



16 June 2020

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

**12.00 PM WEDNESDAY, 24 JUNE 2020**

**QUORUM:** Three Panel members.

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

## **AGENDA**

### **WLPP-2006.A Apologies**

### **WLPP-2006.DI Declarations of Interest**

The Chair will call for any declarations of interest.

### **WLPP-2006.1 PAGE 4 50 Botany Street, BONDI JUNCTION - Demolition of existing telecommunications tower and construction of a new telecommunications tower (monopole) and ancillary equipment (DA-79/2020)**

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

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

### **WLPP-2006.2 PAGE 38 80 Bronte Road, Bronte - Modification to approved mixed use building, including internal reconfiguration, change the use of first floor from commercial to residential use and offer to enter into a Voluntary Planning Agreement (DA-435/2016/A)**

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

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

### **WLPP-2006.3 PAGE 87 2 Blenheim Street, QUEENS PARK - Modification to approved roof and alterations and additions to second and third floor (DA-236/2018/A)**

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

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

**WLPP-2006.4****PAGE 123**

**69 Anglesea Street, BONDI - Review of decision seeking alterations to front of dwelling to accommodate a hard stand car space, including minor excavation and new front fence (DA-434/2019/1)**

Report dated 6 June 2020 from the Development and Building Unit.

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

**WLPP-2006.5****PAGE 138**

**7 Lancaster Road, DOVER HEIGHTS - Alterations and additions to dwelling including internal reconfiguration and first floor addition (DA-75/2020)**

Report dated 10 June 2020 from the Development and Building Unit.

**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-79/2020
<b>Site address</b>	50 Botany Street, BONDI JUNCTION
<b>Proposal</b>	Demolition of existing telecommunications tower and construction of a new telecommunications tower (monopole) and ancillary equipment.
<b>Date of lodgement</b>	18 March 2020
<b>Owner</b>	Telstra Corporation Limited
<b>Applicant</b>	Service Stream Mobile Communications
<b>Submissions</b>	15 unique submissions (14 objections, 1 in support)
<b>Cost of works</b>	\$495,000
<b>Issues</b>	Height, safety
<b>Recommendation</b>	That the application be APPROVED

**Site Map**





## 1. PREAMBLE

### 1.1 Site and Surrounding Locality

A site visit was carried out on 8 May 2020.

The site is identified as Lot 1 in DP 619753, known as 50 Botany Street, BONDI JUNCTION. It is rectangular in shape with an area of 1350.9sqm. It has a west boundary to Botany Street and an east boundary to Council Street, each measuring 18m. The side boundaries (north and south) measure 68m. The site is located close to the intersection of Council Street and Birrell Street.

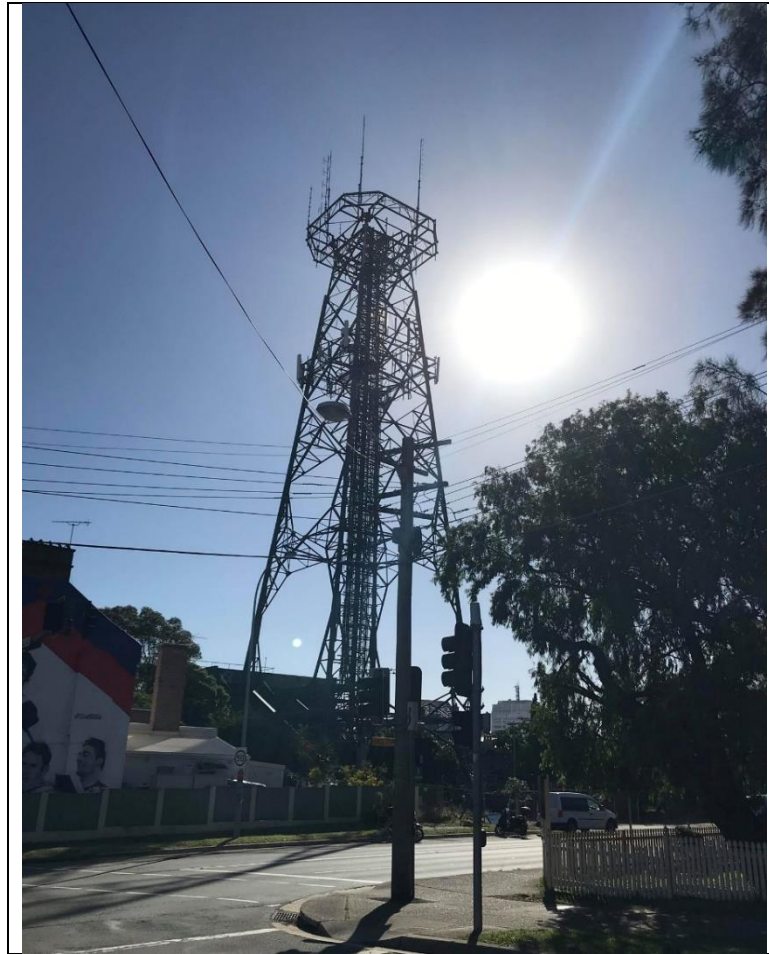
The site is occupied by a two storey administration building fronting Botany Street and a telecommunications tower to the rear closer to Council Street. The existing tower, known as a “lattice tower”, is 53.37m in height and accommodates antennas at several different locations.

The site is listed as heritage item #166 *Telecommunications Tower* and located in the Botany Street Heritage Conservation Area (C3) under WLEP 2012 Schedule 5.

The locality is characterised by a variety of residential development, including single dwellings and residential flat buildings. A row of 15 terrace dwellings fronting Birrell Street have rear yards that adjoin the southern boundary of the subject site. Across the road on Council Street is St Mary’s Anglican Church and childcare centre. Further to the south and south west on the opposite side of Birrell Street is the Uniting War Memorial Hospital Aged Care facility and Waverley College.



Figure 1: Aerial view of subject site (source: SIXmaps)



**Figure 2:** Subject site viewed from the corner of Council Street and Birrell Street

## 1.2 Relevant History

PD-35/2019 was lodged for the site seeking pre-DA advice on the proposal to which the subject application relates. A Pre-DA meeting was held at Council Chambers on 17 October 2019 and a letter provided to the applicant on 4 November 2019. At the time of providing Pre-DA advice to the applicant, the proposal was also discussed with the DBU.

In summary, the Pre-DA advice provided by Council officers included:

Issue	Advice provided	Comments
Permissibility of use	A telecommunications facility is permissible in the SP2 Infrastructure Zone.	Noted.
Height	In determining whether WLEP 2012 Clause 4.3 <i>Height of Buildings</i> is applicable to the telecommunications facility, the definition of <i>building height</i> and <i>building</i> in WLEP 2012 were considered. The telecommunications facility is a type of structure. The definition of a <i>building</i> includes any structure or part of a structure. Therefore, Clause 4.3 <i>Height of Buildings</i> does apply to the proposed development. Given the existing and proposed structures exceed the maximum building height development standard, a written	The DA is accompanied by a Clause 4.6 request.

	request under WLEP 2012 Clause 4.6 will be required with a future development application.	
Heritage	Given the site is heritage listed and within a heritage conservation area, it is recommended that any future development application be accompanied by a Heritage Impact Statement.	The development application is accompanied by a Heritage Impact Statement.
Hazardous Materials	The deconstruction of the existing lattice structure raises concern about methodology and potentially hazardous materials, such as lead paint and asbestos. It is recommended that any future development application be accompanied by a report or statement by a qualified professional outlining the method of demolition and a schedule of hazardous materials and how they will be managed.	A method of demolition schedule and a lead paint test schedule has been submitted with the DA.
Biodiversity	The site lies within a habitat corridor. It is noted that the preliminary plans submitted do not include landscaping for the proposed development. Should there be an opportunity for planting, in particular shrubs, Section 3.2(a) of WDCP 2012 should be considered.	Landscaping is not able to be provided onsite.
Preferred planning approval pathway	It was discussed at the meeting the possibility of lodging two separate development applications, one to obtain consent for the construction of the monopole and one to obtain consent for the demolition of the existing lattice structure. It is Council's preferred option that a single development application be lodged for all proposed works on site. This will enable an all-encompassing assessment, as well as provide clarity for Council staff, Councillors and the local community.	The subject DA to include both demolition of the existing tower and construction of the new monopole.

### 1.3 Proposal

The application seeks consent for decommission and demolition of the existing lattice tower telecommunications facility and construction of a new monopole telecommunications facility. The proposed monopole measures 45m in height accommodating 15 panel antennas attached to two triangular headframes at elevations of 40 and 45 metres. The total height including antennas mounted atop the structure will be 49.2m.

Two equipment shelters are also proposed to house the necessary electronic equipment required to operate the base station.

The proposal is intended to maintain network coverage and capacity in the areas of Bondi Junction and Waverley ensuring reliable telecommunications services are not lost. The existing lattice tower is nearing the end of its functional life and has become structurally unsafe, worsened by the corrosive environment.

## 2. ASSESSMENT

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

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

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

### **2.1.1 SEPP 55 Remediation of Land**

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

### **2.1.2 SEPP (Infrastructure) 2007**

State Environmental Planning Policy (Infrastructure) 2007 Division 21 relates to *Telecommunications and other communication facilities*. Under this section, specifically Clause 116(1) permits development carried out by or on behalf of any person on land in connection with a telecommunication facility as exempt development, if it is for the purposes specified in Part 1 of Schedule 3A.

Part 1 of Schedule 3A *Exempt and complying development in relation to telecommunication facilities* Item 8 outlines development standards for Replacement of a tower. Item 8.3 notes that the replacement tower must be similar in appearance to the original tower, except that a lattice tower may be replaced by a monopole tower. Item 8.4 notes that the original tower must be decommissioned and removed within 12 weeks of the telecommunication equipment on the replacement tower being commissioned.

It is noted that the proposed development meets the development standards for exempt development in Part 1 of Schedule 3A. However, SEPP (Infrastructure) 2007 Clause 20 *General requirements for exempt development* Clause (2)(e1) states that to be exempt development, the development “must not involve the demolition of a building or work that is, or is part of, a State or local heritage item”. Given the site is listed as heritage item #166 *Telecommunications Tower* under WLEP 2012 Schedule 5, the development is not considered exempt development and the subject DA has been lodged.

### **2.1.3 Telecommunications Act 1997**

The Telecommunications Act 1997 provides framework for regulating the actions of telecommunications carriers and service providers. Telstra is a licensed carrier under the Telecommunications Act 1997. Schedule 3 specifies ‘authorised activities’ that may be carried out by carriers without approval under NSW legislation. Under this clause, a carrier may install a telecommunications facility subject to that facility being a ‘low impact facility (as defined by the Telecommunications (Low-Impact Facilities) Determination 1997 (as amended)). In this case, the proposal involves the installation of a new monopole structure, and therefore does not constitute a low-impact facility under the Telecommunications (Low-Impact Facilities) Determination 1997 (as amended). Therefore, Telstra is not empowered to undertake the proposed works without approval under NSW State Legislation.

As discussed above, given the site is listed as a local heritage item, the proposed works are also not specified as exempt development under SEPP (Infrastructure) 2007 and development consent must be obtained from Waverley Council as the consent authority.

### **2.1.4 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)**

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

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

Provision	Compliance	Comment
<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 SP2 Infrastructure Zone	Yes	The proposal is defined as a telecommunications facility, which is permitted with consent in the SP2 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>12.5m</li> </ul>	No	The existing tower to be demolished measures 53.3m, which is a 40.8m or 326.4% variation. The proposed monopole measures 45m, which is a 32.5m or 260% variation.
4.4 Floor space ratio <ul style="list-style-type: none"> <li>0.75:1</li> </ul>	N/A	The proposal does not include any gross floor area and therefore does not impact the FSR of the site.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height development standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	Yes	The site is listed as heritage item #166 <i>Telecommunications Tower</i> and located in the Botany Street Heritage Conservation Area (C3) under WLEP 2012 Schedule 5. The proposal was discussed with Council's Heritage Advisor who supported the proposal subject to conditions of consent relating to an interpretation panel. This is discussed in further detail in the referrals section below.
<b>Part 6 Additional local provisions</b>		
6.2 Earthworks	N/A	The proposal does not include excavation or earth works

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

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

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

The site is subject to a maximum height control of 12.5m. The proposed development seeks to demolish the existing tower which has a height of 53.3m, exceeding the standard by 40.8m equating to a 326.4% variation. The new monopole tower to be constructed has a height of 45m, exceeding the standard by 32.5m equating to a 260% variation. It is noted that antennas mounted atop the structure will have a height of 49.2m, however these are not included in the definition of building height.

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

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The proposal is intended to replace an existing lattice tower telecommunication facility on the same property. The existing Waverley telecommunications lattice tower structure is 53.37m, and including the equipment mounted atop it has an overall height of approximately 60m, around 10m taller than the proposal. The existing lattice tower structure exceeds the height standard by 40.8m and has been present in its general form for over 5 decades, providing acceptable communications and mobile coverage to Bondi Junction and Waverley. In addition, prior to the tower reduction undertaken in 2015 the Waverley tower was 81.88m which exceed the height limit by 69.38m. It is clear with regards to the proposed monopole that compliance with Clause 4.3 is unreasonable and unnecessary considering it has been exceeded by the original facility.*
  - (ii) *By their nature, telecommunications facilities are unable to comply with prescriptive height restrictions because, to function they must protrude above the surrounding area including topographical features, buildings and vegetation. A 12.5m monopole would not adequately project above surrounding buildings and structures and thus would not achieve the required radio frequency coverage thereby defeating its purpose. With increasing demand for mobile services and the multiple uses of mobile devices brought about by access to the latest technologies, mobile facilities have now become an essential part of infrastructure. Their ability to function is reliant on their line of sight to the devices they service. In order to provide mobile coverage in the Bondi Junction and Waverley area, the*



*facilities must be tall therefore compliance with Clause 4.3 is unreasonable and unnecessary.*

- (iii) The WLEP 2012 building height definition excludes communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues etc.*
  - (iv) The object of the height of buildings standard is to prevent detrimental impact on views, solar access, streetscape, neighbours and maintain a consistent bulk and scale. The proposed monopole is of a streamlined design and despite penetrating the height restriction it will not create a significant visual disturbance. It will not result in loss of views, decreased solar access and will not considerably alter the scale of development in the area.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The proposal is consistent with the objectives of the SP2 Infrastructure zone as the telecommunications facility is considered a critical infrastructure.*
  - (ii) The proposal does not significantly impact the amenity of the area. The slimline monopole does not increase shadowing on neighbouring properties or disrupt views.*
  - (iii) The proposed design is sympathetic to its surroundings resulting in minimal bulk that does not negatively affect the desired future character of the locality. The proposal will also be finished in a recessive colour that blends in with the background.*
  - (iv) The additional height will cause minor visual impacts on the surrounding heritage conservation area due to the minimal bulk from the monopole design. However, these impacts are considered acceptable and efforts have been made to mitigate them through recessive colouring.*
  - (v) Compared to a habitable structure which fills up significantly more space, the proposed structure has a very small (almost insignificant) envelope which results in minimal overshadowing to dwellings in the area.*

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

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

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

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

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

- a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*

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

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

The written request has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard as objectives of the standard are achieved despite the non-compliance in reference to one of the justifications/tests arising from *Wehbe v Pittwater Council* [2007] 156 LGERA 446.

The written request has outlined the minimal consequences of the non-compliance upon the environmental amenity of surrounding properties and the streetscape has sufficiently argues that these consequences are reasonable. The written request has also highlighted the fundamental requirement of the structure to be at a height above the surrounding buildings, vegetation and topography in order to adequately achieve the required radio frequency coverage. Considering the site is located in the SP2 Infrastructure zone, strict compliance would be burdensome and not allow the site to accommodate infrastructure which is contrary to the objectives of the zone. Discussion below justifies how the development achieves the objectives of the development standard and the zone objectives despite the non-compliance with the development standard.

Is the development in the public interest?

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

*Clause 2.1 – Land use zone – Zone SP2 Infrastructure (Telecommunications Facility)*

- *To provide for infrastructure and related services*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure*

The proposal is consistent with the objectives of the SP2 zoning as it provides infrastructure and related services in the form of a replacement telecommunications tower to ensure network coverage and capacity meets the telecommunication needs of the local area are maintained.

*Clause 4.3 Height of Buildings*

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



*(a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views*

In assessing the breach, consideration needs to be given as to whether the overall height of the development preserves the environmental amenity of neighbouring properties. The proposed structure has such a minimal envelope that it can be demonstrated that it does not have an impact on adjoining properties in terms of overshadowing and view loss. Following construction of the new monopole, the development application proposes decommission and demolition of the existing lattice structure which is taller and has a much larger envelope. As such, not only does the proposed development preserve the environmental amenity of neighbouring properties, it improves the amenity in terms of overshadowing and view loss.

In terms of impacts from the actual telecommunications radiation, conditions are recommended to ensure these meet standard safety standards.

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

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

The height of the proposed monopole is compatible with the existing site, in that it is smaller in scale than the existing structure. While it does not necessarily contribute to the physical definition of the street, the monopole is an improvement on the streetscape impact of the existing lattice tower on site. The telecommunications facility provides required infrastructure within the locality.

