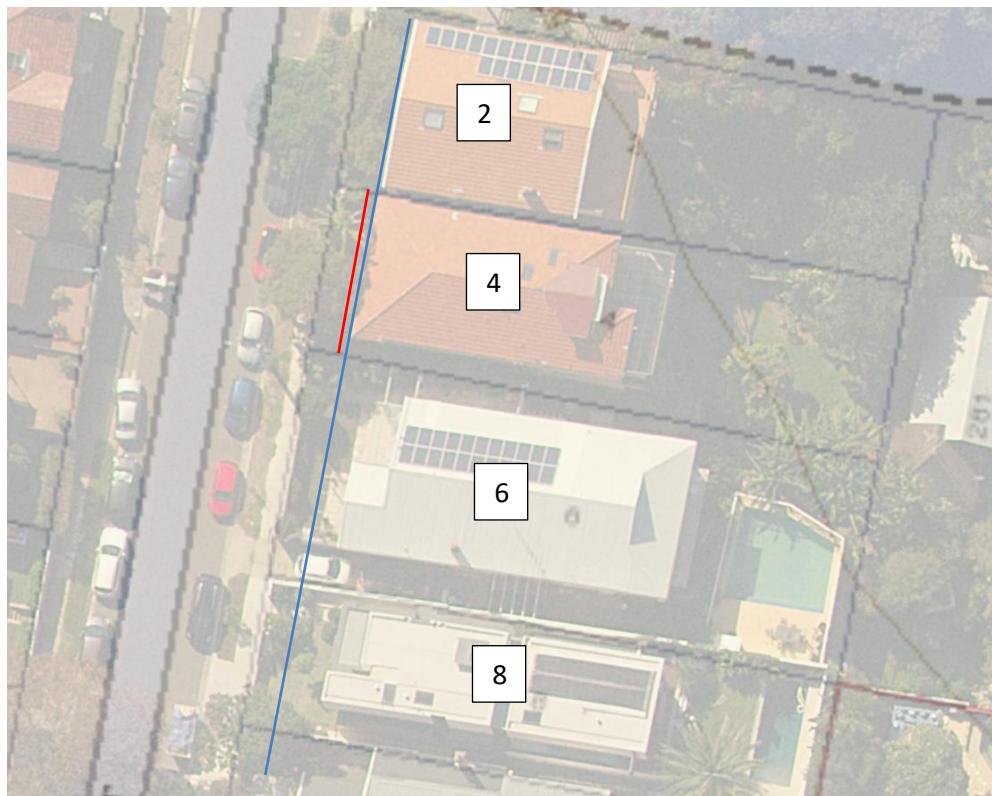
Development Control	Compliance	Comment
3.10 Communal open space		
	N/A	Communal Open Space will not be impacted as the proposed addition will impact the private open space of Unit 1 only.
3.11 – Private Open Space		
3.11.1 – Courtyards <ul style="list-style-type: none"> Private Courtyards – min 25m² area and 3m width and depth Planting to be provided 	No. See Discussion.	<p>The existing private courtyard's depth will be reduced to 2.3m (southern side) and 3m (northern side).</p> <p>Additionally, the private courtyard will be further reduced to an area of 22.4m², this is below the required minimum of 25m².</p>
3.13 Solar access and overshadowing		
<ul style="list-style-type: none"> Minimum of three hours of sunlight to a minimum of 70% of units on 21 June. New development should maintain at least 2 hrs of sunlight to solar collectors on adjoining properties in mid winter. Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than 3 hours of sunlight on 21 June. 	Yes	The proposed addition would have a minimal impact in regards to overshadowing, as it is a single storey extension to the west.
3.15 Visual privacy and security		
<ul style="list-style-type: none"> Dwellings to be orientated to the street with entrances and street numbering visible 	Yes	The proposed windows and doors are orientated to the front of the building; this is acceptable.
3.17 Ceiling Heights		
<ul style="list-style-type: none"> Min 2.7m floor to ceiling height residential floors 	No	<p>The proposed addition will result in a floor to ceiling height of 2.4m, 0.3m less than the required 2.7m.</p> <p>The applicant has advised this is to reduce the addition from being seen from the streetscape. Notwithstanding this, the proposal impacts on the consistent front building line and private open space and is not supported.</p>

Development Control	Compliance	Comment
3.20 Natural Ventilation		
<ul style="list-style-type: none"> • All dwellings to be naturally cross-ventilated • Building to be orientated to maximise breezes • Ceiling fans are to be provided in all habitable rooms. 	Yes	Door and window openings promote cross ventilation.
3.22 Interwar Flat Buildings		
3.22.1 – General <ul style="list-style-type: none"> • Retain the character of the building • Preserve the integrity of the building and retain original building fabric and decorative elements & parapets • Minimise alterations and additions and be secondary to existing building • Differentiate between old and new additions • Minimise visibility of new works from the public domain. 	No	<p>According to the Statement of Environmental Effects (under DA-13/2020) the building was constructed in the 1930s, therefore this section of the WDCP applied.</p> <p>As discussed above, the proposal is seen as an ad hoc addition to the building and is not supported.</p>

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

Front Setback

The proposed addition within the front setback will result in a breach to the predominant front building line. **Figure 3** demonstrates the existing building line (blue line) is in-line with 2 Cross Street. The proposed addition will result in a building line (red line) that is not consistent with the streetscape, as it will be further forward than 2 Cross Street and considerably forward from 6 and 8 Cross Street. This breach will create a negative precedence and will reduce the private open space of Unit 1 to a size that is non-compliant; for these reasons the proposal is not supported.



Existing Front Building Line

Proposed Front Building Line

Figure 3. Non-compliant predominant front building line (Source: SIX Maps)

Private Open Space

Figure 4 below, is provided to demonstrate that the southern side of the private open space will be non-compliant with the 3m depth requirement for private open space as required by Section 3.11.1 of the WDCP. The calculation differs to that provided by the applicant, as the measurement in this report has been taken from the external wall of the addition to the inside of the front boundary fence.

In addition, **Figure 5** is provided so that is understood how the area of the private open space was calculated and is not compliant with the minimum 25m² requirement for private open space in Section 3.11.1 of the WDCP.

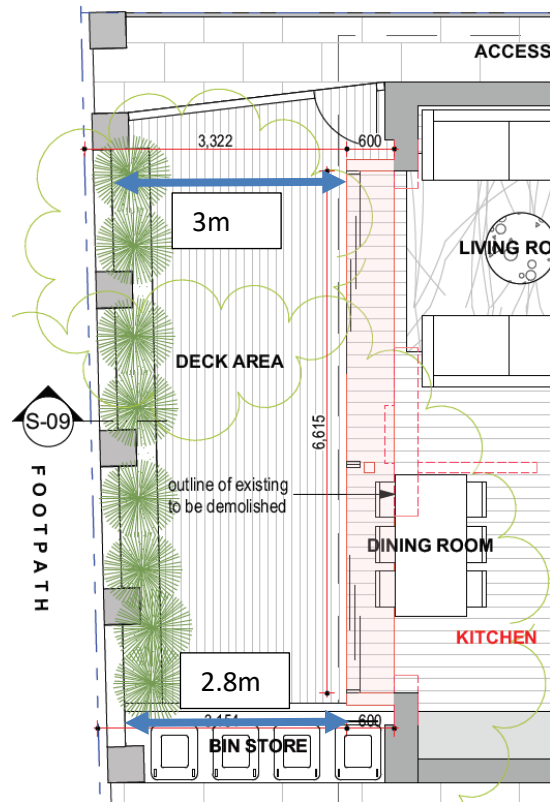


Figure 4. Illustrating how depth of the private open space was measured during the assessment

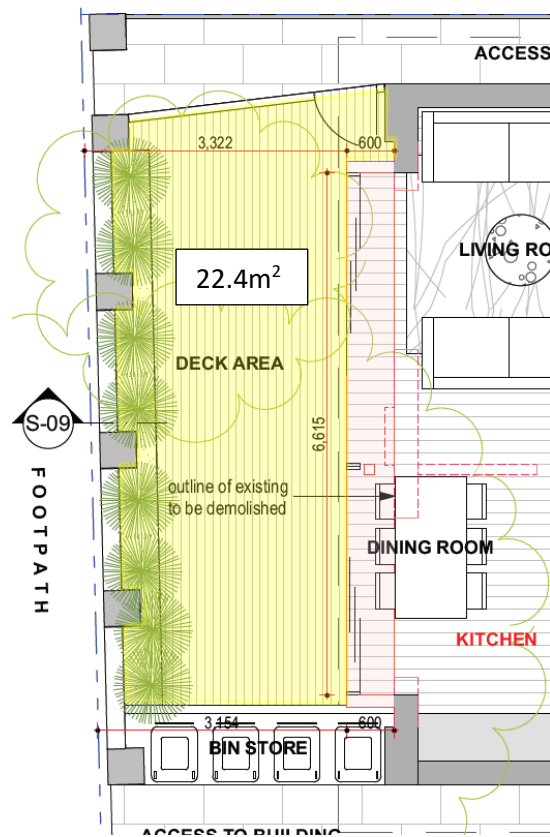


Figure 5. Illustrating how area of the private open space was measured during the assessment (yellow area)

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 a significant detrimental effect relating to environmental or social impacts on the locality and is recommended for refusal.

2.4 Suitability of the Site for the Development

The site is not considered to be suitable for the proposed development.

2.5 Any Submissions

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

Nil submissions were received.

2.6 Public Interest

It is considered that the proposal will have a detrimental effect on the public interest and is recommended for refusal.

3. REFERRALS

3.1 Trees, Clean and Attractive Waverley

Under DA-13/2020, the DA was referred internally to Council's Tree Officer, who supported the application subject to the protection of the Eucalyptus species tree located within the front setback.

4. SUMMARY

The application is for a review of a refusal, determined under DA-13/2020. The proposed works are for the removal of internal and external walls to open and extend the existing living room, dining room and kitchen into the existing courtyard area of the ground floor unit by 0.6m and replace the existing timber deck to the courtyard with a new permeable deck.

The proposal will result in a further breach of the FSR development standard and a breach to the consistent front building line, leading to a non-compliant private open space, creating a negative precedence and is therefore not supported. The assessment has also concluded a non-compliant floor to ceiling height and inappropriate finishes.

A Clause 4.6 was submitted for the FSR exceedance; however, it is not supported as it departed from the objectives of the FSR development standard in the WLEP. Additionally, an assessment against the WDCP concluded the breach would result in a non-compliant front building line and private open space.

The application received nil submissions.

The application has been assessed against sections 4.15 and 8.3 of the Act and is recommended for refusal.

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the review application be **REFUSED** by the 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:**

Joseph Somerville
Development Assessment Planner

Bridget McNamara
**Manager, Development Assessment
(North/South)**

Date: 07/05/2020

Date: 14 May 2020

1 Review of Determination

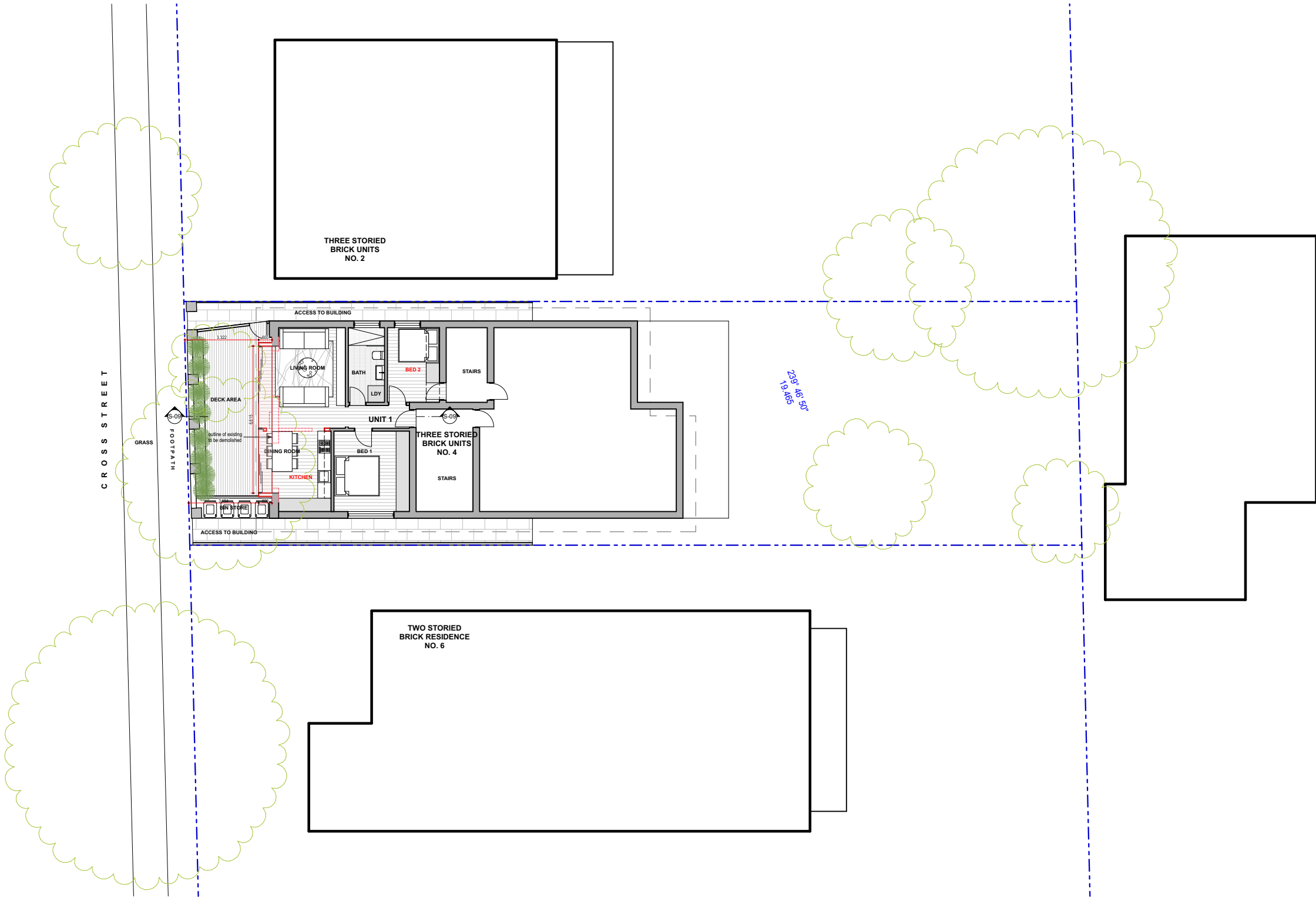
APPENDIX A – REFUSAL

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)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the Waverley Local Environmental Plan 2012, in particular, the following provisions:
 - a. *Clause 4.4(1)(c) and (d) and (2) as the proposal will exceed the maximum FSR permitted for the site and will have unacceptable impacts on the front building line and streetscape.*
 - b. *Clause 4.6(4)(a)(i) and (ii) as the proposal is inconsistent with the objectives of the floor space ratio development standard.*
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 C3 – Medium Density Residential Development*
Clause 3.3.1 Street Setbacks, specifically objective (a) and control (a) as the proposed addition will reduce the front setback resulting in a non-consistent front building line.
 - b. *Part C3 – Medium Density Residential Development*
Clause 3.11 Private Open Space, specifically objective (b) and Clause 3.11.1 Courtyards, specifically controls (a)(i) and (ii) as the private open space will be reduced to less than 25m² and the width to part of the private open space will be less than 3m.
 - c. *Part C3 – Medium Density Residential Development*
Clause 3.17 Ceiling Heights, specifically control (a)(i) as the floor to ceiling height of the addition is less than 2.7m.
 - d. *Part C3 – Medium Density Residential Development*
Clause 3.22 Interwar Flat Buildings, specifically objectives (b) – (d) and controls (c), (f) and (h) of clause 3.22.1 General as the proposed addition and its associated finishes are not appropriate, appearing as an ad-hoc addition.
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 in the locality as it represents undesirable and unacceptable impact on the consistent building line, and would adversely impact upon the amenity of the site, locality and surrounding built environment.
5. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the development will reduce existing private open space to a non-compliant size and is therefore considered unsuitable for the site.

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.

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Waverley Council
Application No: DA-13/2020/1
Date Received: 03/04/2020



CROSS STREET

GRASS

S-09

FOOTPATH

DECK AREA

outline of existing
to be demolished

LIVING ROOM

BATH

BED 2

STAIRS

UNIT 1

S-09

THREE STORIED
BRICK UNITS
NO. 4

STAIRS

DINING ROOM

BED 1

KITCHEN

3,154

BIN STORE

600

ACCESS TO BUILDING

ACCESS TO BUILDING

3,322

600

6,615

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Waverley Council
Application No: DA-13/2020/1
Date Received: 03/04/2020

URI T DESIGN
PO BOX 7368 BOND BEACH, NSW 2026 PH: 0416 321 982
uri@uridesign.com

REVISIONS
REV A

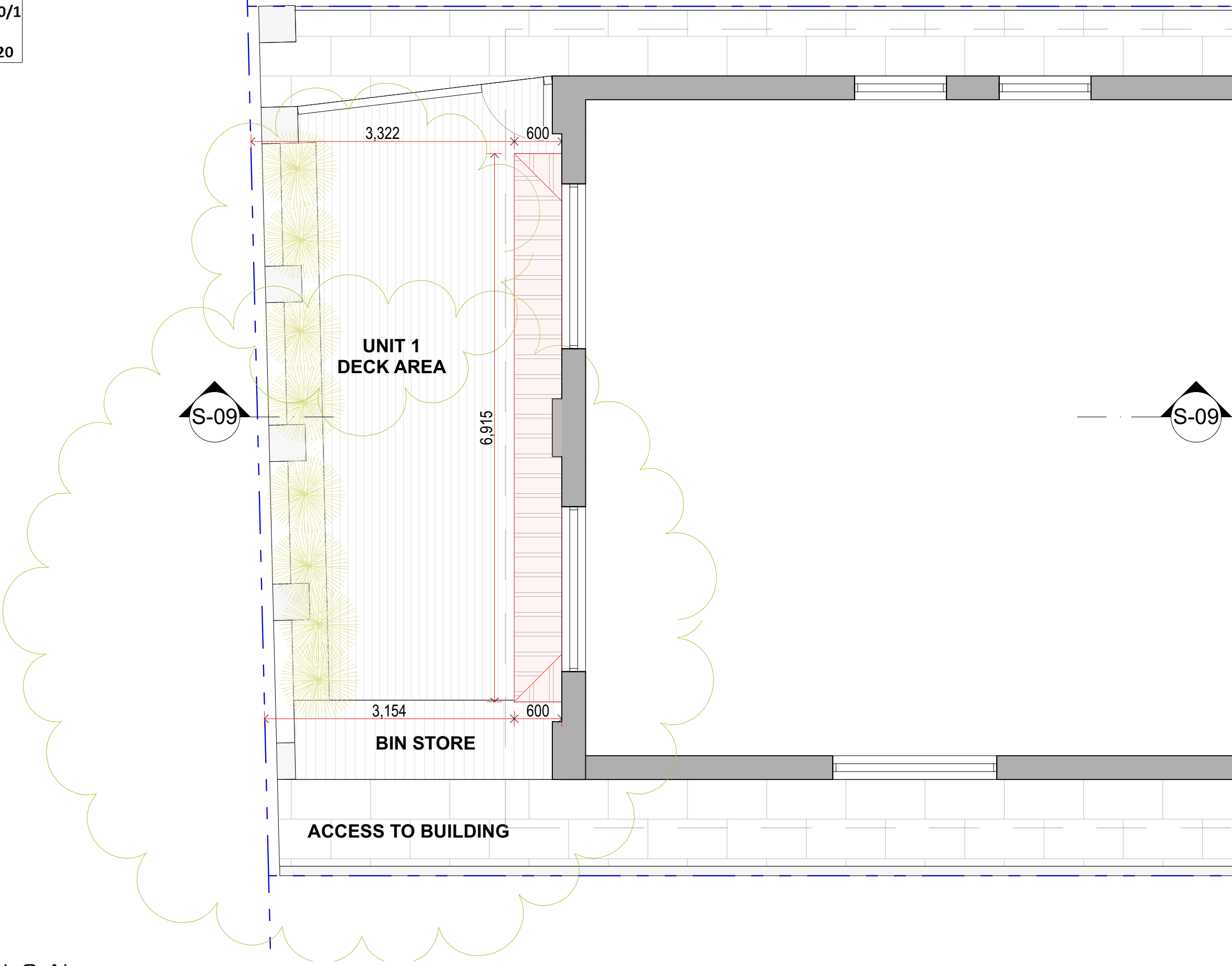
Contractor to verify all dimensions on site prior to commencing work. Uri T Design is to be notified of any discrepancies in the dimension and setting out of the work. Copyright of designs shown hereon is retained by Uri T Design. Authority is required for any reproduction.

DRAWING	GROUND FLOOR PLAN	DRAWN BY	UT
PROJECT	ALTERATION AND ADDITION	JOB NO	DA-C04
	1/4 CROSS STREET	DRAWING NO	DA-1002
	BRONTE NSW 2024	REVISION	REV A

SCALE: 1:50 @ A3 PLOTTED: 30/3/20

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Date Received: 03/04/2020

CROSS STREET



URI T DESIGN
PO BOX 7368 BOND BEACH, NSW 2026 PH: 0416 321 982
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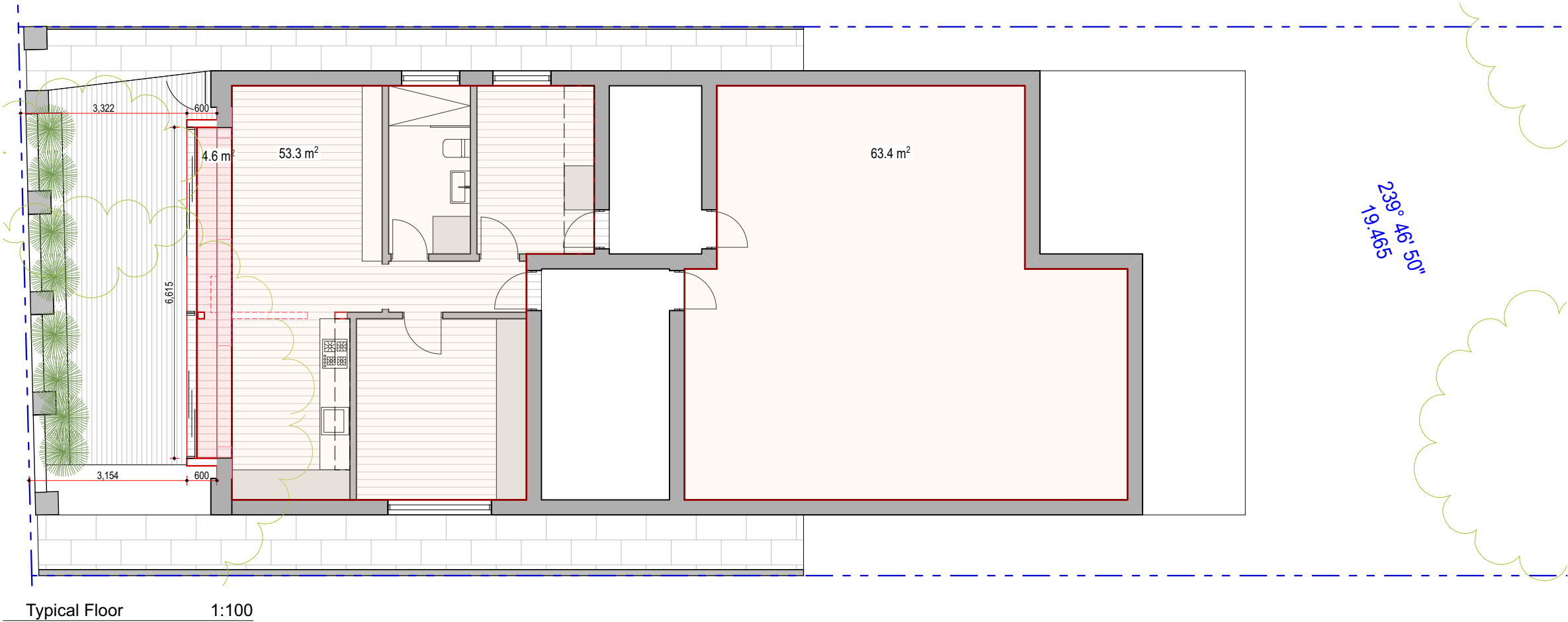
REVISIONS
REV A

Contractor to verify all dimensions on site prior to commencing work. Uri T Design is to be notified of any discrepancies in the dimension and setting out of the work. Copyright of designs shown hereon is retained by Uri T Design. Authority is required for any reproduction.

DRAWING	FIRST FLOOR PLAN	DRAWN BY	UT
PROJECT	ALTERATION AND ADDITION	JOB NO	DA-C04
	1/4 CROSS STREET	DRAWING NO	DA-1003
	BRONTE NSW 2024	REVISION	REV A

SCALE: 1:50 @ A3 PLOTTED: 30/3/20

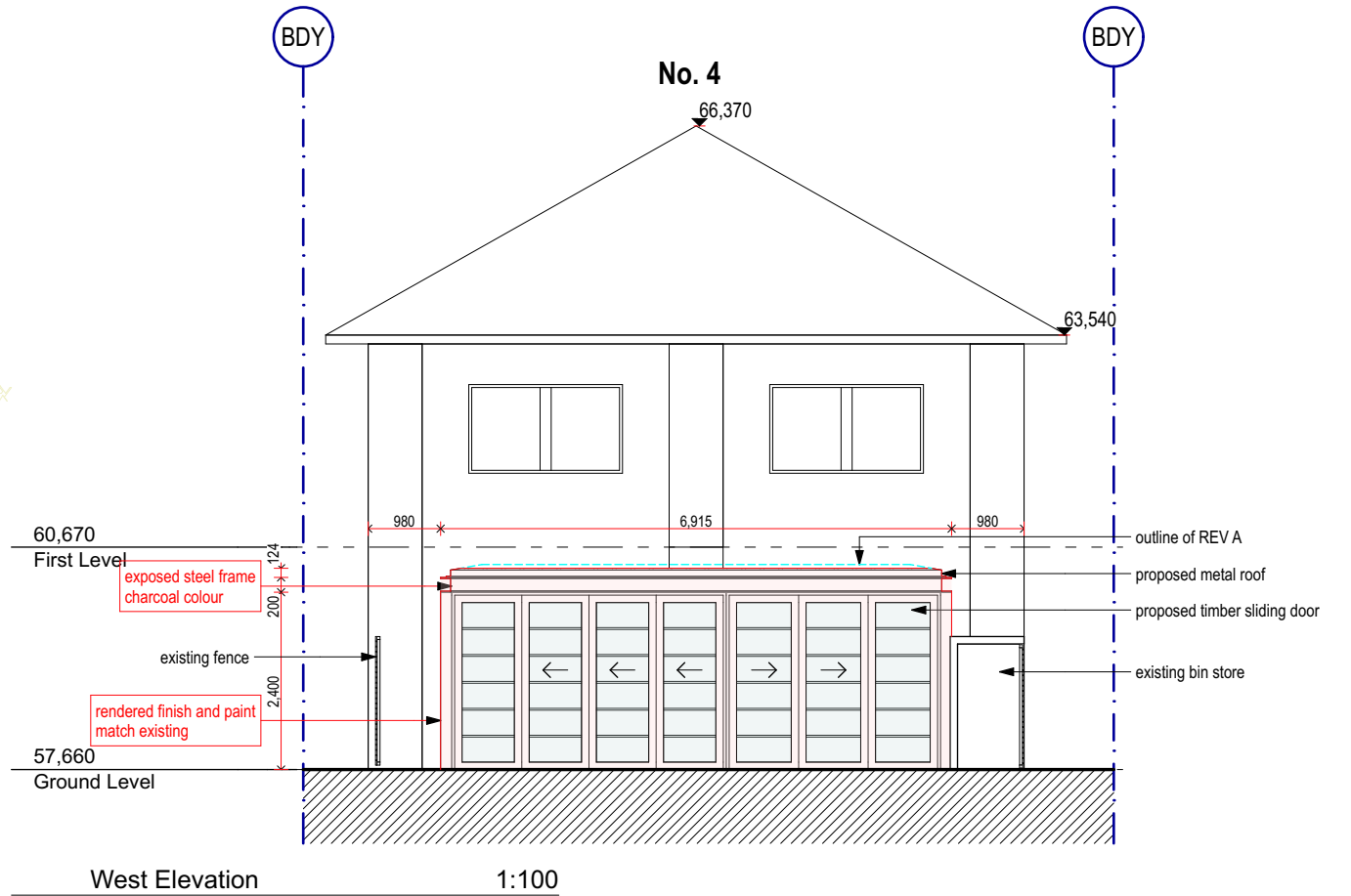
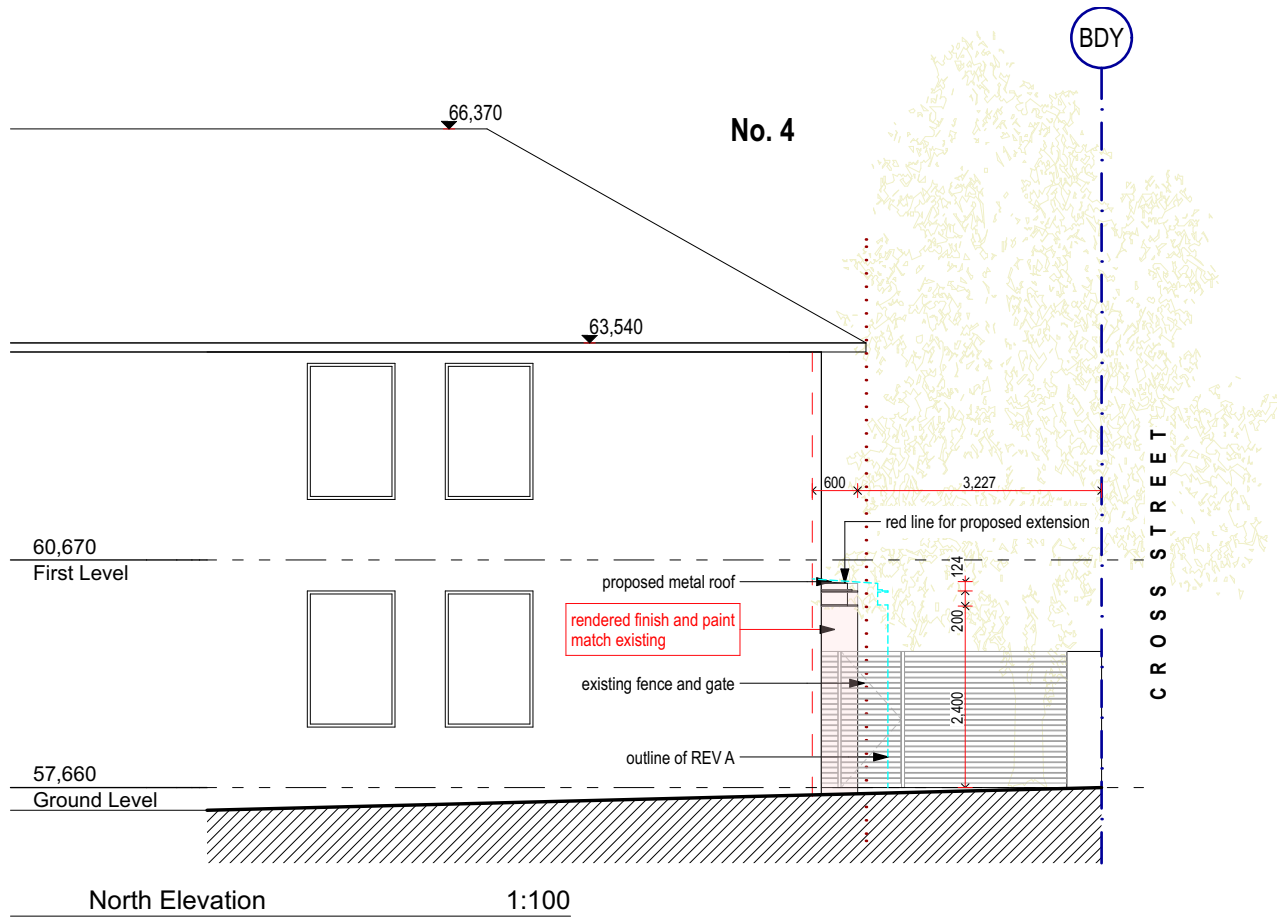
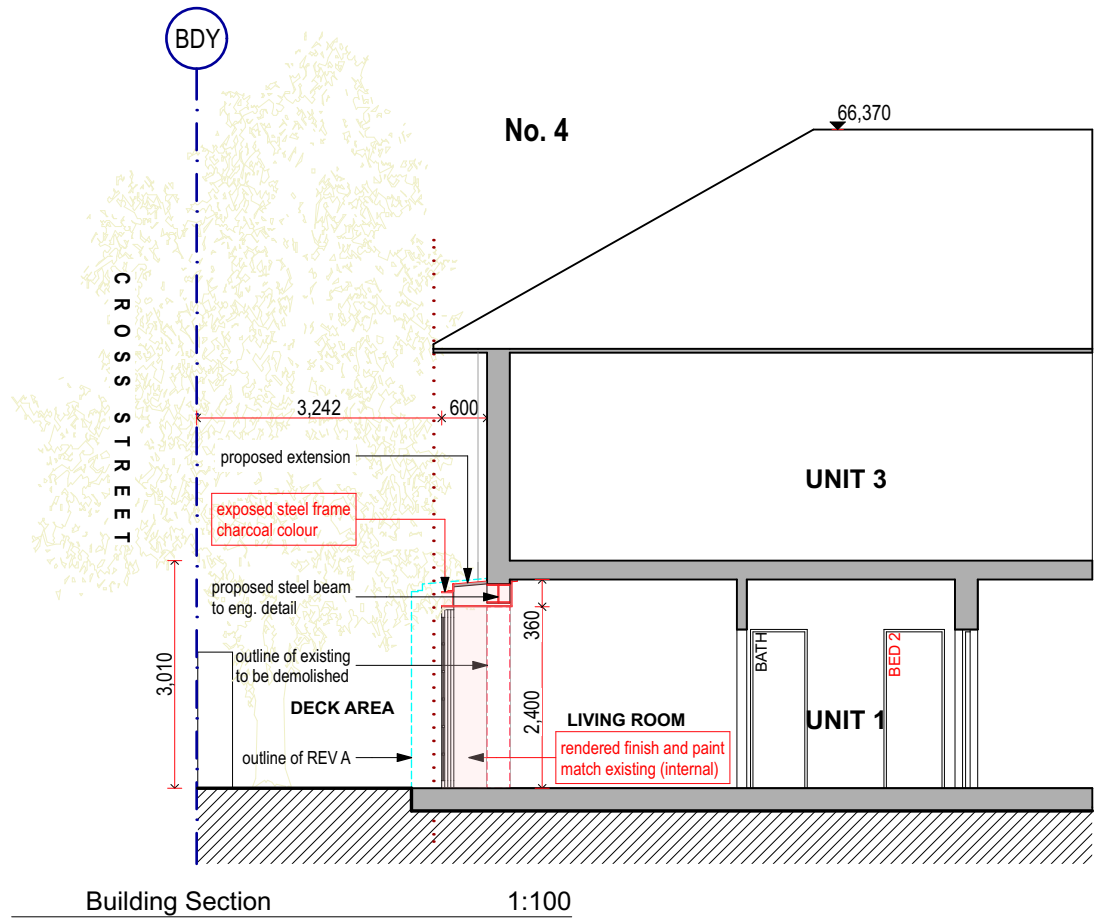
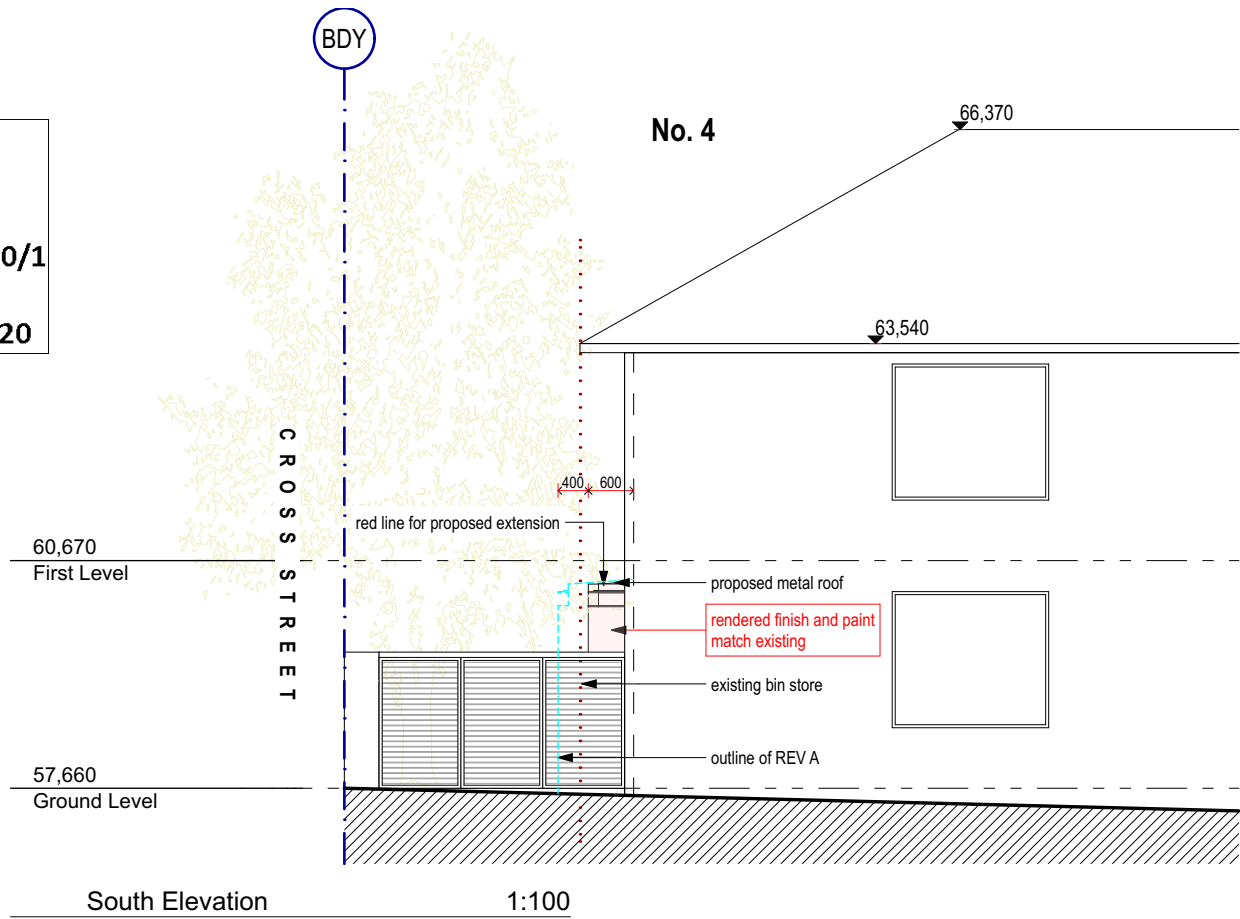
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Waverley Council
Application No: DA-13/2020/1
Date Received: 03/04/2020

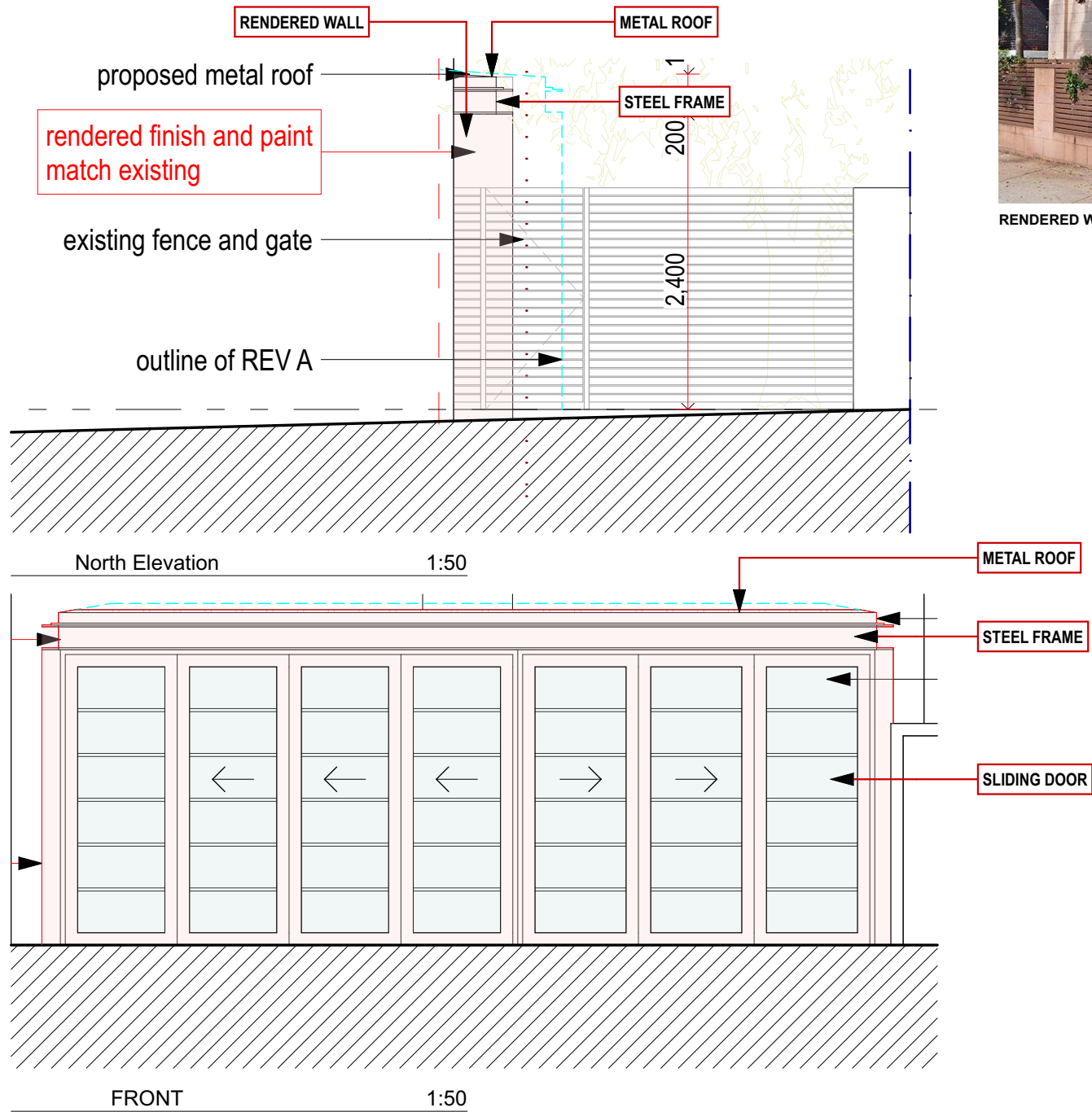


AREA CALCULATIONS

Site Area -	441m ²
Unit 1 -	55m ² aprox
Unit 2 -	65m ² aprox
Unit 3 -	55m ² aprox
Unit 4 -	65m ² aprox
Unit 5 -	65m ² aprox
Attic (unit 4) -	15m ² aprox
Proposed addition to Unit 1 - 4.7m ²	
Total GFA -	324.7m ² aprox
Existing FSR -	0.723:1
Proposed FSR -	0.73:1

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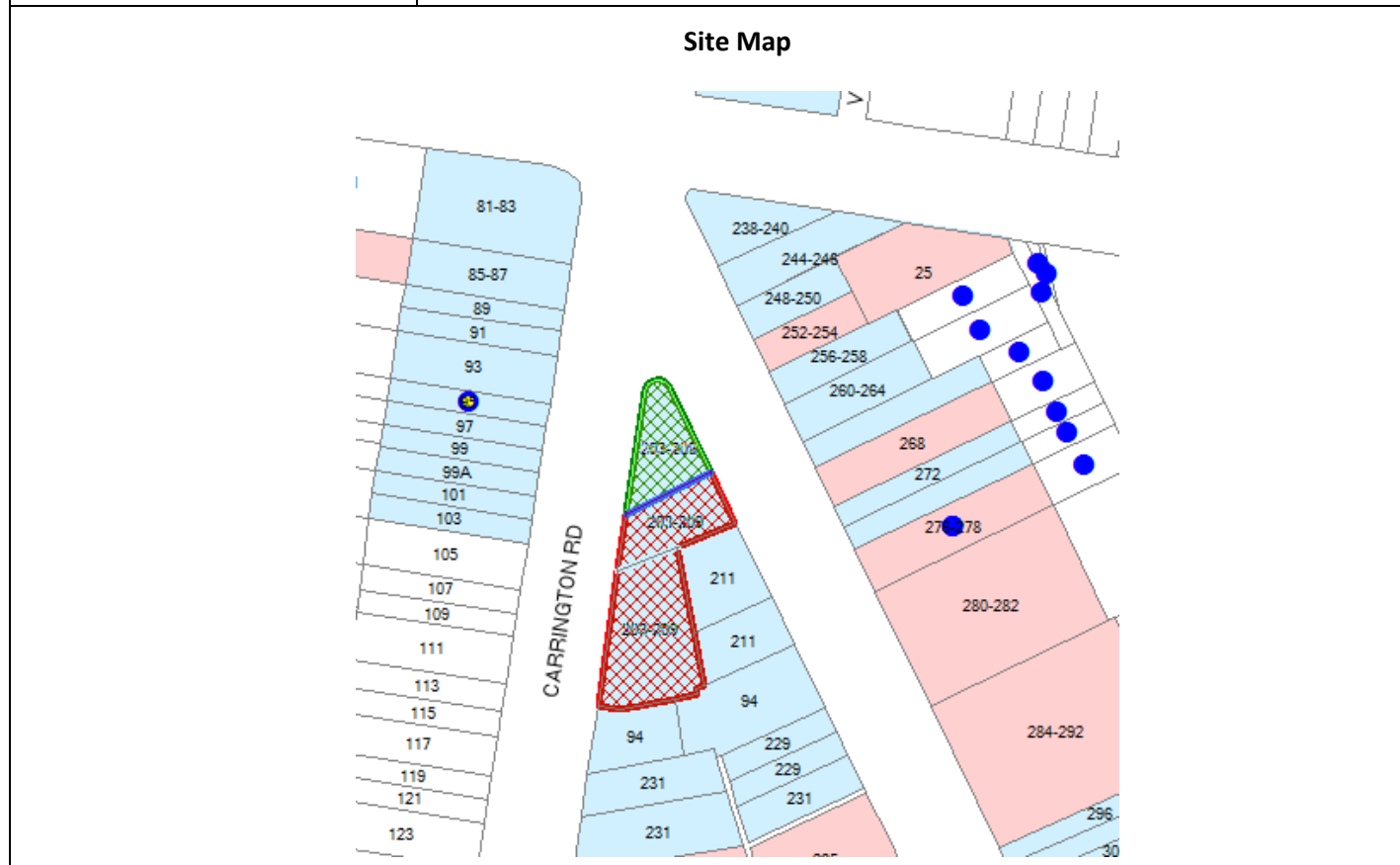






Report to the Waverley Local Planning Panel

Application number	DA-368/2019
Site address	203-209 Bronte Road, WAVERLEY
Proposal	Internal alterations to the basement, ground and first floors to provide a restaurant on the first floor and improve back of house and bathroom facilities throughout the Hotel.
Date of lodgement	15 November 2019
Owner	Mr D M Whitten & Mr A J Whitten
Applicant	Mr D M Whitten
Submissions	Nil
Cost of works	\$1,500,000
Issues	Heritage, amenity impacts
Recommendation	That the application be APPROVED subject to conditions



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 3 April 2020.

The site is identified as Lot 1 in DP655918, DP105665 and DP59526, known as 203 – 209 Bronte Road, WAVERLEY and has an area of 533m².

The site is situated on the southern corner of Charing Cross ‘five-ways’ with Bronte Road to the east and Carrington Road to the west. The triangular shaped site is occupied by a two storey hotel known as the Robin Hood Hotel. The existing building has an Inter-War Art Deco design, is finished in blonde brick and is a listed heritage item. It forms part of a dramatic intersection defined by buildings of similar scale from the Inter-War period and earlier.

The site currently operates as a public bar with bistro/restaurant, outdoor gaming room and smoking courtyard area. Also operating from the site is a drive through liquor retail premises accessible from Carrington Road.

The subject site is surrounded by shop-top houses, Charing Cross Hotel, commercial buildings and attached dwellings. The locality is characterised by a variety of commercial, retail and residential uses.



Figure 1: Subject site viewed from the corner of Bronte Road and Carrington Road



Figure 2: Subject site viewed from Carrington Road looking north



Figure 3: Subject site looking south along Bronte Road

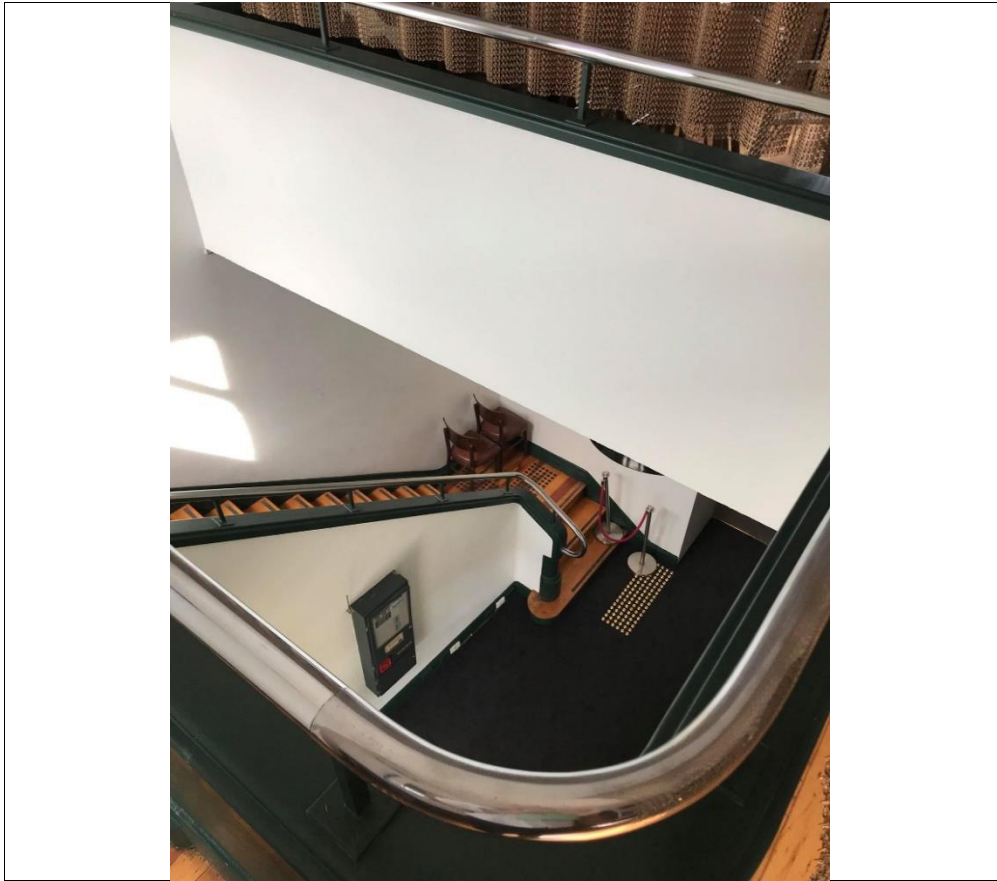


Figure 4: The existing stairs at the eastern corner of the hotel (Bronte Rd entrance), to be retained



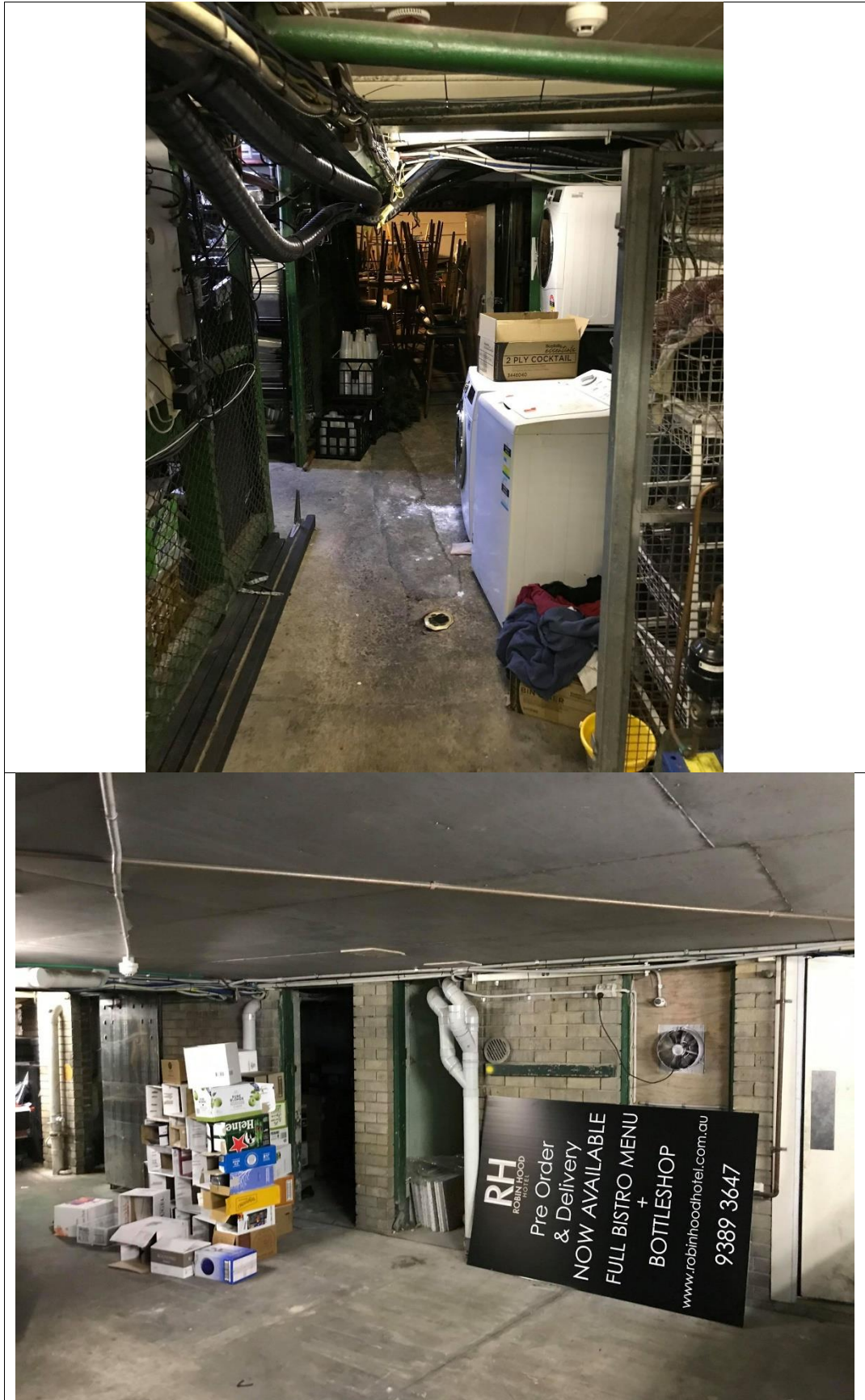
Figure 5: Existing bar area on first floor to be demolished and reconfigured



Figure 6: Existing first floor hallway



Figure 7: First floor looking towards the northern balcony. The proposed glass roof is located above this room



Figures 8 & 9: Portions of existing cellar. The basement level is be reconfigured for general back of house, storage, food preparation and patron toilets.

1.2 Relevant History

There are several relevant development applications to the subject application.

The subject development application has been submitted to rationalise existing approvals, amend approved plans and include a small component of new works internally within the Robin Hood Hotel.

DA-68/2005 Granted consent for alterations and additions including new deck and use of hotel as a place of public entertainment. Subsequent Section 4.55 (A) modified the trial period relating to hours of operation.

DA-434/2008 Granted consent for alterations and additions to include a smoker's terrace. Subsequent Section 4.55 (A and B) to alter finishes to the parapet and upper outdoor deck, and modifications to the internal layout to increase the number of patrons on the lower outdoor deck from 15 to 21 (Condition 6).

DA-6/2012 Granted consent to alterations and conversion of the first floor of the Hotel to a restaurant and public area (including smoker's area) for an additional 150 patrons. Subsequent Section 4.55 (A) approved modifications to the internal layout and conditions of consent.

The consent provides approval for:

- Total capacity: 461 patrons (311 ground floor and 150 first floor);
- Ground floor trading hours: 10am to 3am Monday to Saturday, 10am to 10pm Sunday;
- First floor trading hours: 10am to 12 midnight Monday to Saturday, 10am to 10pm Sunday; and
- First floor extended trading hour: 12 midnight to 2am the following day on Thursday, Friday and Saturday for a one year trial period from date of the final occupation certificate.

The applicant advises that works approved under DA-6/2012 and modified under DA-6/2012/A commenced in 2014/2015. A partial construction certificate was issued and works were carried out for the bistro renovation and part of Level 1. A final occupation certificate has not been issued, therefore the trial period for extended trading hours outlined above has not been activated.

DA-103/2019 Granted consent to internal alterations including gaming room and the installation of four external illuminated signs

HEC-1/2020 was lodged for works to the internal wall adjacent to the ground floor gaming room. However, HEC-1/2020 was withdrawn.

1.3 Proposal

The subject application has been lodged to rationalise existing approvals, amend approved plans and include a small component of new works internally within the Robin Hood Hotel. The subject DA does not seek to change the approved hours of operation, patron numbers or other operational aspects of the approved hotel. The hours of operation and patron capacity as approved in DA-6/2012 is sought to be included in this application. The physical works proposed are as follows:

- Basement (Cellar Level)
 - Conversion of storage areas into toilet amenities;

- Works include new openings, new stair, installation of plumbing fixtures for bathrooms;
 - Construction of a preparation kitchen to service the hotel;
 - Installation of cool room; and
 - Provide access to the public via a stair at the centre of the building, along with access from the lift servicing all levels of the building.
- Ground Floor
 - Minor remodelling of main bar;
 - Demolition of existing kitchen area (relocated to the first floor);
 - Demolition of existing toilet facilities (relocated to the basement level); and
 - Construction of new stairs, lift and dumb waiter system.
- First Floor
 - Demolition of the existing accommodation rooms and replacement with restaurant, dining areas, kitchen and toilet facilities;
 - New opening within the floor for additional stair access between the cellar and the first floor (including new lift shaft and dumb waiter);
 - Refurbish existing sunroom;
 - New function room; and
 - Outdoor lounge/dining area.
- Roof
 - Remove existing roof above the new lift shaft;
 - Construct new lift shaft below the plant platform to match existing;
 - Installation of a new operable roof above the proposed outdoor lounge/dining area;
 - Fixed glazed roof over the dining room;
 - Construction of acoustically treated parapet walls to the proposed new opening to match the existing parapet; and
 - Mechanical plant will be located in the plant enclosure on the roof.

It is noted that DA-6/2012 (Condition 11) does not allow for BBQ or charcoal type cooking. This DA seeks approval for the ability for this style of cooking. This is discussed in further detail in the referral section below.

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 55 Remediation of Land

There is no known history of contamination applicable to the site. The proposed works are wholly internal. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

2.1.2 Waverley Local Environmental Plan 2012 (WLEP 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 B4 Mixed Use Zone	Yes	The proposal relates to a Hotel, which is permissible in the B4 Mixed Use zone
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> 9m 	No	The proposal does not increase the height of the existing building. However, it includes works to the existing roof, which has a maximum height of 10.7m The proposal exceeds the maximum height development standard by 1.7m or 18.8%
4.4 Floor space ratio <ul style="list-style-type: none"> 1:1 (533m²) 	No	The existing FSR is 1.49:1 (795m ²). The proposal includes conversion of the existing basement into toilets, which therefore increases the FSR on site. The proposed FSR is 1.62:1 (862m ²) which exceeds the maximum FSR development standard by 329m ² or 61.7%
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of WLEP 2012 to vary the Height and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.
5.10 Heritage conservation	Yes	The site is listed as a heritage item (I453) <i>1940s style commercial building, Robin Hood Hotel</i> in WLEP 2012. The site is also located within the Charing Cross Conservation Area.

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

Clause 4.6 Exceptions to Development Standards

Height of Buildings

The application seeks to vary the height of buildings development standard in Clause 4.3.

The site is subject to a maximum height control of 9 metres. The proposed development has a height of 10.7m, exceeding the standard by 1.7m equating to an 18.8% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the WLEP 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:
 - (i) *Strict compliance with the height of building standard is considered to be unreasonable and unnecessary in the circumstances, particularly given the proposed building height variation in this DA remains below the existing parapet height and will not be visible from any area of the public domain.*
 - (ii) *The Clause 4.6 variation request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because the objectives of the standard are achieved and accordingly justifies the variation to the control pursuant to the first, third and fifth method outlined in Wehbe (Wehbe v Pittwater Council [2007] NSWLEC 827), Preston CJ of the Land and Environment Court.*
 - a. *Wehbe Test 1: the objectives of the zone and building height are achieved notwithstanding the technical non-compliance.*
 - b. *Wehbe Test 3: requiring the DA, in this context, to comply with the maximum height of building control would result in a significantly inferior architectural design outcome for the site and patrons of the hotel.*
 - c. *Wehbe Test 5: the land has been zoned appropriately and the objectives of the height of buildings control are appropriate in the context of Charing Cross. Compliance is unreasonable and unnecessary given the existing characteristics of the heritage building sets a surrounding brick parapet height that is not being exceeded. As such, the proposal will not be evident or visible to anyone within the public domain.*

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The non-compliance is primarily technical. That is, whilst part of the building to be approved will exceed the building height control, it will have no apparent impact to public domain or private properties.*
 - (ii) *The variation replaces a section of roof that in large part, already exceeds the height of building standard of 9m, and will not be set any higher than the surrounding brick parapet of the Hotel.*
 - (iii) *The extent of variation is minimal and has been suitably considered by heritage specialists (including the Conservation Management Plan for the Hotel).*
 - (iv) *There are no adverse amenity impacts associated with the non-compliance to surrounding land uses.*
 - (v) *The proposed development provides an improved outcome for the patrons/occupants of the hotel, allowing for a high-quality architectural roof feature.*

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 4.3 of the WLEP 2012.

The written request has outlined that the extent of the non-compliance is minimal and inconsequential and provides a convincing argument that strict compliance would be burdensome. The proposal seeks to replace an existing portion of the roof with a glass roof to provide increased amenity within the hotel premises. The proposed roof is still below the street wall and parapet of the existing building and is therefore not visible from the public domain. See excerpt below from the applicant's Clause 4.6 request visually demonstrating location of the proposed roof in relation to the existing building parapets. The height non-compliance does not result in impacts on the environmental amenity of surrounding properties or the streetscape. The discussion below justifies how the development achieves the objectives of the development standard and the zone objectives despite the non-compliance.

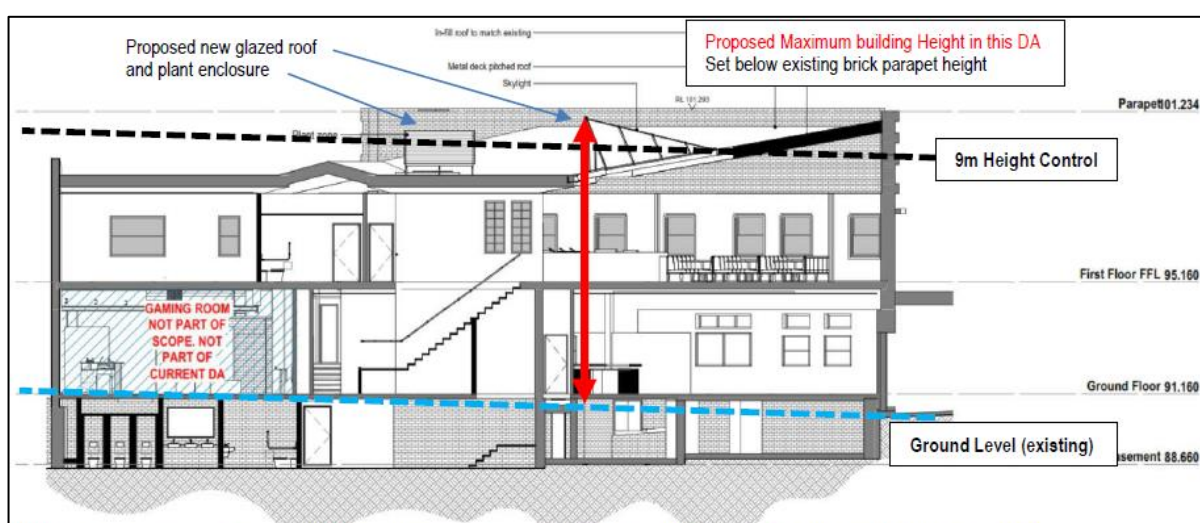


Figure 1 - Section of Proposal (N-S) showing proposed building height and height of buildings control



Figure 2 - Section of Proposal (E-W) showing proposed building height and height of buildings control

Figure 10: Excerpt from the applicant's Clause 4.6 written request showing the location of the proposed roof replacement in relation to the height of the existing building.

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.

Clause 2.1 – Land Use Zone – B4 Mixed Use Zone

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage commercial uses within existing heritage buildings and within other existing buildings surrounding the land zoned B3 Commercial Core.*

The proposed retention of the use of the site as a hotel premises satisfies these objectives. The development provides a commercial land use in a form that is compatible with the surrounding mixed-use character of this village area. The subject site is located in an accessible area, being adequately serviced by public transport and convenient for locals who wish to cycle or walk to the facility. Accordingly, the proposal is considered to be in the public interest subject.

Clause 4.3 Height of Buildings

Note: Objective (b) and (c) do not apply as they relate only to land in Bondi Junction centre.

(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 portion of the roof to be replaced is below the existing maximum building height and is located behind the street wall and main parapet so will not be visible from the public domain.

In assessing the breach, consideration needs to be given as to whether the overall height of the development preserves the environmental amenity of neighbouring properties. Given the portion of the roof to be replaced is lower than, and located behind, the existing parapet, the non-compliance does not give rise to any additional impacts and does preserve the environmental amenity of neighbouring properties.

As discussed under objective (d) below, to require strict compliance with the development standard will not give rise to improved amenity for surrounding properties and will not alter the appearance of the building to the street due.

The proposed development is considered to be consistent with objective (a) of the height development standard.

(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 height non-compliance is a result of the existing building exceeding the maximum height control. The proposal does not seek to alter the height, bulk and scale of the existing building and is therefore compatible with the desired future character of the locality. The existing building is heritage listed and therefore positively complements and contributes to the physical definition of the street network and public place. The proposed works are behind and lower than the existing parapet and therefore not visible from the public domain.

The proposed development is considered to be consistent with objective (d) of the height development standard.

Conclusion

For the reasons provided above the requested variation to the height is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the WLEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the height development standard and the B4 Mixed Use Zone.

Floor Space Ratio

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 1:1. The proposed development has a FSR of 1.62:1, exceeding the standard by 329m² equating to a 61.7% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the WLEP 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) *Strict compliance with the floor space ratio standard is considered to be unreasonable and unnecessary in the circumstances, particularly given the proposed floor space ratio variation in this DA is entirely internal to the existing hotel, within the existing building envelope.*
 - (ii) *The Clause 4.6 variation request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development because the objectives of the standard are achieved and accordingly justifies the variation to the control pursuant to the first method outlined in Wehbe (Wehbe v Pittwater Council [2007] NSWLEC 827), Preston CJ of the Land and Environment Court.*
 - d. *Wehbe Test 1: the objectives of the zone and building height are achieved notwithstanding the technical non-compliance.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) *The non-compliance is primarily technical. That is, whilst the building to be approved will exceed the floor space ratio, it will have no apparent impact to public domain or private properties.*

- (ii) *The variation relocates space within the hotel that already exceeds the floor space ratio and will not change the envelope or patron capacity of the existing hotel.*
- (iii) *The extent of variation is minimal and has been suitably considered by heritage specialists (include the Conservation Management Plan for the Hotel).*
- (iv) *There are no adverse amenity impacts associated with the non-compliance to surrounding land uses.*

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.

Whilst the breach of the FSR development standard appears numerically excessive at 61.7%, the existing FSR of the site is 1.49:1 (795m²) equating to a 49.1% variation. The proposal includes the

conversion of the existing basement storage (not considered GFA) into toilets, which therefore increases the FSR on site. The additional GFA as a result of this proposal is 67m².

As noted in the Clause 4.6 variation, the applicant states that the non-compliance is primarily technical given that whilst the building will exceed the FSR, it will have no apparent impact to the public domain or neighbouring properties. Furthermore, the proposal does not seek to alter the approved number of patrons or hours of operation which preserves the environmental amenity of neighbouring properties.

Is the development in the public interest?

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

Clause 2.1 – Land Use Zone – B4 Mixed Use Zone

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage commercial uses within existing heritage buildings and within other existing buildings surrounding the land zoned B3 Commercial Core.*

The proposed retention of the use of the site as a hotel premises satisfies these objectives. The development provides a commercial land use in a form that is compatible with the surrounding mixed-use character of this village area. The subject site is located in an accessible area, being adequately serviced by public transport and convenient for locals who wish to cycle or walk to the facility. Accordingly, the proposal is considered to be in the public interest subject.

Clause 4.4 – Floor Space Ratio

Note: Objective (a) does not apply as it relates only to land in Bondi Junction centre.

(b) to provide an appropriate correlation between maximum building heights and density controls,

It is noted that the proposed development results in an additional 67m² of floor space as a technicality because of the definition of gross floor area. The proposed non-compliance with the FSR development standard does not result in any change to the building envelope. The existing building exceeds both the building height and FSR planning controls. Given the age of the building compared with the current planning controls (i.e. WLEP 2012), it is deemed that the controls do not correlate with the existing heritage listed building on site. The building itself is considered to have an appropriate correlation between its height and density, albeit the non-compliance with the planning controls.

The proposed development is considered to be consistent with objective (b) of the FSR development standard.

(c) to ensure that buildings are compatible with the bulk, scale, streetscape and desired future character of the locality,

The FSR non-compliance is a result of the GFA definition, converting basement storage into bathrooms and food preparation areas. The existing building exceeds the FSR control. The proposal will not result in any change to the building envelope, nor alter the overall bulk and scale of the building. Further, the proposal will not alter how the building is viewed from the streetscape. Given there is no change that is visible from the public domain or neighbouring buildings, it is considered that the proposal is compatible with the bulk, scale, streetscape and desired future character of the locality.

The proposed development is considered to be consistent with objective (c) of the FSR development standard.

(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 proposed development preserves the environmental amenity of neighbouring properties as it does not alter the building envelope, nor does it result in an increase in patron numbers or hours of operation. Furthermore, the proposal minimises the adverse impacts on the amenity of the locality by adhering to maximum noise level criteria as imposed in previous development consents and recommended in the attached conditions.

The proposed development is considered to be consistent with objective (d) of the FSR development 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 clause 4.6 of the WLEP 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 B4 Mixed Use Zone.

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
1. Waste 1.4.1.1 Storage <ul style="list-style-type: none"> Bin storage area to be provided with rates in B1-2 	Yes	A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction. Condition of consent is recommended regarding ongoing waste on site. The waste and recycling storage area is located in an area convenient for users of the site in the basement and will continue to be managed as existing.
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.
6. Stormwater	N/A	The proposal includes new portions of roof; however, it will not result in changes to the existing stormwater drainage onsite.

Development Control	Compliance	Comment
7. Accessibility and adaptability	Yes	The proposal includes the installation of a lift to ensure the premises is accessible. Conditions of consent are recommended to ensure that the proposed works comply with the access standards.
8. Transport	Yes	Vehicular access to the site is provided on Carrington Road. The existing roller doors are maintained in a closed position. Loading facilities are located between the bottle shop and cellar area of the hotel. The existing arrangement will be retained and is considered acceptable.
9. Heritage	Yes	The site is identified as a Heritage Item and is in a Heritage Conservation Area. Council's Heritage Architect has reviewed the proposal and raised no issues with the proposal, subject to conditions of consent. This is discussed in further detail in the referrals section below.
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP.

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 proposal does not include any alterations to the existing building frontage, awnings or signage.
1.1.4 Noise		See discussion below.
1.3 Hours of operation		
<i>Base hours:</i> Mon to Sat: 7am to 11pm Sun: 7am to 10pm <i>Extended trial hours:</i> Mon to Sun: 7am to midnight		See discussion below.

