



21 July 2021

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

**11.00AM WEDNESDAY, 28 JULY 2021**

**QUORUM:** Three Panel members.

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

## AGENDA

### **WLPP-2107.A Apologies**

### **WLPP-2107.DI Declarations of Interest**

The Chair will call for any declarations of interest.

### **WLPP-2107.1 PAGE 5 84 Nancy Street, NORTH BONDI NSW 2026 - Review of refusal decision seeking demolition of existing structures; construction of a two storey semi-detached dwellings, swimming pools and a studio; and Torrens title subdivision into two lots. (DA-165/2020/1)**

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

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

### **WLPP-2107.2 PAGE 70 113 MacPherson Street, BRONTE NSW 2024 - Construction and operation of a food and drink kiosk in front of the western end of the commercial tenancy of the building. (DA-188/2021)**

Report dated 15 July from the Development and Building Unit.

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

### **WLPP-2107.3 PAGE 99 34 Military Road, NORTH BONDI NSW 2026 - Demolition of dwelling and construction of 4 storey residential flat building containing 4 units with basement parking and Strata subdivision. (DA-5/2021)**

Report dated 19 July from the Development and Building Unit.

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

### **WLPP-2107.4 PAGE 171 Units 1-63/17-25, 27-33 Spring Street & 14-26 Ebley Street, Bondi Junction NSW 2022 - Modification of consent for alterations to the Mill Hill Community Centre and adaptive re-use of the Boot Factory, including replacement of window and door openings, internal reconfiguration and refinement of external works. (DA-374/2019/A)**

Report dated 7 July from the Development and Building Unit.



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

**WLPP-2107.5**

**PAGE 247**

**Mill Hill Centre, 27-33 Spring Street, BONDI JUNCTION NSW 2022 - Change of use of ground floor level to a cafe including signage, fitout and associated kitchen exhaust. (DA-150/2021)**

Report dated 8 July from the Development and Building Unit.

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

**WLPP-2107.6**

**PAGE 322**

**Bondi Park, Queen Elizabeth Drive, BONDI BEACH NSW 2026 - Modification to upgrade facilities in stages, deletion of condition 5, 35 and 40 and various other alterations – (DA-312/2019/A)**

Report dated 15 July from the Development and Building Unit.

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

**WLPP-2107.7**

**PAGE 426**

**18 Kenneth Street, TAMARAMA NSW 2026 - Alterations and additions to existing Residential Flat Building including addition of a roof terrace, including its access and a pergola (DA-181/2020)**

Report dated 13 July from the Development and Building Unit.

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

**WLPP-2107.8**

**PAGE 451**

**41 Sir Thomas Mitchell Road, BONDI BEACH NSW 2026 - Alterations to residential flat building to construct an additional level containing a three bedroom apartment and rear facing balcony. (DA-331/2020)**

Report dated 6 July from the Development and Building Unit.

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

**WLPP-2107.9**

**PAGE 519**

**45 Military Road, DOVER HEIGHTS NSW 2030 - Alterations and additions to dwelling house, including widening front garage. (DA-103/2021)**

Report dated 18 July from the Development and Building Unit.

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

**WLPP-2107.10**

**PAGE 561**

**75 Hardy Street, DOVER HEIGHTS NSW 2030 - Modification to alter internal layout, increase building height, window changes and modify finished floor levels. (DA-112/2018/A)**

Report dated 18 July from the Development and Building Unit.

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

**WLPP-2107.11**

**PAGE 614**

**21 Wallangra Road, DOVER HEIGHTS NSW 2030 - Demolition of dwelling and construction of new 3 storey dwelling with integrated garage and swimming pool in the front garden. (DA-437/2020)**

Report dated 15 July from the Development and Building Unit.

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

**WLPP-2107.12**

**PAGE 668**

**3 Mill Hill Road, BONDI JUNCTION NSW 2022 - Review of decision seeking alterations and additions to an existing boarding house. (DA-94/2020/1)**

Report dated 12 July from the Development and Building Unit.

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

**WLPP-2107.13**

**PAGE 689**

**59 Wallangra Road, DOVER HEIGHTS NSW 2030 - Modifications to approved dual occupancy, including alterations to building envelope, additional excavation and changes to windows. (DA-299/2020/A)**

Report dated 19 July from the Development and Building Unit.

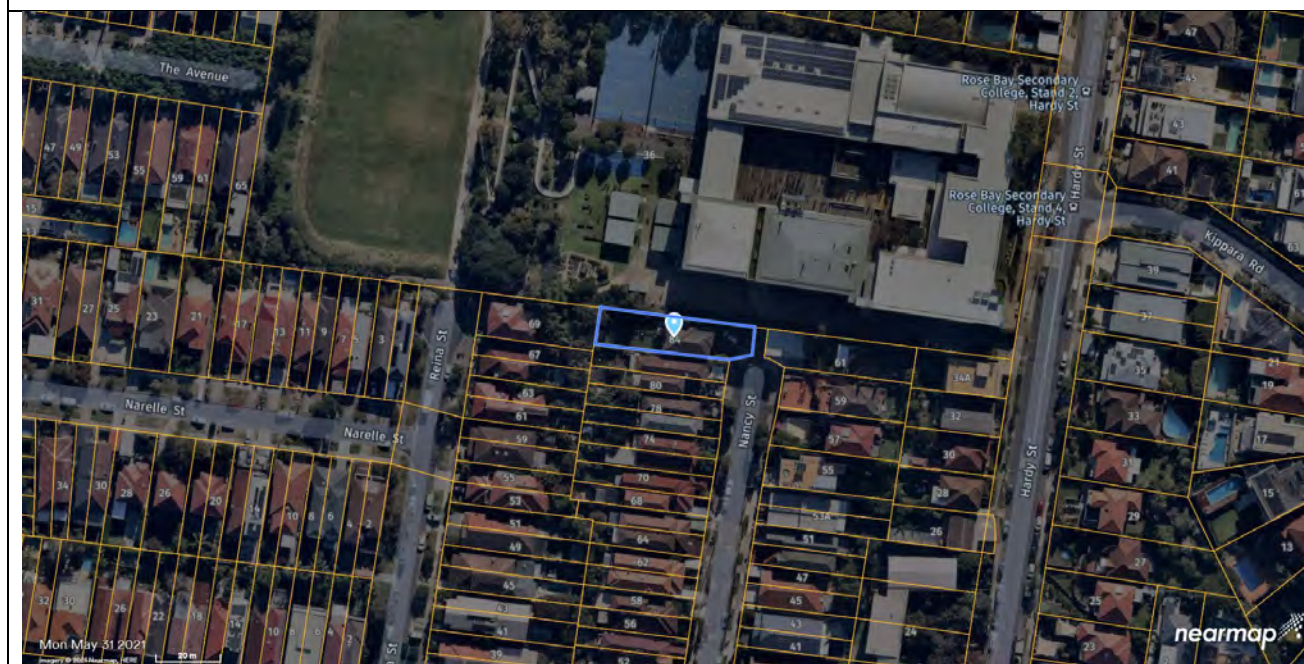
**Council Recommendation:** That the application be approved in accordance with the conditions contained in the report.



## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-165/2020/1
<b>Site address</b>	84 Nancy Street, North Bondi
<b>Description of Development</b>	Review of decision for the demolition of the existing buildings, Torrens Title subdivision to create two lots and construction of two x two storey semi-detached dwellings and a separate double garage with studio above.
<b>Date of Original Determination</b>	23 September 2020
<b>Date of lodgement</b>	24 March 2021
<b>Owner</b>	Mr J Rosales and Ms H Wright
<b>Applicant</b>	Mr G Mourad
<b>Submissions</b>	Two (objections), Two (in support)
<b>Cost of works</b>	\$1,746,278
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Non-compliant lot size</li> <li>• Streetscape presentation</li> <li>• Non-compliances with Waverley DCP 2012</li> </ul>
<b>Recommendation</b>	That the application be <b>REFUSED</b> for the reasons contained in the report.

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The Section 8.2 review application seeks to review the determination of DA-165/2020 for the demolition of the existing buildings, Torrens Title subdivision to create two lots and construction of two x two storey semi-detached dwellings with a separate double garage and studio above at the site known as 84 Nancy Street, North Bondi. The review application has amended the original development application as follows:

- Deletion of the rear first floor balcony of Dwelling A and introduction of a skylight/conservatory roof to the living room below to capture solar access;
- Minor revision to rear first floor balcony of Dwelling B;
- Relocation of opening to first floor home office balcony to Lot B to eliminate overlooking;
- Relocation of the first floor of the garage/home office structure of Lot B off the brick retaining wall on the Rose Bay Secondary College site;
- Relocation of the first floor level front balcony of Lot B to eliminate the overhang to Lot A; and
- Inclusion of a right-of-carriageway over the driveways.

The principal reasons why the original development application was refused were as follows:

- Non-compliance with the minimum lot size development standard of Waverley Local Environment Plan 2012 (Waverley LEP 2012);
- Non-compliance with the FSR development standard of WLEP over the parent lot;
- Streetscape and visual bulk and scale impacts; and
- Non-compliances with Waverley Development Control Plan 2012 (Waverley DCP 2012).

The assessment finds that not all of these issues have been addressed in this review application, as the application still includes the proposal for non-compliant lot sizes, poor streetscape presentation and non-compliances with Waverley DCP 2012.

A total number of four submissions (two of which are in support) 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 sections 8.2 and 8.3 the *Environmental Planning and Assessment Act 1979*. It is recommended to not change the determination of refusal.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 11 August 2020 and 21 June 2021.

The site is identified as Lot 11 in DP19386, known as 84 Nancy Street, North Bondi. The site is irregular in shape with an angled frontage to Nancy Street at its south-eastern side measuring 7.37m. The site has a rear western boundary to 69 Reina Street measuring 11.685m, southern side boundary to 82 Nancy Street measuring 42.385m, a northern side boundary to Rose Bay Secondary College measuring 49.1m, and eastern side boundary to the access handle leading to Rose Bay Secondary College measuring 9.145m. The site has an area of 562m<sup>2</sup> and has a cross fall from the north-eastern corner towards the south-west by approximately 3m.

The site is occupied by a two storey attached dual occupancy with vehicular access provided from Nancy Street and a detached single storey garage located at the north-east corner of the site. The property is not Strata subdivided nor is there any historical records of approval for its use as a dual occupancy, although the buildings stacked dwelling configuration would lend itself to this use.

The subject site is adjoined by two storey semi-detached dwellings to the south and a mix of two and three storey dwellings and semi-detached dwellings to the east on the opposite side of Nancy Street. Rose Bay Secondary College adjoins the site immediately to the north. To the west of the site is a part two, part three storey dual occupancy known as 69 Reina Street, North Bondi. With the exception of Rose Bay Secondary College, the locality is characterised by predominantly low-density residential developments including single dwellings, dual occupancy developments and semi-detached dwellings.

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



**Figure 1:** View towards the subject site looking north west



**Figure 2:** View towards the subject site looking north west showing its streetscape context. Rose Bay Secondary College is to the right of the photo





**Figure 3:** View towards the east, showing the rear of the subject site



**Figure 4:** View north west towards the Nancy Street cul-de-sac head (source: applicant's Clause 4.6 submission prepared by GAT & Associates)

### 1.3. Details of the Original Determination Subject to Review

**DA-165/2020** for the demolition of the existing buildings, Torrens Title subdivision to create two lots and construction of two semi-detached dwellings was refused by the Waverley Local Planning Panel on 23 September 2020. The reasons for refusal of the development application are as follows:

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 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 4.1 Minimum subdivision lot size (1)(a) and (b), and (3), as the proposal significantly breaches the minimum lot size development standard which will diminish the environmental amenity of neighbouring properties and the locality. The proposed subdivision does not reflect and reinforce the predominant subdivision pattern of the area given the irregular and undersized lots created with inadequate site frontages which will result in adverse impacts on the streetscape and amenity of adjoining properties, contrary to objective (a) and (b) of the development standard.*
  - 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 subdivision and building 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 standards is unreasonable or unnecessary and that there are sufficient environmental planning grounds that exist to justify the significant breaches to the minimum subdivision lot size and floor space ratio development standards. The proposed development is contrary to the objectives of the development standards 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 B8 - Transport - 8.1 Streetscape, specifically objectives (a) and (b), control (c), as the proposed extent of hard paved driveway area within the property frontage and the scale of the new two storey garage/studio building to Lot B dominate the streetscape and overwhelms the development.*
- b) Part B12 – Design Excellence, 12.1 Design, specifically objective (a) control (e), as the proposal has failed to consider the suitability of the land for development given the irregular lots created, 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.*
- c) Part B13 – Subdivision, specifically objective (b), (c), (g) and controls (a), (d), (e) and (g), as the application proposes undersized and irregular shaped lots with inadequate street frontage widths that are not similar to the prevailing subdivision pattern of lots fronting the same street and which cannot facilitate development as per the zoning and controls on the land;*
- d) Part C2 – Low Density Residential Development:*
  - i. Section 2.1 Height, in particular objectives (a), (b) and (d), and control (b). The proposed development has failed to provide a compliant building height to ensure that the development does not result in unreasonable overshadowing of neighbouring properties and enable sufficient solar access to the newly created Dwelling A.*
  - ii. Section 2.2 Setbacks, 2.2.1 Front and Rear Building Lines, in particular objectives (a), (b), (c), (f) controls (a), (b) and (d). The proposed front and rear building lines are not characteristic or consistent with the predominant front and rear building lines as required by Waverley DCP 2012, resulting in unreasonable amenity and streetscape impacts.*
  - iii. Section 2.2 Setbacks, 2.2.2 Side Setbacks, in particular objectives (a) and (c). The proposed east facing first floor balcony to Dwelling B encroaches over the proposed common side boundary between the two new properties created by the subdivision, resulting in unreasonable amenity impacts for the occupants of the new Dwelling A.*
  - iv. Section 2.3 Streetscape, in particular objectives (a) and (b) controls (a) and (d). The proposed built form particularly on proposed Lot B dominates the*

*streetscape as the visual appearance, particularly the bulk and scale, do not respond to each new dwelling created by the subdivision or the desired future character of the locality.*

- v. Section 2.4 Fences, in particular objectives (c) and (e) control (d). The proposed side boundary fence between proposed Lots A and B within the property frontage is excessive in height at 3 metres adding to the bulk and scale of the built form dominating the streetscape.*
  - vi. Section 2.5 Visual and Acoustic Privacy, in particular objective (c) and controls (b) and (e), in that the development provides unacceptable visual privacy impacts between each of the new buildings within the development itself.*
  - vii. Section 2.6 Solar Access, in particular objectives (a) to (d) controls (a), (b) and (c) in that the proposal results in insufficient and unacceptable solar access to proposed Dwelling A and overshadowing impacts on the adjoining property to the south at 82 Nancy Street, North Bondi. Overshadowing arising out of poor design is unacceptable even if it satisfies numerical guidelines, which in this case it doesn't.*
  - viii. Section 2.8 Car Parking, in particular objectives (b) and (d) controls 2.8.1 (b) and (c), 2.8.3 (a), 2.8.4 (a), (b) in that the proposed car parking to Lot A may result in issues of manoeuvrability if a structure were to be erected between the two properties on the common lot boundary within the property frontages. Furthermore, the proposed extent of hard paved driveway area to the property frontages and the scale of the new two storey garage/studio building to Lot B dominates the streetscape and overwhelms the development.*
- 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 section 49 of the Environmental Planning and Assessment Regulation 2000, given that the development application does not include owner's consent from the adjoining property owner immediately to the north, being Rose Bay Secondary College, for the proposed encroachment of the Lot B garage structure onto the adjoining property known as Lot 1 DP122318 Hardy Street, Rose Bay (Rose Bay Secondary College).*
- 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 the proposed subdivision creates irregular and undersized lots with inadequate property frontages that result in a poor planning outcome and an overdevelopment of the subject site which would adversely impact upon the amenity of 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 proposed subdivision creates irregular and undersized lots with inadequate property frontages that 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, impacts upon the amenity of the dwellings proposed within the development site itself and upon 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.*

#### 1.4. Proposal

The review application was lodged on 24 March 2021 and seeks to review the determination of the original development application.

The original application sought development consent for the demolition of the existing buildings, Torrens Title subdivision to create two lots and construction of two x two storey semi-detached dwellings. The original proposal was specifically for the following:

***Demolition and site clearing:*** Demolition of all existing structures on the site, including the existing two storey dual occupancy, single storey detached garage, driveway and removal of vegetation. The proposal also involves earthworks on the site to accommodate the proposed development.

***Subdivision:*** Torrens title subdivision into a Lot A (south) having a site area of 252.03m<sup>2</sup> and Lot B (north) having a site area of 309.36m<sup>2</sup>.

***Proposed semi-detached dwellings***

The layouts of the dwellings are as follows:

***Basement:*** The proposed dwelling on Lot B will have a basement level occupied by services, including a 10,000 litre rainwater tank and hot water unit.

***Ground Floor:*** A new vehicle crossover will be constructed for driveway access from Nancy Street to both lots. Lot A is designed with a single car garage integrated into the dwelling, while Lot B is proposed to accommodate a detached double garage with studio above. A 3m high fence is proposed to separate the proposed dwellings. Both dwellings are designed with side entries, a single bedroom at ground floor level, open plan living, kitchen and dining areas and bathroom and laundry facilities. The rear private open space is designed with a direct connection to the indoor areas through sliding doors to rear decks. A swimming pool is proposed to each dwelling within the rear private open space area.

***First Floor:*** The first floor of both dwellings includes three bedrooms, ensuite bathroom and a separate bathroom. Front and rear facing balconies were proposed. A studio loft space is proposed over the Lot B detached garage and includes bathroom facilities.

The review application has made minor design amendments to the original application, which are summarised as follows:

- Deletion of the rear first floor balcony of Dwelling A and introduction of a skylight/conservatory roof to the living room below to capture solar access;

- Minor revision to rear privacy screen to first floor balcony of Dwelling B;
- Relocation of opening to first floor home office balcony to Lot B to eliminate overlooking;
- Relocation of the first floor of the garage/home office structure of Lot B off the brick retaining wall on the Rose Bay Secondary College site;
- Relocation of the first floor level front balcony of Lot B to eliminate the overhang to Lot A; and
- Inclusion of a right-of-carriageway over the driveways.

The semi-detached dwellings are contemporary in their design and materials, incorporating rendered paint finishes, timber batten cladding, and aluminium door and window framing. A Photomontage of the proposal is provided in **Figure 5**.



**Figure 5:** Photomontage, identifying the proposed buildings on the two lots

## 2. ASSESSMENT

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

### 2.1. Section 8.3 Considerations

Section 8.3 of the Act enables the consent authority (i.e. Council) to review a previous determination of a development application subject to provisions, such as:

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

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

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

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

The determination of the original application (**DA-165/2020**) was made on 23 September 2020. The period of right of appeal for the applicant to exercise (referenced in section 8.3(2)(a) of the Act), is 12 months (NOTE: Until March 2022, then reverts to 6 months) after the date of determination. The application is scheduled to be determined by the Waverley Local Planning Panel on 28 July 2021, which satisfies the statutory timeframe to determine this review application.

Council is satisfied that the essential elements of the original application are substantially the same as those of the amended development that is the subject of the review application. The overall scope and description of the development between the two applications remain unchanged.

The review application is assessed against the relevant matters for consideration under section 4.15(1) of the Act, as discussed in the succeeding sections of this report.

## 2.2. Planning Instruments and Development Control Plans

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

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

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

- ***SEPP 55 Remediation of Land***

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 (Building Sustainability Index – BASIX) 2004.***

A BASIX and NatHERs 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.

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

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

It is proposed to remove two large trees from the subject site. An Arborist Report was submitted with the application. Council's Tree Management officer has reviewed the application and raises no objection.

#### 2.2.2. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is not inconsistent with regards to clause 1.2 - Aims of plan.
<b>Part 2 Permitted or prohibited development</b>		
2.6 Subdivision – consent requirements	Yes	Subdivision is permissible as per subclause (1), with development consent.

Provision	Compliance	Comment															
Land Use Table  R2 Low Density Residential Zone	Yes	The proposal is defined as <i>semi-detached dwellings</i> , which is permitted with consent in the R2 zone.															
Part 4 Principal development standards																	
4.1 Minimum subdivision lot size <ul style="list-style-type: none"><li>325m<sup>2</sup></li></ul>	No	The proposed Torrens title subdivision is non-compliant and results in undersized allotments being 252.03m <sup>2</sup> (Lot A) and 309.36m <sup>2</sup> (Lot B).  A clause 4.6 Exception to the development standard is submitted and this is further discussed in the issues section below.															
4.3 Height of buildings <ul style="list-style-type: none"><li>8.5m</li></ul>	Yes	The dwellings have a proposed height of 7.674m															
4.4 Floor space ratio (FSR) and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"><li>0.5:1</li><li>Site Area = 562m<sup>2</sup></li><li>Max GFA = 281m<sup>2</sup></li></ul>	<div>Yes (lots created)</div> <div>No (parent lot)</div>	<div>Proposed FSR over lots created:<table><tr><th>Lot</th><th>Site Area</th><th>Max FSR</th><th>Proposed GFA</th><th>Proposed FSR</th></tr><tr><td>A</td><td>252.03m<sup>2</sup></td><td>0.828:1</td><td>150.02m<sup>2</sup></td><td>0.59:1</td></tr><tr><td>B</td><td>309.36m<sup>2</sup></td><td>0.765:1</td><td>220.89m<sup>2</sup></td><td>0.714:1</td></tr></table></div> <div>Proposed FSR over Parent Lot: The applicant was also requested to calculate the FSR of the proposed development based on the existing site area of the parent lot prior to its subdivision. Given the total gross floor area (GFA) of the development is 370.91m<sup>2</sup>, the FSR of the development over the parent lot is 0.66:1. The development exceeds the FSR development standard over the parent lot by 89.91m<sup>2</sup> of GFA or 31.9%. In their review application, the applicant contends that this should not be required where subdivision of the site occurs prior to construction, however, Council is of the view and based on legal advice received, that a Clause 4.6 is required for the non-compliant GFA over the parent lot given subdivision has not yet occurred or finalised under a separate DA.</div>	Lot	Site Area	Max FSR	Proposed GFA	Proposed FSR	A	252.03m <sup>2</sup>	0.828:1	150.02m <sup>2</sup>	0.59:1	B	309.36m <sup>2</sup>	0.765:1	220.89m <sup>2</sup>	0.714:1
Lot	Site Area	Max FSR	Proposed GFA	Proposed FSR													
A	252.03m <sup>2</sup>	0.828:1	150.02m <sup>2</sup>	0.59:1													
B	309.36m <sup>2</sup>	0.765:1	220.89m <sup>2</sup>	0.714:1													
4.6 Exceptions to development standards	See discussion	The review application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the minimum subdivision lot and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.															
Part 6 Additional local provisions																	

Provision	Compliance	Comment
6.2 Earthworks	Yes	Excavation is required to accommodate the proposed development, including the provision of basement floor level to Dwelling B, levelling of rear yards and proposed swimming pools. Minor fill is also proposed.

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 - Subdivision*

The review application seeks to vary the minimum subdivision lot size in Clause 4.1. The proposal maintains the Torrens Title subdivision proposed and refused under the original DA-165/2020, with the addition of a right of carriageway over the proposed driveways to facilitate vehicle manoeuvrability.

The site is subject to a minimum subdivision lot size development standard of 325m<sup>2</sup>. It is proposed to Torrens title subdivide the existing allotment into two lots comprising an area of 252.03m<sup>2</sup> (Lot A) and 309.36m<sup>2</sup> (Lot B). This is less than the minimum subdivision lot size development standard of 325m<sup>2</sup> prescribed under Clause 4.1 of Waverley LEP 2012 by 72.97m<sup>2</sup> or 22.5% (Lot A) and 15.6m<sup>2</sup> or 4.8% (Lot B).

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

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

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

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

The applicant seeks to justify the contravention of the minimum subdivision lot size development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - *The current application clearly demonstrates that the proposed subdivision is consistent with the predominant subdivision pattern of the area.*
  - *A pattern of subdivision is considered to comprise the lot size, shape and frontage width.*

- *The subdivision pattern on Nancy Street is varied in its lot size. However, there is a predominant lot size range of 200-280m<sup>2</sup>, with only 6 of the 58 lots in the entire street north of Clyde Street intersection exceeding the minimum subdivision lot size standard of 325m<sup>2</sup> including the existing subject site. The proposed lot sizes of 252.03m<sup>2</sup> and 309.36m<sup>2</sup> are within and, in the case of the latter, above the predominant lot size. In terms of lot size alone, the proposed subdivision is consistent and reinforces the predominant subdivision pattern of the area.*
- *The subdivision pattern persists in neighbouring streets, where the majority of properties westward fronting Reina, Narelle and Stewart Streets are of a consistent lot size as to the proposed.*
- *In terms of lot shape and frontage width, it is acknowledged that the lots are irregular compared to the standard mid-block lots along the majority of the street. However, this is solely as a product of the site being on a cul-de-sac head. The subject site, for reference, proposes a 3m and 4.37m lot frontage.*
- *Subdivision of cul-de-sac head properties has occurred across the Council area which have created irregular lot shapes and frontages. A proximate example is Onslow Street/The Plaza, located 250m to the north of the site.*
- *Notwithstanding the above, the lot widths at the building line are generally consistent with those in the street and are more than adequate to accommodate dwellings of good amenity without unreasonable impacts to each other or neighbours.*
- *The subdivision of the site is therefore not considered to create an undesirable precedent in the locality as the proposal maintains the subdivision pattern occurring in Nancy Street and surrounding streets. The irregularity does not raise any concerns of reduced amenity or functionality, as a right-of-carriageway over the driveway will prevent any structures on the common boundary that would impact in vehicle ingress and egress.*
- *it is submitted that the proposed subdivision and development on the lots has minimised the impact on the amenity of neighbouring properties. The proposal is notably under the maximum permissible floor space ratio on the subdivided sites and meets the required landscaped area and private open space controls. The proposed semi-detached dwellings meet or exceed the required setbacks and are compatible in terms of the front and rear building lines, in the context of the case. A variation to the minimum subdivision lot size development standard has not restricted the capacity of the proposal to achieve general consistency and often exceedance with the building envelope design controls.*
- *The proposal has worked to mitigate overshadowing and privacy impacts, ensuring that the adjoining properties, particularly 82 Nancy Street to the south of the site, is not unduly impacted by the development despite the orientation of the two sites. In terms of privacy, the windows facing 82 Nancy Street have been offset and made high sill to avoid overlooking potential. In terms of overshadowing, the rear private open space meets the DCP control for solar access retention.*
- *The alignment of the rear building lines further emphasises a compatible built form and relationship between the two sites, ensuring the visual outlook from the private open space of 82 Nancy Street remains that primarily relating to other private open space. The amenity of 82*

*Nancy Street has been carefully considered and retained, thus minimising the impacts of the subdivision and impacts on amenity consistent with the objective.*

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

- *The proposed non-compliance in minimum subdivision size of lots resulting from the proposed Torrens title subdivision will not result in negative impacts to the development site itself or the adjoining properties. The proposed subdivision is clearly compatible with the predominant subdivision pattern of the area, with similar lot sizes despite being below the development standard.*
- *It should be noted that, although the proposed allotment sizes fall below the development standard, each proposed lot can accommodate a dwelling of suitable amenity and meeting contemporary living requirements. Importantly, the sites provide for appropriate areas of landscaping and private open space which comply with Council's DCP controls. Overall, the variation does not have a detrimental impact on the capacity of the lots to comply with Council's controls.*
- *Although numerically non-compliant, the current application clearly demonstrates that the built form envelope as proposed can be accommodated on the resultant lot sizes. The proposed dwellings are reasonable in their size and are complemented by a balance of built and un-built upon areas.*
- *Given the above, there is deemed to be sufficient environmental planning grounds in that the development will encourage the orderly and economic development of the land in a manner consistent with the site's context and surrounding area without undue impact on adjoining properties.*
- *In this case, strict compliance with the development standard for minimum subdivision lot size in the Waverley Local Environmental Plan 2012 is unnecessary and unreasonable.*

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.

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



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

In their review submission, the applicant contends that the non-compliance with the minimum lot size can be justified given the prevailing undersized lot sizes located in the vicinity of the site (see **Figure 6** below).

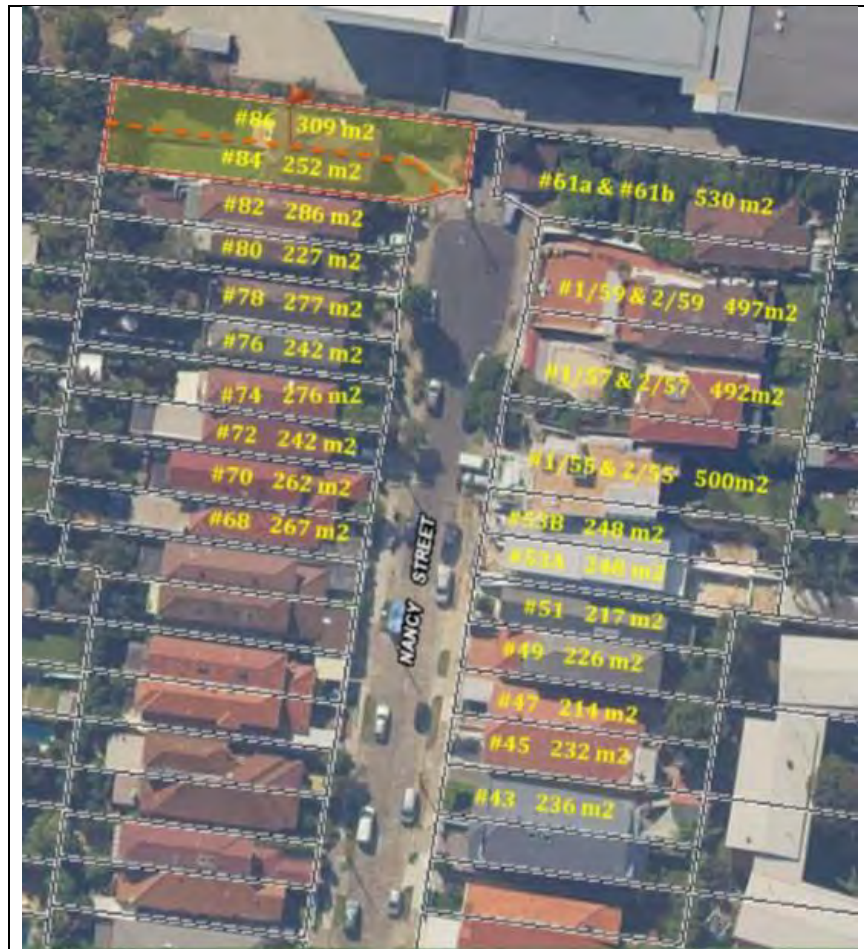


**Figure 6:** Aerial photograph from applicant's submission showing subdivision pattern

The objective of the minimum subdivision lot size is to ensure subdivisions reflect and reinforce the predominant subdivision pattern of the area and minimise likely impacts on the amenity of neighbouring properties. The proposed subdivision will result in irregular shaped undersized lots with a street frontage to Nancy Street of 3m (Lot A) and 4.37m (Lot B).

Whilst it is acknowledged that the immediate locality is characterised by the presence of undersized lots, these existing lot configurations are rectangular and regular in shape with frontages to Nancy Street of at least 6m in most cases. The subject lot is located at the head of the Nancy Street cul-de-sac, with the subject site at 84 Nancy Street and the neighbouring site at No.61 Nancy Street directly opposite, providing a 'bookend' to a street characterised by regular and rectangular lots ranging in area from approximately 200m<sup>2</sup> up to 531m<sup>2</sup>. The two lots at the end of the cul-de-sac project forward

of lots to the south and have an irregular shaped frontage to Nancy Street. No.61 Nancy Street contains an approved dual occupancy development that is not Torrens or Strata subdivided (DA-582/2011/A). This site at No.61 Nancy Street comprises a total site area of 531.2m<sup>2</sup>. The neighbouring properties to the south of that including Nos. 59, 57 and 55 Nancy Street are also not subdivided. No.57 also contains an approved dual occupancy development, but that property is also not Torrens or Strata subdivided. The property at No.53 Nancy Street, to the south-east of the site, was approved for the demolition of an existing dual occupancy and construction of a new dual occupancy with Torrens Title subdivision (DA-392/2015 – approved 15 December 2015). The size of the regular shaped lots resulting from the proposed subdivision of that site are 248.8m<sup>2</sup> each.



**Figure 7:** Aerial photograph from applicant's submission showing lot areas

In the original development application, the applicant failed to address the irregularity of the lot configuration and the narrow lot frontages that are created as a result of the subdivision. In their response to Council's assessment report and reasons for refusal that were outlined in the Notice of Determination dated 23 September 2020, the applicant now contends as follows:

*The reasons for the refusal cite that the subdivision does not reflect and reinforce the predominant subdivision pattern of the area given the irregular and undersized lots created with inadequate site frontages. It remains our position that despite the variation of the standard the objectives of the controls are met. The lot sizes proposed are consistent and frequently greater in overall size than those in the street, particularly those along the western side of Nancy Street. This was detailed in the Clause 4.6 variation and acknowledged in Council's assessment report.*

*The site frontage was deemed to be 'inconsistent'. However, the lot frontages are solely a product of developing an allotment on a cul-de-sac head, as opposed to a mid-block site. Cul-de-sac head allotments are consistently irregular in their shape as a product of their context. Reference is made to the subdivision pattern of Onslow Street/The Plaza located 250m to the north of the site.....(refer to **Figure 8** below).*

*Onslow Street/The Plaza ends in a cul-de-sac head with a landscaped turnaround treatment. Several of the allotments, particularly those on the north-east side, have irregular lot shapes and lot frontages of only a couple of metres wide, likely with right-of-carriageways to facilitate vehicle access rights. 98A-98B The Plaza are semi-detached dwellings as a battle-axe allotment with a frontage of only around 4.2m, while 98 The Plaza is a dual occupancy with a 2.1m frontage and 96 The Plaza is an 8 unit residential flat building with a 5.1m frontage. Each of these is irregular and atypical of the broader street, however still accommodate dwellings and function appropriately despite their inconsistency with the frontages of other mid-block sites.*

*Notwithstanding the above, the lot widths at the building line are generally consistent with those in the street and are more than adequate to accommodate dwellings of good amenity without unreasonable impacts to each other or neighbours (source: Applicant's accompanying letter prepared by GAT & Associates dated 12 March 2021).*



**Figure 8:** Aerial photograph from applicant's submission showing pattern of lots at The Plaza.

The applicant submits that the Onslow Street/ The Plaza example shown in **Figure 8** above provides a precedent for approving the subject irregular Torrens title subdivision pattern, however, this example dates back to 1993, prior to the introduction of the current Waverley LEP 2012. It is also considered that the pattern reflected here is not representative of a good planning outcome given the undersized and irregular lots created. There are also no other examples in the immediate vicinity.

To address the issue raised in the original assessment report and reason for refusal of the original DA, the applicant now proposes to provide a right of carriageway over the driveway to enable improved manoeuvrability for vehicles entering and exiting the Lots. The application was referred to Council's Traffic Engineer who raised no objection to this outcome. Notwithstanding the ability to manage the

legal use of the driveway areas for the occupants of the development with the provision of a right of way on title, it is considered that the proposed irregular and undersized non-compliant lots created are not suitable in accommodating the development proposed. The necessity to incorporate a right of way on the lots created to burden the future owners of that land demonstrates the poor design outcome sought in this case. The sites may be more suited to Strata subdivision being sought subject to a reduction in the massing of the development as it presents to Nancy Street.

The applicant has also stated in their submission that the development on the subject sites should be read in the context of the neighbouring development at No.61 Nancy Street comprising a two storey garage/secondary dwelling at its Nancy Street frontage and an elevated detached primary dwelling to the east. It fails to note, however, that this property is not subdivided, retaining its 531m<sup>2</sup> allotment size to accommodate the built form on its site. Retention of this cul-de-sac head pattern of subdivision will ensure that it remains consistent with its adjacent neighbour at No.61 Nancy Street. Council's recommendation for refusal based on a non-compliance with the minimum subdivision lot size development standard is still deemed to be necessary in this case.

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. The proposal is inconsistent with the prevailing subdivision pattern, with the irregular Torrens title lots created resulting in an unacceptable development 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 low density residential purposes, the overall planning outcome for the site to achieve this objective is unacceptable and cannot be supported.

The lot size is a development standard in Waverley LEP 2012 which has been through a statutory process involving exhibition and public comment. The development standard reflects the preferences of the locality and the community and the lot size development standard should be given a significant deal of weight. Council disagrees with the applicant in that the proposal, despite the non-compliance, would achieve the objectives of the development standard as the proposal does not present a more superior planning outcome for the site.

The proposed noncompliance has failed to address clause 4.6 (1)(b), (3)(a) and (b), and (4)(a). The non-compliance will not achieve a better 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 minimum subdivision lot size development standard and is not in the public interest. As such the clause 4.6 exception is not considered to be well founded and the variation to the minimum lot size development standard is not supported.

### Conclusion

For the reasons provided above the requested variation to the minimum lot size 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 the minimum lot size development standard and the R2 Low Density Residential zone.

### *Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR)*

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

The site is subject to a maximum FSR development standard of 0.5:1 over the parent lot prior to subdivision. The proposed development has a FSR of 0.66:1, exceeding the standard by 89.91m<sup>2</sup> equating to a 31.9% variation.

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - *Consistency with the objectives and the absence of any environmental impacts, would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance.*
  - Regarding objective b), the proposal has been designed within the building height and density controls as demonstrated by compliance with Clause 4.3 (7.45m height proposed vs 8.5m as the development standard) and FSR post subdivision of the land. The proposal also has been designed to comply with the landscaping and private open space controls, ensuring an appropriate balance of built form and landscaping has been provided on the site.*

*It should also be acknowledged that there is an existing dual occupancy on the site. Two dwellings are being maintained on the same site area; however, they are reconfigured to be semi-detached with the associated subdivision which is not out of character with the lot sizes of the surrounding area and generally pattern of semi-detached dwellings along Nancy Street. The replacement of the aged built form to a contemporary development is reflective of similar proposals within the street and broader area. For example, a recent approval for Torrens title subdivision and reconfiguration of a dual occupancy to semi-detached dwellings was approved under DA-392/2015 at 53 Nancy Street, which notably exceeded the permissible FSR to the parent lot but did not require a Clause 4.6 Variation....*

*The development as designed maintains the low density character of the area as expressed through the density of development prescribed to the site under the Waverley LEP 2012 and similar development in the same zoning under the same LEP and DCP provisions. It is therefore deemed that the objective has been met.*

- *For objective c), a detailed examination of the planning controls through the LEP and DCP indicates general compliance with the key provisions of both. In terms of bulk, scale, streetscape and desired future character, the key controls are deemed to be height, FSR, setbacks, landscaping and private open space which are summarised below.*

*It is worth noting that the garage and loft structure, similar but smaller than the eastern neighbour, also assists to shield the street from the poor streetscape presentation of the ramp structure associated with the school, and more broadly the school itself, especially noting that approach up Nancy Street is an ascent. Objective c) is considered to be met.*

- *Finally, regarding objective d), the application staging to have subdivision occur prior to the construction certificate is a consistent approach undertaken to resolve a technical variation of the FSR to the parent lot. It is reinforced that the built form sought is fully compliant with FSR once subdivision has occurred by 57.65m<sup>2</sup> for 84 Nancy Street and 16.69m<sup>2</sup> for 86 Nancy Street respectively. The proposal as designed within the FSR standard then demonstrates 4 hours of solar access is available to over the required private open space of 82 Nancy Street from 11-3pm. The proposal is compliant with the DCP controls for the private open space. While the northern elevation of 82 Nancy Street is further overshadowed, this a product of orientation and developing within the planning controls, particularly FSR once subdivided with Lot B being 57.65m<sup>2</sup> below the standard. A strict compliant design with regard to the parent lot FSR would also additionally overshadow this elevation.*
- *There are no unreasonable visual or acoustic privacy implications generated by the proposal.*
- *The amenity of the public domain is maintained and even enhanced by the development of a contemporary development of high quality design.*
- *It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard.*

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

- *The proposed non-compliance with the floor space ratio is a technical variation, as following the subdivision of the site both dwellings will be substantially below the maximum FSR permitted by 57.65m<sup>2</sup> for 84 Nancy Street and 16.69m<sup>2</sup> for 86 Nancy Street.*
- *The proposal provides for two new dwelling houses in the form of semi-detached dwellings that complement the desired future character of the area as expressed through approved and constructed development and the planning controls prescribed to the site via the LEP and DCP. The proposed subdivision is compatible with the predominant subdivision pattern and lot size of the area, with similar lot sizes prevalent despite being below the development standard and shapes in consideration of other cul-de-sac head development in the area.*
- *The current application demonstrates that the built form envelope as proposed can be accommodated on the site. The proposed dwellings are reasonable in their size with regard to the LEP and DCP controls and are complemented by a balance of built and un-built upon areas that are fully compliant and often exceeding the minimums. Where variations exist to the building envelope, these are contextually satisfactory due to the site constraints and circumstances such as the slope of the land and shape of the lot. The proposal does not raise unacceptable impacts to the amenity of adjoining properties or the public domain, with an acceptable level of solar access maintained to neighbours, no view loss or unreasonable privacy implications created.*
- *Notwithstanding the above, it should also be acknowledged that the approved modification on 61 Nancy Street, the other cul-de-sac head property, had a 0.66:1 FSR, the same as the proposed development prior to subdivision. The degree of floor area permitted in only then matching what has been considered acceptable in this street. Given the above, there is deemed to be sufficient environmental planning grounds in that the development will encourage the orderly and economic development of the land in a manner consistent with the site's context and surrounding area without undue impact on adjoining properties.*

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. The objectives of the FSR development standard 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.*

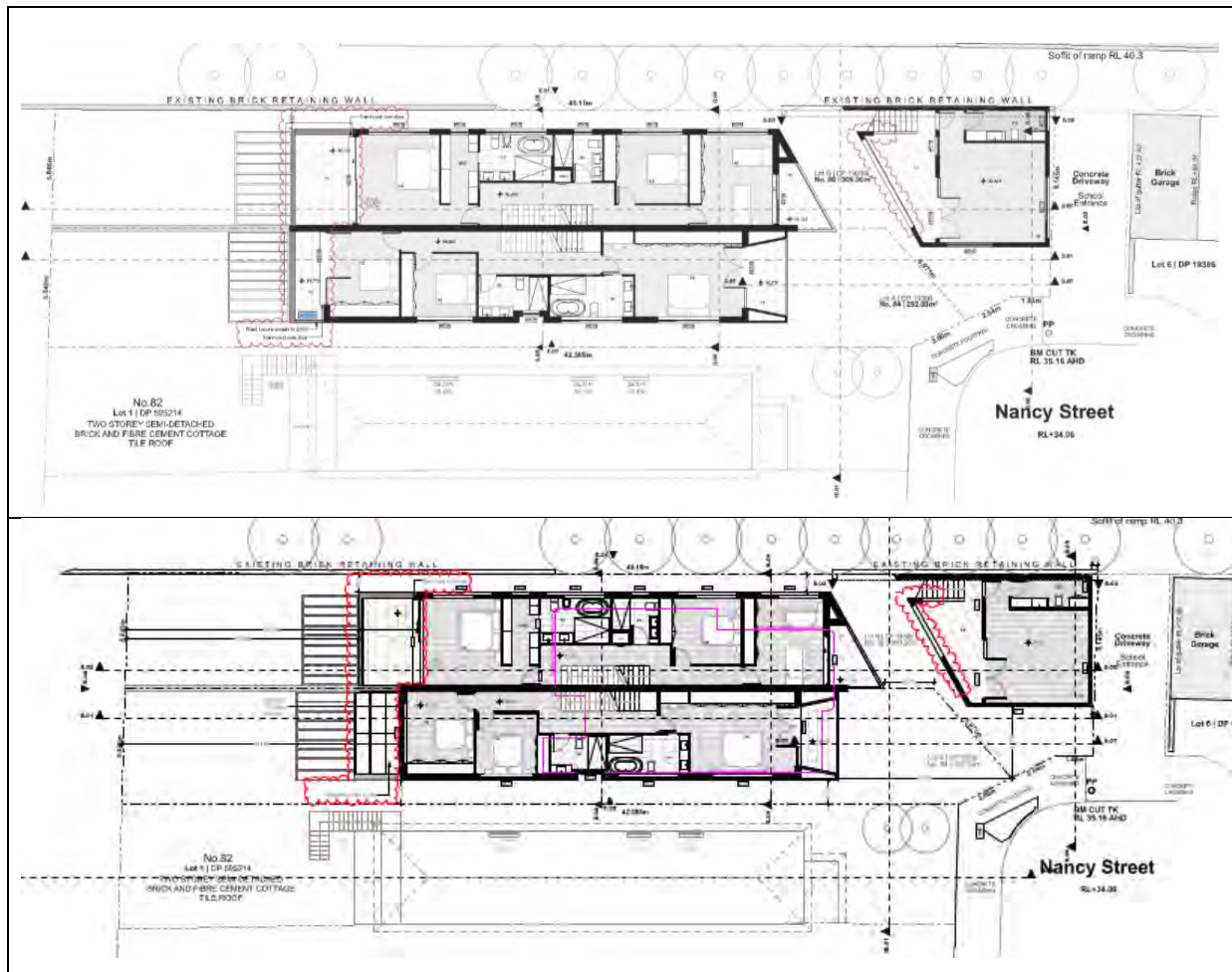
The applicant has primarily focused their commentary on the first justification/test of *Wehbe vs Pittwater Council (2007) LEC 827*, that is the objectives of the development standard are achieved despite the non-compliance with that standard. The applicant's key argument is that the non-compliance is technical in nature, in that, if development consent were granted to the proposed Torrens title subdivision of the site and that subdivision were formalised/implemented through separate regulatory means (i.e. a subdivision certificate issued by Council and land title changes sought through NSW Land Registry Services), then the proposed construction of the pair of semi-detached dwellings would comply with the relevant FSR development standards based on the site areas of the respective subdivided lots. This is an accepted argument as it is a logical and tangible approach and Council does not disagree with this contention, subject to the development and Torrens Title subdivision proposed being an acceptable and reasonable design response for the site, which in this case it isn't.

The applicant has failed to demonstrate that the non-compliance has limited consequence on the compatibility of the development with the prevailing development in the locality particularly given the developments relationship to the subdivided lots created.

Whilst some minor changes have been made to the development including a reduction in wall height and an increase in the rear setback to the upper floor level of Dwelling A, there has been no change to the frontage of the proposed development in order to reduce the visual scale and bulk proposed as it presents to Nancy Street. The balcony to Dwelling B still extends forward of the predominant front building line for dwellings on the western side of Nancy Street. The proposed first floor of the garage/studio building extends to within 0.7m of the proposed Lot A boundary and forward of the alignment of proposed Dwelling A, creating unreasonable internal amenity impacts for the occupants of Dwelling A, particularly in regards to visual bulk and scale. The extent of enclosure of the balcony to the first floor studio of Dwelling B adds to the visual bulk and scale proposed and may even contribute to GFA in accordance with the definition under Waverley LEP 2012. The design of the studio has been amended slightly with the reduction of the opening to the balcony to ameliorate overlooking between the studio and Dwelling A, however, the forward alignment of the first floor level front balcony to



Dwelling B still enables overlooking back into the first floor bedroom of Dwelling A (refer to **Figure 9** below).



**Figure 9:** Comparison First Floor Level plan showing original plan (top) and review plan (bottom)

Further design resolution is required to reduce the extent of building envelope proposed, with a lightening of architectural expression required at the street elevations to be more characteristic of the modest semi-detached dwellings to the south of the site. It is apparent that the applicant is seeking to Torrens Title the parent lot as opposed to Strata subdivide in order to gain the greater floor space allowable under Clause 4.4A. Notwithstanding the non-compliance with the FSR of the parent lot, the proposed Torrens Title subdivision is considered to be an unacceptable design response as detailed above.

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. The applicant contends that the development envelope is an acceptable outcome for the site. This is despite the non-compliance with the front building line controls and unreasonable visual bulk and scale issues. Council does not agree with this contention, with the proposed bulk and massing of the development over an irregular lot configuration 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 low density residential purposes, the overall planning outcome for the site to achieve this objective is unacceptable and cannot be supported.

### Conclusion

For the reasons provided above, the requested variation to the FSR development standard is not supported. The proposed development is not in the public interest because it is inconsistent with the objectives of the FSR development standard particularly objectives (c) and (d) and the R2 Low Density Residential zone.

### 2.2.3. Waverley Development Control Plan 2012 (Amendment 9) (Waverley DCP 2012)

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

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste and Recycling Management plan has been submitted with the review application to address waste disposal during construction. Should approval be granted, a condition of consent would be imposed regarding ongoing waste on site. The waste and recycling storage area is located in an area convenient for users of the site.
2. Ecologically sustainable Development	Yes	The proposal incorporates passive design, contains a rainwater tank and solar panels.
3. Landscaping and Biodiversity	Yes	The site does not contain remnant vegetation which are listed as threatened in the Environment Protection and Biodiversity Conservation Act 1999, and in the NSW Biodiversity Conservation Act 2016.

Development Control	Compliance	Comment
5. Vegetation Preservation	Yes	The development application involves the removal of two trees from the subject site. The application was referred to Council's Tree Management officer who raised no objection.
6. Stormwater	No	The stormwater plans submitted with the application are not satisfactory. Should approval be granted, a condition of consent would be imposed regarding stormwater management on site.
8. Transport	Partial	<p>The original proposal was assessed as having large hardstand areas and the proposed garage to Lot B as having an unsatisfactory streetscape impact. The proposed lot configuration was also considered to result in an unacceptable outcome for vehicles entering and exiting the sites should a structure be erected between the two new lots.</p> <p>The applicant now proposes to provide a right of carriageway over the lots to enable improved manoeuvrability for vehicles entering and exiting the site. The application was referred to Council's Traffic Engineer who raised no objection to this outcome. Notwithstanding the ability to manage the legal use of the driveway areas for the occupants of the development with the provision of a right of carriageway on title, it is considered that the proposed irregular and undersized non-compliant lots created are not suitable in accommodating the development proposed. The sites may be more suited to Strata subdivision being sought subject to also a reduction in the visual bulk and scale of the development.</p>
10. Safety	Yes	The development provides for casual surveillance of the street.
12. Design Excellence	No	It is considered that the proposed Torrens Title subdivision and development does not achieve design excellence as it does not appropriately consider the context and streetscape, street frontage and the relationship of the development to other development on neighbouring sites. The development, particularly on proposed Lot B to the north provides unacceptable massing at the property frontage.

Development Control	Compliance	Comment
13. Subdivision	No	<p>The proposal does not comply with the minimum lot size of Waverley LEP 2012.</p> <p>The proposed lots created do not have characteristics similar to the prevailing subdivision pattern of lots fronting the same street as required by Control (d) (see further discussion above and below).</p>
14. Excavation	Yes	<p>The proposal includes excavation to provide a basement store area to Lot B. The proposed excavation does not add to the scale of the building or result in the loss of naturally occurring sandstone. The basement is setback an appropriate distance from boundaries. In the event of an approval, standard conditions relating to excavation would be imposed.</p>

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

The proposal is defined as a “*Semi-detached dwelling*” in the Waverley LEP 2012.

Development Control	Compliance	Comment	
2.0 General Objectives			
<ul style="list-style-type: none"><li>• Appropriate scale</li><li>• Does not detract from amenity of other dwellings or view corridors</li><li>• ESD has been considered</li><li>• High design standard</li></ul>	No  No  Yes  No	The proposal takes cues from the scale of development opposite the site and the adjoining scale of the Rose Bay Secondary College to the north rather than the scale of development adjoining the site to the south. The western side of Nancy Street comprises predominantly modest two storey semi-detached dwellings. The proposed development still comprises a scale that is inconsistent with this predominant built form of dwellings this side of Nancy Street.	
2.1 Height			
Flat roof dwelling house <ul style="list-style-type: none"><li>• Maximum wall height of 7.5m</li></ul>	Yes		
2.2 Setbacks			
2.2.1 Front and rear building lines <ul style="list-style-type: none"><li>• Predominant front building line</li><li>• Predominant rear building line at each floor level</li></ul>	No  Partial	See further discussion below.  The proposed increased rear setback to the first floor level balcony of Dwelling A enables improved solar access arrangements to both the subject development and the adjoining dwelling to the	





Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight maintained to principal open space areas of adjoining properties on 21 June</li> </ul>	Yes	<p>than was previously proposed under the original application. It is considered that this could be further addressed by lightening of the architectural expression to the rear of Dwelling B. This would also reduce the visual bulk and massing of this dwelling as it presents to the neighbouring properties particular given its elevated position on the site.</p> <p>The adjoining property to the south at No.82 Nancy Street experiences existing overshadowing due to the location of the buildings at Rose Bay Secondary College up until midday. The revised rear building line of Dwelling A facilitates improved solar access to the rear private open space of the adjoining property to the south, however, the proposed non-compliant front building line still results in increased overshadowing to the frontage of this property which is discussed below under this table (see discussion under Front Building Line).</p>
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	Yes	No impacts on views have been identified and no submissions have been received that raise an issue with view loss.
<b>2.8 Car parking</b>		
2.8.2 Design Approach		
<ul style="list-style-type: none"> <li>Parking only allowed where site conditions permit</li> </ul>	Yes	A single garaged car space and one hardstand car space (in tandem) is proposed to the frontage of Lot A.
<ul style="list-style-type: none"> <li>Designed to complement the building and streetscape</li> </ul>	No	A detached garage building accommodating two car spaces at ground level with studio above is proposed to Lot B, setback a minimum of 2.4m (first floor) from its Nancy Street frontage.
<ul style="list-style-type: none"> <li>Car parking structures to be behind the front building line</li> </ul>	No	The car parking is to be accessed via a new combined crossover to Nancy Street. The proposed frontage for Lot A is 3m and for Lot B is a total of 4.37m. A combined hardstand area of approximately 60m <sup>2</sup> is proposed within the property frontage, which is a significant area of hard paving to the street frontage. In their review
<ul style="list-style-type: none"> <li>Driveways are to be located to minimise the loss of on street parking</li> </ul>	Yes	



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Parking to be provided from secondary streets or lanes where possible.</li> </ul>	Not available	<p>application, the applicant contends that <i>'the streetscape more broadly is characterised by a dominant hard paved area within the front setbacks with minor elements of landscaping. Landscaping is still proposed forward of the front building line between the main dwelling and garage/loft structure behind the timber screen.</i></p> <p><i>The numerical amount of hard paved area in the front setback before the timber screen is comparable to that of the hard paved area in front of the combined No. 80 and 82 Nancy Street semi-detached dwellings. The development proposes approximately 60m<sup>2</sup> of hard paved area, compared to 66m<sup>2</sup> for 80 and 82 Nancy Street. Further, a recently constructed dual occupancy within proximity to the site has no front setback landscaping (53A and 53B Nancy Street). Notwithstanding the above, should Council still view the degree of hard paved area is excessive the driveway can be converted to grasscrete. While not typical landscaped area, it will permit grass to grow and soften the visual impact of the driveway.</i></p> <p>Council agrees that the extent of hard paving within the property frontages is a matter that could be addressed through conditions of consent should approval be granted. This issue is no longer listed as a Reason for Refusal at Appendix A.</p>
<p>2.8.2 Parking rates</p> <p><i>Maximum rates:</i></p> <ul style="list-style-type: none"> <li>2 spaces for 3 or more bedrooms</li> </ul>	Yes	
<p>2.8.3 Location</p> <ul style="list-style-type: none"> <li>Behind front building line for new dwellings</li> </ul>	No	The proposed two storey garage/ studio is to be sited within the property frontage of Lot B. This is compatible with the location of a similar development to the east at 61 Nancy Street.
<p>2.8.4 Design</p> <ul style="list-style-type: none"> <li>Complement the style, massing and detail of the dwelling</li> <li>Secondary in area and appearance to the design of the residences</li> </ul>	<p>Partial</p> <p>No</p>	<p>The proposed design of the garage is consistent in style with the proposed dwellings, although it does dominate the dwellings to both Lot A and B</p> <p>The only change made to the garage/studio building in the review application is the reduction in the west facing balcony opening to the proposed studio to address privacy concerns. No changes have been made, however, to address the visual bulk and scale that presents from the overwhelming two storey garage building. The proposed two storey garage/ studio still</p>



Development Control	Compliance	Comment
		overwhelms the design of the residences, dominating the streetscape. Council's position on this matter has not changed with the assessment of the documentation submitted with this review application.
2.8.5 Dimensions <ul style="list-style-type: none"> <li>5.4m x 2.4m per vehicle</li> </ul>	Yes	
2.8.6 Driveways <ul style="list-style-type: none"> <li>Maximum of one per property</li> <li>Maximum width of 3m at the gutter (excluding splay)</li> </ul>	Yes  No	  6.36m combined width at gutter. Council's Traffic Engineer raised no objection.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> <li>Overall landscaped area: 15% of site area</li> <li>Minimum area of 25m<sup>2</sup> for private open space</li> <li>Front open space: 50% of front building setback area</li> <li>Front landscaped area: 50% of front open space provided</li> <li>Outdoor clothes drying area to be provided</li> </ul>	Yes  Yes  Yes  Yes  No  Not shown	<u>Openspace</u> Lot A - 102.57m <sup>2</sup> or 40.53% Lot B – 128.63m <sup>2</sup> or 41.58%  <u>Landscaping</u> Lot A – 62.75m <sup>2</sup> or 24.9% Lot B – 61.74m <sup>2</sup> or 19.95%
<b>2.10 Swimming pools and spa pools</b>		
<ul style="list-style-type: none"> <li>Located in the rear of property</li> </ul>	Yes	A swimming pool is proposed within the rear yard of each dwelling.
<b>2.16 Secondary Dwellings and Ancillary Buildings</b>		
<ul style="list-style-type: none"> <li>Ancillary buildings are to be minor buildings, integrated into the landscaped open space of the dwelling and not exceeding 10% of allotment size</li> <li>Wall height not to exceed 2.1m</li> </ul>	No  No	The applicant has not applied for the detached garage building on Lot B to be used for the purposes of a secondary dwelling, despite it including bathroom facilities. The proposed building also does not necessarily fit the description of an ancillary building which are generally minor buildings integrated into the open space area.  6.7m 6.7m

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Maximum height not to exceed 2.4m</li> </ul>	No	

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

### Subdivision

Part B13 Subdivision of Waverley DCP 2012 applies to the subject proposal. The relevant objectives as they relate to the subject development state as follows:

- (a) To maintain the established character of low density neighbourhoods occupied by dwelling houses, semi-detached dwellings, attached dual occupancies or a mixture of these housing types.*
- (b) To ensure that subdivision or amalgamation respects the predominant development pattern of the locality.*
- (c) To ensure that subdivision or amalgamation results in allotments that have adequate width and configuration to deliver suitable building design and to maintain the amenity of the neighbouring properties.*
- (g) To ensure that subdivision and amalgamation result in lots that can achieve compliance with all other relevant DCP controls.*
- (h) To ensure that the creation of new lots does not result in a reduction of pedestrian or vehicular connectivity within the existing street network and provides a safe network.*
- (i) To minimise any likely impact of subsequent development on the amenity of neighbouring properties.*

The review application still maintains the proposed allotment size and configuration of that refused under DA-165/2020, with the only change proposed being the introduction of a right of way over the front driveway to facilitate and achieve adequate manoeuvrability for vehicles entering and exiting the sites. As assessed previously under DA-165/2020, whilst the proposed subdivision and development of semi-detached dwellings satisfies objective (a), the proposed subdivision does not uphold objectives (b), (c), (g), (h) and (i). The proposal also does not satisfy the following controls of Part B13:

- (d) Any resulting lots must have characteristics similar to the prevailing subdivision pattern of lots fronting the same street, in terms of area, dimensions and orientation.*
- (g) Applications must demonstrate that any resulting allotments can facilitate development as per the zoning and controls on the land. This includes setbacks and open space provisions.*
- (j) Subdivision or amalgamation must not compromise any significant features of the existing or adjoining sites including streetscape character, landscape features or trees.*

As discussed above under Waverley LEP 2012, it is acknowledged that the locality is characterised by the presence of undersized lots, however, these existing lot configurations are rectangular and regular in shape with frontages to Nancy Street of at least 6m in most cases. The proposed subdivision will

result in irregular shaped undersized non-compliant lots with a street frontage to Nancy Street of 3m (Lot A) and 4.37m (Lot B), contrary to Control (d).

In their submission, the applicant contends that there are precedent setting examples in the immediate locality, referencing development to the north at 98 The Plaza. This example, however, dates back to 1993, prior to the introduction of the current Waverley LEP 2012. It is also considered that the pattern reflected here is not a good planning outcome given the undersized and irregular lots created (provided with a right of carriageway).

Under the review application, the applicant now proposes to provide a right of carriageway over the driveway to enable improved manoeuvrability for vehicles entering and exiting the site. The application was referred to Council's Traffic Engineer who raised no objection to this outcome. Notwithstanding the ability to manage the legal use of the driveway areas for the occupants of the development with the provision of a right of carriageway on title, it is considered that the proposed irregular and undersized non-compliant lots created are not suitable in accommodating the development proposed. The necessity to incorporate a right of carriageway on the Lots created to burden the future owners of that land demonstrates the poor design outcome sought in this case. The sites may be more suited to Strata subdivision being sought subject to a reduction in the massing of the development as it presents to Nancy Street.

The development does not exhibit design excellence and will result in unreasonable impacts on the amenity of neighbouring properties particularly given the massing of the development proposed on the non-compliant irregular shaped lots created within its streetscape context. The applicant has stated in their submission that the development on the subject sites should be read in the context of the neighbouring development at No.61 Nancy Street comprising a two storey garage/secondary dwelling at its Nancy Street frontage and an elevated detached primary dwelling to the east. It fails to note, however, that this property is not subdivided, retaining its 530m<sup>2</sup> allotment size to accommodate the built form on its site. Retention of this cul-de-sac head pattern of subdivision will ensure that it remains consistent with its adjacent neighbour at No.61 Nancy Street. Council's recommendation for refusal based on a non-compliance with the minimum subdivision lot size development standard is still deemed to be necessary in this case.

### **Front Building Line, Streetscape and Rear Building Line**

Control (d) of Part C2 2.2.1 of Waverley DCP 2012 requires that where it is proposed to build beyond the predominant front and/or rear building line, then greater consideration must be given to the following, but not limited to, *compliance with applicable development standards, including FSR and building height, emergence of a new front and/or rear building alignment beyond the dwellings either side of the subject site, visual aspect of the bulk and scale as viewed from the private open space and living areas of adjoining properties and acceptability of amenity impacts on adjacent properties with regard to solar access, and visual and acoustic privacy.*

The pattern of development in the immediate locality is predominantly single detached and semi - detached dwellings (refer to **Figure 10** below). The western side of Nancy Street is characterised by modest two storey traditional semi-detached dwellings with first floor additions predominantly setback from the ground floor level at the property frontage. Immediately to the north is the five to six storey building at Rose Bay Secondary College. Adjacent to the subject site on 61 Nancy Street is a

two storey garage/ secondary dwelling which is detached from the primary residence on site. This two storey detached garage/ secondary dwelling was approved under DA-582/2011/A.



**Figure 10:** Relationship of proposed building line with the adjoining properties in yellow (red lines show approximate balcony and garage/studio building encroachments)

#### *Front Building Line and Streetscape*

The proposal takes cues from the scale of development opposite the site and the adjoining scale of the Rose Bay Secondary College to the north rather than the scale of development adjoining the site to the south. The western side of Nancy Street comprises predominantly modest two storey semi-detached dwellings.

In support of the review application and the proposed front building line the applicant has provided the following justification:

*Regarding the garage/loft structure, this replaces the existing garage that is positioned adjacent to the driveway to the Rose Bay Secondary College. As such it retains the existing contextual relationship of vehicle access and siting forward of the building line, notwithstanding it is a larger structure.*

*The siting also follows that of 61 Nancy Street. The site and No. 61 are two of a kind in the street being the cul-de-sac head properties and thus are the most relevant comparable adjacent properties. Prior to the development of 61 Nancy Street's structure, both properties had garages adjoining the driveway that would be forward of the building line. This was kept as part of the redevelopment of No. 61 and is continued in this application.*

*Objective (f) of Section 2.2.1 states:*

*“To ensure the front and rear setbacks of buildings are consistent with surrounding buildings and do not visually detract from the streetscape.”*

*61 Nancy Street is a surrounding building of relevance to the site and proposal, and the setbacks of the garage and loft structure are consistent with it. While an element is forward of the front building line of the dwellings, numerous properties on the western side of Nancy Street have carports over car spaces with nil or near nil setbacks to neighbours and the street front. A structure within the front setback is not out of character with the street and creates no amenity impact. Consequently, the siting of the garage is supportable.*

*The first floor balcony extending forward of the front building line of properties to the south is not deemed to create any unreasonable impacts. The development satisfies clause (d) of Section 2.2.1, which permits variations to the front and/or rear building lines subject to consideration of a number of items. In this case, the setback, landscaping, FSR, height controls are all compliant, and the balcony has no impact on the amenity of adjoining properties, has no bulk and scale impact to the private open spaces or living areas of adjoining properties, or on views.*

*The balcony provides articulation, distinction between the two dwellings in the semi-detached arrangement and casual surveillance opportunities to the street. No environmental impacts are introduced by the non-compliance.*

Part C2 2.2.1 outlines front building line controls requiring that new buildings to extend no further than the front predominant building line. The proposed new two storey detached garage/ studio on Lot B is to be sited within the front building line in a similar location as the existing two storey detached garage/ secondary dwelling on the adjacent property to the east at No.61 Nancy Street. The proposed two storey structure will be the main element visible from Nancy Street which is to be sited east of the main primary residence proposed for this lot. Whilst it is acknowledged that the proposed studio building on Lot B is consistent in size with the existing garage/ secondary dwelling sited to the east at No.61 Nancy Street, there is sufficient separation between this building and its primary residence at, breaking up the overall bulk and massing of development on this 531m<sup>2</sup> allotment.

The design of the garage, as it presents to Nancy Street, is cumbersome and overwhelming, particularly in the context of its relationship to the proposed allotment configuration and primary dwellings proposed for each lot. There has been no attempt to reduce or amend the scale of this building or the overall envelope as it presents to Nancy Street under this review application.

The dwelling on Lot A is proposed to have a uniform front building line at both ground and first floor levels, which is in line with the existing ground floor building line of the adjoining properties to the south but not consistent with the first floor building line, which is generally set further back from the property frontage. The proposed first floor east facing front balcony to Dwelling B is to extend 2.4 metres further forward of this predominant front building line of development to the south of the site. It is noted that additional shadow is cast over the frontage of the neighbouring property to the south at No.82 Nancy Street, from 11pm to 1pm on 21 June, which appears to be as a result of the non-compliant front building line. The proposed front building line is not supported.

*Rear Building Line*

The applicant has amended the rear building line to address issues raised in the assessment of the original application. In response, the applicant has advised as follows:

*The design has been amended at the first floor which is considered to address the rear building line concerns raised in the Council assessment report.*

*The southern neighbour remains the key consideration for the rear building line as it is the most direct neighbour but also because the dwellings further south which have greater rear setbacks are older stock developments having not undergone notable alterations and additions or been knocked down and rebuilt to respond to contemporary planning controls, most notably the FSR prescribed for the area. The FSR control would allow for a reduced rear setback and still be compliant with both FSR and the other key considerations in the DCP, such as private open space and landscaped area.*

*The ground floor rear building line of both dwellings extends slightly forward of the building line on 82 Nancy Street. 84 Nancy Street aligns with the balcony off the first floor living area while 86 Nancy Street is setback approximately 400mm behind No. 84. The extension beyond the ground floor of 82 Nancy Street by around 1m is not considered to raise any concerns in regarding to addressing clause (d), as the key controls are all achieved in FSR, height, landscaped area, open space, side setbacks. The visual bulk of the ground floor is deemed minimal in view of the fencing. The living room of 82 Nancy Street is the rearmost first floor room, and the outlook from any window does not include the ground floor of either proposed dwelling. The view from the ground level private open space is largely obscured by the boundary fencing. There is no amenity impact from this slight extension.*

As seen in the aerial photo in **Figure 10** above, the properties to the south at Nos. 78 and 80 Nancy Street have a greater rear setback than the dwelling at No.82 Nancy Street, which has the furthest built form along this rear alignment with a rear setback of 11.7m to the existing first floor balcony. Whilst to the north is the Rose Bay Secondary College, it should be highlighted that the rear building line of the existing five to six storey school building is compatible with the existing two storey dual occupancy building at No. 84 Nancy Street, enabling solar access into the rear yards and living areas of the adjoining properties to the south of this school building after midday.

The rear of the Dwelling B at both floor levels is proposed to align with the rear first floor balcony of No.82 Nancy Street, which is a lightweight structure that extends over its ground floor level by approximately 1m. The review application has removed the first floor level rear balcony to Dwelling A in order to increase the rear setback to this proposed dwelling to facilitate improved solar access to the neighbouring dwelling to the south at No.82 Nancy Street. Whilst this is an improvement on the original proposal, it is also recommended that the rear balcony to Dwelling B be provided with a lighter architectural expression which would also address visual bulk and scale impacts when viewed from the rear particularly give this proposed dwelling is elevated above those buildings to the south due to the sloping topography of the land.

### 2.3. Other Impacts of the Development

The proposal is considered to have a significant detrimental effect relating to environmental, social or economic impacts on the locality, and is recommended for refusal.

### 2.4. Suitability of the Site for the Development

The site is not considered suitable for the proposal.

### 2.5. Any Submissions

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

A total of two unique objections and two submissions in support were received from the following properties:

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

Count	Property Address
1.	59 Nancy Street, North Bondi
2.	78 Nancy Street, North Bondi
3.	50 Nancy Street, North Bondi (in support)
4.	61 Nancy Street, North Bondi (in support)

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

- ***Overdevelopment***
- ***Streetscape impacts***
- ***Visual bulk and scale***
- ***Creation of undersized lots***
- ***Non-compliant FSR***
- ***Traffic impacts***

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

***Issue: Water runoff and noise impacts from the proposed swimming pools.***

**Response:** The proposed location of the swimming pool is in compliance with the controls of Waverley DCP 2012. Should the application be approved, conditions can be imposed to address the construction of the swimming pools accordingly.

***Issue: Require a dilapidation report.***

**Response:** Should the Review application be approved, conditions can be imposed to address this matter accordingly.

## 2.6. 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. Traffic and Development

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

### 3.2. Stormwater

The review application was referred to Council's Stormwater Engineer who advised that the stormwater plans are not satisfactory. Should the application be approved, conditions can be imposed to address this matter accordingly.

### 3.3. Tree Management

The review application was referred to Council's Tree Management Officer who raised no objections subject to conditions.

## 4. CONCLUSION

The section 8.2 review application seeks to review the determination of DA-165/2020 for the demolition of the existing buildings, Torrens Title subdivision to create two lots and construction of two semi-detached dwellings at the site known as 84 Nancy Street, North Bondi. The review application has been amended from the original development application. The amendments include an increase in the rear setback to the upper floor level of Dwelling A; reduction in the wall height to comply with the controls of Waverley DCP 2012, removal of the encroachment of the studio/garage to Lot B over the adjoining land; removal of the encroachment of the front balcony to Dwelling B over the adjoining Lot A.

The principal reasons why the original development application was refused were as follows:

- Non-compliance with the minimum lot size development standard;
- Non-compliance with the FSR development standard over the parent lot;
- Streetscape and visual bulk and scale impacts; and
- Non-compliances with Waverley DCP 2012.

The assessment finds that not all of these issues have been addressed in this review application as the application still proposes the subdivision of the site into non-compliant lots, the development still presents as unreasonable visual bulk and scale within its streetscape context and exhibits a poor design outcome.



A total number of two submissions in support and two submissions objecting to the development were received. The issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submission has been received.

The application has been assessed against the relevant matters for consideration under sections 4.15, 8.2 and 8.3 the *Environmental Planning and Assessment Act 1979*. It is recommended to not change the determination of refusal.

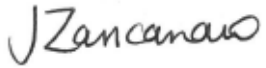

***Development and Building Unit (DBU) Decision:***

The application was reviewed by the DBU at the meeting on 22 June 2021 and the DBU determined that the application is not acceptable and should be refused for the reasons in Appendix A.

DBU members: *B McNamara, B Magistrale, P Wong*

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the review application be **REFUSED** by the Waverley Local Planning Panel for the reasons contained in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Jo Zancanaro	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 7 July 2021	Date: 9 July 2021

***Reason for WLPP referral:***

- The original application was refused by the WLPP and the DBU has recommended refusal for the review application.

## **APPENDIX A – REASONS FOR REFUSAL**

Having regard to section 4.15(1) of the *Environmental Planning and Assessment Act 1979* the 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 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 Waverley Local Environmental Plan 2012, in particular, the following provisions:
  - a) *Clause 4.1 Minimum subdivision lot size* (1)(a) and (b), and (3), as the proposal significantly breaches the minimum lot size development standard which will diminish the environmental amenity of neighbouring properties and the locality. The proposed subdivision does not reflect and reinforce the predominant subdivision pattern of the area given the irregular and undersized lots created with inadequate site frontages which will result in adverse impacts on the streetscape and amenity of adjoining properties, contrary to objective (a) and (b) of the development standard.
  - b) *Clause 4.4 Floor space ratio* (1)(c) and (d), as the proposal breaches the floor space ratio development standard over the parent lot 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 subdivision and building 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 standards is unreasonable or unnecessary and that there are sufficient environmental planning grounds that exist to justify the significant breaches to the minimum subdivision lot size and floor space ratio development standards. The proposed development is contrary to the objectives of the development standards 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 B8 - Transport - 8.1 Streetscape*, specifically objectives (a) and (b), control (c), as the scale of the new two storey garage/studio building to Lot B dominates the streetscape and overwhelms the development.
  - b) *Part B12 – Design Excellence, 12.1 Design*, specifically objective (a) controls (a) and (e), as the proposal has failed to consider the suitability of the land for development given the irregular lots created, 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 and the overall scale and bulk of the development.

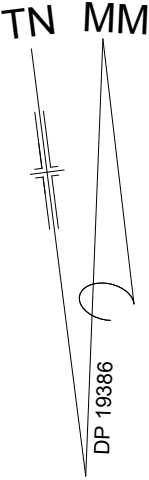
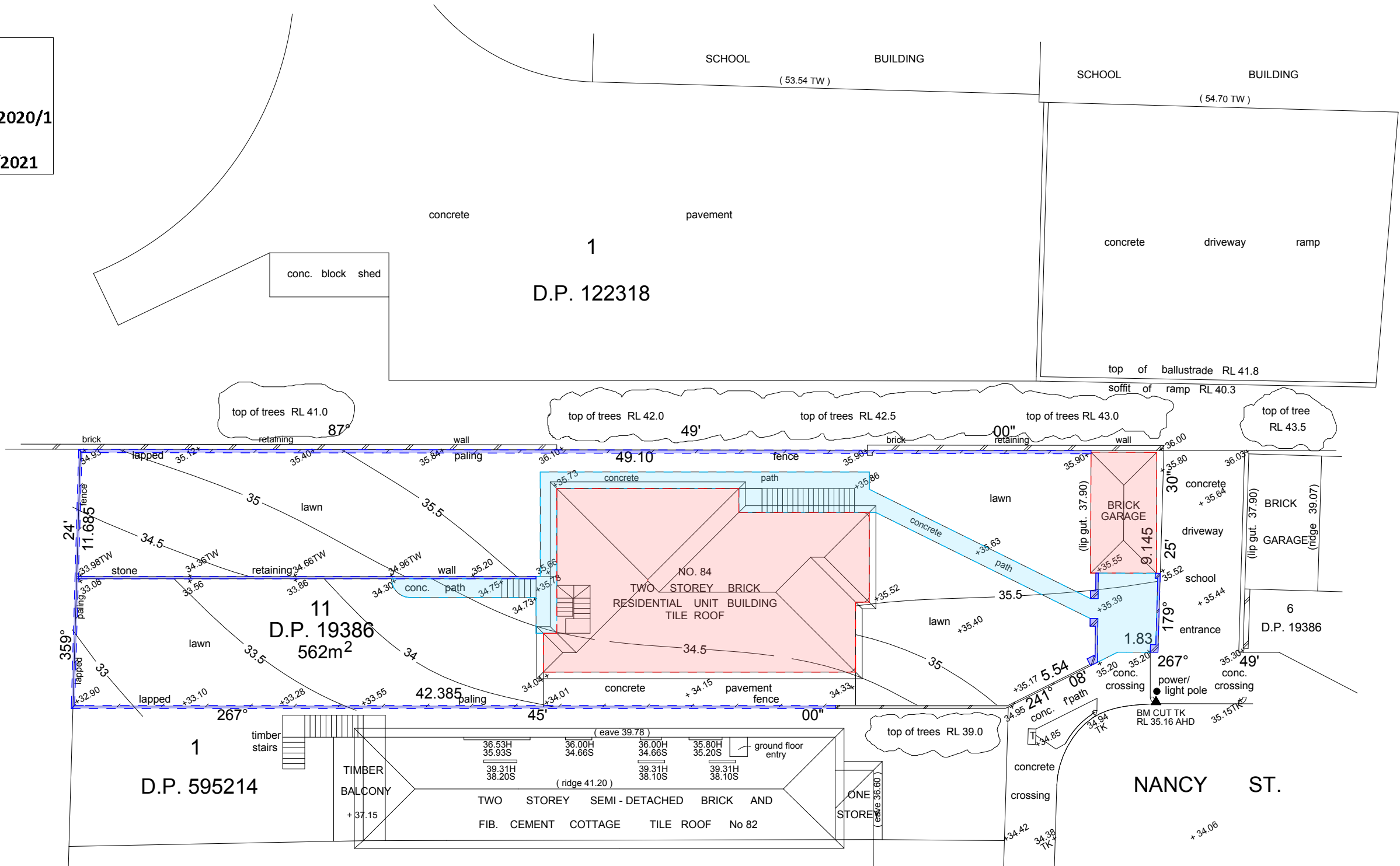
- c) *Part B13 – Subdivision*, specifically objective (b), (c), (g) and controls (a), (d), (e) and (g), as the application proposes undersized and irregular shaped lots with inadequate street frontage widths that are not similar to the prevailing subdivision pattern of lots fronting the same street and which cannot facilitate development as per the zoning and controls on the land;
  - d) *Part C2 – Low Density Residential Development*:
    - (i) *Section 2.2 Setbacks, 2.2.1 Front and Rear Building Lines*, in particular objectives (a), (b), (c), (f) controls (a), (b) and (d). In particular, the proposed front building line is not characteristic or consistent with the predominant front building line as required by Waverley DCP 2012, resulting in unreasonable amenity and streetscape impacts.
    - (ii) *Section 2.3 Streetscape*, in particular objectives (a) and (b) controls (a) and (d). The proposed built form as it presents within its streetscape context, particularly on proposed Lot B, dominates the streetscape. The visual appearance, particularly the bulk and scale of the development, does not respond to each new lot created by the subdivision or the desired future character of the locality.
    - (iii) *Section 2.4 Fences*, in particular objectives (c) and (e) control (d). The proposed side boundary fence between proposed Lots A and B within the property frontage is excessive in height at 3 metres adding to the bulk and scale of the built form dominating the streetscape.
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 the proposed subdivision creates irregular and undersized lots with inadequate property frontages that result in a poor planning outcome and an overdevelopment of the subject site which would adversely impact upon the amenity of 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 proposed subdivision creates irregular and undersized lots with inadequate property frontages that 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, impacts upon the amenity of the dwellings proposed within the development site itself and upon 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*.

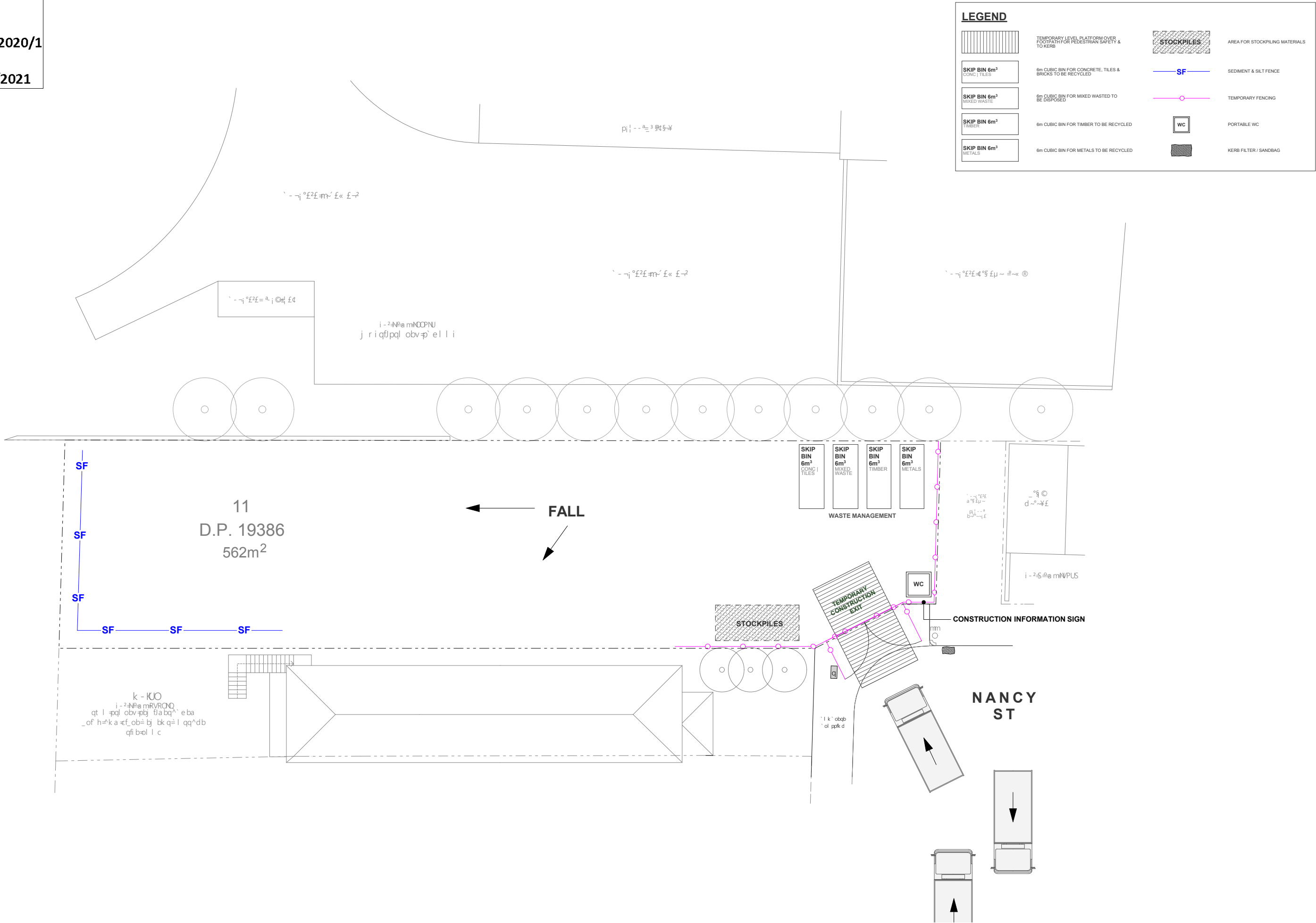
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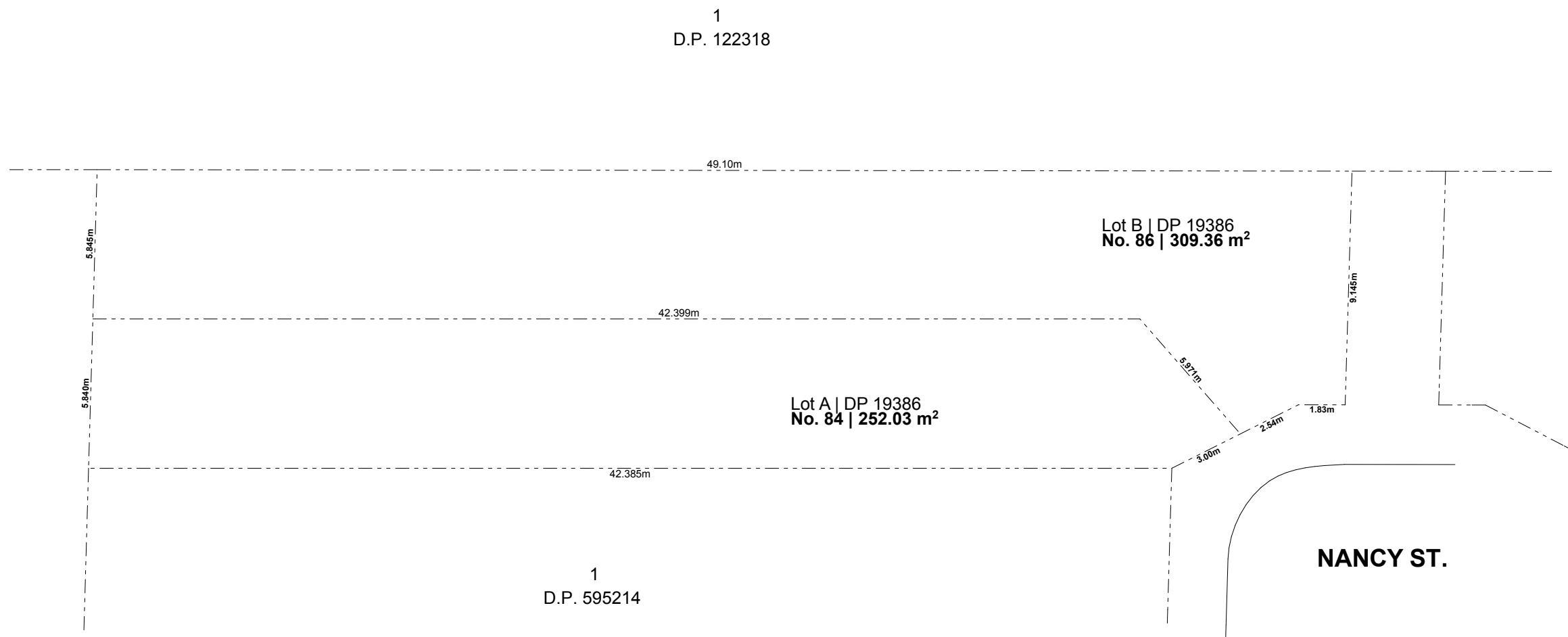


NOTES  
1. TITLE BOUNDARY DIMENSIONS SHOWN ( LOT 11 DP 19386 )  
2. LOT BOUNDARIES HAVE NOT BEEN SURVEYED.  
3. EXISTING FENCING AND OCCUPATIONS ADOPTED FOR APPROXIMATE  
4. LOCATION OF DETAIL AND LEVELS  
5. ORIGIN OF LEVELS PM 1910 RL 21.411 (AHD)

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Application No: DA-165/2020/1  
Date Received: 24/03/2021







<b>Issue</b>	<b>Date</b>	<b>Description</b>
^	TUWQOM	f++ f-0 ± « f' f'a @k f-²± @B@³ ~²§ -
_	QUWUQM	O£f £ff f-± ±± @-~ ff ±- = - 3 ¶ §¶ - « « f-²±
`	N\$KNQM	O£f £ff f-a f' f'a @k f-²± @B@³ ~²§ -~ ±± °=KJOK± « £±± -



Date p£®K€MNU

only. Any discrepancies shall immediately be referred to the architect for clarification.

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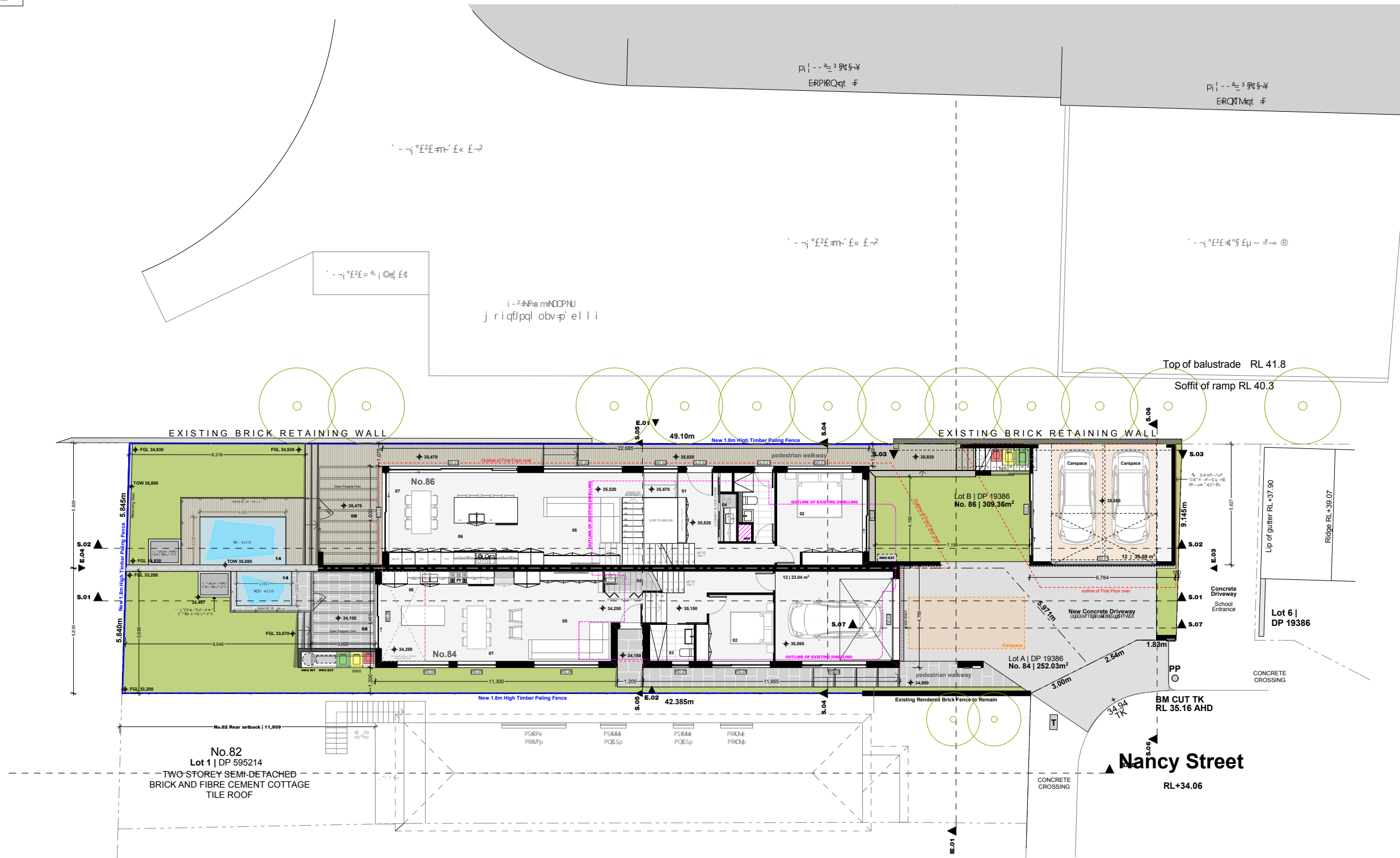












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MN b-2°.  
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MP t`  
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NR e-° E± ¥E

Issue	Date	Description
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-	QJWUOM	oE' §E fQ±°± E-2°± ~-3-~ §-~ « E-2°±
`	NSKNOM	oE' §E fQ± E' E° @ E-2°± @§§ ~§-~ ~±°± QO±°± « §E±-~

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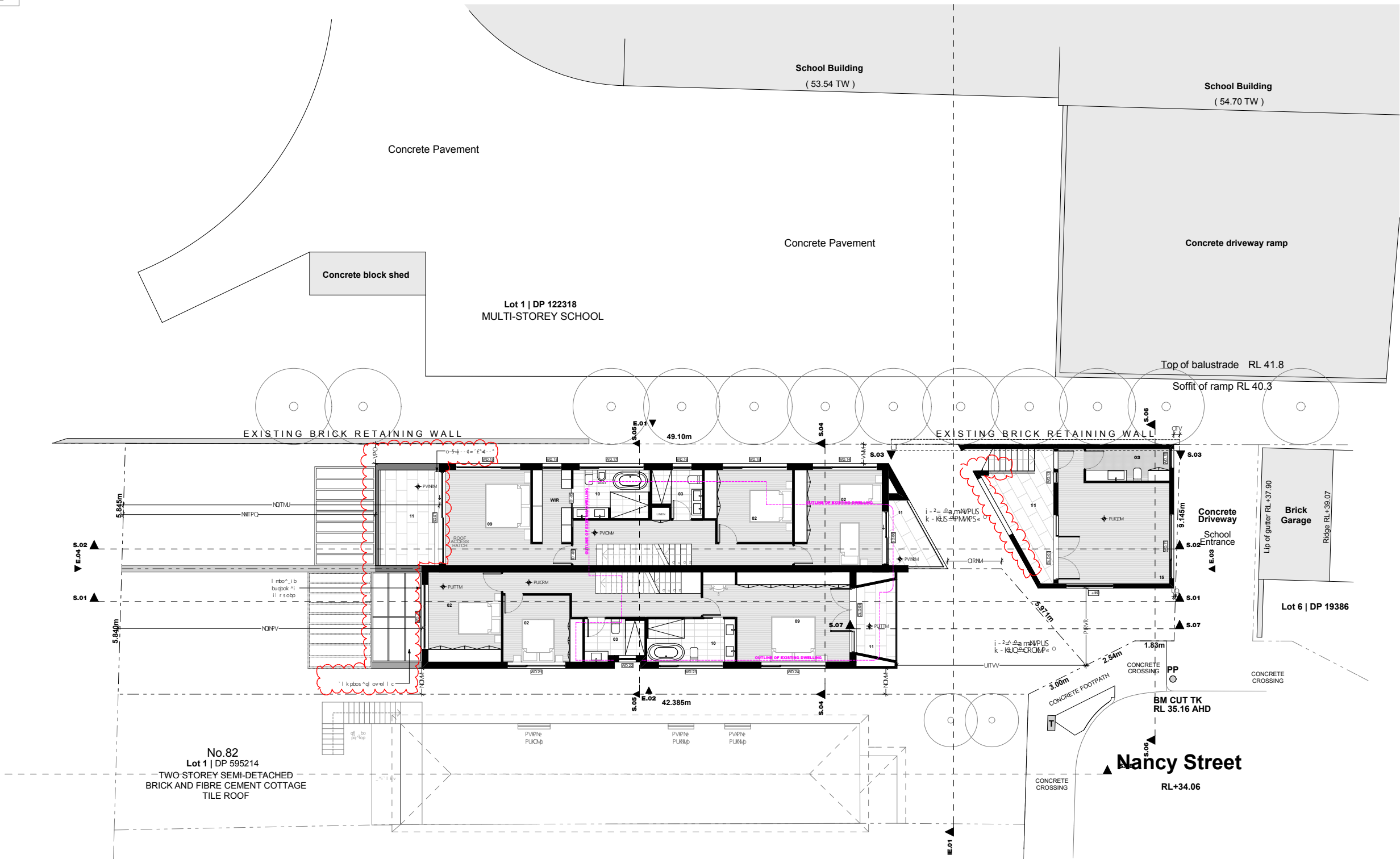


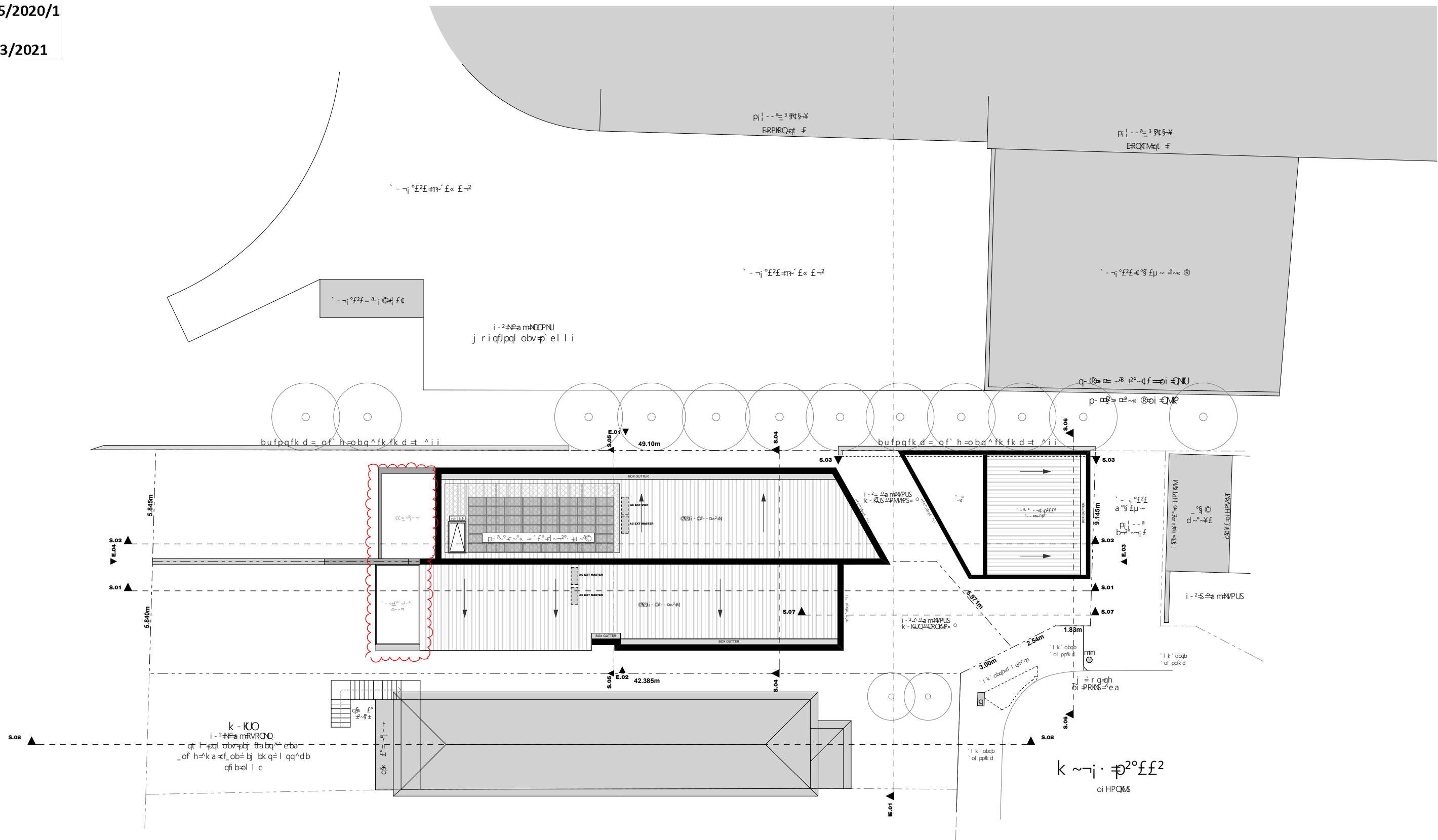
Drawing title  
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Drawing No.  
a^KMT  
Revision

Site Address  
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Folio Identifier  
i-2°±N°±~m~NPUS  
Client  
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Scale  
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Drawn  
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Project No.  
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Issue	Date	Description
^	OTIKOM	f+3 fLd + "a f' fL @k f-72@89 ~5 -
-	QUMKOM	O f' Sff Q-f+ fH@ +H+ @ = - 3 -j 9q - « = k f-7+
.	NKKOM	O f' Sff Q-f+ f' fL @k @k f-72@89 ~5 -7+ = "KQO? « = Sff -



## Revision

$p(R) \sim \frac{1}{2} \frac{d}{dt} \ln \frac{1}{p(R)}$

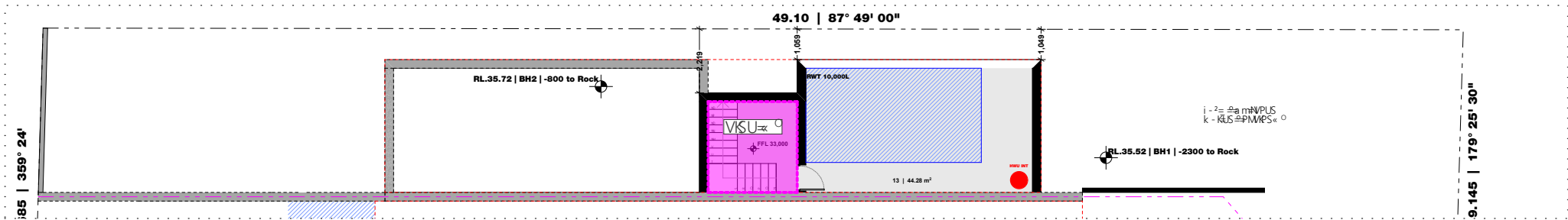
**Date** p£®K©MNU

Do not scale drawings - refer to figured dimensions only. Any discrepancies shall immediately be referred to the architect for clarification.

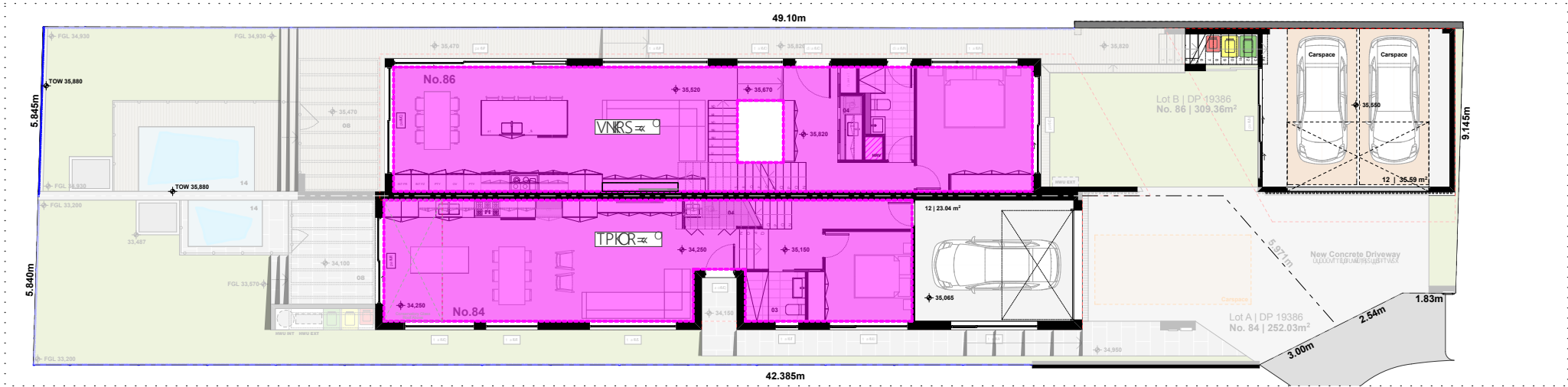
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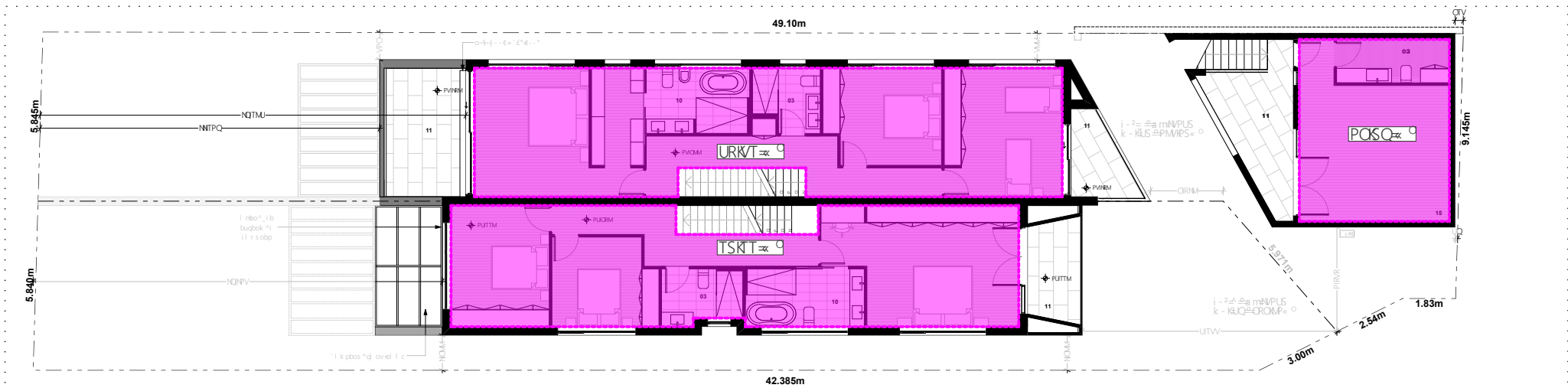




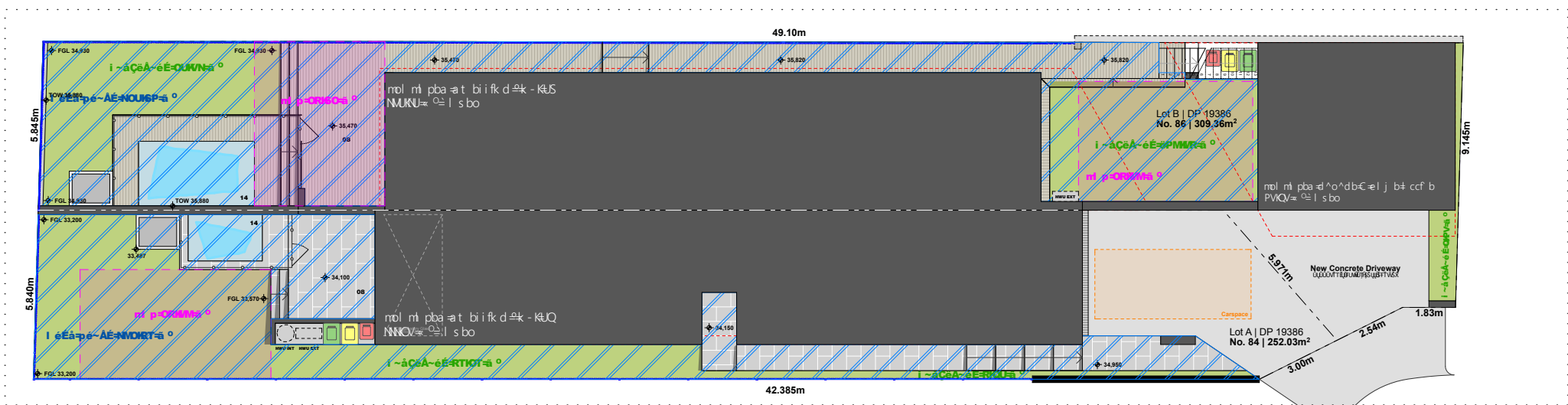
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^ob<sup>o</sup> ^i`ri ^qfl kp



O<sup>o</sup>l ol rka<sup>o</sup>il l o<sup>o</sup>l ol pp  
cill o<sup>o</sup>ob<sup>o</sup> ^i`ri ^qfl kp



P<sup>o</sup>efopq<sup>o</sup>il l o<sup>o</sup>l ol pp  
cill o<sup>o</sup>ob<sup>o</sup> ^i`ri ^qfl kp



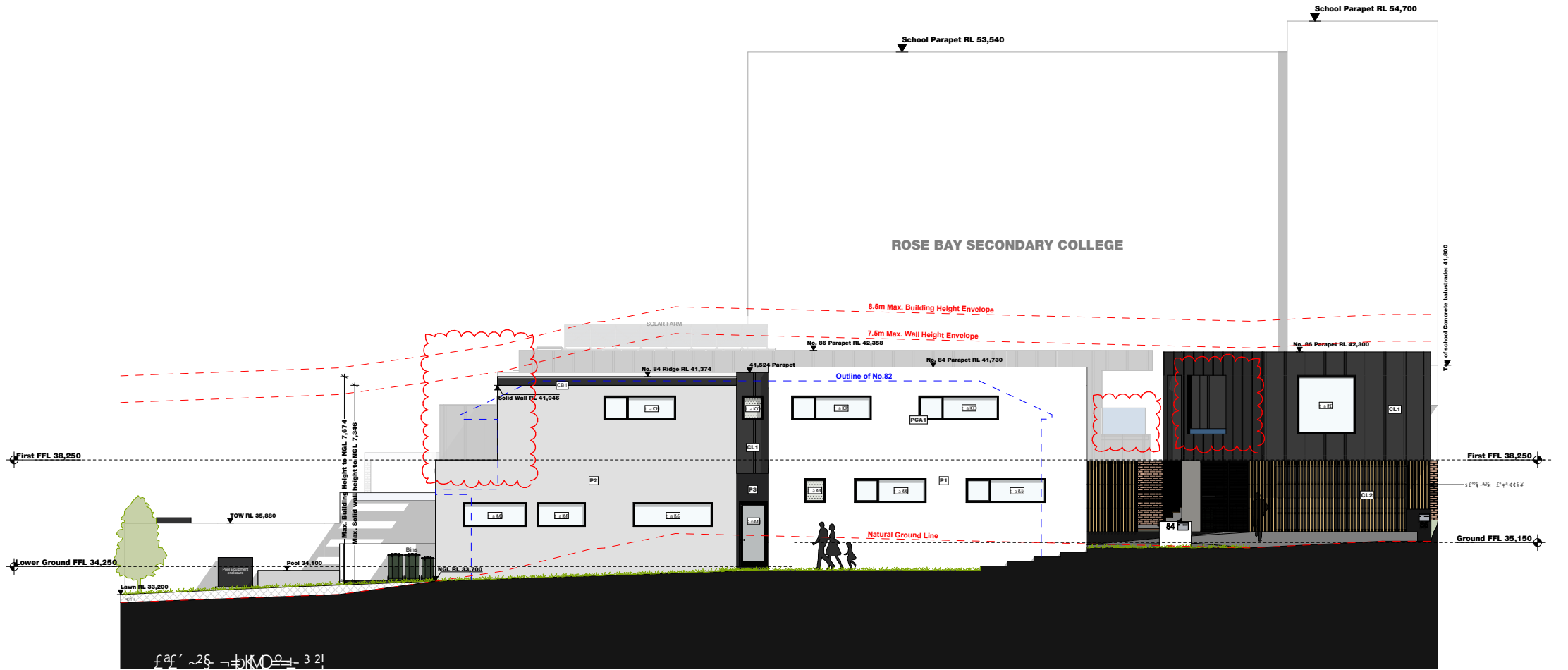
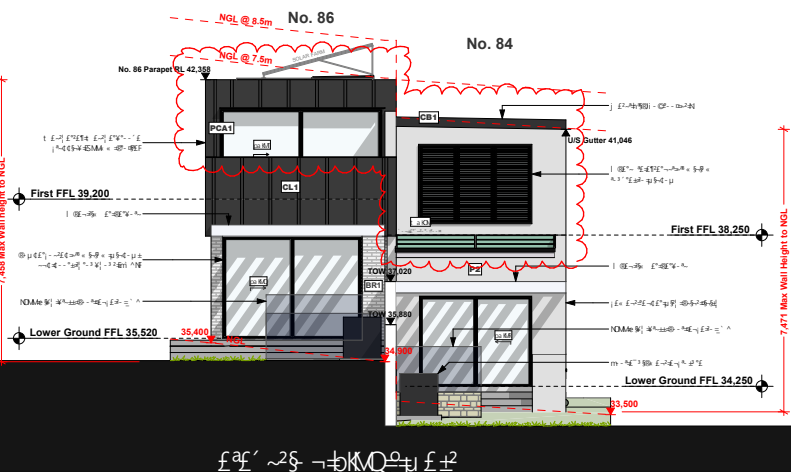
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l n<sup>o</sup>bk <sup>o</sup>pm` bl<sup>o</sup> ^k ap` ^nb  
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d <sup>o</sup> c <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ =	TPKOR <sup>o</sup> °
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cpo <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ =	NRMB <sup>o</sup> ° = °MRVM
i <sup>o</sup> ~k ap` ^nb j <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ =	NRMB <sup>o</sup> ° = °PTKUM °
n <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ =	COVB <sup>o</sup> ° = °SOTR <sup>o</sup> °
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n <sup>o</sup> fs ^qb <sup>o</sup> n <sup>o</sup> bk <sup>o</sup> pm` b j <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ =	CR <sup>o</sup> °
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k - k <sup>o</sup> Q <sup>o</sup> ~f <sup>o</sup>   q <sup>o</sup> ~ p <sup>o</sup> ~f <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ =	PMPS <sup>o</sup> °
cill o <sup>o</sup> ~pm` b <sup>o</sup> ~^qfl cpo <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ =	MTSUN <sup>o</sup> ° = °PTIRU <sup>o</sup> °
~ <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ =	MISUN <sup>o</sup> °
d <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ =	VNSR <sup>o</sup> °
c <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ =	NNSR <sup>o</sup> ° =
cpo <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ =	MTNN <sup>o</sup> ° = °COMUV <sup>o</sup> °
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n <sup>o</sup> fs ^qb <sup>o</sup> n <sup>o</sup> bk <sup>o</sup> pm` b j <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ =	CR <sup>o</sup> °
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	a <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~
	p <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~ <sup>o</sup> ~f <sup>o</sup> ~
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Q<sup>o</sup>pfqb<sup>o</sup> l s bol<sup>o</sup> n<sup>o</sup>fs ^qb  
l n<sup>o</sup>bk <sup>o</sup>pm` bl<sup>o</sup> ^k ap` ^nb  
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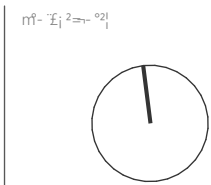
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Issue	Date	Description
1	01/04/2021	Initial Design
2	01/04/2021	Revised Design
3	01/04/2021	Final Design



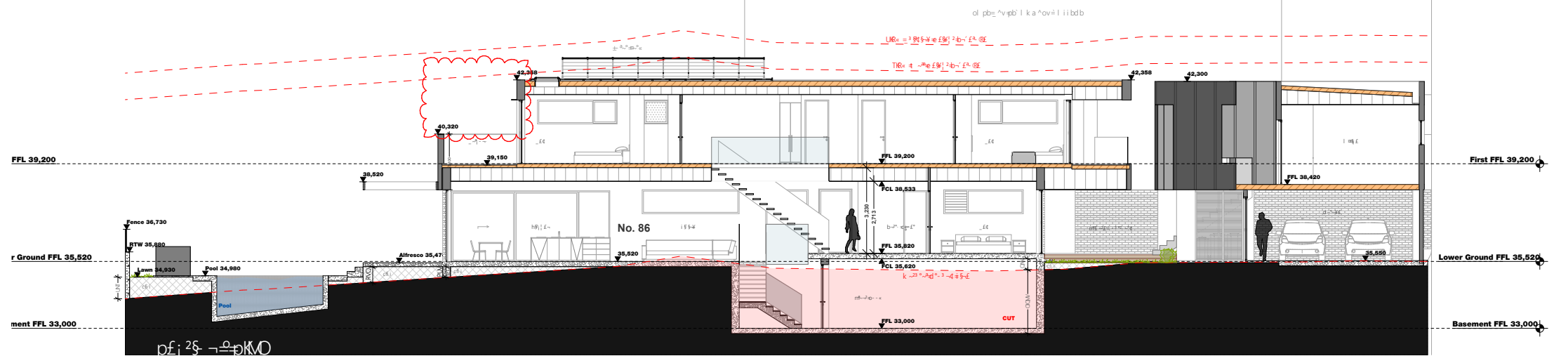
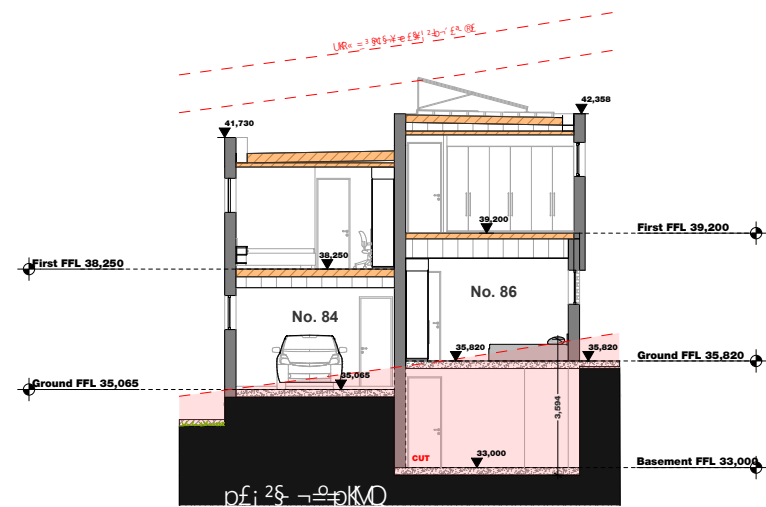
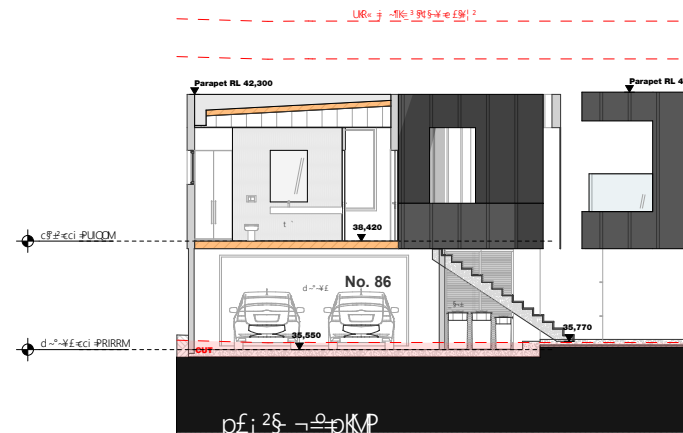
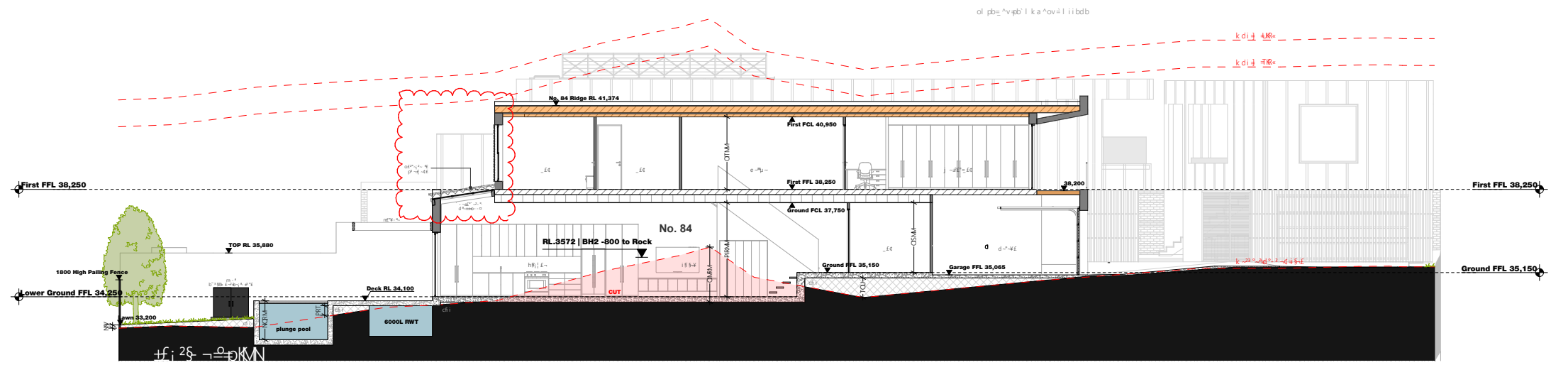
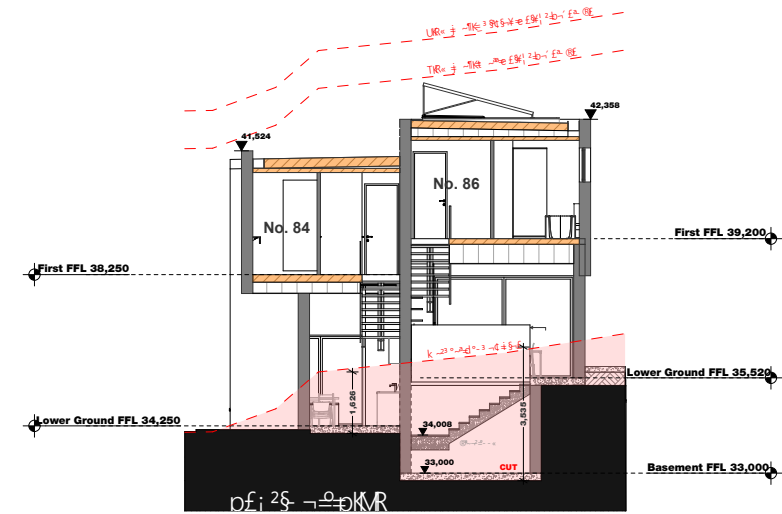
Drawing title	baf' ~25 ~±
Drawing No.	a ^KMMN
Revision	
Site Address	UOK ~1. 30°E2 - - d\$sk pt
Folio Identifier	i - 2#N# a m#NVPUS
Client	p@y f# 2 f~25 ~±
Scale	NOM# 2AP
Drawn	dj
Project No.	NUN
Date	p f@OMNU

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Date

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Project No.

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Date

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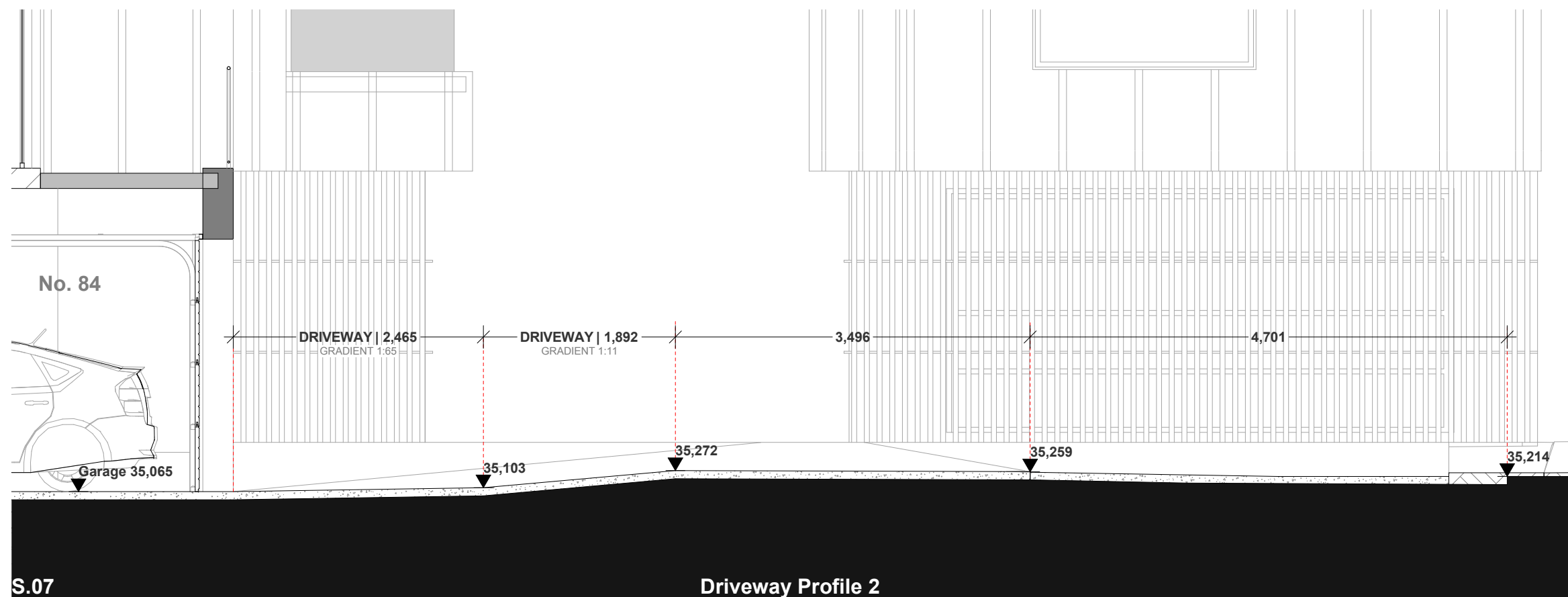
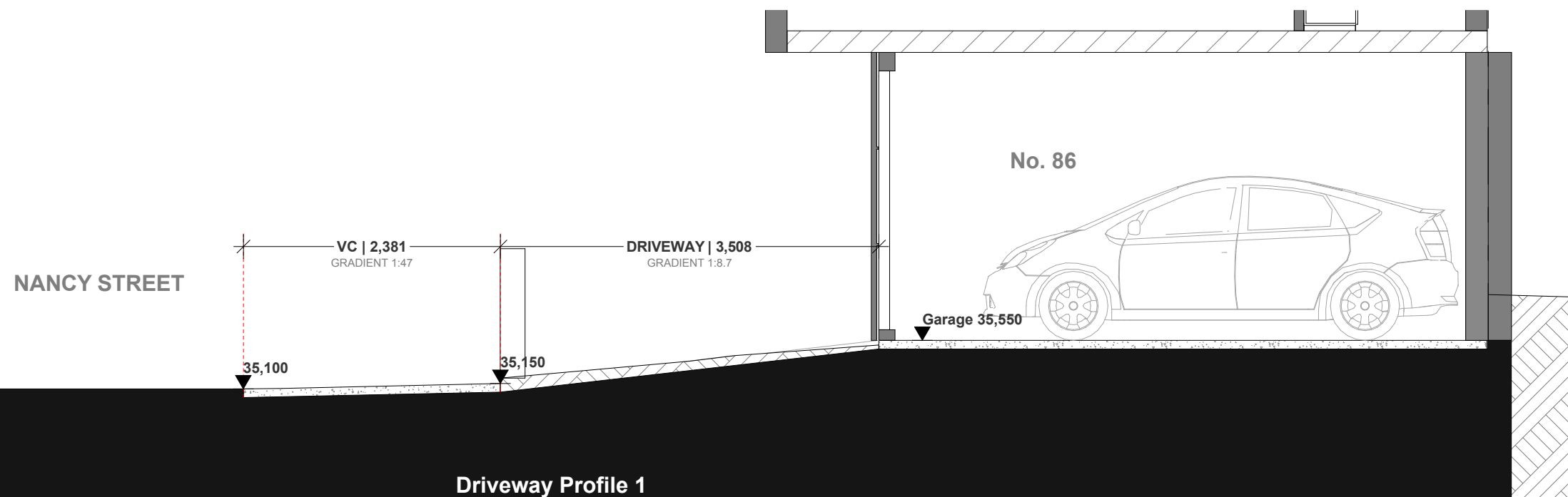
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Issue	Date	Description
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_	QUMUOM	$O(f' \cdot f'' \cdot f''' \cdot f^{(4)} \cdot f^{(5)} \cdot f^{(6)} \cdot f^{(7)} \cdot f^{(8)} \cdot f^{(9)} \cdot f^{(10)})$
`	N\$KNOM	$O(f' \cdot f'' \cdot f''' \cdot f^{(4)} \cdot f^{(5)} \cdot f^{(6)} \cdot f^{(7)} \cdot f^{(8)} \cdot f^{(9)} \cdot f^{(10)})$



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**Revision**

**Site Address**  
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<b>Scale</b>	NRM $\Rightarrow P$
<b>Drawn</b>	dj
<b>Project No.</b>	NUN\$
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Window Schedule

ID	WD.01	WD.02	WD.03	WD.04	WD.05	WD.06	WD.07	WD.08	WD.09	WD.10	WD.11	WD.12	WD.13	WD.14
Home Story	Ground FFL	Ground FFL	Ground FFL	Ground FFL	Ground FFL	Ground FFL	Ground FFL	Ground FFL	Ground FFL	First FFL	First FFL	First FFL	First FFL	First FFL
Height	900	2,400	900	900	900	900	900	900	900	900	900	2,200	2,400	900
Width	3,000	1,600	3,655	2,400	1,800	3,000	800	2,700	3,000	900	3,000	2,200	500	3,000
Head Height	2,400	2,700	2,700	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,400	3,000	2,400	2,400
Sill Height	1,500	300	1,800	1,500	1,500	1,500	1,500	1,500	1,500	1,500	1,500	800	0	1,500
Glazed Area (m2)	2.7	3.8	3.3	2.2	1.6	2.7	0.7	2.4	2.7	0.8	2.7	4.8	1.2	2.7
2D Symbol														
Elevation														

Window Schedule

ID	WD.15	WD.16	WD.17	WD.18	WD.19	WD.20	WD.21	WD.22	WD.23	WD.24
Home Story	First FFL	First FFL	First FFL	First FFL	First FFL	First FFL	First FFL	First FFL	First FFL	First FFL
Height	900	900	900	900	900	2,100	900	900	900	900
Width	3,000	900	3,000	900	3,000	3,000	2,700	800	3,000	3,000
Head Height	2,400	2,400	2,400	2,400	2,400	2,400	2,400	2,900	2,400	2,400
Sill Height	1,500	1,500	1,500	1,500	1,500	300	1,500	2,000	1,500	1,500
Glazed Area (m2)	2.7	0.8	2.7	0.8	2.7	6.3	2.4	0.7	2.7	2.7
2D Symbol										
Elevation										

natHERS Spec Summary

Floor slabs	Concrete ground floor. Timber first floor. R1 floor insulation over outside air, to unit no. 84.
Exterior walls	Brick veneer wall with foil + R1.5 batts in cavity to plasterboard lining, or wall system reaching a total R-value (R2.02) (as per stamped plans). Metal clad wall (framed + plasterboard) with foil + R1.5 insulation in cavity, or wall system reaching a total R-value (R2.16) (as per stamped plans). External walls modelled with medium colour finishes.
Glazing	<b>High solar gain Low-E glass, with aluminium framing:</b> To no. 84 living and bedroom areas. - Type A (U-Value: 5.4, SHGC: 0.49). - Type B (U-Value: 5.4, SHGC: 0.56). <b>Low solar gain Low-E glass, with aluminium framing:</b> To no. 86 living and bedroom areas. - Type A (U-Value: 5.6, SHGC: 0.41). - Type B (U-Value: 5.6, SHGC: 0.36). <b>Single clear glass, with aluminium framing:</b> Modelled to garages & wet areas: - Type A (U-Value: 6.7, SHGC: 0.57). - Type B (U-Value: 6.7, SHGC: 0.70). U-Value & SHGC are combined glass and frame figures.
Ceilings / Roof	R3.0 ceiling insulation to all unit ceilings with roof over. Rated with sealed downlights & sealed wet area exhaust fans. Metal (with foil under) roofs modelled as unventilated with light colour finishes.
Please refer to NATHERS individual certificates for further details.	

Glazed Door Schedule

ID	GLD.01	GLD.02	GLD.03	GLD.04	SD.01	SD.02	SD.03	SD.04	SD.05	SD.06	SD.07
Quantity	1	1	1	1	1	1	1	1	1	1	1
Width	844	1,200	3,016.0	3,016.0	3,800	3,320	6,000	3,610	2,920	2,400	4,200
Height	2,400	2,400	2,400	2,400	2,360	2,360	2,660	2,660	2,360	2,360	2,360
Glazed Area (m2)	2.0	2.9	4.8	4.8	9.0	7.8	16.0	9.6	6.9	5.7	9.9
2D Symbol											
Elevation											

id^



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Application No: DA-165/2020/1

Date Received: 24/03/2021

Issue	Date	Description
^	01/04/2021	Issue 1: Initial design submission.
-	15/05/2021	Issue 2: Revised design submission.
✓	24/03/2021	Issue 3: Final design submission.

10:00 AM



Drawing title

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Drawing No. a ^ K M Q  
Revision

Site Address

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Project No.

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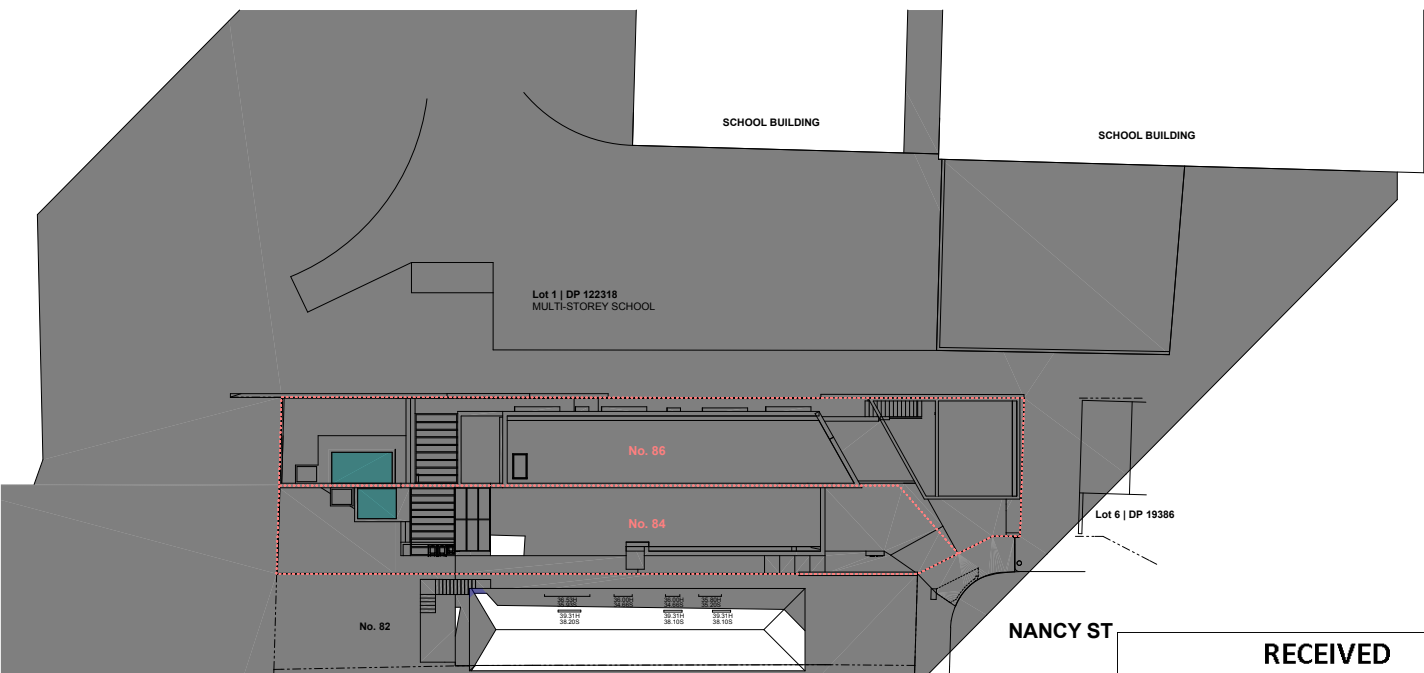
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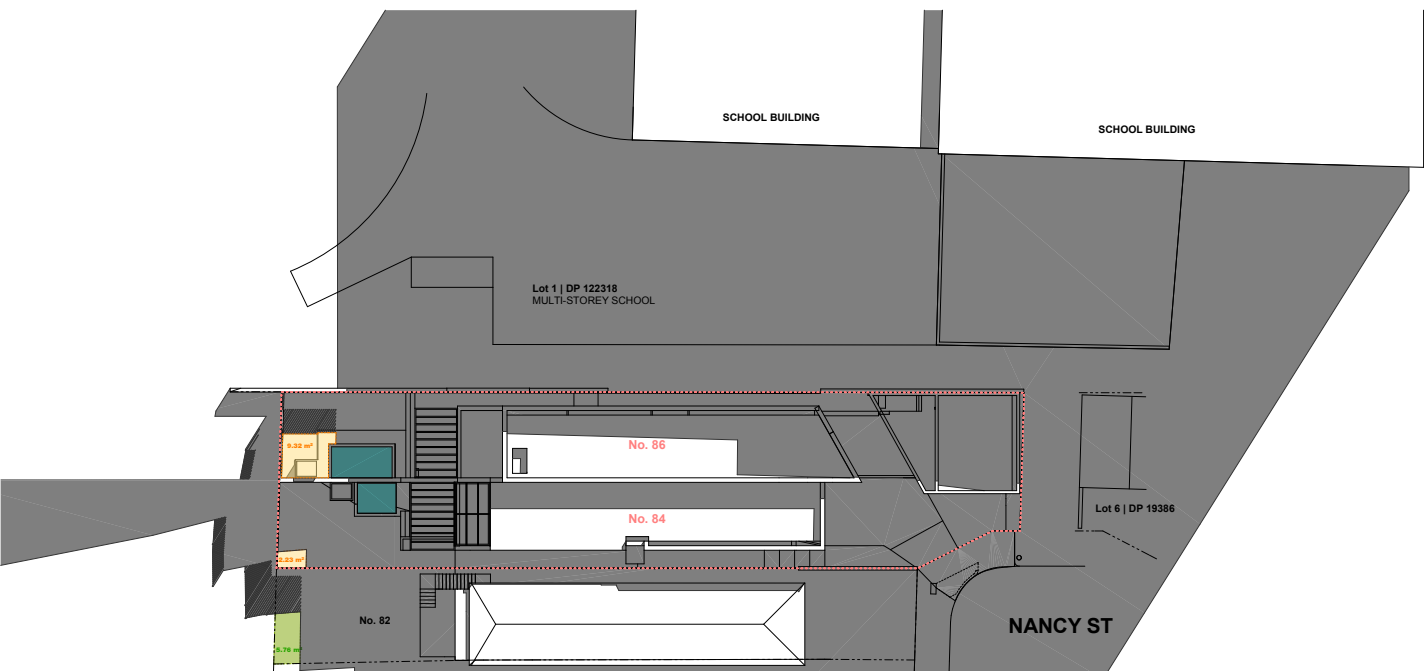
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**Application No: DA-165/2020/1**

**Date Received: 24/03/2021**

1	Existing Shadows on June 21   9am
-	1:500

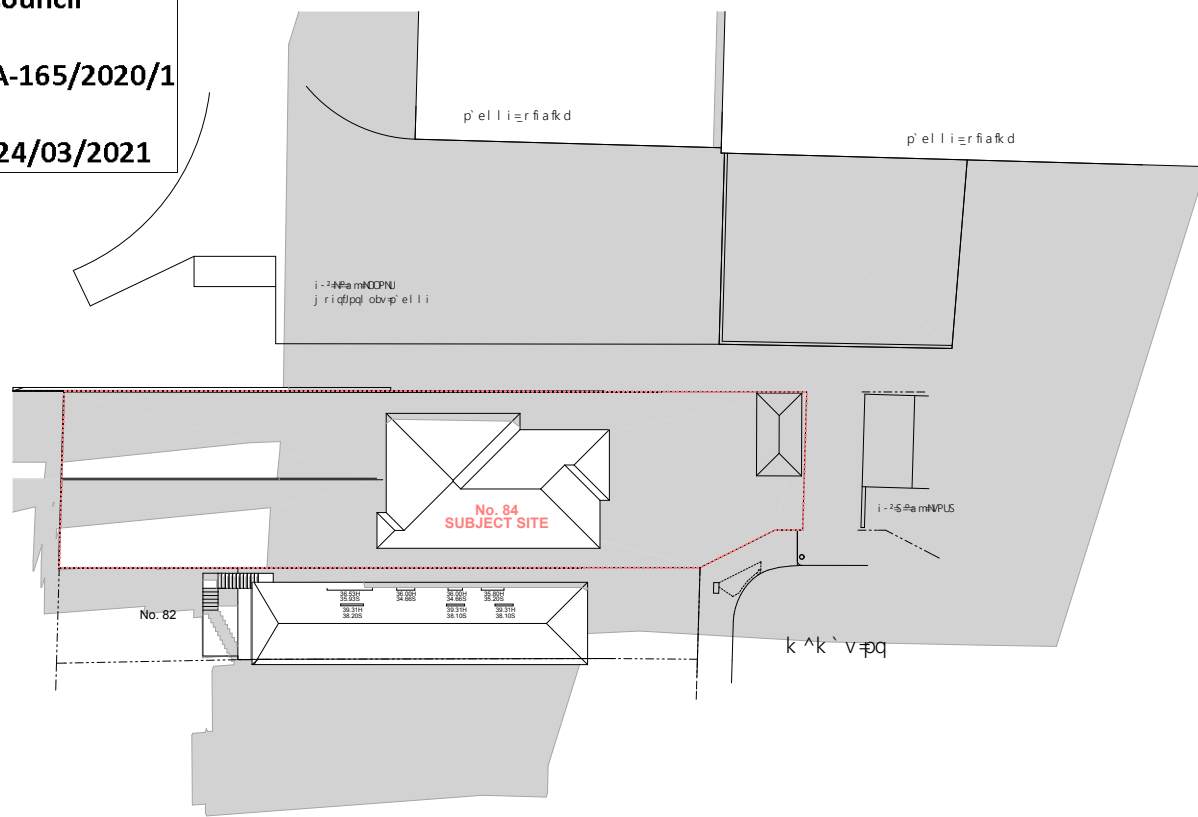
1	Proposed Shadows on June 21   9am
-	1:500



1	existing shadow plan - 10am
-	1:500

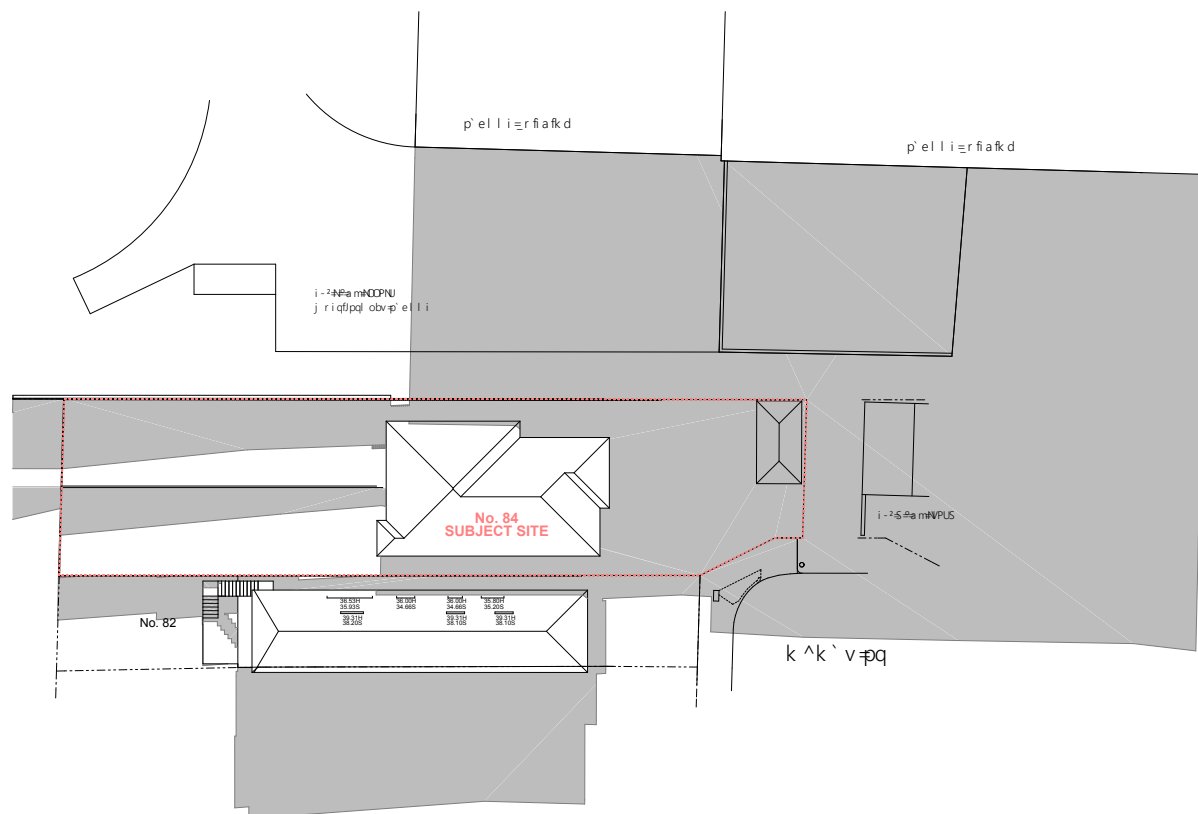
1	Proposed Shadows - June 21 10am
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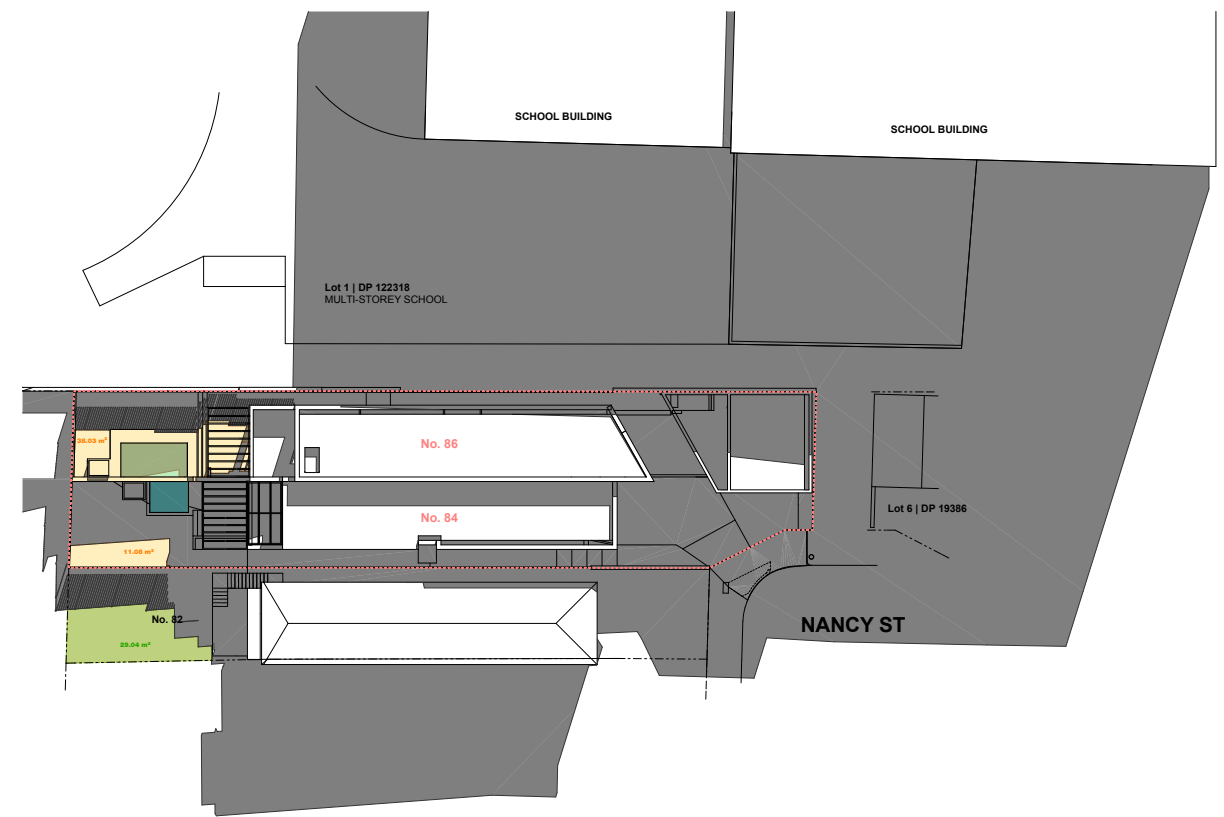
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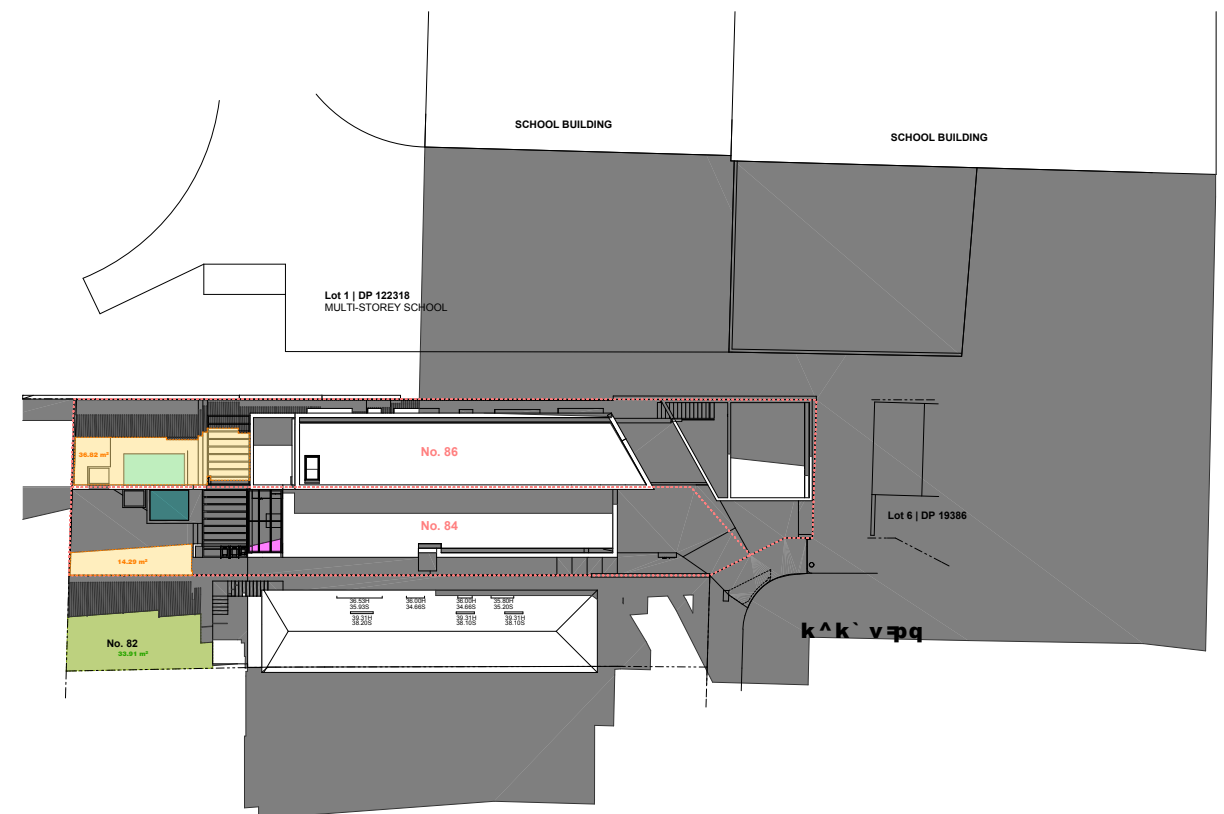
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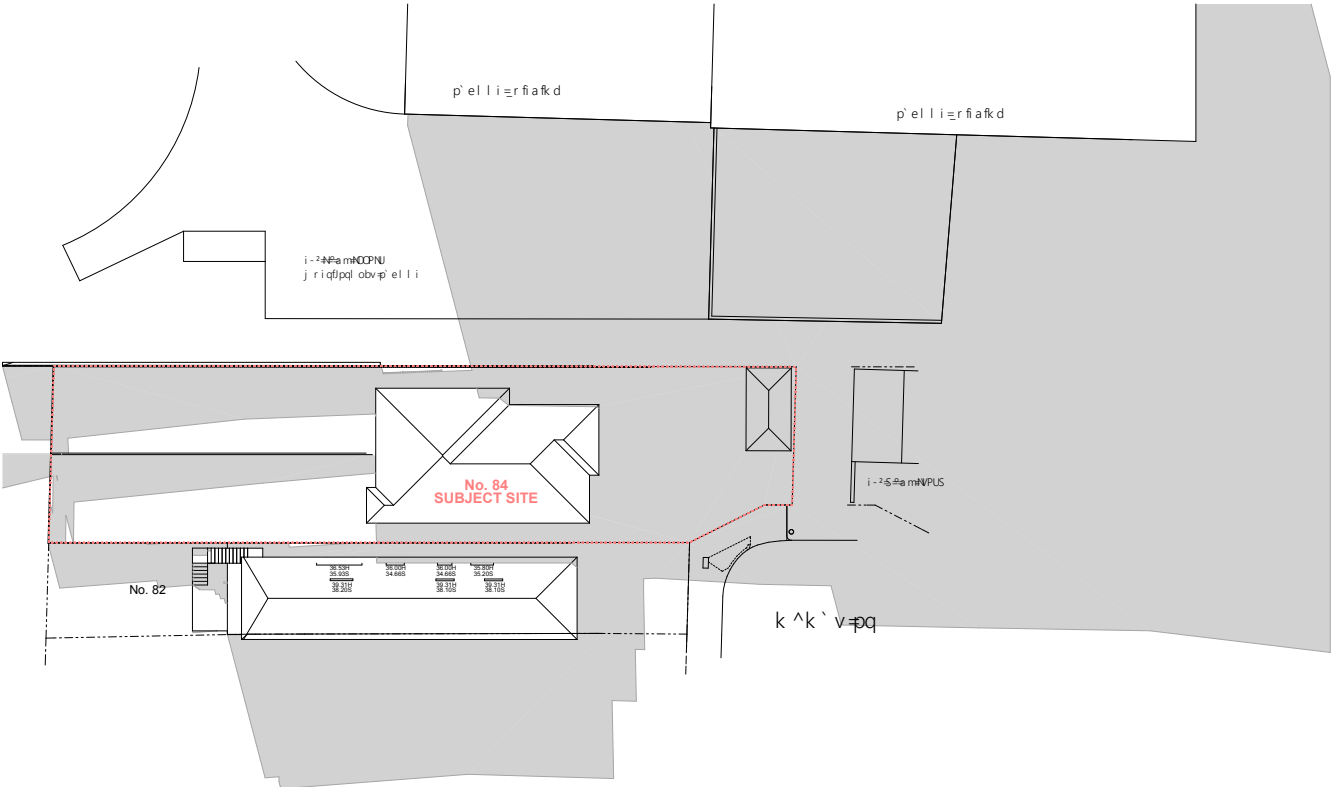
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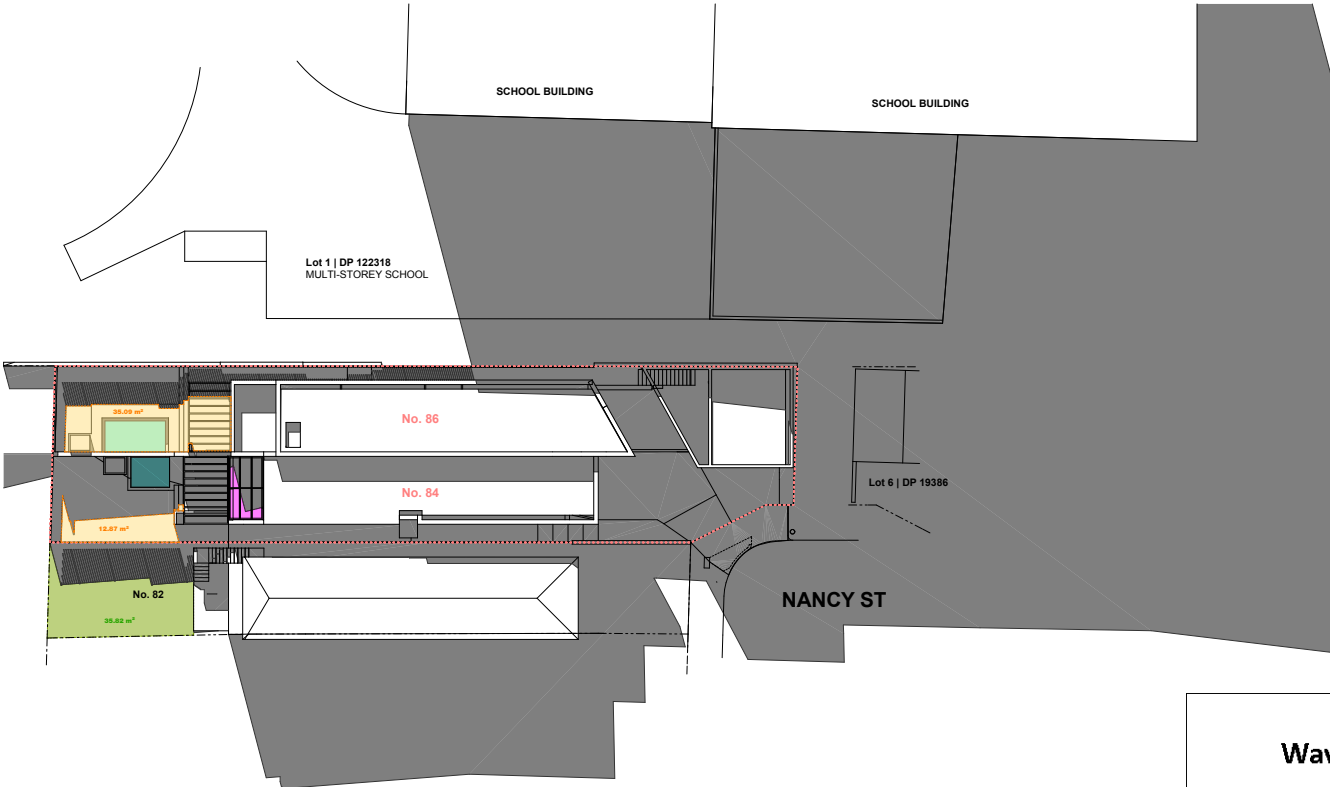


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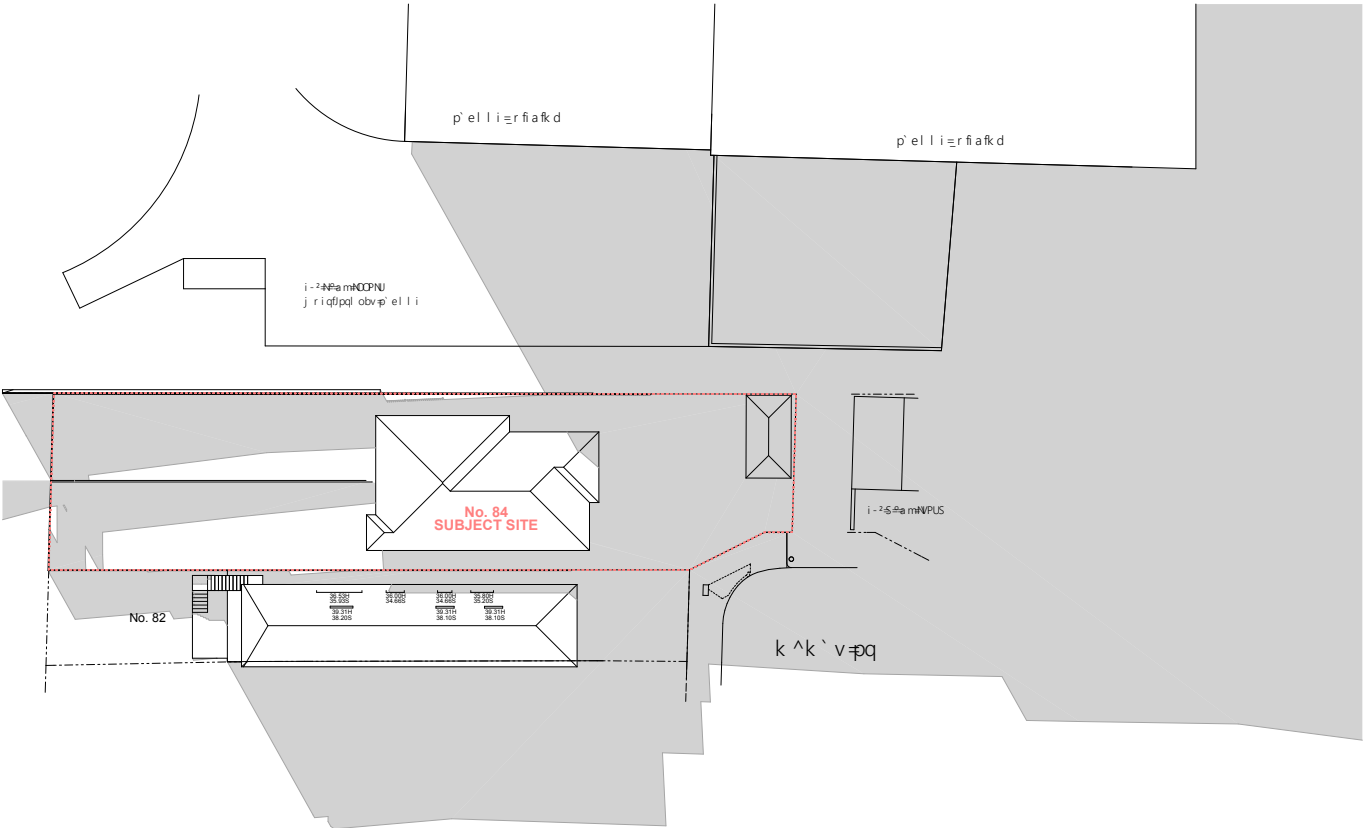


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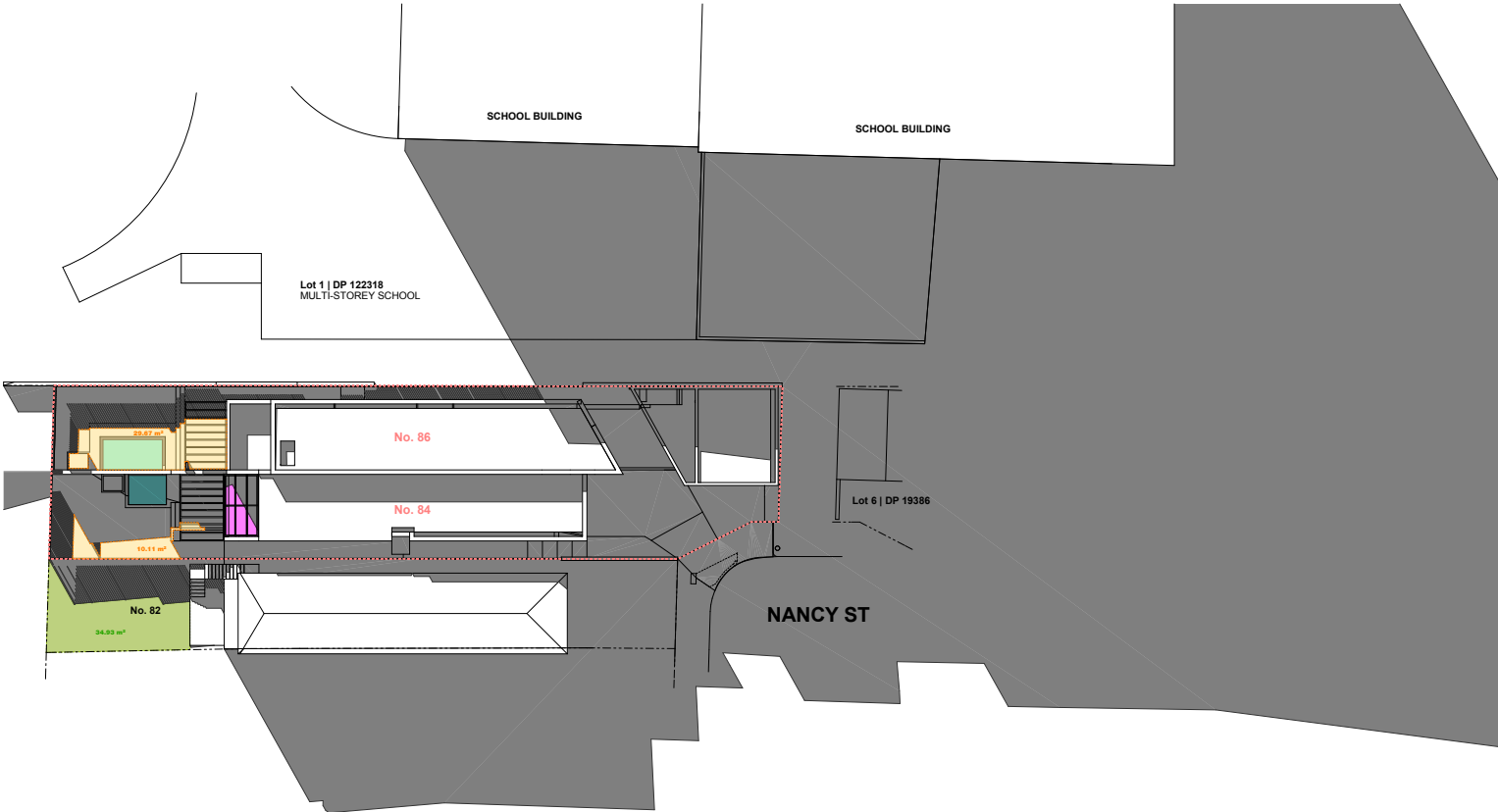


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Date Received: 24/03/2021



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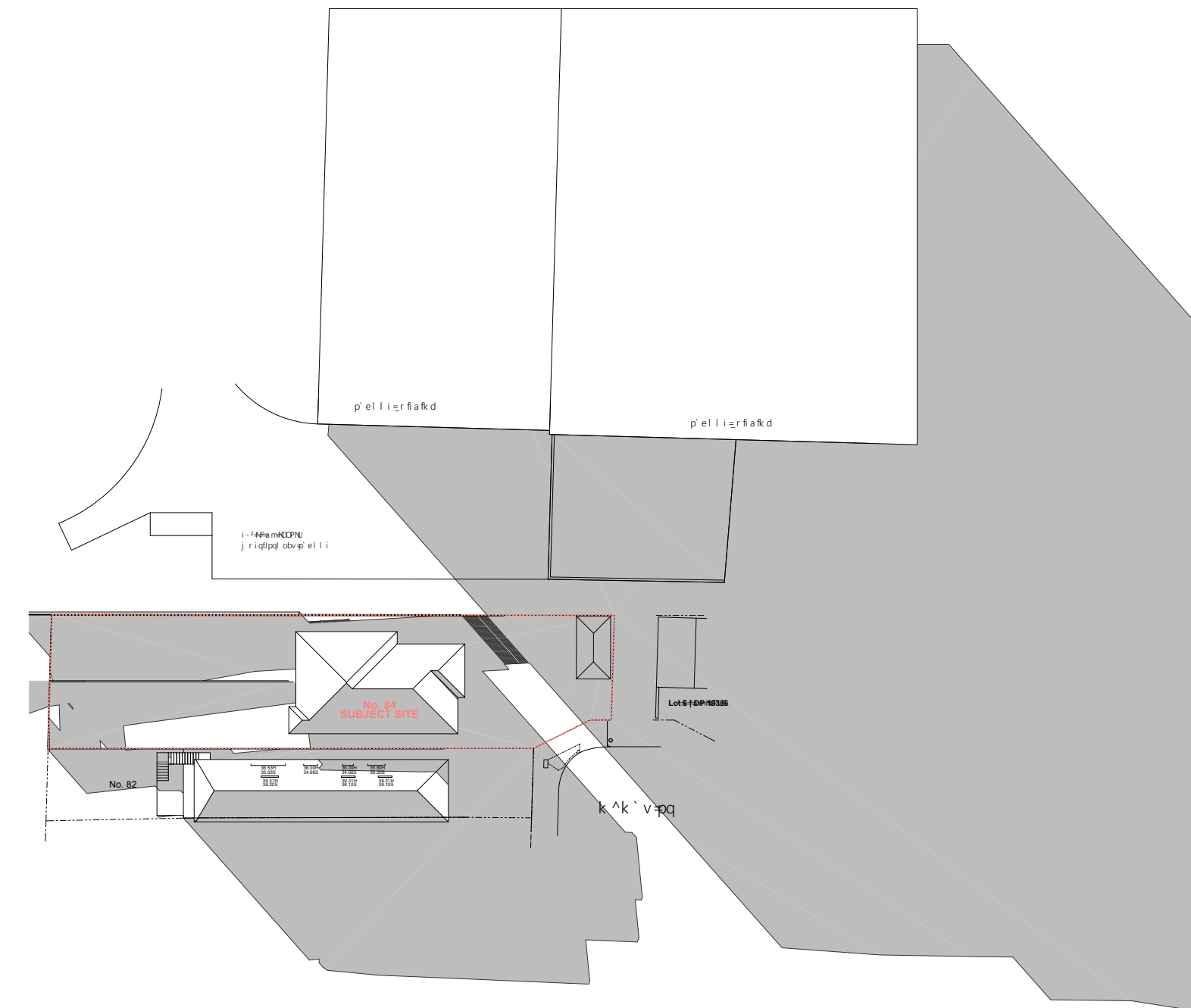
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 <p><b>WAVERLEY</b> COUNCIL</p>	i £¥£-¢		<b>Issue</b>	<b>Date</b>	<b>Description</b>	m̄- Ǝj 2= ²q̄	<b>Drawing title</b>	<b>Site Address</b>	<b>Scale</b>	<b>monument design partnership</b>
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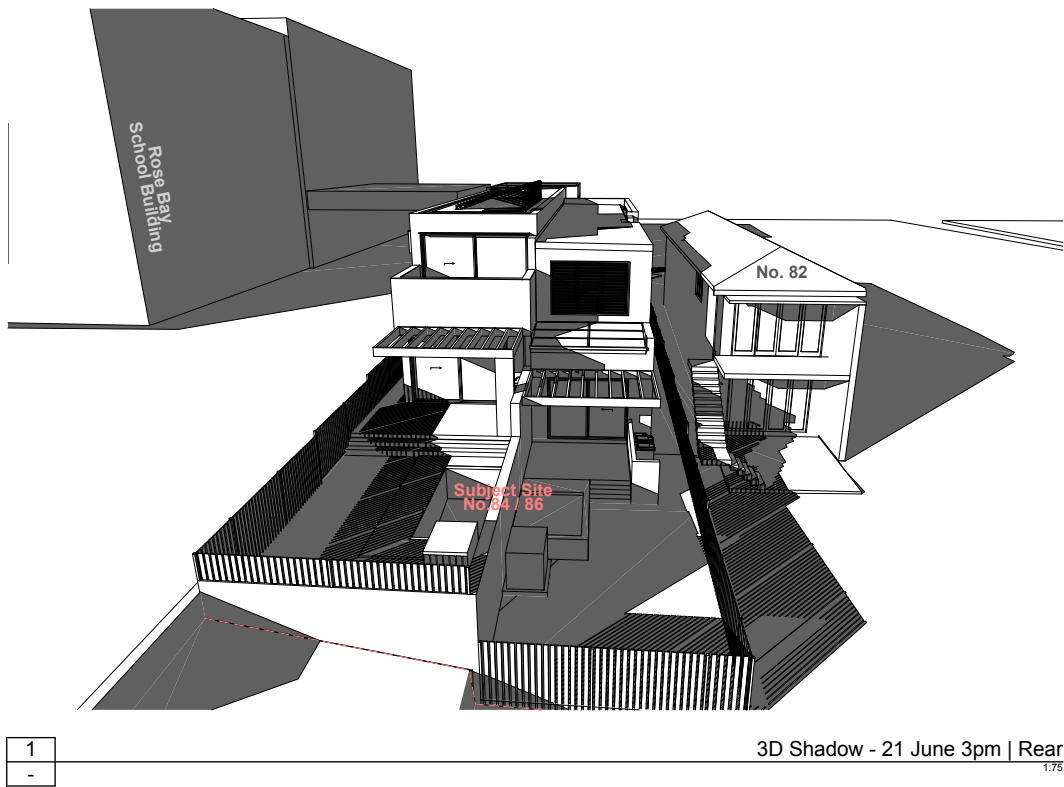
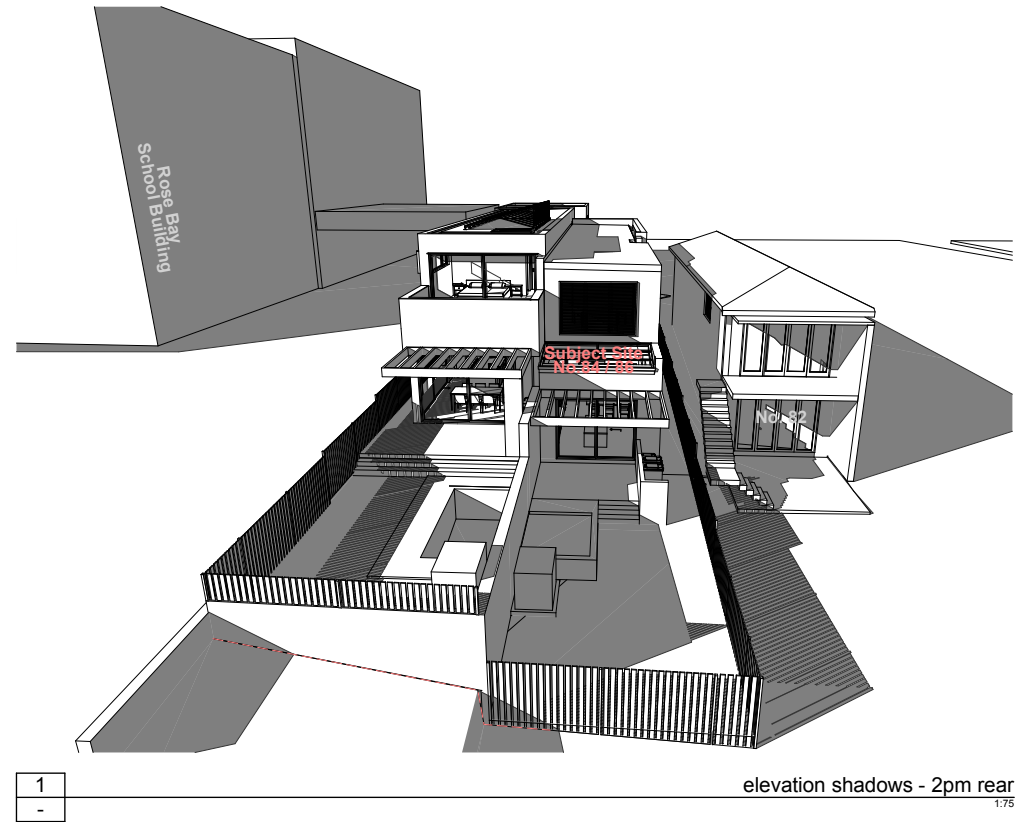
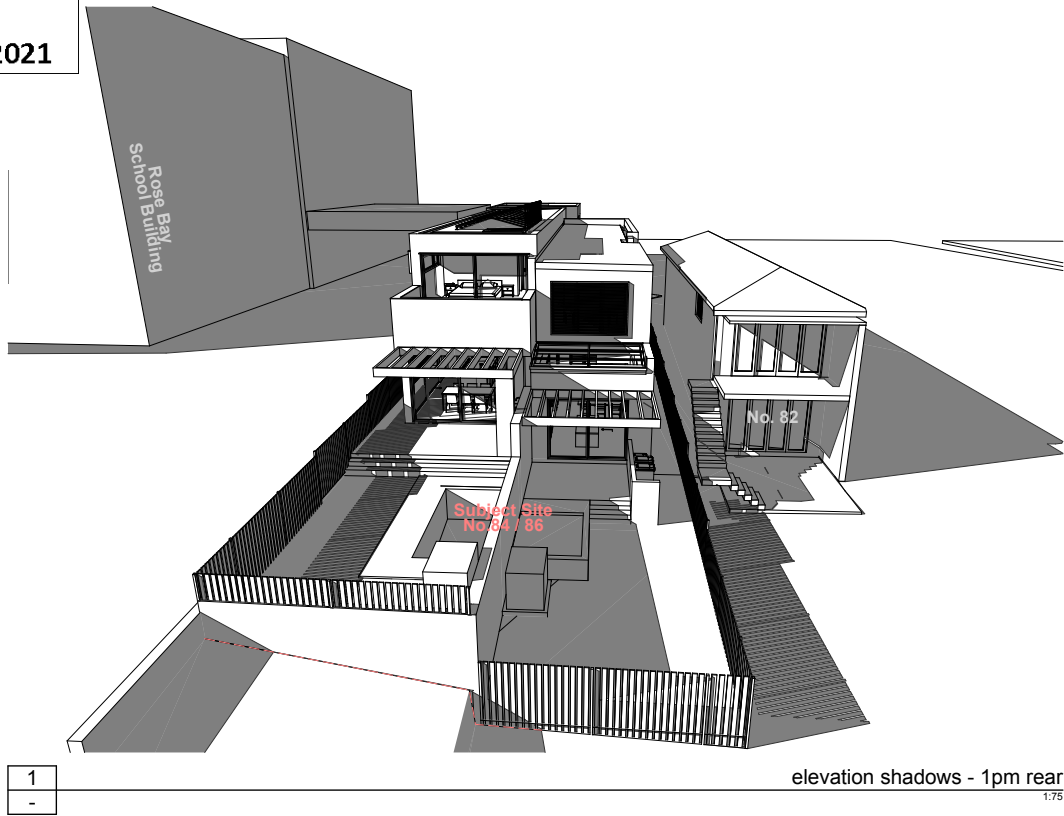
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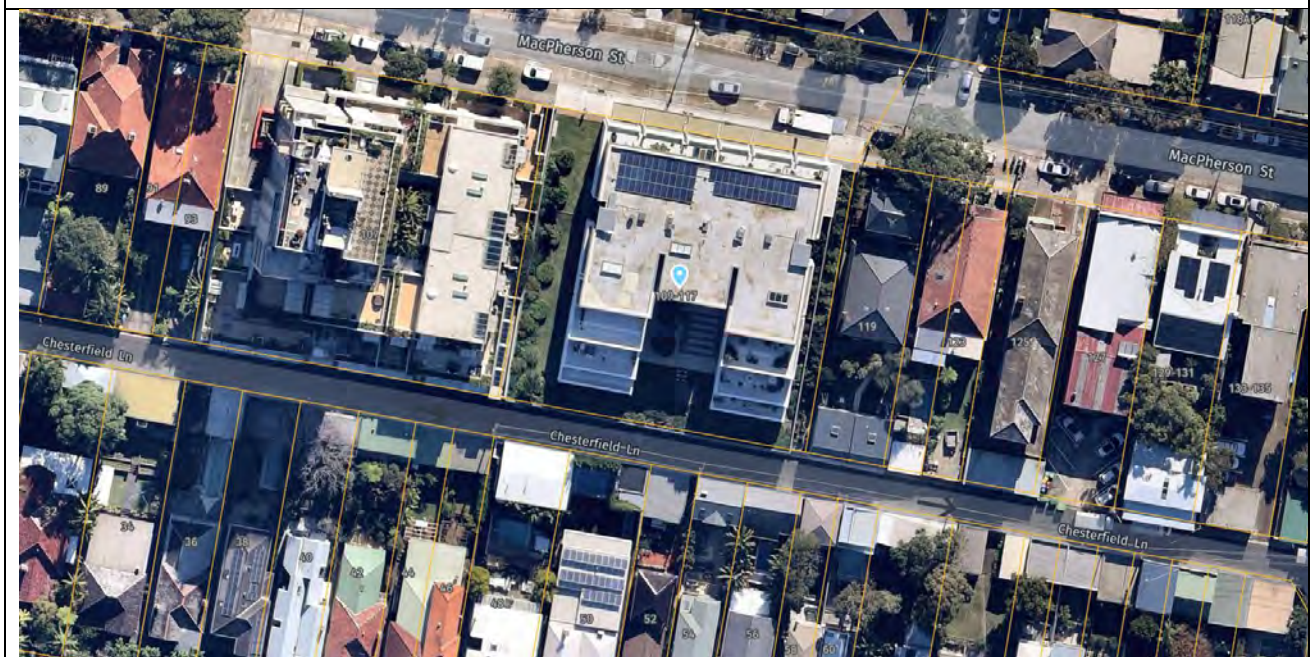




## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-188/2021
<b>Site address</b>	113 MacPherson Street, BRONTE
<b>Proposal</b>	Construction and operation of a food and drink kiosk in front of the western end of the existing commercial tenancy of the building
<b>Date of lodgement</b>	26 May 2021
<b>Owner</b>	The Owners of Strata Plan No 99129
<b>Applicant</b>	New Street No 1 Pty Ltd
<b>Submissions</b>	12 submissions received
<b>Cost of works</b>	\$140,800
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• FSR</li> <li>• Waste management</li> <li>• Operational management</li> <li>• Insufficient information</li> <li>• Design excellence</li> <li>• Public domain</li> <li>• Noise</li> </ul>
<b>Recommendation</b>	That the application be REFUSED

### SITE MAP





## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for the construction and operation of a food and drink kiosk in front of the western end of the existing commercial tenancy of the building at the site known as 113 MacPherson Street, BRONTE.

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

- FSR
- Waste management
- Operational management
- Insufficient information
- Design excellence
- Public domain
- Noise

The assessment finds these issues unacceptable due to the potential impacts on the surrounding residents and the impact the kiosk will have on the streetscape character.

A total number of 12 submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

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

### 1.2. Site and Surrounding Locality

A site visit was carried out on 15 June 2021.

The site is legally described as SP 99129 and is known as 113 MacPherson Street Bronte.

The site comprises a shop top housing development with a Woolworths Metro fronting MacPherson Street, residential apartments above on levels 1, 2 and 3, all above two levels of 'basement' parking that is accessed from Chesterfield Lane to the rear.

To the west of the site is the ten storey 'Oceanview Apartments', an anomalous building, built in the 1960s that formally operated as the Charles Hotel, but was converted to residential in the mid-1990s. To the east of the site are two storey residential buildings including dwellings, duplexes and residential flat buildings.

On the opposite side of Macpherson Street, are single storey dwellings, some detached and some semi-detached. To the rear across Chesterfield Lane are residential dwellings, some detached and some semi-detached which face Chesterfield Street. There is an emerging development trend for these properties to have two storey secondary structures presenting to Chesterfield Lane.

**Figures 1 to 2** are photos of the site and its context.



**Figure 1:** Subject site viewed from MacPherson Street



**Figure 2:** Subject site viewed from MacPherson Street, showing the location of the proposed kiosk in red

### 1.3. Relevant Development History

The site has a detailed development history as follows:

**DA-264/2015** was granted deferred commencement consent on 16 December 2015, allowing redevelopment of the former Bronte RSL site for a new mixed-use building. The deferred commencement matters were satisfied on 3 May 2016, and the consent became operative on that day.

Various modifications were requested post-consent in the form of section 96 applications (now known as section 4.55) and amending development applications. These were determined by Council and/or the NSW Land and Environment Court (LEC). The current form of the consent is DA-264/2015/C [LEC Appeal No. 17/273413]. This DA involves approval for the sale and consumption of liquor on site.

**DA-218/2018**, for Stratum subdivision into 2 Lots – ‘Residential’ and ‘Retail’ was approved on 28 November 2018.

**DA-231/2019**, for the change of use to a supermarket including consolidation of retail tenancies in a single tenancy and associated fit out was approved on 29 April 2020 by Waverley Local Planning Panel. The supermarket, a ‘Woolworths Metro’ is now operating with approved hours of 7am to 10pm, seven days per week.

The approval included a café located inside the Woolworths Metro with a service window to the outside and the provision of outdoor seating for four chairs and two tables all located within the property boundary.

#### 1.4. Proposal

The development application seeks consent for the construction of a food and beverage kiosk located on the western end along the northern boundary of the subject site, fronting the existing Woolworths Metro shop.

The proposed kiosk will have a total area of 13.3m<sup>2</sup> and will sit in front of the existing shopfront on the northern boundary at the western end on MacPherson Street as an infill between two pillars.

The proposal includes a zone for signage; however, no details have been provided as to the style or type of signage proposed.

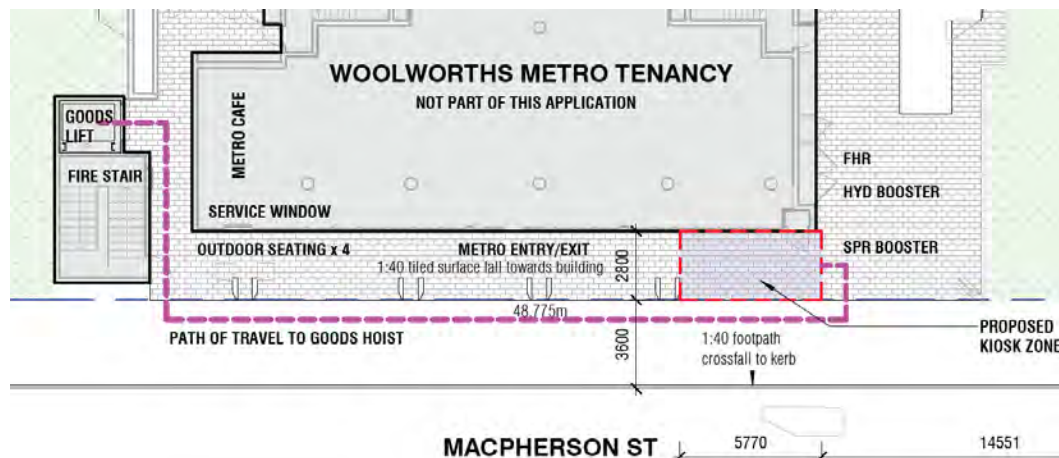
The location of the kiosk will result in the proposed relocation of the fire hydrant cupboard door to the western side of the existing shop.

The proposed hours of operation for the premises are Monday to Sunday: 7.00am to 10.00pm.

The Statement of Environmental Effects mentions outdoor seating will be provided for customers; however, this is not shown on the architectural plans.

Two staff are proposed to occupy the premise at any time and no patrons are permitted on the premise, as the kiosk is proposed for takeaway only.

The kiosk will benefit from an existing liquor licence as it is located within a licenced area, as previously approved under DA-264/2015/C.



**Figure 3:** Proposed location of the kiosk in relation to the Woolworths Metro



**Figure 4:** 3D render of proposed kiosk

## 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 55 Remediation of Land.

SEPP 55 was dealt with appropriately in the assessment and determination development application for the redevelopment of the site. The site is suitable for the intended use of the ground floor tenancies of the development as a neighbourhood supermarket in relation to SEPP 55 considerations.

- SEPP 64 Advertising and Signage

In accordance with clause 8 of SEPP 64, Council must not grant development consent unless it is satisfied that the proposed signage is consistent with the objectives of the SEPP and the assessment criteria set out under Schedule 1 of the SEPP. The architectural plans illustrate a signage zone proposed above the kiosk located underneath the existing awning. Whilst signage is generally acceptable in this location and proposed size may be appropriate in the area, no details have been

provided regarding the style, potential internal illumination or external lighting. An assessment against SEPP 64 therefore cannot be undertaken due to insufficient information.

## 2.1.2. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	No	The development is inconsistent with the aims of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table B1 Neighbourhood Centre Zone	Yes	The proposal is defined as 'food and drink premises', which is a permitted use in the B1 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>13m</li> </ul>	Yes	The proposal does not affect the overall building height of the development, as the kiosk is proposed to infill part of the ground floor only and will be set below the existing awning.
4.4 Floor space ratio (FSR) <ul style="list-style-type: none"> <li>1:1</li> <li>(maximum allowable GFA is 2,231m<sup>2</sup>)</li> </ul>	No	The gross floor area (GFA) of the existing (approved) development is 2,277.69m <sup>2</sup> , achieving a FSR of 1.02:1, which does not comply with the standard.  The proposed additional 13.3m <sup>2</sup> area of floor space of the kiosk would result in a further non-compliance to the development standard by 2.7%, resulting in an FSR of 1.03:1.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 5 Miscellaneous Uses</b>		
5.4 If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 20 square metres	Yes	The kiosk proposes a GFA of 13.3m <sup>2</sup> , which complies with this standard.



Provision	Compliance	Comment
<b>Part 6 Additional local provisions</b>		
6.8 Maximum GFA of retail premises on certain land in Bronte	Yes	<p>The site is within the area marked with a '1' on the Key Sites Map of the Waverley LEP 2012, and therefore, this clause applies to the site and proposal.</p> <p>The proposal broadly defined as a 'retail premises', comprises a total GFA of 374m<sup>2</sup>, including the existing Woolworths Metro. It therefore complies with this clause of the Waverley LEP 2012.</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 (FSR)*

The application seeks to vary the FSR development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 1:1. The proposed development has an FSR of 1.03:1, exceeding the standard by 60m<sup>2</sup> equating to a 2.7% variation.

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The proposal is consistent with the objectives of the Floor Space Ratio standard and the objectives of the B1 zone.*
  - (ii) *The proposed FSR of 1.027:1 retains an appropriate correlation between the maximum building height applying to the site and the density of development on the site as it is only a very minor departure from the control.*
  - (iii) *The proposed development does not alter the approved development in respect of compliance with building height, setback and other envelope control. It is therefore compatible with the*

*bulk and scale of the desired future character. The addition of a food and beverages kiosk will activate the street frontage and improve the vibrancy of the area in line with the desired future character of the area.*

- (iv) The proposed development will not visibly alter the overall scale of the development as it will be constructed entirely within the building envelope of the approved dwelling. It is a small structure both in terms of area and height and will not cause any issues for neighbours in terms of privacy, amenity or overshadowing. The proposed development will improve the amenity of the area as it will generate street activation and will provide a place for community interaction at a local food and beverage destination.*
  - (v) The proposed development provides a small scale food and beverages kiosk to support the local community and serve the everyday needs of those who live and work in the neighbourhood.*
  - (vi) The proposed development will not have any adverse implications upon existing residential development. The design of the proposed development ensures that there will be no significant privacy, shadowing, lighting or acoustic impacts upon neighbouring residential land uses. The proposed development is serviced by a basement carpark and MacPherson Street is not considered to be nearing capacity. It is anticipated that the majority of patrons of the proposed kiosk will travel on foot and traffic generation will be able to be managed under existing provisions for the approved Woolworths Metro.*
  - (vii) The proposed development will improve the vitality of the existing development and will support local business and investment in doing so.*
  - (viii) The proposed development will service residents of neighbouring dwellings, patrons of Woolworths Metro and employees of local businesses in its role as a food and beverages facility.*
  - (ix) The proposed development will encourage walking and cycling as it provides a local, walkable and pedestrian friendly option for locals to purchase food and beverages.*
  - (x) The proposed exceedance is extremely minor in nature, representing a mere 2.7% departure from the control and an 0.07% increase to the FSR of the approved development, and is negligible in the context of the four-storey building it is situated within.*
  - (xi) The proposal does not form a noticeable increase to the bulk or scale of the development and does not alter or expand the building envelope of the existing approved development.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:*

- (i) The base approval for the development, DA-264/2015, utilised the full maximum permissible GFA of 2,231m<sup>2</sup>, spanning across four ground floor retail tenancies and three levels of residential apartments. Subsequent modifications to this approval involved the recalibration of the ground floor retail area and the addition of plant rooms but did not increase the GFA.*

*Development Consent for DA-231/2019 approved the consolidation of the ground floor retail space into a single ground floor tenancy for the purposes of a neighbourhood supermarket and converted the pre-approved plant rooms into 'back of house' storage rooms. This resulted in a 46.7m<sup>2</sup> increase to the gross floor area, representing a 2% departure from the FSR control.*

*In the context of this development history, the proposal represents an additional 0.7% increase to the approved FSR, which is incredibly minor in scale. It is also noted that the original*



*Development Consent DA-264/2015 approved food and beverages retail use on the site, which the development of a kiosk would fulfill.*

- (ii) The proposal involves a mere 2.7% departure from the maximum FSR control under WLEP 2012, which is minor both numerically and in relation to the scale of the approved development.*
- (iii) the proposal is consistent with the height, bulk and scale of the adjacent development in the B1 zone and will continue to satisfy the vision for the desired future character of the locality. A development that strictly complies with the standard is unnecessary in this circumstance as no appreciable benefits would result to the adjoining properties or streetscape, by enforcing compliance with the FSR control that is already exceeded by existing development on the site.*
- (iv) Despite contributing to an exceedance of the maximum applicable FSR under clause 4.4 of WLEP 2012, the proposed development remains compliant with the maximum 20m<sup>2</sup> gross floor area control for a kiosk under clause 5.4(6) of WLEP 2012 with a gross floor area of 13m<sup>2</sup>. The proposed development does not alter the approved gross floor area of the Woolworths Metro Supermarket which, at 361m<sup>2</sup>, satisfies the requirement under clause 5.4(7AA) of WLEP 2012 to not exceed a gross floor area of 1000m<sup>2</sup>.*

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 and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

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

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

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The main justification for the non-compliance by the applicant is the argument that the development already exceeds the maximum FSR applicable to the site as a result of the previous approval under DA-231/2019. The applicant argues the additional floor space is minimal and will not visibly alter the overall scale of the existing building, making compliance unnecessary in this case.

The previous DA non-compliance was a result of an internal layout change where an approved services room was altered to floor space. This resulted in no physical external changes to the approved built form. The proposed kiosk will be highly visible from the street as it will sit in front of the existing building, blocking part of the Woolworths Metro façade along MacPherson Street, and will therefore alter the existing bulk and scale of the building. The proposed additional bulk will not contribute positively to the streetscape and will not sit within the existing design of the approved building, as it proposes to infill two columns along the front façade. The kiosk will add unnecessary bulk to the building and is not a desirable outcome.

The original approval of the existing building on site was architecturally designed with shopfronts to provide articulation along the street façade of MacPherson Street. The columns were proposed to provide high quality design features with a symmetric front façade. The proposal to infill two columns would block the intended design of the overall building façade and will interrupt the architectural quality of the original approval. The location of the kiosk should not be supported as it will impact on the intended design quality and streetscape character that has been recently approved and constructed.

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 development standard. The applicant argues the non-compliance is minor in nature, satisfies that controls of the Waverley LEP 2012 for kiosk under clause 5.4(7AA), and is compatible with the desired future character of the area.

Whilst the additional floor space is only 13.3m<sup>2</sup>, the location of the kiosk being so visible from the street creates an unnecessary bulk to the streetscape and the overall scale of the building, which does not fit in to the desired future character of the area. The development does not comply with numerous controls within the Waverley Development Control Plan 2012 (Waverley DCP 2012) (as discussed throughout this report), and minimal setback to the front boundary interrupts the flow of buildings along this section of MacPherson Street. This is particularly evident on the site itself, with the Woolworths Metro entrance sitting 2.8m from the northern boundary. The construction of the kiosk is therefore not supported.

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

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

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

The proposed kiosk will add to the visual bulk and scale of the building on the ground level and will set an undesirable precedence for future development within the area. The infill of the columns impacts on the design features that were assessed and approved as part of the original DA for the construction of the building and will detract from its architectural quality of design. The bulk and scale of the kiosk is unnecessary and will not fit in to the desired future character of the locality. The minimal setback to the street and the location of the kiosk is not compatible with the bulk and scale of the existing building. The proposed development does not comply with the objectives of the FSR standard and should not be supported for this reason.

The objectives of the B1 zone are as follows:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To ensure that non-residential uses do not result in adverse impacts on the amenity of existing and future residential premises having regard to building design, operation and activities, transport, traffic generation and the car parking capacity of local roads.*
- *To strengthen the viability of Waverley's existing business centres as places of vitality for investment, employment and cultural activity.*
- *To provide retail facilities and business services for the local community commensurate with the centre's role in the local retail hierarchy.*
- *To maximise public transport patronage and encourage walking and cycling.*

Whilst it is acknowledged that the development does provide for small-scale retail for the surrounding neighbourhood, the overall planning outcome for the site to achieve this objective is unacceptable and cannot be supported, particularly as the kiosk will create unnecessary bulk and will not sit in character with the existing streetscape.

The Statement of Environmental Effects submitted with the application states that the kiosk is located in an area with an approved liquor licence. Should the kiosk be approved, there is the potential for liquor to be sold up to 10pm, 7 days a week. This would have a detrimental impact on the amenity of existing

and future residential premises as the area is located in a relatively quiet part of Bronte. The kiosk does not align with the objectives of the B1 zone and is not supported.

### Conclusion

For the reasons provided above the requested variation to the FSR development standard is not supported, while the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012, the proposed development is not in the public interest because it is inconsistent with the objectives of the FSR development standard and the B1 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
<b>B1 Waste</b>		
<p>B1 Waste</p> <ul style="list-style-type: none"> <li>Sufficient space must be provided to accommodate the storage of waste and recycling likely to be generated on the premises between collections and any associated equipment. Approximate waste and recycling rates for various commercial and residential developments are provided in Annexure B1-2</li> <li>Waste and recycling receptacles must be stored at all times within the boundary of the site and concealed from the public and commercial domains unless otherwise approved by Council under Section 68 of the Local Government Act 1993.</li> <li>All new developments are to provide adequate storage for waste to accommodate future</li> </ul>	No	<p>Limited details have been provided as to waste management on site, including where reusable products such as milk/bread crates will be stored, or how they manage packaging waste. Additionally, the path of transporting bins to the point of collection crosses the Woolworths Metro entry/exit as well as an outdoor seating area, which is not supported.</p> <p>The development provides no space on the ground level for bin storage and the SEE states that waste will be collected in bins adjacent to the kiosk, which would locate the bins in the path of the residential entry to the units above. This is unacceptable and is not supported.</p> <p>The application has been reviewed by Council's Waste management officer who is not supportive of the proposed waste management methods. This is discussed further in the body of the report.</p>

<p>change of use, including increased waste generation rates and grease traps.</p> <ul style="list-style-type: none"> <li>• A waste service compartment (waste and recycling area) is to be provided on each floor of the building and have sufficient capacity to store at least 1 day's volume of waste and recycling likely to be generated on that floor.</li> <li>• Sufficient space must be allocated within the building for the storage of reusable items such as crates and pallets.</li> </ul>		
B2. Ecologically Sustainable Development	Yes	Satisfactory
B7. Accessibility and Adaptability	Yes	Satisfactory
B10. Safety	Yes	Satisfactory
B12. Design Excellence	No	<p>The proposed kiosk will sit in front of the existing Woolworths Metro along the property boundary. As there is no area proposed for patrons, all customers will be located on Council's footpath, which could impact on the amenity of the area in particular the public domain fronting the site.</p> <p>The assessment report for DA-264/2015 made the following comments on the architectural design of the building currently on site:</p> <p><i>"The design and form of the proposal does not present as a bulky or out of scale building through appropriate setbacks, articulation and modulation of the building facades. The facade is modulated to create perception of bays which emulate the narrower grain to the east."</i></p> <p>The location of the kiosk to infill the columns will directly impact on the intent of the architectural design of the recently approved building and will be disproportionate to the building façade along</p>

		the streetscape. The bulk, massing and modulation of buildings will be impacted from a streetscape perspective, which does not provide for a high quality of design excellence.
B15. Advertising and Signage	Unknown	Whilst the location and size of the signage proposed is compatible with the area, the applicant has provided minimal details on the type of signage proposed. It is unknown whether the signage zone will be illuminated or if any lighting is proposed which will impact on neighbouring residential properties.
<b>B16. Public Domain</b>		
16.1 Improving the Public Domain <ul style="list-style-type: none"> <li>Buildings are to be designed to address the street and to utilise high quality finishes and public art to enhance the public domain and pedestrian interface.</li> <li>Blank walls are not supported within centres. Where blank walls must be provided, utilise artworks or interesting façade designs to enrich the public domain.</li> <li>Align setbacks between buildings with lanes and pedestrian links to enable clear lines of sight.</li> </ul>	No	<p>The front of the kiosk will face the public domain which complies with the control.</p> <p>The finishes and materials proposed include feature wood batten cladding along the façade of the kiosk, using aluminium. The colours and materials proposed do not align with the character of the existing building and would sit out of place within the street. This will be particularly evident as the kiosk sits forward of the remainder of the building on site.</p> <p>No blank walls are proposed.</p> <p>The location of the kiosk does not align with the existing setbacks on site and will interrupt lines of site for pedestrians entering and exiting the residential units above.</p> <p>The proposed design to infill the existing columns with the kiosk is not in keeping with the character of the streetscape and will interrupt the design features of the recently constructed building.</p> <p>The design is therefore inappropriate in this location and is not supported.</p>
16.2 Active Street Frontages <ul style="list-style-type: none"> <li>To promote pedestrian activity and safety in the public domain</li> <li>To provide transparency and visual connection between the street and the building's interior</li> <li>To facilitate future adaptability and flexibility of uses</li> <li>To ensure development encourages appropriate streetscape activation</li> </ul>	No	<p>The location of the kiosk will result in customers being served from the public footpath. Should the kiosk become highly trafficable, this would result in customers lining up on the footpath and then potentially congregating within the pedestrian travel path whilst waiting for their purchase. This could potentially impact on the path of travel of pedestrians either walking past, or entering and exiting the Woolworths Metro. It is further noted that should alcohol and food be sold, there is no area for customers to eat/drink, which could further lead to blocking of the pedestrian footpath. The kiosk would detrimentally impact</p>



<p>and active participation by the public.</p> <ul style="list-style-type: none"> <li>• To create a 'public face' for buildings to enhance the character of streets.</li> <li>• To promote a high level of visual connectivity and physical accessibility between the street and the active frontage premises.</li> </ul>		<p>the safety of pedestrian activity in the public domain.</p> <p>Clear glass is proposed along the façade to provide transparency between the street and building's interior.</p> <p>The minimal size of the kiosk, coupled with the undesirable location, does not promote flexibility and adaptability of uses for the future.</p> <p>Minimal information has been provided as to the proposed use of the site in terms of what is being sold etc. As mentioned above, the site benefits from a liquor licence which means that the kiosk would be able to sell alcohol, should it be approved. This would have a detrimental impact as it would be served straight onto the street, which would not be an appropriate streetscape activation for the surrounding residential properties.</p>
<p>16.2.1 General Controls</p> <ul style="list-style-type: none"> <li>• Provide regular tenancy widths, preferably between 6m-10m, or similar to adjacent shopfronts.</li> <li>• Development is to utilise a 500mm depth to articulate the building façade at ground level to create interest and variety in the streetscape.</li> <li>• Ground level walls should be experienced as having depth and providing a transition between inside and outside. Modulation of the façade may include openings, setbacks, windows and doors, columns and structure.</li> </ul>	No	<p>The development proposes a width of 5.6m, which does not comply with the preferable tenancy width. The width has been proposed to sit between two columns of the existing building. This will reduce articulation of the overall building on site and will interrupt the design flow on the streetscape level.</p> <p>Minimal articulation has been provided to the building's façade, and the construction of the kiosk will impact on the existing articulation provided on the recently constructed building.</p>
<p>16.6 Shopfront Security</p> <ul style="list-style-type: none"> <li>• Roller shutters on shop fronts are not permitted</li> </ul>	No	<p>Shutters on the shop front are proposed, which does not comply with the control.</p>

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

Development Control	Compliance	Comment
<b>1.1 Other Policies, Strategies and Standards</b>		
<b>1.2 Design</b>		
<b>1.2.1 Frontages</b> <ul style="list-style-type: none"> <li>• Front windows shall be designed to promote an active street frontage and have a display function.</li> <li>• The development is to be designed to provide casual surveillance to the street.</li> <li>• Window and door frames and styles should reflect the character of the building and area.</li> <li>• Premises are required to display a street number. The height of the numbers will be no less than 300mm presented in a clear readable font, located above the entry door, where possible.</li> </ul>	No	<p>The kiosk will have a display function along the facade and clear windows which will provide casual surveillance to the street.</p> <p>The design of the original building was approved as it has a sufficient rhythm of verticality in the facade to complement the existing streetscape to the east. The design and style of the kiosk does not reflect the style of the existing built form. The infill of the existing columns will directly impact on the approved style and intended design of the overall building and its architectural features.</p> <p>The kiosk does not provide for an area to display a street number.</p>
<b>1.2.2 Awnings</b>	N/A	No awnings are proposed.
<b>1.2.3 Lighting</b>	N/A	No lighting is proposed.
<b>1.2.3 General Amenity</b> <ul style="list-style-type: none"> <li>• The design and use of the building is to take into consideration any impact on surrounding residential uses and include mitigation measures where necessary</li> <li>• All new development shall be designed to include an internal ventilation shaft to ensure future alterations do not place the shaft in an unsuitable location.</li> </ul>	No	<p>The proposed kiosk has the potential to service alcohol until 10pm, with no allocated area for customers to sit, eat, drink, or stand. The SEE states that there will be outdoor dining for customers, however this is not shown on the architectural plans. As the serving window is located on the northern boundary, all customers would be required to stand on the pedestrian footpath. The proposed 10pm closing time would impact on the amenity of the surrounding residential properties, particularly the residents in the units above.</p> <p>No ventilation shaft has been provided in the kiosk.</p> <p>The development has been designed so the customers can only be served from Council's footpath, which does not comply with the control.</p>

<ul style="list-style-type: none"> <li>No goods shall be placed on the footpath without Council consent</li> <li>Premises shall be designed so that customers cannot be served directly from Council's footpath (i.e. via a bar or servery).</li> </ul>		
<p>1.2.4 Noise</p> <ul style="list-style-type: none"> <li>An acoustic report may be required for noise generating uses to demonstrate that noise will be appropriately attenuated between buildings.</li> <li>The design of the premises shall insulate adjoining/nearby properties from any noise or vibration levels caused by the use of the premises</li> </ul>	No	<p>The applicant has provided minimal information as to what would be served from the proposed kiosk. As stated in their SEE, the site benefits from a liquor licence. The kiosk therefore must be assessed with the potential for liquor to be sold within the kiosk.</p> <p>No acoustic report has been provided with the application. Furthermore, no information has been provided in the Plan of Management as to how the occupiers of the kiosk will manage sound. The kiosk has the potential for patrons to be on the pedestrian footpath until 10pm, which may impact on the amenity of the surrounding residents.</p> <p>Should outdoor seating be provided (as stated in the SEE), all noise will be outdoors until 10pm including potentially intoxicated patrons. This would directly impact on the amenity of the surrounding properties and should not be supported.</p>
<b>1.3 Hours of operation</b>		
<p>General base trading hours: (i) 7.00am to 10.00pm, 7 days a week.</p> <p>Where an application is received for the refurbishment of an existing licensed premises without trading hours regulated by a condition of consent, a new condition of consent will be imposed in accordance with this Part to regulate trading hours of the premise.</p>	No	<p>The kiosk proposes operating hours of 7am-10pm, which complies with the control. However, the proposal does not allow any patrons inside the premises. If seating is proposed as stated in the SEE, all customers will be outside on the street, which would impact on the amenity of the neighbours. This would not comply with the objectives of this part of the Waverley DCP 2012.</p>
<b>D2 – Outdoor Dining</b>		
Outdoor dining	No	<p>The SEE states that outdoor seating is proposed; however this is not shown on the architectural plans. The only area that is available for outdoor seating is directly in front of the Woolworths Metro, which would interrupt their operation.</p>

		Outdoor seating in this location would not be appropriate for the use of the kiosk.
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**Table 4: Waverley DCP 2012 – Part E4 - 113 Macpherson Street, Bronte Compliance Table**

Development Control	Compliance	Comment
<b>4.1 Public Domain</b>		
(a) Macpherson Street and Chesterfield Lane are to be landscaped to Council's requirements (b) Street furniture and renewal of paving is to be provided to Macpherson Street and Chesterfield Lane to Council's requirements	Yes	No landscaping is proposed, however this is not a character of this section of MacPherson Street.  No street furniture is proposed.
<b>4.2 Built Form</b>		
(a) Development is to be in accordance with the envelope illustrated in figures 58 and 59.	Yes	The kiosk is located within the envelope shown in figures 58 and 59 within the Waverley DCP 2012.
(b) Comply with Part B16 Public Domain	No	See discussion against Part B16 of the DCP in <b>Table 2</b> of this report.
(c) Provide awnings to the entire Macpherson Street frontage between the ground and first floor, except over the driveway. Refer to Part B16.4 Awnings and Colonnades.	N/A	No changes are proposed to the existing awning on site.
(d) Buildings are to be built to the street and lane alignments (e) and (g) Provide setbacks in accordance with figures 68 and 59.	No	The kiosk is proposed to be built to the street, which technically complies with the control. However, an extract from the original DA (DA-264/2015) for the construction of the existing building states the following:  <i>"The ground floor of the development is setback 3m from the front property boundary, however this is not contrary to the objectives of the control as there are architectural elements that anchor the first floor setback (nil) to the ground plane. The resultant setback at the ground floor retail space could allow for external seating or product display without impinging on the public footpath. This is a positive outcome. . The ground floor glass line of</i>

Development Control	Compliance	Comment
		<p><i>the shopfronts will also align with the front setback of the adjoining buildings either side."</i></p> <p>By providing a nil boundary setback to MacPherson Street, it interrupts the design features of the existing building and does not align with the surrounding built forms. The proposal therefore would not comply with the objectives of this part of the DCP as the built form will not respect the existing character of MacPherson Street and will impact on the design features of the existing building.</p>
(h) Each retail unit must present to Macpherson Street with a frontage no greater than 6m wide.	Yes	The kiosk is proposed to have a width of 5.6m.
(i) The Macpherson Street facade must be articulated to reflect the established 6m/12m rhythm of the existing.	No	The kiosk will interrupt the façade articulation from the streetscape and will not reflect the desired future character of MacPherson Street.
<b>4.3 Active Street frontages</b>		
(a) Active street frontages to Macpherson Street	Yes	The kiosk maintains a frontage at street level along MacPherson Street.
(b) Not more than 10% of the Macpherson Street frontage can be blank walls or service areas.	Yes	The frontage is proposed as a service window.
<b>4.4 Transport</b>		
<b>4.4.1 - Loading facilities</b>		
(a) Driveway entry and exit to commercial and loading docks is restricted to Macpherson Street.	N/A	The development does not propose an additional driveway entry and exit from the existing on site.
(b) N/A		
(c) Loading facilities must be located internally on site. They must not front Macpherson Street.	No	The development proposes to utilise the existing loading zones on MacPherson Street, which are currently utilised by Woolworths Metro.
<b>4.4.3 Non residential parking rates</b>		
(a) Of the total number of non-residential parking spaces provided, 80% is to be allocated for visitors/short stay parking and 20% is to be allocated for	N/A	No parking is proposed as part of this development.

Development Control	Compliance	Comment
employee/long stay parking		
<b>4.4.4 Bicycle Parking</b>		
(a) Provide a minimum of 50% of the required bicycle parking for non-residential premises at an acceptable grade location near the main pedestrian Macpherson Street entries.	N/A	No bicycle parking is proposed as part of this development.

## 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 12 unique submissions were received from the following properties:

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

Count	Property Address
1.	Bronte Beach Precinct Committee
2.	55 Yanko Street, BRONTE
3.	201/113 MacPherson Street, BRONTE
4.	15 Calga Avenue, BRONTE
5.	22/107 MacPherson Street, BRONTE
6.	11/107 MacPherson Street, BRONTE
7.	10/107 MacPherson Street, BRONTE
8.	38 Boundary Street, BRONTE
9.	32 Brown Street, BRONTE
10.	38 Chesterfield Parade, BRONTE
11.	PO Box 2160, CLOVELLY
12.	<i>Unknown (address not provided)</i>

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

- Non-compliance with the FSR development standard;
- Noise impacts from the potential serving of alcohol;
- The nil front setback will break the design pattern of the existing building;



- Noise impacts as all customers remain on the street and within a residential area;
- A kiosk with a licence to serve alcohol will set an undesirable precedence in the area;
- Unreasonable visual bulk and scale of the building from the street;
- The development breaks up the rhythm of the columns and does not comply with design excellence;
- The kiosk will disrupt the already very busy foot traffic along this section of MacPherson Street;
- the kiosk will be designed to look like an 'after thought' as it does not fit in with the existing design and architectural features of the recently constructed building;
- the hours of operation would directly impact on the amenity of the surrounding residents;
- the outdoor seating proposed with the hours of operation until 10pm will result in significant noise impacts; and
- littering and increase in waste.

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

**Issue:** Loss of parking due to an increase in delivery vehicles coming to the site.

**Response:** The development proposes to utilise the existing loading bay on MacPherson Street which would not impact on parking for the local community.

**Issue:** The proposed outdoor tables and chairs will cover a Telstra pit and reduce the space for pedestrian to walk past the building.

**Response:** The architectural plans do not nominate an area for outdoor dining tables and chairs. Notwithstanding, the area does not provide sufficient space for any outdoor seating and would not be supported.

## 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. Waste & Recycling

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

*The SWRMP is sufficient regarding number of required bins, However, the following must be clarified:*

1. *the SWRMP states that the collection for bins is kerbside, which contradicts the architectural plans that state waste collection is onsite.*
2. *The applicant has not specified where reusable products such as milk/bread crates will be stored, or how they will manage packaging waste such as bulk cardboard related to deliveries.*
3. *The path of transporting bins to the point of collection crosses the Woolworth's Metro Entry/Exit as well as an outdoor seating area. This is not ideal.*

The development would not provide sufficient waste management on site. For the above reasons, the development should not be supported.

### 3.2. Environmental Health

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

*It is advised that the proposal is undesirable to this section as the proposal involves the transport of food from a food storage area to the kiosk over a public footpath and details of food safety have not been provided.*

*In addition to this, the proposal also appears to involve the sale of food to customers on the footpath.*

*In order to provide further comment, details of the food to be sold, appliances installed, whether cooking is being carried out etc is required.*

The development has provided insufficient information to adequately assess the environmental health impacts of the proposed kiosk. For this reason, the application should not be supported.

### 3.3. Fire Safety

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

*Further information demonstrating compliance with the DTS provisions of the BCA must be submitted to ensure that the design will not necessitate the need for any significant design changes that in turn would require the submission of an application under Section 4.55 of the Environmental Planning and Assessment Act 1979.*

*In light of the above, a BCA Compliance Report must be provided addressing the deemed-to-satisfy (DTS) provisions of the BCA including, but not limited to, the following matters: -*

- 1. Provision for escape/travel via fire-isolated exits – Part D1 of the BCA. In particular, compliance with Clause D1.7.*
- 2. Provision for fire fighting equipment – Part E1 of the BCA. In particular, compliance with Clauses E1.3 and E1.5 and the booster shielding/fire resistant separation requirements of AS2419.1 and AS2118.1.*

*In addition to the above, the compliance report must include a concluding statement that the proposed design satisfies the requirements of the BCA and will not necessitate the need for any significant design changes that in turn would require the submission of an application under Section 4.55 of the Environmental Planning and Assessment Act 1979.*

The above information was not submitted with the application and support should therefore not be granted.

## 4. CONCLUSION

The development application seeks consent for the construction and operation of a food and drink kiosk in front of the western end of the existing commercial tenancy of the building at the site known as 113 MacPherson Street, BRONTE.

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

- FSR
- Waste management

- Operational management
- Insufficient information
- Design excellence
- Public domain
- Noise

The assessment finds these issues unacceptable due to the potential impacts on the surrounding residents and the impact the kiosk will have on the streetscape character.

A total number of 12 submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

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

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



The application was reviewed by the DBU at the meeting on 29 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, J Elijah 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: 12 July 2021	Date: 15 July 2021

***Reason for WLPP referral:***

1. Contentious development (10 or more objections)

## APPENDIX A – REASONS FOR REFUSAL

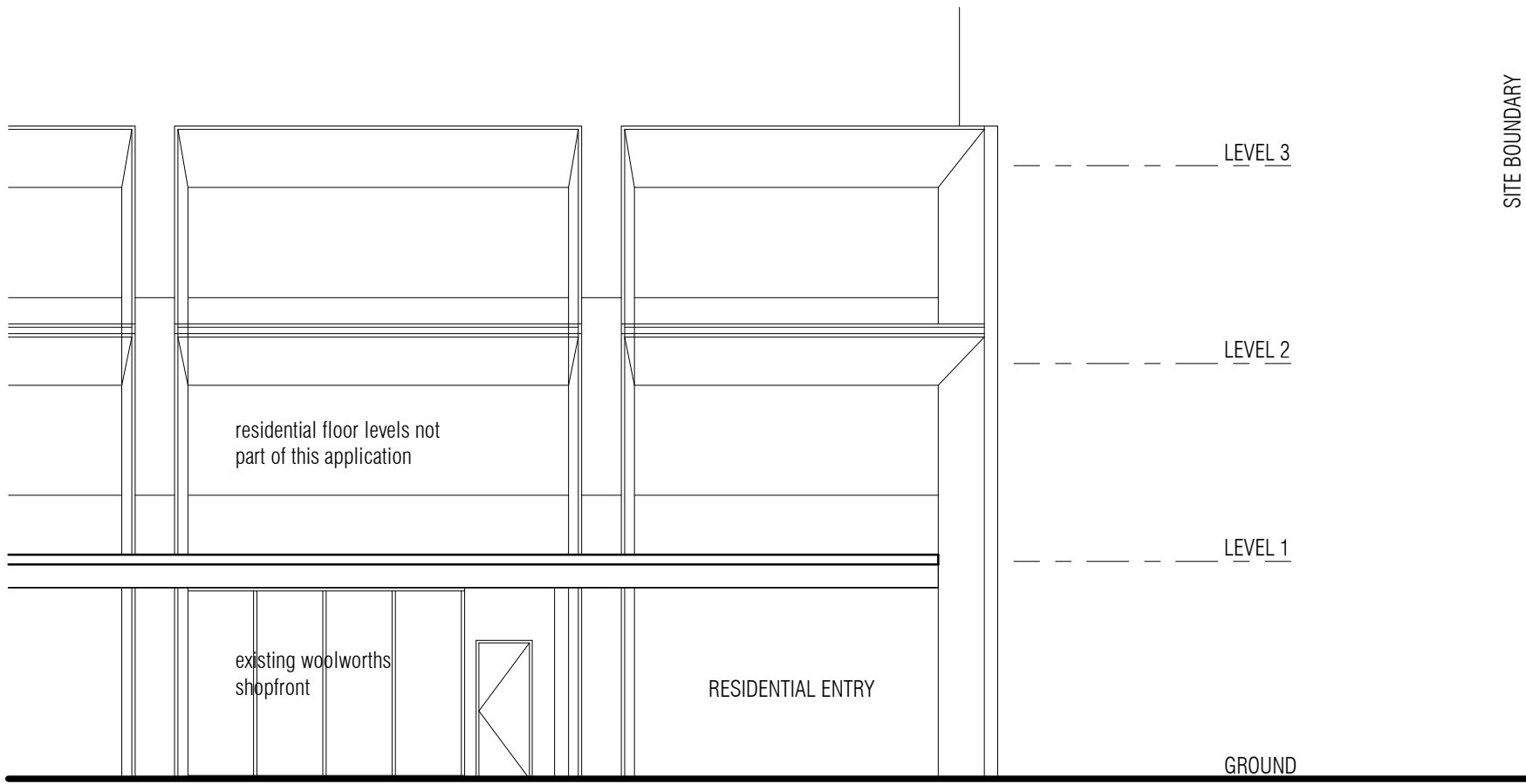
Having regard to section 4.15(1) of the Environmental Planning and Assessment Act 1979 the development application is refused for the following reasons:

1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (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 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.
  - 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 B – General Provisions
    - (i) Part B1 – *Waste, 1.2 Ongoing Management*, specifically objectives (b), (c), (d), (e), (f), (g), (h), (i) and control (b), as the proposal has not been designed to efficiently minimise waste or maintain waste storage services. The kiosk does not provide any space for waste storage and its proposal to sit bins adjacent to the kiosk is inappropriate for this area as it will sit in the pedestrian entrance to the residential units above or in front of the existing Woolworths Metro. The kiosk will not prevent litter in the public domain and the waste management will interfere with public safety and amenity.
    - (ii) Part B1 – *Waste, 1.4.1.1 General Controls*, specifically controls (a), (b), (c), (d) and (e) as the waste management on site proposes to utilise the existing waste management areas currently utilised by the Woolworths Metro (such as the waste storage room in the basement level) without increasing the size or number of bins available on site. Sharing of waste storage facilities on site is unacceptable and would not provide for adequate bin storage.