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

#### Conclusion

For the reasons provided above the requested variation to the height is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Waverley Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Height development standard and the SP2 Infrastructure zone.

### **2.1.5 Waverley Development Control Plan 2012 - Amendment No 7 (Waverley DCP 2012) – Effective 2 March 2020**

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

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

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction. Condition of consent will be imposed regarding ongoing waste on site.

Development Control	Compliance	Comment
2. Ecologically sustainable Development	Yes	Given the scale of the development, the proposal is considered to adequately consider the objectives of this section.
3. Landscaping and Biodiversity	Yes	Landscaping is not provided on site. At Pre-DA stage it was recommended that landscaping be included onsite, if possible. The applicant has not provided landscaping onsite. It is desirable to have some native landscaping on site in accordance with WDCP 2012, however it is acknowledged that access to the telecommunications structure needs to be maintained. A condition of consent has been included requiring native landscaping to be planted on-site in accordance with WDCP 2012 Section B3.
7. Accessibility and adaptability	N/A	The site does not provide access to the public.
8. Transport	Yes	Private vehicular access is provided off Council Street.
9. Heritage	Yes	The proposed development is in a Heritage Conservation Area or a Heritage item and follows the guidance of this part of the DCP. Council's Heritage Architect has reviewed the proposal and raised no issues with the proposal, subject to conditions of consent.
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP. Notwithstanding this, having regard to this site being an infrastructure service, it is recommended that adequate fencing and CCTV be maintained around the perimeter of the site.

### 16.1 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

### 16.2 Suitability of the Site for the Development

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

### 16.3 Any Submissions

The application was notified for 21 days and a site notice erected on the site, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

15 unique submissions were received, 14 objections and 1 in support. The issues raised in the submissions are summarised and discussed below.

**Table 3: Summary of property addresses that lodged a submission**

Property
232 Birrell Street, BONDI JUNCTION (2 submissions from this address)
190 Birrell Street, BONDI JUNCTION
10 Allens Parade, BONDI JUNCTION (2 submissions from this address)
10A Allens Parade, BONDI JUNCTION (3 submissions from this address)
39 Allens Parade, BONDI JUNCTION
Allens Parade, BONDI JUNCTION (no street address)
15 Porter Street, BONDI JUNCTION
37 Paul Street, BONDI JUNCTION
205/150 Bronte Road, WAVERLEY
20 Cuthbert Street, QUEENS PARK
55/107 Macpherson Street, BRONTE
11 Pacific Street, BRONTE (in support)
9/152 Brook Street, COOGEE
49 Cascade Street, SYDNEY
No address provided

**Issue:** Many submissions raised concerns about 5G technology and human safety concerns. Also, concern was raised that the new structure will have increased EME (electromagnetic energy) levels. There are fears this will impact long term health and the value of surrounding homes.

**Response:** The concerns raised in submissions were relayed to the applicant who provided a response along with documentation by national and internationally accepted bodies. The applicant notes that all Telstra mobile network facilities are compliant with the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) standards. As such, the Radiofrequency (RF) Electromagnetic Energy (EME) levels are well within the allowable public exposure levels.

The applicant also noted that the proposed replacement tower is currently planned for 3G and 4G technology, which is the technology on the existing tower. However, as part of Telstra’s long term modernisation program, 5G technologies will be added to the facility in the future.

**Issue:** The tower should be away from residential properties, schools, childcare centres and hospitals.

**Response:** The telecommunications tower has been in this location since 1970 to provide reception and mobile data to the Waverley and Bondi Junction area. If moved, it defeats the purpose of providing telecommunications infrastructure to the area. The site is zoned SP2 Infrastructure and is considered suitable for the existing and proposed towers.

***Issue: Concerns about transparency, fairness, corruption and ‘pushing this through’ during this time of lockdown procedures for COVID-19. No doubt that these matters can be ventilated in the Land and Environment Court when an injunction is sought to stop the proposal.***

***Response:*** Allegations of corruption are a serious matter. Submissions to development applications are on the public record. Council staff do not take to them lightly and particularly in cases where they are purely false or misleading, they can be deemed offensive. Should there be any evidence to indicate that corruption of any sorts has occurred, the objector should contact Council’s Auditor to investigate such allegations.

In response to concern raised about timing, as part of Council’s business continuity planning, the development assessment functions in Council were able to continue during the restrictions imposed by the NSW Government in response to the COVID-19 pandemic. Telstra Corporation Limited owns the site and Service Stream Mobile Communications lodged this development application on Telstra’s behalf on 18 March 2020. In accordance with the WDCP 2012 Part A2, the application was notified for a 3 week period from 20 March to 10 April and a site notice erected on site.

It is also noted that the proposed development meets the development standards for exempt development in Part 1 of Schedule 3A under SEPP (Infrastructure) 2007. However, the local heritage listing of this site required a development application to be lodged.

***Issue: Council should consult with Waverley Residents on any proposed implementation of 5G technology***

***Response:*** Waverley Council is not implementing 5G technology. This site is owned and managed by Telstra Corporation Limited. As the consent authority, Waverley Council has notified surrounding residents of this development application.

***Issue: Not enough people in the area have been notified. Many units are renters and renters don’t care so will not pass on the information to owners who are more impacted.***

***Response:*** The application was been notified in accordance with WDCP 2012 Part A2 Section 2.3 and 2.4. In this instance, *owners* and *occupiers* of all properties adjoining the site and opposite the site were notified of this development application. Furthermore, a site notice was erected on site and the development application details and documentation made public on Council’s website.

***Issue: Object to the removal of trees***

***Response:*** The proposal does not include the removal of trees.

***Issue: A historic home will be destroyed in the interest of profit and they will rob us of our trees. We are losing our heritage and medium density ending up with a high densely populated suburb.***

***Response:*** The proposal does not include the demolition of any houses or removal of trees.

#### **16.4 Public Interest**

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

### **3. REFERRALS**

### 3.1 Heritage

The application was referred to Council's Heritage Advisor who noted that the tower is considered to have been associated with broadcast images from the first moon landing in 1969 although the current tower is now considered to date from 1970 with later additions. The tower has been progressively modified in response to technology and maintenance requirements over time. It is noted that the tower has a specific and viable use, it will progressively deteriorate to a point of structural instability. In terms of design, the slender form of the new monopole will remove the prominence of the structure, which also reduces the incongruity of the current tower within the immediate setting.

To acknowledge the heritage significance of the existing communications tower, the recommendation provided in the applicant's heritage report are supported as follows:

1. A digital photographic archival record of the tower and setting is to be provided in accordance with guidelines of the NSW heritage office. The record is to be provided to Council prior to any works on site.
2. Interpretation panels are to be located on the public boundary of the site, the panels illustrating the tower and its known history.

## 4. SUMMARY

The application seeks consent for construction of a new monopole telecommunications facility and decommissioning and demolition of the existing lattice tower. The proposed development meets the development standards for exempt development in Part 1 of Schedule 3A under SEPP (Infrastructure) 2007. However, the local heritage listing of this site required a development application to be lodged.

The site is zoned SP2 Infrastructure Zone and has a height development standard of 12.5m.

When providing Pre-DA advice to the applicant and during assessment of the subject DA, Development Assessment staff discussed whether WLEP 2012 Clause 4.3 *Height of Buildings* is applicable to the telecommunications facility, the definition of *building height* and *building* in WLEP 2012 were considered. The telecommunications facility is a type of structure. The definition of a *building* includes any structure or part of a structure. During assessment of this application, Council obtained legal advice on the matter. Council's solicitors concurred with Council's position that WLEP 2012 Clause 4.3 Height of Buildings does apply.

The existing tower to be demolished has a height of 53.3m, which is a 40.8m or 326.4% variation. The proposed monopole has a height of 45m, which is a 32.5m or 260% variation. The applicant provided an amended written request during the assessment period which adequately addresses the matters required to be addressed by cl. 4.6 of WLEP 2012.

15 unique submissions were received (14 objections and 1 in support). A Councillor submission was not received. The application form does not indicate a conflict of interest.

It is recommended that the application be approved, subject to conditions.

### DBU Decision

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

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

DBU members: M Reid, A Rossi, B McNamara, B Matlawski, E Finnegan

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

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

**Report prepared by:**



Emma Finnegan  
**Senior Development Assessment Planner**

**Date: 10 June 2020**

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



Angela Rossi  
**Manager, Development Assessment (Central)**

**Date: 12 June 2020**

**Reason for referral:**

- 2 Contentious development (10 or more objections)
- 3 Departure from any development standard in an EPI by more than 10%
- 4(c) Sensitive development – demolition of a heritage item

## **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 Service Stream including the following:

<b>Plan and Issue Number</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
N20122 Sheet S1 Issue 6	Site access and locality plan	13 March 2020	18 March 2020
N20122 Sheet S1-3 Issue 1	Proposed site layout	13 March 2020	18 March 2020
N20122 Sheet S1-4 Issue 1	Antenna layout	13 March 2020	18 March 2020
N20122 Sheet S3 Issue 13	South elevation sheet 1 of 2	13 March 2020	18 March 2020
N20122 Sheet S3-1 Issue 5	South elevation sheet 2 of 2	13 March 2020	18 March 2020
N20122 Sheet S3-2 Issue 1	Antenna configuration table	13 March 2020	18 March 2020

- (b) Heritage Impact Statement prepared by City Plan, dated March 2020 and received by Council on 18 March 2020.

- (c) Demolition Plan prepared by One Com Nation Pty Ltd received by Council on 18 March 2020.

- (d) The Site Waste and Recycling Management Plan (SWRMP) Part 1

Except where amended by the following conditions of consent.

#### **2. HERITAGE INTERPRETATION PANELS**

- (a) To acknowledge the heritage significance of the existing communications tower, interpretation panels are to be located on the public boundary of the site (both Council Street and Botany Street frontages), illustrating the tower and its known history.
- (b) Details of the location and contents of the interpretation panel are to be submitted to and approved by Council's Heritage Advisor prior to the issue of the relevant Construction Certificate.
- (c) The approved interpretation panels must be installed prior to the issue of any Occupation Certificate.

#### **3. LANDSCAPE WORKS IN A HABITAT CORRIDOR**

Landscaping is to be provided on site, including around the Heritage Interpretation Panel required under Condition 2. A landscape plan is to be submitted to and approved by Council prior to the issue of the relevant Construction Certificate. The landscape plan is to include a plant species list that includes a minimum of 50% of the proposed plantings (not including turfed areas) to be indigenous or local native plants as listed in Annexure B2 - 1 of the *Waverley Development Control Plan 2012*.

#### **4. MATERIALS AND FINISHES**

The new telecommunications tower (monopole) shall be neutral in colour and of low reflectivity.



## B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

### 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. 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.

### 7. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$10,577.50 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.

## **8. LONG SERVICE LEVY**

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

## **9. ARCHIVAL RECORDING**

An archival record shall be prepared of the site for deposit in Waverley Council's Archive. This record must be carried out prior to the removal of any significant fabric from the site and must be submitted to Council prior to the commencement of any work. The record is to comply with the NSW Heritage Office Guidelines for digital archival recording.

Two physical copies and one digital copy are to be submitted to Council's Heritage Officer.

## **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. ENGINEERING DETAILS**

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

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

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

### **14. 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)

### **15. STORMWATER MANAGEMENT**

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

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

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

### **16. 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.

### **17. 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.

### **18. 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.

## **19. 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.

## **20. 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.

## **21. 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.

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

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

## **23. 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.

## **24. 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.

## **D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION**

### **25. HERITAGE INTERPRETATION PANEL TO BE INSTALLED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE**

Prior to the issue of an Occupation Certificate, the interpretation panels approved by Council's Heritage Advisor (required under Condition 2) are to be installed onsite.

### **26. 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.

### **27. 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.

### **28. NOISE – PLANT AND EQUIPMENT**

A Certificate is to be submitted to Council at the completion of all work and prior to the issue of an Occupation Certificate, from a suitably qualified Acoustic Consultant. The Certificate is to certify all plant and equipment comply with the terms of approval in relation to noise.

### **29. REMOVAL OF INFRASTRUCTURE**

Infrastructure including the decommission of the existing tower must be removed when no longer in use at the Owner's expense.

### **30. REMOVAL OF INFRASTRUCTURE**

All redundant telecommunication equipment following the decommission of the existing tower must be removed when no longer in use at the Owner's expense.

### **31. 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 on both the Botany Street and Council Street frontages of the site that identifies the name and contact details of the operator or site manager.
- (b) The signage shall be permanent, legible and waterproof.
- (c) Signage specified in sub clauses (a) and (b) is to be erected prior to the issue of an 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.

### **32. INSTALLATION AND OPERATION OF INFRASTRUCTURE**

- (a) The Owner is responsible for any adverse impacts derived from the installation and operation of the infrastructure and is required to notify the relevant government authorities should the Owner become aware of such adverse impacts.
- (b) The installation and operation of all infrastructure services on-site shall comply with the relevant legislations and standards at all times.

### **33. 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.

### **34. NOISE EMISSIONS**

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

### **35. 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.
- (a) 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.

### **36. SURVEILLANCE CAMERAS TO BE MAINTAINED ON THE PREMISES**

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

- (a) It must record continuously each day (that is, 24hours, 7 days a week),
- (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 site,
  - ii. the footpath immediately adjacent to the site.
- (e) CCTV recordings must be retained for at least 30 days.
- (f) Signage shall be clearly displayed adjacent to the principal entry alerting persons entering the premises that CCTV is in operation.
- (h) 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.

The CCTV system shall be installed and operational prior to the issue of an Occupation Certificate.

### **37. SECURITY / BOUNDARY FENCING**

Security / boundary fencing shall be maintained along all perimeters of the site, at all times.

### **38. LIGHTING**

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

## **ADVISORY MATTERS**

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

### **AD1.SYDNEY WATER REQUIREMENTS**

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

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

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

### **AD2.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.

### **AD3.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.

### **AD4.EXCAVATION TO BE LIMITED**

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

### **AD5.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.

**AD6.TREE REMOVAL/PRESERVATION**

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

**AD7.WORK OUTSIDE PROPERTY BOUNDARY**

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

Telstra Networks Wireless program Delivery Template - 017868P02 issue 11.4 XX/XX/2015

A

B

C

D

E

F

TN

EXISTING SIGN SECURED  
TO ACCESS GATE

EXISTING TREES (TYP.)

PORTER STREET

#13

BOTANY STREET

JAMES STREET

EXISTING TELSTRA ADMINISTRATION /  
CONTROL BUILDING

EXISTING TELSTRA CABLE LADDERS  
TO BE RECOVERED

EXISTING TELSTRA EQUIPMENT SHELTER TO  
ACCOMMODATE PROPOSED TELSTRA EQUIPMENT

EXISTING COMPOUND SECURITY  
FENCE WITH ACCESS GATES

PROPOSED TELSTRA COMPOUND  
LOCATION. REFER TO SHEET S1-3  
FOR DETAILS

PROPOSED TELSTRA  
45m HIGH MONOPOLE

EXISTING TELSTRA GPS ANTENNA  
(1 OFF A1) ON 1.8m HOCKEY STICK  
MOUNT ATTACHED TO WALL OF  
TELSTRA BUILDING

EXISTING ELECTRICAL  
SUBSTATION

EXISTING VODAFONE CABLE TRAY

EXISTING TELSTRA 54.0m HIGH RADIO  
TOWER WITH ACCESS LADDER AND  
ALL OTHER EXISTING EQUIPMENTS  
TO BE DECOMMISSIONED

COUNCIL STREET

## NOTES:

1. ALL EXTERNAL FEEDERS AND TAILS MUST BE BIRD PROOFED AS PER EXTERNAL PLANT POLICY 003615.
2. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS SPECIFIED OTHERWISE.
3. THIS DRAWING SET IS A PRELIMINARY DRAWING ONLY AND IS ISSUED FOR COMMENT. IT IS NOT A DETAILED SURVEY / STRUCTURAL DRAWING AND THEREFORE COULD BE SUBJECT TO CHANGE.
4. FOR EME SIGNS NOTED THUS **#X** REFER TO 005486 FOR DETAILS.