Table 4: Waverley DCP 2012 – Part E3 Local Village Centres Compliance Table

Development Control	Compliance	Comment
3.1 Specific controls		
3.1.3 Charing Cross Small Village	Yes	The proposal does not include any changes to the external parts of the building other than the roof, which is not visible from the public domain. Therefore, the proposal is consistent with the desired future character objectives which seek to limit the scale of redevelopment and ensure that there is an integrated approach and to minimise visual clutter.
3.2 Generic controls		
3.2.1 Land uses	Yes	The existing hotel use is retained.
3.2.2 Public domain interface	Yes	The proposal does not seek to alter the public domain interface.
3.2.3 Built form	Yes	The proposed works do not alter the existing built form. While there is a technical non-compliance with the maximum building height control under WLEP 2012 Clause 4.3, the proposed glass roof to the first floor bistro area is not visible behind the existing building parapet and street wall. The existing building character is retained in accordance with the objectives of Part 3.2.3.
3.2.4 Building facade articulation	Yes	The proposal does not alter the existing building façade.
3.2.5 Buildings of historic character	Yes	The proposed development protects and maintains the historical identity of the heritage item. The proposed works allow for the ongoing use of the building as a hotel, in accordance with objective (c).
3.2.6 Building services and site facilities	Yes	<p>The proposal retains the approved patron numbers for the hotel, so the development is not likely to result in more demand for building services and site facilities.</p> <p>Waste and recycling storage and collection areas are not visible from the public domain and conveniently located at the cellar level.</p> <p>The mechanical ventilation and exhaust flying are not visible from any street frontage in accordance with control (e).</p>

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

Hours of Operation

The permitted hours under WDCP 2012, Part D1, Clause 1.3 are:

Base hours: Mon to Sat: 7am to 11pm and Sun: 7am to 10pm; and

Extended trial hours: Mon to Sun: 7am to midnight.

The existing approved hours of operation of the Hotel are as follows:

Ground floor: Mon to Sat: 10am to 3am and Sun: 10am to 10pm;

First floor: Mon to Sat: 10am to 12 midnight and Sun: 10am to 10pm;

First floor extended hours (indoor only): Thurs, Fri & Sat: 12 midnight to 2am the following day for a one year trial period from date of the final occupation certificate. It is noted that an occupation certificate has not yet been issued for the previously approved works, so the trial period has not commenced for extended trading hours.

The applicant seeks to retain the already approved trading hours for both the ground and first floors. This is considered appropriate, other than the outdoor areas on the first floor. NSW Police and Council's Health Team both recommend that the first floor outdoor areas not trade after 12 midnight. It is considered appropriate to allow the first floor indoor area to trade until 2am for a trial period of one year in accordance with WDCP 2012, Part D1, Clause 1.3.1 as it is on a temporary basis, to enable Council to assess the ongoing management performance of the premises and the impact on the neighbourhood amenity. Furthermore, the patron capacity is to remain as existing.

Relevant conditions have been included relating to hours of operation, staggered closing times and patron capacity to minimise the impact of the hotel on the neighbourhood amenity.

A condition is also recommended, and the applicant has agreed to, the surrender of the previous development consent DA-6/2012 and its subsequent modification; this will ensure there is a clear approval for and management of the premises.

Noise

Concern was raised by both NSW Police and Council's Environmental Health Officer about noise from the first floor outdoor area. Appropriate conditions have been included to mitigate these concerns. Specifically, the conditions relate to use of the outdoor areas being limited to midnight trading, closing the louvers on the first floor areas at midnight and limiting the use of the outdoor function room to background music only. The recommended conditions of consent are considered to address the concerns of both NSW Police and Council's Environmental Health Team and meets the controls in WDCP 2012, Part D1, Clause 1.1.5 *Noise*.

WDCP 2012, Part D1, Clause 1.1.5 requires an acoustic report for noise generating uses to demonstrate that noise will be appropriately attenuated between buildings. An Acoustic Report by Renzo Tonin (Ref No: TK660-02F02 DA Acoustic Assessment (r1) was provided, and forms part of the recommended approval documents.

16.1 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.

16.2 Suitability of the Site for the Development

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

16.3 Any Submissions

The application was notified and advertised 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*.

No submissions were received.

16.4 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 NSW Police

The application was referred to NSW Police, who raised no objection subject to the imposition of conditions relating to noise, hours of operation and patron capacity. The conditions recommended by NSW Police have been included in the recommended conditions.

3.2 Environmental Health

The application was referred to Council's Environmental Health Officer who raised concern about noise impacts after midnight and recommended that the hours of operation of outdoor areas associated with the licensed premises be limited to midnight. As discussed above, the proposal seeks to retain the existing hours of operation approved under DA-6/2012 (as amended). Notwithstanding this, a condition is recommended stating that the proposed outdoor areas on the first floor are not permitted to trade beyond midnight, regardless of the trial period until 2am.

The proposal seeks to carry out BBQ and/or charcoal type cooking on the premises, which is prohibited by Condition 11 of DA-6/2012. It is recommended that an odour/air assessment report be prepared by a suitably qualified consultant prior to granting consent for BBQ and/or charcoal type cooking. A suitable condition is recommended requesting this information be provided.

Council's Environmental Health Officer also raised concern about the outdoor function room on the first floor, noting that this area should be limited to background music only, a condition is recommended to be included.

3.3 Fire Safety

The application was referred to Council's Building Surveyor who recommends conditions which have been included.

3.4 Heritage

The application was referred to Council's Heritage Advisor who supports the proposal; however, made the following recommendations to ensure that the heritage significance of the overall building is maintained:

- (a) Details of interior detailing to the ground and first floor are to be provided to Council including:
 - The ceiling cornice to the northern end of the first floor above the retained fireplace and doors is to be retained in conjunction with the restoration of the fireplace;
 - Details of the interface of new works with the retained south-eastern stair and landings;
 - Details of the restoration of the first floor fireplace, sunroom and associated doors;
 - Details of the proposed sheeting over existing windows;
 - Details of the treatment of the interior where the existing ground floor toilets are to be removed from the northern end of the building; and
 - The nature and detail of acoustic treatment to first floor windows.
- (c) Heritage interpretation plan is to be submitted for approval and implemented prior to completion of works.
- (d) Where significant finishes are revealed during works, these are to be recorded for inclusion as an addendum to the previous archival report and where possible are to remain exposed in the current works.
- (e) It is recommended that a qualified heritage architect, preferably the author of the current Conservation Management Plan and Heritage Impact Report be engaged to oversee new works and conservation/maintenance works to the existing fabric.

4. SUMMARY

The application seeks consent for alterations and additions to the ground, first and basement levels of the heritage listed Robin Hood Hotel. Previously, development consent was granted under DA-6/2012 for works to the first floor. Works approved under DA-6/2012 have commenced, however not been completed. The proposal does not seek to alter the approved trading hours or patron capacity approved under DA-6/2012.

The proposal includes replacement of a portion of the first floor roof with a glass roof. This results in a technical non-compliance with the height development standard of 1.7m or 18.8%. The proposed roof is below the existing parapet and not visible from the public domain. The proposal seeks to convert a portion of the basement storage (cellar) area into toilets, which are included in the definition of GFA. As such, the proposal results in a 67m² increase in GFA. The total FSR of the site is 1.62:1, which exceeds the FSR development standard by 329m² or 61.7%. While numerically large, the proposal does not seek to alter the existing building envelope. The applicant has submitted a Clause 4.6 written request for both the height and FSR breaches, which adequately addresses the matters required.

The application was referred to NSW Police, who raised no objection subject to conditions of consent which have been included in the attached recommended conditions.

No submissions were received. There was no declared conflict of interest on the application form. A Councillor submission was not made. The application is recommended for approval, subject to

conditions, including the surrender of the previous consent DA-6/2012 and its subsequent modification to ensure there is clear and consistent management of the Hotel.

DBU Decision

The application was reviewed by the DBU at the meeting on 5 May 2020 and the DBU determined:

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

DBU members: *M Reid, A Rossi, B McNamara, B Matlawski, 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:

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

Emma Finnegan
Senior Development Assessment Planner

Bridget McNamara
**Manager, Development Assessment
(North/South)**

Date: 14 May 2020

Date: 15 May 2020

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 Plan Nos, tables and documentation prepared by H&E Architects as follows:

Plan No & Rev	Plan Title	Dated	Received by Council
DA2-0000 Rev 03	Cover sheet	22/10/2019	15/11/2019
DA2-0500 Rev 03	Site plan	22/10/2019	15/11/2019
DA2-1000 Rev 03	Cellar - existing, demolition, proposed	22/10/2019	15/11/2019
DA2-1001 Rev 03	Ground floor - existing, demolition, proposed	22/10/2019	15/11/2019
DA2-1100 Rev 03	Level 1 - existing, demolition, proposed	22/10/2019	15/11/2019
DA2-1101 Rev 03	Roof - existing, demolition, proposed	22/10/2019	15/11/2019
DA2-3100 Rev 03	Elevations proposed Sheet 01	22/10/2019	15/11/2019
DA2-3101 Rev 03	Elevations proposed Sheet 02	22/10/2019	15/11/2019
DA2-4001 Rev 03	Sections Sheet 1 existing, demolition, proposed	22/10/2019	15/11/2019
DA2-4100 Rev 03	Sections Sheet 2 existing, demolition, proposed	22/10/2019	15/11/2019

(b) Acoustic Assessment reference TK660-02F02 DA Acoustic Assessment (r1) prepared by Renzo Tonin and Associates dated 24 October 2019 and received by Council on 15 November 2019;

(c) Building Code of Australia Report reference C2019072 prepared by 360 Certification dated 31 October 2019 and received by Council on 15 November 2019;

(d) Fire Safety Upgrading Report prepared by Michael Wynn Jones & Associates dated 31 October 2019 and received by Council on 15 November 2019;

(e) Heritage Impact Statement prepared by John Oultram Heritage and Design dated November 2019 and received by Council on 15 November 2019.

Except where amended by the following conditions of consent.

2. SURRENDER OF DEVELOPMENT CONSENT

Development consent DA-6/2012 and subsequent modifications is to be surrendered by the applicant, in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000. The surrender is to be received by Council prior to the issue of any Construction Certificate for works associated with this development consent. The surrender of the consent takes affect when Council receives the notice.

3. HERITAGE DETAILS

To ensure the heritage significance of the building is maintained, the following is required:

- (a) The ceiling cornice to the northern end of the first floor above the retained fireplace and doors is to be retained in conjunction with the restoration of the fireplace;
- (b) Details of the interface of new works with the retained south-eastern stair and landings;
- (c) Details of the restoration of the first floor fireplace, sunroom and associated doors;
- (d) Details of the proposed sheeting over existing windows;
- (e) Details of the treatment of the interior where the existing ground floor toilets are to be removed from the northern end of the building; and
- (f) The nature and detail of acoustic treatment to first floor windows.

The amendments are to be submitted and approved by Council's Heritage Advisor prior to the issue of any Construction Certificate.

4. PLAN OF MANAGEMENT (POM)

Prior to the issue of any Occupation Certificate, an amended POM is to be submitted to and approved by the **Executive Manager, Development Assessment or delegate**.

The POM is to include details of all operational and management procedures of the premises. The POM is also to include;

- (a) Venue Management Plan (relating to patron capacity (Condition 41), 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) Management of staggered closing times to ensure when one area of the Hotel ceases trading (Condition 41), other areas of the hotel do not become over-crowded and exceed maximum permitted patron capacity;
- (e) Any other such operational matters to ensure compliance with relevant regulatory requirements; and
- (f) Any management measures recommended in the acoustic report referred to in condition 23 (Acoustic Certification) shall be incorporated into a Plan of Management.

Once the PoM has been approved, a copy is to be provided to the Licensing Police of the Local Area Command prior to the commencement of operations.

5. APPROVAL REQUIRED PRIOR TO BARBECUE OR CHARCOAL TYPE COOKING ON SITE

An odour/air assessment report is to be prepared by a suitably qualified consultant and submitted to and approved by **Executive Manager, Development Assessment or delegate**, prior to the installation of any barbecue or charcoal type cooking appliances on site.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

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

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the Environmental Planning & 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.

7. SECTION 7.12 CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

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

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

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

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

8. 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.

9. LONG SERVICE LEVY

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

10. HERITAGE INTERPRETATION PLAN

A Heritage Interpretation Plan is to be submitted to, and approved, by Council's Heritage Advisor prior to the issue of any Construction Certificate and be implemented prior to any Occupation Certificate.

11. HERITAGE ARCHITECT

The applicant is to commission an experienced conservation architect to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The conservation architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The conservation architect is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project. The applicant is to commission experienced trades persons (as appropriate) that are skilled in traditional building and engineering trades to carry out the proposed scope of works.

12. HOARDING

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

13. EROSION, SEDIMENT AND POLLUTION CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan shall be prepared in accordance with Waverley Council's Water Management Technical Manual be installed and maintained until construction activities have been completed and the site is fully stabilised. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

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. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

16. WASTE STORAGE AREAS

The development must have a bin storage area with sufficient space to accommodate the following minimum number of bins for the commercial component of the development;

- **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.

All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B1 of the *Waverley Council Development Control Plan 2012* to the satisfaction of the Principal Certifying Authority.

17. 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.

18. 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.

19. FIRE SAFETY UPGRADING WORKS

Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, fire safety upgrading works are to be undertaken to the existing building in accordance with the "Table 1 (Scope of works)" identified at pages 13-16 in the report entitled "Fire and life safety upgrading report" dated 31 October 2019 prepared by Michael Wynn-Jones.

20. 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.

21. ENGINEERING DETAILS

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

22. 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.

23. 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.

24. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of any Construction Certificate.

C. COMPLIANCE PRIOR TO AD DURING CONSTRUCTION

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

25. 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.

26. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

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

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

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

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

27. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

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

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

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

29. 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.

30. CONSTRUCTION AND FITOUT OF FOOD PREMISES

The fitout of the premises must be in accordance with the *Waverley Council Policy for Fit-out and Construction of Food Premises* available on Council's website, as well as any other relevant legislation.

https://www.waverley.nsw.gov.au/building/compliance_and_regulations/environmental_health_regulations/food_safety

31. 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.

32. CONSTRUCTION INSPECTIONS

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

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

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

33. 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.

34. CERTIFICATION OF ALL MECHANICAL PLANT

A Certificate of Test of all mechanical plant together with a copy of the final test figures, conducted by a suitably qualified person, certifying that the system complies with the conditions of this consent, National Construction Code (NCC) and relevant Australian Standards.

35. MECHANICAL EXHAUST MAINTENANCE

A maintenance program is required for the mechanical exhaust ventilation system that includes the cleaning of the system at six (6) monthly intervals. The maintenance program is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

36. PEST CONTROL

A Pest and Vermin Control Management Plan (PVCMP) is to be submitted for the approval of Council's Executive Manager, Compliance (or delegate) prior to the issue of an Occupation Certificate. All recommendations within the PVCMP are to be implemented with the ongoing operations of the premises.

37. ACOUSTIC CERTIFICATION - PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

An acoustic report/certificate prepared by a suitably qualified acoustic consultant is to be submitted to the Principal Certifying Authority and the Council, certifying that all acoustic recommendations (including noise from mechanical plant) and conditions of consent (including the operational conditions) have been incorporated into the development and can be satisfied.

38. CERTIFICATION OF STORMWATER SYSTEM

Prior to issue of an occupation certificate, certification is to be provided from a suitably qualified Hydraulics Engineer, that the stormwater system has been constructed in accordance with the approved stormwater management plans and to best engineering practice.

E. OPERATIONAL CONDITIONS DURING OCCUPATION

The following operational conditions must be complied with at all times, throughout the use and operation of the development or use.

39. REVIEWABLE CONDITION PERMITTING REVIEW OF THE EXTENDED TRADING HOURS

(a) Hours of Operation

The hours of operation for the premises are restricted to:

Ground Floor (including gaming room and beer garden):

Monday to Saturday: 10.00am to 3.00am; and

Sunday: 10.00am to 10.00pm.

First Floor (including balconies, smokers' terrace and outdoor dining room):

Monday to Saturday: 10.00am to 12.00am; 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.
- (c) Notwithstanding sub clause (a) and subject to sub clause (d), the indoor area of the first floor excluding the balconies, smokers' terrace and outdoor dining room may trade as follows ("**the extended trading hours**"):

Thursday, Friday and Saturday: 12am to 2am the following day.

- (d) Sub clause (c) is subject to sub clause (e).
- (e) 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 sub clause (c) after carrying out a review.
- (f) Sub clause (c) will be reviewed not earlier than 1 (one) year from the date of Occupation Certificate. The Council may change sub clause (c) on review.
- (g) The operator of the premises will be given not less than 14 days written notice that a review of sub clause (c) 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.
- (h) 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.
- (i) This condition applies 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.

- (j) If the Council makes a decision to change reviewable sub clause (c) 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 diligence then the operator may continue to trade during the extended hours until the Land and Environment Court has finally determined the appeal.

40. CLOSURE OF WINDOW / DOOR OPENINGS AND OPERABLE ROOF

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

- (a) The operable roof to the outdoor dining room on the first floor is to be closed from 12 midnight each day.
- (b) The window / door openings on all frontages shall be closed by 12 midnight each day (excluding the main principle entranceway that may be opened when being utilised for entry and exit purposes).
- (c) The doors and windows leading to and from internal areas of the premises shall be acoustically sealed.

41. MAXIMUM PATRON CAPACITY

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

Ground Floor (including gaming room and beer garden/terrace):
311 patrons

First Floor (including internal areas, outdoor dining room, smokers' terrace and northern balcony):
150 patrons

Total of 461 patrons

- (b) Notwithstanding part (a) above, there are to be no more than:
 - a. 8 patrons on the first floor northern balcony.
 - b. 8 patrons on the first floor smokers' terrace.
 - c. 28 patrons in the gaming lounge and lower outdoor deck at any one time.
- (c) Signage to reflect the maximum patron numbers permitted in part (b) above is to be displayed on the window/wall near the entrance to the area.
- (d) Management is to ensure it monitors patron number limits specified in this condition and in particular that it monitors patron numbers on the ground level so as not to exceed 311 patrons once the first level closes.
- (e) On Monday to Saturday patrons are to be moved to the ground level by the permitted closing time of the first floor should the patron capacity allow.

42. SIGNAGE TO BE DISPLAYED

- (a) Signage (in lettering not less than 150mm 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 – Ground Floor

Monday to Saturday: 10.00am to 3.00am

Sunday: 10.00am to 10.00pm

Approved hours of operation – First Floor

Monday to Saturday: 10.00am to 12.00am

Sunday: 10.00am to 10.00pm

One year Trial period (indoor only): 12am to 2am Thursday to Saturday

Approved patron capacity:

Total of 461 persons

Upon leaving please respect local residents by minimising noise

- (b) Signage specified in sub clauses (a) 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.

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

- (a) The operation and management of the premises shall be in accordance with a Council approved PoM at all times.
- (b) The approved PoM shall be adopted by the Management of the premises.
- (c) The plan shall be reviewed (at minimum) on an annual basis, and at any time there is a change in business ownership of the premises.

44. COPIES OF CONSENTS AND MANAGEMENT PLANS

A full copy of all current development consents (including approved plans) for the operation of the premises, any complaint registers (or other) 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 ILGA Authorised Officers.

45. 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.

46. 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.

47. 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/).

48. 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.

49. 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.

50. NOISE LIMITERS

(a) All amplification equipment used in the premises is to be controlled by a root mean square (RMS) noise limiter, calibrated by an acoustic engineer. The equipment must be tamper proof and only operable by the management or their sound engineer.

(b) Approved noise limiters must be installed in the entertainment area. The limiters must be calibrated and set by the Project Acoustical Consultant to ensure compliance with Council's noise emission criteria. The Project Acoustical Consultant must certify that the limiters are

installed and calibrated to satisfy the requirement of Council's noise criteria. The calibration levels and assessment background levels must be reported on calibration sheets for each area (if necessary) and submitted to Council. The noise limiters must be installed in a locked cabinet located in a secure area. Access to noise limiter post calibration must be restricted to the Licensee of the premises and made available to Council officers upon request.

All on-stage and front of house sound equipment must be connected in such a manner to the one system so that the noise levels produced can be effectively controlled by the noise limiter referred to above and the house mixer/sound engineer.

51. 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.

52. 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.

53. 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.

54. 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.

55. 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.

56. 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.

57. 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.

58. 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.

59. 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.

60. NO SPRUIKERS

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

61. 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.

62. NOISE EMISSIONS – LIQUOR LICENCED PREMISES

Noise emissions from the licensed premises shall comply with the following:

- (a) The LA10 noise level emitted from the licensed premises shall not exceed 5dB above the background (LA90) noise level in any Octave Band Centre Frequency (31.5Hz to 8KHz inclusive) between the hours of 7.00am and 12.00 midnight when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises.
- (b) The LA10 noise level emitted from the licensed premises shall not exceed the background (LA90) noise level in any Octave Band Frequency (31.5Hz to 8KHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises

Notwithstanding compliance with the above clauses, the noise from licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.

NOTE: Where this condition is inconsistent with the requirements imposed by the Liquor Administration Board or Liquor Licensing Court, the more stringent conditions shall prevail.

63. AIR EMISSIONS

The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act, 1997.

64. 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.

65. NOISE - MECHANICAL PLANT

- (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.

66. 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.

67. 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 monthly intervals.

68. 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.

69. 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*.

70. NO FLASHING SIGNS

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

71. LOCATION OF SIGNS

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

72. 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.

73. 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)

ADVISORY MATTERS

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

AD1.SYDNEY WATER REQUIREMENTS

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

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

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

AD2.WORK OUTSIDE PROPERTY BOUNDARY

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

AD3.SIGNS/GOODS IN THE PUBLIC WAY

No signs or goods are to be placed on the footway or roadway adjacent to the property.

AD4.SUITABLY QUALIFIED ACOUSTIC CONSULTANT

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.

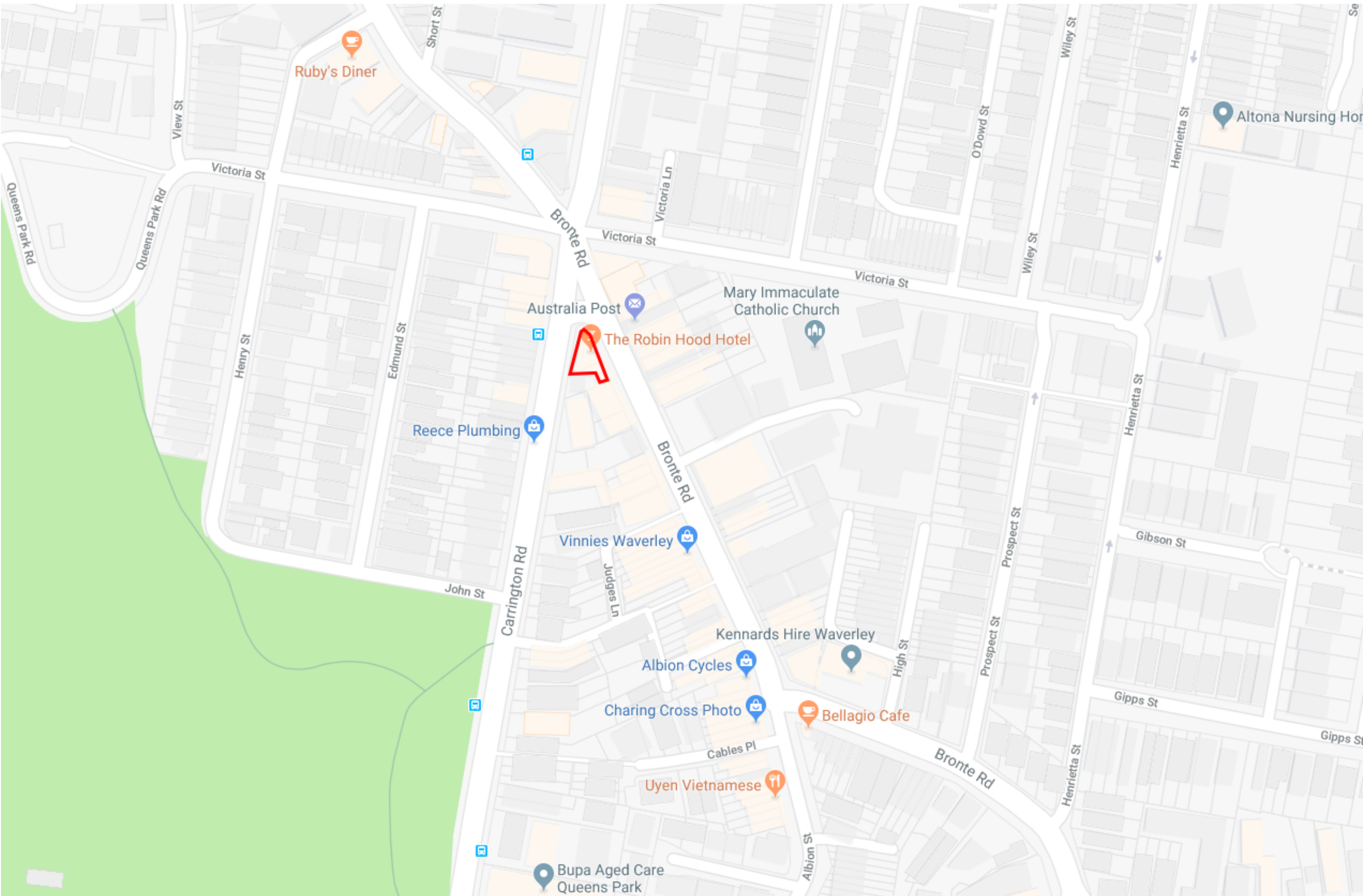
Robin Hood Hotel

Project No:2422

203 Bronte Rd Waverley

Robin Hood Hotel

Development Application



NTS (Source: Google Maps)

Drawing List - Development Application 2.0			
Sheet Number	Sheet Name	Date	Revision
DA2-0000	Cover Sheet & Drawing List	22/10/19	03
DA2-0500	Site Plan / Site Analysis Plan - Proposed	22/10/19	03
DA2-1000	Cellar - Existing, Demolition & Proposed	22/10/19	03
DA2-1001	Ground Floor Plan - Existing, Demolition & Proposed	22/10/19	03
DA2-1100	Level 1 Plan - Existing, Demolition & Proposed	22/10/19	03
DA2-1101	Roof Plan - Existing, Demolition & Proposed	22/10/19	03
DA2-3100	Elevations Proposed - Sheet 01	22/10/19	03
DA2-3101	Elevations Proposed - Sheet 02	22/10/19	03
DA2-4001	Sections Sheet 1 - Existing, Demolition & Proposed	22/10/19	03
DA2-4100	Sections Sheet 2 - Existing, Demolition & Proposed	22/10/19	03

RECEIVED
Waverley Council

Application No: DA-368/2019

Date Received: 15/11/2019

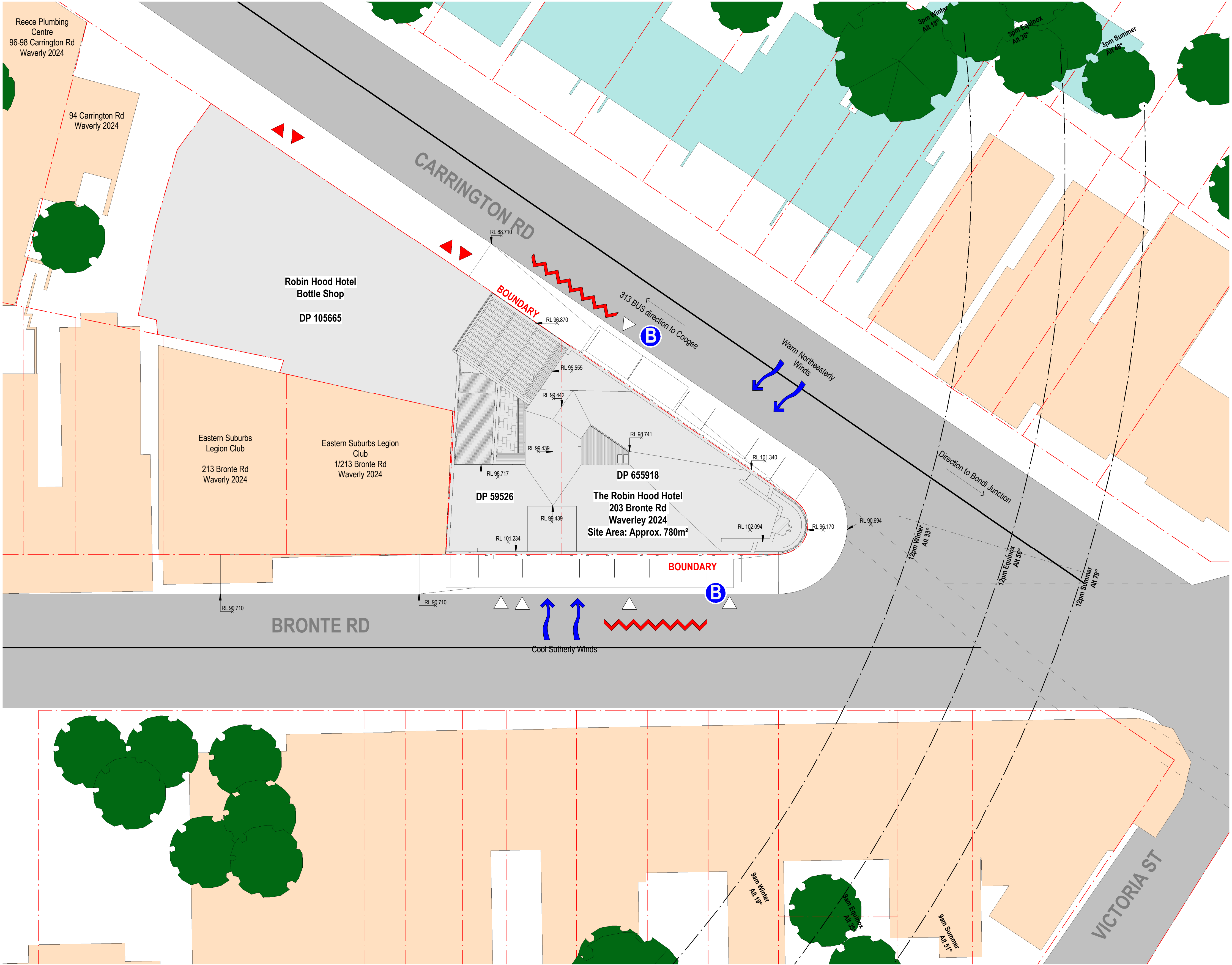
Rev	Date	Amendments
1	17/06/19	Issued for Information:
02	19/07/19	Development Application Issue:
03	22/10/19	Development Application Issue:

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Development Application

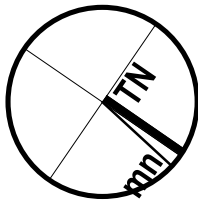
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Scale @ A3			
Project Issue Date	19/07/2019	Sheet Issue Date	22/10/19
Project No.	2422	Zone	Discipline
Drawing No.	DA2-0000	Revision	03



Site Analysis Legend

- Noise Source
- Winds & Breeze
- Existing & Proposed Pedestrian Access
- Existing & Proposed Vehicular Access
- Neighbouring Residential Buildings
- Neighbouring Commercial Buildings
- Transportation (Bus)
- Existing Trees and Vegetation
Note: No changes proposed to existing landscaping

General Notes
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Rev	Date	Amendments
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Rev	Date	Amendments
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Project
Robin Hood Hotel

Client
Robin Hood Hotel

Location
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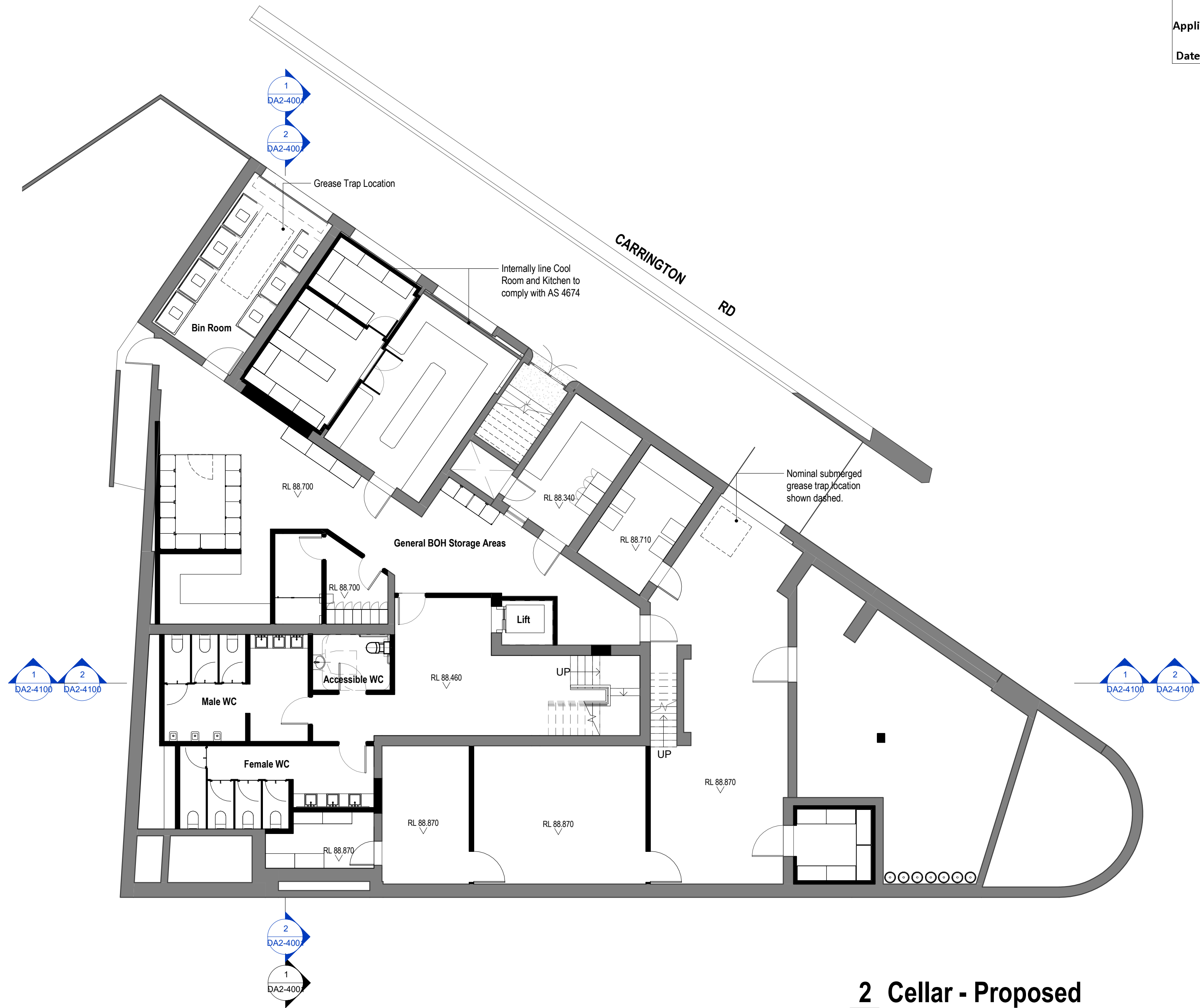
Drawing
Site Plan / Site Analysis Plan - Proposed

Development Application

Scale @ A1	As indicated	Drawn by	Checked by
Scale @ A3	As indicated	NR	
Project Issue Date	19/07/2019	Sheet Issue Date	22/10/19
Project No.	2422	Zone	Discipline
Drawing No.	DA2-0500	Revision	03



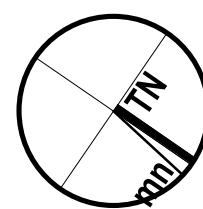
1 Cellar - Existing & Demolition



2 Cellar - Proposed

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Rev Date Amendments



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Project
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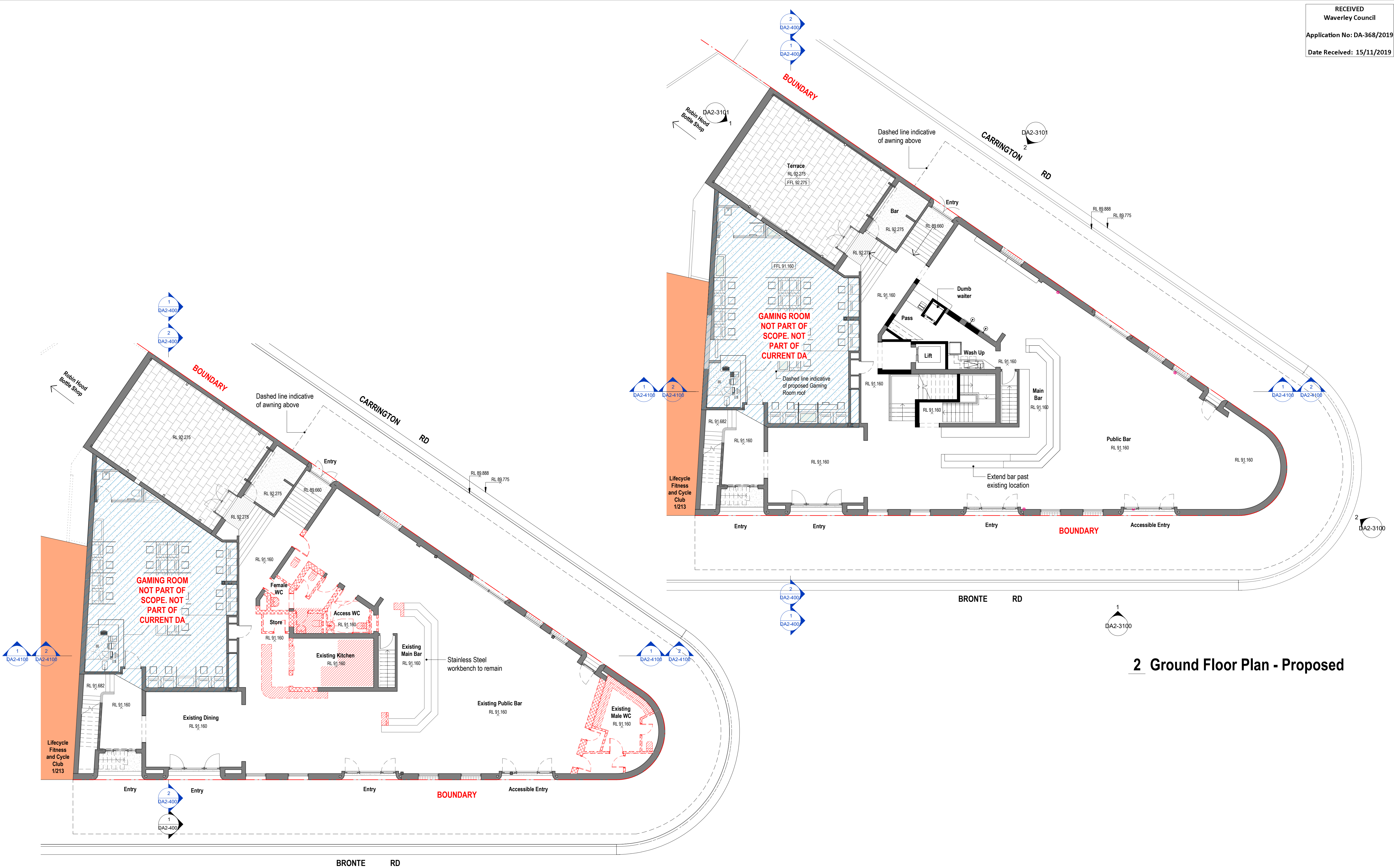
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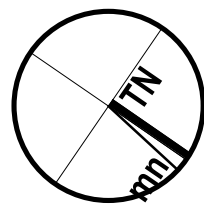
Drawing
Cellar - Existing, Demolition & Proposed

Development Application

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Scale @ A3	1:200				
Project Issue Date	19/07/2019	Sheet Issue Date	22/10/19		
Project No.	2422	Zone		Discipline	
Drawing No.	DA2-1000	Revision	03		



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02	19/07/19	Development Application Issue:
03	22/10/19	Development Application Issue:

Rev	Date	Amendments
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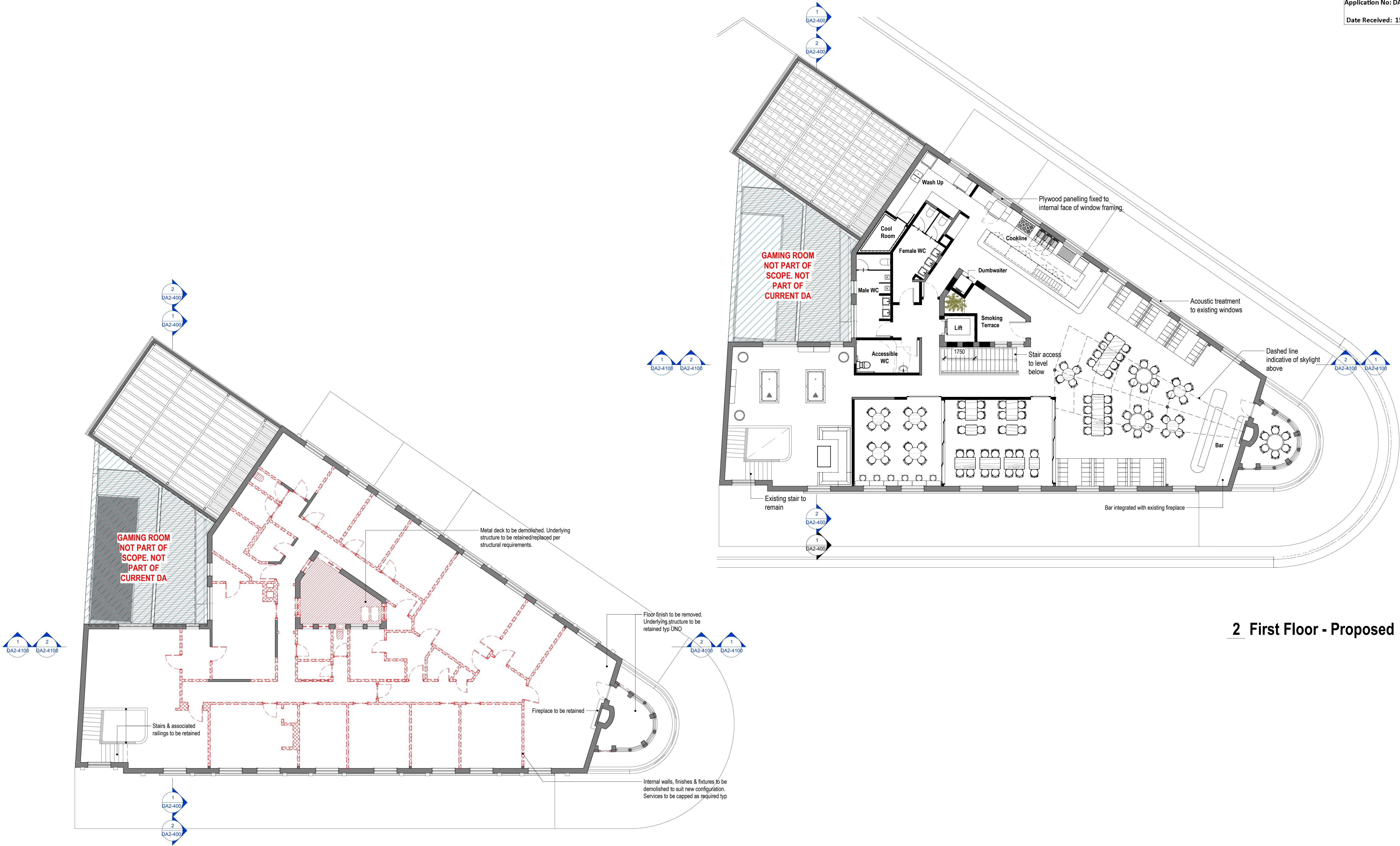
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www.h-e.com.au
PO Box 490 Darlinghurst NSW 1300
Humphrey & Edwards Pty Ltd | ABN 8805638227
Nominated Architect: Glenn Cunningham #5415

Project	Robin Hood Hotel
Client	Robin Hood Hotel

Location	203 Bronte Rd Waverley
Drawing	Ground Floor Plan - Existing, Demolition & Proposed

Development Application

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Scale @ A3	1:200				
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Project No.	2422	Zone		Discipline	
Drawing No.	DA2-1001	Revision	03		



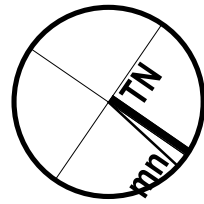
1 First Floor - Existing & Demolition

2 First Floor - Proposed

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Nominated Architect: Glenn Cunningham #6415

Project
Robin Hood Hotel

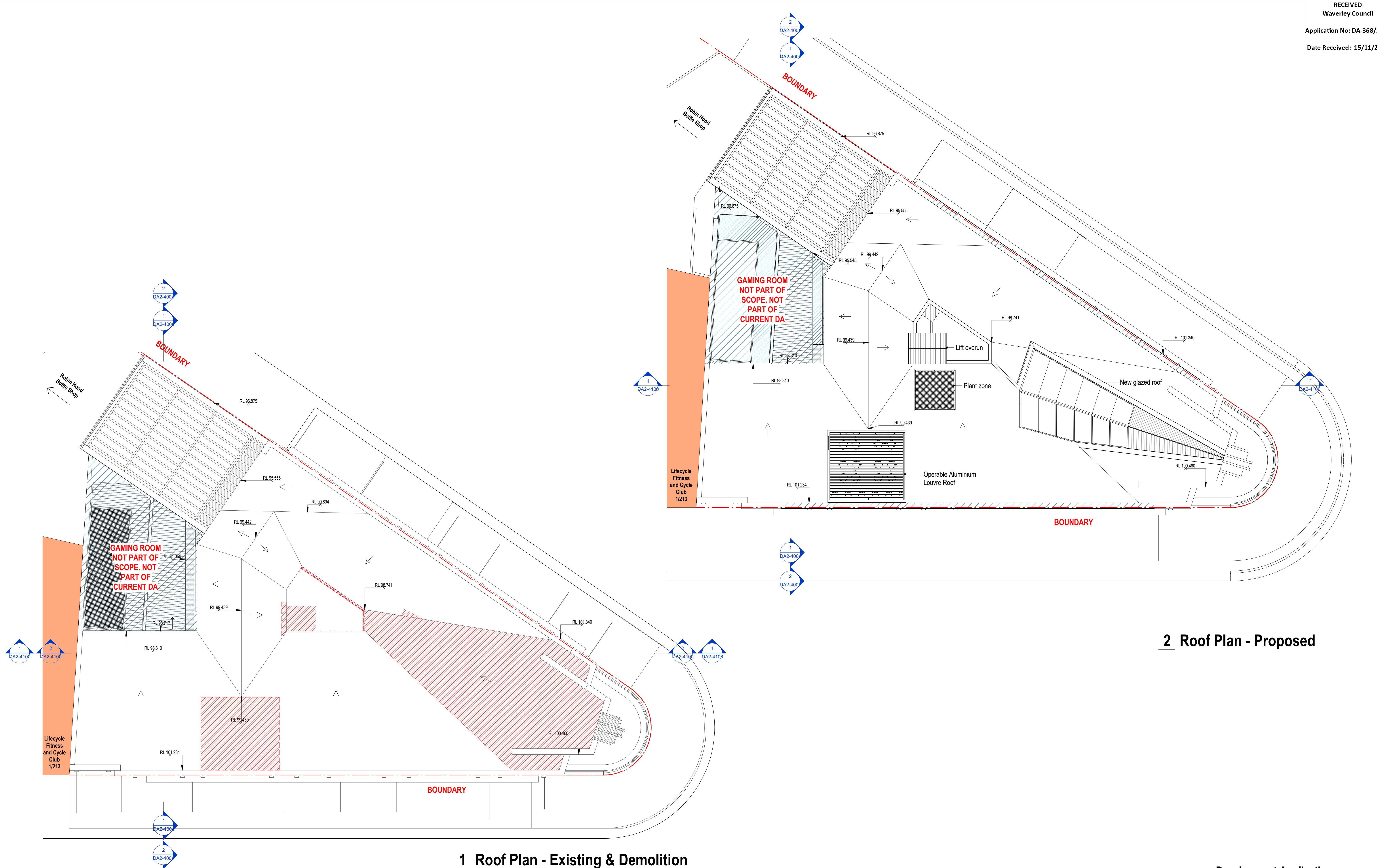
Client
Robin Hood Hotel

Location
203 Bronte Rd Waverley

Drawing
Level 1 Plan - Existing, Demolition & Proposed

Development Application

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Scale @ A3	1:200				
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Drawing No.	DA2-1100	Revision	03		



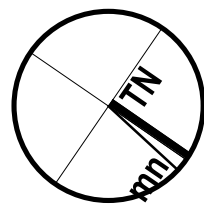
2 Roof Plan - Proposed

1 Roof Plan - Existing & Demolition

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Project
Robin Hood Hotel

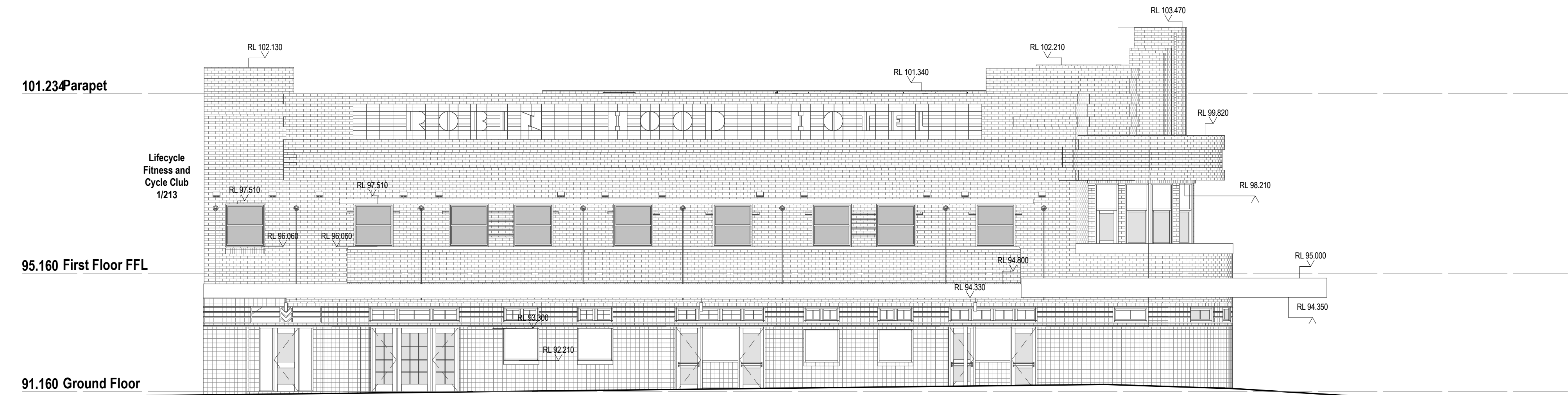
Client
Robin Hood Hotel

Location
203 Bronte Rd Waverley

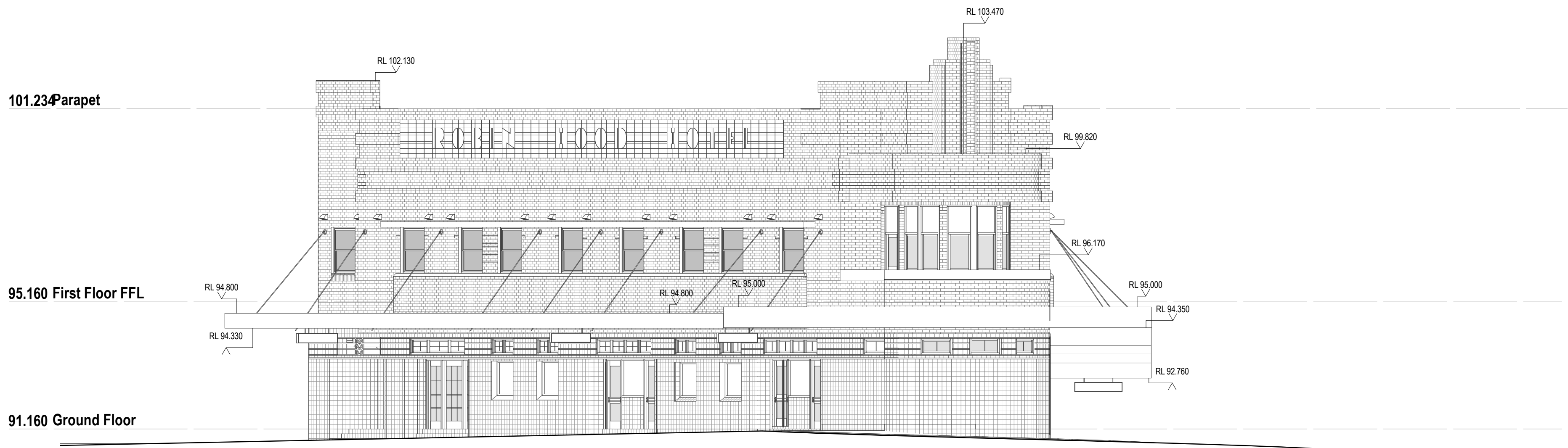
Drawing
Roof Plan - Existing, Demolition & Proposed

Development Application

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Scale @ A3	1:200			
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Project No.	2422	Zone		Discipline
Drawing No.	DA2-1101	Revision	03	



1 East Elevation (Bronte Rd) - Proposed

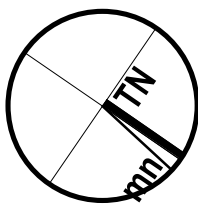


2 North Elevation - Proposed

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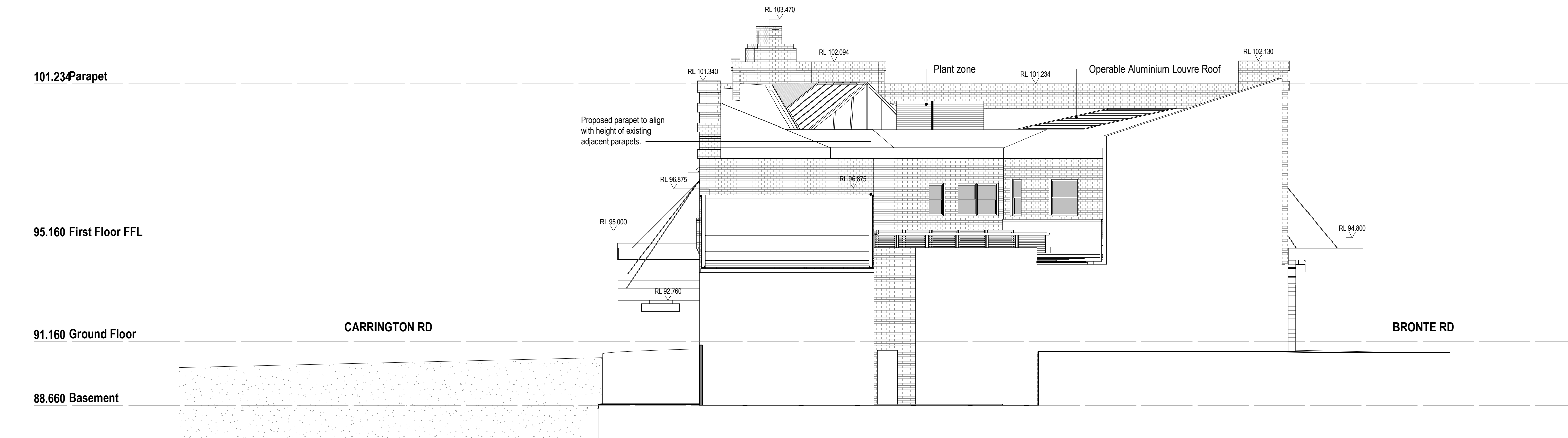
Humphrey & Edwards Pty Ltd | ABN 8805638227
Nominated Architect: Glenn Cunningham #6415

Project	Robin Hood Hotel
Client	Robin Hood Hotel

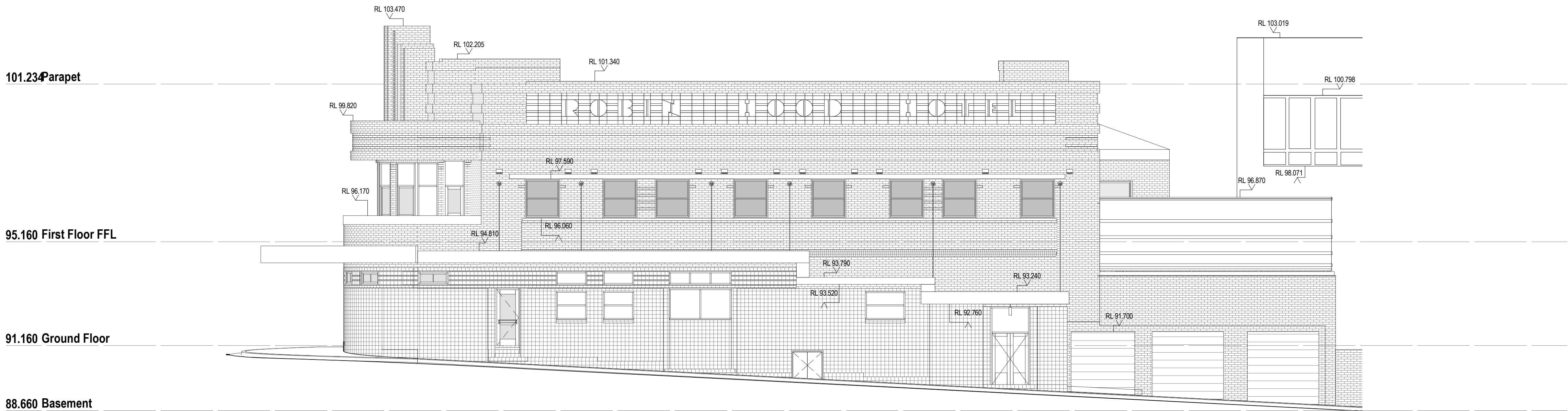
Location	203 Bronte Rd Waverley
Drawing	Elevations Proposed - Sheet 01

Development Application

Scale @ A1	1:100	Drawn by	NR	Checked by
Scale @ A3	1:200			
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Project No.	2422	Zone		Discipline
Drawing No.	DA2-3100	Revision	03	

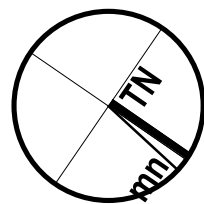


1 South Elevation



2 West Elevation (Carrington Rd)

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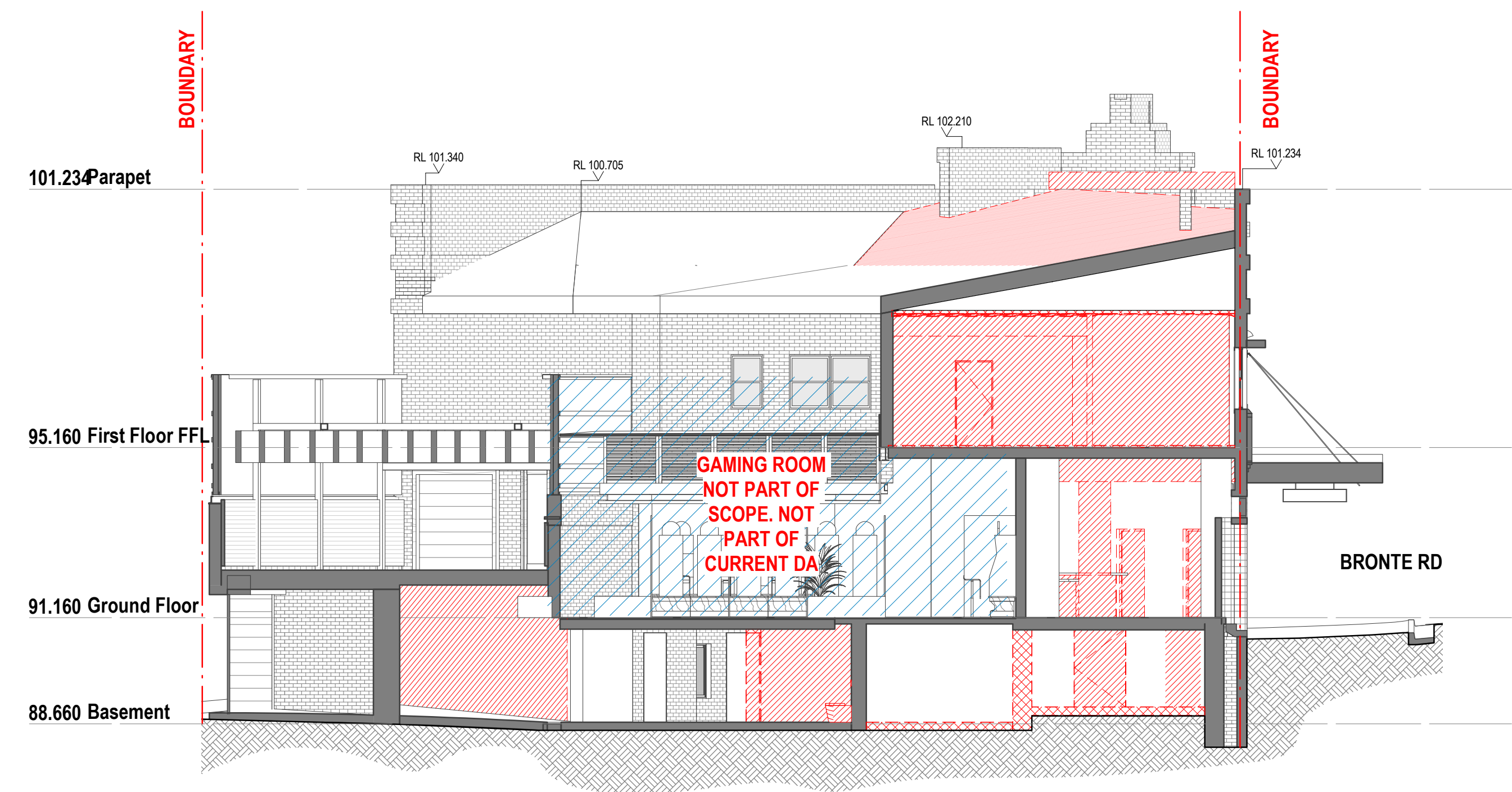
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Nominated Architect: Glenn Cunningham #5415

Project	Robin Hood Hotel
Client	Robin Hood Hotel

Location	203 Bronte Rd Waverley
Drawing	Elevations Proposed - Sheet 02

Development Application

Scale @ A1	1:100	Drawn by	NR	Checked by	
Scale @ A3	1:200				
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Project No.	2422	Zone		Discipline	
Drawing No.	DA2-3101	Revision	03		

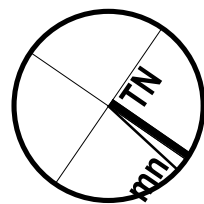


1 Section 1 - Existing & Demolished



2 Section 1- Proposed

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Project
Robin Hood Hotel

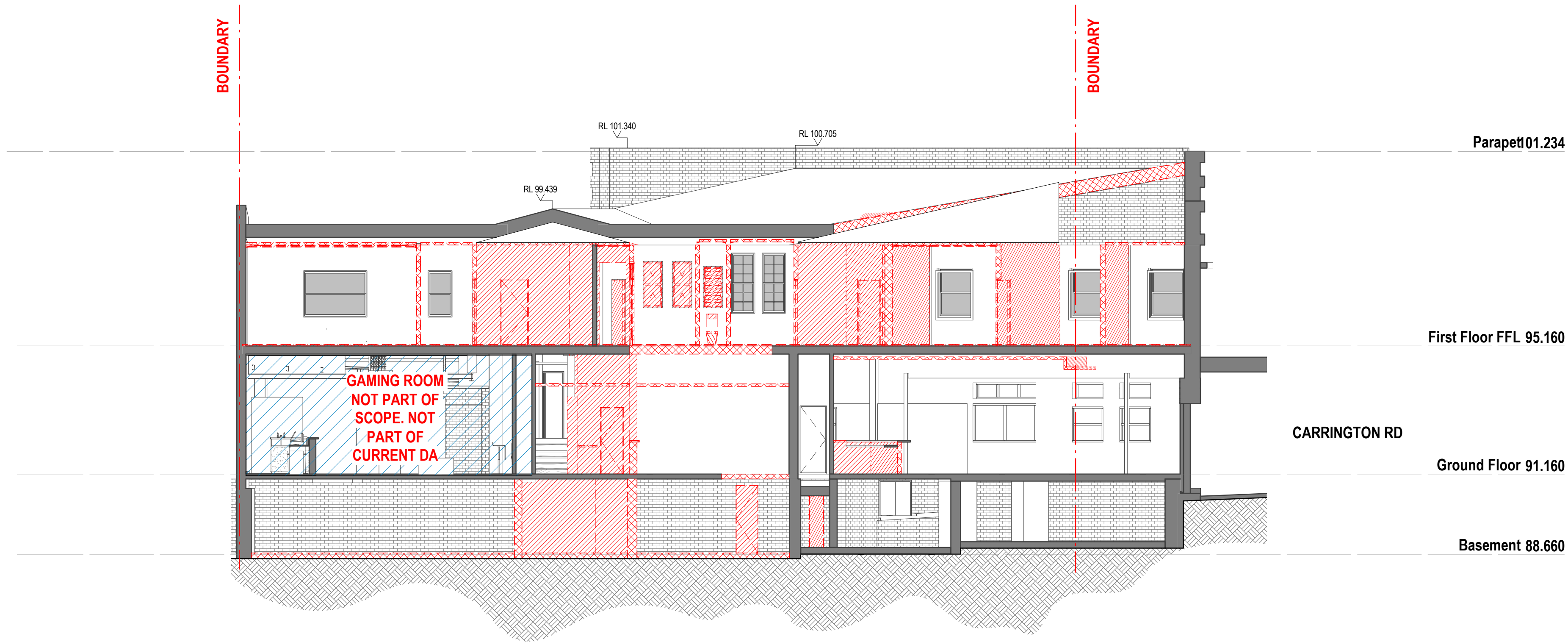
Client
Robin Hood Hotel

Location
203 Bronte Rd Waverley

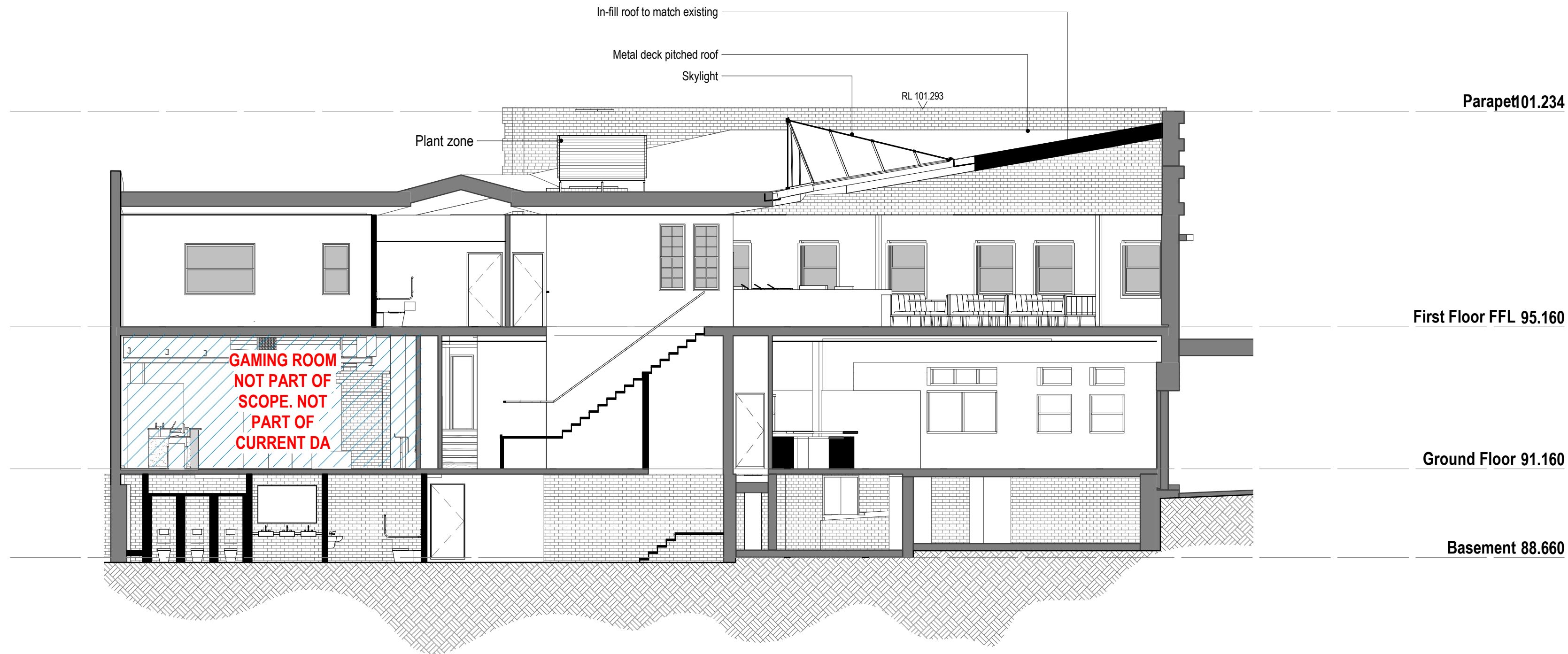
Drawing
Sections Sheet 1 - Existing, Demolition & Proposed

Development Application

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Scale @ A3	1:200			
Project Issue Date	19/07/2019	Sheet Issue Date	22/10/19	
Project No.	2422	Zone		Discipline
Drawing No.	DA2-4001	Revision	03	



1 Section 2 - Existing & Demolished

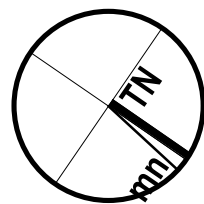


2 Section 1 - Proposed

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Nominated Architect: Glenn Cunningham #6415

Project
Robin Hood Hotel

Client
Robin Hood Hotel

Location
203 Bronte Rd Waverley

Drawing
Sections Sheet 2 - Existing, Demolition & Proposed

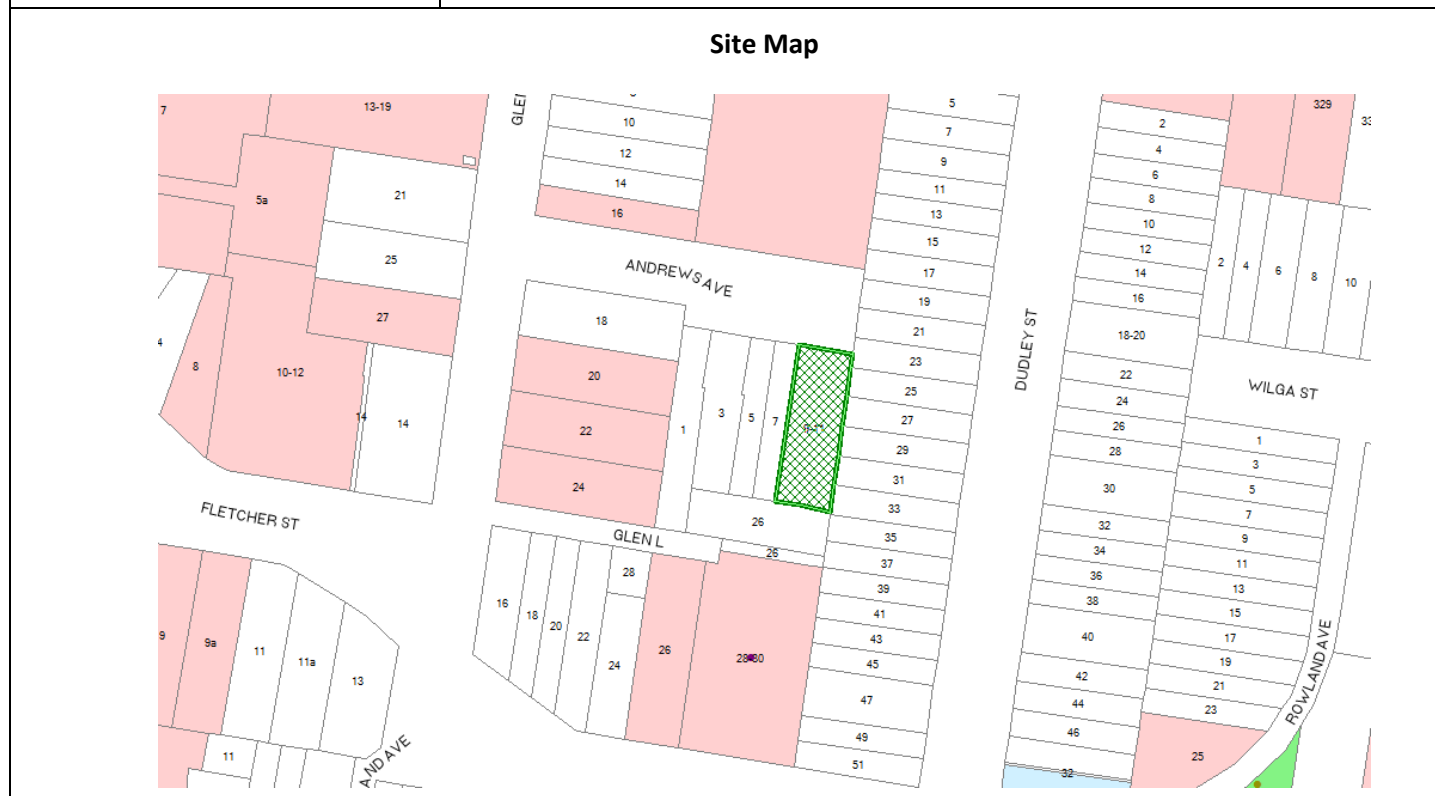
Development Application

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Scale @ A3	1:200			
Project Issue Date	19/07/2019	Sheet Issue Date	22/10/19	
Project No.	2422	Zone		Discipline
Drawing No.	DA2-4100	Revision	03	



Report to the Waverley Local Planning Panel

Application number	DA-59/2020
Site address	9-11 Andrews Avenue BONDI
Proposal	Demolition of dwellings and construction of two semi-detached dwellings with integrated garage, Torrens title subdivision, tree removal and swimming pools at rear
Date of lodgement	28 February 2020
Owner	M Homayunfard and M H Investment Pty Ltd
Applicant	M H Investment Pty Ltd C/- Dalgiesh Ward & Associates
Submissions	10
Cost of works	\$1,038,458.01
Issues	Non-compliance with minimum subdivision lot size and floor space ratio development standards; incompatible built form/envelope; adverse amenity impacts in relation to views, solar access, privacy, visual amenity and streetscape.
Recommendation	That the application be REFUSED



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 17 April 2020.