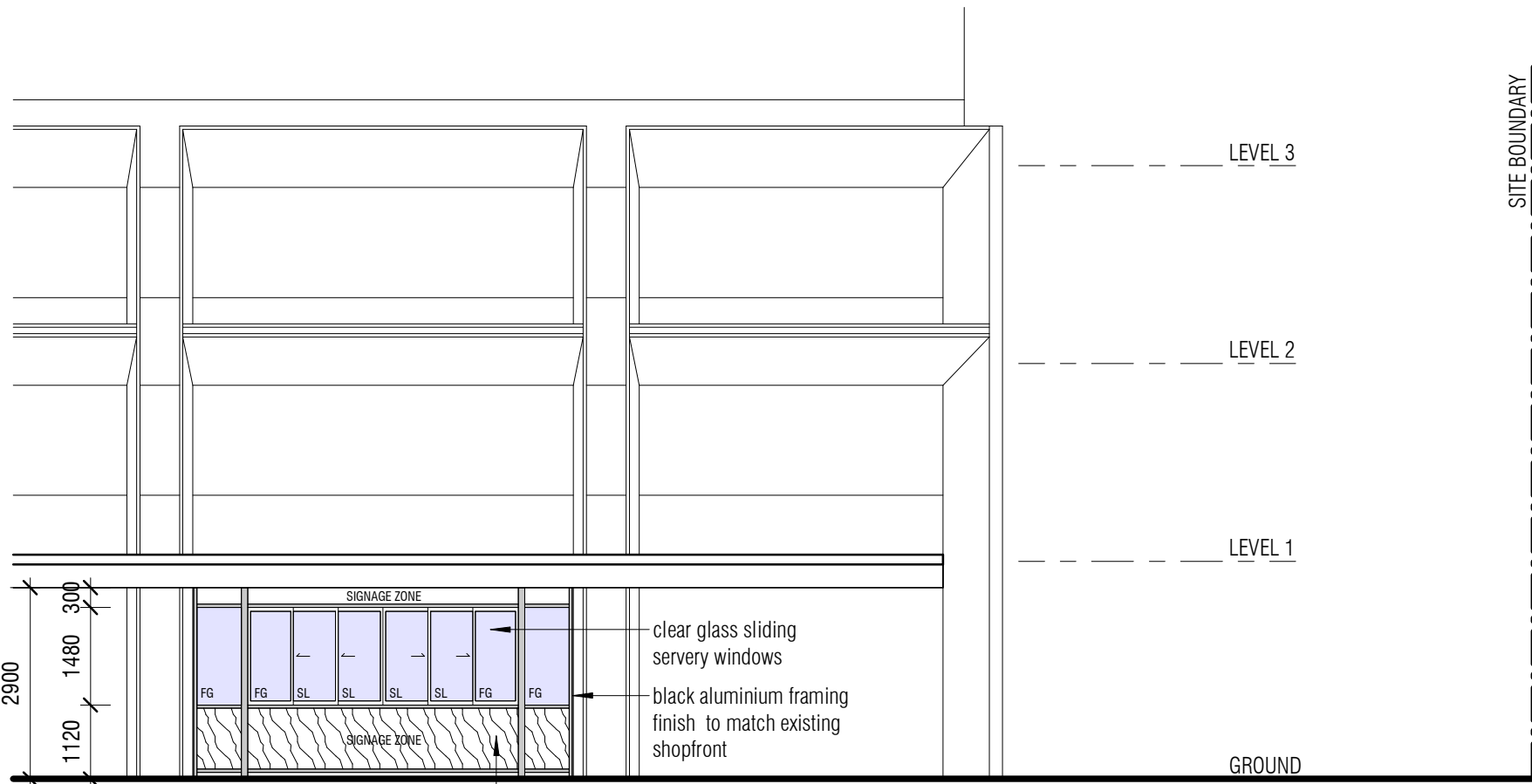
- (iii) Part B1 – *Waste, 1.4.1.3 Additional Controls Relating to Commercial Components of Development*, specifically controls (a), (c), (d), (e) and (g) as the proposal does not provide any space for adequate waste storage on the ground level, nor does it provide space for reusable items such as pallets and crates.
  - (iv) Part B12 – *Design Excellence, 12.1 Design*, specifically objectives (a), (b), (c) and (d) and controls (a), (b), (d), and (e), as the proposed design does not fit into or complement the existing character of the recently constructed building on the subject site. The proposal to infill the existing columns visually detracts from the architectural quality of the design of the existing building. The kiosk design does not fit in the overall urban design character of this section of MacPherson Street.
  - (v) Part B16 – *Public Domain, 16.1 Improving the Public Domain*, specifically objectives (c) and (f) and controls (f), (g) and (k) as the proposal has not been designed to fit in with the architectural style of the existing streetscape. The kiosk will detrimentally impact on the existing design features of the building and would detract from the character of the streetscape. The kiosk will also impact on the safety and amenity of the public domain as patrons can only be served from Council’s footpath.
  - (vi) Part B16 – *Public Domain, 16.2 Active Street Frontage*, specifically objectives (a), (d) and (k) and *16.2.1 General Controls*, specifically controls (l), (m), (p) and (r), as the proposal does not promote safety within the public domain and has not been designed for flexible future uses. The proposal has failed to provide design articulation that is in keeping with the existing character of the building. The kiosk to infill the columns will detract from the design and reduce architectural articulation.
  - (vii) Part B16 – *Public Domain, 16.6 Shopfront Security*, specifically objectives (a) and control (a) as the proposal provides for shutters on the shop front along the public domain interface.
- b. Part D – *Commercial and Retail Development*:
- (i) Part 1.2 – *Design*, specifically objectives (b), (d) and (e), as the proposal fails to provide a high level of amenity between the private and public domain. The operation of the kiosk will detrimentally impact on the amenity of the surrounding residential properties and impact on the amenity of the public domain due to the patrons congregating on Council’s footpath.
  - (ii) Part 1.2 – *Design, 1.2.1 Frontage*, specifically controls (d) and (d), as the proposal fails to provide a high quality architectural design that matches in with the existing character of the building. The design of the kiosk will impact on the existing architectural features of the recently constructed building.
  - (iii) Part 1.2 – *Design, 1.2.4 General Amenity*, specifically controls (a), (c) and (e), as the proposal will have direct amenity impacts on the surrounding residents, particularly due to the potential selling of alcohol onto the pedestrian footpath. Furthermore, the kiosk has been designed so the customers can only be served from a serving window directly onto Council’s footpath.

- (iv) Part 1.2 – *Design, 1.2.5 Noise*, specifically controls (a) as an acoustic report was not submitted with the application. No noise attenuation measures have been proposed to limit noise impacts to surrounding residents.
  - (v) Part 1.3 – *Hours of Operation*, specifically objective (a) as the proposed potential serving of alcohol up to 10pm and the lack of indoor area will have a direct amenity impacts to the surrounding residential properties.
  - (vi) Part 2.1 – *Location*, specifically objectives (a) and (c) and controls (a), (b), (c), (g), (h), (i) and (j) as there is insufficient space to adequately provide outdoor seating that will not impact on the pedestrian footpath movements, or access to the existing Woolworths Metro.
- c. Part E – *Site Specific Development*:
- (i) Section 4.2 – *Built Form*, specifically objectives (a), (b), (d), (e) and (f) and controls (b) and (i), as the proposed kiosk will result in amenity impacts to the existing and future residents due to the location, potential selling of alcohol, and the operating times. The kiosk fails to provide a design that is compatible with the streetscape and does not provide for a high architectural quality that matches that of the existing building. The infill of the column will detract from the architectural detailing of the existing streetscape.
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. *Details of proposed signage on site;*
    - b. *Plan of Management provides insufficient information in regard to the operation of the kiosk and the proposed specific use (i.e. whether alcohol is being sold etc.);*
    - c. *Outdoor seating has been proposed and not shown on the architectural plans;*
    - d. *The operation waste management on site; and*
    - e. *Fire safety measures.*
  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 impact 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 impacts on the amenity of the surrounding properties. The proposed kiosk 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.



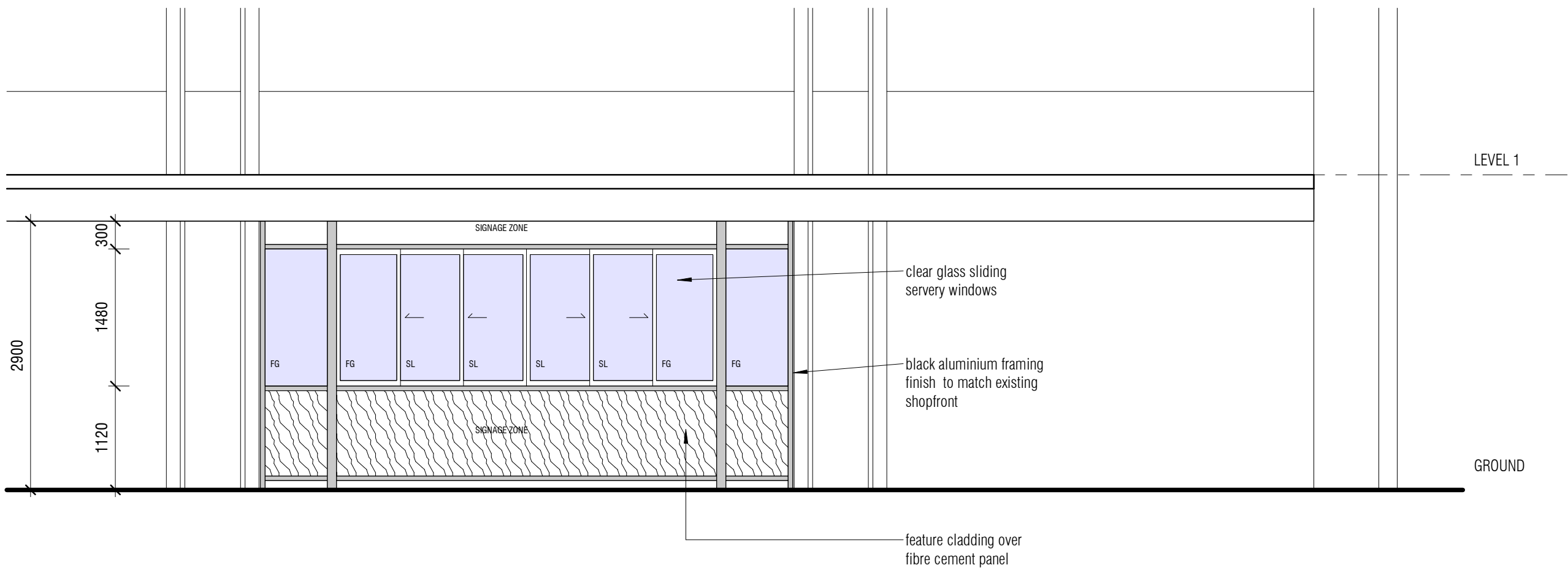


EXISTING MACPHERSON ST ELEVATION



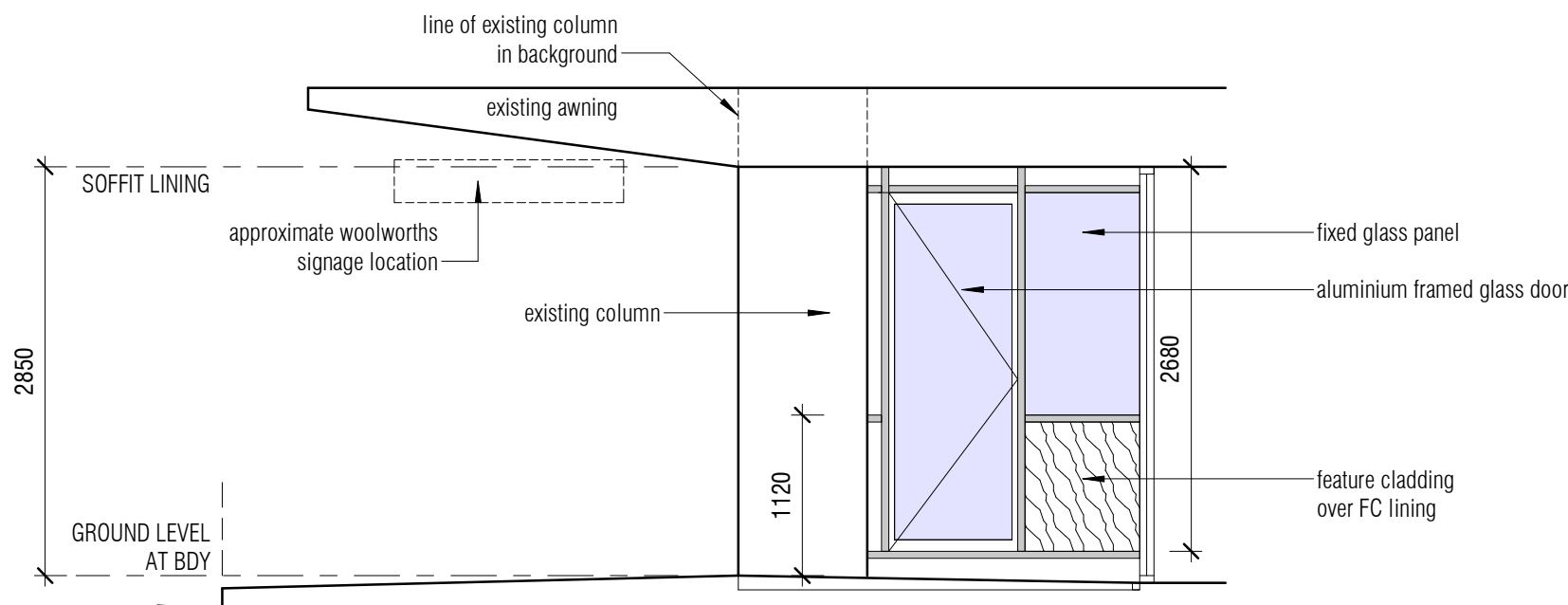
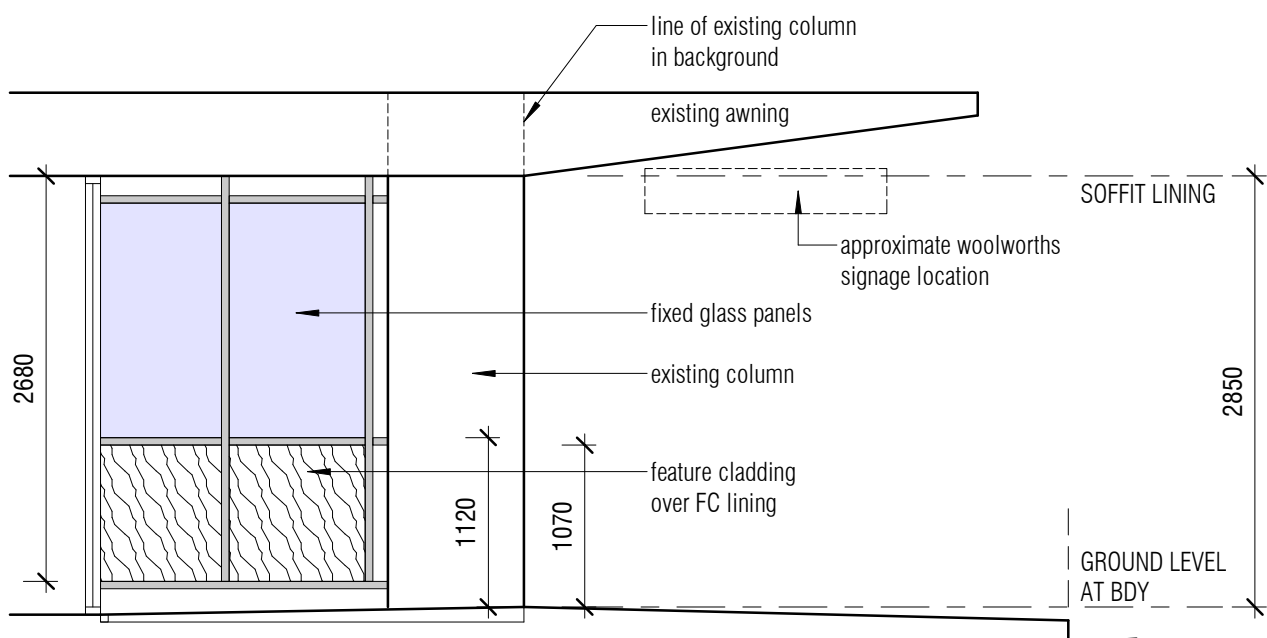
PROPOSED MACPHERSON ST ELEVATION

1 Macpherson Street Elevations  
1 : 100

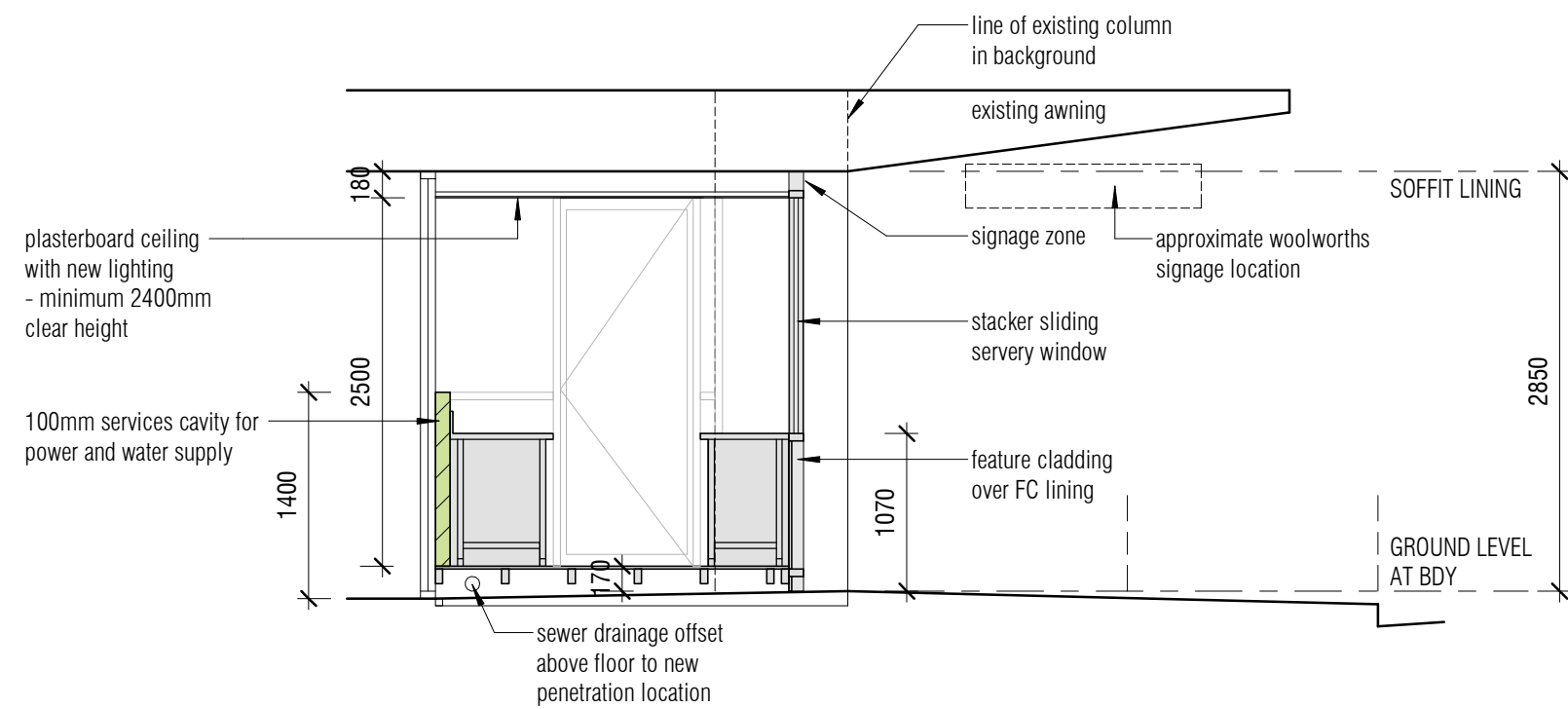


**FEATURE CLADDING**  
Similar to Covet 'Ever Art' wood batten cladding  
Material: Extruded Aluminium  
Profile: Kababari Domu  
Colour: Nekiddo Moku  
  
Butt jointed with no gaps to create continuous effect

2 North Elevation  
1 : 50

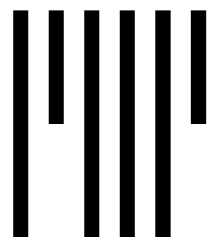


4 Kiosk West Elevation  
1 : 50



5 Kiosk Typical Section  
1 : 50

3 Kiosk East Elevation  
1 : 50



Projected  
Design  
Management

E: alex@projectedd.com.au  
M: 0400 009 210  
ABN: 60 349 205 129

Revision Schedule		
Rev	Description	Date
1	REVISED FOR DEVELOPMENT APPLICATION	27/04/2021

Notes  
Drawing to be read in conjunction with all other contract documentation.  
Use figured dimensions only. Do not scale drawing.  
Verify dimensions on site prior to commencing work.  
Notify PDM and seek clarification of inconsistencies or conflicts immediately upon discovery.

North

Client  
Willow Frank Pty Ltd

Project Title  
**Bronte Kiosk**  
113 Macpherson St  
Bronte NSW

Drawing Title  
**Elevations & Sections**

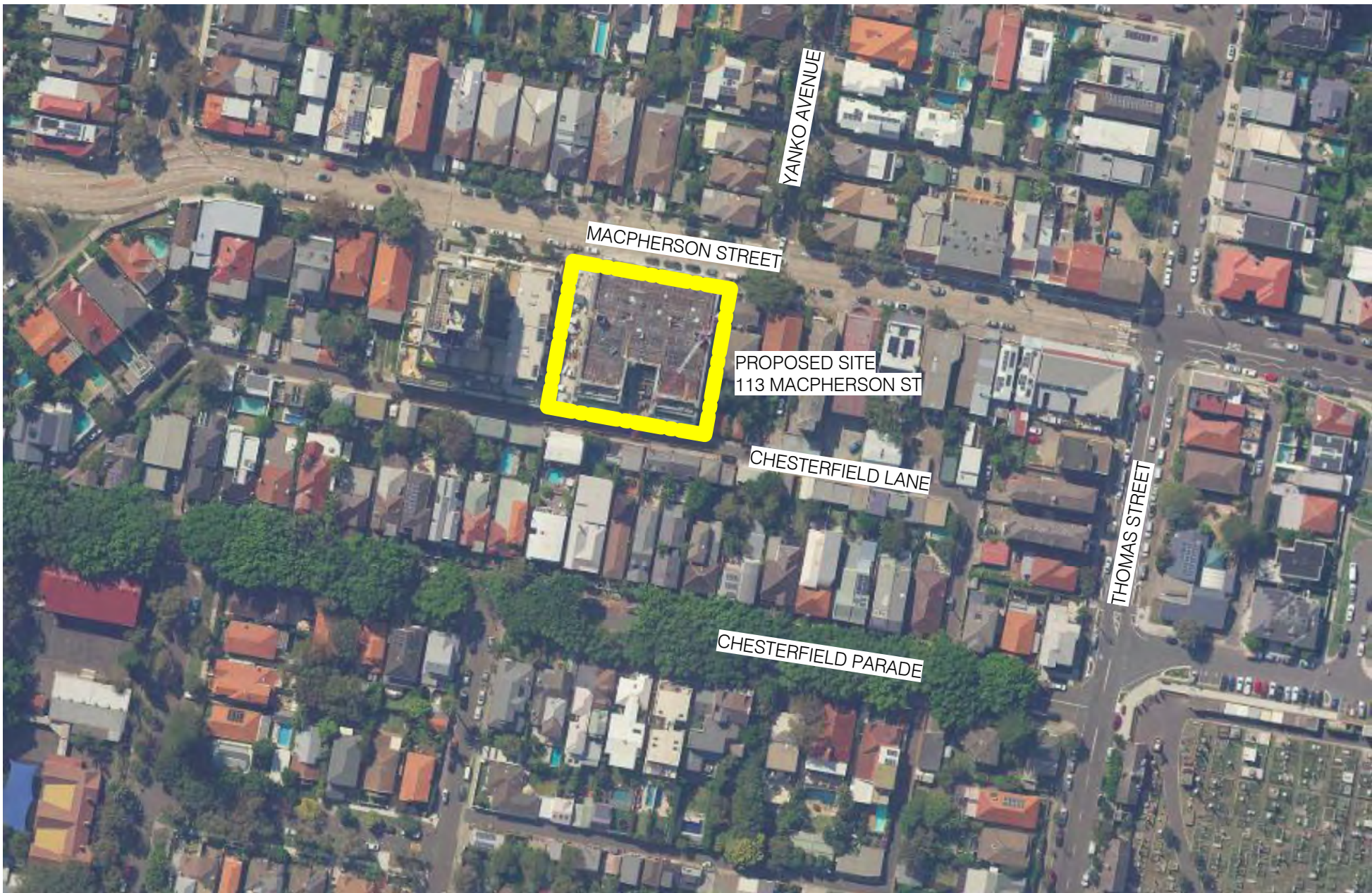
Project Number  
PDM 04\_002  
Drawing Number  
**A200**

Revision  
Date  
Scale  
1  
27/04/2021  
As indicated @ A1

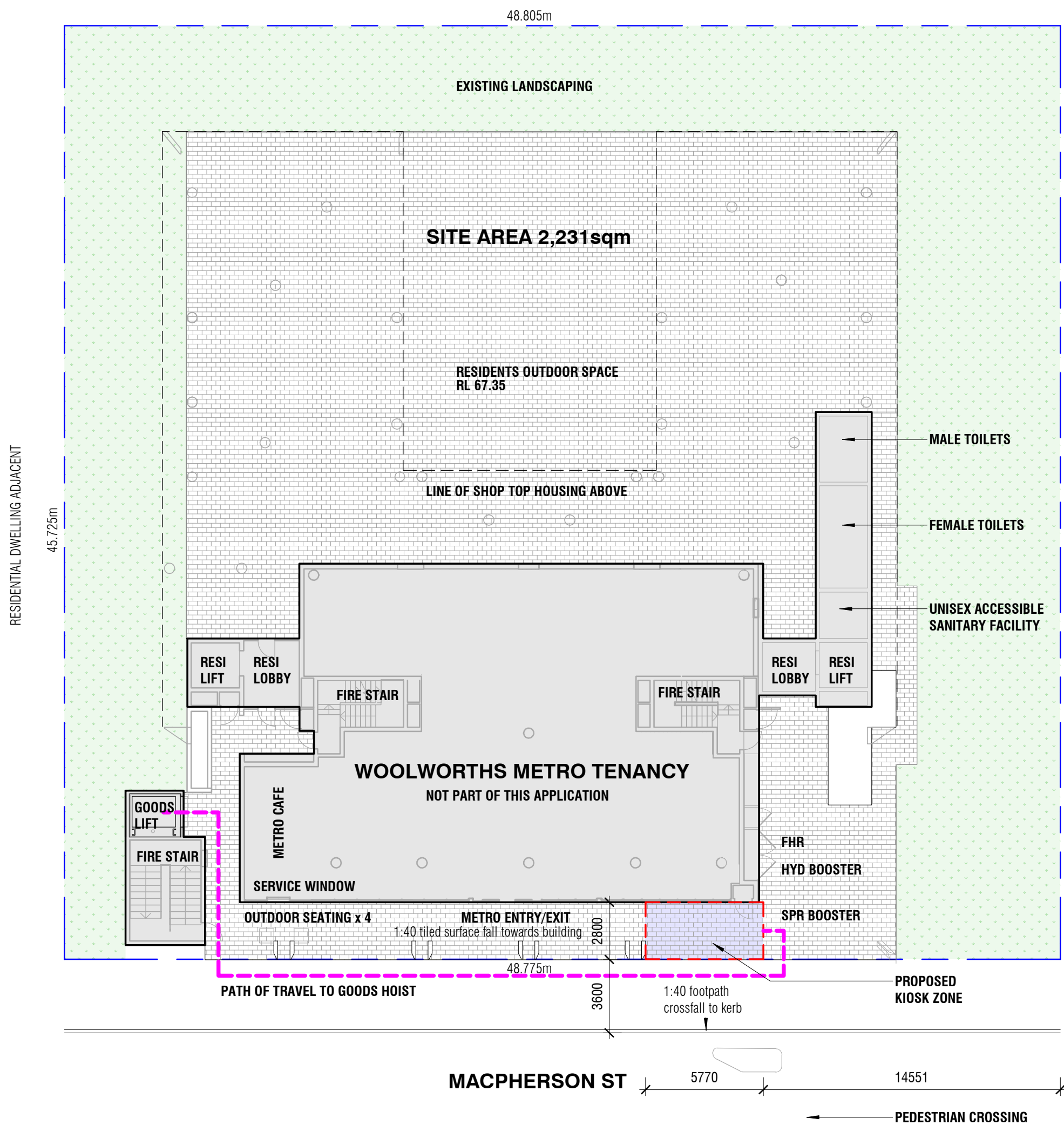


GENERAL NOTES

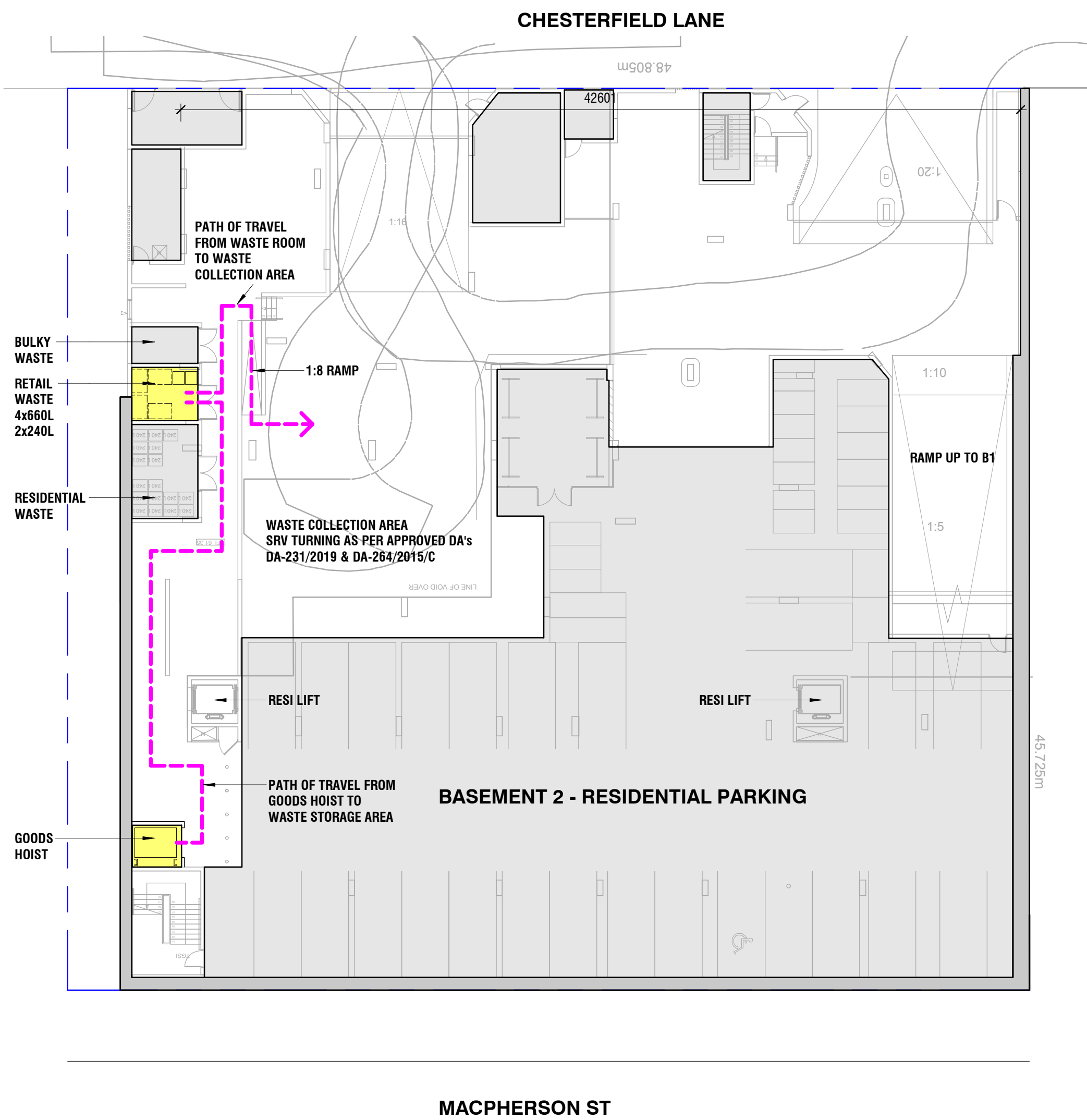
- ALL WORKS TO COMPLY WITH BCA NCC2019 VOL 1 AMDT 1
- ALL WORKS TO COMPLY WITH AS4674-2004 – DESIGN, CONSTRUCTION AND FITOUT OF FOOD PREMISES
- ALL WORKS TO COMPLY WITH ANZ FOOD STANDARDS CODE - STANDARD 3.2.3 - FOOD PREMISES AND EQUIPMENT
- FINAL BENCHTOP & EQUIPMENT LAYOUT SUBJECT TO SHOP DRAWINGS AND TENANT EQUIPMENT REQUIREMENTS



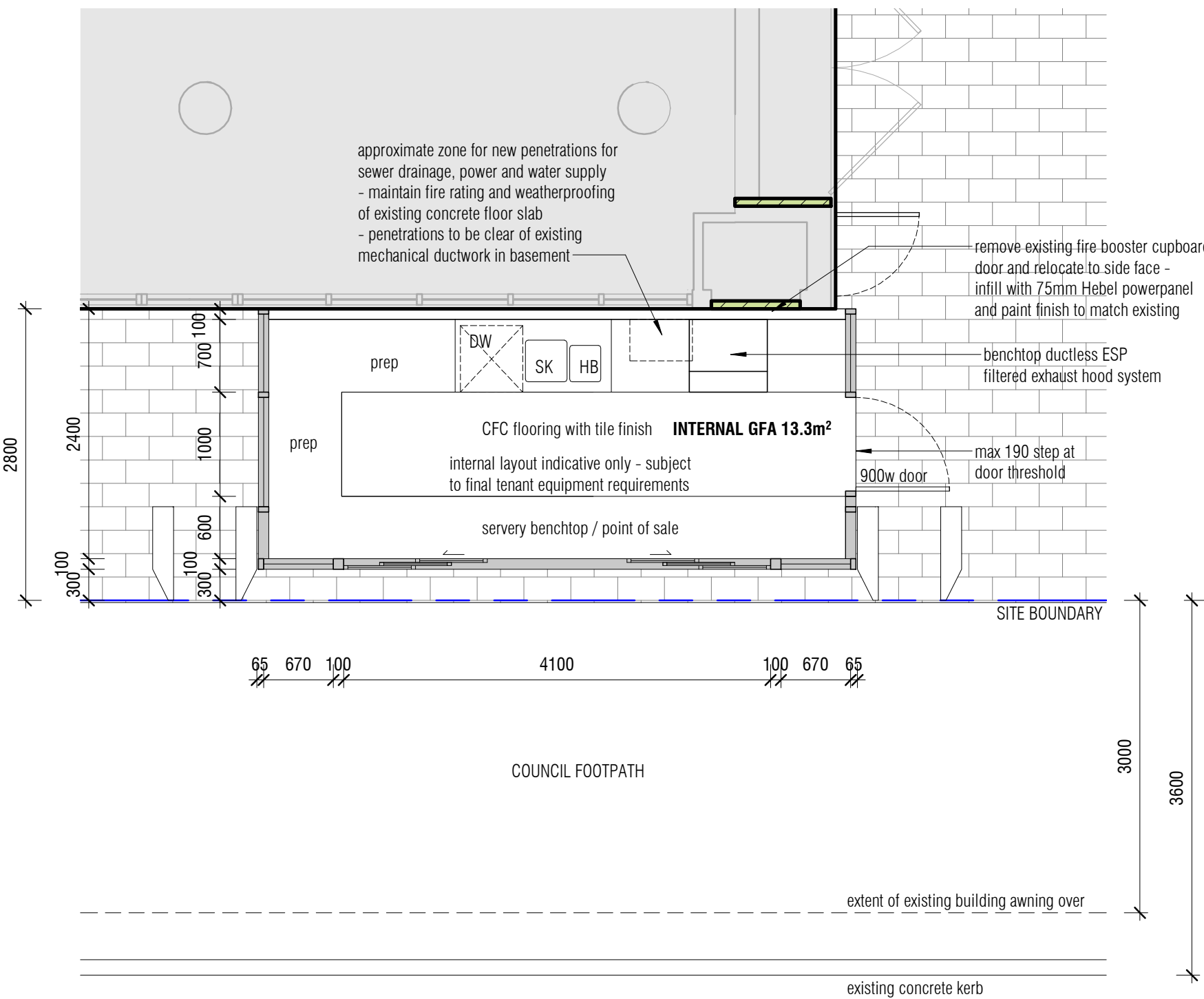
SITE LOCALITY PLAN - NOT TO SCALE (source: SIXMAPS)



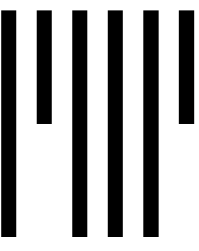
1 Site Plan - Ground Floor  
1 : 200



2 Site Plan - Basement 2  
1 : 200



3 Kiosk Zone Plan  
1 : 50



Projected  
Design  
Management

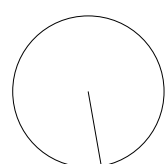
E: [info@projectedd.com.au](mailto:info@projectedd.com.au)  
M: 0400 000 210  
ABN: 60 349 205 129

Revision Schedule		
Rev	Description	Date
1	PRELIMINARY FOR CLIENT APPROVAL	11/04/2021
2	ISSUE FOR DEVELOPMENT APPROVAL	13/04/2021
3	REVISED FOR DEVELOPMENT APPLICATION	27/04/2021
4	ISSUE FOR DEVELOPMENT APPROVAL	17/06/2021

Notes

Drawing to be read in conjunction with all other contract documentation.  
Use figured dimensions only. Do not scale drawing.  
Verify dimensions on site prior to commencing work.  
Notify PDM and seek clarification of inconsistencies or conflicts immediately upon discovery.

North



Client:  
Willow Frank Pty Ltd

Project Title:  
Bronte Kiosk  
113 Macpherson St  
Bronte NSW

Drawing Title:  
Kiosk Drawings

Project Number:  
PDM 04\_002

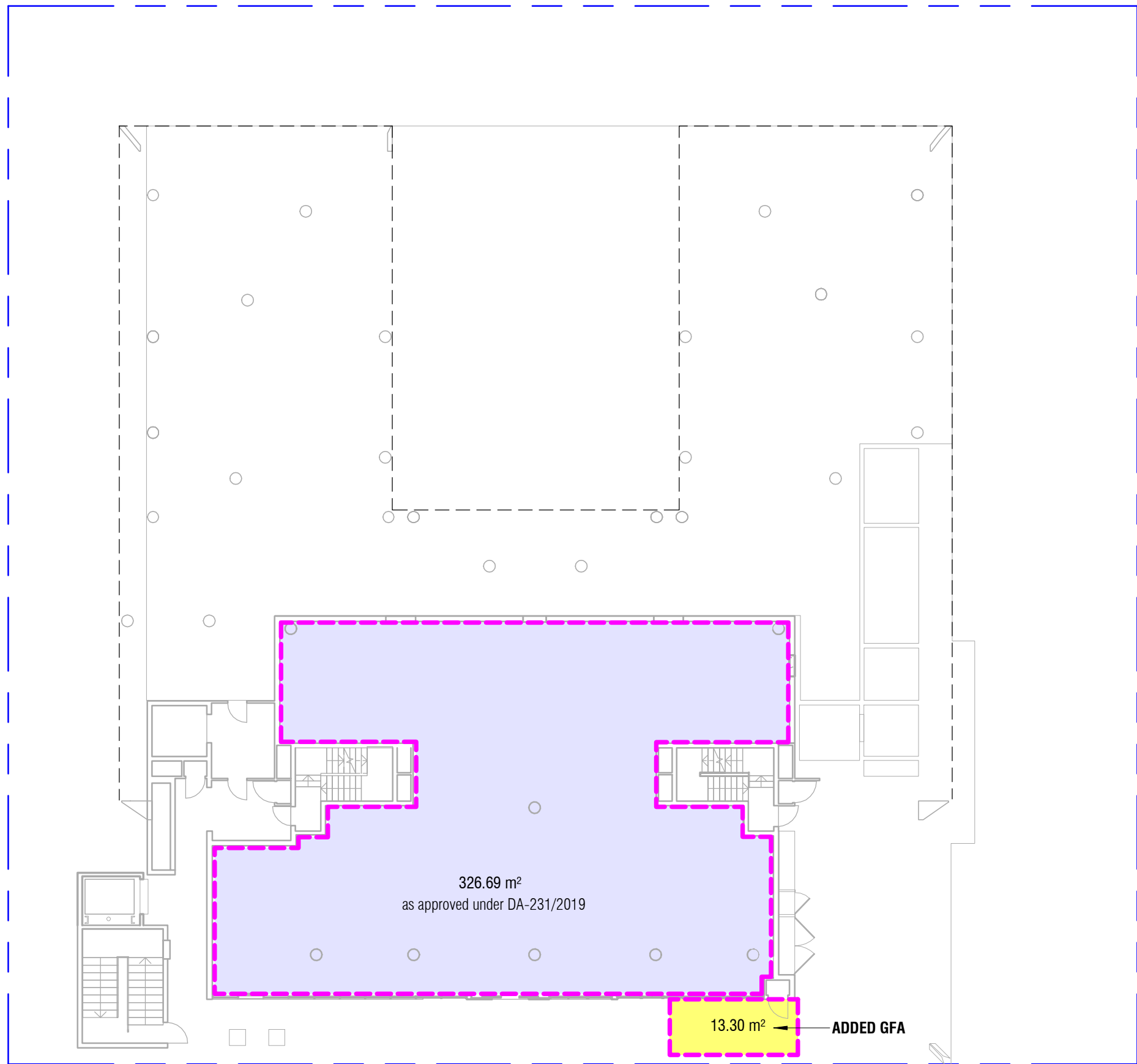
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A100

Revision:  
4

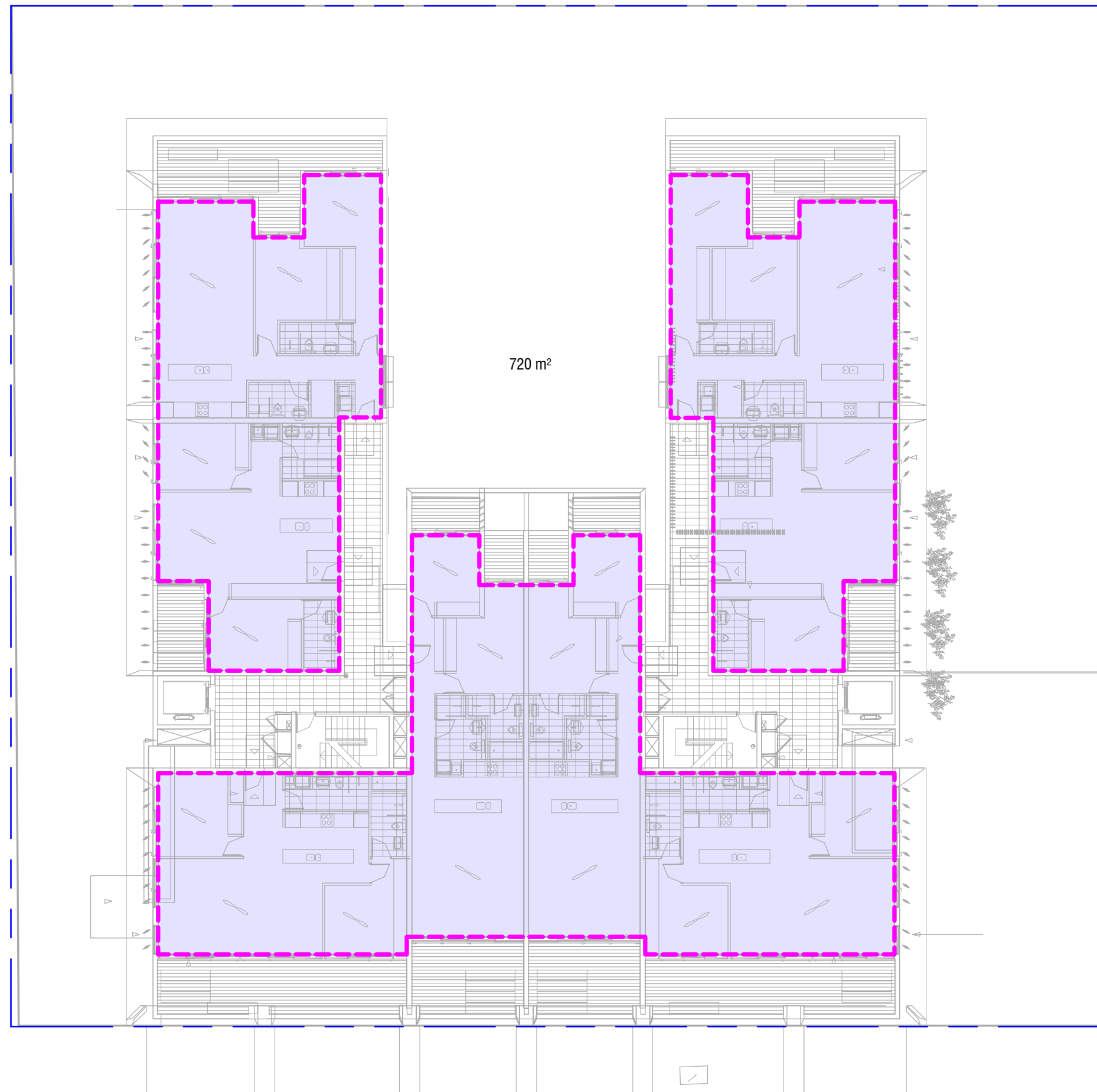
Date:  
17/05/2021

Scale:  
As indicated @ A1

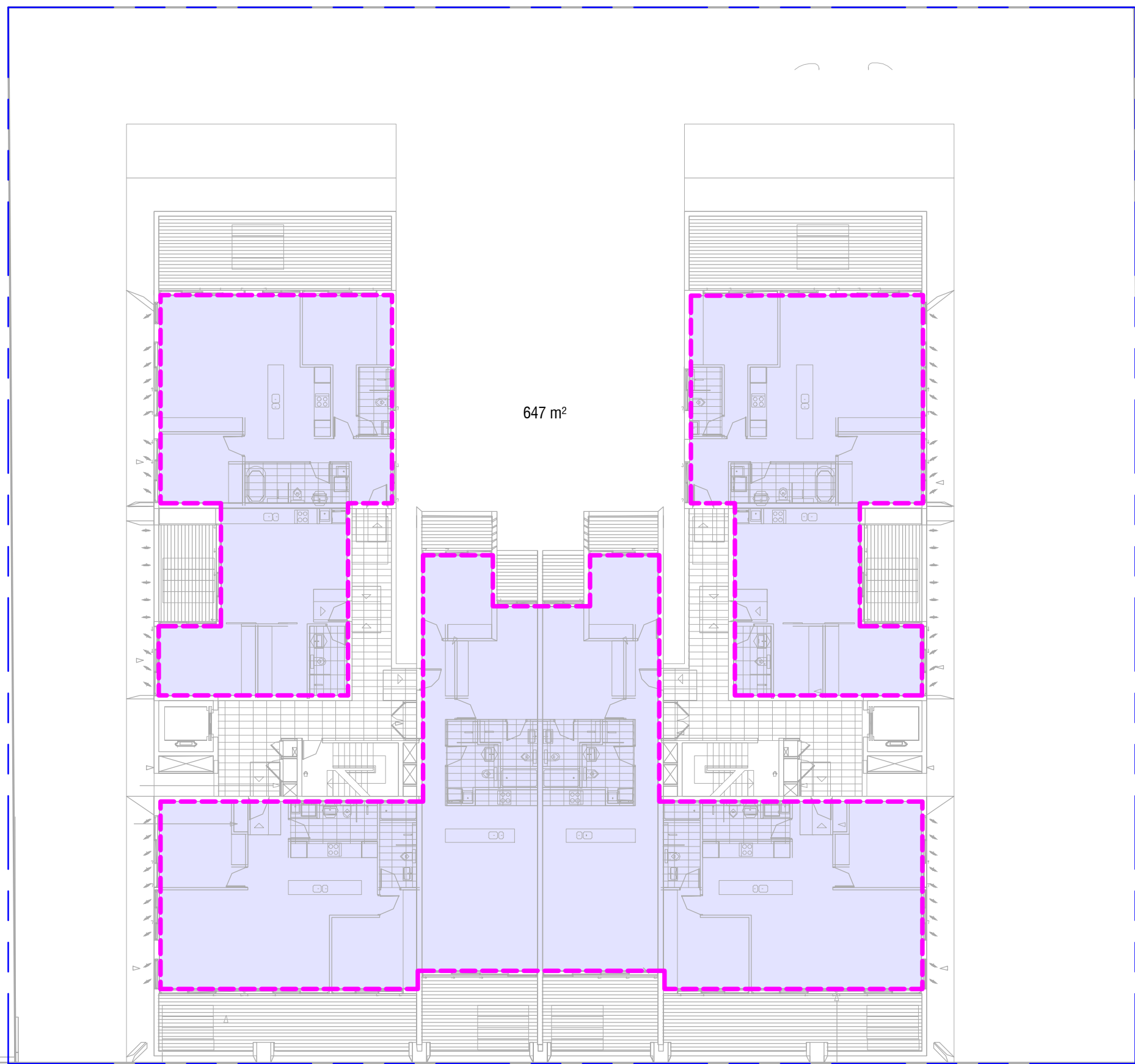




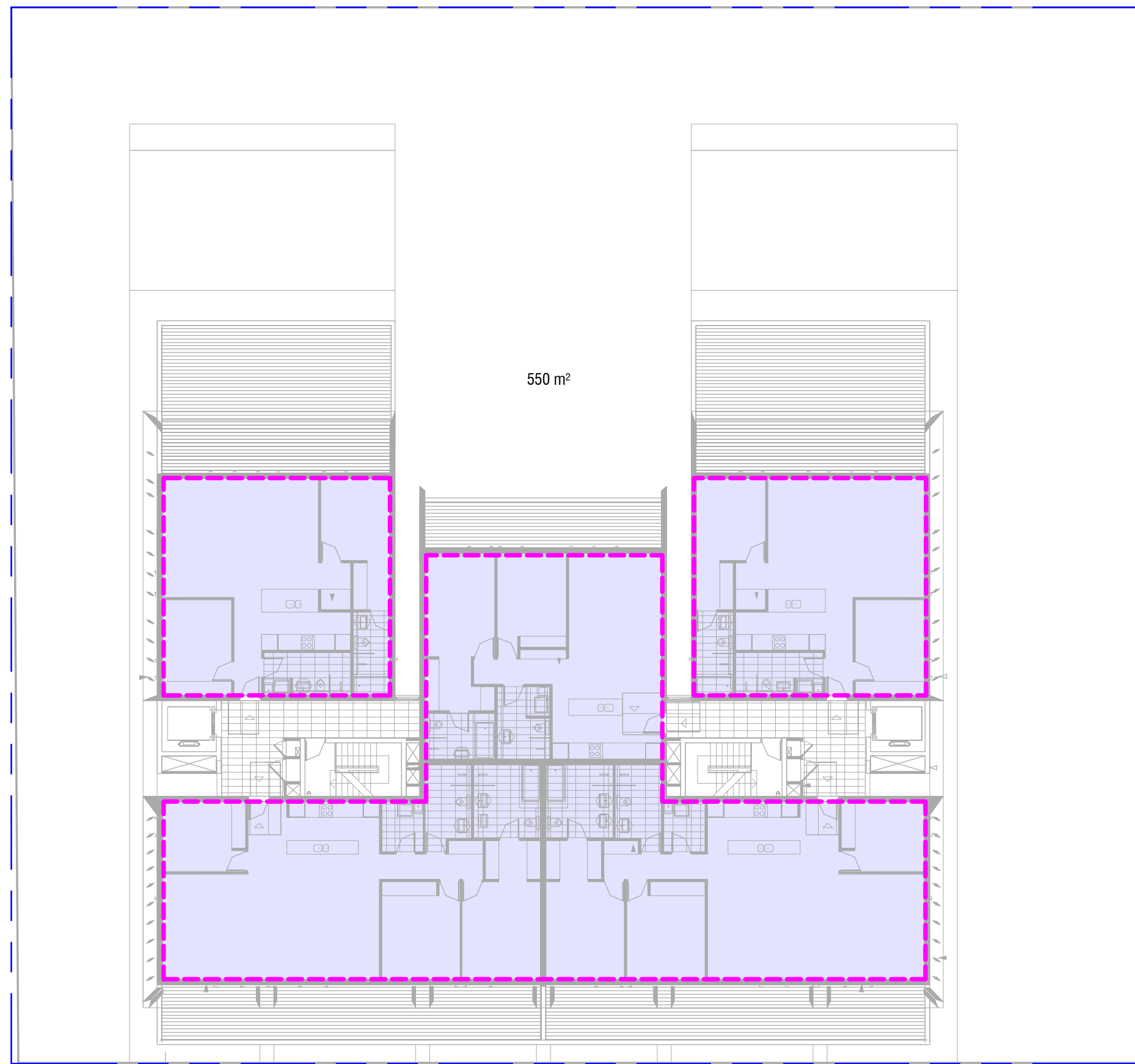
1 UPPER GROUND  
1 : 200



2 LEVEL 1  
1 : 200



3 LEVEL 2  
1 : 200



4 L2 53d  
1 : 200

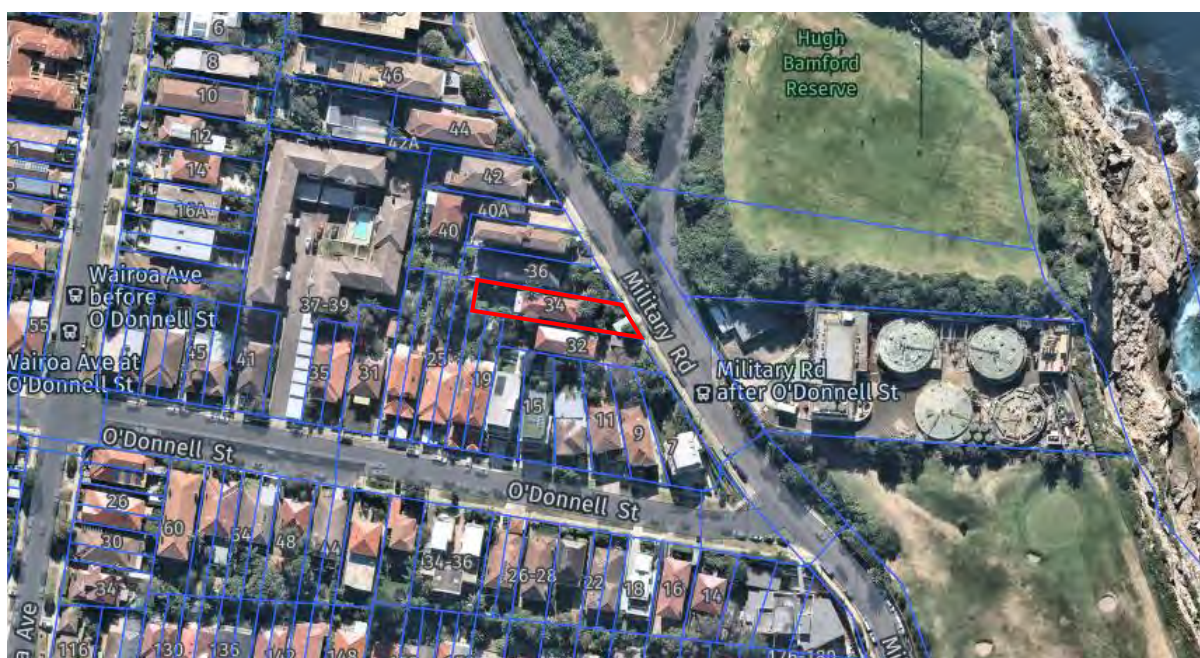
AREA CALCULATIONS	
EXISTING VALUES TAKEN FROM DA-264/2015 and DA-231/2019	
SITE AREA	2,231 m2
Proposal	
Floor Area GFA	
existing GF	326.69 m2
existing L1	720 m2
existing L2	647 m2
existing L3	550 m2
existing TOTAL	2,277.69 m2
existing FSR	1.02:1
ADDED GFA	13.3 m2
TOTAL PROPOSED	2,290.99 m2
PROPOSED FSR	1.027:1
INCREASE %	0.58%



## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-5/2021
<b>Site address</b>	34 Military Road, NORTH BONDI
<b>Proposal</b>	Demolition of a dual-occupancy and construction of four storey Residential Flat Building containing four apartments with basement parking and Strata subdivision
<b>Date of lodgement</b>	7 January 2021
<b>Owner</b>	Bondi Heights Developments Pty Ltd
<b>Applicant</b>	HHNDU
<b>Submissions</b>	34
<b>Cost of works</b>	\$4,482,500
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Height</li> <li>• Floor Space Ratio</li> <li>• Excessive earthworks</li> <li>• Non-complaint rear setback</li> <li>• Exceeds wall height</li> <li>• Streetscape impacts</li> <li>• Overshadowing &amp; solar access impacts</li> <li>• View loss impacts</li> <li>• Visual and acoustic privacy impacts</li> </ul>
<b>Recommendation</b>	That the application be REFUSED for the reasons contained in the report.

### SITE MAP



## 1. PREAMBLE

### 1.1 Executive Summary

The development application (DA) seeks consent for the demolition of a part two, part three storey dual-occupancy and construction of four storey Residential Flat Building (RFB) containing four apartments with basement parking and Strata subdivision, at the site known as 34 Military Road, North Bondi.

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

- Exceeds height;
- Exceeds Floor Space Ratio;
- Excessive earthworks;
- Non-complaint rear setback;
- Exceeds wall height;
- Streetscape impacts;
- Overshadowing and solar access impacts;
- View loss impacts; and
- Visual and acoustic privacy impacts.

The assessment finds these issues unacceptable, as the proposal results in adverse amenity issues to surrounding residential apartments, as well as setting an undesirable precedence for the locality.

A total number of 34 submissions were received; 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*. The proposal is recommended for refusal.

### 1.2 Site and Surrounding Locality

A site visit was carried out on 22 February 2021.

The site is identified as Lot 165 in DP 11758, known as 34 Military Road, NORTH BONDI.

The site is located on the western side of Military Road and is irregular in shape, with an eastern frontage of 14.565m, a western rear boundary of 11.045m, a northern side boundary of 51.57m and a southern side boundary of 49.085m. The site has an area of 623.2m<sup>2</sup> and falls from the east to the west by approximately 8.71m.

The site is occupied by a part-two storey, part-three storey dual-occupancy with vehicular access provided from Military Road to a single detached carport and a pool to the rear. A variety of vegetation is located on the site, including two large Date Palms located at the front of the site.



The locality is generally characterised RFB's; to the south of the subject site is 32 Military Road, which is a part two, part three storey RFB and to the north are No's 36 and 38 Military Road. No. 36 is a three storey RFB and No. 38 is a five storey RFB.

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



**Figure 1:** Subject site frontage, as viewed from Military Road looking west.

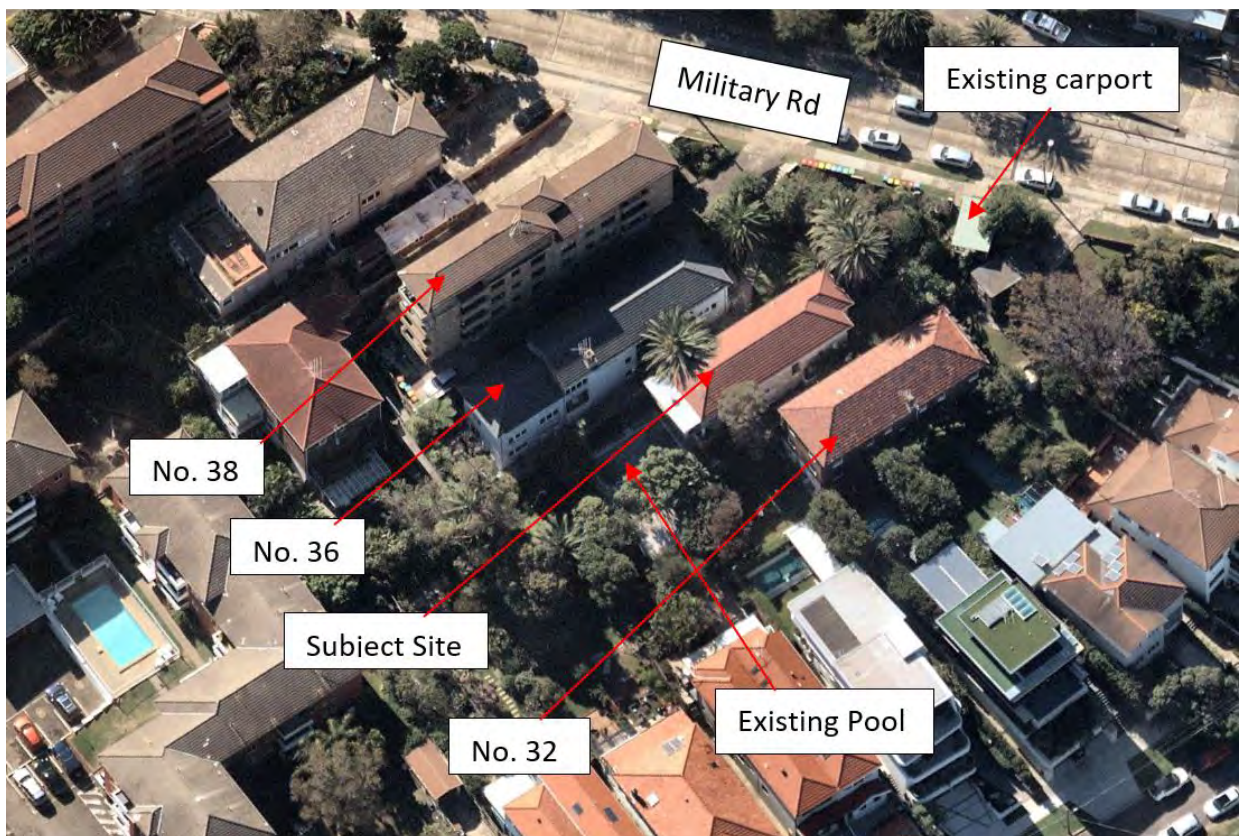


**Figure 2:** Front of existing dual-occupancy looking west.





**Figure 3:** Rear of existing dual-occupancy looking east.



**Figure 4:** Oblique satellite image of the site and its surrounding context (Source: Nearmap, 2021)

### 1.3 Relevant Development History

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

#### PD-32/2019

Pre-DA for demolition of existing dual -occupancy and construction of a five storey RFB, consisting of seven residential apartments and ten parking spaces. Advice was provided on 11 November 2019, as follows:

##### *Bulk and scale*

- The proposal is to comply with both the Height and Floor space ratio (FSR) standards. The proposed FSR of 0.9:1 and height of 15m was not supported, as it breached the 0.6:1 FSR control and 9.5m height limit.
- Due to the lot having a narrow 14.567m frontage, the site width does not permit adequate side setbacks or building separation, the proposal is not considered suitable for the site.

##### *Setbacks*

- Side setbacks are non-compliant and are to comply.
- The lack of building separation results in visual and acoustic privacy issues.

##### *Services*

- The proposed pedestrian entry along the north side of the site reduces amenity to the first floor units. Landscaping and weather protection (i.e. awning or pergola) should be incorporated.
- The pedestrian entry on the northern side and the driveway entry on the southern side results in a development that is bound by concrete on either side, which does not enhance the streetscape or the amenity for future occupants.
- The external lobbies and walkways do not provide adequate amenity for future occupants. The ramps, particularly on the first floor providing access between the pedestrian access, stairs and lift and the apartment entry doors, results in a development that does not provide adequate amenity for future occupants and is piecemeal in nature.
- Booster pumps and letterboxes to be provided.

##### *Landscaping*

- Trees within the front setback should be retained.
- Communal open space is to be compliant.

##### *Natural Cross Ventilation*

- Cross ventilation is to be compliant with the Apartment Design Guide (ADG).

##### *Car parking*

- Parking is to not exceed the required amount.

### *Site Suitability*

- The proposed side setbacks are grossly undersized, and the non-compliance with the building separation controls is considered a threshold issue to ensure privacy and amenity for occupants of both the subject site and neighbouring properties. As such, it was considered that the proposed development was not suitable for the site.

## **1.4 Proposal**

The DA seeks consent for the demolition of a dual-occupancy and construction of four storey RFB containing four apartments with basement parking and Strata subdivision. Specifically:

### Demolition

- Demolition of all structures on site and removal of trees.

### Basement

- Vehicle entry via car lift from street level (Military Road);
- Five x vehicle parking spaces (inclusive of one car stacker);
- Turntable;
- Four x bicycle spaces;
- Two x motorcycle spaces;
- Garbage room;
- Lift; and
- Stairwell.

### Ground Floor

- A/C plant room;
- Car lift plant room;
- Lift onto lobby;
- Stairwell;
- Storage area for four apartments;
- Communal open space (174m<sup>2</sup>) that is accessed along the southern side of the building; and
- Apartment One – Two bedroom apartment with 62m<sup>2</sup> terrace to west and north.

### Level 1

- Lift onto lobby;
- Stairwell;
- Electric Comms; and
- Apartment Two – Two bedroom apartment with a 18.9m<sup>2</sup> balcony to the west and a second balcony 10.8m<sup>2</sup> facing north within the centre of the apartment.

### Level 2 (Street Entry)

- Vehicle access from Military Road to carlift;
- Entry lobby;
- Lift;
- Stairwell; and
- Apartment Three - Two bedroom apartment with a 18.9m<sup>2</sup> balcony to the west and a second balcony 10.8m<sup>2</sup> facing north within the centre of the apartment.



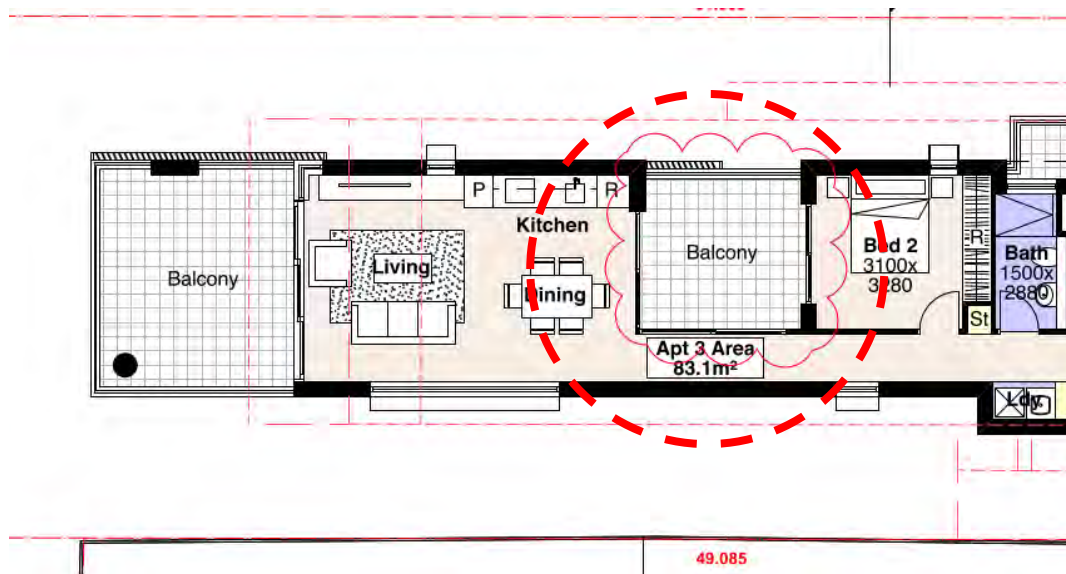
### Third Floor

- Lift onto lobby;
- Stairwell; and
- Apartment Four - One bedroom apartment with study and a 48.8m<sup>2</sup> terrace to the west.

## 1.5 Background

The application was received by Council on the 7 January 2021 and was deferred on 23 March 2021 for the following reasons:

- Breach to the overall 9.5m height limit by 2.8m;
- Breach to the 7m wall height and rear setback was not supported as it resulted in view loss to the properties to the north and unreasonable overshadowing to properties to the south;
- FSR calculations were incorrect and were to include common halls;
- The proposed balconies situated on the northern side of the development (between the living areas and Bedroom 2 on the ground, first and second floors) (see **Figure 5** below) were not supported. The balconies resulted in the length of the development being longer than required, resulting in adverse amenity impacts. It was advised to delete these balconies and push the living rooms and rear balconies to the east, which would assist in reducing the current amenity impacts of overshadowing and view loss;
- No setback from the northern and southern boundaries are proposed, which was not supported, as 1.5m is required; and
- Issues regarding biodiversity, stormwater, traffic and sustainability standard were also required to be resolved.



**Figure 5.** Typical plan of north facing balconies requested to be deleted within the deferral letter.

Amended plans were received on 21 May 2021. Council was not in support of the amended plans as they did not address the issues identified within the deferral letter.

## **2. ASSESSMENT**

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

### **2.1 Planning Instruments and Development Control Plans**

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

#### **2.1.1 State Environmental Planning Policies (SEPPs)**

The following SEPPs apply and have been considered in the assessment of this DA:

- SEPP (Building Sustainability Index – BASIX) 2004;
- SEPP 55 Remediation of Land;
- SEPP (Coastal Management) 2018;
- SEPP (Vegetation in Non-Rural Areas) 2017; and
- SEPP 65 (Design Quality of Residential Apartment Development).

A detailed discussion is provided for relevant SEPPs as follows:

#### **2.1.2 SEPP (Building Sustainability Index – BASIX) 2004**

A BASIX and NatHERS Certificate has been submitted with the DA.

The BASIX Certificate and NatHERs certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. If approved, a standard condition would be recommended ensuring the measures detailed in the BASIX Certificate and NatHERs certificate are incorporated into the Construction Certificate drawings and implemented.

#### **2.1.3 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.

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

The SEPP applies to sites located within the Coastal Environment Area (Clause 13) and a Coastal Use Area (Clause 14) according to the SEPP.

The subject site is not located in a Coastal Environment Area, therefore an assessment against clause 13 of SEPP (Coastal Management) 2018 is not required.

However, part of the site is located in a Coastal Use Area and therefore an assessment against Clause 14 of the SEPP is required.



**Table 1: SEPP (Coastal Management) 2018 Compliance Table (Coastal Use Area) – Clause 14**

Matters for consideration	Compliance
<i>(a) has considered whether the proposed development is likely to cause an adverse impact on the following:</i>	
<i>(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	The development will have no adverse impacts on safe access to such locations.
<i>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</i>	There will be no adverse effect on views, overshadowing, and wind funnelling to the foreshore.
<i>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</i>	The proposed development will not impact on the visual amenity or scenic qualities of the coastal headland. This is assessed in more detail as part of the WDCP considerations in this report.
<i>(iv) Aboriginal cultural heritage, practices and places,</i>	The site has already been disturbed by the existing development and use, therefore it is unlikely that any Aboriginal cultural heritage items or places will be impacted as a result of the proposal.
<i>(v) cultural and built environment heritage, and</i>	The development is not listed as a heritage item, located within a conservation area or located in close proximity to either.
<i>(b) is satisfied that:</i>	
<i>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</i>	The development has been designed and sited to avoid adverse impacts to the items referred above.
<i>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</i>	As above.
<i>(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and</i>	As above.
<i>(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</i>	The proposed development is not of an appropriate bulk and scale.

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

Planners Comment: The proposed development is not located within the coastal zone.

### 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:

- (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.*

Planners Comment: The amended proposal has been reviewed by Council's Biodiversity Officer as the property lies within a habitat corridor. The biodiversity officer does not support the amended landscape plan as it does not comply with *Part B3, Section 3.2.1, Control (a)* of the WDCP, requiring a minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1 of the WDCP.

### 2.1.6 SEPP 65 (Design Quality of Residential Apartment Development).

The original application plans were referred to the Waverley Council Design Advisory Excellence Panel (DEAP) on 10 March 2021. DEAP's comment of the proposed development against the nine design quality principles under Schedule 1 of SEPP 65, amended plans were submitted on 24 May 2021 as a response to these comments; a planning response to each comment are set out in **Table 2** of this report.

**Table 2: Assessment against the Nine Design Quality Principles under SEPP 65**

Principle	Panel's Comment	Planning Comment
1. Context & Neighbourhood	<ul style="list-style-type: none"> <li>• <i>A detailed analysis of the local features, views, amenity and site conditions should be provided to set the scene for this design. The Panel appreciate the challenges of redeveloping this site, but a number</i></li> </ul>	The design of the building still results in adverse environmental amenity impacts to neighbouring residential apartments.

Principle	Panel's Comment	Planning Comment
	<p><i>of assumptions need to be made in order to rationalise and support the various design decisions.</i></p> <ul style="list-style-type: none"> <li>• <i>For example, consideration of existing views from neighbouring properties, and which point on the subject site do views to the ocean/beach become available. It's unclear to what extent these are driving the design. The Panel assume that extending the building and pushing balconies and built form west is to access these views.</i></li> <li>• <i>The character of Military Road is varied, and this site has the opportunity to make a positive contribution to the streetscape – in part through the deep soil zones in the front setback, but also in the treatment of built form, which is currently showing limited materiality, animation or interest.</i></li> </ul>	<p>Although a thorough view loss analysis has been provided to Council by the applicant, the proposal will still result in unacceptable view loss, as demonstrated in the view loss assessment using the principles of Tenacity within <b>Table 7</b> of this report.</p> <p>The development does not meet the streetscape character of the locality as will be discussed in more detailed within <b>Table 6</b> of this report.</p>
2. Built form & Scale	<ul style="list-style-type: none"> <li>• <i>Internal courtyards are not supported in their current form. The Panel would like to see further justification for these generous breaks in the built form, given they contribute to the overall bulk, scale and impact of the proposal. If these voids are providing valuable amenity, then the Panel would like to see whether small proportions can achieve the same outcome.</i></li> <li>• <i>The exceedance in height is a result of the site's steep topography and the extension of the built form west. If the building was pulled back, but removing the voids, the exceedance in height would be minimised.</i></li> </ul>	<p>The north facing (side) balconies were requested to be deleted within the deferral letter due to the adverse environmental impacts created (view loss and overshadowing) and their contribution to bulk and scale. The amended design still proposes these side balconies, which are not supported. These balconies are excessively large, reflecting the sizes of bedrooms and could be easily filled in in the future. The size and locations of the balconies has been highlighted within <b>Figure 5</b> above.</p> <p>This is agreed by Council. The amended plans still significantly exceed the height standard resulting in unacceptable environmental impacts of both overshadowing and view loss.</p>
3. Density	No comments	
4. Sustainability	<ul style="list-style-type: none"> <li>• <i>A project of this scale, value and location should have an underlying sustainability strategy that extends</i></li> </ul>	<p>The amended plans have been reviewed by Council's Sustainability Officer and are supported. However, additional work could be provided to</p>

Principle	Panel's Comment	Planning Comment
	<p><i>beyond BASIX. Recommendations by the Panel include;</i></p> <ul style="list-style-type: none"> <li><i>o Rainwater harvesting, storage, treatment and re-use, for garden irrigation, toilets and laundry</i></li> <li><i>o Photovoltaics on roofs to mitigate energy usage. A solar photovoltaic system could power common areas with any excess energy feeding into the grid.</i></li> <li><i>o Window types and operation that accommodate different weather conditions, and allow occupants a variety of ventilation options whilst maintaining security.</i></li> <li><i>o Operable skylights to top level units</i></li> <li><i>o Provision of ceiling fans to supplement natural ventilation and reduce the reliance on A/C. If A/C is proposed, then condensers should be noted on the plans and elevations</i></li> <li><i>o All bathrooms on external walls should have operable external windows to reduce the need for artificial ventilation.</i></li> <li><i>o Clothes drying area should be provided for ground floor units.</i></li> </ul>	<p>increase these measures, as discussed by DEAP.</p>
5. Landscape	<ul style="list-style-type: none"> <li>• <i>The approach to communal open space is to be reconsidered. The current location is disconnected to the other units by distance and level changes. The current configuration exhibits CPTED issues due to separation and accessibility from users and site line distances. The current space at the rear should be assigned to the ground floor unit. This leaves the development without any dedicated communal space, which could be addressed through the provision of additional amenities – outdoor shower in front setback, bike parking on Military Road frontage and additional storage.</i></li> </ul>	<p>Council does not agree with this point raised by DEAP. Sufficient communal open space is to be provided at the rear of the site.</p>

Principle	Panel's Comment	Planning Comment
	<ul style="list-style-type: none"> <li><i>The Panel also raised the possibility of an upper level space for residents to share that accesses the views – either in the main building, or on the car lift box.</i></li> <li><i>Keep tree 6 – sits outside the basement on the sites Southern boundary.</i></li> </ul>	<p>Council does not agree with this point raised by DEAP, due to impact of adverse visual and acoustic privacy impacts to surrounding properties from a proposed communal roof terrace.</p> <p>Council's Tree Officer supports the proposed development, including the removal of Tree 6.</p>
6. Amenity	<ul style="list-style-type: none"> <li><i>The lower ground apartment is subterranean and receives very poor amenity – limited direct sunlight and overlooking from adjacent properties. This could be balanced by either reducing the footprint of this unit, or sliding it west towards the rear garden, which we propose to reassign to this unit (rather than communal space).</i></li> <li><i>The Panel accepts the solar access to these units is compromised by the orientation of the site, its topography and relationship to neighbouring properties. However, this isn't justification for the internalized balconies in their current configuration, as they provide limited direct sunlight to the living spaces.</i></li> </ul>	<p>These comments are noted, and it is confirmed that the apartment receives limited solar access.</p> <p>Council agrees with this point raised by DEAP.</p>
7. Safety	No comments	
8. Housing Diversity and Social Interaction	No comments	
9. Aesthetics	<ul style="list-style-type: none"> <li><i>There is limited information on the architectural style, concept or materiality. From the information presented it appears very utilitarian and need of further design refinement.</i></li> <li><i>For example, the blank grey box to Military Road should be refined through the addition of landscape or materiality, as this is an opportunity to improve the quality of this streetscape.</i></li> </ul>	<p>Council agrees with this point raised by DEAP.</p>



## ADG

Clause 6A of SEPP 65 requires that development control plans (DCPs) cannot be inconsistent with the ADG in respect of the following:

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

If a DCP contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. An assessment against the provisions within the ADG is provided in **Table 3** of this report.

**Table 3: ADG Assessment**

Design Criteria	Compliance	Comment
<b>3D Communal and public open space</b>		
<ul style="list-style-type: none"> <li>25% of the site is dedicated for communal open space</li> </ul>	Yes	Over 25% of the site is dedicated to communal open space.
<ul style="list-style-type: none"> <li>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)</li> </ul>	No	With an existing RFB to the north of the site at 36 Military Road, a minimum of two hours of direct sunlight to 50% of the communal open space is not achieved.
<b>3E Deep soil zones</b>		
<ul style="list-style-type: none"> <li>Site less than 650m<sup>2</sup> – 7% of the site is to be deep soil zone</li> </ul>	Yes	Over 7% of the site is provided with deep soil.
<b>3F Visual privacy</b>		
<ul style="list-style-type: none"> <li>Min separation distances from buildings to side and rear boundaries:</li> <li>Up to 12m (4 storey) – 6m habitable &amp; 3m non-habitable</li> </ul>	No	Due to the narrow subdivision pattern of the lot, it is unachievable to provide a 6m separation between windows and balconies from the side boundary of the subject site. Therefore, a merit assessment must be undertaken.

Design Criteria	Compliance	Comment
<ul style="list-style-type: none"> <li>Increased separation of 3m where adjoins a lower density zone</li> </ul>	<p>No</p> <p>Partial</p> <p>No</p> <p>Yes</p> <p>Lack of information.</p>	<p><u>Balconies</u></p> <p><i>Northern balconies</i> The northern balconies located in the middle of Apartments 2 and 3 (<b>Figure 5</b>) are not supported, as they will result in unacceptable visual and acoustic privacy impacts to the apartments at 36 Military Road from the non-compliant setback of 3m from the side boundary.</p> <p><i>Western (rear) balconies</i> The rear balconies at levels 1 and 2 are acceptable as they provide privacy screening to the northern side affording visual privacy to the RFB at 36 Military Road.</p> <p>No privacy screening is provided to the southern side of this balcony as it does not align with the RFB of 32 Military Road and it will provide occupants with district views to the south and south-west.</p> <p>However, the balcony at level 3 is excessive in size at 48.8m<sup>2</sup> and does not provide any privacy screening; this is not supported given it will result in adverse visual and acoustic privacy impacts to surrounding properties.</p> <p><u>Windows</u></p> <p>When considering window placement to the side elevations, the windows should be off-set from neighbouring windows.</p> <p><i>Southern Elevation</i> The windows on the southern elevation are accepted in that windows to habitable rooms do not directly overlook windows to the northern side of 32 Military Road.</p> <p><i>Northern Elevation</i> The submitted plans do not provide the location of neighbouring windows to the southern side of 36 Military Road, therefore this cannot be assessed.</p>
<b>3G Pedestrian access and entries</b>		
	Yes	Pedestrian access and entries are acceptable.
<b>3H Vehicle access</b>		
	Yes	The car lift has an acceptable streetscape presentation and is required due to the steep topography of the lot.

Design Criteria	Compliance	Comment																								
		The amended design of the car lift is supported by Council’s Traffic Engineers.																								
3J Bicycle and car parking																										
	Yes	Parking rates are prescribed within the Waverley Development Control Plan 2012 (Waverley DCP 2012).  This will be discussed below within <b>Table 5</b> of this report.																								
4A Solar and daylight access																										
<ul style="list-style-type: none"><li>Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight between 9am-3pm mid-winter</li></ul>	No	The solar access diagrams indicate only two of the four apartments in the building (50%) receive solar access to living areas for a minimum of two hours, which is not acceptable.  Shadowing impacts on neighbouring apartments and lots will be discussed in <b>Table 6</b> of this report.																								
4B Natural ventilation																										
<ul style="list-style-type: none"><li>All habitable rooms are naturally ventilated</li><li>Number of units with natural cross ventilation is maximised:<ul style="list-style-type: none"><li>At least 60% of units naturally ventilated</li></ul></li></ul>	Yes	All apartments are provided with natural cross ventilation.																								
4C Ceiling heights																										
<ul style="list-style-type: none"><li>Habitable rooms – 2.7m</li></ul>	Yes	Floor to ceiling heights of 2.7m is provided at each level.																								
4D Apartment size and layout																										
<p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"><li>1 Bed = 50 m<sup>2</sup></li><li>2 Bed = 70 m<sup>2</sup></li></ul> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p> <p>Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space)</p> <p>Bedrooms have a minimum dimension of</p>	Yes	<table><tr><th colspan="4">Apartment Size Calculations</th></tr><tr><th>Apt</th><th>Min Area (m<sup>2</sup>)</th><th>Proposed Area (m<sup>2</sup>)</th><th>Complies</th></tr><tr><td>1</td><td>75</td><td>90.4</td><td>Yes</td></tr><tr><td>2</td><td>75</td><td>83.1</td><td>Yes</td></tr><tr><td>3</td><td>75</td><td>83.1</td><td>Yes</td></tr><tr><td>4</td><td>75</td><td>88.3</td><td>Yes</td></tr></table>	Apartment Size Calculations				Apt	Min Area (m <sup>2</sup> )	Proposed Area (m <sup>2</sup> )	Complies	1	75	90.4	Yes	2	75	83.1	Yes	3	75	83.1	Yes	4	75	88.3	Yes
	Apartment Size Calculations																									
	Apt		Min Area (m <sup>2</sup> )	Proposed Area (m <sup>2</sup> )	Complies																					
	1		75	90.4	Yes																					
	2		75	83.1	Yes																					
	3		75	83.1	Yes																					
	4		75	88.3	Yes																					
	Yes																									
Yes																										
Yes																										
Yes																										
Yes																										
Yes																										



Provision	Compliance	Comment
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>9.5m</li> </ul>	No	The development will have a height of 11.6m. Exceeding the development standard by 2.1m or 22.1%.
4.4 FSR <ul style="list-style-type: none"> <li>Site Area: 623.2m<sup>2</sup></li> <li>Max FSR: 0.6:1</li> <li>Max GFA: 373.92m<sup>2</sup></li> </ul>	No	<u>GFA Calculations:</u> Basement: Nil Ground Floor: 100.2m <sup>2</sup> First Floor: 93.2m <sup>2</sup> Second Floor: 89.8m <sup>2</sup> Third Floor: 92.6m <sup>2</sup> Total: 375.8m <sup>2</sup> FSR: <b>0.6:1</b>  Exceeding the development standard by 1.88m <sup>2</sup> or 0.5%.  A clause 4.6 variation has not been provided for this breach. It appears the calculations differ as some internal walls have been excluded from the calculation of GFA.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of the Waverley LEP 2012 to vary the height development standard. A detailed discussion of the variation to the development standard is presented below this table.
	No	No Clause 4.6 Variation has been provided for the exceedance in GFA.
<b>Part 6 Additional local provisions</b>		
6.2 Earthworks	No	Earthworks are proposed due to the proposed basement car park and to provide an apartment at ground level.  The development results in nil excavation to either side boundary, resulting in potential environmental impacts to surrounding residential lots.  This will be discussed in more detail with <b>Table 5</b> .

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



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

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

The site is subject to a maximum height of building development standard of 9.5m. The proposed development has a height of 11.6m, exceeding the standard by 2.1m equating to a 22.1% variation.

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

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

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

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

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

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

- (i) *The proposal meets the height of building objectives within the Waverley LEP 2012.*

- 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.*

*Comment: The proposal does not provide an unreasonable amount of amenity impacts to the adjoining properties and public spaces. The proposal maintains appropriate view corridors given the site conditions and can meet the solar access requirements.*

- b) *To increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth.*

*Comment: The site is not located in the Bondi Junction Centre.*

- 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.*

*Comment: The site is not located in the Bondi Junction Centre.*

- d) *To ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

*Comment: The skilful design enables the building to be compatible with the site and surrounding area. The proposed variation does not impact upon the predominant bulk, scale, streetscape or character of the surrounding North Bondi area. As such, the proposal is considered a high quality design that will enhance the streetscape.*

- (ii) *The proposal meets the zone objective within the Waverley LEP 2012.*

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

*Comment: The proposal retains the medium density scale of the site and provides four units to meet the housing needs of the community. The proposed height variation does not conflict with the medium density residential environment as considered under Council's provisions. The proposal is also compatible with the existing and desired character of the surrounding area.*

- b) *To provide a variety of housing types within a medium density residential environment.*

*Comment: The proposal includes four units with varied layouts and will complement the existing residential flat buildings within the vicinity of the site.*

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

*Comment: The proposal relates to a residential flat building and does not involve any other land use.*

- d) *To maximise public transport patronage and encourage walking and cycling.*

*Comment: The site is within close proximity to bus stops and the proposal incorporates bicycle racks.*

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

- (i) *The proposed variation to the building height can be achieved without any unreasonable impacts to the amenity of adjoining properties.*

- (ii) *The proposal incorporates a flat roof which mitigates any unreasonable shadowing impacts. The existing pitched roof has a ridge height of RL 50.32 and the proposed flat roof will have a height of up to RL 52.2, demonstrating the low profile of the new building. This is a better planning outcome compared to proposing a building with a pitched roof which would produce far greater amenity and bulk impacts.*

- (iii) The proposed height variation is a direct result of the sloping site and the design follows the contours through providing two units above the main entrance and two units below street level. The proposed excavation allows the building to maintain a low profile, particularly when viewed from the street and adjoining properties.*
- (iv) The proposed variation is sought, despite the design being able to fully comply with the maximum FSR.*
- (v) The integration of the basement is a better planning outcome, rather than at-grade parking which would disrupt the streetscape and would likely raise the building higher than what is currently being proposed.*
- (vi) Despite the height variation, the proposal does not restrict the adjoining buildings being redeveloped in the future.*
- (vii) The skilful design does not incorporate a split level to the lower three units, however the top level unit comprises a split level towards the front. While a split level is not ideal, this has been implemented to lower the height along the streetscape.*
- (viii) The proposed height variation does not materially contribute to additional shadowing that would cause any unreasonable overshadowing to the site or adjoining properties. Due to the orientation of the site being situated north of 32 Military Road, the existing three storey dual occupancy and adjoining building at 36 Military Road casts shadows onto 32 Military Road. Furthermore, even a compliant height would generate similar shadowing impacts. Refer to Figures 3-5 (of clause 4.6 variation) showing the existing and proposed shadowing including the reduced shadowing compared to the previously submitted plans. The amended design involving reducing the height by 300mm reduces shadowing to two windows on the top level of 32 Military Road at 3pm, as demonstrated in Figure 6 below (of clause 4.6 variation).*
- (ix) The proposed setbacks are considered suitable to mitigate against any unreasonable environmental impacts associated with the proposed variation.*
- (x) The skilful design maintains appropriate privacy between the proposed building and adjoining buildings. The proposed height variation comprises no significant impacts to the overall building envelope.*
- (xi) As discussed above in relation to the roof, the design incorporates a flat roof which provides adjoining dwellings with reduced environmental impacts, compared to a building with a pitched roof.*

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)?

The applicants written request has 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:

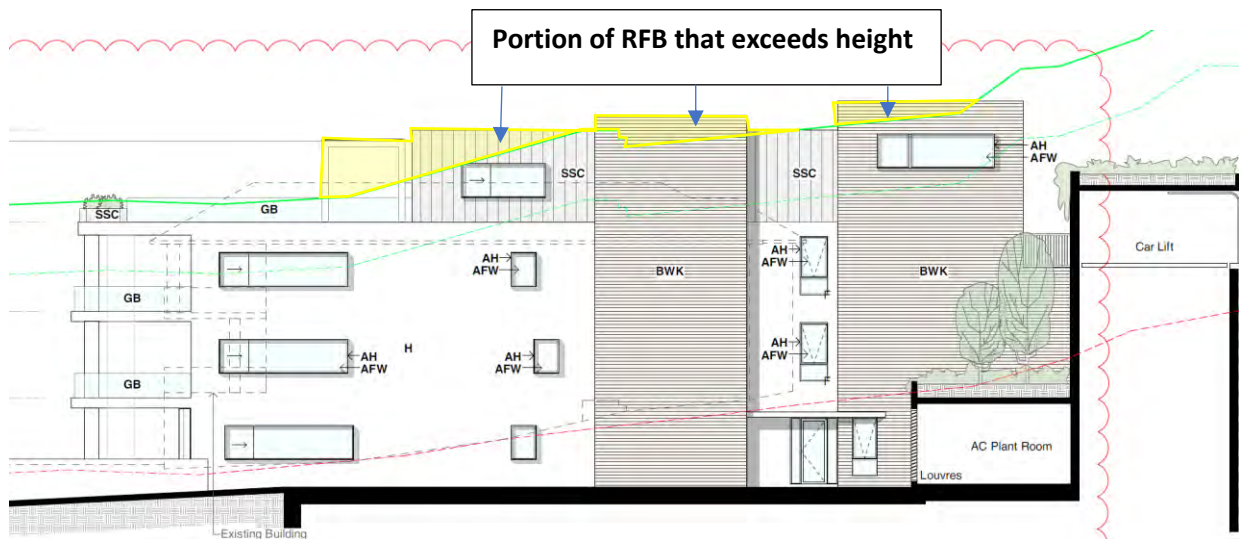
- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) to establish that the underlying 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; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification to the breach in height outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This is not sound justification for the development to breach the development standard as will be outlined below.

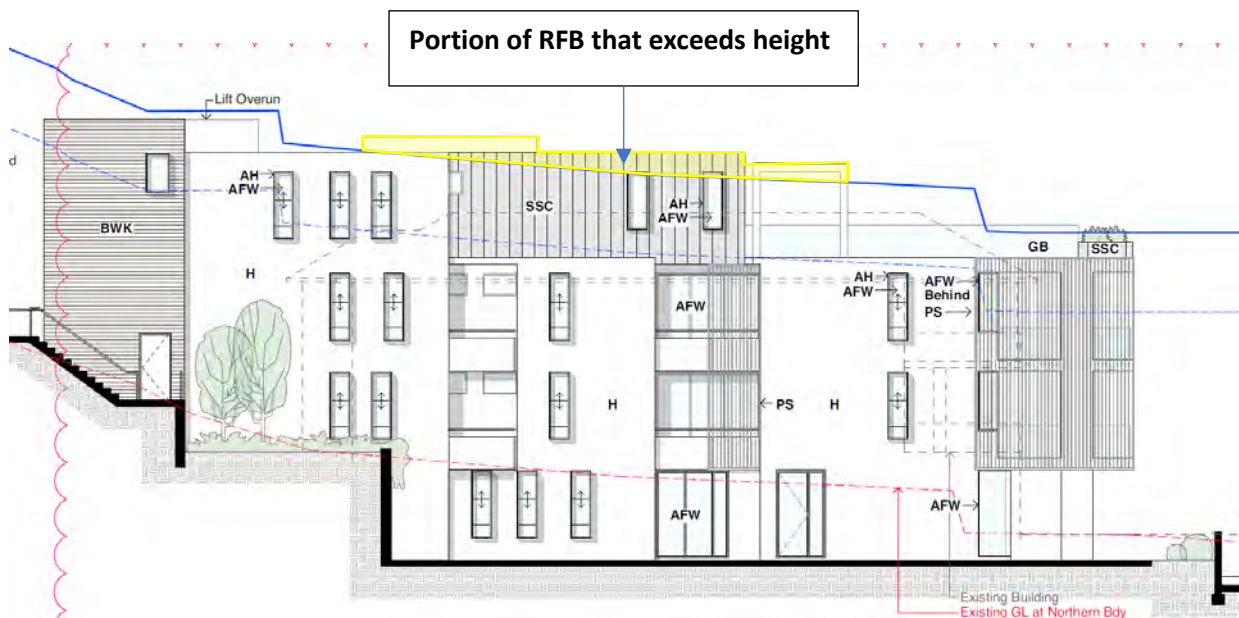
Does the written request adequately address those issues at clause 4.6(3)(b)?

Whilst the applicant has adequately addressed clause 4.6(3)(b) of the Waverley LEP 2012, the justification is not supported.

The majority of the RFB exceeds the maximum height limit set by the Waverley LEP 2012 as identified within **Figures 6 and 7** below.



**Figure 6.** Portions of the proposed RFB that exceed the height standard on the southern elevation.  
(Source: MHNDUNION, 2021)



**Figure 7.** Portion of the proposed RFB that exceeds the height standard on the northern elevation.  
(Source: MHNDUNION, 2021)

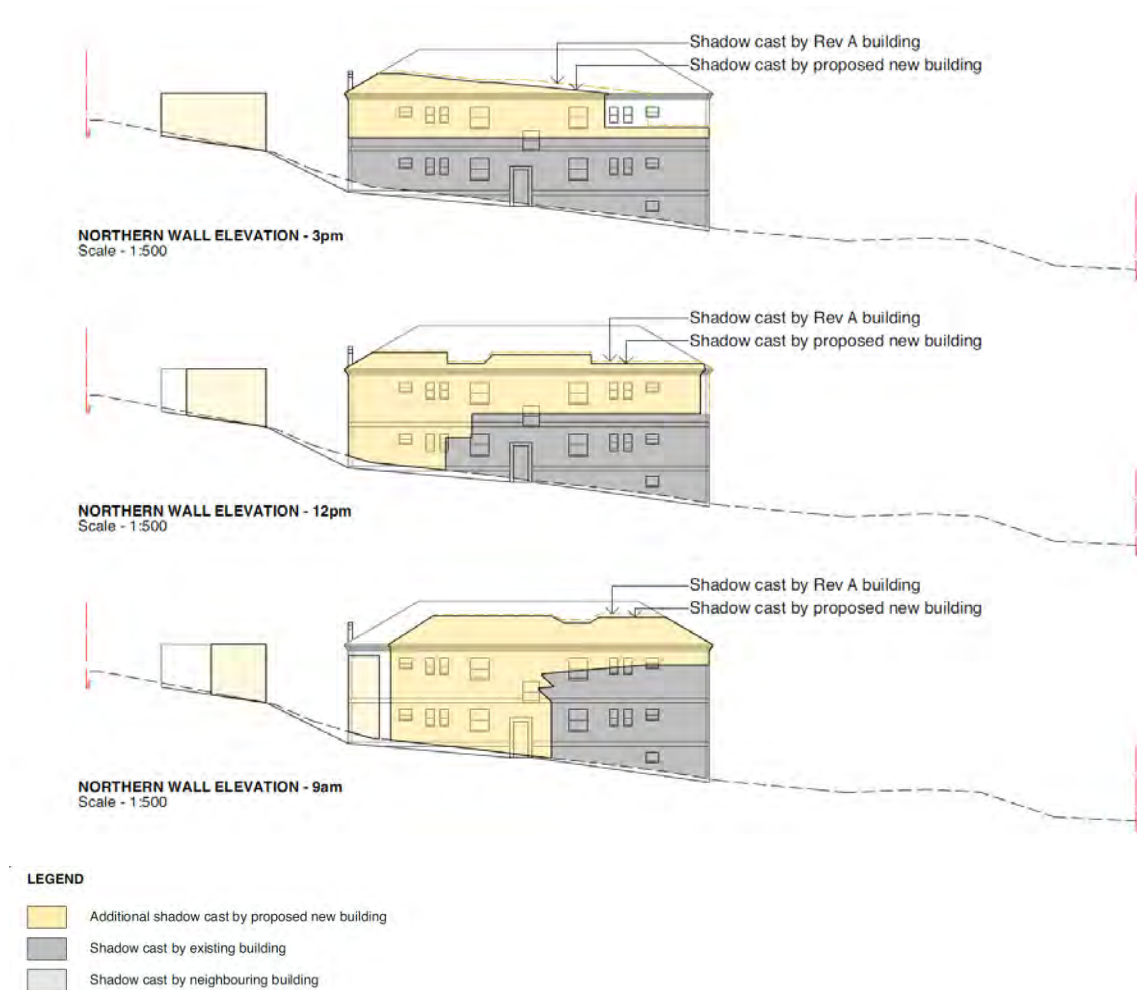
The exceedance in height results in adverse environmental amenity impacts to surrounding apartments.

Firstly, the breach in height results in unreasonable shadowing impacts to the northern elevation of 32 Military Road, contravening Part C3, Section 3.13, Control (c) of the Waverley DCP 2012, which states *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 is to be read in conjunction with Clause 4.3 (1)(a) of the Waverley LEP 2012, which states ‘*establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties,*’.



The current design results in a height breach that results in unacceptable additional overshadowing (which does not preserve the environmental amenity of neighbouring properties) that could be avoided through a more compliant design (i.e removal level 3).



**Figure 8.** Shadowing impacts to the northern elevation of 32 Military Road as a result of the proposed development. (Source: MHNDUNION, 2021)

In addition, the development also results in unacceptable view loss impacts to RFB's to the north of the site. The undesirable bulk and scale of this development will impact the south facing views of these apartments, particularly those apartments at 36 Military Road. This will be discussed in more detail within **Table 7** of this report, where a detailed Tenacity assessment is undertaken. However, if the development was reduced in bulk and scale and complied with height (i.e removal of Level 3) view loss impacts would be significantly reduced.

#### Is the development in the public interest?

The proposed development will not be in the public interest because it is not consistent with the objectives of the particular development standard or the objectives of the zone in which the development is proposed to be carried out.

The relevant objectives of the height of building 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,*

Comment: The proposed development exceeds the height standard resulting in a development that does not preserve the environmental amenity of neighbouring properties. As has been discussed above, and is detailed throughout this report, the proposed RFB is excessive in bulk and scale resulting in unacceptable overshadowing impacts to the south and unacceptable view loss impacts to the north.

- (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.*

Comment: The proposed development is not compatible with the height bulk and scale of the desired future character. The development exceeds the height standard and results in an unacceptable rear setback. This creates a negative precedence for future developments as it will result in breaches to the development standards impacting the amenity of neighbouring properties.

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

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

Comment: The development provides housing needs for the community. However, the proposal is an overdevelopment for the zone as it breaches height and results in a non-compliant rear setback.

- (b) To provide a variety of housing types within a medium density residential environment.*

Comment: The proposed development provides an RFB.

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

Comment: N/A

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

Comment: The proposed development provides spaces for bicycles.

### Conclusion

For the reasons provided above the requested variation to the height of building is not supported. While the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012, the proposed development is not in the public interest because it is inconsistent with the objectives of height of building and the R3 Medium Density Residential Zone.

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

In addition to the above, the proposed FSR slightly exceeds the control of 0.6:1 as stated in **Table 4**; however, no clause 4.6 variation has been submitted. The inappropriate bulk and scale of the development contributes to adverse environmental impacts to neighbouring properties and the site itself, along with the breach in height. In relation to FSR, as noted above, the north facing balconies for Apartments 2 and 3 are the size of bedrooms and could easily be filled in within the future, which would result in an additional breach to FSR without changing the bulk of the submitted design.

#### **2.1.9 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 5: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	An internal referral was sought from Council's Waste Officer, who did not object to the proposal.  If the application was recommended for approval, conditions of consent would be provided.
2. Ecologically Sustainable Development	Yes	The provided BASIX and NatHERS is acceptable.
3. Landscaping and Biodiversity	No	This property lies within a habitat corridor and in an area where there are few habitat opportunities for local native fauna to travel through the landscape.  A minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1 of the Waverley DCP 2012.  The amended landscape plans do not comply with the abovementioned control.
5. Vegetation Preservation	Yes	An internal referral was sought from Council's Tree Officer, who did not object to the proposal.  If the application was recommended for approval, conditions of consent would be provided.
6. Stormwater	Yes	An internal referral was sought from Council's Stormwater Engineer, who did not object to the proposal.  If the application was recommended for approval, conditions of consent would be provided.
7. Accessibility and Adaptability	N/A	As only four apartments are provided, adaptable apartments are not required.

Development Control	Compliance	Comment																								
8. Transport																										
8.1 – Streetscape	Yes	A single access driveway is provided from Military Road. Vehicle access from Military Road is a common feature in the streetscape.																								
8.2 – On Site Parking	-	The subject site is located within parking zone 2.																								
8.2.1 Vehicle Access	Yes	One vehicle access point is provided.																								
8.2.2 Parking Rates	Partial	<table><tr><th colspan="4">Parking Rates</th></tr><tr><th>Parking Type</th><th>Required</th><th>Proposed</th><th>Complies</th></tr><tr><td>Car Parking (residential)</td><td>Min – 0 Max –4.6</td><td>5</td><td>Yes</td></tr><tr><td>Car Parking (visitor)</td><td>0</td><td>0</td><td>Yes</td></tr><tr><td>Motorcycle</td><td>1</td><td>2</td><td>No – acceptable as helps reduce car dependency.</td></tr><tr><td>Accessible Parking (Refer to Part B7, Section 7.2 of WDCP)</td><td>0</td><td>0</td><td>Yes</td></tr></table>	Parking Rates				Parking Type	Required	Proposed	Complies	Car Parking (residential)	Min – 0 Max –4.6	5	Yes	Car Parking (visitor)	0	0	Yes	Motorcycle	1	2	No – acceptable as helps reduce car dependency.	Accessible Parking (Refer to Part B7, Section 7.2 of WDCP)	0	0	Yes
Parking Rates																										
Parking Type	Required	Proposed	Complies																							
Car Parking (residential)	Min – 0 Max –4.6	5	Yes																							
Car Parking (visitor)	0	0	Yes																							
Motorcycle	1	2	No – acceptable as helps reduce car dependency.																							
Accessible Parking (Refer to Part B7, Section 7.2 of WDCP)	0	0	Yes																							
8.2.6 Bicycle Parking	Yes	<table><tr><th colspan="4">Bicycle Rates</th></tr><tr><th>Bicycle Parking Type</th><th>Required</th><th>Proposed</th><th>Complies</th></tr><tr><td>Long-stay /resident/ employee</td><td>4</td><td>4</td><td>Yes</td></tr><tr><td>Short-stay/visitor</td><td>0</td><td>0</td><td>Yes</td></tr></table>	Bicycle Rates				Bicycle Parking Type	Required	Proposed	Complies	Long-stay /resident/ employee	4	4	Yes	Short-stay/visitor	0	0	Yes								
Bicycle Rates																										
Bicycle Parking Type	Required	Proposed	Complies																							
Long-stay /resident/ employee	4	4	Yes																							
Short-stay/visitor	0	0	Yes																							
12. Design Excellence	No	The proposed development does not achieve design excellence as the bulk and mass of the proposed RFB is excessive. The proposal will result in adverse environmental amenity impacts such as view loss and overshadowing to neighbouring properties, while also resulting in poor amenity for the proposed ground floor apartment, which will receive limited solar access.																								
13. Subdivision	N/A	This section does not apply to strata subdivision.																								

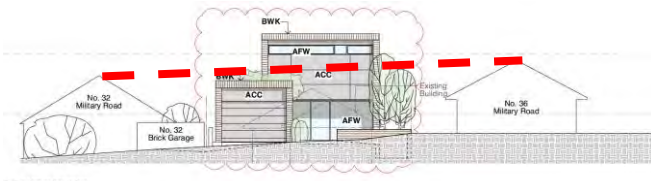
Development Control	Compliance	Comment
14. Excavation	No	<p>Earthworks are proposed due to the proposed basement car park and to provide an apartment at ground level.</p> <p>In accordance with the control, the proposal is required to be setback 1.5m from boundaries. The development results in excavation that is not setback from either side boundary, resulting in potential impacts to surrounding residential lots.</p>

**Table 6: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table**

This part applies to development that is subject to State Environmental Planning Policy (SEPP) 65 – Design Quality of Residential Apartment Development, including the RFBs, shop top house or mixed use developments that are three or more storeys and contain four or more dwellings.

Development Control	Compliance	Comment
<b>3.1 Site, Scale and Frontage</b>		
<ul style="list-style-type: none"> <li>Development is not to result in isolated sites with a minimum street frontage of 15m or less for R3 zones.</li> </ul>	No	The site has a street frontage of 14.567m. Although this is a shortfall of the 15m minimum width by 0.433m the objectives of the control must be considered.
<b>3.2 Height</b>		
<ul style="list-style-type: none"> <li>7m</li> </ul>	No	The development has a wall height that exceeds 7m at 11.7m.
<b>3.3 Setbacks – Refer to Part 3F of ADG</b>		
<b>3.3.1 Street Setbacks</b> <ul style="list-style-type: none"> <li>Consist with the predominate building line along the street</li> </ul>	Yes	See discussion below this table.
<b>3.3.2 Side and Rear Setbacks</b> <u>Rear Setback</u> <ul style="list-style-type: none"> <li>6m rear setback or extend no further than the predominant rear building line, whichever setback is greater</li> </ul>	No	See discussion below this table.
<u>Side Setback</u> <ul style="list-style-type: none"> <li>0.9m setback – up to 4.5m in height</li> <li>1.5m setback – 4.5m – 12.5m in height</li> </ul>	Yes	With the height of the building being below 12.5m, it has a compliant setback of more than 1.5m to either side boundary. However, portions of the building (i.e. north facing balconies) are not supported as it does not meet the minimum setback required by the ADG,



Development Control	Compliance	Comment
		resulting in unreasonable visual and acoustic privacy impacts to neighbouring apartments.
<b>3.4 Length and Depth of Buildings – Refer to Part 3F of ADG</b>		
<b>Building Design and Streetscape</b>		
<ul style="list-style-type: none"> <li>Building design is to respond to the existing streetscape character of the area.</li> </ul>	No	<p>The RFB has an unacceptable streetscape impact; when viewed from Military Road, the proposal sits considerably higher than the adjoining RFB's at 32 and 36 Military Road.</p>  <p><b>Figure 9.</b> Streetscape impact from proposed development as viewed from Military Road. (Source: MHNDUNION, 2021)</p>
<ul style="list-style-type: none"> <li>The colour and finish of external finishes should be sympathetic to the street and contribute to the overall appearance of the building.</li> </ul>	Yes	<p>The RFB uses modern materials and finishes resulting in a contemporary building.</p>
<b>3.6 Attic and Roof Design</b>		
<ul style="list-style-type: none"> <li>Roof design should contribute to the architectural design and the environmental performance of the development.</li> <li>Roof design should respond to the streetscape character of the area.</li> </ul>	Yes	<p>The proposed development has a simple flat roof form.</p>
<b>3.8 Pedestrian access and entry</b>		
<ul style="list-style-type: none"> <li>Entry at street level and respond to pattern within the street</li> <li>Accessible entry</li> <li>Separate to vehicular entry</li> <li>Legible, safe, well-lit</li> </ul>	Yes	<p>The pedestrian access path from Military Road to the front foyer is relatively flat.</p>
<b>3.9 Landscaping</b>		

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>30% of the site area is to be provided as landscaped area.</li> <li>50% of the landscaped area must be deep soil zone.</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>Over 30% of the site is landscaped.</p> <p>Over 50% of the landscaped area contains deep soil zones.</p>
<b>3.10 Communal Space</b>		
<ul style="list-style-type: none"> <li>15% of site is to be communal open space</li> <li>At least 30% of the communal open space is to receive 3 hours of direct sunlight between 9am and 3pm on June 21.</li> </ul>	<p>Yes</p> <p>No</p>	<p>Over 15% of the site is dedicated to communal open space.</p> <p>The communal open space has dimensions of 11m x 9.3m.</p> <p>Due to the subdivision pattern and orientation of the lot, No. 36 Military Road will overshadow the proposed communal open space. Therefore, it will be difficult for the communal open space to receive compliant solar access.</p>
<b>3.11 Private Open Space – Refer to Part 4E of ADG</b>		
<b>3.12 Vehicular Access and Parking</b>		
	Yes	Vehicle access has been reviewed by Council's Traffic Engineers, who do not object to the proposal.
<b>3.13 Solar Access and Overshadowing</b>		
<ul style="list-style-type: none"> <li>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.</li> </ul>	No	<p>The proposed development results in unacceptable shadow impacts to the northern elevation of 32 Military Road, which include bedrooms.</p> <p>The non-compliant rear setback also results in unacceptable shadowing impacts to 32 Military Roads private open space.</p>
<b>3.14 Views and view sharing</b>		
<ul style="list-style-type: none"> <li>Minimise view loss through design</li> <li>Landscaping on sites adjacent to a Council park or reserve should be sympathetic to soften the public/private interface.</li> <li>Views from public spaces to be maintained.</li> </ul>	No	A detailed view assessment using the principles of Tenacity will be undertaken within <b>Table 7</b> of this report.

Development Control	Compliance	Comment
<b>3.15 Visual privacy and security– Refer to Part 3F of ADG</b>		
<b>3.16 Dwelling Size and Layout – Refer to Part 4D of ADG</b>		
<b>3.17 Ceiling Heights – Refer to Part 4C of the ADG</b>		
<b>3.18 Storage – Refer to Part 4G of the ADG</b>		
<b>3.19 Acoustic privacy</b>		
<ul style="list-style-type: none"> <li>• Sound proofing through acoustic glazing</li> <li>• Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	With only one apartment located on each level, noise transmission is generally acceptable.
<b>3.20 Natural Ventilation – Refer to Part 4B of the ADG</b>		
<b>3.21 Building services</b>		
<ul style="list-style-type: none"> <li>• Outdoor Communal clothes drying area to be provided</li> <li>• Services are to be integrated into the design of buildings (garbage rooms, mail boxes, fire hydrants boosters, electrical substations, down pipes, plant rooms, satellite/communications structures</li> <li>• Plant rooms away from entry communal and private open spaces and bedrooms.</li> <li>• Building Services setback from walls, edges and front entrances</li> </ul> <p>Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge</p>	Yes	The development supplies bin rooms, plant rooms and letter boxes.

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

#### *Front Setbacks*

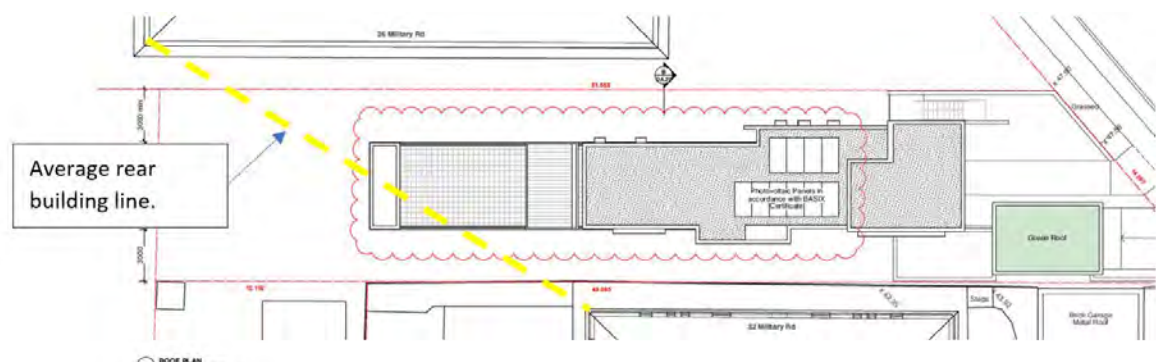
**Figure 10** below shows the predominant front building line (pattern) is stepped. No. 36 and 38 Military Road are aligned and No. 32 Military Road and the proposed developments front building line will align.



**Figure 10:** Predominant front and rear building line within the locality (Source: Nearmap, 2021)

#### *Rear Setbacks*

The rear setback does not comply with the predominate rear building line set by No. 32 and 36 Military Road as demonstrated below (refer to figures 10 and 11). This has an unacceptable impact on views to apartments 2, 5 and 6 of 36 Military Road and a solar access impact to those properties to the south.



**Figure 11:** Predominant rear building line within the locality and the proposed rear building line (Source: MHNDUNION, 2021)

This non-compliant rear setback results in adverse solar access impacts to properties to the south and view loss impacts to properties to the north.



### *Planning Principle – View Loss Assessment Tests (Tenacity)*

In accordance with Clause 2.7 of Waverley DCP 2012– *Views*, it is generally accepted that views do not ‘belong’ to anyone or any property, nor is a view the exclusive right to any one property or to certain individuals. ‘View sharing’ is an important principle to consider when developing a property.

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment.

In order to make a planning decision regarding the potential view loss, the judgment in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*, sets down four steps that should be undertaken to reach a decision on whether a view impact is reasonable.

**Table 7. Planning Principle – View Loss Assessment Tests (Tenacity)**



**Figure 12.** Location of subject apartments within the Tenacity assessment (Source: Google Maps, 2021)



**1/36 Military Road, North Bondi**



**Figure 13.** View from 1/36 Military Road, North Bondi. (Source: Realestate.com, 2021)

*Photographs were requested by the Assessment Officer, however they were not supplied by the objector. Therefore, the image was taken from Realestate.com. The room location of the view is unknown.*

This apartment is located towards the rear portion of the RFB. It is anticipated that the proposed development will not extend back far enough to diminish the views from this apartment.

<u>Assessment of Views</u>	<u>Extent of Impact</u>
Description: Ocean and Bondi Valley Value: Water and district Amount: Partial	This apartment is located towards the rear portion of the RFB. It is anticipated that the proposed development will not extend back far enough to diminish the views from this apartment.

**2/36 Military Road, North Bondi**



**Figure 14.** The view accessed from south facing balcony. This balcony is accessed from living room.

#### Extent of Impact

The proposed rear setback and height will block the district views that is afforded to this apartment.

<u>Assessment of Views</u> Description: Bondi Valley Value: District Amount: Partial	<u>Extent of Impact</u> The proposed rear setback and height will block the district views that is afforded to this apartment.
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#### **4/36 Military Road, North Bondi**



Existing pool to subject site.



Existing vegetation to the private open space of the subject site.

**Figures 15 & 16.** View accessed from south facing balcony (left) and south facing lounge room window (right).

<u>Assessment of Views</u> Description: Ocean and Bondi Valley Value: Water and district Amount: Partial	<u>Extent of Impact</u> This unit is located towards the rear portion of the RFB. It is anticipated that the proposed development will not extend back far enough to diminish the views from this apartment.
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### 5/36 Military Road, North Bondi



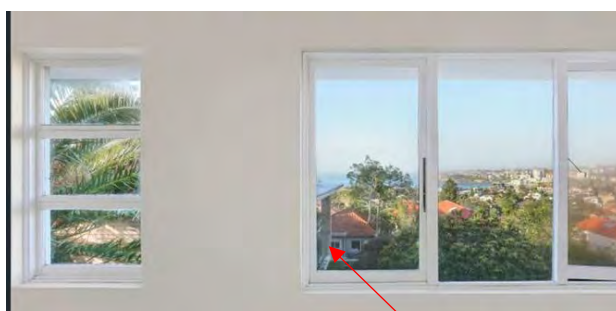
**Figure 17.** The view is accessed from the south facing living room window.



**Figure 18.** The view is accessed from south facing balcony. Balcony accessed from living room. (pool shown is subject site)

<b>Assessment of Views</b> Description: Bondi Valley Value: District Amount: Partial	<b>Extent of Impact</b> The proposed rear setback and height will block the district views that is afforded to this apartment's balcony.
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### 6/36 Military Road, North Bondi



Rear of existing building on the subject site.

**Figure 19.** The view is accessed from the south facing living room and dining room window via windows in the common hall.



**Figure 20.** View is accessed across the common stair well.

<b>Assessment of Views</b> Description: Ocean and Bondi Valley Value: Water and district Amount: Partial	<b>Extent of Impact</b> The proposed rear setback and height will block the district and water views that is afforded to this apartment.
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**7/36 Military Road, North Bondi**



Rear of existing building on the subject site.

**Figure 21.** View accessed from south facing secondary bedroom window.

<u>Assessment of Views</u> Nil views	<u>Extent of Impact</u> This apartment does not contain views.
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**2/38 Military Road, North Bondi**



**Figure 22.** View accessed from south facing balcony. Balcony accessed from living room.

Assessment of Views: Nil



**Figure 23.** View impact analysis from 2/38 Military Road, North Bondi south facing balcony that is accessed from the living room. (Source: MHNDUNION, 2021).

Extent of views: This apartment does not contain views.

**3/38 Military Road, North Bondi**



**Figure 24.** View from south facing bedroom window.



**Figure 25.** View from south facing balcony. Balcony accessed from living room.



**Figure 26.** View from south facing living room window.

<u>Assessment of Views</u>	<u>Extent of Impact</u>
Description: Ocean and Bondi Valley Value: Water and district Amount: Full	The view impact analysis demonstrates nil view impacts from the proposed development.

**4/38 Military Road, North Bondi**


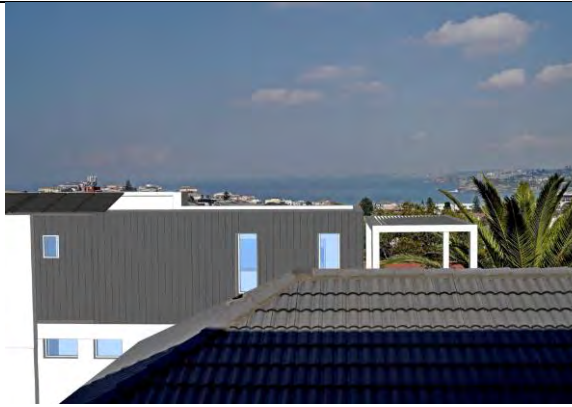


**Figure 27.** View from south facing bedroom window







**Figure 28.** View from south facing dining area window.



 <p><b>Figure 29.</b> View from 4/38 Military Road, North Bondi. View from south facing balcony accessed from living room.</p> <p><u>Assessment of Views</u>  Description: Ocean and Bondi Valley  Value: Water and district  Amount: Full</p>	 <p><b>Figure 30.</b> View impact analysis from 4/38 Military Road, North Bondi south facing balcony that is accessed from the living room. (Source: MHNDUNION, 2021)</p> <p><u>Extent of Impact:</u> The view impact analysis demonstrates minimal view impacts from the proposed development</p>
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#### 4/38 Military Road, North Bondi

 <p><b>Figure 31.</b> View from 5/38 Military Road, North Bondi. View from south facing dining room window.</p>	 <p><b>Figure 32.</b> View from 5/38 Military Road, North Bondi. View from south facing living area window.</p>
 <p><b>Figure 33.</b> View from 5/38 Military Road, North Bondi. View from south facing balcony. Balcony accessed from living area.</p>	 <p><b>Figure 34.</b> View impact analysis from 5/38 Military Road, North Bondi south facing balcony</p>

<u>Assessment of Views:</u> Description: Ocean and Bondi Valley Value: Water and district Amount: Full	that is accessed from the living room. (Source: MHNDUNION, 2021)  <u>Extent of Impact:</u> The view impact analysis demonstrates nil view impacts from the proposed development.
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### **17 O'Donnell Street, NORTH BONDI**

An objection was received for the amended plans relating to view impact. Due to the orientation and topography of the locality. The development will not result in view loss from this lot.

### **19 O'Donnell Street, NORTH BONDI**

An objection was received for the amended plans relating to view impact. Due to the orientation and topography of the locality. The development will not result in view loss from this lot.

### **Summary**

It is noted that all photo's are taken from a standing position.

Standards Allowable Height: 9.5m Proposed Height: 11.6m	The proposed development exceeds the height of building development standard set by the WDCP by 2.1m or 22.1%. This exceedance in height result in view loss impacts to apartments 2, 5 and 6 of 36 Military Road.  The development slightly exceeds the FSR development standard by 1.88m <sup>2</sup> or 0.5%. However, as this breach is so minor it does not result in view loss.  The developments rear building line extends too far to the west resulting in view loss to apartments 2, 5 and 6 of 36 Military Road.  A more skilful design could be achieved to reduce view loss. This would entail deleting the north facing (side) balconies and pushing the rear of the building further to the east and reducing the height.
No Allowable FSR: 0.6:1 Proposed FSR: 0.6:1	
No State: Rear setback	
Skilful design with same development potential can be created:	

### **Waverley DCP 2012 Considerations**

Notwithstanding the above, when assessed in conjunction with Clause 3.14 of the Waverley DCP 2012 for impact to views:

3.14 (a) The new development is not designed to minimise view loss to adjoining properties.

3.14 (g) Appropriate setbacks and height have not been provided, contributing to the loss of views to neighbouring apartments.

### **Conclusion**

The proposal significantly and unreasonably reduces the amenity enjoyed by the occupants of adjoining residential land.

The proposal fails to provide equitable access to views from private dwellings and does not minimise impact on existing views and vistas enjoyed from existing residential development and from the public domain.

The impact to views and view sharing created by the proposal is not supportable as the proposal is not in accordance with Policy 3.14(Views and View Sharing) of the Waverley DCP 2012 and NSW Land and Environment Court Planning Principle based on *Tenacity Consulting v Warringah* [2004] NSWLEC 140.

## 2.2 Other Impacts of the Development

The proposal is considered to have a significant detrimental effect relating to environmental 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 21 days and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*.

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

- Increased front and rear setbacks; and
- Reduced height.

A total of 34 unique submissions were received from the following properties:

**Table 10: Number of and where submissions were received from.**

Count	Number of Unique Submissions	Property Address
1	1	2/2 Simpson Street, BONDI
3	2	2/36 Military Road, NORTH BONDI
4	1	38 Military Road, NORTH BONDI (in support)
6	2	17 O'Donnell Street, NORTH BONDI
7	1	unknown address
8	1	13 O'Donnell Street, NORTH BONDI
9	1	5/38 Military Road, NORTH BONDI
11	2	2/38 Military Road, NORTH BONDI
13	2	19 O'Donnell Street, NORTH BONDI
16	3	3/38 Military Road, NORTH BONDI
19	3	4/38 Military Road, NORTH BONDI
21	2	19 O'Donnell Street, NORTH BONDI
24	3	4/36 Military Road, NORTH BONDI

26	2	7/36 Military Road, NORTH BONDI
27	1	5/36 Military Road, NORTH BONDI
29	2	6/36 Military Road, NORTH BONDI
31	2	1/36 Military Road, NORTH BONDI
32	1	44/37-39 O'Donnell Street, NORTH BONDI
33	1	117 Murrivee Road, NORTH BONDI
34	1	Unknown address

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

- Solar access and overshadowing;
- Rear setback;
- Visual privacy;
- View loss;
- Exceedance in height;
- Acoustic privacy from rear balconies;
- Northern facing balconies;
- Parking rates;
- Wall height;
- Size of balconies;
- Floor to ceiling heights;
- Excavation;
- Roof terrace resulting in visual privacy impacts;
- Benefits and public interest; and
- Streetscape.

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

***Issue: Increasing density without improving public infrastructure.***

**Response:** The assessment of this application is focused on the proposed development against the relevant legislation. Improving public infrastructure does not form part of the assessment.

***Issue: Loss of property value.***

**Response:** This is something that Council cannot take into consideration. However, the relevant controls and objectives aim in limiting environmental impacts to surrounding properties.

***Issue: The Palm tree to be removed on the southern side houses a Rainbow Lorikeet nest.***

**Response:** The proposal is recommended for refusal. Notwithstanding, tree removal is generally part of the development application process.

***Issue: Negative precedence.***

**Response:** Council agrees that this development would create a negative precedence for the locality, it is therefore recommended for refusal.

***Issue: Vegetation will not provide immediate privacy.***

**Response:** That is correct, vegetation takes time to grow.

***Issue: Stormwater Easement.***

**Response:** Council's Stormwater Engineer has reviewed the amended stormwater plans and raised no issues subject to recommended conditions of consent. Issues relating to the signing of easement documents is a civil matter that Council cannot advise on. Notwithstanding, the application is recommended for refusal.

***Issue: Vehicle lift is awkward and unreliable and will result in car blocking traffic on Military Road.***

**Response:** Council's Traffic Engineers have received the amended plans and raised no issues subject to recommended conditions of consent.

***Issue: Cuts off view from Bondi Beach when traveling south down Military Road.***

**Response:** This is not a public park or private residence, but a public road. View loss from this point is acceptable.

***Issue: Removal of palm trees will impact the streetscape.***

**Response:** The palm trees are required to be removed as they will be impacted by the proposed construction. An amended landscape plan is provided, with proposed trees to be planted within the front setback. Notwithstanding, the proposal is recommended for refusal.

***Issue: Lack of front yard to allow social interaction.***

**Response:** The proposed development has a compliant front setback.

***Issue: Shadow diagrams only show 1 day of the year***

**Response:** That is correct. The shadow diagrams are prepared to show the impacts at 21 June as this is the greatest annual impact of shadowing and is required by the relevant controls.

***Issue: Site retention, neighbouring property privacy and security during construction.***

**Response:** If approved, this would be recommended via a condition of consent.

***Issue: The impact of traffic flow, parking and construction vehicle activity both to Military Rd and O'Donnell St residence requires specific conditions***

**Response:** If approved, a Construction Traffic Management Plan would be required to be submitted and satisfied by Council's Traffic Engineers.



***Issue: PVC will add to height***

**Response:** PVC appears to be flush with the roof. Notwithstanding, the proposal is recommended for refusal.

***Issue: North facing balconies could be enclosed in the future.***

**Response:** This is a concern that Council has and is discussed above. Regardless, the north facing balconies are not supported in their current form and if they were approved and proposed to be enclosed within the future, a further assessment by Council would be required.

***Issue: Construction noise and dust***

**Response:** If approved, appropriate conditions of consent would be recommended.

***Issue: On-going acoustic noise once completed due to small setbacks***

**Response:** The acoustic levels are not anticipated to exceed that of standard residential uses. Notwithstanding the proposal is recommended for refusal.

***Issue: Proposed trees will block views and cause shadowing to the northern property.***

**Response:** The proposed trees identified on the landscape plan are positioned in locations that would not result in view loss. Additionally, the trees will not shadow those properties to the north.

***Issue: Excavation will compromise the water table***

**Response:** Due to the sloped nature of the site, the amount of excavation assists with sitting the RFB appropriately on site. Despite this, the application is recommended for refusal.

***Issue: Noise from car lift***

**Response:** This would be taken into consideration if the application was approved and suitable conditions recommended.

***Issue: Damage to surrounding properties.***

**Response:** If approved, appropriate conditions of consent would be recommended.

***Issue: View loss photo's not correct***

**Response:** The view loss photos were taken by a view loss expert. The Assessment Officer also took their own photo's during the inspection.

***Issue: The building height should be measured from the underside of the existing slab and not the existing ground at the boundaries. This interpretation is consistent with relevant L&E Court caselaw Starby Pty Ltd v The Hills Shire Council.***

**Response:** Height of building is measured from Existing Ground Level as defined within the Waverley LEP 2012.

## **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 Urban Design**

An internal referral was sought from Council's Urban Designer who did not support the proposal as it exceeded height, had overshadowing and visual privacy issues.

### **3.2 Biodiversity**

This has been discussed above, and is not supported.

### **3.3 Waste**

An internal referral was sought from Council's Waste Officer who supported the application subject to recommended conditions of consent.

### **3.4 Sustainable Development**

An internal referral was sought from Council's Sustainable Development Officer who supported the application subject to recommended conditions of consent.

### **3.5 GIS**

An internal referral was sought from Council's GIS Officer who supported the application subject to recommended conditions of consent.

### **3.6 Traffic**

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

### **3.7 Stormwater**

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

### **3.8 Trees**

An internal referral was sought from Council's Tree Officer who supported the application subject to recommended conditions of consent.

#### 4. CONCLUSION

The DA seeks consent for the demolition of a dual-occupancy and construction of four storey Residential Flat Building (RFB) containing four apartments with basement parking and strata subdivision at the site known as 34 Military Road, North Bondi.

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

- Exceeds height;
- Exceeds Floor Space Ratio (FSR);
- Excessive earthworks;
- Non-complaint rear setback;
- Exceeds wall height;
- Streetscape impacts;
- Overshadowing and solar access impacts;
- View loss impacts; and
- Visual and acoustic privacy impacts.

The assessment finds these issues unacceptable as it results in adverse amenity issues to surrounding properties as well as setting an undesirable precedence for the locality.

A total number of 34 submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the recommendation.

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

*Development and Building Unit (DBU) Decision:*



The application was reviewed by the DBU at the meeting on 25 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 McNamara, B Magistrale and P Wong.*

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

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

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Joseph Somerville	Bridget McNamara
<b>Development Assessment Planner</b>	<b>Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date:</b> 12 July 2021	<b>Date:</b> 19 July 2021

*Reason for WLPP referral:*

1. Contentious development (10 or more objections)
2. Departure from any development standard in an EPI by more than 10%
3. Sensitive development: SEPP 65 development

## 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:

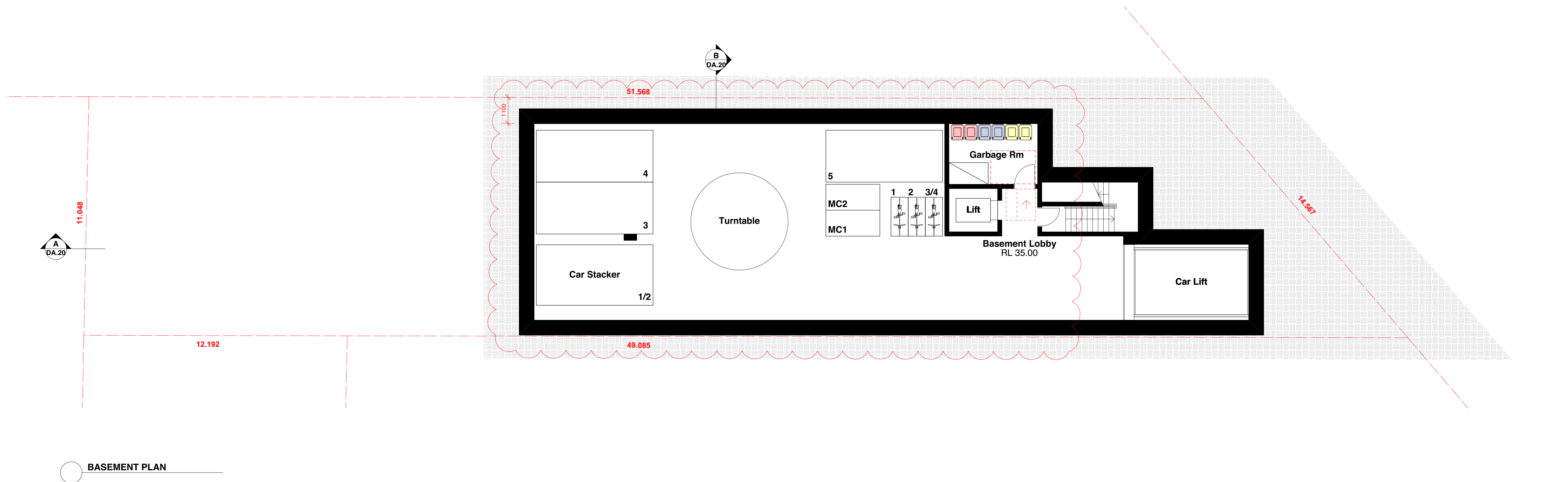
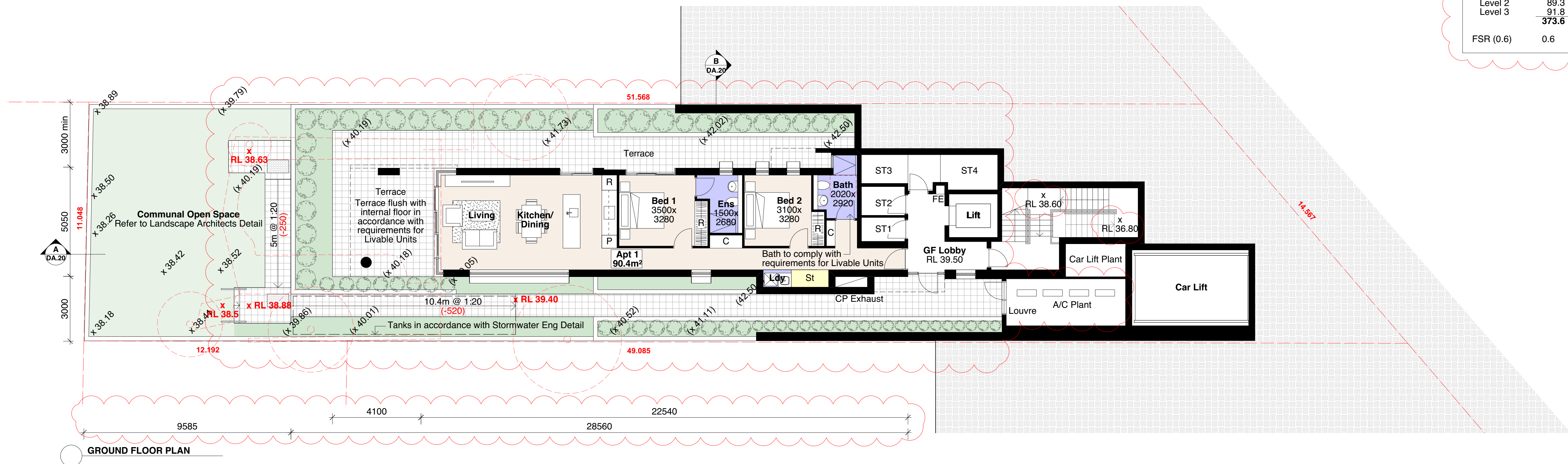
1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design and amenity in the built environment.
2. The proposed development does not satisfy section 4.15 (1)(a)(i) of the Act as 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 internal amenity for apartments, resulting from a density that is inappropriate to the site and context.
    - iv. Principle 4 – *Sustainability* as the proposed development does not include adequate solar and daylight access for the amenity and liveability of residents.
    - v. Principle 6 – *Amenity* as the proposed development provides apartments with poor amenity without adequate visual and acoustic privacy. The proposal also will impact upon the amenity of adjoining properties in terms of overshadowing and visual and acoustic privacy.
    - 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 2012 as the development fails the following provisions:
    - (a) Clause 4.3 *Height of building*, in particular objectives (a) and (d), as the breach to height does not preserve the environmental amenity of properties. The breach in height along with a non-compliant rear setback results in a development that does not preserve the solar access to 32 Military Road, North Bondi or views to certain apartments within 36 Military Road, North Bondi.
    - (b) Clause 4.4 *Floor space ratio*, in particular clause (2) as the development exceeds the maximum floor space ratio permitted for the lot and no clause 4.6 variation has been received.
    - (c) Clause 4.6 *Exceptions to development standards*, in particular clause (4)(a)(ii) as the consent authority is not satisfied the development will be in the public interest as it is inconsistent with the objective Clause 4.3 Height of Building within the WLEP.
3. The proposal does not satisfy the section 28 (2)(c) of State Environmental Planning Policy 65, as the proposal does not satisfy the Apartment Design Guide, in particular, the following provisions:



- (a) Part 3D *Communal Open Space*, as the communal open space does not receive a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm in mid-winter.
  - (b) Part 3F *Visual privacy* and Part 4H *Acoustic Privacy*, as the large northern facing (side balconies) and the rear level 3 terrace is less than 6m from the side boundary resulting in visual and acoustic privacy impacts to surrounding residential properties.
  - (c) Part 4A *Solar and daylight access*, as less than 70% of the apartments receive less than two hours of direct sunlight between 9am – 3pm at mid-winter.
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 (Amendment 9), in respect to the following provisions:
- (a) Part B3 – *Landscaping and Biodiversity*
    - i. Section 3.2.2 *Habitat Corridors and Recognised Habitat*, in particular control (a) as the site is located within a habitat corridor a minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1 of the Waverley Development Control Plan 2012.
  - (b) Part B12 – *Design Excellence*,
    - i. Section 12.1, specifically objective (a) as the proposed development does not achieve design excellence or a high standard of architectural design.
  - (c) Part B14 – *Excavation*
    - i. In particular objectives (a) and (c) and control (m), as the amount of excavation is excessive and results in non-compliant setback from side boundaries resulting in potential impacts to neighbouring properties.
  - (d) Part C3 – *Other residential development*
    - i. Section 3.1 *Site, Scale and Frontage*, in particular objectives (a) and (b) and controls (a), (b) and (c)(i) as it will be difficult for the development to provide basement car parking with compliant setbacks as the lot has a frontage of less than 15m.
    - ii. Section 3.2 *Height*, in particular objective (a) and controls (a) and (b), as the proposed development exceeds the maximum 7m wall height.
    - iii. Section 3.3.2, *Side and Rear Setbacks*, in particular objectives (a) and (b) and control (a), as the rear setback is not consistent with the predominant rear building line set by 32 and 36 Military Road resulting in adverse environmental amenity impacts of view loss, acoustic and visual privacy and overshadowing to surrounding residential land uses.
    - iv. Section 3.5 *Building Design and Streetscape*, in particular objectives (a), (b) and control (b) as the development as viewed from Military Road is significantly higher than the adjoining Residential Flat Buildings at No's 32 and 36 Military Road.

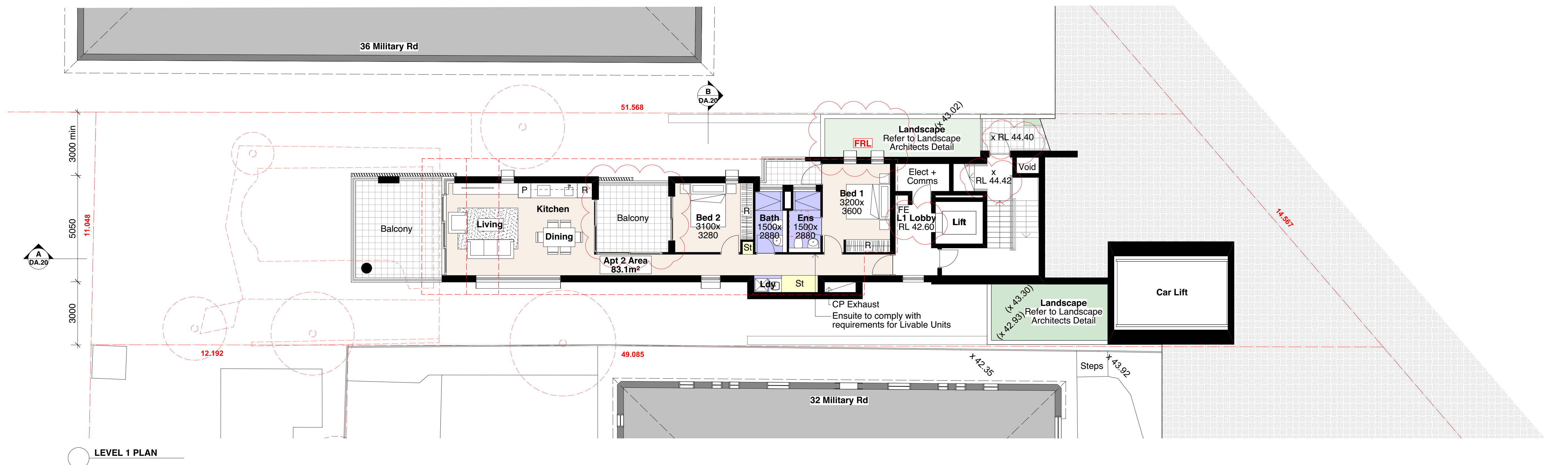
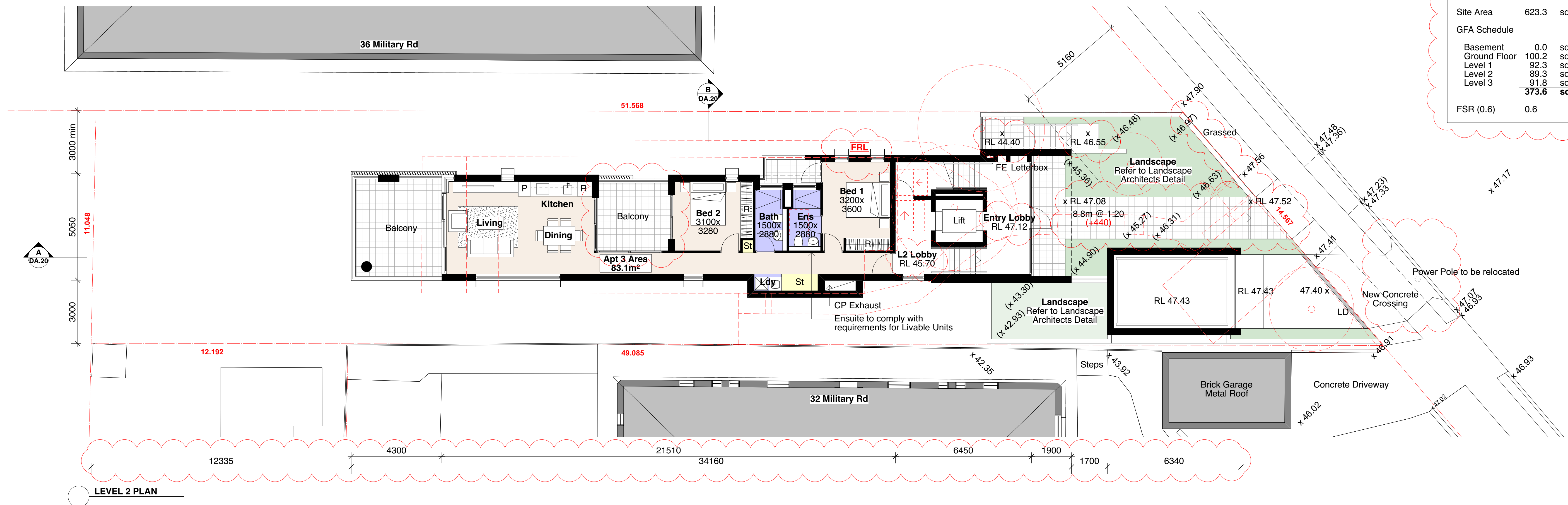
- v. Section 3.13 *Solar Access and Overshadowing*, in particular objectives (a) and (d) and control (c), as direct sunlight to northern facing windows at 32 Military Road is reduced to less than three hours between 9.00am and 3.00pm on June 21.
  - vi. Section 3.14 *Views and view sharing*, in particular objective (a) and controls (a) and (g), as the excessive height and non-compliant rear setback to the development results in unacceptable view loss to apartments 2, 5 and 6 of 36 Military Road.
5. 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 location of windows to the southern side of 36 Military Road are not illustrated on the plans.
  6. 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 results in overshadowing and view loss to surrounding properties.
  7. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the proposal is not suitable for the site due to adverse amenity impacts on surrounding properties.
  8. The proposal is not considered to be in the public interest for the reasons outlined above and contrary to Section 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979.

Area Schedule		
Site Area	623.3	sqm
GFA Schedule		
Basement	0.0	sqm
Ground Floor	100.2	sqm
Level 1	92.3	sqm
Level 2	89.3	sqm
Level 3	91.8	sqm
	<b>373.6</b>	<b>sqm</b>
FSR (0.6)	0.6	

[illegible]

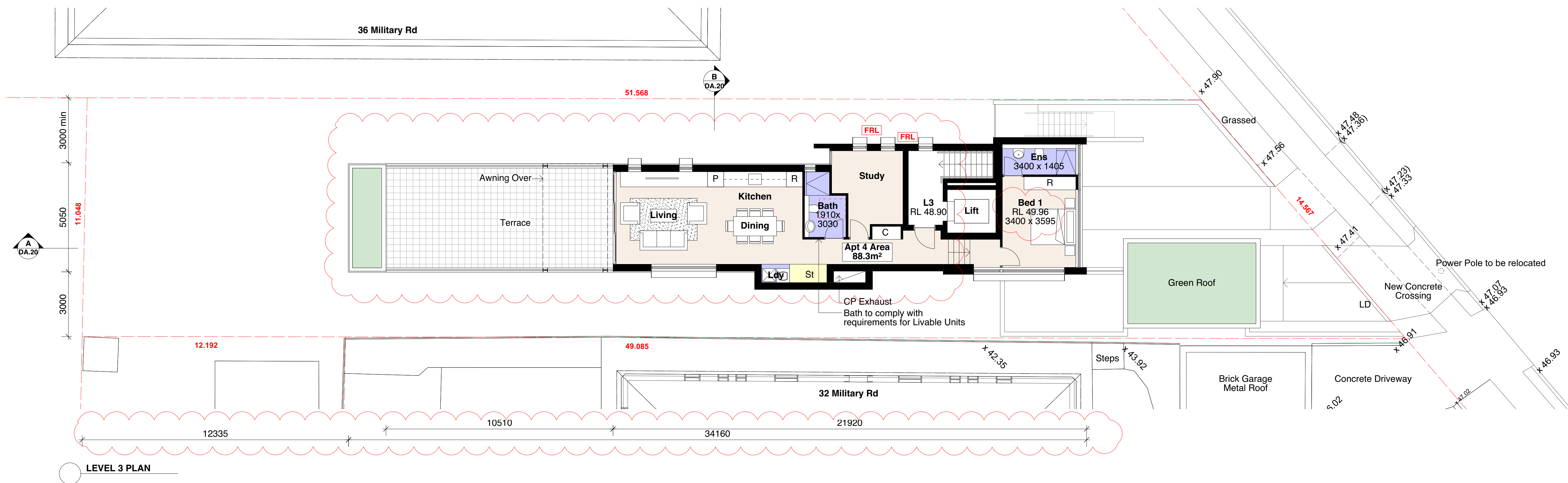
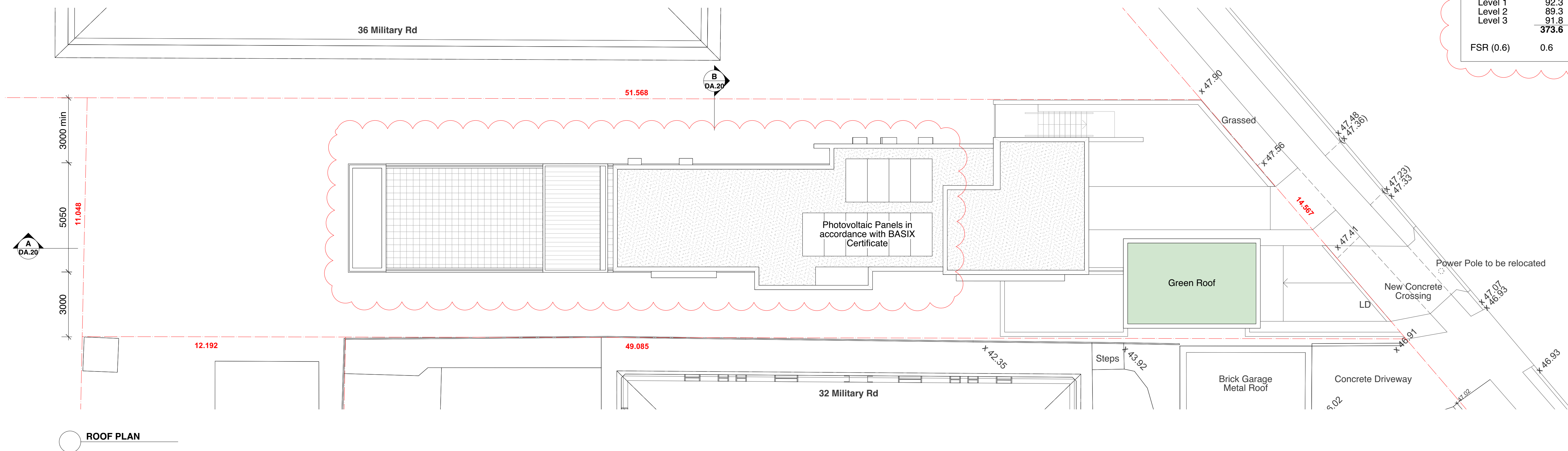


Area Schedule		
Site Area	623.3	sqm
GFA Schedule		
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Level 1	92.3	sqm
Level 2	89.3	sqm
Level 3	91.8	sqm
	<b>373.6</b>	<b>sqm</b>
FSR (0.6)	0.6	

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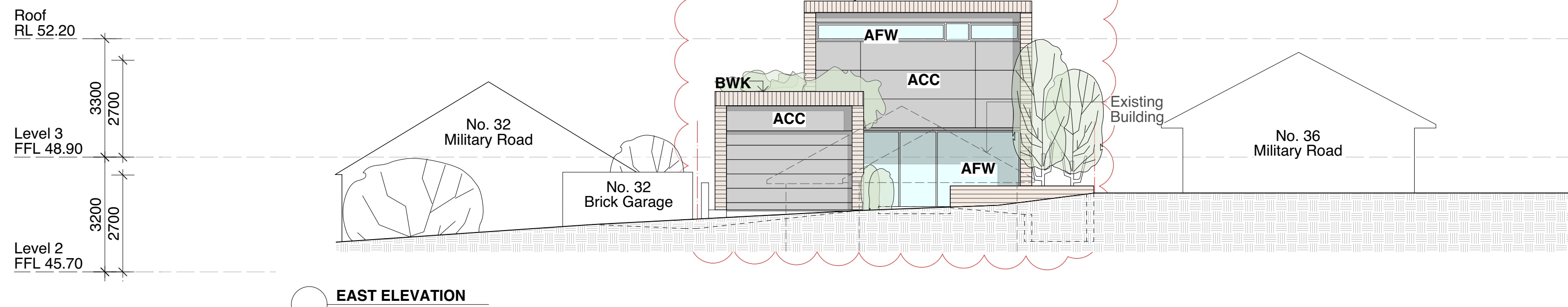
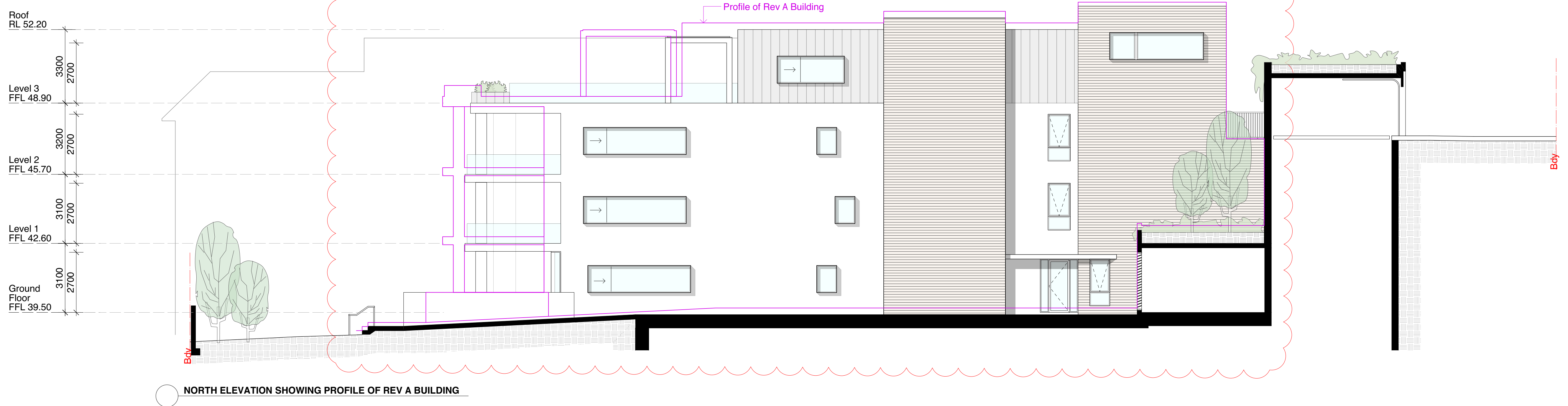
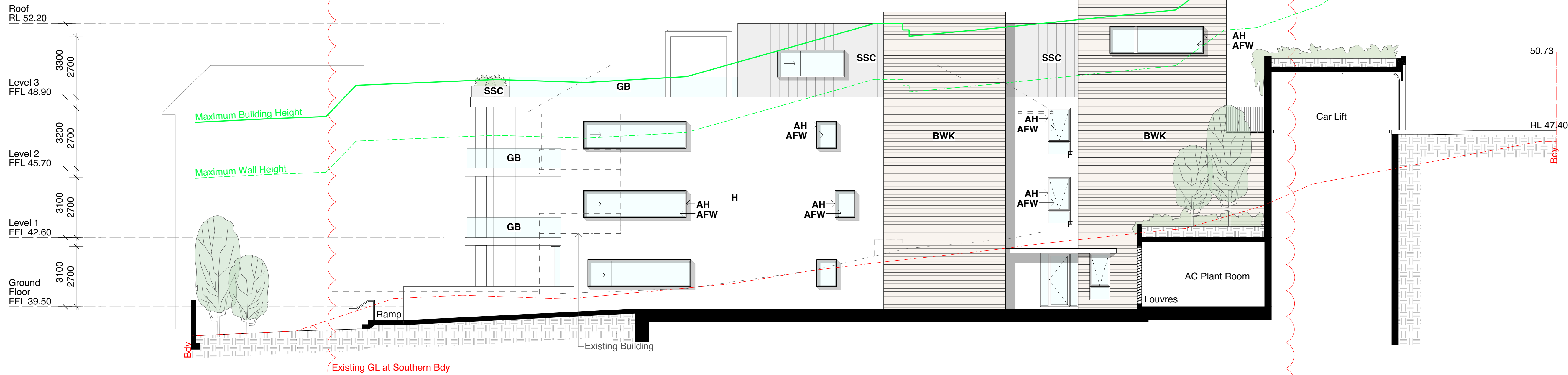


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FSR (0.6)	0.6	

[illegible]



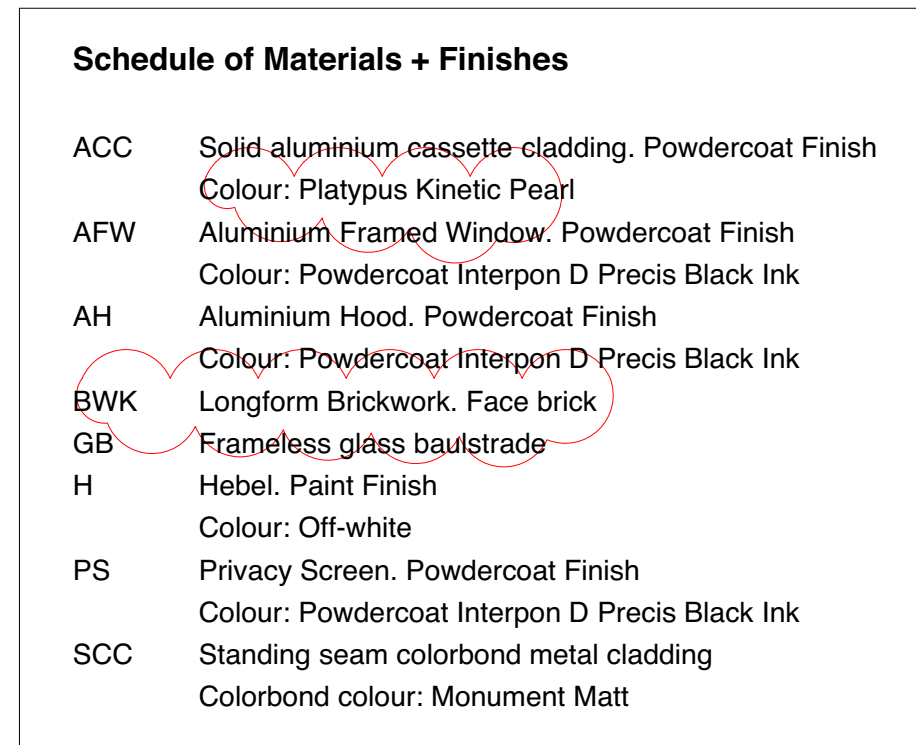
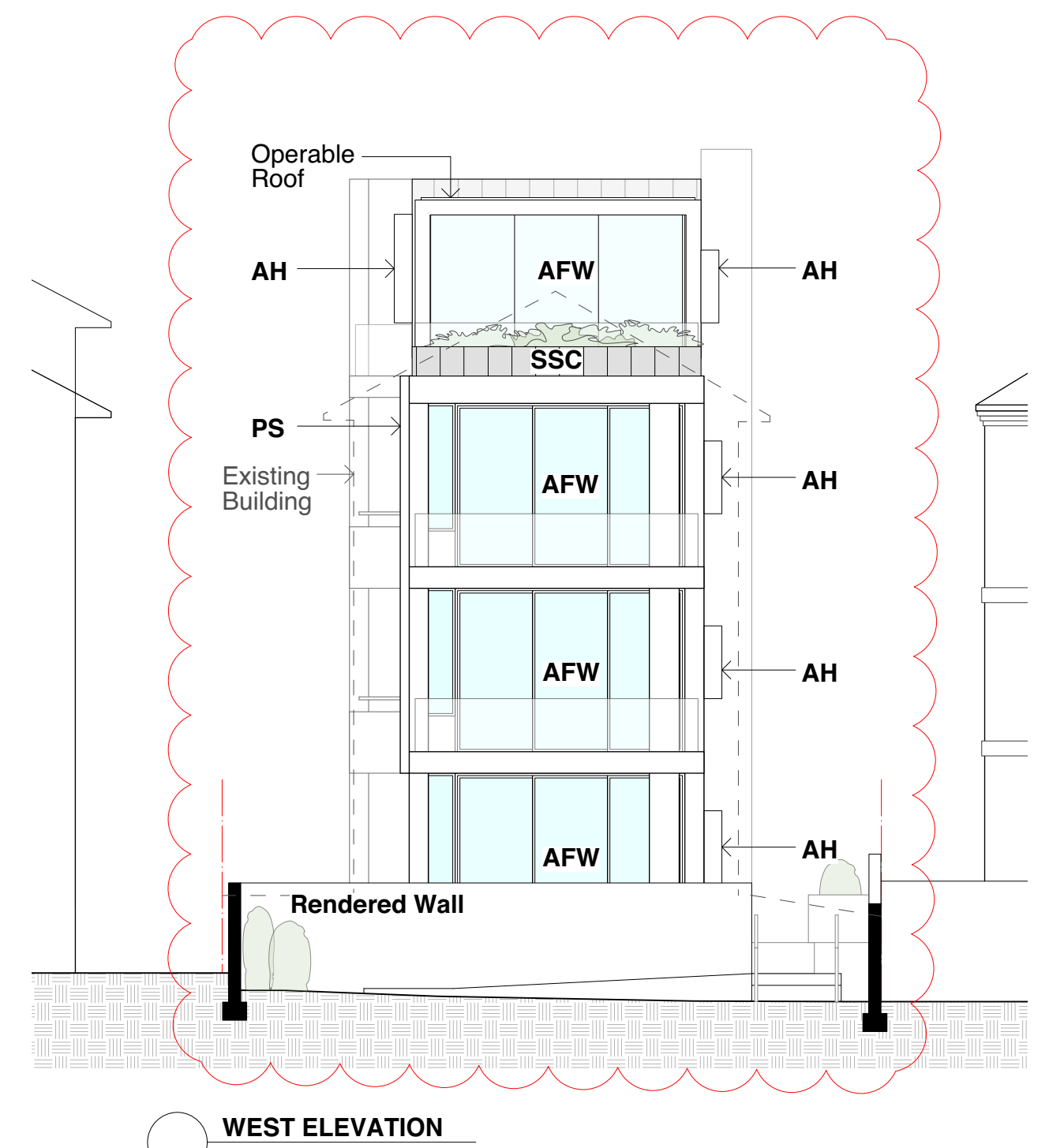
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Schedule of Materials + Finishes	
ACC	Solid aluminium cassette cladding. Powdercoat Finish Colour: Platypus Kinetic Pearl
AFW	Aluminium Framed Window. Powdercoat Finish Colour: Powdercoat Interpon D Precis Black Ink
AH	Aluminium Hood. Powdercoat Finish Colour: Powdercoat Interpon D Precis Black Ink
BWK	Longform Brickwork. Face brick Colour: Powdercoat Interpon D Precis Black Ink
GB	Frameless glass baulstrade Hebel. Paint Finish Colour: Off-white
H	Privacy Screen. Powdercoat Finish Colour: Powdercoat Interpon D Precis Black Ink
PS	Standing seam colorbond metal cladding Colorbond colour: Monument Matt
SCC	

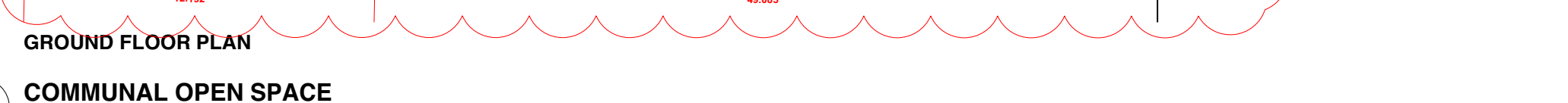
REVISIONS		GENERAL NOTES	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	SPECIFICATIONS	BASIC COMMITMENTS	ENERGY OPTIONS (COMMON AREAS)	THERMAL PERFORMANCE SPECIFICATIONS
A	Development Application	16.12.2020	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY AREA.	CLAUSE 8.1.4 - MATERIAL & FORM CONSTRUCTIONS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4.4 & AS1588	WATER OPTIONS: Single phase	ROOF: Concrete
B	Amended following Council review	20.05.2021	2. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED	CLAUSE 10.2.1 - FIRE RESISTING CONSTRUCTION	CLAUSE 10.2.1 - FIRE RESISTING CONSTRUCTION	ENERGY EFFICIENT LIGHTING: TO COMPLY WITH BCA PART 4.4 & AS1588	CEILING: Where not already above: R1.7 insulation
			3. CONTRACTOR TO NOTIFY MAIN OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING	CLAUSE 10.2.2 - SPILL ON DOORS	CLAUSE 10.2.2 - SPILL ON DOORS	CLIMATE: Single phase	EXTERNAL WALLS: Face Brick
			4. MAIN TO REVIEW ALL CONTRACTORS' DETAILED DRAWINGS, SETTING OUT PRIOR TO CONSTRUCTION	CLAUSE 10.2.3 - PARTS OF BUILDING TO BE ACCESSIBLE	CLAUSE 10.2.3 - PARTS OF BUILDING TO BE ACCESSIBLE	CLOTHES WASHING: To comply with BCA	INTERNAL WALLS: All walls
			5. CONTRACTOR TO CLASH WITH ELECTRICAL, MECHANICAL, PLUMBING, AND VENTILATION REQUIREMENTS ARE ACCESSIBLE	CLAUSE 10.2.4 - ACCEPTABLE METHODS OF PROTECTION OF OPENINGS	CLAUSE 10.2.4 - ACCEPTABLE METHODS OF PROTECTION OF OPENINGS	KITCHEN TAPS: To comply with BCA	FLOORS: All floors
			6. ALL DIMENSIONS TO BE VERIFIED ON SITE - DO NOT SCALE	CLAUSE 10.2.5 - OPENING IN FIRE ISOLATED EXITS	CLAUSE 10.2.5 - OPENING IN FIRE ISOLATED EXITS	DISPOSABLES: To comply with BCA	GLAZING: All other glazing
				CLAUSE 10.2.6 - INSTALLING IN EXITS AND PATHS OF TRAVEL	CLAUSE 10.2.6 - INSTALLING IN EXITS AND PATHS OF TRAVEL	RAIN WATER TANK: To comply with BCA	
				CLAUSE 10.2.7 - CONDUITS AND RISERS	CLAUSE 10.2.7 - CONDUITS AND RISERS	LANDSCAPED AREA TO BRIGADE: To comply with BCA	
				CLAUSE 10.2.8 - LANDSCAPES	CLAUSE 10.2.8 - LANDSCAPES	COMMON: To comply with BCA	
				CLAUSE 10.2.9 - BALUSTRADES	CLAUSE 10.2.9 - BALUSTRADES	PRIVATE: To comply with BCA	





**NION PROJECT:** 34 MILITARY ROAD  
**PROJECT NO:** 19-016  
**DRAWN BY:** KPA  
**TO SCALE:** 1:200@A3



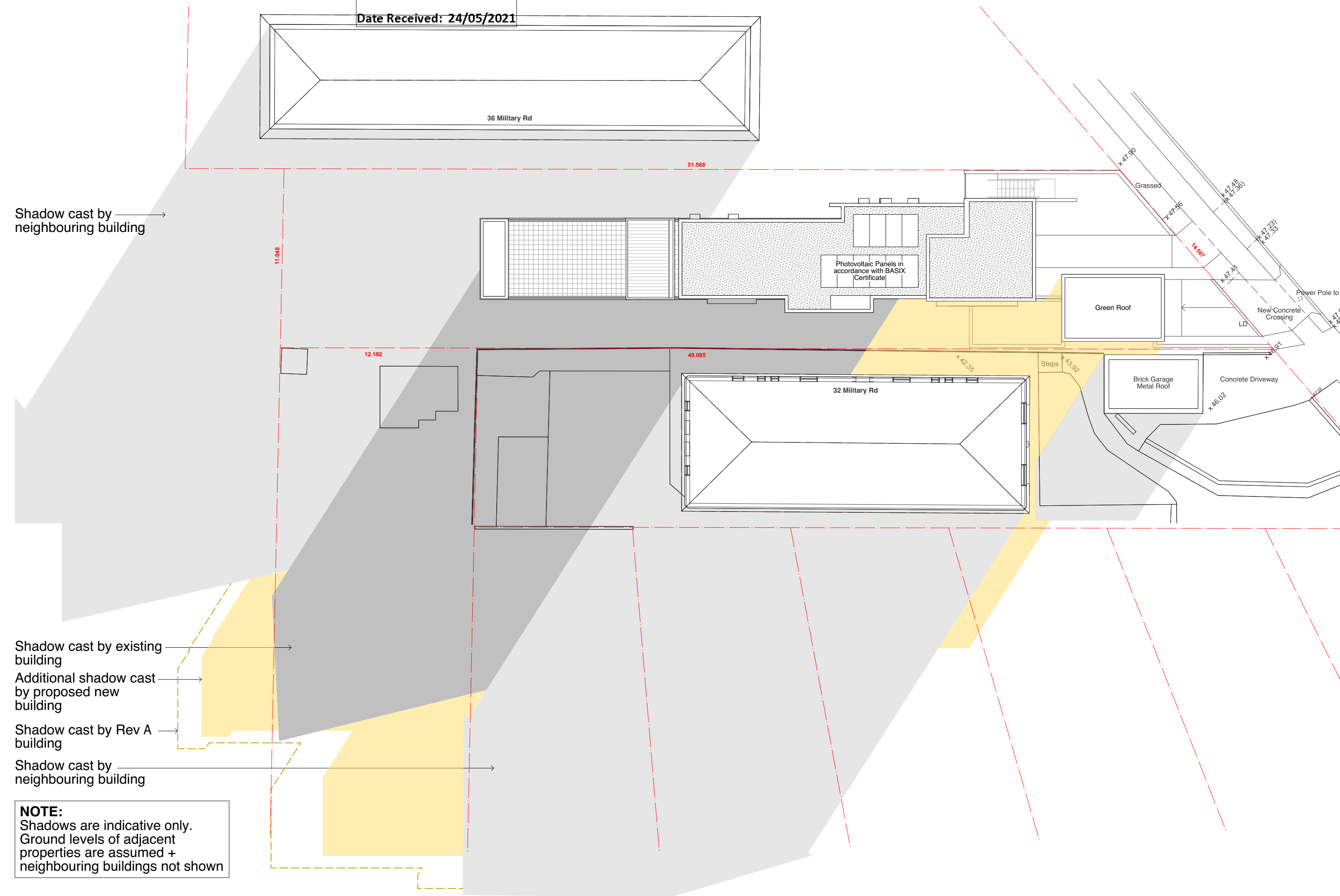
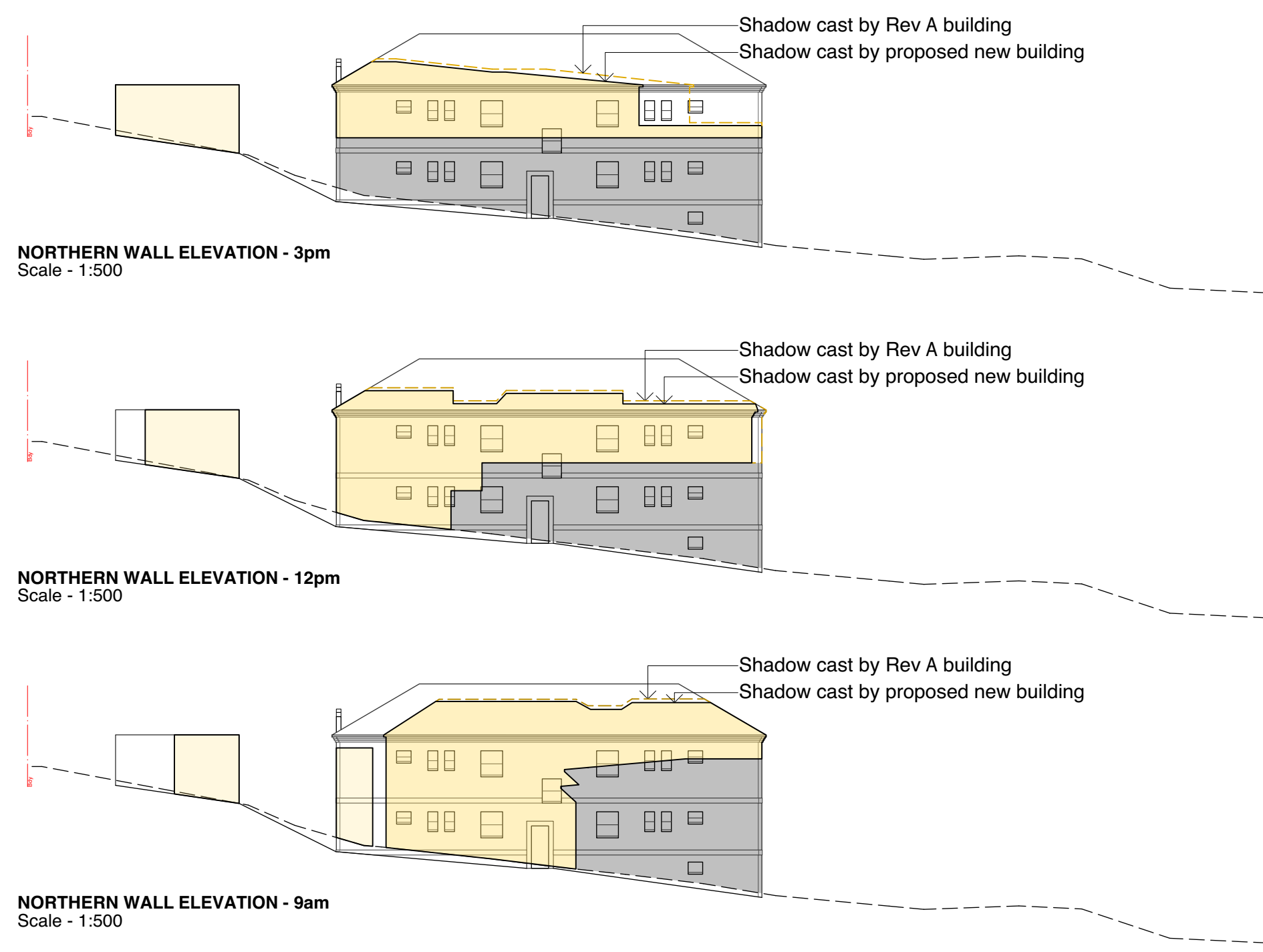


GROUND FLOOR PLAN

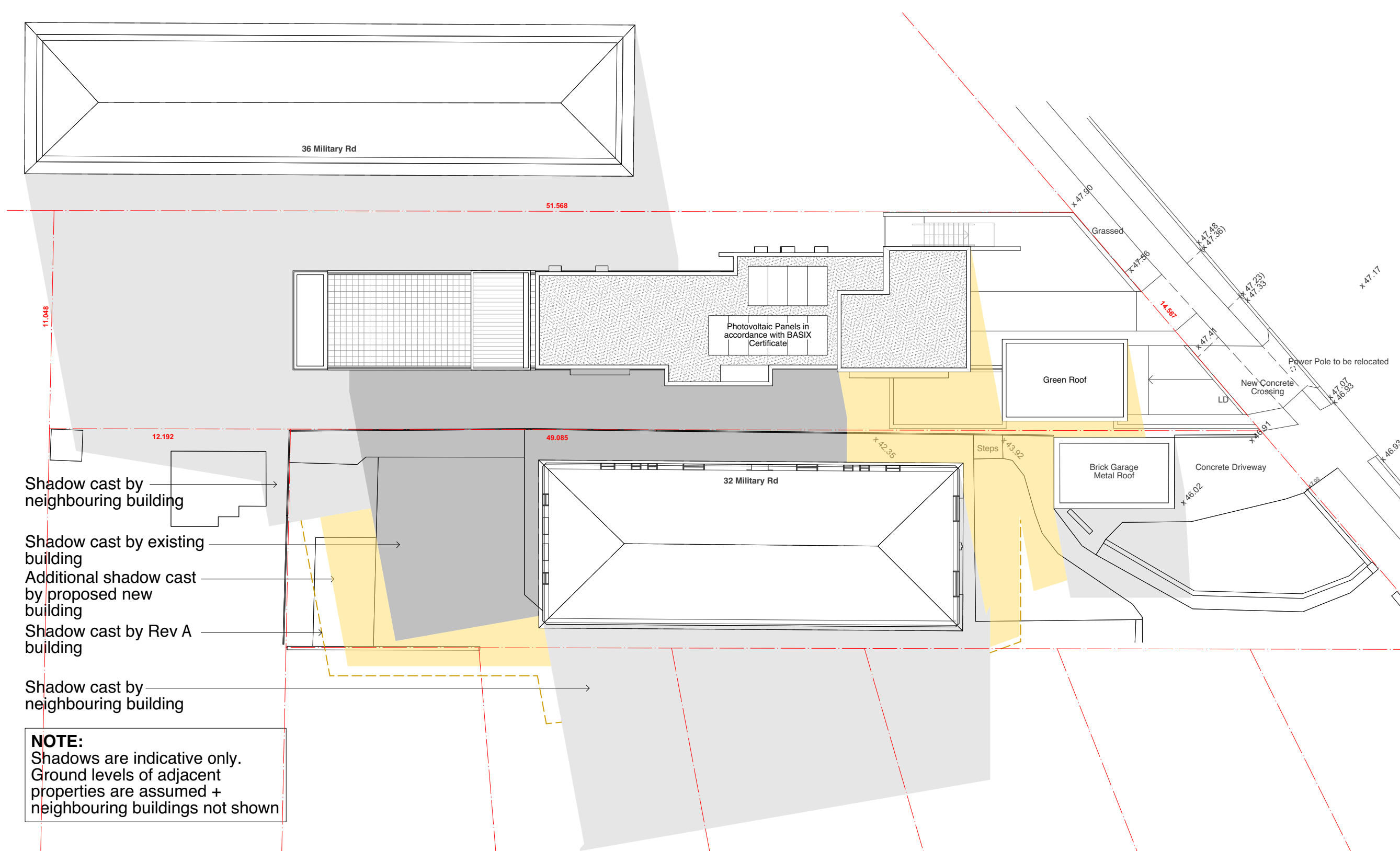
DEEP SOIL

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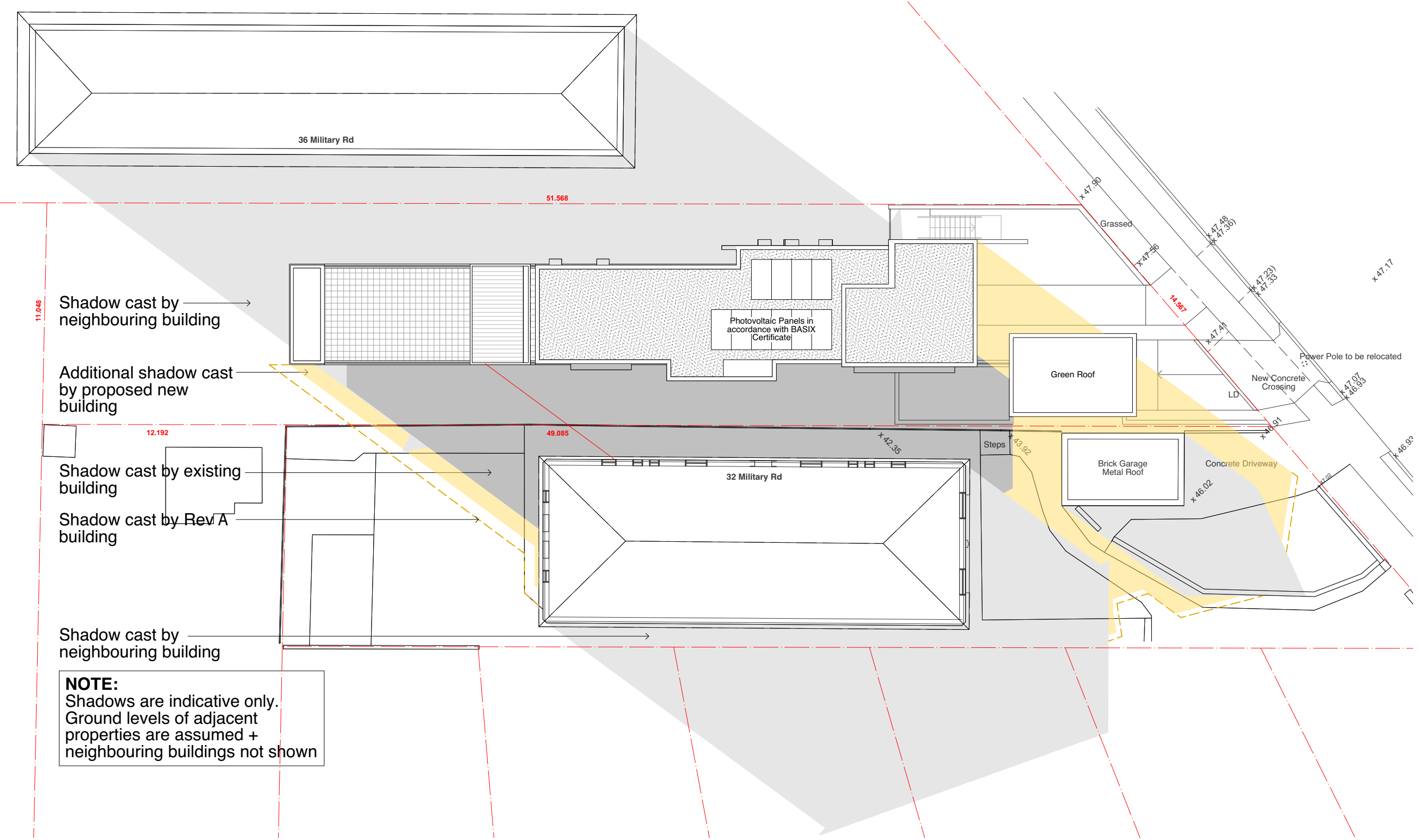


 **JUNE 21 - 9am SHADOW DIAGRAM**

**SHADOW CAST ONTO NORTH WALL OF  
ADJOINING BUILDING No. 32 MILITARY ROAD**





**JUNE 21 - 12pm SHADOW DIAGRAM**



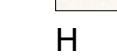
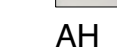
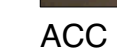
**JUNE 21 - 3pm SHADOW DIAGRAM**

### LEGEND

-  Additional shadow cast by proposed new building  
 Shadow cast by existing building  
 Shadow cast by neighbouring building

[illegible]





ACC	Solid aluminium cassette cladding. Powdercoat Finish Colour: Platypus Kinetic Pearl
AFW	Aluminium Framed Window. Powdercoat Finish Colour: Powdercoat Interpon D Precis Black Ink
AH	Aluminium Hood. Powdercoat Finish Colour: Powdercoat Interpon D Precis Black Ink
BWK	Longform Brickwork. Face brick
GB	Frameless glass baultrade
H	Hebel. Paint Finish Colour: Off-white
PS	Privacy Screen. Powdercoat Finish Colour: Powdercoat Interpon D Precis Black Ink
SCC	Colorbond seam colorbond metal cladding Colorbond colour: Monument Matt

**MHNDU**NION

35 RICHARDS LANE  
SURREY HILLS SYDNEY NSW 2010  
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F +61 2 9101 1100  
[www.mhndu.com](http://www.mhndu.com)

MHNI Design Union Pty Ltd. ABN 94 003 717 682



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Waverley Council  
Application No: DA-5/2021  
Date Received: 24/05/2021



PHOTO WITH OVERLAY OF WIRE FRAME OF SURVEYED POINTS FROM CG MODEL



PHOTO WITH OVERLAY OF ADJOINING BUILDINGS AT No. 32 + No. 36 MILITARY RD FROM CG MODEL



PHOTO WITH OVERLAY CG MODEL OF PROPOSED NEW BUILDING

VIEW POINT 1012 - PHOTO 2 - APT 2 / 38 MILITARY ROAD  
Camera height 1.6m above floor level  
Floor Level 48.78

REVISIONS				<div><div><div><b>MHNDUNION</b></div><div>35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com <small>MHND Design Union Pty Ltd ABN 94 003 717 662</small></div></div><div><div>PROJECT: 34 MILITARY ROAD NORTH BONDI NSW 2026</div><div>DRAWING: VIEW STUDY 2 / 38 MILITARY ROAD</div><div>PROJECT NO: 19-016 DRAWN BY: KPA TO SCALE: NTS DRAWING NO: REV: <b>DA.40 A</b></div></div></div>
A	Development Application - Response to Council Letter	20.05.2021		





PHOTO WITH OVERLAY OF WIRE FRAME OF SURVEYED POINTS FROM CG MODEL



PHOTO WITH OVERLAY OF ADJOINING BUILDINGS AT No. 32 + No. 36 MILITARY RD FROM CG MODEL



PHOTO WITH OVERLAY CG MODEL OF PROPOSED NEW BUILDING

**VIEW POINT 1003 - PHOTO 2 - APT 3 / 38 MILITARY RD**  
Camera height 1.6m above floor level  
Floor Level 50.24

REVISIONS				 <div><b>MHNDUNION</b> 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com <small>MHNDUNION Design Union Pty Ltd ABN 94 003 717 682</small></div>	<div>PROJECT: 34 MILITARY ROAD NORTH BONDI NSW 2026</div> <div>DRAWING: <b>VIEW STUDY</b> 3 / 38 MILITARY ROAD</div> <div><b>DA.41 A</b></div>	<div>PROJECT NO: 19-016 DRAWN BY: KPA TO SCALE: NTS DRAWING NO: REV:</div>
A	Development Application - Response to Council Letter	20.05.2021				



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PHOTO WITH OVERLAY OF ADJOINING BUILDINGS AT No. 32 + No. 36 MILITARY RD FROM CG MODEL



PHOTO WITH OVERLAY CG MODEL OF PROPOSED NEW BUILDING

VIEW POINT 1004 - PHOTO 3 - APT 3 / 38 MILITARY ROAD  
Camera height 1.6m above floor level  
Floor Level 50.20

REVISIONS				 <div><b>MHNDUNION</b> 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com <small>MHNDUNION Pty Ltd ABN 94 003 717 882</small></div>	PROJECT: 34 MILITARY ROAD NORTH BONDI NSW 2026  DRAWING: <b>VIEW STUDY</b> 3 / 38 MILITARY ROAD	PROJECT NO: 19-016 DRAWN BY: KPA TO SCALE: NTS DRAWING NO: REV:  <b>DA.42 A</b>
A	Development Application - Response to Council Letter	20.05.2021				



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Date Received: 24/05/2021



PHOTO WITH OVERLAY OF WIRE FRAME OF SURVEYED POINTS FROM CG MODEL



PHOTO WITH OVERLAY OF ADJOINING BUILDINGS AT No. 32 + No. 36 MILITARY RD FROM CG MODEL



PHOTO WITH OVERLAY CG MODEL OF PROPOSED NEW BUILDING

VIEW POINT 1009 - PHOTO 3 - APT 4 / 38 MILITARY ROAD  
Camera height 1.6m above floor level  
Floor Level 51.71

REVISIONS				 <b>MHNDUNION</b> 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com <small>MHNDUNION Pty Ltd ABN 94 003 717 682</small>	PROJECT: 34 MILITARY ROAD NORTH BONDI NSW 2026  DRAWING: <b>VIEW STUDY</b> 4 / 38 MILITARY ROAD	PROJECT NO: 19-016 DRAWN BY: KPA TO SCALE: NTS DRAWING NO: REV:  <b>DA.43 A</b>
A	Development Application - Response to Council Letter	20.05.2021				



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Waverley Council  
Application No: DA-5/2021  
Date Received: 24/05/2021



PHOTO WITH OVERLAY OF WIRE FRAME OF SURVEYED POINTS FROM CG MODEL



PHOTO WITH OVERLAY OF ADJOINING BUILDINGS AT No. 32 + No. 36 MILITARY RD FROM CG MODEL

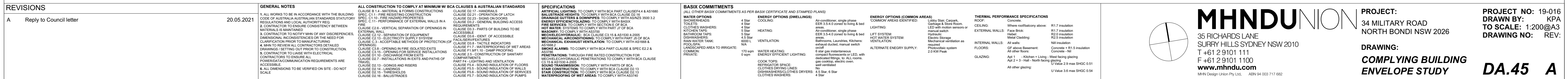


PHOTO WITH OVERLAY CG MODEL OF PROPOSED NEW BUILDING

 **VIEW POINT 1001 - PHOTO 2 - APT 5 / 38 MILITARY ROAD**  
Camera height 1.6m above floor level  
Floor Level 53.19

REVISIONS				 <b>MHNDUNION</b> 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com <small>MHND Design Union Pty Ltd ABN 94 003 717 662</small>	<b>PROJECT:</b> 34 MILITARY ROAD NORTH BONDI NSW 2026  <b>DRAWING:</b> <b>VIEW STUDY</b> <b>5 / 38 MILITARY ROAD</b>	<b>PROJECT NO:</b> 19-016 <b>DRAWN BY:</b> KPA <b>TO SCALE:</b> NTS <b>DRAWING NO:</b> REV:  <b>DA.45 A</b>
A	Development Application - Response to Council Letter	20.05.2021				





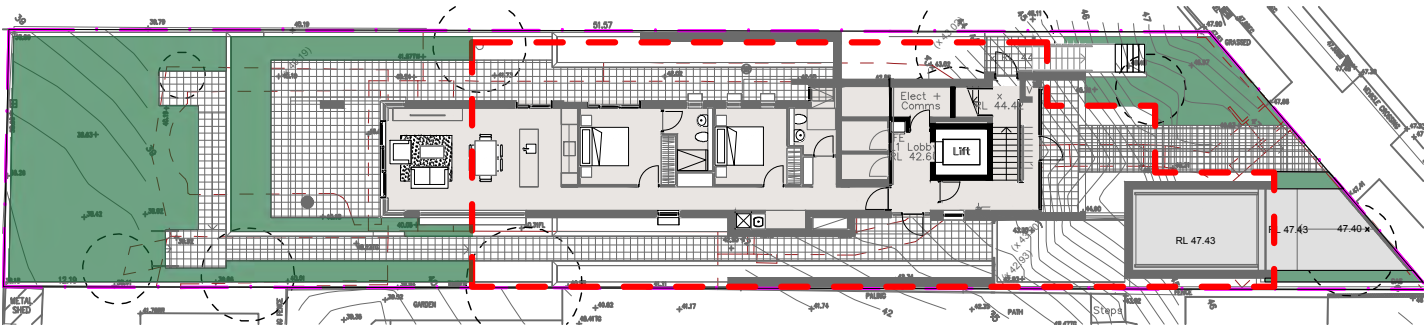




LANDSCAPE CALCULATIONS

refer to Apartment Design Guideline

**SITE AREA:** 623.0m<sup>2</sup>  
**REQUIRED DEEP SOIL AREA:**43.6m<sup>2</sup> (7%)  
**PROPOSED DEEP SOIL AREA:**146.5m<sup>2</sup> (23.5%)  
(COMPLIANT)



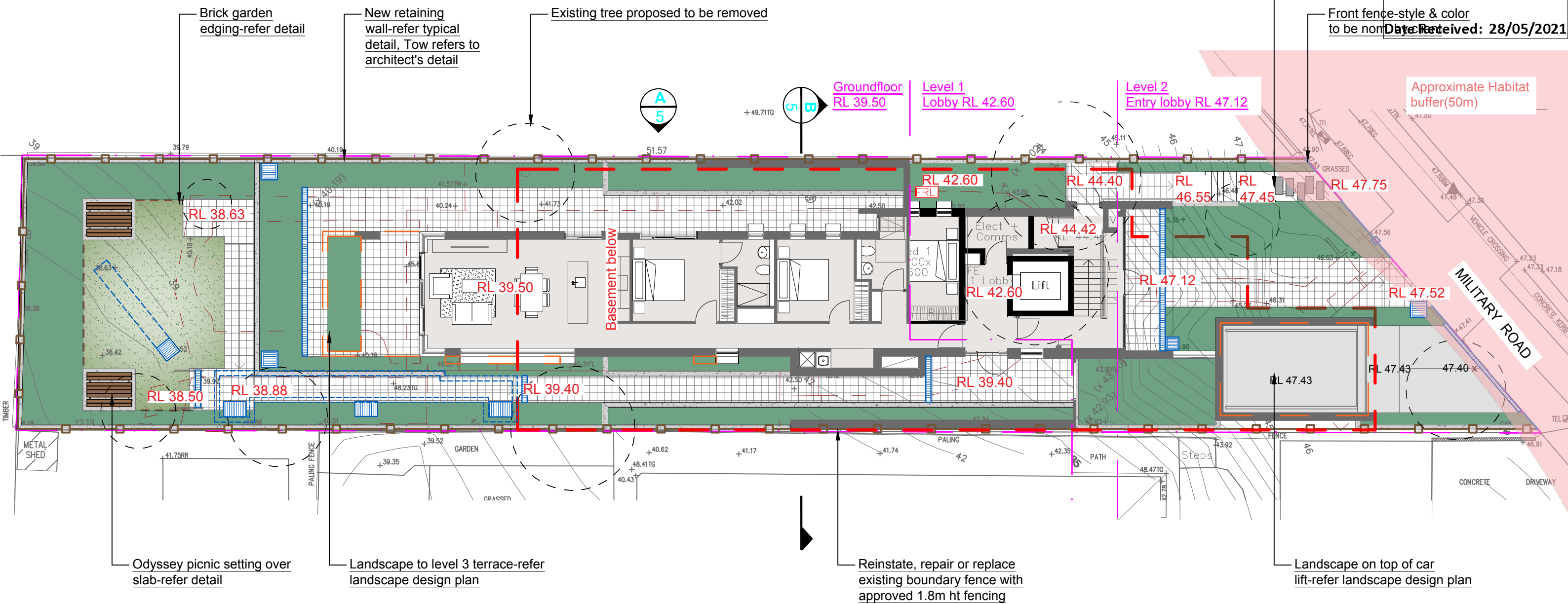
DRAWING SCHEDULE

SHEET #	DRAWING TITLE	REV.
/1	SITE PLAN	C
/2	HARDSCAPE PLAN	C
/3	LANDSCAPE PLAN	C
/4	DETAILS	C
/5	DETAILS	C
/6	SECTIONS	C
/7	SPECIFICATION	C



# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-5/2021  
Date Received: 28/05/2021



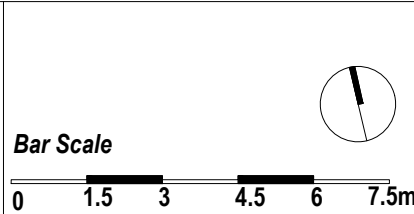
AN AUTOMATED COMMERCIAL GRADE IRRIGATION SYSTEM SHALL BE PROFESSIONALLY INSTALLED TO ALL GARDEN AREAS, INCLUDING RAISED PLANTERS, UPPER FLOOR PLANTERS AND GARDENS IN NATURAL GROUND. THE SYSTEM SHALL BE DESIGNED AND INSTALLED IN LINE WITH THE IRRIGATION PERFORMANCE SPECIFICATION, BY A LICENCED CONTRACTOR OR LANDSCAPER. THE LICENCED CONTRACTOR SHALL PREPARE AN 'AS BUILT' PLAN OF THE SYSTEM TO THE SUPERINTENDENT FOR STRATA RECORDS, FOR FUTURE MAINTENANCE.

## HARDSCAPE ITEMS

- Brick garden edging - refer detail
- Turf area - refer detail
- Garden bed - refer landscape design plan
- Approximate Habitat buffer(50m) area
- Stepping stones with pebbles in gaps - refer detail
- Retaining / raised planter wall - refer detail
- 1.8m Gate and fence - colour and style to be nom. by client
- Front fence - colour and style to be nom. by client
- Trees proposed to be removed and replaced with new landscaping
- Odyssey picnic setting over slab-refer detail

**General Notes:**  
Figured dimensions take preference to scale readings. Verify all dimensions on site. PDF'd plans may vary slightly in scale for that indicated on plans. Report any discrepancies to the Landscape Architect before proceeding with the work.  
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REV	DATE	NOTATION/AMENDMENT
A	14.5.2021	Preliminary plan prepared for review
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COUNCIL	WAVERLEY
CLIENT	DANNY MEGUIDECHE
ARCHITECT	MHNDU
STATUS / ISSUE	DA - ISSUE C

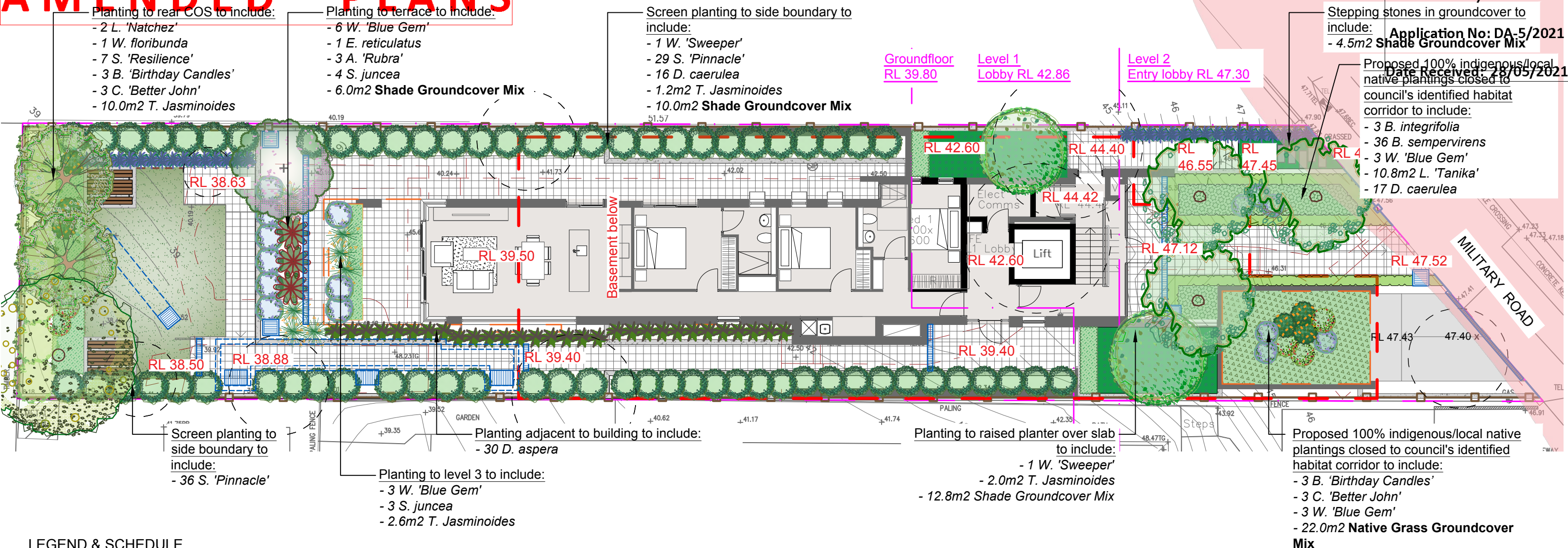
**Concept**  
Landscape Architects  
www.conzept.net.au  
enquiries@concept.net.au  
Phone: 9922 5312  
Suite 101, 506 Miller St  
CAMMERAY NSW 2062

TITLE:  
**LANDSCAPE PLAN**  
PROPOSED RESIDENTIAL APARTMENT DEVELOPMENT  
**34 MILITARY ROAD NORTH BONDI**

DWG No:	LPDA 21 - 86 / 2
SCALE:	1:150 @ A3
DATE:	MAY 2021
DRAWN:	K.Z
CHECKED:	R.F



# AMENDED PLANS




## LEGEND & SCHEDULE

NOTES:


1. ALL FINAL PLANT QUANTITIES INDICATED ON PLANS SHALL BE CHECKED AND VERIFIED BY SUCCESSFUL LANDSCAPE CONTRACTOR.
2. ANY PLANT SUBSTITUTES REQUIRED DUE TO UNAVAILABILITY SHALL BE RECOMMENDED BY THE LANDSCAPE CONTRACTOR TO BEST MATCH SUBSTITUTED PLANTS AND APPROVED PRIOR TO PURCHASING BY THE LANDSCAPE ARCHITECT.
3. WORKS CERTIFIED FOR FINAL OCCUPANCY CERTIFICATE ARE TO MATCH APPROVED LANDSCAPE PLANS.
4. LANDSCAPE CONTRACTOR SHALL LOCATE AND AVOID SITE STORM WATER & DRAINAGE SERVICES. LOCATE TREES A MINIMUM 1.25M FROM PITS
5. ALL PLANTING AROUND EXISTING TREES SHALL BE ADJUSTED TO AVOID DAMAGE AND CLASHING WITH SURFACE ROOTS.
6. THE NATURE STRIP (STREET FRONTAGE) FOR THE SITE IS PUBLIC LAND, AND ONLY AUTHORIZED WORKS MAY OCCUR HERE. EXISTING CONDITIONS SUCH AS STREET TREES, COUNCIL PLANTING ETC SHALL BE RETAINED AND PROTECTED DURING CONSTRUCTION, UNLESS SPECIFIC APPROVAL HAS BEEN GRANTED FOR NEW WORK IN THIS AREA.

- (\*) DENOTES PLANTS SELECTED FROM WAVERLEY DCP 2012 ANNEXURE B2-1 RESIDENTIAL PLANTING LIST  
(\*) DENOTES PLANTS TO BE INDIGENOUS  
DCP B3 3.2 CONTROL  
(A) THE PLAN IS TO INCLUDE A PLANT SPECIES LIST ON ALL LANDSCAPE PLANS, SHOWING THE BOTANICAL AND COMMON NAMES OF PLANTS, POT SIZE OF PLANTS, NUMBER OF PLANTS AND THE ORIGIN OF THE PLANT  
(B) A MINIMUM OF 50% OF THE PROPOSED PLANTINGS (NOT INCLUDING TURFED AREAS) ARE TO BE INDIGENOUS OR LOCAL NATIVE PLANTS LISTED IN ANNEXURE B2 – 1

## TREES


- 

**Botanical Name:** *Waterhousea floribunda* (\*)  
**Common Name:** Weeping Lilly Pilly (Native)  
**Pot size:** 75L  
**Mature H x S:** 10m x 6m  
**Qty Required:** 1




**Botanical Name:** *Banksia integrifolia* (\*)  
**Common Name:** Coastal Banksia (Native)  
**Pot size:** 75L  
**Mature H x S:** 6-8m x 4-5m  
**Qty Required:** 3


- ## General Notes:
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- 

**Botanical Name:** *Waterhousea 'Sweeper'(\*)*  
**Common Name:** Weeping Myrtle (Native)  
**Pot size:** 45Lt  
**Mature H x S:** 6-8m x 3-4m  
**Qty Required:** 2








**Botanical Name:** *Elaeocarpus reticulatus(\*)*  
**Common Name:** Blueberry Ash (Native)  
**Pot size:** 75Lt  
**Mature H x S:** 8-10m x 6-7m  
**Qty Required:** 1



**Botanical Name:** *Lagerstroemia 'Natchez'*  
**Common Name:** Crepe Myrtle (Exotic)  
**Pot size:** 100Lt  
**Mature H x S:** 6m x 4m  
**Qty Required:** 2

## SHRUBS AND HEDGES

- |   |                        |   |
|---|------------------------|---|
|  | <b>Botanical Name:</b> | <i>Buxus sempervirens</i> (*)           |
|   | <b>Common Name:</b>    | English Box(Native)                     |
|   | <b>Pot size:</b>       | 300mm                                   |
|   | <b>Mature H x S:</b>   | 0.5m x 0.5m                             |
|  | <b>Qty Required:</b>   | 36                                      |
|   | <b>Botanical Name:</b> | <i>Syzygium 'Resilience'</i> (*)        |
|   | <b>Common Name:</b>    | Resilience Lilly Pilly (Native)         |
|   | <b>Pot size:</b>       | 200mm                                   |
|  | <b>Mature H x S:</b>   | 3m x 2m                                 |
|   | <b>Qty Required:</b>   | 7                                       |
|   | <b>Botanical Name:</b> | <i>Syzygium australe 'Pinnacle'</i> (*) |
|   | <b>Common Name:</b>    | Pinnacle Lilly Pilly (Native)           |
|  | <b>Pot size:</b>       | 300mm                                   |
|   | <b>Mature H x S:</b>   | 6-8m x 1-1.5m                           |
|   | <b>Qty Required:</b>   | 65                                      |

- 


**Botanical Name:** *Callistemon 'Better John' (\*)*

**Common Name:** Better John Bottlebrush (Native)

**Pot size:** 200mm

**Mature H x S:** 1m x 0.9m

**Qty Required:** 6




**Botanical Name:** *Banksia spinulosa 'Birthday Candles' (\*)*

**Common Name:** Banksia Birthday Candles (Native)

**Pot size:** 200mm

**Mature H x S:** 0.6m x 0.9m

**Qty Required:** 6



**Botanical Name:** *Westringia 'Blue Gem' (\*)*


**Common Name:** B. Gem Coastal Rosemary (Native)

**Pot size:** 200mm


**Mature H x S:** 1.5m x 1.3m

**Qty Required:** 9


## ACCENT PLANTS

- 

**Botanical Name:** *Doodia aspera* (\*)  
**Common Name:** Prickly Rasp Fern (Native)  
**Pot size:** 150mm  
**Mature H x S:** 0.4m x 0.5m  
**Qty Required:** 30




**Botanical Name:** *Alcantarea imperialis* 'Rubra'  
**Common Name:** Ruby Imperial Bromeliad (Exotic)  
**Pot size:** 75t  
**Mature H x S:** 0.8m x 0.9m  
**Qty Required:** 3



**Botanical Name:** *Strelitzia juncea*  
**Common Name:** Rush-leaved Strelitzia (Exotic)  
**Pot size:** 200mm  
**Mature H x S:** 1.5m x 1m  
**Qty Required:** 8

## GRASSES / GROUNDCOVERS

- 


**Botanical Name:** *Lomandra longifolia* 'Tanika' (\*)

**Common Name:** Lomandra Tanika (Native)

**Pot size:** 200mm

**Mature H x S:** 0.8m x 0.8m

**Qty Required:** 3/m2 **(10.8m2 total)**




**Botanical Name:** *Dianella caerulea* (\*)

**Common Name:** Blue Flax Lily (Native)

**Pot size:** 150mm

**Mature H x S:** 0.5m x 0.4m

**Qty Required:** 33



**Botanical Name:** *Trachelospermum Jasminoides*

**Common Name:** Star Jasmine (Exotic)

**Pot size:** 140mm

**Mature H x S:** 0.3m x 0.6m

**Qty Required:** 5/m2 **(15.8m2 total)**

## GROUNDCOVER MIX

- Native Grass Groundcover Mix:**  
*Hibertia scandens* (\*)  
*Hardenbergia violacea* (\*)  
*Carpobrotus 'Aussie Rambler'* (\*)  
*Myoporum parvifolium 'Yareena'* (\*)  
*Grevillea 'Bronze Rambler'* (\*)
- Pot size:** 140mm  
**Mature H x S:** < .8m  
**Qty Required:** 7/m2 (**22.0m2 total**)
- Shade Groundcover Mix:**  
*Viola hederacea* (\*)  
*Dichondra repens* (\*)
- Pot size:** 140mm  
**Mature H x S:** 0.25m x 0.75m  
**Qty Required:** 5/m2 (**27.3m2 total**)



*Banksia integrifolia*



### *Waterhousia 'Sweeper'*



*Waterhousia floribunda*

## LANDSCAPE PLAN NOTES

This plan should be read in conjunction with the architectural and hydraulics plans. Work specific to these plans should be prepared in accordance to these plans, including specification and details prior to the installation of landscaping, and should not be altered or compromised during landscape construction. Elements such as drainage swales may be incorporated in garden bed areas (using non-floatable mulch) without compromising the capacity or form.






**This plan has been prepared for Development Application approval only, not for construction.**

This plan has been prepared with reference to **Waverley Councils** Landscaping Guidelines & requirements. Planting proposed using mainly indigenous, commercially available plant species selected from local planting lists and the BASIX local plant list and from Sydney Waters "Plant Selector" web

site one-drip rated native plants (**acceptable for Basix planting**).

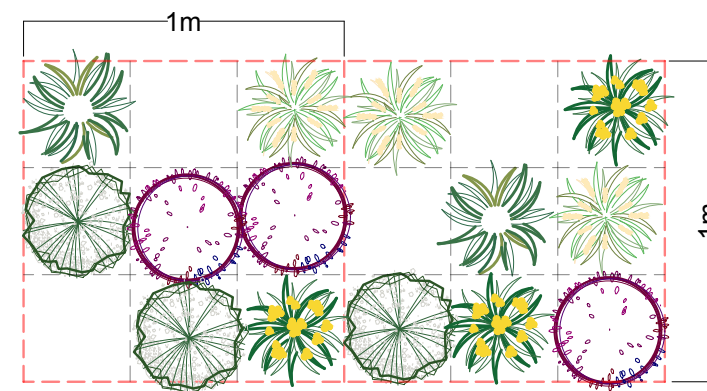
The Design & location of new letter boxes shall be in accordance with Australia Post's "Requirements for Delivery of Mail to Residential Premises" published Feb '97. All noxious weeds listed in Councils weed lists & located on the site shall be continually removed & suppressed. Reinstate all boundary fencing in poor condition with Council approved 1.8m fencing to rear of building line, rake to 1m forward of BL. Pollution, sediment & erosion control devices as specified shall be in place, and maintained for the duration of the construction period. Proposed excavation near existing established trees to be supervised by arborist.

D.A approved landscape plan's are required to be constructed as approved to obtain occupancy certificate. ***Permeable areas may be indicated to achieve site coverage restrictions & should be constructed as drawn on this plan.***

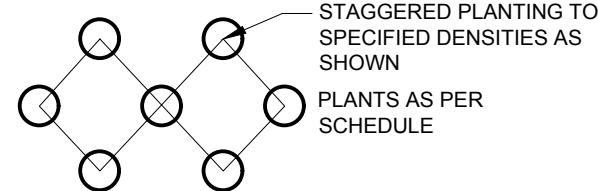
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# AMENDED PLANS



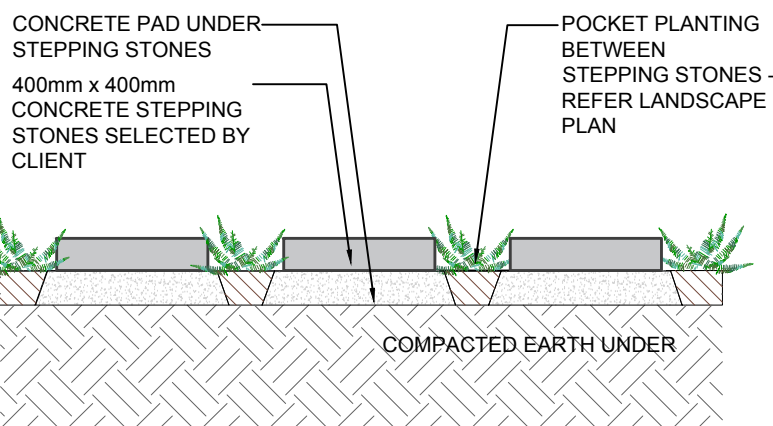
KEY	Botanical Name
	<i>Myoporum parvifolium 'Yareena'</i>
	<i>Grevillea 'Bronze Rambler'</i>
	<i>Hardenbergia violacea</i>
	<i>Carpobrotus 'Aussie Rambler'</i>
	<i>Hibertia scandens</i>



## MASS PLANTING SETOUT

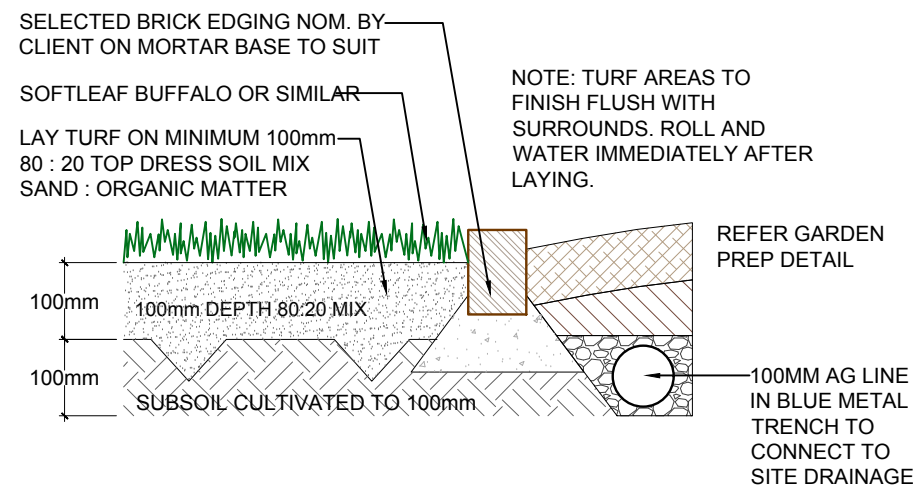
N.T.S

STEPPING STONES IN NATURAL  
DEEP- SOIL DESIGNED TO PROVIDE  
PRACTICAL ACCESS WHILE RETAINING  
A PERMEABLE ZONE & MINIMIZING STORM  
WATER RUN-OFF



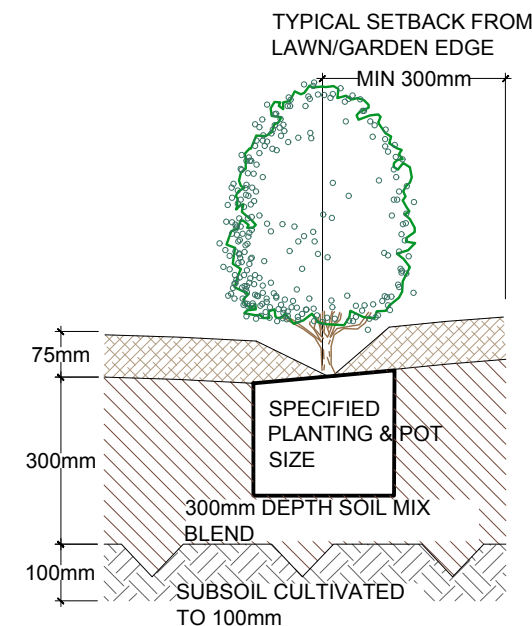
## STEPPING STONES IN GROUNDCOVER PLANTING

SCALE 1:10



## TYPICAL TURF AND BRICK EDGE DETAIL

SCALE: 1:10

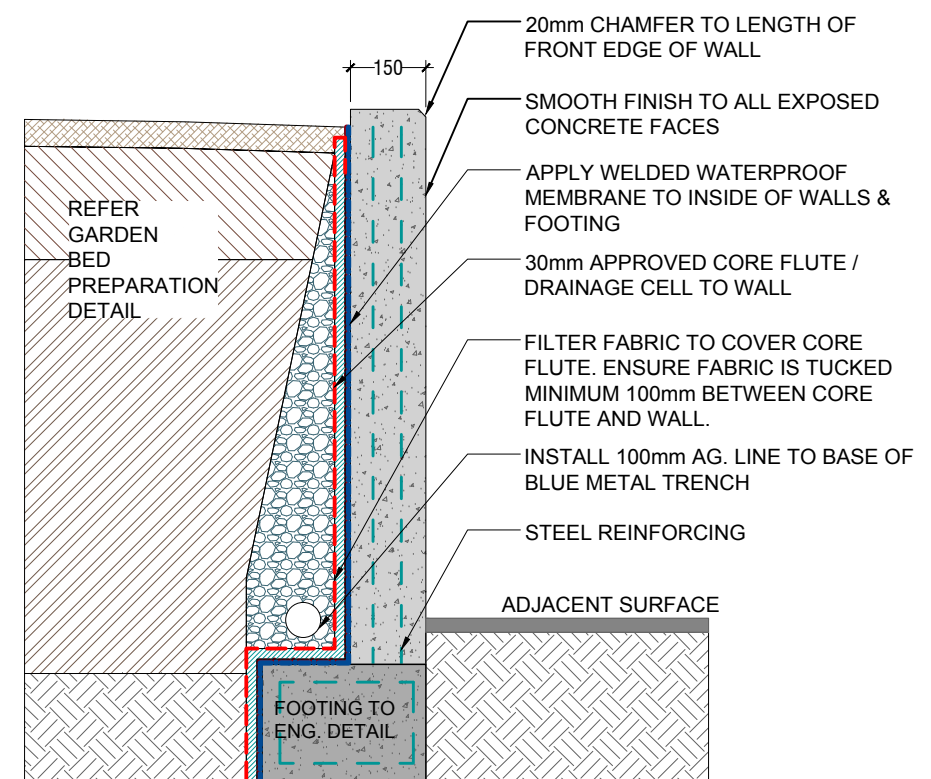


**NOTE**  
THIS DETAIL IS ONLY APPLICABLE  
FOR PLANTING AREA OUTSIDE  
TREE PROTECTION ZONE (TPZ).  
TRES TO BE RETAINED.  
NO CHANGES ARE TO OCCUR TO  
EXISTING LEVELS, INCLUDING  
RIPPING/CULTIVATING OF THE SOIL  
WITHIN THE TPZ OF TREES TO BE  
RETAINED ON SITE

75mm DEPTH "FOREST BLEND"  
MULCH OR EQUIVALENT  
**SOIL MIX:**  
50% OF STOCKPILED SITE TOPSOIL  
FREE FROM ALL BUILDER'S RUBBISH  
AND DELETERIOUS MATERIALS.  
TOPSOIL TO BE MIXED WITH MINIMUM  
50% IMPORTED GARDEN MIX OR SOIL  
CONDITIONER/ COMPOSTED ORGANIC  
MATTER - SEE SPEC.  
USE 100% IMPORTED SOIL MIX WHEN  
SITE TOPSOIL RUNS OUT.

