



16 June 2021

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

12.00 PM WEDNESDAY, 23 JUNE 2021

QUORUM: Three Panel members.

APOLOGIES: By email to WLPP@waverley.nsw.gov.au

AGENDA

WLPP-2106.A Apologies

WLPP-2106.DI Declarations of Interest

The Chair will call for any declarations of interest.

WLPP-2106.1 PAGE 1 19 Dellview Street, Tamarama - Review of decision seeking alterations and additions to the existing residential flat building including construction of new garages, balconies/decks, internal alterations and strata subdivision. (DA-326/2020/1)

Report dated 10 June 2021 from the Development and Building Unit.

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

WLPP-2106.2 PAGE 41 2 Birrell Street, Bondi Junction - Change of use from dwelling house to a medical centre with internal and external alterations, car parking, signage and landscape works. (DA-12/2021)

Report dated 10 June 2021 from the Development and Building Unit.

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

WLPP-2106.3 PAGE 96 3 Grove Street, Bondi - Review of determination for alteration of existing front fence and porch for construction of a new hard stand car space at front of site and new vehicle crossover. (DA-406/2020/1)

Report dated 10 June 2021 from the Development and Building Unit.

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

WLPP-2106.4**PAGE 117**

1 Notts Avenue, Bondi Beach - Alterations and additions to Level 4 Icebergs Dining Room and Bar including internal reconfiguration, new roofed area, signage and works to the entrance and parking areas. The proposal also includes an extension of trading hours of the outdoor terrace to 10pm. (DA-440/2020)

Report dated 11 June 2021 from the Development and Building Unit.

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

WLPP-2106.5**PAGE 185**

68 Sir Thomas Mitchell Road, Bondi - Alterations and additions to dwelling including internal reconfiguration, demolition of secondary dwelling and construction of a new dwelling to form a dual occupancy with Strata subdivision. (DA-23/2021)

Report dated 11 June 2021 from the Development and Building Unit.

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

WLPP-2106.6**PAGE 264**

7-13 Bondi Road, Bondi Junction- Construction of a 9-storey residential flat building containing 42 apartments with two levels of basement for parking, plant and waste rooms, communal open space areas on the ground floor and rooftop and alterations and additions to the existing semi-detached dwelling on site. (DA-401/2020)

Report dated 10 June 2021 from the Development and Building Unit.

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

WLPP-2106.7**PAGE 350**

52 Albion Street, Waverley - Alterations and additions to convert one shop and three dwellings to an attached dual-occupancy development, including new first floor addition, garages and Strata subdivision. (DA-114/2021)

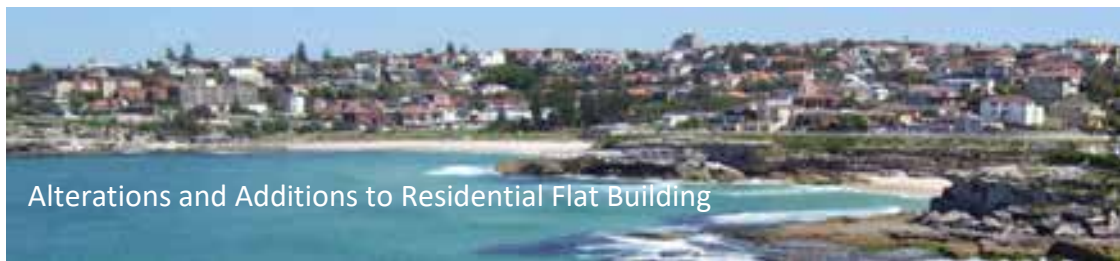
Report dated 9 June 2021 from the Development and Building Unit.

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

154 Ramsgate Avenue, North Bondi - Demolition of existing structures; construction of a three storey residential flat building containing apartments with integrated basement parking; and tree removal. (DA-152/2021)

Report dated 15 June 2021 from the Development and Building Unit.

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



Report to the Waverley Local Planning Panel

Application number	DA-326/2020/1
Site address	19 Dellview Street, Tamarama
Proposal	Review of decision seeking alterations and additions to the existing residential flat building including construction of new garages, balconies/decks, internal alterations and strata subdivision
Date of lodgement	10 February 2021
Owner	Mr C Danzey, Ms C Turland and Mr D Johnson
Applicant	Mr Alex Smith, CSA Architects
Submissions	One (1) in support
Cost of works	\$450,000
Issues	Nil
Recommendation	That the application be APPROVED

Site Map



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 18 November 2020 and 28 May 2021.

The site is identified as Lot A in DP 308653 and is known as 19 Dellview Street, Tamarama. It is located at the south-western its corner of the intersection of Dellview Street and Carlisle Street.

The site is regular in shape with an eastern front boundary to Dellview Street measuring 18.975m, a northern side boundary measuring 25.25m, a western rear boundary of 19.315m and a southern side boundary measuring 25.82m, comprising a total site area of 497.4m². The site has a fall of approximately 5m from the rear boundary to the front boundary. The site is occupied by a two storey residential flat building with detached garage parking to the front for four vehicles. The existing building comprises four x two bedroom units.

Adjoining the site to the south, is a part two, part three storey dwelling known as 21 Dellview Street. To the east on the opposite side of Dellview Street is a townhouse development, a detached dwelling and residential flat buildings. To the north on the opposite side of Carlisle Street are residential flat buildings and to the west is a two storey semi-detached dwelling.

The area is characterised by a mix of residential development types and styles including two and three storey detached dwellings, semi-detached dwellings and residential flat buildings.



Figure 1: View of front of site looking west on Dellview Street



Figure 2: Secondary site frontage looking south from Carlisle Street



Figure 3: Surrounding developments and streetscape to the south of site on Dellview Street

1.2 Relevant History

The relevant development history of the site is as follows:

DA-569/2016 for alterations and additions to the existing residential flat building including a new second floor addition, four (4) new garages for 6 car spaces, terraces above the garages and strata subdivision into 4 lots was refused under delegated authority on 6 June 2017. The reasons for refusal included exceedance with the height of building and floor space ratio development standards, and inadequate Clause 4.6 written request seeking variation to the development standards under the Waverley Local Environmental Plan (WLEP) 2012, excessive building bulk and scale, amenity impacts on surrounding properties and inconsistent built form with existing streetscape character.

The applicant lodged a Class 1 appeal in the Land and Environment Court (LEC) (LEC No. 2017/283222) against the refusal of DA-569/2016. The appeal was dismissed by the LEC on 7 September 2018 (ie. the DA was refused).

PD-37/2019 sought Pre-DA advice for alterations and additions to the existing residential flat building, including an attic floor level addition. Following a meeting between the applicant and Council officers on 2 December 2019, written Pre-DA advice was provided by Council officers on 11 December 2019 advising that exceedance in floor space ratio and building height controls that result in amenity and streetscape impacts will not be supported. In addition, any future proposal must demonstrate compliance with built form, building separation, landscaping and amenity provisions under the State Environmental Planning Policy No. 65 (SEPP 65) - Design Quality of Residential Apartment Development and the Waverley Development Control Plan (WDCP) 2012.

DA-326/2020 for alterations and additions to the existing residential flat building including construction of new garages, balconies, an attic level addition and strata subdivision, was refused by the Waverley Local Planning Panel (WLPP) on 9 December 2020. The reasons for refusal, which related mainly to the attic floor level addition, were as follows:

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)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the provisions of the State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, in particular the following provisions:*
 - a. *Clause 2 Aim, objectives etc, subclauses (3)(a)(ii) and (iii), (b) and (d) as the proposed development fails to achieve the objectives of urban planning policies of the local context, fails to provide an appropriate built form and fails to maximise the amenity for the wider community.*
 - b. *The proposed development is contrary to Part 4 Application of Design Principles, in particular Principles 1 Context and Neighbourhood, 2 Built Form and Scale, 3 Density and 6 Amenity.*

3. *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 Floor space ratio (1)(b), (c) and (d), as the proposal breaches the floor space ratio development standard which will diminish the environmental amenity of neighbouring properties and the locality. The proposed building will result in adverse impacts on the amenity of adjoining properties, contrary to objective (d) of the development standard.*
 - b. *Clause 4.6 Exceptions to development standards (1)(b), (3)(a) and (b), and (4)(a), as the proposed development will not result in a better development outcome for the site. The applicant's Clause 4.6 Exceptions to development standards fails to justify that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds that exist to justify the significant breach to the floor space ratio development standard. The proposed development is contrary to the objectives of the development standard and the proposal is not in the public interest.*
4. *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 B – General Provisions*
 - (i) *Part B12 – Design Excellence, 12.1 Design, specifically objectives (a) and (d) and controls (c) and (e), and 12.2 Context Analysis specifically objectives (a), (b), (c) and (d) as the proposal has failed to consider the suitability of the land for development, the relationship of the development to other development (existing or proposed) on the same site or on neighbouring sites in terms of amenity and urban form, and environmental impacts such as view loss. The development does not demonstrate an understanding of an appropriate response to the specific conditions of the site nor ensure that the opportunities and constraints of a site are fully considered and incorporated into the design proposal.*
 - b. *Part C3 – Other Residential Development:*
 - (i) *Section 3.6 Attic and Roof Design, in particular objective (b) and control (d) as the proposed attic level is not wholly contained within the pitched roof form.*
 - (ii) *Section 3.14 Views and View Sharing, in particular objective (a) and control (a) as the proposal will result in unreasonable view loss impacts from the adjacent properties.*
5. *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 as the proposed development results in a poor planning outcome and an overdevelopment of the subject site which would adversely impact upon the amenity of the adjoining properties and the locality.*

6. *The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the development is not considered suitable for the subject site as the proposal results in a poor planning outcome providing for a built form that is excessive in terms of bulk and scale, results in undesirable and unacceptable impact on the amenity of neighbouring properties and the locality.*
7. *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.*

The review application (**DA-326/2020/1**) the subject of this assessment report has amended the proposal by removing the attic level addition.

1.3 Proposal

The proposal seeks approval for alterations and additions to the existing residential flat building. Details of the proposal are as follows:

Basement Level:

- Demolition and reconstruction of four existing garages to provide five (5) car parking spaces accessed from Dellview Street
- Excavation is required to accommodate the new garages
- Provide a new pedestrian entry from Dellview Street between the garages

Ground Floor Level:

- Internal reconfiguration to Units 1 and 2
- New decks and outdoor terraces to the front (eastern elevation) of Units 1 and 2 and window changes
- New landscaping along side and rear boundaries, and new planters adjacent to terraces above garages and the common entry stairs

First Floor Level:

- Internal reconfiguration to Units 3 and 4
- Replace existing stair at rear to Units 3 and Unit 4
- New balconies and window modifications to Units 3 and 4.

The proposal also seeks to Strata subdivide the residential flat building into four units.

The proposal has been modified from the amended plans submitted as part of the original development application in the following manner:

- Removal of attic level and retention of the existing roof
- New planters (500mm wide) to first floor balconies to ameliorate overlooking of private open space of units on the ground floor
- Deletion of one car space
- Increase to deep soil landscaped area
- Retention of existing FSR at 0.61:1
- Privacy screen to northern side of proposed balcony to Unit 4
- Reduction in height of northern boundary fencing along Carlisle St to a maximum 1.8m height



Figure 4: Perspective of proposal viewed from Dellview Street (source: Applicant's submission)

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

BASIX Certificates have been submitted with the development application.

The BASIX Certificates lists measures to satisfy BASIX requirements which have been incorporated into the proposal. Should the application be approved, a standard condition is recommended to be imposed ensuring the measures detailed in the BASIX Certificates 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 original development application was assessed against the provisions of the Apartment Design Guide (ADG) given the proposal sought the addition of a third level thereby triggering assessment under SEPP 65 and the ADG. This attic level addition has since been removed and assessment under SEPP 65 and the ADG is no longer required.

2.1.4 SEPP (Affordable Rental Housing) 2009 (ARH SEPP)

The proposal is to upgrade an existing residential flat building and strata subdivision. As per *Part 3 – Retention of existing affordable rental housing* in the ARH SEPP, Clause 50(1) of the SEPP requires development consent for any proposal to alter or add to the structure or fabric of the inside or outside of the building and whether there is likely to be a reduction in affordable housing on the land to which the application relates.

To determine if the subject building comprises affordable rental housing, the original development application was referred to Council's Strategic Planner who advised that *the units are all owner occupied and as such are not rented out at a rate below the median-rental rate for the suburb. As such the units are not considered to be low-rental dwellings and therefore Part 3 of the ARH SEPP does not apply and therefore no contribution can be sought.* The ARH SEPP does not apply in this case.

2.1.5 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 as:

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

The subject site is located within a habitat corridor in accordance with the WDCP. The proposal seeks to remove existing trees. New landscaping is proposed which is considered acceptable and has included the provision of a minimum of 50% being indigenous or local native plants. The application was referred to Council's Tree Management officer who raised no objection to the proposed tree removal and landscape plan.

2.1.6 SEPP (Coastal Management) 2018

The SEPP applies to the subject site as it is located wholly within the Coastal use area (Clause 14). Clause 14 states that development consent must not be granted for development on land within the coastal use area unless the consent authority:

- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
- (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Clause 15 states that development in the coastal zone generally is not to increase risk of coastal hazards. Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land. Council is satisfied that the proposed development is not likely to cause increased risk to coastal hazards on the land or other land and can be supported.

2.1.7 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	Yes	The proposal is not inconsistent with the aims of the WLEP.
Part 2 Permitted or prohibited development		
Land Use Table R3 Medium Density Residential Zone	Yes	The proposal is defined as alterations and additions to a 'residential flat building', which is a permitted use in the R3 zone.

Provision	Compliance	Comment
Part 4 Principal development standards		
4.3 Height of buildings • Control - 9.5m	Yes - No change sought	9.5m
4.4 Floor space ratio (FSR) Site Area - 497.4m ² FSR - 0.6:1 or 298.44m ²	No change to the existing is sought	Existing floor areas: Ground: 154m ² First: 150m ² Total: 304m ² or 0.61:1 (note: applicant's calculations have not included first floor hallway area)
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The site contains class 5 acid sulfate soils. The development is not considered likely to disturb, expose or drain acid sulfate soils or cause environmental damage.
6.2 Earthworks	Yes	Excavation is proposed for the new garages. A Geotechnical Report has been submitted with the application which addresses construction methodology. This report is included in the suite of documents identified in the recommended conditions of consent at Appendix A.

2.1.8 Waverley Development Control Plan (WDCP) 2012 –Amendment 9 – Effective 1 October 2020

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

Table 2: WDCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste and Recycling Management Plan has been submitted with the application to address waste disposal during construction. The waste and recycling storage bins are located in an area convenient for users on the site.
2. Ecologically sustainable Development	Yes	BASIX certificates have been provided with the application for each Unit, which are satisfactory.
3. Landscaping and Biodiversity	Yes	The subject site is located within a habitat corridor. A landscape plan has been submitted which was referred to Council's Biodiversity officer who raised no objection.
5. Vegetation preservation	Yes	The application was referred to Council's Tree Management officer who raised no objection.
6. Stormwater	Yes	The stormwater plans submitted with the application are satisfactory.

Development Control	Compliance	Comment
7. Accessibility and adaptability	No change	As existing.
<p>8. Transport</p> <p>Medium density residential</p> <p>Minimum – 0</p> <p>Maximum – 1.2 per 2 bed = Maximum total of 4.8 spaces permitted</p> <p>Visitor – 1 space/ 5 units</p> <p>Motorcycle – 1 per 3 car spaces</p> <p>Bicycle – 1 space per dwelling plus 1 visitor space per 10 dwellings</p>	<p>Yes</p> <p>No</p> <p>No</p> <p>No</p>	<p>Vehicular access is provided from Dellview Street to the four (4) single width garage entry doors located at the front of the site.</p> <p>A total of five (5) car spaces are proposed which is compliant.</p> <p>None provided.</p> <p>None provided.</p> <p>Only one visitor bicycle space is identified on the plans, however, there is sufficient storage space within each garage to enable bicycle parking.</p> <p>The car parking, driveway design and garage position has been assessed by Council's Traffic Engineer who raised no objection subject to conditions.</p>
10. Safety	Yes	The proposal does not contravene the objectives of this part of the WDCP.
12. Design Excellence	Yes	The proposal seeks to upgrade the existing residential flat building, improving both the internal and external amenity for occupants of the units without unreasonable impacts on the amenity of the locality.
14. Excavation	Yes	Excavation is proposed for the new garages to accommodate the proposed car spaces. Excavation to a maximum depth of approximately 3.6m is proposed. A Geotechnical Report has been submitted with the application. Should the application be approved, standard conditions would be imposed accordingly.
17. Inter War Buildings	Yes	The proposal retains the built form of the existing inter war building but seeks to upgrade to provide better amenity for its occupants which is considered to be satisfactory.

Table 3: WDCP – Part C3 Other Residential Development Compliance Table

Development Control	Compliance	Comment
3.2 Height		
Compliance with the maximum building height under WLEP	No change sought	
3.3 Setbacks		
<ul style="list-style-type: none"> Street setbacks consistent with predominant building line Side setback 0.9-1.5m 	<p>Yes</p> <p>Partial</p>	<p>The new balconies to the Dellview Street frontage are consistent and compatible with the predominant building line.</p> <p>The proposed new garages are to be setback a minimum of 0.8m from the southern side boundary. The proposed single storey garage wall height at this location has been appropriately articulated with the provision of planter boxes above. There is no unreasonable impacts as a result of the reduced side setback, with the minor encroachment at this south side boundary being supported.</p>
3.5 Building design and streetscape		
<ul style="list-style-type: none"> Designed to be sensitive to the streetscape character Respond to the existing streetscape character Colour and finish of external materials should be sympathetic to the streetscape and contribute to the overall appearance of the building 	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposed alterations and additions to the building are modest and are an appropriate response to the streetscape character.</p>
3.7 Fences and Walls		
<ul style="list-style-type: none"> Front fences not to exceed 1.2m Rear and side fences not to exceed 1.8m 	<p>Garage to front boundary</p> <p>Yes</p>	<p>The proposal replaces the existing garages at the Dellview Street frontage with new garages.</p>
3.8 Pedestrian Access and Entry		
	Yes	The proposal includes a new central pedestrian access entry to the units which is legible and safe.

3.9 Landscaping		
Landscaping must relate to the building scale and assist integration of the development	Yes	The proposal aims to improve and upgrade landscaping on site.
30% provided as landscaped area = 149.2m ²	No	142.66m ² of landscaped area is proposed. This is a minor shortfall of 6.5m ² which is considered acceptable given the positive outcome of the building upgrade.
50% of that area as deep soil = 74.6m ²	Yes	82.30m ² of deep soil is proposed.
3.10 Communal Open Space		
15% site area = 75m ²	No	An area of communal open space is proposed at the south-west corner of the site which also includes the outdoor clothes drying area. Whilst the proposal results in a non-compliance with this control, each unit is to be provided with large areas of private open space which are considered to be sufficient.
3.11 Private Open Space		
Courtyards to have minimum area 25m ² and minimum width/depth of 3m Balcony additions relate to the character of the existing building Balconies should not visually dominate the facade	Yes	The proposed Units 1 and 2 will have private courtyard/terrace areas at the Dellview Street frontage which satisfy the WDCP. The proposal includes the provision of new balconies/decks to all units improving the amenity for the occupants of these units. The balconies are considered to relate to the character of the building and do not dominate the façade. The size of the balconies and deck areas are consistent with the character of other balconies/terraces in this coastal location. Planter boxes are proposed to the front of the balconies. It is recommended that any approval be conditioned for species type to be limited in growth maturity height of 500mm only to ameliorate any impacts on view corridors.
3.13 Solar Access and Overshadowing		
Direct sunlight to north facing windows of habitable rooms and all private open space areas of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on June 21.	Yes	Shadow diagrams submitted with the review application demonstrate that there will be no unreasonable impacts on neighbouring properties as a result of the proposed alterations and additions.
3.14 View and View Sharing		
Development designed to minimise view loss	Yes	The review application has deleted the attic level addition that was previously sought under DA-326/2020. View impacts are considered to now be resolved with the deletion of this component of the application.

to adjoining and adjacent properties		
3.15 Visual Privacy and Security		
Provide louvres or screens to windows/ balconies where necessary	Yes	New enlarged windows are proposed which have been satisfactory located to minimise visual and acoustic privacy impacts. Planter boxes and privacy screens are also proposed to address overlooking.
Roof tops are to be non-trafficable and not capable of being used as roof-top terraces or as entertainment areas	Yes	The existing roof is retained and is non- trafficable.
3.16 Acoustic Privacy		
Minimise noise transmission between dwellings by locating noisy and quieter area next to other noisy or quiet areas eg. Living rooms adjacent to living rooms and bedrooms adjacent to bedrooms.	Partial	New windows are proposed which have been satisfactory located to minimise visual and acoustic privacy impacts. Double glazing to windows is also proposed. Unit 3 will have its kitchen area abutting the living room of Unit 4.

2.2 Other Impacts of the Development

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

The development application was notified for 21 days, in accordance with the *Waverley Community Participation Plan*. One (1) submission was received in support of the application from the property at 30 Dellview Street, Tamarama.

2.5 Public Interest

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

3. REFERRALS

3.1 Stormwater

The application was referred to Council's Stormwater Engineer who raised no objections subject to conditions.

3.2 Tree Management and Biodiversity

Council's Tree Management Officer raised no objection to the development application.

The application was also referred to Council's Biodiversity Officer given the site is location within the habitat corridor. At the time of writing this report, no comments or objection was received. It is noted that the applicant has addressed the provision of 50% indigenous or local native species on the submitted landscape plan.

3.3 Fire Safety (NCC)

The application was referred to Council's Fire Safety officer who raised no objections subject to conditions.

3.4 Traffic and Development

The application was referred to Council's Traffic and Development Engineer who raised no objection subject to conditions.

4. SUMMARY

The proposal seeks a review of the refusal of development application DA-326/2020. The amended proposal does not seek to increase the floor space ratio or height on site with the deletion of the previously proposed attic floor level. The proposal now seeks consent for alterations and additions to the existing residential flat building on the site, including internal alterations to the existing units, new balconies, terraces, garages and strata subdivision.

The application was notified and one submission in support was received. A councillor submission was not made and there is no declared conflict of interest on the application form.

Accordingly, the application has been assessed against the relevant SEPPs, WLEP, WDCP and the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the application is recommended for approval.

DBU Decision

The application was reviewed by the DBU at the meeting on 25 May 2021 and the DBU determined that:

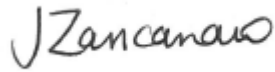
- (a) *The application is acceptable and should be approved, subject to the conditions in Appendix A.*

DBU members: A Rossi, B McNamara, P Wong, B Magistrale

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:



Jo Zancanaro
Senior Development Assessment Planner

Date: 28 May 2021

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



Peggy Wong
**A/Manager, Development Assessment
(Central)**

Date: 10 June 2021

Reason for referral:

Section 8.2 Review Application of previous refusal determination by WLPP

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 CSA Architects including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
DELL-01 Rev.F	Site Plan	27/05/2021	27/05/2021
DELL-02 Rev.F	Basement	27/05/2021	27/05/2021
DELL-03 Rev.F	Ground Floor	27/05/2021	27/05/2021
DELL-04 Rev.F	First Floor	27/05/2021	27/05/2021
DELL-05 Rev.F	Attic	27/05/2021	27/05/2021
DELL-06 Rev.F	Elevations	27/05/2021	27/05/2021
DELL-07 Rev.F	Sections	27/05/2021	27/05/2021

(b) BASIX Certificates;

(c) Stormwater Details and documentation prepared by E2 Civil and Structural Design Pty Ltd, Job No. 20.244, Drw. SW1, SW2 & SW, Revision A, dated 01/02/2021 and received by Council on 10/02/2021;

(d) BCA Assessment Report prepared by David Arbib of Building Control Group, dated 27 January 2021 and reference no. 200240 – BCA Assessment Report and date stamp received by Council on 10/02/2021;

(e) Draft Strata Plan reference no.3182SP Issue C prepared by Scott Hosking dated 01/02/2021 and received by Council on 10/02/2021;

(f) The Site Waste and Recycling Management Plan (SWRMP) Part 1 date stamp received by Council on 27/05/2021;

(g) Geotechnical Investigation Report prepared by JK Geotechnics dated 8 March 2018 Reference No. 31251SFprt and date stamp received by Council on 20/05/2021;

(h) Traffic Statement prepared by Inroads Group dated 03/02/2021 and date stamp received by Council on 10/02/2021;

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments:

- (a) The proposed landscaped planter boxes are to be permanently fixed to the balcony and/or terrace tiles to prevent them from moving.
- (b) To ameliorate against view impacts, the proposed landscape planting to the planter boxes are to have a maximum species growth height at maturity of 500mm only.
- (c) The plans shall be updated to include dimensions of planter boxes (including planter sizes) on the plan.

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

B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

GENERAL REQUIREMENTS

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

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

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

CONTRIBUTIONS, FEES & BONDS

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 **\$10,930.00** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

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

6. LONG SERVICE LEVY

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

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

CONSTRUCTION & SITE MATTERS

7. 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.

8. BUILDING CODE OF AUSTRALIA

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

9. ESSENTIAL SERVICES - EXISTING BUILDING

At the completion of the installation, a Final Fire Safety Certificate shall be obtained 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.

10. FIRE SAFETY UPGRADING WORKS

- (a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, all existing areas of the building must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):
- (i) Fire resistance and stability – Part C1;
 - (ii) Compartmentation and separation – Part C2;
 - (iii) Protection of openings – Part C3
 - (iv) Provision for escape – Part D1;
 - (v) Construction of exits – Part D2;
 - (vi) Fire fighting equipment – Part E1;
 - (vii) Smoke hazard management – Part E2;
 - (viii) Emergency lighting, exit signs and warning systems – Part E4;
 - (ix) Sanitary and other facilities – Part F2;
 - (x) Room heights – Part F3;
 - (xi) Light and ventilation – Part F4; and
 - (xii) Sound transmission and insulation - Part F5.
- (b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, 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 any required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate and Strata Subdivision Certificate.

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

11. 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.

12. 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

13. 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

STORMWATER & FLOODING

14. STORMWATER MANAGEMENT

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

The submitted drainage plan prepared by E2 Civil and Structural Design Pty Ltd, Job. 20.244, Drw. SW1, SW2 & SW, Revision A, dated 01.02.2021, are considered concept only.

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

- (a) Additional and revised on-site stormwater detention (OSD) details.
- (b) Minimum of two 900 mm square access grates shall be installed over the OSD tank. This is to provide adequate ventilation to prevent the accumulation of noxious odours and to provide convenient access for routine maintenance and inspection of the tank. One grate shall be placed over OSD outlet pipe and orifice plate.
- (c) A certificate from a registered structural engineer certifying the structural adequacy of the OSD tank structure.
- (d) Seepage water must not be discharged directly or indirectly to Council's street gutter.
- (e) Specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- (f) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings.

- (g) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- (h) Council's stormwater infrastructure on Dellview Lane that is impacted by the proposed vehicular crossing shall be redesigned to the satisfaction of Waverley Council.
- (i) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

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

15. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

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

ENERGY EFFICIENCY & SUSTAINABILITY

16. BASIX

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

WASTE

17. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A *Site Waste and Recycling Management Plan (SWRMP)* - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials

to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

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

PRIOR TO ANY WORKS

18. CONSTRUCTION SIGNS

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

19. 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

20. 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.

21. 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.

22. 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.

23. 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

24. 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.

25. 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.

26. 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.

27. CERTIFICATE OF SURVEY - LEVELS

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans.

TREE PROTECTION AND REMOVAL

28. TREE PROTECTION

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

VEHICLE ACCESS & PUBLIC DOMAIN WORKS

29. RECONSTRUCT VEHICLE CROSSING

The existing vehicle crossing is to be demolished and a new crossing constructed to provide access to the proposed garage. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

30. DRIVEWAY LAYBACK

The overall length of the layback at each proposed driveway is not to exceed 4.9 metres.

31. VEHICULAR ACCESS - FINISHED LEVEL

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

32. WORK OUTSIDE PROPERTY BOUNDARY

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

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

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

CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS

33. 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.

34. 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.

35. STRATA SUBDIVISION

This consent includes approval for strata subdivision of the development.

A Strata Certificate must be obtained from either Council or a Registered Certifier in accordance with either Section 54(1) or Section 58(1) of the *Strata Schemes Development Act 2015*.

In respect to the allocation of car parking and storage spaces, those spaces are not permitted to be subdivided as individual allotments and are to be part lots allocated to individual residential allotments or identified as common property as shown on the approved plans. Parts allotments are to be generally allocated in accordance with the parking and storage requirements of Waverley Development Control Plan 2012. No exclusive use of common property shall occur without the prior consent of Council.

36. ALLOCATION OF STREET NUMBER

The redevelopment of the property has led to the following allocation of primary and sub-address numbers for a strata subdivision:

- No. 19 - primary address site number
- Dellview Street- primary address location.

The primary premises number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level, located near the entry point and be clearly visible on the site boundary that fronts Dellview Street.

The following sub-addressing will apply:

- Nos. 1-4 for the sub-addresses within the building correlating with Nos. 1-4 on the floor plans for the building.

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

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

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

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

37. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM

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

38. ON-SITE STORMWATER DETENTION CERTIFICATION

The submission of certification by a suitably qualified and practising Engineer for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the system prior to the release of any Occupation Certificate.

39. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD

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

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services. The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate/use of the building. All associated costs shall be borne by the applicant.

ADVISORY MATTERS

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

AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

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

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

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. EXCAVATION TO BE LIMITED

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

AD6. WORK OUTSIDE PROPERTY BOUNDARY

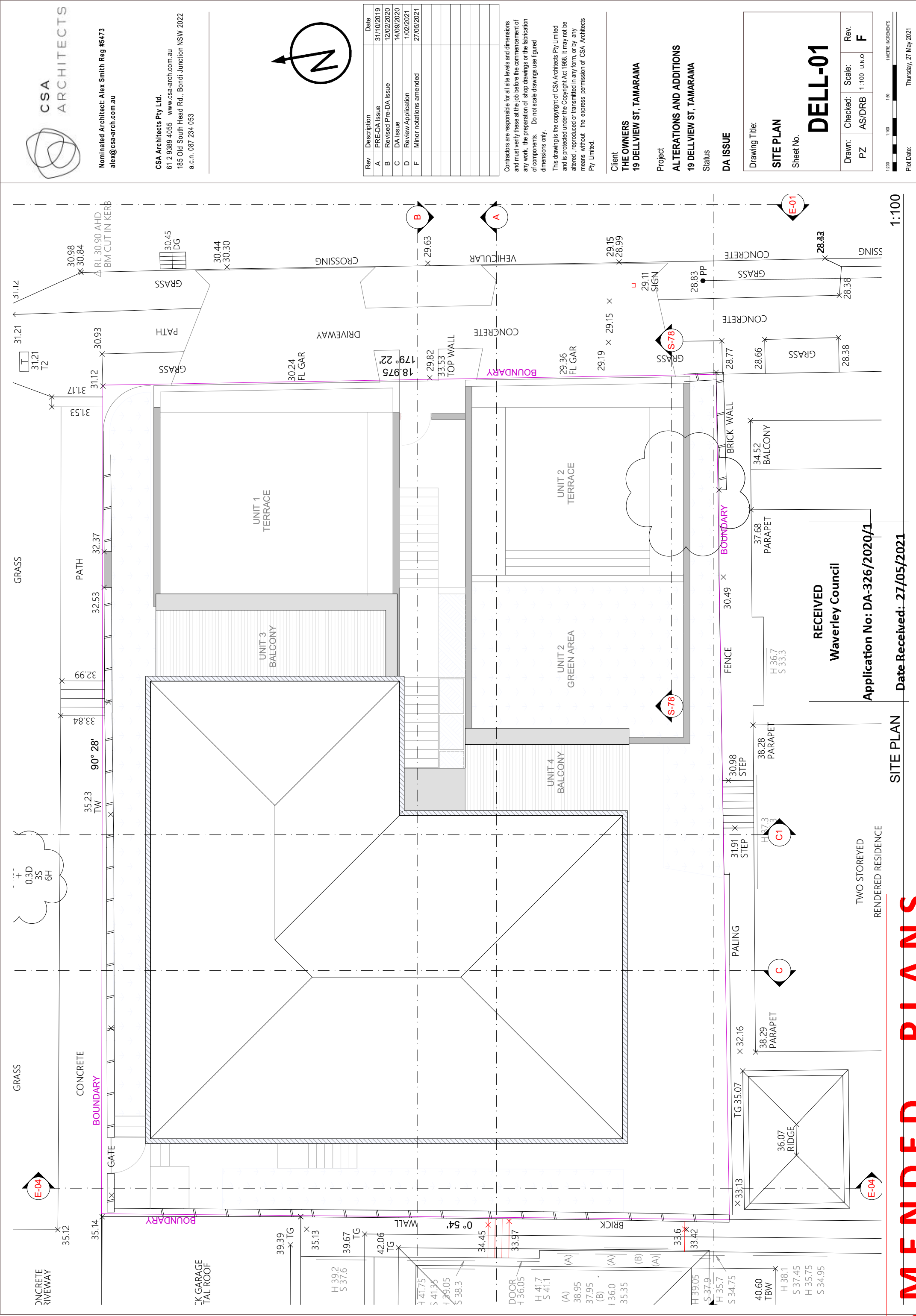
This consent does not authorise any work outside the property boundary.

AD7. ONGOING MAINTENANCE – STORMWATER DRAINAGE

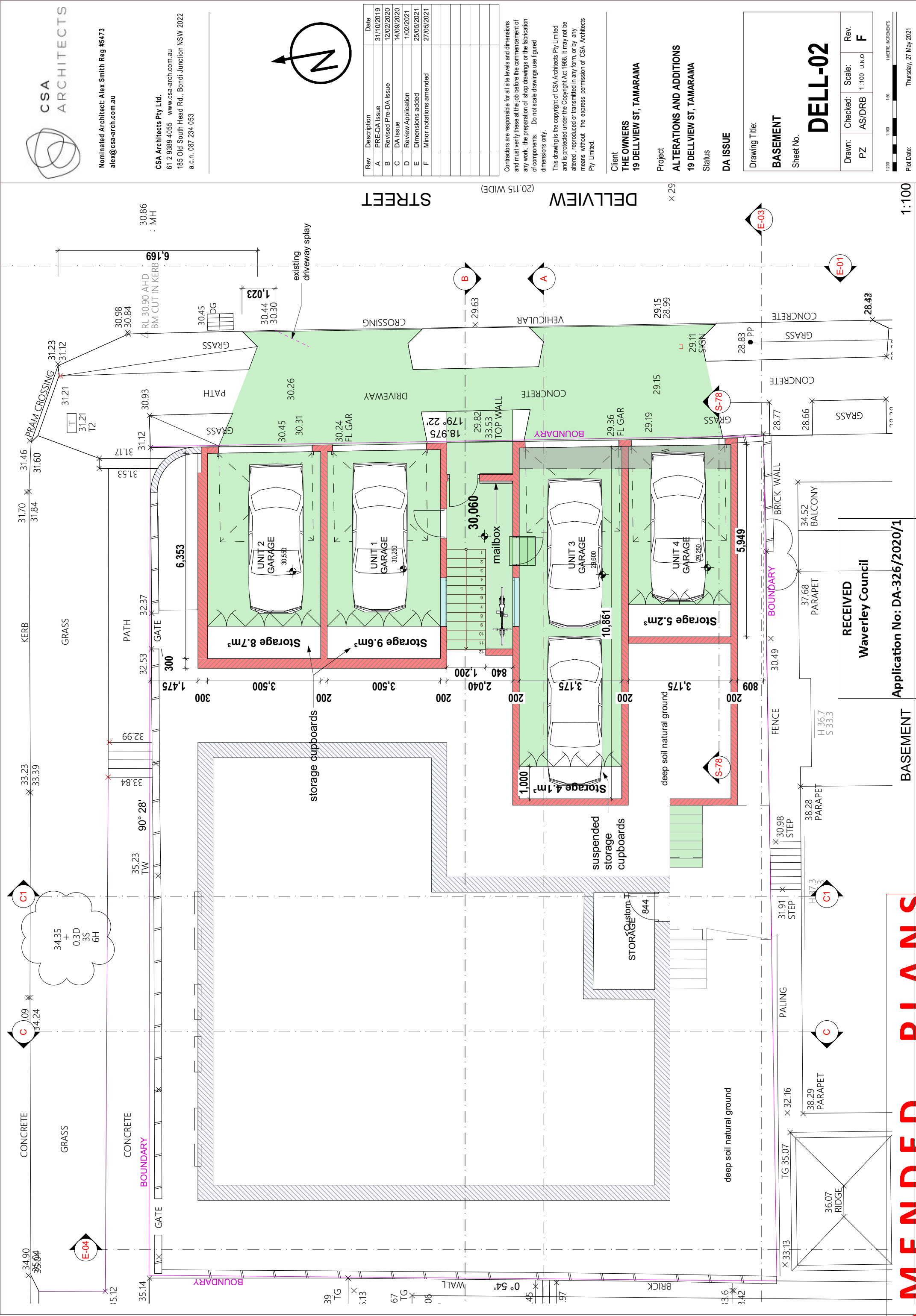
Council will need to be provided with an OSD Maintenance Schedule that supports the routine maintenance activities. At a minimum, the detention facility must be:

- Kept clean and free from silt, rubbish and debris.
- Be maintained so that it functions in a safe and efficient manner.

Not be altered without prior consent in writing of the Council

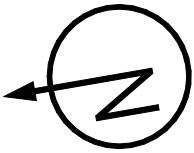


AMENDED PLANS



Nominated Architect: Alex Smith Reg #5473
alex@csa-arch.com.au

CSA Architects Pty Ltd.
61 2 9389 4055 www.csa-arch.com.au
185 Old South Head Rd., Bondi Junction NSW 2022
a.c.n. 087 234 053



Rev	Description	Date
A	PRE-DA Issue	31/10/2019
B	Revised Pre-DA Issue	12/02/2020
C	DA Issue	14/09/2020
D	Review Application	1/02/2021
E	Dimensions added	25/05/2021
F	Minor notations amended	27/05/2021

Contractors are responsible for all site levels and dimensions and must verify these at the job before the commencement of any work, the preparation of shop drawings or the fabrication of components. Do not scale drawings use figured dimensions only.

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Client
THE OWNERS
19 DELLVIEW ST, TAMARAMA

Project
ALTERATIONS AND ADDITIONS
19 DELLVIEW ST, TAMARAMA

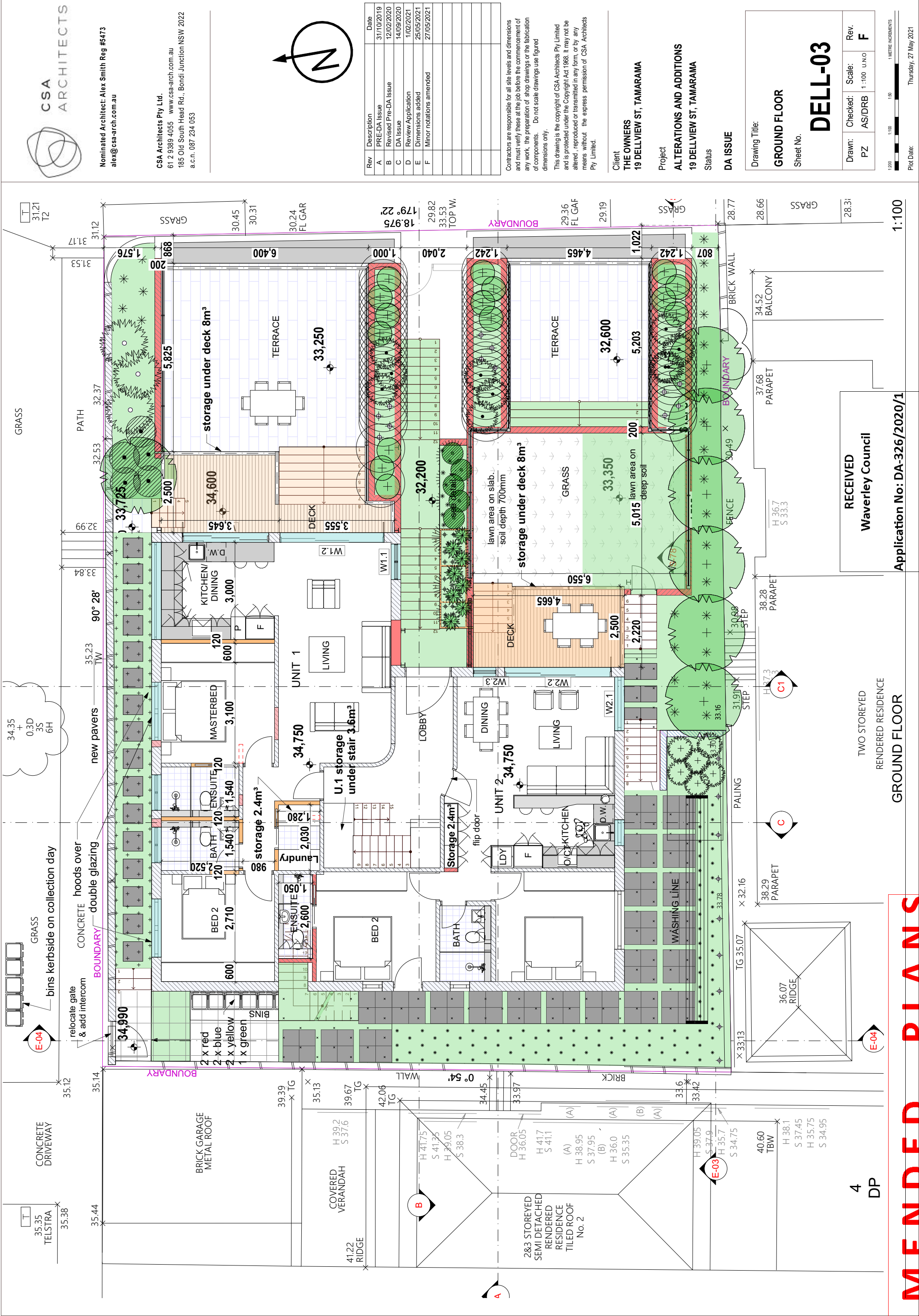
Status
DA ISSUE

Drawing Title:
BASEMENT
Sheet No.

DELL-02

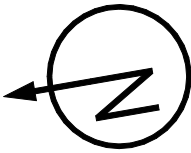
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1:200 1:100 1:50 1 METRE INCREMENTS
Plot Date: Thursday, 27 May 2021



Nominated Architect: Alex Smith Reg #5473
alex@csa-arch.com.au

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185 Old South Head Rd., Bondi Junction NSW 2022
a.c.n. 087 234 053



Rev	Description	Date
A	PRE-DA Issue	31/10/2019
B	Revised Pre-DA Issue	12/02/2020
C	DA Issue	14/09/2020
D	Review Application	1/02/2021
E	Dimensions added	25/05/2021
F	Minor notations amended	27/05/2021

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Client
THE OWNERS
19 DELLVIEW ST, TAMARAMA

Project
ALTERATIONS AND ADDITIONS
19 DELLVIEW ST, TAMARAMA

Status
DA ISSUE

Drawing Title:
GROUND FLOOR
Sheet No.

DELL-03

Drawn:	Checked:	Scale:	Rev.
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Plot Date: Thursday, 27 May 2021

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Application No: DA-326/2020/1
Date Received: 27/05/2021

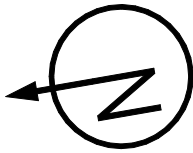
TWO STOREYED
RENDERED RESIDENCE
GROUND FLOOR

AMENDED PLANS



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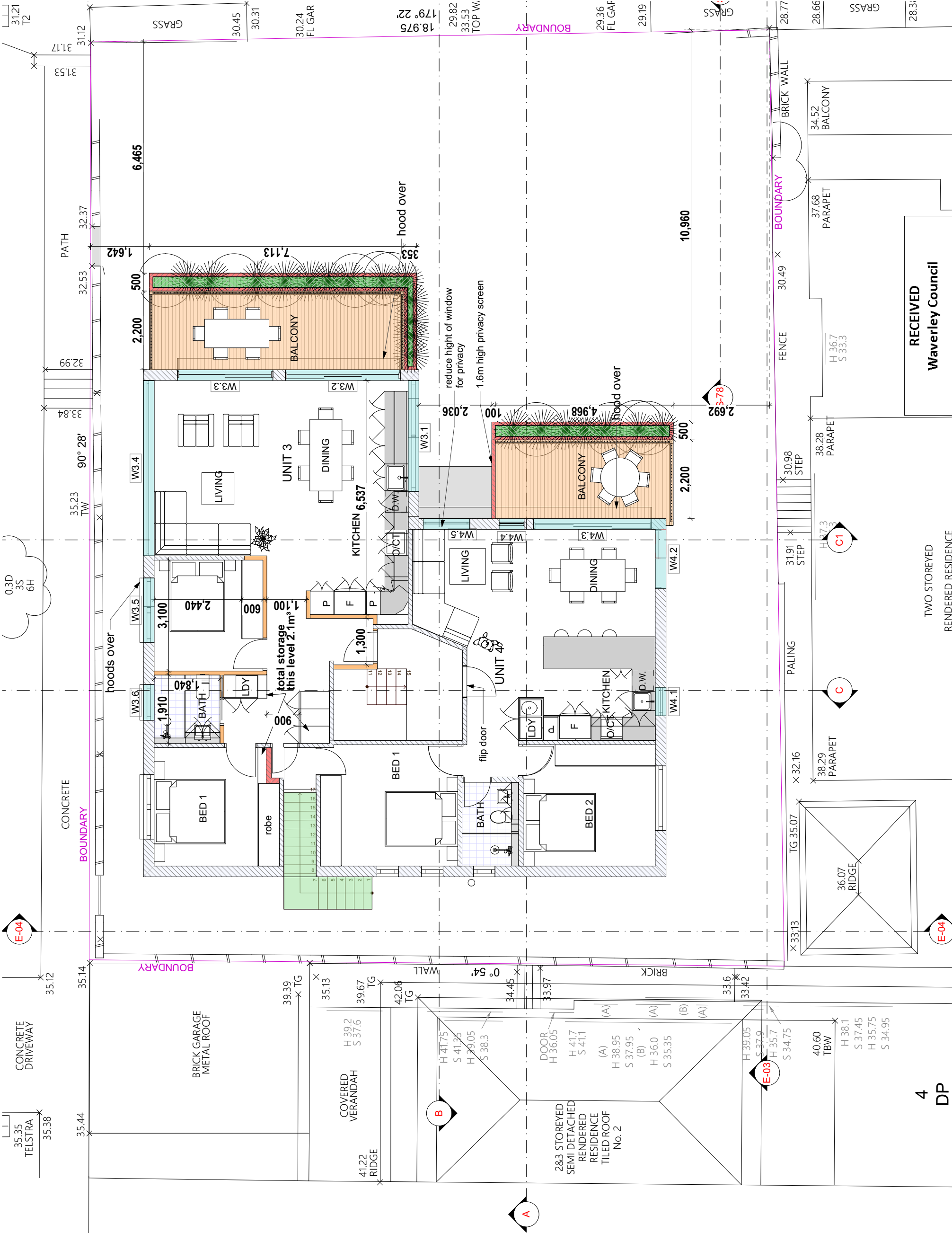
FIRST FLOOR

Sheet No.

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RENDERED RESIDENCE
FIRST FLOOR

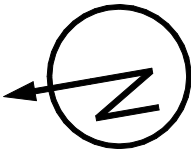
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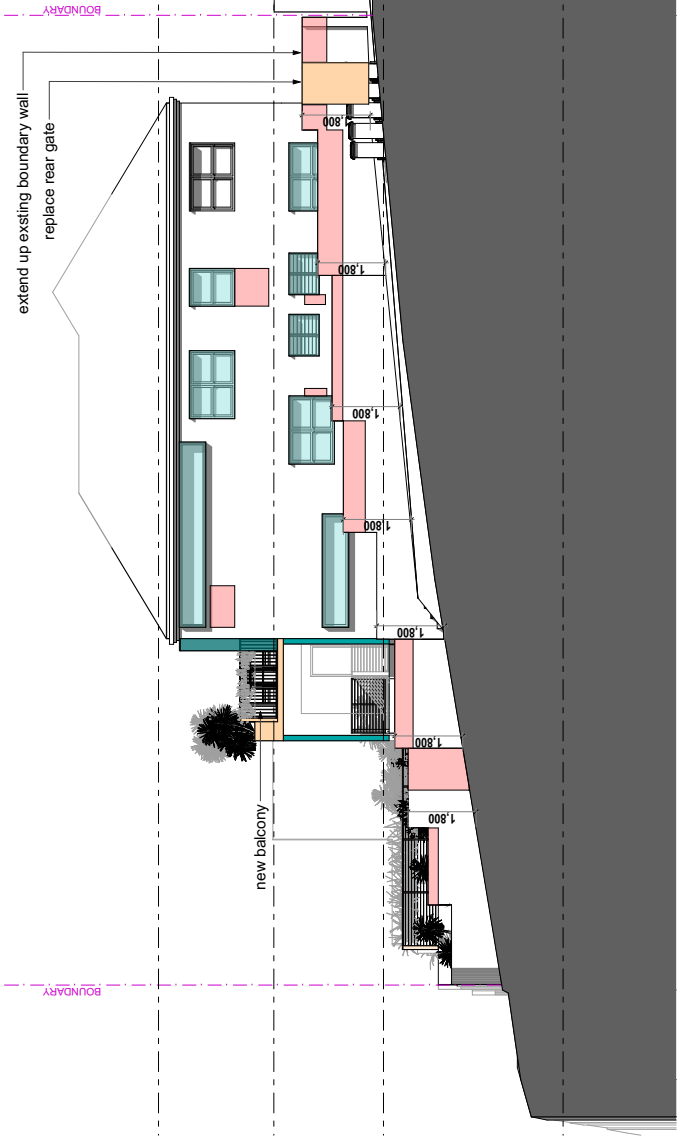
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DA ISSUE

Drawing Title:
ELEVATIONS
Sheet No.

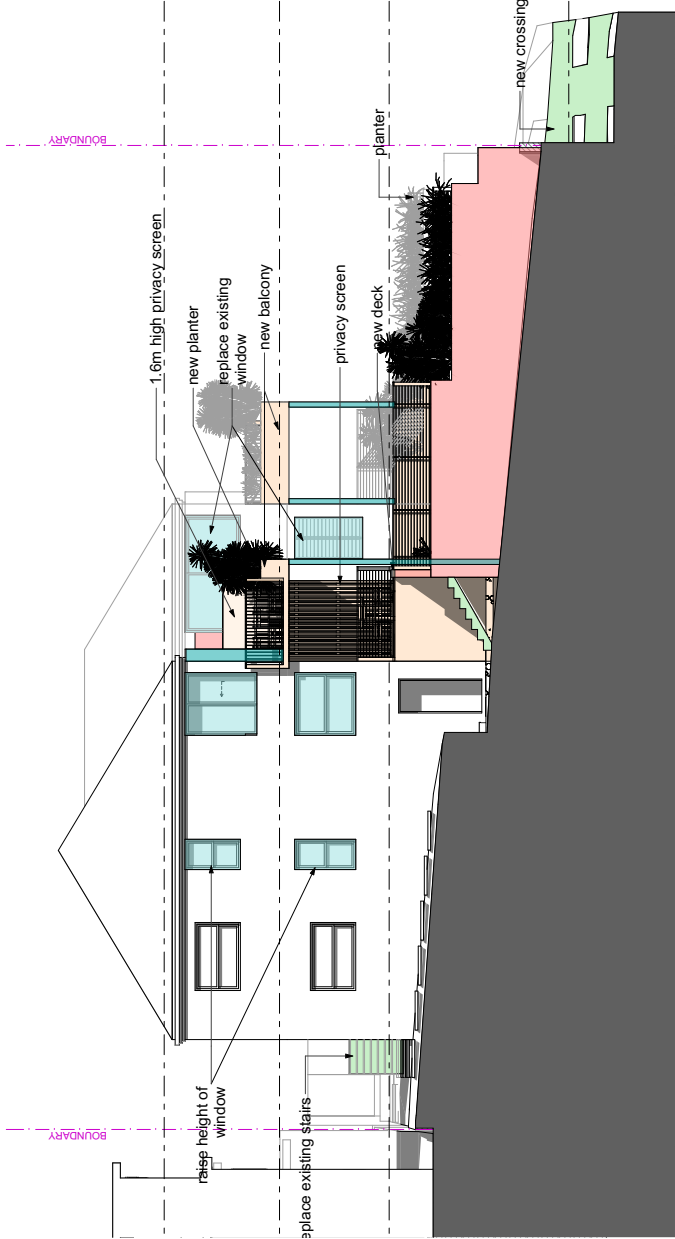
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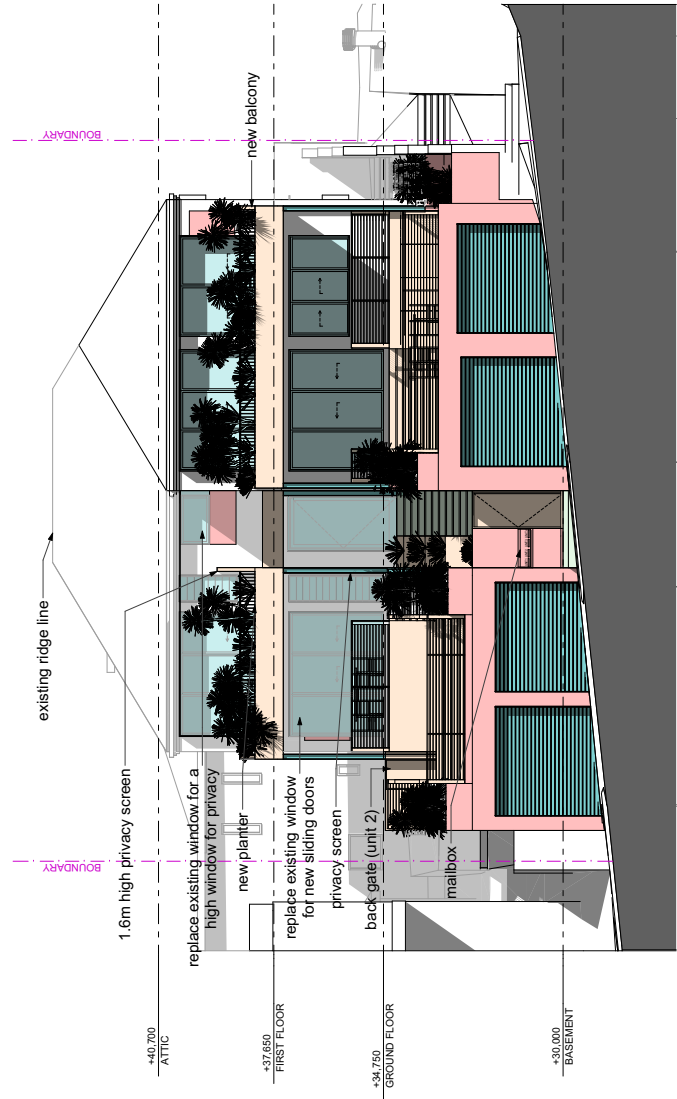
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Plot Date: Thursday, 27 May 2021



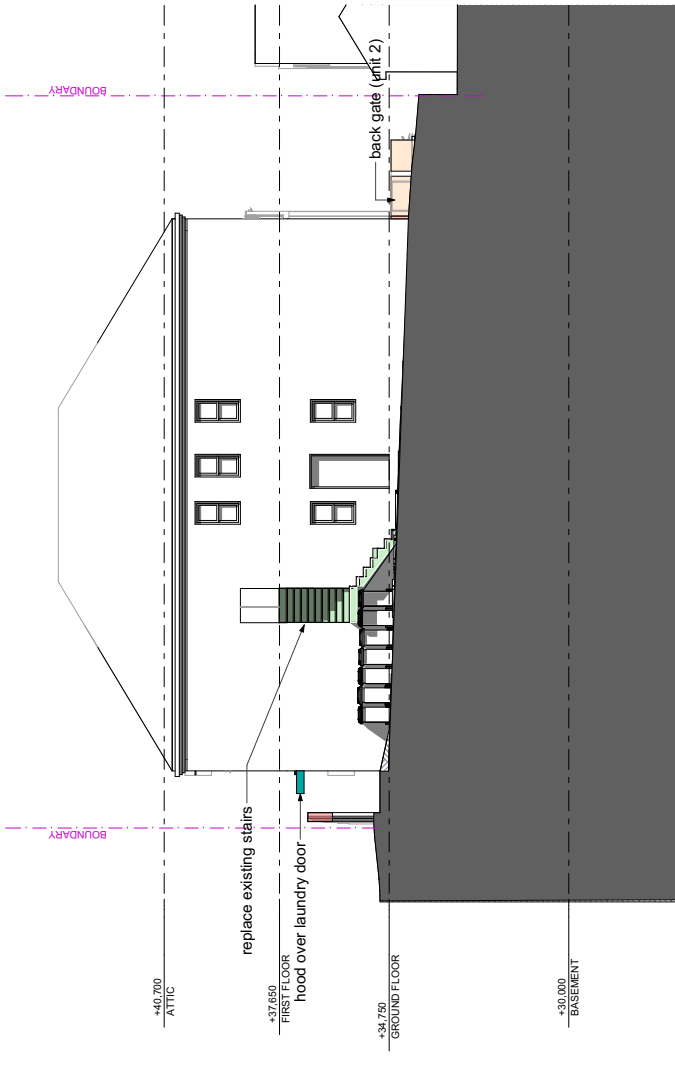
North Elevation 1:200



South Elevation 1:200



East Elevation 1:200



West Elevation 1:200

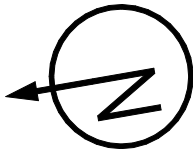
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ALTERATIONS AND ADDITIONS
19 DELLVIEW ST, TAMARAMA

Status

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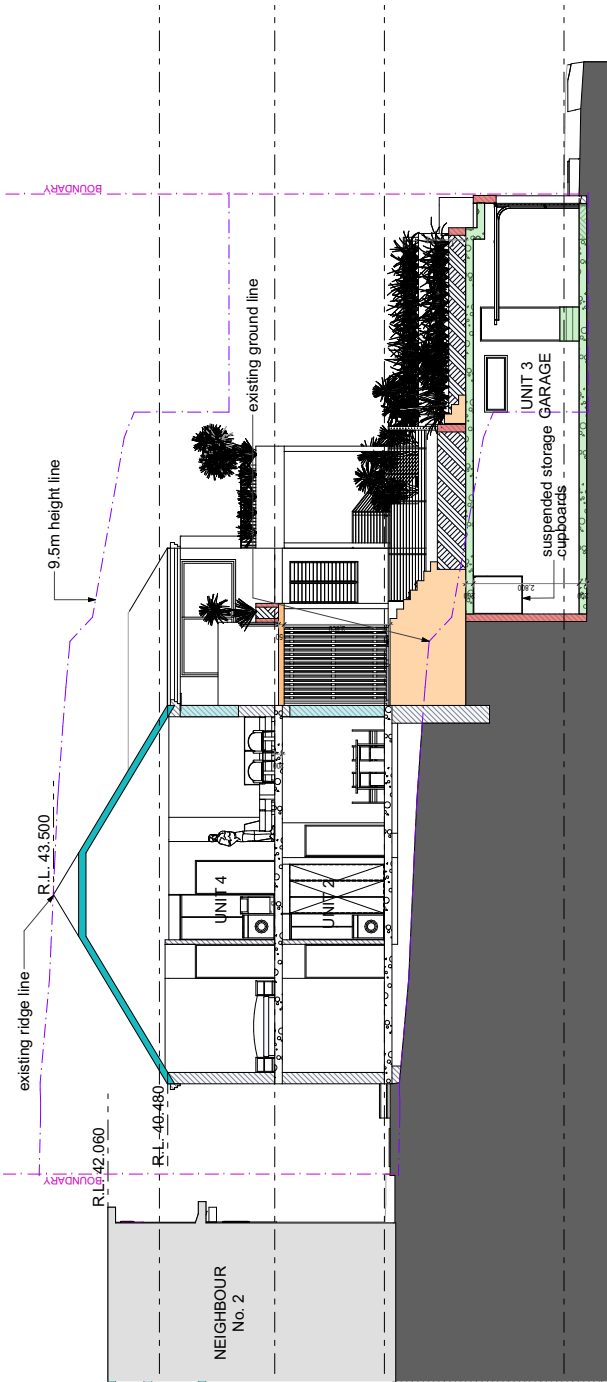
SECTIONS

Sheet No.

DELL-07

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Plot Date: Thursday, 27 May 2021



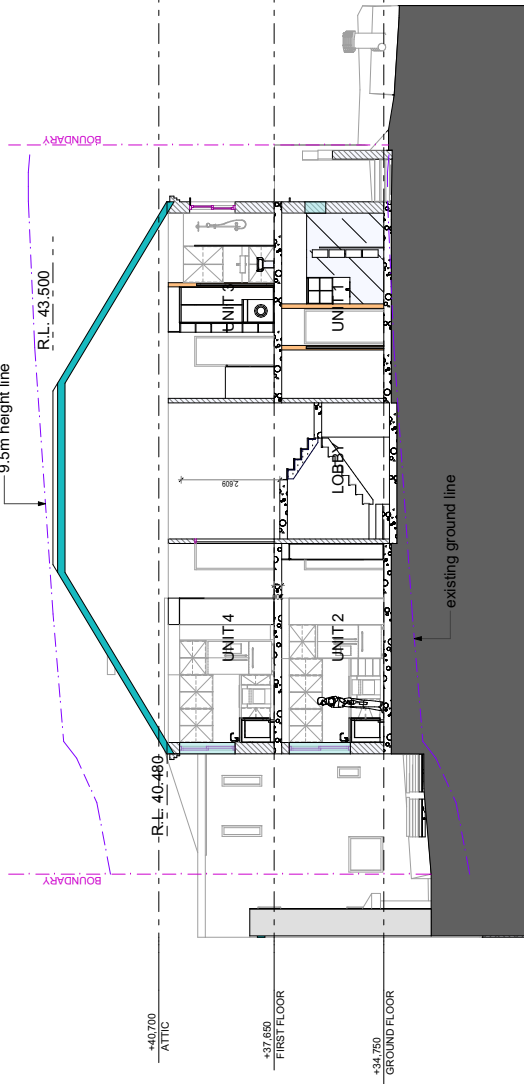
Section A-A

1:200



Section B-B

1:200



Section C-C

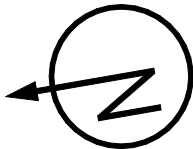
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Application No: DA-326/2020/1

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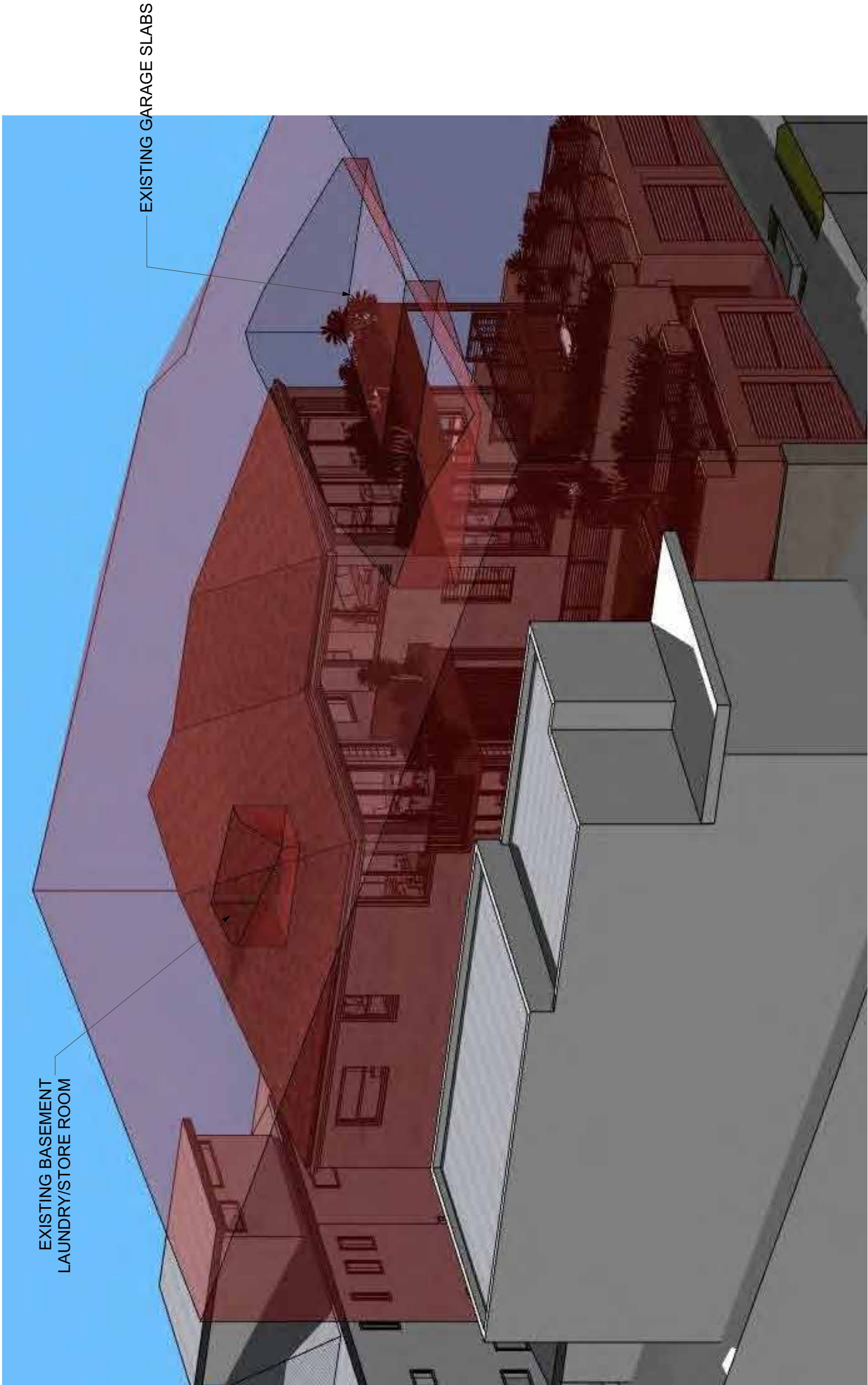
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19 DELLVIEW ST, TAMARAMA

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DA ISSUE

Drawing Title:
3D HEIGHT ENVELOPE
Sheet No.

DELL-08

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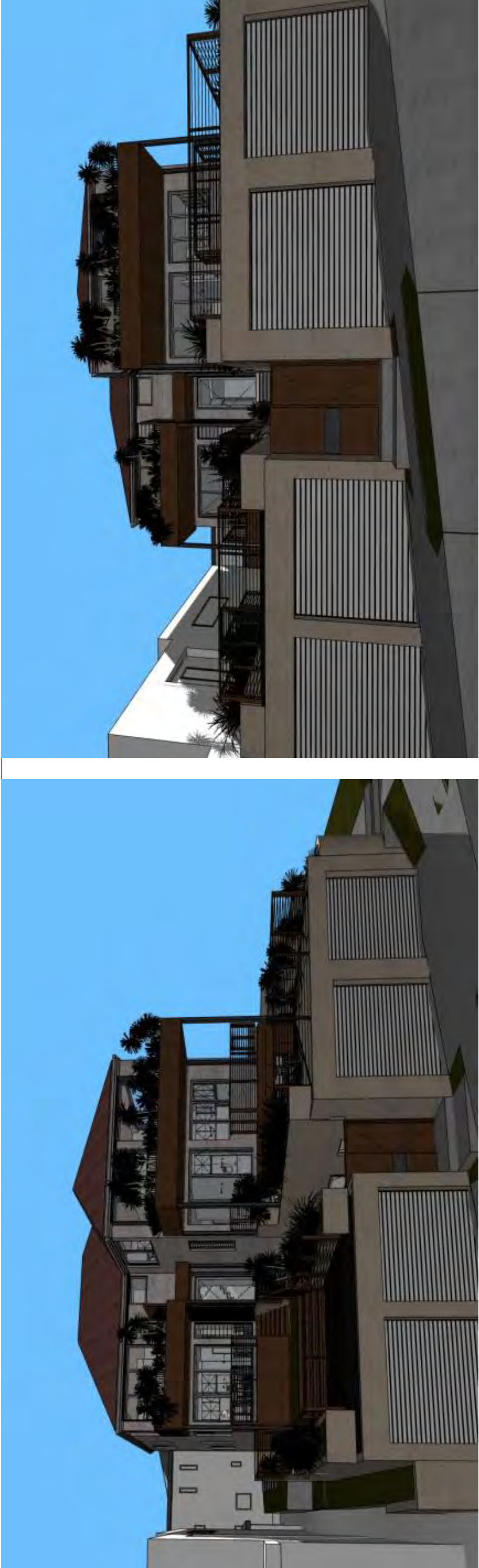
HEIGHT PLANE

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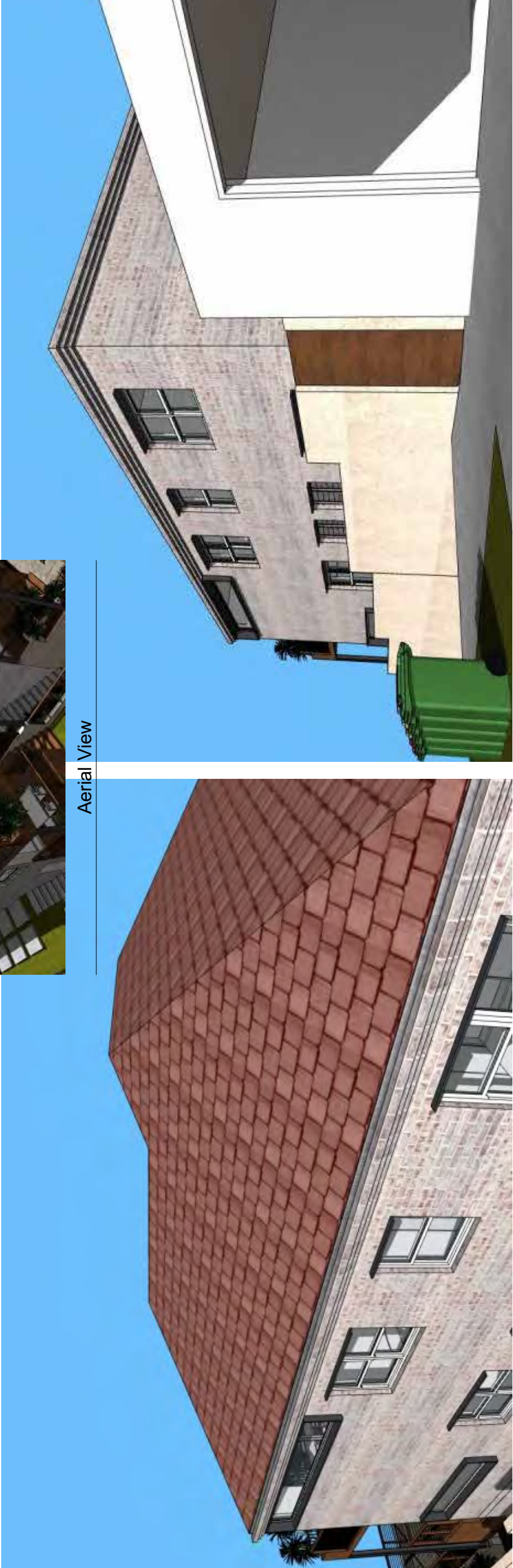
East Elevation

Street view - Dellview Street

AMENDED PLANS



Aerial View



Aerial perspective

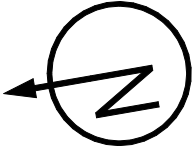
Street View - Carlisle Street

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Application No: DA-326/2020/1
Date Received: 27/05/2021



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Drawing Title:

3D IMAGES

Sheet No.

DELL-09

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Plot Date:

Thursday, 27 May 2021



Commercial and Retail Development



Report to the Waverley Local Planning Panel

Application number	DA-12/2021
Site address	2 Birrell Street, Bondi Junction
Proposal	Change of use from dwelling house to a medical centre with internal and external alterations, car parking, signage and landscape works.
Date of lodgement	11 January 2021
Owner	Michael Lee Holdings Pty Ltd
Applicant	Mr D Barber
Submissions	80 unique and 8 proforma submissions
Cost of works	\$475,750
Issues	On-site and street parking, traffic generation, heritage conservation, operational plan of management and hours of operating.
Recommendation	That the application be APPROVED

Site Map



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 2 March 2021.

The site is identified as Lot 1, Section 7 in DP 4600, known as 2 Birrell Street, Bondi Junction. It is located on the north-eastern corner of the intersection between Birrell Street and St James Road.

The site is rectangular in shape with a front northern boundary along Birrell Street measuring 13.7m, a western and eastern boundary along St James Road both measuring 29.87m and a southern measuring 13.7m. The site has an area of 409.4m² and is generally flat. The site is occupied by a single storey dwelling with vehicular access provided from St James Road to a brick garage at the rear of the dwelling. There are two vehicle crossings along St James Road, one crossing was not reinstated when the latest additions to the rear of the property were constructed.

The property is listed as a Local Heritage Item No. 141 – single storey Federation house (as per Schedule 5 of the WLEP 2012) and it is located within the Mill Hill Heritage Conservation Area. The Heritage Inventory for the heritage significance describes the subject site as:

“Good, corner Federation design. Typical diagonal plan arrangement, Ingle-nook on corner with small verandah on each side. Tuckpointed face brick. Complex slate roof with terra cotta ridge capping. Good barge boards to gables. All pebbledash rendered below. Ripple iron window hoods below each gable including gablet to ingle-nook. Verandahs feature spindle valence and good fretwork brackets. Coloured panes to window skylights. Heavy moulded sills. Leadlight “oeil de boeuf”. Good brick fence. Let down only by security door. Reasons for listing: Historical; architectural; aesthetic; streetscape.”

The subject site is adjoined by semi-detached dwellings to the north and east. The locality is characterised by a variety of developments, including detached and semi-detached dwellings.



Figure 1: Northerly view of the subject site from Birrell Street.



Figure 2: Subject sites dual frontage along St James Road.



Figure 3: Westerly view of the rear yard and garage.



Figure 4: Easterly view from the subject sites rear yard of the adjoining semi-detached dwelling at 4 Birrell Street.

1.2 Relevant History

A search of Council's records revealed no recent development approval history of the site. Consents dating back to the 1970s relate to rear extension and new fencing consent.

A pre-development application (i.e. pre-DA), known as PD-36/2021 was lodged with Council for a concept proposal that is similar in scope and overall building volume to the proposal of the subject development application. Council provided advice on the concept proposal in a formal written advice dated 21 October 2021. The following points were detailed in the letter:

- **Heritage Conservation:** Any proposal should retain the sites character and significance through appropriate signage, fencing and landscaping;
- **Parking & Access:** The proposal is located in Parking Area 1 and for business and office premises, a maximum amount of parking spaces is 0.66/100m². With a GFA indicating 160m², the two parking spaces (one being accessible) on site are compliant with these controls. An Accessibility Report will help support the proposed location of the accessible parking space and movement across the site. The second driveway to the site located on St James Street must be closed and detailed on the Architectural Plans.
- **Health & Waste:** A detailed Waste Management Plan must be lodged with the development application specifying the authorised waste disposal contractor to dispose of medical wastes as Council is not authorised or the regulatory authority for Medical Practices. Disposable sharps shall be discarded in a clearly labelled puncture resistant container, which conforms to Australian Standard AS 4031. The premises are to be ventilated in accordance with the requirements of the Building Code of Australia and relevant Australia Standards.
- **Fire & BCA Compliance:** The proposal must address fire separation issues, access and egress issues, provision of fire fighting services and equipment, provision of sanitary and other

facilities. The application must be supported with a BCA & Premises Standards Upgrade Report.

- **Landscaping:** The removal of the street tree located on St James Road nature strip is of fair health and is to be retained and protected. The three trees located at the rear of the property possess no outstanding attributes worthy of retention (due to poor health, poor structure weed species and under 5 metres) and their removal is supported, subject to adequate replacement planting occurring on site. A detailed landscape plan is to be provided with planting serving to enhance the original residence and screen later additions including the rear carpark.
- **Plan of Management:** A Plan of Management is to be submitted detailing the proposed hours of operation, staff and cliental, type of procedures to occur on site, cleaning and waste management. The use and operation of the premises shall comply with the requirements of the Public Health Act 1991, and the Public Health (Skin Penetration) Regulation 2000. Guidance for the operation of the approved use may also be sought from publications of the NSW Health Department. The proposed noise and emissions proposed are to be further detailed and a complaint management system is to be identified.

The principal outcomes of the pre-DA advice provided in 2020 was that any future development application would need to convincingly demonstrate that no adverse environmental impacts would arise from the proposal and that the development be consistent with the desired future character of the area.

Current application:

The application was discussed at the Development Building Unit on the 20 April 2021 and raised concerns about the proposed parking spaces on site and its possible impacts on the surrounding street parking.

A meeting was held on the 29 April 2021 with the Traffic Department to discuss the traffic comments issued to the Assessing Officer on 6 April 2021. The application was deferred on 7 May 2021 due to traffic management, heritage conservation, stormwater management, operational matters, public interest and waste management issues. Additional and amended documentation was relodged on 25 May 2021 addressing all the raised issues in the deferral letter. Changes to the proposed development included a reduction in operating hours, one additional parking space on site, decrease in size of the signage and further details regarding the operation of the dermatologist practice. The application will be assessed against the amended plans and documents received from 25 May 2021.

1.3 Proposal

The development proposal includes a change of use of the existing dwelling to a medical centre used for a Dermatological Centre and the following works:

Internal and external alterations:

- The proposal includes minor internal alterations to the configuration of the existing federation dwelling house to accommodate a layout of a medical centre;
- Reception is located at the front of the building, eight seats in the waiting area, four consulting rooms, sterilising room, laser room, recovery area, water closet and an accessible toilet and a staff area including kitchen;
- New door and ramp for disabled access from the carpark;

- The internal building fabric of heritage significance is to be retained such as fire places and architectural detailing;
- The proposal includes the addition of a window to the western elevation and alterations to the openings to the northern elevations which relate to the rear extension built in the 1970s;

Landscaping, signage and parking:

- A 1.2m tall and 1m wide freestanding sign is proposed within the front setback to Birrell Street;
- A new 1.5m palisade fence including brick columns and sliding gate is proposed along the St James Road boundary;
- Three parking spaces are proposed within the rear car park, one floor mounted bike rack and a shared zone for deliveries is proposed near the building;
- Widening the existing northern driveway and reinstating the other driveway along St James Road;
- The removal of four trees on site, one tree located on the medium strip and the replacement of the Council tree planted in the reinstated medium strip.

Hours of Operation:

The hours of operation are restricted to:

- Monday to Friday - 8.00am to 5.30pm
- Saturday - 9.00am to 12.00pm (once a month)
- Sunday and public holidays - Closed

Business Operations:

There will be up to 8 staff and 5 patients at any given time with up to 12 seats available for people in the waiting or recovery room. Each consult/procedure room would have 1 specialist and 1 patient each at any one time and there will be two receptionists. The proposed use is for a specialist dermatological practice provided by consultant dermatologists. Dermatologists are specialist medical doctors who are experts in conditions of the skin, hair, nails, wet areas of mouth and genitalia and skin cancer. Patients will have prior skin referrals from a doctor to the centre before booking an appointment in advanced as there are no walk-ins off the street.

All standard consultations will be 20 minutes, including the majority of full skin examinations. In some instances, consultations may require a 40 minute appointment based on complexity of the medical problem and patient history. Procedures such as skin excisions are typically 40-minute appointments. Laser and light therapy treatments are typically 1-hour appointments.

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 subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

2.1.2 SEPP 64 Advertising and Signage

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

Table 1: SEPP 64 Advertising and Signage Compliance Table

Assessment Criteria	Compliance	Comment
1 Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes	The site is located within the Birrell Street Area in the Mill Hill Heritage Conservation Area. Business identification signs are permitted in the R3 zone and consistent with Council's policies on signage as articulated in Waverley DCP 2012 regarding size and design. Therefore, the proposal is consistent with the existing and desired future character of the locality.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	N/A	There is no particular theme for signage and outdoor applying to the site and area.
2 Special areas		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	Yes	The proposed signage is considered to be of a suitable size (1m x 600mm) and design so as to not detract from the amenity or visual quality for the heritage item and the surrounding heritage conservation area.
3 Views and vistas		
Does the proposal obscure or compromise important views?	Yes	No.
Does the proposal dominate the skyline and reduce the quality of vistas?	Yes	No.
Does the proposal respect the viewing rights of other advertisers?	N/A	The site and proposal do not comprise third-party advertising structures.
4 Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes	The proposed signage is considered to be well-integrated with the site, located behind the existing front fence and frontage of the building to Birrell Street. No landscaping is being removed for the installation of the sign.

Assessment Criteria	Compliance	Comment
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Yes	The proposed sign is modern, subtle and simple to the Federation style architecture of the development.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	Yes	No existing signage. A single sign is proposed measuring 1m x 600mm, considered to be modest.
Does the proposal screen unsightliness?	NA	No.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	Yes	No.
Does the proposal require ongoing vegetation management?	N/A	No.
5 Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes	The sign is compatible with the character of the Heritage Item. The sign sits behind the existing front fence and is 600mm higher than the top brick work. The sign doesn't dominate the streetscape and is considered acceptable.
Does the proposal respect important features of the site or building, or both?	Yes	
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Yes	
6 Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Yes	The sign will incorporate the general Medical Centre logo, which appropriately identifies the business of the premises (as expected for business identification signs). A condition of consent will require the proposed signage concept to be submitted to Council before installed.
7 Illumination		
Would illumination result in unacceptable glare?	Yes	No illumination is proposed and is conditioned to remain unilluminated.
8 Safety		
Would the proposal reduce the safety for any public road?	Yes	The sign is a conventional form and size of signage that would have negligible impacts on safety of Birrell Street.
Would the proposal reduce the safety for pedestrians or bicyclists?	Yes	
Would the proposal reduce the safety for pedestrians,	Yes	

Assessment Criteria	Compliance	Comment
particularly children, by obscuring sightlines from public areas?		

Given the above assessment of the proposed signs, the proposal satisfies the assessment criteria specified in Schedule 1 of SEPP 64 and is consistent with the objectives set out in clause 3(1)(a) of SEPP 64. The proposed signs are therefore acceptable.

2.1.3 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)

The SEPP applies to

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

Comment: Five trees are proposed to be removed from the site, listed as a Heritage Item and is within the Mill Hill Heritage Conservation Area. The application was referred to Council's Tree Management Officer who noted that there were no trees of any significance on site, the trees in the rear yard possess no outstanding attributes worthy of retention and their removal is supported. Situated on the naturestrip in St James Road is one (1) *Callistemon* species tree that is 2 metres in height with a canopy width of 2 metres and in poor health and removal is supported but a replacement tree (*Callistemon Dawson River* and must be a minimum pot size of 75 litres when planted) must be planted prior to an Occupation Certificate being issued. A condition to this effect is recommended for imposition.

2.1.4 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 2: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan.
Part 2 Permitted or prohibited development		
Land Use Table R3 Medium Density Residential Zone	Yes	The proposal use can be defined as a type of 'health services facility' within the Waverley LEP, which means "a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or

Provision	Compliance	Comment
		<p>treatment of injury to persons, and includes any of the following—(a) a medical centre”. In this regard, “Medical centre means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services. Note— Medical centres are a type of health services facility”.</p> <p>A change of use to a ‘medical centre’ is permitted with consent in the R3 zone, as the development type is not specified in item 2 or 4 (relating to uses) of the Waverley LEP. The external alterations to the building maintain the façade as a dwelling and therefore is permissible within the zone.</p>
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> • 9.5m 	Yes	No change is proposed to the existing 7.28m building height.
4.4 Floor space ratio <ul style="list-style-type: none"> • 0.9:1 	Yes	No change is proposed to the existing FSR at 0.39:1 (160m ²).
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	The property is listed as a Local Heritage Item No. 141 – single storey Federation house and it is located within the Mill Hill Heritage Conservation Area. The Heritage Advisor raised issues regarding the signage, side fencing and the location of air conditioning units which is discussed further in the report.

2.1.5 Waverley Development Control Plan 2012 - Amendment No 9 (Waverley DCP 2012) – Effective 1 October 2020

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 1.4.1.3 – Commercial 1.4.2 – Access and Collection 1.4.3 – Amenity 1.4.4- Management 	<p>No - conditioned</p>	<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. The waste and recycling storage area is located in an area convenient for users of the site. It is estimated the medical centre will generate 60L of medical/clinical waste per week, which will be stored within the premise, in clinical waste bins designated yellow as “clinical waste” with a safety locking lid to prevent removal or spillage of contents. The medical centre will also have sharps containers for needles and syringes that are safely stored on premises. Clinical waste and sharps containers will be picked up by a commercial contractor on a weekly or as needs basis.</p> <p>Council’s Waste and Recycling Officer has reviewed the proposal and the waste management plan and raised issues with the SWRMP and recommended conditions to deal with this, as well as waste related conditions relating to the size, number of bins and ongoing management of waste.</p>
<p>2. Ecologically sustainable Development</p>	<p>N/A</p>	<p>State Environmental Planning Policy (Building Sustainable Index: BASIX) 2004 applies to residential developments only and the Federal Government’s Department of Climate Change and Energy Efficiency implemented a Mandatory Commercial Building Disclosure program, which applies to commercial buildings with a net lettable floor area of 1,000sqm or more.</p>
<p>3. Landscaping and Biodiversity</p>	<p>Yes</p>	<p>The landscaping plan has been reviewed and is considered acceptable. The proposal includes the removal of five trees (one in the front setback, three in the rear yard and one tree on the medium strip). The Tree Management Officer is satisfied that the trees are not significant, can be removed and new plantings occur. The car park at the rear of the site does remove a significant area of landscaping, so it recommended the carparking area consist of a permeable material to allow water penetration. Notwithstanding this, the perimeter planting will contribute to landscaping on site whilst providing a green edge to the visual setting of the site when viewed from the street or adjacent properties.</p>

Development Control	Compliance	Comment
5. Vegetation Management	Yes	The subject site is not identified as land effected by 'Biodiversity' or 'Biodiversity Habitat Corridor'. The vegetation proposed for removal on site is not significant to the character of the Heritage Item.
6. Stormwater	Yes – conditioned	The stormwater concept plans submitted with the application are satisfactory and do comply with the Water Management Technical Manual. A condition of consent is recommended requiring Engineering Plans to be submitted to Council prior to the issue of the relevant Construction Certificate.
7. Accessibility and adaptability	Yes	The main and rear entrance provides direct, level access from the street and from any parking area. Accessible parking for people with a disability is provided in accordance with the BCA and AS/NZS 2890.1: 2004 Parking Facilities – Off Street Parking and AS 1428: Set 2003 including AS 1428.1:2009 Design for Access and Mobility. An Access Management Plan for alterations and additions to existing buildings, has been submitted as a means of helping to provide services or facilities to people who would be unable to gain access to the premises. Conditions of consent are recommended to ensure that the proposed works comply with the access standards.

Development Control	Compliance	Comment
8. Transport		
8.1 – Streetscape		
8.2 – On Site Parking		
<ul style="list-style-type: none"> Vehicle Access 	Yes	<p>The vehicular access to the site is limited to one cross over and the unused driveway is proposed to be removed and to reinstate the verge, allowing an addition on-street car space to St James Road. The driveway is satisfactorily located and complies with the minimum required dimensions and other technical requirements.</p> <p>The site permits car parking at the rear of the site and the new side fencing and gate will open up the lot and improve casual surveillance.</p> <p>The rear car park proposes 3 spaces including one accessible space, which is over the maximum limit (of 2 spaces) but is acceptable on merit, due to the proposed use, the surrounding locality and having regard to public interest, considered reasonable in this instance. See discussion below. No motorcycle parking is proposed.</p>
<ul style="list-style-type: none"> Car parking Provision Rates 	Yes	
Zone 1 - Business and office premises: Minimum – 0, Maximum – 0.66/100m ² GFA = 2 spaces		
<ul style="list-style-type: none"> Motorcycle Parking 	No – acceptable on merit	
<ul style="list-style-type: none"> Bike Parking 	Yes	One floor mounted bike rack is positioned along the western boundary and complies with the controls.
8.3 – Loading Facilities	Yes	The medical centre plans to use the shared zone in the rear of the site (2.4m x 5.5m) as a loading facility. No loading bays are required.
8.4 – Pedestrian/Bicycle Circulation and Safety	Yes	<p>The Parking & Access Certification submitted with the original plans was not updated with the amended 3 spaces showing the swept paths but Council's Traffic Engineer were satisfied with the proposed design.</p>
8.5 – Green Travel Plan	Yes	
8.6 - Traffic and transport Management Plan	N/A	
	Yes	

Development Control	Compliance	Comment
9. Heritage	Yes	The proposed development is in a Heritage Conservation Area and is a Heritage item and follows the guidance of this part of the DCP. Internally the principal form retains its integrity with its original layout and most of its original fabric, although some extremely intrusive interventions have occurred, such as the floor tiling throughout. While the formal rooms are largely intact, the rest of the original house is degraded, as it has been renovated in the 1970s with new doors, kitchen and bathroom fit-outs. There is no original fabric in the rear extension and the construction of the car park is supported with the proposed plantings along the side boundary. The proposal is preserving the building in its current form with minor internal alterations to improve the amenity. Council's Heritage Architect has reviewed the proposal and has recommended conditions to submit a schedule of restoration/maintenance works and proposed signage plan. See heritage referral comments below.
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP. The development provides for a safe environment for residents, visitors and workers and minimise the opportunities for criminal and anti-social behaviour. The Plan of Management has successfully outlined the safety procedures of after hours security, hygiene, neighbourhood amenity, managing complaints and waste management.
12. Design Excellence	Yes	The applicant has provided a context plan showing the location of the signage in the front yard which demonstrates that the building is relatively preserved the contributory value of the residence to the Conservation Area and has an acceptable design given the surrounding context of the streetscape. The proposed use as a medical centre promotes site specific design and allows the community to use and appreciate the heritage character of the local listed Heritage Item.

Development Control	Compliance	Comment
15. Advertising and Signage		
15.1 Design and location	Yes	One free standing sign is proposed to be located in the front setback behind the existing front fence (Figure 5). The sign has been reduced in height to 1.32m to the top and has a size of 1m by 0.6m which is compliant with the DCP.
15.2 Site Specific Controls <ul style="list-style-type: none"> Residential Zones – must not exceed 1m x 0.7m in size. Heritage significant buildings 	Yes	The sign is of a size and proportion that complements the scale of the existing façade, as well as surrounding buildings and signs. The signage is proposed within a residential zone and only relates to the medical centre use as identification and description of the business. The sign should be affixed to the front façade of the dwelling or to the front boundary wall or fence but the applicant has argued that it would be quite difficult to see and must be displayed as a free standing, post supported panel sign above the 0.7m brick fence. The business identification sign is supported in this location but a signage design including colour is to be approved by Council prior to the issue of a Construction Certificate.
15.3 Sign specific controls	No – acceptable on merit	



Figure 5: Front façade of the subject site along Birrell Street showing sign placement behind the brick fence.

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

Car parking and Traffic:

The WDCP (2012) does not specify car parking requirements specifically for a medical centre or professional health consulting rooms form of use. The closest use category in the DCP is 'business and

commercial' requiring a maximum of two on-site parking spaces (relevant to floor area) and a minimum of nil for this proposal.

Waverley Council's DCP does not prescribe parking provisions for every type of use available to an applicant, and subsequently, the manner of assessment must consider the closest aligned use to that indicated in the DCP. Therefore, this being the closest aligned use to the proposal, these rates are applicable in the assessment of this application.

Further to the DCP assessment on parking rates, the TfNSW (RTA) Guide to Traffic Generating Developments (ver2.2, 2002) is used as an additional guide given the actual use is not defined in Part B2 of the DCP. This guide does not contain traffic generation rates for medical centres or professional consulting rooms. However, traffic generation rates for extended hours medical centres are included and can be used as an indicator of the magnitude of traffic generated by the proposed development.

The TfNSW guide recommends the following rates for assessment:

- 10.4 veh/hr/100m² GFA in the morning peak hour.
- 8.8 veh/hr/100m² GFA in the evening peak hour.

The resultant traffic generated using these rates is:

	GFA (m ²)	Trip generation rate (veh/hr/100 m ²)	Trip generation
Morning peak	160	10.4	16.4
Evening peak		8.8	14.1

The additional trips generated from the proposed development will not have a significant impact on the surrounding road network.

The proposal requires a minimum of 0 spaces and a maximum of 2 spaces according to the car parking provision rates for business and office premises in the DCP, which is the closest land use category for the medical centre. At Waverley, there is a strong desire to promote people driving or utilising public transport. The proposal in seeking a Dermatological Centre located within a residential zone, situated approximately 550m from Oxford Street and 950m from the train station (Bondi Junction), with ample street parking (particularly given the core hours of trade are business hours when many residents are at work themselves), the provision of 2 car spaces on site are considered adequate.

Two off-street parking spaces (including an accessible space) was originally proposed in the application, however having regard to the public interest in this application, the applicant was requested (via deferral of the application) to consider adjusting the parking arrangement to provide an additional space (on a merit basis) to assist to address concerns raised from the community with respect to car parking. The applicant has responded favourably by now providing 3 car spaces (and shared zone) in the rear yard.

Additionally, as part of Council's deferral of the application, the applicant was requested to conduct a Street Parking Demand Survey by a suitably qualified traffic consultant. This was undertaken and the findings supported the proposal, indicating that during the proposed operation of the medical facility at 2 Birrell Street that approximately 40% of on street parking spaces are unoccupied.

Variations to the relevant parking standards are only accepted where the applicant can demonstrate that the requirement cannot be reasonably achieved (that is, provision of less than the standard) or that exceeding the standard is in the public interest. On this basis, the applicant has demonstrated that the provision of 3 spaces (1 space over the control) is not technically required, however is in the public interest.

Table 2: 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		
1.2.1 Frontages b) Designed to provide casual surveillance to the street; d) Premises are required to display a street number;	Yes No – conditioned	The front façade of the existing building is to be preserved through conservation works to the Heritage Listed building. The new 1.5m palisade side fence increases casual surveillance of St James Road. The property does not have a street number displayed and a recommended condition requires a street number to be displayed.
1.2.3 General Amenity	Yes	The building envelope is remaining unchanged and results in a satisfactory impact on surrounding residential uses in terms of overlooking and overshadowing. The proposed window addition and replacement of the existing 1.8m solid fence with a new 1.5m palisade fence with brick base to St James Road is designed to promote an active street frontage and provide surveillance to the street. The new fence and window style reflect the character of the building. The amended Plan of Management lists appropriate mitigation measures and how the medical centre plans to operate to retain the general amenity around the site.
1.2.4 Noise	Yes	An Acoustic Plan prepared by Acoustic Logic was submitted in support of the proposal stating that the medical centre will be closed after 5:30pm weekdays which will improve the sites current noise levels at night. Both the air-conditioning units and carpark will operate to levels anticipated for a residential (suburban) area. Air-conditioning units are installed along the western boundary (St James Road) away from neighbouring properties.
1.3 Hours of operation		
All Residential Zones: (a) General base trading hours: (i) 7.00am to 10.00pm, 7 days a week	Yes	The medical centre is proposed to operate during the following hours: <ul style="list-style-type: none"> Monday to Friday - 8.00am to 5.30pm. Saturday - 9.00am to 12.00pm. Sunday and public holidays - Closed.

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 for 14 days, in accordance with *Community Participation Plan 2019: the Waverley Community Development Participation and Consultation Plan* (CPP). The proposed use/development was classified as a 'Type A' requirement (14days) for the purposes of notification (Medical Centre and also minor works to heritage item).

The amended and additional information was not re-notified (in accordance with the CPP) because in the opinion of the Council Officer, the changes resulted in a lesser impact (including reduction in fence height, amended signage, include greater detail on external detailing with respect to heritage components, reduction in operating hours, updated waste provisions, provision of Street Parking Demand Survey and increase of carparking to 3 spaces in the rear to address community concerns). Note, all amended documentation is still available to view online via Council's DA Tracking tool.

Eighty unique submissions and 8 proforma submissions were received. Councillor interest from 2 Councillors was also received, though no Councillor submissions were received at the time of finalising this report for publication.

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

Table 3: Summary of property addresses that lodged a submission

Property
1 Ashton St, Queens Park
4 Ashton St, Queens Park
8 Ashton St, Queens Park
9 Ashton St, Queens Park
13 Ashton St, Queens Park
16 Ashton St, Queens Park
18 Ashton St, Queens Park
20 Ashton St, Queens Park
23 Ashton St, Queens Park
24 Ashton St, Queens Park
26 Ashton St, Queens Park
30 Ashton St, Queens Park
35 Ashton St, Queens Park
47 Ashton St, Queens Park
1 Birrell Lane, Queens Park

Property
4 Birrell St, Bondi Junction
6 Birrell St, Bondi Junction x 3
8 Birrell St, Bondi Junction x 3
12 Birrell St, Bondi Junction
10 Birrell St, Bondi Junction
16 Birrell St, Bondi Junction
28 Birrell St, Bondi Junction
44 Birrell St, Bondi Junction
95 Birrell St, Queens Park
25 Brook St, Coogee
145 Denison St, Queens Park
405/72 Henrietta St, Waverley
47 Mackenzie Street, Bondi Junction
109 Newland St, Queens Park
86 Ruthven St Bondi Junction
102 Ruthven St, Bondi Junction
118 Ruthven St, Bondi Junction
125 Ruthven St, Bondi Junction
37 Rawson Ave, Queens Park
39 Rawson Ave, Queens Park
47 Rawson Ave, Queens Park
3 St James Rd, Bondi Junction
7 St James Rd, Bondi Junction x 2
15 St James Rd, Bondi Junction
17 St James Rd, Bondi Junction
19 St James Rd, Bondi Junction
21 St James Rd, Bondi Junction
23 St James Rd, Bondi Junction
25 St James Rd, Bondi Junction
29 St James Rd, Bondi Junction
39 St James Rd, Bondi Junction x 2
76 St James Rd, Bondi Junction
82 St James Rd, Bondi Junction
84 St James Rd, Bondi Junction
90 St James Rd, Bondi Junction
92 St James Rd, Bondi Junction
94 St James Rd, Bondi Junction
98 St James Rd, Bondi Junction x 2
112 St James Rd, Bondi Junction
122 St James Rd, Bondi Junction
130A St James Rd, Bondi Junction
136 St James Rd, Bondi Junction
138 St James Rd, Bondi Junction
140 St James Rd, Bondi Junction

Property
142 St James Rd, Bondi Junction x 2
144 St James Rd, Bondi Junction
15 York Rd, Queens Park
35 York Rd, Queens Park
35 Watson St, Bondi
PO Box 704, Waverley
Planning Consultant – 1/71 York St, Sydney
Planning Consultant – 25-29 Berry St, North Sydney
No address x 10

Issue: Insufficient properties notified / Failure to consult the wider public and no Notice of DA on site. There was also a lack of information provided.

Response: As indicated previously, the application was notified in accordance with the CPP. Many of the submissions raised concerns over the selected notified properties, which were limited to those persons who were directly surrounding the subject site and mainly affected. Having regard to the number of submissions received, it is clear that a wider community (beyond those notified) are aware of the proposal.

Adequate information was deemed sufficient for the purposes of undertaking an assessment.

The amended and additional information was not re-notified because it was in the opinion of the Council Officer that the changes resulted in a lesser impact.

Issue: Inappropriate use for a heritage-listed residential dwelling. Demolition of the historical fabric and the removal of trees will have a negative impact to the heritage character and significance of the item.

Response: The application has been referred to Council's Heritage Adviser who is satisfied that the proposed use as a Medical Centre is appropriate and allows the wider community to appreciate the heritage significant while repurposing the building. Their comments are detailed further in the referral section below. The commercial use of the building does not diminish the heritage significance of the building and results in the restoration of the run-down building. The locality is characterised by non-residential uses to prominent corner locations, such as the general store and church to the corner of Birrell Street and Ruthven Street. Corner locations have greater exposure and provide less acoustic amenity/privacy for residents and ideal for low impact non-residential uses.

The applicant has also raised the importance of Clause 5.10(10) of the Waverley LEP, which stipulates: *"The consent authority may grant consent to development for any purpose of a building that is a heritage item .. of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—*

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*

- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area”.*

The proposed medical use results in the conservation of the run-down heritage item and the proposed use is consistent with the objective of this clause.

Issue: Inconsistent with the objectives of the R3 zoning and the residential locality.

Response: The proposed permitted use is considered consistent with the R3 Medium Density Zoning and will provide a service to meet the needs of residents requiring specialist skin care. The centre will maximise public transport patronage and encourage walking and cycling by being located within walking distance of Bondi Junction Station, bus services and providing bicycle parking onsite.

Issue: The proposed use is for a cosmetic business and a laser room is proposed.

Response: The proposed use is for a specialist dermatological practice provided by consultant dermatologists. Dermatologists are specialist medical doctors who are experts in conditions of the skin, hair, nails, wet areas of mouth and genitalia and skin cancer. All dermatologists in Australia are registered as specialists with the Medical Board of Australia. Laser therapy is utilised for dermatological purposes. All patients are required to have a referral from a doctor and schedule a booking with the clinic prior to their appointment.

Issue: A Medical Centre, operating from 8am to 5.30pm, 7 days a week will change the residential nature of the neighbourhood and will negatively impact on residents.

Response: The proposed use of a medical centre is permitted within the R3 Medium Density land use zone and will provide a service to the local community. The Waverley DCP stipulates the base trading hours permitted for all residential zones includes 7.00am to 10.00pm, 7 days a week. It is proposed that the medical centre will operate Monday to Friday between 8.00am to 5.30pm and once a month on Saturdays between 9am – 12 noon, to be considerate of the amenity of nearby residents and given peak parking demand is likely highest after 6.00pm which is when residents are mostly returning from their place of work/study and have a greater demand for parking.

The applicant has amended its hours of operation by reducing the operation on Saturday and to cease operations of the business on Sundays to address the concerns of local residents and provide additional parking for residents on the weekend.

Issue: The development does not consider the social impacts as it is an excessive intensity of scale and is not in the public interest.

Response: The proposed dermatologist practice is a permissible use within the land use zone and is fully compliant with all of the clauses and development standards contained within the Waverley LEP. The proposal is compliant with all the controls within the Waverley DCP with the exception of the maximum parking control. The proposal includes three (3) parking spaces, when the DCP stipulates a maximum of two (2) parking spaces (and this was at the request of Council Officers following the receipt of submissions raising concern for car parking). By the virtue of the proposal being fully compliant with Waverley LEP and Waverley DCP the proposal is considered to be in the public interest, providing a need/service for the local community.

The proposal includes no adverse built form environmental impacts to neighbouring residents. This includes view loss, visual impact, overshadowing or loss of visual and acoustic amenity. The proposal is considered to improve the acoustic amenity of residents compared to that of a dwelling house due to the operating hours. The proposal results in a positive economic impact by creating eight direct jobs and also creating indirect jobs for doctors, nurses and administrative staff. The proposal will provide a positive social impact by contributing to the prevention and treatment of dermatological concerns for predominantly local residents within the Waverley LGA.

Issue: The development will generate a high amount of traffic and increase the parking demand on surrounding streets because the two parking spaces is under supplied for the Medical Centre. There are no public transport options available nearby.

Response: The proposal is located in Parking Area 1 and for business and office premises a maximum amount of parking spaces is 0.66/100m². The proposal includes a GFA of 160m². The two parking spaces (one being accessible) on site are compliant with these controls but as amended, three car spaces have been provided to the clients visiting. The proposal includes the removal of an existing vehicular cross over and introduction of an additional parking space to the street. The new parking space will increase the amount of parking for local residents particularly when the medical centre is not in operation.

The parking demand in the local street network is greatest on the weekend due to the use of Centennial and Queens Park and before and after work due to residents parking within the street after commuting to work/study. The medical centre is proposed to be in operation during the hours of 8.00am to 5.30pm Monday to Friday and once a month on Saturdays between 9.00am to 12.00pm noon. There will likely be minimal conflict between these business hours and those of the residential area as a result. The site is located nearby to the Bondi Junction Centre, within 950m of Bondi Junction Station and 550m of regular bus services. Therefore, it is expected a number of patients/employees will walk or use public transport to access the medical centre.

To address the concerns of residents it is proposed to cease operations of the medical centre on Sundays and reduce the hours of operation on Saturdays. Therefore, the proposal will generate less parking demand on Saturdays and no parking demand on Sundays/public holidays.

Issue: The Medical Centre should be located in the Bondi Junction CBD.

Response: The proposed use of a medical centre is permitted within the R3 Medium Density land use zone and will provide a service to the local community. The property was purchased by the operator of the medical centre on the basis there is a demand for this business in the locality and the proposal is permitted in the land use zone and fully compliant with the relevant planning controls.

Issue: The proposal is inconsistent with the Waverley Local Strategic Planning Statement 2020-2036 (LSPS).

Response: The LSPS is prepared in accordance with clause 3.9 of the EP&A Act. The LSPS is used to guide any updates the current LEP/DCP, and identifies additional strategies and policies to be developed, so that our community vision is clear throughout our planning framework. A clear vision to guide how Council make planning decisions is important to both delivering on the vision, as well as ensuring accountability and trust in the planning system. Waverley Council have zoned the site R3 Medium Density Residential and included 'medical centre' as a permitted use within the land use zone.

Issue: *Adverse noise and waste generated from the medical centre will impact surrounding residents.*

Response: An Acoustic Report was produced with the DA which concluded the proposed use would result in an acceptable acoustic impact. The medical centre will not generate any noise at night or on Sundays and will likely generate less noise than the existing dwelling house. A waste management plan was submitted with the DA and amended to provide acceptable waste generations (collected weekly). The medical centre staff will bring out the bin for collection at close of business and bring the bin back on site first thing in the morning prior to starting work the following day. It is estimated the medical centre will generate 60L of medical/clinical waste per week, which will be stored within the premise, in clinical waste bins designated yellow as "clinical waste" with a safety locking lid to prevent removal or spillage of contents. The medical centre will also have sharps containers for needles and syringes that are safely stored on premises. Clinical waste and sharps containers will be picked up by a commercial contractor on a weekly or as needs basis. Standard conditions will also be imposed to ensure waste impacts are minimised and managed in accordance with standard Council practices.

Issue: *The proposed medical centre use will not generate many jobs.*

Response: The proposed medical centre is considered to generate up to nine (9) ongoing jobs as well as jobs during the construction period. The jobs will include medical practitioners, nurses, receptionists, and cleaners.

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 Traffic and Development (Infrastructure Services)

Council's Traffic Management officer has reviewed the plans and has provided the following comments:

The proposed car park layout is compliant. The provision of 3 car parking spaces including one disabled space is acceptable. The disabled space is to be dedicated to visitors. On street parking that will occur does not have a significant impact on residential amenity. The proposal has satisfied traffic and parking requirements subject to the driveway width requirements being met (in conditions recommended for imposition).

3.2 Heritage Conservation (Shaping Waverley)

Council's Heritage Adviser has reviewed the plans and has provided the following comments:

To maintain the contributory value of the residence to the Conservation Area and streetscape it is recommended that the below items are included in any conditions of consent:

- *The palisade fence is not to exceed a maximum height of 1500mm with hedging able to extend higher.*

- *As ceilings in the forward areas of the residence are of notable and original detail, opening of the entry hall western side wall to provide a reception area should incorporate a drop beam detail maintaining the original ceilings and cornices with a beam depth of 450mm minimum.*
- *A schedule of restoration/ maintenance works to external detailing including woodwork, face brick tuckpointing and roof cladding is to be provided for Council approval.*

These aspects have either been provided in the amended plans or to be conditioned, satisfying these comments.

3.3 Stormwater (Infrastructure Services)

No objections subject to the imposition of conditions.