The site is identified as Lot 1 in DP 77403, known as 9-11 Andrews Avenue, Bondi. The site is rectangular in shape with a frontage to Andrews Avenue, measuring 13.035m.

The site has an area of 518.5m² and it falls slightly from the front (northern portion) towards the rear (southern portion) by approximately 1.5m.

The site is occupied by a single storey attached dual occupancy development, comprising two dwellings side by side (perceived as a pair of semi-detached dwellings albeit both are on one title/lot), with vehicular access provided from Andrews Avenue and a single garage located at the front of the site.

The subject site is adjoined by numerous properties as follows:

- a semi-detached dwelling to the west at 7 Andrews Avenue
- a dwelling house to the south at 26 Glen Street
- three pairs of semi-detached dwellings between 23 and 33 Dudley Street to the east.

The site is directly opposite a four storey residential flat building (comprising ground level garages and three habitable levels above) to the north at 2-12 Andrews Avenue, that was built circa 1970s and on a sizeable lot (some 1,975m²).

The locality is characterised by a mix of low and medium density residential developments, including semi-detached dwellings and residential flat buildings.



Figure 1: Site viewed from Andrews Avenue, looking south



Figure 2: Rear of existing development on the site (right hand side of photo) and adjoining/adjacent development to the west of the site at 5-7 Andrews Avenue (left hand side of photo), looking north-west from the rear yard of the site



Figure 1: Bird's eye, three-dimensional aerial photo showing the surrounding built form context of the subject site, looking west (Source: Apple Maps)

1.2 Relevant History

There is no relevant and recent development history of the site.

1.3 Proposal

The application seeks development consent for the following:

- demolition of existing structures
- partial earthworks
- Torrens title subdivision of site into two lots as follows:
 - Lot A or 9 Andrews Avenue with a site area of 263.2m²
 - Lot B or 11 Andrews Avenue with a site area of 255.3m²
- construction of two (2) semi-detached dwellings [as defined in the application yet are technically defined as 'dual occupancies (attached)'], four storeys in height, comprising:
 - garages (accommodating two off-street car parking spaces for each lot/dwelling) and services on ground level
 - bedrooms on first floor level
 - living areas on second floor level
 - office/bedrooms and rear terraces on third floor level
- construction of fences within the site, dividing rear yards of each new lot/dwelling
- construction of in-ground swimming pools for each new lot/dwelling in the rear yard area.
- Single shared driveway crossing leading into each dwelling's integrated garage.

The proposed development is visualised in the photomontage shown in **Figure 4** below.



Figure 4: Photomontage of the proposed development, looking south-east from Andrews Avenue (Source: Deneb Design)

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 and NatHERs certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. If the application were recommended for approval, a standard condition would have been recommended ensuring the measures detailed in the BASIX Certificate and NatHERs 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 (Vegetation in Non-Rural Areas) 2017

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

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

- i. as 'Biodiversity' on the Terrestrial Biodiversity Map in Waverley Local Environmental Plan 2012; and/or
- ii. as 'Biodiversity Habitat Corridor' in Waverley Development Control Plan 2012.

The site is not within any of the affected areas mentioned above and the proposal does not seek to clear native vegetation. Council's Tree Management Officer has reviewed the proposed tree removal and finds the removal satisfactory, subject to conditions of consent.

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	No	The proposal fails to satisfy the particular aim expressed by clause 1.2(2)(c) of the LEP as the proposal provides low density development by utilising and exploiting medium density principal built form development standards. The proposal therefore does not genuinely provide additional or complement existing and future desired ranges of housing types within a medium density locality to meet the changing housing needs of the community in the Waverley local government area.									
Part 2 Permitted or prohibited development											
2.6 Subdivision – consent requirements	Yes	Development consent is sought for Torrens Title subdivision of the site.									
Land Use Table R3 Medium Density Residential Zone	No (permissible, yet inconsistent with zone objectives)	<p>The proposal is defined as ‘dual occupancy (attached)’. If consent were granted to Torrens Title subdivision, it would be defined as a pair of ‘semi-detached dwellings’. Both uses are permitted with consent in the R3 zone.</p> <p>The proposal fails to satisfy the first two objectives expressed under the Zone R3 Medium Density Residential Land Use Table of the LEP. The proposal provides low density development by utilising and exploiting medium density principal built form development standards. It therefore does not genuinely provide additional or complement existing and future desired ranges of housing types within a medium density locality to meet the housing needs of the community.</p>									
Part 4 Principal development standards											
4.1 Minimum subdivision lot size <ul style="list-style-type: none"> 325m² 	No	<p>The proposed Torrens Title subdivision of the site results in the following site area for each lot and associated shortfalls with the development standard:</p> <table> <tr> <th>Lot</th><th>Site Area</th><th>Deficit</th></tr> <tr> <td>Lot A or 9 Andrews Avenue</td><td>263.2m²</td><td>61.8m² or 19%</td></tr> <tr> <td>Lot B or 11 Andrews Avenue</td><td>255.3m²</td><td>69.7m² or 22%</td></tr> </table>	Lot	Site Area	Deficit	Lot A or 9 Andrews Avenue	263.2m ²	61.8m ² or 19%	Lot B or 11 Andrews Avenue	255.3m ²	69.7m ² or 22%
Lot	Site Area	Deficit									
Lot A or 9 Andrews Avenue	263.2m ²	61.8m ² or 19%									
Lot B or 11 Andrews Avenue	255.3m ²	69.7m ² or 22%									

Provision	Compliance	Comment						
4.3 Height of buildings <ul style="list-style-type: none"> 12.5m 	Yes	The overall building height of the proposed development is 12.5m, measured to the roof ridge at the rear of the development at RL73.00 from existing ground level of RL 60.40 directly below. It just achieves compliance with this development standard.						
4.4 Floor space ratio (0.9:1) and 4.4A Exceptions to floor space ratio	No	<p>The application relies on the floor space ratio (FSR) development standard of 0.9:1 that is identified on the 'Floor Space Ratio Map' of the LEP, however fails to acknowledge that clause 4.4A of the LEP overrides that nominated development standard of 0.9:1 because the proposed development is for a dwelling house or dual occupancy (or equivalent low density residential development land uses) on land in either R2, R3 and R4 zones.</p> <p>Therefore, the applicable FSR development standard is as follows when applying the formula stipulated under clause 4.4A of the LEP:</p> <table border="1"> <thead> <tr> <th>Site Area</th><th>FSR</th><th>Maximum GFA</th></tr> </thead> <tbody> <tr> <td>518.5m²</td><td>0.535:1</td><td>277.22m²</td></tr> </tbody> </table> <p>The overall gross floor area (GFA) of the proposed development is 448m² (encapsulating the two dwellings) and achieves an FSR of 0.864:1. The development therefore exceeds the FSR development standard by 170.78m² or 62%.</p>	Site Area	FSR	Maximum GFA	518.5m ²	0.535:1	277.22m ²
Site Area	FSR	Maximum GFA						
518.5m ²	0.535:1	277.22m ²						
4.5 Site Area	-	Clause 4.5(3) of the WLEP clarifies the application of the FSR development standard to sites when measuring site area. The site currently comprises one lot and the proposed Torrens Title subdivision does not change the site area for the purposes of calculating the FSR of the proposed development. Therefore, the site area is taken to be the existing area of 518.5m ² .						
4.6 Exceptions to development standards	See discussion	<p>The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary just the minimum subdivision lot size development standard. A detailed discussion of the variation to the development standard is presented below this table.</p> <p>The applicant has not provided a written request pursuant to clause 4.6 of Waverley LEP 2012 for the FSR development standard as they believe the development is FSR compliant.</p>						

Provision	Compliance	Comment
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The site contains 'Class 5' acid sulfate soils. The site is located greater than 500m from land known as containing Classes 1, 2, 3 or 4 acid sulfate soils. The proposal does not involve excavation deeper than 5m below AHD. Therefore, the proposed development is not expected to disturb or expose acid sulfate soils.
6.2 Earthworks	Yes	Some excavation works are proposed to accommodate the proposed development and the extent of excavation would not warrant geotechnical investigation. If the application were recommended for approval, appropriate conditions of consent would be included to ensure excavation works do not unduly disturb neighbouring properties and the public domain.

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

Clause 4.6 Exceptions to Development Standards

Minimum Subdivision Lot Size

The application seeks to vary the minimum subdivision lot size in Clause 4.1 of the Waverley Local Environmental Plan 2012 (the LEP).

The site is subject to a minimum subdivision lot size development standard of 325m². The proposed lots achieve site areas of 263.2m² (for Lot A) and 255.3m² (for Lot B), varying the minimum development standard by 61.8m² or 19% and 69.7m² or 22%, respectively.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the LEP 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 minimum subdivision lot size 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 complies with the objectives of the development standard and the R3 zone.
 - (ii) The proposed subdivision reflects and reinforces the predominant subdivision pattern in the area as it allows for two semi-detached dwellings, which are compatible with the locality.
 - (iii) The existing development comprises two semi-detached dwellings with two front doors and two letterboxes. The proposed subdivision therefore will not alter what is already perceived as two properties.
 - (iv) The site used to comprise two separate lots prior to being consolidated by its former owner.
 - (v) The proposed lots reflect and are consistent with the neighbouring lots to the west of the site at 5-7 Andrews Avenue and be compatible with the surrounding lots to the east and south along Dudley Street and Fletcher Street.
 - (vi) The form of the proposed development (i.e. semi-detached dwellings) is consistent with the existing semi-detached dwellings on the site and surrounding the site to the east and west along Andrews Avenue and Dudley Street.
 - (vii) The non-compliance with the development standard will not result in unreasonable environmental amenity impacts in terms of visual bulk, overshadowing, loss of views, loss of visual amenity.
 - (viii) The non-compliance will not be discernible from the streetscape or surrounding properties.
 - (ix) The proposed development is designed and articulated to have a positive contribution to the locality and not unreasonably impact on the amenity of neighbouring and nearby properties in terms of overshadowing, privacy and view loss.
 - (x) The proposed subdivision delivers two high quality semi-detached dwellings which contributes to housing choice and affordability (compared to providing an eight-bedroom dwelling).
 - (xi) Strict compliance would not make any material difference to the streetscape and impacts on neighbouring properties. Therefore, the proposal does not undermine the integrity of the planning regime and that compliance with the development standard is unreasonable and unnecessary in the circumstance.
 - (xii) The internal amenity and performance of the proposed dwellings are high and comply with the building height and FSR development standard under the LEP and majority of the DCP controls.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:

- (i) The proposed subdivision reflects and reinforces the predominant subdivision pattern (i.e. lot sizes, shapes and frontages) of the surrounding locality.
- (ii) The existing development comprises two dwellings (side by side) and the proposed subdivision will not alter what is already perceived as two properties.
- (iii) The site used to be two separate lots.
- (iv) The proposed form of the development (semi-detached dwellings) is consistent with that of the existing development on the site and surrounding the site to the east and west along Andrews Avenue and Dudley Street.
- (v) The proposed subdivide lots provide sufficient area for semi-detached dwellings as the proposal complies with building height and FSR development standards of the LEP and setback, open space and other controls in the DCP.
- (vi) The non-compliance will not manifest in unreasonable environmental amenity impacts in terms of visual bulk, overshadowing, loss of views, loss of privacy or loss of visual amenity upon neighbouring properties.
- (vii) The development is designed to make a positive contribution to the locality.
- (viii) Strict compliance would not make any material difference to the streetscape and impacts on neighbouring properties. Therefore, the proposal does not undermine the integrity of the planning regime and that compliance with the development standard is unreasonable and unnecessary in the circumstance.
- (ix) The proposal complies with the objectives of the development standard and the R3 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)?

The applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case as their written request has not explicitly referenced and addressed 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.*

The applicant has not explicitly referenced one of the considerations and justifications set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446. However, the structure and substance of the written request suggest the applicant relies on the first justification, that is the objectives of the development standard are achieved despite the non-compliance with that standard. The substance of the commentary against each objective of the minimum subdivision lot size development control is deemed inadequate and in some cases incorrect (as explained in the succeeding section of this report).

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

No. The applicant attempts to establish that there are sufficient environmental planning grounds to justify contravening the development standard by generalising that the form of the proposed development (being a pair of semi-detached dwellings) is consistent with surrounding semi-detached dwellings that are on fine grain lots that comprise site area and other dimensions that are similar to the proposed subdivided lots. This is a poor comparison given the proposed development is four storeys and the semi-detached dwellings the applicant refers to are generally two storeys. The argument that the proposed subdivision will not result in unreasonable environmental amenity impacts upon neighbouring properties is not accepted as the overall development, including the non-compliance with this development standard, will, in fact, result in irrevocable adverse amenity impacts upon neighbouring properties. Therefore, there are no sufficient environmental planning grounds to justify contravening the minimum subdivision lot size development standard to simply enable and support an overdevelopment of the existing site, resulting in adverse environmental impacts upon 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.

The objectives of the R3 Medium Density Residential zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed development, encompassing the proposed subdivision, fails to meet the first two relevant objectives of the R3 zone. It effectively exploits development standards reserved for medium density development by providing oversized dual occupancy development yet seeks to subdivide the site into fine-grain lots that are synonymous with small scale low density developments, such as those surrounding the site to the west between 1 and 7 Andrews Avenue and to the east that front Dudley Street. It therefore fails to fulfil the zone objectives that aim to provide suitable medium density housing and increase supply of this type of housing in the Waverley local government area in order to meet the housing needs of the community.

The objectives of the minimum subdivision lot size development standard are as follows:

- (a) *to ensure that subdivisions reflect and reinforce the predominant subdivision pattern of the area,*
- (b) *to minimise the likely impact of subdivision and development on the amenity of neighbouring properties.*

An assessment against each objective of the minimum subdivision lot size development standard is provided below.

- (a) *to ensure that subdivisions reflect and reinforce the predominant subdivision pattern of the area,*

The proposed subdivision in isolation does reflect and reinforce the predominant subdivision pattern of the area that are comprised of low-scale semi-detached dwellings, which are a maximum of two storeys in height. The proposed development, however, comprises four storey dwellings on fine grain lots that will be visually out of character with most buildings on comparable lots within the immediate surrounds of the site. The proposal therefore does not satisfy this objective.

- (b) *to minimise the likely impact of subdivision and development on the amenity of neighbouring properties.*

This objective suggests subdivision and development are specifically correlated. Therefore, the proposed subdivision is coupled with the proposed development, which, as explained elsewhere in this report, will cause irrevocable adverse environmental amenity impacts upon neighbouring properties in terms of overshadowing, view loss, visual impact and reduced visual and acoustic privacy. Specifically, the subdivision itself contributes to the development having reduced side setbacks from the eastern boundary of the site that will significantly affect the amenity of neighbouring properties to the east that address Dudley Street. Therefore, the proposed subdivision fails to satisfy this objective.

Overall, the proposal fails to satisfy both the objectives of the R3 zone and development standard. It is therefore recommended for refusal.

Conclusion

For the reasons provided above the requested variation to the minimum subdivision lot size development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by cl 4.6(3) of the LEP. In addition, the proposed subdivision, when combined with the proposed development, is not in the public interest because it is inconsistent with the objectives of minimum subdivision lot size development standard and the R3 zone. The application is therefore recommended for refusal.

Floor Space Ratio

The application relies on the floor space ratio (FSR) development standard of 0.9:1 that is identified on the 'Floor Space Ratio Map' of the LEP, however fails to acknowledge that clause 4.4A of the LEP overrides that development standard of 0.9:1 nominated on the Map because the proposed development is for a dwelling house or dual occupancy (or equivalent low density residential development) on land in either R2, R3 and R4 zones.

The overall gross floor area (GFA) of the proposed development is **448m²** (encapsulating the two dwellings) and achieves an FSR of 0.864:1. The development therefore exceeds the FSR development standard of 0.531:1 by **170.78m²** or **62%**.

The applicant has therefore not submitted a written request pursuant to clause 4.6 of the LEP to contravene the applicable FSR development standard under clause 4.4A of the LEP. On this basis alone, the application cannot be supported and should be refused.

Notwithstanding the absence of the written request, the exceedance of the development standard is grossly significant and demonstrates that the proposal is a complete overdevelopment of the site. The proposal has exploited development standards that are reserved for medium density residential land uses/typologies, such as multi-unit housing and residential flat buildings. A four storey pair of semi-detached dwellings (albeit the proposal is technically classified as an attached dual occupancy development) that has maximised the height of buildings development standard of 12.5m and attempts to maximise the FSR development standard of 0.9:1 (which does not apply for this type of proposed development) is utterly inconsistent with the built form character of the comparable housing typologies in Andrews Avenue, such as those semi-detached dwellings to the west of the site.

The proposal is inconsistent with the desired future character of the site and Andrews Avenue streetscape. The R3 zone and relevant principal development standards, development controls and SEPP 65 – Design Quality of Residential Apartment Development and associated Apartment Design Guide that apply to this site and its neighbouring sites to the west on Andrews Avenue would anticipate and encourage consolidation of these fine grain lots into a larger and suitable redevelopment site. That redevelopment site would readily achieve an appropriately designed medium density residential development, comprising appropriate building height, setbacks, breaks, articulation and modulation. This would ultimately be consistent with the desired future character while preserving the environmental amenity of neighbouring properties. While built circa 1970s before considered and formalised planning controls existed, this scenario is demonstrated and reflected by the four-storey residential flat building at 2-12 Andrews Avenue that is opposite and to the north of the subject site. This neighbouring site, having a site area of some 1,975m², is a consolidation of former small lots that would have previously comprised of dwelling houses and semi-detached dwellings. The existing residential flat building is four storeys (estimated to comply with the height of buildings development standard of 12.5m and FSR development standard of 0.9:1) and is set back appropriately from side and rear boundaries that interface existing low-density residential development, particularly those

adjoining to the east along Dudley Street which is estimated to by a setback of 6m from this shared boundary.

The proposed development will simply fail to be consistent with this desired future outcome anticipated by the controls and potentially sterilise the potential of neighbouring properties to the west, leading to medium density development that may struggle to achieve sufficient distances of building separation and setbacks (as demonstrated in the applicant's 'potential future development concept' plan, known as Drawing No. DA16, and in Figure 1 of the Statement of Environmental Effects). This would result in undesirable urban planning outcomes for those sites and the streetscape of Andrews Avenue as a whole. Therefore, an exception to the FSR development standard to enable the proposed development is not supported and the application is recommended for refusal.

2.1.5 Waverley Development Control Plan 2012 (Amendment 6)

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

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

Development Control	Compliance	Comment
1. Waste	Partial compliance	A Site Waste & Recycling Management Plan (SWRMP) has been submitted with the application to address waste disposal during construction. The location of the waste and recycling storage area is identified in the SWRMP however not shown on the plans. This is easily resolvable matters will not form part of the reasons for refusal.
2. Ecologically sustainable Development	Yes	Satisfactory. Development meets passive design measures and BASIX commitments.
3. Landscaping and Biodiversity	Yes	Landscape plan submitted satisfies the basic requirements under Part B3 of the DCP. Limited landscaping is provided in the front building setback area – refer to discussion under Part C2 of the DCP in this regard.
5. Tree preservation	Yes	Council's Tree Management Officer did not object to removal of trees on the site.
6. Stormwater	Unknown (resolvable by condition)	The stormwater plans submitted with the application have not been examined as the technical referral comment on this matter was not completed before the conclusion of the assessment.
8. Transport	Yes and resolvable	The 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, however the manoeuvrability of the driveway has yet to be established as Council's Traffic Engineer requires long sections of the driveway prior to approval being granted. This matter is not fatal, is resolvable and will not form part of the reasons of refusal.

Development Control	Compliance	Comment
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP.
12. Design Excellence	No	The application provides a context plan which demonstrates that the proposal has an unacceptable design given the surrounding context of the area, cause view loss and is not a suitable response to the site and streetscape for reasons explained elsewhere in this report. Therefore, the proposal fails controls (a)-(c) and (e)(iv), (v) and (vii) and objective (a) under Part B12.
13. Subdivision	No	The proposed subdivision does not comply with the minimum subdivision lot size development standard under the LEP and the clause 4.6 written request to justify the non-compliance is not supported. While the proposed subdivision has characteristics that are like the prevailing subdivision lots fronting the same street, the subdivision is coupled with the proposed development that has been deemed an overdevelopment of the existing lot characteristics of the site and will cause irrevocable adverse amenity impacts upon neighbouring properties. The proposed subdivision would be appropriate for semi-detached dwellings that have a domestic and low scale building envelope (unlike the proposed development). The proposal fails to comply with controls (d) and (g). The proposal also fails to comply with control (j), as explained earlier in this report, the proposal will sterilise and reduce the development potential of adjoining sites to the west of the site. The proposal is therefore inconsistent with objectives (a), (c), (d) and (i) under Part B13.
14. Excavation	Yes	Satisfactory. The proposed excavation is minor and does not add to the scale of the proposed development.
16. Public Domain	Yes	Satisfactory.

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

The proposal is defined as a 'dual occupancy(attached) development' in the LEP and therefore, Part C2 of the DCP applies in the assessment of this application.

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 	No	The proposed development comprises a building envelope that maximises building height and FSR development standards that are reserved for medium density development, which will cause adverse environmental amenity (such as solar access, views, privacy) and streetscape impacts. Therefore, it is inconsistent with objectives (a),(b) and (d) of this section of the DCP.
2.1 Height		
Pitched Roof dwelling house <ul style="list-style-type: none"> • Maximum external wall height of 7m 	N/A	The proposed development does not have a pitched roof.
Flat roof dwelling house <ul style="list-style-type: none"> • Maximum wall height of 7.5m 	No	The overall external wall height of the development is approximately 9m, when measured to the top of third storey at RL70.30. The fourth storey is recessed in from the sides of the development. Control (c) in this section of the DCP states where permissible to build greater than 9.5m (where permitted by the building height development standards under the LEP), an appropriate external wall height can be determined by a merit assessment of the design of the building and based on its relationship to adjoining dwellings. In this regard, the proposal fails this relationship/compatibility test with comparable low density residential development as its overall building height, bulk and scale are excessive and overbearing for a low-density development. The development effectively takes the form and has a building envelope of a medium density residential development. The overall external wall height of the development will contribute to the overall adverse impact of the development on views and solar access enjoyed by neighbouring properties. The development is therefore inconsistent with objectives (b) – (e) of this section of the DCP.
2.2 Setbacks		

Development Control	Compliance	Comment
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 No	<ul style="list-style-type: none"> The front setbacks of the proposed development are consistent with the predominant front building line. The rear setbacks of the proposed development are: <ul style="list-style-type: none"> satisfactory on ground floor level the upper levels will extend past the rear building line of upper floor additions to semi-detached dwellings to the west of the site. <p>Given the development exceeds the FSR development standard and its overall building height is deemed inappropriate for an attached dual occupancy or pair of semi-detached dwellings, the encroachment on the rear building line for the upper floor levels is deemed unreasonable. Further, the encroachment will result in adverse overshadowing, privacy impacts (caused by the rear terrace on third floor level/fourth storey) and view impacts. Therefore, the development fails the criteria under control (d) and is inconsistent with objectives (a), (c), (d), (f) and (g) of this section of the DCP.</p>
2.2.2 Side setbacks <ul style="list-style-type: none"> Minimum of 1.5m 	Yes	A minimum side setback of 1.5m achieved on all levels.
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. 	No	The building envelope (i.e. form, height and massing) of the development is incompatible and inharmonious for a low-density residential development with the streetscape context (as explained elsewhere in this report). The development fails to comply with controls (a) and (d) and satisfy objectives (a) and (b) of this section of the DCP.
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 	No	<ul style="list-style-type: none"> Plans do not indicate fences or walls on the street boundary of the site. Fences are proposed to the sides of the development that align with its front building setback and have a height just below the finished floor level of the first floor level. The height and location of these fences are not considered fatal to the overall assessment of this application.
<i>Side and Rear:</i> <ul style="list-style-type: none"> Maximum height of 1.8m 	N/A	<ul style="list-style-type: none"> Plans and other documents with the application do not indicate new side and rear boundary fences.

Development Control	Compliance	Comment
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. 	No (resolvable)	<ul style="list-style-type: none"> The sides of the development comprise a series of slot windows with privacy hoods that serve active/living rooms that would assist to protect the visual privacy of adjoining properties. Most bedroom windows or windows serving passive rooms are satisfactory, however the floor to almost ceiling windows serving the master bedrooms at the rear will overlook adjoining properties. This matter can be readily resolved by standard privacy treatment and is not fatal to the overall assessment of this application.
<ul style="list-style-type: none"> Maximum size of balconies: <i>10m² in area</i> <i>1.5m deep</i> 	No	<ul style="list-style-type: none"> Notwithstanding, the operable privacy screens covering the expansive openings across the southern elevation for the loungerooms may not effectively screen sightlines to neighbouring properties and in turn protect the visual privacy of these properties.
	No	<ul style="list-style-type: none"> The front terraces accessed from dining rooms on second floor level of the development each have an area of 12.87m² and a depth of 3.3m and are consequently oversized. This non-compliance will manifest in adverse visual and acoustic privacy impacts upon adjoining properties, particularly 25 Dudley Street to the east and 7 Andrews Avenue to the west. The rear terraces accessed from the office/bedroom on third floor level each have an area of 15.98m² and a depth of 4.7m and are consequently oversized. The size and position of these terraces will significantly affect the visual and acoustic privacy of surrounding properties to the east, south and west of the site. These impacts are considered adverse. <p>The development fails to comply with controls (b), (d) and (e) and objective (a) under this section of the DCP.</p>
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 	Yes	<ul style="list-style-type: none"> The development itself is expected to receive the minimum quantum and duration of sunlight to living areas and principal open space areas on 21 June.
<ul style="list-style-type: none"> Minimum of three hours of sunlight maintained to 	No	<ul style="list-style-type: none"> The shadow diagrams show the proposed development will significantly expand the

Development Control	Compliance	Comment
living areas and principal open space areas of adjoining properties on 21 June		current extent of shadowing of neighbouring properties that is caused by the existing development. The additional overshadowing impacts caused by the proposed development are unreasonable in relation to control (c) of this section of the DCP. The development maximises the height of buildings development standard of 12.5m (reserved for medium density residential development) and while compliant with the minimum side setback control of 1.5m (for low density residential development), a medium density residential development would require increased side setbacks and in turn would lessen the overshadowing impact upon surrounding dwellings to the east and south east of the site. This unreasonable impact further demonstrates that the proposal is a complete overdevelopment of the site. The development therefore fails to be consistent with objectives (a) and (d) of this section of the DCP.
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 (see discussion below)	See discussion below this table on the view loss impacts caused by the proposed development.
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 	Yes	Off-street car parking in the form of an integrated garage is appropriate for this site. The garages are integrated into the design and building envelope of the development. The new driveway is not considered to affect the supply of on-street car parking in Andrews Avenue.

Development Control	Compliance	Comment
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	Two off-street car parking spaces provided for each dwelling. Each dwelling comprises 3 or more bedrooms.
2.8.3 Location <ul style="list-style-type: none"> Behind front building line for new dwellings 	Yes	The garages are behind the front building line of the proposed development.
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	The design of the garages is cohesive to the overall architecture of the development
2.8.5 Dimensions <ul style="list-style-type: none"> 5.4m x 2.4m per vehicle 	Yes	The tandem garages provide sufficient dimensions to accommodate two parked vehicles.
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 width of the new driveway is approximately 3m.
2.9 Landscaping and open space		
<ul style="list-style-type: none"> Overall open space: 40% of site area 	Yes	<ul style="list-style-type: none"> Overall open space: 369.1m² or 71% of site area. This includes covered galleries on the sides and covered terraces at the rear.
<ul style="list-style-type: none"> Overall landscaped area: 15% of site area 	Yes	<ul style="list-style-type: none"> Overall landscaped area: 161.4m² or 31% of site area.
<ul style="list-style-type: none"> Minimum area of 25m² for private open space 	Yes	<ul style="list-style-type: none"> Each dwelling is provided with at least 25m² of private open space.
<ul style="list-style-type: none"> Front open space: 50% of front building setback area 	Yes	<ul style="list-style-type: none"> Front open space: 48.8m² or 100% of front building setback area.
<ul style="list-style-type: none"> Front landscaped area: 50% of front open space provided 	No	<ul style="list-style-type: none"> Front landscaped area: 13.5m² or 28% of front open space provided. The lack of front landscaped area will detract from the streetscape. It fails to comply with control (g) and to satisfy objective (a) under this section of the DCP.
<ul style="list-style-type: none"> Outdoor clothes drying area to be provided 	Yes	<ul style="list-style-type: none"> Clothes lines provided in the rear yard.
2.10 Swimming pools and spa pools		

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Located in the rear of property Pool decks on side boundaries must consider visual privacy 	Yes	<p>The two proposed swimming pools are in the rear yards of the new respective lots.</p> <p>The coping level of the pools are generally flush with existing ground level. The outer perimeter of the pool terraces (decks) are comprised with screen planting are not expected to result in unreasonable privacy impacts upon neighbouring properties. If the application were recommended for approval, appropriate conditions would be included to ensure pool pump and other equipment do unduly disturb the amenity of neighbouring properties.</p>
2.13 Semi-detached dwellings and terrace style development		
	N/A	<p>These controls primarily apply to alterations and additions to semi-detached dwellings and focus on maintaining the design integrity and consistency between pairs of dwellings (i.e. semis and terraces). The proposed development is defined as 'dual occupancy (attached)' and these controls do not apply technically apply to the subject development.</p>
2.15 Dual Occupancy Development		
<ul style="list-style-type: none"> Min 450m² attached dwellings Attached dual occupancy development be designed to appear as a single dwelling from the street 	<p>Yes</p> <p>Yes (albeit inconsistent with objectives)</p>	<p>The site area is 518.5m² and therefore meets the minimum site area for attached dual occupancy development.</p> <p>The proposed development has been designed to appear as a cohesive and symmetrical pair of dwellings, however its perceived built form and architectural qualities are incompatible with the streetscape character of Andrews Avenue, particularly the surrounding semi-detached dwellings to the west of the site. The sheer scale of the development will also result in unreasonable impacts on neighbouring properties. The development therefore fails to satisfy objectives (a) and (b) under this section of the DCP.</p>

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

Views

The submissions objecting to this application, specifically claiming view loss impact, were received from the following properties:

1. Unit 18/2-12 Andrews Avenue.
2. 7 Andrews Avenue
3. 5 Andrews Avenue
4. 3 Andrews Avenue

The Assessment Officer asked for photos from the submitters mentioned above to support their claim of view loss. These requested photos were forthcoming and have been relied upon for the assessment of view impacts (having regard to COVID-19 restrictions in place at the time of assessment, inspections by the assessment officer did not occur).

An assessment of the view loss caused by the proposed development has been undertaken in accordance with the four steps applied in the NSW Land and Environment Court planning principle on view sharing arising from the case of *Tenancy Consulting vs. Warringah [2004] LEC 140*. The assessment is set out below.

1. Identify the views to be affected.

All properties that have claimed view loss have water views with some having views of land/water interface (i.e. coastline including cliff faces and headlands). **Figures 5 to 13** are photos that were taken by owner/occupiers of the affected properties to identify the composition and extent of views enjoyed.

Affected Property No. 1:

Unit 18/2-12 Andrews Avenue, Bondi

Upper-most floor unit located directly opposite and to the north of the subject site



Figure 5:

- Standing in kitchen.
- Water views and views of the coastline, including headlands and cliff faces, over the subject site (identified by terracotta roofed dwelling), looking south.



Figure 6:

- Standing in living room.
- Water views and views of the coastline, including headlands and cliff faces over the subject site (identified by terracotta roofed dwelling), looking south.

Affected Property No. 1:

Unit 18/2-12 Andrews Avenue, Bondi

Upper-most floor unit located directly opposite and to the north of the subject site



Figure 7:

- Standing in bedroom.
- Water views and views of the coastline, including headlands and cliff faces, over the subject site (identified by terracotta roofed dwelling), looking south.



Figure 8:

- Standing on street-facing balcony connected to both living and bedroom
- Water views and views of the coastline, including headlands and cliff faces, over the subject site (identified by terracotta roofed dwelling), looking south.

Affected Property No. 2:

7 Andrews Avenue, Bondi

Single storey semi-detached dwelling adjoining the subject site to the west

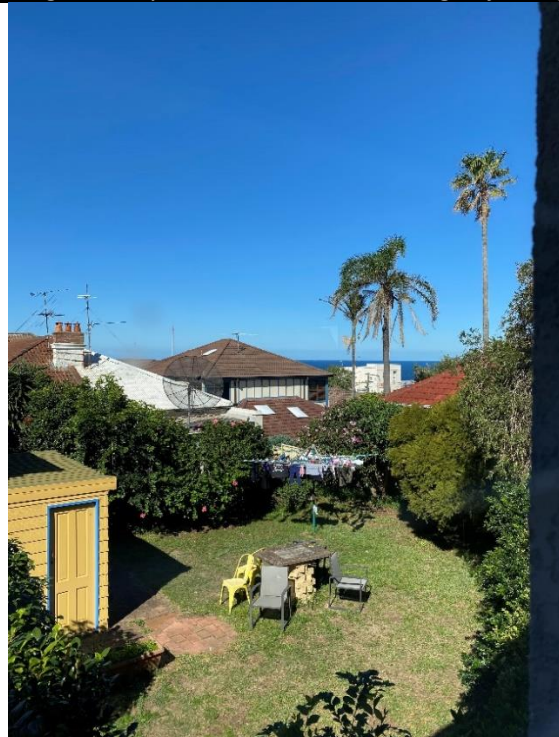


Figure 9:

- Standing in living room on ground floor level.
- Glimpses of water views across the rear of the subject site, looking south-east.

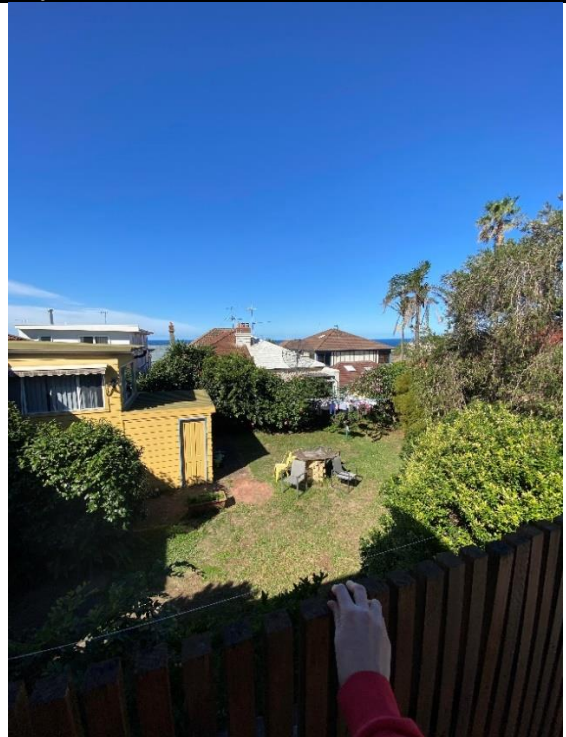


Figure 10:

- Standing on rear deck accessed from living room on ground floor level.
- Glimpses of water views across the rear of the subject site, looking south-east

Affected Property No. 3:

5 Andrews Avenue, Bondi

Part one, part two storey semi-detached dwelling two properties to the west of the subject site



Figure 11:

- Standing on rear first floor balcony accessed from bedroom.
- Water views across the centre of the subject site, looking east.



Figure 12:

- Standing on rear first floor balcony accessed from bedroom.
- Water views across the rear of the subject site, looking south-east.

Affected Property No. 4:

3 Andrews Avenue, Bondi

Part one, part two semi-detached dwelling three properties to the west of the subject site



Figure 13:

- Standing on rear first floor balcony accessed from bedroom.
- Water views across the centre of the subject site.

The photos presented above show that all affected properties have water views with Affected Property No. 1 having views of land/water interface of the coastline, including headlands and cliff faces. Affected Property No. 1 enjoys whole water views whereas the other affected properties comprise partial water views. As stated in the view sharing planning principle, *“a water view in which the interface between land and water is visible is more valuable than one in which it is obscured”* and therefore the views from Affected Property No. 1 have the greatest value in terms of protecting. Nonetheless, partial water views enjoyed from the surrounding properties between 3-7 Andrews Avenue are still considered in the overall view loss impact assessment of the proposed development.

2. *Consider from what part of the property the views are obtained.*

The notations to each photo in **Figures 5 to 13** above state whereabouts within each affected property views are available from. All the affected properties between 3-7 Andrews Avenue obtain their views across side boundaries, whereas Affected Property No. 1 obtains its view across its front boundary and the subject site's front boundary too. As indicated in the view sharing, the protection of views across side boundaries is more difficult and *"often unrealistic"* than the protection of views from front and rear boundaries. Therefore, any reasonable development on the subject site will inevitably impact on views from the affected properties between 3-7 Andrews Avenue, particularly across the centre of the subject site and on ground floor level. However, the reasonableness of the view loss impact caused by the proposed development is discussed later in this section of the report. All views claimed to be affected are from a standing position (and all photos are taken from a standing position).

3. *Assess the extent of the impact.*

The exact extent of the view loss impact has not been ascertained; however, it has been anticipated based on the photos shown in **Figures 5 to 13**. The proposed development will result in a 'devastating' view loss impact upon Affected Property No. 1 as it will obscure all land-water interface views, such as the cliff faces and headlands comprising the Eastern Beaches Coastline. The development will result in 'devastating' view loss impacts upon Affected Property Nos 2 and 4 as all their views will be lost, whereas the development will maintain some partial views for Affected Property No. 3 when looking south-east across the rear of the subject site. The view loss impact upon Affected Property No. 3 is characterised as 'severe' in this regard.

4. *Assess the reasonableness of the proposal that is causing the impact.*

The proposed development will ultimately result in unreasonable view loss impacts. The overall building height of the development that has maximised the building height development standard of 12.5m of the LEP is a direct contributing factor to the devastating view loss impact upon Affected Property No.1 as it results in the loss of the land/water interface views of the coastline. As discussed in this report, the proposed development has exploited the development standards reserved for medium density residential development, specifically the building height development standard. While the development is building height compliant, it varies the FSR development standard applying under clause 4.4A of the LEP and that non-compliance demonstrates the building envelope of the development is inappropriate for the subject site. Therefore, the FSR non-compliance is attributed to the unreasonable view loss impact. As stated in the view sharing planning principle, *"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"*.

As discussed earlier, the views enjoyed from the other affected properties between 3-7 Andrews Avenue are across side boundaries and views across the centre of the subject site and from ground floor level are unrealistic to protect as protecting these views would affect orderly and reasonable development on the subject site. However, the upper floor levels of the proposed development will encroach on the rear building line on first or upper floor level and this encroachment will affect views that are available across the rear portion of the site when looking south-east from these affected properties. The non-compliance with the rear building line/setback control attributes to this view loss impact and is therefore deemed unreasonable.

The adverse view loss impacts of the proposed development is a fundamental indication of the extent of amenity impacts upon neighbouring properties that renders it unsupportable. The proposed development fails to comply with (a) and (c) is inconsistent with objectives (a) and (b) under section 2.7 of Part C2 of the DCP. The application is recommended for refusal in this regard.

2.2 Other Impacts of the Development

The proposed development is considered to have a detrimental effect relating to the built and natural environmental aspects of the locality for reasons explained in this report. However, the proposal is not expected to result in detrimental social or economic impacts on the locality.

2.3 Suitability of the Site for the Development

The site is not considered to be suitable for the proposed development as the proposed development represents an overdevelopment of the site that will cause adverse environmental planning impacts.

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*.

Ten (10) submissions by way of objection to the application were received from the following properties in Bondi:

- 23 Dudley Street
- 25 Dudley Street
- 27 Dudley Street
- 31 Dudley Street
- 33 Dudley Street
- 35 Dudley Street
- 3 Andrews Avenue
- 7 Andrews Avenue
- 5 Andrews Avenue
- Unit 18/2-12 Andrews Avenue.

The following issues raised in the submissions received have already been addressed in the body of this report:

- non-compliance with minimum subdivision lot size development standard and adequacy of the clause 4.6 written request
- the overall building bulk, scale and form of the development
- view loss
- visual and acoustic privacy impacts
- overshadowing
- incompatibility with the streetscape and existing and desired future character
- visual amenity impacts.

The assessment finds all these issues raised above are deemed justified grounds to object to the application and they principally form part of the recommended reasons for refusal.

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

Issue: Construction impacts on amenity of neighbouring properties

Response: While the application is not supported, construction impacts cannot be a general reason to refuse development consent to an application. Standard conditions would have been included in any consent that aim to minimise disturbances to the amenity of neighbouring properties during demolition, excavation and construction phases of the development.

Issue: Swimming pool impacts in relation to noise and health of surrounding vegetation

Response: While the application is not supported, the location and size of the swimming pools are deemed satisfactory in terms of its performance against swimming pool controls in the DCP. Council's Tree Management Officer did not object to the application in relation to impacts on vegetation.

Issue: Stormwater run off

Response: While the application is not supported, the development requires on-site stormwater detention which is designed to minimise stormwater run-off onto neighbouring properties and the street.

2.5 Public Interest

The proposed development will have detrimental effects on the public interest given it represents an overdevelopment of the site by exploiting built form development standards and controls reserved for medium density residential development. It will therefore undermine the integrity of the LEP and DCP to deliver development that is compatible with the existing and desired future character of the Waverley local government area.

3. REFERRALS

3.1 Infrastructure Services – Driveways

Council's Professional Engineer required additional information to assess the acceptability of the vehicular access arrangements of the site, including long sections of driveways.

3.2 Infrastructure Services – Stormwater

The application was referred to Council's Stormwater Engineers and their referral comment was incomplete prior to the conclusion of the assessment. The application is recommended for refusal in any case.

3.3 Land Information

Council's GIS Officer recommended appropriate street numbering should the application be approved.

3.4 Tree Management

Council's Tree Management Officer finds tree removal on the site and impacts of vegetation on surrounding sites acceptable with conditions.

4. SUMMARY

The application seeks development consent to redevelop the site for a four-storey attached dual occupancy development, including Torrens Title subdivision of the site into two lots to enable the development to be classified as a pair of semi-detached dwellings.

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

- non-compliances with minimum subdivision lot size and floor space ratio development standards under the LEP
- adequacy of clause 4.6 written request to vary the minimum subdivision lot size under the LEP
- incompatible built form/envelope
- adverse amenity impacts upon neighbouring properties in relation to views, solar access, privacy, visual amenity and streetscape.

The assessment finds these issues are unacceptable and cannot be easily resolved by reasonable design changes prior to determination of this application. In this regard, refusal is recommended.

The application has attracted 10 submissions and the issues and objections raised in these submissions have been considered in the assessment, which raise issues outlined above that are deemed justified to refuse consent to the application.

The application demonstrates utter poor planning by exploiting greater building height and FSR development standards applying to the site that are ultimately reserved for medium density residential typologies, such as residential flat buildings and multi dwelling housing. The simultaneous proposal of Torrens Title subdivision of the site into two fine grain lots that are akin to lots comprised of low scale semi-detached dwellings further demonstrates how incompatible the development is with the streetscape character of Andrews Avenue and surrounding streets.

The application is referred to the Waverley Local Planning Panel for determination as it has attracted 10 objections and seeks to depart from both the minimum subdivision lot size and FSR development standards under the LEP.

The application has been assessed against the matters for consideration under section 4.15 of the Act, and is recommended for refusal.

DBU Decision

The application and assessment report were reviewed by the DBU at the meeting on 21 April 2020 and the DBU determined:

(b) The application is not acceptable and should be refused for the reasons in Appendix A.

DBU members: *M Reid, A Rossi and B McNamara.*

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:**



Ben Magistrale
Senior Development Assessment Planner

Angela Rossi
Manager, Development Assessment (Central)

Date: 8 May 2020

Date: 12 May 2020

Reason for referral:

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

APPENDIX A – REASONS FOR REFUSAL

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

1. The proposal does not satisfy section 4.15 (1)(a)(i) of the Act, as the proposal does not satisfy Waverley Local Environmental Plan (WDCP) 2012, in particular, the following provisions:
 - a. The particular aim expressed under clause 1.2(2)(c) as the proposed development does not genuinely provide or complement existing and future desired ranges of housing types within a medium density locality to meet the changing housing needs of the community in the Waverley local government area.
 - b. Clause 2.3 *Aims of Plan*, as the proposed development fails to satisfy the objectives of the R3 Medium Density Residential Development Zone as it provides a low density residential typology by utilising principal development standards reserved for medium density residential development and therefore fails to provide additional or complement existing medium density housing supply in the Waverley local government area.
 - c. Clause 4.1 *Minimum Subdivision Lot Size*, as the proposed Torrens Title subdivision of the site contravenes the minimum subdivision lot size development standard of 325m² and, coupled with the proposed development, will result in adverse impacts upon the amenity of neighbouring properties.
 - d. Clause 4.4A *Exceptions to Floor Space Ratio*, as the proposed development exceeds the applicable floor space ratio (FSR) development standard that is calculated to be 0.535:1 based on site area and the development being an attached dual occupancy. The exceedance will result in an overdevelopment of the site that fails to preserve the environmental amenity of neighbouring properties and the locality.
 - e. Clause 4.6 *Exceptions to Development Standards*, as the written request to contravene the minimum subdivision lot size development standard does not adequately satisfy the tests specified in subclauses (3) and (4).
 - f. No written Clause 4.6 Exemption to Development Standard request has been made to contravene the FSR development standard.
2. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Act, as the proposal is contrary to Waverley Development Control Plan (WDCP) 2012, in respect to the following provisions:

Part B12 – Design Excellence

- a. Controls (a)-(c) and (e)(iv), (v) and (vii) and objective (a) as the proposed development is contextually inappropriate and will cause unreasonable streetscape and view loss impacts.

Part B13 – Subdivision

- b. Controls (d) and (g) and objectives (a), (c), (d) and (i) as the proposed Torrens Title subdivision is inappropriate for the building height, scale and bulk of the proposed development and will cause adverse impacts upon the amenity of neighbouring properties.

Part C2 – Low Density Residential Development

- c. Section 2.0 *General Objectives*, specifically objectives (a), (b) and (d) as the proposed development is an overdevelopment of the site and will result in adverse environmental amenity and streetscape impacts upon the locality.
 - d. Section 2.1 *Height*, specifically control (c) and objectives (b)-(e) and the proposed development exceeds the maximum external wall height control of 7.5m, resulting in adverse amenity and streetscape impacts.
 - e. Section 2.2.1 *Front and Rear Building Lines*, specifically control (d) and objectives (a), (c), (d), (f) and (g) as the upper floor levels of the proposed development encroach on the predominant rear building line and will cause unreasonable view loss, overshadowing, visual amenity and privacy impacts upon neighbouring properties.
 - f. Section 2.3 *Streetscape*, specifically controls (a) and (d) and objectives (a) and (b) as the building envelope of the proposed development is incompatible and inharmonious for a low density residential development within the streetscape context.
 - g. Section 2.5 *Visual and Acoustic Privacy*, specifically controls (b), (d) and (e) and objective (a) as the front and rear upper level terraces and south-facing living room windows of the proposed development will cause unreasonable visual and acoustic privacy impacts upon neighbouring properties.
 - h. Section 2.6 *Solar Access*, specifically control (c) and objectives (a) and (d) as the proposed development will cause unreasonable overshadowing impact upon neighbouring properties.
 - i. Section 2.7 *Views*, specifically controls (a) and (c) and objectives (a) and (b) as the proposed development results in devastating and unreasonable view loss impacts upon neighbouring and surrounding properties.
 - j. Section 2.9 *Landscaping and Open Space*, specifically control (g) and objective (a) as the proposed development provides insufficient front landscaped area and the shortfall will detract from the streetscape.
 - k. Section 2.15 *Dual Occupancy Development*, specifically objectives (a) and (b) as the proposed development is an overdevelopment of the site and results in unreasonable streetscape and amenity impacts.
3. The proposal does not satisfy section 4.15 (1)(b) of the Act as the development is excessive in terms of building height, bulk and scale, and consequently results in unacceptable streetscape impacts and will adversely affect the amenity of the locality and surrounding built environment.
 4. The proposal is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable as the development represents an overdevelopment of the site.
 5. The proposal is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as the development represents an overdevelopment of the site by exploiting built form development standards and controls under WLEP and WDCP that are reserved for medium density residential development. It will therefore undermine the integrity of the WLEP and WDCP to deliver development that is compatible with the existing and desired future character of the Waverley local government area.



EXISTING



PROOF



DA PROPOSED

CERTIFIED PHOTOMONTAGE
No : PMC166801 - Refer to attached Certificate.

Certifier: Cameron McFadzean B Arch BA (Arch) IES ABSA AAAI

NOTE:
Photomontage perspective based on camera data, Laser Survey position and survey photomatch.

Camera Data: Daylight: 17.12.19 11:39am Lens (35mm efl)
Original Photograph Frame has been cropped to enhance clarity of composition.

Camera at 1650 above natural grade of Footpath / Road verge. All with Level Target.

P01 16mm Lens
P03 16mm Lens

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Waverley Council

Application No: DA-59/2020

Date Received: 27/02/2020

CAMERA LOCATION



TITLE
STREETSCAPE PHOTOMONTAGE
P01 Andrews Ave Streetscape

PROJECT
PROPOSED RESIDENTIAL
9-11 Andrews Avenue
Bondi

DESIGNER
Dalglish Ward and Associates
Architects
Gladesville NSW
stuido@dalglishward.com

CLIENT
MH INVESTMENTS P/L

DATA SOURCE (In order of precedence)
• Anthony and Associates Surveying, Ref: 2128 dated 09.08.2019
• Proposed Design - Dalglish Ward Associates, Ref: 1918, Rev: A, dated 22.10.2019

PAGE : P 01
DATE : 24.12.19 / 30.01.20
VERSION : 01b
REF : 1683



3D SHADOW DIAGRAMS /
VISUALISATION + ANALYSIS
DENEb DESIGN
02 9997 7480
info@denebdesign.com.au
www.denebdesign.com.au



EXISTING



PROOF



DA PROPOSED

CERTIFIED PHOTOMONTAGE
No : PMC166801 - Refer to attached Certificate.
Certifier: Cameron McFadzean B Arch BA (Arch) IES ABSA AAAI

NOTE:
Photomontage perspective based on camera data, Laser Survey position and survey photomatch.

Camera Data: Daylight: 17.12.19 11:39am Lens (35mm efl)
Original Photograph Frame has been cropped to enhance clarity of composition.

Camera at 1650 above natural grade of Footpath / Road verge. All with Level Target.
P01 16mm Lens
P03 16mm Lens

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Waverley Council

Application No: DA-59/2020

Date Received: 27/02/2020

CAMERA LOCATION

TITLE
STREETSCAPE PHOTOMONTAGE
P03 Andrews Ave Streetscape

PROJECT
PROPOSED RESIDENTIAL
9-11 Andrews Avenue
Bondi

DESIGNER
Dalglish Ward and Associates
Architects
Gladesville NSW
stuido@dalglishward.com

CLIENT
MH INVESTMENTS P/L

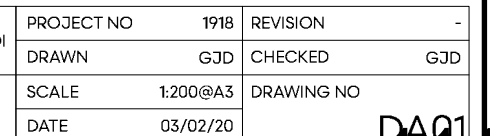
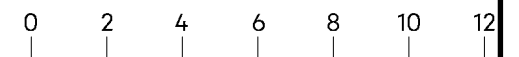
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PAGE : P 02
DATE : 24.12.19 / 30.01.20
VERSION : 01b
REF : 1683

3D SHADOW DIAGRAMS / VISUALISATION + ANALYSIS
DENEB DESIGN
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info@denebdesign.com.au
www.denebdesign.com.au

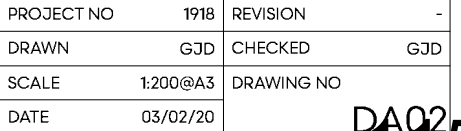
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Date Received: 27/02/2020



Date Received: 27/02/2020

	Construction of floors and walls				
Dwelling no.	Concrete slab on ground (nr)	Suspended floor with open subfloor (nr)	Suspended floor with enclosed subfloor (nr)	Suspended floor above grade (nr)	Primarily rammed earth or mudbrick walls
All dwellings	68	44	1	37	No



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Date Received: 27/02/2020

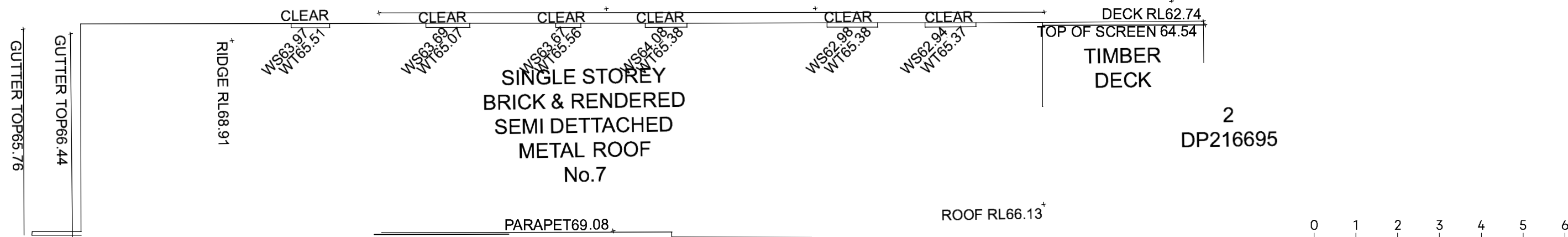
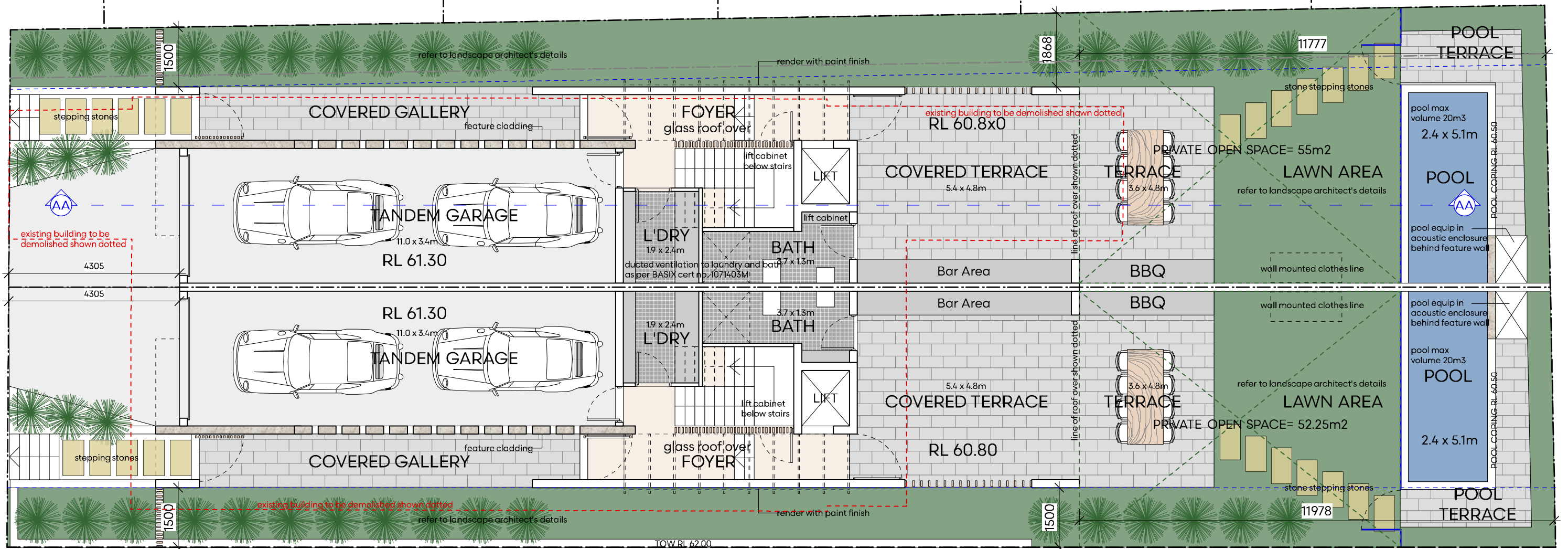
B
DP106226

1
DP506249

2
DP506249

A
DP443307

B
DP443307



DALGLIESH WARD
AND ASSOCIATES PTY LTD
ARCHITECTS

PO BOX 36 GLADESVILLE NSW 2111
EMAIL: STUDIO@DALGLIESHWARD.COM
GEOFF DALGLIESH M: 0405 168 364
REGISTERED ARCHITECT NO 7656
DANIEL WARD M: 0416 228 374
REGISTERED ARCHITECT NO 7672

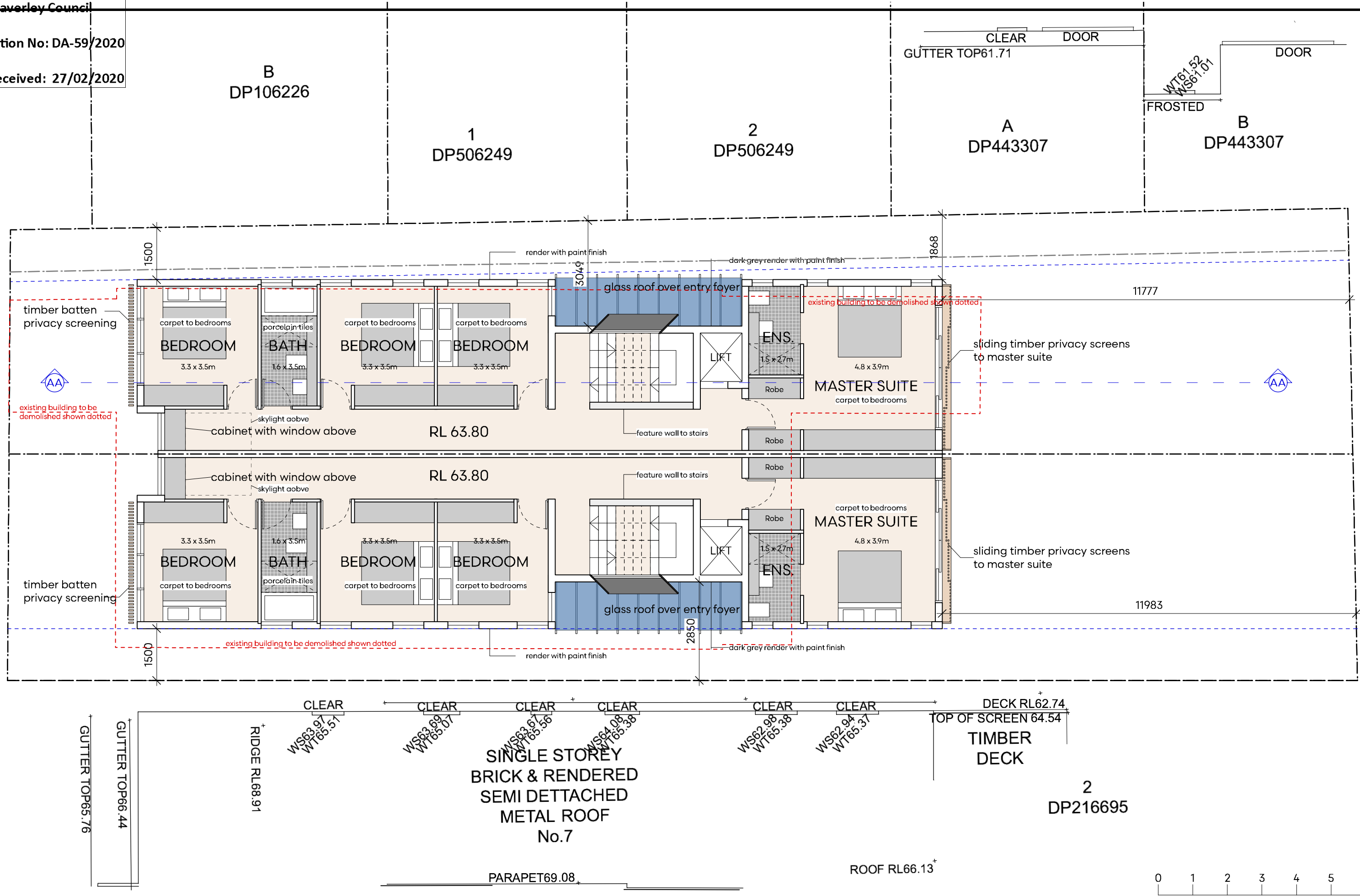



NOTES
DA SUBMISSION FEBRUARY 2020
APPROVED

REVISIONS

PROJECT
PROPOSED NEW ATTACHED DUPLEX AT 9-11 ANDREWS AVE, BONDI
LOT 1 DP 77403 APPLICANT: MH INVESTMENTS PTY LTD
DRAWING TITLE
GROUND FLOOR PLAN

PROJECT NO	1918	REVISION	-
DRAWN	GJD	CHECKED	GJD
SCALE	1:100@A3	DRAWING NO	
DATE	03/02/20		





DALGLIESH WARD
AND ASSOCIATES PTY LTD
ARCHITECTS

PO BOX 36	GLADESVILLE NSW 2111
EMAIL: STUDIO@DALGLIESHWARD.COM	
GEOFF DALGLIESH	M: 0405 168 364
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DANIEL WARD	M: 0416 228 374
REGISTERED ARCHITECT	NO 7672



NOTES
DA SUBMISSION FEBRUARY 2020

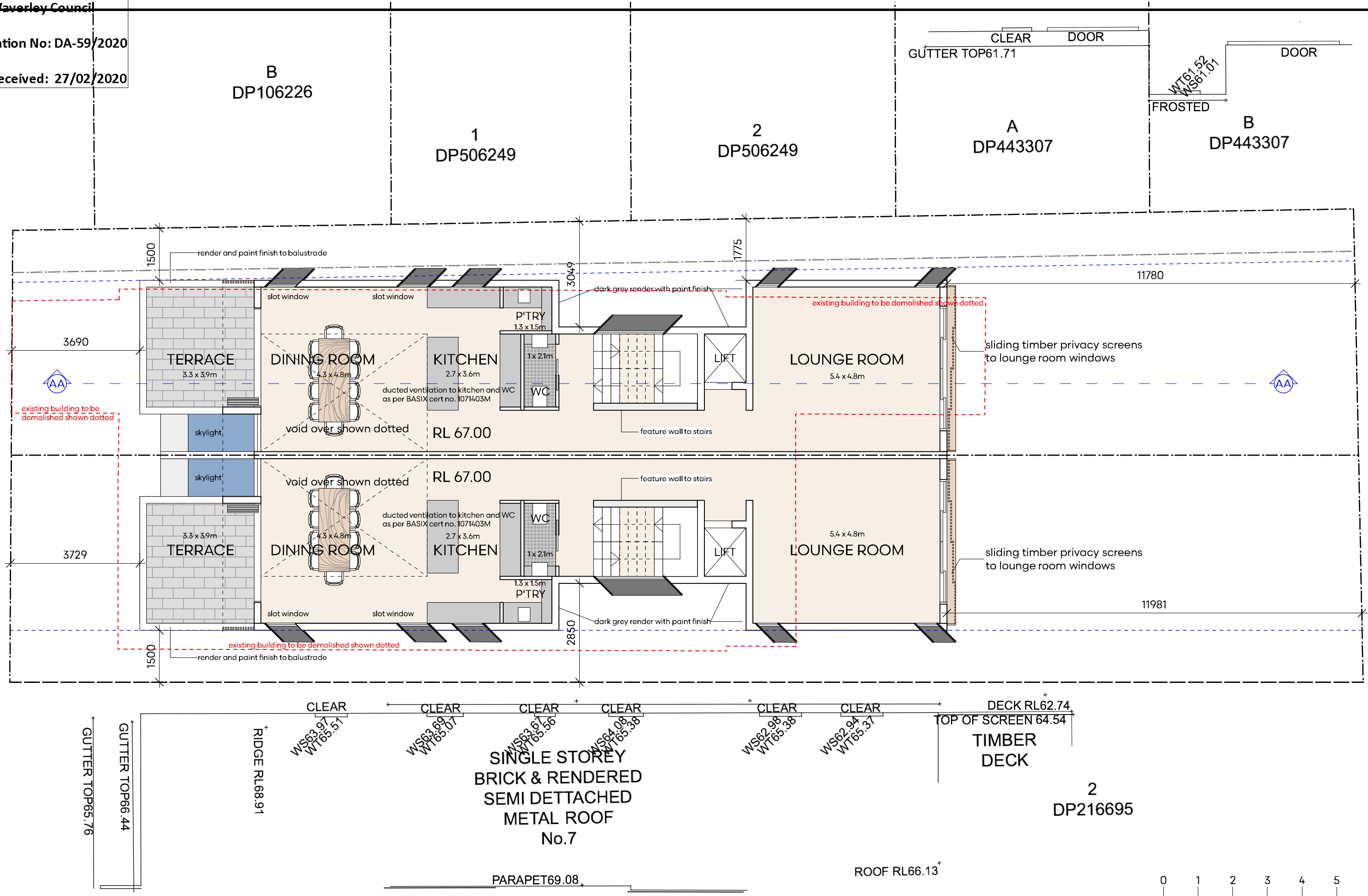
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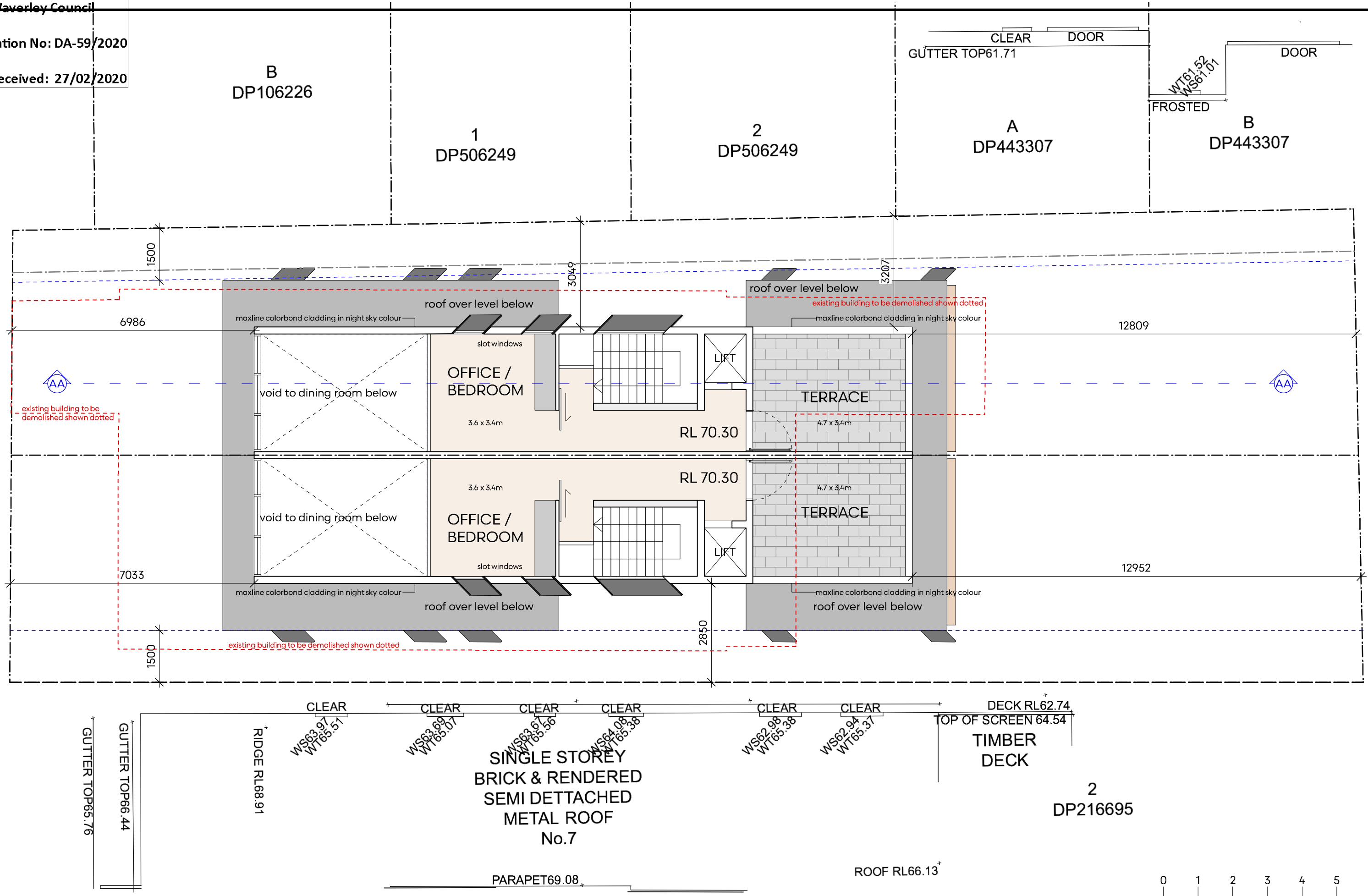
REVISIONS