## TYPICAL GARDEN PREPARATION DETAIL

SCALE 1:10

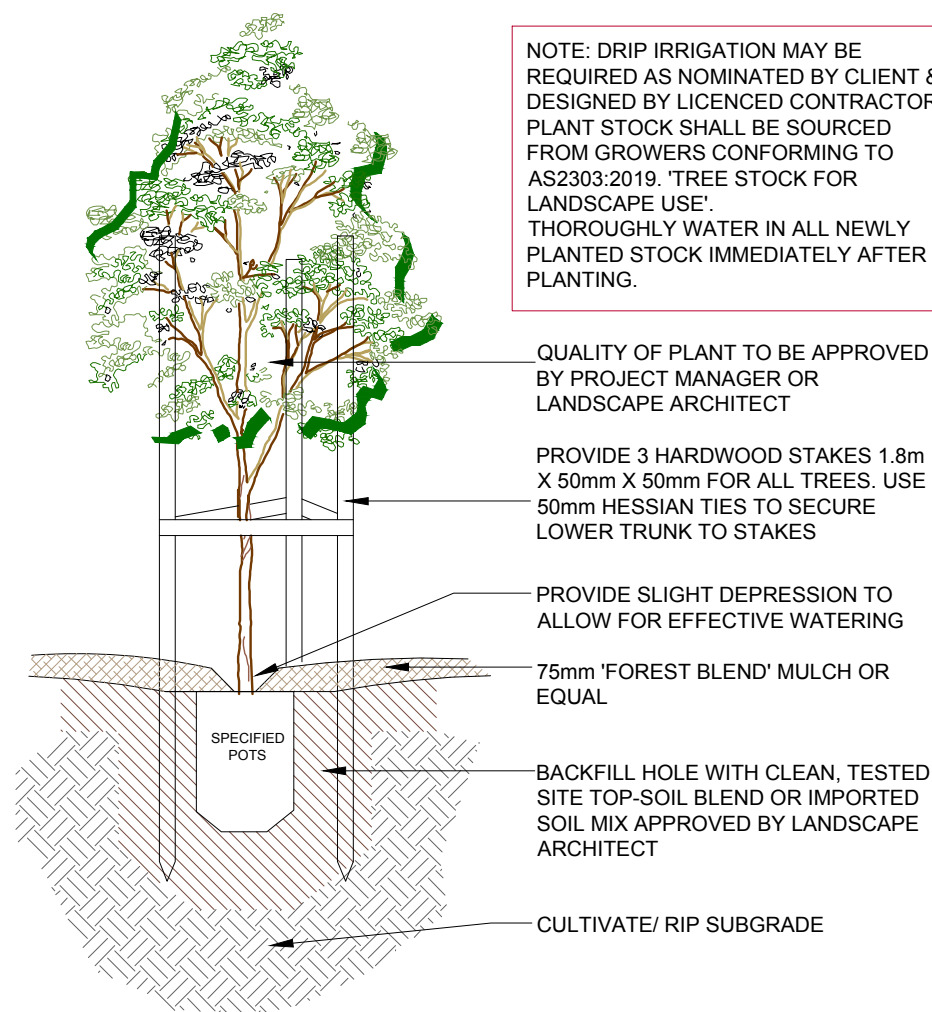


## TYPICAL IN SITU RETAINING WALL DETAIL

SCALE 1:10

## GROUNDCOVER MIX PLANTING MATRIX

N.T.S



## TREE PLANTING DETAIL

SCALE: NTS

(ONLY APPLICABLE FOR PLANTING AREA OUTSIDE TREE  
PROTECTION ZONE OF TREES TO BE RETAINED. NO CHANGES ARE  
TO OCCUR TO EXISTING LEVELS, INCLUDING RIPPING/CULTIVATING  
OF THE SOIL WITHIN THE TPZ OF TREES TO BE RETAINED ON SITE)

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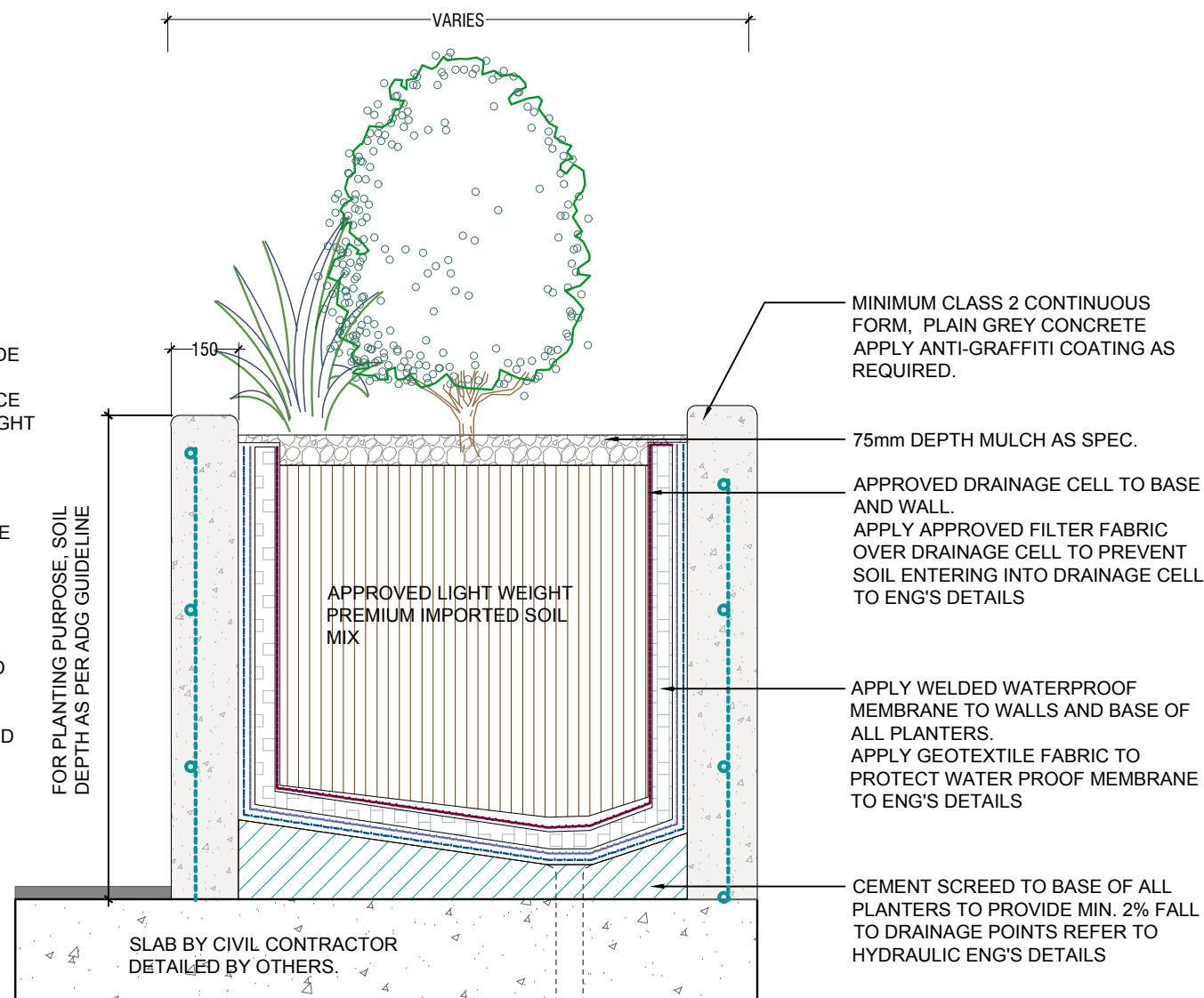
TITLE:	DETAILS
DWG No:	LPDA 21 - 86 / 4
SCALE:	AS SHOWN @ A3
DATE:	MAY 2021
DRAWN:	K.Z
CHECKED:	R.F

**NOTE (BCA COMPLIANCE).**  
WHERE NO EXTERNAL BALUSTRADE IS PROPOSED.  
THE INTERNAL PLANTER WALL FACE MUST BE NON-CLIMBABLE TO A HEIGHT TO MEET AS & BCA COMPLIANCE.

**NOTE (DRAINAGE & WATER PROOFING).**  
DRAINAGE PITS AND LAYOUT TO BE NOMINATED BY HYDRAULIC ENGINEER TO WORK WITH STRUCTURAL DESIGN AND LANDSCAPE.

THE WATERPROOFING, APPROVED DRAINAGE CELL AND SPECIFIED GEOFABRIC LAYER IN THIS DETAIL ARE INDICATIVE ONLY AND SHOULD BE DETAILED BY THE RELEVANT PROFESSIONAL ENGINEER 'FOR CONSTRUCTION'.

UNDER THE CONSTRUCTION PRACTITIONER BILL, STRUCTURAL WATER-PROOFING SHALL BE DOCUMENTED BY A HYDRAULIC ENGINEER

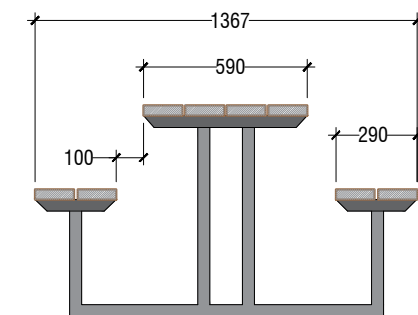


## CONCRETE PLANTER ON SLAB DETAIL

SCALE: 1:15

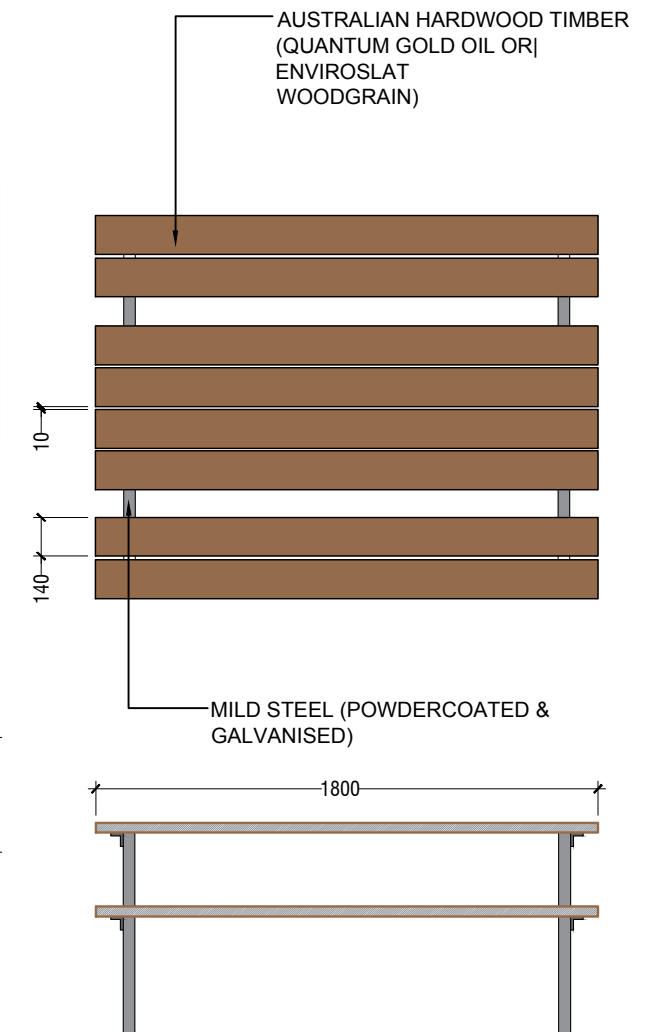


NOTE: DRAWING IS INDICATIVE ONLY. PRODUCT BY COMMERCIAL SYSTEMS AUSTRALIA. REFER MANUFACTURER'S SPECIFICATIONS & INSTRUCTIONS FOR INSTALLATION



## ODYSSEY PICNIC SETTING BY CSA - PRODUCT CODE: TM4637

SCALE 1:20



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TITLE:	DETAILS
DWG No:	LPDA 21 - 86 / 5
SCALE:	AS SHOWN @ A3
DATE:	MAY 2021
DRAWN:	K.Z
CHECKED:	R.F

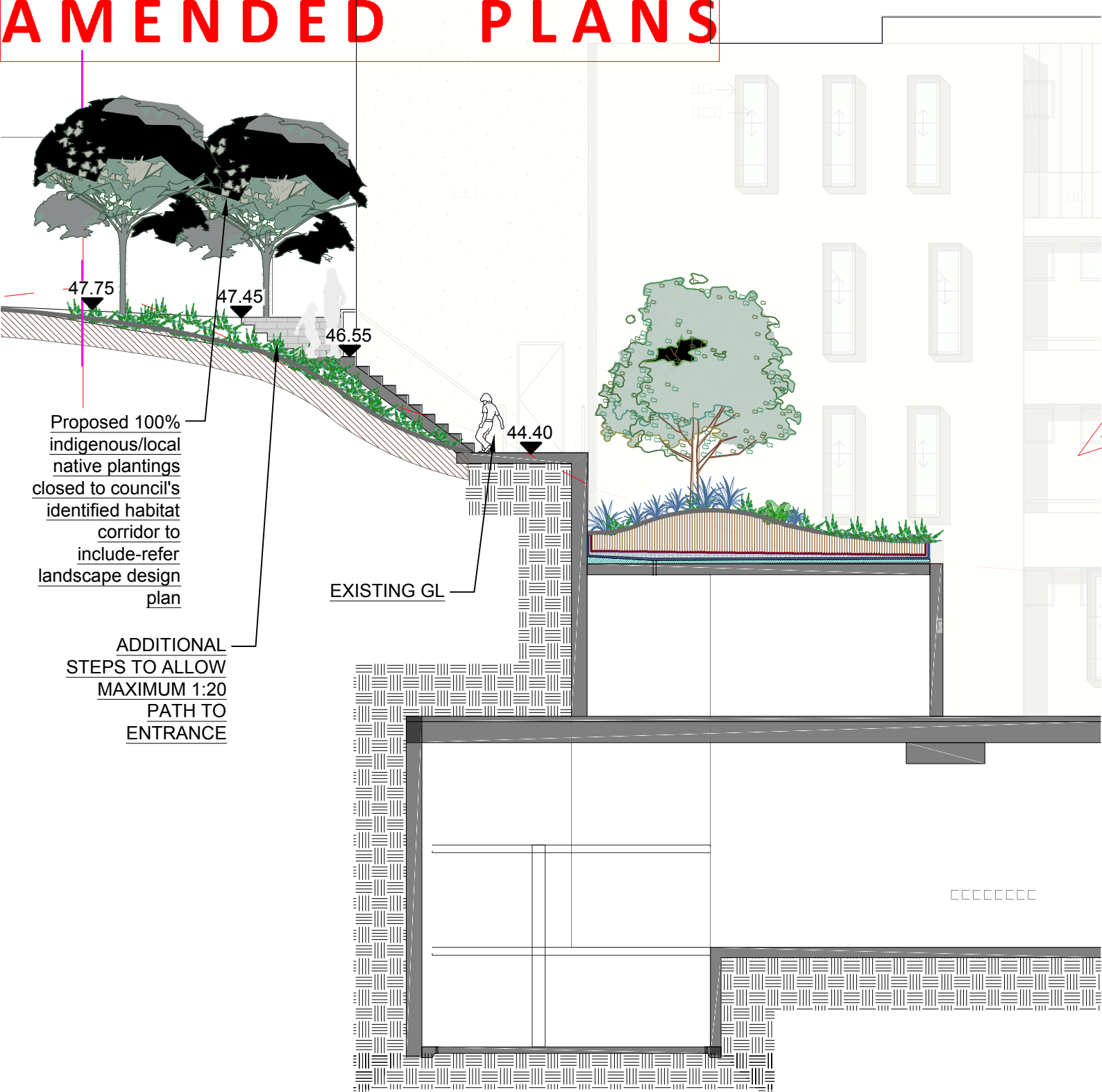


# AMENDED PLANS

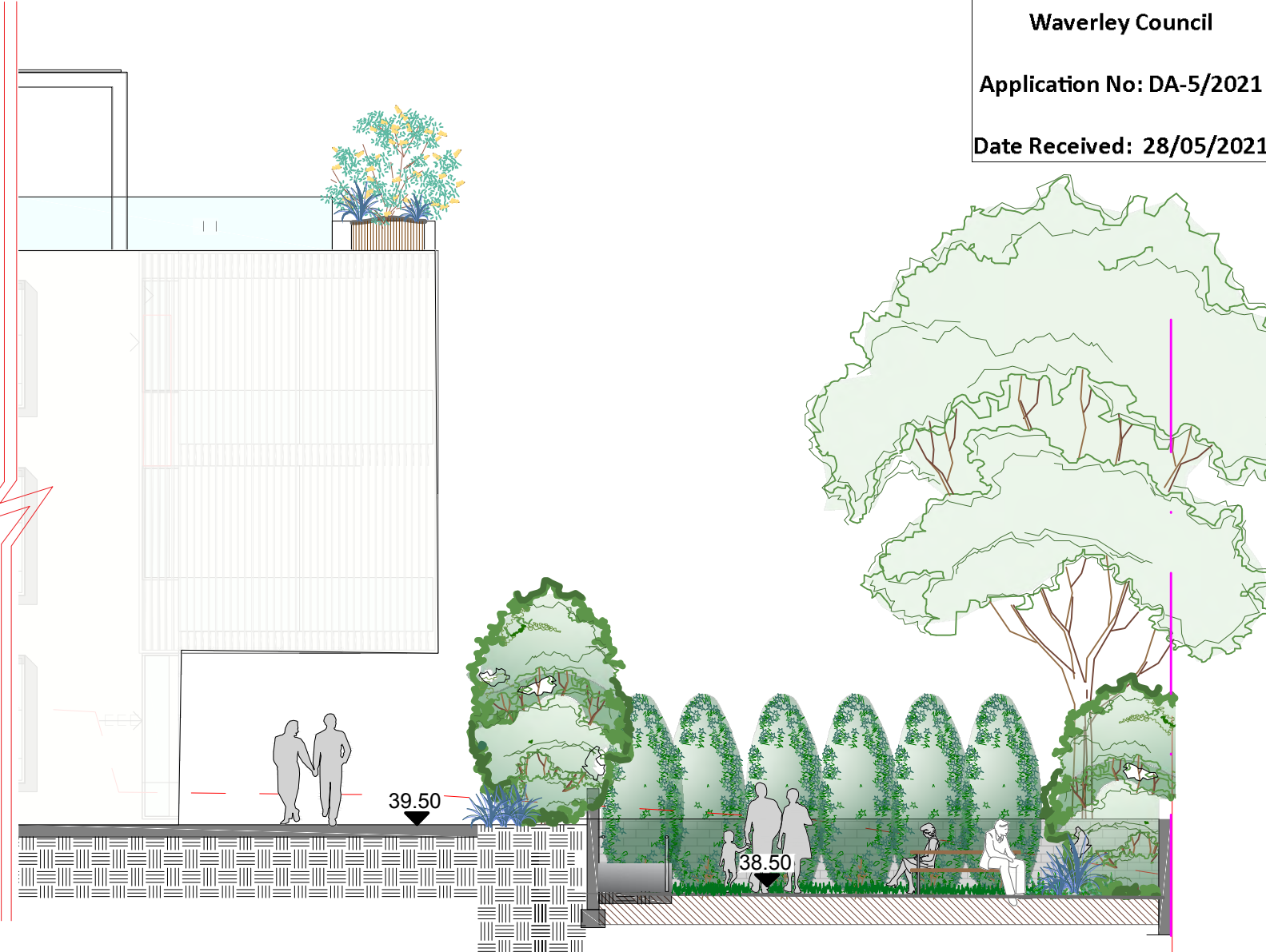
RECEIVED  
Waverley Council

Application No: DA-5/2021

Date Received: 28/05/2021





**ELEVATION A - NORTH BOUNDARY**  
SCALE: 1:100



**SECTION B-B**  
SCALE: 1:100

**General Notes:**  
Figured dimensions take preference to scale readings. Verify all dimensions on site. PDF'd plans may vary slightly in scale for that indicated on plans. Report any discrepancies to the Landscape Architect before proceeding with the work.  
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REV	DATE	NOTATION/AMENDMENT
A	14.5.2021	Preliminary plan prepared for review
B	14.5.2021	Issued for DA
C	14.5.2021	Co-ordinated with amended architectural plan & council's comments

COUNCIL  
**WAVERLEY**

CLIENT  
**DANNY MEGUIDECHE**

ARCHITECT  
**MHNDU**

STATUS / ISSUE  
**DA - ISSUE C**



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Suite 101, 506 Miller St  
CAMMERAY NSW 2062

TITLE:  
**SECTIONS**

**PROPOSED RESIDENTIAL APARTMENT DEVELOPMENT  
34 MILITARY ROAD  
NORTH BONDI**

DWG No: <b>LPDA 21 - 86 / 6</b>	
SCALE: <b>AS SHOWN @ A3</b>	
DATE: <b>MAY 2021</b>	
DRAWN: <b>K.Z</b>	CHECKED: <b>R.F</b>

PRELIMINARIES

1.01 GENERAL

The following general conditions should be considered prior to the commencement of landscape works:

- The landscape plans should be read in conjunction with the architectural plans, hydraulic plans, service plans and survey prepared for the proposed development.
- All services including existing drainage should be accurately located prior to the commencement of landscape installation. Any proposed tree planting which falls close to services will be relocated on site under the instruction of the landscape architect.
- Installation of conduit for required irrigation, electrical and other services shall be completed prior to the commencement of hardscape works and hardstand pours.
- All outdoor lighting specified by architect or client to be installed by qualified electrician
- Anomalies that occur in these plans should be brought to our immediate attention.
- Where an Australian Standard applies for any landscape material testing or installation technique, that standard shall be followed.

1.02 PROTECTION OF ADJACENT FINISHES

The Contractor shall take all precautions to prevent damage to all or any adjacent finishes by providing adequate protection to these areas / surfaces prior to the commencement of the Works

1.03 PROTECTION OF EXISTING TREES

Existing trees identified to be retained shall be done so in accordance with AS 4970-2009 Protection of trees on development sites as well as in accordance with the tree protection measures prepared by project arborist.

Where general works are occurring around such trees, or pruning is required, a qualified Arborist shall be engaged to oversee such works and manage tree health. Existing trees designated on the drawing for retention shall be protected at all times during the construction period. Any soil within the drip-line of existing trees shall be excavated and removed by hand only. No stockpiling shall occur within the root zone of existing trees to be retained.

Any roots larger in diameter than 50mm shall only be severed under instruction by a qualified arborist. Roots smaller than 50mm diameter shall be cut cleanly with a saw.

Temporary fencing shall be installed around the base of all trees to be retained prior to the commencement of landscape works. Where possible this fencing will be located around the drip line of these trees, or a minimum of 3m from the trunk. The fencing shall be maintained for the full construction period.

1.04 EROSION & POLLUTION CONTROL

The Contractor shall take all proper precautions to prevent the erosion of soil from the subject site. The contractor shall install erosion & sediment control barriers and as required by council, and maintain these barriers throughout the construction period. Note that the sediment control measures adopted should reflect the soil type and erosion characteristics of the site.

- Erosion & pollution control measures shall incorporate the following:
- Construction of a sediment trap at the vehicle access point to the subject site.
  - Sediment fencing using a geotextile filter fabric in the location indicated on the erosion control plan or as instructed on site by the landscape architect.
  - Earth banks to prevent scour of stockpiles
  - Sandbag kerb sediment traps
  - Straw bale & geotextile sediment filter.
  - Exposed banks shall be pegged with an approved Jute matting in preparation for mass planting

Refer to 'Guidelines for Erosion and Sediment Control on Building Sites' by DLWC (2000) for construction techniques

SOIL WORKS

2.01 MATERIALS

Specified Soil Conditioner (Generally to improve site soil)

The specified soil conditioner for site top-soil improvement shall be an organic mix complies with **AS 4454-2012 Composts, soil conditioners and mulches**. Note that for sites where soil testing indicates toxins or extremes in pH, or soils that are extremely poor, allow to excavate and supply 300mm of imported soil mix.

New gardens & proposed Planting

New garden and planting areas shall consist of a 50/50 mix of clean site soil (refer d) below) and imported soil. All mixes are to comply with **AS4419:2018 Soils for Landscaping and garden use**, & AS 4454 Composts, Soil conditioners & mulches.

Specified Soil Mix - Turf

The specified soil mix for all turf areas shall be a min 75mm layer of imported soil mix consisting of 80% washed river sand (reasonably coarse), and 20% composted organic matter equivalent to mushroom compost or soil conditioner, or other approved lawn top dress.

Site Topsoil

Site topsoil is to be clean and free of unwanted matter such as gravel, clay lumps, grass, weeds, tree roots, sticks, rubbish and plastics, and any deleterious materials and materials toxic to plants. The topsoil must have a pH of between 5.5 and 7. Use 100% imported soil mix when site when site topsoil runs out.

2.02 INSTALLATION

Note: No level changes (Cut or Fill), soil ripping within the Tree Protection Zones of trees to be retained

a) Testing

All testing is to be conducted in accordance with AS4419:2018 Soils for Landscaping and garden use Methods for testing soils for engineering purposes. Site soil shall be given a pH test prior to modifying to ensure conditions are appropriate for planting as stated above. Tests shall be taken in several areas where planting is proposed, and the pH shall be adjusted accordingly with sulphur or lime to suit.

Note that a soil test conducted by the Sydney Environmental & Soil Laboratory or approved equal shall be prepared for all commercial, industrial and multi-unit residential sites. The successful landscape contractor shall implement the recommendations of this test.

b) Set Out of Individual Trees & Mass Planting Areas

All individual tree planting positions and areas designated for mass planting shall be set out with stakes or another form of marking, ready for inspection and approval. Locate all services.

c) Establishing Subgrade Levels

Subgrade levels are defined as the finished base levels prior to the placement of the specified material (i.e. soil conditioner). The following subgrade levels shall apply:

- Mass Planting Beds - 300mm below existing levels with specified imported soil mix.

- Turf areas - 100mm below finished surface level.

Note that all subgrades shall consist of a relatively free draining natural material, consisting of site topsoil placed previously by the Civil Contractor. No builders waste material shall be acceptable.

d) Subgrade Cultivation

Cultivate all subgrades to a minimum depth of 100mm in all planting beds and all turf areas, ensuring a thorough breakup of the subgrade into a reasonably coarse tilth. Grade subgrades to provide falls to surface and subsurface drains, prior to the placement of the final specified soil mix.

e) Drainage Works

Install surface and subsurface drainage where required and as detailed on the drawing. Drain subsurface drains to outlets provided, with a minimum fall of 1:100 to outlets and / or service pits.

f) Placement and Preparation of Specified Soil Conditioner & Mixes.

- Trees in turf & beds - Holes shall be twice as wide as root ball and minimum 100mm deeper - backfill hole with 50/50 mix of clean site soil and imported "Organic Garden Mix" as supplied by ANL or approved equal.
  - Mass Planting Beds - Install specified soil conditioner to a compacted depth of 100mm
- Place the specified soil conditioner to the required compacted depth and use a rotary hoe to thoroughly mix the conditioner into the top 300mm of garden bed soil. Ensure thorough mixing and the preparation of a reasonably fine tilth and good growing medium in preparation for planting.
- Turf Areas - Install specified soil mix to a minimum compacted depth of 75mm.
- Place the specified soil mix to the required compacted depth and grade to required finished soil levels, in preparation for planting and turfing.

PLANTING

3.01 MATERIALS

a) Quality and Size of Plant Material

All trees supplied above a 25L container size must be grown and planted in accordance with AS 2303:2019 *Tree stock for landscape use*. Certification that trees have been grown to AS2303:2018 guidelines is to be provided upon request of Council's Tree Management Officer.

Above - Ground Assessment:

The following plant quality assessment criteria should be followed:

*Plant true to type, Good vigour and health, free from pest & disease, free from injury, self-supporting, good stem taper, has been pruned correctly, is apically dominant, has even crown symmetry, free from included bark & stem junctions, even trunk position in pot, good stem structure*

Below - Ground Assessment:

*Good root division & direction, rootball occupancy, rootball depth, height of crown, non-suckering* For further explanation and description of these assessment criteria, refer to AS2303:2019.

All Plant material shall be to the type and size specified. No substitutions of plant material shall be permitted without written prior approval by the Landscape Architect. No plant shall be accepted which does not conform to the standards listed above.

b) Stakes and Ties

Provide min. 3 No. Stakes and ties to all plants identified as trees in the plant schedule. Stakes shall be sound, unpainted, straight hardwood, free of knots and pointed at one end. They shall be 2200mm x 50mm x 50mm Hardwood, or approved alternative. Ties shall be 50mm wide hessian webbing material.

c) Fertilisers

Fertilisers shall be approved slow release fertilisers suitable for the proposed planting types. Note that for native plants, specifically Proteaceae family plants including Grevillea species, low phosphorus fertilizers shall be used.

d) Mulch

Mulch shall be an approved equal to "Forest Blend" as supplied by ANL. Mulch shall be completely free from any soil, weeds, rubbish or other debris.

e) Turf

Turf shall be soft leaf Buffalo or equivalent (unless stated otherwise), free from any weeds and other grasses, and be in a healthy growing condition.

3.02 INSTALLATION

a) Setting Out

All planting set out shall be in strict accordance with the drawings, or as directed. Note that proposed tree planting located near services should be adjusted at this stage. Notify Landscape Architect for inspection for approval prior to planting.

b) Planting

All plant material shall be planted as soon after delivery as possible. Planting holes for trees shall be excavated as detailed and specified. Plant containers shall be removed and discarded, and the outer roots gently teased from the soil mass. Immediately set plant in hole and backfill with specified soil mix, incorporating the approved quantity of fertiliser for each plant type. Ensure that plants are set plumb vertically and root balls set to the consolidated finished grades detailed on the drawings. Compact the backfilled soil and saturate by hand watering to expel any remaining air pockets immediately after planting.

c) Staking and Tying

Staking and tying shall be in strict accordance with the drawings and shall occur immediately following plant placement and soil backfilling. All plants identified as "Trees" on the planting schedule shall be staked with a min. 3 stakes.

d) Mulching

Mulch for general planter bed shall be an approved equal to "Forest Blend" as supplied by ANL. Mulch shall be completely free from any soil, weeds, rubbish or other debris. Mulch for bio-retention/rain garden area where is required shall be non-floatable materials that could include crushed rock, gravel, coarse river sand, scoria or river pebbles. 4-7mm screenings or similar.

e) Turfing

Moisten soil prior to the turf being laid. Turf shall be neatly butt jointed and true to grade to finish flush with adjacent surfaces. Incorporate a lawn fertilizer and thoroughly water in. Keep turf moist until roots have taken and sods/rolls cannot be lifted. Keep all traffic off turf until this has occurred. Allow for top dressing of all turf areas. All turf shall be rolled immediately following installation.

f) Brick garden edging

Where is required, the Contractor shall install **Brick garden edging** as detailed on the drawings, to all mass planting beds adjoining turf or gravel mulched areas, and where required. The resultant edge shall be true to line and flush with adjacent surfaces. However, no edging shall be used within the Structural Root Zone (SRZ) of trees to be retained.

g) Nature Strip and public domain works

The nature strip (street frontage) for the site is public land, and only authorized works may occur here. Existing Conditions such as street trees, council planting etc shall be retained and protected during construction, unless specific approval has been granted for new work in this area. Where council policy specifies a particular unit paver, material finish, pattern or treatment, it shall be the contractors responsibility to check and verify that this material & treatment is correct and current prior to undertaking construction works'

HARDSCAPE WORKS

4.01 GENERAL

The Contractor shall undertake the installation of all hardscape works as detailed on the drawing, or where not detailed, by manufacturers specification.

- Paving - refer to typical details provided, and applicable Australian Standards. *Permeable paving may be used as a suitable means of satisfying Council permeable surface requirements, while providing a useable, hardwearing, practical surface.* In most instances, the client shall nominate the appropriate paving material to be used.

Australian Standards shall be adhered to in relation to all concrete, masonry & metal work. Some details are typical and may vary on site. All hardscape works shall be setout as per the drawings, and inspected and approved by the Landscape Architect prior to installation. All workmanship shall be of the highest standard. Any queries or problems that arise from hardscape variations should be bought to the attention of the Landscape Architect.

Your attention is directed to any obligations or responsibilities under the Dividing Fences Act, 1991 in respect of adjoining property owner/s which may arise from this application. Any enquiries in this regard may be made to the Crown Lands on 1300 886 235.

IRRIGATION WORKS

5.01 GENERAL (PERFORMANCE SPECIFICATION)

This is a general Irrigation Performance Specification only, as a guide for projects requiring irrigation systems as part of consent requirements or building contractual arrangements.

An automated irrigation system is recommended for the effective establishment of new gardens, and to assist with the success of planting areas on terraces, over slabs and in Communal Open Spaces.

The inclusion of this general specification is no guarantee that an irrigation system forms part of the landscape scope of works, which will be determined by the building contract.

*New irrigation systems to planting areas shall be a Commercial Grade Irrigation System conforming to all relevant Australian standards, including AS 3500 & the Gas and Electricity (Consumer Safety) Act 2017, Workplace Health & Safety Act 2011, & the latest Sydney Water Code*

An automated drip-irrigation system is to be installed to all gardens, planters and lawn areas in accordance with the approved Irrigation Design. This system shall be designed and installed by a qualified and licensed irrigation specialist, to the highest industry standards and to maximise the efficient usage of water.

The installer is required to obtain all approvals necessary for the completion of works in accordance with the Laws of Australia, Laws of the State of NSW, Waverley Council By-Laws and Ordinances.

Drawings:

- The Landscape Contractor nominated Licensed Irrigation Specialist shall provide irrigation drawings for approval upon engagement.

Design Requirements:

- The irrigation system shall be installed prior to all planting works. It shall incorporate a commercially available irrigation system, with sub-surface dripper lines to irrigate all gardens, planters and lawn areas.
- It shall incorporate a suitable back flow prevention device for the scale of works, an in-line filter, check valves, and suitable high and low density poly hose fittings and PVC piping to achieve flow rates suitable for specified planting.
- The irrigation application rate shall not exceed the infiltration rate of the soil or creates run-off.
- The landscape contractor shall check the existing pressure available from the ring mains and size irrigation piping to suit. Supply shall be from local hose cock where available.
- All piping and fittings shall be buried 50mm below the finished soil levels in garden and lawn areas, and secured in position at 500mm centres with galv wire pins.
- Size of pipes shall be selected to ensure the working pressure at the end of the line does not decrease by more than 5%.

Services Co-ordination:

- Co-ordination required by Landscape Contractor or Project Manager to provide required conduit, pipe work and penetration through slabs and planter walls for water and power provisions.
- The Landscape Contractor shall be engaged with the Irrigation Specialist to co-ordinate with the Project Manager to identify the preferred service and conduit locations.
- Project Manager and Landscape Contractor to establish area suitable for irrigation control system with required area, power provision and water supply.

Testing & Defects:

Upon completion of installation, the system shall be tested, including:

- Main Line Pressure Test: The main line is pressurised to test for leaks. All valves are shut and the pressure is taken over a determined length of time.
- Dripper Pressure Test: Measurement at flushing valves are taken and the pressure gauged to make sure it conforms to the manufacturer recommendations. The inlet pressure is then tested under the same conditions to check it does not exceed 300Kpa.
- All components are to be satisfactorily functional and operational prior to approval. Should any defect develop, or the capacity or efficiency of the system decline during the agreed maintenance system, then these faults shall be immediately rectified.

Warranty :

- A full 12 month warranty shall be included to cover labour and all parts.

Further Documentation:

- On request, a detailed irrigation performance specification report can be issued.

CONSOLIDATION AND MAINTENANCE

6.01 GENERAL

The consolidation and maintenance period shall be 12 months beginning from the approved completion of the specified construction work (Practical Completion). A qualified landscape maintenance contractor shall undertake the required landscape maintenance works. Consolidation and maintenance shall mean the care and maintenance of Contracted works by accepted landscaping or horticultural practices, ensuring that all plants are in optimum growing conditions and appearance at all times, as well as rectifying any defects that become apparent in the contracted works.

This shall include, but not be limited to, the following items where and as required:

- Watering all planting and lawn areas / irrigation maintenance.
- Clearing litter and other debris from landscaped areas.
- Removing weeds, pruning and general plant maintenance.
- Replacement of damaged, stolen or unhealthy plants.
- Make good areas of soil subsidence or erosion.
- Topping up of mulched areas.
- Spray / treatment for Insect and disease control.
- Fertilizing with approved fertilizers at correct rates.
- Mowing lawns & trimming edges each 14 days in summer or 18 days in winter
- Adjusting ties to Stakes
- Maintenance of all paving, retaining and hardscape elements.

On the completion of the maintenance period, the landscape works shall be inspected and at the satisfaction of the superintendent or landscape architect, the responsibility will be signed over to the client.

Application No: DA-5/2021

Date Received: 28/05/2021

General Notes:

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REV	DATE	NOTATION/AMENDMENT
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COUNCIL	WAVERLEY
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STATUS / ISSUE	DA - ISSUE C



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CAMMERAY NSW 2062

TITLE:

SPECIFICATIONS

PROPOSED RESIDENTIAL APARTMENT DEVELOPMENT

34 MILITARY ROAD

NORTH BONDI

DWG No:		LPDA 21 - 86 / 7
SCALE:		N/A
DATE:		MAY 2021
DRAWN:	CHECKED:	
K.Z	R.F	

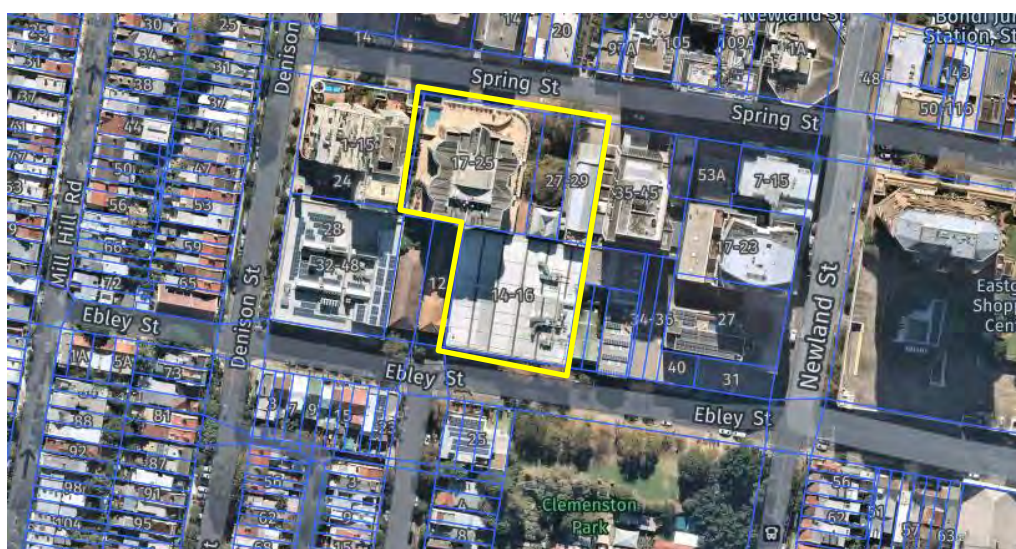




## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-374/2019/A
<b>Site address</b>	17-33 Spring Street and 14-26 Ebley Street, Bondi Junction
<b>Proposal</b>	Modification of consent for alterations to the Mill Hill Community Centre and adaptive re-use of the Boot Factory, including replacement of window and door openings, internal reconfiguration and refinement of external works
<b>Approved development description</b>	Alterations and adaptive re-use of the Boot Factory as a flexible community centre and alterations and additions to Mill Hill community centre, associated landscaping, signage and site consolidation.
<b>Date of lodgement</b>	25 March 2021
<b>Owner</b>	Waverley Council (27-33 Spring Street, Bondi Junction and 14-26 Ebley Street, Bondi Junction) Proprietors of Strata Plan 43551 (17-25 Spring Street, Bondi Junction)
<b>Applicant</b>	Waverley Council (Major Projects Division)
<b>Submissions</b>	One – in support
<b>Cost of Works</b>	Nil changes from DA-374/2019
<b>Issues</b>	Nil
<b>Recommendation</b>	That the application be APPROVED

**Site Map**



Source: Nearmap, 2021

## **1. PREAMBLE**

### **1.1 Site and Surrounding Locality**

A site visit was carried out during the assessment of the original development application.

The site is known as 17-33 Spring Street and 14-26 Ebley Street, Bondi Junction. The site is legally identified as:

- Lot 1 in DP 499536 (14-26 Ebley Street, Bondi Junction)
- SP43551 (17-25 Spring Street, Bondi Junction)
- Lot 6 Section A DP145 (27-29 Spring Street, Bondi Junction, known as the 'Boot Factory building')
- Lot 7 in DP 499650 (31-33 Spring Street, Bondi Junction, known as the 'Mill Hill Community Centre')

The site has a frontage to Spring Street of approximately 73m and Ebley Street of approximately 49m. The site is irregular in shape and has a combined area of 5,984.36m<sup>2</sup> with a relatively flat topography.

The site comprises four (4) lots which each accommodate its own building. The proposed works primarily relate to the Council owned buildings located at 27-29 and 31-33 Spring Street that occupies the northern portion of the site (comprising the Boot Factory and Mill Hill Community Centre buildings). The site area for this component of the site is 1200.4m<sup>2</sup>.

The building known as the 'Boot Factory building' is a locally listed heritage item referred to as 'Item I236' under the Waverley Local Environmental Plan 2012. The historic building has frontage to Spring Street and is setback behind a civic space area known as Norman Lee Place. The building reaches three (3) storeys and its exterior comprises face-brick work. The building is currently unoccupied, boarded up due to its dilapidated state and in need of restoration work.

Mill Hill Community Centre is located at 31-33 Spring Street and occupies the western portion of the site. It is accessible from Spring Street and Norman Lee Place and currently operates as a community centre. It reaches three (3) storeys in height and features a red brick façade.

The portion of the site located at 17-25 Spring Street contains a mixed-use residential building known as the 'Spring Street Apartments' and a portion of the public domain associated with Norman Lee Place. The development incorporates a three-storey podium with street level retail uses and commercial above. An eight-storey residential tower is positioned above the podium. Pedestrian and vehicular access is provided from Spring Street and Norman Lee Place.

To the south west, the site located at 14-26 Ebley Street contains a two-storey commercial building and is currently occupied by Office Works. Pedestrian and vehicular access is provided from Ebley Street.





**Figure 1:** Exterior of the Boot Factory building viewed looking south from Norman Lee Place



**Figure 2:** Mill Hill Community Centre building viewed looking east from Norman Lee Place.





**Figure 3:** The interior of the Boot Factory building



**Figure 4:** Norman Lee Place viewed looking north towards Spring Street where it adjoins the 'Spring Street Apartments'.



## 1.2 Details of Approved Development

### DA-374/2019

Alterations and adaptive re-use of the Boot Factory as a flexible community centre and alterations and additions to Mill Hill community centre, associated landscaping, signage and site consolidation was granted deferred commencement consent by the Sydney Eastern City Planning Panel on 21 May 2020.

Deferred Commencement Condition:

#### **1. SEPP 55**

*Documentation that demonstrates the requirements of State Environmental Planning Policy No 55 have been met and the site is suitable for the proposed use. Documentation in the form of one of the following is required:*

*(a) A Site Audit Statement prepared by an accredited NSW EPA auditor clearly stating that the site is/or will be suitable for the intended use; or*

*(b) A letter/interim advice from an accredited NSW EPA Site Auditor stating that what is being proposed will result in the site being made suitable for the intended use.*

The deferred commencement was satisfied on 28 April 2021, activating the consent.

## 1.3 Proposal

The application has been lodged as a section 4.55 (1A) application and provides for the following modifications to the approved development:

**Table 1: Summary of proposed works**

<i>Basement</i>	<ul style="list-style-type: none"><li>• Internal demolition</li><li>• Layout changes</li></ul>
<i>Ground Floor</i>	<ul style="list-style-type: none"><li>• Internal demolition</li><li>• Refurbishment of the new reception area, office, community waiting areas, meeting rooms and community hall area.</li><li>• Upgrade to the toilet amenities to comply with current access standards.</li><li>• New automated sliding door opening to reception area.</li></ul>
<i>Level 1</i>	<ul style="list-style-type: none"><li>• Internal demolition</li><li>• Additional meeting rooms and quiet rooms.</li><li>• Refurbishment of existing WC's and shower area connected to the open office area.</li><li>• Upgrade to the accessible WC's connected to the foyer to comply with current access standards.</li></ul>
<i>Level 2</i>	<ul style="list-style-type: none"><li>• Internal demolition</li><li>• Additional meeting rooms and quiet rooms.</li><li>• Refurbishment and upgrade of the existing toilets connected to the foyer area.</li></ul>

	<ul style="list-style-type: none"> <li>• Upgrade to the accessible WC connected to the foyer area to comply with current access standards.</li> <li>• Inclusion of an additional accessible WC connected to the multipurpose area.</li> <li>• Inclusion of a kitchen connected to the foyer area to service the Boot Factory and Mill Hill Centre.</li> <li>• Replace doors from meeting room to the roof terrace with three sliding door panels.</li> </ul>
<i>Roof</i>	<ul style="list-style-type: none"> <li>• Roof replacement to Mill Hill Centre</li> </ul>
<i>All levels</i>	<ul style="list-style-type: none"> <li>• Upgrade of all mechanical, electrical and hydraulic services to suit revised layouts, including in the basement level below.</li> </ul>
<i>External</i>	<ul style="list-style-type: none"> <li>• Removal and replacement of sun shading devices above Level 1 windows with a continuous awning to the north and west elevation.</li> <li>• Removal and upgrade of all windows and doors to the Mill Hill Centre, as indicated on the architectural drawings.</li> <li>• Inclusion of a riser access panel for servicing of the mechanical services to the west elevations.</li> <li>• Removal and replacement of deteriorating roof sheeting at the rear as well as replacement of guttering and down pipes to Mill Hill Centre building.</li> <li>• Inclusion of mechanical ventilation exhaust chimneys to the roof.</li> <li>• Balustrade on pedestrian link between Mill Hill Centre and Boot Factory modified from steel rod balustrade to solid panel balustrade.</li> <li>• The inclusion of a step ramp to the east elevation entry doors of the Boot Factory providing accessible access between the Boot Factory and the Mill Hill Centre buildings.</li> <li>• The inclusion of planter boxes to the base of the Mill Hill Centre columns.</li> <li>• The inclusion of a step ramp from the street entry of the Mill Hill Centre within the colonnade to the reception entry doors.</li> </ul>

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this modification application under sections 4.15 and 4.55 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1 Section 4.55 Considerations

**Section 4.55 (1A) applications** - the modifications are considered to have minimal environmental impact. The application has been compared to the essential nature of the development as originally approved and it is considered to be *substantially the same development*. The application has been notified and submissions considered as discussed further in the report.

### 2.2 Planning Instruments and Development Control Plans

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

#### 2.2.1 Waverley Local Environmental Plan 2012 (WLEP)

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

**Table 2: WLEP Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal will meet the aims of the WLEP.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table B4 Mixed Use Zone	Yes	The proposal is defined as a community facility which is permitted with consent in the B4 Mixed Use zone. Regardless, the modification will not alter the use of the development.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings	N/A	The modification will not increase the height of the buildings.  The architectural plans include a note that state the Mill Hill Centre roof ridge will match the existing.
4.4 Floor Space Ratio (FSR)	N/A	The modification will not alter FSR.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	Relevant conditions from DA-374/2019 will	A Heritage Impact Statement was submitted alongside the modification. The proposed development satisfies this clause. Previous conditions from DA-374/2019 will remain on the consent to ensure restoration works to

Provision	Compliance	Comment
	be carried over.	the Boot Factory building are overseen by a Heritage architect.  A referral from Council's Heritage Architect was sought and will be discussed in detail within section 3 of this report.
<b>Part 6 Additional local provisions</b>		
6.5 Active street frontages in the Bondi Junction Centre	Yes	The development is substantially the same as approved.
6.7 Solar access to public spaces in Bondi Junction Centre	Yes	Solar access will not alter in this modification, given it will not increase in height, bulk or scale.
6.9 Design Excellence	Yes	The modified development is substantially the same as approved and continues to exhibit design excellence.

## 2.2.2 Waverley Development Control Plan 2012 (WDCP) - Amendment No 9 (WDCP)

The relevant matters to be considered under the WDCP for the proposal are outlined below noting that only those parts of the DCP that relate to the modifications will be discussed:

**Table 3: WDCP – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
3. Landscaping and Biodiversity	Yes	Landscaping will not alter significantly in this modification. The inclusion of planter boxes to the base of the Mill Hill Centre columns are included within this modification. These are supported as they provide additional landscaping, improving the open space.
7. Accessibility and adaptability	Yes	Accessibility conditions under DA-374/2019 will continue to apply.
9. Heritage	Yes	A Heritage Impact Statement was submitted alongside the modification. The proposed development satisfies this clause. Conditions will also be recommended to ensure restoration works to the Boot Factory building are overseen by a Heritage architect.  A referral from Council's Heritage Architect was sought and will be discussed in detail within section 3 of this report.



Development Control	Compliance	Comment
12. Design Excellence	Yes	The modifications are substantially the same as approved and the modified proposal continues to exhibit design excellence.
16. Public Domain	N/A	The public domain will not alter.

**Table 4: WDCP – Part E1 Bondi Junction**

Development Control	Compliance	Comment
1.3 Building Use	Yes	Spring Street is identified as a 'Primary Shopping Street' on the <i>Street Hierarchy Map</i> .  The approved development provides commercial floor space consisting of office premises associated with the management functions of the community facility at ground level and the first floor level. The proposed modifications continue to provide commercial uses at ground and first floor levels.
1.6 Heritage and Buildings of Historic Character	Yes	The proposal seeks to retain the existing building. Whilst external alterations are proposed, the facades will reflect their original form. The proposed modifications continue to provide an acceptable response to the heritage significance of this building.
1.7 Active Street Frontages	Yes	Refer to discussion in 1.3 <i>Building Use</i> in this table.
1.9 Street Alignment	N/A	The proposal relates to the adaptive reuse of an existing heritage building. Accordingly, the controls do not apply.
1.10 Separation Distances	N/A	No changes proposed as part of the modifications.
1.11 Side and Rear Boundary Setbacks	N/A	No changes proposed as part of the modifications.
1.12 Building Footprint	N/A	No changes proposed as part of the modifications.
1.13 Number of Storeys	Yes	The existing storey height of the Boot Factory Building and the Mill Hill Community Centre

Development Control	Compliance	Comment
		building remains unchanged. Both buildings are within the nine-storey maximum.
1.14 Views, Vistas and Tree Preservation	Yes	The envelopes of the existing buildings are proposed to remain unchanged. Accordingly, the built form will not encroach into view corridors.
1.15 Open Spaces at the Street Frontage	N/A	No changes proposed as part of the modifications.
1.16 Building Elevations	N/A	The proposal seeks to adaptively reuse a heritage building and retain its existing facades. Compliance with the provisions would necessitate that extensive alterations be undertaken to the facades, which may compromise the building's heritage fabric.
1.17 Designing Buildings for Flexibility	Yes	The interior layouts continue to allow for flexibility of use with services co-located together.
1.18 Ceiling Heights	N/A	No changes proposed as part of the modifications.

## 2.3 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

## 2.4 Suitability of the Site for the Development

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

## 2.5 Any Submissions

The modification application was notified for 14 days, in accordance with Waverley Council Community Participation Plan 2019.

The development was notified under type A of the of the Waverley Council Community Participation Plan 2019 as it is considered a minor modification to the recently approved application.

One submission was received, which was in support of the proposal.

## **2.6 Public Interest**

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

## **3. REFERRALS**

### **3.1 Heritage**

An internal referral was sought from Council's Heritage Officer who supported the modification subject to addressing the form and function of planter boxes to the Mill Hill Centre and selective pruning of trees in the forecourt.

The planter boxes to the western side of the Mill Hill Centre's first floor was approved under the original application and therefore do not form part of the modification. Conditions relating to the tree in the courtyard from the original application will remain.

### **3.2 Community Development**

An internal referral was sought from Council's Community Development Officer, who did not object to the modification.

### **3.3 Facilities**

An internal referral was sought from Council's Facilities Officer, however no comment was received.

## **4. SUMMARY**

The modification is for alterations to the Mill Hill Community Centre and adaptive re-use of the Boot Factory, including replacement of window and door openings, internal reconfiguration and refinement of external works.

The assessment concluded nil issues with the proposed modification, forming part of the much needed upgrade works to the Mill Hill Centre and Boot Factory.

The application received one submission, which was in support of the proposed works.

The application is recommended for approval.

### **DBU Decision**

The application and assessment report were reviewed by the DBU at the meeting on *11/05/2021 and 01/06/2021* 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 Magistrale, K Johnstone – 11/05/2021*  
*B McNamara, B Magistrale, K Lucas, P Wong – 01/06/2021*

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

That the Section 4.55 Modification Application be **APPROVED** by the Waverley Local Planning Panel subject to the Conditions in Appendix A:

**Report prepared by:**



Joseph Somerville  
**Development Assessment Planner**

**Date: 06/07/2021**

**Reason for referral:**

- 1 Conflict of interest

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



Kylie Lucas  
**A/Manager, Development Assessment  
(Central)**

**Date: 07/07/2021**



## **APPENDIX A – CONDITIONS OF CONSENT TO BE MODIFIED**

### **Amended/Deleted Conditions**

#### **Attachment A**

##### **1. SEPP 55**

~~Documentation that demonstrates the requirements of State Environmental Planning Policy No 55 have been met and the site is suitable for the proposed use. Documentation in the form of one of the following is required:~~

~~(a) A Site Audit Statement prepared by an accredited NSW EPA auditor clearly stating that the site is/or will be suitable for the intended use; or~~

~~(b) A letter/interim advice from an accredited NSW EPA Site Auditor stating that what is being proposed will result in the site being made suitable for the intended use.~~

**DEFERRED COMMENCEMENT SATISFIED ON 28/04/2021 (DELETED AS PART OF DA-374/2019/A)**

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

#### **Attachment B:**

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

The development must be in accordance with:

(a) Architectural Plans prepared by Archer Office of Project No: 1803 including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
A000 / Rev E	Cover Page	26/03/2020	27/03/2020
A010 / Rev E	Location / Context Plan	26/03/2020	27/03/2020
A011 / Rev E	Site Analysis Plan	26/03/2020	27/03/2020
A020 / Rev E	Site Plan	26/03/2020	27/03/2020
A030 / Rev E	Photomontages	26/03/2020	27/03/2020
A050 / Rev E	Ground Floor Demolition Plan	26/03/2020	27/03/2020
A051 / Rev E	Level 1 Demolition Plan	26/03/2020	27/03/2020
A052 / Rev E	Level 2 Demolition Plan	26/03/2020	27/03/2020
A053 / Rev E	Roof Demolition Plan	26/03/2020	27/03/2020
A055 / Rev E	Elevations Demolition	26/03/2020	27/03/2020
A100 / Rev E	Basement Level	26/03/2020	27/03/2020
A101 / Rev E	Ground Floor Plan	26/03/2020	27/03/2020
A102 / Rev E	Level 1 Plan	26/03/2020	27/03/2020
A103 / Rev E	Level 2 Plan	26/03/2020	27/03/2020

A104 / Rev E	Roof Plan	26/03/2020	27/03/2020
A200 / Rev E	North Elevation	26/03/2020	27/03/2020
A201 / Rev E	East Elevation	26/03/2020	27/03/2020
A202 / Rev E	South Elevation	26/03/2020	27/03/2020
A203 / Rev E	West Elevation	26/03/2020	27/03/2020
A204 / Rev A	West Elevation – Mill Hill Centre	26/03/2020	27/03/2020
A300 / Rev E	Section A	26/03/2020	27/03/2020
A301 / Rev E	Section B	26/03/2020	27/03/2020
A700 / Rev E	Materials Schedule	26/03/2020	27/03/2020

**(i) As amended by architectural Plans prepared by Archer Office of Project No: 1803 including the following:**

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
<b>A000 / Rev F</b>	<b>Cover Page</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A020 / Rev F</b>	<b>Site Plan</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A049 / Rev A</b>	<b>Basement Floor Demolition Plan</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A050 / Rev F</b>	<b>Ground Floor Demolition Plan</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A051 / Rev F</b>	<b>Level 1 Demolition Plan</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A052 / Rev F</b>	<b>Level 2 Demolition Plan</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A053 / Rev F</b>	<b>Roof Demolition Plan</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A056 / Rev A</b>	<b>MHC – Elevations Demolition</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A100 / Rev F</b>	<b>Basement Level</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A101 / Rev F</b>	<b>Ground Floor Plan</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A102 / Rev F</b>	<b>Level 1 Plan</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A103 / Rev F</b>	<b>Level 2 Plan</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A104 / Rev F</b>	<b>Roof Plan</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A200 / Rev F</b>	<b>North Elevation</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A201 / Rev F</b>	<b>East Elevation</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A202 / Rev F</b>	<b>South Elevation</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A204 / Rev B</b>	<b>West Elevation – Mill Hill Centre</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A300 / Rev F</b>	<b>Section A</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A301 / Rev F</b>	<b>Section B</b>	<b>26/02/2021</b>	<b>25/03/2021</b>
<b>A302 / Rev A</b>	<b>Section C and D</b>	<b>26/02/2021</b>	<b>25/03/2021</b>

**AMENDED DA-374/2019/A**

**(b) Landscape Plan and documentation prepared by ASPECT Studios including the following:**

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
S18032-DA01 / Rev B	Contents	26/03/2020	27/03/2020
S18032-DA02 / Rev B	Landscape Overview and Design Statement	26/03/2020	27/03/2020
S18032-DA03 / Rev B	Context	26/03/2020	27/03/2020
S18032-DA04 /	Supporting Framework + Policies	26/03/2020	27/03/2020

Rev B			
S18032-DA05 / Rev B	Principles	26/03/2020	27/03/2020
S18032-DA06 / Rev B	Site Analysis	26/03/2020	27/03/2020
S18032-DA07 / Rev B	Landscape Plan	26/03/2020	27/03/2020
S18032-DA08 / Rev B	Section	26/03/2020	27/03/2020
S18032-DA09 / Rev B	Mill Hill Community Centre Elevation	26/03/2020	27/03/2020
S18032-DA010 / Rev B	Material Palette	26/03/2020	27/03/2020
S18032-DA011 / Rev B	Material Palette	26/03/2020	27/03/2020
S18032-DA012 / Rev B	Material Palette	26/03/2020	27/03/2020
S18032-DA013 / Rev B	The Feature Plinth	26/03/2020	27/03/2020
S18032-DA014 / Rev B	Planting Palette	26/03/2020	27/03/2020
S18032-DA015 / Rev B	Planting Palette	26/03/2020	27/03/2020
S18032-DA016 / Rev B	Details	26/03/2020	27/03/2020

- (c) Building Code Australia (Fire Safety) Report (reference: 110600-BCA-r3) and Building Code Australia (Access) Report (reference: 110600-Access-r3) prepared by BCA Logic dated 27/03/2020, and received by Council on 27/03/2020;
- (d) Arborist Report prepared by Earthscape Horticultural Services dated November 2019 and received by Council on 25/11/2019;
- (e) Acoustic Report prepared by ADP Consulting: Engineering dated 27 March 2020 and received by Council on 27/03/2020;
- (f) Draft Consolidation Plan (A800) prepared by Archer Office dated 09/04/2020 and received by Council on 14/04/2020;
- (g) Heritage Impact Statement, Rev B prepared by Matt Devine and Co, dated March 2020 and received by Council on 27/3/2020 **and Heritage Impact Statement (Addendum A) prepared by Matt Devine and Co, dated 24 February 2021 and received by Council on 25/03/2021;**

**AMENDED DA-374/2019/A**

- (h) Geotechnical Investigation Report, Ref 14839.01 prepared by Douglas Partners dated September 2018 and received by Council on 25/11/2019;
- (i) Detailed Site Investigation, Ref SYDEN234007 prepared by Coffey dated 30 April 2020 and received by Council on 1/5/2020;

Except where amended by the following conditions of consent.

**NOTE – Plan references above may change following satisfaction of the deferred commencement matters. As this occurs, condition 1 will be updated to reflect the new documentation.**

**New condition:**

**7A. AMENDMENT OF THE APPROVED PLAN**

In the event of approval, and prior to operation, of DA-150/2021 for the change of use of the part of the ground floor level to a café and signage, the approved plans under this development consent (DA-374/2019/A) shall be modified to reflect the approved plans of DA-150/2021 and a copy provided to Council and the Principal Certifying Authority.

***ADDED DA-374/2018/A***



## **APPENDIX B – FULL SET OF CONDITIONS**

### **Attachment A**

**DA-374/2019**

**The consent authority must be satisfied as to the following matters before the consent can operate.**

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

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

#### **1. SEPP 55**

*DEFERRED COMMENCEMENT SATISFIED ON 28/04/2021 (DELETED AS PART OF DA-374/2019/A)*

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

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

## A. APPROVED DEVELOPMENT

### APPROVED PLANS AND DOCUMENTATION

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

- (a) Architectural Plans prepared by Archer Office of Project No: 1803 including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
A000 / Rev E	Cover Page	26/03/2020	27/03/2020
A010 / Rev E	Location / Context Plan	26/03/2020	27/03/2020
A011 / Rev E	Site Analysis Plan	26/03/2020	27/03/2020
A020 / Rev E	Site Plan	26/03/2020	27/03/2020
A030 / Rev E	Photomontages	26/03/2020	27/03/2020
A050 / Rev E	Ground Floor Demolition Plan	26/03/2020	27/03/2020
A051 / Rev E	Level 1 Demolition Plan	26/03/2020	27/03/2020
A052 / Rev E	Level 2 Demolition Plan	26/03/2020	27/03/2020
A053 / Rev E	Roof Demolition Plan	26/03/2020	27/03/2020
A055 / Rev E	Elevations Demolition	26/03/2020	27/03/2020
A100 / Rev E	Basement Level	26/03/2020	27/03/2020
A101 / Rev E	Ground Floor Plan	26/03/2020	27/03/2020
A102 / Rev E	Level 1 Plan	26/03/2020	27/03/2020
A103 / Rev E	Level 2 Plan	26/03/2020	27/03/2020
A104 / Rev E	Roof Plan	26/03/2020	27/03/2020
A200 / Rev E	North Elevation	26/03/2020	27/03/2020
A201 / Rev E	East Elevation	26/03/2020	27/03/2020
A202 / Rev E	South Elevation	26/03/2020	27/03/2020
A203 / Rev E	West Elevation	26/03/2020	27/03/2020
A204 / Rev A	West Elevation – Mill Hill Centre	26/03/2020	27/03/2020
A300 / Rev E	Section A	26/03/2020	27/03/2020
A301 / Rev E	Section B	26/03/2020	27/03/2020
A700 / Rev E	Materials Schedule	26/03/2020	27/03/2020

- (i) As amended by architectural Plans prepared by Archer Office of Project No: 1803 including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
A000 / Rev F	Cover Page	26/02/2021	25/03/2021
A010 / Rev A	Legend	26/02/2021	25/03/2021
A020 / Rev F	Site Plan	26/02/2021	25/03/2021
A049 / Rev A	Basement Floor Demolition Plan	26/02/2021	25/03/2021
A050 / Rev F	Ground Floor Demolition Plan	26/02/2021	25/03/2021
A051 / Rev F	Level 1 Demolition Plan	26/02/2021	25/03/2021
A052 / Rev F	Level 2 Demolition Plan	26/02/2021	25/03/2021
A053 / Rev F	Roof Demolition Plan	26/02/2021	25/03/2021
A056 / Rev A	MHC – Elevations Demolition	26/02/2021	25/03/2021

A100/ Rev F	Basement Level	26/02/2021	25/03/2021
A101/ Rev F	Ground Floor Plan	26/02/2021	25/03/2021
A102/ Rev F	Level 1 Plan	26/02/2021	25/03/2021
A103/ Rev F	Level 2 Plan	26/02/2021	25/03/2021
A104/ Rev F	Roof Plan	26/02/2021	25/03/2021
A200/ Rev F	North Elevation	26/02/2021	25/03/2021
A201/ Rev F	East Elevation	26/02/2021	25/03/2021
A202/ Rev F	South Elevation	26/02/2021	25/03/2021
A204/ Rev B	West Elevation – Mill Hill Centre	26/02/2021	25/03/2021
A300/ Rev F	Section A	26/02/2021	25/03/2021
A301/ Rev F	Section B	26/02/2021	25/03/2021
A302/ Rev A	Section C and D	26/02/2021	25/03/2021

AMENDED DA-374/2019/A

(b) Landscape Plan and documentation prepared by ASPECT Studios including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
S18032-DA01 / Rev B	Contents	26/03/2020	27/03/2020
S18032-DA02 / Rev B	Landscape Overview and Design Statement	26/03/2020	27/03/2020
S18032-DA03 / Rev B	Context	26/03/2020	27/03/2020
S18032-DA04 / Rev B	Supporting Framework + Policies	26/03/2020	27/03/2020
S18032-DA05 / Rev B	Principles	26/03/2020	27/03/2020
S18032-DA06 / Rev B	Site Analysis	26/03/2020	27/03/2020
S18032-DA07 / Rev B	Landscape Plan	26/03/2020	27/03/2020
S18032-DA08 / Rev B	Section	26/03/2020	27/03/2020
S18032-DA09 / Rev B	Mill Hill Community Centre Elevation	26/03/2020	27/03/2020
S18032-DA010 / Rev B	Material Palette	26/03/2020	27/03/2020
S18032-DA011 / Rev B	Material Palette	26/03/2020	27/03/2020
S18032-DA012 / Rev B	Material Palette	26/03/2020	27/03/2020
S18032-DA013 / Rev B	The Feature Plinth	26/03/2020	27/03/2020
S18032-DA014 / Rev B	Planting Palette	26/03/2020	27/03/2020
S18032-DA015 / Rev B	Planting Palette	26/03/2020	27/03/2020
S18032-DA016 / Rev B	Details	26/03/2020	27/03/2020

- (c) Building Code Australia (Fire Safety) Report (reference: 110600-BCA-r3) and Building Code Australia (Access) Report (reference: 110600-Access-r3) prepared by BCA Logic dated 27/03/2020, and received by Council on 27/03/2020;
- (d) Arborist Report prepared by Earthscape Horticultural Services dated November 2019 and received by Council on 25/11/2019;
- (e) Acoustic Report prepared by ADP Consulting: Engineering dated 27 March 2020 and received by Council on 27/03/2020;
- (f) Draft Consolidation Plan (A800) prepared by Archer Office dated 09/04/2020 and received by Council on 14/04/2020;
- (g) Heritage Impact Statement, Rev B prepared by Matt Devine and Co, dated March 2020 and received by Council on 27/3/2020 and Heritage Impact Statement (Addendum A) prepared by Matt Devine and Co, dated 24 February 2021 and received by Council on 25/03/2021;

*AMENDED DA-374/2019/A*

- (h) Geotechnical Investigation Report, Ref 14839.01 prepared by Douglas Partners dated September 2018 and received by Council on 25/11/2019;
- (i) Detailed Site Investigation, Ref SYDEN234007 prepared by Coffey dated 30 April 2020 and received by Council on 1/5/2020;

Except where amended by the following conditions of consent.

**NOTE – Plan references above may change following satisfaction of the deferred commencement matters. As this occurs, condition 1 will be updated to reflect the new documentation.**

## **PUBLIC DOMAIN**

### **2. PUBLIC DOMAIN IMPROVEMENTS**

The public domain shall be maintained along Spring Street frontage for the development site in accordance with the current Waverley Council Development Control Plan (DCP), Part E1: Bondi Junction Centre, and Public Domain Technical Manual (PDTM) for the newly constructed Council's assets:

- (a) Pedestrian footpath
- (b) Road pavement
- (c) Kerb and gutter
- (d) Street light
- (e) Stormwater infrastructure located within the Council kerb and/or footpath
- (f) Landscape and street tree plantings

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

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



#### **4. PUBLIC AREAS AND RESTORATION WORKS**

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

#### **5. WORKS ON PUBLIC ROADS**

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

#### **6. SEPARATE APPLICATION FOR SIGNAGE**

Any proposed advertising structures to be displayed at the premises are to be subject to a separate development application to and approval from Council (if required).

#### **7. FUTURE USE OF TENANCIES**

The approved community facility spaces will require separate development application/s for the fit out and use of the future tenancies.

This approval does not permit cooking to be undertaken on the premises. Any proposal to utilise cooking equipment/appliances will be subject to a separate development application to Council and if approved will require an air handling system designed in accordance with AS 1668.1-1998 and AS1668.2-1991 or alternative solution satisfying the performance objectives of the Building Code of Australia.

#### **7A. AMENDMENT OF THE APPROVED PLAN**

In the event of approval, and prior to operation, of DA-150/2021 for the change of use of the part of the ground floor level to a café and signage, the approved plans under this development consent (DA-374/2019/A) shall be modified to reflect the approved plans of DA-150/2021 and a copy provided to Council and the Principal Certifying Authority.

*ADDED DA-374/2018/A*

## **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. 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**

### **11. HOARDING**

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

Consent is required from the Owners Corporation prior to the erection (if required) of hoarding on 17-25 Spring Street, Bondi Junction (SP 43551).

### **12. 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.

### **13. ENGINEERING DETAILS**

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

### **14. ENGINEERING CERTIFICATE OF ADEQUACY**

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

## **TRAFFIC MANAGEMENT & TRANSPORT**

### **15. 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)

## 16. BICYCLE PARKING

The total number of bicycle parking spaces are to be increased to 20 bicycle spaces and approved by Council's Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate. Bicycle parking is to meet relevant Australian Standards.

The location is to be identified on updated plans and agreed to by Council's Executive Manager, Infrastructure Services (or delegate).

Details are to be indicated on the plans prior to the issue of the relevant Construction Certificate.

### **STORMWATER & FLOODING**

## 17. STORMWATER MANAGEMENT

The stormwater plans prepared by Partridge Hydraulic Services, Job No. 2019H0093, DWG No. SWDA 1.1 (Rev P2), SWDA 1.2 (Rev P4), SWDA 1.3 (Rev P2), & SWDA 1.4 (Rev P2), dated 04/11/2019 have been checked and considered satisfactory with respect to Councils stormwater requirements.

During construction the applicant to ensure the management of stormwater runoff from the development is undertaken without impact to the subject site, neighbouring properties or receiving drainage system, stormwater runoff from the development shall be collected and piped by gravity flow as per the current plans, in accordance with Councils Stormwater Management Technical Manual. The works shall be constructed with respect to:

- (a) Providing an inspection pit at the property boundary, prior to connecting to the Council kerb inlet pit on Spring Street.
- (b) A non-return valve to be installed at the outlet pipe at the boundary pit so that stormwater cannot surcharge back into the property disposal system.
- (c) During construction Council's Engineer must inspect the proposed stormwater connection to the existing Council pit, prior to any backfilling.
- (d) Any infrastructure within the council's public domain, inclusive of stormwater kerb and gutter, pavement, tree pits and vehicle crossovers within the extent works shall be replaced as per the Councils Public Domain Technical Manual.
- (e) Since a sewer and water main runs close to the property (14-26 Ebley St), plans must also be presented to a Sydney Water Quick Check Agent for their approval.
- (f) Upon completion, 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.

For further information regarding this, please contact [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au), phone 9083 8886 or refer to Councils Stormwater Management Technical Manual:  
[https://www.waverley.nsw.gov.au/\\_data/assets/pdf\\_file/0010/2503/WaterManagementTechnicalManual2014-FINAL.pdf](https://www.waverley.nsw.gov.au/_data/assets/pdf_file/0010/2503/WaterManagementTechnicalManual2014-FINAL.pdf)

Note: Since a sewer and water main runs close to the property (14-26 Ebley St), plans must also be presented to a Sydney Water Quick Check Agent for their approval.

For further information regarding this, please contact [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au), phone 9083 8886 or visit Council's website for details:  
[https://www.waverley.nsw.gov.au/\\_data/assets/pdf\\_file/0010/2503/WaterManagementTechnicalManual2014-FINAL.pdf](https://www.waverley.nsw.gov.au/_data/assets/pdf_file/0010/2503/WaterManagementTechnicalManual2014-FINAL.pdf)



## **HERITAGE**

### **18. HERITAGE INTERPRETATION PLAN**

- a) An interpretation plan must be prepared in accordance with the Department of Premier and Cabinet publication 'Interpreting Heritage Places and Items Guidelines' (2005), then submitted and approved by Council's Heritage Architect prior to the issue of any Construction Certificate.
- b) The interpretation plan must detail how information on the history and significance of the Boot factory building will be provided for the public, and make recommendations regarding public accessibility, signage and lighting. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project.
- c) The approved interpretation plan must be implemented prior to the issue of any Occupation Certificate.

### **19. SCHEDULE OF CONSERVATION WORKS**

A detailed Schedule of Conservation Works prepared by a suitably qualified heritage architect and dealing in detail with the restoration and conservation of the Boot Factory building.

Details submitted for approval should also include:

- a) Lighting of the top floor cohesive with the proposed parasol roof should be detailed.
- b) Clarification of the 'temporary' office enclosures not becoming a permanent aspect of the building's usage.

Documentation to be submitted and approved by Council's Heritage Architect prior to the issue of the relevant Construction Certificate.

### **20. STRUTURAL STABILITY FOR HERITAGE WORKS**

A detailed report prepared by a suitably qualified engineer with the input of a suitable qualified Heritage Architect is to be submitted to Council and approved by Council's Heritage Architect, which:

- (a) Outlines the methodology for retention and conservation of the façade of the building and retained structure including sidewalls and floor slabs
- (b) Ensures the structural stability of the façade arising from the insertion of the approved openings into the existing façade.
- (c) Conserve window joinery of existing windows.

Documentation to be submitted and approved by Council's Heritage Architect prior to the issue of the relevant Construction Certificate.

### **21. FIRE SAFETY AND BCA UPGRADE WORKS TO BE REVIEWED BY A REGISTERED HERITAGE ARCHITECT**

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

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

## **FIRE SAFETY & ACCESS**

### **22. ESSENTIAL SERVICES - EXISTING BUILDING**

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

At the completion of the installation, a Final Fire Safety Certificate shall be attached to the Occupation Certificate, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:

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

### **23. BCA & FIRE SAFETY UPGRADING WORKS**

- a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, all existing areas of the Boot Factory and Mill Hill Centre buildings must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):
  - (i) Fire resistance and stability – Part C1;
  - (ii) Compartmentation and separation – Part C2;
  - (iii) Protection of openings – Part C3
  - (iv) Provision for escape – Part D1;
  - (v) Construction of exits – Part D2;
  - (vi) Access for people with a disability – Part D3 (the extent necessary in order to comply with the Premises Standards);
  - (vii) Fire fighting equipment – Part E1;
  - (viii) Smoke hazard management – Part E2;
  - (ix) Lift installation - Part E3;
  - (x) Emergency lighting, exit signs and warning systems – Part E4;
  - (xi) Sanitary and other facilities - Part F2;
  - (xii) Room sizes - Part F3; and
  - (xiii) Light and ventilation - Part F4.

Note: An exception to the above are the goings and risers to the existing Boot Factory building stairway. The existing goings and risers can remain without upgrade subject to compliance with recommendations detailed in the BCA Assessment Report prepared by Ben Long of BCA Logic Pty Ltd, dated 27 March 2020 with Reference No. 110600-BCA-r3.

- b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, an alternative building solution in accordance with Part A2 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the

relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.

- c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 4.55 of the Act to be lodged with Council to amend this consent.
- d) Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate.
- e) Consideration should be given to the future envisaged maximum patron capacity of the premises in the assessment of BCA compliance and the preparation of Construction Certificate documentation, specifically with regard to the aggregate exit widths, floor areas and sanitary facilities.

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

#### **24. FIRE SAFETY**

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

#### **25. ACCESS**

The development shall be provided with access and facilities for people with disabilities in accordance with the approved Access Plan and with AS1428.1-2009 Design for Access and Mobility Part 1: General Requirements for Access. Details are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate.

#### **ENERGY EFFICIENCY**

#### **26. ENERGY EFFICIENCY MEASURES**

The following improvements shall be included in the architectural plans:

- (a) Light power density – with LED fitting, the lighting power, density should achieve a maximum of 4.5W/m<sup>2</sup>.
- (b) Airconditioning system COP – Ensure the chosen mechanical system Coefficient of Performance (COP) is 4.2 or preferably higher.

Details to be submitted and approved by Council's Executive Manager, Environmental Sustainability (or delegate) prior to the issue of the relevant Construction Certificate.

## **WASTE**

### **28. AMENDED WASTE MANAGEMENT PLAN**

Plans and details are to be amended to reflect the following, the below is to be satisfied by Waverley Council's Sustainable Water Officer, prior to the issue of the relevant Construction Certificate.

- (a) Information detailed in the Site Waste Recycling Management Plan (SWRMP) regarding Office Waste Management is not in line with standard guidelines for separation of at Waverley Council. As part of Waverley Council's *Embedding Environmental Sustainability Program* and *Waste Avoiders Program*, Council has moved away from providing individual bins to each staff member and instead has centralised office bin stations for general waste and recyclable materials.
- (b) If the Kiosk will generate trade waste and if so, how will this waste be disposed of, stored and subsequently collected. Provisions should be allowed for in the SWRMP.
- (c) It is recommended, to allow for both intermittent increases in generation rates and better segregation of waste from different activities (for example the office use and kiosk) that double the amount of bin storage is provided. This will allow for greater flexibility for the building and collection frequency can be adjusted in line with the number of bins provided.
- (d) Should additional bins be required for large events as part of a separate *Event Waste Management Plan*, the storage location of these bins before and after the event should be considered. An appropriate place may be to temporarily store the empty bins prior to use in the general 'Storage' area, before placing the bins out the night before, to be collected and subsequently removed the next day. It is recommended consideration is given to this process.
- (e) Ventilation for the bin storage area and a connection to the sewer for cleaning of the bins is detailed as a requirement in the SWMRP.
- (f) An existing cigarette butt bin and public place bins are detailed on the plans to be removed. Given the likelihood of people using this space to consume goods purchased at the kiosk, or other foods during leisure time such as lunch breaks, consideration should be given to access to public place bins, in order to reduce the potential for littering in the area.

### **29. 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.



## **PUBLIC DOMAIN**

### **30. PUBLIC INFRASTRUCTURE WORKS**

The newly constructed Council's public infrastructure shall be maintained as outlined in this condition of consent.

- (a) Any alterations or reconstruction of the exiting constructed public domain works, require approval of the Executive Manager, Infrastructure Services prior to the issue of the relevant Construction Certificate.

Full design engineering drawings to be prepared by a suitably qualified and experienced engineering professional and be submitted to Council for the approval of the Executive Manager, Infrastructure Services prior to the issue of the relevant Construction Certificate, clearly demonstrating the changes.

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

- (a) Pedestrian footpath
  - (b) Road pavement
  - (c) Kerb and gutter
  - (d) Street light
  - (e) Stormwater infrastructure located within the Council kerb and/or footpath
  - (f) Landscape and street tree plantings
- (b) Measures to protect the exiting parking meter must be undertaken. Any damages or replacing cost of the parking meter shall be borne by the applicant.

#### **Notes:**

- Depending on the complexity of the proposed public domain works, the Council's review of each submission of the plans may take a minimum of six (6) weeks.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the public domain design submissions; however Council's title block shall not be replicated.
- Council's contact for public domain: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au)  
or Phone: 9083 8886 (operational hours between 9.30am to 4.00pm Monday to Friday)

### **30. PUBLIC ART**

Public Art shall be incorporated into the new development. Specific details and design of the proposed public art feature shall comply with Council's Public Art policy which can be viewed on Council's website and by liaising with Council's Coordinator, Curator and Visual Arts Officer. This may require referral to Council's Public Art Committee and subsequently discussions should commence early on to account for timeframes of assessment.

Details of artworks to be provided and approved by Council's Coordinator, Curator and Visual Arts Officer prior to the issue of the relevant Construction Certificate for the development.

## **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**

#### **31. 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.

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

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

#### **33. 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.

#### **34. PRE-CONSTRUCTION DILAPIDATION REPORT**

To ensure Council's infrastructure is adequately protected a pre-construction dilapidation report on the existing public infrastructure within the vicinity of the proposed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record (in colour) of any observable defects to the following infrastructure where applicable:-

- Road pavement
- Kerb and gutter
- Footpath
- Drainage pits and lintels
- Traffic signs
- Any other relevant infrastructure.

The report is to be dated, submitted to, and accepted by Council's Public Domain Engineer, prior to any work commencing on the site.

All fees and charges associated with the collation of this report shall be at the cost of the Applicant.

### **35. NOTIFICATION OF ADJOINING OWNERS & OCCUPIERS**

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

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

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

### **DEMOLITION & EXCAVATION**

### **37. 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.

### **38. 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**

### **39. 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.

### **40. 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.

No building materials or any other items associated with the development is to be stored within 17-25 Spring Street, Bondi Junction (SP 43551), unless discussed with the owners prior.

### **41. 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.

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

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



#### **43. TREATMENT OF BOUNDARY WALLS**

Any wall located on the boundary of the lot are to be finished to the same standard as the remaining building and not left unfinished to ensure a consistent visual appearance.

#### **REMEDATION WORKS**

#### **44. SITE CONTAMINATION - REMEDIATION WORKS**

- (a) The Remediation Action Plan (RAP) is to be peer reviewed by an NSW EPA accredited Site Auditor. Any recommendations shall be incorporated into the RAP.
- (b) Remediation and validation works shall be carried out in accordance with the RAP prepared and any issues/matters/recommendations raised by the Site Auditor.
- (c) Any variation to the RAP shall be approved by the Accredited Site Auditor and Council's Environmental Health Officer in writing prior to the commencement of any work. The applicant must inform the PCA in writing of any proposed variation to the remediation works. The PCA shall approve these variations in writing prior to commencement of works.
- (d) After completion of the remedial works, a copy of the Validation Report shall be submitted to Council. A Construction Certificate shall not be issued until Council approves the Validation Report in writing. The report shall be prepared with reference to the NSW Environment Protection Authority (EPA) guidelines, Consultants Reporting on Contaminated Sites and shall include:
  - Description and documentation of all works performed;
  - Results of validation testing and monitoring;
  - Validation results of any fill imported on to the site;
  - Details of how all agreed clean-up criteria and relevant regulations have been complied with; and
  - Clear justification as to the suitability of the site for the proposed works.

Where the Validation Report indicates conditions that will require ongoing review, these methods should be approved in writing by Council's Environmental Health Officer prior to validation.

#### **45. REMEDIATION REQUIREMENTS**

Where remediation works are required, the following requirements apply:

- (a) A sign displaying the contact details of the remediation contractor (and site facilitator if different to remediation contractor) shall be displayed on the site adjacent to the site access. This sign shall be displayed throughout the duration of the remediation works. Owners and/or occupants of the premises adjoining the site shall be notified, in writing, at least seven days prior to the commencement of remediation works.
- (b) Remediation work shall not be carried out that will adversely affect the appearance, health or stability of a tree, where works affecting the tree require Council approval.

#### **46. REMEDIATION WORKS REQUIRED**

All exposed areas shall be progressively stabilised and revegetated on the completion of remediation works. Remediation work must only be undertaken between the hours of 7am

and 5pm on Mondays to Fridays and 8am and 1pm on Saturdays with no work to be carried out on Sundays or public holidays.

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

The use of fill on the site is to be in accordance with the recommendations of the approved RAP.

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

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

- (a) Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material should be conducted in accordance with the NSW EPA Sampling Design Guidelines (1995) to ensure that the material is not contaminated.

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

- (a) Virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act 1997*), or
- (b) any other waste derived material the subject of a resource recovery exemption under cl. 51A of the *Protection of the Environmental Operations (Waste) Regulations 2005* that is permitted to be used as fill material.

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

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

The removal of contaminated material from the site is to be in accordance with the recommendations of the approved RAP.

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. The classification of the material is essential to determine where the waste may be legally taken. The *Protection of the Environment Operations Act 1997* provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the NSW EPA.

#### **49. SITE HEALTH & SAFETY PLAN**

The Health and Safety requirements of the approved RAP are to be implemented as a minimum set of practices prior to the commencement of remediation works.

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

## **50. CONTAMINATED MATERIAL REQUIRED TO BE REMOVED**

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

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (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. They shall also adopt work practices in accordance with the requirements of Safe Work Australia's National Standard for the Control of Inorganic Lead at Work (NOHSC: 1012 (1994) and NOHSC: 2015(1994).
- (c) Hazardous or intractable wastes arising from the demolition process (including all lead-contaminated materials) are to be removed and disposed of in accordance with the requirements NSW WorkCover Authority and the NSW Environment Protection Authority (EPA), and with the provisions of:
  - (i) Work Health & Safety Act 2011;
  - (ii) Work Health & Safety Regulation 2011;
  - (iii) Protection of the Environment Operations Act 1997 (NSW); and
  - (iv) NSW EPA Waste Classification Guidelines 2009.

## **51. ASBESTOS REMOVAL**

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover NSW Friable Class A Asbestos Removal Licence or where applicable a Non-friable Class B (bonded) Asbestos Removal Licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by WorkCover NSW (catalogue no.WC03561) and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400m x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

## 52. COMPLIANCE WITH SAFE WORK NSW

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

### NOISE

## 53. ACOUSTIC REPORT RECOMMENDATIONS

The "recommendations" as outlined in the acoustic report prepared by ADP Consulting: Engineering dated 27 March 2020 and received by Council on 27/03/2020 shall be implemented, including though not limited to:

- (a) Section 5.3 – Noise Emission recommendations,
- (b) Figure 2 & 3 - Maximum number of speakers; and
- (c) Section 5.4 – Mechanical Plant and equipment Preliminary recommendations.

## 54. REFRIGERATION UNITS & MECHANICAL PLANT

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

### TREE PROTECTION AND REMOVAL

## 55. TREE PROTECTION

The following trees shall be protected, in accordance with section 10 below:

Tree No.	Species	Location	Action
T 1	<i>Platanus hybrida</i> x (London Plane)	public footpath	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Trunk Protection boarding in accordance with Section 10.4. Demolish existing pavements within TPZ in accordance with Section 10.5. Undertake all excavations for new pavement sub-grade in accordance with Section 10.6. Install new pavements (surrounding trunk & to south) in accordance with Section 10.8 & 10.9. Further crown lifting to enhance view is considered unwarranted and is not recommended. Any additional crown lifting to be undertaken should not exceed 5 metres from pavement level. All such pruning should be undertaken in accordance with Section 10.10.
T 2	<i>Platanus hybrida</i> x (London Plane)	public footpath	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Trunk Protection boarding in accordance with Section 10.4. Demolish existing pavements within TPZ in accordance with Section 10.5. Undertake all excavations for new pavement sub-grade in accordance with Section 10.6. Install new pavements (surrounding trunk & to south) in accordance with Section 10.8 & 10.9. Further crown



			lifting to enhance view is considered unwarranted and is not recommended. Any additional crown lifting to be undertaken should not exceed 5 metres from pavement level. All such pruning should be undertaken in accordance with Section 10.10. Undertake all excavations for proposed stormwater drainage pipes within TPZ in accordance with Section 10.7.
<b>T 3</b>	<b><i>Platanus hybrida</i></b> x (London Plane)	public footpath	Consider amending layout to retain existing pavement opening (size) and rubberised softfall surround. Further crown lifting to enhance view is considered unwarranted. Retain in accordance with recommended Tree Protection Measures (Section 10). Install Trunk Protection boarding in accordance with Section 10.4. Demolish existing pavements within TPZ in accordance with Section 10.5. Undertake all excavations for new pavement subgrade in accordance with Section 10.6. Install new pavement in accordance with Section 10.8 & 10.9. Any additional crown lifting should not exceed 5 metres from pavement level. All such pruning should be undertaken in accordance with Section 10.10. Undertake all excavations for proposed stormwater drainage pipes within TPZ in accordance with Section 10.7.
<b>T 5</b>	<b><i>Platanus hybrida</i></b> x (London Plane)	On-site	Retain in accordance with recommended Tree Protection Measures (Section 10). Install Trunk Protection boarding in accordance with Section 10.3. Demolish existing pavements within TPZ in accordance with Section 10.5. Undertake all excavations for new pavement sub-grade in accordance with Section 10.6. Install new pavement in accordance with Section 10.8 & 10.9. Any additional crown lifting should not exceed 5 metres from pavement level. Crown thinning should not exceed 20% of the canopy volume. All such pruning should be undertaken in accordance with Section 10.10. All primary and secondary limbs should be retained intact. No branches exceeding 120mm in diameter should be pruned. Undertake all excavations for proposed stormwater drainage pipes within TPZ in accordance with Section 10.7.

#### 10.4 Trunk Protection

10.4.1 Trunk protection boarding shall be erected around Trees [T1, T2, T3 & T5] to avoid accidental damage, as indicated on the Tree Protection Plan (**Appendix 6**). The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8 metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with 2mm galvanised wire or galvanised hoop strap as shown in **Figure 3**. Recycled timber (such as demolition waste) may be suitable for this purpose, subject to the approval of the Project Arborist. The timbers shall be wrapped around the trunk (over the carpet underfelt), but not fixed to the tree to avoid mechanical injury or damage to the trunk. Trunk protection should be installed prior to

any site works and maintained in good condition for the duration of the construction period. Carpet underfelt (alone) is sufficient for trees with a trunk diameter of less than 200mm. This shall be wrapped around the trunk in a double layer and held in place with heavy-duty fibre reinforced adhesive tape (e.g. Gaffer Tape).

### **10.5 Demolition Works within Tree Protection Zones**

10.5.1 Demolition of paved areas within the Tree Protection Zones (TPZs) of trees [**T1, T3, T4 & T5**] shall be undertaken under the supervision of a qualified Arborist [Australian Qualification Framework (AQF) Level 5].

10.5.2 Asphalt pavements shall be removed by breaking the topcoat into manageable pieces. The broken sections shall be carefully lifted and folded over the remaining paved surface to minimise disturbance and compaction of the underlying soil profile. Unit pavements shall be demolished in a similar way, with minimal disturbance to the sub-base. Special care shall be taken where underlying woody roots have lifted or displaced the pavement (by hand lifting sections of pavement if required). Any plant or equipment used in demolition work shall operate within the footprint of existing paved areas and avoid traversing soft landscape areas. Where this is unavoidable, suitable ground protection shall first be installed in accordance with **Section 10.13**.

10.5.3 The pavement sub-base within the TPZ shall be gradually removed (where required) in layers of no greater than 50mm thick using a small rubber tracked excavator or alternative approved method to avoid excessive disturbance and compaction of the underlying soil profile and damage to underlying roots and minimise. The machine shall work within the footprint of the existing path footprint to avoid compaction of the underlying soil. The final layer of sub-base material shall be removed using hand tools where required to avoid compaction of the underlying soil profile and avoid damage to any underlying woody roots.

10.5.4 Demolition of existing walls, kerbs and other structures within the TPZ of trees [**T1, T2, T3 & T5**] shall be undertaken under the supervision of a qualified Arborist [AQF level 5]. The structures shall be demolished using equipment stationed outside the TPZ where possible or within the footprint of existing hardstand areas.

10.5.5 Care shall be taken to avoid the root systems, trunks and lower branches of trees in the vicinity of the structures during demolition works, with special attention required during demolition of the footings and other sub-surface members to avoid damage to woody roots. An observer ('spotter') shall be employed to assist the plant operator in order to detect and avoid damage to underlying woody roots during demolition. Trunk and/or branch protection shall be installed where there is a potential risk of damage to trees in proximity or overhead of the work.

### **10.6 Excavations within Tree Protection Zones**

10.6.1 Prior to any mechanical excavations for building foundations or pavement sub-grade within the TPZs of Trees [**T1, T2, T3 & T5**] exploratory excavation using non-destructive techniques shall be taken along the perimeter of the structure or pavement within the TPZ. Non-destructive excavation techniques may include the use of hand-held implements, air pressure (using an Airspade<sup>®</sup> device) or water pressure (hydro-excavation in combination with a vacuum extraction unit). The exploratory excavation shall be undertaken along the perimeter of the foundation or pavement (within the TPZ) to the depth of the foundation or to a maximum of 800mm from surface levels, to locate and expose any woody roots prior to any mechanical excavation.

10.6.2 All care shall be undertaken to preserve woody roots intact and undamaged during exploratory excavation. Any roots encountered of less than 30mm in diameter may be cleanly severed with clean sharp pruning implements at the face of the excavation where required. The root zone in the vicinity of the excavation shall be kept moist following excavation for the duration of construction to minimise moisture stress on the tree. Where large woody roots (greater than 30mm diameter) are encountered during exploratory excavations, further advice from a qualified arborist shall be sought prior to severance.

10.6.3 Large woody roots (greater than 30mm in diameter) located within the proposed new sub-base layer shall be retained intact without damage by carefully displacing soil material from around them using non-destructive excavation techniques. New sub-base material shall be carefully packed around the roots and tamped down by hand in order to minimise any physical damage to the roots.

## **10.7 Underground Services**

10.7.1 Trenching for underground services and stormwater pipes within the TPZs of Trees [T2, T3 & T5], shall be undertaken using non-destructive excavation in accordance with **Section 10.6**. Where large woody roots are encountered during excavation or trenching (root diameter greater than 30mm), these shall be retained intact wherever possible (e.g. by tunnelling beneath roots and inserting the pipeline or conduit beneath or re-routing the service etc). Where this is not practical and root pruning is the only alternative, proposed root pruning should be assessed by a qualified arborist [AQF 5] to evaluate the potential impact on the health and stability of the subject tree.

10.7.2 Installation of underground services and stormwater pipes within the SRZs of Trees [**any tree nominated for retention**], shall only be undertaken by Horizontal Directional Drilling (HDD) (also referred to as sub-surface boring or Micro-tunnelling for large diameter pipes). The Invert Level of the pipe, plus the pipe diameter, must be lower than the estimated root zone depth as specified. At this site a minimum depth of 1 metre to the invert level of the pipe is specified.

## **10.8 Pavements**

10.8.1 Proposed paved areas within the TPZs of Trees [T1, T2, T3 & T5] shall be placed at or slightly above grade where possible to minimise excavations within the root zone and avoid severance and damage of woody roots. The pavement sub-base material should be supplied and installed in accordance with **Section 10.9**. The pavement surface shall be an open jointed unit pavement to permit some moisture percolation to the root zone within TPZs (other than the area designated as the public footpath (north of Trees T1, T2 & T3).

## **10.9 Pavement Sub-base**

10.9.1 Pavement sub-base material within TPZs of trees [T1, T2, T3 & T5] shall be a coarse, gap-graded material such as 20 – 30mm crushed basalt (Blue Metal) or equivalent no-fines gravel/aggregate material to provide some aeration and moisture permeation to the root zone (except for the area of the proposed public foot path as detailed). Note that Dense Graded Base (DGB) such as road base, crushed concrete or crushed sandstone or other similar material containing a high percentage of fines is unacceptable for this purpose. The fill material should be consolidated using a nonvibrating roller or similar to minimise compaction of the underlying soil. A permeable geotextile may be used beneath the sub-base to prevent migration of the stone into the sub-grade and provide greater load-bearing capacity if deemed necessary.

## 10.10 Canopy & Root Pruning

10.10.1 Canopy pruning of Trees [**T1, T2, T3 & T5**] (that essential to clear the building envelope and temporary scaffolding), any approved Crown Lifting and any approved Crown Thinning and/or General Crown Maintenance shall be carried out in accordance with Australian Standard 4373-2007 – *Pruning of Amenity Trees*. All pruning work shall be carried out by a qualified and experienced arborist or tree surgeon [Australian Qualification Framework Level 3] in accordance with the NSW WorkCover *Code of Practice for the Amenity Tree Industry* (1998).

10.10.2 Any Crown Lifting (removal of lower branches) should not exceed five (5) metres from pavement level. No branches of greater than 120mm in diameter should be removed or pruned without further advice from a Consulting Arborist [Australian Qualification Framework Level 5].

10.10.3 Any proposed Crown Thinning (including any General Crown Maintenance) of Trees [**T5**] should *not* exceed more than 20% of the total canopy volume and retain the natural form and branching habit of the tree (as shown in **Figure 1**). Crown Thinning shall only be applied to tertiary branches, with all primary and secondary branches retained intact. No branches of greater than 120mm in diameter should be removed or pruned without further advice from a Consulting Arborist [Australian Qualification Framework Level 5].

10.10.4 Where root pruning of [**any tree nominated for retention**] is required to facilitate construction, roots shall be severed with clean, sharp pruning implements and retained in a moist condition during the construction phase using Hessian material or mulch where practical. Severed roots shall be treated with a suitable root growth hormone containing the active constituents Indol-3-yl-Butric Acid (IBA) and 1-Naphthylacetic Acid (NAA) to stimulate rapid regeneration of the root system.

## 10.11 Tree Damage

10.11.1 Care shall be taken when operating cranes, drilling rigs and similar equipment near trees to avoid damage to tree canopies (foliage and branches). Under no circumstances shall branches be torn-off by construction equipment. Where there is potential conflict between tree canopy and construction activities, the advice of the Site Arborist must be sought.

10.11.2 In the event of any tree becoming damaged for any reason during the construction period a consulting arborist [Australian Qualification Framework Level 5] shall be engaged to inspect and provide advice on any remedial action to minimise any adverse impact. Such remedial action shall be implemented as soon as practicable and certified by the arborist.

## 10.12 Temporary Scaffolding

10.12.1 Where temporary scaffolding must be erected within the TPZ of trees [**T5**], the scaffold shall be erected in accordance with Figure 5. Where foliage or branches project through the scaffold and create a safety hazard, this foliage and branches shall be temporarily excluded from the inner part of the scaffold by affixing a shade cloth screen on the outside of the scaffold (refer to Figure 5), or alternatively temporarily tying back branches where required. The pruning or removal of branches to accommodate the scaffold should be avoided wherever possible. Suitable ground protection shall be



installed beneath the scaffold as shown in Figure 5 to prevent contamination, disturbance and compaction of the soil profile within the scaffold zone during construction.

10.12.2 Where pruning or removal of branches to accommodate temporary scaffolding is unavoidable, all such pruning work shall be undertaken in accordance with Section 10.10.

### 10.13 Ground Protection

10.13.1 Construction haul routes shall be confined to existing paved areas wherever possible. Where this is not feasible and construction haul routes or access for plant and equipment must traverse soft landscape areas within TPZs of [any tree nominated for retention], 20mm thick marine ply sheets or truck mats (such as Envirex Versadeck® access mats) (refer Figure 6 shall be placed over the top of the ground surface to minimise compaction and disturbance of the underlying soil profile and root zone.

10.13.2 Ground protection shall be installed prior to any site works and maintained in good condition for the duration of the construction period. On completion of the works, ground protection shall be removed without damage or disturbance to the underlying soil profile.

## 56. TREES PERMITTED TO BE REMOVED

The following trees are permitted to be removed, as per the approved arborist report;

Tree No.	Species	Location	Action
T 4	<i>Platanus x hybrida</i> (London Plane)	On-site	Appears stable with poor branching structure. Exhibits a large axial wound extending from GL to PLs at 6-8 metres with dieback in vascular tissue (suspected poisoning). Remove as per Arborist report.
T 6	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Located within footprint of proposed new paved area.	Remove as per Arborist report.
T 7	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Located within footprint of proposed new paved area.	Remove as per Arborist report.
T 8	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Located within footprint of proposed new paved area.	Remove as per Arborist report.
T 9	<i>Lagerstroemia indica</i> (Crepe Myrtle)	Located within footprint of proposed new paved area.	Remove as per Arborist report.

## 57. STREET TREES TO BE RETAINED/TREE PROTECTION

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

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) event damage to bark and root system;

- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.

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

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

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

#### **58. 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.

#### **59. SUBDIVISION CERTIFICATE**

A Subdivision Certificate must be obtained from Council in accordance with the Environmental Planning and Assessment Act, 1979 prior to the registration of the subdivision plans.

#### **60. SUPERVISING ENGINEER FINAL CERTIFICATE – PUBLIC DOMAIN**

Prior to the issue of any Occupation Certificate for the works, the Applicant shall submit to Council, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved plans and Waverley Council standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

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

To ensure public infrastructure works required under the consent are completed to Council's satisfaction a final inspection of the completed works is required from Council's Engineer.

Prior to the issue of any Occupation Certificate, a Final Compliance Certificate shall be obtained from Council confirming that all works in the road reserve including all public domain infrastructure works and restoration, have been completed to Council's satisfaction.

##### **Notes:**

- The issue of a Final Compliance Certificate from the Council Engineer will be withheld should there be any outstanding fees and charges applicable to the development. This includes but not limited to fees applicable for engineering plans assessment and work inspection fees.
- To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works completed by the applicant/developer following completion of the development. The defects liability period shall commence from the date of issue of the Occupation

Certificate for the development. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period.

## **62. CERTIFICATION OF LANDSCAPING**

At the completion of all works a certificate is to be submitted to the Principal Certifying Authority from a qualified Landscape and/or Arboriculture Consultant certifying that the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established. If relevant, the waterproofing on any green roof is to be tested and evidence of the test is to be provided with the certification.

## **63. 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.

### **OTHER MATTERS**

## **64. ALLOCATION OF STREET NUMBER**

The consolidation of the parcels has led to the following allocation of address numbering:

- 33 - primary address site number
- Spring Street - primary address site location.
- Mill Hill Community Centre - Building A
- Boot Factory - Building B

All sub premises numbers must be unique,

- Room numbers shall be applied in a logical sequence and within a primary address site shall be unique regardless of the type of the room.
- Commercial premises will be identified with an address identifier ie Shop 1, Office 2, Office 3, etc

The primary address site number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary located near the entry point and clearly visible from Spring street. The primary address site number shall be positioned on the site prior to the issue of the Occupation Certificate.

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

## **65. SITE MAP**

A wayfinding site map is to be provided at the entry point of the site to assist visitors in and around the site. The site map shall be installed prior to the issue of an Occupation Certificate.

## **66. MAXIMUM PERSON CAPACITY – DETAILS REQUIRED**

Insufficient details have been provided with the development application to properly assess the maximum persons capacity for the site. Therefore, prior to the issue of any



Occupation Certificate, details shall be submitted for the approval of Council's Director, Planning, Environment and Regulatory (or delegate) to approve the maximum persons capacity for the site.

Details required shall include a BCA assessment prepared by a suitably qualified consultant and having regard to aggregate exit widths, uses, floor plan and sanitary facilities.

**67. LIGHTING**

- (a) Lighting on the site is to be in accordance with Council's Lighting Strategy.
- (b) 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.
- (c) All external lighting fixtures should be vandal resistant.
- (d) Lighting should be carefully considered in areas covered by CCTV to allow for optimum viewing.
- (e) Lighting should be free of obstructions, such as tree branches, pipes, etc.
- (f) 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.

## **E. OPERATIONAL MATTERS**

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

### **MANAGEMENT PLANS**

#### **68. OPERATION IN ACCORDANCE WITH RELEVANT MANAGEMENT PLANS FOR THE SITE**

The premises shall operate in accordance with the following Council approved management plans for the building:

- (a) Waste Management Plan
- (b) Plan of Management

The onus is on the management of the subject premises to obtain a copy of these plans and ensure management and staff of the subject tenancy are familiar with the relevant terms and conditions contained within.

#### **69. PLAN OF MANAGEMENT – GENERAL USE**

An amended Plan of Management (PoM) is to be submitted for the operation of the premises and is to include details of the operational and management procedures as well pro-active measures to control the following:

- (a) Amenity impacts to the surrounding neighbourhood of the premises;
- (b) Venue Management Plan (relating to patron capacity, approved hours of operation, any trial periods, noise conditions, handling of complaints, staffing roles and responsibilities)
- (c) Safety and Security that references Crime Prevention Through Environmental Design (CPTED) principles in the design of the courtyard space and the methodology for minimising antisocial behavior in and around the site, in particular the outdoor civic space.
- (d) Compliance with conditions (relating to patron capacity, approved hours of operation, any trial periods, noise conditions, handling of complaints);
- (e) The behaviour of patrons;
- (f) Liquor practices (if licensed, including the responsible service of alcohol);
- (g) Staffing roles and responsibilities (including security personnel if required);
- (h) Management of patrons within the premises and their exit and dispersal from the area
- (i) Event/function management,
- (j) Hours of operation for individual uses within the Community Facility;
- (k) Noise Emission Recommendations outlined in the approved Acoustic Report; and
- (l) Other such operational matters to ensure compliance with relevant regulatory requirements.

The PoM shall be approved by Council's Director, Planning, Environment and Regulatory (or delegate) prior to the commencement of operations of works approved in this consent.

#### **70. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE**

A Waste Management Plan must be submitted to Council's Executive Manager, Environmental Sustainability (or delegate) and include including the following where relevant;

- (a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)

- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) 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 to be available on site when requested.
- (j) At no times shall bins be stored on the public domain (e.g. footpaths).

## **71. OPERATION IN ACCORDANCE WITH PLAN OF MANAGEMENT (POM)**

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

## **72. EMERGENCY EVACUATION PLANS**

- (a) An **emergency evacuation plan** must be prepared, maintained and implemented for tenancy in accordance with the requirements of AS3745.
- (b) An emergency evacuation plan must specify the following:
  - i. The location of all exits, and fire protection and safety equipment, for all parts of the tenancy,
  - ii. How the patrons are to be evacuated from the building in the event of a fire or other emergency.

Any fire safety officers appointed to be present must have appropriate training in evacuating persons from the building in the event of a fire or other emergency.

## **73. COPIES OF CONSENTS AND MANAGEMENT PLANS**

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

## **GENERAL MATTERS**

### **74. (1). HOURS OF OPERATION**

#### **(a) Hours of Operation**

**(i) Internal Areas:** The hours of operation for the use of indoor area's of the premises is restricted to:

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

**(ii) Theatre (first floor level):**

- Monday to Sunday: 7.00am to 11.00pm
- Infrequent 24-hour operation of the theatre spaces is restricted to 12 occurrences per year.

**(iii) External areas (Norman Lee Place and roof terrace to Mill Hill Community Centre):**

The hours of operation for the use of the external areas of the premises is restricted to:

- Monday to Sunday: 7.00am to 10.00pm
- An exemption to these hours applies to temporary events, managed by Council's Event Policy and Events Division.

(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.

### **74(2). REVIEWABLE CONDITION PERMITTING EXTENDED TRADING HOURS**

Notwithstanding condition 74(1) (Hours of Operation) of this consent and subject to condition 74(2) (Review condition permitting review of extended trading hours) of this consent, the premises may trade as follows ("**the extended trading hours**"):

**Monday to Saturday: 11.00pm – 12.00am**

**Sunday: 10.00pm – 12.00am**

### **74(3). REVIEW CONDITION PERMITTING REVIEW OF THE EXTENDED TRADING HOURS**

(a) Condition 74(2) of this consent is subject to review condition 74(3).

(b) The purpose of this review condition is:

- i. To enable Council to review the environmental performance of the use and operation of the premises during the extended trading hours;
- ii. To enable the Council to change **the extended trading hours** in condition 74(2) after carrying out a review.

(c) Condition 74(2) will be reviewed not earlier than 1 (one) year from the date of this determination. The Council may change condition 74(2) on review.

(d) The operator of the premises will be given not less than 14 days written notice that a review of condition 74(2) is to be carried out under this condition. The Council may notify such other persons as it thinks fit of the review. The Council must take into account any submissions made by a person (including the operator) that are received within 14days after notice is given to the person of that review.



- (e) Consideration of the review will include, but not be limited to:
  - i. compliance of the premises in terms of security and its general management;
  - ii. number and nature of substantiated complaints regarding the operation of the premises received by Council or the NSW Police Force;
  - iii. compliance with conditions of consent and the Plan of Management;
  - iv. any comments received from the NSW Police Force; and
  - v. any other matters considered relevant to the environmental evaluation of the premises.
- (f) Conditions 74(1), 74(2), 74(3) apply during the period that sections 80A (10B)-(10E) of the *Environmental Planning and Assessment Act 1979* remains in force. In the event Section 80A (10B)-(10E) of the *Environmental Planning and Assessment Act 1979* is repealed or amended in such a way so as to prevent a review of the extended trading hours, the extended trading hours will cease to apply on the one year anniversary of this determination.
- (g) If the Council makes a decision to change reviewable condition 74(2) and:
  - (i) An appeal against that decision is lodged within 7days of service of the determination in respect of the decision; and
  - (ii) The appeal is prosecuted by the appellant with diligence then the operator may continue to trade during the extended hours until the Land and Environment Court has finally determined the appeal.

## **75. MAXIMUM PERSON CAPACITY**

- (a) The approved person capacity for the premises shall be limited to the number approved by Council's Director, Planning, Environment and Regulatory (or delegate).
- (b) Management are responsible for ensuring the number of patrons in the premises does not exceed the approved capacity specified in sub clause (a).

## **76. SIGNAGE TO BE DISPLAYED**

- (a) Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the main principle entry/ies to the premises stating the maximum number of persons, and approved hours (for each area) as specified in this development consent, that are permitted in the building.
- (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 commencement of operations.

## **77. EVENTS / FUNCTIONS**

Any events or functions at the site shall be subject to separate approval by Council's Properties and Facilities /Event Management Division.

Where relevant, agencies including but not limited to NSW Police, Transport NSW, Roads and Maritime Services, NSW Ambulance Service, Taxi Council are to be notified of the event.

## **78. INTRUDER ALARM**

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

## **79. 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.

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 minutes.

- (b) 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.
- (c) 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.

## **80. NOISE EMISSIONS**

The use of the Pavilion 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.

## **81. NOISE FROM SPEAKERS**

All speakers shall:

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

## **82. 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; and
- (e) 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.

## **83. NEIGHBOURHOOD AMENITY**

The management of the premises:

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

#### **84. SURVEILLANCE CAMERAS TO BE MAINTAINED ON THE PREMISES**

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

- (a) Internal cameras must record continuously from opening time until one hour after the premises are required to close (or, in the case of premises that are not required to cease trading, continuously at all times),
- (b) External cameras must operate continuously;
- (c) It must record in digital format and at a minimum of 15 frames per second,
- (d) Any recorded image must specify the time and date of the image;
- (e) The system's cameras must cover:
  - (i) all entry and exit points of the premises,
  - (ii) internal courtyard,
  - (iii) the footpath immediately adjacent to the premises,
  - (iv) any front, side and rear access points to the premises, and
  - (v) all publicly accessible areas (other than toilets) on the premises.
- (f) Cameras must have the ability to record viewable footage in low light environments;
- (g) Any cameras monitoring the entry and exit points of the premises, shall provide recorded images in which the picture quality and detail is sufficient to enable the identity of person/s to be established.
- (h) CCTV recordings must be retained for at least 30 days.
- (i) Signage shall be clearly displayed adjacent to the principal entry alerting persons entering the premises that CCTV is in operation.
- (j) Ensure that at least one member of staff is on the premises at all times the premises is trading who is able to access and fully operate the system, including downloading and producing recordings of CCTV footage.
- (k) Provide any recordings made by the system to an Authorised Council or Police Officer within 24 hours of any request by an Authorised Council or Police Officer to provide such recordings.

#### **85. SIGNAGE / ADVERTISING**

- (a) No advertising signs or notices are to be affixed to the windows of the premises.
- (b) Any proposed advertising structures to be displayed at the premises are to be subject to a separate development application to and approval from Council.
- (c) 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 SATISFACTION OF CONDITIONS:**

Any condition that requires additional information or documentation to be submitted and/or approved by Council or a specific Council Officer, shall be submitted in the following manner:

- (a) Include a cover letter detailing what condition you are seeking to address and the relevant officer to which the information must be referred to.
- (b) 1 x hard copy and 1 digital copy of all documents to be submitted to the Planning counter located at Council's Customer Service Centre.
- (c) Digital files should be labelled in the correct manner to avoid delays (refer to Council's website for naming convention).
- (d) Where possible, please submit all information addressing all relevant conditions in one bundle.

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

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

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

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

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

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

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

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

proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

**AD5. SUITABLY QUALIFIED ACOUSTIC CONSULTANT**

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

**AD6. EXCAVATION TO BE LIMITED**

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

**AD7. BONDI - ROSE BAY SAND BODY**

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

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

**AD8. TREE REMOVAL/PRESERVATION**

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

**AD9. WORK OUTSIDE PROPERTY BOUNDARY**

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

**AD10. BUILDING TO BE WRAPPED**

The applicant is encouraged to investigate possibilities of extracting an image of the completed building onto the hoarding and mesh surrounding the site during the demolition and construction stages of the development to minimise the visual intrusion of what is otherwise a large single coloured mesh 'block' during this time. Any advertising on the hoarding requires Council's written approval.

**AD11. LIQUOR SALE / SUPPLY / CONSUMPTION**

The primary purpose of the premises is to be an unlicensed community facility use. An application to modify this consent under section 4.55 of the Environmental Planning and Assessment Act 1979 is to be submitted to, and approved by Council prior to serving liquor on the premises.

## **Advice to Applicant**

Your Construction Certificate will not be issued until all the conditions of consent are satisfied.

## **Sydney Water Requirements**

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

## **Dial Before You Dig**

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

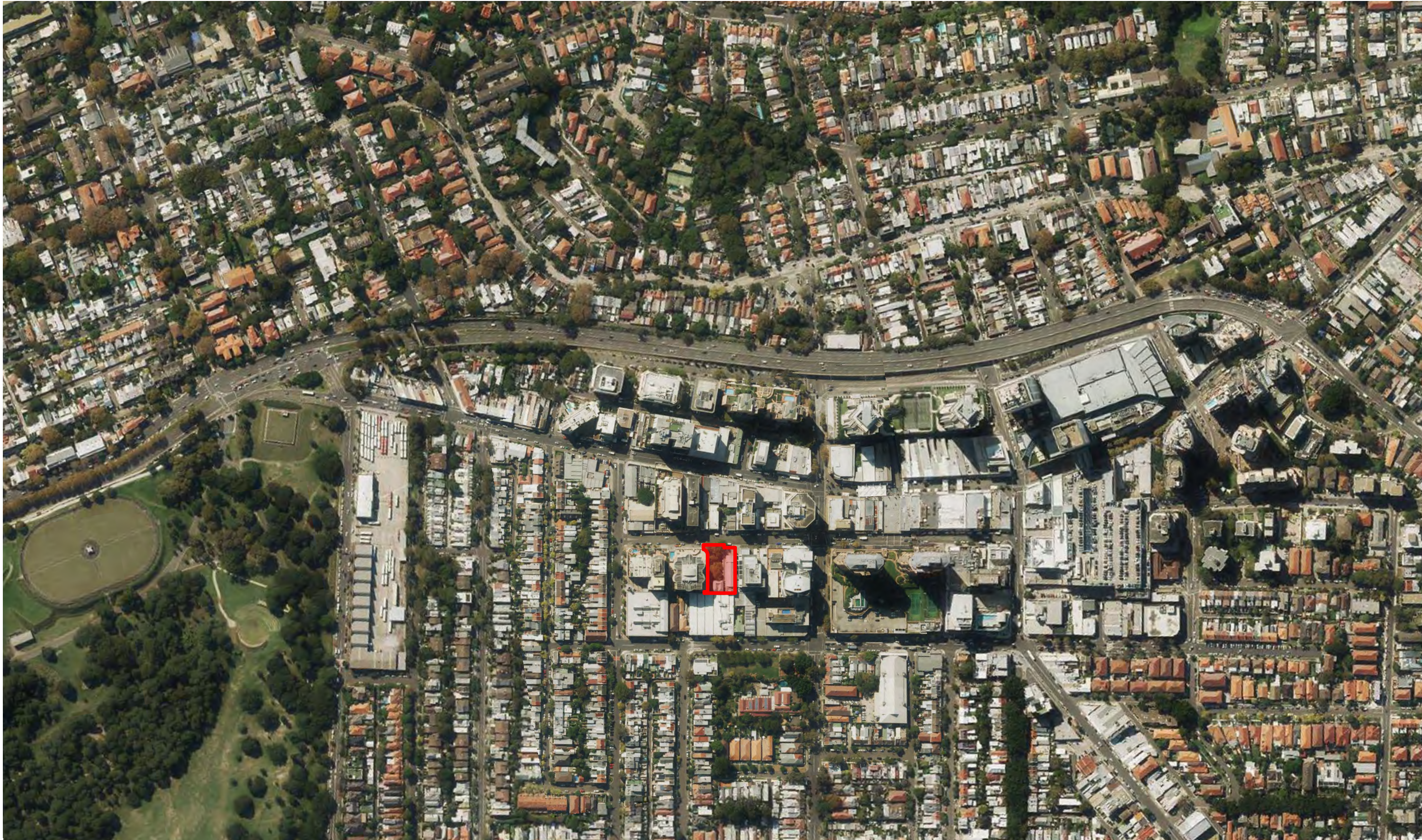
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# THE BOOT FACTORY - ADAPTIVE REUSE - SECTION 4.55 MODIFICATION

27-33 SPRING STREET, BONDI JUNCTION, NSW, 2022



1 LOCATION MAP



## DRAWING LIST

NO.	DRAWING TITLE	SCALE@A1	REVISION
A000	COVER PAGE		F
A010	LEGEND		A
A020	SITE PLAN	1:200	F
A049	BASEMENT FLOOR DEMOLITION PLAN	1:100	A
A050	GROUND FLOOR DEMOLITION PLAN	1:100	F
A051	LEVEL 1 DEMOLITION PLAN	1:100	F
A052	LEVEL 2 DEMOLITION PLAN	1:100	F
A053	ROOF DEMOLITION PLAN	1:100	F
A056	MHC - ELEVATIONS DEMOLITION	1:100	A
A100	BASEMENT FLOOR PLAN	1:100	F
A101	GROUND FLOOR PLAN	1:100	F
A102	LEVEL 1 FLOOR PLAN	1:100	F
A103	LEVEL 2 FLOOR PLAN	1:100	F
A104	ROOF PLAN	1:100	F
A200	NORTH ELEVATION	1:100	F
A201	EAST ELEVATION	1:100	F
A202	SOUTH ELEVATION	1:100	F
A204	MHC - WEST ELEVATION	1:100	B
A300	SECTION A	1:100	F
A301	SECTION B	1:100	F
A302	SECTION C & D	1:100	A

Notes  
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Rev	Dwn	Chk	Issue Name	Date
A	AC	TA	FOR INFORMATION	11/10/19
B	AC	TA	FOR INFORMATION	04/11/19
C	AC	TA	FOR INFORMATION	13/11/19
D	AC	TA	FOR DA	15/11/19
E	AC	TA	DA AMENDMENT	26/03/20
F	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/02/21

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Project Title  
THE BOOT FACTORY ADAPTIVE REUSE PROJECT  
Drawing Title  
COVER PAGE

Project Number  
1803  
Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION

Drawing Number  
A000  
Revision  
F



== : == EXISTING TO BE DEMOLISHED

PT01	PAINT FINISH - MIO PAINT SYSTEM TO STEELWORK
PT01-B	PAINT FINISH - TO EXISTING TRUSSES
PT02	PAINT FINISH - TO EXISTING RENDERED BRICKWORK

MB01	BRASS FINISH TO SHROUD
SS	STAINLESS STEEL

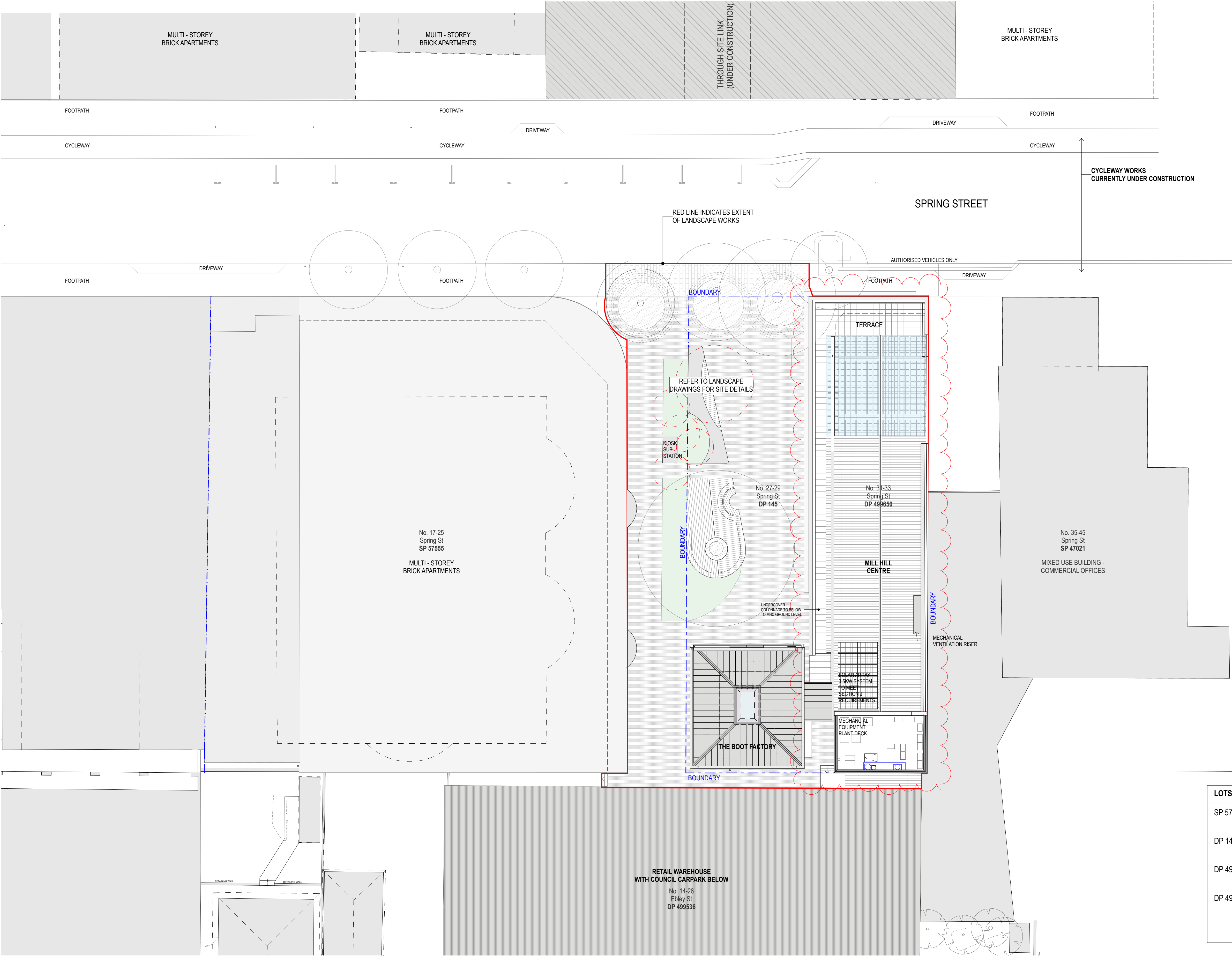
BAL1	BALUSTRADE, 10mm PLATE STEEL BALUSTRADE, FINISHED WITH PT01 FINISH
HR1	BRASS 35mm DIAMETER PIPE HANDRAIL WITH BRASS STAND OFF BRACKETS FROM BAL 1
HR2	35mm DIAMETER PIPE HANDRAIL WITH STAND OFF BRACKETS FROM EXISTING MASONRY WALL

MC1 STEEL COLUMN DOUBLE PFC BACK TO BACK WITH 10mm GAP  
WITH UNIVERSAL BEAM ROOF RAFTERS

FIRE HYDRANT TO SITE

HC - HOSE COCK TO LANDSCAPED AREA

## Revision



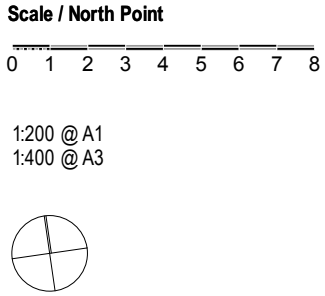
LOTS UPON WHICH WORKS ARE TO BE UNDERTAKEN		LOT AREAS
SP 57555	No. 17-25 SPRING ST (mixed use building - commercial & apartments)	2390.81 m2
DP 145	No. 27-29 SPRING ST (The Boot Factory and Norman Lee Place site)	597.7 m2
DP 499650	No. 31-33 SPRING ST (Mill Hill Centre site)	602.7 m2
DP 499536	No. 14-26 EBLEY ST (Retail warehouse with Waverley Council carpark beneath)	2393 m2
		<b>TOTAL AREA 5984.36 m2</b>

Extent of works

Notes  
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F	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/02/21

Key



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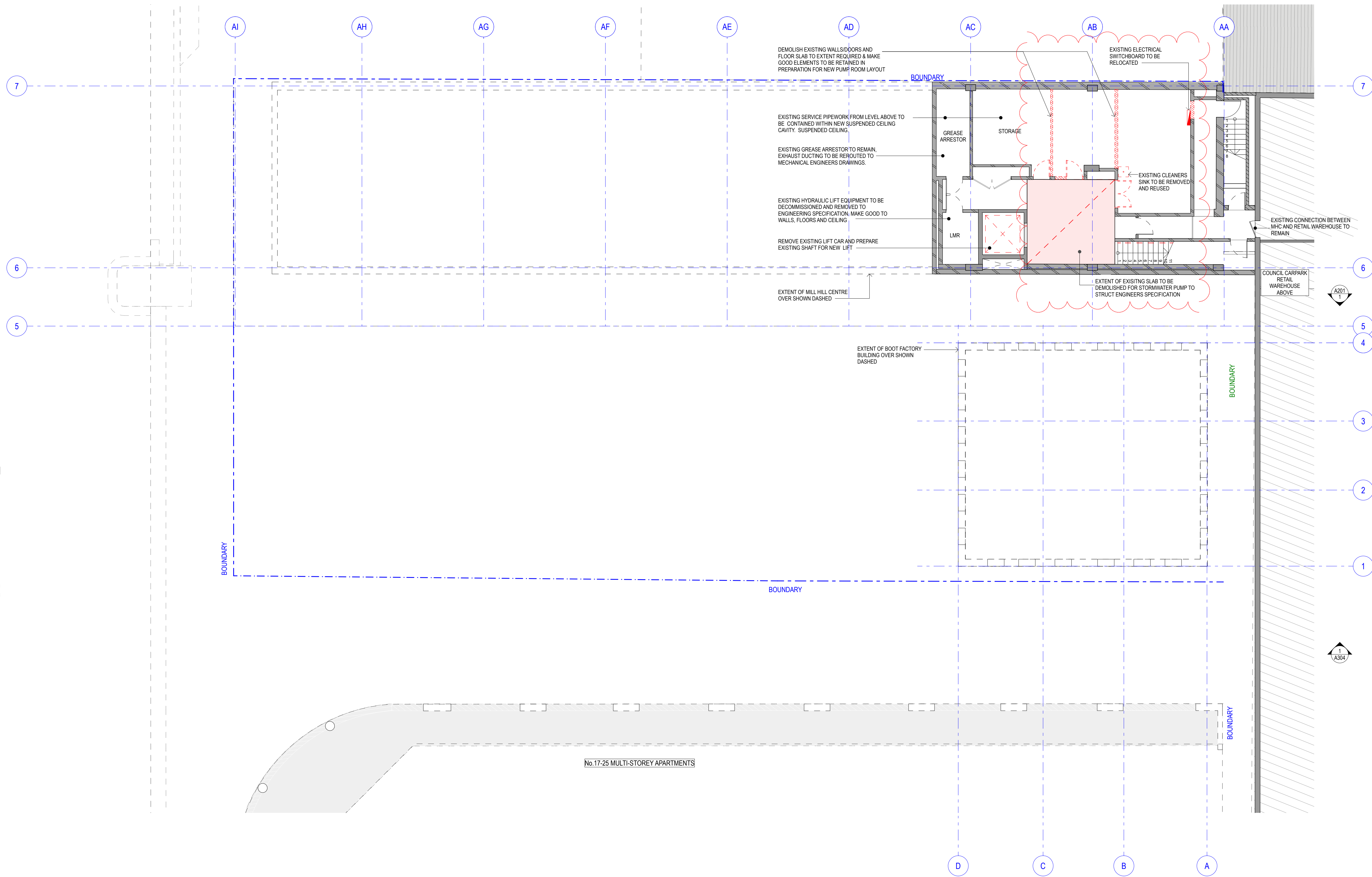
Client  
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Project Address  
27-33 SPRING STREET,  
BONDI JUNCTION,  
NSW, 2022

Project Title  
**THE BOOT FACTORY ADAPTIVE REUSE PROJECT**  
Drawing Title  
**SITE PLAN**  
Project Number  
1803  
Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION

Drawing Number  
**A020**  
Revision  
F





1

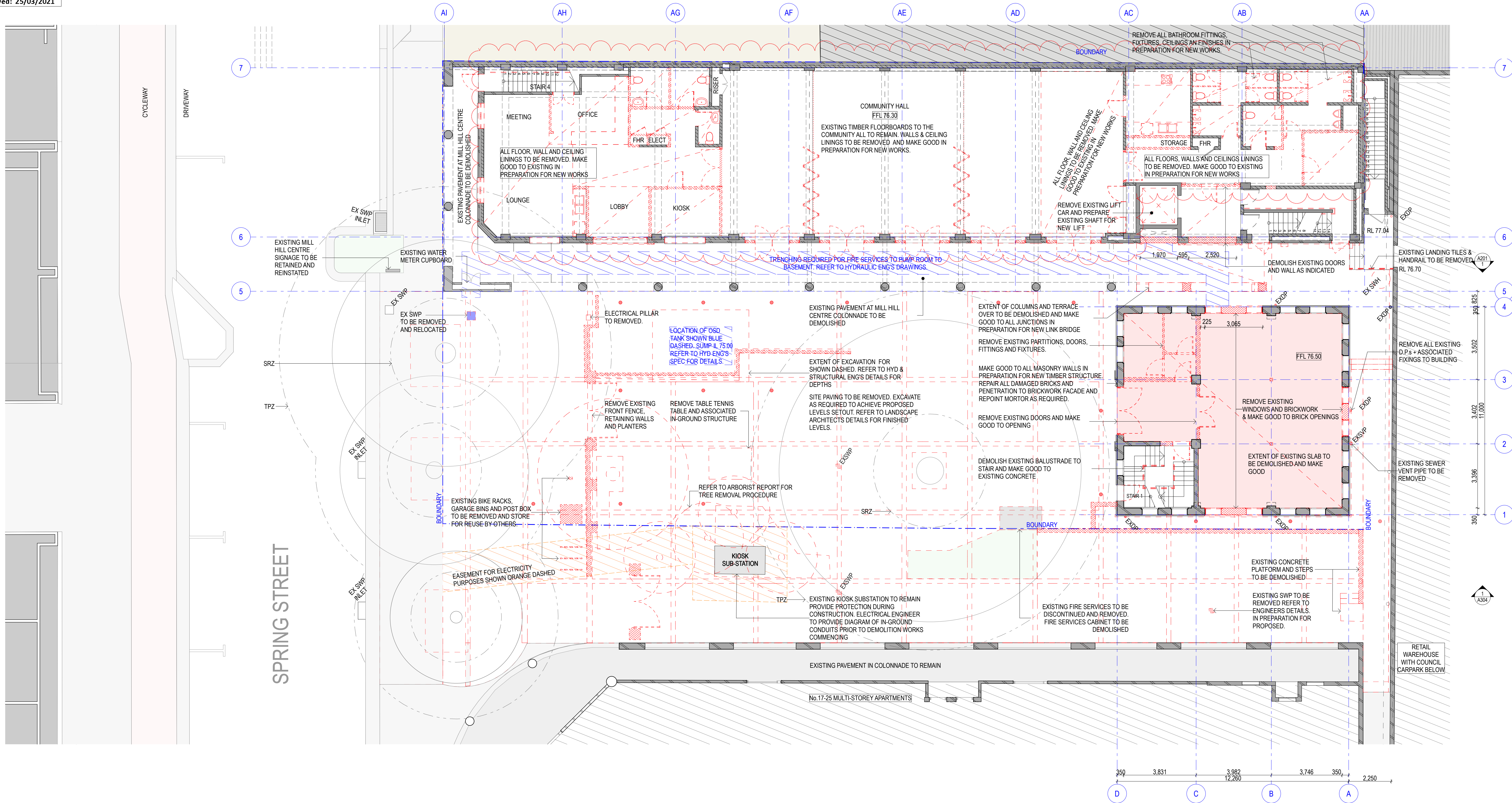
LEVEL BASEMENT - DEMOLITION  
1:100

DEMOLITION LEGEND

- EXISTING WALL TO BE KEPT
- EXISTING WALL TO BE KEPT
- EXISTING WALL TO BE DEMOLISHED
- EXISTING SLAB TO BE DEMOLISHED
- EXISTING TO BE DEMOLISHED

Notes		Rev		Dwn		Chk		Issue Name		Date		Key		Scale / North Point		Access Consultant		Arborist		BCA Consultant		Civil Engineer (Stormwater)		Fire Engineering		Heritage		Landscape Architect		Architect		Client		Project Title	
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														1:100 @ A1 1:200 @ A3																				Drawing Title	
																																		BASEMENT FLOOR DEMOLITION PLAN	
																MEP ADP Consulting E: g.white@adpconsulting.com.au T: 02 8203 5447		Principal Certifying Authority Phil Chun E: philip.chun@philipchun.com T: 02 9412 2322		Quantity Surveyor MBM E: keith.branden@mbmpl.com.au T: 02 9270 1000		Structural Engineer Partridge Structural E: tim.marcol@partridge.com.au T: 02 9460 9000		Town Planner City Plan E: jake@cityplan.com.au T: 02 8270 3500		Waste Consultant Elephants Foot Recycling Solutions E: wmp@elephantsfoot.com.au T: 02 9780 3571		Energy BCA Energy E: studio@archeroffice.com T: 1300 787 302		Project Address 27-33 SPRING STREET, BONDI JUNCTION, NSW, 2022		Project Number 1803 Documentation Stage SEC 4.55 MODIFICATION APPLICATION		Revision A	
																																Drawing Number A049			





1

GROUND FLOOR - DEMOLITION  
1:100

DEMOLITION LEGEND

- EXISTING WALL TO BE KEPT
- EXISTING WALL TO BE KEPT
- EXISTING WALL TO BE DEMOLISHED
- EXISTING SLAB TO BE DEMOLISHED
- EXISTING TO BE DEMOLISHED

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B	AC	TA	FOR INFORMATION	04/11/19
C	AC	TA	FOR INFORMATION	13/11/19
D	AC	TA	FOR DA	15/11/19
E	AC	TA	DA AMENDMENT	26/03/20
F	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/02/21

Key

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27-33 SPRING STREET,  
BONDI JUNCTION,  
NSW, 2022

Project Title  
THE BOOT FACTORY ADAPTIVE REUSE PROJECT

Drawing Title  
GROUND FLOOR DEMOLITION PLAN

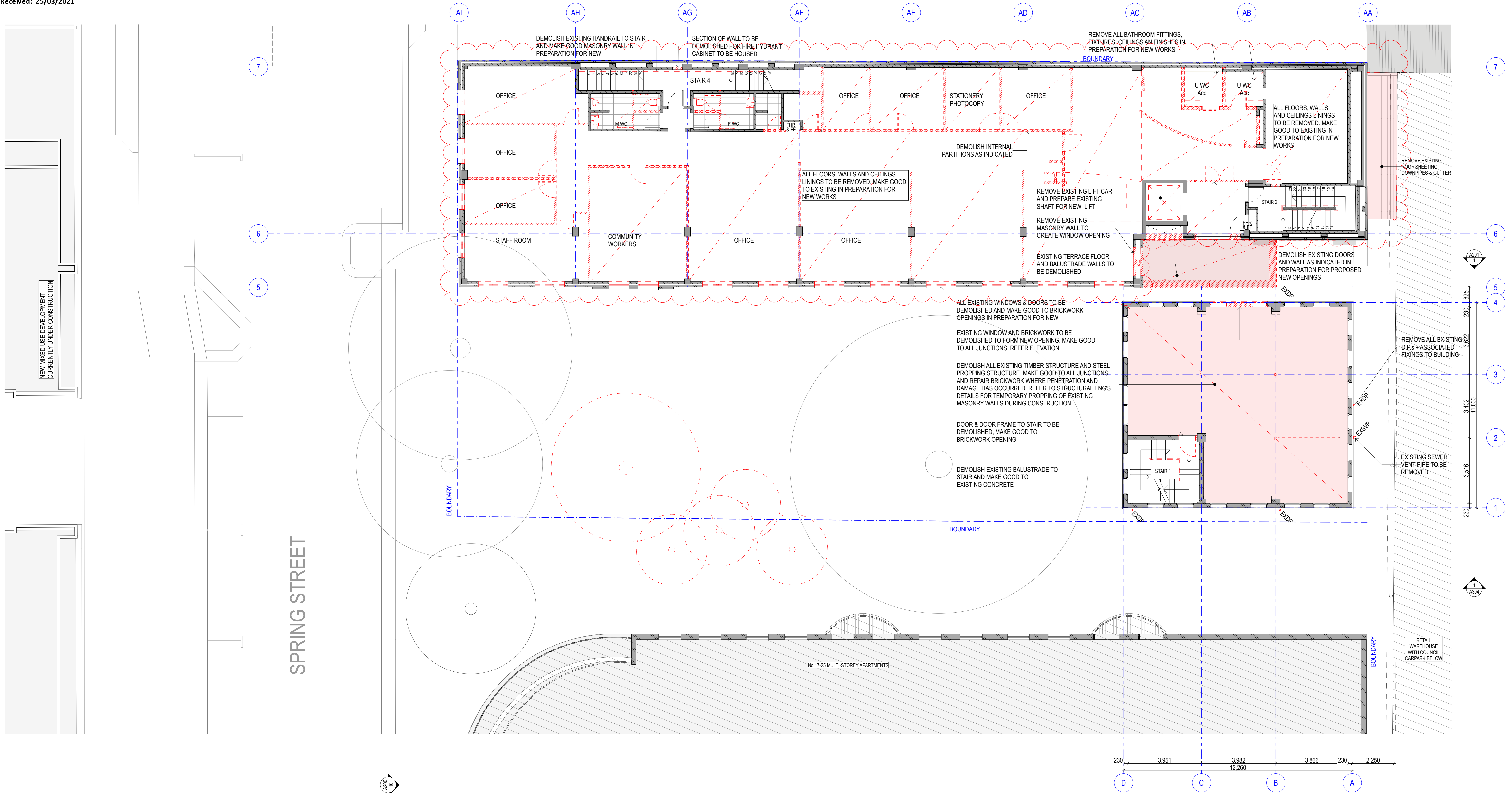
Project Number  
1803

Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION

Drawing Number  
A050

Revision  
F





1

LEVEL 1 - DEMOLITION  
1:100

DEMOLITION LEGEND

- EXISTING WALL TO BE KEPT
- EXISTING WALL TO BE KEPT
- EXISTING WALL TO BE DEMOLISHED
- EXISTING SLAB TO BE DEMOLISHED
- EXISTING TO BE DEMOLISHED

Notes  
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D	AC	TA	FOR DA	15/11/19
E	AC	TA	DA AMENDMENT	26/03/20
F	LP	TA	ISSUE FOR SECA 55 MODIFICATION	26/02/21

Key

Scale / North Point

0 1 2 3 4

1:100 @ A1  
1:200 @ A3



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Project Title  
THE BOOT FACTORY ADAPTIVE REUSE PROJECT

Drawing Title  
LEVEL 1 DEMOLITION PLAN

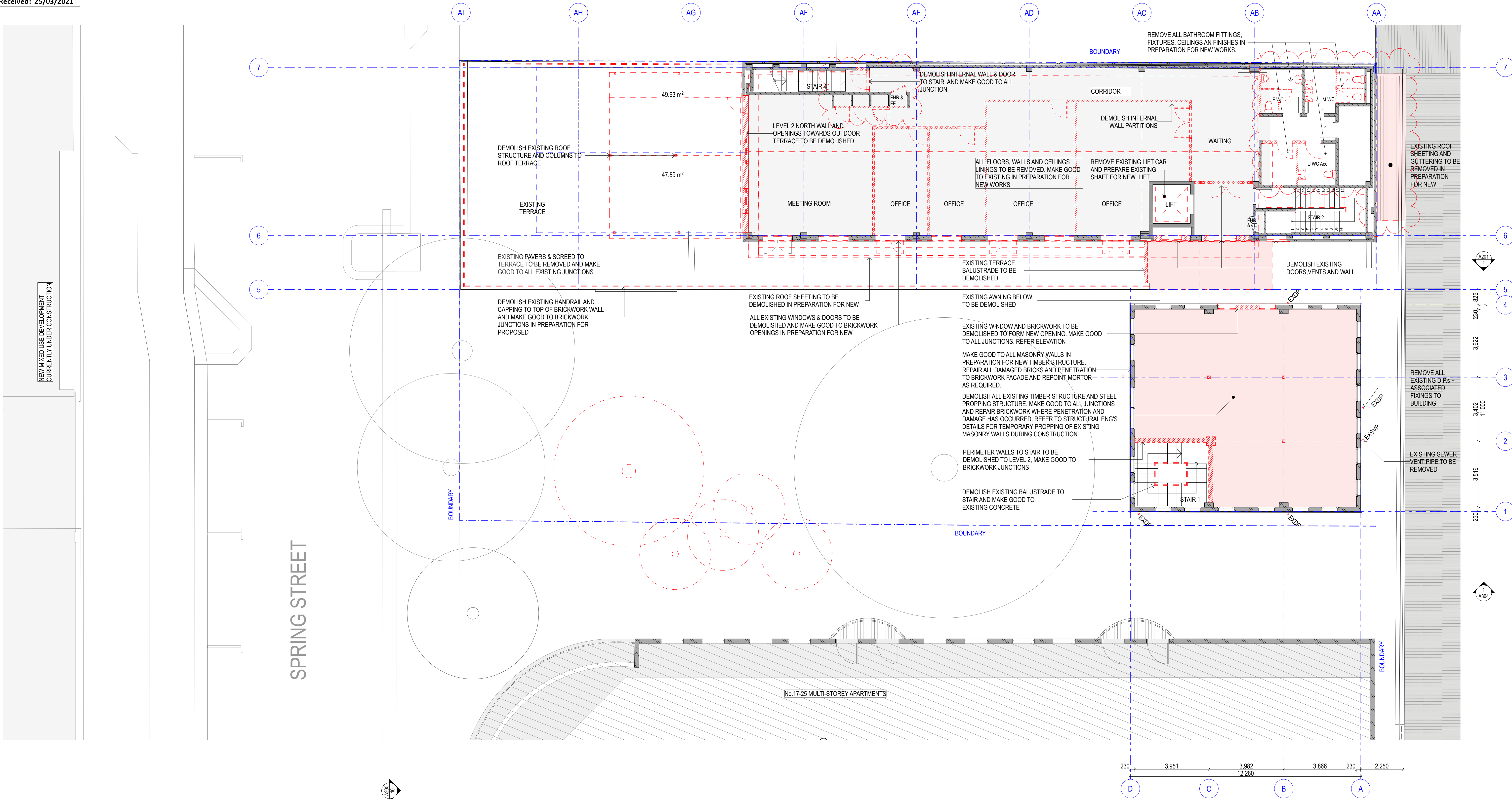
Project Number  
1803

Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION

Drawing Number  
A051

Revision  
F





1

LEVEL 2 - DEMOLITION  
1:100

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D	AC	TA	FOR DA	15/11/19
E	AC	TA	DA AMENDMENT	26/03/20
F	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/02/21

Key

Scale / North Point  
0 1 2 3 4  
1:100 @ A1  
1:200 @ A3

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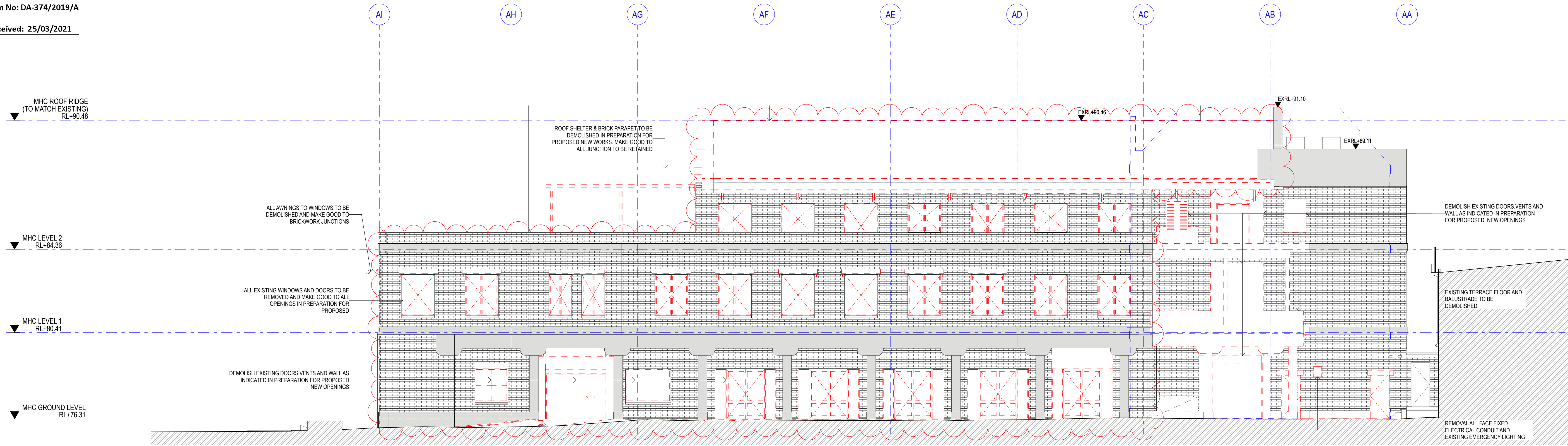
Project Title  
**THE BOOT FACTORY ADAPTIVE REUSE PROJECT**  
Drawing Title  
**LEVEL 2 DEMOLITION PLAN**  
Project Number  
1803  
Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION  
Drawing Number  
**A052**  
Revision  
F



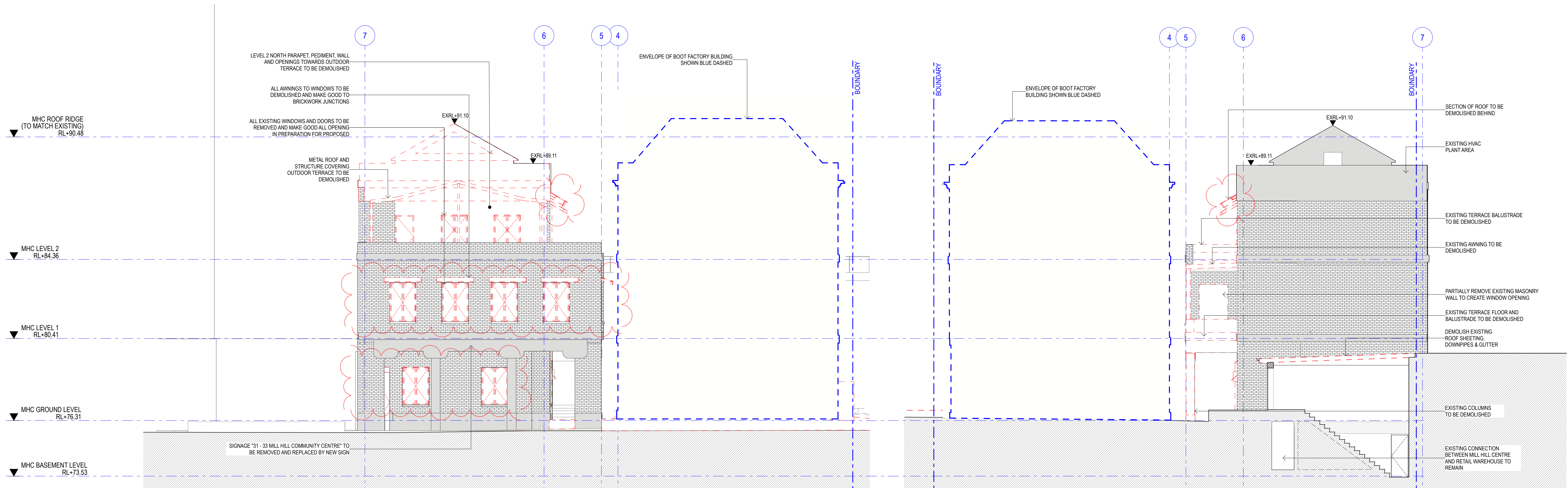
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	EXISTING WALL TO BE KEPT
	EXISTING WALL TO BE DEMOLISHED
	EXISTING SLAB TO BE DEMOLISHED
	EXISTING TO BE DEMOLISHED

Project Address  
27-33 SPRING STREET  
BONDI JUNCTION.  
NSW, 2022





1 WEST ELEVATION  
1:100



2 NORTH ELEVATION  
1:100

3 SOUTH ELEVATION  
1:100

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Rev	Dwn	Chk	Issue Name	Date	Key
A	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/02/21	

Scale / North Point
0 1 2 3 4
1:100 @ A1 1:200 @ A3

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<b>MEP</b> ADP Consulting E: g.white@adpconsulting.com.au T: 02 8203 5447	<b>Principal Certifying Authority</b> Phil Chun E: phil.chun@philchun.com T: 02 9412 2322

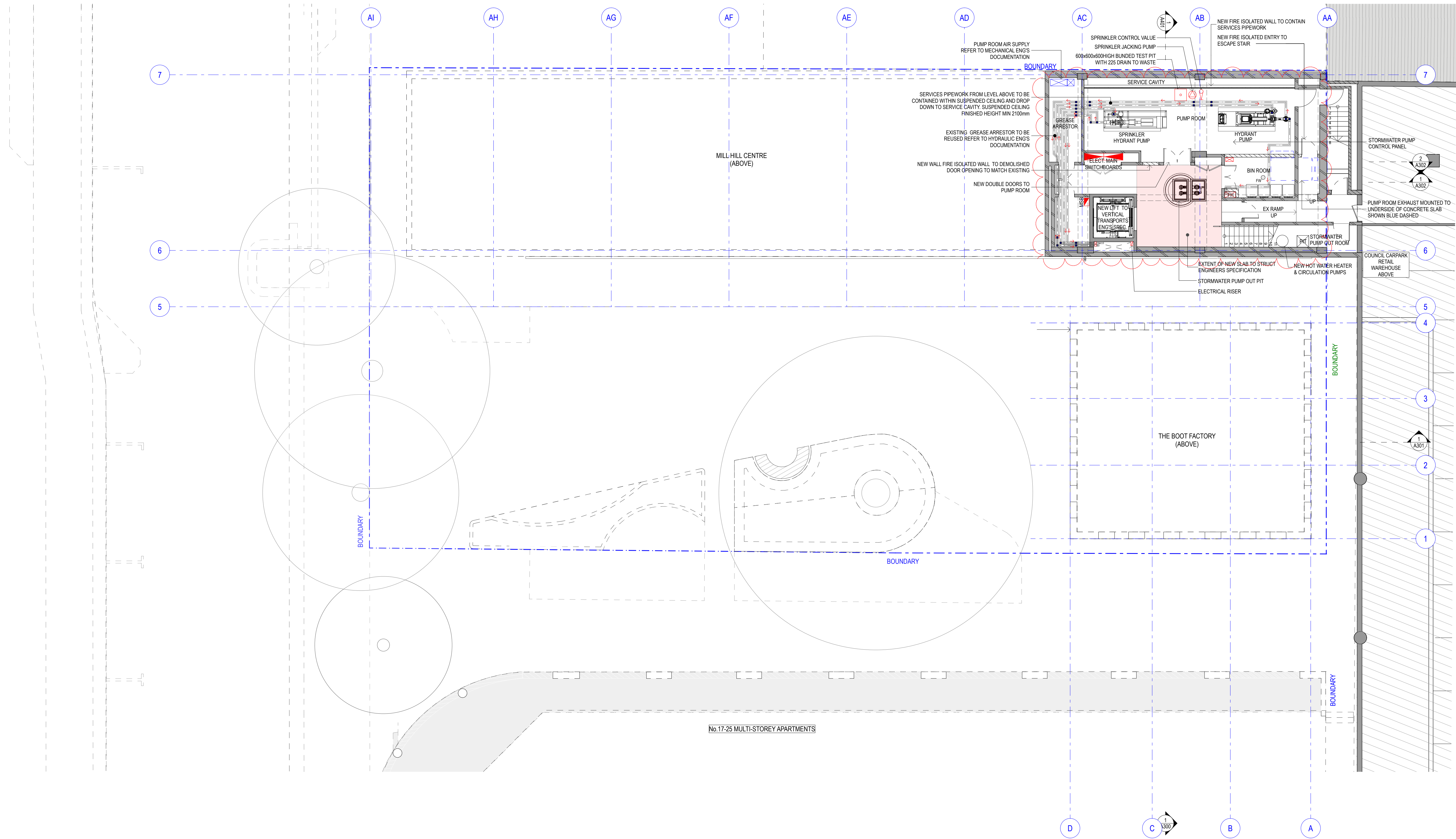
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<b>Project Address</b> 27-33 SPRING STREET, BONDI JUNCTION, NSW, 2022	<b>Project Title</b> THE BOOT FACTORY ADAPTIVE REUSE PROJECT <b>Drawing Title</b> MHC - ELEVATIONS DEMOLITION <b>Project Number</b> 1803 <b>Documentation Stage</b> SEC 4.55 MODIFICATION APPLICATION	<b>Drawing Number</b> A056 <b>Revision</b> A
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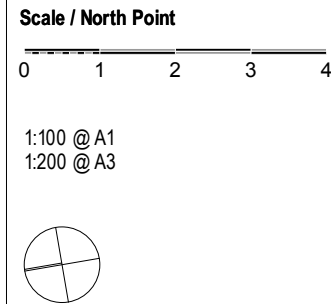




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D	AC	TA	FOR DA	15/11/19
E	AC	TA	DA AMENDMENT	26/03/20
F	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/02/21

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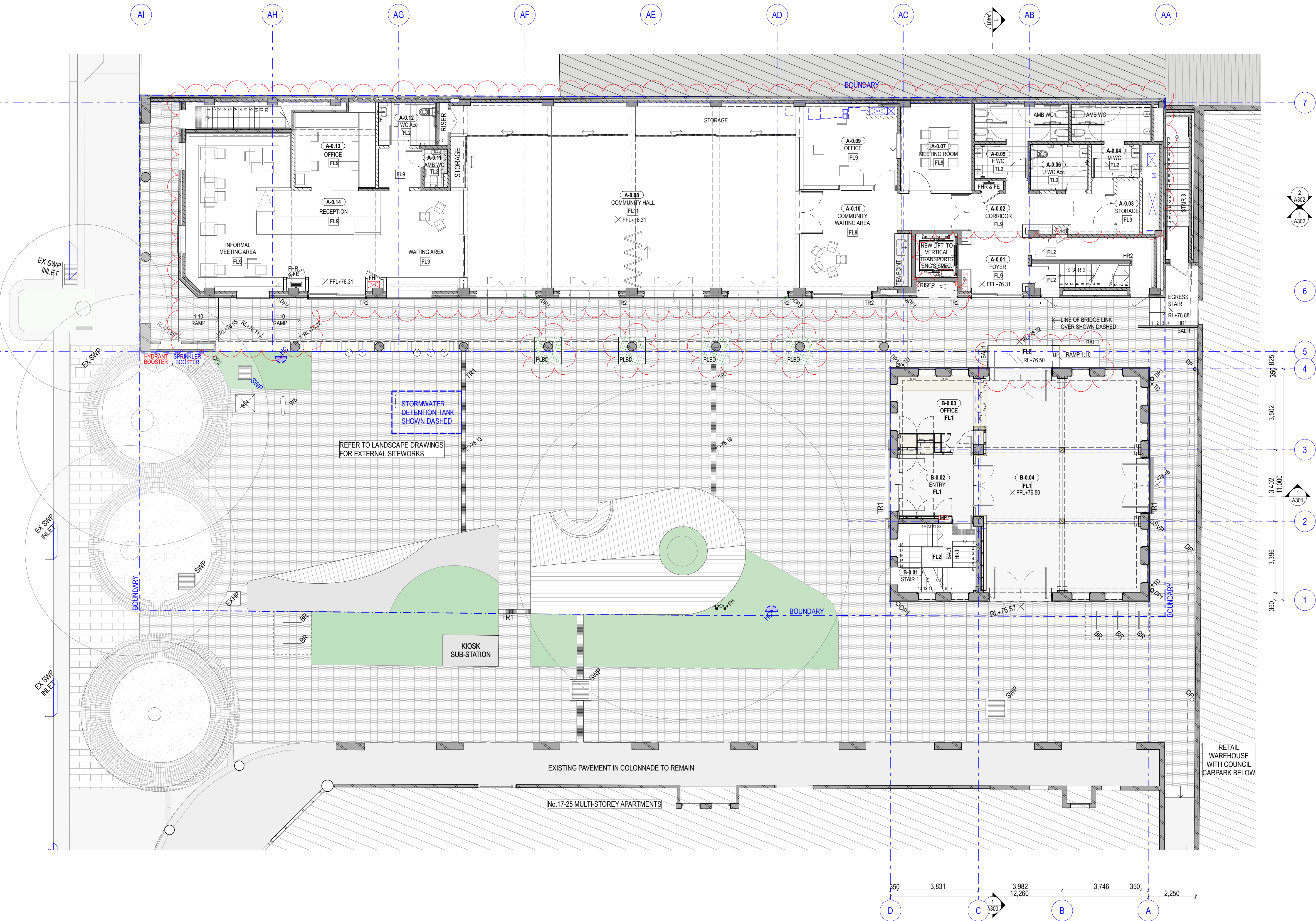
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Project Title  
**THE BOOT FACTORY ADAPTIVE REUSE PROJECT**  
Drawing Title  
**BASEMENT FLOOR PLAN**  
Project Number  
1803  
Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION

Drawing Number  
**A 100**  
Revision  
F



SPRING STREET



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C	AC	TA	FOR INFORMATION	13/11/19
D	AC	TA	FOR DA	15/11/19
E	AC	TA	DA AMENDMENT	26/03/20
F	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/02/21

Key

Scale / North Point  
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1:100 @ A1  
1:200 @ A3

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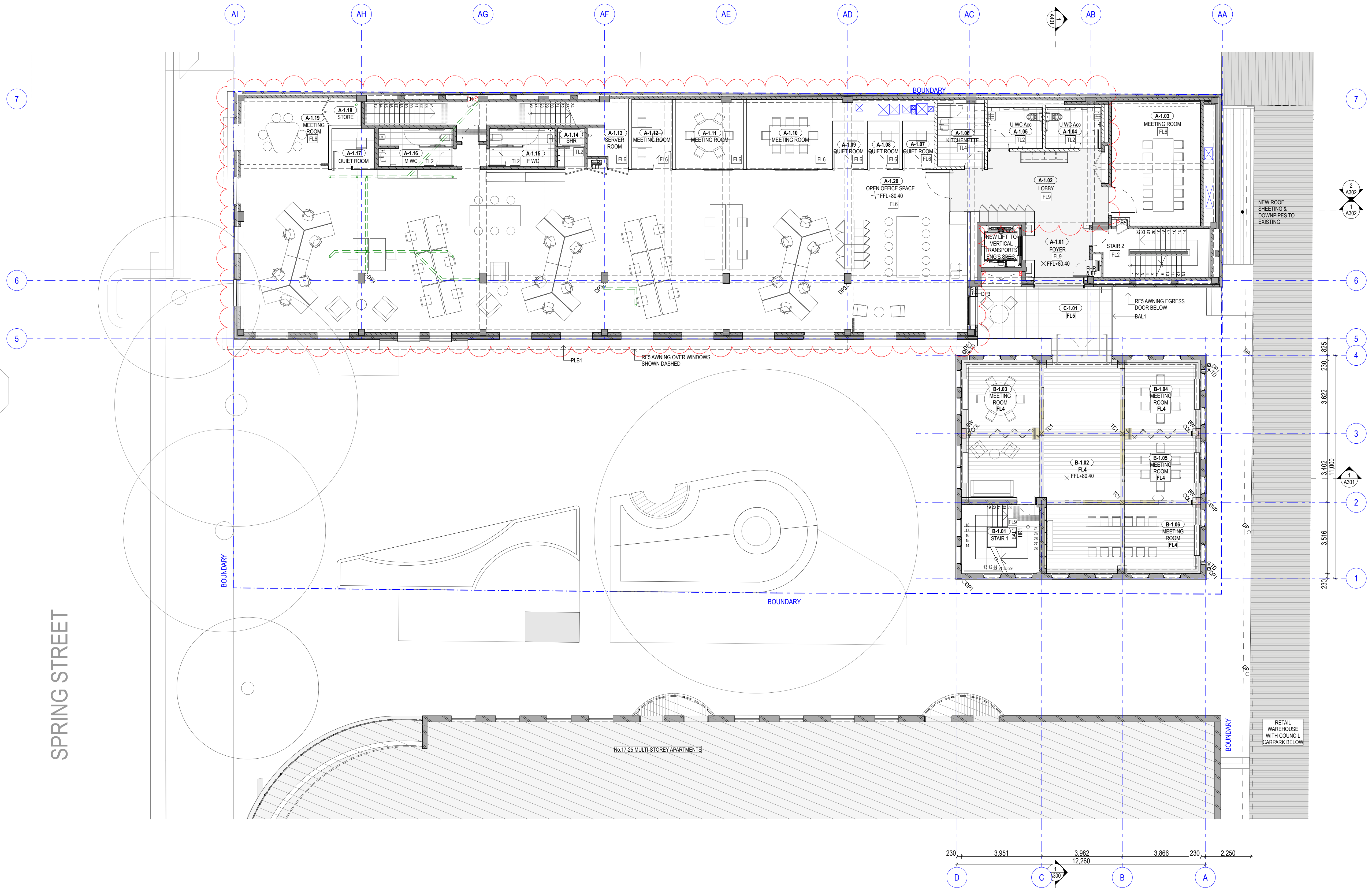
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Project Title  
**THE BOOT FACTORY ADAPTIVE REUSE PROJECT**  
Drawing Title  
**GROUND FLOOR PLAN**  
Project Number  
1803  
Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION  
Drawing Number  
**A101**  
Revision  
F

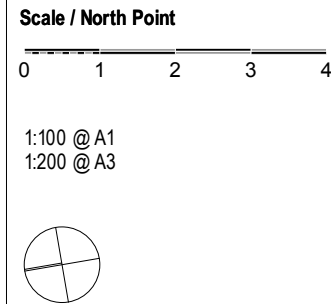




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E	AC	TA	DA AMENDMENT	26/03/20
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Key



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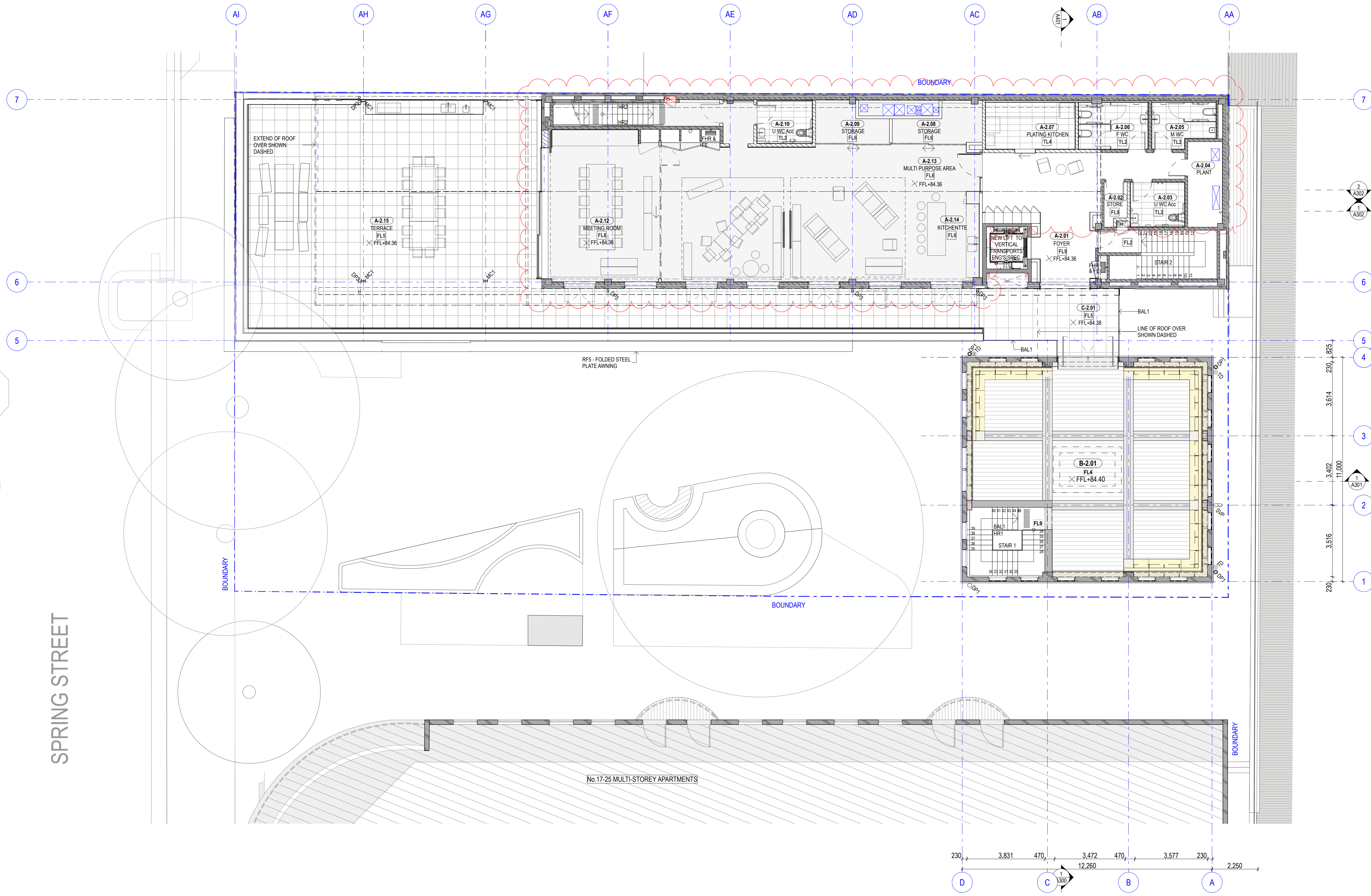
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Project Title  
**THE BOOT FACTORY ADAPTIVE REUSE PROJECT**  
Drawing Title  
**LEVEL 1 FLOOR PLAN**  
Project Number  
**1803**  
Documentation Stage  
**SEC 4.55 MODIFICATION APPLICATION**

Drawing Number  
**A102**  
Revision  
**F**

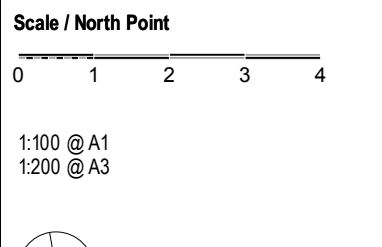




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D	AC	TA	FOR DA	15/11/19
E	AC	TA	DA AMENDMENT	26/03/20
F	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/02/21

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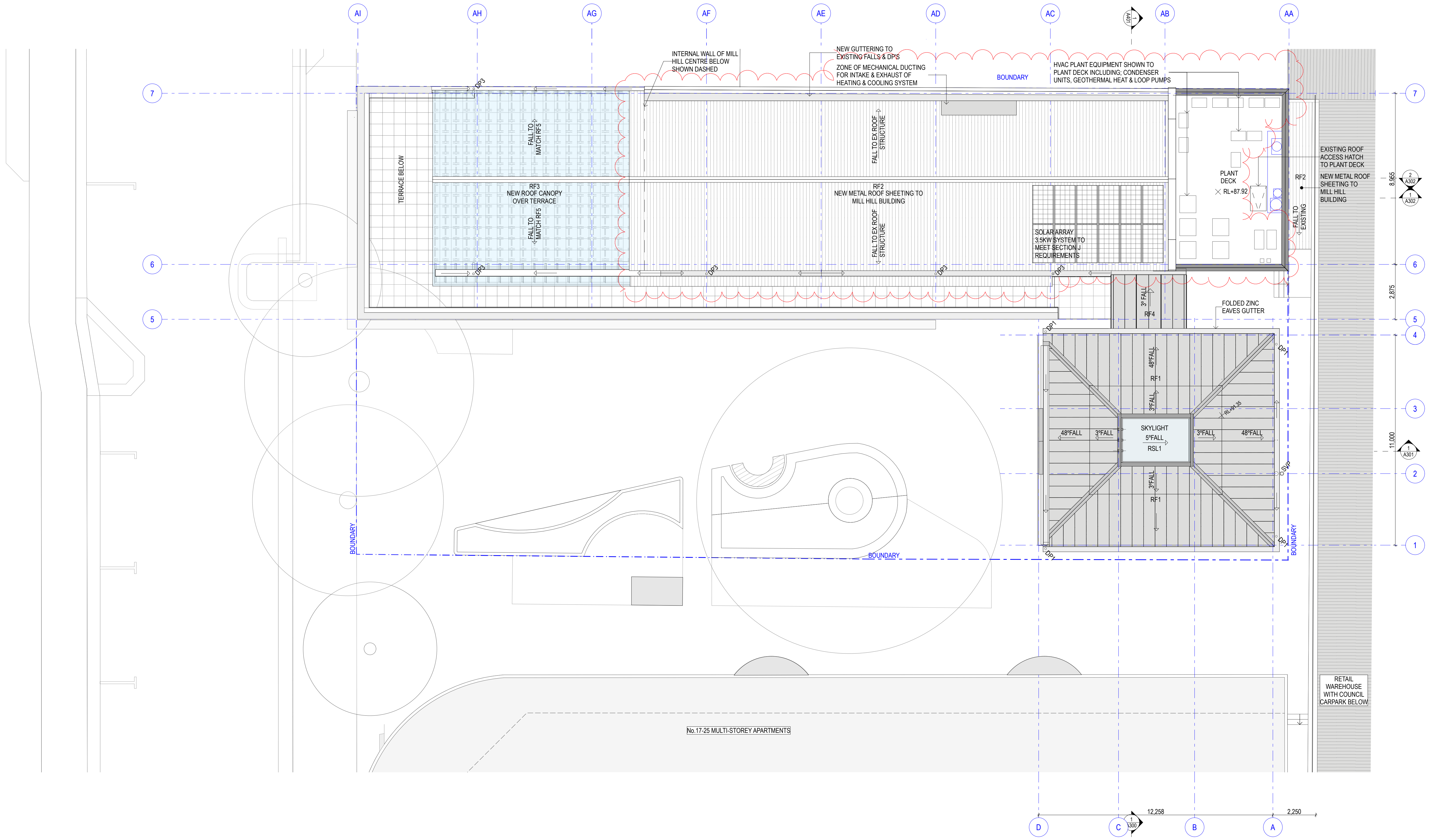
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Project Title  
THE BOOT FACTORY ADAPTIVE REUSE PROJECT  
Drawing Title  
LEVEL 2 FLOOR PLAN  
Project Number  
1803  
Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION

Drawing Number  
A103  
Revision  
F

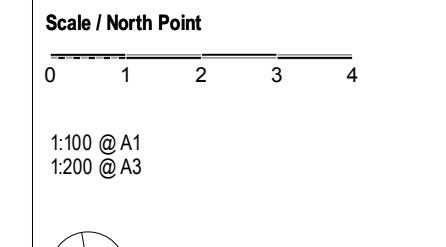




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C	AC	TA	FOR INFORMATION	13/11/19
D	AC	TA	FOR DA	15/11/19
E	AC	TA	DA AMENDMENT	26/03/20
F	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/02/21

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THE BOOT FACTORY ADAPTIVE REUSE PROJECT  
Drawing Title  
ROOF PLAN  
Project Number  
1803  
Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION  
Drawing Number  
A104  
Revision  
F





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D	AC	TA	FOR DA	15/11/19
E	AC	TA	DA AMENDMENT	26/03/20
F	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/02/21

Key

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Drawing Title  
NORTH ELEVATION  
Project Number  
1803  
Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION  
Drawing Number  
A200  
Revision  
F





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F	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/02/21

Key

Scale / North Point
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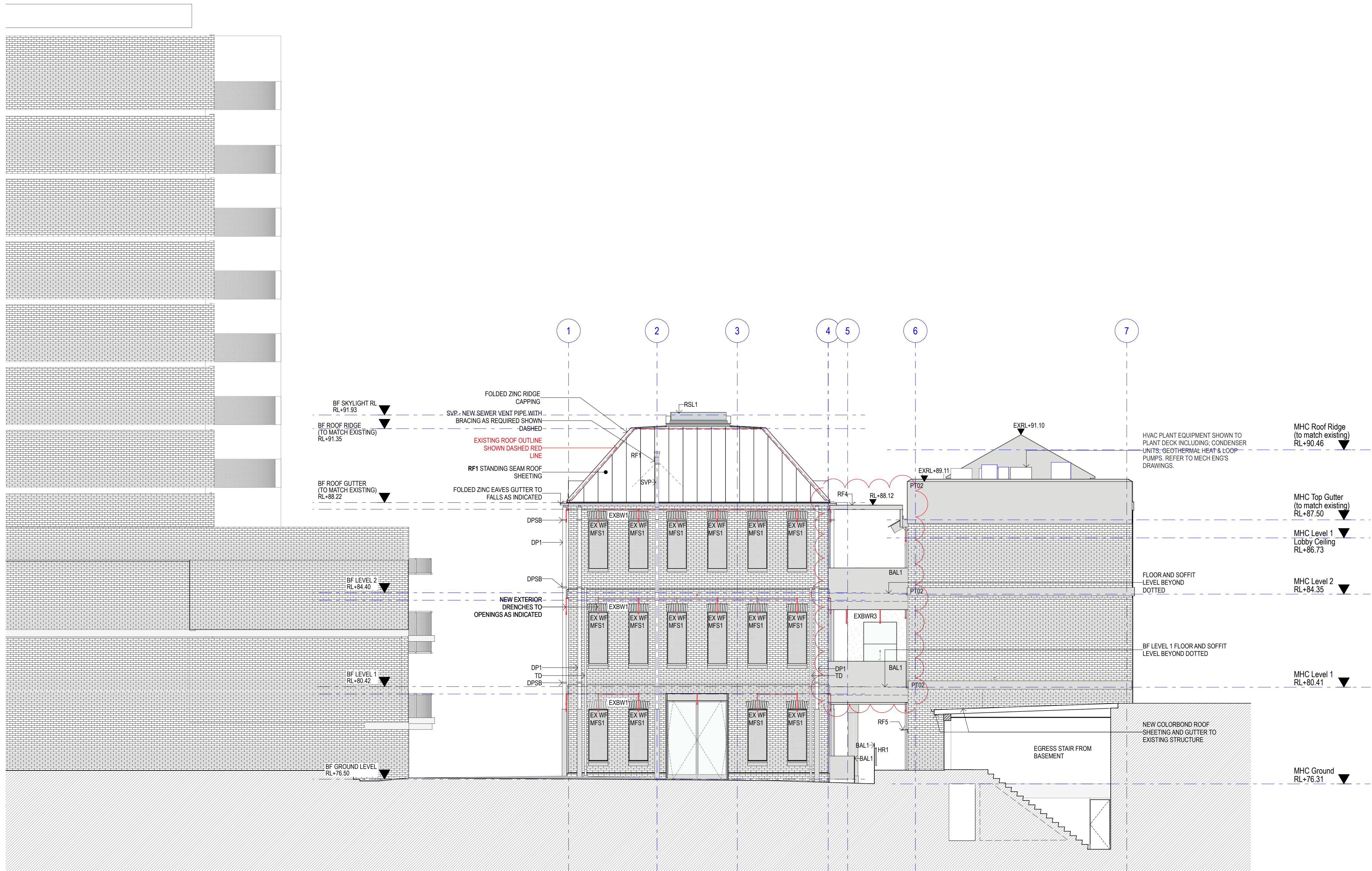
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<b>Project Title</b> THE BOOT FACTORY ADAPTIVE REUSE PROJECT	<b>Drawing Number</b> A201	<b>Revision</b> F
<b>Drawing Title</b> EAST ELEVATION	<b>Project Number</b> 1803	<b>Documentation Stage</b> SEC 4.55 MODIFICATION APPLICATION

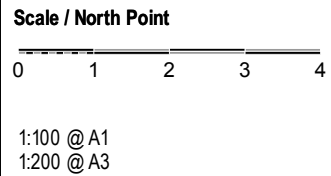




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**THE BOOT FACTORY ADAPTIVE REUSE PROJECT**  
Drawing Title  
**SOUTH ELEVATION**  
Project Number  
1803  
Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION

Drawing Number  
**A202**  
Revision  
F

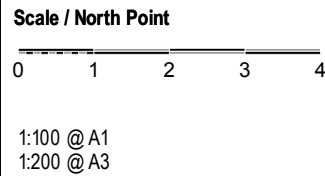




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**THE BOOT FACTORY ADAPTIVE REUSE PROJECT**  
Drawing Title  
**MHC - WEST ELEVATION**  
Project Number  
1803  
Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION  
Drawing Number  
**A204**  
Revision  
B





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F	LP	TA	ISSUE FOR SECA 55 MODIFICATION	26/03/21							
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Key

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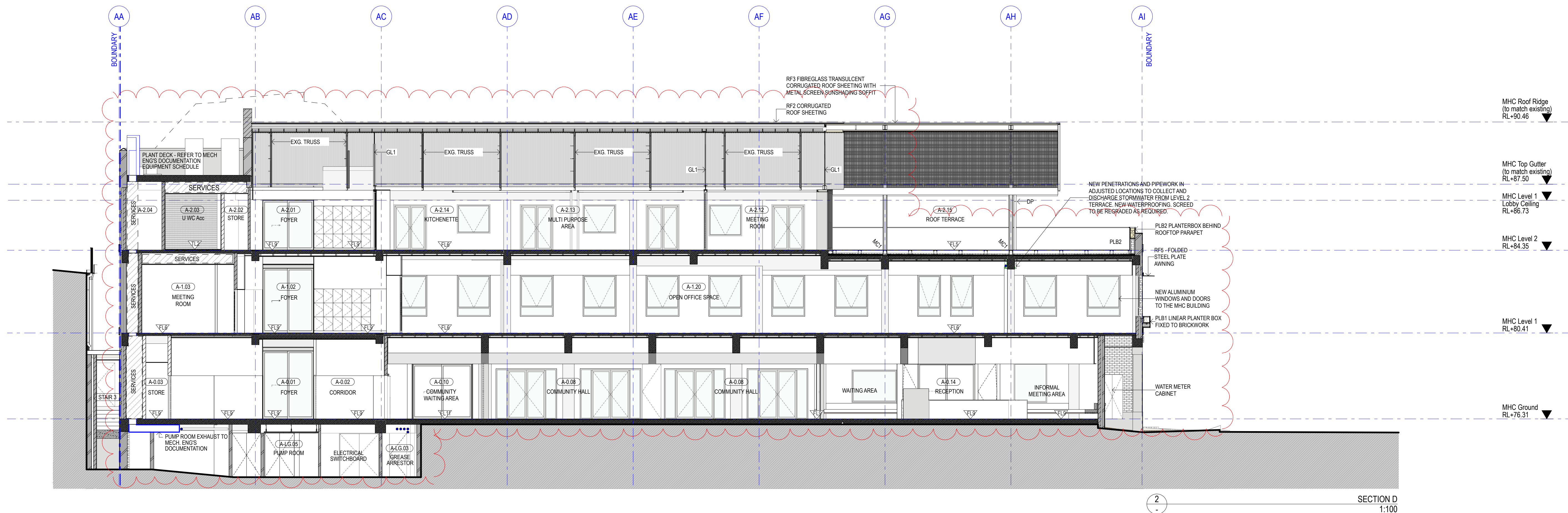
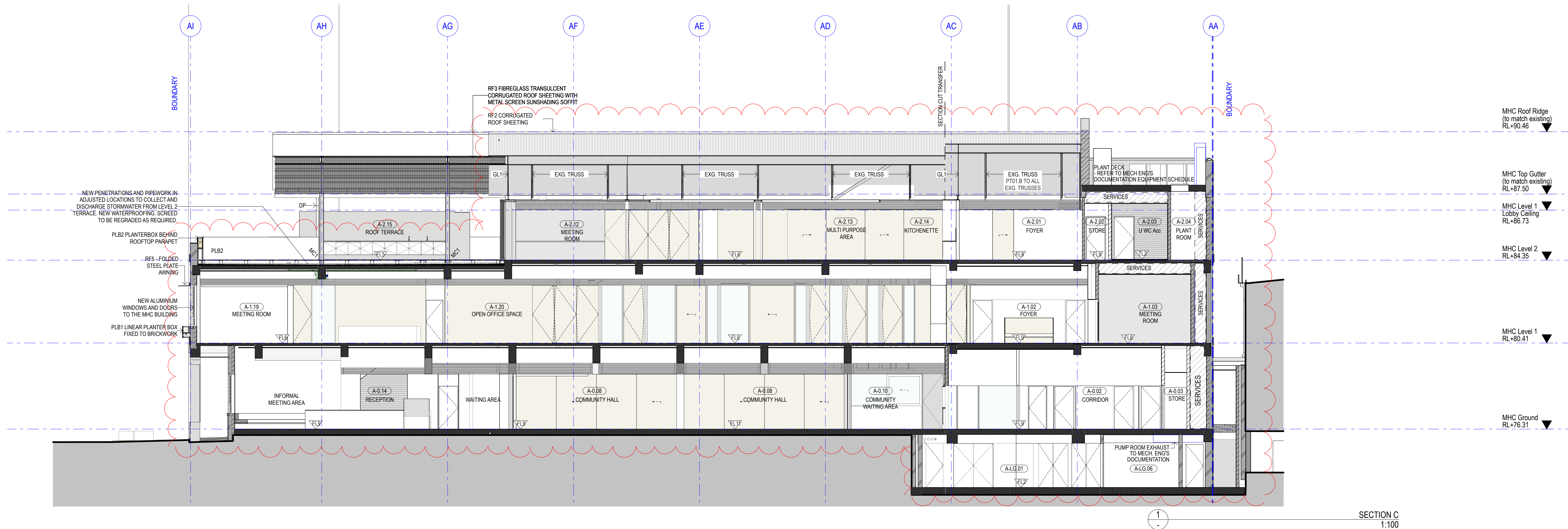
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THE BOOT FACTORY ADAPTIVE REUSE PROJECT  
Drawing Title  
SECTION B  
Project Number  
1803  
Documentation Stage  
SEC 4.55 MODIFICATION APPLICATION  
Drawing Number  
A301  
Revision  
F





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THE BOOT FACTORY ADAPTIVE REUSE PROJECT
Drawing Title
SECTION C & D
Project Number
1803
Documentation Stage
SEC 4.55 MODIFICATION APPLICATION
Drawing Number
A302
Revision
A





## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-150/2021
<b>Site address</b>	27-33 Spring Street, Bondi Junction
<b>Proposal</b>	Change of use to part of the ground floor level of the Mill Hill Centre to a café including fit out and associated kitchen exhaust at the site. The application also includes various signs to Norman Lee Place and the exterior of the Mill Hill Centre and Boot Factory.
<b>Date of lodgement</b>	27 April 2021
<b>Owner</b>	Waverley Council (27-33 Spring Street, Bondi Junction)
<b>Applicant</b>	Waverley Council (Major Projects Division)
<b>Submissions</b>	Nil
<b>Cost of works</b>	\$619,109.00
<b>Principal Issues</b>	Nil
<b>Recommendation</b>	That the application be APPROVED

### SITE MAP



Source: Nearmap, 2021

## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for the change of use of part of the ground floor level of the Mill Hill Centre (MHC) to a café including fit out and associated kitchen exhaust. The application also includes various signs to Norman Lee Place and the exterior of the MHC and Boot Factory. The site is known as 27-33 Spring Street, Bondi Junction.

There are no principal issues arising from the assessment of the application.

No submissions were received for the application.

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

### 1.2. Site and Surrounding Locality

A site visit was carried out on 6 February 2020 for DA-374/2019 (a previous application for this site). As the Council Assessment Officer is familiar with the site, another site visit was not undertaken.

The works under DA-379/2019 were to 17-33 Spring Street and 14-26 Ebley Street, Bondi Junction. However, the works to this application are only to 27-33 Spring Street, Bondi Junction. The site is legally identified as:

- Lot 6, Section A in DP 145 (27-29 Spring Street, Bondi Junction, known as the 'Boot Factory building')
- Lot 7 in DP 499650 (31-33 Spring Street, Bondi Junction, known as the 'Mill Hill Community Centre')


The site comprises two lots which each accommodate its own building. The proposed works relate to the Council owned buildings located at 27-29 and 31-33 Spring Street (comprising the Boot Factory and MHC buildings). The site area for this component of the site is 1200.4m<sup>2</sup>.

The building known as the 'Boot Factory building' is a locally listed heritage item referred to as 'Item I236' under the Waverley Local Environmental Plan 2012 (WLEP). The historic building has frontage to Spring Street and is setback behind a civic space area known as Norman Lee Place. The building reaches three storeys and has a face-brick exterior. The building is currently in the process of being refurbished (as approved under DA-374/2019).

Mill Hill Community Centre is located at 31-33 Spring Street and occupies the western portion of the site. It is accessible from Spring Street and Norman Lee Place and currently operates as a community centre. This building is three storeys in height and features a red brick façade.

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



	
<p><b>Figure 1:</b> Exterior of the Boot Factory building viewed looking south from Norman Lee Place</p>	<p><b>Figure 2:</b> Mill Hill Community Centre building viewed looking east from Norman Lee Place.</p>
	
<p><b>Figure 3:</b> The interior of the Boot Factory building</p>	<p><b>Figure 4:</b> Norman Lee Place viewed looking north towards Spring Street where it adjoins the 'Spring Street Apartments'.</p>

### 1.3. Relevant Development History

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

DA-374/2019

Alterations and adaptive re-use of the Boot Factory as a flexible community centre and alterations and additions to Mill Hill community centre, associated landscaping, signage and site consolidation was granted deferred commencement consent by the Sydney Eastern City Planning Panel on 21 May 2020.

Deferred Commencement Condition:

#### **1. SEPP 55**

*Documentation that demonstrates the requirements of State Environmental Planning Policy No 55 have been met and the site is suitable for the proposed use. Documentation in the form of one of the following is required:*

- a) *A Site Audit Statement prepared by an accredited NSW EPA auditor clearly stating that the site is/or will be suitable for the intended use; or*
- b) *A letter/interim advice from an accredited NSW EPA Site Auditor stating that what is being proposed will result in the site being made suitable for the intended use.*

The deferred commencement was satisfied on 28 April 2021, activating the consent.

The following conditions of DA-374/2019 are note-worthy for the proposed application:

#### **6. SEPARATE APPLICATION FOR SIGNAGE**

*Any proposed advertising structures to be displayed at the premises are to be subject to a separate development application to and approval from Council (if required).*

#### **7. FUTURE USE OF TENANCIES**

*The approved community facility spaces will require separate development application/s for the fit out and use of the future tenancies.*

*This approval does not permit cooking to be undertaken on the premises. Any proposal to utilise cooking equipment/appliances will be subject to a separate development application to Council and if approved will require an air handling system designed in accordance with AS 1668.1-1998 and AS1668.2-1991.*

#### DA-374/2019/A

Modification of consent for alterations to the Mill Hill Community Centre and adaptive re-use of the Boot Factory, including replacement of window and door openings, internal reconfiguration and refinement of external works is being considered concurrently with the subject application. This application is reported separately to the Waverley Local Planning Panel (WLPP).

#### DA-374/2019/B

Modification to condition 44 (d) of consent regarding timing of remediation validation report submission was approved by the Development Building Unit on 28 May 2021.

### **1.4. Proposal**

The development application seeks consent for the following:

- Fit-out of a new café within the MHC. The café will replace the reception area proposed under DA-374/2019/A. The café proposes to operate, Monday to Sunday, 7:00am – 5:30pm, with a patron capacity of 18.
- Signage around the site, consisting of:
  - Building identification signs to the MHC and Boot Factory buildings (wall mounted and to be illuminated).
  - Building street numbers (wall mounted).
  - Freestanding totems (in-ground mounted and site braille map).
  - Wayfinding directory and destination identification (wall mounted).
  - Accessible lift entry (wall mounted).
  - External statutory signage (door mounted).
  - Statutory Signage – External Fire Hydrant (in-ground mounted).
  - Interpretive graphics (door mounted).



- Heritage interpretation (seat/in-ground mounted).
- Waverley Council branding (wall mounted).

## 1.5. Background

The Development Application (DA) was deferred on 28 June 2021 to address issues raised by Council's Waste Officer. These issues were satisfied during the assessment of the application.

## 2. ASSESSMENT

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

### 2.1. Planning Instruments and Development Control Plans

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

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

The following SEPPs apply to the assessment of this DA:

- SEPP 55 Remediation of Land.
- SEPP 64 Advertising and Signage.

A detailed discussion is provided for relevant SEPPs as follows:

#### SEPP 55 Remediation of Land

Remediation of the site has been dealt with under DA-374/2019 and subsequent modifications.

#### *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.

An assessment against the criteria under Schedule 1 of the SEPP is provided in **Table 1** of this report.

**Table 1: SEPP 64 Advertising and Signage Compliance Table**

Assessment Criteria	Compliance	Comment
<b>1 Character of the area</b>		
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 proposed signage has been well designed to meet the desired future character of the area, that is preserving the heritage character of the Boot Factory.
Is the proposal consistent with a particular theme for outdoor	Yes	There is no predominant theme of outdoor advertising in the locality. Therefore, the signage has been designed to reflect the

Assessment Criteria	Compliance	Comment
advertising in the area or locality?		heritage values of the site created by the Boot Factory.
<b>2 Special areas</b>		
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 sign contributes to the heritage value of the area through the utilisation of appropriate colours, materials and fonts.
<b>3 Views and vistas</b>		
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?	Yes	Yes
<b>4 Streetscape, setting or landscape</b>		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes	The signs are of an appropriate scale for the streetscape and setting of the locality.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Yes	The signage adds to the visual interest of the streetscape and locality by being aesthetically pleasing, contributing to the streetscape of Norman Lee Place.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	Yes	The proposed signs are simple in design.
Does the proposal screen unsightliness?	N/A	No unsightliness to be screened.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	Yes	No
Does the proposal require ongoing vegetation management?	Yes	No
<b>5 Site and building</b>		
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 signage has been appropriately designed to respect the heritage character of the Boot Factory.

Assessment Criteria	Compliance	Comment
Does the proposal respect important features of the site or building, or both?	Yes	The signage respects the heritage item that is the Boot Factory.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Yes	The signs show innovation as it relates well to the locality, respecting the heritage significance of the site.
<b>6 Associated devices and logos with advertisements and advertising structures</b>		
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	No
<b>7 Illumination</b>		
Would illumination result in unacceptable glare?	Yes	Illumination is appropriate and will not result in unacceptable glare to neighbouring residential apartments. Illuminated signage is only limited to the 'Boot Factory' and 'MHC' building identification signs.
<b>8 Safety</b>		
Would the proposal reduce the safety for any public road?	Yes	No
Would the proposal reduce the safety for pedestrians or bicyclists?	Yes	No
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	Yes	No

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.

### 2.1.2. Waverley Local Environmental Plan 2012 (WLEP)

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

**Table 2: WLEP Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal meets the aims of the WLEP.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table (B4) Mixed Use Zone	Yes	The proposal is defined as a <i>'food and drink premises'</i> and signage which are both permitted with consent in the B4 Mixed Use zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of Building <ul style="list-style-type: none"> <li>32m</li> </ul>	Yes	The ventilation shaft to the roof of the MHC is below 32m.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	Yes	Part of the site is classed as Heritage Item – 236 due to the Boot Factory. A Heritage Impact Statement is submitted with the application and is acceptable.
<b>Part 6 Additional local provisions</b>		
6.5 Active street frontages in the Bondi Junction Centre	Yes	The lot is classed as an active street front. The proposed café and associated signage will assist in activating this section of Spring Street as well as Norman Lee Place.
6.9 Design excellence	Yes	The proposed signs incorporate design excellence, respecting the heritage value of the site.



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

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

**Table 3: WDCP – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory, subject to recommended conditions of consent.
7. Accessibility and Adaptability	Condition recommended	A condition is recommended relating to access for people with disabilities.
9. Heritage	Yes	Part of the site is classed as Heritage Item – 236 due to the Boot Factory. A Heritage Impact Statement is submitted with the application and is acceptable.
15. Advertising and Signage 15.1 Design and Location 15.1.1 General Controls 15.1.1 Third Party Advertising 15.1.2 Number of signs 15.2 Site Specific Controls 15.2.2 Bondi Junction 15.2.6 Mixed development buildings 15.2.9 Heritage Significant Buildings 15.3 Sign Specific Controls 15.3.6 Building Identification Sign 15.3.8 Window Signs	Yes	<p>The signs are well integrated into the architectural design of the MHC, Boot Factory and Norman Lee Place. The colour scheme is appropriate, respectful of the heritage value of the site. Illuminated signage will not detract from the amenity of nearby residential apartments, only limited to the 'Boot Factory' and 'MHC' building identification signs.</p> <p>The signs are of an appropriate size and scale, relating well to the context of the area.</p> <p>As this relates to signage to a mixed use area, with various uses and departments, the signage proposed is acceptable.</p> <p>Given the unique nature of the proposed signage relating to a site that contains many uses, the amount of signage proposed is acceptable on merit. The signs are well designed and sited to as not appear as cluttered.</p> <p>The buildings do not exceed eight stories in height.</p> <p>All signage is proposed at ground level. Due to the various uses on the site, the proposed signs will help individuals navigate the site.</p> <p>Part of the site is classed as Heritage Item – 236 due to the Boot Factory. A Heritage Impact Statement is submitted with the application and is acceptable.</p>

Development Control	Compliance	Comment
		<p>The proposed signs have been sufficiently designed to provide appropriate colours, materials and fonts to respect the heritage significance of the site and locality.</p> <p>The illumination of the 'MHC' and 'Boot Factory' signs are supported as it is completed through halo illumination of each letter, resulting in an elegant finish.</p> <p>The 'MHC and 'Boot Factory' building identification signs are located above the entry door, which is an acceptable height allowing individuals in Norman Lee Place to understand the difference in buildings and navigate the site accordingly.</p> <p>The proposed window sign at the entry door of the Boot Factory is supported. The window sign will display a historic image contributing to the heritage item.</p>
16. Public Domain		
16.2 Active Street Frontages		
16.2.1 General Controls	Acceptable on merit	The proposed café is located within the existing MHC building. As this is an existing building that fronts Normal Lee Place it is difficult to meet many of the controls within this section of the WDCP.
16.2.2 Primary Shopping Street Frontage	Acceptable on merit	See above.

**Table 4: WDCP – Part D1 Commercial and Retail Development Compliance Table**

Development Control	Compliance	Comment
<b>1.1 Other Policies, Strategies and Standards</b>		
<b>1.2 Design</b>		
1.2.3 General Amenity	Conditions recommended	Appropriate conditions are recommended to form part of the consent.
1.2.4 Noise	Conditions recommended	Appropriate conditions are recommended to form part of the consent.

1.3 Hours of operation		
(B4) Mixed Use Zone Base Hours: <ul style="list-style-type: none"> <li>7am – 11pm (Mon-Sat)</li> <li>7am – 10pm (Sun)</li> </ul>	Yes	The café proposes to operate from 7am - 5:30pm, 7 days. This is compliant with the base hours set out in the WDCP.

**Table 5: WDCP - Part E1 Bondi Junction Compliance Table**

Development Control	Compliance	Comment
<b>1.3 Building use</b>		
<ul style="list-style-type: none"> <li>Primary Shopping Street</li> </ul>	Yes	As the site is classed as a primary shopping street, the introduction of a café is supported.
<b>1.6 Heritage and buildings of historic character</b>		
1.6.1 Buildings of historic character	Yes	The signage is respectful of the heritage item and has been well designed to contribute to the heritage value of the site.

### Sanitary Facilities

Sanitary facility rates are calculated under F2.3 of the National Construction Code (NCC).

As the café proposes a patron capacity of 18 (less than 20), sanitary facilities are not required for the café use.

### Patron Capacity

Part D1.13 of the NCC recommends 1m<sup>2</sup> per person for the use.

The seating area of the cafe has an internal area of 39.2m<sup>2</sup>, therefore the proposed patron capacity of 18 is acceptable.

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified 14 days and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*.

The application was re-notified for an additional 14 days as there was an error with the original notification process and the Assessment Officer was not satisfied with the amount of properties notified.

No submissions were received.

## **2.5. Public Interest**

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

## **3. REFERRALS**

The following internal and external referral comments were sought:

### **3.1. Fire**

An internal referral was sought from Council's Fire Safety Officer who did not object subject to condition of consent.

### **3.2. Heritage**

An internal referral was sought from Council's Heritage Architect who did not object subject to condition of consent.

### **3.3. Waste**

An internal referral was sought from Council's Waste Officer who did not object subject to condition of consent.

### **3.4. Environmental Health**

An internal referral was sought from Council's Health Officer who did not object subject to condition of consent.

### **3.5. Facilities**

An internal referral was sought from Council's Facilities department, however no comments were received.

### **3.6. Sustainable Development**

An internal referral was sought from Council's Sustainability Officer, however no comments were received.

### **3.7. Urban Design**

A referral was created to Urban Design at lodgement. However, the Assessment Officer considered this referral was not required.



#### 4. CONCLUSION

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

*Development and Building Unit (DBU) Decision:*



The application was reviewed by the DBU at the meeting on 22 June 2021 and the DBU determined:

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

DBU members: *B McNamara, B Magistrale and 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:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Joseph Somerville	Kylie Lucas
Development Assessment Planner	A/Manager, Development Assessment (Central) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 07 July 2021	Date: 8 July 2021

*Reason for WLPP referral:*

1. Conflict of interest

## 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 Archer Office of Project No: 1803 including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
A000 / Rev G	Cover Page	06/04/2021	27/04/2021
A010 / Rev B	Legend	06/04/2021	27/04/2021
A020 / Rev G	Site Plan	06/04/2021	27/04/2021
A101 / Rev G	Ground Floor Plan	06/04/2021	27/04/2021
A104 / Rev G	Roof Plan	06/04/2021	27/04/2021
A200 / Rev G	North Elevation	06/04/2021	27/04/2021
A204 / Rev C	MHC – West Elevation	06/04/2021	27/04/2021

(b) Signage Plans prepared by Extrablack including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
SI_GEN_0000 / Rev 01	External Signage Colour and Material Specification	26/03/2021	27/04/2021
Rev 02	Building Identification – Wall Mounted	29/03/2021	27/04/2021
Rev 02	Building Street Numbers – Wall Mounted	29/03/2021	27/04/2021
Rev 02	Freestanding Totem – In-ground Mounted	29/03/2021	27/04/2021
Rev 02	Freestanding Totem – Site Braille Map	29/03/2021	27/04/2021
Rev 02	Wayfinding Directory and Destination Identification – Wall Mounted	29/03/2021	27/04/2021
Rev 02	Accessible Lift Entry – Wall Mounted	29/03/2021	27/04/2021
Rev 02	Statutory Signage – Door Mounted	29/03/2021	27/04/2021
Rev 02	Statutory Signage – External Fire Hydrant – In-ground Mounted	29/03/2021	27/04/2021
Rev 02	Interpretive Graphics – Door Mounted	29/03/2021	27/04/2021
Rev 02	Heritage Interpretation – Seat/In-ground Mounted	29/03/2021	27/04/2021
MP_S4.55_100 / Rev 02	External Ground Floor Signage Masterplan	29/03/2021	27/04/2021
Rev 02	Drawing Register	29/03/2021	27/04/2021

Except where amended by the following conditions of consent.

## **2. SIGNAGE**

- (a) The format, font, style and graphics of any future signs that include corporate or retail businesses on the site are to be approved by Council's Heritage Architect prior to installation.
- (b) Where signs are fixed to the fabric of the Boot Factory the use of fixings inserted into brick joints is favoured over the alternate double- sided tape identified in the proposal.
- (c) Logos and QR symbols attached to signs are required to be able to be replaced without major impact on the signs.
- (d) Signage set into the pavement are to be durable given the high failure rate of this format.

## 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.

### 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 \$16,790.00 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 MATTERS**

### **7. HOARDING**

To ensure the site is contained during construction, if hoarding is required for the approved works it is to be designed and constructed in accordance with the requirements of Safe Work NSW. 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.

### **8. 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.

## **WASTE**

### **9. 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.

## **10. WASTE STORAGE AREAS**

The development must have a bin storage area with sufficient space to accommodate the following minimum waste and recycling storage requirements for the development:

- (a) Minimum bin requirements
  - 3 x 240L Mobile Garbage Bins (MGBs) for general waste collected twice weekly.
  - 3 x 240L MGBs for comingled recycling collected twice weekly.
  - 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 bulky cardboard, packaging related to deliveries and reusable products such as milk/bread crates.
- (c) Extra space is required to store ink cartridges, electronic waste, batteries, globes, and other problem waste likely to be generated at the property.
- (d) 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.
- (e) 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.
- (f) The proposal must have a system for the convenient transportation of waste and recyclables to the storage area and the point of collection.
- (g) To minimise waste generation, waste bins should be avoided at each worker's desk or workstation.

## **NOISE**

### **11. 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)

## FIRE SAFETY

### **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.

### **13. FIRE SAFETY**

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

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

- a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, subject tenancy must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):
  - (i) Fire resistance and stability – Part C1;
  - (ii) Compartmentation and separation – Part C2;
  - (iii) Protection of openings – Part C3
  - (iv) Provision for escape – Part D1;
  - (v) Construction of exits – Part D2;
  - (vi) Access for people with a disability – Part D3 (the extent necessary in order to comply with the Premises Standards);
  - (vii) Fire fighting equipment – Part E1;
  - (viii) Smoke hazard management – Part E2;
  - (ix) Lift installation - Part E3;
  - (x) Emergency lighting, exit signs and warning systems – Part E4;
  - (xi) Sanitary and other facilities - Part F2;
  - (xii) Room sizes - Part F3; and
  - (xiii) Light and ventilation - Part F4.
- b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, an alternative building solution in accordance with Part A2 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.

- c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 4.55 of the Act to be lodged with Council to amend this consent.
- d) Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate.

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



## **C. COMPLIANCE PRIOR TO 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**

#### **15. 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**

#### **16. 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.

## **CONSTRUCTION MATTERS**

### **17. CONSTRUCTION HOURS**

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

- (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.

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

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

### **19. CONSTRUCTION INSPECTIONS**

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

### **20. 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](https://www.waverley.nsw.gov.au/building/compliance_and_regulations/environmental_health_regulations/food_safety)

## **TREE PROTECTION AND REMOVAL**

### **21. 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.

### **22. STREET TREES TO BE RETAINED/TREE PROTECTION**

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

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) event damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.

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

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

### **CERTIFICATION AND LICENCES**

#### **23. 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.

#### **24. 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.

#### **25. 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.

### **MANAGEMENT PLANS**

#### **26. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE**

A Waste Management Plan must be submitted to Council's Executive Manager, Environmental Sustainability (or delegate) and include including the following where relevant.

- (a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)
- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) 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 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 the morning of the collection day (no earlier than 5:30am) and retrieved from the kerbside as early as possible the same day of collection.
- (i) Any drum containing brewery waste must be sealed to avoid odours.
- (j) The bins must be placed for collection in a location that does not impede pedestrian access along the footpath or impact the neighbouring properties.
- (k) 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.
- (l) At no times shall bins or other products (e.g. kegs and pallets) be stored on the public domain (e.g. footpaths).
- (m) 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.
- (n) It is recommended that the Waste Manage Plant specifically references Waverley Council's [Event Policy](#) and [Event Waste Management Guidelines and Requirements](#).

## **SHOPS**

### **27. 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.

### **28. 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.

### **29. HOURS OF OPERATION**

The hours of operation for the premises are restricted to:

#### **INDOOR AREA**

Monday to Sunday: 7:00am – 5:30pm

### **30. MAXIMUM PATRON CAPACITY**

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

Total of 18 patrons

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

### **31. SIGNAGE TO BE DISPLAYED**

- (a) Signage (in lettering not less than 150mm in height on a contrasting background) is to be erected in a prominent position near the main principle entry to the premises. The signage shall state:

Approved hours of operation - Indoor Area  
Monday to Sunday: 7:00am – 5:30pm

Approved patron capacity  
18 patrons

### **32. 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

### **33. 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.

### **34. 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.

### **35. 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 within the acceptable limits.

### **36. MECHANICAL VENTILATION SYSTEMS**

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

### **37. 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.

### **38. 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.

#### **39. KITCHEN EXHAUST DISCHARGE**

The kitchen exhaust discharge must be located at least 6 meters from an openable window, any outdoor fresh air intake and in a position where no nuisance is created.

#### **40. 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.

#### **41. 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.

#### **42. 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.

#### **43. 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.

#### **44. LIQUOR SALE / SUPPLY / CONSUMPTION (CAFES AND RESTAURANTS)**

- (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) Liquor may only be sold and/or supplied to patrons on the premises with or ancillary to a genuine meal.
- (d) Patrons shall be seated whilst consuming liquor.
- (e) 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. ADVISORY MATTERS

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

### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

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

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

### AD2. SYDNEY WATER REQUIREMENTS

You are required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If you are increasing the density of the site, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. The application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

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

### AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in

NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

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

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

#### **AD5. 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. OUTDOOR DINING**

Any proposal to utilise an area external of the building for dining will be subject to a separate application to Council and if approved will require the applicant and/or owners to sign a lease agreement.

**AD10. SIGNS/GOODS IN THE PUBLIC WAY**

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

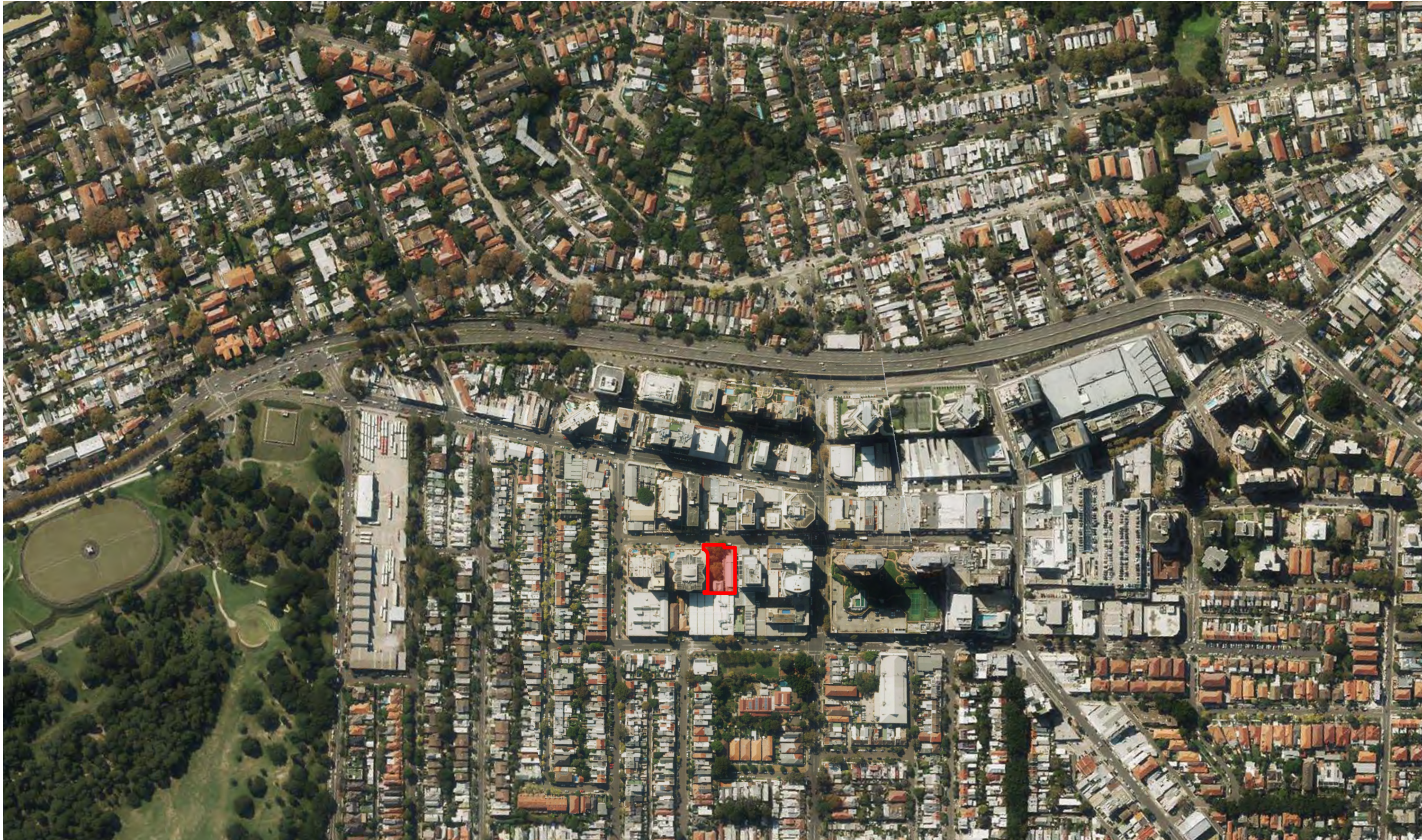
**AD11. SUITABLY QUALIFIED ACOUSTIC CONSULTANT**

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.



# THE BOOT FACTORY - ADAPTIVE REUSE - DEVELOPMENT APPLICATION

27-33 SPRING STREET, BONDI JUNCTION, NSW, 2022



DA CAFE			
NO.	DRAWING TITLE	SCALE@A1	REVISION
A000	COVER PAGE		G
A010	LEGEND		B
A015	SITE ANALYSIS	1:200	F
A020	SITE PLAN	1:200	G
A101	GROUND FLOOR PLAN	1:100	G
A104	ROOF PLAN	1:100	G
A301	NORTH ELEVATION	1:100	G
A305	MHC - WEST ELEVATION	1:100	C

1

LOCATION MAP



Notes  
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Rev	Dwn	Chk	Issue Name	Date
A	AC	TA	FOR INFORMATION	11/10/19
B	AC	TA	FOR INFORMATION	04/11/19
C	AC	TA	FOR INFORMATION	13/11/19
D	AC	TA	FOR DA	15/11/19
E	AC	TA	DA AMENDMENT	26/03/20
F	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/03/21
G	LP	TA	ISSUE DA AMENDMENT	06/04/21

Key

Scale / North Point

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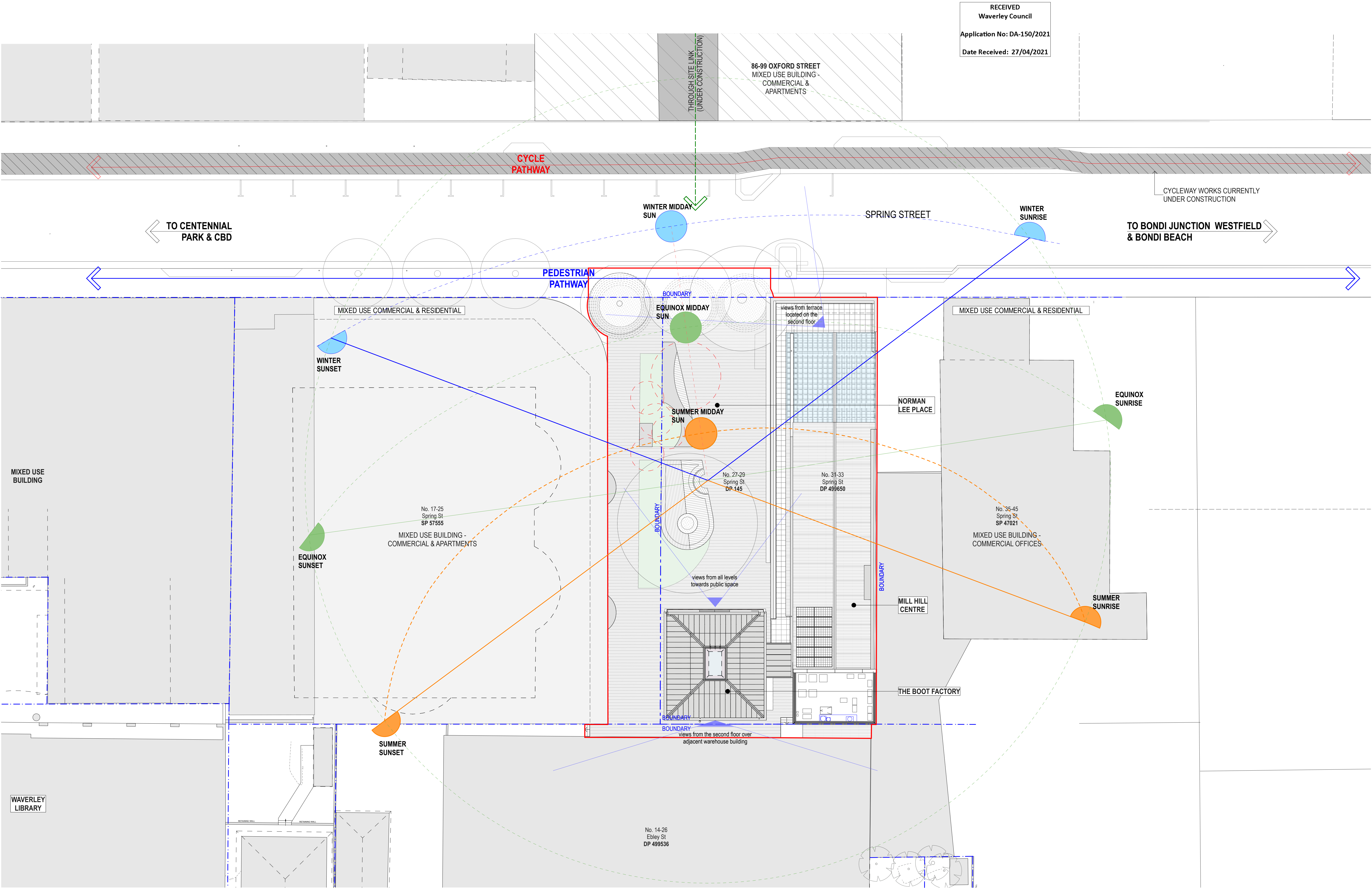
Project Title  
**THE BOOT FACTORY ADAPTIVE REUSE PROJECT**  
Drawing Title  
**COVER PAGE**  
Project Number  
**1803**  
Documentation Stage  
**DEVELOPMENT APPLICATION**

Drawing Number  
**A000**  
Revision  
**G**





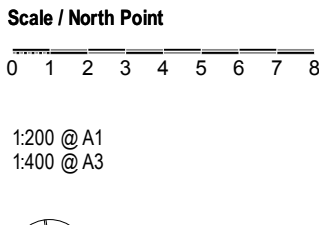




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F	LP	TA	ISSUE DA AMENDMENT	06/04/21

Key



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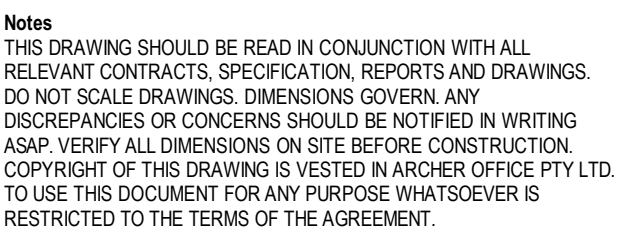
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Project Title  
THE BOOT FACTORY ADAPTIVE REUSE PROJECT  
Drawing Title  
SITE ANALYSIS

Project Number  
1803  
Documentation Stage  
DEVELOPMENT APPLICATION

Drawing Number  
A011  
Revision  
F






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**Scale / North Point**

0 1 2 3 4 5 6 7 8

1:200 @ A1  
1:400 @ A3

A circular north arrow with a vertical line through the center, pointing upwards.