## SITE ACCESS

SCALE 1:500

5m 0 5m 10m 15m 20m 25m SCALE 1:500

NOTE: THIS DRAWING TO BE READ IN CONJUNCTION WITH SHEETS S1-3 & S1-4

## PROPERTY DESCRIPTION

PART OF LOT 1 ON DP 619753  
PARISH OF ALEXANDRIA  
COUNTY OF CUMBERLAND

SITE STRUCTURE CO-ORDINATES (GDA94)  
GPS READING ACCURACY:  $\pm 10\text{m}$   
CENTRE OF TOWER

LATITUDE	GDA 94 -33.89608
LONGITUDE	GDA 94 151.25408



ORDER	DRAWN	CHKD	AMENDMENT	EXAM	APPD	DATE	ISS
NA11653.01	AQ	EL	CONSTRUCTION ISSUE WCDMA2100 SP71535347W01A	SL	DM	18.05.12	1
NA11653.01	VK	AK	AS BUILT - 71535348W001SSNC	PK	SS	25.09.12	2
NA15271.01	GH	PK	FOR CONSTRUCTION - 72771040W0001SSNC - LTE700/LTE1800	PK	AB	29.10.14	3
NA15271.01	RK	BJ	AS BUILT - 72771041W0001SSNC - LTE700/LTE1800	MM	SL	18.02.15	4
NA17935.01	VR	MR	AS BUILT - 30069071W0570SSNC - LTE2100 / LTE2600	KV	RV	28.09.18	5
NA17715.01	NK	SS	PRELIMINARY - XXXXXXXXWXXXXSSNC - XXXXXXXX	LL	RB	13.03.20	6

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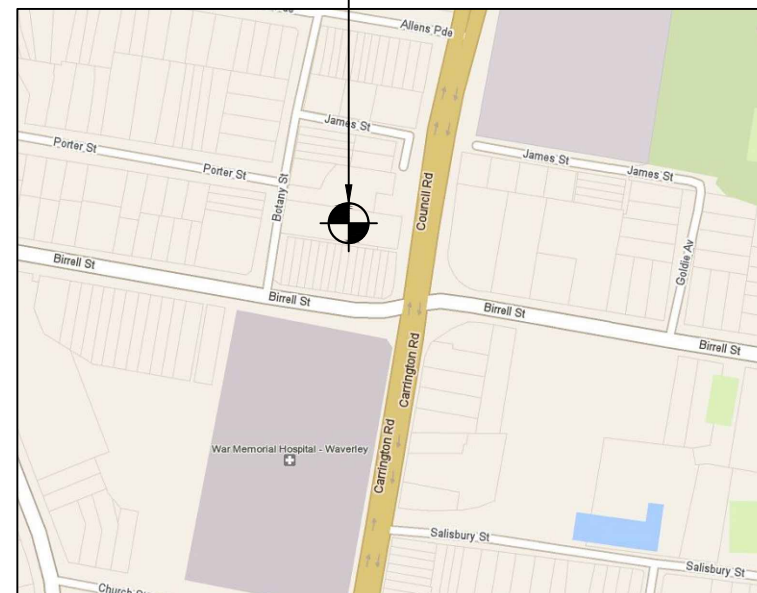
DWG NO. **N20122** SHT NO. **S1**

Cad file: N20122.dwg

6

32

RFNSA SITE No. 2024003



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## LOCALITY PLAN

NOT TO SCALE

## SERVICES LEGEND

— E —	— E —	ABOVE GROUND ELECTRICAL SUPPLY
— FE —	— FE —	ABOVE GROUND FEEDER CABLES
— — — E — — —	— — — E — — —	BELOW GROUND ELECTRICAL SUPPLY
— — — FE — — —	— — — FE — — —	BELOW GROUND FEEDER CABLES
— T — — — T — — — T — — — T — — —		OPTIC FIBRE BELOW GROUND

RECEIVED  
Waverley Council

Application No: DA-79/2020

Date Received: 18/03/2020

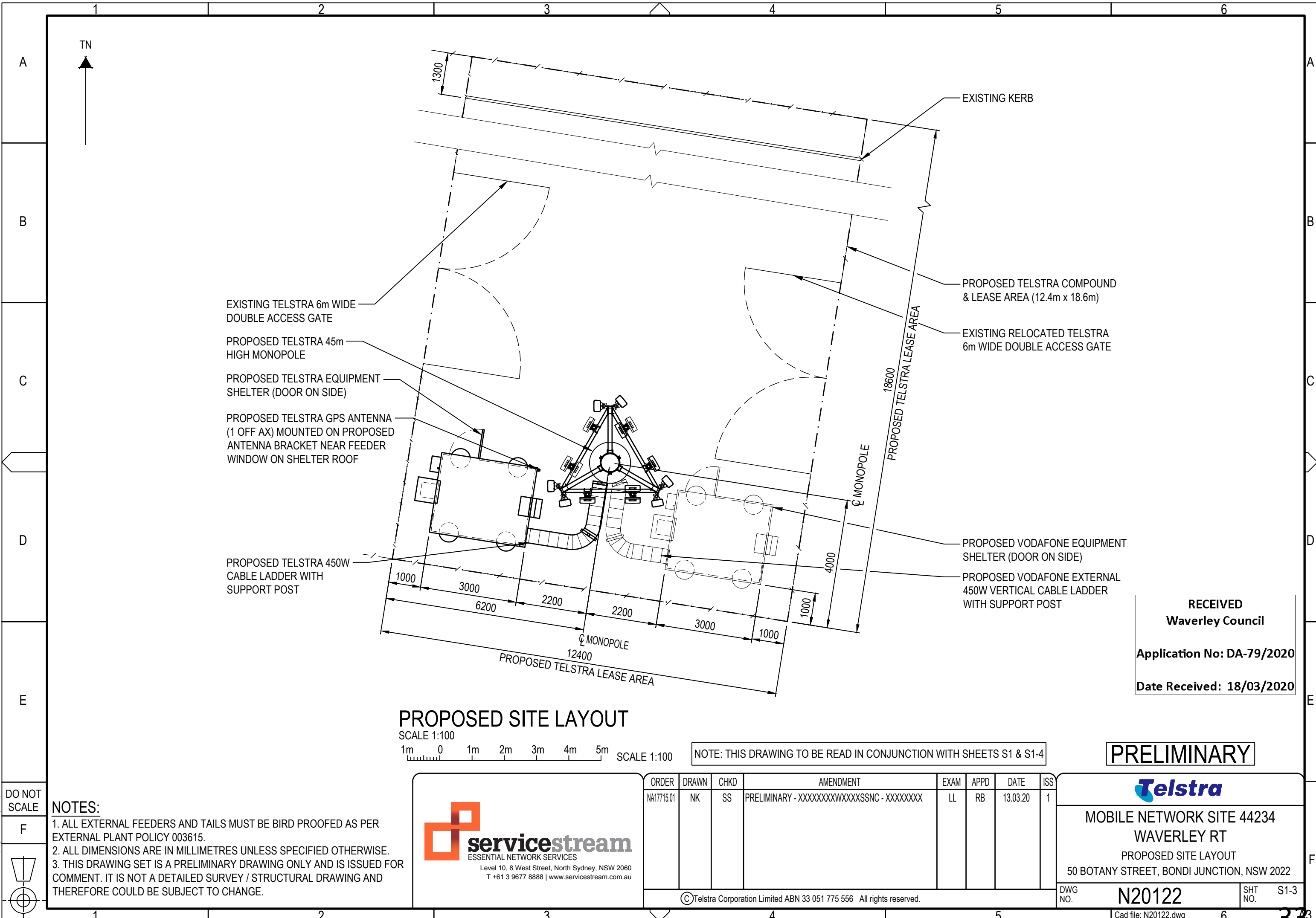
PRELIMINARY

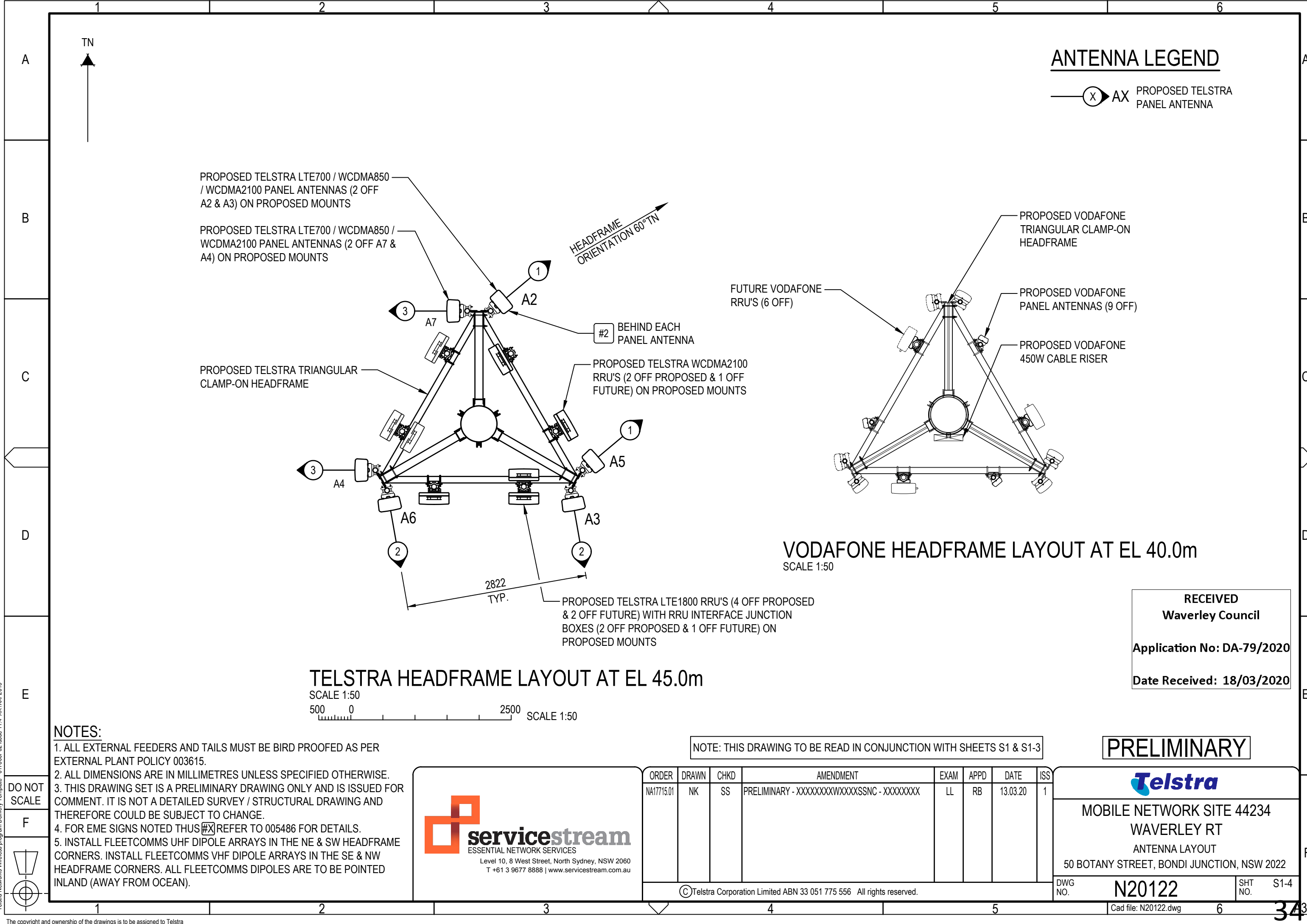


MOBILE NETWORK SITE 44234  
WAVERLEY RT

SITE ACCESS AND LOCALITY PLAN  
50 BOTANY STREET, BONDI JUNCTION, NSW 2022

Telstra Networks Wireless program Delivery Template - 017868P02 issue 11.4 XX /XX/2015





ANTENNA LEGEND

AX PROPOSED TELSTRA  
PANEL ANTENNA

PROPOSED TELSTRA LTE700 / WCDMA850  
/ WCDMA2100 PANEL ANTENNAS (2 OFF  
A2 & A3) ON PROPOSED MOUNTS

PROPOSED TELSTRA LTE700 / WCDMA850 /  
WCDMA2100 PANEL ANTENNAS (2 OFF A7 &  
A4) ON PROPOSED MOUNTS

PROPOSED TELSTRA TRIANGULAR  
CLAMP-ON HEADFRAME

HEADFRAME  
ORIENTATION 60°TN

#2 BEHIND EACH  
PANEL ANTENNA

PROPOSED TELSTRA WCDMA2100  
RRU'S (2 OFF PROPOSED & 1 OFF  
FUTURE) ON PROPOSED MOUNTS

PROPOSED TELSTRA LTE1800 RRU'S (4 OFF PROPOSED  
& 2 OFF FUTURE) WITH RRU INTERFACE JUNCTION  
BOXES (2 OFF PROPOSED & 1 OFF FUTURE) ON  
PROPOSED MOUNTS

FUTURE VODAFONE  
RRU'S (6 OFF)

PROPOSED VODAFONE  
TRIANGULAR CLAMP-ON  
HEADFRAME

PROPOSED VODAFONE  
PANEL ANTENNAS (9 OFF)

PROPOSED VODAFONE  
450W CABLE RISER

VODAFONE HEADFRAME LAYOUT AT EL 40.0m

SCALE 1:50

TELSTRA HEADFRAME LAYOUT AT EL 45.0m

SCALE 1:50  
500 0 2500 SCALE 1:50

NOTES:

- 1. ALL EXTERNAL FEEDERS AND TAILS MUST BE BIRD PROOFED AS PER EXTERNAL PLANT POLICY 003615.
- 2. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS SPECIFIED OTHERWISE.
- 3. THIS DRAWING SET IS A PRELIMINARY DRAWING ONLY AND IS ISSUED FOR COMMENT. IT IS NOT A DETAILED SURVEY / STRUCTURAL DRAWING AND THEREFORE COULD BE SUBJECT TO CHANGE.
- 4. FOR EME SIGNS NOTED THUS (#X) REFER TO 005486 FOR DETAILS.
- 5. INSTALL FLEETCOMMS UHF DIPOLE ARRAYS IN THE NE & SW HEADFRAME CORNERS. INSTALL FLEETCOMMS VHF DIPOLE ARRAYS IN THE SE & NW HEADFRAME CORNERS. ALL FLEETCOMMS DIPOLES ARE TO BE POINTED INLAND (AWAY FROM OCEAN).

NOTE: THIS DRAWING TO BE READ IN CONJUNCTION WITH SHEETS S1 & S1-3

PRELIMINARY

 **servicestream**  
ESSENTIAL NETWORK SERVICES  
Level 10, 8 West Street, North Sydney, NSW 2060  
T +61 3 9677 8888 | www.servicestream.com.au

ORDER	DRAWN	CHKD	AMENDMENT	EXAM	APPD	DATE	ISS
NA17715.01	NK	SS	PRELIMINARY - XXXXXXXXWXXXXSSNC - XXXXXXXX	LL	RB	13.03.20	1



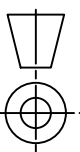
MOBILE NETWORK SITE 44234  
WAVERLEY RT  
ANTENNA LAYOUT  
50 BOTANY STREET, BONDI JUNCTION, NSW 2022

DWG NO.	N20122	SHT NO.	S1-4
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Telstra Networks Wireless program Delivery Template - 017868P02 issue 11.4 XX /XX/2015

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NOTES:

1. ALL EXTERNAL FEEDERS AND TAILS MUST BE BIRD PROOFED AS PER EXTERNAL PLANT POLICY 003615.
2. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS SPECIFIED OTHERWISE.
3. THIS DRAWING SET IS A PRELIMINARY DRAWING ONLY AND IS ISSUED FOR COMMENT. IT IS NOT A DETAILED SURVEY / STRUCTURAL DRAWING AND THEREFORE COULD BE SUBJECT TO CHANGE.
4. FOR EME SIGNS NOTED THUS [X] REFER TO 005486 FOR DETAILS.