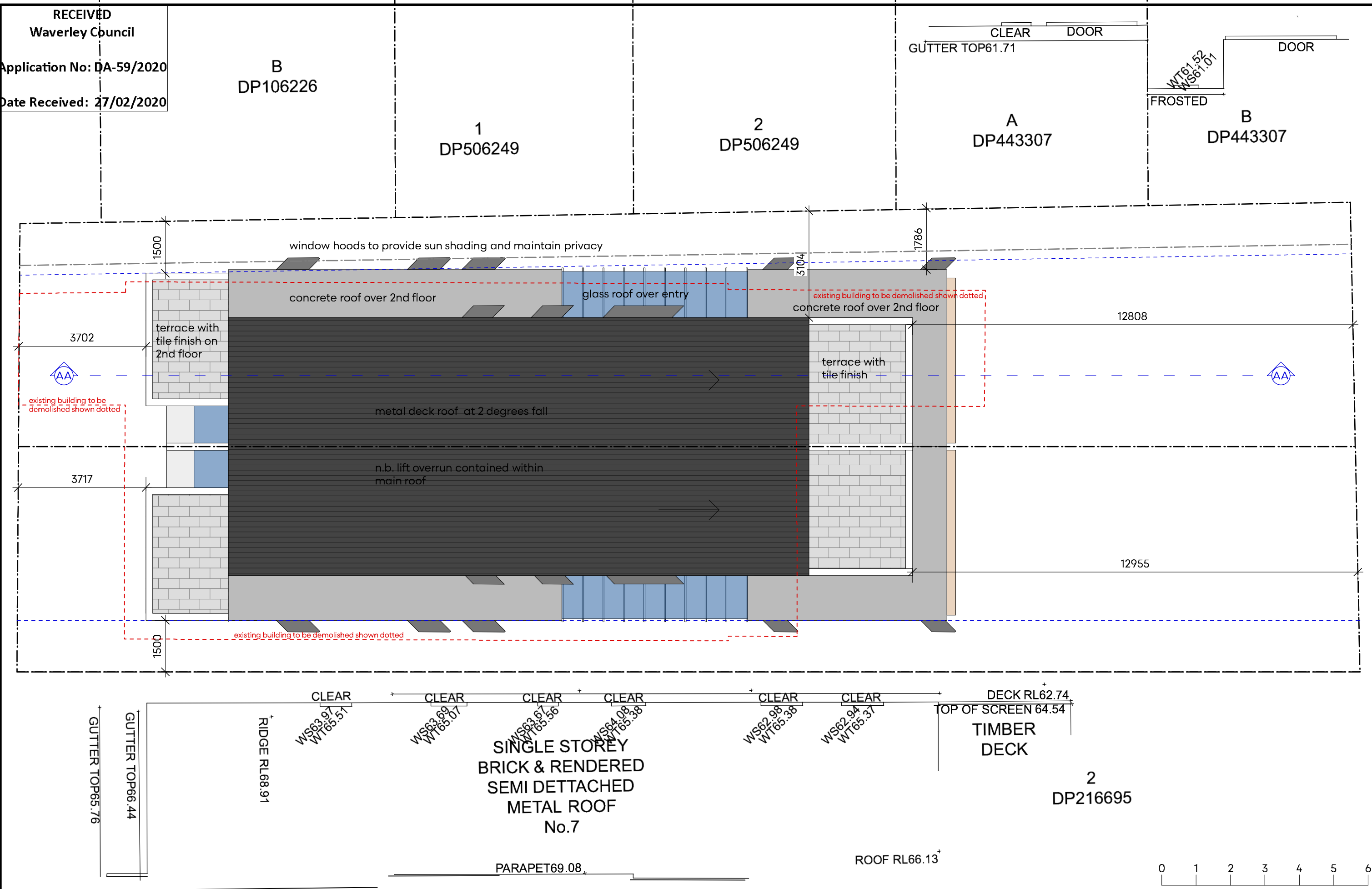
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PROPOSED NEW ATTACHED DUPLEX AT 9-11 ANDREWS AVE, BONDI
LOT 1 DP 77403 APPLICANT: MH INVESTMENTS PTY LTD

DRAWING TITLE
FIRST FLOOR PLAN

PROJECT NO	1918	REVISION	-
DRAWN	GJD	CHECKED	GJD
SCALE	1:100@A3	DRAWING NO	
DATE	03/02/20		



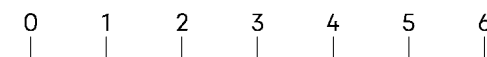
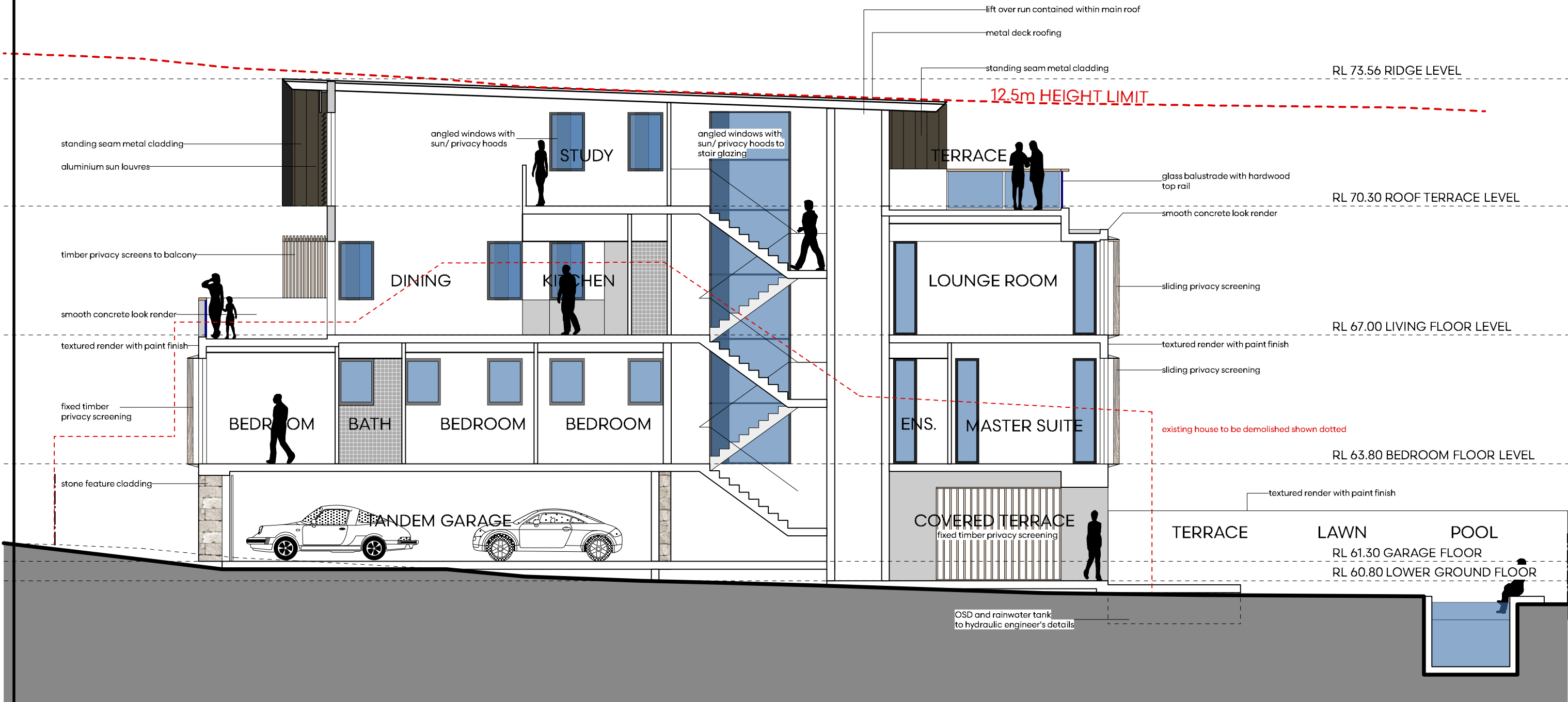




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EMAIL: STUDIO@DALGLIESHWARD.COM
GEOFF DALGLIESH M: 0405 168 364
REGISTERED ARCHITECT NO 7656
DANIEL WARD M: 0416 228 374
REGISTERED ARCHITECT NO 7672

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DA SUBMISSION FEBRUARY 2020

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PROJECT
PROPOSED NEW ATTACHED DUPLEX AT 9-11 ANDREWS AVE, BONDI
LOT 1 DP 77403 APPLICANT: MH INVESTMENTS PTY LTD

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SECTION AA

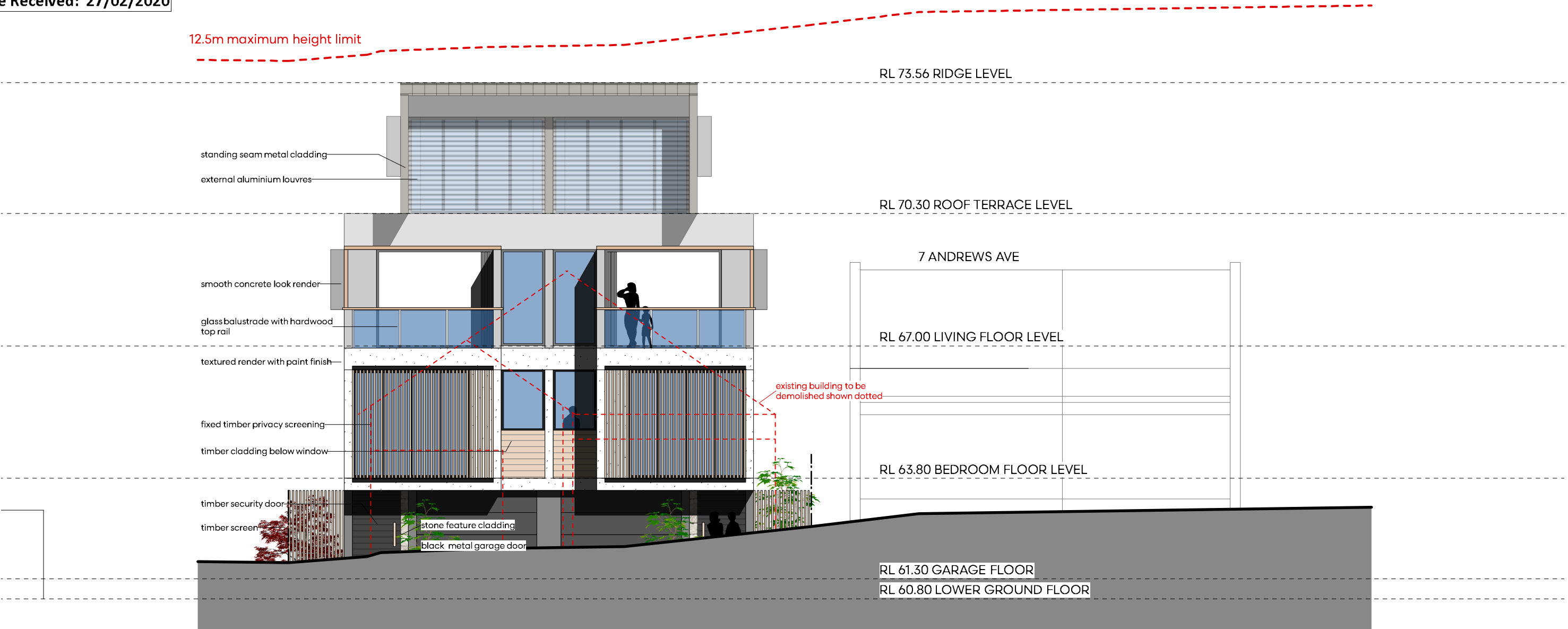
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DATE	12/02/20		

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NORTH (STREET) ELEVATION



 DALGLIESH WARD AND ASSOCIATES PTY LTD ARCHITECTS	PO BOX 36 GLADESVILLE NSW 2111	NOTES DA SUBMISSION FEBRUARY 2020	REVISIONS	PROJECT PROPOSED NEW ATTACHED DUPLEX AT 9-11 ANDREWS AVE, BONDI LOT 1 DP 77403 APPLICANT: MH INVESTMENTS PTY LTD		PROJECT NO	1918	REVISION	-
	EMAIL: STUDIO@DALGLIESHWARD.COM			DRAWING TITLE		DRAWN	GJD	CHECKED	GJD
	GEOFF DALGLIESH M: 0405 168 364			FRONT (NORTH) ELEVATION		SCALE	1:100@A3	DRAWING NO	
	REGISTERED ARCHITECT NO 7656					DATE	12/02/20	DA09	
	DANIEL WARD M: 0416 228 374								
REGISTERED ARCHITECT NO 7672	APPROVED								

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Application No: DA-59/2020

Date Received: 27/02/2020



EAST ELEVATION



 DALGLIESH WARD AND ASSOCIATES PTY LTD ARCHITECTS	PO BOX 36 GLADESVILLE NSW 2111	NOTES DA SUBMISSION FEBRUARY 2020	REVISIONS	PROJECT PROPOSED NEW ATTACHED DUPLEX AT 9-11 ANDREWS AVE, BONDI LOT 1 DP 77403 APPLICANT: MH INVESTMENTS PTY LTD	PROJECT NO	1918	REVISION	-
	EMAIL: STUDIO@DALGLIESHWARD.COM				DRAWN	GJD	CHECKED	GJD
	GEOFF DALGLIESH REGISTERED ARCHITECT NO 7656				DRAWING TITLE	SCALE	1:100@A3	DRAWING NO
	DANIEL WARD REGISTERED ARCHITECT NO 7672				EAST ELEVATION	DATE	12/02/20	

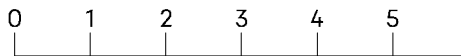
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Waverley Council

Application No: DA-59/2020

Date Received: 27/02/2020



WEST ELEVATION



PO BOX 36 GLADESVILLE NSW 2111
EMAIL: STUDIO@DALGLIESHWARD.COM
GEOFF DALGLIESH M: 0405 168 364
REGISTERED ARCHITECT NO 7656
DANIEL WARD M: 0416 228 374
REGISTERED ARCHITECT NO 7672

NOTES
DA SUBMISSION FEBRUARY 2020

APPROVED

REVISIONS

PROJECT
PROPOSED NEW ATTACHED DUPLEX AT 9-11 ANDREWS AVE, BONDI
LOT 1 DP 77403 APPLICANT: MH INVESTMENTS PTY LTD

DRAWING TITLE
WEST ELEVATION

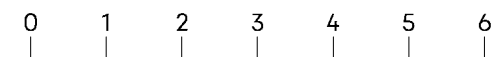
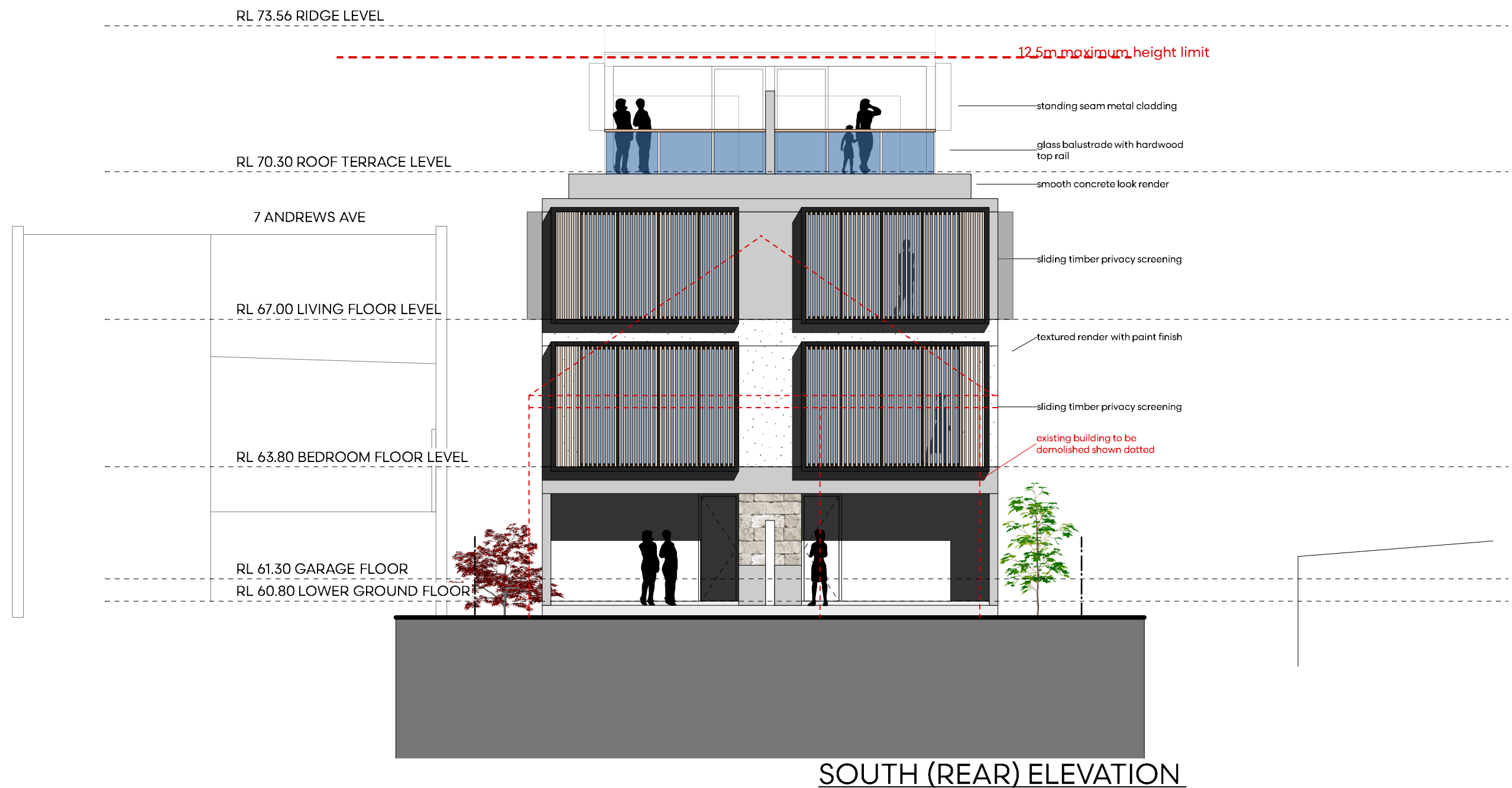
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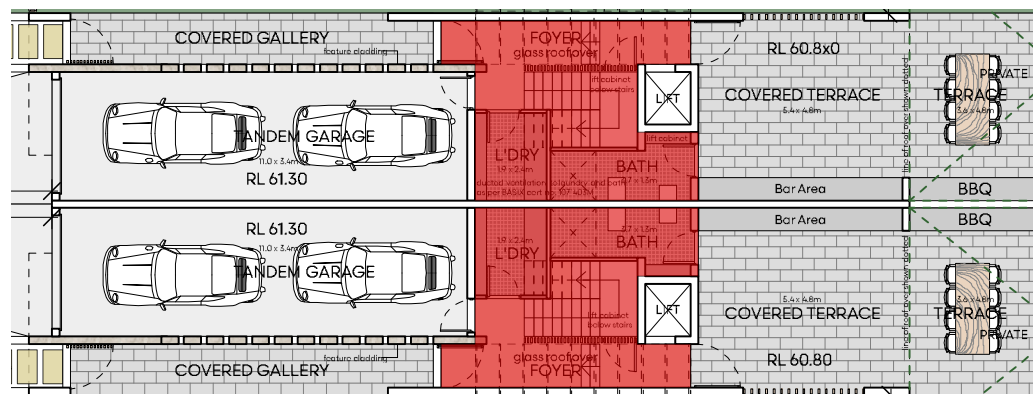
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Application No: DA-59/2020

Date Received: 27/02/2020





GROSS FLOOR AREA CALCULATIONS

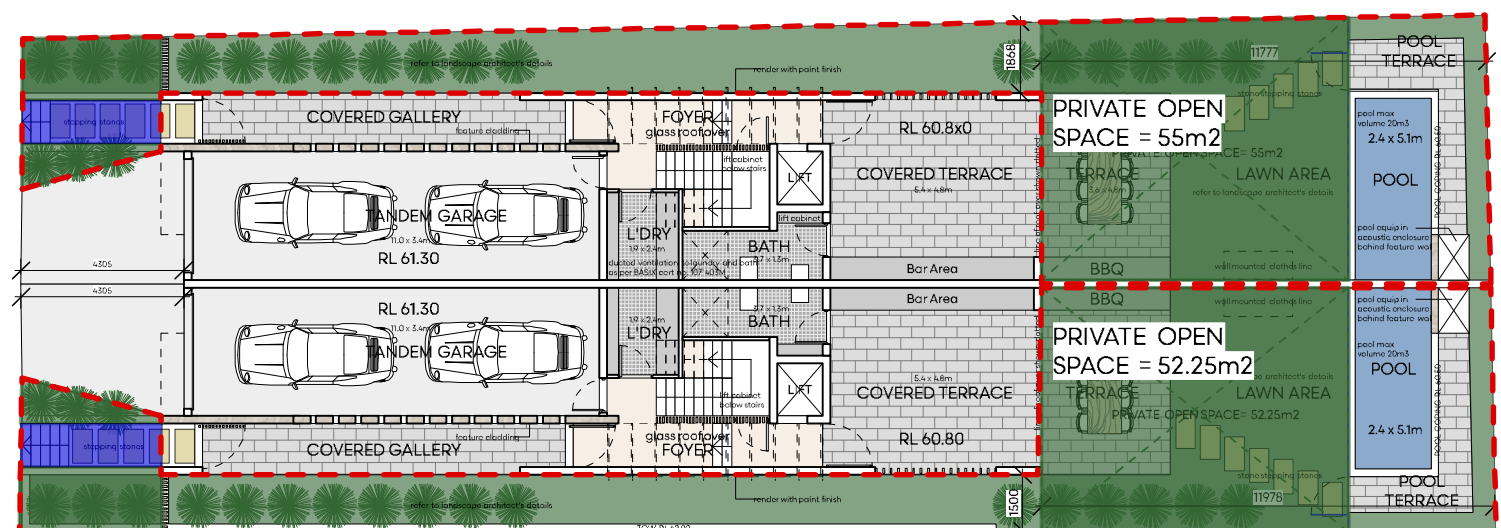
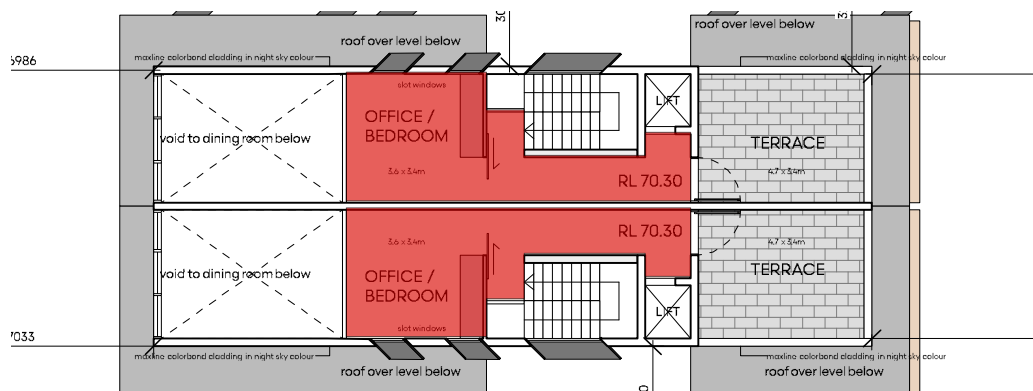
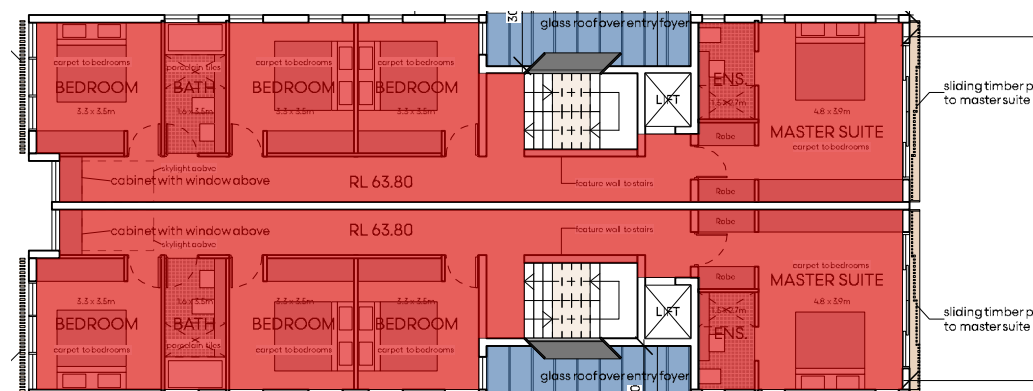
SITE AREA = 518.5m²
 GROUND FLOOR= 51.9m²
 FIRST FLOOR= 183m²
 SECOND FLOOR= 165.3m²
 MEZZANINE= 42m²

TOTAL GFA= 442.2m²
 PROPOSED FSR= 85.3%

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 Waverley Council

Application No: DA-59/2020

Date Received: 27/02/2020



OPEN SPACE CALCULATIONS

OPEN SPACE (shown dotted in red) = 260.36m² (50.2%)
 PRIVATE OPEN SPACE = 105.25m² TOTAL

AREA FORWARD OF BUILDING LINE = 48.36m²
 OPEN SPACE FORWARD OF BUILDING LINE = 26.25m² (54.3%)
 LANDSCAPE AREA IN OPEN SPACE FORWARD OF BUILDING LINE = 17.7m² (73.2%)

0 2 4 6 8 10 12

RECEIVED
Waverley Council
Application No: DA-59/2020
Date Received: 27/02/2020

B
DP106226

1
DP506249

2
DP506249

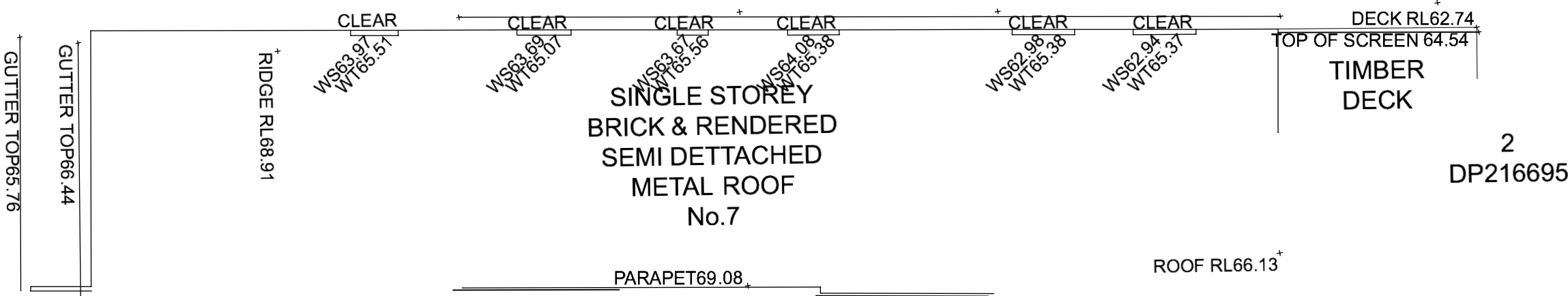
A
DP443307

B
DP443307

EASEMENT TO DRAIN WATER 1200mm WIDE

LOT A
SITE AREA = 263.2m²

LOT B
SITE AREA = 255.3m²



PO BOX 36 GLADESVILLE NSW 2111
EMAIL: STUDIO@DALGLIESHWARD.COM
GEOFF DALGLIESH M: 0405 168 364
REGISTERED ARCHITECT NO 7656
DANIEL WARD M: 0416 228 374
REGISTERED ARCHITECT NO 7672



NOTES
DA SUBMISSION FEBRUARY 2020
APPROVED

REVISIONS

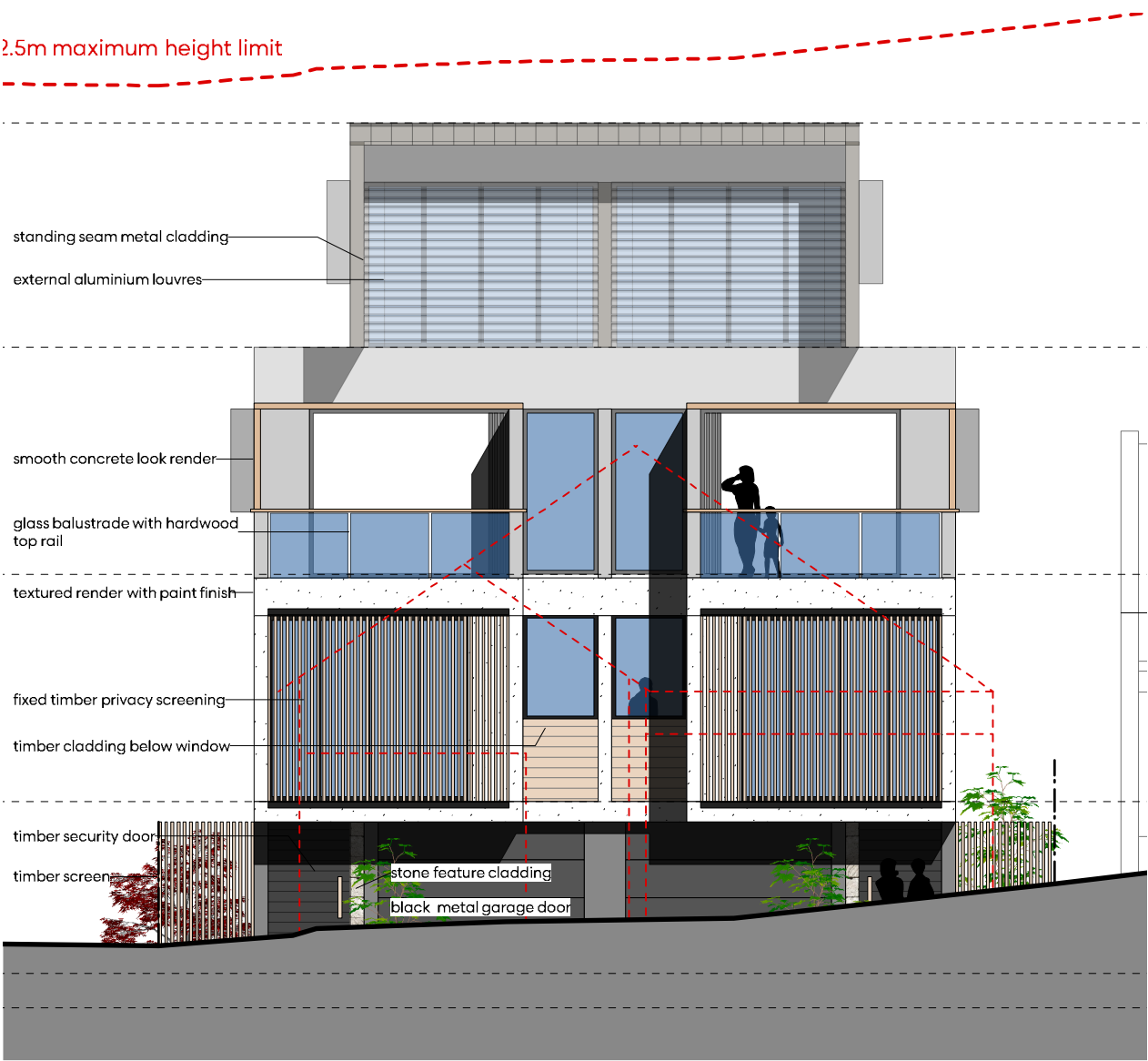
PROJECT
PROPOSED NEW ATTACHED DUPLEX AT 9-11 ANDREWS AVE, BONDI
LOT 1 DP 77403 APPLICANT: MH INVESTMENTS PTY LTD
DRAWING TITLE
PROPOSED TORRENS TITLE SUBDIVISION PLAN

PROJECT NO	1918	REVISION	-
DRAWN	GJD	CHECKED	GJD
SCALE	1:100@A3	DRAWING NO	
DATE	03/02/20		

RECEIVED
Waverley Council

Application No: DA-59/2020

Date Received: 27/02/2020



Stone feature cladding



Timber gates and privacy screening



Textured render finish



Smooth concrete look render



Black standing seam cladding



Aluminium external louvres



RECEIVED
Waverley Council

Application No: DA-59/2020

Date Received: 27/02/2020



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DA SUBMISSION FEBRUARY 2020

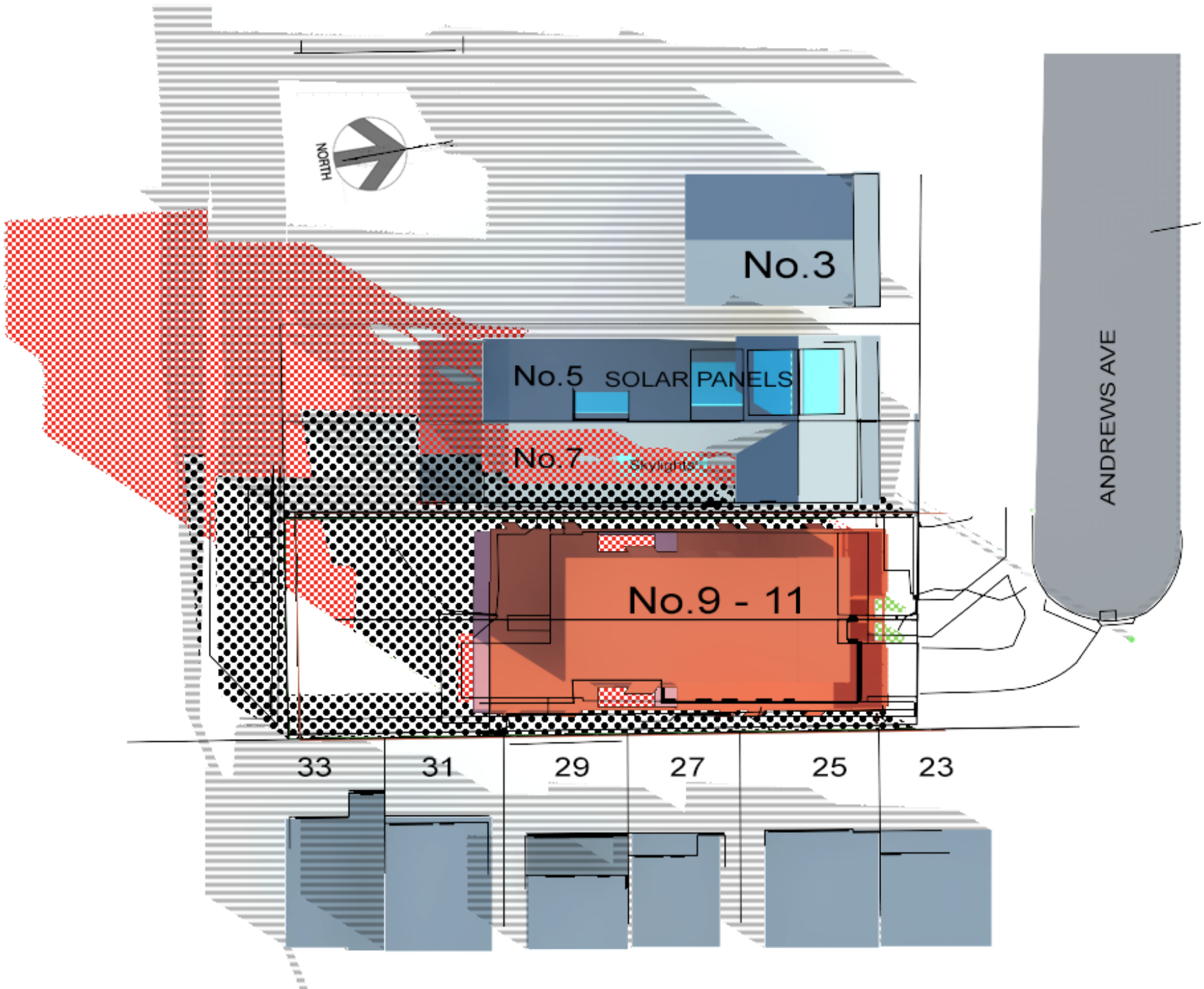
APPROVED


REVISIONS

PROJECT
PROPOSED NEW ATTACHED DUPLEX AT 9-11 ANDREWS AVE, BONDI
LOT 1 DP 77403 APPLICANT: MH INVESTMENTS PTY LTD

DRAWING TITLE
POTENTIAL FUTURE DEVELOPMENT CONCEPT

PROJECT NO	1918	REVISION	-
DRAWN	GJD	CHECKED	GJD
SCALE	1:500@A3	DRAWING NO	
DATE	03/02/20		





CERTIFIED SHADOW DIAGRAM
No : SDC168301 - Refer to attached Certificate.

Certifier: C McFadzean B Arch BA (Arch) IES ABSA AAAI
Member of IES (The Illuminating Engineers Society of Australia)

SHADOW KEY

SHADOWS CAST FROM PROJECT SITE

ADDITIONAL SHADOW AREA

• PROPOSED LESS EXISTING
• AS CAST FROM PROJECT SITE ONLY

REDUCED SHADOW AREA

• EXISTING LESS PROPOSED
• AS CAST FROM PROJECT SITE ONLY

IDENTICAL SHADOW AREA

• EXISTING + PROPOSED ARE THE SAME
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NEIGHBOURING

• SHOWN AS NEIGHBOURING SHADOWS WHICH
• OVERLAP PROJECT SITE SHADOWS

HOW TO READ

Line of Existing Shadow

Neighbor Shadow

Neighbor

REDUCED

EXISTING

PROPOSED

Line of Proposed Shadow

IDENTICAL

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8. Time Zone - AEST unless noted (Aust. Eastern Standard Time - AEST)

0

10

1:300

0900

JUNE 21

TITLE

SHADOW DIAGRAMS - PLAN

WINTER SOLSTICE

21 JUNE

PROJECT

PROPOSED RESIDENTIAL

9-11 Andrews Avenue

Bondi

DESIGNER

Dalgliesh Ward and Associates

Architects

Gladesville NSW

stuido@dalglieshward.com

CLIENT

MH INVESTMENTS P/L

DATA SOURCE

(In order of precedence)

• Anthony and Associates Surveying, Ref: 2128 dated 09.08.2019

• Proposed Design - Dalgliesh Ward Associates, Ref: 1918, Rev: A, dated 22.10.2019

PAGE : SD 01

SCALE : 1:300 (A3)

DATE : 30.01.20

VERSION : 01b

REF : 1683

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VISUALISATION + ANALYSIS

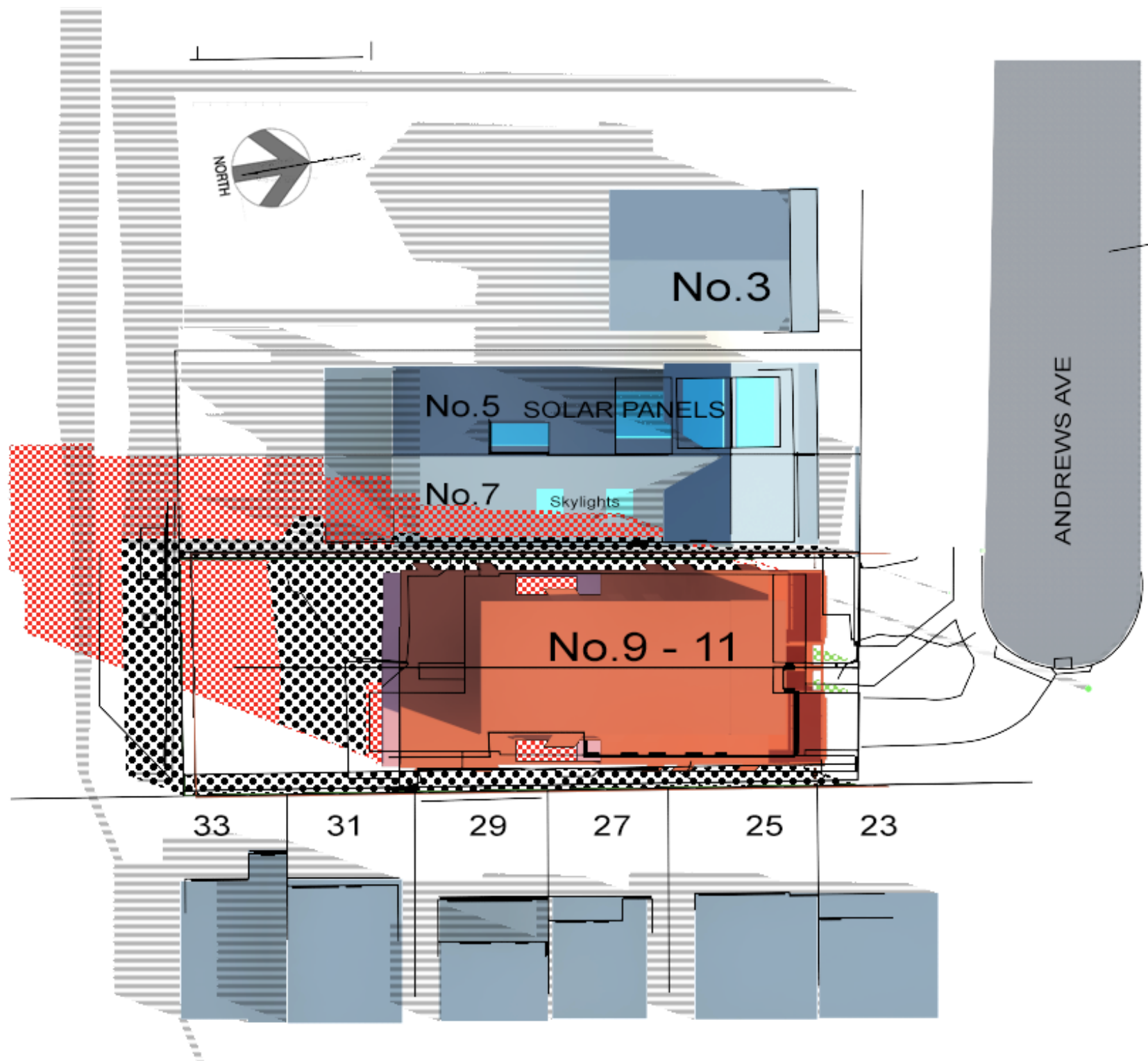
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10

1:300

1000

JUNE 21

TITLE

SHADOW DIAGRAMS - PLAN

WINTER SOLSTICE

21 JUNE

PROJECT

PROPOSED RESIDENTIAL

9-11 Andrews Avenue

Bondi

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Gladesville NSW

stuido@dalglieshward.com

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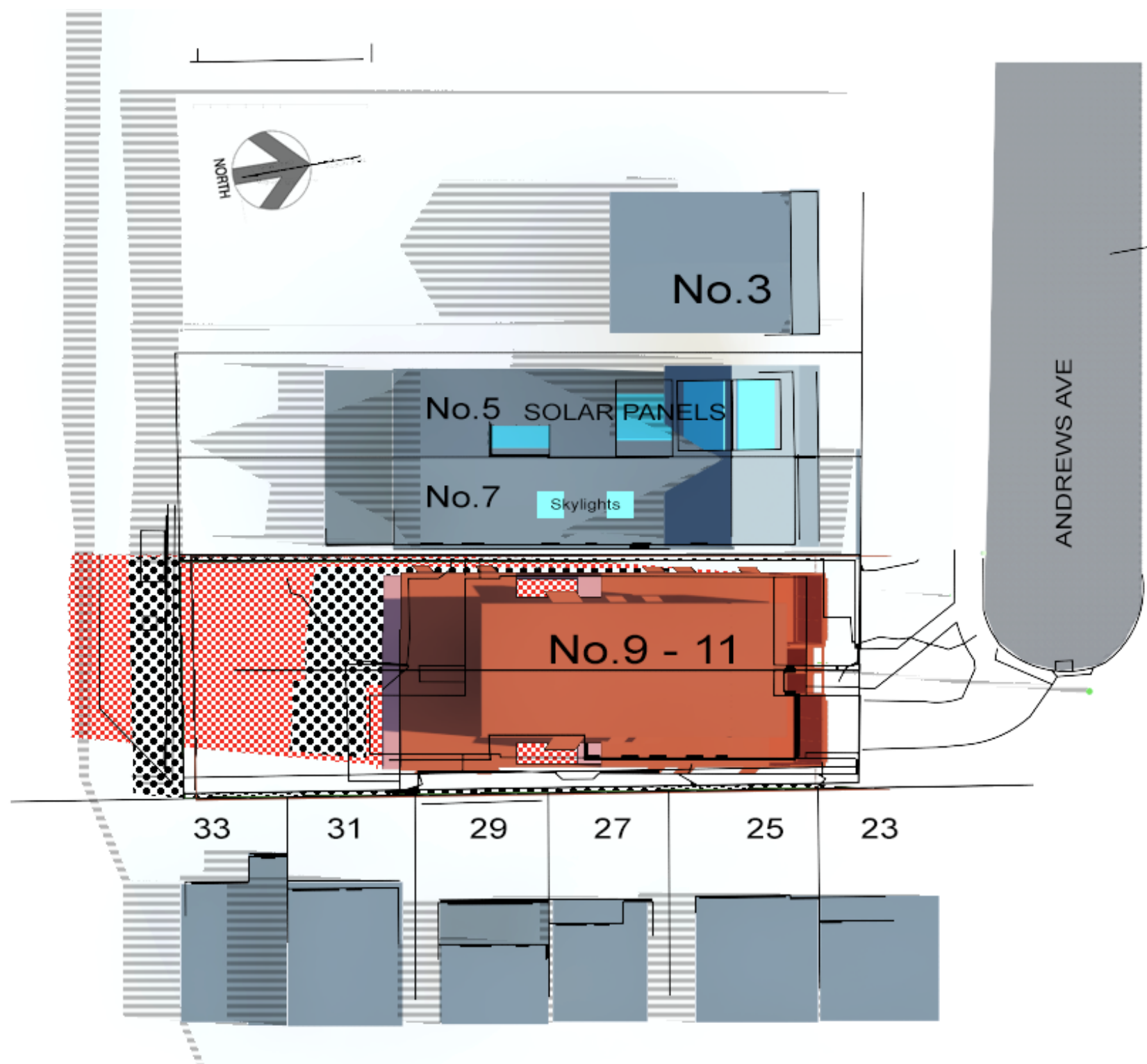
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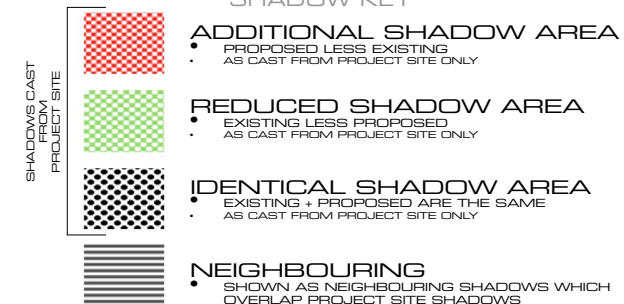
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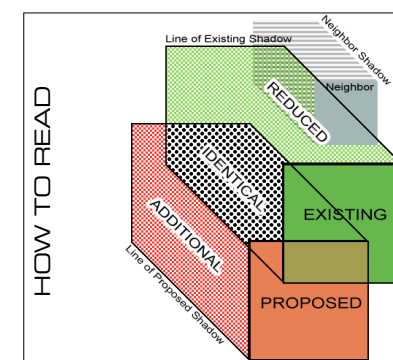
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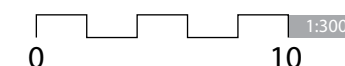


HOW TO READ



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1100 JUNE 21

TITLE

SHADOW DIAGRAMS - PLAN

WINTER SOLSTICE

21 JUNE

PROJECT
PROPOSED RESIDENTIAL
9-11 Andrews Avenue
Bondi

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Architects
Gladesville NSW
stuido@dalglishward.com

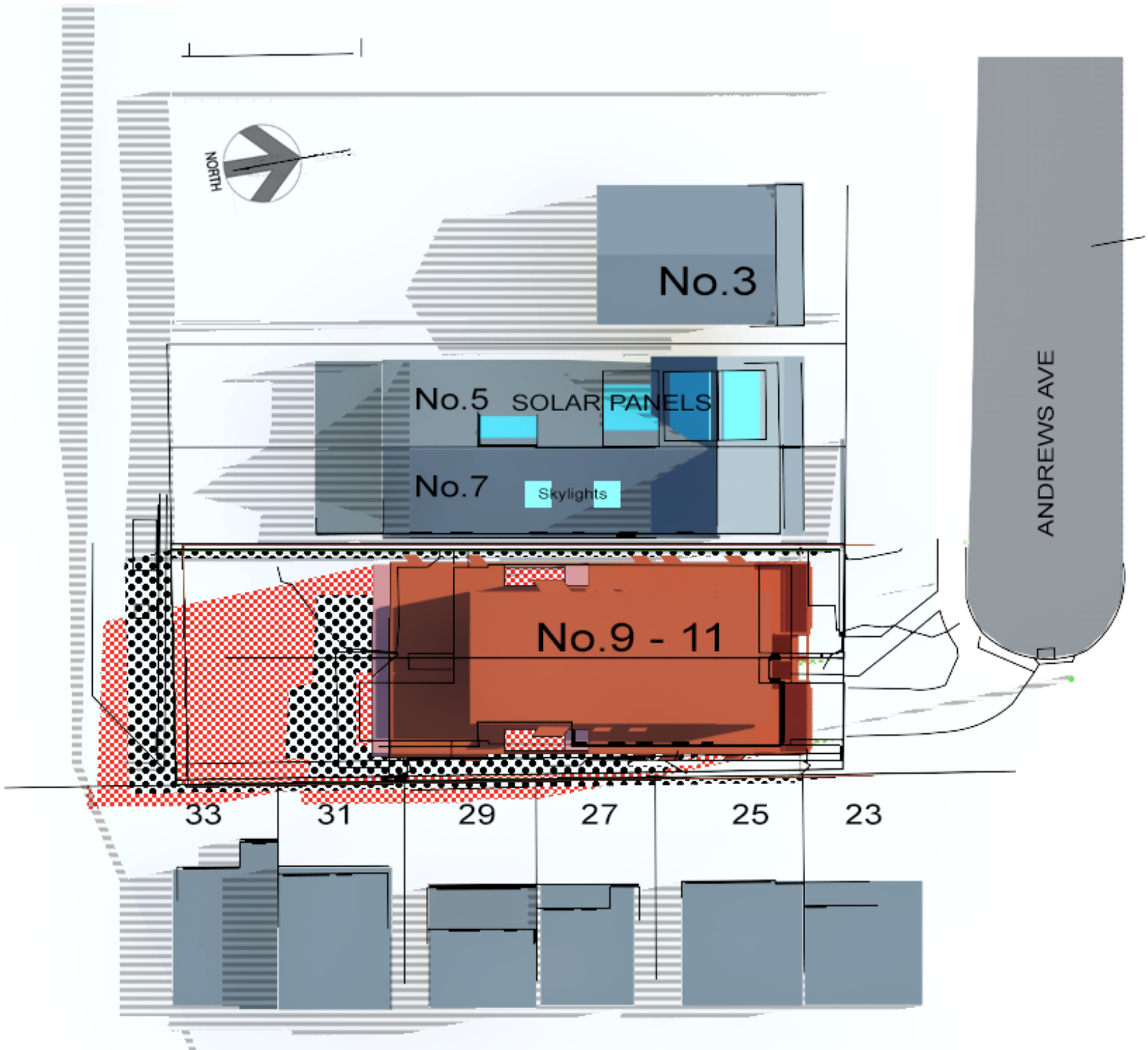
CLIENT MH INVESTMENTS P/L


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 3D SHADOW DIAGRAMS /
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SHADOW KEY


SHADOWS CAST FROM PROJECT SITE




• **ADDITIONAL SHADOW AREA**
• PROPOSED LESS EXISTING
• AS CAST FROM PROJECT SITE ONLY



• **REDUCED SHADOW AREA**
• EXISTING LESS PROPOSED
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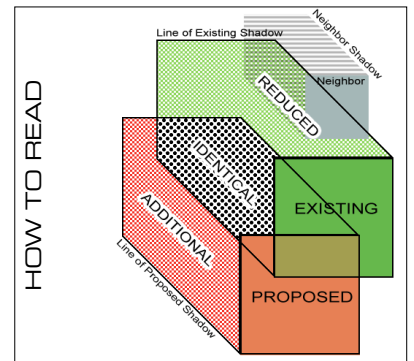


• **IDENTICAL SHADOW AREA**
• EXISTING + PROPOSED ARE THE SAME
• AS CAST FROM PROJECT SITE ONLY



• **NEIGHBOURING**
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0101:300

1200 JUNE 21

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WINTER SOLSTICE

21 JUNE

PROJECT

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9-11 Andrews Avenue

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DESIGNER

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Architects
Gladesville NSW
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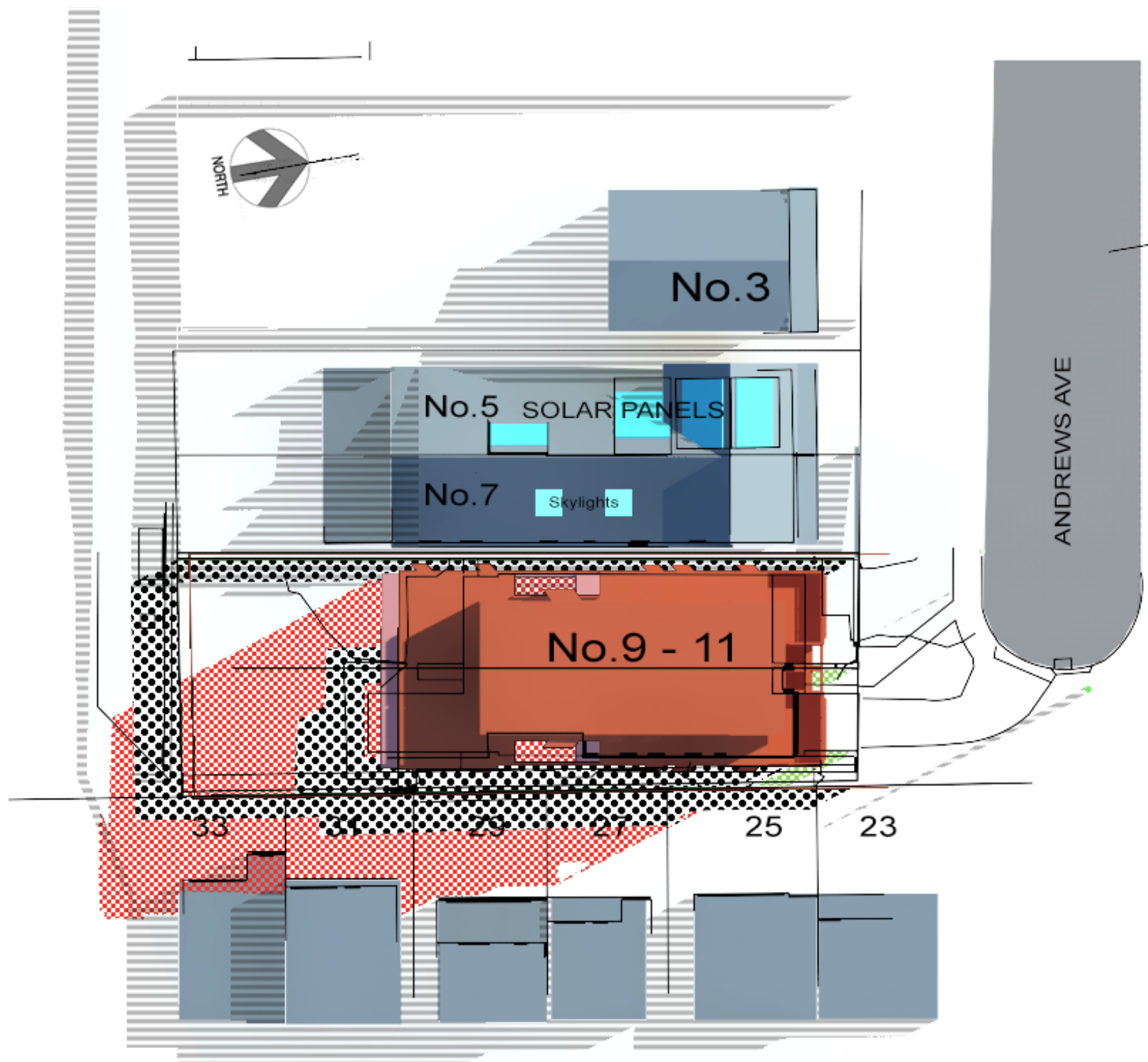



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Neighbor Shadow

Neighbor

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0

10

1:300

1300

JUNE 21

TITLE

SHADOW DIAGRAMS - PLAN

WINTER SOLSTICE

21 JUNE

PROJECT

PROPOSED RESIDENTIAL

9-11 Andrews Avenue

Bondi

DESIGNER

Dalglish Ward and Associates

Architects

Gladesville NSW

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REF : 1683

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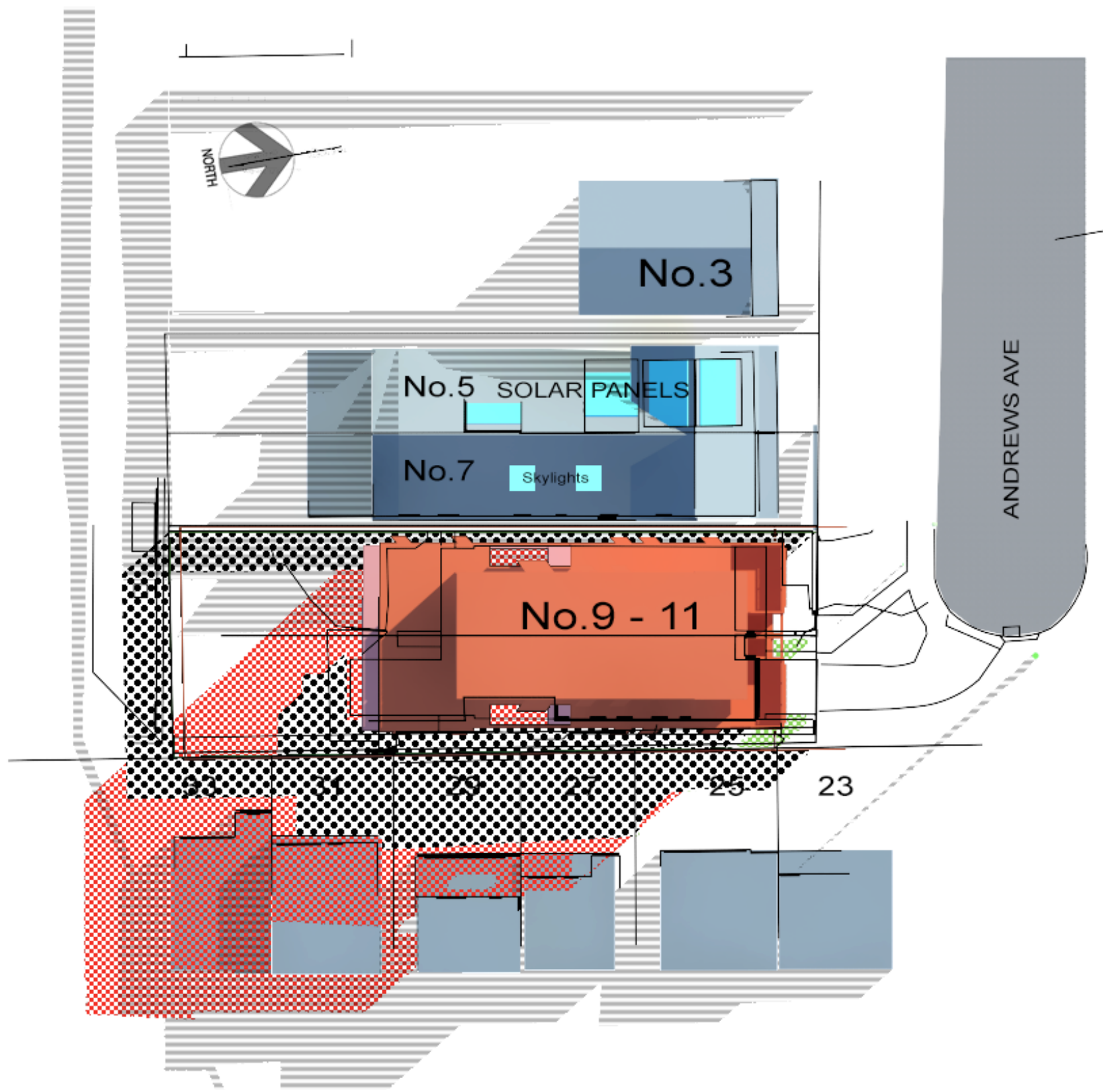
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0101:300

1400JUNE 21

TITLE

SHADOW DIAGRAMS - PLAN

WINTER SOLSTICE

21 JUNE

PROJECT

PROPOSED RESIDENTIAL

9-11 Andrews Avenue

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DESIGNER

Dalglish Ward and Associates

Architects

Gladesville NSW

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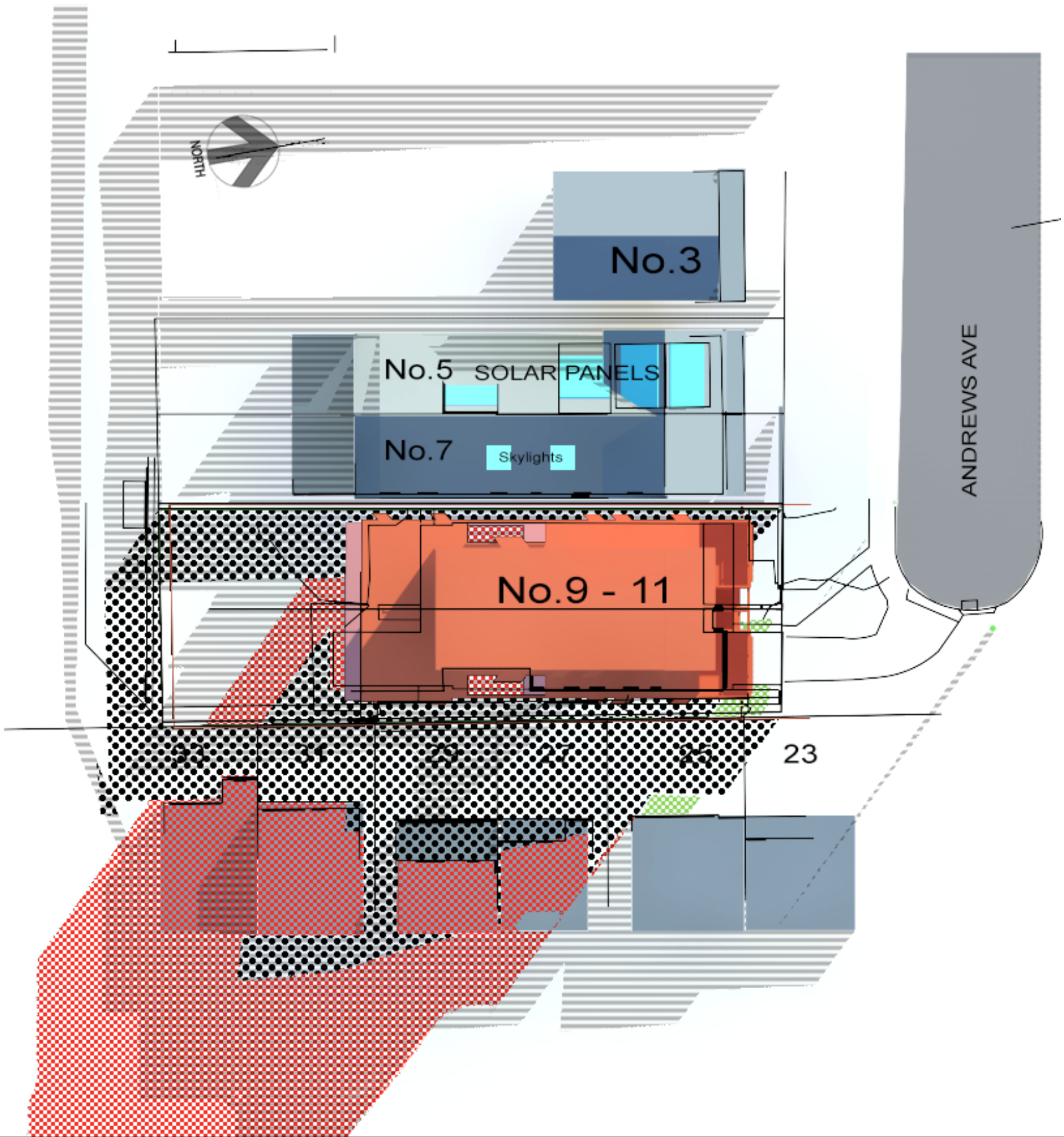
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0

10

1:300

1500

JUNE 21

TITLE

SHADOW DIAGRAMS - PLAN

WINTER SOLSTICE

21 JUNE

PROJECT

PROPOSED RESIDENTIAL

9-11 Andrews Avenue

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DESIGNER

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Architects

Gladesville NSW

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




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Plant List with Images								
Images	ID	Qty	Common Name	Botanical Name	Pot Size	Mature Height	Mature Spread	Maintenance (First 2 years)
Trees								
	Dd	2	Dragon Tree	Dracaena draco	400mm	3.0m	2.5m	fertilise every 6 to 8 months with slow release fertiliser.
	Pcc	6	Callery Pear Tree	Pyrus calleryana 'Capital'	750mm	11m	3m	Use hesian and stakes for support during establishment period. Remove lower wayawrd branches from the base to promote a uniform shape.
Shrubs								
	Bt	10	Slender weavers	Bambusa textillis 'Gracillis'	300mm	6m	Spread	Remove dead canes at the ground, thin and cut back older canes every 3-4 years
	Cel	8	Parlour palm	Chamaedorea elegans	200mm	1.0-1.2m	3.5-4.0m	Apply slow release fertiliser during spring and a liquid based fertiliser every 4 weeks during the warmer months, dilute your solution to half the recommended dose to avoid burn.
	Hss	10	Hosta	Hosta 'Sum & Substance'	200mm	0.4m	0.6m	Water well through the first summer. Mulch around plants each spring to maintain a cool root run. Remove spent foliage as required. Apply snail bait.
	Rio	22	Indian Hawthorn	Raphiolepis indica 'Oriental Pearl'	200ml	0.8-1m	1m	Water well to establish. Prune to shape in spring. Apply a well balanced fertiliser in mid spring
	Sws	16	Giant Peace Lily	Spathiphyllum wallisii 'Sensation'	200mm	0.5-0.7m	0.5-0.7m	Water well. Remove spent leaves. Fertilise annually in spring to encourage vigorous growth.
	Vdf	28	Viburnum 'Dense Fence'	Viburnum odoratissimum 'Dense Fence'	300mm	2.5m	2m	Water well till established. Tip prune while young to encourage bushy growth.
	Jc	8	Shore juniper	Juniperus conferta	300mm	600mm	1800	Deep watering in hot months but once established tolerates dry conditions. Add slow relase fertiliser annually
	Lam	10	Lamium	Lamium maculatum 'White Nancy'	300mm	200	700	
Total		120						

RECEIVED

Waverley Council

Application No: DA-59/2020

Date Received: 27/02/2020

PLANT & MAINTENANCE SPECIFICATIONS

1. PREPARE THE SITE FOR OPTIMUM PLANT GROWTH

Ensure trees and shrubs are removed that need to be removed. Remove all building rubble from garden beds and lawn areas. Remove weeds: Spray 'Roundup' or similar product. Follow the manufacturers instructions. Ensure weeds are dead before pulling out. Ensure there is proper stormwater run-off and drainage on site. Compacted soil should be loosened and, where applicable (in clay soil) gypsum added. Fill garden beds with a minimum 300mm organic garden mix. Sprinkle granular wetting agent and water in well according to packet instructions.

2. PLANTING THE PLANTS AND TREES

Stand plant pots in their position according to the planting plan. Dig a hole 1.5 times the width, and the same depth as the plant pot. Carefully remove the plants from the pots so as not to disturb the roots. Plant the plant so that the top of the root ball is level with the soil. Trees are to be staked with 3x (50x50x1800)mm hardwood stakes. Tie the trees and stakes with hessian. Avoid the rootball when inserting the stake. The stakes need to stay for at least 18 months for high wind areas.

3. LAWN

Ensure the turf is disease and weed free. Apply 150mm layer of good quality turf underlay. Level the topsoil into a smooth surface. Ensure the turf is finished at appropriate (flush) levels with adjoining paving or edging. Apply topdressing if/where required. Water often over the first 4 weeks. Gradually cut back the water to weekly in the first summer. Check the levels 2-4 times annually to topdress any depressions due to compaction over time. Hand weeding on a regular basis is important when the lawn is establishing.

4. IRRIGATION AND WATER

It is advised to run irrigation tubing over the soil and under the mulch. This is connected to a tap with a manual or automatic timer to ensure plants get sufficient water during establishment period to grow healthy and pest and disease free. Water plants well 3-4 times per week in the first month and 2 times per week in the second month (depending on weather conditions). Occasional hose watering is advised to allow even distribution of water to the roots. Apply a wetting agent to help soil maintain moisture and not become hydrophobic.

5. FOOD

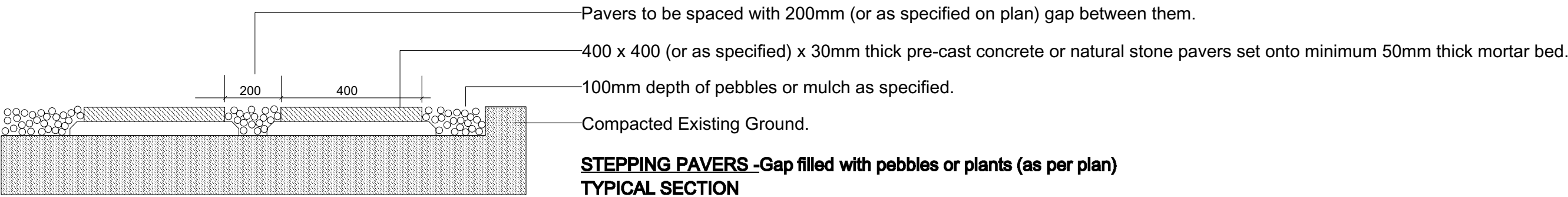
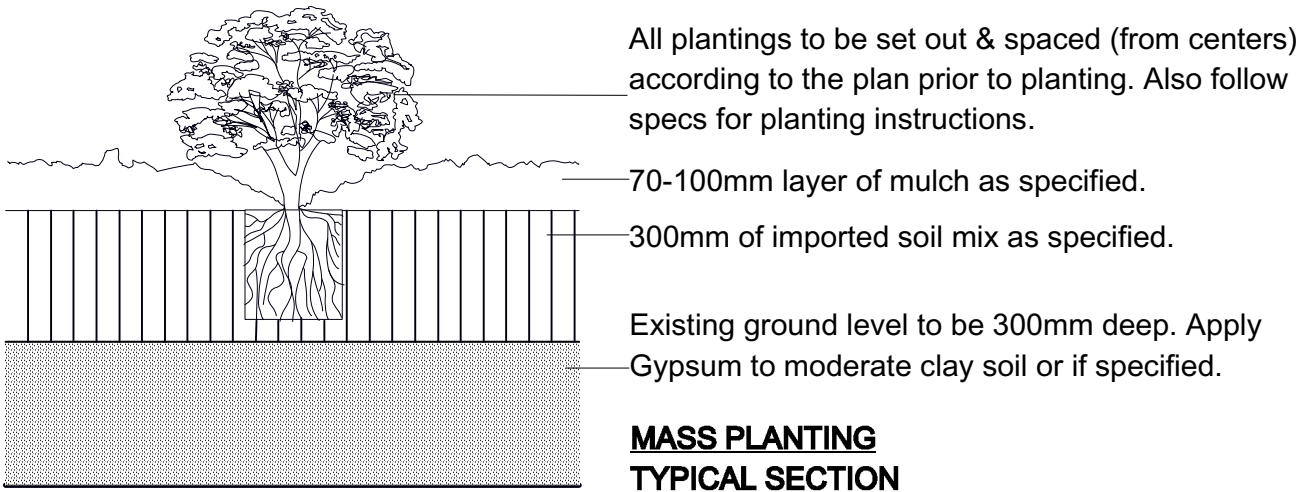
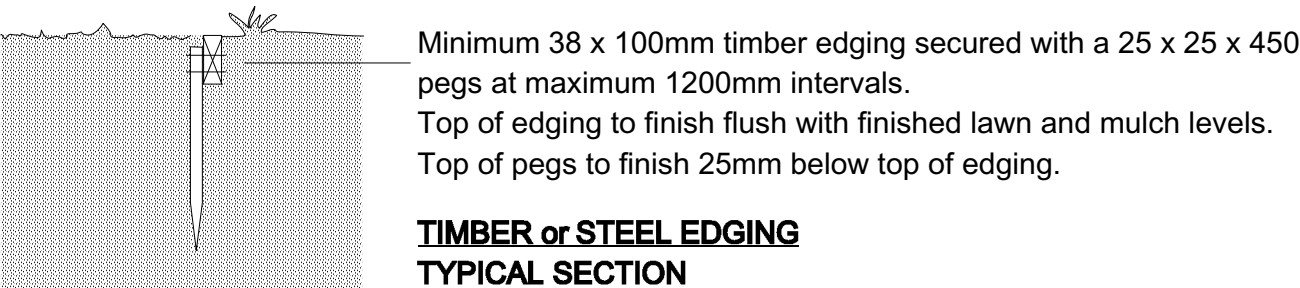
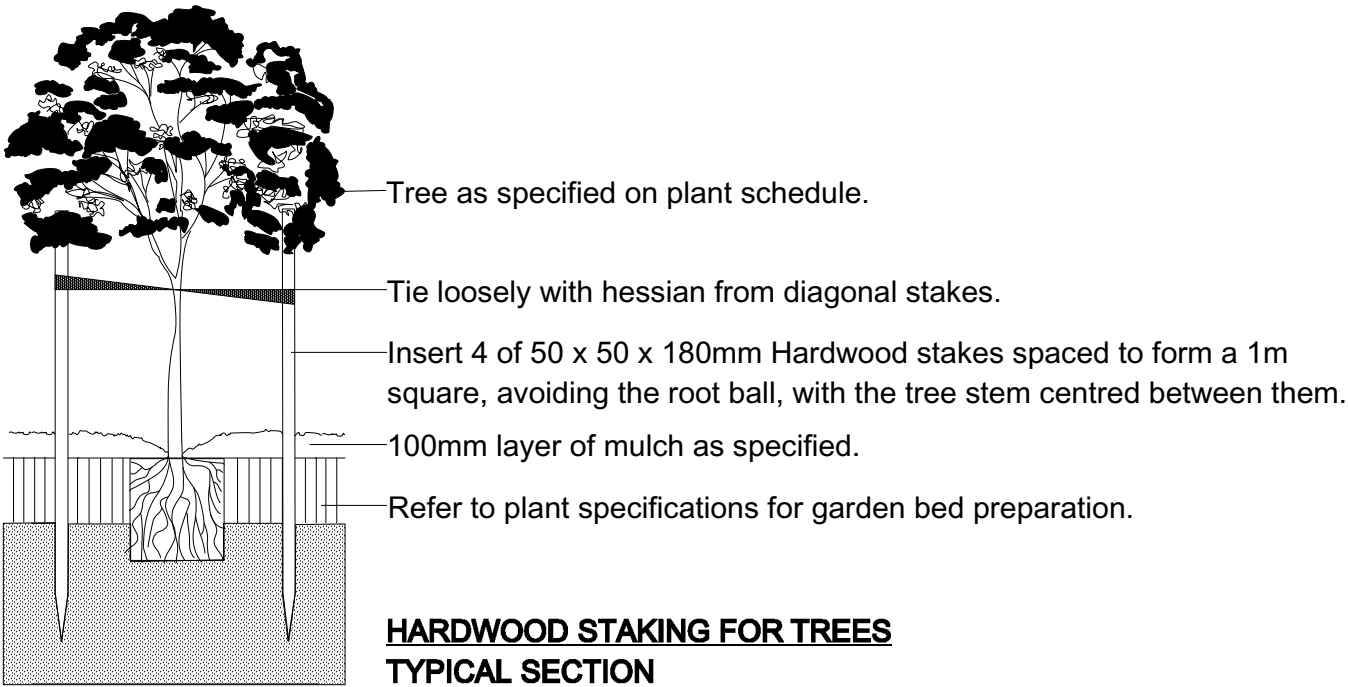
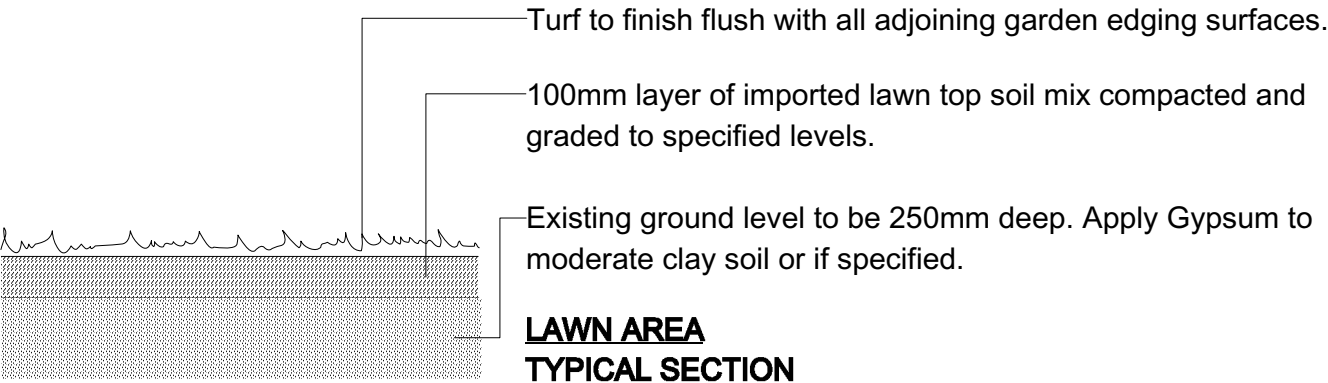
Fertilise with a general purpose slow release fertiliser such as 'Osmocote' or 'Nutricote'. Fertilize natives with 'Osmocote for Natives'. Apply as per manufacturers specifications for the plants size and type. Fertilizer needs to be reapplied regularly during the growing period, follow packet directions. Always under fertilise rather than over fertilise. Occasional dressing of organic compost is beneficial to all soils. Plants can benefit from seaweed solution during establishment stage.