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6 office.com ect: 5	Project Address 27-33 S BOND
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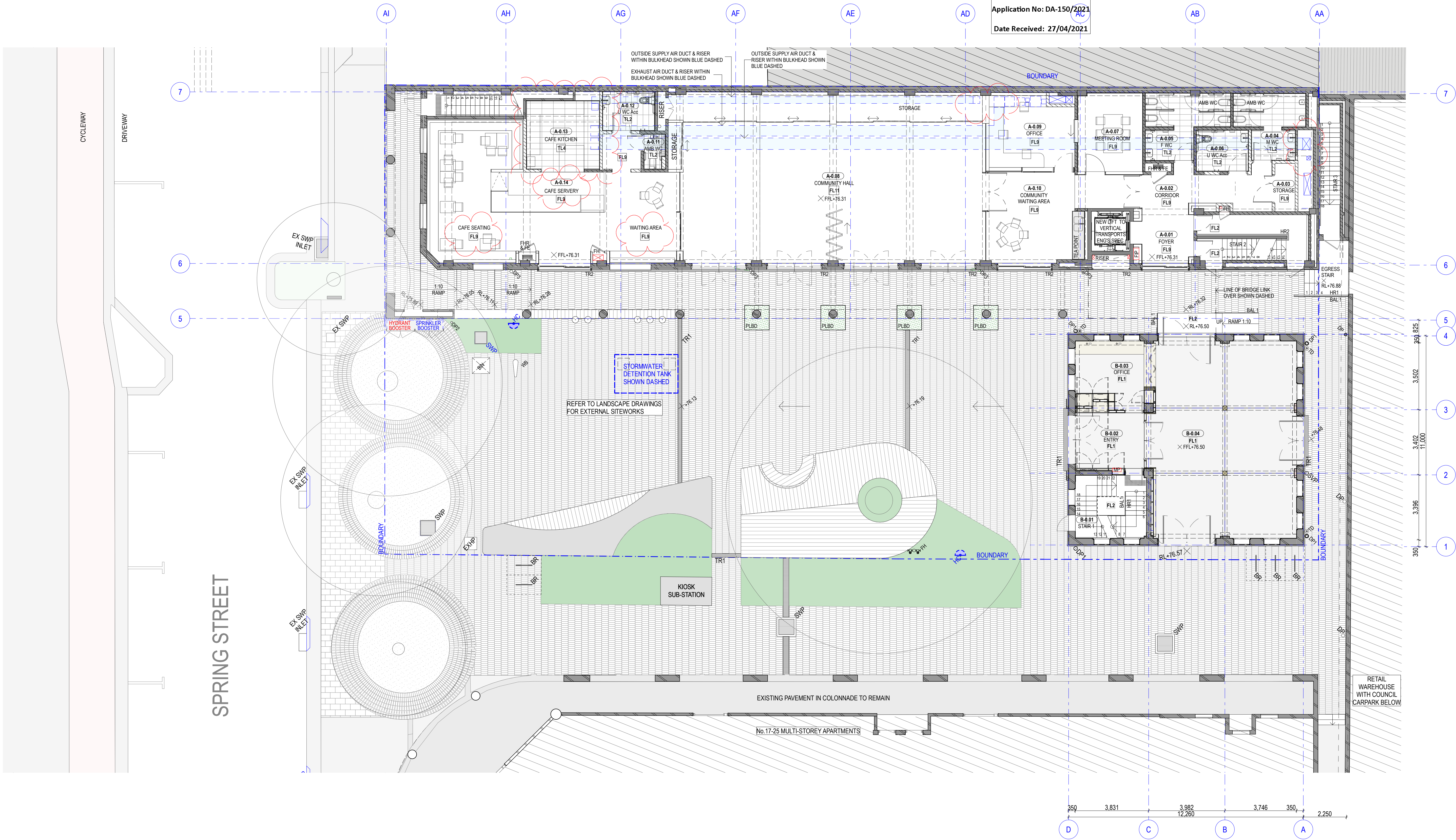


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# THE BOOT FACTORY ADAPTATION

3  
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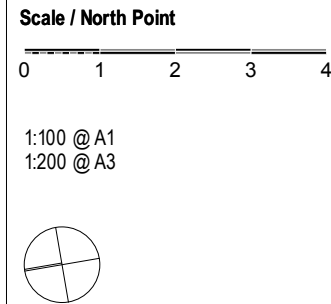




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D	AC	TA	FOR DA	15/11/19
E	AC	TA	DA AMENDMENT	26/03/20
F	LP	TA	ISSUE FOR SE04.55 MODIFICATION	26/02/21
G	LP	TA	ISSUE DA AMENDMENT	06/04/21

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NSW, 2022

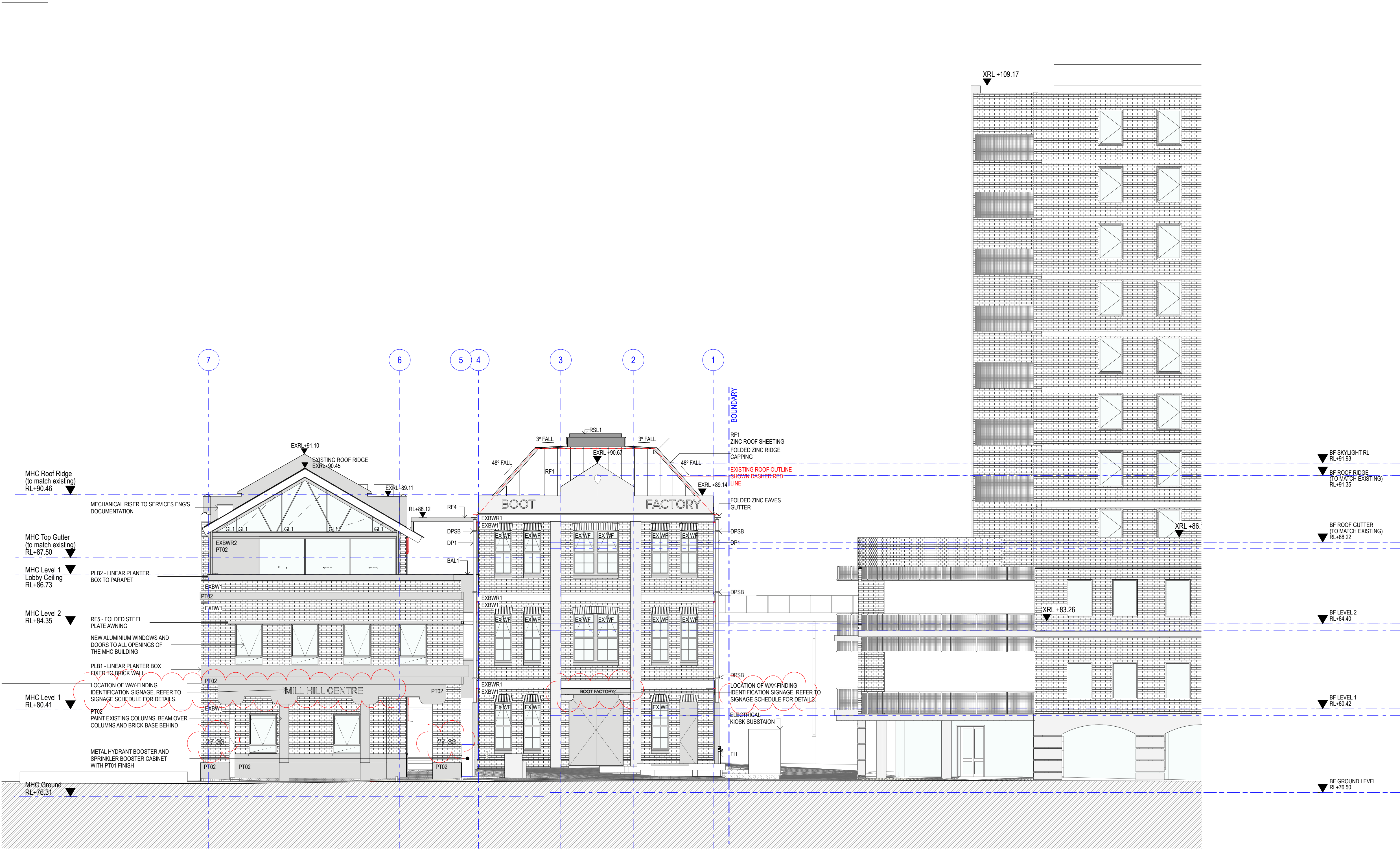
Project Title  
**THE BOOT FACTORY ADAPTIVE REUSE PROJECT**  
Drawing Title  
**GROUND FLOOR PLAN**  
Project Number  
1803  
Documentation Stage  
DEVELOPMENT APPLICATION

Drawing Number  
**A101**  
Revision  
G










**Notes**  
THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL  
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Rev	Dwn	Chk	Issue Name	Date
A	AC	TA	FOR INFORMATION	11/10/19
B	AC	TA	FOR INFORMATION	04/11/19
C	AC	TA	FOR INFORMATION	13/11/19
D	AC	TA	FOR DA	15/11/19
E	AC	TA	DA AMENDMENT	26/03/20
F	LP	TA	ISSUE FOR SEC4.55 MODIFICATION	26/02/21
G	LP	TA	ISSUE DA AMENDMENT	06/04/21

**Scale / North Point**



0 1 2 3 4

1:100 @ A1  
1:200 @ A3

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**Project Address**

Project Title	
THE BOOT FACTORY ADAPTIVE REUSE PROJECT	
Drawing Title	
NORTH ELEVATION	
Project Number	Drawing Number



Page 286 of 751



# Mill Hill Centre & Boot Factory External Signage and Wayfinding For Development Application

Signage & Wayfinding Consultancy  
29 March 2021

Extrablack<sup>®</sup>



The purpose of this document is to provide an overview of the external signage and wayfinding requirements and opportunities for the Boot Factory and connecting Mill Hill Centre for Waverley Council.

This document outlines our strategic approach to signage and wayfinding, reviewing circulation, user journeys, signage hierarchies, messaging and shows benchmark design territories.

Included is the proposed external signage for the DA application.

---

# External Signage Strategy

The signage and graphics for the precinct needs establish a sense of identity that is aligned with the architecture, history and interior design that defines a ‘sense of place’.

Breathing new life into the heritage listed building

The Mill Hill Community Centre was first established in 1994. Sitting within the precinct to the rear of the public courtyard named after a significant councilor Norman Lee, is the Boot Factory.

The factory was built in 1892, however its operations closed in 1969, and was left vacant until early 1980s. The building received a protective order under Section 130 from the Heritage Act in 1977.

The community centre aims to continue to play its role in contributing and supporting the local demographic within the area, while the renewal of the Boot Factory will aim to bring significance to the history and culture of the building.

Surrounding the precinct are multi-storey height apartments, town houses and the Waverley Council Library. The site is also located conveniently a couple minutes walking distance from Bondi Junction train station.

Within the community centre will have a new cafe for public use, outdoor terrace on the rooftop, as well as renewed open plan council offices between levels 1 and 2. The renewed Boot Factory building space aims support a diverse range of programs for the public. These include events, meetings, workshops, and exhibitions of the like.

The signage and graphics for the general precinct needs establish a sense of identity that is aligned with the architecture, history and interior design that defines a ‘sense of place’.

The signage and wayfinding will provide branding opportunities and create destinations within the space using identification signage that will be visually appealing and functional.

This project entails new signage and wayfinding system for the Centre including, statutory, operational, amenity and destination/room identification.

The signage needs to have universal appeal, adding visual interest and serving a practical wayfinding function with sensitivity to the heritage, architecture, interiors, landscape and with relevance in the public domain and it’s relationship to the local community. It also needs to be tough and resilient and suitable for the robust nature of its services and clientele.

It is also important to recognise the significance of the building and heritage as a key part of the areas experience and its local stories and brand narratives and themes that may be expressed in the spaces.



The maintenance of the unique cultural value and heritage significance of key landmarks and the planning and delivering of range of cultural heritage activities that inspire creativity, build participation and create learning opportunities.

The existing Mill Hill Community Centre is located on 31-33 Spring Street, Bondi Junction. The Boot Factory is located towards the rear of Norman Lee Place, at 27-33 Spring Street, Bondi Junction.

Mill Hill Community Centre is identified as D.P. 499650 and the Boot Factory including Norman Lee Place, is identified as D.P 145.

It is proposed that the building be identified with signage located to each main building entry – Mill Hill Centre and Boot Factory.

This document outlines the proposed signage approach for the external signage to identify and address this significant heritage building. The intent is sophisticated signage approach in response to the building’s historic architecture, local context, and with consideration to the building identification requirements.

**Design approach**

*The external signage draws reference from the existing signage on the building. The proposed external signage is applied to the building in a similar way, and incorporates the materiality, scale and fabrication intent previously developed for this distinctive building.*

We have proposed new signage to the entrance of Mill Hill Centre and the Boot Factory. Firstly, Mill Hill Centre existing building identification will be replaced to identify the community centre. Secondly, new signage will be applied to the new entry doors of the Boot Factory on ground floor for better visual connection upon Spring Street approach. The experience aims to elevate to that of the existing building.

We believe the design approach is expressed in a sensitive manner to the architecture and with respect to the heritage of the building.

**Signage Hierarchy**

Sign systems are typically organised into signage information categories. These categories are determined by the functions that the sign messages are intended to convey.

We have identified four major sign types of which there are subsets within each category to cover the functional requirements and information required for the building externally.

These sign types include:

Identification	Naming and identifying key destinations - Mill Hill Centre and the Boot Factory.
Wayfinding	Direction to specific destinations (internal signage)
Interpretive Graphics	Signs that explore the historical narrative of the building or artefacts highlighted in the Heritage Interpretation Plan
Statutory	Statutory and authority regulatory, prohibitive and safety information, including fire, building and statutory accessible signage.

Additionally, Hearing Augmentation will be required as this will be a publicly used environment.

The signage has been developed as a cohesive and integrated family designed to suit the various information types and architectural conditions. It also needs to respond to its function and the visual functional requirements such as viewing approach, site lines and distance the sign is viewed at.

Different sign forms make up the signage family, these sign types relate to each other to create a cohesive hierarchical communication approach.

Sign forms vary depending on context, location, architectural integration and signage hierarchy. For example a building identification sign often requires a more prominent and larger sign whereas wayfinding or directional signage may be smaller sign due to the distance it is being read from.

Signage design depends on:

- the architectural, interior, urban or landscape and historical context with regard to scale, form, detail, materials and colour
- the scale of the message being communicated
- the distance at which the message is to be read
- the importance of the message
- the availability of mounting or fixing places relative to the most appropriate viewing locations.

We take these key considerations into account when determining the application of signage to a building or space.

Signage should exemplify the heritage of the building and to provide a cohesive experience all who visit and use the building.

Signage scale

Signage scale is in response to the architectural surrounding, building scale, viewing distances and existing signage on the building facade. Signs are scaled to match the existing building signage.

The signage aim is also not to clutter the environment but to create a cohesive visual look in character with the existing signage.

Materiality

Materiality forms a strong part of the visual language of the signage. Proposed signage takes inspiration from the existing and new architectural and interior palette. Signage will have a clear protective coating.

Existing and new signage

Entry points to the building are not necessarily signified by strong signage cues, especially the Boot Factory. Existing signage for Mill Hill Centre is located at the front face of the buildings, mainly visible upon entry at Spring Street.

The street frontage is considered the main entrance to the building. New entry identification signage is proposed within the new external landscape area. Signage locations and building numbering have been considered to adhere to standard Heritage requirements.

Sight lines

Sight lines to external identification signage are from local adjacencies, with good site lines to Mill Hill Centre and the Boot Factory ground floor entrance. Signage is directly applied to the building exterior. Existing signage is visible from adjacent foot paths.

Accessible signage

Accessible entry is directly from Spring Street and into the external precinct and Mill Hill Centre, on-grade, requiring no additional identification or directional signage.

However to access the revitalised Boot Factory upper levels, accessible entry will be required through the lift near the new Reception area, which is towards the back of Mill Hill Centre.

Directional signage will be required from Spring Street to direct accessible users towards the lift in order to access Boot Factory building upper levels.

Signage illumination

The new Boot Factory Identification sign SIGN TYPE ID1.B will be illuminated with a soft halo illumination from the rear of the dimensional letterform to provide ground level illumination and activation at night. It will assist in identifying the entrance to the building and serves a building identification wayfinding function.

Signage installation to a heritage facade

Signage Installation on Heritage Building will be respectful of the existing conditions and facade. Signage fixing points will be within grout lines and existing structural divisions to have the least impact on the building fabric.

Where possible the signage will use existing fixing points. If no existing fixing points are available, the rear of sign panel to securely mechanically fix into the existing grout line zone without damaging the building fabric.

Alternative fixing method proposed is the signage panel to be conceal adhesive fixed to wall surface behind using 3M Dual Lock Tape (or equal approved) . This has been shown to not mark or stain existing stone or timber finishes.

External Interpretive Graphics

Interpretive graphics have been considered to revitalise the external landscape space, known as Norman Lee Place. There is significance in applying signage and identification of this landscape as it will bring significance into the communal used area.

Small scaled graphics has been proposed within this landscape and entrance into the precinct. The naming and graphics will be inlaid metal panels that will strategically placed around the external seating area, appropriate for external conditions and respecting the Heritage architectural fabric.

This location was chosen as there is great value in improving public spaces within our existing community. It establishes an introduction to the history and heritage of the Boot Factory that begins as users walk further into the mixed-use precinct.

A Heritage Interpretation Plan was produced by Matt Devine & Co. Issue November 2020. This has been referenced and is used to anchor the signage and wayfinding interpretation. Continued discussion is underway with Matt Devine on the content and finalisation of the interpretive narrative.

The following pages illustrate observations of the existing building and signage conditions.



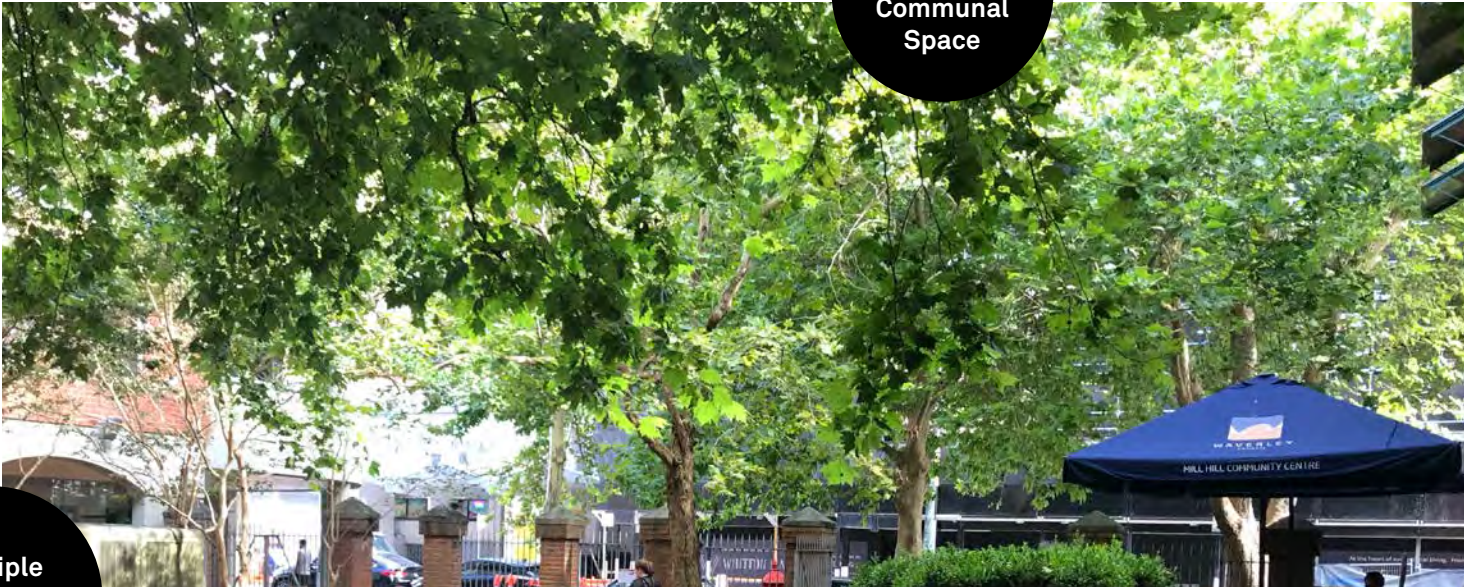
Mill Hill Centre and The Boot Factory  
Images of existing external conditions

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Date Received: 27/04/2021



Low Visibility  
of Heritage  
Architecture

Under  
Utilised  
Communal  
Space



Cluttered  
Entry

Multiple  
Signage  
Designs





The signage needs to have universal appeal, adding visual interest and serving a practical wayfinding function with sensitivity to the heritage, architecture, interiors, landscape and with relevance in the public domain and it’s relationship to the local community.

Our design approach

The signage design needs to be inherently linked and respond to the architecture, history and building function to create an integrated layer that enhances the building and the journeys required.

There is a strong appreciation for the Boot Factory heritage – from its establishment to the present day, and going forward into the future.

The challenge is to capture this in a understandable way so it is neither memorial or treated too lightly and respecting the users and future its endeavors.

Our signage approach is people centric

We always place the user at the centre of the wayfinding system. This sets the precedence and frame of reference for a user focused wayfinding approach and signage system. It needs to be simple to use and easy to understand, making the journey experience purposeful and without frustration.

We have developed an approach based on the requirements of the historic building, the Boot Factory history and thematic narratives – making the signage identity memorable and unique.

Order and coherence

Our goal is to design a wayfinding signage system that has an enduring aesthetic appeal, consistency, flexibility and simplicity across key components, while being highly functional and operating in accordance with relevant regulations, accessibility requirements creating an inclusive and engaging environment.

Design and legibility

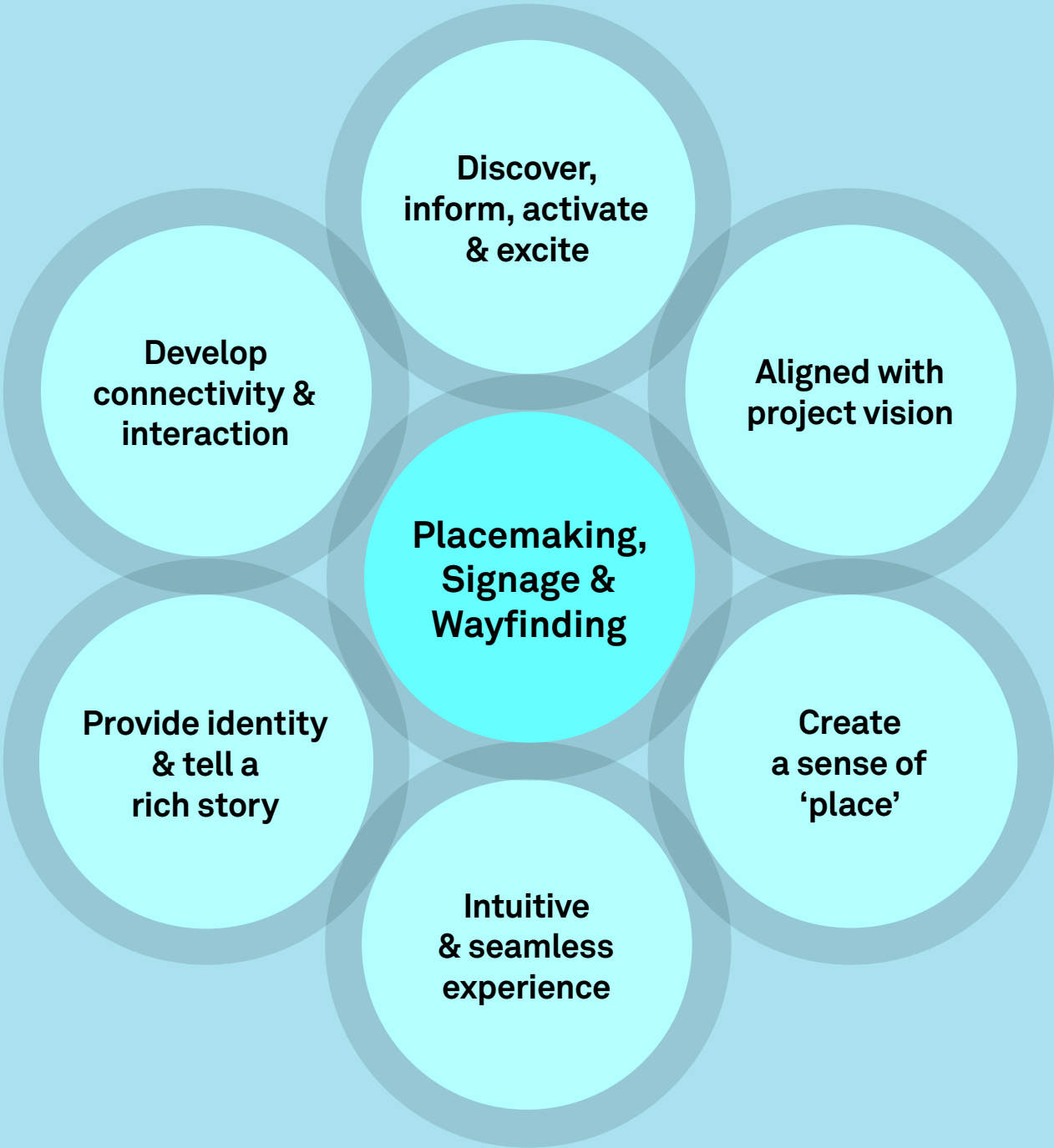
The signage is to be integrated with the interior architecture with signage placed at focal or decision points or at the end of vistas.

– Making the journey legible helps day to day staff and visitors understand the spatial layout so they can move about the building with ease.

Respecting the past for the future

The signage approach and design needs to recognise and be respectful to the heritage of the building and the history of the site, the locality and the interactions of the clients and how they sit with the precinct. Any graphics needs to offer a positive outlook and express the underlying values of Waverley Council and the Boot Factory heritage.

We consider the relationship of many components, all working together to create a **unique, ownable and enjoyable experience for all**



Making the right decision at the right location is critical to the successful function of an environment.

Wayfinding decision making points

Unfamiliar journeys are stressful, having the right information at the right time helps the understanding of the journey providing confidence, supports safety, and efficiency creating a positive user experience.

*This means providing information at the right time in the right location.*

The principles that we have applied are:

- signage to key destinations and amenities
- signage located at key decision points, entries, exits and destinations
- signage has clear views and sight lines where possible
- signage to be positioned to suit user requirements – pedestrian, accessible and varying ages groups

- accessible signage to be positioned in accordance with Australian Standards
- critical signage externally or internally – at the entry of this precinct, the ambient lighting levels are likely to be sufficient to provide recognition and legibility for the reading of the signage coupled with a clear and easily understood messaging hierarchy on the sign.

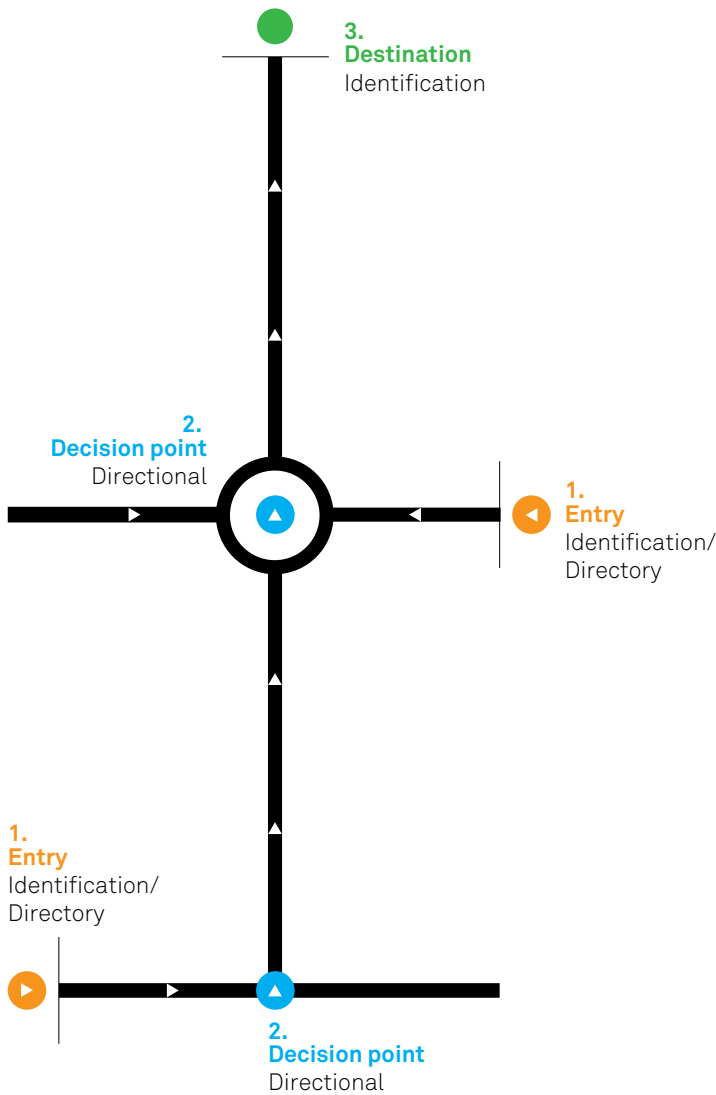
Wayfinding decision making points are to be located at key junctions of the journey. These need to be clearly identified both for regular users who are familiar with the environment and visitors who are unfamiliar with the environment and where destinations locations are not known.

Progressive disclosure

Our signage approach and the wayfinding system for this project is built around the principle of ‘progressive disclosure’, providing enough information at the right time along a journey sufficient to give confidence they are on the right path or can find something easily.

Sign locations:

Circulation and identification at key decision making points. Typical journey illustrated.



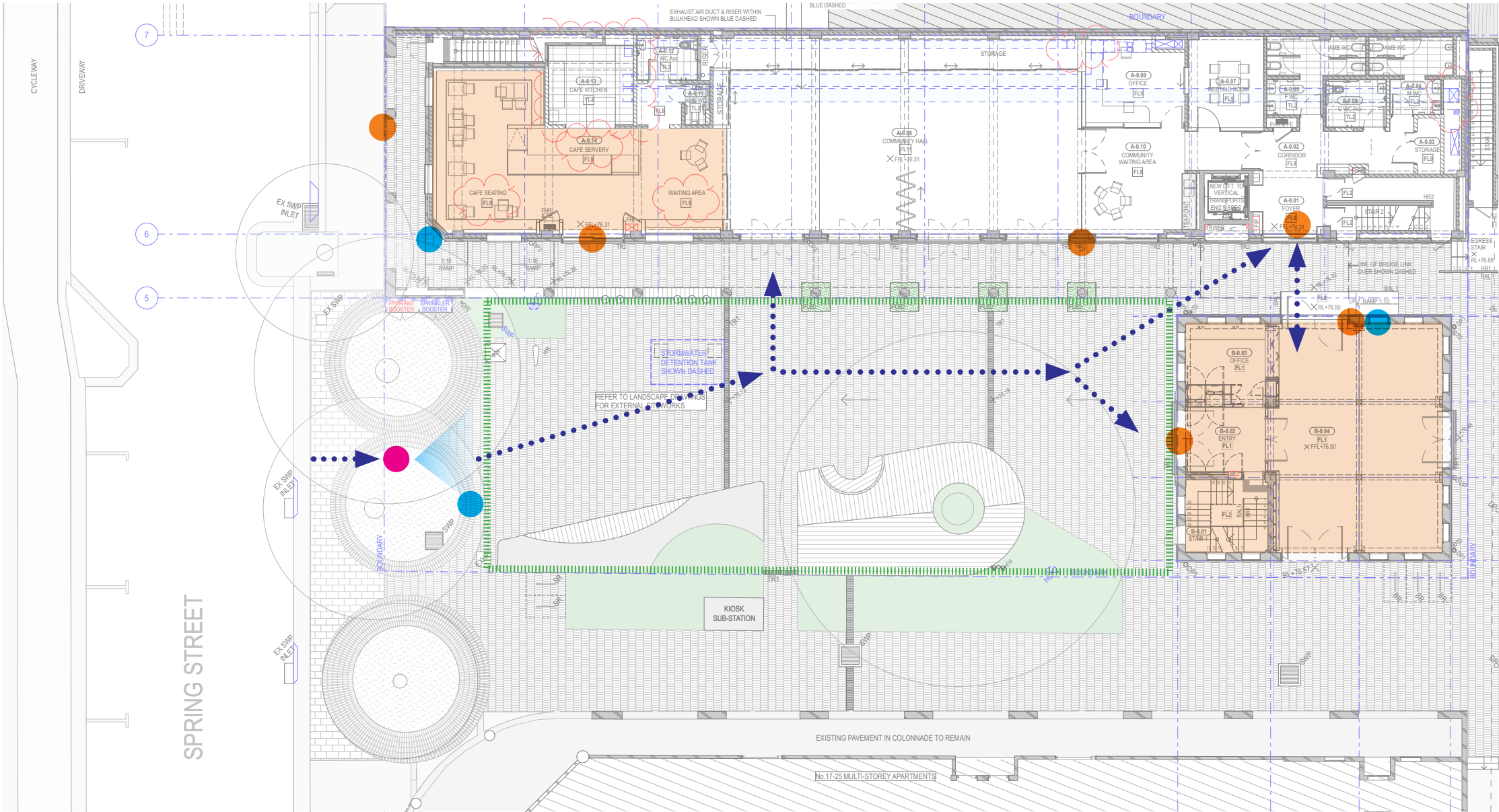
The following pages illustrate locations for typical signs that are be seen on a journey at key points to main destinations.



# Strategic wayfinding principles

## External circulation and decision making points

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This plan diagram demonstrates the main journey destinations across the external site.

**Legend**

- Decision Points
- Wayfinding
- Destination
- Heritage Interpretation/  
External Communal Space
- Circulation / Wayfinding Journey
- Visibility

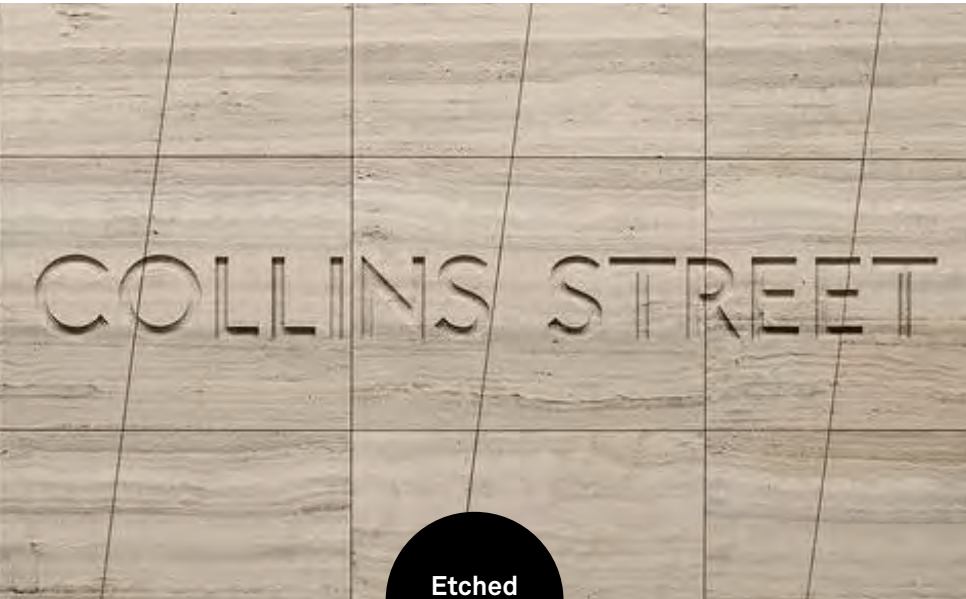
The following signage precedents explore approaches to spatial branding, identification, wayfinding, circulation and placemaking signage and assist in explaining the signage and wayfinding design intent.

They explore graphic approaches to signage design, form, colour and materiality, and serve as a benchmarking function rather than attempt to provide a design solution.

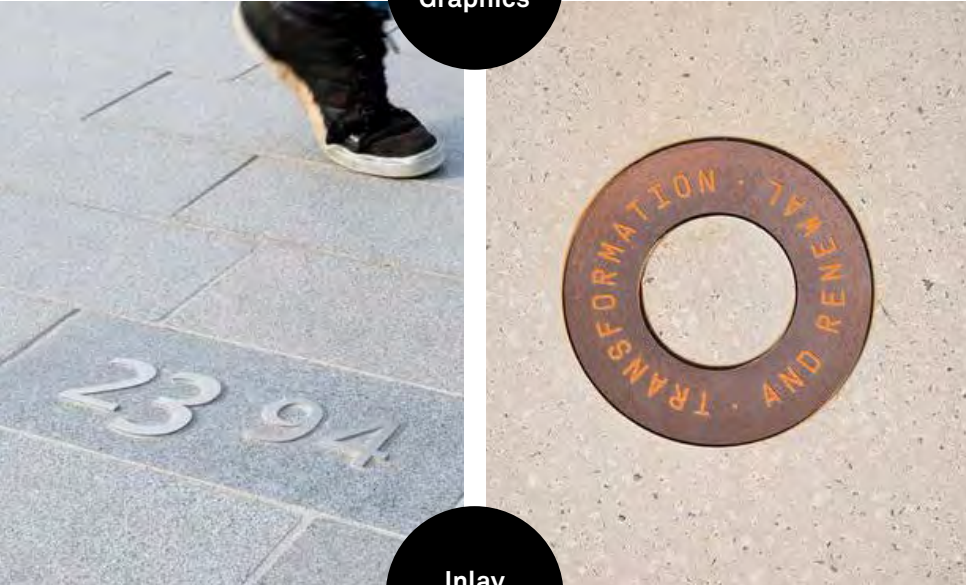


Mill Hill Centre and The Boot Factory  
Heritage Interpretation Signage Precedents Benchmarking

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Etched  
Graphics



Inlay  
Elements



Clear  
Wayfinding



Embedded  
Elements



Contrasting  
Textures





---

# External Signage Hierarchy

Signage has been split into the following hierarchical sign type categories used to plan and implement a signage system.

A hierarchical sign type diagram is shown on the page following.

External sign types include:

- Identification
- Wayfinding
- Statutory
- Heritage Interpretive Graphics

# Mill Hill Centre and Boot Factory

## External Signage Hierarchy

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This schematic diagram illustrates the proposed signage hierarchy for the external signage and wayfinding approach.

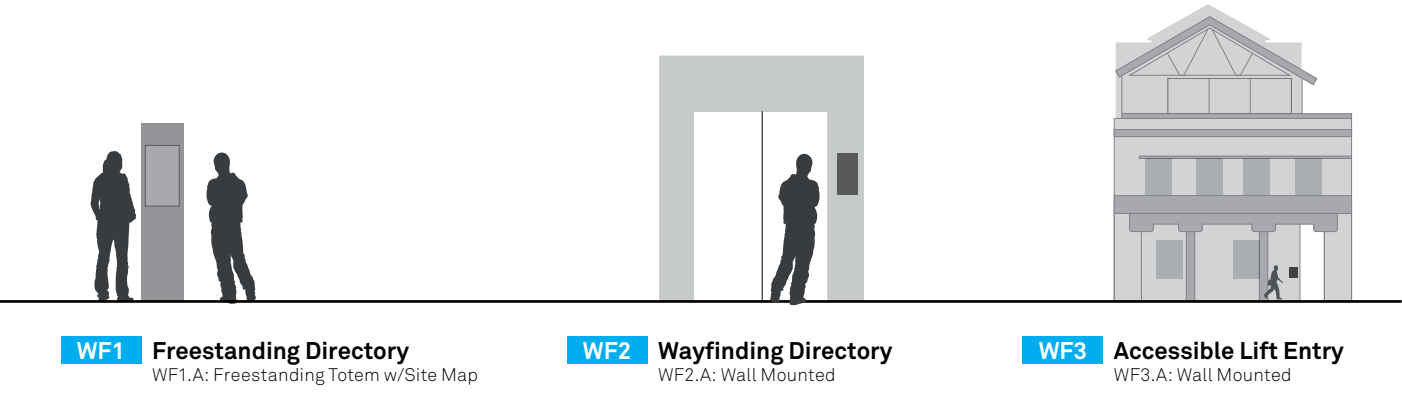
Application No: DA-150/2021

Date Received: 27/04/2021

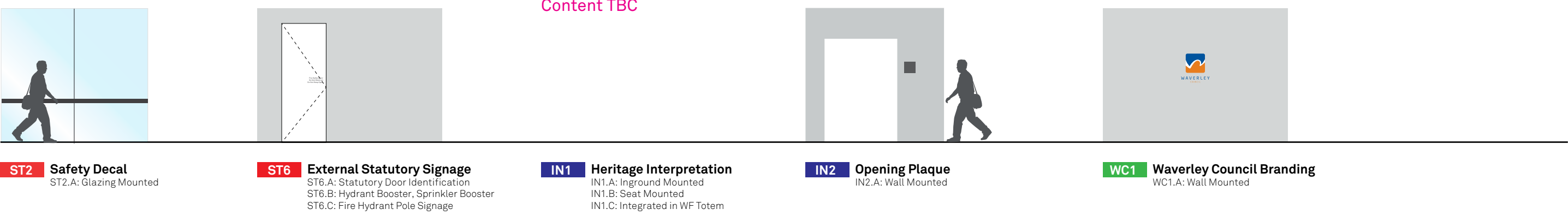
### IDENTIFICATION



### WAYFINDING



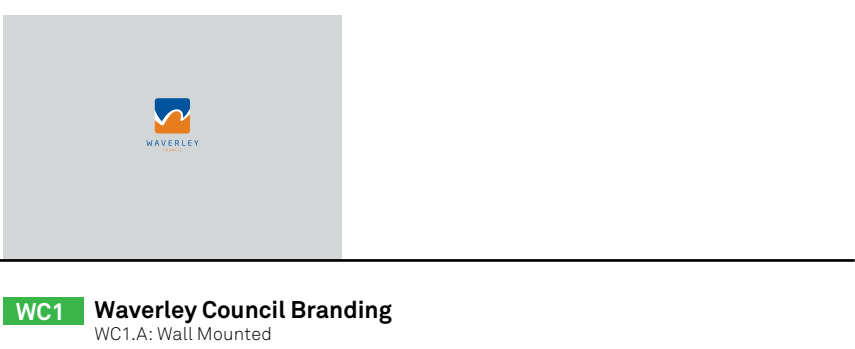
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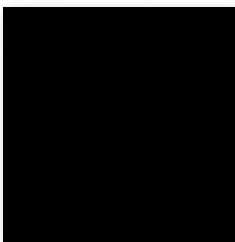
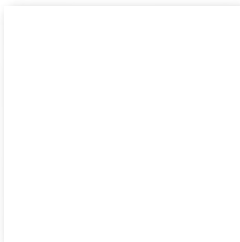

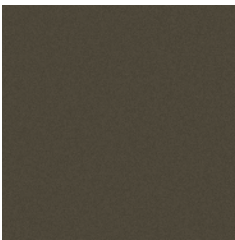


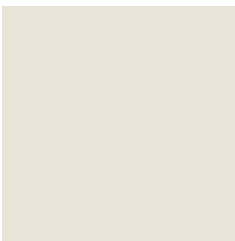






### INTERPRETIVE GRAPHICS

Content TBC

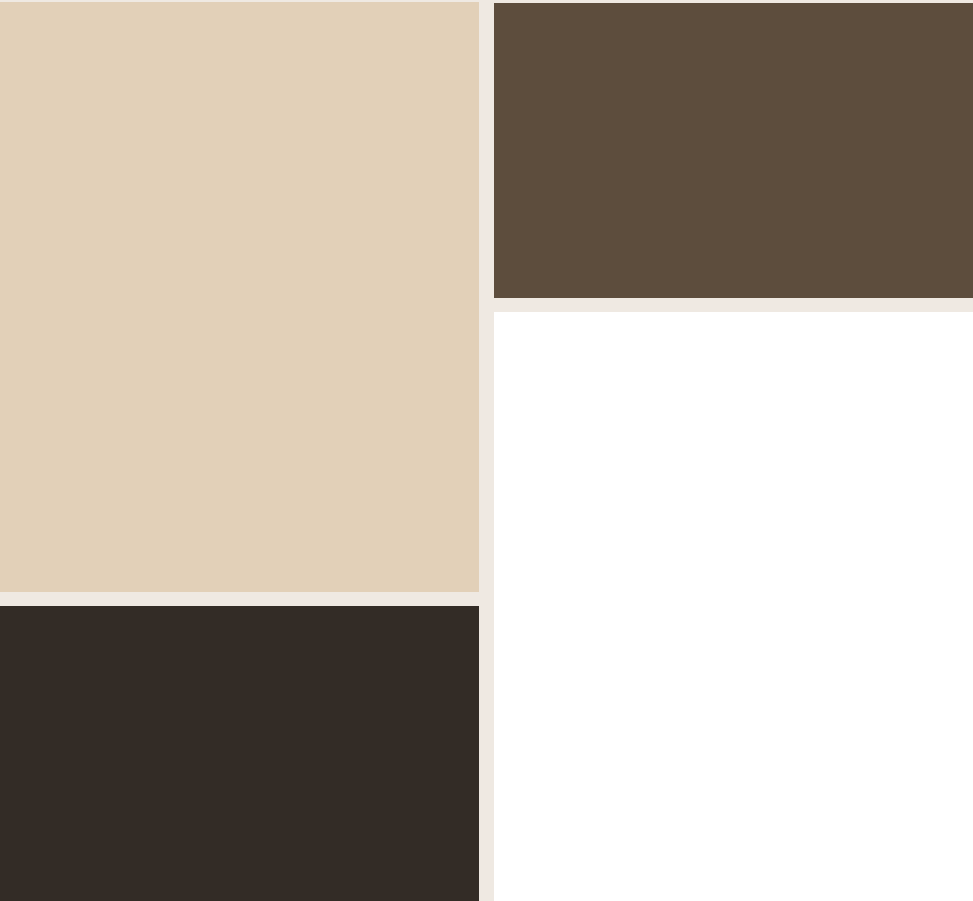
### WAVERLEY COUNCIL



Colours		Materials		DESCRIPTION				
	<div>PT001/DP001</div> <div>DULUX Black SG6G9</div> <div>PMS Black</div>		<div>PT002/DP002</div> <div>DULUX Vivid White SW1G1 Satin Finish</div> <div>AS White</div>		<div>PT003</div> <div>DULUX Monument</div> <div>Paint finish directly to substrate behind.</div>			
	<div>PT004</div> <div>Paint colour to match Interpon D2525 Medium Bronze Pearl YY23NA</div> <div>CMYK 0 8 24 66</div>		<div>PT005</div> <div>DP005</div> <div>Emergency Red</div> <div>AS 2700, R13 Signal Red</div> <div>DULUX Paraburdoo PB1F3</div> <div>VINYL Avery 925 Signal Red</div> <div>PMS 485C</div>		<div>PT006</div> <div>DP006</div> <div>Accessible Blue</div> <div>AS 2700, B23 Bright Blue</div> <div>PMS 301C, 2945U</div>			
	<div>PT007</div> <div>DULUX Ecru</div> <div>CMYK 0 9 20 12</div> <div>PANTONE P 19-9 C</div>		<div>VN001</div> <div>Avery 921 Black Vinyl in matt finish (unless specified otherwise)</div>		<div>LT001</div> <div>2700K LED strip lighting in White colour temperature.</div>			
			<div>EN001</div> <div>Engraved graphics to substrate in scale as nominated on drawings. <i>Image above is indicative only.</i></div>		<div>TB001</div> <div>3D printed Tactile and Braille</div> <div>Colour As specified on dwg</div> <div>Font As specified on dwg</div>			
<div>Issued for DA Section 4.55</div> <div>Revisions</div> <table><tr><td>01</td><td>260321</td><td>Issued for Section 4.55</td></tr></table>		01	260321	Issued for Section 4.55	<div>Client</div> <div><div>ARCHER OFFICE</div><div>WAVERLEY COUNCIL</div></div>		<div>Project</div> <div>Mill Hill Centre &amp; Boot Factory</div>	
01	260321	Issued for Section 4.55						
<div>Scale As shown at A3</div>		<div>Drawing title</div> <div>External Signage Colour and Material Specification</div>		<div>Job number</div> <div>AR0001</div>				
		<div>Drawn HH</div> <div>Checked RP</div>		<div>Drawing number</div> <div>SI_GEN_0000</div>				
				<div>Sign type</div> <div>GEN</div> <div>Sheet size</div> <div>A3</div>				
				<div>Reproduction of the whole or part of this document constitutes an infringement of copyright. The information ideas and concepts contained in this document are confidential. The recipient(s) of this document is prohibited from disclosing such information, ideas and concepts to any person without the prior written consent of Extra Black Pty Ltd.</div>				
				<div>NOT FOR CONSTRUCTION</div>				
				<div>TACTILE AND BRAILLE</div> <div>Braille and Tactile elements must be to BCA specification D3.6 and AS 1428.</div> <div>Refer to: Signage and Wayfinding Technical Specification document.</div> <div>Symbols and text in white or nominated colours shall be raised to conform withthe BCA/DDA code requirements, formed on or dimensionally printed on 3mm aluminium panel with 2 pack paint finish as nominated on drawings unless noted otherwise. Paint finish with clear low-sheen UV satin clear coat and ELCO anti graffiti coat to protect. Finish to be free from blemishes, marks, scratches or chips.</div> <div>Panel to be adhered to wall with enough permanent VHB tape. VHB tape to be inset 5mm from all sides of rear face. All edges of sign panel to have a 1mm radius fillet, sign must be smooth to touch.</div> <div>NOTES</div> <div>All paints to be matte or satin finish unless specified otherwise on drawings.</div> <div>PT – 2 Pack Paint Finish</div> <div>Contractor to ensure paint application is enough for full coverage to engraved and filled messaging on panels. 2 Pack paint spray painted finish in matte/satin finish (unless specified otherwise in drawings) to all nominated surfaces and visible edges with spray painted UV satin clear coat/ELCO anti graffiti coating over to protect. Contractor to ensure all surfaces are prepared as per manufacturers specification. Finish to be free from blemishes, marks, dust, scratches or chips.</div> <div>DP – Direct Digital Print</div> <div>Highest quality direct digital printing to nominated surfaces. Ensure even coverage of ink, multiple passes if required to get a full and even ink coverage, colour and bond to the substrate. Sign to be spray painted UV satin clear coat/ELCO anti graffiti coating over to protect.</div> <div>Contractor to ensure surface is prepared as per manufacturers specification before application. Messaging to be direct digitally printed on to substrate as nominated unless specified otherwise.</div>				

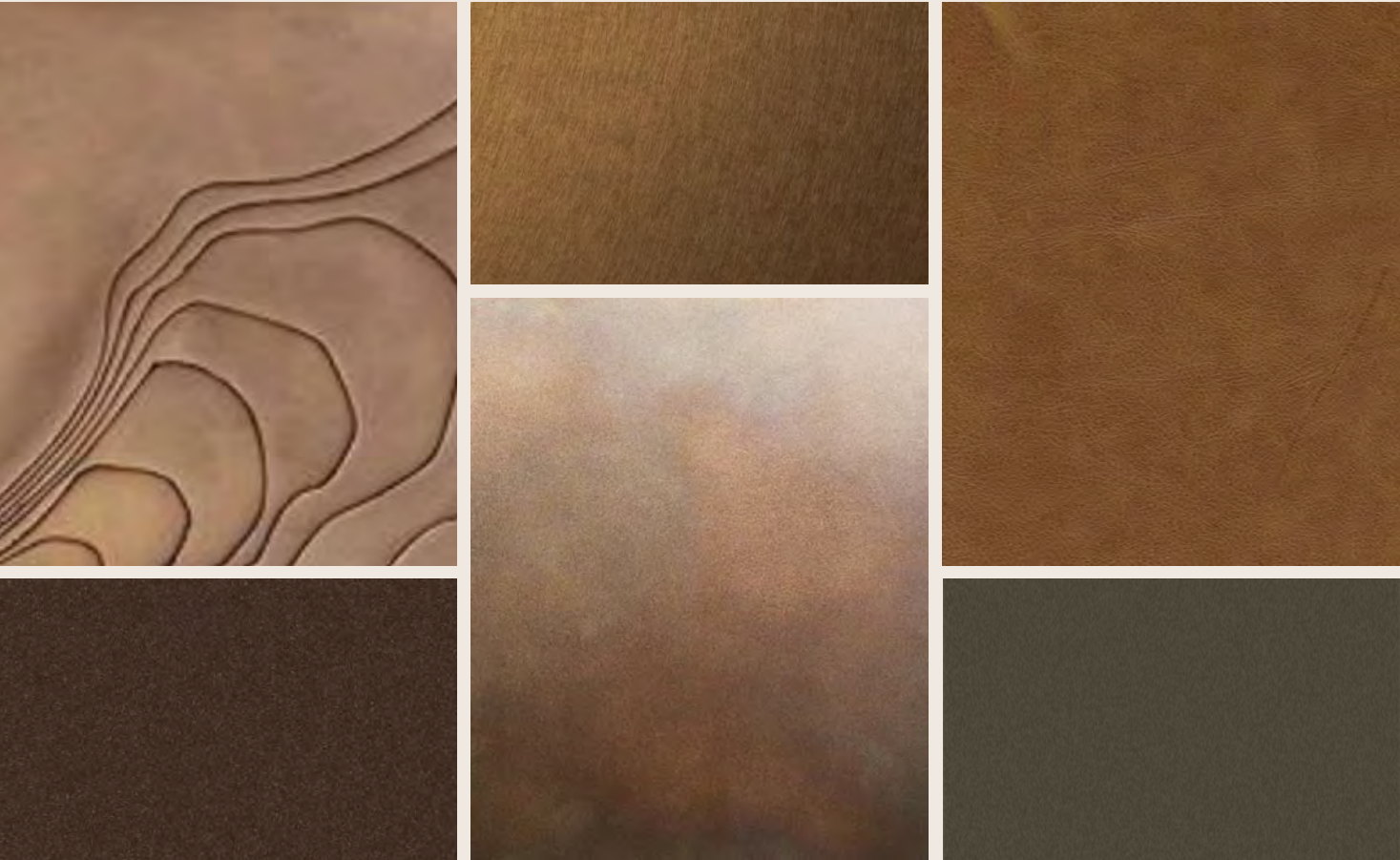


Colour Palette



Warm and dark tones inspired by the Boot Factory heritage qualities.

Material Palette



Embossed graphics into metal sheets like dark bronze or corten.



Warm colours and textures of the internal building environment.

Input Sans

Light

ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz!@#\$%^&\*  
1234567890

Medium

ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz!@#\$%^&\*  
1234567890

Bold

ABCDEFGHIJKLMNOPQRSTUVWXYZ  
abcdefghijklmnopqrstuvwxyz!@#\$%^&\*  
1234567890

This font holds an industrial look and feel to the lettering and numerals that aims to represent the manufacturing qualities of the Boot Factory.

Different weights will be adapted for different signtypes for clear wayfinding and legibility.



Image above showing existing typography to the top of the Boot Factory.



Image above shows the similarities of the existing and selected project font-Input Sans which is a contemporary interpretation of the industrial heritage font

---

# Proposed External Signage Documentation



ID1A

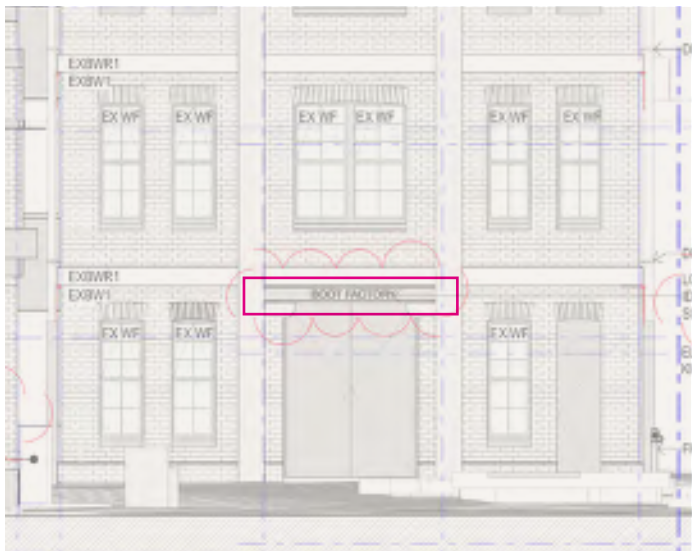
MILL HILL CENTRE

ID1B Illuminated

BOOT FACTORY



ID1A: Indicative location of sign shown magenta keyline. Sign to replace existing letters and street numbers. Facade to be made good following signage removal where possible.



ID1B: Indicative location of sign shown magenta keyline to sit within existing steel 'I' beam above timber doors. Power cabling to be concealed.

Above precedent imagery showcasing design intention. Both Building Identifications to be elegant fabricated channel letters that are pin fixed into existing Heritage facade. Halo illumination to letters for the Boot Factory letters. Colours of letters to be contrasting of existing building colours to ensure clear identification.

**Sign Type:**  
– ID1.A: Mill Hill Centre [TBC] Building ID  
– ID1.B: Boot Factory Identification

**Material Overview:**  
– Pin fixed aluminium fabricated channel letter  
– Halo Illumination

**Size W x H x D mm:**  
– ID1.A: 5000 x 400 x 50 [approx.]  
– ID1.B: 2200 x 200 x 30 [approx.]



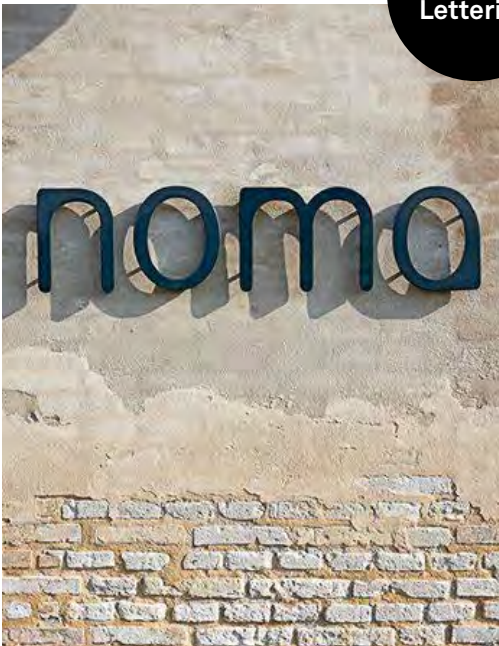
Building Street Numbers  
Wall Mounted

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ID2



Elevated  
Lettering



Indicative location of sign shown magenta keyline.  
Final location and street numbers to be confirmed.

Left: Showing indicative imagery of design intention,  
pin fixed numbers and letters to wall.

Numbers and letter colours to match final external building facade colours.  
Powdercoated Laser cut letters and numbers pin fixed to facade. Letters fixed to grout lines of wall to ensure minimal damage to heritage elements. Powdercoat provides outstanding durability for the life of the sign.

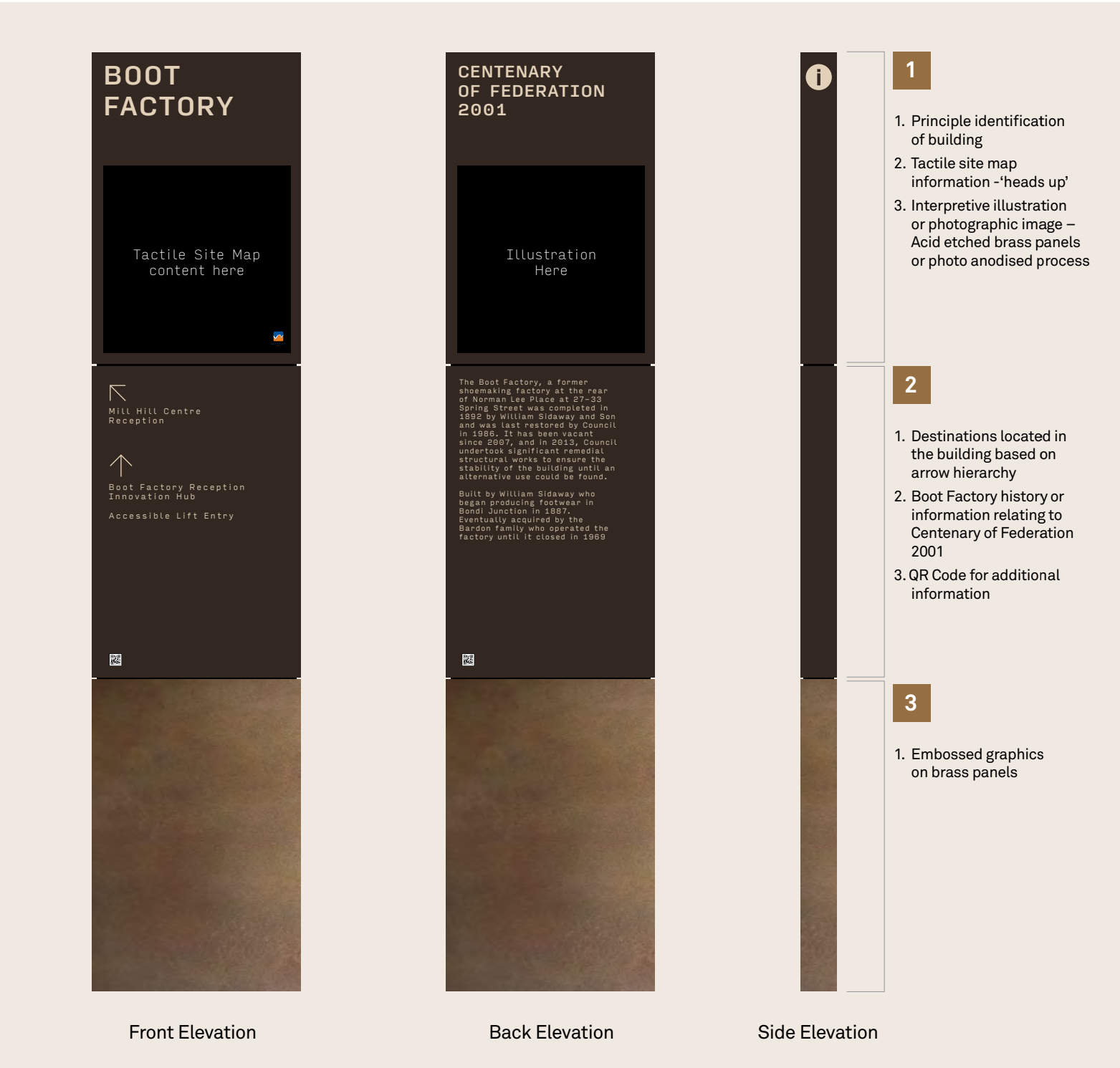
**Sign Type:**  
– ID2.A: Wall Mounted  
**Material Overview:**  
– Pin fixed laser cut aluminium channel letter  
– Matte fine sand texture powdercoat (Dark Bronze Pearlescent)  
**Size W x H x D mm:**  
– 800 x 150 x 20 [approx.]



# Freestanding Totem

## In-ground Mounted

WF1

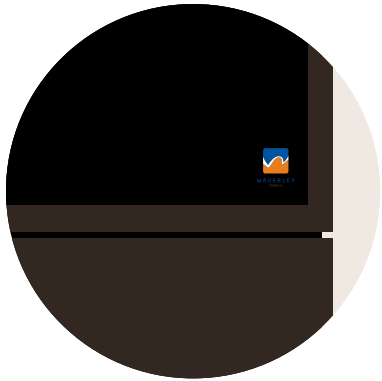


An even division of panels that form the height of the totem in a modular system. The bottom part of the totem to incorporate patterns that make an abstract reference to the boot factory leather cutting templates. Above shows indicative wording only.

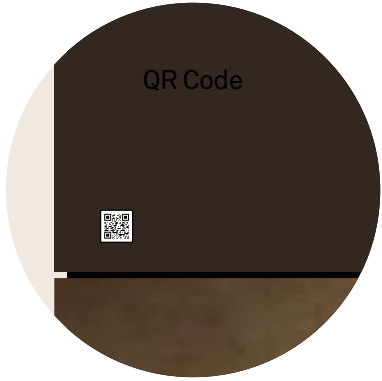
Side faces to incorporate information pictogram and continuation of metal cladding.



Arrow & Text Detail



Waverley Branding



QR Code

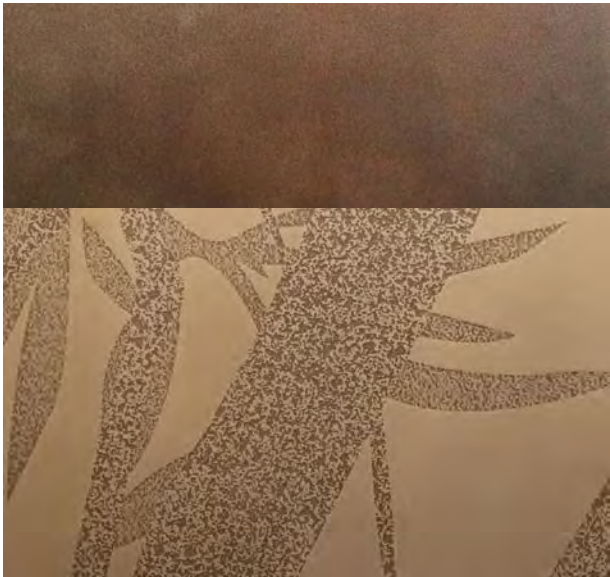
**Sign Type:**  
– WF1.A: Freestanding Totem w/Site map

**Material Overview:**  
– Fully fabricated modular 2mm thk sign structure  
– Top: Matte fine sand texture powdercoat (Dark Bronze Pearlescent) with direct to substrate digital printing  
– Bottom: Embossed/Sandblasted graphic into bright cast 'look' bronze 2mm thk panel

**Size W x H x D mm:**  
– 400 x 1800 x 69 [approx.]



**Precedent Imagery**  
Above shows an example of a thin modular totem, with information divided evenly across the multiple panels.



Embossed graphics into metal sheets like dark bronze or corten.



# Freestanding Totem Site Braille Map

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WF1



### Site Map Precedent

The visual elements and graphics of the map will be constructed of clean wayfinding directions, as well as colours that align with the external Heritage space.

Above map is an example of Cranbrook School campus. It is more complex that required by the Mill Hill Centre and Boot Factory.



### Precedent Imagery

Above image detail show examples of City of Sydney Town Hall House Tactile and Braille map totems developed by Extrablack.

### Tactile and Braille signage and mapping

It is proposed that the freestanding totem information sign includes a Tactile and Braille map as best practice and to support Equal Access and Universal Design principles.

External wayfinding signage also includes a tactile and Braille component where required.

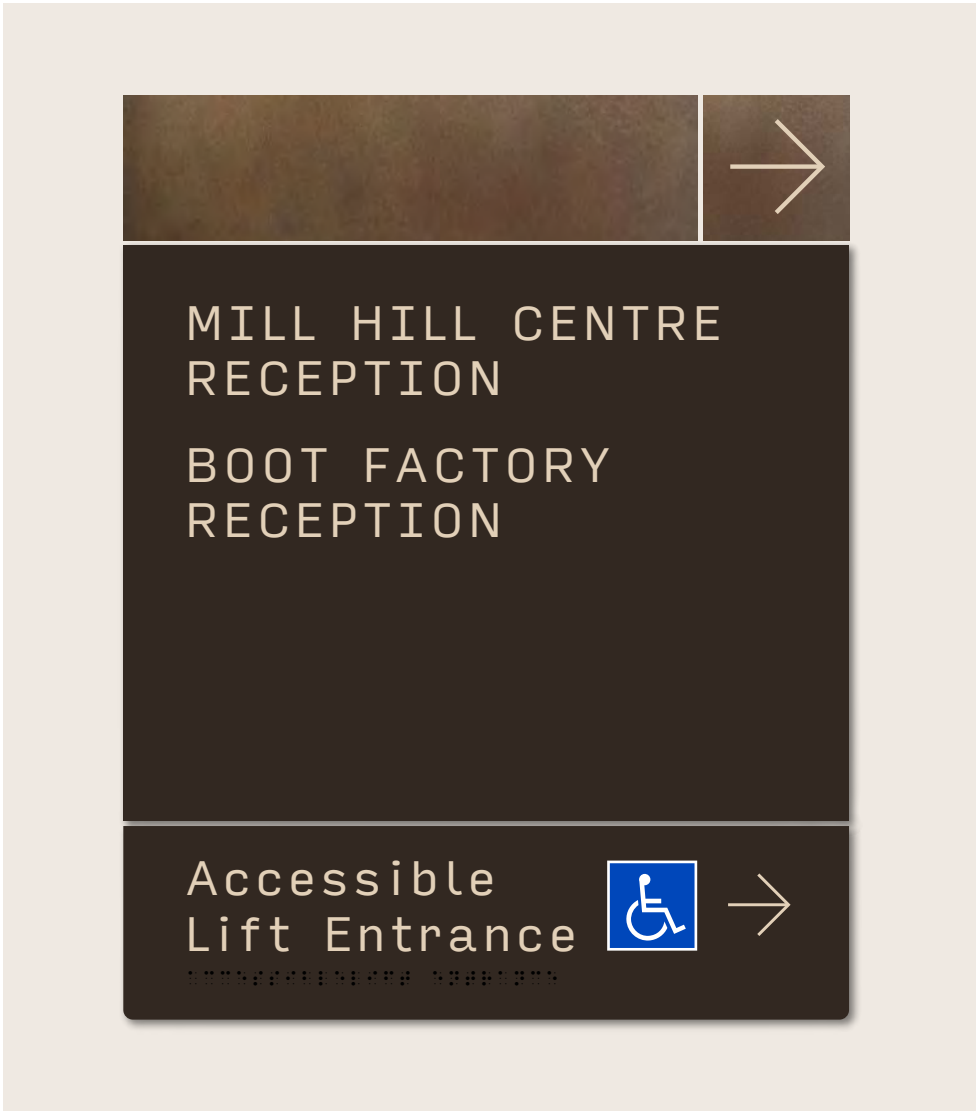


# Wayfinding Directory & Destination Identification

## Wall Mounted

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Date Received: 27/04/2021

### WF2 Wayfinding Directory



Modular panel design separating multiple levels of top level destination information. Textured metal band across the top to assist a clear wayfinding journey.

**Sign Type:**  
– WF2.A: Wall Mounted

**Material Overview:**  
– Fabricated modular 3mm thk sign panels with tactile & Braille fixed to 5mm thk backing panel  
– Top: 3mm thk panel embossed/sandblasted graphic into bright cast 'look' bronze  
– Bottom: 3mm thk panel Matte fine sand texture powdercoat (Dark Bronze Pearlescent) with direct to substrate digital printing

**Size W x H x D mm:**  
– 300 x 382 x 3/5

### ID3 Destination Identification



**Typical Elevation**  
Signs mounted relevant visual eye-line.

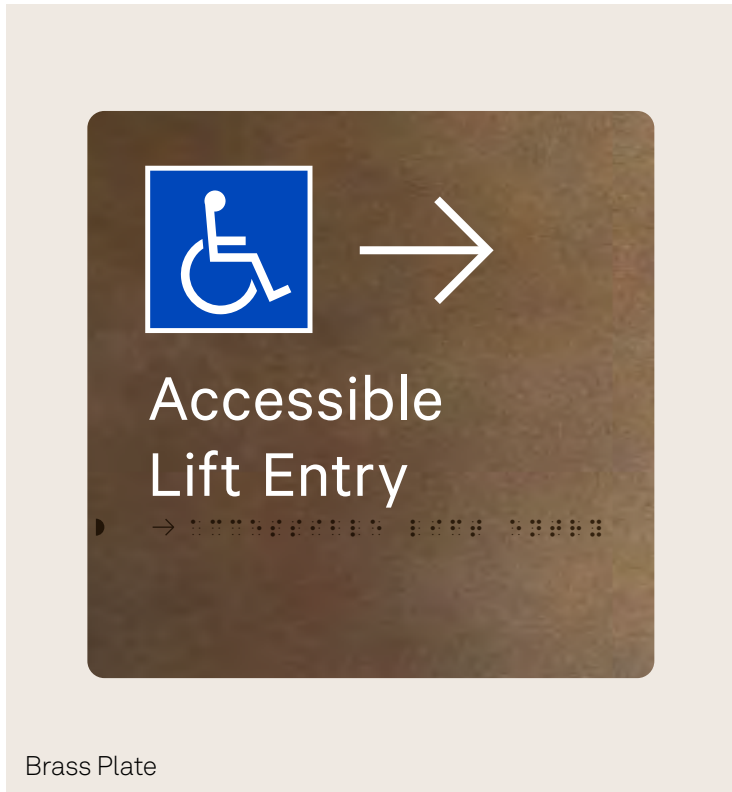
**Sign Type:**  
– ID3.A: Wall Mounted

**Material Overview:**  
– Fabricated modular 3mm thk sign panels with tactile & Braille fixed to 5mm thk backing panel  
– Top: 3mm thk panel embossed/sandblasted graphic into bright cast 'look' bronze  
– Bottom: 3mm thk panel Matte fine sand texture powdercoat (Dark Bronze Pearlescent) with direct to substrate digital printing

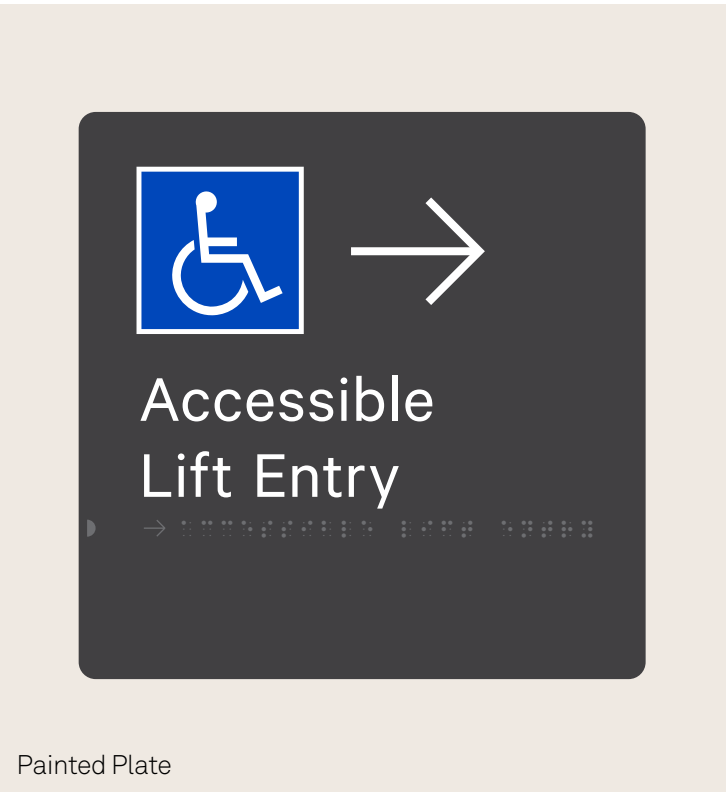
**Size W x H x D mm:**  
– 300 x 300 x 3/5

Accessible Lift Entry  
Wall Mounted

WF3



Brass Plate



Painted Plate

01 – External

Above option utilises brass panel with 3D printed graphic content. Braille elements to match panel finish behind.

Sign Type:  
– WF3.A: Wall Mounted

Material Overview:  
– Brass Plate: 3mm thk Brass panel with 3D printed tactile & Braille. UV Clear top coat. Fixed directly to wall  
– Painted Plate: 3mm thk panel powdercoated Dark Bronze Pearlescent with 3D printed tactile & Braille. UV Clear top coat. Fixed directly to wall

Size W x H x D mm:  
– 200 x 200 x 3

02 – Internal

Above option shows painted finish panel with 3D printed pictograms, graphics with braille features to match panel colour finish.

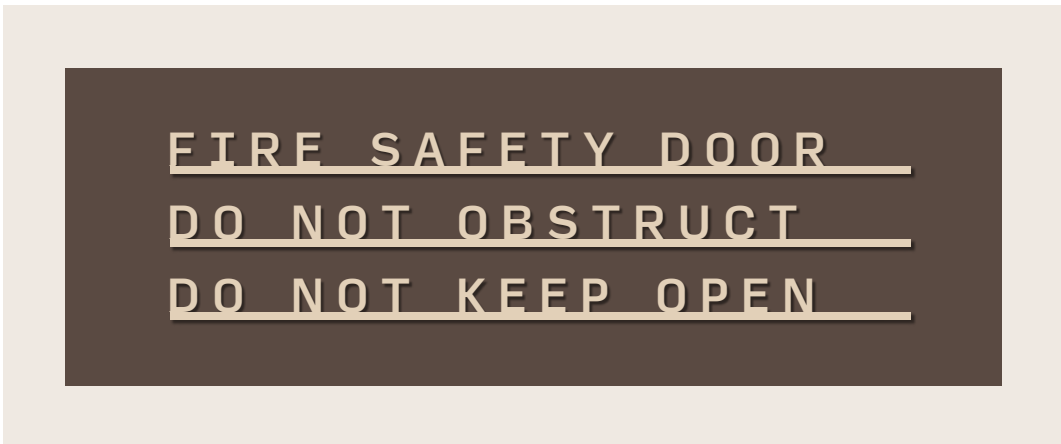


Images above are examples of 3D printed tactile and braille sign panels with contrasting colour finishes for compliance.



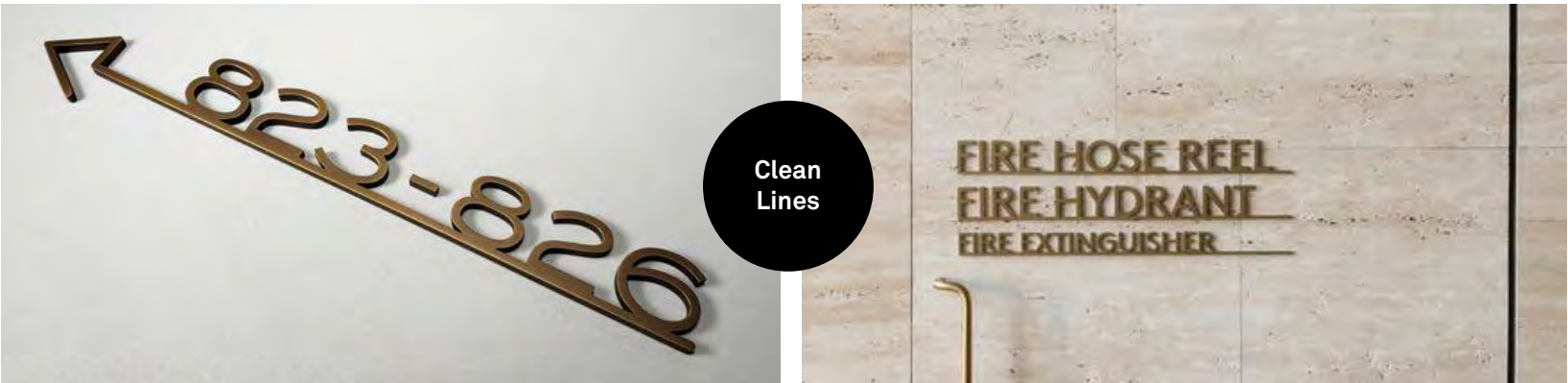
Statutory Signage  
Door Mounted

ST6



Letters joined with a keyline detail.

- Sign Type:
- ST6.A: Statutory Door Identification
- Material Overview:
- Brass Plate: Lasercut 2.4mm thk Brass plate with UV Clear top coat. Mechanically fixed directly to door
- Size W x H x D mm:
- 560 x 142 x 2.4



**Indicative Elevations**  
Above elevations show a typical setout of how standard statutory messages would appear on a typical door. Final colours to be confirmed.

# Statutory Signage – External Fire Hydrant

## In-ground Mounted

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Application No: DA-150/2021  
Date Received: 27/04/2021

ST6



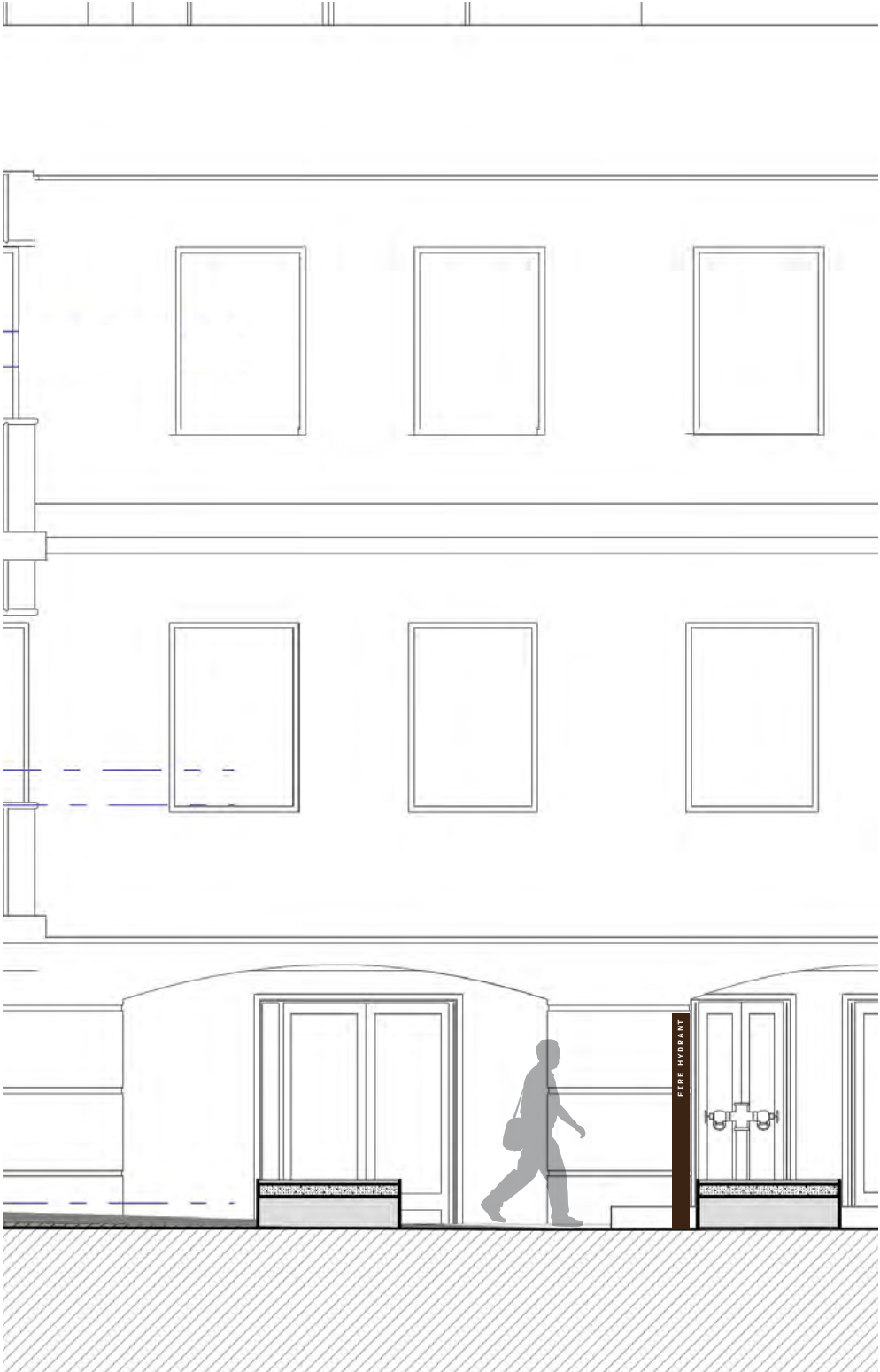
**Sign Type:**  
– ST6.C: Fire Hydrant Pole Signage

**Material Overview:**  
– 1800mm high, 150x150 mm SHS w/ seamless top cap. SHS Post is Powdercoated Dark Bronze Pearlescent. Lasercut 3mm thk brass letters pin fixed to post.

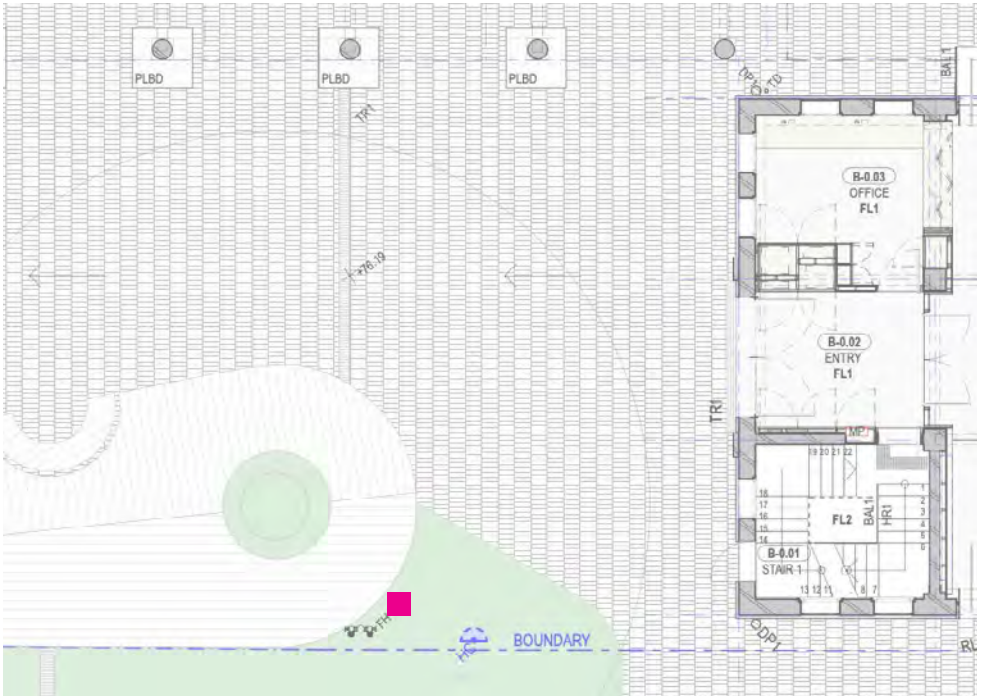
**Size W x H x D mm:**  
– 150 x 2000 x 3

**Cabinet / Enclosure External Hydrant**  
Description: 75mm text height. Text high contrast against background.  
Reference: AS2419.1 – 2005 Clause 3.6.2(a)

Tall structure to ensure clear visual connection to external fire hydrant, with message to all visible faces of pole. Colours to blend with external heritage colours and materials.

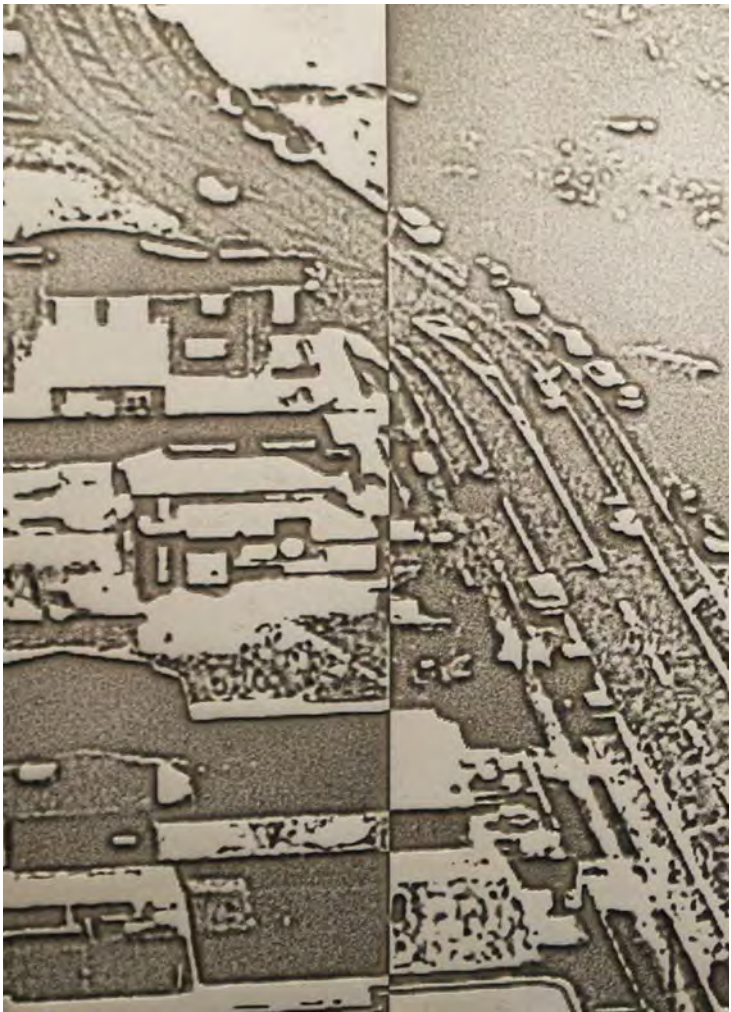


**Landscape Location**  
Mounted adjacent Fire Hydrant.



Indicative locations of external Fire Hydrant. Plan not to scale. Final mounting locations to be confirmed.



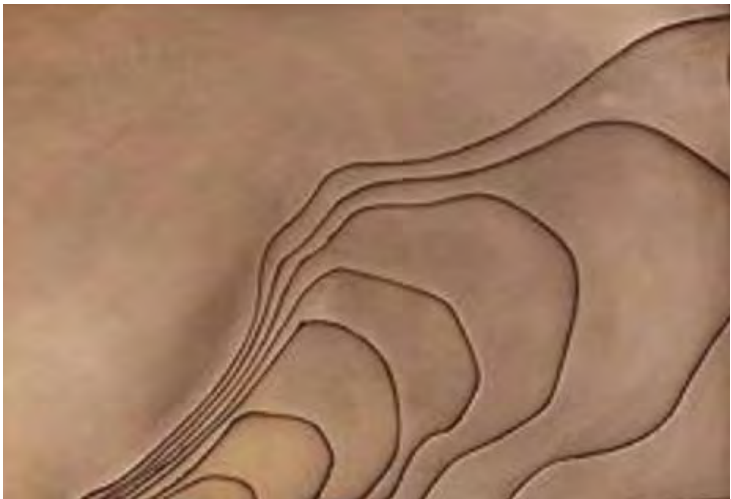
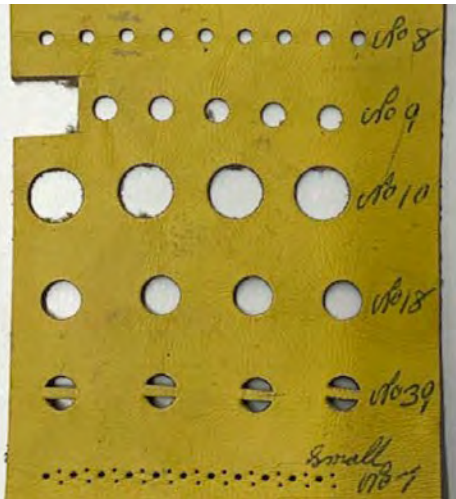


Location of area proposed for graphic interpretation.

Boot Factory Door

It is proposed that the entrance door is a location to explore an interpretive piece that would be integrated with the new door. We understand the existing timber door is to be replaced.

The materiality and interpretation will be in keeping with the architectural fabric.



Reference Imagery

Images above indicating types of imagery that can be abstracted to form the graphic perforation applied to the new entry doors to the boot factory.

These patterns demonstrate strong sense of repetition, iterations, mechanical processing and natural material imperfection which can be weaved into new signage as textures. Images referenced from Heritage Interpretation Plan, by Matt Devine & Co presentation Issued November 2020.

Precedent Imagery

Above images show potential application of abstracted graphics embossed onto metal sheet to represent the mechanical processes of the manufacturing context.

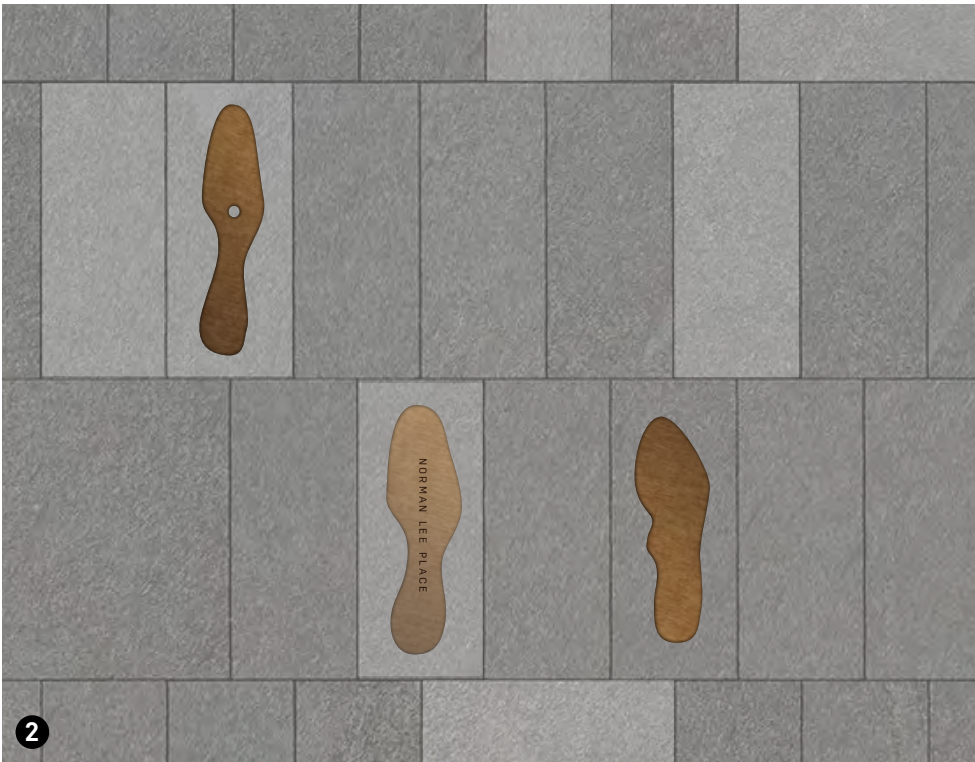


# Heritage Interpretation

## Seat/In-ground Mounted



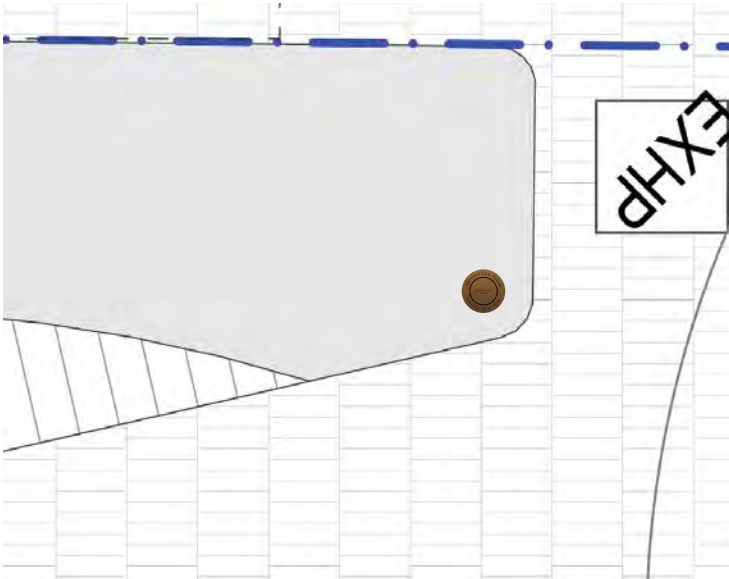
1 The incorporation of historical site facts can be layered into the external setting which will encourage a greater understanding of the site context to the local and greater community.



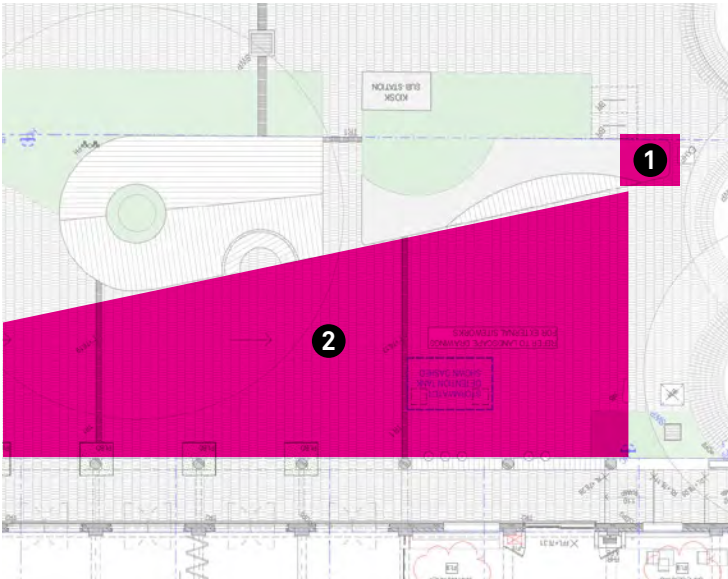
2 Graphics relating to the Boot Factory can also be inlayed into the paved flooring with notable site information engraved into the panels.



Embedded Graphics and history



Above plan shows indicative location of inlayed bronze disc to seating to acknowledge Norman Lee Place.



Area of proposed sign locations that are integrated into the paving. The intention is they are flush mounted and have a low profile to avoid any trip hazard. The interpretive narrative is to be discoverable and engaging and appeal to a wide age group.



Precedent imagery above showing options of metal inlay into floor substrate. Pieces can also have engraved messaging relating to important Heritage information. The top and bottom images can be seen at Darling Square and the Goods Line – City of Sydney.



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# External Signage Masterplan

The signage location masterplan shown on the page following indicates the proposed locations of external sign types including:

- Identification
- Wayfinding
- Statutory
- Heritage Interpretive

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Sign types

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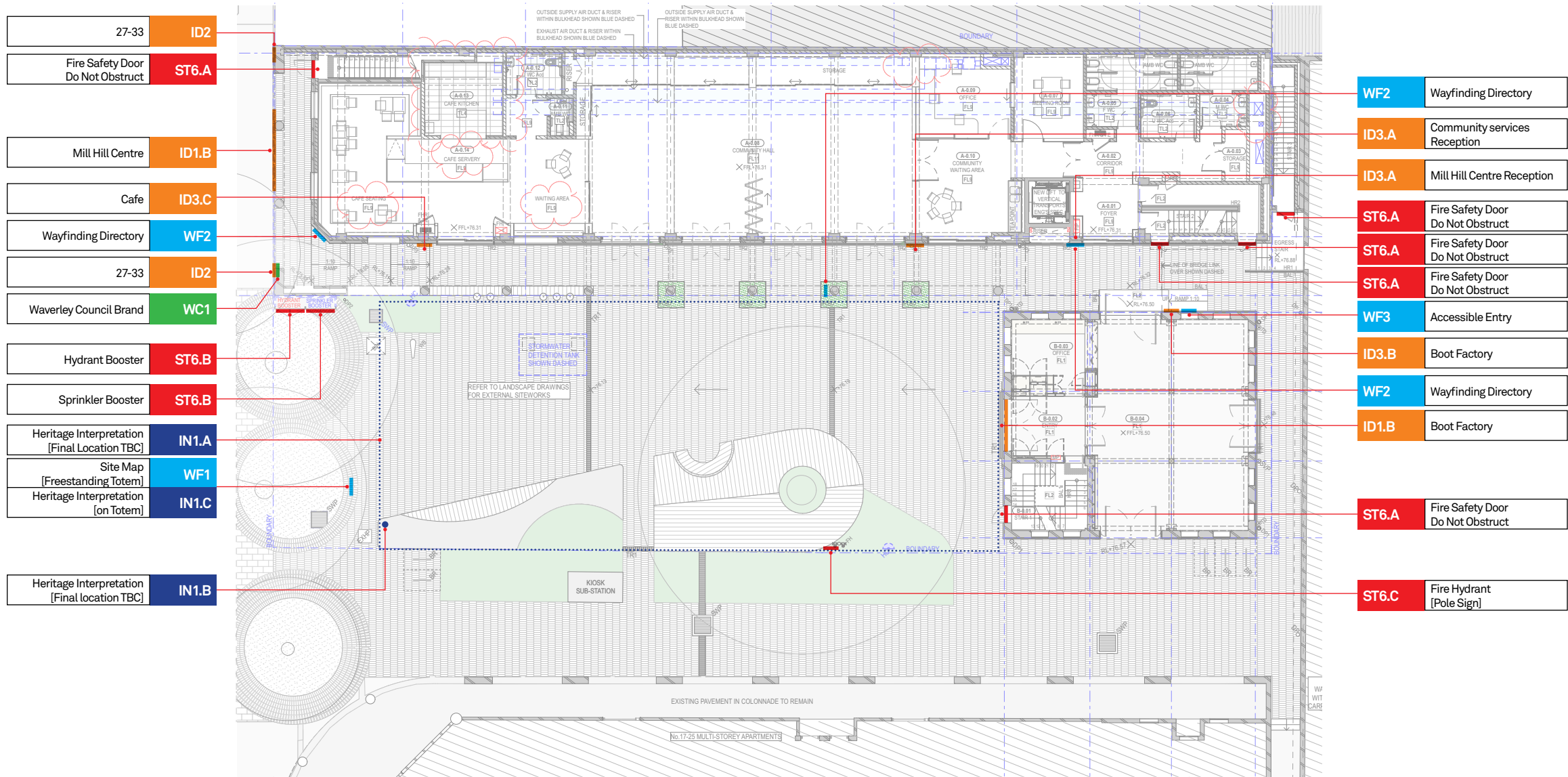
IDLocation  
wall/door

WFWayfinding  
In-ground/floor

STStatutory  
wall/door/glass mounted

INInterpretive Graphics  
wall/floor mounted

WCWaverley Council Branding  
wall mounted



Issued for Development Application

Revisions		
01	260321	Issued For Approval
02	290321	Issued For Approval

Client



Scale As shown at A3

Project

Mill Hill Centre & Boot Factory

Drawing title  
External Ground Floor Signage Masterplan

Drawn HH Checked RP

Job number

AR0001

Drawing number  
MP\_S4.55\_100

Sign type MP Revision 02 Sheet size A3

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Extrablack<sup>B</sup>

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Surry Hills NSW 2010  
Australia  
T +61 2 8964 6258  
extrablack.com.au



Drawing Number	File Name	Sign Type	Fabrication Overview	Size W x H x D (millimetres)	Issue for Section S4.55 Lodgement
ID1_S4.55_101	AR0001_External Signage Concepts for DA	ID1.A: Mill Hill Centre [TBC] Building ID	Pin fixed aluminium fabricated channel letter; Halo Illumination	5000 x 400 x 50	29.03.21
ID1_S4.55_102	AR0001_External Signage Concepts for DA	ID1.B: Boot Factory Identification	Pin fixed aluminium fabricated channel letter; Halo Illumination	2200 x 200 x 30	29.03.21
ID2_S4.55_103	AR0001_External Signage Concepts for DA	ID2.A: Wall Mounted	Pin fixed laser cut aluminium channel letter; Matte fine sand texture powdercoat (Dark Bronze Pearlescent)	800 x 150 x 20 [approx.]	29.03.21
WF1_S4.55_104	Concept 1_V1	WF1.A: Freestanding Totem w/Site map	Fully fabricated modular 2mm thk sign structure Top: Matte fine sand texture powdercoat (Dark Bronze Pearlescent) with direct to substrate digital printing Bottom: Embossed/Sandblasted graphic into bright cast 'look' bronze 2mm thk panel	400 x 1800 x 69	29.03.21
WF2_S4.55_105	External Destination Identifications	WF2.A: Wall Mounted	Fabricated modular 3mm thk sign panels with tactile & Braille fixed to 5mm thk backing panel Top: 3mm thk panel embossed/sandblasted graphic into bright cast 'look' bronze Bottom: 3mm thk panel Matte fine sand texture powdercoat (Dark Bronze Pearlescent) with direct to substrate digital printing	300 x 382 x 3/5	29.03.21
ID3_S4.55_106	External Destination Identifications	ID3.A: Wall Mounted	Fabricated modular 3mm thk sign panels with tactile & Braille fixed to 5mm thk backing panel Top: 3mm thk panel embossed/sandblasted graphic into bright cast 'look' bronze Bottom: 3mm thk panel Matte fine sand texture powdercoat (Dark Bronze Pearlescent) with direct to substrate digital printing	300 x 300 x 3/5	29.03.21
WF3_S4.55_107	AR0001_External Signage Concepts for DA	WF3.A: Wall Mounted	Brass Plate: 3mm thk Brass panel with 3D printed tactile & Braille. UV Clear top coat. Fixed directly to wall Painted Plate: 3mm thk panel powdercoated Dark Bronze Pearlescent with 3D printed tactile & Braille. UV Clear top coat. Fixed directly to wall	200 x 200 x 3	29.03.21
ST6_S4.55_108	AR0001_External Signage Concepts for DA	ST6.A: Statutory Door Identification	Brass Plate: Lasercut 2.4mm thk Brass plate with UV Clear top coat. Mechanically fixed directly to door	560 x 142 x 2.4	29.03.21
ST6_S4.55_109	AR0001_External Signage Concepts for DA	ST6.C: Fire Hydrant Pole Signage	1800mm high, 150x150 mm SHS w/ seamless top cap. SHS Post is Powdercoated Dark Bronze Pearlescent. Lasercut 3mm thk brass letters pin fixed to post.	150 x 2000 x 3	29.03.21

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# Thank you

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ray@extrablack.com.au





## Modification of Consent



### Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-312/2019/A
<b>Site address</b>	Bondi Park, Queen Elizabeth Drive, BONDI BEACH
<b>Proposal</b>	Modification to upgrade facilities at Bondi Beach in three stages, including extension of male toilets, internal reconfiguration, and window changes to first aid kiosk and lifeguard facilities; and changes to conditions.
<b>Description of Approved Development</b>	Upgrades to facilities at Bondi Beach including the construction of a public toilet and shower facilities, upgrades to the lifeguard tower, and construction of new lifeguard and first aid facilities (Integrated Development).
<b>Date of lodgement</b>	1 April 2021
<b>Owner</b>	Waverley Council
<b>Applicant</b>	Chrofi Architects on behalf of Waverley Council, Project Waverley
<b>Submissions</b>	Nil
<b>Amended cost of works</b>	Original: \$8,211,569.80
<b>Principal Issues</b>	Nil
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report.

#### SITE MAP





## 1. PREAMBLE

### 1.1. Executive Summary

The modification application seeks to modify the development consent, known as DA-312/2019, for upgrades to facilities at Bondi Beach including the construction of a public toilet and shower facilities, upgrades to the lifeguard tower, and construction of new lifeguard and first aid facilities (Integrated Development). In summary, the proposed modifications include the following:

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

- Staging of development to allow the work to be sequenced to minimise construction disruption and to better distinguish between immediate and longer term requirements for the park as follows:
  - Stage 1: First Aid facilities, Lifeguard Tower refurbishment and Tunnel 2 refurbishment.
  - Stage 2: Southern amenities.
  - Stage 3: Lifeguard facilities and associated works to the Lifeguard Tower.
- Minor modifications to physical works approved for the First Aid Facilities, Lifeguard Tower, Lifeguard Facilities and Tunnel 2.
- Modification to all conditions of consent to relate to each proposed stage of the development.
- Deletion of condition 5 – *Section 7.12 Contribution* and condition 35 – *Public Domain Pre-Construction Meeting*.
- Modification to condition 40 – *Refrigeration Units and Mechanical Plant*.

The assessment finds these issues acceptable as they assist with minimising disruption caused by the construction of approved works at Bondi Park. The proposed physical modifications would have no adverse impacts. No impacts result from the proposed modifications to the original conditions of consent.

The modification application was referred to Heritage NSW, Department of Premier and Cabinet for approval. Heritage NSW provided their approval on 18 June 2021, subject to amended conditions of consent (General Terms of Approval).

The application was notified and no submissions were received.

The application has been assessed against the relevant matters for consideration under section 4.55(1A) the *Environmental Planning and Assessment Act 1979* and is recommended for approval subject to conditions of consent.

## 1.2. Site and Surrounding Locality

The facilities to be upgraded and constructed are within Bondi Park which is bounded by Campbell Parade to the northwest and Queen Elizabeth Drive to the southeast. The site is located within the grounds of Bondi Park, with landscaped areas to the north and west of the site. Further north is a carpark accessible from Campbell Parade. Uses along Campbell Parade include residential flat buildings, shop-top housing, retail shops and the Bondi Public School.

The works originally approved are located at three sites adjacent to Bondi Beach (refer to Site Map) as follows:

1. The proposed amenities block is located to the southern end of Bondi Beach adjacent to the skate park under Queen Elizabeth Drive.
2. The lifeguard tower is located opposite the Bondi Pavilion adjacent to the central beach.
3. The northern groyne is located 100m to the north-east of the lifeguard tower.

**Figures 1 to 3** are photos of the site and its context.



**Figure 1:** View of southern end of Queen Elizabeth Drive and Promenade – location of new amenities block



**Figure 2:** View of Lifeguard Tower



**Figure 3:** View of northern groyne – location of new first aid facility

The adjacent Bondi Pavilion building is listed as a State significant heritage item and is located within the Bondi Beach locality, which is identified as place of significance on Australia's National Heritage List. The site is also located within the Bondi Beach Beachfront Scenic Protection Area (under Waverly Development Control Plan [WDCP] 2012).



### 1.3. Details of Approved Development

The original development application, known as **DA-312/2019** for upgrades to facilities at Bondi Beach including new public toilet and shower facilities under Queen Elizabeth Drive near the southern end of the beach, upgrade to the existing lifeguard tower including remedial works and new facilities under the promenade (toilets, shower, staff room and head lifeguard office) and first aid facilities in the northern groyne was approved by the Sydney Eastern City Planning Panel (SECPP).

Specifically, the original application sought consent for the following:

- Construction of a public toilet and shower facilities under Queen Elizabeth Drive near the southern end of the beach. The proposal includes accessible facilities, a family room, commercial kiosk, and diversion of an existing stormwater pipe.
- Upgrades to the lifeguard tower located near the Bondi Pavilion. It is proposed that the tower will undergo remedial works, and new facilities for the lifeguards are proposed to be built into the existing area under the promenade. The facilities include toilet and showers for the lifeguards, a staff room and a head lifeguard office. The tunnel space connected to the lifeguard area will undergo structural upgrades and is proposed to be used as storage space by the lifeguards.
- The conversion of the northern groyne into a first aid facility. The facilities include a first aid desk, two (2) first aid rooms, stretcher store and accessible toilet and shower.

The following conditions are copied from the development consent as they are proposed to be specifically deleted or modified by this application as detailed further in **Section 1.4** of this report.

### 5. SECTION 7.12 CONTRIBUTION

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

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to council:

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

**"Waverley Council Cost Summary Report"; or,**

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

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

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

- (b) 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.
- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended. Prior to the issue of the Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

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

**Advisory Note**

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

**32. PUBLIC DOMAIN PRE-CONSTRUCTION MEETING**

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

**35. PUBLIC DOMAIN PRE-CONSTRUCTION MEETING**

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

**40. REFRIGERATION UNITS & MECHANICAL PLANT**

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

## 1.4. Proposal

The modification application has been submitted under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*. It seeks consent for the following modifications to the approved development:

### Staging of Development

- Staging of development to allow the work to be sequenced to minimise construction disruption and to better distinguish between immediate and longer term requirements for the park as follows:
  - Stage 1: First Aid Facilities, Lifeguard Tower refurbishment and Tunnel 2 refurbishment
  - Stage 2: Southern amenities
  - Stage 3: Lifeguard Facilities and associated works to Lifeguard Tower



**Figure 4:** Proposed staging plan.

### Physical Works

- Minor physical modifications to the approved works as outlined and assessed in **Section 2.1.2** of this report.

### Conditions of Consent

- Modification to all conditions of consent to relate to each proposed stage of the development as demonstrated in Appendix A and B of this report.
- Deletion of the following conditions:
  - Condition 5 – *Section 7.12 Contribution*
  - Condition 35 – *Public Domain Pre-Construction Meeting* (duplicate of condition 32)



- Modification to Condition 40 – *Refrigeration Units & Mechanical Plant* to read as follows as shown in ***bold italics***:

#### **40. REFRIGERATION UNITS & MECHANICAL PLANT**

~~All refrigeration motors/units and other mechanical plant are to be installed within the building in an acoustically treated plant room. In this regard, adequate provision is to be made within the confines of the building for any refrigeration motors/units or other mechanical plant associated with the use of the building.~~ ***(Stage 2) All refrigeration units installed within the Southern Amenities Kiosk fitout are to be low-noise emitting.***

### 1.5. Background

The modification application was lodged on 1 April 2021. The application was referred to Heritage NSW for concurrence and their General Terms of Approval (GTA) were provided on 18 June 2021 that modified the GTA previously issued for the original application.

## 2. ASSESSMENT

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

### 2.1. Section 4.55 – Modification of consents – generally

The application is made under section 4.55(1A) of the Act. The proposed modifications are considered to have minimal environmental impact for reasons identified and explained in the following sections of this report.

The application has been compared to the essential nature of the development as originally approved and it is considered to be *substantially the same development*.

The application was publicly notified and no submissions were received.

### 2.2. Evaluation of Matters for Consideration under Section 4.15.

In accordance with section 4.55(3) of the Act the following is an assessment of the proposed modifications of the development consent against the relevant matters for consideration under section 4.15(1) of the Act.

#### 2.2.1. Relevant Acts

The following Acts apply and have been considered acceptable in the assessment of this modification application:

- Environment Protection and Biodiversity Conservation (EPBC) Act 1999

- Heritage Act 1977
- National Parks and Wildlife (NP&W) Act 1974
- Crown Land Management Act 2016
- Bondi Park, Beach and Pavilion Plan of Management 2014-2024

A detailed discussion is provided for relevant Acts as follows:

#### *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*

The site is within the 'Bondi Beach' precinct which is identified as a site of national heritage significance on the National Heritage List. Actions (e.g. development) that have or are likely to have a significant impact on a matter of national environmental significance require approval from the Australian Government Minister for the Environment ("Environment Minister").

A significant impact is considered to be an impact which is important, notable, or of consequence, having regard to its context or intensity. Whether or not an action is likely to have a significant impact depends upon the sensitivity, value, and quality of the environment which is impacted, and upon the intensity, duration, magnitude and geographic extent of the impacts.

To obtain approval a proposed action has to be referred to the Environment Minister. A decision is then made by the Environment Minister as to whether approval under the EPBC Act 1999 is required.

The works proposed under the original development application were considered in the context of the 'Bondi Beach' precinct (between Mackenzies Point in the south and Ben Buckler in the north) and a heritage assessment of the works was undertaken. It was concluded that the works would not have a significant impact upon the heritage significance of the Bondi Beach Precinct. The proposed modifications to the physical works are minor and the works relating to the heritage fabric are minimal. Upgrade works with mitigation measures to minimise impact have been allowed for.

The subject modification application was referred to the Heritage Council of NSW (State government agency) who have not indicated referral to the Environment Minister is warranted.

#### *Heritage Act 1977*

The Park is located within the catchment of the 'Bondi Beach Cultural Landscape'. The proposed works constitute Integrated Development under Clause 4.46 of the *EP&A Act 1979* and require approval from the Heritage Council under Section 57 of the *Heritage Act 1977*. A separate Section 60 approval will also be required for the proposed works.

The modification application has been referred to Heritage NSW, Department of Premier and Cabinet for approval. Heritage NSW provided their approval on 18 June 2021, subject to amended conditions of consent that is, (General Terms of Approval [GTA]).

A review of the amended GTA revealed that Heritage NSW had not provided commentary on the proposed modifications to the conditions of consent to relate to staging of the physical works. Having regard to contractual arrangements and construction timing of the project, it is paramount this item be referred to the July Local Planning Panel meeting for determination. Ongoing correspondence with Heritage NSW indicate that their GTA are to be satisfied as part of Stage 1 of the development. However, where this is not practical, modification to their GTA can be applied for and considered when seeking Section 60 Approval.

It is also noted that the GTA issued by Heritage NSW also makes reference to the following plan amendments:

- Site Plan Southern Amenities, dated 01/04/21, revision I;
- Southern Amenities QED Level, dated 01/04/21, revision I;
- Southern Amenities Promenade Level, dated 01/04/21, revision I; and
- Southern Amenities Beach Elevation, dated 01/04/21, revision I.

These plans do not exist as no revised plan was submitted for the southern amenities building given that no change to physical works was proposed. Therefore, the modified GTA issued by the delegate of the Heritage Council of NSW on 18 June 2021 are included in the recommended conditions of consent, with the exception of the incorrectly referenced plans.

#### *National Parks and Wildlife (NP&W) Act 1974*

Under Section 90 of the *NP&W Act 1974*, an Aboriginal Heritage Impact Permit (AHIP) is required due to the proximity to, and the potential impacts of, the proposed works to Aboriginal archaeological items at adjacent Bondi Park.

However, an AHIP is only required when harm will occur to Aboriginal objects and declared Aboriginal places because it is unavoidable. Given that Bondi Park is not a designated place under Schedule 14 of the *NP&W Act 1974*, no condition relating for the provision of an AHIP was included in the original development consent.

#### *Crown Land Management Act 2016*

The subject site is classified as Crown Land dedicated to Waverley Council. The original development application was referred to the former Department of Trade and Investment Crown Lands (now Department of Planning, Industry and Environment (DPI&E)) on Friday 3 May 2019 for comment. No comment was received from the DPI&E Crown Lands relating to the proposed development of Crown Land. Given that this is a modification application, the subject application was not referred to Crown Lands for comment.



### *Bondi Park, Beach and Pavilion Plan of Management 2014-2024*

Under the *Crown Lands Act 2016* a Plan of Management (POM) is required for the site.

The Bondi Park, Beach and Pavilion (BPBP) POM was adopted by Waverley Council in 2014 to provide a strategic framework to guide use, management and maintenance of the wider site. The 2014 POM updates the previous 1995 POM for the recreation precinct. In addition to guiding use and management of the entire Bondi Beach area, the POM is tasked with identifying the future vision and objectives for the upgrade and conservation works of Bondi Pavilion. The proposed modifications will not alter the BPBP POM.

#### 2.2.2. Planning Instruments and Development Control Plans

The following is an assessment against relevant environmental planning instruments, including the relevant State environmental planning policies (SEPPs), and development control plans.

##### *State Environmental Planning Policies (SEPPs)*

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

- SEPP 55 Remediation of Land;
- SEPP (Coastal Management) 2018; and
- SEPP (State and Regional Development) 2011.

A detailed discussion is provided for relevant SEPPs as follows:

##### *SEPP 55 Remediation of Land*

The site has a long history of use for recreational purposes. The historical uses of the site are not listed in Table 1 to the Planning Guidelines under SEPP 55 as being activities likely to cause contamination. In the assessment of the original application it was considered unlikely that the site has experienced any contamination, and Council's Environmental Health Officers has raised no concerns with respect to contamination.

A Hazardous Building Materials Survey by Douglas Partners was submitted with the original application that was reviewed by Council's Environmental Health Officer. The report found the presence of Lead Paint within Tunnel 2 but no other hazardous building materials (non-friable asbestos, friable asbestos, synthetic mineral fibre, lead dust or polychlorinated biphenyls).

Conditions were imposed on the original consent requiring the works be undertaken in accordance with the 'recommendations' outlined in the Hazardous Building Material Survey report prepared by Douglas Partners [Project No. 86599.00] dated December 2018.

The proposed modifications are not considered to alter the existing conditions on the consent and the site can therefore be made suitable for the approved uses.

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

The subject site is located within a 'coastal use area' as identified by the Coastal Management SEPP 2018. Clause 14 of the SEPP identifies the matters for considering in assessing a development application within a coastal use area. The proposed modifications are not considered to cause any adverse impact upon the matters listed and therefore satisfies Clause 14(a) of the Coastal Management SEPP 2018. Furthermore, the proposed modifications are considered to satisfy Clause 14(b) and 14(c). The proposed modifications to the approved works to Bondi Park are consistent with the surrounding building and coastal environment.

#### *SEPP (State and Regional Development) 2011*

The development is Council related development and the original development application had a capital investment of more than \$5 million. This is classified as regionally significant development under Schedule 7 of the State and Regional Development SEPP 2011 and was therefore determined by the Sydney Eastern City Planning Panel (SECPP). The subject application is a modification application under S4.55(1A) and is therefore referred to the Waverley Local Planning Panel (WLPP) for determination.

#### *Waverley Local Environmental Plan 2012 (Waverley LEP 2012)*

The approved uses remain unchanged with this application and continue to be permitted development in the RE1 Public Recreation zone under Waverley LEP 2012. The approved uses are as follows:

- Community Facilities (Lifeguard Tower and northern groyne)
- Kiosk (near southern amenities)

Council's development standards relating to maximum building height and floor space ratio are not applicable to the site. All other relevant provisions of Waverley LEP 2012 remain compliant as discussed below.

#### **Clause 5.10 - Heritage Conservation**

A Heritage Impact Statement (HIS) was included with the subject modification application. The application was referred to Heritage NSW who provided their GTA on 18 June 2021 as discussed in detail in **Section 2.1.1** of this report. The application was also referred to Council's Heritage Advisor who recommended the following to maintain cohesion with the existing contributory fabric:

- *Means of improving outlook from the Life-Guard Tower should be further addressed including a potential CCTV camera mounted high on the roof to improve vision over waves along the break zone.*

- *External doors to the First Aid area should be hinged to open inwards to enable operation during build-up of sand in storm events.*

The requirement for CCTV to be installed to improve outlook from the Lifeguard Tower was included in the original conditions of consent. It is noted that the Applicant intends to modify the wording of this condition so that it clearly relates to Stage 1 of the works. The comment made by Council's Heritage Advisor on the doors to the Lifeguard Tower are noted however, this is not proposed to be modified with the subject application.

Given the above, the proposed modifications are considered to satisfy the provisions of Clause 5.10 of WLEP 2012 and have no adverse heritage impact, subject to amended GTA issued by Heritage NSW and the original conditions of consent.

## **Clause 6.2 - Earthworks**

No additional excavation works are proposed with this modification application.

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

The approved development, as proposed to be modified, continues to comply with the relevant parts and sections of Waverley DCP 2012 (WDCP 2012), being Part B - *General Provisions* and Part D1 - *Commercial and Retail Development*. The proposed physical modifications and the modifications to the conditions of consent are outlined and discussed below.

### **Proposed Modification to Stage Development**

The modification application seeks consent to modify the approved plans and conditions of consent to refer to three different stages of the physical works to allow the construction works to be sequenced and hence minimise disruption in Bondi Park. This would also allow the project team to better distinguish between the immediate and longer-term requirements for the park. The proposed stages of the development are as follows:

- Stage 1: First Aid Facilities, Lifeguard Tower refurbishment and Tunnel 2 refurbishment
- Stage 2: Southern Amenities
- Stage 3: Lifeguard Facilities and associated works to Lifeguard Tower

No adverse impacts are anticipated as a result of the proposed staging of works.

### **Proposed Stage 1 - Proposed Modifications to Physical Works**

The proposed physical modifications to the development proposed under Stage 1 of the works are demonstrated in **Figures 5 to 28** below and assessed in the following table.



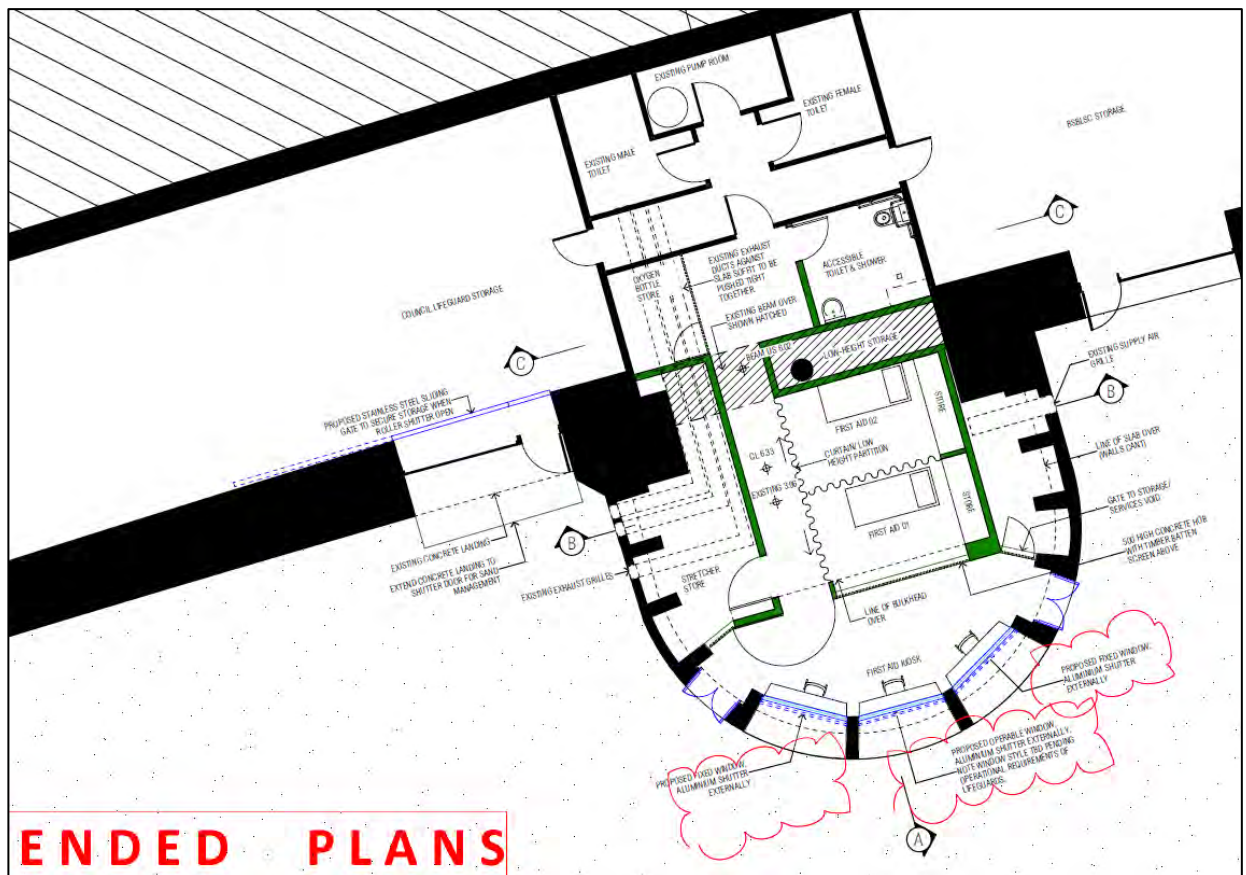


Figure 5: Approved plan of First Aid Facilities and Tunnel 3.

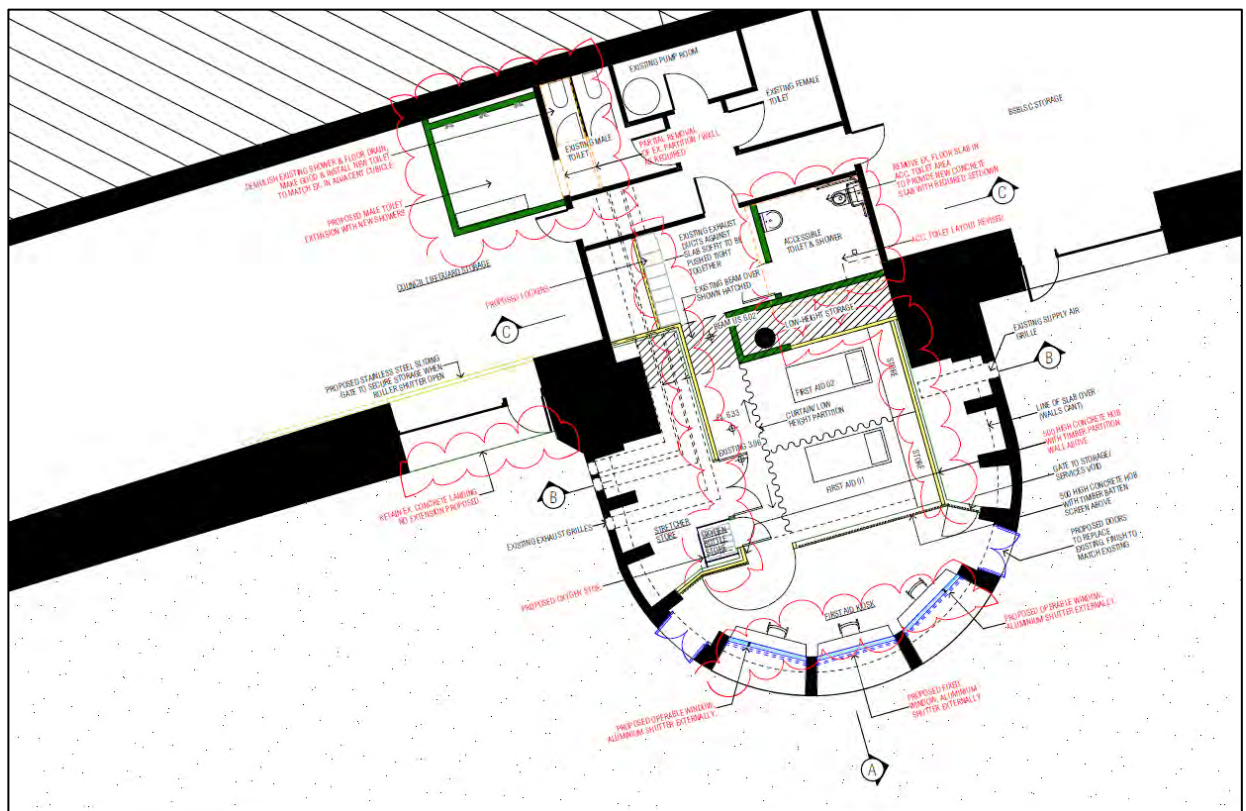
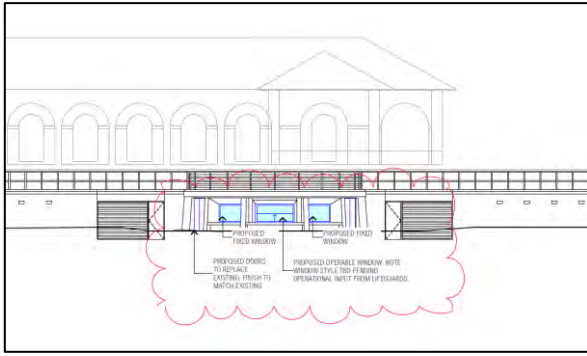
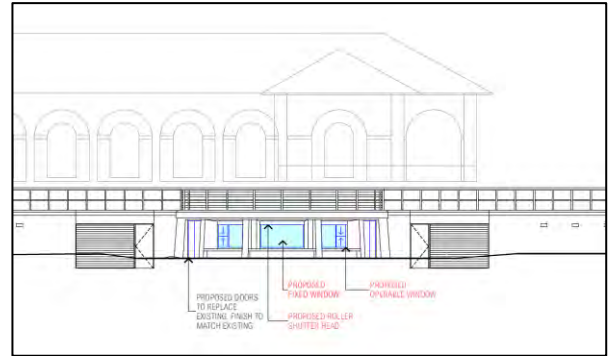


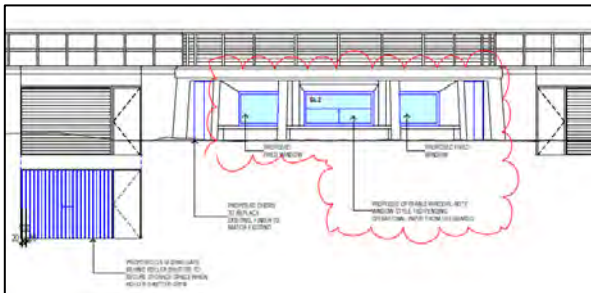
Figure 6: Proposed modifications to First Aid Facilities and Tunnel 3.



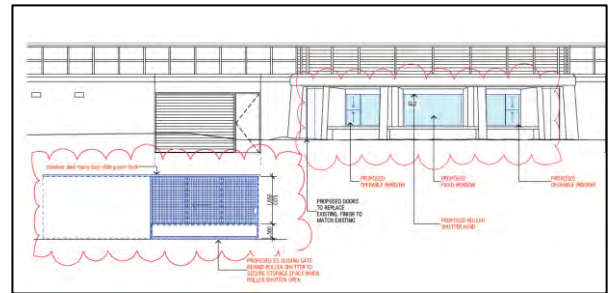
**Figure 7:** Approved beach elevation of First Aid Facilities.



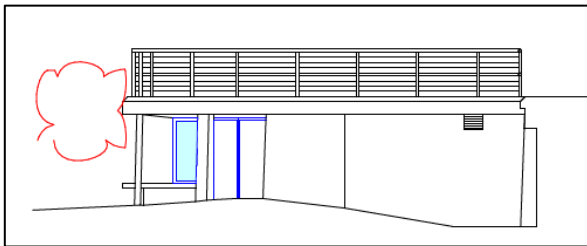
**Figure 8:** Proposed modifications to beach elevation of First Aid Facilities.



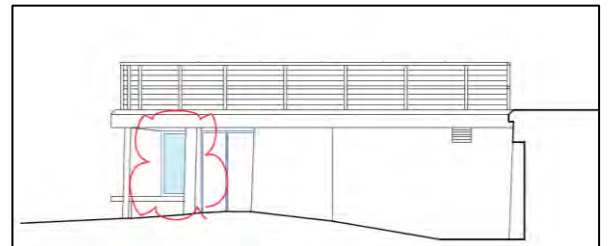
**Figure 9:** Approved south elevation of First Aid Facilities.



**Figure 10:** Proposed modifications to south elevation of First Aid Facilities.



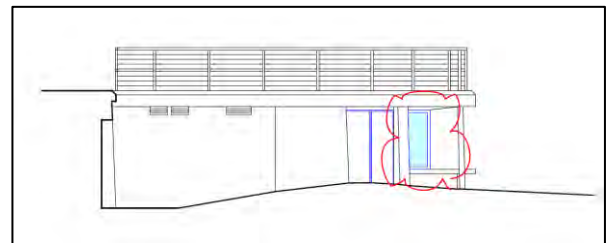
**Figure 11:** Approved east elevation of First Aid Facilities.



**Figure 12:** Proposed modifications to east elevation of First Aid Facilities.

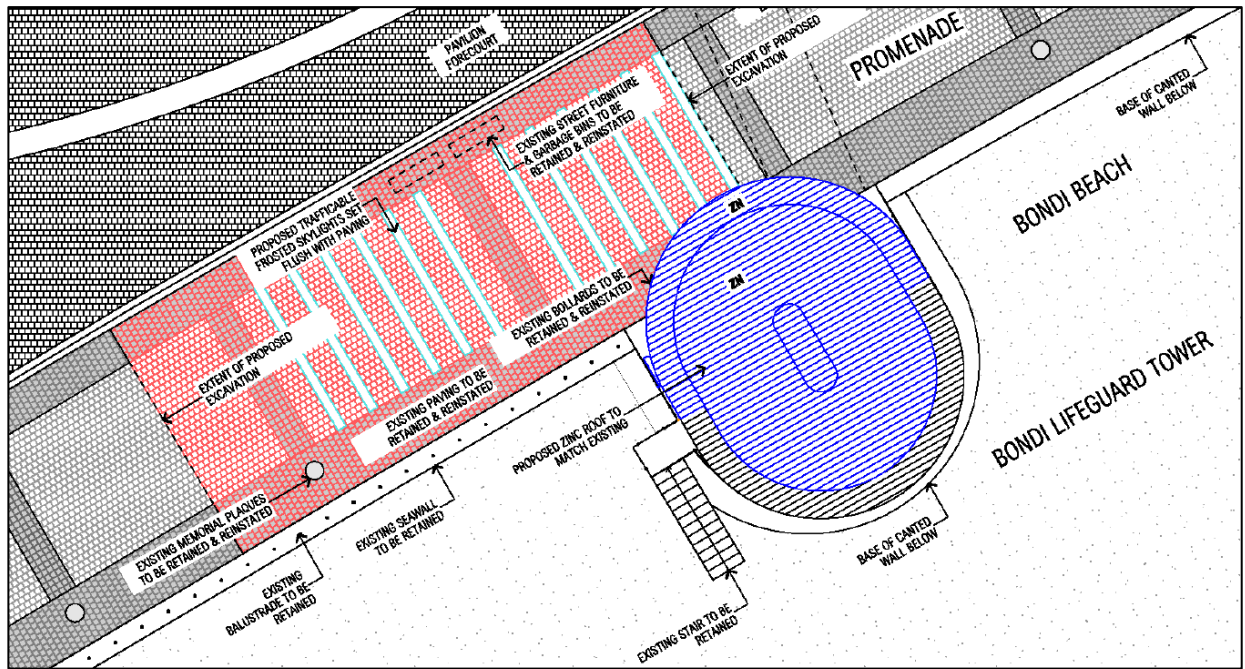


**Figure 13:** Approved west elevation of First Aid Facilities.

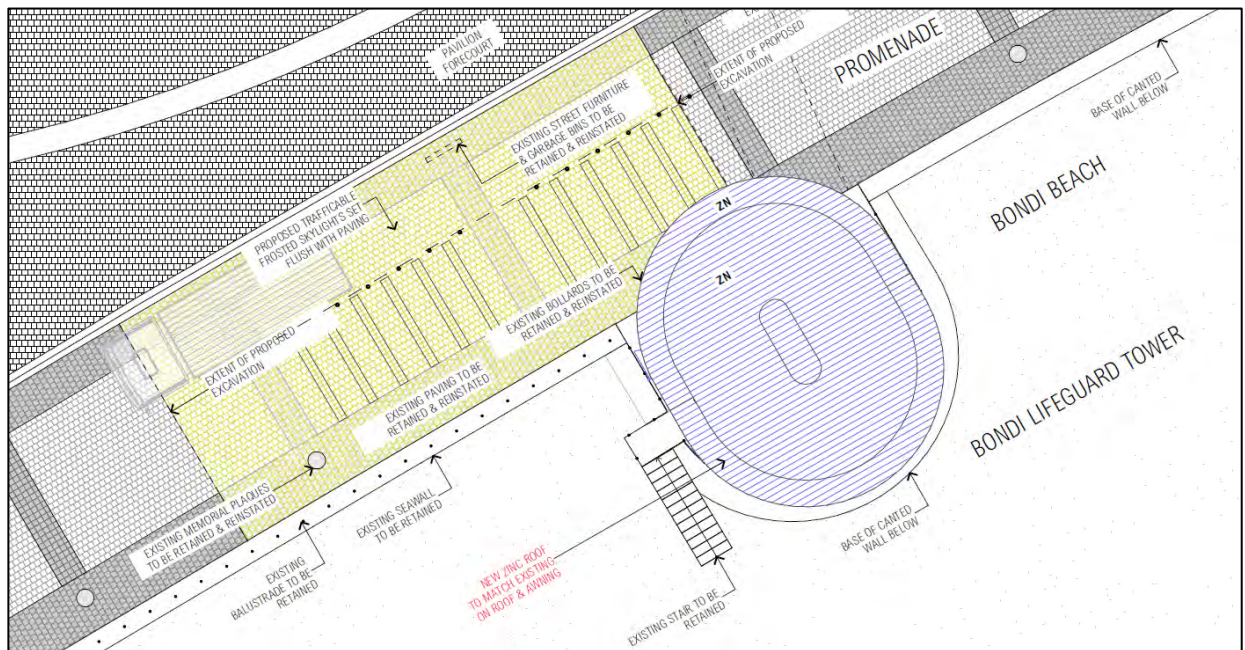


**Figure 14:** Proposed modifications to west elevation of First Aid Facilities.



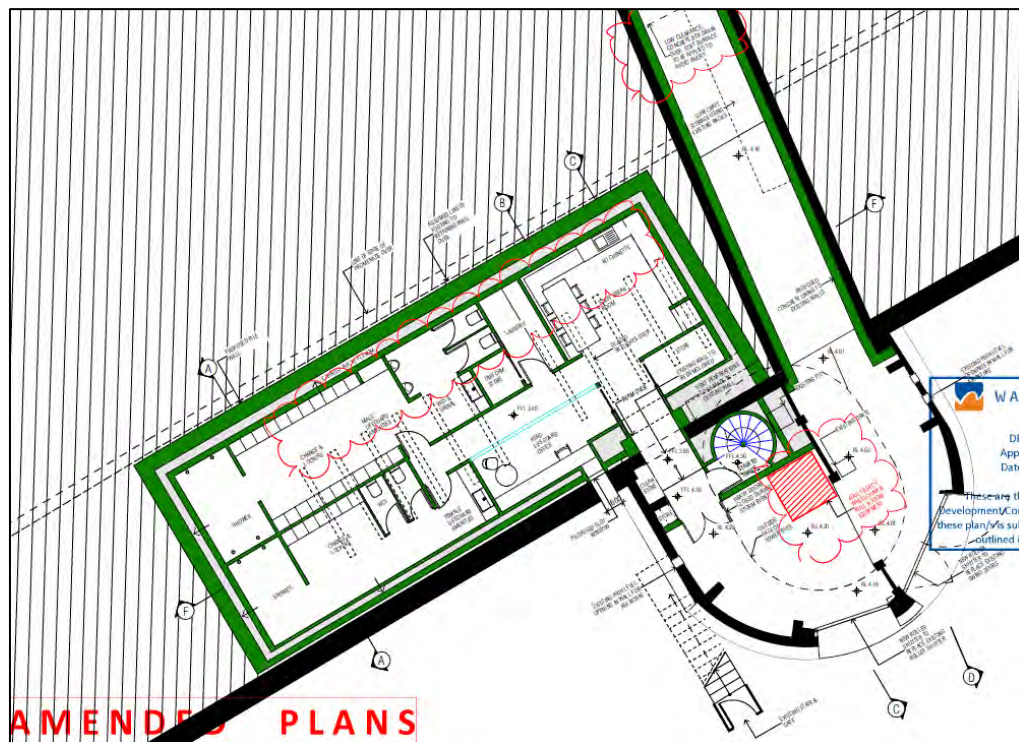


**Figure 15:** Approved site plan of Lifeguard Tower, Tunnel 2 and Amenities block.

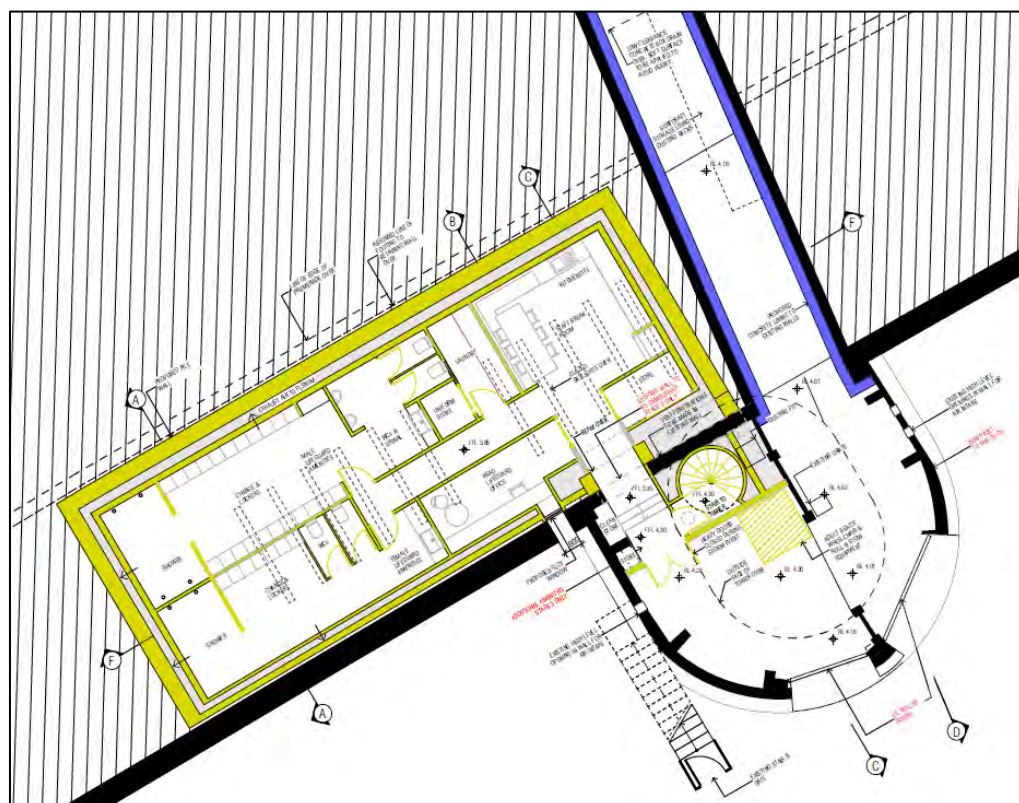


**Figure 16:** Proposed modifications to site plan of Lifeguard Tower and Tunnel 2 (demonstrated in blue).  
Note: works coloured yellow relate to works to the additional amenities under proposed Stage 3.



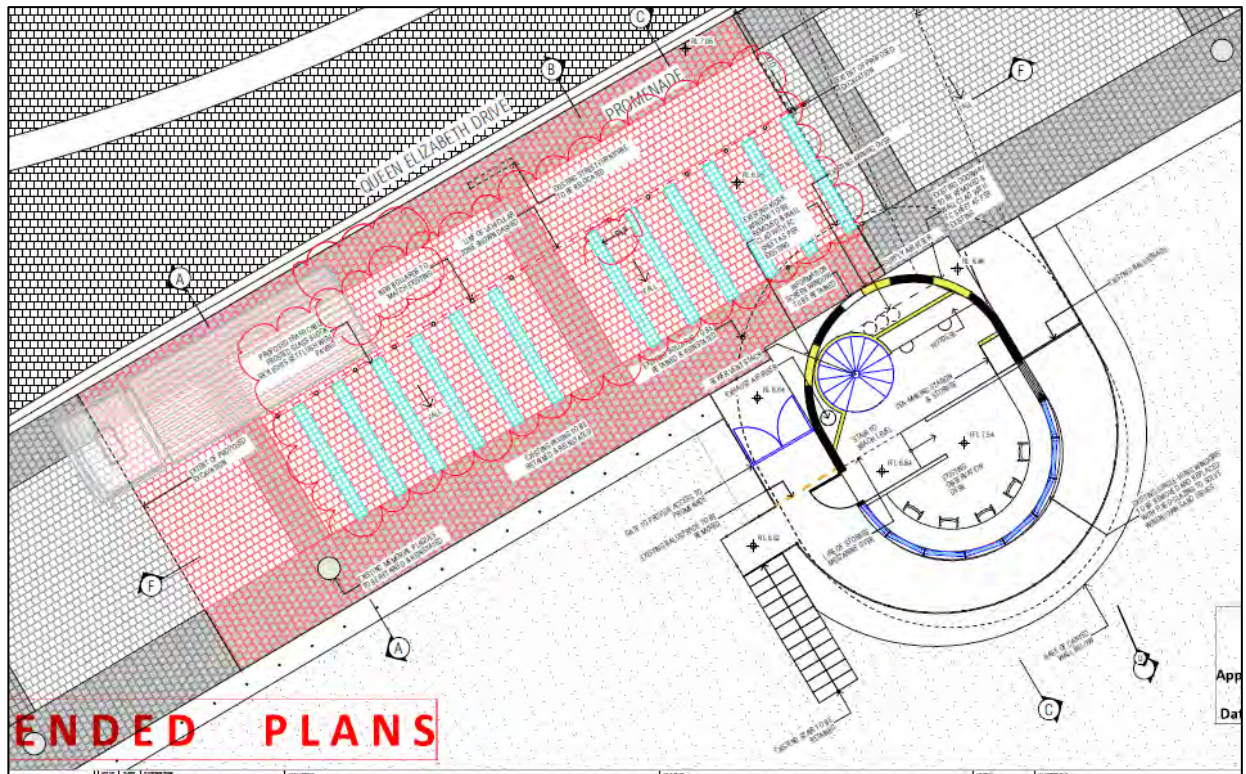


**Figure 17:** Approved beach level floor plan of Lifeguard Tower, Tunnel 2 and Amenities block.

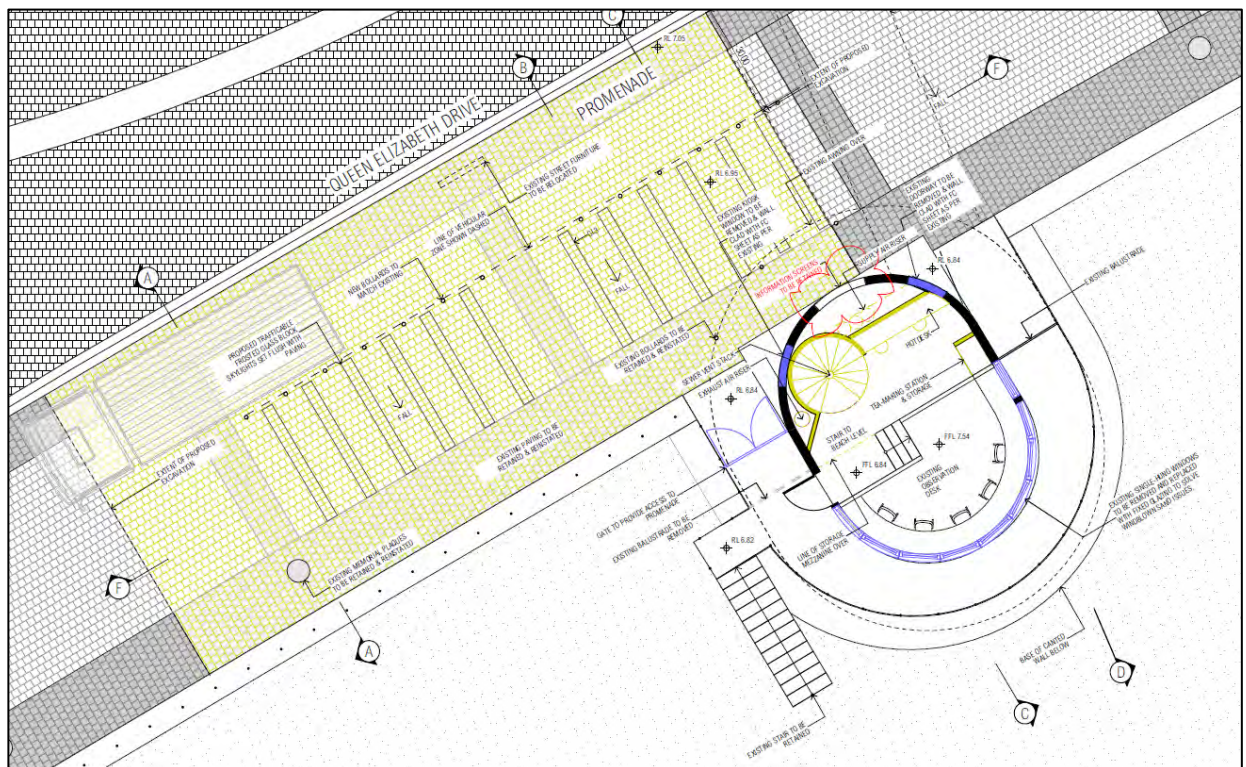


**Figure 18:** Proposed modifications to beach level floor plan of Lifeguard Tower and Tunnel 2 (demonstrated in blue). No physical changes are proposed to Tunnel 2 as the plans submitted with the modification application only demonstrate these works to be allocated to Stage 1 of the approved development.



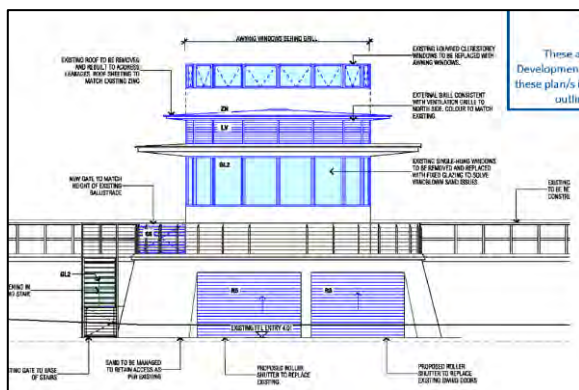


**Figure 19:** Approved promenade level plan of Lifeguard Tower, Tunnel 2 and Amenities block.

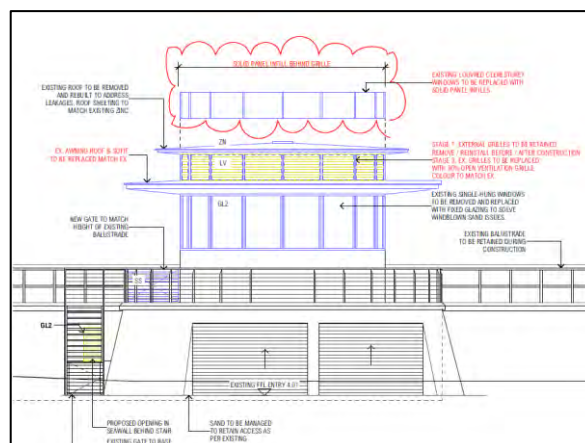


**Figure 20:** Proposed modifications to promenade level of Lifeguard Tower and Tunnel 2 (demonstrated in blue).

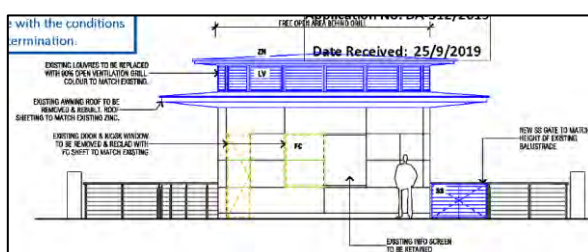




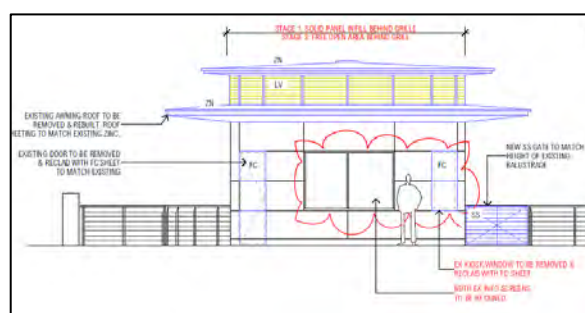
**Figure 21:** Approved beach elevation of Lifeguard Tower, Tunnel 2 and Amenities block.



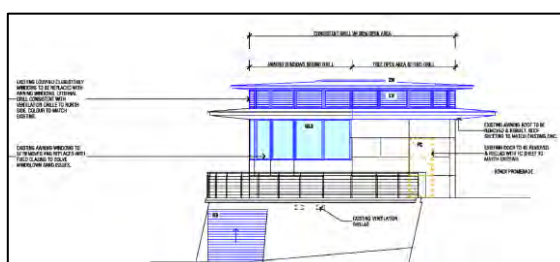
**Figure 22:** Proposed modifications to beach elevation of Lifeguard Tower, Tunnel 2 and Amenities block.



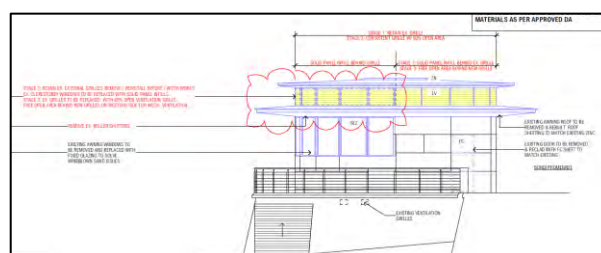
**Figure 23:** Approved north (promenade) elevation of Lifeguard Tower, Tunnel 2 and Amenities block.



**Figure 24:** Proposed modifications to north (promenade) elevation of Lifeguard Tower, Tunnel 2 and Amenities block.

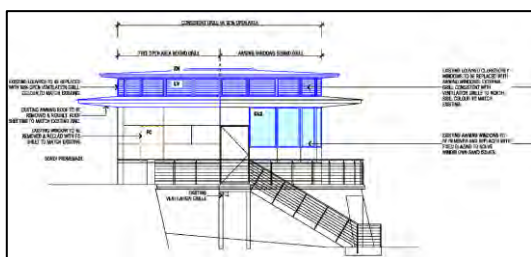


**Figure 25:** Approved east elevation of Lifeguard Tower, Tunnel 2 and Amenities block.

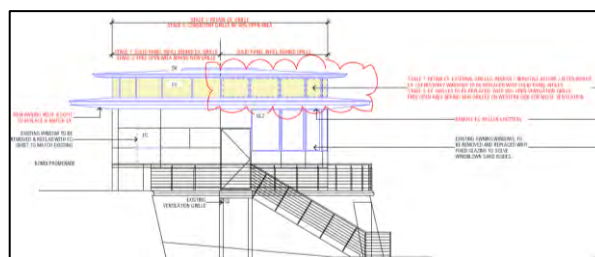


**Figure 26:** Proposed modifications to east elevation of Lifeguard Tower, Tunnel 2 and Amenities block.





**Figure 27:** Approved west elevation of Lifeguard Tower, Tunnel 2 and Amenities block.



**Figure 28:** Proposed modifications to west elevation of Lifeguard Tower, Tunnel 2 and Amenities block.

**Table 1: Assessment of proposed physical works under proposed Stage 1 of the development**

Proposed Modification	Comment
<b>Stage 1 – First Aid Facilities</b>	
1. Fixed window in the centre of existing opening and operable windows to two sides. Aluminium shutter externally. <i>Refer to Figures 6, 8, 10, 12 and 14.</i>	No adverse impacts anticipated from part operable and part fixed windows.
2. Ceiling and wall insulation added. <i>Refer to Figure 6.</i>	Satisfactory.
3. Demolition of existing slab at accessible toilet area and layout of accessible toilet revised. <i>Refer to Figure 6.</i>	New slab to allow set down for adequate access. Revision of accessible toilet layout would enable easy access to the toilet and sink for occupants.
4. Partial removal of existing partition/wall as require to the existing male toilet. Shower extension of existing male toilet. Demolition of existing shower and floor drain, make good and install new toilet to match existing in adjacent cubicle. <i>Refer to Figure 6.</i>	The existing male toilet is proposed to be extended into the Council lifeguard storage area. No adverse impacts are anticipated as a result of the proposed works.
5. Oxygen storage relocated. <i>Refer to Figure 6.</i>	Previously located in area of proposed locker extension (see item 6 below). The oxygen tanks are considered to be suitably relocated near the first aid beds.
6. Additional lockers added. <i>Refer to Figure 6.</i>	No lockers previously provided. The lockers would enhance amenity for the first aid officers.
7. Concrete slab extension at Council storage entrance not required. Retained as existing. <i>Refer to Figure 6.</i>	Existing retained with proposal. No adverse impacts anticipated.
8. Modification to sliding gate behind roller shutter to secure storage space when roller shutter open. To be placed on stainless steel heavy duty sliding door track. <i>Refer to Figure 10.</i>	Satisfactory.
9. 500 high concrete HOB with timber partition wall above. <i>Refer to Figure 6.</i>	Originally solid masonry partitions. No adverse impacts anticipated as a result of timber partitions.

Stage 1 – Lifeguard Tower Refurbishment	
10. New zinc roof to match existing on roof and awning. <i>Refer to Figures 16, 22 and 28.</i>	Part of the awning previously proposed to be retained is to be replaced with a new zinc roof to match the existing. No adverse impacts are anticipated.
11. New soffit to match existing. <i>Refer to Figures 22 and 28.</i>	Satisfactory.
12. Remove existing beachside windows and roller shutters. <i>Refer to Figures 26 and 28.</i>	Satisfactory.
13. New fixed window to replace existing.	Satisfactory.
14. Removal of exist door and kiosk window on promenade. Solid infill to match existing cladding. <i>Refer to Figures 20 and 24.</i>	Satisfactory.
15. Retain existing information screens windows on promenade. <i>Refer to Figures 20 and 24.</i>	Only one information screen retained with original application. No adverse impacts anticipated.
16. Remove existing clerestory windows and replace with solid panel infill. <i>Refer to Figures 22, 24, 26 and 28.</i>	The existing external grilles are to be removed and reinstalled before and after works as part of Stage 1. The clerestory windows are to be replaced with solid panel infills behind the grills. As part of Stage 3, the existing grilles are to be replaced with a 90% open ventilation grill and a free open area behind the new grills is to be located on the western side for mechanical ventilation. No adverse impacts are anticipated from these staged works.
17. Retain and reuse existing grilles. <i>Refer to Figures 22, 26 and 28.</i>	
Stage 1 – Tunnel 2 Refurbishment	
18. Remedial work of shotcrete on waterproof membrane lining to existing soffit and walls.	Satisfactory.

#### Proposed Stage 2 - Proposed Modifications to Physical Works

No modifications are proposed to the physical construction works in relation to the southern amenities building that is proposed to be undertaken in Stage 2 of the development.

#### Proposed Stage 3 - Proposed Modifications to Physical Works

The proposed physical modifications to the development proposed under Stage 3 of the works have been demonstrated in yellow in **Figures 16, 18, 20, 22, 24, 26 and 28** above and assessed in the following table.

**Table 2: Assessment of proposed physical works under proposed Stage 3 of the development**

Proposed Modification	Comment
<b>Stage 3 – Lifeguard Tower and Lifeguard Facilities</b>	
19. New underground amenities. <i>Refer to Figure 18.</i>	Satisfactory.
20. New internal stairs at lifeguard tower connecting new amenities to observation room. <i>Refer to Figure 18.</i>	No adverse impacts anticipated from new stairs.
21. Internal refitout to suit new changes. <i>Refer to Figure 20.</i>	Satisfactory.
22. Open mezzanine at Lifeguard Tower western side to accommodate AC/Mechanical ventilation. <i>Refer to Figures 22, 26 and 28.</i>	Satisfactory. <i>Refer to comments on Items 16 and 17 above.</i>
23. Replace existing grills to 90% open ventilation grilles. <i>Refer to Figures 22, 24, 26 and 28.</i>	Satisfactory. <i>Refer to comments on Items 16 and 17 above.</i>

#### Proposed Modifications to Conditions of Consent

##### *Deletion of Conditions*

The applicant seeks the deletion of condition 5 – *Section 7.12 Contribution* as the proposed development is exempt from the requirement to pay a Section 7.12 contribution under clause 11(b) of the *Waverley Development Contributions Plan 2006 (Amendment No. 8)*. This is acceptable and it is recommended that this condition be deleted.

The deletion of condition 35 – *Public Domain Pre-Construction Meeting* is also sought as this is an error as it is a duplicate of condition 32 (*refer to section 1.3 of this report for further details.*) Council's Public Domain Department have reviewed the proposal and raise no objection to the deletion of this condition.

##### *Modification to Conditions*

As previously outlined, the application seeks consent to modify all conditions of consent to relate to each proposed stage of the development. No adverse impacts are anticipated as a result of this and these modifications are detailed in Appendix A and B of this report.

The application also seeks to modify condition 40 – *Refrigeration Units & Mechanical Plant* of the original consent to relate to Stage 2 of the works and allow for the refrigeration units to be low noise emitting, rather than be located within an acoustically treated plant room. This amendment has been reviewed by Council's Environmental Health Officer and it was clarified with the applicant the fitout of the kiosk is subject to a separate application and this application just provides the shell. The following additional information was also provided regarding the operations of the kiosk:

*"The kiosk would be a small operation, reheating food/ sandwiches/ coffee only, no cooking. The kiosk is an internal space under Queen Elizabeth Drive that opens via a*



*servery bench onto the promenade. It is in essence a concrete bunker facing the ocean. We do not believe the standard condition is relevant in this case given the minimal acoustic impact to any neighbours. We would like to avoid making the future tenant have to submit a S4.55 to revise this condition, as there is no provision in the current design for an acoustically isolated plant room.”*

Following review of the above information, it is recommended by Council’s Environmental Health Officer that Condition 40 of the consent be modified to read as follows as shown in ***bold italics***:

#### **40. REFRIGERATION UNITS & MECHANICAL PLANT**

~~All refrigeration motors/units and other mechanical plant are to be installed within the building in an acoustically treated plant room. In this regard, adequate provision is to be made within the confines of the building for any refrigeration motors/units or other mechanical plant associated with the use of the building.~~ ***(Stage 2) Any future installation of refrigeration motors/units and other mechanical plant associated with the fit out of the kiosk shall be subject to a separate development application.***

Therefore, the proposed modifications to the development are considered to be satisfactory, subject to recommended modifications to conditions of consent.

#### **2.2.3. Other Impacts of the Development**

##### ***Construction Period Impact***

It is noted that the works originally approved will require the closing of the sections of the Bondi Park for a period of time including a section of the promenade and potentially Queen Elizabeth Drive. The proposed staging of the application is considered to assist with management of construction works across Bondi Park.

Subject to the implementation of the recommended conditions of consent, it is considered that the proposal is acceptable when considering environmental, social and economic impacts. The temporary impacts as a result of the construction period are considered reasonable to permit the upgrading and improvement of the site.

#### **2.2.4. Suitability of the Site for the Development**

The site has a long history of community use, and the proposed works seek to upgrade and maintain the existing facilities. The site is considered to be suitable for the development as proposed to be modified. The uses of Bondi Park will be maintained and continue to be suitable within the context of the site.

### 2.2.5. Any Submissions

The application was notified for 14 days in accordance with the *Waverley Community Development Participation and Consultation Plan*. No submissions were received.

### 2.2.6. Public Interest

The proposed modifications relate to the approved works to upgrade a Council owned and operated community facility which is also a State heritage item of State significance. Bondi Park is held in high regard within the Waverley LGA and also nationally. The proposed modifications relate to upgrading the famous Bondi lifeguard tower. The tower is in need of an upgrade and the modifications would improve the facilities, providing improved observation and first aid elements, as well as contemporary office and amenities for the lifeguards.

The modifications to the approved development to upgrade the lifeguard tower and the first aid facilities will help maintain and improve the delivery of this critical service provided by Waverley Council to the benefit of the wider community and the many beachgoers.

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

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Heritage NSW

Refer to comments in Section 2.1.1 of this report.

### 3.2. Council's Heritage Advisor

Refer to comments in Section 2.1.2 of this report.

### 3.3. Environmental Health

Refer to comments in Section 2.1.2 of this report.

### 3.4. Public Domain

Refer to comments in Section 2.1.2 of this report.

### 3.5. Open Space Planning

The application was referred to Council's Open Space Planning Department however, no response was received at the time of writing this report.

### 3.6. Biodiversity

The application was referred to Council's Urban Ecology Coordinator however, no modifications to the landscaping is proposed.

### 3.7. Stormwater

The application was referred to Council's Stormwater Department who raised no objection to the proposed modifications.

### 3.8. Community Development

The application was referred to Council's Community Development Department however, no response was received at the time of writing this report.

## 4. CONCLUSION

The application has been assessed against the relevant matters for consideration under section 4.55(1A) the *Environmental Planning and Assessment Act 1979* and is recommended for approval subject to conditions of consent.

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

The application was reviewed by the DBU at the meeting on 6 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 Magistrale, K Lucas*



5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the modification application be APPROVED by the Waverley Local Planning Panel subject to modified conditions in Appendices A and B.

**Report prepared by:**



Judith Elijah  
**Senior Development Assessment Planner**

**Date:** 15 July 2021

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



Kylie Lucas  
**A/Manager, Development Assessment (Central)**  
**(Reviewed and agreed on behalf of the  
Development and Building Unit)**

**Date:** 15 July 2021

***Reason for WLPP referral:***

- Council related development with a capital investment of more than \$5 million for original DA. Original application determined by Sydney Eastern City Planning Panel.

## APPENDIX A – CONDITIONS OF CONSENT TO BE MODIFIED

### a. Amended/Deleted Conditions

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural plans prepared by CHROFI Architects as listed below:

Drawing Number	Rev	Plan Description	Date	Date Received by Council
DA-000	<del>H I</del>	Cover Page	<del>29/04/2020</del> 26/02/2021	<del>04/08/2020</del> 01/04/2021
DA-001	<del>H I</del>	Location Plan	<del>29/04/2020</del> 26/02/2021	<del>04/08/2020</del> 01/04/2021
DA-002	G	Site Analysis	11/06/2019	25/09/2019
DA-SO-101	H	Site Plan Southern Amenities	29/04/2020	15/05/2020
DA-SO-102	H	Southern Amenities QED Level	29/04/2020	15/05/2020
DA-SO-103	H	Southern Amenities Promenade Level	29/04/2020	15/05/2020
DA-SO-201	H	Southern Amenities Beach Elevation	29/04/2020	15/05/2020
DA-SO-301	H	Southern Amenities Section AA, BB & CC	29/04/2020	15/05/2020
DA-SO-302	H	Southern Amenities Section DD & EE	29/04/2020	15/05/2020
DA-SO-901	H	Materials & Finishes Southern Amenities	29/04/2020	15/05/2020
DA-LF-101	<del>G I</del>	Site Plan Lifeguard Facilities	<del>11/06/2019</del> 26/02/2021	<del>25/09/2019</del> 01/04/2021
DA-LF-102	<del>H I</del>	Lifeguard Facilities Promenade Level	<del>29/04/2020</del> 26/02/2021	<del>15/05/2020</del> 01/04/2021
DA-LF-103	<del>H I</del>	Lifeguard Facilities Beach Level	<del>29/04/2020</del> 26/02/2021	<del>15/05/2020</del> 01/04/2021
DA-LF-104	<del>G I</del>	Lifeguard Facilities Overall Beach Level	<del>11/06/2019</del> 26/02/2021	<del>25/09/2019</del> 01/04/2021
DA-LF-201	<del>H I</del>	Lifeguard Facilities Beach Elevation	<del>29/04/2020</del> 26/02/2021	<del>15/05/2020</del> 01/04/2021
DA-LF-202	<del>G I</del>	Lifeguard Facilities Tower Elevations	<del>11/06/2019</del> 26/02/2021	<del>25/09/2019</del> 01/04/2021
DA-LF-301	<del>G I</del>	Lifeguard Facilities Section AA & BB	<del>11/06/2019</del> 26/02/2021	<del>25/09/2019</del> 01/04/2021
DA-LF-302	<del>G I</del>	Lifeguard Facilities Section CC, DD & EE	<del>11/06/2019</del> 26/02/2021	<del>25/09/2019</del> 01/04/2021
DA-LF-303	<del>G I</del>	Lifeguard Facilities Section FF	<del>11/06/2019</del> 26/02/2021	<del>25/09/2019</del> 01/04/2021
DA-LF-901	H	Materials & Finishes Lifeguard Facilities	29/04/2020	15/05/2020
DA-FA-101	<del>H I</del>	Site Plan First Aid Facilities	<del>29/04/2020</del> 26/02/2021	<del>15/05/2020</del> 01/04/2021
DA-FA-102	<del>H I</del>	First Aid Facilities Tunnel 3 Beach Level	<del>29/04/2020</del> 26/02/2021	<del>15/05/2020</del> 01/04/2021
DA-FA-201	<del>H I</del>	First Aid Facilities Beach Elevation	<del>29/04/2020</del> 26/02/2021	<del>15/05/2020</del> 01/04/2021
DA-FA-202	<del>H I</del>	First Aid Facilities Elevations	<del>29/04/2020</del> 26/02/2021	<del>15/05/2020</del> 01/04/2021

DA-FA-301	<b>G I</b>	First Aid Facilities Section AA, BB & CC	<del>11/06/2019</del> 26/02/2021	<del>25/09/2019</del> 01/04/2021
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(AMENDED BY DA-312/2019/A)

- (b) Landscape Plans, prepared by Sprout Landscape Architecture Pty as listed below:

Drawing Number	Rev	Plan Description	Date	Date Received by Council
LS 01	G	Landscape Plan – Queen Elizabeth Drive	04/05/20	15/05/2020
LS 02	G	Landscape Plan – Promenade	04/05/20	15/05/2020
LS 03	G	Landscape Plan – Promenade Option 2	04/05/20	15/05/2020

- (c) Drawing titled Electrical Services Site Plan, Drawing No E002 Rev. A, prepared by Melnhardt Australia Pty Ltd., dated November 2019.
- (d) Report titled Heritage Impact Statement Bondi Beach and Bondi Park Additional Amenities dated September 2019 as amended by letter, Re: Addendum to Heritage Impact, Development Application DA-312/2019, Bondi Beach & Park Amenities, dated 1 May 2020, both prepared by City Plan Heritage P/L.
- i. As amended by Heritage Impact Statement letter RE: Brief Heritage Impact Statement, dated 9 March 2021, prepared by City Plan Heritage P/L and received by Council on 1 April 2021.*

(AMENDED BY DA-312/2019/A)

- (e) Structural sketches SK/01 dated April 2019, SK/A1 and SK/A3, dated January 2020, all prepared by SDA Structures Pty Ltd.
- (f) Report titled Report on Geotechnical Investigation Proposed Bondi Park Additional Amenities Queen Elizabeth Drive, Bondi Beach, prepared by Douglas Partners, dated December 2018.
- (g) Report titled Building Code of Australia Assessment Report, prepared by Advance Building Approvals Pty Ltd, dated 24 June 2019.
- (h) Report titled Bondi Park Amenities Coastal Risk Report, prepared by Royal Haskoning DHV, dated 16 July 2019.
- (i) Report titled Hazardous Building Materials (HBM) Survey, prepared by Douglas Partners, dated December 2018.
- (j) Crime Prevention Through Environmental Design (CPTED) Consultancy - Final Report – Amenities Building Bondi Beach, prepared by Harris Crime Prevention Services, dated 23 April 2020.
- (k) Site Waste And Recycling Management Plan (SWRMP) for proposed Amenities and Kiosk, received by Council on 15 May 2020.
- (l) Site Waste And Recycling Management Plan (SWRMP) for proposed Lifeguard Amenities and First Aid Facilities, received by Council on 15 May 2020.



- (m) Report tilted Traffic Impact Statement, prepared by Traffix, dated 22 July 2019.

Except where amended by the following conditions of consent.

## 2. GENERAL MODIFICATIONS

The proposal shall be amended as follows:

- (a) **(Stage 2 & 3)** All external concrete finishes are to be closely matched to the appearance of existing concrete work in the promenade walls and to avoid high glaze, slow weathering finishes. A sample panel is to be provided to Council's Heritage Advisor for written approval prior to the issue of the relevant Construction Certificate.
- (b) **(Stage 1)** Means of improving outlook from the Lifeguard Tower should be further addressed including a potential CCTV camera mounted on the roof to improve vision over waves along the break zone. Any changes to facilitate an improved outlook from within the Lifeguard tower over the surf are to be provided to Council's Heritage Advisor for written approval prior to the issue of the relevant Construction Certificate;
- (c) **(Stage 1, 2 & 3)** The door width to all accessible toilets is to be a minimum of 1050mm, plans are to be amended to demonstrate this;
- (d) **(Stage 2)** The staircase closest to the new proposed southern amenities facility are to be upgraded (including nosing contrast to the stairs, installation of Tactile Ground Surface Indicators (TGSIs) and installation of compliant handrails;
- (e) **(Stage 1, 2 & 3)** Details of security measures (such as the provision of screens/shutters) to minimise unlawful access (particularly at night or when not in use) for the First Aid room, kiosk and Lifeguard facilities are to be submitted and approved by Council's Manager, Development Assessment (or delegate).

The amendments are to be approved by **Council's Heritage Office and/or Manager, Development Assessment (where specified), or delegate** prior to the issue of the relevant Construction Certificate under the Environmental Planning and Assessment Act 1979.

**(AMENDED BY DA-312/2019/A)**

## 3. HERITAGE COUNCIL OF NEW SOUTH WALES - GENERAL TERMS OF APPROVAL

### APPROVED DEVELOPMENT

- A. Development must be in accordance with:

- a. Architectural drawings, prepared by Chrofi Architect as listed below:

<del>Cover Page</del>	<del>29/04/20</del>	<del>H</del>
Cover Page	01/04/21	I
<del>Location Plan</del>	<del>29/04/20</del>	<del>H</del>
Location Plan	01/04/21	I
<del>Site Analysis</del>	<del>11/06/19</del>	<del>G</del>

Site Analysis	01/04/21	I
<del>Site Plan Southern Amenities</del>	<del>29/04/20</del>	<del>H</del>
Site Plan Southern Amenities	01/04/21	I
<del>Site Plan First Aid Facilities</del>	<del>29/04/20</del>	<del>H</del>
Site Plan First Aid Facilities	01/04/21	I
<del>First Aid Facilities Tunnel 3 Beach Level</del>	<del>29/04/20</del>	<del>H</del>
First Aid Facilities Tunnel 3 Beach Level	01/04/21	I
<del>First Aid Facilities Beach Elevation</del>	<del>29/04/20</del>	<del>H</del>
First Aid Facilities Beach Elevation	01/04/21	I
<del>First Aid Facilities Elevations</del>	<del>29/04/20</del>	<del>H</del>
First Aid Facilities Elevations	01/04/21	I
First Aid Facilities Section AA & BB	01/04/21	I
Site Plan Lifeguard Facilities	01/04/21	I
<del>Lifeguard Facilities Promenade Level</del>	<del>29/04/20</del>	<del>H</del>
Lifeguard Facilities Promenade Level	01/04/21	I
<del>Lifeguard Facilities Beach Level</del>	<del>29/04/20</del>	<del>H</del>
Lifeguard Facilities Beach Level	01/04/21	I
Lifeguard Facilities Overall Beach Level	01/04/21	I
<del>Lifeguard Facilities Beach Elevation</del>	<del>29/04/20</del>	<del>H</del>
Lifeguard Facilities Beach Elevation	01/04/21	I
Lifeguard Facilities Tower Elevations	01/04/21	I
Lifeguard Facilities Section AA & BB	01/04/21	I
Lifeguard Facilities Section CC, DD & EE	01/04/21	I
Lifeguard Facilities Section FF	01/04/21	I
Materials & Finishes Lifeguard Facilities	29/04/20	H
Site Plan Southern Amenities	29/04/20	H
Southern Amenities QED Level	29/04/20	H
Southern Amenities Promenade Level	29/04/20	H
Southern Amenities Beach Elevation	29/04/20	H
Southern Amenities Section AA, BB and CC	29/04/20	H
Southern Amenities Section DD & EE	29/04/20	H
Materials & Finishes Southern Amenities	29/04/20	H

- b. Drawing titled Electrical Services Site Plan, Drawing No E002 Rev. A, prepared by Melnhardt Australia Pty Ltd., dated November 2019.
- c. Report titled Heritage Impact Statement Bondi Beach and Bondi Park Additional Amenities dated September 2019 as amended by letter, Re: Addendum to Heritage Impact, Development Application DA-312/2019, Bondi Beach & Park Amenities, dated 1 May 2020, both prepared by City Plan Heritage P/L.
- d. Letter, Re: Heritage Values of Bondi Beach & Park Development Application DA-312/2019, Bondi Beach & Park Amenities, prepared by City Plan Heritage P/L, dated 1 May 2020.
- e. Letter, Re: Peer review of heritage impact statement addendum – DA-312/2019, Bondi Beach & Park Amenities, prepared by EMM, dated 15 May 2020.
- f. Structural sketches SK/01 dated April 2019, SK/A1 and SK/A3, dated January 2020, all prepared by SDA Structures Pty Ltd.

- g. Report titled Bondi Additional Amenities Design Verification Statements, prepared by Chrofi ***dated April 2021.***
- h. Report titled Report on Geotechnical Investigation Proposed Bondi Park Additional Amenities Queen Elizabeth Drive, Bondi Beach, prepared by Douglas Partners, dated December 2018.
- i. Report titled Building Code of Australia Assessment Report, prepared by Advance Building Approvals Pty Ltd, dated 24 June 2019.
- j. Report titled Statement of Environmental Effects, Bondi Park Additional Amenities, prepared by Symons Goodyer, dated ~~September 2019~~ ***22 April 2021.***
- k. Report titled Bondi Amenities Feasibility Proposal Final, prepared by Arup, dated May 2018.

**EXCEPT AS AMENDED** by the following general terms of approval:

**(AMENDED BY DA-312/2019/A)**

#### **FURTHER INFORMATION**

- B. The following additional information must be submitted for approval to the Heritage Council of NSW (or delegate) with the section ~~60~~ ***65a*** application:
  - i. Details of proposed new services including air conditioning services. The design details are to be planned with input by the nominated heritage consultant to limit any adverse heritage impacts on significant fabric and to ensure works are in accordance with best practice conservation principles.
  - ii. Details of the self-supporting secondary tunnel structure to the existing tunnel walls. The design must ensure the works are reversible.
  - iii. Structural assessment and drawings including methodologies for retention and restoration of significant retaining wall structure and fabric.

Reason: The assessment and management of these details is considered essential in order to obtain a good heritage outcome.

**(AMENDED BY DA-312/2019/A)**

- C. Proposed concrete finish of new works shall closely match the existing concrete finish of the promenade. New work should be identifiable on close inspection or through additional interpretation. Samples of concrete finish shall be submitted for approval to the Heritage Council of NSW (or delegate) prior to the issue of a Construction Certificate.

Reason: To ensure consistency in finishes and appearance of the promenade and to minimise visual impacts.



## **HERITAGE CONSULTANT**

- D. A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.

## **SPECIALIST TRADESPERSONS**

- E. All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.

## **SITE PROTECTION**

- F. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure significant fabric including vegetation is protected during construction.

## **CONSERVATION WORKS**

- G. A detailed schedule of conservation works for the affected sites must be prepared in accordance with the Burra Charter guidelines and should be guided by the relevant CMPs. The schedule of conservation works shall be submitted for approval to the Heritage Council of NSW (or delegate) with the section 60 application. The works shall be implemented as part of the project prior to the issue of an Occupation Certificate.

Reason: To ensure that significant features and fabric are restored and conserved.

## **HERITAGE INTERPRETATION PLAN**

- H. A detailed interpretation plan must be prepared in accordance with the Heritage NSW publication 'Interpreting Heritage Places and Items Guidelines' (2005) and submitted for approval to the Heritage Council of NSW (or delegate) within three months of the date of issue of a Construction Certificate/ Government certification.
- I. An interpretation plan must be prepared in accordance with the Department of Premier and Cabinet publication 'Interpreting Heritage Places and Items Guidelines'

(2005) and submitted for approval of the Heritage Council of NSW (or delegate) within three (3) months from the date of issue of any Construction Certificate .

The interpretation plan must detail how information on the history and significance of Bondi Beach will be provided for the public, and make recommendations regarding public accessibility, signage and lighting. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project.

- J. The approved interpretation plan must be implemented prior to the issue of an Occupation Certificate

Reason: Interpretation is an important part of every proposal for works at heritage places.

### **PHOTOGRAPHIC ARCHIVAL RECORDING**

- K. A photographic archival recording of the affected areas must be prepared prior to the commencement of works, during works and at the completion of works. This recording must be in accordance with the Heritage NSW publication 'Photographic Recording of Heritage Items using Film or Digital Capture' (2006). The digital copy of the archival record must be provided to Heritage NSW, Department of Premier and Cabinet.

Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.

### **UNEXPECTED HISTORICAL ARCHAEOLOGICAL RELICS**

- L. The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.

### **ABORIGINAL OBJECTS**

- M. The Applicant must submit an Aboriginal cultural heritage assessment and investigation proposed for the site under any Aboriginal Heritage Impact Permit under the National Parks and Wildlife Act 1974 with the section 60 application.

Reason: Additional values linked to Aboriginal cultural and archaeological heritage of the Bondi Beach Cultural Landscape have been identified in the recently Endorsed Conservation Management Plan. However, these values have not yet been reconsidered under the Heritage Act 1977. It is appropriate that results of the physical testing are provided to the Heritage Council of NSW to understand what results may have been identified during this investigation.

- N. Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the National Parks and Wildlife Act 1974 (as amended). Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the National Parks and Wildlife Act 1974.

Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.

#### **COMPLIANCE**

- O. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

#### **SECTION ~~60~~ 65a APPLICATION**

- P. An application under section ~~60~~ 65a of the Heritage Act 1977 must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

**(AMENDED BY DA-312/2019/A)**

#### **Advice**

Section 148 of the Heritage Act 1977 (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.



## **B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### **4. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

**(Stage 1, 2 & 3)** The building work, or demolition work, must not be commenced until:

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

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

### **5. SECTION 7.12 CONTRIBUTION**

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

~~(a) A cost report indicating the itemised cost of the development shall be completed and submitted to council:~~

~~(1) Where the total development cost is less than \$500,000:~~

~~"Waverley Council Cost Summary Report"; or,~~

~~(2) Where the total development cost is \$500,000 or more:~~

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

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

~~(b) 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.~~

~~(c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended. Prior to the issue of the Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.~~

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

**Advisory Note**

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

(DELETED BY DA-312/2019/A)

**6. LONG SERVICE LEVY**

**(Stage 1, 2 & 3)** A long service levy, as required under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of 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.

(AMENDED BY DA-312/2019/A)

**7. ESSENTIAL SERVICES – EXISTING BUILDING**

**(Stage 1, 2 & 3)** 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.

(AMENDED BY DA-312/2019/A)

**8. BUILDING CODE OF AUSTRALIA**

**(Stage 1, 2 & 3)** All building work must be carried out in accordance with the requirements of the Building Code of Australia.

(AMENDED BY DA-312/2019/A)

**9. FIRE SAFETY UPGRADING WORKS**

- a) **(Stage 1, 2 & 3)** 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 lifeguard tower, tunnels and storage rooms must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):

- (i) Fire resistance and stability – Part C1;
  - (ii) Compartmentation and separation – Part C2;
  - (iii) Protection of openings – Part C3
  - (iv) Provision for escape – Part D1;
  - (v) Construction of exits – Part D2;
  - (vi) Access for people with a disability – Part D3;
  - (vii) Fire fighting equipment – Part E1;
  - (viii) Smoke hazard management – Part E2;
  - (ix) Emergency lighting, exit signs and warning systems – Part E4;
  - (x) Sanitary and other facilities – Part F2;
  - (xi) Room heights – Part F3; and
  - (xii) Light and ventilation – Part F4.
- b) **(Stage 1, 2 & 3)** 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) **(Stage 1, 2 & 3)** 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.
- d) **(Stage 1, 2 & 3)** Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate.

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

**(AMENDED BY DA-312/2019/A)**

#### **10. FIRE SAFETY AND BCA UPGRADE WORKS TO BE REVIEWED BY A REGISTERED HERITAGE ARCHITECT**

**(Stage 1, 2 & 3)** Any required fire safety works recommended by any BCA Report, Fire Safety and Upgrade Report or Fire Safety Consultant are to be reviewed by a registered Heritage Architect to ensure that these works are generally consistent with the heritage significance of the area/building. In this respect, the project's Heritage Architect and Building Surveyor must jointly confer and agree on these works. These works may be



modified to address a balance between retention of the heritage significance of the building and contemporary building standards.

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

**(AMENDED BY DA-312/2019/A)**

#### **11. SERVICE AUTHORITIES**

**(Stage 1, 2 & 3)** The applicant is to seek approval from the relevant service providers regarding any possible modification to the service authorities' infrastructure prior to the issue of the relevant Construction Certificate.

**(AMENDED BY DA-312/2019/A)**

#### **12. GREEN STAR DESIGN AND AS-BUILT RATING**

**(Stage 1, 2 & 3)** The applicant is to submit an Energy Assessment Report to satisfy the provisions of Part 2.6 the Waverley Development Control Plan 2012 (Amendment 6, adopted on the 1st of November 2018). The Energy Assessment Report is to demonstrate how the project will deliver a development with greenhouse gas emissions that are 30% less than those of a reference building would need to be submitted. The GHG emissions of the reference building should take into account the whole building (including the tenants) and not only Waverley Council's energy consumption.

Details to be submitted and approved by Council's Executive Manager, Environmental Sustainability (or delegate) prior to the issue of the relevant Construction Certificate.

**(AMENDED BY DA-312/2019/A)**

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

**(Stage 1, 2 & 3)** The applicant is to submit a Construction Traffic Management Plan (CTMP) and be approved by 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)

**(AMENDED BY DA-312/2019/A)**

#### **14. AMENDED SITE WASTE AND RECYCLING MANAGEMENT PLAN**

**(Stage 1, 2 & 3)** The approved Site Waste and Recycling Management Plan (SWRMP) is to be amended to address the following points:

- The allocated collection points for the disposal of waste generated at both the lifeguard tower, first aid facilities and public toilet and shower facilities are to be identified.

Additionally, a SWRMP Checklist 2 shall be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the relevant Construction Certificate. In this regard, Council expects demolition and excavated material to be reused and/or recycled wherever possible.

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

**(AMENDED BY DA-312/2019/A)**

## **15. HOARDING**

**(Stage 1, 2 & 3)** To ensure the site is contained during construction, hoarding may be required for the approved works. If required, the hoarding shall be designed and constructed in accordance with the requirements of **Safe Work NSW**.

The hoarding is to be erected on the street alignments of the property prior to the commencement of building operations and be maintained during the course of building operations. Details of the hoarding are to be provided to Council for record and be to the satisfaction of the Principal Certifying Authority prior to issue of the relevant Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

**(AMENDED BY DA-312/2019/A)**

## **16. EROSION, SEDIMENT AND POLLUTION CONTROL**

**(Stage 2 & 3)** Erosion, sediment and pollution control measures are to be implemented on this site. A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to SSROC's Soil and Water Management Brochure and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction. These measures are to be implemented prior to commencement of any work or activities on or around the site. The Soil and Water Management Plan is to be submitted to Council prior to the issuing of the relevant Construction Certificate.

**(AMENDED BY DA-312/2019/A)**

## **17. ENGINEERING DETAILS**

**(Stage 1, 2 & 3)** Structural details prepared and certified by a practicing Structural Engineer being furnished to Council or Accredited Certifier in connection with all structural components prior to the issue of the relevant Construction Certificate.

The adequacy of the existing building structure to carry the extra load of the proposed additions is to be provided to Council or the Accredited Certifier prior to the issue of the relevant Construction Certificate.

**(AMENDED BY DA-312/2019/A)**

## 18. STORMWATER MANAGEMENT

**(Stage 2)** The stormwater plans prepared by Meinhardt Australia, dated 19/07/2019, Project No. 120100, DWG No. C101, C200, Rev. P01 and P04 shall be revised and resubmitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The plans to consider and include:

- a) Sydney Water Approval: Approval from Sydney Water shall be provided for the proposed 1500Ø RCP realignment. All recommendations and requirements provided by Sydney Water regarding the existing trunk drainage amendment shall be communicated to Council's Infrastructure Services.
  - a. Additional drainage provision to be considered within Queen Elizabeth Drive at the Western side of the amenities building roof.
- b) Long -Sections and HGL: A Hydraulic Grade Line (HGL) analysis of the pipe realignment and new pit and pipe sections to be provided.
- c) GPT or Sediment Capture Trap: Applicant to provide details of a sediment and/or gross pollutant capture device attached to the line connecting the outdoor free-standing showers. A non-return valve also to be considered at the outlet pipe at the connection point with Sydney Water's stormwater line so that stormwater cannot surcharge back into the property disposal system.

**(AMENDED BY DA-312/2019/A)**

## 19. COASTAL RISK ASSESMENT AND EMERGENCY EGRESS

**(Stage 1, 2 & 3)** Prior to construction commencement the associated architectural and engineering plans shall be presented to a qualified engineering consultant to undertake an updated Coastal Risk Assessment. The assessment must consider worst-case scenario estimates of wave runup using coincident AEP water levels, future sea level rises and respective wave height data.

The study must outline any design recommendations for building openings and shut-out systems to support a worst-case scenario. Building egress in the case of an emergency shall be provided to any area of the building affected by flooding or coastal inundation. Details of proposed emergency flood gates or large drainage systems shall be considered.

Internal egress (including access from the building roof shall be considered) to be available if flood gates are in operation so that any person can exit the building safely.

All recommendations within the current Coastal Risk Report, prepared by Royal Haskoning DHV, dated 16/07/2019, ref. PA1939M&ARP1811141533 shall be considered. The updated report and any coastal inundation mitigation measures shall be submitted and approved by Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of the relevant Construction Certificate.

**(AMENDED BY DA-312/2019/A)**



## **20. AMENDED LANDSCAPE PLAN**

**(Stage 2)** Prior to construction commencement the Landscaping Plans for the development are to be updated to reflect the approved architectural design of the development and to include the following additional details:

- a) To comply with control (a) of Section 3.2 of the Waverley DCP, proposed planting in all areas shall use local native species with a mature growth height of no more than 600mm. Details of pot sizes and planting density is to be provided on the plans. The details are to be provided for all landscaped areas, including the proposed roof garden of the building. Consideration is to be provided to the maintenance requirements.
- b) Council is supportive of the southern amenities block roof being accessible, however the roof planting must have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for *Carpobrotus edulis*.
- c) To further match the design aesthetic in Bondi Park the design of the walling surrounding the seating (southern amenities block) is to be amended so that it is angled to create a shadow line similar to the seating walls at the picnic shelters and soon to be built Pavilion courtyards.
- d) Prior to final handover a landscaping maintenance plan is to be submitted to Council for implementation, upon receiving an occupation certificate for the development.
- e) All proposed public footpaths, stairs and ramp works must meet Australian Standards 1428 for Access and Mobility, ensuring handrails to both sides of ramps and stairs.
- f) All proposed public seating should provide minimum 50% with back and arm rest provisions to ensure they appeal to a wide range of users.

The amended landscape plan/s are to be submitted to Council for the approval of Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of the relevant Construction Certificate.

**(AMENDED BY DA-312/2019/A)**

## **21. LANDSCAPED SLABS**

**(Stage 2)** Details shall be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate indicating the proposed method of water-proofing and drainage of any concrete slabs over which landscaping is proposed.

**(AMENDED BY DA-312/2019/A)**

## **22. PUBLIC LIGHTING PLANS**

**(Stage 2 & 3)** The applicant is to engage an Ausgrid Accredited Service Provider (ASP) and electrical design consultant to design any proposed public lighting works to the exterior of the building. The new lighting and power to the premises shall be serviced by metered underground power.

The new public lighting shall be designed and installed to Australian Standard AS1158:2010 - Lighting for Roads and Public Spaces. The plans to be approved by the Executive Manager,

Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

Lighting should consider CPTED principles and ensure the immediate area to the proposed facilities are subject to a suitable lighting scheme which enables users to identify all persons in proximity to the facility during darkened hours. This would include graduated lighting on approach if necessary to broaden the distance of reconnaissance.

**(AMENDED BY DA-312/2019/A)**

## **23. TRAFFIC / PARKING MODIFICATION ARRANGEMENTS**

- (a) **(Stage 2)** The two proposed accessible parking bays, with a shared transfer space, close to the new southern amenities facility are to be installed. These two spaces should not reduce the number of accessible parking spaces at other locations on Queen Elizabeth Drive.
- (b) **(Stage 2)** Vehicle parking bays along the northern side of Queen Elizabeth Drive should be considered for realignment of angled parking bays. In this regard, consideration to re-linemarking of this strip of parking to provide angled parking with front entry capability (vehicles then reverse to exit) would assist to reduce congestion along this roadway, particularly extending from the southern amenities block pedestrian crossing to the Campbell Parade roundabout entry point.

Details to be submitted and approved by Council's Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

**(AMENDED BY DA-312/2019/A)**

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

### **24. PRIOR TO SITE WORKS**

**(Stage 1, 2 & 3)** The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) The name and contractor licence number of the licensee who has contracted to do, or intends to do, work; or
- (b) The name and permit number of the owner/builder who intends to do the work; and
- (c) Any change to these arrangements for doing of the work.

**(AMENDED BY DA-312/2019/A)**

### **25. CONSTRUCTION SIGNS**

**(Stage 1, 2 & 3)** 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.

**(AMENDED BY DA-312/2019/A)**

### **26. OBSTRUCTION TO PUBLIC AREAS**

**(Stage 1, 2 & 3)** If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building; then:

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

**(AMENDED BY DA-312/2019/A)**

### **27. TOILET FACILITIES**

**(Stage 1, 2 & 3)** Toilet facilities being provided on the work site in accordance with the requirements of Sydney Water.



(AMENDED BY DA-312/2019/A)

**28. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

**(Stage 1, 2 & 3)** Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

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

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

(AMENDED BY DA-312/2019/A)

**29. CONSTRUCTION HOURS**

**(Stage 1, 2 & 3)** Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays
- (c) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

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

(AMENDED BY DA-312/2019/A)

**30. NATIONAL CONSTRUCTION CODE (NCC)**

**(Stage 1, 2 & 3)** All building work must be carried out in accordance with the requirements of the National Construction Code.

(AMENDED BY DA-312/2019/A)

**31. PRE-CONSTRUCTION STORMWATER PIPE CCTV DILAPIDATION REPORT**

**(Stage 2)** Prior to the issue of the relevant Construction Certificate, internal inspection of the existing Sydney Water and Council stormwater conduits to determine the structural conditions must be carried out by a Closed Circuit Television (CCTV) system, by an approved contractor. The report is to be submitted to Council's Executive Manager, Infrastructure Services or delegate for its review.

(AMENDED BY DA-312/2019/A)

**32. PUBLIC DOMAIN PRE-CONSTRUCTION MEETING**

*(Stage 2)* To ensure all public infrastructure works approved under this consent will be completed to Council's satisfaction and a program of required inspections is established, a preconstruction meeting shall be arranged with Council's Executive Manager, Infrastructure Services, or delegate prior to works commencing on site.

(AMENDED BY DA-312/2019/A)

**33. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

*(Stage 2)* 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.

(AMENDED BY DA-312/2019/A)

**34. NOISE FROM BUILDING WORKS - RESTRICTED ACTIVITIES**

*(Stage 1, 2 & 3)* Where there is a strong community reaction to noise associated with demolition, excavation and/or construction, Council may require respite periods by restricting the hours that the specific noisy activity can occur.

**Note:** If this is imposed, Council will take into account:

1. Times identified by the community when they are less sensitive to noise
2. If the community is prepared to accept a longer period of construction in exchange for restrictions on construction times.

(AMENDED BY DA-312/2019/A)

**35. PUBLIC DOMAIN PRE-CONSTRUCTION MEETING**

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

(DELETED BY DA-312/2019/A)

**36. DEMOLITION AND CONSTRUCTION WASTE MANAGEMENT**

*(Stage 1, 2 & 3)* The applicant must meet the following objectives for sustainable demolition and construction waste management:

- (a) To minimise the amount of construction waste that is sent to landfill;
- (b) To minimise waste generated during demolition and construction;

- (c) To increase efficiency of development and encourage sustainable practices;
- (d) To maximise the re-use of clean excavated material, concrete, bricks and timber; and
- (e) To ensure the safe removal and disposal of hazardous building materials.

(Stage 1, 2 & 3) The applicant must ensure that the demolition and construction phase complies with the following:

- (a) A construction waste storage area is to be located within the property boundary and is to be identified on the site plans as part of the SWRMP.
- (b) Separate construction waste collection bins or construction waste storage areas are to be provided, giving consideration to slope, drainage, vegetation, access and handling requirements and may include:
  - (i) Landfill waste;
  - (ii) Recyclable waste;
  - (iii) Materials to be re-used on-site; and / or
  - (iv) Excavation materials (refer to Annexure B1-1 for common building materials that can be re-used and recycled).
- (c) Waste that can be recycled or reclaimed is to be identified in the SWRMP, as well as the intended methods for recovery and reclamation.
- (d) All sandstone must be re-used on site or reclaimed through an appropriate contractor.
- (e) Asbestos and other hazardous material is to be managed under the *Protection of the Environment Operations Act 1997*, in accordance with the provisions of Safe Work NSW, and Council's Asbestos Policy.
- (f) Materials that cannot be reused or recycled must be:
  - (i) Disposed of at a State Government approved facility and specified in the SWRMP; and
  - (ii) Disposed of via a contractor that operates in accordance with the Proximity Principle outlined in State Government Legislation.
- (g) Records are to be retained on-site demonstrating lawful disposal of waste.
- (h) Easy vehicular access to waste and recycling material storage areas must be provided and detailed in the SWRMP.
- (i) Construction materials are to be stored away from waste and recycling materials to enable easy access for waste collectors. Skip bins are to be utilised and located in accordance with Council's building waste and hoardings policy.
- (j) All materials are to be stored in way that:
  - (i) Prevents damage from the elements, and reduces odour, health risks and windborne litter; and
  - (ii) Prevents impacts to the environment under State Government Legislation (including stormwater pollution and runoff).

**(AMENDED BY DA-312/2019/A)**

### **37. HAZARDOUS BUILDING MATERIAL RECOMMENDATIONS**

**(Stage 1)** The "recommendations" as outlined in the Hazardous Building Material Survey report prepared by Douglas Partners [Project No. 86599.00] dated December 2018 shall be implemented.



**38. ASBESTOS REMOVAL**

***Stage 1, 2 & 3:***

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover NSW Friable Class A Asbestos Removal Licence or where applicable a Non-friable Class B (bonded) Asbestos Removal Licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by WorkCover NSW (catalogue no.WC03561) and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (d) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

**39. FOOD PREMISES (KIOSK)**

***(Stage 2)*** The following requirements apply to premises that commercially provide food:

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

(AMENDED BY DA-312/2019/A)

**40. REFRIGERATION UNITS & MECHANICAL PLANT**

~~*(Stage 2) All refrigeration motors/units and other mechanical plant are to be installed within the building in an acoustically treated plant room. In this regard, adequate provision is to be made within the confines of the building for any refrigeration motors/units or other mechanical plant associated with the use of the building. Any future installation of refrigeration motors/units and other mechanical plant associated with the fit out of the kiosk shall be subject to a separate development application.*~~

(AMENDED BY DA-312/2019/A)

**41. COMPLIANCE WITH SAFE WORK NSW**

*(Stage 1, 2 & 3) All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.*

(AMENDED BY DA-312/2019/A)

**42. MANAGEMENT OF ACIDIC SOIL**

*(Stage 2 & 3) Should the subject site show evidence of acid sulphate soils, the following shall apply:*

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

(AMENDED BY DA-312/2019/A)

**43. POTENTIAL DEWATERING OF THE SITE**

*(Stage 1, 2 & 3) Should dewatering of the site be required, the onus is on the developer to:*

- (a) Undertake the necessary site investigations prior to construction;
- (b) Prove that a water table is present or absent;

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

**(AMENDED BY DA-312/2019/A)**

#### **44. ACCESSIBILITY**

- (a) **(Stage 2)** The staircase closest to the new proposed southern amenities facility are to be upgraded (including nosing contrast to the stairs, installation of Tactile Ground Surface Indicators (TGSIs) and installation of compliant handrails.
- (b) **(Stage 2)** The two proposed accessible parking bays, with a shared transfer space, close to the new southern amenities facility are to be installed. These two spaces should not reduce the number of accessible parking spaces at other locations on Queen Elizabeth Drive.

**(AMENDED BY DA-312/2019/A)**

#### **45. INFORMATIVE / DIRECTIONAL SIGNAGE**

- (a) **(Stage 1)** Appropriate signage/markings at Queen Elizabeth Drive shall be implemented for emergency services when responding to incidents if patients will be triaged in the First Aid room / area.
- (b) **(Stage 2)** Male and Female Toilet Signage should be clearly provided at the two (2) way entry to the change area noted as a location for art works to the southern amenities block.
- (c) **(Stage 1 & 2)** Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory or wherever directional signage or information is provided in the building. Such signage shall have regard to the provisions of AS1428.1.

Signage to be implemented prior to the issue of an Occupation Certificate.

**(AMENDED BY DA-312/2019/A)**

#### **46. SURVEILLANCE CAMERAS TO BE INSTALLED AND MAINTAINED**

**(Stage 1, 2 & 3)** A closed-circuit television (CCTV) system must be installed and maintained encompassing the surrounds of the facilities of Bondi Park. The CCTV system must comply with the following requirements:



- (a) It must record continuously.
- (b) It must record in digital format and at a minimum of 15 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 First Aid room, Lifeguard facility and toilet block,
  - ii. the footpath immediately adjacent to the, Lifeguard facility and toilet block, and
  - iii. all publicly accessible areas (other than toilets) on the premises.
- (e) CCTV recordings must be retained for at least 30 days.
- (f) Signage shall be clearly displayed adjacent to the principal entry alerting persons that CCTV is in operation.
- (g) Ensure the CCTV system provides for low light capabilities.
- (h) Provide a back to base alarm system or similar to supplement these security arrangements.
- (i) Provide any recordings made by the system to an Authorised Council or Police Officer within 24 hours of any request by an Authorised Council or Police Officer to provide such recordings

**(AMENDED BY DA-312/2019/A)**

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

### **47. CERTIFICATION OF STORMWATER SYSTEM**

**(Stage 2 & 3)** Prior to issue of any Occupation Certificate, certification prepared by a suitably qualified Civil Engineer is to be submitted and accepted by Council's Executive Manager, Infrastructure Services or delegate. All works to be constructed in accordance with the approved stormwater management plans and to best engineering practice.

Similarly, stormwater assets owned by Sydney Water shall be approved and accepted to their requirements.

**(AMENDED BY DA-312/2019/A)**

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

**(Stage 2)** Prior to the issue of an Occupation Certificate, Works-As-Executed Drawings prepared and signed by a registered surveyor for the new pits, pipes and stormwater connection works on shall be submitted to and approved by Council's Executive Manager, Infrastructure Services or delegate. Where changes have occurred with the approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.

**(AMENDED BY DA-312/2019/A)**

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

**(Stage 2 & 3)** To ensure public infrastructure works required under the consent are completed to Council's satisfaction a final inspection of the completed works is required from Council's Executive Manager, Infrastructure Services, or delegate. The Occupation Certificate shall not be issued until certification has been obtained from Council confirming the public infrastructure works have been constructed to Council's satisfaction.

#### **Notes:**

- The issue of a Compliance Certificate from the Council officer will be withheld should there be any outstanding fees and charges applicable to the development. This includes but not limited to fees applicable for engineering plans assessment and work inspection fees.
- To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works completed by the applicant/developer following completion of the development. The defects liability period shall commence from the date of issue of the Occupation Certificate for the development. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period.

**(AMENDED BY DA-312/2019/A)**

### **50. NOISE - MECHANICAL PLANT**

**(Stage 1, 2 & 3)** 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.

**(AMENDED BY DA-312/2019/A)**

## **51. NOISE EMISSIONS**

**(Stage 1, 2 & 3)** 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.

**(AMENDED BY DA-312/2019/A)**

## **52. MECHANICAL VENTILATION SYSTEMS**

**Stage 1, 2 & 3:**

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



(AMENDED BY DA-312/2019/A)

**53. CONSTRUCTION AND FITOUT OF FOOD PREMISES**

***Stage 2:***

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

OR

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

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

(AMENDED BY DA-312/2019/A)

**54. CERTIFICATION OF MECHANICAL EXHAUST**

***(Stage 1, 2 & 3)*** The mechanical exhaust ventilation system is to comply with the approved plans and specifications in addition to Australian Standards AS 1668 (part 1, 1998 and part 2, 2012). A Certificate of Test together with a copy of the final test figures is to be submitted by a competent person and approved by the Principle Certifying Authority prior to the issue of the Occupation Certificate.

(AMENDED BY DA-312/2019/A)

**55. CERTIFICATION OF AIR CONDITIONING SYSTEM**

***(Stage 1, 2 & 3)*** The installed air conditioning system shall be the subject of an air filter cleaning/replacement service and regular servicing. In this regard, documentary evidence is to be submitted to Council or an Accredited Certifier enabling a Compliance Certificate to

be issued on request certifying satisfactory compliance with this condition and the efficient performance of the system.

**(AMENDED BY DA-312/2019/A)**

**56. OCCUPATION CERTIFICATE**

**(Stage 1, 2 & 3)** Prior to occupation or use of the development, the Principal Certifying Authority must issue an Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied.

**(AMENDED BY DA-312/2019/A)**

**57. SLIP TESTS OF COMMON AREAS**

**(Stage 1, 2 & 3)** Common area tiles should not have slippery finishes. Slip tests should be undertaken in wet conditions, prior to the issue of an Occupation Certificate.

**(AMENDED BY DA-312/2019/A)**

**58. LANDSCAPE PLAN**

**(Stage 2)** The site is to be landscaped in accordance with the approved landscaped plan with the landscape works completed prior to the issue of the Occupation Certificate.

**(AMENDED BY DA-312/2019/A)**

## **E. OPERATIONAL CONDITIONS DURING OCCUPATION**

### **59. FIRE SAFETY MAINTENANCE**

**(Stage 1, 2 & 3)** Access to all essential fire safety measures, such as fire hydrants, fire hose reels, portable fire extinguishers and the like must be maintained at all times and not be blocked or obstructed by furniture, equipment or the like.

**(AMENDED BY DA-312/2019/A)**

### **60. WATER PROTECTION**

**(Stage 1, 2 & 3)** The operation of the premises shall be conducted in a manner which does not pollute waters as defined by the *Protection of the Environment Operations Act 1997*.

**(AMENDED BY DA-312/2019/A)**

### **61. SEPARATE APPLICATION FOR USE AND FITOUT OF FOOD PREMISES (KIOSK)**

**(Stage 2)** This consent does not approve the use of the kiosk (food premises). The proposed use and fitout of the kiosk is to be subject to a separate development application to and approval from Council.

This approval does not permit cooking to be undertaken on the premises. Any proposal to utilise cooking equipment/appliances will be subject to a separate development application to Council and if approved will require an air handling system designed in accordance with AS 1668.1-1998 and AS1668.2-1991 or alternative solution satisfying the performance objectives of the Building Code of Australia.

**(AMENDED BY DA-312/2019/A)**

### **62. SEPARATE APPLICATION FOR SIGNAGE**

**(Stage 1, 2 & 3)** Any proposed advertising structures to be displayed at the premises are to be subject to a separate development application to and approval from Council.

**(AMENDED BY DA-312/2019/A)**

### **63. LIGHTING**

**Stage 1, 2 & 3:**

- (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) Lighting should consider CPTED principles and ensure the immediate area to the proposed facilities are subject to a suitable lighting scheme which enables users to identify all persons in proximity to the facility during darkened hours. This would include graduated lighting on approach if necessary to broaden the distance of reconnaissance.

**(AMENDED BY DA-312/2019/A)**

**b. New Conditions**

Nil.

## **APPENDIX B – FULL SET OF CONDITIONS**

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

The development must be in accordance with:

- (a) Architectural plans prepared by CHROFI Architects as listed below:

<b>Drawing Number</b>	<b>Rev</b>	<b>Plan Description</b>	<b>Date</b>	<b>Date Received by Council</b>
DA-000	I	Cover Page	26/02/2021	01/04/2021
DA-001	I	Location Plan	26/02/2021	01/04/2021
DA-002	G	Site Analysis	11/06/2019	25/09/2019
DA-SO-101	H	Site Plan Southern Amenities	29/04/2020	15/05/2020
DA-SO-102	H	Southern Amenities QED Level	29/04/2020	15/05/2020
DA-SO-103	H	Southern Amenities Promenade Level	29/04/2020	15/05/2020
DA-SO-201	H	Southern Amenities Beach Elevation	29/04/2020	15/05/2020
DA-SO-301	H	Southern Amenities Section AA, BB & CC	29/04/2020	15/05/2020
DA-SO-302	H	Southern Amenities Section DD & EE	29/04/2020	15/05/2020
DA-SO-901	H	Materials & Finishes Southern Amenities	29/04/2020	15/05/2020
DA-LF-101	I	Site Plan Lifeguard Facilities	26/02/2021	01/04/2021
DA-LF-102	I	Lifeguard Facilities Promenade Level	26/02/2021	01/04/2021
DA-LF-103	I	Lifeguard Facilities Beach Level	26/02/2021	01/04/2021
DA-LF-104	I	Lifeguard Facilities Overall Beach Level	26/02/2021	01/04/2021
DA-LF-201	I	Lifeguard Facilities Beach Elevation	26/02/2021	01/04/2021
DA-LF-202	I	Lifeguard Facilities Tower Elevations	26/02/2021	01/04/2021
DA-LF-301	I	Lifeguard Facilities Section AA & BB	26/02/2021	01/04/2021
DA-LF-302	I	Lifeguard Facilities Section CC, DD & EE	26/02/2021	01/04/2021
DA-LF-303	I	Lifeguard Facilities Section FF	26/02/2021	01/04/2021
DA-LF-901	H	Materials & Finishes Lifeguard Facilities	29/04/2020	15/05/2020
DA-FA-101	I	Site Plan First Aid Facilities	26/02/2021	01/04/2021
DA-FA-102	I	First Aid Facilities Tunnel 3 Beach Level	26/02/2021	01/04/2021
DA-FA-201	I	First Aid Facilities Beach Elevation	26/02/2021	01/04/2021
DA-FA-202	I	First Aid Facilities Elevations	26/02/2021	01/04/2021
DA-FA-301	I	First Aid Facilities Section AA, BB & CC	26/02/2021	01/04/2021

**(AMENDED BY DA-312/2019/A)**

- (b) Landscape Plans, prepared by Sprout Landscape Architecture Pty as listed below:

<b>Drawing Number</b>	<b>Rev</b>	<b>Plan Description</b>	<b>Date</b>	<b>Date Received by Council</b>
LS 01	G	Landscape Plan – Queen Elizabeth Drive	04/05/20	15/05/2020
LS 02	G	Landscape Plan – Promenade	04/05/20	15/05/2020
LS 03	G	Landscape Plan – Promenade Option 2	04/05/20	15/05/2020

- (c) Drawing titled Electrical Services Site Plan, Drawing No E002 Rev. A, prepared by Melnhardt Australia Pty Ltd., dated November 2019.
- (d) Report titled Heritage Impact Statement Bondi Beach and Bondi Park Additional Amenities dated September 2019 as amended by letter, Re: Addendum to Heritage

Impact, Development Application DA-312/2019, Bondi Beach & Park Amenities, dated 1 May 2020, both prepared by City Plan Heritage P/L.

- i. As amended by Heritage Impact Statement letter RE: Brief Heritage Impact Statement, dated 9 March 2021, prepared by City Plan Heritage P/L and received by Council on 1 April 2021.*

**(AMENDED BY DA-312/2019/A)**

- (e) Structural sketches SK/01 dated April 2019, SK/A1 and SK/A3, dated January 2020, all prepared by SDA Structures Pty Ltd.
- (f) Report titled Report on Geotechnical Investigation Proposed Bondi Park Additional Amenities Queen Elizabeth Drive, Bondi Beach, prepared by Douglas Partners, dated December 2018.
- (g) Report titled Building Code of Australia Assessment Report, prepared by Advance Building Approvals Pty Ltd, dated 24 June 2019.
- (h) Report titled Bondi Park Amenities Coastal Risk Report, prepared by Royal Haskoning DHV, dated 16 July 2019.
- (i) Report titled Hazardous Building Materials (HBM) Survey, prepared by Douglas Partners, dated December 2018.
- (j) Crime Prevention Through Environmental Design (CPTED) Consultancy - Final Report – Amenities Building Bondi Beach, prepared by Harris Crime Prevention Services, dated 23 April 2020.
- (k) Site Waste And Recycling Management Plan (SWRMP) for proposed Amenities and Kiosk, received by Council on 15 May 2020.
- (l) Site Waste And Recycling Management Plan (SWRMP) for proposed Lifeguard Amenities and First Aid Facilities, received by Council on 15 May 2020.
- (m) Report titled Traffic Impact Statement, prepared by Traffix, dated 22 July 2019.

Except where amended by the following conditions of consent.

## **2. GENERAL MODIFICATIONS**

The proposal shall be amended as follows:

- (a) **(Stage 2 & 3)** All external concrete finishes are to be closely matched to the appearance of existing concrete work in the promenade walls and to avoid high glaze, slow weathering finishes. A sample panel is to be provided to Council's Heritage Advisor for written approval prior to the issue of the relevant Construction Certificate.
- (b) **(Stage 1)** Means of improving outlook from the Lifeguard Tower should be further addressed including a potential CCTV camera mounted on the roof to improve vision over waves along the break zone. Any changes to facilitate an improved outlook from

within the Lifeguard tower over the surf are to be provided to Council's Heritage Advisor for written approval prior to the issue of the relevant Construction Certificate;

- (c) **(Stage 1, 2 & 3)** The door width to all accessible toilets is to be a minimum of 1050mm, plans are to be amended to demonstrate this;
- (d) **(Stage 2)** The staircase closest to the new proposed southern amenities facility are to be upgraded (including nosing contrast to the stairs, installation of Tactile Ground Surface Indicators (TGSIs) and installation of compliant handrails;
- (e) **(Stage 1, 2 & 3)** Details of security measures (such as the provision of screens/shutters) to minimise unlawful access (particularly at night or when not in use) for the First Aid room, kiosk and Lifeguard facilities are to be submitted and approved by Council's Manager, Development Assessment (or delegate).

The amendments are to be approved by **Council's Heritage Office and/or Manager, Development Assessment (where specified), or delegate** prior to the issue of the relevant Construction Certificate under the Environmental Planning and Assessment Act 1979.

**(AMENDED BY DA-312/2019/A)**

### **3. HERITAGE COUNCIL OF NEW SOUTH WALES - GENERAL TERMS OF APPROVAL**

#### **APPROVED DEVELOPMENT**

A. Development must be in accordance with:

a. Architectural drawings, prepared by Chrofi Architect as listed below:

<b>Cover Page</b>	<b>01/04/21</b>	<b>I</b>
<b>Location Plan</b>	<b>01/04/21</b>	<b>I</b>
<b>Site Analysis</b>	<b>01/04/21</b>	<b>I</b>
<b>Site Plan Southern Amenities</b>	<b>01/04/21</b>	<b>I</b>
<b>Site Plan First Aid Facilities</b>	<b>01/04/21</b>	<b>I</b>
<b>First Aid Facilities Tunnel 3 Beach Level</b>	<b>01/04/21</b>	<b>I</b>
<b>First Aid Facilities Beach Elevation</b>	<b>01/04/21</b>	<b>I</b>
<b>First Aid Facilities Elevations</b>	<b>01/04/21</b>	<b>I</b>
<b>First Aid Facilities Section AA &amp; BB</b>	<b>01/04/21</b>	<b>I</b>
<b>Site Plan Lifeguard Facilities</b>	<b>01/04/21</b>	<b>I</b>
<b>Lifeguard Facilities Promenade Level</b>	<b>01/04/21</b>	<b>I</b>
<b>Lifeguard Facilities Beach Level</b>	<b>01/04/21</b>	<b>I</b>
<b>Lifeguard Facilities Overall Beach Level</b>	<b>01/04/21</b>	<b>I</b>
<b>Lifeguard Facilities Beach Elevation</b>	<b>01/04/21</b>	<b>I</b>
<b>Lifeguard Facilities Tower Elevations</b>	<b>01/04/21</b>	<b>I</b>
<b>Lifeguard Facilities Section AA &amp; BB</b>	<b>01/04/21</b>	<b>I</b>
<b>Lifeguard Facilities Section CC, DD &amp; EE</b>	<b>01/04/21</b>	<b>I</b>
<b>Lifeguard Facilities Section FF</b>	<b>01/04/21</b>	<b>I</b>
Materials & Finishes Lifeguard Facilities	29/04/20	H
Site Plan Southern Amenities	29/04/20	H
Southern Amenities QED Level	29/04/20	H
Southern Amenities Promenade Level	29/04/20	H



Southern Amenities Beach Elevation	29/04/20	H
Southern Amenities Section AA, BB and CC	29/04/20	H
Southern Amenities Section DD & EE	29/04/20	H
Materials & Finishes Southern Amenities	29/04/20	H

- b. Drawing titled Electrical Services Site Plan, Drawing No E002 Rev. A, prepared by Melnhardt Australia Pty Ltd., dated November 2019.
- c. Report titled Heritage Impact Statement Bondi Beach and Bondi Park Additional Amenities dated September 2019 as amended by letter, Re: Addendum to Heritage Impact, Development Application DA-312/2019, Bondi Beach & Park Amenities, dated 1 May 2020, both prepared by City Plan Heritage P/L.
- d. Letter, Re: Heritage Values of Bondi Beach & Park Development Application DA-312/2019, Bondi Beach & Park Amenities, prepared by City Plan Heritage P/L, dated 1 May 2020.
- e. Letter, Re: Peer review of heritage impact statement addendum – DA-312/2019, Bondi Beach & Park Amenities, prepared by EMM, dated 15 May 2020.
- f. Structural sketches SK/01 dated April 2019, SK/A1 and SK/A3, dated January 2020, all prepared by SDA Structures Pty Ltd.
- g. Report titled Bondi Additional Amenities Design Verification Statements, prepared by Chrofi ***dated April 2021***.
- h. Report titled Report on Geotechnical Investigation Proposed Bondi Park Additional Amenities Queen Elizabeth Drive, Bondi Beach, prepared by Douglas Partners, dated December 2018.
- i. Report titled Building Code of Australia Assessment Report, prepared by Advance Building Approvals Pty Ltd, dated 24 June 2019.
- j. Report titled Statement of Environmental Effects, Bondi Park Additional Amenities, prepared by Symons Goodyer, dated ~~September 2019~~ ***22 April 2021***.
- k. Report titled Bondi Amenities Feasibility Proposal Final, prepared by Arup, dated May 2018.