RECEIVED  
Waverley Council

Application No: DA-79/2020

Date Received: 18/03/2020

▽ E.L. 45.0m (±100mm) R.L. 148.0m AHD  
C/L PROPOSED TELSTRA LTE700 / WCDMA850 / WCDMA2100 PANEL ANTENNAS (3 OFF A2, A3 & A4)  
C/L PROPOSED TELSTRA LTE700 / LTE1800 PANEL ANTENNAS (3 OFF A5, A6 & A7)  
C/L PROPOSED TELSTRA LTE1800 RRU'S (6 OFF)  
WITH RRU INTERFACE JUNCTION BOXES (3 OFF)  
C/L PROPOSED TELSTRA WCDMA2100 RRU'S (3 OFF)

▽ E.L. 40.0m (±100mm) R.L. 143.0m AHD  
C/L PROPOSED VODAFONE PANEL ANTENNAS (9 OFF)  
C/L PROPOSED VODAFONE RRU'S (6 OFF)

EXISTING TELSTRA 54.0m HIGH RADIO TOWER AND ALL ASSOCIATED EQUIPMENT TO BE DECOMMISSIONED

EXISTING TELSTRA GPS ANTENNA (1 OFF A1)  
ON 1.8m HOCKEY STICK MOUNT

▽ E.L. 9.2m (±100mm) R.L. 112.2m AHD  
TOP OF BUILDING

EXISTING TELSTRA  
ADMINISTRATION /  
CONTROL BUILDING

▽ E.L. 0.0m  
GROUND LEVEL  
(R.L. 103.0m AHD)

EXISTING TELSTRA EQUIPMENT  
SHELTER TO ACCOMMODATE  
PROPOSED TELSTRA  
EQUIPMENT

EXISTING TOWER FOUNDATION  
(INDICATIVE ONLY)

PROPOSED FLEETCOMS  
ANTENNA

SOUTH ELEVATION

SCALE 1:250

5m 0 5m 10m SCALE 1:250

NOTE: THIS DRAWING TO BE READ IN CONJUNCTION WITH SHEETS S3-1 & S3-2

PRELIMINARY



ORDER	DRAWN	CHKD	AMENDMENT	EXAM	APPD	DATE	ISS
NA11663.01	VK	AK	AS BUILT - 71535348W001SSNC	PK	SS	25.09.12	8
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NA15271.01	RK	BJ	AS BUILT - 72771041W0001SSNC - LTE700/LTE1800	MM	SL	18.02.15	10
X51293	GW	GW	TOWER REDUCTION - 14000131W0002	NA	NA	13.08.15	11
NA17935.01	VR	MR	AS BUILT - 30069071W0570SSNC - LTE2100 / LTE2600	KV	RV	28.09.18	12
NA17715.01	NK	SS	PRELIMINARY - XXXXXXXXXWXXXXSSNC - XXXXXXXX	LL	RB	13.03.20	13

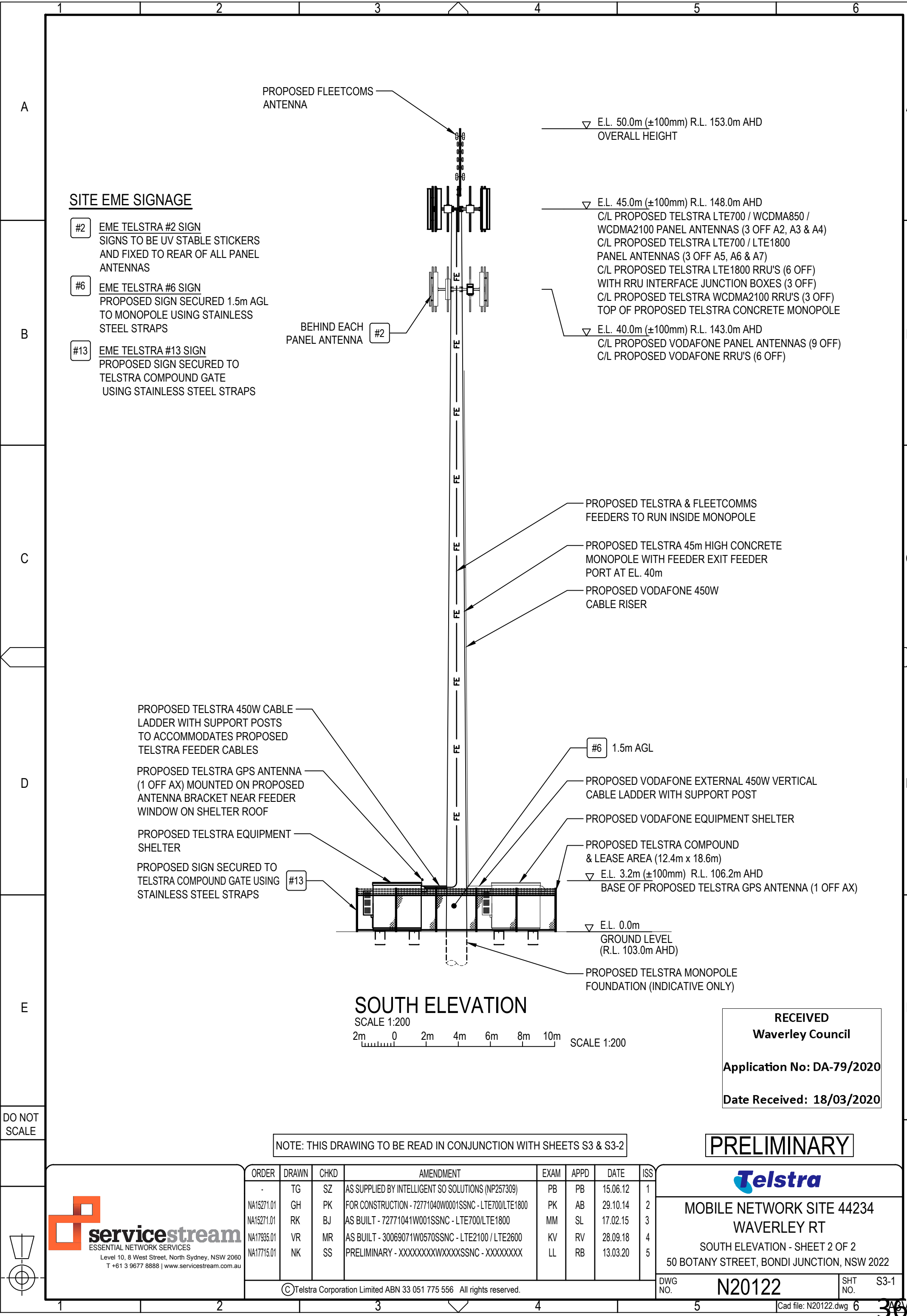
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MOBILE NETWORK SITE 44234  
WAVERLEY RT  
SOUTH ELEVATION - SHEET 1 OF 2  
50 BOTANY STREET, BONDI JUNCTION, NSW 2022

DWG NO. N20122 SHT NO. S3

Cad file: N20122.dwg 6



SITE EME SIGNAGE

- #2 EME TELSTRA #2 SIGN  
SIGNS TO BE UV STABLE STICKERS  
AND FIXED TO REAR OF ALL PANEL  
ANTENNAS
- #6 EME TELSTRA #6 SIGN  
PROPOSED SIGN SECURED 1.5m AGL  
TO MONOPOLE USING STAINLESS  
STEEL STRAPS
- #13 EME TELSTRA #13 SIGN  
PROPOSED SIGN SECURED TO  
TELSTRA COMPOUND GATE  
USING STAINLESS STEEL STRAPS

BEHIND EACH  
PANEL ANTENNA

E.L. 50.0m (±100mm) R.L. 153.0m AHD  
OVERALL HEIGHT

E.L. 45.0m (±100mm) R.L. 148.0m AHD  
C/L PROPOSED TELSTRA LTE700 / WCDMA850 /  
WCDMA2100 PANEL ANTENNAS (3 OFF A2, A3 & A4)  
C/L PROPOSED TELSTRA LTE700 / LTE1800  
PANEL ANTENNAS (3 OFF A5, A6 & A7)  
C/L PROPOSED TELSTRA LTE1800 RRU'S (6 OFF)  
WITH RRU INTERFACE JUNCTION BOXES (3 OFF)  
C/L PROPOSED TELSTRA WCDMA2100 RRU'S (3 OFF)  
TOP OF PROPOSED TELSTRA CONCRETE MONOPOLE

E.L. 40.0m (±100mm) R.L. 143.0m AHD  
C/L PROPOSED VODAFONE PANEL ANTENNAS (9 OFF)  
C/L PROPOSED VODAFONE RRU'S (6 OFF)

PROPOSED TELSTRA & FLEETCOMMS  
FEEDERS TO RUN INSIDE MONOPOLE

PROPOSED TELSTRA 45m HIGH CONCRETE  
MONOPOLE WITH FEEDER EXIT FEEDER  
PORT AT EL. 40m

PROPOSED VODAFONE 450W  
CABLE RISER

PROPOSED TELSTRA 450W CABLE  
LADDER WITH SUPPORT POSTS  
TO ACCOMMODATES PROPOSED  
TELSTRA FEEDER CABLES

PROPOSED TELSTRA GPS ANTENNA  
(1 OFF AX) MOUNTED ON PROPOSED  
ANTENNA BRACKET NEAR FEEDER  
WINDOW ON SHELTER ROOF

PROPOSED TELSTRA EQUIPMENT  
SHELTER

PROPOSED SIGN SECURED TO  
TELSTRA COMPOUND GATE USING  
STAINLESS STEEL STRAPS

#6 1.5m AGL

PROPOSED VODAFONE EXTERNAL 450W VERTICAL  
CABLE LADDER WITH SUPPORT POST

PROPOSED VODAFONE EQUIPMENT SHELTER

PROPOSED TELSTRA COMPOUND  
& LEASE AREA (12.4m x 18.6m)

E.L. 3.2m (±100mm) R.L. 106.2m AHD  
BASE OF PROPOSED TELSTRA GPS ANTENNA (1 OFF AX)

E.L. 0.0m  
GROUND LEVEL  
(R.L. 103.0m AHD)

PROPOSED TELSTRA MONOPOLE  
FOUNDATION (INDICATIVE ONLY)

SOUTH ELEVATION

SCALE 1:200

2m 0 2m 4m 6m 8m 10m SCALE 1:200

RECEIVED  
Waverley Council

Application No: DA-79/2020

Date Received: 18/03/2020

PRELIMINARY



MOBILE NETWORK SITE 44234

WAVERLEY RT

SOUTH ELEVATION - SHEET 2 OF 2  
50 BOTANY STREET, BONDI JUNCTION, NSW 2022

DWG  
NO.

N20122

SHT  
NO.

S3-1

Cad file: N20122.dwg 6

DO NOT  
SCALE

NOTE: THIS DRAWING TO BE READ IN CONJUNCTION WITH SHEETS S3 & S3-2



ORDER	DRAWN	CHKD	AMENDMENT	EXAM	APPD	DATE	ISS
-	TG	SZ	AS SUPPLIED BY INTELLIGENT SO SOLUTIONS (NP257309)	PB	PB	15.06.12	1
NA15271.01	GH	PK	FOR CONSTRUCTION - 72771040W0001SSNC - LTE700/LTE1800	PK	AB	29.10.14	2
NA15271.01	RK	BJ	AS BUILT - 72771041W001SSNC - LTE700/LTE1800	MM	SL	17.02.15	3
NA17935.01	VR	MR	AS BUILT - 30069071W0570SSNC - LTE2100 / LTE2600	KV	RV	28.09.18	4
NA17715.01	NK	SS	PRELIMINARY - XXXXXXXXWXXXXSSNC - XXXXXXXX	LL	RB	13.03.20	5

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## TELSTRA MOBILES ANTENNA CONFIGURATION TABLE

ANTENNA No	ANTENNA TYPE & SIZE H x W x D	ANTENNA ACTION REQUIRED	ANTENNA HEIGHT C/L A.G.L.	PHYSICAL ANTENNA BEARING (°T)	SECTOR NO. & TECHNOLOGY
A2	ARGUS RVVPX310.11B-T2 PANEL 2533 x 350 x 208	INSTALL	45.0m	50°	S1:LTE700/WCDMA850 S1:LTE700/WCDMA850
					S1:WCDMA2100 S1:WCDMA2100
					S1:WCDMA2100 S1:WCDMA2100
A3	ARGUS RVVPX310.11B-T2 PANEL 2533 x 350 x 208	INSTALL	45.0m	170°	S2:LTE700/WCDMA850 S2:LTE700/WCDMA850
					S2:WCDMA2100 S2:WCDMA2100
					S2:WCDMA2100 S2:WCDMA2100
A4	ARGUS RVVPX310.11B-T2 PANEL 2533 x 350 x 208	INSTALL	45.0m	270°	S3:LTE700/WCDMA850 S3:LTE700/WCDMA850
					S3:WCDMA2100 S3:WCDMA2100
					S3:WCDMA2100 S3:WCDMA2100
A5	ARGUS RVVPX310.11B-T2 PANEL 2533 x 350 x 208	INSTALL	45.0m	50°	S1:LTE700 S1:LTE700
					S1:LTE1800 S1:LTE1800
					S1:LTE1800 S1:LTE1800
A6	ARGUS RVVPX310.11B-T2 PANEL 2533 x 350 x 208	INSTALL	45.0m	170°	S2:LTE700 S2:LTE700
					S2:LTE1800 S2:LTE1800
					S2:LTE1800 S2:LTE1800
A7	ARGUS RVVPX310.11B-T2 PANEL 2533 x 350 x 208	INSTALL	45.0m	270°	S3:LTE700 S3:LTE700
					S3:LTE1800 S3:LTE1800
					S3:LTE1800 S3:LTE1800
AX	ERICSSON GPS KRE 101 2082/1 OMNI Ø68 x 96	INSTALL	BASE OF GPS 3.2m	0°	-

## VODAFONE MOBILES ANTENNA CONFIGURATION TABLE

ANTENNA No	ANTENNA TYPE & SIZE H x W x D	ANTENNA ACTION REQUIRED	ANTENNA HEIGHT C/L A.G.L.	PHYSICAL ANTENNA BEARING (°T)	SECTOR NO. & TECHNOLOGY
A271	KATHREIN 732 689 PANEL 2574 x 258 x 103	INSTALL	40.0m	140°	S2: GSM900
A272	KATHREIN 742 215 PANEL 1302 x 162 x 76	INSTALL	40.0m	140°	S7: GSM1800
A273	KATHREIN 742 215 PANEL 1302 x 162 x 76	INSTALL	40.0m	260°	S8: GSM1800
A274	KATHREIN 732 689 PANEL 2574 x 258 x 103	INSTALL	40.0m	140°	S2: GSM900
A275	KATHREIN 742 215 PANEL 1302 x 162 x 76	INSTALL	40.0m	30°	S6: GSM1800
A276	KATHREIN 732 689 PANEL 2574 x 258 x 103	INSTALL	40.0m	30°	S1: GSM900
A277	KATHREIN 732 689 PANEL 2574 x 258 x 103	INSTALL	40.0m	30°	S1: GSM900
A278	KATHREIN 732 689 PANEL 2574 x 258 x 103	INSTALL	40.0m	260°	S3: GSM900
A279	KATHREIN 732 689 PANEL 2574 x 258 x 103	INSTALL	40.0m	260°	S3: GSM900

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Waverley Council

Application No: DA-79/2020

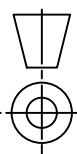
Date Received: 18/03/2020

NOTE: THIS DRAWING TO BE READ IN CONJUNCTION WITH SHEETS S3 &amp; S3-1

PRELIMINARY

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ORDER	DRAWN	CHKD	AMENDMENT	EXAM	APPD	DATE	ISS
NA17715.01	NK	SS	PRELIMINARY - XXXXXXXXWXXXXSSNC - XXXXXXXX	LL	RB	13.03.20	1
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MOBILE NETWORK SITE 44234  
WAVERLEY RTANTENNA CONFIGURATION TABLE  
50 BOTANY STREET, BONDI JUNCTION, NSW 2022DWG  
NO.

N20122

SHT  
NO.

S3-2

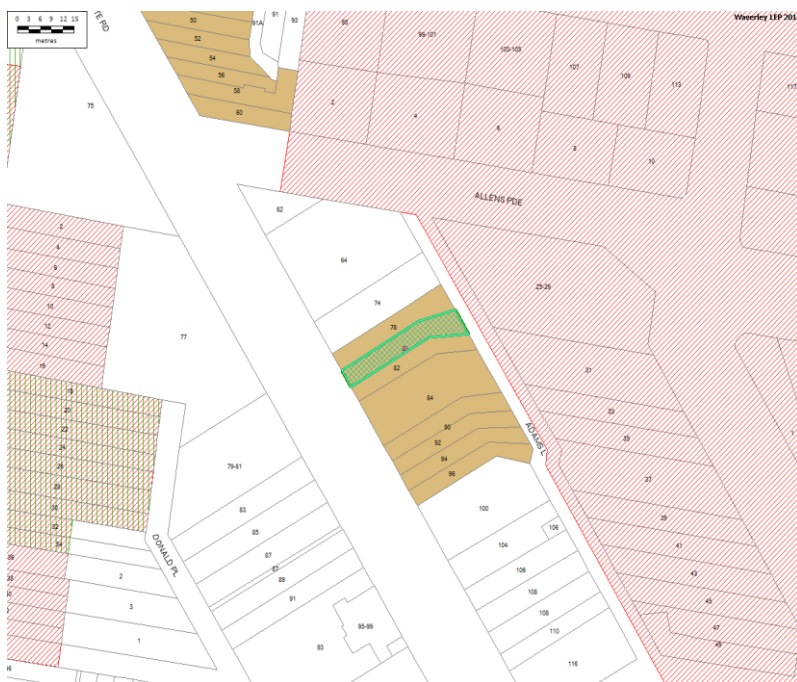
Cad file: N20122.dwg



## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-435/2016/A
<b>Site address</b>	80 Bronte Road, Bronte
<b>Proposal</b>	Modification to approved mixed use building, including internal reconfiguration, change the use of first floor from commercial to residential use and offer to enter into a Voluntary Planning Agreement
<b>Approved development description</b>	Significant alterations and additions to the existing building (retaining side party walls and front facade) to create a mixed use building of 4 storeys
<b>Date of lodgement</b>	19 December 2019
<b>Owner</b>	Patchy Custody Pty Limited
<b>Applicant</b>	Sgammotta Architects
<b>Submissions</b>	One (1)
<b>Cost of Works</b>	\$1,202,830
<b>Issues</b>	FSR non-compliance and Privacy
<b>Recommendation</b>	That the application be APPROVED

### Site Map (Heritage map identifying site as a heritage item)



## 1. PREAMBLE

### 1.1 Site and Surrounding Locality

A site visit was carried out on 12 February 2020.

The site is identified as Lot 2, in DP 82869, known as 80 Bronte Road, Bondi Junction. It is located on eastern side of the road in between Allens Parade and Porter Street.

The site is irregular in shape with a rectangular frontage to Bronte Road, but splays to the south west to join at the rear boundary with Adams Lane. The site is narrow, being 4.83m wide and approximately 25m deep. Overall the site has an area of 170.3m<sup>2</sup>.

The property is a heritage listed property within a row of shop top terraces extending from 78 to 96 Bronte Road. Their heritage significance relates to the intact facades of this row. Formerly existing on the site (prior to construction under this development consent commencing) was a two storey commercial terrace with a brick garage with vehicular access to Adams Lane at the rear of the site.