3.4 Environmental Health (Compliance)

No objections subject to the imposition of conditions.

3.5 Tree Management Officer (Open Space and Sports fields Management)

Council's Tree Management Officer has reviewed the Landscape Plans and has provided the following comments:

*On inspection, it was noted that on site there were no trees of any significance, the trees in the rear yard possess no outstanding attributes worthy of retention and their **removal is supported**. Situated on the naturestrip in St James Rd is one (1) **Callistemon** species tree is 2 metres in height with a canopy width of 2 metres and in poor health and **removal is supported**.*

RECOMMENDATION

- *Situated on the naturestrip in St James Rd is one (1) **Callistemon** species tree is 2 metres in height with a canopy width of 2 metres and in poor health. The applicant **may remove the tree** on the following conditions:*

*To ensure maximum street tree canopy and continuity of the streetscape the applicant **may remove the tree** but must plant a replacement tree. The following conditions will apply:*

- *Plant one (1) replacement tree on the naturestrip in St James Rd.*
- *The tree is to be planted where the **EXISTING VEHICLE CROSSING IS TO BE REMOVED AND MADE GOOD AS PER COUNCIL SPECIFICATION**.*
- *The tree is to be planted prior to the issue of the occupation certificate.*
- *The tree is to be a **Callistemon Dawson River** and must be a minimum pot size of 75 litres when planted. The tree is to be planted by a horticulturist (Min qualification AQF Level 3).*

*A bond of \$1,000 is to be lodged with Council either as cash or by way of an unconditional bank guarantee to ensure the protection and maintenance of the newly planted **Callistemon** tree in St James Rd. The bond is to be lodged prior to the issue of a Construction Certificate. The bond will be refunded after 12 months on condition that the **Callistemon** tree is maintained in good condition as determined by Council's Tree Officer. If the tree requires replacing within the bond period, the trees must be replaced within one month of notification from Council and not at the end of the bond period.*

3.6 Waste Management

No objections subject to conditions.

3.7 Fire & BCA

No objections subject to the imposition of conditions.

4. SUMMARY

The application seeks consent for the change of use from dwelling house to a medical centre with internal and external alterations, car parking, signage, side fencing and landscape works including the removal of four trees on the site and one planted along the medium strip on St James Road.

The main issue with the application were the on-site and street parking, traffic generation, heritage impact, signage, operational plan of management and hours of operation. These were dealt with via amended and additional information including one additional car space (three in total, with one accessible space and shared zone), Parking Assessment and Survey, reduction in signage and side fence height and additional details regarding operational management. The non-compliances are discussed in the body of the report and are considered acceptable as the development will not result in significant amenity impacts to surrounding the site and is not considered to result in overdevelopment of the site.

The application was notified for 14 days and received 75 submissions. The submission matters were discussed throughout the report or considered resolved via conditions of consent.

Accordingly, the application has been assessed against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for approval.

DBU Decision

The application and assessment report was reviewed by the DBU at the meeting on 20 April 2021 and 3 June 2021 and the DBU determined:

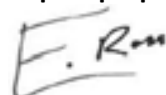
(a) *The application is acceptable and should be approved, subject to the conditions in Appendix A.*

DBU members: A Rossi, B McNamara, B Magistrale

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:



Edwina Ross
Development Assessment Planner

Date: 4 June 2021

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



Angela Rossi
A/Executive Manager, Development
Assessment
Date: 10 June 2021

Reason for referral:

- 1 Contentious development (10 or more objections)

APPENDIX A: RECOMMENDED CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

- (a) Architectural Plans prepared by Perfect Practice of Project No: 807 including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
Drawing No. 500-02, Revision G	Proposed Site Plan	13/05/2021	25/05/2021
Drawing No. 500-03, Revision G	Proposed Car Park Layout	13/05/2021	25/05/2021
Drawing No. 500-04, Revision G	External Section	13/05/2021	25/05/2021
Drawing No. 500-05, Revision G	Existing/Demolition Plan	13/05/2021	25/05/2021
Drawing No. 500-06, Revision G	Proposed Layout Plan	13/05/2021	25/05/2021

- (b) Landscape Plan No. L/01, L/02, L/03 and documentation prepared by Discount Landscape Plans, dated 18/11/2020 and received by Council on 11/01/2021;
- (c) Stormwater Details and documentation prepared by Engineering Studio dated 21/05/2021, revision B and received by Council on 25/05/2021;
- (d) BCA Report and documentation prepared by National BCA dated 7/12/2020, and received by Council on 11/01/2021;
- (e) Fire Engineering Statement prepared by Innova Services Pty Ltd dated 9 December 2020, and received by Council on 11/01/2021;
- (f) Plan of Management prepared by Paro Consulting dated May 2021, and received by Council on 25/05/2021;
- (g) Noise Impact Assessment prepared by Acoustic Logic dated 24/05/2021, revision 3 and received by Council on 25/05/2021;
- (h) Access Report prepared by Wall to Wall Design and Consulting, dated 7/12/2020, received by Council on 11/01/2021;
- (i) Waste Management Plan prepared by Paro Consulting, dated 31/05/2021, received by Council on 31/05/2021;

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) The palisade fence is not to exceed a maximum height of 1500mm above natural ground level with hedging able to extend higher.

- (b) As ceilings in the forward areas of the residence are of notable and original detail, opening of the entry hall western side wall to provide a reception area should incorporate a drop beam detail maintaining the original ceilings and cornices with a beam depth of 450mm minimum.
- (c) A schedule of restoration/ maintenance works to external detailing including woodwork, face brick tuckpointing and roof cladding is to be provided for the approval of Council's Heritage Officer.
- (d) The amended signage on a low free standing, post supported panel in the front yard is supported subject to submission of a signage design including colours and no illumination of the sign.

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

B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

GENERAL REQUIREMENTS

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

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

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

CONTRIBUTIONS, FEES & BONDS

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 \$ **10,930** 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. TREE BOND

A bond of \$1,000 is to be lodged with Council either as cash or by way of an unconditional bank guarantee to ensure the protection and maintenance of the newly planted **Callistemon** tree in St James Road. The bond is to be lodged prior to the issue of any Construction Certificate. The bond will be refunded after 12 months on condition that the **Callistemon** tree is maintained in good condition as determined by Council's Tree Officer. If the tree requires replacing within the bond period, the trees must be replaced within one month of notification from Council and not at the end of the bond period.

CONSTRUCTION MATTERS

8. HOARDING

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

9. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan 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. FIRE SAFETY UPGRADING WORKS

- a) Fire safety upgrading works are to be undertaken in accordance with all recommendations detailed in the BCA Report prepared by Rodger Dowsett of National BCA, dated 7th December 2020 with Project No. 20036.
- b) Details demonstrating compliance with the BCA and the matters listed in condition (a) must be submitted and approved by the Certifying Authority prior to the issue of a Construction Certificate.
- c) 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.

12. 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.

STORMWATER & FLOODING

13. STORMWATER MANAGEMENT

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

The submitted stormwater drainage plan prepared by Engineering Studio, Job No. 20942, Dwg No. C00.01, C01.01, C01.02, C02.01, C02.02 & C02.03, Revision B, dated 21.05.2021, are considered concept only.

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

- a) Updated and revised on-site stormwater detention (OSD) details are to be provided. Council's mandatory OSD checklist as set out in page 22 of the Council's Water Management Technical Manual shall be reviewed revised as necessary.
- b) A certificate from a registered structural engineer certifying the structural adequacy of the OSD tank structure shall be provided.
- c) Seepage water must not be directly or indirectly discharged to Council's street gutter.
- d) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- e) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.
- f) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- g) The proposed drainage works shall have no impact on any adjacent property.
- h) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- Since a sewer main runs through the property, plans must also be presented to a Sydney Water Tap in™ for their approval.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: assets@waverley.nsw.gov.au or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday)

14. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

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

WASTE

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 and waste storage for the commercial components of the development;

- **Commercial medical centre, 5 consulting rooms, 5.5 day operation**
 - 3x 240L MGBs collected weekly for general waste
 - 2x 240L MGBs and collected weekly for comingled recycling
 - Extra space is required to store reusable products, such excess cardboard and other packaging materials.
 - Frequency of collection must be monitored and adjusted as required.

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. VERMIN AND RAT CONTROL

A *Pest and Vermin Control Management Plan* prepared by a suitable qualified person outlining measures to be taken to reduce rat/vermin populations is to be submitted for the approval of Council's Manager, Health and Compliance (or delegate) prior to the issue of a Construction Certificate for the demolition of existing buildings.

NOISE

18. NOISE – ACOUSTIC REPORT

An Acoustic Assessment Report prepared by a suitably qualified acoustic consultant shall be prepared to assess the impacts of the development (internal and external areas) including any mechanical plant,

refrigeration motors and air conditioning units and make recommendations to ensure that the noise from the development will be within the acceptable limits of the Protection of the Environment Operations Act 1997 and relevant legislation. The plan must be submitted to the satisfaction of Council's Executive Manager, Compliance (or delegate).

Note: Any management measures recommended in the acoustic report shall be incorporated into a Plan of Management, which will be required to be submitted to Council for approval prior to the issue of an Occupation Certificate.

For further information on the requirements, refer to Council's website:

[https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications - conditions of consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

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

PRIOR TO ANY WORKS

19. CONSTRUCTION SIGNS

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

20. DILAPIDATION REPORT

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

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

DEMOLITION & EXCAVATION

21. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

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

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

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

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land; or

- (c) Particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561)
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

22. CONTROL OF DUST ON CONSTRUCTION SITES

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

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g.: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

CONSTRUCTION MATTERS

23. CONSTRUCTION HOURS

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

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

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

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

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

25. CONSTRUCTION INSPECTIONS

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

26. CERTIFICATE OF SURVEY - LEVELS

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans.

27. GENERAL REGULATORY PREMISES

The Occupier of the skin penetration premises shall:

- a) Submit a notification of skin penetration/hairstyling/boarding house/public swimming pool form with Council's Planning and Environmental Services (Health) Department prior to occupation.
- b) Arrange for an inspection by Council's Environmental Health Officer prior to occupation.
- c) Submit to Council prior to occupation, details of trade waste removal arrangements.
- d) Pay any fees associated with the submission of a notification and/or incurred by the carrying out of health regulation inspections as determined by Council's Pricing Policy, Fees and Charges.

28. FITOUT REQUIREMENTS FOR - SKIN PENETRATION

The construction and fit out of the skin penetration premises must comply with the Council's Policy for premises conducting skin penetration procedures.

- (a) The floors and walls of the treatment room/s must be constructed of material that is durable, smooth, easily cleaned and impervious to moisture.
- (b) A hand wash basin is to be located in every treatment room except where exemptions are granted in accordance with Council's Policy.
- (c) Hand basins are to have:
 - (i) an adequate supply of potable water at a temperature of 40 degrees centigrade mixed through a common spout from a hot and cold water supply, and
 - (ii) liquid soap (or alcohol-based hand cleaner), and single-use hand drying towels in a dispenser or other suitable hand drying equipment located next to it.
- (d) Include a separate sink, in addition to any hand basin(s) or any other sink for the cleaning of equipment that has an adequate supply of potable water at a temperature of at least 40 degrees centigrade mixed through a common spout from a hot and cold water supply.
- (e) Adequate storage facilities must be provided for all equipment and materials such as clean linen, or disposable covers, sterilised or single use equipment, other materials or equipment that must be protected and kept in a clean and hygienic condition.
- (f) Skin penetration premises that use sharps must have an adequate supply of sharps containers and provide a container in every treatment room that sharps are used.

TREE PROTECTION AND REMOVAL

29. TREE REMOVAL

The removal of the four proposed trees on site according to the Landscape Plan prepared by Discount Landscape, Plans DWG; L/01, dated 18/11/2020 are supported. Situated on the naturestrip in St James Road is one (1) ***Callistemon*** species tree, 2 metres in height with a canopy width of 2 metres and in poor health. The applicant **may remove the tree** on the following conditions:

To ensure maximum street tree canopy and continuity of the streetscape the applicant **may remove the tree** but must plant a replacement tree. The following conditions will apply:

Plant one (1) replacement tree on the naturestrip in St James Road. The tree is to be planted where the **existing vehicle crossing to be removed and made good as per council specification**. The tree is to be planted prior to the issue of an Occupation certificate. The tree is to be a *Callistemon Dawson River* and must be a minimum pot size of 75 litres when planted. The tree is to be planted by a horticulturist (Min qualification AQF Level 3).

30. TREE PROTECTION

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

31. STREET TREES TO BE RETAINED/TREE PROTECTION

No existing street trees shall be removed without Council approval. Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) 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.

VEHICLE ACCESS & PUBLIC DOMAIN WORKS

32. RECONSTRUCT VEHICLE CROSSING

The existing vehicle crossing is to be demolished and a new crossing constructed to provide access to the proposed car park. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council. The driveway is to have a maximum width of 3.0 metres plus 0.45 metre splay on either side at the gutter.

Note: Prior to the submission of the vehicle crossing application, works as executed drawings shall be submitted to Council for the approval of the Executive Manager Creating Waverley confirming the

finished levels of the internal driveway between the property boundary comply with the approved driveway long sections.

33. EXISTING VEHICLE CROSSING IS TO BE CLOSED

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

34. VEHICULAR ACCESS - FINISHED LEVEL

The finished level at the property boundary on **both** sides of the vehicle crossing is to match the level of the existing concrete footpath.

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

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

CERTIFICATION AND LICENCES

35. 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.

36. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM

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

37. ON-SITE STORMWATER DETENTION CERTIFICATION

The submission of certification by a suitably qualified and practising Engineer for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the system prior to the release of any Occupation Certificate.

38. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD

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

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services. The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate/use of the building. All associated costs shall be borne by the applicant.

39. CERTIFICATION OF ACOUSTIC PERFORMANCE

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.

40. 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.

MANAGEMENT PLANS

41. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE

A Waste Management Plan must be submitted to the Principal Certifying Authority 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) All waste and recycling bins must only be placed out on Council footpath for collection no earlier than 5:30 p.m. on the day prior to the designated waste collection day and retrieved from the kerbside as early as possible.
- (i) 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.
- (j) At no times shall bins be stored on the public domain (e.g. footpaths).

E. OPERATIONAL MATTERS

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

42. HOURS OF OPERATION

The hours of operation for the premises are restricted to:

INDOOR AREA

Monday to Friday - 8.00am to 5.30pm

Saturday - 9.00am to 12.00pm (once a month)

Sunday and public holidays - Closed

43. SIGNAGE TO BE DISPLAYED

- (a) Signage (in lettering not less than 25mm in height on a contrasting background) is to be erected in a prominent position near the main entry to the premises. The signage shall state:

Approved hours of operation - Indoor Area

Monday to Friday - 8.00am to 5.30pm

Saturday - 9.00am to 12.00pm (once a month)

Sunday and public holidays - Closed

- (b) Signage (in lettering not less than 25mm in height on a contrasting background) is to be erected near the main entry to the premises, in such manner that it would be reasonable to expect that a person leaving the premises will be alerted to its contents. The signage shall state:

Upon leaving please respect local residents by minimising noise

- (c) Signage specified in sub clauses (a) and (b) is to be erected prior to the commencement of operations.

44. 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.
- (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, to ensure harms that arise are mitigated.

45. COPIES OF CONSENTS AND MANAGEMENT PLANS

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

AMENITY & SAFETY

46. AMENITY

The management of the premises is to:

- (a) 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
- (b) Record in a formal register 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
- (c) 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.

47. 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.

48. INSTALLATION OF AIR CONDITIONING

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

- (a) Be located a minimum of 450mm from a boundary.
- (b) Be located behind the front building line and if visible suitably screened and located in an appropriate location.
- (c) Not be adjacent to neighbouring bedroom windows.
- (d) Not reduce the structural integrity of the building.
- (e) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):

- (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
 - (ii) before 7.00am and after 10.00pm on any other day.
- (f) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (e).

49. NOISE EMISSIONS

The use of the premises shall not give rise to the transmission of "Offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.

50. 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.

51. SKIN PENETRATION - USE AND OPERATION

The use and operation of the premises shall comply with the requirements of the *Public Health Act 2010*, the *Public Health Regulation 2012* and Council's Policy for Premises Conducting Skin Penetration Procedures.

52. CLINICAL WASTE

- (a) Disposable sharps shall be discarded in a clearly labelled puncture resistant container, which conforms to Australian Standard AS 4031. A licensed waste contractor shall be engaged to dispose of the waste.
- (b) Contaminated waste must be segregated and placed in a suitable leak proof bag ready for appropriate disposal. Contaminated waste includes microbiological waste or pathological waste, or any other material or item that is soiled or contaminated with blood or other body substances and that is likely to cause infection or injury to any other person.

53. 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.

54. LITTER CHECKS

Regular litter patrols are to be undertaken in the general vicinity of the premises (20 metres from the front door of the premises) to monitor cigarette butt litter. A register must be maintained and kept on the premises at all times detailing date, time of check, staff member responsible and signature. Building management must provide customer education to ensure appropriate disposal of cigarette butts.

PARKING AND ACCESS

55. 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.

56. DELIVERY OF GOODS

Loading and unloading of vehicles and delivery of goods to the land shall at all times be carried out within the site during the hours of 7am – 6pm Mon - Fri. The area set aside for car parking as shown on the approved plans shall be used for the parking of vehicles and for no other purpose.

SIGNAGE

57. NO FLASHING SIGNS

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

58. LOCATION OF SIGNS

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

59. ERECTION OF SIGNS

The erection of the sign is to satisfy the following requirements:

- (a) Be subject to development consent of Council;
- (b) Be erected/supported in a secure manner for safety purposes;
- (c) Does not cause measures that would cause irreversible damage to the building; and,

60. NO SIGNS OR GOODS ON PUBLIC AREA

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

F. ADVISORY MATTERS

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

AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

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

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

AD2. SYDNEY WATER REQUIREMENTS

You 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. EXCAVATION TO BE LIMITED

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

AD6. BONDI - ROSE BAY SAND BODY

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

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

AD7. TREE REMOVAL/PRESERVATION

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

AD8. WORK OUTSIDE PROPERTY BOUNDARY

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

AD9. SIGNS/GOODS IN THE PUBLIC WAY

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

AD10. 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.



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COUNCIL SUBMISSION

PROPOSED MEDICAL CENTER

AT

2 BIRRELL ST, BONDI JUNCTION

DATE: 13/05/2021
REVISION: G
Revise Carpark for DA

AMENDED PLANS

Sheet No.	Sheet Name	Rev.	Date
001	COVER SHEET	G	13/05/2021
500-01	SITE SURVEY	G	13/05/2021
500-02	PROPOSED SITE PLAN	G	13/05/2021
500-03	CAR PARK LAYOUT	G	13/05/2021
500-04	EXTERNAL SECTIONS	G	13/05/2021
500-05	EXISTING / DEMOLITION PLAN	G	13/05/2021
500-06	PROPOSED LAYOUT PLAN	G	13/05/2021
Grand total: 7			

RECEIVED
Waverley Council

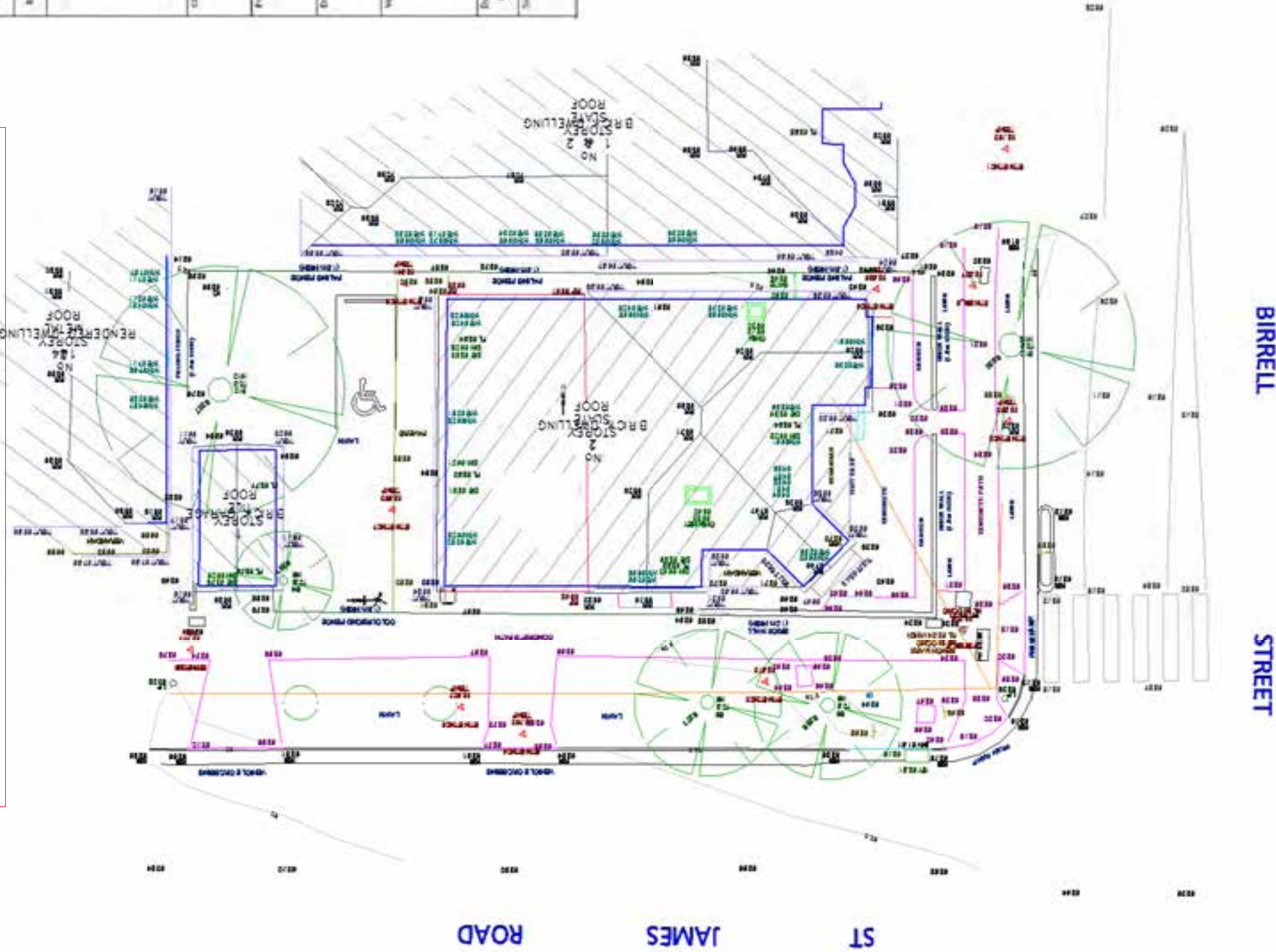
Application No: DA-12/2021

Date Received: 25/05/2021

JOB NO: 807	DRAWING NO: 001	REV: G
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AMENDED PLANS

RECEIVED
Waveley Council
Application No: DA-12/2021
Date Received: 25/05/2021



1 SITE SURVEY
1 : 200

REV.	DESCRIPTION	BY	DATE
A	Issued for Prelim Approval	AH/SH	25/08/20
B	Revised Site Plan	AH	14/10/2020
C	Issued for DA	AH/SH	09/11/2020
D	Issued for DA	SH	17/11/2020
E	Issued for DA	SH	30/11/2020
F	Issued for DA	AH	07/12/2020
G	Revise Carpark for DA	AH	13/05/2021

DJB	GENERAL ISSUE	9/10/20
Rev	Building Name	Style
 V-MARK SURVEY PTY LTD 18/75 PACIFIC HIGHWAY WATKINS NSW 2077 PH: 02 9016 4235 EMAIL: dave@vmarksurvey.com.au ABN: 12 109 067 950		
PERFECT PRACTICE		
2 BIRRELL STREET BONDI JUNCTION		
DETAIL + LEVEL SURVEY		
Datum: AHD BM ADOPTED: SSM 35551 RL: 61.418		
Date	Drawn	Check
OCTOBER 2020	DJB	DJB
Scale	Drawing No. 203926-DL	
1:100@A1		


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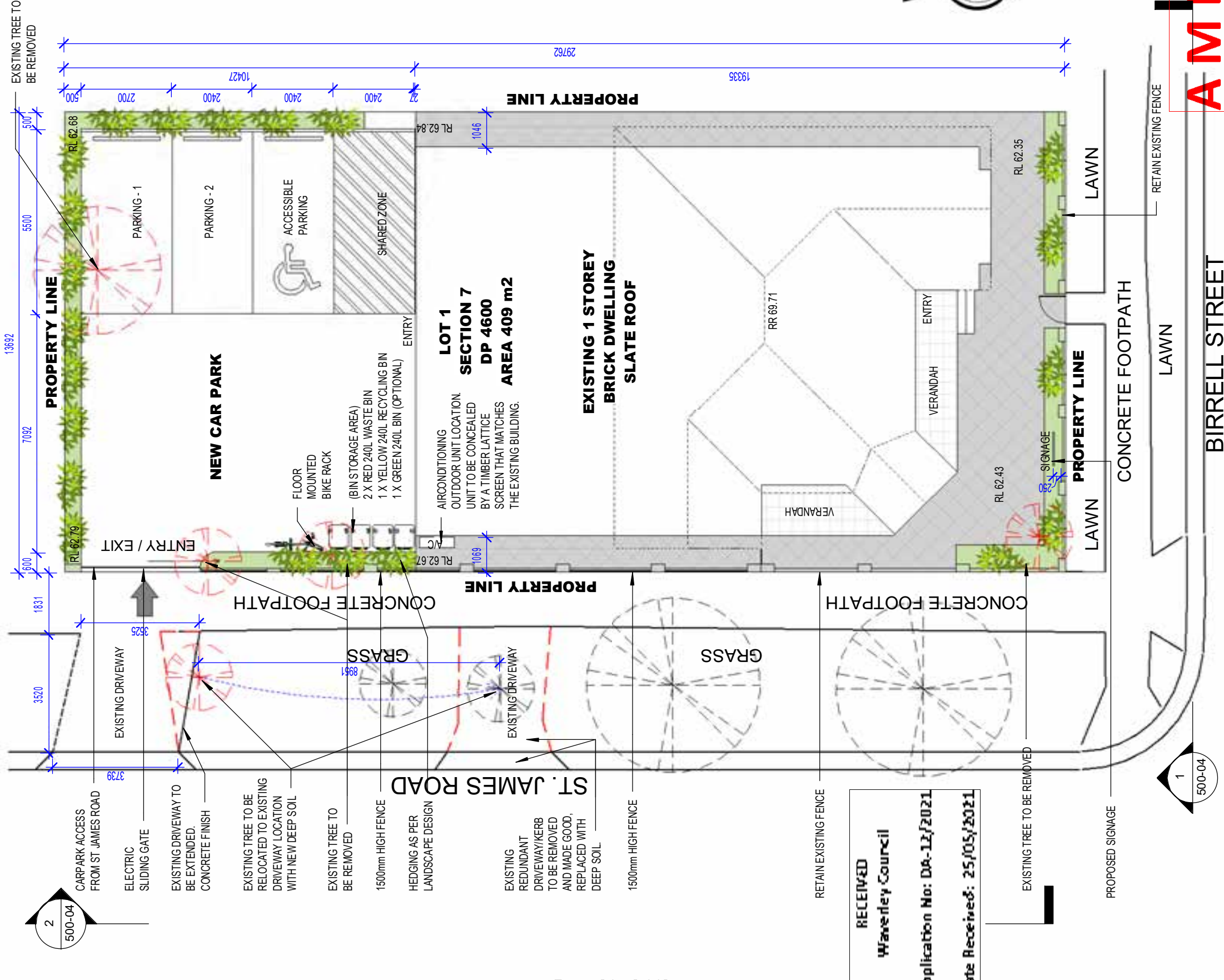
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PROJECT
PROPOSED MEDICAL CENTER
2 BIRRELL ST, BONDI JUNCTION

DRAWING TITLE:
SITE SURVEY

DATE:	13/05/2021		
SCALE @ A3:	1 : 200		
DRAWN BY:	AH		
CHECKED BY:	RBH		
PROJECT MGR:			
TOTAL PAGES:			
JOB NO:	DRAWING NO:	REV:	
807	500-01	G	

FOR DA SUBMISSION



EXTERNAL FINISHES SCHEDULE:	
BRICKWORK - TO MATCH EXISTING	
DRIVEWAY - TO MATCH EXISTING	
BLACK POWDER COATED FENCE	
WINDOWS - TO MATCH EXISTING	
BIKE RACK - SINGLE FLOOR MOUNTED BIKE RACK GALVANIZED FINISH	

- NOTE:**
- NO CHANGES TO EXTERNAL FACADE OF BUILDING EXCEPT MAKING GOOD FOR ANY DETAILED WOODWORK, FACE BRICK TUCKPOINTING AND ROOF CLADDING IF REQUIRED.
 - NO CHANGES TO GROSS FLOOR AREA WITHIN THE BUILDING
 - DESIGNATED BIN STORAGE AREA TO BE LOCATED AT THE SIDE CORNER OF THE DWELLING

REV.	DESCRIPTION	DATE	BY
A	Issued for Prelim Approval	25/08/20	AH/SH
B	Revised Site Plan	14/10/2020	AH
C	Issued for DA	09/11/2020	AH/SH
D	Issued for DA	17/11/2020	SH
E	Issued for DA	30/11/2020	SH
F	Issued for DA	07/12/2020	AH
G	Revise Carpark for DA	13/05/2021	AH



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PROJECT
PROPOSED MEDICAL CENTER
2 BIRRELL ST, BONDI JUNCTION

DRAWING TITLE:	
PROPOSED SITE PLAN	
DATE:	13/05/2021
SCALE @ A3:	1 : 125
DRAWN BY:	AH
CHECKED BY:	RBH
PROJECT MGR:	
TOTAL PAGES:	
JOB NO:	DRAWING NO:
807	500-02
	REV:
	G

FOR DA SUBMISSION

AMENDED PLANS

1

PROPOSED SITE PLAN

1 : 125

SITE AREA : 409 SQM

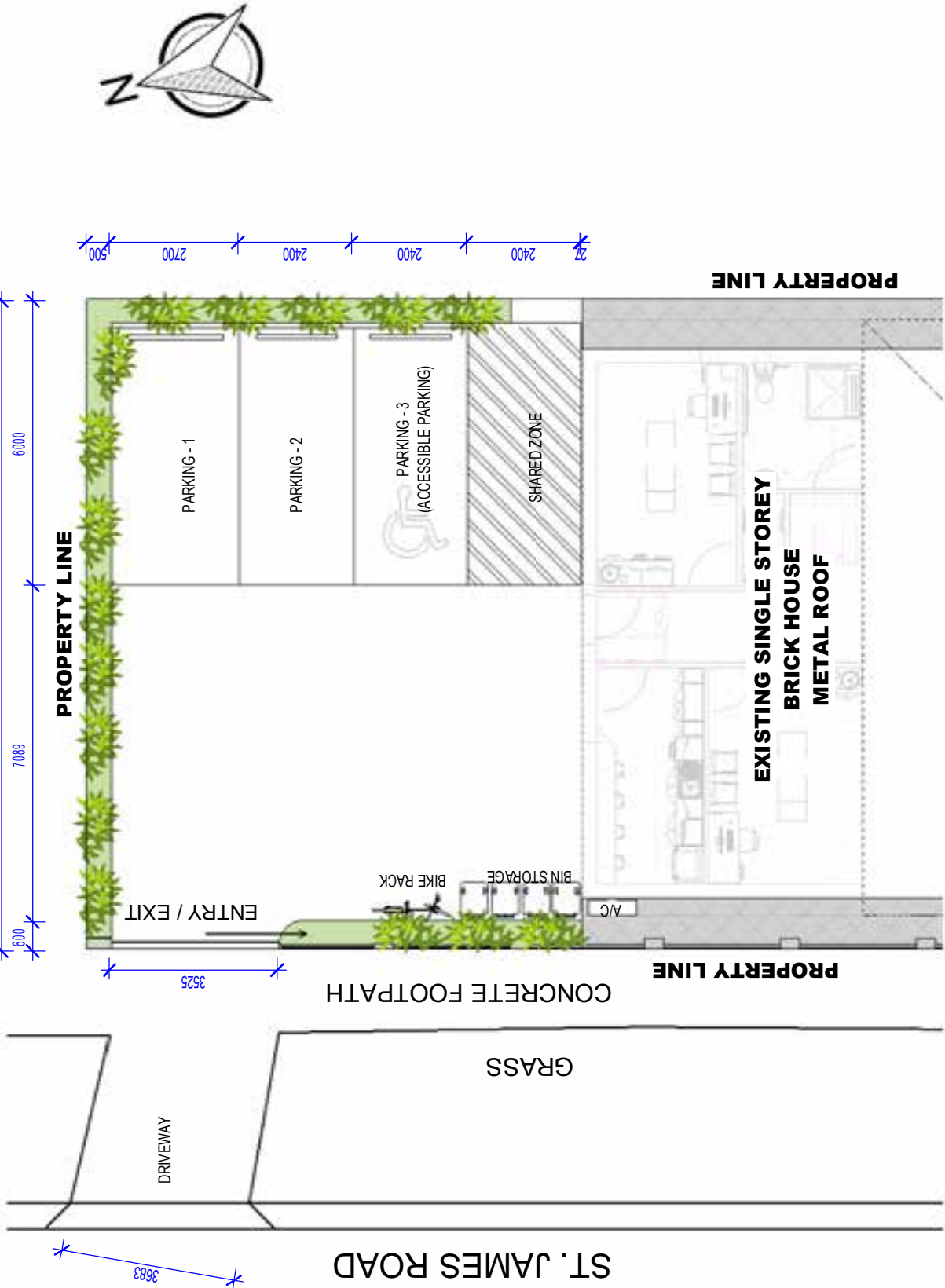
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Waverley Council

Application No: DA-12/2021

Date Received: 25/05/2021

AMENDED PLANS



1 PROPOSED CAR PARK LAYOUT

1 : 125

FOR DA SUBMISSION

REV.	DESCRIPTION	DATE	BY
A	Issued for Prelim Approval	25/08/20	AH/SH
B	Revised Site Plan	14/10/2020	AH
C	Issued for DA	09/11/2020	AH/SH
D	Issued for DA	17/11/2020	SH
E	Issued for DA	30/11/2020	SH
F	Issued for DA	07/12/2020	AH
G	Revise Carpark for DA	13/05/2021	AH



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PROJECT

PROPOSED MEDICAL CENTER

2 BIRRELL ST, BONDI JUNCTION

DRAWING TITLE:

CAR PARK LAYOUT

DATE:	13/05/2021		
SCALE @ A3:	1 : 125		
DRAWN BY:	AH		
CHECKED BY:	RBH		
PROJECT MGR:			
TOTAL PAGES:			
JOB NO:	DRAWING NO:	REV:	
807	500-03	G	

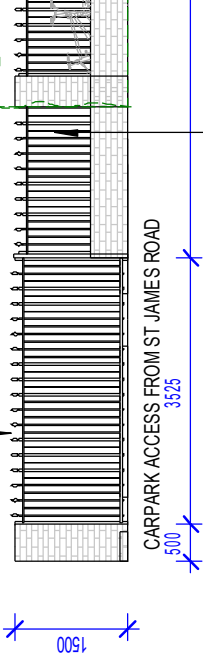


EXISTING FACADE

BALUSTRADE FENCE SUPPORTED TO ST JAMES SUBJECT TO THE BRICK BASE MATCHING EXISTING AND HEDGE PLANTED BEHIND (EXCEPT WHERE DRIVEWAY SIGHTLINE IS NEEDED)

HEDGE BEHIND BALUSTRADE TO STOP 2m FROM THE ENTRY GATE FOR SITE LINES/VISIBILITY SPLAY

ELECTRIC SLIDING GATE POWDERCOATED BLACK



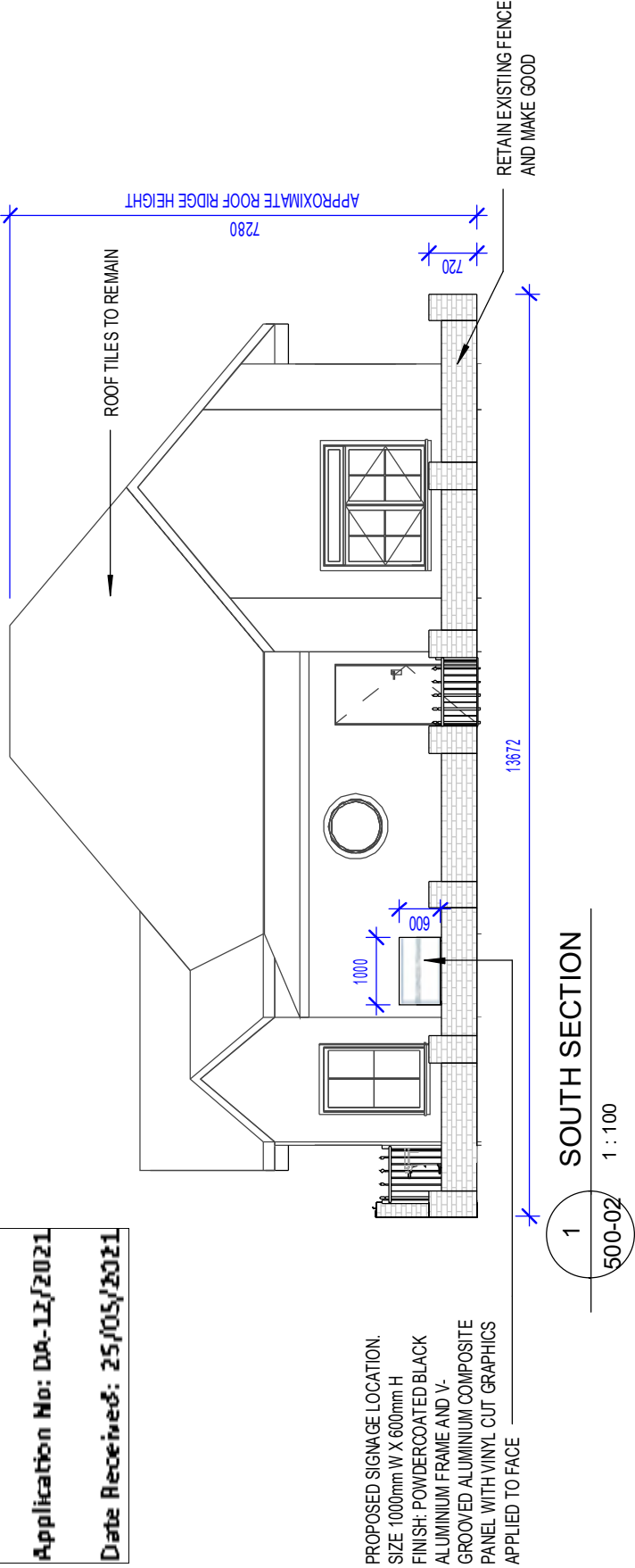
2 WEST SECTION
500-02 1 : 100



PROPOSED SIGNAGE

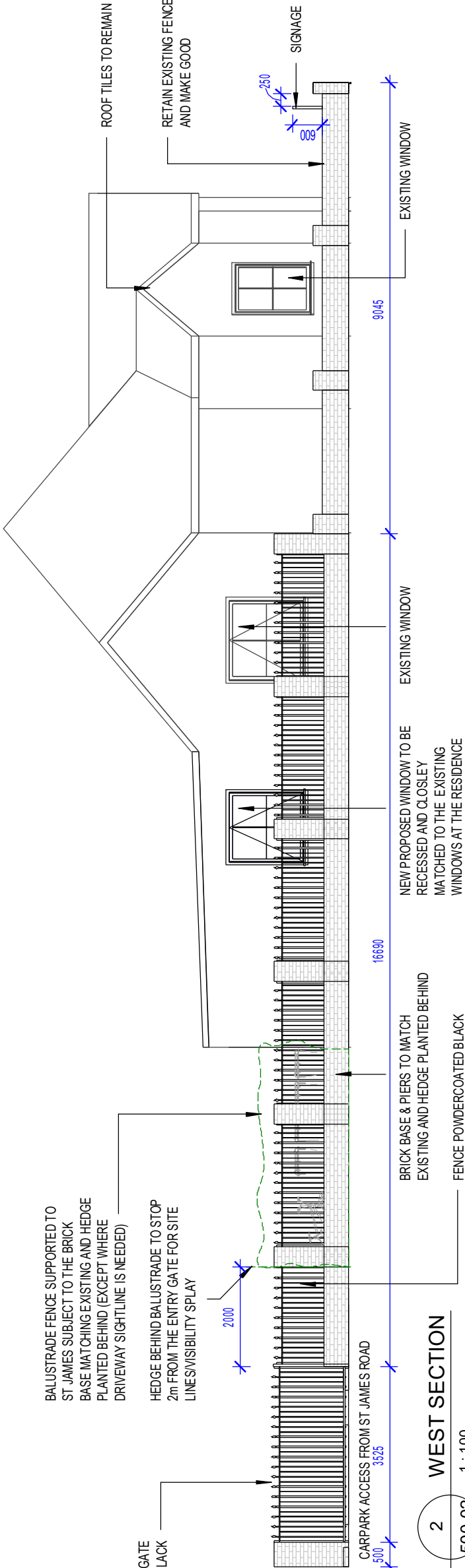


PROPOSED PALISADE FENCE



1 SOUTH SECTION
500-02 1 : 100

PROPOSED SIGNAGE LOCATION.
SIZE 1000mm W X 600mm H
FINISH: POWDERCOATED BLACK
ALUMINIUM FRAME AND V.
GROOVED ALUMINIUM COMPOSITE
PANEL WITH VINYL CUT GRAPHICS
APPLIED TO FACE



NOTE:

1. DETAILS OF NEW WINDOWS TO MATCH EXISTING WINDOWS AT THE RESIDENCE.
2. INFILL TO EXISTING WINDOWS ARE TO INCLUDE RECESSED FACE BRICK WORK AND NEW OPENINGS CLOSELY MATCHED TO THE PROPORTIONS OF OPENINGS AT THE RESIDENCE.
3. INTERNAL FEATURES OF THE BUILDING TO BE RETAINED & INCORPORATED TO THE NEW FITOUT.
4. NO PAINTING OR RENDERING OF EXTERNAL BRICKWORK INCLUDING BRICK FENCES.

AMENDED PLANS

FOR DA SUBMISSION

REV.	DESCRIPTION	DATE	BY
A	Issued for Prelim Approval	25/08/20	AH/SH
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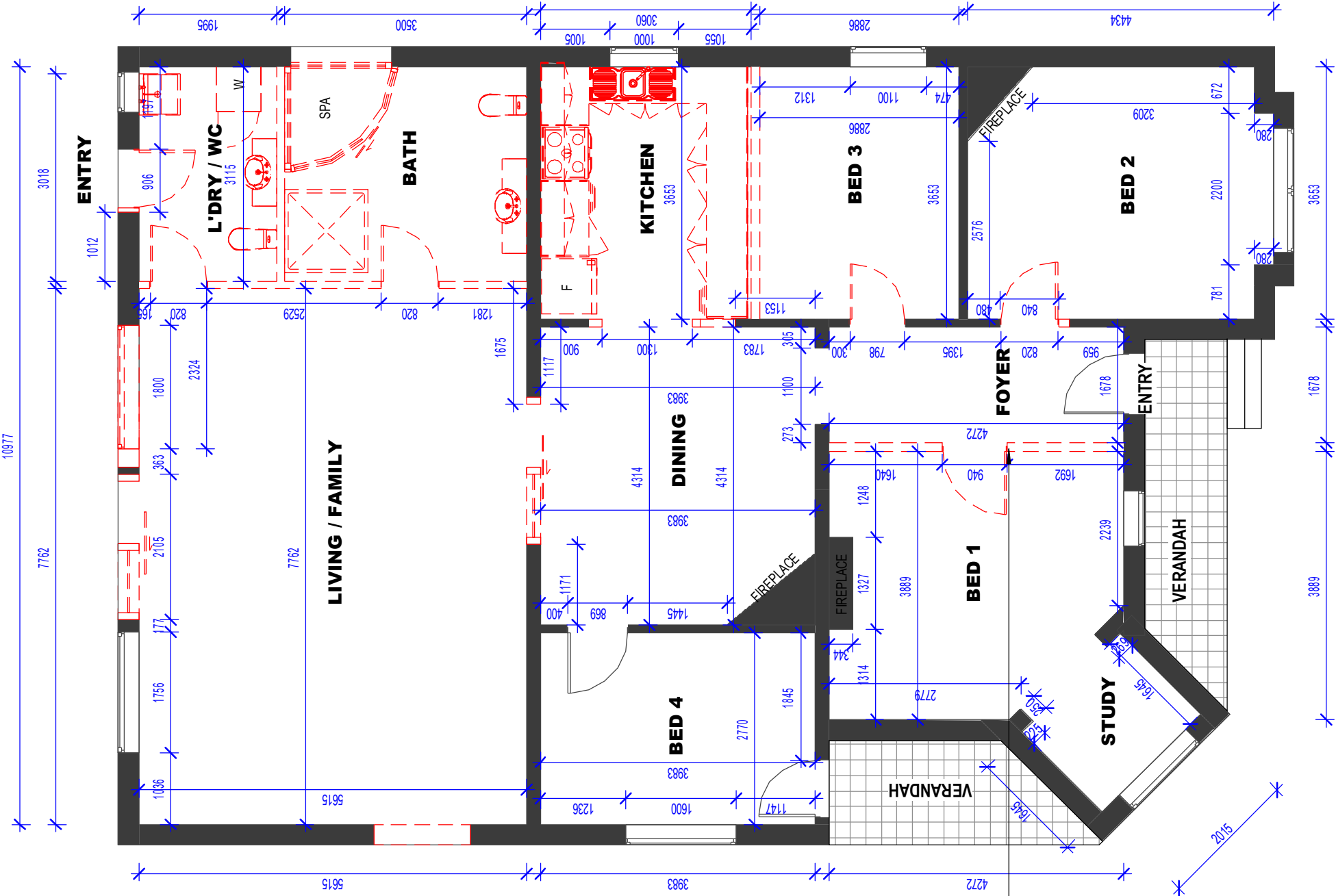
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PROJECT

PROPOSED MEDICAL CENTER

2 BIRRELL ST, BONDI JUNCTION

DRAWING TITLE:	
EXTERNAL SECTIONS	
DATE:	13/05/2021
SCALE @ A3:	1 : 100
DRAWN BY:	AH
CHECKED BY:	RBH
PROJECT MGR:	
TOTAL PAGES:	
JOB NO:	DRAWING NO:
807	500-04
	REV:
	G



1 EXISTING / DEMOLITION PLAN

1 : 75
EXISTING FLOOR AREA : 160 SQM
CH : mm

AMENDED PLANS

FOR DA SUBMISSION

REV.	A	Issued for Prelim Approval	14/10/2020	AH/SH	25/08/20	DATE
	B	Revised Site Plan	14/10/2020	AH		
	C	Issued for DA	09/11/2020	AH/SH		
	D	Issued for DA	17/11/2020	SH		
	E	Issued for DA	30/11/2020	SH		
	F	Issued for DA	07/12/2020	AH		
	G	Revise Carpark for DA	13/05/2021	AH		
DESCRIPTION						
BY						



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PROJECT
PROPOSED MEDICAL CENTER
2 BIRRELL ST, BONDI JUNCTION

DRAWING TITLE:
**EXISTING / DEMOLITION
PLAN**

DATE:	13/05/2021		
SCALE @ A3:	1 : 75		
DRAWN BY:	AH		
CHECKED BY:	RBH		
PROJECT MGR:			
TOTAL PAGES:			
JOB NO:	DRAWING NO:	REV:	
807	500-05	G	

AMENDED PLANS

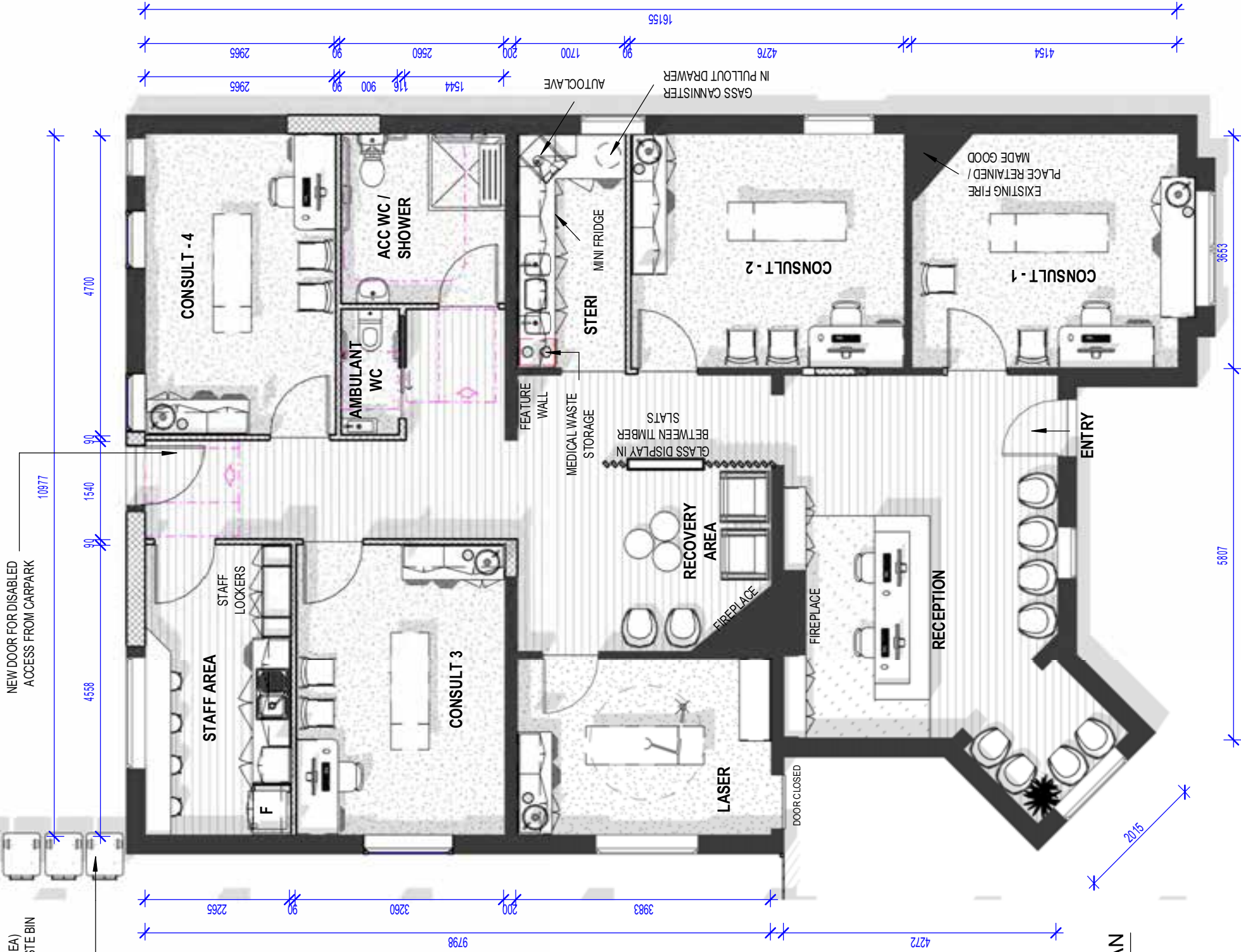
NOTE:

- DRAWINGS TO BE READ IN CONJUNCTION WITH SCOPE OF WORKS.
- SCOPE OF WORKS TO TAKE PRECEDENCE OVER DRAWINGS.
- ALL FULL HEIGHT STORAGE TO BE 2400mm HIGH UNLESS NOTED OTHERWISE.
- ALL OVERHEAD CUPBOARDS TO BE 900mm HIGH UNLESS NOTED OTHERWISE.
- ALL DOORS TO HAVE A MINIMUM 850mm CLEAR OPENING.

FLOOR MOUNTED BIKE RACK

(BIN STORAGE AREA)
2 X RED 240L WASTE BIN
1 X YELLOW 240L RECYCLING BIN

NEW DOOR FOR DISABLED ACCESS FROM CARPARK



1 PROPOSED LAYOUT PLAN

1 : 75

PROPOSED FLOOR AREA : 160 SQM

CH : mm

FOR DA SUBMISSION

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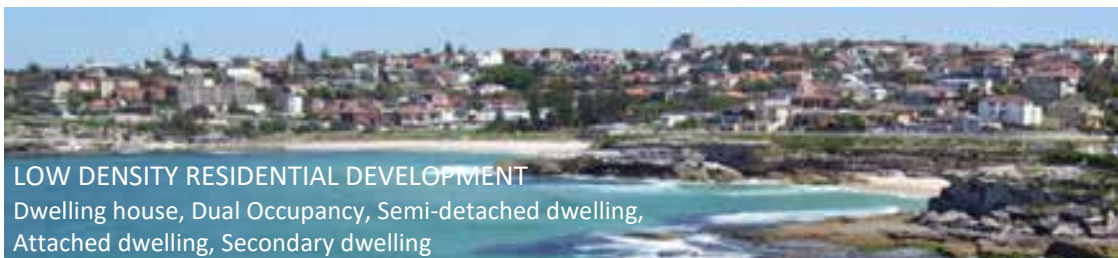
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PROJECT
PROPOSED MEDICAL CENTER
2 BIRRELL ST, BONDI JUNCTION

DRAWING TITLE:
PROPOSED LAYOUT PLAN

DATE:	13/05/2021		
SCALE @ A3:	1 : 75		
DRAWN BY:	AH		
CHECKED BY:	RBH		
PROJECT MGR:			
TOTAL PAGES:			
JOB NO:	DRAWING NO:	REV:	
807	500-06	G	

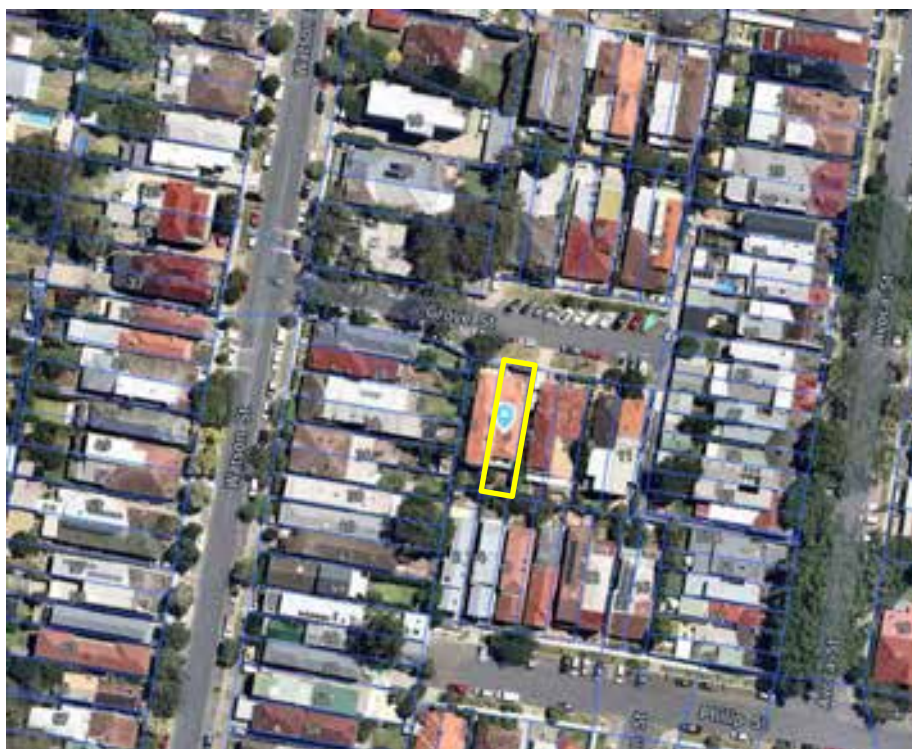


LOW DENSITY RESIDENTIAL DEVELOPMENT
 Dwelling house, Dual Occupancy, Semi-detached dwelling,
 Attached dwelling, Secondary dwelling

Report to the Waverley Local Planning Panel

Application number	DA-406/2020/1
Site address	3 Grove Street, BONDI
Proposal	Review of determination for alteration of existing front fence and porch for construction of a new hard stand car space at front of site and new vehicle crossover.
Date of lodgement	23 April 2021
Owner	Mr D C Nachman and Mrs T Nachman
Applicant	ES Design
Submissions	Nil
Cost of works	\$6,000
Issues	Non-compliant parking dimensions; altering / undesirable works to front portion of dwelling; streetscape impacts
Recommendation	That the application be REFUSED

Site Map



Source: Nearmap, 2021

1. PREAMBLE

1.1 Site And Surrounding Locality

A site visit was carried out on 7 January 2021 for the original application (DA-406/2020). Another site visit was not undertaken for this application as the Assessment Officer is familiar with the site and surrounding properties.

The site is identified as Lot 2 in DP 524729, known as 3 Grove Street, BONDI. The site is rectangular in shape with a northern front boundary of 7.17m, a southern rear boundary of 7.005m, a western side boundary of 30.37m and an eastern side boundary of 30.38m. The site has an area of approximately 181.35m².

The site is occupied by a two storey semi-detached dwelling with nil off-street parking. The site is a pair with the adjoining dwelling at No. 1 Grove Street.

Surrounding properties are predominantly characterised by semi-detached dwellings including single and two-storey semi-detached dwellings immediately to the north, east and west of the site.



Figure 1: Site viewed from Grove Street



Figure 2: Site viewed from Grove Street, looking east.

1.2 Relevant History

BA-372/1997

Alterations and additions including a first floor addition to a semi-detached dwelling.

Approved: 04 July 1997

DA-406/2020

Alteration of existing front fence and porch for construction of a new hard stand car space at front of site, including crossover.

Refused: 23 February 2021 under delegated authority (Development Building Unit)

Reasons for refusal:

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 8.1 Streetscape, specifically control (b), as off-street parking is not common in Grove Street.*
 - b. *Part B12 – Design Excellence*
 - i. *Clause 12.1 Design, specifically controls (a) and (e)(i) as the hardstand will impact the existing character of the dwelling by removing part of the front*

porch and relocating a support column to an undesirable location, in attempt to better accommodate the parking space.

c. Part C2 – Low Density Residential

- i. Clause 2.0 General Objectives, specifically objective (a) as the hardstand is not appropriate for the allotment size, unable to adequately locate a compliant sized parking space within the front setback.*
 - ii. Clause 2.3 Streetscape and Visual Impact, specifically objectives (a) and (b) as the proposed hardstand will diminish the existing built form by impacting the existing character of the dwelling through the partial removal of the front porch and relocation of the support column.*
 - iii. Clause 2.8 Car Parking, specifically objectives (a) and (b) as the hardstand is not appropriately designed, it is undersized and will diminish the existing character of the dwelling through the partial removal of the front porch and relocation of the support column.*
 - iv. Clause 2.8.1 Design Approach, specifically controls (a) and (b) as the hardstand is not appropriate for the allotment size, unable to adequately locate a compliant sized parking space within the front setback.*
 - v. Clause 2.8.4 Design, specifically controls (a) and (c) as the proposal will result in partial removal of the front porch and relocation of the support column, which would significantly impact the existing dwelling and overall pair of semi-detached dwellings.*
 - vi. Clause 2.8.5 Dimensions, specifically control (a) as the hardstand does not meet the minimum dimensions of 5.4m x 2.4m.*
 - vii. Clause 2.13 Semi Detached Dwellings and Terrace Style Development, specifically objective (a), (c), (d), (e) and Clause 2.13.1 Built Form, specifically control (d) as the partial removal of the front porch and re-location of the support column will result in the existing semi-detached dwellings not reading as a cohesive pair.*
- 3. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the hardstand cannot be adequately located within the front setback and is therefore considered unsuitable for the site.*
 - 4. The proposal is not considered to be in the public interest for the reasons outlined above contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.*

1.3 Proposal

The application is for the construction of a hardstand parking space in the front setback. In detail the works will include:

- Construction of a hardstand parking space with dimensions of 5.685m (length) x 2.6m (width) (for the first 4.28m) with an associated driveway crossover to Grove Street;
- Partial removal of existing front fence and associated hedging;
- Partial removal of existing paved courtyard to accommodate the parking space;
- Partial removal of the existing porch and relocation of the support post to accommodate a compliant car width;
- Remove external skin of brickwork and replace with cladding; and

- Proposed fretwork to front façade.



Figure 3. Refused plans under DA-406/2020 (left) and proposed plans under DA-406/2020/1 (right). (Source: ES Design, 2021).

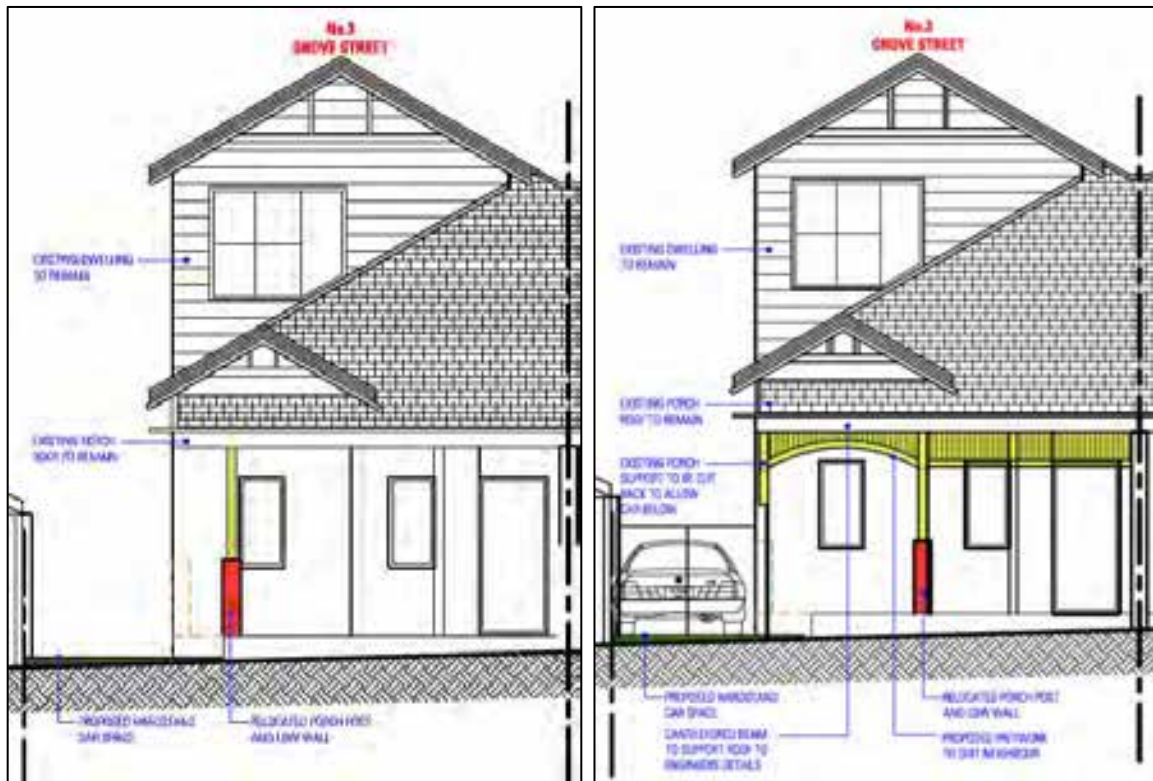


Figure 4. Refused plans under DA-406/2020 (left) and proposed plans under DA-406/2020/1 (right). (Source: ES Design, 2021).

2. ASSESSMENT

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

2.1 Planning Instruments and Development Control Plans

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

2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate is not required for this application.

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 Waverley Local Environmental Plan 2012 (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	Yes	The proposal does not contravene the general objectives of the WLEP.
Part 2 Permitted or prohibited development		
Land Use Table <i>R2 Low Density Residential Zone</i>	Yes	The proposal is defined as hardstand parking space, which is permitted with consent in the R2 zone.
Part 4 Principal development standards		
4.3 Height of buildings	N/A	Existing building height will not be altered.
4.4 Floor Space Ratio (FSR); and 4.4A Exceptions to FSR	N/A	FSR will not be altered.

2.1.4 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	A Site Waste & Recycling Management Plan has been submitted with the application to address waste disposal during construction. Conditions of consent would be imposed regarding ongoing waste on site if the application was recommended for approval.

Development Control	Compliance	Comment
5. Vegetation Preservation	Yes	Part of the existing hedging on the front boundary would be removed for the proposed parking space. The remainder of the hedge would be retained.
8. Transport	No	<p>There is a low prevalence of hardstand parking within Grove Street. Council records indicate that:</p> <ul style="list-style-type: none"> • 2 out of 12 dwellings that front Grove Street have approval for a hardstand parking space; • 1 out of 12 dwellings do not have consent for a hardstand parking space; and • Approval for the hardstand parking space for 1 dwelling cannot be located. <p>The subject site is located within Parking Zone 2.</p>
8.1 Streetscape		
8.2 On-site Parking		
8.2.1 Vehicle Access	No	The vehicle crossover will adjoin the neighbouring crossover at 5 Grove Street resulting in a combined crossover width exceeding 5.4m, negatively impacting on-street parking.
8.2.2 Parking Rates	Yes	One off-street parking space is proposed and acceptable.
12. Design Excellence	No	<p>The development does not achieve design excellence. The proposed hardstand will significantly impact the existing dwelling by:</p> <ul style="list-style-type: none"> • Removing a portion of the front porch; • Relocating the front column; and • Removing the external skin of the brick to be replaced with cladding. <p>The proposed works are undesirable and not supported as it will visually impact a currently identical pair of semi-detached dwellings and detract from the symmetry of the dwellings.</p>

Table 3: WDCP – Part C2 Low Density Residential Development Compliance Table

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 	No	The proposed hardstand is not appropriate for the allotment size and unable to provide sufficient parking dimensions. Additionally, the proposed works to the front of the dwelling to

Development Control	Compliance	Comment
<ul style="list-style-type: none"> ESD has been considered Alterations & additions are sympathetic in bulk & scale to the character of the area High design standard 		cater for the parking space will diminish the character of the 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. Porticos only permitted where a character of the streetscape 	No	<p>The proposed works to provide a parking space will require undesirable works to the front of the dwelling. This existing front porch and support column are significant elements that contribute to the character of the dwelling. Relocating the support column will negatively impact the symmetry with the adjoining semi-detached dwelling and streetscape presentation.</p> <p>It is noted that the ground floor portion of the dwelling is hidden behind a hedge and the proposal has been amended to better address the issues identified in the original assessment, however the proposed works still provides a non-compliant parking space and does not result in a desirable outcome for the dwelling.</p>
2.4 Fences		
<p><i>Front:</i></p> <ul style="list-style-type: none"> Maximum height of 1.2m Solid section no more than 0.6m high <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> Maximum height of 1.8m 	N/A	Part of the front fence is proposed to be removed for the driveway crossover.
2.8 Car parking		
<p>2.8.1 Design Approach</p> <ul style="list-style-type: none"> Parking only allowed where site conditions permit Designed to complement the building and streetscape Car parking structures to be behind the front building line Driveways are to be located to minimise the loss of on street parking Parking to be provided from secondary streets or lanes where possible. 	No	<p>Parking is proposed to the front of the dwelling due to the absence of rear lane access. However, the site is not appropriate for the hardstand parking space within the front setback, as a compliant sized parking space cannot be accommodated within the front setback. Furthermore, car parking spaces located within the front setback are not a prominent characteristic of the streetscape within Grove Street.</p>

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 	<p>Yes</p> <p>No</p>	<p>One off street parking space is proposed, which is acceptable.</p> <p>However, the width of the driveway crossover is excessive and will significantly reduce the supply of on-street parking.</p>
2.8.3 Location <ul style="list-style-type: none"> Behind front building line for new dwellings Existing development to be in accordance with the hierarchy of preferred car parking locations 	No	<p>The hardstand parking space is located to the front of the dwelling. This is not supported as there is a low precedence of parking spaces within the front setback within Grove Street. Additionally, the hardstand will require undesirable work to the front façade of the dwelling to cater for a non-compliant parking space.</p>
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 proposed hardstand will significantly impact the existing dwelling by:</p> <ul style="list-style-type: none"> Removing a portion of the front porch; Relocating the front column; and Removing the external skin of the brick to be replaced with cladding. <p>The design of the hardstand will detract from the symmetry of the currently identical pair of semi-detached dwellings and is not supported.</p>
2.8.5 Dimensions <ul style="list-style-type: none"> 5.4m x 2.4m per vehicle 	No	<p>The hardstand measures 5.685m x 2.6m for the first 4.28m and does not meet the minimum dimensions of 5.4m x 2.4m for the entirety of the car space.</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 	No	<p>The proposed driveway adjoins the existing driveway crossover at 5 Grove Street resulting in an excessive width greater than 5.4m. The proposal has an unacceptable impact to the street.</p>
2.9 Landscaping and open space		
<ul style="list-style-type: none"> Overall open space: 40% of site area Overall landscaped area: 15% of site area Minimum area of 25m² for private open space 	N/A	<p>Existing landscaping and open space will not be altered.</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> • Front open space: 50% of front building setback area • Front landscaped area: 50% of front open space provided • Outdoor clothes drying area to be provided 		
2.13 Semi-detached dwellings and terrace style development		
2.13.1 - Built form <ul style="list-style-type: none"> • Additions to match the style of the original semi-detached dwelling • Existing roof form maintained forward of principle ridgeline • Use of roof as an attic permitted provided • Front verandahs to be maintained. 	No	The proposed works to the front of the dwelling to accommodate a non-compliant parking space is not supported as it will remove the current architectural characteristics that make the semi-detached dwellings a pair.

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

Precedence Analysis of Surrounding Parking Spaces

There is a low prevalence of hardstand parking within Grove Street.

- 2 out of 12 dwellings that front Grove Street have approval for a hardstand parking space;
- 1 out of 12 dwellings do not have consent for a hardstand parking space; and
- 1 out of 12 hardstand parking space approval cannot be located.

Approved Parking Spaces

2 Grove Street

BR-425/1989

Approved: 30 June 1989

The carport has dimensions of 6.1m (l) x 3.05m (w).

5 Grove Street

BA-266/1998

Approved: 18 June 1998

The carport has dimensions of 4.4m (l) x 2.6m (w).

Condition 10: Vehicles parked within the carport must not encroach beyond the boundaries of the site.

Unauthorised Parking Spaces

12 Grove Street

The site does not have consent for a hardstand parking space. The most recent application DA-52/2006 did not provide consent for a hardstand parking space within the front setback.

Unlocated Consent

9 Grove Street

Consent cannot be located for the hardstand.

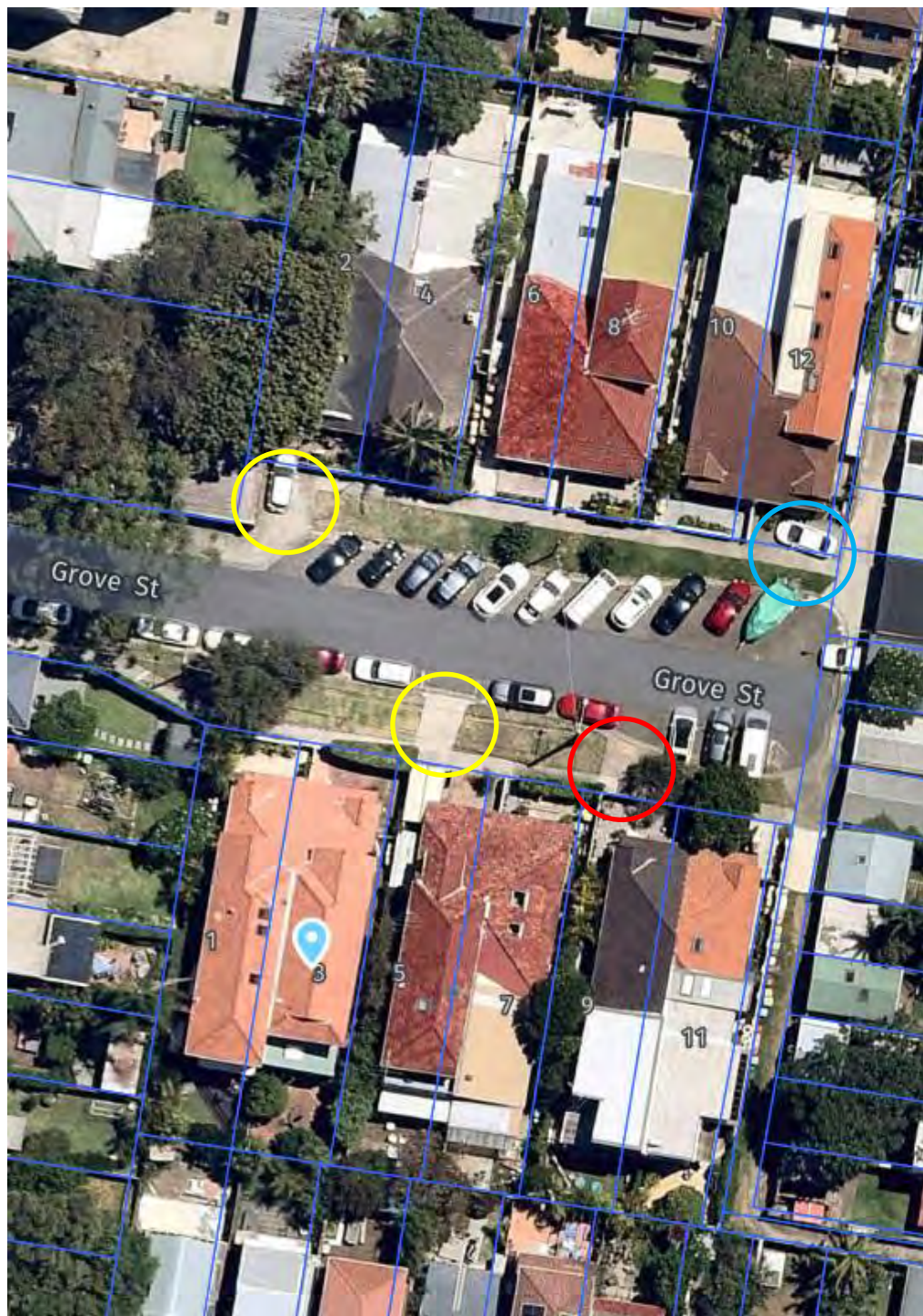





Figure 5: Location of off-street parking in Grove Street (Source: Nearmaps, 2021)

-  Approved parking spaces
-  Unauthorised parking spaces
-  Unlocated consent

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

Although, it is considered that the proposal will have significant detrimental effect relating to environmental, 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.

2.4 Any Submissions

The application was notified for 14 days, in accordance with *Waverley Community Participation Plan*.

No submissions were received.

2.5 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 Traffic and Development

An internal referral was sought from Council's Traffic Engineer who supported the application subject to conditions of consent.

3.2 Stormwater

An internal referral was sought from Council's Stormwater Engineer who supported the application subject to conditions of consent.

4. SUMMARY

The development application is for the construction of a hardstand parking space to the front of the dwelling, alterations to the front façade of the semi-detached dwelling and a new vehicle crossover accessed from Grove Street.

The hardstand parking space has dimensions which are non-compliant with the WDCP and will result in unacceptable works to the front of the dwelling. This is not supported due to the impacts it will have on the character of the dwelling particularly impacts on the currently symmetrical pair of semi-detached dwellings. The proposed works will set an undesirable precedent to a streetscape that has limited examples of off-street parking or parking within the front setback.

The proposal was notified for 14 days in accordance with the *Waverley Community Participation Plan*. No submissions were received about the development.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for refusal.

Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 2 June 2021 and the DBU determined:

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

DBU members: *B McNamara, K Lucas, P Wong and B Magistrale*

The application is recommended to be refused.

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:



Joseph Somerville
Development Assessment Planner

Date: 07 June 2021

Reason for WLPP referral:

1. Review of determination

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



Peggy Wong
**A/Manager, Development Assessment
(Central)**

Date: 10 June 2021

APPENDIX A: REASONS FOR REFUSAL

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 on 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 8.1 Streetscape, specifically control (b) and Clause 8.2.2 Car Parking Provisions Rates, specifically control (a) and (b) as parking is not characteristic of Grove Street and the site is not suitable for the hardstand parking space and will have a negative impact on both the dwelling and streetscape.
 - ii. Clause 8.2.1 Vehicle Access, specifically control (k) and Clause 8.2.2 Car Parking Provision Rates, specifically control (d) as the double crossover (adjoining 5 Grove Street) will exceed a width of 5.4m, impacting the supply of on-street parking and pedestrian safety.
 - b. Part B12 – Design Excellence
 - i. Clause 12.1 Design, specifically controls (a) and (e)(i) as the hardstand will impact the existing architectural character of the dwelling by removing part of the front porch, relocating a support column to an undesirable location and removing external brickwork from a portion of the dwelling and replace with cladding, in an attempt to accommodate a non-compliant parking space.
 - c. Part C2 – Low Density Residential
 - i. Clause 2.0 General Objectives, specifically objective (a) and (d).
 - ii. Clause 2.3 Streetscape and Visual Impact, specifically objectives (a) and (b).
 - iii. Clause 2.8 Car Parking, specifically objectives (a) and (b).
 - iv. Clause 2.8.1 Design Approach, specifically controls (a), (b) and (d).
 - v. Clause 2.8.3 Location, specifically controls (d)(iv) and (d)(vi).
 - vi. Clause 2.8.4 Design, specifically controls (a) and (c) Clause 2.8.5 Dimensions, specifically control (a).
 - vii. Clause 2.13 Semi Detached Dwellings and Terrace Style Development, specifically objectives (a), (c), (d), (e).
 - viii. Clause 2.13.1 Built Form, specifically control (d)
3. The proposed hardstand is not appropriate for the allotment size as it is unable to adequately accommodate a compliant sized parking space within the front setback. The proposed hardstand will diminish the existing built form by impacting the existing character of the dwelling through removing part of the front porch, relocating a support column to an undesirable location and removing external brickwork to a portion of the dwelling and replace with new cladding further deviating from pairing with the adjoining semi-detached dwelling. The driveway crossover will also impact the supply of on-street parking given its excessive width.

4. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as a compliant hardstand area cannot be adequately located within the front setback and is therefore considered unsuitable for the site.
5. 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.

DIVISION 82A REVIEW

DRAWING SCHEDULE

- PROPOSED DEMOLITION AND SITE PLAN 01
- PROPOSED FLOOR PLAN 02
- NORTHERN ELEVATION AND STREETSCAPE ANALYSIS PLAN 03
- SECTION VIEW 04
- SOIL AND WATER MANAGEMENT PLAN 05

ISSUE DETAILS

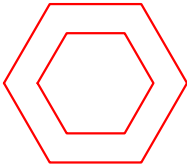
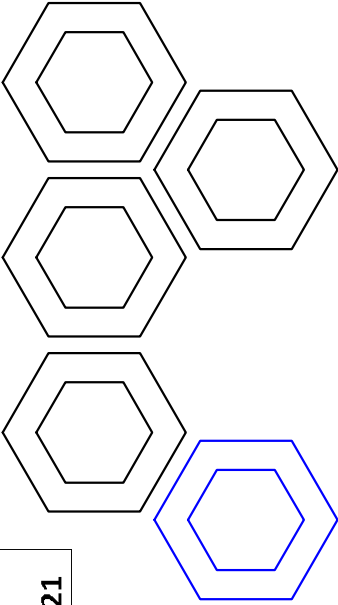
- A 29.10.20 ISSUED FOR DEVELOPMENT APPLICATION
- B 23.11.20 ISSUED FOR RESPONSE TO LETTER OF ASSESSMENT
- C 02.02.21 ISSUED FOR RESPONSE TO LETTER OF ASSESSMENT
- D 21.04.21 ISSUED FOR DIVISION 82A REVIEW

RECEIVED

Waverley Council

Application No: DA-406/2020/1

Date Received: 23/04/2021



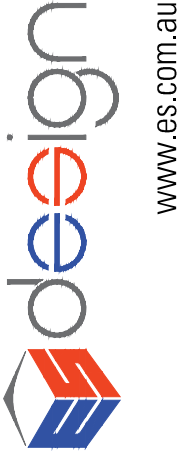
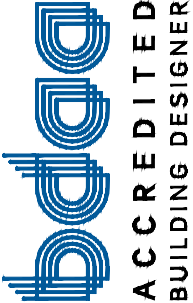
ADDITIONAL INFORMATION

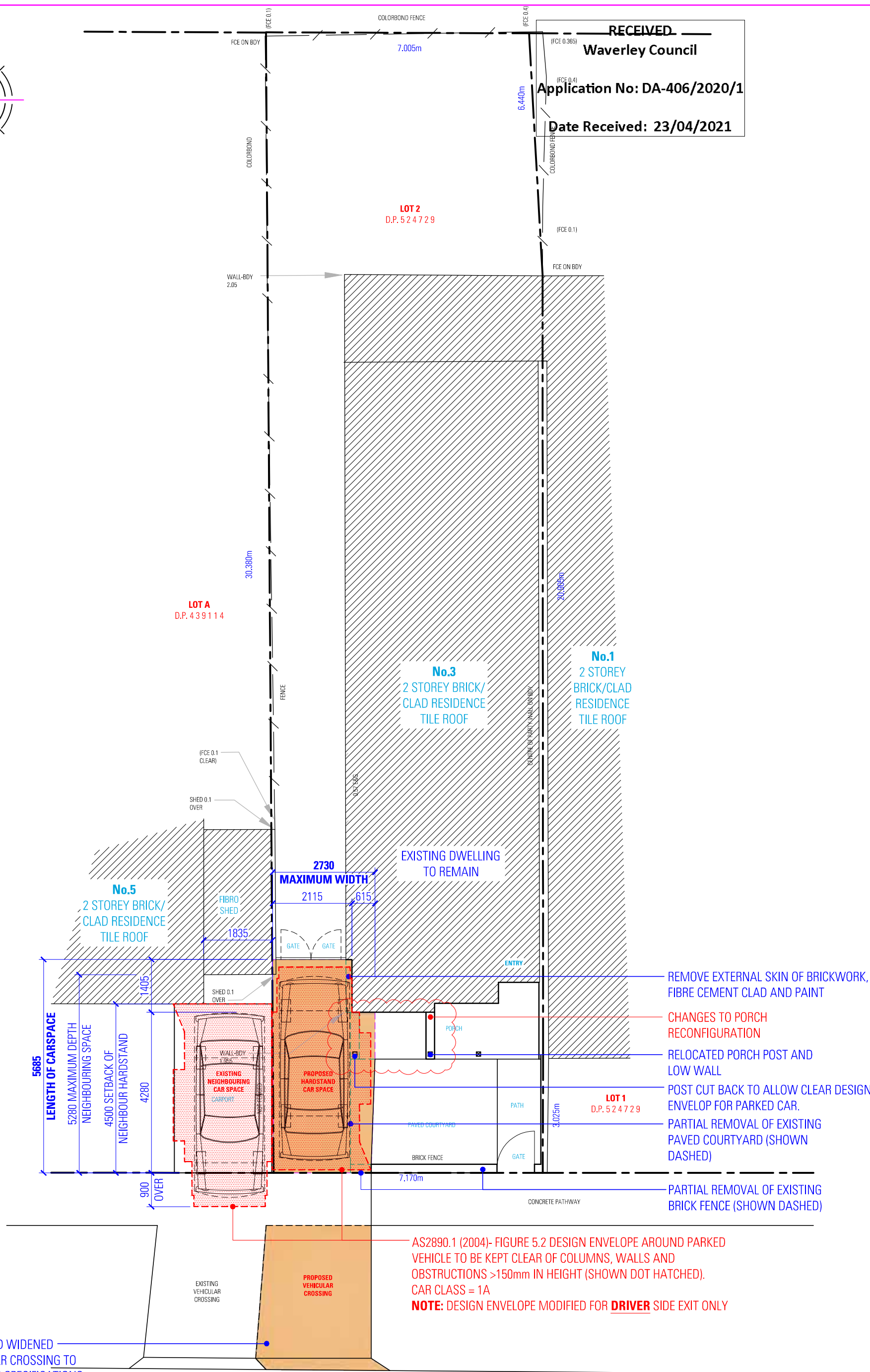
- A01 OWNER'S CONSENT FORM
- A02 SURVEY PLAN
- A03 STATEMENT OF ENVIRONMENTAL EFFECTS
- A04 WASTE MANAGEMENT PLAN
- A05 PARKING DESIGN STATEMENT

PROPOSED DRIVEWAY

3 GROVE STREET,
BONDI NSW 2026

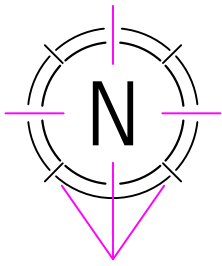
MIR DALE NACHMAN



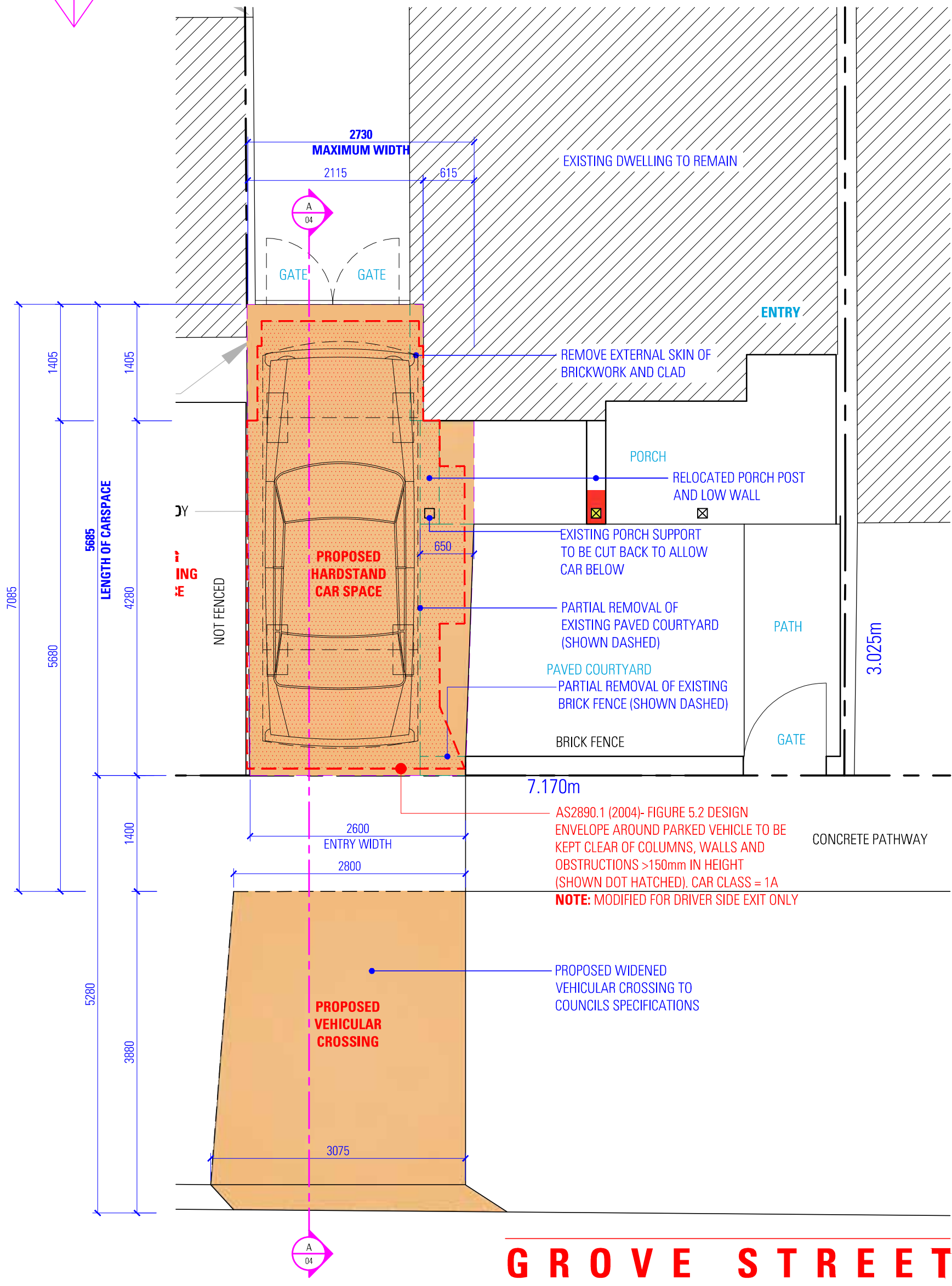


NOT FOR CONSTRUCTION

DWG No. 20118-01



RECEIVED
Waverley Council
Application No: DA-406/2020/1
Date Received: 23/04/2021



PROPOSED FLOOR PLAN

NOT FOR CONSTRUCTION

NOTES
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2. VERIFY ALL DIMENSIONS ON SITE
3. DO NOT SCALE, USE FIGURED DIMENSIONS ONLY
4. VERIFY ALL DISCREPANCIES WITH THE DESIGNER
5. ALL WORKS TO COMPLY WITH THE NATIONAL CONSTRUCTION CODE (BCA) & AUSTRALIAN STANDARDS

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PROPOSED DRIVEWAY
3 GROVE STREET,
BONDI NSW 2026
DESIGN NICOLE HUGHES
DRAFTED JOHNNY NGUYEN
MR DALE NACHMAN

DRAWING
PROPOSED FLOOR PLAN
SCALE 1 : 50 / A3
ISSUE D 21.04.21

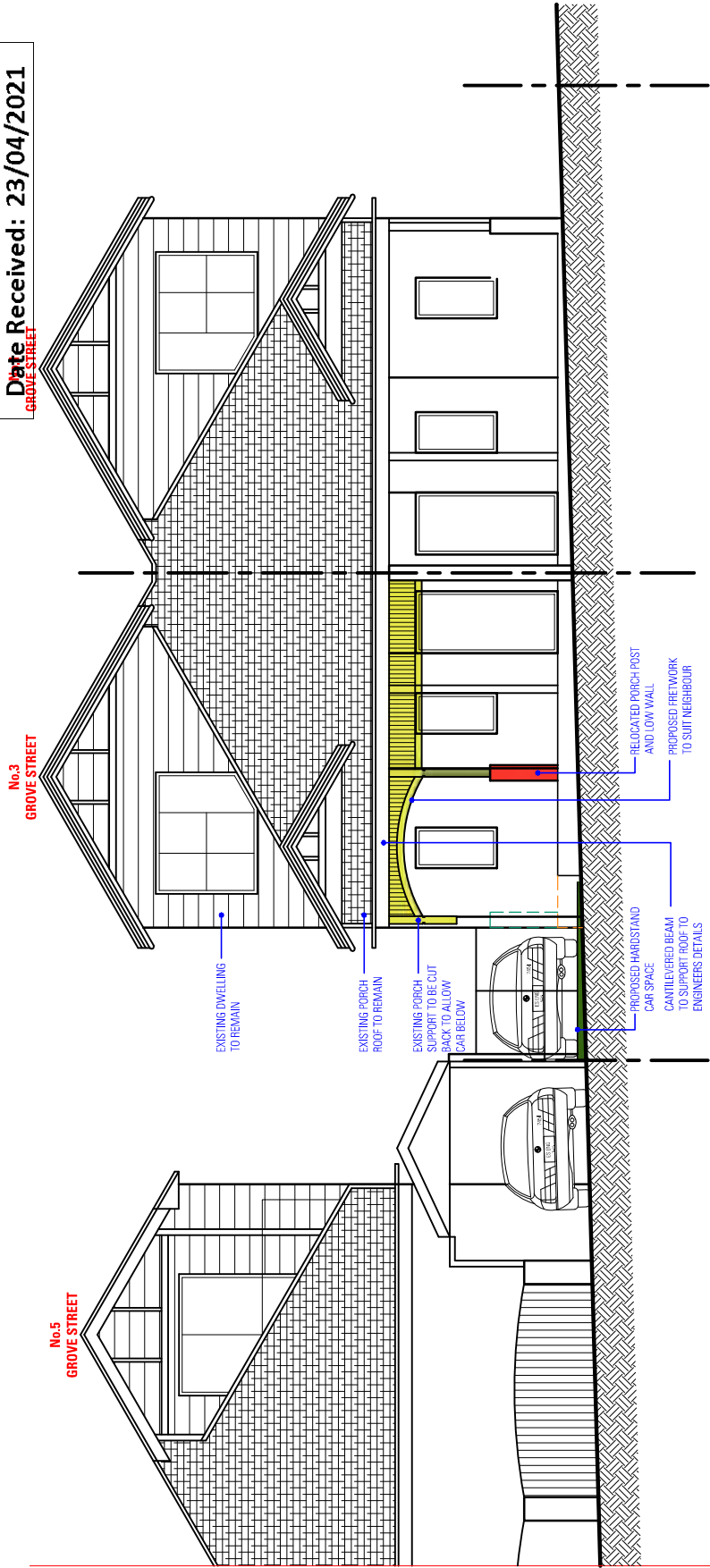
DWG No. 20118-02

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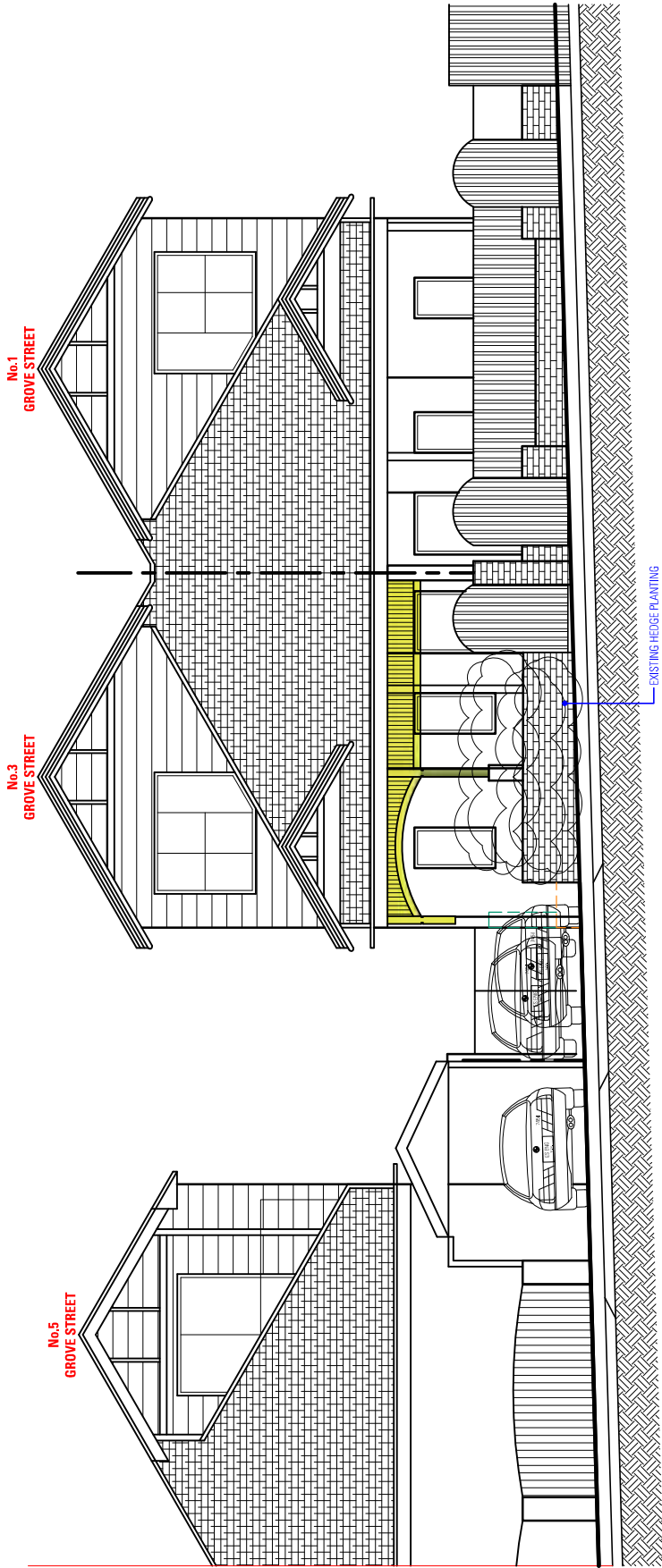
Application No: DA-406/2020/1

Date Received: 23/04/2021



NORTHERN ELEVATION

AS SEEN FROM GROVE STREET



STREETSCAPE ANALYSIS PLAN

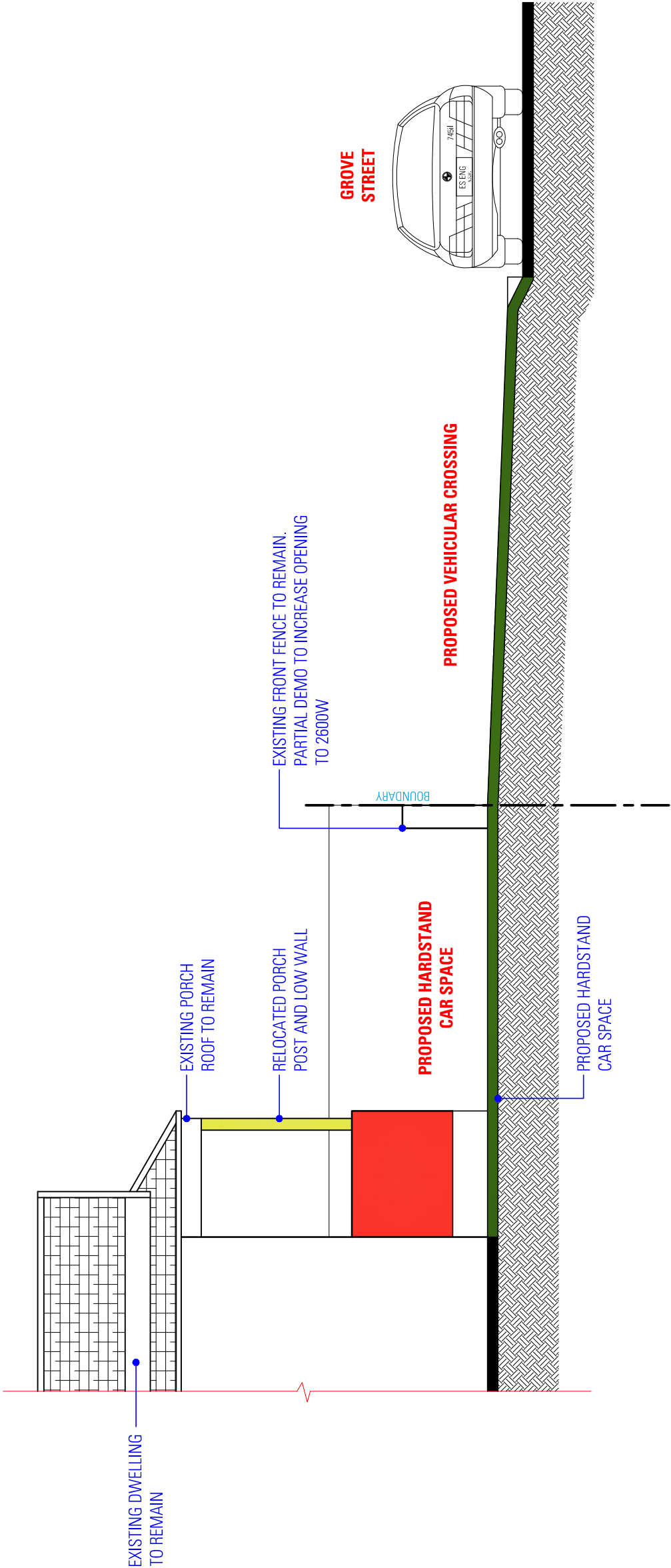
NOT FOR CONSTRUCTION

DESIGN NICOLE HUGHES DRAFTED JOHNNY NGUYEN	PROPOSED DRIVEWAY 3 GROVE STREET, BONDI NSW 2026	DRAWING NORTHERN ELEVATION AND STREETSCAPE ANALYSIS PLAN	SCALE 1:100 / A	ISSUE D 21.04.21



NOTES 1. ALL DIMENSIONS ARE IN MILLIMETRES 2. VERIFY ALL DIMENSIONS ON SITE 3. DO NOT SCALE. USE FIGURED DIMENSIONS ONLY 4. VERIFY ALL DISCREPANCIES WITH THE DESIGNER 5. ALL WORKS TO COMPLY WITH THE NATIONAL CONSTRUCTION CODE (BCA) & AUSTRALIAN STANDARDS	COPYRIGHT THESE DRAWINGS HAVE BEEN PREPARED BY BS DESIGN, AND SHALL REMAIN THE PROPERTY OF THE SAME. NO PORTION OF THESE DRAWINGS, WHETHER IN PART OR WHOLE, SHALL BE USED IN ANY FORM, DUPLICATION OR OTHERWISE, WITHOUT PRIOR WRITTEN PERMISSION OF THE ARCHITECT/DESIGNER. THESE DRAWINGS ARE SUBJECT TO COPYRIGHT LAWS.	www.bs.com.au

DWG No. 20118-03



SECTION

A02



Report to the Waverley Local Planning Panel

Application number	DA-440/2020
Site address	1 Notts Avenue, BONDI BEACH
Proposal	Alterations and additions to Level 4 Icebergs Dining Room and Bar including internal reconfiguration, new roofed area, signage and works to the entrance and parking areas. The proposal also includes an extension of trading hours of the outdoor terrace to 10pm
Date of lodgement	18 December 2020
Owner	Bondi Baths Reserves Trust
Applicant	Bondi Acquisitions Pty Ltd
Submissions	Sixteen (16)
Cost of works	\$1,320,000
Issues	Hours of operation,
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 3 May 2021.

The site is identified as Lot 1556 DP 822245, known as 1 Notts Avenue, Bondi Beach (Icebergs Bondi). The site is irregular in shape with north frontage to Bondi Beach and the Pacific Ocean and south frontage to Notts Avenue. The site is occupied by Icebergs Bondi with the existing building consisting of several levels with a variety of uses including a club, restaurant, bar, and sporting facilities.



Figure 1: Bird's eye aerial view of subject site and surrounding locality as viewed looking south-west



Figure 2: Southern part of the site viewed from Notts Avenue showing parking area and terrace



Figure 3: Site viewed from Notts Avenue looking north



Figure 4: Outdoor terrace located on the southern side of the site

1.2 Relevant History

Council granted development consent to the redevelopment of the Icebergs on 28 August 2000, subject to 66 conditions. This consent is known as LD 395/1998. Condition 2 of that consent restricted the number of persons within the restaurant to 150 and relied on conceptual plans for a seating arrangement (submitted with the overall building refurbishment details). The seating arrangement excluded the terrace area.

1.3 Details of Approved Development

LD-395/1998 – Approved on 29 August 2000.

Partial rebuilding and refurbishment of the existing facilities, internal reorganisation and provision of additional facilities comprising of restaurant and entertainment.

Note: There have been subsequent modifications relating to the building rather than use.

Conditions of relevance include:

- condition 3 hours of operation, which are:
 - 7:30am to 12 midnight Monday to Saturday
 - 7:30am to 10pm, Sunday.
- Conditions 6 & 7: required no shade structures on the terrace and the terrace to be for the use of the general public.

LD-268/2002 – Approved on 25 June 2002.

Fit-out at restaurant level including increased patron capacity from 150 to 250 patrons.

The specifics of the application were as follows:

- Formal dining and lounge area adjacent to the entry to Notts Avenue
- A coffee and bistro style dispensary onto the terrace area (terrace area to be included in the licensed area).
- The terrace space was not proposed to be enclosed or covered other than utilising umbrellas for shade control as required.

Conditions worthy to note include:

- Condition 2, hours of the restaurant (inside premises) be restricted to that approved under condition 3 of LD-395/1998, which are:
 - 7:30am to 12 midnight Monday to Saturday
 - 7:30am to 10pm, Sunday.
- Condition 3, hours of operation of the southern terrace being restricted to 7.30am – 8.00pm during summer daylight saving hours and 6.00pm during the winter months.
- Condition 4, maximum of 250 patrons permitted to occupy the restaurant premises and terrace at any one time.
- Condition 6, no live or mechanical forms of entertainment are to operate from within the restaurant without the prior approval of Council.
- Condition 7, the terrace area to be an alcohol free area and is not to be licensed under the Liquor Act. That is, no alcohol to be consumed on the terrace area.
- Condition 8, the terrace area is not to be for the exclusive use by the restaurant or diners associated with the restaurant. The terrace area is to be freely accessible by the general public at all times, 24 hours per day, to allow viewing and overlooking of the pool and the ocean by the public. In this regard, an area of the terrace, encompassing the south eastern side of the terrace, overlooking the pool and the ocean is to be separately defined so as to maintain a corridor and public access to and from the viewing area.

- Condition 10, the terrace area is to remain free of structures and is not to be roofed. Any such structures to be subject to separate approval of Council.

DA-268/2002/A

A modification application, made under the then section 96(1A) of the Environmental Planning and Assessment Act 1979, known as DA-268/2002/A , sought to:

- delete condition 7 allowing for an on premise licence to the terrace area of the restaurant; and
- create a public access way along the east side of the terrace to comply with the provision of condition 8 of the original DA consent.

This modification application was approved on 24 December 2015 and this approval resulted in modified conditions and incorporated several additional conditions. The following conditions from DA-268/2002/A are worth noting:

3. HOURS OF OPERATION - OUTDOOR TERRACE AREA

The hours of operation for the southern terrace outdoor area of the premises are restricted to:

Summer daylight saving hours: 7.30am to 8.00pm

Non daylight saving hours: 7.30am to 6.00pm

4. MAXIMUM PATRON CAPACITY

- (a) *The approved patron capacity for the premises (restaurant and outdoor terrace) is limited to:*

Total of 250 patrons (Outdoor southern terrace being limited to a maximum of 60 patrons at any one time).

- (b) *A comfortable dining position must be available for each patron upon the premises. This will include a seat and access to table / bench space generally in accordance with the approved plans.*

- (c) *Any person/s attending the premises for the purpose of 'takeaway' products / services will not be considered a 'patron' for the purposes of subclause (a), provided no food and or drink is consumed by those persons on the premises.*

- (d) *Management are responsible for ensuring the number of patrons in the premises does not exceed the approved capacity specified in sub clause (a).*

6. (a) *No live or mechanical forms of entertainment are to operate from within the restaurant without the prior approval of Council.*

- (b) *No amplified noise generating equipment is to occur in the outdoor terrace area.*

7. LIQUOR SALE / SUPPLY / CONSUMPTION

- (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 primary use of the premises must be that of a restaurant with the provision of genuine meals, prepared upon the premises, to patrons seated at comfortable dining positions.*
- (c) *Patrons shall be seated whilst consuming liquor.*
- (d) *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.*
- (e) *No patron shall be permitted to take glasses or open containers of liquor off the premises.*
- (f) *In respect to the outdoor seating area, liquor may only be sold and/or supplied to patrons with or ancillary to a genuine meal.*

12. GENERAL MODIFICATIONS - SOUTHERN TERRACE SEATING PLAN

The proposal and terrace floor plan shall be amended as follows:

- (a) *The plan shall be amended to be generally in accordance with the marked notations on the attached approved plan. In this regard:*
 - (i) *A width of 2.5m shall be maintained as an accessway for the viewing platform along the entire length of the southern side of the terrace.*
 - (ii) *A passageway shall be maintained for access to the kiosk and double French style doors along the north side of the terrace.*
 - (iii) *A passageway shall be maintained for access between the north and south side of the terrace.*
 - (iv) *Seating for patrons on the outdoor terrace shall be reduced to a maximum of 60 patrons/seats. Seating plan to be reduced accordingly.*
 - (v) *Area for the sale/supply/consumption of alcohol be limited to the area shown on the approved plan.*
- (b) *The proposed barrier between the licensed areas of the outdoor terrace and public viewing area is to have a maximum height of 1.2 metres to ensure views from the viewing area are not obstructed. The barrier style shall not provide any form of advertising.*
- (c) *Correct the north point on the plan (restaurant is to the north, ocean to the east contrary to that shown in plan).*

The amendments are to be approved by Council prior to the sale/supply/consumption of liquor on the terrace.