**EXCEPT AS AMENDED** by the following general terms of approval:

**(AMENDED BY DA-312/2019/A)**

#### **FURTHER INFORMATION**

- B. The following additional information must be submitted for approval to the Heritage Council of NSW (or delegate) with the section **65a** application:
  - i. Details of proposed new services including air conditioning services. The design details are to be planned with input by the nominated heritage

consultant to limit any adverse heritage impacts on significant fabric and to ensure works are in accordance with best practice conservation principles.

- ii. Details of the self-supporting secondary tunnel structure to the existing tunnel walls. The design must ensure the works are reversible.
- iii. Structural assessment and drawings including methodologies for retention and restoration of significant retaining wall structure and fabric.

Reason: The assessment and management of these details is considered essential in order to obtain a good heritage outcome.

**(AMENDED BY DA-312/2019/A)**

- C. Proposed concrete finish of new works shall closely match the existing concrete finish of the promenade. New work should be identifiable on close inspection or through additional interpretation. Samples of concrete finish shall be submitted for approval to the Heritage Council of NSW (or delegate) prior to the issue of a Construction Certificate.

Reason: To ensure consistency in finishes and appearance of the promenade and to minimise visual impacts.

#### **HERITAGE CONSULTANT**

- D. A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.

#### **SPECIALIST TRADESPERSONS**

- E. All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.

#### **SITE PROTECTION**

- F. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

Reason: To ensure significant fabric including vegetation is protected during construction.

#### **CONSERVATION WORKS**

- G. A detailed schedule of conservation works for the affected sites must be prepared in accordance with the Burra Charter guidelines and should be guided by the relevant CMPs. The schedule of conservation works shall be submitted for approval to the Heritage Council of NSW (or delegate) with the section 60 application. The works shall be implemented as part of the project prior to the issue of an Occupation Certificate.

Reason: To ensure that significant features and fabric are restored and conserved.

#### **HERITAGE INTERPRETATION PLAN**

- H. A detailed interpretation plan must be prepared in accordance with the Heritage NSW publication 'Interpreting Heritage Places and Items Guidelines' (2005) and submitted for approval to the Heritage Council of NSW (or delegate) within three months of the date of issue of a Construction Certificate/ Government certification.
- I. An interpretation plan must be prepared in accordance with the Department of Premier and Cabinet publication 'Interpreting Heritage Places and Items Guidelines' (2005) and submitted for approval of the Heritage Council of NSW (or delegate) within three (3) months from the date of issue of any Construction Certificate .

The interpretation plan must detail how information on the history and significance of Bondi Beach will be provided for the public, and make recommendations regarding public accessibility, signage and lighting. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project.

- J. The approved interpretation plan must be implemented prior to the issue of an Occupation Certificate

Reason: Interpretation is an important part of every proposal for works at heritage places.

#### **PHOTOGRAPHIC ARCHIVAL RECORDING**

- K. A photographic archival recording of the affected areas must be prepared prior to the commencement of works, during works and at the completion of works. This recording must be in accordance with the Heritage NSW publication 'Photographic Recording of Heritage Items using Film or Digital Capture' (2006). The digital copy of the archival record must be provided to Heritage NSW, Department of Premier and Cabinet.

Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.

#### **UNEXPECTED HISTORICAL ARCHAEOLOGICAL RELICS**

- L. The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are

discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.

#### **ABORIGINAL OBJECTS**

- M. The Applicant must submit an Aboriginal cultural heritage assessment and investigation proposed for the site under any Aboriginal Heritage Impact Permit under the National Parks and Wildlife Act 1974 with the section 60 application.

Reason: Additional values linked to Aboriginal cultural and archaeological heritage of the Bondi Beach Cultural Landscape have been identified in the recently Endorsed Conservation Management Plan. However, these values have not yet been reconsidered under the Heritage Act 1977. It is appropriate that results of the physical testing are provided to the Heritage Council of NSW to understand what results may have been identified during this investigation.

- N. Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the National Parks and Wildlife Act 1974 (as amended). Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the National Parks and Wildlife Act 1974.

Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.

#### **COMPLIANCE**

- O. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

#### **SECTION 65a APPLICATION**

- P. An application under section **65a** of the Heritage Act 1977 must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

**(AMENDED BY DA-312/2019/A)**

#### **Advice**

Section 148 of the Heritage Act 1977 (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics,



moveable objects, places or items that is or contains an item of environmental heritage.  
Reasonable notice must be given for the inspection.

## **B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### **4. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

**(Stage 1, 2 & 3)** The building work, or demolition work, must not be commenced until:

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

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

### **5. SECTION 7.12 CONTRIBUTION**

**DELETED BY DA-312/2019/A**

### **6. LONG SERVICE LEVY**

**(Stage 1, 2 & 3)** A long service levy, as required under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of 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.

**(AMENDED BY DA-312/2019/A)**

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

**(Stage 1, 2 & 3)** 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.

**(AMENDED BY DA-312/2019/A)**

## **8. BUILDING CODE OF AUSTRALIA**

**(Stage 1, 2 & 3)** All building work must be carried out in accordance with the requirements of the Building Code of Australia.

**(AMENDED BY DA-312/2019/A)**

## **9. FIRE SAFETY UPGRADING WORKS**

- a) **(Stage 1, 2 & 3)** 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 lifeguard tower, tunnels and storage rooms must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):
- (i) Fire resistance and stability – Part C1;
  - (ii) Compartmentation and separation – Part C2;
  - (iii) Protection of openings – Part C3
  - (iv) Provision for escape – Part D1;
  - (v) Construction of exits – Part D2;
  - (vi) Access for people with a disability – Part D3;
  - (vii) Fire fighting equipment – Part E1;
  - (viii) Smoke hazard management – Part E2;
  - (ix) Emergency lighting, exit signs and warning systems – Part E4;
  - (x) Sanitary and other facilities – Part F2;
  - (xi) Room heights – Part F3; and
  - (xii) Light and ventilation – Part F4.
- b) **(Stage 1, 2 & 3)** 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) **(Stage 1, 2 & 3)** 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.
- d) **(Stage 1, 2 & 3)** Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate.

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

**(AMENDED BY DA-312/2019/A)**

**10. FIRE SAFETY AND BCA UPGRADE WORKS TO BE REVIEWED BY A REGISTERED HERITAGE ARCHITECT**

**(Stage 1, 2 & 3)** Any required fire safety works recommended by any BCA Report, Fire Safety and Upgrade Report or Fire Safety Consultant are to be reviewed by a registered Heritage Architect to ensure that these works are generally consistent with the heritage significance of the area/building. In this respect, the project's Heritage Architect and Building Surveyor must jointly confer and agree on these works. These works may be modified to address a balance between retention of the heritage significance of the building and contemporary building standards.

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

**(AMENDED BY DA-312/2019/A)**

**11. SERVICE AUTHORITIES**

**(Stage 1, 2 & 3)** The applicant is to seek approval from the relevant service providers regarding any possible modification to the service authorities' infrastructure prior to the issue of the relevant Construction Certificate.

**(AMENDED BY DA-312/2019/A)**

**12. GREEN STAR DESIGN AND AS-BUILT RATING**

**(Stage 1, 2 & 3)** The applicant is to submit an Energy Assessment Report to satisfy the provisions of Part 2.6 the Waverley Development Control Plan 2012 (Amendment 6, adopted on the 1st of November 2018). The Energy Assessment Report is to demonstrate how the project will deliver a development with greenhouse gas emissions that are 30% less than those of a reference building would need to be submitted. The GHG emissions of the reference building should take into account the whole building (including the tenants) and not only Waverley Council's energy consumption.

Details to be submitted and approved by Council's Executive Manager, Environmental Sustainability (or delegate) prior to the issue of the relevant Construction Certificate.

**(AMENDED BY DA-312/2019/A)**

**13. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

**(Stage 1, 2 & 3)** The applicant is to submit a Construction Traffic Management Plan (CTMP) and be approved by 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:



(AMENDED BY DA-312/2019/A)

**14. AMENDED SITE WASTE AND RECYCLING MANAGEMENT PLAN**

**(Stage 1, 2 & 3)** The approved Site Waste and Recycling Management Plan (SWRMP) is to be amended to address the following points:

- The allocated collection points for the disposal of waste generated at both the lifeguard tower, first aid facilities and public toilet and shower facilities are to be identified.

Additionally, a SWRMP Checklist 2 shall be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the relevant Construction Certificate. In this regard, Council expects demolition and excavated material to be reused and/or recycled wherever possible.

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

(AMENDED BY DA-312/2019/A)

**15. HOARDING**

**(Stage 1, 2 & 3)** To ensure the site is contained during construction, hoarding may be required for the approved works. If required, the hoarding shall be designed and constructed in accordance with the requirements of **Safe Work NSW**.

The hoarding is to be erected on the street alignments of the property prior to the commencement of building operations and be maintained during the course of building operations. Details of the hoarding are to be provided to Council for record and be to the satisfaction of the Principal Certifying Authority prior to issue of the relevant Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

(AMENDED BY DA-312/2019/A)

**16. EROSION, SEDIMENT AND POLLUTION CONTROL**

**(Stage 2 & 3)** Erosion, sediment and pollution control measures are to be implemented on this site. A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to SSROC's Soil and Water Management Brochure and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction. These measures are to be implemented prior to commencement of any work or activities on or around the site. The Soil and Water Management Plan is to be submitted to Council prior to the issuing of the relevant Construction Certificate.

(AMENDED BY DA-312/2019/A)

**17. ENGINEERING DETAILS**

**(Stage 1, 2 & 3)** Structural details prepared and certified by a practicing Structural Engineer being furnished to Council or Accredited Certifier in connection with all structural components prior to the issue of the relevant Construction Certificate.

The adequacy of the existing building structure to carry the extra load of the proposed additions is to be provided to Council or the Accredited Certifier prior to the issue of the relevant Construction Certificate.

(AMENDED BY DA-312/2019/A)

**18. STORMWATER MANAGEMENT**

**(Stage 2)** The stormwater plans prepared by Meinhardt Australia, dated 19/07/2019, Project No. 120100, DWG No. C101, C200, Rev. P01 and P04 shall be revised and resubmitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The plans to consider and include:

- a) Sydney Water Approval: Approval from Sydney Water shall be provided for the proposed 1500Ø RCP realignment. All recommendations and requirements provided by Sydney Water regarding the existing trunk drainage amendment shall be communicated to Councils Infrastructure Services.
  - a. Additional drainage provision to be considered within Queen Elizabeth Drive at the Western side of the amenities building roof.
- b) Long -Sections and HGL: A Hydraulic Grade Line (HGL) analysis of the pipe realignment and new pit and pipe sections to be provided.
- c) GPT or Sediment Capture Trap: Applicant to provide details of a sediment and/or gross pollutant capture device attached to the line connecting the outdoor free-standing showers. A non-return valve also to be considered at the outlet pipe at the connection point with Sydney Water's stormwater line so that stormwater cannot surcharge back into the property disposal system.

(AMENDED BY DA-312/2019/A)

**19. COASTAL RISK ASSESMENT AND EMERGENCY EGRESS**

**(Stage 1, 2 & 3)** Prior to construction commencement the associated architectural and engineering plans shall be presented to a qualified engineering consultant to undertake an updated Coastal Risk Assessment. The assessment must consider worst-case scenario estimates of wave runup using coincident AEP water levels, future sea level rises and respective wave height data.

The study must outline any design recommendations for building openings and shut-out systems to support a worst-case scenario. Building egress in the case of an emergency shall

be provided to any area of the building affected by flooding or coastal inundation. Details of proposed emergency flood gates or large drainage systems shall be considered.

Internal egress (including access from the building roof shall be considered) to be available if flood gates are in operation so that any person can exit the building safely.

All recommendations within the current Coastal Risk Report, prepared by Royal Haskoning DHV, dated 16/07/2019, ref. PA1939M&ARP1811141533 shall be considered. The updated report and any coastal inundation mitigation measures shall be submitted and approved by Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of the relevant Construction Certificate.

**(AMENDED BY DA-312/2019/A)**

## **20. AMENDED LANDSCAPE PLAN**

**(Stage 2)** Prior to construction commencement the Landscaping Plans for the development are to be updated to reflect the approved architectural design of the development and to include the following additional details:

- a) To comply with control (a) of Section 3.2 of the Waverley DCP, proposed planting in all areas shall use local native species with a mature growth height of no more than 600mm. Details of pot sizes and planting density is to be provided on the plans. The details are to be provided for all landscaped areas, including the proposed roof garden of the building. Consideration is to be provided to the maintenance requirements.
- b) Council is supportive of the southern amenities block roof being accessible, however the roof planting must have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for *Carpobrotus edulis*.
- c) To further match the design aesthetic in Bondi Park the design of the walling surrounding the seating (southern amenities block) is to be amended so that it is angled to create a shadow line similar to the seating walls at the picnic shelters and soon to be built Pavilion courtyards.
- d) Prior to final handover a landscaping maintenance plan is to be submitted to Council for implementation, upon receiving an occupation certificate for the development.
- e) All proposed public footpaths, stairs and ramp works must meet Australian Standards 1428 for Access and Mobility, ensuring handrails to both sides of ramps and stairs.
- f) All proposed public seating should provide minimum 50% with back and arm rest provisions to ensure they appeal to a wide range of users.

The amended landscape plan/s are to be submitted to Council for the approval of Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of the relevant Construction Certificate.

**(AMENDED BY DA-312/2019/A)**

## **21. LANDSCAPED SLABS**

**(Stage 2)** Details shall be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate indicating the proposed method of water-proofing and drainage of any concrete slabs over which landscaping is proposed.

**(AMENDED BY DA-312/2019/A)**

## **22. PUBLIC LIGHTING PLANS**

**(Stage 2 & 3)** The applicant is to engage an Ausgrid Accredited Service Provider (ASP) and electrical design consultant to design any proposed public lighting works to the exterior of the building. The new lighting and power to the premises shall be serviced by metered underground power.

The new public lighting shall be designed and installed to Australian Standard AS1158:2010 - Lighting for Roads and Public Spaces. The plans to be approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

Lighting should consider CPTED principles and ensure the immediate area to the proposed facilities are subject to a suitable lighting scheme which enables users to identify all persons in proximity to the facility during darkened hours. This would include graduated lighting on approach if necessary to broaden the distance of reconnaissance.

**(AMENDED BY DA-312/2019/A)**

## **23. TRAFFIC / PARKING MODIFICATION ARRANGEMENTS**

- (a) **(Stage 2)** The two proposed accessible parking bays, with a shared transfer space, close to the new southern amenities facility are to be installed. These two spaces should not reduce the number of accessible parking spaces at other locations on Queen Elizabeth Drive.
- (b) **(Stage 2)** Vehicle parking bays along the northern side of Queen Elizabeth Drive should be considered for realignment of angled parking bays. In this regard, consideration to re-linemarking of this strip of parking to provide angled parking with front entry capability (vehicles then reverse to exit) would assist to reduce congestion along this roadway, particularly extending from the southern amenities block pedestrian crossing to the Campbell Parade roundabout entry point.

Details to be submitted and approved by Council's Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

**(AMENDED BY DA-312/2019/A)**



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

### **24. PRIOR TO SITE WORKS**

**(Stage 1, 2 & 3)** The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) The name and contractor licence number of the licensee who has contracted to do, or intends to do, work; or
- (b) The name and permit number of the owner/builder who intends to do the work; and
- (c) Any change to these arrangements for doing of the work.

**(AMENDED BY DA-312/2019/A)**

### **25. CONSTRUCTION SIGNS**

**(Stage 1, 2 & 3)** 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.

**(AMENDED BY DA-312/2019/A)**

### **26. OBSTRUCTION TO PUBLIC AREAS**

**(Stage 1, 2 & 3)** If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building; then:

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

**(AMENDED BY DA-312/2019/A)**

### **27. TOILET FACILITIES**

**(Stage 1, 2 & 3)** Toilet facilities being provided on the work site in accordance with the requirements of Sydney Water.

**(AMENDED BY DA-312/2019/A)**

**28. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

**(Stage 1, 2 & 3)** Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

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

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

**(AMENDED BY DA-312/2019/A)**

**29. CONSTRUCTION HOURS**

**(Stage 1, 2 & 3)** Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays
- (c) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

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

**(AMENDED BY DA-312/2019/A)**

**30. NATIONAL CONSTRUCTION CODE (NCC)**

**(Stage 1, 2 & 3)** All building work must be carried out in accordance with the requirements of the National Construction Code.

**(AMENDED BY DA-312/2019/A)**

**31. PRE-CONSTRUCTION STORMWATER PIPE CCTV DILAPIDATION REPORT**

**(Stage 2)** Prior to the issue of the relevant Construction Certificate, internal inspection of the existing Sydney Water and Council stormwater conduits to determine the structural conditions must be carried out by a Closed Circuit Television (CCTV) system, by an approved contractor. The report is to be submitted to Council's Executive Manager, Infrastructure Services or delegate for its review.

**(AMENDED BY DA-312/2019/A)**

**32. PUBLIC DOMAIN PRE-CONSTRUCTION MEETING**

**(Stage 2)** To ensure all public infrastructure works approved under this consent will be completed to Council's satisfaction and a program of required inspections is established, a preconstruction meeting shall be arranged with Council's Executive Manager, Infrastructure Services, or delegate prior to works commencing on site.

**(AMENDED BY DA-312/2019/A)**

**33. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

**(Stage 2)** 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.

**(AMENDED BY DA-312/2019/A)**

**34. NOISE FROM BUILDING WORKS - RESTRICTED ACTIVITIES**

**(Stage 1, 2 & 3)** Where there is a strong community reaction to noise associated with demolition, excavation and/or construction, Council may require respite periods by restricting the hours that the specific noisy activity can occur.

**Note:** If this is imposed, Council will take into account:

1. Times identified by the community when they are less sensitive to noise
2. If the community is prepared to accept a longer period of construction in exchange for restrictions on construction times.

**(AMENDED BY DA-312/2019/A)**

**35. PUBLIC DOMAIN PRE-CONSTRUCTION MEETING**

**DELETED BY DA-312/2019/A**

**36. DEMOLITION AND CONSTRUCTION WASTE MANAGEMENT**

**(Stage 1, 2 & 3)** The applicant must meet the following objectives for sustainable demolition and construction waste management:

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

**(Stage 1, 2 & 3)** The applicant must ensure that the demolition and construction phase complies with the following:

- (a) A construction waste storage area is to be located within the property boundary and is to be identified on the site plans as part of the SWRMP.
- (b) Separate construction waste collection bins or construction waste storage areas are to be provided, giving consideration to slope, drainage, vegetation, access and handling requirements and may include:
  - (i) Landfill waste;
  - (ii) Recyclable waste;
  - (iii) Materials to be re-used on-site; and / or
  - (iv) Excavation materials (refer to Annexure B1-1 for common building materials that can be re-used and recycled).
- (c) Waste that can be recycled or reclaimed is to be identified in the SWRMP, as well as the intended methods for recovery and reclamation.
- (d) All sandstone must be re-used on site or reclaimed through an appropriate contractor.
- (e) Asbestos and other hazardous material is to be managed under the *Protection of the Environment Operations Act 1997*, in accordance with the provisions of Safe Work NSW, and Council's Asbestos Policy.
- (f) Materials that cannot be reused or recycled must be:
  - (i) Disposed of at a State Government approved facility and specified in the SWRMP; and
  - (ii) Disposed of via a contractor that operates in accordance with the Proximity Principle outlined in State Government Legislation.
- (g) Records are to be retained on-site demonstrating lawful disposal of waste.
- (h) Easy vehicular access to waste and recycling material storage areas must be provided and detailed in the SWRMP.
- (i) Construction materials are to be stored away from waste and recycling materials to enable easy access for waste collectors. Skip bins are to be utilised and located in accordance with Council's building waste and hoardings policy.
- (j) All materials are to be stored in way that:
  - (i) Prevents damage from the elements, and reduces odour, health risks and windborne litter; and
  - (ii) Prevents impacts to the environment under State Government Legislation (including stormwater pollution and runoff).

**(AMENDED BY DA-312/2019/A)**

### **37. HAZARDOUS BUILDING MATERIAL RECOMMENDATIONS**

**(Stage 1)** The "recommendations" as outlined in the Hazardous Building Material Survey report prepared by Douglas Partners [Project No. 86599.00] dated December 2018 shall be implemented.

**(AMENDED BY DA-312/2019/A)**

### **38. ASBESTOS REMOVAL**

#### **Stage 1, 2 & 3:**

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover NSW Friable Class A



Asbestos Removal Licence or where applicable a Non-friable Class B (bonded) Asbestos Removal Licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by WorkCover NSW (catalogue no.WC03561) and Waverley's Asbestos Policy.

- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400m x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

**(AMENDED BY DA-312/2019/A)**

#### **39. FOOD PREMISES (KIOSK)**

**(Stage 2)** The following requirements apply to premises that commercially provide food:

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

**(AMENDED BY DA-312/2019/A)**

#### **40. REFRIGERATION UNITS & MECHANICAL PLANT**

***(Stage 2) Any future installation of refrigeration motors/units and other mechanical plant associated with the fit out of the kiosk shall be subject to a separate development application.***

**(AMENDED BY DA-312/2019/A)**

**41. COMPLIANCE WITH SAFE WORK NSW**

**(Stage 1, 2 & 3)** All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.

**(AMENDED BY DA-312/2019/A)**

**42. MANAGEMENT OF ACIDIC SOIL**

**(Stage 2 & 3)** Should the subject site show evidence of acid sulphate soils, the following shall apply:

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

**(AMENDED BY DA-312/2019/A)**

**43. POTENTIAL DEWATERING OF THE SITE**

**(Stage 1, 2 & 3)** Should dewatering of the site be required, the onus is on the developer to:

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

(AMENDED BY DA-312/2019/A)

**44. ACCESSIBILITY**

- (a) **(Stage 2)** The staircase closest to the new proposed southern amenities facility are to be upgraded (including nosing contrast to the stairs, installation of Tactile Ground Surface Indicators (TGSIs) and installation of compliant handrails.
- (b) **(Stage 2)** The two proposed accessible parking bays, with a shared transfer space, close to the new southern amenities facility are to be installed. These two spaces should not reduce the number of accessible parking spaces at other locations on Queen Elizabeth Drive.

(AMENDED BY DA-312/2019/A)

**45. INFORMATIVE / DIRECTIONAL SIGNAGE**

- (a) **(Stage 1)** Appropriate signage/markings at Queen Elizabeth Drive shall be implemented for emergency services when responding to incidents if patients will be triaged in the First Aid room / area.
- (b) **(Stage 2)** Male and Female Toilet Signage should be clearly provided at the two (2) way entry to the change area noted as a location for art works to the southern amenities block.
- (c) **(Stage 1 & 2)** Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory or wherever directional signage or information is provided in the building. Such signage shall have regard to the provisions of AS1428.1.

Signage to be implemented prior to the issue of an Occupation Certificate.

(AMENDED BY DA-312/2019/A)

**46. SURVEILLANCE CAMERAS TO BE INSTALLED AND MAINTAINED**

**(Stage 1, 2 & 3)** A closed-circuit television (CCTV) system must be installed and maintained encompassing the surrounds of the facilities of Bondi Park. The CCTV system must comply with the following requirements:

- (a) It must record continuously.
- (b) It must record in digital format and at a minimum of 15 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 First Aid room, Lifeguard facility and toilet block,
  - ii. the footpath immediately adjacent to the, Lifeguard facility and toilet block, and
  - iii. all publicly accessible areas (other than toilets) on the premises.

- (e) CCTV recordings must be retained for at least 30 days.
- (f) Signage shall be clearly displayed adjacent to the principal entry alerting persons that CCTV is in operation.
- (j) Ensure the CCTV system provides for low light capabilities.
- (k) Provide a back to base alarm system or similar to supplement these security arrangements.
- (l) Provide any recordings made by the system to an Authorised Council or Police Officer within 24 hours of any request by an Authorised Council or Police Officer to provide such recordings

**(AMENDED BY DA-312/2019/A)**



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

### **47. CERTIFICATION OF STORMWATER SYSTEM**

**(Stage 2 & 3)** Prior to issue of any Occupation Certificate, certification prepared by a suitably qualified Civil Engineer is to be submitted and accepted by Council's Executive Manager, Infrastructure Services or delegate. All works to be constructed in accordance with the approved stormwater management plans and to best engineering practice.

Similarly, stormwater assets owned by Sydney Water shall be approved and accepted to their requirements.

**(AMENDED BY DA-312/2019/A)**

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

**(Stage 2)** Prior to the issue of an Occupation Certificate, Works-As-Executed Drawings prepared and signed by a registered surveyor for the new pits, pipes and stormwater connection works on shall be submitted to and approved by Council's Executive Manager, Infrastructure Services or delegate. Where changes have occurred with the approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.

**(AMENDED BY DA-312/2019/A)**

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

**(Stage 2 & 3)** To ensure public infrastructure works required under the consent are completed to Council's satisfaction a final inspection of the completed works is required from Council's Executive Manager, Infrastructure Services, or delegate. The Occupation Certificate shall not be issued until certification has been obtained from Council confirming the public infrastructure works have been constructed to Council's satisfaction.

#### **Notes:**

- The issue of a Compliance Certificate from the Council officer will be withheld should there be any outstanding fees and charges applicable to the development. This includes but not limited to fees applicable for engineering plans assessment and work inspection fees.
- To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works completed by the applicant/developer following completion of the development. The defects liability period shall commence from the date of issue of the Occupation Certificate for the development. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period.

**(AMENDED BY DA-312/2019/A)**

### **50. NOISE - MECHANICAL PLANT**

**(Stage 1, 2 & 3)** 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.

**(AMENDED BY DA-312/2019/A)**

## **51. NOISE EMISSIONS**

**(Stage 1, 2 & 3)** 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.

**(AMENDED BY DA-312/2019/A)**

## **52. MECHANICAL VENTILATION SYSTEMS**

**Stage 1, 2 & 3:**

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

(AMENDED BY DA-312/2019/A)

**53. CONSTRUCTION AND FITOUT OF FOOD PREMISES**

***Stage 2:***

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

OR

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

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

(AMENDED BY DA-312/2019/A)

**54. CERTIFICATION OF MECHANICAL EXHAUST**

***(Stage 1, 2 & 3)*** The mechanical exhaust ventilation system is to comply with the approved plans and specifications in addition to Australian Standards AS 1668 (part 1, 1998 and part 2, 2012). A Certificate of Test together with a copy of the final test figures is to be submitted by a competent person and approved by the Principle Certifying Authority prior to the issue of the Occupation Certificate.

(AMENDED BY DA-312/2019/A)

**55. CERTIFICATION OF AIR CONDITIONING SYSTEM**

***(Stage 1, 2 & 3)*** The installed air conditioning system shall be the subject of an air filter cleaning/replacement service and regular servicing. In this regard, documentary evidence is to be submitted to Council or an Accredited Certifier enabling a Compliance Certificate to be

issued on request certifying satisfactory compliance with this condition and the efficient performance of the system.

**(AMENDED BY DA-312/2019/A)**

**56. OCCUPATION CERTIFICATE**

**(Stage 1, 2 & 3)** Prior to occupation or use of the development, the Principal Certifying Authority must issue an Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied.

**(AMENDED BY DA-312/2019/A)**

**57. SLIP TESTS OF COMMON AREAS**

**(Stage 1, 2 & 3)** Common area tiles should not have slippery finishes. Slip tests should be undertaken in wet conditions, prior to the issue of an Occupation Certificate.

**(AMENDED BY DA-312/2019/A)**

**58. LANDSCAPE PLAN**

**(Stage 2)** The site is to be landscaped in accordance with the approved landscaped plan with the landscape works completed prior to the issue of the Occupation Certificate.

**(AMENDED BY DA-312/2019/A)**



## **E. OPERATIONAL CONDITIONS DURING OCCUPATION**

### **59. FIRE SAFETY MAINTENANCE**

**(Stage 1, 2 & 3)** Access to all essential fire safety measures, such as fire hydrants, fire hose reels, portable fire extinguishers and the like must be maintained at all times and not be blocked or obstructed by furniture, equipment or the like.

**(AMENDED BY DA-312/2019/A)**

### **60. WATER PROTECTION**

**(Stage 1, 2 & 3)** The operation of the premises shall be conducted in a manner which does not pollute waters as defined by the *Protection of the Environment Operations Act 1997*.

**(AMENDED BY DA-312/2019/A)**

### **61. SEPARATE APPLICATION FOR USE AND FITOUT OF FOOD PREMISES (KIOSK)**

**(Stage 2)** This consent does not approve the use of the kiosk (food premises). The proposed use and fitout of the kiosk is to be subject to a separate development application to and approval from Council.

This approval does not permit cooking to be undertaken on the premises. Any proposal to utilise cooking equipment/appliances will be subject to a separate development application to Council and if approved will require an air handling system designed in accordance with AS 1668.1-1998 and AS1668.2-1991 or alternative solution satisfying the performance objectives of the Building Code of Australia.

**(AMENDED BY DA-312/2019/A)**

### **62. SEPARATE APPLICATION FOR SIGNAGE**

**(Stage 1, 2 & 3)** Any proposed advertising structures to be displayed at the premises are to be subject to a separate development application to and approval from Council.

**(AMENDED BY DA-312/2019/A)**

### **63. LIGHTING**

#### **Stage 1, 2 & 3:**

- (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) Lighting should consider CPTED principles and ensure the immediate area to the proposed facilities are subject to a suitable lighting scheme which enables users to identify all persons in proximity to the facility during darkened hours. This would include graduated lighting on approach if necessary to broaden the distance of reconnaissance.

**(AMENDED BY DA-312/2019/A)**

## 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.

### I. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

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

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

### II. 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.

### **III. DIAL BEFORE YOU DIG**

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

### **IV. EXCAVATION TO BE LIMITED**

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

### **V. 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.

### **VI. SEPARATE APPLICATION FOR SIGNAGE**

No signage has been proposed in this application, therefore any advertising or signage requires the separate approval from Council, unless deemed Exempt Development under Division 2 of the SEPP (Exempt and Complying Development) 2008.

### **VII. WORK OUTSIDE PROPERTY BOUNDARY**

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

### **VIII. SUITABLY QUALIFIED ACOUSTIC CONSULTANT**

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

### **IX. RIGHT OF APPEAL - HERITAGE NSW, DEPARTMENT OF PREMIER AND CABINET**

If you are dissatisfied with this determination, section 70A of the Heritage Act 1977 gives you the right of appeal to the Land and Environment Court.



BONDI ADDITIONAL AMENITIES  
DEVELOPMENT APPLICATION

RECEIVED  
Waverley Council

Application No: DA-312/2019/A

Date Received: 01/04/2021

SOUTHERN AMENITIES, LIFEGUARD FACILITIES & FIRST AID FACILITIES



CONSULTANT LIST

ARCHITECT CHROFI Steven Figuera steven@chrofi.com 80968500	SURVEYOR Mason Andrew Mason info@mason.net.au 9929 6233	QUANTITY SURVEYOR MBM David Shlom David.Shlom@mbmpl.com.au 0411 268 616
BCA CONSULTANT Advanced Building Approvals Ian Pickering ipickering@advanceba.com.au 0407 399 703	STRUCTURAL/CIVIL ENGINEER SDA Structures Nick Reichinger Nick@sdastructures.com.au 0410 108 788	HERITAGE Cityplan Kerime Danis kerimedanis@cityplan.com.au 8270 3500
GEOTECHNICAL ENGINEER Douglas & Partners Peter Valenti peter.valenti@douglaspartners.com.au 0422 000 438	TRANSPORT/TRAFFIC CONSULTANT Traffix Matthew Thompson matthew.thompson@traffix.com.au 83248700	PLANNER Symons Goodyer Geoff Goodyer goodyer@bigpond.net.au 0413 361 483
BUILDING SERVICES, CIVIL & STORMWATER Meinhardt Tai Ng tai.ng@meinhardt.com 02 8252 0458	ACCESSIBILITY Obvius Access Daniel Bedwell obviusaccess@bigpond.com 0414 305 303	LANDSCAPE Sprout Martin Pell martin@sproutstudio.com.au 0425 294 822

COLOURED PLANS KEY


CUT	UNCUT	
		CONCRETE
		ALUMINIUM/ STEEL
		GLASS
		TIMBER
		PAVING
		EARTH
		FIBRE CEMENT
		DEMOLISH
		EXISTING
		STAGE 1 WORK
		STAGE 3 WORK

DRAWING LIST

GENERAL INFO	AMENDMENTS ON DRAWINGS MARKED REVISION I			
DA-000	COVER PAGE	NTS	I	
DA-001	LOCATION PLAN	NTS	I	
DA-LF-903	PHOTOMONTAGE: APPROACH ON PROMENADE	NTS	H	
SOUTHERN AMENITIES	NO CHANGES			
DA-SO-101	SITE PLAN SOUTHERN AMENITIES	1:200	H	
DA-SO-102	SOUTHERN AMENITIES QED LEVEL	1:100	H	
DA-SO-103	SOUTHERN AMENITIES PROMENADE LEVEL	1:100	H	
DA-SO-201	SOUTHERN AMENITIES BEACH ELEVATION	1:200, 1:50	H	
DA-SO-301	SOUTHERN AMENITIES SECTION AA, BB & CC	1:100	H	
DA-SO-302	SOUTHERN AMENITIES SECTION DD & EE	1:100	H	
DA-SO-901	MATERIALS & FINISHES SOUTHERN AMENITIES	NTS	H	
DA-SO-902	REMOVED FROM SET			
DA-SO-903	APPROACH FROM HALL ST	NTS	H	
DA-SO-904	PHOTOMONTAGE: VIEW SOUTH ON PROMENADE	NTS	H	
LIFEGUARD FACILITIES	AMENDMENTS ON DRAWINGS MARKED REVISION I			
DA-LF-101	SITE PLAN LIFEGUARD FACILITIES	1:200	I	
DA-LF-102	LIFEGUARD FACILITIES PROMENADE LEVEL	1:100	I	
DA-LF-103	LIFEGUARD FACILITIES BEACH LEVEL	1:100	I	
DA-LF-104	LIFEGUARD FACILITIES OVERALL BEACH LEVEL	1:200	I	
DA-LF-201	LIFEGUARD FACILITIES BEACH ELEVATION	1:200	I	
DA-LF-202	LIFEGUARD FACILITIES TOWER ELEVATIONS	1:100	I	
DA-LF-301	LIFEGUARD FACILITIES SECTION AA & BB	1:100	I	
DA-LF-302	LIFEGUARD FACILITIES SECTION CC, DD & EE	NTS	I	
DA-LF-303	LIFEGUARD FACILITIES SECTION FF	NTS	I	
DA-LF-901	MATERIALS & FINISHES LIFEGUARD FACILITIES	NTS	H	
DA-LF-902	REMOVED FROM SET			
DA-LF-903	PHOTOMONTAGE: APPROACH ON PROMENADE	1:5	H	
FIRST AID FACILITIES	AMENDMENTS ON DRAWINGS MARKED REVISION I			
DA-FA-101	SITE PLAN FIRST AID FACILITIES	1:200	I	
DA-FA-102	FIRST AID FACILITIES TUNNEL 3 BEACH LEVEL	1:100	I	
DA-FA-201	FIRST AID FACILITIES BEACH ELEVATION	1:200	I	
DA-FA-202	FIRST AID FACILITIES ELEVATIONS	1:100	I	
DA-FA-301	FIRST AID FACILITIES SECTION AA, BB & CC	1:100	I	
DA-FA-901	PHOTOMONTAGE: APPROACH FROM BEACH	NTS	I	

MATERIALS LEGEND (ref. DA-SO-901 & DA-LF-901 for detail)

AL	Aluminium angle gate, dark powdercoat finish
BP	Brick Paving
CN	Off-form concrete finish
FC	Fibre cement cladding
GL1	Trafficable frosted glazed skylights
GL2	Tinted glazing to lifeguard tower & first aid facility
LV	90% open area fixed aluminium louvre/grille (finish to match existing lifeguard tower)
RN	Ronstan stainless steel mesh, dark finish
RS	Anodized aluminium roller shutter
SS	Stainless steel
ZN	Zinc standing seam roofing (finish to match existing lifeguard tower)

ISSUE	DATE	DESCRIPTION	ISSUE	DATE	DESCRIPTION	ARCHITECT	PROJECT					NORTH	SHEET TITLE	
A	15/04/19	CONSULTANT REVIEW SOUTHERN AMENITIES				CHROFI 3/1 THE CORSO MANLY NSW 2095 AUSTRALIA T +61 2 8096 8500 F +61 2 8007 0411 E info@chrofi.com	Bondi Park Additional Amenities						COVER PAGE	
B	18/04/19	HERITAGE REVIEW SOUTHERN AMENITIES												
C	01/05/19	CONSULTANT REVIEW LIFEGUARD FACILITIES												
D	08/05/19	MATERIALS & FINISHES REVIEW												
E	16/05/19	STORMWATER REVIEW												
F	22/05/19	DA DRAWINGS FOR REVIEW				CHOI ROPHA FIGHERA P/L ACN 144 714 885 ATF CHOI ROPHA FIGHERA UNIT TRUST T/A CHROFI ABN 22 365 257 187 NOMINATED ARCHITECT JOHN CHOI 8706 TAI ROPHA 6568 STEVEN FIGHERA 6609 THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATION, REPORT AND DRAWINGS. DO NOT SCALE DRAWINGS. DIMENSIONS GOVERN. VERIFY ALL DIMENSIONS ON SITE BEFORE CONSTRUCTION. COPYRIGHT OF THIS DRAWING IS VESTED IN CHROFI.	PROJECT NUMBER	PLOT DATE	DRAWN	CHECKED	SHEET SCALE	SHEET SIZE	SHEET NUMBER	ISSUE
G	11/06/19	FINAL DA DRAWINGS					1856	26/2/21	DS	SF	NTS	A3	DA-000	I
H	29/04/20	REVISED DA DRAWINGS												
I	26/02/21	REVISED FOR SECTION 4.55												

DA-000 I



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S4.55 NOTES

THE COMPLETE SCOPE OF WORK CONSISTS OF 3 STAGES:

STAGE 1: FIRST AID FACILITIES AT NORTHERN GROYNES; LIFEGUARD TOWER AND TUNNEL 2 REMEDIAL WORK.

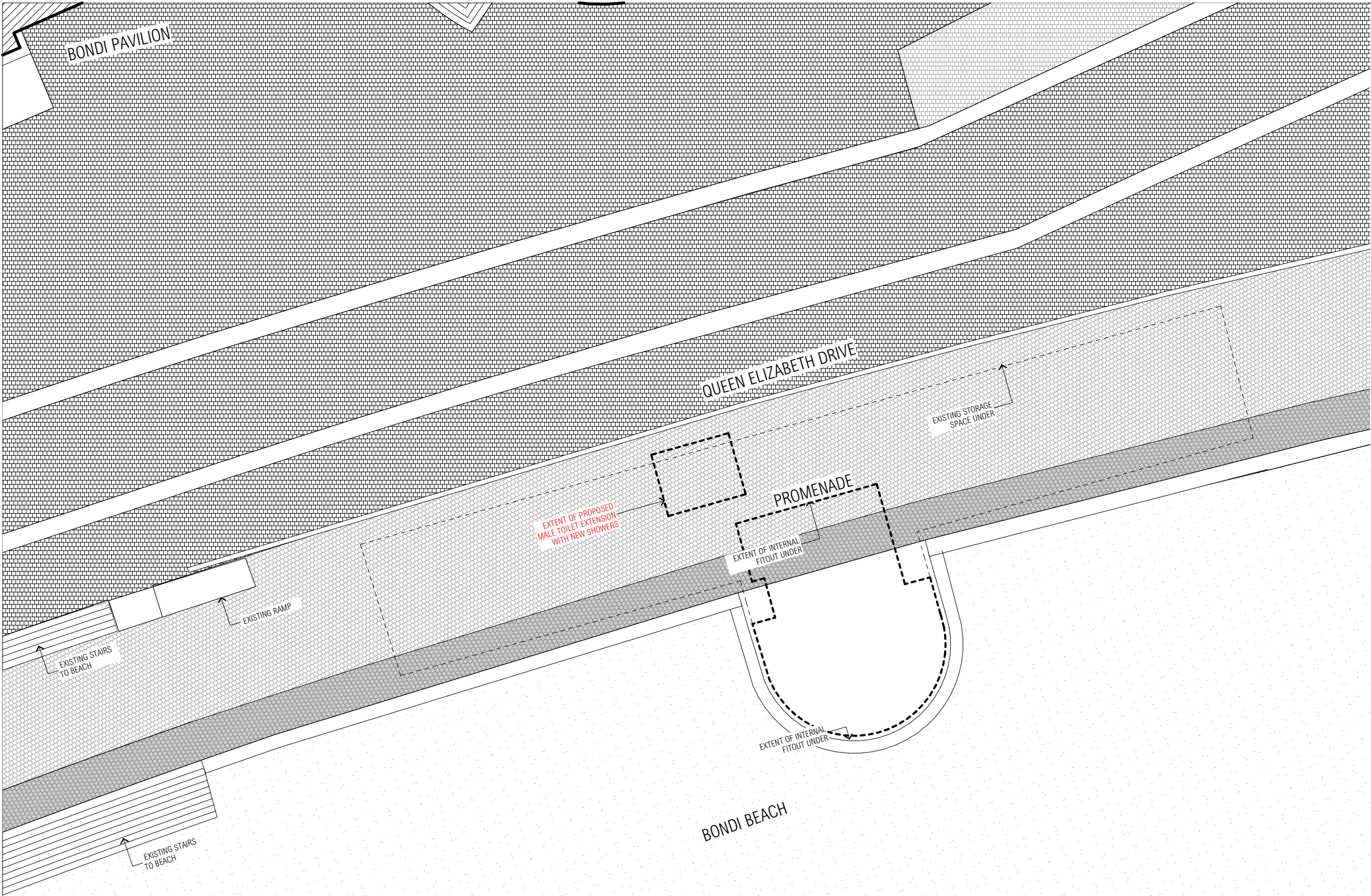
STAGE 2: PROPOSED SOUTHERN AMENITIES BUILDING. UNCHANGED FROM APPROVED DA

STAGE 3: ADDITIONAL UNDERGROUND AMENITIES AT LIFEGUARD TOWER AND TOWER REFITOUT TO SUIT



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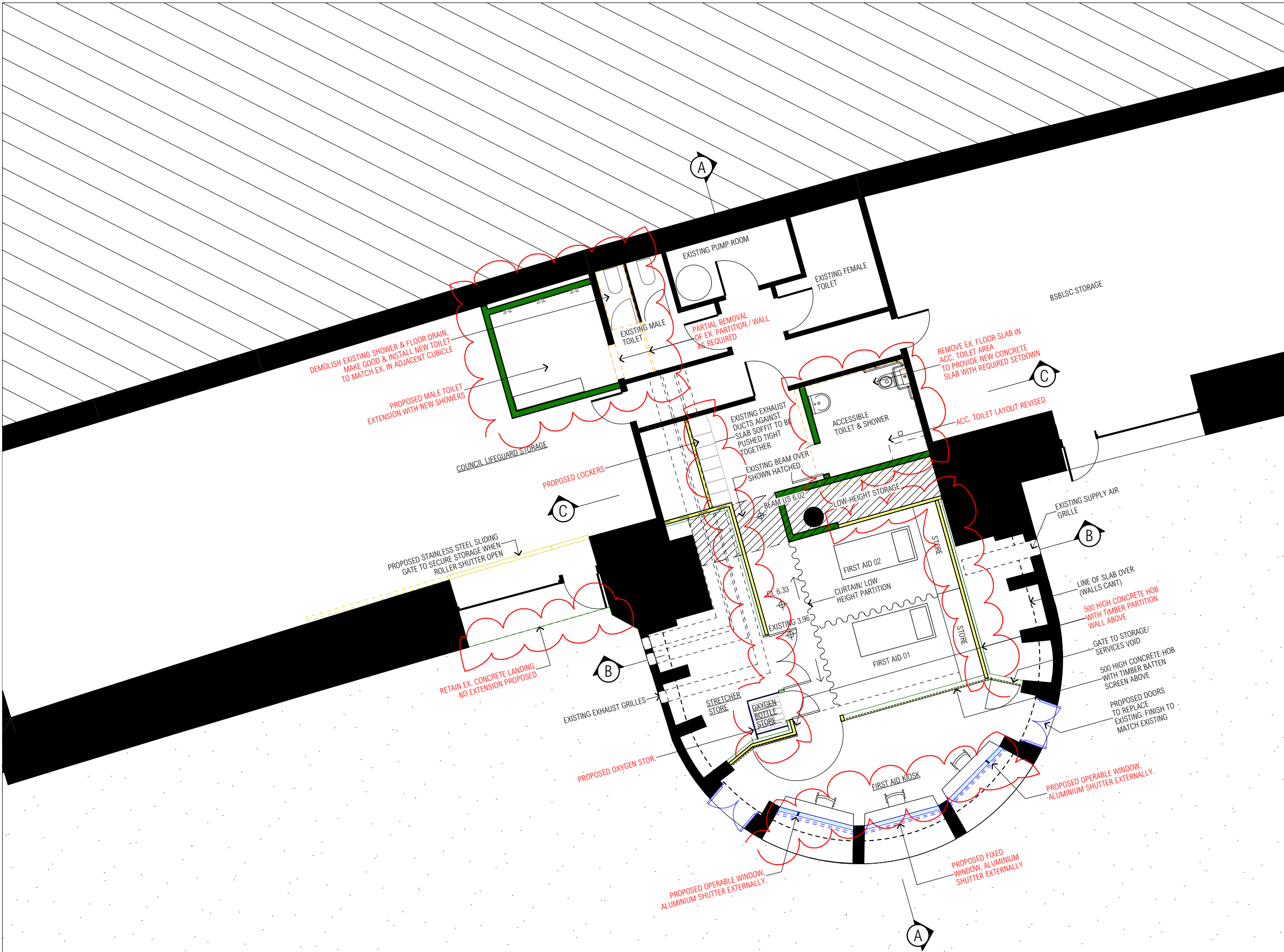
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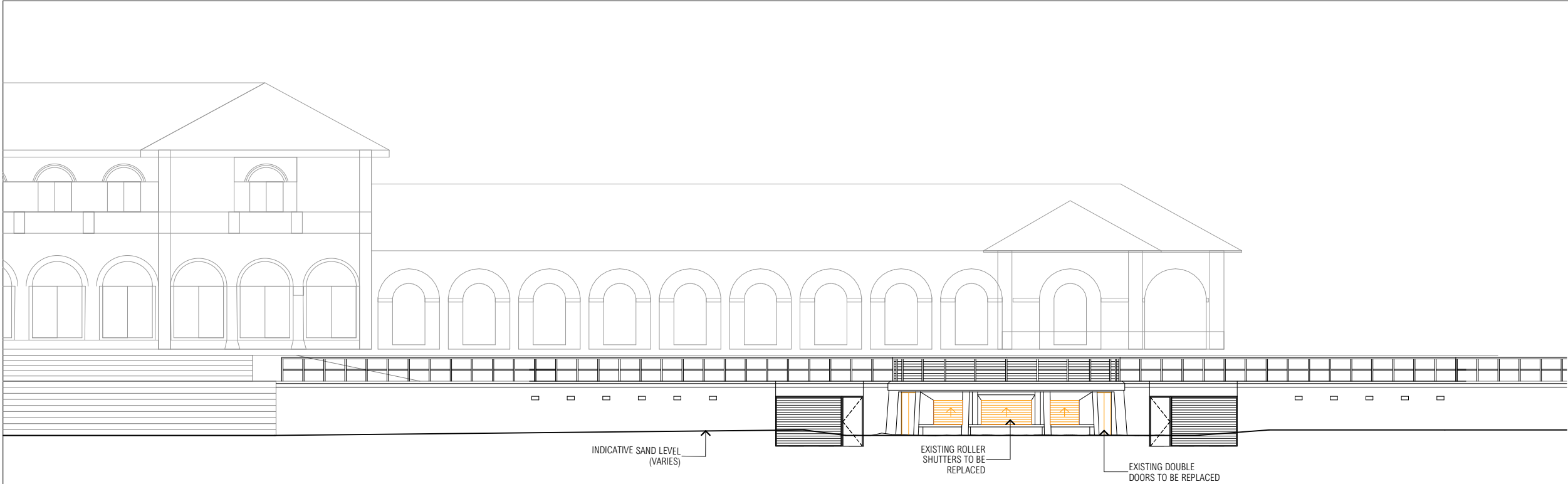
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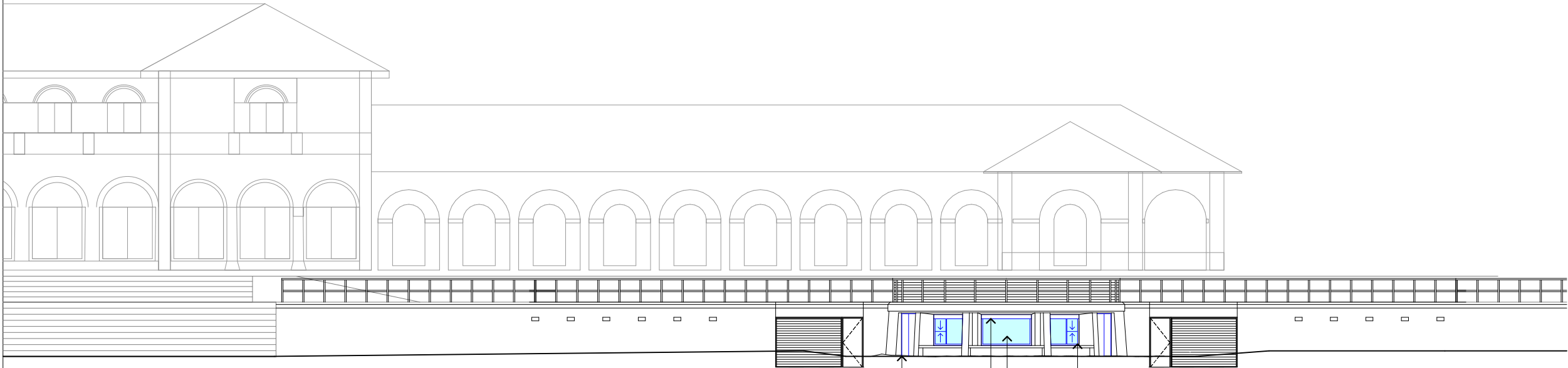


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BEACH ELEVATION EXISTING



BEACH ELEVATION PROPOSED  
NOTE: REFER DA-FA-202 FOR DETAIL

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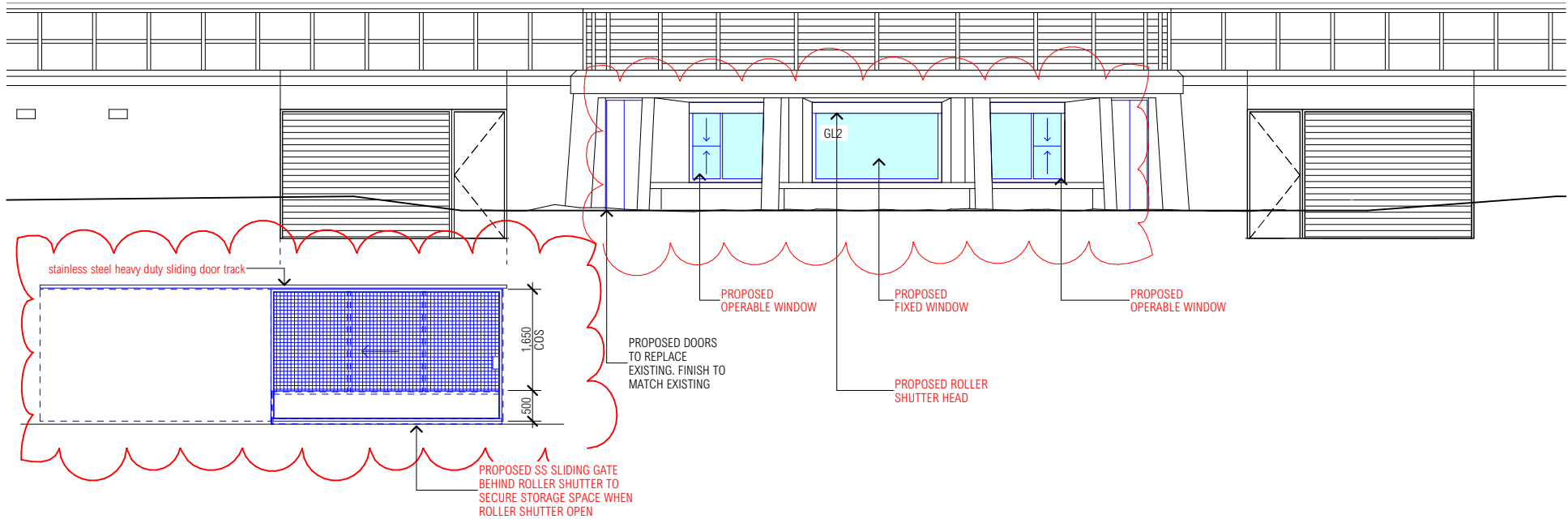
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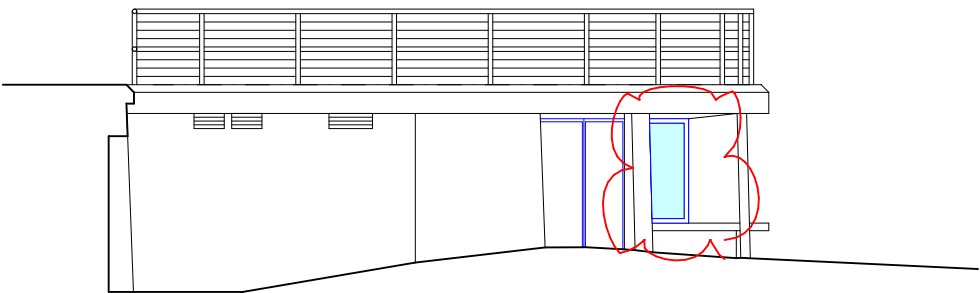
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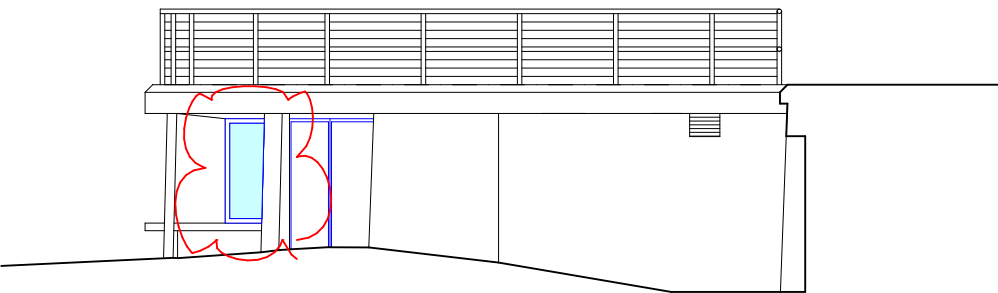
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SOUTH (BEACH) ELEVATION



WEST ELEVATION



EAST ELEVATION

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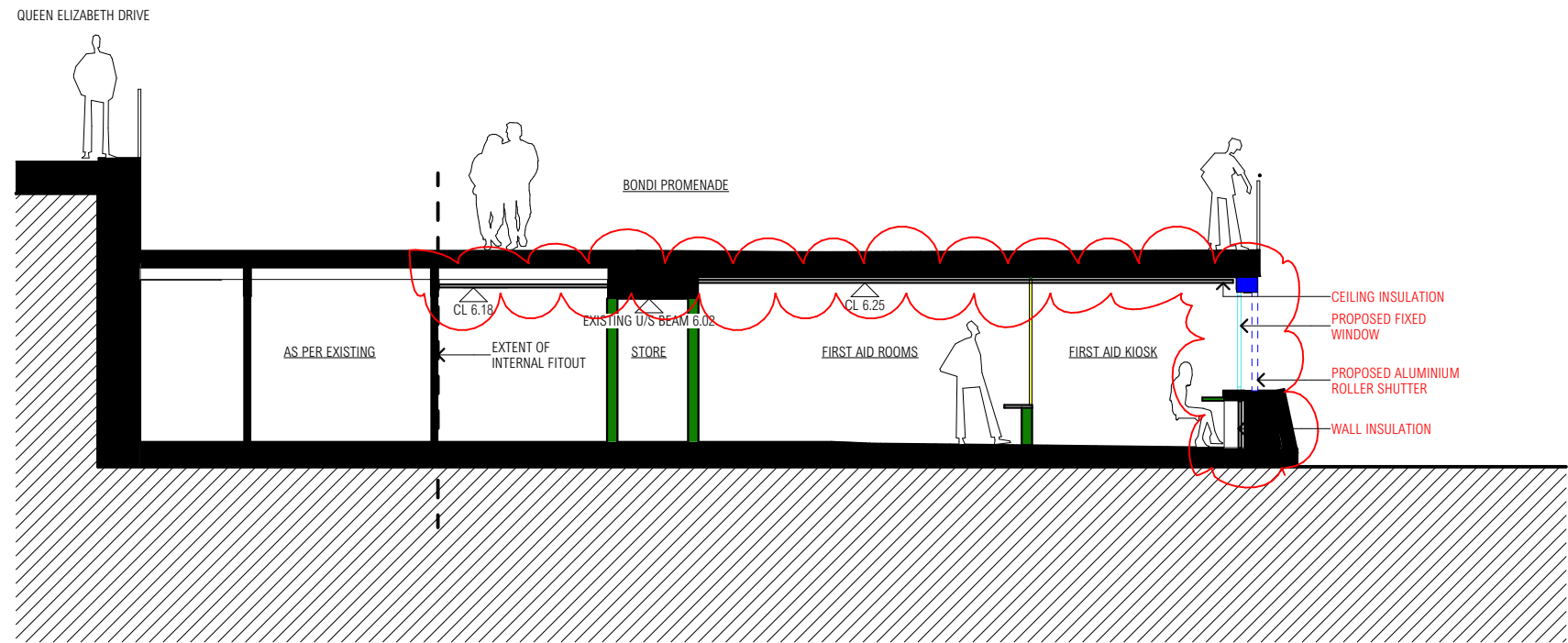
SOUTH ELEVATION

ISSUE	DATE	DESCRIPTION	ISSUE	DATE	DESCRIPTION	ARCHITECT	PROJECT	NORTH	SHEET TITLE	PROJECT NUMBER	PLOT DATE	DRAWN	CHECKED	SHEET SCALE	SHEET SIZE	SHEET NUMBER	ISSUE
A	15/04/19	CONSULTANT REVIEW SOUTHERN AMENITIES				CHROFI	Bondi Park Additional Amenities		FIRST AID FACILITIES ELEVATIONS	1856	26/2/21	DS	SF	1:100	A3		
B	18/04/19	HERITAGE REVIEW SOUTHERN AMENITIES				3/1 THE CORSO MANLY NSW 2095 AUSTRALIA T +61 2 8096 8500 F +61 2 8007 0411 E info@chrofi.com											
C	01/05/19	CONSULTANT REVIEW LIFEGUARD FACILITIES				CHOI ROPIHA FIGHERA P/L ACN 144 714 885 ATF CHOI ROPIHA FIGHERA UNIT TRUST T/A CHROFI ABN 22 365 257 187											
D	08/05/19	MATERIALS & FINISHES REVIEW				NOMINATED ARCHITECT JOHN CHOI 8706 TAI ROPIHA 6568 STEVEN FIGHERA 6609											
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DA-FA-202

I

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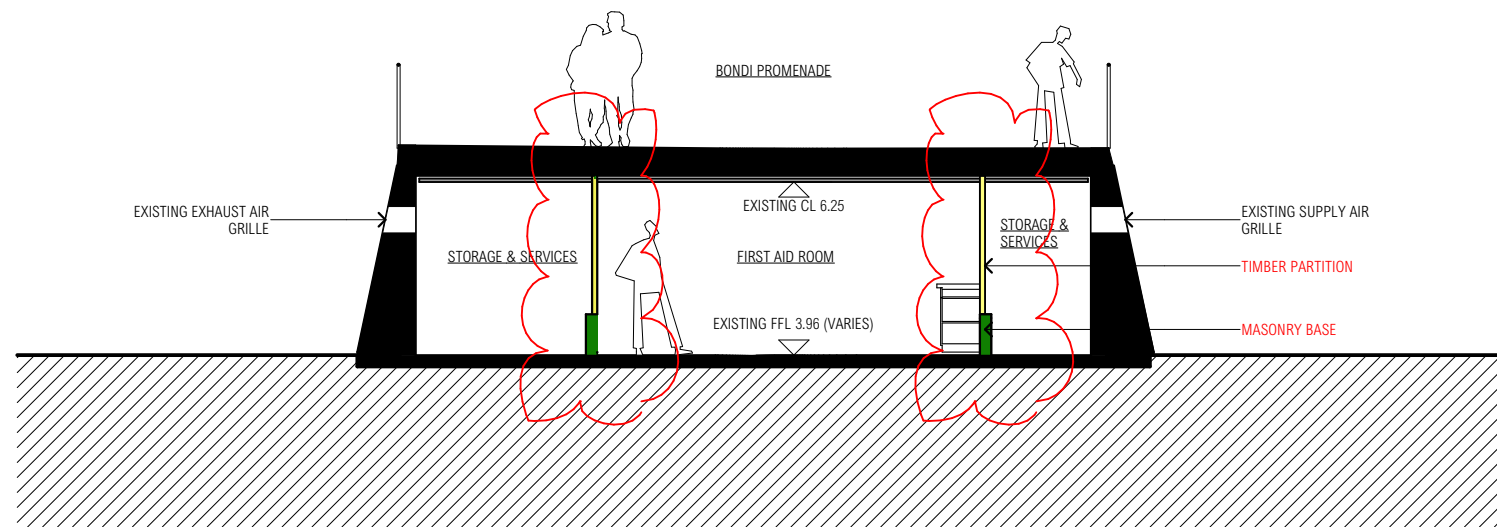


SECTION AA

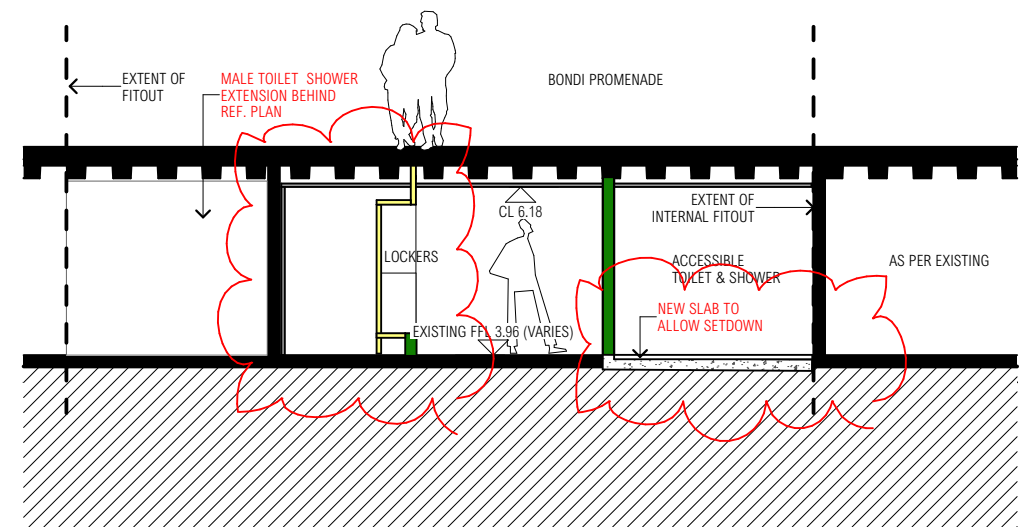
S4.55 NOTES

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- STAGE 3:** ADDITIONAL UNDERGROUND AMENITIES AT LIFEGUARD TOWER AND TOWER REFITOUT TO SUIT

- FOLLOWING HIGHLIGHTS AMENDMENT OF FIRST AID FROM APPROVED DA**
- FIXED WINDOW IN THE CENTRE OF EX. OPENING AND OPERABLE WINDOWS TO TWO SIDES
  - CELLING AND WALL INSULATION ADDED
  - DEMOLITION OF EX. SLAB AT ACCESSIBLE TOILET AREA REQUIRED
  - SHOWER EXTENSION TO EX. MALE TOILET
  - OXYGEN STORAGE RELOCATED
  - ADDITIONAL LOCKERS ADDED
  - CONCRETE SLAB EXTENSION AT COUNCIL STORAGE ENTRANCE NOT REQUIRED



SECTION BB



SECTION CC

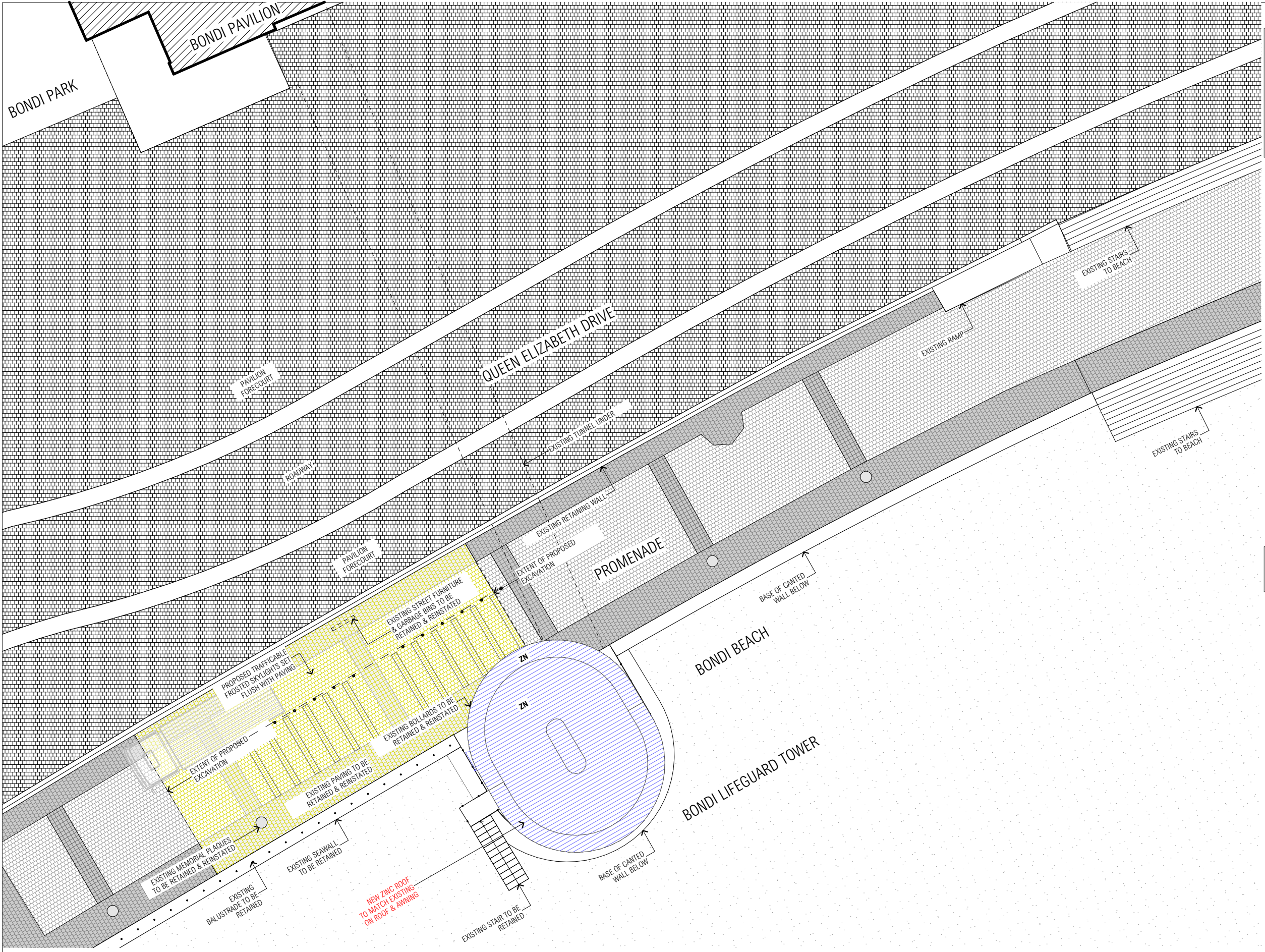
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ISSUE			ISSUE			ARCHITECT	PROJECT					NORTH	SHEET TITLE		ISSUE									
DATE	DESCRIPTION		DATE	DESCRIPTION			Bondi Park Additional Amenities						PHOTOMONTAGE: APPROACH FROM BEACH											
A	15/04/19	CONSULTANT REVIEW SOUTHERN AMENITIES				CHROFI 3/1 THE CORSO MANLY NSW 2095 AUSTRALIA T +61 2 8096 8500 F +61 2 8007 0411 E info@chrofi.com	PROJECT NUMBER	PLOT DATE	DRAWN	CHECKED	SHEET SCALE	SHEET SIZE	SHEET NUMBER	DA-FA-901	I									
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**S4.55 NOTES**

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**STAGE 1:** FIRST AID FACILITIES AT NORTHERN GROYN; LIFEGUARD TOWER AND TUNNEL 2 REMEDIAL WORK.

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**STAGE 3:** ADDITIONAL UNDERGROUND AMENITIES AT LIFEGUARD TOWER AND TOWER REFITOUT TO SUIT

**FOLLOWING IDENTIFIES DIFFERENT STAGES OF WORK AT LIFEGUARD TOWER AND TUNNEL 2.**

**STAGE 1:** [Blue Box] [White Box]

**LIFEGUARD TOWER:**

- NEW ZINC ROOF TO MATCH EX.
- NEW SOFFIT TO MATCH EX.
- REMOVE EX. BEACHSIDE WINDOWS AND ROLLER SHUTTERS
- NEW FIXED WINDO WS TO REPLACE EX.
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- RETAIN AND REUSE EX. GRILLES

**TUNNEL 2:**

- REMEDIAL WORK OF SHOTCRETE ON WATERPROOF MEMBRANE LINING TO EX. SOFFIT AND WALLS

**STAGE 3:** [Yellow Box] [White Box]

**ADDITIONAL AMENITIES AT LIFEGUARD TOWER:**

- NEW UNDERGROUND AMENITIES
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- REPLACE EX. GRILLES TO 90% OPEN VENTILATION GRILLES

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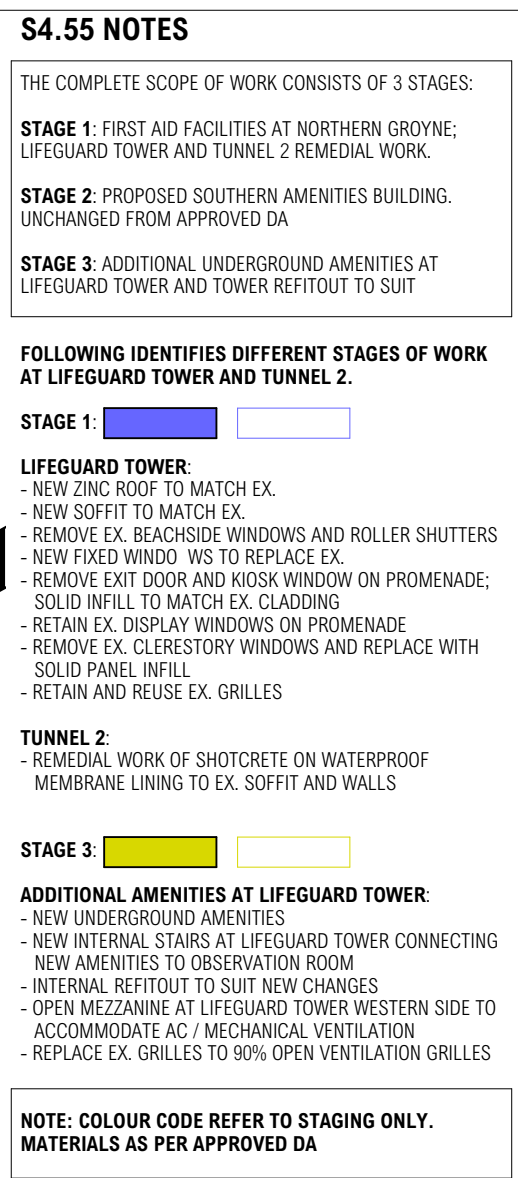
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








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THE COMPLETE SCOPE OF WORK CONSISTS OF 3 STAGES:

**STAGE 1: FIRST AID FACILITIES AT NORTHERN GROUYNE; LIFEGUARD TOWER AND TUNNEL 2 REMEDIAL WORK.**

**STAGE 2: PROPOSED SOUTHERN AMENITIES BUILDING.**  
UNCHANGED FROM APPROVED DA

### STAGE 3: ADDITIONAL UNDERGROUND AMENITIES AT LIFEGUARD TOWER AND TOWER REFITOUT TO SUIT

**FOLLOWING IDENTIFIES DIFFERENT STAGES OF WORK AT LIFEGUARD TOWER AND TUNNEL 2.**

### STAGE 1:

**LIFEGUARD TOWER:**

- NEW ZINC ROOF TO MATCH EX.
- NEW SOFFIT TO MATCH EX.
- REMOVE EX. BEACHSIDE WINDOWS AND ROLLER SHUTTERS
- NEW FIXED WINDOWS TO REPLACE EX.
- REMOVE EXIT DOOR AND KIOSK WINDOW ON PROMENADE;  
SOLID INFILL TO MATCH EX. CLADDING
- RETAIN EX. DISPLAY WINDOWS ON PROMENADE
- REMOVE EX. CLERESTORY WINDOWS AND REPLACE WITH  
SOLID PANEL INFILL
- RETAIN AND REUSE EX. GRILLES

## TUNNEL 2:

- REMEDIAL WORK OF SHOTCRETE ON WATERPROOF  
MEMBRANE LINING TO EX. SOFFIT AND WALLS

### STAGE 3:

**ADDITIONAL AMENITIES AT LIFEGUARD TOWER:**


- NEW UNDERGROUND AMENITIES
- NEW INTERNAL STAIRS AT LIFEGUARD TOWER CONNECTING NEW AMENITIES TO OBSERVATION ROOM
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A	15/04/19	CONSULTANT REVIEW SOUTHERN AMENITIES				<b>CHROFI</b> 3/1 THE CORSO MANLY NSW 2095 AUSTRALIA T +61 2 8096 8500 F +61 2 8007 0411 E info@chrofi.com					Bondi Park Additional Amenities						SHEET TITLE LIFEGUARD FACILITIES OVERALL BEACH LEVEL		
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G	11/06/19	FINAL DA DRAWINGS									1856	26/2/21	DS	SF	1:200	A3			
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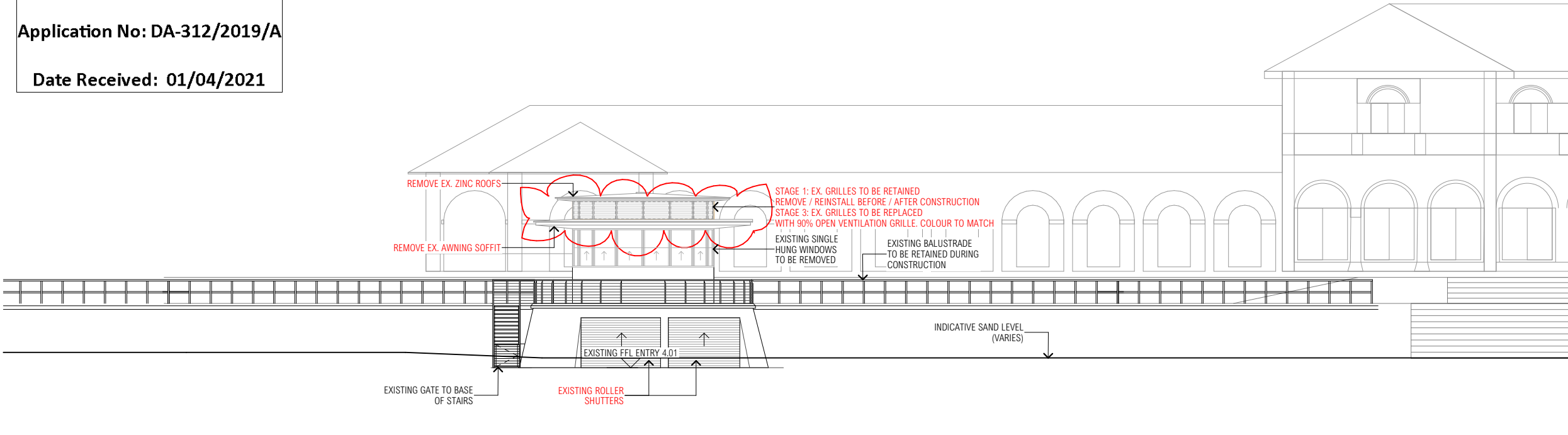
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**STAGE 3:**    

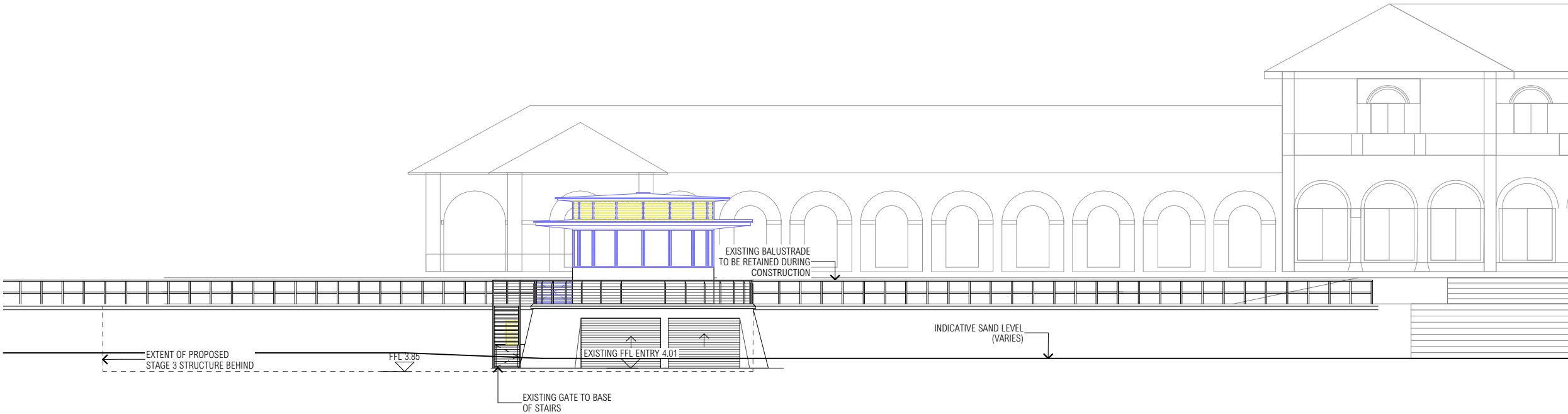
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BEACH ELEVATION EXISTING



BEACH ELEVATION PROPOSED  
**NOTE:** REFER DA-LF-202 FOR DETAIL

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**TUNNEL 2:**

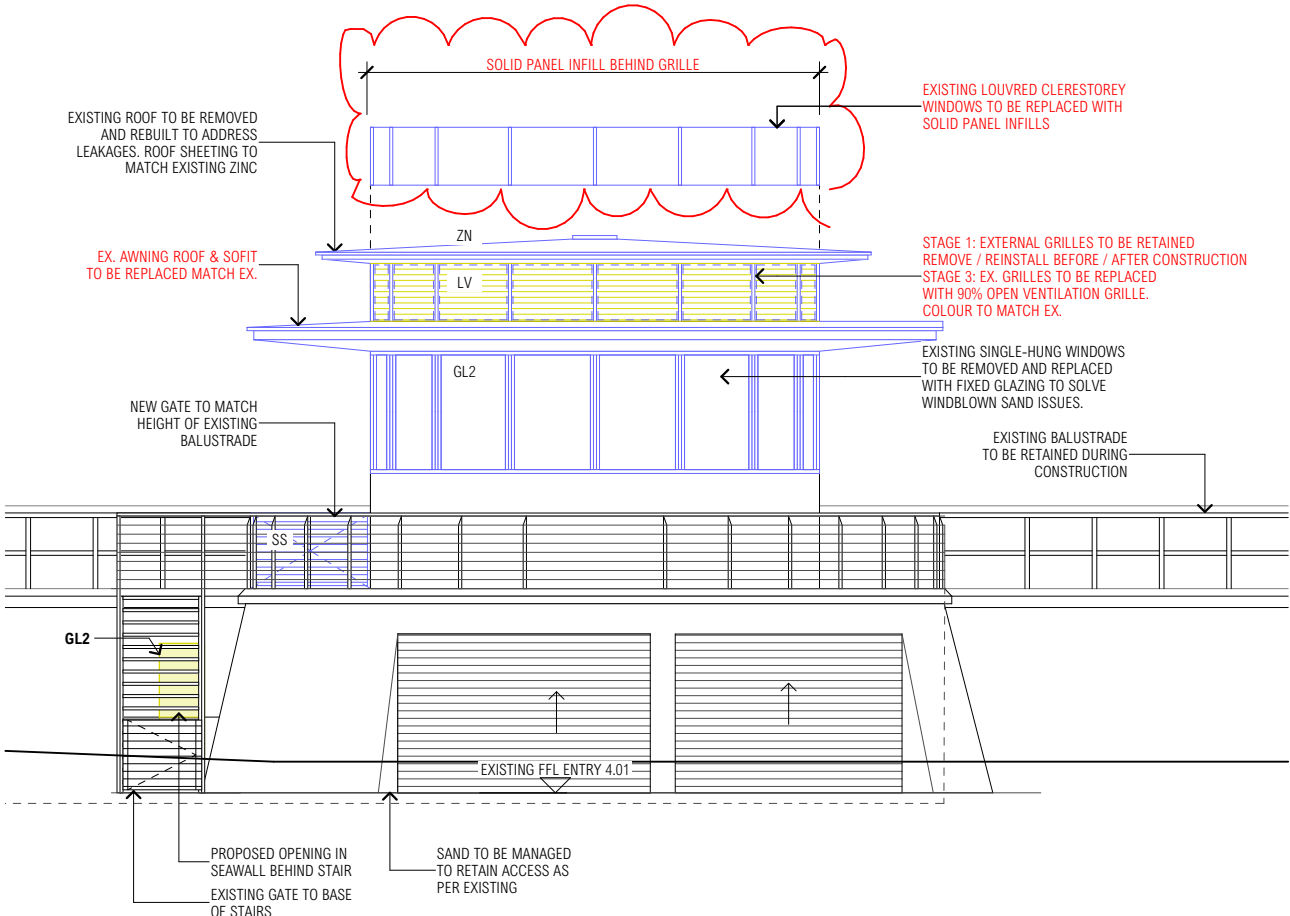
- REMEDIAL WORK OF SHOTCRETE ON WATERPROOF MEMBRANE LINING TO EX. SOFFIT AND WALLS

**STAGE 3:** [Yellow Box] [White Box]

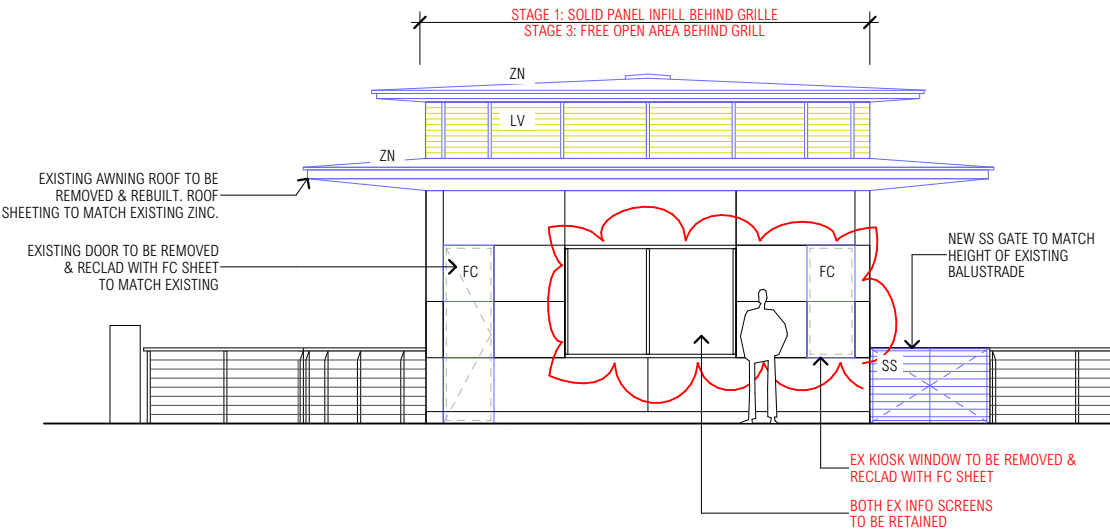
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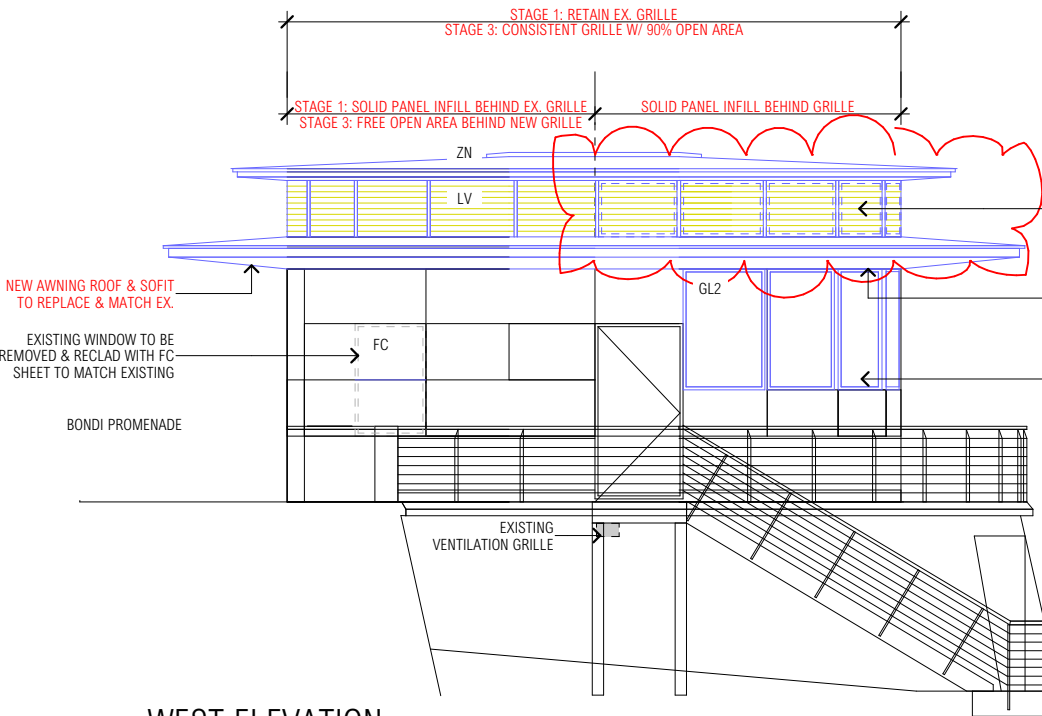
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SOUTH (BEACH) ELEVATION



NORTH (PROMENADE) ELEVATION

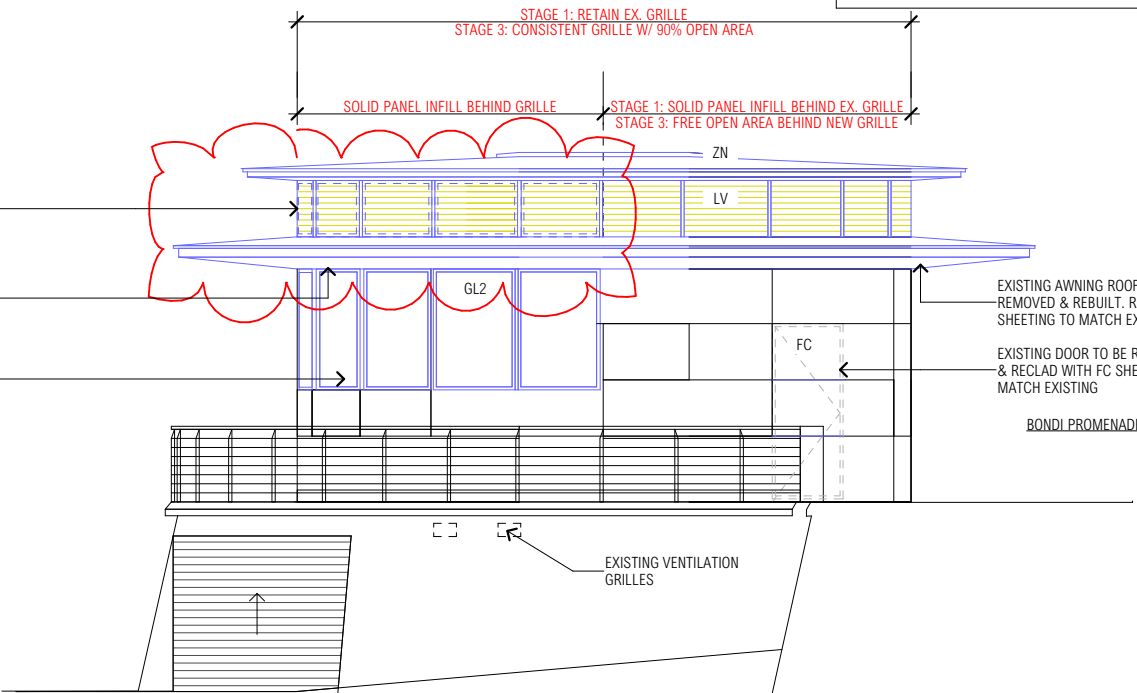


WEST ELEVATION

STAGE 1: RETAIN EX. EXTERNAL GRILLES. REMOVE / REINSTALL BEFORE / AFTER WORKS  
EX. CLERESTOREY WINDOWS TO BE REPLACED WITH SOLID PANEL INFILLS.  
STAGE 3: EX. GRILLES TO BE REPLACED WITH 90% OPEN VENTILATION GRILLE.  
FREE OPEN AREA BEHIND NEW GRILLES ON WESTERN SIDE FOR MECH. VENTILATION

REMOVE EX. ROLLER SHUTTERS

EXISTING AWNING WINDOWS TO BE REMOVED AND REPLACED WITH FIXED GLAZING TO SOLVE WINDBLOWN SAND ISSUES.



EAST ELEVATION

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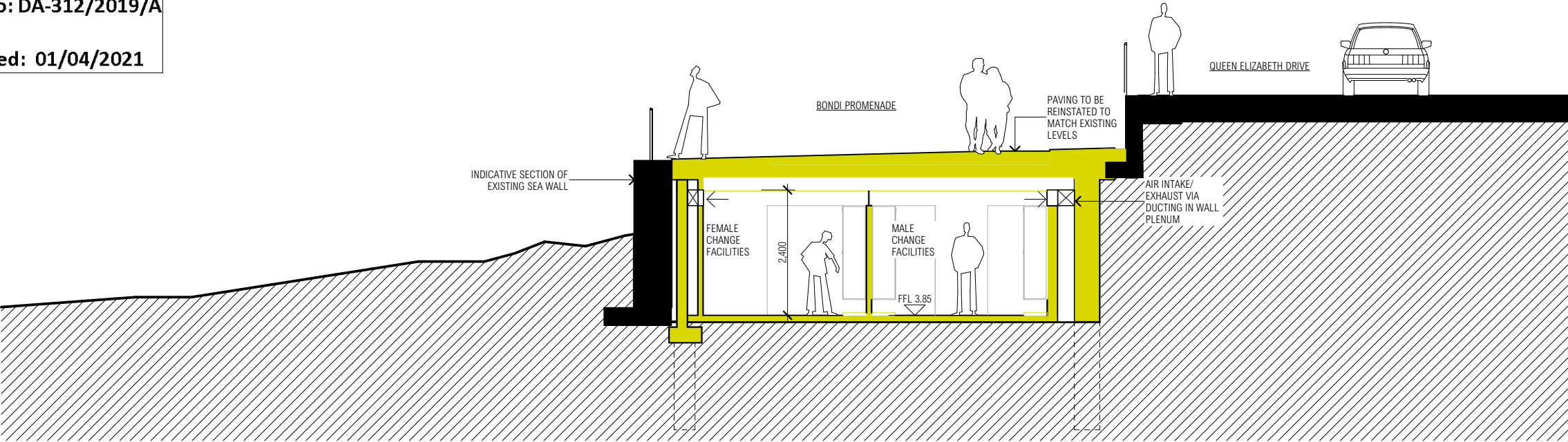
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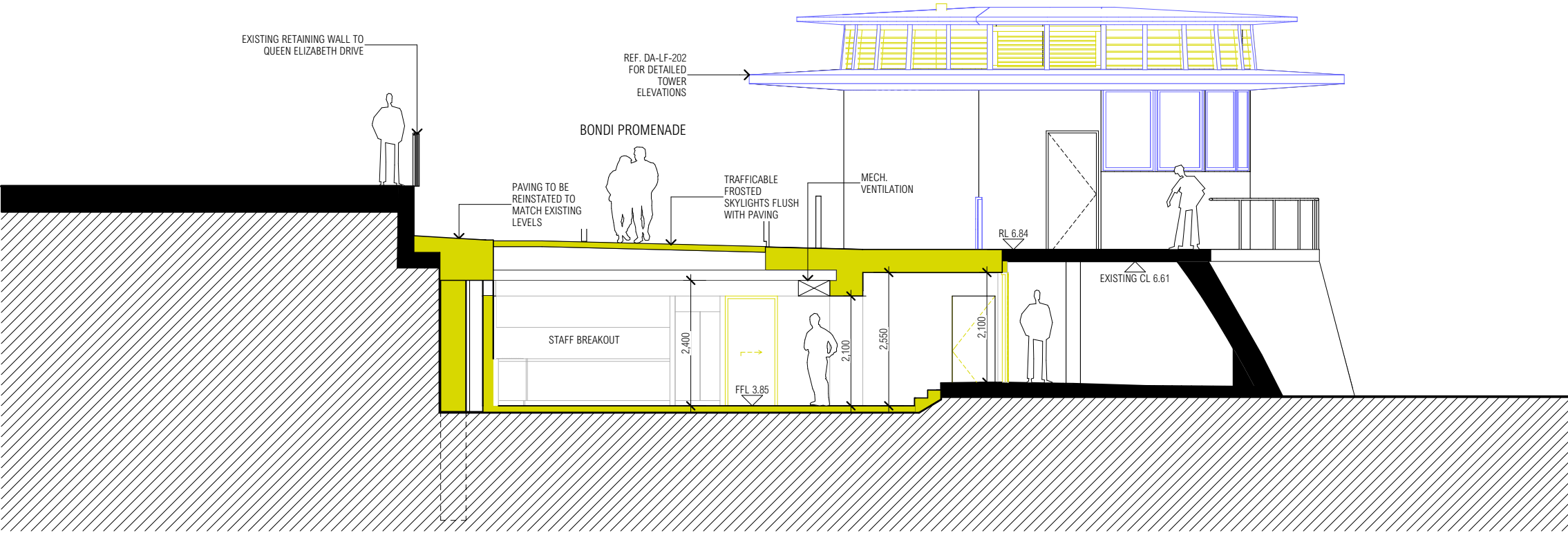
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Application No: DA-312/2019/A

Date Received: 01/04/2021



SECTION AA



SECTION BB

S4.55 NOTES

THE COMPLETE SCOPE OF WORK CONSISTS OF 3 STAGES:

STAGE 1: FIRST AID FACILITIES AT NORTHERN GROYN; LIFEGUARD TOWER AND TUNNEL 2 REMEDIAL WORK.

STAGE 2: PROPOSED SOUTHERN AMENITIES BUILDING. UNCHANGED FROM APPROVED DA

STAGE 3: ADDITIONAL UNDERGROUND AMENITIES AT LIFEGUARD TOWER AND TOWER REFITOUT TO SUIT

FOLLOWING IDENTIFIES DIFFERENT STAGES OF WORK AT LIFEGUARD TOWER AND TUNNEL 2.

STAGE 1:

LIFEGUARD TOWER:

- NEW ZINC ROOF TO MATCH EX.
- NEW SOFFIT TO MATCH EX.
- REMOVE EX. BEACHSIDE WINDOWS AND ROLLER SHUTTERS
- NEW FIXED WINDOWS TO REPLACE EX.
- REMOVE EXIT DOOR AND KIOSK WINDOW ON PROMENADE; SOLID INFILL TO MATCH EX. CLADDING
- RETAIN EX. DISPLAY WINDOWS ON PROMENADE
- REMOVE EX. CLERESTORY WINDOWS AND REPLACE WITH SOLID PANEL INFILL
- RETAIN AND REUSE EX. GRILLES

TUNNEL 2:

- REMEDIAL WORK OF SHOTCRETE ON WATERPROOF MEMBRANE LINING TO EX. SOFFIT AND WALLS

STAGE 3:

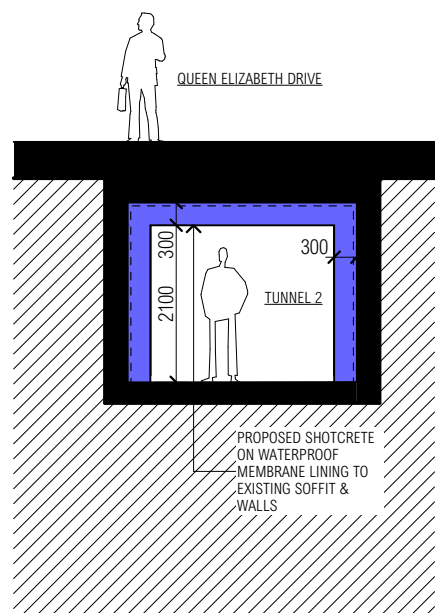
ADDITIONAL AMENITIES AT LIFEGUARD TOWER:

- NEW UNDERGROUND AMENITIES
- NEW INTERNAL STAIRS AT LIFEGUARD TOWER CONNECTING NEW AMENITIES TO OBSERVATION ROOM
- INTERNAL REFITOUT TO SUIT NEW CHANGES
- OPEN MEZZANINE AT LIFEGUARD TOWER WESTERN SIDE TO ACCOMMODATE AC / MECHANICAL VENTILATION
- REPLACE EX. GRILLES TO 90% OPEN VENTILATION GRILLES

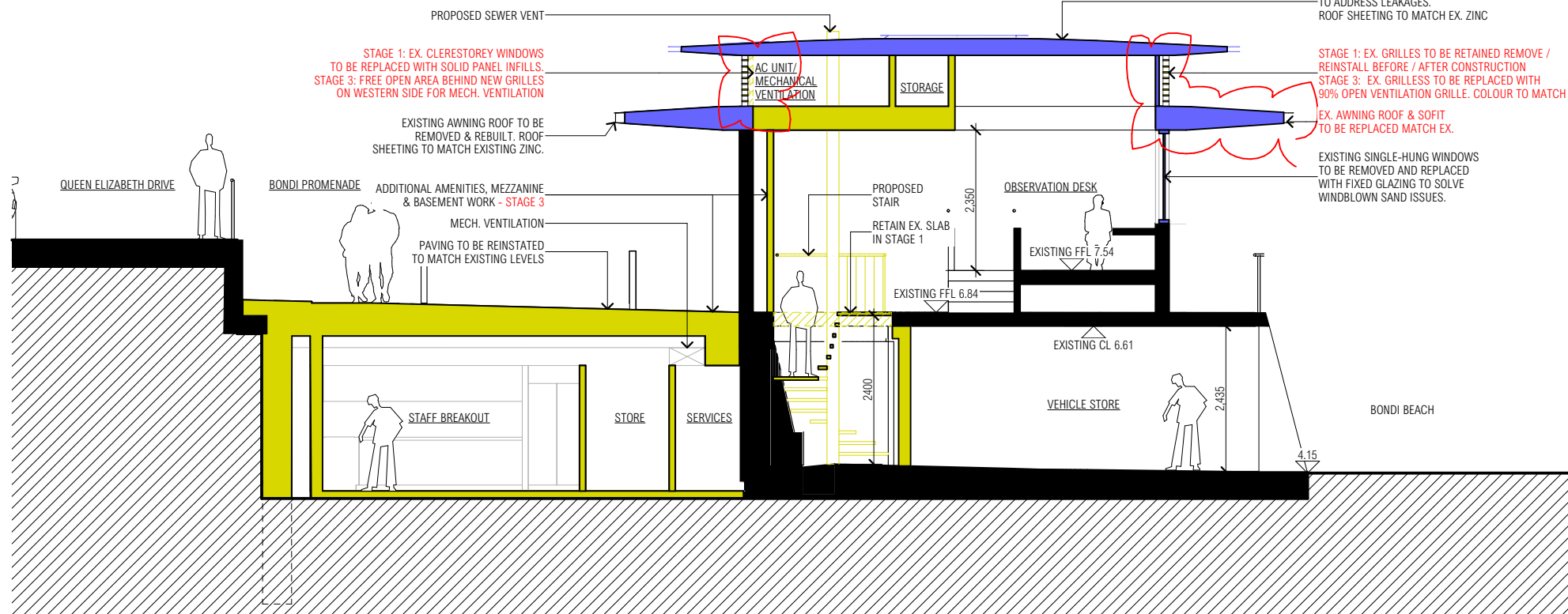
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B	18/04/19	HERITAGE REVIEW SOUTHERN AMENITIES				3/1 THE CORSO MANLY NSW 2095 AUSTRALIA T +61 2 8096 8500 F +61 2 8007 0411 E info@chrofi.com											
C	01/05/19	CONSULTANT REVIEW LIFEGUARD FACILITIES				CHOI ROPHA FIGHERA P/L ACN 144 714 885 ATF CHOI ROPHA FIGHERA UNIT TRUST T/A CHROFI ABN 22 365 257 187											
D	08/05/19	MATERIALS & FINISHES REVIEW				NOMINATED ARCHITECT JOHN CHOI 8706 TAI ROPHA 6568 STEVEN FIGHERA 6609											
E	16/05/19	STORMWATER REVIEW				THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATION, REPORT AND DRAWINGS.											
F	22/05/19	DA DRAWINGS FOR REVIEW				DO NOT SCALE DRAWINGS. DIMENSIONS GOVERN. VERIFY ALL DIMENSIONS ON SITE BEFORE CONSTRUCTION.											
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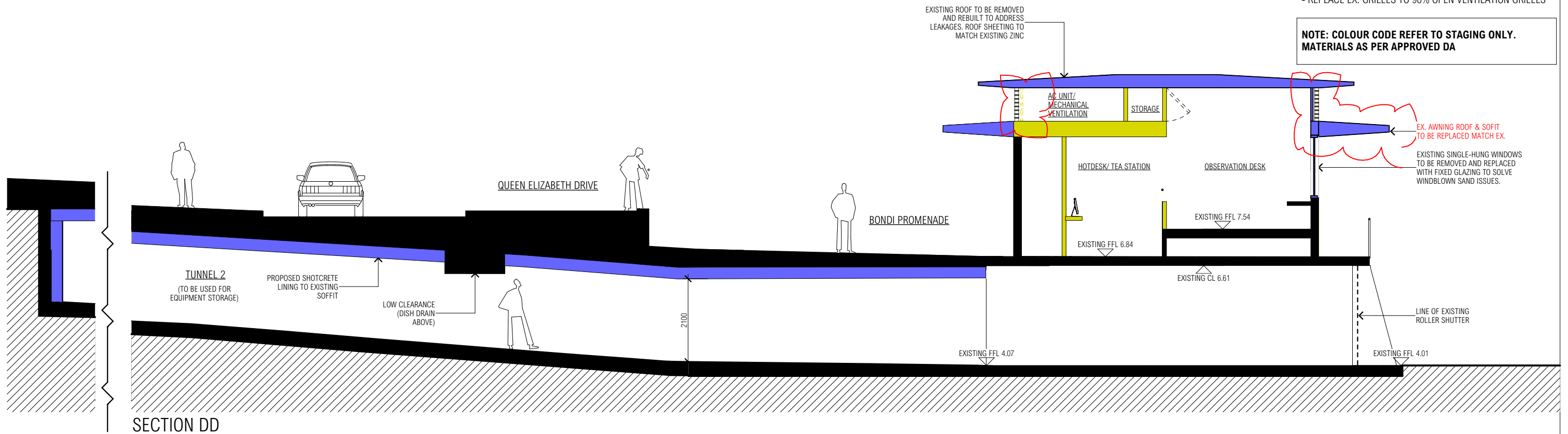
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SECTION EE



SECTION CC



SECTION DD

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**FOLLOWING IDENTIFIES DIFFERENT STAGES OF WORK AT LIFEGUARD TOWER AND TUNNEL 2.**

**STAGE 1:** [Blue Box] [White Box]

**LIFEGUARD TOWER:**

- NEW ZINC ROOF TO MATCH EX.
- NEW SOFFIT TO MATCH EX.
- REMOVE EX. BEACHSIDE WINDOWS AND ROLLER SHUTTERS
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**TUNNEL 2:**

- REMEDIAL WORK OF SHOTCRETE ON WATERPROOF MEMBRANE LINING TO EX. SOFFIT AND WALLS

**STAGE 3:** [Yellow Box] [White Box]

**ADDITIONAL AMENITIES AT LIFEGUARD TOWER:**

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B	18/04/19	HERITAGE REVIEW SOUTHERN AMENITIES				3/1 THE CORSO MANLY NSW 2095 AUSTRALIA T +61 2 8096 8500 F +61 2 8007 0411 E info@chrofi.com											
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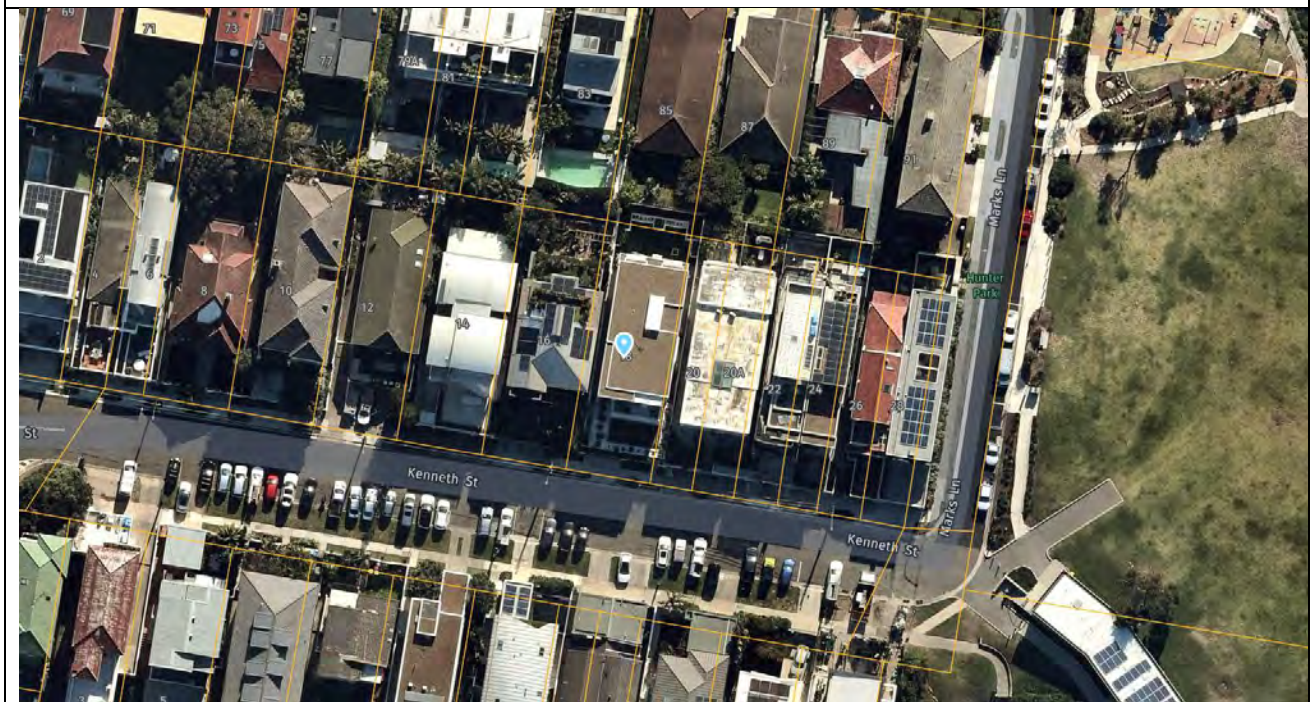
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## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-181/2021
<b>Site address</b>	18 Kenneth Street, TAMARAMA
<b>Proposal</b>	Alterations and additions to existing residential flat building including addition of a roof terrace, including its access and a pergola
<b>Date of lodgement</b>	14 May 2021
<b>Owner</b>	The Owners of Strata Plan No 91934
<b>Applicant</b>	C M Hairis Architects
<b>Submissions</b>	3 submissions received
<b>Cost of works</b>	\$85,800
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Height of buildings</li> <li>• FSR</li> <li>• Visual privacy</li> <li>• Side setbacks</li> <li>• Overshadowing</li> </ul>
<b>Recommendation</b>	That the application be REFUSED for the reasons contained in the report.

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for alterations and additions to an existing residential flat building including addition of a roof terrace, including its access and a pergola at the site known as 18 Kenneth Street, TAMARAMA.

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

- Height of buildings
- FSR
- Visual privacy
- Side setbacks
- Overshadowing

The assessment finds these issues unacceptable as the development will create an undesirable precedence within the area.

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*. It is recommended for refusal.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 15 June 2021.

The site is described as Lot 34 in DP 10119, known as No. 18 Kenneth Street, TAMARAMA.

The site is a rectangular shaped allotment with a frontage to Kenneth Street and rear boundary dimension of 12.495m, a depth of 36.575m and total area of 457m<sup>2</sup>. The subject site is located on the northern side of Kenneth Street, between Marks Lane and Alexander Street, Tamarama.

Existing on the site is a part two and part three-storey residential flat building containing three units and basement car parking.

The surrounding locality is characterised by dwellings and residential flat buildings, similar to that existing on the subject site. Adjacent development to either side of the site is comprised of single dwelling/dual occupancy development two storeys in height with basement (street level) parking. Opposite are residential flat buildings and large dwellings fronting Tamarama Beach, whilst to the rear are predominantly dwellings.



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



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



**Figure 2:** Streetscape context showing neighbouring site to the east No. 20 & 20A



**Figure 3:** Streetscape context looking west showing No. 12, 14 & 16 Kenneth St



**Figure 4:** Streetscape context showing property opposite the street at No 15 Kenneth Street

### 1.3. Relevant Development History

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

**DA-435/2009:** The original application was approved by the Development Control Committee of Council on 27 July 2010 to demolish the existing residential flat building and construct a new three-storey residential flat building containing three units and basement carparking for five vehicles.

**DA-435/2009/A:** Modification to provide rooftop terrace and services enclosure on roof was refused on 31 May 2011.

**DA-435/2009/B:** Modification to carparking/entry level including additional excavation and addressing conditions of consent was approved on 18 July 2011.

**DA-435/2009/C:** Modification including extending the front balconies, moving the ground floor rear wall to the rear, provision of a rooftop terrace, a second driveway crossover and internal configuration changes was approved by the Land & Environment Court on 24 June 2015. The rooftop terrace was removed as part of this approval.



**DA-204/2018:** Strata subdivision of three units was approved on 29 June 2018.

#### 1.4. Proposal

The development application seeks consent for the construction of a rooftop terrace, specifically the following:

- Provision of a roof terrace (44m<sup>2</sup> in area) atop the existing building.
- Roof top landscaping to the perimeter of the roof terrace.
- Internal enclosed stairs being extended to roof level (additional height of 2.6m).
- Provision of a motorised adjustable louvred roof over part of the roof terrace.

The rooftop terrace is proposed to be solely used by Unit 3.

## 2. ASSESSMENT

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

### 2.1. Planning Instruments and Development Control Plans

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

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

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

- SEPP 55 Remediation of Land.
- SEPP (Coastal Management) 2018.
- SEPP (Vegetation in Non-Rural Areas) 2017

A detailed discussion is provided for relevant SEPPs as follows:

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

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

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

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

The site is partly located in a Biodiversity Habitat Corridor. The proposed works do not seek to clear native vegetation on the site or surrounding area.

### *SEPP (Coastal Management) 2018*

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

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

As the proposed works are wholly located on the rooftop of the existing building, the development is not considered to result in any adverse impacts to the coastal management of the area.

#### 2.1.2. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	No	The proposal is inconsistent with the aims of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R3 – Medium Density Residential	Yes	The proposal is defined as a residential flat building, which is permitted with consent in the R3 zone.

Part 4 Principal development standards		
<p>4.3 Height of buildings</p> <ul style="list-style-type: none"> <li>9.5m</li> </ul>	No	<p>The applicant has incorrectly calculated the overall height of the building by utilising the existing ground level from the site prior to the construction of the existing building currently on site. In accordance with the definition of building height, the measurement must be taking from the existing ground level at the present time. As such, the staircase and its associated roof will increase the overall height by 2.6m, resulting in an overall building height of 11.74m, which does not comply with the standard.</p>
<p>4.4 Floor space ratio and 4.4A Exceptions to floor space ratio</p> <ul style="list-style-type: none"> <li>0.6:1</li> </ul>	No	<p>The application does not include a diagram nor plans to measure the overall gross floor area (GFA) of the residential flat building. The applicant states that the proposed staircase and roof terrace does not increase the GFA on site. However, the staircase leading to the rooftop is proposed for the sole use of unit 3 and is not considered to be 'common vertical circulation'. The staircase is therefore required to be counted in floor space, in accordance with the GFA definition under the LEP.</p> <p>The existing residential building has an FSR of 0.696:1.</p> <p>DA-435/2009/C was approved with an FSR exceedance of 1.137:1. The proposed staircase increase the FSR by an additional 4.98m<sup>2</sup>, resulting in an FSR of 1.148:1. This would not exceed the standard by 91.2%.</p>
<p>4.6 Exceptions to development standards</p>	See discussion	<p>The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height development standard. A detailed discussion of the variation to the development standard is presented below this table.</p> <p>The application is not accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A clause 4.6 written request is a jurisdictional requirement when a development contravenes a development standard in the Waverley LEP and therefore Council cannot approve the development.</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 (Height of Buildings)*

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

The site is subject to a maximum height development standard of 9.5m. The proposed development has a building height of 11.74m, exceeding the standard by 2.24m equating to a 23.57% variation.

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *Given the proposal will not significantly impact upon the amenity of the surrounding properties and create a positive contribution to the existing building and to the streetscape, strict compliance with the height control is considered to be unreasonable and unnecessary.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) *The proposed height of the building is considered acceptable against the objectives of Waverley LEP 2012. The non-compliance with the height control is relatively minor and only relates to the stair and pergola. The bulk and scale of the proposal is considered acceptable given the benefits of the proposal to the amenity of apartment No.3 and to the existing streetscape.*
  - (ii) *Also, the proposed non-compliance is limited to the middle of the roof and well setback from the front and rear, as well as the sides.*



- (iii) *The perimeter Green Roof will create a positive contribution to the streetscape as well as enhances the existing building and will not significantly impact upon the amenity of the neighbouring properties with regard to solar access, visual privacy nor view loss. Therefore, it is considered that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

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

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

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

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has not 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's written request has not made any reference to the above justifications and therefore does not address clause 4.6(3)(a) of Waverley LEP 2012. The clause 4.6 written request is considered unacceptable and the proposal is recommended for refusal.

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

The extent of the variation, being 23.57% over the development standard, demonstrates that the building bulk and scale of the development is excessive, requiring an unnecessary height that is not compatible with existing surrounding development. The siting of the dwelling and the addition of the rooftop would result in unreasonable impacts on the surrounding neighbourhood. 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 additional height breach on surrounding views, overlooking and noise impacts. Council does not agree that the bulk and scale is in keeping with the existing area and it is considered the development will create 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 inconsistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the height of buildings development standard are as follows:

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

Objectives (b) and (c) are not applicable as the site is not located in the Bondi Junction Centre or B2 zone.

The proposed height of the development does not comply with objective (a) as it does not preserve the environmental amenity of neighbouring properties and public spaces. The additional height is proposed to provide for a rooftop terrace, which will result in unreasonable amenity impacts to surrounding properties including noise and overlooking. Furthermore, the proposed pergola and staircase has the potential to impact on views from properties further north of the property.

The development does not comply with objective (d) as the height will create an unreasonable bulk and scale to the existing building that is not compatible with development in the area and does not contribute to the desired future character of the locality.

The objectives of the R3 zone are as follows:

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

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 the roof terrace will have direct amenity impacts to surrounding residences.

#### Conclusion

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 height of buildings development standard and is not in the public interest.

For the reasons provided above the requested variation to the height of buildings 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 height of buildings development standard.

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

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

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

Development Control	Compliance	Comment
2. Ecologically Sustainable Development	Yes	Satisfactory
3. Landscaping and Biodiversity	No	The property lies within the identified coastal biodiversity corridor. The proposed landscaping on the rooftop does not provide for native or local indigenous plantings, which is contrary to the controls within this part of the DCP.
6. Stormwater	Yes	Satisfactory

**Table 3: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>3.2 Height</b>		
<ul style="list-style-type: none"> <li>Maximum external wall height: R3 – 7m</li> </ul>	No	The proposed additional staircase will result in an overall wall height of approximately 9.7m which does not comply with standard. The additional height will contribute to the overall bulk and scale of the building and will be out of character within this section of Kenneth Street. The proposal is not supported for this reason.
<b>3.3 Setbacks</b>		
3.3.1 - Street setbacks <ul style="list-style-type: none"> <li>Consistent street setback</li> </ul>	Yes	The roof terrace will sit 11.2m from the front boundary line, which is 2.2m from the front façade of the existing building.
3.3.2- Side and rear setbacks <ul style="list-style-type: none"> <li>Minimum side setback: 1.5m</li> </ul>	No	The additional staircase will sit 1.1m from the side boundary, which does not comply with the control. The additional height and minimal setback will contribute to the undesirable bulk and scale of the built form and is not supported.
<b>3.5 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> </ul>	No	The roof terrace will not be visible from the streetscape, however the staircase leading to the roof terrace will be visible. The staircase is not in keeping with existing development in the street and will add to the bulk and scale of the built form when viewed from Kenneth Street. The additional bulk is not supported.



Development Control	Compliance	Comment
<b>3.13 Solar access and overshadowing</b>		
<ul style="list-style-type: none"> <li>• Minimum of three hours of sunlight to a minimum of 70% of units in the development on 21 June</li> <li>• New development should maintain at least two hours of sunlight to solar collectors on adjoining properties in mid-winter.</li> </ul>	No	<p>The shadow diagrams submitted with the application demonstrate that the staircase will result in additional overshadowing to the west facing windows of the neighbouring property to the east at No. 20 Kenneth Street. This will result in some of the west facing windows at No. 20 Kenneth Street receiving no direct sunlight, which will not comply with the standard. Any additional overshadowing is considered unreasonable for the purposes of a staircase leading to a roof terrace.</p>
<b>3.14 Views and view sharing</b>		
<ul style="list-style-type: none"> <li>• Minimise view loss through design</li> <li>• Landscaping on sites adjacent to a Council park or reserve should be sympathetic to soften the public/private interface.</li> <li>• Views from public spaces to be maintained.</li> </ul>	No	<p>One submission was received regarding potential view loss resulting from the proposed terrace and associated staircase. A view assessment was not submitted with the application.</p> <p>Notwithstanding, an assessment was undertaken during the previous modification application (DA-435/2009/A) on this site, which sought a roof terrace. The assessment concluded that the terrace and associated staircase would impact on views from rear properties (fronting Fletcher Street).</p> <p>The roof terrace is therefore not supported as it has potential to impact on views from surrounding properties.</p>
<b>3.15 Visual privacy and security</b>		
<ul style="list-style-type: none"> <li>• Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened</li> <li>• Privacy be considered in relation to context density, separation use and design.</li> <li>• Roof tops are to be non-trafficable, unless there is a predominance of roof terraces in the immediate vicinity of the site.</li> </ul>	No	<p>This is discussed directly below this table.</p>

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

### *Visual and Acoustic Privacy*

The modification application proposes a rooftop terrace with a total area of 44m<sup>2</sup> with no means of screening to limit overlooking.

Clause 3.15 *Visual and Acoustic Privacy* of the WDCP 2012, specifically control (i) states the following with regard to rooftop terraces:

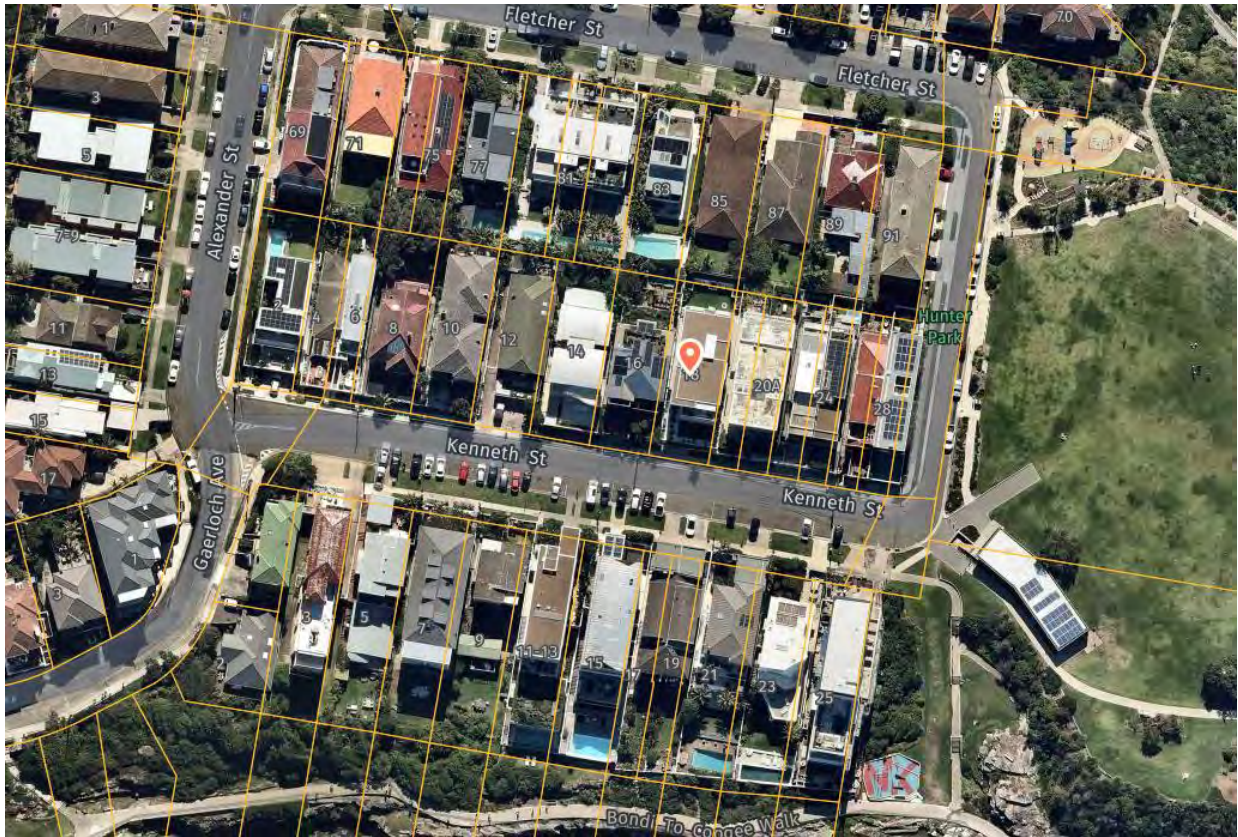
*Roof tops are to be non-trafficable and not capable of being used as roof-top terraces or as entertainment areas, except in the following circumstances:*

- (i) There is a predominance of roof terraces in the immediate vicinity of the site;*
- (ii) They will not result in unreasonable amenity impacts such as overlooking and loss of privacy and acceptable noise;*
- (iii) They must not exceed 15m<sup>2</sup> in area;*
- (iv) They satisfy the considerations of the Privacy Planning Principle from Super Studio v Waverley Council [2004] NSWLEC 91 at 5-7;*
- (v) They are provided for casual and infrequent activity and not as an extension of private open space or entertaining areas; and*
- (vi) Any access must be provided within the envelope of the main building and there are to be no access hoods or lift overruns proposed above the main roof level. Operable skylights and hydraulic lifts are acceptable where they finish generally flush with the roof level.*

When assessing the application against the above controls, the proposed rooftop does not comply with any of the circumstances.

The location of the roof terrace will allow direct overlooking into the top floor balconies on the adjacent property at No. 16 Kenneth Street due to the minimal setback from the western side of the building. The approved building provides acceptable and reasonable amounts/areas of private open space for the site. Ample ground level landscaping and a minimum of three private balconies to units above ground level are provided (i.e. one apartment is approved per level), which provide views and outlook of the ocean. The necessity of the roof terrace is therefore questioned. In this instance, should the application be approved, it would set an undesirable precedent in the immediate locality where there are no other roof terraces evident in the visual catchment, only balconies (accessed directly from a floor of the building).

With regard to the predominance of roof terraces in the immediate area, the satellite image below clearly shows that there are no rooftop terraces located in the immediate or surrounding area.



Furthermore, the proposed total area far exceeds the maximum 15m<sup>2</sup> that may be considered acceptable within the WDCP. It is envisaged that the rooftop terrace would be used very frequently for entertaining etc. due to the proposed overall size of the space. This would result in noise and amenity impacts to neighbouring properties in the immediate area.

The proposed roof terrace is significantly oversized and would cause significant noise and privacy impacts to neighbouring properties. As there is no existing character of roof terraces within this area, any rooftop terrace proposed on this site would be considered unacceptable. The rooftop terrace is therefore recommended for refusal.

## 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 3 unique submissions were received from the following properties:

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

Count	Property Address
1.	83 Fletcher Street, TAMARAMA
2.	16 Kenneth Street, TAMARAMA
3.	20 Kenneth Street, TAMARAMA

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

- The applicant has incorrectly measured the overall building height in accordance with the WLEP;
- The applicant has not included the staircase as part of the FSR calculations;
- The overall building height is excessive and is not in character with the surrounding area;
- The FSR is excessive and adds to the bulk and scale of the built form;
- The roof terrace area does not comply with the minimum area allowed under the DCP controls;
- The roof terrace will create a precedence in the area for other buildings;
- The roof terrace will result in amenity impacts including privacy, noise and overlooking;
- Insufficient information has been submitted in relation to building height, FSR, Clause 4.6, and plan details; and
- The development will overshadow the neighbouring property at 16 Kenneth Street.

## 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

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

*The property lies within the identified coastal biodiversity corridor, so under the DCP Section 3.2.2 (a) A minimum of 50% of the proposed trees, 50% of the shrubs and 50% of the grasses and groundcovers (not including turfed areas) are to be indigenous or local native plants listed in Annexure B2-1.*

*The submitted landscape plans do not comply with the abovementioned control.*

The application does not comply with the requirements of Part B3.2.2 of the DCP and is therefore unsupported.



### 3.2. Stormwater

Council's stormwater engineer has reviewed the proposal and made the following comments:

*From a stormwater drainage perspective there are no objections to approval of this application.*

Should consent be provided for the proposal, standard recommended conditions should be implemented.

### 4. CONCLUSION

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

*Development and Building Unit (DBU) Decision:*



The application was reviewed by the DBU at the meeting on 22 July 2021 and the DBU determined:

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

DBU members: *B McNamara, J Elijah 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.

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Katie Johnstone	Kylie Lucas
<b>Senior Development Assessment Planner</b>	<b>A/Manager, Development Assessment (Central) (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date: 9 July 2021</b>	<b>Date: 13 July 2021</b>

*Reason for WLPP referral:*

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

## APPENDIX A – REASONS FOR REFUSAL

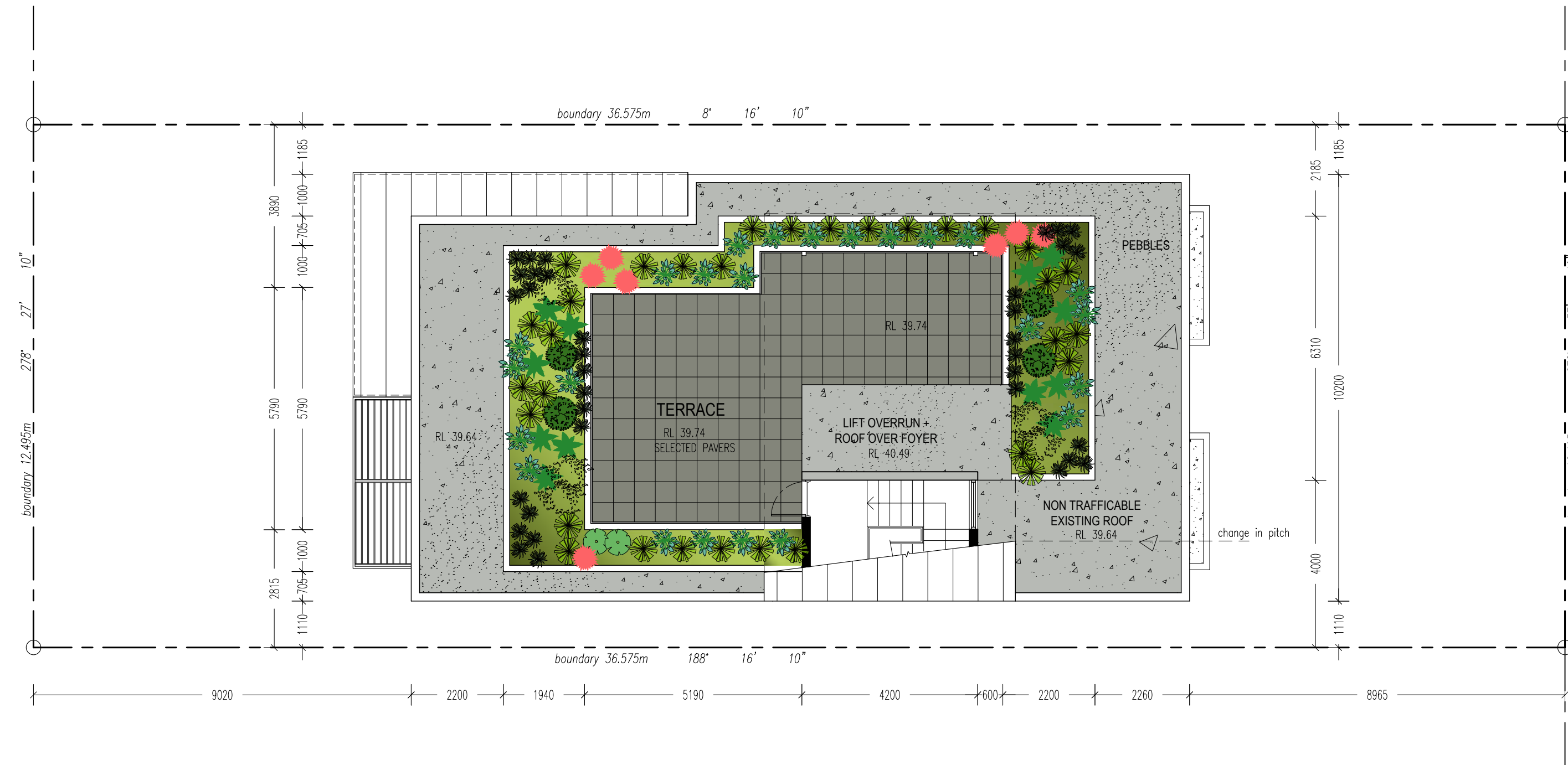
Having regard to section 4.15(1) of the Environmental Planning and Assessment Act 1979 the development application is refused for the following reasons:

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 4.3 *Height of Buildings* (1)(a) and (d), as the proposal breaches the height of buildings 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 (a) and (d) of the development standard.
  - c. Clause 4.4A *Exceptions to Floor Space Ratio* (1)(b), (c) and (d), as the proposal exceeds the floor space ratio development standard applying to the development and subject site. The breach in FSR will result in environmental amenity impacts on the character of the locality and adjoining properties.
  - d. Clause 4.6 *Exceptions to Development Standards* (3) and (4), as no written request has been provided seeking to vary the floor space ratio (FSR) development standard.
  - e. 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 written request to vary the 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 height of buildings 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 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.
  - b. Part C3 – *Other Residential Development*:

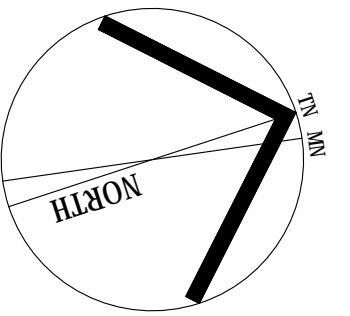
- (i) Section 3.2 *Height*, in particular objectives (a) and (c) and controls (a), (b) and (c) as the proposed development exceeds the maximum wall height control of 7m along the eastern elevation where the staircase is proposed. The additional staircase will result in amenity impacts to neighbouring buildings. The proposed height and scale of the development does not relate to the topography and street character.
  - (ii) Section 3.3 *Setbacks*, 3.3.2 *Side and Rear Setbacks*, in particular objectives (a) and (b) and controls (b) and (c) as the side setback along the eastern elevation will increase the visual bulk of the building and increase amenity impacts to surrounding properties.
  - (iii) Section 3.5 *Building Design and Streetscape*, in particular objectives (a) and (b) and controls (a) and (b) in that the increased bulk and scale of the building will not respond to the site context, the surrounds or the desired future character of the locality.
  - (iv) 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 east at 20 Kenneth Street. Overshadowing arising out of poor design and inadequate side setbacks is unacceptable even if it satisfies numerical guidelines, which in this case it does not.
  - (v) Section 3.14 *Views*, in particular objectives (a) and (b) and control (a), (f) and (g), in that the proposed roof terrace, staircase and associated pergola has potential to impact on views from the neighbouring properties to the north and west.
  - (vi) Section 3.15 *Visual Privacy and Security*, in particular objectives (a), (b) and (d) and control (i), in that the roof terrace will have direct views into the top floor open space and to the neighbouring property to the west.
4. The application does not satisfy section 4.15 (1)(a)(iv) of the Act with respect to the Environmental Planning and Assessment Regulation 2000 (the Regulations), as insufficient documentation has been provided to properly assess the application with respect to Part 1 of Schedule 1 of the Regulations, including but not limited to:
- a. Absence of diagrams or plans to demonstrate the measurement and calculation of the overall gross floor area (GFA) of the development, including the net increase of GFA caused by the proposal.
  - b. Absence of a written request pursuant to clause 4.6 of WLEP to justify the exceedance of the FSR development standard.
  - c. Absence of plans or diagrams to demonstrate the impact of the proposal upon significant views from surrounding 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 in the locality, 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 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 roof terrace contributes to a poor planning outcome, providing for a built form that is excessive in terms of bulk and scale, resulting in undesirable and unacceptable impacts on the 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.

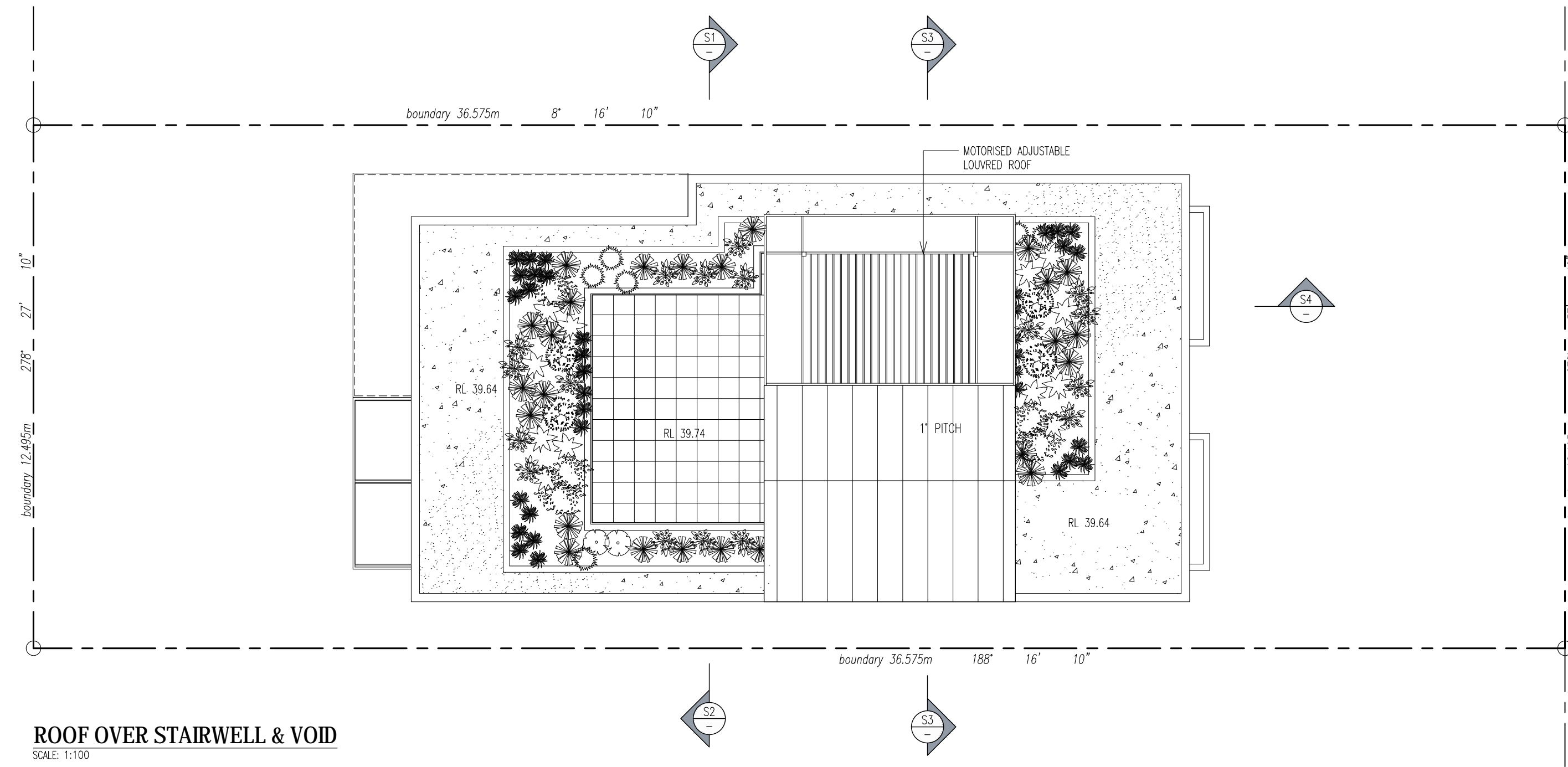




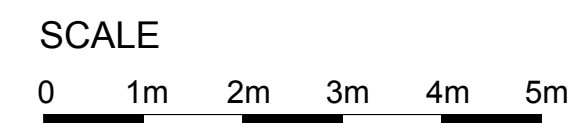
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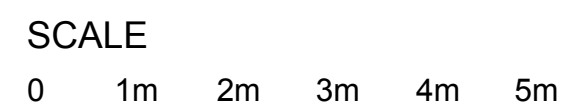
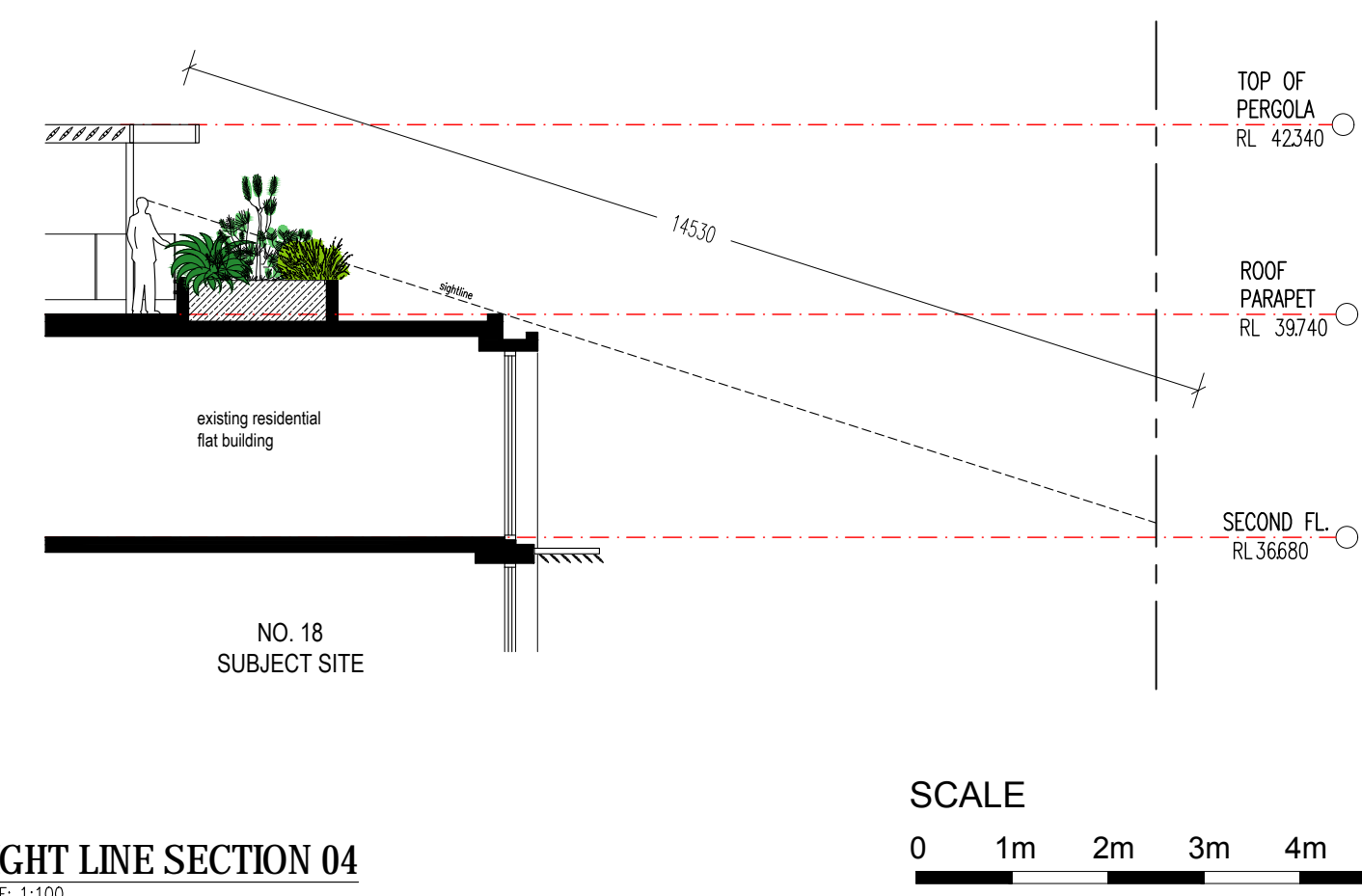
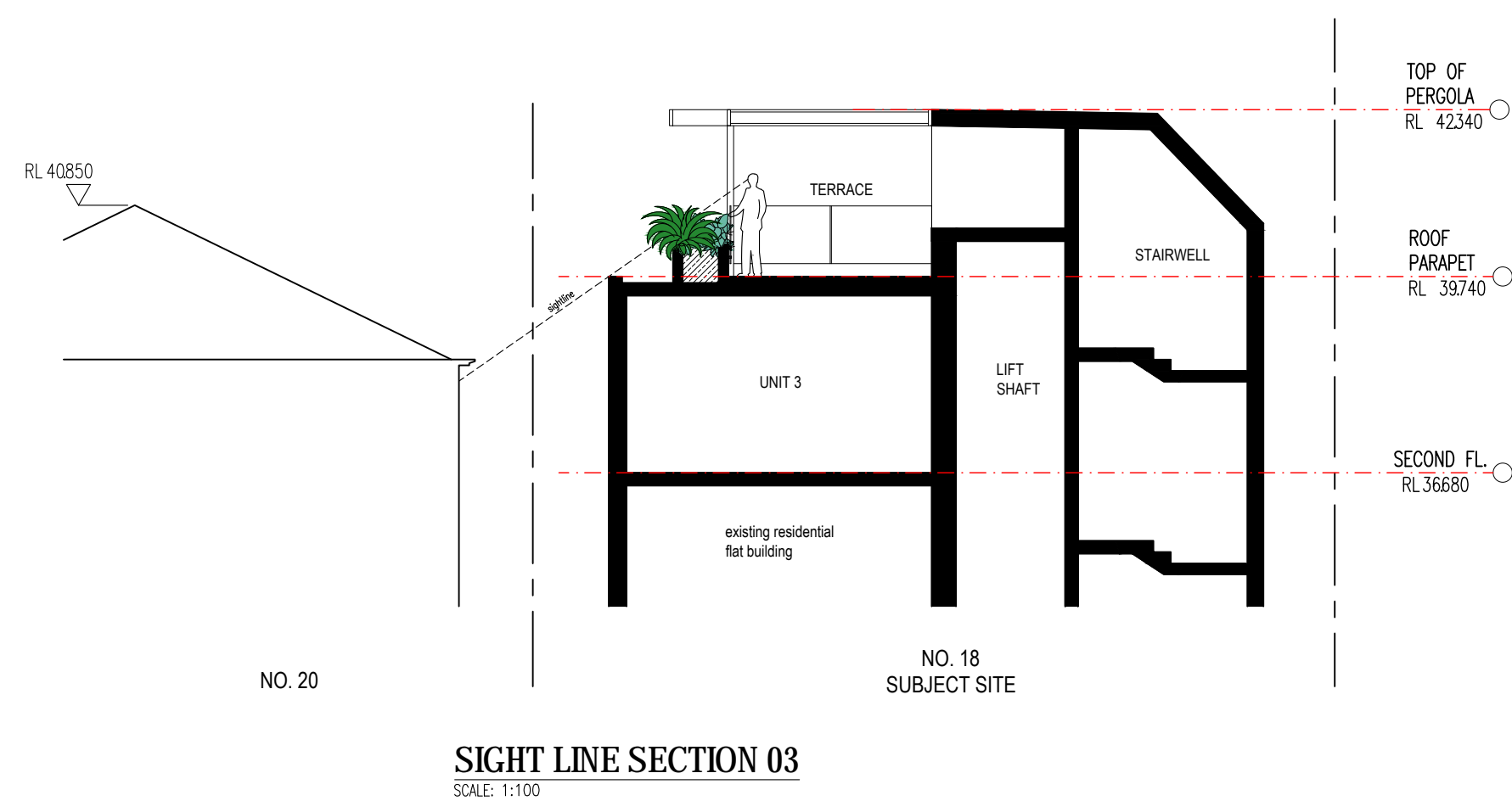
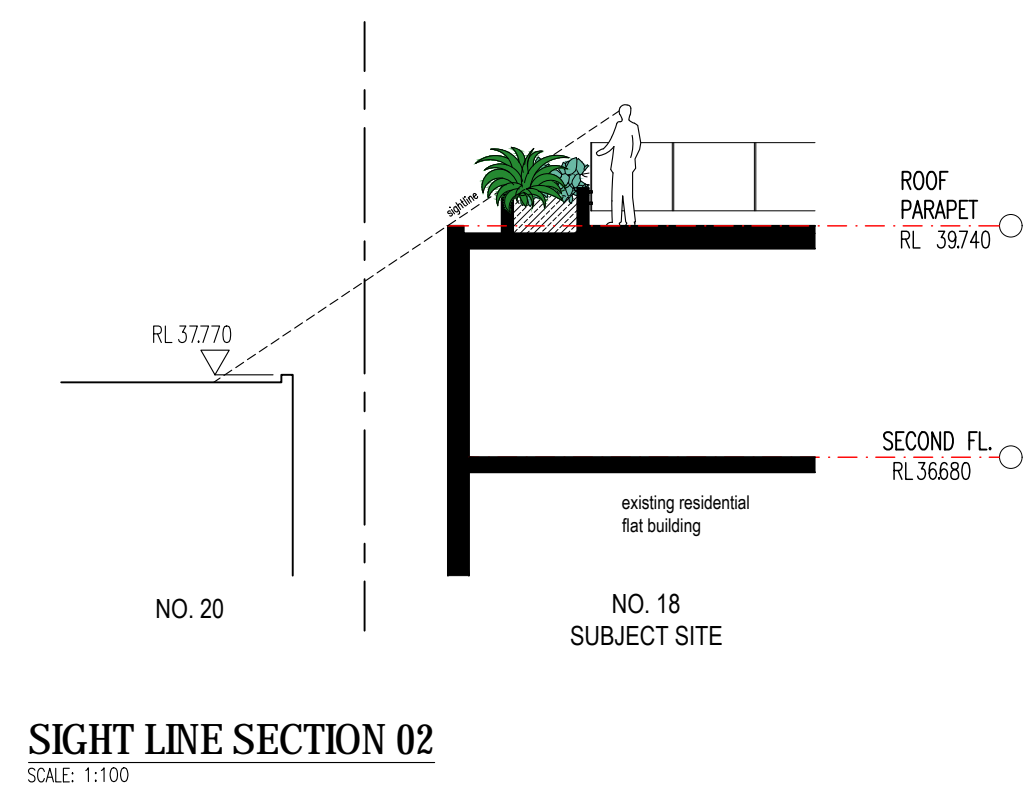
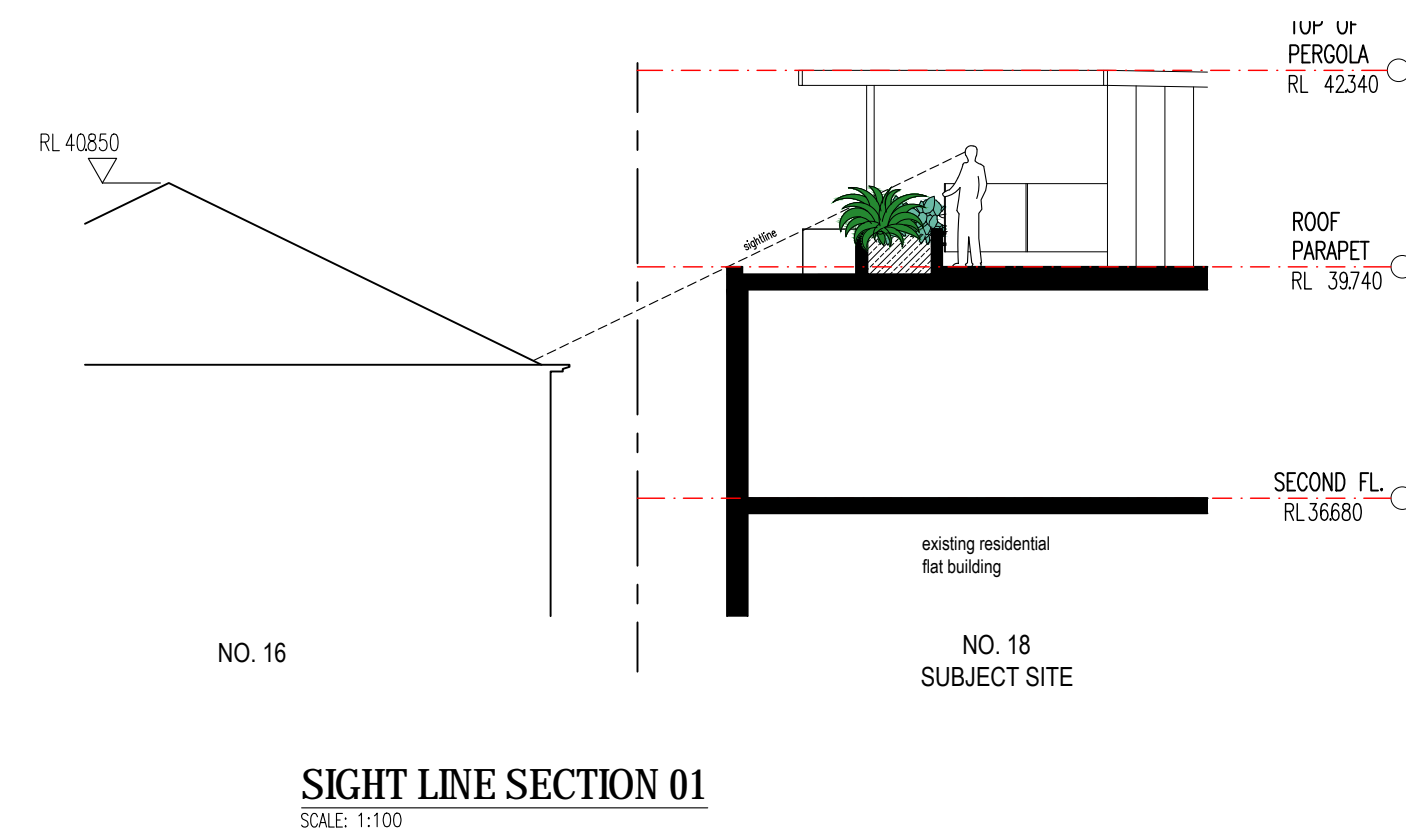
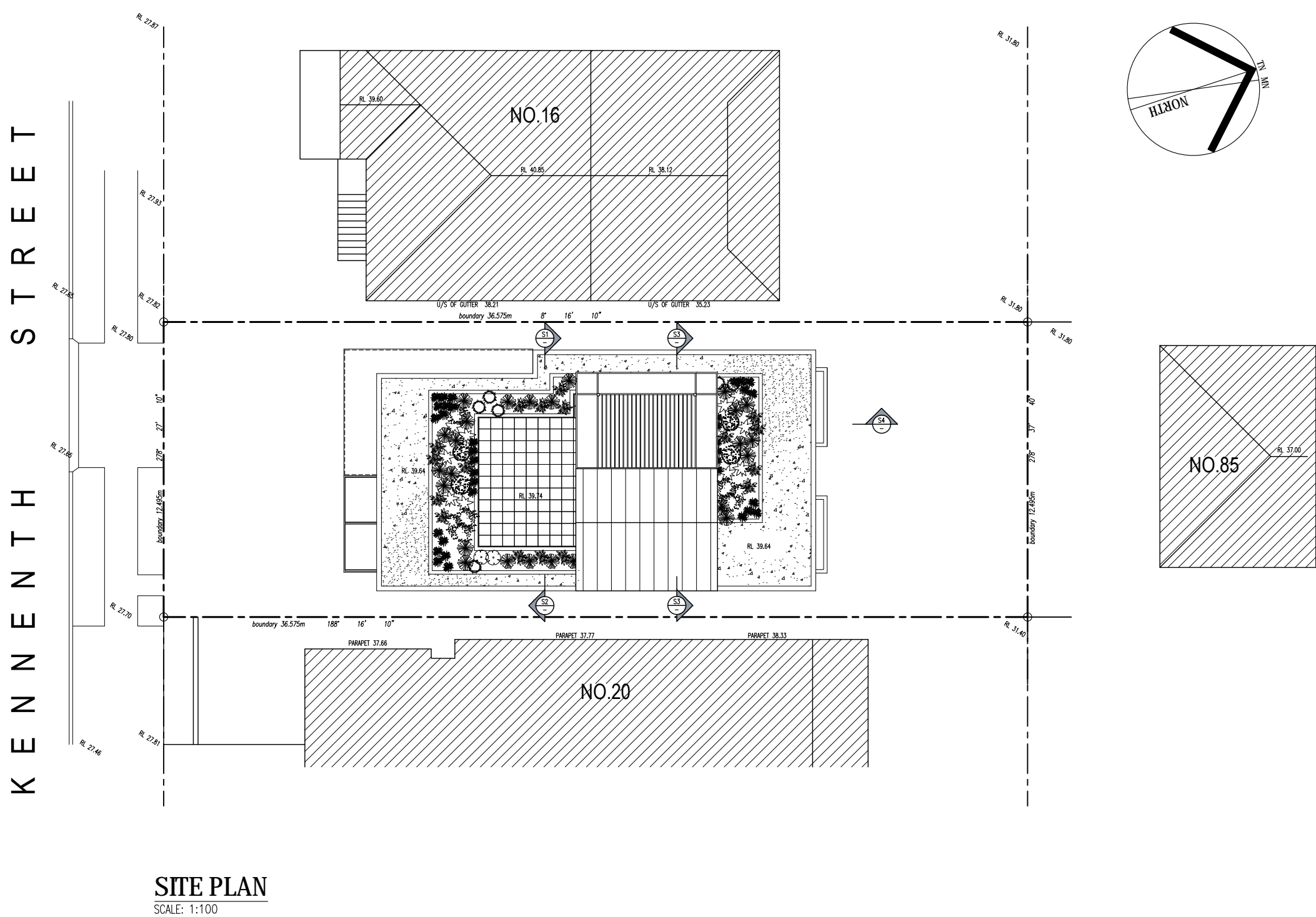
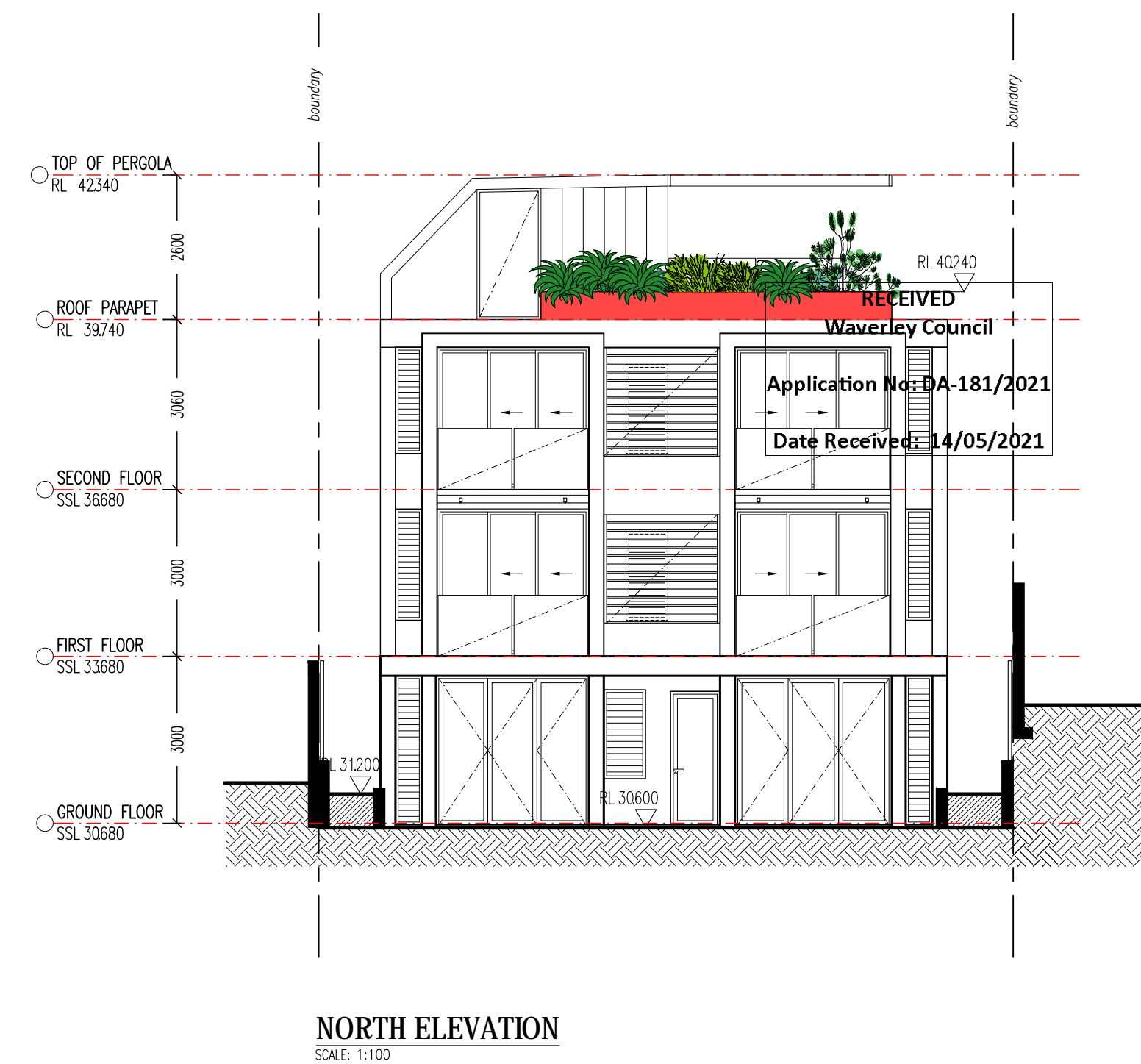
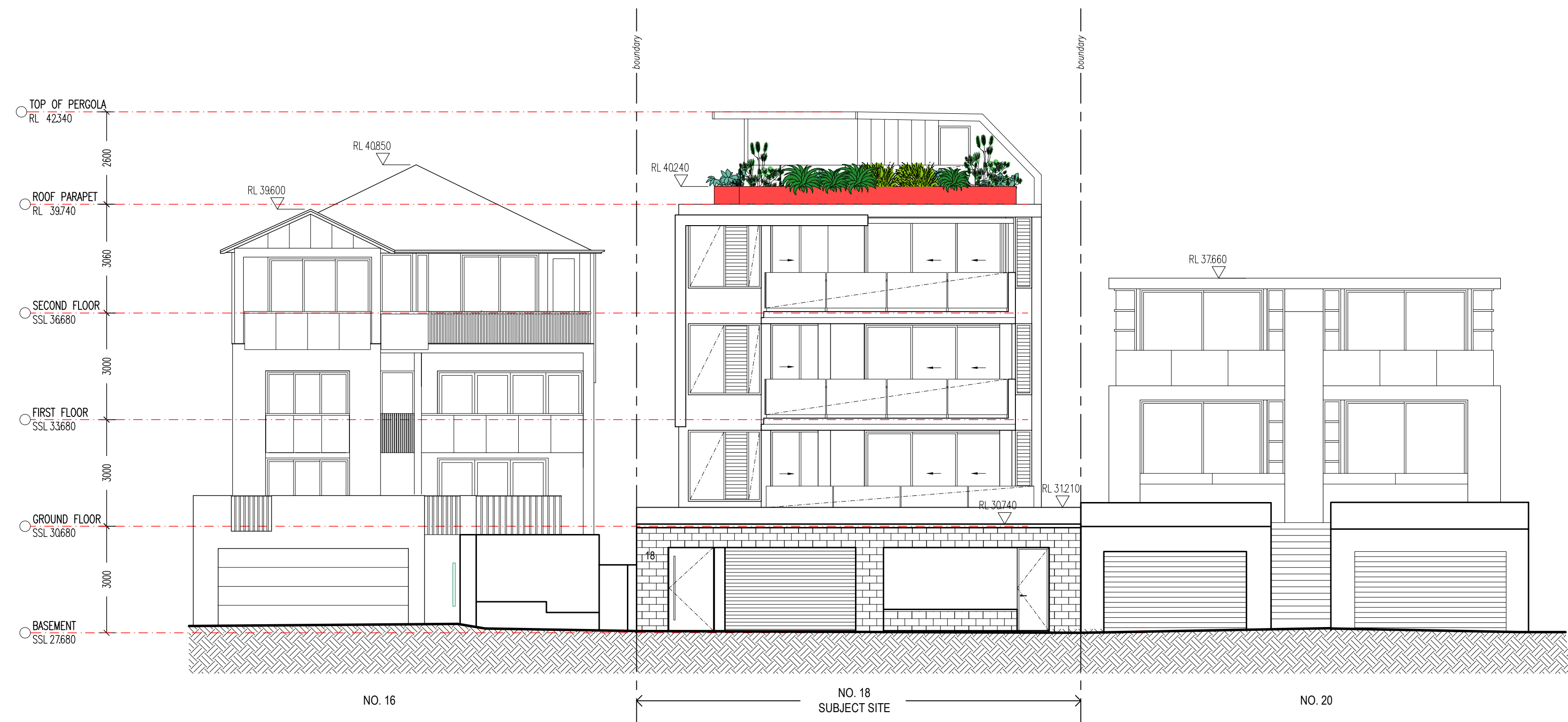
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AREA OF TERRACE = 44 SQM



**ROOF OVER STAIRWELL & VOID**  
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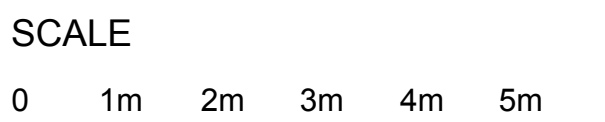
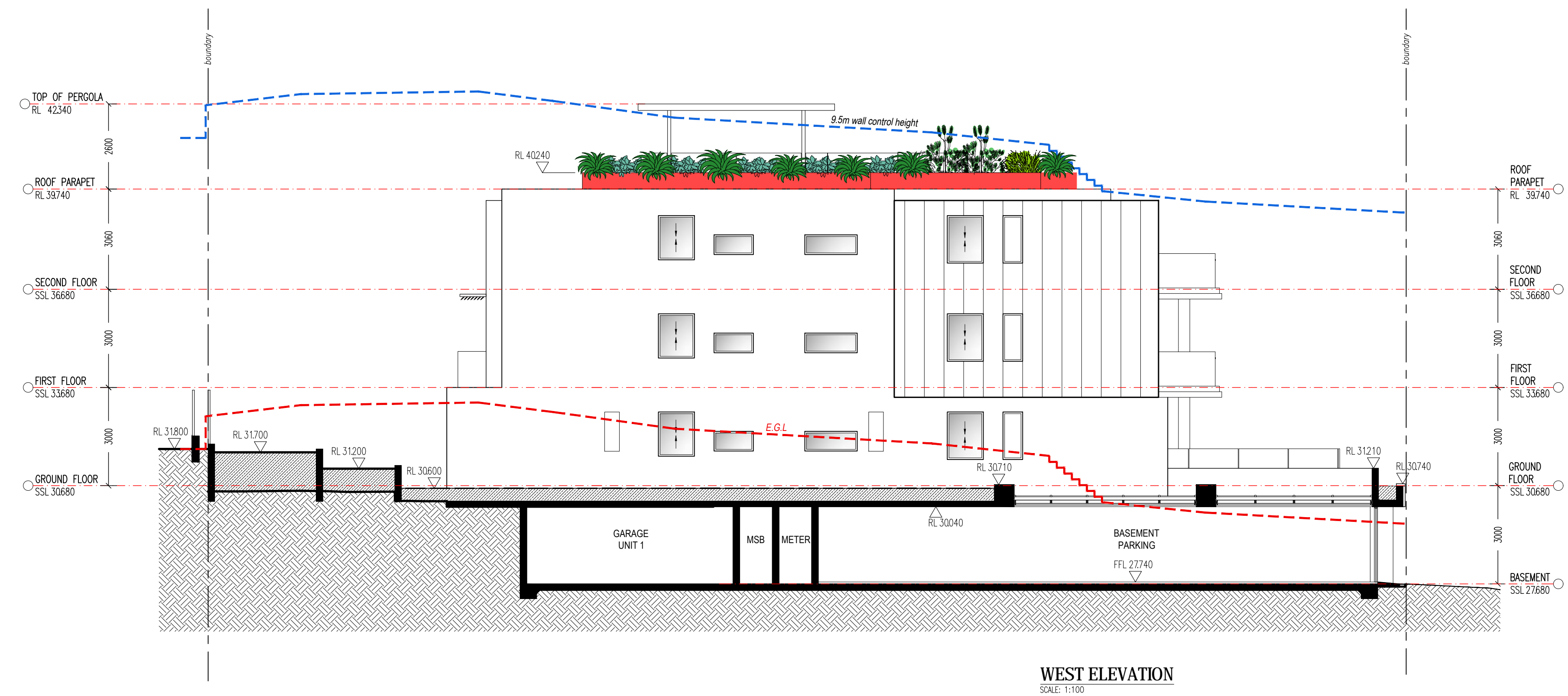
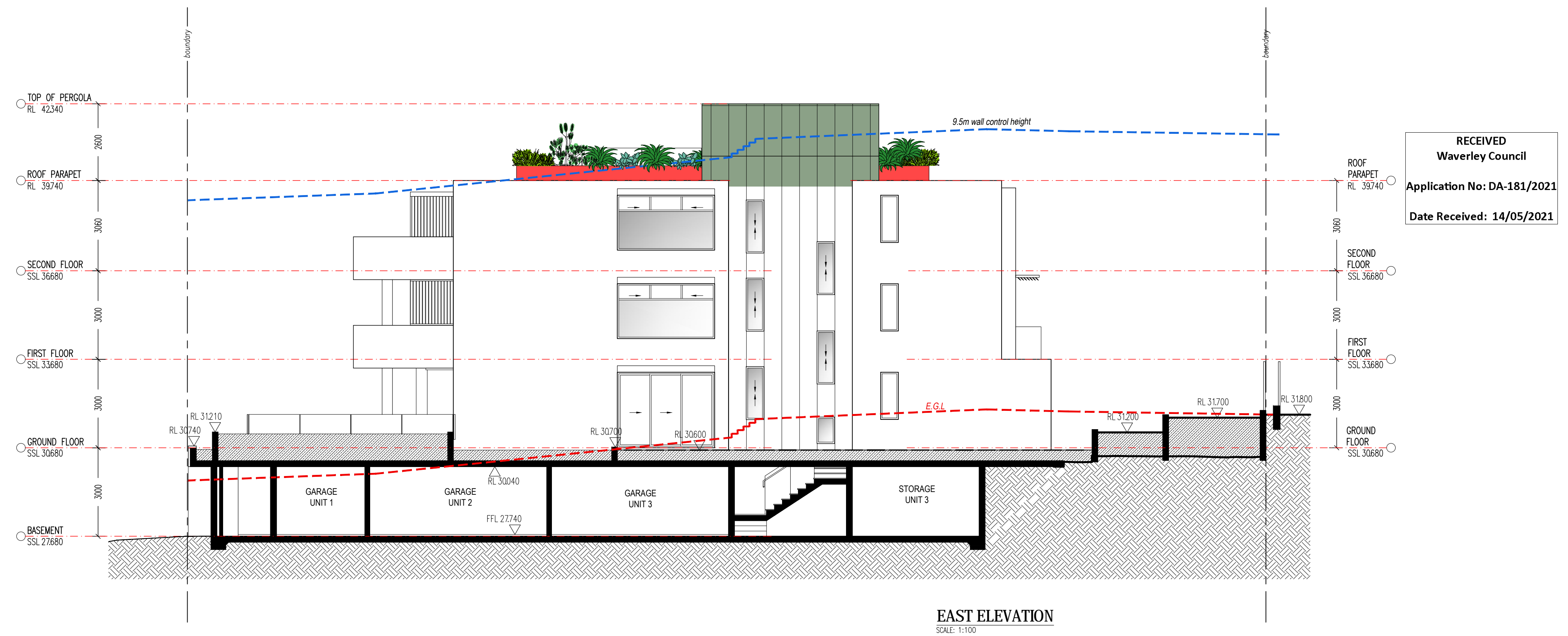
	No.	Date	Issue / Amendment	 <b>C.M. HAIRIS ARCHITECTS</b> Suite C5, 8 Allen St, Waterloo NSW 2017 Phone: 02 9690 1488, Mobile: 0412 293 208 Fax: 02 8399 2807 Email: con@cmharchitects.com.au	Project: <b>Proposed Green Roof/ Terrace to an existing residential development</b> 18 Kenneth Street, Tamarama NSW 2026	
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					Client: <b>Bondi Property Development</b>	
					NOTE : Contractor should verify all dimensions on site before commencing work. If a discrepancy is found between figured dimensions and scaled dimensions. It should be checked with this office. Designs shown hereon are subject to copyright laws. Authority should therefore be requested for any reproductions.	
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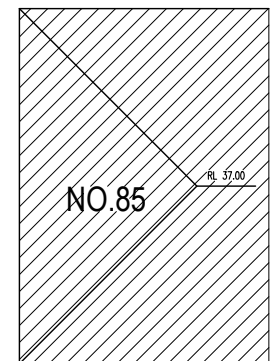
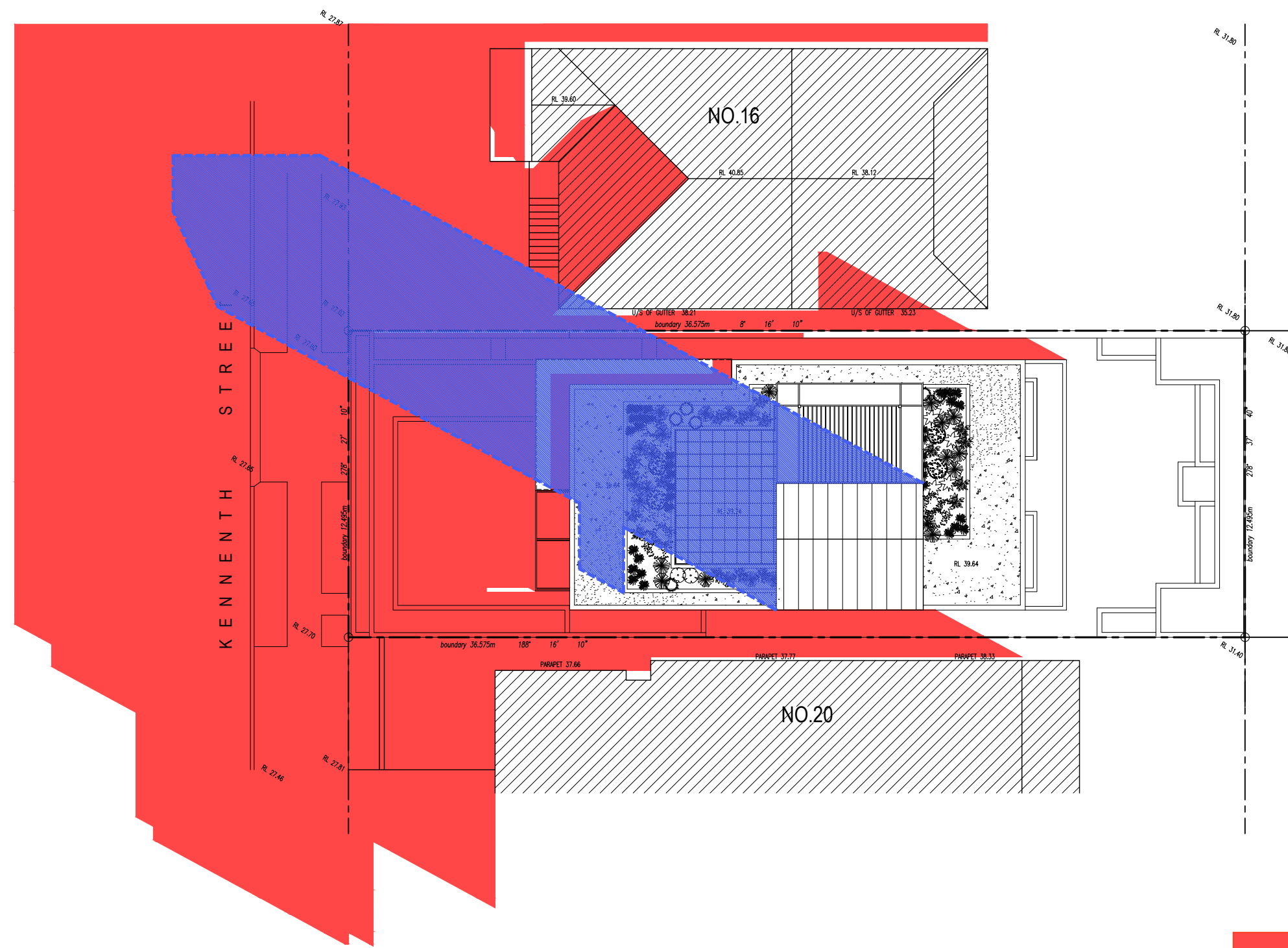
 <b>C.M. HAIRIS ARCHITECTS</b> Suite C5, 8 Allen St, Waterloo NSW 2017 Phone: 02 9690 1488, Mobile: 0412 293 208 Fax: 02 8399 2807 Email: con@cmharchitects.com.au	Project: <b>Proposed Green Roof/ Terrace to an existing residential development</b> 18 Kenneth Street, Tamarama NSW 2026	
	Drawing: <b>SITE PLAN, ELEVATIONS &amp; SIGHT LINE INFORMATION</b>	
	Job no.: 07/16	Scale: AS SHOWN
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					Client: <b>Bondi Property Development</b>	
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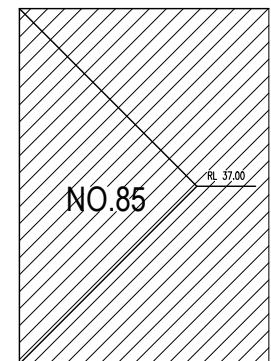
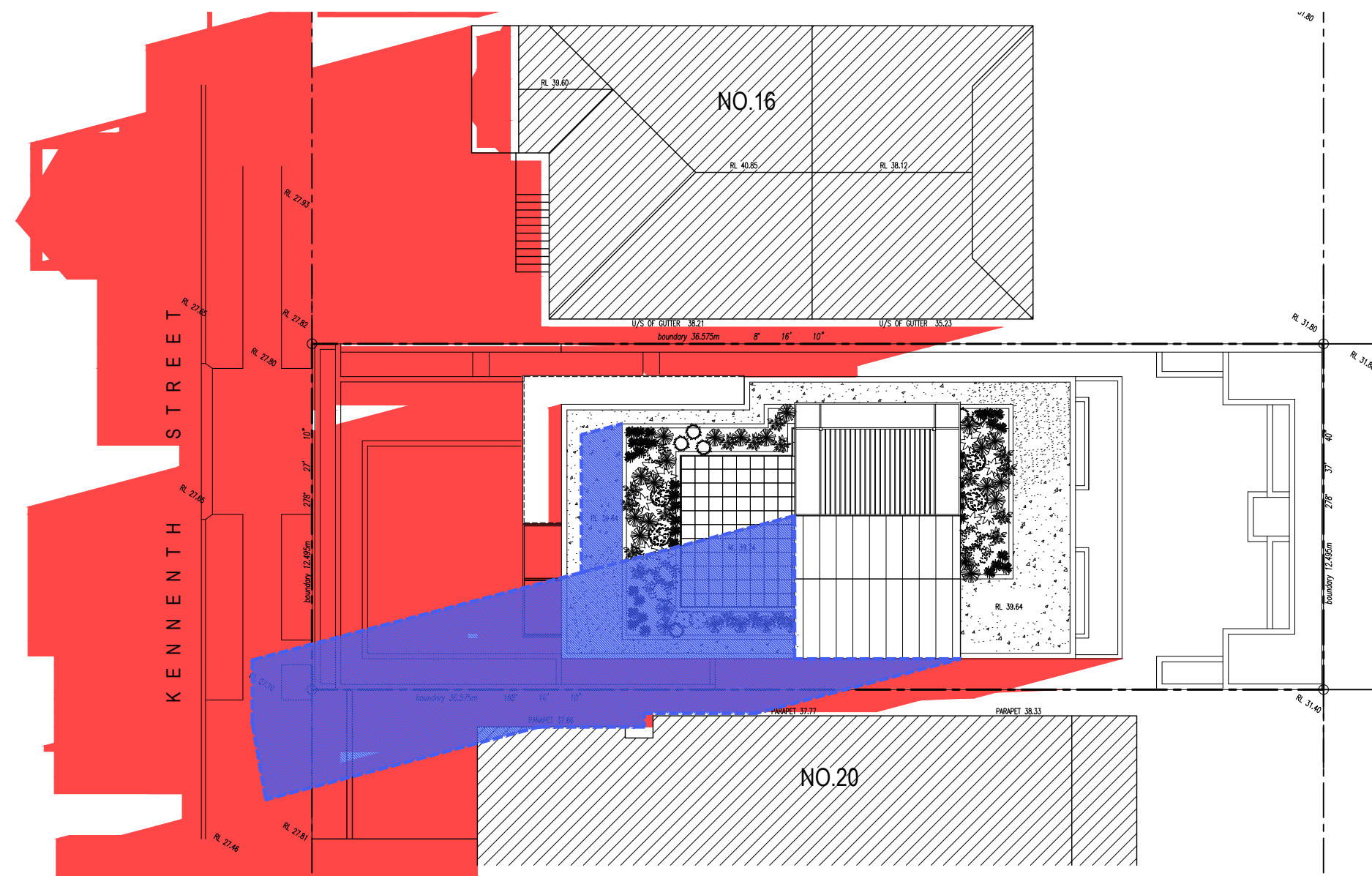
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SHADOWS CAST BY PROPOSED GREEN ROOF/TERRACE

<b>C.M. HAIRIS ARCHITECTS</b> Suite C5, 8 Allen St, Waterloo NSW 2017 Phone: 02 9690 1488, Mobile: 0412 293 208 Fax: 02 8399 2807 Email: con@cmharchitects.com.au	No.	DATE	ISSUE / AMENDMENT	project:		drawing:	
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SHADOW DIAGRAM - JUNE 21st 12noon  
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SHADOWS CAST BY EXISTING BUILDINGS

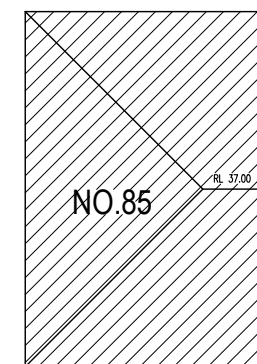
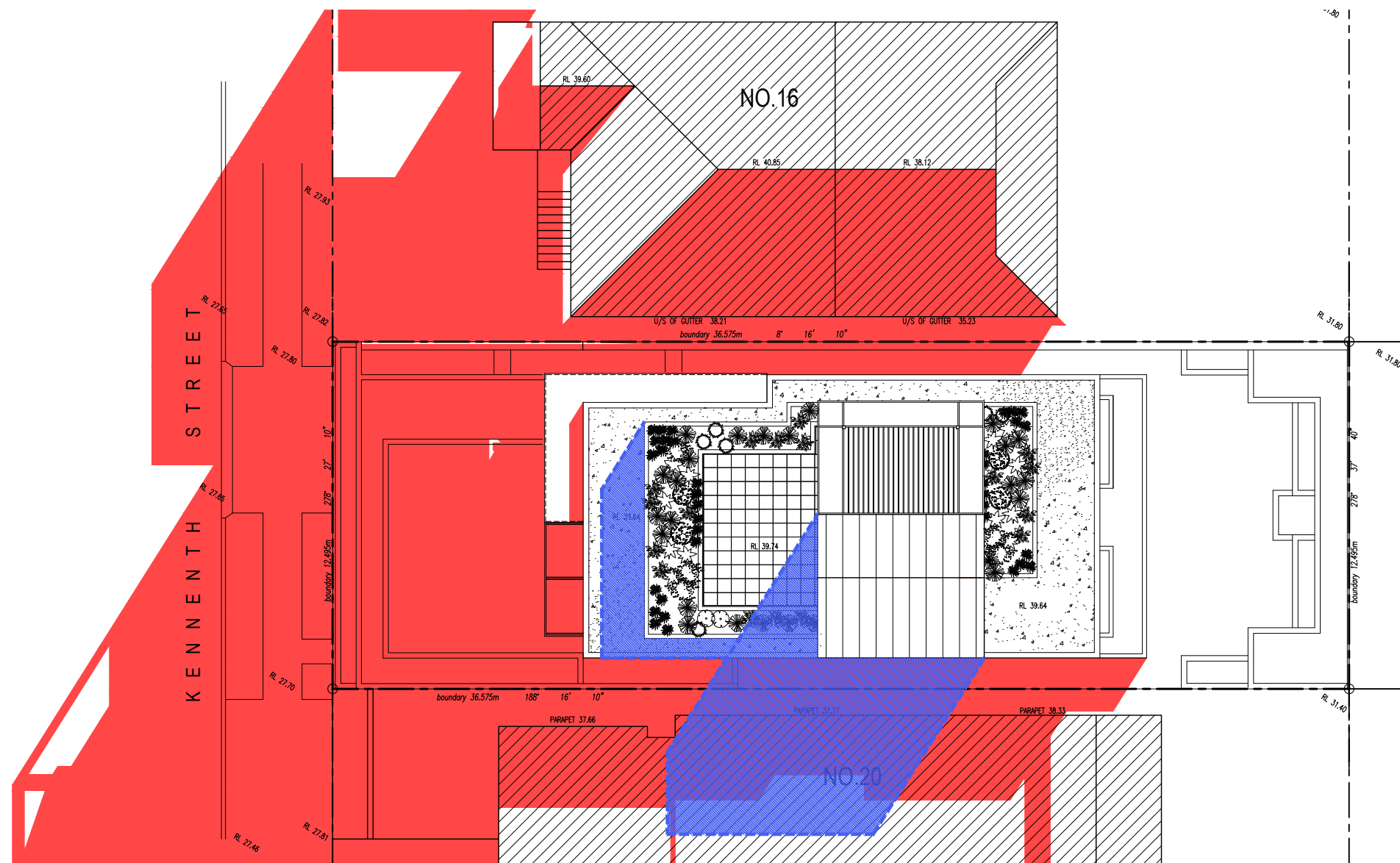
SHADOWS CAST BY PROPOSED GREEN ROOF/TERRACE

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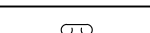
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Date Received: 14/05/2021



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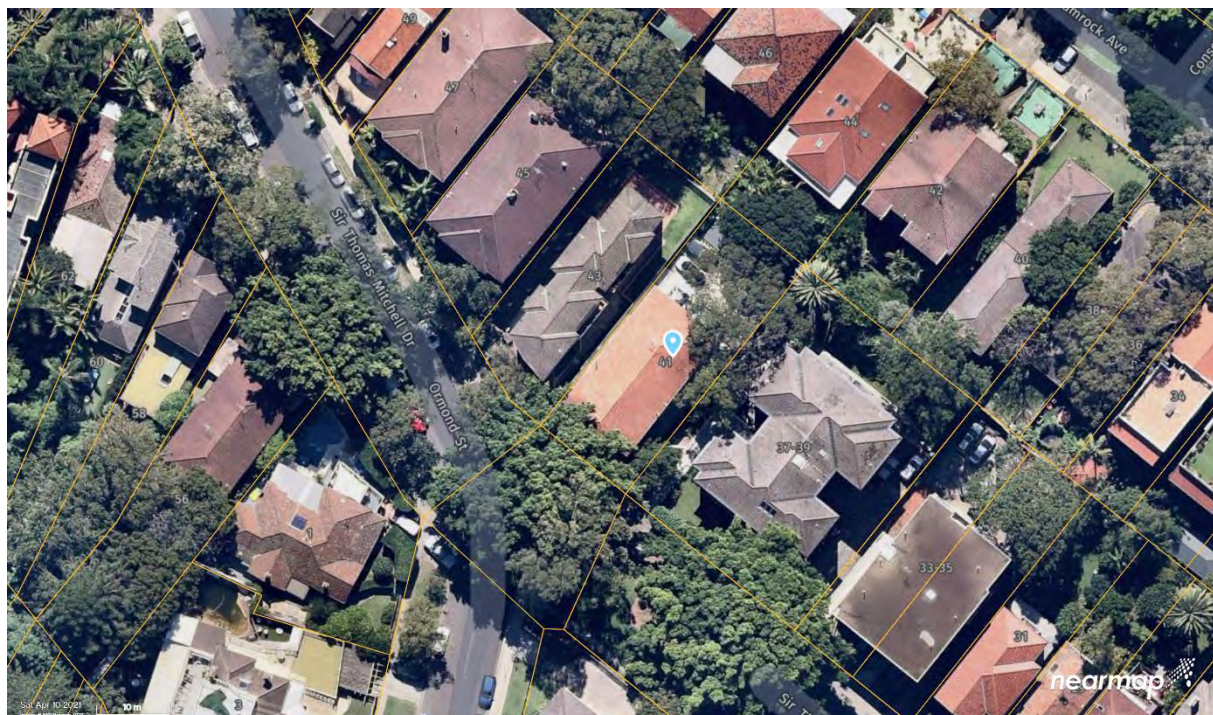
 The Royal Australian Institute of Architects ACN 000 023 012	C.M. HAIRIS ARCHITECTS			project: Proposed Green Roof/Terrace to an existing residential development 18 Kenneth Street, Tamarama NSW 2026			drawing: Shadow Diagrams at June 21st 3:00pm				
	Suite C5, 8 Allen St, Waterloo NSW 2017 Phone: 02 9690 1488, Mobile: 0412 293 208 Fax: 02 8399 2807 Email: con@cmharchitects.com.au			client: Bondi Property Development			Scale: AS SHOWN		Sheet Size:	dwg.no.	Revision
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## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-331/2020
<b>Site address</b>	41 Sir Thomas Mitchell Road, BONDI BEACH
<b>Proposal</b>	Amended: Alterations to residential flat building to construct an additional level containing a two-bedroom apartment and rear facing balcony and legitimise two units at the lower ground floor level.
<b>Date of lodgement</b>	12 October 2020
<b>Owner</b>	D.R. Simmons Family Pty Ltd
<b>Applicant</b>	Cradle Design
<b>Submissions</b>	Original: 8   Amended: 3
<b>Cost of works</b>	\$498,313
<b>Issues</b>	Overshadowing
<b>Recommendation</b>	That the application be <b>APPROVED</b>

### Site Map





## 1. PREAMBLE

### 1.1 Site and Surrounding Locality

A site visit was carried out on 14 December 2020.

The site is identified as Lot 34 in DP 8230, known as 41 Sir Thomas Mitchell Road, BONDI BEACH. It is located on the eastern side of Sir Thomas Mitchell Road, on the corner of Ormond Street.

The site is rectangular in shape with a north-eastern rear boundary measuring 15.24m, south-western side boundary measuring 40.225m, south-eastern front boundary measuring 15.24m and north-western side boundary measuring 40.1m. The site has an area of 612.1 m<sup>2</sup> (by calculation) and falls from the front towards the rear by approximately 4.9m.

The site is occupied by a two and three-storey brick residential flat building with a tiled roof, named 'San Luis'. Vehicular access is provided from Sir Thomas Mitchell Road to a driveway located along the south-eastern side of the site to an existing two car garage and three external hard stand car parking spaces at the rear of the site. An existing raised deck is also present at the rear of the site. The existing building contains a total of six apartments comprised of four x 2-bedroom units and two x 1-bedroom units however, Units 5 and 6 located at the lower ground floor level at the rear of the building are unauthorised and this application seeks to legitimise the use of these units.

The subject site is adjoined by residential flat buildings on either side and the locality is primarily comprised of residential flat buildings.



**Figure 1:** Subject site frontage to Sir Thomas Mitchell Road.





**Figure 2:** Existing rear setback area demonstrating car parking and deck.

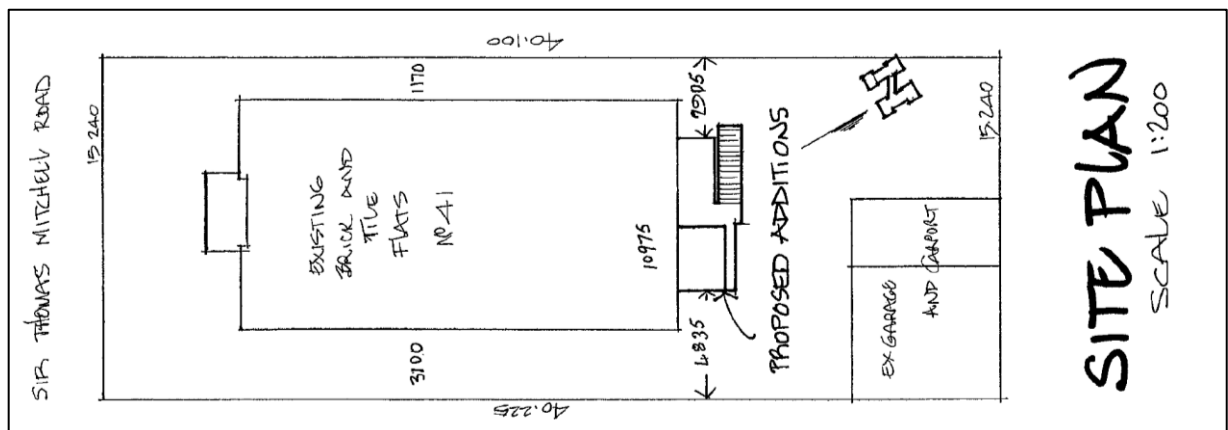


**Figure 3:** Rear of existing building as viewed from the deck.

## 1.2 Relevant History

### Previous Applications

A search of Council's records reveals no development history relevant to the subject application. However, consent **L-250/2000** issued on 21 July 2000 for the demolition of the existing concrete patio and stairs and replacement with new concrete balcony with steps demonstrates that there appears to be no existing consent for Units 5 and 6, the deck at the rear of the property and the three hard stand car parking spaces demonstrated on the plans submitted with this subject application.



**Figure 4:** Approved site plan under **L-250/2000**.

### Subject Application

The history of the subject application is summarised below.

- **18 February 2021** The application was deferred for the submission of amended plans and documentation to address the following:
  1. Increased residential density with the introduction of a new three-bedroom unit with limited amenity.
  2. Exceedance of FSR and clause 4.6.

3. Compromised design integrity of the existing building and streetscape impacts.
4. Existing poor amenity of the unauthorised units at the lower ground floor level.
5. An assessment against Clause 50 of SEPP (ARH) 2009.
6. BCA and fire safety.

- **26 April 2021**

The applicant submitted amended plans and documentation to address the concerns raised in Council's letter as follows:

1. The new unit on the roof has been reduced in scale to a two-bedroom unit.
2. The total GFA has been reduced and the amended scheme complies with FSR.
3. The amended design scheme compliments the existing mansard roof form and the built form of the building.
4. The unauthorised units at the lower ground floor level have been provided with additional privacy screening measures and the courtyard for Unit 6 has been extended by the provision of landscaping along the north western side boundary.
5. An amended Statement of Environmental Effects has been submitted.
6. A Fire Safety Upgrade Master Plan Report has been submitted.

The amended plans were renotified and received three (3) submissions. This is discussed further in section 2.4 of this report.

- **12 May 2021**

The amended plans were referred to the Design Excellence Advisory Panel (DEAP) for comment. The DEAP generally supported the proposal however, it was recommended that the internal layout of the proposed new unit be revised to improve amenity for future occupants as well as provide additional landscaping on the site.

- **21 May 2021**

The applicant submitted revised plans that addressed the comments made by the DEAP. Due to the nature of the revisions, the revised plans were not required to be renotified. The following assessment is based on these revised plans submitted.

It is also noted that a Building Information Certificate (BIC) is currently under assessment (**BC-67/2020**) for the two unauthorised units. The outcome of this BIC is dependent upon the determination of this subject application.

### **1.3 Proposal**

The proposal, as amended, seeks consent for alterations to the existing residential flat building to construct an additional level containing a two-bedroom apartment and rear facing balcony and legitimise two units at the lower ground floor level. The works are outlined below:

#### Lower Ground Floor Level

- Legitimise the use of Units 5 and 6 (one-bedroom units) at the lower ground floor level.
- Install privacy screens to the bedroom and lounge room windows of Units 5 and 6.

### Ground Floor Level

No works proposed to Units 1 and 2.

### First Floor Level

No works proposed to Units 3 and 4.

### New Second Floor Level

- Construction of a new second floor level for a new apartment (Unit 7).
- Unit 7 contains two beds, two baths and a balcony towards the rear located off the open plan living and kitchen area.

### Roof

- Construction of a mansard roof form.
- New metal cladded roof.

### External Works

- Replace paved areas at the front of the site with soft landscaping.
- Provide a landscaped courtyard to Unit 6 along the north-western side boundary.
- Three hardstand car parking spaces.
- Provision of an Electric Vehicle (EV) charging point.

## **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 65 Design Quality of Residential Apartment Development

The application was referred to the Waverley Design Excellence Panel on 12 May 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	Panel's Comment	Planning Comment
1. Context & Neighbourhood	<ul style="list-style-type: none"> <li><i>Consideration has been given to the appearance and presentation of the building from the street. No impacts on local views, and no views to the beach/ocean are currently available from this context.</i></li> <li><i>Increasing the overall roof pitch by 600mm has a minimal overshadowing impact on neighbouring properties, which is considered acceptable in this context.</i></li> <li><i>Located walking distance to the Bondi beach and Bondi road precincts, both of which are well served by buses, reduces the reliance on car parking on site, and provision of shared private amenity at ground – however, the Panel note the existing timber decked area in the rear garden, and proposal for an external car stacker to provide an additional parking space (the latter isn't supported).</i></li> </ul>	The comments made by the Panel are noted. The previously proposed car stacker has been deleted with the submission of revised plans that are the subject of this assessment report.
2. Built form & Scale	<ul style="list-style-type: none"> <li><i>The overall form and expression of the roof addition is supported by the Panel. The inset windows and rear balcony sit comfortably, and the addition of window hoods provides important privacy protection and architectural expression.</i></li> </ul>	The comments made by the Panel are noted.
3. Density	<ul style="list-style-type: none"> <li><i>The Panel recognise the capacity of the unit to be extended south into the roof space, however, this would exceed the current FSR control for the site. Within this planning context the 76sqm</i></li> </ul>	The proposal has provided an additional unit while maintaining compliance with Council's building height and FSR development standards and is therefore considered to be acceptable.



Principle	Panel's Comment	Planning Comment
	<i>addition and legitimacy of the lower-ground units is an appropriate outcome for the site, given its proximity to the high amenity areas of Bondi Beach and Bondi Road.</i>	
4. Sustainability	<ul style="list-style-type: none"> <li>• <i>A number of small, but important additions to the design will contribute to the overall sustainability of the project, including;</i> <ul style="list-style-type: none"> <li>○ <i>Outdoor drying area</i></li> <li>○ <i>Ceiling fans to bedrooms and living areas</i></li> <li>○ <i>If A/C is proposed, then show these on the plans</i></li> <li>○ <i>Re-use of grey water captured in the tank for watering</i></li> </ul> </li> </ul>	A condition is recommended to be imposed for amended plans to be submitted and approved by Council, demonstrating the sustainability features listed by the Panel where applicable.
5. Landscape	<ul style="list-style-type: none"> <li>• <i>The Panel would like to see a landscape plan that includes improvements to the front setback and further planting in the north-west corner. The addition of a mature tree in the rear would help manage heat-gain to the extensive hardscape area.</i></li> </ul>	The Applicant has submitted a general landscape plan for the property with the submission of revised documentation that has replaced the existing hard paved area within the front setback area with soft landscaping. However, due to the existing site conditions it is not considered to be reasonable for a mature tree to be planted. Despite this, it is recommended that a condition be imposed for a landscape plan to be submitted that demonstrates the number of trees and species to be planted at the front of the site and in the vicinity of the rear deck.
6. Amenity	<ul style="list-style-type: none"> <li>• <i>Given the constraints of the site, and limitations of the addition (within a roofspace) the management of internal and external amenity is considered appropriate. Privacy, solar access and over-shadowing have all been addressed.</i></li> </ul>	Noted.
7. Safety	No comments.	Noted.

Principle	Panel's Comment	Planning Comment
8. Housing Diversity and Social Interaction	<ul style="list-style-type: none"> <li><i>The design, useability and amenity provided by the timber deck should be tied into a broader strategy around planning, landscape and tree canopy. The Panel questions the value of this deck as a place to meet and interact, given its positioned between parked cars.</i></li> </ul>	A search of Council's records reveals no previous consent issued for the existing rear deck. However, the deck is set back 900mm from the north-western side boundary and 1m from the rear boundary. It is also to be surrounded by landscaping. A condition requiring the submission of a detailed landscape plan demonstrating the planting around the deck is recommended to be imposed.
9. Aesthetics	<ul style="list-style-type: none"> <li><i>The detailing and material of the roof addition will determine the overall success of the project. The Panel would prefer to retain the tiled roof, but appreciates the challenges associated with achieving the roof profiles in this material, and the rationale for choosing colourbond</i></li> </ul>	The proposed metal roofing (Colorbond) is considered to be acceptable in the site circumstances.

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

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

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

If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. An assessment against the provisions within the ADG is provided in the table below.

**Table 2: Apartment Design Guide**

Design Criteria	Compliance	Comment
<b>3F Visual privacy</b>		
<ul style="list-style-type: none"> <li>Min separation distances from buildings to side and rear boundaries:</li> <li>Up to 12m (4 storey) – 6m habitable &amp; 3m non-habitable</li> </ul>	Merit Assessment	Refer to detailed discussion following this table.
<b>4A Solar and daylight access</b>		
<ul style="list-style-type: none"> <li>Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight between 9am-3pm mid-winter</li> <li>A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter.</li> </ul>	Yes	The proposed new unit at the second-floor level has oriented its private open space (balcony) and living space towards the rear of the unit that faces north. The proposed unit is therefore considered to receive adequate solar access.
<b>4B Natural ventilation</b>		
<ul style="list-style-type: none"> <li>All habitable rooms are naturally ventilated</li> <li>Number of units with natural cross ventilation is maximised: <ul style="list-style-type: none"> <li>At least 60% of units naturally ventilated</li> </ul> </li> </ul>	Yes	All habitable rooms within the proposed new unit and unauthorised units are provided with at least one window for natural ventilation. The new unit is dual aspect and can be naturally cross ventilated. The proposed unit also utilises skylights and voids to achieve appropriate cross ventilation within the building.
<b>4C Ceiling heights</b>		
<ul style="list-style-type: none"> <li>Habitable rooms – 2.7m</li> <li>Non-habitable rooms – 2.4m</li> <li>Attics – 1.8m at edge of room with a 30° min ceiling slope</li> </ul>	Merit Assessment	<p>The proposed new unit (Unit 7) on the second floor level is to be contained within a mansard roof form that has a varying floor to ceiling height between 2.62m and 2.87m. The floor to ceiling height is greater than 2.7m for more than two thirds of the unit and is therefore considered to be acceptable.</p> <p>However, the existing unauthorised units (Units 5 and 6) at the lower ground floor level have a floor to ceiling height of only 2.4m across the entirety of the units. It is acknowledged that the existing internal amenity of these units is poor however, amenity has been improved through the provision of privacy screens to the bedrooms and living spaces and landscaping for the private courtyards has been improved. A site inspection also revealed that the unauthorised units have been detailed with adequate internal finishes and amenities.</p>

Design Criteria	Compliance	Comment
		Therefore, the proposed floor to ceiling heights are considered to be acceptable.
<b>4D Apartment size and layout</b>		
<p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"> <li>• 1 Bed = 50 m<sup>2</sup></li> <li>• 2 Bed = 70 m<sup>2</sup></li> <li>• Add 5m<sup>2</sup> for each additional bathroom (above 1)</li> </ul> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p>	Yes	The unauthorised one-bedroom units at the lower ground floor level have internal areas of 53m <sup>2</sup> that is compliant with the minimum ADG requirement for a one-bedroom unit and is satisfactory. Furthermore, the new two-bedroom unit has an area of 76m <sup>2</sup> that is also compliant.
<b>4E Private open space and balconies</b>		
<p>All apartments provide primary balcony as follows:</p> <ul style="list-style-type: none"> <li>• 1-bed – 8m<sup>2</sup> &amp; 2m depth</li> <li>• 2-bed - 10m<sup>2</sup> &amp; 2m depth</li> <li>• Ground level, min 15m<sup>2</sup> &amp; 3m depth</li> </ul>	Recommended Conditions	Refer to detailed discussion following this table.
<b>4F Common circulation and spaces</b>		
Max of 8 units accessed off a circulation core on a single level	Yes	Complies.
<b>4G Storage</b>		
<p>In addition to kitchens, bathrooms and bedrooms, the following is provided:</p> <ul style="list-style-type: none"> <li>• 1-bed – 6m<sup>3</sup></li> <li>• 2-bed – 8m<sup>3</sup></li> </ul>	Yes	The units are provided with adequate internal storage.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the SEPP 65 ADG.

### Part 3F – Visual Privacy

The proposal is considered to maintain reasonable separation distances between surrounding development as discussed below.

#### North-western side boundary

The proposed new unit maintains a setback of 2.4m as measured from the north-western side boundary to the hooded windows of the bedrooms and kitchen of the proposed development and a 3.145m setback to the external wall within the mansard roof. This is considered to be acceptable on merit as the existing residential flat building at 43 Sir Thomas Mitchell Road is set back 3.69m from this common side boundary. Privacy is also maintained as the windows to the side boundary are partly



translucent to a height of 1.5m above the finished floor level. Window labelled W5 on the plans to the kitchen of Unit 7 is unlikely to result in adverse overlooking impacts to the balconies and upper level units on the adjoining property at 43 Sir Thomas Mitchell Road as the window would be provided below head height and has been offset. Therefore, the new unit is considered to be designed to maintain adequate visual privacy and is acceptable.

#### South-eastern side boundary

The proposed new unit maintains a setback of 4.42m as measured from the south-eastern side boundary to the hooded windows of the bathroom, laundry and living room of the proposed development and a 5.17m setback to the external wall within the mansard roof. This is acceptable as the existing residential flat building at 37-39 Sir Thomas Mitchell Road is setback approximately 2.8m from this common side boundary. The windows on this elevation are to be translucent to a height of 1.5m above the finished floor level to maintain privacy. Therefore, the new unit is considered to be designed to maintain adequate visual privacy and is acceptable.

#### Rear boundary

The proposed addition maintains a setback of 15.24m as measured from the proposed rear balcony to the rear boundary and 16.6m as measured to the internal wall of the mansard roof. The addition is sited within the existing building footprint and the balcony is partly located within the mansard roof and is only 9.6m<sup>2</sup>. Therefore, the proposal is not anticipated to result in any adverse overlooking impacts to surrounding properties.

Therefore, the development provides adequate separation distances to surrounding properties and windows to side boundaries have been provided within architectural hoods and translucent glazing to minimise overlooking.

### **Part 4E - Private Open Space & Balconies**

The proposed private open space areas of the unauthorised units and the balcony of the new unit are considered to be acceptable as discussed below.

#### Proposed new unit (Unit 7)

The proposed balcony for the new two-bedroom unit has a depth of 2m and an area of 10m<sup>2</sup> that is compliant.

#### Unauthorised unit (Unit 5)

The existing private courtyard for Unit 5 has an area of approximately 11.3m<sup>2</sup> and a maximum depth of 2.78m. Despite this minor non-compliance, the existing courtyard is considered to be reasonable in the site circumstances and there appears to be no additional area that could be reasonably included within this private courtyard.

#### Unauthorised unit (Unit 6)

This unauthorised unit at the lower ground floor level has an existing courtyard of only 4.54m<sup>2</sup> with a depth of 1.7m. The proposal seeks to extend the courtyard towards the north-western side of the building to have an area of 8.2m<sup>2</sup>. To further enhance the amenity for this unit, it was previously recommended the courtyard of this unit be extended into the north-western side setback to

incorporate the new landscaped area. While the inclusion of this additional space would result in a courtyard with an area greater than 15m<sup>2</sup>, pedestrian access to Units 5 and 6 would be restricted as they are accessed externally from the remainder of the units within the building and it would be unsafe for these occupants to utilise the driveway as their primary pedestrian access. The use of this walkway is therefore considered to have minimal acoustic impacts to Unit 6 as it is likely that only the occupants of Units 5 and 6 would largely utilise the walkway. Therefore, the proposed courtyard for Unit 6, as amended, is considered to be reasonable.



**Figure 5:** Existing pathway along the north-western side setback.

#### **2.1.4 SEPP (Affordable Rental Housing) 2009**

The application was referred to Council's Strategic Planning department who confirmed that consideration under *Part 3 – Reduction of Existing Affordable Rental Housing* is not triggered by the proposal as the alterations and additions proposed will not lead to the reduction of available affordable housing. As the existing units are unaltered by the proposal, there is no reduction in available housing provided by the existing building. The minor changes proposed to units 5 and 6 are not considered to realistically lead to an increase in rental price.

### 2.1.5 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

**Table 3: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R3: Medium Density Residential Zone	Yes	The proposal involves alterations and additions to an existing residential flat building which is permitted with consent the R3 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>12.5m</li> </ul>	Yes	The proposal has a maximum height of 12.5m that is compliant.
4.4 Floor space ratio <ul style="list-style-type: none"> <li>FSR: 0.9:1</li> <li>GFA: 551m<sup>2</sup></li> <li>SA: 612.1m<sup>2</sup> (by calc.)</li> </ul>	Yes	Proposed GFA: 551m <sup>2</sup> Proposed FSR: 0.9:1

### 2.1.6 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	Recommended Conditions	<p>A Site Waste &amp; Recycling Management plan has been submitted with the application to address waste disposal during construction. A condition of consent is recommended to be imposed regarding ongoing waste on site. The waste and recycling storage area is located in an area convenient for users of the site.</p> <p>Council's Waste and Recycling Officer has reviewed the proposal and the waste management plan submitted with the proposal and has noted that further detail is required on the location of bin storage and the route to the point of collection. Despite this, no objections have been raised, subject to the recommended imposition of conditions relating to the size or</p>

Development Control	Compliance	Comment
		waste storage areas, number of bins and ongoing management of waste.
2. Ecologically sustainable Development	Yes	Given the scale of the development, the proposal is considered to adequately consider the design of the building in relation to ecologically sustainable development and achieves the objectives of Part B2.
3. Landscaping and Biodiversity	Recommended Conditions	The landscape plan has been reviewed and is generally considered acceptable as it seeks to provide additional vegetation on site. The site does not contain remnant vegetation and is not located in Habitat Corridor. As previously outlined in this report, conditions are recommended to be imposed requiring a detailed landscape plan to be submitted that specifies the number of trees and species to be planted.
6. Stormwater	Recommended Conditions	The stormwater plans submitted with the application are not satisfactory and do not comply with the Water Management Technical Manual. This matter can be addressed as a condition of consent.
7. Accessibility and adaptability	Yes	Conditions of consent are recommended to be imposed to ensure that the proposed works comply with the access standards.
8. Transport 8.1 – Streetscape 8.2 – On Site Parking Zone 2 <ul style="list-style-type: none"> <li>Car parking Provision Rates Residential: 8 spaces max Visitor: 1 Space</li> <li>Motorcycle Parking 2 spaces</li> <li>Bike Parking 7 spaces</li> </ul> 8.4 – Pedestrian/Bicycle Circulation and Safety 8.8 – Electric Vehicle Charing Points	Yes  Yes  Yes Yes Yes	A site inspection revealed existing car parking for five vehicles is located at the rear of the site, two within a double garage and three external hard stand spaces. However, as demonstrated in <b>Figure 4</b> of this report, the approved site plan for <b>L-250/2000</b> demonstrates only three approved car parking spaces, two within the double garage and one underneath a carport. The carport no longer exists however, the hard stand space is retained. Two unauthorised car parking spaces are therefore present along the north-western side boundary that are to be assessed.  The two unauthorised hard stand car parking spaces are considered to be acceptable, as the total number of car parking spaces would be five, that does not exceed the maximum of eight residential spaces permitted on the site. Furthermore, the spaces comply with the



Development Control	Compliance	Comment
		<p>minimum dimensions required under the relevant Australian Standard of 5.4m x 2.4m.</p> <p>No visitor parking is proposed or located on site however, street parking is available on Sir Thomas Mitchell Road and Ormond Street to accommodate visitors. No motorcycle or bicycle parking is proposed which is considered acceptable due to the existing site conditions.</p> <p>It is noted that an EV charging point is shown on the plans.</p>
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. The amended proposal has been reviewed by the DEAP who support the proposal.
17. Inter War Buildings	Yes	<p>The existing building is an Inter War residential flat building however, the building is not identified as a heritage item and the site is not located within a heritage conservation area. The amended proposal is considered to generally retain the character of the building as the additional level has been well-integrated with the mansard roof form and overall scale of the existing building to provide additional housing stock in the locality. Whilst it is proposed to remove the existing terracotta roof tiles, the proposed materials and finishes are not considered to harm the significance of the building or adversely impact upon the significance of the heritage-listed buildings located on the opposite side of Sir Thomas Mitchell Road. The development preserves the integrity of the existing building and minimises disruption to the original building fabric. Decorative elements of the building are maintained. Therefore, the proposed alterations and additions complement the existing building design and do not dominate the building when viewed from the Sir Thomas Mitchell Road streetscape.</p>

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

This part applies to development that is subject to State Environmental Planning Policy (SEPP) 65 – Design Quality of Residential Apartment Development, including the residential flat buildings, shop top house or mixed use developments that are 3 or more storeys and contain 4 or more dwellings.

Development Control	Compliance	Comment
<b>3.1 Site, scale and frontage</b>		
<ul style="list-style-type: none"> <li>Minimum frontage: 15m – R3 zone</li> </ul>	Yes	The site has an existing frontage of 15.24m that is compliant.
<b>3.2 Height</b>		
<ul style="list-style-type: none"> <li>Refer to the LEP</li> <li>External Wall Height 9.5m</li> </ul>	Yes	The proposal does not increase the external wall height of the building at the rear that is 9.485m.
<b>3.3 Setbacks</b>		
<ul style="list-style-type: none"> <li>Street setbacks must be consistent with the predominant building line setback along the street.</li> </ul>	Yes	<p>The proposed unit would be setback approximately 5.8m from the front setback as measured to the internal wall of the extension of the stairwell within the mansard roof form. The proposed new unit is considered to be well integrated within the building that is consistent with the established setbacks of buildings in the immediate vicinity.</p> <p>Refer to discussion under Part 3F of the ADG regarding side and rear setbacks.</p>
<b>3.4 Length and Depth of Building</b>		
	N/A	Refer to discussion under Part 3F of the ADG.
<b>3.5 Building Design and Streetscape</b>		
<ul style="list-style-type: none"> <li>Building design is to respond to the existing streetscape character of the area.</li> <li>Alterations and additions should demonstrate architectural compatibility with the existing building.</li> <li>The colour and finish of external finishes should be sympathetic to the street and contribute to the overall appearance of the building.</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposed mansard roof addition, as amended, is considered to demonstrate compatibility with the style and architectural characteristics of the existing residential flat building. The inset windows and rear balcony are well-integrated with the proposed built form and the window hoods provide architectural expression. The proposal enhances the streetscape presentation of the building to Sir Thomas Mitchell Road and Ormond Street. Due to the nature of the new mansard roof, it is not considered reasonable to ensure the existing roof tiled character of the building be retained and therefore, the metal roof (Colorbond) is acceptable. The proposed timber finishes to the balcony will add visual interest to the building and the finishes and materials are considered to</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>The removal of original architectural details and finishes is not supported</li> </ul>		be of suitable quality that complement the building.
<b>3.6 Attic and Roof Design</b>		
	Yes	The proposed mansard roof contributes to the architectural design of the existing building and is acceptable. Refer to comments above for further details.
<b>3.8 Pedestrian Access and Entry</b>		
<ul style="list-style-type: none"> <li>Entry at street level and respond to pattern within the street</li> <li>Accessible entry</li> <li>Separate to vehicular entry</li> <li>Legible, safe, well-lit</li> </ul>	Yes	The existing pedestrian access is retained to the building and the internal stairs are proposed to be extended to provide access to the new unit at the upper floor level. As the majority of the other units within the building are not undergoing works, it is not reasonable to recommend a lift be provided in the building.
<b>3.9 Landscaping</b>		
<ul style="list-style-type: none"> <li>Comply with part B3- Landscaping and Biodiversity</li> <li>Minimum of 30% of site area landscaped: 183.63m<sup>2</sup></li> <li>50% of the above is to be deep soil: 91.815m<sup>2</sup></li> </ul>	Recommended Condition	<p>The application proposes to provide a total landscaped area of approximately 97.9m<sup>2</sup> (16%) of which the new landscaping in the front setback area would be genuine deep soil planting with an area of 45.8m<sup>2</sup> that accounts for approximately 47% of the total landscaping on the site.</p> <p>Despite the non-compliance, the proposal is considered acceptable on merit as the existing site is heavily paved and the proposal seeks to increase landscaping across the site. A condition is recommended to be imposed for a detailed landscape plan to be submitted that demonstrates the number and species of trees to be planted, that incorporates the existing design of the rear deck within the overall landscaping on site and that ensures the landscaping provided within the front setback area consists of genuine soft landscaping.</p>
<b>3.10 Communal Open Space</b>		
<ul style="list-style-type: none"> <li>Minimum 15% communal (R3 zone): 91.815m<sup>2</sup></li> <li>Minimum dimensions: 6m x 6m</li> <li>Minimum of 30% of communal area must</li> </ul>	Merit Assessment	An existing timber deck is located at the north-western corner of the property that has an area of approximately 21m <sup>2</sup> . The deck is accessible by all units within the building however, it is acknowledged the deck is in a compromised position near the hard-stand car parking. Despite this, the deck is considered to constitute adequate communal open space as each unit





Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened</li> <li>Privacy be considered in relation to context density, separation use and design.</li> <li>Prevent overlooking of more than 50% of private open space of lower level dwellings in same development</li> </ul>		
<b>3.16 Dwelling Size &amp; Layout</b>		
	N/A	Refer to discussion under Part 4D of the ADG.
<b>3.17 Ceiling Heights</b>		
	N/A	Refer to discussion under Part 4C of the ADG.
<b>3.18 Storage</b>		
	N/A	Refer to discussion under Part 4G of the ADG.
<b>3.19 Acoustic Privacy</b>		
<ul style="list-style-type: none"> <li>Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	<p>As previously discussed, the pedestrian access along the north-western side boundary would largely only be utilised by occupants of Units 5 and 6 and therefore, the use of this walkway is considered to have minimal acoustic impacts to Unit 6. Furthermore, no adverse noise impacts are anticipated to be generated from the proposed rear balcony of the new unit at the upper floor level due to its limited size and its integration within the mansard roof form.</p> <p>Any noise generated from this property is not anticipated to exceed levels that would be unacceptable for the medium density nature of the locality. Therefore, the proposal is acceptable.</p>
<b>3.20 Natural Ventilation</b>		
	Yes	Refer to discussion under Part 4B of the ADG.
<b>3.21 Building Services</b>		
<ul style="list-style-type: none"> <li>Services are to be integrated into the design of buildings</li> </ul>	Recommended Condition	A condition is recommended to be imposed to demonstrate the provision of an outdoor clothes

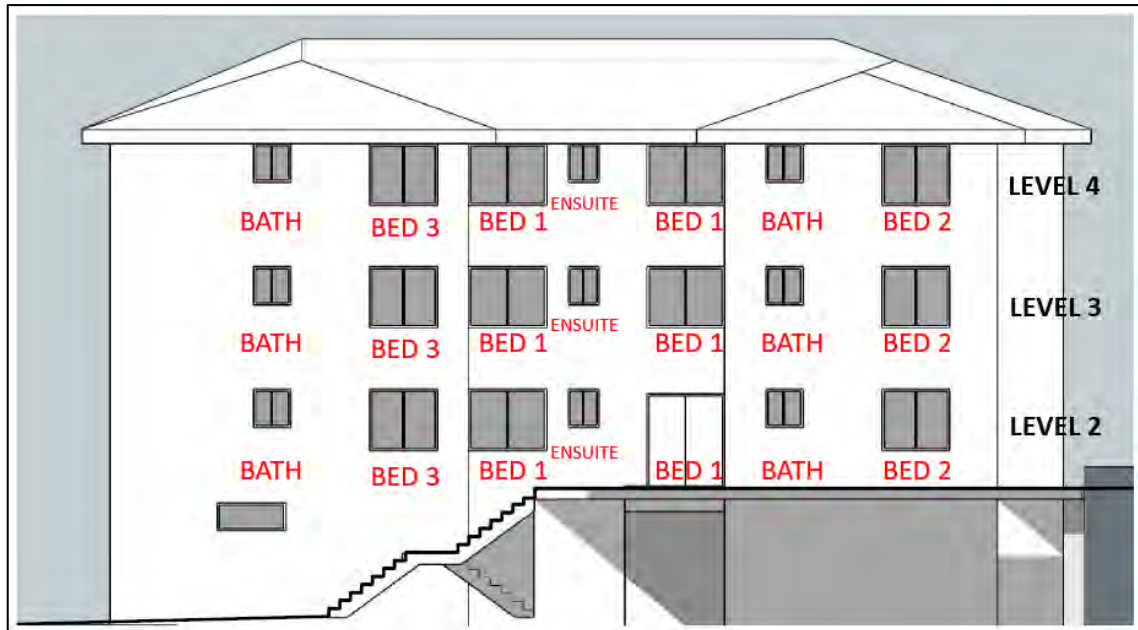
Development Control	Compliance	Comment
(garbage rooms, mail boxes, fire hydrants boosters, electrical substations, down pipes, plant rooms, satellite/communications structures <ul style="list-style-type: none"> <li>• Outdoor Communal clothes drying area to be provided</li> <li>• Plant rooms away from entry communal and private open spaces and bedrooms.</li> <li>• Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge</li> </ul>		drying area for the occupants of the site as well as demonstrate the location of any A/C unit.