This part of Bronte Road is characterised by low density mixed use developments, with the eastern side of the road featuring existing two storey terrace style shops with residential accommodation above.



**Figure 1:** Subject construction site as viewed from Bronte Road frontage (primary frontage)





**Figure 2:** View of the site from Adams Lane at the rear

## 1.2 Details of Approved Development

DA-435/2016 - Significant alterations and additions to the existing building (retaining side party walls and front facade) to create a mixed-use building of 4 storeys was approved on 25 May 2017.

## 1.3 Proposal

The application has been lodged as a section 4.55 (2) application and provides for the following modifications to the approved development:

- **Ground Floor:** Alterations to the internal floor layout at the rear part of the building.
- **Level 1:** Conversion of the approved commercial office space on this floor to two (2) new studio apartments and creation of a central courtyard with common stairs leading to upper levels. The internal courtyard is similar to the approved development immediately adjoining the site to the north at no. 78 Bronte Road (DA 383/2012).
- **Level 2:** Alterations to the floor layout of the approved units, window changes.
- **Level 3:** Alterations to the floor layout of the approved units, window changes, removal of the internal staircases within units 3 and 4 leading from level 3 to roof terrace and instead access is proposed to these private roof terraces via the common central stairwell. New side common wall at level 3 on the north elevation.
- **Roof Level:** Alterations to private roof terrace layouts for the upper level units 3 & 4 including the enclosure of void areas and common staircase.

The proposed works will not alter the perceived building envelope, height or setbacks (except ground level at rear) of the approved 4 storey mixed use development when viewed from the front or rear streets. The envelope changes to the building form are primarily contained within the centre of the building (central stair, void, courtyard), as well as the southern side setback at level 3 / roof terrace levels.

The applicant has offered to enter into a Voluntary Planning Agreement (VPA), calculated in accordance with Council's Planning Agreement Policy.

## **2. ASSESSMENT**

The following matters are to be considered in the assessment of this modification application under sections 4.15 and 4.55 of the *Environmental Planning and Assessment Act 1979* (the Act).

### **2.1 Section 4.55 Considerations**

**Section 4.55 (2) applications** - the modification(s) if approved is/are substantially the same development as the original consent. Council has consulted any relevant Minister or Authority and notified the application and considered submissions as discussed further in the report.

#### **2.1.1 The Act**

VPAs are legal agreements between developers and planning authorities, such as councils or the Department of Planning and Environment. VPAs are permitted under Section 7.4 of the Act. The Act sets out clear guidelines that both the planning authority and developer have to follow when entering into a VPA.

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

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

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

An amended BASIX Certificate has been submitted with this modification application and forms part of the plan.

The BASIX Certificate lists measures to satisfy BASIX requirements which are to be incorporated into the proposal. A standard condition was incorporated in the original consent ensuring the measures detailed in the BASIX Certificate are implemented.

#### **2.2.2 SEPP 65 Design Quality of Residential Flat Development**

The proposal is classified as shop top housing which requires assessment against the provisions of SEPP 65.

It is to be noted that the original application was referred to the Waverley Design Excellence Panel in November 2016. The panel has examined the proposed development against the nine design principles under SEPP 65 and their comments are available on the original file.

The proposed minor works under this modification application are not considered to be substantial refurbishment of an existing shop top housing development and therefore the modified proposal does not need to return to the panel. It is considered that the proposed amended design satisfies the relevant aims, objectives and principles as contained within the SEPP 65 and ADG. The proposed minor works will not alter the building envelope, building height or setbacks of the approved four storey shop top housing development. The only external changes to the approved development are to the garage door and pedestrian doors

on the ground floor of the rear eastern elevation of the building, which fronts Adams Lane, and providing an additional wall to the northern elevation of the central courtyard of level 3.

The amended proposal is considered to achieve the necessary level of design excellence, subject to the recommended conditions as discussed in this report. The proposal will fit in comfortably with the neighbouring properties and remain compatible with the development immediately to the north at no.78 Bronte Road, Bondi Junction.

## Apartment Design Guide

SEPP 65 requires the proposed development to consider Parts 3 and 4 of the Apartment Design Guide (ADG). Further, 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. Waverley DCP 2012 contains provisions in relation to the above criteria and as such, these provisions of the DCP no longer have effect. An assessment against the provisions within the ADG is provided in Table 1.

**Table 1: Assessment against the Apartment Design Guide**

Design Criteria	Consistency	Planning Assessment
<b>Part 3 Siting the development</b>		
3A Site analysis	Yes	The application and proposed development have thoughtfully considered the site, local and wider context.
3B Orientation	Yes	The proposed development has been orientated and designed to relate the shape of the site, location of neighbouring buildings and public domain.
3C Public domain interface	Yes	The proposed development provides a successful interface with the public domain and will improve the character and quality of the streetscape.
3D Communal and public open space <ul style="list-style-type: none"> <li>Minimum communal open</li> </ul>	<b>No</b> (acceptable on merit)	Communal open space only applies to R3 and R4 zone. The proposed development includes communal open space in the form of a central courtyard, which is characteristic of the Bondi Junction B4 Mixed use zone.

Design Criteria	Consistency	Planning Assessment
space area of 25% of site area		
3E Deep soil zones <ul style="list-style-type: none"> <li>Minimum deep soil zone of 7% of site area</li> </ul>	<b>No</b> (acceptable on merit)	<p>Application of and consistency with the minimum quantum of deep soil zone design criterion is not practicable as the proposed development has a site coverage of 100%, which is conventional for mixed use developments in medium density localities such as the Bondi Junction Centre. Notwithstanding, soft landscaping is proposed principally within the central courtyard and roof top area and fulfils the objectives of the deep soil zones design criteria and guidance.</p> <p>Concerns are raised that a small planter along the southern boundary with minimal landscaping is proposed in the central courtyard on Level 1 for this modification application. A condition is recommended that, provision is to be made to increase the planter along the southern boundary to the entire area between the stair and the southern boundary (thereby approximately 1.4m in depth and 4.7m in length) in the central courtyard at level 1 to be soft landscaping for both aesthetic and privacy reasons. Furthermore, its recommended that provision for climber plants / green wall along the southern boundary wall of this courtyard be provided, to assist to increase landscaping on site.</p>
3F Visual privacy <ul style="list-style-type: none"> <li>Minimum separation distances for buildings over 25m (+9 storeys) of:               <ul style="list-style-type: none"> <li>12m for habitable rooms/balconies</li> <li>6m for non-habitable rooms.</li> </ul> </li> <li>No separation is required between blank walls</li> </ul>	N/A	<p>The proposal is 15m in height, thereby the minimum separation distances required for 25m high buildings is not applicable.</p> <p>The two new units at level 1 are separated by an internal courtyard, therefore there will be no shared walls. To address privacy between these new units, a condition is recommended that the new bedroom windows of unit 1 and 2 at level 1, which are facing the central courtyard and each other are to be provided with splayed/angled windows or angled louvres to prevent direct overlooking impacts. In addition to this, a condition is also recommended that provision made to increase the planter along the southern boundary to the entire area between the stair and the southern boundary (thereby approximately 1.4m in depth and 4.7m in length) in the central courtyard at level 1 to be soft landscaping for both aesthetic and privacy</p>

Design Criteria	Consistency	Planning Assessment
		reasons. The species and size should be appropriate to the environmental conditions and depth of the planters.
3G Pedestrian access and entries	Yes	All pedestrian access entries of the proposed development are connected to and address the public domain, are easily identifiable and provide a strong connection with the streetscape.
3H Vehicle access	Yes	The vehicular access point of the development is on the Adams Lane frontage, which is considered the secondary street frontage of the site and the accepted location for vehicular access for the site. It has been designed and located to maximise safety, minimise pedestrian conflicts, and provide an adequate presentation to Bronte Road.
3J Bicycle and car parking	No (acceptable on merit)	The approved development provides for one car space at the rear, which is satisfactory given the constraints of the site. The parking space is contained to the rear lane in accordance with the urban design controls. The Bondi Junction Centre is classified as a 'metropolitan regional (Central Business District) centre' as it provides high level of local employment as well as access to rail and bus services, the non-compliance in this case is therefore acceptable on merit.
<b>Part 4 Designing the building</b>		
<b>Amenity</b>		
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>	Yes	<p>All of the units receive at least 2 hours mid-winter.</p> <p>All units are dual aspect and as such all receive direct sunlight mid-winter.</p> <p>The proposal is consistent with the objectives of this part of the ADG ensuring that daylight access is satisfactory.</p> <p>The adjoining terraces to the south of the site do not rely on northern sunlight, therefore the proposal does not cause additional adverse impacts with regards to overshadowing.</p> <p>The additional new side boundary wall adds some visual bulk and subsequently additional shadows to the adjoining property at no. 78 Bronte Road, however this is not visible from the street and provides separation between the two buildings. The increase in shadows are not unreasonable.</p>



Design Criteria	Consistency	Planning Assessment
<b>4B Natural ventilation</b> <ul style="list-style-type: none"> <li>Minimum of 60% of apartments are naturally cross-ventilated in the first nine storeys of the buildings</li> </ul>	Yes	All apartments have dual aspects and are naturally cross ventilated. The depth of habitable rooms of apartments will support natural ventilation and windows and glazed door openings have been appropriately designed to suit the intended use of the rooms.
<b>4C Ceiling heights</b> <ul style="list-style-type: none"> <li>Ground and first floor levels in mixed use - 3.3m</li> <li>Habitable rooms – 2.7m</li> </ul>	Yes	<p>The proposed development incorporates the following ceiling heights (measured from finished floor level to finished ceiling level of the same floor level):</p> <ul style="list-style-type: none"> <li>Ground floor retail: 4.0m</li> <li>Residential apartments: 2.7m</li> </ul>
<b>4D Apartment size and layout</b> <ul style="list-style-type: none"> <li>Minimum internal area of: <ul style="list-style-type: none"> <li>50m<sup>2</sup> for one bedroom apartments</li> <li>70m<sup>2</sup> for two bedroom apartments</li> </ul> </li> </ul>	Yes	<p>Unit 1 (1 bedroom) – 67m<sup>2</sup>  Unit 2 (studio) – 40m<sup>2</sup>  Unit 3 (2 bedroom) – 86m<sup>2</sup>  Unit 4 (2 bedroom) – 76m<sup>2</sup></p> <p>All apartments comply with the minimum internal area specified in design criterion for one and two bedroom apartments. All apartments incorporate high quality internal design that will improve the residential amenity for future occupants without unreasonably impacting on the amenity of surrounding residential buildings and private open spaces.</p>
<b>4E Private open space and balconies</b> <ul style="list-style-type: none"> <li>All apartments provide primary balcony as follows: <ul style="list-style-type: none"> <li>One-bed – 8m<sup>2</sup> and 2m depth</li> <li>Two bed – 10m<sup>2</sup> and 2m depth</li> </ul> </li> </ul>	Yes	<p>All apartments are provided with private open space in the form of a balcony or terrace. Each private open space area is accessed from a living area of individual apartments and generally includes appropriate privacy treatment. Secondary private roof terraces are also provided for the upper floor apartments, which are accessed from the central staircase. The areas for each of the primary private open spaces of the apartments meet the minimum areas for one and two bedroom apartments. All private open space areas have a depth greater than 2m.</p> <p>An outdoor roof top terrace has been approved with a total of 80.5m<sup>2</sup> of landscaping, to be privately owned/used by units 3 and 4. The proposed modification includes a planter along the eastern boundary of the roof terrace in response to Condition 4 of the existing consent.</p>
<b>4F Common circulation and spaces</b>	Yes	A maximum of two apartments are served by each circulation core on a single level.

Design Criteria	Consistency	Planning Assessment
<ul style="list-style-type: none"> <li>Max of 8 units accessed off a circulation core on a single level</li> </ul>		
4G Storage <ul style="list-style-type: none"> <li>Minimum volume of storage for:               <ul style="list-style-type: none"> <li>One bed – 6m<sup>3</sup></li> <li>Two bed – 8m<sup>3</sup></li> </ul> </li> </ul>	Yes	This matter was addressed previously by condition of consent. The plans also identify there are area of the remaining volume of storage in the ground floor car park.
4H Acoustic privacy	Yes	Each apartment has been designed to protect the acoustic privacy of future occupants and acoustic privacy of surrounding buildings. The proposed development has adequately considered and addressed the design guidance requirements in Part 4H of the ADG.
4J Noise and pollution	Yes	The proposed development has appropriately designed individual apartments to minimise impacts from noise and pollution. It is not susceptible to adverse noise from busy roads.

### 2.2.3 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

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

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal accords with the aims of the LEP.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table B4 Mixed Use Zone	Yes	The proposal is defined as shop top housing, which is permitted with consent in the zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>15m</li> </ul>	Yes	The proposal is in accordance with the original consent.
4.4 Floor space ratio <ul style="list-style-type: none"> <li>Site = 170.3m<sup>2</sup></li> <li>Max 2:1 or 340.6m<sup>2</sup></li> </ul>	No (Acceptable on merit)	<p>The proposed FSR is 2.23:1 or GFA of 378.9m<sup>2</sup> (non-compliance of 38.38m<sup>2</sup> or 11.2% over).</p> <p>The original approval had an FSR of 1.99:1 or 339m<sup>2</sup>.</p> <p>The application is accompanied by an offer to enter into a planning agreement to vary the FSR development standard. A detailed</p>

Provision	Compliance	Comment
		discussion of the variation to the development standards is presented below this table.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	Yes	The site and the adjoining terraces from 78 to the north, down to 96 Bronte Road to the south are heritage listed, but only for their front façade significance. The façade of the subject property is proposed to be retained. See further discussions below under “Referrals” section 3 of the report.

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

### ***Floor Space Ratio***

An assessment under clause 4.6 of the Waverley LEP is not required for modification applications despite the development standard for FSR being breached in this case. The additional gross floor area proposed as part of this modification application is approximately 38.38m<sup>2</sup>. This results in a non-compliance with the FSR development standard by 11.2%. The proposed addition does not result in any unreasonable impacts on solar access or view loss and the massing is similar in context to the neighbouring building at no. 78 Bronte Road and other buildings in the locality. The proposed modification does result in minor and additional shadows being cast from the development over 82 Bronte Road, due largely to the increase in wall height to the courtyard. The FSR non-compliance is considered to be minor, does not result in unreasonable impacts and can be supported in this particular case.

To offset those impacts from the proposed bulk / floor area, the applicant proposed to enter into a Voluntary Planning Agreement calculated in accordance with the Planning Agreements Policy. The Policy allows for development 'up to 15%' above the maximum GFA permitted under Clause 4.4 of the WLEP' provided that the proposal is acceptable on planning grounds. The application proposes an additional 38.38m<sup>2</sup> of gross floor area, equating to 11.2% over the maximum FSR permitted for the site. This is in accordance with the limitations set in the Planning Agreement Policy.

The Policy provides a mechanism to address the public benefit offset of additional reasonable impacts from developments exceeding the controls. Proposals which have been granted approval with additional floor space have demonstrated that where there will be additional impacts, they were not considered 'devastating' (for example no view, or only partial view obstruction or reduced but reasonable solar access) and were accepted on the balance of public benefit offered by affordable housing or monetary contribution in accordance with the VPA policy.

The fundamental principle of the Policy is that any benefit that arises from an agreement to vary these development standards is shared between developer and the community and must be acceptable on environmental impact grounds. Having regard to the Policy, the additional calculable floor space has been contained within the 15m height limit, with limited additional impacts from a fully height compliant building. The reasonableness of impacts associated with the additional floor space has been weighted against the likely public interest

(i.e. public domain improvements in the area) and it has been concluded that the impacts in this case would be acceptable. This relates to the merits of this case only - the reasonableness of these impacts (extra FSR) would have a lesser weight in the absence of a clear public benefit.

Therefore, the proposal is considered with the objectives of the FSR development standards, satisfying the public interest considerations of the Act, maintaining the integrity of the development standard. It is considered that the proposal is not against the public interest as it complies with the limitations set in the Planning Agreement Policy and proffers a monetary contribution for public works within the area. If approval is granted, it is recommended that the Planning Agreement be accepted by the Council.

#### **2.2.4 Waverley Development Control Plan 2012 - Amendment No 7 (Waverley DCP 2012)**

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

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

Development Control	Compliance	Comment
1. Waste	Yes	The original application is accompanied by a SWRMP which complies with objectives relating to waste removal and management. See further discussions below under “Referrals” section 3 of the report.
2. Ecologically sustainable development	Yes	Given the scale of the development, the proposal is considered to adequately consider the design of the building in relation to ecologically sustainable development and achieves the objectives of Part B2.
6. Stormwater	Yes	Conditions were imposed on the original development consent to ensure that the proposed works comply with the collection of stormwater on site.
8. Transport	Yes	The application does not propose to alter the car parking arrangement. One car space was approved under the original application and this is considered satisfactory given the constraints of the site and the close proximity of the site near public transport. The parking space is contained to the rear lane in accordance with the urban design controls.
11. Public Art	<b>No</b> (Acceptable as approved originally)	The original application did not propose public art, which was considered acceptable as the DCP doesn’t mandate public art.

### **2.3 Other Impacts of the Development**

The proposed development is capable of complying with the BCA.