6. MULCH

Cover the entire soil surface with a minimum of 75mm eucalyptus mulch or cypress mulch. The mulch surrounding trees needs to be less near the base of the trunk, to form a shallow watering dish. Care should be taken not to mix the mulch with the soil. Mulch suppresses weeds as well as preventing soil dehydration. Top up mulch annually or as required so that the correct thickness is maintained. Use an organic mulch such as Eucalyptus mulch, Cypress mulch/woodchip. Sugarcane or Lucern mulches are best suited for vegetable gardens.

7. TRIMMING

Prune hedges to desired height from a very young age by using a level string line. Tip prune all young plants to ensure compact and lush growth. Follow instructions in the above table for specific plants.



LANDSCAPE DESIGN | CONSTRUCT | MAINTAIN
42 Norton Street Leichhardt 2040
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DETAILS

CLIENT: MH Investments PTY LTD

PROJECT: 9-11 Andrews Ave, Bondi

PROJECT #: 20C01

SCALE:

nil

DATE: 5/2/20

DESIGNER: Nadia Pomare

ASS. DESIGNER: Nadia Pomare

REV: : A

PAGE #: 3 of 3

GENERAL NOTES
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Report to the Waverley Local Planning Panel

Application number	DA-281/2019/1
Site address	5/62 Fletcher Street, BONDI
Proposal	Review of decision seeking alterations and additions to Unit 5 including internal reconfiguration and extension into subfloor area
Date of lodgement	20 January 2020
Owner	Mr P Sidorko & Ms N Swift
Applicant	McGregor Westlake Architecture
Submissions	One
Cost of works	\$127,000
Issues	Floor space ratio and privacy
Recommendation	That the application be APPROVED subject to conditions



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 1 April 2020.

The site is identified as Lot 5, SP21260, known as Unit 5, 62 Fletcher Street, Bondi. It is located on the northern side of Fletcher Street between Sandridge Street and Marks Park. The unit is within a residential flat building (RFB), which is located at the eastern end of the road before it turns to the south and becomes Marks Lane. The site has an area of 469.52m² and falls from the southern street frontage to the rear northern boundary, following the natural topography of the site.

The existing building is a part two, part three storey RFB containing 6 units, with a rear boundary abutting the Coastal Walk along South Bondi.

The subject site is adjoined by a dual occupancy to the east and single dwelling to the west. The locality is characterised by a variety of residential development, including one to three storey dwellings and RFBs.



Figure 1: Subject site frontage

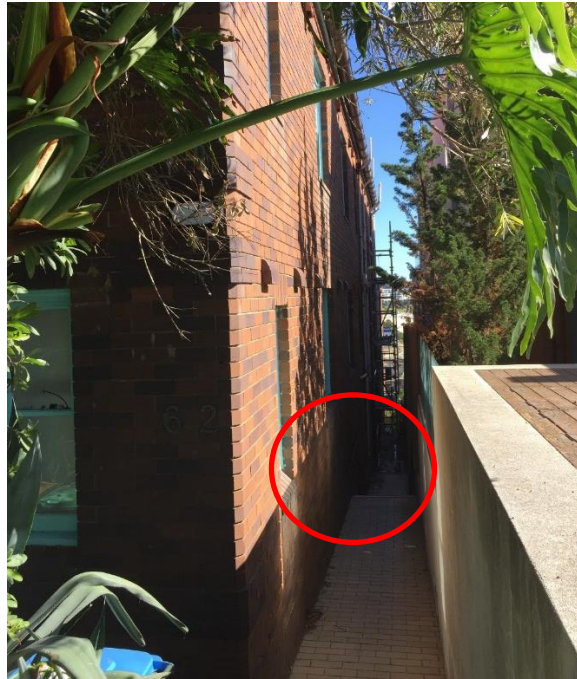


Figure 2: View of eastern elevation and proposed location of subfloor (shown in red circle).

1.2 Relevant History

A search of Council's Development and Building records revealed the following development applications associated with the site:

- BA-540/1998 – construct storage space at premises approved 12/01/1999.
- DA-436/2003 – replace existing roof deck balustrade approved 11/08/2003.

DA-381/2019 - Subject application

The original application was submitted to Council on 29 August 2019. Additional information was requested from the applicant via email on 30 October 2019 as the original application did not include Reduced Levels for the existing ground level or new subfloor level. Amended plans were received on 31 October 2019 and Council considered these satisfactory. The amended plans formed the basis of the assessment.

The application was referred to the Waverley Local Planning Panel (WLPP) as it sought to vary the FSR development standard by more than 10%. The application was considered by the WLPP at the 27 November 2019 WLPP meeting. The WLPP resolved to refuse the application for the following reason:

1. *Inadequate amenity to Bed 2 due to other residents and visitors of the building being able to view down into the bedroom from the main common access stair along the side boundary.*

On 20 January 2020, the applicant submitted the request for a review of decision. The request was accompanied by letter prepared by LK Planning, dated 11 December 2019, which set out the applicant's position stating: *"this request for a review relies on the original documentation submitted with DA-281/2019 in its entirety, as permitted under Division 8.2 of the Act. We also rely on the thorough assessment report and reasonable conclusions reached by the Council's Development*

Assessment Officer, Development and Building Unit and Executive Manager – Development Assessment, which support this application”.

On 26 March 2020, Council requested that the applicant consider additional measures to address the concerns raised by the previous WLPP decision with respect to potential privacy impacts and internal amenity of the new sub-floor bedroom. Council notes that potential privacy concerns would most likely arise as a result of the location of the side passage stairs (see Figure 2 and 3), which align with the proposed location of the sub-floor bedroom window. Accordingly, Council queried whether alternative sub-floor layouts had been considered, including repositioning the bathroom to the southern end of the sub-floor, which would largely address the privacy concerns from the side passage, given the smaller sized, obscured glazed highlight windows proposed for the bathroom. The applicant advised that the configuration was selected based on the location of plumbing in the northern part of the unit, which would have the least amount of impact and be most cost efficient in terms of achieving a suitable outcome of the owner.

On 1 April 2020, the applicant provided revised plans that included notations indicating that the new windows on the eastern elevation would be sandblasted glass and curtains would be fitted internally as required.

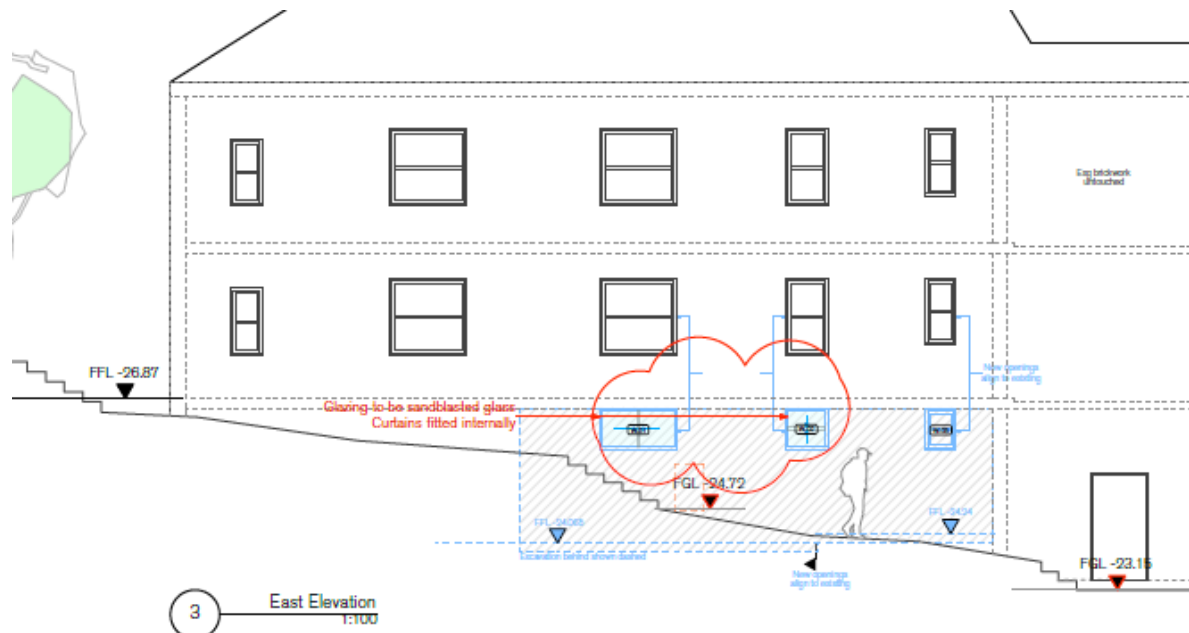


Figure 3: Proposed architectural plan – eastern elevation

1.3 Proposal

The subject Section 8.3 application seeks a review of the determination made under DA-381/2019, in response to the refusal of the application by the WLPP on 27 November 2019. The proposal seeks consent for the following works:

- existing ground floor:
 - removal of built-in robe in bedroom;
 - removal of disused corner fireplace in living area;
 - removal of internal wall between the living and kitchen area to provide an open plan living/dining/kitchen area, including a new kitchen fit-out;
 - removal of nib wall and internal stairs that turn below a sculpted kitchen bench to provide access to a new lower floor;

- new sub-floor:
 - construction of a new subterranean floor and internal walls, contained wholly within the existing building sub-floor area;
 - provision of a cavity drain beyond the southern end rear wall of the sub-floor;
 - a new bedroom and bathroom;
 - three new highlight windows on the eastern elevation in matching location of the windows on the floors above.

Council is satisfied that the request for review of determination documentation and the revised plans provided to Council on 1 April 2020, suitably address the concerns raised by the WLPP.

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 Section 8.3 Considerations

Section 8.3 of the Act enables Council to review a previous determination of a development application subject to the following provisions:

(2) A determination or decision cannot be reviewed under this Division:

(a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or

(b) after the Court has disposed of an appeal against the determination or decision.

(3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.

The determination of the original development application was made on 27 November 2019. The right of appeal period for the applicant to exercise (referenced in section 8.3(2)(a) of the Act), is six months after the date of determination. The application is scheduled to be determined by the WLPP on 29 April 2020, which satisfies the statutory timeframe to determine this review application.

Council officers are satisfied that the essential elements of the development, the subject of the original development application, are the same. The scope and description of development remains unchanged.

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 development application.

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

2.2.2 SEPP 55 Remediation of Land

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

2.2.3 SEPP 65 Design Quality of Residential Apartment Development

SEPP 65 does not apply to this development as it does not fit any of the following criteria:

- erection of a new building;
- substantial redevelopment or refurbishment of an existing building; or
- conversion of an existing building to a RFB.

2.2.4 SEPP (Coastal Management) 2018

The Coastal Management 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) under 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:

Matters for consideration	Compliance
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	The proposal is not anticipated to impact the integrity or resilience of the natural environment.
(b) coastal environmental values and natural coastal processes,	The proposal is not expected to change the natural coastal environmental values and processes.
(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,	Water quality of the coastal environment would not be affected by the proposal.
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	The proposal is not expected to impact on marine vegetation and habitats as the works would be completed entirely within the site.
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of	No public access ways would be affected by the proposal.

Matters for consideration	Compliance
the public, including persons with a disability,	
(f) Aboriginal cultural heritage, practices and places,	N/A
(g) the use of the surf zone.	There would be no impact to the use of the surf zone as a result of the proposal.

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:

Matters for consideration	Compliance
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	No public access ways would be affected by the proposal.
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	The dwelling is orientated south to north with the public foreshore located to the north of the site. The proposed alterations would be within the existing building envelope and would therefore not result in any additional overshadowing impacts to the public space. Views would be retained through the existing side setbacks of the building and no additional wind funnelling is anticipated.
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	The visual amenity from the coastal use area would remain unaffected.
(iv) Aboriginal cultural heritage, practices and places,	N/A
(v) cultural and built environment heritage, and	N/A

(b) has considered whether the proposed development is likely to cause an adverse impact on the following:

Matters for consideration	Compliance
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	The proposal is not expected to result in any adverse impacts to the coastal use area.

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

The proposal would not impact on the surrounding coastal area or built environment and the scale and appearance of the development would remain unaltered from the public domain as a result of the proposal.

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

The proposed development is not likely to increase the risk of coastal hazards on that land or surrounding land.

2.2.5 Waverley Local Environmental Plan 2012

The relevant matters to be considered under the Waverley Local Environmental Plan 2012 (WLEP) for the proposed development are outlined below:

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal meets the aims of the WLEP.
Part 2 Permitted or prohibited development		
Land Use Table R3 Zone	Yes	The proposal is defined as alterations to a RFB, which is permitted with consent in the R3 zone.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> 9.5m 	N/A	There are no changes proposed to the existing building height.
4.4 Floor space ratio (FSR) <ul style="list-style-type: none"> 0.6:1 (281.7m²) Site area: 469.52m² 	No	<p>The existing FSR of 0.89:1 (420m²) results in an exceedance of 138.3m² or 49%.</p> <p>The proposed FSR of 0.96:1 (449.6m²) results in an exceedance of 167.9m² or 59.6%.</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/s is presented below this table.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The proposal is not expected to disturb, expose or drain acid sulfate soils.

Provision	Compliance	Comment
6.2 Earthworks	Yes	The proposal includes earthworks in the form of additional excavation within the building envelope to construct an additional subfloor level. The earthworks are not likely to impact on adjoining properties and would not be discernible from the street, public domain or adjoining properties.

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

Clause 4.6 Exceptions to Development Standards

The application seeks to vary the floor space ratio (FSR) development standard under Clause 4.4 of the WLEP.

The site is subject to a maximum existing FSR control of 0.6:1. The proposed development has an FSR of 0.96:1, exceeding the standard by 167.9m² equating to a 59.6% variation.

A written request was submitted to Council as part of the original development application, in accordance with Clause 4.6(3)(a) and (b) of the WLEP, 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 WLPP 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 existing building already exceeds the maximum building height given the topography of the site and does not meet the side setback controls. These attributes are unchanged by the proposal as it is proposed to improve the utilisation of an existing sub floor area within the building only. This creates a calculable increase in the gross floor area of the building but does not affect in any way the correlation between the height and density controls.*
 - (ii) *The desired future character of the locality is dictated by the LEP and DCP controls, which anticipate a medium density residential building of 3 storeys, to 9.5m, with an FSR of 0.6:1. The building currently exceeds both development standards and also would not comply with the current side setback controls in the DCP. Notwithstanding this, the building currently sits neatly amongst its neighbours that are of a similar or larger scale.*

Given the additions are entirely within the existing footprint of the building, the building would retain its bulk, scale and streetscape character. The limited scope of work proposed does not provide an opportunity to better meet the 'desired future' character of the locality (ie, compliant setbacks or height) however the additions' compatibility with the character offer an alternative means of achieving the objective such that strict compliance with the standard would be unnecessary. There would also be no purpose served in mandating compliance in this case as the existing building already exceeds the control and satisfies the objectives in an identical way that arises from the proposal.

- (iii) *The additions preserve the same level of environmental amenity to the neighbouring properties as currently exists. There are no new impacts in relation to privacy, noise, overshadowing, views, parking demand, visual bulk or the like. The new windows at the lowest level of the building provide the only indication that additions have taken place and they are well-proportioned and appropriately located to such that there are no impacts on the building opposite.*
- b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) *The FSR breach itself does not cause any view loss or solar access impacts, does not introduce privacy impacts and does not have any impact on the streetscape or the character of the locality.*
 - (ii) *The elevated nature of the building above the existing ground level and the stepping of the site allows for utilisation of the existing sub floor area for additional amenity to the unit above.*
 - (iii) *The alterations to the building are limited to the introduction of new windows at the lowest level where they are imperceptible from the street. The windows would break up an expansive wall on the eastern elevation that has a 4m high unarticulated section before the main lobby.*
 - (iv) *The additions provide for increased amenity and accommodation to a unit that currently has an awkward layout and a compressed 1 bedroom format. The new layout would allow for a generous second bedroom and second bathroom.*
 - (v) *The proposal is consistent with the objectives of the FSR development standard and the objectives of 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 would 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) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary*

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

Council remains of the view that the applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard, referencing that the existing building exceeds the maximum floor space ratio by 49% and the proposal results in an additional gross floor area of 29.6m² that is contained entirely within the existing building envelope, does not change the height of the building, and would not be visible from Fletcher Street. In addition, the proposal would not result in any adverse impacts to the streetscape or amenity of adjoining properties.

Is the development in the public interest?

The proposed development would 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;

Zone R3 Medium Density Residential

Objectives of the R3 zone:

- To provide for the housing needs of the community within a medium density residential environment.*
- To provide a variety of housing types within a medium density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal seeks to convert a one-bedroom unit into a two- bedroom unit which is considered an improvement to the existing use of the unit and improves the housing needs of the community without causing adverse impacts to the streetscape or amenity of adjoining properties.

Floor space ratio

The objectives of this clause that are relevant to the proposed 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 proposed alterations and additions would be within the existing building envelope and would not change the height or appearance of the building. The bulk and scale of the RFB is compatible with the existing and emerging character of Fletcher Street and the proposal is not anticipated to result in adverse impacts to the environmental amenity of adjoining properties or the locality.

Conclusion

For the reasons provided above, the requested variation to the FSR is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the WLEP. Council remains of the view that the proposed development would be in the public interest because it is consistent with the objectives of the FSR standard and the R3 zone.

In addition, Council notes that the applicant's 'Request for a review of the refusal of DA-81/2019' letter, dated 11 December 2019 refers to a comment recorded in the WLPP minutes from the 27 November 2019 meeting, which suggests that a reduced floor area may be appropriate to address potential inadequate amenity impact of the sub-floor space. Council considers the proposed floor area of the sub-floor is appropriate and is satisfied that it would provide reasonable amenity to the occupants of the unit. Council also notes that additional internal privacy measures may be explored by the owners of the unit should that be deemed necessary, including, but not limited to fitting of plantation shutters, and/or internal blinds to provide the level of privacy required by the occupants.

2.2.6 Waverley Development Control Plan 2012 - Amendment No 7

The relevant matters to be considered under the Waverley Development Control Plan 2012 (WDCP) 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 was submitted with the original application, which addressed waste disposal during construction. A condition of consent is recommended regarding ongoing waste on site.
2. Energy and water conservation	Yes	Council is satisfied that given the scale of the development; the proposal adequately considers the design of the building in relation to ecologically sustainable development.
3. Biodiversity	N/A	The site is located within the biodiversity corridor; however, the proposed alterations would be contained within the existing building envelope and no changes are proposed to the landscaped area. Accordingly, this section of WDCP is not applicable.
6. Stormwater	N/A	Standard conditions relating to stormwater are recommended in the consent.

Development Control	Compliance	Comment
14. Excavation	Yes	The proposed excavation would not add to the visual bulk of the building or result in the loss of naturally occurring sandstone. A condition of consent is recommended for the proposed excavation works to ensure that these works are undertaken safely and in accordance with the relevant professional standards.

Table 3: Waverley DCP 2012 – Part C3 Medium Density Residential Development Compliance Table

The proposal is defined as a “Residential Flat Building” that is not subject to assessment under SEPP 65 Design Quality of Residential Apartment Development” in the LEP.

Development Control	Compliance	Comment
3.1 Site, scale and frontage		
(a) To ensure lot size and dimension are able to accommodate the appropriate building envelope, landscaping and service requirements.	Yes	The proposed alterations and additions would not alter the appearance of the building when viewed from the frontage or the public domain. The existing side, front and rear setbacks would be maintained.
3.2 Height		
<ul style="list-style-type: none"> Maximum external wall height: 7m 	N/A	The proposal does not change the overall external wall height of the building.
3.3 Setbacks		
3.3.1 - Street setbacks <ul style="list-style-type: none"> Consistent street setback 	N/A	No changes proposed to the street setback.
3.3.2- Side and rear setbacks	Acceptable	The existing side and rear setbacks would be unaltered for the new subfloor level. While the existing building does not meet the side setback controls, the proposal does not change this situation. Council is satisfied that the proposal would not result in unreasonable impacts to the amenity of adjoining properties.
3.4 Length and depth of buildings		
<ul style="list-style-type: none"> Maximum building length: 24m Façade to be articulated Maximum unit depth: 18m 	Yes	The proposed alterations would be contained within the existing building envelope.
3.5 Building design and streetscape		
<ul style="list-style-type: none"> Respond to streetscape Sympathetic external finishes 	Yes	There are no changes proposed to the front façade or roof features of the building.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Removal of original architectural features not supported. 		The proposed window openings on the eastern side elevation have been designed to align with the windows on the floors above, as shown on the plans. The proposed windows would be provided in the same style as the existing windows.
3.13 Solar access and overshadowing		
<ul style="list-style-type: none"> Minimum of three hours of sunlight to a minimum of 70% of units on 21 June. Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than 3 hours of sunlight on 21 June. 	<p>Yes</p> <p>N/A</p>	<p>The proposed alterations and additions to Unit 5 would improve overall solar access into the living area.</p> <p>Overshadowing to adjoining properties would remain as existing.</p>
3.14 Views and view sharing		
<ul style="list-style-type: none"> Minimise view loss through design Landscaping on sites adjacent to a Council park or reserve should be sympathetic to soften the public/private interface. Views from public spaces to be maintained. 	N/A	The proposal would not alter the existing building envelope therefore, views and view sharing remain as existing.
3.15 Visual privacy and security		
<ul style="list-style-type: none"> Privacy be considered in relation to context density, separation use and design. Prevent overlooking of more than 50% of private open space of lower level dwellings in same development. 	Yes	The proposed window openings on the eastern elevation are domestic in scale, do not directly align with adjoining property windows and would service a bedroom, storage room and bathroom which are not considered high usage rooms to compromise the privacy of neighbouring properties. The new windows would be sandblasted glass and curtains would be fitted internally as required to maximise privacy of the unit occupants.
3.16 Dwelling size and layout		
<ul style="list-style-type: none"> All habitable rooms are to have a window for daylight and natural ventilation. Provide a range of dwelling types and sizes Min sizes Studio = 35m² 	<p>Yes</p> <p>Yes</p>	<p>A window opening is provided to each of the new sub floor rooms. The proposed size of the window openings provides the necessary natural ventilation and light to these rooms.</p> <p>The size and location of the proposed windows is appropriate, given these windows open up to the side passageway and are close to the stair</p>

Development Control	Compliance	Comment
1 bedroom = 50m ² 2 bedroom = 80m ² 3 bedroom = 100m ² <ul style="list-style-type: none"> Flexible design 	Yes	<p>within the passageway. The applicant has sought to address potential privacy impacts by proposing sandblasted glass on the bedroom window and would fit curtains internally as required.</p> <p>The proposed two-bedroom unit exceeds the minimum 80m² floor space. The proposal provides internal stair access between floors and is positioned in a convenient location for both occupants.</p> <p>The proposal results in a two-bedroom unit without altering the bulk and scale of the building which is considered an improvement to the existing design to provide additional housing in a medium density zone.</p>
3.17 Ceiling Heights		
<ul style="list-style-type: none"> Min 2.7m floor to ceiling height residential floor <p>NCC 2012 – min 2.4m floor to ceiling height</p>	Acceptable	<p>The proposed sub-floor would have a floor to ceiling height of 2.6m, which is considered acceptable in this circumstance given the constraints of the site. Window openings would be provided to all rooms.</p>
3.18 Storage		
<p>In addition to kitchen cupboards and bedroom wardrobes, min storage required is:</p> <ul style="list-style-type: none"> 2 bed = 8m³ 	Yes	<p>The proposal provides over 8m³ of storage space.</p>
3.19 Acoustic privacy		
<ul style="list-style-type: none"> Internal amenity by locating noisy areas away from quiet areas 	Yes	<p>The new sub-floor is located below an existing unit and is not expected to result in adverse noise impacts.</p>
3.20 Natural Ventilation		
<ul style="list-style-type: none"> All dwellings to be naturally cross-ventilated Ceiling fans are to be provided in all habitable rooms. 	Yes Acceptable	<p>The proposal contains window openings on both floor levels providing adequate cross ventilation.</p> <p>The existing building does not provide ceiling fans in rooms. In this regard, it would be unreasonable to expect a single unit to provide ceiling fans.</p>
3.22 Interwar Flat Buildings		
3.22.1 – General	Yes	<p>The proposal maintains the integrity of the original interwar building by repeating the</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> • Retain the character of the building • Preserve the integrity of the building and retain original building fabric and decorative elements & parapets • Minimise alterations and additions and be secondary to existing building • Differentiate between old and new additions • Minimise visibility of new works from the public domain. 		<p>rhythm and style of windows along the eastern elevation.</p> <p>The new sub-floor has been sympathetically designed into the existing dwelling incorporating the same window style and finishes as the existing building.</p> <p>The new sub-floor would not be visible when standing on Fletcher Street.</p>

2.3 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal would 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 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 in response to the notification of the review of decision. The submission notes that the comments relate to the application overall and not the section 8.3 review of the refusal process. The issues raised in the submissions are summarised and discussed below.

Table 4: Summary of property addresses that lodged a submission

Property
7/62 Fletcher St, BONDI

Issue: Stability of the outer wall of the building

Response: Council acknowledges the concerns with respect to the stability of the outer wall of the building and has recommended conditions of consent which require structural details to be prepared by a practising Structural Engineer in connection with all structural components of the works. A Certificate of Adequacy is also required to certify the adequacy of the existing building structure to

carry the extra load of the proposed additions. Compliance with these conditions of consent is required prior to the issue of the relevant Construction Certificate.

Issue: Sandstone excavation may degrade the strength of the building foundations

Response: Council acknowledges the concerns raised regarding the potential for sandstone degradation. Conditions of consent are recommended to ensure that excavation is undertaken safely in accordance with the appropriate professional standard. In addition, excavation is to be limited to that shown in the approved plans. Council is satisfied that with these measures in place, and those set out above regarding structural components of the works, potential impacts would be appropriately managed.

2.6 Public Interest

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

3. REFERRALS

3.1 Fire safety

The original development application was referred to Council's Fire Safety Officer who did not object to the proposal subject to compliance with the NCC 2012. Conditions of consent relating to fire safety upgrade works are recommended.

4. SUMMARY

The application seeks a review of the refusal of DA-281/2019, which sought consent for alterations and additions to Unit 5 of an existing RFB, including conversion of a new sub-floor level at the front of the building to habitable space for an additional bedroom and bathroom within Unit 5. In response to the refusal of the application, the applicant provided revised plans indicating that the window to the proposed sub-floor bedroom would be fitted with sandblasted glass with curtains to be fitted internally to address the potential for privacy impacts on the occupants of the unit. The proposed alterations and additions are permissible with consent in the R3 Medium Residential Zone.

The application seeks to vary the floor space ratio development standard which Council remains satisfied that the variation is acceptable in this instance given that alterations and additions would not be visible when standing at the front of the site, would be contained within the existing building envelope and would not result in detrimental impacts to the environmental amenity of surrounding properties.

One submission was received in response to the section 8.3 review of decision and the issues raised have been addressed and discussed above.

The application 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:



Alana Jelfs
Senior Development Assessment Planner

Date: 9 April 2020

Reason for referral:

- 3 Departure from any development standard in an EPI by more than 10%

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



Angela Rossi
Manager, Development Assessment (Central)

Date: 15 April 2020

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

- (a) Architectural Plans prepared by McGregor Westlake Architecture of Project Number 180822, including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
A003, Rev A	Area Schedule	14.01.20	20.01.20
A004, Rev A	Site Plan	14.01.20	20.01.20
A006, Rev B	Plan – Ground & Sublevel	01.04.20	01.04.20
A007, Rev B	Sections & Elevations	01.04.20	01.04.20

- (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.

Except where amended by the following conditions of consent.

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 without the approval of Council.

3. APPROVED DESIGN - RESIDENTIAL FLAT DEVELOPMENT

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

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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:

(i) Where the total development cost is less than \$500,000:

"Waverley Council Cost Summary Report"; or,

(ii) Where the total development cost is \$500,000 or more:

"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are in the Waverley Council Contributions Plan 2006, available on Council's website.

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

(i) A development valued at \$100,000 or less will be exempt from the levy.

(ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% OR

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

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

5. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of **\$3485.20** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

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

6. LONG SERVICE LEVY

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

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

7. 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.

8. 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.

9. EROSION AND SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan shall be *prepared* in accordance with Waverley Council's Water Management Technical Manual be installed and maintained until construction activities have been completed and the site is fully stabilised. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

10. ENGINEERING DETAILS

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

11. ENGINEERING CERTIFICATE OF ADEQUACY

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

12. BASIX

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

13. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

14. BUILDING CODE OF AUSTRALIA – PROTECTION OF EXTERNAL OPENING

The proposed new openings in the external walls located within 3m of a fire source feature must be protected in accordance with Section C of the Building Code of Australia. Details of compliance with the above requirements are to be included in the Construction Certificate plans.

15. CEILING HEIGHTS

- (a) Unit 5 must be provided with a ceiling height that complies with the requirements of Clause F3.1 of the BCA. Detailed plans verifying compliance with this condition are to be provided to the Certifying Authority prior to the issue of a Construction Certificate.
- (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. FIRE SAFETY UPGRADING WORKS

- (a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, **Unit 5 of the building** must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):

- (i) Unit 5 must be separated from other adjoining sole occupancy units and internal common areas by building elements that comply with the fire resistance performance requirements set out in CP2 and CP8 of Volume 1 of the Building Code of Australia; and
 - (ii) Smoke hazard management - Part E2.
- (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.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

17. 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.

18. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

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

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

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

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

19. CONTROL OF DUST ON CONSTRUCTION SITES

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

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g.: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

20. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste classification guidelines 2014.

21. EXCAVATION AND BACKFILLING

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

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land. The excavation is to be managed by a practising structural engineer.

22. CONSTRUCTION HOURS

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

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

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

23. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

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

24. CONSTRUCTION INSPECTIONS

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

25. CERTIFICATE OF SURVEY - LEVELS

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

D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

26. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, the Principal Certifying Authority must issue an Occupation Certificate. The Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

27. STRATA PLAN UPDATED

Prior to the issue of an Occupation Certificate, the Strata Plan shall be amended to reflect the approved scheme and registered on title.

ADVISORY MATTERS

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

SYDNEY WATER REQUIREMENTS

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

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

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

DIAL BEFORE YOU DIG

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

TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

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

ALTERATIONS AND ADDITIONS ONLY

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

EXCAVATION TO BE LIMITED

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

BONDI - ROSE BAY SAND BODY

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

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

WORK OUTSIDE PROPERTY BOUNDARY

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

ABBREVIATIONS

COS	Confirm On Site
EX	Existing
EQ	Equal
FFL	Finished Floor Level
FRL	Finished Roof Level
NOM	Nominal Dimension
REM	Remainder Dimension
REV	Mirror Reverse
RL	Relative Level from survey
TBA	To Be Advised
TBC	To Be Confirmed
TYP	Typical
UNO	Unless Notes Otherwise

GENERAL NOTES:

1.

The Builder is responsible for the accurate setout of the works.
2.

It is the responsibility of those working on site to verify location, dimensions and profile of existing elements prior to commencing work.
3.

Take particular care with existing retained elements and the neighbouring properties located on the boundary wall, protect as required.
4.

It is the responsibility of those working on site to locate all services on site prior to commencing work.
5.

Undertake a Dial Before You Dig (DBYD) search prior to any work. Undertake all work/excavation in accordance with DBYD and utilities providers requirements
6.

Confirm boundary positions prior to commencing work with a boundary setout undertaken by a registered Surveyor.
7.

Refer to the Survey for all relative levels, contours, easements and boundaries.
8.

All work shall comply with the Building Code of Australia, the rules and requirements of Sydney Water and Standards Australia codes and specifications. The drainage system is to be constructed in accordance with Council's 'Stormwater and Drainage Connection Information' document dated July 2006.
9.

The drainage system is to be constructed in accordance with Council's 'Stormwater and Drainage Connection Information' document dated July 2006.
10.

Use figured dimensions only. Do not scale.
11.

If a discrepancy exists notify the owner or architect immediately.
12.

Demolition to occur in accordance with AS2601, Workcover requirements and Safework Australia requirements.
13.

The Builder is responsible for site safety and occupation health & safety.

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Waverley Council

Application No: DA-281/2019/1

Date Received: 20/01/2020

BASIX REQUIREMENTS

Refer to certificate number: A354018

Lighting

- new or altered fixtures - minimum 40% to be fluorescent, compact fluorescent or LED

Fixtures

- new or altered showerheads - flow rate no greater than 9 litres per minute, or 3 star

- new or altered toilets - flow rate no greater than 4 litres per average flush, or 3 star

- new or altered taps - flow rate no greater than 9 litres per minute, or 3 star

Insulation

* refer to Finishes Schedule and Specification for insulation requirements, notes below are minimum BASIX requirements only

- concrete slab on ground floor.

Windows and glazed doors

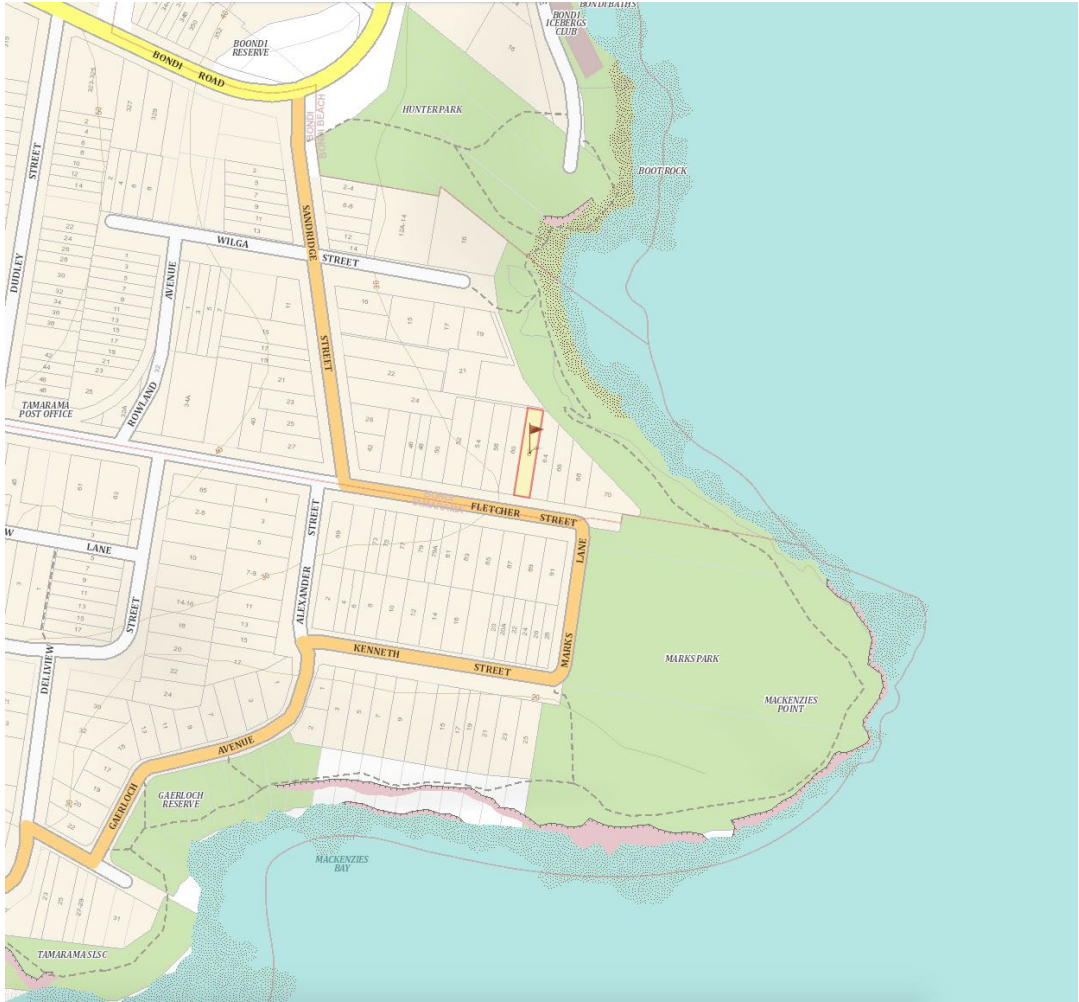
All windows timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)

W.01 no shading device

W.02 no shading device

W.03 no shading device

LOCATION PLAN



source: <https://maps.six.nsw.gov.au>

DEVELOPMENT APPLICATION

DRAWING LIST

A001 / -	Drawing list, location plan, BASIX	1:5000
A002 / -	Survey	1:200
A003 / -	Area schedule	1:100
A004 / -	Site plan	1:100
A005 / -	Existing	1:100
A006 / -	Plans	1:100
A007 / -	Sections/Elevation	1:100
A008 / -	FSR Plan	1:200



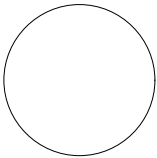
McGregor
Westlake
Architecture

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Level 5 68-72 Wentworth Avenue Surry Hills NSW 2010 Australia
T 612 9211 8151 F 612 9281 3171 studio@mwarchitects.com.au
www.mwarchitects.com.au

ISSUE	DATE	REVISION
A	14/1/20	S82a Review

Comply with relevant Authorities requirements, the Building Code of Australia and all relevant Australian Standards when executing works described in this drawing

Dimensions in millimetres. Confirm all dimensions on site prior to commencing work. Use figured dimensions only. Do not scale. If discrepancy exists notify architect. If in doubt ask.



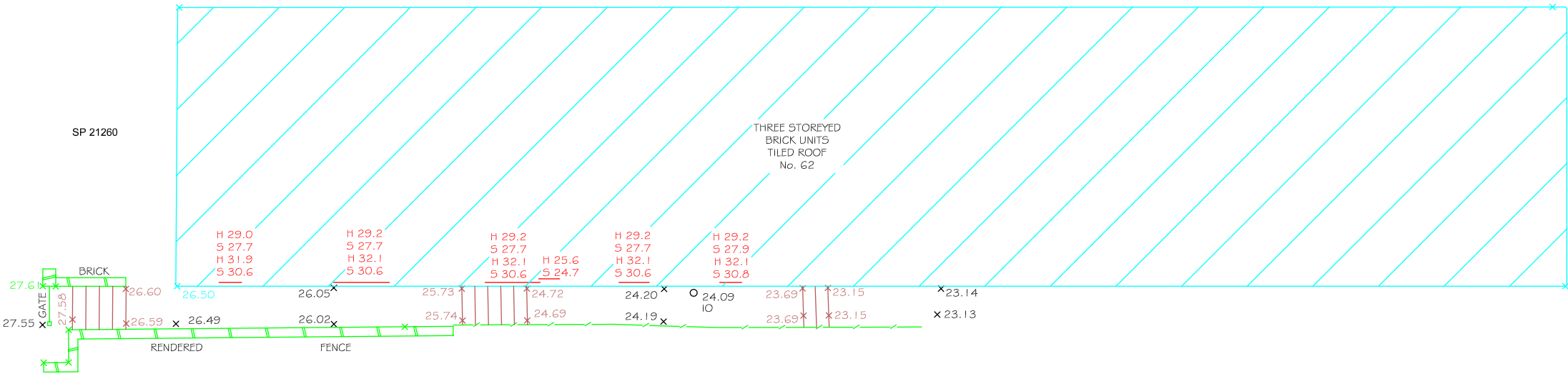
PROJECT	5/62 Fletcher Street	PROJECT #	180822
CLIENT	Nicole Swift and Peter Sidorko	DWG #	A001
DWG	Drawing list, location plan, BASIX	REVISION	
SCALE @ A3	DRAWN	CHKD	
	CN	MWA	

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Waverley Council

Application No: DA-281/2019/1

Date Received: 20/01/2020

MGA APPROX.



LEGEND

- D-DIAMETER
- S-SPREAD
- H-HEIGHT
- (IO) INSPECTION OPENING
- LIGHT POLE
- SIGN
- STORMWATER PIT
- SEWER MANHOLE
- POWER POLE
- (TG) TOP GUTTER
- SPOT HEIGHT
- (FL) FLOOR LEVEL
- (TWTF) TOP WALL/TOP FENCE
- (TRW) TOP RETAINING WALL
- VALVE
- PATH
- TOP OF KERB
- BUILDING
- FENCE
- BOUNDARY
- WALL/FENCE
- POWERLINE
- WINDOW/DOOR
- H (HEAD)
- S (SILL)

0 5
SCALE (m)

AMENDMENTS	1. NO INVESTIGATION OF UNDERGROUND SERVICES HAS BEEN MADE. RELEVANT AUTHORITIES ARE TO BE NOTIFIED PRIOR TO ANY DEVELOPMENT. SERVICES SHOWN HAVE BEEN DETERMINED FROM VISUAL EVIDENCE ONLY. 2. SERVICES SHOWN HEREON HAVE BEEN DETERMINED FROM VISUAL EVIDENCE ONLY. 3. AUSTRALIAN HEIGHT DATUM WAS ESTABLISHED FROM SSM 66889 RL27.644. 4. IT IS ADVISED TO HAVE BOUNDARIES MARKED ON THE GROUND PRIOR TO ANY CONSTRUCTION WORKS.	ESA SURVEY LAND SURVEY CONSULTANTS P.O. BOX 3018 TAMARAMA 2026 Ph (02) 9386 4161 Mob Enc: 0417 452 852 Mob Scott: 0403 532 601 email: scern56@tpg.com.au	CLIENT: NICOLE SWIFT & PETER SIDORKO C/- MCGREGOR WESTLAKE	SURVEYED: SH	SCALE: A2@1:100
			PROJECT: PARTIAL DETAIL & LEVEL SURVEY	DRAWN: SH	DATE: 21 MAY 2019
			ADDRESS: 62 FLETCHER ST BONDI	DATUM: AHD	JOB REF: 3860/19
			LGA: WAVERLEY	SITE AREA:	SHEET 1 OF 1 COPYRIGHT

RECEIVED

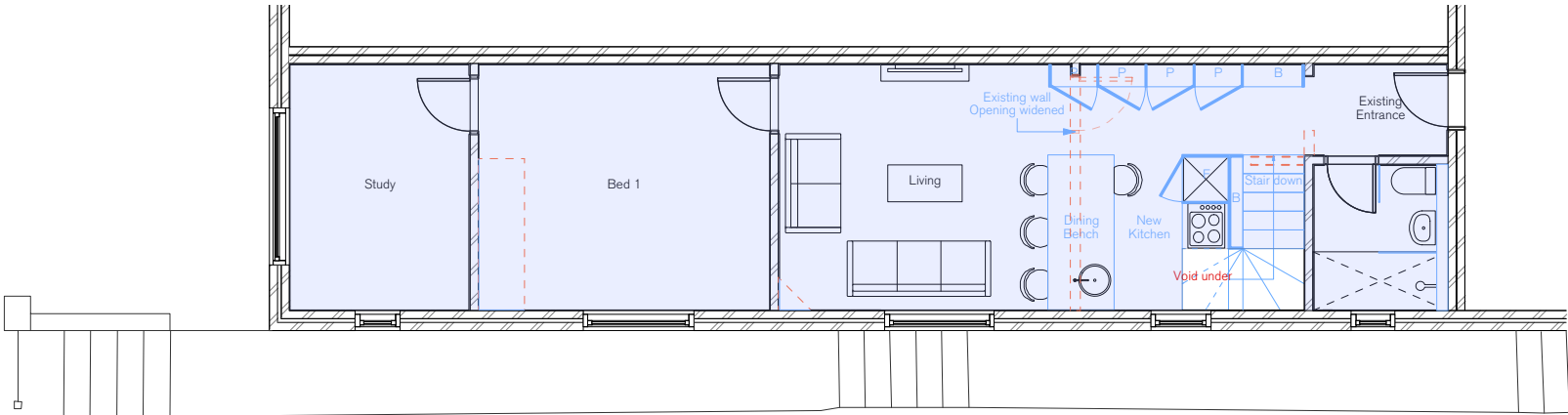
Waverley Council

Application No: DA-281/2019/1

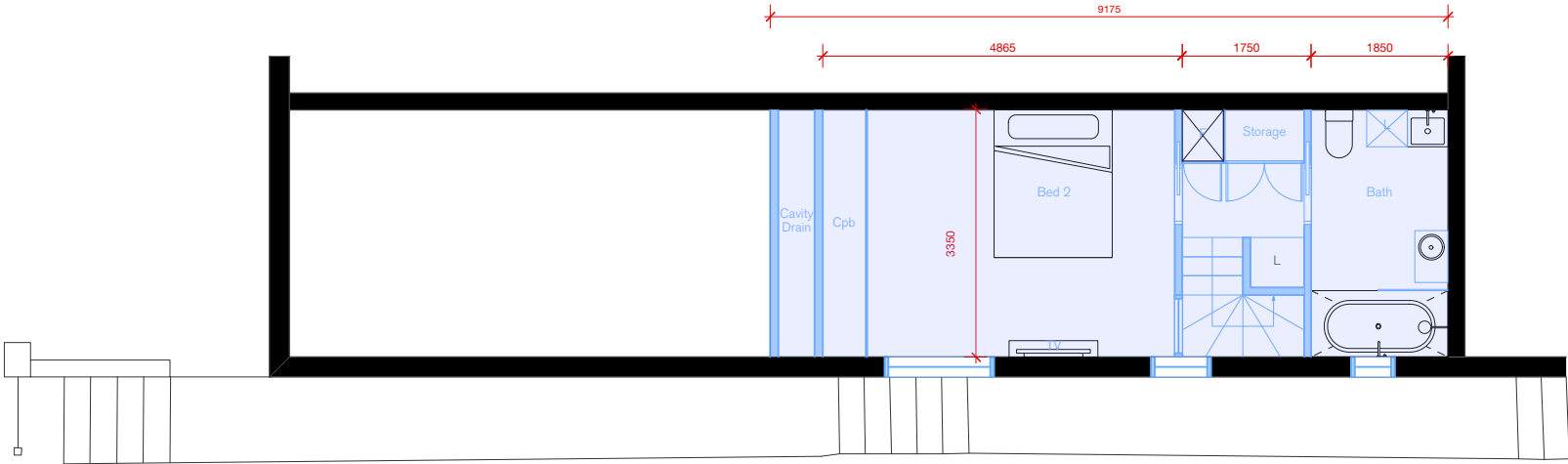
Date Received: 20/01/2020

5/62 Fletcher Street

Level	Internal Area (sq m)
Ground Floor Plan	51.4
Sublevel Floor Plan	30.7
Proposed GFA	82.1 sq m



1 Ground Floor Plan
1:100



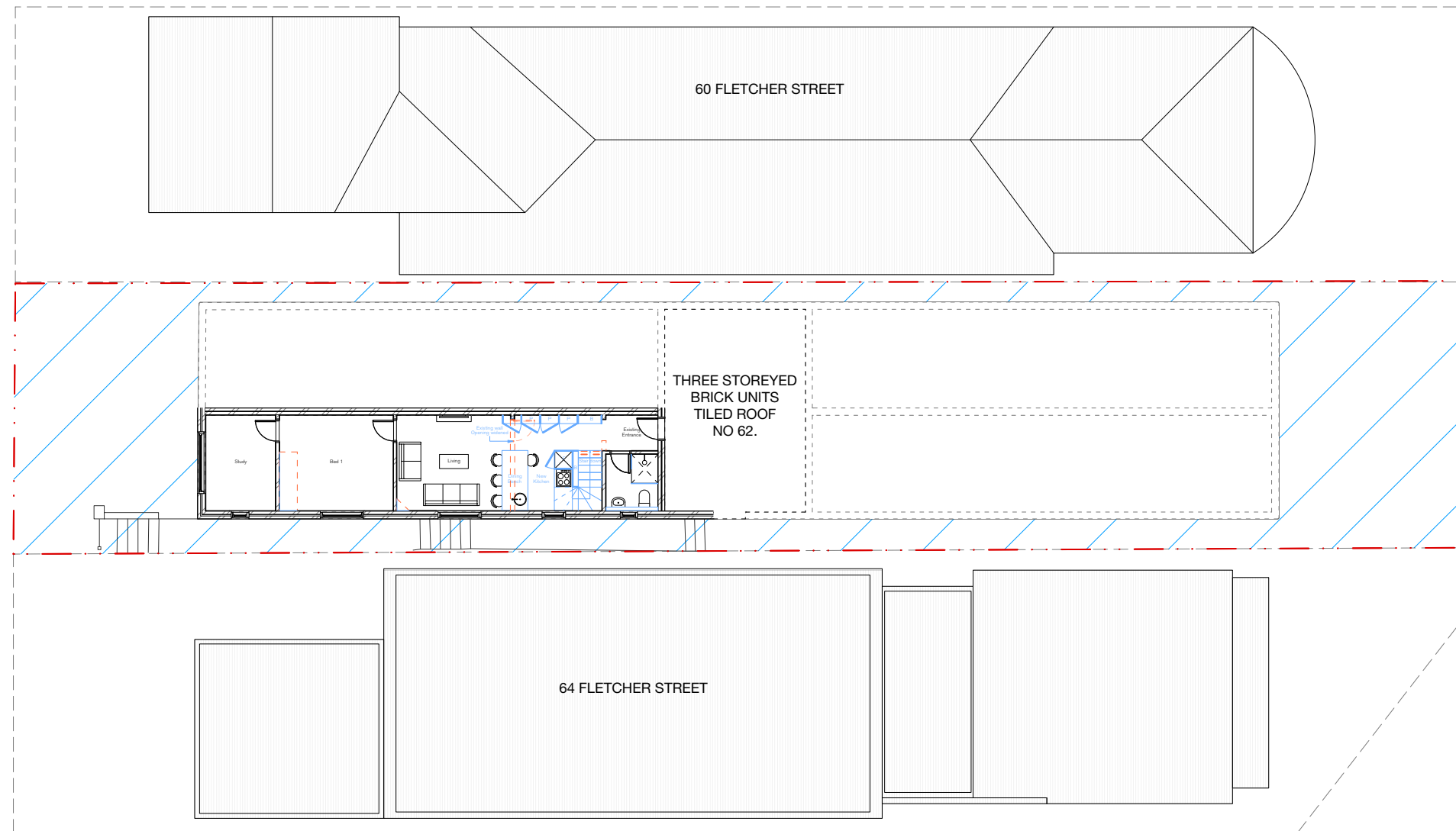
2 Sublevel Floor Plan
1:100

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Waverley Council

Application No: DA-281/2019/1

Date Received: 20/01/2020

FLETCHER STREET



BONDI BEACH →

2

Site Plan
1:200

Building envelope and site boundary indicative



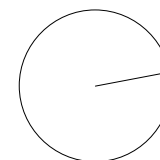
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Westlake
Architecture**

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ISSUE	DATE	REVISION
A	14/1/20	S82a Review

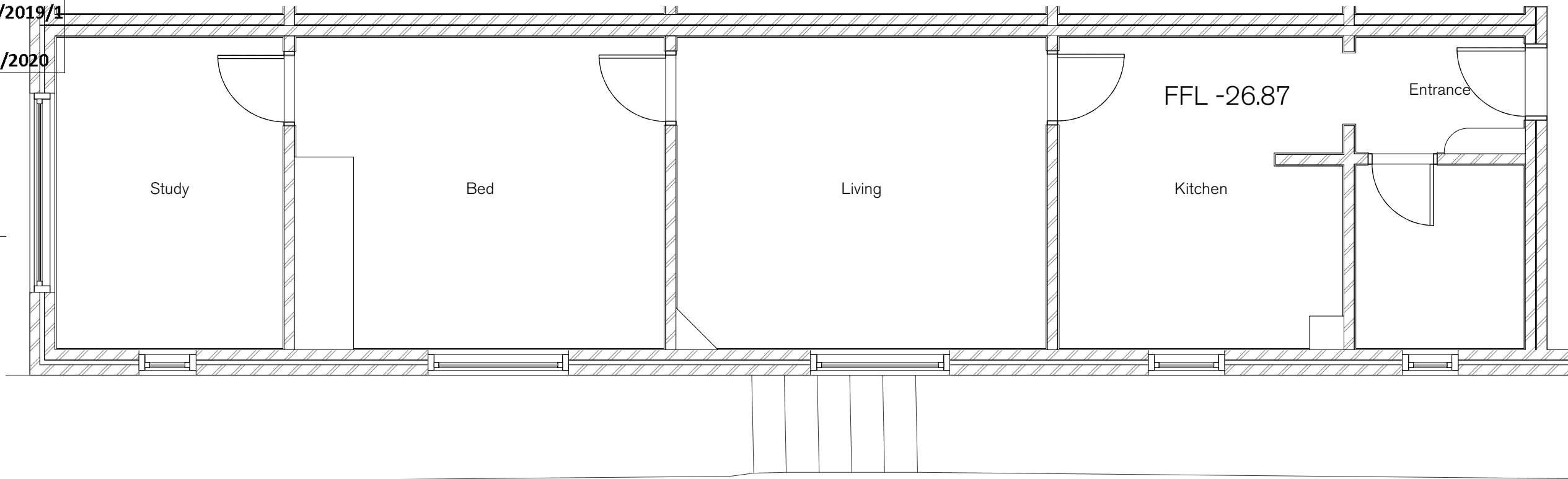
Comply with relevant Authorities requirements, the Building Code of Australia and all relevant Australian Standards when executing works described in this drawing

Dimensions in millimetres. Confirm all dimensions on site prior to commencing work. Use figured dimensions only. Do not scale. If discrepancy exists notify architect. If in doubt ask.

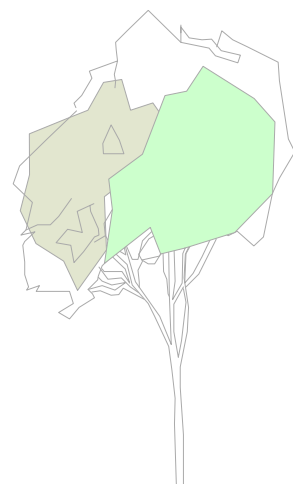


PROJECT	5/62 Fletcher Street	PROJECT #	180822
CLIENT	Nicole Swift and Peter Sidorko	DWG #	A004
DWG	Site Plan	REVISION	
SCALE @ A3	1:200	DRAWN	CN
		CHKD	PM

A
172

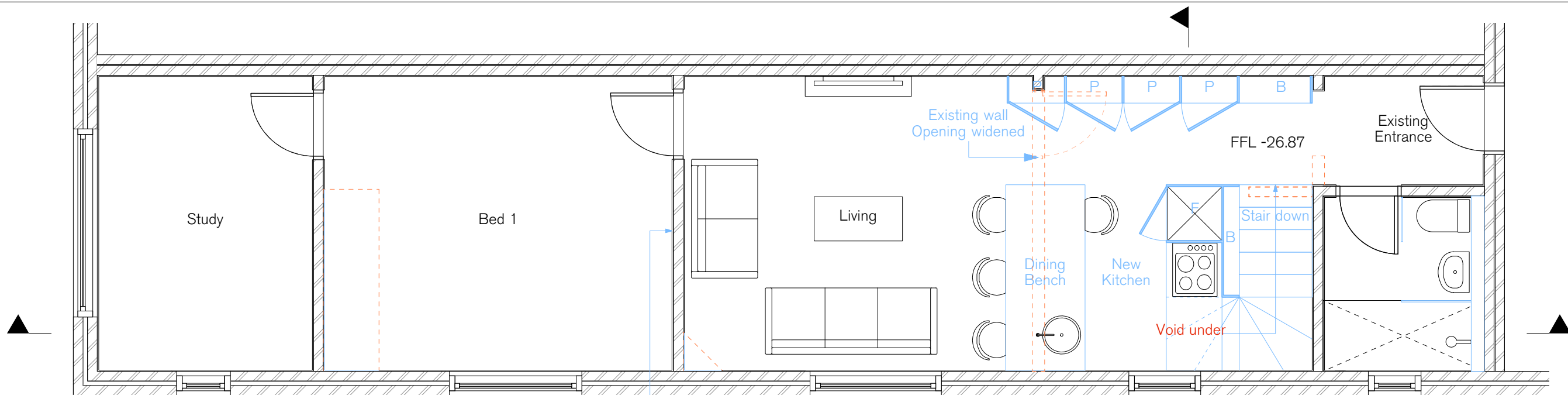


1 Existing Plan
1:50

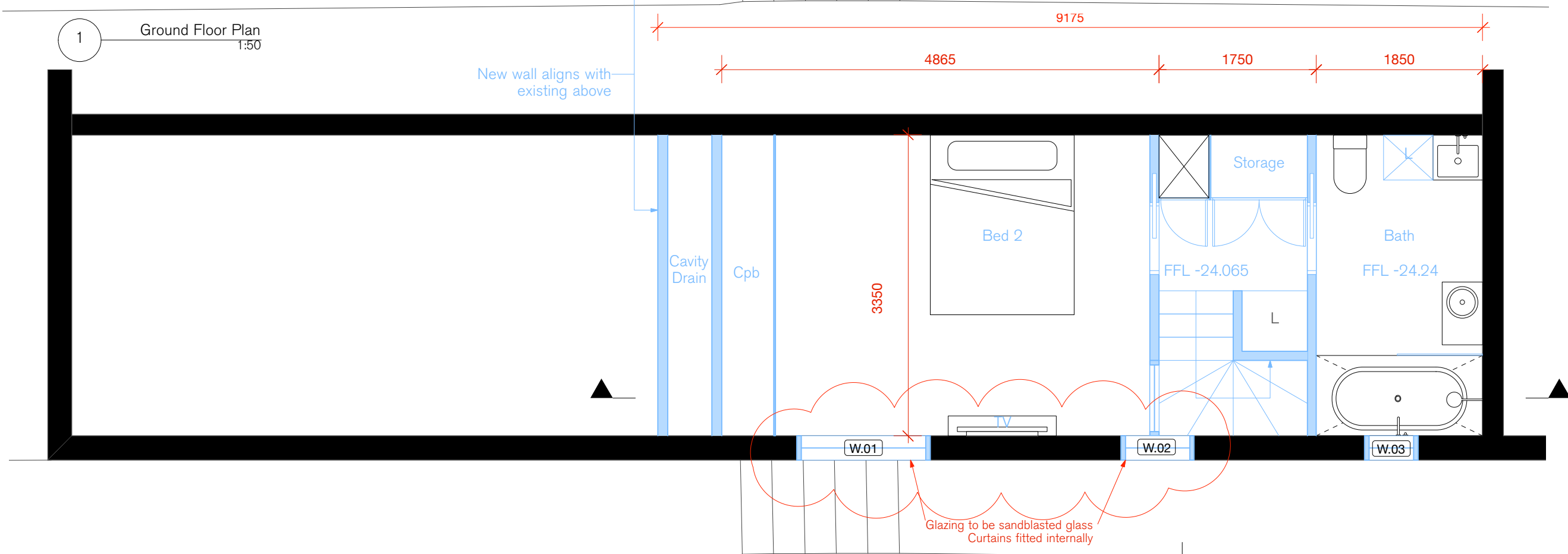


2 Existing Section
1:100

Building envelope and other apartments indicative



1 Ground Floor Plan
1:50



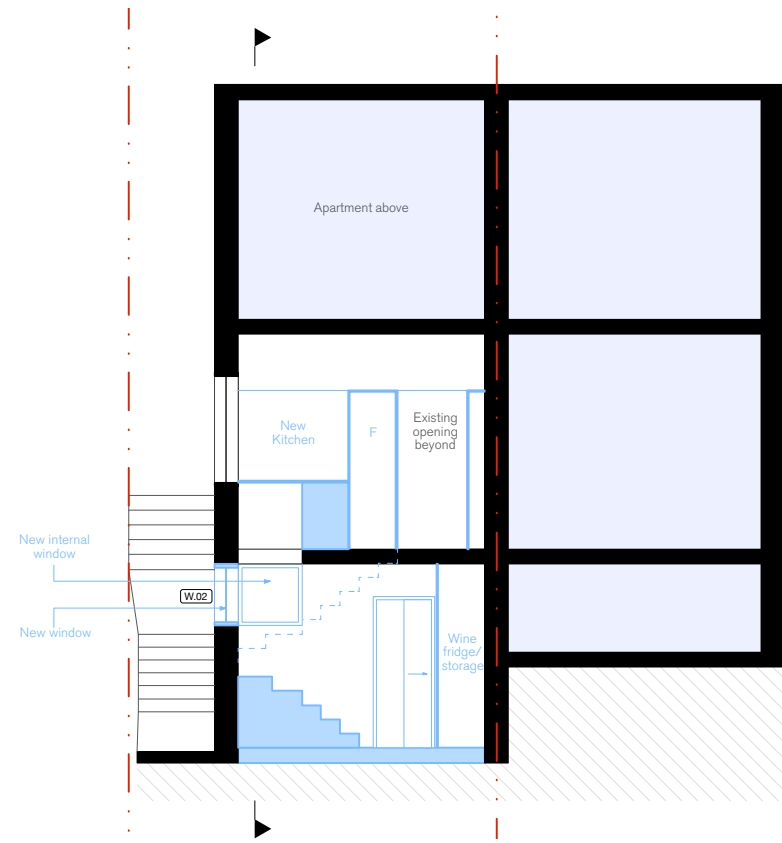
2 Sublevel Floor Plan
1:50

ISSUE	DATE	REVISION
A	14/1/20	S82a Review
B	1/4/20	Additional specification re windows added

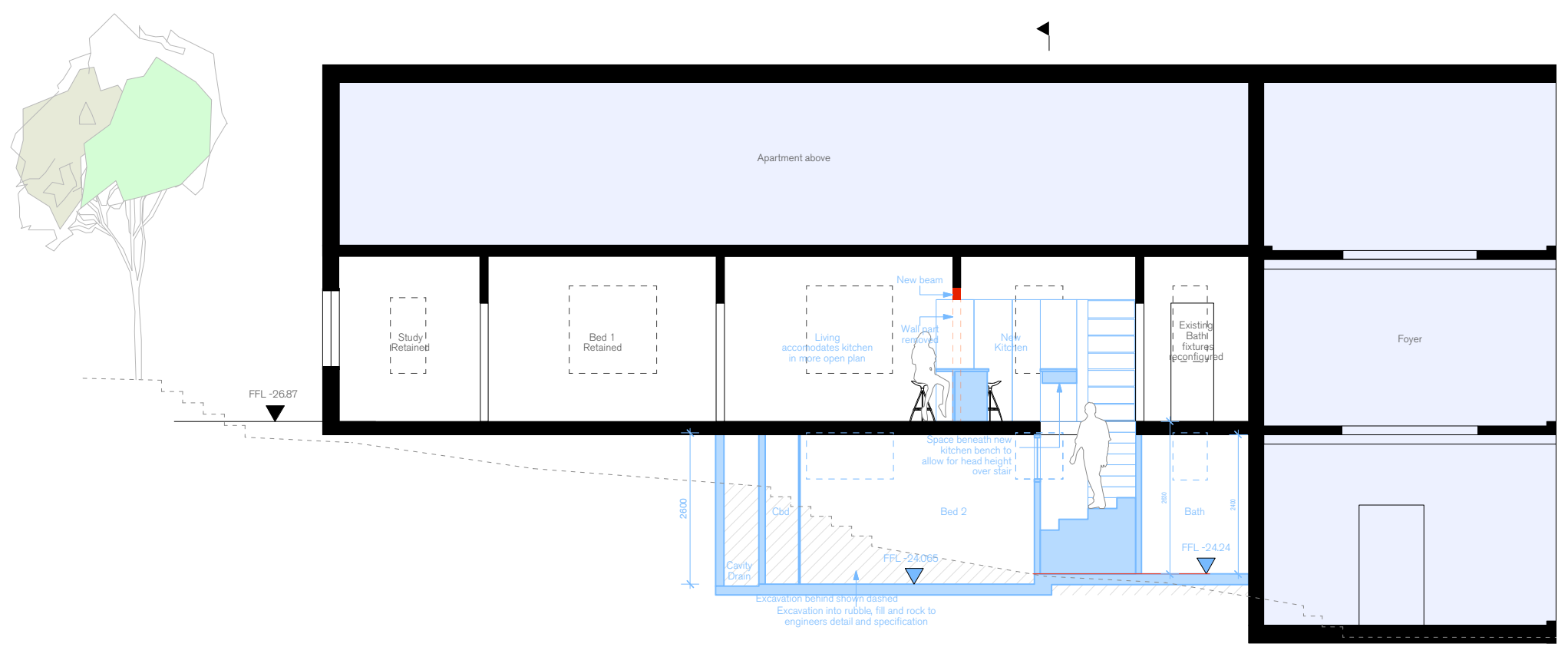
Comply with relevant Authorities requirements, the Building Code of Australia and all relevant Australian Standards when executing works described in this drawing

Dimensions in millimetres. Confirm all dimensions on site prior to commencing work. Use figured dimensions only. Do not scale. If discrepancy exists notify architect. If in doubt ask.

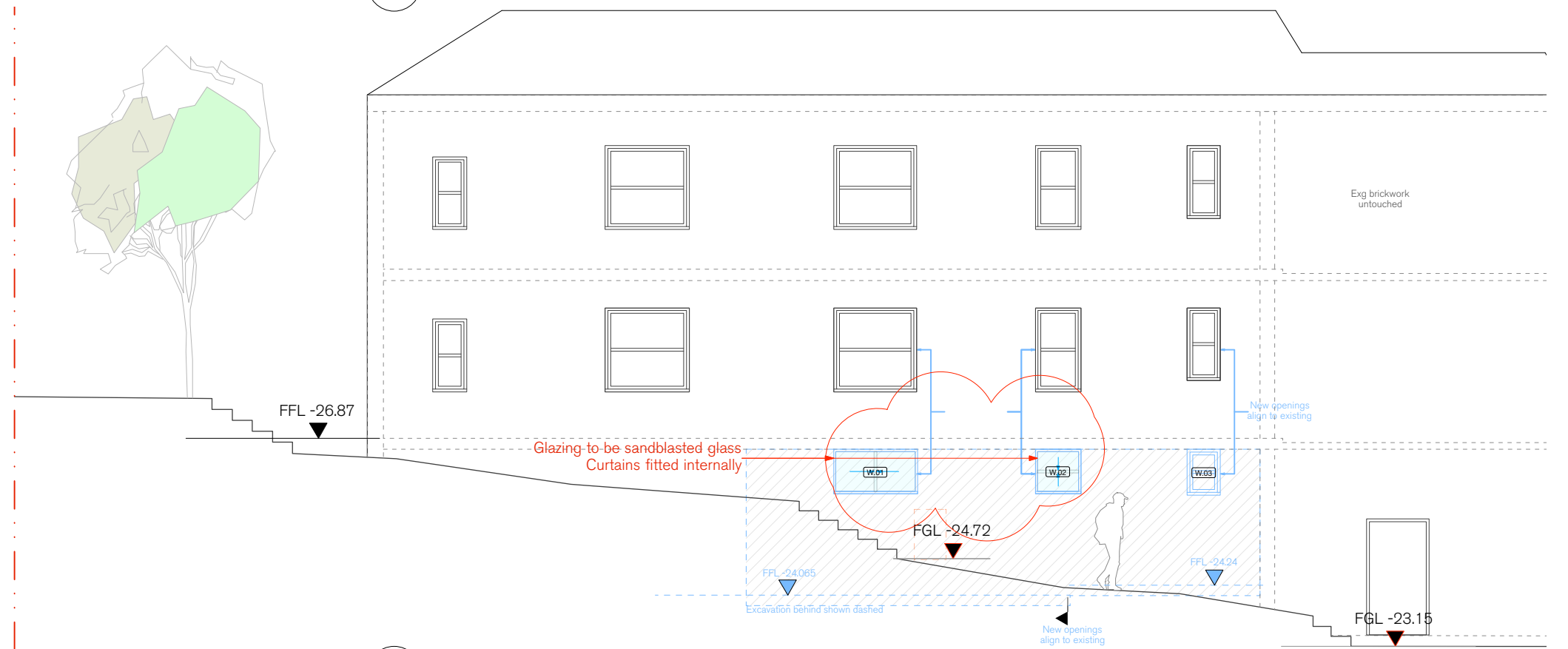
PROJECT	5/62 Fletcher Street	PROJECT #	180822
CLIENT	Nicole Swift and Peter Sidorko	DWG #	A006
DWG	Plan - Ground, sublevel	REVISION	
SCALE @ A3	1:50	DRAWN	CN
CHKD	PM		



1 Short Section
1:100



2 Long Section
1:100



3 East Elevation
1:100

Building envelope and other apartments indicative

ISSUE	DATE	REVISION
A	14/1/20	S82a Review
B	1/4/20	Additional specification re windows added

Comply with relevant Authorities requirements, the Building Code of Australia and all relevant Australian Standards when executing works described in this drawing

Dimensions in millimetres. Confirm all dimensions on site prior to commencing work. Use figured dimensions only. Do not scale. If discrepancy exists notify architect.