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

#### **Solar Access to Surrounding Properties**

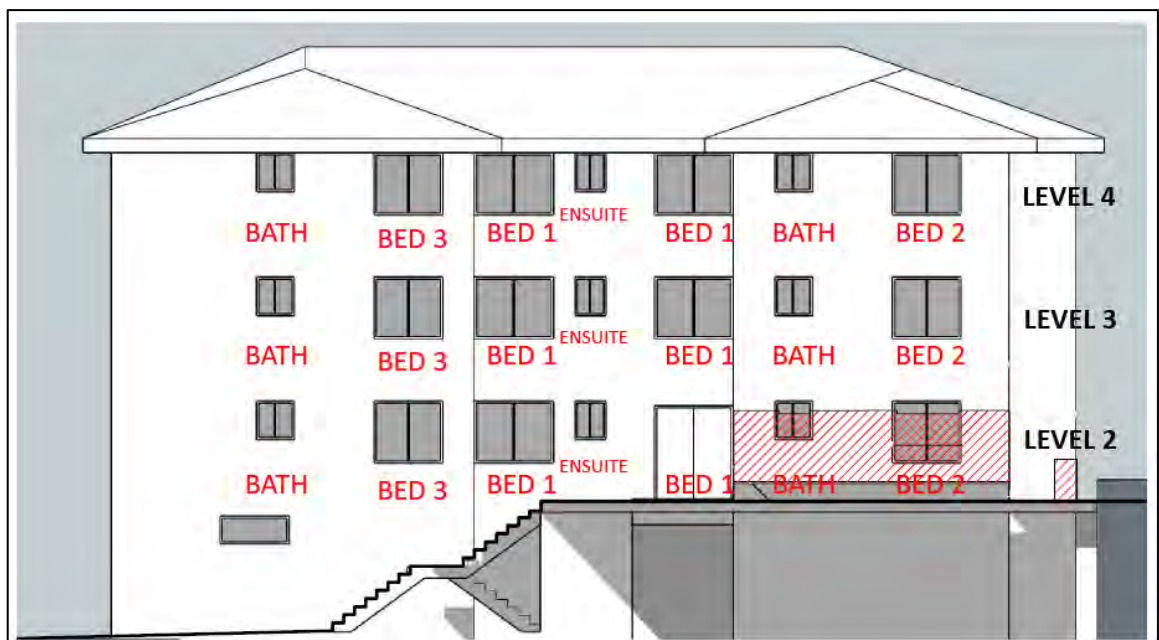
The proposal results in additional overshadowing upon the public domain as well as the north-eastern elevation of the adjoining residential flat building at 37-39 Sir Thomas Mitchell Road during mid-winter. An assessment on the additional overshadowing is provided below.

- From 9AM to 11AM, the proposal largely results in additional minor overshadowing upon the public domain of Sir Thomas Mitchell Road and does not adversely impact upon the adjoining properties. This is considered satisfactory. It is noted that between 9AM to 11AM, the adjoining property at 37-39 Sir Thomas Mitchell Road largely overshadows its own north-eastern elevation.
- At midday, additional overshadowing from the proposed development falls within the open space of the adjoining property and at the basement level. Between 11AM to midday, all windows on the north-eastern elevation of the adjoining property would receive solar access. This is demonstrated in **Figure 6** below that indicates the internal layout of the adjoining property as confirmed by **Consent No. 36/1974** superimposed with the overshadowing diagrams prepared by the applicant.



**Figure 6:** Elevational shadow diagram of 37-39 Sir Thomas Mitchell Road at midday during mid-winter as confirmed by floor plan issued by **Consent No. 36/1974**.

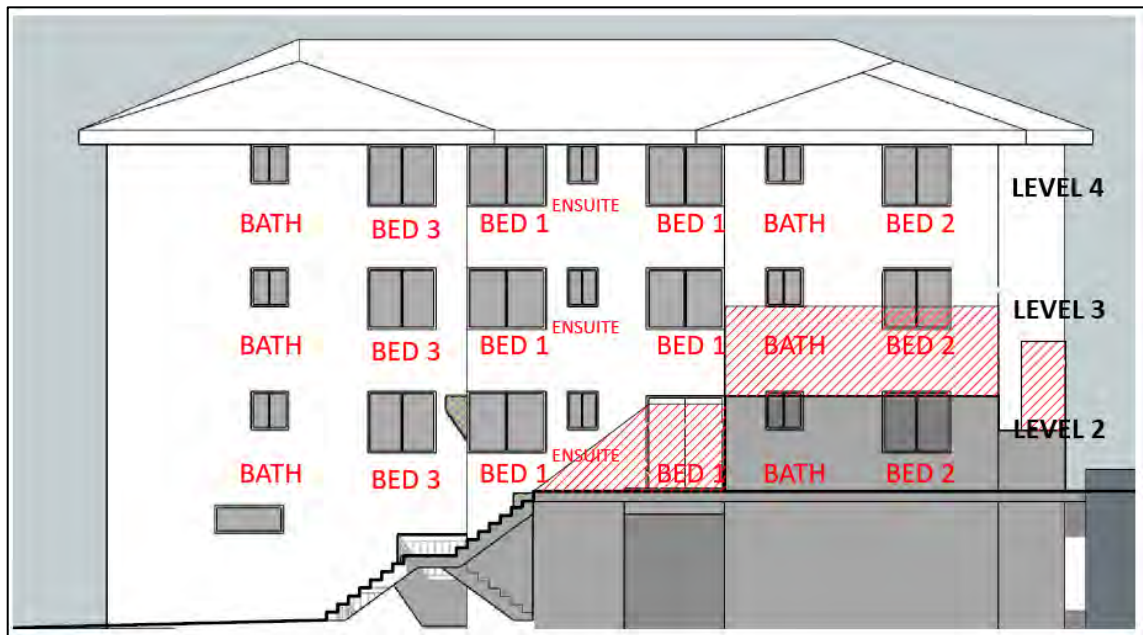
- At 1PM, (refer to **Figure 7**) additional overshadowing is cast upon 90% of one bedroom and one bathroom window of the unit located at the front of the building on Level 2. It is to be noted that the primary living space of these units is located towards the centre of the building of which the balconies at the front of the building are accessible from. The proposed additional overshadowing would not have adverse impact upon the balcony that is the primary living space of this unit at 1PM.



**Figure 7:** Elevational shadow diagram of 37-39 Sir Thomas Mitchell Road at 1PM during mid-winter as confirmed by floor plan issued by **Consent No. 36/1974**.

- At 2PM, (refer to **Figure 8**) additional overshadowing is cast upon 95% of the window to Bed 1 of the unit located at the front of the building on Level 2. All other windows on the north-western elevation belonging to this unit are overshadowed by the existing development. This unit now

received no solar access at 2PM and the balcony of this unit is also likely to be impacted. Additional overshadowing is also cast upon 30% of the window to Bed 2 of the unit located at the front of the building on Level 3.

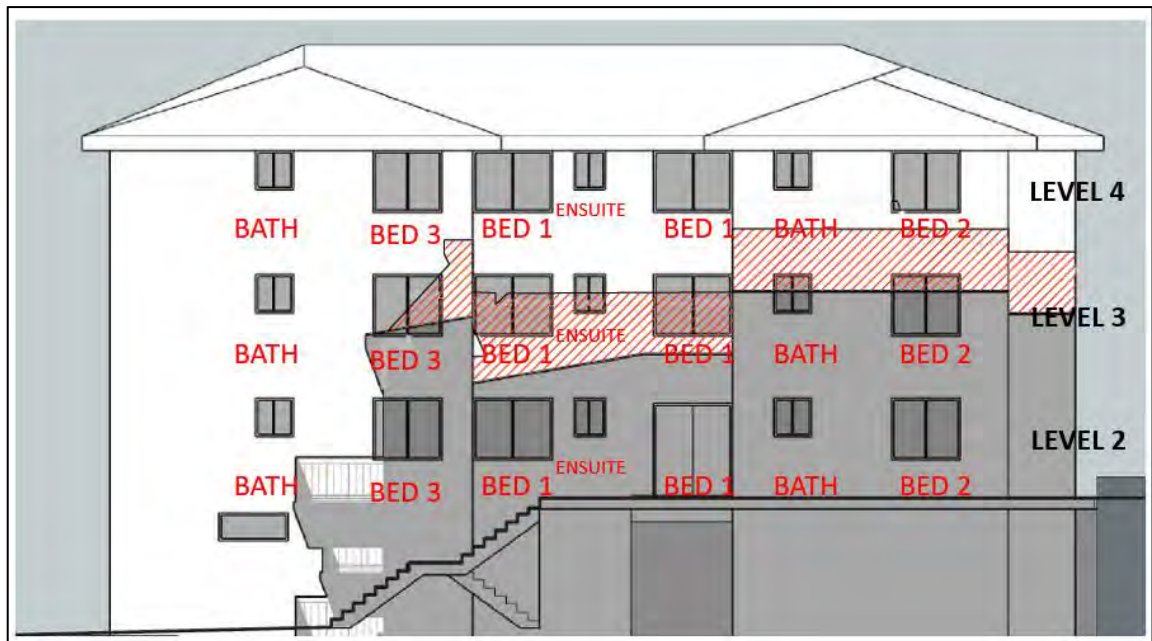


**Figure 8:** Elevational shadow diagram of 37-39 Sir Thomas Mitchell Road at 2PM during mid-winter as confirmed by floor plan issued by **Consent No. 36/1974**.

- At 3PM, (refer to **Figure 9**) both units on the north western elevation on Level 2 of the development are overshadowed by the existing built form on the subject site. The additional overshadowing result in complete overshadowing of the balcony and windows to Bed 2 and the bathroom for the unit located at the front of the building on Level 3. Some solar access is still received by this unit from the window to Bed 1.

Additional overshadowing is also cast upon 50% of the ensuite window, 80% of the window to Bed 1 and 50% of the window to Bed 3 of the unit located towards the rear of the building on Level 3 by the proposed development. Solar access is still received by the balconies and primary living spaces at the rear of the building.





**Figure 9:** Elevational shadow diagram of 37-39 Sir Thomas Mitchell Road at 3PM during mid-winter as confirmed by floor plan issued by **Consent No. 36/1974**.

Given the above, it is acknowledged that the proposed addition causes greatest overshadowing impacts to the unit located on level 2 at the front of the building. Despite this, the resulting overshadowing is considered to be acceptable for the following reasons:

- Due to the slope of the land and the location of this unit on Level 2 of the building, it is considered difficult to protect solar access received by this unit as the development complies with the maximum building height and FSR development standards. A significant setback has also been provided to this common side boundary to further minimise impacts.
- The windows impacted throughout the development belong to passive living spaces within the dwelling. Furthermore, solar access would be received between 11AM and 1PM to some windows of this unit.
- Solar access is still received by the majority of units at the rear and the proposal does not impact upon any of the balconies or primary living spaces at the units located at the rear of the building.
- The front balcony that provides solar access to the primary living space of the unit located at the front of the building on Level 3 is only impacted at 3PM. Furthermore, the majority of overshadowing at this unit also only occurs at 3PM. Therefore, this unit is considered to be provided with adequate solar access throughout the day.
- No overshadowing impacts are caused by the development to the units located on the top floor level of this adjoining property.

Therefore, the proposal is considered to be acceptable with regards to overshadowing.

## 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

### Original Plans

The application was notified for 14 days in accordance with the *Waverley Community Development Participation and Consultation Plan*. Eight (8) unique submissions were received.

### Amended Plans

Following receipt of amended plans and additional information, the application was re-notified for 14 days. Three (3) unique submissions were received.

### Revised Plans

Following receipt of revised plans to address comments made by the DEAP, the application was not notified as the amended form of the proposal represents a lesser impact than that of the amended form that was publicly notified, for the following reasons:

- Car stacker deleted.
- Additional landscaping provided.
- Internal layout of living room modified only.

The issues raised in the submissions received against the original and amended plans are summarised and discussed below.

**Table 6: Number of and where submissions were received from.**

Count	Property Address
1.	37-39 Sir Thomas Mitchell Road, BONDI BEACH (Original)
2.	37-39 Sir Thomas Mitchell Road, BONDI BEACH (Original)
3.	7/37-39 Sir Thomas Mitchell Road, BONDI BEACH (Original)
4.	11/37-39 Sir Thomas Mitchell Road, BONDI BEACH (Original and Amended)
5.	43 Sir Thomas Mitchell Road, BONDI BEACH (Original and amended) (two same submissions against original)
6.	4/43 Sir Thomas Mitchell Road, BONDI BEACH (Original)
7.	6/43 Sir Thomas Mitchell Road, BONDI BEACH (Original)
8.	7/45 Sir Thomas Mitchell Road, BONDI BEACH (Amended)
9.	305 Rainbow Street, SOUTH COOGEE (Original)

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

- *Overshadowing to 37-39 Sir Thomas Mitchell Road.*
- *Noise generation from balconies at the rear.*

- *Visual and acoustic privacy impacts to surrounding properties.*
- *Building design, streetscape and roof design.*
- *FSR non-compliance. (Addressed with the submission of amended plans).*
- *External wall height non-compliance. (Addressed with the submission of amended plans).*
- *Adverse impact upon streetscape and building character. (Addressed with the submission of amended plans).*

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

***Issue:*** *Unappealing monochromatic colour scheme.*

**Response:** The site is not located in a heritage conservation area or in close proximity to a heritage item therefore, the proposed colours, finishes and materials are considered to be acceptable. It is acknowledged that heritage-listed buildings are located on the opposite side of the road in Ormond Street, diagonally opposite the subject site, however the subject proposal, particularly the materials and finishes, will not harm the significance of these buildings.

***Issue:*** *Overshadowing to 43 Sir Thomas Mitchell Road.*

**Response:** The amended proposal does not result in any overshadowing impacts to 43 Sir Thomas Mitchell Road.

***Issue:*** *View impact from 6/43 Sir Thomas Mitchell Road.*

**Response:** The windows on the top floor level of the existing building at 43 Sir Thomas Mitchell Road generally aligns with the existing building on the subject site. Any views that may be present would likely be gained across the side boundary from windows and balconies towards the rear of the building. The proposal is wholly contained within the existing built form and complies with Council's maximum building height and FSR development standards and there is considered to be no unreasonable impact upon significant views.

***Issue:*** *Increased traffic generation and parking availability.*

**Response:** The increase in residential density on the site is considered suitable for the R3 Medium Density Residential Zone. The site and surrounding area are provided with a maximum applicable car parking rate and the car parking on site is considered suitable.

***Issue:*** *Potential damage to small park outside the block and large tree.*

***Issue:*** *Damage to trees on adjoining property at 37-39 Sir Thomas Mitchell Road.*

***Issue:*** *Damage from vibrations of construction works.*

***Issue:*** *Asbestos.*

**Response:** Standard conditions of consent are recommended to be imposed to address the above concerns during demolition and construction works should the application be approved.

## **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 Design Excellence Advisory Panel (DEAP)**

Refer to comments in section 2.1.3 of this report.

### **3.2 Fire Safety (Building Compliance)**

The original plans lodged with the application were referred to Council's Fire Safety Officer who requested the submission of a BCA Compliance Report for further assessment. The Applicant submitted a Fire Safety Upgrade Master Plan report with the submission of additional information that has been reviewed by Council's Fire Safety Officer but is still deemed to be insufficient and unsatisfactory. A condition is recommended to be imposed requiring the submission of a revised Fire Safety Upgrade Report in accordance with the commentary made by Council's Fire Safety Officer that is to be approved prior to the issue of a Construction Certificate.

### **3.3 Strategic Planning (Urban Planning Policy and Strategy)**

Refer to comments in section 2.1.4 of this report.

### **3.4 Sustainable Waste Officer (Environmental Sustainability)**

Refer to comments in section 2.1.6 of this report.

### **3.5 Stormwater (Infrastructure Services)**

Refer to comments in section 2.1.6 of this report.

## **4. SUMMARY**

The application, as amended, seeks consent for alterations to the existing residential flat building to construct an additional level containing a two-bedroom apartment with rear balcony and legitimise two units at the lower ground floor level.

The proposal has been amended since it was first submitted to address bulk (FSR) amenity, streetscape and to provide further information. The amended application was referred to the DEAP who supported the proposal and the built form design elements of the addition to the existing residential flat building. Revised plans were submitted to incorporate greater landscaping to address comments made by the DEAP. Key issues with the proposal are summarised below.

- The proposal results in some overshadowing to the north-eastern elevation of the adjoining residential flat building at 37-39 Sir Thomas Mitchell Road. However, this overshadowing largely occurs to passive living spaces within the unit located on Level 2 of the building. Furthermore, the proposal complies with Council's building height and FSR development standards and a large setback has been provided from the new addition to the common side boundary. This unit would



still receive some solar access. Therefore, the additional overshadowing caused by the development is considered to be acceptable in the site circumstances.

- The development maintains adequate privacy for the adjoining residential flat buildings as the windows on the side elevations of the addition are contained within architectural hoods and utilise a mix of translucent glazing and high and low level sill heights. The rear balcony of the new unit is adequately sized and largely contained within the hood of the mansard roof form to further maintain privacy and prevent overlooking.
- Soft landscaping is increased on site with the proposal and a detailed landscape plan is recommended to be submitted prior to the issue of a Construction Certificate for approval of the overall planting scheme on the site.

The original plans lodged with the application were notified and received eight (8) submissions. The application was deferred for the submission of amended plans and documentation. The amended plans were notified and received three (3) submissions, primarily raising concerns regarding privacy, overshadowing and the use of colours and materials.

Given the above, the amended proposal is recommended to be approved, subject to conditions of consent.

#### **DBU Decision**

The application and assessment report were 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 in Appendix A.

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

#### **5. 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:**



Judith Elijah  
**Senior Development Assessment Planner**

**Date:** 8 June 2021

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

- 4 Sensitive development:
  - (a) SEPP 65 development

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



Kylie Lucas  
**Acting Manager, Development Assessment (Central)**

**Date:** 6 July 2021

## **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 Cradle Design including the following:

<b>Plan Number</b>	<b>Revision</b>	<b>Plan Description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA 02	F	Roof Plan	20.05.21	21 May 2021
DA 03	F	Proposed Upper Floor Plan	20.05.21	21 May 2021
DA 04	D	Proposed South West Elevation	21.04.21	21 May 2021
DA 05	D	Proposed North West Elevation	21.04.21	21 May 2021
DA 06	D	Proposed North East Elevation	21.04.21	21 May 2021
DA 07	D	Proposed South East Elevation	21.04.21	21 May 2021
DA 08	D	Section A-A	21.04.21	21 May 2021
DA 09	D	Section B-B	21.04.21	21 May 2021
DA 10	D	Section C-C	21.04.21	21 May 2021
DA 11	E	Lower Ground Floor	20.05.21	21 May 2021
DA 12	D	Ground Level – Existing (GFA)	21.04.21	21 May 2021
DA 13	D	First Floor – Existing (GFA)	21.04.21	21 May 2021
DA 14	E	Second Floor – Proposed (GFA)	20.05.21	21 May 2021

(b) BASIX Certificate

(c) Schedule of external finishes and colours received by Council on 21 May 2021

(d) The Site Waste and Recycling Management Plan (SWRMP) Part 1 (12/10/2020)

Except where amended by the following conditions of consent.

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

The application is approved subject to the following amendments to demonstrate sustainability features and building services where applicable;

(a) A communal outdoor clothes drying area is to be provided on site within the rear yard.

(b) Ceiling fans to bedrooms and living areas are to be provided. If air conditioning is proposed, this is to be shown on the plans in a location not visible from the public domain. Services on the roof are not to be seen from the street or impact public or private views and are to be a minimum of 2m from the building edge.

(c) The proposal shall re-use grey water on site, captured in the tank for watering.

The amendments are to be approved by the **Executive 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. DETAILED LANDSCAPE PLAN**

A detailed landscape plan is to be submitted that demonstrates the following:

- (a) The number of trees to be planted across the site, their species and mature heights.
- (b) The new landscaped areas within the front setback of the site are to consist of genuine soft landscaping.
- (c) Details of the planting to be provided around the deck at the north-western corner. The planting around the deck should assist with maintaining visual and acoustic privacy as well as tie the deck into the broader landscape strategy for the site.
- (d) The detailed landscape plan is to demonstrate consistency with the approved architectural plans.

The detailed landscape plan is to be approved by the **Executive 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.

### **4. AMENDED FIRE SAFETY UPGRADE REPORT**

The *Fire Safety Upgrade Master Plan* prepared by J Squared Engineering Pty Ltd, dated 7 April 2021 and Report No.: 1620 – Rev A has been reviewed by Council's Fire Safety Officer and is deemed insufficient. The report is to be modified to address the following, to the satisfaction of Council's Fire Safety Officer:

- (a) The report must assess the approved architectural plans.
- (b) Section 1.6 of the report indicates the building has a RIS of 3 when it should be 4.
- (c) Given the proposal changes the RIS from 3 to 4 the building will require sprinklers in accordance with Clause E1.5, Spec E1.5 & Spec E1.5a.
- (d) An assessment of the existing building against the deemed-to-satisfy provisions of Sections C, D, E and F of the BCA and a detailed BCA checklist referencing **ALL** DTS Clauses must be included in the report.
- (e) A concluding statement is to be included in the report confirming that any modifications and advancement in level of details required to the proposal in order to satisfy the requirements of the BCA will not necessitate the need for any significant design changes that in turn would necessitate the submission of an application under Section 4.55 of the Environmental Planning and Assessment Act 1979.

The amended Fire Safety Upgrade Report is to be approved by **Council's Fire Safety Officer** 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.

## **5. MULTI UNIT HOUSING DEVELOPMENT DESIGN (SEPP 65 DEVELOPMENT)**

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



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

### **GENERAL REQUIREMENTS**

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

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

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

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

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

A 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.

## **8. 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.

## **9. LONG SERVICE LEVY**

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

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

## **PLAN DETAILS**

### **10. VERIFICATION OF CONSTRUCTION CERTIFICATE DOCUMENTATION (SEPP 65 BUILDINGS)**

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

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

## **CONSTRUCTION & SITE MATTERS**

### **11. HOARDING**

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

## 12. EROSION & SEDIMENT CONTROL

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

## 13. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

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

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

## 14. ENGINEERING DETAILS

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

## TRAFFIC MANAGEMENT

### 15. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

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

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

## STORMWATER & FLOODING

### 16. STORMWATER MANAGEMENT

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

- (a) OSD Details: The provided plans do not provide sufficient details of the proposed On-Site Stormwater Detention (OSD) tank 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. Councils 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 stormwater drainage system.
- (c) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual.

Notes:

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

## **17. 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**

### **18. BASIX**

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



## **WASTE**

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

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

### **20. 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 and/or commercial components of the development;

- **Residential**

7 units (2x 1 bedroom and 5x 2+ bedroom units)

- 3 x 240L Mobile Garbage Bins (MGBs) for general waste collected weekly
- 3 x 240L MGBs for paper and cardboard recycling collected fortnightly
- 3 x 240L MGBs for container recycling collected fortnightly
- 1 x 240L MGB for garden organics, should this type of waste be generated at the premises

## **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**

#### **21. 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.

#### **22. 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**

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

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

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

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

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

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

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

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

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

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

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

## **29. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

## **TREE PROTECTION AND REMOVAL**

### **30. TREE PROTECTION**

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

### **31. STREET TREES TO BE RETAINED/TREE PROTECTION**

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

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) event damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.



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

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

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

#### **32. 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.

#### **33. CERTIFICATION OF BASIX COMMITMENTS**

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

#### **34. CERTIFICATION OF STORMWATER SYSTEM**

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

#### **35. CAR PARKING**

A total of **5** residential car vehicle parking spaces are to be provided within the development.

Car parking spaces are to be allocated with the rates specified in the DCP. All car spaces and to be appropriately signposted and parked.

Car parking spaces shall not be independent lots, but rather part lots attached to units in any future Subdivision Plans.

#### **36. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE**

A Waste Management Plan must be submitted to **Council's Executive Manager, Environmental Sustainability (or delegate)** and include including the following;

- (a) Details of ongoing waste management strategy are to be documented within a Site Waste & Recycling Management Plan (SWRMP).
- (b) Details of the waste and recycling storage location for each dwelling, any shared storage space, and storage of bulky items awaiting collection.
- (c) Clear signage identifying the different bin types, bulky household waste and problem waste must be displayed.
- (d) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.

- (e) 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.
- (f) The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan. An additional copy of the plan must be available on site and presented when requested.
- (g) At no times shall bins or waste of any kind be stored on the public domain (e.g. footpaths).

## ADVISORY MATTERS

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

### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

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

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

### AD2. SYDNEY WATER REQUIREMENTS

You 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. 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.

DEVELOPMENT APPLICATION DRAWINGS

Lot 34 DP 8230

RECEIVED  
Waverley Council  
Application No: DA-331/2020  
Date Received: 21/05/2021



AMENDED PLANS

- DA-00 - COVER SHEET WITH LOCATION PLAN & CALCULATIONS
- DA-01 - SITE ANALYSIS PLAN
- DA-02 - SITE/ROOF PLAN
- DA-03 - PROPOSED UPPER FLOOR PLAN
- DA-04 - PROPOSED SOUTH WEST ELEVATION
- DA-05 - PROPOSED NORTH WEST ELEVATION
- DA-06 - PROPOSED NORTH EAST ELEVATION
- DA-07 - PROPOSED SOUTH EAST ELEVATION
- DA-08 - SECTION A-A
- DA-09 - SECTION B-B
- DA-10 - SECTION C-C
- DA-11 - LOWER GROUND LEVEL - EXISTING(GFA)
- DA-12 - GROUND FLOOR - EXISTING(GFA)
- DA-13 - FIRST FLOOR - EXISTING(GFA)
- DA-14 - SECOND FLOOR - PROPOSED(GFA)
- DA-15 - SHADOW DIAGRAMS - 21st JUNE @ 9am
- DA-16 - SHADOW DIAGRAMS - 21st JUNE @ 12pm
- DA-17 - SHADOW DIAGRAMS - 21st JUNE @ 3pm
- DA-18 - SHADOW DIAGRAMS - 21st JUNE @ 9am to 12pm - ELEVATION STUDY
- DA-19 - SHADOW DIAGRAMS - 21st JUNE @ 1pm - ELEVATION STUDY
- DA-20 - SHADOW DIAGRAMS - 21st JUNE @ 2pm - ELEVATION STUDY
- DA-21 - SHADOW DIAGRAMS - 21st JUNE @ 3pm - ELEVATION STUDY
- DA-22 - PHOTOMONTAGE - FRONT & REAR
- DA-23 - PROPOSED FINISHES SCHEDULE
- DA-24 - BASIX COMMITMENTS

01

LOCATION PLAN

NTS

PLAN

LANDSCAPE AREA CALCULATIONS	
EXISTING OPEN SPACE	- 328.5m <sup>2</sup>
EXISTING LANDSCAPED AREA	- 30.4m <sup>2</sup>
PROPOSED ADDITION TO NORTHWEST BOUNDARY & ENTRY	- 77.5m <sup>2</sup>

GROSS FLOOR AREA CALCULATIONS	
EXISTING SITE AREA	- 612.1m <sup>2</sup>
EXISTING LOWER GROUND FLOOR	- 113m <sup>2</sup>
EXISTING GROUND FLOOR	- 183m <sup>2</sup>
EXISTING FIRST FLOOR	- 179m <sup>2</sup>
EXISTING FLOOR AREA = (107+183+179) = 475m <sup>2</sup>	
PROPOSED LOWER GROUND FLOOR	- 113m <sup>2</sup>
PROPOSED GROUND FLOOR	- 183m <sup>2</sup>
PROPOSED FIRST FLOOR	- 179m <sup>2</sup>
PROPOSED SECOND FLOOR	- 76m <sup>2</sup>
PROPOSED FLOOR AREA = (113+183+179+76) = 551m <sup>2</sup>	
REQUIREMENT:	
PERMISSIBLE FSR - 0.9/1 (612.1m <sup>2</sup> x 0.9) = 551m <sup>2</sup>	
PROPOSED FSR = 551m <sup>2</sup>	
VARIATION BETWEEN PERMISSIBLE & PROPOSED = 0m <sup>2</sup> OR 0%	

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STUDIO

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e: info@cradledesign.com.au  
w: www.cradledesign.com.au

Nom. Architects:  
Paul Lucas - 8786  
Regan VanderWert-Walsh - 7904

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ORIENTATION

REVISION

REV. A - XX.04.20 - FOR APPROVAL  
REV. B - 03.08.20 - CALCS AMENDED  
REV. C - 31.08.20 - DA ISSUE  
REV. D - 21.04.21 - DA RE-ISSUE  
REV. E - 20.05.21 - DA RE-ISSUE

DETAILS

CLIENT  
DAN AND MANDY SIMMONS

ADDRESS  
41 SIR THOMAS MITCHELL ROAD,  
BONDI, NSW 2026

PROJECT

DRAWING TITLE  
COVER SHEET, LOCATION PLAN & CALCULATIONS

REFERENCE  
492 - 41 STM

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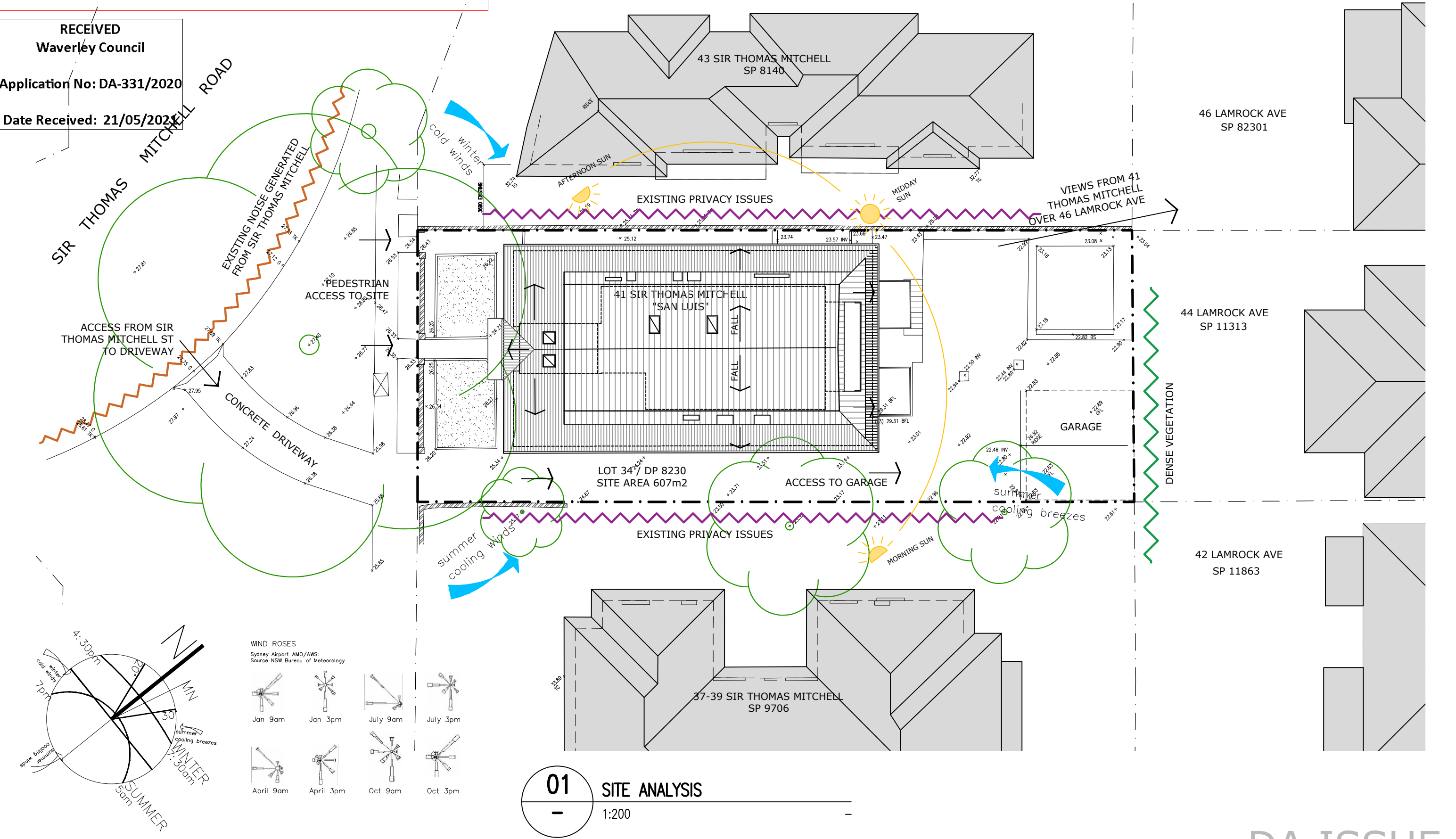
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DA | 00 E

DRAWING ISSUE

AMENDED PLANS

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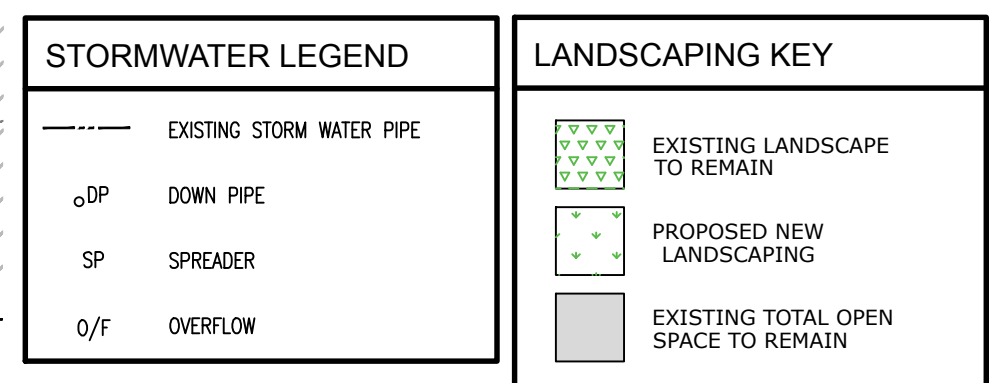
STUDIO	Shop 1   316 Sydney Road Belgoolah NSW 2093 t: 02 9029 5532 e: info@cradledesign.com.au w: www.cradledesign.com.au	ORIENTATION		REVISION	REV. A - XX.04.20 - FOR APPROVAL REV. B - 03.08.20 - CALCS AMENDED REV. C - 01.09.20 - DA ISSUE REV. D - 21.04.21 - DA RE-ISSUE	DETAILS	CLIENT DAN AND MANDY SIMMONS	PROJECT	DRAWING TITLE SITE ANALYSIS PLAN
	ADDRESS 41 SIR THOMAS MITCHELL DRIVE, BONDI, NSW				REFERENCE 492 - 41 STM SCALE 1:200@A3 DRAWN VL				

DA ISSUE

DA | 01 D  
DRAWING ISSUE



**RECEIVED**  
3 STOREY  
Waverley Council  
BRIGHT LIGHT BUILDING  
TILE ROOF  
SP 8140  
**Application No: DA-331/2020**  
**Date Received: 21/05/2021**



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ORIENTATION

**DETAILS**

**CLIENT**  
DAN AND MANDY SIMMONS

**ADDRESS**  
41 SIR THOMAS MITCHELL ROAD,  
BONDI, NSW 2026

PROJECT	DRAWING TITLE	
	SITE / ROOF / STORMWATER MANAGEMENT PLAN	
	REFERENCE	
	492 - 41 STM	
	SCALE	DRAWN
	1:100@A3	RVW

DA | 02 F

DRAWING

ISSUE



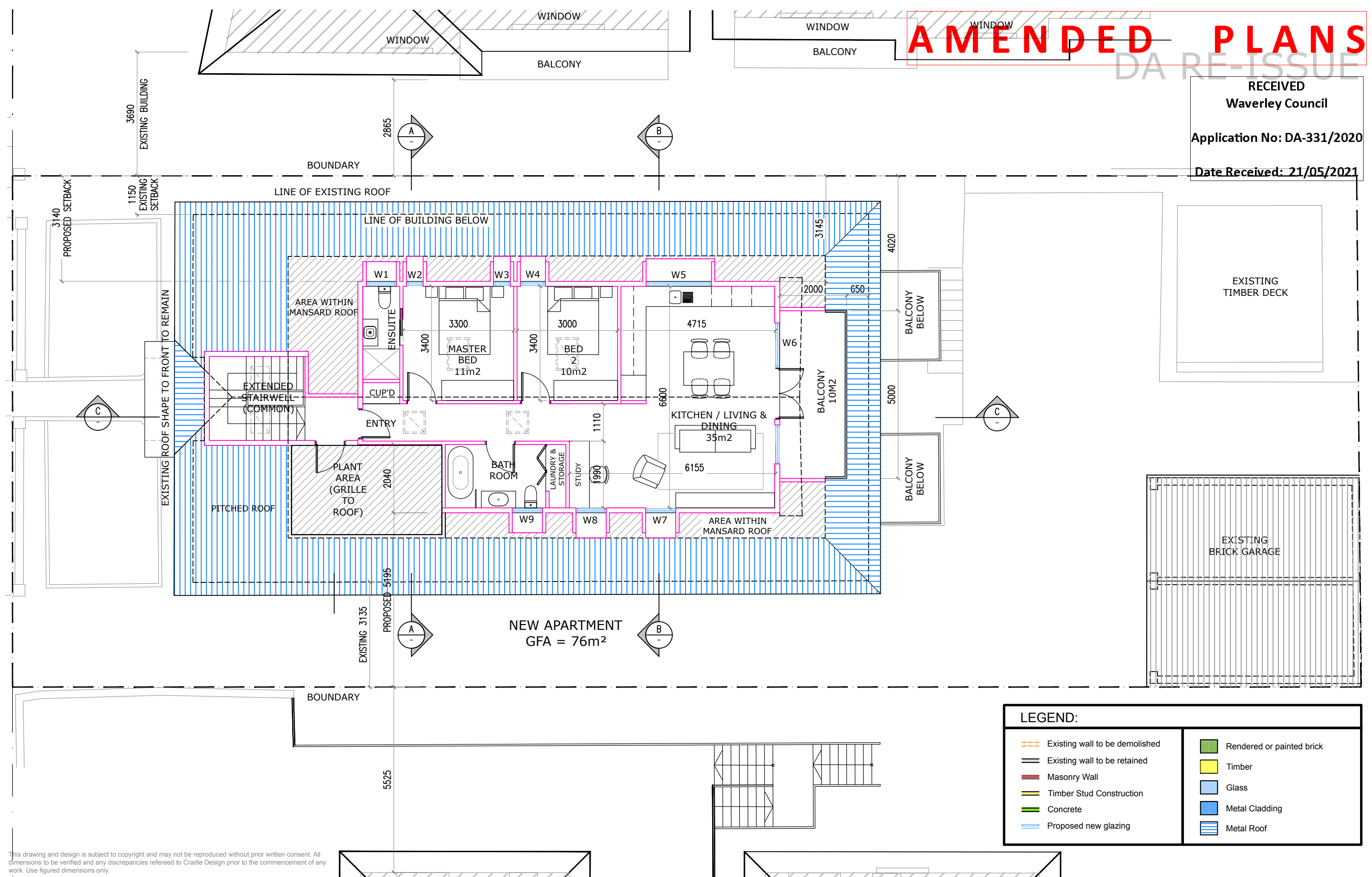
# AMENDED PLANS

DA RE-ISSUE

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Waverley Council

Application No: DA-331/2020

Date Received: 21/05/2021



## LEGEND:

- Existing wall to be demolished
- Existing wall to be retained
- Masonry Wall
- Timber Stud Construction
- Concrete
- Proposed new glazing
- Rendered or painted brick
- Timber
- Glass
- Metal Cladding
- Metal Roof

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**ORIENTATION**

**REVISION**

**DETAILS**

**PROJECT**

REV. A - XX.04.20 - FOR APPROVAL  
REV. B - 03.08.20 - CALCS AMENDED  
REV. C - 01.09.20 - DA ISSUE  
REV. D - 05.04.21 - DA RE-ISSUE  
REV. E - 21.04.21 - DA RE-ISSUE  
REV. F - 20.05.21 - DA RE-ISSUE

**CLIENT**  
DAN AND MANDY SIMMONS

**ADDRESS**  
41 SIR THOMAS MITCHELL ROAD,  
BONDI, NSW 2026

**DRAWING TITLE**  
PROPOSED UPPER FLOOR PLAN

**REFERENCE**  
492 - 41 STM












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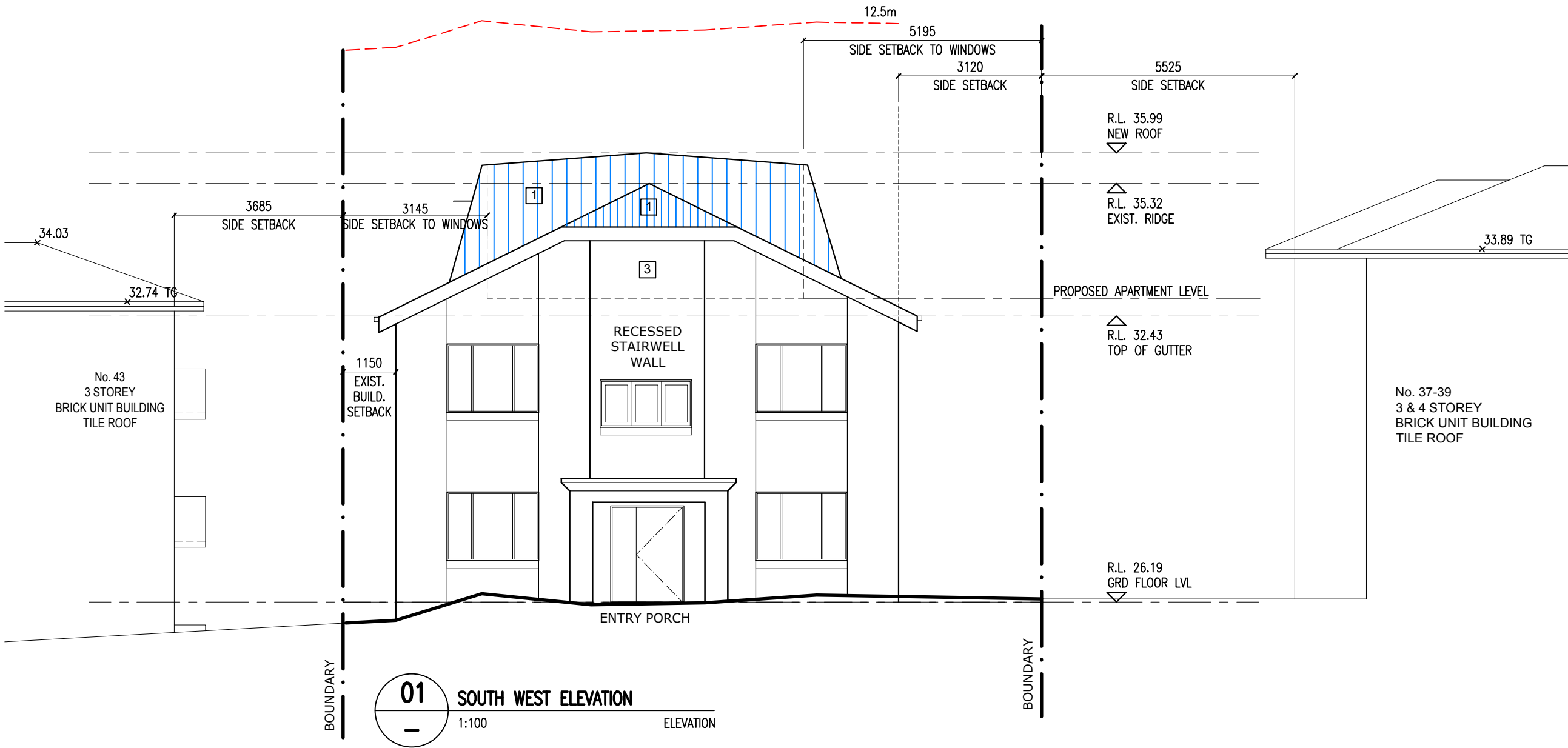
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**DA | 03 F**  
DRAWING ISSUE

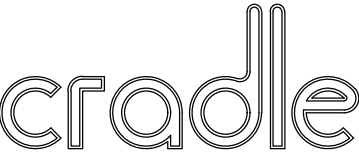
AMENDED PLANS

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Application No: DA-331/2020  
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LEGEND:	
	Existing wall to be demolished
	Existing wall to be retained
	Masonry Wall
	Timber Stud Construction
	Concrete
	Proposed new glazing
	Rendered or painted brick
	Timber
	Glass
	Metal Cladding
	Metal Roof



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


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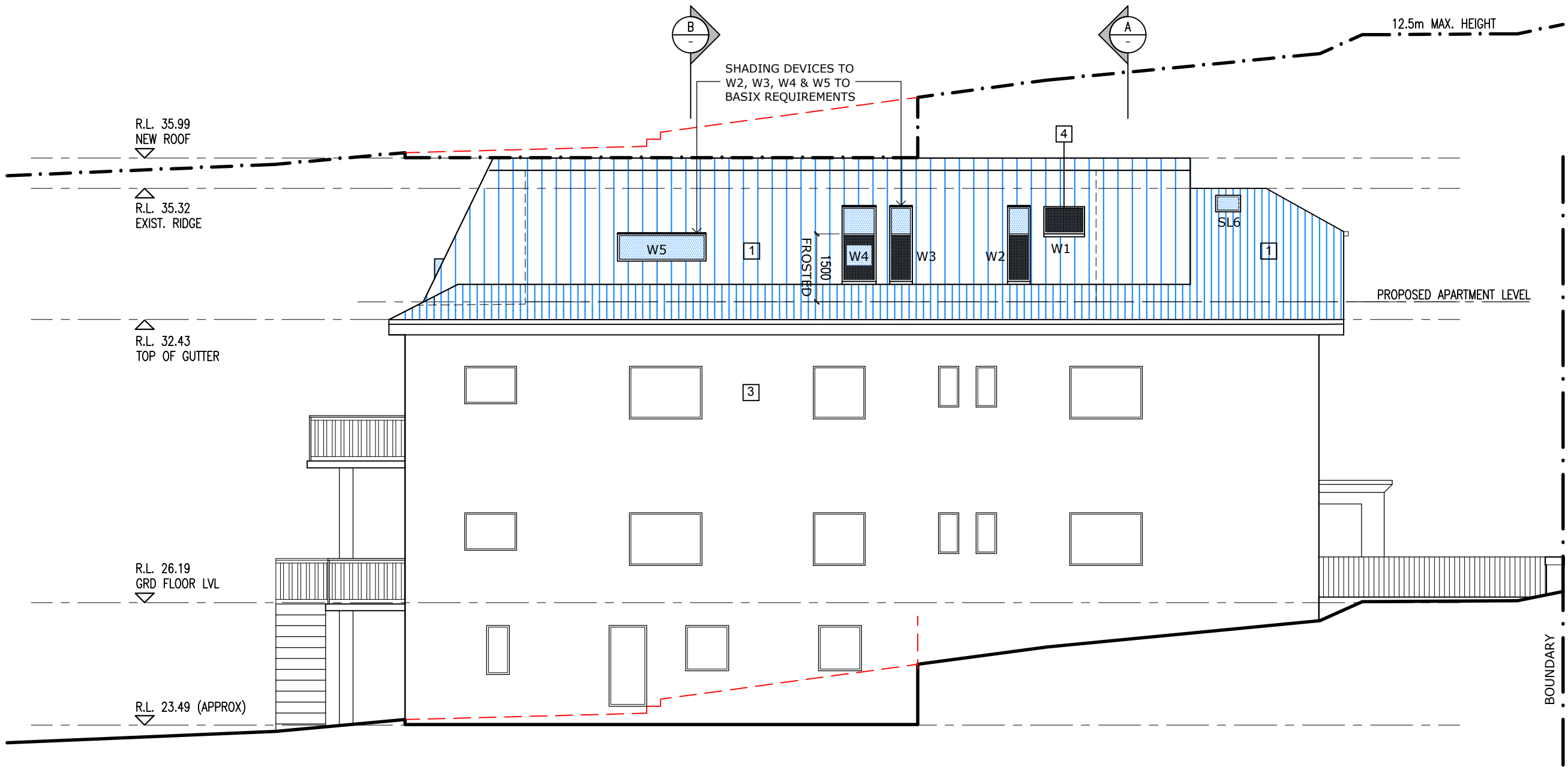
# AMENDED PLANS

RECEIVED  
Waverley Council

Application No: DA-331/2020

Date Received: 21/05/2021

LEGEND:	
	Existing wall to be demolished
	Existing wall to be retained
	Masonry Wall
	Timber Stud Construction
	Concrete
	Proposed new glazing
	Rendered or painted brick
	Timber
	Glass
	Metal Cladding
	Metal Roof



01 NORTH WEST ELEVATION  
1:100 ELEVATION

DA RE-ISSUE

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	Nom. Architects: Paul Lucas - 8786 Regan VanderWert-Walsh - 7904				ADDRESS 41 SIR THOMAS MITCHELL ROAD, BONDI, NSW 2026		REFERENCE 492 - 41 STM SCALE 1:100@A3		DRAWN VL	

AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-331/2020  
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LEGEND:

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Existing wall to be retained

Masonry Wall

Timber Stud Construction

Concrete

Proposed new glazing

Rendered or painted brick

Timber

Glass

Metal Cladding

Metal Roof

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ORIENTATION

REVISION

REV. A - XX.04.20 - FOR APPROVAL  
REV. B - XX.04.20 - NOT ISSUED  
REV. C - 01.09.20 - DA ISSUE  
REV. D - 21.04.21 - DA RE-ISSUE

DETAILS

CLIENT  
DAN AND MANDY SIMMONS

ADDRESS  
41 SIR THOMAS MITCHELL ROAD,  
BONDI, NSW 2026

PROJECT

DRAWING TITLE  
PROPOSED NORTH EAST ELEVATION

REFERENCE  
492 - 41 STM

SCALE  
1:100@A3

DRAWN  
VL

DA | 06 D

DRAWING  
ISSUE

Page 500 of 751



LEGEND:

Existing wall to be demolished

Existing wall to be retained

Masonry Wall

Timber Stud Construction

Concrete

Proposed new glazing

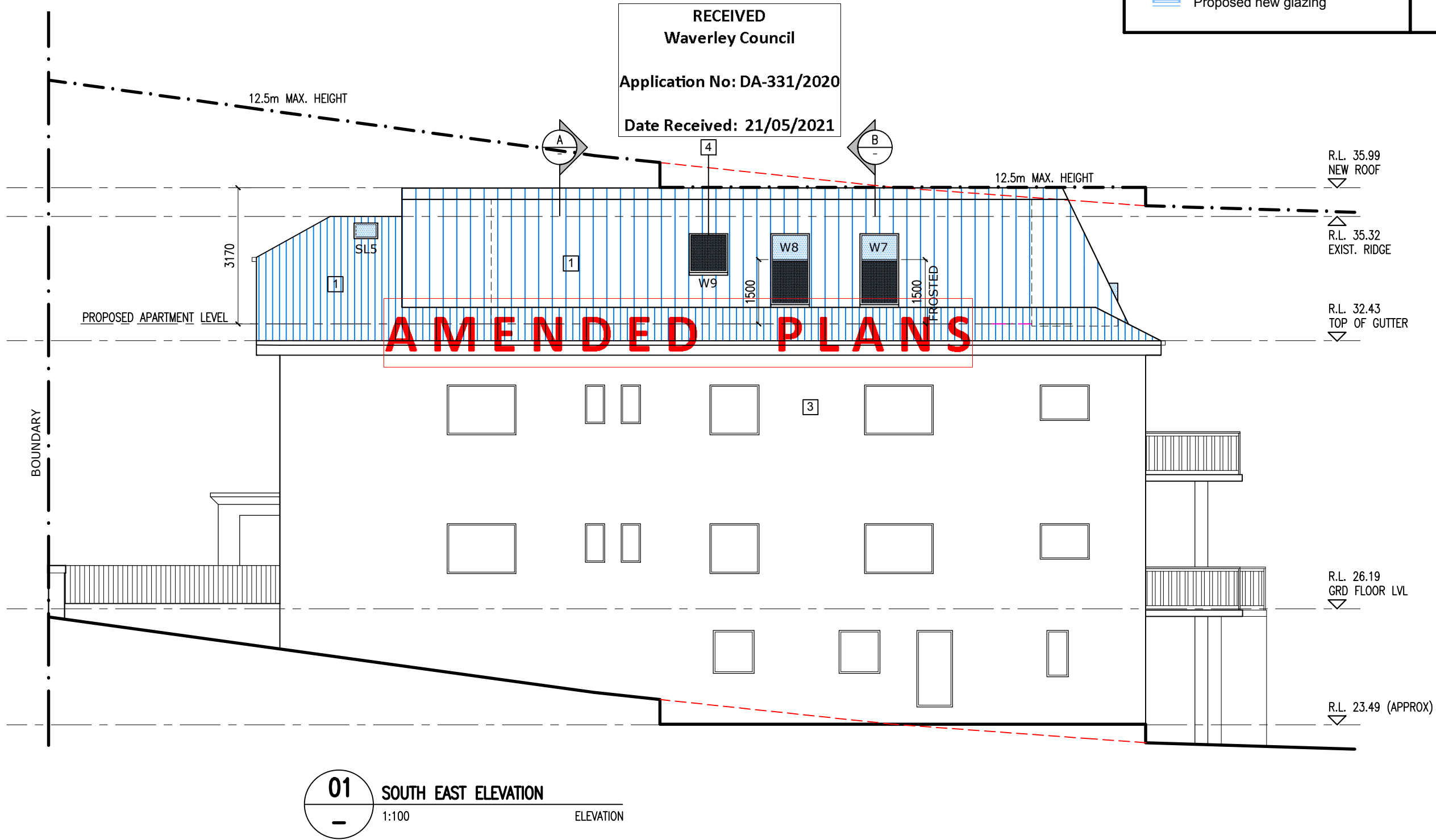
Rendered or painted brick

Timber

Glass

Metal Cladding

Metal Roof



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REV. C - 01.09.20 - DA ISSUE  
REV. D - 21.04.21 - DA RE-ISSUE

DETAILS

CLIENT  
DAN AND MANDY SIMMONS

ADDRESS  
41 SIR THOMAS MITCHELL ROAD,  
BONDI, NSW 2026

PROJECT

DRAWING TITLE  
PROPOSED SOUTH EAST ELEVATION

REFERENCE  
492 - 41 STM

SCALE  
1:100@A3

DRAWN  
VL

DA | 07 D  
DRAWING ISSUE

AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-331/2020  
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LEGEND:

Existing wall to be demolished

Existing wall to be retained

Masonry Wall

Timber Stud Construction

Concrete

Proposed new glazing

Rendered or painted brick

Timber

Glass

Metal Cladding

Metal Roof

01 SECTION A-A  
1:100 SECTION

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REV. D - 21.04.21 - DA RE-ISSUE

DETAILS

CLIENT  
DAN AND MANDY SIMMONS

ADDRESS  
41 SIR THOMAS MITCHELL ROAD,  
BONDI, NSW 2026

PROJECT

DRAWING TITLE  
SECTION A-A

REFERENCE  
492 - 41 STM

SCALE  
1:100@A3

DRAWN  
VL

DA | 08 D  
DRAWING ISSUE

Page 502 of 751

# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-331/2020  
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LEGEND:

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Existing wall to be retained

Masonry Wall

Timber Stud Construction

Concrete

Proposed new glazing

Rendered or painted brick

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Glass

Metal Cladding

Metal Roof

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DETAILS

CLIENT  
DAN AND MANDY SIMMONS

ADDRESS  
41 SIR THOMAS MITCHELL ROAD,  
BONDI, NSW 2026

PROJECT

DRAWING TITLE  
SECTION B-B

REFERENCE  
492 - 41 STM

SCALE  
1:100@A3

DRAWN  
VL

DA | 09 D

DRAWING  
ISSUE

Page 503 of 751

# AMENDED PLANS

RECEIVED  
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Existing wall to be retained

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Timber Stud Construction

Concrete

Proposed new glazing

Rendered or painted brick

Timber

Glass

Metal Cladding

Metal Roof

R.L. 35.99  
NEW ROOF

R.L. 35.32  
EXIST. RIDGE

R.L. 32.43  
TOP OF GUTTER

PROPOSED APARTMENT LEVEL

R.L. 26.19  
GRD FLOOR LVL

BOUNDARY

01 SECTION C-C  
1:100 SECTION

APARTMENT 3

APARTMENT 1

APARTMENT 5

STORE

KITCHEN/DINING

2

3000

2930

2400

R.L. 23.49 (APPROX)

12.5m

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REV. A - XX.04.20 - FOR APPROVAL  
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REV. C - 01.09.20 - DA ISSUE  
REV. D - 21.04.21 - DA RE-ISSUE

DETAILS

CLIENT  
DAN AND MANDY SIMMONS  
  
ADDRESS  
41 SIR THOMAS MITCHELL ROAD,  
BONDI, NSW 2026

PROJECT

DRAWING TITLE  
SECTION C-C  
REFERENCE  
492 - 41 STM  
SCALE  
1:100@A3  
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VL  
DA | 10 D  
DRAWING ISSUE

Page 504 of 751



# AMENDED PLANS

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Application No: DA-331/2020

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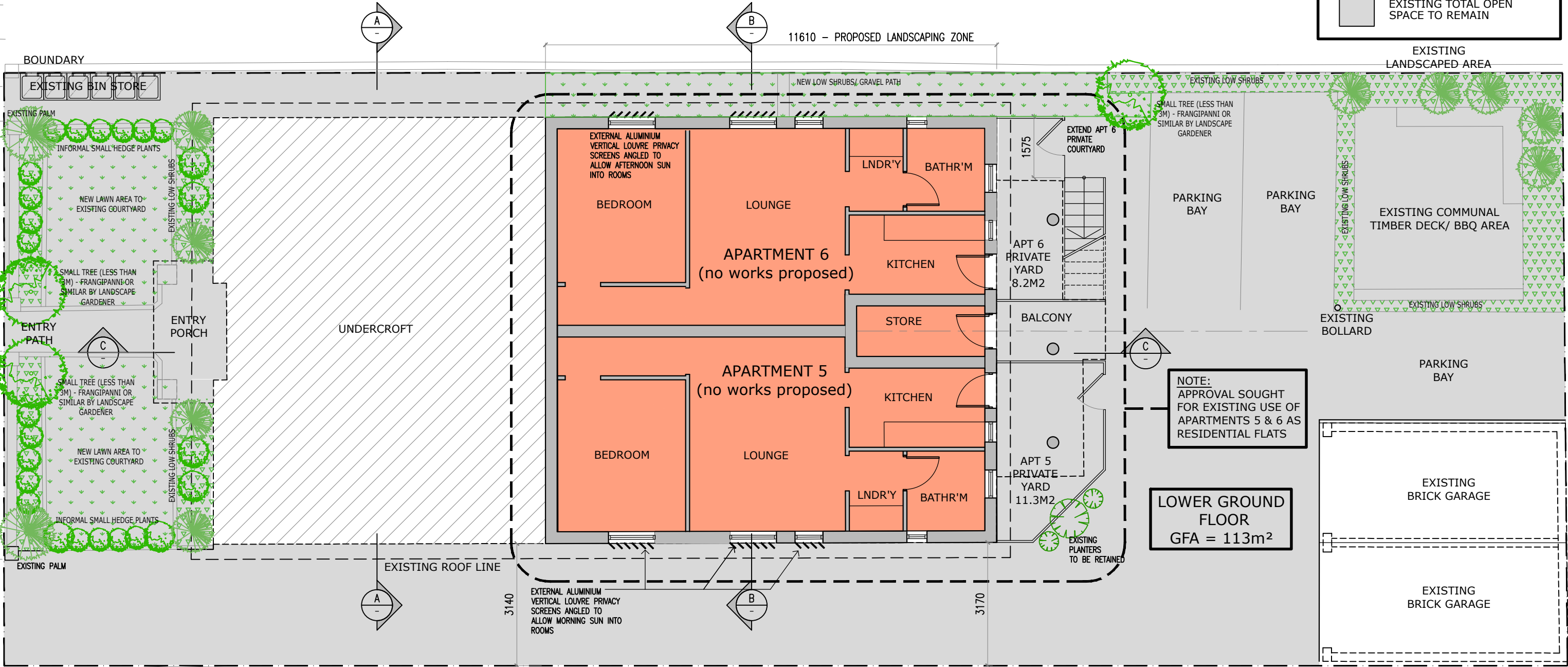
LANDSCAPING KEY

EXISTING LANDSCAPE TO REMAIN - 30.4M2

PROPOSED ADDITIONAL LANDSCAPING - 47.1M2

TOTAL LANDSCAPING - 77.5M2

EXISTING TOTAL OPEN SPACE TO REMAIN



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REV. D - 21.04.21 - DA RE-ISSUE  
REV. E - 20.05.21 - DA RE-ISSUE

DETAILS

CLIENT  
DAN AND MANDY SIMMONS

ADDRESS  
41 SIR THOMAS MITCHELL DRIVE,  
BONDI, NSW

PROJECT

DRAWING TITLE  
LOWER GROUND FLOOR - EXISTING (GFA)

REFERENCE  
492 - 41 STM

SCALE  
1:100@A3

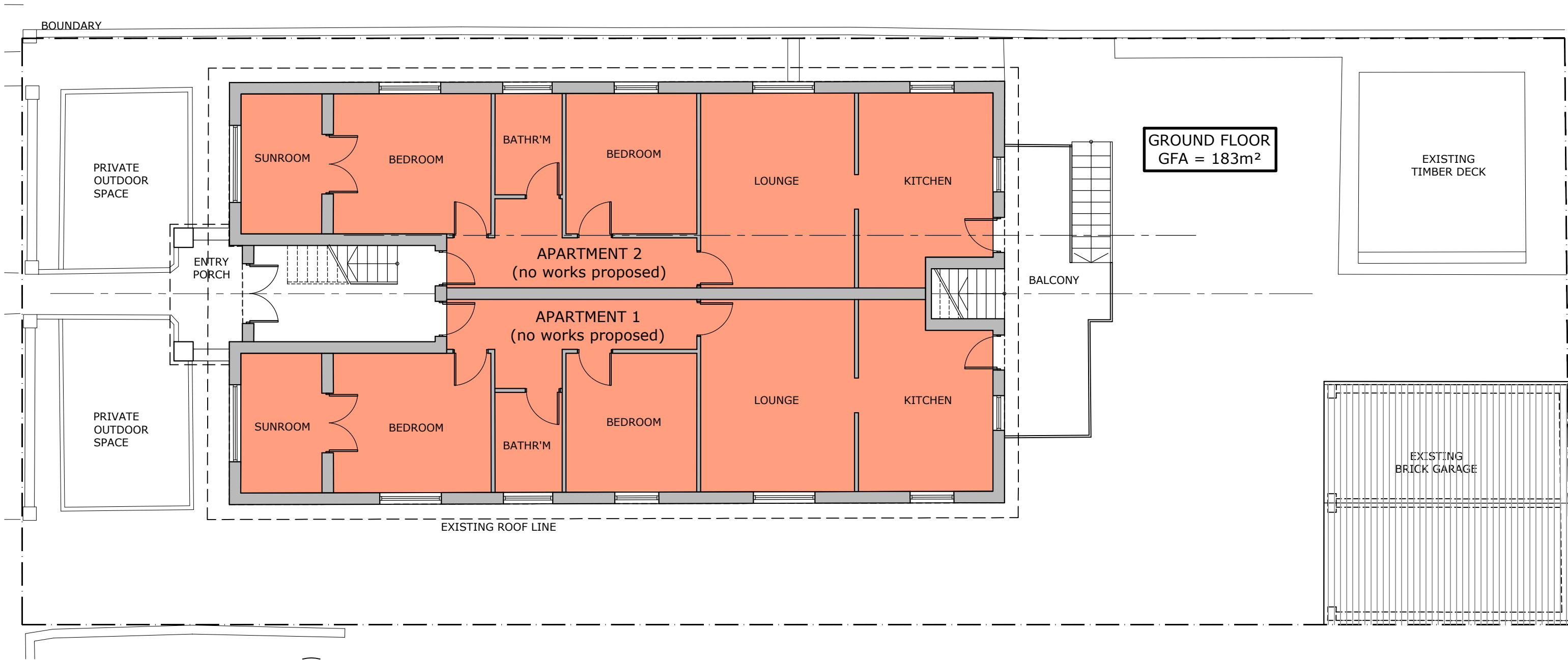
DRAWN  
VL

DA | 11 E

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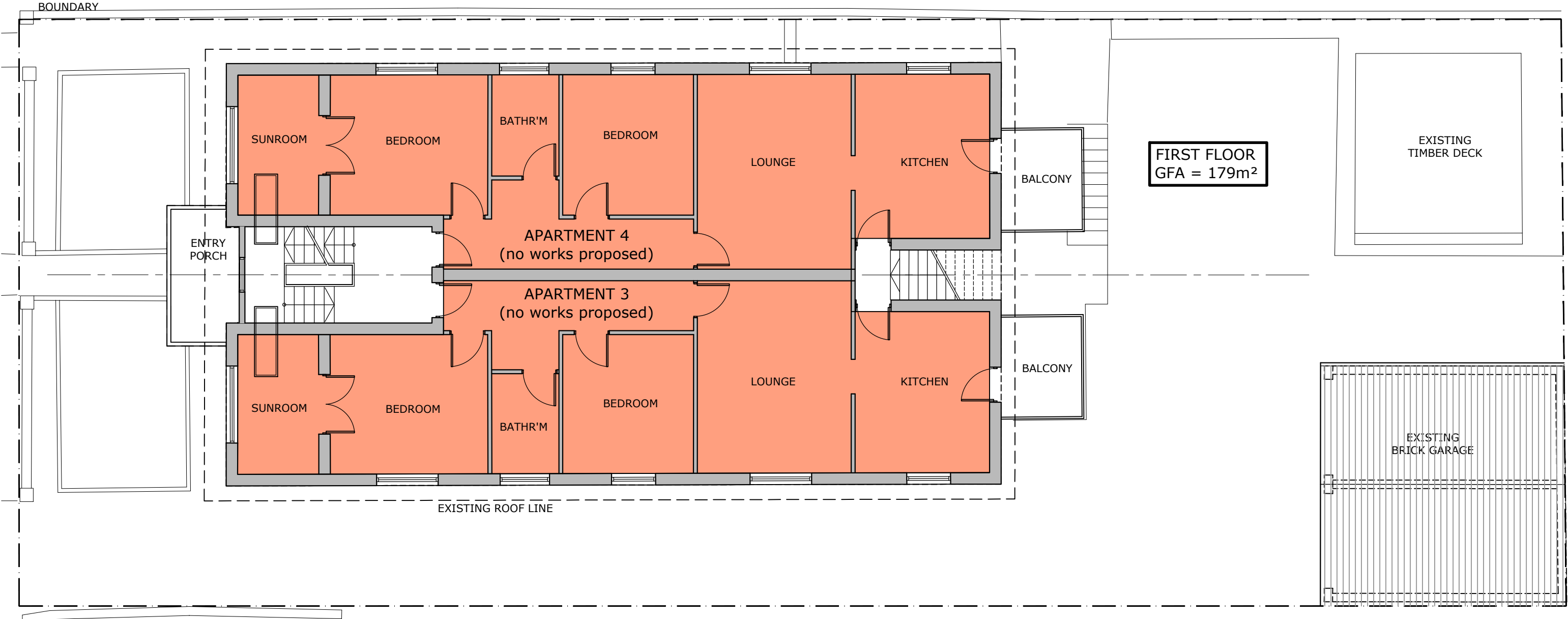
<div>STUDIO</div> <div>Shop 1   316 Sydney Road Belgoolah NSW 2093 t: 02 9029 5532 e: info@cradledesign.com.au w: www.cradledesign.com</div> <div>Nom. Architects: Paul Lucas - 8786 Regan VanderWert-Walsh - 7904</div> <div>cradle</div> <div>ORIENTATION</div> <div></div>	<div>REVISION</div> <div>REV. A - XX.04.20 - FOR APPROVAL REV. B - 03.08.20 - CALCS AMENDED REV. C - 01.09.20 - DA ISSUE REV. D - 21.04.21 - DA RE-ISSUE</div>	<div>DETAILS</div> <div>CLIENT DAN AND MANDY SIMMONS</div> <div>ADDRESS 41 SIR THOMAS MITCHELL DRIVE, BONDI, NSW</div>	<div>PROJECT</div> <div>DRAWING TITLE GROUND LEVEL - EXISTING (GFA)</div> <div>REFERENCE 492 - 41 STM</div> <div>SCALE 1:100@A3</div> <div>DRAWN VL</div> <div>DA   12 D</div> <div>DRAWING ISSUE</div>
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# AMENDED PLANS

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Waverley Council

Application No: DA-331/2020

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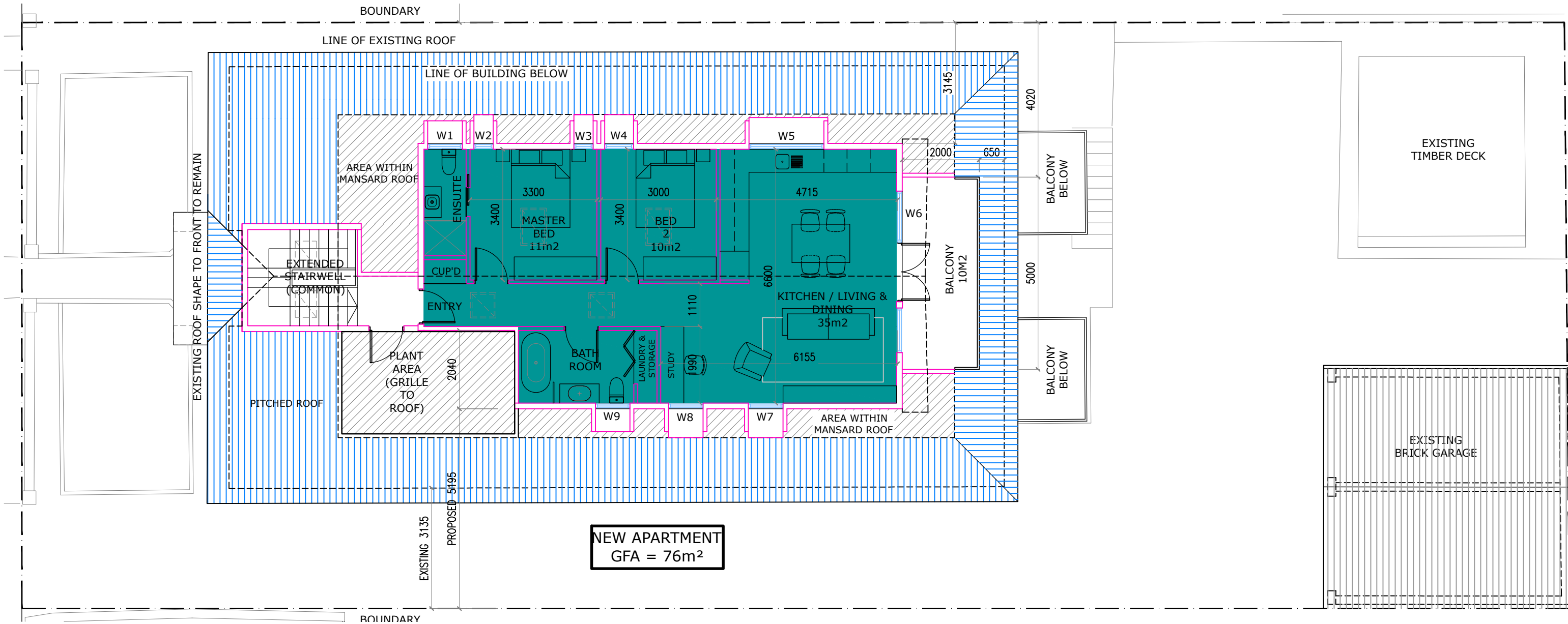
<div>STUDIO</div> <div>Shop 1   316 Sydney Road Belgoolah NSW 2093 t: 02 9029 5532 e: info@cradledesign.com.au w: www.cradledesign.com</div> <div>Nom. Architects: Paul Lucas - 8786 Regan VanderWert-Walsh - 7904</div> <div>cradle</div> <div>ORIENTATION</div> <div></div>	<div>REVISION</div> <div>REV. A - XX.04.20 - FOR APPROVAL REV. B - 03.08.20 - CALCS AMENDED REV. C - 01.09.20 - DA ISSUE REV. D - 21.04.21 - DA RE-ISSUE</div>	<div>DETAILS</div> <div>CLIENT DAN AND MANDY SIMMONS</div> <div>ADDRESS 41 SIR THOMAS MITCHELL DRIVE, BONDI, NSW</div>	<div>PROJECT</div> <div>DRAWING TITLE FIRST FLOOR - EXISTING (GFA)</div> <div>REFERENCE 492 - 41 STM</div> <div>SCALE 1:100@A3</div> <div>DRAWN VL</div> <div>DA   13 D</div> <div>DRAWING ISSUE</div>
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# AMENDED PLANS

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REVISION

REV. A - XX.04.20 - FOR APPROVAL  
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REV. C - 01.09.20 - DA ISSUE  
REV. D - 21.04.21 - DA RE-ISSUE  
REV. E - 20.05.21 - DA RE-ISSUE

DETAILS

CLIENT  
DAN AND MANDY SIMMONS

ADDRESS  
41 SIR THOMAS MITCHELL DRIVE,  
BONDI, NSW

PROJECT

DRAWING TITLE  
SECOND FLOOR - PROPOSED (GFA)

REFERENCE  
492 - 41 STM

SCALE  
1:100@A3

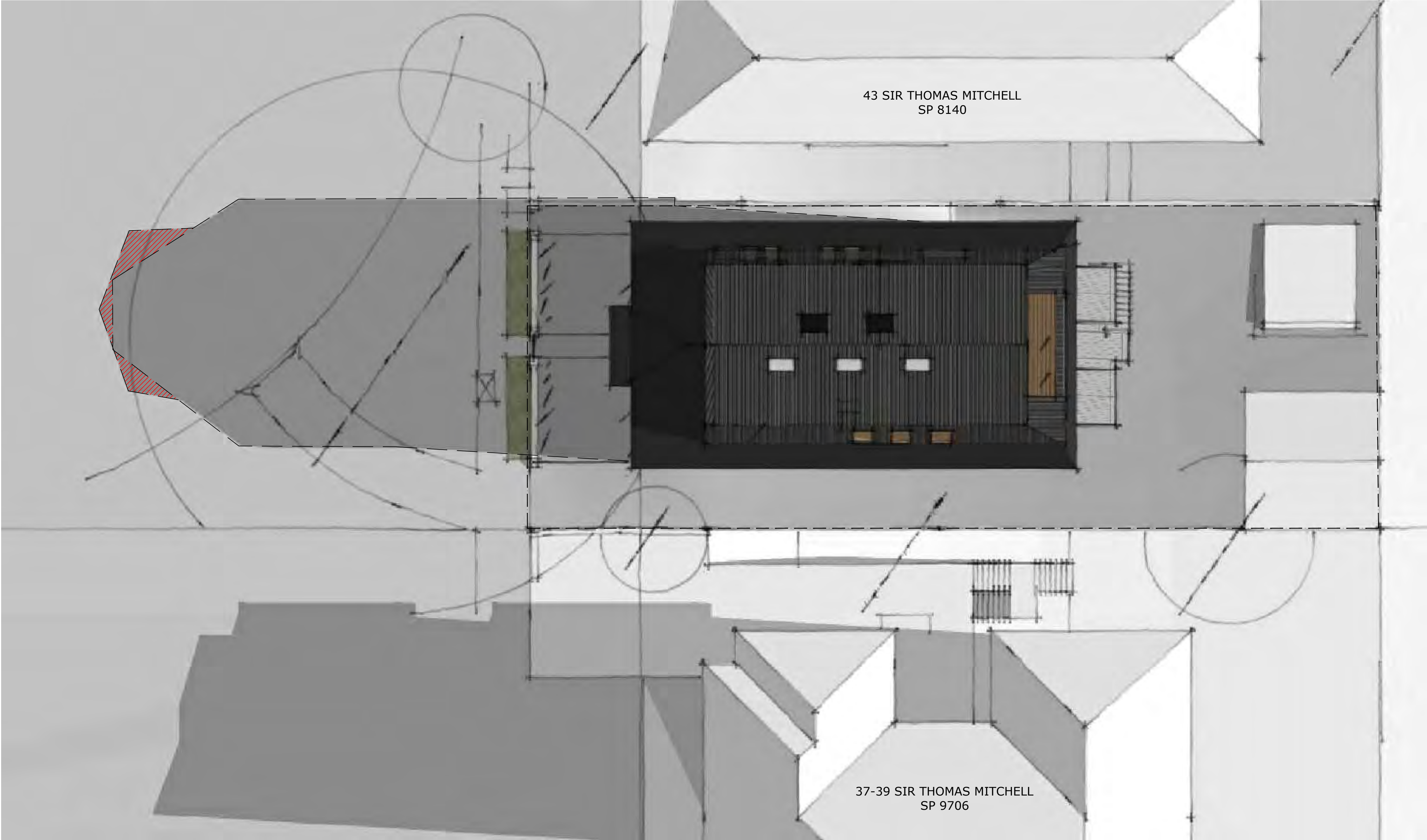
DRAWN  
VL

DA | 14 E  
DRAWING ISSUE



AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-331/2020  
Date Received: 21/05/2021

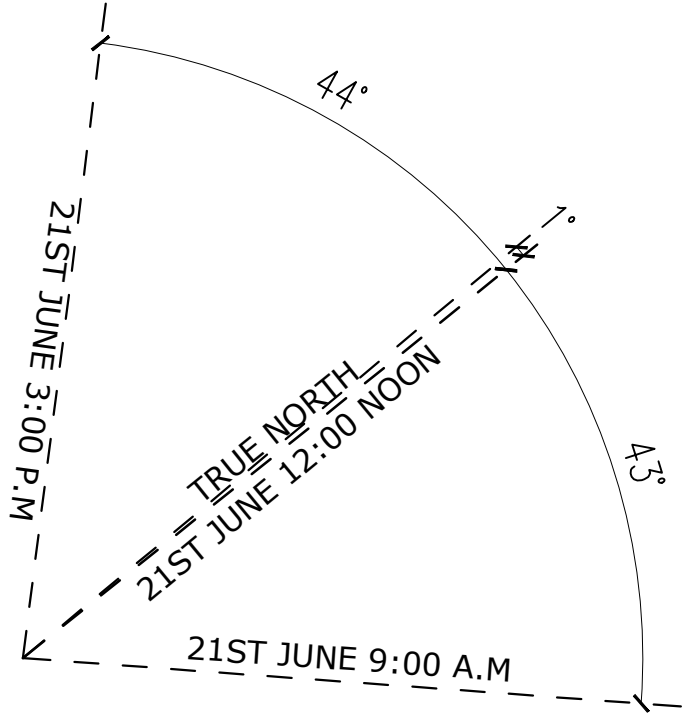


SUN SHADOWING - KEY

EXISTING SHADOW CAST BY EXISTING RESIDENCE

INDICATES INCREASE IN SHADOW

INDICATES DECREASE IN SHADOW



01 SHADOW DIAGRAM - 21ST JUNE @ 9AM  
1:100

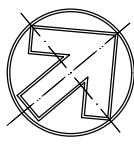
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Non-Architects:  
Paul Lucas - 07186  
Regan VanderWest Walsh - 7964

ORIENTATION



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REV A - 27.05.20 - FOR REVIEW  
REV. B - 03.08.20 - CALCS AMENDED  
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DETAILS

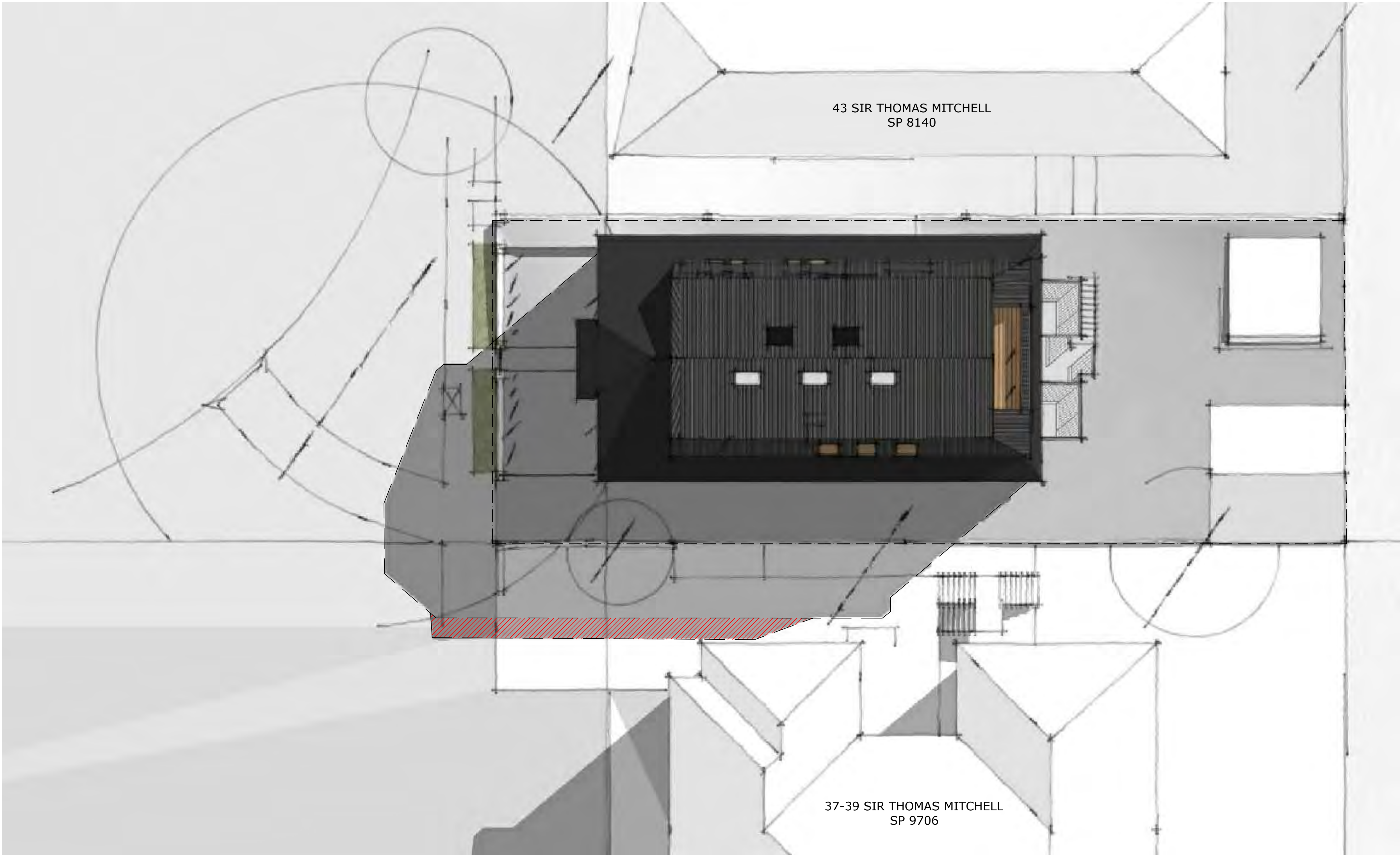
CLIENT  
DAN AND MANDY SIMMONS  
ADDRESS  
41 SIR THOMAS MITCHELL ROAD,  
BONDI, NSW 2026

PROJECT

DRAWING TITLE  
SHADOW DIAGRAMS - 21st JUNE @9AM  
REFERENCE  
492 - 41 STM  
SCALE  
1:100@A1  
DRAWN  
JT

DA | 15 D  
DRAWING ISSUE



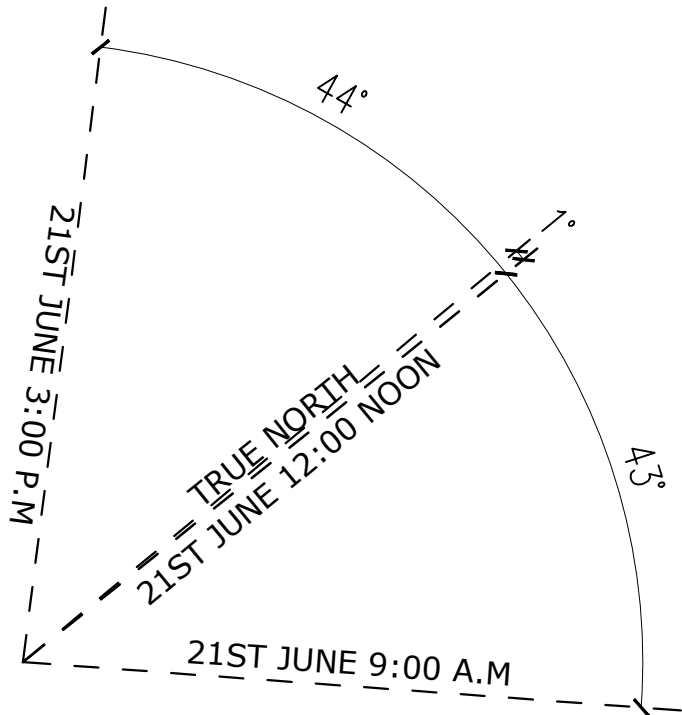


SUN SHADOWING - KEY

EXISTING SHADOW CAST BY EXISTING RESIDENCE

INDICATES INCREASE IN SHADOW

INDICATES DECREASE IN SHADOW



01

SHADOW DIAGRAM – 21ST JUNE @ 12PM

1:100

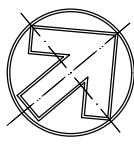
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Non-Architects:  
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Rogan VanderWest-Walsh - 7364

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ORIENTATION



REVISION

REV. A - 27.05.2020 - FOR REVIEW  
REV. B - 03.08.20 - CALCS AMENDED  
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DETAILS

CLIENT  
DAN AND MANDY SIMMONS

ADDRESS  
41 SIR THOMAS MITCHELL ROAD,  
BONDI, NSW 2026

PROJECT

DRAWING TITLE  
SHADOW DIAGRAMS - 21st JUNE @12PM

REFERENCE  
492 - 41 STM

SCALE  
1:100@A1

DRAWN  
JT

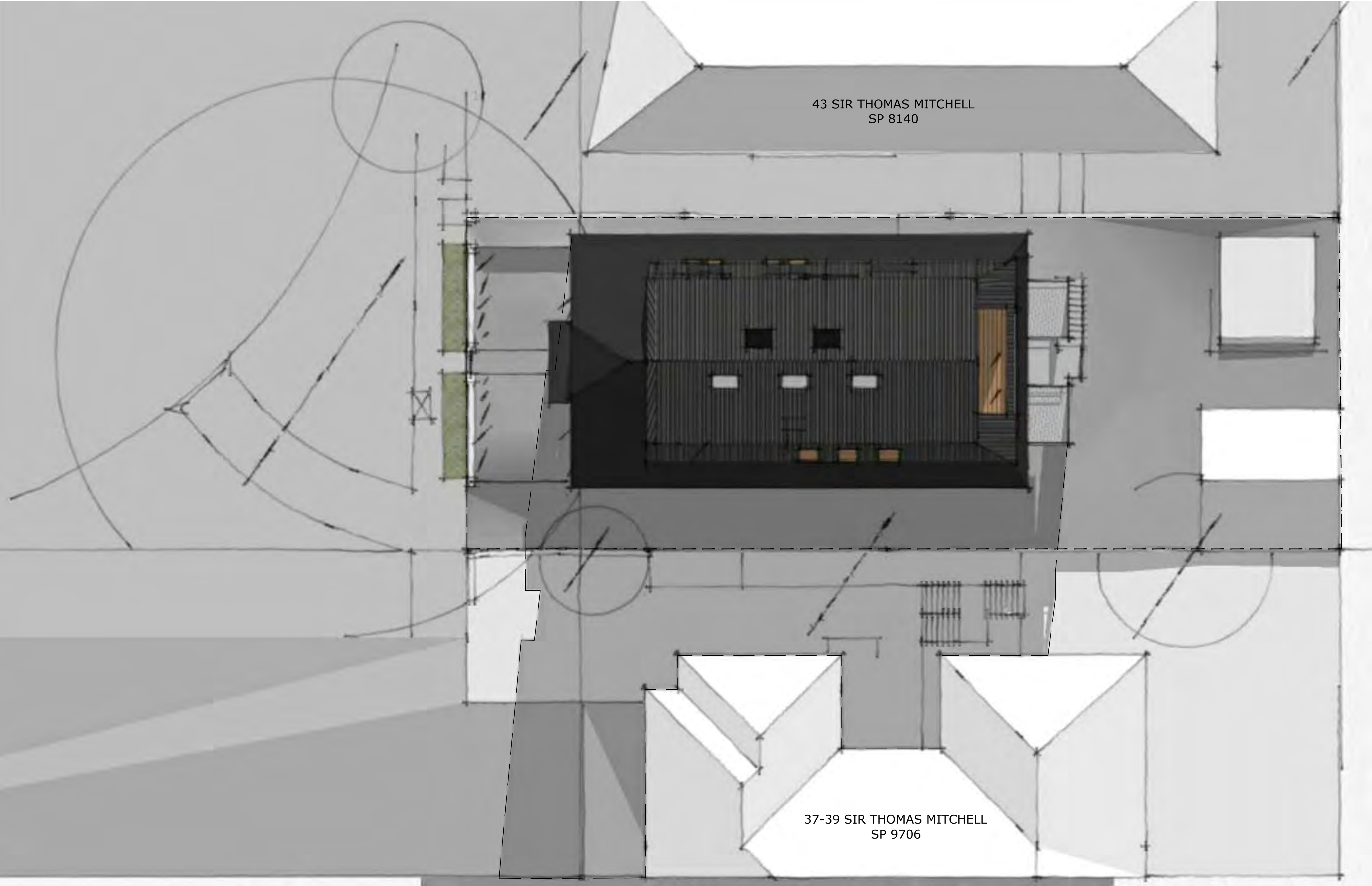
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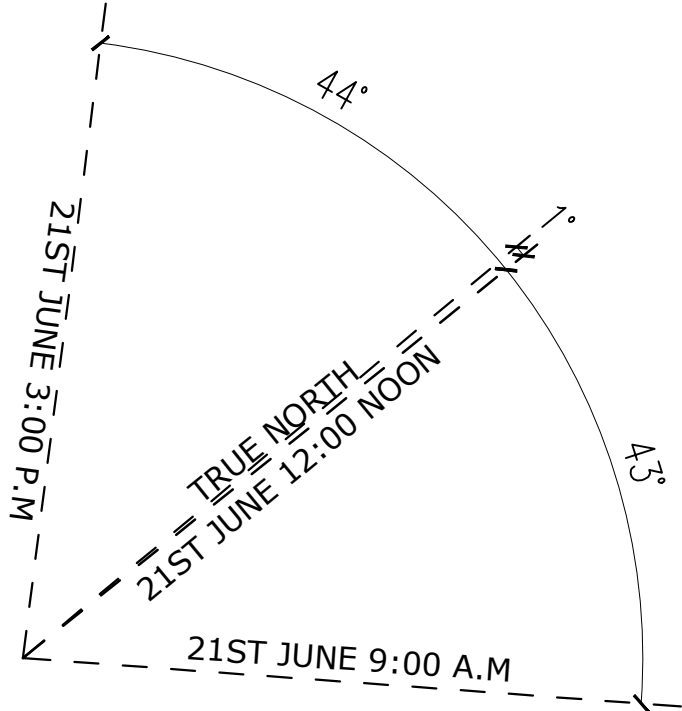
AMENDED PLANS

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Waverley Council  
Application No: DA-331/2020  
Date Received: 21/05/2021



SUN SHADOWING - KEY

EXISTING SHADOW CAST BY  
EXISTING RESIDENCE

INDICATES INCREASE  
IN SHADOW

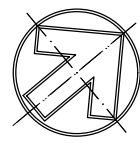
01 SHADOW DIAGRAM - 21ST JUNE @ 3PM  
1:100

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ORIENTATION



REVISION

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41 SIR THOMAS MITCHELL ROAD,  
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PROJECT

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SHADOW DIAGRAMS - 21st JUNE @3PM  
REFERENCE  
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SCALE  
1:100@A1  
DRAWN  
JT

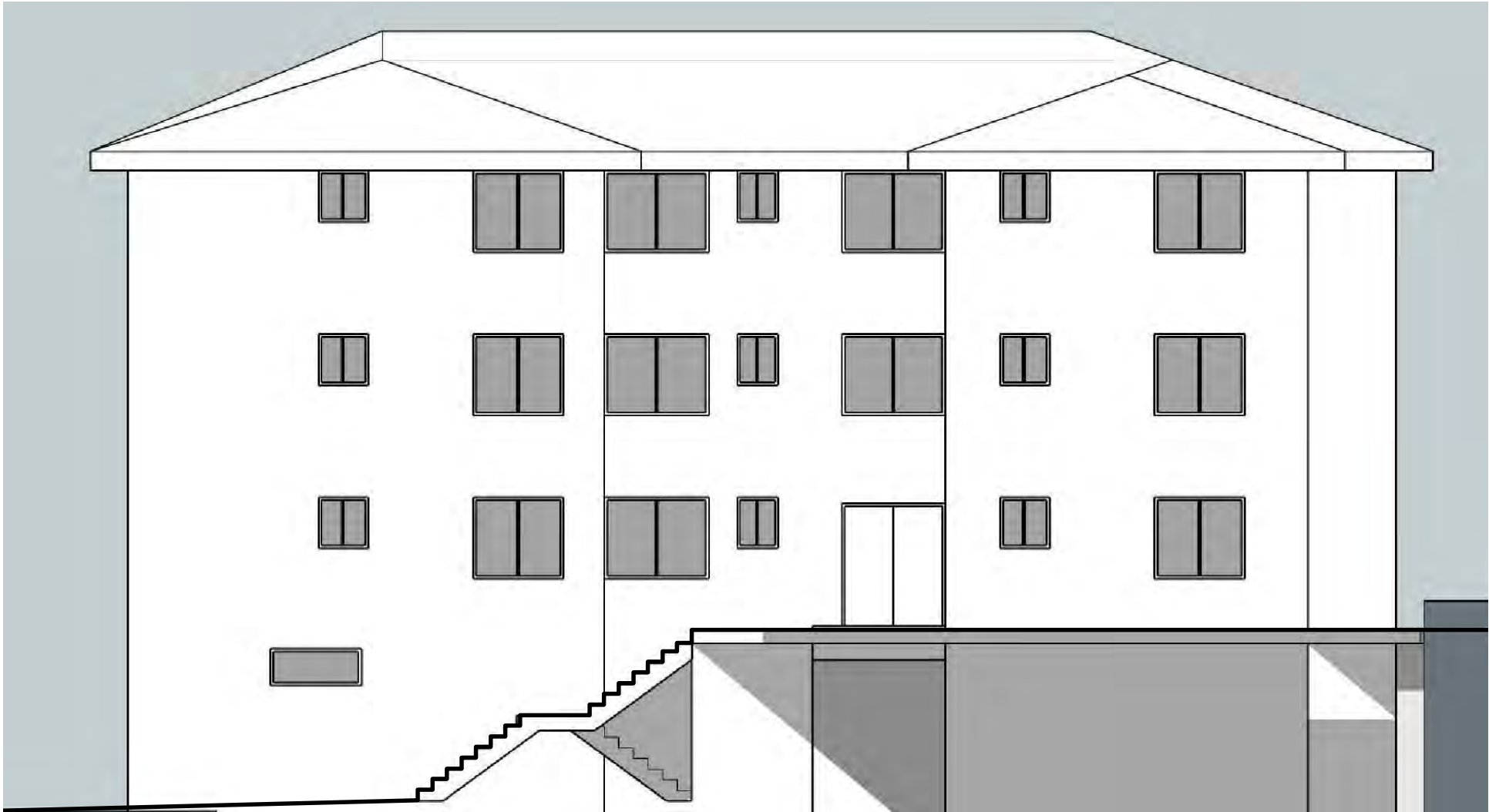
DA | 17 D  
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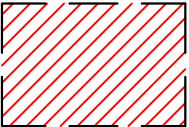
AMENDED PLANS



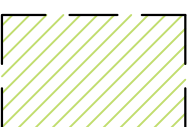
SUN SHADOWING - KEY



EXISTING SHADOW CAST BY  
EXISTING RESIDENCE



INDICATES INCREASE  
IN SHADOW



INDICATES DECREASE  
IN SHADOW

01  
-  
1:100

SHADOW DIAGRAM – 21ST JUNE @ 9am to 12pm – SHADOWS TO 37–39 SIR THOMAS MITCHELL

ELEVATION

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Nom. Architects:  
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ORIENTATION

REVISION

REV. A - XX.04.20 - FOR APPROVAL  
REV. B - 03.08.20 - CALCS AMENDED  
REV. C - 01.09.20 - DA ISSUE  
REV. D - 21.04.21 - DA RE-ISSUE

DETAILS

CLIENT  
DAN AND MANDY SIMMONS

ADDRESS  
41 SIR THOMAS MITCHELL ROAD,  
BONDI, NSW 2026

PROJECT

DRAWING TITLE  
SHADOW DIAGRAMS - 21st JUNE @9am to 12pm  
- ELEV.

REFERENCE  
492 - 41 STM

SCALE  
1:100@A3

DRAWN  
JT

DA | 18 D  
DRAWING ISSUE



AMENDED PLANS



SUN SHADOWING - KEY

EXISTING SHADOW CAST BY EXISTING RESIDENCE

INDICATES INCREASE IN SHADOW

INDICATES DECREASE IN SHADOW

01

SHADOW DIAGRAM – 21ST JUNE @ 1pm – SHADOWS TO 37–39 SIR THOMAS MITCHELL

–

1:100

ELEVATION

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# AMENDED PLANS



SUN SHADOWING - KEY

EXISTING SHADOW CAST BY EXISTING RESIDENCE

INDICATES INCREASE IN SHADOW

INDICATES DECREASE IN SHADOW

01  
-

SHADOW DIAGRAM – 21ST JUNE @ 2pm – SHADOWS TO 37–39 SIR THOMAS MITCHELL

1:100

ELEVATION

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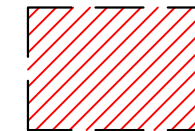
# AMENDED PLANS



## SUN SHADOWING - KEY



EXISTING SHADOW CAST BY  
EXISTING RESIDENCE



INDICATES INCREASE  
IN SHADOW



INDICATES DECREASE  
IN SHADOW

**01**  
- SHADOW DIAGRAM - 21ST JUNE @ 3pm - SHADOWS TO 37-39 SIR THOMAS MITCHELL  
1:100 ELEVATION

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ORIENTATION

REVISION

REV. A - XX.04.20 - NOT ISSUED  
REV. B - 03.08.20 - NOT ISSUED  
REV. C - 01.09.20 - DA ISSUE  
REV. D - 21.04.21 - DA RE-ISSUE

DETAILS

CLIENT  
DAN AND MANDY SIMMONS

ADDRESS  
41 SIR THOMAS MITCHELL ROAD,  
BONDI, NSW 2026

PROJECT

DRAWING TITLE  
SHADOW DIAGRAMS - 21st JUNE @3pm - ELEV.

REFERENCE  
492 - 41 STM

SCALE  
1:100@A3

DRAWN  
JT

DA | 21 D  
DRAWING ISSUE



Application No: DA-331/2020

Date Received: 21/05/2021



01  
-  
PHOTOMONTAGE – FRONT VIEW FROM SIR THOMAS MITCHELL ROAD  
N.T.S



02  
-  
PHOTOMONTAGE – VIEW FROM REAR OF PROPERTY  
N.T.S

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DA RE-ISSUE





2 TIMBER CLADDING



3 PAINTED BRICK (MAKE GOOD EXISTING)



1 COLORBOND ULTRA METAL CLADDING / ROOFING



4 BLACK ALUMINIUM WINDOWS

DA RE-ISSUE

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## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-103/2021
<b>Site address</b>	45 Military Road, Dover Heights
<b>Proposal</b>	Alterations and additions to dwelling house, including widening front garage.
<b>Date of lodgement</b>	22 March 2021
<b>Owner</b>	Mrs A Hoskins & Mr C Hoskins
<b>Applicant</b>	Capstone Projects
<b>Submissions</b>	Nil
<b>Cost of works</b>	\$824,090
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>Exceedance of the maximum FSR development standard</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for the alterations and additions to dwelling house, including widening front garage at the site known as 45 Military Road, Dover Heights.

The principal issue arising from the assessment of the application is as follows:

- Exceedance of the maximum FSR development standard.

The assessment finds this issue acceptable after amendments were provided and the Clause 4.6 variation strengthened for the variation to the FSR development standard.

No submissions were received during the notification and assessment of this application.

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

### 1.2. Site and Surrounding Locality

A site visit was carried out on 25 May 2021.

The site is identified as Lot 17 in DP 10090, known as 45 Military Road, Dover Height. The site is irregular in shape with a south-western frontage to Military Road, measuring 12.19m. It has an area of 489.9m<sup>2</sup> and falls from the rear north-eastern boundary towards the front boundary by approximately 4.65m.

The site is occupied by a two storey dwelling house with vehicular access provided from Military Road to a detached double garage.

The site is adjoined by dwelling houses on either side. The locality is characterised by a variety of low and medium residential development.

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





**Figure 1:** Front façade of the subject site on Military Road.



**Figure 2:** South-easterly view of the front yard and across the side boundary to 43 Military Road.



**Figure 3:** North-westerly view from the front yard across the side boundary to 45A Military Road.



**Figure 4:** Southerly view from the front yard of the subject site towards Bondi Beach.

### 1.3. Relevant Development History

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

- BA-136/1998: Building Application for the alterations and additions including an additional storey, approved on 23 June 1998.
- DA-1000/2002: Development Application for the alterations and additions including an attic addition, approved under deferred commencement on 27 June 2003. Never constructed.
- DA-30/2009: Development Application for the alterations and additions to a dwelling including attic room and front terrace, approved on 24 March 2009. Never constructed.
- PD-58/2020: Pre-Development Application for the alterations and additions to a dwelling house including an extension to the garage and trafficable roof. The following points of advice were raised:
  - Without a Survey Plan, the FSR of the proposed works cannot be accurately calculated. If any portion of the proposed works exceeds the maximum FSR, it must be accompanied

by a well-founded clause 4.6, justifying the breach. Please note in your Gross Floor Area Calculations, the storage area to the lower ground is included, as it is not classed as a basement and internal stairs are to be counted once.

- Given the precedence of large roof terraces above garages as identified at 37, 37A, 39 and 45A Military Road, the roof terrace is considered generally acceptable.
- The roof terrace is located to the front of the lot, overlooking a busy road. The roof terrace is to be setback a minimum of 900mm from side boundaries to provide some form of visual and acoustic privacy to neighbouring lots.

#### 1.4. Proposal

The development application seeks consent for alterations and additions to dwelling house, specifically the following:

##### *Lower Ground Level:*

- Demolition to the garage roof and extension to the double garage to allow garbage and other storage areas;
- Access way from the garage to the new garden stairs;

##### *Ground Floor Level:*

- Enclosing the front entryway;
- Internal reconfiguration to kitchen, dining and rumpus rooms;
- Demolition to the two bay windows and replaced with folding glass doors;

##### *First Floor Level:*

- Internal reconfiguration to the bedrooms and bathrooms;
- Demolition to the bay windows and the replacement of one with a balcony to the front;

##### *External:*

- Replacement of tiled roof with Colourbond metal sheeting;
- A trafficable roof terrace above the garage with planter boxes;
- New garage door and security gate to main entrance.



**Figure 5:** Proposed photomontage and streetscape elevation.

## 1.5. Background

The development application was lodged on 22 March 2021 and deferred on 2 June 2021 for the following reasons:

- Clause 4.6 variation to the FSR development standard required further explanation;
- Missing Streetscape Elevation; and
- Landscape Plan planting schedule.

The amended documentation was lodged on 22 June 2021 and responded to all the raised issues in the deferral letter.

## 2. ASSESSMENT

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

### 2.1. Planning Instruments and Development Control Plans

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

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

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

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

#### 2.1.2. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R2 Low Density Residential Zone	Yes	The proposal is defined as alterations to a dwelling, which is permitted with consent in the R2 zone.

Provision	Compliance	Comment
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>8.5m</li> </ul>	Yes	The existing dwelling has a maximum height of 8.4m to the principal ridge. The alterations to the roof are compliant at a height of 7.4m. The garage terrace is 5m in height.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> <li>0.569:1 (277.04m<sup>2</sup>)</li> </ul>	No	The proposed FSR on site is 0.65:1 (318.6m <sup>2</sup> ), which is 14.8% over the standard. The existing dwelling is 7.3% over the FSR standard.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standards. A detailed discussion of the variation to the development standard is presented below this table.

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

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

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

The site is subject to a maximum FSR development standard of 0.569:1 (277.04m<sup>2</sup>). The proposed development has a FSR of 0.65:1 (318.6m<sup>2</sup>), exceeding the standard by 41.56m<sup>2</sup> equating to a 14.8 % variation.

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

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

#### 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 objectives of the development standard are achieved notwithstanding non-compliance with the standard;*



- (ii) *The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
  - (iii) *The fresh and contemporary proposed additions and alterations are compatible with the desired future character of the locality. The proposed building envelope varies slightly from the existing dwelling, whilst maintaining a similar bulk and scale. The streetscape, travelled through by visitor and neighbours alike is heightened.*
  - (iv) *Having consideration for other dwellings and public view corridors, contravention of the FSR standard is required in order to allow for a second off-street parking space, and storage solutions. The FSR exceedance does not adversely impact neighbours, nor the public, as a result of the FSR standard exceedance. Strict compliance with the FSR standard will detract from the benefits the design has to offer the surrounding locality and the inhabitants.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The scale of the proposed design is congruent with the neighbouring properties within the streetscape and the locality, with no negative impacts as a result of the contravention to the FSR standard.*
  - (ii) *The existing house currently lacks storage solutions, and this design addresses this issue without adversely affecting neighbours or the public domain.*
  - (iii) *The height of the home will remain the same as the existing, the front and one side setback variations are negligible.*
  - (iv) *Despite the exceedance of the FSR standard, the bulk and scale of the proposed dwelling and bulk and scale of the existing dwelling remain effectively the same (Figure 6).*
  - (v) *The subject site, 45 Military Rd, is setback from neighbouring property at 45a, thus reducing the appearance of bulk and scale. Given the precedence of large roof terraces above garages as identified at 37, 37A, 39 and 45A Military Road, the roof terrace is considered generally acceptable.*
  - (vi) *As shown in the Shadow Diagrams, comparing the existing dwelling with the proposed design, there are no shadows cast on neighbouring properties as a result of contravening the FSR standard.*
  - (vii) *There will be a minor increase to the quantitatively calculated FSR Floor Space Ratio, however its effect -with regards to its impacts on neighbours and the locality- is an improved one, both aesthetically and functionally. Providing space in the garage for a second car will provide more on-street parking to the public, in an area that has a high level of traffic. As a result of the exceedance in FSR, there is negligible resulting increase to the bulk and scale of the development. Its benefit to the desired future character of the locality and to the inhabitants of the house will be vast.*
  - (viii) *Notwithstanding the exceedance in the dwelling's FSR, the design proposal is sympathetic in bulk, scale and character with the existing and desired future character of the area. It is in the public interest.*



**Figure 6:** Proposed calculated GFA Plan.

#### 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:

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

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

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

- the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*

*(e) to establish that “the zoning of particular land” was “unreasonable or inappropriate” so that “a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification on the objectives of the development standard and the objectives a, c and d outlined above to address clause 4.6(3)(a) of Waverley LEP 2012, which are achieved despite the non-compliance with the standard. The applicant’s justification to vary the FSR development standard is supported as it clearly identifies that the development meets the underlying objectives and compliance to the numerical standard is unnecessary especially given the existing dwelling is currently over the FSR standard by 7.3%.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard by addressing all considerations and justifications set out in *Wehbe v Pittwater Council (2007) 156 LGERA 446*. The applicant has focused their justification on the objectives of the development standard, which are achieved despite the non-compliance with the standard. The applicant argues that the numerical non-compliance of floor area does not have any amenity impacts on the adjoining properties or locality as it does not result in any increase in height, bulk, overshadowing or create privacy impacts. The additional floor space is all within the existing building footprint and garage, and maintains the current building envelope, except for the changes to the streetscape. The new garage is argued to improve the streetscape and character of the locality through joining the continued pattern of garages with trafficable roof terraces and front boundary walls built close to the street frontage. In this regard, the applicant has demonstrated that:

- The proposed development satisfies the relevant objectives of the FSR development standard; and
- Sufficient environmental planning grounds have been established to justify the noncompliance, given the absence of adverse environmental impacts upon neighbouring properties and the public domain relative to the FSR non-compliance.

In this regard, the applicant has successfully justified the non-compliance under the terms of clause 4.6 of the Waverley LEP 2012 and therefore it is considered that the non-compliance can be supported.

Is the development in the public interest?

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

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

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

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

Comment: The proposal is consistent with the objectives of the R2 zone as it slightly and inconspicuously expands upon the existing residence to meet the housing needs of the community within the predominant low density residential surrounding locality.

The relevant objectives of the FSR development standard and an assessment against each of these points are as follows:

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

Comment: The height of the building is unchanged by the proposed development and there is no change in the bulk of the house just the external materials. The proposal includes the construction of a new double garage with terrace roof forward of the existing house. The two car spaces within the garage are excluded from FSR calculations, but the storage area is included because it is not part of a basement which is consistent with the definitions of the Waverley LEP 2012. The garage is compliant with the Waverley DCP 2012 height control and consistent with the surrounding streetscape and proposes a consistent density within the surrounding built form.

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

Comment: The proposed alterations are compatible with the bulk, scale, streetscape and desired future character of the locality, specifically by providing a contemporary alteration to the existing dwelling, that primarily maintains the existing envelope.

*(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.*

Comment: The application sufficiently demonstrates that the proposal will not result in additional adverse environmental impacts and as outlined and discussed in the body of this assessment report. The overall scale of the existing dwelling is maintained through the external refurbishment and internal alterations to the floor areas. The additional GFA caused by the storage area in the garage and enclosing the entryway will not result in any discernible environmental amenity impacts upon neighbouring properties and the locality. The garage and roof terrace will continue the existing streetscape pattern of garages and fences built to the front boundary and maintain a consistent built form.

The proposal will therefore successfully preserve the environmental amenity of neighbouring properties can cause limited impacts on the amenity of the locality. Overall, the proposal satisfies the relevant objectives of the FSR development standard.

## Conclusion

For the reasons provided above, the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by



clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R2 Low Density Residential zone.

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

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

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

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
2. Ecologically Sustainable Development	Yes	Satisfactory.
3. Landscaping and Biodiversity	Yes	Satisfactory.
4. Coastal Risk Management	Yes	Satisfactory.
5. Vegetation Preservation	Yes	There are two x 3m trees within the front setback to be removed for the new stairs from the garage. These trees are being replaced at the rear of the site with two x 8m Cheese trees, which is considered acceptable. A section of the landscaping within the front setback is being maintained along the north-western boundary.
6. Stormwater	No	Unsatisfactory. Refer to section 3 of this report on referral commentary in relation to stormwater.
8. Transport Maximum parking rate: <ul style="list-style-type: none"> <li>2 spaces for 3 or more bedrooms.</li> </ul>	Yes	The proposal provides for two car spaces for the four bedroom dwelling. Its design and location are satisfactory within the original location of the garage in the front setback. Refer to section 3 of this report on referral commentary in relation to traffic.
12. Design Excellence	Yes	<p>The proposed alterations and external refurbishment is compatible with the bulk, scale, streetscape and desired future character of the locality, specifically by providing a contemporary alteration to the existing dwelling, that primarily maintains the existing envelope.</p> <p>The neighbouring dwelling at 45A Military Road has recently been developed and a development application (DA-23/2016) for alterations to the dwelling at 43 Military Road is under assessment, both developments are modern designs acting as precedent.</p>

Development Control	Compliance	Comment
14. Excavation	Yes	The excavation to construct the new stairs and widen the garage is minor in nature and acceptable on merit as it does not add additional bulk to the dwelling and is setback 1.6m from the north-western boundary.

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

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
	Yes	The proposal does not contravene the general objectives of this part of the DCP.
<b>2.1 Height</b>		
Pitched roof dwelling house <ul style="list-style-type: none"> <li>Maximum external wall height of 7m</li> </ul>	No - existing	There are no changes proposed to the existing external wall height of the dwelling, remaining at 7.1m which is an existing noncompliance and acceptable on merit.
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>Predominant front building line</li> <li>Predominant rear building line at each floor level</li> </ul>	Yes  Yes	The ground floor predominant front and rear building lines for the dwelling is relatively maintained. The first floor balcony and the south western corner protrudes a further 0.3m from the original location of the two bay windows and is within the predominant front building line.
2.2.2 Side setbacks <ul style="list-style-type: none"> <li>Minimum of 0.9m</li> </ul>	Yes	The exiting side setbacks of the dwelling are unchanged. The double garage maintains the nil setback to the south eastern boundary and the new stairs have a 1.6m side setback.
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> <li>Replacement windows to complement the style and proportions of existing dwelling</li> <li>Significant landscaping to be maintained.</li> </ul>	Yes  Yes  Yes	<p>The applicant has provided a photomontage 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. The proposed alterations and additions are designed to enhance and modernise the exterior façade of the dwelling to Military Road. The garage is of a similar scale and proportion to adjoining garages and is consistent with the established character of the streetscape.</p> <p>The new windows to the front of the dwelling are larger than the existing dwelling to maximise the ocean views and are acceptable.</p> <p>A section of the front landscaped area is removed for the stairs and garage roof terrace. However,</p>

Development Control	Compliance	Comment
		planter boxes along the terrace and replacement trees are planted at the rear of the site.
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design.</li> <li>Maximum size of balconies: <i>10m<sup>2</sup> in area</i> <i>1.5m deep</i></li> <li>Roof tops to be non-trafficable unless predominant in the immediate vicinity</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>All of the bedrooms are located on the first floor and most of the windows positioned on the side boundaries remain unchanged. Windows 8 and 14 are both highlight windows and the corner window (W9) off the master bedroom does not face habitable windows at 43 Military Road. This is a low use room and the corner window maximises the views from this room.</p> <p>The proposed first floor balcony off the study measures 2.3m x 0.8m, which is considered acceptable in size and does not result in any adverse privacy impacts.</p> <p>The trafficable roof on the garage is a predominant building feature along Military Road, identified at 37, 37A, 39 and 45A Military Road, the roof terrace is considered generally acceptable.</p>
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> <li>Avoid unreasonably overshadowing of solar collectors (including habitable windows).</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The site has a north-easterly to south-westerly orientation and maintains living areas and private open space to the northern end of the site.</p> <p>Three hours of solar access is maintained to living areas and principal open space areas of adjoining properties.</p> <p>The first floor alterations result in a minor loss of 43 Military Road's solar access to the front yard from 1pm onwards and 3 hours of solar access is maintained.</p> <p>The development complies with the side setbacks and maximum height, therefore the overshadowing from the development is considered reasonable.</p>
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>Views from the public domain are maintained.</p> <p>The development has been designed to maintain and enable view sharing across side boundaries.</p>





Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Front landscaped area: 50% of front open space provided</li> </ul>	No	11.3% of the front open space is landscaped, which is acceptable due to the garage location and the planter boxes lining the edge of the trafficable roof.

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

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

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

- The Clause 4.6 variation to the FSR was amended with further justification and references to case law;
- The Architectural Plans were further detailed with the Streetscape Elevations and the Planting Schedules included in the plans.

No submissions were received.

## 2.5. Public Interest

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

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Traffic and Development

The plans for the above development have been examined by Council's Traffic Engineer and the application is recommended for approval subject to the conditions. The proposed garage entry width is about 5.5 metres at the property boundary. This is wider than the maximum width of 5 metres required by Council for a double garage at the property boundary. Due to the existing driveway location, it is not significant in this case and the proposed entry width is considered acceptable.

### 3.2. Stormwater

The subject site is outside an identified flood affected area, however it is was still referred to Council's Stormwater Engineer for comment. From a stormwater drainage perspective, the submitted Stormwater Civil Plans is unsatisfactory but there are no objections to approval of this application subject to the recommended conditions regarding OSD details and standard engineering conditions.

## 4. CONCLUSION

The development application seeks consent for the alterations and additions to a dwelling including widening the garage at the site known as 45 Military Road, Dover Heights.

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

- Exceedance of the maximum FSR development standard.

The assessment finds these issues acceptable subject to the amendments made to the Architectural Plans and Clause 4.6 Variation request.

No submissions were received as a result of the notification period. There were no declarations of conflict of interests on the application.

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

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



The application was reviewed by the DBU at the meeting on 29 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 and J Elijah*

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

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

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Edwina Ross	Bridget McNamara
Development Assessment Planner	Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 9/07/2021	Date: 18 July 2021

#### *Reason for WLPP referral:*

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

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

### **A. APPROVED DEVELOPMENT**

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

The development must be in accordance with:

- (a) Architectural Plans prepared by Capstone Projects including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
A0.02	Site Plan	3/06/2021	22/06/2021
A0.03	Roof Plan	22/02/2021	22/06/2021
A0.04	Ground Floor Plan	4/06/2021	22/06/2021
A0.05	First Floor Plan	4/06/2021	22/06/2021
A0.06	Garage Floor Plan	26/02/2021	22/06/2021
A0.07	Section A-A	26/03/2021	22/06/2021
A0.08	Front – SW – Elevation	26/02/2021	22/06/2021
A0.09	Side – SE – Elevation	26/02/2021	22/06/2021
A0.10	Rear – NE – Elevation	26/02/2021	22/06/2021
A0.11	Side – NW – Elevation	26/02/2021	22/06/2021
A0.15	Window Schedule – Draft – 1	26/02/2021	22/06/2021
A0.16	Window Schedule – Draft – 2	26/02/2021	22/06/2021
A0.17	Landscape Plan	26/02/2021	22/06/2021

- (b) BASIX Certificate;
- (c) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 19 March 2021.

Except where amended by the following conditions of consent.

#### **2. DOMESTIC HEATERS**

The provision of solid fuel heating is prohibited.

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

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

#### **GENERAL REQUIREMENTS**

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

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

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;

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

#### **4. HOME BUILDING ACT**

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act, 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the 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 **\$22,900** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.



This deposit (cash or cheque) or guarantee must be 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.

## **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. 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.

### **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.

## **13. STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS**

Prior to the issue of a Construction Certificate, a report or certification from a practicing structural engineer must be submitted to the Principal Certifying Authority to explain how the retained building elements, such as building facades are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.

## **STORMWATER & FLOODING**

### **14. STORMWATER 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 concept stormwater design plans prepared by GEBA Consulting, Project No. GC21030, Drawing No. SW01 & SW02, Revision B, dated 01.03.2021 considered unsatisfactory.

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

- a) 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. Councils mandatory OSD checklist as set out in page 22 of the Council's Water Management Technical Manual shall be submitted.
- b) Seepage water from basement car parks and sub surface flows from structures that intersect high ground water flows must not be directly or indirectly discharged to Council's street gutter.
- c) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- 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) 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.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday)

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

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

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

#### **ENERGY EFFICIENCY & SUSTAINABILITY**

##### **16. BASIX**

All requirements of the BASIX Certificate 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.

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:

- Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- Confirm that no asbestos products are present on the subject land; or
- 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)
- Describe the method of demolition;
- Describe the precautions to be employed to minimise any dust nuisance; and
- 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:

- 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.
- 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. CERTIFICATE OF SURVEY - LEVELS**

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

### **29. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

### **30. WORK OUTSIDE PROPERTY BOUNDARY**

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

## TREE PROTECTION AND REMOVAL

### **31. 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.

### **32. STREET TREES TO BE RETAINED/TREE PROTECTION**

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

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) event damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.

## VEHICLE ACCESS & PUBLIC DOMAIN WORKS

### **33. 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)

### **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 vehicle crossing.

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

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

### **35. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, 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. CERTIFICATION OF BASIX COMMITMENTS**

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

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

- (a) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, detention facilities 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 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 Council's Public Domain Engineer 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](mailto:info@waverley.nsw.gov.au) or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

## AD2.SYDNEY WATER REQUIREMENTS

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

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

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

## AD3.DIAL BEFORE YOU DIG

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

and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

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

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

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

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

#### **AD6.EXCAVATION TO BE LIMITED**

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

#### **AD7.BONDI - ROSE BAY SAND BODY**

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

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

#### **AD8.TREE REMOVAL/PRESERVATION**

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

**BASIX COMMITMENTS**  
**CERTIFICATE NUMBER: A396678**

-SKYLIGHTS-

SHADING DEVICE: EXTERNAL, ADJUSTABLE, LOUVRES

FRAME AND GLASS: TIMBER, LOW-E INTERNAL / ARGON FILLED / CLEAR EXTERNAL / U-VALUE: 2.5, SHGC: 0.456

-RAKED CEILING, SKILLION ROOF, CONC PLASTERBOARD INTERNAL-

MEDIUM SOLAR ABSORPTANCE 0.475 - 0.70

INSULATION: CEILING - RO.74 (up), ROOF: FOIL BACKED BLANKET (100mm)

RECEIVED  
Waverley Council

**Application No: DA-103/2021**

**Date Received: 22/06/2021**

# AMENDED PLANS

### LEGEND

ALUMINIUM / STEEL

CEMENT RENDER / FIBRE CEMENT

TIMBER

GLASS

BRICK

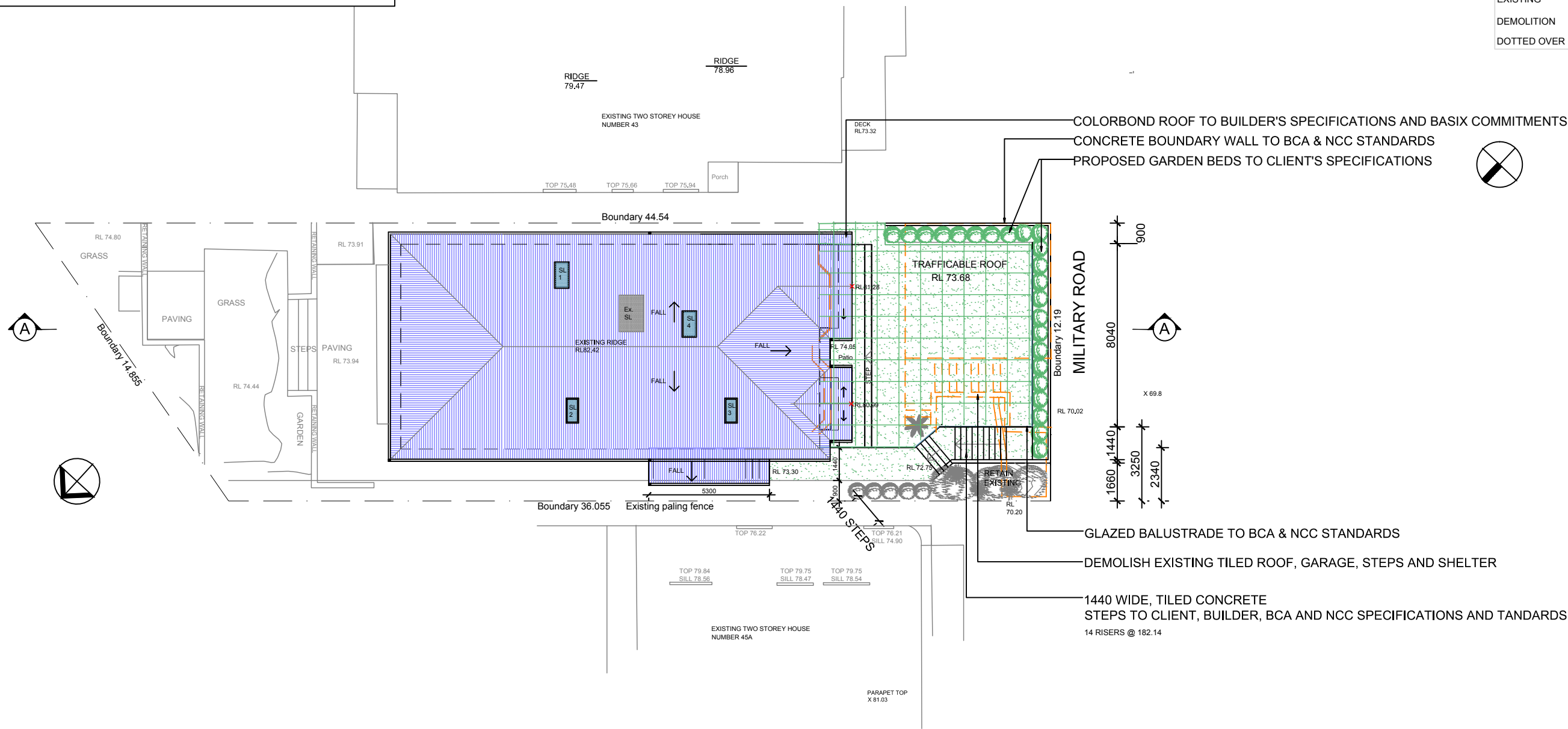
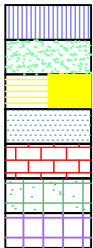
## PORCELAIN / CONCRETE TILES

INTERNAL TILES

EXISTING

## DEMOLITION

DOTTED OVER



NOTE: PLANS TO ENGINEER'S SPECIFICATIONS AND BASIX COMMITMENTS. CHECK MEASUREMENTS ONSITE PRIOR TO PURCHASING BUILDING MATERIALS.

NOTE: PLANS TO BCA & NCC STANDARDS

ANITA AND CHRIS HOSKINS

45 MILITARY RD, DOVER HEIGHTS

DRAWING NAME: SITE PLAN



## DEVELOPMENT APPLICATION

17/-/DP10090

Designed by: AG

Drawn by: AG

## ADDITIONS AND ALTERATIONS PROPOSAL TO GROUND FLOOR, FIRST FLOOR, AND GARAGE LEVELS

Date: 03.06.21

Scale: 1:200 @ A3

A0.02

BASIX COMMITMENTS  
CERTIFICATE NUMBER: A396678

-SKYLIGHTS-

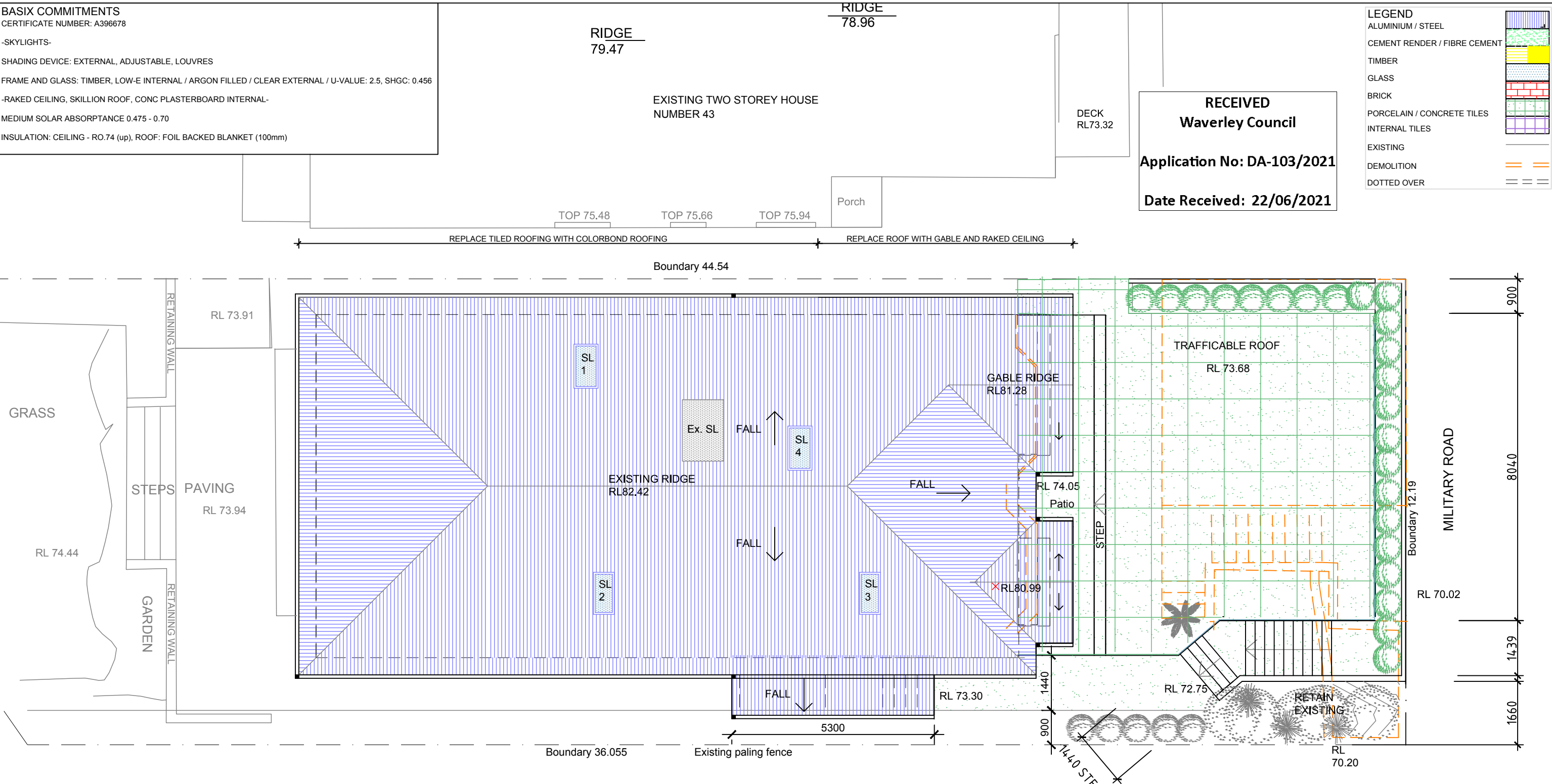
SHADING DEVICE: EXTERNAL, ADJUSTABLE, LOUVRES

FRAME AND GLASS: TIMBER, LOW-E INTERNAL / ARGON FILLED / CLEAR EXTERNAL / U-VALUE: 2.5, SHGC: 0.456

-RAKED CEILING, SKILLION ROOF, CONC PLASTERBOARD INTERNAL-

MEDIUM SOLAR ABSORPTANCE 0.475 - 0.70

INSULATION: CEILING - RO.74 (up), ROOF: FOIL BACKED BLANKET (100mm)



AMENDED PLANS

NOTE: PLANS TO ENGINEER'S SPECIFICATIONS AND BASIX COMMITMENTS. CHECK MEASUREMENTS ONSITE PRIOR TO PURCHASING BUILDING MATERIALS

NOTE: PLANS TO BCA & NCC STANDARDS

ANITA AND CHRIS HOSKINS

45 MILITARY RD, DOVER HEIGHTS

DRAWING NAME: ROOF PLAN



DEVELOPMENT APPLICATION  
17/-/DP10090

Designed by: AG

Drawn by: AG

ADDITIONS AND ALTERATIONS PROPOSAL  
TO GROUND FLOOR, FIRST FLOOR, AND  
GARAGE LEVELS

Date: 22.02.21

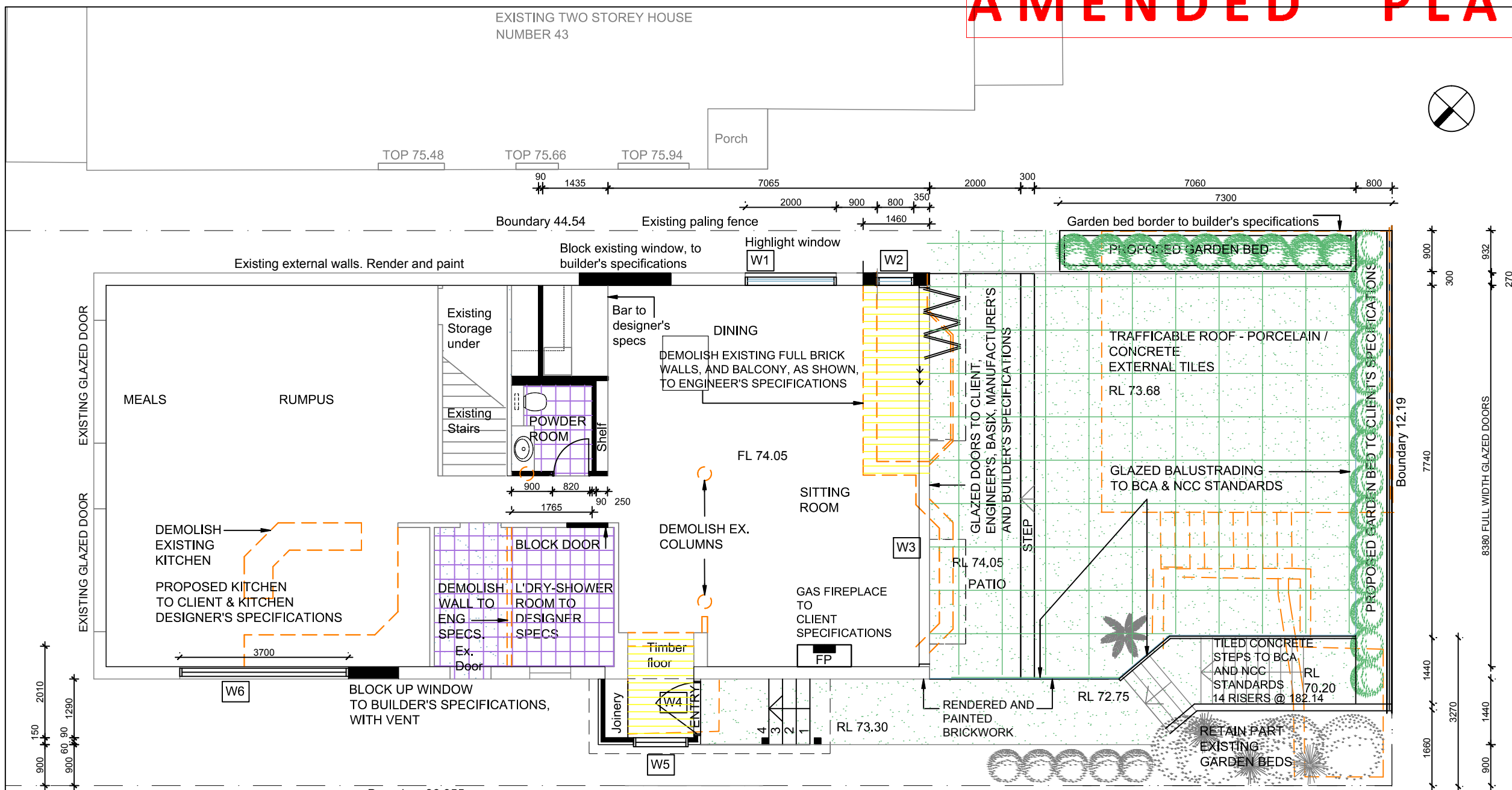
Scale: 1:100 @ A3

A0.03



# AMENDED PLANS

LEGEND	
ALUMINIUM / STEEL	
CEMENT RENDER / FIBRE CEMENT	
TIMBER	
GLASS	
BRICK	
PORCELAIN / CONCRETE TILES	
INTERNAL TILES	
EXISTING	
DEMOLITION	
DOTTED OVER	



GROUND FLOOR PLAN

GFA Calculations	
Existing:	
GFL	144 sqm
FFL	154sqm
Garage storage	(10.2sqm -excluded)
Total GFA Existing:	<b>298sqm</b>
Proposed:	
GFL	152.6sqm
FFL	153.6sqm
Garage storage	12.2sqm
Total GFA Proposed:	318.4sqm

**RECEIVED**  
**Waverley Council**

**Application No: DA-103/2021**

**Date Received: 22/06/2021**

NOTE: PLANS TO ENGINEER'S SPECIFICATIONS AND BASIX COMMITMENTS. CHECK MEASUREMENTS ONSITE PRIOR TO PURCHASING BUILDING MATERIALS

NOTE: PLANS TO BCA & NCC STANDARDS

ANITA AND CHRIS HOSKINS		<b>DEVELOPMENT APPLICATION</b> 17/-/DP10090	Designed by: AG	Date: 04.06.21
45 MILITARY RD, DOVER HEIGHTS			Drawn by: AG	Scale: 1:100 @ A3
DRAWING NAME: GROUND FLOOR PLAN			RENOVATION TO GARAGE, GROUND FLOOR, AND FIRST FLOOR LEVELS	A0.04

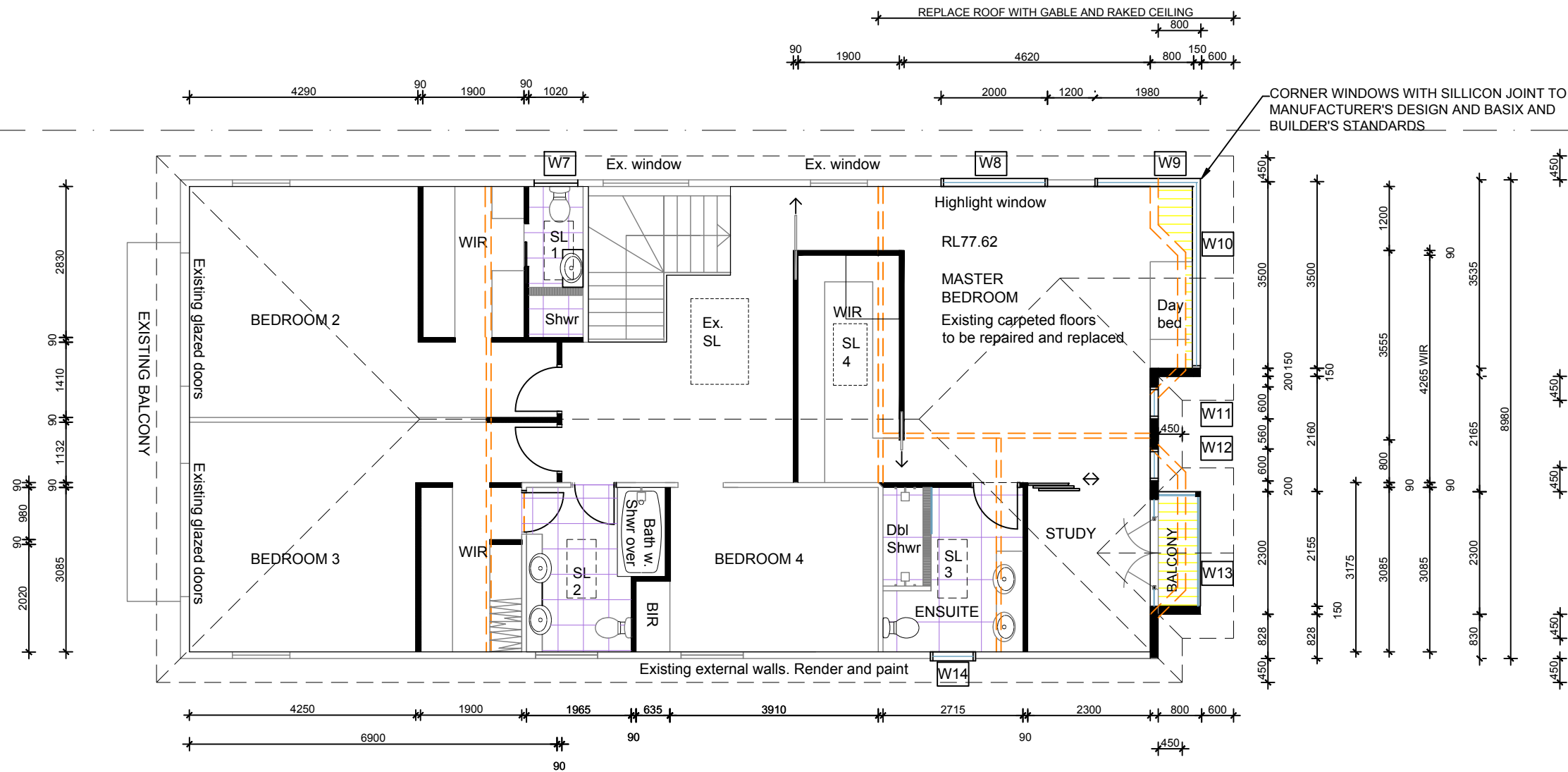
RECEIVED  
Waverley Council

Application No: DA-103/2021

Date Received: 22/06/2021

# AMENDED PLANS

LEGEND	
ALUMINIUM / STEEL	
CEMENT RENDER / FIBRE CEMENT	
TIMBER	
GLASS	
BRICK	
PORCELAIN / CONCRETE TILES	
INTERNAL TILES	
EXISTING	
DEMOLITION	
DOTTED OVER	
WIR	
BIR	



#### GFA Calculations

Existing:  
GFL 144 sqm  
FFL 154sqm  
Garage storage (10.2sqm -excluded)  
Total GFA Existing: **298sqm**

Proposed:  
GFL 152.6sqm  
FFL 153.6sqm  
Garage storage 12.2sqm

Total GFA Proposed: 318.4sqm

NOTE: PLANS TO ENGINEER'S SPECIFICATIONS AND BASIX COMMITMENTS. CHECK MEASUREMENTS ONSITE PRIOR TO PURCHASING BUILDING MATERIALS

NOTE: PLANS TO BCA & NCC STANDARDS

ANITA AND CHRIS HOSKINS

45 MILITARY RD, DOVER HEIGHTS

DRAWING NAME: FIRST FLOOR PLAN



INTERNAL WALL AMENDMENTS

17/-/DP10090

Designed by: AG

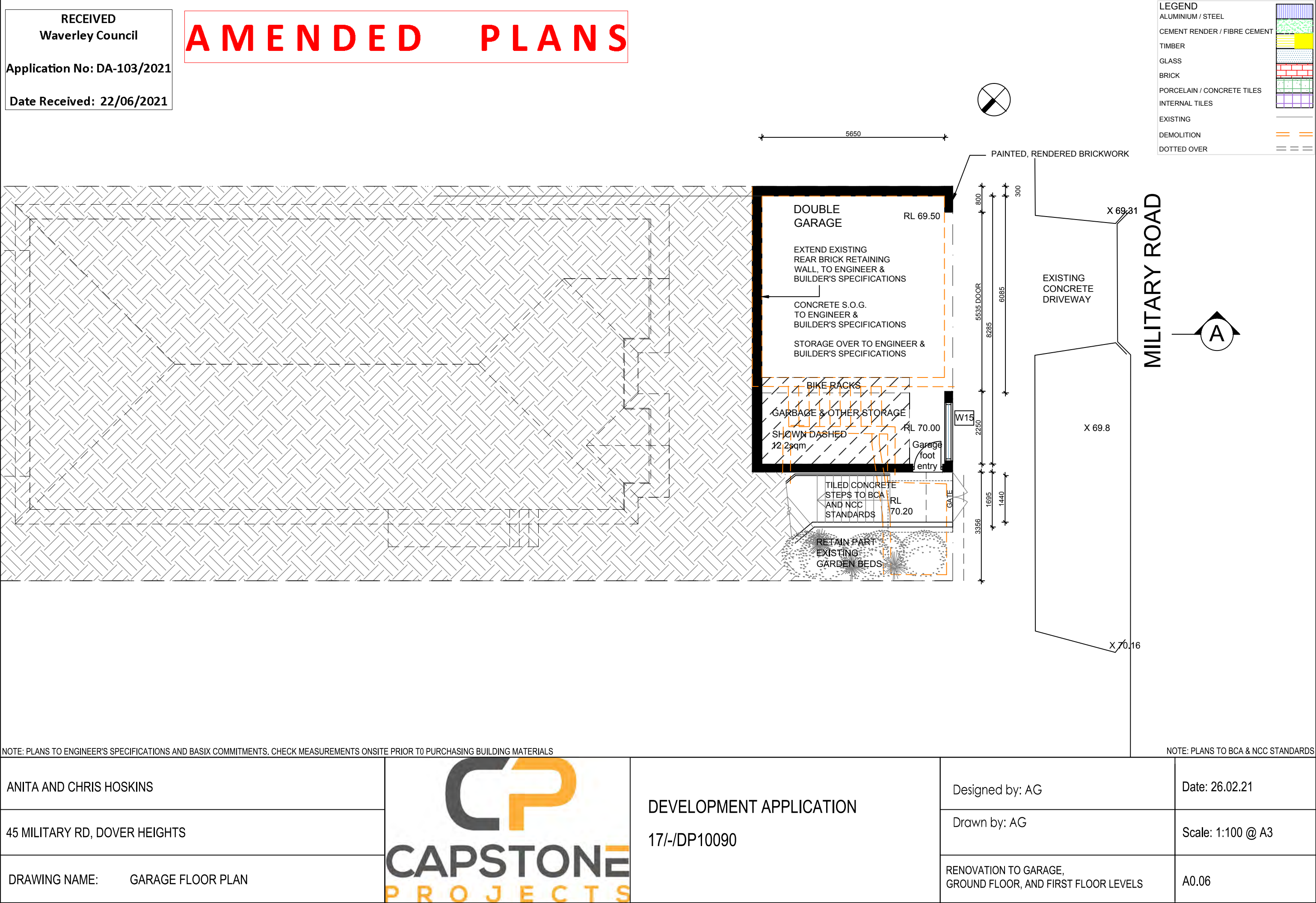
Drawn by: AG

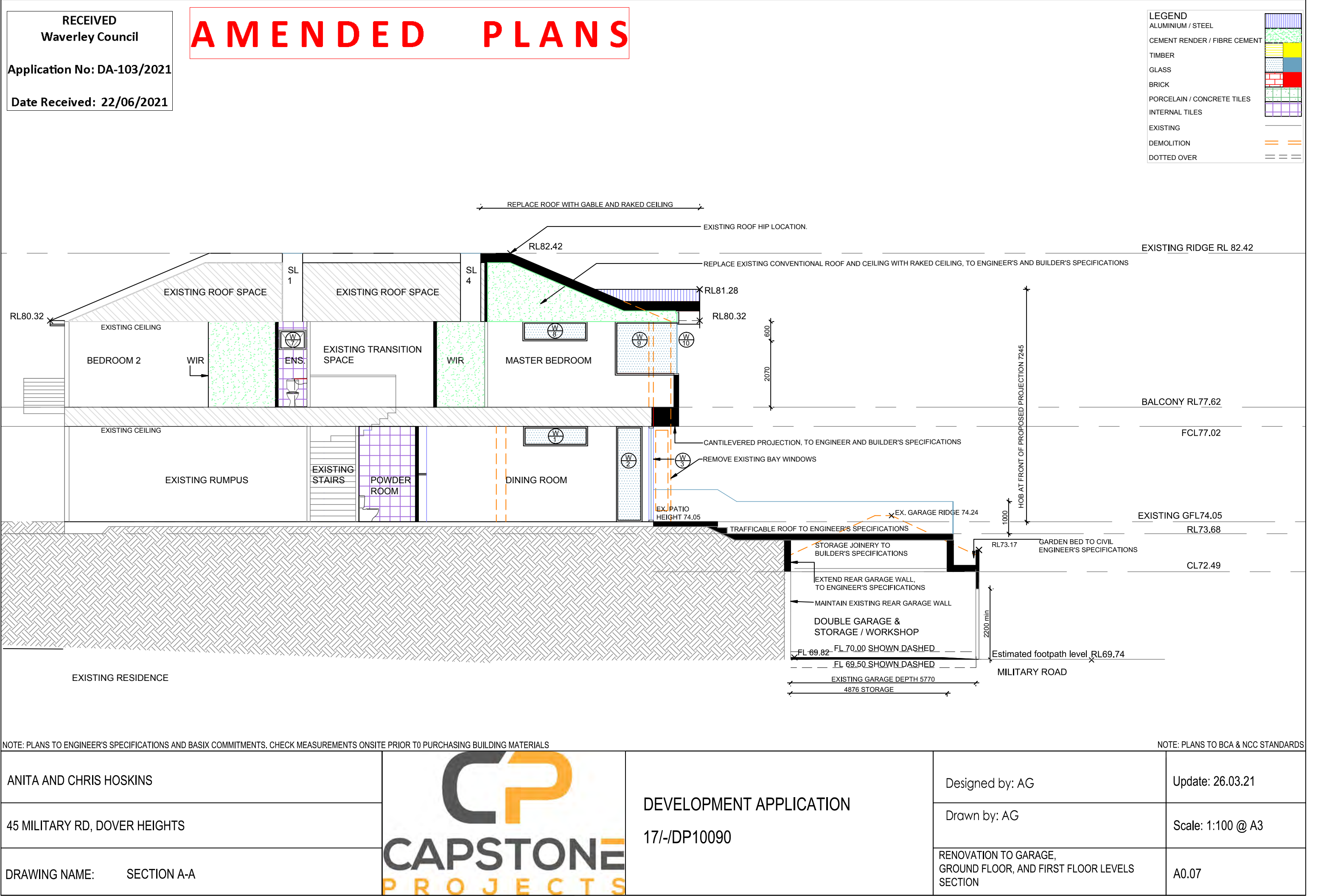
RENOVATION TO GARAGE,  
GROUND FLOOR, AND FIRST FLOOR LEVELS

Date: 04.06.21

Scale: 1:100 @ A3

A0.05







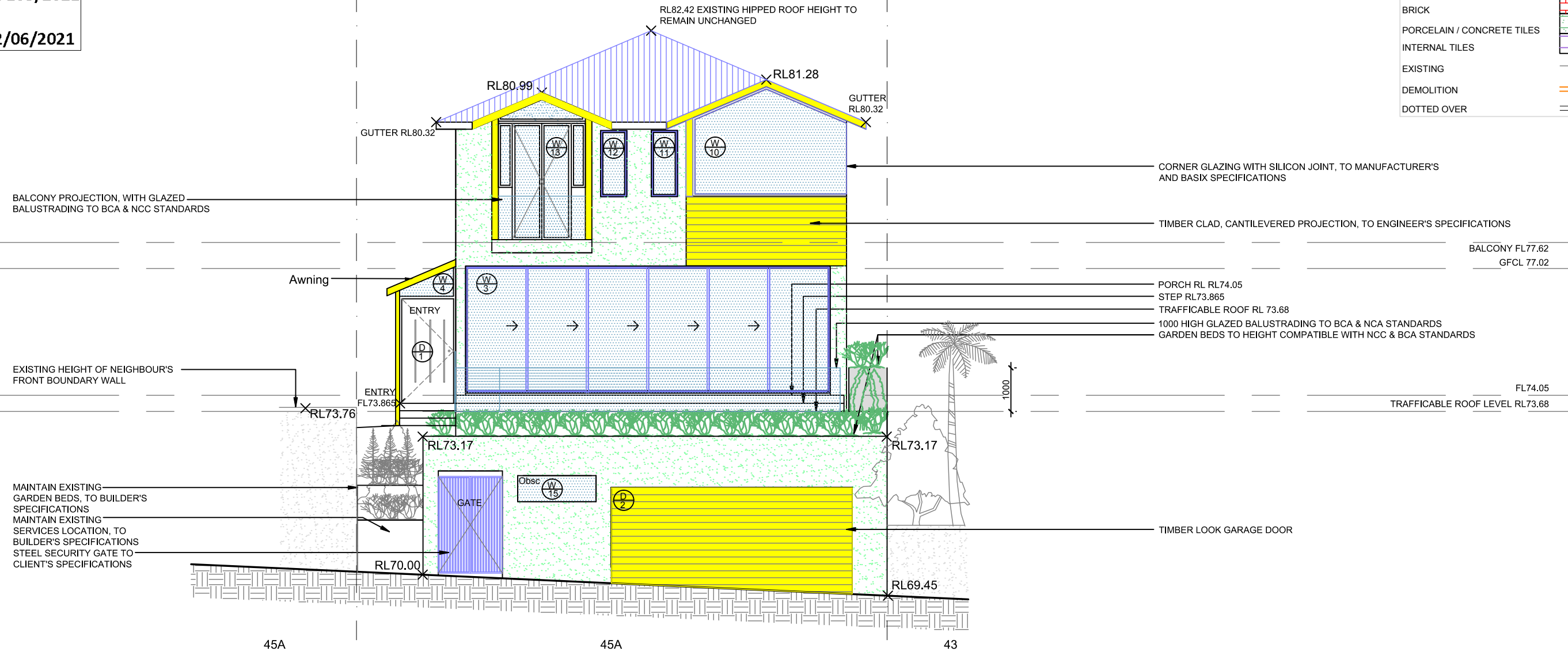
# AMENDED PLANS

RECEIVED  
Waverley Council

Application No: DA-103/2021

Date Received: 22/06/2021

LEGEND	
ALUMINIUM / STEEL	
CEMENT RENDER / FIBRE CEMENT	
TIMBER	
GLASS	
BRICK	
PORCELAIN / CONCRETE TILES	
INTERNAL TILES	
EXISTING	
DEMOLITION	
DOTTED OVER	



NOTE: PLANS TO ENGINEER'S SPECIFICATIONS AND BASIX COMMITMENTS. CHECK MEASUREMENTS ONSITE PRIOR TO PURCHASING BUILDING MATERIALS

NOTE: PLANS TO BCA & NCC STANDARDS

ANITA AND CHRIS HOSKINS

45 MILITARY RD, DOVER HEIGHTS

DRAWING NAME: FRONT - SW - ELEVATION



DEVELOPMENT APPLICATION

17/-/DP10090

Designed by: AG

Drawn by: AG

RENOVATION TO GARAGE,  
GROUND FLOOR, AND FIRST FLOOR LEVELS

Update: 26.02.21

Scale: 1:100 @ A3

A0.08

BASIX COMMITMENTS  
CERTIFICATE NUMBER: A396678

-SKYLIGHTS-

SHADING DEVICE: EXTERNAL, ADJUSTABLE, LOUVRES

FRAME AND GLASS: TIMBER, LOW-E INTERNAL / ARGON FILLED / CLEAR EXTERNAL / U-VALUE: 2.5, SHGC: 0.456

-RAKED CEILING, SKILLION ROOF, CONC PLASTERBOARD INTERNAL-

MEDIUM SOLAR ABSORPTANCE 0.475 - 0.70

INSULATION: CEILING - RO.74 (up), ROOF: FOIL BACKED BLANKET (100mm)

RECEIVED  
Waverley Council

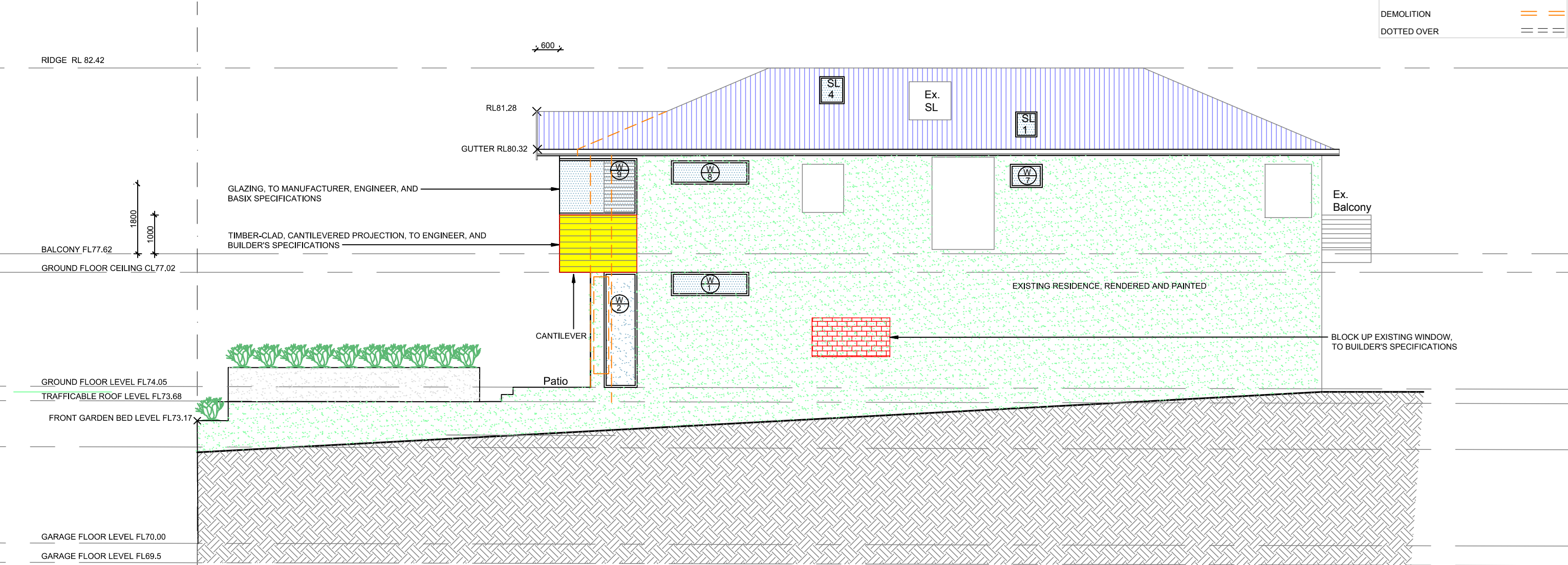
Application No: DA-103/2021

Date Received: 22/06/2021

# AMENDED PLANS

LEGEND

- ALUMINIUM / STEEL
- CEMENT RENDER / FIBRE CEMENT
- TIMBER
- GLASS
- BRICK
- PORCELAIN / CONCRETE TILES
- INTERNAL TILES
- EXISTING
- DEMOLITION
- DOTTED OVER



NOTE: PLANS TO ENGINEER'S SPECIFICATIONS AND BASIX COMMITMENTS. CHECK MEASUREMENTS ONSITE PRIOR TO PURCHASING BUILDING MATERIALS

NOTE: PLANS TO BCA & NCC STANDARDS











ANITA AND CHRIS HOSKINS		DEVELOPMENT APPLICATION 17/-/DP10090	Designed by: AG	Update: 26.02.21
45 MILITARY RD, DOVER HEIGHTS			Drawn by: AG	Scale: 1:100 @ A3
DRAWING NAME: SIDE - SE - ELEVATION			RENOVATION TO GARAGE, GROUND FLOOR, AND FIRST FLOOR LEVELS	A0.09

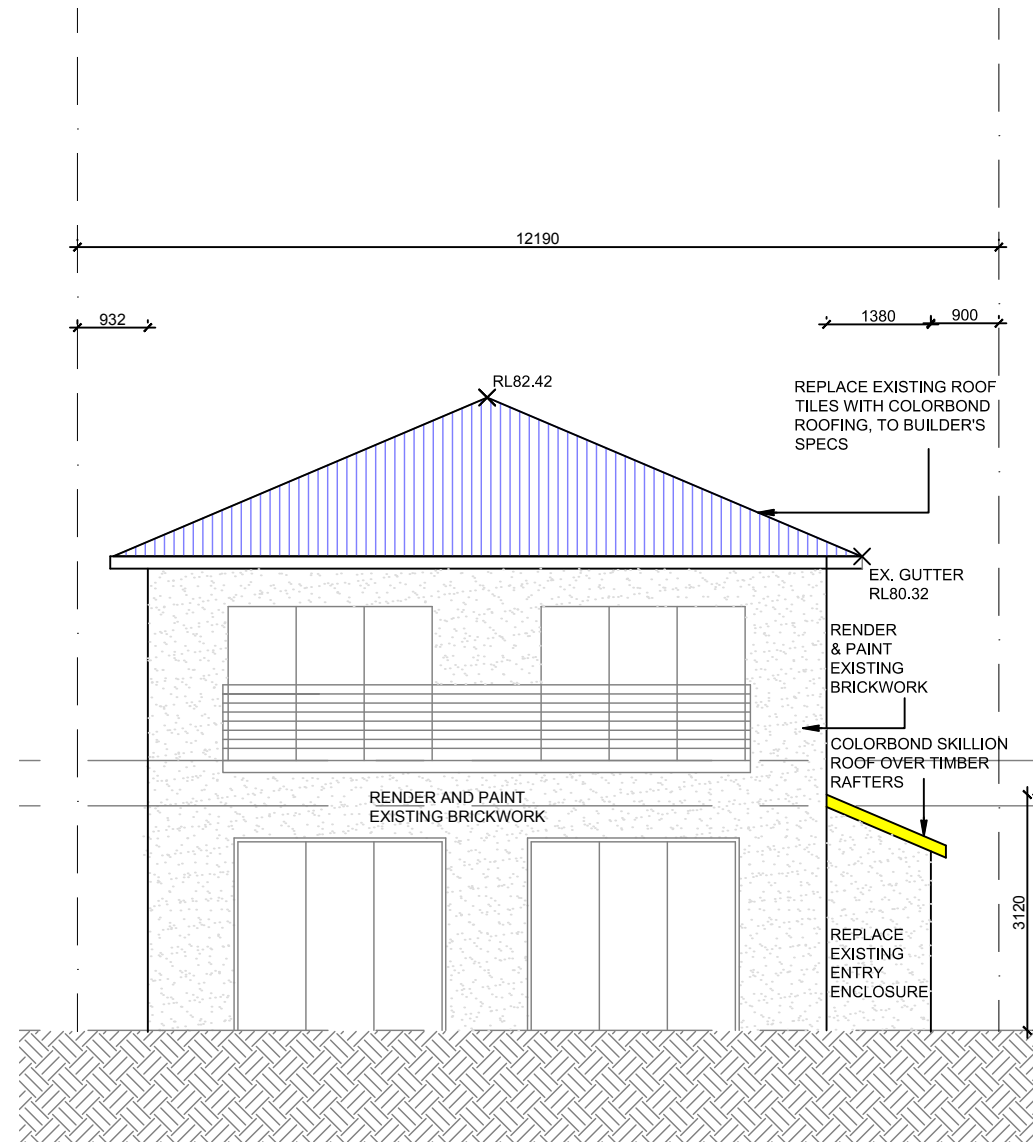
**Application No: DA-103/2021**

**Date Received: 22/06/2021**

# AMENDED PLANS

## LEGEND

ALUMINIUM / STEEL	
CEMENT RENDER / FIBRE CEMENT	
TIMBER	
GLASS	
BRICK	
PORCELAIN / CONCRETE TILES	
INTERNAL TILES	
EXISTING	
DEMOLITION	
DOTTED OVER	



NOTE: PLANS TO ENGINEER'S SPECIFICATIONS AND BASIX COMMITMENTS. CHECK MEASUREMENTS ONSITE PRIOR TO PURCHASING BUILDING MATERIALS

NOTE: PLANS TO BCA &amp; NCC STANDARDS

ANITA AND CHRIS HOSKINS		DEVELOPMENT APPLICATION 17/-/DP10090	Designed by: AG	Update: 26.02.21
45 MILITARY RD, DOVER HEIGHTS			Drawn by: AG	Scale: 1:100 @ A3
DRAWING NAME: REAR - NE - ELEVATION			RENOVATION TO GARAGE, GROUND FLOOR, AND FIRST FLOOR LEVELS	A0.10



**BASIX COMMITMENTS**  
CERTIFICATE NUMBER: A396678

-NORTH-WEST FACING WINDOWS W5, W6 and W13

SHADING DEVICE: NONE

FRAME AND GLASS: TIMBER OR UPVC, DOUBLE LO-TSOL/AIR GAP/CLEAR, (U-VALUE: 2.3, SHGC:0.19

-SKYLIGHTS-

SHADING DEVICE: EXTERNAL, ADJUSTABLE, LOUVRES

FRAME AND GLASS: TIMBER, LOW-E INTERNAL / ARGON FILLED / CLEAR EXTERNAL / U-VALUE: 2.5, SHGC: 0.456

-RAKED CEILING, SKILLION ROOF, CONC PLASTERBOARD INTERNAL-

MEDIUM SOLAR ABSORPTANCE 0.475 - 0.70

INSULATION: CEILING - RO.74 (up), ROOF: FOIL BACKED BLANKET (100mm)

**RECEIVED**  
**Waverley Council**

**Application No: DA-103/2021**

**Date Received: 22/06/2021**

AMENDED PLANS

LEGEND

ALUMINIUM / STEEL

CEMENT RENDER / FIBRE CEMENT

TIMBER

GLASS

BRICK

PORCELAIN / CONCRETE TILES

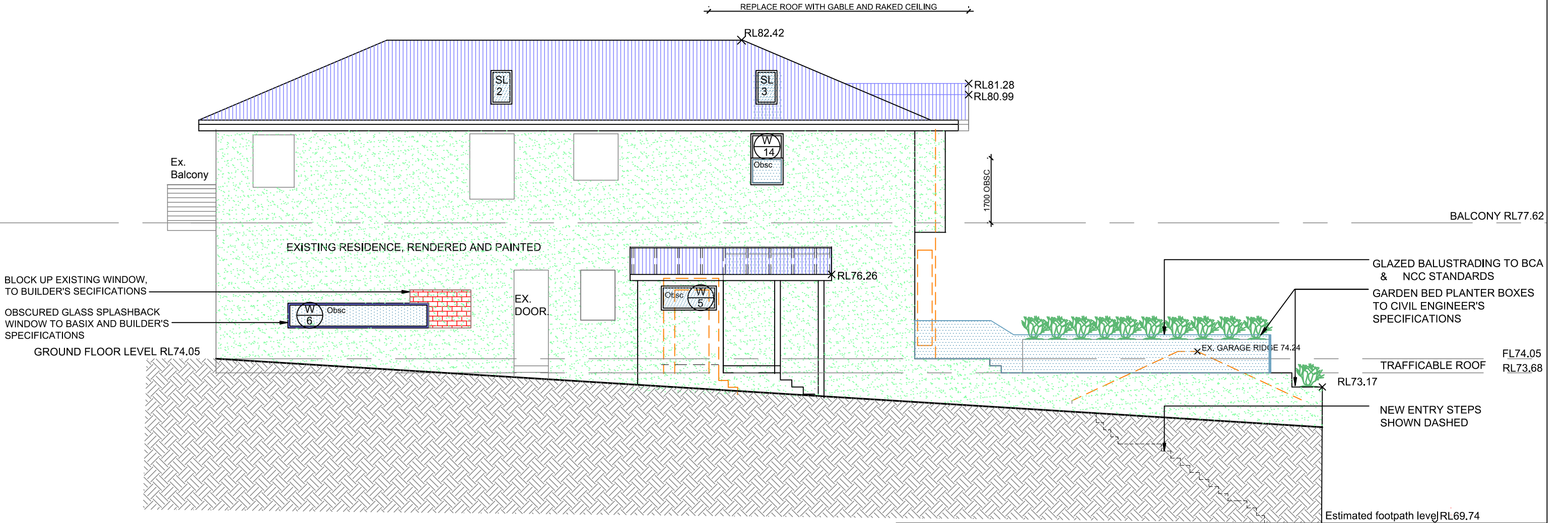
INTERNAL TILES

EXISTING

DEMOLITION

DOTTED OVER

Obsc



ELEVATION

NOTE: PLANS TO ENGINEER'S SPECIFICATIONS AND BASIX COMMITMENTS. CHECK MEASUREMENTS ONSITE PRIOR TO PURCHASING BUILDING MATERIALS

NOTE: PLANS TO BCA & NCC STANDARDS

ANITA AND CHRIS HOSKINS		DEVELOPMENT APPLICATION 17/-/DP10090	Designed by: AG	Update: 26.02.21
45 MILITARY RD, DOVER HEIGHTS			Drawn by: AG	Scale: 1:100 @ A3
DRAWING NAME:     SIDE - NW - ELEVATION			RENOVATION TO GARAGE, GROUND FLOOR, AND FIRST FLOOR LEVELS	A0.11

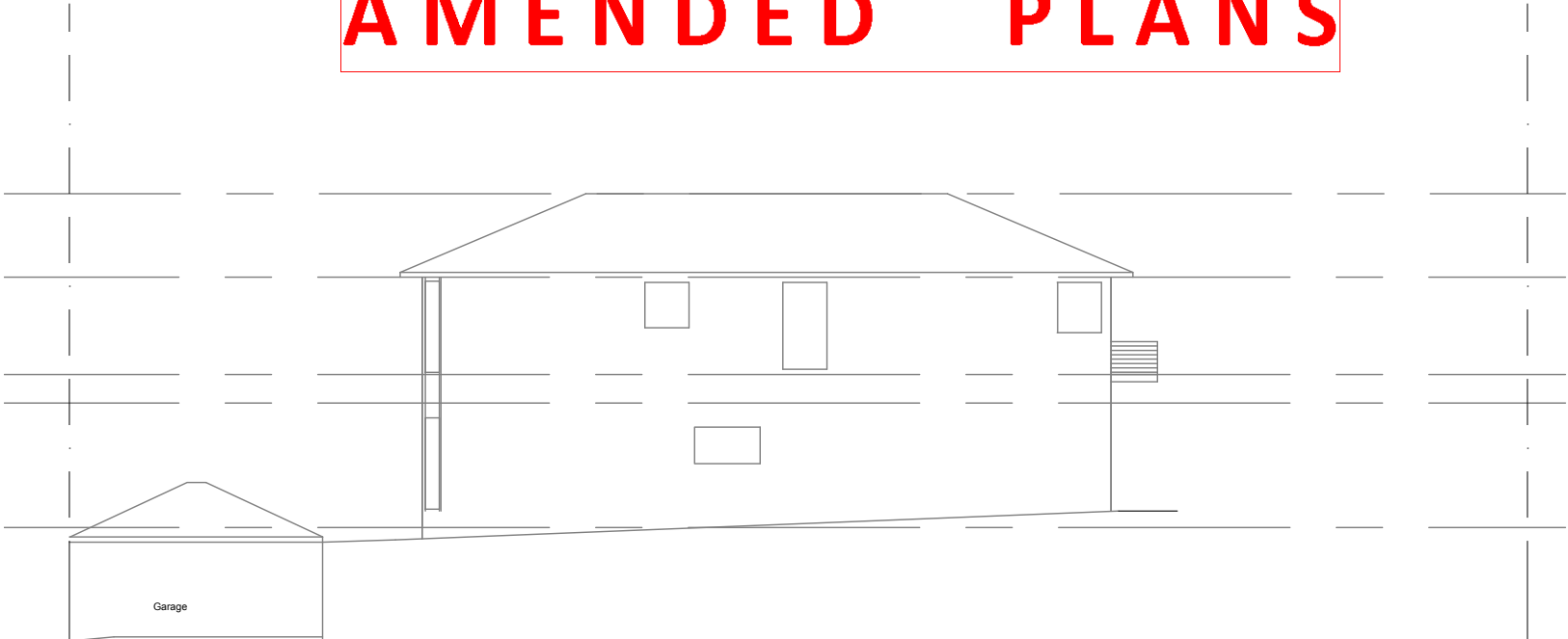


# AMENDED PLANS

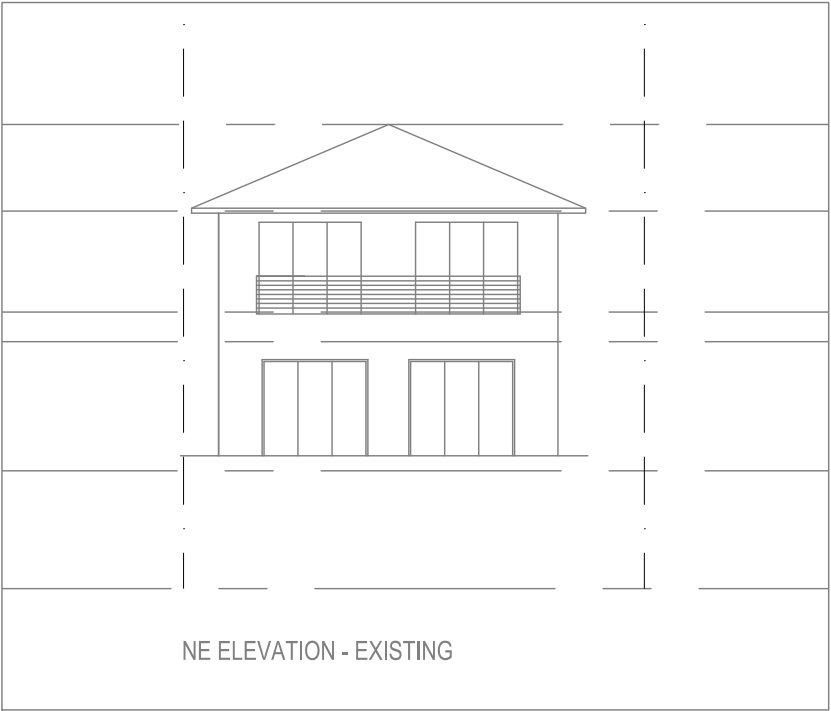
RECEIVED  
Waverley Council  
Application No: DA-103/2021  
Date Received: 22/06/2021



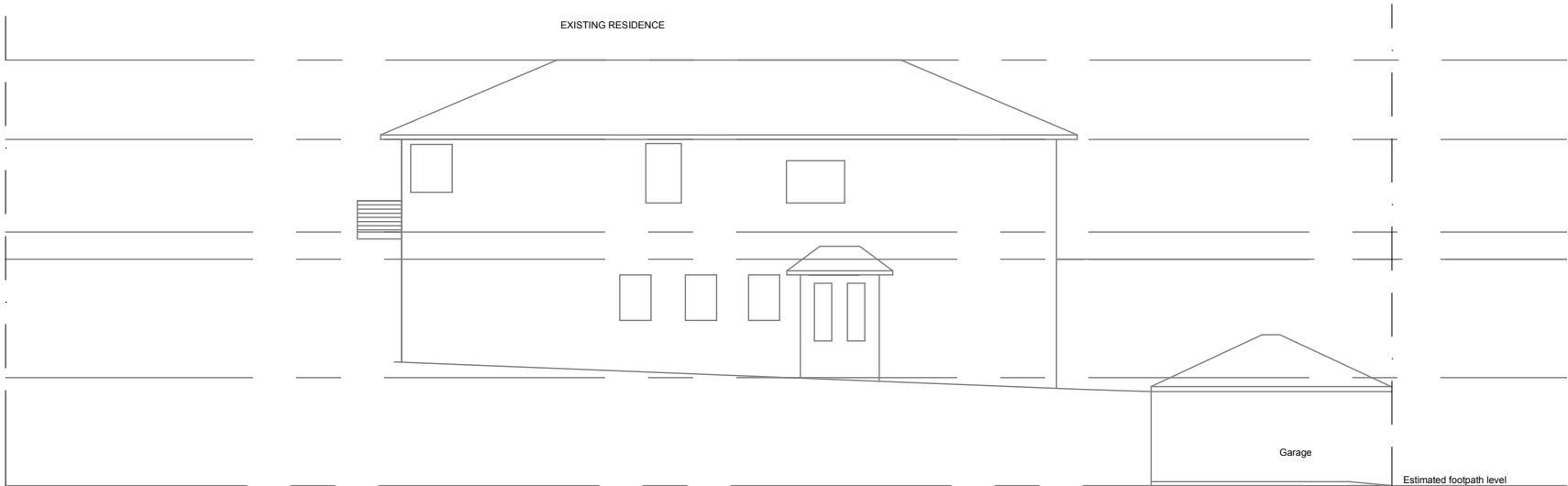
SW ELEVATION - EXISTING



SE ELEVATION - EXISTING



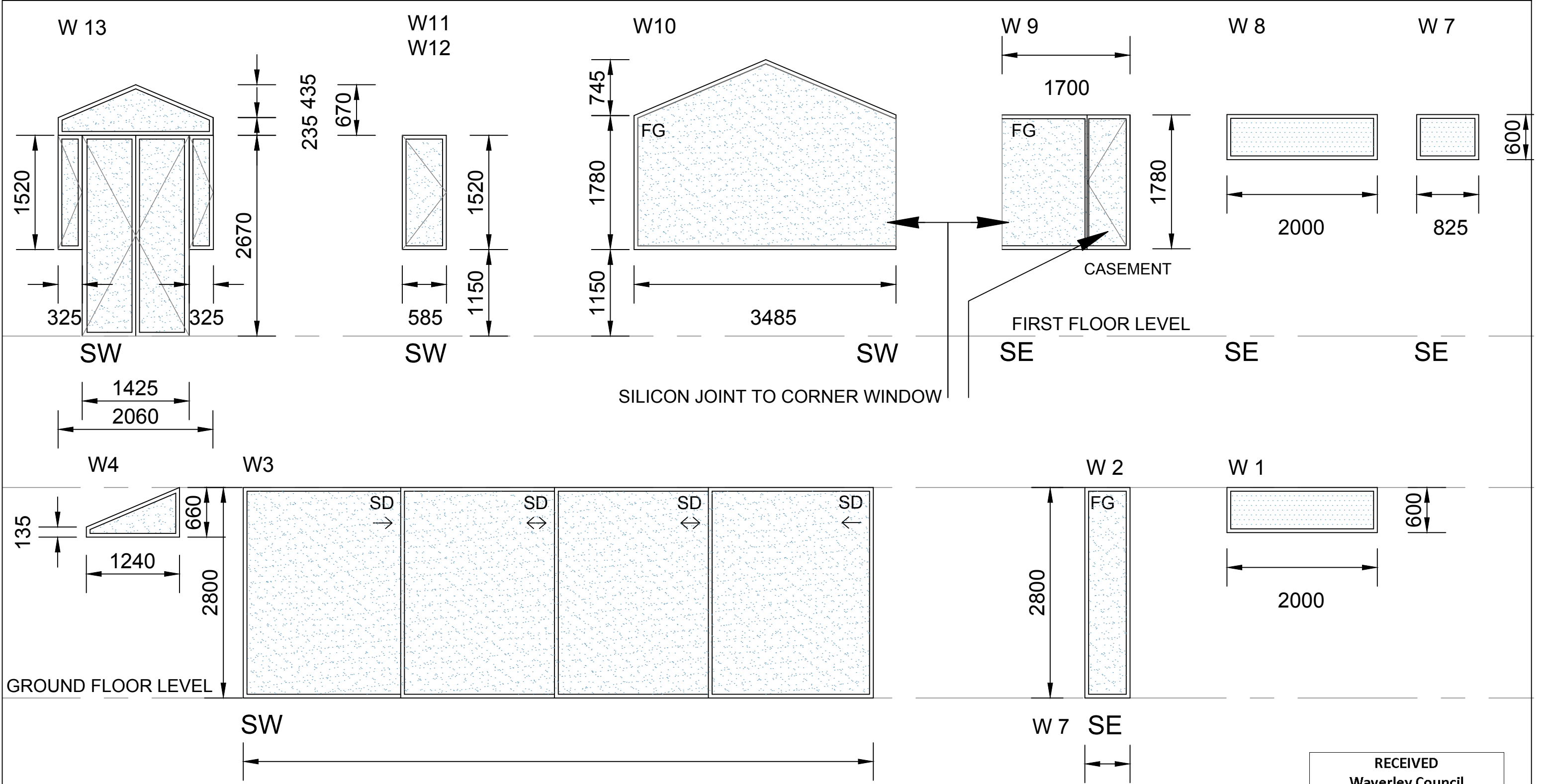
NE ELEVATION - EXISTING



NW ELEVATION - EXISTING

NOTE: PLANS TO ENGINEER'S SPECIFICATIONS AND BASIX COMMITMENTS. CHECK MEASUREMENTS ONSITE PRIOR TO PURCHASING BUILDING MATERIALS

ANITA AND CHRIS HOSKINS		DEVELOPMENT APPLICATION 17/-/DP10090	Designed by: AG	Update: 04.09.20
45 MILITARY RD, DOVER HEIGHTS			Drawn by: AG	Scale: 1:200 @ A3
DRAWING NAME: EXISTING ELEVATIONS			RENOVATION TO GARAGE, GROUND FLOOR, AND FIRST FLOOR LEVELS	AO.14

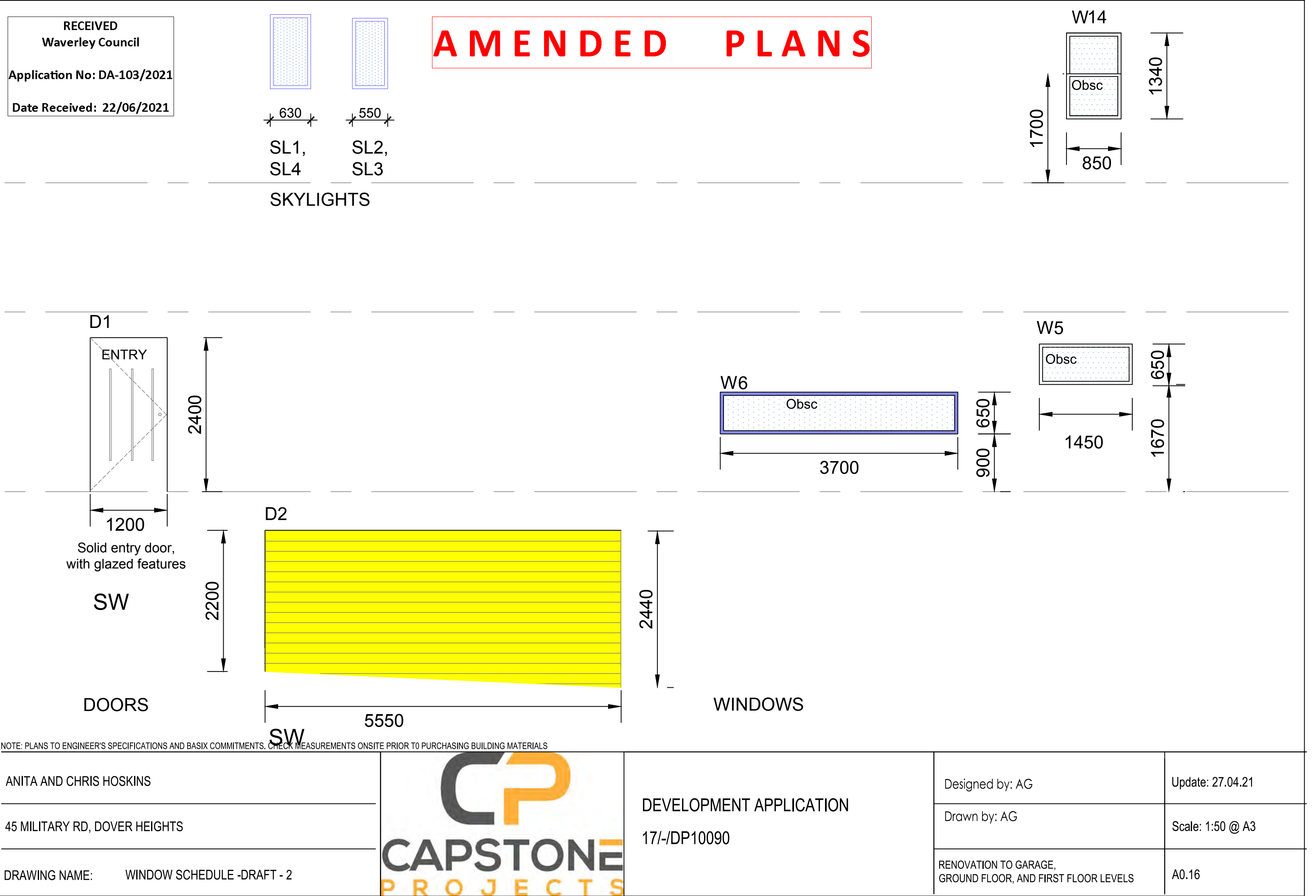


AMENDED PLANS

NOTE: PLANS TO ENGINEER'S SPECIFICATIONS AND BASIX COMMITMENTS. CHECK MEASUREMENTS ONSITE PRIOR TO PURCHASING BUILDING MATERIALS

ANITA AND CHRIS HOSKINS		DEVELOPMENT APPLICATION 17/-/DP10090	Designed by: AG	Update: 27.04.21
45 MILITARY RD, DOVER HEIGHTS			Drawn by: AG	Scale: 1:50 @ A3
DRAWING NAME: WINDOW SCHEDULE -DRAFT - 1			RENOVATION TO GARAGE, GROUND FLOOR, AND FIRST FLOOR LEVELS	A0.15

RECEIVED  
Waverley Council  
Application No: DA-103/2021  
Date Received: 22/06/2021



RECEIVED

Waverley Council

Application No: DA-103/2021

Date Received: 22/06/2021

KEY	PHOTO	NAMES	DESCRIPTION
SR		SLENDER RICE FLOWER <i>Pimelea linifolia</i>	Height 0.76m      Spread 0.5m Resilient, evergreen shrub Grows well in full-sun to dappled light locations. Thrives with very dry to very moist soil Can grow in ordinary soil, enriched soil, mildly acidic to mildly alkaline Tolerates high wind, first line salt wind, heavy frost
CR		COASTAL ROSEMARY <i>Westringia fruticosa 'Zena'</i>	Height 2m      Spread 5m Resilient, evergreen shrub with white and / or purple flowers Prefers full-sun. Tolerates part shade Prefers sandy and well-drained soil Tolerates high wind, salt, wind, light frost * Not edible*
CA		CAREX <i>Sedge Carex Appressa</i>	Height 0.5m - 1m      Spread 0.5m - 1m Low maintenance. Grows well in full-sun locations, and also thrives in seasonally wet conditions. Used as ornamental grass. Useful as stormwater biofilters.
BFL		BLUE FLAX LILY <i>Dianella caerulea</i>	Height 0.5m - 1m      Spread 0.5m - 2m Perennial. Evergreen, with blue flowers. Flowers in Spring and Summer Prefers dry well-drained soil Sandy, Loamy, Sandy loam, Clay loam, Saline Low maintenance. Grows well in full-sun
CT		CHEESE TREE <i>Glochidion ferdinandi Phyllanthaceae</i>	Small to medium tree up to 8m. Grows in clay and sandy soils.  Attracts birds, such as rainbow lorikeets and insects such as lady beetles. Fruits often used in por pourri

NOTE: PLANS TO ENGINEER'S SPECIFICATIONS AND BASIX COMMITMENTS. CHECK MEASUREMENTS ONSITE PRIOR TO PURCHASING BUILDING MATERIALS

NOTE: PLANS TO BCA & NCC STANDARDS

ANITA AND CHRIS HOSKINS

45 MILITARY RD, DOVER HEIGHTS

DRAWING NAME: LANDSCAPE PLAN

DEVELOPMENT APPLICATION

17/-/DP10090

Designed by: AG

Drawn by: AG

ADDITIONS AND ALTERATIONS PROPOSAL TO GROUND FLOOR, FIRST FLOOR, AND GARAGE LEVELS

Date: 03.06.21

Scale: 1:120 @ A3

A0.17

AMENDED PLANS

Page 560 of 751

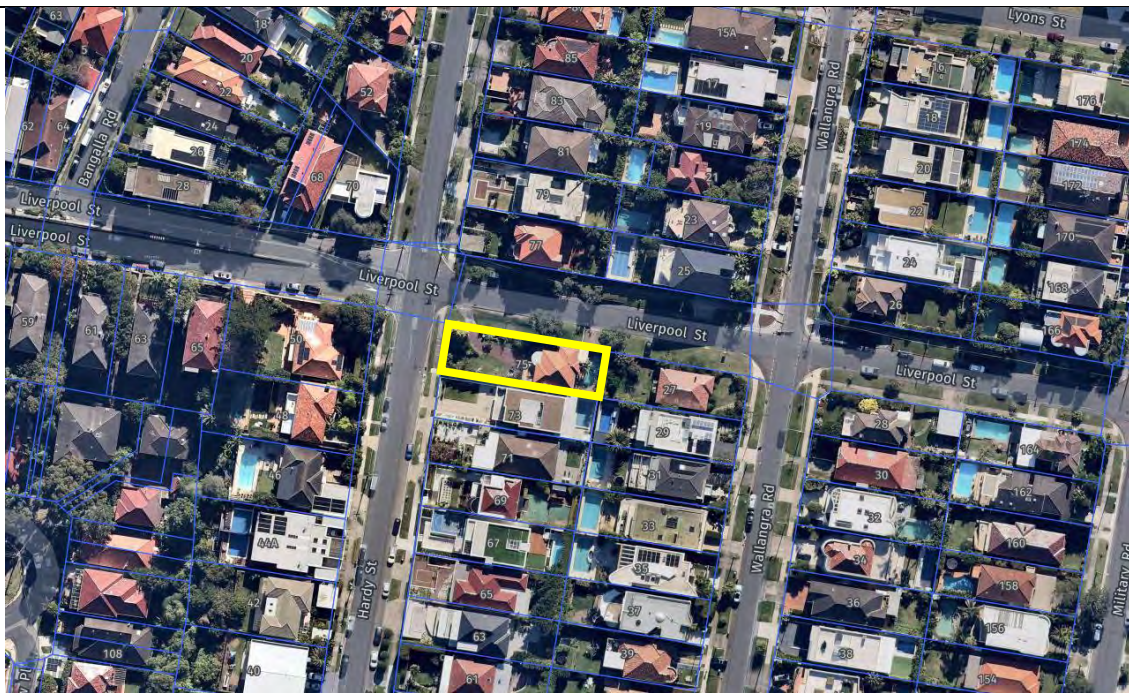




## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-112/2018/A
<b>Site address</b>	75 Hardy Street, DOVER HEIGHTS
<b>Proposal</b>	Modification to alter internal layout, increase building height, window changes and modify finished floor levels.
<b>Description of Approved Development</b>	Demolition of the existing dwelling and construct a new three storey dwelling incorporating a secondary dwelling including garage.
<b>Date of lodgement</b>	1 April 2021
<b>Owner</b>	Ms A Bezos
<b>Applicant</b>	Ms A Bezos
<b>Submissions</b>	Three
<b>Amended cost of works</b>	\$700,000 – no change from DA-112/2018
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Exceedance of height</li> <li>• View loss</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report.

### SITE MAP



Source: Nearmap, 2021

## 1. PREAMBLE

### 1.1. Executive Summary

The modification application seeks to modify development consent, known as DA-112/2018 for the demolition of the existing dwelling and construct a new three storey dwelling incorporating a secondary dwelling including garages at the site known as 75 Hardy Street, DOVER HEIGHTS. In summary, the proposed modifications are for alterations to the internal layout, increase building height, window changes and modify finished floor levels.

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

- Further exceedance of the height of building development standard; and
- View loss.

The assessment finds these issues acceptable, as the additional breach in height does not result in unreasonable view loss or shadowing impacts.

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 4.55(2) the *Environmental Planning and Assessment Act 1979* and is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 20 May 2021.

The site is identified as Lot 14 in DP 11822, known as 75 Hardy Street, DOVER HEIGHTS.

The site is rectangular in shape and is located on the corner of Hardy and Liverpool Streets, with a northern side boundary to Liverpool Street measuring 45.175m, eastern rear boundary measuring 12.845m, southern side boundary measuring 44.83m and western front boundary to Hardy Street measuring 13.08m. The site has an area of 583.4m<sup>2</sup>. The site falls from the rear towards the west (Hardy Street) by approximately 9.09m.

The site is occupied by a two storey dwelling house with vehicular access provided from Liverpool Street (secondary frontage) to a garage.

The subject site is adjoined by dwelling houses. The locality is characterised by a variety of residential developments including dual occupancies; however, the predominant form is that of dwelling houses.

**Figure 1** is a photo of the site and its context.





**Figure 1:** Subject site frontage, viewed from the corner of Hardy and Liverpool Street, looking east.

### 1.3. Details of Approved Development

The original development application, known as DA-112/2018 for the demolition of the existing dwelling and construct a new three storey dwelling incorporating a secondary dwelling including garages was approved 4 April 2019 by the Waverley Local Planning Panel.

During the assessment of DA-112/2018, the dwelling was reduced in overall height from RL64.50 to RL63.70.

### 1.4. Proposal

The modification application has been submitted under section 4.55 (2) of the *Environmental Planning and Assessment Act 1979*. It seeks consent for the following modifications to the approved development. In summary, the works proposes to alter the internal layout, increase building height, window changes and modify finished floor levels. In detail, the modification proposes the following:

#### Lower Ground Floor

- Increase Finished Floor Level (FFL) from RL51.3 to RL51.8;
- Increase wall thickness to the northern side of the southern most garage and the northern side of the internal staircase; and
- Adjust barrier wall height to comply with AS1170.1 and AS2890.1 located to the west of the forecourt.

### Ground Floor

- Increase front terrace FFL from RL54.40 to RL54.82;
- Increase garage FFL from RL54.40 to RL54.90;
- Side door added adjacent to garage door on northern elevation; and
- Removal of one window to dining/living room on northern elevation.

### First Floor

- Increase front terrace FFL from RL57.50 to RL57.72;
- Increase internal FFL and associated rear lower terrace from 57.50 to 57.80; and
- Window removed from storage room on southern elevation.

### Second Floor

- Increase front terrace FFL from RL60.60 to RL60.82;
- Increase internal FFL RL60.60 to RL60.90;
- Window added to bathroom on southern elevation; and
- Reduce roof overhang to front terrace By 1.55m.

### Height

- Increase the height of the dwelling by 500mm from RL63.70 to RL64.20.

The development seeks to increase the height by 500mm for the following reasons:

- Compliant vehicle access cannot be achieved with a finished ground floor garage level of RL54.40 AHD due to the gradient of drop from the road to the boundary. The required finished floor level is RL54.90 AHD.
- Visibility of oncoming traffic is significantly increased when exiting the property.
- Stormwater run-off cascading down the driveway and into the dwelling.

This modification also seeks to delete condition 5(7) and 50(a) and (b) imposed under DA112/2018, as follows:

### **5. PUBLIC DOMAIN WORKS – LIVERPOOL STREET**

*Detailed drawings of the works proposed to be carried to change levels of the Council's nature strip area on Liverpool Street shall be submitted to Council for the approval of the Executive Manager, Creating Waverley prior to the Issue of the Construction Certificate.*

*The drawings shall include but not be limited to the following:*

1. *Cross sections, drawn at 5m intervals along the entire Liverpool Street (northern) boundary, showing existing and proposed levels.*
2. *Long sections of the kerb line on Liverpool Street and a long section of existing and proposed levels along the Liverpool Street boundary.*
3. *Details of the fill material and compaction requirements.*
4. *Full engineering details, prepared by a suitably qualified and experienced engineering consultant, of all retaining walls proposed at the Liverpool Street property boundary*
5. *The extent of cut/fill proposed at Council's street trees.*
6. *Details of the tree protection measures for the two street trees located within the site frontage on Liverpool Street.*
7. **Show the existing vehicle crossing adjacent to the Liverpool Street/Hardy Street intersection being demolished and reconstructed at a right angle to the Liverpool Street kerb alignment.**



## 50. TREE PROTECTION

*Precautions shall be taken when working near the street trees to ensure their retention, including the following:*

- a) To minimise disturbance to the root zone of the tree, the area between the tree and the side boundary must not be altered in depth or soil level.*
- b) The applicant is to construct an elevated driveway using pier and beam construction or similar. Placement of the posts for the above work must not damage any tree roots over 75mm in diameter.*
- c) A root mapping report from a consulting arborist in conjunction with an engineer's report must be submitted prior to the commencement of works for approval by Council. The report must show pier locations sited to minimise any damage to the tree's root system.*
- d) A bond of \$5000 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 Coastal Banksia tree in the sideline in Liverpool Street. The bond is to be lodged prior to the issue of a Construction Certificate.*

*An application for refund of this bond may be made to Council (12) months from the issue of the Final Occupation Certificate. In the event that the specified tree is found damaged, dying or dead at any time during the construction and bond period, the bond may be forfeited to Council.*

*Any replacement of dead or defective trees shall re-start the (12) month maintenance from the date of replacement.*

### 1.5. Background

The modification application was lodged on 1 April 2021 and deferred on 9 June 2021 for the following reasons:

- Further information relating to the increase in height of the dwelling was required to undertake a full assessment, specifically the reasoning for the increase in height and the submission of view loss and shadow diagrams; and
- Clarification if W-27 (accessed from bathroom on second floor to southern elevation) consisted of obscure glazing and clarification of dimensions.

## 2. ASSESSMENT

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

### 2.1. Section 4.55 – Modification of consents – generally

The application is made under section 4.55(2) of the Act. The quantitative and qualitative elements and impacts between the approved development and the development, as proposed to be modified, are not considered overly dissimilar as demonstrated in the following sections of this report. In this regard, the proposal is considered to be *substantially the same* as the originally approved development with regard to matters arising from the NSW Land and Environment Court case of *Moto Projects (No 2) Pty Ltd v North Sydney Council* (1999) 106 LGERA 298.

The application was publicly notified and three submissions were received. The issues and matters raised in public submissions are discussed in section 2.3.4 of this report.

## 2.2. Evaluation of Matters for Consideration under Section 4.15

In accordance with section 4.55(3) of the Act the following is an assessment of the proposed modifications of the development consent against the relevant matters for consideration under section 4.15(1) of the Act.

### 2.2.1. Planning Instruments and Development Control Plans

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

#### *State Environmental Planning Policies (SEPPs)*

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

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

#### *Waverley Local Environmental Plan 2012 (Waverley LEP 2012)*

The land use definition of the approved development as dwelling house remains unchanged and continues to be permitted development in the (R2) Low Density Residential zone under the Waverley LEP 2012.

The quantities of the approved development, as proposed to be modified, have changed as outlined in **Table 1** of this report in relation to principal development standards under Waverley LEP 2012. All other relevant provisions of Waverley LEP 2012 remain compliant.

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Approved	Proposed Modification	Compliance
4.3 Height of buildings <ul style="list-style-type: none"> <li>• 8.5m</li> </ul>	10.89m	According to the Assessment Report of DA-112/2020, the Assessment Planner concluded a height of 10.6m. The Assessment Planner of this modification disagrees with this figure.  DA-112/2018 was approved with a height of 10.89m and this modification will result in an overall height of 11.22.	No. See discussion below this table.

Provision	Approved	Proposed Modification	Compliance
		Deviating from the development standard by 2.72m or 32%.	
4.4 Floor Space Ratio (FSR) <ul style="list-style-type: none"> <li>0.5:1</li> </ul>	0.58:1	The modification will not result in changes to FSR.	N/A

The following is a detailed discussion of exceedances of particular development standards under WLEP as a result of the approved development, as proposed to be modified.

### Height of Buildings

The proposed modifications result in a net increase of building height of 0.33m, resulting in an overall building height of 11.22m. This culminates in an overall exceedance of the height of buildings development standard by 2.72m or 32%. The net increase of building height due to the proposed modifications represents 3.9% of the overall exceedance of the standard.

The applicant has provided written justification for the non-compliance with the height of buildings development standard and has based the justification on the performance of the proposal against the objectives of the development standard. The relevant objectives of the development standard are as follows:

#### 4.3 Height of buildings

1) *The objectives of this clause are as follows—*

- a) *to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*
- d) *to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

### Zone (R2) Low Density Residential

1) *Objectives of zone*

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

The justification provided by the applicant to support the increased exceedance of the height of buildings development standard is summarised as follows:

- Compliance with the standard is unreasonable and unnecessary as the proposed development (as amended) has no significant adverse impact on the perceived bulk or scale, the public domain or adjacent sites. The proposal does impact on views but the impact is deemed to be*

*reasonable having regard to the site constraints; vehicle access challenges due to consent conditions; and the retention of views from the ground floor. In the case of 27 Wallangra Road there will be some opportunity to adjust ground floor levels when the site is redeveloped in the future as most dwellings vary the 8.5m height control in the locality.*

- *The additional height does not occur across the entire footprint and there remains part of the roof area that is under the height control.*
- *There will be no significant additional shadowing as a result of the additional 0.5m given the orientation of the site and the siting of the additional height towards the front boundary.*
- *The built form will continue to step down with the topography, reducing perceived bulk and scale. This is in contrast to the clear pattern of development of un-stepped built form in the Dover Heights locality.*
- *Many examples can be found along Wallangra and Hardy Street, including the immediate neighbour at 73 Hardy Street which breach the height control. Due to the site levels the height variation is not dissimilar to 73 Hardy Street. The overall height remains 250mm below the balustrade height of 73 Hardy Street.*
- *Strict compliance with the control would not comply with the underlying objective of the control as: the proposed exceedance does not significantly impact on the amenity of adjacent sites or the public domain; and the proposed development will be compatible with the height, bulk and scale of the existing character of the locality when viewed in the context of neighbouring developments and the topography of the locality and the subject site.*

Council's Assessment Officer has undertaken an assessment against the objectives of both the height of building and low density residential zone stipulated within the Waverley LEP 2012.

#### **4.4 Height of buildings**

1) *The objectives of this clause 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,*

The proposed modification will result in the maximum building height of the dwelling being increased in height by 330mm. Both view loss and shadow diagrams have been submitted with the application to understand the environmental amenity impact the additional height will have on surrounding residential land uses. While this will be discussed in more detail below, the views accessed from 27 Wallangra Road and the ground floor of 29 Wallangra Road are retained from the proposed development. Also, the amount of additional overshadowing is supported as it will only overshadow the windows that are accessed from a study, bedroom and bathroom, not main living areas.

- 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 of the dwelling is compatible with the height, bulk and scale of the low density residential desired future character of the area. With the site being sloped, it is difficult for the dwelling to be fully compliant with the height limit set by the Waverley LEP 2012. The dwelling has been designed to be similar in bulk and scale to the adjoining dwelling to the south.

### **Zone (R2) Low Density Residential**

#### *1) Objectives of zone*

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

The dwelling provides housing needs for the community.

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

The dwelling is designed to meet the day to day needs of the residents.

The approved development, as proposed to be modified, will achieve and be consistent with the relevant objectives of the height of buildings development standard.

There was concern that the proposed addition in height would result in the environmental amenity impacts of view loss and overshadowing to surrounding developments.

Submissions were received from 27 and 29 Wallangra Road (located to the east of the subject site) claiming the proposed height would block their western facing views. A detailed view loss assessment was undertaken. It was concluded that the exceedance in height meets objectives (a) and (b) within Part C2, Section 2.7 of the WDCP in that the proposed development minimises the impact on existing views and vistas enjoyed from existing residential development and encourages view sharing as a means of ensuring equitable access to views from private dwellings, as views to 27 Wallangra Road are not impacted and views to the ground floor living area of 29 Wallangra Road are also not impacted. This concludes that the increase in height meets objective (1)(a) of the height of building development standard within the WLEP in that it establishes limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and the sharing of views.

Additionally, due to the development increasing in height the amount of additional shadowing was taken into consideration. It was concluded that the proposed increase in height would overshadow some of the windows to the northern elevation of 73 Hardy Street. The proposed development meets objective (d) within Part C2, Section 2.6 of the WDCP in that it does not create additional shadowing to windows of internal living areas, as additional shadowing is to windows of the bedroom, bathroom and study. Again, this meets objective (1)(a) of the height of building development standard within the WLEP in that it establishes limits on the overall height of development to preserve the environmental amenity of neighbouring properties.

The approved development, as proposed to be modified, continues to comply with the relevant parts and sections of Waverley DCP 2012. Only the following parts and sections of Waverley DCP 2012 that apply to the proposed modifications are outlined in **Tables 2** and **3** of this report and detailed discussion below these tables.

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

Development Control	Compliance	Comment
1. Waste	Yes	Waste conditions under DA-112/2018 will remain.
2. Ecologically Sustainable Development	Yes	The submitted BASIX certificate is acceptable.
5. Vegetation Preservation	No. Condition 50(a) and (b) recommended to remain.	<p>The modification requests to delete condition 50(a) and (b) of DA-112/2018 regarding tree protection. Council's Tree Officer does not support the deletion of this condition on the following basis:</p> <p><i>The proposed driveway will have an impact on the root system of the tree by 20%, which is a major impact on the trees root system.</i></p> <p><i>It was concluded in the submitted Arborist Report that the cut required for driveway construction, along with the area of soil fill being approximately 20% of the TPZ, will have no detrimental impact on the subject tree.</i></p> <p><i>That is why</i></p> <ul style="list-style-type: none"> <li><i>To minimise disturbance to the root zone of the tree, the area between the tree and the side boundary must not be altered in depth or soil level.</i></li> <li><i>The applicant is to construct an elevated driveway using pier and beam construction or similar. Placement of the posts for the above work must not damage any tree roots over 75mm in diameter.</i></li> <li><i>Any roots greater than 75mm diameter within the TPZ (Tree Protection Zone) of either tree will need to be cut cleanly under the supervision of an AQF Level 5 arborist.</i></li> </ul>
6. Stormwater	Yes	Stormwater conditions under DA-112/2018 will remain.
8. Transport	Yes. Condition 5(7) recommended to be deleted.	The modification requests to delete condition 5(7) of DA-112/2018 regarding the vehicle crossing and allows for the retention of the existing crossing and driveway to Liverpool Street

Development Control	Compliance	Comment
		(located near the corner of Hardy and Liverpool Street). This is supported by Council's Traffic Engineer.
12. Design Excellence	Yes	The style of the dwelling is substantially the same as the approved under DA-112/2018 and is considered to meet the objectives.

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

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

The proposal is defined as a “Dwelling House” in the Waverley LEP 2012.

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
<ul style="list-style-type: none"> <li>• Appropriate scale</li> <li>• Does not detract from amenity of other dwellings or view corridors</li> <li>• ESD has been considered</li> <li>• Alterations &amp; additions are sympathetic in bulk &amp; scale to the character of the area</li> <li>• High design standard</li> </ul>	Yes	The proposal does not contravene the general objectives of this part of the DCP.
<b>2.1 Height</b>		
Flat roof dwelling house <ul style="list-style-type: none"> <li>• Maximum wall height of 7.5m</li> </ul>	No. However, an improvement.	The wall height of the dwelling will be decreasing from 9.97m to 9.78m.  The reason for the slight reduction in wall height is because of the awning over the front balcony at second floor is proposed to be pushed back to the east over a sloped site (further up the slope).
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>• Predominant front building line</li> <li>• Predominant rear building line at each floor level</li> </ul>	N/A	The front and rear setbacks will not be modified.  It is noted that the dimensions slightly differ between the approved and proposed plans. Confirmation was sought from the Architect around this, the following was advised:  <i>The dimensions on the approved architectural plans under DA-112/2018 and the submitted plans for this application are rounded up the</i>

Development Control	Compliance	Comment
		<i>numbers to suit with the site setout for the future construction.</i>
2.2.2 Side setbacks <ul style="list-style-type: none"> <li>Minimum of 0.9m - 1.5m</li> </ul>	N/A	The side setbacks will not alter.
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> <li>Significant landscaping to be maintained.</li> </ul>	Yes	The streetscape and visual impact of the dwelling will remain substantially the same as approved.
<b>2.4 Fences</b>		
<p><i>Front:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> </ul> <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.8m</li> </ul>	N/A	Boundary fencing will not alter.
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>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.</li> <li>Maximum size of balconies: <i>10m<sup>2</sup> in area</i> <i>1.5m deep</i></li> </ul>	Yes	<p>The balconies will remain as approved under DA-112/2018.</p> <p>An additional window is proposed to the second floor bathroom window on the southern elevation. This window will be fixed with obscure glazing resulting in nil visual privacy impacts.</p>
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to living areas and principal open space areas of adjoining properties on 21 June</li> </ul>	<p>Yes</p> <p>Supported on merit.</p>	<p>While the increase in height results in additional shadowing impacts, all neighbouring dwellings and the subject site receive at least three hours of direct sunlight to 50% of their private open space between 9am and 3pm at the winter solstice.</p> <p>The northern elevational shadow diagrams of 73 Hardy Street, show some additional shadowing to windows. These windows are to bedrooms, bathrooms and offices. Given these are not classed as primary living areas, the amount of</p>




Development Control	Compliance	Comment
		<p>additional shadowing is acceptable. Additionally, it is to be noted that the master bedroom has a west facing window and the study has an eastern facing window; so it does not just rely on north facing windows for light.</p> <p>It has been confirmed by the Architect that the shadowing ceases at the eastern boundary at 3pm, as demonstrated on the plan from shadow diagrams.</p>
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	See discussion below.	
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> <li>Overall landscaped area: 15% of site area</li> <li>Minimum area of 25m<sup>2</sup> for private open space</li> <li>Front open space: 50% of front building setback area</li> <li>Front landscaped area: 50% of front open space provided</li> <li>Outdoor clothes drying area to be provided</li> </ul>	N/A	Nil changes to landscaping.
<b>2.10 Swimming pools and spa pools</b>		
<ul style="list-style-type: none"> <li>Located in the rear of property</li> <li>Pool decks on side boundaries must consider visual privacy</li> </ul>	N/A	Nil changes to pools.
<b>2.16 Secondary dwellings and ancillary buildings</b>		
<p>2.16.1 - Secondary dwellings</p> <ul style="list-style-type: none"> <li>Comply with Clause 5.4(9) of the LEP.</li> </ul>	N/A	Nil changes to the secondary dwelling.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Read as a secondary structure</li> <li>If not to a laneway be max 3m in height</li> </ul>		

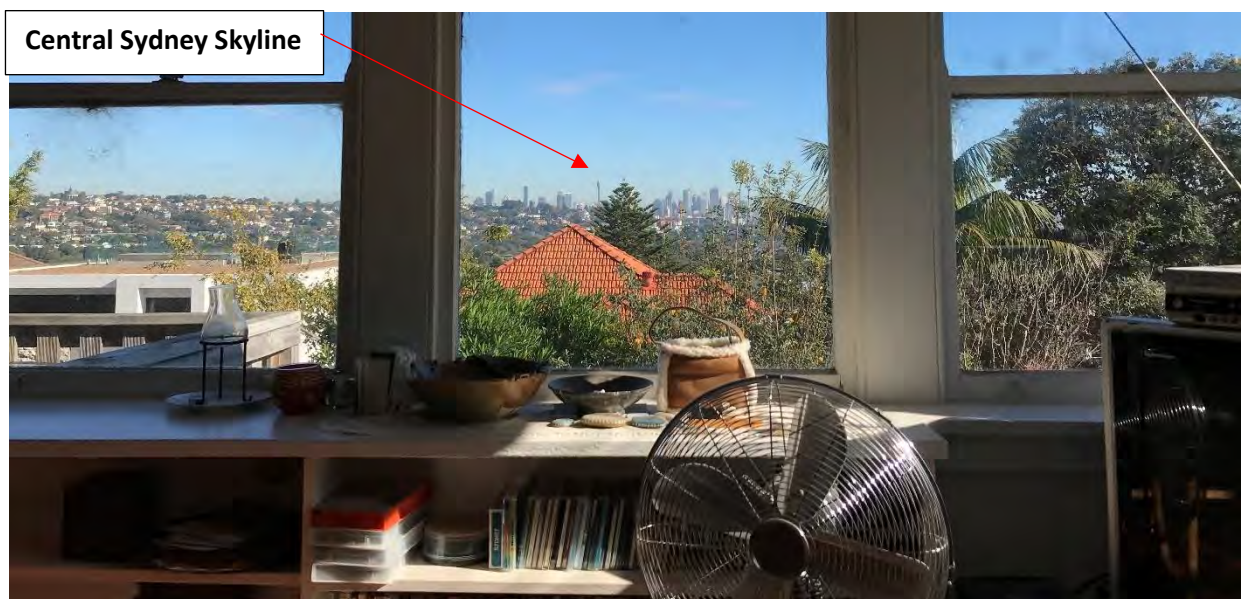
The following is a detailed discussion of the issues identified in the compliance tables above in relation to the WDCP.