It is considered that the proposal will not have a significant detrimental effect relating to environmental, social or economic impacts on the locality.

## 2.4 Suitability of the Site for the Development

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

## 2.5 Any Submissions

The modification application was notified for 14 days, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. A site notice was not placed on the land.

One (1) submission was received. The issues raised in the submissions are summarised and discussed below.

**Table 5: Summary of property addresses that lodged a submission**

Property
Unit 5 / 78 Bronte St, Bondi Junction

### ***Issue: Privacy and security***

**Response:** Concerns are raised from the adjoining property unit owner regarding the privacy / overlooking impacts from the roof terraces. The roof terraces at nos. 78 (constructed) and 80 Bronte Road (under construction) are located adjoining each other (side by side) at level 4 with no physical barrier between them other than a low height, solid balustrade wall. It is recommended that a condition be imposed requiring a 1.6m (measured above finished floor level) high light weight privacy screen (or the like), be provided to the full length (approximately 26m) of the northern side of the proposed roof terrace (along boundary) in order to maintain the privacy of the adjoining property roof terrace at no. 78 Bronte Road, Bondi Junction. This will increase the overall height, however remains compliant with the LEP building height control of 15m.

## 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 – Shaping Waverley

The subject application was referred to Council’s Heritage Advisor who raised no objection to the proposal as there are no works proposed to the front (Bronte Road) street elevation. The proposed internal works will not impact on the heritage significance of the subject site.

### 3.2 Fire Safety & BCA – Shaping Waverley

The subject application was referred to Council’s fire safety officer who raised no objection to the proposed modification application and endorsed the previous recommended fire safety conditions imposed on the original development consent.

### 3.3 Waste – Sustainable Waverley

The subject application was referred to Council's waste / recycling officer who advised the following comments to the proposed modification application:

*The information provided in the Site Waste and Recycling Management Plan (SWRMP) is insufficient for the following reasons:*

- *The applicant has underestimated the number of bins and space required for the residential component of the development.*
- *No space has been provided for the storage of bulky items and problem waste, awaiting collection. In line with the Waverley Council Development Control Plan (DCP) Amendment No 6, a room or caged area with a minimum floor space of 4m<sup>2</sup> must be provided for the storage of discarded bulky items and problem waste, awaiting collection.*
- *The generation rates provided for the Commercial component of the development, as 'Retail' don't align with any of the detailed generation rates in the Waverley DCP, justification surrounding the number of bins specified and collection frequency is required.*

*The issues detailed above will need to be addressed by the applicant in the form of a revised SWRMP. It is recommended the applicant uses the updated template available on Council's website to undertake this revision - [https://www.waverley.nsw.gov.au/data/assets/pdf\\_file/0009/3600/SWRMP\\_Part\\_1\\_-\\_Design.pdf](https://www.waverley.nsw.gov.au/data/assets/pdf_file/0009/3600/SWRMP_Part_1_-_Design.pdf).*

A condition is recommended to be imposed requiring an amended Site Waste and Recycling Management Plan (SWRMP) to reflect the development changes under Section 4.55 Modification Application of DA435/2016/A for the site. A check of the submitted modification plans revealed that there is space available at ground level in order to incorporate additional waste storage / bins for residential component (if required by SWRMP).

### 3.4 Strategic Planning

An internal referral was sought from Council's Strategic Planning Department, as this is the department within Council that negotiates and deals with VPAs. The Development Assessment Division of Council do not partake in VPA negotiations, to ensure transparency and reduce any perceived conflicts of interest.

The following comments were received by Council's Strategic Planning Department:-

*The proposal seeks 38.38m<sup>2</sup> of additional GFA, or 11.2% over the FSR control of 2:1. Having regard to the Planning Agreement Policy, the benchmark for this location is \$3,900/sq.m, equating to \$149,682.*

*Recommended condition attached. [Refer to condition 1B].*

#### 4. SUMMARY

The proposal seeks consent to modify the approval for the mixed-use building, including internal and external modification and change of use of the first floor commercial area to two new residential studio units. The application exceeds the FSR development standard and an offer to enter into a voluntary planning agreement in accordance with the planning agreement policy has been received by the applicant / owner.

One submission was received during notification in regard to privacy. The privacy issue raised does not warrant a refusal of the application and is to be addressed by a condition.

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

#### 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING

That the Section 4.55 Modification Application is **APPROVED** by the Waverley Local Planning Panel subject to modified conditions in Appendix A and a full set of conditions in Appendix B:

**Report prepared by:**



Idaly Yap  
**Senior Development Assessment  
Planner**

**Application determined by:**



Angela Rossi  
**Manager, Development Assessment  
(Central)**

**(Reviewed and agreed on behalf of the  
Development and Building Unit)**

**Date: 3/06/2020**

**Date: 12/06/2020**

**Reason for referral:**

4(f) Development for which the applicant has offered to enter into a voluntary planning agreement (VPA)

## APPENDIX A – CONDITIONS OF CONSENT TO BE MODIFIED

### A. Amended / Added Conditions

#### 1. APPROVED DEVELOPMENT

The development must be in accordance with:

- (a) Architectural Plan Nos DA001, DA100, DA200, Revision B, dated 29 March 2017 prepared by Sgammotta Architects dated and received by Council on date 31 March 2016,
  - (i) ***As amended by Architectural Plan Nos DA-100, DA-200, DA-300, dated 16/12/2019 prepared by Sgammotta Architects received by Council on 19 December 2019***
- (b) BASIX Certificate
- (c) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.
- (d) Demolition Plan DA003, Revision A, dated 24 October 2016 prepared by Sgammotta Architects and received by Council on date 7 November 2016.

Except where amended by the following conditions of consent.

***(AMENDED DA-435/2016/A)***

#### 2. GENERAL MODIFICATIONS

The proposal shall be amended as follows:

- (a) The balustrade to the balcony of level 3 at the rear of the site is to be translucently glazed to prevent overlooking to the adjoining properties to the rear.
- (b) The glass balustrade to the front openings on the level 1 Bronte Street façade is to be constructed in a manner so that only glass is visible through the openings from the street, with concealed fixtures ('posts', 'brackets' or the like) being below the opening's sill. The balustrade is to be finished without a top rail in order to reduce its visibility.
- (c) ***The new bedroom windows of unit 1 and 2 at level 1, which are facing the central courtyard and each other are to be provided with privacy treatment measures (such as splayed / angled windows or angled louvres) that minimise overlooking.***
- (d) ***Privacy screening to a height of 1.6m measured above finished floor level is to be provided to the full length (approximately 26m) of the northern boundary of the roof terraces to minimise privacy impacts to adjoining properties.***

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



**(AMENDED DA-435/2016/A)**

**4. LANDSCAPE PLAN**

- (a)** A Landscape Plan is to be submitted to the satisfaction of Council prior to the issue of a Construction Certificate work any works which includes a planter along the eastern boundary of the roof terrace to unit 2 to prevent overlooking to the properties at the rear of the site.
- (b)** The landscaping plan is also to include details of other soft landscaping required to be provided for both roof terraces, given this is the private open space for each unit. The species and size should be appropriate to the environmental conditions and depth of the planters. A Planting List for the local government area is included in Annexure B2-1 of Part B of Waverley Development Control Plan 2012.
- (c) *An amended landscape plan to reflect the approved scheme under Section 4.55 Modification Application DA-435/2016/A for the site is to be submitted for the approval of the Principal Certifying Authority prior to the issue of the relevant Construction Certificate. The amended plan is to provide details including, though not limited to:***
- i. The central courtyard at level 1 shall be amended to be wholly landscaped, that is the area between stairs and southern boundary (thereby approximately 1.4m in depth and 4.7m in length). In this regard, the landscape plan shall provide details of plant species capable to be grown in these conditions. Soil depth of minimum 300mm shall be provided to the entire courtyard area.***
  - ii. Inclusion of climber plants and/or green wall along the southern boundary of the level 1 central courtyard.***
  - iii. The species and size should be appropriate to the environmental conditions and depth of the planters.***
  - iv. The level 1 courtyard shall be non trafficable and accessed for maintenance purposes only.***
  - v. Irrigation systems.***

**(AMENDED DA-435/2016/A)**

**29. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

- ~~**(a)** 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.~~
- (a) *An amended Site Waste and Recycling Management Plan (SWRMP) to reflect the development changes under Section 4.55 Modification Application of DA-435/2016/A for the site is to be submitted and approved***

*by Council's Waste Officer, prior to the issue of the relevant Construction Certificate.*

**Note:**

*The information provided in the Site Waste and Recycling Management Plan (SWRMP) submitted with application DA-435/2016/A is insufficient for the following reasons:*

- *The applicant has underestimated the number of bins and space required for the residential component of the development.*
- *No space has been provided for the storage of bulky items and problem waste, awaiting collection. In line with the Waverley Council Development Control Plan (DCP) Amendment No 6, a room or caged area with a minimum floor space of 4m<sup>2</sup> must be provided for the storage of discarded bulky items and problem waste, awaiting collection.*
- *The generation rates provided for the Commercial component of the development, as 'Retail' don't align with any of the detailed generation rates in the Waverley DCP, justification surrounding the number of bins specified and collection frequency is required.*

*The issues detailed above will need to be addressed by the applicant in the form of a revised SWRMP. It is recommended the applicant uses the updated template available on Council's website to undertake this revision*

*- [https://www.waverley.nsw.gov.au/data/assets/pdf\\_file/0009/3600/SWRMP\\_Part\\_1\\_-\\_Design.pdf](https://www.waverley.nsw.gov.au/data/assets/pdf_file/0009/3600/SWRMP_Part_1_-_Design.pdf).*

- (b)** 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 DA-435/2016/A)**

**B. New conditions**

**1B. PLANNING AGREEMENT**

- a) The owner/ applicant to:
- (i) Enter into an Agreement in accordance with Waverley's Planning Agreement Policy 2014 prior to the issue of any Construction Certificate for the development that relates to works contained in development application DA-435/2016/A; and,
  - (ii) Pay a monetary contribution amount of \$149,682 prior to the issue of any Occupation Certificate for the Development.

- (iii) A Planning Agreement will be entered into under Section 7.4 of the *Environment Planning and Assessment Act 1979* between the owner of the land the subject of the Development, the applicant and Council.
- b) In accordance with the said offer, the Planning Agreement shall make provision in respect to the following:
  - (i) The Planning Agreement shall be registered upon the title to the land the subject of the Development prior to the issue of any Construction Certificate for the Development that relates to works contained in development application DA-435/2016/A; and,
  - (ii) The owner/ applicant shall provide Council with a Bank Guarantee to secure the payment of the Monetary Contribution prior to the issue of any Construction Certificate for the Development that relates to works contained in development application DA-435/2016/A which is:
    - I. In a form acceptable to Council and from an institution acceptable to Council,
    - II. Irrevocable,
    - III. Unconditional,
    - IV. With no end date.
- c) The payment of the Monetary Contribution to Council is to be made prior to the issue of any Occupation Certificate for the development and is to be applied towards a public purpose in accordance with the Agreement and Council's Planning Agreement Policy 2014.

***(ADDED DA-435/2016/A)***

## **APPENDIX B – FULL SET OF CONDITIONS**

### **A. APPROVED DEVELOPMENT**

#### **1. APPROVED DEVELOPMENT**

The development must be in accordance with:

- (a) Architectural Plan Nos DA001, DA100, DA200, Revision B, dated 29 March 2017 prepared by Sgammotta Architects dated and received by Council on date 31 March 2016,
  - (i) As amended by Architectural Plan Nos DA-100, DA-200, DA-300, dated 16/12/2019 prepared by Sgammotta Architects received by Council on 19 December 2019
- (b) BASIX Certificate
- (c) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.
- (d) Demolition Plan DA003, Revision A, dated 24 October 2016 prepared by Sgammotta Architects and received by Council on date 7 November 2016.

Except where amended by the following conditions of consent.

**(AMENDED DA-435/2016/A)**

#### **1B. PLANNING AGREEMENT**

- a) The owner/ applicant to:
  - (i) Enter into an Agreement in accordance with Waverley's Planning Agreement Policy 2014 prior to the issue of any Construction Certificate for the development that relates to works contained in development application DA-435/2016/A; and,
  - (ii) Pay a monetary contribution amount of \$149,682 prior to the issue of any Occupation Certificate for the Development.
  - (iii) A Planning Agreement will be entered into under Section 7.4 of the *Environment Planning and Assessment Act 1979* between the owner of the land the subject of the Development, the applicant and Council.
- b) In accordance with the said offer, the Planning Agreement shall make provision in respect to the following:
  - (i) The Planning Agreement shall be registered upon the title to the land the subject of the Development prior to the issue of any Construction Certificate for the Development that relates to works contained in development application DA-435/2016/A; and,

- (ii) The owner/ applicant shall provide Council with a Bank Guarantee to secure the payment of the Monetary Contribution prior to the issue of any Construction Certificate for the Development that relates to works contained in development application DA-435/2016/A which is:
  - V. In a form acceptable to Council and from an institution acceptable to Council,
  - VI. Irrevocable,
  - VII. Unconditional,
  - VIII. With no end date.
- c) The payment of the Monetary Contribution to Council is to be made prior to the issue of any Occupation Certificate for the development and is to be applied towards a public purpose in accordance with the Agreement and Council's Planning Agreement Policy 2014.

***(ADDED DA-435/2016/A)***

## **2. GENERAL MODIFICATIONS**

The proposal shall be amended as follows:

- (a) The balustrade to the balcony of level 3 at the rear of the site is to be translucently glazed to prevent overlooking to the adjoining properties to the rear.
- (b) The glass balustrade to the front openings on the level 1 Bronte Street façade is to be constructed in a manner so that only glass is visible through the openings from the street, with concealed fixtures ('posts', 'brackets' or the like) being below the opening's sill. The balustrade is to be finished without a top rail in order to reduce its visibility.
- (c) The new bedroom windows of unit 1 and 2 at level 1, which are facing the central courtyard and each other are to be provided with privacy treatment measures (such as splayed / angled windows or angled louvres) that minimise overlooking.
- (d) Privacy screening to a height of 1.6m measured above finished floor level is to be provided to the full length (approximately 26m) of the northern boundary of the roof terraces to minimise privacy impacts to adjoining properties.

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

***(AMENDED DA-435/2016/A)***

## **3. HERITAGE FAÇADE TO BE RETAINED**

The façade of the existing building facing Bronte Road is Heritage Listed under Schedule 5 of the Waverley Local Environmental Plan 2012 and must be retained during construction and restored as a part of the construction works associated with this development application. Specific structural engineering advice is to be sought prior to any demolition works occurring to ensure that the appropriate mechanisms are in place to guarantee the stability of the façade during demolition and construction of the new components of the building.

#### **4. LANDSCAPE PLAN**

- (a) A Landscape Plan is to be submitted to the satisfaction of Council prior to the issue of a Construction Certificate work any works which includes a planter along the eastern boundary of the roof terrace to unit 2 to prevent overlooking to the properties at the rear of the site.
- (b) The landscaping plan is also to include details of other soft landscaping required to be provided for both roof terraces, given this is the private open space for each unit. The species and size should be appropriate to the environmental conditions and depth of the planters. A Planting List for the local government area is included in Annexure B2-1 of Part B of Waverley Development Control Plan 2012.
- (c) An amended landscape plan to reflect the approved scheme under Section 4.55 Modification Application DA-435/2016/A for the site is to be submitted for the approval of the Principal Certifying Authority prior to the issue of the relevant Construction Certificate. The amended plan is to provide details including, though not limited to:
  - i. The central courtyard at level 1 shall be amended to be wholly landscaped, that is the area between stairs and southern boundary (thereby approximately 1.4m in depth and 4.7m in length). In this regard, the landscape plan shall provide details of plant species capable to be grown in these conditions. Soil depth of minimum 300mm shall be provided to the entire courtyard area.
  - ii. Inclusion of climber plants and/or green wall along the southern boundary of the level 1 central courtyard.
  - iii. The species and size should be appropriate to the environmental conditions and depth of the planters.
  - iv. The level 1 courtyard shall be non trafficable and accessed for maintenance purposes only.
  - v. Irrigation systems.

***(AMENDED DA-435/2016/A)***

#### **5. LANDSCAPED SLABS**

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

#### **6. MATERIALS AND FINISHES FOR HERITAGE BUILDINGS**

The external finishes provided with the DA are unsatisfactory and are to be reconsidered. A colour scheme based upon original colours identified by site investigation is to be provided with colours emphasising remaining detailing and not attempting to neutralise the remaining façade. The amended colour scheme is to be provided to Council for the approval of Council's Heritage Architect prior to the issue of a Construction Certificate.

#### **7. APPROVED DESIGN – MIXED USE BUILDING**

The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building, without the approval of Council.

## **8. HERITAGE ARCHITECT**

The applicant is to commission an experienced conservation architect to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The conservation architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The conservation architect is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

The applicant is to commission experienced trades persons (as appropriate) that are skilled in traditional building and engineering trades to carry out the proposed scope of works.

## **9. DOMESTIC HEATERS**

The provision of solid fuel heating/cooking appliances is prohibited.