Council has no record to demonstrate whether condition 12 was satisfied.

The presently 'approved' seating plan and layout is extracted below:

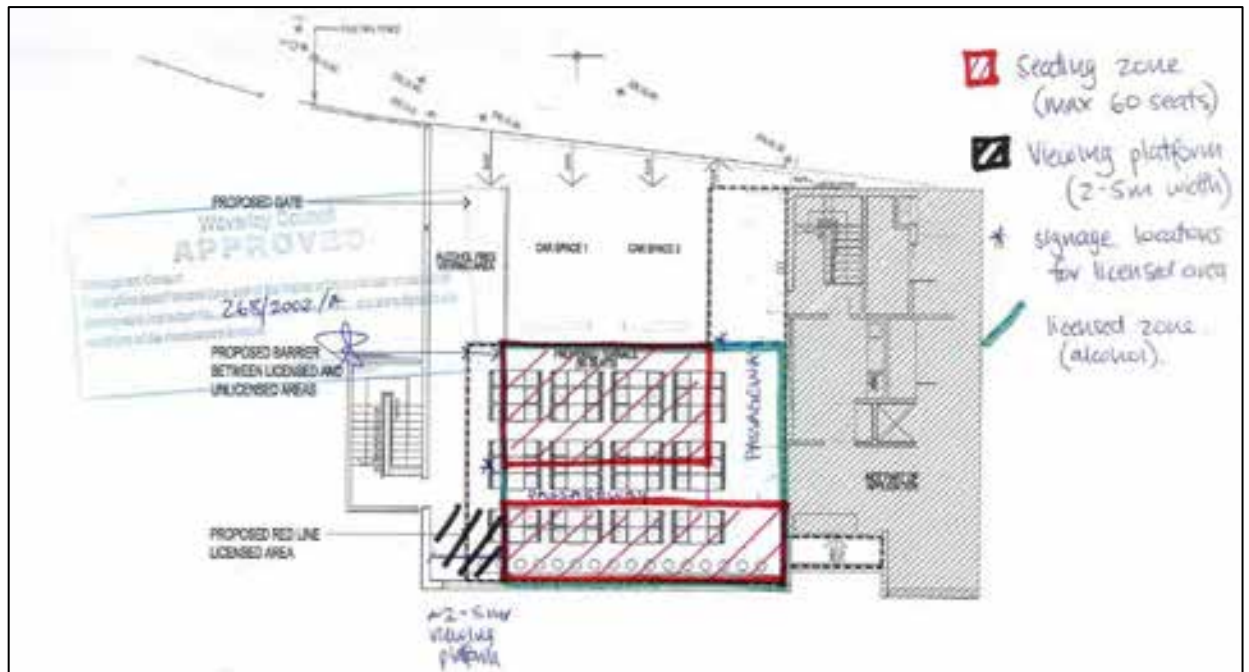


Figure 5: Approved seating plan of the outdoor southern terrace as part of Development Consent No. DA-268/2002/A.

Note: ‘Viewing Platform’ area is in accordance with condition 8, requiring a designated area to allow public viewing of pool and the ocean.

DA-268/2002/B

On 5 May 2020, a modification application submitted under Section 4.55(2), known as DA-268/2002/B, for the following works:

- Delete condition 7 regarding on-premises license to include outdoor area of restaurant
- Modify condition 3 to extend hours of operation of the outdoor terrace from 6pm (non daylight savings days) and 8pm (daylight savings days) to 10pm, seven days throughout the year.
- Modify condition 4, specifically:
 - Delete subclauses (b) and (c) relating to providing comfortable dining seating for each patron and not considering takeaway patrons in the overall patron count of the premises.
- Modify condition 6 relating to restrictions on mechanical and amplified music within the premises and vary between inside and outdoor areas. Subclause (b) is proposed to be deleted to allow recorded music (amplified noise generating equipment) to be played on the terrace and to restrict live entertainment to operate within the restaurant without the prior approval of Council.
- Delete condition 7(c) and 7(f) to allow patrons not to be seated while consuming alcohol and requirements for an on-premises liquor licence.
- Condition 9 requires the terrace to remain free of structures and to not be roofed, extracted as:

The terrace is to remain free of structures and is not to be roofed. Any proposed shade structures to be erected upon the terrace, (umbrellas and the like) are to be subject to the separate approval by Waverley Council.

This condition is proposed to be deleted to enable a vergola to be constructed in the terrace.
- Condition 11 be amended to update the seating capacity/arrangement plan and Plan of Management (PoM).

- Delete condition 12 (a) about the required dimensions for allowing a viewing platform area for the public and to allow for the proposed seating arrangements for the outdoor terrace, consistent with the architectural plans (these plans do not show the viewing platform).

Physical works:

- Construction of a covered bar, toilets and storage space, carport for the southern outdoor terrace.
- Internal reconfiguration restaurant
- A new vergola over the southern outdoor terrace
- New screening of horizontal slat fencing along the streetscape boundary of the site.

Other operational changes:

- Retain patron terrace seating capacity of 60, however will provide a standing capacity of 75. NO CHANGE TO THE TOTAL CAPACITY OF 250 PATRONS on the site at any one time.
- Standing capacity is for occasional cocktail/standing function
- The primary function of the outdoor terrace is for 'informal casual dining'.
- Takeaway services will no longer be provided.
- New signage for the hours of operation.

It was considered by the Development Assessment Officer that the proposed modification did not result in 'substantially the same development' as the original consent, as the original approval did not seek consent for external works such as those specified above. The consent was merely for the internal fit out and operational matters. As such, the application was withdrawn on 4 September 2020.

1.4 Proposal

The application proposes the following works to the Level 4 Dining Room Bar, outdoor terrace and front façade:

Terrace and Dining Floor Level

- Internal demolition of the existing kitchen, bar, toilets and storage areas;
- Demolition of all built forms within the outdoor terrace;
- Demolition of the front façade of the dining room restaurant along Notts Avenue;
- Removal of part of the balcony between the outdoor terrace and dining room restaurant to be replaced with a storage room;
- Internal reconfiguration of the kitchen, toilets and storage areas;
- Reconfiguration of the outdoor terrace to include toilets, a bar and seating for 60 patrons;
- Removal of the viewing platform located along the southern boundary of the outdoor terrace;
- Alterations to all three entrances from Notts Avenue;
- The addition of operable glass panels along the southern section of the terrace;

Roof Level

- A roof structure over the outdoor terrace and terrace entrance. The roof structure will have louvres and skylights above the bar and seating area;
- A new roof structure over the staff access entrance from Notts Avenue;

External Works

- A new sliding gate installed for the existing car parking spaces;
- Contemporary screening installed to the street boundary which will consist of horizontal slat fencing with associated climbing planting;

- Amendments to the front entrances to provide a more updated and contemporary design.

The 3D images below have been provided by the applicant to illustrate the proposed works.



Figure 6: 3D Render of proposed terrace roof and seating



Figure 7: 3D Render of proposed street façade fronting Notts Avenue

Operation

- A revision of the existing operating hours of the outdoor terrace from 8pm in daylight savings and 6pm outside of daylight savings to 10pm all year round;

Signage

- 2 new business identification signs located at the entrances of the Dining Room restaurant on Notts Avenue. Each sign will be 1.5m x 0.2m and comprise a white powdered metal plate fixed to the timber screen behind. The signs will not be illuminated.

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 subject site has historically been used for commercial purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

2.1.2 SEPP 64 Advertising and Signage

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

Schedule 1 Assessment Criteria	
1. Character of the area	The character of the locality is commercial in nature with a number of businesses having erected signage of a similar scale and type. The signage is compatible with the character of the area and will be adequately integrated into the subject building.
2. Views and vistas	The proposed new signage will be located above the shop entry and will not obscure or compromise important views or dominate the skyline.
3. Streetscape, setting or landscape	The proposed signage is proportionate with the associated building and is consistent with the established streetscape setting. The signage is of an appropriate scale, proportion and form for the streetscape. The signage does not protrude above the building
4. Site and building	The dimensions of the signage are of an acceptable scale and proportion which is compatible with the building.
5. Associated devices and logos with advertisements and advertising structures	N/A

6. Illumination	The proposed illumination is considered to be suitable in the site context given that it is located within the Bondi Junction Commercial Centre.
7. Safety	The location of the signage is not considered to impact the safety or the road, pedestrians or bicyclists or obscuring sightlines from public areas.

2.1.3 SEPP (Coastal Management) 2018

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

Clause 13 states that development within the coastal environment area must not be granted development consent unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) coastal environmental values and natural coastal 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,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) Aboriginal cultural heritage, practices and places,*
- (g) the use of the surf zone.*

The scale of the proposal is minor and is not expected to adversely impact upon the matters raised above. Appropriate conditions of consent are included to minimise disturbance and impact upon the coastal environment area.

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

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) Aboriginal cultural heritage, practices and places,*
 - (v) cultural and built environment heritage, and*
- (b) is satisfied that:*
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - f that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*

(ii) (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

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



The architecture and aesthetics of the proposed addition to the Dining Room Bar are consistent with those of the overall Club building and will not appear overly discernible within the coastal use area. The intent of the proposal is to upgrade the front façade from Notts Avenue and to provide a better use of the outdoor terrace area and internal layout. The proposal is not expected to adversely affect the visual amenity and scenic qualities and Aboriginal and built environment heritage aspects of the immediate coastline. Council is satisfied that the proposal is not likely to cause increased risk of coastal hazards on that land or other land.

2.1.4 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the LEP.
Part 2 Permitted or prohibited development		
Land Use Table RE1 – Public Recreation Zone	Yes	The proposal is permitted with consent in the zone and addresses the zone objectives.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> Nil 	N/A	<p>The LEP does not specify a height of buildings development standard for the subject site.</p> <p>The proposal does not increase the overall building height of the existing Club building and will not be overly discernible within the public domain surrounding the subject site. Therefore, a full merit assessment of the building height of the proposal is not required as this aspect is deemed acceptable.</p>
4.4 Floor space ratio <ul style="list-style-type: none"> Nil 	Yes	<p>The LEP does not specify a floor space ratio development standard for the subject site.</p> <p>The proposal seeks to enclose one of the staff entrances and the small balcony directly adjacent to the terrace. In addition to this, the outdoor terrace is also proposed to be enclosed to provide for seating and a bar area. Part of the enclosure involves moveable glass panels which can be completely removed during good weather and enclosed at night for security and to limit noise impacts to residential properties in the nearby vicinity. As a result, the floor space will increase by 124m².</p>

Provision	Compliance	Comment
		<p>The existing building presents a dent like effect in the south-eastern corner of the site where presently the carparking, garbage and terraces exists as evident below in Figure 8:</p>  <p>Figure 8: 3D image of site as existing (Source: Nearmaps).</p> <p>The proposal will infill this upper south-east section of the building whilst providing a façade uplift to the front elevation of building which will improve the streetscape presentation to Notts Avenue, and provide a more consistent urban built form when viewed from the beach/ocean as evident below in Figure 9:</p>  <p>Figure 9: 3D perspective of proposal (form to present to the beach/ocean) (Source: applicant)</p> <p>The additional floor space will add to the overall bulk and scale of the existing built form, however it enables a more consistent presentation of the built form to both the Notts Avenue and beach presentation of the building. The enclosure of the terrace also assists to mitigate noise and provides weather protection and is not considered to adversely impact on the surrounding amenity as a result.</p>
Part 5 Miscellaneous provisions		

Provision	Compliance	Comment
5.5 Development within the Coastal Zone	Yes	The proposal addresses the objective of clause 5.5 and supported in this instance.
5.10 Heritage conservation	Yes	The subject site is located in and is contributory to the Bondi Bay Heritage area, a listed item on the National Heritage Register. The building is also immediately adjacent and rising above Bondi Beach Ocean Baths, which is an item of local Heritage Significance in Waverley LEP 2012. The proposal was reviewed by Council's Heritage Architect who is generally supportive of the works with regards to clause 5.10 of the WLEP 2012. This is discussed in more detail later in the report under the subheading 'Referrals'.

2.1.5 Waverley Development Control Plan 2012 - Amendment No 9 (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	Yes	Council's Waste Management officer has reviewed the design and has raised some concerns regarding the size and location of waste on site. The issues have been discussed with the applicant and the Waste Management officer and it has been agreed that the issues can be dealt with via conditions. This is discussed in more detail in the Referrals section of this report.
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.
4. Coastal risk management	Yes	The application proposes additions to an existing building and is on land affected by 'Coastal Inundation' or 'Geotechnical Risk'. The proposed works are not significant and do not require the submission of a (a) Coastal Risk Assessment; and/or (b) Geotechnical Risk Assessment.

Development Control	Compliance	Comment
7. Accessibility and adaptability	Yes	The proposal is for minor alterations and additions to an existing building. A standard condition of consent is recommended to ensure new works comply with the BCA, which addresses accessibility matters. Along the southern side of the terrace, access to the viewing platform and coastal walk is to be maintained (as per previous consent). A condition to this effect is recommended for imposition, including the provision of wayfinding signage at the street entry.
8. Transport	Yes	The development does not propose to alter the existing car parking on site, being two spaces located along the southern section of the property.
9. Heritage	Yes	The proposed development is in a Heritage Conservation Area and is in close proximity to heritage items, as discussed above. The proposal follows the guidance of this part of the DCP. Council's Heritage Architect has reviewed the proposal and raised no issues with the proposal from a heritage perspective.
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP.
11. Design Excellence	Yes	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.
15. Advertising and Signage 15.1 Design and location 15.1.2 Number of signs Signage should not dominate the façade of buildings.	Yes Yes	<p>The proposed signage essentially comprises of two small flush wall signs, considered appropriate and compatible with the building and surrounding character of Bondi Icebergs.</p> <p>The signage will be integrated into the character of the building and is appropriately sized so as not to detract from the overall design of the development. The signs identify the proposed business of the subject tenancy without dominating or compromising the integrity of the building.</p> <p>The number of new signage is supported given the expansive facade and frontage of the building. Standard conditions will also include signage for operational measures and public access/viewing platform.</p>

Development Control	Compliance	Comment
16. Public Domain 16.1 Improving the public domain 16.2 Active Street frontages	No	The development proposes to remove the public viewing platform from the southern section of the terrace, which would impact on public access to views of the eastern coastline. This is discussed below.

Public Domain

The development proposes to remove the public viewing platform from the outdoor terrace in order to provide a larger seating area for the private use of the Dining Room Bar. This would directly impact on the accessibility of this space for the public to be able to view the eastern coastline and the iconic view of Bondi Beach. The outdoor terrace is connected to the Coogee to Bondi Beach coastal walk and the viewing terrace provides a platform/passage to enjoy the significant iconic views as part of the walk.

As mentioned in the history of previous applications, a condition was placed on DA-268/2002 to provide for a viewing platform to be strictly available for public use. It is recommended that a similar condition be implemented into the consent to maintain this area as part of the public walking trail via a viewing platform, similar the that previous approved. This will maintain public views of the eastern coastline and iconic views of Bondi beach. A condition to this effect is recommended for imposition, including the provision of appropriate signage for wayfinding.

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 development proposes to upgrade the front façade of the existing building along Notts Avenue. The existing façade is outdated, cluttered and does not fit in with the character of the area. The proposed new façade will upgrade the visual appearance of the existing building to better align with the more contemporary style of the area, particularly with respect to the recent upgrade of the public domain and shared road zone.
1.1.4 General Amenity	Yes	<p>The proposal seeks internal changes, including new kitchen, bar, fridges and cool room. No changes are proposed to the existing services on the roof, including mechanical exhaust and plant. Standard conditions are recommended to ensure these are upgraded and operate in accordance with relevant legislation and regulations.</p> <p>Deliveries (including kegs) will be conditioned to occur between 7am and 7pm Monday to Saturday.</p>

Development Control	Compliance	Comment
		Whilst the operating hours are proposing to increase, the pergola over the outdoor terrace and moveable glass panels have been proposed to mitigate any noise that may occur from the outdoor area. This is discussed further below.
1.1.5 Noise	Yes via conditions	<p>An acoustic report has been submitted with the application which recommended design changes to the pergola over the outdoor terrace in order to prevent noise impacts to the surrounding residential properties. The recommendations include reducing the length of the louvres on the roof to sit in line with the length of the bar proposed on the terrace. The Acoustic Report has been assessed by Council's Health department who has recommended that the development implement the recommendations that are stipulated in the Acoustic Report. This has been included in the conditions at Appendix A along with additional conditions relating to noise emissions from the kitchen and bar which have also been recommended by Council's Health Officer.</p> <p>No speakers are proposed outside and no additional air conditioning units are proposed.</p>
1.3 Hours of operation		
	Yes	<p>As the subject site is located within the RE1 zone, the trading hours and trial hours identified in Table 1 of part D1.3 of the DCP do not apply. The proposal will therefore be assessed on a merit basis against the considerations for extended trading hours under Part D1.3.2 of the DCP.</p> <p>The development proposes to operate the outdoor terrace between 7.30am and 10pm, 7 days a week. This differs from the existing trading hours of 7.30am to 8pm during daylight savings and 6pm outside of daylight savings.</p> <p>An acoustic report has been submitted with the application assessing the full impact of the extended trading hours on the surrounding residential properties. It was concluded in the acoustic report that the pergola over the outdoor terrace would muffle noise during the additional hours at night, provided that the open louvres were reduced in size to the length of the bar only. Additionally, the moveable glass panels allow the outdoor terrace to be completely enclosed which</p>

Development Control	Compliance	Comment
		<p>will limit noise to the nearby residents. By reducing the louvres and adding the moveable glass panels, the additional hours of noise would reduce the impact on neighbouring residential properties and would assist to reduce noise from current noise levels. The reduction of the open louvres has been recommended as a condition of consent. As mentioned earlier in the report, conditions have been recommended in Appendix A regarding noise emissions from the kitchen, restaurant and outdoor bar area.</p> <p>In order to allow Council to review the extended operating hours of the outdoor terrace, a condition is recommended to allow the trading hours from 7.30am to 8pm, 7 days a week with a 2 year trial period from 8pm to 10pm, 7 days a week. This will allow the users to operate on a trial basis, with the opportunity to extend the trial period should no issues arise. Having regard to seasonal changes and Covid restrictions, it is recommended the trial occur for 2years (commencing from date of Occupation Certificate).</p>

Table 4: Waverley DCP 2012 – E2 Bondi Beachfront Area Compliance Table

Development Control	Compliance	Comment
2.1 General Controls		
2.1.1 Public Domain Interface	Yes	<p>The front façade of the building facing Notts Avenue is proposed to be upgraded to better match the existing character of the immediate area and assist to mask the services/parking/clutter to the street. The façade upgrade will better align with the recent upgrade of Notts Avenue and will improve the visual appearance of the space.</p> <p>The development does not provide for open clear glazing due to the fact that the area is primarily associated with residential uses and this would result in unreasonable noise impacts to the residents on along Notts Avenue. The applicant has re-designed the entrances to the dining room bar to distinguish the entrances to the street while limiting noise impacts to neighbouring residents.</p>
2.1.2 Building Use	Yes	The existing use of the site is not proposed to change as part of this application.

Development Control	Compliance	Comment
2.1.3 Built Form	Yes	<p>The development proposes to extend the existing form further to the south east to screen the parking, services and waste area presenting to Notts Avenue, whilst enclosing the outdoor terrace to the ocean side of the building. The additions are complementary to the existing built form and will enhance the visual presentation of the building, when viewed from Notts Avenue, the coastal walk and the ocean/beach.</p> <p>The upgrade of the front façade will maintain the existing height and setbacks.</p> <p>The proposed roof over the terrace and moveable glass panels will further improve the usability of the outdoor terrace during all weather events and will limit the noise levels into residential units along Notts Avenue. The roof over the terrace will not result in unreasonable overshadowing to public open spaces and has been designed to improve the amenity to surrounding residents.</p> <p>The design of the front façade and the roof over the terrace match the existing character of the building as a whole and will improve the visual appearance from both the streetscape and the coastal walking footpaths.</p>
2.1.4 Roofs	Yes	No changes are proposed to the existing building services located on the roof of the building. Furthermore, there are no additional services proposed to be placed on the roof.
2.1.5 Views	Yes	A view impact analysis has been undertaken by the applicant and is provided below this table.
2.1.6 Heritage conservation	Yes	The subject site is not heritage listed and is not nominated as a contributory heritage item. It is however located in the Bondi Beach conservation Area. The proposed design was reviewed by Council's Heritage Architect who is satisfied with the upgrade of the front façade and the roof over the outdoor terrace. The proposed works will improve the visual appearance of the building and will fit better into the existing character of Notts Avenue, particularly in relation to the recent upgrade of the street.
2.2 Character Areas – Notts Ave		
2.1.1 – Notts Avenue	Yes	The use of the site, overall height, and setbacks are proposed to remain as existing and will not change as part of this application. The development does propose to upgrade the front

Development Control	Compliance	Comment
		<p>façade which is currently outdated and does not promote a high quality design. The front façade will remove blank, flat and unarticulated walls and provide a visually appealing design to Notts Avenue. The proposed materials and finishes will improve the visual appearance of the building and improve the streetscape character as a whole.</p> <p>The proposed materials of the roof over the terrace aligns with the existing built form of the building and is suitable to the environment conditions of the site.</p> <p>The photomontages presented by the applicant provide a frontage to Notts Avenue that incorporates greening (hanging / spilling over from high point), though limited detail is shown on the plans. Accordingly, a condition is recommended for imposition requiring further detail in this respect.</p> <p>No changes are proposed to the existing parking on site (2 car spaces for Icebergs Club).</p>

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

Views

Clause 2.1.5 *Views* of Part E3 in the Waverley DCP 2012 outlines the objectives and controls relating to the assessment of views and view loss. The development proposes to construct a roof structure of the existing outdoor terrace on the southern side of Level 4 of the dining and bar room of Icebergs. The proposed roof structure is located in direct line of view of the units at 16 Notts Avenue. It is noted that submissions were received regarding view loss to the units at No. 16, however none of these submissions were from owners or occupiers of No. 16 Notts Avenue. Notwithstanding, an assessment has been undertaken. The photographs provided below were obtained by the applicant and will be used to demonstrate the potential impact for the current design.

Figure 10 below demonstrates a section diagram detailing the location of the photographs taken and provided by the applicant as seen at points number 1 and 2.

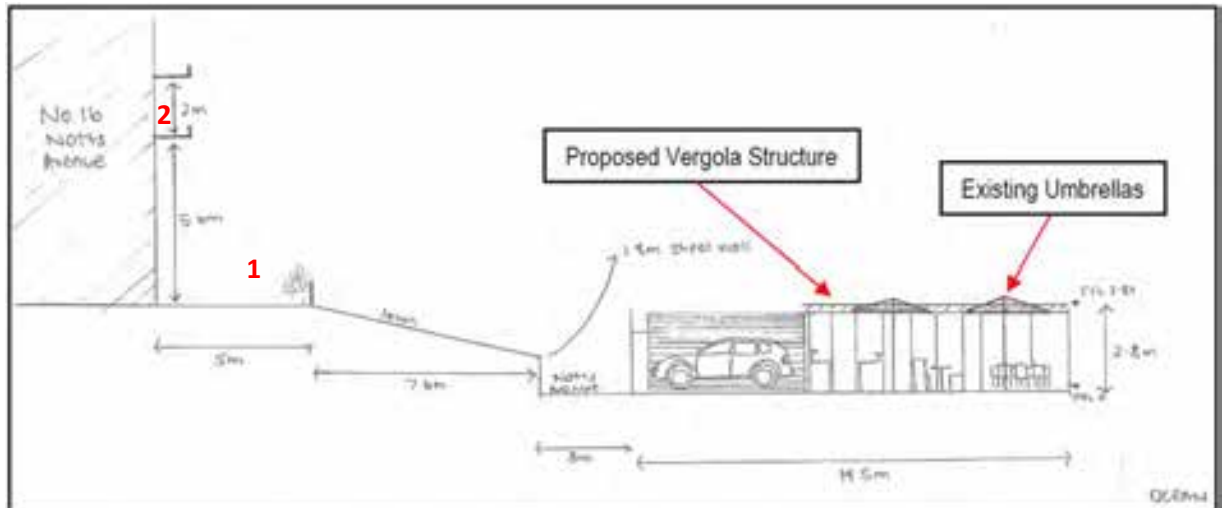


Figure 10: Section diagram detailing the location of the photographs taken at 1 and 2.

Figure 11 illustrates the view from the location identified at point 1 on the section diagram above.



Figure 11: View of southern terrace from the front setback of No 16. Notts Avenue.

As can be seen from the images above, the proposed roofed terrace will block some water views looking east towards Bondi Beach. The roofed terrace will not block the existing views of the headland or the land/water interface at Bondi Beach looking north-east. The water views that will be impacted are considered to be relatively minor in comparison to the overall panoramic view of water, headline and beach and will not result in a significant detrimental view loss impact from this location. It is further noted that this view impact is from a standing position within the front setback of the block of units and is not an area that is frequently used by owners and occupiers. The impact from this view point is therefore considered negligible and acceptable.

Figure 12 below has been taken from the location identified as 2 in Figure 10.



Figure 12: View from first floor unit of No. 16 Notts Avenue looking east towards Bondi Beach

The views available to the first floor unit at No. 16 Notts Avenue is significant. From the balcony the views are of the Bondi headland, Bondi Beach water and land interface and significant water views of the Pacific Ocean. As seen in Figure 12 above, the proposed roof terrace will block some water views, however in the context of the overall view, the impact would be considered minor. It is also noted that there are additional views looking south east further out to the Pacific Ocean, which will not be impacted. The addition of the roof terrace will not overly impact on the significant and iconic views that the first floor unit of No. 16 maintains.

The proposed view impact from the units at No. 16 Notts Avenue as a result of the roof over the outdoor terrace is therefore considered minor and are deemed minor and therefore acceptable in this instance.

The development further proposes to remove the existing public viewing platform located along the southern section of the terrace. This viewing platform is part of the public coastal walk from Coogee to Bondi Beach. Photographs from the viewing platform were taken during a site visit by the assessing officer and are provided below.



Figure 13: View looking north-east from the public viewing platform

The proposal to partly enclose the outdoor terrace includes the complete removal of the public viewing platform available to the public. The removal of this viewing platform would completely remove significant and iconic views of Bondi Beach from this public vantage point and would disrupt the public walking track. A condition has been recommended in Appendix A to maintain the viewing platform as shown in the approved plans under DA-268/2002. A further condition has been recommended to maintain the entry corridor to the viewing platform to be free of any obstacles or structures and a wayfinding sign provided at the Notts Avenue façade to promote public access and use of the viewing platform.

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

The application was notified for 21 days, in accordance with the *Community Participation Plan (CPP)*.

Sixteen (16) submissions were received. The issues raised in the submissions are summarised and discussed below.

Table 5: Summary of property addresses that lodged a submission

Property
1/8-10 Notts Avenue, BONDI BEACH (2 submissions from this property)
11 Ormond Street, BONDI BEACH
31 Woodstock Street, BONDI JUNCTION
2 & 6/2-4 Notts Avenue, BONDI BEACH
22/2-4 Notts Avenue, BONDI BEACH
3/8-10 Notts Avenue, BONDI BEACH
11/2 Notts Avenue, BONDI BEACH
16 Notts Avenue, BONDI BEACH (2 submissions from this property)
15/16 Notts Avenue, BONDI BEACH
13/16 Notts Avenue, BONDI BEACH
14 Notts Avenue, BONDI BEACH
17 Notts Avenue, BONDI BEACH
9/16 Notts Avenue, BONDI BEACH
Unknown (address not provided)

Issue: The applicant submitted the application one week before the Christmas break deliberately while people were away on the Christmas/New Year vacation period so they would receive less submissions

Response: Applicants have the right to lodge an application at any time of the year. In this instance, the application was notified from 8 January for a period of 21 days. The notification period was delayed until after the Christmas / New Year period to allow an appropriate timeframe for residents to view the application and lodge a submission. The notification period for this application is deemed satisfactory and consistent with the CPP.

Issue: The proposed development will result in an increase in traffic to Notts Avenue due to the increased number of patrons

Response: The development application does not propose to increase the number of patrons from what is approved under the current DA that is applicable for the Icebergs Dining Room Bar (250 patrons).

Issue: Increased number of loud obnoxious intoxicated patrons dumped into the street from the venue at closing / Loitering intoxicated patrons creating excessive noise post the 10pm closing / The late closing hours of the restaurant and the Club will cause loud noise and trouble from patrons pouring up the street, car doors banging, drunken people falling over in the street, raucous singing, and other problems

Response: As mentioned above, the number of patrons is not proposed to increase from the existing situation on site. With regard to the alleged loud noise when leaving, a condition has been recommended in Appendix A to ensure the business does not cause undue disturbance to the amenity of the neighbourhood. The condition will require the business owner to record in a formal register full details of any disturbance complaints. A PoM has also been provided and is recommended to form part of the conditions of consent. The PoM details the responsibility of management to ensure that there is no loitering or crowding in the vicinity of the premise or that there is no undue disturbance to surrounding residents when patrons are entering and leaving the premise.

Issue: Increased litter including alcohol containers and cigarettes deposited in the street outside residential building entries in the street

Response: The PoM has provided details of a litter register, including a daily morning sweep of the surrounding area and a regular litter patrol is undertaken in the general vicinity. A litter patrol register will be maintained and kept on the premises at all times.

Issue: Any submissions previously rejected should undergo a longer objection period, especially over the holiday season

Response: The previous application (DA-268/2002/B) was not rejected by Council, rather the applicant withdrew the application. Applications are not required to undergo extended notification periods due to their previous DA history.

Issue: The council should provide residents with an update as to how the initial concerns have subsequently been addressed in order for it now to be reconsidered

Response: As mentioned above the application was not rejected by Council, rather the applicant decided to withdraw the previous application. Notwithstanding this, this assessment report details the proposal, history and assessment of the application and is available for public view/reading prior to determination by the Local Planning Panel.

Issue: The proposed bar, proposed vergola and toilets and other proposals to escalate operations sought under this DA should be rejected as they are not substantially the same as the existing consent

Response: This application is not proposed as an amendment to the existing DA (DA-268/2002). The current DA is a stand alone application and will be assessed as such.

Issue: To allow the proposal would be to permit a further unjustifiable erosion of the interests of residents and the surrounding landscape. The proposed bar, vergola and further escalation of operations is incompatible with the surrounding Residential, Public and Environment Protection land

Response: The proposed roof structure will not change the existing use or usability of the outdoor terrace. As discussed above, a condition is recommended to maintain the public viewing platform to ensure public use of the area is still maintained. The proposal seeks to enhance the appearance of the building and considered an appropriate built form outcome in this urban coastal environment.

Issue: The application will result in increased traffic from Icebergs restaurants, without a traffic management plan to manage the increased patronage

Response: As mentioned above, the development does not propose to increase patron numbers from the existing level (250 patrons). As such, it is not envisaged that there will be an increase in traffic.

Issue: Increased intoxication of which Icebergs Restaurant continues to disregard their duty of care. This proposal will only increase the intoxication as the hours are increased.

Response: A PoM has been provided by the applicant and recommended to be included as part of the approval. The PoM outlines the procedure in selling and providing of alcohol to patrons and

dealing with intoxicated patrons. The business is required to maintain a disturbance register and a condition has been recommended to respond to disturbance complaints in a timely and effective manner. Any amenity issues that may occur during the operation should be directed to the Police.

Issue: No designated zone for taxi and Uber drivers who instead park across Notts Avenue resident's garages / The venue has a long history of poor traffic management with patrons parking across local resident garages

Response: The proposed works will not increase the patronage numbers or the number of taxis/drivers picking up patrons. No vehicles are allowed to park across resident's driveways or garages.

Issue: Increased smoking and rubbish from cigarettes from Icebergs Restaurant patrons littering the street and preventing the quiet enjoyment of residents

Response: Smoking is prohibited in the restaurant. Regardless, the application to upgrade the front façade, provide a roof over the terrace and increase operating hours will not impact on smoking from the public.

Issue: Substantial view loss of ocean from many of the apartments as the pergola area becomes enclosed

Response: A view loss assessment has been undertaken in the body of the report.

Issue: Noise pollution, not only from the music and human noise from the proposed bar but from the street when intoxicated patrons depart at late hours.

Response: The business is not allowed to have amplified noise within the outdoor terrace to limit noise impact to surrounding residents. Furthermore, the inclusion of a roof over the terrace and the moveable glass panels will limit any noise that will occur from the outdoor terrace, which will improve amenity to surrounding residents.

Issue: Icebergs has a history of increasing music and noise pollution beyond its licence

Response: Any breach in the noise limit beyond its approval should be directed to Council's Compliance department and the NSW Police.

Issue: There is no merit in increasing the hours of operation or amenity as it will have a direct and detrimental impact on the local community of Notts Avenue of which the downside can not be mitigated through management control measures.

Response: The increase of hours of the outdoor terrace is considered to be acceptable due to the proposed roof over the terrace and moveable glass panels limiting existing and potential future noise to the neighbouring residents. As discussed in the body of the report, the extension of operating hours after 8pm will be on a 2 year trial basis to enable a full review of any potential impacts.

Issue: Transformation of a restaurant business into a bar will impact on residential amenity

Response: The outdoor terrace is not proposed to be converted to a bar. The proposal includes seating for patrons at all times and conditions are recommended to ensure food is served with all alcohol.

Issue: Transformation of the amenity of existing Residential and Public Recreation land into incompatible commercial use

Response: The use of the site is not proposed to change as part of this application. As discussed above, the viewing platform is recommended to be maintained to enable public access to the southern side of the building.

Issue: Real Estate values devaluation

Response: The valuation of land is not a matter of consideration.

Issue: Poor management by Dining Room staff of the impact of operations on neighbouring residents and the physical landscape

Response: The PoM submitted with the application ensures that all staff are trained to best manage the operation of the business and the patrons on site. Any amenity impacts should be directed to Council's Compliance Division or the NSW Police and will be logged in the disturbance register.

Issue: Amplified music on the terrace will impact on the amenity of surrounding residents

Response: Amplified music is not included as part of this application. A condition is recommended in Appendix A to this effect.

Issue: The proposal is an inappropriate development on land that is zoned Residential

Response: The land is zoned RE1 Public Recreation.

Issue: The southern entrance to the terrace will create additional noise issues to residents of Notts Avenue

Response: The southern entrance to the terrace is already existing and is not proposed to be amended, with the exception of the design of the façade.

Issue: The proposed roof over the terrace will not mitigate noise impacts from the bar or extended hours

Response: The acoustic report submitted with the DA has provided evidence that the terrace above the roof will sufficiently reduce noise, subject to the opening louvres reducing in length to the width of the bar only. This has been recommended as a condition of the consent.

Issue: The delivery of goods and services and pick up of waste occurs at all hours of the night and will continue to do so

Response: The PoM states that all deliveries will occur during 8.00am and 1.00pm, with the delivery of milk at 7am. This is considered acceptable and reasonable and conditions to this effect are recommended for imposition.

Issue: The current use of the terrace does not comply with the conditions of the existing consent

Response: Any breach in an existing consent should be directed to Council's Compliance department. The use of the existing consent bears no weight to the assessment of the current DA.

Issue: The Acoustic Report is utilising noise levels from 2011 and 2014, which are outdated and should not be used

Response: The Acoustic Report references noise measurements obtained on 7 September 2019, which is considered to be appropriate.

Issue: The additional third entrance to Notts Avenue will increase noise to Notts Avenue

Response: The development proposes to reduce the number of entrances from Notts Avenue from 4 to 3. The only public entrances will be on the northern side and the southern side, which are already existing.

Issue: The removal of the public viewing space will impact on the public's ability to be able to enjoy the iconic views

Response: Agreed. A condition has been recommended to maintain the public viewing space and associated entrance on the southern side of the terrace.

Issue: The development fails to comply with the LEP and SEP

Response: A full assessment against the WLEP and SEPPs have been provided in the body of the report.

Issue: Unfair infringement on the residential properties for the gain of a commercial property

Response: The use of the site is not proposed to change, nor is the patron capacity for the dining room or terrace. The proposal would unlikely cause a detrimental impact on the surrounding neighbouring community and has been discussed in detail throughout the body of the report.

Issue: The proposed signage is too large and the lighting will distract from the residential properties

Response: The signage proposed is in context of the site and will be in keeping with the proportions of the entrances and built form. The signs are not proposed to be illuminated and are located directly opposite a retaining wall, with residential properties located higher above. The signage is not proposed to impact on the amenity of residential properties and is considered acceptable. This is discussed in the body of the report.

Issue: Icebergs is already an overdevelopment of the site and the proposal will increase this even more

Response: The upgrading of the front façade, increase in operating hours and construction of a roof over the terrace will not result in an overdevelopment of the site, as the building footprint is not proposed to increase.

2.5 Public Interest

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

3. REFERRALS

3.1 Heritage Architect

Council's Heritage Architect has reviewed the design and made the following comments:

Previous recommendations provided at Pre- DA Stage appear not to have been addressed.

In particular:

- *Provision for enclosure of the patio in regular inclement weather at this location.*
- *Details as to servicing areas and loading/ unloading provisions of supplies and garbage from the Restaurant.*
- *Protection of the timber strip screen from vehicle and beer keg impact.*
- *Means of maintaining and watering the indicated planting above the screen wall.*

The application is supported subject to Council satisfaction with the above issues.

In relation the above, the following comments are made:

- The proposal includes a glass screen that has the ability to close off the terrace in the event of bad weather in this located.
- The servicing area with regard to loading/unloading of supplies and garbage from the restaurant has been assessed by Council's Waste Management Officer and is discussed below. This is a not a heritage issue.
- A condition will be recommended to ensure the protection of the timber strip screen from vehicle and beer keg impact.
- A further condition has been recommended to maintain the upkeep of the planting at the front façade.

In relation to heritage matters, the proposed design and works are considered satisfactory.

3.2 Biodiversity

Council's Biodiversity officer has reviewed the proposal and made the following comments:

*The property adjoins remnant bushland. The relevant biodiversity control is Section 3.1 clause (c). The requirement is that **a minimum of 90% of the proposed plantings (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2 – 1 of the DCP.***

The proposed development does not appear to include any landscaping.

Should the proposed development include any landscaping, that landscape plans that comply with the abovementioned control be prepared and submitted.

A condition has been recommended to provide a landscape plan detailing all proposed planting along the Notts Avenue façade and that 90% of planting must be indigenous or local native plants.

3.3 Waste and Recycling

Council's Waste Management officer has reviewed the proposal and has made the following comments:

Waste and Recycling Storage – Underestimated:

The applicant has underestimated the recycling storage requirements for the development. The applicant has only included bales for paper/cardboard in the SWRMP. They must provide estimates of plastic and glass recyclables generated and how these recyclables will be stored (ie. Number and size of bins) and presented for collection.

*The estimated waste and recycling storage requirements are:
5 x 660L Mobile Garbage Bins for general waste collected daily
2 x 660L Mobile Garbage Bins for comingled recycling collected daily*

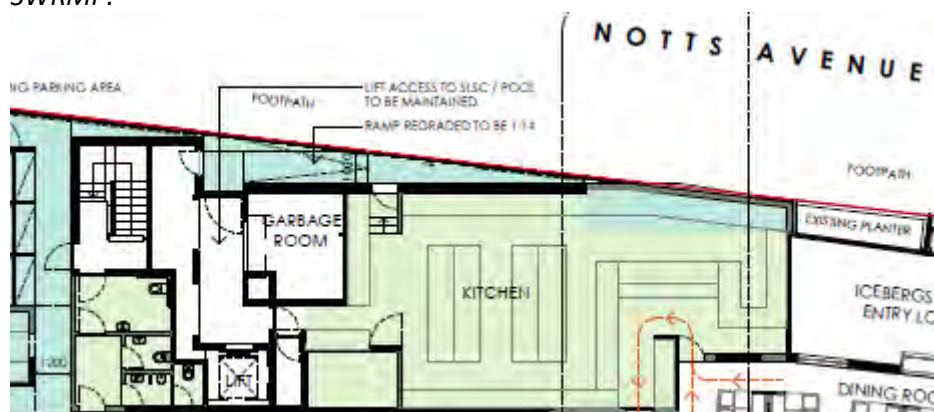
Space must also be provided for bins infrastructure, baling equipment, bales of bulk cardboard, and reusable items such as kegs or pallets, milk/bread crates.

Architectural Drawing – Requires more detail:

The applicant must describe how the bins will be accessed from the Garbage Room for servicing. Doorways to manoeuvre 660L bins must be 1.5 m wide. If a roller door is proposed, it needs to be illustrated on the architectural drawing.

The applicant must also illustrate how all the bins and waste infrastructure (glass crusher) will fit in the Garbage Room. That is the applicant must illustrate bins infrastructure, storage space for bales, and other reusable items such as kegs or pallets in the Garbage Room of the architectural drawing.

The applicant also mentions that crushed glass will be generated onsite. The location of the glass (before crushing), the crushing infrastructure, and the storage of crushed glass must be described in the SWRMP.



Ongoing Waste Management:

It is also recommended that the applicant provide a typed SWRMP as the text is very difficult to read. As the SWRMP will be attached to the development for ongoing waste management, it is paramount that it is legible for all staff, cleaners, and other relevant persons.

Council's assessing officer has discussed the above issues with the applicant and Council's Waste management officer and it has been agreed that the above can be readily accommodated within the proposed garbage room. As such, a condition has been recommended to amend the architectural plans to provide the above information prior to the issuing of a Construction Certificate. A further condition has been recommended to provide a typed up version of the SWRMP to enable better legibility.

3.4 Environmental Health

Council's Environmental Health officer has reviewed the design and associated Acoustic Report and has made the following comments:

It is advised that the proposal has been assessed in conjunction with the Acoustic report prepared by Renzo Tonin & Associates (ref no TL082-01F02) and dated November 2020 however this section is not satisfied compliance with noise criteria will be achieved.

It is noted, the above acoustic report predicts exceedances to occur and requires changes to the roof opening along the new corridor (approximately one third reduction in opening size) which may not be consistent with what is being proposed.

In addition to this, a clear statement/conclusion confirming the proposal will meet the required noise criteria and not give rise to an "Offensive Noise" as defined by the Protection of the Environment Operations Act 1997 has been provided.

Notwithstanding the above, should approval be granted conditionings are recommended.

As recommended by the Environmental Health officer and discussed in the body of the report, a condition has been imposed in Appendix A to implement the recommendations of the Acoustic Report into the development in order to limit noise impact to the surrounding residential properties. Importantly, the architectural plans do not presently align with the recommendations of the Acoustic Report, specifically with regard to the roof design (as indicated by Council's Environmental Health Officer), thus the concern for noise compliance. Therefore, this aspect shall be addressed via recommended conditions, as well as further conditions that have been recommended to limit noise impacts including noise emissions, noise from mechanical plants, and noise limiters. Once imposed, the relevant noise criteria can be met with the proposal to achieve compliance and resolve these concerns.

3.5 Traffic Management

Council's Traffic Engineer has reviewed the proposal and made the following comments:

- *There will be no change in the maximum number of patrons allowed in the reconfigured terrace (60 patrons). There will be no significant increase in traffic in Notts Avenue regardless of the extended trading hours. The extended trading hours may impact the traffic noise at night. This should be taken into consideration as part of the acoustic assessment.*
- *The nature of the development remains unchanged from its existing use. It is a fact that there are regular parking issues associated with the existing approval. The extension of the trading hours will exacerbate these issues.*
- *The existing site is provided with two on-site car parking spaces. The proposal will also continue to provide two on-site car parking spaces for employees. The proposed parking provision complies with Council's requirements and is acceptable. The garage door width should be a maximum of 5 metres to satisfy Council's requirements for driveways as it is on the property boundary. However in this case, the wider garage door has no impacts on parking on the eastern side of Notts Avenue. The wider garage door is acceptable for this particular site.*

As mentioned above, the proposed nature of the development and patron numbers will remain unchanged for the Dining Room Bar and outdoor terrace. The extension of hours only refers to the outdoor terrace area which seats a maximum of 60 patrons. The dining bar room will maintain its existing hours until 12.00am midnight Monday-Saturday and 10pm on Sundays. The extension of hours of the outdoor terrace will only increase a small portion of the business and will not extend the hours past the existing closing hours of the existing Dining Room restaurant. The additional hours will

therefore not cause a detrimental impact on the existing traffic or result in additional noise from Notts Avenue.

3.6 Stormwater Engineer

From a stormwater drainage and flooding perspective, there are no objections to approval of this application subject to recommended conditions made by the Stormwater engineer. This has been included in Appendix A.

3.7 NSW Police

Discussions between Council assessing staff and the Local Licensing Police of the Eastern Suburbs Police Area Command were held with regard to the proposal. In summary, the Police do not object to the application subject to conditions being imposed relating to:

- No increase in patron numbers from existing
- Comfortable dining must be provided, whereby patrons are seated whilst consuming liquor.
- Should the view platform be maintained along the south-eastern end of the terrace, then a physical boundary (eg. Bollards) must be in place whilst terrace doors are open and liquor is being served, to ensure members of the public do not wander across without entering/exiting through the main venue doors.
- Trial period recommended for extended hours of terrace (ie 8pm – 10pm). With regard to seasonal changes and Covid restrictions, a preference for 2 years rather than 1 year to allow a proper review to occur.
- No amplified noise / speakers in the outdoor terrace area.
- Standard operational conditions to be imposed with respect to PoM, hours of operation, neighbourhood amenity, liquor sale / supply / consumption with respect to an On Premise licence, with a Primary Service Authorisation.

4. SUMMARY

The proposal seeks alterations and additions to Level 4 Icebergs Dining Room and Bar restaurant including internal reconfiguration, a new roofed area to the outdoor terrace, signage and works to the entrance and parking areas. The proposal also includes an extension of trading hours of the outdoor terrace to 10pm.

The development generally complies with the provisions of the LEP and DCP and is considered to be appropriate in the context of the existing use on the site. Conditions have been recommended to provide a trial period of the operating hours after 8pm to enable a review after 2years of operation. Further conditions have been recommended regarding the management of waste on site.

The application was notified and received 16 submissions, which have been discussed in the body of the report.

In light of the assessment made throughout this report, and in the absence of adverse environmental impacts, the application is recommended for approval, subject to conditions.

DBU Decision

The application and assessment report was reviewed by the DBU at the meeting on 27 April 2021 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 Magistrale*

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:



Katie Johnstone
Senior Development Assessment Planner

Date: 4 June 2021

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



Angela Rossi
**A/ Executive Manager, Development
Assessment**

Date: 11 June 2021

Reason for referral:

- 2 Contentious development (10 or more objections)

APPENDIX A: CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

- (a) Architectural Plans prepared by Lazzarini Pickering Architetti of Project No. 311, including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
DA-003 Rev. A	Demolition Plan	05/11/2020	18/12/2020
DA-100 Rev. A	Proposed Floor Plan	05/11/2020	18/12/2020
DA-101 Rev. A	Proposed Roof Plan	05/11/2020	18/12/2020
DA-110 Rev. A	Proposed Floor Plan – Part 1	05/11/2020	18/12/2020
DA-111 Rev. A	Proposed Floor Plan – Part 2	05/11/2020	18/12/2020
DA-200 Rev. A	Elevations	05/11/2020	18/12/2020
DA-300 Rev. A	Sections	05/11/2020	18/12/2020
DA-700 Rev. A	Signage Details	05/11/2020	18/12/2020
DA-701 Rev. A	Materials and Finishes	05/11/2020	18/12/2020

- (b) A Council approved Plan of Management;
- (c) Acoustic Report prepared by Renzo Tonin & Associates Reference TL082-01F02 Revision 1, dated 6 November 2020 and received by Council on 18 December 2020.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) All acoustic mitigation measures and recommendations contained in the Acoustic Report are to be reflected in the architectural plans. The operable louvres to the roof are to be reduced in length to sit in line with the bar located in the outdoor terrace, as is recommended in the approved Acoustic Report referenced in Condition 1 above.
- (b) The structures (doors and seating) are to be amended to maintain a clearance of 2.5m for the public accessway along the southern side of the terrace.
- (c) The public through site link is to be clearly notated on the plans.

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

3. PUBLIC THROUGH-SITE LINK WITHIN THE DEVELOPMENT

- (a) The through site link along the southern portion of the upper most level (street level) of building is to be maintained, providing public access to both the viewing platform (south eastern corner) and the stairway for the coastal walk.
- (b) The through site link shall be accessible to the public at all times.
- (c) Signage identifying the purpose of the link shall be provided in a prominent position adjacent to each entry (south western boundary along upgraded façade so as to be visible from Notts Avenue, and also at the base of stairs). Signage shall be a minimum of 150mm in height (on a contrasting background) and read as follows:

Public access to viewing platform and coastal walk

- (d) The through site link shall be free of any structures and kept clean (management responsibility).
- (e) A clearance width of 2.5m shall be maintained as a public accessway for the through site link for the entire length (extending from western property boundary to eastern point of the terrace)
- (f) Closed Circuit Television (CCTV) in link shall be provided to the public areas of the through site link to assist with Crime Prevention.
- (g) Adequate lighting shall be provided to the public areas of the through site link, and each entry/exit to assist with Crime Prevention.

4. PLAN OF MANAGEMENT - LICENCED PREMISES

An amended Plan of Management (PoM) (or amended Plan of Management) is to be submitted and is to include details of all operational and management procedures of the premises, including;

- (a) Venue Management Plan (relating to patron capacity, approved hours of operation, any trial periods, noise conditions, handling of complaints, staffing roles and responsibilities);
- (b) Security Management Plan (relating to tasking and deployment of security personnel, patrons within the premises and their exit and dispersal from the area, and other such operational matters to ensure compliance with relevant regulatory requirements);
- (c) Alcohol Management Plan (relating to the behavior of patrons, liquor practices, including the responsible service of alcohol);
- (d) Details of deliveries to the premises;
- (e) Details to satisfy conditions relating to the smoking area and Community Liaison Committee; and
- (f) Any other such operational matters to ensure compliance with relevant regulatory requirements.
- (g) Signed and dated by the Licensee of the premises.

The PoM shall be submitted to and approved by Council's Manager, Development Assessment (or delegate) prior to the issue of any Occupation Certificate. Once the PoM has been approved by Council,

a copy is to be provided to the Licensing Police of the Local Area Command prior to the commencement of operations.

5. RELIANCE ON DEVELOPMENT CONSENTS DA-395/1998 AND DA-268/2002, AS AMENDED

This development consent operates in conjunction with development consents DA-395/1998 and DA-268/2002 (as amended). For clarity this development consent does not authorise the use of the outdoor terrace area without the restaurant operating, that being the subject of development consent DA-395/1998 and DA-268/2002 (as amended). Where there are any discrepancies between this consent and development consents DA-395/1998 (as amended) and/or DA-268/2002 (as amended), this development consent (DA-440/2020) and the conditions contained here within shall apply.

6. WORK OUTSIDE PROPERTY BOUNDARY

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

7. NO BARBECUE OR CHARCOAL TYPE COOKING

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

B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

GENERAL REQUIREMENTS

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

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

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

CONTRIBUTIONS, FEES & BONDS

9. 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

10. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of **\$26,400** 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.

11. 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 MATTERS

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 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. 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.

15. ENGINEERING DETAILS

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

16. 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 96 of the Act to be lodged with Council to amend this consent.

17. BCA & FIRE SAFETY UPGRADING WORKS

- a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Clauses 93 and 94 of the Environmental Planning and Assessment Regulation 2000, the subject tenancy must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):
 - (i) Provision for escape – Part D1;
 - (ii) Construction of exits – Part D2; and
 - (iii) Access for people with a disability - Part D3.
- 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.

STORMWATER & FLOODING

18. STORMWATER MANAGEMENT

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

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

- a) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.
- b) Specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgrade if required.
- c) All roof water and surface water is to be connected to an operable drainage system.
- d) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual.

Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- If any new stormwater connections to Notts Avenue are required, these will be separate Road/Footpath Opening Permits.
- Council's contact for infrastructure assessment: E-mail: assets@waverley.nsw.gov.au or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday).

19. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

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

WASTE

20. SITE WASTE AND RECYCLING MANAGEMENT PLAN

An updated *Site Waste and Recycling Management Plan (SWRMP) - Part 1* is to be re-submitted as a typed up version rather than hand-written. The SWRMP is to be submitted and approved by the **Executive Manager, Sustainable Waste**.

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.

21. WASTE STORAGE AREAS

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

- (a) Minimum bin requirements
 - **Commercial – Restaurant (food and drink)**
 - 5 x 660L MGB for general waste (collected 7 times per week)
 - 2 x 660L MGB for comingled recycling (collected 7 times per week)
 - Number of bins and frequency of collection must be monitored and adjusted to meet waste generation needs, particular in peak season (summer)
- (b) Extra space is required to store glass crushing machine, bulky cardboard, packaging related to deliveries and reusable products such as milk/bread carts, kegs, etc
- (c) All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B of Waverley Council Development Control Plan 2012. All waste and recycling storage rooms must be graded and drained to the sewerage system and approved by Sydney Water.
- (d) Space must be allocated for the storage of liquid wastes and oils etc. The liquid waste storage areas must be undercover, bunded and drained to a grease trap.
- (e) The proposal must have a system for the convenient transportation of waste and recyclables to the storage area and the point of collection (i.e. doorways must be 1.5 m wide to allow passage of 660L bins).

22. LANDSCAPE PLAN

A landscape plan is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, detailing the plantings approved along the façade of Notts Avenue. A

minimum of 90% of the proposed plantings are to be indigenous or local native plants listed in Annexure B2 – 1 of the DCP.

Adequate drainage and irrigation are required to be shown on plan and installed, to ensure the green cascading plantings are able to be maintained.

C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

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

PRIOR TO ANY WORKS

23. CONSTRUCTION SIGNS

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

DEMOLITION & EXCAVATION

24. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

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

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

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

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

25. CONTROL OF DUST ON CONSTRUCTION SITES

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

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g.: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

CONSTRUCTION MATTERS

26. 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.

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. 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

29. 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.

30. 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.

31. 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.

32. REFRIGERATION UNITS & MECHANICAL PLANT

Refrigeration motors/units and other mechanical plant (i.e. air conditioning) are not to be installed outside the building without the prior consent of Council in order to assess the cumulative impacts of noise to adjoining properties. All plant is to be installed within the confines of the building and be acoustically treated to ensure that it is within the acceptable limits.

33. MECHANICAL VENTILATION SYSTEMS

The premises are to be ventilated in accordance with the requirements of the Building Code of Australia & relevant Australia Standards.

VEHICLE ACCESS & PUBLIC DOMAIN WORKS

34. 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

35. VEHICULAR ACCESS - FINISHED LEVEL

The finished level at the property boundary on **both** sides of the vehicle crossing is to match the level of the existing footpath.

D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

CERTIFICATION AND LICENCES

36. ACOUSTIC REPORT

The recommendations made in acoustic report (ref no TL082-01F02) prepared by Renzo Tonin & Associates and dated 20 November 2020 shall be implemented in full.

A Certificate of Compliance prepared by a suitably qualified acoustic consultant is to be submitted to Council certifying that the recommendations made in the above report have been complied with and Council's noise criteria and the requirements of the Protection of the Environment Operations Act 1997 have been complied with prior to the issue of an Occupation Certificate.

37. CERTIFICATION OF ACOUSTIC PERFORMANCE

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 conditions of consent (including the operational conditions) have been satisfied.

38. 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.

39. 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.

40. CERTIFICATION OF STORMWATER DRAINAGE SYSTEM

New components: Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practicing Hydraulics Engineer, that the stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice.

Retained components: Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that the existing stormwater drainage system is unblocked, in good working order and to be repair/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan.

MANAGEMENT PLANS

41. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE

Prior to the issue of an Occupation Certificate, a Waste Management Plan must be submitted and approved by Council's Executive Manager, Environmental Sustainability (or delegate) and include including the following where relevant.

- (a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)
- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) Confer with Sydney Water and any other relevant contractor to ensure a valid Trade Waste Agreement is in place for all trade wastes. Copies of these agreements shall be forwarded to Council.
- (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, and kegs.
- (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, requirements for glass crushing, cleaning of storage areas must be outlined in contracts with the building manager, cleaners, and tenants.
- (h) Waste and recycling bins and bales must collected directly from the Garbage Room and returned immediately after emptying.
- (i) 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.
- (j) At no times shall bins or other products (e.g. kegs and pallets) be stored on the public domain (e.g. footpaths).
- (k) Details of ongoing waste management strategy are to be documented within the SWRMP and reviewed every 5 years to employ updated waste reduction strategies and technologies.

OTHER MATTERS

42. FOOD PREMISES

The premises are to be registered with Waverley Council and inspected by Council's Environmental Health Officer prior to the issue of the Occupation Certificate.

E. OPERATIONAL MATTERS

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

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

- (a) The operation and management of the premises shall be in accordance with the approved Plan of Management (PoM) at all times.
- (b) The approved PoM shall be sent to the Licensing Police of the Local Area Command prior to the issue of an occupation certificate.
- (c) If, in circumstances where better management or improved amenity outcomes can be achieved by amendments to this PoM, any such amendments shall be made in consultation with the Local Area Command and shall require the written approval of Council. The updated PoM is to be provided to Council and the Police.
- (d) An independent review of the Plan of Management may be undertaken by the Council or the Licensing Police of the Local Area Command upon providing the applicant with written notice.
- (e) 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, to ensure harms that arise are mitigated. No changes shall be made to the plan without the prior written approval of the Council.

44. COMMUNITY LIASION

A Management representative of the premises is to attend any Precinct meetings of the relevant Local Precinct Committee when invited in writing by the convenor of the relevant committee. Any such notice is to be given at least 7 days prior to the committee meeting.

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

45. HOURS OF OPERATION WITH TWO YEAR TRIAL FOR EXTENDED HOURS

(a) Hours of Operation

Internal Area (restaurant area): The hours of operation for the indoor area of the premises is restricted to (as per development consent LD-395/1998):

Monday to Saturday: 7:30am to 12.00am midnight
Sunday: 7:30am to 10pm

External (Outdoor terrace) Area: The hours of operation for the external (outdoor terrace) area of the premises is restricted to:

Monday to Sunday: 7.30am to 8.00pm;

- (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) Trial Period

Irrespective of sub clause (a), the hours of operation for the outdoor terrace area of the premises may operate for a two year trial period as follows:

Monday to Sunday: 8.00pm to 10.00pm

The trial period starts from the date of the issue of any Occupation Certificate in respect of the outdoor terrace area and ceases on the anniversary of that date. A further development application or Section 4.55 application may be lodged before the expiration date for Council's consideration for the continuation of the use.

Council's consideration of this further application will take into account the following:

- 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;
- iii. Compliance with conditions of consent; and
- iv. Any other matters considered relevant to the environmental evaluation of the premises.

46. MAXIMUM PATRON CAPACITY

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

Total of 250 patrons:

(including Outdoor southern terrace: maximum of 60 patrons at any one time)

- (b) A comfortable dining position must be available for each patron upon the premises. This will include a seat and access to table / bench space generally in accordance with the approved plans.
- (c) Any person/s attending the premises for the purpose of 'takeaway' products / services will not be considered a 'patron' for the purposes of subclause (a), provided no food and or drink is consumed by those persons on the premises.
- (d) Management are responsible for ensuring the number of patrons in the premises does not exceed the approved capacity specified in sub clause (a).

47. SIGNAGE TO BE DISPLAYED

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

*Approved hours of operation – Internal area
Monday to Saturday: 7:30am to 12.00am midnight*

Sunday: 7:30am to 10pm

Approved hours of operation – External (outdoor terrace) area

Monday to Sunday: 8.00am to 10.00pm

Approved patron capacity

Total of 250 patrons

(Outdoor southern terrace: maximum of 60 patrons at any one time).

- (b) Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected near the main principle entry to the premises, in such manner that it would be reasonable to expect that a person leaving the premises will be alerted to its contents. The signage shall state:

Upon leaving please respect local residents by minimising noise

- (c) Signage specified in sub clauses (a) and (b) is to be erected prior to the sale / supply or consumption of liquor on the outdoor terrace area.

48. LIQUOR SALE / SUPPLY / CONSUMPTION

- (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 primary use of the premises must be that of a restaurant with the provision of genuine meals, prepared upon the premises, to patrons seated at comfortable dining positions.
- (c) 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.
- (f) No patron shall be permitted to take glasses or open containers of liquor off the premises.
- (g) The outdoor terrace licensed area shall be bordered by glass partition or other physical boundary (eg bollards) at all times that liquor is sold / supplied /consumed on the premises.

49. DELIVERY OF GOODS

Loading and unloading of vehicles and delivery of goods to the premises shall at all times be carried out within the site during the hours of 7.00am to 6.00pm.

The Plan of Management is to include the requirements of this condition.

50. COPIES OF CONSENTS AND MANAGEMENT PLANS

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

AMENITY & SAFETY

51. 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 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.

52. LIGHTING

- (a) Any lighting on the premises 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 premises to reduce vision impairment, i.e. impairment caused by walking from dark to light places and light to dark places.

53. 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) It must operate continuously from opening time until one hour after closing;
- (b) It must record in digital format at a minimum of six frames per second;
- (c) Any recorded image must specify the time and date of the image;
- (d) The system's cameras must cover:

- i. all entry and exit points of the premises,
- ii. the footpath immediately adjacent to the premises, and
- iii. all publicly accessible areas (other than toilets) on the premises.

(e) CCTV recordings must be retained for at least 30 days.

NOISE CONTROL

54. NO ENTERTAINMENT EXTERNAL TO THE PREMISES

No sound reproduction device nor any form of entertainment is to be operated external to the premises, including in the outdoor terrace area.

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

55. NO SPRUIKERS

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

56. NOISE EMISSIONS

The use of the premises shall not give rise to:

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

57. LIQUOR LICENSE PREMISES - NOISE EMISSIONS

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

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

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

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

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

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

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

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

(Reason: To ensure the amenity of surrounding land uses)

58. NOISE FROM SPEAKERS

All speakers shall:

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

59. 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.

60. 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.

61. NOISE COMPLAINTS

If, during on-going use of the premises, substantiated complaints of breaches of noise emission conditions and/or the Protection of the Environment Operations Act, 1997 occur, an acoustic report assessing the impact of the operation will be required to be carried out by a suitably qualified acoustic consultant. The report is to be submitted to the satisfaction of Council's Health Compliance Unit within 60 days of written request. 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 accordance with relevant Australian Standards and 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 use 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 operation of the premises complies 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.

62. NOISE LIMITER

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 of their nominee.

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. AMUSEMENT MACHINES & THE LIKE

The installation of jukeboxes, pinball machines, pool tables or similar amusement machines will not be permitted without the written consent of Council.

WASTE

65. 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.

66. LITTER CHECKS (FOOD & DRINK PREMISES)

Litter patrols are to be undertaken in the general vicinity of the premises (20 metres from the front door of the premises). Such patrols must take place intermittently during the hours of operation with the final check conducted at the end of trade. A register must be maintained and kept on the premises at all times detailing date, time of check, staff member responsible and signature.

67. GLASS SORTING, CRUSHING OR COLLECTION

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

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

68. 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.

69. WASTE FOR PREMISES

Bin Storage Area

- (e) The waste and recycling storage area needs to be undercover.
- (f) The waste and recycling storage areas must be banded to the sewer and be equipped with a supply of hot and cold water mixed through a centralised mixing valve with a hose cock.
- (g) The waste and recycling storage areas must be able to accommodate all bins, with all bins simultaneously accessible.

Amenity

All garbage and recycling must be inside Council approved bins or skips, with lids closed to reduce littering, stormwater pollution, odour and vermin.

Management

- (a) All waste and recycling must be collected from the loading bay inside the development.
- (b) The applicant must enter into a commercial waste collection contract.
- (c) Waste collection for the retail precinct of the development shall occur daily.
- (d) Collection frequency may need to be increased in peak summer periods.

70. WASTE STORAGE FOR PREMISES

The following requirements apply to waste management:

- (a) A waste management plan must be submitted to Council to include all waste removal arrangements such as the Contractor, recyclables and all other waste (collection and disposal), prior to the occupation of the premises.
- (b) Provide a separate waste storage area suitably covered, bunded and drained to the sewer. The waste storage receptacles must be maintained in good order and repair at all times.
- (c) Provide a suitable storage area affectively bunded for chemicals, pesticides and cleaning products.
- (d) Provide a separate storage area for used and unused cooking oils suitably covered, bunded and drained to the sewer.
- (e) Provide dry basket arresters to the floor wastes in the food preparation and waste storage areas.
- (f) 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.

71. GLASS CRUSHER

If the premises has a glass crusher then 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.

72. DISPLAY OF WASTE MANAGEMENT PLAN FOR PREMISES

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.

73. RECYCLING OF WASTE PAPER FOR PREMISES

The operator of the business shall ensure that waste paper is recycled. In this regard, the operator shall make arrangements with the owner to transfer paper for recycling to the recycling room for removal by a recycling agent.

SIGNAGE

74. NO FLASHING SIGNS TO PREMISES

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

75. LOCATION OF SIGNS

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

76. ERECTION OF SIGNS TO PREMISES

The erection of the sign is to satisfy the following requirements:

- (a) Be subject to development consent of Council;
- (b) Be erected/supported in a secure manner for safety purposes;

- (c) Does not cause measures that would cause irreversible damage to the building; and,
- (d) Shall be a minimum of 2.6m above the footpath level and be offset a minimum of 600mm behind the kerb.

77. NO SIGNS OR GOODS ON PUBLIC AREA

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

F. ADVISORY MATTERS

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

AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

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

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

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. 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.

AD4. 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/

AD5. SIGNS/GOODS IN THE PUBLIC WAY

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

AD6. WORK OUTSIDE PROPERTY BOUNDARY

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

AD7. ROLLER SHUTTERS

The installation of roller shutters or grilles, in front of, or in place of the external doors at the Oxford Street and Spring Street entry points of the premises is prohibited.

Should increased security be desired, then consideration should be given to applying shatter-resistant film or using laminated glass.

AD8. SUITABLY QUALIFIED ACOUSTIC CONSULTANT

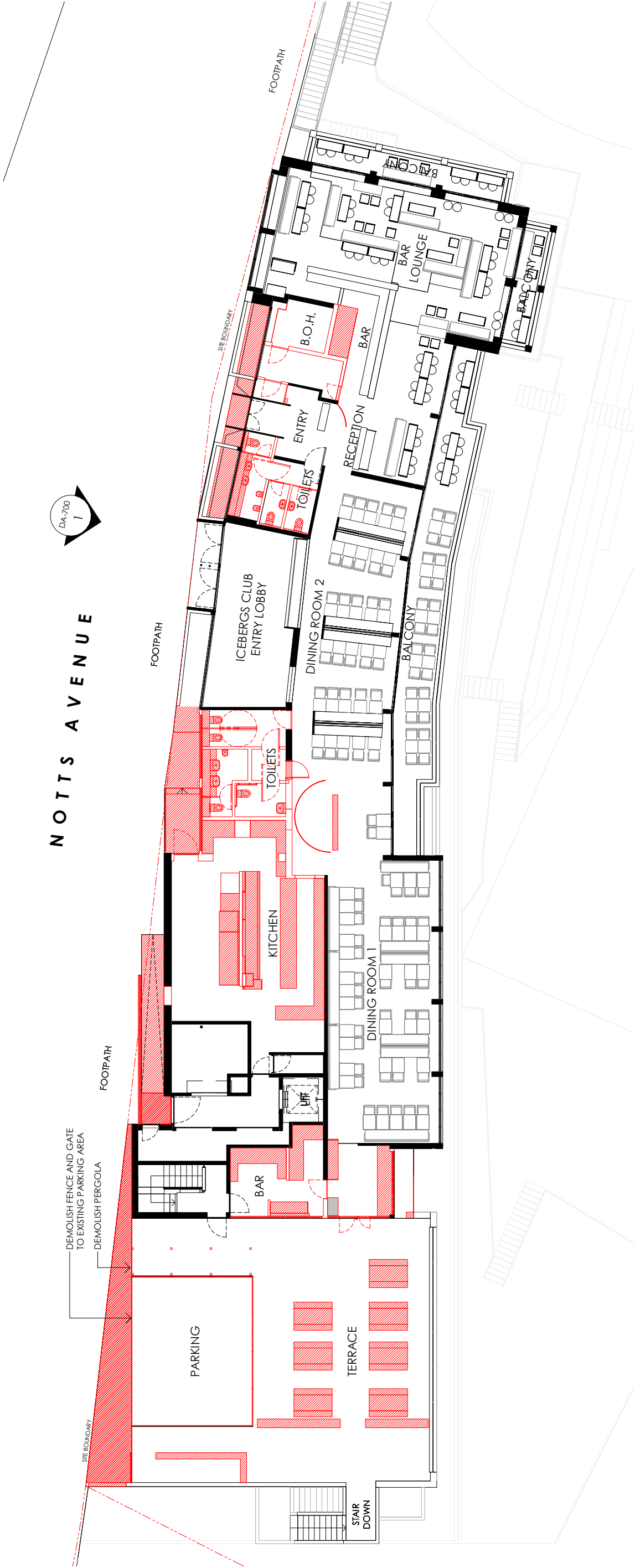
In these conditions, reference to a suitably qualified acoustic consultant means an individual who possesses the qualifications to render them eligible for membership of both the Australian Acoustics Society and Institution of Engineers Australia at the grade of member or an individual who is employed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

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Waverley Council

Application No: DA-440/2020

Date Received: 18/12/2020



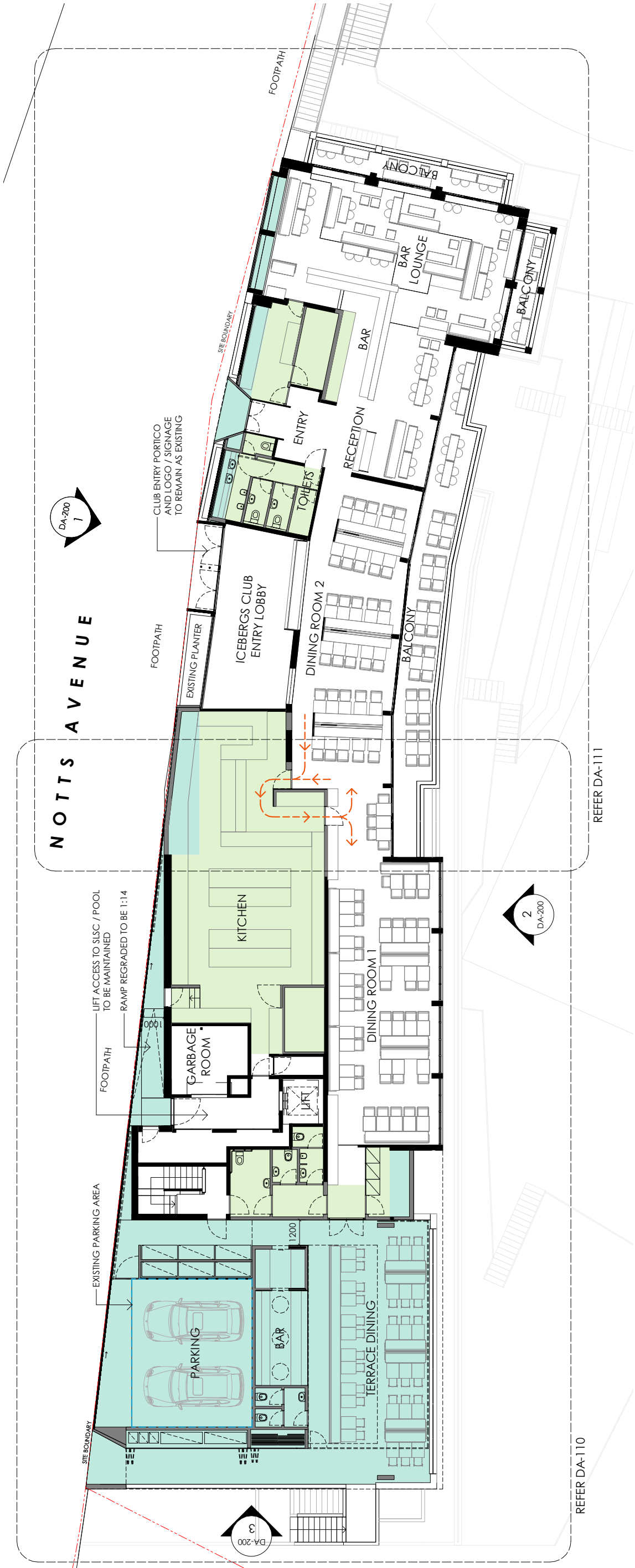
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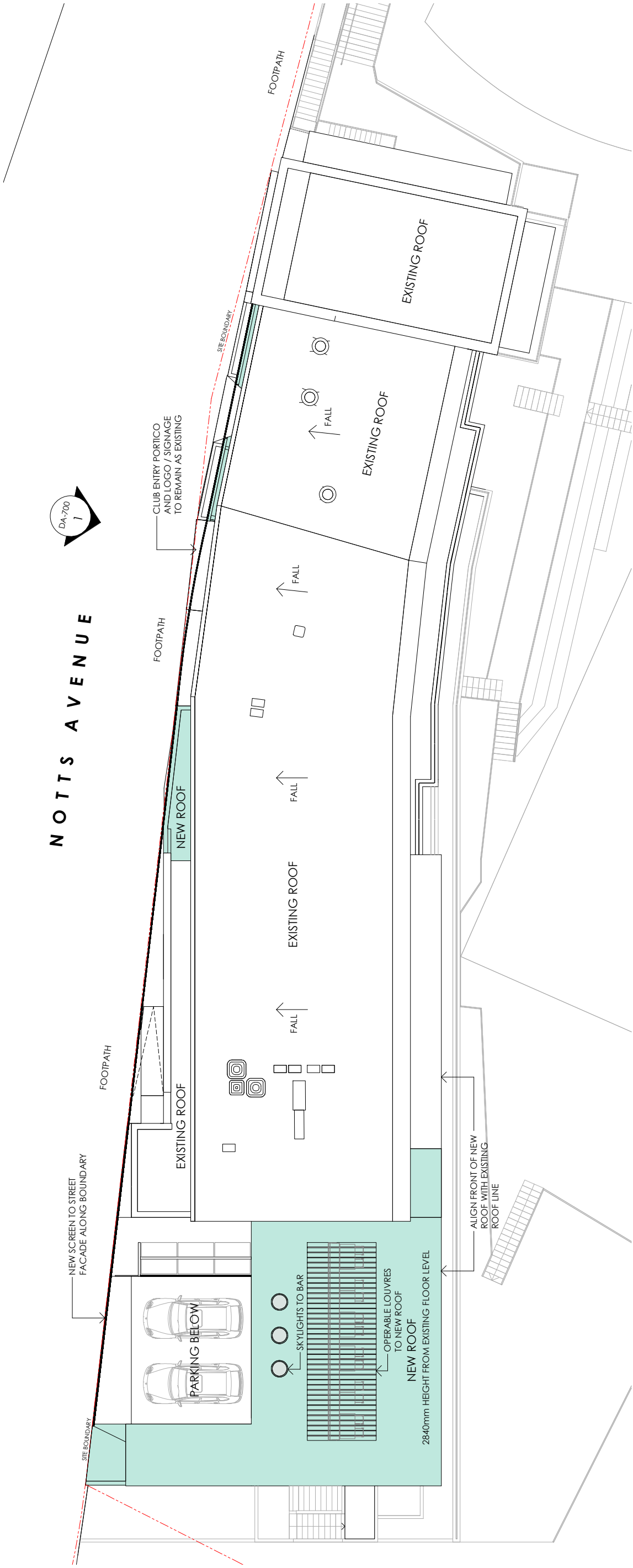
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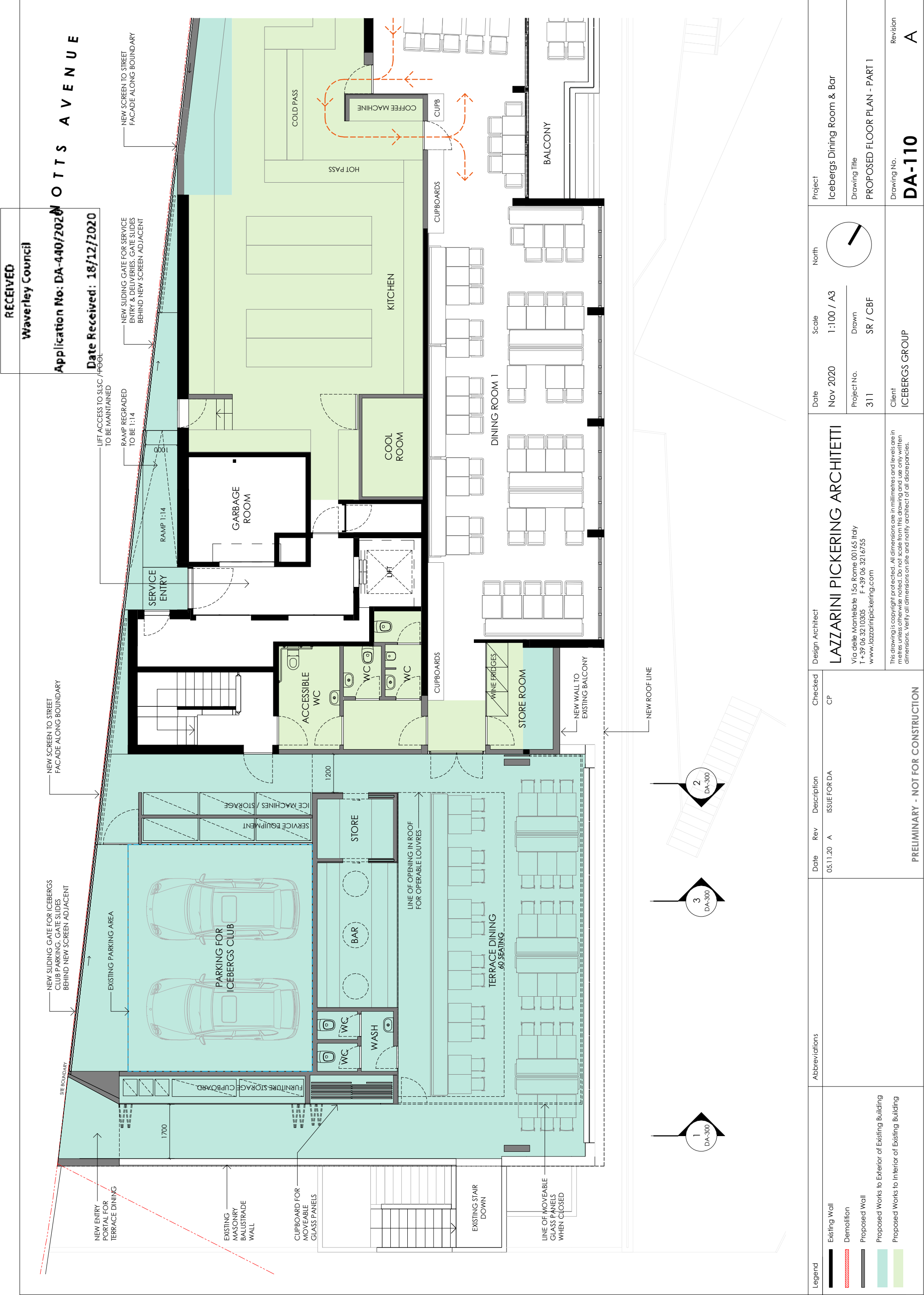
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Date Received: 18/12/2020



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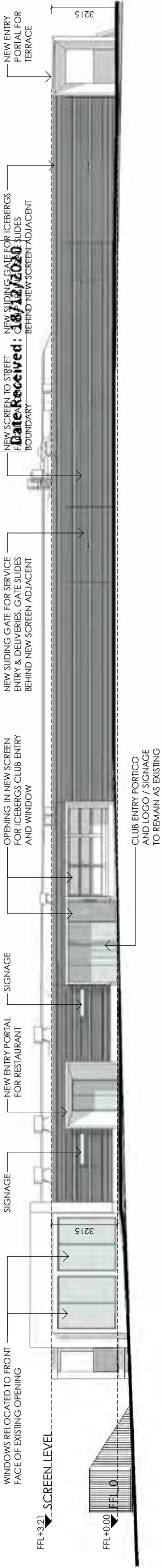


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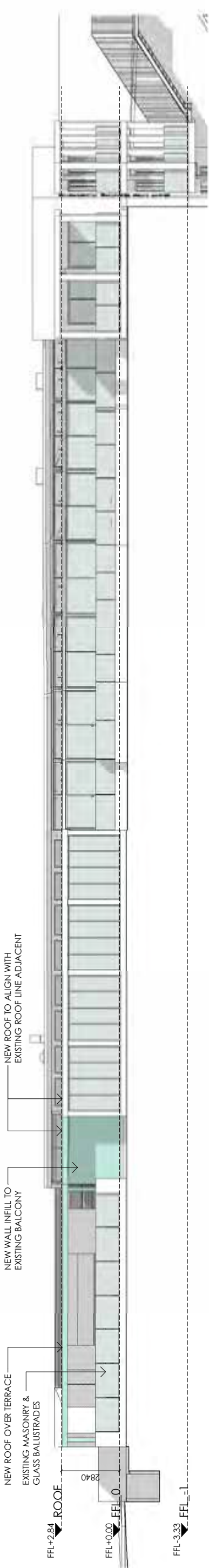
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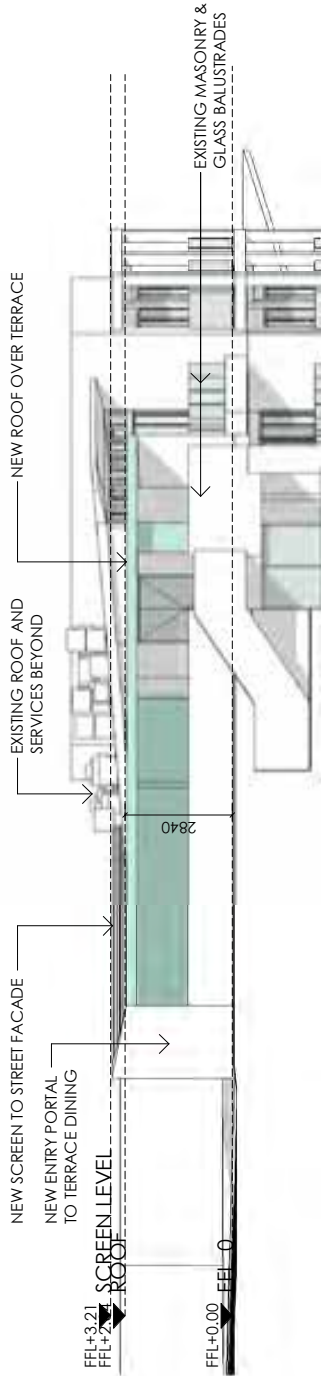
Application No: DA-440/2020



WEST ELEVATION



EAST ELEVATION



SOUTH ELEVATION

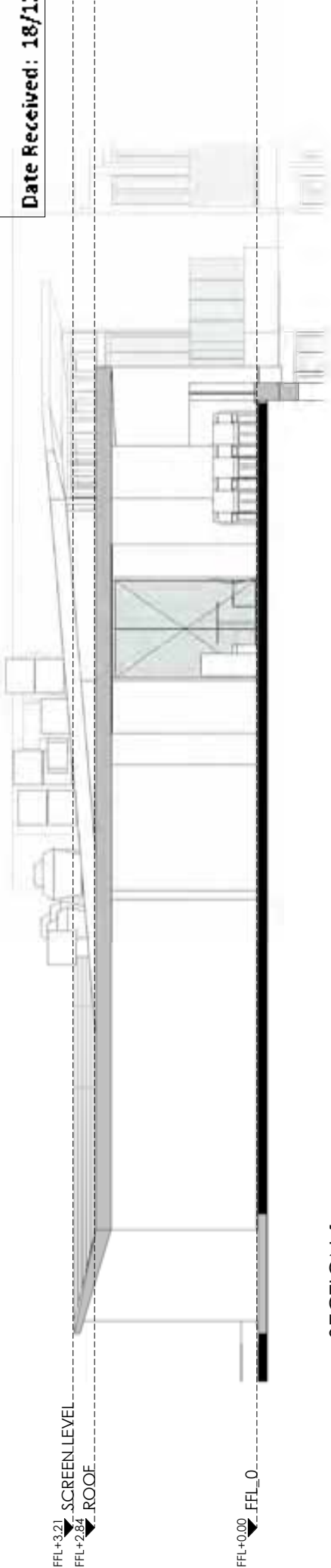
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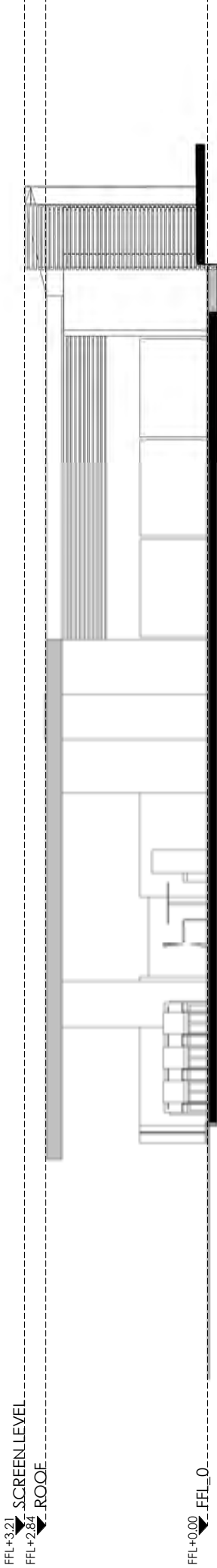
Waverley Council

Application No: DA-440/2020

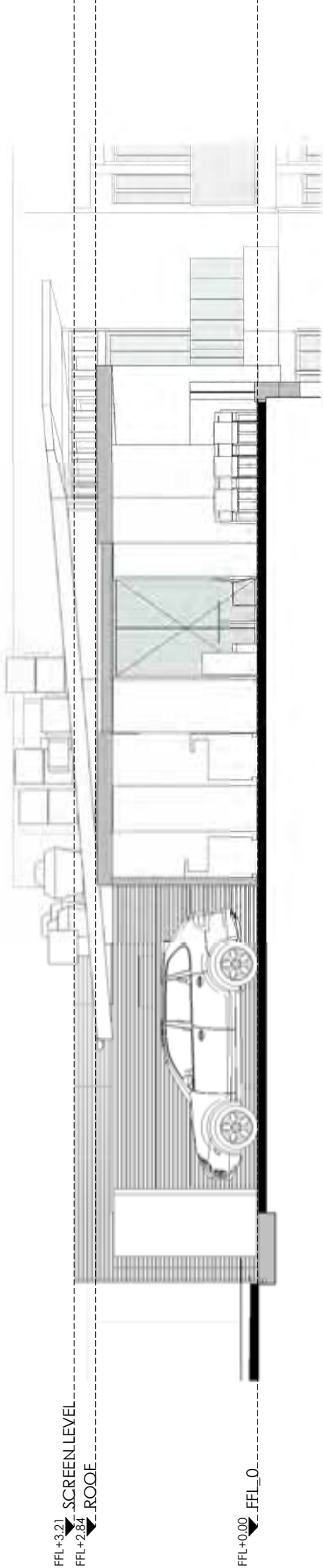
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SECTION 1



SECTION 2



SECTION 3

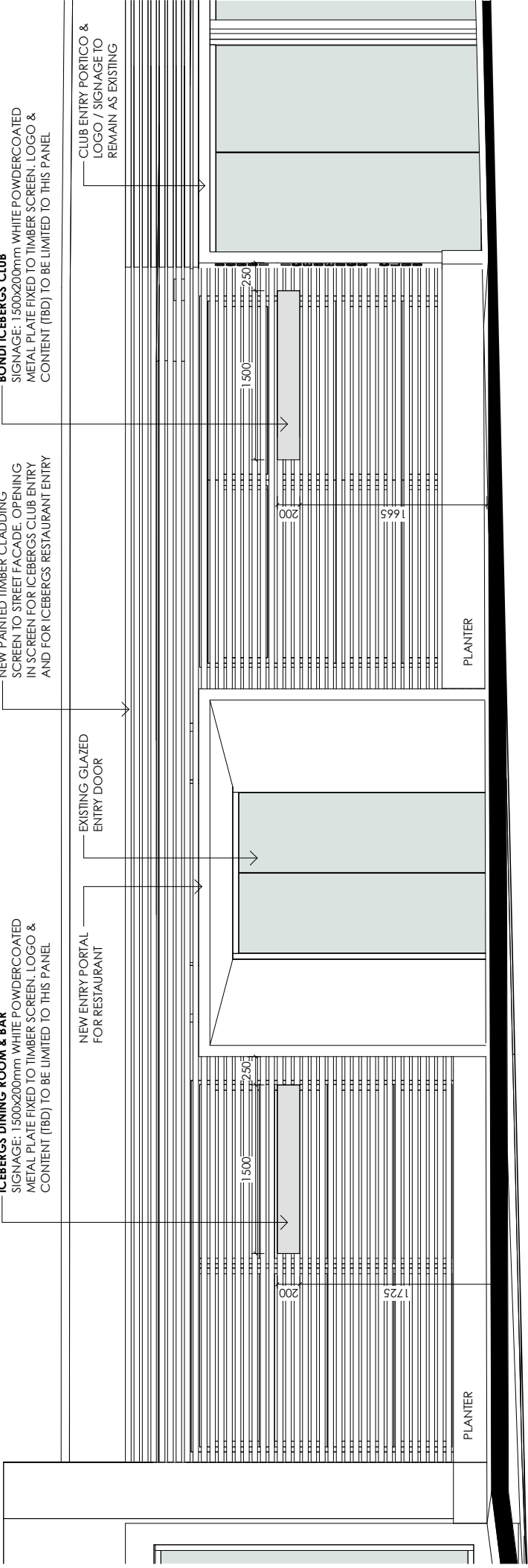
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			<div>Project No.</div> <div>311</div> <div>Drawn</div> <div>SR / CBF</div>		<div>Drawing Title</div> <div>SECTIONS</div>
			<div>Client</div> <div>ICEBERGS GROUP</div>		<div>Drawing No.</div> <div>DA-300</div> <div>Revision</div> <div>A</div>

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PRELIMINARY - NOT FOR CONSTRUCTION



SIGNAGE - RENDERED ELEVATION



SIGNAGE - DETAIL ELEVATION


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Waverley Council


Application No: DA-440/2020

Date Received: 18/12/2020




WHITE PAINTED TIMBER BATTENS

- NEW SCREEN CLADDING ALONG MAIN STREET FACADE
- CLADDING TO NEW SLIDING GATE FOR ICEBERGS CLUB PARKING




OPERABLE LOUVRES TO NEW ROOF




WHITE POWDERCOAT METAL FINISH

- OPERABLE LOUVRE SYSTEM & ASSOCIATED ELEMENTS
- CLADDING FOR NEW MAIN ENTRY PORTAL
- ANY VISIBLE METAL WORK
- SIGNAGE




NATURAL ANODISED ALUMINIUM FINISH

- FRAMING TO MOVEABLE GLASS PANELS
- LIGHTING CHANDELIERS TO MATCH EXISTING
- ANY METAL TRIM REQUIRED



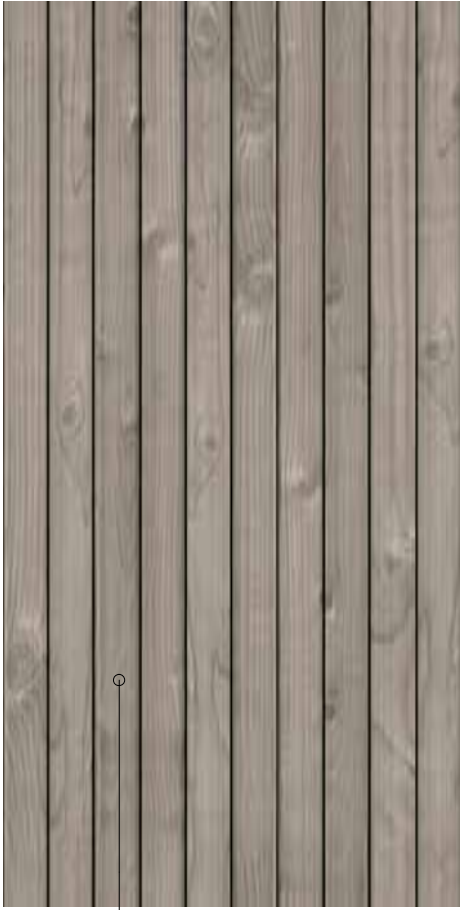
WHITE RENDERED MASONRY FINISH

- ANY NEW WALLS OR COLUMNS
- FINISH AND COLOUR TO MATCH EXISTING MASONRY ELEMENTS




TRANSPARENT GLASS

- MOVEABLE GLASS PANELS
- BALUSTRADE IF NECESSARY TO REPLACE EXISTING



TIMBER DECK FLOORING

- ALL NEW FLOORING TO TERRACE DINING AREA AND NEW STREET ENTRY CORRIDOR

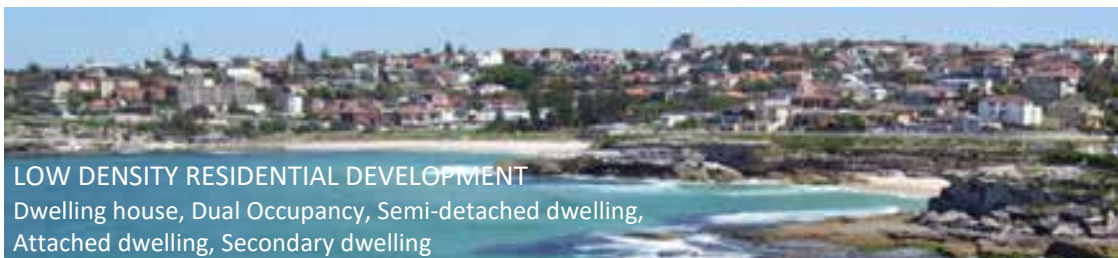


AQUAMARINE OPAQUE GLASS

- TO MATCH EXISTING OPAQUE GLASS IN RESTAURANT
- CLADDING TO EXTERIOR OF SERVICE BLOCK ON TERRACE DINING (BAR, STORE, AMENITIES)
- CLADDING TO CUPBOARDS ALONG NEW STREET ENTRY CORRIDOR

ALL MATERIALS AND FINISHES ARE REQUIRED TO BE MARINE & EXTERIOR GRADE

Legend	Abbreviations	Date	Rev	Description	Checked	Design Architect	Date	Scale	North	Project
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Report to the Waverley Local Planning Panel

Application number	DA-23/2021
Site address	68 Sir Thomas Mitchell Road, BONDI
Proposal	Alterations and additions to dwelling including internal reconfiguration, demolition of secondary dwelling and construction of a new dwelling to form a dual occupancy with strata subdivision
Date of lodgement	22/01/2021
Owner	Mr Duvillard
Applicant	Damien O'Toole Town Planning
Submissions	Nil
Cost of works	\$980 000
Issues	FSR
Recommendation	That the application be APPROVED

Site Map



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 6 May 2021.

The site is identified as Lot B in DP 173740, known as 68 Sir Thomas Mitchell Road, Bondi. The site is irregular in shape with varied boundaries including a frontage to Sir Thomas Mitchell Road of 10.06m. The site has an area of 473.9m² and falls from the rear (south) towards the front (north) by approximately 7.7m.

The site is occupied by two dwellings, comprised of a two-storey dwelling located at the rear of the site and a single storey dwelling over a single garage at the front of the site fronting Sir Thomas Mitchell Road. The dwelling at the rear is located at a much higher part of the site and does not have a streetscape presentation.

The subject site is adjoined by Nos. 66 and 70 Sir Thomas Mitchell Road on either side. Both properties have a similar arrangement to the subject site, having two dwellings on the site with one at the rear and a smaller dwelling at the front. The locality is characterised by a variety of residential developments including dwellings and residential flat buildings.



Figure 1: Site viewed from Sir Thomas Mitchell Road showing existing dwelling at the front



Figure 2: Rear dwelling viewed internally within the site



Figure 1: Streetscape showing the subject site (background) and 66 Sir Thomas Mitchell Road (foreground)



Figure 2: Streetscape showing the subject site (centre), 66 Sir Thomas Mitchell Road (background) and dual occupancy at No. 70 Sir Thomas Mitchell Road (foreground).

1.2 Relevant History

The following development is relevant to the subject site:

- **DA-59/2009:** Alterations & additions to dwelling including a first floor and studio over existing garage was approved on 7 May 2009.
- **DA-59/2009/A:** Modification to delete external stairs and increase size of deck, reduce window size, addition of external waste pipe and kitchen to remain in current location was approved 24 August 2010.
- **DA-59/2009/B:** Modification to vary rear north eastern elevation at ground floor level of existing dwelling by altering position of doors and windows was approved on 6 May 2011.

PD-6/2020: Pre-DA advice for alterations to the existing dwelling, construction of a new secondary dwelling to form a detached dual occupancy and strata subdivision was provided on 5 March 2020. The advice provided included compliance with the LEP development standards, DCP controls and the following:

No certainty in regards to additional floor space above the development standards will be provided at the Pre-DA stage. This is subject to further information, notification and specialist review.

Any additional floor space over the development standards will be heavily scrutinised. The additional impacts upon both the adjoining properties and the streetscape will need to be

thoroughly addressed in any development application seeking to exceed the development standards. The development application should be accompanied by detailed shadow diagrams in both plan and elevation form, showing the hour by hour impact of the additional floor space compared to the existing structures on the site and a compliant building form.

The variation to the FSR would need to be considered against the provisions of Clause 4.6 of Waverley LEP 2012. Along with the provisions of Clause 4.6, and the objectives of Clause 4.4 – Floor space ratio, consideration will be given to whether the proposal reflects an overdevelopment of the site. Any impact as a result of a non-compliance with the key development standards may not be supported.

It is advised that any new dwelling on the site must comply with the key built form controls of the DCP, such as setbacks, landscaped area and wall height, as a minimum. Setbacks provide articulation to the building form and reduce the bulk of structures when viewed from the street and adjoining properties. Any variation to the controls must be accompanied by a robust and complete Objection to a Development Standard under Clause 4.6.

During the assessment of the subject application it was deferred to address a stormwater easement issue. The proposed front dwelling was slightly amended to be setback from a stormwater easement at all levels. This involved only minor changes at the ground and first floor level of the front dwelling and a minor reduction in gross floor area. Amended plans and an updated Clause 4.6 written request to vary the FSR development standard were provided to Council on 4 June 2020 and form the subject of the assessment in this report.

1.3 Proposal

The proposal seeks consent for alterations and additions to the main dwelling, and construction of a new dwelling (dual occupancy) with strata subdivision. The proposed works are summarised as follows:

Rear dwelling:

- Construction of a new entry and stairs within the existing undercroft at the lower ground floor level.
- Minor extension of the dwelling toward the front within the existing terrace at ground level to accommodate the new entry stairs from the level below.
- Extension of the dwelling toward the rear to infill an existing terrace at the first floor level to create an additional bedroom.
- Internal alterations.
- New windows, doors and external screening.
- Rebuilding of the roof at the first floor level at the front and provision of a 'green roof' with low level planting.
- New swimming pool within the front yard of the dwelling which sits between the main dwelling and the new dual occupancy dwelling at the front.

Front dwelling:

- Demolition of the existing secondary dwelling at the front of the site.
- Reconstruction of a new two-storey dwelling over a single garage as a detached dual occupancy. This building will contain living areas at the ground level leading to a fenced rear yard and two bedrooms and a bathroom at the first floor level.

2. ASSESSMENT

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

2.1 Planning Instruments and Development Control Plans

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

2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

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

2.1.2 SEPP 55 Remediation of Land

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

2.1.3 SEPP (Affordable Rental Housing) 2009

The proposal is for a dual occupancy development, not a secondary dwelling as strata subdivision is proposed. In this regard, the SEPP does not apply.

2.1.4 SEPP (Vegetation in Non-Rural Areas) 2017

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

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

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

The site is not identified as biodiversity nor is it within a habitat corridor. Three trees are proposed to be removed from the centre of the site and accordingly an Arborist Report was provided with the application. Council's Tree Preservation Officer raises no issues with the removal of the trees subject to the recommendations contained within the Arborist Report.

2.1.5 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 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 LEP.
Part 2 Permitted or prohibited development		
Land Use Table R2 Low Density Residential Zone	Yes	The proposal is defined as a dwelling house, which is permitted with consent in the zone.
Part 4 Principal development standards		
4.3 Height of buildings • Control - 8.5m	Yes	The main dwelling at the rear of the site has a maximum height of 8m. The new front dwelling has a maximum height of 8.355m.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio • Control - 0.58:1 (Site area: 473.9m ²)	No	The proposal has an FSR of 0.69:1 exceeding the development standard by 54.1m ² or 20%.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to Clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	The site is not heritage listed nor located within a conservation area. The site is within proximity of 64 Sir Thomas Mitchell Road (Item I131) which is a listed heritage item. The proposed works will not harm the significance of this item which is setback from Sir Thomas Mitchell Road a considerable distance.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The land is identified as Class 5 on the Acid Sulfate Soils Map. The proposal is unlikely to encounter acid sulfate soils given the limited excavation proposed.

Provision	Compliance	Comment
6.2 Earthworks	Yes	<p>The proposal includes limited excavation to the garage level of the front dwelling only. Conditions have been recommended to ensure appropriate building practices and protection of adjoining properties.</p> <p>The excavation is not considered to be unreasonable.</p>

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

Clause 4.6 Exceptions to Development Standards

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

The site is subject to a maximum FSR control of 0.58:1. The proposed development has an FSR of 0.69:1, exceeding the standard by 54.1m² equating to a 20% variation.

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) *The proposed form takes its cues from immediately surrounding development, with nos. 66 and 70 Sir Thomas Mitchell Road (along with the subject site) having comparable secondary dwellings fronting Sir Thomas Mitchell Road with main dwellings provided to the rear of the sites. Unusually the subject site and adjoining sites are doglegged in shape, which allows for the provision of two separated dwellings within each section of the site.*
 - (ii) *It is noted that all setbacks and building height requirements are complied with. A larger side setback than required is provided to the southern neighbour to improve solar access.*
 - (iii) *In terms of its appearance from the public domain the new front form is entirely consistent with that of adjoining development in terms of height, bulk and streetscape perspective. Certainly, the new form will not appear out of place in this context.*

- (iv) *No unreasonable material impact occurs as a result of the proposed works. No neighbour is unduly impacted in terms of loss of solar access, privacy or any notable view.*
 - (v) *The proposed development which seeks to also vary the FSR standard, achieves a better response to the objectives of the subject R2 – Low Density Residential Zone in that it provides a higher level of amenity for occupants by allowing the provision of well proportioned and useable internal areas within a development that improves the visual amenity of the area and improves the amenity of housing stock.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The proposal and its FSR breach remains consistent with the objectives of the subject R2 Low Density Residential Zone as well as Clause 4.4 and 4.6 of the Waverley LEP 2012, despite the numerical non-compliance.*
 - (ii) *The proposal would not compromise the character or nature of the area sought by the local environmental planning framework.*
 - (iii) *The non-compliant FSR does not result in any unreasonable visual or amenity impacts. The works will result in an entirely compatible and reasonable form.*
 - (iv) *The non-compliant FSR does not result in any unreasonable overshadowing impacts.*
 - (v) *The FSR non-compliance assists with providing improved amenity for residents.*

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

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

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

Is the development in the public interest?

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

The objectives of the FSR development standard are:

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

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

Only the front dwelling will present to the streetscape with the rear dwelling not clearly visible from the street due to the irregular 'dogleg' shape of the site and the difference in level between the front and rear of the site. The proposed upper level of the front dwelling will be set back from the level below therefore presenting with less bulk to the street.

The subject building is located within a small group of three similar buildings on the adjoining sites to the east and west at Nos. 66 and 70 Sir Thomas Mitchell Road which also have developments where the main dwelling is located at the rear of the site, not clearly visible from the street, and a smaller separate building is located at the street frontage. No. 70 Sir Thomas Mitchell Road is also a dual occupancy (that has been strata subdivided) and provides a building of similar, albeit slightly larger, bulk and scale to that which is proposed.

Further to the east of the site the streetscape is comprised of one and two-storey dwellings and residential flat buildings setback further from the street alignment than the group of three dwellings with separate dwellings at the front (Nos. 66-70 Sir Thomas Mitchell Road). The remainder of the southern side of Sir Thomas Mitchell Road has buildings presenting to the street with a much greater bulk and scale than the proposal, however these buildings have greater front setbacks.

The proposal will not be inconsistent with the bulk and scale of buildings in the remainder of the street. The group of three sites are not heritage listed nor part of a conservation area and they do not constitute the dominating character of the street. They are simply three smaller dwellings fronting the street within a streetscape comprising of much larger scale buildings. The proposal is considered contextually appropriate and will not harm the character of the street.

To increase the size of the existing front dwelling from a one-bedroom studio to a two-bedroom dwelling whilst continuing to predominantly comply with the height development standard and the controls within the DCP represents a rational use of the site. The proposal provides a greater density

and more useable dwelling on an existing allotment without unreasonable impacts upon surrounding properties.

In terms of amenity impacts, shadow diagrams were provided with the application which indicate that overshadowing will not be unreasonable, there will be no loss of significant views and the privacy of adjoining properties has been well considered (refer to detailed discussion in subsequent sections of this report). Accordingly, the proposal will not result in detrimental amenity impacts upon surrounding properties.

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

The objectives of the R2 zone are:

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

The proposal continues to provide for the housing needs of the community within a low density residential environment through the provision of a dual occupancy. The site is conveniently located within proximity of public transport and close to the Campbell Parade and Hall Street shopping areas. The provision of only one parking space for the use of the rear dwelling, contributes to the maximisation of public transport patronage and encourages walking and cycling. The proposal is consistent with the relevant objectives of the R2 zone.

Conclusion

For the reasons provided above, the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be considered under Clause 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 FSR development standard and the R2 zone.