PROJECT	5/62 Fletcher Street	PROJECT #	180822
CLIENT	Nicole Swift and Peter Sidorko	DWG #	A00
DWG	Sections and Elevation	REVISION	175
SCALE @ A3	1:100	DRAWN	.JH
		CHKD	PM

RECEIVED
Waverley Council
Application No: DA-281/2019/1
Date Received: 20/01/2020

FLETCHER STREET



2 Site Plan
1:200

SITE AREA 469.52 sqm

GFA EXISTING TOTAL: 420 sqm GFA PROPOSED TOTAL: 449.6 sqm

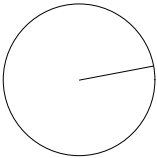
FSR : 0.89:1 PROPOSED FSR : 0.96:1

Building envelope and site boundary indicatave

ISSUE	DATE	REVISION
A	14/1/20	S82a Review

Comply with relevant Authorities requirements, the Building Code of Australia and all relevant Australian Standards when executing works described in this drawing

Dimensions in millimetres. Confirm all dimensions on site prior to commencing work. Use figured dimensions only. Do not scale. If discrepancy exists notify architect. If in doubt ask.



PROJECT	5/62 Fletcher Street	PROJECT #	180822
CLIENT	Nicole Swift and Peter Sidorko	DWG #	A008
DWG	FSR Plan	REVISION	
SCALE @ A3	1:200	DRAWN	CN
		CHKD	PM



Report to the Waverley Local Planning Panel

Application number	DA-382/2019
Site address	310 Bondi Road, BONDI
Proposal	Alterations and additions to the existing heritage listed dwelling and construction of a residential flat building to the rear facing Cutler Street.
Date of lodgement	29 November 2019
Owner	Mrs G A Thorpe
Applicant	Bondi Group Pty Ltd (c/o Aleksandar Projects)
Submissions	11
Cost of works	\$2,970,000
Issues	Height, heritage, amenity impacts
Recommendation	That the application be APPROVED subject to conditions

Site Map



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 23 January 2020 and 8 May 2020.

The site is identified as Lot 5 in DP 3635, known as 310 Bondi Road, BONDI. It is located on the northern side of Bondi Road to the east of the intersection with Denham Street and has a secondary frontage to Cutler Street at the rear.

The site is rectangular in shape with a 15.24m frontage to Bondi Road (south), a 15.24m secondary frontage to Cutler Street (north) and side (east and west) boundaries measuring 45.72m. The site has an area of 696.77sqm. The site falls from the front to rear by 4 metres.

The site is occupied by a detached single dwelling fronting Bondi Road, with vehicular access provided at the rear from Cutler Street to a detached garage. The site is listed as heritage item (I24) *Federation House* under Schedule 5 of WLEP 2012.

On either side (to the east and west) of the subject site are residential flat buildings, ranging from 3 to 5 storeys. To the south, across Bondi Road are 3-4 storey residential buildings, and the 2-3 storey 'Royal Hotel' on the corner of Denham Street. To the north, across Cutler Street is a mix of residential development including single and double storey dwellings and residential flat buildings ranging in height from 4 storeys to 11 storeys.



Figure 1: Subject site frontage on Bondi Road



Figure 2: Neighbouring site to the east at 312 Bondi Road viewed from Bondi Road



Figure 2: Development directly opposite subject site on Bondi Road



Figure 4: Site viewed from rear along Cutler Street



Figure 5: Site and neighbouring site to the east at 312 Bondi Road viewed from Cutler Street



Figure 6: Neighbouring site to the west at 308 Bondi Road viewed from Cutler Street



Figure 7: Looking east along Cutler Street from the subject site

1.2 Relevant History

There are no relevant development applications to the subject site.

After a preliminary assessment and collation of the relevant referrals, the subject application was deferred to address the following (summarised):

- General apartment design
- Acoustic and visual privacy measures
- Materials and finishes of the top two floors and sandstone cladded wall
- Landscaping to include an additional tree and relocate the existing frangipani tree on site
- A detailed Geotechnical Report requested
- A Schedule of Restoration/Heritage Works requested
- Solar panels should be relocated from the existing roof to the new apartment building

Amended plans and documentation were received on 24 April 2020. The amendments did not result in any new or additional impacts so were not required to be renotified to surrounding properties. The amended plans form the subject of the assessment within this report.

1.3 Proposal

The application seeks consent for alterations and additions to the existing residential dwelling and construction of a residential flat building on site. The proposal results in a total of 5 dwellings (3 x 3 bedroom and 2 x 4 bedroom) Specifically, the proposed works include:

Demolition works:

- Demolition of the existing garage and shed at the rear of the site
- Demolition of the later 1960s addition at the rear of existing dwelling

Alterations to existing house for use as 3-bedroom dwelling:

- Provision of disabled access
- Tuck pointing to brickwork and repair/replacement of external features such as guttering
- Replacement of an external door with new window
- Removal of internal wall for provision of a new bathroom
- Addition to accommodate a kitchen at the rear
- Landscaping to provide private open space at the front and rear
- Use of existing dwelling as a 3 bedroom dwelling.

Construction of new residential flat building comprising:

- Basement level accommodating 8 car parking spaces, 1 visitor parking space, 1 motorcycle space, 5 bicycle parking spaces, services/equipment and storage
- Four levels of residential units, each level containing only 1 unit
- Levels 1 and 2 each contain a 4 bedroom apartment
- Levels 3 and 4 each contain a 3 bedroom apartment

The new residential flat building consists of painted cement render/masonry finish in light grey for the lower levels, with cladding in 'metallic champagne' for the upper two levels and the balconies include glass balustrades. The boundary walls are painted cement render in white. A sandstone cladded wall is proposed for the basement car park entrance on Cutler Street.

The dwelling to the front of the site abuts the entry, stairwell and circulation space of the residential flat building to the rear so that visually, the two buildings appear separate.

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 and NatHERs 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 and NatHERs 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 65 Design Quality of Residential Apartment Development

The application was referred to the Waverley Design Excellence Panel on 19 February 2020. The Panel's comment of the proposed development with regard to the nine design quality principles under SEPP 65 and a planning response to each comment is set out in **Table 1** below. These comments informed the deferral of the application and subsequently the amended documentation addresses many of these initial issues.

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

Principle
Principle 1: Context and Neighbourhood <ul style="list-style-type: none"> The Panel notes that an upgrade of the existing heritage frontage has been well-presented, and the overall built form will be complementary in this context. <p>Planning Comment: Noted. A Schedule of Restoration/Heritage Works was requested and provided by the applicant which will form part of the conditions of consent to ensure that the upgrade works to the heritage building are carried out.</p>
Principle 2: Bulk and Scale <ul style="list-style-type: none"> The Panel supports the separation between the heritage house and new building and the stepping down of scale towards Cutler Street at the rear.

Principle
Planning Comment: Noted.
Principle 3: Density
<ul style="list-style-type: none"> <i>The Panel supports this proposal given its proximity to local services and public transport while preserving an existing heritage building. However, this does not take into consideration the requirements of Clause 4.6 of the LEP for height variation. This is a separate matter to be considered by Council's Planners.</i> <p>Planning Comment: Noted. An assessment against WLEP 2012 Clause 4.6 and the objectives of the height development standard and the R3 Medium Density Zone is provided in this assessment report.</p>
Principle 4: Sustainability
<ul style="list-style-type: none"> <i>The Panel noted solar panels from the existing building should be relocated and perhaps extended on the new building roof.</i> <i>Provision for ceiling fans to all bedrooms and living areas was recommended by the Panel.</i> <p>Planning Comment: Ceiling fans are provided in the bedrooms and living areas of each dwelling. The amended plans include an annotation on the roof of the proposed residential flat building stating "existing solar panels to be related here with more added if needed".</p>
Principle 5: Landscape
<ul style="list-style-type: none"> <i>The Panel suggested that the plant species be checked to ensure they are appropriate to the location in terms of the environmental conditions to ensure that screen planting thrives based on proximity to the coast and the effect of salt laden winds on vegetations growth and long-term performance.</i> <i>The planters on apartments 2 and 3 should be wider as per the ADG guidelines</i> <i>The Panel recommended the relocation of the frangipani plant from the back yard to the front yard of the heritage house based on advice from a suitably qualified arborist.</i> <i>It was suggested that the applicant review the possibility of re-use of the sandstone blocks associated with retaining walls in Cutler Street and refer to Council's policy on this practice.</i> <p>Planning Comment: The application was referred to Council' Tree Management Officer who supports the Arborist Report and Landscape Plan as proposed. Notwithstanding this, the amended plans include a notation relating to relocating the Frangipani Tree from the rear yard to the front yard of the heritage dwelling. The Landscape Plans also include a notation about reuse of the sandstone on site and a condition is also recommended for any sandstone cladding (where the blocks cannot be reused) shall be minimum 30mm thickness for longevity and maintenance.</p>
Principle 6: Amenity
<ul style="list-style-type: none"> <i>The Panel noted some of the wet areas did not align over the floors and raised concerns about adequate acoustic and/or bulkhead provisions.</i> <i>The private open space at the rear of the heritage house is directly under the bedrooms to units on floors above, and the Panel recommended review of treatment to windows and surrounding walls to ensure adequate acoustic privacy is achieved.</i> <p>Planning Comment: The amended plans include acoustic treatment to both the bulkhead plumbing for wet areas and the bedroom windows facing the private open space of the heritage house to ensure adequate acoustic privacy is achieved.</p>

Principle
<p>Principle 7: Safety</p> <ul style="list-style-type: none"> <i>The Panel recommends the front gate setback could be closer to the front fence to address CPTED concerns</i> <i>The Panel recommends the configuration of the lift core be adjusted to provide better separation from the entrance door to apartment 1, and also provide a separate lobby space to upper level apartment to achieve privacy and security when entering the apartment.</i> <p>Planning Comment: The amended plans include airlock/landings for each of the four apartments within the new building to address the Panels concerns about configuration. The Panel's comment regarding the front gate setback is noted, however not shared by the assessing officer. The entry path is 2m wide and adjoins the single storey portion of the development. The proposal is considered to adequately address CPTED concerns.</p>
<p>Principle 8: Housing Diversity and Social Interaction</p> <ul style="list-style-type: none"> <i>The unit mix is considered appropriate in this context</i> <p>Planning Comment: Noted.</p>
<p>Principle 9: Aesthetics</p> <ul style="list-style-type: none"> <i>The Panel generally supports the façade expression and material selection</i> <i>The Panel recommends that both the top 2 floor that are visible from Bondi Road should be clad in the warm coloured metal cladding material that is currently proposed on the top floor only.</i> <i>The Panel strongly supported the sandstone cladding to the base of the building in Cutler Street and encouraged the possible re-use of sandstone demolished from the site.</i> <p>Planning Comment: The amended plans extend the warm coloured metal cladding down the top 2 floors where the building is visible from Bondi Road to address the Panel's comments. The amended plans also note that the Sandstone will be a minimum 30mm thick on the Cutler Street façade, and the Landscape plans note that demolished sandstone will be reused within the site.</p>

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

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

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

If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. 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		
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 subject site has the advantage of dual frontages to both Bondi Road to the south and Cutler Street to the north. The building has been designed to orientate to both frontages. Private open spaces are orientated to the north to take advantage of solar access.
3C Public Domain Interface		
<ul style="list-style-type: none"> Transition between private and public domain is achieved without compromised safety and security 	Yes	The proposal provides a transition between the private and public domain
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, but considered acceptable	There is no provision of communal open space on site. This is considered acceptable because there are only 5 dwellings proposed, and each is provided with large areas of private open space.
3E Deep Soil Zones		
<ul style="list-style-type: none"> 7% of site area and 3m minimum dimension 	Yes	8% deep soil with minimum dimensions of 3m are provided.
3F Visual privacy		
<ul style="list-style-type: none"> Min separation distances from buildings to side and rear boundaries: Up to 12m (4 storey) – 6m habitable & 3m non-habitable 	No, but considered acceptable	<p>A 3m separation distance is provided from each ensuite bathroom window on the western elevation to the boundary, which complies.</p> <p>A minimum of 2m separation distance is provided between windows on the eastern elevation and the boundary, which does not comply. However, the objectives of Part 3F are met given these windows are secondary windows for natural light only. The windows that are 2m from the boundary are fixed and translucent which means they do not give rise to privacy impacts.</p> <p>There is one window to bedroom 2 within Apartment one, which has a separation distance of 3m to the boundary. This window is operable as it is the only window to the bedroom. The 3m separation distance is acceptable as it is located</p>

Design Criteria	Compliance	Comment
		on the ground floor and adequate landscaping and the boundary fence will ensure there are no visual privacy impacts.
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 between 9am-3pm mid-winter A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter. 	Yes	<ul style="list-style-type: none"> 100% of units receive at least 2 hours mid winter. All units are dual aspect and as such all receive some direct sunlight mid-winter. <p>The proposal is consistent with the remaining objectives of this part of the ADG ensuring that daylight access is satisfactory and incorporating shading in the warmer months.</p>
4B Natural ventilation		
<ul style="list-style-type: none"> All habitable rooms are naturally ventilated Number of units with natural cross ventilation is maximised: <ul style="list-style-type: none"> At least 60% of units naturally ventilated 	Yes	<ul style="list-style-type: none"> All habitable rooms are provided with at least one window for natural ventilation. All units have dual aspects. In this regard, 100% of the units can be 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		
<p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"> <i>Studio = 35 m²</i> <i>1 Bed = 50 m²</i> <i>2 Bed = 70 m²</i> <i>3 Bed = 90 m²</i> <i>Add 5m² for each additional bathroom (above 1)</i> <i>Add 12m² for each additional bedroom</i> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p>	Yes	<p>All units have internal areas in excess of the minimum ADG requirements. In this regard, the proposed units sizes and layout are acceptable.</p> <p>The Applicant states the proposal achieves compliance with the minimum glazed area to each habitable room.</p> <p>All bedrooms meet the minimum requirements in terms of dimensions and area.</p> <p>All kitchens are separate to the circulation spaces.</p> <p>The proposal is consistent with the objectives of this part of the ADG.</p>
4E Private open space and balconies		

Design Criteria	Compliance	Comment
<p>All apartments provide primary balcony as follows:</p> <ul style="list-style-type: none"> • 1-bed – 8m² & 2m depth • 2-bed - 10m² & 2m depth • 3+bed - 12m² & 2.4m depth • Ground level, min 15m² & 3m depth 	Yes / No	<p>100% of the units are provided with a balcony or courtyard accessed from the main living areas that meets the minimum requirements of the ADG in terms of area and depth.</p> <p>The balconies and courtyards are accessed from the main living area and face north.</p> <p>The design of the balconies and courtyards is integrated into, and contributes to, the architectural form and detail of the building. The finishes of the balconies is consistent with the contemporary palette of materials in the building overall. Screens or solid side walls are provided to enhance privacy.</p>
4F Common circulation and spaces		
<ul style="list-style-type: none"> • Max of 8 units accessed off a circulation core on a single level 	Yes	A total of 1 apartment per level.
4G Storage		
<p>In addition to kitchens, bathrooms and bedrooms, the following is provided:</p> <ul style="list-style-type: none"> • 1-bed – 6m³ • 2-bed – 8m³ • 3+bed – 10m³ 	Yes	The proposal provides separate storage within each apartment and a storage area within the basement. The storage provided meets the requirements and objectives of the ADG. Condition imposed to ensure compliance in this respect.

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 3: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal meets the aims of the Plan
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 Zone	Yes	The proposal is defined as a residential flat building and is permissible in the R3 zone.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> • 12.5m 	No	The proposed building has a maximum height of 13.59m in the north-east corner. This is a

Provision	Compliance	Comment
		<p>result of a portion of the existing ground level being excavated in this location.</p> <p>The proposal exceeds the maximum building height development standard by 1.09m or 8.7%.</p>
4.4 Floor space ratio <ul style="list-style-type: none"> 0.9:1 (627.1sqm) 	Yes	The proposed GFA is 627sqm, which results in a total FSR of 0.899:1, which complies.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	The site is listed as heritage item (I24) <i>Federation House</i> under Schedule 5 of WLEP 2012. A Heritage Impact Statement prepared by Urbis has been submitted supporting the development application. During assessment, a Schedule of Conservation Works by Weir Phillips was submitted. It is recommended that a condition be included requiring works to the heritage item be carried out in accordance with the Schedule of Conservation Works. This is discussed in further detail in the Referrals section below.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The site is located in Class 5 Acid Sulfate Soil. The works are not likely to lower the water table.
6.2 Earthworks	Yes	The proposal includes excavation for the basement level. The application is accompanied by a Geotechnical report.

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

Clause 4.6 Exceptions to Development Standards

The application seeks to vary the height of buildings development standard in Clause 4.3. The proposal has an overall building height of 13.59m, which exceeds the height of buildings development standard of 12.5m by 1.09m or 8.7%.

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.

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:
 - (i) *The environmental amenity of the neighbouring properties is preserved to the same degree as a numerically compliant building in terms of visual bulk, overshadowing, privacy and views.*
 - (ii) *In relation to the preservation of views, the only view affection that arises from this development is from a completely compliant portion of the building, noting the overall development also complies with the Floor Space Ratio Development standard.*
 - (iii) *In relation to overshadowing, there is no additional impact upon any adjoining properties related to the technical height breach. The impacts arise from compliant portions of the building and are in no way attributable to, or exacerbated by, the technical height breach.*
 - (iv) *Despite the technical non-compliance with the height standard, the proposal provides a building that is compatible with the height, bulk and scale of the desired future character of the locality and consistent with recent approvals along Bondi Road that respond to the steep fall of the land towards the north. This characterisation is consistent with that contained within the Land and Environment Court Judgement as per *Moskovich v Waverley Council* [2016] NSWLEC 1015 at 334 Bondi Road Bondi, 9 properties to the east of the subject site.*
 - (v) *The technical breach will not be discernible once the development is completed as it will present as a building that sits below the 12.5m height limit from finished levels that genuinely represent the natural ground levels of the site prior to the excavation and terracing.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) *The variation is caused by a technical interpretation of the starting point measuring building height from the base of a subterranean concrete slab that artificially exaggerates the variation for a small wedge of the building that would otherwise comply with the standard, noting a substantive proportion of the building is below the maximum height standard;*
 - (ii) *The set back uppermost level is a visually recessive element, setback significantly more than the controls anticipate from the front boundary (20 metres) and rear boundary (10 metres);*
 - (iii) *For a substantial proportion of the length of the site, the development is 2-3 storeys below the maximum height limit, offering visual relief from any perceived visual bulk;*

- (iv) *The development is compliant with building envelope controls outlined in the DCP that dictate the future desired character, particularly with regards to the staggered design at the rear of the building and respect for the predominant rear building line of adjoining and nearby properties;*
- (v) *The scale of the building is appropriately 4-storeys as expected with a 12.5m height limit area and presents as 3-storeys when viewed from its principal address on Bondi Road;*
- (vi) *The building reinforces an appropriate 3 to 4 storey building envelope for this section of Bondi Road, being compatible with the surrounding buildings that are of a similar or excessively larger scale;*
- (vii) *The differentiation in materials and finishes to the uppermost level, as well as the technical nature of the variation, reduces any perceived visual bulk and scale;*
- (viii) *The design satisfies the new objective inserted into the EP&A Act 1979 which seeks to promote good design and amenity of the built environment; and*
- (ix) *The proposal is consistent with the objectives of the height development standard and objectives of 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 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 as 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.

The written request has outlined the minimum consequences of the non-compliance upon the environmental amenity of surrounding properties and the streetscape and has sufficiently argued that these consequences are reasonable. The written request has also highlighted that the extent of the non-compliance is minimal and inconsequential and provides a convincing argument that street compliance would be burdensome on the proposal achieving orderly and economic use of the site to accommodate additional housing stock in the locality, particularly as the proposal complies with the maximum FSR development standard. 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.

Clause 2.1 – Land use zone – R3 Medium Density Residential Zone

- *To provide for the housing needs of the community within a medium density residential environment*
- *To provide a variety of housing types within a medium density residential environment*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*

The proposal is consistent with the relevant objectives of the R3 zoning in that it provides for the housing needs of the community with a variety of housing types within a medium density residential environment. The proposed development will provide 5 residential dwellings, one of which is within a heritage listed Federation House. The remaining 4 apartments are large 3 and 4 bedroom offerings. The provision of one apartment per floor is unique in the Waverley area.

Clause 4.3 Height of Buildings

Note: Objective (b) and (c) do not apply as they relate only to land in Bondi Junction centre.

(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 majority of the proposed development is contained within the height development standard for the site. The exception to this is a small portion of the building where the site has previously been excavated.

In assessing the breach, consideration needs to be given as to whether the overall height of the development preserves the environmental amenity of neighbouring properties. Shadow diagrams and view loss analysis submitted with the application demonstrate that where there is an impact on adjoining properties, is a result of the compliant portion of the development. Notwithstanding this, it

is noted that the overshadowing and view loss impacts on adjoining properties is within the ADG design criteria and WDCP 2012 Part C4 controls, so the development is considered acceptable. The height non-compliance is located in an area of the building which will not give rise to unreasonable additional overshadowing or impact upon amenity in terms of privacy or view loss.

As discussed under objective (d) below, to require strict compliance with the development standard will not give rise to improved amenity for surrounding properties and will result in a building with a poor presentation to the street due to the need for a step down in the north east corner.

The proposed development is considered to be consistent with objective (a) of the height development standard.

(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 height non-compliance is due to a portion of the site which has previously been excavated in the north-east corner. If the height was measured from the 'natural ground level' rather than 'existing ground level' then the development would be fully compliant with the maximum building height control of 12.5m. This is demonstrated in the excerpt from the applicant's Clause 4.6 written request showing an overlay of the 12.5m height plane across the site, demonstrating the portion of the building that breaches the height standard. The applicant's planner states "it is clear that the technical breach results from an unnatural 'cut-out' in the site's topography which relates to the existing underground slab of the workshop".



Figure 8: Excerpt from the applicant's Clause 4.6 written request showing a 12.5m height plane across the site, demonstrating the portion of the building that breaches the height standard.

Conclusion

For the reasons provided above, the requested variation to the height 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 height development standard and the R3 Medium Density Residential Zone.

2.1.5 Waverley Development Control Plan 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
<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 <p>1.4.1.2 – Residential</p> <ul style="list-style-type: none"> Bulky waste storage area To be provided and bulky problem waste area with rates. 	Yes, condition recommended	<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> <p>Council's Waste and Recycling Officer has reviewed the proposal and the waste management plan submitted with the proposal and notes that the applicant has understated the number of bins required for the proposed development. This matter can be addressed by way of a condition of consent.</p>
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.
3. Landscaping and Biodiversity	Yes	<p>The landscaping plan has been reviewed and is considered acceptable, maintaining as much existing vegetation as possible and is cohesive with the site and streetscape.</p> <p>The existing natural features (sandstone wall) is to be reused on site.</p>
5. Tree preservation	Yes	The application includes removal of trees and relocation of a frangipani tree from the rear yard to the front of the heritage dwelling. The Landscape Plan and Arborist report has been reviewed by Council's Tree Management Officer, who supports the proposal subject to standard conditions.
6. Stormwater	Yes	The stormwater plans submitted with the application are satisfactory.

Development Control	Compliance	Comment
7. Accessibility and adaptability	Yes	<p>The application proposes less than 10 units, so the apartments are not required to comply with the provisions of an adaptable unit as specified in accordance with the <i>Australian Standards AS 4299-1995 Adaptable Housing</i>. Notwithstanding this, the applicant has provided an Access Assessment Report that concludes the building will comply with the requirements.</p> <p>All residential units (including the existing heritage dwelling at the front) will be made accessible.</p>
8. Transport 8.1 – Streetscape 8.2 – On Site Parking Zone 2 <ul style="list-style-type: none"> • Vehicle Access • Car parking Provision Rates • Motorcycle Parking • Bike Parking 	Yes Yes	<p>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.</p> <p>The car parking proposed compliments the design of the building and streetscape, is behind the front building line, does not reduce the number of on street spaces or exceed the maximum rate of parking permitted in the parking zone.</p>
9. Heritage	Yes	<p>The proposed development incorporates a Heritage item and follows the guidance of this part of the DCP. Council's Heritage Architect has reviewed the proposal and raised no issues with the proposal. A schedule of conservation works for the retained heritage dwelling has been submitted and form part of the conditions of consent.</p>
10. Safety	Yes	<p>The proposal does not contravene the objectives of this part of the DCP.</p>
11. Design Excellence	Yes	<p>The applicant has provided a context plan which demonstrates that the proposal has an acceptable design given the surrounding context of the area and is a suitable response to the site and streetscape.</p> <p>The proposal consists of quality materials that are sympathetic to the heritage item on site. The new residential flat building has an appropriate relationship to the existing dwelling on site, given the setbacks, landscaping and materiality.</p>

Development Control	Compliance	Comment
14. Excavation	Yes	<p>The proposed excavation does not add to the scale of the building. The sandstone to be removed will be reused on site.</p> <p>The proposal does not comply with Clause B14 (I) as excavation is proposed within 900mm of side boundaries and extends beyond the building footprint. However, this is considered appropriate as the basement level is above ground at the rear of the site given the sharp topography but returns to being subterranean inside the site. This outcome is similar to the adjoining properties to the west.</p>

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		
<ul style="list-style-type: none"> Minimum frontage: 15m – R3 zone 	Yes	The site has a frontage of 15.24m
4.2 Height		
<ul style="list-style-type: none"> Refer to the LEP 	No	This matter is discussed above and despite the non-compliance, it does meet the objectives of the DCP control.
4.3 – Excavation		
<ul style="list-style-type: none"> Fill shall not be used to raise the ground level. Not within a 1.5m setback from side boundaries and only within the building footprint except where access to a basement car park is required. Basement car parking is to be located fully below natural ground level or max 1.2m above ground Excavation should not add to the visual bulk and scale of the building. Existing natural features including trees and 	<p>Yes</p> <p>No</p>	<p>No fill is used to raise levels.</p> <p>Excavation is proposed to extend to the eastern boundary, and setback 1m from the western boundary. Despite the non-compliance, the excavation is considered appropriate in this location and the basement does not add the visual bulk of the building. In addition, the adjoining sites on either side both have similar nil setback provisions on their side boundaries for parking accommodation. Thus ensuring the subject site provides a consistent street wall to Cutler Street.</p> <p>To minimise the impact on the eastern neighbour, the applicant has no fencing above the boundary wall. The area will be landscaped with native trees to provide a landscape screening above a</p>

Development Control	Compliance	Comment
sandstone walls should be retained		side boundary wall. The balustrade to the adjoining private open space on the subject site will be provided adjacent to the planting.
4.4 Streetscape		
<ul style="list-style-type: none"> Setbacks to be consistent with building line along the street Maintain existing trees Front setback to provide deep soil landscaping No encroachment over Council lane Sympathetic external finishes Setbacks above street frontage height are to be included where the adjacent buildings includes upper level setbacks Max building length to the street is 24m. Buildings to be articulated to respond to the streetscape. 	Yes	<p>Bondi Road: The new building is significantly setback from the predominant street building line on Bondi Road. This is supported in this instance given the retention of the existing heritage item.</p> <p>Cutler Street: The alignment of the building consists a stepping of the built form at the rear. This responds directly to the average or predominant setbacks of the buildings on either side of the subject site. The setback at each level is considered appropriate in the context.</p> <p>Deep soil landscaping is retained within the front setback. The applicant proposes to relocate the frangipani tree from the rear yard to the front of the heritage dwelling.</p> <p>The building does not exceed 24m in length and is articulated to respond appropriately to the streetscape.</p>
2.5 Building Design and Streetscape		
<ul style="list-style-type: none"> Building design is to respond to the existing streetscape character of the area. The colour and finish of external finishes should be sympathetic to the street and contribute to the overall appearance of the building. The removal of original architectural details and finishes is not supported 	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The building has been designed to respond to the existing streetscape character. The scale and setbacks mirror that of neighbouring residential flat buildings. The stepping down at the rear of the site fronting Cutler Street responds to the streetscape character.</p> <p>The design excellence panel made recommendation that the metallic cladding, which was originally only proposed to the top floor, be continued down to the top two levels that are visible from Bondi Road. The applicant has provided amended plans which include the metal cladding on the top floor and the front portion of the second top floor. The remaining materials are painted cement render/masonry finish in light grey for the lower levels of the new building and the boundary walls are white. The selected materials and bulk and scale of the proposed building will not detract from the existing heritage item on site when viewed from Bondi Road.</p>

Development Control	Compliance	Comment
		The proposal also includes restoration and conservation works to the existing heritage item at the front of the site. The applicant has provided a Schedule of Conservation Works which will form part of conditions of consent to ensure the conservation works are completed. The restoration of the heritage item will improve the streetscape presentation.
4.6 Fences and walls		
<ul style="list-style-type: none"> • Front fence to be provided where it is characteristic of the street • Front fences must have a max proportion of two thirds solid to one third open design. • Sloping sites, the height is averaged so that fences step down the street. • Rear and side fences behind the building line must not exceed 1.8m in height and taper down from the front building line. • Fences are to respond to the architectural character of the street in terms of materials used, predominant height, vertical/horizontal rhythm and predominant setback. • Fences are to clearly delineate between public, communal and private areas. • Design of fences should generally relate to the period and architectural style of building and help to integrate development into the existing streetscape. 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The existing front street fence to Bondi Road is to be retained, which is supported. The existing fence is a white picket fence measuring approximately 600m in height. This is considered an appropriate fence for the heritage dwelling.</p> <p>The proposed side boundary fence measures 1.8m, except for the north eastern corner of the site where a lower boundary wall is proposed with landscaping above to mitigate any impacts for the eastern neighbour. The lack of boundary fence in this location will not create any overlooking impacts or safety concerns as landscaping in proposed and a balustrade to the private open space of apartment 1 is setback 2m from the boundary.</p>

Development Control	Compliance	Comment
4.7 Vehicular access and parking		
<ul style="list-style-type: none"> Car parking to be integrated into the design of the development Max 1 x 2 way vehicle access point Provided from secondary street or lane Pedestrian safety considered Basement parking should not contravene deep soil zone controls 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The car parking is integrated into the design of the building at the rear on Cutler Street. The proposed street wall is sandstone, which is consistent with the overall proposed design of the new building and the streetscape character of Cutler Street.</p> <p>The design includes one 1-way access point, which complies.</p> <p>Adequate deep soil landscaping is provided on site.</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>Yes</p>	<p>The residential pedestrian entrance is accessible and separate to the vehicular entry. The pedestrian entrance on Bondi Road is safe and legible along the eastern side of the existing heritage dwelling. It then opens into a double height lobby area at the centre of the site, providing access to the stairs and lift.</p> <p>There is a secondary pedestrian entrance to the basement level from Cutler Street, providing a safe entrance separate to vehicular entry.</p>
4.9 Landscaping		
<ul style="list-style-type: none"> Comply with part B3-Landscaping and Biodiversity Minimum of 30% of site area landscaped: 209m² 50% of the above is to be deep soil: 104.5m² 	<p>Yes</p> <p>Yes</p>	<p>218sqm of the site is landscaped over 4 levels, equating to 31%.</p> <p>There is a total of 117sqm of deep soil landscaping on site. While some areas are less than 2m in width, the proposed development is considered to meet the requirements and provides significantly more landscaped and deep soil area than surrounding properties, which will contribute positively to the streetscape.</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>Objections did not raise specific concerns about view loss from surrounding properties, so view loss inspections were not carried out. The applicant has provided a view loss assessment from the top floor unit of the adjoining building to the west, being Unit 11 in 308 Bondi Road.</p> <p>The proposed development will not impact views from public spaces and has been designed to enable the sharing of views with surrounding dwellings. This is discussed in further detail below.</p>

Development Control	Compliance	Comment
4.11 Visual privacy and security		
<ul style="list-style-type: none"> Dwellings to be orientated to the street with entrances and street numbering visible Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened Prevent overlooking of more than 50% of private open space of lower level dwellings in same development Privacy be considered in relation to context density, separation use and design. 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>All 5 dwellings onsite are orientated towards the street. Particularly the four apartments within the new flat building, which provide their open space towards Cutler Street.</p> <p>The proposal provides privacy screens to the apartments private open space to minimise visual privacy impacts to the neighbouring properties.</p> <p>Each floor is recessed from the level below. Landscaped planters are provided at the edge of the balconies to provide an additional setback and visual buffer to the private open space below.</p> <p>Privacy is maintained to surrounding properties. The openings on the side elevations of the building are secondary and provide light only, they are not operable and consist of translucent glazing. The proposal is not dependent on these windows to meet ADG compliance for solar access or natural cross ventilation. Notwithstanding this, the windows are offset from the neighbouring properties.</p> <p>The building is similar in bulk and scale to the flat buildings on either side, so in the context, the privacy mitigation measures proposed are appropriate.</p>
3.19 Acoustic privacy		
<ul style="list-style-type: none"> Sound proofing through acoustic glazing Internal amenity by locating noisy areas away from quiet areas 	Yes/No	<p>During the assessment period, concern was raised about the acoustic privacy of the four apartments in the new building. Specifically, concern was raised about wet areas within the apartments not aligning (i.e. bathrooms located above bedrooms), and that the south facing bedroom windows were located above the rear private open space for the dwelling within the heritage item.</p> <p>The applicant provided amended plans which address these concerns by:</p> <ul style="list-style-type: none"> Providing acoustic treatment to the plumbing within ceilings over all bedrooms Providing double or acoustically treated glazing to the south facing bedrooms

Development Control	Compliance	Comment
3.21 Building services		
<ul style="list-style-type: none"> Outdoor Communal clothes drying area to be provided 	Yes	An outdoor communal clothes drying area is not provided. This is considered acceptable as all apartments face north with generous balconies, with the exception of the heritage dwelling which provides space for clothes drying in the rear courtyard.
<ul style="list-style-type: none"> 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 	Yes	The services including garbage rooms, fire hydrants boosters, hot water systems and water tanks are all located within the basement area and considered appropriate. Letterboxes are provided on Bondi Road, adjacent to the pedestrian entrance.
<ul style="list-style-type: none"> Plant rooms away from entry communal and private open spaces and bedrooms. 	Yes	
<ul style="list-style-type: none"> Building Services setback from walls, edges and front entrances 	Yes	
<ul style="list-style-type: none"> Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge 	Yes	In response to the comments from the Design Excellence Advisory Panel, the applicant has amended the plans to relocate the solar panels from the roof of the heritage item to the roof of the new apartment building. The solar panels are not intrusive and only located on the portion of the building that is within the building height control and will not be visible from the street. The solar panels are set back approximately 3m from each side boundary.

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

View Loss

WDCP 2012 Part C4 Clause 4.10 states that a distant view does not in itself 'belong' to anyone or any property, nor is a view the exclusive right to any one property or to certain individuals. Objective (a) requires developments to ensure that views are shared, providing equitable access to views from dwellings. Control (a) states that new development should be designed to minimise view loss to adjoining and adjacent properties while still providing opportunities for views from the development itself.

Submissions relating to specific view loss concerns were not received. The applicant has provided an analysis of the views obtained from and across the subject site. The assessment indicates that one property, namely 11/308 Bondi Road, the top floor unit of the neighbouring building to the west will

experience a loss of views. The view impact analysis provided by the applicant demonstrates that the proposed development provides equitable view sharing, see Figure 9 below:



Figure 9: Excerpt from the applicant’s view analysis showing the minimal impact of the proposed development on the existing views from Unit 11 of 308 Bondi Road.

In order to make a planning decision regarding the potential view loss, an assessment of the proposed impact against the four steps outlined in the Land and Environment Court Planning Principle as per *Tenacity Consulting v Warringah [2004] NSWLEC 140* has been carried out to determine whether the view impact is reasonable.

Table 6: View Loss Assessment

<i>Tenacity Consulting v Warringah [2004] NSWLEC 140 at 25-29 Four-step assessment</i>	
26 – Step 1	<div><ul style="list-style-type: none"><i>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.</i><p>The proposed development will result in a loss of the horizon interface with the Pacific Ocean view that is currently seen above a tree and under the balcony eave of the building at 314 Bondi Road. What is considered a more iconic view, is the view of the land/water interface and breaking water at Ben Buckler, that is not impacted by the proposed development. It is also noted that 11/308 Bondi Road has district views to the west and north from Bondi Junction, Rose Bay, Dover Heights, Sydney Harbour and towards Manly which are not impacted by the proposed development.</p></div>
27 – Step 2	<div><ul style="list-style-type: none"><i>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</i></div>

<p><i>Tenacity Consulting v Warringah [2004] NSWLEC 140 at 25-29 Four-step assessment</i></p>
<p><i>difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.</i></p> <p>The affected view is obtained across the side boundary, across the subject site, and across the side boundary of multiple properties to the east. The view from the balcony of 11/308 Bondi Road is obtained from mostly a standing position but partially from a seated position.</p>
<p>28 – Step 3</p>
<ul style="list-style-type: none"> <i>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.</i> <p>The affected view is a small portion of the total view obtained from the balcony of 11/308 Bondi Road. The iconic view of the land/water interface at Ben Buckler is not impacted by the proposal. The view loss is considered negligible.</p>
<p>29 – Step 4</p>
<ul style="list-style-type: none"> <i>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.</i> <p>The view loss is a result of a compliant portion of the building. It is noted that a portion of the north east of the building does not comply with the maximum building height development standard, however, this does not give rise to view loss impacts. The rear setback of the proposed development has been stepped down to be in keeping with the predominant rear building line of adjoining buildings and to protect the views across the side boundaries from the buildings to the west. Having regard to the View loss Planning Principle, the proposal is acceptable.</p>

2.6 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.

2.7 Suitability of the Site for the Development

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

2.8 Any Submissions

The 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*.

Eleven submissions were received to the original application. Upon amended documentation being submitted, these were not required to be re-notified having regard to clause 2.6.1 of Part A of the DCP as the changes result in a lesser impact.

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

Table 4: Summary of property addresses that lodged a submission

Property
3/312 Bondi Road, BONDI (owner)
3/312 Bondi Road, BONDI (tenant)
4/312 Bondi Road, BONDI
5/312 Bondi Road, BONDI
6/312 Bondi Road, BONDI
Evolution Planning, on behalf of the owners of 312 Bondi Road, BONDI
12/318 Bondi Road, BONDI
1 Cutler Street, BONDI
2 Cutler Street, BONDI
33 Denham Street, BONDI
10/18 Edward Street, BONDI

Issue: *Misrepresentation in notification letter, calling the development “residential flat building” implies only 1 dwelling such as a granny flat.*

Response: NSW Planning Legislation defines a residential flat building as “a building being 3 or more storeys and containing 4 or more dwellings”. The proposal is for a residential flat building.

Issue: *The building is an overdevelopment of the site, exceeds planning controls and will be visually obtrusive and out of context with streetscape*

Response: The proposed development complies with the maximum floor space ratio controls and exceeds the height development standard in a small portion where the land has previously been excavated. It is therefore not an overdevelopment of the site and is considered appropriate given the R3 medium density residential zoning. As discussed above, the proposal is considered appropriate within the streetscape.

Issue: *The proposal is not sympathetic to the heritage listed house and is a poor design outcome*

Response: The proposed development is considered appropriate given the planning controls for the site. Furthermore, the proposal includes restoration and conservation works to the heritage item. The application was discussed with Council’s Heritage Advisor who supports the proposal. The applicant has provided a Heritage Impact Statement from Urbis, and a Schedule of Conservation Works by Weir Phillips to support the proposal.

Issue: Overlooking, acoustic and overshadowing impacts on neighbouring properties

Response: This has been discussed in both the ADG and WDCP tables above. The proposal is considered acceptable with regards to visual and acoustic privacy and overshadowing.

Issue: Traffic and parking implications

Response: The WDCP 2012 prescribes maximum car parking spaces, not minimum so there is no requirement for developments to provide on-site car parking. Notwithstanding this, the proposal includes 8 residential car parking spaces for 5 dwellings, plus a visitor parking space, motorbike and bicycle parking. The development is not considered to result in adverse traffic and parking impacts.

Issue: Impacts during construction and concern about excavation

Response: Standard conditions of consent are imposed with regards to construction impacts. The applicant has submitted a Geotechnical report relating to excavation. A standard condition relating to dilapidation reports will also be included.

2.9 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

Council's Heritage advisor recommended that in order to maintain cohesion with and conservation of the existing listed residence that:

- *A heritage Deed of Agreement is entered into by the developer to ensure all works including restitution of construction damage to the listed building are completed as part of the works*
- *A detailed schedule of conservation/maintenance works is to be provided to existing fabric as a means of mitigating the impact of partial demolition and new construction. Schedules are to include details of conservation works to interiors of the listed residence.*
- *The projection of upper floors to the southern side of the new apartment building is to be deleted due to excessive impact upon the retained core form of the listed residence.*
- *Details of the proposed side passageway including security gates, screens, disability access provisions and platform lift in the immediate context of the listed residence are to be provided.*
- *Landscape drawings are to detail the retention of existing pathways and fencing to the street front yard of the existing residence.*
- *An interpretive panel detailing the site history and particularly of the listed residence is to be prepared to Councils approval and located in the ground floor lobby of the new apartment building.*

Assessing officer's comments: A detailed schedule of conservation works has been provided and that, along with a heritage deed of agreement forms part of the recommended conditions. The projection of the upper floors towards the heritage listed dwelling was discussed with the design excellence panel who supported the design from an architectural perspective. A condition requiring an interpretive panel, an updated landscape plan and architectural plans detailing the maintaining of existing paths and fencing and side passageway services has been included.

3.2 Urban Design

Council's Urban Designer made the following recommendation:

In summary, the built form approach proposed as part of the development is generally supported. The new development ensures the maintenance and longevity of the heritage listed federation cottage. The existing side setbacks of the cottage are respected whilst the rear setbacks are informed by interpolating the setbacks of neighbouring properties. However, there are some modifications that are required to achieve better outcomes. It is recommended that a stronger relationship between the new façade and the existing building is established through materials or geometry. Internal amenity issues and privacy issues outlined above need to be addressed as well.

Assessing officer's comments: The recommendations made by the urban designer have been addressed by the amended plans. The metallic cladding to the new building has been extended to the top two levels that are visible from Bondi Road. Internal amenity issues and privacy have been addressed by additional privacy screens, providing lobbies on each floor and acoustic treatments under plumbing and to glazing.

3.3 Waste and Recycling

Council's sustainable waste officer advised that the number of bins has been understated and the applicant must comply with WDCP 2012 Annexure B1-2 in terms of the number of bins required.

A relevant condition has been included.

3.4 Traffic and Development

Council's traffic engineer advised that the proposal is acceptable subject to conditions, which have been included.

3.5 Stormwater

Council's stormwater engineer advised that stormwater plans prepared by Engineering Studio, Job No. 19733, DWG No. C00.01, C01.01, C01.02, C02.01, C02.02, C02.03 and C02.04 (Revision P1), dated 25 November 2019 have been checked and considered satisfactory with respect to stormwater details.

3.6 Tree Management

Council's tree management officer advised that the proposal is acceptable and landscape plan and arborist report should be used. Relevant conditions relating to tree protection and tree removal have been included.

3.7 Public Domain

Council's public domain engineer advised that the proposal is supported, subject to conditions relating to public domain improvements. The conditions have been included.

4. SUMMARY

The application seeks consent for alterations and additions to the existing heritage listed dwelling on site and construction of a residential flat building on site. The proposal results in a total of 5 dwellings (3 x 3 bedroom and 2 x 4 bedroom). The proposed development complies with the maximum floor space ratio of 0.9:1 however exceeds the maximum building height control of 12.5m by 1.09m or 8.7% in a portion of the site where the land has been previously excavated. The applicant has submitted a Clause 4.6 written request which adequately addresses the matters required.

During assessment the application was deferred requesting a schedule of restoration/heritage conservation works, among other documents. Amended plans and documentation were received on 24 April 2020. The Schedule of Conservation Works, by Weir Phillips forms part of the recommended conditions of consent to guide the restoration works to the heritage listed dwelling.

Notification of the proposal attracted 11 objections. Objections did not raise specific view loss concerns from neighbouring sites, however an assessment against the view loss planning principle deems that the proposal will not result in any significant view loss impacts and promotes the sharing and equitable access to views.

A councillor submission was not made. The application form did not declare any conflict of interest on the application. The application is recommended for approval.

DBU Decision

The application was reviewed by the DBU at the meeting on 7 April 2020 and the DBU determined:

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

DBU members: *M Reid, A Rossi, B McNamara, B Matlawski*

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

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

Report prepared by:



Emma Finnegan
Senior Development Assessment Planner

Date: 8 May 2020

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



Angela Rossi
Manager, Development Assessment (Central)

Date: 12 May 2020

Reason for referral:

- 2 Contentious development (10 or more objections)
- 4 Sensitive development:
 - (b) SEPP 65 development

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 Aleksandar Projects of Project No: 19050 including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
DA000 Rev C	Drawing list and basix commitments	05/05/2020	05/05/2020
DA001 Rev A	Site analysis	30/10/2019	29/11/2019
DA100 Rev C	Site and roof plan	05/05/2020	05/05/2020
DA101 Rev A	Basement plan	30/10/2019	29/11/2019
DA102 Rev B	Ground floor plan	20/04/2020	22/04/2020
DA103 Rev B	L01 floor plan	20/04/2020	22/04/2020
DA104 Rev B	L02 floor plan	20/04/2020	22/04/2020
DA105 Rev B	L03 floor plan	20/04/2020	22/04/2020
DA200 Rev C	Section AA and driveway ramp	05/05/2020	05/05/2020
DA201 Rev B	Section BB	20/04/2020	22/04/2020
DA202 Rev B	Section CC	05/05/2020	05/05/2020
DA203 Rev B	South elevation	20/04/2020	22/04/2020
DA204 Rev B	North elevation	20/04/2020	22/04/2020
DA205 Rev B	East elevation	20/04/2020	22/04/2020
DA206 Rev B	West elevation	20/04/2020	22/04/2020
DA308 Rev B	External materials and finishes	20/04/2020	22/04/2020

- (b) Schedule of Conservation Works and documentation prepared by Weir Phillips Heritage and Planning, dated April 2020 and received by Council on 22 April 2020
- (c) Landscape Plan No. LS01-DA Rev D and documentation prepared by Melissa Wilson Landscape Architects, dated 21 April 2020 and received by Council on 22 April 2020
- (d) Arborist Report prepared by Jacksons Nature Works dated 22 October 2019, and received by Council on 29 November 2019
- (e) Stormwater Details and documentation prepared by Engineering Studio, Job No. 19733 dated 25 November 2019, and received by Council on 29 November 2019
- (f) Geotechnical Report and documentation prepared by STS Geotechnics dated April 2020, and received by Council on 22 April 2020
- (g) BASIX and NatHERs Certificate/s
- (h) BCA Assessment Report and documentation prepared by BCA Logic dated 13 November 2019, and received by Council on 29 November 2019
- (i) Access Assessment Report and documentation prepared by BCA Logic dated 13 November 2019, and received by Council on 29 November 2019
- (j) The Site Waste and Recycling Management Plan (SWRMP) Part 1

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) Planters to balconies at Level 1 (L01 floor Plan) and Level 2 (L02 floor plan), of the development are to provide a soil depth of minimum 600mm, soil width of minimum 600mm and be landscaped with plant species that have a minimum growth height of 500mm, to provide adequate provision for reasonable planting to establish/grow. The Landscape and Architectural Plans are to be amended accordingly.
- (b) The planter box to the south at of Level 02 (L02 floor plan), of the development is to provide a soil depth of minimum 400mm, soil width of minimum 600mm to provide adequate provision for reasonable planting to establish/grow. The Landscape and Architectural Plans are to be amended accordingly.

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

3. SANDSTONE RE-USE ON SITE

The reuse of sandstone on site arising from the demolition and construction of the development is strongly encouraged to be reused on site in the new works.

Where sandstone reuse is too difficult, sandstone cladding shall be utilised, with sandstone tiles with a minimum thickness of 30mm being installed.

Details to be shown on the architectural plans and approved by the **Principal Certifying Authority** prior to the issue of the relevant Construction Certificate.

4. MULTI UNIT HOUSING DEVELOPMENT DESIGN (SEPP 65 DEVELOPMENT)

The approved design (including any element or detail of that design) or materials, finish or colours of the building must not be changed without the written approval of Council.

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.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

GENERAL REQUIREMENTS

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

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

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the Environmental Planning & Assessment Act, 1979 and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the Environmental Planning & Assessment Act, 1979 and Environmental Planning and Assessment Regulation 2000 and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

6. VERIFICATION OF CONSTRUCTION CERTIFICATE DOCUMENTATION (SEPP 65 BUILDINGS)

The preparation of the construction certificate plans shall be supervised and be to the satisfaction of an architect who is registered in accordance with the *Architects Act 2003* (i.e. a qualified designer) in accordance with the requirements of the *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development*.

In accordance with the Environmental Planning and Assessment Regulation 2000, the Principal Certifying Authority must not issue a construction certificate unless it has received a design verification statement from a qualified designer which verifies that the construction certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in *State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development*.

7. BASEMENT STORAGE

The basement level is to provide separate and secure storage areas (in the form of lockable storage cages or the like), allocated to each apartment in the development for larger bulkier items (surfboards, boxes, camping equipment etc.) which are not suited to be stored within each individual apartment. Storage is to be allocated to individual units in accordance with the requirements of the Waverley Development Control Plan 2012.

8. UNIVERSAL HOUSING

Apartments in the development are to be provided with universal design features (as outlined in the *Liveable Housing Design Guidelines*) to meet the changing need of occupant's over their lifetimes in accordance with Part B7 of the *Waverley Development Control Plan 2012*.

9. TELECOMMUNICATIONS IN NEW RESIDENTIAL FLAT BUILDING AND MIXED USE DEVELOPMENTS

Evidence is to be provided to the Principal Certifier prior to the issue of the relevant Construction Certificate that arrangements have been made for;

- (a) The installation of fibre-ready facilities to all individual lots and/or premises to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (b) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises demonstrated through an agreement with a carrier.

CONTRIBUTIONS, FEES & BONDS

10. 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 any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

11. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of **\$26,650** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

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

satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

12. LONG SERVICE LEVY

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

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

CONSTRUCTION & SITE MATTERS

13. HOARDING

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

14. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan shall be prepared in accordance with Waverley Council's Water Management Technical Manual be installed and maintained until construction activities have been completed and the site is fully stabilised. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

15. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

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

16. ENGINEERING DETAILS

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

17. ENGINEERING CERTIFICATE OF ADEQUACY

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

TRAFFIC MANAGEMENT & TRANSPORT

18. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

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

https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent

19. 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 basement garage from Cutler Street shall be submitted to Council for the approval of the Executive Manager, Infrastructure Services.

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 Cutler Street both opposite the proposed driveway.
3. Show the minimum length of driveway layback considered necessary to gain satisfactory access to and from the proposed hardstand.
4. Show the minimum length of opening and clearances required at the property boundary to cater for the design vehicle swept wheel path

20. CAR PARKING ALLOCATIONS

A total of **9** car vehicle parking spaces are to be provided, allocated in the following manner:

- (a) 8 residential car parking spaces
- (b) 1 visitor car parking space
- (c) Accessible parking spaces are to be designed in accordance with Australian Standard AS2890.6 - 2009 Off Street Parking for People with Disabilities.

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

21. BICYCLE PARKING

A total of **4** bicycle parking spaces are to be provided. Such spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks and are to be located within the ground floor foyer or adjacent, within any forecourt or within the basement car parking area.

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

STORMWATER & FLOODING

22. STORMWATER MANAGEMENT

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

HERITAGE

23. SCHEDULE OF HERITAGE RESTORATION WORKS

The Schedule of Conservation Works report is to be updated to include, though not limited to:

- (a) The existing street front fence to Bondi Road is to be retained and restored (where necessary) including the provision of matching gates to the pedestrian and vehicle entries;
- (b) Maintain and restore existing pathway into heritage dwelling.
- (c) Details of the proposed side passageway including security gates, screens, disability access provisions and platform lift in the immediate context of the listed residence are to be provided.
- (d) Landscape drawings are to detail the retention of existing pathways and fencing to the street front yard of the existing residence.

The schedule of heritage restoration works is to be submitted for the approval of Council's Heritage Architect prior to the issue of any Construction Certificate.

24. HERITAGE DEED OF AGREEMENT & PUBLIC POSITIVE COVENANT

The owner(s) of the premises shall enter into and execute a Deed of Agreement and Public Positive Covenant with Council to ensure that the 'approved Schedule of Heritage Conservation Works' required in this consent for restoration works to the Heritage Listed building at 310 Bondi Road, BONDI are completed before or concurrently with any other approved work on the site. The Deed of Agreement and Public Positive Covenant shall ensure that:

- (a) Any Occupancy Certificate (or Strata or Subdivision Plan if applicable) for the site is not released prior to the completion of the '*approved heritage works*';
- (b) Future owner(s) of the site will be bound by the terms Agreement and Covenant;
- (c) The owner(s) of the land must prepare and execute the Deed of Agreement to the satisfaction of Council's solicitors prior to the issue of a Construction Certificate for any part of the development.
- (d) The owner(s) of the land must prepare and execute a Public Positive Covenant to the satisfaction of Council's solicitors, ensuring the obligations of the Schedule of Works are completed and to be maintained, to the satisfaction of Council, prior to the issue of a Construction Certificate for any part of the development.
- (e) The costs (including for Council) of the preparation and registration of all legal and associated expenses associated with this deed and any future amendments to the deed is to be met by the owner(s) or applicant.

- (f) An irrevocable Bank Guarantee for \$150,000 made in favour of Council.
- (g) Other than as contemplated by this condition the terms of the Heritage Deed of Agreement are not further amended unless agreed in writing by Council and the Owners of the Development Site.

25. HERITAGE INTERPRETATION PANEL

- a) An interpretative panel detailing the site history and particularly of the listed residence is to be located in the ground floor lobby of the apartment building. Details are to be submitted and approved by Council's Heritage Architect prior to the issue of any Construction Certificate.
- b) The approved interpretation panel must be installed to the issue of any Occupation Certificate.

26. STRUCTURAL STABILITY FOR HERITAGE WORKS

A detailed report prepared by a suitably qualified engineer with the input of a suitable qualified Heritage Architect is to be submitted to Council and approved by Council's Heritage Architect, which:

- (a) Outlines the methodology for retention and conservation of the heritage listed building, ensuring the structural stability arising from the proposed works.

Documentation to be submitted and approved by Council's Heritage Architect prior to the issue of the relevant Construction Certificate.

27. FIRE SAFETY AND BCA UPGRADE WORKS TO BE REVIEWED BY A REGISTERED HERITAGE ARCHITECT

Any required fire safety works recommended by any BCA Report, Fire Safety and Upgrade Report or Fire Safety Consultant 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 relevant Construction Certificate for the building.

FIRE SAFETY & ACCESS

28. ESSENTIAL SERVICES - EXISTING BUILDING

Details of the currently implemented and proposed essential fire safety measures shall be submitted to Council, with the relevant 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.

29. BCA & 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 Boot Factory and Mill Hill Centre buildings 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 (the extent necessary in order to comply with the Premises Standards);
 - (vii) Fire fighting equipment – Part E1;
 - (viii) Smoke hazard management – Part E2;
 - (ix) Lift installation - Part E3;
 - (x) Emergency lighting, exit signs and warning systems – Part E4;
 - (xi) Sanitary and other facilities - Part F2;
 - (xii) Room sizes - Part F3; and
 - (xiii) Light and ventilation - Part F4.
- 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 A2 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.
- c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 4.55 of the Act to be lodged with Council to amend this consent.
- d) Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate.
- e) Consideration should be given to the future envisaged maximum patron capacity of the premises in the assessment of BCA compliance and the preparation of Construction Certificate documentation, specifically with regard to the aggregate exit widths, floor areas and sanitary facilities.

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

30. 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.

31. ACCESS

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

ENERGY EFFICIENCY

32. BASIX

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

WASTE

33. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

34. WASTE STORAGE AREAS

The development must have a bin storage area with sufficient space to accommodate the minimum number of bins for the residential development in Annexure B1-2 of Waverley Development Control Plan 2012.

PUBLIC DOMAIN

35. PUBLIC DOMAIN IMPROVEMENTS

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

- Pedestrian footpath
- Vehicular Crossing

- Kerb and gutter (Cutler Street only)
- Stormwater infrastructure

36. 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, Infrastructure Services prior to the issue of the relevant Construction Certificate.

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

- a) Footpath, Kerb and Gutter: The existing concrete footpath along Bondi Road, and kerb and gutter traversing along Cutler Street frontages to be reconstructed and upgraded 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, kerb and gutter profiles to include longitudinal and cross sections to ensure proper connections to the existing Council infrastructure traversing the development site. Any stormwater infrastructure within the extent of public domain works, inclusive of the kerb inlet pit shall be replaced.

- (i) Replenish and returf the existing Council verge for the full frontage of the development. Turf must be established and maintained to the satisfaction of the Council officer prior to completion of public domain handover.
- (ii) Any proposed utility pillar 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.

Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the public domain design submissions; however Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to insure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.

Council's contact for public domain: E-mail: assets@waverley.nsw.gov.au or Phone: 9083 8886 (operational hours between 9.30am to 4.00pm Monday to Friday).

37. 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 kerb and gutter, footpath paving and nature strip hold points.

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

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

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

PRIOR TO ANY WORKS

38. 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.

39. NOTICE OF INTENTION TO COMMENCE PUBLIC DOMAIN WORKS UPGRADES

Prior to commencement of the public domain works notice shall be submitted to Councils 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.

40. 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

41. 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:

- Road pavement
- Kerb and gutter
- Footpath
- Drainage pits and lintels
- Traffic signs
- Any other relevant infrastructure

The report is to be dated, submitted to, and accepted by Council's Public Domain Engineer, prior to any work commencing on the site. All fees and charges associated with the collation of this report shall be at the cost of the Applicant.

42. DILAPIDATION REPORT

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

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

DEMOLITION & EXCAVATION

43. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

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

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

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

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

44. CONTROL OF DUST ON CONSTRUCTION SITES

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

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g.: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems.

Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

45. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste classification guidelines 2014.

46. EXCAVATION AND BACKFILLING

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

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land. The excavation is to be managed by a practising structural engineer.

CONSTRUCTION MATTERS

47. CONSTRUCTION HOURS

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

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

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

48. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

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

49. CONSTRUCTION INSPECTIONS

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

50. CERTIFICATE OF SURVEY - LEVELS

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

51. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

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

52. NEW VEHICLE CROSSING

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

53. 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.

54. 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.

55. 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.

56. ROOF SERVICES

- (a) Any future solar panels / photovoltaic panels on the amended roof plan, are to be flush with the roof and located on the residential flat building to the rear of the site.

(b) Any future roof services/plant (excluding solar panels) shall be limited to 20% of the roof plane.

TREE PROTECTION AND REMOVAL

57. TREE REMOVAL

The following trees may be removed as per Arboricultural Impact Assessment Report prepared by Jackson Nature Works dated 22 October 2019:

Tree No.	Species	Location	Action
T 1	Plumeria rubra var. acutifolia (Frangipani)	On-site	Relocate to front of site in accordance with approved Landscape Plan.
T 2/3	Olea africana (Wild or African Olive)	On-site	Remove as per Arborist report. Exempt tree <5m
T 4	Allamanda schottii (bush allamanda)	On-site	Remove as per Arborist report. Exempt tree <5m
T 5	Glochidion ferdinandi (Cheese Tree)	On-site	Remove as per Arborist report. Exempt tree <5m
T 6	Bauhinia sp (African orchid tree)	On-site	Remove as per Arborist report. Exempt tree <5m
T 7	Citrus x lemon (lemon tree)	On-site	Remove as per Arborist report. Exempt tree <5m
T 9	Callistemon viminalis (weeping bottlebrush)	On-site	Remove as per Arborist report.

58. TREE PROTECTION

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

The following trees are to be protected:

Tree No.	Species	Location	Action
T 8	Melaleuca quinquenervia (paperbark tree)	Street tree	retained and protected
T 10	Syagrus romanzoffiana (Cocos palm)	Neighbouring property	Retained and protected

59. STREET TREES TO BE RETAINED/TREE PROTECTION

No existing street trees shall be removed without Council approval. Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) event damage to bark and root system;

- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

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

CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS

60. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, the Principal Certifying Authority must issue an Occupation Certificate. The Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

61. SUPERVISING ENGINEER FINAL CERTIFICATE – PUBLIC DOMAIN

Prior to the issue of any Occupation Certificate for the works, the Applicant shall submit to Council, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved plans and Waverley Council standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

62. WORKS-AS-EXECUTED PLAN – PUBLIC DOMAIN

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

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

63. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS

Prior to the issue of any Occupation Certificate, a Final Compliance Certificate shall be obtained from Council confirming that all works in the road reserve including all public domain infrastructure works and restoration, have been completed to Council's satisfaction.

Notes:

- The issue of a Final Compliance Certificate from the Council Engineer will be withheld should there be any outstanding fees and charges applicable to the development. This includes but not limited to fees applicable for engineering plans assessment and work inspection fees.
- The refund of any damage and/or security deposits will be subject to satisfactory restoration and rectification of all civil infrastructure that have dilapidated as a result of the construction activities associated with this development consent.

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

64. CERTIFICATION OF BASIX COMMITMENTS

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

65. CERTIFICATION OF APPROVED DESIGN

In accordance with 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 statement from an architect who is registered in accordance with the Architects Act 2003 (i.e. qualified designer) that verifies that the building achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles.

66. CERTIFICATION OF LANDSCAPING

At the completion of all works a certificate is to be submitted to the Principal Certifying Authority from a qualified Landscape and/or Arboriculture Consultant certifying that the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established. If relevant, the waterproofing on any green roof is to be tested and evidence of the test is to be provided with the certification.

67. CERTIFICATION OF STORMWATER SYSTEM

Prior to issue of an occupation certificate, certification is to be provided from a suitably qualified Hydraulics Engineer, that the stormwater system has been constructed in accordance with the approved stormwater management plans and to best engineering practice.

68. 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 suitably qualified 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.

69. 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 Consultant. The Certificate is to certify all

plant and equipment including mechanical supply and exhaust ventilation systems (including the car park) and lift motors comply with the terms of approval in relation to noise.

OTHER MATTERS

70. ALLOCATION OF STREET NUMBER

The redevelopment of the land has led to the following allocation of address numbering:

- 310 - primary address site number
- Bondi Road - primary address site location.

All sub premises numbers must be unique and applied in a logical sequence. In this regard, the following shall apply:

- The dwelling in the heritage building shall be identified as Unit 1.
- Units in the building to the rear shall be identified as Unit 2 (ground floor), Unit 3 (first floor) and Unit 4 (second floor)

The primary address site number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary located near the entry point and clearly visible from Bondi Road. The primary address site number shall be positioned on the site prior to the issue of the Occupation Certificate. Any variation to the above address numbering requires a new application for a change of street number and/or address to be lodged with Council.

71. HERITAGE RESTORATION WORKS

The Heritage Restoration works (the “approved heritage works” as set out in the Heritage Deed of Agreement and Public Positive Covenant) shall be completed to the satisfaction of Council’s Heritage Advisor prior to the release of any Occupancy Certificate (or Strata or Subdivision Plan if applicable) for the site.

72. CAR PARKING

- (a) Ownership of car park lot spaces within the basement shall be limited to parties owning a lot within the buildings on-site.
- (b) A minimum of one car space and a maximum of two car spaces shall be allocated to any residential unit/dwelling to ensure equitable allocation overall.
- (c) Car parking spaces shall not be independent lots, but rather part lots attached to units in any future Subdivision Plans.
- (d) All car spaces and to be appropriately signposted and parked.

73. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE

A Waste Management Plan must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate and include including the following where relevant;

- (a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)

- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) Confer with Sydney Water regarding whether a Trade Waste Agreement is required. A copy of the agreement shall be forwarded to Council if one is entered into with Sydney Water.
- (d) The role and responsibility of managing composting facilities (if provided);
- (e) Clear signage identifying the different bin types, space for reusable items such as crates and pallets, bulky household waste and problem waste must be displayed.
- (f) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (g) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of bins, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.
- (h) The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan. An additional copy of the plan is be available on site when requested.

74. 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.

75. 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 Planning, Environment and Regulatory 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.

76. 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.

E. OPERATIONAL CONDITIONS DURING OCCUPATION

77. VEHICLE ACCESS

All vehicles including service vehicles entering and exiting the building are to do so in a forward direction.

Any vehicle utilising a car, motorcycle or bicycle space is to be parked fully within the confines of the site and is not to park over the public footway at any time.

78. PARKING PERMITS

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

79. ON SITE GARBAGE COLLECTION AREA

The collection of residential waste and recycling is to be undertaken from Cutler Street, whereby bins are to be stored in the waste collection area when ready for collection. No bins are to be stored or left on the street for collection.

80. WASTE MANAGEMENT PLAN REVIEW

After 5 years of operation under this development consent, the Approved Waste Management Plan is to be reviewed to ensure that the details including contracts, roles and responsibilities, commercial tenants (if relevant) are current. The updated plan is to supersede the previous plan.

81. 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.

C. ADVISORY MATTERS

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

AD1. POST CONSENT SATISFACTION OF CONDITIONS:

Any condition that requires additional information or documentation to be submitted and/or approved by Council or a specific Council Officer, shall be submitted in the following manner:

- (a) Include a cover letter detailing what condition you are seeking to address and the relevant officer to which the information must be referred to.
- (b) 1 x hard copy and 1 digital copy of all documents to be submitted to the Planning counter located at Council's Customer Service Centre.
- (c) Digital files should be labelled in the correct manner to avoid delays (refer to Council's website for naming convention).
- (d) Where possible, please submit all information addressing all relevant conditions in one bundle.