## **10. ROLLER SHUTTERS**

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

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

## **11. SEPARATE APPLICATION FOR SIGNAGE AND FITOUT**

No signage or fitout of the retail area has been proposed in this application, therefore these elements require the separate approval from Council.

## **12. SIGNAGE**

The following shall apply to any future signage for the site;

- (a) The use of flashing lights, flashing illuminated signs and the like is prohibited.
- (b) No advertising signs or notices are to be affixed to the windows of the premises.
- (a) 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.
- (b) Signage is to be erected/supported in a secure manner for safety purposes;
- (c) Signage, must not be installed in a manner which would cause irreversible damage to the building; and,
- (d) Shall be a minimum of 2.6m above the footpath level and be offset a minimum of 600mm behind the kerb.

## **13. HOURS OF OPERATION FOR COMMERCIAL USES AT GROUND AND FIRST FLOOR**

The hours of operation for the commercial uses at ground and first floor of the building are restricted to:

Monday to Saturday: 7am to 11pm

Sunday: 7am to 10pm

#### **14. NOISE MANAGEMENT PLAN - CONSTRUCTION SITES**

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

- (a) Identification of nearby residents and other sensitive locations near to the site;
- (b) Description of hours of work and what work will be undertaken
- (c) Description of what work practices will be applied to minimise noise
- (d) Mitigation measures to control noise from the site, the noise reduction likely and the feasibility and reasonableness of these measures;
- (e) Selection criteria for plant and equipment;
- (f) Community consultation;
- (g) Details of work schedules for all construction phases;
- (h) Selection of traffic routes to minimise residential noise intrusion;
- (i) Schedule of plant and equipment use and maintenance programs;
- (j) Noise monitoring techniques and method of reporting results;
- (k) The methodology to be employed for handling and investigating any complaints should they arise, including documentation and feedback mechanisms;
- (l) Identification of a site contact person to follow up on complaints and site signage erected to advise of persons name and contact details.
- (m) Site induction details for employees and contractors, and;
- (n) A declaration of available technologies and the reason for the selection of the preferred technology from a noise generating perspective should be included.

#### **15. INSTALLATION OF AIR CONDITIONING**

Air conditioning units installed within the building shall:

- (a) Not be located on any balcony of the development.



- (b) Be located either within the building or on the roof terrace, and if visible, be suitably screened.
- (c) Not reduce the structural integrity of the building.
- (d) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):

before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or  
before 7.00am and after 10.00pm on any other day.

- (e) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (d).

## **16. 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.

## **B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### **17. SECTION 94A CONTRIBUTION**

A cash contribution is payable to Waverley Council pursuant to section 94A 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 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 96 modification result in any change to the total cost of the work, the Section 94A 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.

### **18. SECURITY DEPOSIT**

A deposit or guarantee satisfactory to Council for the amount of \$ 25, 000 must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

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

### **19. 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.

## **20. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

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

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with Section 81A(2) of the Environmental Planning & Assessment Act, 1979; and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with Section 81(A)(2)(b) of the Environmental Planning & Assessment Act, 1979 and Form 7 of Schedule 1 of the Regulations; and
- (c) Council is given at least two days Notice in writing of the intention to commence the building works.

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

## **21. 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.

## **22. SERVICE AUTHORITIES**

The applicant is to seek approval from the relevant, gas, electricity and telecommunications authorities regarding any possible modification to the service authorities' infrastructure prior to the issue of a Construction Certificate.

## **23. PROVISION FOR SHAFT FOR FUTURE FOOD PREMISES**

Adequate provision shall be made for the installation of a mechanical exhaust system for future premises where food is prepared. This includes the provision of a shaft that complies with the Building Code of Australia, to the roof for the ductwork and the flue of the system.

## **24. WAVERLEY DIGITAL MODEL**

Prior to the issue of an Occupation Certificate an accurate 'as built' digital model of the building must be submitted to Council's Planning and Environmental Services Department for use in the Waverley Digital Model.

- (a) A digital model of the building must be generated at a scale of 1:1 with units of measurement in metres and include the following:
- (i) a building envelope which includes all elements affecting shadow analysis;
  - (ii) accurate placement of glazing, balconies, roof pitches, terraces, roof services and any other prominent external design features;
  - (iii) a ground level terrain showing accurate RLs extending to site boundaries.
- (b) All models must be generated in accordance with Council's Guidelines: Submitting Digital 3D Models. Further information and technical requirements can be obtained from Council's E-Planning (3D Modelling) Officer, Planning and Environmental Services Department.

Notes:

- This model will update previous version/s submitted at Development Application stage.
- Any future modifications (under Section 96 of the Environmental Planning and Assessment Act) that affect the external configuration of the building (from the ground level and up), will require the submitted model to be amended.

## **25. PUBLIC ART**

Public Art shall be incorporated into the new development. Specific details and design of the proposed public art feature shall comply with 'Public Art in the Private Domain Guidelines' which can be viewed on Council's website and by liaising with Council's Cultural Development Officer.

Details to be provided to the satisfaction of Waverley Council prior to the issue of the relevant Construction Certificate for the development.

Note – There is an opportunity for the large expanse of wall on the southern boundary to be integrated as public art, until such time as it may be covered by future development at 82 Bronte Road.

## **26. HOARDING REQUIRED**

A standard B-Class hoarding designed and constructed in accordance with the requirements of the Work Cover Authority being erected on the street alignments of the property, prior to the commencement of building operations, and such hoardings to be maintained during the course of building operations. Details of the hoarding are to be provided to Council prior to issue of the Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

## **27. STRUCTURAL DETAILS OF CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer detailing the proposed methods of 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 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. All structural components of the development are to be managed by the Consulting Engineer.

## **28. UNDERGROUND ANCHORS**

Any underground anchors required for structural support into adjoining properties would require appropriate owners consent from all affected parties. Subsequently, evidence of the registration of easement is required for the anchors proposed to support the basement retaining wall prior to the issue of a Construction Certificate is required.

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

(a) An amended Site Waste and Recycling Management Plan (SWRMP) to reflect the development changes under Section 4.55 Modification Application of DA-435/2016/A for the site is to be submitted and approved by Council's Waste Officer, prior to the issue of the relevant Construction Certificate.

Note:

The information provided in the Site Waste and Recycling Management Plan (SWRMP) submitted with application DA-435/2016/A is insufficient for the following reasons:

- The applicant has underestimated the number of bins and space required for the residential component of the development.
- No space has been provided for the storage of bulky items and problem waste, awaiting collection. In line with the Waverley Council Development Control Plan (DCP) Amendment No 6, a room or caged area with a minimum floor space of 4m<sup>2</sup> must be provided for the storage of discarded bulky items and problem waste, awaiting collection.
- The generation rates provided for the Commercial component of the development, as 'Retail' don't align with any of the detailed generation rates in the Waverley DCP, justification surrounding the number of bins specified and collection frequency is required.

The issues detailed above will need to be addressed by the applicant in the form of a revised SWRMP. It is recommended the applicant uses the updated template available on Council's website to undertake this revision –

[https://www.waverley.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0009/3600/SWRMP\\_Part\\_1\\_-\\_Design.pdf](https://www.waverley.nsw.gov.au/__data/assets/pdf_file/0009/3600/SWRMP_Part_1_-_Design.pdf).

(b) 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 DA-435/2016/A)**

### **30. EROSION, SEDIMENT AND POLLUTION CONTROL**

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

### **31. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT**

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

The CVPPM shall provide details of the following:

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

- Any obstructions such as street furniture, trees and bollards etc., that may interfere with the safe passage of pedestrians
- The type(s) of material on which pedestrians will be required to walk
- The width of the pathway on the route
- The location and type of proposed hoardings
- The location of existing street lighting

### **32. 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.

### **33. ENGINEERING DETAILS**

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

### **34. ENGINEERING DETAILS - CERTIFICATE OF ADEQUACY**

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

### **35. EXISTING PARTY WALL IS TO BE EXTENDED**

The existing separating wall is to be extended to the underside of the roof in accordance with the requirements of the National Construction Code. The plans are to be notated accordingly prior to the issue of the Construction Certificate to the satisfaction of the Principal Certifying Authority.

All work to the separating wall must be contained within the boundaries of the subject site only.

However, in the case of an agreement between neighbours for work affecting both sides of a separating wall, written consent of all owners of all properties upon which work will take place must be obtained. The consent must clearly stipulate if approval is granted for works to the separating wall OR if approval is granted for vertical or lateral support use of the separating wall. It is the responsibility of the applicant to determine the relevance of any cross easements affecting the separating wall.

Where it is not possible to obtain the adjoining owners' consent, it must then be demonstrated that the works are to be supported independently of the separating wall and do not rely on the separating wall for lateral or vertical support. Detailed plans must be accompanied by a certificate from a qualified and practising Structural Engineer. It is not sufficient for a Structural Engineer to state that the works will impose no additional load on the separating wall.

These details are to be supplied to the Principal Certifying Authority prior to the issue of a Construction Certificate.

Separating wall consent does not prevent you and your neighbour entering into any private agreement. For example, to make good any damage from the works. This is a civil matter between neighbours.

### **36. BASIX**

The undertakings provided in the BASIX Certificate shall be provided for in the Construction Certificate plans and documentation prior to the issue of the Construction Certificate. If required, a modified BASIX Certificate shall be provided that reflects the development as approved (eg addressing any modification required via conditions of consent). Any significant works (ie any works not able to be considered as Exempt and Complying Development) that result from changes to the BASIX Certificate or conflict with conditions of consent require Council's consent.

The Principal Certifying Authority shall be responsible for ensuring that all the undertakings are satisfied prior to the issue of an Occupation Certificate.

The above condition is a prescribed condition under the Environmental Planning and Assessment Act Regulations clause 97A and the above BASIX commitments are mandatory and can not be modified under Section 96 of the *Environmental Planning and Assessment Act 1979*.

### **37. FIRE SAFETY UPGRADING WORKS**

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

- (i) Fire resistance and stability – Part C1;
  - (ii) Compartmentation and separation – Part C2;
  - (iii) Protection of openings – Part C3
  - (iv) Provision for escape – Part D1;
  - (v) Construction of exits – Part D2;
  - (vi) Access for people with a disability – Part D3;
  - (vii) Fire fighting equipment – Part E1;
  - (viii) Smoke hazard management – Part E2;
  - (ix) Lift installations – Part E3;
  - (x) Emergency lighting, exit signs and warning systems – Part E4;
  - (xi) Sanitary and other facilities – Part F2;
  - (xii) Room heights – Part F3;
  - (xiii) Light and ventilation – Part F4; and
  - (xiv) Sound transmission and insulation - Part F5.
- (a) 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.
- (b) 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.

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

### **38. WASTE AND RECYCLING STORAGE**

- (a) The proposal must have a bin storage point for a minimum;
  - **Residential**
    - 1 x 240L Mobile Garbage Bin (MGB) for general waste,
    - 1 x 240L MGBs for container recyclables
    - 1 x 240L MGB for paper and cardboard recyclables
  - **Commercial**
    - 1 x 240L MGB for general waste,
    - 1 x 240L MGBs for comingled recycling
    - Space will need to be available to accommodate the additional waste and recycling needs of commercial premises such as milk/bread crates.
- (b) All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 of Waverley Council Development Control Plan 2012.
- (c) The development must ensure that the residential units store unwanted or discarded residential bulky waste, such as old furniture, awaiting Council pick up (unless the development includes a bulky waste storage room for this purpose).
- (d) Sufficient space must be allocated on-site for the storage of commercial reusable items such as crates and pallets.
- (e) Composting facilities which meet all design requirements set in Annexure B1-5 of the Waverley Council Development Control Plan must be provided at this development.

The above matters are to be shown in the Construction Certificate drawings and submitted to the satisfaction of Council's Sustainable Waverley staff prior to the issue of a Construction Certificate.

### **39. REFRIGERATION UNITS & MECHANICAL PLANT**

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

### **40. LOCATION OF GREASE TRAP**

The grease trap is not to be located in areas where food, equipment or packaging materials are handled or stored in accordance with the requirements of AS 4674-2004 "Design, Construction and Fitout of

food premises". The grease trap room must have a piped connection to the boundary so that it can be emptied. The location of the grease trap is to be considered and included in the construction certificate drawings for the development.

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

#### **41. STORAGE**

The plans to be submitted to the Principal Certifying Authority with the plans for the Construction Certificate are to demonstrate that each 2 bedroom unit has at least 8m<sup>3</sup> of storage.

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

### **42. 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.

### **43. 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.

### **44. CONSTRUCTION SIGNS**

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

### **45. 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.

### **46. OBSTRUCTION TO PUBLIC AREAS**

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

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

#### **47. TOILET FACILITIES**

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

#### **48. NO USE OF ORGANOCHLORIN PESTICIDES**

The use of organochlorin pesticides as termite barriers in new development is prohibited pursuant to Council Policy. Only physical barriers are to be used for termite control. The building shall comply with Australian Standard 3660: Protection of building from subterranean termites - prevention, detection and treatment of infestation.

#### **49. 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.

## **50. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS**

At least five (5) days prior to the demolition, renovation work or alterations and additions to any building constructed before 1987, the person acting on the consent shall submit a Work Plan prepared in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

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

## **51. DEMOLITION & SITE PREPARATION**

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

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

## **52. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS**

All site works complying with the occupational health and safety requirements of WorkCover NSW.

## **53. SOIL AND WATER MANAGEMENT PLAN**

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

## **54. FOOTPATH PROTECTION**

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

#### **55. 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.

#### **56. STOCKPILES**

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

#### **57. LOCATION OF BUILDING OPERATIONS**

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

#### **58. TEMPORARY DIVERSION OF ROOF WATERS**

Stormwater from roof areas shall be linked via a temporary downpipe to Council's stormwater system immediately after completion of the roof area. Inspection of the building frame will not occur until this is completed.

#### **59. ALL BUILDING MATERIALS STORED ON SITE**

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

#### **60. CONSTRUCTION HOURS**

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

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

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

#### **61. BUILDING CODE OF AUSTRALIA**

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

## **62. BUILDING LEGISLATION AMENDMENT (QUALITY OF CONSTRUCTION) ACT - INSPECTIONS (RESIDENTIAL FLAT DEVELOPMENT AND OTHER RESIDENTIAL CLASS 2, 3 AND 4)**

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

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

The specified **MANDATORY** inspections in the case of a Class 2, 3 and 4 building are:

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

The specified **MANDATORY** inspections in the case of a Class 5, 6, 7, 8 or 9 building are:

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

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

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

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

## **63. 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.

#### **64. 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.

#### **65. IN-SINK WASTE DISPOSAL SYSTEMS**

The installation of in-sink waste disposal systems is prohibited.

#### **66. WATER PROOFING**

The floor and wall surfaces of the proposed wet areas being protected against water in accordance with the Building Code of Australia. The wet areas are to be examined and certified by an Accredited Certifier.

Note: Water proofing is to be in accordance with AS 3740 - Water Proofing of Wet Areas within residential buildings.

#### **67. HOT TAP WATER SCALDING**

To reduce the incidence of hot tap water scalding and, for the purpose of energy efficiency, all new or replacement hot water systems shall deliver hot water to a maximum 50 degrees Celsius at the outlet of all sanitary fixtures used for personal hygiene.

#### **68. CARE TO BE TAKEN DURING CONSTRUCTION**

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

#### **69. RESIDENTIAL FLAT BUILDINGS - BALCONIES NOT TO BE ENCLOSED**

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

#### **70. 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.

#### **71. STREETScape WORKS - BONDI JUNCTION**

The footpaths surrounding the site are to be upgraded in accordance with Council's Bondi Junction Technical Manual. In this regard, the applicant is to confer with Council prior to commencement of the works.

#### **72. 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.

#### **73. DEMOLITION AND CONSTRUCTION WASTE MANAGEMENT**

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

- (a) Separate collection bins or areas for the storage of waste is to be provided (giving consideration to slope, drainage, vegetation, access and handling requirements including:
  - (i) Landfill waste;
  - (ii) Recyclable waste;
  - (iii) Materials to be re-used on-site; and / or
  - (iv) Excavation materials.

See Annexure B1-1 of the Waverley DCP for common building materials re-use and recycling potential.

- (b) A 100% re-use of sandstone is required.
- (c) All storage areas/ containers are to be located within the property boundary and indicated on the site plans / drawings as part of the SWRMP.
- (d) Where space on a development is limited, approval may be granted by Council to place a skip on a footpath or other public area in line with Part B of Waverley DCP 2012.
- (e) Waste and recycling containers/skips may only be provided by persons/companies holding a current permit granted by Council.

(f) Asbestos and other hazardous material is to be managed under the Protection of the Environment Operations Act. For further information go to Councils Asbestos Policy 2005 and [www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro) and [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au).

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

#### **74. NEW VEHICLE CROSSING**

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

#### **75. FINISHED PAVING LEVELS**

Paving at the property boundaries shall be finished as follows:

- **Adams Lane** - 110mm above the level of the existing gutter invert.
- **Bronte Road** - match the existing footpath level at any building entry points.

#### **76. NEW KERB, GUTTER AND PAVING - ADAMS LANE**

The existing concrete kerb, gutter and paving on the Adams Lane frontage shall be demolished and new kerb, gutter and paving installed at the applicant's expense prior to the issue of the Occupation Certificate.