2.1.6 Waverley Development Control Plan 2012 (Amendment 9)

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

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

Development Control	Compliance	Comment
1. Waste	Yes	<p>A Site Waste & Recycling Management Plan has been submitted with the application to address waste disposal during construction. A condition of consent is recommended 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>

Development Control	Compliance	Comment
2. Ecologically sustainable Development	Yes	<p>The proposal incorporates passive design, with appropriate openings for cross ventilation and contains a rainwater tank. A BASIX Certificate has been provided.</p> <p>Given the low scale of this development, these mechanisms are considered to address the objectives of Part B2 of the DCP.</p>
3. Landscaping and Biodiversity	Yes	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.
5. Vegetation Preservation	Yes	Three trees are proposed to be removed from the centre of the site and accordingly an Arborist Report was provided with the application. Council's Tree Preservation Officer raises no issues with the removal of the trees subject to the recommendations contained within the Arborist Report.
6. Stormwater	Yes	<p>The proposal seeks consent to extinguish an existing stormwater easement on the site as the easement does not align with the existing stormwater line. The proposal seeks to relocate the stormwater easement to align with the location of existing stormwater connections. No physical works are proposed as part of this easement realignment.</p> <p>The plans have been amended to satisfy the requirements of Council's Stormwater Engineers including that the front dwelling be setback to be clear of the stormwater easement.</p> <p>Council's Stormwater Engineer raises no objection subject to recommended conditions.</p>
8. Transport	Yes	<p>The proposal retains an existing garage below the front dwelling however in the strata subdivision of the site, this space is to be allocated to the main dwelling at the rear.</p> <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>

Development Control	Compliance	Comment
		The car parking 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.
9. Heritage	Yes	Refer to Table 1.
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP.
11. Design Excellence	Yes	<p>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 alterations to the dwelling at the rear are minor and appropriate as this building is not readily visible from the public domain given the setback from the street frontage and topography of the site.</p> <p>The new dwelling at the front of the site will replace an existing smaller dwelling in the same location. The proposal will present to the street as a two-storey dwelling over a garage. The proposed upper floor addition will be setback from the level below therefore presenting with less bulk to the street.</p> <p>The subject building is located within a small group of three similar buildings on both adjoining sites. Nos. 66 and 70 Sir Thomas Mitchell Road also have developments where the main dwelling is located at the rear of the site and a smaller separate building is located at the street frontage.</p> <p>Further to the east of the site the streetscape is comprised of one and two storey dwellings and residential flat buildings setback further from the street alignment than the group of three with separate dwellings at the front (Nos. 66-70 Sir Thomas Mitchell Road). The remainder of the southern side of Sir Thomas Mitchell Road comprises buildings of greater bulk and scale than the proposal, however with a greater front setback.</p> <p>The height, bulk and scale of the proposed new dwelling at the front is similar to the adjoining dual occupancy at No. 70 Sir Thomas Mitchell</p>

<ul style="list-style-type: none"> Predominant rear building line at each floor level 		<p>setback due to the splayed front alignment with the street. The proposal is consistent with this alignment at all levels and provides an appropriate setback to the street.</p> <p>The rear setback is consistent with the adjoining properties and is considered appropriate.</p> <p>Rear dwelling: The front and rear setbacks remain as existing.</p>
<p>2.2.2 Side setbacks</p> <ul style="list-style-type: none"> Minimum of 0.9m 	Yes	<p>Front dwelling: A minimum of 900mm side setbacks is provided.</p> <p>Rear dwelling: Side setbacks remain as existing.</p>
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. 	Yes	<p>The new dwelling at the front of the site will replace an existing smaller dwelling in the same location. The proposal will present to the street as a two-storey dwelling over a garage. The proposed upper floor addition will be set back from the level below therefore presenting with less bulk to the street.</p> <p>The height, bulk and scale of the proposed new dwelling at the front is similar to the adjoining dual occupancy at No. 70 Sir Thomas Mitchell Road. The bulk and scale of the proposal is not out of character with the street.</p> <p>The proposed front dwelling has a contemporary design, similar to the adjoining at No. 70 Sir Thomas Mitchell Road. The materials and finishes are considered an acceptable response to the streetscape.</p>
2.4 Fences		
<p><i>Front:</i></p> <ul style="list-style-type: none"> Maximum height of 1.2m Solid section no more than 0.6m high <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> Maximum height of 1.8m 	<p>N/A</p> <p>Acceptable, subject to condition</p>	<p>No new front fencing proposed.</p> <p>The only fencing proposed is internal to the site to delineate the two separate dwellings. As details regarding the height and materials for any new fencing were not provided, a condition will require that fencing comply with SEPP (Exempt and Complying Development Codes) 2008.</p>
2.5 Visual and acoustic privacy		

<ul style="list-style-type: none"> • Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design. • External stairs are not acceptable. • Maximum size of balconies: <i>10m² in area</i> <i>1.5m deep</i> • Roof tops to be non-trafficable unless predominant in the immediate vicinity 	Yes	<p>Front dwelling: There are no new windows on the eastern side elevation. Windows on the western wide elevation are to rooms of low use (ie, bedrooms and bathrooms) or positioned to ensure that there is no direct viewing into the windows of the adjoining dwelling. New windows are orientated toward the front and the rear where there are sufficient separation distances from adjoining properties.</p> <p>Accordingly, the privacy impacts from the proposed front dwelling are not considered unreasonable.</p> <p>Rear dwelling: The windows to the rear dwelling are existing with very few windows on the side elevations. The windows on the front and rear elevations will be increased in size however they are located a sufficient separation distance from surrounding properties to ensure no unreasonable overlooking.</p> <p>The proposed additions will reduce the size of the existing balconies and terraces at the ground and first floor levels and as such, will not result in additional privacy impacts.</p> <p>Accordingly, the privacy impacts from the proposed additions to the rear dwelling are not considered unreasonable.</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 • Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June 	Yes	<p>Front dwelling: The front of the proposed dwelling has a northerly orientation and as such, the rear windows and principal area of private open space is located to the south. Given the southerly orientation, the rear yard is already heavily overshadowed in winter. This is a consequence of the subdivision pattern and the orientation of the site. The living area windows are located on the northern elevation overlooking the street which improves the solar access internally.</p> <p>In terms of overshadowing of adjoining properties at Nos. 70 and 66 Sir Thomas Mitchell Road, the additional shadows largely fall within existing shadows cast by the existing building and surrounding buildings. Three hours solar access is retained to windows on the opposing</p>

		<p>elevation of the adjoining property at No. 66 complying with the provisions of the DCP.</p> <p>Rear dwelling: The terraces and principal area of private open space is retained with a northerly aspect ensuring optimal solar access.</p> <p>All alterations and additions will be contained within the envelope of the existing building. As such there will be minimal additional overshadowing as a result of the proposed development.</p>
2.7 Views		
<ul style="list-style-type: none"> Views from the public domain are to be maintained Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks. 	Yes	There are no known significant views expected to be impacted by the subject proposal.
2.8 Car parking		
<p>2.8.2 Design Approach</p> <ul style="list-style-type: none"> Parking only allowed where site conditions permit Designed to complement the building and streetscape Car parking structures to be behind the front building line Driveways are to be located to minimise the loss of on street parking 	Yes	<p>The proposal will reconstruct the existing parking space in the form of a single garage beneath the front dwelling. Vehicular access is provided from an existing driveway from the street.</p> <p>The garage will be behind the front building line integrated into the design of the front dwelling.</p>
<p>2.8.2 Parking rates</p> <p><i>Maximum rates:</i></p> <ul style="list-style-type: none"> 1 space for 2 or less bedrooms 2 spaces for 3 or more bedrooms 	Yes	One parking space is provided for the rear dwelling with no parking provided for the front dwelling. Given the controls are a maximum requirement, this is consistent with the DCP.
<p>2.8.3 Location</p> <ul style="list-style-type: none"> Behind front building line for new dwellings Existing development to be in accordance with 	Yes	The garage will be behind the front building line integrated into the design of the front dwelling.

the hierarchy of preferred car parking locations		
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 garage is integrated into the design of the front dwelling being recessed behind and below the two-storey dwelling above. The garage will have a recessive appearance within the streetscape.
2.8.5 Dimensions <ul style="list-style-type: none"> 5.4m x 2.4m per vehicle 	Yes	The space has internal dimensions of 5.8m x 3m.
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 existing driveway crossing is to be retained and utilised for the reconstructed garage. In this regard, no on-street parking spaces are to be lost.
2.9 Landscaping and open space		
<ul style="list-style-type: none"> Overall open space: 40% of site area Overall landscaped area: 15% of site area Minimum area of 25m² for private open space Front open space: 50% of front building setback area Front landscaped area: 50% of front open space provided Outdoor clothes drying area to be provided 	Yes Yes Yes Yes N/A N/A Yes	<ul style="list-style-type: none"> 49% of the site is open space. 27% of the site is landscaped area. Front dwelling: The rear yard is 25m². Rear dwelling: Both front and rear yards exceed the minimum area required. There is no change proposed to the front setback of the site. Both dwellings are capable of providing external clotheslines.
2.10 Swimming pools and spa pools		
<ul style="list-style-type: none"> Located in the rear of property Pool decks on side boundaries must consider visual privacy 	Yes	A small swimming pool is proposed within the front yard of the rear dwelling (noting that it will be contained to the rear of the front dwelling). The pool will not result in unreasonable visual or acoustic privacy impacts upon adjoining properties.
2.15 Dual Occupancy Development		
<ul style="list-style-type: none"> Min 450m² attached dwellings 	No – acceptable on merit	The proposal is for a detached dual occupancy and the site area is 473.9m ² . Although the site area is substandard, the site already contains

<ul style="list-style-type: none"> Min 600m² detached dwellings 		<p>two dwellings, one at the front and one at the rear. The proposal seeks to increase the size of the front dwelling essentially through an additional level (although it is noted that this will be a new construction rather than alterations and additions).</p> <p>The proposed dwellings will both provide sufficient open space, separation distance and will not impact upon the privacy of adjoining sites or between the two dwellings themselves. The unique characteristics of this site means that the sites can accommodate two separated dwellings. In this regard, the proposed dual occupancy is considered acceptable.</p>
<ul style="list-style-type: none"> Second dwelling must: <ul style="list-style-type: none"> address a street or lane Max GFA 110m² Not exceed max FSR 	Yes	<p>The front dwelling has a maximum GFA of 88.8m² and addresses Sir Thomas Mitchell Road. Although the proposal exceeds the FSR development standard, this has been discussed previously in this report and found to be acceptable.</p>
<ul style="list-style-type: none"> Provide a min 5.5m² courtyard between each dwelling 	Yes	<p>Each dwelling provides more than 5.5m² in private open space.</p>

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

The application was notified for 14 days in accordance with the *Waverley Community Development Participation and Consultation Plan*. No submissions were received.

2.5 Public Interest

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

3. REFERRALS

Traffic and Development (Infrastructure Services)

An internal referral was sought from Council's Traffic Engineer and no issues were raised subject to recommended conditions which are included in the consent conditions.

Stormwater (Infrastructure Services)

The amended plans were referred to Council's Stormwater Engineer and no issues were raised subject to recommended conditions which are included in the consent conditions.

Land Information (Information Management and Technology)

A condition was recommended which is included in the consent conditions.

Tree Management Officer (Open Space and Sports fields Management)

An internal referral was sought from Council's Tree Management Officer and no issues were raised subject to recommended conditions which are included in the consent conditions.

4. SUMMARY

The proposal seeks consent for alterations and additions to the existing dwelling on the site and demolition of an existing secondary dwelling to construct a new dwelling (a detached dual occupancy) fronting Sir Thomas Mitchell Road, and Strata subdivision into 2 lots.

The proposal is generally consistent with the LEP 2012 and DCP 2012 controls for the site except for exceedance with the FSR development standard where a variation of 54.1m² or 20% is sought. A Clause 4.6 written request seeking variation to the FSR development standard was submitted by the Applicant and has been considered against the provisions of Clause 4.6 of the LEP 2012. The written request has adequately addressed the matters under Clause 4.6 and is supported as the proposal will not have unreasonable amenity impacts upon surrounding properties and will not detract from the character of the streetscape.

The application was notified for fourteen (14) days to surrounding properties and no submissions were received.

The application is recommended for approval.

DBU Decision

The application and assessment report was reviewed by the DBU at the meeting on 25 May 2021 and the DBU determined:

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

DBU members: A Rossi, B McNamara, B Magistrale, P Wong

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:



Kylie Lucas
Senior Development Assessment Planner

Date: 07 June 2021

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



Peggy Wong
**A/Manager, Development Assessment
(Central)**

Date: 11 June 2021

Reason for referral:

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

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Plans prepared by Darren Palmer Interiors including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
0-01 Rev B	Cover Sheet and Locality	12/01/2021	04/06/2021
0-03 Rev A	Proposed Site Plan	10/12/2020	04/06/2021
0-04 Rev B	Proposed Strata Lot Plan	31/05/2021	04/06/2021
1-01 Rev A	Existing/Demo Lower Ground Level Plan	10/12/2020	04/06/2021
1-02 Rev A	Existing/Demo Ground Level Plan	10/12/2020	04/06/2021
1-03 Rev A	Existing/Demo Level 1 Plan	10/12/2020	04/06/2021
1-04 Rev A	Proposed Lower Ground Level Plan	10/12/2020	04/06/2021
1-05 Rev A	Proposed Ground Level Plan	10/12/2020	04/06/2021
1-06 Rev A	Proposed Level 1 Plan	10/12/2020	04/06/2021
1-07 Rev A	Proposed Roof Plan	10/12/2020	04/06/2021
1-08 Rev A	Proposed Landscape Plan	10/12/2020	04/06/2021
1-09 Rev A	Proposed Pool Plan	10/12/2020	04/06/2021
2-01 Rev A	Existing/Demo Elevations North & East	10/12/2020	04/06/2021
2-02 Rev A	Existing/Demo Elevation: South and West	10/12/2020	04/06/2021
2-03 Rev A	Proposed Elevations: North & East	10/12/2020	04/06/2021
2-04 Rev A	Proposed Elevations: South & West	10/12/2020	04/06/2021
2-05 Rev A	Proposed Elevations: Nth, East, Sth & West - Coloured	10/12/2020	04/06/2021
3-01 Rev A	Proposed Sections: S1 & S2	10/12/2020	04/06/2021
3-02 Rev A	Material Schedule – Main Dwelling	10/12/2020	04/06/2021
DA-4-01 Rev B	Proposed Garage Plan	31/05/2021	04/06/2021
DA-4-02 Rev B	Proposed Ground Level Plan	31/05/2021	04/06/2021
DA-4-03 Rev B	Proposed Level 1 Plan	31/05/2021	04/06/2021
DA-4-04 Rev B	Proposed Roof Plan	31/05/2021	04/06/2021
DA-4-05 Rev B	Proposed Garage Plan - Coloured	31/05/2021	04/06/2021
DA-4-06 Rev B	Proposed Ground Level Plan - Coloured	31/05/2021	04/06/2021
DA-4-07 Rev B	Proposed Level 1 - Coloured	31/05/2021	04/06/2021
DA-4-08 Rev B	Proposed Roof Plan - Coloured	31/05/2021	04/06/2021
DA-4-09 Rev B	Proposed Landscape Plan	31/05/2021	04/06/2021
DA-5-01 Rev B	Proposed Elevations: North & East	31/05/2021	04/06/2021
DA-5-01 Rev B	Proposed Elevations: South & West	31/05/2021	04/06/2021
DA-5-03 Rev B	Coloured Elevations: North & East	31/05/2021	04/06/2021
DA-5-04 Rev B	Coloured Elevations: South & West	31/05/2021	04/06/2021

DA-6-01 Rev A	Proposed Section AA	10/12/2020	04/06/2021
DA-6-02 Rev A	Proposed Section BB	10/12/2020	04/06/2021
DA-6-03 Rev A	Coloured Proposed Section AA	10/12/2020	04/06/2021
DA-6-04 Rev A	Coloured Proposed Section BB	10/12/2020	04/06/2021
8-01 Rev A	Materials Schedule – Main Dwelling	10/12/2020	04/06/2021

(b) BASIX Certificate;

(c) Arboricultural Impact Assessment Report prepared by Footprint Green dated 27/01/2021, and received by Council on 22/01/2021;

(d) The Site Waste and Recycling Management Plan (SWRMP) Part 1;

except where amended by the following conditions of consent.

2. WORK OUTSIDE PROPERTY BOUNDARY

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

B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

GENERAL REQUIREMENTS

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

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

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

4. HOME BUILDING ACT

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

CONTRIBUTIONS, FEES & BONDS

5. SECTION 7.12 CONTRIBUTION

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

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

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

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

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

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

6. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of **\$22,280.00** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

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

7. LONG SERVICE LEVY

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

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

8. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

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

[https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications - conditions of consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

CONSTRUCTION MATTERS

9. HOARDING

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

10. EROSION & SEDIMENT CONTROL

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

11. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

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

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

12. ENGINEERING DETAILS

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

13. 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.

STORMWATER & FLOODING

14. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT

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

The submitted drainage plan prepared by NITMA CONSULTING PTY LTD, Project No.3695H, Sheets 1 – 7, Issue A, dated 14.12.2020 are considered unsatisfactory.

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

- a) OSD Details: The plans shall provide details of the proposed On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning

sign and catchment plan. Council's mandatory OSD checklist as set out in page 22 of the Council's Water Management Technical Manual shall be submitted.

- b) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system.
- c) Seepage water must not be directly or indirectly discharged to Council's street gutter.
- d) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- e) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location.
- f) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system (independent of the OSD system).
- g) Council's records indicate an existing 450 mm stormwater conduit traversing the subject development site. In addition, there is an existing drainage easement that traverses the property. The applicant is required to engage a Registered Surveyor to investigate the exact location of the existing stormwater pipe within the existing easement (this shall include the pipe size, invert, any necessary levels needed as part of this proposal) and submit to Council for further assessment.

The existing pipeline and any existing and proposed drainage easements are to be overlayed onto the stormwater management plan. Detailed sections are to be provided to demonstrate that all structural support elements are located away from the zone of influence of the existing stormwater pipe.

- h) The design and construction of any proposed stormwater connection to Council's stormwater conduit shall be undertaken to the satisfaction of Council, with all costs borne by the applicant.
- i) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual.

Notes:

- Since a sewer main runs through the property, plans must also be presented to a Sydney Water Tap inTM for their approval.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.

- Council's contact for infrastructure assessment: E-mail: assets@waverley.nsw.gov.au or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday)

15. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

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

ENERGY EFFICIENCY & SUSTAINABILITY

16. BASIX

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

WASTE

17. SITE WASTE AND RECYCLING MANAGEMENT PLAN

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

LANDSCAPING & TREES

18. GREEN ROOF LANDSCAPING DETAILS

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

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

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

C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

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

PRIOR TO ANY WORKS

19. CONSTRUCTION SIGNS

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

20. DILAPIDATION REPORT

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

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

DEMOLITION & EXCAVATION

21. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

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

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

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

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land; or

- (c) Particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561)
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

22. CONTROL OF DUST ON CONSTRUCTION SITES

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

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g.: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

23. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

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

24. EXCAVATION AND BACKFILLING

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

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

CONSTRUCTION MATTERS

25. CONSTRUCTION HOURS

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

- (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.

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

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

27. CONSTRUCTION INSPECTIONS

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

28. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS

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

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

TREE PROTECTION AND REMOVAL

29. TREE REMOVAL

Trees to be removed as per Arboricultural Impact Assessment Report prepared by Melanie Howden of Footprint Green Pty Ltd, dated 20/01/2021. Trees to be removed and retained as follows:

Tree No.	Species	Location	Action
T 1	Phoenix canariensis (Canary Island Date Palm)	Adjoining property	Retain and protect as per N4 Tree Protection
T 2	Acacia fimbriata (fringed wattle)	On-site	Remove as per Arborist report.
T 3	Syagrus romanzoffianum (Cocos palm)	On-site	Remove as per Arborist report.
T 4	Archontophoenix cunninghamiana (banglow palm)	On-site	Remove as per Arborist report.

T 5	Archontophoenix Alexandra (Alexandra palm)	On-site	Retain and protect as per N4 Tree Protection
T 6	Phoenix canariensis (Canary Island Date Palm)	Adjoining property	Retain and protect as per N4 Tree Protection
T 7	Syagrus romanzoffianum (Cocos palm)	On -site	Remove as per Arborist report.

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

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

TPZ – A 1.8m chain link wire fence or the like shall be erected around the above trees to be retained to protect them from damage during construction. Fencing is not to be removed until all building work has been completed. Fencing to be installed to the dimensions outlined in the table above.

Soil levels are not to be changed around any trees.

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

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

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

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

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

30. TREE PROTECTION

All trees on site and adjoining properties, including street trees are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an

Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

31. TREE PRUNING ON ADJOINING PROPERTIES

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

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

STORMWATER

32. PRE-CONSTRUCTION STORMWATER PIPE CCTV DILAPIDATION REPORT

Prior to doing any works, internal inspection of the Council's stormwater conduit to determine its structural condition must be carried out by a Closed-Circuit Television (CCTV) by an approved contractor. The report is to be submitted to Council's Executive Manager, Infrastructure Services (or delegate) for its review.

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

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

33. 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.

34. CERTIFICATION OF BASIX COMMITMENTS

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

35. 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.

36. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM

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

37. ON-SITE STORMWATER DETENTION CERTIFICATION

The submission of certification by a suitably qualified and practising Engineer for the on-site stormwater detention system, attesting the storage volume, discharge rate and satisfactory operation of the system prior to the release of the Occupation Certificate.

38. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD

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

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services. The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate/use of the building. All associated costs shall be borne by the applicant.

39. POST-CONSTRUCTION STORMWATER PIPE CCTV DILAPIDATION REPORT

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

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

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

40. CREATION OF EASEMENT FOR DRAINAGE

The existing drainage easement is to be extinguished and a new drainage easement with a width of 1.83m is to be created along the centreline of Council's stormwater conduit for the entire length of pipe within No. 68 Sir Thomas Mitchell Road. The drainage easement is to be in favour of Waverley Council and is to be registered on the Certificate of Title of No. 68 Sir Thomas Mitchell Road. The creation of Easement and the registration of the drainage easement to Certificate of Title is to be undertaken by the applicant at no cost to Council.

41. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA

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

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design
- (b) Evidence that the swimming pool/outdoor spa have been registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>)
- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council
- (d) A copy of the occupation certificate must be submitted to Council

Note: Swimming/spa pool pumps are restricted from use between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017.

42. STREET NUMBER/S

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

43. SUBDIVISION CERTIFICATE

This consent includes approval for strata subdivision of the development.

A Subdivision Certificate must be obtained from Council or a Registered Certifier in accordance with either Section 54(1) or Section 58(1) of the *Strata Schemes Development Act 2015*.

In respect to the allocation of car parking and storage spaces, those spaces are not permitted to be subdivided as individual allotments and are to be part lots allocated to individual residential allotments as shown on the approved plans. Parts allotments are to be generally allocated in accordance with the parking and storage requirements of Waverley Development Control Plan 2012. No exclusive use of common property shall occur without the prior consent of Council.

44. ALLOCATION OF STREET NUMBER

The redevelopment of the property has led to the following allocation of primary and sub-premises (unit) numbering:

- No. 68 - primary address site number
- Sir Thomas Mitchell Road primary address location.

The primary premises number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level and be clearly visible on the site boundary that fronts Sir Thomas Mitchell Road.

The following sub-addressing will apply:

- Nos. 1-2 for the residential sub-address sites within the building correlating with Nos. 1-2 on the floor plans for the building.

E. ADVISORY MATTERS

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

AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

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

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

45. 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.

46. 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.

47. 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.

48. EXCAVATION TO BE LIMITED

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

49. 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.

50. SYDNEY WATER CERTIFICATE

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.**

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.

51. FENCING

Please be advised that new boundary and internal fences (except the pool fencing) are required to comply with the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

52. RAINWATER HARVESTING AND REUSE

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

RECEIVED

Waverley Council

Application No: DA-23/2021

Date Received: 04/06/2021

DEVELOPMENT APPLICATION DWELLING

68 SIR THOMAS MITCHELL ROAD, BONDI BEACH, NSW 2026

ALTERATIONS AND ADDITIONS TO EXISTING MAIN DWELLING & CONSTRUCTION OF NEW DWELLING TO FORM A DUAL OCCUPANCY AND STRATA SUBDIVISION.

DRAWING SCHEDULE - MAIN DWELLING:		
SHEET	DRAWING NAME	SCALE
SITE & CONTENTS	COVER SHEET & LOCALITY	N.T.S
	SITE SURVEY (BY OTHERS)	
	PROPOSED SITE PLAN	
	PROPOSED STRATA LOT PLANS	
FLOOR PLANS	EXISTING / DEMO LOWER GROUND LEVEL PLAN	1:100 @ A3
	EXISTING / DEMO GROUND LEVEL PLAN	
	EXISTING / DEMO LEVEL 1 PLAN	
	PROPOSED LOWER GROUND LEVEL PLAN - COLOURED	
	PROPOSED GROUND LEVEL PLAN - COLOURED	
	PROPOSED LEVEL 1 PLAN - COLOURED	
	PROPOSED ROOF PLAN - COLOURED	
	PROPOSED LANDSCAPE PLAN	
	PROPOSED POOL PLAN	
	MAIN DWELLING - GFA PLANS	
ELEVATIONS	EXISTING / DEMO ELEVATIONS: NORTH & EAST	1:100 @ A3
	EXISTING / DEMO ELEVATIONS: SOUTH & WEST	
	PROPOSED ELEVATIONS: NORTH & EAST	
	PROPOSED ELEVATIONS: SOUTH & WEST	
	PROPOSED ELEVATIONS: NTH, EAST, STH, WEST - COLOURED	
SECTIONS	PROPOSED SECTION S1 & S2	1:100 @ A3
MATERIALS	MATERIALS SCHEDULE - MAIN DWELLING	
DA 3-02		N.T.S

DRAWING SCHEDULE - NEW DWELLING:		
SHEET	DRAWING NAME	SCALE
FLOOR PLANS	PROPOSED GARAGE LEVEL PLAN	1:100 @ A3
	PROPOSED GROUND LEVEL PLAN	
	PROPOSED LEVEL 1 PLAN	
	PROPOSED ROOF PLAN	
	PROPOSED GARAGE LEVEL PLAN - COLOURED	
	PROPOSED GROUND LEVEL PLAN - COLOURED	
	PROPOSED LEVEL 1 PLAN - COLOURED	
	PROPOSED ROOF PLAN - COLOURED	
	PROPOSED LANDSCAPE PLAN	
	NEW DWELLING - GFA PLANS	
ELEVATIONS	PROPOSED ELEVATIONS: NORTH & EAST	1:100 @ A3
	PROPOSED ELEVATIONS: SOUTH & WEST	
	COLOURED ELEVATIONS: NORTH & EAST	
	COLOURED ELEVATIONS: SOUTH & WEST	
SECTIONS	PROPOSED SECTION AA	1:100 @ A3
	PROPOSED SECTION BB	
	COLOURED PROPOSED SECTION AA	
	COLOURED PROPOSED SECTION BB	
SHADOW DIAGRAMS	SHADOW DIAGRAMS - EXISTING - 9AM & 12PM (21 JUNE)	1:200 @ A3
	SHADOW DIAGRAMS - EXISTING - 3 PM (21 JUNE)	
	SHADOW DIAGRAMS - PROPOSED - 9AM & 12PM (21 JUNE)	
	SHADOW DIAGRAMS - PROPOSED - 3PM (21 JUNE)	
	SHADOW DIAGRAMS - PROPOSED HOURLY (21 JUNE)	
	SHADOW DIAGRAMS - PROPOSED HOURLY (21 JUNE)	
	SHADOW DIAGRAMS - PROPOSED HOURLY (21 JUNE)	
MATERIALS	MATERIALS SCHEDULE - NEW DWELLING	N.T.S
DA 8-01		

NORTH:	ISSUE:	GENERAL NOTES:	
	10/12/20 12/1/21	ISSUE FOR DA ISSUE FOR DA	Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.
DATE		REASON FOR ISSUE	REV

AMENDED

FINISHES SCHEDULE (MAIN DWELLING)		
CODE	MATERIAL	
FIN 10	JAMES HARDIE SCYONMATRIX CLADDING - PAINT FINISH WHITE	
FIN 11	CLEAR GLASS	
FIN 12	LOW LEVEL PLANTING	
FIN 13	TIMBER LOUVRE - STAIN FINISH	
FIN 14	TIMBER BATTEN / SCREEN - PAINT FINISH, WHITE	
FIN 15	SHEET METAL ROOFING - COLOURBOND SURFMIST	
FIN 16	EXISTING SANDSTONE	

FINISHES SCHEDULE (STUDIO)		
CODE	MATERIAL	
FIN 1	METAL CLADDING - COLOURBOND MONUMENT	
FIN 2	CLEAR GLASS	
FIN 3	FIBRE CEMENT SHEET CLADDING - CLEAR SEALER	
FIN 4	CONCRETE - RENDERED AND PAINT FINISH - DULUX VIVID WHITE	
FIN 5	STEEL GARAGE DOOR - COLOURBOND SURFMIST TBC	
FIN 6	SHEET METAL ROOFING - COLOURBOND MONUMENT	



CLIENT	DRAWING	COVER SHEET & LOCALITY
DAREN PALMER		
PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	SCALE: (REFER DRAWING TITLES)	



01

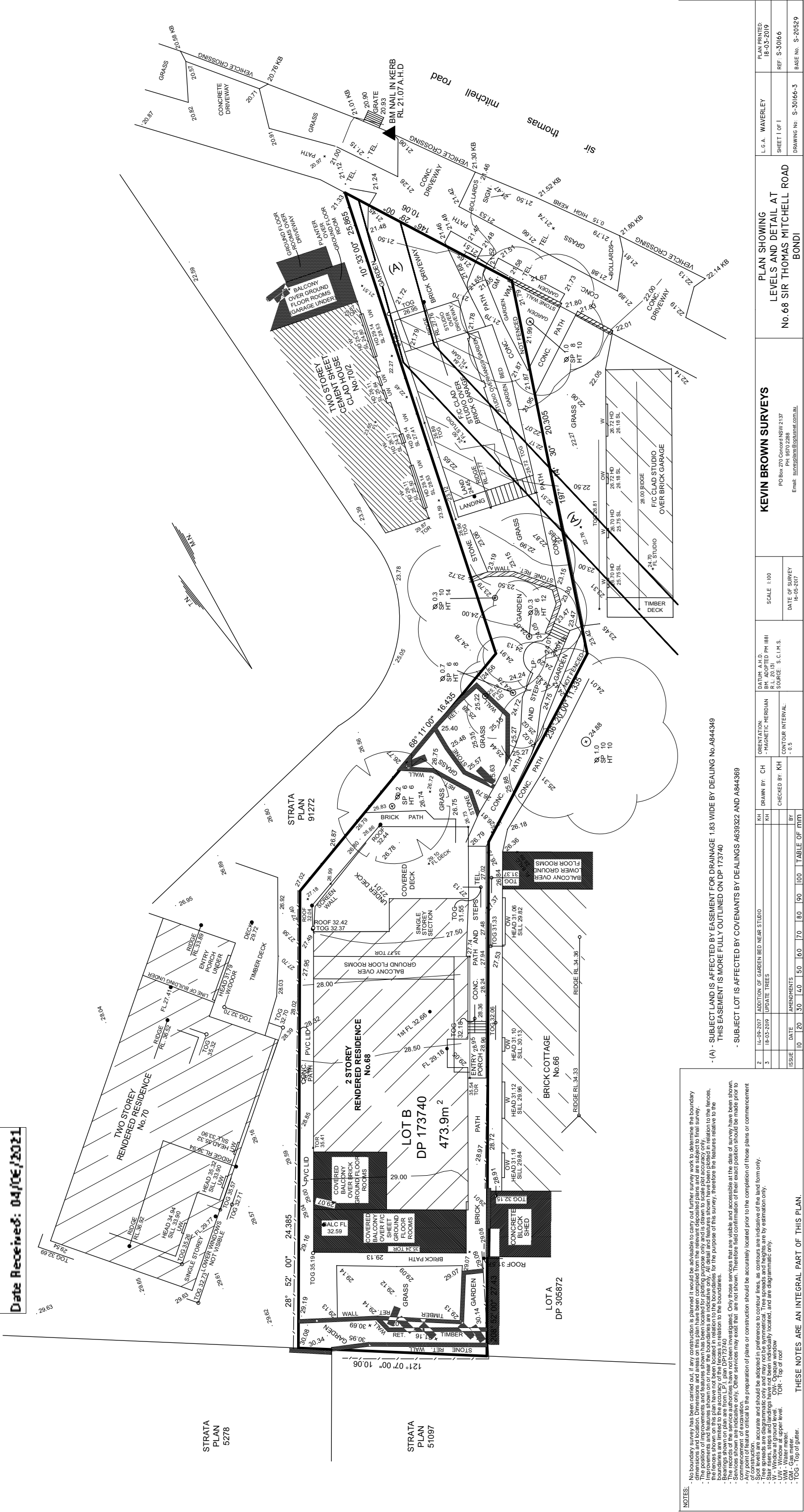
SITE LOCALITY

NTS

Assessor # 20420		Certificate # 000535299		Issued: 021120	
Thermal Performance Specifications					
These are the Specifications upon which the Certified Assessment is based. If details included in these Specifications vary from other drawings or written specifications, these Specifications shall take precedence. If only one specification option is detailed for a building element, that specification must apply to all instances of that element for the project. If alternate specifications are detailed for a building element, the location and extent of alternate specifications must be detailed below and / or clearly indicated on referenced documents					
Windows	Product ID	Glass	Frame	Uvalue	SHGC
Single glazed			Aluminium	5.6	0.41
				As per plans	
Skylights	Product ID	Glass	Frame	Uvalue	SHGC
				Area M² Detail	
Window and skylight U and SHGC values, if specified, are according to AS/NZS 2005. Alternate products or specifications may be used if their U value is lower, and the SHGC value is less than 10% higher or lower, than the U and SHGC values of the product specified above.					
External walls	Construction	Insulation	Colour – solar abs.	Detail	
Off form concrete		R2.0	Light colour	As per plans	
Internal walls	Construction	Insulation	Detail		
Plasterboard		None	As per plans.		
Floors	Construction	Insulation	Covering	Detail	
Concrete		R2.0/None	Varies	As per plans. Lower level insulation	
Ceilings	Construction	Insulation	Detail		
Plasterboard		R2.5	As per plans.		
Roof	Construction	Insulation	Colour – solar abs.	Detail	
Metal		Foil + R1.3	Medium colour	As per plans	
Window cover	Internal (curtains)		External (awnings, shutters, etc)		
None					
Fixed shading	Eaves (width - inc. gutters, ht above windows)		Location		
As per plans			As plans		
Overshadowing Buildings	Overshadowing structures		Overshadowing trees		
Orientation, Exposure, Ventilation and Infiltration					
Orientation of nominal north:		0	Living area open to entry:		Y
Terrain category:	Suburban	Doors separate living areas:		N	N
Roof ventilation:	Unventilated	Stair open to heated areas:		Y	N
Cross ventilation:	Standard	Seals to windows and doors:		Y	N
Subfloor:	Ground	Exhaust fans without dampers:		N	N
		Ventilated skylights:		N	N
		Open fire, unfueled gas heat:		N	N
		Vented downlights:		N	N
		Wall and ceiling vents:		N	N

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Application No: DA-23/2021
Date Received: 04/06/2021

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01 EXISTING SURVEY - BY OTHERS
1:200 @ A3

NORTH: 	ISSUE: 10/12/20	ISSUE FOR DA A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woolahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	DRAWING SITE SURVEY (BY OTHERS) SCALE: (REFER DRAWING TITLES)	DRAWN BY: DP	DATE: (Refer Issue no.) 0-02	DRAWING NO: 0-02
	DATE	REASON FOR ISSUE				REV	DESIGNED BY: DP	START DATE: TBC	

AMENDED

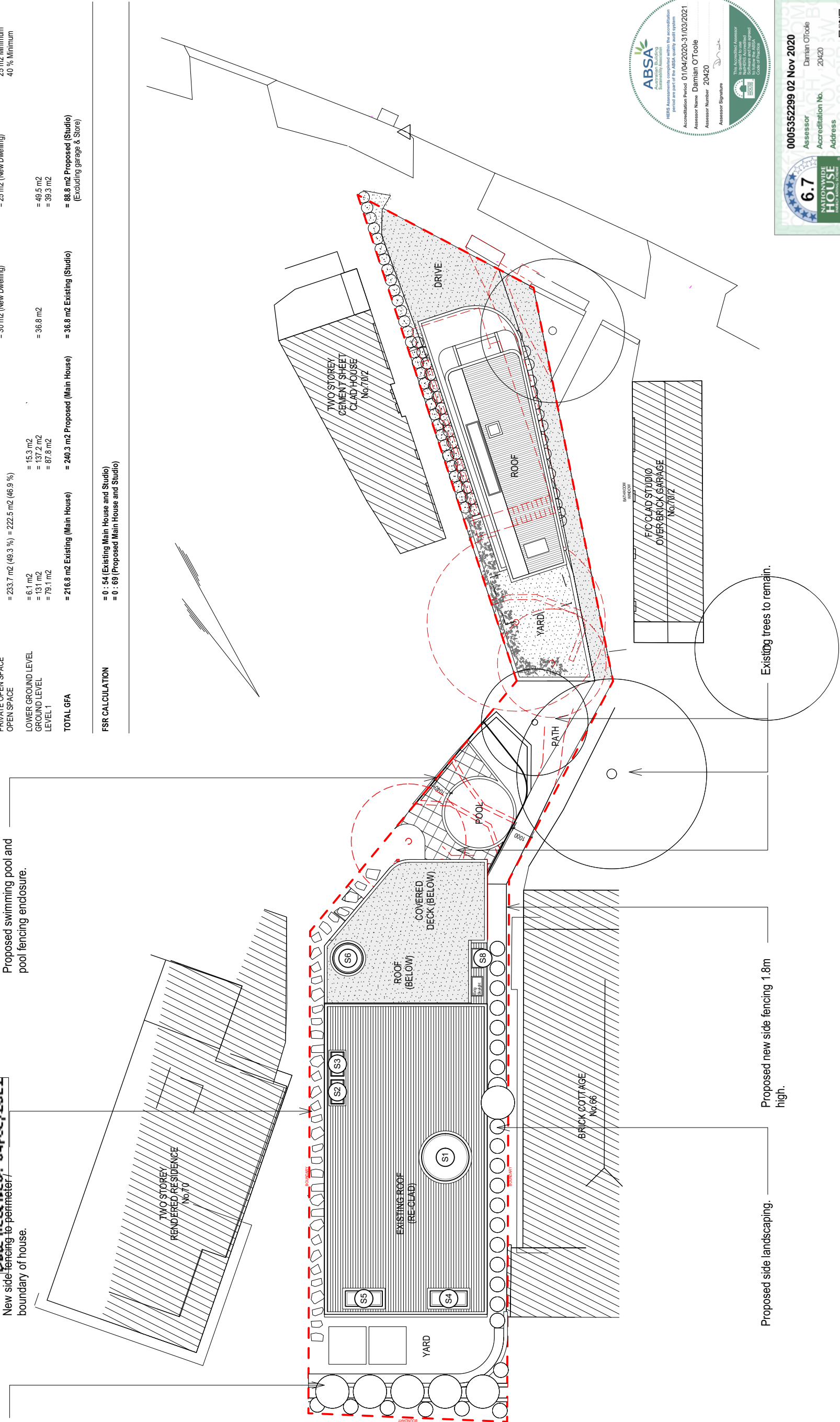
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Waverley Council
Application No: DA-23/2021
Date Received: 04/06/2021

Proposed rear landscaping and retaining walls to replace existing.

New side-fencing to perimeter boundary of house.

Proposed swimming pool and pool fencing enclosure.

DEVELOPMENT STANDARD	EXISTING (MAIN HOUSE):	PROPOSED (MAIN HOUSE):	EXISTING (STUDIO):	PROPOSED (STUDIO):	ALLOWABLE
COMPLIANCE TABLE					
DEVELOPMENT STANDARD					
ALLOWABLE:					
SITE AREA	= 473.9 m2 (From Survey)				15 % Minimum
LANDSCAPE AREA (No 68)	= 132.6 m2 / 27.9 % (Total)				25 m2 Minimum
PRIVATE OPEN SPACE					40 % Minimum
OPEN SPACE	= 233.7 m2 (49.3 %) = 222.5 m2 (46.9 %)	= 150.3 m2 / 31.7 % (Total)	= 30 m2 (New Dwelling)	= 25 m2 (New Dwelling)	
LOWER GROUND LEVEL	= 6.1 m2	= 15.3 m2			
GROUND LEVEL	= 131 m2	= 137.2 m2			
LEVEL 1	= 79.1 m2	= 87.8 m2	= 36.8 m2	= 49.5 m2	
				= 39.3 m2	
TOTAL GFA	= 216.8 m2 Existing (Main House)	= 240.3 m2 Proposed (Main House)	= 36.8 m2 Existing (Studio)	= 88.8 m2 Proposed (Studio) (Excluding garage & Store)	
FSR CALCULATION					
	= 0 : 54 (Existing Main House and Studio)				
	= 0 : 69 (Proposed Main House and Studio)				



Proposed new side fencing 1.8m high.

Proposed side landscaping.

Existing trees to remain.

01 SITE PLAN - PROPOSED
1:200 @ A3



NORTH: 	ISSUE: 10/12/20	ISSUE FOR DA A	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Wollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING PROPOSED SITE PLAN	DRAWN BY: DP	DATE (Refer Issue no.) 0-03	DRAWING NO.	REV: A
	DATE 10/12/20	REASON FOR ISSUE REV	PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW						

AMENDED



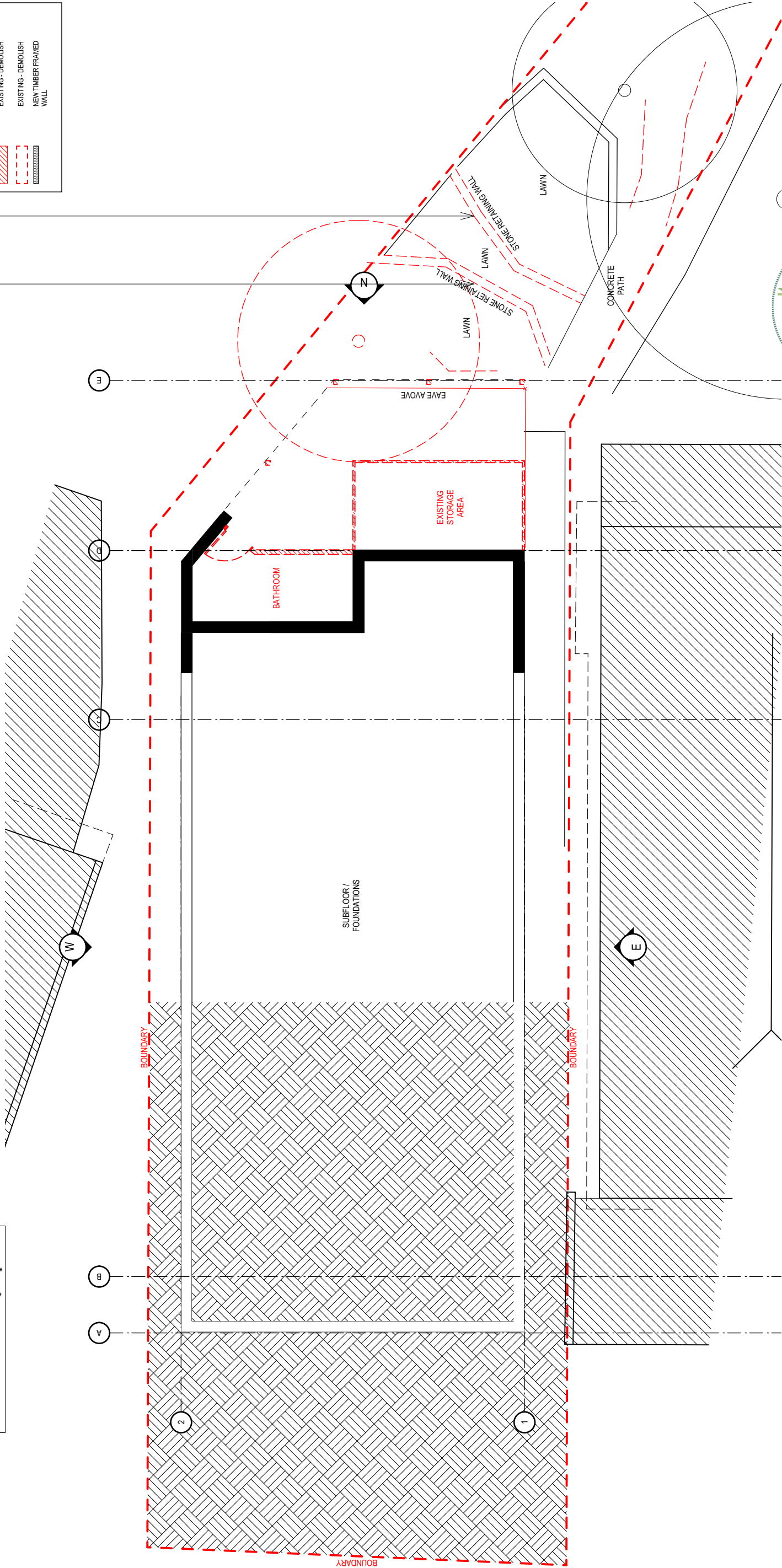
NORTH: 	ISSUE: 10/01/21 31/5/21	ISSUE FOR DA DESIGN UPDATE	A B	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER:  DARREN PALMER Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woolahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING NO.: DA-0-04	DATE: (Refer Issue no.)	REV: B
	DATE	REASON FOR ISSUE	REV						
				PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW		SCALE: (REFER DRAWING TITLES)			

RECEIVED
Waverley Council
Application No: DA-23/2021
Date Received: 04/06/2021

AMENDED

Existing stone retaining walls to be demolished.

CONSTRUCTION TYPES LEGEND	
	EXISTING - RETAIN
	EXISTING - DEMOLISH
	EXISTING - DEMOLISH
	NEW TIMBER FRAMED WALL



0005352299 02 Nov 2020

Assessor: Damian O'Toole

Accreditation No.: 20420

Address: 68 SIR THOMAS MITCHELL RD, BOND BEACH, NSW, 2026

01 LOWER GROUND LEVEL PLAN - EXISTING / DEMO
1:100 @ A3

NORTH: 	ISSUE: 10/12/20	ISSUE FOR DA A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	DRAWING EXISTING / DEMO LOWER GROUND LEVEL PLAN	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: 1-01
	DATE 10/12/20	REASON FOR ISSUE REV						SCALE: (REFER DRAWING TITLES)	DESIGNED BY: DP

RECEIVED
Waverley Council
Application No: DA-23/2021
Date Received: 04/06/2021

AMENDED

Existing timber retaining walls to be demolished and rebuilt.

Existing deck to be rebuilt.

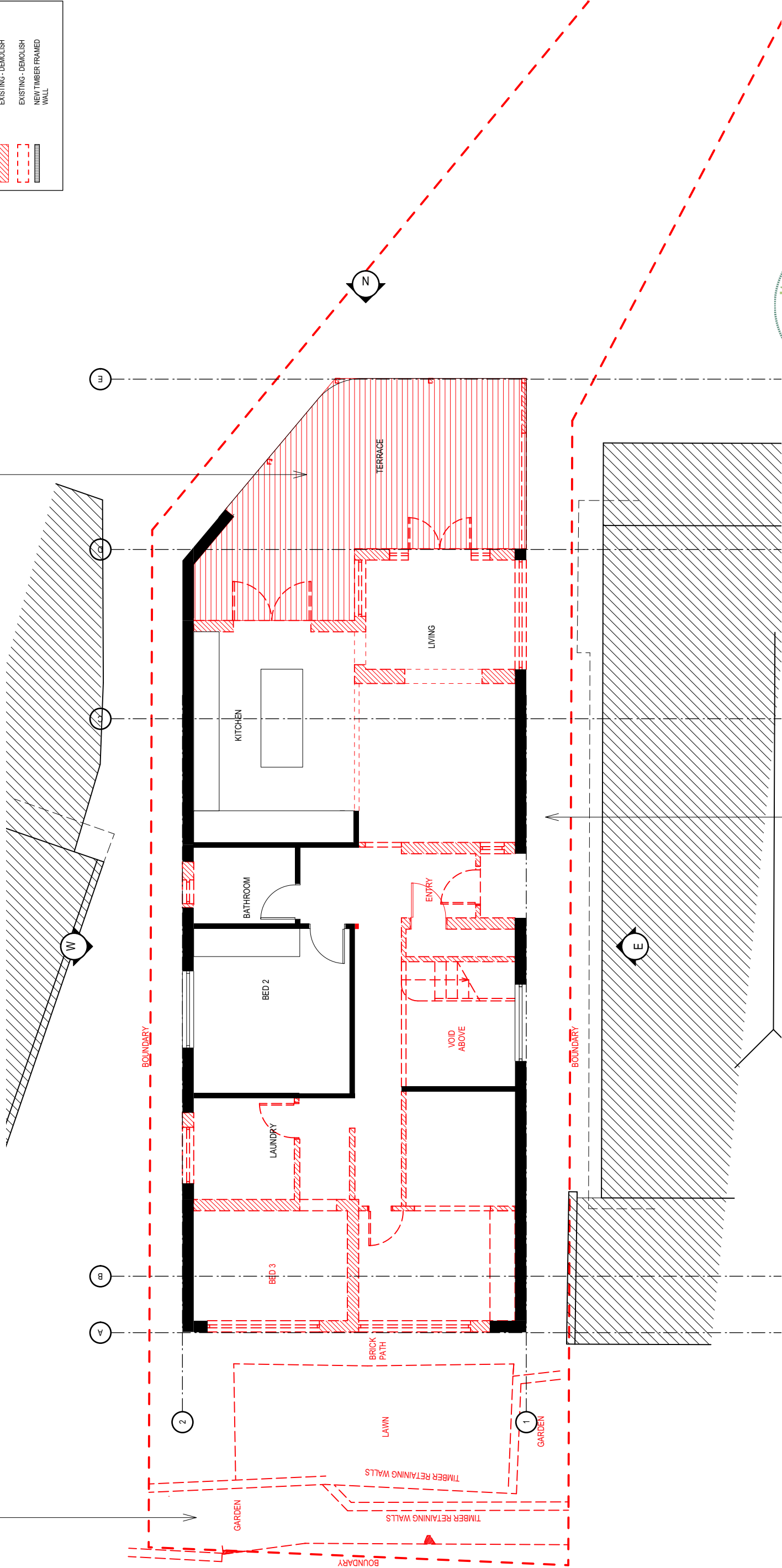
CONSTRUCTION TYPES LEGEND

EXISTING - RETAIN

EXISTING - DEMOLISH

EXISTING - DEMOLISH

NEW TIMBER FRAMED WALL



ABSAAustralian Building Standards Association

WERS Assessments completed within the accreditation period are part of the ABSA quality audit system.

Accreditation Period 01/04/2020-31/03/2021

Assessor Name Damian O'Toole

Assessor Number 20420

Assessor Signature

6.7NATIONWIDEGRADE 6.7

42.7

www.abstar.com.au

0005352299 02 Nov 2020

Assessor Damian O'Toole

Accreditation No. 20420

Address 68 SIR THOMAS MITCHELL RD, BOND BEACH, NSW, 2026

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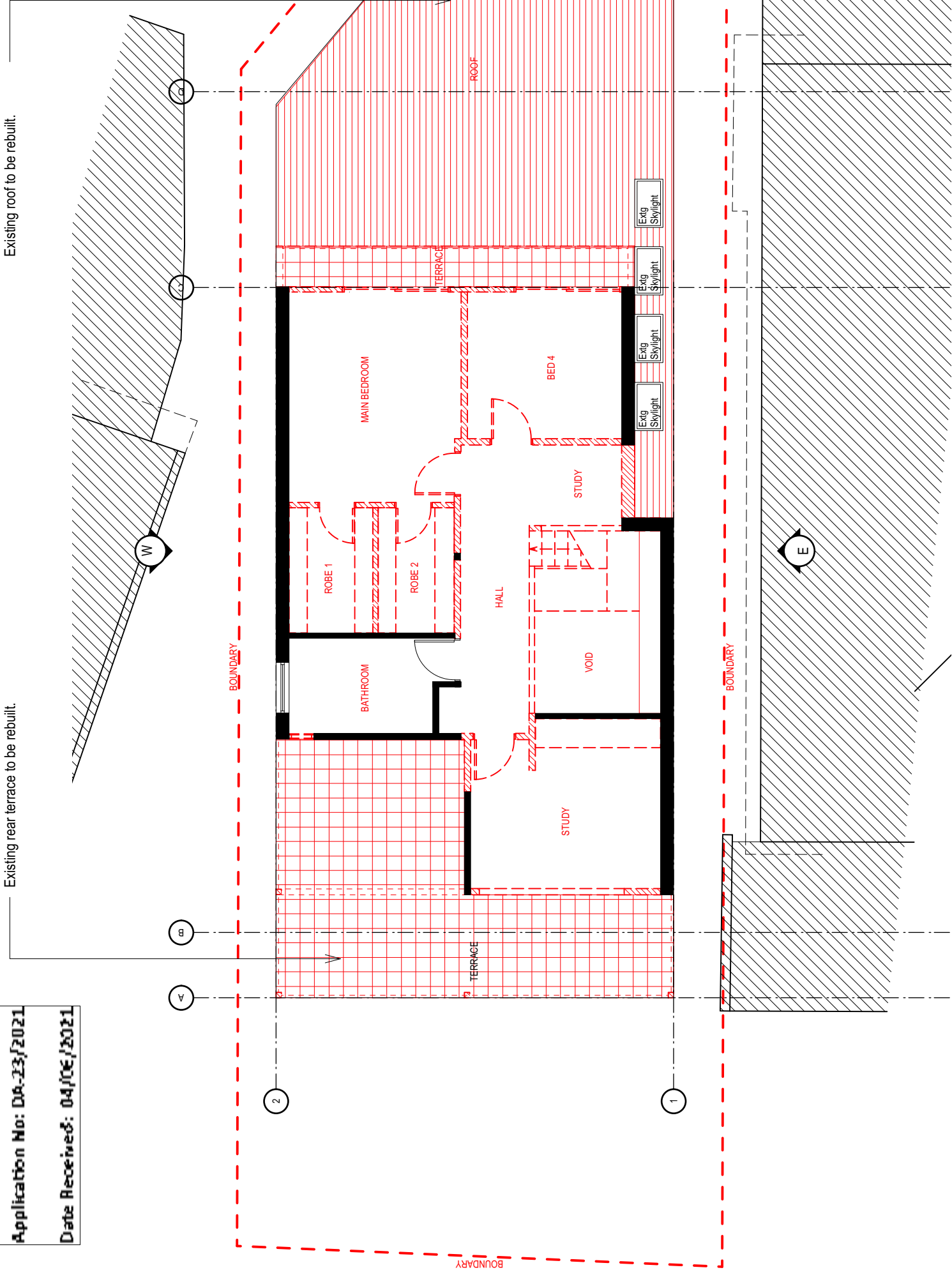
Existing concrete path to be removed /demolished.

01 GROUND LEVEL PLAN - EXISTING / DEMO
1:100 @ A3

NORTH: 	ISSUE: 10/12/20	ISSUE FOR DA A	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woollahra 2025 E+ studio@darrenpalmer.com		CLIENT DARREN PALMER	DRAWING EXISTING / DEMO GROUND LEVEL PLAN	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: 1-02
			GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.		PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	SCALE: (REFER DRAWING TITLES)	DESIGNED BY: DP	START DATE: TBC	REV: A

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AMENDED



CONSTRUCTION TYPES LEGEND	
	EXISTING - RETAIN
	EXISTING - DEMOLISH
	EXISTING - DEMOLISH
	NEW TIMBER FRAMED WALL



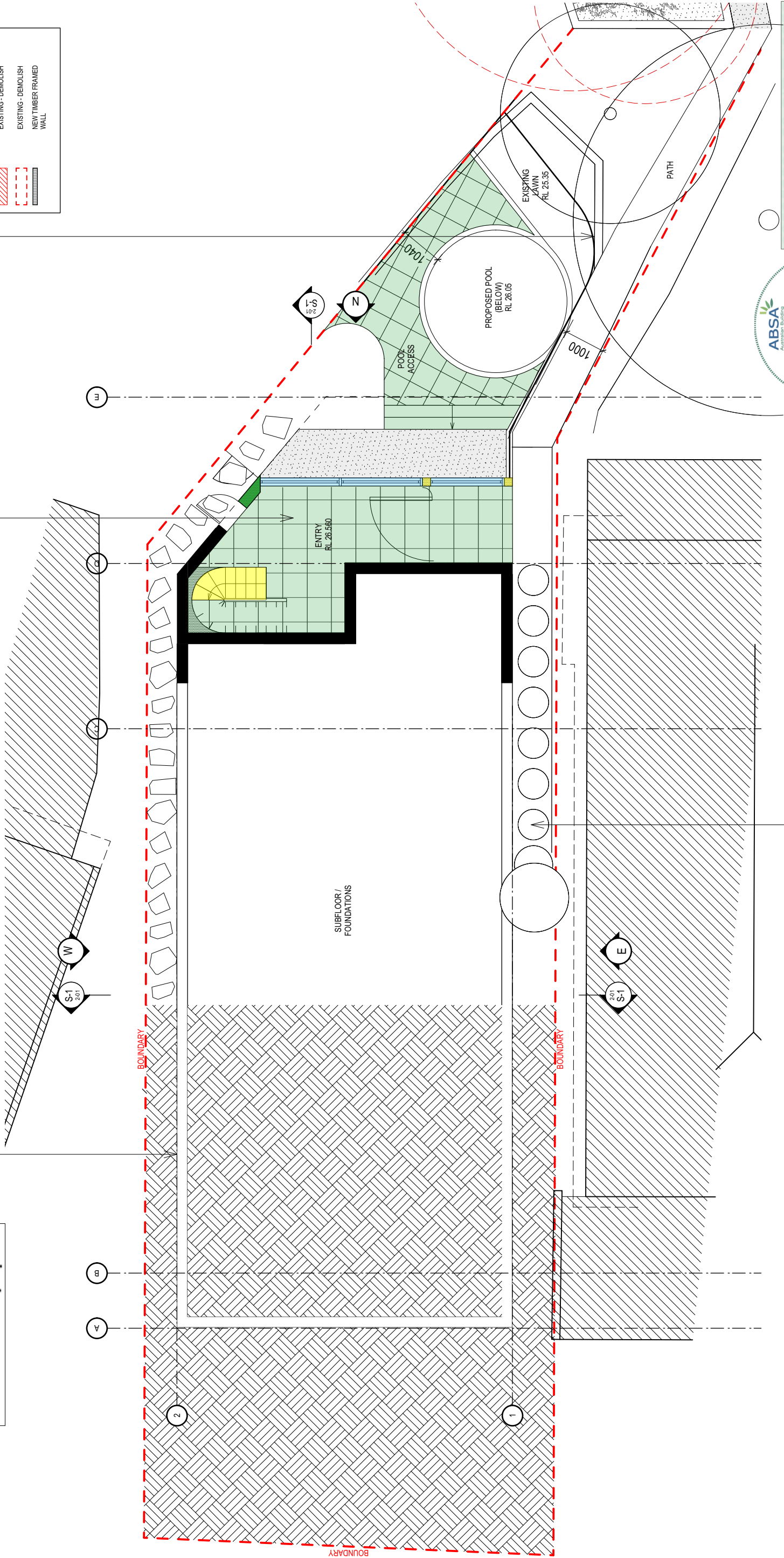
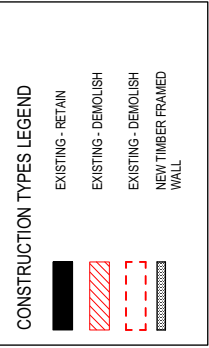
NORTH: 	ISSUE: 10/12/20	ISSUE FOR DA A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Wollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	DRAWING EXISTING / DEMO LEVEL 1 PLAN	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: 1-03
	DATE 10/12/20	REASON FOR ISSUE				REV	DESIGNED BY: DP		SCALE: (REFER DRAWING TITLES)

AMENDED

Existing perimeter foundations to remain.


Proposed new entry under existing terrace.

Proposed new pool and fencing enclosure.



Existing stone retaining walls to be demolished.

01 LOWER GROUND LEVEL PLAN - PROPOSED
1:100 @ A3

NORTH: 	ISSUE: 10/12/20	ISSUE FOR DA _____	A _____	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woolahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING PROPOSED LOWER GROUND LEVEL PLAN	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: 1-04	REV: A
	DATE _____	REASON FOR ISSUE _____	REV _____				SCALE: (REFER DRAWING TITLES)	DESIGNED BY: DP	START DATE: TBC		

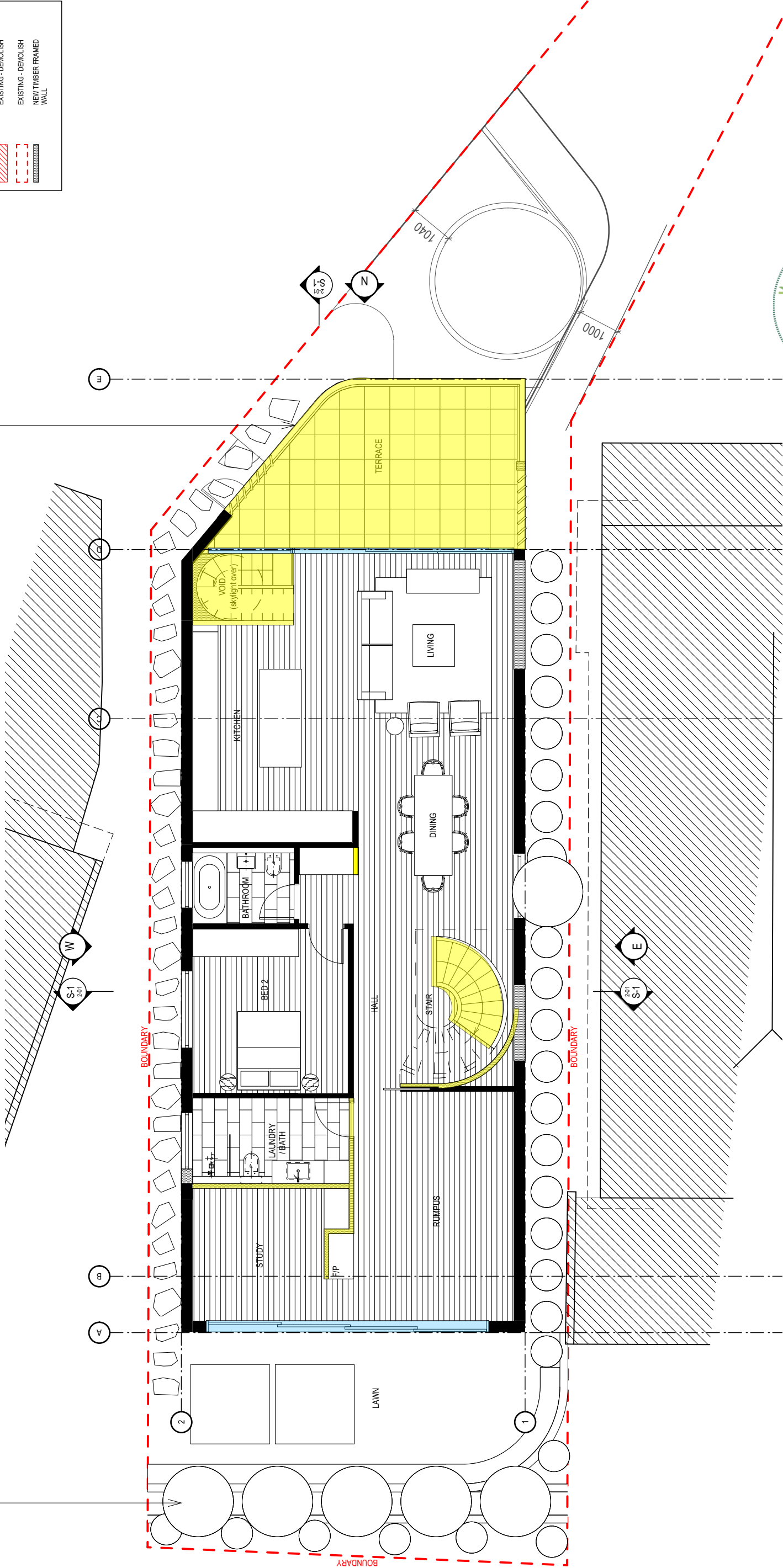
RECEIVED
Waverley Council
Application No: DA-23/2021
Date Received: 04/06/2021

AMENDED

Existing perimeter foundations to remain.

Proposed solid hob perimeter to terrace with glass upstand.

CONSTRUCTION TYPES LEGEND	
	EXISTING - RETAIN
	EXISTING - DEMOLISH
	EXISTING - DEMOLISH
	NEW TIMBER FRAMED WALL



6.7
NATIONWIDE
HOUSE
ENERGY RATING


0005352299 02 Nov 2020

Assessor
Damian O'Toole
Accreditation No.
20420
Address
68 SIR THOMAS MITCHELL RD
BONDI BEACH, NSW, 2026

42.7
MJD
www.easere.com.au

hstar.com.au

01 GROUND LEVEL PLAN - PROPOSED
1:100 @ A3

NORTH: 	ISSUE: 10/12/20	ISSUE FOR DA A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Wollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING PROPOSED GROUND LEVEL PLAN	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: 1-05
	DATE 10/12/20	REASON FOR ISSUE				REV	PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	SCALE: (REFER DRAWING TITLES)	DESIGNED BY: DP

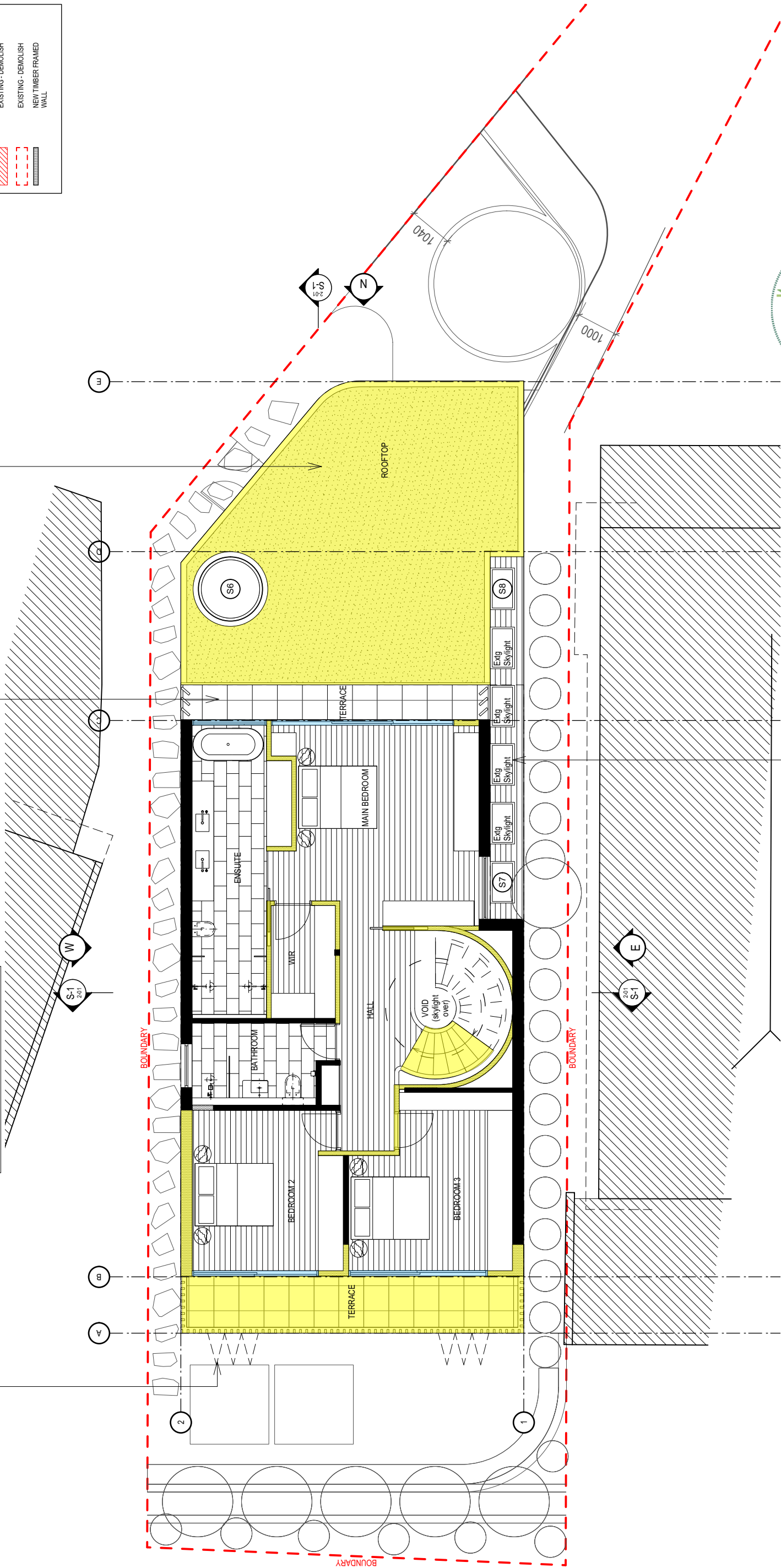
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Date Received: 04/06/2021


Proposed terrace to remain

Proposed timber batten bifolds/
screening.

Proposed roof to be rebuilt with
low level planting.



01 LEVEL 1 PLAN - PROPOSED
1:100 @ A3

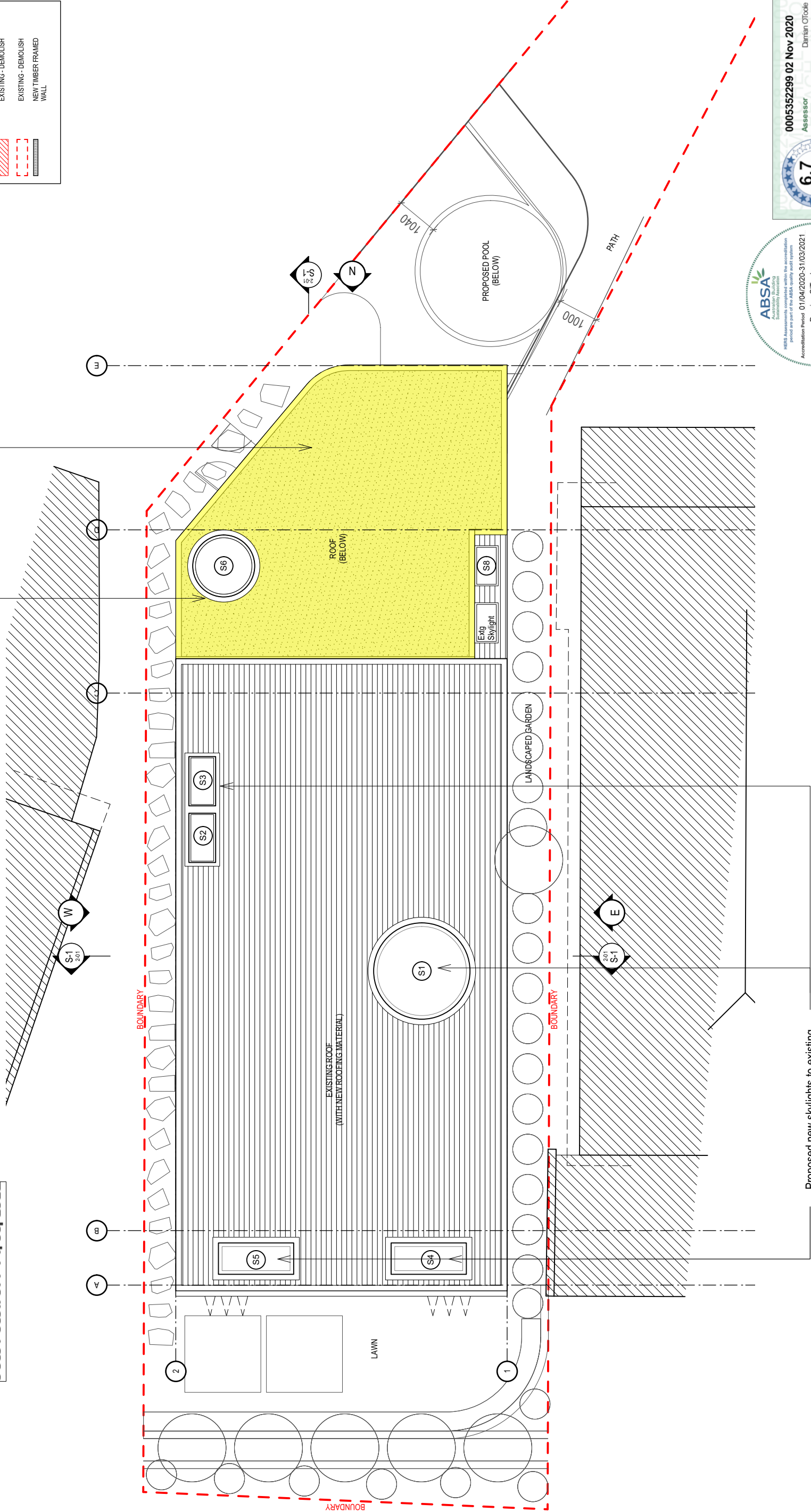
NORTH: 	ISSUE: 10/12/20	ISSUE FOR DA A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Wollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING PROPOSED LEVEL 1 PLAN	DRAWN BY: DP	DATE: (Refer Issue no.) 1-06	DRAWING NO: 1-06					
	DATE REASON FOR ISSUE	REV												
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PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	SCALE: (REFER DRAWING TITLES)	DESIGNED BY: DP	START DATE: TBC	REV: A										

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Proposed re-built roofing and
skylight below.

CONSTRUCTION TYPES LEGEND	
	EXISTING - RETAIN
	EXISTING - DEMOLISH
	EXISTING - DEMOLISH
	NEW TIMBER FRAMED WALL



6.7
NATIONWIDE
HOUSE
BUILDING QUALITY ASSURANCE

0005352299 02 Nov 2020

Assessor
Accreditation No.
Address

Damian O'Toole
20420
68 SIR THOMAS MITCHELL RD
BONDI BEACH, NSW, 2026

42.7
ML

www.catharsis.gov.au

hstar.com.au

01 ROOF PLAN - PROPOSED
1:100 @ A3

NORTH: 	ISSUE: 10/12/20	ISSUE FOR DA A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING PROPOSED ROOF PLAN	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: 1-07
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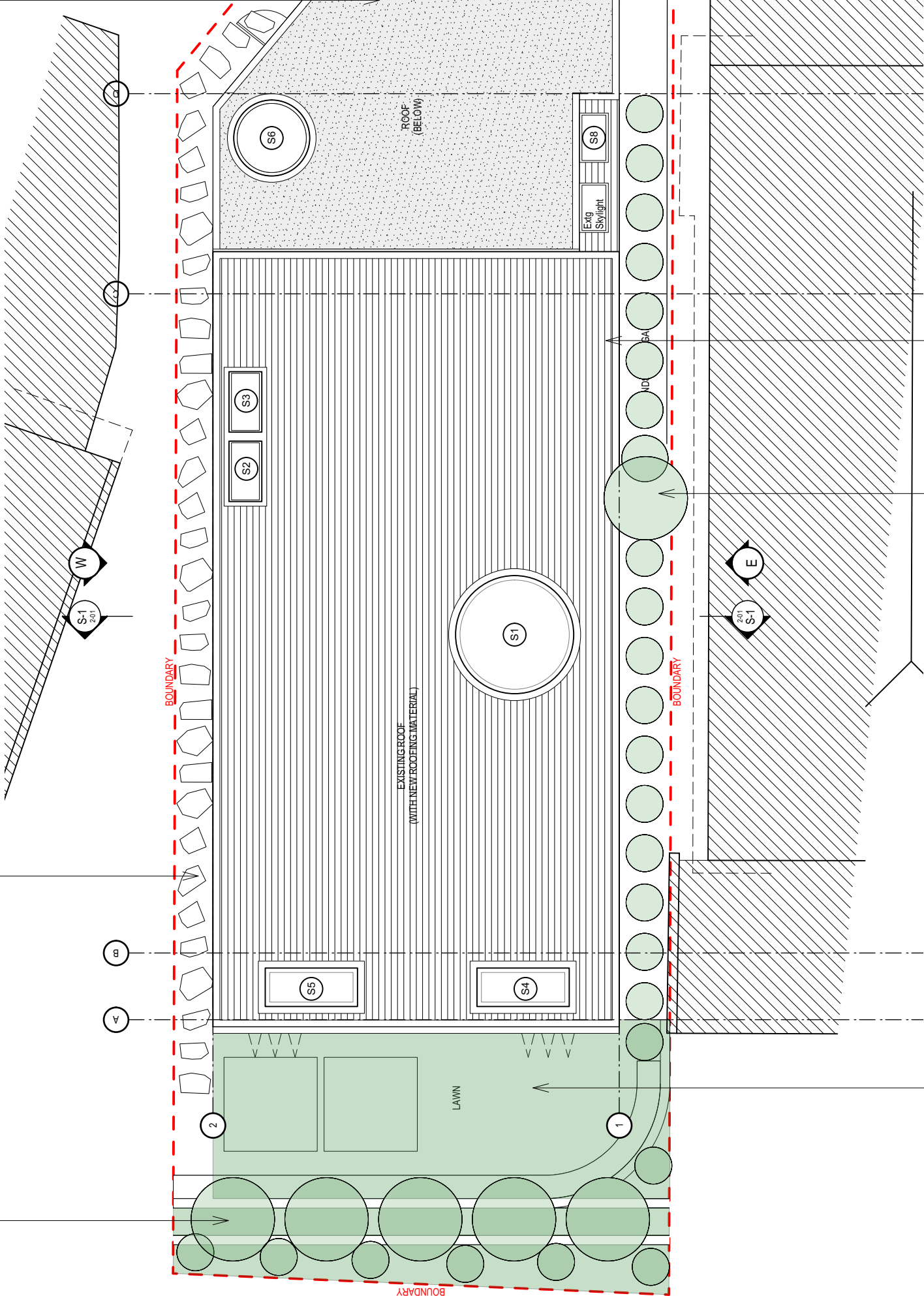
AMENDED

Proposed crazy paving to side of house.

Proposed low level planting with trees to soften new retaining walls.

Proposed new low level planting to rebuilt roof below.

Proposed new pool and fencing enclosure.



CONSTRUCTION TYPES LEGEND	
	EXISTING - RETAIN
	EXISTING - DEMOLISH
	EXISTING - DEMOLISH
	NEW TIMBER FRAMED WALL



0005352299 02 Nov 2020

Assessor Damien O'Toole

Accreditation No. 20420

Address 68 SIR THOMAS MITCHELL RD, BOND BEACH, NSW, 2026

6.7

NATIONWIDE HOUSE

42.7

www.nationwide.gov.au

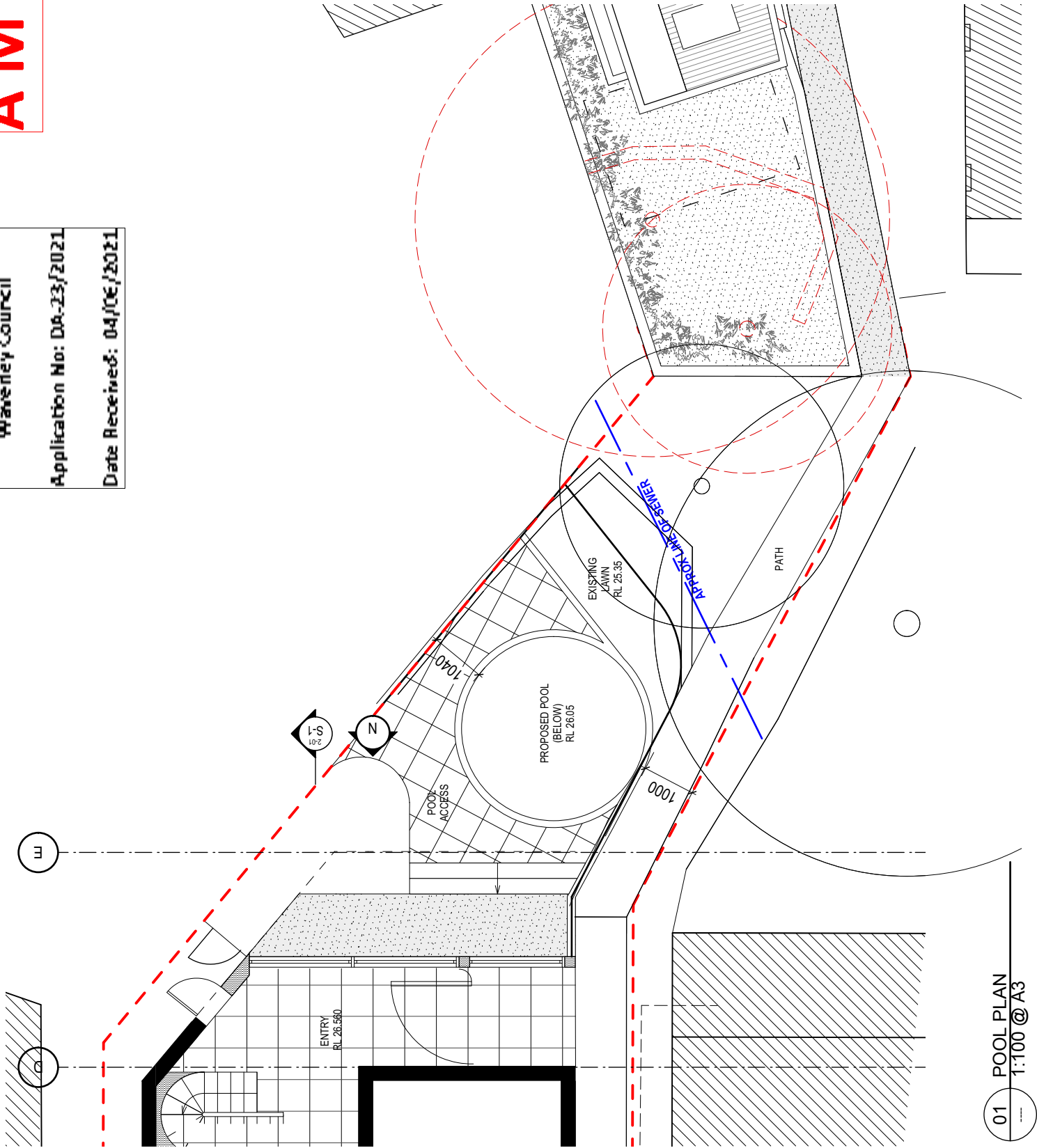
hstar.com.au

01 LANDSCAPE PLAN - PROPOSED
1:100 @ A3

NORTH: 	ISSUE: 10/12/20	ISSUE FOR DA <hr/>	A <hr/>	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Wollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING PROPOSED LANDSCAPE PLAN	DRAWN BY: DP	DATE: (Refer Issue no.) 1-08	DRAWING NO.
	DATE REASON FOR ISSUE	REV	DESIGNED BY: DP					START DATE: TBC	REV: A	

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Date Received: 04/06/2021



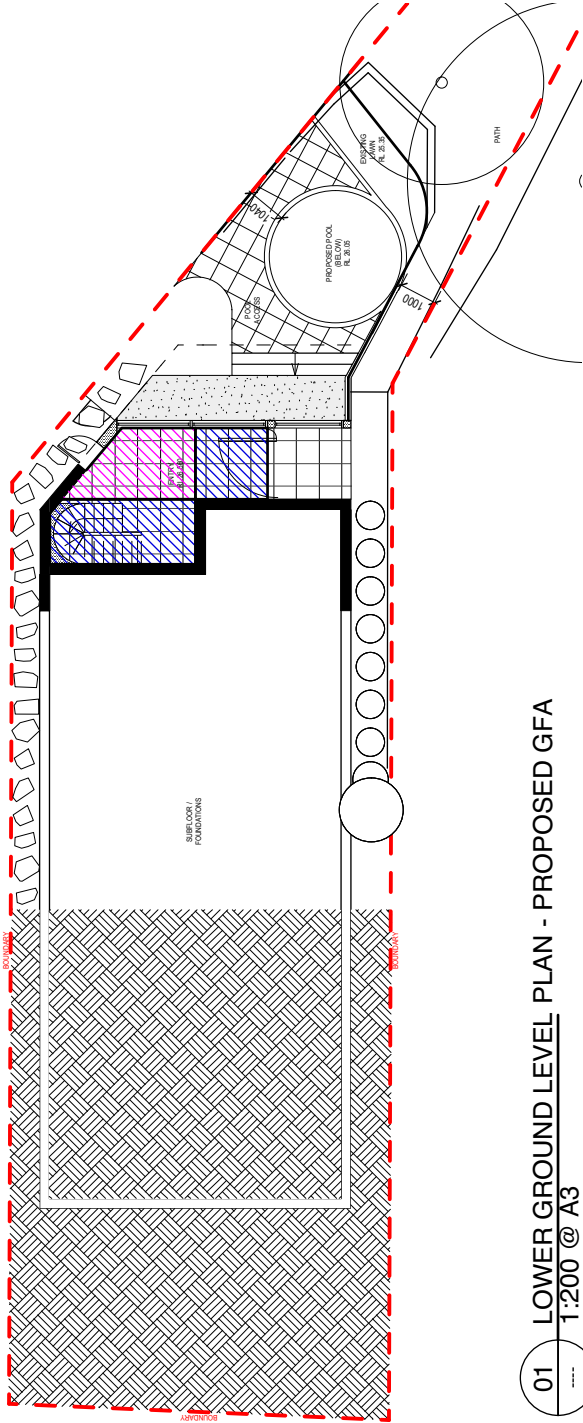
CONSTRUCTION TYPES LEGEND	
	EXISTING - RETAIN
	EXISTING - DEMOLISH
	EXISTING - DEMOLISH
	NEW TIMBER FRAMED WALL



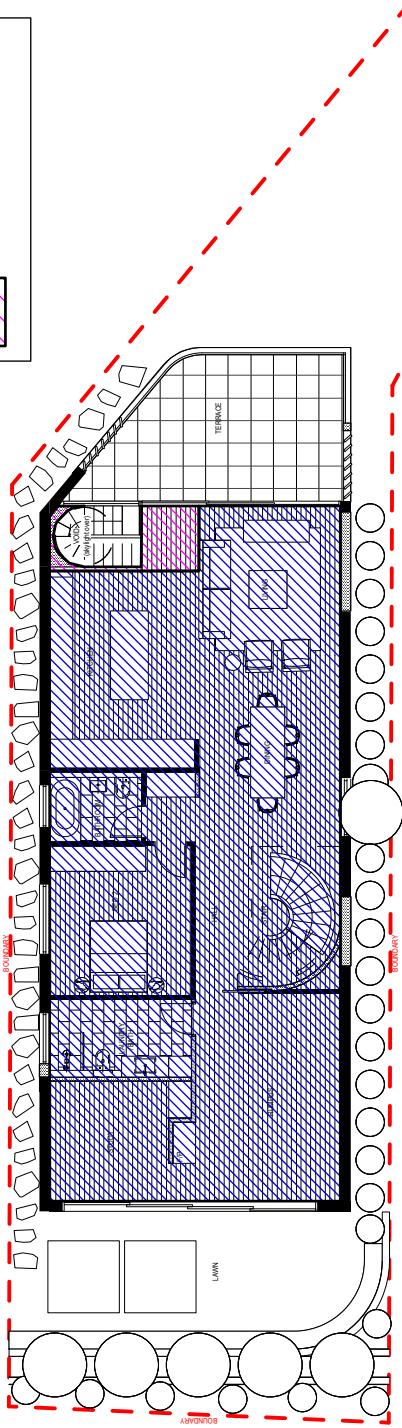
NORTH: 	ISSUE: 10/12/20	ISSUE FOR DA A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	DRAWING PROPOSED POOL PLAN	DRAWN BY: DP	DATE: (Refer Issue no.) 1-09	DRAWING NO: 1-09
	DATE 10/12/20	REASON FOR ISSUE	SCALE (REFER DRAWING TITLES)	DESIGNED BY: DP	START DATE: TBC	REV: A			

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Date Received: 04/06/2021

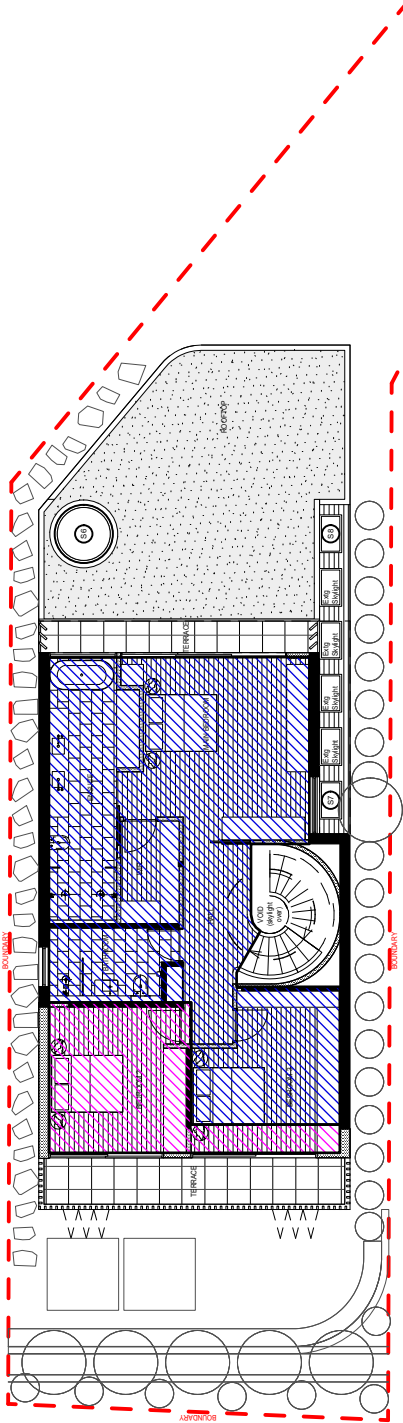
AMENDED



01 LOWER GROUND LEVEL PLAN - PROPOSED GFA
1:200 @ A3



02 GROUND LEVEL PLAN - PROPOSED GFA
1:200 @ A3



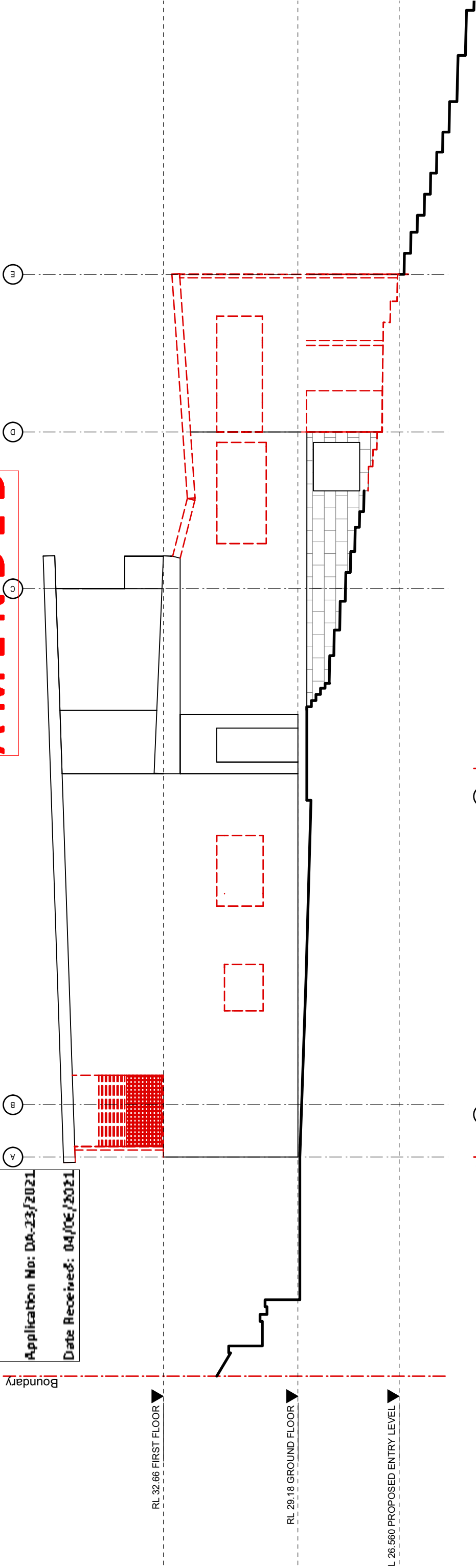
03 LEVEL 1 PLAN - PROPOSED GFA
1:200 @ A3



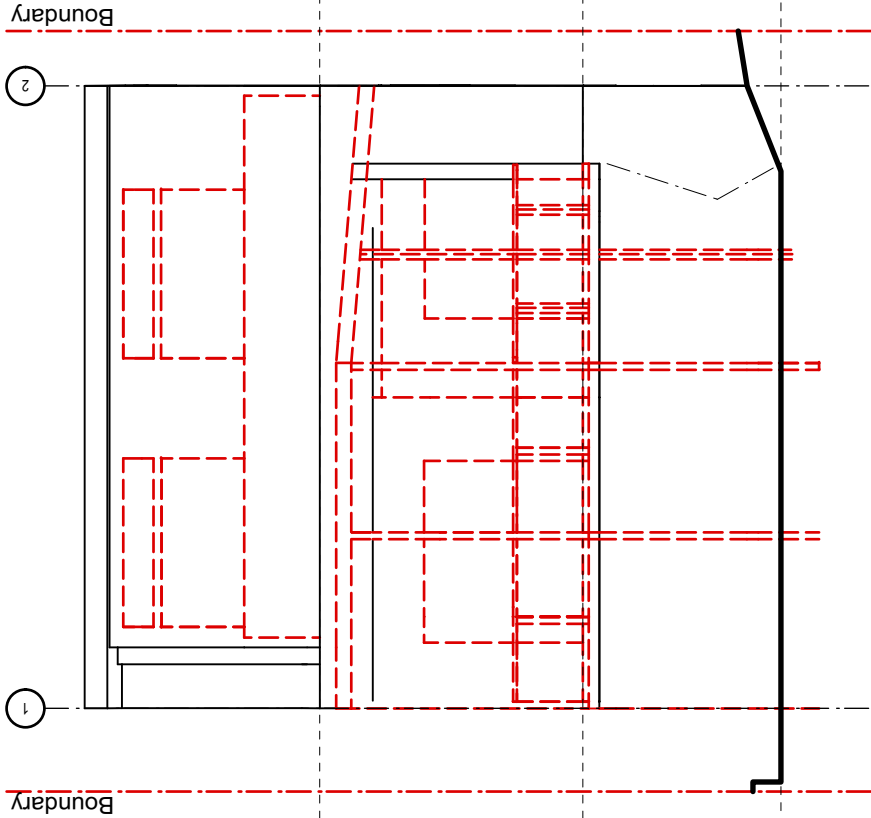
NORTH: 	ISSUE: 12/01/21	ISSUE FOR DA A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER:  DARREN PALMER Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	DRAWING MAIN DWELLING - GFA PLANS	DRAWN BY: DP	DATE: (Refer Issue no.) 1-10	DRAWING NO: 1-10
	DATE 12/01/21	REASON FOR ISSUE REV					DESIGNED BY: DP	START DATE: TBC	REV: A

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Date Received: 04/06/2021

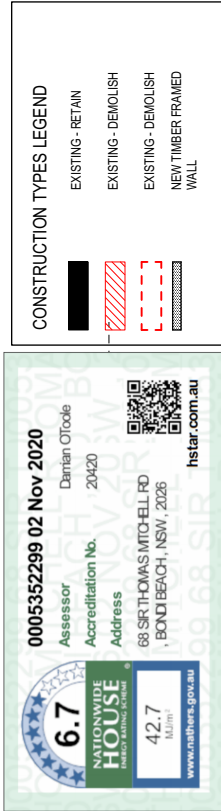
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01 EAST ELEVATION - EXISTING / DEMO
1:100 @ A3

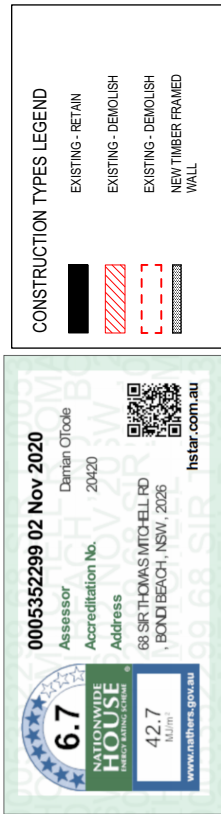
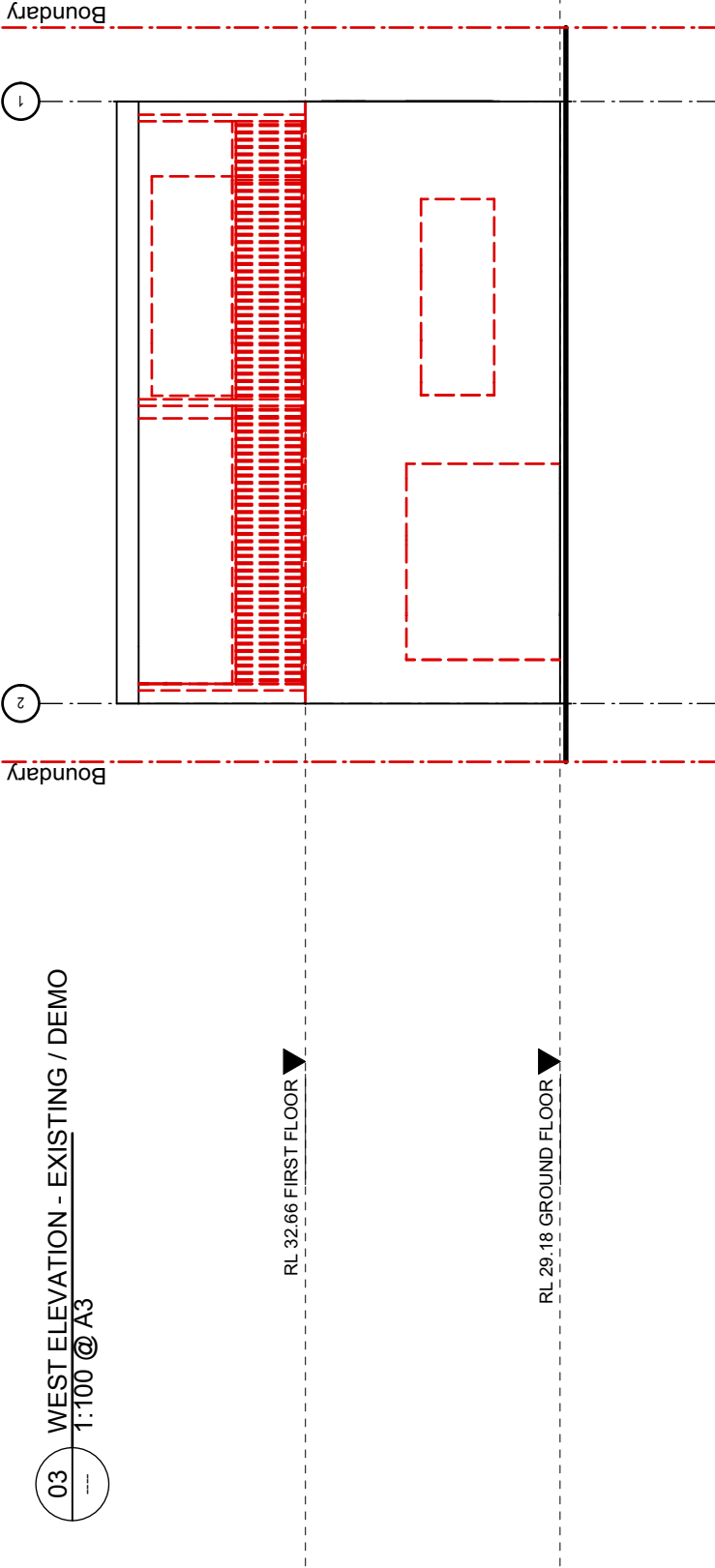


02 NORTH ELEVATION - EXISTING / DEMO
1:100 @ A3



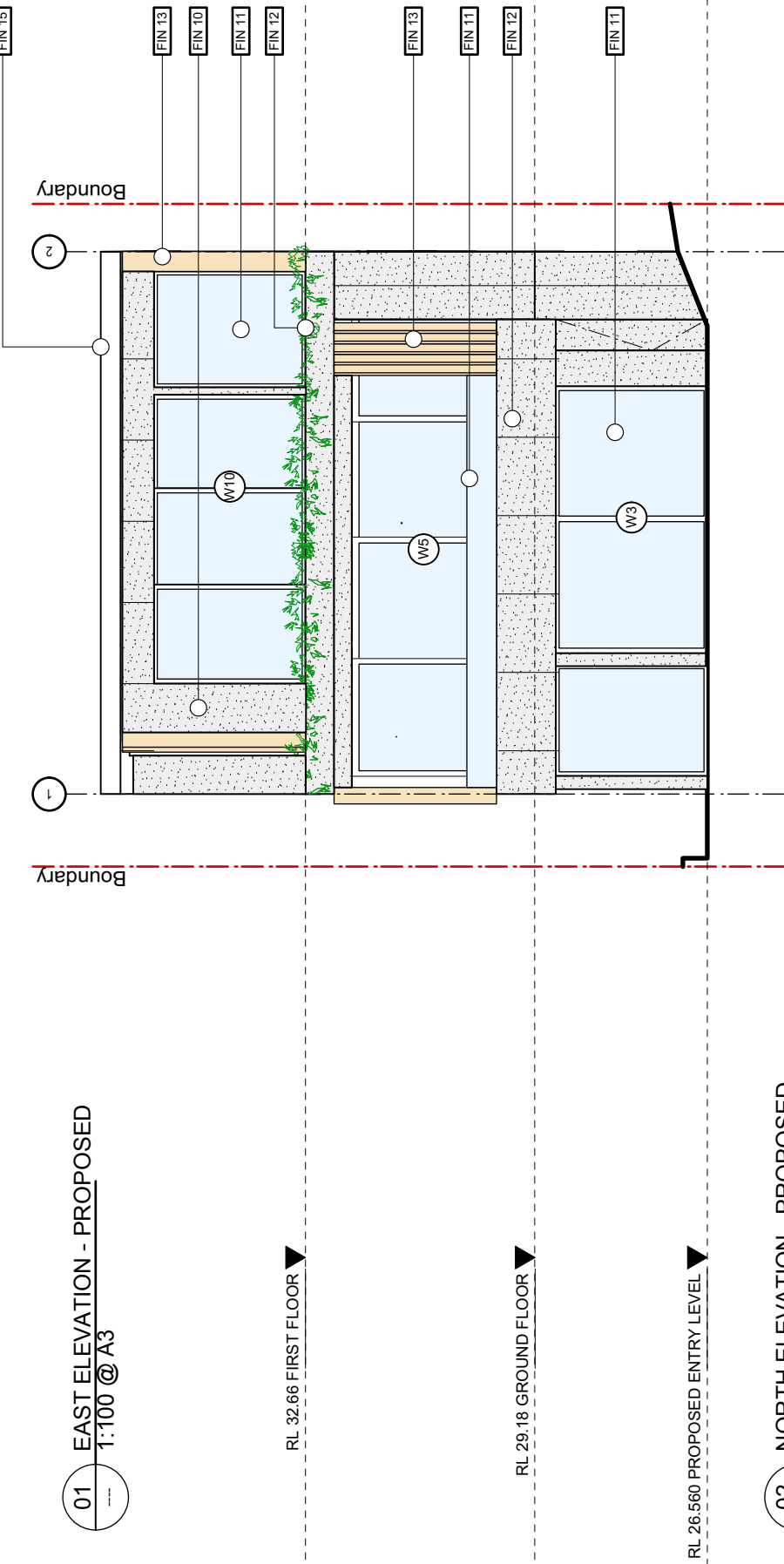
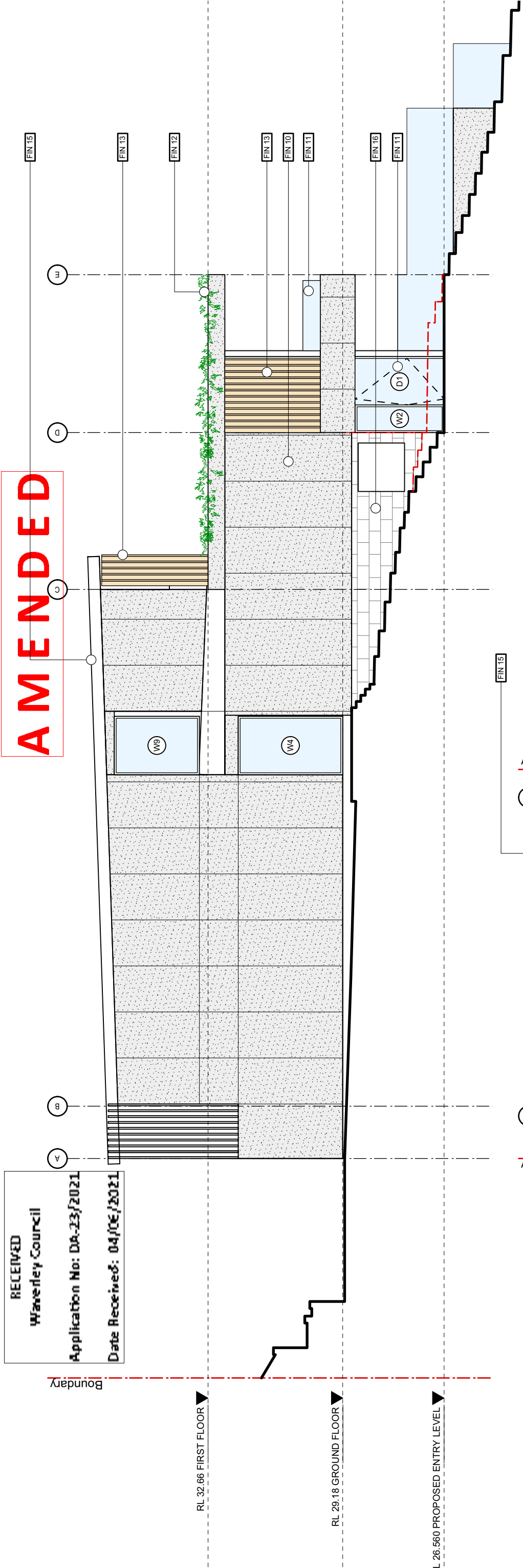
NORTH:	ISSUE:	10/12/20	ISSUE FOR DA	A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING EXISTING / DEMO ELEVATIONS: NORTH & EAST	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: 2-01
	DATE	REASON FOR ISSUE	REV								
<div>PROJECT ADDRESS: 66 SIR THOMAS MITCHELL DRIVE, BONDI, NSW</div> <div>SCALE: (REFER DRAWING TITLES)</div> <div>DESIGNED BY: DP</div> <div>START DATE: TBC</div> <div>REV: A</div>											

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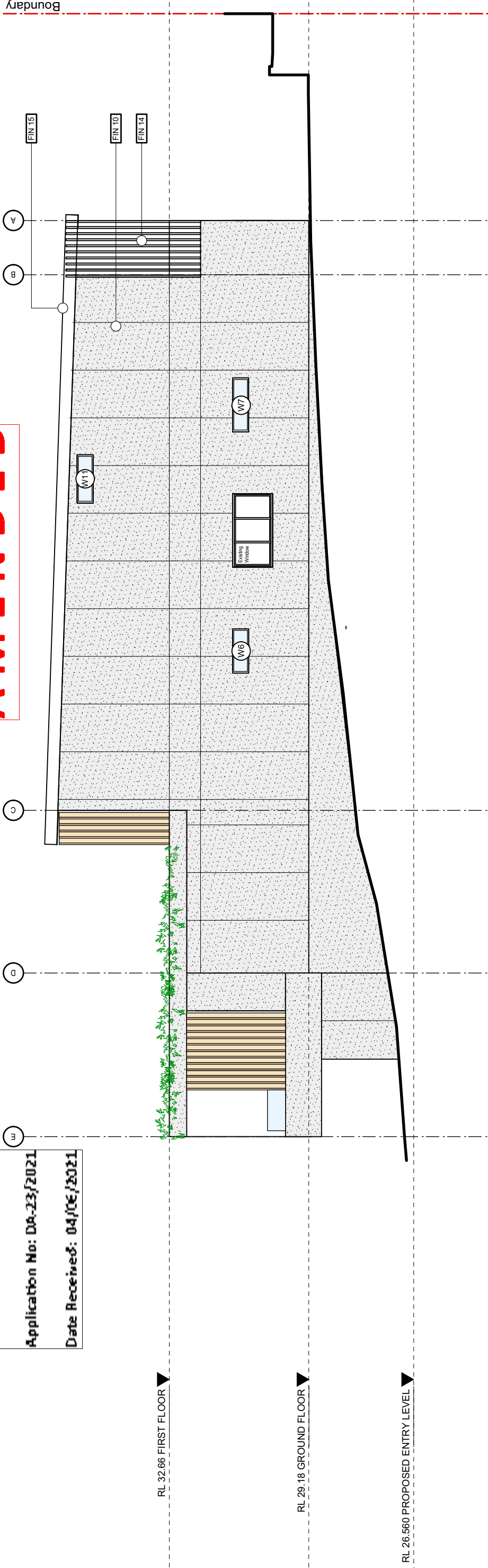