AD2. SYDNEY WATER REQUIREMENTS

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

If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

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

AD3. DIAL BEFORE YOU DIG

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

AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

AD5. SUITABLY QUALIFIED ACOUSTIC CONSULTANT

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)

AD6. EXCAVATION TO BE LIMITED

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

AD7. BONDI - ROSE BAY SAND BODY

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

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

AD8. TREE REMOVAL/PRESERVATION

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

AD9. WORK OUTSIDE PROPERTY BOUNDARY

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

DEVELOPMENT APPLICATION
ARCHITECTURAL DOCUMENTATION

310 BONDI ROAD, BONDI
LOT 5 IN DP 3635

DRAWING LIST

NO.	ISSUE	SCALE	CONTENT
DA000	C	NTS	COVER PAGE + BASIX COMMITMENTS
DA001	A	1:100	SITE ANALYSIS, DEMOLITION + CONSERVATION PLAN
DA100	C	1:100	SITE + ROOF PLAN
DA101	A	1:100	PROPOSED B01 PLAN + DEEP SOIL PLAN
DA102	B	1:100	PROPOSED GROUND FLOOR PLAN
DA103	B	1:100	PROPOSED L01 FLOOR PLAN
DA104	B	1:100	PROPOSED L02 FLOOR PLAN
DA105	B	1:100	PROPOSED L03 FLOOR PLAN
DA200	C	1:100	SECTION A-A
DA201	B	1:100	SECTION B-B
DA202	B	1:100	SECTION C-C
DA203	B	1:100	PROPOSED SOUTH ELEVATION
DA204	B	1:100	PROPOSED NORTH ELEVATION
DA205	B	1:100	PROPOSED EAST ELEVATION
DA206	B	1:100	PROPOSED WEST ELEVATION
DA300	A	1:100	PROPOSED SHADOW DIAGRAMS 21ST JUNE - 9AM
DA301	A	1:100	PROPOSED SHADOW DIAGRAMS 21ST JUNE - 12PM
DA302	A	1:100	PROPOSED SHADOW DIAGRAMS 21ST JUNE - 3PM
DA303	A	NTS	VIEW FROM SUN DIAGRAM
DA304	A	NTS	VIEW FROM SUN DIAGRAM
DA305	A	NTS	VIEW FROM SUN DIAGRAM
DA306	A	NTS	VIEW FROM SUN DIAGRAM
DA307	A	NTS	GFA DIAGRAMS
DA308	B	NTS	PROPOSED EXTERNAL MATERIALS + FINISHES
DA309	A	NTS	PHOTOMONTAGE
DA310	A	NTS	VIEW LOSS ANALYSIS
DA311	A	1:200	ELEVATION SHADOW IMPACT ON ADJACENT NEIGHBOURS
DA312	A	NTS	LANDSCAPE DIAGRAMS

RECEIVED
Waverley Council

Application No: DA-382/2019

Date Received: 05/05/2020



CONTEXT PLAN 1:1500

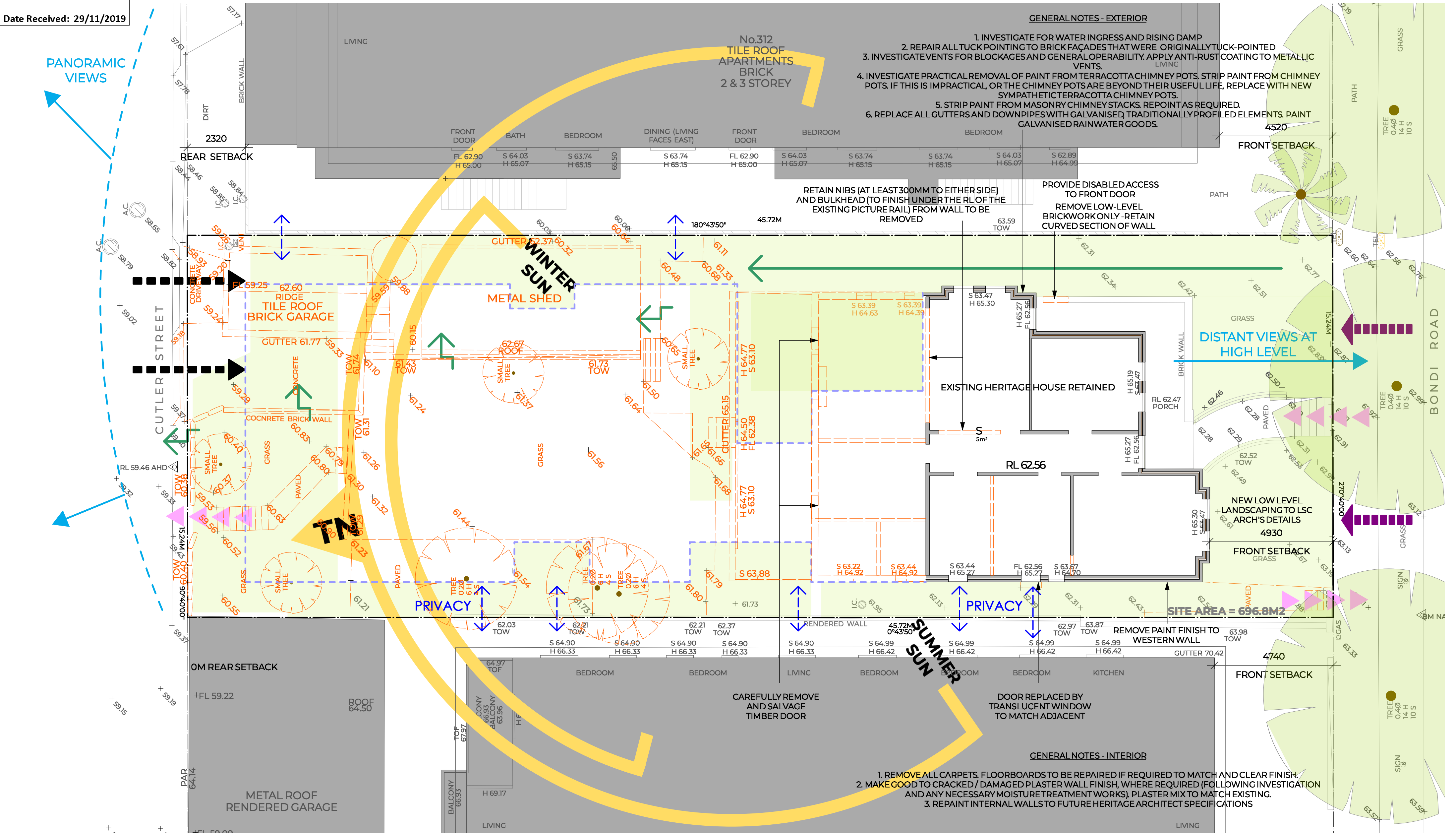
BASIX COMMITMENTS

Fixtures					Appliances		Individual pool			Individual spa			Central energy systems		Type		Specification	
Dwelling no.	All shower-heads	All toilet flushing systems	All kitchen taps	All bathroom taps	HW recirculation or diversion	All clothes washers	All dish-washers	Volume (max volume)	Pool cover	Pool location	Pool shaded	Volume (max volume)	Spa cover	Spa shaded	Lift (No. 1)	gearless traction with V V V F motor	Number of levels (including basement): 5	
All dwellings	4 star (> 4.5 but <= 6 L/min)	4 star	5 star	5 star	no	-	-	-	-	-	-	-	-	-	-	-	-	-
Alternative water source																		
Dwelling no.	Alternative water supply systems	Size	Configuration	Landscape connection	Toilet connection (s)	Laundry connection	Pool top-up	Spa top-up										
All dwellings	central water tank (no. 1)	See central systems	See central systems	yes	no	no	-	no										
None	-	-	-	-	-	-	-	-										
Hot water		Bathroom ventilation system			Kitchen ventilation system			Laundry ventilation system										
Dwelling no.	Hot water system	Each bathroom	Operation control	Each kitchen	Operation control	Each laundry	Operation control											
All dwellings	gas instantaneous 6 star	individual fan, ducted to facade or roof	manual switch on/off to facade or roof	individual fan, ducted to facade or roof	manual switch on/off to facade or roof	individual fan, ducted to facade or roof	manual switch on/off to facade or roof											
Cooling		Heating		Artificial lighting				Natural lighting										
Dwelling no.	living areas	bedroom areas	living areas	bedroom areas	No. of bedrooms &/or study	No. of living &/or dining rooms	Each kitchen	All bathrooms/toilets	Each laundry	All hallways	No. of bathrooms &/or toilets	Main kitchen						
3	1-phase airconditioning EER 3.5 - 4.0 (zoned)	1-phase airconditioning EER 3.5 - 4.0 (zoned)	1-phase airconditioning EER 3.5 - 4.0 (zoned)	1-phase airconditioning EER 3.5 - 4.0 (zoned)	3 (dedicated)	2 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	1	no						
4	1-phase airconditioning EER 3.5 - 4.0 (zoned)	1-phase airconditioning EER 3.5 - 4.0 (zoned)	1-phase airconditioning EER 3.5 - 4.0 (zoned)	1-phase airconditioning EER 3.5 - 4.0 (zoned)	2 (dedicated)	2 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	2	no						
All other dwellings	1-phase airconditioning EER 3.5 - 4.0 (zoned)	1-phase airconditioning EER 3.5 - 4.0 (zoned)	1-phase airconditioning EER 3.5 - 4.0 (zoned)	1-phase airconditioning EER 3.5 - 4.0 (zoned)	4 (dedicated)	2 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	1	no						
Individual pool		Individual spa		Appliances & other efficiency measures														
Dwelling no.	Pool heating system	Timer	Spa heating system	Timer	Kitchen cooktop/oven	Refrigerator	Well ventilated fridge space	Dishwasher	Clothes washer	Clothes dryer	Indoor or sheltered clothes drying line	Private outdoor or unsheltered clothes drying line						
All dwellings	-	-	-	-	gas cooktop & electric oven	-	-	4 star	-	-	no	no						
Alternative energy																		
Dwelling no.	Photovoltaic system (min rated electrical output in peak kW)																	
All dwellings	-																	
Thermal loads																		
Dwelling no.	Area adjusted heating load (in mJ/m ² /yr)								Area adjusted cooling load (in mJ/m ² /yr)									
1	37.0								23.0									
2	42.0								28.0									
3	36.0								22.0									
All other dwellings	41.0								27.0									
Common area		Showerheads rating		Toilets rating		Taps rating		Clothes washers rating										
All common areas	no common facility		no common facility		no common facility		no common laundry facility											
Central systems		Size		Configuration		Connection (to allow for...)												
Central water tank - rainwater or stormwater (No. 1)		3000.0		To collect run-off from at least: - 200.0 square metres of roof area of buildings in the development - 0.0 square metres of impervious area in the development - 0.0 square metres of garden/lawn area in the development - 0.0 square metres of planter box area in the development (excluding, in each case, any area which drains to, or supplies, any other alternative water supply system)		- Irrigation of 20.0 square metres of common landscaped area on the site - car washing in 0 car washing bays on the site												
Common area ventilation system										Common area lighting								
Common area		Ventilation system type		Ventilation efficiency measure		Primary type of artificial lighting		Lighting efficiency measure		Lighting control system SAS								
Basement/Car park area		no mechanical ventilation		-		fluorescent		daylight sensor and motion sensor		No								
Lift car (No.1)		-		-		light-emitting diode		connected to lift call button		No								
Garbage room		ventilation exhaust only		-		fluorescent		motion sensors		No								
Plant or service room		no mechanical ventilation		-		fluorescent		motion sensors		No								

Central energy systems		Type		Specification												
Lift (No. 1)		gearless traction with V V V F motor		Number of levels (including basement): 5												
Fixtures		Appliances		Individual pool		Individual spa										
Dwelling no.	All shower-heads	All toilet flushing systems	All kitchen taps	All bathroom taps	HW recirculation or diversion	All clothes washers	All dish-washers	Volume (max volume)	Pool cover	Pool location	Pool shaded	Volume (max volume)	Spa cover	Spa shaded		
All dwellings	4 star (> 4.5 but <= 6 L/min)	4 star	5 star	5 star	no	-	4 star	-	-	-	-	-	-	-		
Alternative water source																
Dwelling no.	Alternative water supply systems	Size	Configuration	Landscape connection	Toilet connection (s)	Laundry connection	Pool top-up	Spa top-up								
1	central water tank (no. 1)	See central systems	See central systems	yes	no	no	no	no								
Hot water		Bathroom ventilation system			Kitchen ventilation system			Laundry ventilation system								
Dwelling no.	Hot water system	Each bathroom	Operation control	Each kitchen	Operation control	Each laundry	Operation control									
All dwellings	gas instantaneous 6 star	individual fan, ducted to facade or roof	manual switch on/off to facade or roof	individual fan, ducted to facade or roof	manual switch on/off to facade or roof	individual fan, ducted to facade or roof	manual switch on/off to facade or roof									
Cooling		Heating		Artificial lighting				Natural lighting <td colspan="3"></td>								
Dwelling no.	living areas	bedroom areas	living areas	bedroom areas	No. of bedrooms &/or study	No. of living &/or dining rooms	Each kitchen	All bathrooms/toilets	Each laundry	All hallways	No. of bathrooms &/or toilets	Main kitchen				
All dwellings	1-phase airconditioning EER 3.5 - 4.0 (zoned)	1-phase airconditioning EER 3.5 - 4.0 (zoned)	1-phase airconditioning EER 3.5 - 4.0 (zoned)	1-phase airconditioning EER 3.5 - 4.0 (zoned)	3 (dedicated)	2 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	2	no			
Individual pool		Individual spa		Appliances & other efficiency measures <td colspan="3"></td>												
Dwelling no.	Pool heating system	Timer	Spa heating system	Timer	Kitchen cooktop/oven	Refrigerator	Well ventilated fridge space	Dishwasher	Clothes washer	Clothes dryer	Indoor or sheltered clothes drying line	Private outdoor or unsheltered clothes drying line				
All dwellings	-	-	-	-	gas cooktop & electric oven	-	yes	-	-	-	no	no				
Alternative energy																
Dwelling no.	Photovoltaic system (min rated electrical output in peak kW)															
All dwellings	-															
Thermal loads																
Dwelling no.	Area adjusted heating load (in mJ/m ² /yr)							Area adjusted cooling load (in mJ/m ² /yr)								
All dwellings	38.0							21.0								
Construction of floors and walls																
Dwelling no.	Concrete slab on ground(m ²)		Suspended floor with open subfloor (m ²)		Suspended floor with enclosed subfloor (m ²)		Suspended floor above garage (m ²)		Primarily rammed earth or mudbrick walls							
All dwellings	81		-		-		43		No							
Alternative water source																
Dwelling no.	Alternative water supply systems	Size	Configuration	Landscape connection	Toilet connection (s)	Laundry connection	Pool top-up	Spa top-up								
1	central water tank (no. 1)	See central systems	See central systems	yes	no	no	no	no								

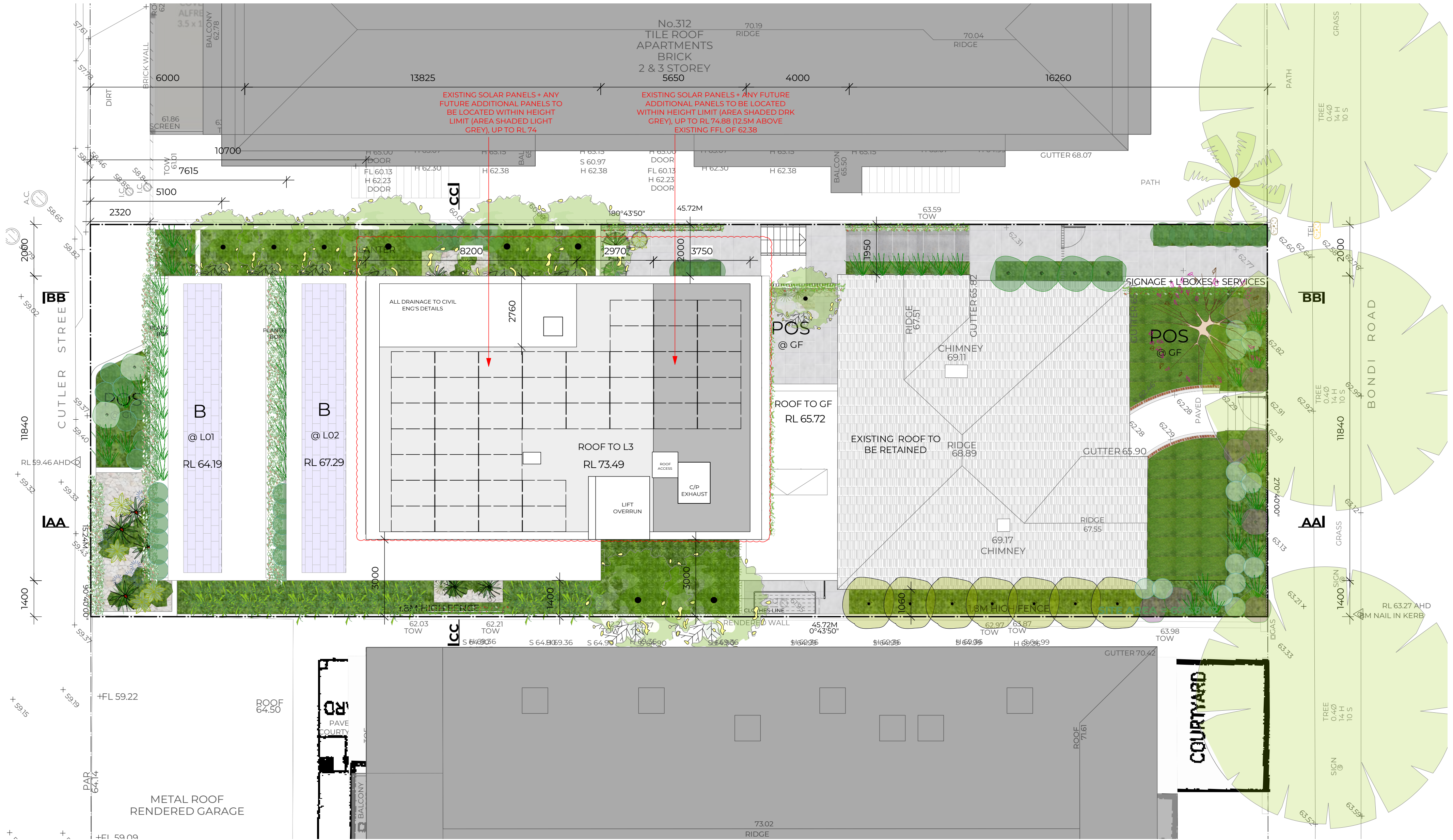
KEY/ NOTES

CLIENT	ADDRESS	REVISION	TITLE	PROJECT NO.	19050
BONDI GROUP PTY LTD	310 BONDI ROAD, BONDI LOT 5 IN DP 3635		DRAWING LIST + BASIX COMMITMENTS	DRAWING NO.	REVISION
ARCHITECTURE URBAN DESIGN INTERIORS PO BOX 257, BONDI NSW 2026 +61 2 9361 5560 ALEKSANDARPROJECTS.COM.AU		C SOLAR PANELS SHOWN B COUNCIL REQUESTED AMENDMENTS	5/5/20 20/4/20	SCALE @ A2 DRAWN BY CHECKED BY	NTS M3 AJ



AMENDED PLANS

ALEKSANDAR PROJECTS



KEY / NOTES
ALL LANDSCAPING TO LANDSCAPE ARCHITECT'S DETAILS
EXISTING TREES TO BE RETAINED

RECEIVED
Waverley Council
Application No: DA-382/2019
Date Received: 05/05/2020

CLIENT
BONDI GROUP PTY LTD

ADDRESS
310 BONDI ROAD, BONDI
LOT 5 IN DP 3635

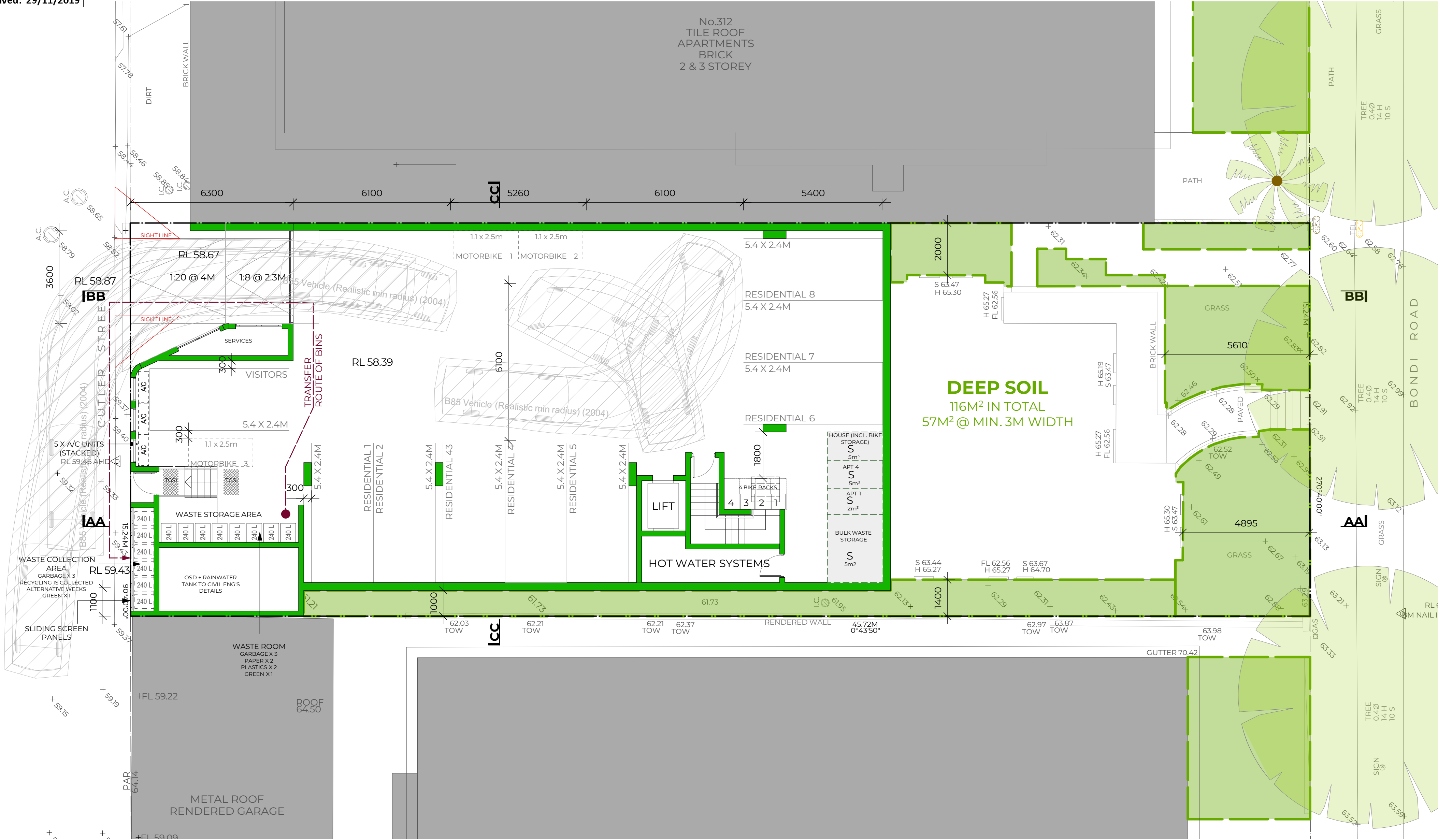
REVISION
C SOLAR PANEL LOCATION IDENTIFIED 5/5/20
B COUNCIL REQUESTED AMENDMENTS 20/4/20

TITLE
SITE + ROOF PLAN

SCALE @ A2
DRAWN BY
CHECKED BY

PROJECT NO.
DRAWING NO.
DA100

19050
REVISION
C



KEY / NOTES

- DEEP SOIL AREA
- PROPOSED MASONRY WALLS
- EXISTING TREES TO BE RETAINED

Energy Rating Certificate Number 15212714

5.0 stars

single-dwelling rating

multi-unit development (attach listing of ratings)

heating 39.0 MJ/m²

cooling 25.0 MJ/m²

Recessed downlights confirmation: ☐ Rated with ☒ Rated without

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

Assessor Signature *Ved Baheti* Date 13/11/2019

CLIENT

BONDI GROUP PTY LTD

ADDRESS

310 BONDI ROAD, BONDI
LOT 5 IN DP 3635

REVISION

A FOR DA SUBMISSION

TITLE

BASEMENT PLAN + DEEP SOIL
AREA

PROJECT NO.

19050

DRAWING NO.

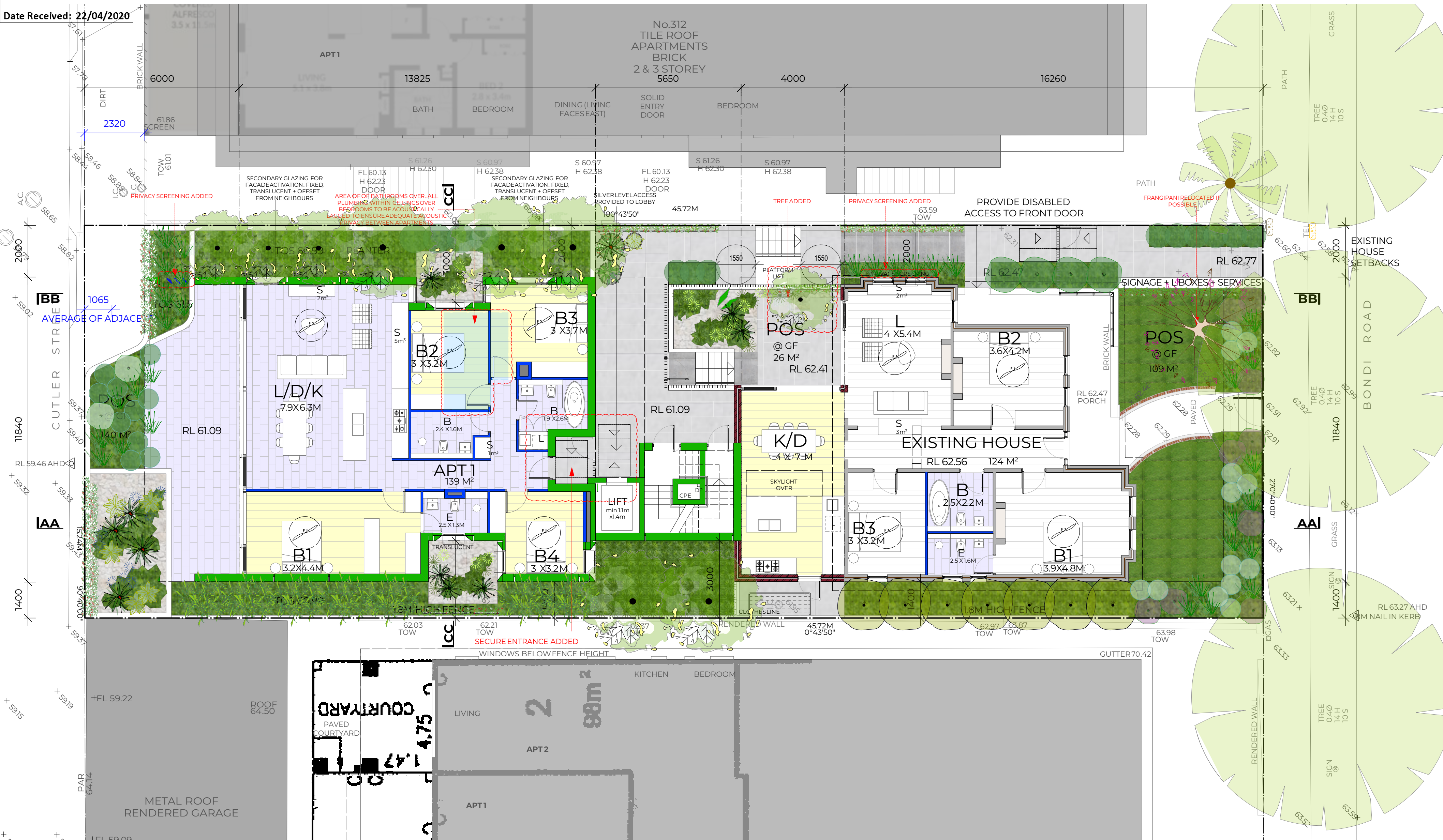
DA101

REVISION

A

AMENDED PLANS

ALEKSANDAR
PROJECTS



- KEY/NOTES
- ALL LANDSCAPING TO LANDSCAPE ARCHITECT'S DETAILS
 - EXISTING TREES TO BE RETAINED
 - PROPOSED INTERNAL CEILING FAN
 - EXISTING BRICK WALLS
 - PROPOSED BRICK WALLS
 - PROPOSED MASONRY WALLS
 - PROPOSED FLOOR FINISH - TILING
 - PROPOSED FLOOR FINISH - TIMBER

CLIENT
BONDI GROUP PTY LTD

ADDRESS
310 BONDI ROAD, BONDI
LOT 5 IN DP 3635

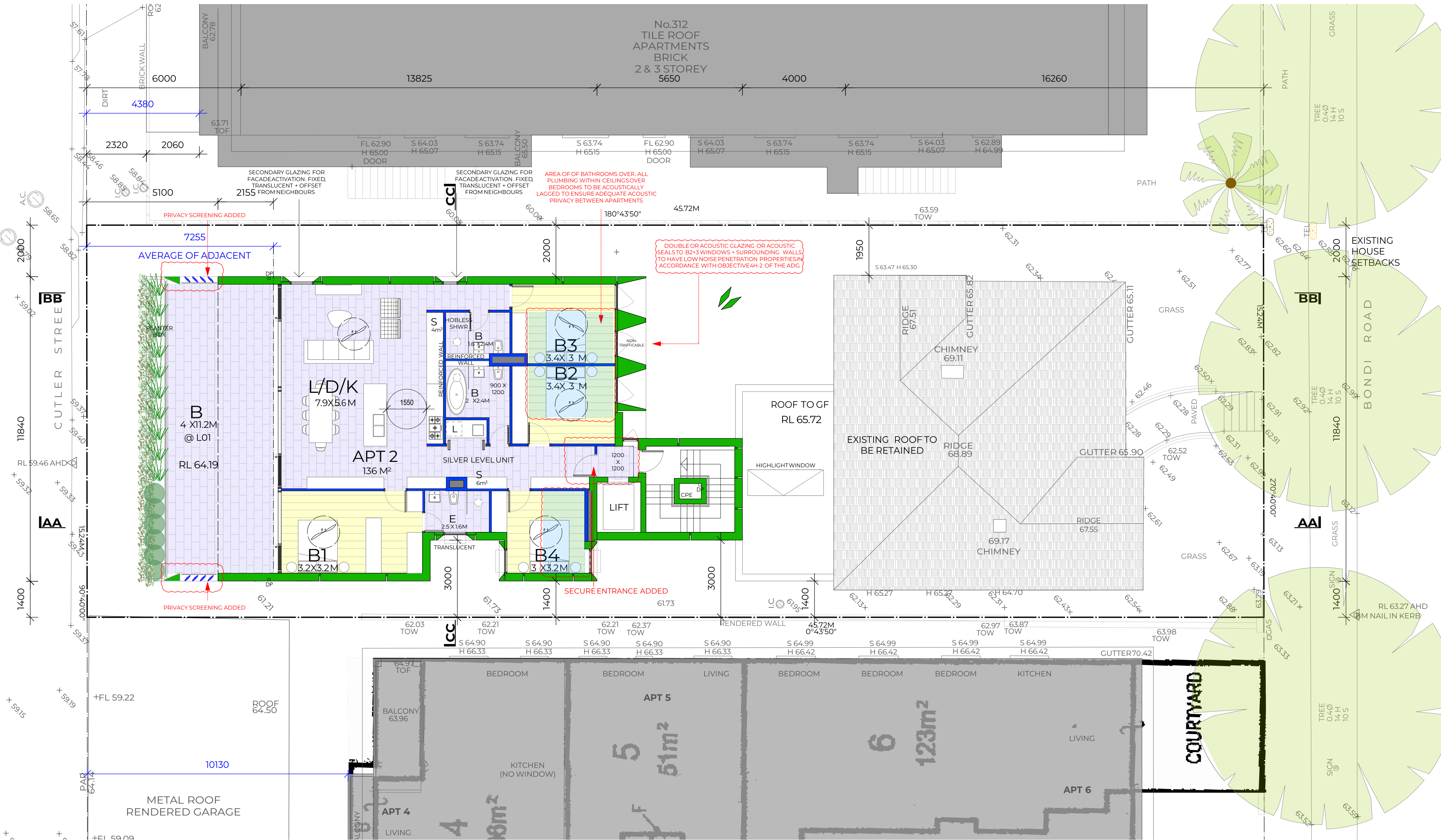
REVISION
B COUNCIL REQUESTED AMENDMENTS 20/4/20
A FOR DA SUBMISSION 30/10/19

TITLE
GROUND FLOOR PLAN

PROJECT NO. 19050
DRAWING NO. DA102
REVISION
SCALE @ A2
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M3
AJ
CHECKED BY

AMENDED PLANS

ALEKSANDAR
PROJECTS



KEY/NOTES

- EXISTING TREES TO BE RETAINED
- PROPOSED MASONRY WALLS
- PROPOSED FLOOR FINISH - TILING
- PROPOSED FLOOR FINISH - TIMBER
- PROPOSED INTERNAL CEILING FAN

RECEIVED
Waverley Council
Application No: DA-382/2019
Date Received: 22/04/2020

CLIENT

BONDI GROUP PTY LTD

ADDRESS

310 BONDI ROAD, BONDI
LOT 5 IN DP 3635

REVISION

B COUNCIL REQUESTED AMENDMENTS 20/4/20
A FOR DA SUBMISSION 30/10/19

TITLE

L01 FLOOR PLAN



SCALE @ A2
DRAWN BY
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PROJECT NO.

19050

DRAWING NO.

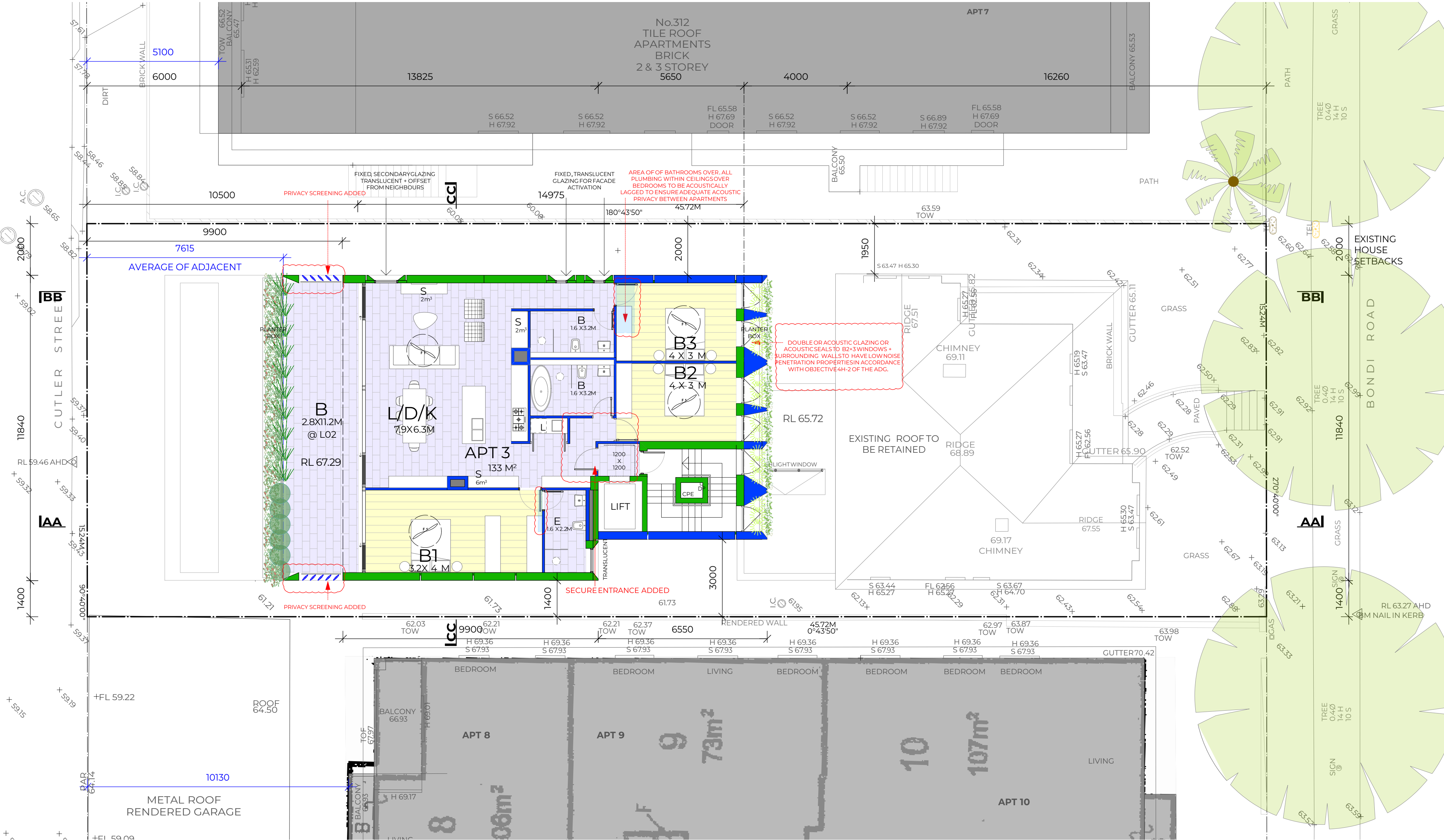
REVISION

DA103

239^B

AMENDED PLANS

ALEKSANDAR PROJECTS



- KEY/NOTES
- EXISTING TREES TO BE RETAINED
 - PROPOSED MASONRY WALLS
 - PROPOSED FLOOR FINISH - TILING
 - PROPOSED FLOOR FINISH - TIMBER
 - PROPOSED INTERNAL CEILING FAN

RECEIVED
Waverley Council
Application No: DA-382/2019
Date Received: 22/04/2020

CLIENT
BONDI GROUP PTY LTD

ADDRESS
310 BONDI ROAD, BONDI
LOT 5 IN DP 3635

REVISION
B COUNCIL REQUESTED AMENDMENTS 20/4/20
A FOR DA SUBMISSION 30/10/19

TITLE
L02 FLOOR PLAN

SCALE @ A2
DRAWN BY
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PROJECT NO. 19050
DRAWING NO. DA104
REVISION

ARCHITECTURE - URBAN DESIGN - INTERIORS
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PROJECTS



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Waverley Council
- Application No: DA-382/2019**
- Date Received: 22/04/2020**

PROJECT NO. 19050

DRAWING NO. DA105

REVISION 041B

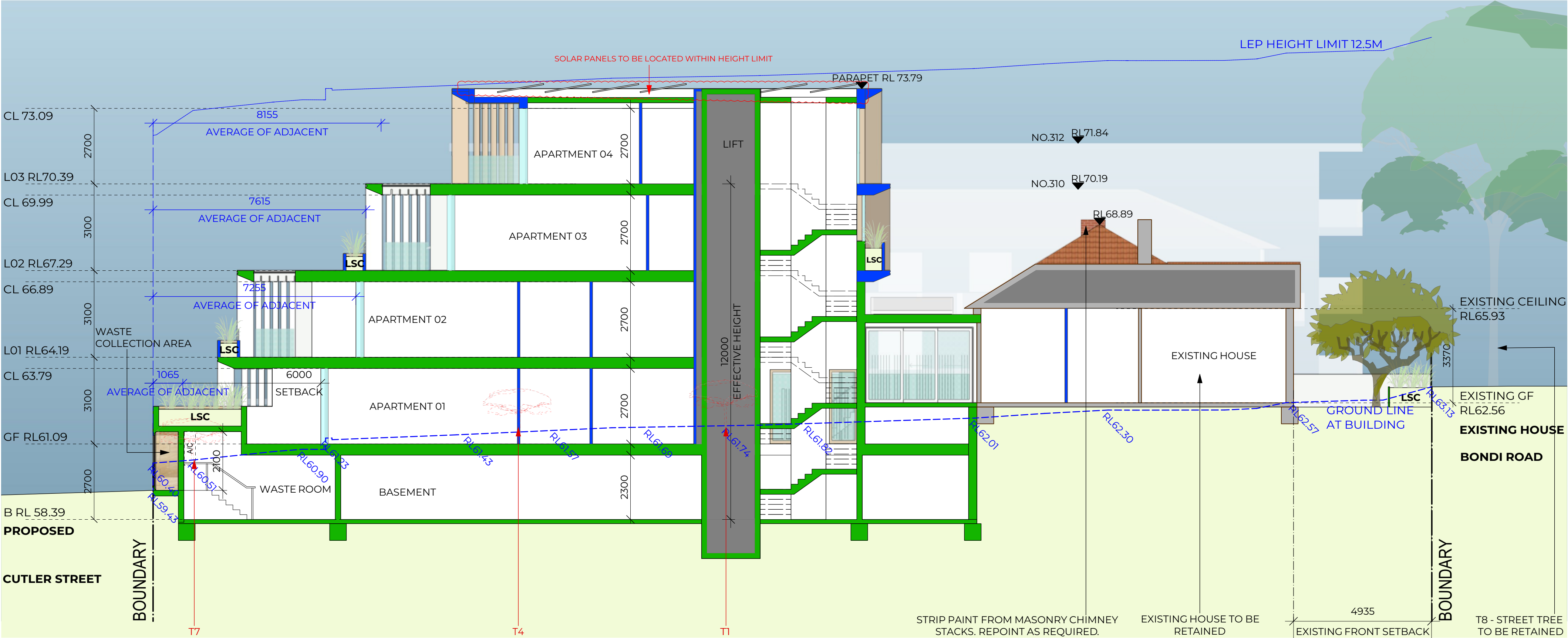
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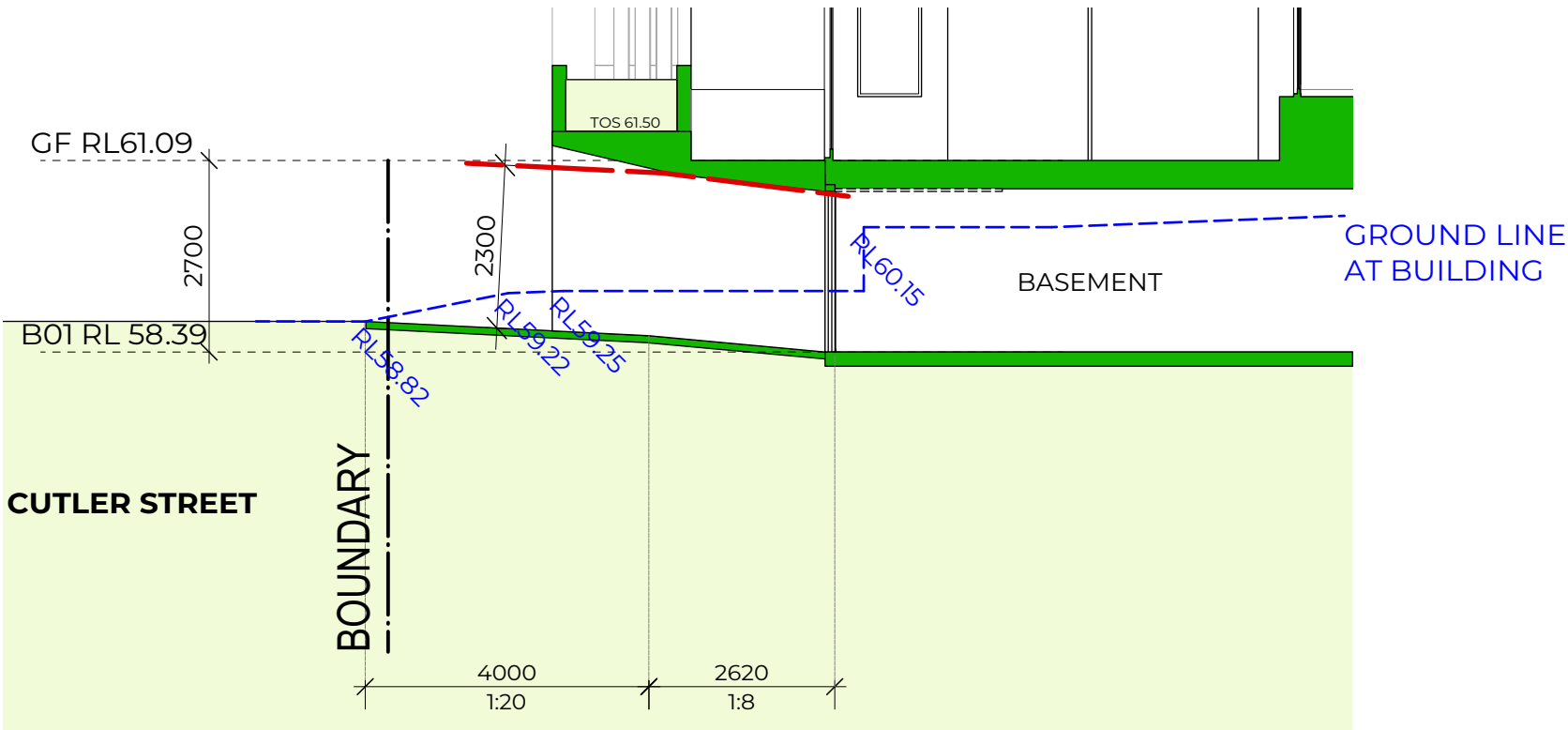
 241^{B}

AMENDED PLANS

ALEKSANDAR
PROJECTS



SECTION AA



DRIVEWAY RAMP SECTION

RECEIVED
Waverley Council

Application No: DA-382/2019

Date Received: 05/05/2020

KEY / NOTES

- | | |
|-----------------------------|------------------------------------|
| EXISTING BRICK WALLS | EXISTING GROUND LINE AT BOUNDARY |
| PROPOSED BRICK WALLS | EXISTING GROUND LINE AT BUILDING |
| PROPOSED MASONRY WALLS | 12.5M LEP HEIGHT LIMIT OF BUILDING |
| PROPOSED METAL FRAMED WALLS | SITE BOUNDARY |
| PROPOSED WINDOWS | PROPOSED DEMOLITION |

CLIENT

BONDI GROUP PTY LTD

ADDRESS

310 BONDI ROAD, BONDI
LOT 5 IN DP 3635

REVISION

C	SOLAR PANELS SHOWN	5/5/20
B	COUNCIL REQUESTED AMENDMENTS	20/4/20

TITLE

SECTION AA + DRIVEWAY RAMP

PROJECT NO.

19050

DRAWING NO.

REVISION

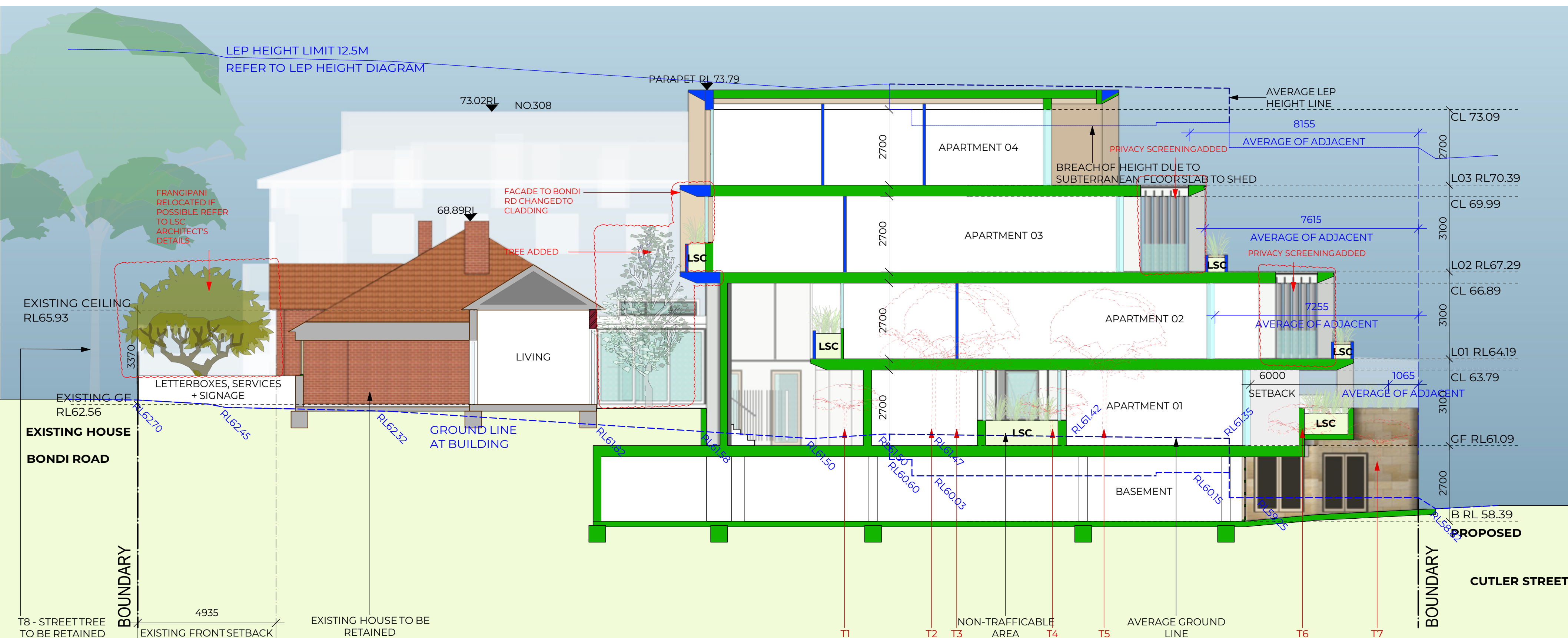
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AJ

DA200

C



KEY/NOTES

EXISTING BRICK WALLS
 PROPOSED BRICK WALLS
 PROPOSED MASONRY WALLS
 PROPOSED METAL FRAMED WALLS
 PROPOSED WINDOWS
 EXISTING GROUND LINE AT BOUNDARY
 EXISTING GROUND LINE AT BUILDING
 12.5M LEP HEIGHT LIMIT OF BUILDING
 SITE BOUNDARY
 PROPOSED DEMOLITION

| CLIENT

BONDI GROUP PTY LTD

ARCHITECTURE URBANDESIGN INTERIORS
PO BOX 257, BONDI NSW 2026
+61 2 9361 5560 ALEKSANDARPROJECTS.COM.AU

310 BONDI ROAD, BONDI
LOT 5 IN DP 3635

B	COUNCIL REQUESTED AMENDMENTS	20/4/20
A	FOR DA SUBMISSION	30/10/19

| TITLE

SECTION BB

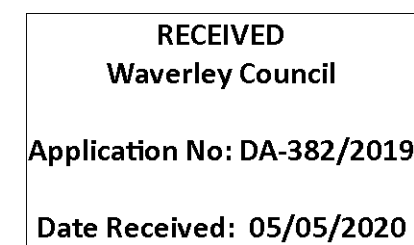
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A1

PROJECT NO. 19050

DRAWING NO. REVISION

DA201 010 B

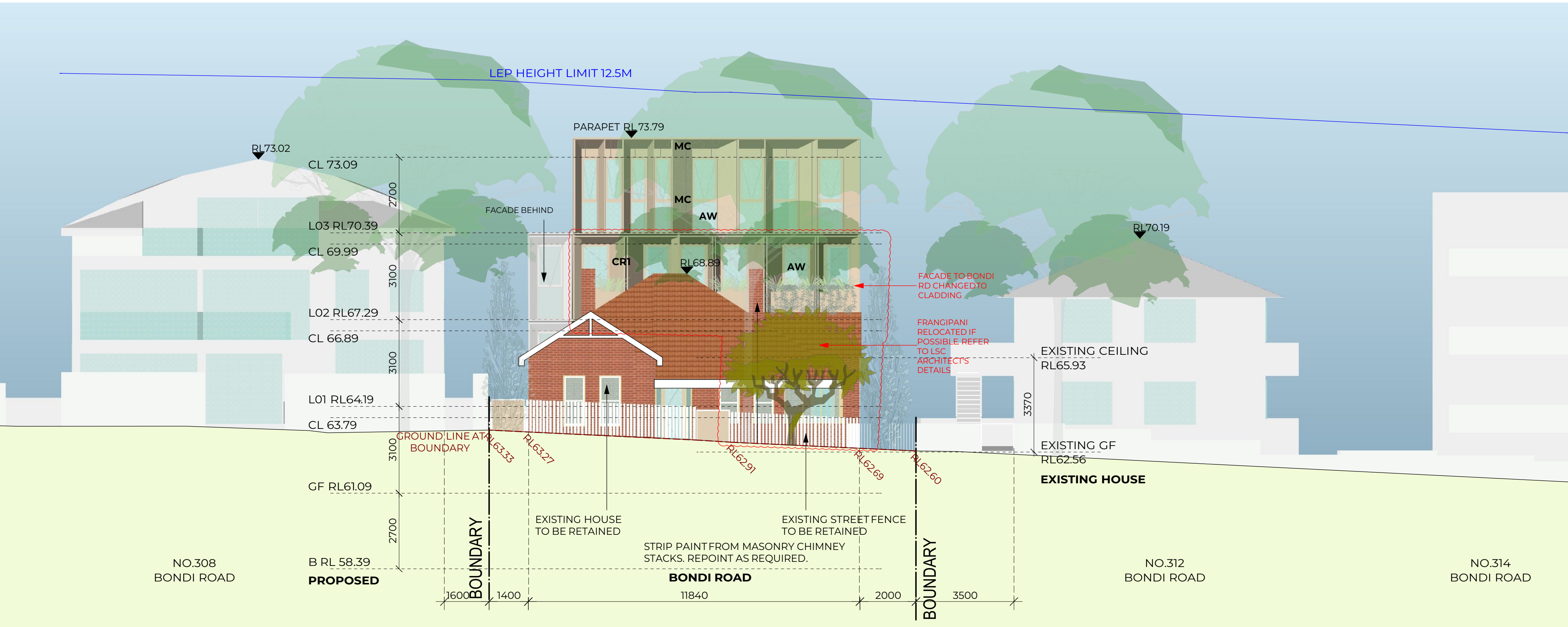


- - - - - EXISTING GROUND LINE AT BOUNDARY
 - - - - - EXISTING GROUND LINE AT BUILDING
 ——— 12.5M LEP HEIGHT LIMIT OF BUILDING
 ——— SITE BOUNDARY
 ——— PROPOSED DEMOLITION

3

AMENDED PLANS

ALEKSANDAR
PROJECTS



KEY/NOTES

FINISHES

CR1 PAINTED CEMENT RENDER/MASONRY FINISH IN 'LIGHT GREY'

CR2 PAINTED CEMENT RENDER IN 'WHITE'

MC CLADDING IN 'METALLIC CHAMPAGNE'

SC MIN. 30MM THICK SANDSTONE CLADDING (TILES)

WINDOWS & DOORS

AW ALUMINIUM WINDOWS & DOOR FRAMES TO MATCH WC

TW TIMBER WINDOWS & DOOR FRAMES TO MATCH CR2

LV LOUVRE SCREEN & DOOR FRAMES TO MATCH SC

TL TRANSLUCENT WINDOW

GD PERFORATED METAL GARAGE DOOR TO MATCH SC

GB GLASS BALUSTRADE

--- EXISTING GROUND LINE AT BOUNDARY

--- EXISTING GROUND LINE AT BUILDING

--- 12.5M LEP HEIGHT LIMIT OF BUILDING

--- SITE BOUNDARY

CLIENT

BONDI GROUP PTY LTD

ADDRESS

310 BONDI ROAD, BONDI
LOT 5 IN DP 3635

REVISION

B	COUNCIL REQUESTED AMENDMENTS	20/4/20
A	FOR DA SUBMISSION	30/10/19

TITLE

SOUTH ELEVATION

PROJECT NO.

19050

DRAWING NO.

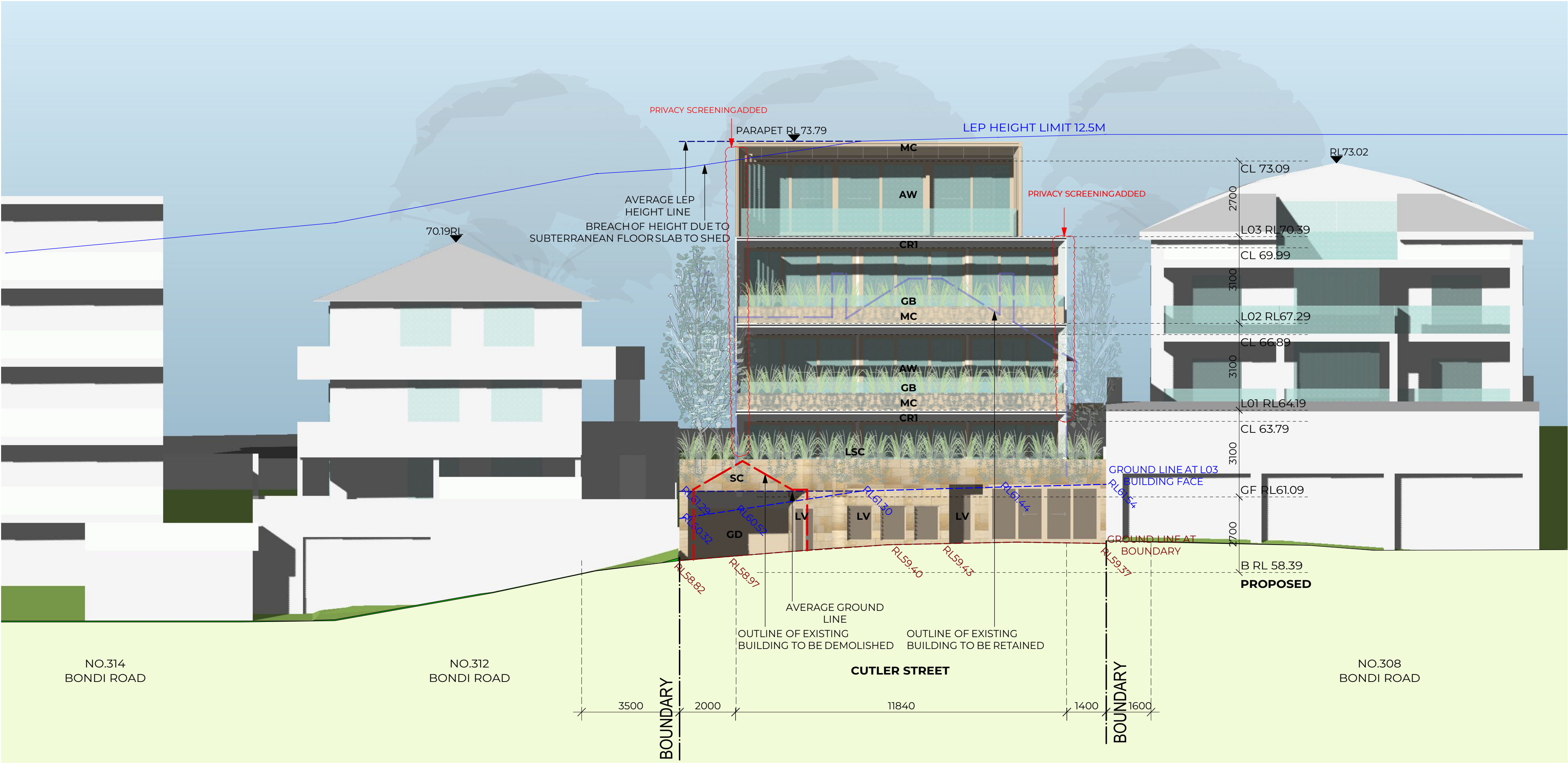
DA203

SCALE @ A2
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M3
A3

245^B

AMENDED PLANS



KEY/NOTES
FINISHES
CR1 PAINTED CEMENT RENDER/ MASONRY FINISH IN 'LIGHT GREY'
CR2 PAINTED CEMENT RENDER IN 'WHITE'
MC CLADDING IN 'METALLIC CHAMPAGNE'
SC MIN. 30MM THICK SANDSTONE CLADDING (TILES)
WINDOWS & DOORS
AW ALUMINIUM WINDOWS & DOOR FRAMES TO MATCH WC
TW TIMBER WINDOWS & DOOR FRAMES TO MATCH CR2
LV LOUVRE SCREEN & DOOR FRAMES TO MATCH SC
TL TRANSLUCENT WINDOW
GD PERFORATED METAL GARAGE DOOR TO MATCH SC
GB GLASS BALUSTRADE

--- EXISTING GROUND LINE AT BOUNDARY
--- EXISTING GROUND LINE AT BUILDING
--- 12.5M LEP HEIGHT LIMIT OF BUILDING
--- SITE BOUNDARY

CLIENT
BONDI GROUP PTY LTD

ADDRESS
310 BONDI ROAD, BONDI
LOT 5 IN DP 3635

REVISION
B COUNCIL REQUESTED AMENDMENTS 20/4/20
A FOR DA SUBMISSION 30/10/19

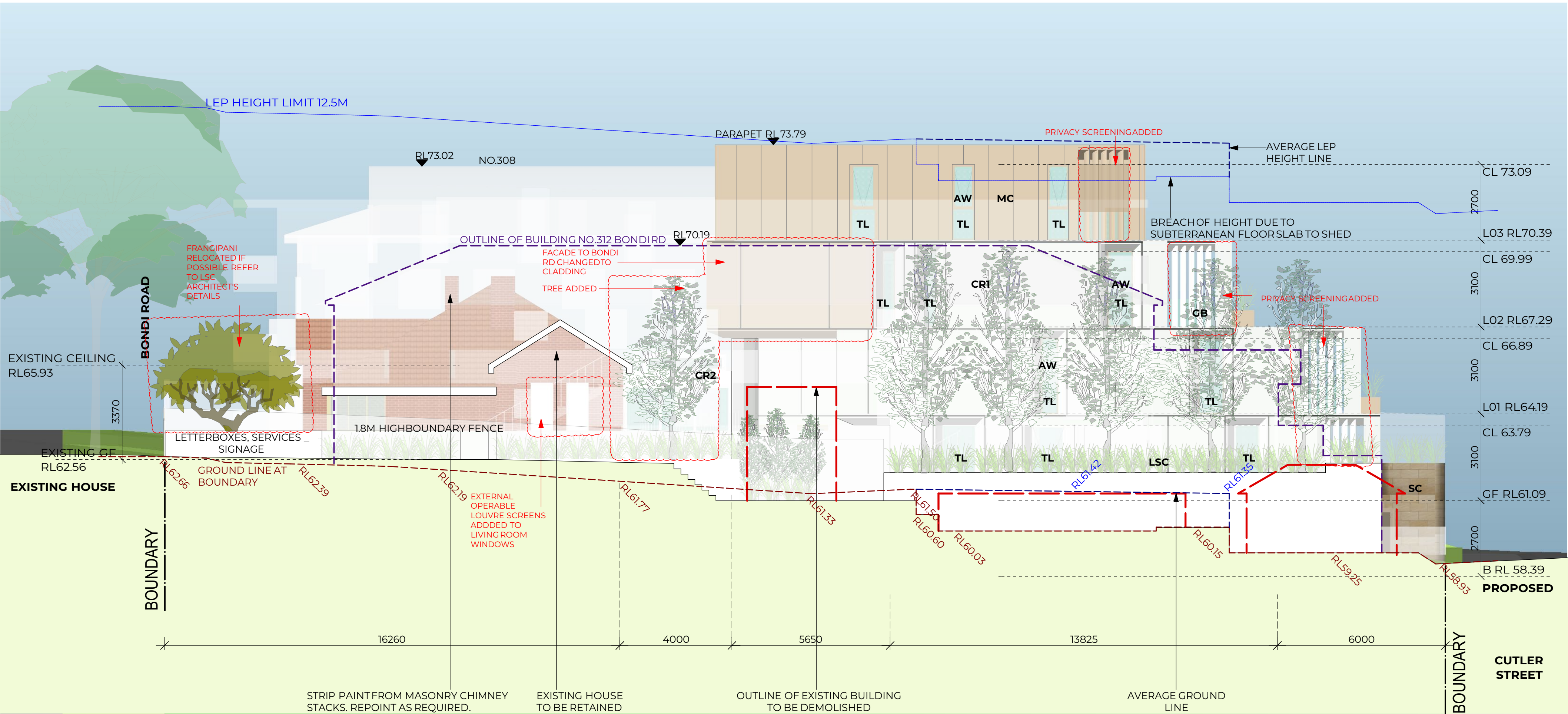
TITLE
NORTH ELEVATION

PROJECT NO. 19050
DRAWING NO. DA204
SCALE @ A2 1:100
DRAWN BY M3
CHECKED BY A3

REVISION
B

AMENDED PLANS

ALEKSANDAR
PROJECTS



KEY/NOTES
FINISHES
CR1 PAINTED CEMENT RENDER/MASONRY FINISH IN 'LIGHT GREY'
CR2 PAINTED CEMENT RENDER IN 'WHITE'
MC CLADDING IN 'METALLIC CHAMPAGNE'
SC MIN. 30MM THICK SANDSTONE CLADDING (TILES)

WINDOWS & DOORS
AW ALUMINIUM WINDOWS & DOOR FRAMES TO MATCH WC
TW TIMBER WINDOWS & DOOR FRAMES TO MATCH CR2
LV LOUVRE SCREEN & DOOR FRAMES TO MATCH SC
TL TRANSLUCENT WINDOW
GD PERFORATED METAL GARAGE DOOR TO MATCH SC
GB GLASS BALUSTRADE

--- EXISTING GROUND LINE AT BOUNDARY
--- EXISTING GROUND LINE AT BUILDING
--- 12.5M LEP HEIGHT LIMIT OF BUILDING
--- SITE BOUNDARY

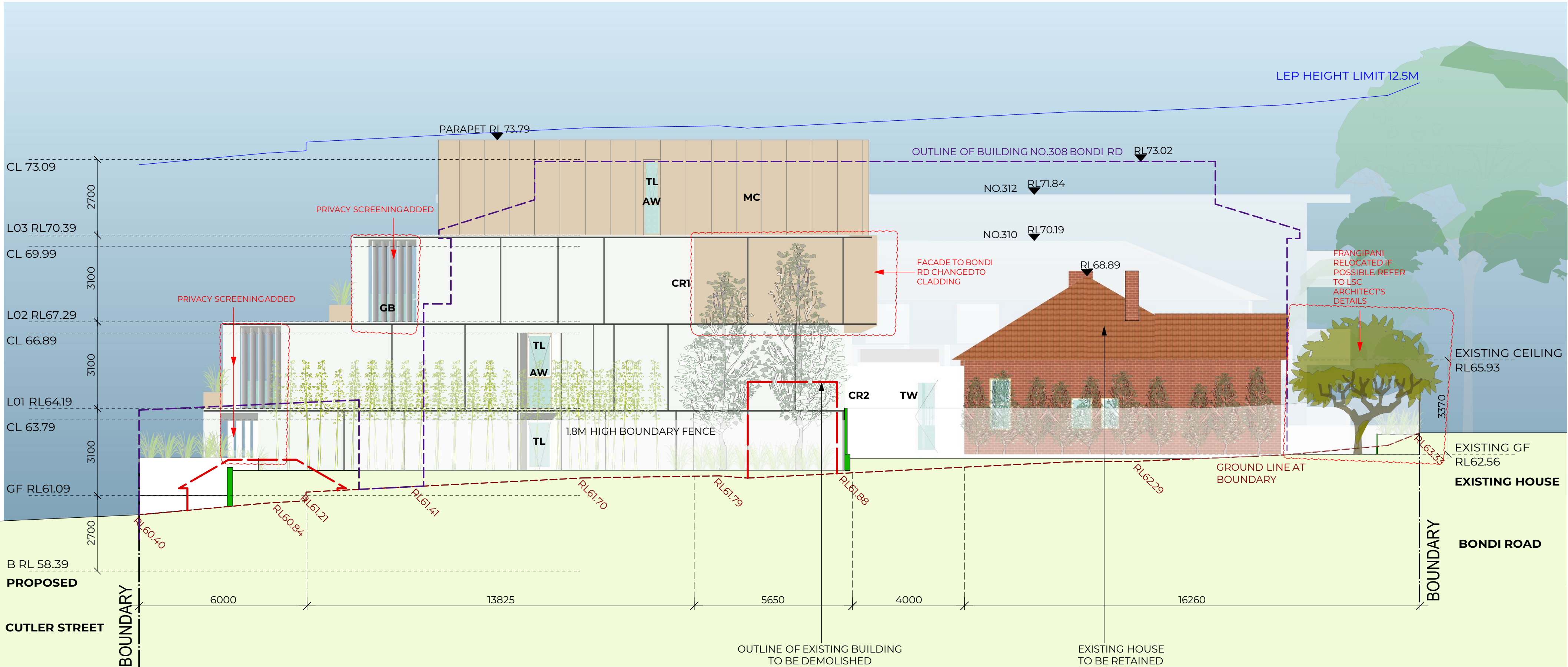
CLIENT
BONDI GROUP PTY LTD

ADDRESS
310 BONDI ROAD, BONDI
LOT 5 IN DP 3635

REVISION
B COUNCIL REQUESTED AMENDMENTS 20/4/20
A FOR DA SUBMISSION 30/10/19

TITLE
EAST ELEVATION

PROJECT NO. 19050
DRAWING NO. DA205
SCALE @ A2
1:100
M3
A3





EAST ELEVATION

RECEIVED
Waverley Council

Application No: DA-382/2019

Date Received: 22/04/2020

CR2 PAINTED CEMENT RENDER
IN 'WHITE'

CR1 PAINTED CEMENT RENDER/
MASONRY FINISH IN 'LIGHT
GREY'

MC CLADDING IN 'METALLIC
CHAMPAGNE'

SC SANDSTONE CLADDIED WALL
- MIN. 30MM THICK TILES

GB GLASS BALUSTRADE

KEY/NOTES:	
FINISHES	
CR1	PAINTED CEMENT RENDER/ MASONRY FINISH IN 'LIGHT GREY'
CR2	PAINTED CEMENT RENDER IN 'WHITE'
MC	CLADDING IN 'METALLIC CHAMPAGNE'
SC	MIN. 30MM THICK SANDSTONE CLADDING (TILES)
WINDOWS & DOORS	
AW	ALUMINIUM WINDOWS & DOOR FRAMES TO MATCH WC
TW	TIMBER WINDOWS & DOOR FRAMES TO MATCH CR2
LV	LOUVRE SCREEN & DOOR FRAMES TO MATCH SC
TL	TRANSLUCENT WINDOW
GD	PERFORATED METAL GARAGE DOOR TO MATCH SC
GB	GLASS BALUSTRADE

AMENDED PLANS

CLIENT

BONDI GROUP PTY LTD

ADDRESS

310 BONDI ROAD, BONDI
LOT 5 IN DP 3635

REVISION

B COUNCIL REQUESTED AMENDMENTS
A FOR DA SUBMISSION

TITLE

EXTERNAL MATERIALS + FINISHES

PROJECT NO. 19050

DRAWING NO. DA308

REVISION

SCALE @ A2
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M3
A3



Report to the Waverley Local Planning Panel

Application number	DA-506/2017/A
Site address	155 Curlewis Street, BONDI BEACH
Proposal	Modification to extend operating hours of premises - F45 training facility.
Approved development description	Alterations and change of use of premises to a gymnasium (F45 Training).
Date of lodgement	25 February 2020
Owner	Jentil P/L
Applicant	Complete Trade P/L
Submissions	125 submissions – 123 in support and three in objection
Issues	Noise and disturbance; Hours of operation.
Recommendation	That the application be REFUSED



1. PREAMBLE

1.1 Site and Surrounding Locality

The site is identified as Lot 1 in DP 724793, known as 155 Curlewis Street, Bondi Beach. It is located on the south west side of Curlewis Street.

The site is rectangular in shape with an area of 365m² and is generally flat.

The site is occupied by a single storey commercial building with the front of the building most recently in use as a video shop, the rear has been used a gym for some time.

The immediate locality is characterised by a mix of retail and commercial uses along Curlewis Street, many with residential uses above.

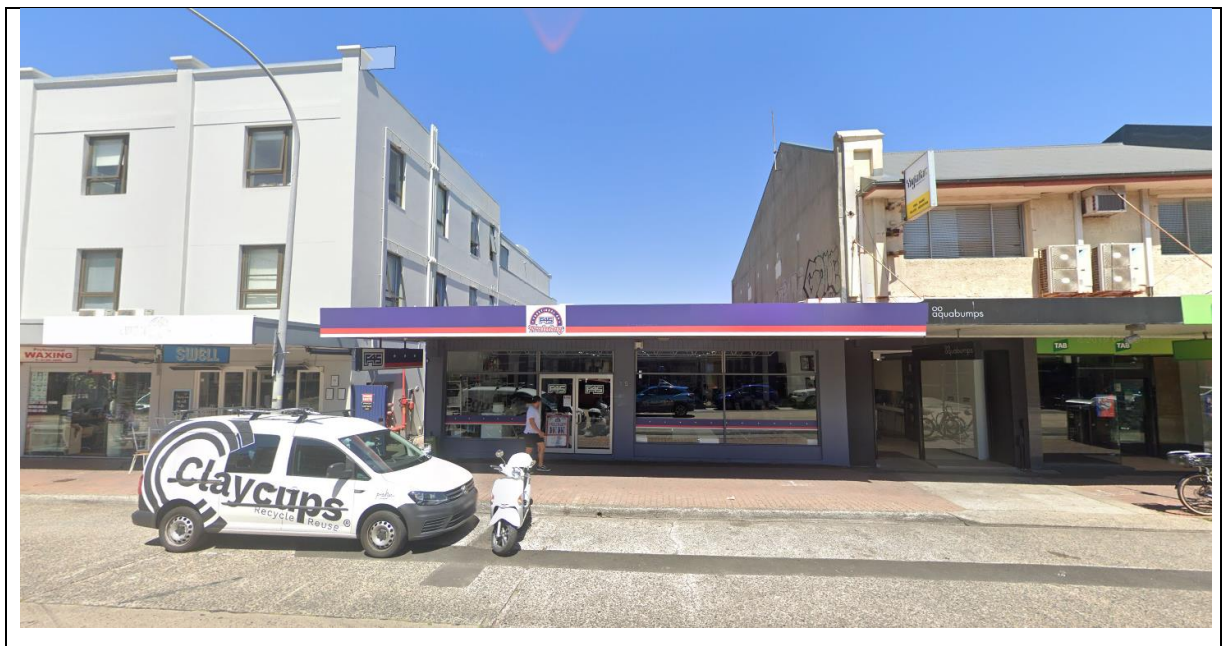


Figure 1: Subject site frontage (source: GoogleEarth)

1.2 Details of Approved Development

DA-207/2011: Internal alterations to shop to include an indoor cycling studio at the rear of the premises was approved on 25 May 2011.

DA-207/2011/A: Modification to cycle studio to extend operating hours (from opening at 6am) to opening at 5.15am was refused on 19 August 2016 for the following reasons:

1. *The proposal does not satisfy section 79C(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 D1 – Commercial and Retail Development*
 - i. *Section 1.2 Noise, specifically objective (b), as the proposed hours of operation will result in unacceptable noise and disturbance to residential properties adjoining the entry to the premises.*

- b. *Part D1 – Commercial and Retail Development*
- ii. *Section 1.3 Hours of operation, specifically objective (a) and control (d), as the application proposes hours of operation that are not in accordance with the DCP and will impact upon the amenity of the area and disrupt nearby residential properties.*
2. *The site is considered to be unsuitable for the proposal and is therefore contrary to section 79C (1) (c) of the Environmental Planning and Assessment Act 1979. The proposal is not inconsistent with the hours of operation of surrounding properties thereby impacting negatively on surrounding residential properties.*
3. *The proposal is contrary to section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 in relation to the public interest as the proposal is inconsistent with noise and hours of operation objectives and controls relating to commercial development contained in Waverley DCP 2012. The non-compliances of the proposal will consequently undermine the intent of those objectives and controls.*

DA-506/2017: Proposed alterations and change of use of the premises to a gymnasium (F45 Training) was approved on 7 February 2018. The approval extended the use as a gym to the tenancy at the front of the site giving the premises direct access from the street frontage.

The hours of operation approved under this consent were as follows:

3. HOURS OF OPERATION

The hours of operation of the premises are restricted to between 6.00am and 8.00pm Monday to Friday and between 7.00am and 6.00pm Saturday and Sunday.

1.3 Proposal

The application has been lodged as a section 4.55(2) application and provides for the following modifications to the approved development:

- Alter condition 3 to allow opening hours from 5.15am, Monday to Friday and 6.15am Saturday.

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

2.2 Planning Instruments and Development Control Plans

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

2.2.1 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is not inconsistent with the aims of the LEP.
Part 2 Permitted or prohibited development		
Land Use Table B4 Mixed Use Zone	Yes	The use has been previously approved and is permissible within the zone.

2.2.2 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 D1 Commercial and Retail Development Compliance Table

Development Control	Compliance	Comment
1.2 Design		
1.1.4 General Amenity <ul style="list-style-type: none">Effectively manage the interface between non-residential uses and residential uses	No	Refer to discussion following tables below.
1.1.5 Noise	No	Refer to discussion following tables below.
1.3 Hours of operation		
B4 Mixed Use: General base trading hours- <ul style="list-style-type: none">Mon-Sat: 7am -11pmSun: 7am-10pm Extended trial hours: <ul style="list-style-type: none">Mon - Sun: 7am-midnight	No	Refer to discussion following table below.

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

Noise and hours of operation

The objective of Section 1.3 of the DCP is to effectively manage the interface between non-residential uses and residential uses.

Table 3: Approved Hours of Operation of Nearby Fitness Studios

Address	DA No. & Proposal	Approved Hours	Comments
40 Hall Street <i>BodyMindLife Bondi</i>	DA-243/2018 Fitout of yoga studio with associated retail area and juice/coffee bar	25 June 2009 • 6am-10pm Mon-Sun	
151 Curlewis Street <i>Yoga Studio (Yoga Bar)</i>	DA-214/2015 Change of use to a Yoga Studio and fitout	4 August 2015 • 7am-9pm Mon-Sun • Trial hours: 6am-9pm Mon-Sun (1-year) - EXPIRED	• No evidence of a \$4.55 application lodged to confirm continuation of trial period hours.
Bondi Pacific, 182 Campbell Pde <i>Speedo Fitness Club (Gym)</i>	DA-487/2015 Use of basement as a gym open 24 hours per day	18 February 2016 • 7am-11pm, Mond-Sat • 7am-10pm, Sun • Trial hours: 24 hours, Mon-Sun (1-year) - EXPIRED	• Trial hours expired on 18/02/2017 - no record of renewal of 24 hour trial hours. • Granted on the basis that gym is located in a basement without adjoining residential uses.
145-149 Curlewis Street <i>Beach Fit (gym)</i>	DA-337/2013/A Modification to change opening hours of gym from 7am to 6am	26 February 2019 • 7am-11pm Mon-Sat • 7am-10pm Sun • Trial hours – opening 6am Mon-Sun (2-year)	• 2-year trial hours opening 6am expires 26 February 2021.
Bondi Pacific, G13/182 Campbell Pde <i>Yoga</i>	DA-488/2018 Ancillary use of a Yoga Studio to a Speedo swimwear retail outlet	13 February 2019 • 7am-10pm, Mon-Fri • 7AM-7PM, Sat-Sun	• Trial hours were not approved as new premises without a record of good management.
The Beach House, 178 Campbell Pde <i>Lean Bean Fitness</i>	DA-95/2019 Use as a fitness studio	15 July 2019 • 7am-7.30pm, Mon-Sun • Trial hours: 6am-7am, Mon-Sun (1-year)	• 1-year trial hours expire on 15 July 2020

It is clear from the above table, that recent approvals of fitness facilities/clubs within the area have restricted the core opening hours to 7am. There are instances where trial periods have been granted for opening hours of 6am and in one instance, 24-hour trial hours (since expired). The subject gym has already been granted permanent opening hours of 6am, whereas other nearby premises have an opening time of 6am on a renewable trial basis.