**Table 4. View Loss Tenacity Assessment**

Address	27 Wallangra Road, Dover Heights (East of site) 29 Wallangra Road, Dover Heights (South east of site)
Photos	 <p>The photograph shows a view from a window looking west. In the foreground, there are trees and a red-tiled roof. In the background, the Sydney Harbour Bridge is visible, along with the Central Sydney Skyline and the North Sydney Skyline. Red arrows point from labels to specific landmarks in the view.</p> <p>Central Sydney Skyline</p> <p>Sydney Harbour Bridge</p> <p>North Sydney Skyline</p> <p>Sydney Harbour</p>
<p><b>Figure 2.</b> 27 Wallangra Rd - Window 1 - Kitchen standing – Ground Floor - West facing.</p>	



**Figure 3.** 27 Wallangra Rd - Window 2 – Living room standing – Ground floor - West facing.



**Figure 4.** 27 Wallangra Rd - Window 2 – Living room sitting – Ground floor - West facing.





**Figure 5.** 27 Wallangra Rd – Balcony 1 – Balcony standing – Ground floor - West facing

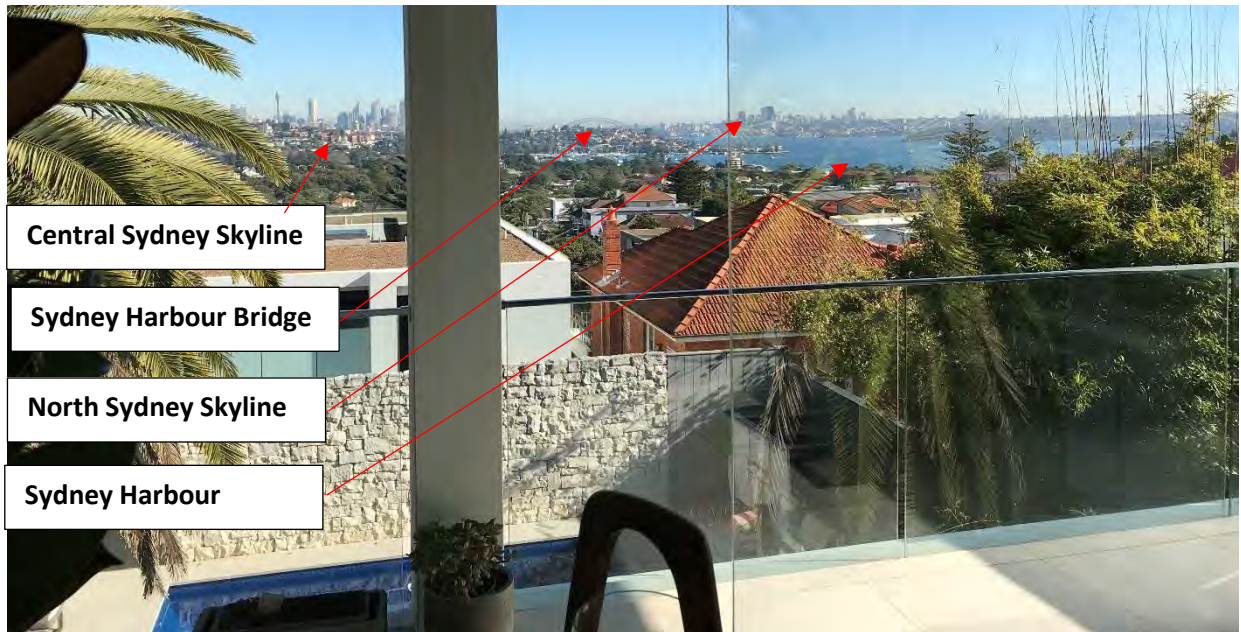


**Figure 6.** 29 Wallangra Rd – Balcony 2 – Balcony standing – Ground floor - West facing.

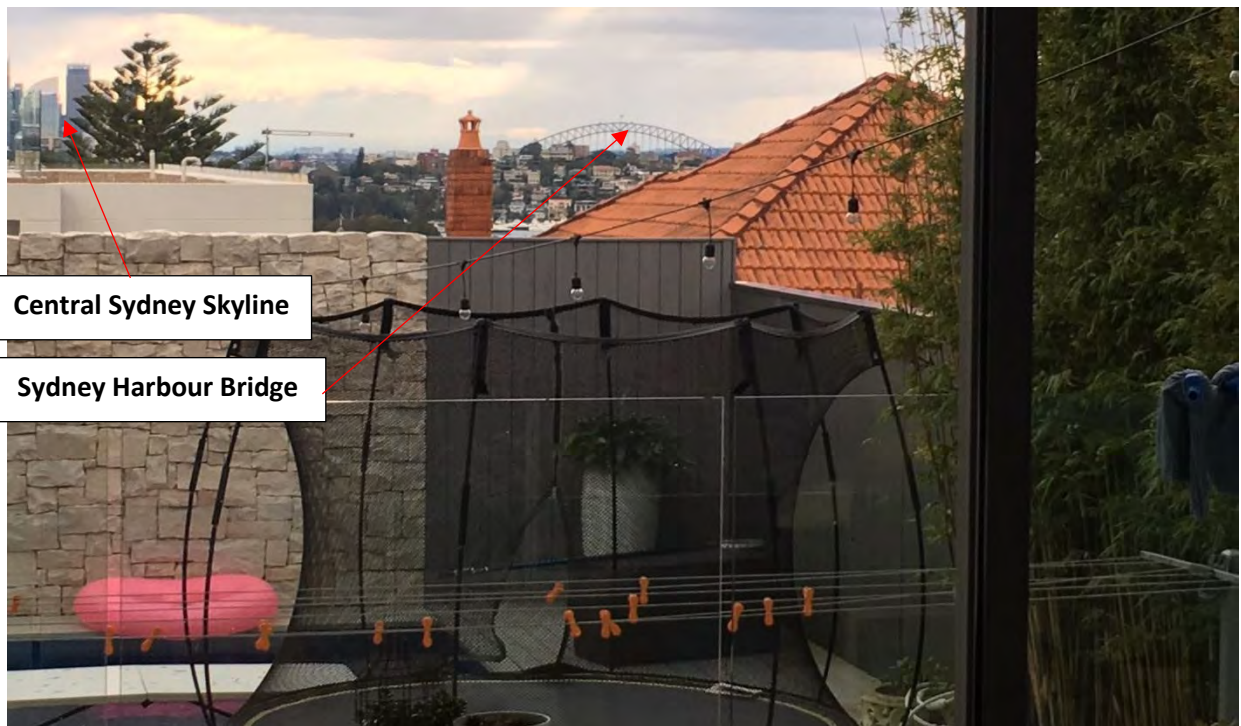


**Figure 7.** 29 Wallangra Rd - Window 3 – Open planned living space standing – Ground floor - West facing.





**Figure 8.** 29 Wallangra Rd - Window 4 – Kitchen window standing – Ground floor - West facing.



**Figure 9.** 29 Wallangra Rd - Window 5 – Media Room standing – Lower ground floor- West facing.

P26 – Test 1 - Assessment of Views	
<p><i>26 The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.</i></p>	
<b>Description</b>	Both 27 and 29 Wallangra Road receive views of Sydney Harbour, Sydney Harbour Bridge and city skyline.
<b>Value</b>	27 and 29 Wallangra Road both receive water, city and iconic views.
<b>Amount</b>	<p><u>27 Wallangra Road</u></p> <ul style="list-style-type: none"> <li>• Kitchen – full views of the city skyline and partial views of Sydney Harbour and Sydney Harbour Bridge.</li> <li>• Living Room – full city views only.</li> <li>• Balcony – full views of the city skyline and partial views of Sydney Harbour and Sydney Harbour Bridge.</li> </ul> <p><u>29 Wallangra Road</u></p> <ul style="list-style-type: none"> <li>• Balcony – full views of the city skyline and Sydney Harbour. Partial views of the Sydney Harbour Bridge.</li> <li>• Living Room – full views of the city skyline and Sydney Harbour. Partial views of the Sydney Harbour Bridge.</li> <li>• Kitchen – full views of the city skyline and Sydney harbour. Partial views of the Sydney Harbour Bridge.</li> <li>• Media Room – partial views of the city skyline and Sydney Harbour Bridge.</li> </ul>
P27 – Test 2 – Location of View	
<p><i>The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.</i></p>	
<b>Floor Level</b>	This has been discussed above.
<b>Boundary/Elevation</b>	Both 27 and 29 Wallangra Road have views to the rear of the dwellings.
<b>View Level</b>	Views will be assessed from a standing position as it is noted within 'Test 2' of Tenacity that the retention of sitting views is often unrealistic.
P28 – Test 3 – Extent of Impact	
<p><i>28 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. The impact may be assessed quantitatively, but in many cases this can be meaningless. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.</i></p>	
<b>Use Area</b>	This has been discussed above.
<b>Quantitative Loss</b>	N/A
<b>Qualitative Loss</b>	<p><u>27 Wallangra Road</u></p> <p>The view loss diagrams indicate that the proposed increase in height to the dwelling will not result in any loss of the city skyline, Sydney Harbour or Harbour Bridge from any of the windows or balconies of this dwelling.</p>





**Figure 10.** 27 Wallangra Rd - Window 1 - Kitchen standing – Ground Floor - West facing. (Source: NK Architect, 2021)



**Figure 11.** 27 Wallangra Rd - Window 2 – Living room standing – Ground floor - West facing. (Source: NK Architect, 2021)



**Figure 12.** 27 Wallangra Rd - Window 2 – Living room sitting – Ground floor - West facing. (Source: NK Architect, 2021)



**Figure 13.** 27 Wallangra Rd – Balcony 1 – Balcony standing – Ground floor - West facing. (Source: NK Architect, 2021)



### 29 Wallangra Road

The view loss diagrams indicate that the proposed increase in height to the dwelling will not result in any loss of the city skyline, Sydney Harbour or Harbour Bridge from any of the windows or balconies at ground floor level.

There is a partial removal to a portion of the Harbour Bridge view at lower ground level. However, the additional view loss is supported on the basis this view is accessed from a media/rumpus room to the lower ground, with the main living area at ground floor having nil impacts.



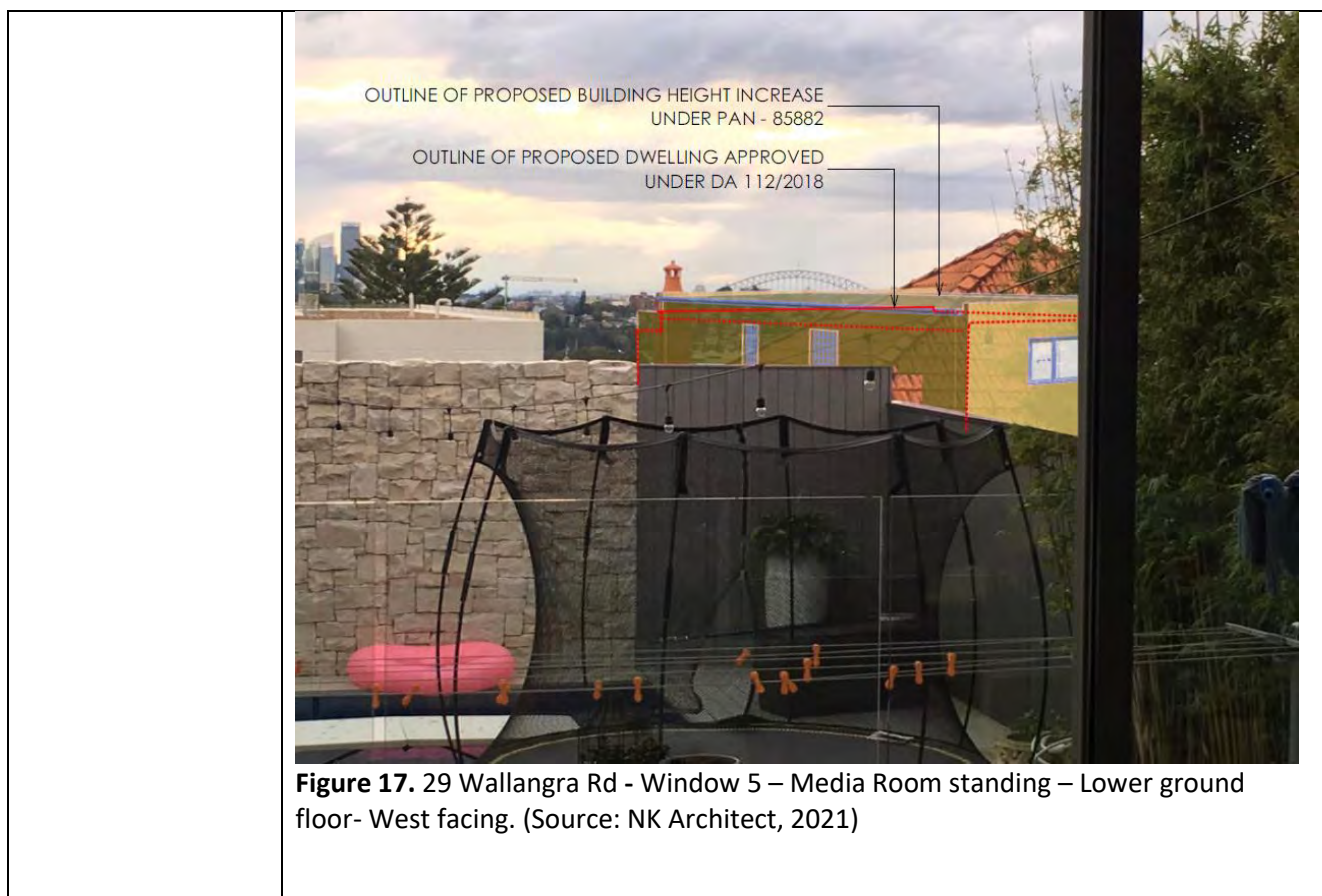
**Figure 14.** 29 Wallangra Rd - Window 3 – Open planned living space standing – Ground floor - West facing. (Source: NK Architect, 2021)



**Figure 15.** 29 Wallangra Rd - Window 3 – Open planned living space standing – Ground floor - West facing. (Source: NK Architect, 2021)



**Figure 16.** 29 Wallangra Rd - Window 4 – Kitchen window standing – ground floor - west facing. (Source: NK Architect, 2021)



#### P29 – Test 4– Reasonableness of Impact

*29 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.*

<b>Height Compliance</b>	No Allowable Height: 8.5m Proposed Height: 11.22m
<b>FSR Compliance</b>	Nil changes to FSR in this application.
<b>DCP Compliance</b>	Yes State: The development maintains the approved setbacks under DA-112/2018.
<b>Alternative design</b>	N/A

#### *Waverley Development Control Plan 2012 Considerations*

Notwithstanding the above, when assessed in conjunction with Clause 2.7 of the WDCP for impact to views:

2.7 (c) The proposal has been designed to enable view sharing in accordance with the tests above.

#### *Conclusion of Tenacity Assessment*

The proposal does not significantly and unreasonably reduce the amenity enjoyed by the occupants of adjoining residential land.



The proposal ensures equitable access to views from private dwellings, and minimises impacts on existing views and vistas enjoyed from existing residential development and from the public domain.

The impact to views and view sharing created by the proposal is supported as the proposal is in accordance with Clause 2.7(Views) of the Waverley DCP 2012 and NSW Land and Environment Court Planning Principle based on *Tenacity Consulting v Warringah* [2004] NSWLEC 140.

#### 2.2.2. Other Impacts of the Development

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

#### 2.2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

#### 2.2.4. Any Submissions

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

Following receipt of amended plans and additional information, the application was not notified as the amended form of the proposal does not increase in impact, for the following reasons:

- View loss diagrams were provided (relates to additional information);
- Shadow diagrams were provided (relates to additional information);
- The barrier wall height to the front of the lower ground was adjusted, but did not result in additional environmental impacts.

A total of three unique submissions were received from the following properties:

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

Count	Property Address
1.	27 Wallangra Road, Dover Heights (two unique submissions)
2.	29 Wallangra Road, Dover Heights

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

- Breach to height
- View loss

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

**Issue:** The application should be lodged as a Section 4.55(2) and not a Section 4.55(1A).

**Response:** This was rectified at lodgement of the application, being processed in Council's system as a Section 4.55 (2).



**Issue:** Condition 61 of DA-112/2018, relating to no structures being fixed to the roof should be maintained.

**Response:** This condition is recommended not to be removed.

#### 2.2.5. Public Interest

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

### 3. REFERRALS

The following internal and external referral comments were sought:

#### 3.1. Traffic and Development

An internal referral was sought from Council's Traffic Engineers who supported the removal of condition 5(7).

#### 3.2. Tree Management

An internal referral was sought from Council's Tree Officer who did not support the removal of conditions 50(a) and (b), as previously discussed.

### 4. CONCLUSION

The modification application seeks to modify development consent, known as DA-112/2018 for the demolition of the existing dwelling and construct a new three storey dwelling incorporating a secondary dwelling including garages at the site known as 75 Hardy Street, DOVER HEIGHTS. In summary, the proposed modifications are for alterations to the internal layout, increase building height, window changes and modify finished floor levels.

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

- Further exceedance of the height of building development standard; and
- View loss.

The assessment finds these issues acceptable as the additional breach in height does not result in unreasonable view loss or shadowing impacts. However, the original recommended tree conditions are to remain.

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 4.55 (2) the *Environmental Planning and Assessment Act 1979* and is recommended for approval subject to conditions of consent.

The application has been assessed against relevant sections of the Act and is recommended for approval subject to conditions of consent.

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



The application was reviewed by the DBU at the meeting on 06/07/2021 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 and K Lucas

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

That the modification application be APPROVED by the Waverley Local Planning Panel subject to modified and new conditions in Appendices A and B:

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Joseph Somerville	Bridget McNamara
<b>Development Assessment Planner</b>	<b>Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date:</b> 08 July 2021	<b>Date:</b> 18 July 2021

***Reason for WLPP referral:***

The consent authority for the original development application was the WLPP, this modification is made under section 4.55(2) of the Act and relates to:

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

## APPENDIX A – CONDITIONS OF CONSENT TO BE MODIFIED

### **A. Amended/Deleted Conditions**

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

The development must be in accordance with:

*(a) Amended Architectural Plan Nos DA1.02 – DA1.7, prepared by Stubbs Design Tribe, dated 18 October 2018 and received by Council on 22 October 2018.*

**Architectural Plans No. AR-1 – AR-6, prepared by NK Architect, dated 24 February 2021 and received by Council 08 July 2021;**

(b) Landscape Plan;

(c) BASIX Certificate; and

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

Except where amended by the following conditions of consent.

**(AMENDED DA-112/2018/A)**

#### **5. PUBLIC DOMAIN WORKS – LIVERPOOL STREET**

Detailed drawings of the works proposed to be carried to change levels of the Council's nature strip area on Liverpool Street shall be submitted to Council for the approval of the Executive Manager, Creating Waverley prior to the Issue of the Construction Certificate.

The drawings shall include but not be limited to the following:

1. Cross sections, drawn at 5m intervals along the entire Liverpool Street (northern) boundary, showing existing and proposed levels.
2. Long sections of the kerb line on Liverpool Street and a long section of existing and proposed levels along the Liverpool Street boundary.
3. Details of the fill material and compaction requirements.
4. Full engineering details, prepared by a suitably qualified and experienced engineering consultant, of all retaining walls proposed at the Liverpool Street property boundary
5. The extent of cut/fill proposed at Council's street trees.
6. Details of the tree protection measures for the two street trees located within the site frontage on Liverpool Street.
7. ~~Show the existing vehicle crossing adjacent to the Liverpool Street/Hardy Street intersection being demolished and reconstructed at a right angle to the Liverpool Street kerb alignment.~~

**(AMENDED DA-112/2018/A)**

## **APPENDIX B – FULL SET OF CONDITIONS**

### **A. APPROVED DEVELOPMENT**

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

The development must be in accordance with:

- (a) *Architectural Plans No. AR-1 – AR-6, prepared by NK Architect, dated 24 February 2021 and received by Council 08 July 2021;*
- (b) Landscape Plan;
- (c) BASIX Certificate; and
- (d) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

Except where amended by the following conditions of consent.

**(AMENDED DA-112/2018/A)**

#### **2. APPROVED USE - DWELLING HOUSE WITH SECONDARY DWELLING**

This application approves the use of the principle dwelling on site a single unit dwelling house. The secondary dwelling is permitted in accordance with SEPP (Affordable Rental Housing). In accordance with Clause 25 of the SEPP, consent will not be granted for the subdivision of a lot on which there is secondary dwelling.

#### **3. DIAL BEFORE YOU DIG**

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

#### **4. 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.

## **B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### **5. PUBLIC DOMAIN WORKS – LIVERPOOL STREET**

Detailed drawings of the works proposed to be carried to change levels of the Council's nature strip area on Liverpool Street shall be submitted to Council for the approval of the Executive Manager, Creating Waverley prior to the Issue of the Construction Certificate.

The drawings shall include but not be limited to the following:

1. Cross sections, drawn at 5m intervals along the entire Liverpool Street (northern) boundary, showing existing and proposed levels.
2. Long sections of the kerb line on Liverpool Street and a long section of existing and proposed levels along the Liverpool Street boundary.
3. Details of the fill material and compaction requirements.
4. Full engineering details, prepared by a suitably qualified and experienced engineering consultant, of all retaining walls proposed at the Liverpool Street property boundary
5. The extent of cut/fill proposed at Council's street trees.
6. Details of the tree protection measures for the two street trees located within the site frontage on Liverpool Street.
7. DELETED DA-122/2018/A

***(AMENDED DA-112/2018/A)***

### **6. LONG SECTIONS OF DRIVEWAY**

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

The long section drawings shall:

1. Be drawn at a scale of 1:25
2. Include reduced levels (RL's) of the Liverpool Street carriageway, the kerb and gutter, footpath and paving within the property and the garage floors.
3. Include existing and design levels.
4. Include ground clearance of the B85 design vehicle using the ground clearance template contained in Appendix C of AS 2890.1: 2004 Off Street Car Parking.
5. Show all paving on Council's land being sloped/ drained towards the roadway.

## **7. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT**

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

The CVPPM shall:

- a. Show the size and number of trucks to be used during the various stages of the development.
- b. Show the route to be taken by trucks in (a) above within the Waverley Council area when gaining access to and from the site. Note, if it is considered with the information submitted that such vehicles cannot adequately and safely gain access to and from the site or where access into or out of the site may not be not possible without the need to remove an unsatisfactory number of vehicles parked on the roadway in the vicinity of the site, the trucks may not be approved for use.
- c. Show the location and length of any proposed Works/Construction Zones. Note:
  - (i) Such zones require the approval of the Waverley Traffic Committee and Council prior to installation.
  - (ii) It is illegal to park a truck exceeding 4.5tonnes on a roadway for more than one  
  
(1) hour unless signs are installed allowing such and illegal to barricade/ reserve a section of roadway without the prior approval of Council.
- d. Indicate the number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.

## **8. SWEPT WHEEL PATH DRAWINGS**

Prior to issue of the Construction Certificate, swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, showing the swept wheel path of a vehicle entering and exiting the garages from Liverpool Street shall be submitted to Council for the approval of the Executive Manager, Creating Waverley.

The swept wheel path drawings shall:

1. Be drawn for the B85, standard design vehicle as described in AS/NZS 2890.1: 2004 Part 1 Off Street Car Parking.
2. Accurately show the kerb and gutter, driveways and vehicles parked kerbside on Liverpool Street both opposite and to the immediate east and west of the proposed driveway.
3. Show the minimum length of driveway layback considered necessary to gain satisfactory access to and from the proposed garages.

4. Show the minimum length of opening and clearances required at the property boundary to cater for the design vehicle swept wheel path.

#### **9. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

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

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

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

#### **10. SECTION 7.12 CONTRIBUTION**

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

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

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

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

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

- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended.

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

#### **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 Council prior to the issue of a Construction Certificate.

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

#### **12. SECURITY DEPOSIT**

A deposit or guarantee satisfactory to Council for the amount of \$ **15,400** must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

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

#### **13. HOARDING REQUIRED**

To ensure the site is contained during construction, a hoarding is required for the approved works which is to be designed and constructed in accordance with the requirements of **Safe Work NSW**.

The hoarding is to be erected on the street alignments of the property prior to the commencement of building operations and be maintained during the course of building operations. Details of the hoarding are to be provided to Council for record and be to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

#### **14. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared in accordance with Waverley Council's Water Management Technical Manual and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction (Blue Book). A vehicle wheel wash, cattle



grid, wheel shaker or other appropriate device, shall be included in the plan for any construction site with vehicles entering and existing the site.

This Plan shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The approved Soil and Water Management Plan must be kept on site, measures shall be implemented prior to commencement of any works or activities and maintained at all times. A copy of the Soil and Water Management Plan must be made available to the Principal Certifying Authority & Council officers on request.

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

Demolition and excavated material to be reused and/or recycled wherever possible and detailed in a Site Waste and Recycling Management Plan (SWRMP) Checklist 2 which is to be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the Construction Certificate.

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

#### **16. GEOTECHNICAL ENGINEERS REPORT**

A Geotechnical Engineers Report is to be submitted which assesses the following;

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The report must make recommendations and conclude that damage should not occur to any adjoining premises as a result of the proposed bulk excavation, driven type piles and shoring works.

The report is to be submitted to the Principal Certifying Authority, Council and the owners of adjoining premises prior to the issue of a Construction Certificate and commencement of any such works on the site.

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

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

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

## **18. ENGINEERING DETAILS**

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

## **19. ENGINEERING DETAILS - CERTIFICATE OF ADEQUACY**

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

## **20. FENCE NOT TO ENCROACH BEYOND BOUNDARIES**

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

## **21. DILAPIDATION REPORTS**

A Dilapidation report should be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. This action is designed to assist all parties should damage occur and is not a preventative action. The dilapidation reports should be completed and submitted to the relevant owner of the affected property, Council and the Principal Certifying Authority prior to undertaking any works that may cause damage

Please note the following:

- (a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- (b) This is not a condition of consent and cannot be used to prevent the commencement of works or prevent neighbouring buildings being damaged by the carrying out of the development.

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

## **22. STORMWATER MANAGEMENT**

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

## **23. ON-SITE STORMWATER DETENTION DETAILS**

On-Site Stormwater Detention (OSD) tank and its details are required to be submitted and approval by Council prior to the issue of a Construction Certificate. Details to include dimensions, cross & long sections, top water level, details of discharge control pit, orifice plate including orifice diameter and depth of water above centreline of orifice etc.

## **24. BASIX**

The undertakings provided in the BASIX Certificate and NatHERS documentation shall be provided for in the Construction Certificate plans and documentation prior to the issue of the Construction Certificate.

If required, a modified BASIX Certificate shall be provided that reflects the development as approved (eg addressing any modification required via conditions of consent). Any significant works (ie any works not able to be considered as Exempt and Complying Development) that result from changes to the BASIX Certificate or conflict with conditions of consent require Council's consent.

The Principal Certifying Authority shall be responsible for ensuring that all the undertakings are satisfied prior to the issue of an Occupation Certificate.

The above condition is a prescribed condition under the Environmental Planning and Assessment Regulation 2000 clause 97A and the above BASIX commitments are mandatory and cannot be modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

## **25. INSTALLATION OF AIR CONDITIONING**

To ensure that the ecological sustainable objectives of the Waverley DCP 2012 – Amendment 6 are met, any air conditioning unit(s) installed within the building shall:

- (a) Comply with the requirements of SEPP (Exempt Development) with regards to location.

- (b) Be located behind the front building line and if visible suitable screened and located in an appropriate location.
- (c) Not be adjacent to neighbouring bedroom windows.
- (d) Not reduce the structural integrity of the building.
- (e) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
  - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
  - (ii) before 7.00am and after 10.00pm on any other day.
- (a) 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).
- (b) Have sufficient manual or automated controls so it is used only when required;
- (c) Be an energy efficient reverse cycle air conditioning system that achieves as a minimum one star less than the maximum possible under the Australian Government air conditioning energy rating standard.
- (d) New or replacement air conditioning units are to have a minimum 2-star rating for cooling only. Reverse cycle air conditioning units are to have a minimum of 2-star rating on one cycle and 2-star rating on the alternate cycle.
- (e) Dehumidification from air conditioning systems must be harvested and reused on site provided it is treated to an adequate level suitable for the reuse application, otherwise a piped connection to Council's stormwater drainage system is required and there is to be no discharge to the footpath.

## **26. SOLID FUEL HEATING**

In accordance with the Part B2 of the Waverley DCP 2012 – Amendment 6 the use of solid fuel heating is not permitted to ensure that the renewable energy and energy efficiency targets of the Council are met.

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

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

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

## **28. SERVICE AUTHORITIES**

The applicant is to seek approval from the relevant service authorities regarding any possible modification to the existing infrastructure within the vicinity of the site prior to



the issue of a Construction Certificate. This includes, but not limited to, power poles, pits or other underground services.

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

### **29. PRIOR TO SITE WORKS**

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) the name and permit number of the owner/builder who intends to do the work; and
- (c) any change to these arrangements for doing of the work.

### **30. 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.

### **31. 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.

### **32. OBSTRUCTION TO PUBLIC AREAS**

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building then a hoarding, fencing or awning must be provided to prevent injury and appropriately lit between sunset and sunrise.

### **33. COMPLIANCE WITH SAFE WORK NSW**

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

### **34. CONTAMINATING MATERIAL REQUIRED TO BE REMOVED**

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

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (eg: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices. They shall also adopt work practices in accordance with the requirements of Safe Work Australia's National Standard for the Control of Inorganic Lead at Work (NOHSC: 1012 (1994) and NOHSC: 2015(1994).
- (c) All lead-contaminated materials being disposed of in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines 2009 and the Protection of the Environment Operations Act 1997 (NSW).

### **35. DEMOLITION & SITE PREPARATION**

Hazardous or intractable wastes arising from the demolition process are to be removed and disposed of in accordance with the requirements **SafeWork NSW** and the NSW Environment Protection Authority (EPA), and with the provisions of:

- (a) Work Health & Safety Act 2011;
- (b) Work Health & Safety Regulation 2017;
- (c) Protection of the Environment Operations Act 1997 (NSW) and
- (d) NSW EPA Waste Classification Guidelines 2014;

### **36. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS**

At least five (5) days prior to the demolition, renovation work or alterations and additions to any building constructed before 1987, the person acting on the consent shall submit a Work Plan prepared in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

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

### **37. ASBESTOS REMOVAL**

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a Licence in accordance with the requirements of SafeWork NSW. Fire damaged asbestos materials can only be cleaned up by licensed asbestos removalists with a Class A (friable) asbestos removal licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by SafeWork NSW and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400m x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

### **38. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Excavation, proposed or undertaken in the certification or construction of the development, that results in additional habitable or non-habitable floor space (including storage) shall require the submission of a new development application or modification application.

During consideration of this application construction work on site shall cease without prior agreement of Council. Failure to comply with this condition may lead to Council prosecuting or taking a compliance action against the development for breach of its consent.

### **39. 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.

### **40. EXCAVATION BELOW FOOTINGS**

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made, at their own expense, must:

- (a) preserve and protect the building from damage; and
- (b) if necessary, must underpin and support the building in an approved manner; and

- (c) must, at least seven days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

That prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste classification guidelines 2014. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the NSW EPA.

#### **42. EXCAVATION TO BE MANAGED BY STRUCTURAL ENGINEER**

Bulk excavation is to be managed by a practising structural engineer, in accordance with the specification for shoring and support, as detailed in the approved Construction Certificate.

#### **43. CONSTRUCTION HOURS**

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

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays
- (c) Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

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

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

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

All building materials and any other items associated with the development are to be stored within the

the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.



Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

#### **45. NATIONAL CONSTRUCTION CODE (NCC)**

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

#### **46. CONSTRUCTION INSPECTIONS**

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

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

The specified **MANDATORY** inspections for a **DWELLING HOUSES including (Class 1 and 10 Buildings)** are:

- (a) at the commencement of building work;
- (b) after excavation for, and prior to the placement of, any footings;
- (c) prior to pouring any in-situ reinforced concrete building element;
- (d) prior to covering of the framework for any floor, roof or other building element;
- (e) prior to covering any waterproofing in any wet areas;
- (f) prior to covering any stormwater drainage connections; and
- (g) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required (if relevant to the development) to be undertaken by the PCA:

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

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

#### **47. CERTIFICATE OF SURVEY – LEVELS**

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

#### **48. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the actual situation of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

#### **49. SERVICE PIPES**

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

#### **50. TREE PROTECTION**

Precautions shall be taken when working near the street trees to ensure their retention, including the following:

- (a) To minimise disturbance to the root zone of the tree, the area between the tree and the side boundary must not be altered in depth or soil level.
- (b) The applicant is to construct an elevated driveway using pier and beam construction or similar. Placement of the posts for the above work must not damage any tree roots over 75mm in diameter.
- (c) A root mapping report from a consulting arborist in conjunction with an engineer's report must be submitted prior to the commencement of works for approval by Council. The report must show pier locations sited to minimise any damage to the tree's root system.
- (d) A bond of \$5000 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 Coastal Banksia tree in the sideline in Liverpool Street. The bond is to be lodged prior to the issue of a Construction Certificate.

An application for refund of this bond may be made to Council (12) months from the issue of the Final Occupation Certificate. In the event that the specified tree is found damaged, dying or dead at any time during the construction and bond period, the bond may be forfeited to Council.

Any replacement of dead or defective trees shall re-start the (12) month maintenance from the date of replacement.

#### **51. NEW VEHICLE CROSSING**

A new vehicle crossing is to be provided to access the proposed **garages associated with the principal dwelling**. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

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

#### **52. REDUNDANT VEHICLE CROSSING**

The existing, redundant, paver type vehicle crossing and adjacent Arris post and rail fencing on Liverpool Street are to be demolished and the kerb and gutter and turf made good. All work associated with the removal of the crossing is to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense.

#### **53. WORK OUTSIDE PROPERTY BOUNDARY**

All work outside the property boundary is to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense.

#### **54. NO WORKS BEYOND BOUNDARIES**

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

#### **55. SIDE AND REAR FENCE HEIGHT**

Proposed new southern side and/or rear boundary fencing is not to exceed a maximum height of 1.8m above the existing ground level of the adjoining property, unless otherwise agreed by the affected neighbour.

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

#### **56. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, the Principal Certifying Authority must issue a final Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied.

#### **57. STORMWATER MANAGEMENT**

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

## **58. LIGHTING**

Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.

## **59. ALLOCATION OF STREET NUMBER**

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

No. 75 - primary address site number Hardy Street - primary address location. The following sub-addressing will apply:

Nos. 1/75 Hardy Street for the sub-addresses within the building correlating with lower ground floor residence on the floor plans for the building,

No. 2/75 Hardy Street for the sub-addresses within the building correlating with Nos. first floor residence 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.

The address number for a sub-address site shall not consist of the primary address number with an alpha suffix.

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

The sub-address numbering and primary address location for each premises shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundaries, located near the pedestrian entry points and be clearly visible from Liverpool Street.

The 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 to be lodged with Council.

## **60. 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.

## **61. ROOF STRUCTURES**

No structures or devices [including, without limitation, plant, equipment, air conditioning, ventilation] are to be placed on any part of the approved roof or extending beyond the limits of the approved walls of the building.



**62. USE OF ROOF**

The proposed roof shall only be used by persons associated with maintenance of the dwelling.

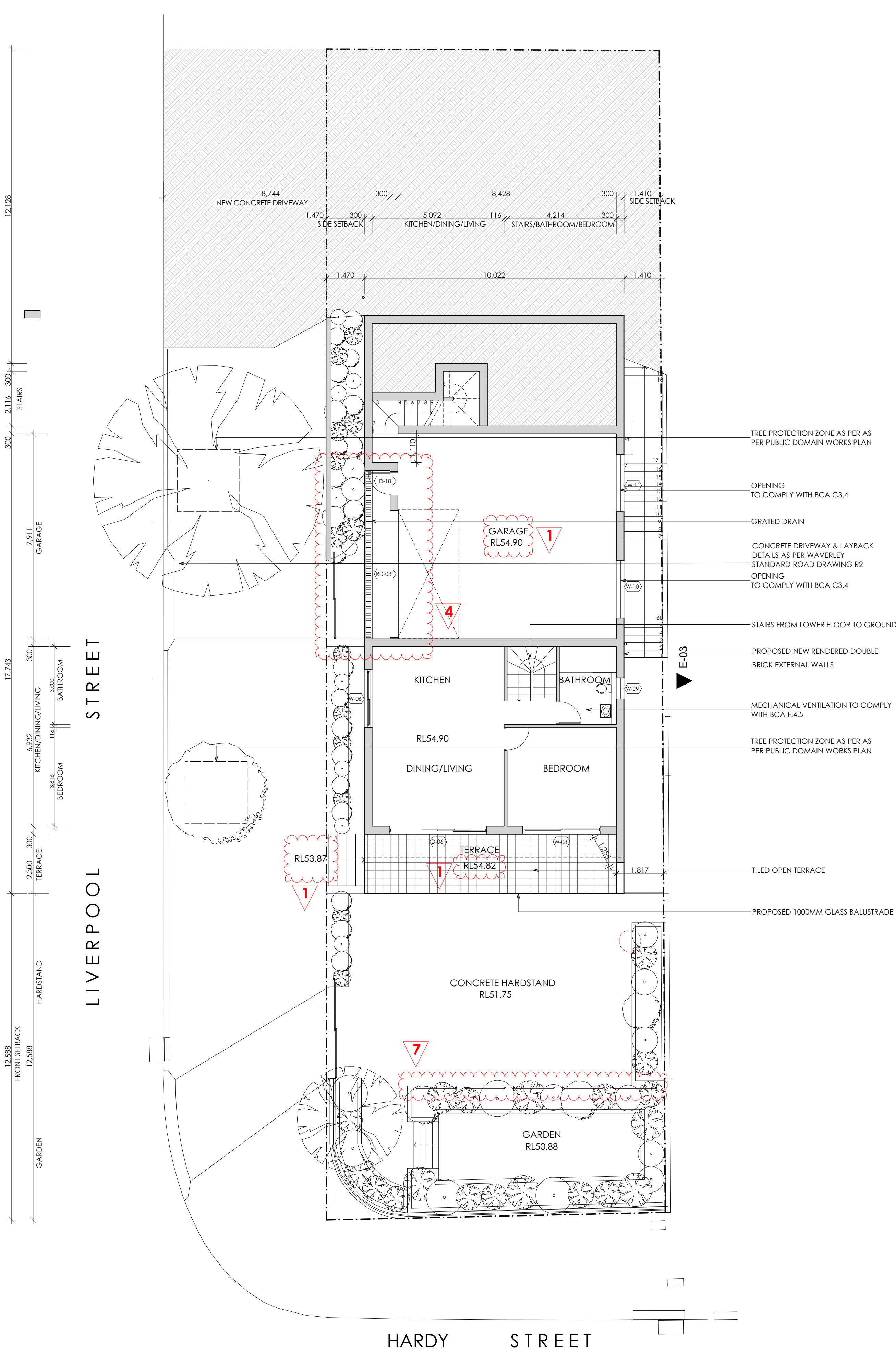
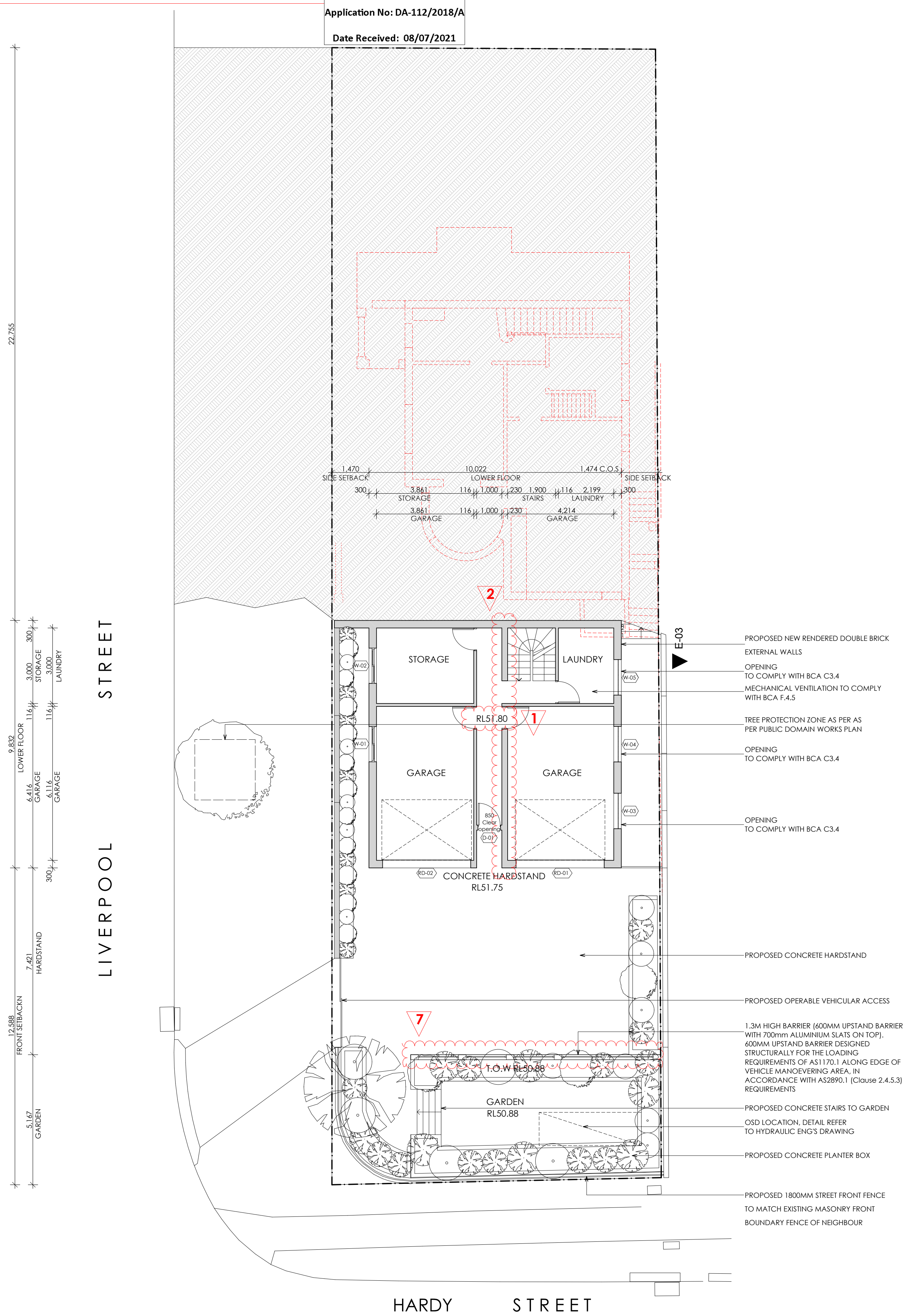
**63. NON-REFLECTIVE ROOF**

The proposed roof shall be of dull, non-reflective colours and materials. Details showing compliance with this condition shall be submitted to Council for its consideration and approval prior to issuing of the Construction Certificate.



AMENDMENT

- 1 LEVELS ADJUSTED
- 2 WALL THICKNESS CHANGED
- 3 ROOF OVERHANG SHORTERN
- 4 DOOR SIZE CHANGED/ADDED
- 5 NEW WINDOW
- 6 FINISHES SCHEDULE UPDATED
- 7 BARRIER WALL HIGH ADJUSTED TO COMPLY WITH AS 1170.1 AND 2890.1



KEY

- EXISTING WALLS TO BE RETAINED
- PROPOSED NEW WALLS
- WALLS TO BE DEMOLISHED
- BOUNDARY LINE

- WF.01 EXTERIOR WALL FINISH - RENDERED BRICK AND PAINTED IN PALE GREY
- RF.01 ROOF FINISH - COLORBOND (IRONSTONE)
- FF.01 FLOOR FINISH - THAT SIT OVER THE TOP OF RC (REINFORCED CONCRETE THROUGHOUT)
- LOWER FLOOR PLAN  
- CONCRETE THROUGHOUT, LAUNDRY TILES  
GFL PLAN  
- GARAGE CONCRETE  
- THE BALANCE THROUGHOUT TIMBER FLOORBOARDS OTHER THAN BATHROOM TILES  
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ARCHITECTURAL DESIGN  
Address 74 JOHN ST, CROYDON  
PHONE (02) 9705 7056  
MOB: 0406 987 868  
NSW ARB: 7853

PROJECT  
**NEW THREE STOREY DWELLING AND GRANNY FLAT**  
**AT: 75 HARDY ST, DOVER HEIGHTS, FOR ARISTEA + RICHARD**

LOWER FLOOR PLAN-GROUND FLOOR PLAN

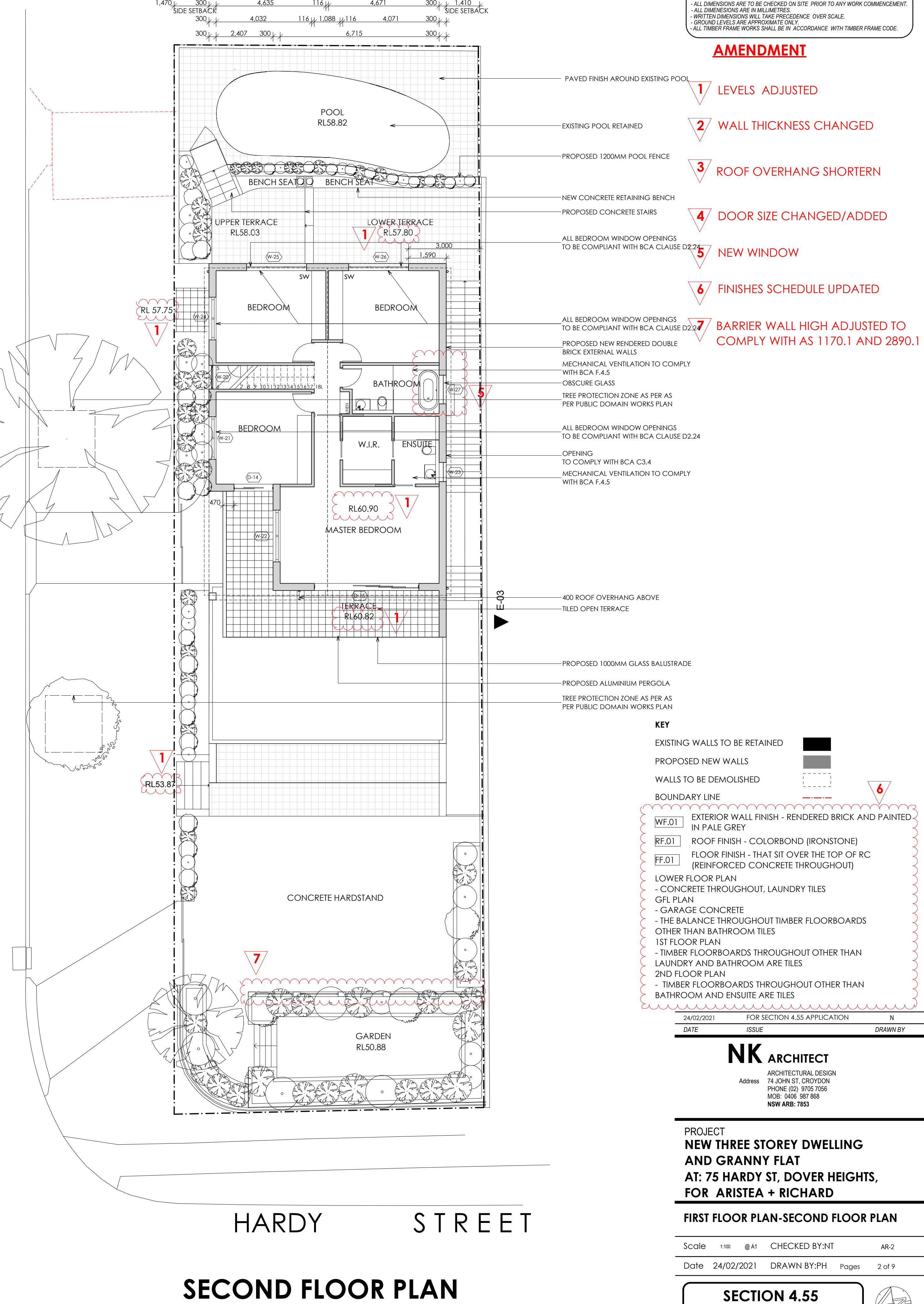
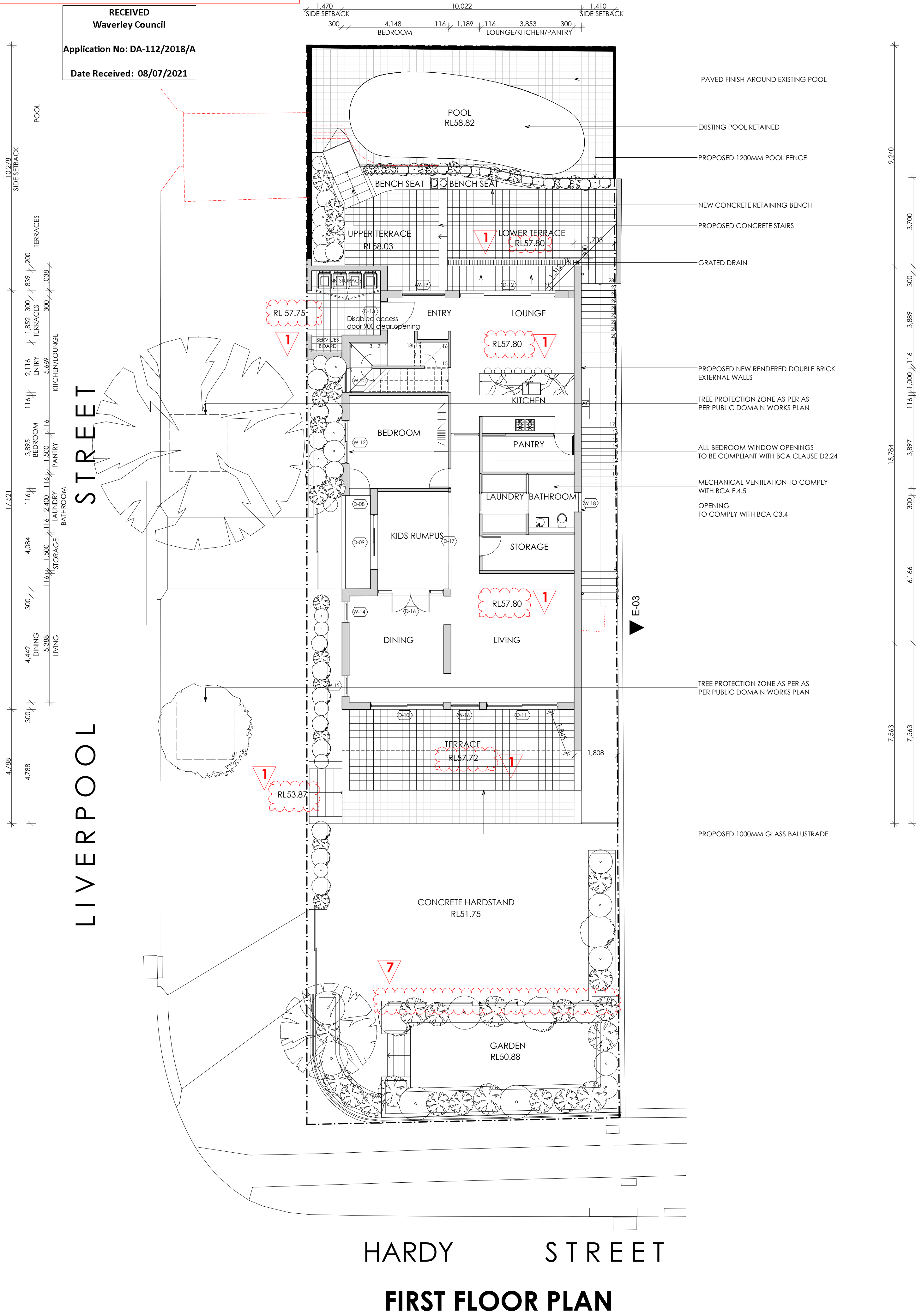
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SECTION 4.55 APPLICATION





RECEIVED  
Waverley Council  
Application No: DA-112/2018/A  
Date Received: 08/07/2021



GENERAL NOTES  
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PROJECT  
NEW THREE STOREY DWELLING  
AND GRANNY FLAT  
AT: 75 HARDY ST, DOVER HEIGHTS,  
FOR ARISTEA + RICHARD

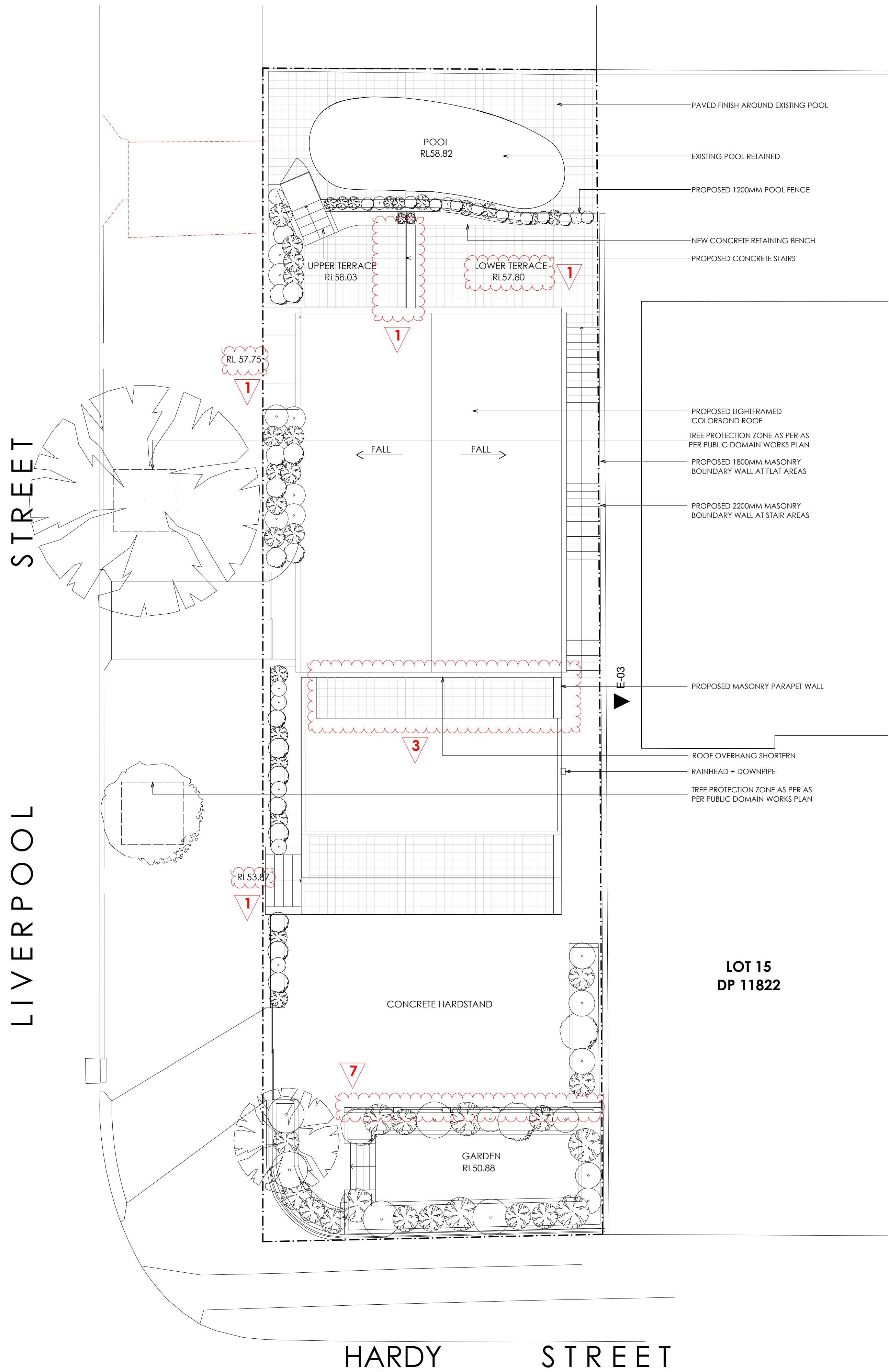
FIRST FLOOR PLAN-SECOND FLOOR PLAN

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SECTION 4.55  
APPLICATION

Plot Date: 08/07/2021  
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ROOF PLAN

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ROOF PLAN

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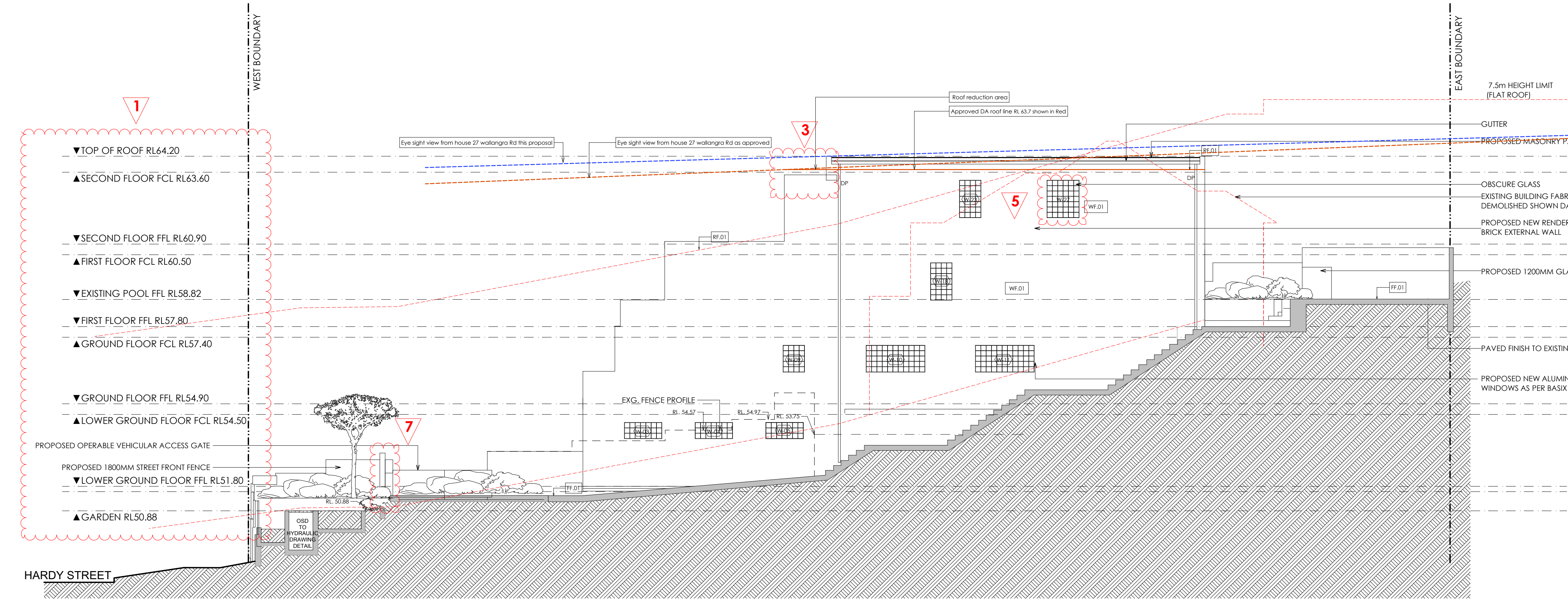
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SECTION 4.55  
APPLICATION

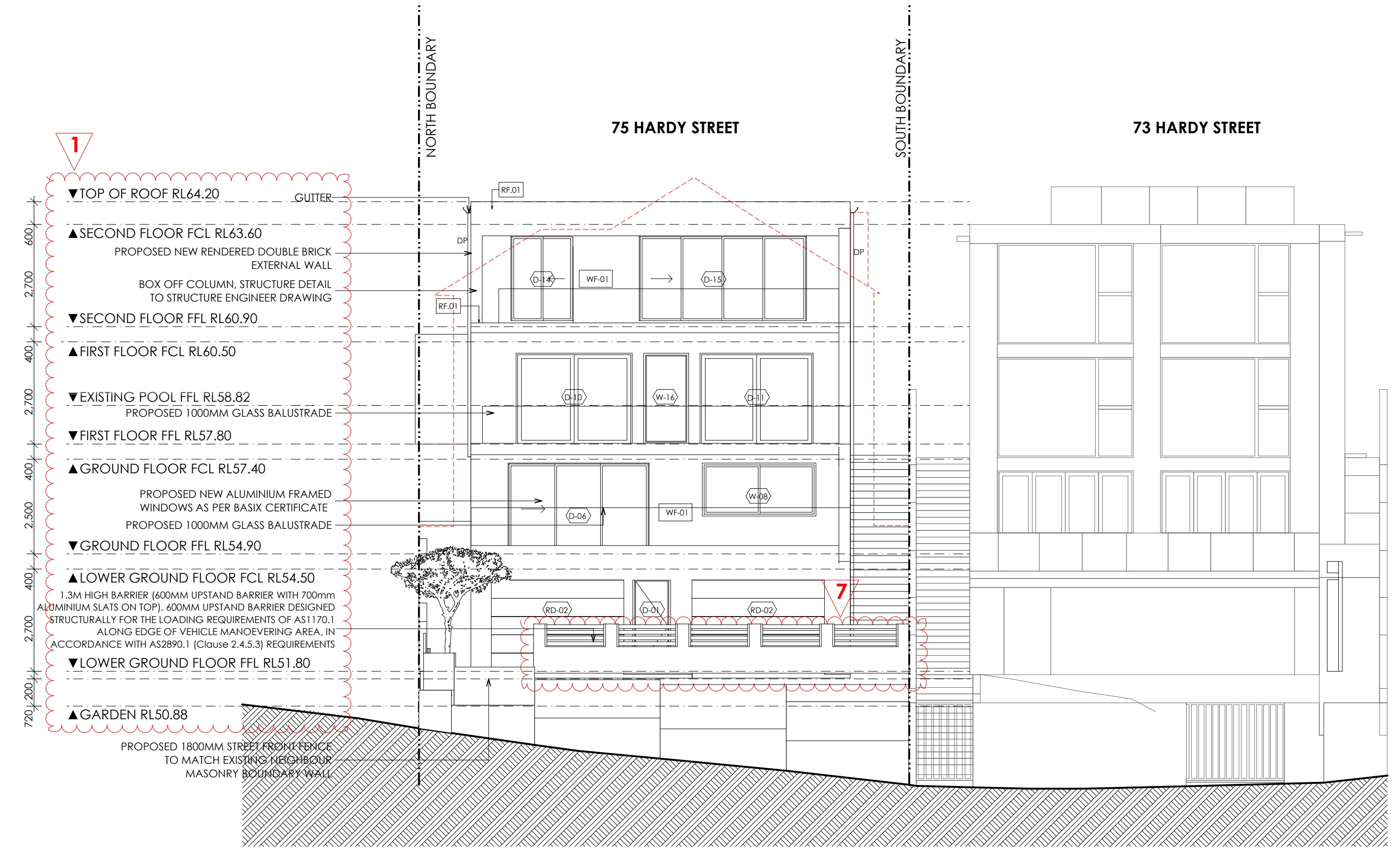
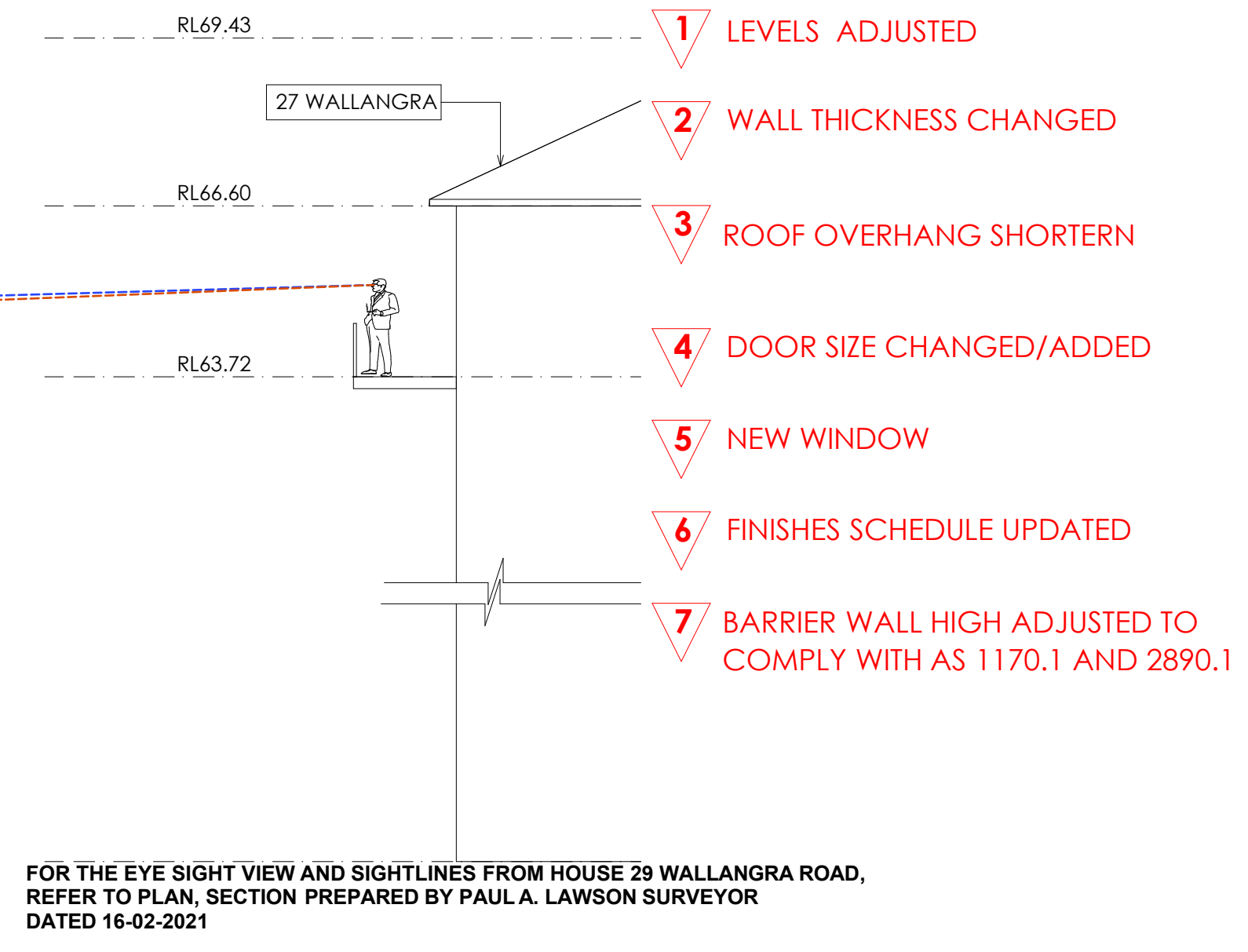




## AMENDMENT



## SOUTH ELEVATION



## WEST ELEVATION

- KEY**
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  - WALLS TO BE DEMOLISHED
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- 6**
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PROJECT  
**NEW THREE STOREY DWELLING AND GRANNY FLAT AT: 75 HARDY ST, DOVER HEIGHTS, FOR ARISTEA + RICHARD**

### ELEVATIONS

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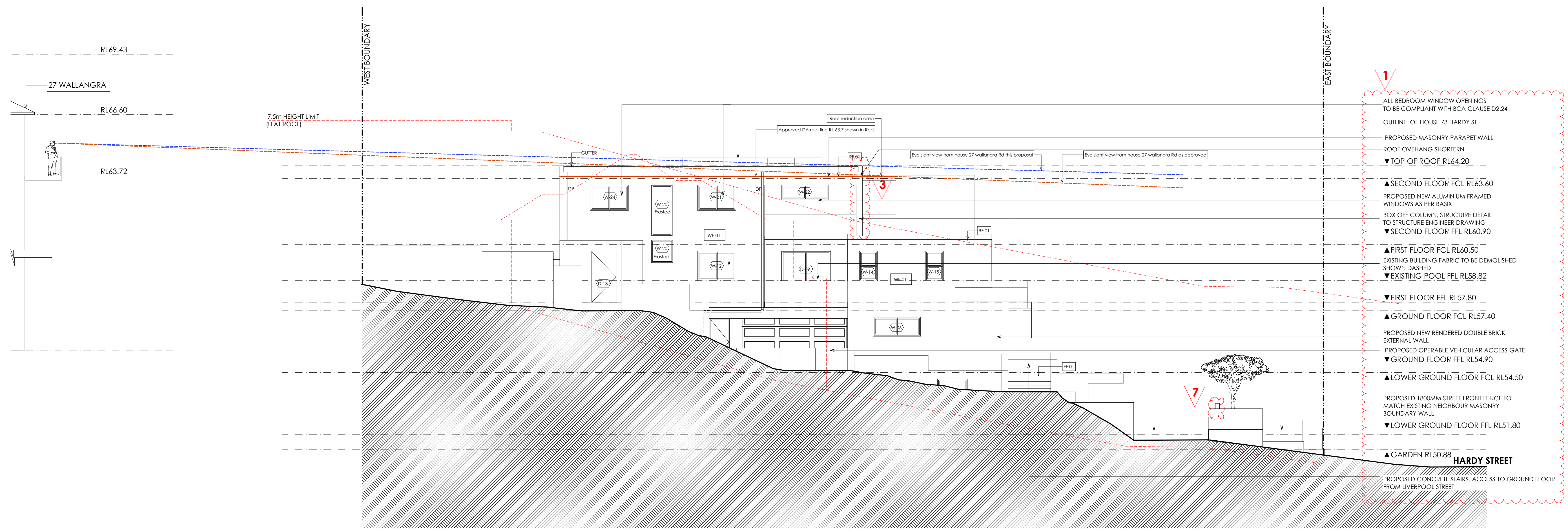
**SECTION 4.55 APPLICATION**



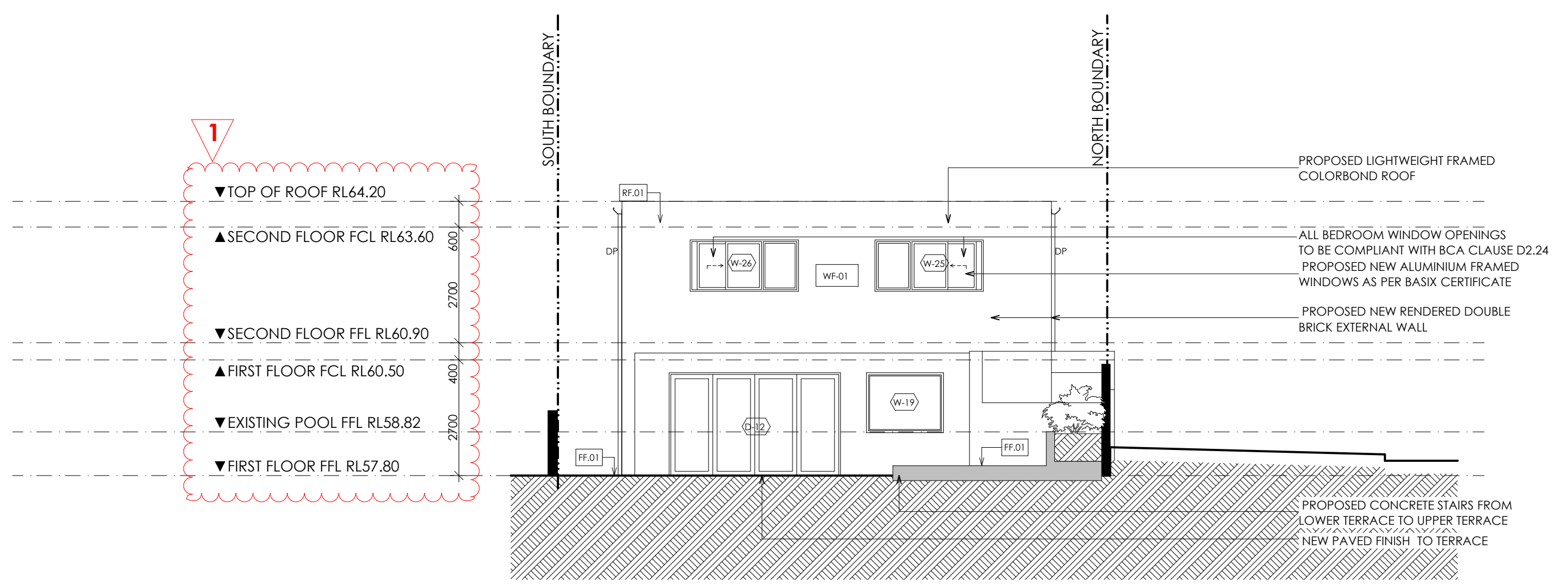
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NORTH ELEVATION



EAST ELEVATION

KEY

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6

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LOWER FLOOR PLAN

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2ND FLOOR PLAN

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ELEVATIONS

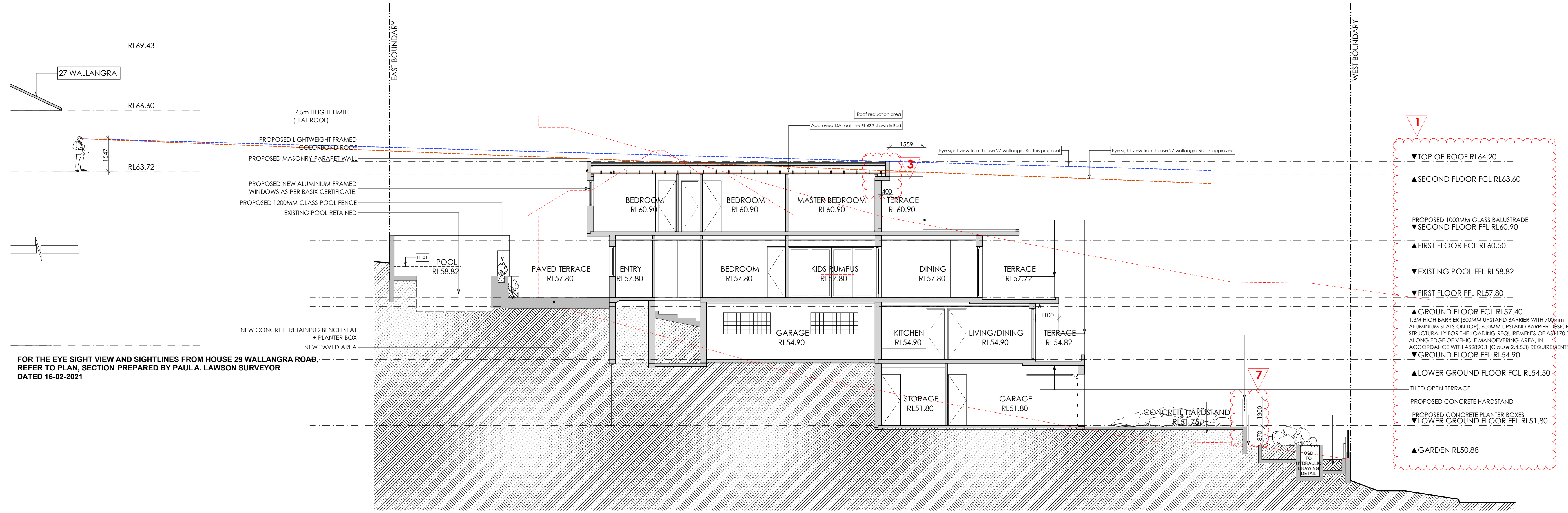
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SECTION 4.55  
APPLICATION

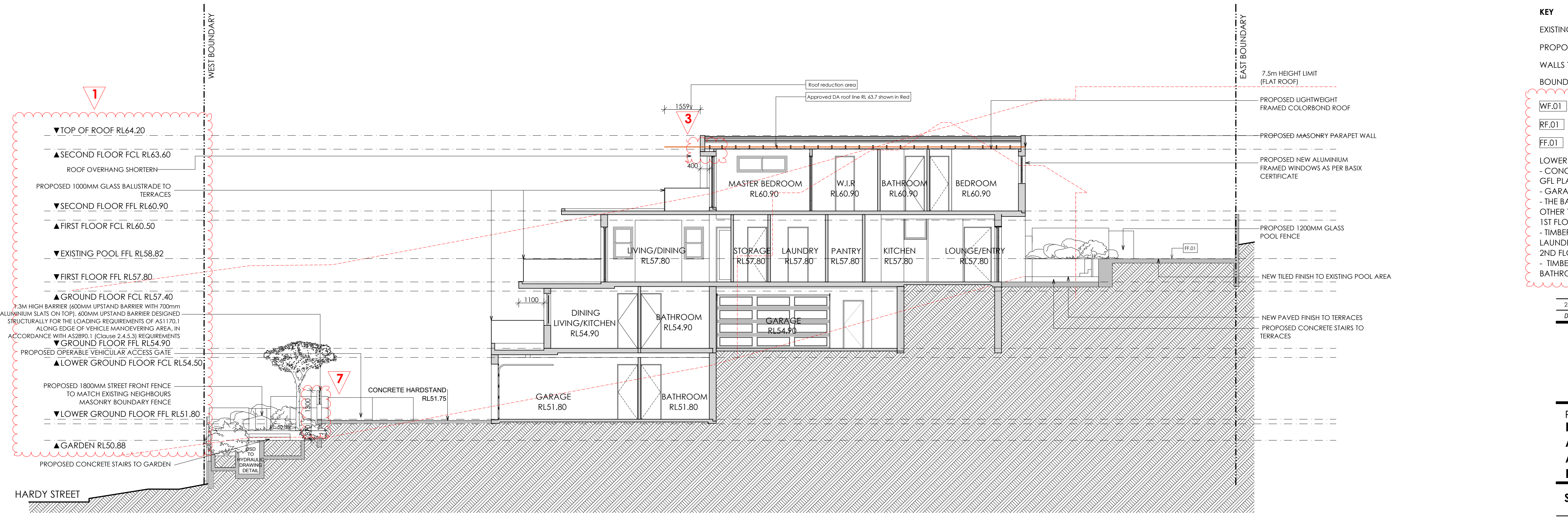


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SECTION 01



SECTION 02

**KEY**

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**6** 2ND FLOOR PLAN

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PROJECT  
**NEW THREE STOREY DWELLING AND GRANNY FLAT**  
**AT: 75 HARDY ST, DOVER HEIGHTS, FOR ARISTEA + RICHARD**

SECTIONS

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**SECTION 4.55 APPLICATION**



AMENDED PLANS

RECEIVED  
Waverley Council

Application No: DA-112/2018/A

Date Received: 08/07/2021

LEGEND:

SHADOW OF PROPOSED BUILDING  
HEIGHT INCREASE PAN-85882

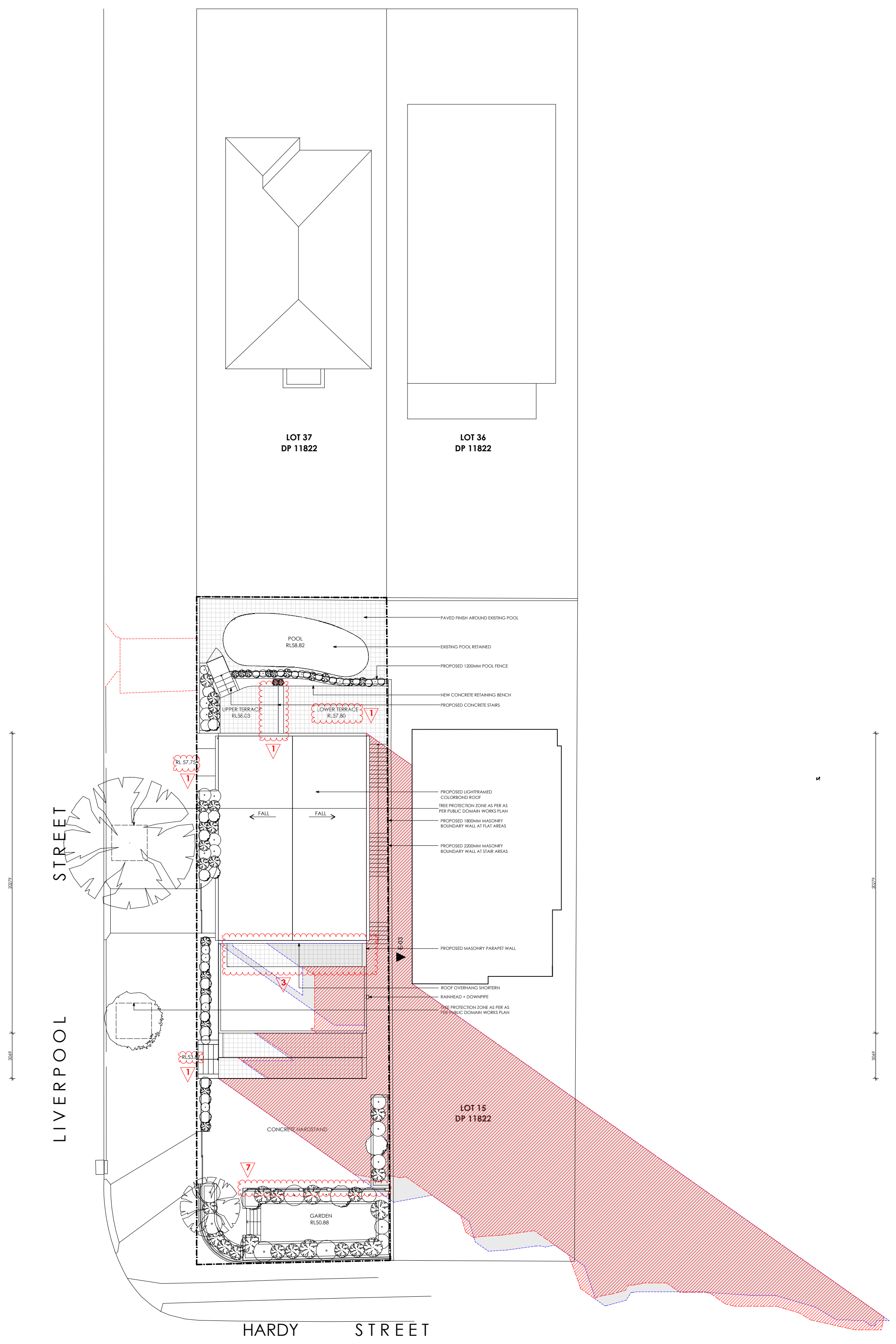
SHADOW APPROVED  
DA-112/2018

NOTE : SHADOW CAST ON GROUND  
LEVEL OF PROPERTY 75 HARDY ST

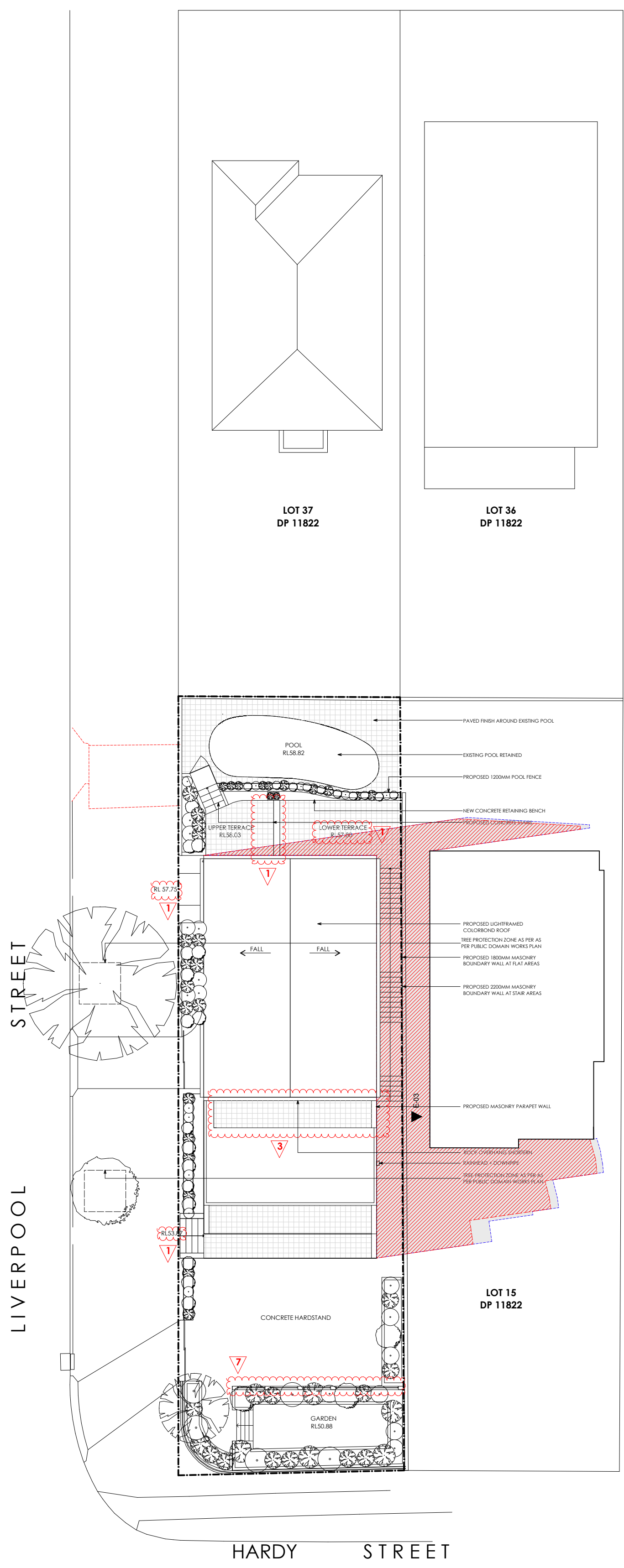
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AMENDMENT

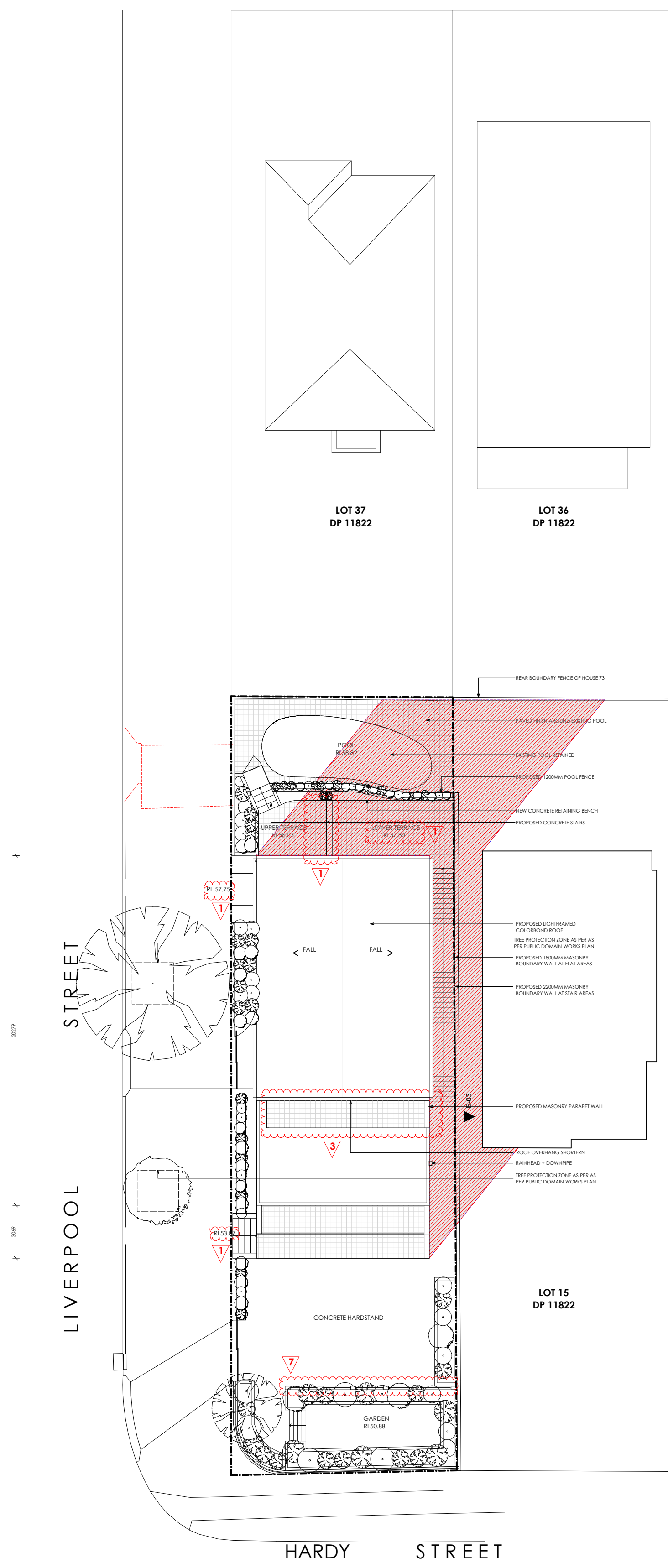
- 1 LEVELS ADJUSTED
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SHADOW DIAGRAM  
Winter solstice 9:00 am 21 June



SHADOW DIAGRAM  
Winter solstice 12:00 noon 21 June



SHADOW DIAGRAM  
Winter solstice 3:00 pm 21 June

24/02/2021  
DATE

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PROJECT

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SHADOW DIAGRAM

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AR-7  
Pages 7 of 9

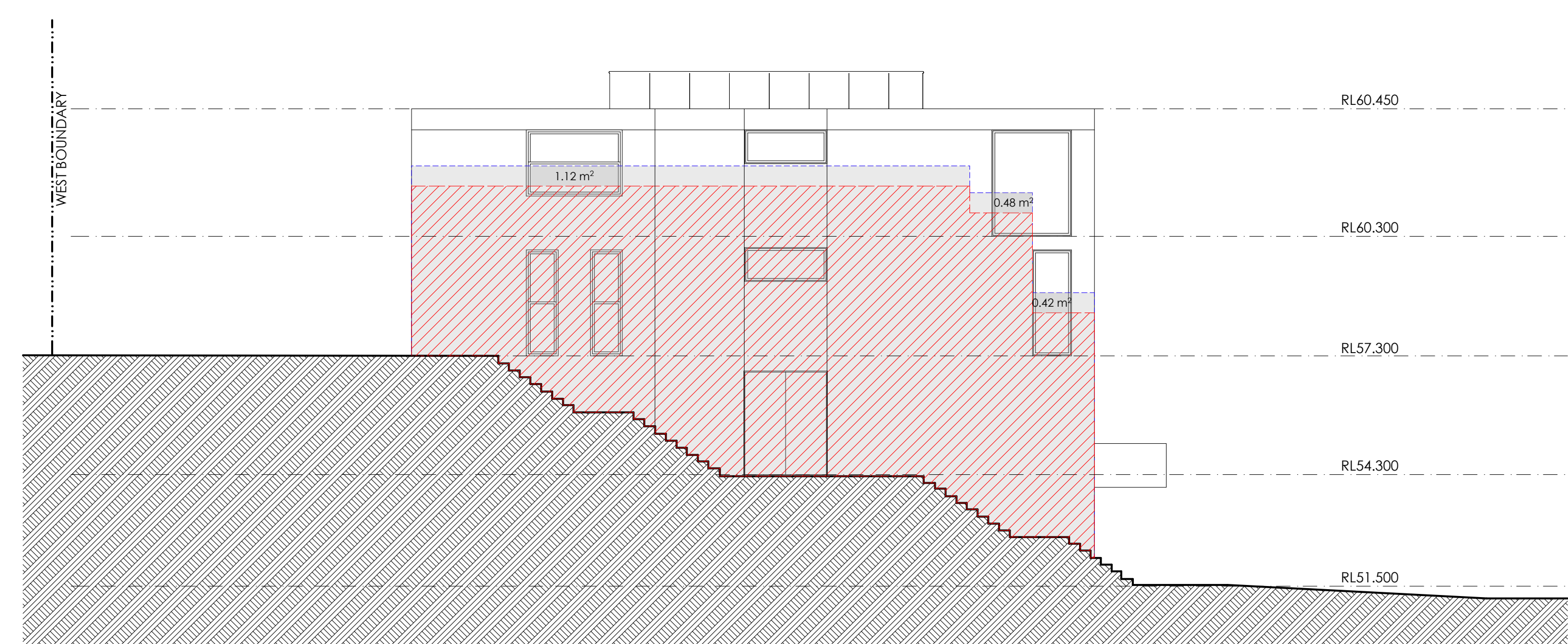
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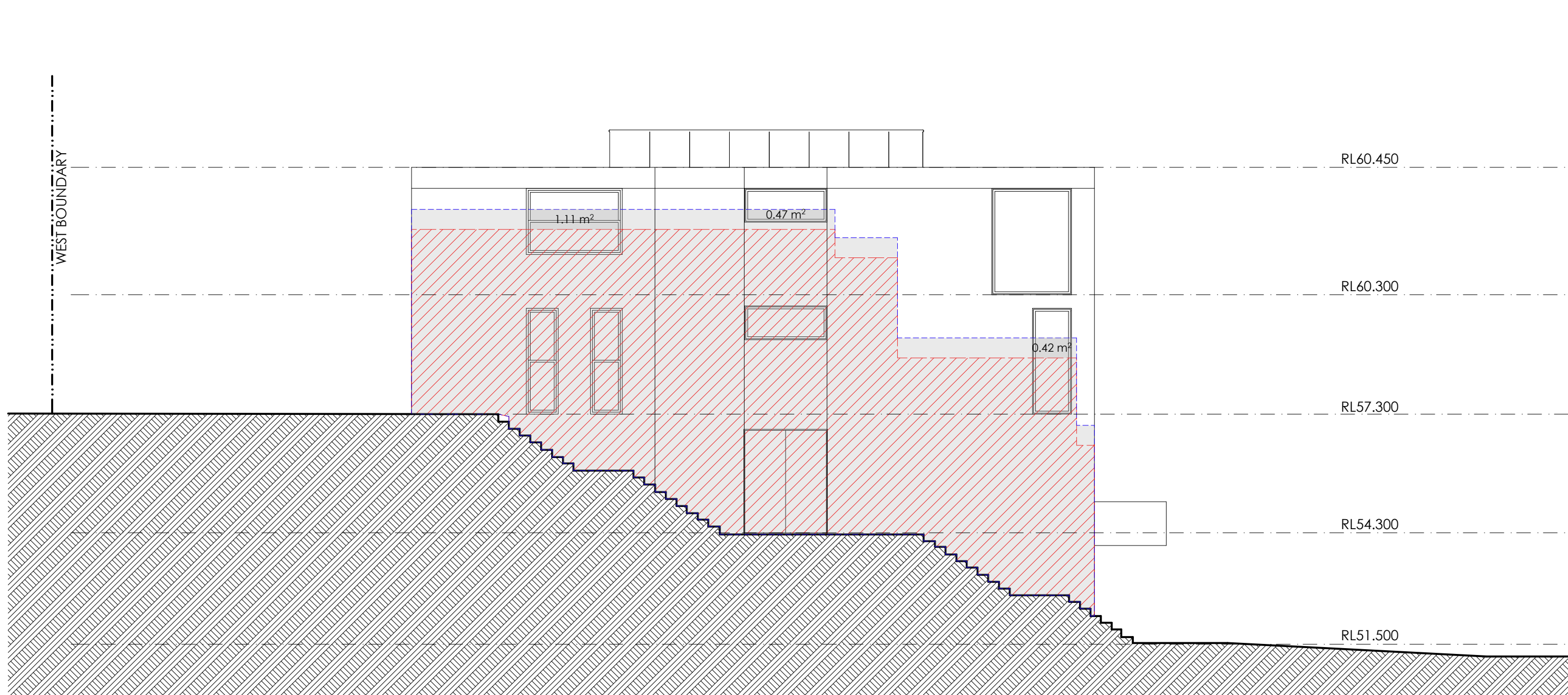




SHADOW DIAGRAM NORTH ELEVATION 73 HARDY ST  
Winter solstice 9:00 am 21 June



SHADOW DIAGRAM NORTH ELEVATION 73 HARDY ST  
Winter solstice 12:00 noon 21 June



SHADOW DIAGRAM NORTH ELEVATION 73 HARDY ST  
Winter solstice 3:00 pm 21 June

LEGEND:

- SHADOW OF PROPOSED BUILDING  
HEIGHT INCREASE PAN-85882
- SHADOW APPROVED  
DA-112/2018

NOTE : SHADOW CAST ON GROUND  
LEVEL OF PROPERTY 75 HARDY ST

GENERAL NOTES  
- ALL DIMENSIONS ARE TO BE CHECKED ON SITE PRIOR TO ANY WORK COMMENCEMENT.  
- ALL DIMENSIONS ARE IN MILLIMETRES  
- WRITTEN DIMENSIONS WILL TAKE PRECEDENCE OVER SCALE.  
- GROUND LEVELS ARE APPROXIMATE ONLY  
- ALL TIMBER FRAME WORKS SHALL BE IN ACCORDANCE WITH TIMBER FRAME CODE.

AMENDMENT

- LEVELS ADJUSTED
- WALL THICKNESS CHANGED
- ROOF OVERHANG SHORTERN
- DOOR SIZE CHANGED/ADDED
- NEW WINDOW
- FINISHES SCHEDULE UPDATED
- BARRIER WALL HIGH ADJUSTED TO  
COMPLY WITH AS 1170.1 AND 2890.1

24/02/2021	FOR SECTION 4.55 APPLICATION	N
DATE	ISSUE	DRAWN BY

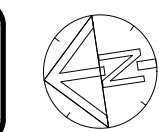
**NK** ARCHITECT  
ARCHITECTURAL DESIGN  
Address 74 JOHN ST, CROYDON  
PHONE (02) 9705 7056  
MOB: 0408 987 868  
NSW ARB: 7853

PROJECT  
**NEW THREE STOREY DWELLING  
AND GRANNY FLAT  
AT: 75 HARDY ST, DOVER HEIGHTS,  
FOR ARISTEA + RICHARD**

**SHADOW DIAGRAM  
CAST ON NORTH ELEVATION OF 73 HARDY ST**

Scale	1:100	@ A1	CHECKED BY:NT	AR-8
Date	24/02/2021	DRAWN BY:PH	Pages	8 of 9

**SECTION 4.55  
APPLICATION**



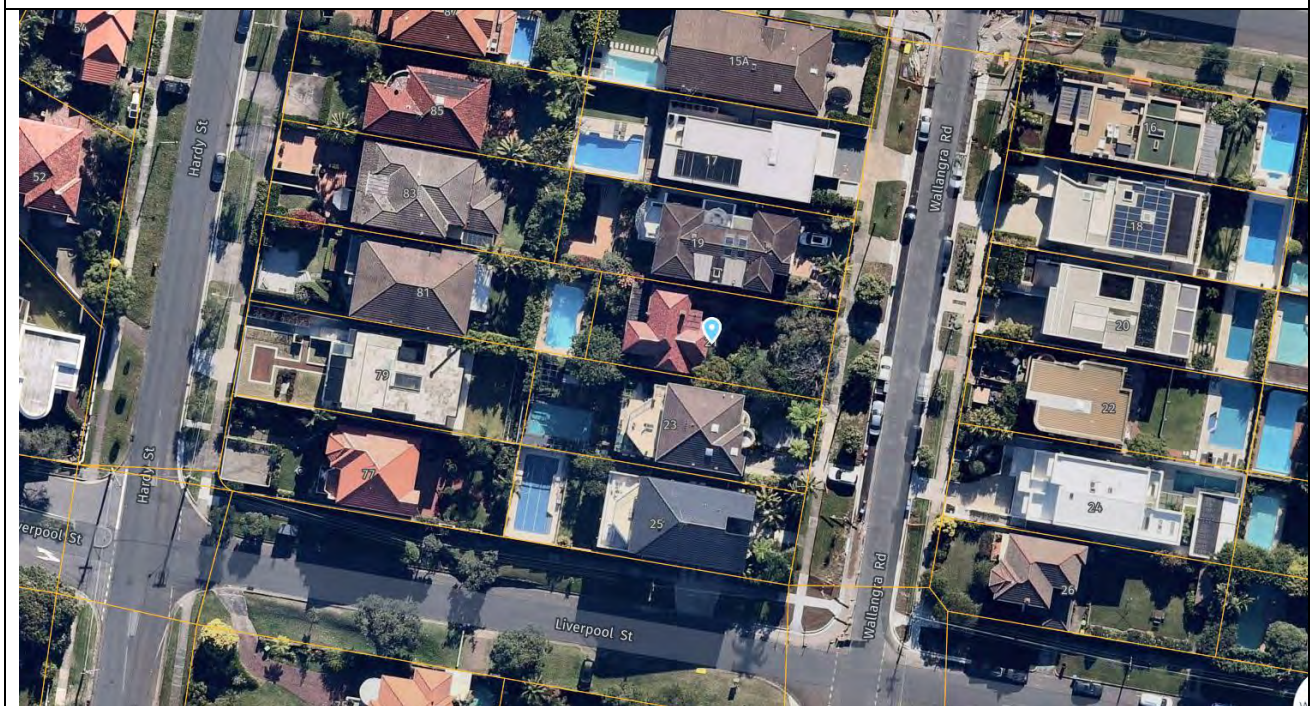




## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-437/2020
<b>Site address</b>	21 Wallangra Road, DOVER HEIGHTS
<b>Proposal</b>	Demolition of dwelling and construction of new 3 storey dwelling with integrated garage and swimming pool in the rear
<b>Date of lodgement</b>	18 December 2020
<b>Owner</b>	B S J Lee
<b>Applicant</b>	B S J Lee
<b>Submissions</b>	One
<b>Cost of works</b>	\$3,133,000
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• FSR</li> <li>• Wall height</li> <li>• Front fence</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for the demolition of the existing dwelling and construction of a new three storey dwelling with integrated garage and swimming pool in the rear at the site known as 21 Wallangra Road, DOVER HEIGHTS.

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

- FSR
- Wall height
- Front fence

The assessment finds these issues acceptable as the overall bulk and scale of the development is compatible with development in the immediate area. Conditions have been recommended to amend the height of the front fence to better align with the character of the streetscape.

One submission was received, and the issues raised in the submission have been considered and addressed in this report and in the Recommendation.

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

### 1.2. Site and Surrounding Locality

A site visit was carried out on 11 February 2021.

The site is identified as Lot 2 in DP 705613, known as 21 Wallangra Road, DOVER HEIGHTS. The site is rectangular in shape with an eastern frontage to Wallangra Road, measuring 13.41m. It has an area of 466m<sup>2</sup> and falls from the east towards the western rear boundary by approximately 5.29m.

The site is occupied by a double storey dwelling house with vehicular access provided from Wallangra Road. The site currently maintains seven established trees within the front and rear of the property.

The site is adjoined by detached dwellings on either side. The locality is characterised by low residential development.



**Figures 1 to 6** are photos of the site and its context.



**Figure 1:** Subject site viewed from Wallangra Road looking west



**Figure 2:** Subject site viewed from Wallangra Road



**Figure 3:** Rear of site looking north



**Figure 4:** Neighbouring property to the north, 19 Wallangra Road



**Figure 5:** Streetscape context showing No. 19 & 17 Wallangra Road to the north of the site



**Figure 6:** Streetscape context showing No. 23 & 25 Wallangra Road to the south of the site



### 1.3. Proposal

The development application seeks consent for the demolition of the existing dwelling and construction of a new three storey dwelling house, specifically the following:

- Demolition of all structures and removal of all trees on site;
- Ground floor consisting of a double garage, study, kitchen, living/dining, laundry, bathroom, outdoor pool, and rear deck;
- First floor consisting of four x bedrooms, a second living room, four x bathrooms, and two x rear balconies;
- Second floor consisting of one x bedroom with study ensuite and dressing room, one x living area and two x rear balconies; and
- Landscaping within the front and rear.



**Figure 7:** 3D render of proposed development

### 1.4. Background

The development application was lodged on 18 December 2020 and deferred on 15 February 2021 for the following reasons:

1. **Exceedance of the FSR:** The proposed development was considered to be an overdevelopment of the site and did not comply with a number of controls within the Waverley Development Control Plan 2021 (Waverley DCP 2012), including height, setbacks, and privacy controls.
2. **Rear setback:** The dwelling extended further than the predominant rear setback, which contributed to overdevelopment of the site.

3. **Bulk and scale:** The development did not comply with the Waverley Local Environment Plan 2012 (Waverley LEP 2012) and Waverley DCP 2012 in relation to FSR, height, setbacks and privacy controls and resulted in an unnecessary bulk and scale to the streetscape and surrounding properties.
4. **Visual and acoustic privacy:** The proposed decks on the first and second floor would result in direct overlooking into neighbouring properties and were excessive in size. The first floor deck was originally proposed with a depth of 1.9m and an area of 8.02m<sup>2</sup> and the second floor deck originally proposed with a depth of 3m and an area of 39.2m<sup>2</sup>.
5. **Swimming pool:** The swimming pool located in the front yard did not comply with the Waverley DCP 2012 controls.
6. **Solar access:** Updated shadow diagrams were requested to accurately assess the extent of over shadowing.
7. **Stormwater:** Council's Stormwater engineer raised issues with the proposed stormwater management on site.
8. **Car Parking:** Council's Traffic engineer raised issues with the proposed crossover and driveway gradient on site.

Amended plans were submitted on 31 May 2021 addressing the above concerns. The amended plans form the basis of this assessment.

## 2. ASSESSMENT

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

### 2.1. Planning Instruments and Development Control Plans

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

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

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

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

#### 2.1.2. Waverley LEP 2012

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

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R2 Zone	Yes	The proposal is defined as a dwelling, which is permitted with consent in the R2 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>8.5m</li> </ul>	Yes	The development has a maximum height of 8.5m, which complies with the standard.
4.4 Floor space ratio (FSR) and 4.4A Exceptions to FSR <ul style="list-style-type: none"> <li>0.0.59:1 or 276.06m<sup>2</sup></li> </ul>	No	The development proposes an FSR of 0.72:1 or 335.57m <sup>2</sup> , which does not comply with the standard by 21.55%.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 6 Additional local provisions</b>		
6.2 Earthworks	Yes	Some excavation works are proposed to accommodate the proposed development; the extent of excavation would not warrant geotechnical investigation. Appropriate conditions of consent are recommended to ensure excavation works do not unduly disturb neighbouring properties and the public domain.

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

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

The application seeks to vary the FSR development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR control of 0.59:1. The proposed development has an FSR of 0.72:1, exceeding the standard by 59.51m<sup>2</sup> equating to a 21.55% variation.

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The proposed variation to the FSR improves the amenity for the future residents without compromising the amenity of adjoining properties.*
  - (ii) *The distribution of floor area across three levels enables the dwelling to provide suitable internal and external amenity for the residents, rather than a two storey building that occupies more land which would reduce the proposal's ability to comply with setbacks and landscaping.*
  - (iii) *The stepped design is provided to ensure dwelling is integrated with the sloping site.*
  - (iv) *The proposed northern setback meets the 900mm requirement, while currently the garage is located on the northern boundary, which improves the dwelling's relationship with the northern dwelling. Such a measure also facilitates view sharing for dwellings across the road*
  - (v) *The proposed density is commensurate with the future character of the character and surrounding area.*
  - (vi) *The proposal incorporates a flat roof which mitigates any potential shadowing, view and privacy impacts. This design measure is considered to result in a better planning outcome compared to proposing a dwelling with a pitched roof, which would produce far greater amenity and bulk impacts.*
  - (vii) *Navon Planning has reviewed DA approvals within proximity to the subject site that exceeded the maximum FSR. These DAs demonstrate Council's ability to be flexible in their application of FSR, largely due to varied site conditions, such as the unique topography of Dover Heights. Subsequently, FSR within various sites in Dover Heights appears to be abandoned by Council as demonstrated in the identified DAs. When reviewing the variations listed below, the average variation is 33%, while the proposed variation sought in this application is 21.55%. This is consistent with the planning framework under Clause 4.6 of the LEP. These DAs appear in the table below:*



Address	Distance from Site by Car *	FSR Variation	Date Approved
20 Wallangra Road, Dover Heights	13m	31%	13/9/11
17 Wallangra Road, Dover Heights	25m	56%	7/1/05
18 Wallangra Road, Dover Heights	26m	18%	15/12/15
15 Wallangra Road, Dover Heights	38m	54%	17/11/15
7 Wallangra Road, Dover Heights	110m	35%	5/9/07
8 Wallangra Road, Dover Heights	110m	56%	19/1/06
5 Wallangra Road, Dover Heights	120m	67%	9/7/08
6 Wallangra Road, Dover Heights	120m	8.2%	17/3/21
3 Wallangra Road, Dover Heights	140m	18.7%	2/10/12
1 Wallangra Road, Dover Heights	150m	20%	5/2/14
75 Hardy Street, Dover Heights	170m	17%	4/4/19
47 Wallangra Road, Dover Heights	190m	19.45%	26/8/20
58 Hardy Street, Dover Heights	200m	11%	5/12/17
74 Gilbert Road, Dover Heights	200m	29%	19/7/17
174 Military Road, Dover Heights	220m	25%	13/6/18

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The proposed variation of only 21.55% (59.51sqm) does not materially contribute to additional shadowing that would cause any unreasonable overshadowing to the site or adjoining properties.*
  - (ii) *The skilful design maintains appropriate privacy between the new dwelling and adjoining dwellings.*
  - (iii) *As discussed above, the demolition of the dwelling enables the new dwelling to comply with all setbacks, including the northern setback where there is currently a nil setback due to the garage.*
  - (iv) *As discussed above in relation to the roof, the design incorporates a flat roof at lower height compared to the existing roof. This provides adjoining dwellings with reduced environmental impacts, particularly in relation to maintaining suitable view corridors.*
  - (v) *Locating the dwelling towards the rear of the site is similar to the existing dwelling, allows the design to provide more than the required landscaping. Siting the new dwelling more forward would disrupt the landscaping curtilage fronting Wallangra Road.*

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

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

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

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

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

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

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

The applicant specifically relies upon justification (a) and (c) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

The proposal results in a non-compliance of 59.51m<sup>2</sup> above the development standard. The table shown above provided by the applicant lists properties in close proximity to the subject site along with the approved FSR. The proposed density is compatible with several nearby properties on Wallangra Road, being two to three storey dwellings. The proposed FSR is considered appropriate within the locality, providing a building which fits within the context of surrounding building forms and residential uses and is consistent with the desired future character of the area. The proposed breach of the FSR control is considered to have no unreasonable impacts. The proposed built form is of an architectural aesthetic which is consistent with the emerging character of the area.

It has been successfully demonstrated that the non-compliance will not impact on the visual bulk and scale of the built form from a streetscape perspective. The dwelling will be viewed as a two storey building that aligns with the overall scale of dwellings on either side of the site. Additionally, the architectural style of the dwelling has been designed to minimise internal void areas and maximise the use of the space within the dwelling. This has resulted in a dwelling that is compliant with the numeric controls, such as setbacks, overall building height, and open space areas. The breach in the FSR development standard is supported.

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The proposed development does not result in a non-compliance in amenity related controls within the DCP, including views, solar access, overshadowing, overlooking, and visual bulk. As such, the proposed built form will not impact on the amenity to surrounding properties adjacent to the subject site.

Due to the steep slope of the site, the majority of the bulk is located in the rear, which will not be visible from the streetscape. The built form provides a greater rear setback than the neighbouring property to the north and steps back to line up with the property to the south. The dwelling also complies with the front and side setback controls within the DCP. The proposed setbacks of the dwelling will limit environmental impacts to neighbouring properties and reduce its visual bulk in relation to the context of the area.

Is the development in the public interest?

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

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

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

The development complies with the maximum height of buildings required under the Waverley LEP 2012 and provides for an appropriate density on site. The overall bulk and scale of the dwelling is compatible with the surrounding development and presents as a two storey dwelling from the street. As mentioned above, the development complies with side, front and rear setbacks, and provides for a dwelling that aligns with the desired future character of the locality. The dwelling will sit lower in height than both neighbouring properties and will be viewed as a two storey development from the streetscape. The bulk and scale fits in with the context of the area.

The overall environmental amenity will not be detrimentally impacted by this development as the dwelling will not cause unreasonable overshadowing, overlooking, or visual bulk to neighbouring properties. The breach in FSR is therefore considered acceptable.

The objectives of the R2 zone are as follows:

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

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise public transport patronage and encourage walking and cycling.*

The development provides for appropriate housing needs of the community within a low density environment, by providing a dwelling house that allows for sufficient space and density compatible with the area. The proposal is consistent with the objectives of the zone and is acceptable in this instance.

### Conclusion

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

### 2.1.3. Waverley DCP 2012 – Amendment No.9

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

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

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory
2. Ecologically Sustainable Development	Yes	Satisfactory
3. Landscaping and Biodiversity	Yes	Satisfactory
5. Vegetation Preservation	Yes	The proposed removal of all trees on site has been reviewed by Council's Tree management officer who has raised no concerns, as none are worthy of retention. This is discussed further in Section 3 of this report.
6. Stormwater	Yes	Satisfactory, subject to conditions. Refer to section 3 of this report on referral commentary in relation to stormwater.
8. Transport  Minimum parking rate: • 0 Maximum parking rate: • 2 spaces for 3 or more bedrooms.	Yes	The proposal provides for two car spaces. Its design and location are satisfactory.
12. Design Excellence	Yes	Satisfactory
14. Excavation	Yes	Satisfactory
16. Public Domain	Yes	Satisfactory



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

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
	Yes	The proposal does not contravene the general objectives of this part of the Waverley DCP 2012.
<b>2.1 Height</b>		
Flat roof dwelling house <ul style="list-style-type: none"> <li>Maximum wall height of 7.5m</li> </ul>	No	<p>The development proposes a maximum wall height of 8m at its highest point, which does not comply with control.</p> <p>The dwelling has been designed to step down in line with the natural slope, however this results in some parts of the wall sitting above the 7.5m allowable height limit. The areas of non-compliance are considered relatively minor and will not impact on the scale and bulk of the overall development. As the development does not sit above the 8.5m overall height limit, the minor non-compliance is acceptable in this instance.</p>
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>Predominant front building line</li> <li>Predominant rear building line at each floor level</li> </ul>	Yes	<p>The development proposes to sit in line with the front setback of the neighbouring property at No. 19 Wallangra Road on all levels. The front setback aligns with the predominant front building line within the street and is acceptable.</p> <p>The development proposes an increased rear setback from the predominant rear building line, due to the irregular subdivision pattern of the subject site. The rear setbacks are increased further than the existing dwelling and would not result in a visual bulk from neighbouring properties.</p>
2.2.2 Side setbacks <ul style="list-style-type: none"> <li>Minimum of 0.9m</li> </ul>	Yes	The development maintains 0.9m setbacks from both the northern and southern side boundaries.
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> <li>Replacement windows to complement the style and proportions of existing dwelling</li> <li>Significant landscaping to be maintained.</li> </ul>	Yes	The development proposes a contemporary design that is compatible with new development within the streetscape. The colours and materials will match that of surrounding development and the scale of the site will be in keeping with the character of Wallangra Road.

Development Control	Compliance	Comment
<b>2.4 Fences</b>		
<p><i>Front:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> </ul> <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.8m</li> </ul>	Yes (condition recommended)	The development proposes a front fence with a maximum height of 1.2m, which the exception of the pedestrian entry gate, which will sit approximately 2.2m in height. The 2.2m high pedestrian gate is not in keeping with the character of front fences in the street and is recommended to be reduced in height to no more than 1.2m via a condition of the consent.
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design</li> <li>External stairs are not acceptable.</li> <li>Maximum size of balconies: <i>10m<sup>2</sup> in area</i> <i>1.5m deep</i></li> <li>Roof tops to be non-trafficable unless predominant in the immediate vicinity</li> </ul>	Yes	<p>The proposed ground floor windows on the northern and southern elevations will be screened by the existing side boundary fences and would sufficiently limit overlooking into the neighbouring properties.</p> <p>The first floor habitable windows on both the southern and northern elevations are all highlight windows with a sill height of at least 2m above FFL, with the exception of the north facing window labelled "W20". Window "W20" services a bedroom and is proposed to be full length. The window does not directly look into a habitable room or private open space of the neighbouring property to the north and will not result in privacy impacts. No concerns are therefore raised regarding overlooking from the first floor windows.</p> <p>The second floor north facing windows have a minimum sill height of 1.8m, which will limit overlooking to the neighbouring property. The window labelled "W40" servicing the main bedroom has a sill height of 1.5m and sit directly adjacent to a bathroom window on the property to the north. As a bathroom window is not considered a habitable room, W40 is considered acceptable in this instance as it will not have direct views into a habitable room or private open space of the neighbouring property.</p> <p>The second floor south facing windows have a minimum sill height of 2m measured from FFL, which would limit any opportunities for overlooking into the neighbour property to the south, with the exception of Window "W52". This window is proposed at full length and services a living room area. As the window does not sit directly adjacent to a window on the</p>

Development Control	Compliance	Comment
		<p>neighbouring property to the south and will not have the opportunity to view into the neighbouring private open space, Council has no concerns with regard to privacy. Additionally, no objections have been received from the neighbouring property with regard to privacy concerns.</p> <p>The first floor balconies have widths less than 1.5m and maintain privacy screens along the southern edge to limit overlooking into the neighbouring property to the south. The balconies on the first floor are not considered to result in detrimental privacy impacts to neighbouring properties and are acceptable.</p> <p>The second floor balconies at the rear of the site both maintain widths of 1.5m with an area less than 10m<sup>2</sup>, which complies with the control. Privacy screens are proposed on the southern and north edges to limit overlooking into the neighbouring properties on either side of the subject site. Whilst there may be some overlooking from over the rear into the neighbouring private open space to the east, it is noted that these balconies maintain significant views of the Sydney city skyline and the Harbour Bridge. The view sharing controls allow some overlooking in lieu of view sharing of iconic views. As the first floor balconies do not service the principle living areas of the dwelling and would not result in a detrimental impact on overlooking to the property to the east, they are considered to be acceptable.</p> <p>No rooftops or external stairs are proposed as part of this application.</p>
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>• Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>• Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> <li>• Avoid unreasonably overshadowing of solar</li> </ul>	Yes	<p>The subject site will maintain sunlight for a minimum of 3 hours into their private open space and principal living area.</p> <p>Shadow diagrams have been submitted with the application which demonstrate the additional shadowing will be cast over a sheer section of wall on the neighbouring property to the south. Due to the increased rear setback from the existing dwelling on site, the proposal will result in an increase in direct sunlight to the rear private open space and principal living areas of the adjacent dwelling to the south.</p>

Development Control	Compliance	Comment
collectors (including habitable windows).		
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	Yes	As the proposed dwelling will sit lower in height than the existing dwelling on site, no views are considered to be impacted as a result of the development.
<b>2.8 Car parking</b>		
<b>2.8.1 Design Approach</b> <ul style="list-style-type: none"> <li>Parking only allowed where site conditions permit</li> <li>Designed to complement the building and streetscape</li> <li>Car parking structures to be behind the front building line</li> <li>Driveways are to be located to minimise the loss of on street parking</li> </ul>	Yes	<p>The proposed location of the double garage is compatible with parking structures within the streetscape. The garage will be consistent with the parking character of the streetscape and will not dominant the façade of the built form.</p> <p>One street parking space will be removed, however two spaces will be gained on site.</p>
<b>2.8.2 Parking rates</b>	Yes	Parking rates are set by Part B8 of Waverley DCP 2012 and complies.
<b>2.8.3 Location</b> <ul style="list-style-type: none"> <li>Behind front building line for new dwellings</li> <li>Existing development to be in accordance with the hierarchy of preferred car parking locations</li> </ul>	Yes	The proposed double garage will sit in line with the front façade of the dwelling, which is a consistent character design along Wallangra Road. The location of the garage will not sit out of place within the street and is considered acceptable.
<b>2.8.4 Design</b> <ul style="list-style-type: none"> <li>Complement the style, massing and detail of the dwelling</li> </ul>	Yes	The design of the garage is proposed to sit in line with the character of the surrounding streetscape. The garage will not dominate the front façade and will complement the existing rhythm of Wallangra Road.



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Secondary in area and appearance to the design of the residences</li> <li>Gates to have an open design</li> </ul>		
2.8.5 Dimensions <ul style="list-style-type: none"> <li>5.4m x 2.4m per vehicle</li> </ul>	Yes	The garage proposes dimensions measuring 6m x 5.8m, which complies with the control.
2.8.6 Driveways <ul style="list-style-type: none"> <li>Maximum of one per property</li> <li>Maximum width of 3m at the gutter (excluding splay)</li> </ul>	Yes	The driveway is proposed to be single width measuring no more than 3m, excluding the splays.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> <li>Overall landscaped area: 15% of site area</li> <li>Minimum area of 25m<sup>2</sup> for private open space</li> <li>Front open space: 50% of front building setback area</li> <li>Front landscaped area: 50% of front open space provided</li> <li>Outdoor clothes drying area to be provided</li> </ul>	Yes	56% of the site will be dedicated to open space.  21.7% of the site will be landscaped.  the rear yard will have an area of 70m <sup>2</sup> .  The front yard will comprise of 95% open space.  60% of the front open space will be landscaped.  Clothes drying is available in the rear of the site.
<b>2.10 Swimming pools and spa pools</b>		
<ul style="list-style-type: none"> <li>Located in the rear of property</li> <li>Pool decks on side boundaries must consider visual privacy</li> </ul>	Yes	The swimming pool is located at the rear of the site will sit more than 5m from all property boundaries.

## 2.2. Other Impacts of the Development

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

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was subject to an extended notification period of 32 days due to the Christmas period in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was re-notified for 14 days. A total of one unique submission was received from the following property:

- 20 Wallangra Road, DOVER HEIGHTS

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

**Issue:** The development results in minimal landscaping on site.

**Response:** The development complies with the minimum landscaping controls required under the Waverley DCP 2012. Additionally, Council's Tree management officer has reviewed the proposed removal of trees and has stated that the existing trees on site are not worthy of retention. No concern is raised with regard to landscaping on site.

## 2.5. Public Interest

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

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Traffic and Development

Council's Traffic engineer has reviewed the design and made the following comments:

*The proposed finished level at the property boundary is lower than the back edge of the footpath by 56mm. The finished level at the property boundary is to be finished 30mm higher than the back edge of the footpath. This is to prevent stormwater inundation into the property. Compliance with the driveway gradient requirements will require lengthening the driveway and/or raising the garage floor RL.*

*This can be addressed by imposing a deferred commencement condition. Note: Attaining compliance with the driveway gradient may have implications on the head height clearances and slab above the driveway.*

#### Planner Note

The proposed head clearance of the garage is currently proposed at 2.45m, with a 610mm gap in levels above. The modification of the driveway gradient requested by the traffic engineer can be accommodated without modifications to the overall built form. As such, it is recommended to be included as a condition of consent rather than a deferred commencement condition.

### 3.2. Stormwater

*The proposed development was examined against Chapter B6 of Waverley Development Control Plan 2012 (WDCP 2012), the Waverley Local Environmental Plan 2012 (WLEP 2012), Waverley Council Water Management Technical Manual July 2014, NSW Government Flood Prone Lands Policy and the NSW Floodplain Development Manual 2005 (FDM), and in this regard the following comments are made:*

- The submitted stormwater management plan has been deemed as concept only. The pump out system shall not have a discharge rate > 16 L/s (which is what the PSD has been calculated to be).*
- From a stormwater drainage perspective there are no objections to approval of this application.*

#### Planner Note

Standard conditions have been recommended within the consent.

### 3.3. Tree Management

- On inspection, it was noted that on site there were no trees of any significance, the trees possess no outstanding attributes worthy of retention and their removal is supported.*
- On inspection, it was noted that on the naturestrip at 21 Wallangra Road is a *Metrosideros thomasi* (NZ Christmas bush). The tree is in good health. Tree to be Retain and protected.*

#### Planner Note

Standard conditions have been recommended within the consent to protect the tree located on the nature strip. In addition, a condition is recommended requiring the applicant to enter into Council's Off-Set Planting Program.

## 4. CONCLUSION

The development application seeks consent for the demolition of a dwelling and construction of a new three storey dwelling with integrated garage and swimming pool in the rear at the site known as 21 Wallangra Road, DOVER HEIGHTS.

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

- FSR
- Wall height
- Front fence

The assessment finds these issues acceptable as the overall bulk and scale of the development is compatible with development in the immediate area. Conditions have been recommended to amend the height of the front fence to better align with the character of the streetscape.

One submission was received and the issues raised in the submission have been considered and addressed in this report and in the Recommendation.

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

*Development and Building Unit (DBU) Decision:*



The application was reviewed by the DBU at the meeting on 2 February 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 and 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:	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: 9 July 2021	Date: 15 July 2021

*Reason for WLPP referral:*

1. Contentious development (10 or more objections)



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

### **A. APPROVED DEVELOPMENT**

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

The development must be in accordance with:

(a) Architectural Plans prepared by Michael Folk Architects and Interiors Pty Ltd including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA01	Site and Analysis Plan	30/05/2021	31/05/2021
DA03A	Demolition Plan GF	30/05/2021	31/05/2021
DA03B	Demolition Plan FF	30/05/2021	31/05/2021
DA04	Ground Floor Plan	30/05/2021	31/05/2021
DA05	First Floor Plan	30/05/2021	31/05/2021
DA06	Second Floor Plan	30/05/2021	31/05/2021
DA07	North Elevations and Finishes	30/05/2021	31/05/2021
DA08	South Elevation	30/05/2021	31/05/2021
DA09	East Elevation	30/05/2021	31/05/2021
DA10	West Elevation	30/05/2021	31/05/2021
DA11	Streetscape East Elevation	30/05/2021	31/05/2021
DA13	Section AA	30/05/2021	31/05/2021
DA14	Section BB	30/05/2021	31/05/2021
DA15	Section DD	30/05/2021	31/05/2021
DA16	Section C & EE Driveway	30/05/2021	31/05/2021

(b) Landscape Plan No. DA 01 and documentation prepared by Michael Zinn Landscape Designer, dated 27 May 2021 and received by Council on 31 May 2021

(c) BASIX and Certificate

(d) Stormwater Details and documentation prepared by Gemstrux Consulting Engineer Revision D dated 28 May 2021, and received by Council on 31 May 2021

(e) The Site Waste and Recycling Management Plan (SWRMP) Part 1 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) The front fence pedestrian entry must be reduced to a maximum height of 1.2m.

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

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

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

### **GENERAL REQUIREMENTS**

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

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

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the Environmental Planning & 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 **\$62,660** 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. OFFSET TREE PLANTING**

To compensate for the loss of trees on site, prior to the issue of a Construction Certificate, the applicant is to enter into a deed of agreement with Council, at their own cost, for the planting of two replacement trees on public land by Council's tree planting contractors.

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

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

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

## **CONSTRUCTION MATTERS**

### **10. HOARDING**

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

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

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

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

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

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

### **13. ENGINEERING DETAILS**

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

## **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 stormwater design plan prepared by Gemstrux Consulting Engineers P/L, Project No. GC20429, Drawing No. SW01, SW02, SW03, SW04 & SW05, Revision D, dated 28/05/2021, 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:



- a) When proposing a pump out system, evidence must be submitted to Council that an honest and reasonable attempt has been made to acquire an easement to drain water through any of the downstream properties or demonstrated that all avenues to establish an easement be impractical or unviable.
- b) The permissible site discharge (PSD) for the property has been determined to be 16 L/s.
- c) Submission of full hydraulic details and pump manufacturers specifications for any pump out system is to be provided. The pump out system must be connected to a stilling pit and gravity line before discharged to Council's street gutter (details shall be provided).
- d) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system. The rainwater tank must have a minimum capacity of 2 m<sup>3</sup>.
- e) A certificate from a registered structural engineer certifying the structural adequacy of any below ground rainwater, OSD or pump out system shall be provided.
- f) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location.
- g) Seepage water must not be directly or indirectly discharged to Council's street gutter.
- h) The pipeline within the footpath verge of Wallangra Road must be hot dipped galvanised steel hollow section with a wall thickness of 4.0 millimetres.
- 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:

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

## **ENERGY EFFICIENCY & SUSTAINABILITY**

### **15. BASIX**

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

## **WASTE**

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

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

## **TRAFFIC AND TRANSPORT**

### **17. LONG SECTIONS OF DRIVEWAY**

Long sections drawn along both edges of the driveway shall be submitted to Council for the approval of the **Executive Manager, Infrastructure Services**.

The long section drawings shall:

- a) Include the levels (RL's) of the Wallangra Road carriageway, the kerb and gutter, footpath, paving within the property and the garage floor.
- b) Include existing and design levels.
- c) Include ground clearance of the B85 design vehicle using the ground clearance template contained in Appendix C of AS 2890.1: 2004 Off Street Car Parking.
- d) Show all paving on Council's land being sloped/ drained towards the roadway.

### **18. VEHICULAR ACCESS - FINISHED LEVEL**

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

### **19. 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).

### **20. 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.

## **21. DRIVEWAY SIGHT TRIANGLES**

The height of the boundary fence and any planting within the orange sight triangles shown in Drawing DA01 and DA16 are to be a maximum height of 1.15 metres.

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

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

### **PRIOR TO ANY WORKS**

## **22. CONSTRUCTION SIGNS**

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

## **23. DILAPIDATION REPORT**

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

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

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

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

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

accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

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

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

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

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

## **26. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED 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.

## **27. EXCAVATION AND BACKFILLING**

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

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

## **CONSTRUCTION MATTERS**

## **28. CONSTRUCTION HOURS**

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

- (a) Sundays and public holidays;



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

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

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

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

## **30. CONSTRUCTION INSPECTIONS**

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

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

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

## **32. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

## **33. WORK OUTSIDE PROPERTY BOUNDARY**

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

## **34. 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**

#### **35. STREET TREES TO BE RETAINED/TREE PROTECTION**

- a) The existing *Metrosideros thomasi* (NZ Christmas bush) tree on the naturestrip at the front of the property in Wallangra Road is to be protected for the duration of the construction works.
- b) Precautions shall be taken when working near trees to ensure their retention, including the following:
  - (i) Do not store harmful or bulk materials or spoil under or near trees;
  - (ii) Prevent damage to bark and root system;
  - (iii) Do not use mechanical methods to excavate within root zones;
  - (iv) Do not add or remove topsoil from under the drip line;
  - (v) Do not compact ground under the drip line;
  - (vi) Do not mix or dispose of liquids within the drip line of the tree; and
  - (vii) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.
- c) Trunk protection as per AS 4970 – 2009, Section 4.5.3 is to be installed.
- d) Padding to be used shall be non-absorbing or free draining to prevent moisture build up around the part being protected. The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8 metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with 2mm galvanised wire or galvanised hoop strap. The timbers shall be wrapped around the trunk (over the carpet underfelt), but not fixed to the tree to avoid mechanical injury or damage to the trunk. Trunk protection must be installed prior to any site works including demolition and maintained in good condition for the duration of the construction period.
- e) 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.
- f) No existing street trees shall be removed or pruned without Council approval.

#### **36. 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 street tree at the front of the property. The bond is to be lodged prior to the issue of a Construction Certificate.

The sum will be forfeited to the Council at its discretion for a breach of these requirements and will be refunded twelve (12) months from the issue of the Occupation Certificate subject to the satisfaction of Council.

## **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.

### **37. 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.

### **38. CERTIFICATION OF BASIX COMMITMENTS**

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

### **39. 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, 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.

### **40. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD OR PUMP OUT SYSTEM**

A “Restriction on the Use of Land” and “Positive Covenant” shall be created for any on-site stormwater detention (OSD) or pump out system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the title that any OSD or pump out 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 any OSD or pump out 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.

#### **41. PLANNED PREVENTATIVE MAINTENANCE SCHEDULE FOR PUMP OUT SYSTEM**

The registered proprietor shall be required to submit written intent to establish and maintain a Planned Preventative Maintenance (PPM) schedule of any pump out system prior to the issue of Occupation Certificate. Council will not be liable for any claims for damages arising from the failure of any pump out system. Evidence shall be submitted to the Executive Manager, Infrastructure Services or delegate prior to the issue of the Occupation Certificate.

#### **42. CERTIFICATION OF SWIMMING POOL**

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.

### **E. ADVISORY MATTERS**

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

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

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

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au), in person (at Council's Customer Service Centre) or via post service.
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition)
- Include DA reference number
- Include condition number/s seeking to be addressed
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.



- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.
- Any queries, please contact Council's Duty Planner on [duty.planner@waverley.nsw.gov.au](mailto:duty.planner@waverley.nsw.gov.au)

## **AD2. SYDNEY WATER REQUIREMENTS**

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

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

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

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

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

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

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

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

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

**AD6. EXCAVATION TO BE LIMITED**

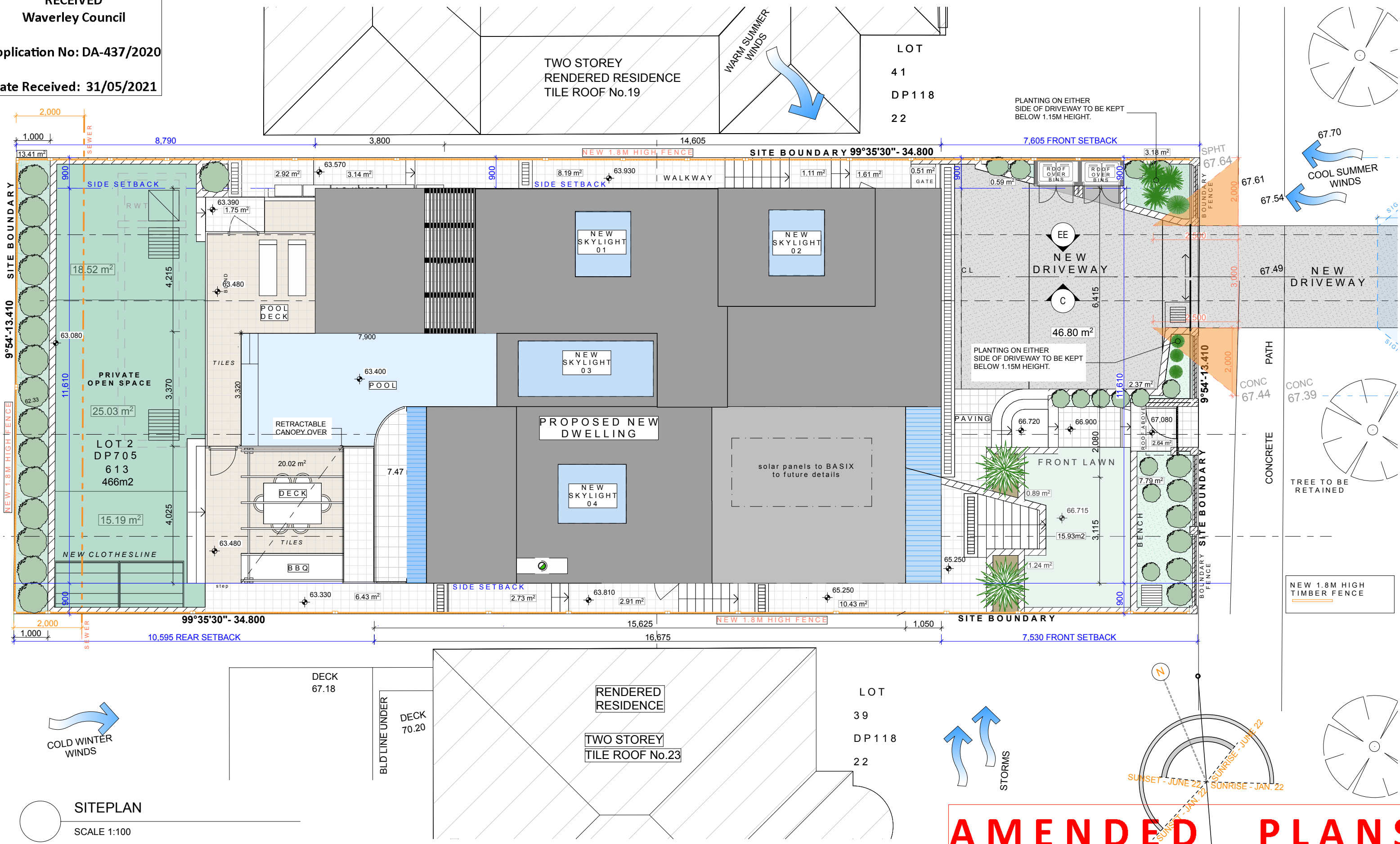
Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

**AD7. TREE REMOVAL/PRESERVATION**

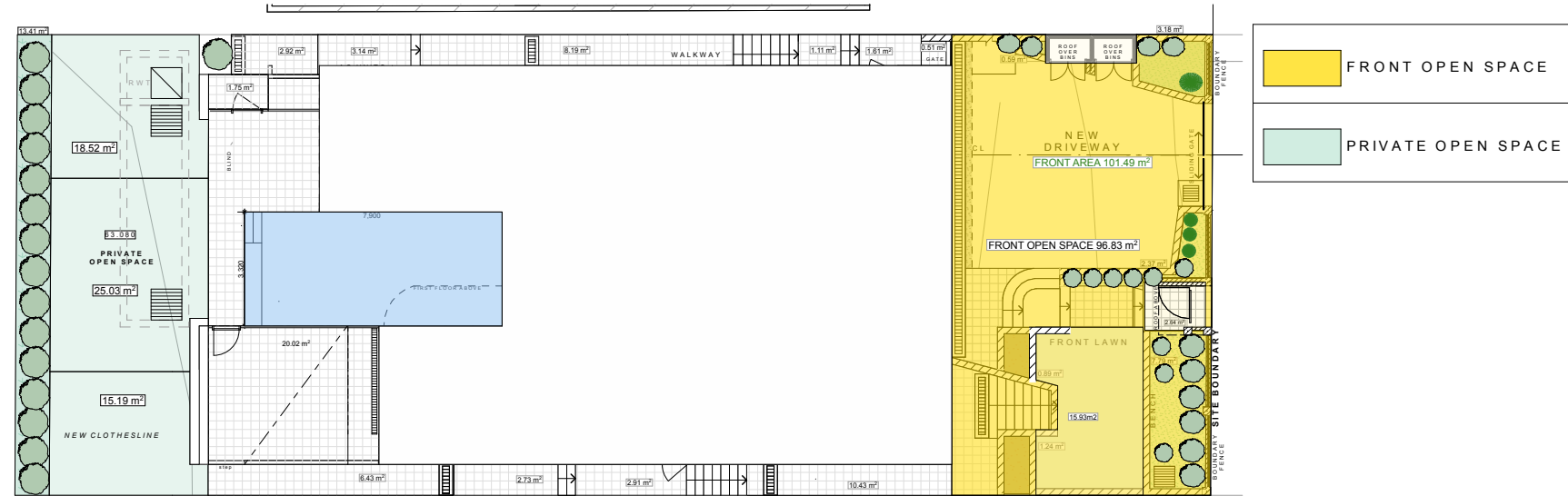
Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

**AD8. 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.



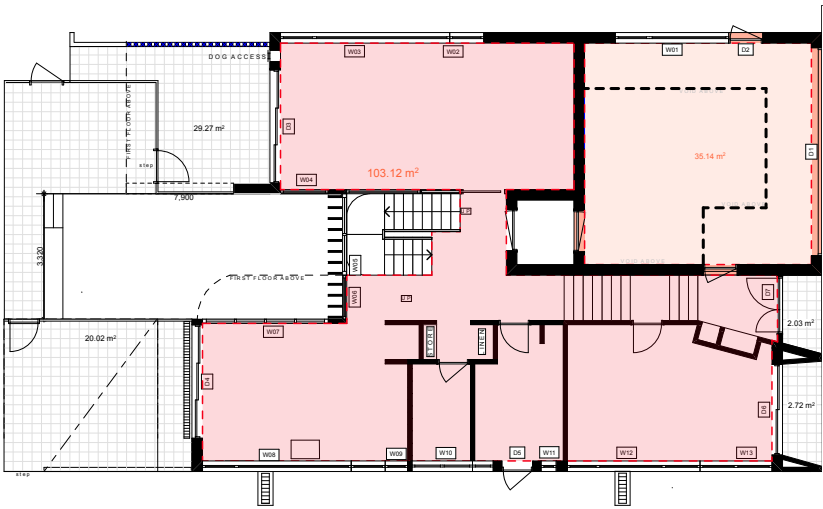
<p>Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work</p>	<p><b>MICHAEL FOLK</b> ARCHITECTS AND INTERIORS PTY LTD 64/61 MARLBOROUGH STREET SURRY HILLS, NSW M: 0412 677 679 m.folk@mfolkarchitects.com.au</p>	<p><b>DEVELOPMENT APPLICATION</b></p> <p>CLIENT: Berena Lee 21 Wallangra Rd Dover Heights , NSW 2030</p>		<p>DRAWING TITLE: <b>SITE AND ANALYSIS PLAN</b></p>		<p>DRAWING NO.: <b>DA01</b></p>	
		<p>SCALE: 1:100 @ A3</p>		<p>DRAWN: CW MF</p>		<p>DATE: 30/5/21</p>	



PROPOSED OPEN SPACE AND NEW LANDSCAPING

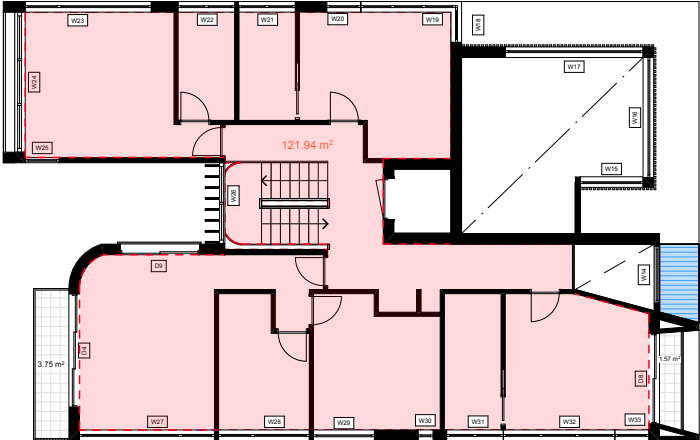
1:200

AREA CALCULATIONS & CONTROLS		
R2 Low Density Residential Zone		
Total Site Area: 466m² Maximum Height Permitted: 8.5m		
<b>40% of Total site is to be Open space</b> Required open space 40% x 466m² = 186.40m² Proposed open space= 264.34m² <b>Complies</b>		
<b>15% of Total site is to be Landscaped space</b> Minimum Landscaped Area: 15% x 466m² = 69.90m² Proposed Landscaped Area: =101.24m² <b>Complies</b>		
<b>Required Private Open space 25m²</b> Proposed open space= 70.86m² <b>Complies</b>		
<b>Front Landscaping Area= 101.49m²</b> Required Front Open Space = 50% x 101.49m²= 50.75m² Proposed Front Open Space= 96.83m² <b>Complies</b> Required Front Landscaping Area= 50% x 50.75m² = 25.37m² Proposed Front Landscaping Area= 30.38m² <b>Complies</b>		
<b>Existing House</b> Existing Lower Ground Floor Area: 5.85m² Existing Ground Floor Area: 84.25m² Existing First Floor Area: 68.83m²		
<b>Proposed New House</b> Proposed Ground Floor Area: 103.12m² Proposed First Floor Area: 121.94m² Proposed Second Floor Area: 110.51m²		
<b>Total Proposed Gross Floor Area = 335.57m²</b>		
<b>SITE AREA 466m²</b> FORMULA ((550 - 466m² X 0.0011)+0.5) ((84 X 0.0011)+0.5):1 ((0.0924)+0.5):1 <b>0.5924:1</b> Allowable Floor Space Ratio = 0.5924:1 Allowable FSR is 466m² x 0.5924 being 276.06m² Proposed Total 335.57m² Over 59.51m² = 21.55% Proposed Floor Space Ratio =0.7201:1		
GARAGE 35.14SQM AND GROUND FLOOR STAIRS EXCLUDED FROM CALCULATIONS		
<b>New Decks</b> Proposed Ground Floor Area: 53.89m² Proposed First Floor Area: 5.32m² Proposed Second Floor Area: 13.87m²		
<b>BASIX COMMITMENTS</b> *Refer also to BASIX Certificate dated 30.05.2021		



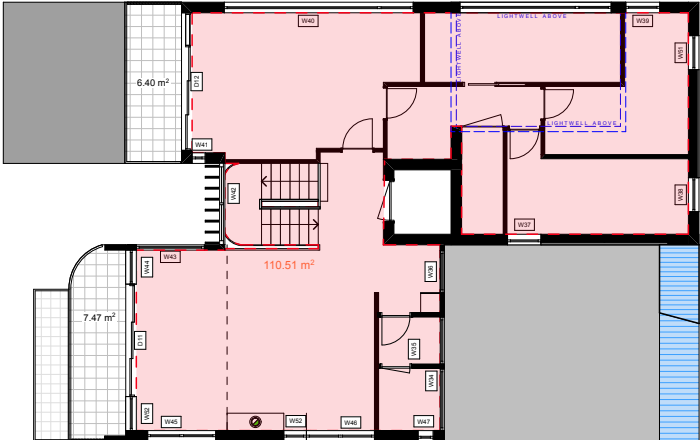
GROUND FLOOR GROSS FLOOR AREA

1:200



FIRST FLOOR GROSS FLOOR AREA

1:200



SECOND FLOOR GROSS FLOOR AREA

1:200

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Waverley Council

Application No: DA-437/2020

Date Received: 31/05/2021

AMENDED PLANS

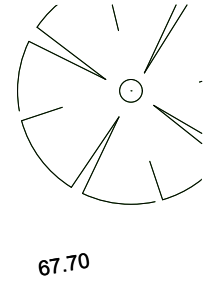
Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work	 64/61 MARLBOROUGH STREET SURRY HILLS, NSW M: 0412 677 679 m.folk@mfolkarchitects.com.au	<b>DEVELOPMENT APPLICATION</b>  CLIENT: Berena Lee 21 Wallangra Rd Dover Heights , NSW 2030	DRAWING TITLE: <b>SITE AREAS</b>	DRAWING NO.:  <b>DA02</b>	
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			DRAWN: CW MF      DATE: 30/5/21		



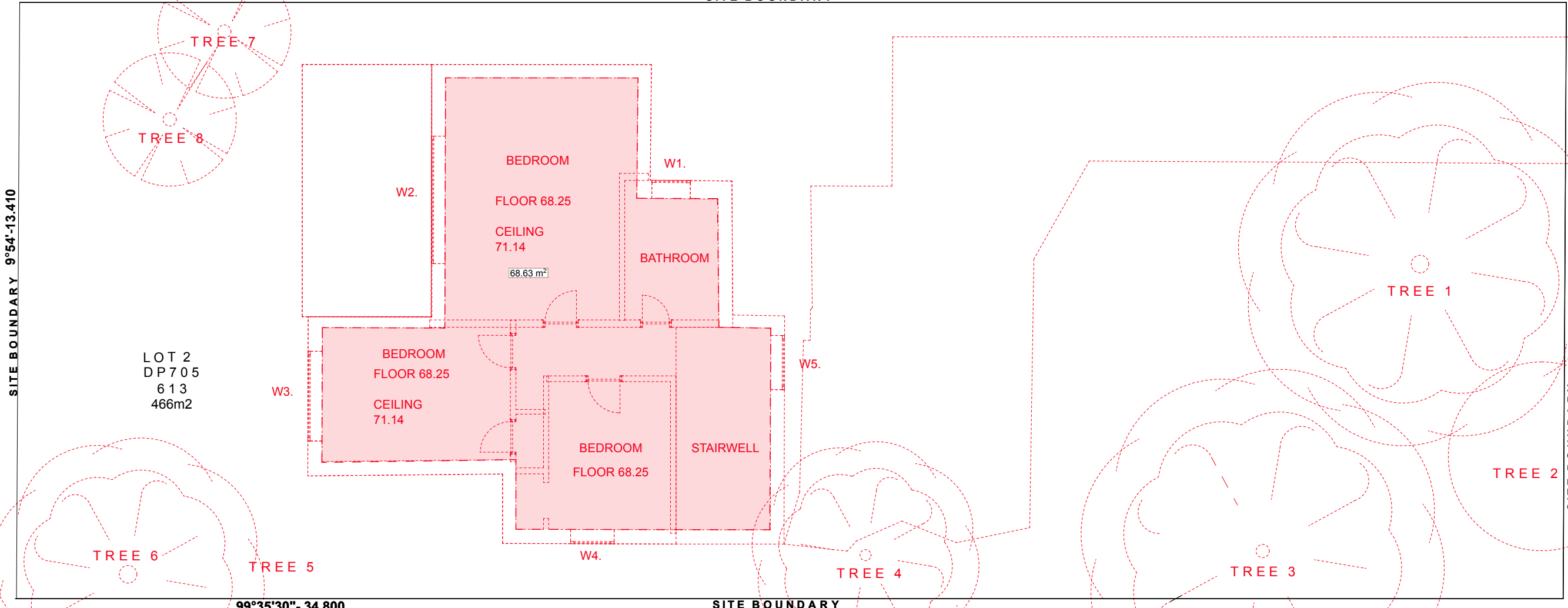




LOT  
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67.70



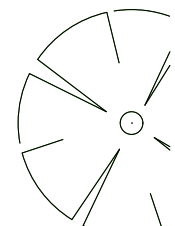
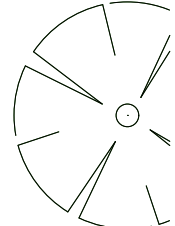
67.54

67.49

VEHICLE

PATH

CONCRETE



# AMENDED PLANS

TO BE DEMOLISHED

FIRST FLOOR DEMOLITION  
SCALE 1:100

Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work

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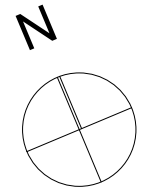
DEVELOPMENT APPLICATION

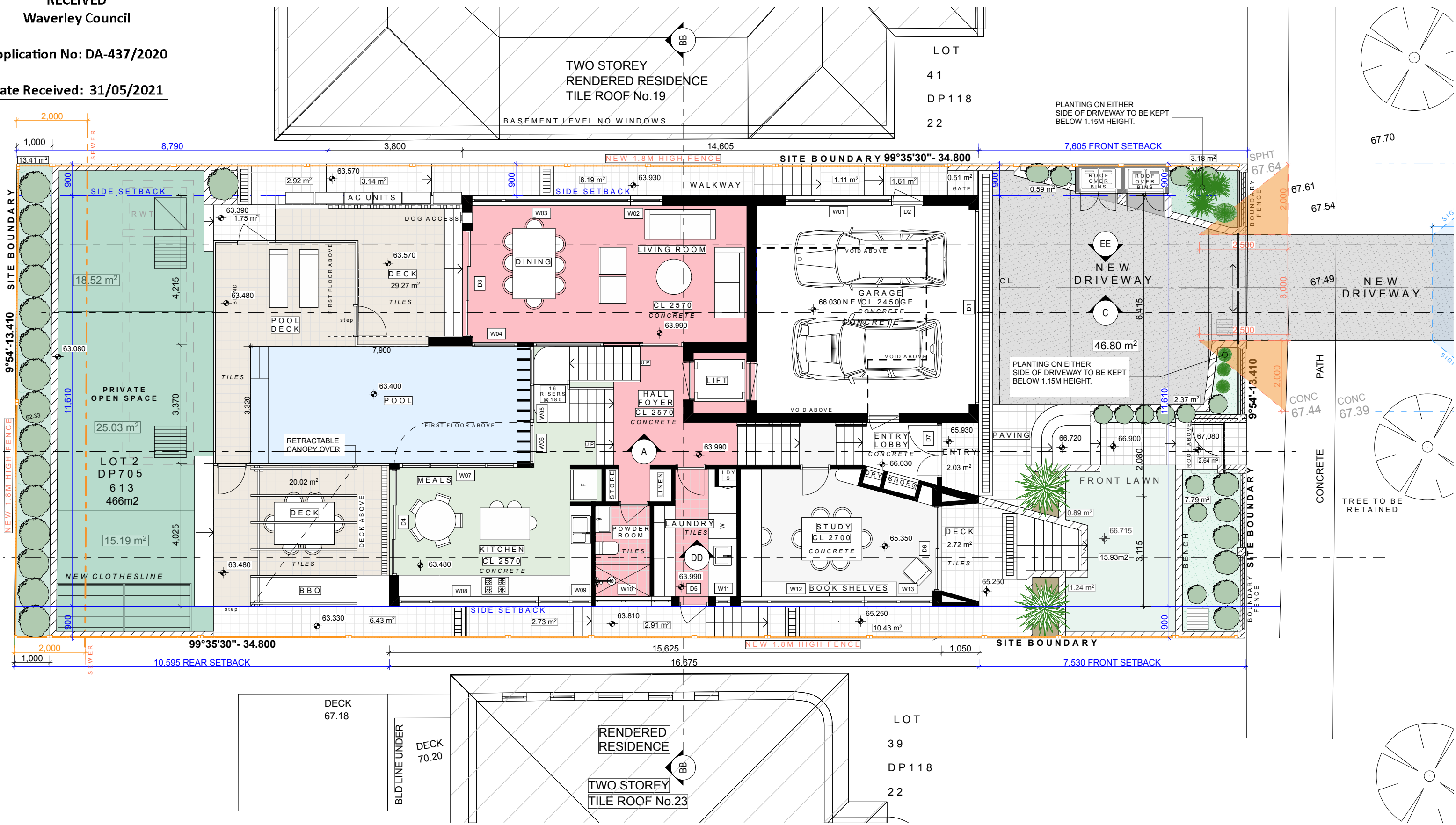
CLIENT: Berena Lee  
21 Wallangra Rd  
Dover Heights , NSW 2030

DRAWING TITLE:  
DEMOLITION PLAN FF

SCALE: 1:100 @ A3	
DRAWN: CW MF	DATE: 30/5/21

DRAWING NO.:  
  
DA03B



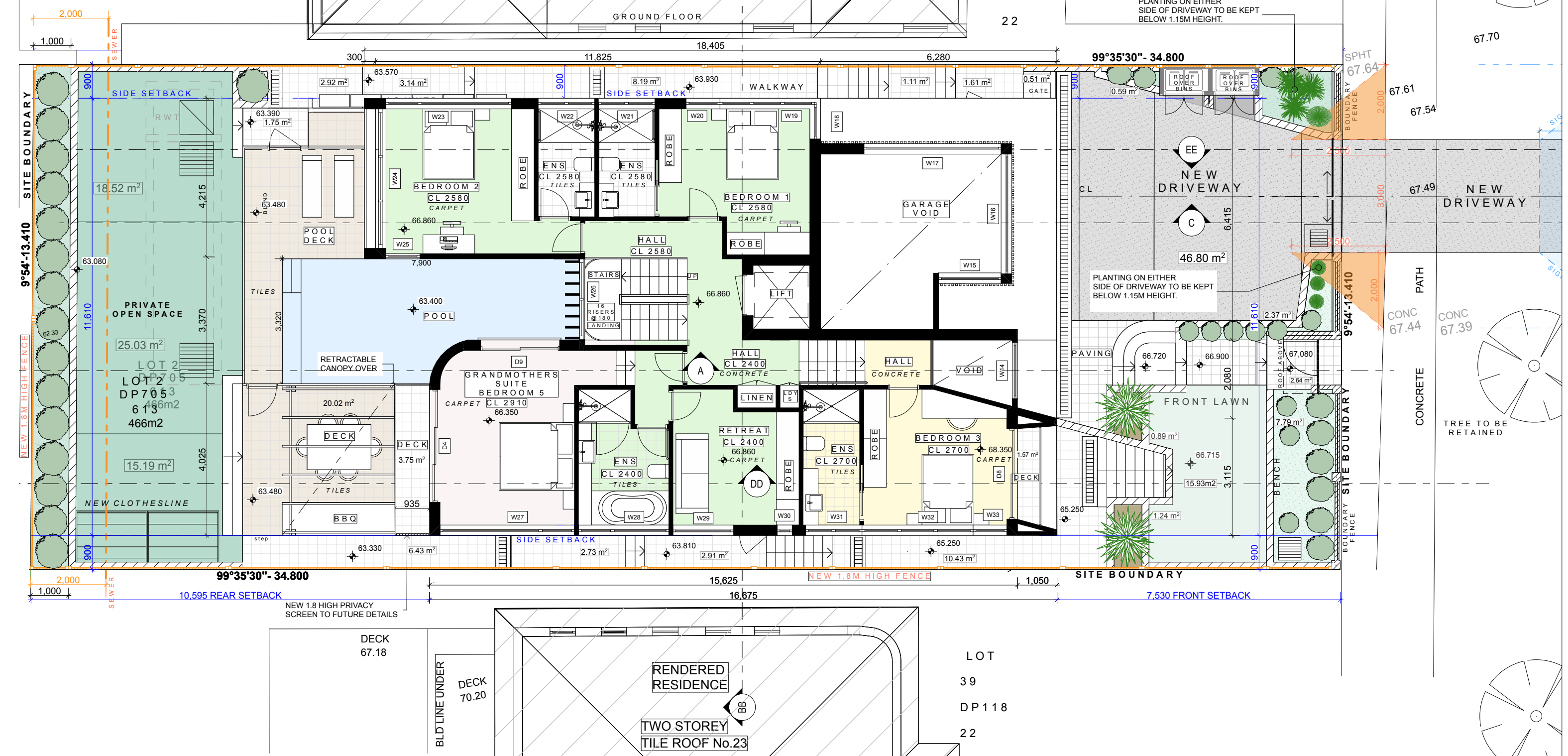


PROPOSED GROUND FLOOR PLAN  
SCALE 1:100

AMENDED PLANS

<p>Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work</p>	<p><b>MICHAEL FOLK</b> ARCHITECTS AND INTERIORS PTY LTD 64/61 MARLBOROUGH STREET SURREY HILLS, NSW M: 0412 677 679 m.folk@mfolkarchitects.com.au</p>	<p><b>DEVELOPMENT APPLICATION</b>  CLIENT: Berena Lee 21 Wallangra Rd Dover Heights , NSW 2030</p>	<p>DRAWING TITLE: <b>GROUND FLOOR PLAN</b></p> <p>SCALE: 1:100 @ A3</p> <p>DRAWN: CW MF    DATE: 30/5/21</p>	<p>DRAWING NO.:  <b>DA04</b></p>	<p>N</p>
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## FIRST FLOOR PLAN

SCALE 1:100

## AMENDED PLANS

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## DEVELOPMENT APPLICATION

CLIENT: Berena Lee  
21 Wallangra Rd  
Dover Heights , NSW 2030

DRAWING TITLE:  
**FIRST FLOOR PLAN**

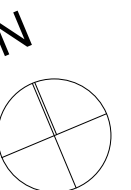
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DRAWN: CW MF

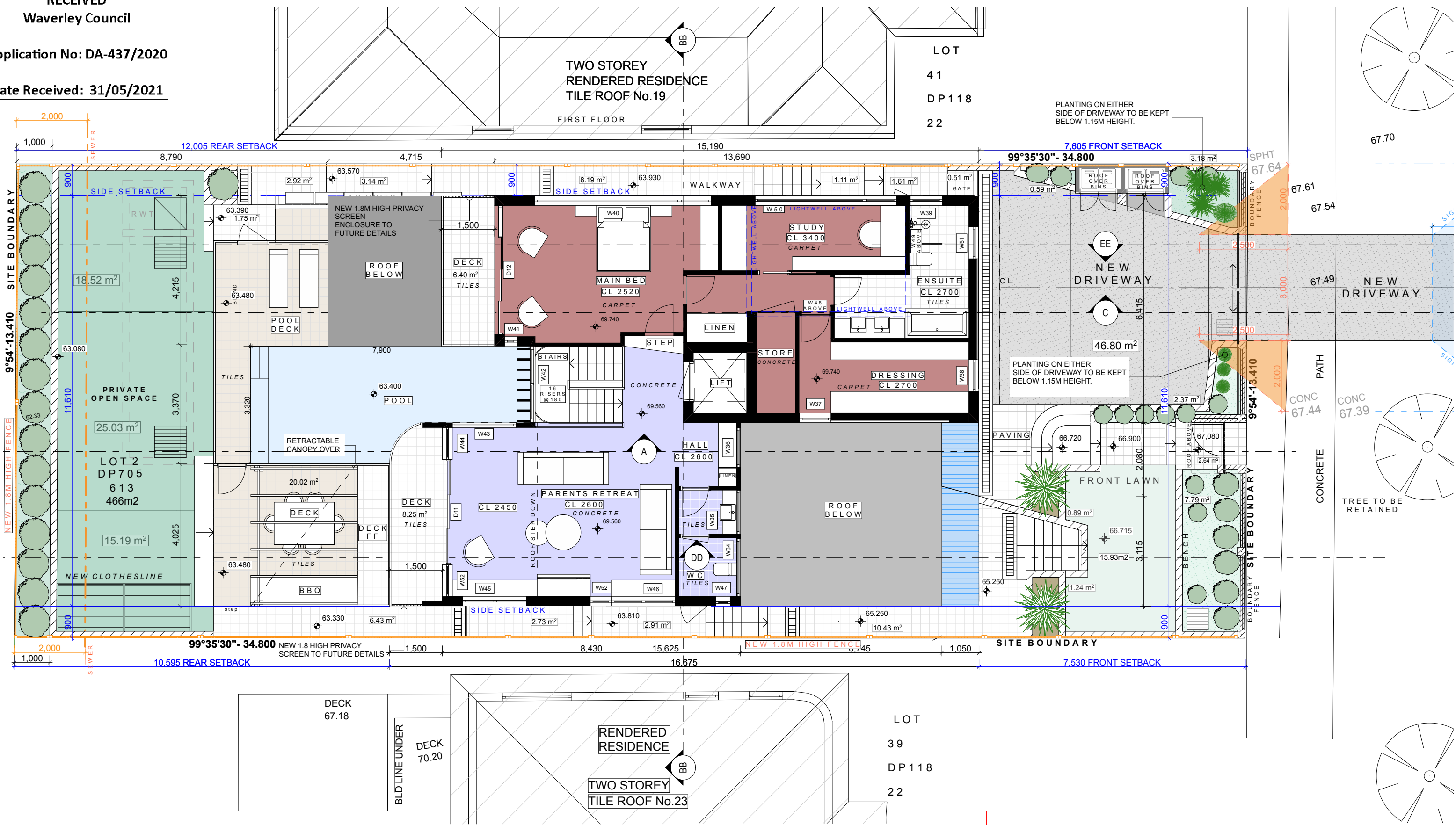
DATE: 30/5/21
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DRAWING NO.:

# DA05








SECOND FLOOR PLAN  
SCALE 1:100

AMENDED PLANS

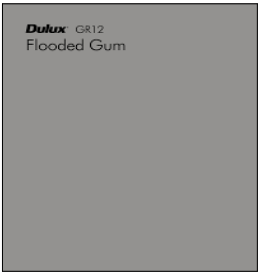
Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work	<div><div>MICHAEL FOLK</div><div>ARCHITECTS AND INTERIORS PTY LTD</div><div>64/61 MARLBOROUGH STREET SURRY HILLS, NSW</div><div>M: 0412 677 679</div><div>m.folk@mfolkarchitects.com.au</div></div>	<div>DEVELOPMENT APPLICATION</div> <div>CLIENT: Berena Lee</div> <div>21 Wallangra Rd</div> <div>Dover Heights , NSW 2030</div>	DRAWING TITLE: SECOND FLOOR PLAN		DRAWING NO.:  DA06	<div>N</div> <div></div>
			SCALE: 1:100 @ A3			
			DRAWN: CW MF    DATE: 30/5/21			

EXTERNAL FINISHES

NEW EXTERNAL WALLS - 280MM CAVITY BRICKWORK WALLS BAGGED & PAINTED DULUX NATURAL WHITE  
DOORS, WINDOWS, FRONT SLIDING GATE- FRONT FENCE ABOVE BRICKWORK - INTERPON SABLE BASS  
NEW ROOF - CONCRETE ROOF AND COLORBOND ROOF- WOODLAND GREY  
EXTERNAL SCREENS- ALUMINIUM SLATS- FRONT ENTRY GATE- COLOUR BLACKBUTT  
BALUSTRADES - GLASS  
FRONT FENCE AND WALL ENTRY COLOUR- DULUX FLOODED GUM  
FRONT ENTRY GATE- COLOUR BLACKBUTT  
TIMBER FENCES- TIMBER LAPPED AND CAPPED  
SLAT FENCE- ALONG SOUTH SIDE FROM POOL TO HOUSE STARTS THEN LAPPED AND CAPPED  
DOWNPIPES- COLORBOND TO MATCH WALL COLOUR



EXTERNAL WALLS



FRONT FENCE



DOORS & WINDOWS  
AND FRONT SLIDING GATE  
FRONT FENCE ABOVE BRICKWORK



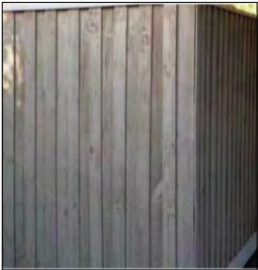
EXTERNAL SCREENS  
FRONT ENTRY GATE



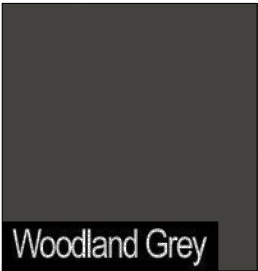
DOORS & WINDOWS STYLE



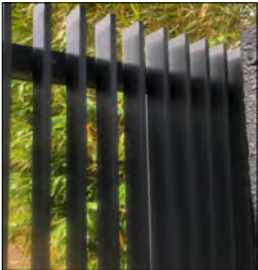
SLATTED FENCING  
ALONG SOUTH  
SIDE FROM POOL  
UNTIL HOUSE  
STARTS



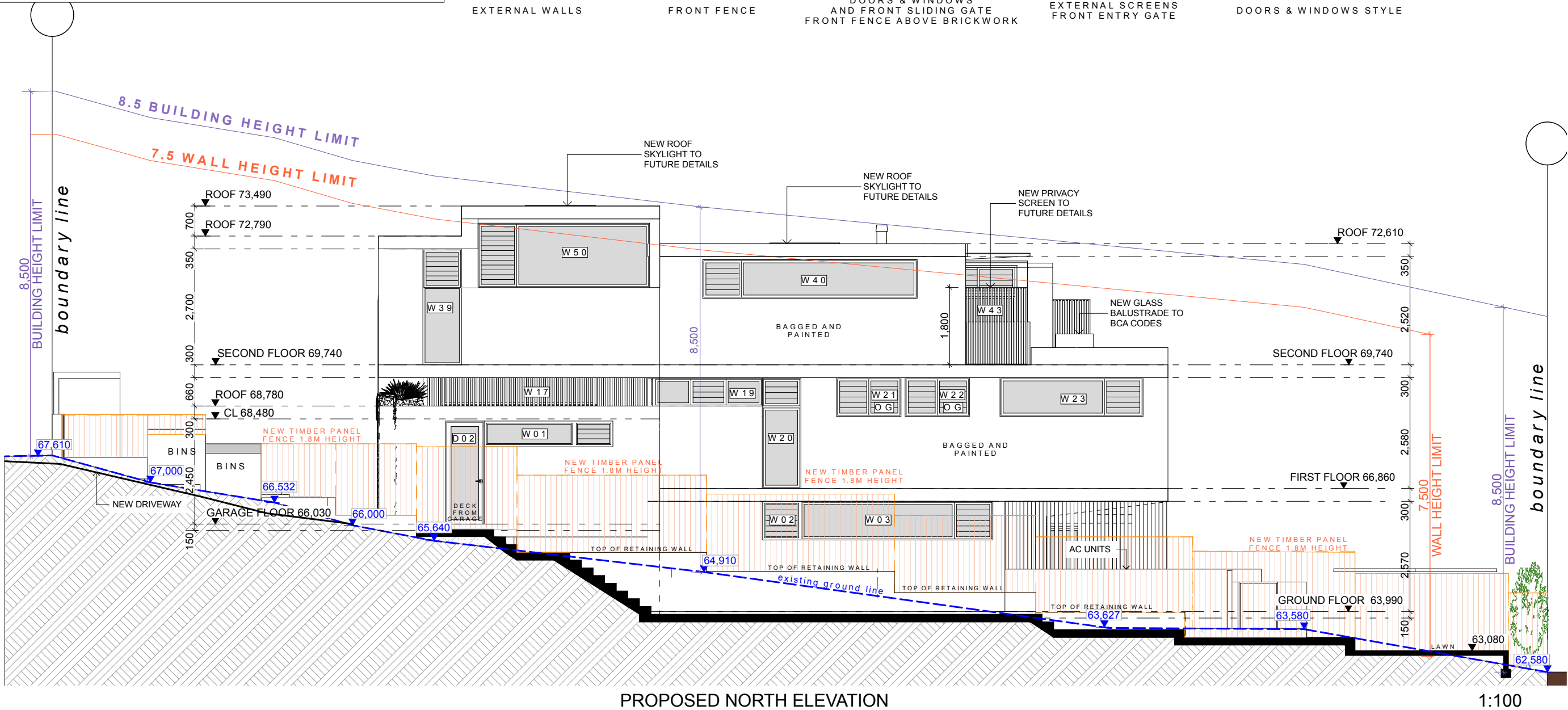
SIDE FENCES  
LAPPED AND CAPPED



Woodland Grey  
PARENTS RETREAT ROOF  
AND SOUTH CLADDING+  
EAST AND WEST BALCONY  
FRAMING



FRONT SLIDING GATE



RECEIVED  
Waverley Council  
Application No: DA-437/2020  
Date Received: 31/05/2021

AMENDED PLANS

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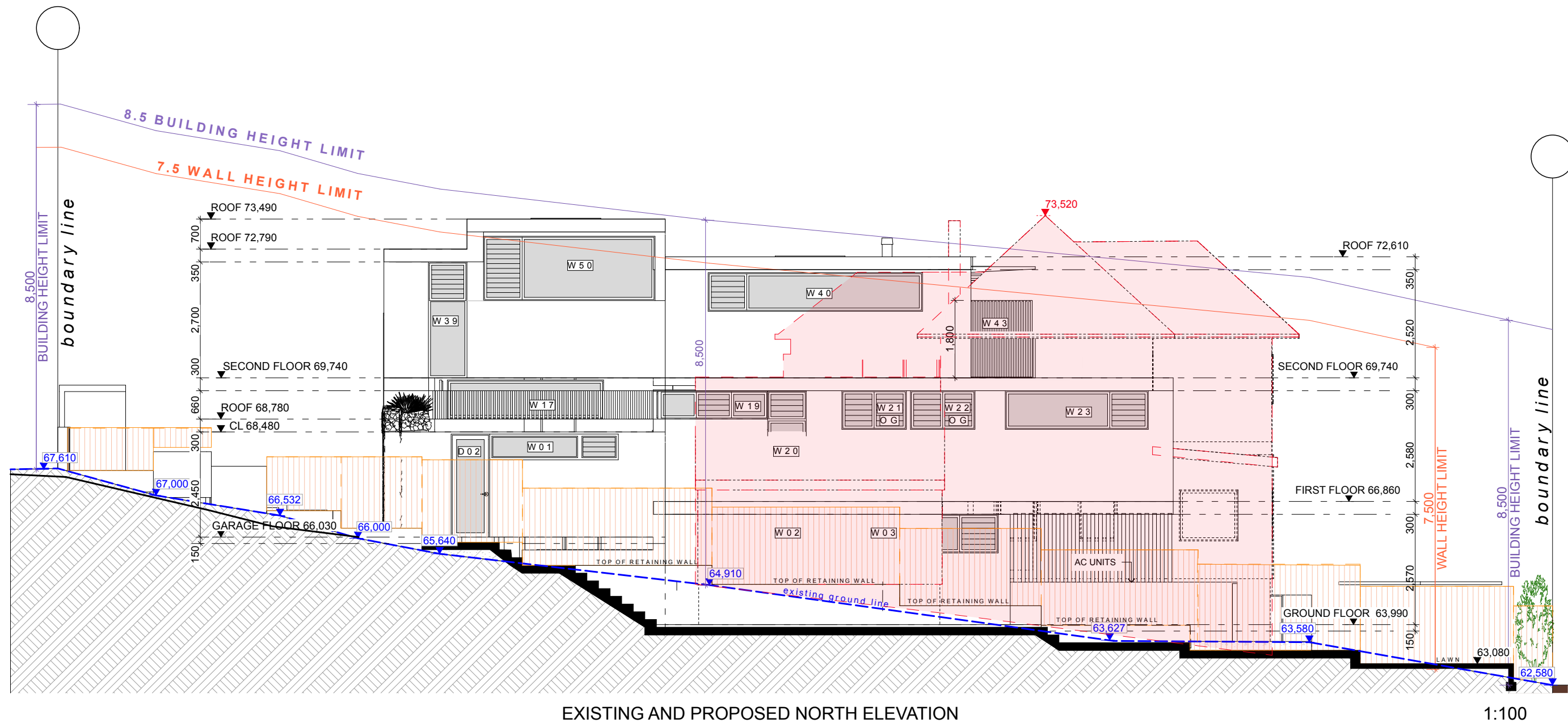
**MICHAEL FOLK**  
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m.folk@mfolkarchitects.com.au

**DEVELOPMENT  
APPLICATION**  
CLIENT: Berena Lee  
21 Wallangra Rd  
Dover Heights , NSW 2030

DRAWING TITLE:  
**NORTH ELEVATION & FINISHES**  
SCALE:  
1:100 @ A3  
DRAWN: CW MF DATE: 30/5/21

DRAWING NO.:  
**DA07**





Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work

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## DEVELOPMENT APPLICATION

CLIENT: Berena Lee  
21 Wallangra Rd  
Dover Heights , NSW 2030

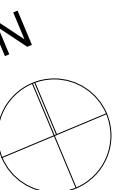
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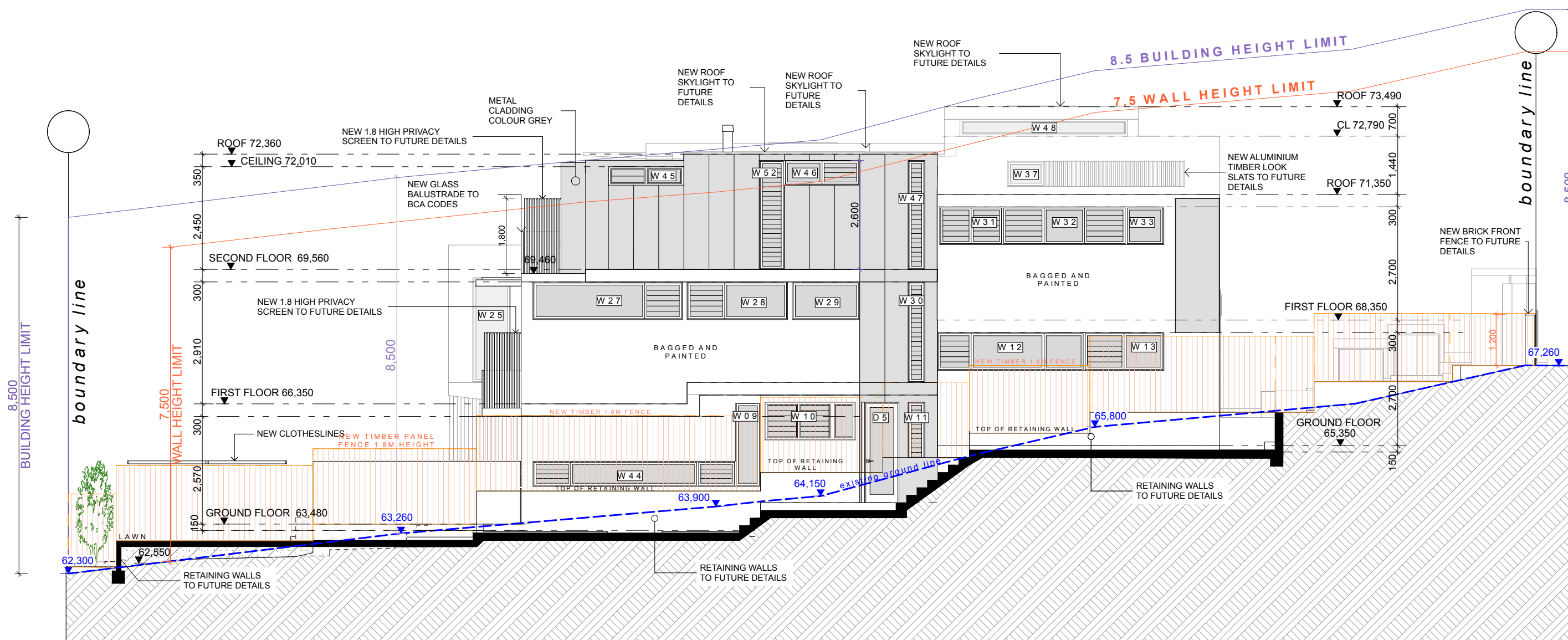
**NORTH ELEVATION WITH EXISTING**

SCALE: 1:100 @ A3	
DRAWN: CW MF	DATE: 30/5/21

DRAWING NO.:

DA07A





PROPOSED SOUTH ELEVATION

1:100

Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work

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## DEVELOPMENT APPLICATION

CLIENT: Berena Lee  
21 Wallangra Rd  
Dover Heights , NSW 2030

DRAWING TITLE:  
**SOUTH ELEVATION**

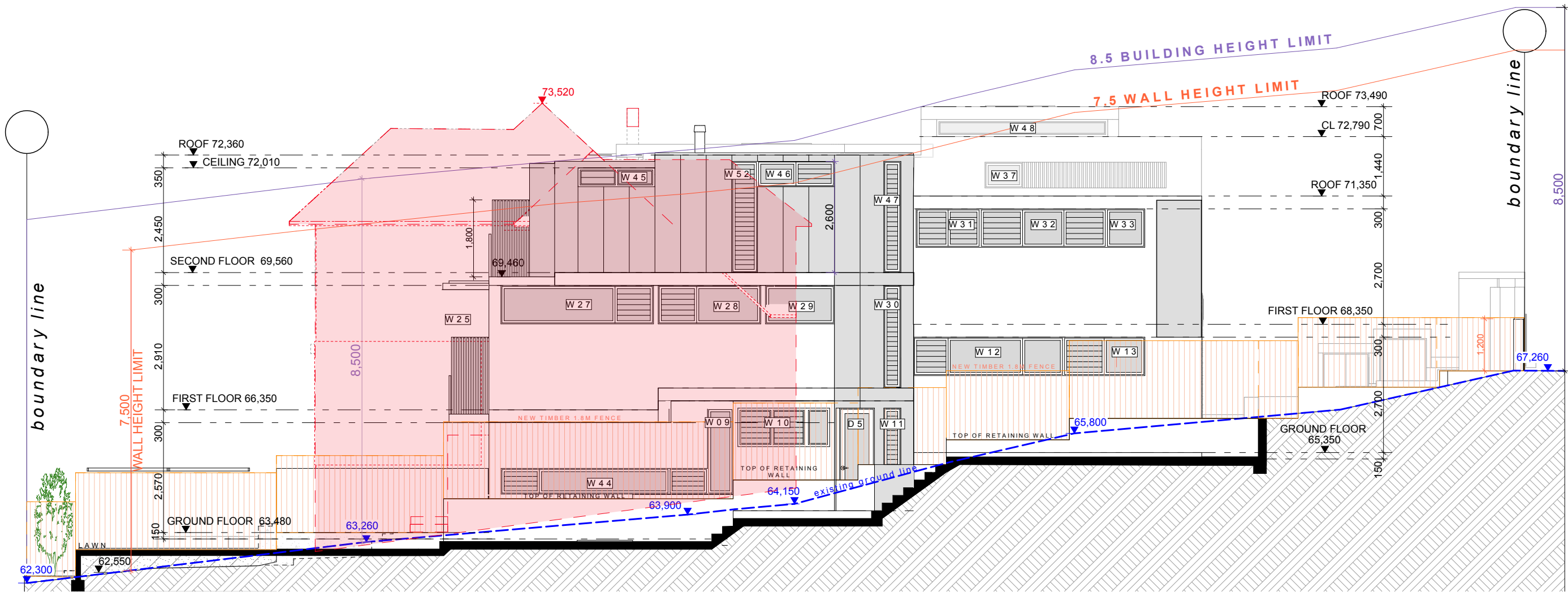
SCALE: 1:100 @ A3	
DRAWN: CW MF	DATE: 30/5/21

DRAWING NO.:

DA08



AMENDED PLANS



EXISTING AND PROPOSED SOUTH ELEVATION1:100

Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work

MICHAEL FOLK

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DEVELOPMENT APPLICATION

CLIENT: Berena Lee  
21 Wallangra Rd  
Dover Heights , NSW 2030

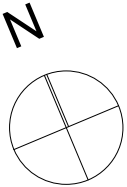
DRAWING TITLE:  
SOUTH ELEVATION WITH EXISTING HOUSE

SCALE:  
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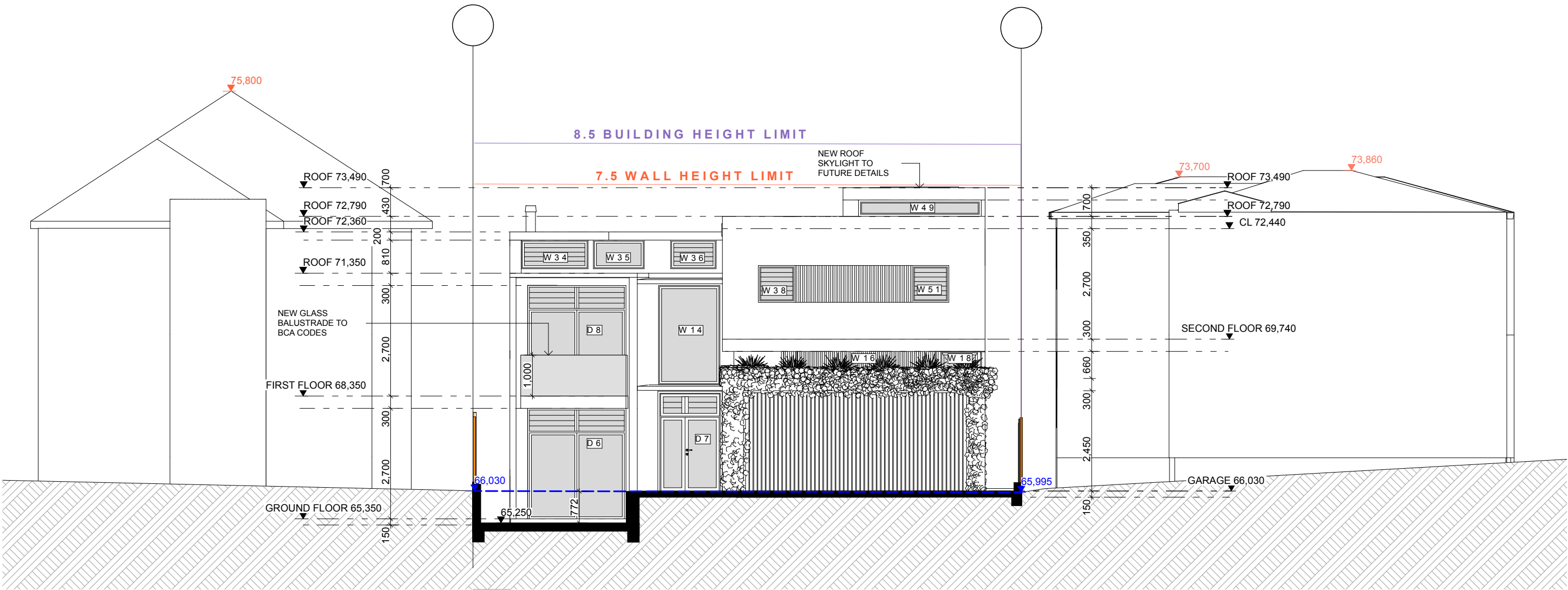
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DA08A



AMENDED PLANS

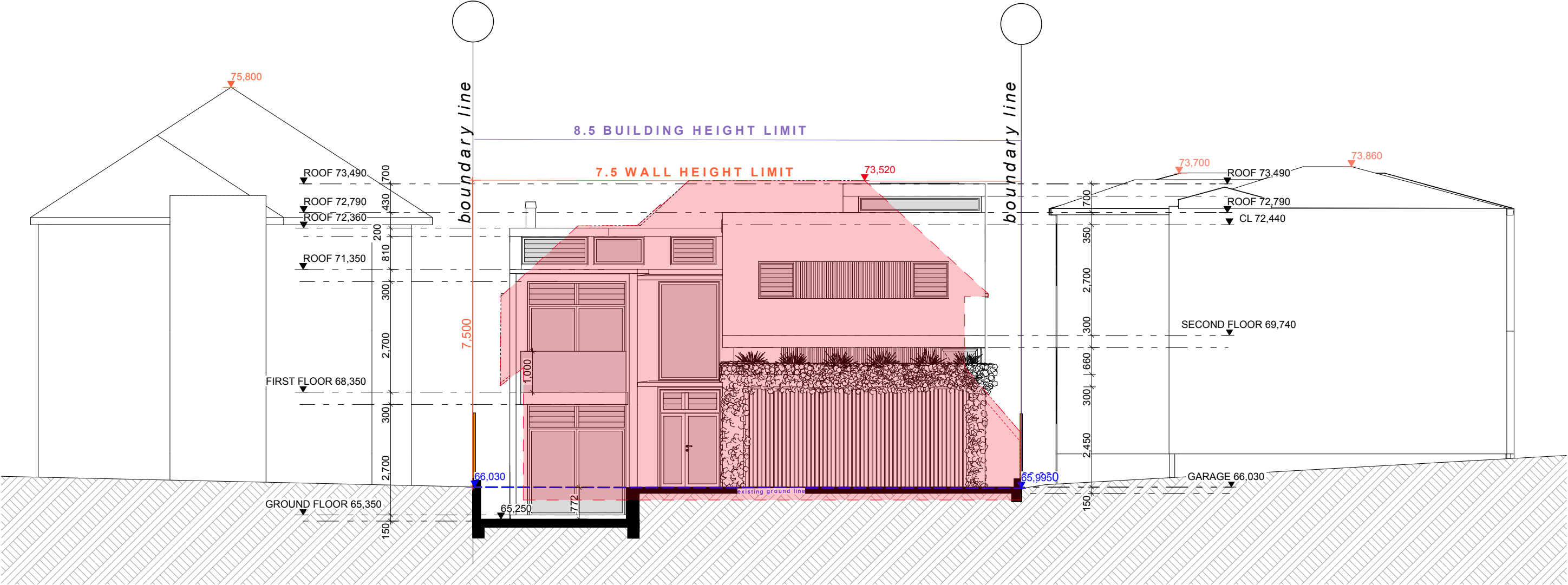


PROPOSED EAST ELEVATION

1:100

Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work	<div>MICHAEL FOLK</div> <div>ARCHITECTS AND INTERIORS PTY LTD</div> <div>64/61 MARLBOROUGH STREET SURRY HILLS, NSW</div> <div>M: 0412 677 679</div> <div>m.folk@mfolkarchitects.com.au</div>	DEVELOPMENT APPLICATION	DRAWING TITLE: EAST ELEVATION		DRAWING NO.:  DA09
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			DRAWN: CW MF	DATE: 30/5/21	

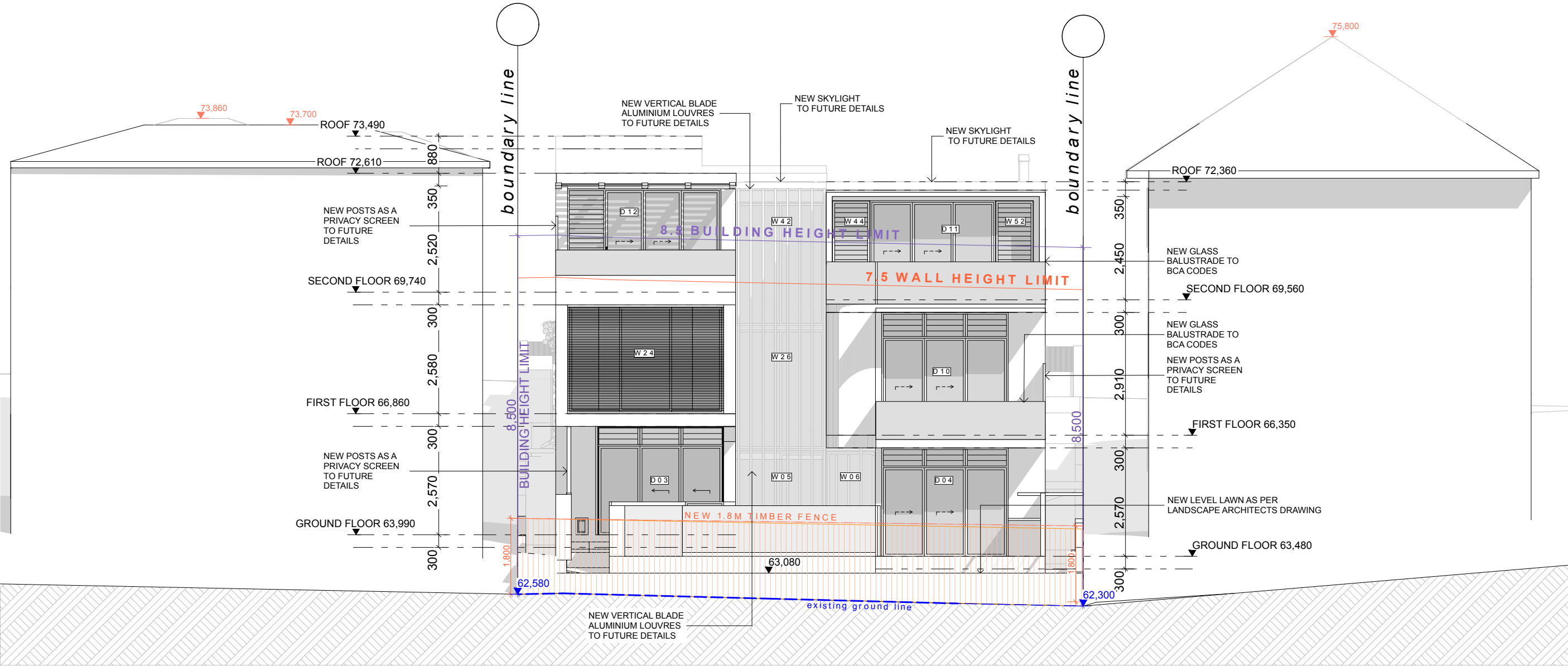
AMENDED PLANS



EXISTING AND PROPOSED EAST ELEVATION

1:100

AMENDED PLANS



PROPOSED WEST ELEVATION

1:100

Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work

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DEVELOPMENT APPLICATION

CLIENT: Berena Lee  
21 Wallangra Rd  
Dover Heights , NSW 2030

DRAWING TITLE:  
WEST ELEVATION

SCALE:  
1:100 @ A3

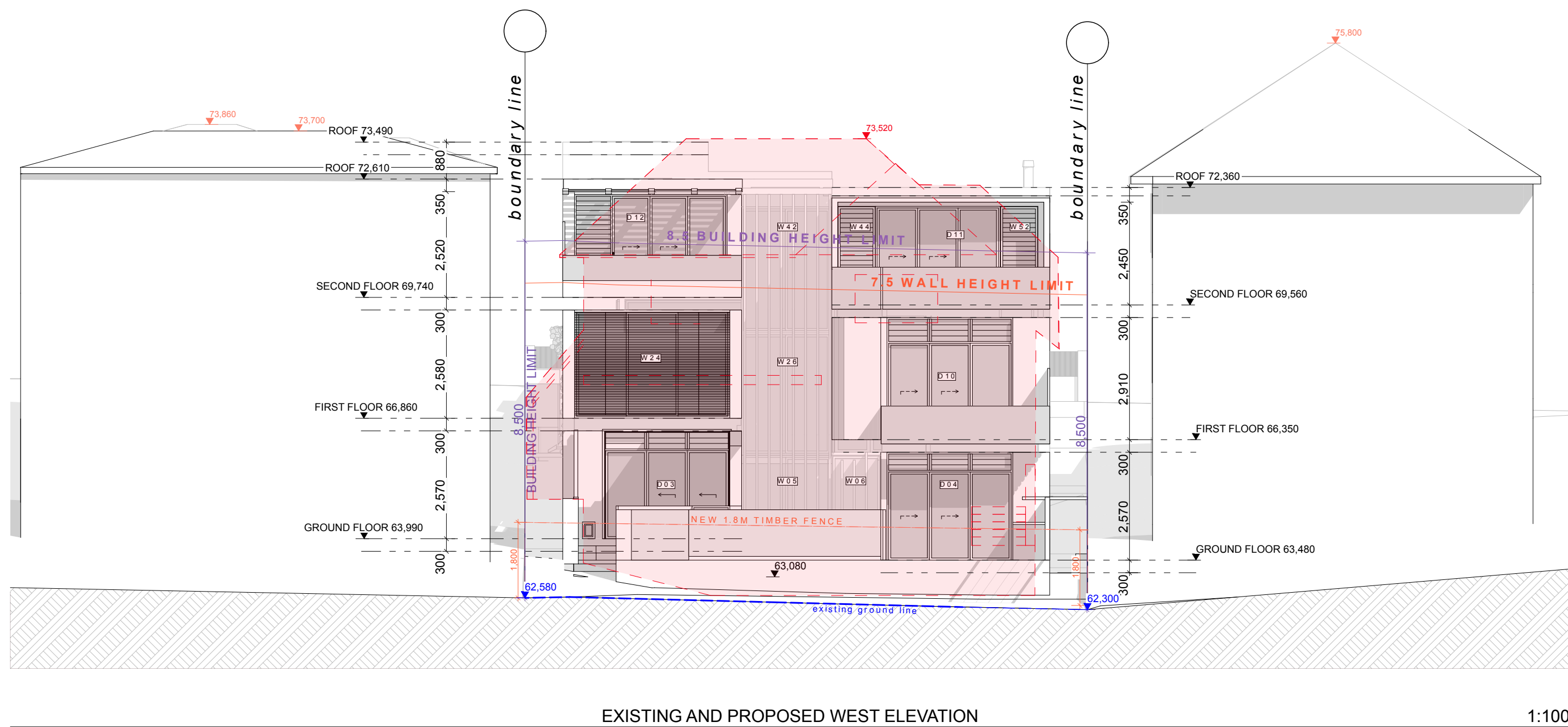
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DRAWING NO.:

DA10



AMENDED PLANS

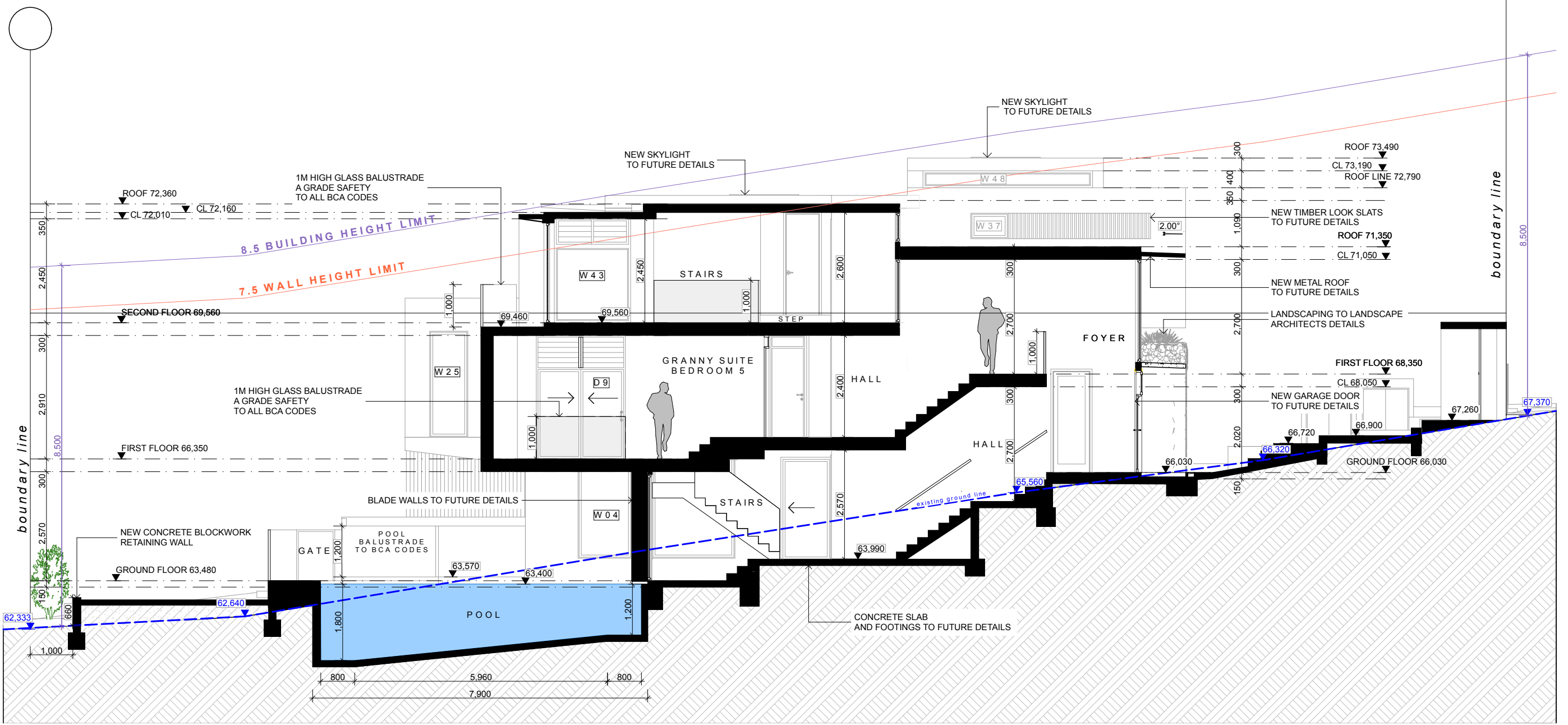




STREETSCAPE EAST ELEVATION

1:100

Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work	<div>MICHAEL FOLK</div> <div>ARCHITECTS AND INTERIORS PTY LTD</div> <div>64/61 MARLBOROUGH STREET SURRY HILLS, NSW</div> <div>M: 0412 677 679</div> <div>m.folk@mfolkarchitects.com.au</div>	<div>DEVELOPMENT APPLICATION</div> <div>CLIENT: Berena Lee</div> <div>21 Wallangra Rd</div> <div>Dover Heights , NSW 2030</div>	DRAWING TITLE: STREETSCAPE EAST ELEVATION		DRAWING NO.:  DA11	
			SCALE: 1:100 @ A3			
			DRAWN: CW MF	DATE: 30/5/21		

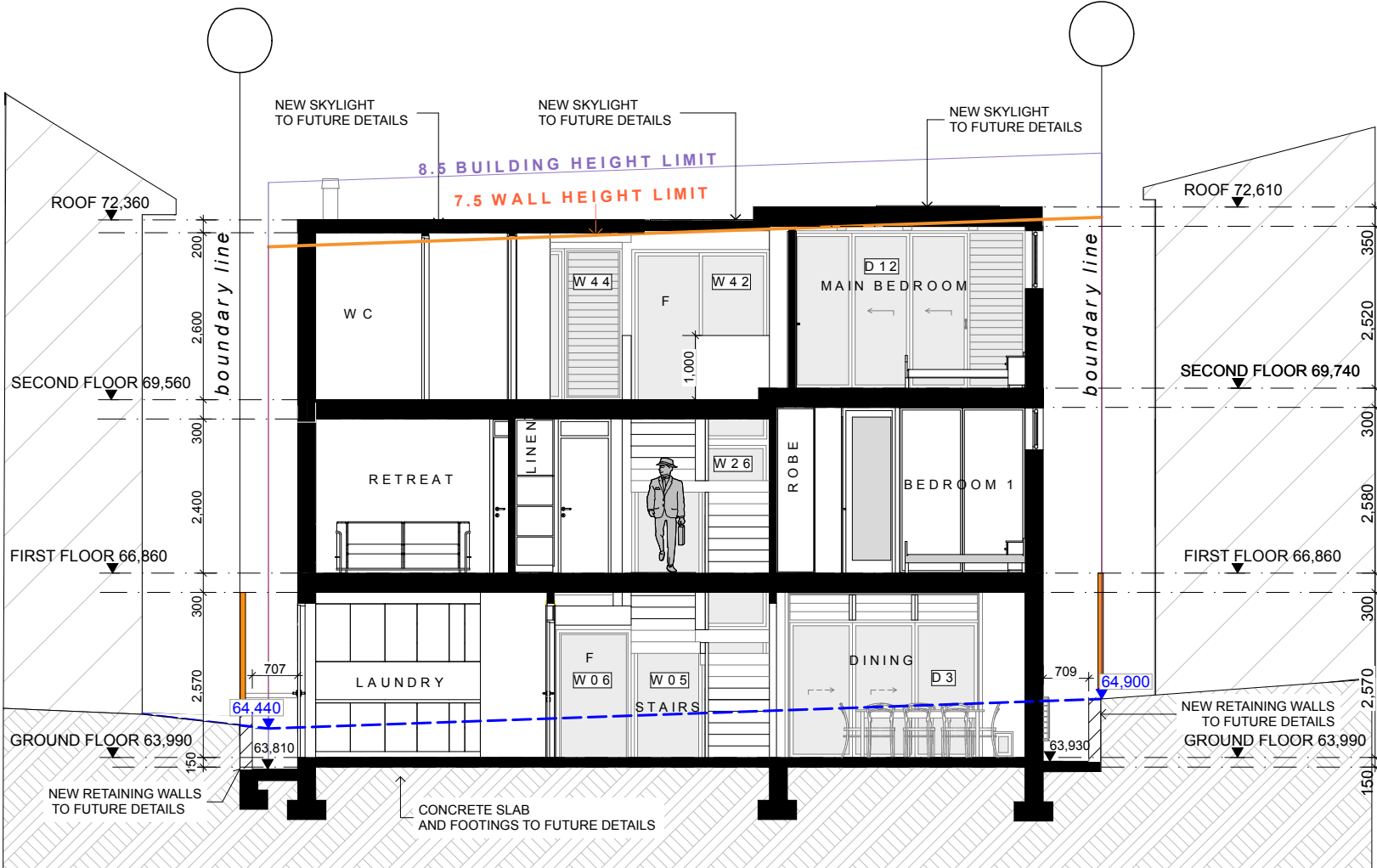


A SECTION

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Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work	<div><div>MICHAEL FOLK</div><div>ARCHITECTS AND INTERIORS PTY LTD</div><div>64/61 MARLBOROUGH STREET SURRY HILLS, NSW</div><div>M: 0412 677 679</div><div>m.folk@mfolkarchitects.com.au</div></div>	DEVELOPMENT APPLICATION  CLIENT: Berena Lee 21 Wallangra Rd Dover Heights , NSW 2030	DRAWING TITLE: SECTION AA		DRAWING NO.:  DA13
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			DRAWN: CW MF	DATE: 30/5/21	

AMENDED PLANS

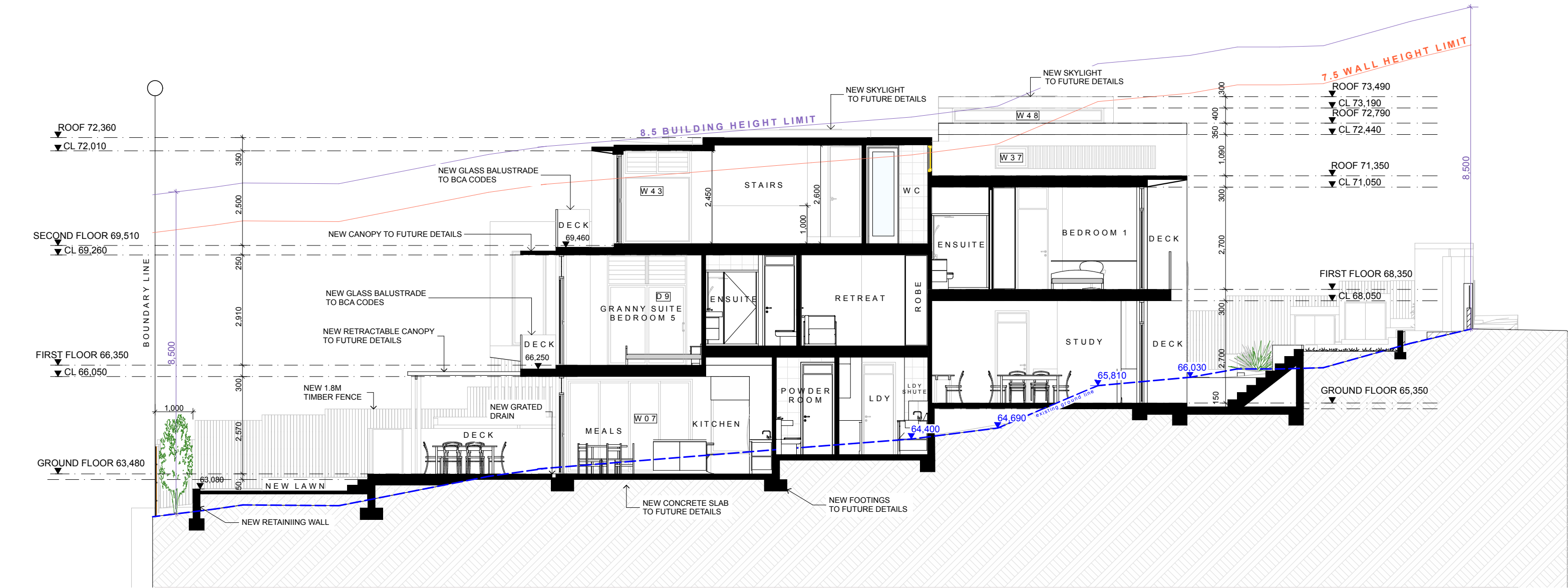


BB SECTION

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AMENDED PLANS

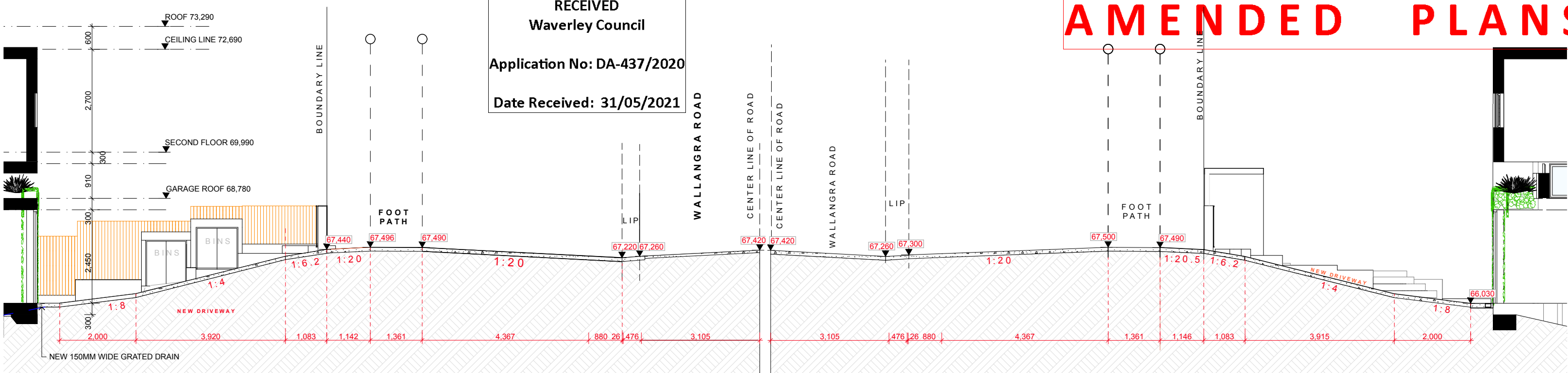


SECTION DD

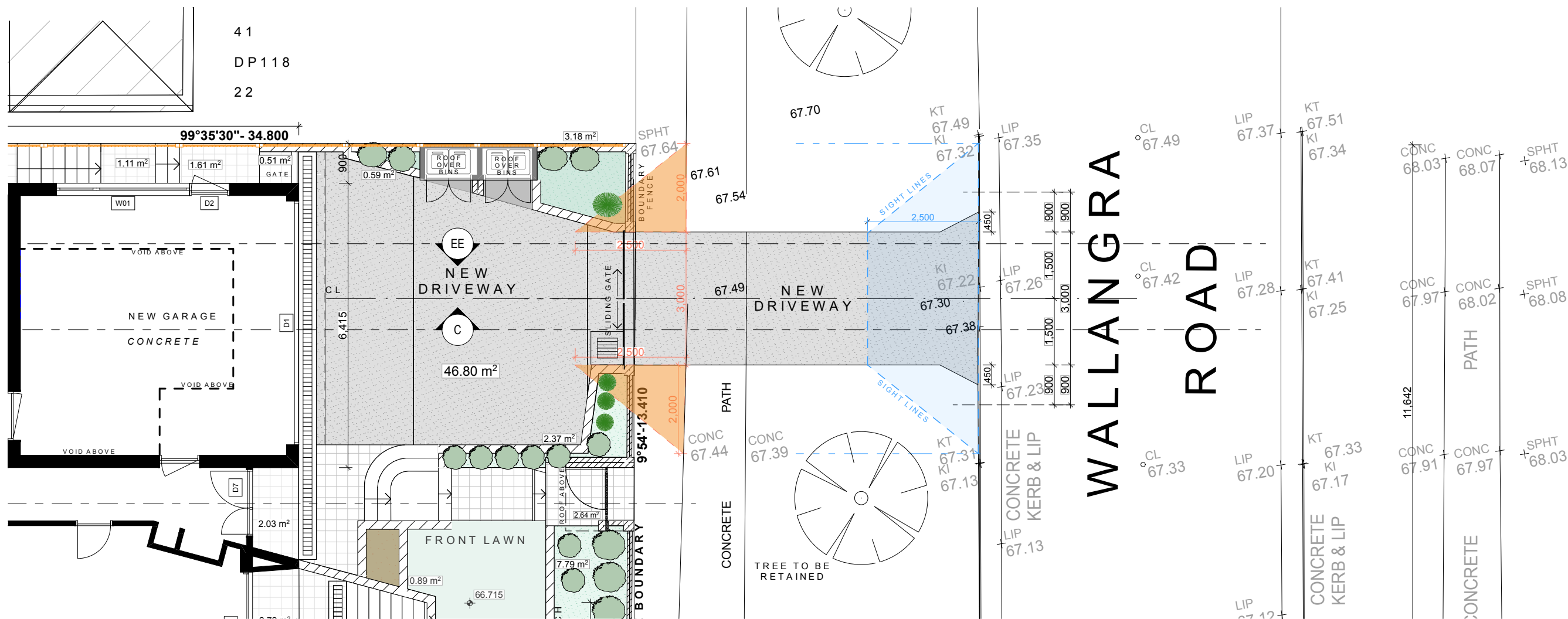
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# PLANS

**Date Received: 31/05/2021**



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dimension only. Do not scale  
drawings. Report any discrepancies  
to the architect for a decision before  
proceeding with work

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# DEVELOPMENT APPLICATION

CLIENT: Berena Lee  
21 Wallangra Rd  
Dover Heights , NSW 2030

DRAWING TITLE:

**SECTION C & EE DRIVEWAY**

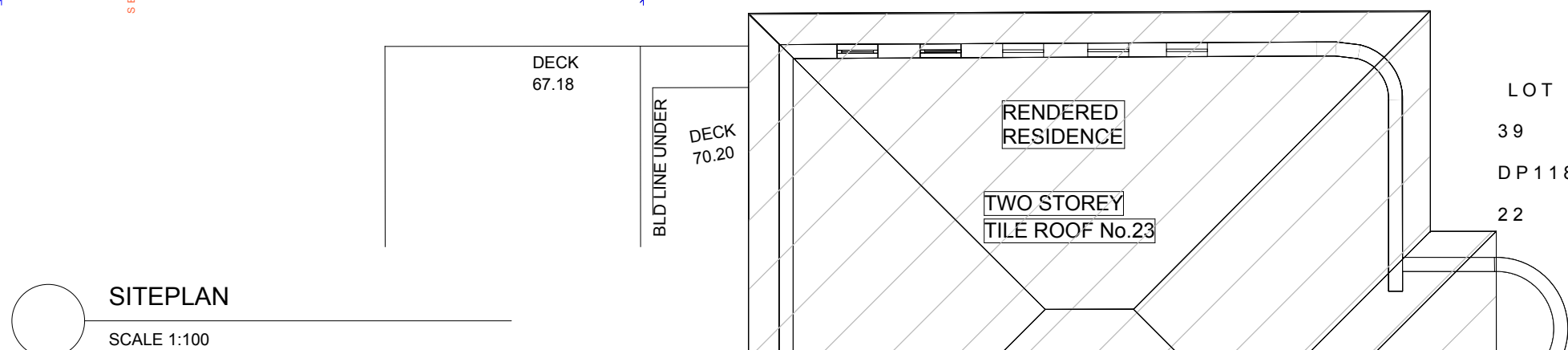
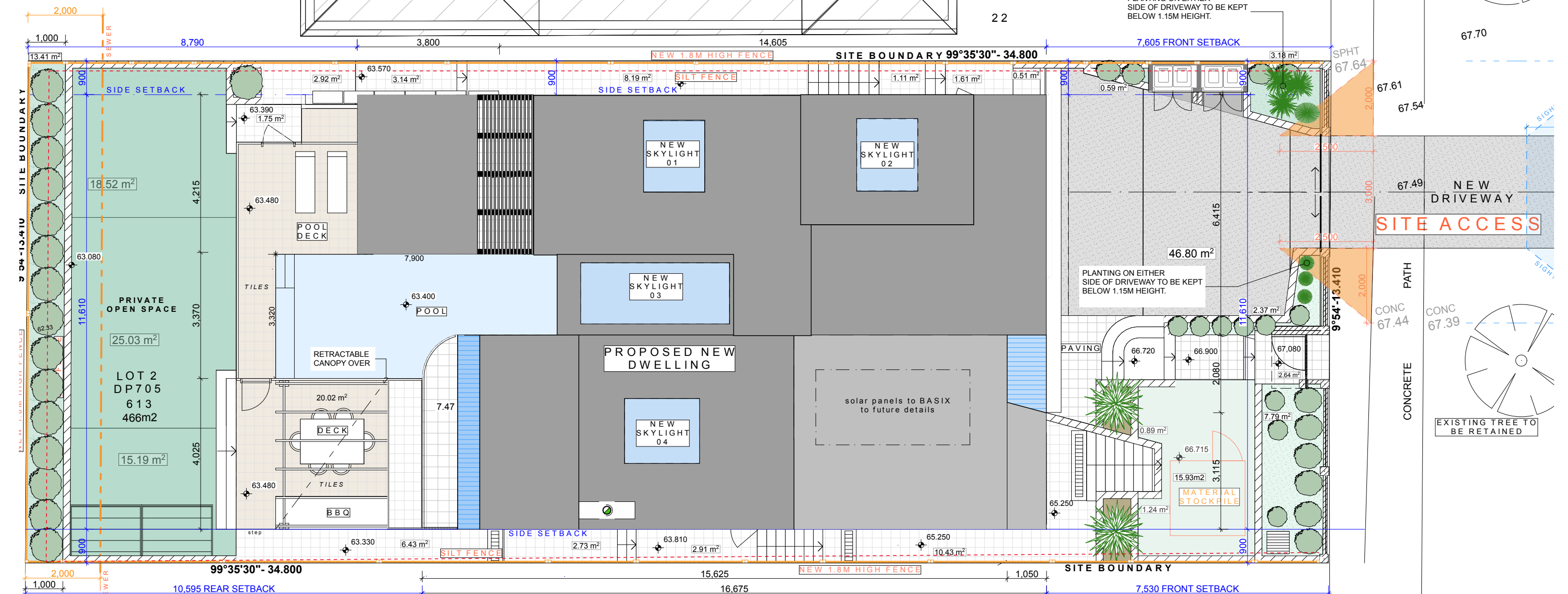
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DRAWN: CW MF

DATE: 30/5/21

DRAWING NO.:

# DA16



# AMENDED PLANS

Check all dimensions on site before Commencement of work shown on this drawing. Work to figured dimension only. Do not scale drawings. Report any discrepancies to the architect for a decision before proceeding with work

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## DEVELOPMENT APPLICATION

CLIENT: Berena Lee  
21 Wallangra Rd  
Dover Heights , NSW 2030

DRAWING TITLE:

**SOIL & WATER MANAGEMENT  
PLAN**

SCALE: 1:100 @ A3	
DRAWN: CW MF	DATE: 30/5/21

DRAWING NO.:

DA18







## Report to the Waverley Local Planning Panel

Application number	DA-94/2020/1
Site address	3 Mill Hill Road, BONDI JUNCTION
Description of Development	Review of decision seeking alterations and additions to an existing boarding house.
Date of Original Determination	22 September 2020
Date of lodgement	8 December 2020
Owner	Mr M D Smith & Mrs C E Smith
Applicant	Mrs C E Smith
Submissions	Nil
Cost of works	Original DA: \$20,000
Principal Issues	Insufficient Information
Recommendation	That the application be <b>REFUSED</b> for the reasons contained in the report.

### SITE MAP





## 1. PREAMBLE

### 1.1. Executive Summary

The Section 8.2 review application seeks to review the determination of DA-94/2020 seeking alterations and additions to an existing boarding house at the site known as 3 Mill Hill Road, BONDI JUNCTION. The review application has not amended the original development application.

The principal reason why the original development application was refused was due to insufficient information as follows:

- Plans that demonstrate the following:
  - Floor plans demonstrating the site boundaries and window placement;
  - Floor plans demonstrating the number of occupants in each room; and
  - Floor plans demonstrating all fixtures and joinery.
- Documentation that correctly references the subject site.
- Solar Access Diagrams.
- GFA Calculation Diagrams.
- Confirmation on the use of the structure at the rear of the site in relation to car parking.

The assessment finds these issues have not been addressed in this review application as no elevation and section plans have been submitted to inform an adequate assessment of the application.

The application was notified and no submissions were received.

The application has been assessed against the relevant matters for consideration under sections 8.2 and 8.3 the *Environmental Planning and Assessment Act 1979*. The review application continues to be recommended for refusal.

### 1.2. Site and Surrounding Locality

A site visit was carried out during the assessment of the original development application.

The site is identified as Lot 11 in DP 701741, known as 3 Mill Hill Road, BONDI JUNCTION. It is located on the western side of Mill Hill Road.

The site is rectangular in shape with a north (side) boundary measuring 29.22m, east (front) boundary measuring 6.155m, south (side) boundary measuring 29.37m and west (rear) boundary measuring 6.07m. The site has an area of 179m<sup>2</sup> and is generally flat.

The site is occupied by a two-storey boarding house with vehicular access provided from Gowrie Lane and a garage is located at the rear of the site.

The subject site is adjoined by a single dwelling house at the northern side boundary and a vacant lot is located adjoining the southern side boundary. The locality is characterised by a variety of residential development, including semi-detached dwellings and terraces.

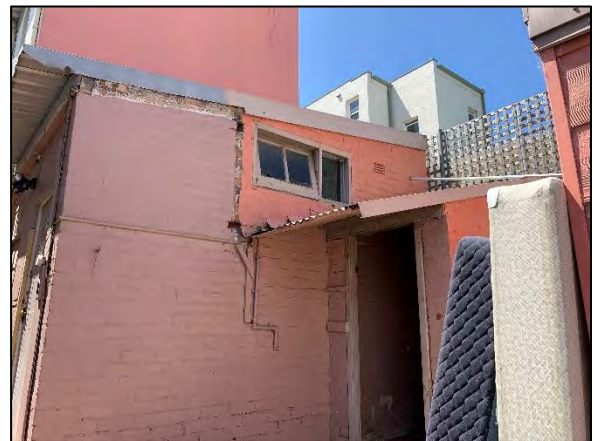
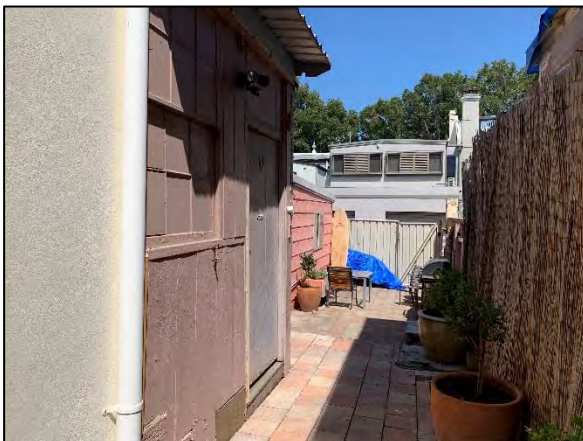
**Figures 1 to 4** are photos of the site and its context.



**Figure 1:** Subject site frontage to Mill Hill Road.



**Figure 2:** Rear of the site as viewed from Gowrie Lane.



**Figures 3 & 4:** Existing extension at the rear providing for an additional bedroom, accessed internally and an external WC.

### 1.3. Details of the Original Determination Subject to Review

The original development application, known as DA-94/2020 for alterations and additions to the existing boarding house, was refused on 22 September 2020 under delegated authority.

The principal reasons why the original development application was refused were primarily due to insufficient information where further detail was required as follows:

- Plans that demonstrate the following:
  - Floor plans demonstrating the site boundaries and window placement;
  - Floor plans demonstrating the number of occupants in each room; and

- Floor plans demonstrating all fixtures and joinery.
- Documentation that correctly references the subject site.
- Solar Access Diagrams.
- GFA Calculation Diagrams.
- Confirmation on the use of the structure at the rear of the site in relation to car parking.

#### 1.4. Proposal

The review application was lodged on 8 December 2020 and seeks to review the determination of the original development application.

The original application sought development consent for alterations and additions to the existing boarding house that include the following works:

- Internal alterations to reconstruct a new bathroom at the ground floor level.
- Internal alterations to increase the size of the bedroom at the rear of the ground floor level to accommodate 1 adult lodger. The room is to be accessed internally.
- Demolition of the external WC and alterations to the existing storage room at the rear to provide storage and laundry facilities.

The review application has not made design amendments to the original application.

#### 1.5. Background

The review application was deferred on 10 March 2021 for the submission of further information as follows:

- All plans, elevations and sections (only floor plans submitted).
- Heritage Impact Statement.
- Plan of Management.
- BASIX Certificate.
- Plans demonstrating joinery in each room.
- Plans demonstrating storage facilities in the new boarding room.
- Updated floor plan demonstrating the existing garage.
- Confirmation whether the existing parking for motorcycles and bicycles is provided.
- Confirmation whether a dryer is provided in the new laundry.
- Confirmation that the building is able to comply with the requirements of the *Disability (Access to Premises – Buildings) Standards 2010*.