CONSTRUCTION TYPES LEGEND	
	EXISTING - RETAIN
	EXISTING - DEMOLISH
	EXISTING - DEMOLISH
	NEW TIMBER FRAMED WALL

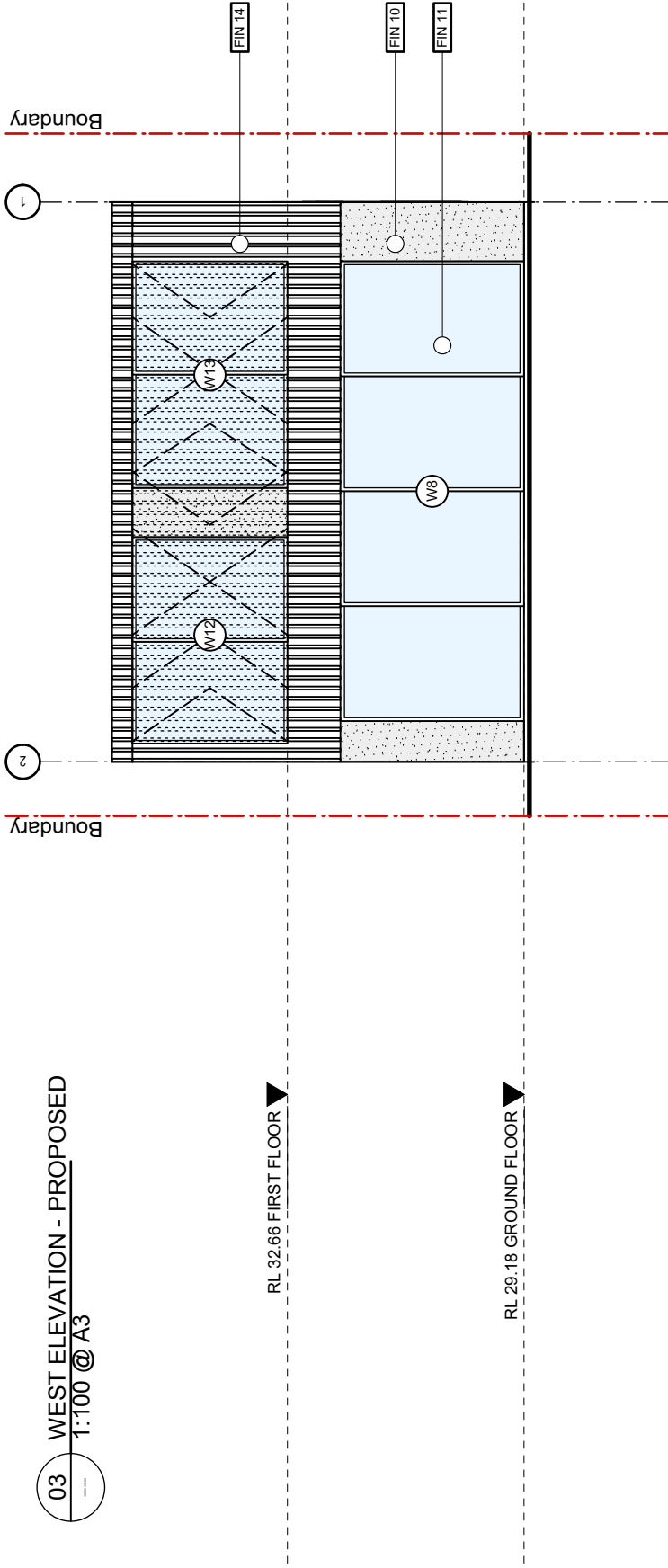
NORTH:	ISSUE:	10/12/20	ISSUE FOR DA	A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING	PROPOSED ELEVATIONS: NORTH & EAST	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: 2-03
	DATE:	REASON FOR ISSUE	REV	SCALE: (REFER DRAWING TITLES)				DESIGNED BY: DP				

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03 WEST ELEVATION - PROPOSED
1:100 @ A3



04 SOUTH ELEVATION - PROPOSED
1:100 @ A3



CONSTRUCTION TYPES LEGEND	
	EXISTING - RETAIN
	EXISTING - DEMOLISH
	EXISTING - DEMOLISH
	NEW TIMBER FRAMED WALL

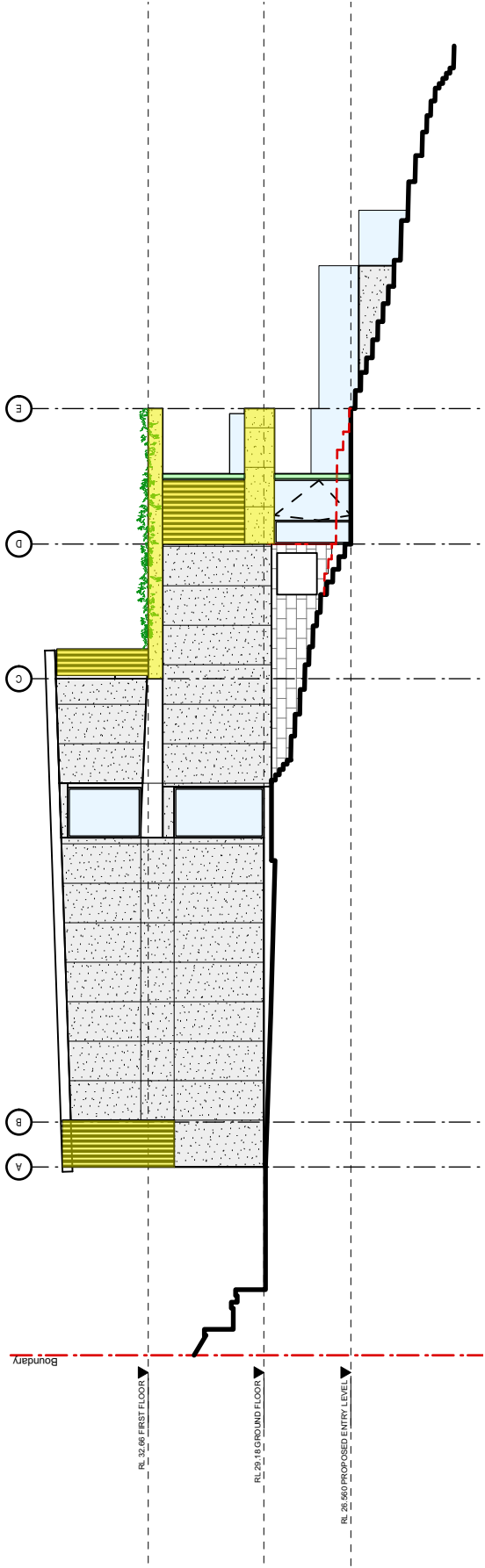
NORTH:	ISSUE:	10/12/20	ISSUE FOR DA:	A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woollahra 2025 E+ studio@darrenpalmer.com	CLIENT: DARREN PALMER PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	DRAWING	PROPOSED ELEVATIONS: SOUTH & WEST	DRAWN BY:	DP	DATE:	(Refer Issue no.)	DRAWING NO:	2-04
	DATE:		REASON FOR ISSUE:	REV				SCALE:	(REFER DRAWING TITLES)	DESIGNED BY:	DP	START DATE:	TBC	REV:	A

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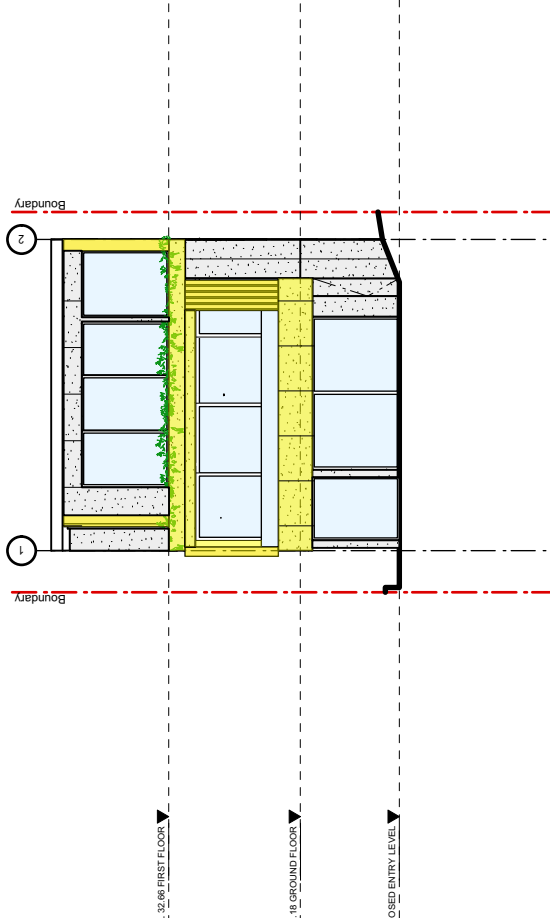
Application No: DA-23/2021

Date Received: 04/06/2021

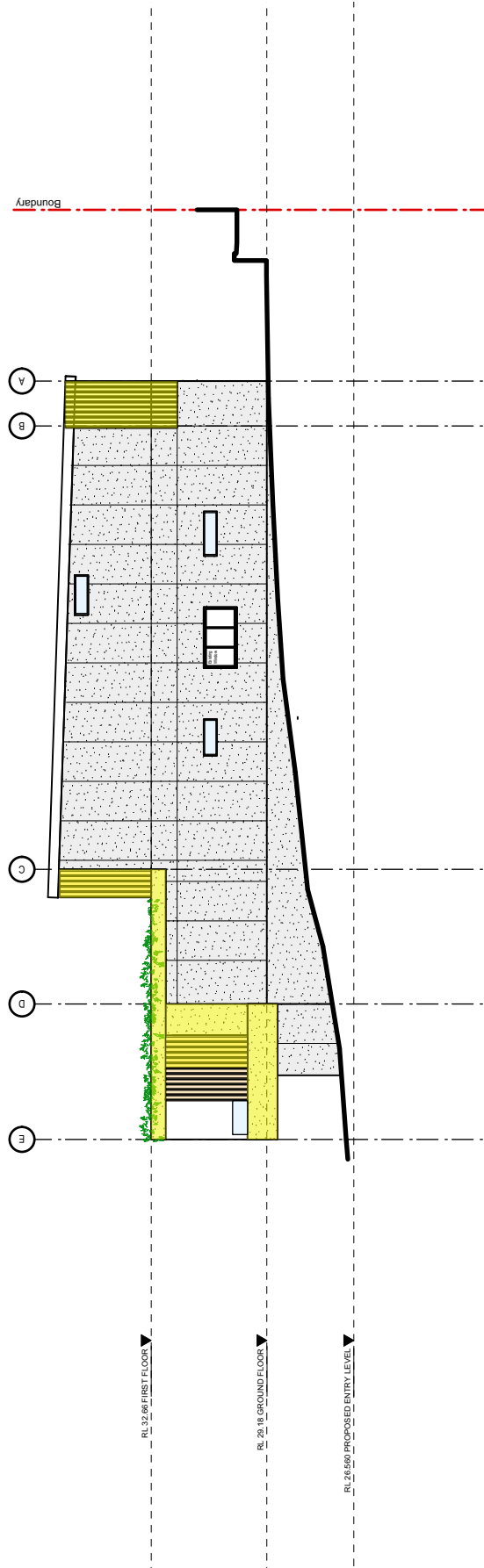
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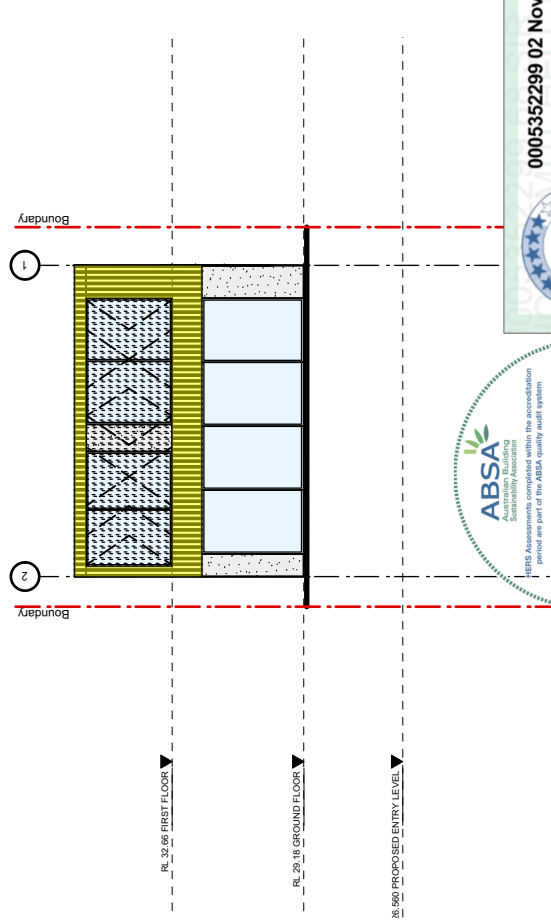
01 EAST ELEVATION - PROPOSED
1:200 @ A3



02 NORTH ELEVATION - PROPOSED
1:200 @ A3



03 WEST ELEVATION - PROPOSED
1:200 @ A3



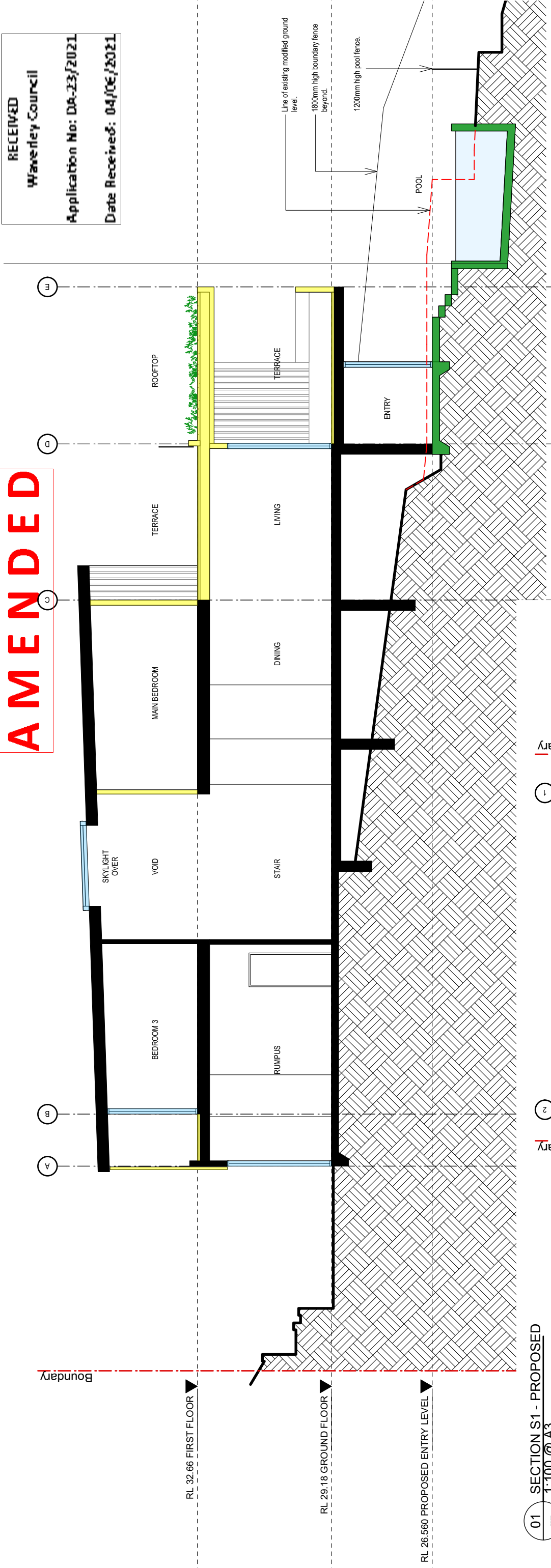
04 SOUTH ELEVATION - PROPOSED
1:200 @ A3



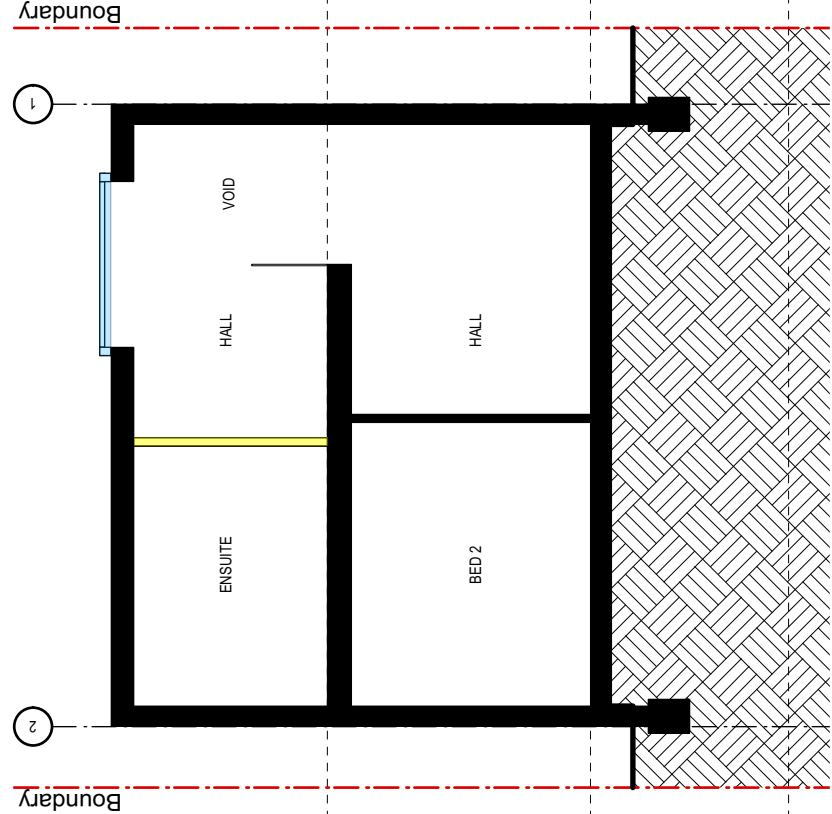
NORTH:	ISSUE:	10/12/20	ISSUE FOR DA	A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Wollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING PROPOSED ELEVATIONS: NTH, EAST, STH & WEST - COLOURED	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: 2-05
	DATE	REASON FOR ISSUE	REV								
							PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	SCALE: (REFER DRAWING TITLES)	DESIGNED BY: DP	START DATE: TBC	REV: A

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01 SECTION S1 - PROPOSED
1:100 @ A3



02 SECTION S2 - PROPOSED
1:100 @ A3



CONSTRUCTION TYPES LEGEND			
	EXISTING - RETAIN		EXISTING - DEMOLISH
	EXISTING - DEMOLISH		EXISTING - DEMOLISH
	NEW TIMBER FRAMED WALL		

NORTH:	ISSUE:	10/12/20	ISSUE FOR DA	A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woollahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: 3-01
	DATE	REASON FOR ISSUE	REV	SCALE: (REFER DRAWING TITLES)				DESIGNED BY: DP			

AMENDED



FIN 10 JAMES HARDIE SCYON MATRIX CLADDING - PAINT WHITE FINISH



FIN 11 CLEAR GLASS



FIN 12 LOW LEVEL PLANTING



FIN 13 TIMBER LOUVRE - STAIN FINISH



FIN 14 TIMBER BATTEN / SCREEN - PAINT FINISH, WHITE



FIN 15 SHEET METAL ROOFING - COLOURBOND SURFMIST



FIN 16 EXISTING SANDSTONE

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NORTH:	ISSUE:		GENERAL NOTES:		DESIGNER:	CLIENT	DRAWING		DRAWN BY:	DATE:	DRAWING NO:
	10/12/20	ISSUE FOR DA	A								
	DATE	REASON FOR ISSUE	REV		Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woollahra 2025 E: studio@darrenpalmer.com	DARREN PALMER	SCALE:		DP	TBC	REV:
							(REFER DRAWING TITLES)				

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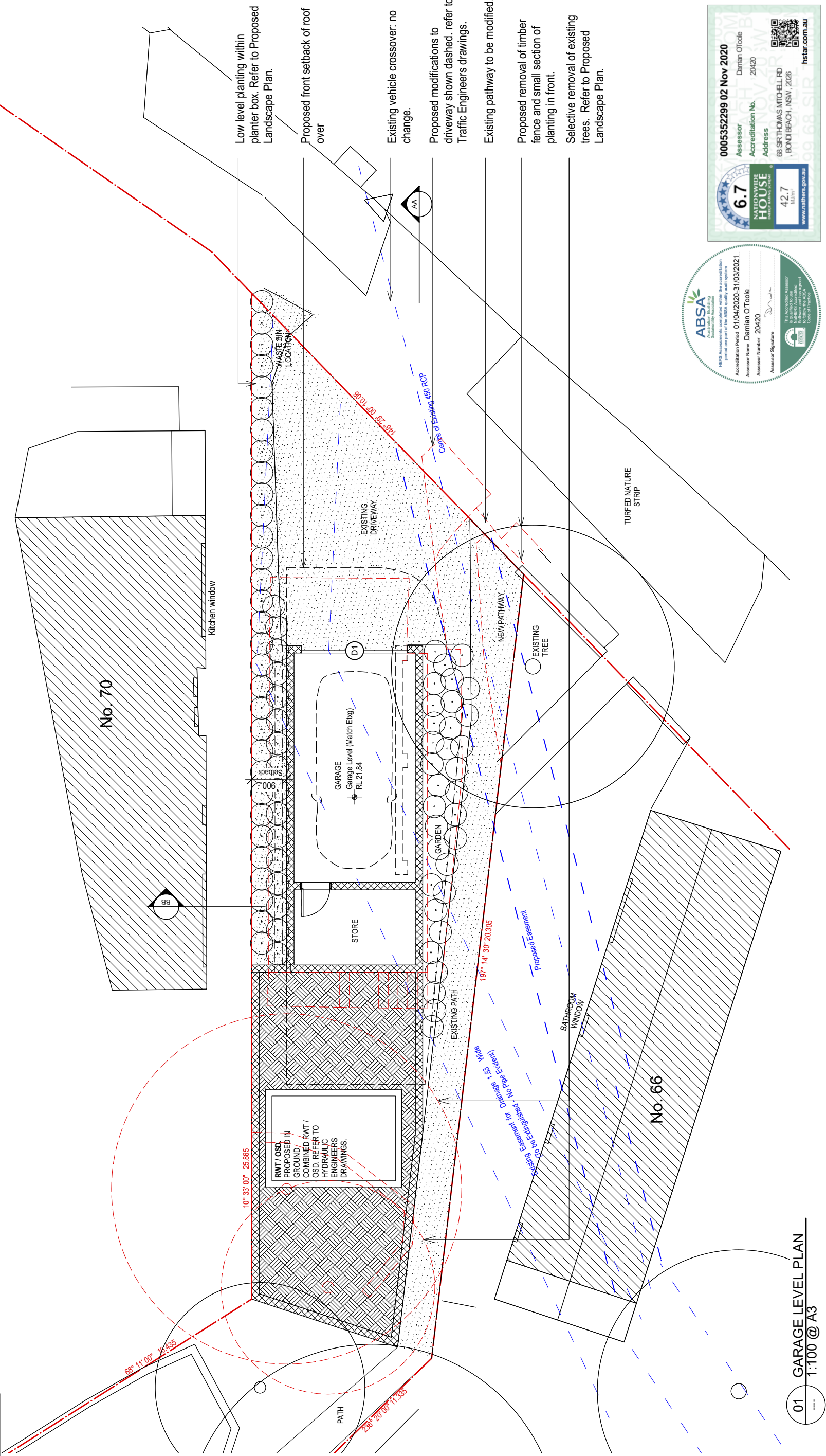
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WALL LEGEND

EXISTING RETAINED

CONCRETE BLOCK

TIMBER FRAMING



01 GARAGE LEVEL PLAN
1:100 @ A3




- Low level planting within planter box. Refer to Proposed Landscape Plan.
- Proposed front setback of roof over
- Existing vehicle crossover: no change.
- Proposed modifications to driveway shown dashed. refer to Traffic Engineers drawings.
- Existing pathway to be modified.
- Proposed removal of timber fence and small section of planting in front.
- Selective removal of existing trees. Refer to Proposed Landscape Plan.

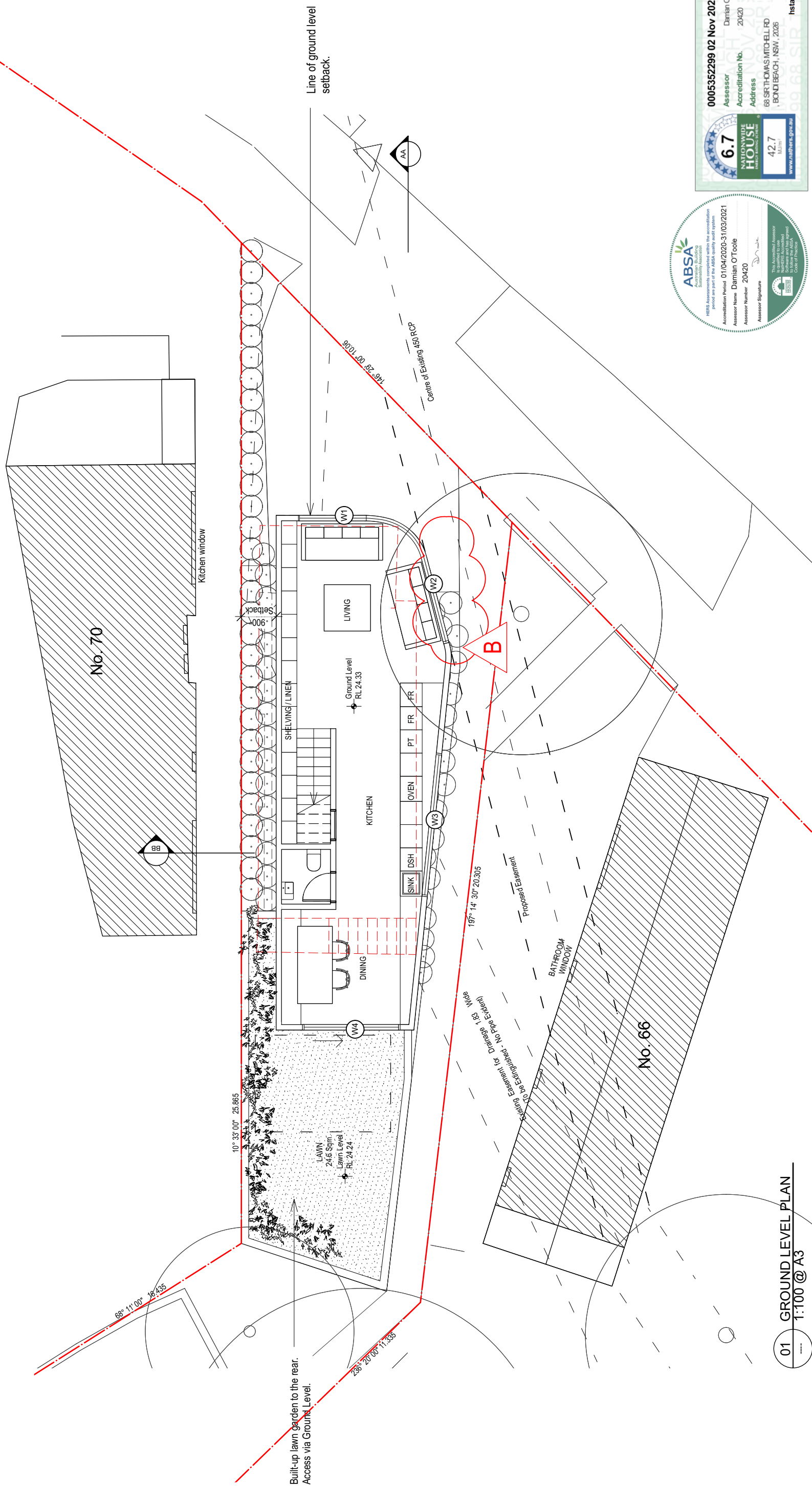



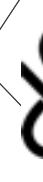
<div>NORTH: </div>	<div>ISSUE: 10/12/20 31/5/21</div>	<div>ISSUE FOR DA DESIGN UPDATE</div>	<div>A B</div>	<div>GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.</div>	<div>DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woolahra 2025 E+ studio@darrenpalmer.com</div>	<div>CLIENT DARREN PALMER</div>	<div>DRAWING PROPOSED GARAGE PLAN</div>	<div>DRAWN BY: DP</div>	<div>DATE: (Refer Issue no.)</div>	<div>DRAWING NO: DA-4-01</div>
	<div>DATE REASON FOR ISSUE</div>	<div>REV</div>	<div>SCALE: (REFER DRAWING TITLES)</div>				<div>DESIGNED BY: DP</div>			

<p>RECEIVED</p> <p>Waverley Council</p> <p>Application No: DA-23/2021</p> <p>Date Received: 04/06/2021</p>

WALL LEGEND




	EXISTING RETAINED
	CONCRETE BLOCK
	TIMBER FRAMING

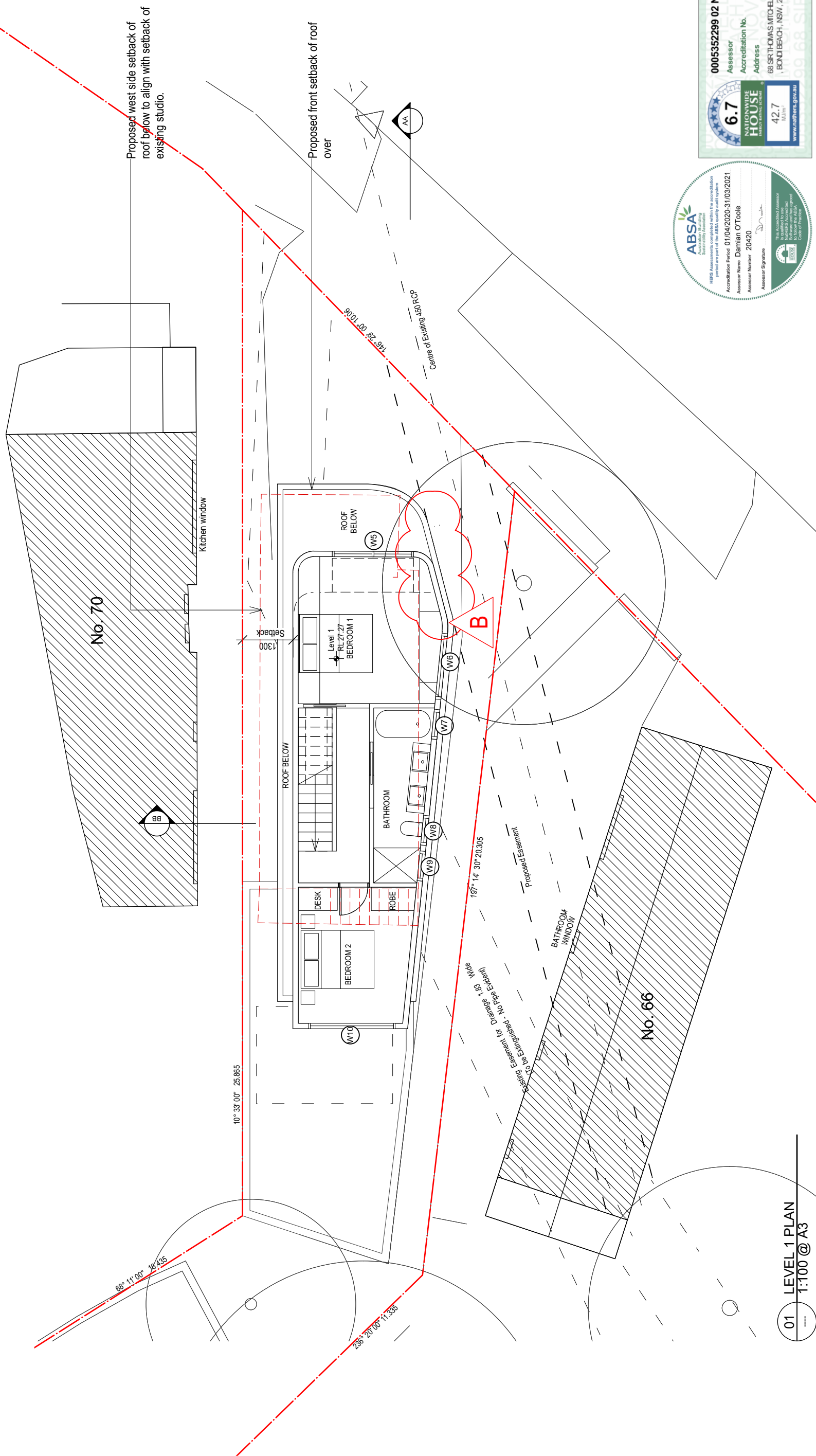





<div>NORTH: </div>	<div>ISSUE: 10/12/20 31/5/21</div>	<div>ISSUE FOR DA DESIGN UPDATE</div>	<div>A B</div>	<div>GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.</div>	<div>DESIGNER:  DARREN PALMER Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St. Woolahra 2025 E+ studio@darrenpalmer.com</div>	<div>CLIENT DARREN PALMER</div>	<div>PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW</div>	<div>DRAWING PROPOSED GROUND LEVEL PLAN</div>	<div>DRAWN BY: DP</div>	<div>DATE: (Refer Issue no.)</div>	<div>DRAWING NO: DA-4-02</div>
	<div>DATE</div>	<div>REASON FOR ISSUE</div>	<div>REV</div>	<div>DESIGNED BY: DP</div>	<div>START DATE: TBC</div>	<div>REV: B</div>					

<p>RECEIVED</p> <p>Waverley Council</p> <p>Application No: DA-23/2021</p> <p>Date Received: 04/06/2021</p>

WALL LEGEND

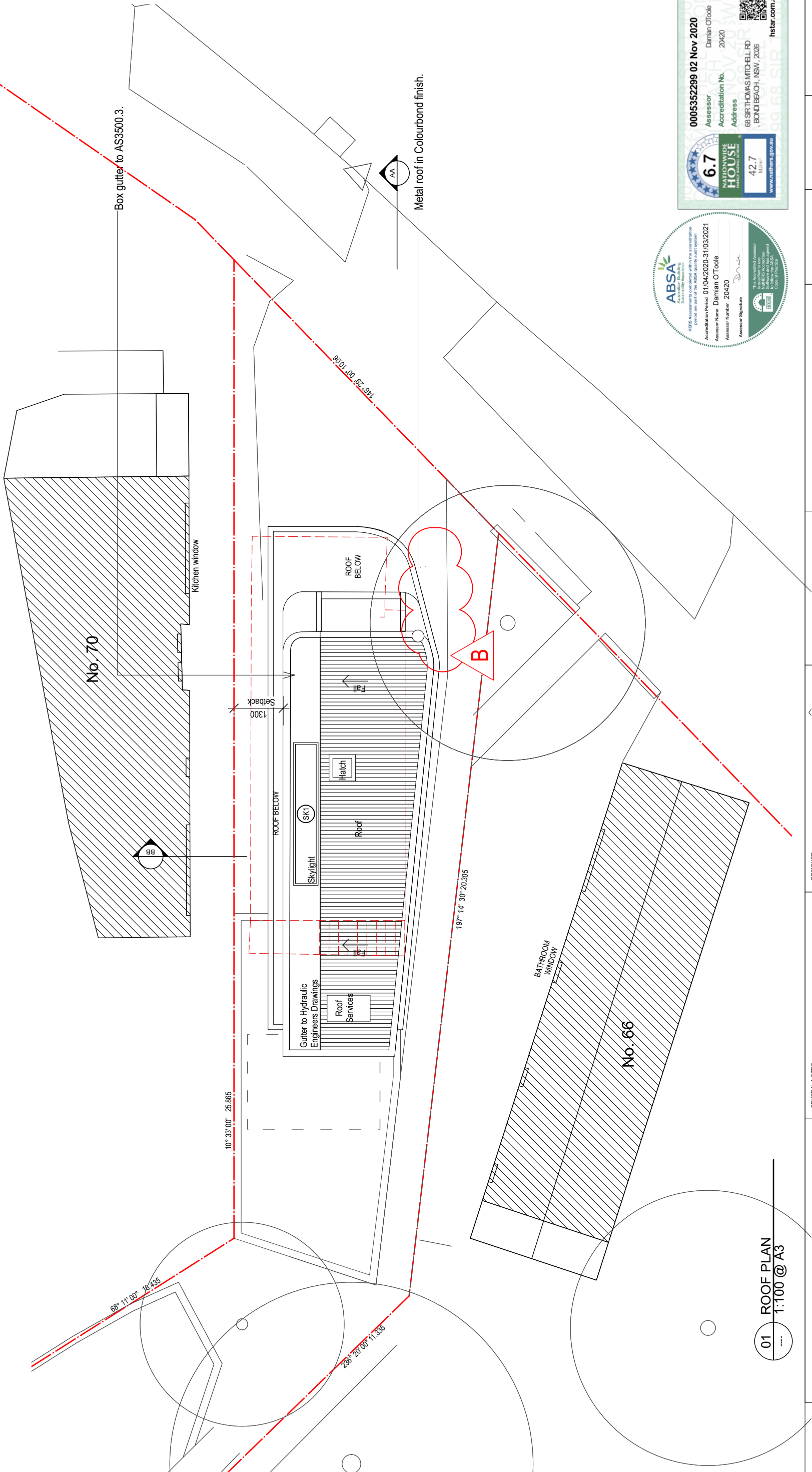
	EXISTING RETAINED
	CONCRETE BLOCK
	TIMBER FRAMING





<div>ISSUE</div> <div>10/1/2020 31/5/21</div>	<div>ISSUE FOR DA DESIGN UPDATE</div>	<div>A</div> <div>B</div>	<div>GENERAL NOTES:</div> <div>Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification.</div> <div>All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.</div>	<div>DESIGNER:</div> <div><div><div>Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woolahra 2025 E+ studio@darrenpalmer.com</div></div></div>	<div>CLIENT</div> <div>DARREN PALMER</div>	<div>DRAWING</div> <div>PROPOSED LEVEL 1 PLAN</div>	<div>DRAWN BY:</div> <div>DP</div>	<div>DATE:</div> <div>(Refer Issue no.)</div>	<div>DRAWING NO.:</div> <div>DA-4-03</div>
						<div>SCALE:</div> <div>(REFER DRAWING TITLES)</div>			
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<div>DATE</div> <div>REASON FOR ISSUE</div>	<div>REV</div>					<div>SCALE:</div> <div>(REFER DRAWING TITLES)</div>	<div>DESIGNED BY:</div> <div>DP</div>	<div>START DATE:</div> <div>TBC</div>	<div>REV:</div> <div>B</div>

RECEIVED
Waverley Council
Application No: DA-23/2021
Date Received: 04/06/2021

AMENDED



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	DATE	REASON FOR ISSUE	REV								START DATE: TBC

RECEIVED
Waverley Council
Application No: DA-23/2021
Date Received: 04/06/2021

WALL LEGEND

EXISTING RETAINED

CONCRETE BLOCK

TIMBER FRAMING

MATERIAL LEGEND

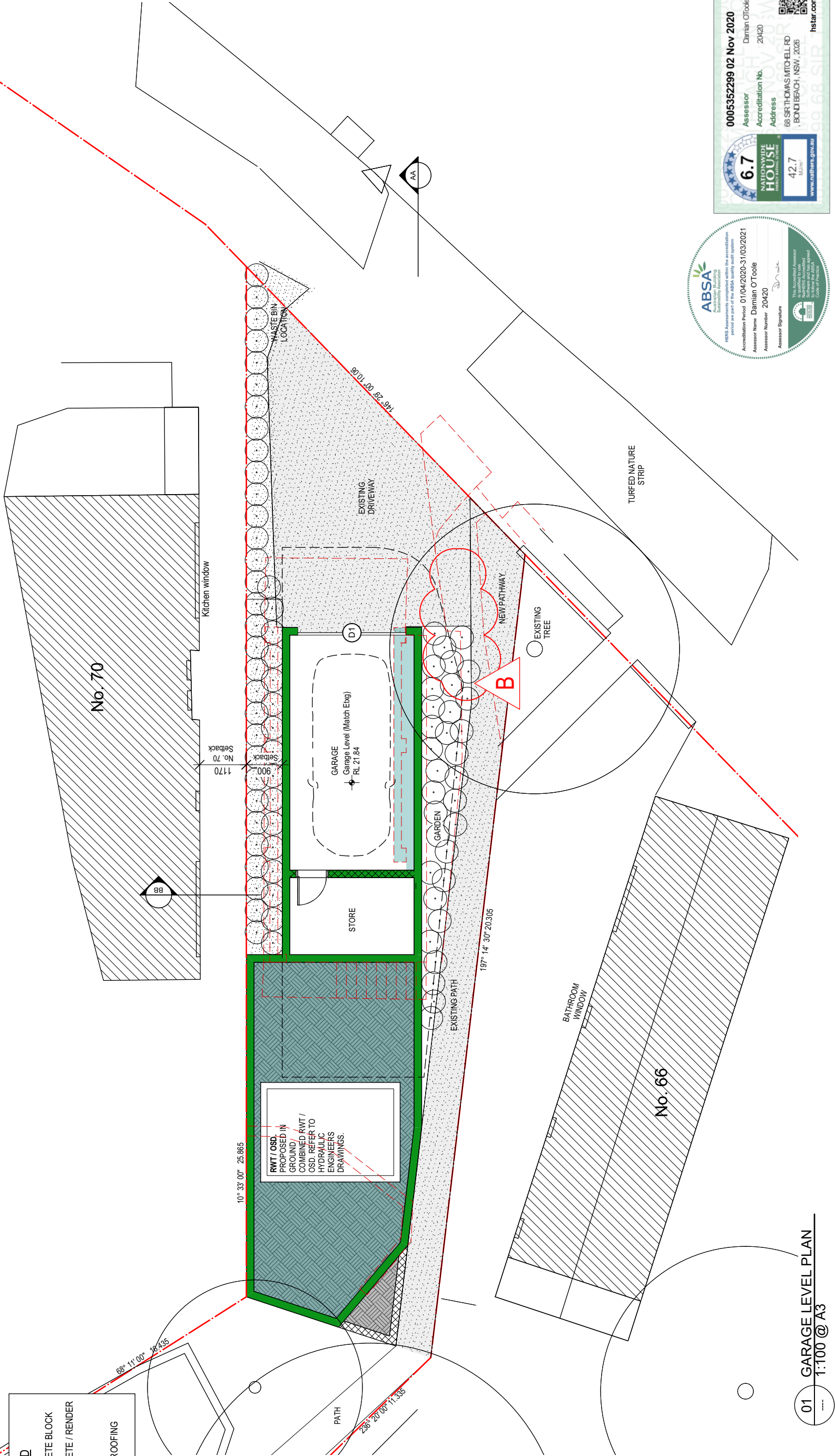
CONCRETE BLOCK

CONCRETE / RENDER

TIMBER

METAL ROOFING

AMENDED



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	DATE	REASON FOR ISSUE	REV	All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.		PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	SCALE: (REFER DRAWING TITLES)	DESIGNED BY: DP	START DATE: TBC	REV: B

AMENDED

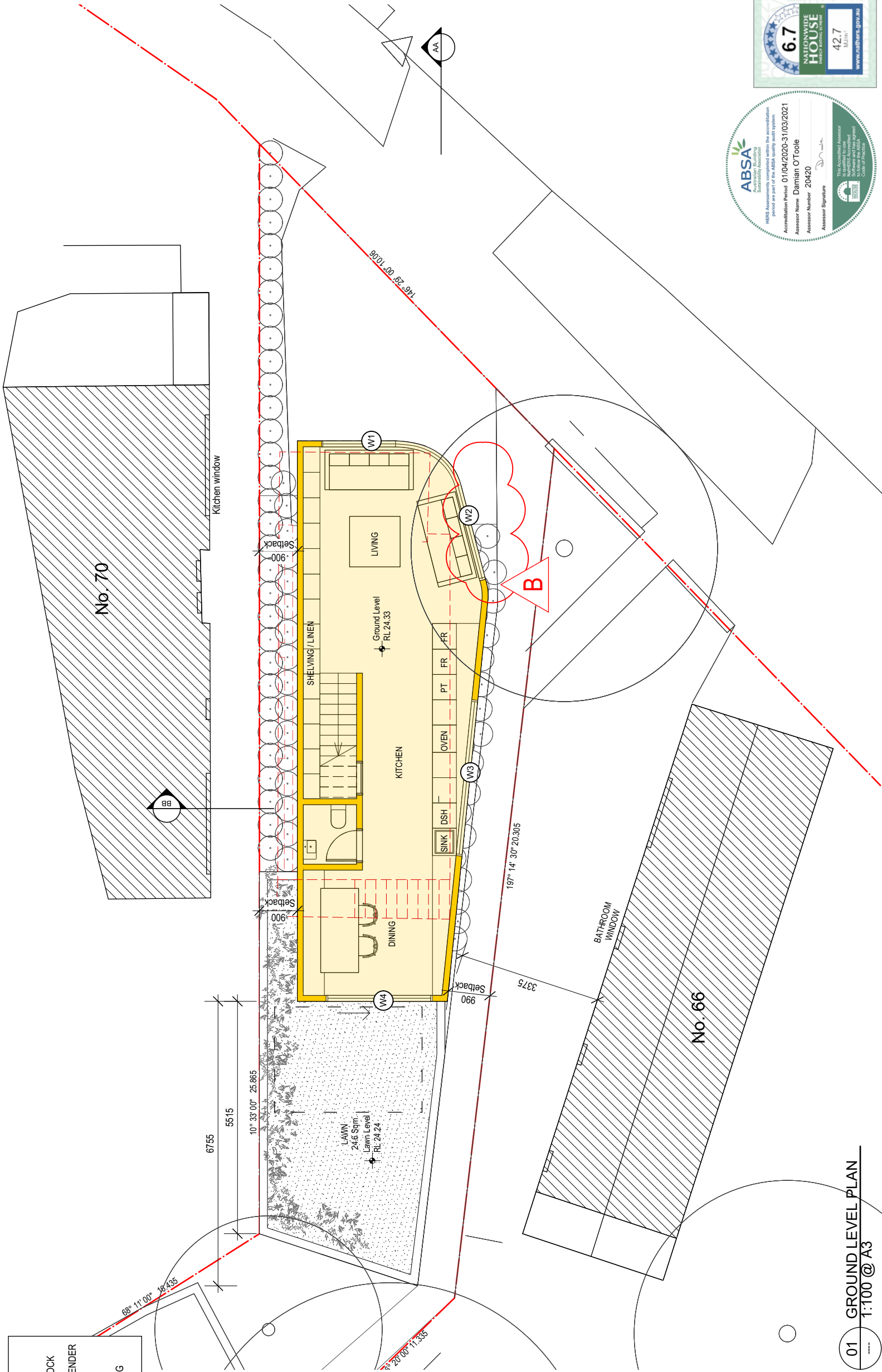
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	TIMBER FRAMING

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	CONCRETE / RENDER
	TIMBER
	METAL ROOFING



0005352299 02 Nov 2020

Assessor: Damian O'Toole
Accreditation No.: 20420
Address: 68 SIR THOMAS MITCHELL RD, BONDI BEACH, NSW, 2026

6.7
NATIONWIDE HOUSE
MARKET & BUILDING




42.7
MARKET & BUILDING

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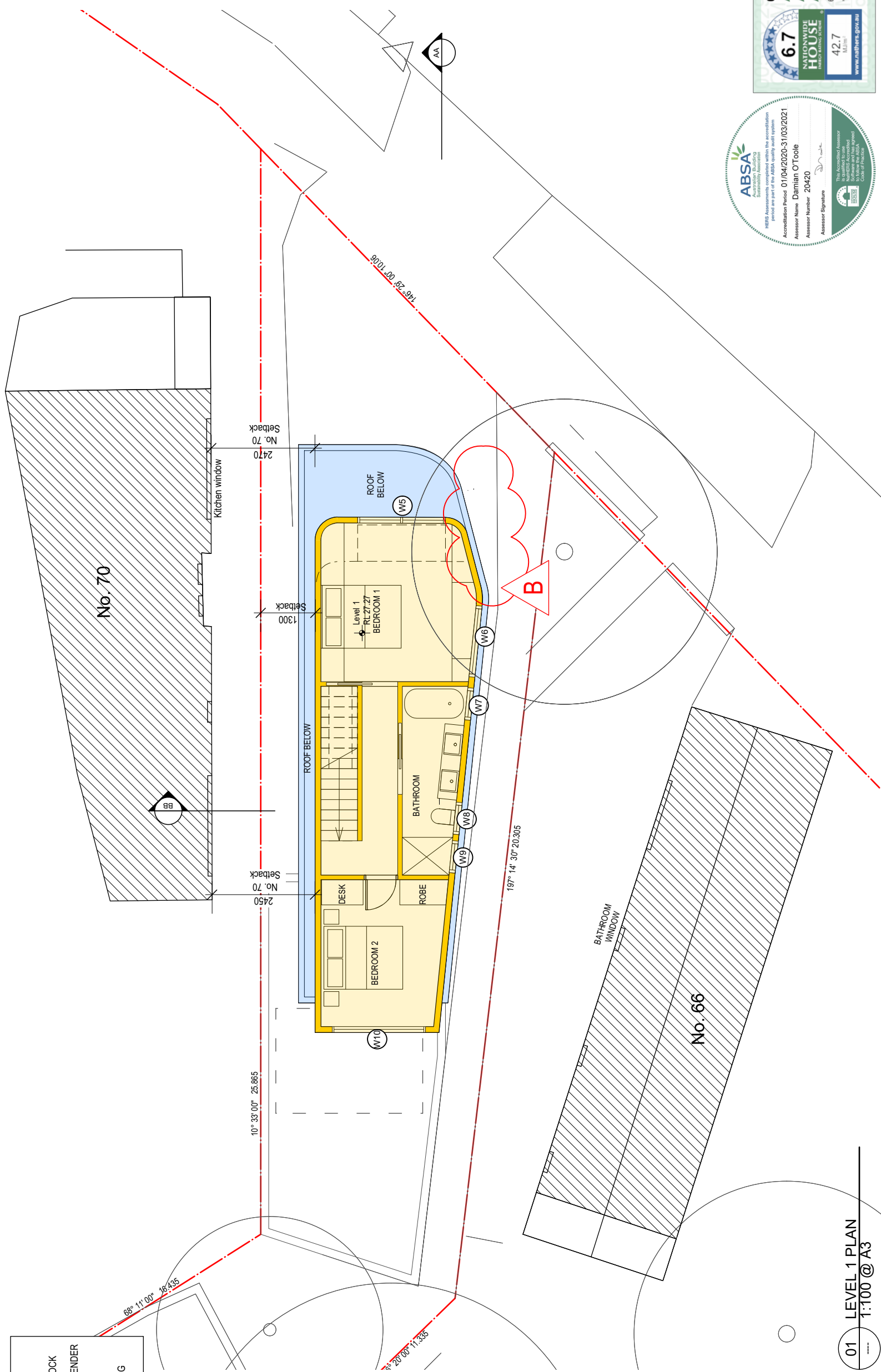
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WALL LEGEND

	EXISTING RETAINED
	CONCRETE BLOCK
	TIMBER FRAMING

MATERIAL LEGEND

	CONCRETE BLOCK
	CONCRETE / RENDER
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WALL LEGEND

EXISTING RETAINED

CONCRETE BLOCK

TIMBER FRAMING

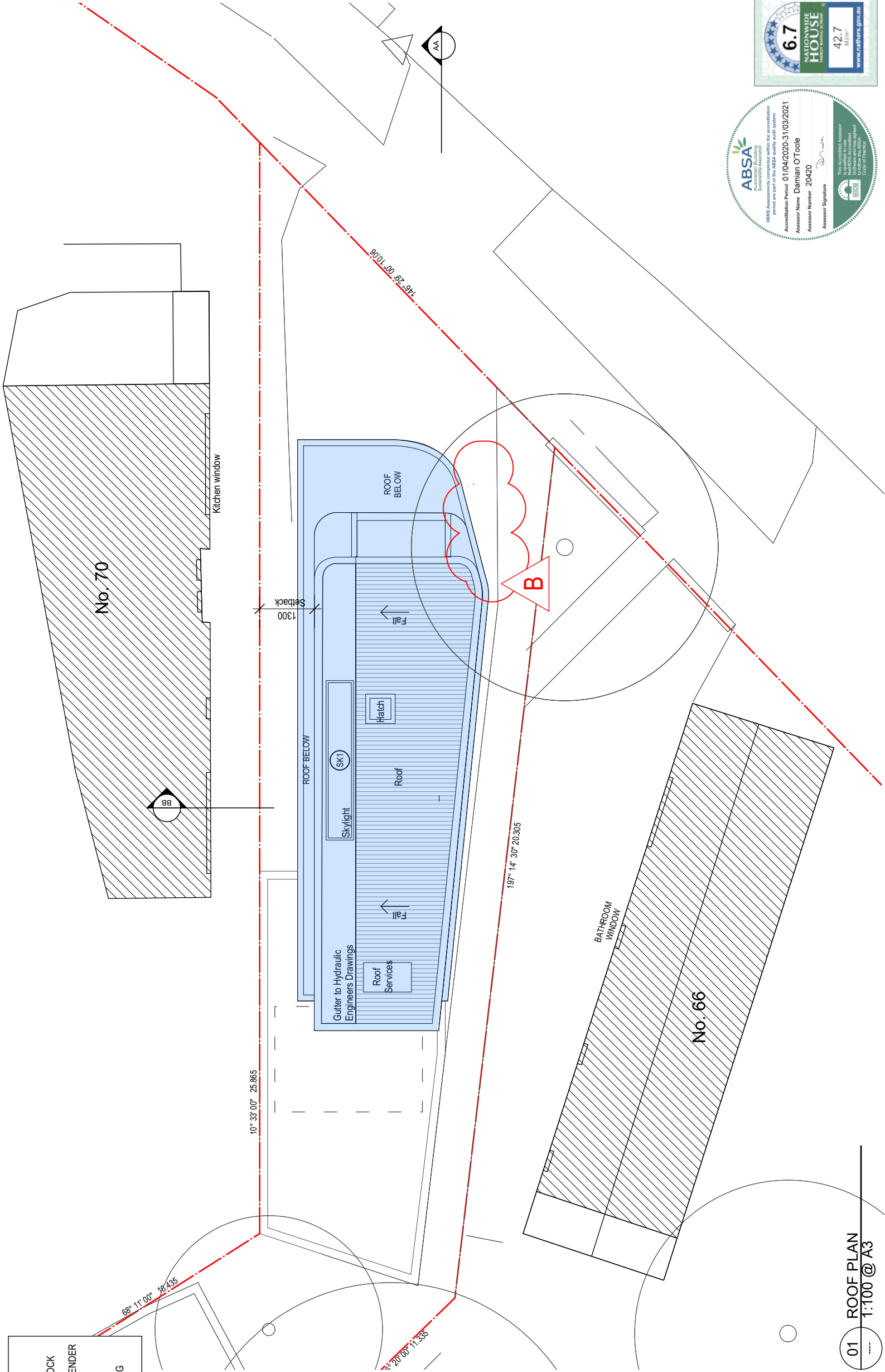
MATERIAL LEGEND

CONCRETE BLOCK

CONCRETE / RENDER

TIMBER

METAL ROOFING



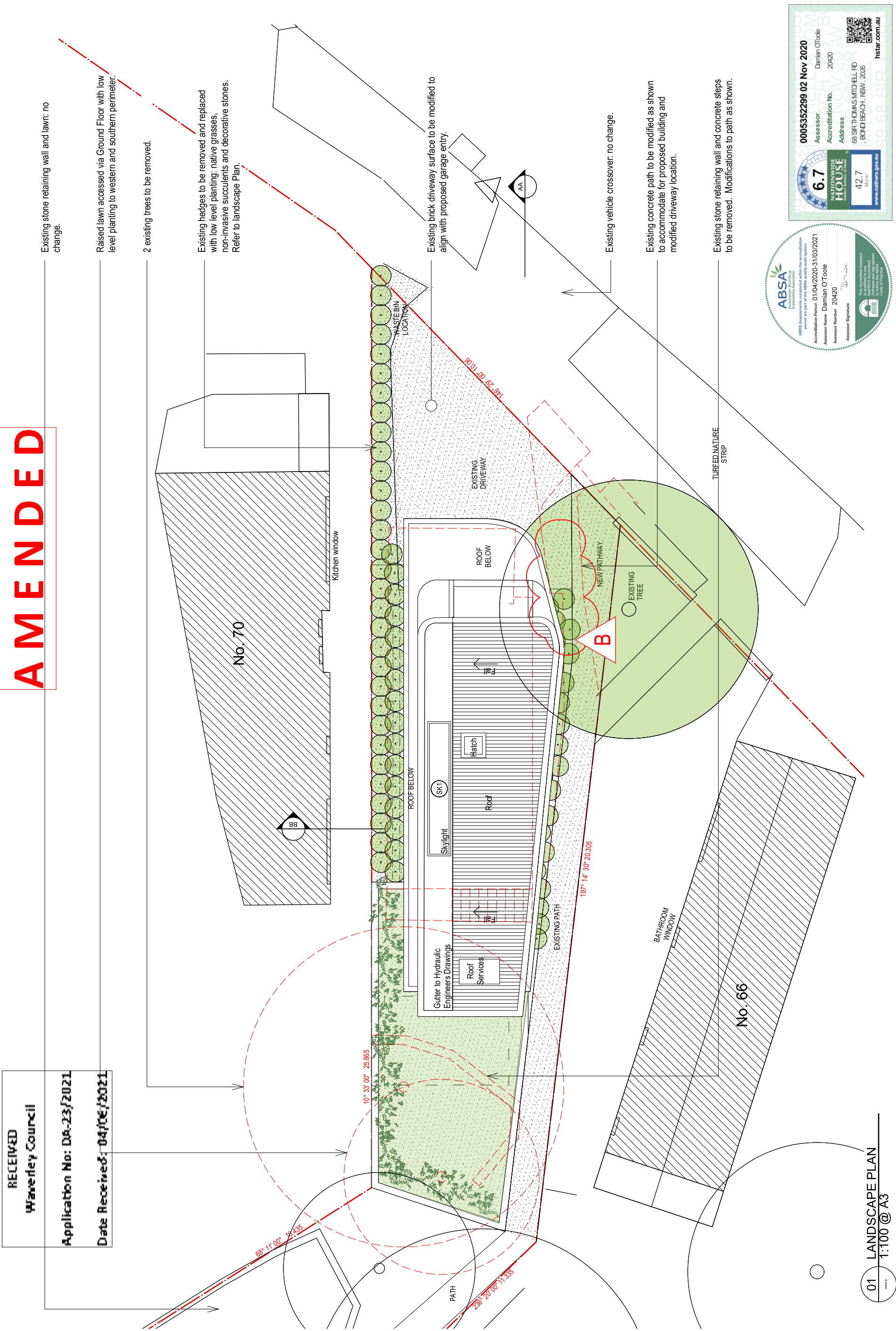
01 ROOF PLAN
1:100 @ A3



NORTH: 	ISSUE: 10/12/20 31/5/21	ISSUE FOR DA DESIGN UPDATE	A B	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woolahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	DRAWING PROPOSED ROOF PLAN - COLOURED	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: DA-4-08	REV: B
	DATE REASON FOR ISSUE							DESIGNED BY: DP	START DATE: TBC		

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Existing stone retaining wall and lawn: no change.

Raised lawn accessed via Ground Floor with low level planting to western and southern perimeter.

2 existing trees to be removed.

Existing hedges to be removed and replaced with low level planting: native grasses, non-invasive succulents and decorative stones. Refer to landscape Plan.

Existing brick driveway surface to be modified to align with proposed garage entry.

Existing vehicle crossover: no change.

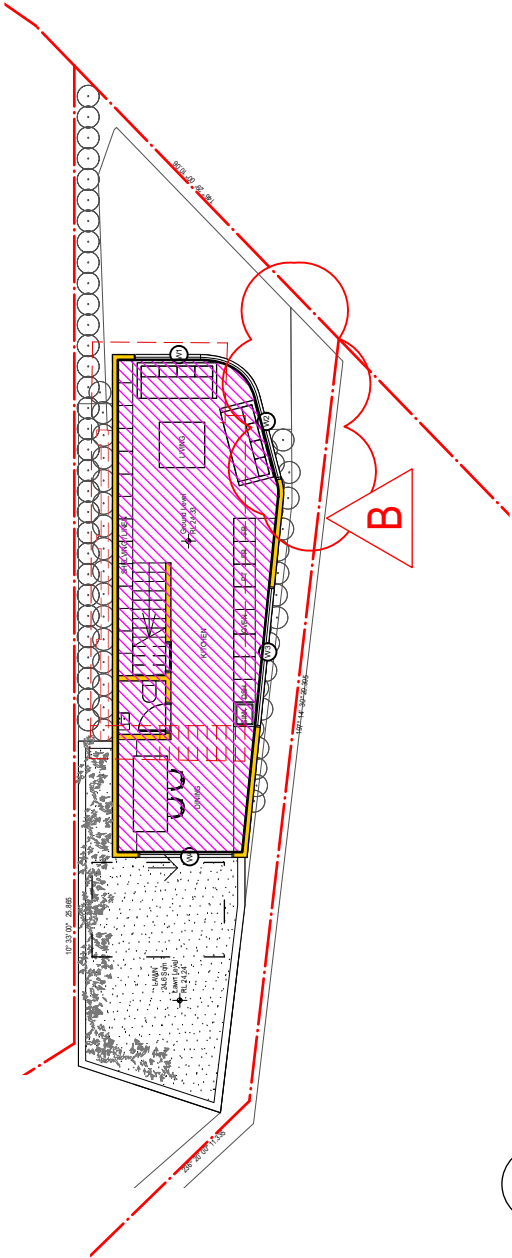
Existing concrete path to be modified as shown to accommodate for proposed building and modified driveway location.

Existing stone retaining wall and concrete steps to be removed. Modifications to path as shown.



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AMENDED



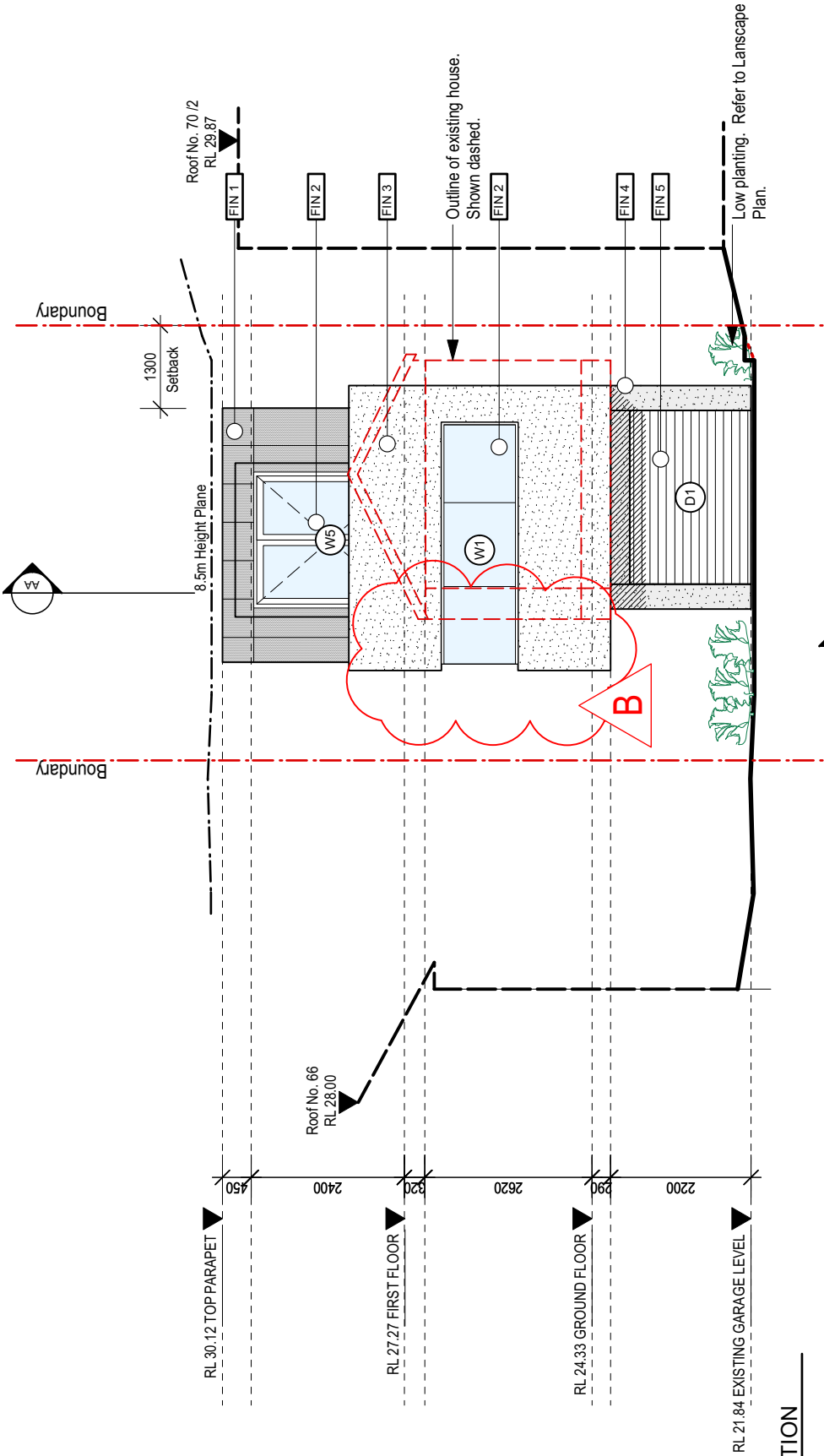
02 GROUND LEVEL PLAN - PROPOSED GFA
1:200 @ A3

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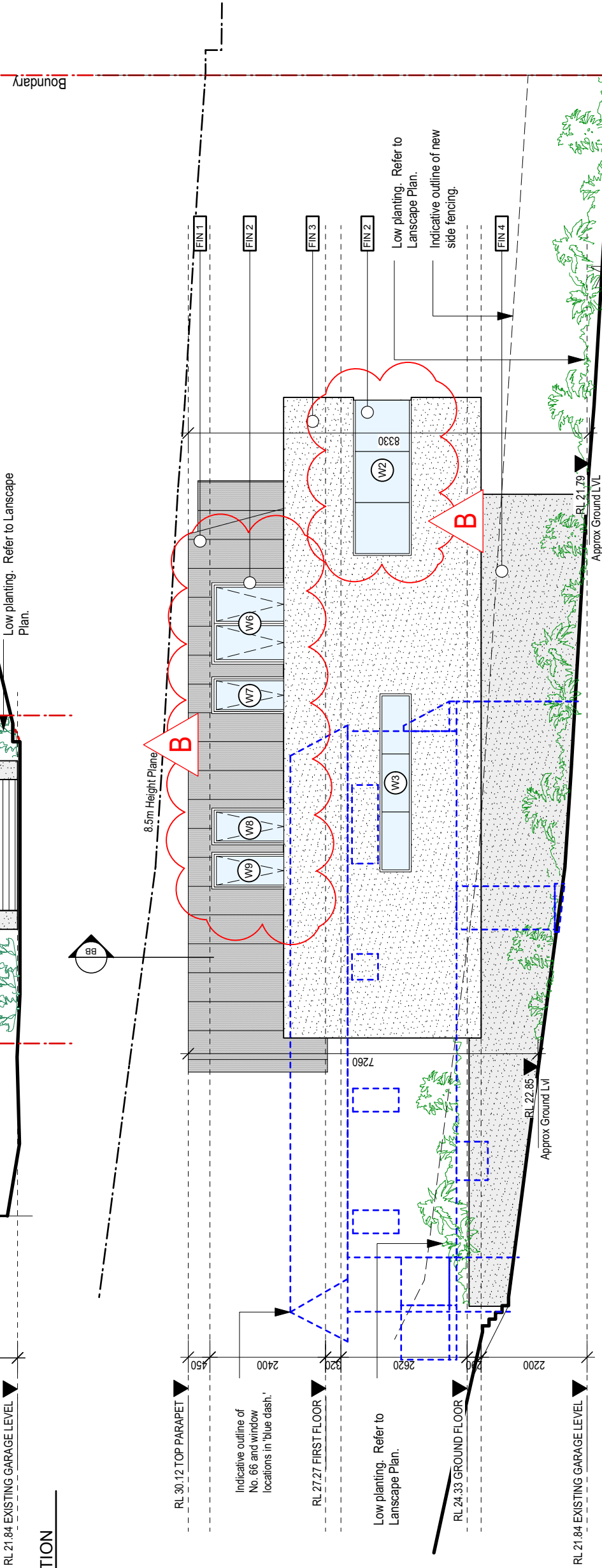


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01 NORTH ELEVATION
1:100 @ A3



02 EAST ELEVATION
1:100 @ A3

NORTH:	ISSUE		GENERAL NOTES:		DESIGNER: <div> Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woolahra 2025 E+ studio@darrenpalmer.com</div>	CLIENT DARREN PALMER PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	DRAWING	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: DA-5-01	REV: B		
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AMENDED

0005352299 02 Nov 2020

Assessor

Accreditation No.

Address

68 SIR THOMAS MITCHELL RD

BONDI BEACH, NSW, 2026

hstar.com.au

6.7

NATIONWIDE HOUSE

42.7

www.nstarchitects.com.au

0005352299 02 Nov 2020

Assessor

Accreditation No.

Address

68 SIR THOMAS MITCHELL RD

BONDI BEACH, NSW, 2026

hstar.com.au

ABSAAustralia's Building Accreditation System

Accreditation Period: 01/04/2020-31/03/2021

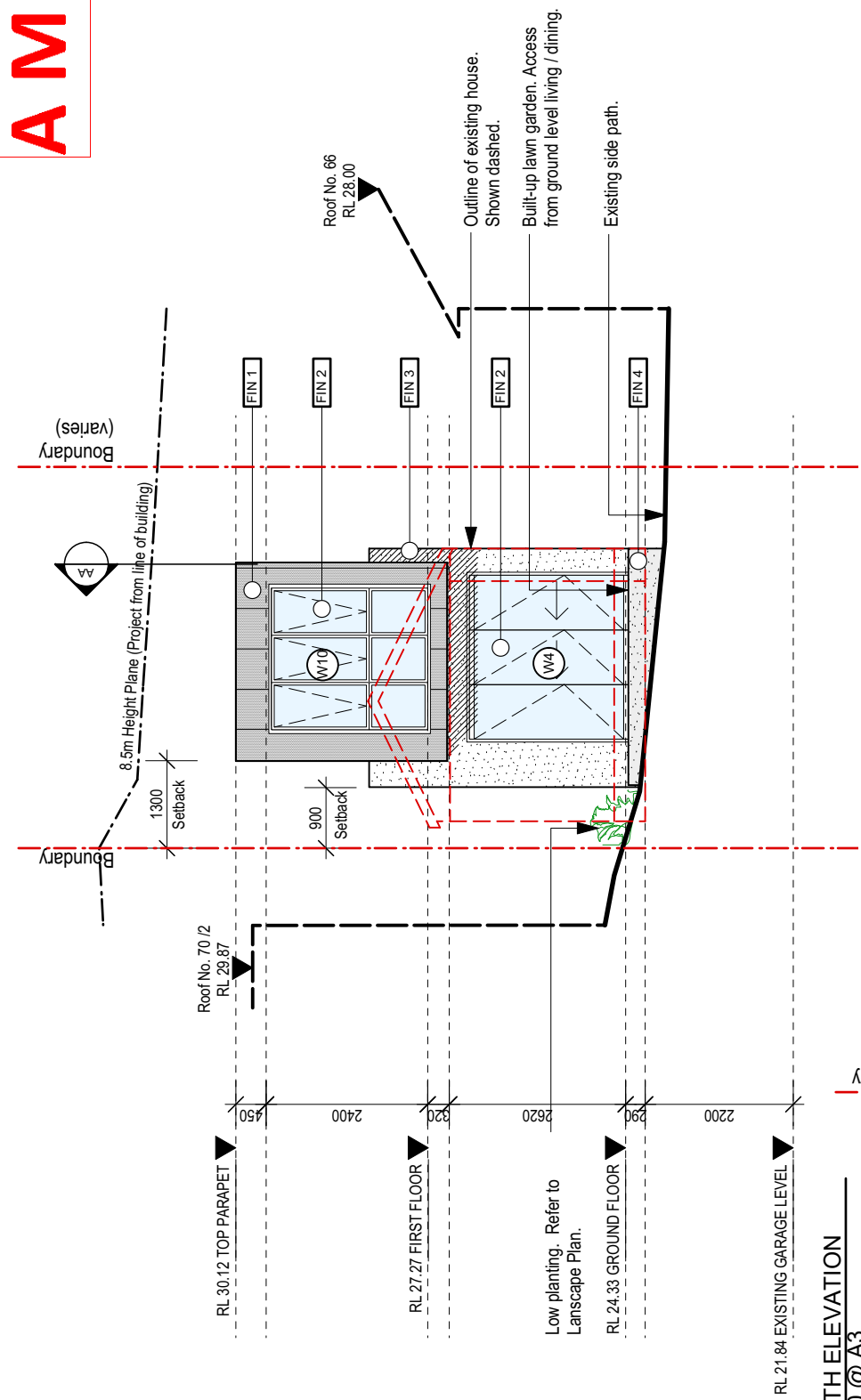
Assessor Name: Damien O'Toole

Assessor Number: 20420

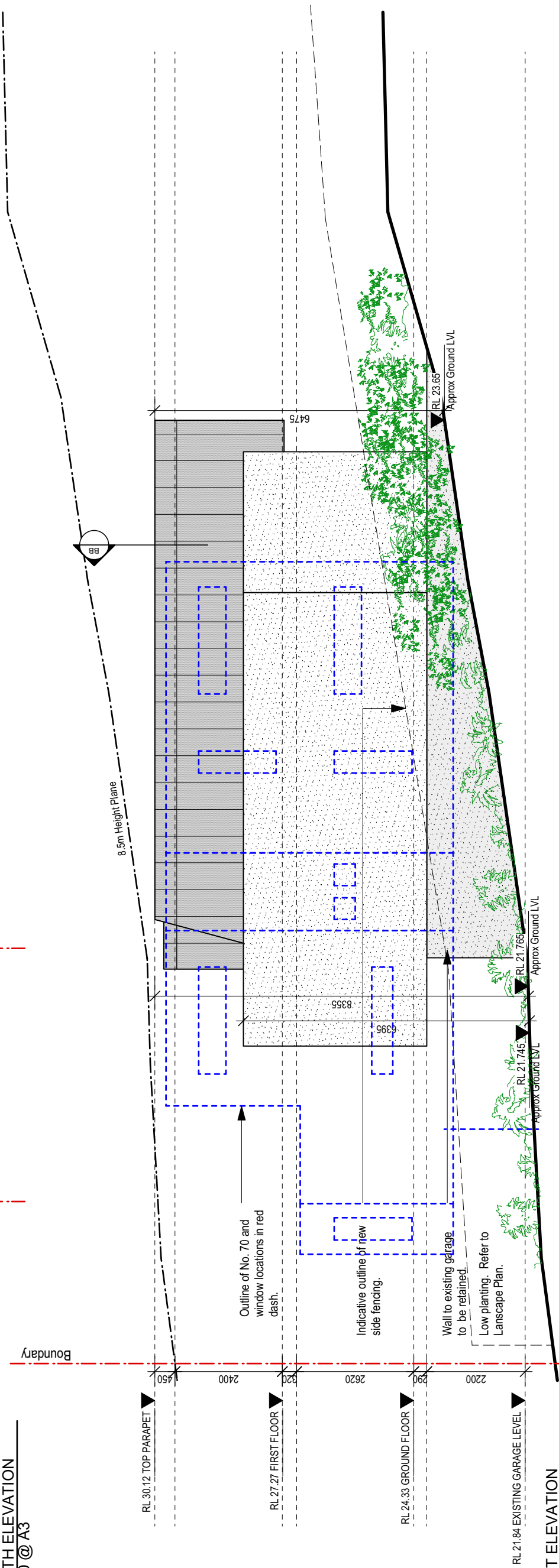
Assessor Signature

The Accredited Assessor has been assessed and found to be competent to issue the ABSA Code of Practice.

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01 SOUTH ELEVATION
1:100 @ A3



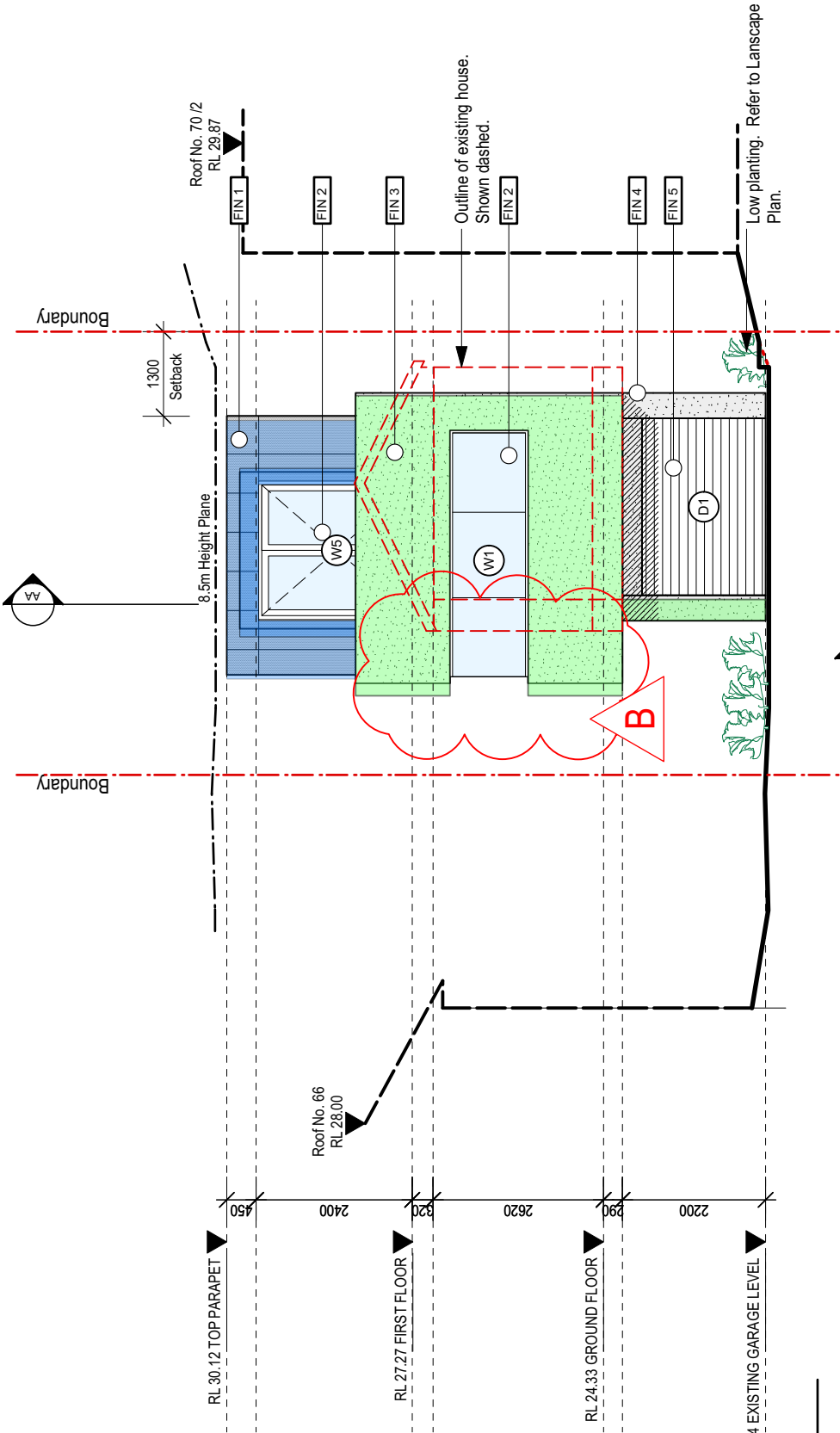
02 WEST ELEVATION
1:100 @ A3

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	DATE	REASON FOR ISSUE	REV				SCALE: (REFER DRAWING TITLES)	DESIGNED BY: DP	START DATE: TBC	REV: B

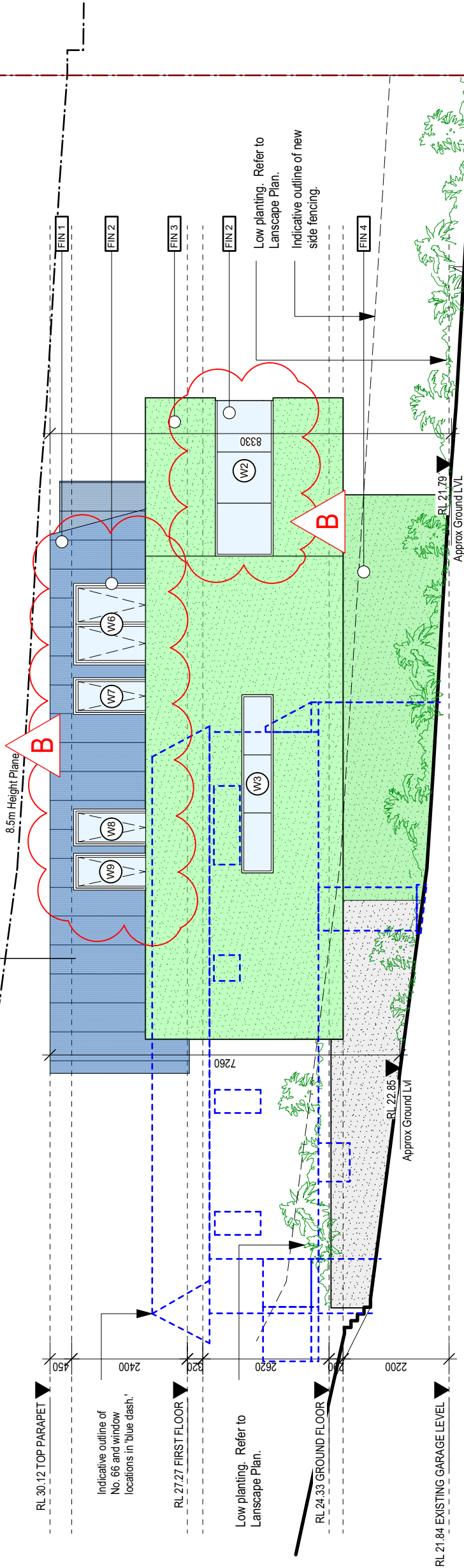


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01 NORTH ELEVATION
1:100 @ A3



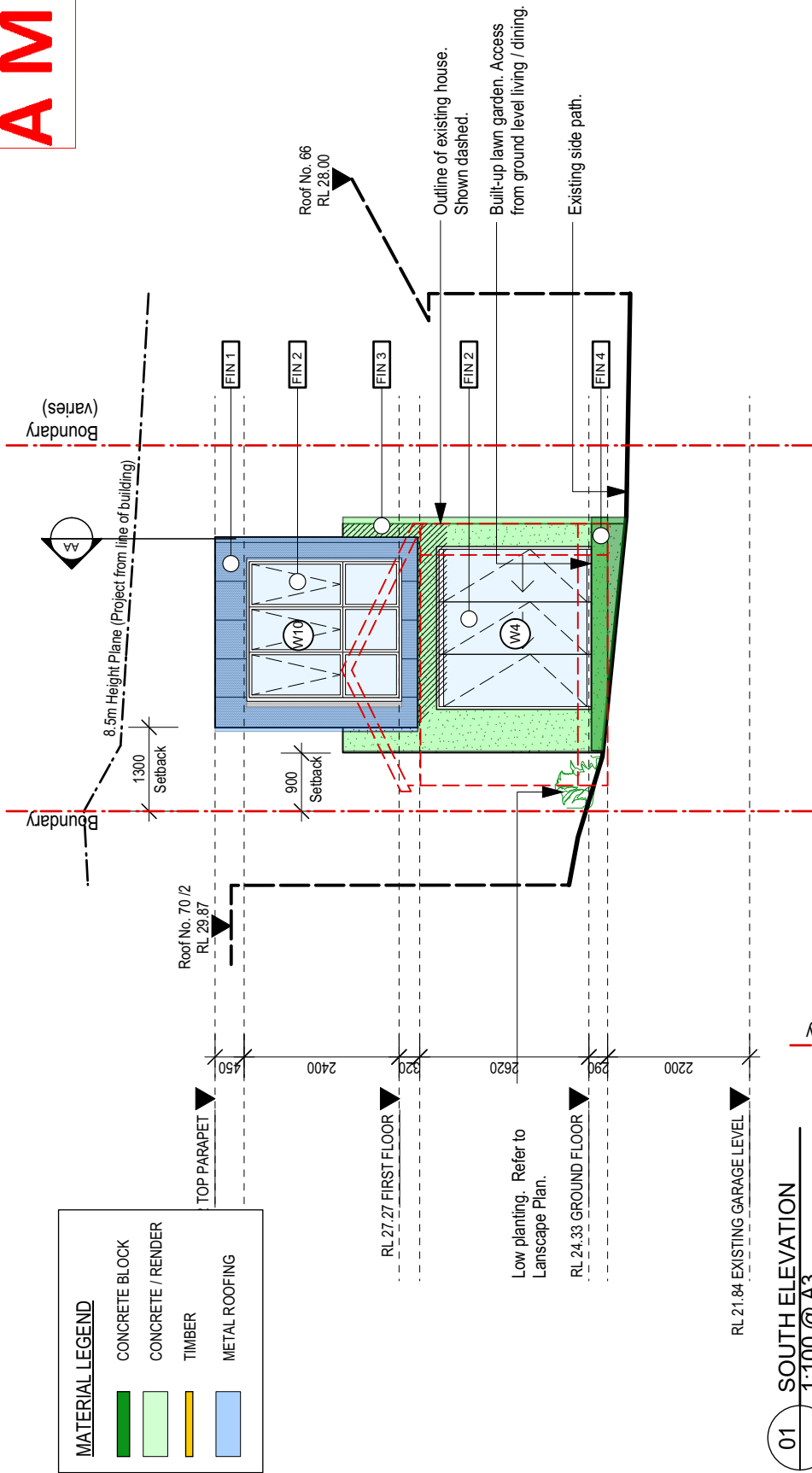
02 EAST ELEVATION
1:100 @ A3

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	DATE	REASON FOR ISSUE	REV					DESIGNED BY: DP	START DATE: TBC	REV: B	

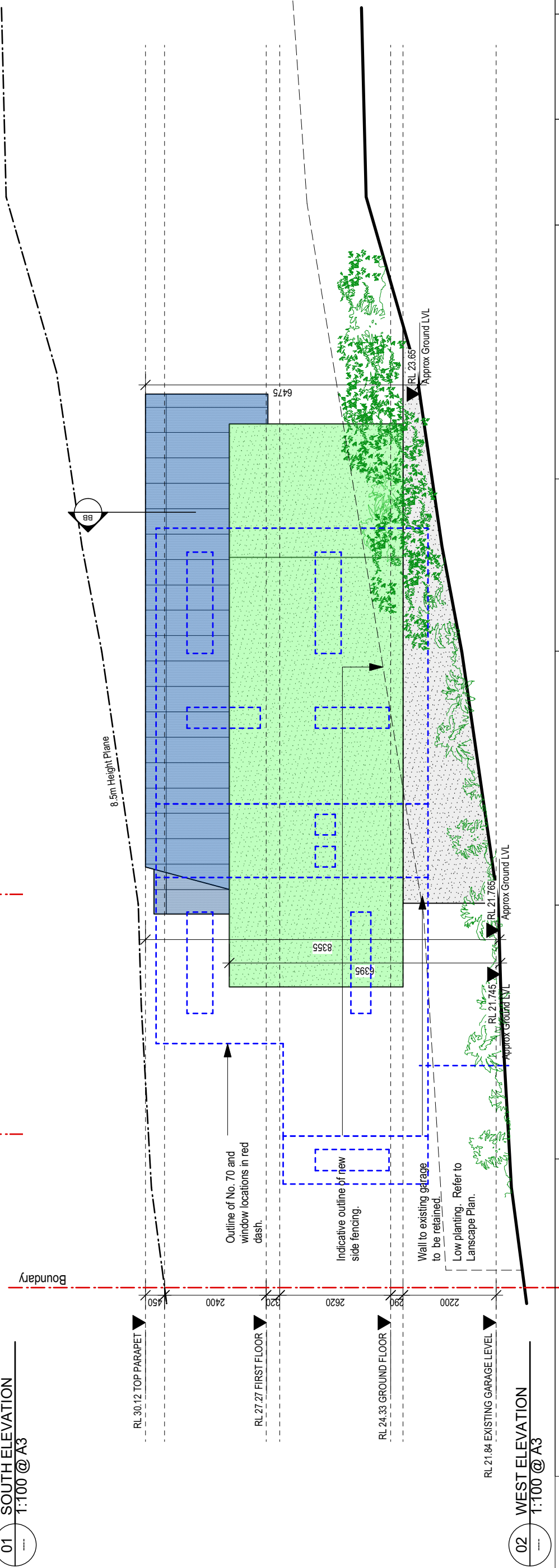
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Date Received: 04/06/2021



01 SOUTH ELEVATION
1:100 @ A3

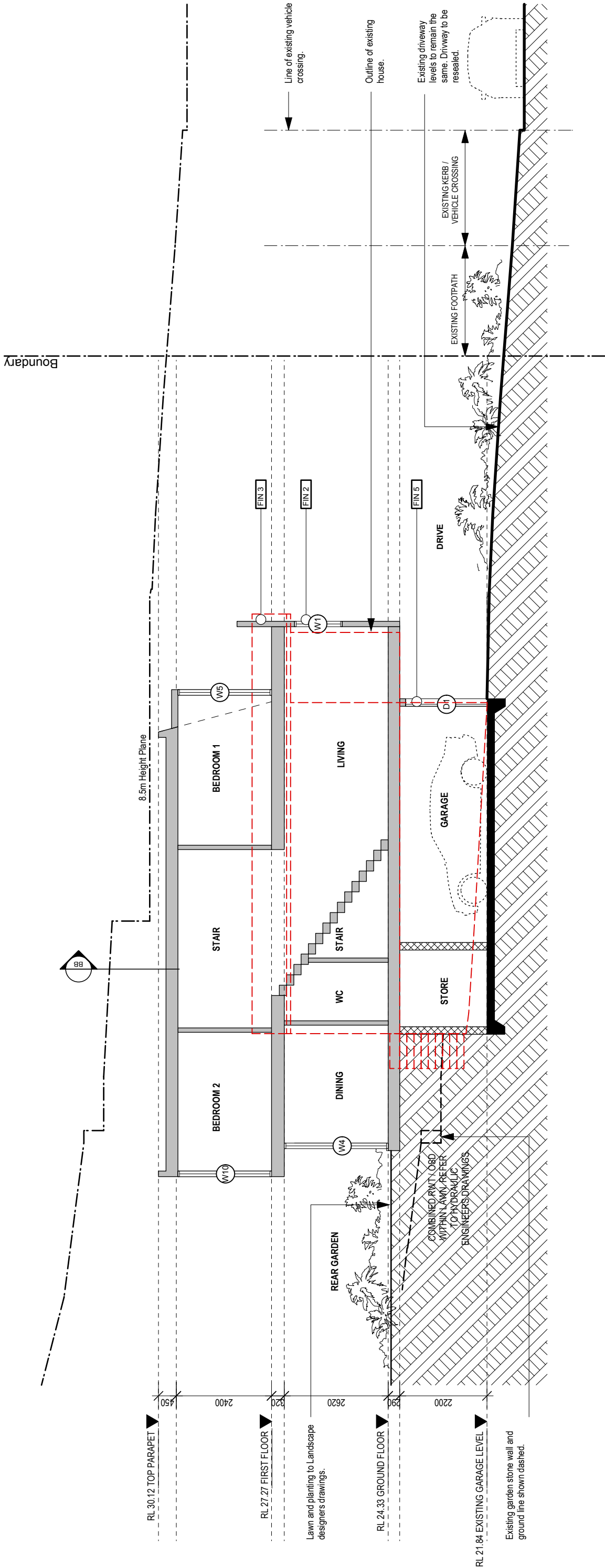


02 WEST ELEVATION
1:100 @ A3

NORTH:	ISSUE: 10/12/20 31/5/21	ISSUE FOR DA DESIGN UPDATE	A B	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER:  Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woolahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	DRAWING COLOURED ELEVATIONS: SOUTH & WEST	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO.: DA-5-04	
	DATE	REASON FOR ISSUE	REV				SCALE: (REFER DRAWING TITLES)	DESIGNED BY: DP	START DATE: TBC	REV:	B

AMENDED

Date Received: 04/06/2021

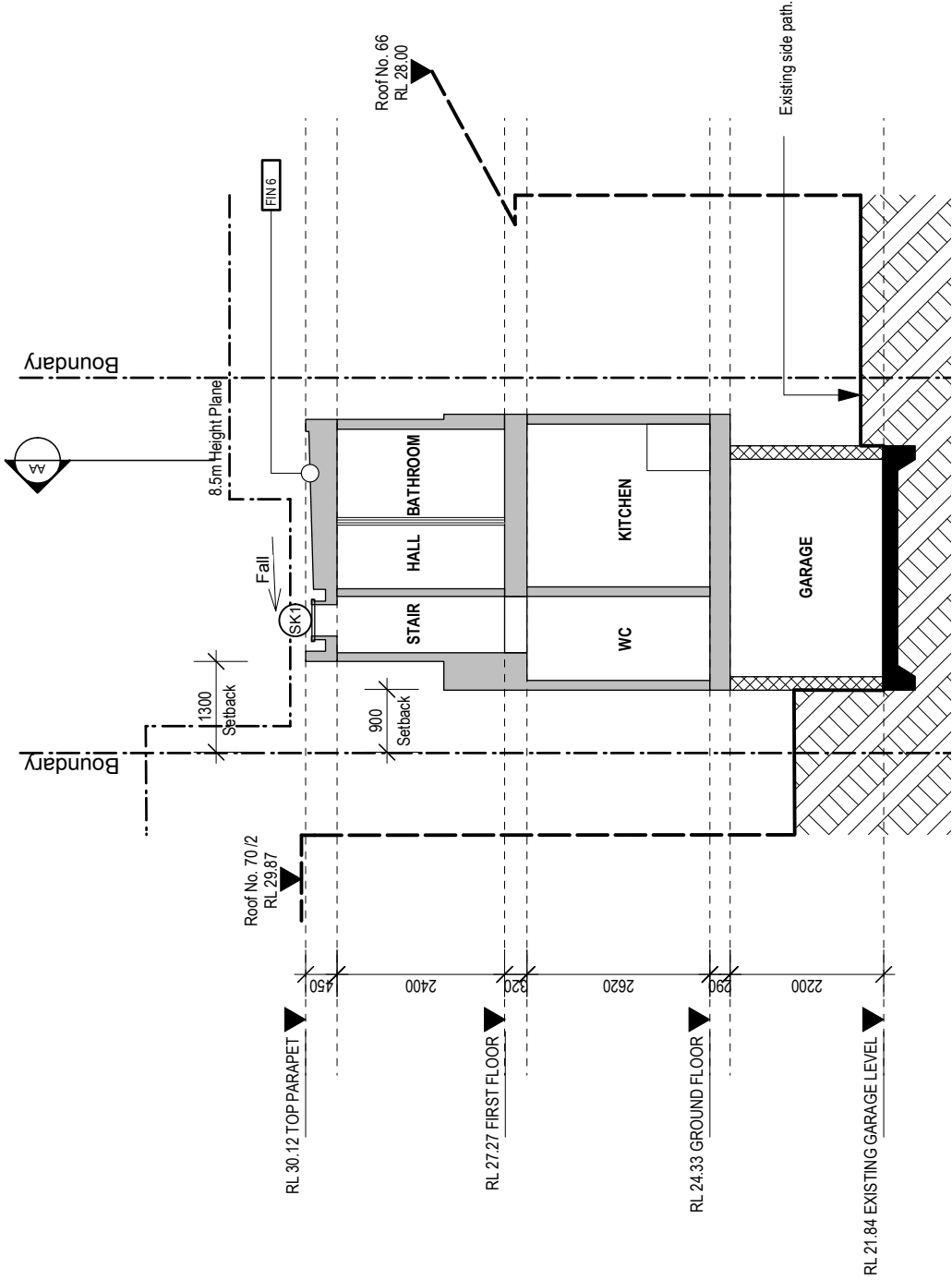


01 SECTION AA
1:100 @ A3

NORTH:	ISSUE	10/12/20	ISSUE FOR DA	A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woolahra 2025 E+ studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING PROPOSED SECTION AA	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: DA-6-01
	DATE	REASON FOR ISSUE	REV								
								SCALE: (REFER DRAWING TITLES)	DESIGNED BY: DP	START DATE: TBC	REV: A

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Application No: DA-23/2021
Date Received: 04/06/2021

AMENDED



01SECTION BB
1:100 @ A3

NORTH:	ISSUE:	ISSUE FOR DA		REASON FOR ISSUE	DESIGNER	CLIENT	DRAWING	DRAWN BY:	DATE:	DRAFTING NO.:	REV:
	10/12/20		A				PROPOSED SECTION BB				
					Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woolarra 2025 E+ studio@darrenpalmer.com	DARREN PALMER	SCALE: (REFER DRAWING TITLES)	DP	(Refer Issue no.) TBC	DA-6-02	A

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Waverley Council

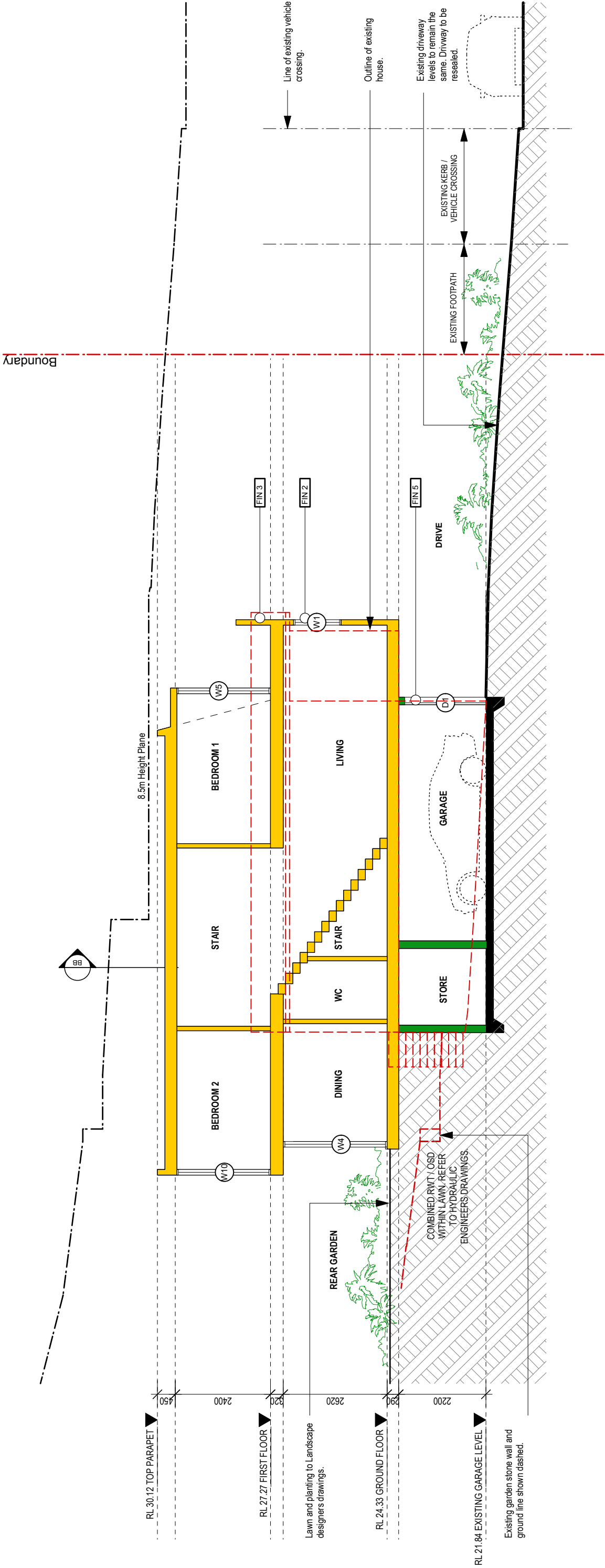
Application No: DA-23/2021

Date Received: 04/06/2021

AMENDED



MATERIAL LEGEND	
<div></div>	CONCRETE BLOCK
<div></div>	CONCRETE / RENDER
<div></div>	TIMBER
<div></div>	METAL ROOFING



NORTH:	ISSUE:	ISSUE FOR DA	A	GENERAL NOTES:	DESIGNER:	CLIENT	DRAWING	COLOURED PROPOSED SECTION AA		DRAWN BY:	DATE:	DRAWING NO.:	DA-6-03
	10/1/2020			Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woolahra 2025 E+ studio@darrenpalmer.com	DARREN PALMER			DP		(Refer Issue no.)		
						PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	SCALE: (REFER DRAWING TITLES)		DP		TBC	REV:	A

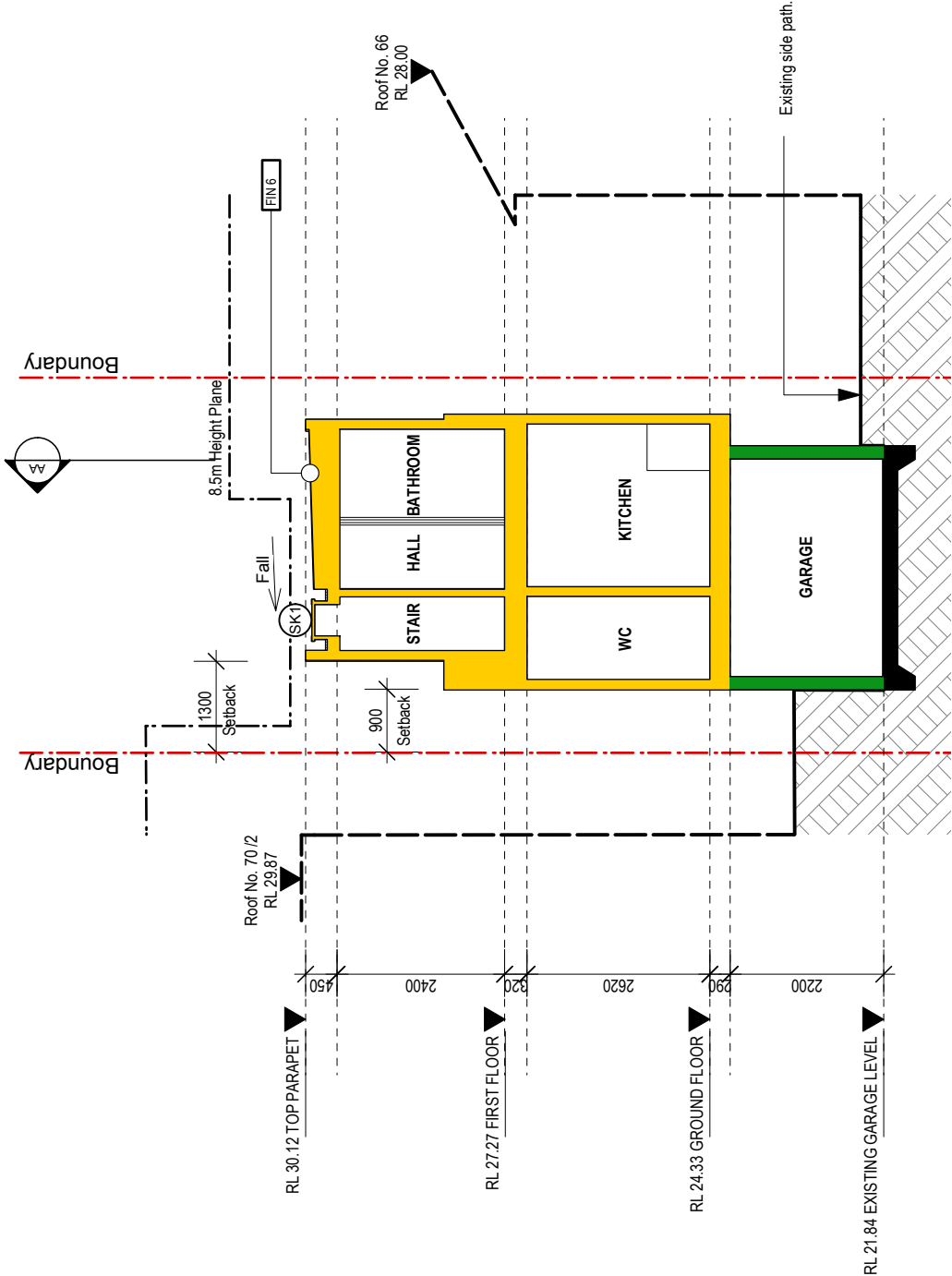
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Waverley Council

Application No: DA-23/2021

Date Received: 04/06/2021

AMENDED



01

SECTION BB

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NORTH:	ISSUE:	ISSUE FOR DA		REASON FOR ISSUE	DESIGNER	CLIENT	COLOURED PROPOSED SECTION BB		DRAWN BY:	DATE:	DRAWING NO:	DA-6-04
	10/12/20											
				A	Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification.	Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woolahra 2025 E+ studio@darrenpalmer.com			DP	(Refer Issue no.)		
				REV	All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	SCALE: (REFER DRAWING TITLES)		DP	TBC	START DATE:	REV: A

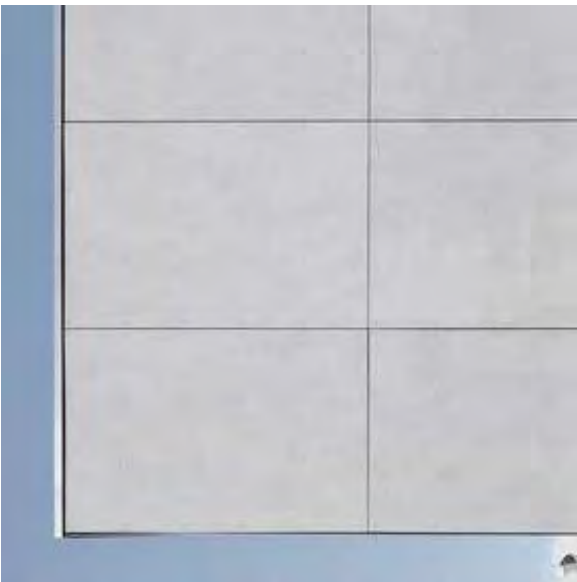
RECEIVED
Waverley Council
Application No: DA-23/2021
Date Received: 04/06/2021



FIN 1 METAL CLADDING - COLOURBOND BASALT



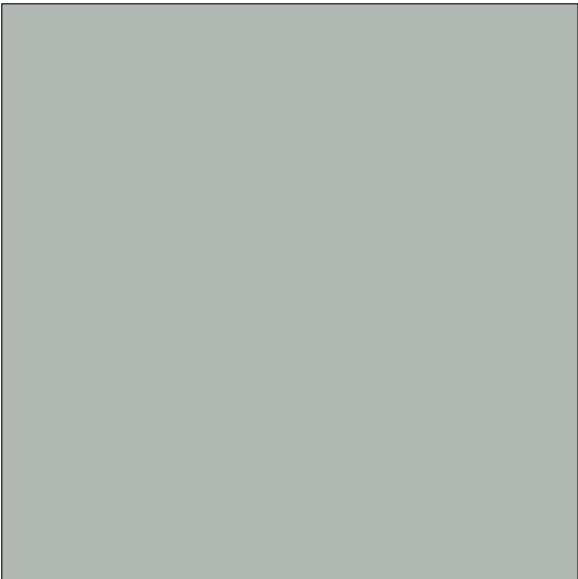
FIN 2 CLEAR GLASS



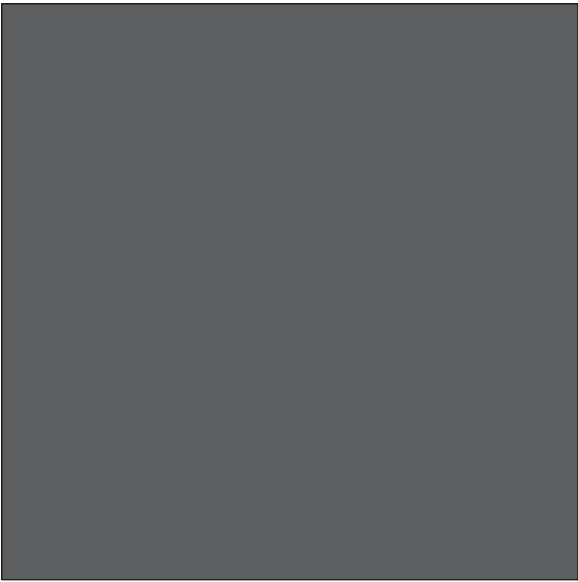
FIN 3 FIBRE CEMENT SHEET CLADDING - CLEAR SEALER



FIN 4 CONCRETE - RENDERED AND PAINT FINISH - DULUX VIVID WHITE

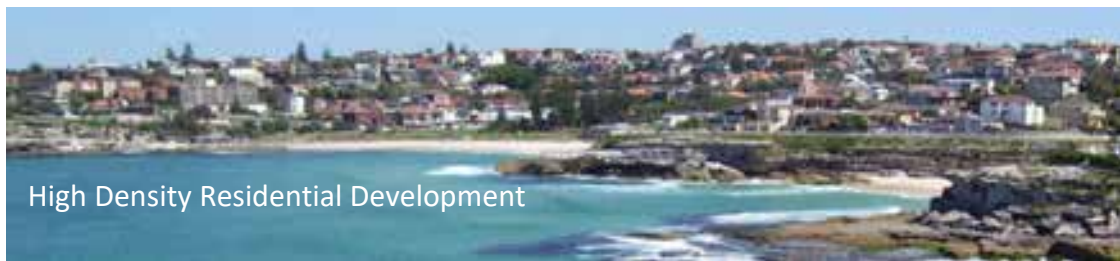


FIN 5 STEEL GARAGE DOOR - COLOURBOND SHALE GREY



FIN 6 SHEET METAL ROOFING - COLOURBOND BASALT

NORTH:	ISSUE: 10/12/20	ISSUE FOR DA A	GENERAL NOTES: Check and verify all dimensions and details on site prior to the commencement of any works, and report any discrepancies or anomalies to the office of Darren Palmer Design Studio for clarification. All works to be carried out in strict accordance with all current building codes and relevant Australian standards, and to the satisfaction of the governing authorities.	DESIGNER: <div> DARREN PALMER</div> Darren Palmer Interiors Suite 1, Level 1, 36-40 Queen St, Woollahra 2025 E: studio@darrenpalmer.com	CLIENT DARREN PALMER	DRAWING MATERIALS SCHEDULE - MAIN DWELLING	DRAWN BY: DP	DATE: (Refer Issue no.)	DRAWING NO: 8-01
	DATE REASON FOR ISSUE	REV			PROJECT ADDRESS: 68 SIR THOMAS MITCHELL DRIVE, BONDI, NSW	SCALE: (REFER DRAWING TITLES)	DESIGNED BY: DP	START DATE: TBC	REV: A



Report to the Waverley Local Planning Panel

Application number	DA-401/2020
Site address	7, 9, 11, 13 Bondi Road BONDJ JUNCTION
Proposal	Construction of a 9-storey residential flat building containing 42 apartments with two levels of basement for parking, plant and waste rooms, communal open space areas on the ground floor and rooftop and alterations and additions to the existing semi-detached dwelling on site.
Date of lodgement	27/11/2020
Owner	Proprietors of Strata Plan 55017; Mrs L P N Johan; Bondi Road Development P/L
Applicant	L Hancock
Submissions	Sixteen (16) submissions
Cost of works	\$16,969,650
Issues	FSR; Height; Separation distances; Accessibility; Visual and Acoustic privacy.
Recommendation	That the application be REFUSED

Site Map



1. PREAMBLE

1.1 Site and Surrounding Locality

The site is identified as 7-13 Bondi Road, Bondi Junction and is comprised of four lots: SP55017, known as 7 Bondi Road; Lot 4 in DP 667810, known as 9 Bondi Road; Lot 1 in DP 310001, known as 11 Bondi Road; and Lot A in DP 440400, known as 13 Bondi Road. It is located on the southwestern side of Bondi Road near the intersection with Waverley Crescent with part of the site opposite Fingleton Reserve.