The site sits within a row of shops with frontage to Curlewis Street which border on the adjoining residential area to the west and south. These shops effectively provide a transition between the retail

component of the B4 - *Mixed Use* zone and the R3 – *Medium Density Residential* zone. Shops within this row generally do not have approved opening hours before 7am, (with the exception of Beach Fit at 147 Curlew Street with trial opening hours of 6am as detailed in Table 3).

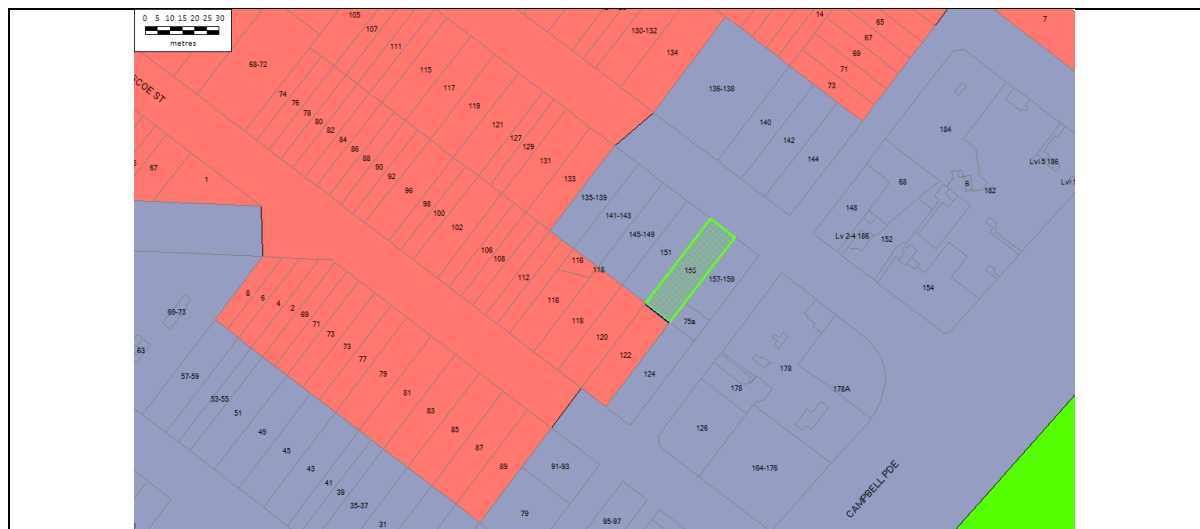


Figure 2: Extract from zoning map showing the proximity of the site to land zoned R3 – Medium Density Residential

In areas where retail/commercial and residential uses are in close proximity to each other, careful consideration of any proposal for the commercial premises is required in order to ensure that any potential adverse impacts on the surrounding uses is minimised.

The adjoining building to the east at No. 157-159 Curlew Street has ground level commercial uses with residential units above. The windows of these residential units overlook/adjoin the side passageway and street frontage of the site. In this regard, noise on the street frontage impacts upon the residential uses above. There are also residential properties above shops on the opposite side of the road and units at the rear.

It is acknowledged that any premises could be sufficiently acoustically treated to ensure that noise is contained within the premises within reasonable limits. The Acoustic Report suggests that the use of headphones for the early morning class would be a way of alleviating noise impacts upon surrounding properties. However, the noise from patrons entering and leaving the premises cannot be contained except through restrictions imposed such as operating hours. In a mixed use area, it can be anticipated that background noise levels may be higher than strictly residential areas however, controls in relation to hours of operation of commercial uses ensure that noise is contained within certain hours to allow residents periods of respite.

Section 1.3 of Part D1 of Waverley DCP 2012 allows the following base trading hours within the B4 Mixed Use Zone:

- a) *General base trading hours:*
 - (i) *Monday to Saturday: 7.00am to 11.00pm; and*
 - (ii) *Sunday: 7.00am to 10.00pm.*
- b) *Extended trading hours on a 1 year trial basis will be considered up to:*
 - (i) *Monday – Sunday: 7am to midnight.*

The subject premise already has permanent consent for an opening hour of 6:00am. In effect the hours that the premise has approval to operate under are already earlier than the current DCP allows.

Extending the opening hours to 5.15am would allow trading hours 1 hour and 45 minutes earlier than the DCP allows. Extended trading hours will only be considered in areas where there will be little, to no, impact upon residential uses nearby. It is not possible to eliminate the noise from patrons entering and leaving the premises and it cannot be adequately controlled except through a restriction in hours.

It is acknowledged that Council has granted extended hours, including trial 24 hour operation, to other fitness centres in the Local Government Area (LGA) however this is in circumstances where the use will not impact upon residential uses and where the business model is one where patrons work out individually on equipment in isolation, rather than a class-led type of environment.

The subject gym seeks to provide an early morning class whereby there will be multiple patrons arriving and leaving at the same time. One-hundred and twenty-three (123) letters of support were received during notification, mainly from existing gym members. A significant portion of these stated that they would be attending this early morning class before work, indicating that a large number of patrons would be in attendance or seeking attendance. This will cause disturbance to the surrounding residential uses in the early hours of the morning. Although complaints have not been received during the operation of the premises recently, objectors have stated that the loud music and instructor are audible within adjoining residential premises. This would be consistent with a class-led style of business model, rather than individual use of equipment as per previous extended hour approvals in the LGA.

Given the above analysis, the extended trading hours are not supported.

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 a significant detrimental effect relating to environmental, social or economic impacts on the locality, and is not supported.

2.4 Suitability of the Site for the Development

The site is considered to be unsuitable for the proposed extended hours of operation.

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*.

One hundred and twenty-five (125) submissions were received comprised of 122 submissions in support and 3 submissions in objection. The submissions in support appear to have been received from members of the gym seeking to have an additional early morning class. These submissions were received from properties all over the LGA (and other LGAs) however not from properties adjoining the subject premises. The letters of objection have been received from properties adjoining the gym.

The issues raised in the objections are summarised and discussed below.

Table 4: Summary of property addresses that lodged a submission

Property
120 Roscoe Street, Bondi Beach
6/120 Roscoe Street, Bondi Beach
122 Roscoe Street, Bondi Beach
122 submissions in support from various properties within the LGA and beyond

Issue: *Noise and disturbance from amplified music and associated continual loud screaming from instructors already occurs; the current noise in the morning is already loud enough to wake people up on our apartment.*

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

2.6 Public Interest

It is considered that the proposal will be against the public interest and is not supported.

3. REFERRALS

3.1 Environmental Health

The following comments were provided in response to the proposal:

I refer to your request for comment on an application to extend the trading hours of an existing F45 gym trading at premises 155 Curlewis Street Bondi Beach.

It should be noted that this section has received noise complaints in the past.

- 1. In 2016 and related to loud techno music being played early in the morning.*
- 2. In 2018 relating to loud music being played both early and late.*

An acoustic report has been prepared by Acoustic Logic (report no. 20191313.1/0312A/RO/TH) and dated 3 December 2019 in relation to the proposal. The report concludes that sound levels will comply with the noise criteria assuming windows and doors are shut. This is considered undesirable and unreasonable and this section does not support this activity being carried out at this time.

Consideration could be given to a trial period being imposed or alternatively the recommendation made by the acoustic consultant that a headphone monitoring system be used instead of the use of an amplified speaker system during the early morning period.

The issues raised above have been discussed in detail previously in this report. Trial hours are not considered appropriate as the existing gym already have permanent hours consistent with those that have been granted to other gyms in the area on a trial basis.

4. SUMMARY

The proposal seeks consent for modifications to allow the approved gym to open at 5.15am rather than 6am.

The subject premise already has permanent consent for trading hours of 6:00am to 8:00pm Monday to Friday and 8:00am to 6:00pm Saturday and Sundays. In effect the hours that the premise has approval to operate under are already earlier than the current DCP allows. Extended trading hours will only be considered in areas where there will be little, to no, impact upon residential uses nearby. It is not possible to eliminate the noise from patrons entering and leaving the premises and it cannot be adequately controlled except through a restriction in hours. In this regard, the application is not supported.

The proposal was notified to surrounding properties and 125 submissions were received, 122 in support and 3 in objection. The issues raised have been discussed in detail in this report.

The application is recommended for refusal.

DBU Decision

The application and assessment report were reviewed by the DBU at the meeting on 5 March 2020 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, B Matlawski

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the Section 4.55 Modification Application be **REFUSED** by the Waverley Local Planning Panel for the following reasons in Appendix A:

Report prepared by:



Kylie Lucas
Senior Development Assessment Planner

Date: 06/05/2020

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



Angela Rossi
Manager, Development Assessment (Central)

Date: 12/05/2020

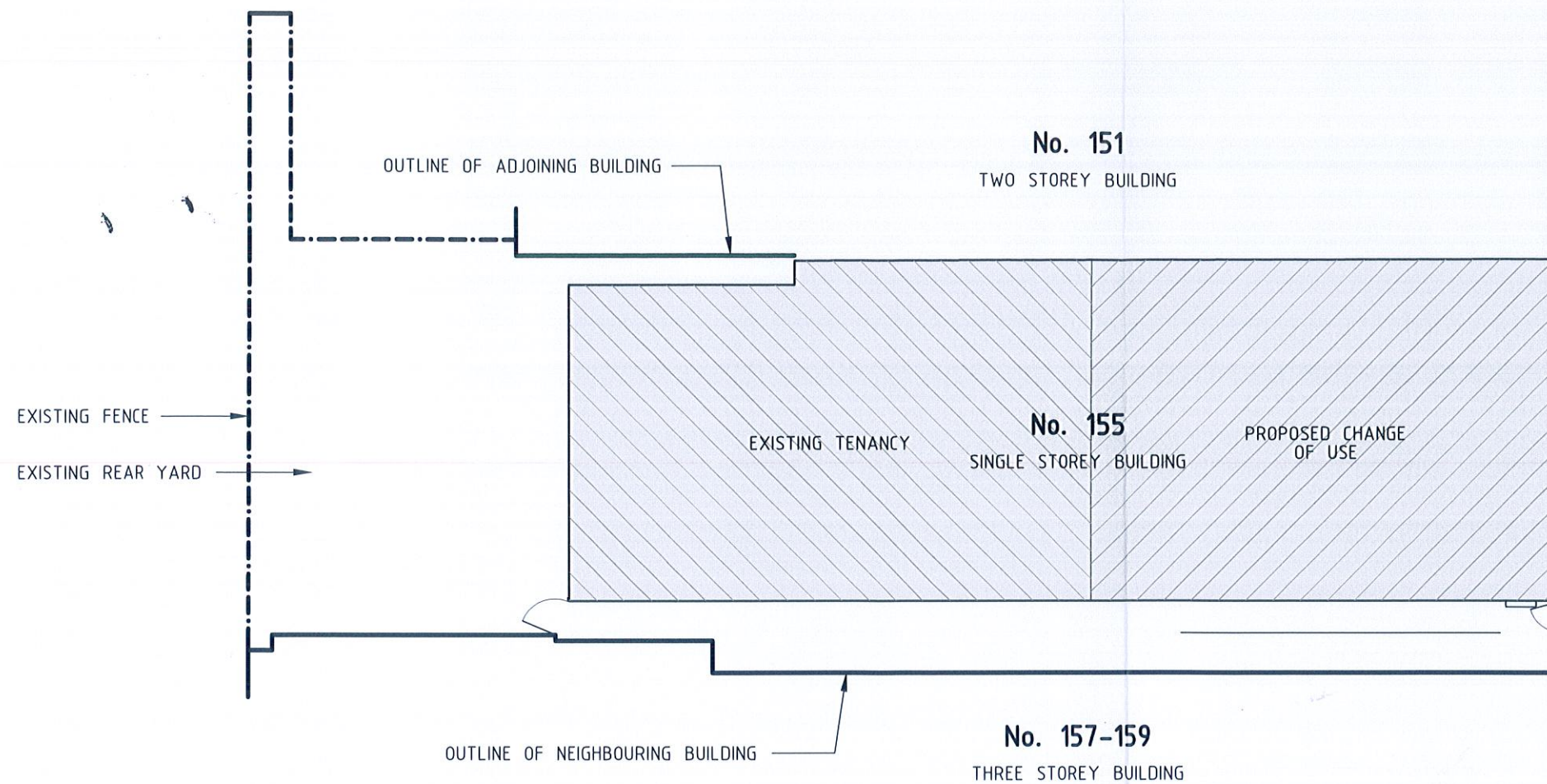
Reason for referral:

- 2 Contentious development (10 or more objections)

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 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 of 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:
 - a. Part D1 – Commercial and Retail Development
 - i. Section 1.2 *Design*, specifically objective (e) as the extended hours are not compatible with the amenity expectations of adjoining and nearby residential uses.
 - ii. Section 1.3 *Hours of Operation*, specifically objective (a) and control (d), as the application proposes hours of operation that are not in accordance with the DCP and will impact upon the amenity of the area and disrupt nearby residential properties.
3. The site is considered to be unsuitable for the proposal and is therefore contrary to section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979. The proposal is inconsistent with the hours of operation of surrounding properties and will impact negatively upon residential properties within the immediate vicinity.
4. The proposal is contrary to section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979 in relation to the public interest as the proposal is inconsistent with noise and hours of operation objectives and controls relating to commercial development contained in Waverley DCP 2012. The non-compliances of the proposal will consequently undermine the intent of those objectives and controls.



CURLEWIS ST

RECEIVED
29 NOV 2017
WAVERLEY COUNCIL
Customer First

DA-506/17

Waverley Council
APPROVED

Development Consent

These plans/specifications form part of the Notice of Determination in respect to development application No. DA-506/2017 and are subject to any conditions of the development consent.

[Signature]
Authorised person

**PROPOSED ALTERATIONS
& CHANGE OF USE TO
155 CURLEWIS ST BONDI**

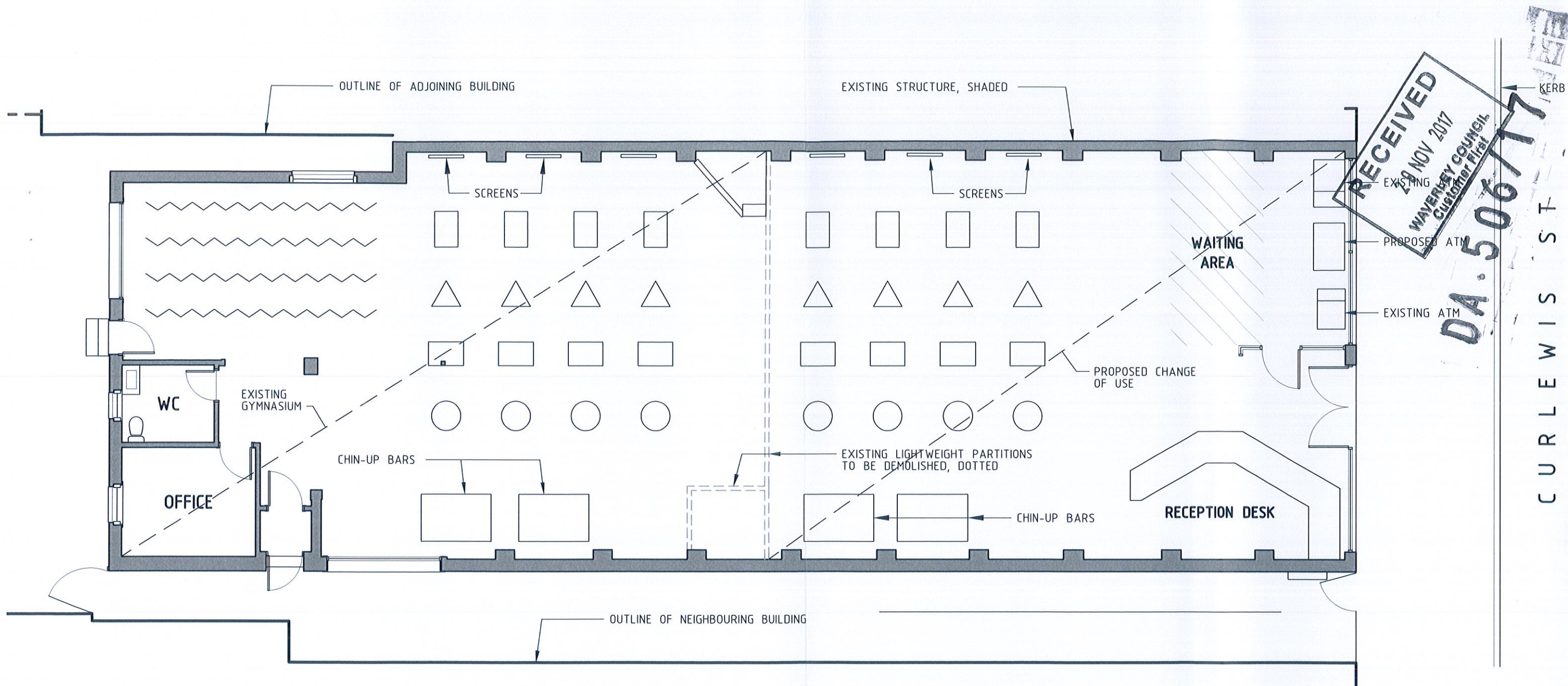
DRAWING: **SITE PLAN**

DATE: 25 OCT 2017	DRAWING NO.	ISSUE
SCALE: 1:200 (AT A3)	DA01	B
DRAWN: DS		

AMENDMENTS

- A FOR DISCUSSION
- B FLOOR PLAN MOVED TO DA02. SITE PLAN ADDED.

17/10/17
25/10/17

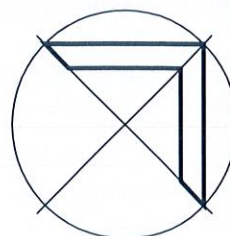


GROUND FLOOR PLAN

SYMBOLS LEGEND	
	BATTLE ROPES
	BENCHES
	STATIONARY BIKES
	ROWING MACHINES
	JUMP BOXES

NOTES

FLOOR COVERING TO BE 45mm RUBBER MATTING.
CLASSES WILL CONSIST OF SMALL HAND WEIGHTS AND KETTLE BELLS.



Waverley Council
APPROVED

Development Consent
These plans/specifications form part of the Notice of Determination in respect to development application No. DA-506/2017 and are subject to any conditions of the development consent.

[Signature]
Authorised person

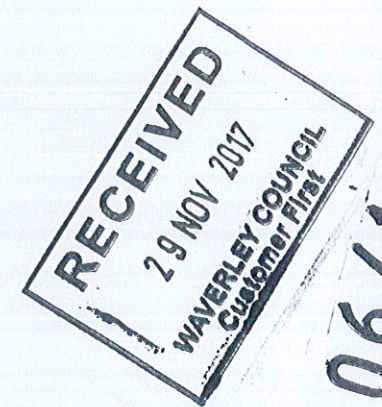
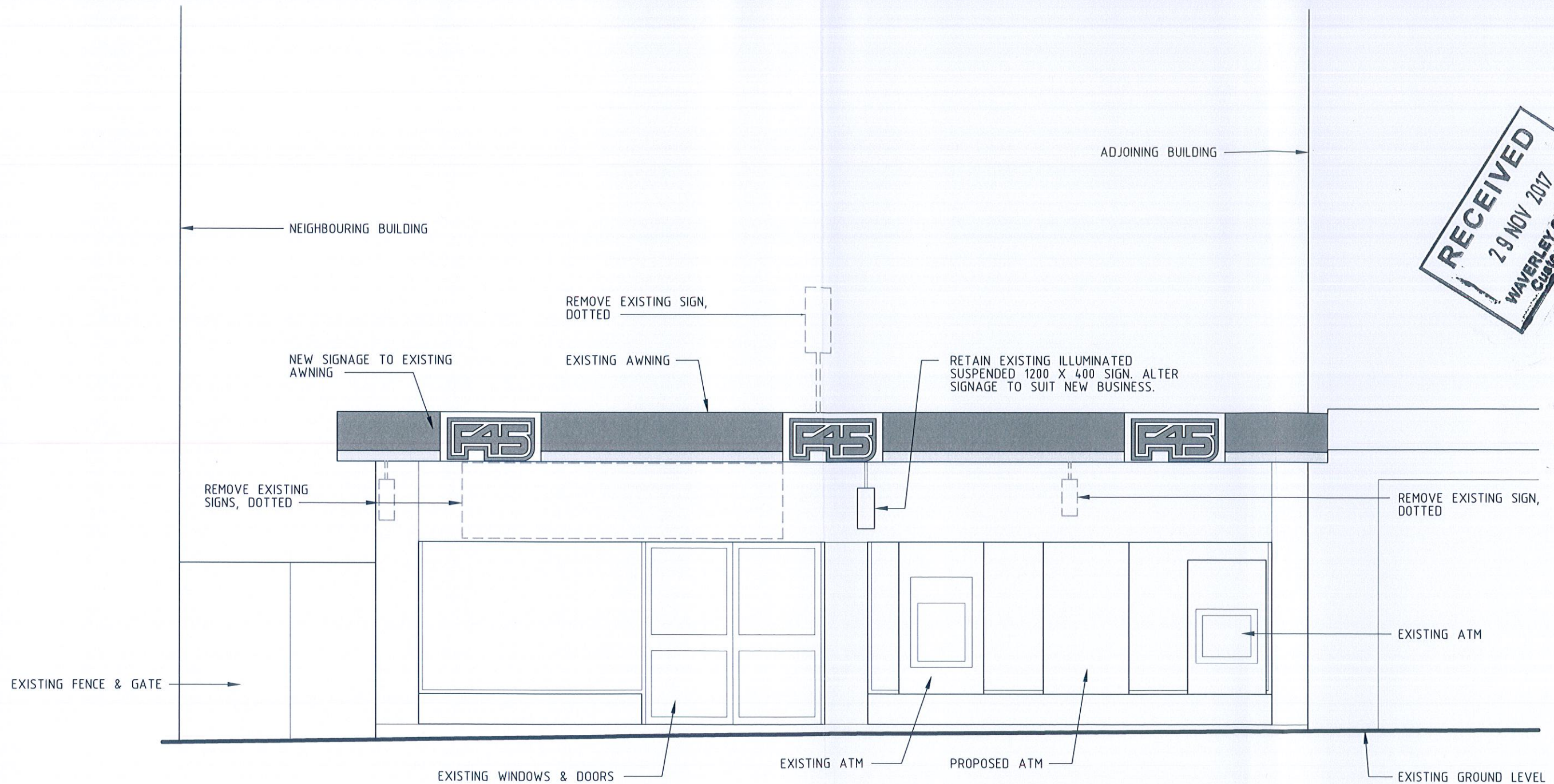
AMENDMENTS

A	FOR DISCUSSION	17/10/17
B	DRAWING NO CHANGED FROM DA01 TO DA02	25/10/17

**PROPOSED ALTERATIONS
& CHANGE OF USE TO
155 CURLEWIS ST BONDI**

DRAWING: **FLOOR PLAN**

DATE: 25 OCT 2017	DRAWING NO.	ISSUE
SCALE: 1:100 (AT A3)	DA02	B
DRAWN: DS		



DA-506/17

NORTH-EAST ELEVATION

NOTES

ALTER EXISTING SIGNAGE TO SUIT NEW BUSINESS

Waverley Council
APPROVED

Development Consent

These plans/specifications form part of the Notice of Determination in respect to development application No. **DA-506/2017** and are subject to any conditions of the development consent.

[Signature]
Authorised person

AMENDMENTS

A	FOR DISCUSSION	18/10/17
B	DRAWING NO CHANGED FROM DA02 TO DA03	25/10/17
	SCALE CHANGED FROM 1:100 TO 1:50	
	SIGNAGE NOTES ALTERED	

PROPOSED ALTERATIONS & CHANGE OF USE TO 155 CURLEWIS ST BONDI

DRAWING: **ELEVATIONS**

DATE: 25 OCT 2017	DRAWING NO.	ISSUE
SCALE: 1:50 (AT A3)	DA03	B
DRAWN: DS		



Report to the Waverley Local Planning Panel

Application number	DA-342/2019/1
Site address	115 Murriverie Road, NORTH BONDI
Proposal	Review of previous refusal seeking alterations to single dwelling to provide a hardstand car space.
Date of lodgement	13 February 2020
Owner	Mr K Guiney
Applicant	Mr P Wilsher
Submissions	Nil
Cost of works	\$28,900
Issues	Car parking, streetscape, landscaped area, front fence, deletion of sunroom and alterations to the front bedroom.
Recommendation	That the application be REFUSED

Site Map



1. PREAMBLE

1.1 Site And Surrounding Locality

A site visit was carried out on 20 November 2019.

The site is identified as Lot 2 in DP 203820, known as 115 Murriverie Road, NORTH BONDI. The site is irregular in shape with a northern front boundary measuring 6.48m, southern boundary measuring 5.85m and eastern boundary measuring 36.5m in length. The western boundary is rectilinear in shape measuring 5.8m in the rear yard, with a 0.94m cut from the party wall and 30.7m to the front boundary. The site has an area of 229.6m² and the site falls from the eastern boundary towards the western boundary by approximately 0.48m. The site is occupied by a two storey semi-detached dwelling with no vehicular access provided to the site.

The subject site is adjoined by a semi-detached dwelling to the west and a detached dwelling to the east. The locality is characterised by a variety of residential developments including semi-detached, dwellings and residential flat buildings. This eastern end of Murriverie Road is a cul-de-sac, which is intersected by Wairoa Avenue and Waratah Street.



Figure 1: Subject site (semi-detached dwelling on the left) looking south viewed from Murriverie Road.



Figure 2: South westerly view of subject site from Murriverie Road.



Figure 3: Dwellings directly opposite the subject site at 132-134 Murriverie Road.

1.2 Relevant History

The following details are relevant background to previous applications applicable to the site:

- **DA-38/2006:** A Development Application for the alterations and additions to rear of dwelling including replacement of side fence. Approved on 1 March 2006.
- **DA-38/2006/A:** A Modification Application to amend development consent, including the extension at the rear of the existing premises. Approved on 7 September 2006,
- **DA-268/2014:** A Development Application for the alterations and additions including first floor addition and front and rear balconies. Approved on 24 July 2014.

Original Application:

DA-342/2019: The original development application sought consent for the alterations to a single dwelling to provide a hardstand car space. The application was lodged on 23 October 2019.

On the 27 November 2019, the applicant was advised that the application would not be supported due to the site not being able to fit a hardstand car space without demolishing the front verandah and part of the front bedroom. The hardstand was considered to dominate the streetscape and the front setback resulting in an unfavourable desired built form. The applicant was advised to withdraw the application or alternatively, the application would be recommended for refusal.

In the absence of a withdrawal, the application was refused under delegated authority on 16 December 2020 for the following reasons:

- The proposal does not promote good design or amenity in the built environment;
- The hardstand results in the requirement to cut in to the dwelling to allow for car space to meet Australian Standards;
- The hardstand would dominate the site and remove existing landscaping;
- The hardstand is not appropriate within the streetscape;
- Pedestrian safety is compromised;
- The proposal does not result in design excellence;
- Cutting in to the bedroom would disrupt the cohesion of the pair of semi-detached dwellings; and
- Is not in the public interest.

1.3 Proposal

The subject Section 8.2 application seeks a review of the determination made under DA-342/2019. In response to the refusal of the application, minor changes to the Architectural Plans include widening the driveway to 3m at the kerb and adding a second window to the front façade. The applicant also strengthened their Statement of Environmental Effects in regard to commenting on all of the relevant sections in the DCP.

The proposal includes the following works:

- Construction of a new driveway crossing;
- Demolition of the front sunroom;
- Reconfiguration of the front wall in bedroom 1 with two windows;
- Construction of one hardstand car space measuring 5.4m x 2.4m as measured from the front external wall of the dwelling to the gate;
- Modify existing front fence and install sliding gate; and
- Landscaping.

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 Section 8.2 Considerations

Section 8.2 of the Act enables Council to review a previous determination of a development application subject to the following provisions:

(2) A determination or decision cannot be reviewed under this Division:

(a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or

(b) after the Court has disposed of an appeal against the determination or decision.

(3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.

The determination of the original development application was made on 16 December 2019. The period of the right of appeal for the applicant to exercise (referenced in section 8.3(2)(a) of the Act), is six months after the date of determination. The application is scheduled to be determined by the Waverley Local Planning Panel on 27 May 2020, which satisfies the statutory timeframe to determine this review application.

Council officers are satisfied that the essential elements of the development, the subject of the original development application, are substantially the same as the amended development, the subject of this review application. The overall scope and description of the development between the two applications remain unchanged.

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 not been submitted with the development application because the cost of works of the alterations and additions to the existing dwelling is less than \$50,000.

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 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 Residential Zone	Yes	The proposal involves the construction of a car parking space associated with the existing semi-detached dwelling on the property that is permitted with consent in the R3 Zone.
Part 4 Principal development standards		
4.3 Height of buildings • 9.5m	Yes	The proposed works do not exceed a height of 9.5m.
4.4 Floor space ratio • Approved at 0.72:1 (165m ²)	Yes	The proposal reduces the floor space ratio to 0.70:1 (159.6m ²)

2.2.4 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.
3. Landscaping and Biodiversity	No	A landscaping plan wasn't submitted with the application. The architectural plans detail that five small trees are to be removed and grassed over. This is not acceptable as it does not maintain as much existing vegetation as possible and is not cohesive with the site and streetscape.
7. Accessibility and adaptability	Yes	The proposal does not contravene this part of the WDCP 2012.

Development Control	Compliance	Comment
8. Transport	No	<p>The proposal is not compliant with objective (d), as the hardscape car parking space would dominate the frontage of the subject site to the Murrivier Road streetscape.</p> <p>The proposal is not compliant with objective (f) as the proposal results in the loss of one on-street car parking space.</p> <p>The proposal requires the demolition of the sunroom and reconstruction of the front bedroom with a 400mm cut into the area to accommodate the nose of a parked vehicle. The hardstand is not located behind the front building line and the site conditions do not permit a hardstand to fit without demolishing a portion of the existing dwelling.</p>
12. Design excellence	No	<p>This proposal does not positively contribute to the architectural character of Murrivier Road.</p> <p>The deletion of the front sunroom for the hardstand and cutting into the front bedroom is not an appropriate design response and not considered design excellence.</p>

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

Development Control	Compliance	Comment
1.2 North Bondi		
<p>Desired Future Character Objectives</p> <ul style="list-style-type: none"> • Maintain streetscape rhythm in building frontages • Improve amenity on site and adjoining sites • Minor alterations in the roof space. 	No	<p>The proposal to demolish the sunroom and cut into the front bedroom is not considered to maintain a uniform building frontage. The alteration to the semi-detached dwelling would negatively impact on the rhythm of the dwellings.</p>
<p>Controls:</p> <p>Communal landscaped gardens are required within the front setback.</p>	No	<p>The existing landscape within the front setback is to be removed and replaced with grass. A landscape plan was not submitted with the application.</p>

Table 4: 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
2.0 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 	No	<p>The proposed parking space dominates the front setback and erodes the existing character of the streetscape due to the landscaped area being reduced.</p> <p>In addition, the cutting into the dwelling to create the hardstand is not sympathetic to the existing dwelling and does not result in a high design standard.</p>
2.1 Height		
Pitched Roof dwelling house <ul style="list-style-type: none"> • Maximum external wall height of 7m 	Yes	The proposal does not alter the existing external wall height of the semi-detached dwelling.
2.2 Setbacks		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> • Predominant front building line 	Yes	The proposal does change the existing front building line of the semi-detached dwelling by demolishing the sunroom and increasing the front setback for the hardstand. The front building line is within the predominant building line along Murrivier Street.
2.2.2 Side setbacks <ul style="list-style-type: none"> • Minimum of 0.9m 	Yes	The proposal does not alter the existing side setbacks of the semi-detached dwelling.
2.3 Streetscape and visual impact		
<ul style="list-style-type: none"> • New development to be compatible with streetscape context • Replacement windows to complement the style & proportions of existing dwelling • Significant landscaping to be maintained. 	No	<p>The proposed development does not adequately balance the proposed car parking space with suitable urban design and amenity outcomes. Refer to discussion below.</p> <p>The proposed car parking would dominate the dwelling and streetscape. Landscaping within the front setback is reduced with the proposal. The vehicle access and pedestrian entryway are not clearly separate and adjoining, making a larger block of pavement in the front setback.</p>
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 <i>Side and Rear:</i>	No	The proposed modification of the new front fence and sliding gate does not show any dimensions but is measured to a maximum of 1.7m. A fence of this height would compromise sight lines and adversely impact upon pedestrian safety. The proposed fence on the eastern side would obscure sightlines for a

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Maximum height of 1.8m 		vehicle reversing out of the proposed hard stand car parking space.
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	Two windows are proposed at the front of the dwelling which are smaller than existing.
2.8 Car parking		
2.8.1 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 Parking to be provided from secondary streets or lanes where possible. 	No	<p>The proposed car space is not considered to be appropriately designed as conditions of the site do not permit the requirements for the space. The semi-detached dwelling pair is located on a corner site with an unusually small front setback to Murrivier Street and undersized site width. The proposal does not achieve a high standard of urban design that retains the quality of the existing landscaping within the front setback area.</p> <p>The hardstand space is located in front of the building and the driveway would result in the loss of one on-street car space.</p> <p>The modifications are required to the front sunroom and bedroom, and it is therefore considered that the site is incapable of suitably accommodating a vehicle, without the vehicle overhanging the public domain.</p>
2.8.2 Parking rates <i>Maximum rates:</i> <ul style="list-style-type: none"> 3 or more bedrooms 	Yes	One car space on the site complies with the parking rates as there are three or more bedrooms in the dwelling.
2.8.3 Location <ul style="list-style-type: none"> Behind front building line for new dwellings <p>Existing development to be in accordance with the hierarchy of preferred car parking locations</p>	No	<p>The existing distance between the front property boundary and the sunroom is only 3.3m that falls short of the required 5.4m by 2.1m (38.9%). The proposal involves the demolition and reconstruction of the existing front bedroom that would be partially modified to accommodate the length of a vehicle. The car space would be located within the front setback area that will visually dominate the context of the site.</p>

Development Control	Compliance	Comment
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 	No	<p>The proposal involves the demolition of the sunroom and reconstruction of the existing front bedroom with a 400mm cut into this room to accommodate car parking on the site. The car parking space would be a dominant feature on the site and therefore does not appear to be secondary in appearance to the primary residence. The natural features of the site including screen planting are all to be removed and would not result in a desired streetscape outcome. The car parking space is completely paved and does not promote stormwater infiltration into the site.</p> <p>The proposed sliding gate has horizontal slats, but it is not clear if it has an open design.</p>
2.8.5 Dimensions 5.4m x 2.4m per vehicle	Yes	<p>The car space dimensions are 2.4m x 5.5m when measured from the front boundary to the external wall of the dwelling front bedroom. The site is unable to accommodate a hardstand car parking space without alterations to the front sunroom and bedroom as the existing distance from the front boundary to the sunroom only measures 3.3m.</p>
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	<p>The applicant has altered the driveway so that it is compliant with control (c) in Section 2.8.6 and the driveway has a width of 3m at the gutter. The driveway would result in the net loss of one on-street space.</p>
2.9 Landscaping and open space		
<ul style="list-style-type: none"> • Overall open space: 40% of site area 	Yes	<p>The existing open space area is retained on site and is added to through the demolition of the sunroom.</p>
<ul style="list-style-type: none"> • Overall landscaped area: 15% of site area 	Yes	<p>The proposal includes 73.1m² (32.1%) of landscaped area across the site.</p>
<ul style="list-style-type: none"> • Minimum area of 25m² for private open space 	Yes	<p>The proposal does not alter the existing private open space at the rear of the site.</p>
<ul style="list-style-type: none"> • Front open space: 50% of front building setback area 	Yes	<p>The proposal does increase the open space within the front building setback area by deleting the sunroom resulting in a total of 32.2m² of open space in front setback.</p> <p>Proposed Landscaped Area: 46% (15.7m²).</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Front landscaped area: 50% of front open space provided 	No	The construction of the hardstand car parking space results in a reduction of landscaped area within the front setback area that adversely impacts upon the landscaped setting and presentation of the semi-detached dwelling to Murrivier Road. The hard-stand car parking area is to be paved and is not considered to promote on-site stormwater infiltration.
2.13 Semi-detached dwellings and terrace style development		
<p>2.13.1 - Built form</p> <ul style="list-style-type: none"> Additions to match the style of the original semi-detached dwelling Alterations to front verandahs are to be minimal and to maintain the existing verandah form, detail and finish and the relationship of the verandah to the front verandah of the adjoining semi-detached dwelling. 	Merit Assessment	<p>The proposal involves the demolition and reconstruction of the front of the dwelling with the demolition of the sunroom and a small cut out into the front bedroom to accommodate the length of a vehicle in the proposed parking space.</p> <p>As a result, the existing front bedroom and sunroom are modified. It is noted that this sunroom was not an original part of the dwelling and is a recent add-on only to the subject site and not the adjoining semi.</p> <p>In relation to control (e), it is considered that the deletion of the sunroom is reflective of the form of the semi-detached pair at No. 113 Murrivier Road. However, the proposal cuts further into the front bedroom by 400mm, which does not replicate a symmetrical built form of the attached semi-detached dwelling pair. The site is considered to be unsuitable to accommodate an off-street car parking space as it cannot be achieved without requiring alterations to the dwelling. The proposal results in non-compliances with the relevant Australian Standards for car parking, Council's car parking design controls, landscaped area and pedestrian safety and is not supported.</p>
2.13.3 - Material finishes and detail for semi-detached dwellings.	Yes	Finishes and detailing are cohesive with the existing dwelling.

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 a significant detrimental effect relating to environmental, social or economic impacts on the locality, and is not supported.

2.4 Suitability of the Site for the Development

The proposal is not considered to be suitable for the proposed development.

2.5 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.

2.6 Public Interest

It is considered that the proposal will have an impact on the public interest as the proposal results in safety concerns for pedestrians.

3. REFERRALS

3.1 Traffic & Development – Creating Waverley

The application was referred to Council's Design and Development (Creating Waverley) Department who raised no objection to the proposal as there was only loss of one on-street parking space.

4. SUMMARY

The application seeks a review of the refusal of DA-342/2019, which sought consent for alterations and additions to the existing semi-detached dwelling including new handstand car space, driveway, new fence, landscaping, streetscape compatibility and various external changes. In response to the refusal of the application, the applicant has made minor changes to the Architectural Plans to include widening the driveway to 3m at the kerb and adding a second window to the front façade. The applicant also strengthened their Statement of Environmental Effects in regard to commenting on all of the relevant sections in the DCP.

The proposal was referred to Council's Manager Traffic & Development who supports the proposal because numerically the car space fits on site with the demolition of the sunroom and cut into the front bedroom and the driveway only removes one on-street car space.

The proposal is non-compliant with Council's controls for car parking, results in a further reduction of landscaped area, compromises pedestrian safety, alters the built form and cohesion between the semi-detached dwelling. The undersized allotment is not an appropriate site to fit a single spaced hardstand. It is considered to dominate the presentation of the property to Murrivier Road and erode the existing character of the streetscape due to the landscaped area being reduced.

The application was notified and received no submissions. There were no declarations of interest throughout the assessment process.

In light of the above issues, and the assessment made throughout this report, the review application is not considered to be appropriate in the context of the site and as such, is recommended for refusal.

5. DETERMINATION TO WAVERLEY LOCAL PLANNING PANEL

That the review of the Development Application is **REFUSED** by the Waverley Local Planning Panel for the reasons contained in Appendix A:

Report prepared by:

Application determined by:

Edwina Ross
Development Assessment Planner

Bridget McNamara
Manager, Development Assessment North

**(Reviewed and agreed on behalf of the
Development and Building Unit)**

Date: 8 May 2020

Date: 14 May 2020

Reason for referral:

1 Section 8.2 Review

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 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:

a. Part B8 - Transport

- i. Clause 8 Transport, specifically objectives (d), (e), (j) and (k) as the hardstand would dominate the site, remove existing landscaping and is not suitable for the constrained site.
- ii. Clause 8.1 Streetscape, specifically objectives (a) and (b) as the application does not adequately balance the proposed car parking space with suitable urban design and control (c) as the proposed car parking would dominate the streetscape and landscaping within the front setback is reduced.
- iii. Clause 8.2 On-Site Car Parking, specifically objective (a), as the application would compromise pedestrian safety and control (d) as the car parking space requires the demolition of the sunroom and reconstruction of the front room with a cut into this area to accommodate the parked vehicle.
- iv. Clause 8.4 Pedestrian/Bicycle Circulation & Safety, specifically objectives (a) and (d) as the high fence on the eastern side would compromise sight lines for vehicles reversing out of the car space that would adversely impact upon the safety of pedestrians.

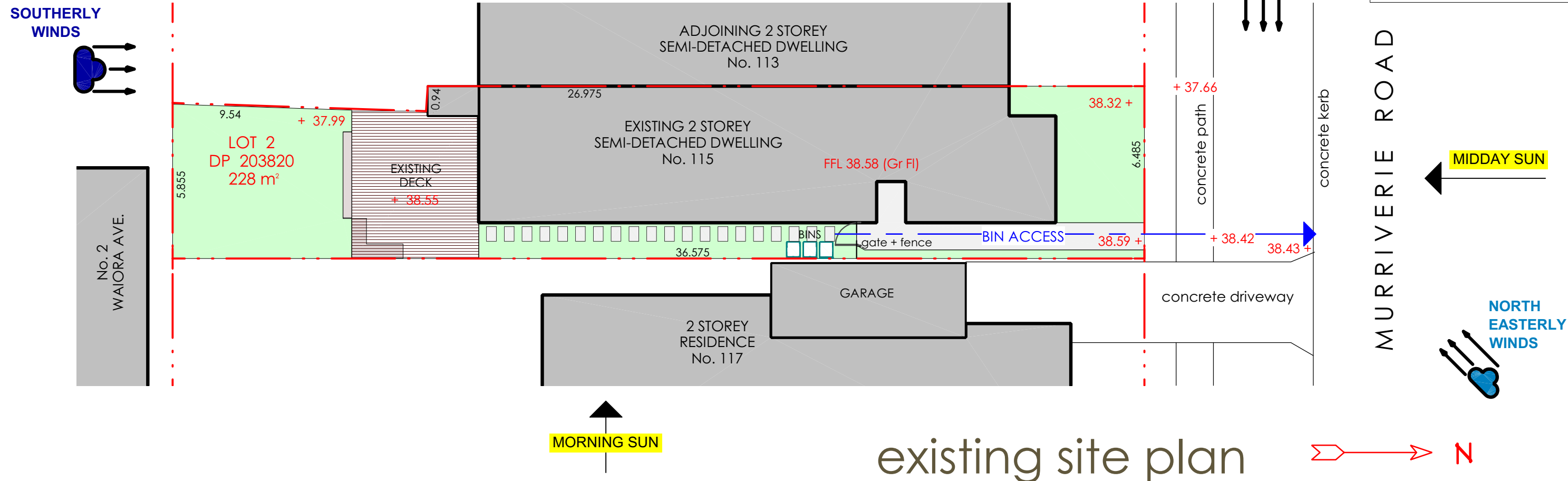
b. Part B12 – Design Excellence

- i. Clause 12.1 Design, specifically objectives (a), (b) and (d) and controls (a) and (e) as the proposal does not result in a desired design quality.

c. Part C2 – Low Density Residential Development

- i. Clause 2.0 General Objectives, specifically objectives (d) and (e) as the application does not reflect development that is of a high design standard that is sympathetic to the character of the semi-detached dwelling.
- ii. Clause 2.3 Streetscape & Visual Impact, specifically control (d), as the car parking space dominates the front setback area and erodes the character of the streetscape given that landscaped area within the front setback is reduced with the development.
- iii. Clause 2.8 On-site Parking, specifically objectives (a), (b), (c) and (d) as the proposed car space is not considered to be appropriately designed and located in the context of the site.

- iv. Clause 2.8.1 Design Approach, specifically controls (a), (b) and (c) as the site is not considered to be suitable to accommodate the proposed development.
 - v. Clause 2.8.2 Parking Rates, specifically controls (b)(i) and (c)(i), as the car parking space would adversely impact upon the landscape quality of the site as presented to the Murrivier Road streetscape.
 - vi. Clause 2.8.3 Location, specifically control (d)(iv), (ix), as the proposal involves the demolition of the existing building to achieve a car parking space and proposal is not considered to be suitable to accommodate off-street car parking.
 - vii. Clause 2.8.4 Design, specifically controls (a), (b), (c), (d) and (k) as the proposal would be a dominant feature on the site and therefore does not appear to be secondary in appearance to the primary residence.
 - viii. Clause 2.8.5 Dimensions, specifically control (a), as the parking space does not fit without demolishing part of the dwelling as the existing distance from the front boundary to the verandah only measures 3.3m.
 - ix. Clause 2.9 Landscaping and Open Space, specifically objectives (a) and (d) as the proposal reduces landscaped area within the front setback area and adversely impacts upon the landscaped setting of the semi-detached dwelling.
 - x. Clause 2.13 Semi-detached dwellings, specially objectives (a), (c), (d), and (e) as the proposal does not promote cohesion between the semi-detached pair or the established streetscape values.
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 adverse impact on the streetscape.
 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.



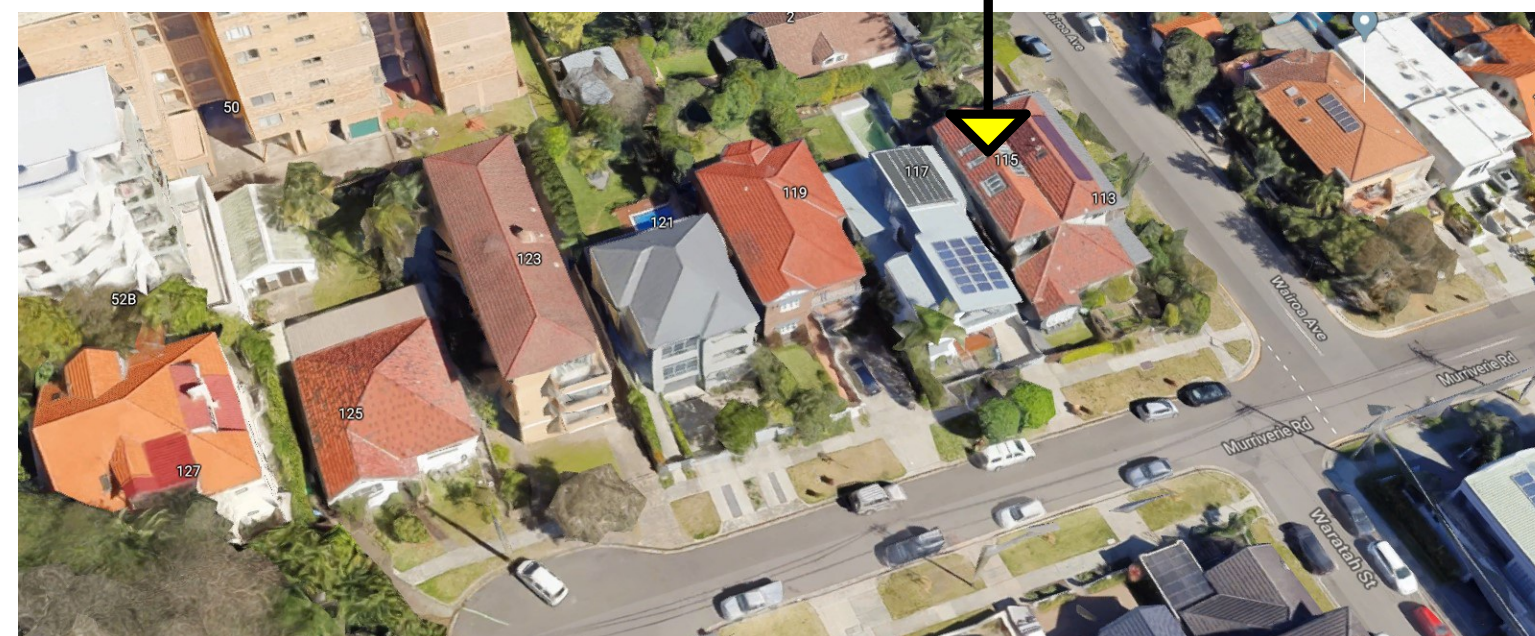
existing site plan

Legend

- Existing Dwelling
- Soft Landscaping

Site Calculations

Site	228 sq. metres
Existing Dwelling	165 sq. metres (72%)
Existing Landscaped Area	79 sq. metres (35%)



All work to comply with B.C.A and relevant Australian Standards.

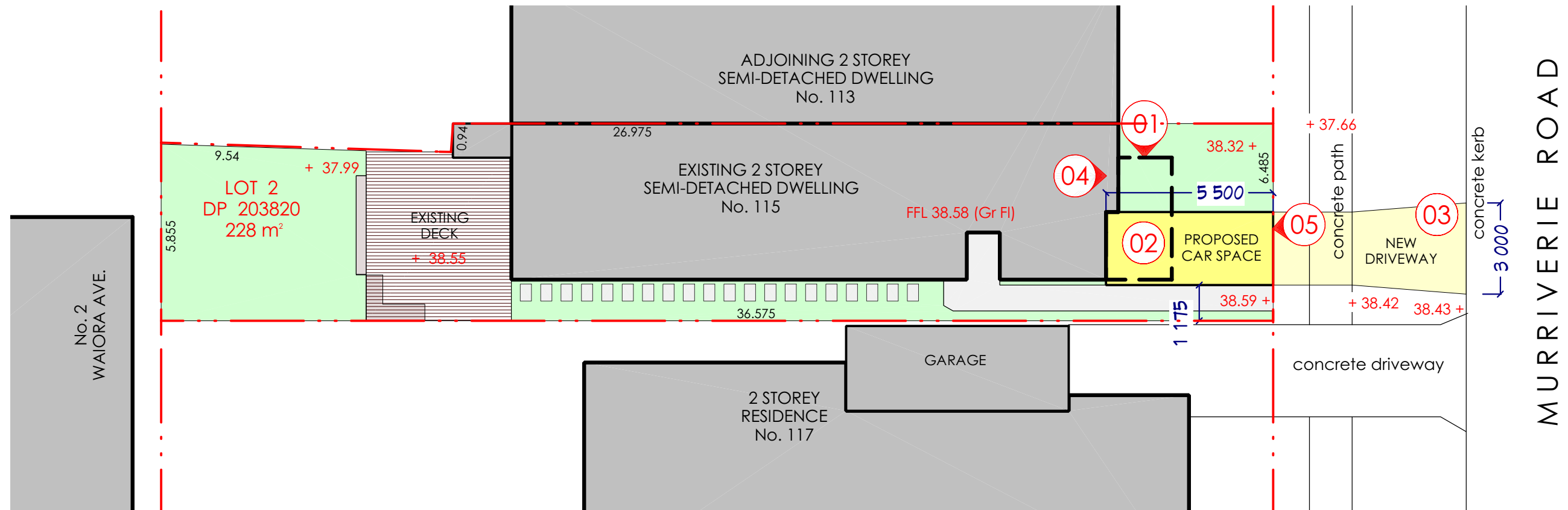
Do not scale off drawings. Builders and subcontractors should check and confirm all measurements on-site and discuss any inconsistencies with the owner before commencing work.

Any detailing not provided on these drawings, shall be resolved between the Owner and the Builder to the owners approval except any structural detailing and design which is to be supplied by a Structural Engineer.

PAUL WILSHER DESIGN
0418 637 567
PO BOX 394
BRUNSWICK HEADS NSW 2483
paulwilsheerdesign@gmail.com

Project: PROPOSED OFF-STREET PARKING + MINOR ALTERATIONS TO DWELLING
At: 115 MURRIVERIE ROAD NORTH BONDI 2026 Lot 2 DP 203820
For: KEN GUINEY + ORIT GUINEY

Drawing: EXISTING SITE ANALYSIS PLAN
Date: SEPTEMBER 2019
Scale: 1:150 @ A3
Drawing No. DA.1001
Issue:



Legend

	Existing Dwelling
	Soft Landscaping
	Proposed Additions

Site Calculations

Site	228 sq. metres
Existing Dwelling	165 sq. metres (72%)
Proposed Dwelling	159.6 sq. metres (70%)
Landscaping	
Proposed Total Open Space*	98 sq. metres (43%)
Proposed Soft Landscaping (soft)	74.9 sq. metres (32.8%)
Area Forward of the Building	33 sq. metres
Proposed Open Space Forward of the Building	33 sq. metres (100%)
Proposed Soft Landscaping Forward of the Building	16.5 sq. metres (50%)

* Deck not included in total Open Space Area

proposed site plan

STORMWATER MANAGEMENT
MAINTAIN EXISTING STORMWATER SYSTEM
ROOF AREA WILL BE REDUCED IN AREA

Proposed Works 00

- 01 DEMOLISH EXISTING FRONT SUNROOM
- 02 CONSTRUCT NEW HARDSTAND CAR SPACE
- 03 CONSTRUCT NEW DRIVEWAY CROSSING
- 04 'MAKE-GOOD' FRONT WALL OF HOUSE + ADD WINDOW
- 05 MODIFY FRONT FENCE AND ADD VEHICLE GATE

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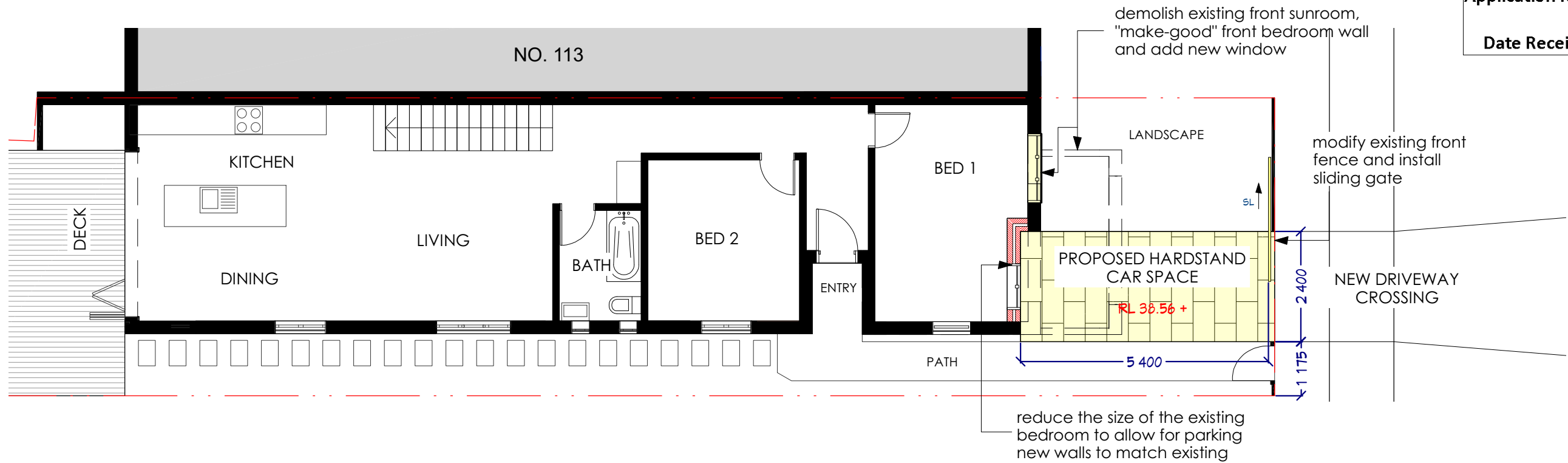
At: 115 MURRIVERIE ROAD
NORTH BONDI 2026
Lot 2 DP 203820

For: KEN GUINEY + ORIT GUINEY

Drawing: **PROPOSED SITE PLAN**

Date: SEPTEMBER 2019
Scale: 1:150
@ A3

Drawing No. DA.1002
Issue:



proposed ground floor plan

All work to comply with B.C.A and relevant Australian Standards.

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PAUL WILSHER DESIGN

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Project:

PROPOSED OFF-STREET PARKING + MINOR ALTERATIONS TO DWELLING

At:

115 MURRIVERIE ROAD
NORTH BONDI 2026
Lot 2 DP 203820

For:

KEN GUINEY + ORIT GUINEY

Drawing:

PROPOSED GROUND FLOOR PLAN

Date:

SEPTEMBER 2019

Drawing No.

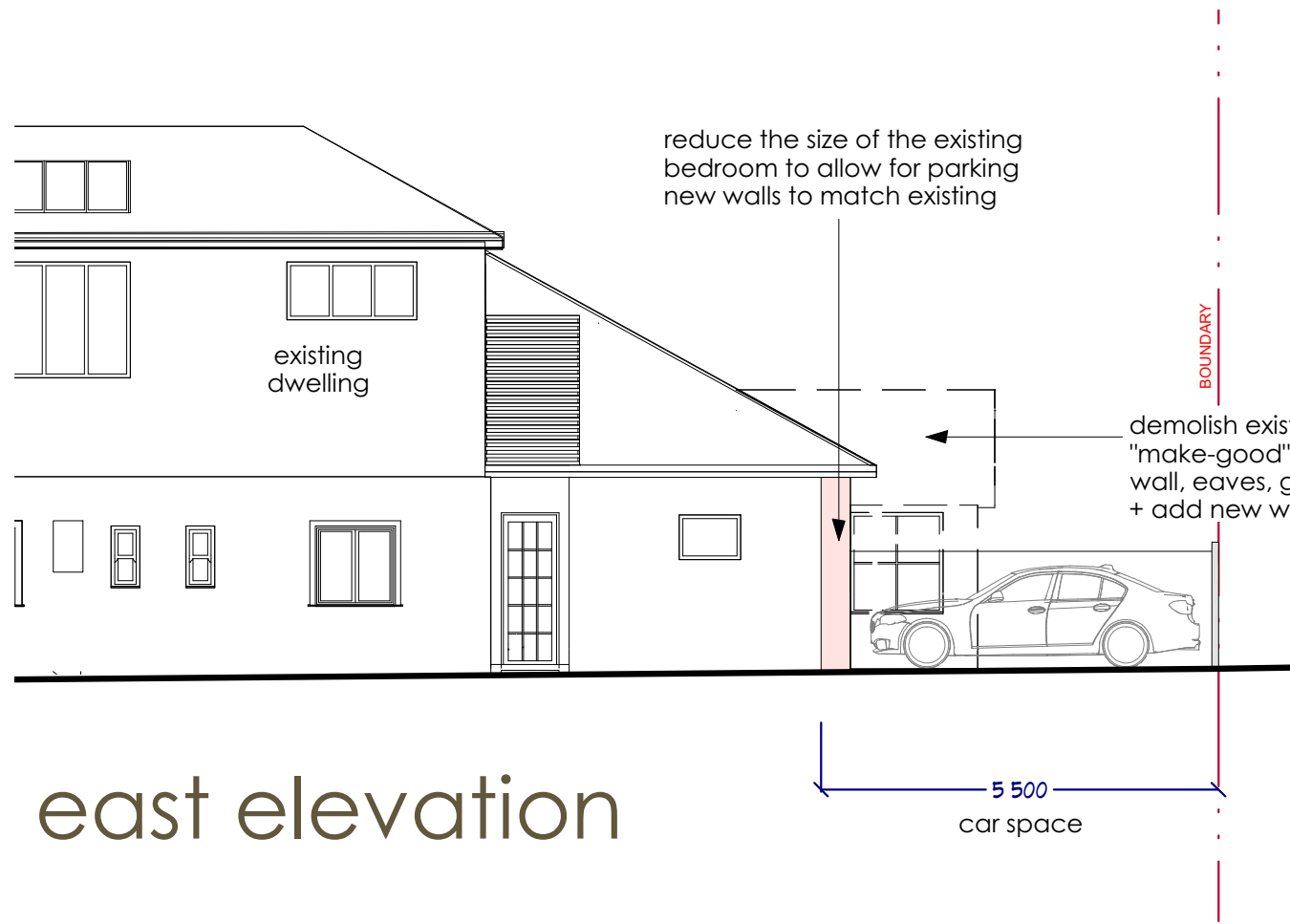
DA.1003

Scale:

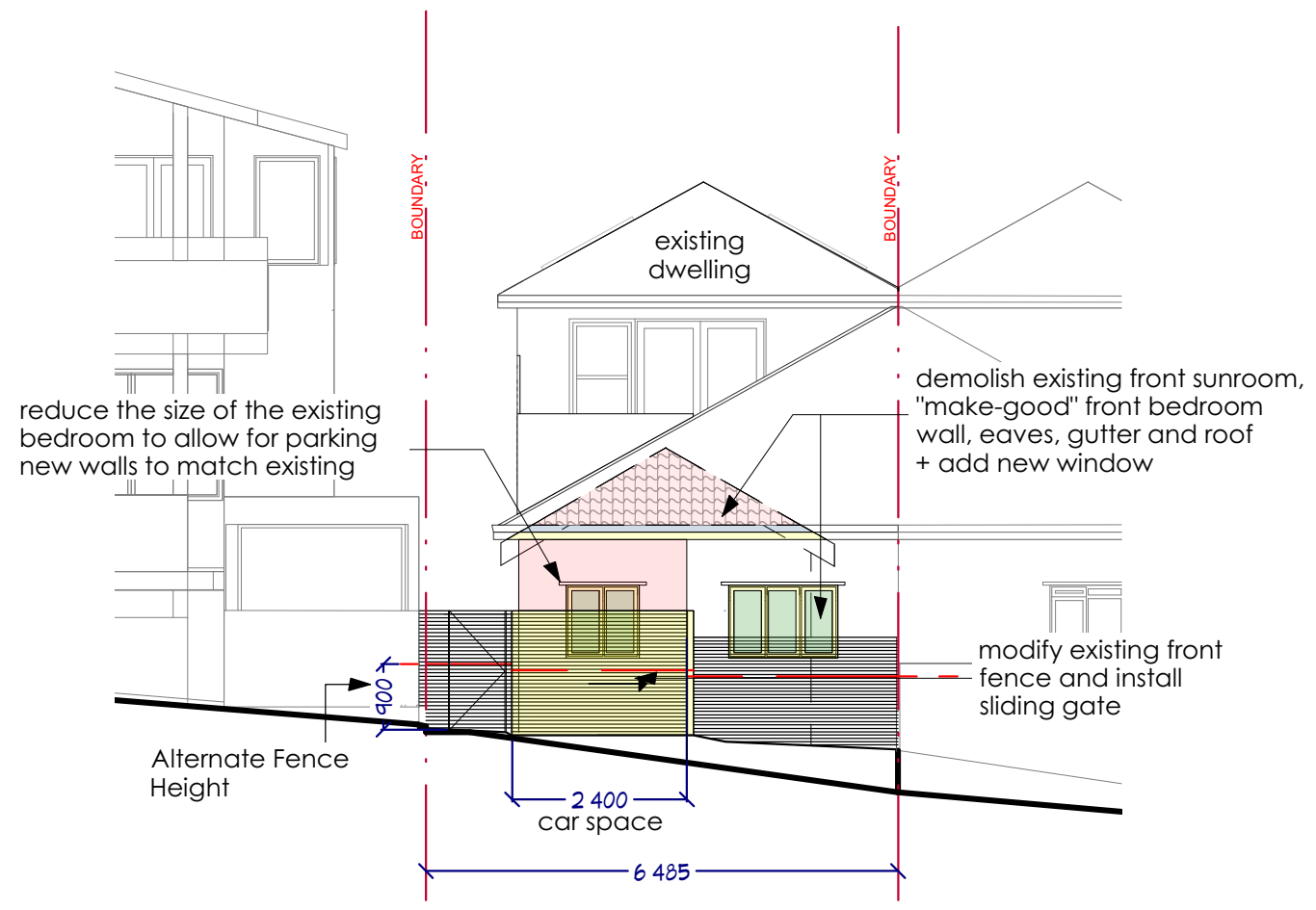
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Issue:

C



east elevation



north elevation

All work to comply with B.C.A and relevant Australian Standards.

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PAUL WILSHER

DESIGN

0418 637 567

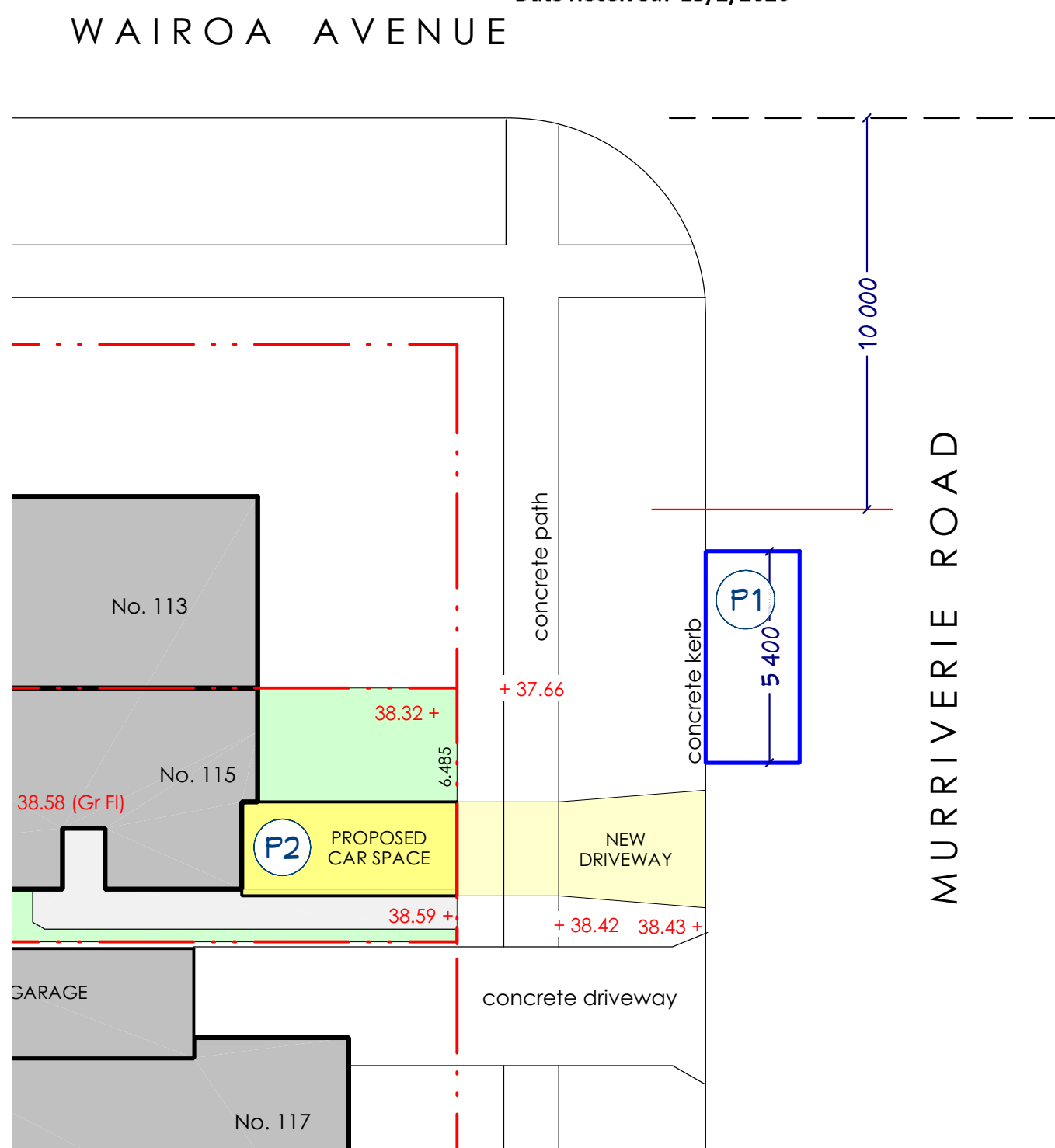
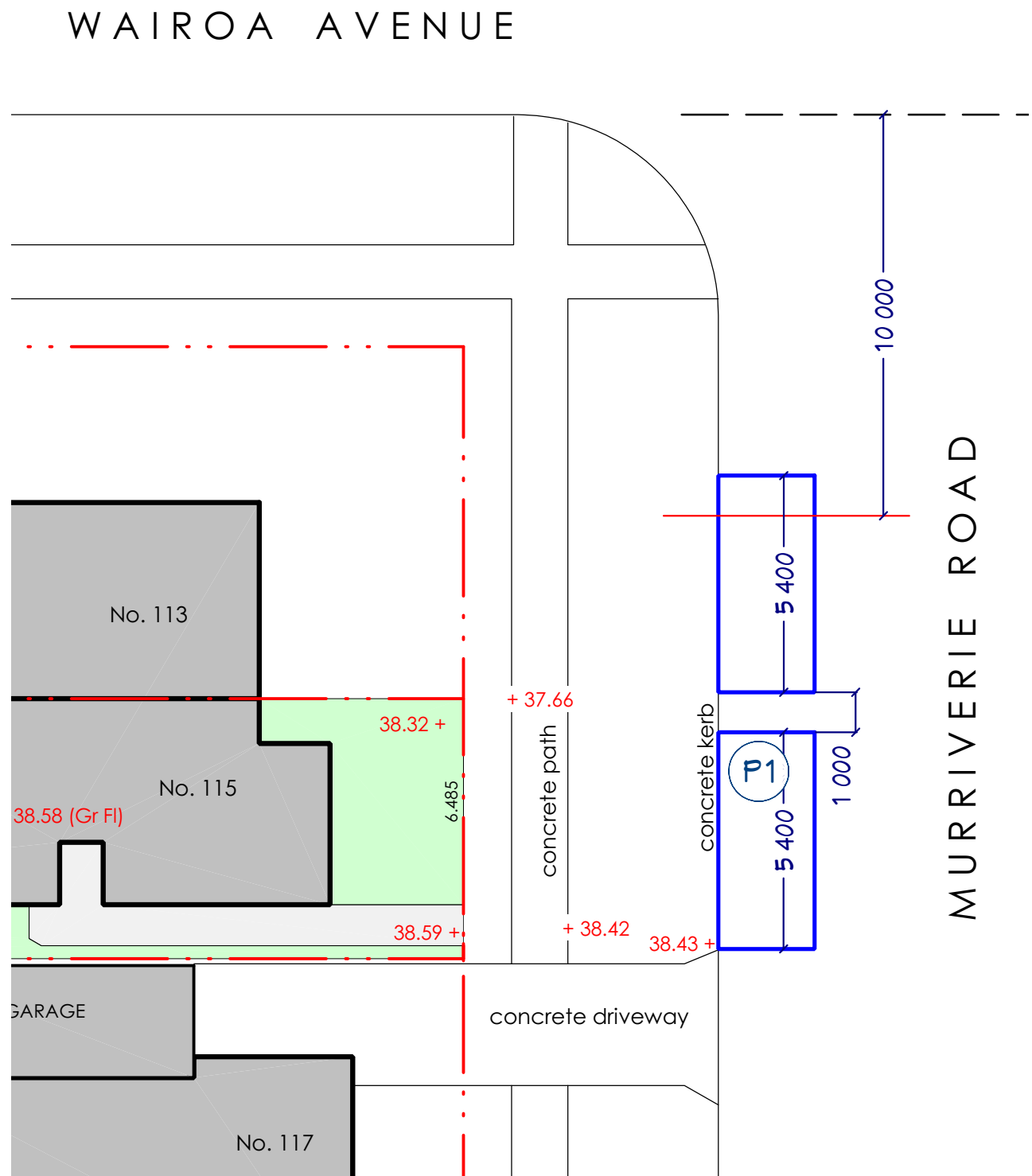
PO BOX 394

BRUNSWICK HEADS NSW 2483

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Project:	PROPOSED OFF-STREET PARKING + MINOR ALTERATIONS TO DWELLING
At:	115 MURRIVERIE ROAD NORTH BONDI 2026 Lot 2 DP 203820
For:	KEN GUINEY + ORIT GUINEY

Drawing:	ELEVATIONS		
Date:	SEPTEMBER 2019	Scale:	1:100
		@ A3	
Drawing No.	DA.1004	Issue:	C1



EXISTING

PROPOSED

streetscape analysis