On 22 March 2021, the applicant submitted the following:

- Updated architectural plans;
- Survey plan;

- Plan of Management;
- Waste Management Plan;
- BASIX Certificate; and
- Heritage Impact Statement.

Upon receipt of the amended documents, the document containing the updated architectural plans could not be opened. The Applicant was requested to re-submit the updated architectural plans however, the Applicant informed Council that they would like the application to proceed to be determined. They also informed Council that the property has been sold and they are no longer the owners. Therefore, the assessment of this application is based on the plans originally submitted with this review application and the additional documentation received.

## 2. ASSESSMENT

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

### 2.1. Section 8.3 Considerations

Section 8.3 of the Act enables the consent authority (i.e. Council) to review a previous determination of a development application subject to provisions, such as:

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

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

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

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

The determination of the original application (DA-94/2020) was made on 22 September 2020. The period of right of appeal for the applicant to exercise (referenced in section 8.3(2)(a) of the Act), is 12 months after the date of determination. The application is scheduled to be determined by the Waverley Local Planning Panel on 28 July 2021, which satisfies the statutory timeframe to determine this review application.

Council is satisfied that the essential elements of the original application are substantially the same as those of the amended development that is the subject of the review application. The overall scope and description of the development between the two applications remain unchanged.



The review application is assessed against the relevant matters for consideration under section 4.15(1) of the Act, as discussed in the succeeding sections of this report.

## 2.2. Planning Instruments and Development Control Plans

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

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

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

#### *SEPP 55 Remediation of Land*

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

#### *SEPP (Building Sustainability Index – BASIX) 2004.*

SEPP BASIX applies to the proposed development as this SEPP defines a ‘BASIX affected building’ being any building that contains one or more dwellings. A dwelling is defined in Waverley Local Environmental Plan 2012 (Waverley LEP 2012) as meaning ‘*a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile*’. The proposal comprises boarding rooms that contain kitchenettes, bathroom and laundry facilities, which are capable of being domiciles. Therefore, the proposed development is considered a ‘BASIX affected building’.

A BASIX Certificate has now been submitted for assessment of the review application. The BASIX Certificate contains measures to satisfy BASIX requirements which have been incorporated into the proposal. Should the application be approved, standard conditions can be implemented on any development consent to ensure the measures detailed in the BASIX Certificate are incorporated into the Construction Certificate drawings and implemented.

#### *SEPP (Affordable Rental Housing) 2009 (SEPP ARH)*

### **Part 2 Division 3 – Boarding houses**

Part 2 division 3 of SEPP (Affordable Rental Housing) 2009 (the ARHSEPP) relates to development for the purposes of boarding houses. The subject site is zoned R3 Medium Density Residential and boarding houses are permissible with development consent. Accordingly, this Division, and the following clauses, apply to the development application.

## Clause 29 - Standards that cannot be used to refuse consent

Clause 29 of the SEPP outlines that if the proposal complies with set standards, the application cannot be refused on the grounds of those standards. If the proposal does not comply with the standards of Clause 29, the consent authority reserve the right to refuse the application on those grounds. An assessment of the proposal has been carried out according to these standards as outlined in Table 1.

**Table 1: Standards that cannot be used to refuse under SEPP ARH**

Development Standard	Compliance	Comment
<p><b>Density and scale</b></p> <p>(1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:</p> <p>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</p> <p>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less,</p>	Yes	<p>The proposal is located within the R3 zone and residential flat buildings are permitted. The maximum permissible FSR under the provisions of WLEP 2012 is 0.9:1. The ARHSEPP allows 0.5:1 bonus floor space for boarding houses which equates to a maximum of 1.4:1. The proposal seeks an FSR of 0.9:1 which complies with the provisions of SEPP (ARH) 2009.</p>
<p><b>Building height</b></p> <p>if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</p>	Insufficient Information	<p>No elevation or section plans have been submitted with this review application to determine the height of the proposed structure.</p>

<b>Landscaped area</b>  if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	Yes	The proposal does not alter the front setback area.
<b>Solar access</b>  where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	Yes	The existing kitchen/living room has been identified as the primary communal space within the building. No change to the existing communal living room is proposed.
<b>Private open space</b>  if at least the following private open space areas are provided (other than the front setback area):  (i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,	Yes	The communal open space area is retained at the rear of the site between the structure indicated to be a garage and the northern side setback that is approximately 25m <sup>2</sup> and has a minimum dimension of 3.3m.
<b>Parking</b>  if:  (ii) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room,	Insufficient Information	The structure at the rear of the site is indicated to be used as a garage to accommodate one vehicle however, a site inspection revealed this structure appears to be utilised as a workshop rather than car parking. The applicant has now indicated the structure at the rear as a garage however, this structure is not shown on the existing floor plans. This information was requested however, the updated architectural plans set could not be opened by Council and the Applicant instructed Council to determine the application based on the information submitted.
<b>Accommodation size</b>  (if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:	Yes	The proposed room at the rear would have a maximum area of 12m <sup>2</sup> that is capable of accommodating a single lodger.

(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or  (ii) 16 square metres in any other case.		
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### 30 Standards for boarding houses

SEPP ARH requires that a consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following. It is also considered that the proposal is not minor in nature as it involves the construction of an additional bedroom at the rear that is intensifying the use of the site therefore, the following standards must be considered:

**Table 2: Standards that must be satisfied under the SEPP ARH**

Development Standard	Compliance	Comment
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	Yes	The proposal provides one communal living area on the ground floor level.
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,	Yes	The proposed boarding room is to have an area of 12m <sup>2</sup> .
(c) no boarding room will be occupied by more than 2 adult lodgers,	Yes	In the event of approval, this would be a condition of the consent.
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Yes	A communal kitchen area is present at the ground level of the building.
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	N/A	The boarding house does not accommodate 20 or more lodgers.



(f) (Repealed)	-	-
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	N/A	The subject site is zoned R3 Medium Density Residential and commercial uses are not permitted.
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	Insufficient Information	No information has been submitted with the review application with regards to the existing bicycle and motorcycle provisions on site.

### **30A Character of local area**

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

The proposed works are located at the rear of the property and would not impact upon the streetscape appearance of the building. Notwithstanding, elevations were not provided and as such, Council has no way of knowing the height or appearance of the proposed rear structures and as such, an assessment against clause 30A of the SEPP could not be undertaken.

### **Part 3 – Retention of existing affordable rental housing**

The proposed development retains the existing boarding house on the site and provides a larger boarding room at the rear as well as laundry and bathroom facilities.

### 2.2.2. 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 3: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R3 Zone	Yes	The proposal is defined as boarding house, which is permitted with consent in the R3 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>9.5m</li> </ul>	Insufficient Information	No elevation or section plans have been provided with the subject review application.
4.4 Floor space ratio <ul style="list-style-type: none"> <li>0.9:1</li> </ul>	Complies with SEPP (ARH) 2009	Refer to Table 1.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation C12 - Mill Hill Conservation Area—General	Insufficient Information	See discussion below.
<b>Part 6 Additional local provisions</b>		
6.2 Earthworks	Yes	No earthworks are proposed with this application.

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

#### *Clause 5.10 - Heritage*

The site is located in the Mill Hill Conservation Area and adjoins a heritage item of local significance at No. 1 Mill Hill Road. Heritage items are also located adjacent to the rear of the site at Gowrie Lane. The application was referred to Council's Heritage Advisor who provided the following comment:

- The application drawings do not clarify the alignment of the works relative to the existing ground floor and first floor above. New external brickwork appears to include walls supporting the floor above.*
- Provision of elevations and sections would have clarified this proposal.*

- *The overall presentation of the building associated with the current use does little to enhance the contributory value of the building to the Conservation Area.*
- *The proposed works subject to continuation of the existing skillion roofed form and use of vertically proportioned window openings based on the existing and nearby terraces would have limited impact on the Conservation Area.*

Council's Heritage Advisor has recommended that elevation diagrams be provided to clarify continuation of the existing skillion roofed service wing with cohesive vertically proportioned window openings to maintain cohesion with the existing contributory fabric of the building. However, as previously noted, this information has not been provided for assessment and the application is recommended for refusal due to the provision of insufficient information.

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

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

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

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
2. Ecologically Sustainable Development	Yes	Satisfactory.
6. Stormwater	Yes	Satisfactory.
7. Accessibility and Adaptability	Insufficient Information	All boarding rooms within the development are accessed internally however, sufficient information has still not been provided to demonstrate that the design is capable of complying with the requirements of the <i>Disability (Access to Premises – Buildings) Standards 2010</i> .
8. Transport	Insufficient Information	Insufficient information has been submitted to determine the existing car, motorcycle and bicycle parking provisions on site.
9. Heritage	Insufficient Information	See comments in Section 2.2.2 of this report.
10. Safety	Yes	Satisfactory.

**Table 6: Waverley DCP 2012 – Part C3 Other Density Residential Development Compliance Table**

Although SEPP 65 does not apply to boarding house development, Waverley DCP 2012 specifies that Part C applies to shared accommodation. The following table addresses the relevant sections of the DCP noting that those provisions which are standards within the ARHSEPP have been deleted from the table as the ARHSEPP overrides these controls.

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

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

Development Control	Compliance	Comment
<b>3.1 Site, scale and frontage</b>		
<ul style="list-style-type: none"> <li>Minimum frontage: 15m – R3 zone</li> </ul>	Merit Assessment	The site has an existing frontage of 6.155m to Mill Hill Road that is satisfactory given it is an existing boarding house.
<b>3.2 Height</b>		
<ul style="list-style-type: none"> <li>Maximum external wall height: R3/9.5m – 7m</li> </ul>	Insufficient Information	No elevation or section plans have been submitted to confirm the external wall height of the proposed works.
<b>3.3 Setbacks</b>		
3.3.2- Side and rear setbacks <ul style="list-style-type: none"> <li>Minimum side setback: 0.9m</li> <li>Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback</li> <li>Deep soil along side boundary min 2m wide</li> </ul>	Yes	The existing building has a nil side setback to both boundaries however, the existing storage and bedroom at the rear of the ground floor level has a setback of approximately 1.7m from the northern side boundary. The proposal intends to maintain this existing side setback that is suitable in the site context. The proposal would further encroach into the rear setback requirement of 6m however, this is not considered to be a reason for refusal due to the existing site dimensions and surrounding development. The existing built form on the site would not comfortably allow for any deep soil planting.
<b>3.4 Length and depth of buildings</b>		
<ul style="list-style-type: none"> <li>Maximum building length: 24m</li> <li>Façade to be articulated</li> <li>Maximum unit depth: 18m</li> </ul>	Yes	Acceptable.
<b>3.5 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> </ul>	Insufficient Information	The proposed works are likely to have limited visibility from Gowrie Lane however, no elevation or section plans have been submitted with the application.



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Corner sites to address both streets as primary frontages</li> <li>Removal of original architectural features not supported.</li> </ul>		
<b>3.8 Pedestrian access and entry</b>		
<ul style="list-style-type: none"> <li>Entry at street level and respond to pattern within the street</li> <li>Accessible entry</li> <li>Separate to vehicular entry</li> <li>Legible, safe, well-lit</li> </ul>	Yes	The proposal would not alter the existing pedestrian access to the building from Mill Hill Road. All boarding rooms are accessible internally.
<b>3.9 Landscaping</b>		
<ul style="list-style-type: none"> <li>Comply with part B3- Landscaping and Biodiversity</li> <li>Minimum of 30% of site area landscaped: 53.7m<sup>2</sup></li> <li>50% of the above is to be deep soil: 89.5m<sup>2</sup></li> </ul>	Yes	No landscaping is currently present on the site as the front and rear setbacks contain hard paved surface areas. Furthermore, due to the constraints of the site, it is not considered to be suitable to accommodate any deep soil planting in its current form.
<b>3.13 Solar access and overshadowing</b>		
<ul style="list-style-type: none"> <li>New development should maintain at least two hours of sunlight to solar collectors on adjoining properties in mid winter.</li> <li>Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June.</li> </ul>	Insufficient Information	<p>The application has not been accompanied by solar access diagrams, elevations or section plans and it is unclear if additional overshadowing would be caused to adjoining neighbours.</p> <p>The provisions of SEPP ARH apply in regards to solar access – refer to <b>Table 1</b> of this report for further discussion.</p>
<b>3.15 Visual privacy and security</b>		
<ul style="list-style-type: none"> <li>Dwellings to be orientated to the street with entrances and street numbering visible</li> <li>Privacy be considered in relation to context density, separation use and design.</li> </ul>	Insufficient Information	The boarding room is to be accessed internally that is considered to maintain security for residents however, insufficient information has been demonstrated on the plans to determine if visual privacy is adequately maintained for surrounding properties.
<b>3.17 Ceiling Heights</b>		
<ul style="list-style-type: none"> <li>Min 2.7m floor to ceiling height residential floors</li> <li>Min 2.4m floor to ceiling height attic levels</li> </ul>	Insufficient Information	No elevation or section plans have been submitted.

Development Control	Compliance	Comment
<b>3.19 Acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	The boarding room is to be accessed internally that is considered to maintain acoustic privacy for the locality.
<b>3.20 Natural Ventilation</b>		
<ul style="list-style-type: none"> <li>All dwellings to be naturally cross-ventilated</li> <li>Building to be orientated to maximise breezes</li> <li>Ceiling fans are to be provided in all habitable rooms.</li> </ul>	N/A	There are no 'units' within the proposed development as only boarding rooms are provided. There is no requirement that boarding rooms are naturally cross-ventilated.

**Table 6: Waverley DCP 2012 – Part F1 Shared Residential Accommodation Compliance Table**

Development Control	Compliance	Comment
A Plan of Management is required.	Yes	The application has been accompanied by a Plan of Management (POM).
Minimum area for indoor communal living of 12.5m <sup>2</sup> or 1.25m <sup>2</sup> per resident (whichever is greater)	Yes	The proposed new boarding room is to have an area of 12m <sup>2</sup> that is compliant.
A combined communal kitchen and dining area should have a minimum area of 15m <sup>2</sup> with an additional 1m <sup>2</sup> for each room greater than 12 rooms.	Yes	Refer to section 2.2.1 of this report.
Communal storage space provided.	Yes	Communal storage space in the kitchen is demonstrated on the plans and the development incorporates the construction of a new storage/laundry at the rear.
Each room should contain adequate storage facilities.	Yes	Storage space in each room has not been identified on the plans however, the proposal incorporates the construction of a new storage/laundry room at the rear. Despite the insufficient information on the plans, a site inspection revealed storage facilities were contained in each room and this is not considered to be a reason for refusal of the application.

Balconies should be provided for each individual room where site and locality conditions permit.	Not Applicable	The proposal involves the construction of a new boarding room at ground floor level.
Laundry facilities provided for every 12 residents (one washing machine and laundry basin per every 12 residents)	Yes	The proposal provides for the construction of laundry facilities at the rear of the site.
Clothes drying facilities are to be provided for occupants, including an outdoor clothes line.	Insufficient Information	The plans do not identify any outdoor clothes drying facilities however, the proposal incorporates the construction of a laundry at the rear. The plans submitted with the application still do not demonstrate if a dryer is to be provided in this room.
A room with a kitchenette should contain a stove, sink, oven, refrigerator and a bench top with a minimum area of 1m <sup>2</sup> .	No	A site inspection revealed that some boarding rooms contained kitchenettes however, this has not been identified on the plans. A kitchenette has not been indicated on the plans for the proposed boarding room at the rear.
Minimum area of 5m <sup>2</sup> for bathrooms.	Yes	The application provides a new bathroom facility that is to be 5m <sup>2</sup> and is compliant.
Well ventilated rooms.	Yes	Adequate ventilation appears to be provided.
Communal open space is provided for relaxation, dining, entertaining and recreation areas.	Yes	Adequate communal open space is provided on site.
Boarding houses are to be designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbours by locating: (i) The main entry point at the front of the site, away from side boundary areas near adjoining properties; (ii) Communal areas away from the main living area or bedroom windows of any adjacent buildings; (iii) Screen fencing, plantings and acoustic	Insufficient Information	The application is for alterations and additions to the existing boarding house for the construction of a new boarding room. No elevation diagrams have been provided to determine whether the windows of the new boarding room would be double glazed to prevent adverse noise transmission to nearby residential properties.

(iv) barriers in appropriate locations; and Double glaze windows or glass blocks where noise transmission could affect neighbouring properties.		
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### 2.3. Other Impacts of the Development

The proposed development may be capable of complying with the BCA however, insufficient information has been submitted with the proposal to determine the application with a favourable outcome.

### 2.4. Suitability of the Site for the Development

The site may be suitable to accommodate the proposed development however, insufficient information has been submitted with the application.

### 2.5. Any Submissions

The application was notified for 14 days in accordance with the *Waverley Community Development Participation and Consultation Plan*. No submissions were received.

The amended plans could not be accessed and the applicant refused to provide a suitable working copy. The additional information submitted was missing in the original submission of the application and given that the application is recommended to be refused based on the insufficient information described above, the application was not renotified.

### 2.6. Public Interest

Insufficient information has been submitted to determine whether the proposal has a detrimental effect on the public interest.

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Heritage

See discussion in section 2.2.2 of this report.

### 3.2. Stormwater

Standard conditions of consent are recommended to be imposed with regards to stormwater should the application be approved.



### 3.3. Environmental Health

Conditions of consent are recommended to be imposed should the application be approved.

## 4. CONCLUSION

The application has been assessed against the relevant matters for consideration under sections 8.2 and 8.3 the *Environmental Planning and Assessment Act 1979*. It is recommended to not change the determination of refusal.

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

The application was reviewed by the DBU at the meeting on 6 July 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 and K Lucas*

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the review application be REFUSED by the Waverley Local Planning Panel for the reasons contained in Appendix A.

### **Report prepared by:**



Judith Elijah  
**Senior Development Assessment Planner**

**Date: 6 July 2021**

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



Kylie Lucas  
**A/Manager, Development Assessment (Central)**  
**(Reviewed and agreed on behalf of the  
Development and Building Unit)**

**Date: 12 July 2021**

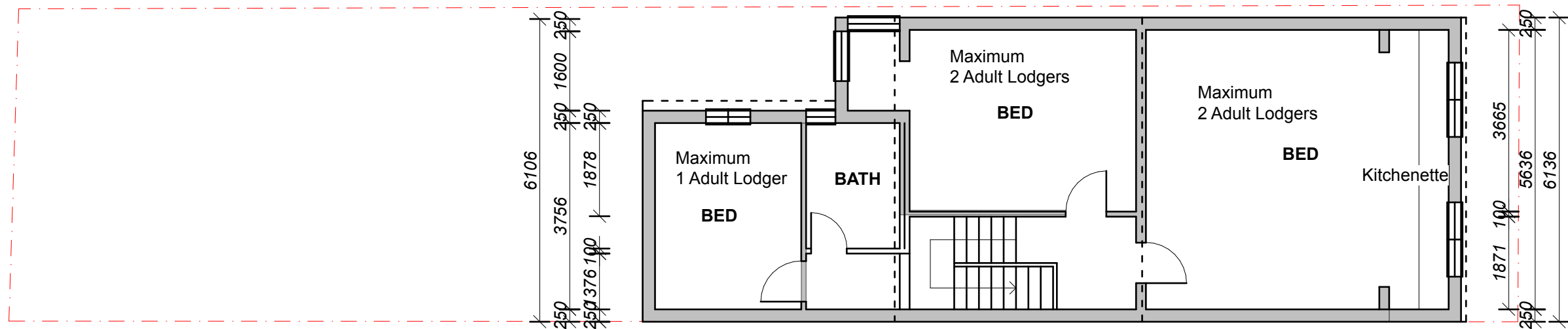
### *Reason for WLPP referral:*

- The original application was refused by the DBU and the DBU has recommended refusal for the review application.

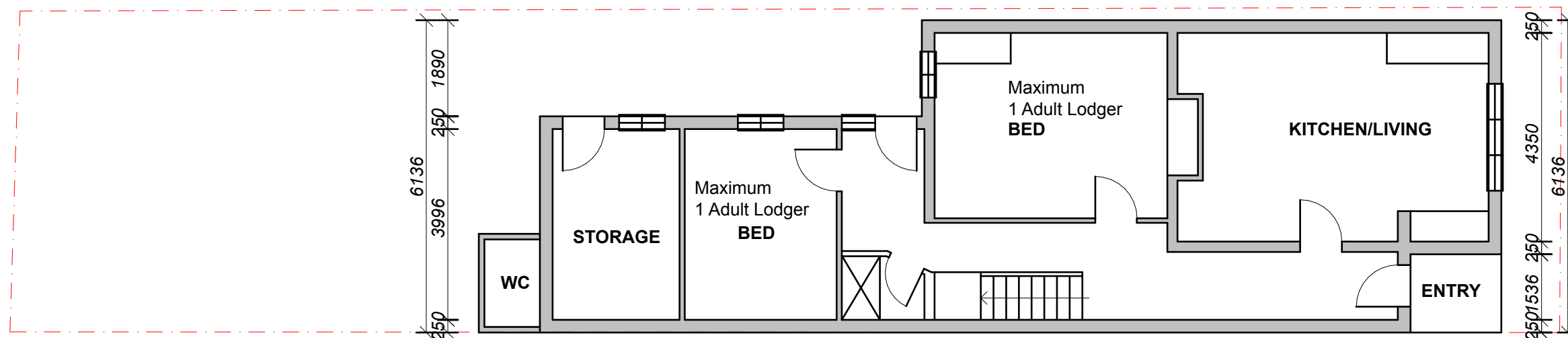
## **APPENDIX A – REASONS FOR REFUSAL**

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

1. 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. Elevation and section plans.
  - b. Floor plans demonstrating:
    - i. the site boundaries and window placement,
    - ii. all fixtures and joinery,
    - iii. the existing garage,
    - iv. storage facilities in the new boarding room, and
    - v. clothes drying facilities.
2. 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.

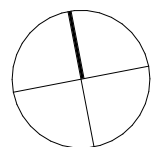


Upper Floor Plan - Existing



Lower Floor Plan - Existing

NORTH



DRAWING TITLE :

Floorplan Existing

Development Application

Project NO. 19044  
Client Michael Smith  
Site: 3 Mill Hill Road, Bondi Junction  
Date: 20/11/20  
Scale @ A3 1:100  
Drawn | Checked ST



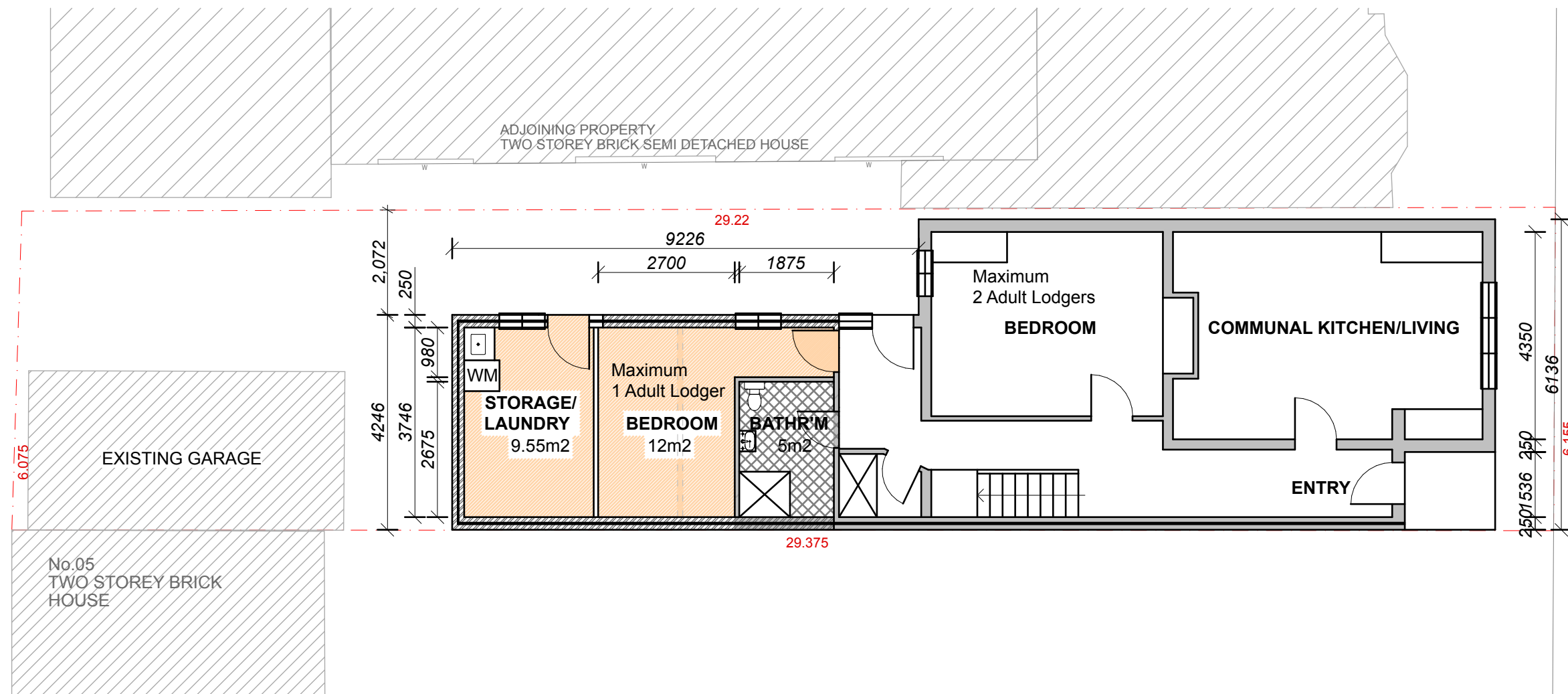
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PO Box 8, Beresfield NSW 2322  
www.outlookplanningdevelopment.com.au

DRAWING NO.

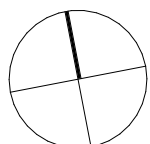
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GOWRIE AVENUE



Lower Floor Plan - Proposed

NORTH



DRAWING TITLE :

Lower Floor Plan Proposed

Development Application

Project NO. 19044  
Client Michael Smith  
Site: 3 Mill Hill Road, Bondi Junction  
Date: 20/11/20  
Scale @ A3 1:100  
Drawn | Checked ST



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DRAWING NO.

101

MILL HILL ROAD





## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-299/2020/A
<b>Site address</b>	59 Wallangra Road, Dover Heights
<b>Proposal</b>	Modifications to approved dual occupancy, including alterations to building envelope, additional excavation and changes to windows.
<b>Description of Approved Development</b>	Demolition of dwelling and construction of a two-storey attached dual occupancy with integrated parking, strata subdivision and swimming pools at rear
<b>Date of lodgement</b>	7 April 2021
<b>Owner</b>	59 Wallangra Pty Ltd
<b>Applicant</b>	NRDSN
<b>Submissions</b>	One
<b>Amended cost of works</b>	\$1,078,140.80 – Nil changes from DA-299/2020
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>Excessive excavation</li> <li>Floor Space Ratio</li> </ul>
<b>Recommendation</b>	That the application be partially APPROVED in accordance with the conditions contained in the report

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The modification application seeks to modify development consent, known as DA-299/2020 for the demolition of a dwelling and construction of a two-storey attached dual occupancy with integrated parking, strata subdivision and swimming pools at rear at the site known as 59 Wallangra Road, Dover Heights. In summary, the proposed modifications are for alterations to the building envelope, additional excavation and changes to windows.

The principal issues arising from the assessment of the application relate to excessive excavation to the lower ground level of the development and the significant increase in Floor Space Ratio (FSR).

The assessment finds the amount of excavation and additional FSR is unacceptable, as it is excessive for a low density residential development. This is recommended to be addressed via a condition of consent.

One submission was received and the issues raised in the submission has been considered and addressed in this report and in the recommendation.

The application has been assessed against the relevant matters for consideration under section 4.55(2) the *Environmental Planning and Assessment Act 1979* and is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 10 June 2021.

The site is identified as Lot 5, Section G, in DP 9941, known as 59 Wallangra Road, DOVER HEIGHTS. The site has an area of 616m<sup>2</sup> and slopes significantly from east (front) to west (rear) by approximately 4.5m.

The site is occupied by a single storey detached dwelling with vehicular access provided from Wallangra Road.

The site is adjoined by a detached dwelling to the south (No. 61) and a dual-occupancy to the north (No. 57). The site is located within a low-density residential locality.

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



**Figure 1:** Subject site street frontage, looking west (Source: Google maps, 2021)





**Figure 2:** Rear of the subject site viewed from the backyard looking east.



**Figure 2:** Looking towards the rear of dwelling at 61 Wallangra Road to the south



**Figure 4:** Looking towards the rear of dwelling at 57 Wallangra Road to the north.

### 1.3. Details of Approved Development

The original development consent, known as DA-299/2020 is for the demolition of the existing dwelling and construction of a two-storey attached dual occupancy with integrated parking, strata subdivision and swimming pools to the rear. The application was approved on 24 December 2020 by the Development and Building Unit (DBU).

The following conditions are copied from the development consent as they have direct relevance to this modification application.

## 2. GENERAL MODIFICATIONS

*The application is approved subject to the following plan amendments;*

- a. The first-floor (including rear balconies) is to be set back from the rear (western) boundary to align with the average rear first-floor setback of the adjoining dwellings at 57 Wallangra Road and 61 Wallangra Road, approximately 13.7m.*
- b. The rear balconies at first floor level are to have a maximum depth of 1.5m*

*The amendments are to be approved by the **Executive 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.*

Condition 2 of the original consent was satisfied on 16 March 2021.

### 1.4. Proposal

The modification application has been submitted under section 4.55 (2) of the *Environmental Planning and Assessment Act 1979*. It seeks consent for the following modifications to the approved development.

In summary, the modification proposes alterations to the building envelope, additional excavation and changes to windows. The modification also proposes additional habitable space to the lower ground level and swapping the ground floor use from living space to bedrooms and the first floor use from bedrooms to living space for each dwelling.

In detail the works to each dwelling include:

#### Lower Ground Floor (Basement)

- Additional excavation to increase the size of the lower ground floor.
- Alter the lower ground floor from a plant room to habitable space, including:
  - Lounge room;
  - Bedroom 4;
  - Bathroom;
  - Storage/Plant room;
  - Laundry; and
  - Internal stairs
- Increase the size of rear deck from 4m x 4.8m to 5.7m to 6.6m.
- Delete external spiral staircase.

#### Ground Floor

- Modification to layout of ground floor including setbacks and altering the level from living space to bedrooms:
  - Master bedroom with associated ensuite, walk-in-robe and balcony;
  - Bedroom 2;
  - Bedroom 3; and
  - Bathroom
- Reduction of balconies from 2.6m x 6.3m to 1.5m x 5.8m.



## First Floor

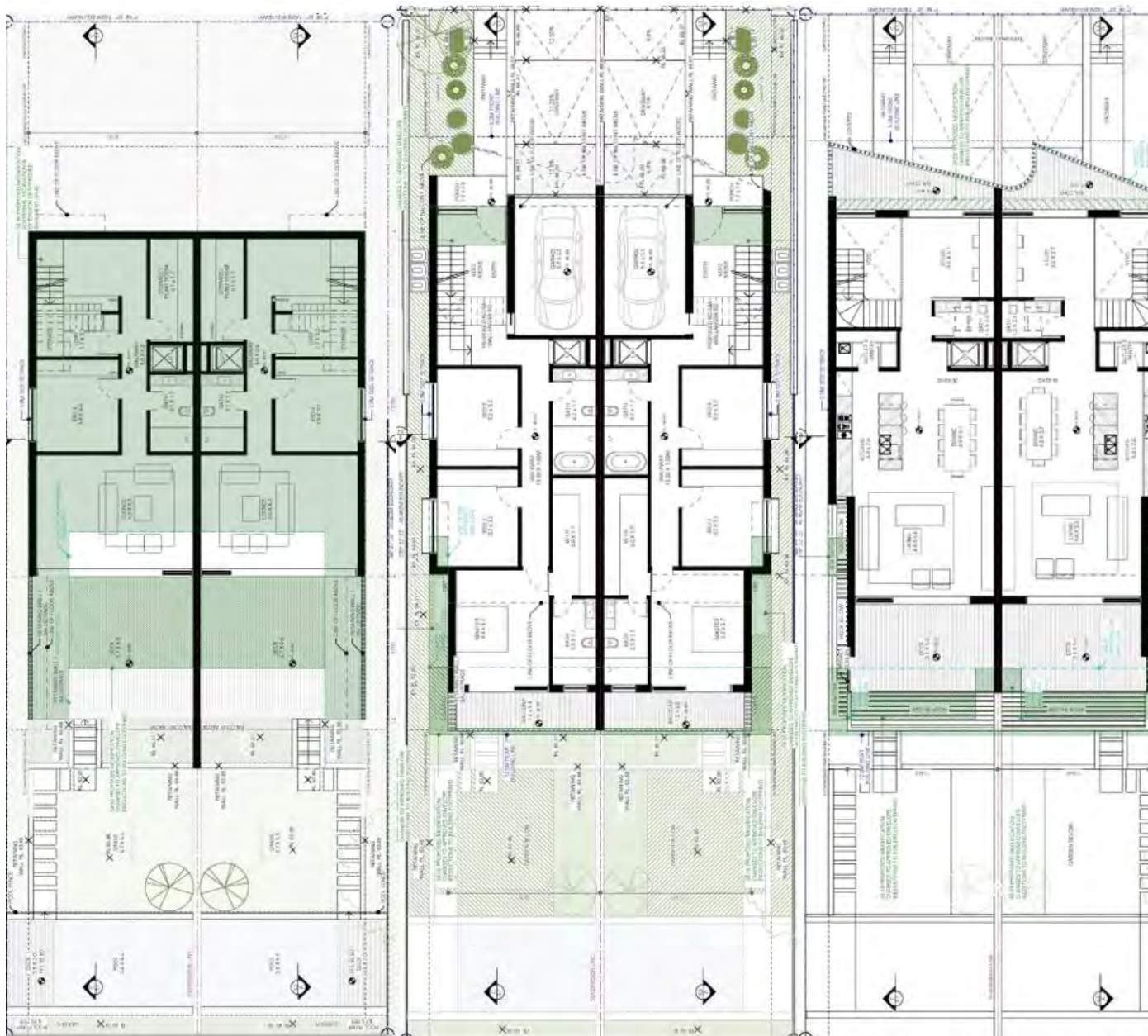
- Modification to layout of first floor including setbacks and altering the level from bedrooms to living space:
  - Study;
  - Bathroom; and a
  - Kitchen, living, dining rooms; and
- Increased balcony size from 1.28m x 4.8m to 3.5m x 5.5m.

## Overall

- Reduction of dwelling height by 0.18m; and
- Increasing FSR from 0.58:1 to 0.81:1.



**Figure 5:** Floor plan of approved development under DA-299/2020. Left to right – lower ground floor, ground floor, first floor. (Source: NDRSN, 2020)



**Figure 6:** Floor plan of proposed development under DA-299/2020/A. Left to right – lower ground floor, ground floor, first floor. (Source: NDRSN, 2021)

## 2. ASSESSMENT

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

### 2.1. Section 4.55 – Modification of consents – generally

The application is made under section 4.55(2) of the Act.

The quantitative and qualitative elements and impacts between the approved development and the development, as proposed to be modified, are not considered overly dissimilar as demonstrated in the following sections of this report. In this regard, the proposal is considered to be *substantially the same*



as the originally approved development with regard to matters arising from the NSW Land and Environment Court case of *Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 298*.

The application was publicly notified and one submission was received. The issues and matters raised in public submissions are discussed in section 2.3.4 of this report.

## 2.2. Evaluation of Matters for Consideration under Section 4.15

In accordance with section 4.55(3) of the Act the following is an assessment of the proposed modifications of the development consent against the relevant matters for consideration under section 4.15(1) of the Act.

### 2.2.1. Planning Instruments and Development Control Plans

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

#### *State Environmental Planning Policies (SEPPs)*

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

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

#### *Waverley Local Environmental Plan 2012 (WLEP)*

The land use definition of the approved development as a dual-occupancy remains unchanged and continues to be permitted development in the R2 Low Density Residential zone under WLEP.

The quantities of the approved development, as proposed to be modified, have changed as outlined in **Table 1** of this report in relation to principal development standards under WLEP. All other relevant provisions of WLEP remain compliant or are non-compliant for the reasons discussed below.

**Table 1: WLEP Compliance Table**

Provision	Approved		Proposed Modified		Compliance
4.3 Height of buildings <ul style="list-style-type: none"> <li>• 8.5m</li> </ul>	9.25m		9.07m		No. See discussion below this table.
4.4 FSR and 4.4A Exceptions to FSR <ul style="list-style-type: none"> <li>• Site Area: 616m<sup>2</sup></li> <li>• Max FSR: 0.5:1</li> </ul>	<b>DA-299/2020</b>		<b>DA-299/2020/A</b>		No. See discussion below this table.
	<b>Basement</b>	Nil	<b>Basement</b>	151.2m <sup>2</sup>	
	<b>Ground Floor</b>	164.8m <sup>2</sup>	<b>Ground Floor</b>	189.0m <sup>2</sup>	
	<b>First Floor</b>	193.2m <sup>2</sup>	<b>First Floor</b>	158.1m <sup>2</sup>	
	<b>TOTAL GFA:</b>	358m <sup>2</sup> *	<b>TOTAL GFA:</b>	498.3m <sup>2</sup>	

Provision	Approved		Proposed Modified		Compliance
<ul style="list-style-type: none"> <li>Max Gross Floor Area (GFA): 308m<sup>2</sup></li> </ul>	<b>TOTAL FSR:</b>	0.58:1	<b>TOTAL FSR:</b>	0.81:1	
	<b>EXCEEDANCE</b>	50m <sup>2</sup> or 16.2%	<b>EXCEEDANCE</b>	190.3m <sup>2</sup> or 61.8%	
	*Calculated against the plans that satisfied condition 2 of DA-299/2020.				
6.2 Earthworks			<p>Significant additional excavation is proposed at lower ground floor level, increasing the amount of GFA. The amount of excavation proposed is excessive for a dual-occupancy development. Therefore, a condition is recommended to reduce the amount of the proposed excavation at basement level.</p> <p>This will be discussed in more detail within Table 2 of this report.</p>		Condition recommended.

The following is a detailed discussion of exceedances of particular development standards under Waverley LEP 2012 as a result of the approved development, as proposed to be modified.

### Height of Buildings

Although the proposed modification still exceeds the 8.5m height limit with a proposed height of 9.07m, it is supported as it is a reduction from the approved height under DA-299/2020, by 0.18m. This results in the modified dwelling being closer to a compliant height.

### FSR

The proposed modifications result in a net increase of GFA of 140.3m<sup>2</sup>, resulting in an overall FSR of 0.81:1. This culminates in an overall exceedance of the FSR development standard by 190.3m<sup>2</sup> or 61.8%. The net increase of FSR due to the proposed modifications represents 45.6% of the overall exceedance of the standard.

The applicant has provided some written justification for the non-compliance with the FSR development standard and has based the justification on the performance of the proposal against the objectives of the development standard, which are as follows:

*Clause 4.4 Floor Space Ratio of the WLEP*

*(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; and*

*(d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.*

The justification provided by the applicant to support the increased exceedance of the FSR development standard is summarised as follows:

*Objective B - To provide an appropriate correlation between maximum building heights and density controls.*

- *Reduction in overall building height;*
- *Additional floor space is predominantly below ground;*
- *Increased front and rear setbacks; and*
- *Precedence set by other recent developments of a breach to FSR.*

*Objective C - To ensure that buildings are compatible with the bulk and scale of the desired future character of the locality.*

- *The modification will result in a dwelling that is similar to other dwelling sin the locality in terms of bulk and scale, meeting the desired future character of the locality.*

*Objective D - To establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.*

- *The additional floor space will not contribute significantly to the building's perceived scale, as the majority of it is underground;*
- *The modification will maintain the neighbours amenity through high articulation and locating additional GFA below ground level;*
- *Privacy is maintained as the only new windows on each side are a lower-ground bedroom window and a ground-floor bedroom window. The lower-ground windows are screened by fencing. The ground-floor windows are offset in relation to neighbouring windows and will now belong to bedrooms instead of primary living areas which were approved; and*
- *Improved solar access and views through lowered building height and increased rear setbacks.*

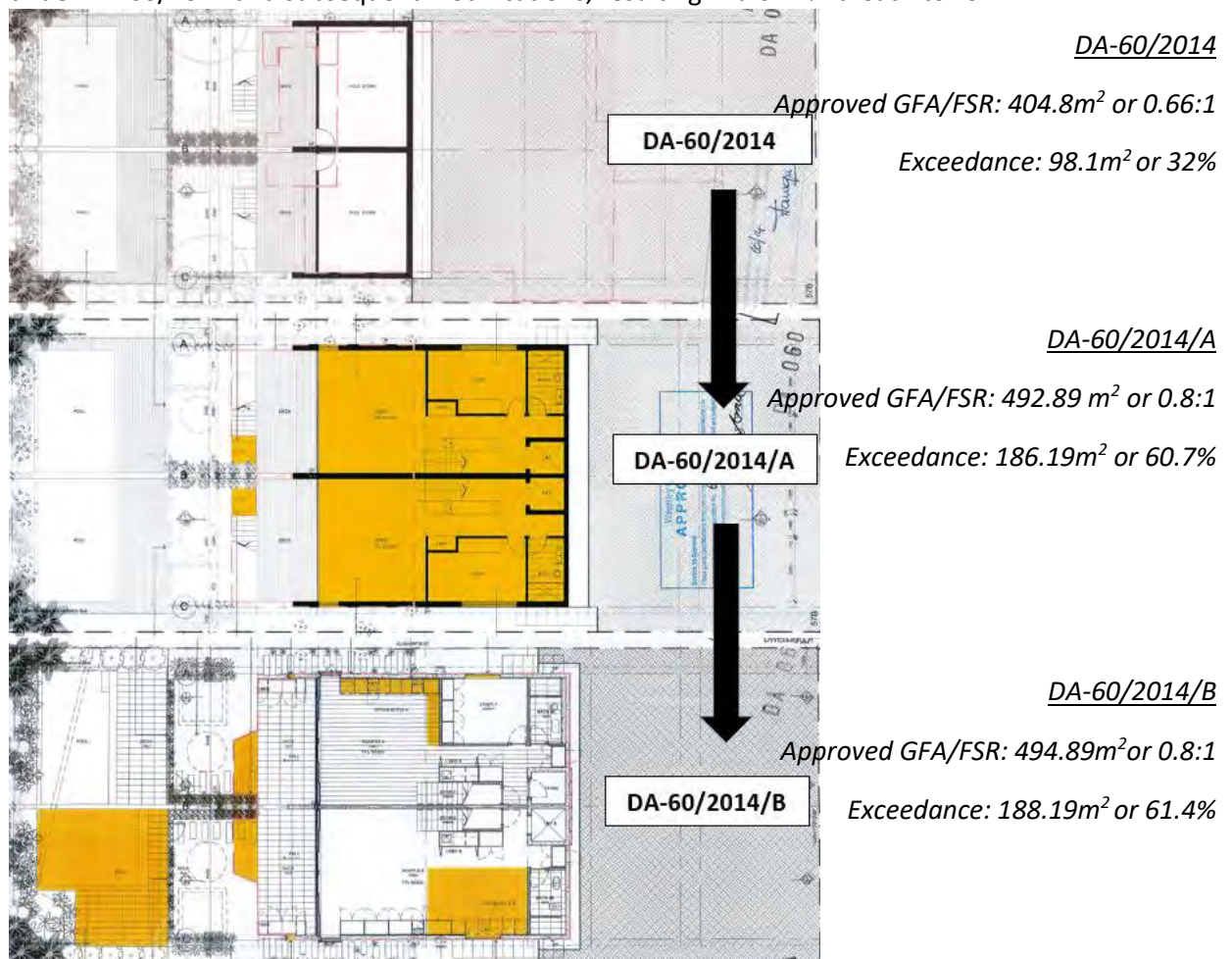
It is agreed that there is a precedence of dwellings in the locality exceeding the FSR development standard. Examples of these are identified at 57 and 61 Wallangra Road (either side of the subject site).



**Figure 7.** Rear of 57 and 61 Wallangra Road. (Source: Google Maps, 2021)

### 57 Wallangra Road

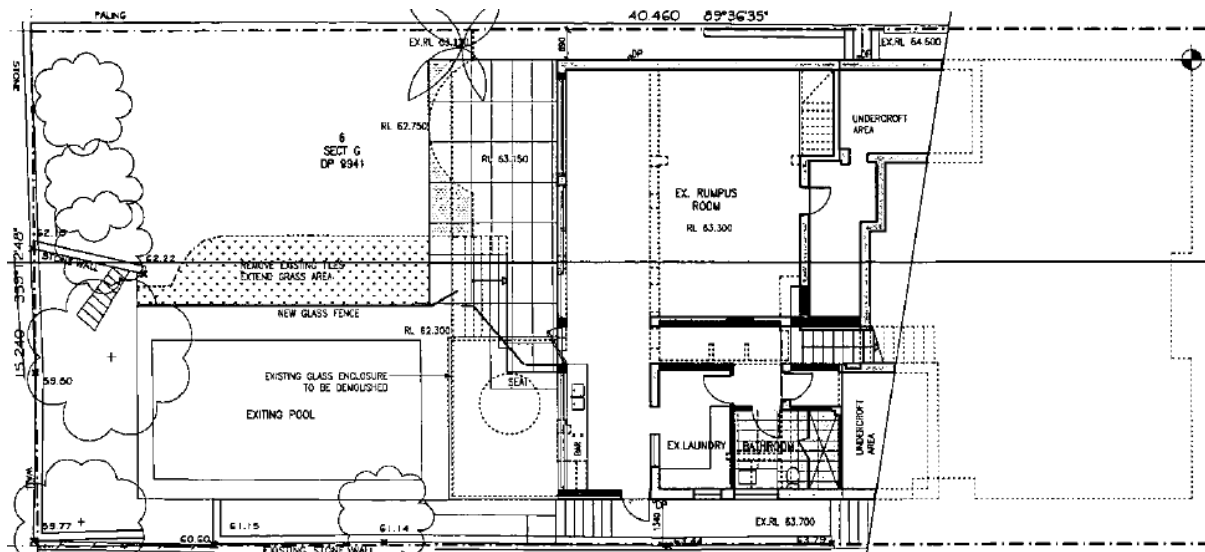
The figure below demonstrates how 57 Wallangra Road was approved for a lower ground extension under DA-60/2014 and subsequent modifications, resulting in a 61.4% breach to FSR.



**Figure 8.** Changes to the lower ground of 57 Wallangra Road.

## 61 Wallangra Road

**Figure 9** below demonstrates how 61 Wallangra Road was approved for a lower ground extension under DA-680/2008, resulting in a 32%\*\* breach in FSR.



**Figure 9.** Lower ground of 61 Wallangra Road.

### DA-680/2008

*Approved GFA/FSR: 480.9m<sup>2</sup>\*\* or 0.78:1*

*Exceedance: 172.6m<sup>2</sup> or 32%*

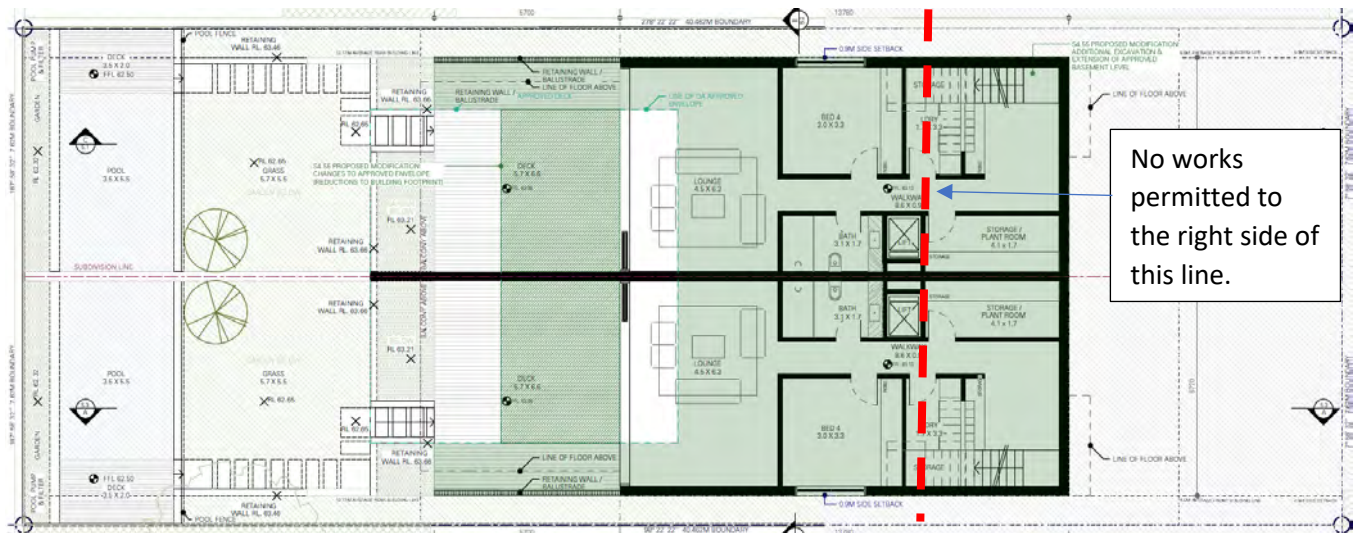
*\*\*Condition recommended to reduce first floor addition to the rear by 500mm.*

Considering there is a precedence of large habitable rooms to the lower ground level, resulting in dwellings that breach FSR.

However, the extent of excavation proposed with this modification application is excessive and will result in a large amount of empty space at lower ground level of the dwelling, particularly to the eastern portion of the lower ground level, with this space encompassing internal stairs, a store/plant room and a large section of floor area that has no use.

Therefore, a condition is recommended that no excavation occurs to the eastern side of the proposed lift. This will reduce the amount of excavation and also reduce the exceedance of FSR. It is recommended the applicant is also provided with the option to retain the external spiral staircases approved under DA-299/2020.

The condition is aimed to reduce this excessive amount of excavation and limit the exceedance to FSR. This will assist in the dwelling meeting objective (d) of FSR within the Waverley LEP 2012, as it establishes a limit on the overall scale of the dwelling, with the aim to preserve the environmental amenity of the neighbouring properties through a reduction in excavation.



**Figure 10.** Excavation to be limited to end at the right side of the proposed lift.

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

The approved development, as proposed to be modified, continues to comply with the relevant parts and sections of Waverley DCP 2012. Only the following parts and sections of Waverley DCP 2012 that apply to the proposed modifications are outlined in **Tables 2** and **3** of this report and detailed discussion below these tables.

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

Development Control	Compliance	Comment
1. Waste	Yes	Waste conditions under DA-299/2020 are recommended to be carried over within this application.
2. Ecologically Sustainable Development	Yes	An amended BASIX and NatHERS has been submitted and are acceptable.
3. Landscaping and Biodiversity	Condition recommended.	An amended landscape plan has been submitted and is acceptable subject to recommended conditions of consent. It is recommended that the proposed Quandong tree be replaced with a tree that is smaller in height to promote view retention.
5. Vegetation Preservation	Yes	The tree bond and tree replacement conditions imposed by Council's Tree Officer under DA-299/2020 are recommended to be carried over within this application.
6. Stormwater	Condition recommended.	Council's Stormwater Engineer has recommended minor amendments to previously imposed stormwater conditions.





Development Control	Compliance	Comment
	Yes	<b>Rear building lines</b> <i>Lower ground floor</i> The rear deck and associated external rear wall will have a larger setback from previously approved.
	Yes	<i>Ground floor</i> Although the rear external wall will extend further to the rear from approved it is acceptable as it is a minor change resulting in minimal environmental impacts. Additionally, as the balcony balustrading is included within the definition of rear building line, it could be argued the rear building line is reduced from previously approved as the balcony balustrading is setback further from the rear boundary line.
	Yes	<i>First floor</i> Both rear external walls and associated balcony balustrading will have an increased setback from what was approved.
2.2.2 Side setbacks <ul style="list-style-type: none"><li>Minimum of 0.9m (for height up to 8.5m) or 1.2m or 1.5m (up to 12.5m)</li></ul>	Yes	<i>Lower Ground Floor</i> The proposed works are setback 900mm from the side boundaries.
	Yes	<i>Ground Floor</i> The proposed works are setback 900mm from the side boundaries.
	Yes	<i>First Floor</i> Better articulation is provided at first floor level, with the modification providing increased side setbacks to the rear portion of the dwelling.
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"><li>New development to be compatible with streetscape context</li><li>Significant landscaping to be maintained.</li></ul>	Yes	The dwelling as viewed from Wallangra Road will remain substantially the same as approved.
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"><li>Habitable windows are not to directly face habitable windows or open space of</li></ul>	Yes	<u>Balconies</u> The increased decking to the rear of the lower ground is close to ground level and will have

Development Control	Compliance	Comment
<p>neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design</p> <ul style="list-style-type: none"> <li>External stairs are not acceptable.</li> <li>Maximum size of balconies: <i>10m<sup>2</sup> in area</i> <i>1.5m deep</i></li> <li>Roof tops to be non-trafficable unless predominant in the immediate vicinity</li> </ul>	<p>Yes</p> <p>Acceptable on merit.</p>	<p>privacy screens on either side. Visual privacy is not of a concern.</p> <p>The rear balcony to the ground floor will be reduced in size and will now be accessed from bedrooms rather than living rooms, resulting in a reduced impact.</p> <p>Each dwelling proposes a rear first floor balcony accessed from a living room. Each balcony will have a depth of 3.5m and an area of 19.25m<sup>2</sup>.</p> <p>It is noted that condition 2(b) of DA-299/2018, stipulated, <i>'The rear balconies at first floor level are to have a maximum depth of 1.5m.'</i></p> <p>The reason to why the proposed larger balconies are permitted is because of the precedence of large balconies in the locality.</p> <p>An assessment of adjoining first floor balconies concluded the following:</p> <p><u>57 Wallangra Road</u> Depth: 3m Area: 19.215m<sup>2</sup></p> <p><u>61 Wallangra Road</u> Depth: 1.5m Area 17m<sup>2</sup></p> <p>The proposed first floor balconies are similar in area to the neighbouring dwellings and is acceptable on merit.</p> <p><u>Windows</u></p> <p>The proposed window to Bedroom 4 to each dwelling is extremely close to ground level and any outlook will be obstructed by the side boundary fence.</p> <p>The proposed windows to Bedroom 2 and 3 are conservative in size. The windows are to bedrooms and therefore will not create substantial visual privacy impacts to neighbouring dwellings. Additionally, nil submissions were received.</p>

Development Control	Compliance	Comment
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> <li>Avoid unreasonably overshadowing of solar collectors (including habitable windows).</li> </ul>	Yes	As the dwelling is to be reduced in height and improved setbacks provided, overshadowing impacts will not be reduced from what was approved under DA-299/2020.
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	Yes	The proposed modification will not result in view loss to surrounding properties.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> <li>Overall landscaped area: 15% of site area</li> <li>Minimum area of 25m<sup>2</sup> for private open space</li> <li>Front open space: 50% of front building setback area</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>Over 40%</p> <p>Over 15%</p> <p>Over 25m<sup>2</sup></p> <p>100%</p>



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Front landscaped area: 50% of front open space provided</li> </ul>	Acceptable on merit.	Although less than 50% of the front open space is landscaped it is supported as it substantially the same as approved.
<b>2.10 Swimming pools and spa pools</b>		
<ul style="list-style-type: none"> <li>Located in the rear of property</li> <li>Pool decks on side boundaries must consider visual privacy</li> </ul>	Yes	Swimming pools to remain as approved.

### 2.2.2. Other Impacts of the Development

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

### 2.2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

### 2.2.4. Any Submissions

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

One unique submission was received from the following property:

- 64 Wallangara Road, Dover Heights

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

**Issue:** *The eastern elevation shows RL73.24, this is likely an error.*

**Response:** Correct, this is a drafting error. A condition is recommended that it be rectified to show the correct figure of RL72.24.

**Issue:** *Concern the proposed lift will result in a lift overrun to the roof.*

**Response:** No lift overrun is proposed. Any addition to the height will require a further modification.

**Issue:** *The proposed Banksia tree to the north-eastern and south-eastern corner of the property and the Quandong tree further into the site on each of the Northern and Southern boundaries will result in excessive height blocking views. Request that the trees be amended and replaced with species that do not exceed a height of 6-7 metres.*

**Response:** The Banksia tree on the nature strip was approved under DA-299/2020 and is to remain as it is not part of this modification.

A condition is recommended that the proposed Quandong tree proposed within this modification be replaced with a tree that does not exceed a height of 7m to aid in protecting views.

**Issue:** Request for a condition to limit all plant and machinery on the roof including photovoltaic cells, aerials and satellite dishes so that they do not substantially impede our clients' view.

**Response:** The plans do not show any items being placed on the roof. If structures are to be placed on the roof at a later stage, the individual will have to seek the relevant path of consent.

**Issue:** Recessive in colour materials should be used to reduce reflectivity

**Response:** The development is a low density dwelling, reflectivity impacts are not a large issue from this type of dwelling.

### 2.2.5. Public Interest

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

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Stormwater

An internal referral as sought from Council's Stormwater Engineer who requested amendments to the previously imposed conditions.

### 3.2. Tree Management

An internal referral as sought from Council's Tree Officer who did not object to the modification, recommending conditions that were already imposed under DA-299/2020.

## 4. CONCLUSION

The modification application seeks to modify development consent, known as DA-299/2020 for the demolition of a dwelling and construction of a two-storey attached dual occupancy with integrated parking, strata subdivision and swimming pools at rear at the site known as 59 Wallangra Road, Dover Heights. In summary, the proposed modifications are for alterations to the building envelope, additional excavation and changes to windows.

The principal issues arising from the assessment of the application relate to excessive excavation to the lower ground level and which results in an unreasonable breach to FSR. A condition is recommended that nil works occur to the eastern side of the lift at lower ground level, reducing the amount of excavation and FSR.

One submission was received and the issues raised in the submission have been considered and addressed in this report and in the recommendation.

The application has been assessed against the relevant matters for consideration under section 4.55(2) the *Environmental Planning and Assessment Act 1979* and is recommended for approval subject to conditions of consent.

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



The application was reviewed by the DBU at the meeting on 22 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, P Wong

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the modification application be APPROVED by the Waverley Local Planning Panel subject to modified and new conditions in Appendices A and B.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Joseph Somerville	Bridget McNamara
Development Assessment Planner	Manager, Development Assessment (North/South)  (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 25 June 2021	Date: 19 July 2021

*Reason for WLPP referral:*

The consent authority for the original development application was the WLPP, this modification is made under section 4.55(2) of the Act and relates to:

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

## APPENDIX A – CONDITIONS OF CONSENT TO BE MODIFIED

### **A. Amended/Deleted Conditions**

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

The development must be in accordance with:

(a) Architectural Plans prepared by NDRSN including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA 1.1 / B	Site Analysis Plan	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 1.1 / B	Subdivision Plan	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 2.1 / B	Demolition Plan + Existing Roof Plan	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 2.2 / B	Existing + Proposed Streetscape Elevations	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 3.1 / B	Proposed Lower Ground Floor Plan	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 3.2 / B	Proposed Ground Floor Plan	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 3.3 / B	Proposed First Floor Plan	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 3.4 / B	Proposed Roof Plan	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 4.1 / B	Proposed East Elevation	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 4.2 / B	Proposed South Elevation	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 4.3 / B	Proposed West Elevation	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 4.4 / B	Proposed North Elevation	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 5.1 / B	Proposed Section A-A	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 5.2 / B	<del>Proposed Short Sections A-A &amp; B-B</del> <b>Proposed Short Section B-B</b>	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 5.3 / B	Proposed Section C-C	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>
DA 7.1 / B	External Materials + Finishes	<del>10-Sep-20</del> <b>24-Mar-21</b>	<del>21/12/2020</del> <b>07/04/2021</b>



- (b) Landscape Plan No. L-01, prepared by Ray Fuggle Associates, dated 10/12/20 and received by Council on 21/12/2020,
    - (i) ***As amended by Landscape Plan No. L-01, prepared by Ray Fuggle Associates, dated 22/02/21 and received by Council on 07/04/2021,***
  - (c) BASIX and NatHERs Certificates,
  - (d) Geotechnical Assessment Report, prepared by JC Geotechnics Pty Ltd, dated 16 December 2020, and received by Council on 21/12/2020,
  - (e) Arboricultural Impact Assessment & Tree Protection Plan prepared by Joshua's Tree Service & Solutions, 1.9.2020, and received by Council on 16/09/2020,
  - (f) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 16/09/2020.
- Except where amended by the following conditions of consent.

***(AMENDED DA-299/2020/A)***

## **2. GENERAL MODIFICATIONS**

The application is approved subject to the following plan amendments;

- (a) ~~The first floor (including rear balconies) is to be set back from the rear (western) boundary to align with the average rear first floor setback of the adjoining dwellings at 57 Wallangra Road and 61 Wallangra Road, approximately 13.7m.~~
- (b) ~~The rear balconies at first floor level are to have a maximum depth of 1.5m~~
- (c) ***Excavation at lower ground level is not to extend past the eastern side of the proposed lift. Bedroom 4 may be increased in Gross Floor Area to the east to align with the lift.***
- (d) ***Th external spiral stairs approved under DA-299/2020 may remain. There is scope to slightly amend the location of the spiral staircases to better relate to the proposed balcony changes approved under DA-299/2020/A.***
- (e) ***The drafting error to the proposed east elevation is to be rectified. The notation of RL73.24 is to be amended to demonstrate the correct RL of RL72.24.***

The amendments are to be approved by the **Executive 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.

***(AMENDED DA-299/2020/A)***

## **8. TREE PRESERVATION 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 of the newly planted *Callistemon citrinus* (Endeavour), ~~or~~ *Metrosideros thomasi* (NZ Christmas bush) on the naturestrip ***and the tree proposed under condition 2A of DA-299/2020/A.*** The bond is to be lodged prior to the issue of a Construction Certificate.

The sum will be forfeited to the Council at its discretion for a breach of these requirements and will be refunded three (3) months from the issue of the Occupation Certificate subject to the satisfaction of Council.

**(AMENDED DA-299/2020/A)**

## **16. STORMWATER MANAGEMENT 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 to the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the Construction Certificate.

The submitted stormwater civil plans prepared by Australian Consulting Engineers Pty Ltd, Project No. 200725, Dwg No. 000, 101, 102 & 103, Issue A, dated 28/08/2020, 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 suitable qualified and practicing Civil Engineer and include:

- (a) OSD Details: The provided plans do not provide sufficient details of the proposed On-Site Stormwater Detention (OSD) tank 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 stormwater drainage system.
- (c) The surface and invert level of all proposed pits shall be reviewed and amended as necessary.
- (d) Subsoil drainage, seepage waters from basement car parks and sub surface flows from structures that intersect high ground water flows shall be harvested and reused on site or piped to the underground stormwater drainage system (piped connections directly or indirectly to Council's street gutter are not permitted). **must not be discharged directly or indirectly to Council's street gutter.**
- (e) ***The stormwater management plan and approved architectural documentation shall be consistent.***
- (f) ***Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.***

Notes:

- Since a sewer main runs through the property, plans must also be presented to a Sydney Water Tap in™ for their approval.

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

**(AMENDED DA-299/2020/A)**

#### **40. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE**

A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, ~~basement~~ pump-out facility, the detention facilities 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.***

A suitably qualified and practicing engineer must provide certification the WAED of the stormwater drainage system that the stormwater drainage works and ~~basement~~ pump-out facility 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.

**(AMENDED DA-299/2020/A)**

### **B. New Conditions**

#### **2A. MODIFICATIONS TO LANDSCAPE PLAN**

***The proposed *Elaeocarpus Eumundii* (Smooth leaved Quandong) to the front of the site is to be replaced with a tree that does not exceed a maximum height of 7m at maturity.***

***The amendments are to be approved by Council's Tree Officer 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.***

**(ADDED DA-299/2020/A)**

## **APPENDIX B – FULL SET OF CONDITIONS**

### **A. APPROVED DEVELOPMENT**

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

The development must be in accordance with:

(a) Architectural Plans prepared by NDRSN including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA 1.1 / B	Site Analysis Plan	24-Mar-21	07/04/2021
DA 1.1 / B	Subdivision Plan	24-Mar-21	07/04/2021
DA 2.1 / B	Demolition Plan + Existing Roof Plan	24-Mar-21	07/04/2021
DA 2.2 / B	Existing + Proposed Streetscape Elevations	24-Mar-21	07/04/2021
DA 3.1 / B	Proposed Lower Ground Floor Plan	24-Mar-21	07/04/2021
DA 3.2 / B	Proposed Ground Floor Plan	24-Mar-21	07/04/2021
DA 3.3 / B	Proposed First Floor Plan	24-Mar-21	07/04/2021
DA 3.4 / B	Proposed Roof Plan	24-Mar-21	07/04/2021
DA 4.1 / B	Proposed East Elevation	24-Mar-21	07/04/2021
DA 4.2 / B	Proposed South Elevation	24-Mar-21	07/04/2021
DA 4.3 / B	Proposed West Elevation	24-Mar-21	07/04/2021
DA 4.4 / B	Proposed North Elevation	24-Mar-21	07/04/2021
DA 5.1 / B	Proposed Section A-A	24-Mar-21	07/04/2021
DA 5.2 / B	Proposed Short Section B-B	24-Mar-21	07/04/2021
DA 5.3 / B	Proposed Section C-C	24-Mar-21	07/04/2021
DA 7.1 / B	External Materials + Finishes	24-Mar-21	07/04/2021

(b) Landscape Plan No. L-01, prepared by Ray Fuggle Associates, dated 10/12/20 and received by Council on 21/12/2020,

(i) As amended by Landscape Plan No. L-01, prepared by Ray Fuggle Associates, dated 22/02/21 and received by Council on 07/04/2021,

(c) BASIX and NatHERs Certificates,

(d) Geotechnical Assessment Report, prepared by JC Geotechnics Pty Ltd, dated 16 December 2020, and received by Council on 21/12/2020,

(e) Arboricultural Impact Assessment & Tree Protection Plan prepared by Joshua's Tree Service & Solutions, 1.9.2020, and received by Council on 16/09/2020,

(f) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 16/09/2020.

Except where amended by the following conditions of consent.

**(AMENDED DA-299/2020/A)**



## 2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) DELETED DA-299/2020/A
- (b) DELETED DA-299/2020/A
- (c) *Excavation at lower ground level is not to extend past the eastern side of the proposed lift. Bedroom 4 may be slightly increased in Gross Floor Area to the east to align with the lift.*
- (d) *Th external spiral stairs approved under DA-299/2020 may remain if desired. There is scope to slightly amend the location of the spiral staircases to better relate to the proposed balcony changes approved under DA-299/2020/A.*
- (e) *The drafting error to the proposed east elevation is to be rectified. The notation of RL73.24 is to be amended to demonstrate the correct RL of RL72.24.*

The amendments are to be approved by the **Executive 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.

**(AMENDED DA-299/2020/A)**

### 2A. MODIFICATIONS TO LANDSCAPE PLAN

*The proposed Elaeocarpus Eumundii (Smooth leaved Quandog) to the front of the site is to be replaced with a tree that does not exceed a maximum height of 7m at maturity.*

*The amendments are to be approved by Council's Tree Officer 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.*

**(ADDED DA-299/2020/A)**

## 3. STREET TREES PERMITTED TO BE REMOVED

Permission is granted to remove the two (2) *Hibiscus rosa-sinensis* (Chinese hibiscus) located on Council's nature strip.

- (a) Two (2) replacement trees are to be planted on the naturestrip either side of the new driveway. The trees are to be *Callistemon citrinus* (Endeavour) or *Metrosideros thomasi* (NZ Christmas bush) and must be a minimum pot size of 45 litres when planted.
- (b) The trees are to be planted by a horticulturist (Min qualification AQF Level 3).
- (c) A proof of purchase of the trees must be provided to the Principle Certifying Authority, prior to any construction work commencing.

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

#### **4. TREES ON ADJACENT PROPERTIES**

No approval is given for the removal of any trees on any adjacent properties.

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

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

#### **GENERAL REQUIREMENTS**

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

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

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

#### **6. HOME BUILDING ACT**

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act, 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

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

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

A 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.

#### **8. TREE PRESERVATION 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 of the newly planted ***Callistemon citrinus* (Endeavour)**, ***Metrosideros thomasi* (NZ Christmas bush)** on the naturestrip and the tree proposed under condition 2A of DA-299/2020/A. The bond is to be lodged prior to the issue of a Construction Certificate.

The sum will be forfeited to the Council at its discretion for a breach of these requirements and will be refunded three (3) months from the issue of the Occupation Certificate subject to the satisfaction of Council.

**(AMENDED DA-299/2020/A)**

#### **9. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of \$ **25,562.82** (rounded) 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.

#### **10. LONG SERVICE LEVY**

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

### **11. HOARDING**

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

### **12. EROSION & SEDIMENT CONTROL**

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

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

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

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

### **14. ENGINEERING DETAILS**

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

## TRAFFIC MANAGEMENT

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

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

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

## STORMWATER & FLOODING

### **16. STORMWATER MANAGEMENT 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 to the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the Construction Certificate.

The submitted stormwater civil plans prepared by Australian Consulting Engineers Pty Ltd, Project No. 200725, Dwg No. 000, 101, 102 & 103, Issue A, dated 28/08/2020, 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 suitable qualified and practicing Civil Engineer and include:

- (a) OSD Details: The provided plans do not provide sufficient details of the proposed On-Site Stormwater Detention (OSD) tank 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 stormwater drainage system.
- (c) The surface and invert level of all proposed pits shall be reviewed and amended as necessary.
- (d) Subsoil drainage, seepage waters from basement car parks and sub surface flows from structures that intersect high ground water must not be discharged directly or indirectly to Council's street gutter.
- (e) The stormwater management plan and approved architectural documentation shall be consistent.
- (f) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

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

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## ENERGY EFFICIENCY & SUSTAINABILITY

### **17. BASIX**

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

### **18. SOLID FUEL HEATING**

In accordance with the Part B2 of the Waverley DCP 2012 the use of solid fuel heating / cooking appliances (including wood, coal or other solid fuels) is not permitted to ensure that the renewable energy and energy efficiency targets of the Council are met. In this regard, use of liquid fuels or gaseous fuels such as gas may be used.

## WASTE

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

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

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

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

### PRIOR TO ANY WORKS

### **20. CONSTRUCTION SIGNS**

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

### **21. DILAPIDATION 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**

### **22. 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.

### **23. 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.

## **24. 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.

## **25. EXCAVATION AND BACKFILLING**

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

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**

## **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. CONSTRUCTION INSPECTIONS**

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

## **29. CERTIFICATE OF SURVEY – LEVELS**

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



### **30. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

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

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

- (a) Reinforcement of the swimming pool/outdoor spa is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure
- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans **MUST** be submitted to Sydney Water at least 14 days prior to commencement of building operations.

### **TREE PROTECTION AND REMOVAL**

### **32. TREE PROTECTION**

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

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

### **33. NEW VEHICLE CROSSING**

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

### **34. EXISTING VEHICLE CROSSING IS TO BE CLOSED**

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

### **35. VEHICULAR ACCESS - FINISHED LEVEL**

The finished level at the property boundary on **both** sides of the vehicle crossing is to be **50mm** above the level of the existing concrete footpath.

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

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

### **36. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, 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.

### **37. CERTIFICATION OF BASIX COMMITMENTS**

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

### **38. ON-SITE STORMWATER DETENTION CERTIFICATION**

The submission of certification by a suitably qualified and practicing Civil 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 POSTIVE COVENTANT FOR OSD**

A 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 Council's Public Domain Engineer 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.

### **40. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE**

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, pump-out facility, the detention facilities 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.

A suitably qualified and practicing engineer must provide certification the WAED of the stormwater drainage system that the stormwater drainage works and pump-out facility 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.

***(AMENDED DA-299/2020/A)***

#### **41. CREATION OF CONTRACT FOR PUMP OUT SYSTEM**

Where a pump out system is proposed, the proprietor shall be required to submit written intent to establish and maintain a Planned Preventative Maintenance (PPM) contract of the pump system prior to the issue of Occupation Certificate. The proponent shall indemnify Council from all claims for damages arising from the failure of the pump system. Evidence shall be submitted to Waverley Council.

#### **42. 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.

#### **OTHER MATTERS**

#### **43. ALLOCATION OF STREET NUMBERS**

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

The primary address number and location for the common property strata:

- 59 Wallangra Road

As the redevelopment has sub-address sites the following sub-addressing will apply;

- No. 59A Wallangra Road for the north allotment (adjoining 57 Wallangra Road);
- No. 59B Wallangra Road for the south allotment (adjoining 61 Wallangra Road).

The premises number for the properties shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level, located near the pedestrian entry point for each lot and be clearly visible on the site boundary that fronts Wallangra Road.

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 in the street and within a primary address site shall be unique regardless of the type of the address.

The premises numbers are to be positioned on the site prior to the issue of the Occupation /Subdivision Certificate.

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

## **E. ADVISORY MATTERS**

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

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

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

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

### **AD2. ENGINEERING PLAN ASSESSMENT AND WORKS INSPECTION FEES**

The applicant may be required to pay 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.

### **AD3. 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.

**AD4. DIAL BEFORE YOU DIG**

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

**AD5. 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.

**AD6. EXCAVATION TO BE LIMITED**

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

**AD7. TREE REMOVAL/PRESERVATION**

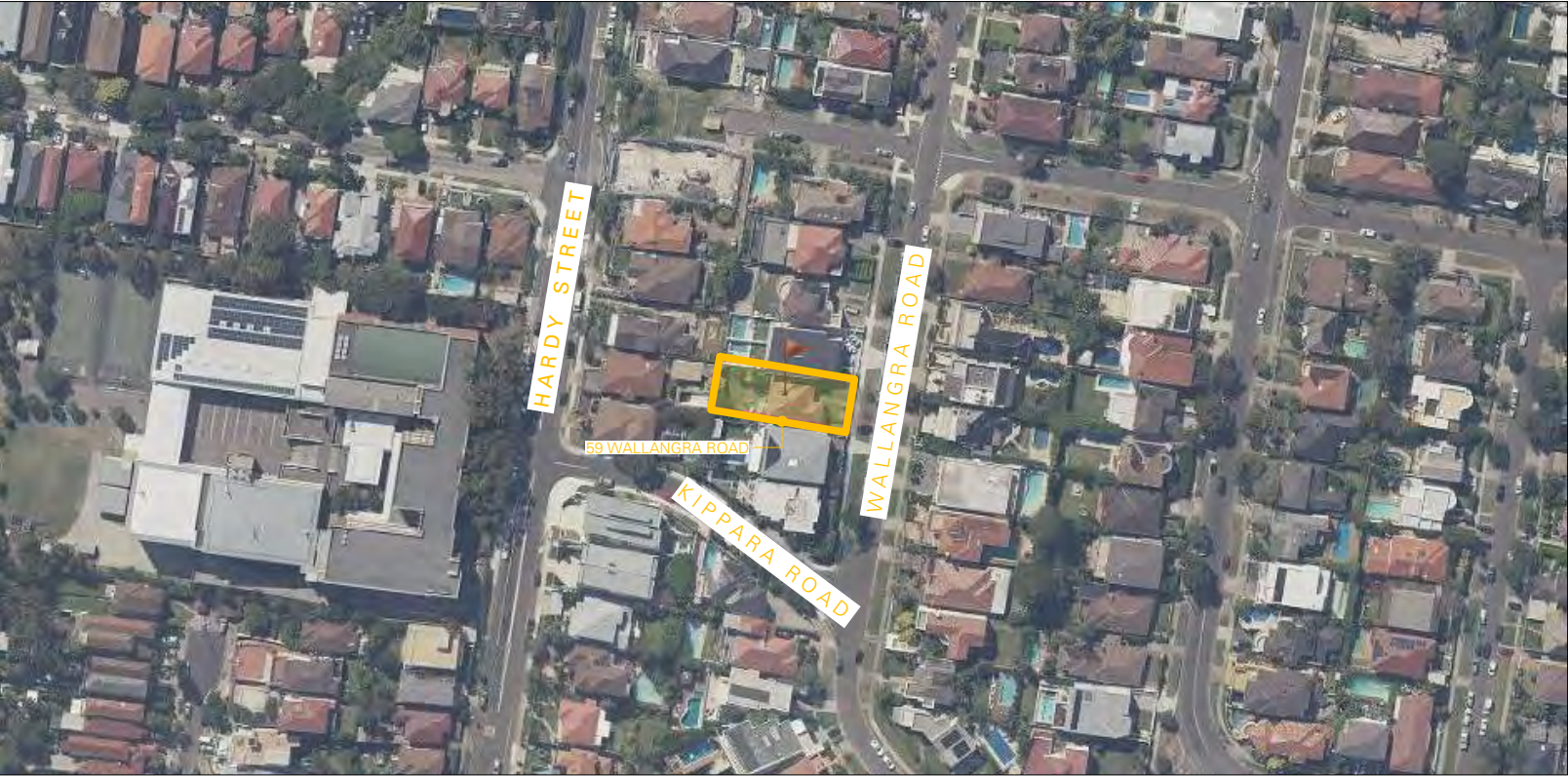
Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

**AD8. WORK OUTSIDE PROPERTY BOUNDARY**

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

WAVERLY COUNCIL  
DEVELOPMENT APPLICATION SUBMISSION

DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF TWO-STOREY DUAL OCCUPANCY DEVELOPMENT WITH SWIMMING POOLS,  
FRONT GARAGES AND STRATA SUBDIVISION TO 59 WALLANGRA ROAD, DOVER HEIGHTS NSW 2030  
LOT 5 SEC G / DP 9941



HTTP://MAPS.SIX.NSW.GOV.AU/

DRAWING LIST

NO.	TITLE
0.1	LOCALITY MAP + DRAWING LIST
1.1	SITE ANALYSIS PLAN
1.2	SUBDIVISION PLAN
1.3	AREA CALCULATIONS + COMPLIANCE TABLE
1.4	STREET ANALYSIS (PARKING)
2.1	DEMOLITION PLAN + EXISTING ROOF PLAN
2.2	SOIL & WATER MANAGEMENT PLAN
2.3	EXISTING + PROPOSED STREETScape ELEVATIONS
3.1	PROPOSED LOWER GROUND FLOOR PLAN
3.2	PROPOSED GROUND FLOOR PLAN
3.3	PROPOSED FIRST FLOOR PLAN
3.4	PROPOSED ROOF PLAN
4.1	PROPOSED EAST ELEVATION
4.2	PROPOSED SOUTH ELEVATION
4.3	PROPOSED WEST ELEVATION
4.4	PROPOSED NORTH ELEVATION
5.1	PROPOSED SECTION A
5.2	PROPOSED SECTION B
5.3	PROPOSED SECTION C
6.1	SHADOW DIAGRAMS PLAN WINTER SOLSTICE - 21 JUNE 9 AM
6.2	SHADOW DIAGRAMS PLAN WINTER SOLSTICE - 21 JUNE 12 AM
6.3	SHADOW DIAGRAMS PLAN WINTER SOLSTICE - 21 JUNE 3 PM
6.4	SHADOW DIAGRAMS ELEVATION WINTER SOLSTICE - 21 JUNE 9 AM, 12 PM + 3 PM
7.1	EXTERNAL MATERIALS + FINISHES
8.1	WASTE MANAGEMENT PLAN

Schedule of BASIX commitments			
The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with.			
2. Commitments for single dwelling houses			
(a) Dwellings			
(b) Water	Show on DA plans	Show on CC-CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.	✓	✓	✓
(b) The applicant must plant indigenous or low water use species of vegetation throughout the area or land specified for the dwelling in the "Indigenous species" column of the table below, as private landscaping for that dwelling. (This area of indigenous vegetation is to be contained within the "Area of garden and lawn" for the dwelling specified in the "Description of Project" table).	✓	✓	✓
(c) If a rating is specified in the table below for a future or appliance to be installed in the dwelling, the applicant must ensure that each such future and appliance meets the rating specified for it.	✓	✓	✓
(d) The applicant must install an on-demand hot water recirculation system which regulates all hot water use throughout the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below.	✓	✓	✓
(e) The applicant must install:			
(i) a hot water diversion system to all showers, kitchen sinks and all basins in the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below; and	✓	✓	✓
(ii) a separate diversion tank (or tanks) connected to the hot water diversion systems of at least 100 litres. The applicant must connect the hot water diversion tank to all toilets in the dwelling.	✓	✓	✓
(f) The applicant must not install a private swimming pool or spa for the dwelling, with a volume exceeding that specified for it in the table below.	✓	✓	✓
(g) If specified in the table, that pool or spa (or both) must have a pool cover or shading (or both).	✓	✓	✓
(h) The pool or spa must be located as specified in the table.	✓	✓	✓
(i) The applicant must install, for the dwelling, each alternative water supply system, with the specified size, listed for that dwelling in the table below. Each system must be configured to collect run-off from the area specified (excluding any area which supplies any other alternative water supply system), and to divert overflow as specified. Each system must be connected as specified.	✓	✓	✓

BASIX Planning, Industry & Environment www.basix.nsw.gov.au Version: 3.0 / DARWINIA\_3\_15\_1 Certificate No: 1122657M\_03 Tuesday, 23 March 2021 page 6/13

(b) Energy	Show on DA plans	Show on CC-CDC plans & specs	Certifier check
(a) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Artificial lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that the "primary type of artificial lighting" for each such room in the dwelling is fluorescent lighting or light emitting diode (LED) lighting. If the term "dedicated" is specified for a particular room or area, then the light fittings in that room or area must only be capable of being used for fluorescent lighting or light emitting diode (LED) lighting.	✓	✓	✓
(b) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Natural lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that each such room or area is fitted with a window and/or skylight.	✓	✓	✓
(c) This commitment applies if the applicant installs a water heating system for the dwelling's pool or spa. The applicant must:			
(i) install the system specified for the pool in the "Individual Pool" column of the table below (or alternatively must not install any system for the pool). If specified, the applicant must install a timer, to control the pool's pump; and	✓	✓	✓
(ii) install the system specified for the spa in the "Individual Spa" column of the table below (or alternatively must not install any system for the spa). If specified, the applicant must install a timer to control the spa's pump.	✓	✓	✓
(d) The applicant must install in the dwelling:			
(i) the kitchen cook-top and oven specified for that dwelling in the "Appliances & other efficiency measures" column of the table below;	✓	✓	✓
(ii) an appliance for which a rating is specified for that dwelling in the "Appliances & other efficiency measures" column of the table, and ensure that the appliance has that minimum rating; and	✓	✓	✓
(iii) any clothes drying specified for the dwelling in the "Appliances & other efficiency measures" column of the table.	✓	✓	✓
(e) If specified in the table, the applicant must carry out the development so that each refrigerator space in the dwelling is "well ventilated".	✓	✓	✓
(f) The applicant must install the photovoltaic system specified for the dwelling under the "Photovoltaic system" heading of the "Alternative energy" column of the table below, and connect the system to that dwelling's electrical system.	✓	✓	✓

Dwelling no.	Hot water system	Bathroom ventilation system	Kitchen ventilation system	Laundry ventilation system
All dwellings	Each bathroom	Operation control	Each kitchen	Operation control
All dwellings	gas instantaneous 5 star	individual fan, ducted to facade or roof	individual fan, ducted to facade or roof	individual fan, ducted to facade or roof

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3. Commitments for common areas and central systems/facilities for the development (non-building specific)			
(b) Common areas and central systems/facilities			
(b) Water	Show on DA plans	Show on CC-CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a showerhead, toilet, tap or clothes washer into a common area, then that item must meet the specifications listed for it in the table.	✓	✓	✓
(b) The applicant must install (or ensure that the development is serviced by) the alternative water supply system(s) specified in the "Central systems" column of the table below. In each case, the system must be sized, be configured, and be connected, as specified in the table.	✓	✓	✓
(c) A swimming pool or spa listed in the table must not have a volume (in kL) greater than that specified for the pool or spa in the table.	✓	✓	✓
(d) A pool or spa listed in the table must have a cover or shading if specified for the pool or spa in the table.	✓	✓	✓
(e) The applicant must install each fire sprinkler system listed in the table so that the system is configured as specified in the table.	✓	✓	✓
(f) The applicant must ensure that the central cooling system for a cooling tower is configured as specified in the table.	✓	✓	✓

Common area	Showerheads rating	Toilets rating	Taps rating	Clothes washers rating
All common areas	no common facility	no common facility	no common facility	no common laundry facility

(b) Energy	Show on DA plans	Show on CC-CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a ventilation system to service a common area specified in the table below, then that ventilation system must be of the type specified for that common area, and must meet the efficiency measure specified.	✓	✓	✓
(b) In carrying out the development, the applicant must install, as the "primary type of artificial lighting" for each common area specified in the table below, the lighting specified for that common area. This lighting must meet the efficiency measure specified. The applicant must also install a centralised lighting control system or Building Management System (BMS) for the common area, where specified.	✓	✓	✓
(c) The applicant must install the systems and fixtures specified in the "Central energy systems" column of the table below. In each case, the system or fixture must be of the type, and meet the specifications, listed for it in the table.	✓	✓	✓

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Features					Appliances			Individual pool			Individual spa			
Dwelling no.	All shower heads (max 4.5 L/min)	All toilet flushing systems	All kitchen taps	All bathroom taps	HW recirculation or diversion	All clothes washers	All dish washers	Volume (max volume)	Pool cover	Pool location	Pool shaded	Volume (max volume)	Spa cover	Spa shaded
All dwellings	4 star (+/- 4.5 L/min)	4 star	4 star	4 star	no	-	-	30.0	yes	outdoors	no	-	-	-

Alternative water source								
Dwelling no.	Alternative water supply systems	Size	Configuration	Landscaping connection	Toilet connection (m)	Laundry connection	Pool top-up	Spa top-up
All dwellings	individual water tank (min. 1)	Tank size (min) 2500 L litres	To collect run-off from at least 75.0 square metres of roof area; 0.0 square metres of impervious area; 0.0 square metres of garden and lawn area; and 0.0 square metres of planter box area.	yes	yes	no	yes	no
None	-	-	-	-	-	-	-	-

(b) Energy	Show on DA plans	Show on CC-CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.	✓	✓	✓
(b) The applicant must install each hot water system specified for the dwelling in the table below, so that the dwelling's hot water is supplied by that system. If the table specifies a central hot water system for the dwelling, then the applicant must connect that central system to the dwelling, so that the dwelling's hot water is supplied by that central system.	✓	✓	✓
(c) The applicant must install, in each bathroom, kitchen and laundry of the dwelling, the ventilation system specified for that room in the table below. Each such ventilation system must have the operation control specified for it in the table.	✓	✓	✓
(d) The applicant must install the cooling and heating systems specified for the dwelling under the "Living areas" and "Bedroom areas" headings of the "Cooling" and "Heating" columns in the table below, in for at least 1 living/bedroom area of the dwelling. If no cooling or heating system is specified in the table for "Living areas" or "Bedroom areas", then no systems may be installed in any such areas. If the term "zoned" is specified beside an air conditioning system, then the system must provide for day/night zoning between living areas and bedrooms.	✓	✓	✓

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(b) Thermal Comfort	Show on DA plans	Show on CC-CDC plans & specs	Certifier check
(a) The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.	✓	✓	✓
(b) The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX Certificate, including the details shown in the "Thermal Loads" table below.	✓	✓	✓
(c) The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Thermal Comfort Protocol requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor, to certify that this is the case.	✓	✓	✓
(d) The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.	✓	✓	✓
(e) The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.	✓	✓	✓
(f) Where there is an in-slab heating or cooling system, the applicant must:	✓	✓	✓
(i) install insulation with an R-value of not less than 1.0 around the vertical edges of the perimeter of the slab; or	✓	✓	✓
(ii) On a suspended floor, install insulation with an R-value of not less than 1.0 underneath the slab and around the vertical edges of the perimeter of the slab.	✓	✓	✓
(g) The applicant must construct the floors and walls of the development in accordance with the specifications listed in the table below.	✓	✓	✓

Thermal loads	
Dwelling no.	Area adjusted heating load (in mJ per year)
59	54.6
All other dwellings	20.9

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LEGEND

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

LOCALITY MAP + DRAWING LIST

SCALE

NOT TO SCALE

DRAWING NO.

DA 0.1

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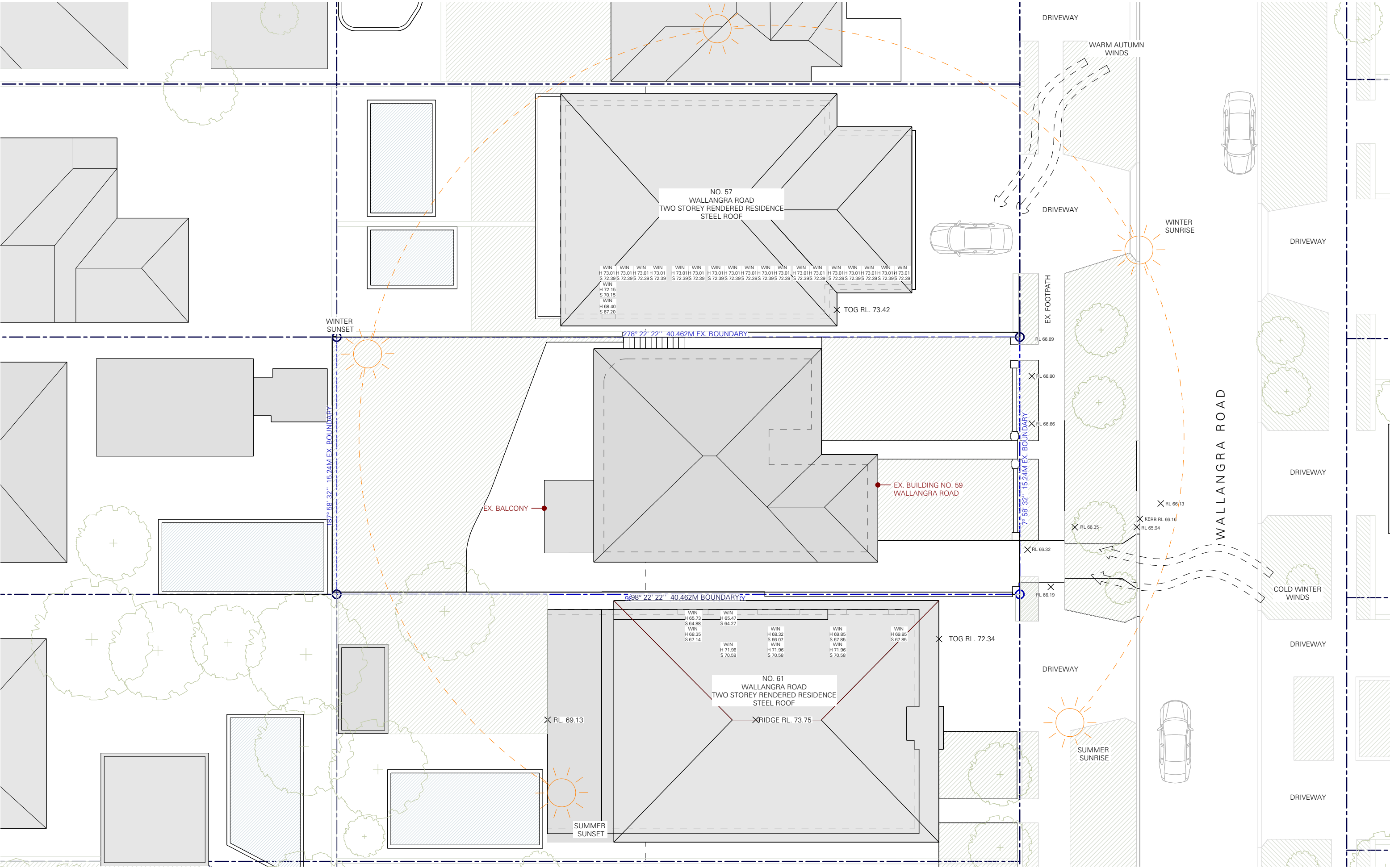
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LEGEND

- LINE OF EXISTING BUILDING
- - - BOUNDARY
- - - SUBDIVISION
- - - SETBACK
- - - BUILDING HEIGHT CONTROL
- - - LANDSCAPING
- - - GARDEN

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Application No: DA-299/2020/A

Date Received: 07/04/202

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

SITE ANALYSIS PLAN

SCALE  
1:200

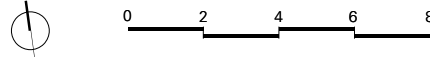
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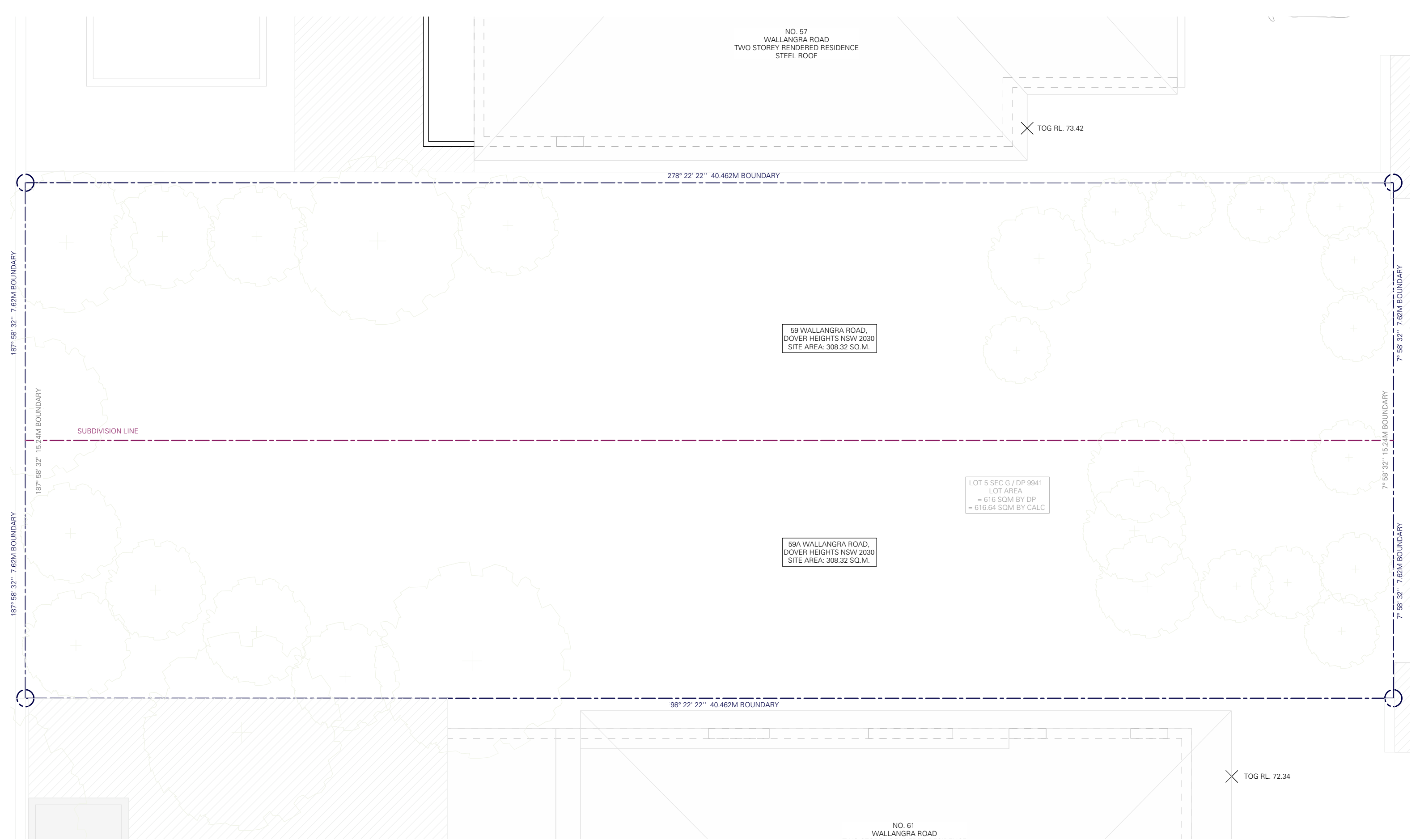
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LEGEND

BOUNDARY  
SETBACK  
SUBDIVISION LINE

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Application No: DA-299/2020/A

Date Received: 07/04/2021

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

SUBDIVISION PLAN

SCALE  
1:100 @ A3

DRAWN  
EW / BT / EM

DRAWING NO.  
B

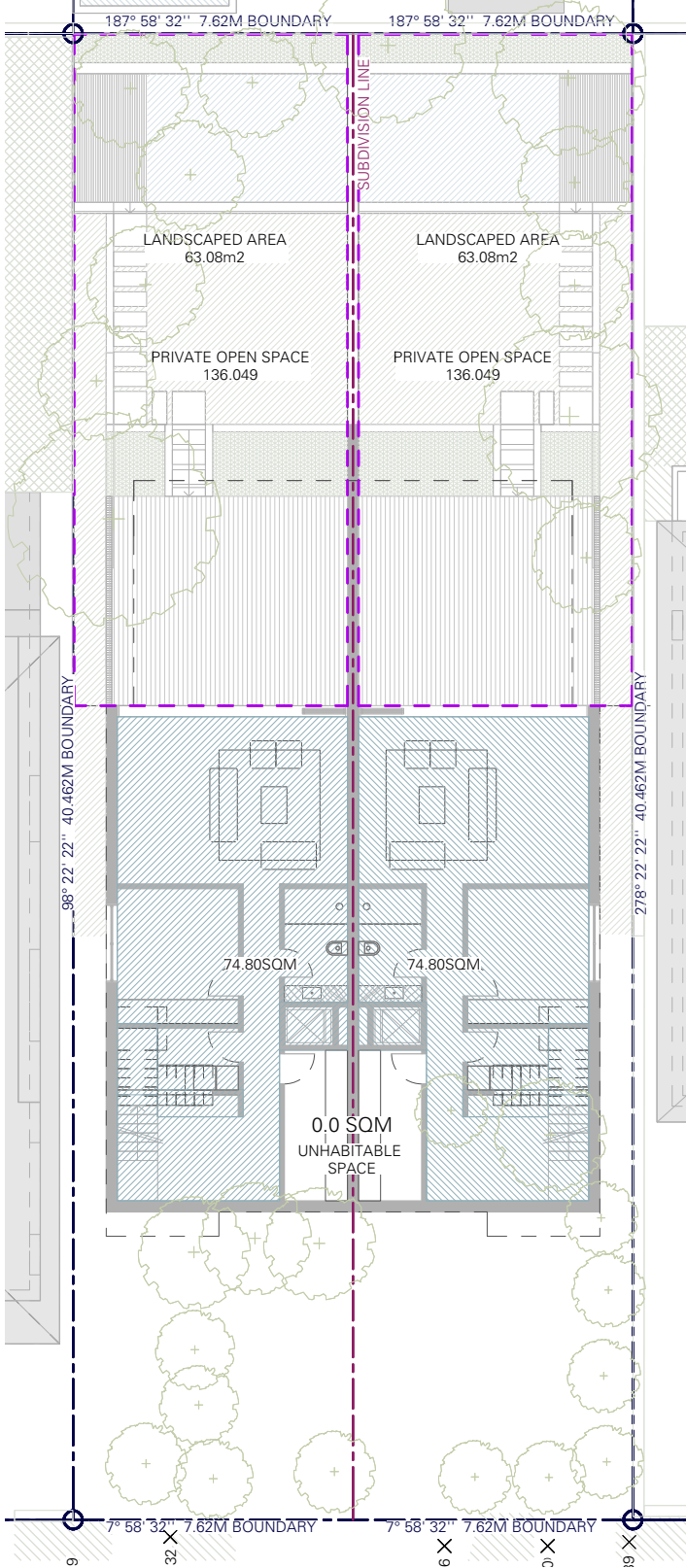
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24-March-21

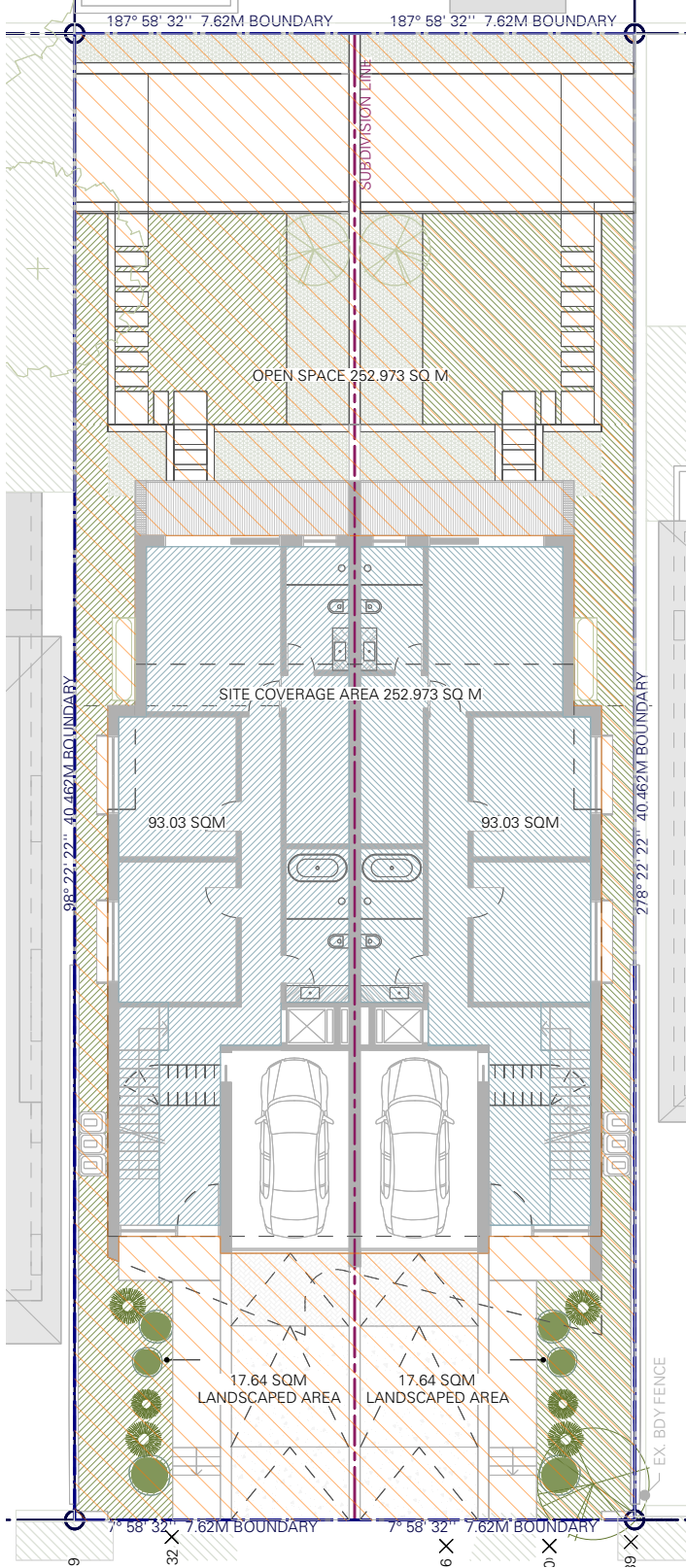
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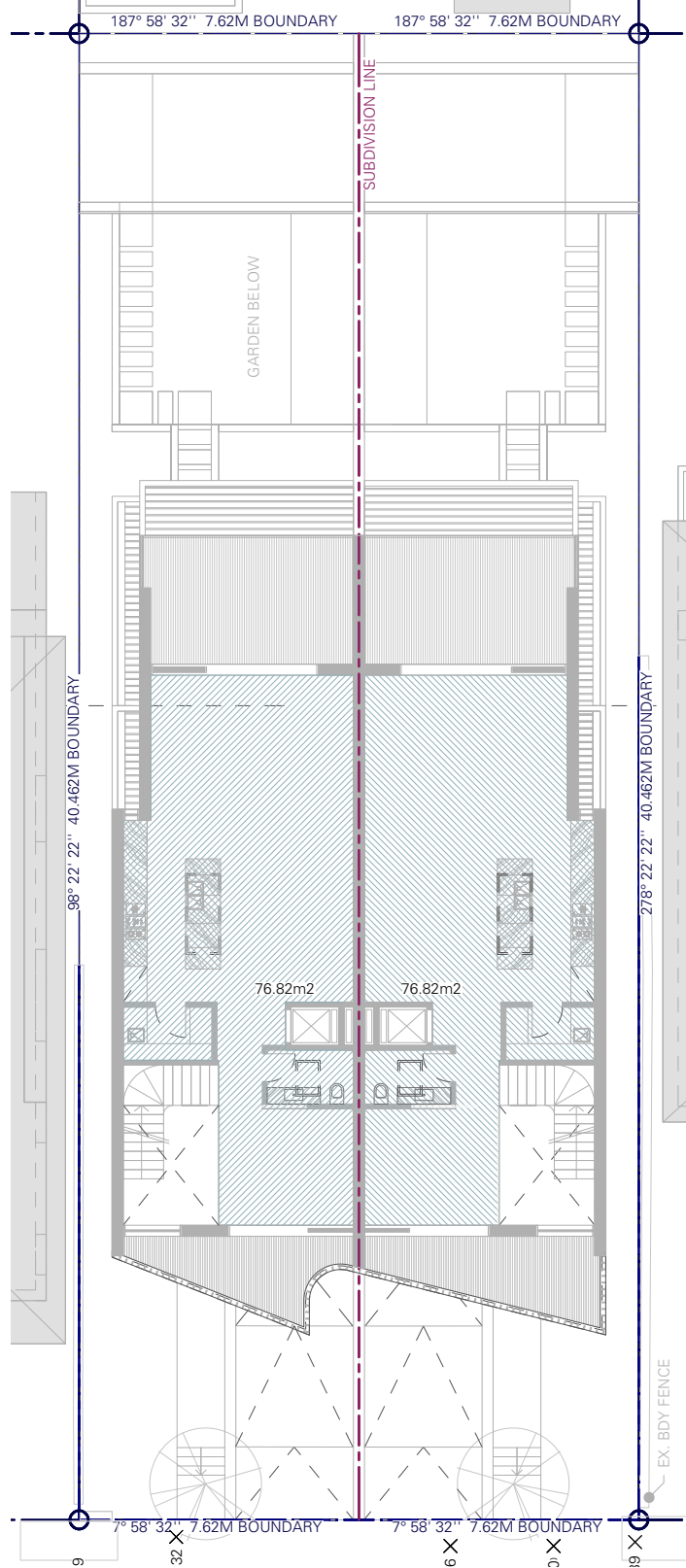




LOWER GROUND FLOOR AREA CALCULATION  
1 : 200 @ A3



GROUND FLOOR AREA CALCULATION  
1 : 200 @ A3



FIRST FLOOR AREA CALCULATION  
1 : 200 @ A3

### COMPLIANCE TABLE

NO. 59 WALLANGRA ROAD, DOVER HEIGHTS NSW 2030

PROJECT ZONE: R2 LOT 5 SEC G / DP 9941  
SITE AREA: 616.64 M2

	DCP/LEP CONTROLS	PROPOSED
FSR	0.5 : 1	0.79 : 1
GFA	308.32	489.30 SQM
BUILDING HEIGHT	MAX 8.5 M	FROM 5.29M TO 9.07M
WALL HEIGHT	MAX 7.5 M	SAME AS ABOVE
LANDSCAPED AREA (DEEP SOIL)	MIN 15% (92 M2)	26.18% (161.44 SQM)
FRONT LANDSCAPING	MIN 50% (49.67 SQM)	35.28 SQM
PRIVATE OPEN SPACE	MIN 25 SQ M PER DWELLING	136.06 SQM PER DWELLING
OPEN SPACE	MIN. 40% (246.7 M2)	252.973 SQM (41.02%)

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LEGEND  
GFA  
LANDSCAPED AREA  
OPEN SPACE  
MIN 25 SQM PRIVATE OPEN SPACE

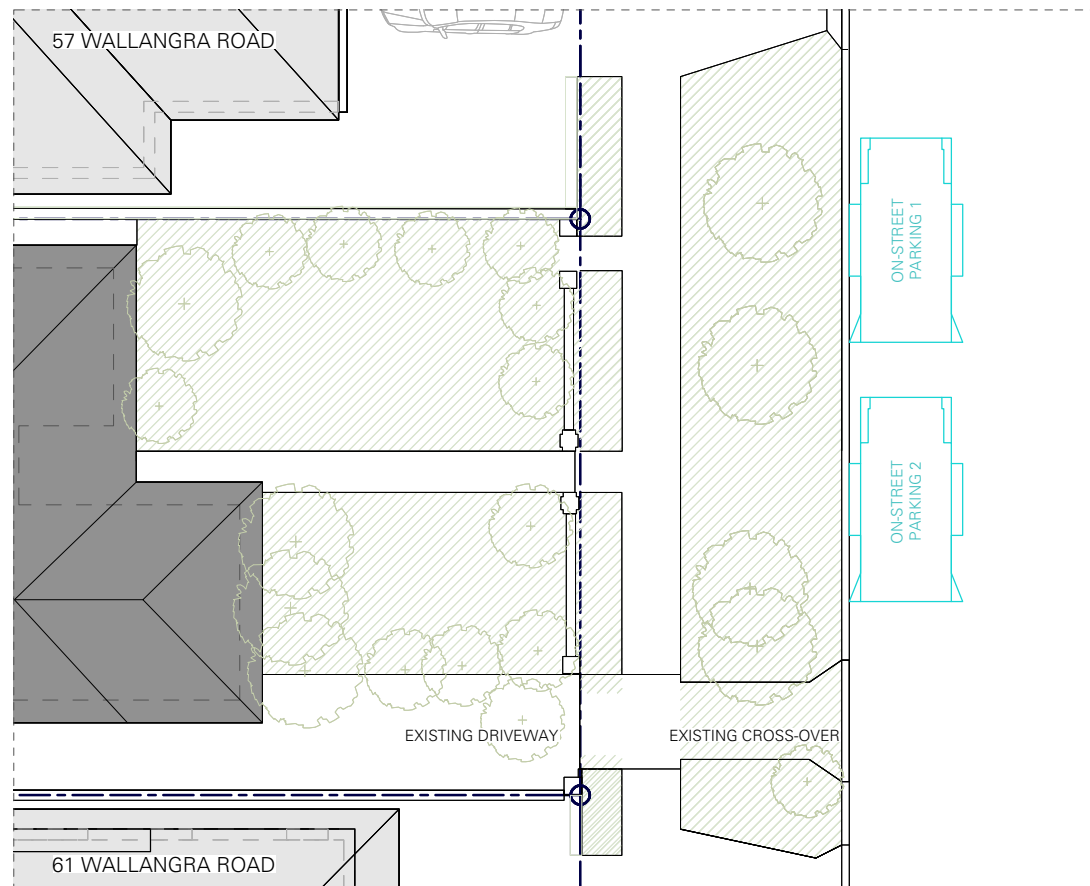
PROJECT  
59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE  
AREA CALCULATIONS +  
COMPLIANCE TABLE

SCALE  
1:200 @ A3  
DRAWING NO.  
DA 1.3  
DRAWN  
EW / BT / EM  
ISSUE  
B  
DATE  
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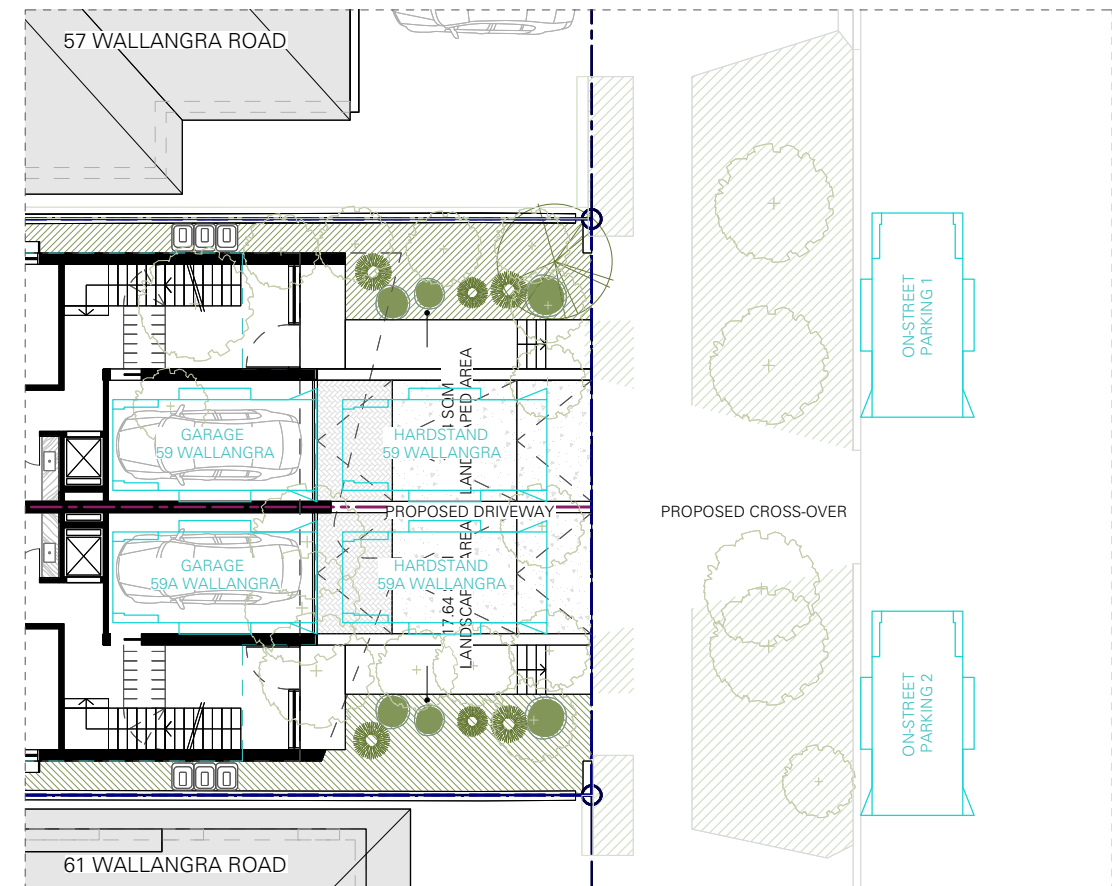
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### EXISTING CAR PARKING



TOTAL OF 2 ON-STREET CARPARK

### PROPOSED CAR PARKING



TOTAL OF 6 CARPARK

- 4 OFF-STREET CARPARK COMPLIANT WITH NCC AND AS2890.1
- 2 ON-STREET CARPARK

LOSS OF 0 ON-STREET CARPARK

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Application No: DA-299/2020/A  
Date Received: 07/04/2021

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#### LEGEND

- CAR PARKING
- BOUNDARY
- SUBDIVISION
- SETBACK

#### PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

#### TITLE

STREET ANALYSIS (PARKING)

#### SCALE

1:200 @ A3  
DRAWING NO. DA 1.4

#### DRAWN

EW / BT / EM  
ISSUE B

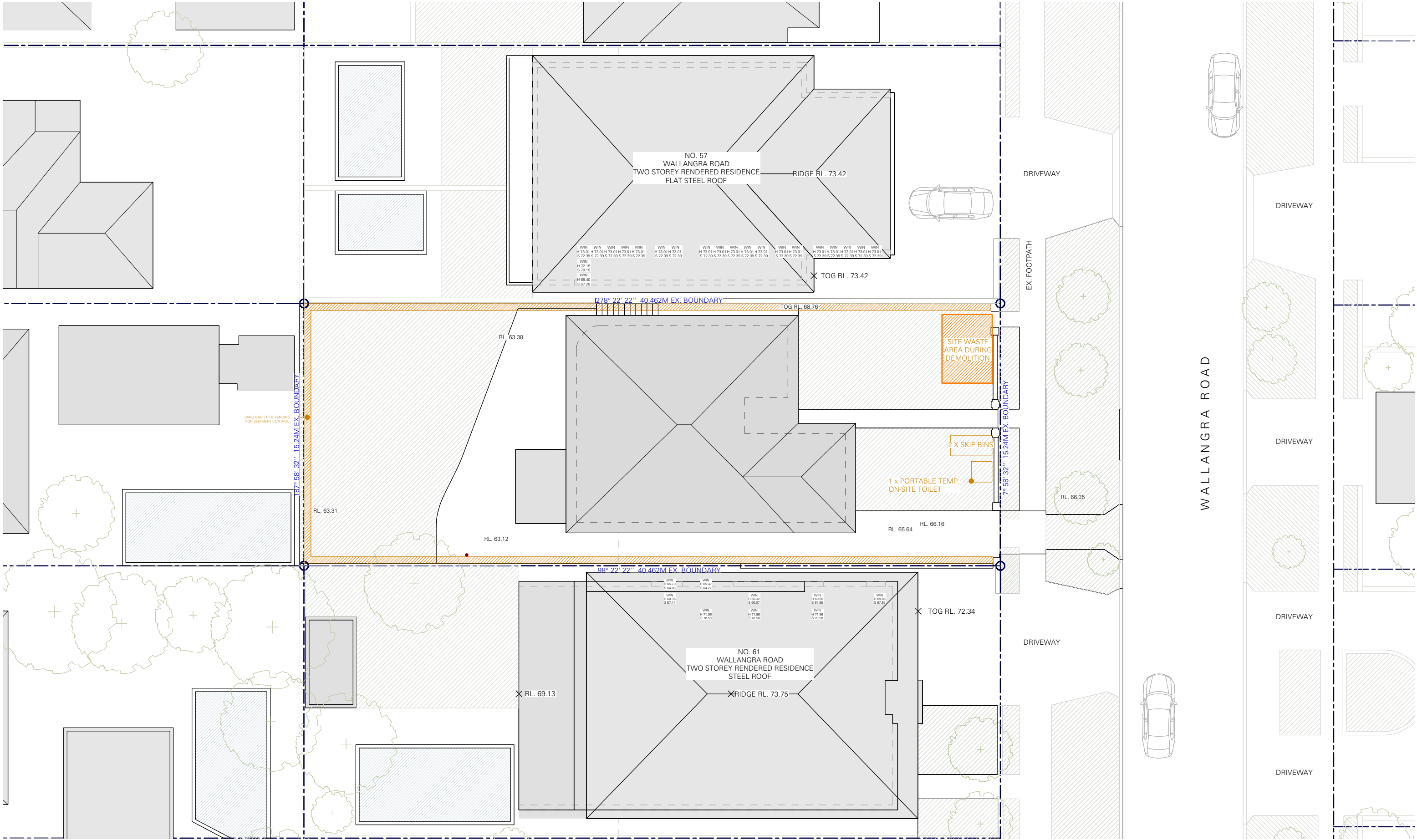
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LEGEND

EXISTING STRUCTURE TO BE DEMOLISHED

BOUNDARY

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Application No: DA-299/2020/A

Date Received: 07/04/2021

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

SOIL & WATER  
MANAGEMENT PLAN

SCALE

1:200 @ A3

DRAWING NO.

DA 2.2

DRAWN

EW / BT / EM

ISSUE

B

DATE

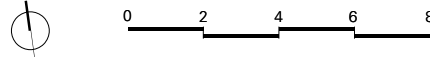
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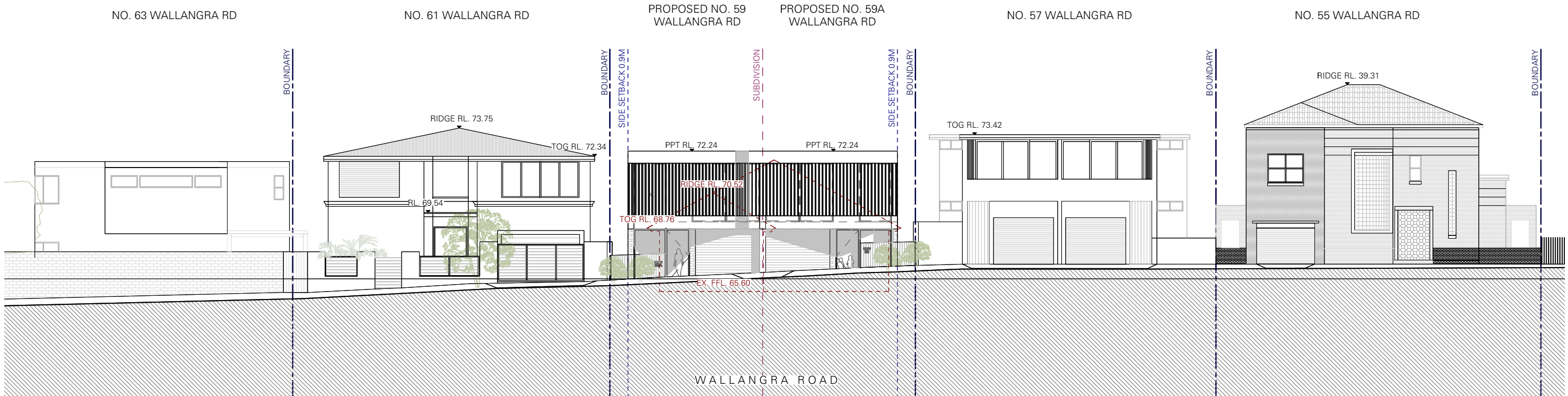
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EXISTING STREETSCAPE ELEVATION  
1 : 200 @ A3

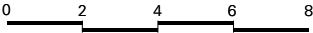


PROPOSED STREETSCAPE ELEVATION  
1 : 200 @ A3

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LEGEND

- LINE OF EXISTING BUILDING
- BOUNDARY
- SETBACK
- SUBDIVISION
- BUILDING HEIGHT CONTROL
- WALL HEIGHT CONTROL
- LANDSCAPING

MATERIALS

- BWK - BAGGED BRICKWORK
- MLVR - METAL LOUVRES
- MSCR - METAL SCREEN
- MET - METAL
- COL - COLOURBOND ROOF
- REN - LIGHT RENDER
- OG - OPERABLE GLAZING
- FG - FIXED GLAZING
- TIM - TIMBER
- PF - PICKET FENCE METAL
- GLB - GLASS BALUSTRADE

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

EXISTING + PROPOSED  
STREETSCAPE ELEVATIONS

SCALE

1:200 @ A3  
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DA 2.3

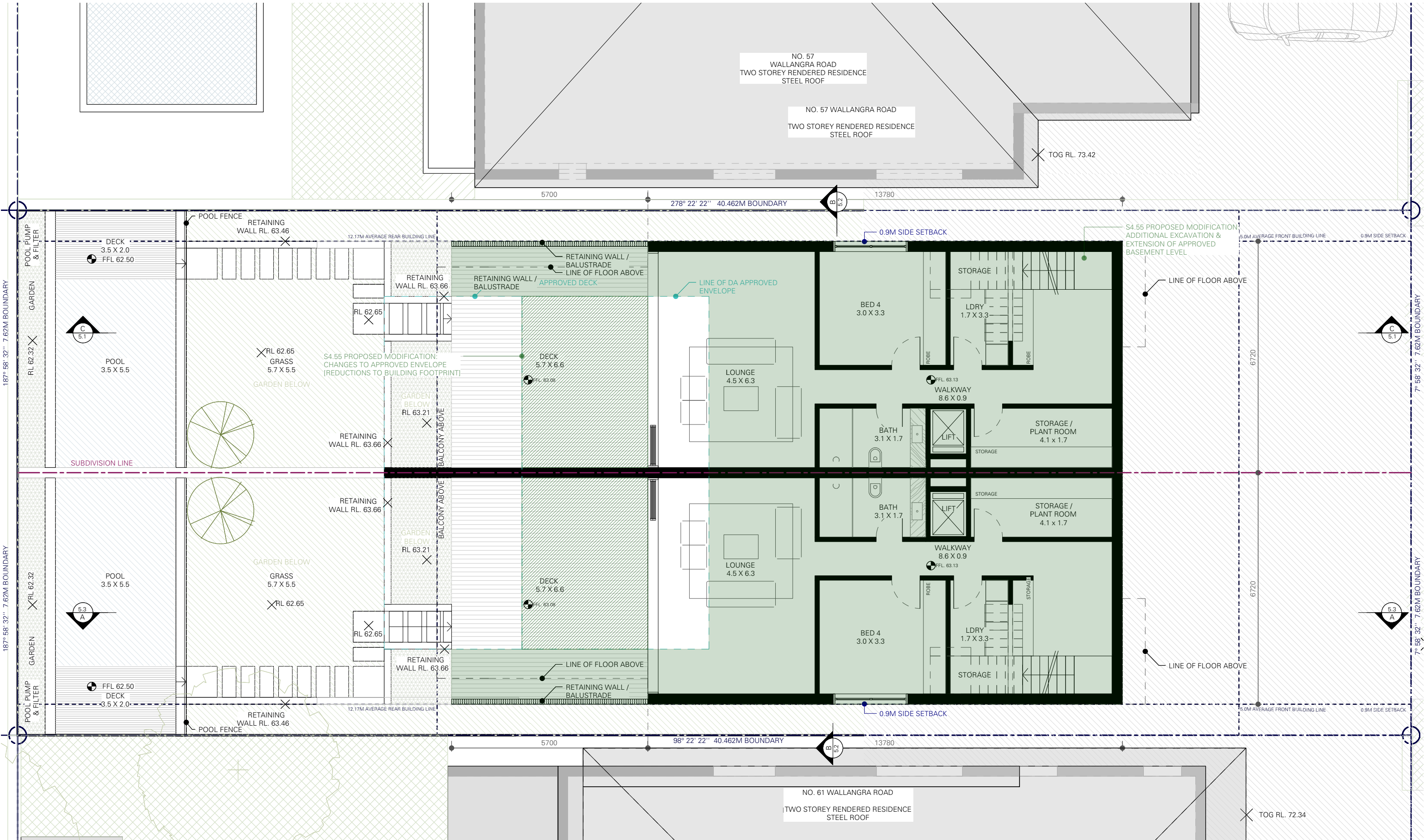
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LEGEND

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- - - BOUNDARY
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- - - BUILDING HEIGHT CONTROL
- - - LANDSCAPING
- - - GARDEN

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Application No: DA-299/2020/A

Date Received: 07/04/2024

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

PROPOSED BASEMENT  
FLOOR PLAN

SCALE  
1:100 @ A3

DRAWING NO.  
DA 3.1

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EW / BT / EM

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B

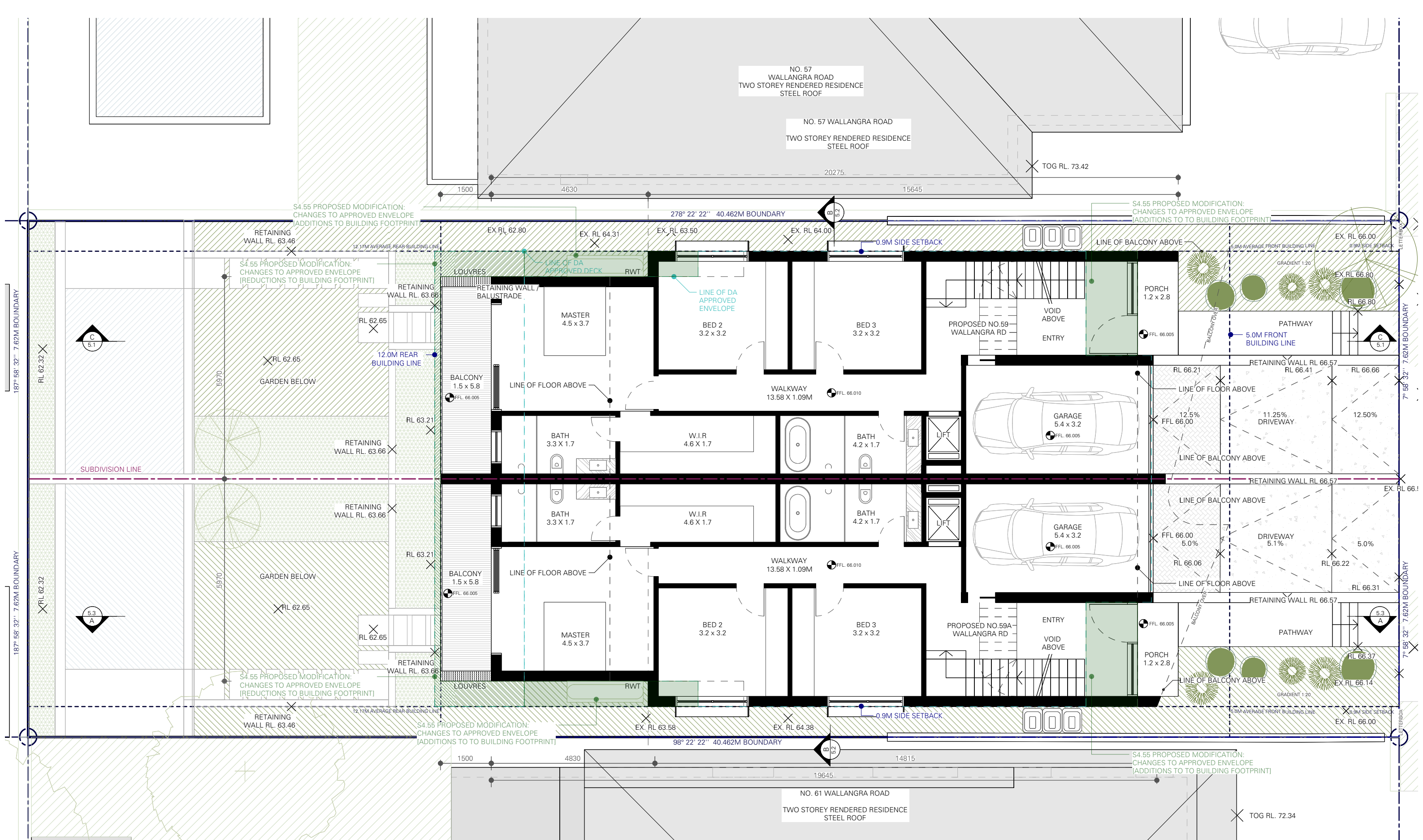
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0005478120 23 Mar 2021  
Assessor John Boutros  
Accreditation No. DMN/16/1763  
Address 59 Wallangra Rd,  
Dover Heights, NSW,  
2030



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LEGEND

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- - - LANDSCAPING
- - - GARDEN

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59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

Page 735 of 751

TITLE

PROPOSED GROUND  
FLOOR PLAN

SCALE

1:100 @ A3

DRAWING NO. DA 3.1

DRAWN EW / BT / EM

ISSUE B

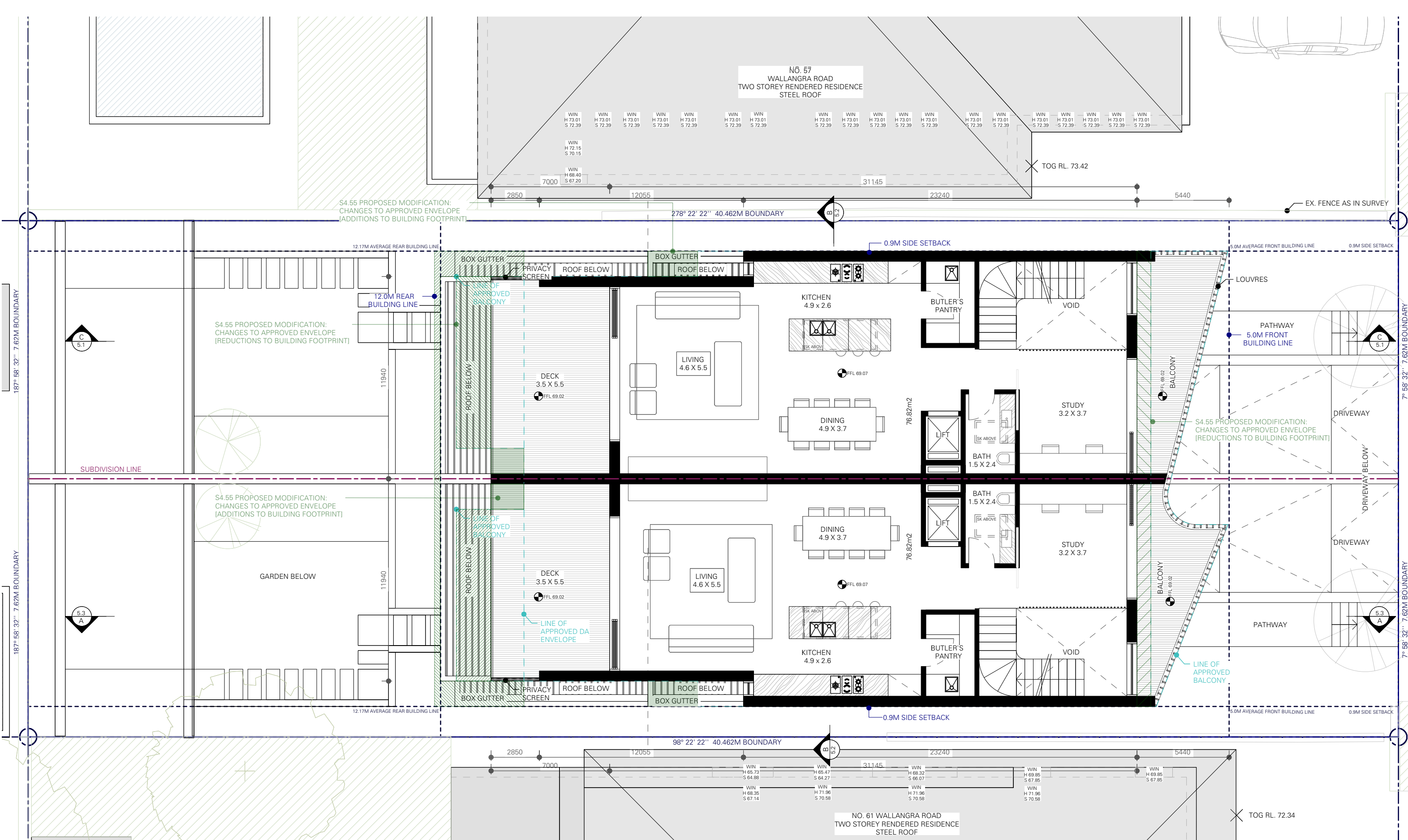
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- LEGEND
- LINE OF EXISTING BUILDING
  - - - BOUNDARY
  - - - SUBDIVISION
  - - - SETBACK
  - - - BUILDING HEIGHT CONTROL
  - - - LANDSCAPING
  - - - GARDEN

RECEIVED

Waverley Council

Application No: DA-299/2020/A

Date Received: 07/04/2021

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

PROPOSED FIRST FLOOR PLAN

SCALE

1:100 @ A3

DRAWING NO. DA 3.2

DRAWN EW / BT / EM

ISSUE B

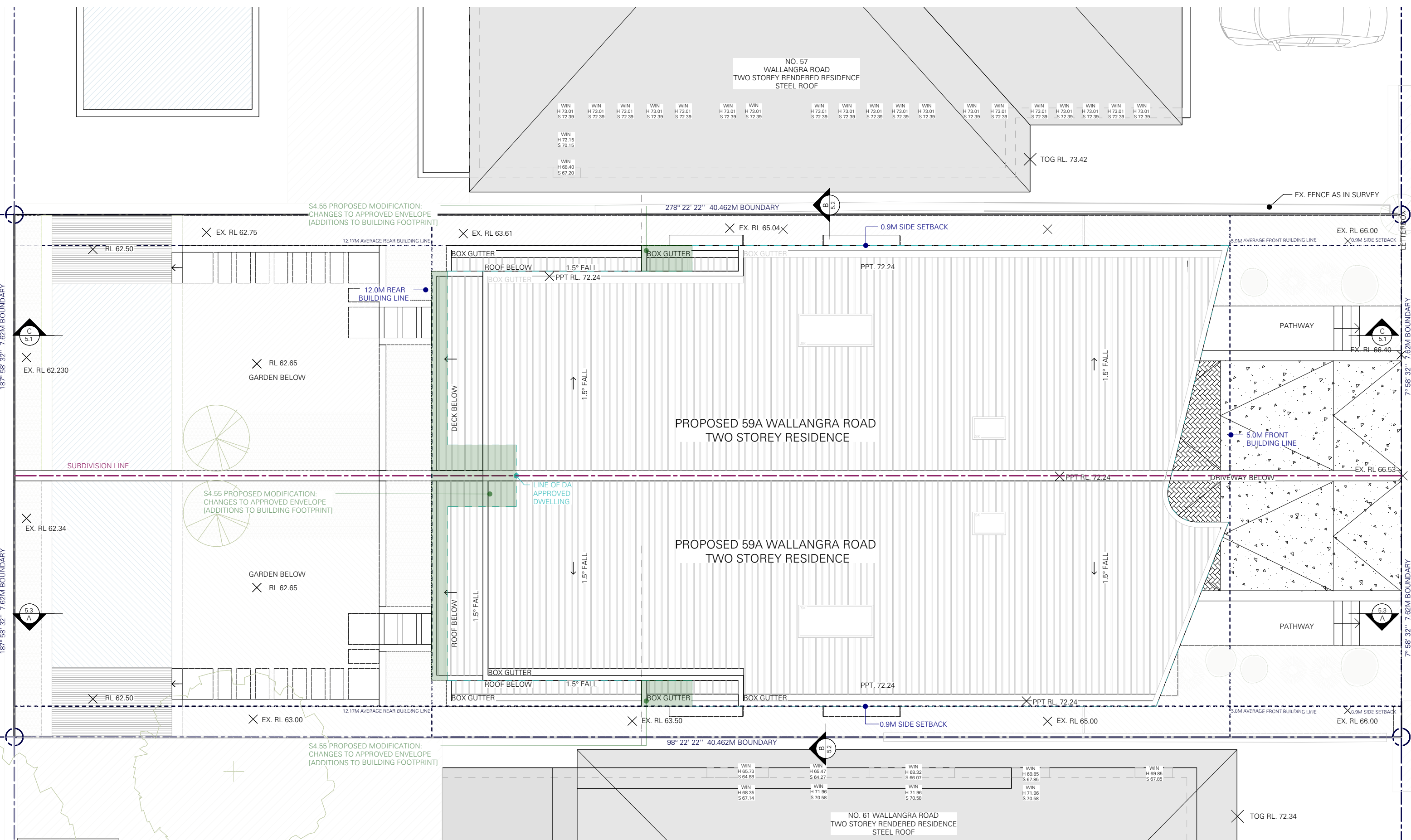
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LEGEND

- LINE OF EXISTING BUILDING
- - - BOUNDARY
- - - SUBDIVISION
- - - SETBACK
- - - BUILDING HEIGHT CONTROL
- - - LANDSCAPING
- - - GARDEN

RECEIVED  
Waverley Council

Application No: DA-299/2020/A

Date Received: 07/04/2021

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

PROPOSED ROOF PLAN

SCALE

1:100 @ A3

DRAWING NO. DA 3.3

DRAWN EW / BT / EM

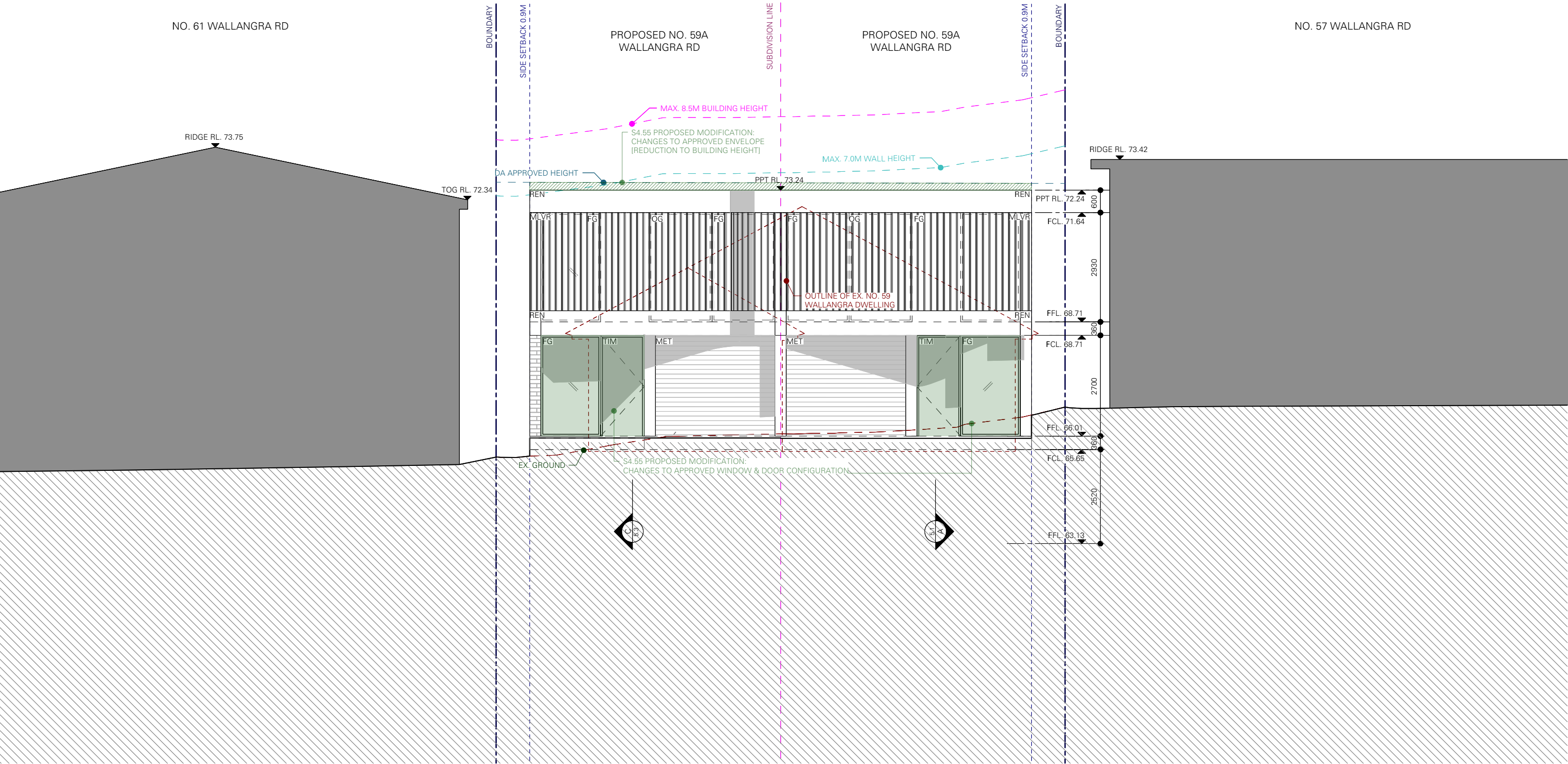
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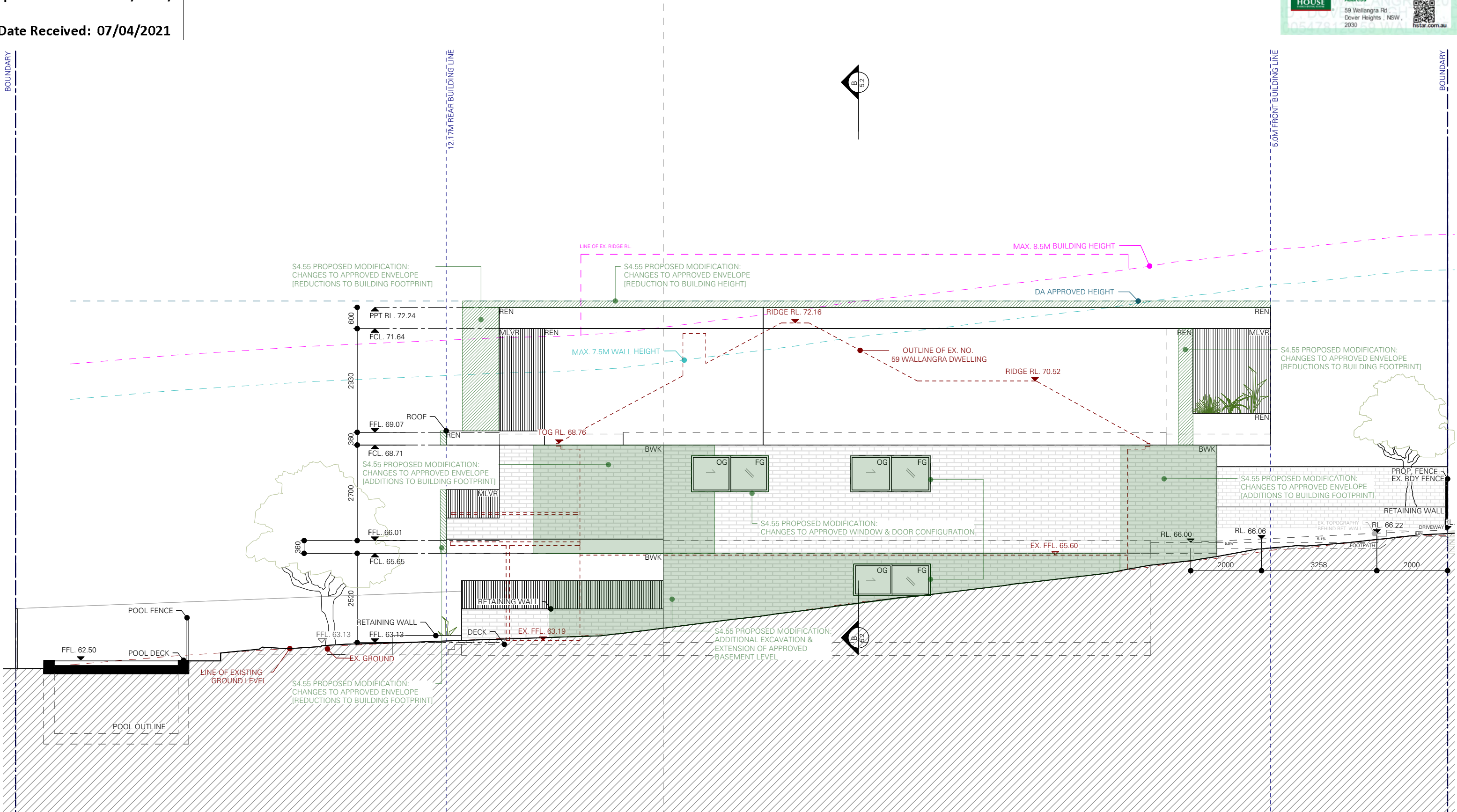
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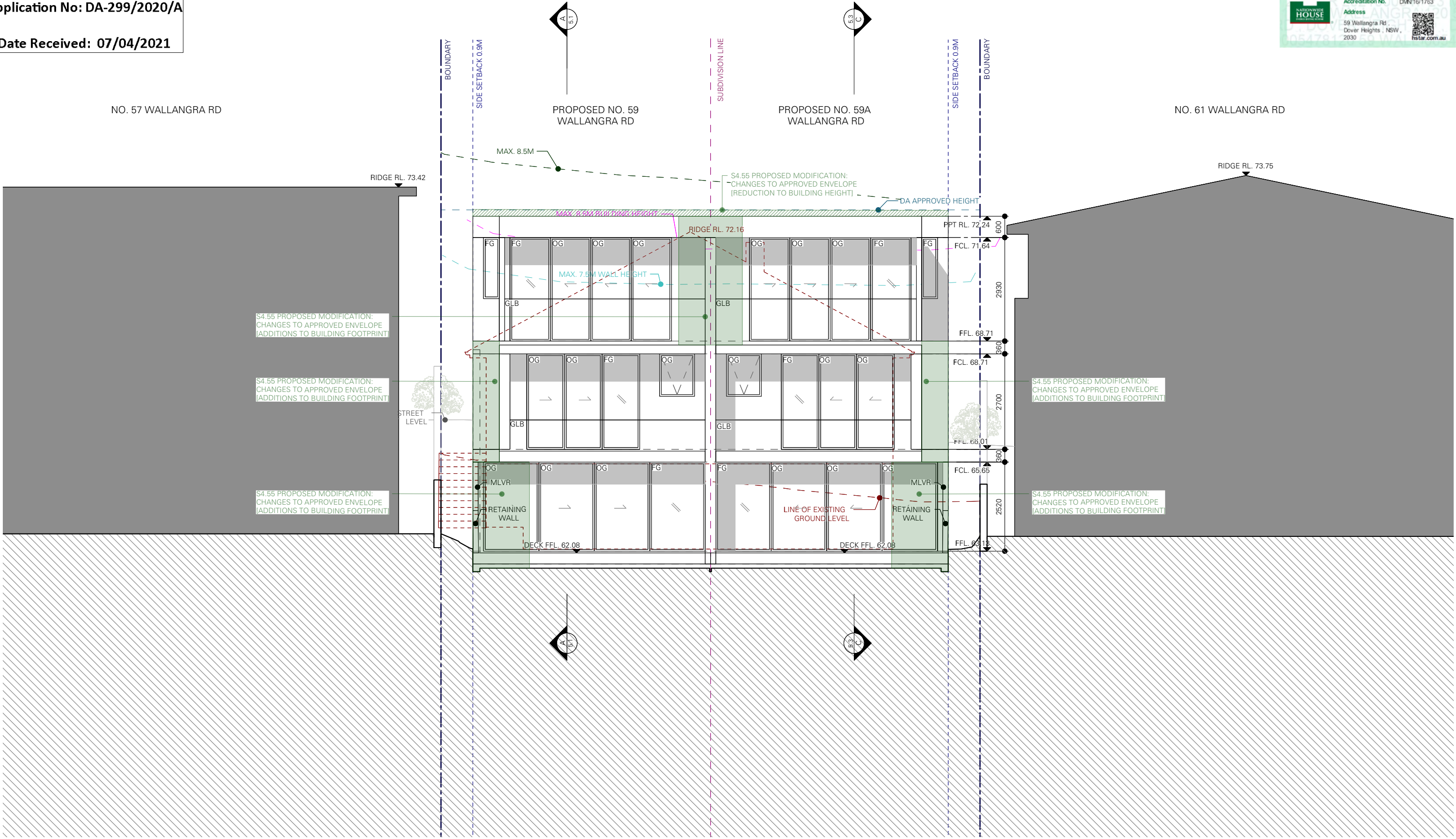
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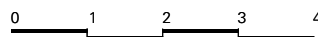
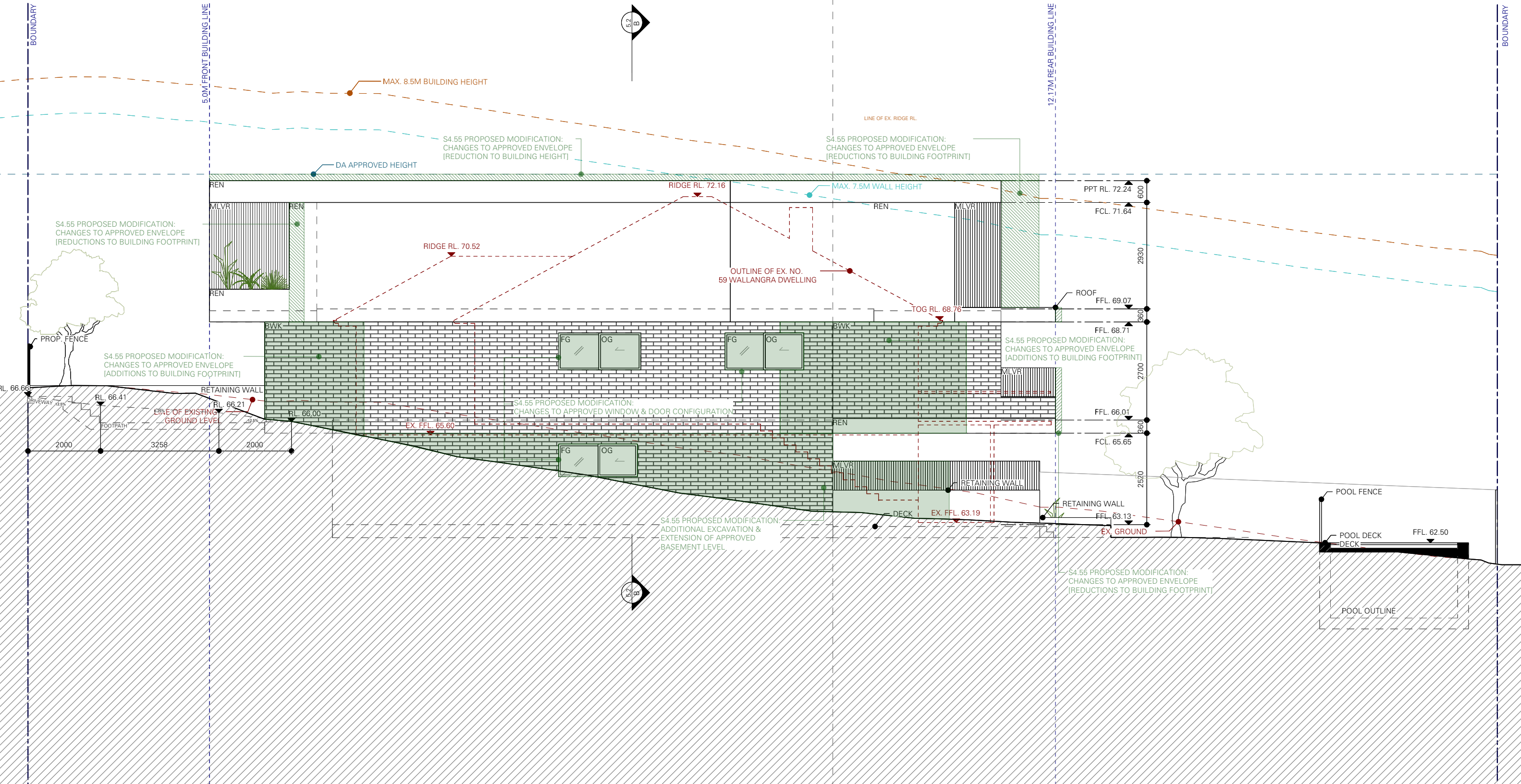
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LEGEND

-  LINE OF EXISTING BUILDING  
 BOUNDARY  
 SETBACK  
 SUBDIVISION  
 BUILDING HEIGHT CONTROL  
 WALL HEIGHT CONTROL  
 LANDSCAPING

## MATERIALS

- |                        |                         |
|------------------------|-------------------------|
| BWK - BAGGED BRICKWORK | TIM - TIMBER            |
| MLVR - METAL LOUVRES   | PF - PICKET FENCE METAL |
| MSCR - METAL SCREEN    | GLB - GLASS BALUSTRADE  |
| MET - METAL            |                         |
| COL - COLOURBOND ROOF  |                         |
| REN - LIGHT RENDER     |                         |
| OG - OPERABLE GLAZING  |                         |
| FG - FIXED GLAZING     |                         |

## PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

PROPOSED NORTH ELEVATION

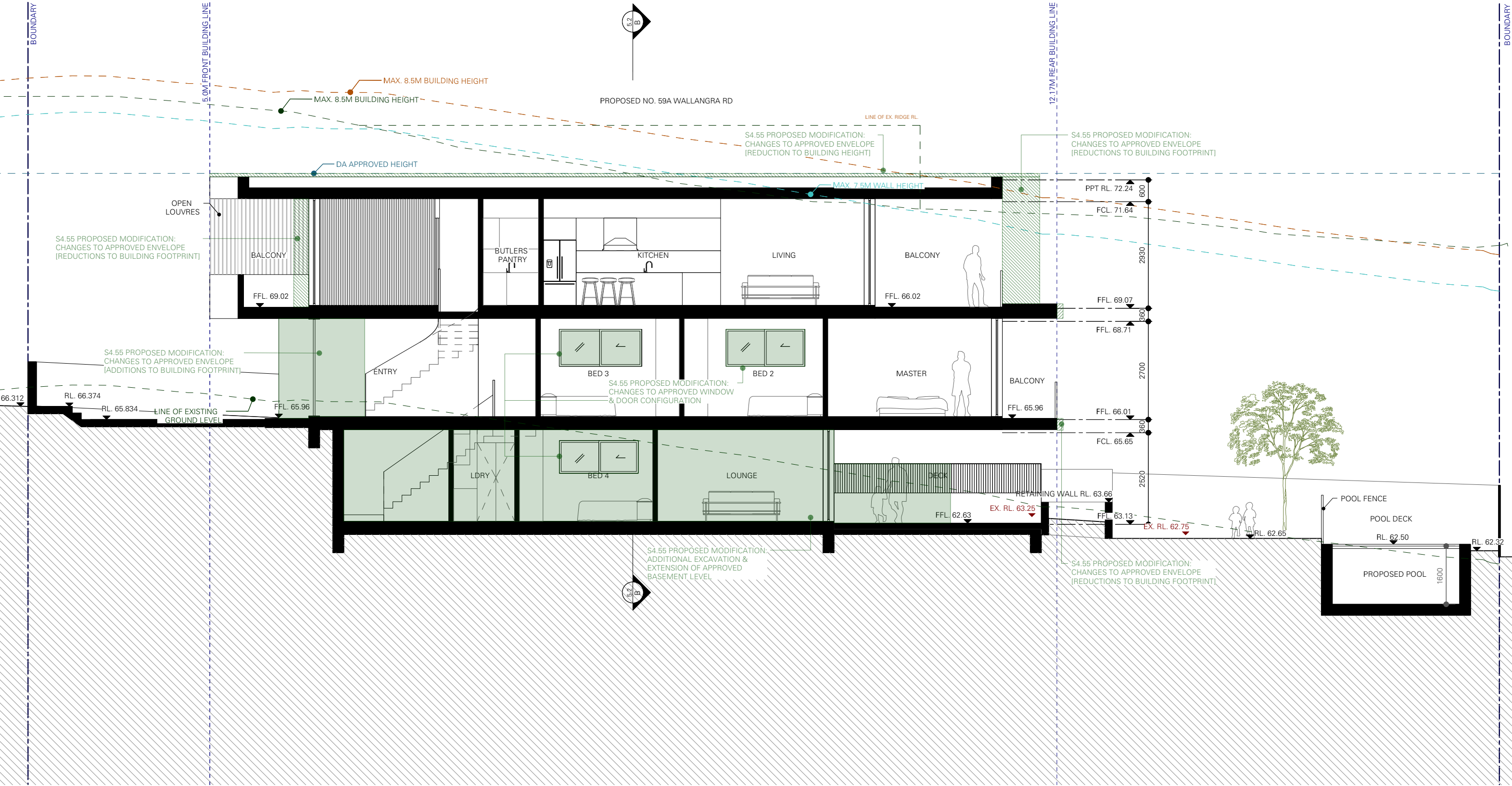
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1:100 @ A3  
DRAWING NO.  
DA 4.4

## DRAWN

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ISSUE	DATE
B	24-March-21

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LEGEND

- LINE OF EXISTING BUILDING
- BOUNDARY
- SETBACK
- SUBDIVISION
- BUILDING HEIGHT CONTROL
- WALL HEIGHT CONTROL
- LANDSCAPING

MATERIALS

- BWK - BAGGED BRICKWORK
- MLVR - METAL LOUVRES
- MSCR - METAL SCREEN
- MET - METAL
- COL - COLOURBOND ROOF
- REN - LIGHT RENDER
- OG - OPERABLE GLAZING
- FG - FIXED GLAZING
- TIM - TIMBER
- PF - PICKET FENCE METAL
- GLB - GLASS BALUSTRADE

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

PROPOSED SECTION A

SCALE

1:100 @ A3

DRAWING NO.

DA 5.1

DRAWN

EW / BT / EM

ISSUE

B

DATE

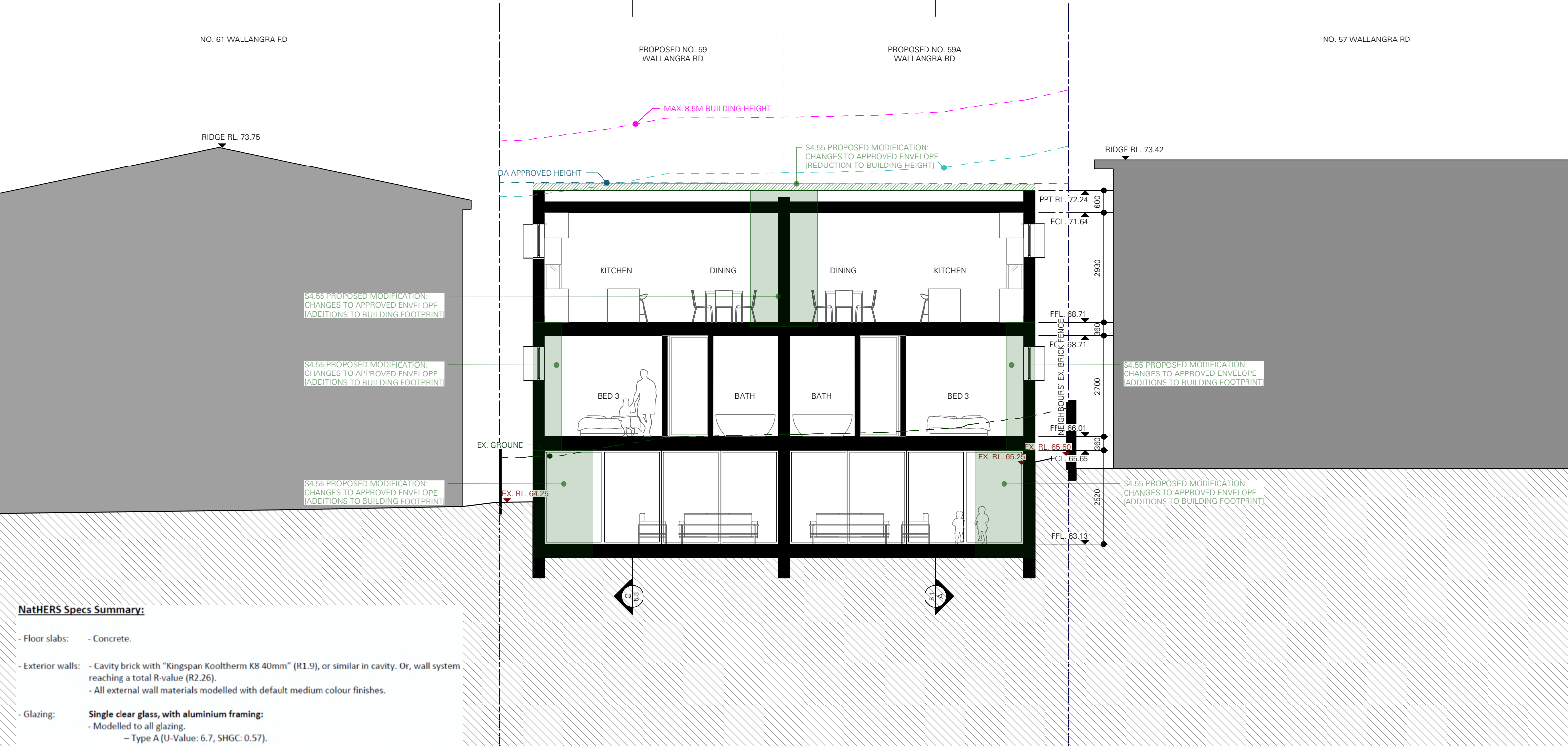
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NatHERS Specs Summary:

- Floor slabs: - Concrete.
- Exterior walls: - Cavity brick with “Kingspan Kooltherm K8 40mm” (R1.9), or similar in cavity. Or, wall system reaching a total R-value (R2.26).  
- All external wall materials modelled with default medium colour finishes.
- Glazing: **Single clear glass, with aluminium framing:**  
- Modelled to all glazing.  
- Type A (U-Value: 6.7, SHGC: 0.57).  
- Type B (U-Value: 6.7, SHGC: 0.70).

U-Value & SHGC are combined glass and frame figures.

- Ceiling: - R3.0 ceiling insulation to all ceilings to concrete balcony over or metal roof.  
- Modelled with sealed: LED downlights & wet area exhaust fans.
- Roof: - Metal roof with “Anticon 90” glasswool/foil under, and concrete roofs modelled with default **dark** colour finishes.

Please refer to NatHERS individual certificates for further details.

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LEGEND

— LINE OF EXISTING BUILDING

— BOUNDARY

— SETBACK

— SUBDIVISION

— BUILDING HEIGHT CONTROL

— WALL HEIGHT CONTROL

— LANDSCAPING

MATERIALS

BWK - BAGGED BRICKWORK

MLVR - METAL LOUVRES

MSCR - METAL SCREEN

MET - METAL

COL - COLOURBOND ROOF

REN - LIGHT RENDER

OG - OPERABLE GLAZING

FG - FIXED GLAZING

TIM - TIMBER

PF - PICKET FENCE METAL

GLB - GLASS BALUSTRADE

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

PROPOSED SHORT SECTION B

SCALE

1:100 @ A3

DRAWING NO.

DA 5.2

DRAWN

EW / BT / EM

ISSUE

B

DATE

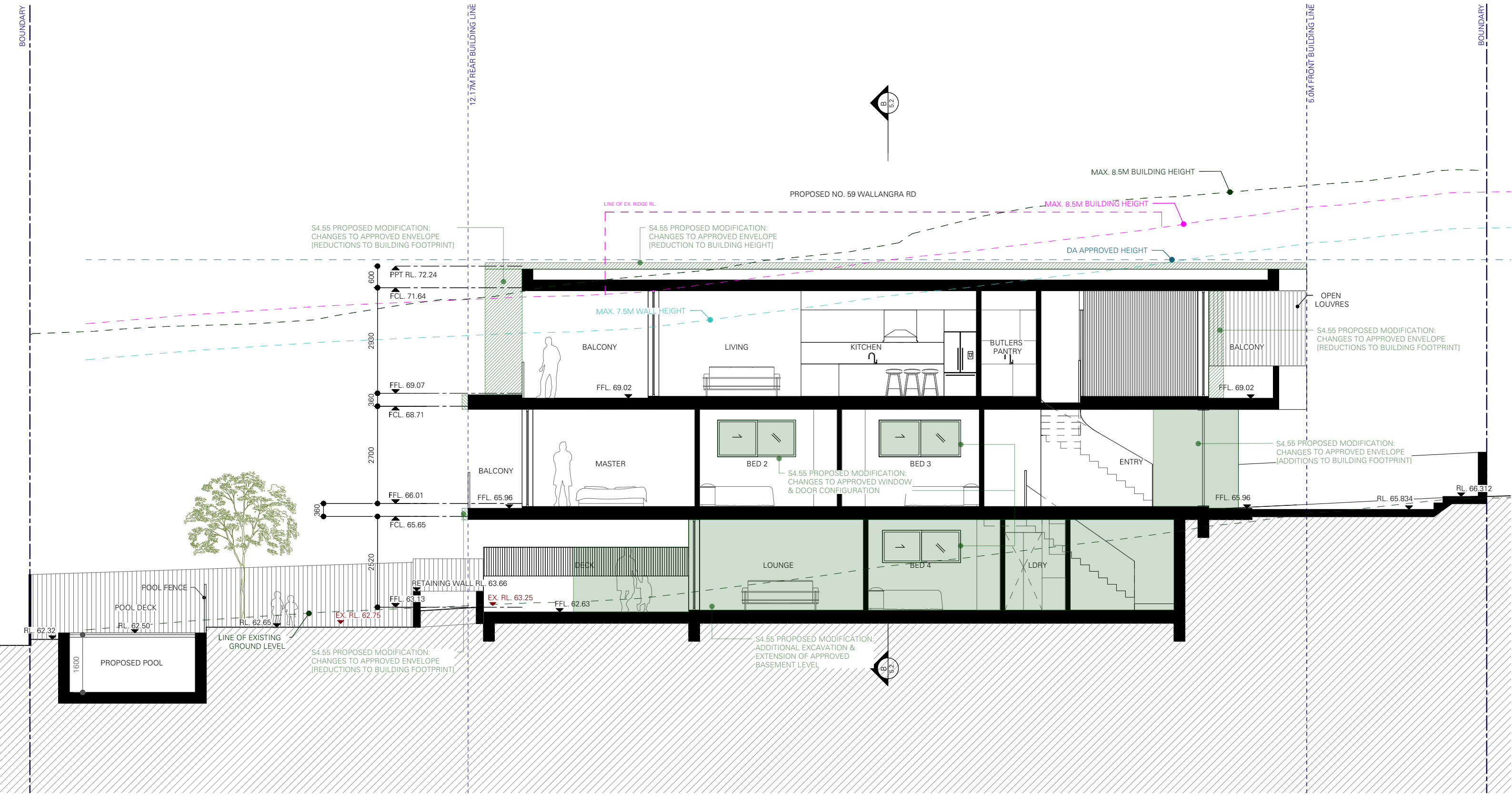
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LEGEND

- LINE OF EXISTING BUILDING
- BOUNDARY
- SETBACK
- SUBDIVISION
- BUILDING HEIGHT CONTROL
- WALL HEIGHT CONTROL
- LANDSCAPING

MATERIALS

- BWV - BAGGED BRICKWORK
- MLVR - METAL LOUVRES
- MSCR - METAL SCREEN
- MET - METAL
- COL - COLOURBOND ROOF
- REN - LIGHT RENDER
- OG - OPERABLE GLAZING
- FG - FIXED GLAZING
- TIM - TIMBER
- PF - PICKET FENCE METAL
- GLB - GLASS BALUSTRADE

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

PROPOSED SECTION C

SCALE

1:100 @ A3  
DRAWING NO.  
DA 5.3

DRAWN

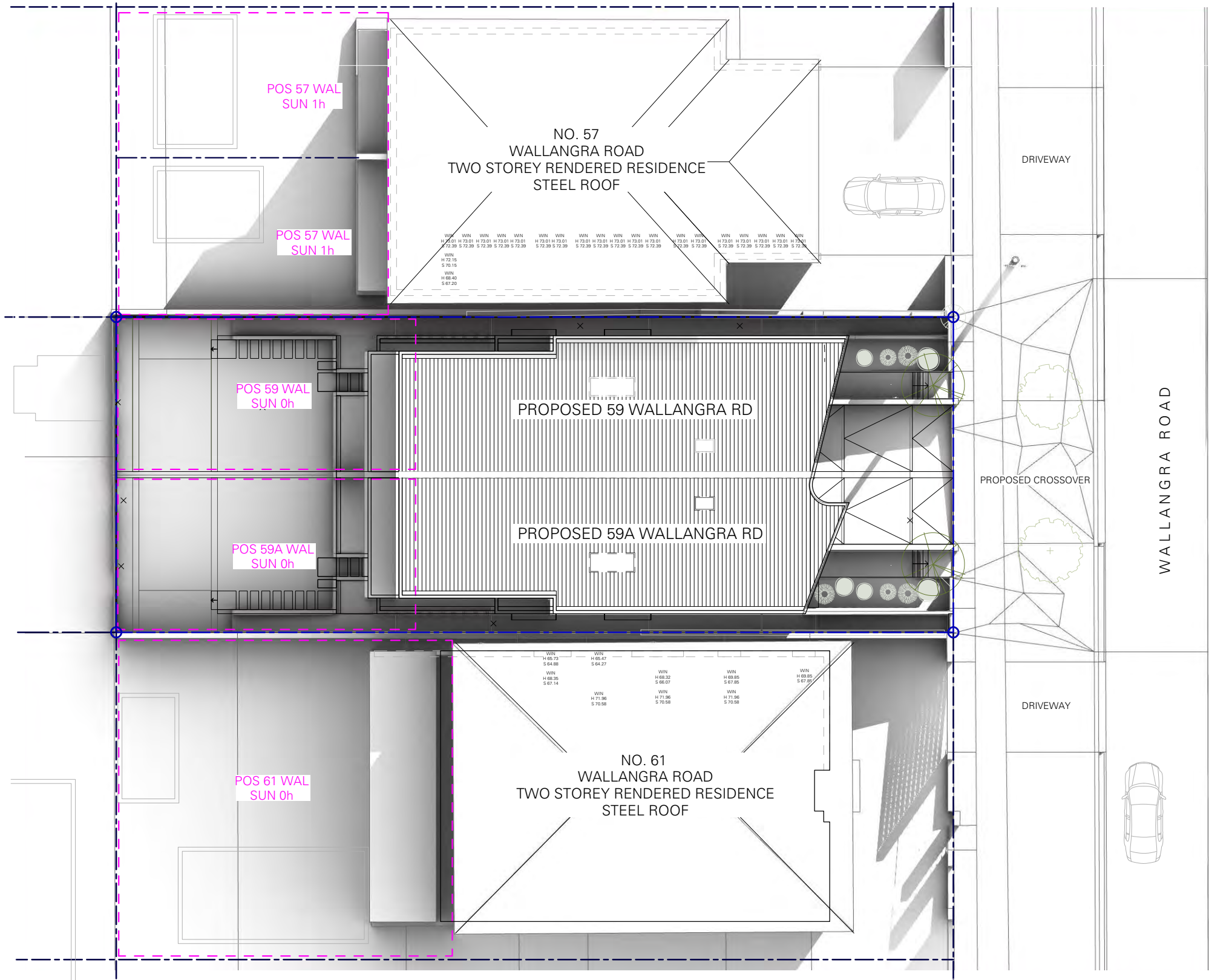
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SHADOW DIAGRAM PLAN \_ 21 JUNE 9 AM  
1 : 200 @ A3

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LEGEND

- SHADOW OF EXISTING BUILDING
- ADDITIONAL SHADOWS BY PROPOSED DEVELOPMENT
- APPROVED SHADOWS BY APPROVED DA-299/2020

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

SHADOW DIAGRAMS PLAN  
WINTER SOLSTICE - 21 JUNE  
9 AM

SCALE

1:200 @ A3

DRAWING NO.

DA 6.1

DRAWN

EW / BT / EM

ISSUE

B

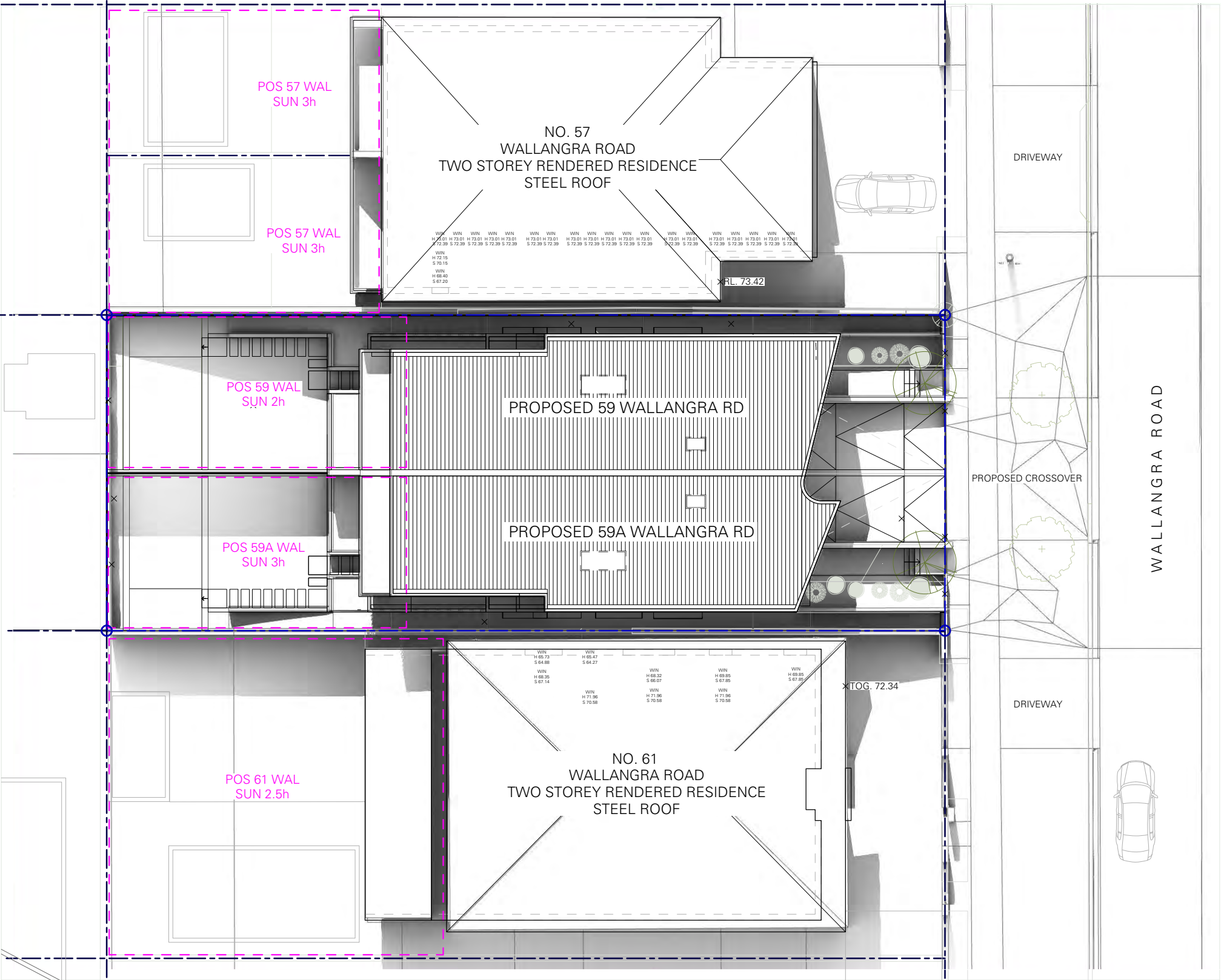
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SHADOW DIAGRAM PLAN \_ 21 JUNE 12 PM  
1 : 200 @ A3

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LEGEND

- SHADOW OF EXISTING BUILDING
- ADDITIONAL SHADOWS BY PROPOSED DEVELOPMENT
- APPROVED SHADOWS BY APPROVED DA-299/2020

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

SHADOW DIAGRAMS PLAN  
WINTER SOLSTICE - 21 JUNE  
12 PM

SCALE

1:200 @ A3

DRAWING NO.

DA 6.2

DRAWN

EW / BT / EM

ISSUE

B

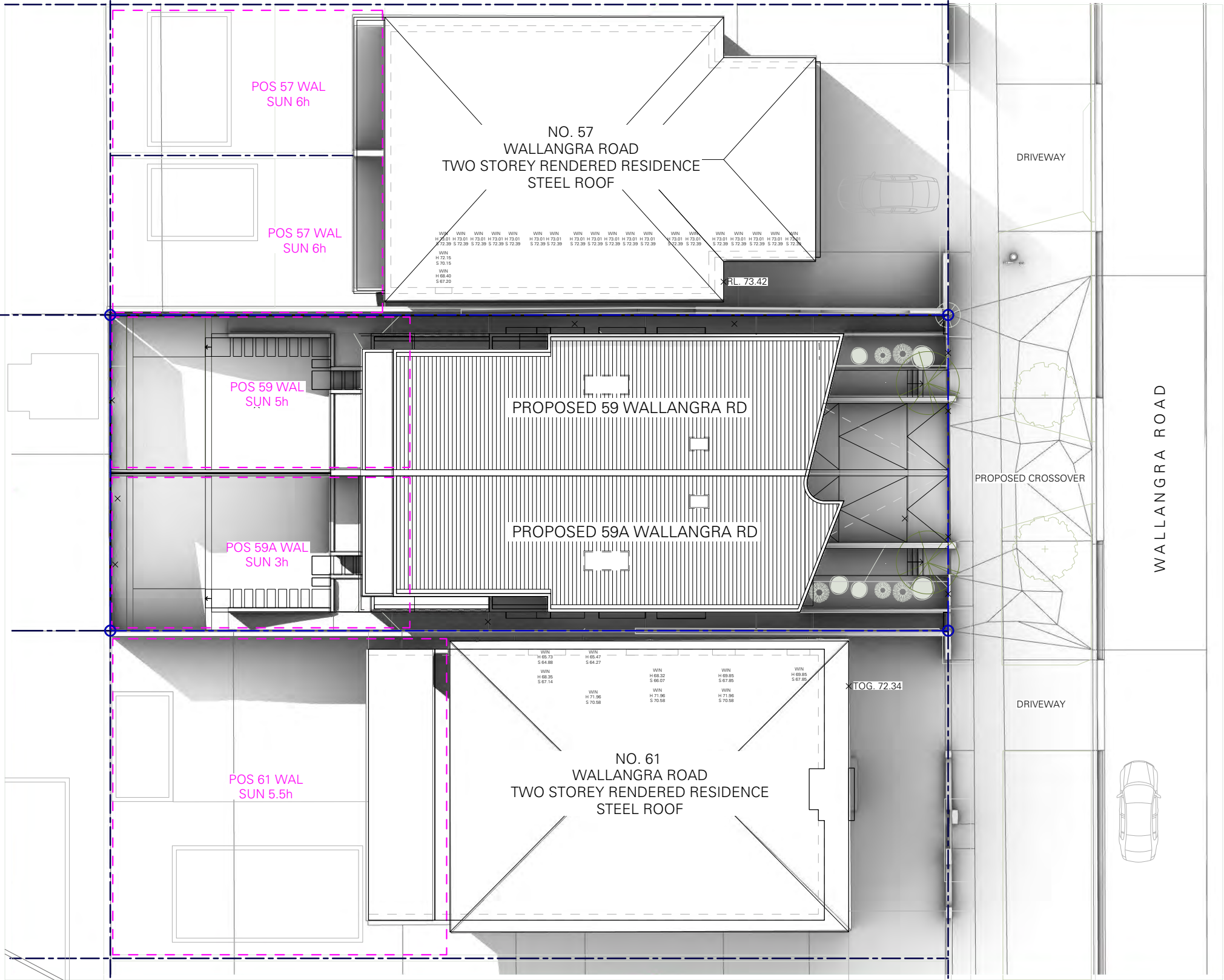
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SHADOW DIAGRAM PLAN \_ 21 JUNE 3 PM  
1 : 200 @ A3

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- LEGEND

SHADOW OF EXISTING BUILDING

ADDITIONAL SHADOWS BY PROPOSED DEVELOPMENT

APPROVED SHADOWS BY APPROVED DA-299/2020

PROJECT  
59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE  
SHADOW DIAGRAMS PLAN  
WINTER SOLSTICE - 21 JUNE  
3 PM

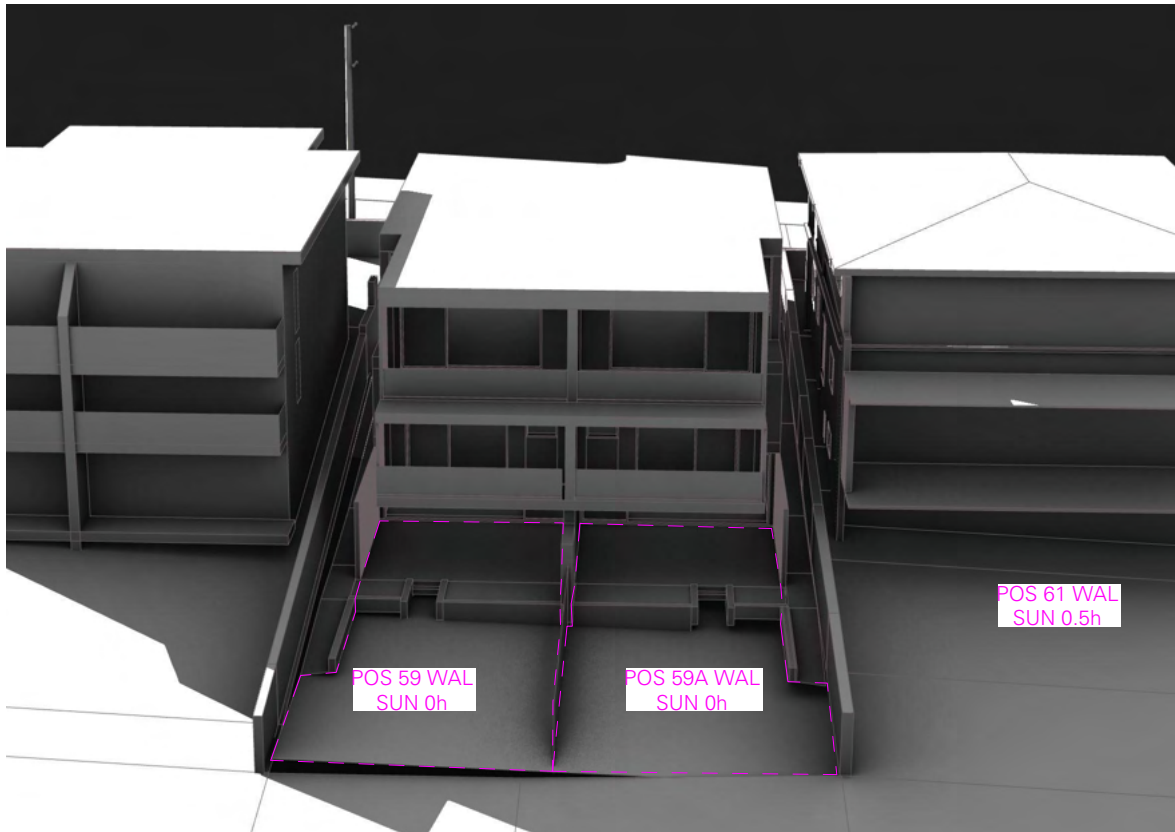
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DA 6.3

DRAWN  
EW / BT / EM  
ISSUE  
B

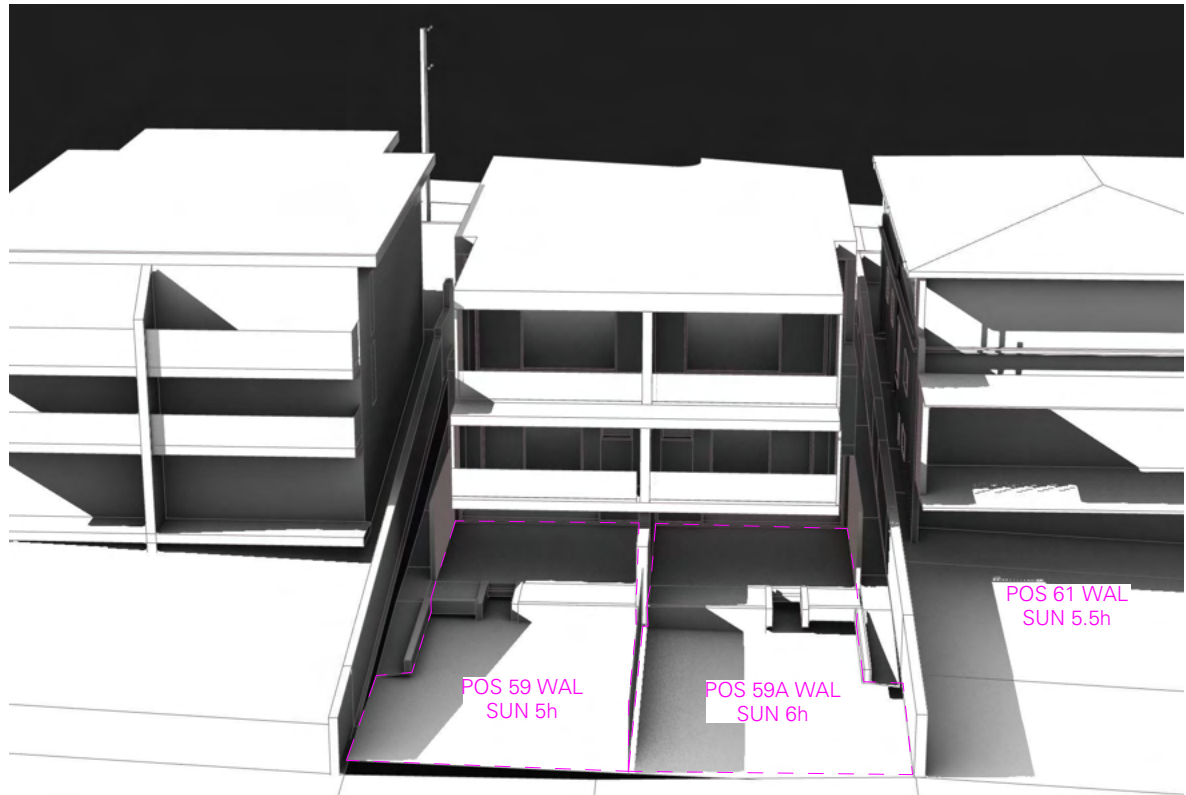
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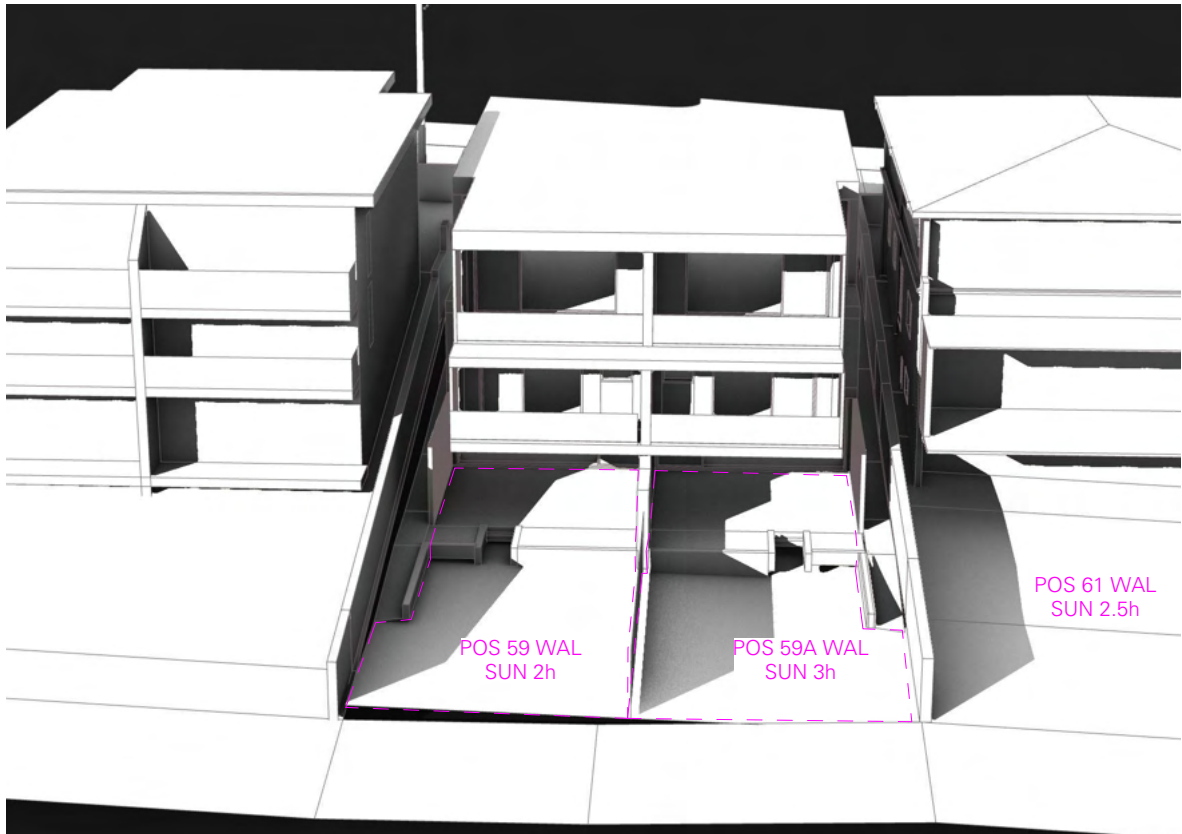




SHADOW DIAGRAM 61 WAL ELEVATION \_ 21 JUNE 9 AM



SHADOW DIAGRAM 61 WAL ELEVATION \_ 21 JUNE 3 PM



SHADOW DIAGRAM 61 WAL ELEVATION \_ 21 JUNE 12 PM

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Application No: DA-299/2020/A  
Date Received: 07/04/2021

0 1.5 3 4.5 6

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LEGEND  
SHADOW OF EXISTING BUILDING  
ADDITIONAL SHADOWS BY PROPOSED DEVELOPMENT  
APPROVED SHADOWS BY APPROVED DA-299/2020

PROJECT  
59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE  
SHADOW DIAGRAMS ELEVATION  
WINTER SOLSTICE - 21 JUNE  
9 AM, 12 PM + 3 PM

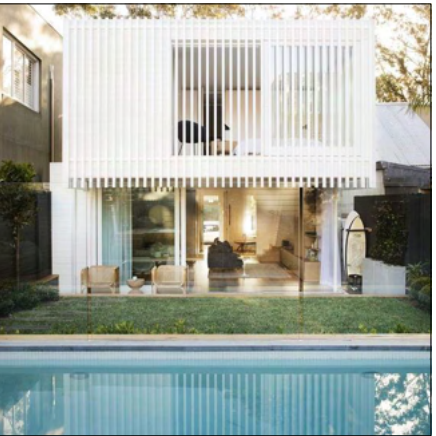
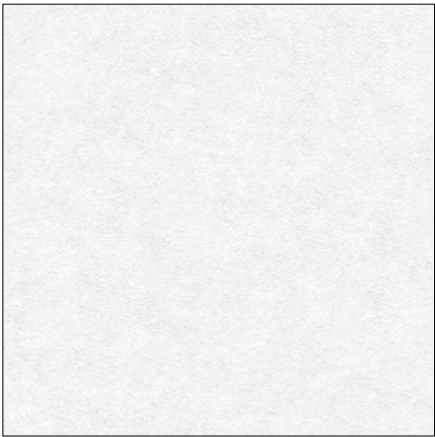
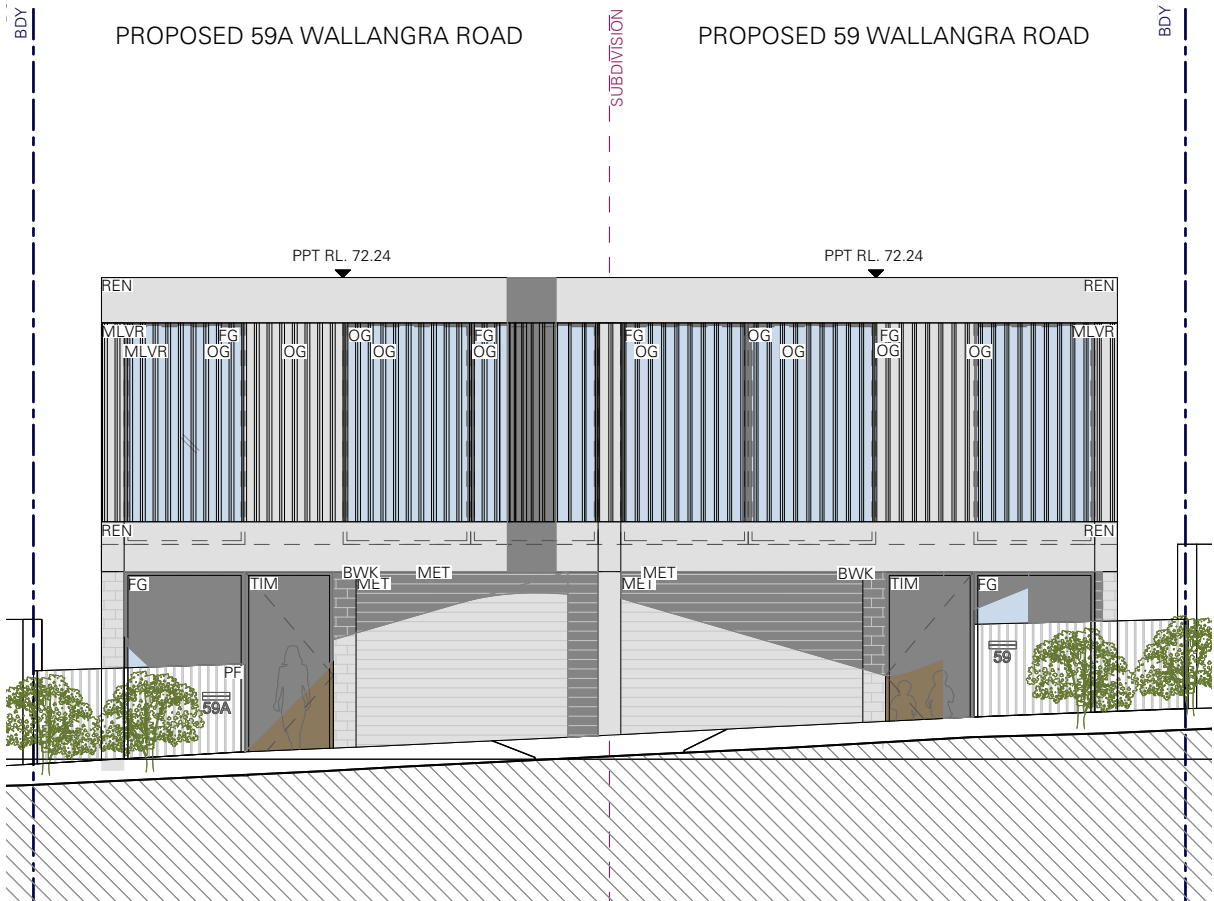
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DA 6.4

DRAWN  
EW / BT / EM  
ISSUE  
B

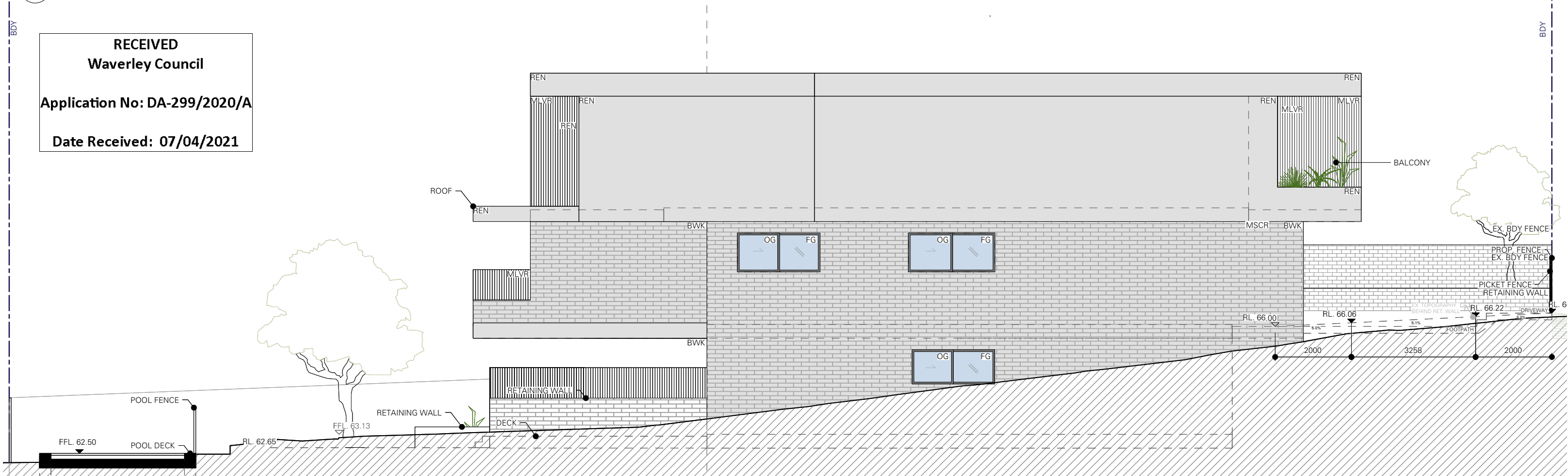
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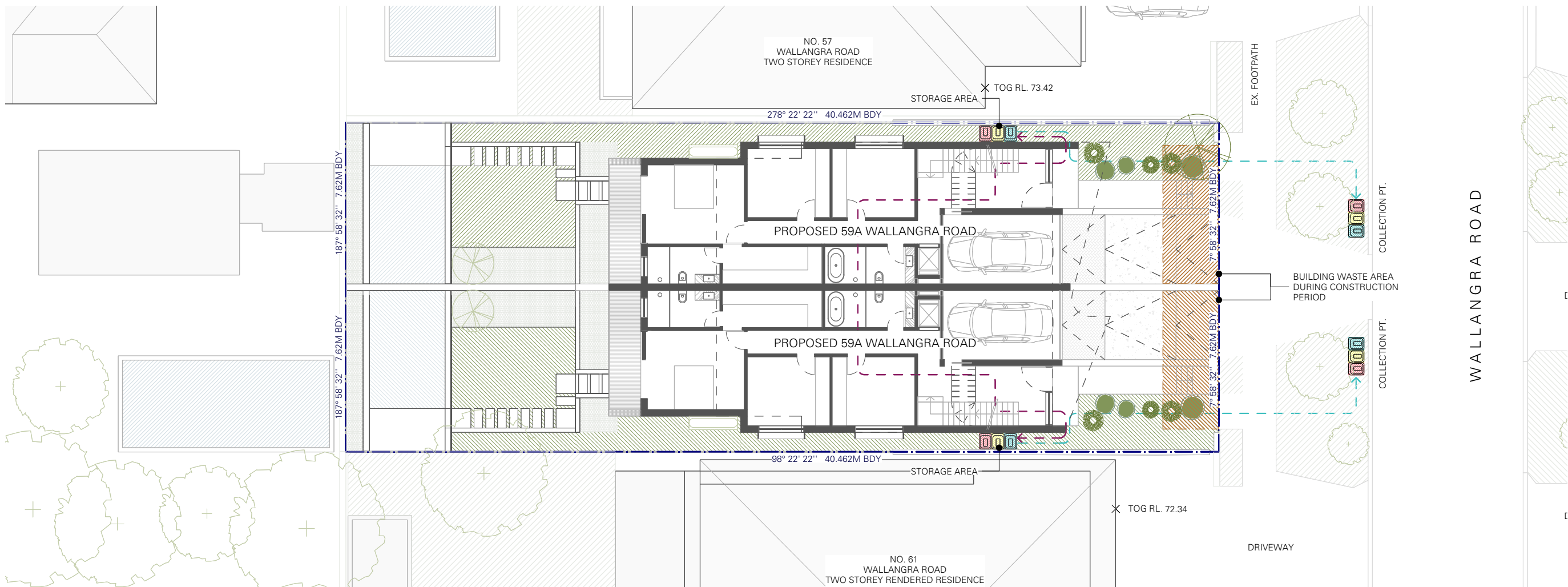




PROPOSED EAST ELEVATION WITH FINISHES  
1 : 100 @ A3



PROPOSED SOUTH ELEVATION 59A WALLANGRA ROAD WITH FINISHES  
1 : 100 @ A3



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Application No: DA-299/2020/A

Date Received: 07/04/2021

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LEGEND

BOUNDARY

GENERAL WASTE BIN

RECYCLE BIN

GREEN WASTE BIN

GARDEN

BIN STORAGE

ROUTE FOR TRANSFERRING

TENANT ACCESS TO BINS

BUILDING WASTE AREA AT CONSTRUCTION PERIOD

PROJECT

59 WALLANGRA ROAD,  
DOVER HEIGHTS NSW 2030

TITLE

WASTE MANAGEMENT PLAN

SCALE

1:200 @ A3

DRAWING NO.

DA 6.1

DRAWN

EW / BT / EM

ISSUE

B

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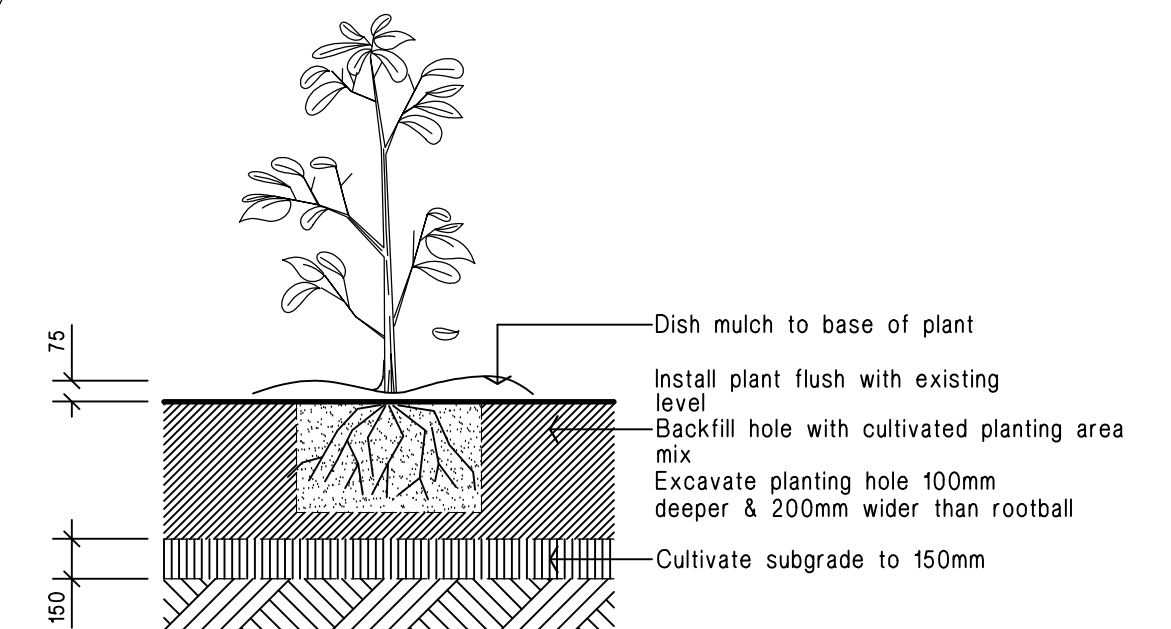
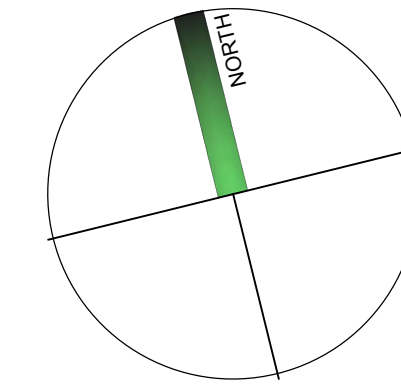


BASEMENT LEVEL  
PLAN 1:100

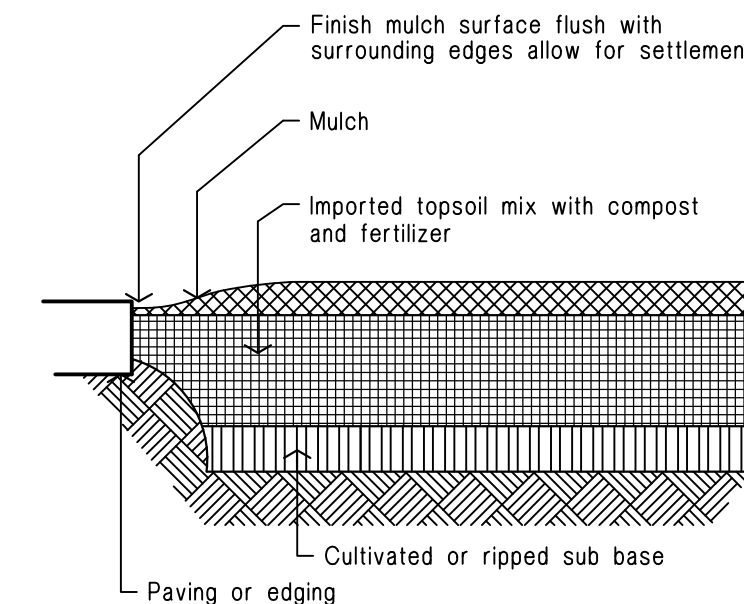
GROUND LEVEL  
PLAN 1:100

LANDSCAPE PLAN 1 : 100

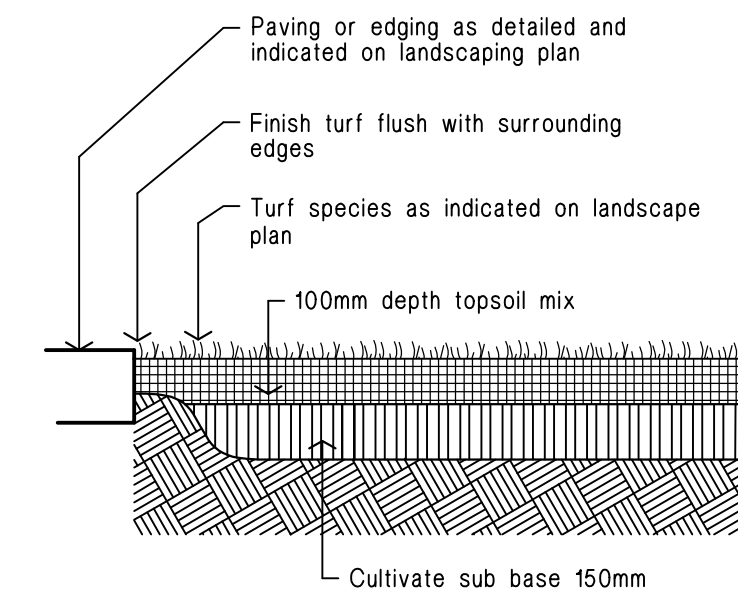
WALLANGRA ROAD



Planting in garden beds  
Detail. Not.To.Scale.



Ground preparation  
Planting area using imported topsoil  
Detail. Not.To.Scale.



Ground preparation  
Grassed area: turf using imported topsoil  
Detail. Not.To.Scale.

LEGEND

- turf  
Excavate / grade all areas to be turfed to 120mm below required finished levels. Do not excavate within 1500mm of the trunk of any existing tree to be retained. Ensure that all surface water runoff is directed towards inlet pits, kerbs etc., and away from buildings. Ensure that no ponding will occur. Rip the subgrade to 150mm. Install 100mm depth of imported topsoil. Just prior to spreading the turf, spread "Shirley's No. 17 lawn fertilizer" over the topsoil at the recommended rate. Lay "Sir Walter Buffalo" turf rolls closely butted. Fill and small gaps with topsoil. Water thoroughly.
- brick garden edging  
Lay a single course of paving bricks in a mortar haunch (200mm wide and 100mm deep). The edges are to be laid in even curves and straight lines as shown on the plan. Where tight curves are shown use half bricks to show a more even curve. The top of the edges to finish flush with the adjacent turf and mulch levels.
- existing trees to be removed
- existing trees to be retained
- stepping stones  
Precast concrete stepping stones in decorative gravel mulch
- planting areas  
Ensure that the mass planting areas have been excavated to 300mm below finished levels. Rip to a further depth of 150mm. Supply and install 300mm soil mix. Soil mix to comprise of one part approved compost to three parts topsoil. Topsoil shall be either imported topsoil or stockpiled site topsoil (if suitable ie: No clay). Install 75mm depth of selected mulch.
- maintenance:  
All landscape works are to be maintained for a period of three months from the date of practical completion. This includes all watering, weeding, spraying and re-mulching necessary to achieve vigorous growth. Any defects which arise during this period are to be rectified immediately. Any plants or areas of turf which fail during this period are to be replaced at no additional cost.
- fencing:  
For all fencing types and materials refer to the Architects plans.

PLANT SCHEDULE

Trees

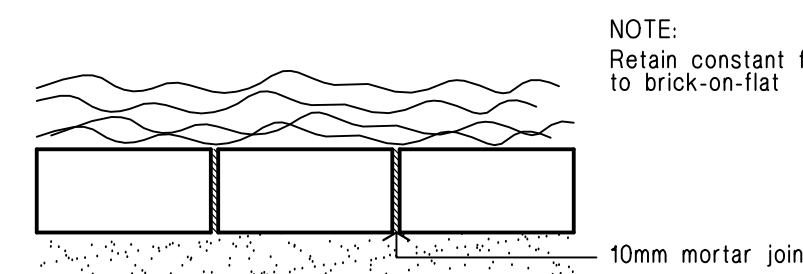
Code	Latin Name (Common Name - Mature Height)	Qty	Size	Stake
B	Banksia integrifolia (Heath banksia - 8m)	2	35 litre	yes
E	Elaeocarpus eumundii (Smooth leaved Quandong - 8m)	2	35 litre	yes
F	Plumeria rubra (Frangipani - 6m)	2	35 litre	yes

Shrubs

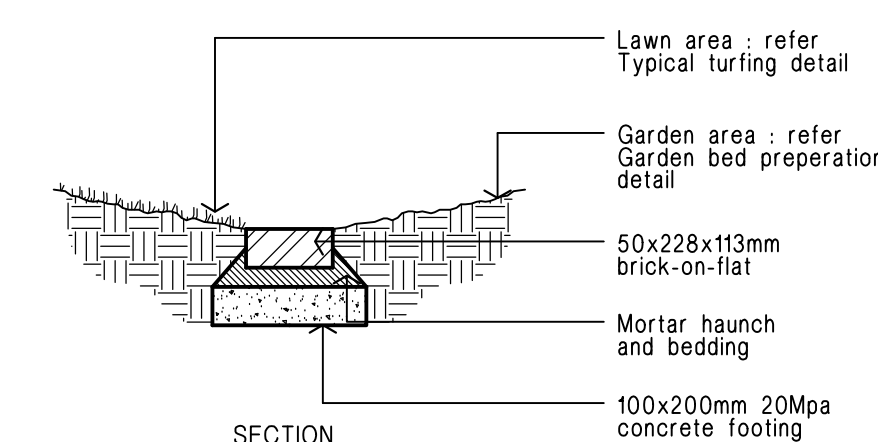
Bx	Buxus microphylla 'Japonica' (Box - 1m)	72	5 litre	-
Obj	Callistemon 'Better John' (Dwarf Bottlebrush - 1m)	16	5 litre	-
Gd	Gardenia augusta 'Florida' (gardenia - 1.2m)	8	5 litre	-
Mto	Metrosideros thomasi (NZ Christmas Bush - 5m)	16	5 litre	-
Mtd	Metrosideros tormentosa 'dalese' (N/A - 2m)	14	5 litre	-
Mth	Metrosideros thomasi (NZ Christmas Bush - 5m)	6	5 litre	-
Sre	Syzygium australe 'Resilience' (Lilly Pilly - 3m)	4	5 litre	-

Groundcovers

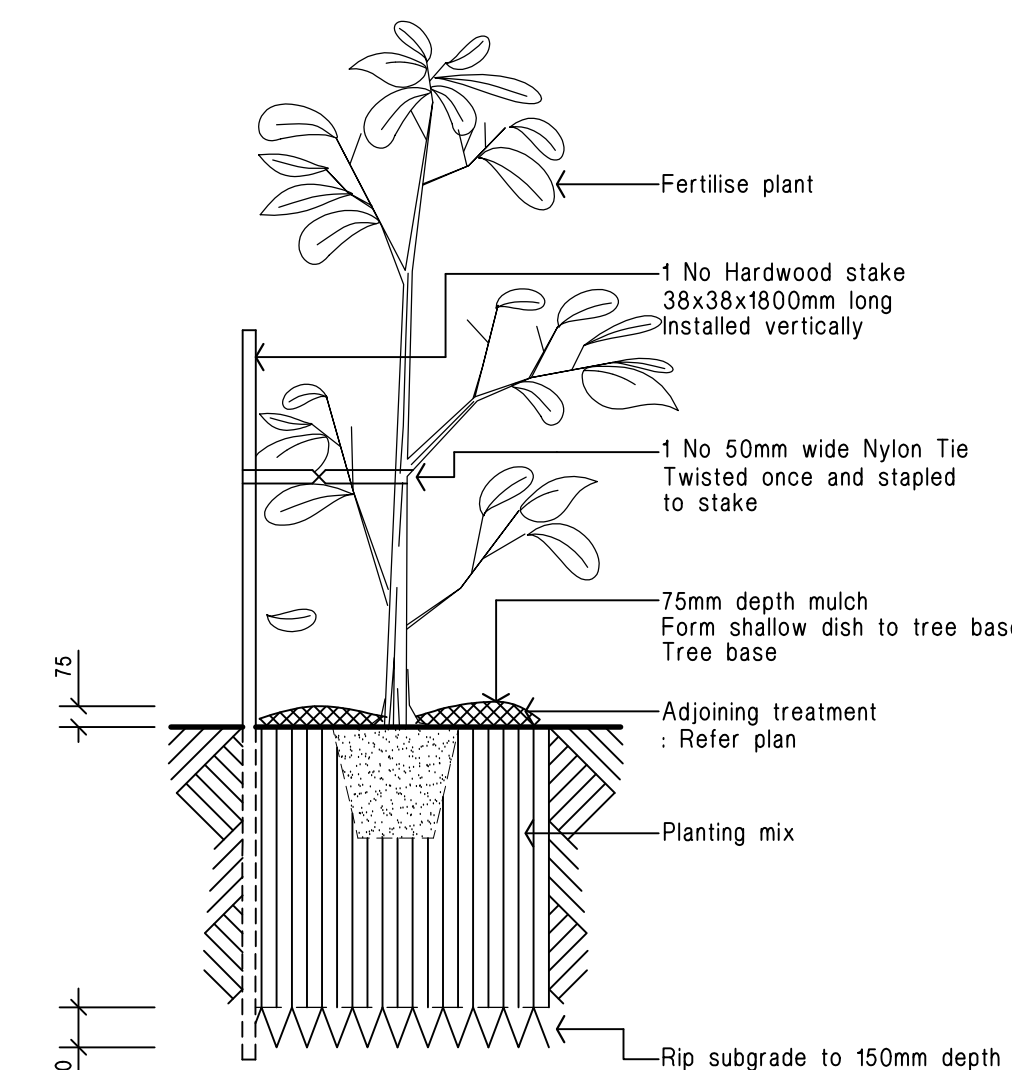
Cm	Clivea miniata (Kaffir Lilly - 0.5m)	6	150mm pot	
Gau	Gaura lindheimeri (Butterfly gaura - 0.75m)	6	150mm pot	



PLAN



Brick garden edge  
Detail.



15 - 35 litre Tree planting  
Detail. Not.To.Scale.

22.02.21 Revised DA Issue  
10.12.20 DA Issue  
DATE AMENDMENT

B  
A  
ISSUE

+ RAY FUGGLE ASSOCIATES  
landscape architects  
18 NEW FARM ROAD  
WEST PENNANT HILLS  
NSW 2125  
email: RAY@fuggle.net.au  
m 0412 294 712  
a 76 003 773 939

Project:  
PROPOSED DUAL OCCUPANCY

No. 59 Wallangra Road,  
DOVER HEIGHTS

Client:  
...

Drawing Title:  
LANDSCAPE PLAN

issue: rev. DA date: 22/02/21 issue no: B  
file name: c:\ drawing No:  
drawn: HK scale: 1:100 @ A1  
checked: RF project No: 4612c L-01