The combined site (the site) is irregular in shape with a front boundary of 11.3m to Waverley Crescent to the north, a front boundary of 35.213m to Bondi Road to the northeast, a western side boundary of 40.385m, a south-eastern side boundary of 37.815m and rear south-western boundary of 24.175m. The site has an area of 1445m² and falls from the rear towards the front by approximately 3.5m.

The site is occupied by the following:

- 7 Bondi Road: A three-storey residential flat building with basement parking. Vehicular access is provided via Waverley Crescent on the western side boundary.
- 9-11 Bondi Road: A single storey pair of semi-detached dwellings with vehicular access provided from Bondi Road to No. 9.
- 13 Bondi Road: A single storey semi-detached dwelling (pair with 15 Bondi Road) with vehicular access from Bondi Road to hardstand car spaces within the front setback.

The subject site is adjoined by 21 Waverley Crescent where approval has recently been granted by the Land and Environment Court for a nine-storey residential flat building with basement parking. This building is currently under construction.

Adjoining the site to the southeast is 15 Bondi Road, the other semi-detached dwelling in the pair which is attached to the subject site via the semi at No. 13 Bondi Road. Further to the southeast are 19 and 21 Bondi Road, containing two and three-storey residential flat buildings. On the corner of Bondi Road and Waverley Street is a recently constructed ten-storey residential building.

To the rear of the site is 42-48 Waverley Street which contains two nine-storey residential flat buildings fronting Waverley Street.



Figure 1: Aerial imagery of Nos. 7-13 Bondi Road and surrounding sites (Source: NearMap)



Figure 2: Subject site frontage (No. 7 Bondi Road) viewed from Waverley Crescent



Figure 3: Subject site frontage (Nos. 9-11 Bondi Road) viewed from Bondi Road



Figure 4: Subject site frontage to 13 Bondi Road and adjoining semi-detached dwelling in the pair being 15 Bondi Road. 15 Bondi Road is not part of the development site.



Figure 5: Subject site viewed from above (looking north from residential flat building at 42-48 Waverley Street).

1.2 Relevant History

History of the site:

Pre-DA advice (**PD-23/2018**) relating to 7-11 Bondi Road, Bondi, for the construction of a nine-storey residential flat building including two basement levels and incorporating affordable housing was provided in Council's letter dated 13 August 2018. The letter included advice in relation to calculating the affordable housing bonus, height and FSR, urban design, site isolation in terms of 21 Waverley Crescent (adjoining property to the west), visual privacy and building width. During this meeting, the inclusion of 13 Bondi Road in the development site was discussed with the following written advice being provided:

Please note that the Pre-DA documentation that encompasses 7-13 Bondi Road as a means of gaining additional floor space will not be supported. Any proposal which encompasses this site will need to exclude that part of the site used as a single or semi-detached dwelling from FSR calculations. Demolition of the semi-detached dwelling would also not be supported as it results in a poor urban design and streetscape outcome.

DA-435/2018 for the demolition of the existing structures at **7-11 Bondi Road** and the construction of a new nine-storey residential flat building containing 41 apartments, 50% of which are 'infill affordable housing' apartments (total of 18), was approved by the Waverley Local Planning Panel (WLPP) on 27 November 2019.

History of the current application:

The subject application essentially seeks to include 13 Bondi Road into the development site of the recently approved residential flat building approved at 7-11 Bondi Road.

After preliminary assessment of the current application and consultation with Council's Senior Assessment Group (a panel of Managers including from Development Assessment and Strategic Planning), the applicant was advised that Council Officers will not support the development in its current form for the reasons as follows:

- *The inclusion of 13 Bondi Road results in a poor urban design outcome for the future redevelopment of the adjoining site. The proposal will inhibit the redevelopment of the remaining semi-detached dwelling in the pair forcing the retention of the adjoining semi so as not to result in 'half a house' in the streetscape. This has implications for design excellence as outlined within Part B12 of DCP 2012 (Amendment 9). This essentially isolates the adjoining site, No. 15 Bondi Road, as redevelopment cannot occur for streetscape issues. Furthermore, in an area undergoing change to a higher density, the retention of a pair of semi-detached dwellings amongst high density development is not in accordance with the desired future character.*
- *An objection to a development standard under Clause 4.6 of the LEP is required. The additional 15% being sought under the Planning Agreement Policy is not a development standard.*

You are advised that Council would consider the redevelopment of 11-13 Bondi Road up to 15% over the FSR development standard particularly if a Planning Agreement is offered. The built form, including setbacks, would need to be similar (or lesser) to that approved under DA-435/2018 (without the infill affordable housing component). If you pursue this option, please withdraw the current application and relodge as a new DA (as No. 13 will be removed).

The applicant advised that they would not withdraw the application and for Council to assess the application in its current form, with No. 13 Bondi Road as part of the development site. A written request to vary the FSR development standard under Clause 4.6 was subsequently provided to Council on 22 April 2021. Updated shadow diagrams were submitted to Council on 21 May 2021.

1.3 Proposal

The proposal seeks consent for the demolition of all structures on Nos. 7, 9 and 11 Bondi Road and construction of a nine-storey residential flat building and alterations and additions to the existing semi-detached dwelling at No. 13 Bondi Road for a 3-bedroom unit within the strata plan of the overall development.

The proposal will provide 42 apartments comprised of:

- 15 x 1-bedroom units;
- 15 x 2-bedroom units; and
- 12 x 3-bedroom units.

The proposal also includes two levels of basement car parking to provide 37 car parking spaces (including four accessible spaces), 13 motorcycle spaces, 46 bicycle/storage spaces.

The proposal provides a communal roof garden on the front (northern) portion of the building with lift access. An area for plant will be provided on the southern side of the roof.

The proposal is largely similar to the previous approval for 7-11 Bondi Road (DA-435/2018) proposing a nine-storey residential flat building with two levels of basement parking accessed from Waverley Crescent. However, the applicant has now acquired one half of a pair of semi-detached dwellings at No. 13 Bondi Road, increasing the size of the development site. The amendments to the previously approved development under DA-435/2018 are summarised as follows:

- Increased floor space and number of apartments.
- The built form of the residential flat building is extended 2m to the southeast reducing the separation with the semi-detached dwelling at 13 Bondi Road (now part of the subject development site).
- The proposal includes a communal roof terrace with lift and stair access.
- The proposal no longer includes infill Affordable Housing and the bonus 0.5:1 FSR allowed under the Affordable Housing SEPP. Instead the proposal seeks the maximum FSR development standard plus an additional 15% via a Voluntary Planning Agreement.
- The proposal includes alterations and additions to the existing semi-detached dwelling at 13 Bondi Road to become a 3-bedroom unit within the strata plan.
- Two lifts are provided in accordance with the conditions of consent for DA-435/2018. One lift will service the front section of the building fronting Bondi Road and the second will service the rear section of the building.
- The provision of car, motorbike and bicycle parking is amended in accordance with the proposed apartment mix.
- Revised pedestrian access to the rear portion of the residential flat building.



Figure 6: Photomontage of the proposed development looking south-east from Bondi Road

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 (Vegetation in Non-Rural Areas) 2017

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

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

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

The site is not identified as 'biodiversity' or within a habitat corridor. The proposal includes the removal of trees and transplantation of a large tree in the front setback to within the rear setback of the site. These trees meet the criteria above.

The application was referred to Council's Tree Preservation Officer and no issues were raised with the removal and transplantation of trees on the site.

2.1.4 SEPP 65 Design Quality of Residential Apartment Development

The application was referred to the Waverley Design Excellence Panel on 17 February 2021. 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 are set out in **Table 1** below:

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

Principle 1: Context and Neighbourhood
<p><i>The proposal does achieve this principle in the following ways:</i></p> <ul style="list-style-type: none">• <i>The Panel notes that the building responds to its context in terms of its material and colour palette.</i> <p>Planning comment: Although the Panel considered the materials and colour palette to respond to the setting, as will be detailed throughout this report, the incorporation of the single storey semi-detached dwelling into the development site and the resultant width of the building, will result in a development which does not consider the context and the desired future character of the locality. This principle is not achieved.</p>
Principle 2: Built Form and Scale
<p><i>The proposal does achieve this principle in the following ways:</i></p> <ul style="list-style-type: none">• <i>The built form is highly and appropriately articulated on each façade.</i>• <i>The proposal is close to achieving compliance with the height controls applicable to the site.</i>

Planning comment: The proposal seeks to provide the additional bulk and scale of incorporating No. 13 Bondi Road into the development site, without regard for how the retention of the building will impact upon the streetscape and desired future character of the area (refer to Section 2.1.7 for detailed discussion). As detailed later in this report, the proposal utilises the additional floor space associated with the incorporation of No. 13 Bondi Road without changing the existing building on this site. The result is a much wider and bulkier building that presents to Bondi Road as out of scale with surrounding development. This principle is not achieved.

Principle 3: Density

The proposal may achieve this principle subject to:

- *The Council Assessment Officer to confirm the compliance with the FSR.*
- *Subject to confirmation of the permissible FSR, consideration should be given to the below grade unit G04 that is in close proximity to Bondi Road. If GFA is not available then the panel would recommend deletion of this unit.*

Planning comment: The proposal exceeds the FSR applicable to the site. The bulk and scale are not considered acceptable as detailed later in this report. The deletion of Apartment G04 would enable the raising of the building to satisfy stormwater issues raised by Council's Stormwater Engineers (refer to Part 3 of this report). This may also enable a redesign of the habitable levels to have a consistent floor level from the front to the rear section of the residential flat building, negating the need for a second lift and allowing an accessible pedestrian entry through the main lobby of the building. Under the current proposal, access to the accessible pedestrian path to the rear section of the building is provided by way of the hardstand car space in front of No. 13 Bondi Road or via the basement car park which are unacceptable for safety and security. This principle is not achieved.

Principle 4: Sustainability

The proposal does achieve this principle.

Principle 5: Landscape

The proposal does achieve this principle but could be improved in the following ways:

- *With the addition of BBQ, water closet and appropriate shade structures on the upper level terrace.*

Principle 6: Amenity

The proposal may achieve this principle subject to:

- *Increasing the circulation space in front of the elevator doors on typical floors (North/West corridor)*
- *Communal amenity needs to be improved. Could consider the inclusion of an enclosed ground floor communal amenity space.*
- *Below ground unit facing Bondi Road, we note that it will suffer from privacy, acoustic issues and limited access to sunlight.*

Planning comment: The proposal will also result in visual and acoustic privacy impacts to the retained semi-detached dwelling at No. 13 Bondi Road in that the accessible pedestrian walkway to the rear of the residential flat building runs along the side elevation of this building. This principle is not achieved.

Principle 7: Safety
<p><i>The proposal does achieve this principle.</i></p> <p>Planning comment: The accessible pedestrian access to the apartments within the rear of the residential flat building will result in safety and security issues. This principle is not achieved.</p>
Principle 8: Housing Diversity and Social Interaction
<p><i>The proposal does achieve this principle in the following ways:</i></p> <ul style="list-style-type: none"> • <i>mix of apartment sizes,</i> • <i>large rooftop terrace promotes social interaction.</i>
Principle 9: Aesthetics
<p><i>The proposal may achieve this principle subject to:</i></p> <ul style="list-style-type: none"> • <i>Façade detail – a patterned, or textured finish was discussed to the off form or precast concrete façade. It was proposed by the applicant that this would be strongly expressed at the lower levels and then gradually reduce as it went higher up the façade. More detail to be provided.</i> • <i>Further articulation on the Bondi Road façade, this could involve landscaping, separation of balustrade expressions.</i> • <i>More façade depth on the north/west and south/east facades should be considered in relation to the precedent image shown.</i> <p>Planning comment: The incorporation of the single storey semi-detached dwelling into the development site and the resultant width of the building, will result in a development which does not consider the context and the desired future character of the locality. This principle is not achieved.</p>

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		
3A Site analysis	No	<p>The proposal has not adequately considered the site and local context. Although the proposed nine-storey residential flat building responds to the high density character of the area, the inclusion of half of a pair of semi-detached dwellings does not consider the local context or the desired future character.</p> <p>The locality is one undergoing change with low density residential buildings being gradually replaced with high density development, up to nine-storeys in height. To retain a semi-detached dwelling amongst high density development is not consistent with the desired future character. The retention of the dwelling, or even conversely the demolition, will</p>

Design Criteria	Compliance	Comment
		ultimately result in half a house within the streetscape, either on the subject site or the adjoining site in the future upon redevelopment of sites to the south-east along Bondi Road.
3B Orientation	Yes	<p>The proposed building has been orientated and designed to relate to the shape of the site, location of neighbouring buildings and public domain.</p> <p>Overshadowing is discussed in detail in section 2.1.8 of this report.</p>
3C Public domain interface	Yes	The proposed residential flat building provides a successful interface with the public domain.
3D Communal and public open space <ul style="list-style-type: none"> • Minimum of 25% of site • Minimum of 50% direct sunlight to the principal usable part on winter solstice 	Yes	<p>The proposal will provide a total of 374m² of communal open space (equivalent to 25.9% of the site area) comprised of the following:</p> <ul style="list-style-type: none"> • 97m² of communal open space on the ground floor in the north-western part of the site with minimum dimensions of 21.6m x 3.3m; and • 277m² of rooftop communal open space with minimum dimensions of 12.8m x 17.6m. <p>The entirety of the rooftop communal space will receive sufficient solar access and half of the ground level communal space.</p> <p>The proposal provides an accessible communal open space area along the western boundary of the site with shared seating and BBQ facilities that receives sufficient solar access.</p> <p>Additionally, the rear, side and front setbacks will be extensively landscaped. In all, the landscaped area provided on site will be 428m² or 30% of the site with 23% of the site being provided as communal landscaping rather than allocated to individual units.</p> <p>The proposal provides sufficient areas of communal space and landscaping to satisfy the intent of the controls.</p>

Design Criteria	Compliance	Comment
3E Deep soil zones <ul style="list-style-type: none"> 7% of the site, deep soil zones should be provided 6m min width 	Yes	<p>The deep soil is 217m² or 15% of the site.</p> <p>The rear deep soil zone has a varying width of only 3-4m however provides sufficient area for the retention of trees along the rear boundary and sufficient remaining areas around the basement footprint for extensive landscaping of the site. In particular, sufficient vegetation within the front setback is provided to act as a buffer to Bondi Road.</p>
3F Visual privacy <p>Min separation distances from buildings to side and rear boundaries:</p> <ul style="list-style-type: none"> Up to 12m– 6m habitable & 3m non-habitable Up to 25m - 9m habitable & 4.5m non-habitable Over 25m – 12m habitable & 6m non-habitable 	No	Refer to detailed discussion following this table.
3G Pedestrian access and entries	No	<p>The main entry lobby from Bondi Road is connected to and addresses the public domain, is easily identifiable and provides a strong connection with the streetscape.</p> <p>Notwithstanding, the accessible pedestrian entry to the rear part of the residential flat building is via a hardstand car space at No. 13 Bondi Road or via the basement car park. The accessible pedestrian entry for the 16 apartments contained in the rear portion of the residential flat building is not well considered and presents privacy, safety and security issues.</p>
3H Vehicle access	Yes	<p>Vehicular access is provided from Waverley Crescent as per the existing building on the site and is considered the most appropriate point being removed from Bondi Road to reduce queuing, congestion and minimising pedestrian conflicts.</p> <p>The proposal retains the hardstand car parking in front of the retained semi-detached dwelling at No. 13 Bondi Road. As detailed previously, the accessible pedestrian pathway to the rear part of the residential flat building is accessed via the hardstand car parking at the front of No.</p>

Design Criteria	Compliance	Comment
		13. Accessing the pathway around parked vehicles is a safety concern and has implications for accessibility for a person with a disability or a pram. The concern is also raised that with the scope of redevelopment sought for the site, this hardstand car space should be ideally shifted to be contained in the basement, to improve the streetscape presentation and reduce vehicular crossings to comply with the DCP (ie 1 per site).
<p>3J Bicycle and car parking</p> <p>The minimum off-street residential parking spaces as set out in the <i>Guide to Traffic Generating Developments 2002</i> by the then NSW Roads and Traffic Authority, of the car parking requirement prescribed by the relevant council, whichever is less, are applicable to development within metropolitan regional centres:</p> <p>The rates within the <i>Guide to Traffic Generating Developments 2002</i> are as follows:</p> <ul style="list-style-type: none"> • 0.4 resident spaces per one-bedroom unit • 0.7 resident spaces per two-bedroom unit • 1.2 spaces per three-bedroom unit • 1 visitor space per seven units. 	Yes	<p>The proposed development falls within the design criteria of Objective 3J-1 as it is located within 800m of a railway station in the Sydney Metropolitan Area. The resident and visitor car parking requirements set out in the <i>Guide to Traffic Generating Developments 2002</i> by the then NSW Roads and Traffic Authority are applicable to the development.</p> <p>The proposal generates off-street car parking demand of:</p> <ul style="list-style-type: none"> • 15 x 1-bed = 6 spaces • 15 x 3-bed = 11 spaces • 12 x 3-bed = 14 spaces • Visitor spaces = 6 spaces <p>Thirty-seven (37) spaces (including 6 visitor spaces) is required under the provisions of the <i>Guide to Traffic Generating Developments 2002</i>. However, it is noted that the ADG states that the minimum rates that apply are the lessor of the <i>Guide to Traffic Generating Developments 2002</i> or the parking prescribed by the relevant council, (i.e. the DCP rates). In this case, the DCP rates are the lessor of the applicable provisions with a minimum of nil car spaces (refer to section 2.1.8 of this report).</p> <p>The proposal provides 37 spaces within two levels of basement parking and therefore meets the minimum quantum of off-street car parking required for the development.</p> <p>Refer to discussion in Table 4 of this report on the appropriateness of the total quantum of car parking spaces in the development against the car parking rates set out in DCP, which provide</p>

Design Criteria	Compliance	Comment
		<p>a lesser minimum amount of car parking than the rates specified by the <i>Guide to Traffic Generating Development 2002</i>. The rates set out in the DCP as a maximum are considered the 'maximum' car parking rates for the proposal and are discussed later in this report.</p> <p>The development will promote the use of other modes of transport by providing parking and storage facilities for motorcycles and bicycles.</p>
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. 	<p>Yes</p> <p>Yes</p>	<ul style="list-style-type: none"> 35 out of 42 apartments (83% of all units) receive at least 2 hours mid-winter to living areas with 62% of apartments receiving at least 2 hours to living areas and private open spaces. All units 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. 83% of the units have dual aspects and can be naturally cross ventilated. 17% (7 units) will have a single aspect and cannot be naturally cross-ventilated. <p>The proposal uses a combination of full height openable doors, narrow windows and skylights to achieve appropriate cross ventilation within the building.</p>
4C Ceiling heights <ul style="list-style-type: none"> Habitable rooms – 2.7m Non-habitable rooms – 2.4m 	Yes	The ceiling heights within all units comply with the minimum requirement. All units provide 3.1m floor-to-floor which is sufficient to meet the ceiling height requirements.
4D Apartment size and layout <p>The following minimum internal areas apply:</p>	Yes	<p>All units have internal areas that meet the minimum ADG requirements. In this regard, the proposed unit sizes and layout are acceptable.</p> <p>Windows are provided to each habitable room.</p>

Design Criteria	Compliance	Comment
<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>		<p>All bedrooms meet the minimum requirements in terms of dimensions and area.</p> <p>Kitchens are separate to the circulation spaces.</p> <p>The proposal is consistent with the objectives of this part of the ADG.</p>
<p>4E Private open space and balconies</p> <p>All apartments provide primary balcony as follows:</p> <ul style="list-style-type: none"> • 1-bed – 8m² & 2m depth • 2-bed - 10m² & 2m depth • 3+bed - 12m² & 2.4m depth • Ground level, min 15m² & 3m depth 	Yes	<p>100% of the units are provided with a balcony or courtyard accessed from the main living areas that meets the minimum requirements of the ADG in terms of area and depth.</p> <p>The balconies and courtyards are accessed from the main living area and the majority are orientated to the 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 are consistent with the contemporary palette of materials in the building overall. Balconies are angled or screened to prevent direct cross-viewing between balconies to enhance privacy.</p>
<p>4F Common circulation and spaces</p> <ul style="list-style-type: none"> • Max of 8 units accessed off a circulation core on a single level • Common circulation spaces promote safety and provide for social interaction between residents. 	No	<p>The proposed residential flat building is split into two separate sections, one being at the front and one at the rear. Each part of the building is provided with an internal core with lobby and separate lift (two lifts within the building). Both lift cores provide access to a maximum of 3 apartments on each level.</p> <p>The accessible pedestrian entry from the street to the rear section of the residential flat building is provided by way of a walkway through the landscaped area between the retained semi-detached dwelling at No. 13 and the residential flat building. This walkway can only be accessed via the public footpath with</p>

Design Criteria	Compliance	Comment
		access to the entry gate via the hardstand parking area at the front of No. 13. The alternative for those entering via the main lobby to access the 16 apartments within the rear section of the building, is by taking the lift to the basement and then accessing the rear lift through the basement car park. Both arrangements present with security and safety risks and neither is a well-considered approach to accessible entry to the building.
4G Storage In addition to kitchens, bathrooms and bedrooms, the following is provided: <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 cage allocated to each parking space for the storage of bicycles. The storage provided meets the requirements and objectives of the ADG.
4H Acoustic privacy	Yes	<p>An Acoustic Report was provided with the application and is discussed under Section 2.1.5 of this report.</p> <p>The proposal is accompanied by a site analysis that has considered the constraints of the site and the exposure of individual apartments to acoustic privacy impacts. Each habitable room has been designed to protect the acoustic privacy of future occupants and surrounding buildings.</p> <p>Notwithstanding, there will be no accessible entry from the street to the 16 apartments contained within the rear part of the residential flat building, other than via the pathway adjoining the side elevation of the semi-detached dwelling at No. 13. This will result in unacceptable acoustic privacy impacts upon the retained semi-detached dwelling.</p>
4J Noise and pollution	Yes	<p>An acoustic assessment has been provided to consider the impacts from Bondi Road and vibration and mechanical plant.</p> <p>Recommendations have been made to minimise impacts from noise meeting section 4J of the ADG.</p>

Design Criteria	Compliance	Comment
4K Apartment mix	Yes	The proposal includes one, two and three-bedroom units that that will support a wide variety of household types and sizes. The apartment mix is considered appropriate taking into consideration the sites proximity to public transport options and the high density urban environment.
4L Ground floor apartments	Yes	The ground floor apartments have been designed to be orientated toward the street and the rear, with access to private landscaped courtyards.
4M Facades	Yes	The proposed building provides an interesting architectural design with each façade contributing to the visual interest of the building and character of the local area.
4N Roof design	Yes	The roof design has a cohesive relationship with the overall building design and streetscape. The plant on the roof and communal area are set back from the building edge. The rear portion of the building incorporates a raised skillion roof to increase light to the top floor apartment and to provide visual interest.
4O Landscape design	Yes	The proposed landscaping of the site is diverse with landscaping incorporated on all boundaries. Extensive landscaping is provided along Bondi Road, contributing to the streetscape. Additionally, landscaping and large trees are included on the rear and eastern side boundaries to provide privacy to the subject development and adjoining properties. The proposed landscaping responds to the conditions of the site and is appropriate in this high density area.
4P Planting on structures	Yes	The landscape plans and concept plans address the objectives and design criteria in 4P of the ADG.
4Q Universal Design	Yes	In the event of approval, a condition would ensure that 20% of the apartments achieve a benchmark of silver level universal design features.

Design Criteria	Compliance	Comment
4U Energy efficiency	Yes	<p>Apartments within the building incorporate passive environmental design, meeting the cross-ventilation requirements in the ADG.</p> <p>Natural ventilation is incorporated in all apartments reducing the need for mechanical ventilation and climate control. Notwithstanding, and as discussed in detail in Section 2.1.5 of this report, the apartments need to incorporate a forced ventilation system due to the requirements of the Infrastructure SEPP and proximity to Bondi Road.</p>
4V Water management and conservation	Yes	A BASIX Certificate has been provided with the application which indicates that the proposal will meet the required water target.
4W Waste management	Yes	The application proposes waste collection from within the site from the basement car park accessed via Waverley Crescent. A detailed waste management plan has been provided.
4X Building maintenance	Yes	The guideline suggests that building design should provide protection from weathering, systems and access for maintenance and materials which reduce ongoing maintenance costs. There is no evidence to suggest that the proposed building could not achieve this through the detailed construction certificate documentation process in the event of approval.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the SEPP 65 ADG.

Visual privacy

The objective of the separation distances of the ADG are to ensure adequate building separation distances are shared equitably between neighbouring sites to achieve reasonable levels of external and internal visual privacy.

The ADG has minimum separation distances from buildings (windows and balconies) to side and rear boundaries:

- Up to 12m – 6m habitable and 3m non-habitable
- Up to 25m - 9m habitable and 4.5m non-habitable
- Over 25m – 12m habitable and 6m non-habitable

According to the ADG requirements, the four lower levels of the building require 6m side setbacks; from levels 5-8, the minimum separation is 9m and at the topmost level, the required separation is

12m. The ADG gives design guidance to meet the requirements, stating that generally one step in the built form as the height increases is desirable.

The proposal provides the following separation distances (ie, setbacks from boundaries) from habitable rooms for the nine-storey residential flat building component of the development:

- 9m from the rear boundary
- 6.5m from western side boundary
- 10.8m - 12m from the eastern boundary

In terms of visual and acoustic privacy, the main windows and balconies of the residential flat building are orientated to the front and rear, with the side elevations containing smaller, secondary windows mainly to bedrooms and non-habitable rooms. Additionally, the subject building has been designed to provide screening to bedroom windows and pop out angled windows to the living rooms at the rear to obtain solar access. Generally, bedroom windows are considered low use rooms with fewer privacy impacts given that these are generally used for passive activities, such as sleeping or resting. A much greater privacy impact exists for living area windows and for this development, these are orientated toward the front and the rear where separation distances are greater.

There is adequate separation distance from the rear boundary to limit privacy impacts, notwithstanding that technically the uppermost level should increase the separation distance. This is a technical non-compliance and no greater impact arises between the top floor of the building and the levels below. As such, the rear setback of the building is considered acceptable on merit. Additionally, the rear balconies provide screening for the majority of the side boundaries to inhibit overlooking of adjoining properties on either side.

This part of Bondi Junction is an area undergoing change and there are a number of recently constructed residential flat buildings within proximity of the site. The recent approvals of residential flat buildings within vicinity of the site have established a strong rhythm where smaller building separations have been deemed appropriate.

In the circumstances of this case, the residential building at the rear of the site is set back from the shared rear boundary between 5.5m and 8.5m. The sites to the east on Bondi Road are as yet undeveloped with the exception of 50 Waverley Street on the corner with Waverley Street. This building is a recently constructed 10-storey building with minimal setbacks of 2.4m-3m from the side boundary and approximately 9m from the rear boundary. The site to the west, 21 Waverley Crescent, has recently been approved for construction of a nine-storey residential flat building with side boundary setbacks of generally 3m and rear setback of 4.5m. There are also numerous new residential flat developments along Waverley Street to the south of the site with 6m side boundary setbacks and 9m rear boundary setbacks. As has been common for many of these buildings, screening of habitable windows has been considered an effective solution for the reduced side boundary setbacks.

This application proposes 6.5m and 10.8m setbacks from each of the side boundaries and 9m from the rear effectively repeating the pattern of development in the area. The design of this building suitably reflects the established setbacks of adjoining residential flat developments whilst having an acceptable impact on the visual and acoustic privacy of the adjoining properties.

Notwithstanding the above, there are two parts to the proposed development, being the nine-storey residential flat building discussed above, and the retained semi-detached dwelling at No. 13 Bondi Road. Technically this part of the proposal has nil setbacks from the adjoining property being attached as part of the semi pair. No. 13 is being retained as a single dwelling however will have the main

accessible pedestrian entry to the rear part of the residential flat building directly adjoining the western boundary of the dwelling. In all other respects the lot on which the current dwelling sits will remain in use for No. 13 including the front hardstand parking spaces. The residential flat building will be set back from No. 13 by 4m-6m. The previous approval for this site had a narrower building set further back from No. 13 as it was not part of the development site. The current application seeks to increase the width of the building by approximately 2m bringing the residential flat building closer to No. 13 by 2m. The lack of setbacks between the dwelling and the residential flat building will create privacy issues for the principle area of private open space for the retained dwelling. Additionally, the pedestrian walkway will directly adjoin the western side elevation of the dwelling with the walkway being accessed from the front parking area of the dwelling. This will also result in unacceptable privacy impacts to No. 13 with the only accessible entry to 16 apartments being alongside the entry and side boundary windows of this dwelling.

Given the above analysis, the residential flat building does not provide appropriate separation distances from the retained dwelling at No. 13 Bondi Road. The fact that the dwelling is now part of the development site, does not mean that separation distances should be reduced. The ADG specifically states that separation distances between buildings on the same site should combine required building separations depending on the type of room. The lack of setback between the retained semi-detached dwelling and the proposed residential flat building will result in unacceptable visual and acoustic privacy impacts.

2.1.5 SEPP (Infrastructure) 2007

101 Development with frontage to classified road

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The proposal has a frontage to Bondi Road which is a classified road however vehicular access to the site is provided from Waverley Crescent. The driveway location in Waverley Crescent is considered the most appropriate vehicular entry point ensuring limited queuing on Bondi Road, particularly as the site is located within proximity of the busy intersection of Bondi Road, Waverley Street and Council Street.

The proposal for 42 apartments with 37 parking spaces will not result in unacceptable or unreasonable frequency of vehicles using the classified road, particularly given the zoning of the site for high density residential development. Notwithstanding this, the existing hardstand car space in the front setback

of 13 Bondi Road should be relocated to be contained within the basement carpark of the development to reduce vehicular conflict to Bondi Road whilst reducing the vehicular crossings to 1 for the site.

In accordance with subclause (2)(c) above, an acoustic report has been provided with the application which assesses the noise intrusion from Bondi Road in addition to the noise emissions from the development itself. The Acoustic Report concludes that:

Internal noise levels are predicted to comply with the requirements of the following documentation, subsequent to the incorporation of the facade recommendations outlined within Section 5.2:

- *State Environment Planning Policy (Infrastructure) 2007 (SEPP(Infrastructure) (NSW legislation)*
- *Development Near Rail Corridors and Busy Roads – Interim Guideline (Department of Planning, 2008))*
- *Australian Standard AS 3671 – Road Traffic Noise Intrusion Guidelines*

The Acoustic Report makes a number of recommendations in relation to the Bondi Road façade in order to achieve this, including:

- All windows and glazed doors should be fitted with full perimeter acoustic compression seals and installed in frames that will not lower the acoustic rating. Weather or fin seals are not acceptable.
- The building should be designed so that there is sufficient ventilation to comply with the requirements of the Building Code of Australia when windows are closed. This will require forced ventilation. This should be designed so any fresh air intake vents are not located on the façade facing Bondi Road.

The proposal is considered to adequately address the provisions of the Infrastructure SEPP.

102 Impact of road noise or vibration on non-road development

(1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:

- (a) residential accommodation,*
- (b) a place of public worship,*
- (c) a hospital,*
- (d) an educational establishment or centre-based child care facility.*

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

Bondi Road has an average daily traffic volume in excess of 20,000 vehicles and as detailed above, an acoustic report has been provided with the application which assesses the noise intrusion from Bondi Road and provides recommendations in order to achieve the stated noise criteria in 102 (3) above.

In terms of clause 102(2) above, which requires Council to consider any guidelines for the purposes of this clause, *Development Near Rail Corridors and Busy Roads – Interim Guideline (Department of Planning, 2008)* has been considered. The Acoustic Report adequately addresses this guideline in terms of the acoustic treatment of the apartments. In terms of air quality, the northern balconies are expected to experience high mean velocities from high north easterly winds, enabling pollutants to be dispersed. The majority of units on the Bondi Road elevation will be dual aspect allowing for natural cross ventilation, however only when windows are open, which due to the noise from Bondi Road may be an issue. The centre units from levels 1-7 will need to be provided with mechanical ventilation to ensure air quality. In the event of approval, this would be required by condition.

It is considered that the requirements of the Infrastructure SEPP have been appropriately considered and addressed.

2.1.6 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The Bondi Junction Centre is captured by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (the SREP) as it is part of land identified on the Sydney Harbour Catchment Map referred to in clause 3(1) of the SREP. The SREP is a deemed SEPP, and therefore, the matters for consideration under Division 2 of Part 3 of the SREP apply to the assessment of the application.

Given the site is separated by a substantial distance from the immediate foreshores and waterways of Sydney Harbour, the proposed development has no effect on the following matters set out in clauses 21 to 24 and 26 and 27 of the SREP:

- biodiversity, ecology and environment protection
- public access to, and use of, foreshores and waterways
- maintenance of a working harbour
- interrelationship of waterway and foreshore uses
- maintenance, protection and enhancement of views
- boat storage facilities.

The proposed development will be partially visible from the immediate foreshores and waterways of Sydney Harbour and therefore clause 25 of the SREP are to be taken into consideration in the assessment of the application.

The majority of the proposed development is obscured by residential and commercial towers to the west on Oxford Street. The proposed development will contribute to the tower form of the Bondi Junction skyline providing an appropriate transition in height to the larger buildings on Oxford Street. The proposed development is expected to have a negligible impact on the visual and scenic qualities of Sydney Harbour, including its islands, foreshores and tributaries. The proposed development is considered acceptable with regards to the relevant matters for consideration under the SREP.

2.1.7 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 is consistent with the aims of the LEP.
Part 2 Permitted or prohibited development		
Land Use Table R4 High Density Residential Zone	Yes	The proposal is defined as a residential flat building, which is permitted with consent in the R4 zone.
Part 4 Principal development standards		
4.3 Height of buildings • Control - 28m	No	The proposal will have a maximum height of 31.18m at the lift overrun, exceeding the development standard by 3.18m or 11%.
4.4 Floor space ratio • Control- 2:1	No	The proposal provides an FSR of 2.34:1 exceeding the development standard by 485m ² or 17%.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to Clause 4.6 of Waverley LEP 2012 to vary the height and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	<p>The site is not within a heritage conservation area or heritage listed. However, the site is located opposite a heritage listed item at 24 Bondi Road.</p> <p>The proposal will not be read within the streetscape of the heritage item being located on the southern side of Bondi Road where high density development to a height of 28m is permitted. There are sufficient separation distances from the proposed new building to the item and overshadowing will not occur.</p> <p>The proposal is separated from the heritage-listed building by Bondi Road and as such is unlikely to impact the significance of the heritage item.</p>

Provision	Compliance	Comment
Part 6 Additional local provisions		
6.2 Earthworks	Yes	<p>The proposal includes excavation of the site to provide a car park. A Preliminary Geotechnical Investigation was provided that provides general geotechnical advice and recommends further testing, dilapidation surveys of adjoining properties and further inspections and vibration monitoring.</p> <p>The excavation is considered acceptable in this regard.</p>

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

Clause 4.3 Height of buildings

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

The proposal has an overall building height of 31.18m, which exceeds the height of buildings development standard of 28m prescribed under Clause 4.3 of Waverley LEP 2012 by 3.18m or 11%.

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) *Compliance with the development standard is unreasonable and unnecessary as the proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality.*
 - (ii) *The component of the development above the height control is limited to the lift overrun and the north-western part of the parapet.*
 - (iii) *Exceedance of the height control will not create additional unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in this height would not create additional benefit for adjoining properties or the locality.*

- (iv) *The siting and design of the proposed development minimises the obstruction of views from neighbouring dwellings and the public domain.*
 - (v) *The proposal is consistent with the objectives of the standard.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The components above the height control will not result in the loss of views from surrounding development.*
 - (ii) *The components above the height control will not result in unreasonable overshadowing of adjoining properties.*
 - (iii) *The components above the height control will still provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained.*
 - (iv) *The components above the height control will still provide a development, which is in its totality is consistent with the scale of the adjoining developments and is of an appropriate visual bulk for the locality.*
 - (v) *Despite the breach in height control, overall the proposal will provide a suitable design and of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979) and the building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site.*
 - (vi) *The aspect of the development that breaches the height control can be justified as the proposal provides a consistent scale with neighbouring development. This can be described as an environmental planning ground because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome.*
 - (vii) *Reduction in the height will not result in improved amenity for adjoining properties. The lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds.*
 - (viii) *The components of development above the height control will preserve the environmental amenity of neighbouring properties including the sharing of views, privacy, and solar access.*
 - (ix) *The proposal will result in some additional overshadowing to the surrounding properties. However as demonstrated in the shadow diagrams submitted with this DA, the proposal does not result in unreasonable overshadowing impacts to surrounding properties and additional impacts as a result of the breach in the height control will not occur.*
 - (x) *Only part of the proposed development (lift overrun and the north-western part of the parapet) exceeds the building height limit due to a slight fall in the terrain. The remainder of the proposal is within the height limit.*
 - (xi) *The non-compliance is minor with a 3.18m, 11% variation to the building height development standard proposed, which would not be indiscernible from the streetscape and surrounding properties.*
 - (xii) *The proposed scale and bulk is appropriate to its context and will not appear out of character when viewed in its context of other buildings in the vicinity.*
 - (xiii) *The proposed development represents an efficient and appropriate use of land that is compatible with the environmental capacity of the site and its R4 High Density Residential Zoning.*

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

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

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

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

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

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

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard as the objectives of the standard are achieved despite the non-compliance, in reference to one of the justifications/tests arising from *Wehbe v Pittwater Council* (2007) 156 LGERA 446.

The written request has outlined the minimal consequences of the non-compliance upon the environmental amenity of surrounding properties and the streetscape and sufficiently argued that these consequences are reasonable. The written request has also highlighted that the extent of the non-compliance is minimal and inconsequential and provides a convincing argument that strict compliance would be burdensome on the proposal achieving orderly and economic use of the site to accommodate additional housing stock in the locality. Discussion below justifies how the development achieves the objectives of the development standard and the zone objectives despite the non-compliance with the development standard.

Is the development in the public interest?

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

The proposal is consistent with the relevant objectives of the R4 high Density Residential zone in that it provides for the housing needs of the community with a variety of housing types within a high density residential environment.

The objectives of the height development standard are as follows:

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

The subject site is not contained within the area designated as the Bondi Junction Centre and as such, objectives (b) and (c) do not apply.

- (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 on the north-western (front) corner of the building and the roof plant in some sections.

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. Impacts upon views from surrounding properties is discussed in detail later in this report, however, the area of non-compliance has no greater impact upon views from surrounding properties than the remainder of the building. As discussed later, the view loss from the proposed development is not considered to be unreasonable. Additionally, the proposed non-compliance will not have unreasonable impacts upon views from the public domain.

As will be 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.

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 of the proposed building is due to a slight dip in the landform along the north-western side of the site. This results in only a minor non-compliance with the height development standard along the western elevation. To require strict compliance with the height development standard would result in a minor height reduction on the front north-western corner of the building impacting upon the design of the building and the presentation to the street without any discernible reduction in impact upon the amenity of surrounding properties .

The other height non-compliance relates to the lift overrun and stairs to the communal roof terrace in the centre of the building. Given the location of the stairs and lift, set within the centre of the roof, a significant distance from the boundaries of the roof, impacts upon surrounding properties will not be unreasonable. Additionally, the plant is set back from all edges of the building and will only be obscurely visible, if at all, within the streetscape.

The height variation will not contribute significantly to increased bulk and scale beyond that envisioned by the height control and the height of the building will not be inconsistent with the desired future character of the locality.

The proposal 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 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 R4 - *High Density Residential* zone.

Clause 4.6 Exceptions to Development Standards

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

The site is subject to a maximum FSR control of 2:1. The proposed development has an FSR of 2.34:1, exceeding the standard by 485m² equating to a 17% variation.

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

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

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

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) *Compliance with the development standard is unreasonable and unnecessary as the proposed building bulk is of an appropriate form and is compatible with surrounding development and the desired future character for the locality.*

- (ii) *Exceedance of the FSR control will not create additional unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in the FSR would not create additional benefit for adjoining properties or the locality.*
 - (iii) *The siting and design of the proposed development minimises the obstruction of views from neighbouring dwellings and the public domain and provides appropriate separation from surrounding development.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The proposal will not result in the loss of views from surrounding development as it will maintain the water views towards the harbour and Bondi Beach from those surrounding properties and a reduction in FSR to comply would not provide any additional benefit in terms of views (refer to View Impact Analysis).*
 - (ii) *The proposal will not result in unreasonable overshadowing of adjoining properties and a reduction in FSR to comply would not provide any additional benefit in terms of sunlight (refer to Shadow Plans).*
 - (iii) *The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained with adequate separation from adjoining properties and provision of appropriate screening.*
 - (iv) *The proposal will provide a development, which is consistent with the scale of the adjoining developments and is of an appropriate visual bulk for the locality.*
 - (v) *The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979). The building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site.*
 - (vi) *The aspect of the development that breaches the FSR control can be justified as the proposal provides a consistent scale with neighbouring development. This can be described as an environmental planning ground because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome.*
 - (vii) *Reduction in the FSR will not result in improved amenity for adjoining properties. The lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds.*
 - (viii) *The proposal will provide a building bulk which is in keeping with the streetscape, surrounding development and the desired future character of the area.*
 - (ix) *The proposed bulk and scale of the building is compatible with the size and shape of the allotment and will provide appropriate building separation from adjoining developments.*
 - (x) *The proposed development will be in the public interest because it is consistent with the objectives of the FSR development standard and the objectives of the R4 zone.*

Consideration of 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)?

Although the written request has referenced the justifications in *Wehbe v Pittwater Council* (2007) 156 LGERA 446 it is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case.

As detailed following, the proposal does not satisfy the objectives of the FSR development standard. Although the appropriate references to *Wehbe* have been made, the written request does not provide adequate justification that the proposal is consistent with the desired future character of the area, particularly in regard to the retention of the semi-detached dwelling at No. 13 Bondi Road.

The written request addresses only the nine-storey residential flat building and neglects to consider the impact of the retention of the semi-detached dwelling. The proposal seeks to provide the additional bulk and scale of incorporating No. 13 Bondi Road into the development site, without regard for how the retention of the building will impact upon the streetscape and desired future character of the area. The FSR relates to the entirety of the development, not simply parts of it. In this regard, the written request does not address all that should be addressed when considering if the additional floor space is appropriate for the site.

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

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard as the written request does not address all that should be addressed when considering if the additional floor space is appropriate for the site (as detailed previously). As will be discussed in detail in the following section, the proposal is not consistent with the objectives of the FSR development standards and is not supported for this reason.

Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent 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 FSR development standard within the LEP are:

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

Objective (a) does not apply to the subject site and is therefore not relevant.

DA-435/2018, for the construction of a new nine storey residential flat building containing 50% 'infill affordable housing' apartments, was approved by the Waverley Local Planning Panel (WLPP) on 27 November 2019. This consent included Nos. 7, 9 and 11 Bondi Road. This consent demonstrated that those sites are capable of providing an appropriate built form and scale without unreasonable impacts upon surrounding properties, with the public benefit of providing affordable housing for the area.

The subject proposal now seeks to incorporate No. 13 Bondi Road into the proposal, increase the bulk and scale of the residential flat building and remove the affordable housing component (which was afforded via the bonus FSR route available through the SEPP ARH). The proposal simply retains the single-storey semi-detached dwelling at No. 13 Bondi Road and uses the associated site area to shift developable gross floor area from that part of the site, to the tower form and subsequently increase the overall size of the residential flat building. Given that the semi-detached dwelling is to be retained, it visually has no connection to the proposed residential flat building and does not appear to be part of the development. Instead, the residential flat building will appear as a towering, bulky form with limited setback to the dwelling. The contrast between the residential flat building and semi-detached dwelling will be striking within the streetscape. The proposal is effectively an attempt to use the floor space gained from the site area of No. 13 Bondi Road in the residential flat building without fully incorporating that semi-detached dwelling into the design of the development. From the street, No. 13 Bondi Road will appear as a separate/independent single dwelling with no relationship to the residential flat building.

It is acknowledged that it is often the case when an area is undergoing change to a higher density, that residential flat buildings will be built alongside much lower scale buildings. However, it is considered that these dwellings will be redeveloped to a higher scale in the future. No. 13 Bondi Road is attached to No. 15 Bondi Road which does not form part of the subject site. This particular pair of semi-detached dwellings appear as a single dwelling. To demolish one of the dwellings will result in a building which will literally appear as a house cut down the middle with an incongruous and unacceptable streetscape presentation, particularly on such a highly visible site on Bondi Road. The design (retention of the semi detached dwelling) of 13 Bondi Road responds to the existing character (maintaining the pair with No 15) rather than the future character, where 15 Bondi Road has the scope to develop to a much higher density. This is an unacceptable approach.

The buildings to the south of the subject development site comprise three sites which are currently underdeveloped and as such there is capacity for these properties to be amalgamated and redeveloped in the future. If No. 13 Bondi Road were to be retained as proposed, it stands to reason that No. 15 Bondi Road (the other semi within the pair) would also need to be retained upon redevelopment of the adjoining sites as, if not, it will result in what appears to be half a dwelling remaining at No. 13 Bondi Road for the foreseeable future. Therefore, the proposal will severely inhibit the orderly redevelopment of the adjoining land and will sterilise the development of No. 15 Bondi Road.

In either case, whether the semi-detached dwelling is retained or demolished, it will result in what appears to be half of a dwelling within the streetscape for the foreseeable future. Even if both sides of the semi are retained in the redevelopment of either sites, this will result in a single dwelling sitting amongst high rise development, with no capacity to develop either site in the future.

Given the above analysis, it is considered that the proposal does not adequately consider the bulk and scale of the desired future character of the area and is therefore inconsistent with objectives (b) and (c).

Objective (d) seeks ‘to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality’. Environmental amenity of neighbouring properties, in this context, is considered in relation to measurable impacts upon solar access, privacy and loss of significant views.

As detailed in Section 2.1.4 of this report, privacy impacts are not considered unreasonable. Detailed discussion is also provided in Section 2.1.8 in relation to impacts on solar access and significant views and both are considered reasonable. Accordingly, it is considered that the proposal will preserve the amenity of neighbouring properties and is consistent with objective (d).

The objectives of the R4 High Density Residential zone are:

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

Although dwelling houses are permitted in the zoning, it is anticipated that these sites will eventually be redeveloped for high density residential flat buildings with the desired future character of the area reflecting the higher density zoning. For the reasons discussed previously, the proposal will result in the retention of a pair of semi-detached dwellings amongst 28m high residential flat buildings. This is not characteristic of a high density residential environment. The proposal to include No. 13 Bondi Road in the development site is not considered to be in accordance with the objectives of the R4 zone.

Conclusion

For the reasons provided above the requested variation to the FSR development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by Clause 4.6 of the Waverley Local Environmental Plan 2012 and the proposed development would not be in the public interest because it is consistent with the objectives of FSR development standard and the R4 zone.

2.1.8 Waverley Development Control Plan (DCP) 2012 – Amendment 9

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

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

Development Control	Compliance	Comment
1. Waste 1.4.1.1 Storage <ul style="list-style-type: none"> • Bin storage area to be provided with rates in B1-2 1.4.1.2 – Residential <ul style="list-style-type: none"> • Bulky waste storage area To be provided and bulky problem waste area with rates. 	Yes	A Site Waste and Recycling Management Plan has been submitted with the application to address waste disposal during construction. A condition of consent will be imposed regarding ongoing waste on site. The waste and recycling storage area is located in the basement in a location convenient for users of the site. The proposal provides a waste holding area adjacent to the basement driveway

Development Control	Compliance	Comment
<ul style="list-style-type: none"> • > 3 storeys convenient waste transport system (ie. Chute) • 1.4.2 – Access and Collection • 1.4.3 – Amenity • 1.4.4- Management 		<p>to allow garbage trucks to collect from within the site. This is consistent with the requirements of the DCP for onsite collection for a development of this scale.</p> <p>Each level is provided with a garbage chute for transportation of waste to the garbage room in the basement.</p>
2. Ecologically sustainable Development	Yes	<p>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.</p> <p>A condition of consent will be imposed which requires an energy assessment report to be submitted prior to the issue of a Construction Certificate which specifically outlines how the detailed design of the building will achieve the 30% reduction.</p>
3. Landscaping and Biodiversity	Yes	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.
5. Vegetation Preservation	Yes	<p>The proposal includes the removal of trees and transplantation of a large tree to within the rear setback of the site. These trees meet the criteria above.</p> <p>The application was referred to Council's Tree Preservation Officer and no issues were raised with the removal and transplantation of trees on the site subject to conditions.</p>
6. Stormwater	No	<p>The stormwater plans submitted with the application are not satisfactory and do not comply with the Water Management Technical Manual.</p> <p>Refer to the comments of Council's Stormwater Engineer in Part 3 of this report.</p>
7. Accessibility and adaptability	No	The proposal will provide eight adaptable units however only four accessible car spaces within the basement car park. In the event of approval,

Development Control	Compliance	Comment
<ul style="list-style-type: none"> In developments with 10 or more dwellings, 20% of dwellings (rounded to the nearest whole number) shall comply with the provisions of an adaptable unit as specified in accordance with the Australian Standard AS 4299-1995 Adaptable Housing. One accessible car parking space is to be provided for every adaptable residential unit and be a part lot in the strata plan. 		<p>a condition of consent would be applied to rectify this issue post-consent.</p> <p>The DCP requires that all units within new high density residential accommodation are liveable units. Notwithstanding, the ADG, which takes precedence over the DCP, requires that 20% of units (ie. 8 units) comply with universal housing design. In the event of approval, a condition of consent would be applied to rectify this issue post-consent.</p> <p>As previously discussed, the accessible pedestrian entry to the rear portion of the residential flat building is inadequate, being accessed via a gate adjoining the hardstand car parking at No. 13 Bondi Road or the basement car park.</p>
<p>8. Transport</p> <p>8.1 – Streetscape</p> <p>8.2 – On Site Parking Zone 1</p> <ul style="list-style-type: none"> Vehicle Access Car parking Provision Rates Motorcycle Parking Bike Parking <p>8.3 – Loading Facilities</p> <p>8.4 – Pedestrian/Bicycle Circulation and Safety</p> <p>8.5 – Green Travel Plan</p> <p>8.6 - Traffic and transport Management Plan</p> <p>8.7 – Car Share</p> <p>8.8 – Electric Vehicle Charing Points</p>	<p>In part</p>	<p>A traffic report was provided which concludes that traffic volumes from the development will result in an imperceptible impact on the surrounding road network and will not present any adverse capacity or road safety impacts.</p> <p>The proposal provides a two-way driveway from Waverley Crescent providing access to two levels of basement parking.</p> <p>The vehicular access to the site for the residential flat building and retained semi detached dwelling results in 2 vehicle crossings (where the DCP calls for max 1 per site). Ideally, parking for No 13 should be contained in the basement and the 2nd crossing removed (kerb reinstated). This also assists to improve the streetscape and vehicle conflict to Bondi Road, being a classified road.</p> <p>The DCP provides a minimum car parking rate of nil car spaces and maximum car parking rates as follows:</p> <ul style="list-style-type: none"> 15 (1-bed) x 0.4 = 6 15 (2-bed) x 0.7 = 11 12 (3-bed) x 1.2 = 14 Visitor 1 per 7 units = 6 <p>Total of 37 spaces</p>

Development Control	Compliance	Comment
		<p>A maximum of 37 spaces (including 6 visitor spaces) is required under the DCP provisions (noting that this is also the minimum requirement under the <i>Guide to Traffic Generating Developments 2002</i>). Although the lesser rate of nil parking technically applies, the development will comply with the maximum controls of the DCP.</p> <p>The proposal provides 37 spaces within two levels of basement parking, including six (6) visitor car parking spaces. It therefore complies with the requirements outlined above.</p> <p>The DCP requires 12 motorcycle spaces however the proposal provides 13. Given the DCP does not specify whether this control is a minimum or maximum, the additional spaces are considered acceptable.</p> <p>Forty-six (46) bicycle parking spaces are included within the basement car park complying with the DCP.</p> <p>Four electric vehicle charging points have been provided.</p> <p>The proposal is consistent with the objectives and controls within this part of the DCP.</p>
9. Heritage	Yes	Refer to Table 3 of this report for commentary on heritage aspects of the development.
10. Safety	No	The proposal is largely consistent with the objectives of this part of the DCP with the exception of relying on the accessible pedestrian entry to the rear portion of the residential flat building via the hardstand car park area at No. 13 Bondi Road, as previously discussed.
11. Design Excellence	No	The proposal does not appropriately respond to the context of the area by presenting a residential flat building of unacceptable width and bulk. The proposal to incorporate the semi-detached dwelling at No. 13 Bondi Road into the development site is not a suitable response to the site and streetscape.
14. Excavation	No (acceptable on merit)	The proposal includes significant excavation to provide two levels of basement parking below

Development Control	Compliance	Comment
Excavation is not permitted within 1.5m of side boundaries and shall only occur within the building footprint, except where access to a basement car park is required.		<p>the building. The proposed excavation does not add to the scale of the building.</p> <p>The proposal provides a nil side boundary setback for the basement levels on the western side. The basement levels have been designed to retain deep soil areas at the front and rear and provide sufficient parking, storage, manoeuvring and onsite collection of garbage etc without increasing the excavation to a third basement level. This necessitates a nil side boundary setback on one side.</p> <p>The basement car park is located below ground except for the driveway entry which extends above in order to enable the collection of waste from within the site and to locate the driveway within Waverley Crescent. The roof over the driveway entry is commensurate in height with a similar approved structure at 21 Waverley Crescent which will adjoin the driveway and covered entry at the subject site.</p> <p>The proposal will retain deep soil along the rear boundary for dense landscaping along the rear of the site. Deep soil will also be retained along the Bondi Road frontage to provide landscaping.</p> <p>The OSD for the development, although not located within the excavated area, is located under the paved entry at the front of the building and therefore will not result in loss of landscaping.</p>
16. Public Domain	Yes	In the event of approval, conditions would be provided regarding works in the public domain.

Part C3 of the DCP applies to residential flat buildings. Development that is subject to SEPP 65 is required to address the provisions of the Apartment Design Guide (ADG), in addition to this Part of the DCP. As per Clause 6A of SEPP 65, if a DCP contains provisions that specify requirements, standards, or controls in relation to the following, those provisions are of no effect:

- (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.

As the development is subject to SEPP 65, those provisions that conflict with the assessment in relation to the ADG (Table 2) are not considered in the table below.

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

Development Control	Compliance	Comment
3.1 Site, scale and frontage		
<p>Development is not to result in isolated sites with a minimum street frontage of:</p> <ul style="list-style-type: none"> Minimum frontage: 20m – R4 zone <p>Relevant side setbacks must be able to be achieved for any isolated sites.</p> <p>Objective (c) not obtained:</p> <p>(c) To ensure lot sizes and building forms are appropriate to the streetscape</p>	Yes	<p>The proposal includes the amalgamation of 7, 9, 11 and 13 Bondi Road and will result in frontage to Bondi Road of 35.213m with a secondary frontage to Waverley Crescent of 11.13m.</p> <p>The redevelopment of the site will not result in isolated sites with the adjoining underdeveloped properties to the east having a combined frontage of approximately 30m. The adjoining property to the west at 21 Waverley Crescent has approval for a nine-storey residential flat building which is currently under construction.</p> <p>However as discussed previously in this report, the proposal will severely inhibit the orderly redevelopment of the adjoining semi-detached dwelling in the pair at No. 15 Bondi Road and will sterilise the development of that site (refer to detailed discussion in Section 2.1.7).</p> <p>Whether the semi-detached dwelling on the subject site is retained or demolished, it will result in what appears to be half of a dwelling within the streetscape for the foreseeable future. Even if both sides of the semi are retained in the redevelopment of either sites, this will result in a single dwelling sitting amongst high rise development, with limited capacity to develop either site in the future.</p> <p>The proposal is therefore inconsistent with objective (c) of this part of the DCP as the inclusion of No. 13 Bondi Road in the development site will result in a building form that is inappropriate within the streetscape.</p>
3.2 Height		
<ul style="list-style-type: none"> Refer to the LEP Maximum external wall height: 25m 	No - acceptable on merit	<p>The wall height of the proposal exceeds 25m. Notwithstanding, the recently approved building at 21 Waverley Crescent and the existing residential flat building at 50 Waverley Street (east of the site) are nine-storey buildings with</p>

Development Control	Compliance	Comment
		no set back upper level. The proposal is consistent with the wall heights and pattern of development of recent development within this part of Bondi Road.
3.3 Setbacks		
<p>Street setbacks</p> <ul style="list-style-type: none"> • Consistent with the predominant building line setback along the street. • The front setback is to be free of any below ground structures. • The front setback is to have a soil depth to support mature trees and shrubs that contribute to the streetscape and the amenity of the public domain. • Setbacks above street frontage height are to be included where the adjacent building includes upper levels setbacks. 	Yes	<p>The proposal retains the predominant street alignment with no balconies protruding within the setback. This has enabled greater landscaping at the front of the site and the retention of deep soil along Bondi Road for tree planting and an improved street interface.</p> <p>The setbacks are consistent with recent development within this part of Bondi Road.</p>
<p>Side and rear setbacks</p> <ul style="list-style-type: none"> • Minimum 6m rear setback, or extend no further to the rear than the predominant rear building line, whichever is the greater setback. • The predominant rear setback is determined separately for each level. • Side setbacks: Height > 12.5m -1.5-2.5m. • Council may require additional setbacks to ensure adequate solar access to adjacent buildings and privacy or to minimise view loss • A landscaped deep soil area of 2m must be 	Yes	<p>Separation distances and the corresponding required setbacks have been discussed in Table 2 relating to ADG requirements. It is noted that the proposal provides greater setbacks than the requirements of the DCP.</p> <p>The tower form of the proposal, and surrounding recent similar development, does not warrant setbacks at the upper levels.</p> <p>No landscaped 2m deep soil along one boundary has been provided. These are provided at the front and the rear instead allowing greater planting in these areas to accommodate dense planting to contribute to privacy (rear) and streetscape presentation (front).</p>

Development Control	Compliance	Comment
provided along one side boundary at a minimum.		
3.4 Length and Depth of Buildings		
<ul style="list-style-type: none"> Max building length to the street is 24m. Buildings to be articulated to respond to the streetscape. The maximum depth of any residential flat building is to be 18m. 	No	<p>The building length along the street is approximately 25m exceeding the control by 1m. Surrounding residential flat buildings generally do not exceed a length of 24m at the street frontage. The previously approved building for this site provided a length of 23m complying with the control. The greater width presents to the street as a bulkier building than previously approved with reduced setbacks between the residential flat building and the semi-detached dwelling at No. 13 Bondi Road. As previously discussed, the residential flat building will provide a stark contrast to the retained semi-detached dwelling providing an incongruous appearance within the streetscape.</p> <p>The building exceeds a depth of 18m given the significant depth of the site. Notwithstanding, the building is split into two parts to respond to the slope of the site. This is considered acceptable.</p>
3.5 Building Design and Streetscape		
<ul style="list-style-type: none"> Development must be sensitive to the streetscape character and views. A streetscape and context analysis is to be provided in accordance with Part B12 Design Excellence. 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. Corner sites, each frontage of the development must 	<p>No</p> <p>No</p>	<p>As previously discussed, the inclusion of No. 13 Bondi Road and the retention of the semi-detached dwelling as part of the development site is not supported due to impacts upon the character of the street and inconsistencies with the emerging high density character of the area.</p> <p>Notwithstanding, the proposed nine-storey residential flat building presents excessive building bulk when compared to the previous approval for the site. The width of the building presenting to Bondi Road has been increased and the setback to No. 13 Bondi Road (retained semi-detached dwelling) has been decreased. The resultant building is wider and hence bulkier than surrounding similar development and dwarfs the retained dwelling at No. 13, providing a stark contrast within the streetscape.</p> <p>The proposed residential flat building retains the predominant street setback. This has enabled greater landscaping at the front of the site and</p>

Development Control	Compliance	Comment
present as a primary street frontage.		<p>the retention of deep soil along Bondi Road for tree planting and an improved street interface.</p> <p>The external finishes are considered appropriate with lightweight elements on all elevations.</p>
3.7 Fences and walls		
<ul style="list-style-type: none"> • Front fence to be provided where it is characteristic of the street • Front fences: Max 1.2m height and proportion of two thirds solid to one third open design. • Rear and side fences: 1.8m in height and taper down from the front building line. • Respond to the architectural character of the street. • Clearly delineate between public, communal and private areas. • Sightlines between pedestrians and vehicles exiting the site are not to be obscured and gates do not open over the public roadway or footpath or into parks. 	Yes	<p>The proposal provides low solid planters along Bondi Road containing landscaping at the street frontage. Open palisade style fencing is then setback from the street frontage to contain the front courtyards of the ground floor units. This will provide an interesting and open front boundary treatment along Bondi Road.</p> <p>On the western side, the proposed residential flat building that is currently under construction will result in higher walls along the shared boundary with the subject site. The communal open space is located along this boundary and will be lower than the adjoining proposed open space at No. 21 Waverley Crescent. The treatment along this boundary is considered appropriate.</p> <p>The open driveway will ensure that sightlines are maintained as much as is possible given the proximity to Bondi Road.</p>
3.8 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 • Where appropriate, provide individual ground floor dwelling entries that address the street. 	No	<p>Entry is provided at the front of the building on street level and directly from Bondi Road. The entry is accessible, legible and separate to the vehicular entry from Waverley Crescent.</p> <p>As previously discussed, the design and location of the accessible pedestrian entry to the rear portion of the residential flat building is considered poor and not well-considered with safety and security issues.</p>

3.9 Landscaping		
<ul style="list-style-type: none"> • Comply with part B3-Landscaping and Biodiversity • Minimum of 30% of site area landscaped • 50% of the above is to be deep soil • Where site conditions allow, the deep soil zone is to be consolidated as one area to assist the ease of drainage and to allow for effective deep soil planting. • Landscaping must relate to the building scale and assist integration of the development with the existing street character. 	Yes	<p>The rear, side and front setbacks will be extensively landscaped. In all, the landscaped area provided on site will be 428m² or 30% of the site.</p> <p>The deep soil is 217m² or 15% of the site.</p> <p>The deep soil zones are consolidated at the front and the rear to allow appropriate landscaping.</p> <p>The proposal includes planting of trees along the front and rear boundaries within the deep soil zones. The rear planting will aid in privacy to the properties at the rear. The front landscaping will provide privacy for the apartments at ground level facing the street and will also contribute to the streetscape appearance of the development.</p>
3.10 Communal Space		
<ul style="list-style-type: none"> • 25% of the total site area in the R4 zone is to be provided as consolidated communal open space. • May be provided on a podium or roof-top terrace provided the controls within this Part are met. • At least 30% of the communal open space is to receive 3 hours of direct sunlight between 9am and 3pm on June 21. • Accessible 	Yes	<p>The proposal will provide a total of 374m² of communal open space (equivalent to 25.9% of the site area) comprised of the following:</p> <ul style="list-style-type: none"> • 97m² of communal open space on the ground floor in the north-western part of the site with minimum dimensions of 21.6m x 3.3m; and • 277m² of rooftop communal open space with minimum dimensions of 12.8m x 17.6m. <p>The entirety of the rooftop communal space will receive sufficient solar access and half of the ground level communal space.</p> <p>The communal spaces are accessible with ramped access to the ground floor area and lift access to the roof.</p>
3.12 Vehicular access and parking		
<ul style="list-style-type: none"> • Car parking to be integrated into the design of the development • Max 1 x two-way vehicle access point • Provided from secondary street or lane 	Yes	<p>The car parking is integrated into the design of the building being located below ground. The driveway access will be landscaped above to integrate with the communal area beyond.</p> <p>The proposal provides a single two-way entry from Waverley Crescent.</p>

<ul style="list-style-type: none"> • Pedestrian safety considered • Basement parking should not contravene deep soil zone controls 		<p>There will be sufficient sightlines available from the driveway in Waverley Crescent.</p> <p>Deep soil zones are retained at the front and the rear of the site.</p>
3.13 Solar Access and Overshadowing		
<ul style="list-style-type: none"> • New development should not reduce the solar access of solar panels of any property to less than two hours per day in mid-winter except solar hot water and photovoltaic panels to which full solar access must be maintained. • Direct sunlight to north facing windows of habitable rooms and all private open space areas of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on June 21. 	Yes	Refer to detailed discussion following this table.
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. 	Yes	<p>Refer to detailed discussion following this table.</p> <p>Landscaping has been included along the front boundary of the site which will soften the appearance of the development from Fingleton Reserve opposite the site.</p> <p>Significant views from the public domain will not be impacted. Sufficient setbacks are provided to allow views through and around the development.</p>
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. • 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 	No	<p>The majority of the apartments are orientated toward Bondi Road. An entrance portico on the Bondi Road elevation clearly indicates the entry to the building.</p> <p>Refer to detailed discussion in Section 2.1.4 of this report. The building provides sufficient separation from the rear boundary and the residential flat building beyond to ensure that privacy impacts from the rear balconies are not unreasonable. The same is true for those balconies at the front orientated toward Bondi</p>

<p>open space of lower level dwellings in same development</p> <ul style="list-style-type: none"> • Privacy be considered in relation to context density, separation use and design. • Roof top terraces discouraged except in certain circumstances. 		<p>Road as there is also sufficient separation distances from the properties opposite the site. The balconies at the front do not need side screening as they overlook the front setbacks of adjoining properties where privacy levels are low. In addition, these balconies are angled toward the street to minimise incidental overlooking.</p> <p>The proposal addresses overlooking within the development itself by orientating the main part of the front balconies away from the adjoining balconies and providing screening.</p> <p>The roof top terrace is located toward the front of the building overlooking Bondi Road with landscaped planters around the perimeter to provide screening. The DCP requires that rooftop terraces not exceed 15m² with the subject development providing 160m², equating to 966% more than the control allows. Although a roof top terrace may be acceptable in this location, the excessive size of that proposed is not supported.</p> <p>As previously discussed, the lack of separation between the residential flat building and the retained semi-detached dwelling results in visual and acoustic privacy impacts upon the dwelling.</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 	No	<p>Refer to Section 2.1.5 of this report for discussion regarding the acoustic report submitted with this application due to the development being located on Bondi Road.</p> <p>The layout of each floor is generally similar (identical from levels 1-6) and as such similar and/or identical uses are located above and below each other on each level of the building.</p> <p>As previously discussed, it is considered that the pedestrian pathway to the rear part of the residential flat building will have detrimental acoustic privacy impacts upon the retained semi-detached dwelling being located directly adjoining the side elevation of this building.</p>
3.21 Building services		

<ul style="list-style-type: none"> • Outdoor Communal clothes drying area to be provided. • Services are to be integrated into the design of buildings. • Plant rooms away from entry communal and private open spaces and bedrooms. • Building services setback from walls, edges and front entrances. • Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge. 	Yes	<p>No communal outdoor clothes drying area is nominated on the plans. In the event of approval, a condition would require the provision of an outdoor clothes drying area as there is sufficient area on site to provide this.</p> <p>All services are integrated into the design of the development. Plant is located within the basement or on the roof, away from communal areas.</p> <p>The plant on the roof is set back from the building edges and will be only obscurely visible from the public domain.</p>
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The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

Overshadowing

Objective 3B-2 of the ADG is that overshadowing of neighbouring properties is minimised during mid-winter. Design guidance to achieve this is provided however the ADG provides no controls in this regard. Notwithstanding, the ADG requires that residential flat building achieve at least 2 hours solar access between 9am and 3pm on the winter solstice to at least 70% of apartments. Given the subject proposal will overshadow a residential flat building at the rear (44-48 Waverley Crescent), it is considered appropriate to apply this control to that building.

It is noted that Council's DCP requires that *'direct sunlight to north facing windows of habitable rooms and all private open space areas of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on June 21.'* This control applies to dwellings surrounding the site whereas the previous control would relate to residential flat building surrounding the site.

The proposal will result in additional overshadowing of surrounding properties, particularly the properties to the south of the site. Shadow diagrams indicate that the overshadowing from the proposed development at mid-winter will move over the windows of the units within 42-48 Waverley Street however, the proposal will not cause the majority of apartments to achieve less than the 2 hours required throughout the day.

The proposal will result in overshadowing of the adjoining semi-detached dwelling at No. 15 Bondi Road for most of the day. However, it is noted that for this property, the rear open space and associated living area windows are orientated toward the south. The main windows are south facing and would not receive solar access from 9am to 3pm on the winter solstice.

The impact from new developments that are compliant with increased development standards is significantly greater than impacts from sites which are currently underdeveloped, however if the development meets all relevant standards and controls, these impacts are accepted as being generally anticipated by the controls. The purpose of development standards is to stipulate the maximum

development potential of a site and provide certainty to the public and facilitate the economic and orderly use of land.

The proposal exceeds both the height and FSR development standards. As discussed in Section 2.1.7 of this report, that part of the building which does not comply with the height does not result in unacceptable additional overshadowing.

In terms of additional FSR, the overshadowing from the additional 15% floor space is minimal as compared to the previous approval for this site. Although the overshadowing will be increased, the residential flat building to the rear will continue to receive at least 2 hours to the majority of apartments within this building. The adjoining residential dwellings will be heavily overshadowed however this would be the case for a compliant development (as demonstrated in the previous approval for this site).

For these reasons, it is considered that the overshadowing of the properties to the south is a consequence of the redevelopment of the site to high density development and the impacts are those anticipated by the zoning and development standards. The adjoining underdeveloped properties are also zoned for high density development and it is anticipated that these properties will be redeveloped in the future with increased setbacks and consideration of the surrounding high density development. As such, the overshadowing impacts are not considered unreasonable.

Views and view sharing

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

During the assessment of the previous application for this site a number of apartments within the following properties were visited for the purposes of view assessment:

- Apartments within the nine-storey residential flat building to the rear (south) 42-48 Waverley Street; and
- Apartments within the three-storey residential flat building to the east at 21 Bondi Road.

These properties were not revisited as part of the assessment of the current application, as the views are considered the same as previously. A snapshot of the views obtained are provided below:



Figure 7: View from apartment on the sixth floor of 42-48 Waverley Street (western building)



Figure 8: View from apartment on the eighth floor (top level) of 42-48 Waverley Street (eastern building)

The above images indicate the views from 42-48 Waverley Street to the rear of the site. No. 42-48 Waverley Street is comprised of two buildings, being the eastern building and the western building. Figure 7 above is taken from the western building at Level 6. This building achieves views over side and rear boundaries of the subject site being partial and distant views of water. It is noted that the current development application being assessed at 21 Waverley Crescent will obscure views from the western building with any development on the subject site removing any remaining view. It is not an unreasonable expectation that views from Level 6 of a building will be obscured in an area zoned for high density development to a height of 28m. It is not a reasonable expectation to retain views from the lower levels of a building over an undeveloped site.

The views from the eastern building are represented by Figure 8 which was taken from the top floor level. The water views achieved from standing on the balcony are partial distant views located to the eastern and western side of the central view.

The proposal exceeds the FSR and height development standards of the LEP and does not comply with the separation distances of the ADG. A view analysis provided by the Architect indicates that the water views on the eastern and western sides of the building will continue to be maintained. It is inevitable that there will be some loss of views from the properties to the rear given that the views are achieved over a row of underdeveloped sites. The sites on Bondi Road have a 28m height control which will ultimately result in loss of views upon redevelopment of these sites. The additional height above the height development standard is located toward the front of the site and being predominantly plant, is higher than the views achieved. In this regard a height compliant form would have the same, or largely similar impact. The view analysis submitted by the Applicant indicates that views will be maintained on either side of the proposed new building from 42-48 Waverley Street, however it is likely that upon redevelopment of other sites on Bondi Road, these views will eventually be lost or greatly impacted.

The retention of private views at the expense of the reasonable redevelopment of an adjoining site is not a realistic expectation.



Figure 9: View from the rear unit on the second floor (top level) of 21 Bondi Road, looking north-west



Figure 10: View from the front unit on the second floor (top level) of 21 Bondi Road, looking north-west



Figure 11: View from the communal roof terrace of 21 Bondi Road, looking north-west

The views to the harbour and City skyline from 21 Bondi Road are across a side boundary. The views from within this building will likely be lost, particularly from the unit at the rear. These views are partial, distant views from a standing position. That part of the proposal that would impact upon views is the front setback, which is compliant with the relevant controls of the DCP. In effect, loss of views from this property are an inevitable consequence of the redevelopment of the site. The zoning allows for a significant building on this site and the view impacts that go with that scale of redevelopment.

It is considered that the loss of views from surrounding properties is a consequence of the redevelopment of the site to high density development and the impacts are those anticipated by the zoning and development standards. Given the above analysis, and the view sharing planning principle, it is considered that the impact of the development upon private significant views is not unreasonable.

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have an adverse environmental impact in the locality as it represents an overdevelopment of the subject site, is excessive in terms of bulk and scale, has an undesirable and unacceptable impact on the streetscape, and would adversely impact upon the amenity of the locality and surrounding built environment.

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

The application was subject to extended notification over the Christmas Period ultimately notified for 42 days in accordance with *Waverley Community Participation Plan*.

Sixteen (16) submissions were received, five (5) being *proforma* letters and eleven (11) unique submissions. The issues raised in the submissions are summarised and discussed below.

Table 6: Summary of property addresses that lodged a submission

Property
2/2 Bondi Road BONDJ JUNCTION
112 Warners Avenue BONDJ BEACH
14 Council Street BONDJ JUNCTION
2/17-19 Bondi Road BONDJ JUNCTION
4/42-48 Waverley Street BONDJ JUNCTION
5/42-48 Waverley Street BONDJ JUNCTION (<i>proforma</i>)
16/42-48 Waverley Street BONDJ JUNCTION
20/42-48 Waverley Street BONDJ JUNCTION
23/42-48 Waverley Street BONDJ JUNCTION (<i>proforma</i>)
24/42-48 Waverley Street BONDJ JUNCTION (<i>proforma</i>)
25/42-48 Waverley Street BONDJ JUNCTION
27/42-48 Waverley Street BONDJ JUNCTION
28/42-48 Waverley Street BONDJ JUNCTION (<i>proforma</i>)
34/42-48 Waverley Street BONDJ JUNCTION
44/42-48 Waverley Street BONDJ JUNCTION
8, 32 & 33/42-48 Waverley Street BONDJ JUNCTION (<i>proforma</i>)

Issue:

- Height and FSR (overdevelopment).
- Parking, traffic and basement parking arrangement.
- Separation distances and setbacks.
- Length and depth of building.
- Overshadowing and solar access.
- Visual and acoustic privacy.
- Inadequate deep soil.
- View loss.
- Non-compliances with LEP and DCP.
- Inappropriate design and streetscape presentation.
- Loss of trees.
- Splitting of a semi-detached building into two.
- Waste storage and collection.

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

Issue: Wind effects.

Response: A wind impact assessment is not required for this site. This is not a reason that would warrant the refusal of the application.

Issue: Reduction in property value.

Response: This is not a planning matter.

Issue: An objection to the FSR development standard under Clause 4.6 was not submitted. Any Clause 4.6 objection submitted will likely fail.

Response: A Clause 4.6 written justification seeking variation to the FSR development standard has subsequently been submitted and is discussed in detail in section 2.1.7 of this report.

2.5 Public Interest

It is considered that the proposal will not be in the public interest.

3. REFERRALS

Public Domain (Infrastructure Services)

Conditions were recommended in the event of approval.

Stormwater (Infrastructure Services)

The following comments were provided:

- *The finished floor level (FFL) of the ground floor should be raised to ensure no surface runoff (from the rear yard and footpath at the front of the property) enters the dwelling. The FFL should be at least 150 mm above the adjacent ground level;*
- *The levels of the driveway leading into the basement shall be reviewed by Council's Traffic Engineer to ensure no runoff from the footpath will enter the proposed basement.*
- *There are several inconsistencies with the stormwater management plans which cannot be addressed during the CC stage (due to the size of the development). If this DA is deferred, the comments provided below shall be included in the deferral letter.*
- *It is recommended that the basement should be offset from all boundaries for excavation purposes and to ensure no structures related to the drainage of the basement go past the boundary line.*

Environmental Health (Compliance)

Conditions were recommended in the event of approval.

Tree Management Officer (Open Space and Sports fields Management)

The Tree Management Officer recommended that the trees to be removed, retained and transplanted are as per the Arborist Report. Conditions were recommended in the event of approval.

Sustainable Development (Environmental Services)

The following comments were provided:

1. *That a BASIX Specification block is marked on the DA plans.*
2. *There is significant scope for this development to exceed the minimum BASIX Energy score (improving amenity of the dwellings and reducing ongoing maintenance costs) through:*

- *Selection of light-coloured walls and roofs to ensure dwellings stay cool as climate warms*
- *Installation of LED lights throughout common areas (industry standard practice)*
- *Installation of single-phase air conditioning of > 3.5 EER or higher.*
- *Shading of roof top air conditioning units*
- *the installation of a combined roof garden with north-facing PV panels to offset common area electricity consumption*

Waste and Recycling Management (Environmental Services)

The following comments were provided:

The Site Waste and Recycling Management Plan (SWRMP) is insufficient, and should be revised and resubmitted to address the following points:

- *The on-site waste collection area must be designed to allow collection vehicles to enter and exit the property in a forward direction, and have adequate vehicle clearance. The collection of residential and commercial waste and recycling is to be undertaken on the site. No bins are to be stored or left on the street for collection. The collection point for bins should be indicated on the drawings and show the placement of all bins for weekly collection.*
- *Developments containing more than 3 habitable storeys must provide a system for convenient transportation of waste and recyclable material to the communal waste and recycling storage area (see Waverley Development Control Plan 2012, Annexure B1-6); and provide a waste and recycling compartment/area on each floor with sufficient capacity to store at least 1 day's volume of waste and recycling likely to be generated on that floor.*
- *Insufficient bulky waste storage area has been allocated. For a building with 41 residential units, 9m² is required for bulky waste storage, as well as an additional 2m² for additional problem waste for a total of 11m².*
- *The storage area for waste transportation equipment should be indicated on the architectural drawings and equipment should be referenced in the SWRMP.*

The on-site collection arrangements were previously approved as part of the previous consent for the site. The subject application does not change the waste collection arrangement that were previously considered acceptable. In this regard, the waste collection is considered appropriate.

The proposal includes a chute system as per the previous approval for this site. This is considered to be consistent with the requirements of the DCP.

The proposal provides a bulky goods waste storage room within the basement car park with an area of 15m².

Urban Design (Strategic Planning)

Comments had not been provided at the time of writing of this report.

Traffic and Development (Infrastructure Services)

Comments had not been provided at the time of writing of this report.

Green Travel Plans (Environmental Services)

Comments had not been provided at the time of writing of this report.

4. SUMMARY

The proposal seeks consent for the demolition of all structures on Nos. 7, 9 and 11 Bondi Road and construction of a nine-storey residential flat building and alterations and additions to the existing semi-detached dwelling at No. 13 Bondi Road to become a 3-bedroom unit within the development site.

The proposal is largely similar to the previous approval for 7-11 Bondi Road, DA-435/2018 proposing a nine-storey residential flat building comprised of 50% infill affordable housing. However, the applicant has now acquired one half of a pair of semi-detached dwellings at No. 13 Bondi Road, increasing the size of the development site and the associated floor space and removing the infill affordable housing component from the proposal. The consent was compliant with the FSR development standard with a 0.5:1 bonus as allowable under the Affordable Housing SEPP.

The proposal now seeks an FSR of 2.34:1 exceeding the development standard by 485m² or 17% and maximum height of 31.18m, exceeding the development standard by 3.18m or 11%. The application includes an offer to enter into a Voluntary Planning Agreement for the additional floor space above the development standard.

The current consent for this site, DA-435/2018, demonstrates that a building of an appropriate bulk and scale that provides a public benefit by way of affordable rental housing can be provided on this site without unreasonable impacts upon the amenity of surrounding properties or the character of the locality. There are four main areas of concern with the subject proposal to now expand the development site to provide a larger development:

1. The proposal simply retains the single-storey semi-detached dwelling at No. 13 and uses the associated site area to increase the size of the residential flat building. Given that the semi-detached dwelling is to be retained, including the rear open space and hardstand parking at the front, it visually has no connection to the proposed residential flat building. Instead, the residential flat building will appear as a towering, bulky form with limited setback to the dwelling. The contrast between the residential flat building and semi-detached dwelling will be striking within the streetscape.
2. The incorporation of No. 13 Bondi Road into the development site restricts the development of the adjoining semi-detached dwelling in the pair at No. 15 Bondi Road (which is not part of the development site). The pair of semi-detached dwellings will need to be retained to ensure that the pair are not cut through the middle with 'half of a house' being within the streetscape, particularly given the prominence of the site on the highly utilised Bondi Road. The retention of a single dwelling between nine-storey residential flat buildings is not consistent with the desired future character of the high density zoning.
3. The increased width of the building exceeds the DCP control and is out of character with surrounding high density development.
4. The pedestrian entry to the rear part of the residential flat building is poorly resolved and will result in impacts in relation to safety, security and visual and acoustic privacy.

The current approval for this site, DA-435/2018, does not have the issues raised above and presents as a far superior development than that currently proposed.

The application was notified and 16 submissions were received. The issues raised are discussed in detail in the body of this report.

The application is recommended for refusal.

DBU Decision

The application and assessment report were reviewed by the DBU at the meeting on 6 April 2021 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 Magistrale*

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:



Kylie Lucas
Senior Development Assessment Planner

Date: 04/06/2021

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



Peggy Wong
**A/Manager, Development Assessment
(Central)**

Date: 10/06/2021

Reason for referral:

- 2 Contentious development (10 or more objectors)
- 3 Departure from any development standard in an EPI by more than 10%
- 4 Sensitive development:
 - (a) SEPP 65 development
 - (b) Planning Agreements

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 proposed development does not satisfy section 1.3(c), (d), (g), Objects of the Act in that the proposal fails to promote the orderly and economic use and development of land, to promote the delivery and maintenance of affordable housing, and to promote good design and amenity of the built environment.
2. The proposed development does not satisfy section 4.15 (1)(a)(i) of the Act as it is contrary to the following environmental planning instruments:
 - (a) *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* (SEPP 65) as the development fails to satisfy the following design quality principles specified by Schedule 1 of SEPP 65:
 - i. *Principle 1 – Context and neighbourhood* in that the proposed development does not achieve the desired urban form and built form quality envisaged for the area.
 - ii. *Principle 2 - Built form and scale* as the proposed development is out of scale with the desired future character for the area. The scale, bulk and height of the proposed development exceed that envisaged for the site.
 - iii. *Principle 3 – Density* as the proposed development fails to provide a high level of amenity for the retained dwelling at No. 13 Bondi Road, and results in a building of significant bulk that is inappropriate to the site and context.
 - iv. *Principle 6 – Amenity* as the proposed development provides apartments with poor amenity with visual and acoustic privacy impacts between the retained semi-detached dwelling and the proposed residential flat building due to inadequate separation distances.
 - v. *Principle 7 – Safety* as the proposed accessible pedestrian pathway to the rear portion of the residential flat building on the southern side of the site may cause conflict and potential safety issues to the retained semi-detached dwelling. Additionally, the accessible pedestrian entry to the rear part of the residential flat building is not well-considered resulting in security and safety issues for residents and visitors.
 - vi. *Principle 9 – Aesthetics* as the visual appearance, particularly the bulk and scale, do not respond to the existing or future local context or desired future character.
 - (b) Waverley Local Environmental Plan (WLEP) 2012 as the development fails the following provisions:
 - i. Clause 4.4(1)(b) to (d) and (2) as the proposal will exceed the maximum FSR permitted for the site and have unreasonable amenity impacts and be incompatible with the desired future character of the locality.
 - ii. Clause 4.6(4)(a)(i) and (ii) as the applicant's written request has not adequately addressed the matters required to be demonstrated by subclause (3) and the proposal is inconsistent with the objectives of the FSR 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 B6 – *Stormwater*, objectives and controls, as the finished floor level (FFL) of the ground floor should be raised to ensure no surface runoff (from the rear yard and footpath at the front of the property) enters the dwellings.
 - (b) Part B7 – *Accessibility and Adaptability*, specifically objectives (a) and (b) as the proposed development does not provide appropriate equitable pedestrian access to the apartments contained within the rear portion of the residential flat building. Additionally, an insufficient number of accessible parking spaces is provided within the basement car park.
 - (c) Part B10 – *Safety*, specifically objectives (a) and (b), and controls (e) and (f) as the proposed accessible pedestrian pathway to the rear portion of the residential flat building on the south side of the site may cause conflict and potential safety issues to the retained semi-detached dwelling. Additionally, the accessible pedestrian entry to the rear part of the residential flat building is not well-considered resulting in security and safety issues for residents and visitors.
 - (d) Part B12 – *Design Excellence*, specifically objective (a) and control (e) as the proposed development does not achieve design excellence or a high standard of architectural design appropriate to the location.
 - (e) Part C3 – *Other Residential Development*;
 - i. Clause 3.1 *Site, Scale and Frontage*, specifically objective (a), as the proposal to include No. 13 Bondi Road in the development site will ultimately stifle the redevelopment potential of the adjoining site (No. 15 Bondi Road) and result in a building form which is inappropriate to the streetscape.
 - ii. Clause 3.4 *Length and Depth of Buildings*, specifically objectives (a) and (c) and control (a), as the proposal exceeds the maximum length of the building to the street permitted and does not respond to the desired scale and character of the street and area or provide good residential amenity for dwellings.
 - iii. Clause 3.5 *Building Design and Streetscape*, specifically objectives (a) and (b), and controls (a) and (b), in that the proposed residential flat building is not of a scale and appearance in keeping with the emerging character of the area.
 - iv. Clause 3.8 *Pedestrian Access and Entry*, specifically objectives (a) to (d) and controls (b), (d), (f) and (g) in that the accessible entry to the rear part of the residential flat building is not of high quality, legible or safe.
 - v. Clause 3.15 *Visual Privacy and Security*, specifically objectives (a) and (b) and controls (d) and (i), in that the proposed development provides inadequate separation distances to development within the development site itself to ensure the visual and acoustic privacy of the retained semi-detached dwelling is preserved. Additionally, the size of the communal roof top terrace is considered excessive at 966% more than the control allows. This will result in unacceptable visual and acoustic privacy impacts upon surrounding properties due to its excessive size.
 - vi. Clause 4.12 *Acoustic Privacy*, specifically objective (a) and control (b) in that the pedestrian pathway to the rear part of the residential flat building will have detrimental acoustic privacy impacts upon the retained semi-detached dwelling being located directly adjoining the side elevation of this building.
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 an overdevelopment of the subject site, is excessive in terms of bulk and

scale, has an undesirable and unacceptable impact on the streetscape, and would adversely impact upon the amenity of the 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 is excessive in bulk and scale with adverse impacts upon the character of the area 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.

RECEIVED
Waverley Council
Application No: DA-431/2020

Date Received: 17/11/2020

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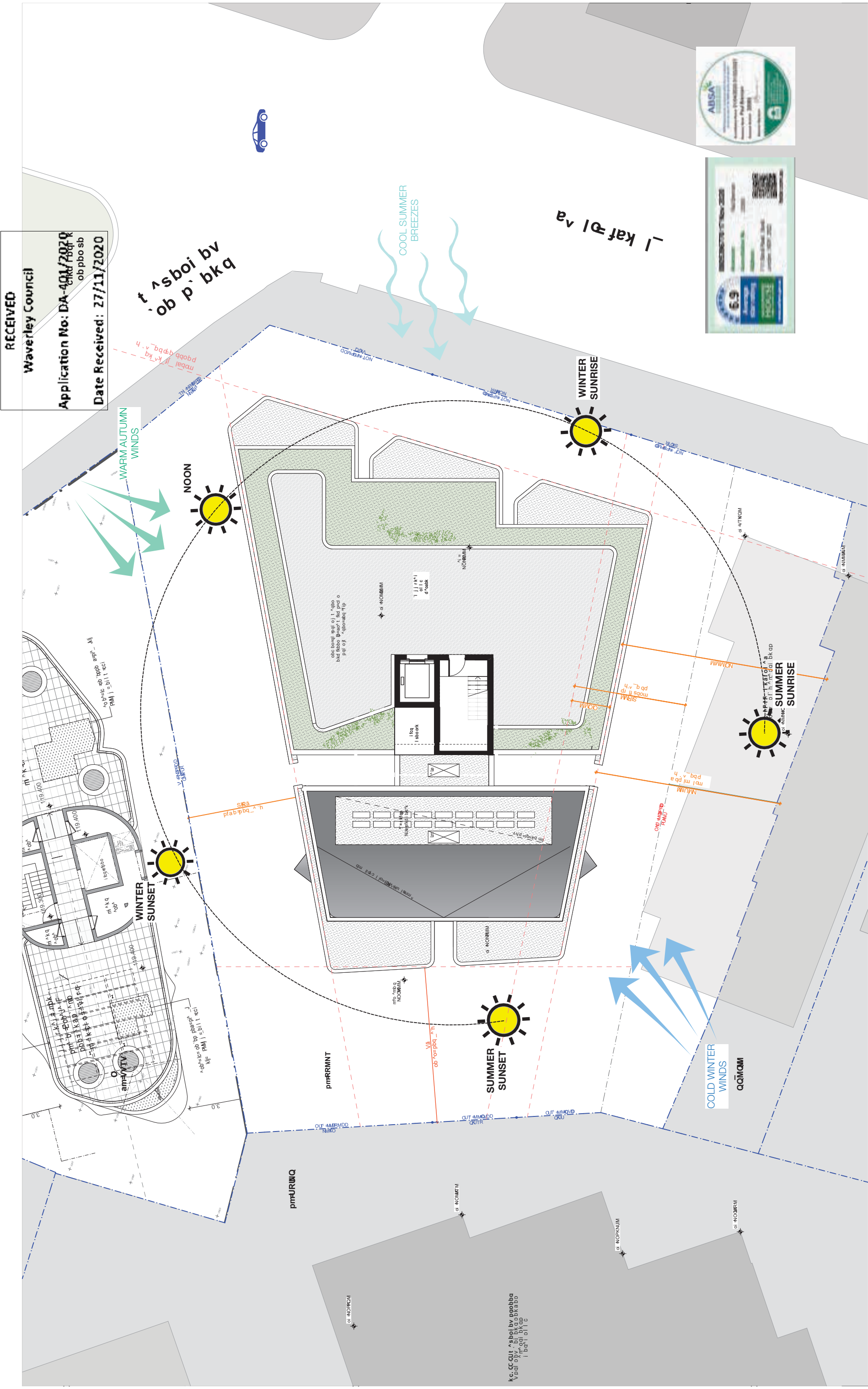
517

RECEIVED

Waverley Council

Application No: DA-401/2020

Date Received: 27/11/2020



ob sfpri kp

abs bil nlp kq ammf^a qfi k=====

ml qdvaunio

NUNDM

1. The proposed development is located on a site of approximately 1.5 hectares, bounded by the M10 Motorway to the north and the M11 Motorway to the east. The site is currently zoned for residential use.

2. The proposed development consists of a multi-story residential building with a total floor area of approximately 10,000 square meters. The building will be constructed in accordance with the requirements of the relevant building codes and standards.

3. The proposed development is designed to provide a high-quality residential environment, with a focus on sustainable design and community amenities. The development will include a range of housing types, including apartments and townhouses, and will provide access to a range of community facilities, including a playground, a community center, and a parking area.

4. The proposed development is expected to generate a range of benefits for the local community, including the creation of new jobs, the provision of new housing, and the enhancement of the local environment. The development is also expected to contribute to the local economy and to the overall well-being of the community.

ml qdvaunio

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ml qdvaunio

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ml qdvaunio

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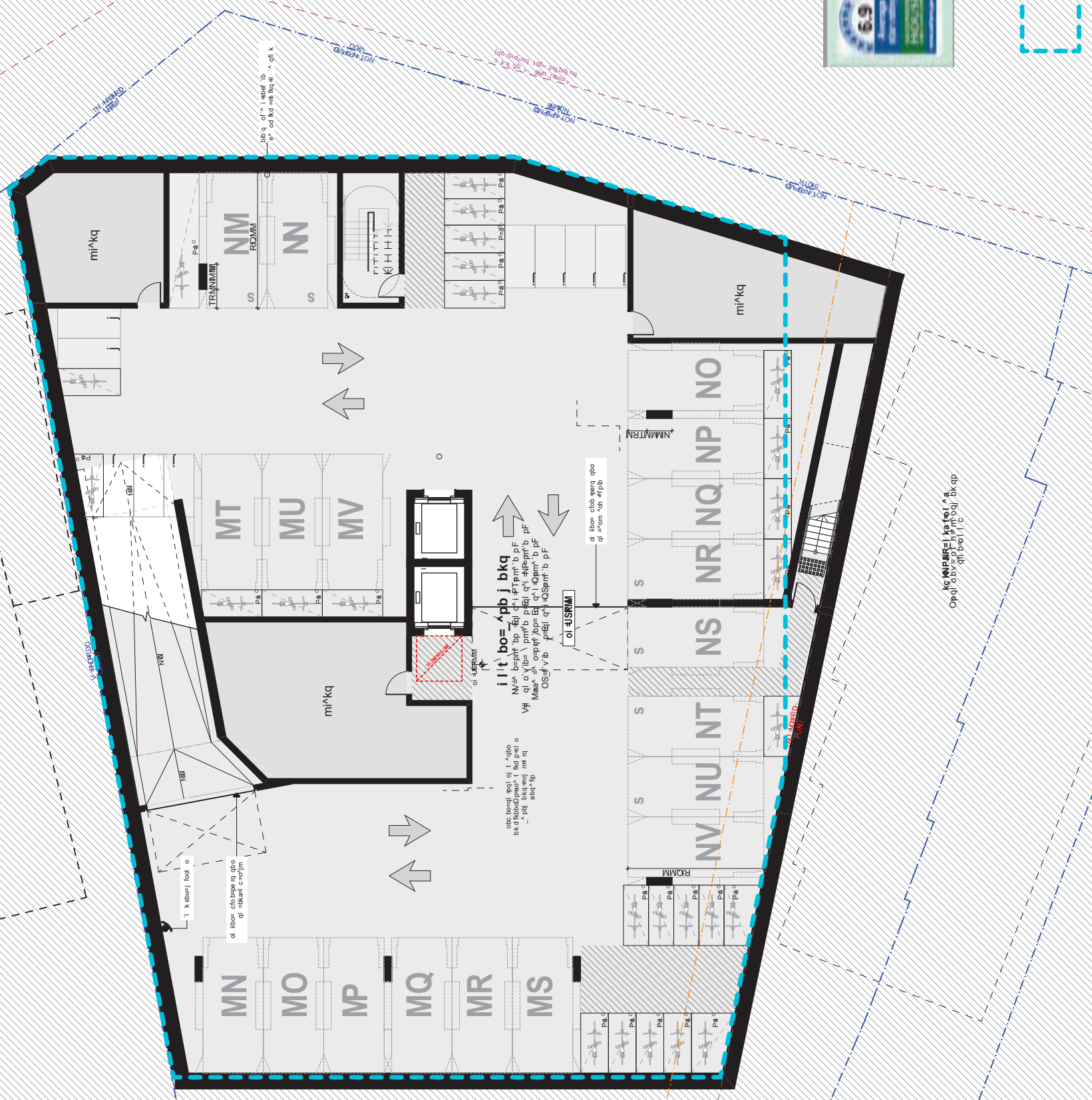
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Page 322 of 449

Waverley Council

Application No: DA-401/2020

Date Received: 27/11/2020



$_irb = a^p \text{ eb } a \mp fkb = ab \text{ kl } qbp$
 $\wedge mmol \text{ sb } a \mp cl \text{ l } qmofkqK$
 $a^\wedge \text{ JOPRONIUK}$

[illegible]

Case	Age	Sex	Occupation	History	Examination	Diagnosis	Treatment	Outcome
1	25	M	Student	Headache, dizziness, nausea	Normal	Migraine	Rest, analgesics	Recovered
2	35	F	Housewife	Headache, vomiting	Normal	Migraine	Rest, analgesics	Recovered
3	45	M	Teacher	Headache, dizziness	Normal	Migraine	Rest, analgesics	Recovered
4	55	F	Retired	Headache, dizziness	Normal	Migraine	Rest, analgesics	Recovered
5	65	M	Farmer	Headache, dizziness	Normal	Migraine	Rest, analgesics	Recovered
6	75	F	Homemaker	Headache, dizziness	Normal	Migraine	Rest, analgesics	Recovered
7	85	M	Retired	Headache, dizziness	Normal	Migraine	Rest, analgesics	Recovered
8	95	F	Retired	Headache, dizziness	Normal	Migraine	Rest, analgesics	Recovered

[illegible][illegible]

**WAVERLEY
CRESCENT**

BONDI ROAD

BLUE DASHED LINE DENOTES
APPROVED FOOTPRINT.
DA-435/2018.

PROJECT NO: 20-027
DRAWN BY: MHNDU
TO SCALE: 1:200 @A3
DRAWING NO: REV:
DRAWN BY: AS
CHECKED BY: LH

DA 2007 A

PROJECT:
Residential Apartments
7-13 Bondi Road Bondi
Junction NSW 2022

DRAWING:
ROOF PLAN

DA 2007

MHNDUZION

35 RICHARDS LANE
SURREY HILLS SYDNEY NSW 2100
T +61 2 9101 1111
F +61 2 9101 1100
www.mhndu.com

MHN Design Union Pty Ltd. ASIN 94 003 717 682

[illegible]

BASIC COMMITMENTS		ALL OTHER BASIC COMMITMENTS AS PER BASIC CERTIFICATE AND STAMPED PLANS	
PERMITS/LOADING	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0
COATING	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0
HEATING	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0
VENTILATION	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0
WATER HEATING	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0
ENERGY EFFICIENT LIGHTING	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0
REFRIGERATION SPACE	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0
ALTERNATIVE SUPPLY	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0
358	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0	As conditions, Single-track, 2.5-3.0

ALL CONSTRUCTION TO COMPLY AT MINIMUM W BCA CLAUSES & AUSTRALIAN STANDARDS

TESTS

BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA STANDARD 1171 STATUTORY AND LOCAL AUTHORITY REQ.

TO ENSURE CONSISTENCY BETWEEN

MAINTAINED

TO IDENTIFY ANY DISCREPANCIES, DISCREPANCIES SHOULD BE NOTIFIED PRIOR TO MANUFACTURING

ALL CONTRACTORS DETAILED DRAWINGS /

OR TO CONSTRUCTION

TO CO-ORDINATE WITH ELECTRICAL CONTRACTORS TO

INTER-CONTRACT COMMUNICATION REQUIREMENTS

TO BE VERIFIED ON SITE - DO NOT SCALE

BE VERIFIED AGAINST DRAWINGS FOLLOWING

AND ARCHITECT TO BE NOTIFIED OF ANY

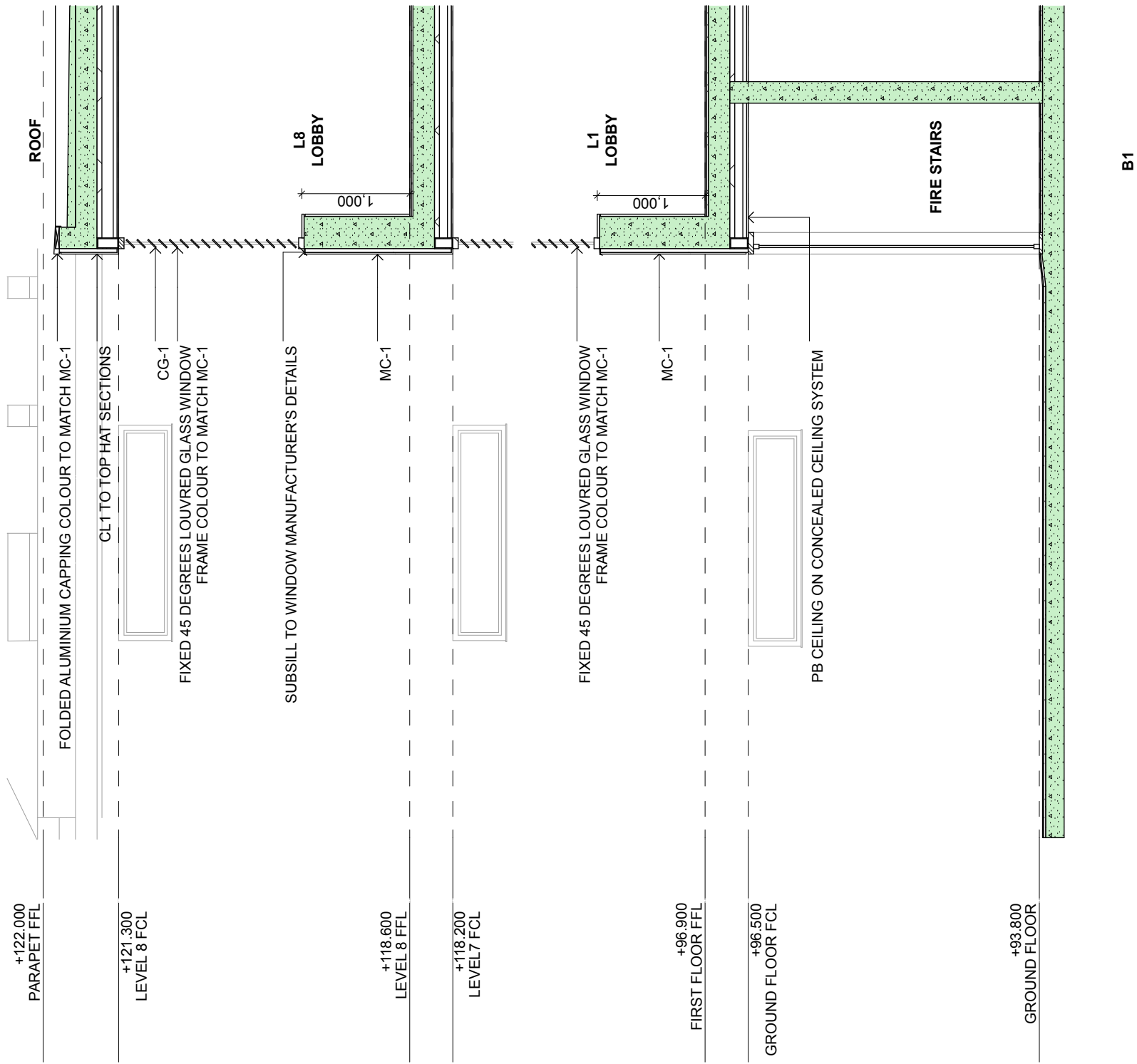
23/11/20	GENERAL NOTE	<ol style="list-style-type: none"> 1. ALL WORKS TO BE COMPLETED BY 23/11/20 2. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED BY 23/11/20 3. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED BY 23/11/20 4. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED BY 23/11/20 5. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED BY 23/11/20 6. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED BY 23/11/20 7. CONTRACTOR TO ENSURE ALL WORKS ARE COMPLETED BY 23/11/20
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	PUC
REVISIONS	
A DEVELOPMENT APPLICATION	
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WINN-DIXIE Landscape print	

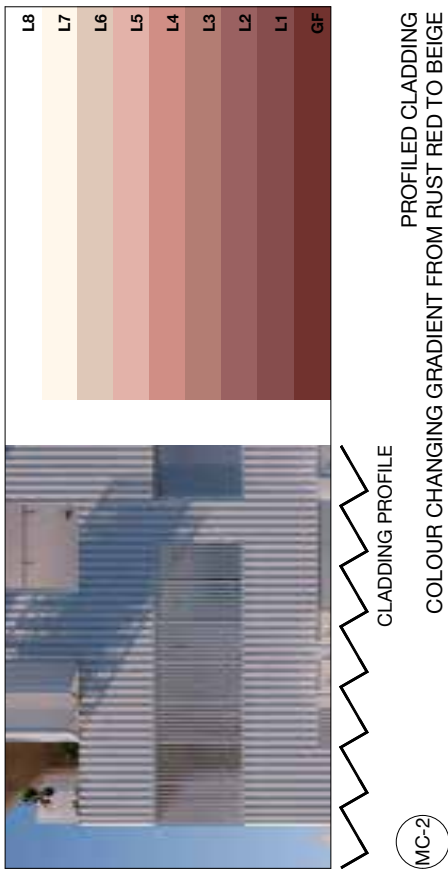
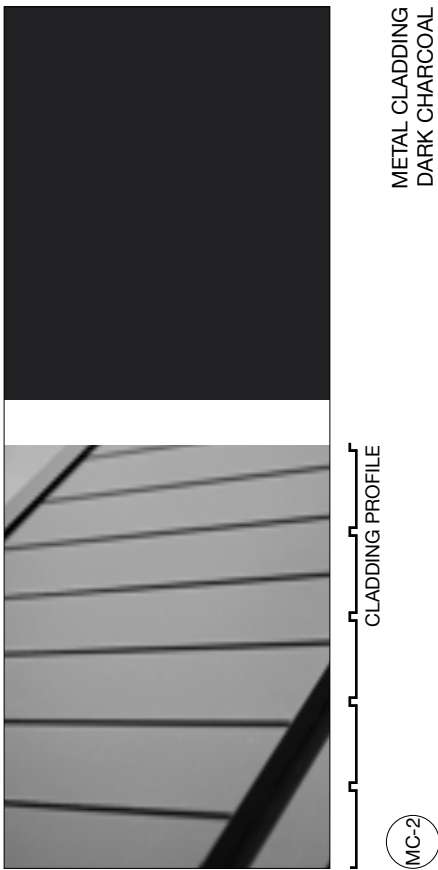
JHNDU A3 Landscape.pmk
CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. NHINDU IS TO BE NOTIFIED OF ANY DISCREPANCIES IN THE DIMENSION AND SETTING OUT OF THE WORK. COPYRIGHT OF THIS DRAWING, OR ANY PART THEREOF, IS RESERVED BY JHNDU. ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED.

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RECEIVED	
'Haverley Council	
Application No: EA-431/2020	
Date Received: 21/11/2020	



CONCEPT FACADE SECTION

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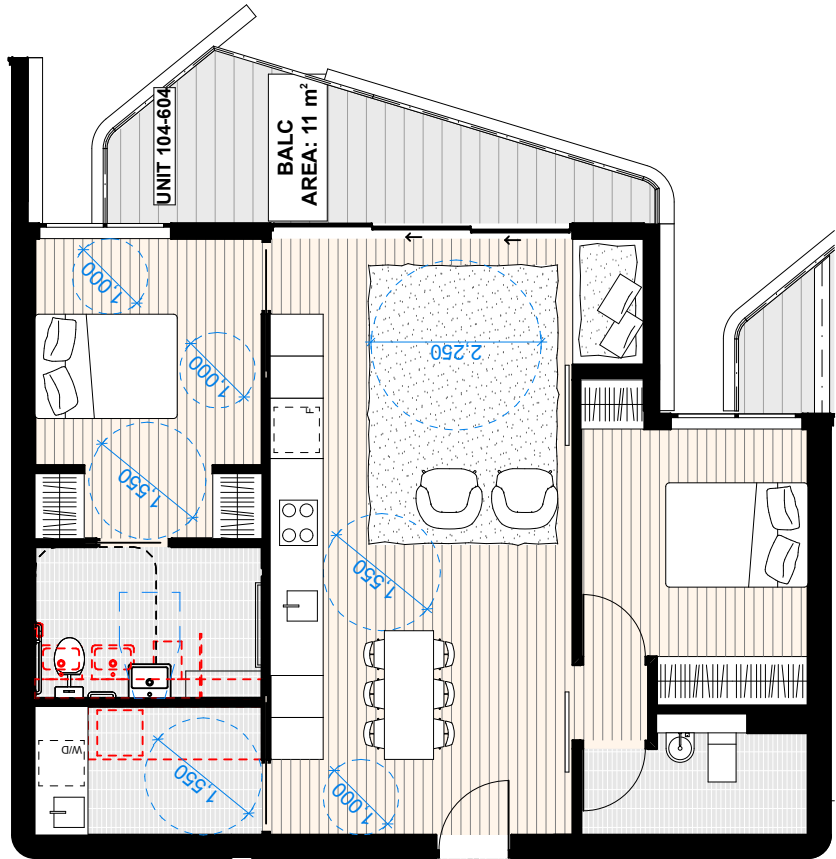
RECEIVED
Waverley Court
20%
ADAP
Application No: CA-
Date Received: 27/



UNIT TYPE	2B
	105
	205
	305
	405
	505
	605
	705
TOTAL	7

[illegible]

RECEIVED
Waverley Court
20%
ADAP
Application No: CA-
Date Received: 27/



2 POST-ADAPTED 1:100

REVISIONS		PLOTTED 23/1/20
A	DEVELOPMENT APPLICATION	

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GENERAL NOTES

ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA AND THE AUSTRALIAN STANDARD TAXIcabY REGULATIONS AND LOCAL AUTHORITY REQ.
 CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED
 ALL DIMENSIONAL CONSIDERATIONS OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING
 DRAWINGS TO REVIEW ALL CONTRACTORS DETAILED DRAWINGS / SETTING OUT PRIOR TO CONSTRUCTION
 CONTRACTORS TO VERIFY ALL POWER/CABLE COMMUNICATION REQUIREMENTS ARE ACCESSIBLE
 ALL DIMENSIONS TO BE VERIFIED ON SITE - DO NOT SCALE ALL WORKS TO BE VERIFIED AGAINST DRAWINGS FOLLOWING
 CONTRACTORS PRIOR TO PROCEEDING WITH ANY WORK

BASIC COMMITMENTS
(ALL OTHER BASIC COMMITMENTS)

WATER OPTIONS:
SHOWERHEADS:
TOILETS:
CLOTHES WASHERS:
KITCHEN TAPS:
BATHROOM TAPS:
DISHWASHERS:
RAIN WATER TANK:
STORM WATER TANK:
POOL/SPA:
LANDSCAPE COMMON:

PER BASK CERTIFICATE AND STAMPED PLANS)	
STAR	ENERGY OPTIONS (DWELLING)
STAR	COOLING
STAR	HEATING
STAR	VENTILATION
STAR	WATER HEATING
STAR	ENERGY EFFICIENT LIGHTING
STAR	COOK TOPS
STAR	STOVE/COOKING SPACE
STAR	CLOTHES DRYING LINES
STAR	ALTERNATIVE SUPPLY
STAR	POOL/SPA
STAR	sgm

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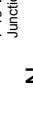
MHNDUNION
35 RICHARDS LANE
SURREY HILLS SYDNEY NSW 2010
T +61 2 9101 1111
F +61 2 9101 1100
www.mhndun.com

PROJECT: Residential Apartments
7-13 Bondi Road Bondi
Junction NSW 2022

PROJECT NO.: 20-027
DATE: 11/01/2023
TO SCALE: 1:150 @A3
DRAWING NO.: REV:
DRAWN BY: AS
CHECKED BY: LH

DRAWING:
ADAPTABLE AND
LIVEABLE UNIT PLAN

DA 7006 A



ASBA (BA 0003) 717 6802
MHNDU Design Units Pty Ltd.

RECEIVED
Waverley Council

Application No: DA-431/2020

Date Received: 27/11/2020

SOLAR COMPLIANCE

TOTAL UNITS

Solar Access required

ADG

DCP

2hrs

3hrs

GROUND FLOOR: 4/5

LEVELS 1-5: 4/5 (20/30)

LEVEL 6: 4/5

LEVEL 7: 4/4

LEVEL 8: 3/3

TOTAL: 35/42

REQUIRED: 70%

ACHIEVED: 83%

LEGEND

DIRECT SOLAR ACCESS

ACHIEVED

ADG SOLAR CONTROLS

Objective 4A-1

To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space

Design criteria

1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas

2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter

3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter



BLUE DASHED LINE DENOTES
APPROVED ENVELOPE.
DA-435/2018.

MHNDU
UNION

PROJECT:
Residential Apartments

7-13 Bondi Road Bondi Junction NSW 2022

35 RICHARDS LANE
SURRY HILLS SYDNEY NSW 2010

T +61 2 9101 1111

F +61 2 9101 1100

www.mhndu.com

Nominated Architect
Brian Mayerson Nominated
Registration Number 4907

DRAWING:
SOLAR ACCESS 2/2 -

DA 7101

JUNE 21

PROJECT NO: 20-027

DRAWN BY: MHNDU

TO SCALE: NTS @A3

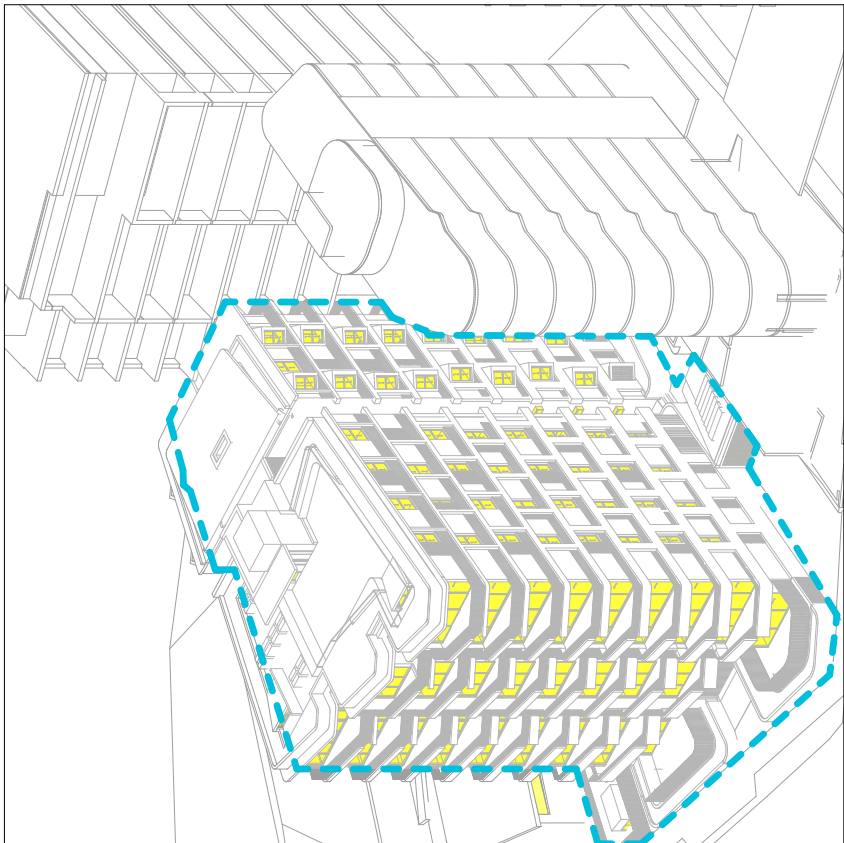
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DRAWN BY: AS

CHECKED BY: LH



2PM



1PM



4PM



3PM

REVISIONS

A DEVELOPMENT APPLICATION

PLOTTED: 23/11/20

23/11/20

ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF PRACTICE AND LOCAL AUTHORITY REG.

ALL MATERIALS TO BE SUPPLIED BY THE CONTRACTOR.

ALL WORKS TO BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

ALL WORKS TO BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

ALL WORKS TO BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

ALL WORKS TO BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

ALL WORKS TO BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

ALL CONSTRUCTION TO COMPLY AT MINIMUM WITH CLAUSE 8 & AUSTRALIAN STANDARDS

CLAUSE 8.1.4 MATERIALS & CONSTRUCTION

CLAUSE 8.1.5 FIRE HAZARD PROPERTIES

CLAUSE 8.1.6 FIRE HAZARD PROPERTIES

CLAUSE 8.1.7 FIRE HAZARD PROPERTIES

CLAUSE 8.1.8 FIRE HAZARD PROPERTIES

CLAUSE 8.1.9 FIRE HAZARD PROPERTIES

CLAUSE 8.1.10 FIRE HAZARD PROPERTIES

BASIC COMMITMENTS

WATER OPTIONS

WATER OPTIONS

WATER OPTIONS

WATER OPTIONS

WATER OPTIONS

WATER OPTIONS

WATER OPTIONS

ENERGY OPTIONS

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TERMINAL COMFORT

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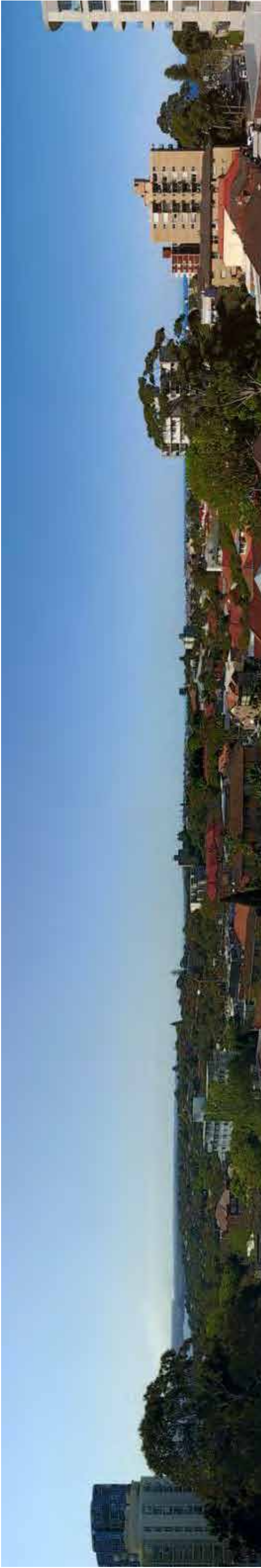
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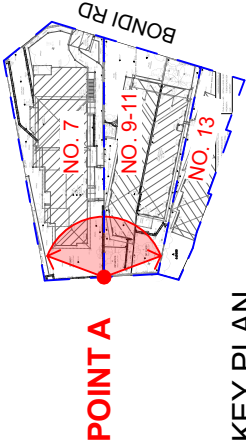
Level 08 - View from Rear Development



Level 07 - View from Rear Development



Level 03 - View from Rear Development



KEY PLAN

SK2 **EXISTING VIEWS (POINT A)**

REV. E

RECEIVED Waverley Council	SK3
Application No: EA-431/2020	
Date Received: 27/11/2020	



Level 08 - View from Rear Development

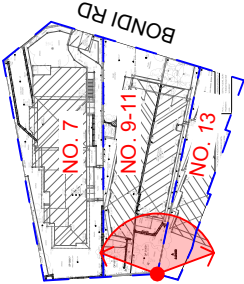


Level 07 - View from Rear Development



Level 03 - View from Rear Development

POINT B



SK3 **EXISTING VIEWS (POINT B)**

REV. E

KEY PLAN

RECEIVED
Waverley Council

Application No: DA-2021-0020
Date Received: 14/01/2021
OUTLINE OF APPROVED DA (REV D)
PROPOSAL HATCHED IN GREY.
WATER VIEWS FROM REAR
DEVELOPMENT MAINTAINED
VIEW TOWARD HARBOUR
VIEW TOWARD BONDI BEACH

Level 08 - View from Rear Development

OUTLINE OF APPROVED DA (REV D)

PROPOSAL HATCHED IN GREY.
WATER VIEWS FROM REAR
DEVELOPMENT MAINTAINED

VIEW TOWARD BONDI BEACH

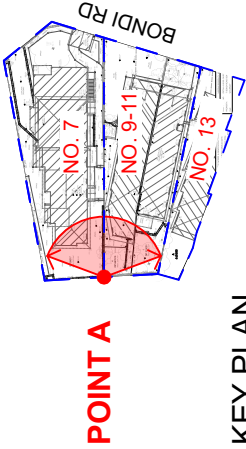
Level 07 - View from Rear Development

OUTLINE OF APPROVED DA (REV D)

PROPOSAL HATCHED IN GREY.
WATER VIEWS FROM REAR
DEVELOPMENT MAINTAINED

Level 03 - View from Rear Development

- ADG RECOMMENDED 12M BUILDING SEPARATION / 6M SIDE SETBACK
- ADG RECOMMENDED 18M BUILDING SEPARATION / 9M SIDE SETBACK
- ADG RECOMMENDED 24M BUILDING SEPARATION / 12M SIDE SETBACK



SK4 **VIEW LOSS - ANALYSIS (POINT A)**

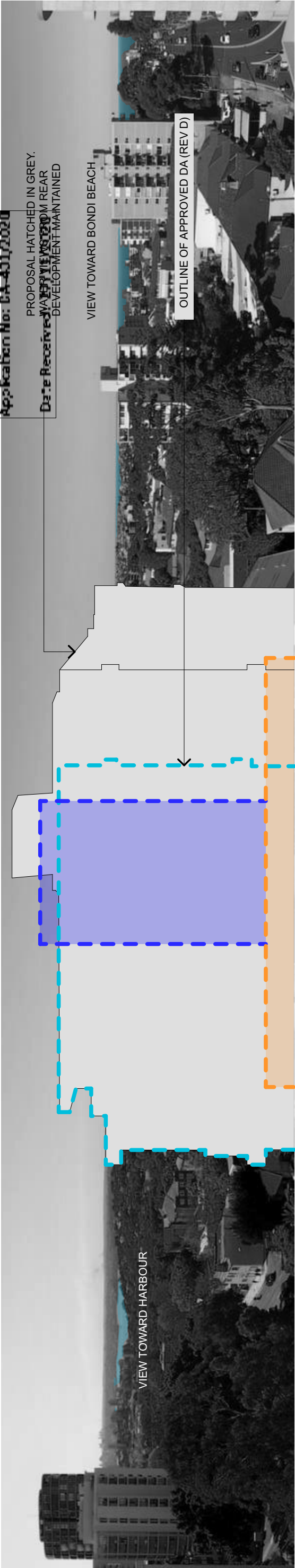
REV. E

KEY PLAN

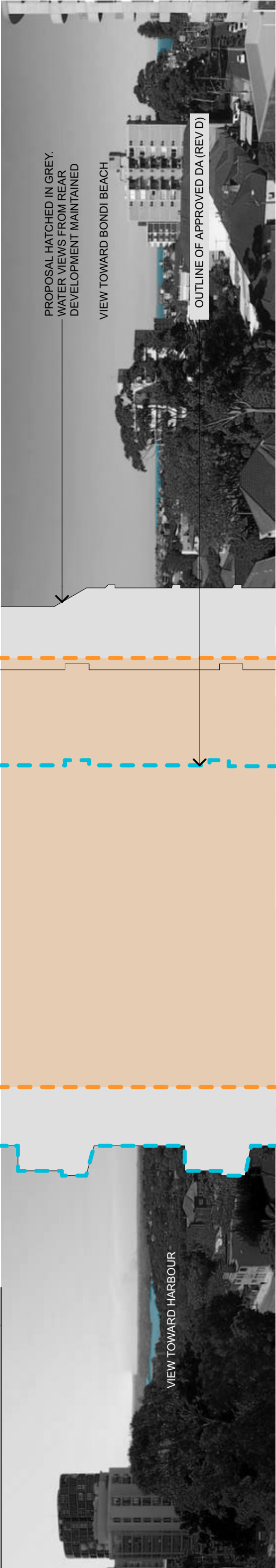
RECEIVED
Waverley Council

Application No: DA-431/2020
Date Received: 19/03/2020
DA Ref: 19/03/2020

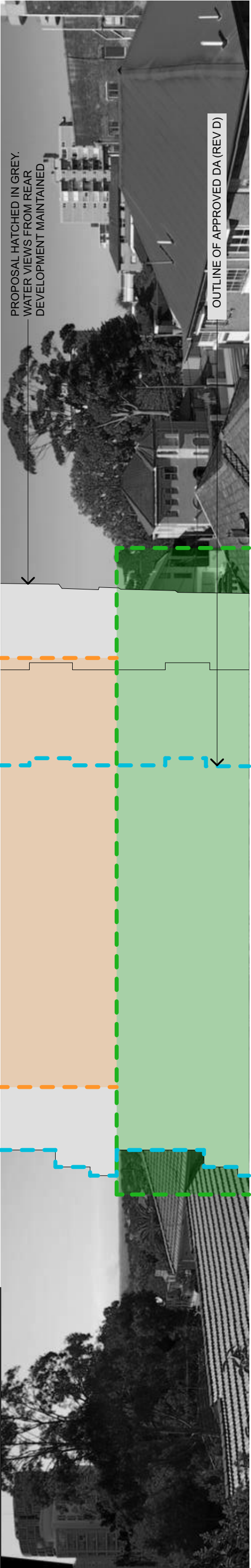
PROPOSAL HATCHED IN GREY.
WATER VIEWS FROM REAR
DEVELOPMENT MAINTAINED



Level 08 - View from Rear Development



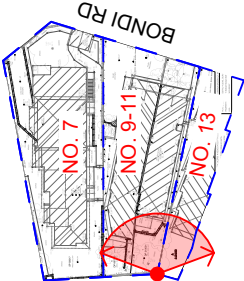
Level 07 - View from Rear Development



Level 03 - View from Rear Development

- ADG RECOMMENDED 12M BUILDING SEPARATION / 6M SIDE SETBACK
- ADG RECOMMENDED 18M BUILDING SEPARATION / 9M SIDE SETBACK
- ADG RECOMMENDED 24M BUILDING SEPARATION / 12M SIDE SETBACK

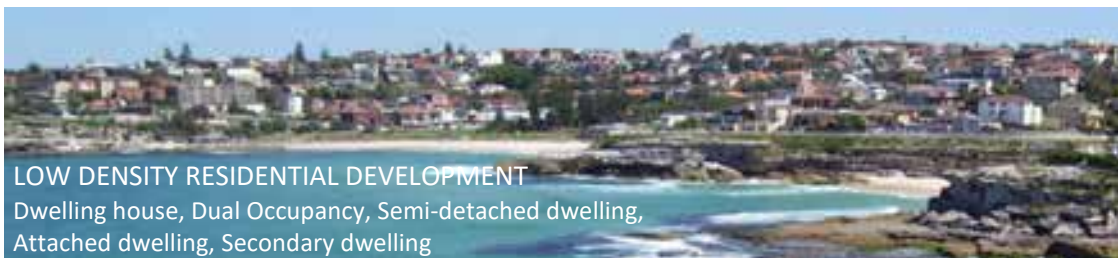
POINT B



KEY PLAN

SK5 **VIEW LOSS - ANALYSIS (POINT B)**

REV. E



Report to the Waverley Local Planning Panel

Application number	DA-114/2021
Site address	52 Albion Street, WAVERLEY
Proposal	Alterations and additions to convert one shop and three dwellings to an attached dual-occupancy development, including new first floor addition, garages and strata subdivision.
Date of lodgement	16 April 2021
Owner	Ms C M McDermott
Applicant	Edifice Design Pty Ltd
Submissions	5
Cost of works	\$483,890
Issues	Exceeds Floor Space Ratio, lack of landscaping and open space, tree removal, stormwater issues, excessive driveway crossover, excessive wall height, unacceptable rear and side setbacks, excessive balcony sizes, unacceptable solar access and does not meet the minimum lot size for dual-occupancies.
Recommendation	That the application be REFUSED

Site Map



Source: Nearmap, 2021

1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 27 May 2021.

The site is identified as Lot 1 in DP 658974, known as 52 Albion Street, WAVERLEY. The site is rectangular in shape and is located on the corner of Albion and Wallace Streets. It has a western frontage to Albion Street of 12.495m, a southern secondary frontage to Wallace Street of 30.48m, an eastern rear boundary to 2 Wallace Street of 12.38m and a northern side boundary of 30.48m. The site has an area of 379m² and falls from the front to the rear by approximately 1.1m.

The site is occupied by a single storey mixed use building, which consists of one commercial space (a commercial children's party room) and three separate dwellings. Vehicle access is located to the rear of the building via Wallace Street to two hardstand parking spaces.

The subject site is adjoined by a commercial premise (medical practice) to the north at 50 Albion Street and a detached dwelling to the east. The locality is characterised by a variety of residential and commercial uses.



Figure 1: Subject site viewed from across Albion Street looking north east.



Figure 2: Subject site viewed from Albion Street.



Figure 1: Site viewed from Wallace Street (Source: Google Maps, 2021)

1.2 Relevant History

BR-133A/1968

Alterations to the existing building. No consent was located on Council file, however the plans show three separate dwellings and one shop (refer to **Figure 4** below).

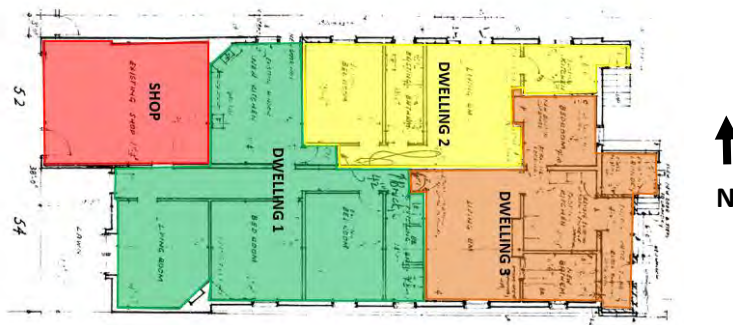


Figure 4. BR-133A/1968 plans, showing three dwellings and one commercial space.

DA-218/1969

A ladies hairdressing salon.

Approved: 29 October 1969

BR-610/1992

Retrospective consent for a boundary fence, issued 25 November 1992.

DA-501/2016

Change of use from a hairdresser to a children's party facility. Approved: 7 March 2017.

1.3 Proposal

The application is for alterations and additions to convert the commercial space and three dwellings (existing mixed-use development) to an attached dual-occupancy development, including new first floor addition, garages and strata subdivision. In detail, the works will include:

Primary changes

- Partial demolition of the existing building;
- Removal of the commercial space; and
- Reduction of the number of dwellings on site from three to two (mixed-use to dual-occupancy).

Dwelling 1 (northernmost dwelling)

Ground Floor

- Construction of a front terrace, associated boundary fence and new awning;
- Three x bedrooms, one with an ensuite;
- Bathroom;
- Entry way with associated stairs to first floor;
- Living room;
- External rear deck;
- Removal of a palm and frangipani; and
- Double car garage accessed from Wallace Street.

First Floor

- One x bedroom;
- Bathroom; and
- Open plan kitchen, living and dining room with rear 3.6m deep balcony.

Dwelling 2 (southernmost dwelling)

Ground Floor

- Three x bedrooms, one with an ensuite;
- Stairs to proposed first floor;
- Bathroom/laundry;
- Single car garage accessed from Wallace Street with extension of existing driveway crossover; and
- Side atrium.

First Floor

- Bathroom; and
- Open plan kitchen, living and dining room with rear 5.1m deep balcony (only source of private open space).



Figure 5. Proposed ground floor plan (Source: Edifice Design, 2021)

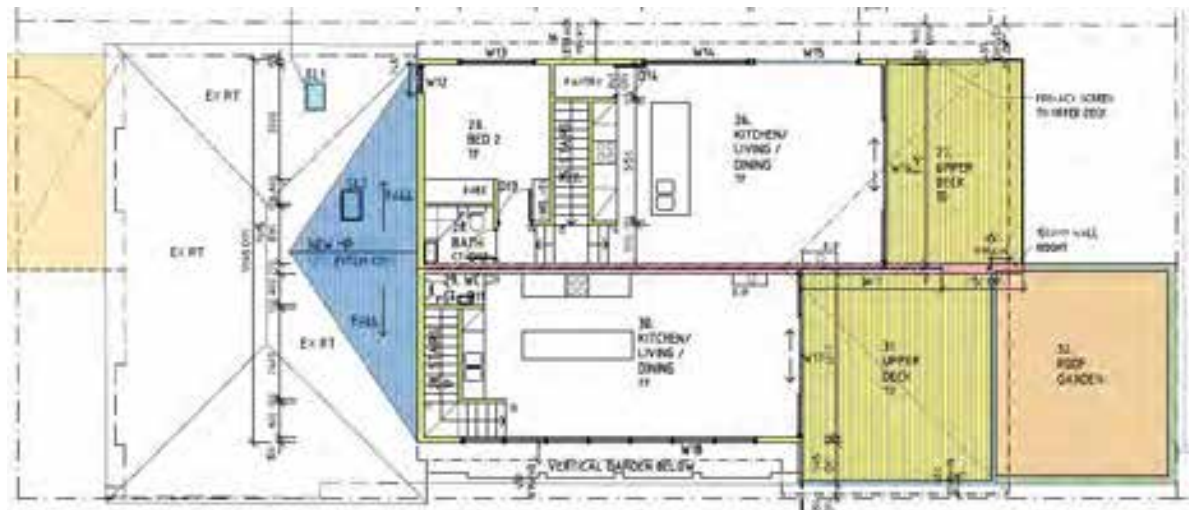


Figure 6. Proposed first floor plan (Source: Edifice Design, 2021)

2. ASSESSMENT

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

2.1 Planning Instruments and Development Control Plans

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

2.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the DA.

The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. If the application was recommended for approval, a standard condition would be recommended ensuring the measures detailed in the BASIX Certificate are incorporated into the Construction Certificate drawings and implemented.

2.1.2 SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes and low-impact commercial uses (i.e. not industrial). Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

2.1.3 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	Yes	The proposal meets the aims of the WLEP.
Part 2 Permitted or prohibited development		
2.6 Subdivision – consent requirements	N/A	This section does not apply to strata subdivision.
Land Use Table <i>Low Density Residential 'R2' Zone</i>	Yes	The proposal is defined as a dual-occupancy, which is permitted with consent in the R2 zone.
Part 4 Principal development standards		
4.1 Minimum subdivision lot size	N/A	This section does not apply to strata subdivision.
4.3 Height of buildings <ul style="list-style-type: none"> 8.5m 	Yes	The dwellings will have a height of 8.5m.
4.4 Floor Space Ratio (FSR); and 4.4A Exceptions to FSR <ul style="list-style-type: none"> Lot Size: 379m² Max GFA: 260.8m² Max FSR: 0.69:1 	No	<u>Gross Floor Area (GFA) Calculations</u> Ground Floor: 194.3m ² * First Floor: 99.6m ² Total: 293.9m ² FSR: 0.78:1 The proposal exceeds the development standard by 33.1m ² or 12.7%. <i>*Council has included the side atrium to the southern side of the ground floor as it has a wall height that exceeds 1.4m, meeting the definition of GFA within the WLEP.</i>
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of the WLEP to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.

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

Clause 4.6 Exceptions to Development Standards - FSR

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 0.69:1. The proposed development has a FSR of 0.78:1, exceeding the standard by 33.1m² equating to a 12.7% 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.

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) *The strict numerical departure from the standard on this occasion, is regarded as minor.*
 - (ii) *Despite the strict non-compliance with the requirements of the development standard, the proposed development in this instance, will achieve the objectives of the FSR standard in that:*
 - a. *The size and scale of the end development on this occasion inclusive of the strict numerically non-compliant component, will be commensurate with dwellings on surrounding properties and within the wider locality. The adjoining neighbours including Nos. 40, 42, 44 and 46 Albion Street, located in close proximity, contain similar dwelling proportions to the those of the subject site and the configuration of the dwellings are comparable given they share common walls. These dwellings have either been approved or currently comprise an FSR that is non-compliant with the maximum allowable under the current planning controls.*
 - b. *The proposed development inclusive of the strict numerically non-compliant component, will result in a positive relationship between the building height and density controls, as the dwellings will conform to the maximum 8.5m building height and the end development will be of a compatible bulk and scale to developments within the immediate locality.*
 - c. *The proposed development will improve the presentation of the pair of dwellings, as the new works will remove the shopfront and reinstate the original front façade of the northern dwelling. Moreover, the upper floor*

level is setback behind the main ridge of the front roof form and will respect the symmetrical nature of the proposed dual occupancy development.

- d. The works will be compatible in bulk and scale of the existing and desired future character of the area given the general consistency with other building envelope objectives and controls within the DCP including wall heights, setbacks, landscaped areas, open space areas and streetscape and visual impact.*
- e. The new addition will be well articulated through the variety of external colours, materials and finishes including the use of lightweight materials with a timber clad finish to the upper floor level with a contrast to the solid masonry finish to the ground floor of the building.*
- f. Due to the orientation of the site and the good separation to dwellings on surrounding properties, the strict numerical non-compliant components will not adversely impact on the environmental amenity of neighbouring land in terms of visual bulk, loss of privacy, overshadowing or views.*

(iii) The proposal meets the aims of the objective of the zone The proposed development, Inclusive of the strict numerically non-compliant components will be entirely consistent with the relevant zone objectives in that:

- a. It will provide for the housing needs of the community within a low-density residential environment.*
- b. The site is located in close proximity to existing public transport including bus routes located on Fern Street and Albion Street which provides direct bus route to shopping centres and train stations including Bondi Junction and Eastgardens. This will allow for a balance of onsite parking provision, whilst allowing for usage of public transport patronage and encourage walking and cycling in this location.*
- c. The site is located approximately 2km from Clovelly Beach and well located in respect of parks, community infrastructure, local and regional shopping centres and the Sydney CBD.*

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

- (i) The amenity impacts in terms of visual bulk overshadowing and view loss associated with the strict numerically non-compliant components of the development will be negligible and entirely sustainable.*
- (ii) The application is accompanied by a BASIX Certificate which conforms to the requirements of SEPP Building Sustainability Index (BASIX) 2004 in terms of potable water consumption, energy efficiency, solar access and thermal comfort.*
- (iii) Having regard to the proposed commensurate scale of development on the site in relation to surrounding properties, the inclusion of the strictly numerical non-compliant component will achieve a better streetscape outcome than that which would be facilitated by a compliant form of development.*

- (iv) *Council has a documented history of applying a flexible approach to the maximum FSR standard as per the allowances under Clause 4.6, in appropriate circumstances, particularly in relation to Dual Occupancy development.*

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 not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. However, the document 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 not adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard and the following is noted:

- The proposed development is not compatible with the surrounding built form in terms of bulk and scale. The development will occupy most of the site, providing no visual relief from either Albion or Wallace Street. When viewing the dwelling from Wallace Street, the proposed development will overwhelm the cottage located at 2 Wallace Street resulting in a poor streetscape outcome and development that is disjointed from the neighbouring building.

- The proposal results in an overdevelopment of the site and will result in unacceptable environmental impacts to neighbouring land uses, including:
 - The first floor balconies are excessive in size and will result in adverse visual and acoustic privacy impacts to 50 Albion Street, 1 Fern Street and 2 Wallace Street; and
 - Dwelling 2 will not receive compliant solar access due to the position of the private open space.
- The development also results in a number of non-compliances from the breach in FSR, which results overdevelopment, including:
 - Breach in wall height;
 - Excessive building lines;
 - Inadequate landscaping; and
 - Insufficient lot size for dual-occupancies.

Is the development in the public interest?

The proposed development will not be in the public interest because it is not 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;

Objectives of FSR

Objective (a) of the FSR within the WLEP does not apply as the site is not located within the Bondi Junction Centre.

The proposed development does not adequately meet the FSR objectives (b)-(d), as it is an overdevelopment of the site. The proposed dual-occupancy does not meet the minimum lot size of 450m² for dual-occupancy developments, with a lot size of 379m², 71m² less than the minimum requirement. This results in a development that provides poor environmental impacts and poor planning outcomes to the subject site and surrounding land uses, as touched on above, and will be further discussed within **Table 2** and **3** of this report.

Objectives of the zone

Although the development will provide housing needs for the community within a low density residential environment, the development results in poor planning outcomes to both the subject site and surrounding land uses given the lot is too small to cater for this type of development.

Conclusion

For the reasons provided above, the requested variation to the FSR is not supported, while the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6(3) of the WLEP, the proposed development is not in the public interest because it is inconsistent with the objectives of FSR and the R2 zone.

2.1.4 Waverley Development Control Plan 2012 (WDCP) (Amendment 9) Effective 1 October 2020

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	A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction. If supported, a condition of consent would be recommended regarding ongoing waste on site. The waste and recycling storage area is located in an area convenient for users of the site.
2. Ecologically sustainable Development	Yes	A BASIX Certificate is submitted and is acceptable.
3. Landscaping and Biodiversity	No	The development lacks sufficient landscaping and is considered to be an overdevelopment of the site.
5. Vegetation Preservation	No	Council's Tree Officer has reviewed the application and is not in support of the removal of the <i>Jubaea Chilensis</i> (Chilean Wine Palm) located to the rear portion of the lot. It is also noted that a large frangipani is proposed to be removed.
6. Stormwater	No	Council's Stormwater Engineer has reviewed the application and does not support the proposal as submitted as there are several inconsistencies and a lack of information provided.
8. Transport 8.1 Streetscape 8.2 On-site parking 8.2.1 Vehicle access 8.2.2 Parking rates	Partial Yes No Yes	There are no garages on the northern side of Wallace Street. There is a garage located on the south side at 1 Fern Street and 3 Wallace Street. The site is located within parking zone 2. Although one vehicle access point is provided, it is 9.12m in width, which will result in a loss of on-street parking and is not appropriate within the streetscape. Each dwelling is permitted a maximum of two off-street parking spaces.
12. Design Excellence	No	The proposed development is not suitable for the site, is significantly under the minimum lot size for dual-occupancy development, which results in unreasonable environmental impacts.
13. Subdivision	N/A	This section does not apply to strata subdivision.

Table 3: WDCP – Part C2 Low Density Residential Development Compliance Table

The proposal is defined as a "Dual Occupancy" in the WLEP.

Development Control	Compliance	Comment
		<p>therefore accepted that there is no predominant first floor rear building line.</p> <p>However, the proposal towers over the dwelling at 2 Wallace Street and provides excessively large balconies, resulting in visual and acoustic issues to surrounding land uses.</p>
<p>2.2.2 Side setbacks</p> <ul style="list-style-type: none"> Minimum of 0.9m 	<p>Yes</p> <p>Partial</p> <p>Yes</p> <p>No</p>	<p><u>Ground floor northern side</u></p> <p>The existing wall on the northern side of the dwelling will be retained. The rear deck will be setback 900mm from the northern boundary.</p> <p><u>Ground floor southern side</u></p> <p>The retention of the southern side wall is supported. However, the garage adjoins and sits forward of the dwelling at 2 Wallace Street.</p> <p><u>First floor northern side</u></p> <p>The first floor addition is setback 900mm from the northern boundary.</p> <p><u>First floor southern side</u></p> <p>The rear balcony is not setback 900mm from the southern boundary.</p>
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 as viewed from Wallace Street does not relate well and overwhelms the adjoining dwelling at 2 Wallace Street. The excessive bulk and scale of the development in comparison to 2 Wallace Street illustrates overdevelopment of the site.</p> <p>The existing palm and frangipani are proposed to be removed, which is not supported, as they soften the site.</p>
2.4 Fences		
<p><i>Front:</i></p> <ul style="list-style-type: none"> Maximum height of 1.2m Solid section no more than 0.6m high <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> Maximum height of 1.8m 	Partial	<p>A 1.9m front fence is proposed to match the existing front fence to Dwelling 2 and results in a cohesive pair and a consistent streetscape presentation.</p> <p>A fence is proposed along the northern boundary; no details of the height have been provided.</p>

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. External stairs are not acceptable. Maximum size of balconies: <i>10m² in area</i> <i>1.5m deep</i> Roof tops to be non-trafficable unless predominant in the immediate vicinity 	No	<p><u>Windows</u></p> <p><i>Northern Elevation</i> The proposed boundary fence has not been shown on the northern elevation and there visual privacy impacts cannot be assessed.</p> <p>Additionally, windows should be offset from any other neighbouring windows if no privacy measures are incorporated to the window. These details have not been provided.</p> <p>The windows to the first floor are acceptable as they will incorporate a high sill or will not look directly into neighbouring windows or private open space.</p>
	Yes	<p><i>Southern Elevation</i> These windows will overlook the public domain and will be significantly setback from the neighbouring windows to 1 Fern Street.</p>
	No	<p><u>Balconies and location of living areas</u></p> <p>Both first floor balconies are oversized and non-compliant from the maximum balcony controls Stipulated within the WDCP.</p> <p>Dwelling 1 has a first floor balcony area of 18.5m² and a depth of 3.6m. Dwelling 2 has a first floor balcony area of 27m² and a depth of 5.1m.</p> <p>The large balcony to Dwelling 2 is proposed to compensate for a lack of ground floor private open space that is lost from the proposed garage. This is not supported as it will result in unreasonable acoustic and visual privacy to neighbouring properties, specifically, 2 Wallace Street and 1 Fern Street.</p> <p>The larger balcony to Dwelling 1 will also result in unreasonable visual and acoustic privacy to neighbouring properties, specifically, 2 Wallace Street and 50 Albion Street.</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 	Partial	<p>Solar access to neighbouring properties appears acceptable and falls on the public domain of Wallace Street. However, the full extent of the proposed shadowing has not been provided.</p>
	No	

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June 		<p>Elevational shadow diagrams to the northern elevation 1 Fern Street have not been provided, as the current diagrams show the proposed additional shadows fall to their external wall.</p> <p>Dwelling 2 will not receive sufficient solar access to its elevated private open space as any wall to the north and the associated roof will over shadow this area.</p>
2.8 Car parking		
<p>2.8.1 Design Approach</p> <ul style="list-style-type: none"> Parking only allowed where site conditions permit Designed to complement the building and streetscape Car parking structures to be behind the front building line Driveways are to be located to minimise the loss of on street parking Parking to be provided from secondary streets or lanes where possible. 	No	The proposed garages are excessive in bulk and scale and will dominate the streetscape and the adjoining dwelling at 2 Wallace Street.
<p>2.8.2 Parking rates</p> <p><i>Maximum rates:</i></p> <ul style="list-style-type: none"> 2 spaces for 3 or more bedrooms 	Yes	
<p>2.8.3 Location</p> <ul style="list-style-type: none"> Behind front building line for new dwellings Existing development to be in accordance with the hierarchy of preferred car parking locations 	No	The garages sit forward of 2 Wallace Street and will adversely impact and dominate on the streetscape.
<p>2.8.4 Design</p> <ul style="list-style-type: none"> Complement the style, massing and detail of the dwelling Secondary in area & appearance to the design of the residences 	No	The proposed garages are excessive in both height and width and dominate 2 Wallace Street.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> No part of the façade is to be demolished to accommodate car parking 		
2.8.5 Dimensions <ul style="list-style-type: none"> 5.4m x 2.4m per vehicle 	Yes	Parking dimensions are compliant.
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 	No	Although one vehicle access point is provided, it is excessive in width at 9.12m, resulting in a loss of on-street parking and dominate the streetscape.
2.9 Landscaping and open space		
<ul style="list-style-type: none"> Overall open space: 40% of site area 	No	36.9%
<ul style="list-style-type: none"> Overall landscaped area: 15% of site area 	No	14.6%
<ul style="list-style-type: none"> Minimum area of 25m² for private open space 	Yes	Both over 25m ² , however Dwelling 2's private open space is located at first floor level, which will result in unacceptable visual and acoustic privacy impacts to surrounding land uses and receives no solar access in mid-winter.
<ul style="list-style-type: none"> Front open space: 50% of front building setback area 	Yes	100%
<ul style="list-style-type: none"> Front landscaped area: 50% of front open space provided 	No	Other than planting a tree/bush in each front courtyard, no landscaping is indicated.
2.14 Dual Frontage Development		
2.14.1 - General Controls <ul style="list-style-type: none"> Primary and secondary frontage to be defined Appropriate forms to be provided to each street 	Partial	No visual relief is provided to Wallace Street.
2.15 Dual Occupancy Development		
<ul style="list-style-type: none"> Min 450m² attached dwellings 	No	<p>The lot has an area of 379m², therefore it does not comply with the minimum lot size for dual-occupancy development.</p> <p>The site is too small for a dual-occupancy development resulting in many of the non-compliances addressed within this report.</p>

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have a significant detrimental effect relating to environmental impacts on the locality, and is recommended for refusal.

2.3 Suitability of the Site for the Development

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

2.4 Any Submissions

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

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

Table 4: Summary of property addresses that lodged a submission

Property
Unknown address x 2
46 Albion St, WAVERLEY
2 Wallace St, WAVERLEY
2 Fern St, WAVERLEY

Issue: Visual and acoustic privacy impacts from the first-floor balconies

Response: The first-floor balconies are not supported given their size will result in unreasonable visual and acoustic privacy impacts to neighbouring properties.

Issue: One-hour parking to be implemented to reduce parking stress

Response: This is not a matter for development assessment. The Waverley Council Traffic Committee deals with this type of request.

Issue: Loss of tree to rear of the lot, lack of landscaping and private-open space to first floor

Response: Agreed. Council does not support the removal of the tree and the lack of landscaping is not supported as discussed within this report. Additionally, Council does not support the private open space to the first floor.

Issue: Size of garage is excessive

Response: Agreed. The garage is excessive in size, dominating the streetscape and overwhelming 2 Wallace Street.

Issue: Exceeds FSR

Response: Agreed. This has been discussed in detail within the report, refer to the section below Table 1.

Issue: Non-compliant setbacks

Response: Setbacks have been discussed in detail within the report, refer to Table 3 for additional detail. The first floor rear building line is the first proposed in the row of dwellings, therefore the

proposal needs to clearly demonstrate that the rear building line will not result in adverse environmental impacts.

Issue: Garage constructed on the boundary

Response: Council may consider this as acceptable if the garage is reduced in size to relate better to 2 Wallace Street. Notwithstanding, the application is recommended for refusal.

Issue: Structural integrity of neighbours dwelling

Response: If approved, appropriate conditions would be recommended.

Issue: Overshadowing/solar access impacts

Response: Solar access appears acceptable to neighbouring properties. Notwithstanding, further information would be required for any future application, which includes elevational shadow diagrams for 1 Fern Street and to ensure the plan form shadow diagrams show the full extent of shadowing.

Issue: Bulk and scale – streetscape is single storey

Response: Although the streetscape is predominantly single storey dwellings, there is a 8.5m height control for the site.

Issue: Assurance the roof garden will not become trafficable

Response: If approved, a condition would require this area to be non-trafficable. Notwithstanding, the DA is recommended for refusal.

Issue: Moisture and run off from roof garden located above the garage will impact the neighbours property

Response: If approved, appropriate conditions would be recommended to ensure appropriate drainage.

Issue: Loss of on-street parking

Response: The excessive width of the driveway crossover is not supported given the impact of on-street parking.

2.5 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 Traffic and Development (Infrastructure Services)

An internal referral was sought from Council's Traffic Engineers who were not in support of the proposal. The Engineers advised, the proposal for a wide driveway servicing three cars is not acceptable. The maximum dimensions for the any vehicle access is to be 5m at the property boundary and 3m plus 0.45m splays at the street.

3.2 Stormwater (Infrastructure Services)

An internal referral was sought from Council's Stormwater Engineers who were not in support of the stormwater plans submitted with the application.

3.3 Tree Management Officer (Open Space and Sports fields Management)

An internal referral was sought from Council's Tree Officer who was not in support of the removal of the *Jubaea Chilensis* (Chilean Wine Palm).

3.4 GIS Officer

An internal referral was sought from Council's GIS Officer, who did not object to the proposal subject to appropriate conditions of consent.

4. SUMMARY

The application is for alterations and additions to convert one x shop and three x dwellings to an attached dual-occupancy development, including a new first floor addition, garages and strata subdivision.

The lot is significantly under sized to support a dual-occupancy development and results in adverse environmental impacts to neighbouring properties and the site itself and is a poor planning outcome; this includes, an exceedance of wall height, unacceptable building lines and setbacks, poor visual and acoustic privacy impacts to surrounding dwellings from excessively large balconies (one of which is the only source of private open space) and first floor living rooms, unacceptable solar access to Dwelling 2, unacceptable impacts to on-street parking, and a lack of landscaping and open space. Additionally, the applicants Clause 4.6 Variation has not adequately demonstrated it meets the objectives of both the FSR development standard and the low density residential zone and is not supported.

The application received five submissions which have been addressed via the recommendation for a refusal.

DBU Decision

The application and assessment report were reviewed by the DBU at the meeting on 11 May 2021 and the DBU determined:

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

DBU members: *A Rossi, B Magistrale, K Johnstone*

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:



Joseph Somerville
Development Assessment Planner

Date: 27 May 2021

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



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

Date: 9 June 2021

Reason for referral:

- 1 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 development application is refused for the following reasons:

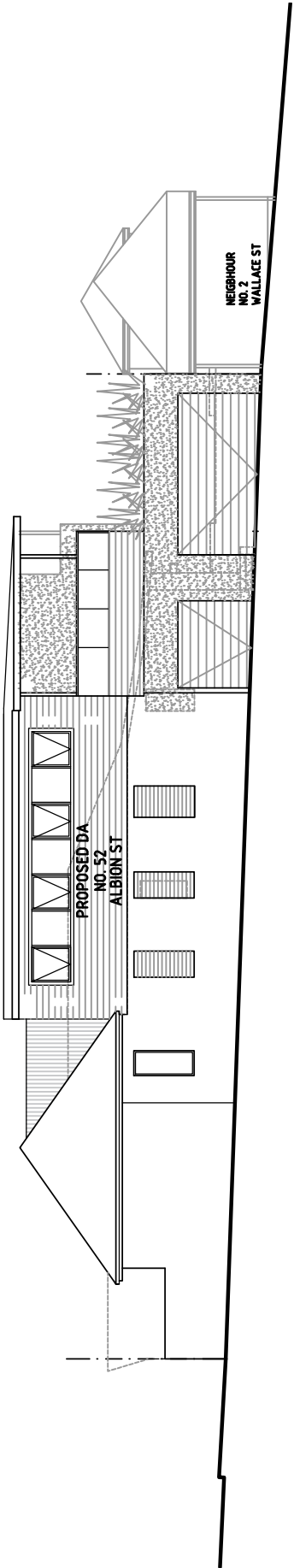
1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g), as the proposal does not promote good design and amenity in the built environment.
2. The proposal does not satisfy section 4.15 (1)(a)(i) of the Environmental Planning 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 *Floor Space Ratio* (1)(c) and (d) and Clause 4.4A(b), as the proposal breaches the floor space ratio development standard which will diminish the environmental amenity of neighbouring properties and the locality. The proposed building will result in adverse impacts on the character of the locality and the amenity of adjoining properties, contrary to objective (c) and (d) of the development standard.
 - b. Clause 4.6 *Exceptions to development standards* (1)(b), (3)(a) and (b), and (4)(a), as the proposed development will not result in a better development outcome for the site. The applicant's clause 4.6 Exceptions to development standards fails to justify that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds that exist to justify the significant breach to the floor space ratio development standard. The proposed development is contrary to the objectives of the development standard and the proposal is not in the public interest.
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 B5 – Vegetation Preservation*
 - i. The removal of the *Jubaea Chilensis* (Chilean Wine Palm) is not supported.
 - b. *Part B6 – Stormwater*
 - i. There are several inconsistencies and lack of information provided in the submitted documentation.
 - c. *Part B8 – Transport*
 - i. Objectives (d) and (f) as the proposed garages are dominant in size and overwhelm the streetscape and the driveway crossover is excessive in width resulting in a loss of on-street parking.
 - ii. Clause 8.2.1 *vehicle access*, specifically objectives (c) and (g) and control (d) as the driveway crossover is excessive in width impacting on-street parking.
 - d. *Part B12 – Design Excellence*
 - i. Clause 12.1 *Design*, specifically controls (e)(i), (iv), (v) and (vii) as the proposed development is not suitable for the site, significantly under the minimum lot size for dual-occupancy development resulting in adverse environmental impacts.
 - e. *Part C2 – Low Density Residential Development;*
 - i. Clause 2.0 *General objectives*, specifically objectives (a), (b) and (d) as the proposed development is not suitable for the site, significantly under the

minimum lot size for dual-occupancy development resulting in environmental impacts.

- ii. Clause 2.1 *Height*, specifically control (b) as the development has a wall height that exceeds 7.5m in height.
 - iii. Clause 2.2 *Setbacks*, specifically for the rear ground floor setback objective (a) as the garage should be similar in height to 2 Wallace Street. Specifically for the first floor rear setback Clause 2.2.1 front and rear building lines, specifically controls (d)(iii) and (vii) as the balconies result in a non-compliant side setback and unreasonable visual and acoustic privacy to neighbouring land uses.
 - iv. Clause 2.2.2 *Side Setbacks*, specifically control (a) as the first floor balcony is not setback 0.9m from the side boundary.
 - v. Clause 2.3 *Streetscape and visual impact*, specifically objectives (a) and (b) and controls (a) and (d) as the proposed development as viewed from Wallace Street does not relate well to the adjoining dwelling at 2 Wallace Street. The excessive bulk and scale of the development in comparison to 2 Wallace Street clearly illustrates the overdevelopment of the site.
 - vi. Clause 2.5 *Visual and acoustic privacy*, specifically objectives (a) and (c) and control (e) as the living areas located on the first floor and associated large balconies will result in unacceptable visual and acoustic privacy to neighbouring properties.
 - vii. Clause 2.6 *Solar access*, specifically objectives (a) and (b) and control (a) as the development will provide solar access impacts to Dwelling 2's only form of private open space.
 - viii. Clause 2.8 *Car Parking*, specifically objectives (b), (d) and (f), Clause 2.8.1 *Design approach*, specifically controls (b), (c) and (d) and Clause 2.8.6 *Driveways*, specifically controls (b), (c) and (d) as the proposed garage will be significantly higher than the dwelling it adjoins at 2 Wallace Street, will dominate the streetscape and will result in an acceptable driveway crossover width impacting on-street parking.
 - ix. Clause 2.9 *Landscaping and open space*, specifically controls (b), (c), and (g) due to the non-compliant landscaping and open space proposed.
 - x. Clause 2.15 *Dual-occupancy development*, specifically objective (b) and control (a)(i) as the proposed development is not suitable for the site, is significantly under the minimum lot size for dual-occupancy development and results in adverse environmental impacts.
4. The proposal does not satisfy section 4.15 (1)(a)(iv) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy Schedule 1, Part 1 of the Environmental Planning and Assessment Regulation 2000, as insufficient documentation has been provided to properly assess the application, including but not limited to:
- a. The existing boundary fence on the northern boundary is not illustrated on the northern elevational plan to better assess visual privacy.
 - b. Plan form shadow diagrams must show the entire extent of overshadowing.
 - c. Northern elevational shadow diagrams of 1 Fern Street have not been provided.

5. 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 an overdevelopment of the subject site, is excessive in terms of bulk and scale, undesirable and unacceptable impacts on the streetscape, and would adversely impact upon the amenity of the locality and surrounding built environment.
6. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the development is excessive in bulk and scale and is therefore considered unsuitable for the site.
7. 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.

Proposed Alterations & Additions to 52 Albion St, Waverley (Lot 1, DP 658974)



Drawing List

DA0	@A3	Coversheet and drawing list
DA1	@A3	Site / Analysis & Roof Plan
DA2	@A3	Streetscape analysis Plan
DA3	@A3	Streetscape analysis Elevations
DA4	@A3	Ground floor plan
DA5	@A3	Upper floor plan
DA6	@A3	West & South Elevations
DA7	@A3	East & North Elevations
DA8	@A3	Section AA
DA9	@A3	Calculations of GFA
DA10	@A3	Shadow Diagram 9am 21 June
DA11	@A3	Shadow Diagram 12pm 21 June
DA12	@A3	Shadow Diagram 3pm 21 June
DA13	@A3	Landscape Plan

General legend:

B	Brick
C	Concrete
COS	Confirm on site
CR	Cement render
CT	Ceramic Tiles
D(1)	Door (1 etc)
DP	Downpipe
EX	Existing
F	Fixed
FC	Fibre Cement
FW	Floor Waste
L	Louvre (Glass)
MR	Metal Roof
PB	Plasterboard
PU	Paving units
RT	Roof Tiles
SL(1)	Skylight (1 etc)
TD	Timber Decking
TF	Timber flooring
W(1)	Window (1 etc)
WIR	Walk in Robe
WP(V)	Wall panelling (Vertical)
ExA	Existing smoke alarm
ExA	Smoke alarm
Ex.FFL 0.00	Floor level
FFL 0.00	Floor level
Ex.RL 0.00	Existing level

Wall legend:

Existing walls
New Blockwork
New Studwork (100mm)
New Double Brick wall

General notes:

- COS Confirm On Site
- Stormwater lines taken to existing stormwater in accordance with Stormwater details.
- Building RL's shown are to structure (not surfaces)

Basix commitments - Certificate No. A404935 & A404964

Water / Energy options	Toilets, Showerheads, Taps: All - Toilets: 3 star or greater.
Energy Efficient new Lighting:	Minimum 40% of new lights to be either fluorescent, compact fluorescent or LED lamps.
New Hot Water System:	Gas instantaneous
Insulation options:	Minimum 55mm thick foil-backed insulation blanket to underside of new roofs. Minimum R1.95 insulation to new ceilings with new pitched roof above. Minimum R1.4 insulation to new ceilings with new flat roof above. Minimum R1.30 insulation to new external cladding walls. Minimum R1.16 insulation to new external brick veneer walls. Minimum R0.6 insulation to new timber framed floors with subfloor below. 'Light' coloured and 'Dark' coloured roofs.
Glazing:	Aluminium-framed single-glazed clear glass to all new glazing, except W2, W3, W4, W5, W11, W13. Aluminium-framed single-glazed 'Low-e' glass to: W2, W3, W4, W5, W11, W13. Additional shading required to: W11 = 500 mm projection sunhood/overhang. Aluminium-framed single-glazed clear glass to new skylights.

Development Data

(in reference with Randwick Council's Development Control Plan - Small Density Residential and Randwick LEP 2012)	
Site Area:	379m ²
Zoning:	R2
Allowable GFA & FSR	261.51m ² (0.69:1)
Existing GFA & FSR (from internal walls)	221.7m ² (0.58:1)
Proposed GFA & FSR: (from internal walls)	282.6 m ² (0.74:1)
Required Open Space:	151.6m ² (40%)
Provided Open Space:	173.5m ² (46%)
Required Landscaped area:	56.85m ² (15%)
Provided Landscaped area:	57.5m ² (15%)
Required P.O.S	5m & 5m wide
Provided P.O.S	5m & 5.4m wide

ARCHITECT:

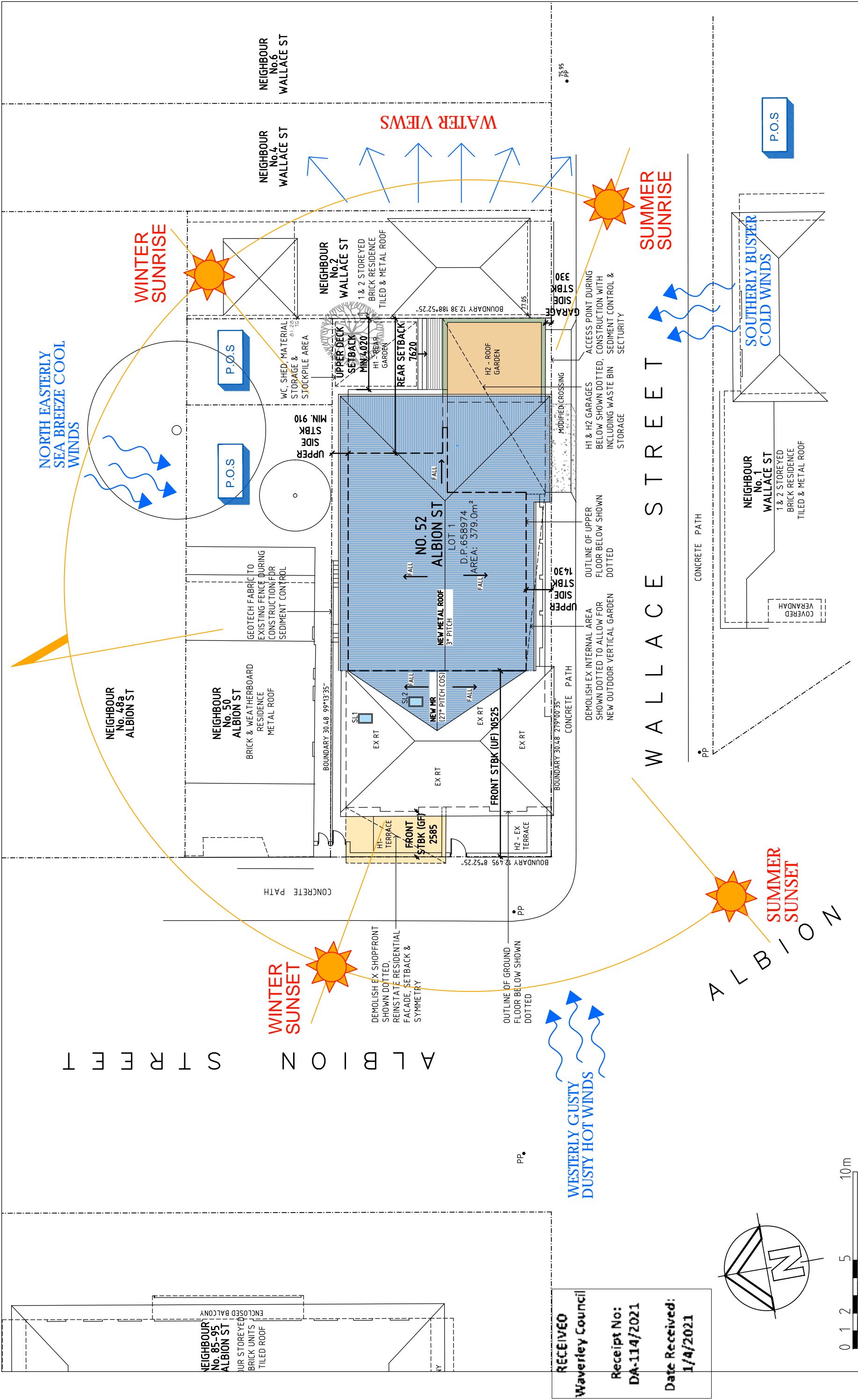
edifice design

DEVELOPMENT APPLICATION

ISSUE : A

Job: 20368

Date: December 2020

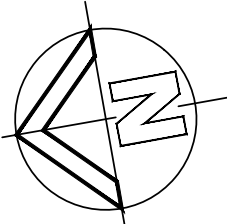


Amendments:		ARCHITECT:		CLIENT:		PROJECT:		DRAWING TITLE:		STAGE:		JOB No: 20368		Revision: -		
Revision	Date	Description	edifice design		Edifice Design Pty Ltd ABN 39 088 638 275 92 Robey Street, Manly NSW 2035 Tel/Fax: (02) 9315 5833 Mob: 0412 227 024 Email: michael@edifice.com.au Web site: www.edifice.com.au		Eugene Fitzpatrick and Katie McDermott Mob: 0466 257 380		Alteration and Additions 52 Albion Street, Waverley N.S.W 2024		SITE / ANALYSIS & ROOF PLAN		DEVELOPMENT APPLICATION		DA1	
			ARCHITECTS [phone] [email] [website] edifice.com.au						DRAWN: LY		DATE: DECEMBER 2020		DWG No:			
			Michael Grimshaw, Director & Nominated Architect, Reg #5192													

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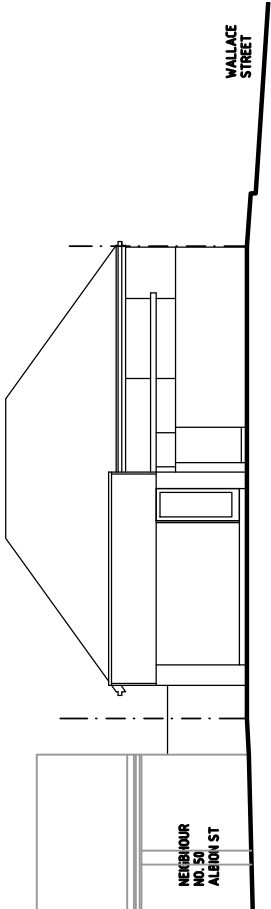
Receipt No:
DA-114/2021

Date Received:
1/4/2021

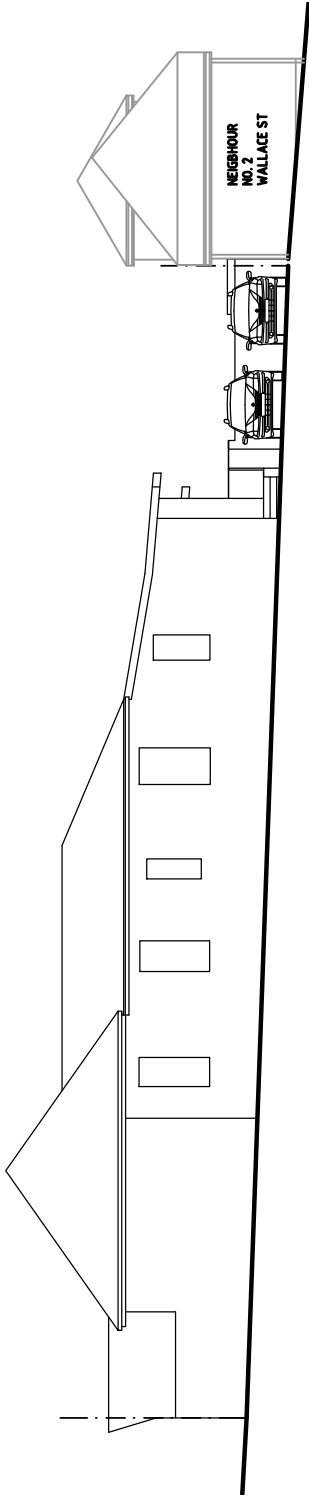




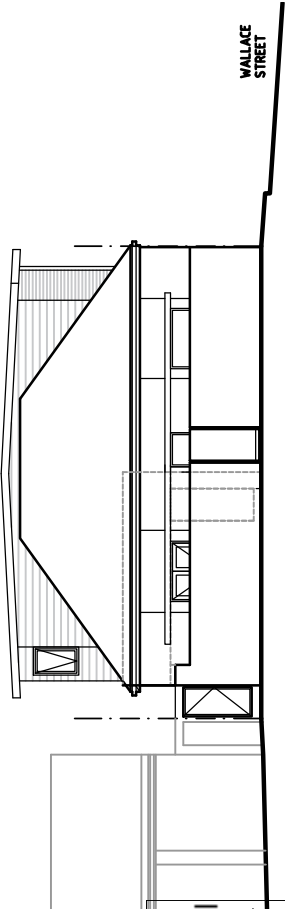
EXISTING PHOTOS



- Remove existing shop front
- Reinstate residential semi-detached symmetrical configuration to improve Albion St Streetscape



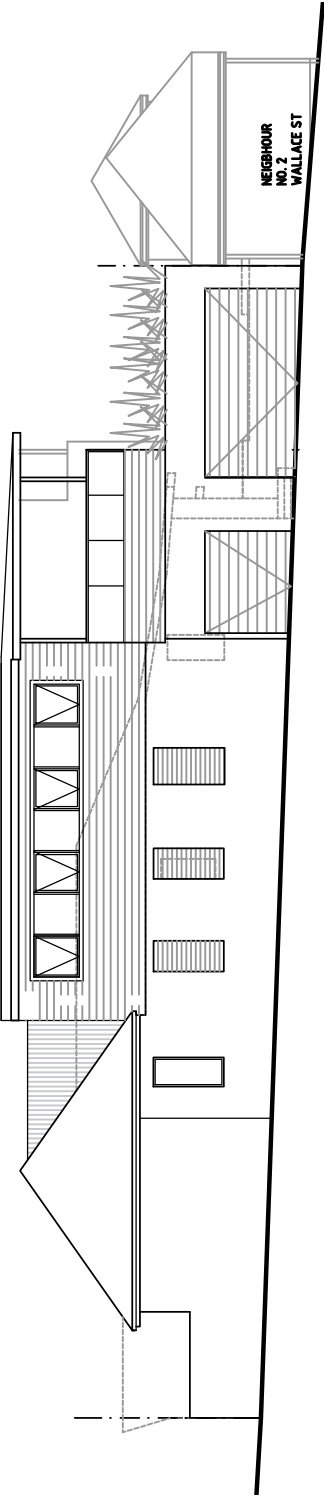
- The existing exposed double car handstands & garbage bin areas will be neatly enclosed behind the proposed garage. This shall improve the streetscape & rhythm of facades along Wallace St.



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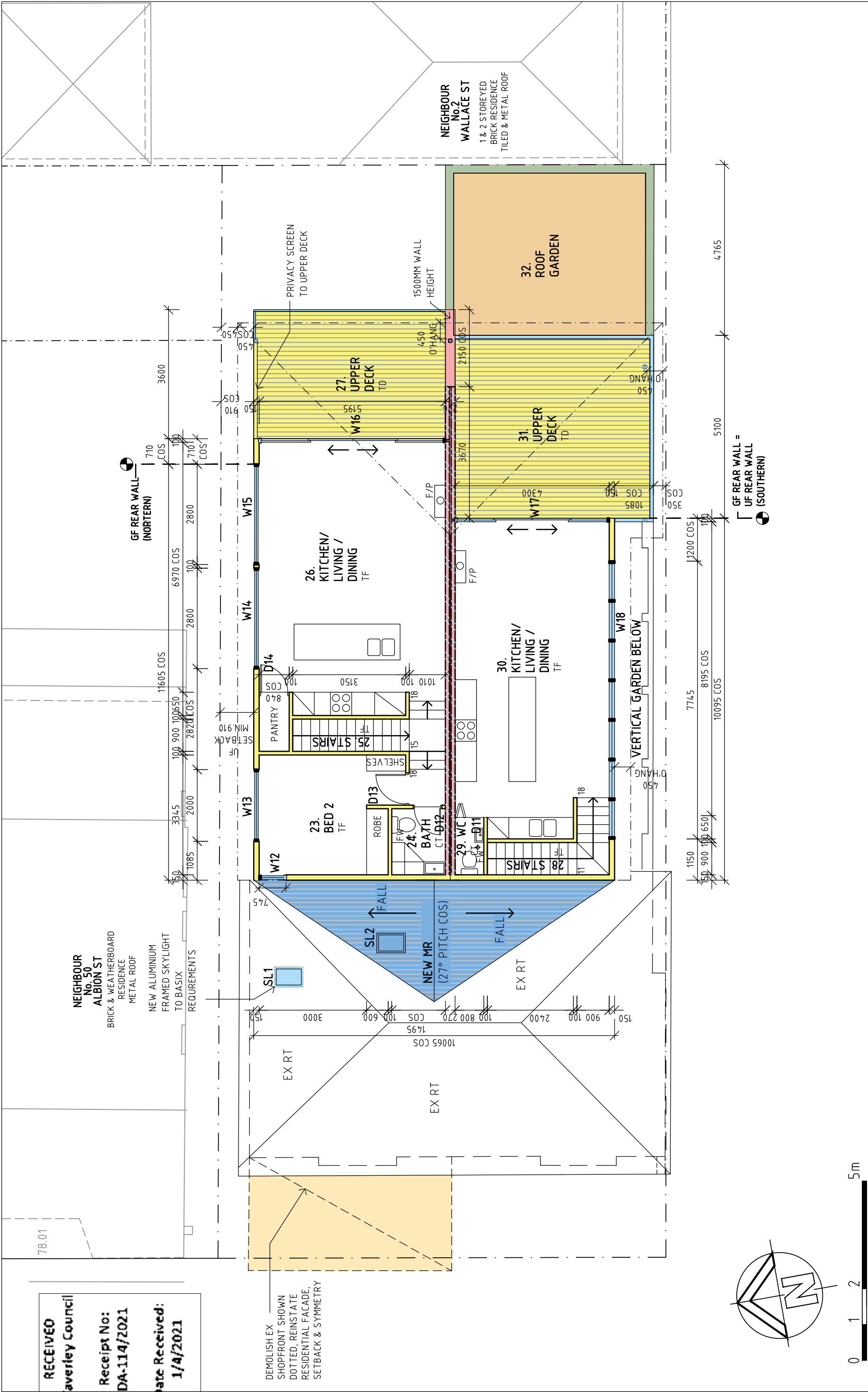


ALBION ST ELEVATION

WALLACE ST ELEVATION



Amendments:		ARCHITECT:		edifice design		ARCHITECTS commercial industrial residential edifice.com.au		CLIENT:		PROJECT:		DRAWING TITLE:		STAGE:		DEVELOPMENT APPLICATION				
Revision	Date	Description					edifice design		Eugene Fitzpatrick and Katie McDermott Mob: 0466 257 380		Alteration and Additions 52 Albion Street, Waverley N.S.W 2024		STREETSCAPE ANALYSIS- ELEVATIONS		SCALE: 1:200 @A3		JOB No: 20368			
							ARCHITECTS commercial industrial residential edifice.com.au						DRAWN: LY		DATE: DECEMBER 2020		DWG No:		Revision: -	
							Michael Grimshaw, Director & Nominated Architect, Reg #5192													

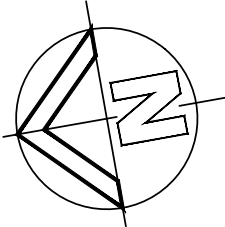


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DA-114/2021

Date Received:
1/4/2021

DEMOLISH EX
SHOPFRONT SHOWN
DOTTED, REINSTATE
RESIDENTIAL FACADE,
SETBACK & SYMMETRY

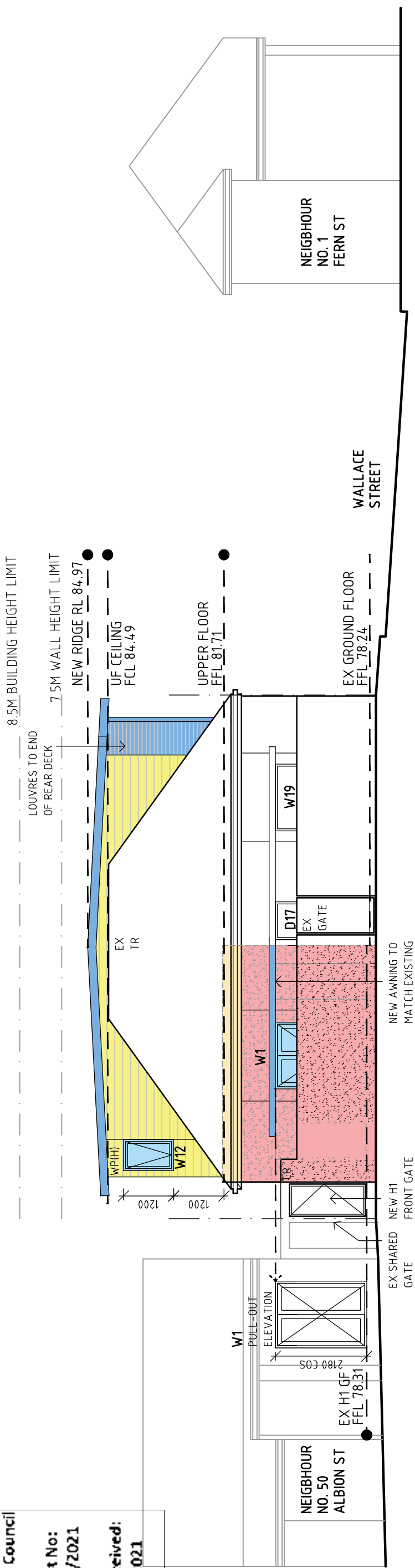


Amendments:		ARCHITECT:		edifice design		ARCHITECTS [commercial] [residential] [education] [healthcare] [agriculture]		Michael Grimshaw, Director & Nominated Architect, Reg #5192						
Revision	Date	Description	Edifice Design Pty Ltd ABN 39 088 638 275 92 Robey Street, Manly NSW 2035 Tel/Fax: (02) 9315 3833 Mob: 0412 227 024 Email: michael@edifice.com.au Web site: www.edifice.com.au		CLIENT: Eugene Fitzpatrick and Katie McDermott Mob: 0466 257 380		PROJECT: Alteration and Additions 52 Albion Street, Waverley N.S.W 2024		DRAWING TITLE: UPPER FLOOR PLAN		STAGE: DEVELOPMENT APPLICATION			
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			ARCHITECTS [commercial] [residential] [education] [healthcare] [agriculture]		Edifice Design Pty Ltd ABN 39 088 638 275 92 Robey Street, Manly NSW 2035 Tel/Fax: (02) 9315 3833 Mob: 0412 227 024 Email: michael@edifice.com.au Web site: www.edifice.com.au		CLIENT: Eugene Fitzpatrick and Katie McDermott Mob: 0466 257 380		PROJECT: Alteration and Additions 52 Albion Street, Waverley N.S.W 2024		DRAWING TITLE: UPPER FLOOR PLAN		STAGE: DEVELOPMENT APPLICATION	
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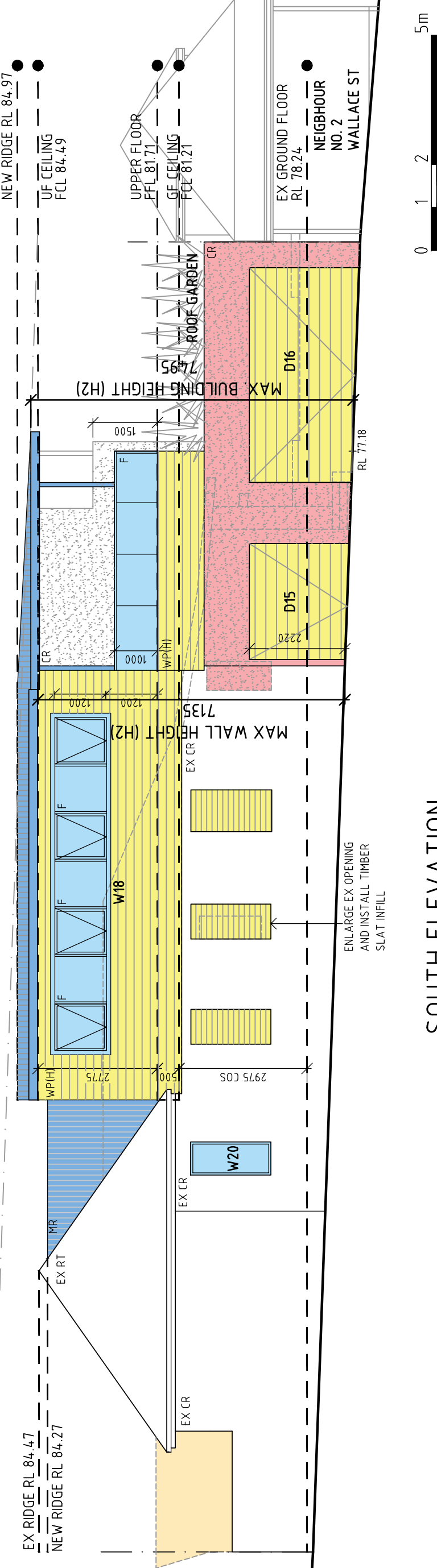


WEST ELEVATION

8.5M BUILDING HEIGHT LIMIT

7.5M WALL HEIGHT LIMIT

EX RIDGE RL 84.47
NEW RIDGE RL 84.27



SOUTH ELEVATION



Amendments:		ARCHITECT:		CLIENT:		PROJECT:		DRAWING TITLE:		STAGE:		
Revision	Date	Description	Edifice Design Pty Ltd ABN 39 088 638 275 92 Robey Street, Manly NSW 2035 Tel/Fax: (02) 9315 5833 Mob: 0412 227 024 Email: michael@edifice.com.au Web site: www.edifice.com.au		Eugene Fitzpatrick and Katie McDermott Mob: 0466 257 380		Alteration and Additions 52 Albion Street, Waverley N.S.W 2024		WEST & SOUTH ELEVATIONS		DEVELOPMENT APPLICATION	
			ARCHITECTS [commercial] [industrial] [residential] [education] [edifice.com.au]						DRAWN: LY		DATE: DECEMBER 2020	
									SCALE: 1:100 @A3		JOB No: 20368	
									DWG No: DA5		Revision: -	

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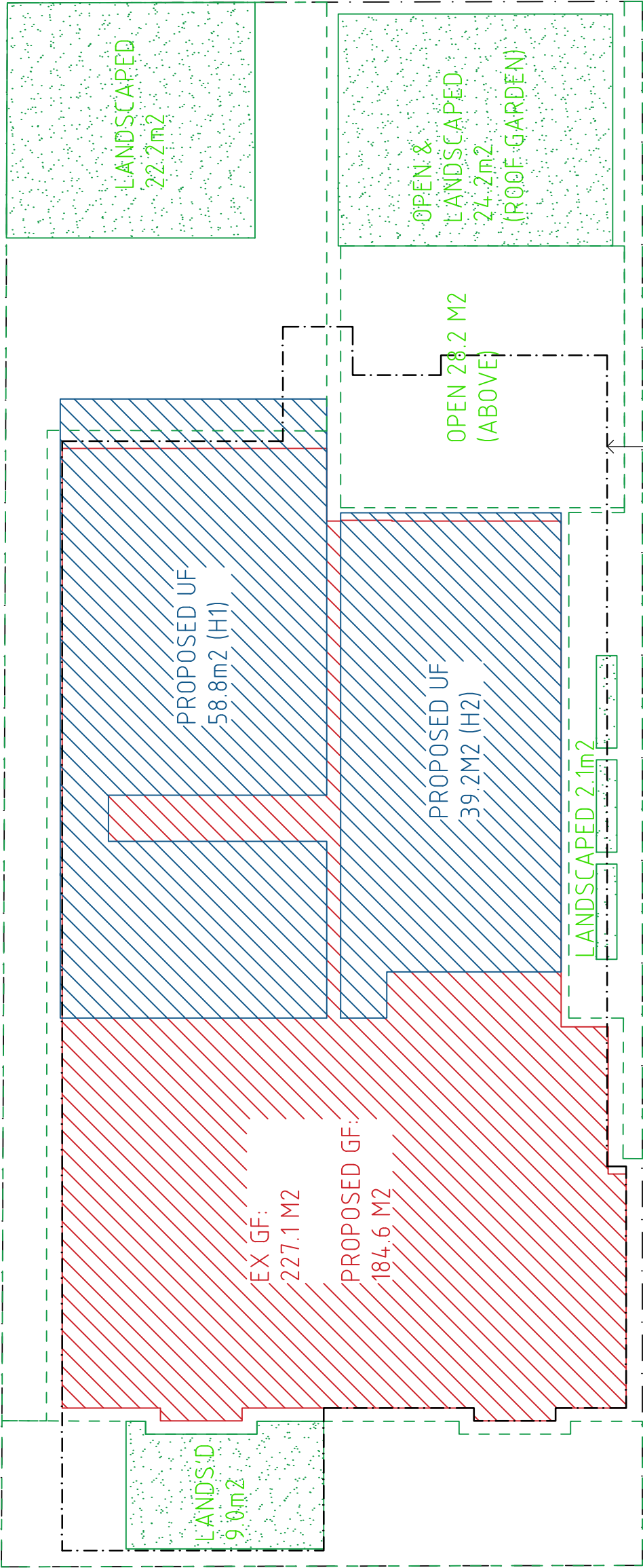
Date Received:
1/4/2021

Amendments:

Revision	Date	Description
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OPEN FRONT
34.2m²

OPEN SIDE & REAR
68.3m²



TOTAL PROPOSED OPEN AREA 173.5m²(min. 151.6m²)
TOTAL PROPOSED LANDSCAPED =57.5m² (Min. 56.85 m²)
TOTAL PROPOSED GFA 282.6m² (Max. 261.51m²)

EX GFA AT GROUND
FLOOR SHOWN DOTTED

OPEN SOUTHERN SIDE 18.6M2

OPEN 28.2 M2
(ABOVE)

PROPOSED UF
39.2M2 (H2)

PROPOSED UF
58.8m² (H1)

EX GF:
227.1 M2

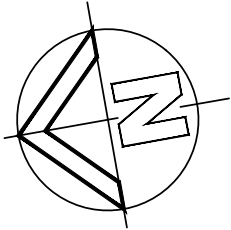
PROPOSED GF:
184.6 M2

LANDSCAPED
9.0m²

LANDSCAPED
22.2m²

OPEN &
LANDSCAPED
24.2m²
(ROOF GARDEN)

LANDSCAPED 2.1m²



ARCHITECT:

edifice design

ARCHITECTS Commercial | Industrial | Residential edifice.com.au

Michael Grimshaw, Director & Nominated Architect, Reg #5192

CLIENT:

Eugene Fitzpatrick and
Katie McDermott

Mob: 0466 257 380

DRAWING TITLE:

CALCULATION OF
GROSS FLOOR AREA

PROJECT:

Alteration and Additions
52 Albion Street, Waverley
N.S.W 2024

STAGE:

DEVELOPMENT APPLICATION

SCALE:

1:100 @A3

JOB No: 20368

DATE:

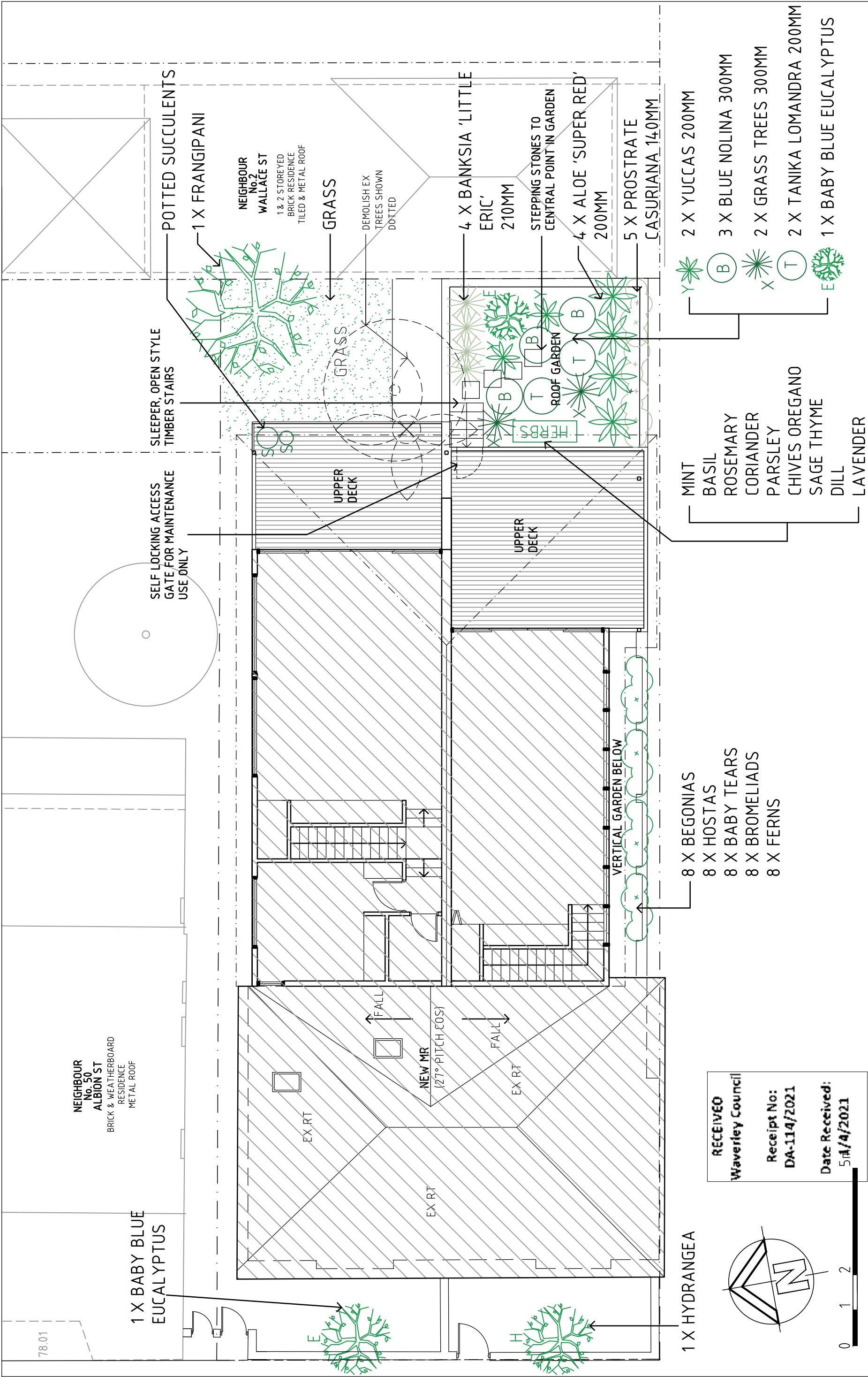
DECEMBER 2020

DWG No:

DA8

Revision:

-



Amendments:		ARCHITECT:		CLIENT:		PROJECT:		DRAWING TITLE:		STAGE:		
Revision	Date	Description	Edifice Design Pty Ltd ABN 39 088 636 275 92 Robey Street, Manubra N.S.W 2035 Tel/Fax: (02) 9315 5833 Mob: 0412 227 024 Email: michael@edifice.com.au Web site: www.edifice.com.au		Eugene Fitzpatrick and Katie McDermott Mob: 0466 257 380		Alteration and Additions 52 Albion Street, Waverley N.S.W 2024		LANDSCAPE PLAN		DEVELOPMENT APPLICATION	
			ARCHITECTS Commercial Industrial Residential edifice.com.au Michael Grimshaw, Director & Nominated Architect, Reg #5192						SCALE: 1:100 @A3		JOB No: 20368	
									DATE: DECEMBER 2020		DWG No:	
							DRAWN: LY				Revision: -	

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NORTH ELEVATION

Legend:

B

Brick

C

Concrete

COS

Confirm on site

CR

Cement render

CT

Ceramic Tiles

D(l)

Door (1 etc)

DP

Downpipe

EX

Existing

F

Fixed

FC

Fibre Cement

FW

Floor Waste

L

Louvre (Glass)

MR

Metal Roof

PB

Plasterboard

PU

Paving units

RT

Roof Tiles

SL(l)

Skylight (1 etc)

TD

Timber Decking

TF

Timber flooring

W(l)

Window (1 etc)

WR

Walk in Robe

WP(H)

Fibre Cement Wall panelling (Horizontal)

WP(V)

Fibre Cement Wall panelling (Vertical)

0

1

2

5m

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EAST ELEVATION

Legend:

B

Brick

C

Concrete

COS

Confirm on site

CR

Cement render

CT

Ceramic Tiles

D(l)

Door (1 etc)

DP

Downpipe

EX

Existing

F

Fixed

FC

Fibre Cement

FW

Floor Waste

L

Louvre (Glass)

MR

Metal Roof

PB

Plasterboard

PU

Paving units

RT

Roof Tiles

SL(l)

Skylight (1 etc)

TD

Timber Decking

TF

Timber flooring

W(l)

Window (1 etc)

WR

Walk in Robe

WP(H)

Fibre Cement Wall panelling (Horizontal)

WP(V)

Fibre Cement Wall panelling (Vertical)

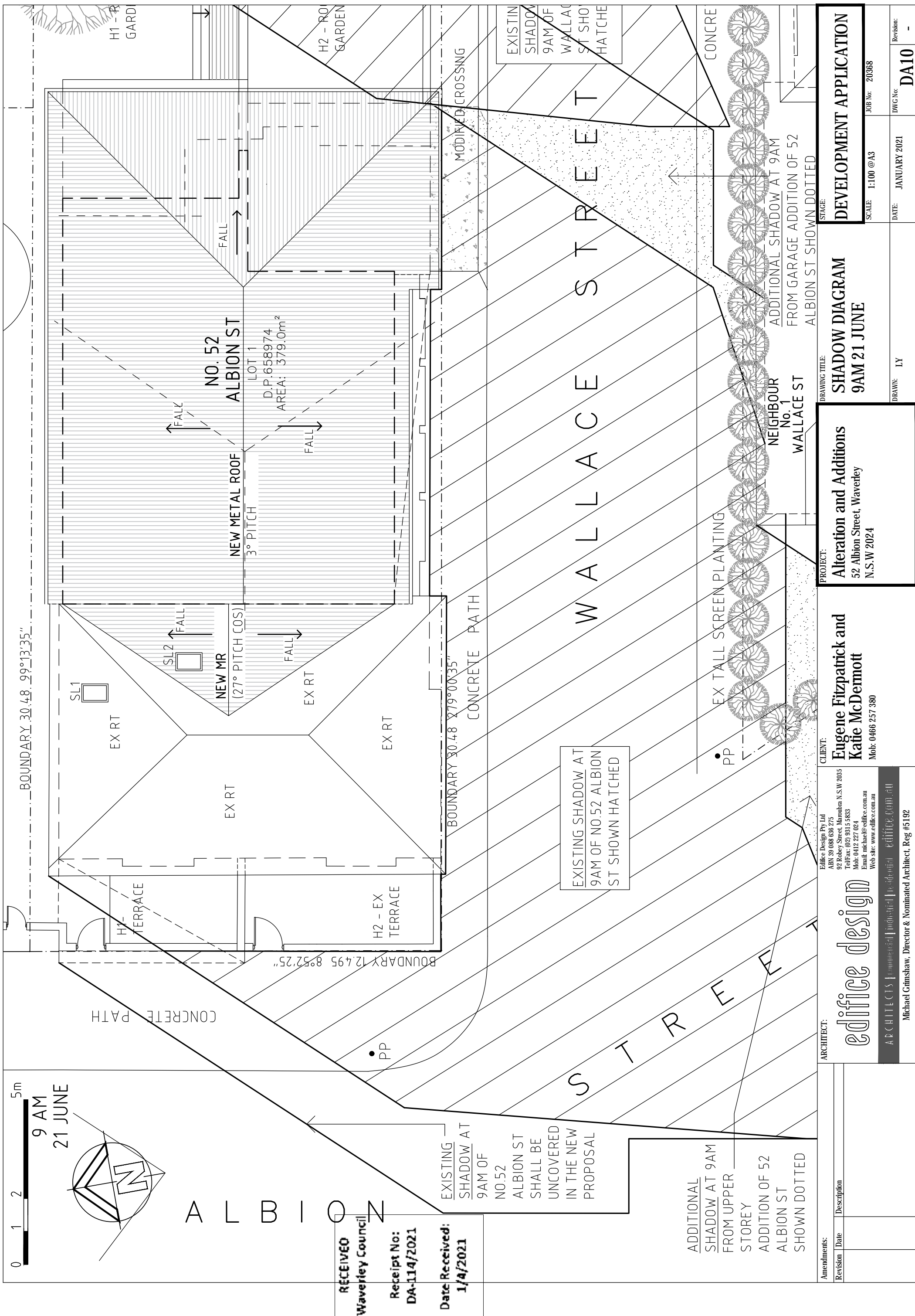
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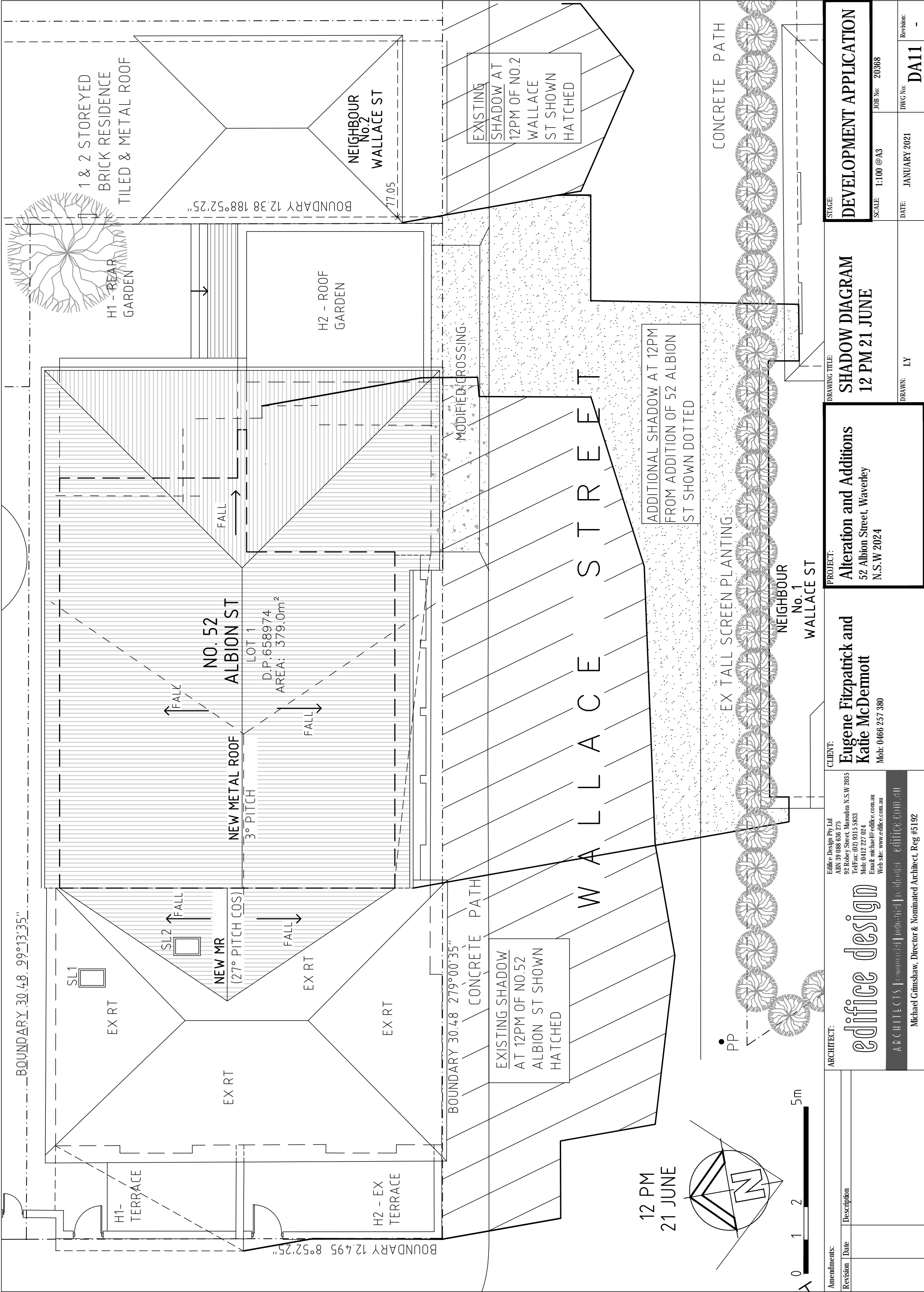
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2

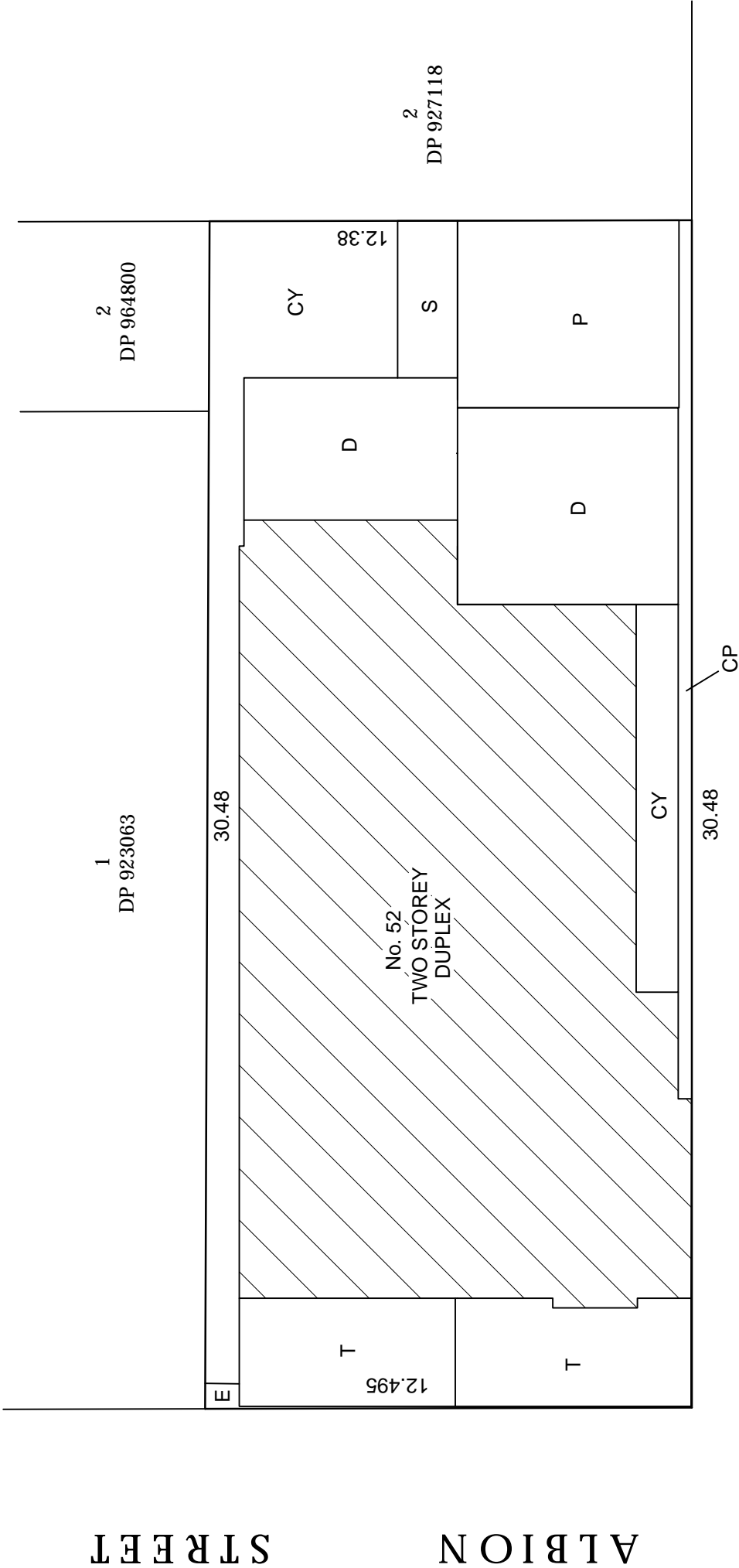
5m

Amendments:		ARCHITECT:		CLIENT:		PROJECT:		DRAWING TITLE:		STAGE:		
Revision	Date	Description	Edifice Design Pty Ltd ABN 39 088 636 275 92 Robey Street, Manubra N.S.W 2035 Tel/Fax: (02) 9315 3833 Mob: 0412 227 024 Email: michael@edifice.com.au Web site: www.edifice.com.au		Eugene Fitzpatrick and Katie McDermott Mob: 0466 257 380		Alteration and Additions 52 Albion Street, Waverley N.S.W 2024		SCHEDULE OF MATERIALS & FINISHES		DEVELOPMENT APPLICATION	
			ARCHITECTS commercial industrial residential edifice.com.au						SCALE: 1:100 @A3		JOB No: 20368	
							DRAWN: LY		DATE: DECEMBER 2020		DWC No: DA9	
					Michael Grimshaw, Director & Nominated Architect, Reg #5192						Revision: -	





DRAFT PLAN - SUBJECT TO FINAL SURVEY



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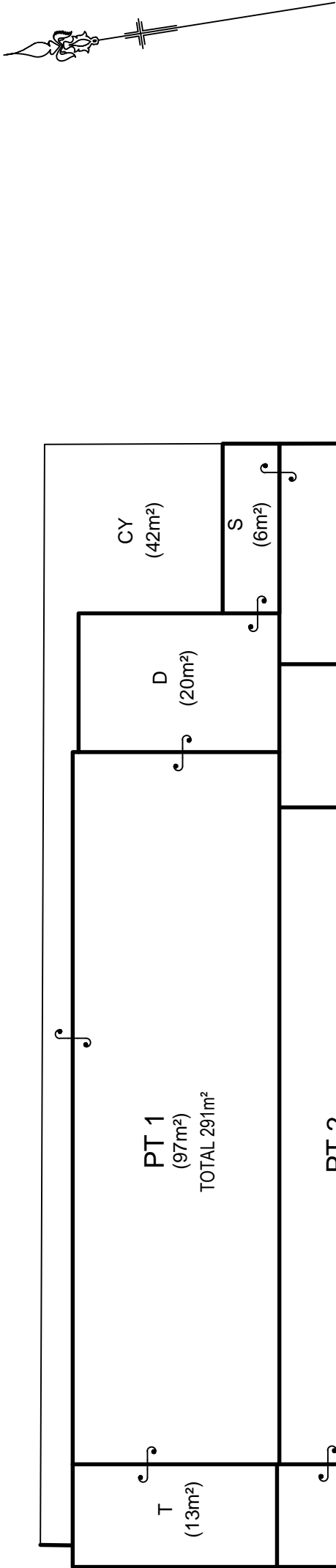
CP DENOTES COMMON PROPERTY
E DENOTES ENTRY (CP)
D DENOTES DECK
CY DENOTES COURTYARD
P DENOTES PLANTER
T DENOTES TERRACE
S DENOTES STAIRS

LOCATION

SURVEYOR Name: Eric Scerri Date: 26/02/2021 Reference: 4159 DSP	PLAN OF SUBDIVISION OF LOT 1 IN REDEFINITION OF LOT 1 IN DP 658974	L G A: WAVERLEY Locality: WAVERLEY Reduction Ratio 1:150 Lengths are in metres.	Registered	SP DRAFT ISSUE A: 26-02-2021
--------------------------------------------------------------------------	-----------------------------------------------------------------------	------------------------------------------------------------------------------------------	------------	---------------------------------

DRAFT PLAN - SUBJECT TO FINAL SURVEY

GROUND FLOOR

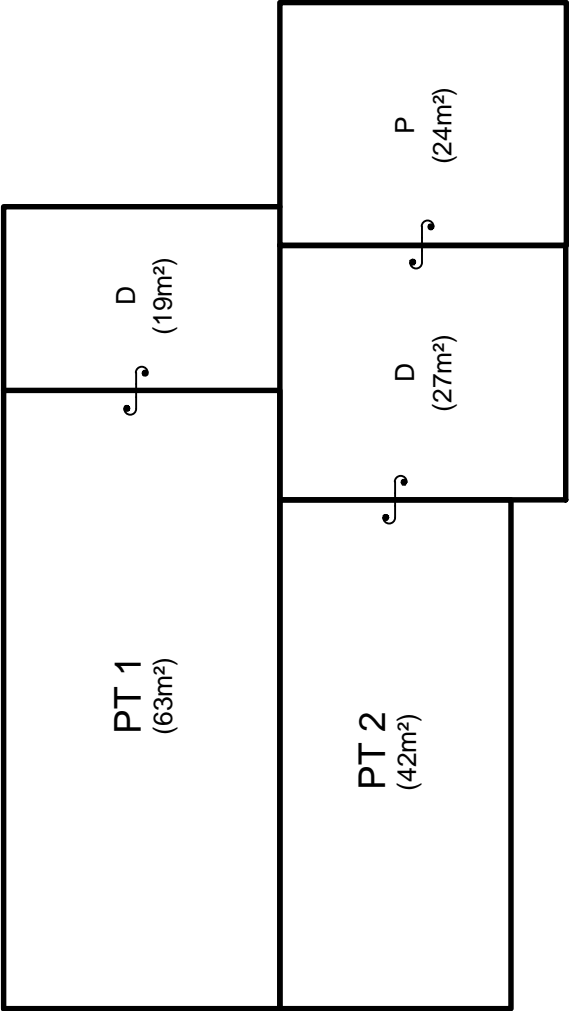


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NOTES:-

1. ANY SERVICE LINE WITHIN ONE LOT SERVICING ANY OTHER LOT IS COMMON PROPERTY
2. THE STRATUM OF THE COURTYARDS, DECKS, TERRACES & PLANTER BOX ARE LIMITED IN HEIGHT TO 3 METRES ABOVE THE UPPER SURFACE OF THEIR RESPECTIVE BASE, EXCEPT WHERE COVERED, WITHIN THIS LIMIT.
3. AREAS ARE APPROXIMATE AND FOR THE PURPOSES OF STRATA SCHEMES DEVELOPMENT ACT 2015

FIRST FLOOR



- CP DENOTES COMMON PROPERTY
D DENOTES DECK
CY DENOTES COURTYARD
G DENOTES GARAGE
P DENOTES PLANTER
R DENOTES RISER (CP)
S DENOTES STAIRS
T DENOTES TERRACE

SURVEYOR

Name: Eric Scerri
Date: 26/02/2021
Reference: 4159 DSP

PLAN OF SUBDIVISION OF LOT 1 IN
REDEFINITION OF LOT 1 IN DP 658974

L G A: WAVERLEY
Locality: WAVERLEY
Reduction Ratio 1:150
Lengths are in metres.

Registered

SP DRAFT
ISSUE A: 26-02-2021



Report to the Waverley Local Planning Panel

Application number	DA-152/2021
Site address	154 Ramsgate Avenue, NORTH BONDI
Proposal	Demolition of existing structures; construction of a three storey residential flat building containing apartments with integrated basement parking; and tree removal
Date of lodgement	28 April 2021
Owner	Ms H Assouline & Mr N Assouline
Applicant	HSN Construction Pty Ltd
Submissions	3 submissions received
Cost of works	\$4,356,000.00
Principal Issues	<ul style="list-style-type: none"> • Extent of excavation • Internal amenity • FSR • Setbacks • Landscaping and biodiversity • Streetscape character • External wall height • Solar access
Recommendation	That the application be REFUSED

Site Map



1. PREAMBLE

1.1. Executive Summary

The development application seeks consent for demolition of existing structures; substantial excavation and construction of a three storey residential flat building containing three apartments with integrated basement parking; and tree removal at the site known as 154 Ramsgate Avenue, NORTH BONDI.

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

- Breach in the FSR control;
- Extent of excavation on site;
- Inadequate internal amenity to the future owners/occupiers; and
- Non-compliance with the predominant front setback.

The assessment finds these issues unacceptable, and the proposal will result in an overdevelopment of the site; will sit out of context in the area; and will impact on future owners and occupiers of the land.

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

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

1.2. Site and Surrounding Locality

A site visit was carried out on 8 June 2021.

The site is identified as Lot 1, Section 10 in DP 786, known as 154 Ramsgate Avenue, NORTH BONDI.

The site is rectangular in shape with a western frontage to Ramsgate Avenue, measuring 12.19m and an eastern rear frontage to Brighton Boulevard measuring 12.19m. It has an area of 477.5m² and it falls from the eastern rear boundary towards the western front boundary by approximately 7.6m.

The site is occupied by a three storey residential apartment building with no vehicular access provided.

The site is adjoined by public open space Hal Lashwood Reserve to the north and a three storey residential apartment building to the south. The locality is generally characterised by a variety of medium sized residential flat buildings.

Figures 1 to 6 are photos of the site and its context.

	
<p>Figure 1: Subject site viewed from Ramsgate Avenue looking east</p>	<p>Figure 2: Adjacent public open space viewed from Ramsgate Avenue</p>
	
<p>Figure 3: Subject site viewed from Ramsgate Avenue showing adjacent building to the east</p>	<p>Figure 4: Subject site viewed from Brighton Boulevard looking west</p>
	
<p>Figure 5: Subject site viewed from Brighton Boulevard looking south west</p>	<p>Figure 6: Subject site viewed from the adjacent public open space looking south</p>

1.3. Relevant Development History

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

- DA-135/2018 – Demolition of existing flat building and construction of a new four storey residential flat building with basement parking, dismissed by Land and Environment Court on 24 January 2020 (2018/268143). The conclusion and findings of the Judge are as follows:

Conclusion and findings

- 103 For consent to be granted firstly, I must be satisfied that the Applicant's written requests seeking to justify the contravention of the development standards has adequately addressed the matters required to be demonstrated by cl 4.6(3).
- 104 I am not satisfied that this has occurred. The written requests, rather than focussing on that element of the development that exceeds those development standards, relies on a comparison with the existing building. I do not consider that this can satisfactorily demonstrate that sufficient environmental planning grounds exist but rather, the request should consider the objectives of the control and how those objectives are achieved taking into account the design of the new building without high reliance and regard to the existing building. Whilst I accept that the existing building forms part of the character of the area, the proposal adds considerable bulk and scale to that building and the impacts of the proposed development do not preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality.
- 105 That is because, particularly through the maintenance of the existing setbacks, the solar access enjoyed by the adjoining property to the south is not preserved. I accept that there will be some improvement to parts of the building but there is also loss of access to sunlight. This issue has been considered by the Court on a number of occasions and I follow O'Neill C in *Bouchard v Waverley Council* [2019] NSWLEC 1449 where at [48] she states:
- "48. The absence of amenity impacts, or the minimisation of amenity impacts (depending on the wording of the objective) is one way of demonstrating consistency with an objective related to preserving or minimising amenity impacts or environmental harm (*Initial Action* at [58] and *Randwick City Council v Micaul Holdings Pty Ltd* (2016) 225 LGERA 94; [2016] NSWLEC 7 at [34]). I am not satisfied, however, that the proposal has in fact achieved the preservation of the environmental amenity of neighbouring properties because the proposal results in minor amenity impacts. Although these minor impacts may not have been determinative in a merits assessment of the

proposal had it complied with the development standards, they demonstrate that the non-compliant aspect of the proposal has not achieved the threshold set by the objectives for a breach of the development standard.”

- 106 The fact that much of the additional floor space is below ground does not in this case justify variation to the FSR development standard. The additional building bulk will be discernible in the streetscape and is not compatible with the bulk, scale, streetscape and desired future character of the locality. Those controls envisage a much smaller building with increased setbacks, retained amenity to adjoining properties and an appropriate correlation between maximum building heights and density controls. The proposal does not demonstrate that these considerations have been achieved or that there are any environmental planning grounds that justify variation to the development standards.
- 107 The applicant's justification that the proposal is generally incorporated within the envelope of the existing building, a building that already exceeds the development standards, is not a justification to exceed those standards. I do not accept that the scale of the building will be comparable to that existing. It will be considerably larger and the additional bulk will be obvious, particularly when viewed from Ramsgate Avenue. It is that bulk in particular that leads to loss of amenity to adjoining properties.
- 108 The extent of excavation of the site is not compatible with the character of the area. That character is of buildings that step down the site reflecting the topography. The Council's controls reinforce that pattern through limiting excavation and discouraging subterranean apartments.
- 109 The focus of both written requests is only on the character statement for the Ben Buckler SCA. No consideration of the Ramsgate East SCA has been given nor, specific reference to the controls in the DCP that also inform that character. It is clear from the evidence that the existing building is not consistent with that DFC and the request does not justify variation to the development standards by having regard to those provisions.

- 110 The remaining arguments of environmental planning grounds, being the development provides a high standard of amenity, the dwellings are of an appropriate size, the outdoor space is directly accessible from living area and have adequate winter sun, and adequate provision is made for parking are not reasons that justify the contravention of development standards but would be expected in any new building designed to meet the planning controls and provisions of SEPP 65 and the ADG. This merely promotes the design of the development. It is a justification that could be applied to any new building within the precinct and it does not explain why the non-compliance with the height of buildings and FSR development standards is warranted.
- 111 For these reasons, I am not satisfied that the written request has adequately addressed whether there are sufficient environmental planning grounds to justify contravening the development standard. Accordingly, the application must fail.
- PD-47/2020 – Pre-DA for the demolition of the existing building and construction of a three storey residential flat building containing three dwellings and basement car park for seven vehicles, advice provided on 11 November 2020. A summary of the key issues raised are provided below:

Floor Space Ratio (FSR)

The Pre-DA report states that there will be a non-compliance of the FSR standard by 68%, seeking an FSR of 1.01:1. A Clause 4.6 variation request for the non-compliance of FSR would not be supported with the current design, as it would result in adverse amenity impacts to the proposed units within the development. The units would have an undesirable built form and will sit below natural ground level, which has been discussed in the Excavation section below.

Excavation

The extent of excavation proposed is excessive and would not be supported in its current form. The extent of excavation also limits the availability for deep soil planting on the site. A 1.5m setback from all side boundaries are required before Council can support the extent of excavation.

Further to the above, the level of excavation results in habitable rooms sitting 1.5 storeys below the natural ground level. This is an issue that was raised in the Land and Environment Court decision. Whilst it is acknowledged that the habitable rooms below natural ground level sit slightly higher than that of the original application, it is still considered to be a major amenity impact on these rooms and would not be supported.

Predominant Rear Building Line

The development proposes to reduce the rear setback to 6m and will sit forward of the predominant rear building line, which does not comply with the development control of the WDCP 2012. The non-compliance is particularly emphasised due to the fact that the rear building line faces Brighton Boulevard which is a main street frontage. A further setback is required before support can be given.

1.4. Proposal

The development application seeks consent for the demolition of the existing residential flat building and construction of a new three storey residential flat building with basement car parking, specifically:

- Basement level comprising six x car parking spaces, 2 x motorcycle parking spaces, bin storage, four x bicycle spaces, services, and storage rooms;
- Ground level comprising one unit with three x bedrooms, a media room, study, two x bathrooms, kitchen/dining room and an outdoor terrace at the front of the site;
- First floor level comprising one unit with four x bedrooms, two x bathrooms, a laundry, kitchen/dining room, a balcony at the front of the site and a courtyard at the rear; and
- Second floor level comprising one unit with three x bedrooms, three x bathrooms, a laundry, kitchen/dining room and a balcony.

2. ASSESSMENT

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

2.1. Planning Instruments and Development Control Plans

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

2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply to the assessment of this development application:

- **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.

- **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.

- **SEPP (Coastal Management) 2018**

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

Clause 13 states that development within the coastal environment area must not be granted development consent unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
- (b) coastal environmental values and natural coastal 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,
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- (f) Aboriginal cultural heritage, practices and places,
- (g) the use of the surf zone.

The scale of the proposal is not expected to adversely impact upon the matters raised above. Should the application be approved, conditions would be imposed on the consent to limit any impacts.

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

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
- (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - f that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (ii) (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

The proposal is not expected to adversely affect the scenic qualities and Aboriginal and built environment heritage aspects of the immediate coastline. Council is satisfied that the proposal is not likely to cause increased risk of coastal hazards on that land or other land. The development therefore complies with this SEPP.

- **SEPP (Affordable Rental Housing) 2009**

Five of the existing units were previously leased at rates below the median rate (two bedroom and one bedroom units) and as such the proposed development is required to be assessed against this SEPP.

The applicable definitions under Part 3 of the SEPP are as follows:

low-rental dwelling means a dwelling that was let at a rental not exceeding the median rental level at any time during the relevant period, as specified in the Rent and Sales Report, in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area. **Relevant period** means the period commencing 5 years before the day on which the development application involving the building is lodged and ending on that day.

low-rental residential building means a building used as a residential flat building containing a low-rental dwelling or as a boarding house and includes a building:

- (a) that, at the time of lodgement of a development application to which this Part applies, is lawfully used as a residential flat building containing a low-rental dwelling or as a boarding house, irrespective of the purpose for which the building may have been erected, or
- (b) that was used as a residential flat building containing a low-rental dwelling or as a boarding house but that use has been changed unlawfully to another use, or
- (c) that is vacant, but the last significant use of which was as a residential flat building containing a low-rental dwelling or as a boarding house.

Clause 50(1)

Clause 50 (1) of the SEPP requires development consent for any proposal to:

- (a) demolish the building,
- (b) alter or add to the structure or fabric of the inside or outside of the building,
- (c) change the use of the building to another use (including, in particular, a change of use to backpackers accommodation),
- (d) if the building is a residential flat building, strata subdivide the building.

Therefore, Council's consent is required for the proposed development.

Clause 50(2) Assessment

- (a) **whether there is likely to be a reduction in affordable housing on the land to which the application relates**

As outlined in the ARHSEPP Clause 47(1), a low rental building is defined as a dwelling that was let at a rental not exceeding the median rental level at any time within the **five** years preceding the lodgement of a development application, as specified in the Rent and Sales Report, in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area.

The median rent released for Waverley just prior to the lodgement of the application is the March 2021 median (as seen in the FACS rent and sales report). In March 2021, the median rent for a two bedroom unit was \$700, in December 2020 was \$690, and in September 2020 it was \$675.

The median rent for a one bedroom unit was \$550, in December 2020 was \$550, and in September 2020 it was \$550.

The applicant has provided in the SEE that the two-bedroom units are currently rented above \$700 and one-bedroom units are currently rented at \$600, all six units are renting above the median rental rates and are therefore **not** considered to be low rental dwellings.

As the existing building is not considered to be a low rental building, a contribution to offset the reduction in affordable housing is not required.

2.1.2. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	No	By virtue that the proposed development significantly exceeds the FSR development standard under Waverley LEP 2012, the development is contrary to the Aim expressed under clause 1.2(2)(c) of Waverley LEP 2012 in relation to providing a range of residential densities and range of housing types to meet the changing housing needs of the community. Additionally, the proposal is not consistent with 1.2(f) as the development does not enhance or preserve the natural environment through appropriate planning given the extent of excavation proposed.
Part 2 Permitted or prohibited development		
Land Use Table R3 Zone	Yes	The proposal is defined as a residential flat building, 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 	Yes	The building has been designed to step the second floor roof down to align with the slope of the land, resulting in a maximum building height of 9.5m.
4.4 Floor space ratio (FSR) and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> 0.6:1 (286.5m²) 	No	The development proposes an FSR of 1.03:1 or 494m ² . This would result in a breach of the development control by 207.5m ² or 71.66%.
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

Provision	Compliance	Comment
		development standard is presented below this table.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	Satisfactory
6.2 Earthworks	No	<p>The development proposes significant excavation to the entire site area in order to provide for the basement level, the rear section of the ground level and the levelling out of the courtyard on the first floor level. The proposal includes excavation of the entire width of the property and for a length of 33m and a maximum depth of 6.9m. There will be an area of 6m x 12m at the rear of the site which will be excavated to provide for a levelled courtyard at the rear of the first floor, which will provide deep soil landscaping.</p> <p>Due to the natural steep slope of the land, the level of excavation will result in the rear section of Unit 1 sitting 3.7m below the natural ground level. This will create poor amenity issues for the future owners and occupiers of this particular unit.</p> <p>Furthermore, Council's stormwater engineer has reviewed the design and is not supportive of the proposed drainage methods and floor levels as they will impact on the drainage of the site.</p> <p>The extent of excavation is considered to be significant and will have a detrimental impact on the future occupiers of the land and will impact on drainage patterns on the site. As such, support is not provided for the excavation on site.</p> <p>This is discussed further under the Waverley Development Control Plan 2012 (Waverley DCP 2012) controls.</p>

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 FSR development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a minimum FSR development standard of 0.6:1. The proposed development has an FSR of 1.03:1, exceeding the standard by 207.5m² equating to a 71.66% variation. It is acknowledged that the existing FSR on site is 0.78:1, which breaches the development standard by 31%.

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

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

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

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

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

- (a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:*
 - (i) *The existing 0.6:1 FSR control does not correlate with the prevalent built form character of the locality, noting the site and surrounding properties all exceed the existing FSR control.*
 - (ii) *Requiring strict compliance with the FSR control would not provide an increased correlation between the maximum height and density controls. An FSR compliant building would more likely result in a two-storey building, noting that the proposal is 207.5 sqm over the allowable GFA and therefore compliance would require the deletion of the entire ground floor unit. A two-storey building would sit well below the 9.5m height control and established street wall height along Ramsgate Avenue, and would not be consistent with the desired built form character.*
 - (iii) *The proposed three-storey development has been designed to sit below the 9.5m height control, particularly towards the more sensitive rear interface where there has been a deliberate attempt to minimise amenity issues. At this point, the building is 3.09m below the height control and will therefore facilitate improved view sharing for properties to the east.*
 - (iv) *The massing of the built form will maintain the consistent rhythm and scale to both Ramsgate Avenue and Brighton Boulevard and adopts appropriate setbacks from the property boundaries to ensure it will be readily absorbed within the streetscapes.*
 - (v) *The proposal is compatible with the desired built form character and associated built form controls as outlined in the WDCP for the following reasons:*

Ramsgate East

- a. *The development of three large family apartments will maintain the residential character and contribute to housing diversity in the area.*
- b. *The proposal involves a three-storey residential building above the basement car park and due to the topography of the site will present as four storeys to Ramsgate Avenue. The*

building will sit much lower than the existing building and complies with the 9.5m height control.

- c. The 6.4m front setback is consistent with the neighbouring buildings to the north and south.*
- d. The development will maintain the consistent street wall height along the western side of the street and adopts largely masonry construction with balconies orientated towards the street.*
- e. The balconies have been oriented to the west to maintain visual and acoustic privacy between buildings.*
- f. The two-storey scale to Brighton Boulevard is entirely consistent with the predominant building height along this side of the street. Whilst the building extends slightly beyond the developments at 152 and 156 Ramsgate Avenue, rear setbacks along the western side of the street are varied and the proposal will be readily absorbed within the streetscape.*
- g. Car parking will be concealed within the basement level.*
- h. The proposed side setbacks maintain the minimum building setbacks of the existing building.*

Ben Buckler Special Character Area

- a. As shown in the landscape plans, appropriate landscaping is proposed within the verge and above the basement structure to soften the appearance of the development.*
 - b. The development will maintain the rhythm of development in the street in terms of the consistent street wall height and side setbacks.*
 - c. The proposal adopts a flat roof form and reflects the 'boxy' proportions of surrounding developments.*
- (vi) The proposed FSR exceedance will not result in any detrimental amenity impacts to surrounding development when compared to a compliant design having regard to:*
- Visual amenity*
 - View sharing*
 - Overshadowing*
 - Privacy impacts*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:*
- (i) The proposal results in a built form that responds well to the constraints of the site and in particular, the steep topography between Brighton Boulevard and Ramsgate Avenue. As shown in **Figure 7**, the development is a similar height and scale to the surrounding built form and will sit comfortably as infill development in its immediate context.*

Figure 7 – Proposed west elevation



- (ii) *The extent of excavation proposed is required to accommodate car, motorcycle and bicycle parking together with waste storage in an area concealed from the street. As shown in the swept paths that accompany the Traffic and Parking Assessment, it is not possible to accommodate vehicle movements and achieve 1.5m side setbacks. The basement level will extend a full storey out of the ground as a result of the topography of the site rather than 1.2m as required by the WDCP. This design reflects and is entirely consistent with the car parking arrangements of 148, 150 and 158-160 Ramsgate Avenue and reduces the extent of excavation that would be required if the basement was lowered.*
- (iii) *The non-compliant FSR does not impact on view sharing from neighbouring properties or the public domain, and will result in a net gain in available views.*
- (iv) *There is no additional visual impact as a result of the non-complaint FSR on 156 Ramsgate Avenue to the south given the development generally retains the existing setback. The reduced height and stepped built form compared to the existing building, will reduce the overall bulk of the development when viewed from the adjoining property.*
- (v) *The proposal has been designed to limit additional overshadowing to the immediately adjoining properties. The FSR variation will not adversely impact on neighbouring properties by way of overshadowing.*
- (vi) *Design features to maximise privacy for the adjoining building include:*
 - a. *The living spaces and balconies have been orientated to the front of the development with minimal openings within the southern elevation.*
 - b. *The windows within the southern elevation are limited to narrow bathroom windows, which are not located opposite neighbouring windows.*
 - c. *The ground floor lobby is sited below the development at 156 Ramsgate Avenue and overlooking from the upper level lobby spaces will be limited by bronze metallic louvres.*

Privacy issues have successfully been mitigated through building design and the FSR non-compliance does not detrimentally impact visual or acoustic privacy.

- (vii) The proposed flexibility with the FSR standard will also ensure the proposal achieves the best internal amenity outcome for the site and future residents. All apartments exceed the minimum size prescribed in the WDCP 2012.*
- (viii) The proposed apartments will achieve a high level of internal amenity noting the following:*
 - a. As required by Part 3.13 of the WDCP, the living rooms and private open spaces of all three apartments (100%) receive a minimum of three hours direct sunlight between 9.00am and 3.00pm on 21 June.*
 - b. The apartments will enjoy the outlook and views towards Bondi Beach and the adjoining public reserve.*
 - c. Each apartment is provided with generous private open space in the form of a terrace (and courtyard for Unit 2) measuring between 35sqm and 115sqm.*
- (ix) Whilst it is acknowledged that the rear portion of Unit 1 will sit below the natural ground level along the northern boundary of the site, this will not adversely impact on the amenity for future residents. The boundary wall and palisade fence will have a maximum height of 3.18m and the proposed 1.7m setback (which is open to the sky) will ensure that the two bedrooms in this area will receive adequate daylight access. The bedrooms will also enjoy an outlook towards the landscaped planter within the setback, which will include trees and shrubs to soften the appearance of the boundary wall.*
- (x) The remaining space within the void above the basement will include a media room and study, which will further enhance the amenity of Unit 1 and provide flexibility for future residents. The media room has been extended to the boundary of the site, so the window can be oriented to the west to take advantage of views towards the private garden and street.*
- (xi) The built form has been developed in response to site topography and the need to accommodate car parking within the site. The provision of non-compliant floor area in the resultant void space above the basement does not increase the massing or scale of the development. Deletion of this floor space from the void will not reduce the level of excavation required to accommodate car, motorcycle and bicycle parking in an area concealed from the street.*
- (xii) The proposed massing of the development has made a deliberate attempt to limit the height and bulk within the rear of the site where it is likely to create more amenity issues on neighbouring properties in terms of visual bulk, view impacts and overshadowing.*
- (xiii) Requiring strict compliance with the FSR control would not provide a built form that is consistent with the existing context or the future desired character outlined in the WDCP 2012. An FSR compliant building would more likely result in a two-storey building that sits well below the 9.5m height control and established street wall height along Ramsgate Avenue*

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

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard*

is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and

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

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

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, but has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

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

The applicant ultimately relies on the justification/test outlined in a) above to justify the exceedance of the FSR development standard. The applicant claims the proposed development is compliant or consistent with the relevant objectives of the FSR development standard, despite the numerical non-compliance. This will be discussed against the objectives of the FSR development standard, which are as follows:

Clause 4.4 Floor space ratio

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

Objective (a) is not applicable to the proposed development.

Council disagrees with the contention that the objectives of the standard are achieved. The applicant argues that the existing building does not comply with the maximum FSR requirement by 31% and that the proposed design will reduce the visual bulk of the building from the streetscape. Council disagrees with this argument. The existing building on the site is large and bulky and does not contribute to the aesthetic quality of the streetscape on Ramsgate Avenue. Further, the application proposes a further increase in the FSR by an additional 40.66%, creating even more bulk to the overall built form. The additional space has been allocated to the rear, resulting in a non-compliant rear setback, and extensive excavation resulting in two levels sitting partially under the natural ground level. The additional floor space adds to the overall bulk and scale of the site and will not fit in with the desired future character of the Ben Buckler area.

It is proposed to excavate up to a maximum of 6.9m in depth to accommodate the basement and ground floor unit. The applicant argues that the bulk of the FSR is to be sited below the existing ground level and so has no unreasonable impacts. The applicant has provided a massing study to show the streetscape elevation in relation to building mass above ground level along Ramsgate Avenue (provided above in the **Figure 7**). Whilst the massing study is focused on the structures proposed above the existing ground level, in this context the proposed building does appear to be characteristic of the massing of other nearby developments. The massing study, however, fails to show all of the structure proposed once the site is excavated.

The objective of Clause 6.2 Earthworks of Waverley LEP 2012 seeks to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. Control (a) of Part B14 of the Waverley DCP 2012 states that excavation should not add to the visual bulk and scale of the building. The proposed siting of substantial floor space below the existing ground level is a direct correlation and consequence of the proposed excavation which contributes to the buildings overall visual bulk and scale, contrary to control (a) of Waverley DCP 2012. No other building along this section of Ramsgate Avenue has resulted in excavation to the depths proposed as part of this application. The proposed development does not satisfy objective (c) of the FSR development standard in that the proposed building is not compatible in bulk, scale and streetscape appearance nor is it characteristic of the desired future character of the locality. The visual impact associated with the bulk and massing of the dwelling and the loss of the natural topography when viewed from its surrounds is considered unreasonable. The proposed excavation will substantially alter the existing ground levels and landscaping.

The proposed development results in a number of non-compliances with the Waverley DCP 2012, including the objectives and controls for excavation, the predominant front and rear setback control, wall height, solar access and overshadowing, and landscaping availability on site, despite the applicant's contention that the proposed FSR is within an appropriate building envelope. The proposed rooms situated 3.7m below ground level would not reduce the bulk and scale of the dwelling and would result in significant internal amenity impacts to the future owners and occupiers of the ground floor unit. This internal amenity to the rear rooms on the ground level will be further impacted by the side boundary fence proposed along the side boundary, resulting in a 5.5m wall directly adjacent to windows. Additionally, the development will increase overshadowing to habitable rooms on the adjoining property at 156 Ramsgate Avenue, and will provide limited sunlight to habitable rooms on the subject site. This is a key characteristic of an overdevelopment on site and is not supported.

Whilst the proposed development numerically complies with the maximum height limit allowed under the Waverley LEP 2012, the amenity to the second floor unit has been compromised in order for the building to sit below the 9.5m maximum height limit. The applicant has designed the second floor unit's floor to ceiling heights to step down with the natural slope of the land resulting in the principal living

areas to have a maximum floor to ceiling height of 2.2m. Whilst the building may numerically comply with the maximum height, it does not provide high quality amenity to the top floor unit, or the ground floor unit, which sits significantly below natural ground level. The development therefore does not comply with the objectives of the height limit control.

The breaches with the development standards and controls of the Waverley LEP 2012 and Waverley DCP 2012 results in a development that is unreasonable and unacceptable for this site. The proposed FSR non-compliance is contrary to clause 4.4 Floor space ratio (1)(c) and (d), resulting in unreasonable impacts on the amenity of neighbouring properties and the locality, particularly given the extent of excavation, the visual bulk and massing of the development, and overshadowing which is discussed later in this report.

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

The extent of the variation, being 71.66% over the development standard, demonstrates that the building bulk and scale of the development are excessive, requiring a depth of excavation which is unacceptable. The siting of the dwelling and the excavation required may result in unreasonable impacts on the natural environment. The variation of the development standard is not in the public interest and the variation is inconsistent with the desired future character of the locality.

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard. The applicant contends that the development envelope is an acceptable outcome for the site but does not address the impacts associated with the extensive excavation proposed, which is inconsistent with the controls for excavation of sites under Waverley DCP 2012. Council does not agree with this justification, with the proposed bulk and massing of the development creating an unacceptable and poor planning outcome for the site.

Is the development in the public interest?

The proposed development will not be in the public interest because it is not consistent with both the objectives of the particular standard as outlined above and the objectives for development within the zone in which the development is proposed to be carried out including:

Clause 2.1 – Land Use Zone – R2 Low Density Residential

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

Whilst it is acknowledged that the proposed development does provide for the housing needs of the community by developing the site for medium density residential purposes, the overall planning outcome for the site to achieve this objective is unacceptable and cannot be supported, particularly as two of the units will be substandard in amenity.

The proposed non-compliance has failed to address clause 4.6 (1)(b), (3)(a) and (b), and (4)(a). The non-compliance will result in an unacceptable outcome for the site, fails to demonstrate that compliance with the development standard is unreasonable or unnecessary, does not establish sufficient environmental planning grounds to justify the breach, fails to address the objectives of the FSR development standard and is not in the public interest.

Conclusion

For the reasons provided above the requested variation to the FSR development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012. In addition, the proposed development is not in the public interest because it is inconsistent with the objectives of FSR development standard and the R3 zone.

2.1.3. Waverley DCP 2012 – Amendment No.9

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

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

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory
2. Ecologically Sustainable Development	Yes	Satisfactory
3. Landscaping and Biodiversity	No	Council's Biodiversity Officer has reviewed the landscape plan and does not support the design due to a lack of native plants proposed, in accordance with the Waverley DCP 2012 controls. This is discussed in more detail in the Referrals section of this report.
4. Coastal Risk Management	Yes	Satisfactory
5. Vegetation Preservation	Yes	Council's Tree Management Officer has reviewed the design and is supportive of the removal of the existing trees on site.
6. Stormwater	No	Unsatisfactory. Refer to section 3 of this report on referral commentary in relation to stormwater.
7. Accessibility and Adaptability	Yes	Satisfactory
8. Transport Zone 2 Minimum parking rate: • 0 Maximum parking rate: • 4.5 (5 rounded) Visitor parking: • (0.6) (1 rounded) Accessible Car Parking Spaces • 1	Partial	The proposal provides for 6 car parking spaces, 2 motorcycle spaces, and 4 bicycle parking spaces in the basement level. The proposal was referred to Council's Traffic engineer. While the proposal numerically complies with the maximum parking rates for residential, visitor, motorcycle and bicycle parking, there has been no inclusion of an accessible parking space on site. The design of the basement level would require some amendments before support could be provided to provide an accessible parking space. This has

Development Control	Compliance	Comment
Motorcycle parking: <ul style="list-style-type: none"> • 2 Bicycle parking: <ul style="list-style-type: none"> • Resident: 3 • Visitor: 1 		been discussed in more detail in the Referrals section of this report.
12. Design Excellence	No	<p>The proposed development has not considered the suitability of the land for the development given the extensive excavation required to accommodate the proposed dwellings and the impact this will have on the internal amenity of the ground floor unit.</p> <p>The building fails to work with the topography of the existing site, requiring excavation to a maximum depth of 6.9m. The bulk and massing of the building and its impact on the natural topography as it presents within the streetscape and from the public domain, particularly when viewed from Ramsgate Avenue and the adjacent public open space, is unacceptable and is not supported.</p>
14. Excavation	No	Unsatisfactory. The development proposes to excavate the entire area of the property, including two levels located partly beneath the natural ground level and extensive exaction to the rear courtyard. This is discussed below this table.

Excavation

The objectives of Part B14 *Excavation* are as follows:

- (a) To minimise the impact of excavation on the natural environment, neighbouring properties, and streetscape.*
- (b) To ensure the physical environment is preserved and enhanced through minimal site disturbance and the geotechnical stability of landfill and excavations.*
- (c) To minimise cut and fill on sloping sites.*
- (d) To encourage good quality internal environments including natural light and ventilation.*
- (e) To prevent use of subterranean spaces as habitable rooms.*
- (f) To prevent development exceeding the maximum car parking controls.*
- (g) To ensure excavation does not adversely impact land stabilisation, ground water flows and vegetation.*
- (h) To minimise structural risks to adjoining structures.*

It is proposed to excavate up to a maximum of 6.9m in depth to accommodate the proposed development. Whilst a Geotechnical Report has been submitted which demonstrates that the

development can be accommodated, the proposal is contrary to the objectives and controls for excavation outlined within Waverley DCP 2012. Control (a) of Part B14 states *that excavation should not add to the visual bulk and scale of the building*. The applicant argues that the bulk of the FSR is to be sited below the existing ground level which is a direct correlation and consequence of the proposed excavation which attributes to the buildings overall visual bulk and scale, contrary to control (a).

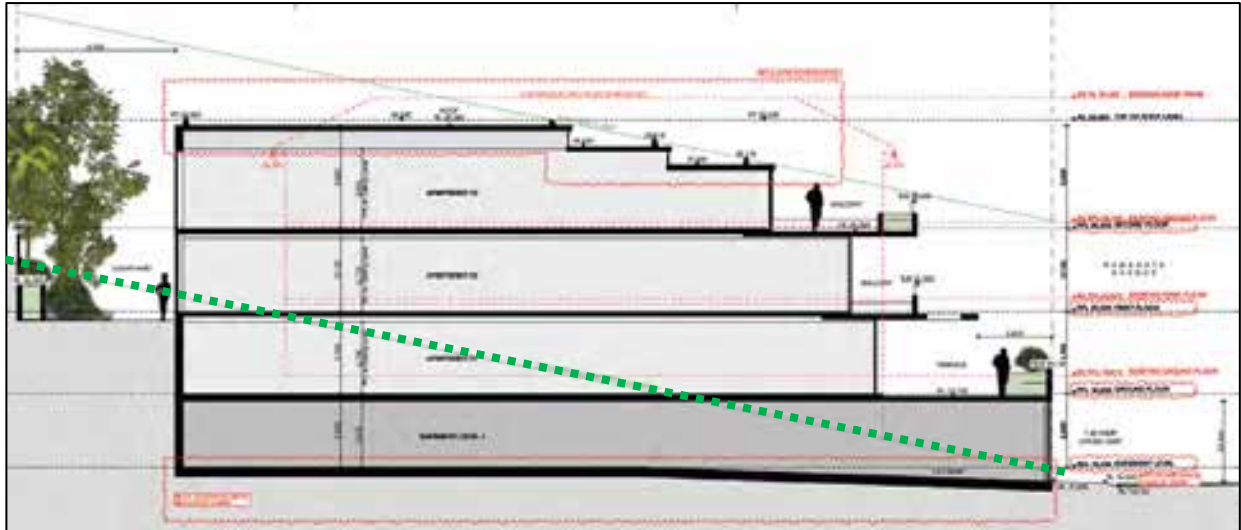


Figure 8: Section diagram demonstrating extent of excavation. Green dotted line represents the natural existing ground level.

The Waverley DCP 2012 also seeks to avoid and minimise excavation where possible under control (e), and for sites with significant slopes a split level building design is to be used to minimise excavation and backfilling in accordance with control (h). The development has not been designed as split level, rather as large expanses of useable floor area across all levels. The depth of excavation to accommodate the basement and ground floor levels is significant. Control (l) also does not permit excavation within 900mm of a side boundary. It is proposed to excavate the entire area of the property from boundary to boundary to accommodate additional parking in the basement, an additional room and availability for window openings on the ground floor, and the levelling out of the rear courtyard for the first floor unit. The excavation is proposed on a nil boundary setback to the front and both side boundaries.

The extent of excavation on the ground level is proposed to enable window openings and daylight into the rear rooms. As such the side setbacks will be excavated and remain as open areas, which contributes to the visual massing of the proposed built form when viewing the site from Ramsgate Avenue. This is emphasised further due to the location of the subject site sitting adjacent to a public open space area. The building has not been designed to mould to the site topography but rather designed as if it were constructed on a flat site. No other dwelling or residential unit development along this immediate section of Ramsgate Avenue has had development consent issued for the extent of excavation and the massing of dwelling proposed under this subject development application. The excavation will result in detrimental internal amenity impacts to the rooms on the ground level for future owners and occupiers. Approval of the subject application will set a precedent which will see the natural topography of this area destroyed.

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

Development Control	Compliance	Comment
1.3 Ben Buckler		
<p>Desired Future Character Objectives</p> <ul style="list-style-type: none"> • Maintain Landscape Character • Maintain rhythm of buildings to the street • Allow ocean glimpses through side setbacks • Respect character and architectural elements • View Sharing 	No	<p>The proposed built form and extent of excavation does not maintain the existing rhythm of buildings to the street and will result in an unnecessary bulky built form that is not acceptable. The excavation of the side setbacks to provide daylight into the rear ground floor rooms would result in additional visual massing from Ramsgate Avenue.</p>
<p>Controls</p> <ul style="list-style-type: none"> • Communal landscaped gardens are required within the front setback to contribute to the public domain. • Planting should utilise minimum maintenance species growing to no more than 1m in height at maturity. The appearance and species selection should be compatible with the adjoining gardens. Growth must not encroach upon the footpath or obstruct pedestrian access. • Side setbacks are to be clear of obstructions to allow views between buildings to the beach 	No	<p>There is no provision of landscaping within the front setback of the subject site along Ramsgate Avenue. Whilst it is acknowledged that some new development in the area has been built to the front boundary to accommodate pedestrian entrances and parking, there is still some landscaping maintained within the front setback of these properties, namely No 158-160 Ramsgate Avenue. The subject site proposes a boundary to boundary built form with the only landscaping provided on the ground floor terrace, which is located above the entrance to the basement parking (approximately 3m above ground level).</p> <p>While no landscaping is proposed at the front of the site, the rear of the site fronting Brighton Boulevard proposes a range of plantings including a coastal rosemary tree, two x tuckeroo trees, and blueberry ash trees. These trees are proposed to reach a maximum height ranging from 8m to 15m. As mentioned above, the landscape plan was reviewed by Council's Biodiversity officer who is not supportive of the plantings proposed as they are not compatible with the surrounding landscape and do not comply with the requirement for native plantings under Part B3 of the Waverley DCP 2012. Additionally, the proposed height of the trees could impact on views from neighbouring properties along Brighton Boulevard to Bondi. Views along the side setbacks will be maintained.</p>

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

Development Control	Compliance	Comment
3.1 Site, scale and frontage		
<ul style="list-style-type: none"> Minimum frontage: 15m – R3 zone 	No	<p>The subject site has a frontage width of 12.19m and requires extensive excavation which results in significant changes to the natural topography of the site, which does not comply with the control. The scale of the built form does not comply with the minimum FSR controls and the building has been poorly designed to compromise the internal amenity of the units in order to provide a height compliant building.</p> <p>The overall scale of the building does not align with the size of the site and is not acceptable.</p>
3.2 Height		
<ul style="list-style-type: none"> Maximum external wall height: R3 – 7m <p>Council may consider a varied wall height where the following matters are addressed:</p> <ul style="list-style-type: none"> (i) Compliance with Floor Space Ratio development standard; (ii) Compliance with Height development standard; (iii) Compliance with side setback controls; (iv) Visual aspect of the bulk and scale, as viewed from the private open space and living areas of adjoining properties; (v) Amenity of adjacent properties with regard to sunlight, visual and acoustic privacy and views; and (vi) A high design quality is achieved 	No	<p>The development proposes a wall height of 9.2m measured from the natural ground level which does not comply with the control.</p> <p>The development only complies with the overall building height by compromising the internal amenity of the units by providing 2.2m floor to ceiling heights for part of Level 2 and habitable rooms sitting 3.6m below natural ground level of the Ground floor.</p> <p>Additionally, the development does not comply with the FSR development standard, the predominant rear setbacks (discussed below), and results in a visually bulky built form. As such, it is considered a varied wall height is not appropriate for this design.</p>
3.3 Setbacks		
<p>3.3.1 - Street setbacks</p> <ul style="list-style-type: none"> Consistent street setback 	No	See discussion below this table.

Development Control	Compliance	Comment
3.3.2- Side and rear setbacks <ul style="list-style-type: none"> Minimum side setback: 1.5m Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback Deep soil along side boundary min 2m wide 	<p>Yes</p> <p>No</p> <p>No</p>	<p>The development proposes side setbacks of 1.7m and 1.8m from the built form, which complies with the side setback controls.</p> <p>The rear setback fronts Brighton Boulevard, which is a principle streetscape, proposes a setback of 6m which is not consistent with setbacks along Brighton Boulevard. This is discussed in more detail below this table.</p> <p>The deep soil on site is discussed below this table.</p>
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 	<p>Yes</p> <p>Yes</p>	<p>The maximum length of the building along the street is 7.7m, which complies with the control.</p> <p>The façade of the front and rear provides for an articulated design when viewed from both Brighton Boulevard and Ramsgate Avenue.</p>
3.5 Building design and streetscape		
<ul style="list-style-type: none"> Respond to streetscape Sympathetic external finishes Corner sites to address both streets as primary frontages Removal of original architectural features not supported. 	No	<p>The proposed development does not correspond harmoniously with the surrounding environment. The scale of the development is excessive particularly given the exceedance of the FSR development standard and the extent of excavation proposed.</p> <p>The visual impact associated with the bulk and massing of the dwelling and the loss of the natural topography when viewed from the surrounding public realm is considered unreasonable.</p> <p>The proposed excavation will substantially alter the existing ground levels and landscaping.</p>
3.7 Fences and walls		
<p><i>Front fence:</i></p> <ul style="list-style-type: none"> Maximum height 1.2m Maximum 2/3 solid <p><i>Side fence:</i></p> <ul style="list-style-type: none"> Maximum height: 1.8m <p><i>Rear fence:</i></p> <ul style="list-style-type: none"> Maximum height: 1.8m 	Yes	<p>No front fence is proposed, as the building is proposed to be built along the front boundary in order to provide vehicle and pedestrian access to the site. This is common along Ramsgate Avenue and is considered acceptable.</p> <p>The northern side boundary proposes a wall on the boundary with a fence above, having a maximum height of 3.7m adjoining the public open space to the north. The height and design of the northern boundary wall/fence is acceptable in this instance as it provides privacy to the private open spaces of the subject site and the design is compatible with the open space area.</p>

Development Control	Compliance	Comment
		The fence fronting Brighton Boulevard is proposed to replace the existing 1.3m fence at the same height. This is consistent with front fences along this street and is acceptable.
3.8 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 	Yes	The development proposes separate pedestrian and vehicle entrances accessed from the street level. The entrances have been designed to be safe and well-lit and are acceptable.
3.9 Landscaping		
<ul style="list-style-type: none"> • Comply with part B3- Landscaping and Biodiversity • Minimum of 30% of site area landscaped • 50% of the above is to be deep soil 	<p>No</p> <p>Yes</p> <p>No</p>	<p>As mentioned in Table 2 above, the development does not comply with Part B3 of the Waverley DCP 2012 in relation to the landscaping on site and plantings proposed. This is further discussed in the Referrals section of this report.</p> <p>The development proposes a total of 38% of the site to be landscaped, which complies with the control.</p> <p>Only 38% of the site is proposed to be dedicated to deep soil, which does not comply with the control. This is due to the size of the basement level and extent of excavation proposed and is not acceptable.</p>
3.11 Private Open Space		
<p>3.11.1 – Courtyards</p> <ul style="list-style-type: none"> • Private Courtyards – min 25m² area and 3m width and depth • Planting to be provided • Private open space not to be provided at the front, unless a buffer it provided • Max gradient 1 in 10 <p>3.11.2 – Balconies/decks</p> <ul style="list-style-type: none"> • Balcony additions to match the character of the building • Should not dominate the façade • No wrap around balconies 	Yes	<p>The private courtyard on the first floor has an area that exceeds 25m², has a width of 6m and includes access to deep soil.</p> <p>The balconies located along the front of the site are compatible with balconies and private open space along Ramsgate Avenue.</p> <p>The development has been designed to make the most of the water views and afternoon sun. No objections are raised with the design of the balconies.</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Located to maximise solar access and privacy Balustrades to allow views and casual surveillance of the street & privacy 		
3.12 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 Pedestrian safety considered Basement parking should not contravene deep soil zone controls 	<p>Yes</p> <p>Yes</p> <p>No</p>	<p>The basement car parking level has been designed to integrate into the design of the development from Ramsgate Avenue.</p> <p>A single width driveway is proposed which complies with the controls.</p> <p>The extent of the basement level compromises the availability of deep soil on site and results in a non-compliance with the minimum deep soil controls of the Waverley DCP 2012 which is unacceptable.</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 in the development on 21 June New development should maintain at least two hours 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 three hours of sunlight on 21 June. 	<p>Yes</p> <p>No</p>	<p>All units will receive at least three hours of sunlight to the private open space and principal living areas.</p> <p>Solar access to the neighbouring property to the south is discussed directly below this table.</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. 	<p>Yes</p>	<p>A view impact assessment has been undertaken by the applicant. This is discussed directly below this table.</p>

Development Control	Compliance	Comment
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 unit development will be orientated towards Ramsgate Avenue with separate vehicle and pedestrian entrances clearly identifiable.
<ul style="list-style-type: none"> Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened 	Yes	The proposed balconies will not overlook rooms or private landscaped areas of adjoining properties.
<ul style="list-style-type: none"> Privacy be considered in relation to context density, separation use and design. 	Yes	No habitable windows are located along the south elevation and the lobby window has been screened to limit looking into the units at 156 Ramsgate Avenue.
<ul style="list-style-type: none"> Prevent overlooking of more than 50% of private open space of lower level dwellings in same development 	Yes	There will be no overlooking of private open space into the lower level private open space within the development.
<ul style="list-style-type: none"> Roof tops are to be non-trafficable, unless there is a predominance of roof terraces in the immediate vicinity of the site. 	N/A	No rooftop terraces are proposed.
3.16 Dwelling size and layout		
<ul style="list-style-type: none"> Max width of dwelling over 15m deep is min 4m All habitable rooms to have a window Provide a range of dwelling types and sizes Min sizes 2 bedroom = 80m² 3 bedroom = 100m² Accessible and Adaptable Consideration should be given to the internal design of dwellings to encourage flexibility of uses over time 	No	<p>The units numerically comply with the controls relating to minimum size, dimensions and number of windows to habitable rooms.</p> <p>However, the ground floor unit will sit 6.9m below existing natural ground level. The habitable rooms at the rear only have one single aspect window, with the study window being south facing. Each window will have a setback to the side boundary of 1.8m and 1.7m with a boundary wall and fence measuring 5.3m in height. The design will result in poor internal amenity to the ground floor unit as it will receive little sunlight and will sit in close proximity to an unnecessarily high solid wall.</p> <p>The proposal has been poorly designed and is not supported.</p>

Development Control	Compliance	Comment
3.17 Ceiling Heights		
<ul style="list-style-type: none"> Min 2.7m floor to ceiling height residential floors Min 2.4m floor to ceiling height attic levels 	No	<p>The development proposes floor to ceiling heights of 2.5m for the basement level, 3.1m for the ground and first floor levels and the second floor level ranging from 3m to 2.2m.</p> <p>The basement, ground and first floor levels comply with the minimum floor to ceiling heights and are acceptable.</p> <p>The second floor level; however, proposes to step the floor to ceiling height down with the existing slope of the land, resulting in the single principal living space having a floor to ceiling height of 2.2m.</p> <p>The reason for this design of the second floor level is due to the applicant's attempt at maintaining the overall built form to sit under the 9.5m height limit required in the Waverley LEP 2012.</p> <p>This has resulted in the second floor unit having poor internal amenity within their only principal living area. The stepping down of the top floor unit is a key characteristic of the applicant attempting to fit too much development on the land and has resulted in an overdevelopment of the site.</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 3 or more bed = 10m³ All to provide bulk storage are in basement or ancillary structure 	Yes	<p>Storage has been provided within each unit. Storage of bulky goods is available in the basement level.</p>
3.19 Acoustic privacy		
<ul style="list-style-type: none"> Internal amenity by locating noisy areas away from quiet areas 	Yes	<p>The development has been designed taking into consideration acoustic privacy of each unit.</p>
3.20 Natural Ventilation		
<ul style="list-style-type: none"> All dwellings to be naturally cross-ventilated 	Partial	<p>All units will be naturally ventilated, although the efficiency of the ventilation of the ground floor unit is questioned, given that is located below existing ground level.</p>

Access and Overshadowing of the Waverley DCP 2012. It is considered that the balconies, awnings and planter boxes may encroach into the 6.4m setback, however no additional shadowing should occur to the north facing windows of the units at No. 156 Ramsgate Avenue. A full assessment of the impacts of overshadowing are discussed later in the report.

In addition, the front setback does not allow for any landscaping along the streetscape and therefore does not contribute to the landscape character of the street. It is noted that all development along Ramsgate Avenue with garages built to the front boundary maintain some level of landscaping to soften the hard surfaces along the street frontage.

As such, the front setback is considered unacceptable in its current design as it will have direct amenity impacts to adjoining residential properties and does not respect the landscape character of the area.

Predominant Rear Setback

The existing building on site has a rear setback to Brighton Boulevard of approximately 10.2m, which is consistent with the adjacent buildings on either side of the subject site, as shown below.



Figure 9: Aerial view of subject site and adjacent properties illustrating the setbacks to Brighton Boulevard

The built form proposes to reduce the setback to Brighton Boulevard to sit 6m from the boundary. The average of the setbacks of properties shown above is 9.12m, including the setback of the subject site. The proposal to reduce the setback to 6m is therefore not consistent within the immediate development to the site. The reduction in setback is further emphasised by the fact that the rear sits along a primary street frontage and adjacent to a public open space area, making it highly visible from the streetscape and public domain. The rear setback to Brighton Boulevard is inconsistent with setbacks in the street and is not acceptable.

Due to the extensive excavation on site, the development does not propose any deep soil along the side boundaries, which does not comply with the control requiring a minimum 2m width along one side boundary. The extent of excavation and minimal landscaping has been discussed above and is not acceptable.

Solar access and overshadowing

Due to the stepped design of the front façade, the top floor front unit at No. 156 Ramsgate Avenue will receive an increase in direct sunlight to their habitable rooms and living areas and will improve their internal amenity. This is shown in **Figure 10** which has been provided by the applicant.

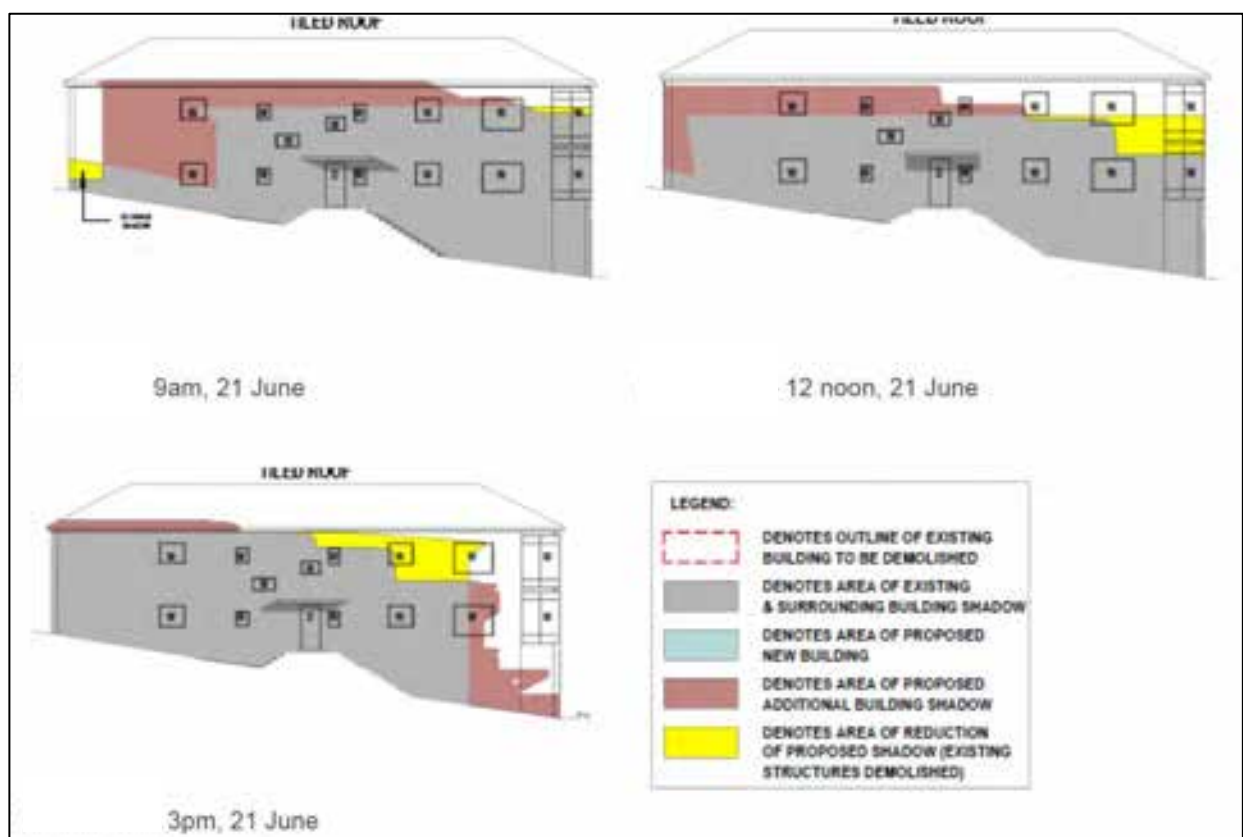


Figure 10: Elevation plan of existing and proposed sunlight access to the adjacent property at No. 156 Ramsgate Avenue

The inclusion of the balconies and planter boxes into the front setback however will provide additional overshadowing into the north facing dining room window on the ground floor of No. 156 Ramsgate Avenue. This will result in no direct sunlight entering this window between 9am and 3pm, which does not comply with the control.

Additionally, the reduction in the front setback will result in additional overshadowing to the north facing windows of the units at the rear of 156 Ramsgate Avenue. As the rear setback does not align with the predominant setbacks along Brighton Boulevard, the additional overshadowing is considered unreasonable and is not supported.

It is acknowledged that the overall height of the building is proposed at a maximum of 9.5m, however this is higher than the neighbouring properties on either side of the subject site (as seen in **Figure 7**). The height of the building compromises sunlight into the top floor north facing units at 156 Ramsgate Avenue, resulting in a non-compliance of the overshadowing control.

The impacts of overshadowing, together with the non-compliance in FSR, front and rear setbacks, overall building height, and wall height of the proposed built form result in a mass over development of the site and a variation is not supported.

View Loss

Clause 2.7 Views of Part C2 in the Waverley DCP 2012 outlines the objectives and controls relating the assessment of views and view loss.

The proposed development will result in a reduction in the overall height of the building; however, the wall heights will be increased due to the flat roof design over the existing pitched roof. It is noted that no submissions have been received regarding impact on views from neighbouring properties. Notwithstanding, an assessment has been undertaken. The photographs below have been provided by the applicant and will be used to demonstrate the potential impact for the current design. The yellow outline represents views gained, the red outline represents views lost, and the white outline represents a maximum complying built form.

Council's view sharing objectives under Waverley DCP 2012 require that views are shared, providing equitable access to views from dwellings. This objective provides a general guide when assessing potential view loss, further expanded by guiding principles of the Land and Environment Court as follows. The judgement in *Tenacity Consulting v Warringah Council (2004)* resulted in a four step assessment in regard to view sharing. The applicant has submitted their own view analysis within their Clause 4.6 submission, prepared by Urbis and dated 19 April 2021.

An assessment against all four steps has been undertaken below. For the purpose of this report, the first two steps will be assessed together.

1. *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*
2. *The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

146 Brighton Boulevard



Figure 11 Front common area of 146 Brighton Boulevard

The existing views from the ground floor common area at 146 Brighton Boulevard comprise part of the water and sand at Bondi Beach. The views that will be impacted by the development will be partially beach views of Bondi. The image has been taken from a standing position within the front setback common area above the garages.

Unit 4, 146 Ramsgate Avenue



Figure 12: Unit 4, 146 Ramsgate Avenue

The existing views from Unit 4 are of Bondi Beach, including the coastline, water/sand interface, and vista views. As shown in the image above, the height of the built form will sit in line with the existing roof structure of the property at 101 Ramsgate Avenue. As the development proposes a flat roof rather than pitched design, the views from this unit will improve.

Unit 6, 146 Ramsgate Avenue



Figure 13

The existing views from Unit 6 are of Bondi Beach, including the coastline, water/sand interface, and vista views. Similar to Unit 4, due to the proposed flat roof design, the views from Unit 6 will improve from the existing.

Rear units, 146 Ramsgate Avenue

Photographs have not been provided or obtained from the rear units at 146 Ramsgate Avenue, however an assessment has been completed by the assessing officer regarding potential view impacts looking down the side boundaries. The assessing officer has used the photographs provided, along with attending the site and viewing the potential impacts from the street. As the second floor will sit in line with the external walls of the existing building on site, it is envisaged that there will be no impacts to the existing views looking west towards Bondi Beach. The northern and southern setbacks of the first floor are proposed to be reduced slightly, however as seen in the images above, the existing dwellings on the opposite side of Ramsgate Avenue will block any potential views to Bondi Beach.

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

The proposed development will result in no view loss impacts to private residential properties, as shown in the images above. The proposed development will in fact improve views from the units on Brighton Boulevard. There will be a minor impact of views from the common area within the front setback above the garages, however the view loss is minor and will have minimal impact on the unit development as a whole.

4. *The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

As the water views will not be impacted by the development from 146 Brighton Boulevard, the proposed design is considered acceptable from this perspective.

Conclusion

It is acknowledged that although there would be some view loss impact for the front common area at 146 Brighton Boulevard as discussed above, it is still considered that the proposal is reasonable and that a fully compliant development on the subject site would likely result in some view loss impacts for the neighbour's property. All units will maintain water views to the ocean. Accordingly, the proposed development and corresponding view sharing arrangements are considered reasonable and are an appropriate response to the view loss controls in the Waverley DCP 2012 and NSW Land and Environment Court Tenacity view loss planning principle.

2.2. Other Impacts of the Development

The proposal is considered to have a significant detrimental effect relating to environmental, social or economic impacts on the locality, and is recommended for refusal.

2.3. Suitability of the Site for the Development

The site is not considered suitable for the proposal.

2.4. Any Submissions

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

A total of three unique submissions were received from the following properties:

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

Count	Property Address
1.	142 Brighton Boulevard, NORTH BONDI
2.	2/142 Brighton Boulevard, NORTH BONDI
3.	146 Brighton Boulevard, NORTH BONDI

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

- The applicant is proposing large trees in the rear setback, which will impact on views from the properties along Brighton Boulevard;
- Non-compliance in FSR;
- Visual bulk of the building from Brighton Boulevard;
- Non-compliant setbacks; and
- View loss from the rear units at 146 Ramsgate Avenue.

2.5. Public Interest

The proposal is considered to have a detrimental effect on the public interest and is recommended for refusal.

3. REFERRALS

The following internal and external referral comments were sought:

3.1. Biodiversity

The property lies within the identified coastal biodiversity corridor, so under the DCP Section 3.2.2 (a) A minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1.

The submitted landscape plans received on 28/4/2021 do not comply with this control. When amending the landscape plans, it must be noted that native cultivars, such as Casuarina 'Cousin It' and Lomandra longifolia 'Tanika' are not considered to be native and will not be counted towards meeting the abovementioned control.

The development does not comply with Part B3 of the Waverley DCP 2012 and is therefore considered unacceptable.

3.2. Traffic

The proposed development provides 6 standard parking spaces. Modifications are required showing:

- *3 spaces are to be marked as standard resident spaces.*
- *2 spaces are to be combined to provide 1 resident accessible space. A bollard is to be installed at the share zone as per the requirements of AS2890.6:2009.*
- *1 space is to be marked as standard visitor space.*

Parking aisle extension:

- *A variation from the 1 metre requirement to 0.5 metres is acceptable to Council subject to a swept path analysis using a B85 vehicle. This relaxation is based on professional judgement. It is not specified in AS2890.1.*
- *Alternatively, the non-compliance can be addressed by allocating a shared zone adjacent to an accessible space.*

Driveway

The proposed driveway to Ramsgate Avenue is compliant with a maximum width of 3.0 metres plus 0.45 metre wings at the kerb.

Should a DA be approved on this site, appropriate conditions should be imposed on the consent; however, this may impact on the extent of excavation required, which is already excessive.

3.3. Stormwater

There are several inconsistencies and lack of information provided in the submitted documentation. Specific comments are provided below:

- *Any proposed works to Council's existing kerb inlet pits within the road reserve shall be undertaken in accordance with Section 2.3 of Council's Water Management Technical Manual and to Council's satisfaction. Any proposed kerb inlet pits shall be at least 500 mm off any existing or proposed vehicular crossings;*
- *Council's mandatory OSD checklist as set out in page 22 of the Council's Water Management Technical Manual shall be submitted;*
- *Given the shallow depth of the proposed OSD system, the access grates shall cover at least 30% of the system's surface area;*
- *The plan view of the OSD system shall note the RL of the base at each extent;*
- *The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system (independent of the proposed OSD system);*
- *The centreline of the orifice shall be amended to be at the centreline of the outlet pipe;*
- *The base of the tank shall be at the level of the centreline of the orifice/outlet pipe to ensure that the tank will not hold water during dry weather;*
- *A calculation demonstrating that the overflow weir has sufficient capacity to cater for potential overflow from the OSD system shall be provided;*
- *As the stormwater disposal system is being connected into a kerb inlet pit, a long section of the connection must be provided and its details must be included (e.g. the location of existing services crossing and the clearances, existing surface levels, obvert and invert of existing pipe and invert level of the outlet pipe); and*
- *As subsoil drainage is proposed to be directed into the OSD system, calculations of the expected volume of seepage water shall be provided to ensure the volume of the OSD system is not exceeded. Alternatively, consideration can be given to tanking and waterproofing the basement areas of the proposed development to prevent the entry of sub-soil drainage. This would need to be undertaken by a registered structural engineer.*

The application has provided insufficient information to accurately assess the stormwater impacts on the site. should an application be approved for this site, conditions should be imposed to provide the above information.

3.4. Tree Management

Impacts on Existing Trees and Vegetation

- *Situated on the above property were several species of trees, it was noted that the trees possess no outstanding attributes worthy of retention (due to poor health, poor structure and under 5 metres) and their removal is supported.*
- *Situated on the neighboring property were several species of trees, all to be retained and protected.*

4. CONCLUSION

The development application seeks consent for the demolition of existing structures, construction of a three storey residential flat building containing three apartments with integrated basement parking, and tree removal at the site known as 154 Ramsgate Avenue, NORTH BONDI.

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

- Breach in the maximum FSR control;
- Extent of excavation;
- Predominant setback to the rear not met;
- Internal amenity issues for future owners and occupiers;
- Excessive external wall height;
- Inappropriate and inadequate landscaping and biodiversity;
- Inadequate solar access and impacts; and
- Adverse impact on the streetscape character.

The assessment finds these issues unacceptable.

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

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act and is recommended for refusal.

Development and Building Unit (DBU) Decision:



The application was reviewed by the DBU at the meeting on 8 June 2021 and the DBU determined:

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

DBU members: A Rossi, B McNamara, P Wong and B Magistrale

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:
	
Katie Johnstone	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 10 June 2021	Date: 15 June 2021

Reason for WLPP referral:

1. 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 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 (c) and (g) as the proposal does not promote the orderly and economic use and development of land nor promote good design or amenity of 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 1.2 *Aims of Plan* (2)(f) as the proposal does not enhance and preserve the natural environment through appropriate planning.
 - b. Clause 4.4 *Floor space ratio* (1)(c) and (d), as the proposal breaches the floor space ratio development standard which will diminish the environmental amenity of neighbouring properties and the locality. The proposed building will result in adverse impacts on the character of the locality and the amenity of adjoining properties, contrary to objective (c) and (d) of the development standard.
 - c. Clause 4.6 *Exceptions to development standards* (1)(b), (3)(a) and (b), and (4)(a), as the proposed development will not result in a better development outcome for the site. The applicant's clause 4.6 Exceptions to development standards fails to justify that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds that exist to justify the significant breach to the floor space ratio development standard. The proposed development is contrary to the objectives of the development standard and the proposal is not in the public interest.
 - d. Clause 6.2 *Earthworks* (1) as the proposed extensive earthworks may have a detrimental impact on environmental functions and processes, neighbouring uses and features of the surrounding land.
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 B – General Provisions
 - (i) Part B3 – *Biodiversity*, 3.2.2 *Habitat Corridors and Recognised Habitat*, specifically objectives (a), (b) and (c) and control (a) as the proposal does not contribute to the landscape character of the area and does not enhance planted native vegetation within the area.
 - (ii) Part B12 – *Design Excellence*, 12.1 *Design*, specifically objectives (a) and (d) control (e), and 12.2 *Context Analysis*, specifically objectives (a), (b), (c) and (d) as the proposal has failed to consider the suitability of the land for development given the extent of excavation required, the relationship of the development to other development (existing or proposed) on the same site or on neighbouring sites in terms of setbacks, amenity and urban form, the overall bulk and massing of the

development and environmental impacts such as overshadowing and solar access. The development does not demonstrate an understanding of an appropriate response to the specific conditions of the site nor ensure that the opportunities and constraints of a site are fully considered and incorporated into the design proposal.

- (iii) Part B14 – *Excavation*, specifically objectives (a), (b), (c), (e), (g) and (h) and controls (a), (d), (h) and (l) as the proposal has not sought to minimise cut and fill to ensure the physical environment is preserved and enhanced through minimal site disturbance, with the application involving excessive excavation to accommodate the development which adds to the visual bulk and scale of the building.

b. Part C1 – *Special Character Areas*:

- (i) Part 1.3 – *Ben Buckler*, specifically objective (a) and control (a) as the landscaping proposed within the rear setback does not maintain the landscaping character of Ben Buckler. The proposed height of the trees within the rear setback, along with the types of species listed in the Landscape Plan, do not relate to the existing character of the Ben Buckler area and would not enhance the landscaping character of the street.

c. Part C3 – *Other Residential Development*:

- (ii) Section 3.1 *Site, Scale and Frontage*, in particular objectives (a), (c) and (d) and controls (a), and (b) as the proposed development exceeds the FSR control within the Waverley Local Environmental Plan 2012 and does not propose to construct an appropriate built form within the streetscape. The extent of excavation and gross breach in FSR provides for an overdevelopment of the site that is not appropriate to the site constraints or the streetscape character.
- (iii) Section 3.2 *Height*, in particular objectives (a) and (c) and controls (b) and (c) as the proposed development exceeds the maximum wall height control of 7.5m at its northern and southern elevations and the proposed building has not been designed to respond to the natural slope of the site. The proposed design to step down the floor to ceiling heights of the second floor unit will result in poor internal amenity impacts to the unit. The proposed height and scale of the development does not relate to the topography and street character.
- (iv) Section 3.3 *Setbacks*, 3.3.1 *Street Setbacks*, in particular objectives (a) and (d) and controls (a) and (e) as the proposed garage and pedestrian entry located on the front boundary will remove any opportunity for landscaping along the street façade, which will not enhance or contribute to the landscaping character of the street. The balconies, awnings and planter boxes do not align with the predominant front setbacks of 6.4m and would result in additional and unreasonable overshadowing to the adjoining property and will cause a direct amenity impact.
- (v) Section 3.3 *Setbacks*, 3.3.2 *Side and Rear Setbacks*, in particular objectives (a), (b), (c) and (d) and controls (a) and (d) as the rear setback does not align with the predominant rear setbacks along Brighton Boulevard. The limited setback will reduce landscaping opportunities, increase the visual bulk of the building, increase

- (vi) Section 3.5 *Building Design and Streetscape*, in particular objectives (a) and (b) and controls (a) and (b). The proposed built form dominates the streetscape as the visual appearance, particularly the bulk and scale, do not respond to the site context, its surrounds or the desired future character of the locality. The proposed development does not maintain the existing ground levels.
 - (vii) Section 3.9 *Landscaping*, in particular objectives (a) and (e) and controls (a), (c) and (e). The proposed landscaping on site does not provide for native and indigenous plants that will respond to the streetscape character, nor does it propose appropriate species that will comply with the tree height limits required to maintain views and the streetscape rhythm.
 - (viii) Section 3.12 *Vehicular Access and Parking*, particularly objective (c) and control (f) as the proposal has been poorly designed as it compromises on landscape quality and deep soil zones on site.
 - (ix) Section 3.13 *Solar Access and Overshadowing*, in particular objectives (a), (b) and (d) and controls (a) and (c), in that the proposal results in unacceptable overshadowing impacts on the adjoining property to the south at 156 Ramsgate Avenue, North Bondi. Overshadowing arising out of poor design and inadequate front and rear setbacks is unacceptable even if it satisfies numerical guidelines, which in this case it doesn't. The subterranean habitable rooms within the ground floor dwelling would not receive direct sunlight and is unacceptable.
 - (x) Section 3.16 *Dwellings Size and Layout*, in particular objectives (b), (c) and (d) and control (c). The design will result in poor internal amenity to the ground floor unit as it will receive little sunlight and will sit in close proximity to unnecessarily high solid walls on the north and south elevations.
 - (xi) Section 3.17 *Ceiling Heights*, in particular objectives (a) and (c) and control (a) as the proposed second floor unit will have ceiling heights of 2.2m in the only principal living area. The stepping down of the ceiling height of the second floor unit is a key characteristic of overdevelopment on site.
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 the extent of excavation to accommodate the proposed development results in a poor planning outcome and an overdevelopment of the subject site which would adversely impact upon the amenity of the locality.
 5. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the development is not considered suitable for the subject site, as the proposed excavation and inadequate setbacks contribute to a poor planning outcome, providing for a built form that is excessive in terms of bulk and scale, results in undesirable and unacceptable impact on the streetscape, neighbouring properties and the locality.
 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.

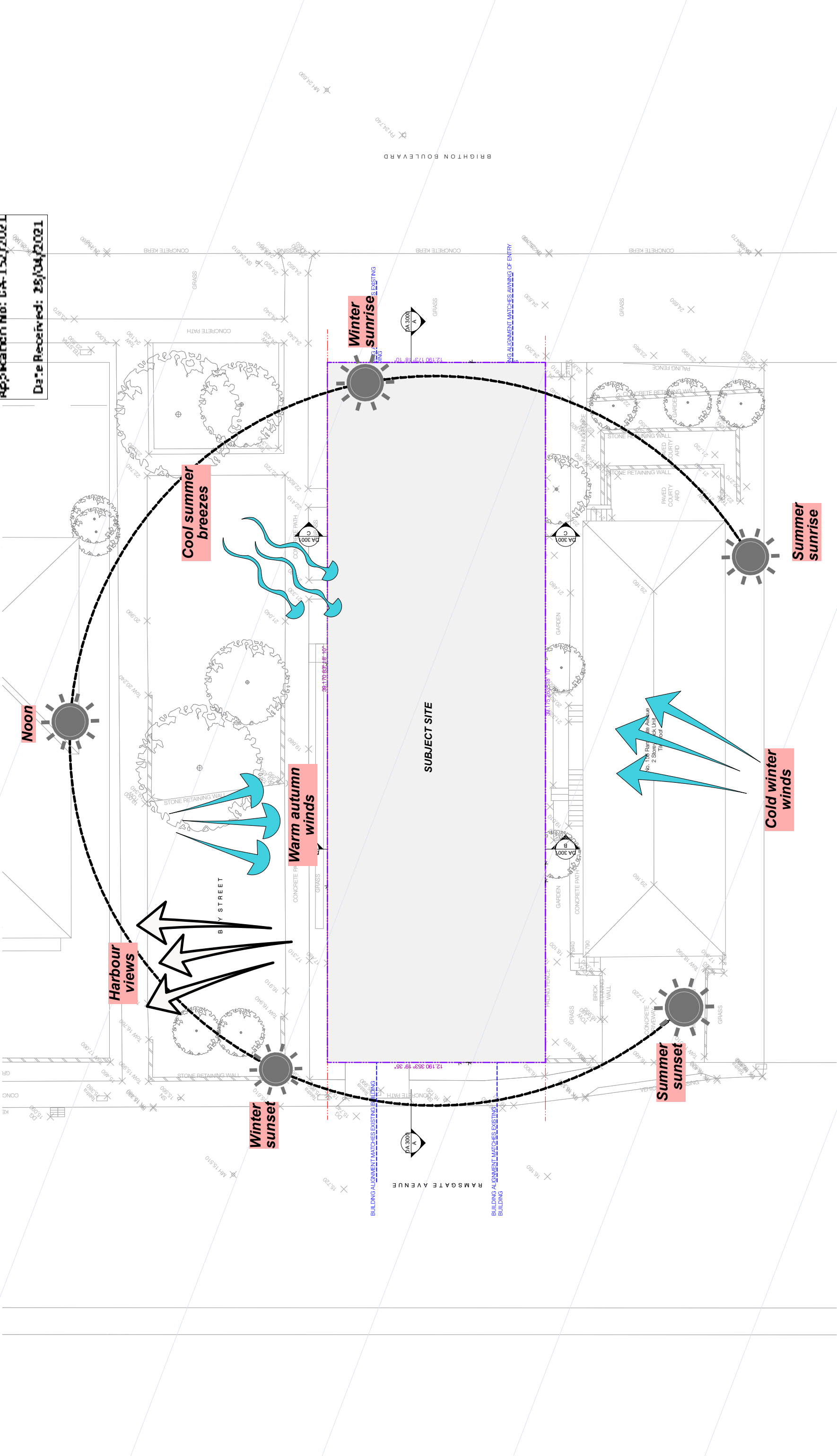
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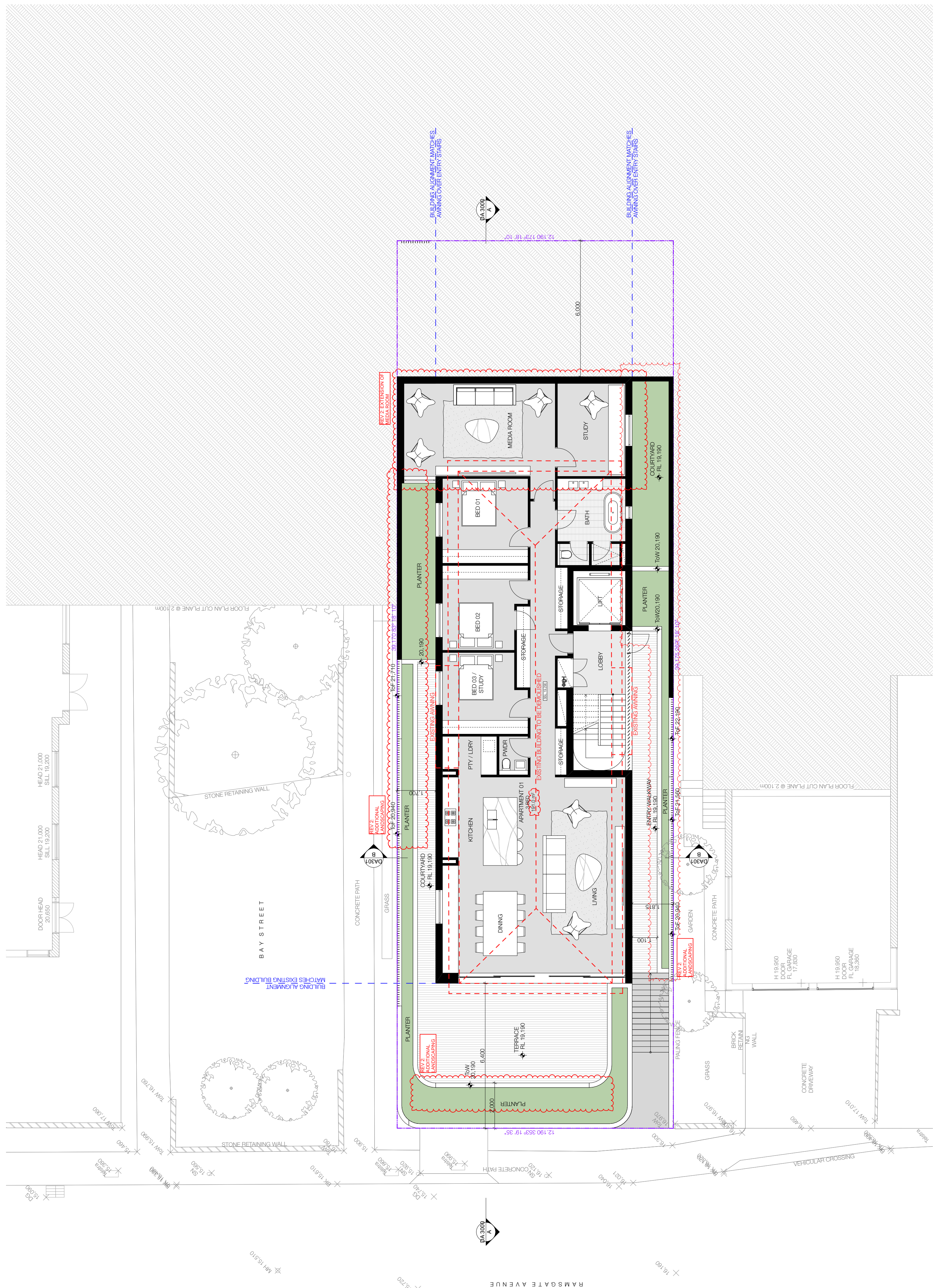
Application No: DA-152/2021

Date Received: 28/04/2021



REV	DESCRIPTION	DATE	ARCHITECT:	DRAWING TITLE:	SCALE:	PROJECT NUMBER:
A	Development Application	15/3/21	MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com Notified Architect Brett Mervin NSW Registration Number 4607	SITE ANALYSIS PLAN PROJECT ADDRESS: 154 Ramsgate Avenue, North Bondi 2026	1:200@A3 ISSUE DATE: 15/03/21 DRAWN BY: LH	19-003 REVISION: A DWG NUMBER: DA 1001
REF: AllumesBMA Precinct 19-003 154 Ramsgate Ave WOPR02 - Design DA.Dwg A:\19-003\154 Ramsgate Ave WOPR02 - Design DA.Dwg						

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Application No: DA-152/2021	
Date Received: 28/04/2021	



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Assessor Jamie Bornstein
100565

Accreditation No. Address
Unit 1, 154 Remigade Avenue,
North Bond NSW, 2026

hstar.com.au

5.9
NITVOUSE
HOUSE
52.4
sqm
www.nitvouse.com.au

0005731560 26 Feb 2021

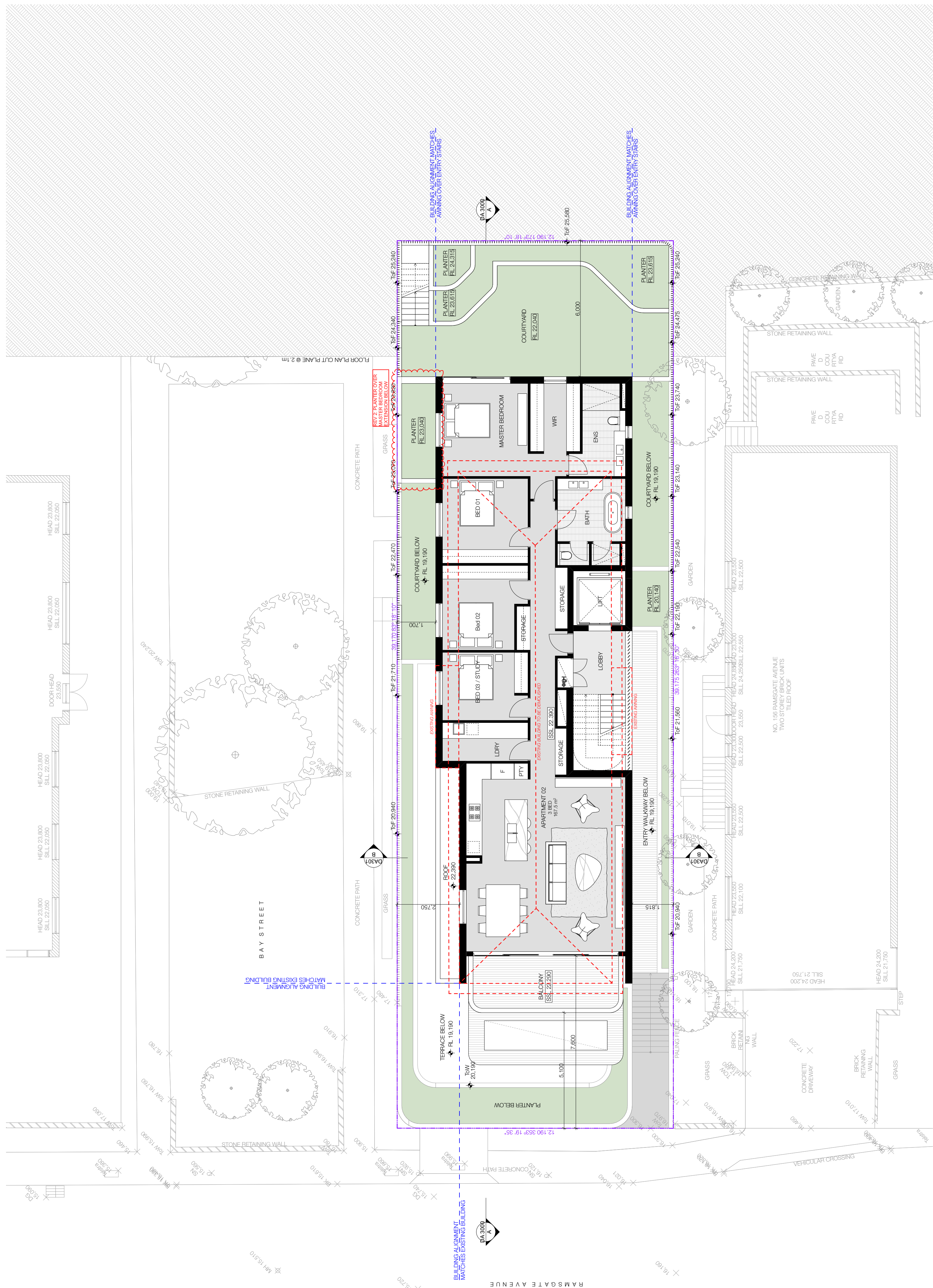
Assessor Jamie Bonnell
Accreditation No. 10256

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154 Parragalla Avenue North
Bondi, NSW, 2026

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Application No: DA-152/2021	
Date Received: 28/04/2021	



0005711031-03 26 Feb 2021

Jamie Bornheim
10056

Assessor
Accreditation No.
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QR Code

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7.4
NATIONWIDE
HOUSE

34.7
kWh/m²

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Assessor Jamie Bonnefin
Accreditation No. 10066

Average star rating

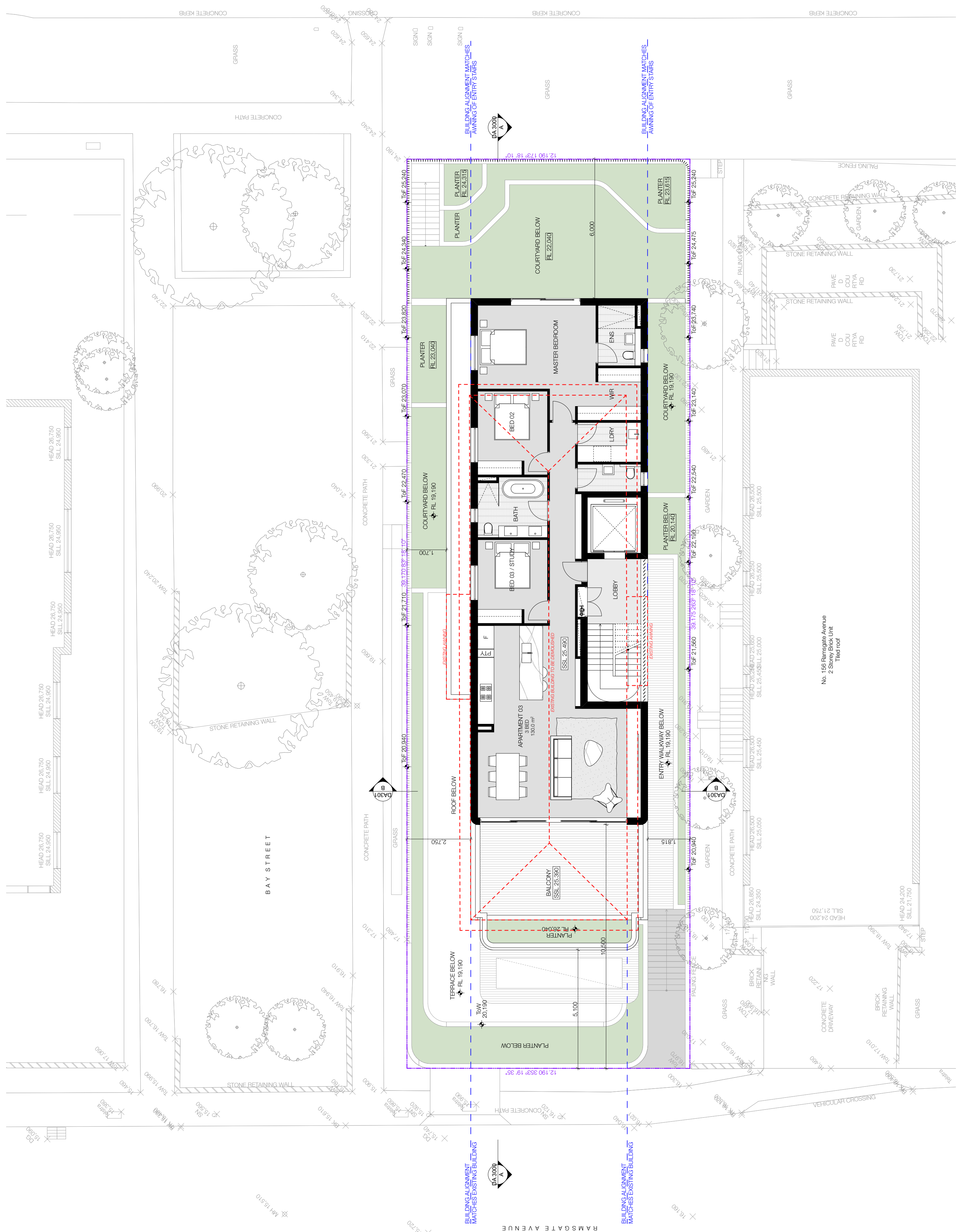
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Assessor Accreditation No. 10056

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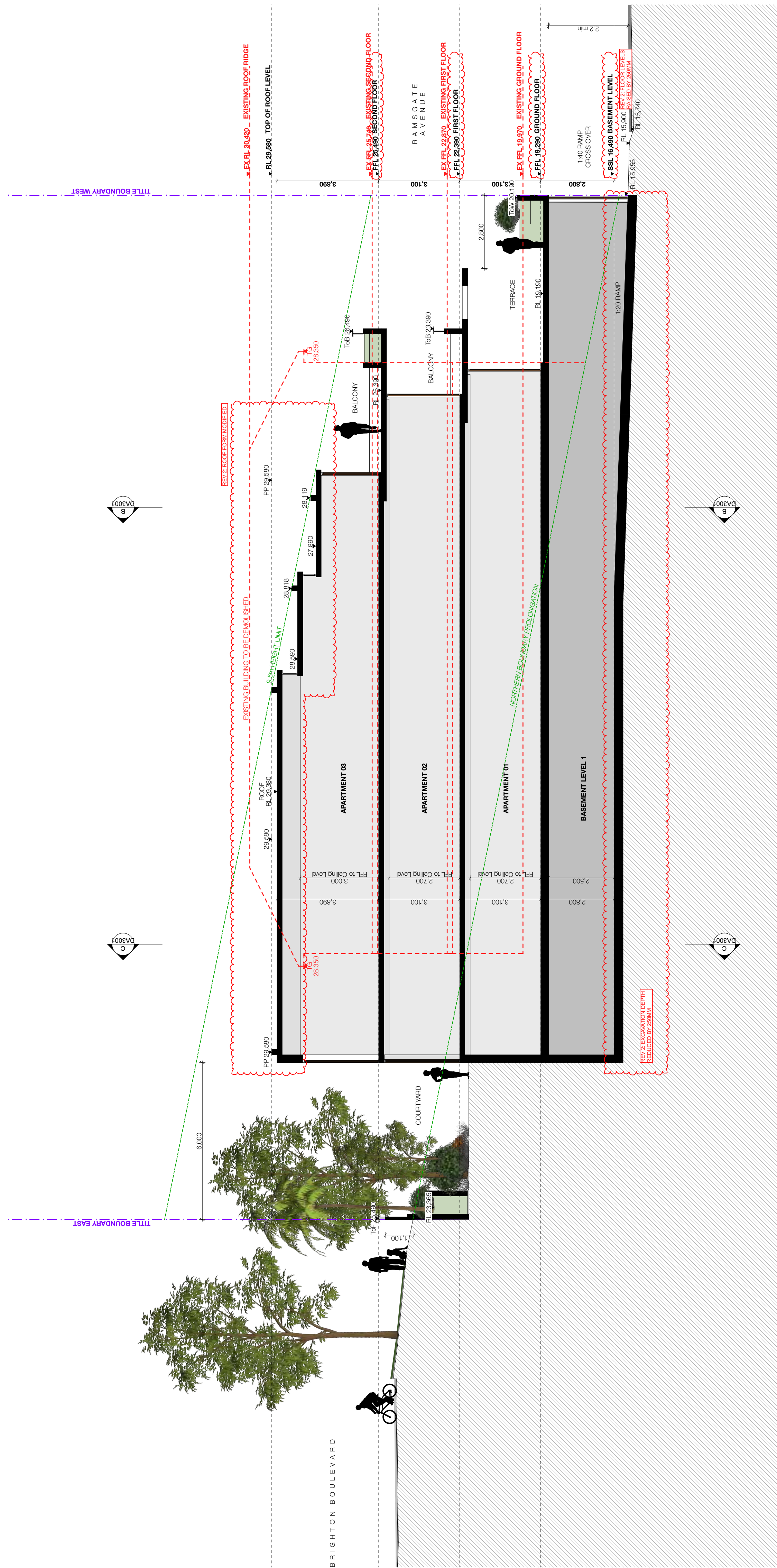
Assessor Jamie Bonnefin
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Assessor James Bonewin

10056

Accreditation No.

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Bondi, NSW, 2026

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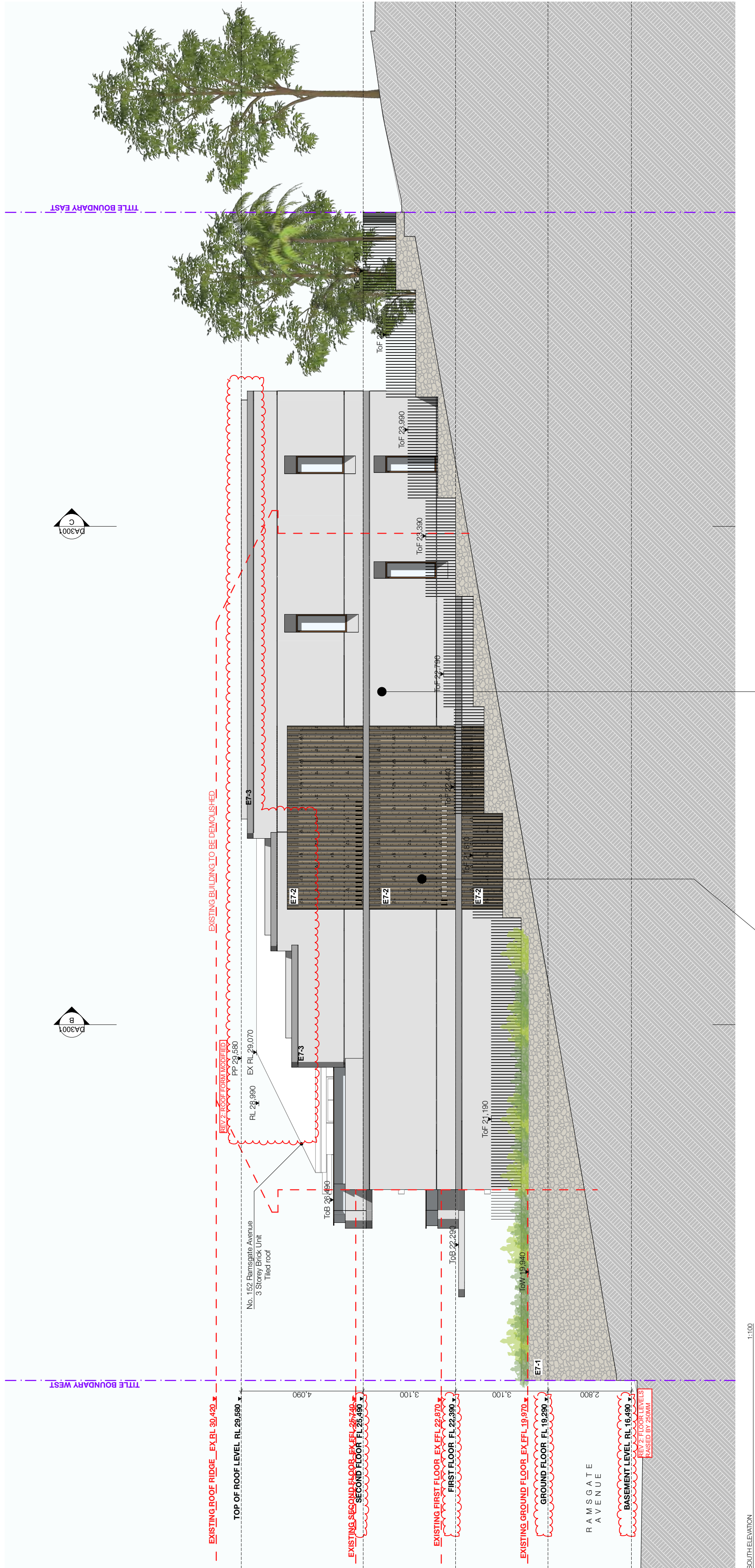
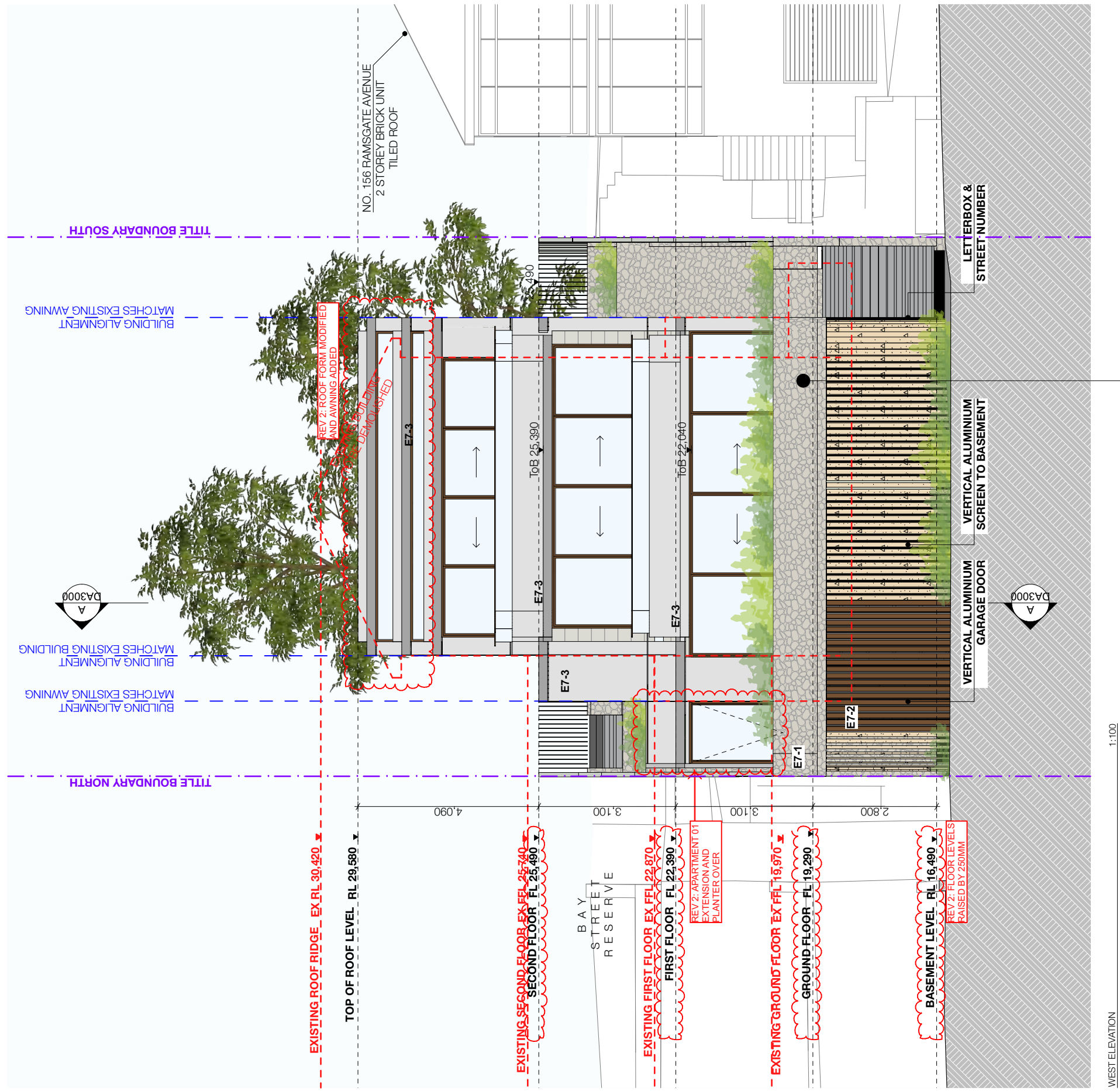
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star rating

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EF-1 BUSH HAMMERED SANDSTONE



EF-2 BRONZE METALLIC LOUVRES



EF-3 EXPOSED AGGREGATE CONCRETE WITH WHITE OXIDE

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WVLEP 12.02.012 GFA Definition:

The sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the floor area from the outside, measured at a height of 1 metres above the floor and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or attic, and
- (c) the area of a subterranean, ground, and the like, in a basement or attic,

but excludes:

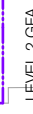
- (a) any basement or subterranean area used for common vertical circulation, such as lifts and stairs, and
- (b) any storage area,
- (c) any technical access, loading areas, garbage and services, and
- (d) plant rooms, lift towers and other areas used exclusively for the operation of the building.

(g) car parking to meet any requirements of the consent authority (including access to that car parking), and

(h) terraces and balconies with outdoor or unloading of goods (including access to it), and

(i) terraces and balconies with outdoor less than 1.4 metres above a floor at the level of a story, or story above.

AREA CALCULATIONS		
GROUND FLOOR	191	47.5 m ²
LEVEL 1	168	0.61
LEVEL 2	130	1.021
TOTAL	489 m ²	
FSR		
SITE AREA		
ALLOWABLE FSR		
PROPOSED FSR		
PARKING		
RESIDENTIAL SPACES: 7 CAR SPACES		
UNIT MIX		
	3B	# OF APARTMENTS
GROUND FLOOR	1	1
LEVEL 1 FLOOR	1	1
LEVEL 2 FLOOR	1	1
TOTAL UNITS	3	3



**CONTROL : 30% OF 477.5m² = 143.25m²
PROVIDED : 110.0 m² (DARK GREEN)**

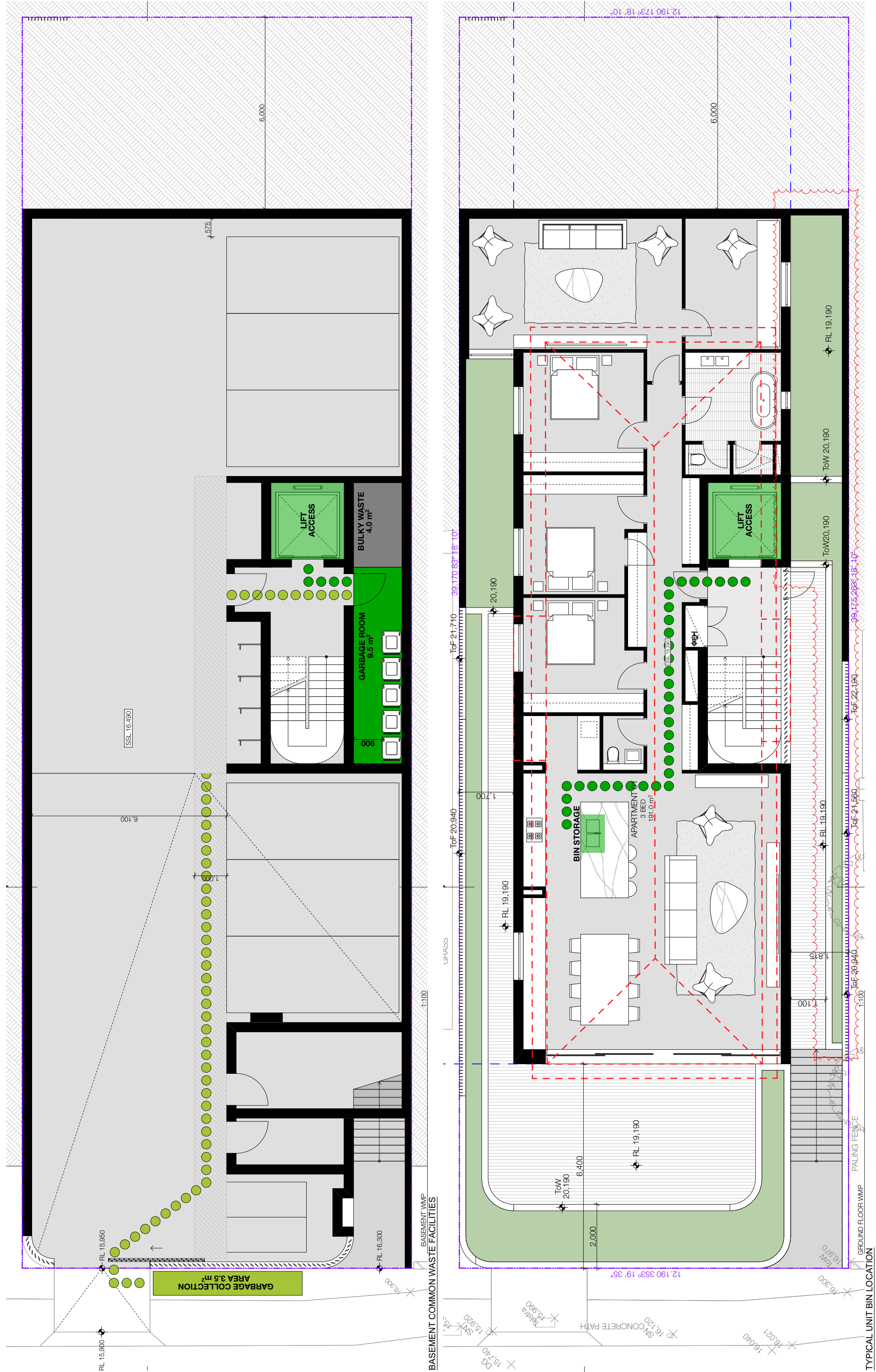
**CONTROL : 50% OF 143.25m² = 71.6m²
PROVIDED : 60.0 m² (DARK GREEN)**

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WASTE MANAGEMENT PLAN

WASTE AND RECYCLING GENERATION RATES

RESIDENTIAL GENERATION RATES				
UNIT	DWELLING TYPE	RUBBISH (L/Weekling/week)	GENERATION RATE (L/Weekling/week)	RECycling - paper cardboard (L/Weekling/week)
APARTMENT 01	4 bed	120	60	60
APARTMENT 02	3 bed	120	60	60
APARTMENT 03	3 bed	120	60	60
TOTAL WASTE GENERATION		360	180	180
TOTAL WASTE GENERATION		26240 MGR	13240 MGR	13000 MGR

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ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSE 47.14 AS 1680
DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500.32
ENERGY EFFICIENCY & LOWIMPACTS: TO COMPLY WITH AS/NZS 3500.32
ELECTRICAL: TO COMPLY WITH BCA PART CLAUSE 47.15 AS 1680
FIRE SERVICES: TO COMPLY WITH SECTION 6 OF BCA
HOT WATER SYSTEMS: TO COMPLY WITH PART 7.7 OF BCA
MECHANICAL AIR-CONDITIONING: BCA CLAUSE 6.15 AS 1530.405
MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH PART 7.5 OF BCA
SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE 6 SPEC 2.2.8
PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECHANICAL
PENETRATIONS: TO COMPLY WITH BCA CLAUSE 6.15 AS 1530.405
3.20.30 TRANSMISSION: TO COMPLY WITH PARTS 6 OF BCA
3.20.31 STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE 6.13
3.20.32 STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE 6.13
3.20.33 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS 1540

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NOTES:

EXISTING	EX TREE TO REMOVE
FLOOR LEVEL	EX TREE TO RETAIN
GROUND LEVEL	EX LANDSCAPE TO RETAIN
BOX WORK	NOT ON SURVEY!
EX BUILDING TO BE DEMOLISHED	PROPOSED LANDSCAPE
COUNCIL CONTROLS	

ARCHITECTS

MHNDUNION

35 RICHARDS LANE
SURREY HILLS SYDNEY NSW 2010
T +61 2 9101 1111
F +61 2 9101 1100
www.mhndu.com

NonResidential Architect
1001 Macquarie Street
NSW 2000 Sydney Australia
02 9439 0470 02 747 892

PROJECT ADDRESS	DRAWN BY:	CHECKED:
154 Ramsgate Avenue, North Bondi 2026	KJ	LH
	SCALE:	
	1:100@A1	
	ISSUE DATE:	REVISION:
	29/1/21	A
DRAWING TITLE:	PROJECT NUMBER:	DWG NUMBER:
WASTE MANAGEMENT PLAN	19-003	DA 6001



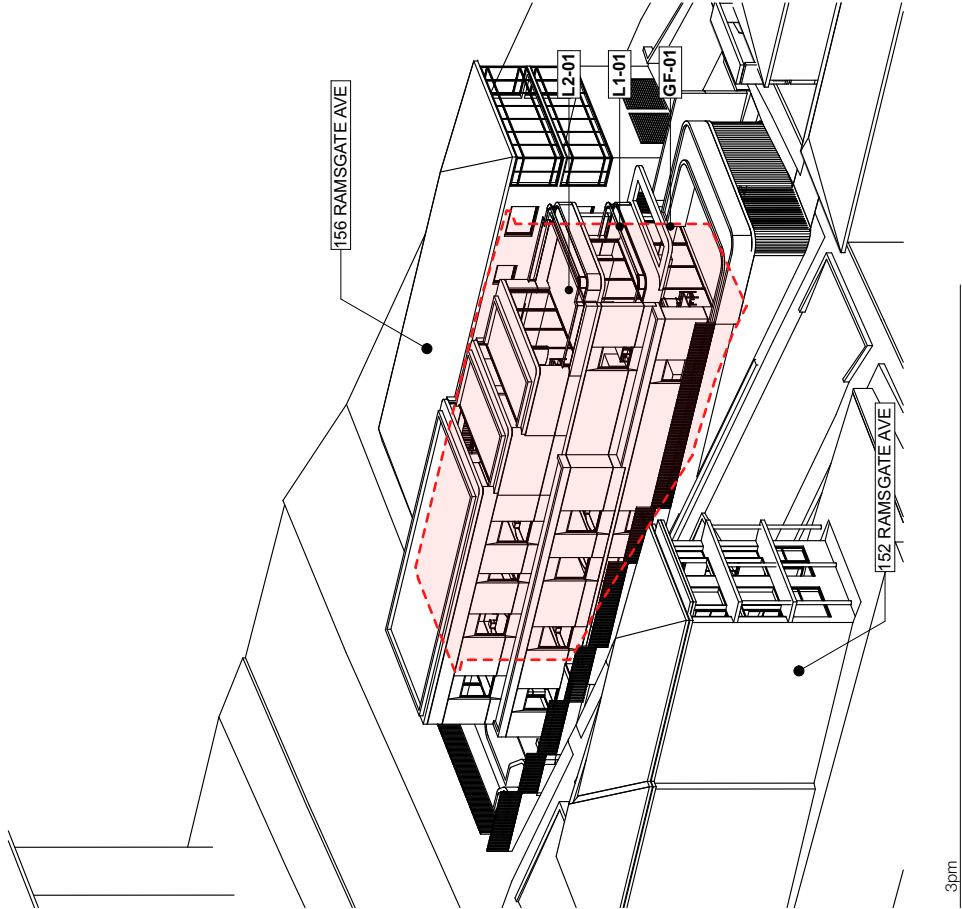
[illegible]

RECEIVED

Waverley Council

Application No: DA-152/2021

Date Received: 28/04/2021



REV	DESCRIPTION	DATE	ARCHITECT:	DRAWING TITLE:	SCALE:	PROJECT NUMBER:
A	Development Application	15/03/21	<div>MHNDUNION</div> <div>35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com</div> <div>Notified Architect Bryan Mayerson MHNDUNION PTY LTD ABN 94 603 77 682 NSW Registration Number 4607</div>	<div>VIEWS FROM THE SUN 9am-3pm - JUNE 21st</div> <div>PROJECT ADDRESS: 154 Ramsgate Avenue, North Bondi 2026</div>	@A3	19-003
				ISSUE DATE: 15/03/21		REVISION: A
				DRAWN BY: LH		DWG NUMBER: DA 6102

REF: A:\urmes\BMA Projects\19-003\154 Ramsgate Ave\WORK\02 - Design DA.dwg
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Waverley Council
Application No: DA-152/2021
Date Received: 28/04/2021



View looking west out of media room window

REV	DESCRIPTION	DATE	ARCHITECT:	DRAWING TITLE:	SCALE:	PROJECT NUMBER:
A	Development Application	15/03/21	MHNDU 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com MHNDU Design Pty Ltd Nominated Architect Bryan Mayerson NSW Registration Number 4607	3D VIEW FROM MEDIA ROOM PROJECT ADDRESS: 154 Ramsgate Avenue, North Bondi 2026	@A3 ISSUE DATE: 15/03/21 DRAWN BY: LH	19-003 REVISION: A DWG NUMBER: DA 4100
			REF: AldermereBMA Project 19-003 154 Ramsgate Ave WVRN02 - Design DA.Dwg / A19-003-02-002 154 Ramsgate Avenue 2026			