## **D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION**

### **77. SYDNEY WATER**

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

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

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

### **78. FINAL OCCUPATION CERTIFICATE**

The Principal Certifying Authority prior to occupation or use of the development must issue a final Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning & Assessment Act, 1979 have been satisfied.

### **79. STRATA SUBDIVISION**

Consent is required for strata subdivision of the development.

In respect to the allocation of car parking and storage spaces, those spaces are not permitted to be subdivided as individual allotments and are to be part lots allocated to individual residential or commercial allotments or identified as common property. Parts allotments are to be generally allocated in accordance with the parking and storage requirements of Waverley Development Control Plan 2012.

### **80. STORMWATER MANAGEMENT**

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

### **81. FOOTPATH PAVING - BRONTE ROAD**

Existing paving on the full Bronte Road frontage shall be demolished and new concrete paving installed in accordance with Council's standards and specifications at the applicant's expense.

### **82. WASTE AND RECYCLING STORAGE AND COLLECTION - USE**

- (a) A waste management plan must be submitted to Council to include all waste removal arrangements such as the Contractor, recyclables and all other waste (collection and disposal), prior to the occupation of the premises.

- (b) Composting facilities onsite must meet all design requirements set in Annexure B1-5 of the Waverley Council Development Control Plan.
- (c) Sufficient space must be allocated on-site for the storage of reusable items such as crates and pallets.
- (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 waste receptacles, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.
  - (f) Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
  - (g) All waste and recycling bins must only be placed 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.
  - (h) All businesses at this development must have written evidence, held on-site, of a valid and current contract with a licensed collector of waste and recycling.
  - (i) All waste and recycling must be inside Council approved bins/skips with lids closed to reduce littering, stormwater pollution, odour and vermin. Waste and recycling not presented in the correct manner will not be collected.
  - (j) Provide a separate waste storage area suitably covered, bunded and drained to the sewer. The waste storage receptacles must be maintained in good order and repair at all times.
  - (k) Provide a suitable storage area affectively bunded for chemicals, pesticides and cleaning products.
  - (l) Provide a separate storage area for used and unused cooking oils suitably covered, bunded and drained to the sewer.
  - (m) Provide dry basket arresters to the floor wastes in the food preparation and waste storage areas.
  - (n) 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.

The above matters are to be detailed and submitted to the satisfaction of the Principal Certifying Authority prior to the occupation of the development.

### **83. LIGHTING**

- (a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.
- (b) All external lighting fixtures should be vandal resistant.
- (c) Lighting should be free of obstructions, such as tree branches, pipes, etc.
- (d) 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.
- (o) All external area lights shall be on sensor switches to save energy and reduce light spill to the sky; low voltage solar powered lights to front entry footpaths are acceptable for continuously illuminated lighting.

### **84. ALLOCATION OF STREET NUMBER**

The redevelopment of the property has led to the following allocation of premises numbers:

- No. 80 Bronte Road for the building (primary address number);
- As the redevelopment has multi address types the following sub addressing will apply;
  - The address number for a sub-address site shall consist of the sub-address followed by the number of the primary address
  - The address number for a sub-address site shall not consist of the primary number on its own.
  - Sub-address numbers shall be applied in a logical sequence and within a primary address site shall be unique regardless of the type of the address
  - Commercial premises will be identified with an address type ie Shop 1/80, Office 2/80.
  - The sub-premises numbers for the residential units shall not be the same as the commercial premises regardless of the type of address.

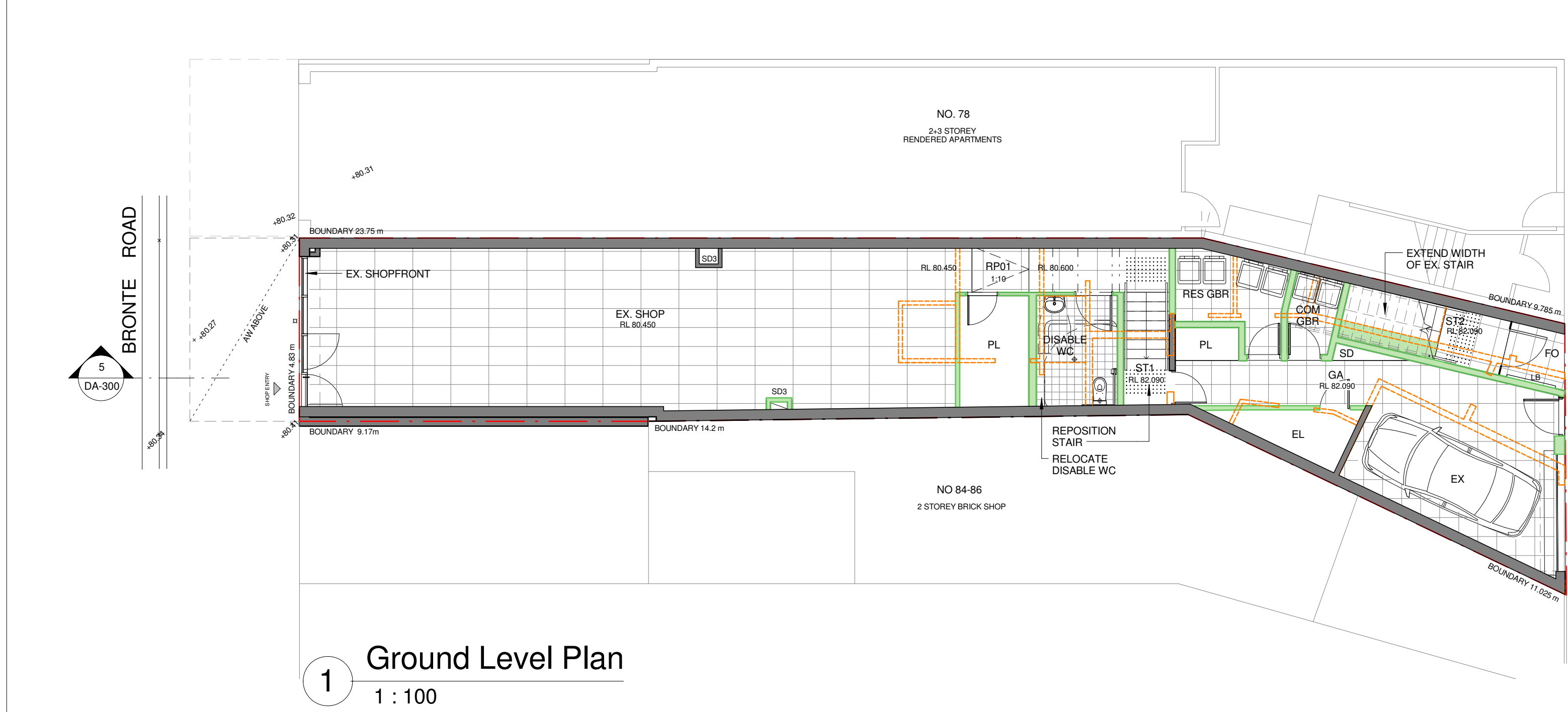
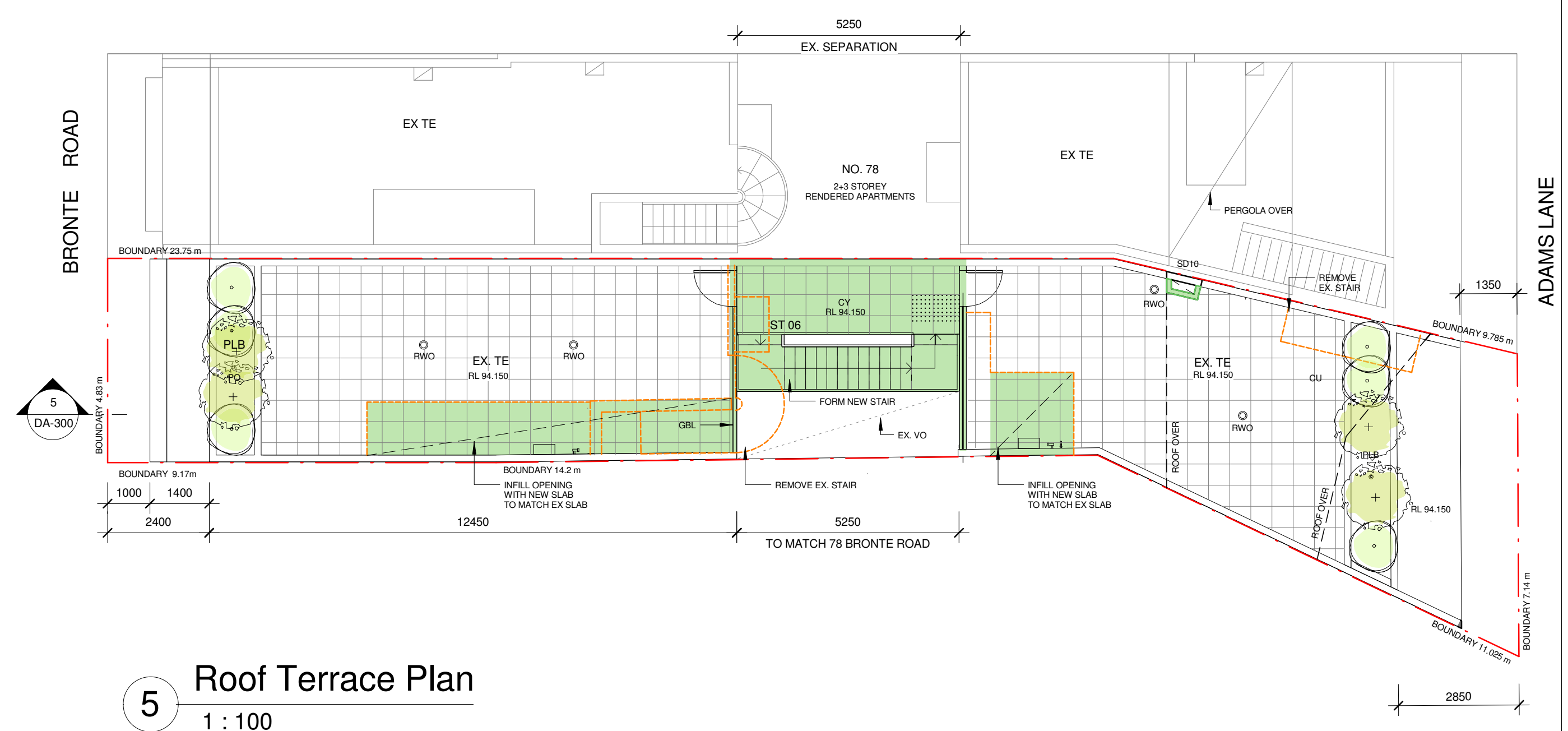
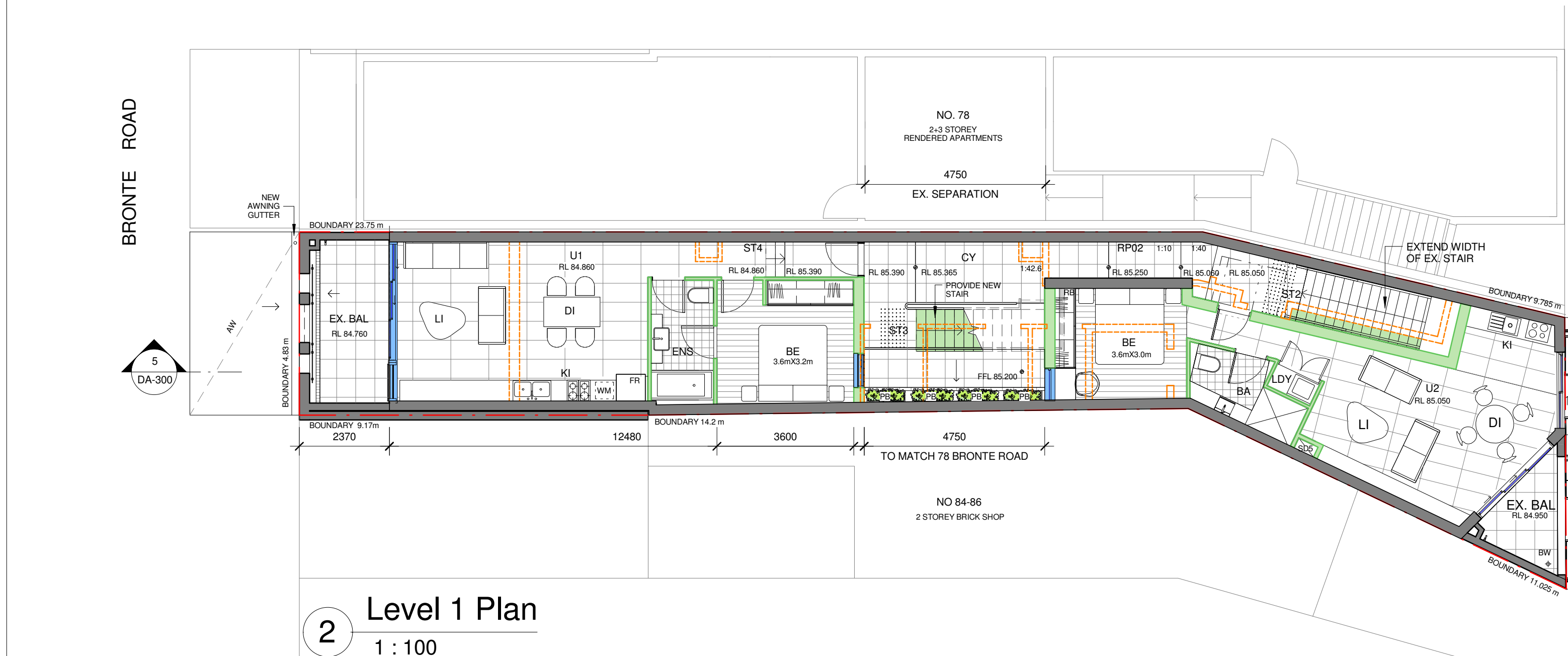
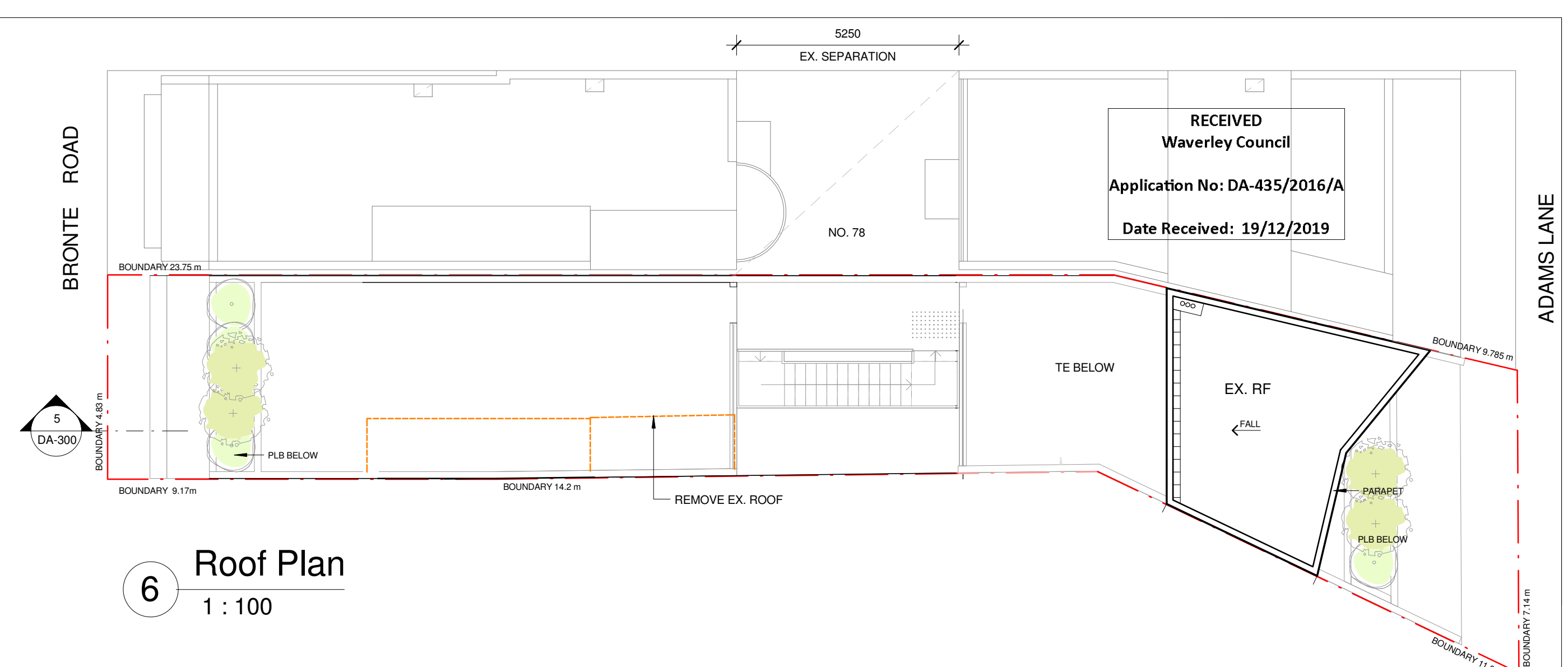
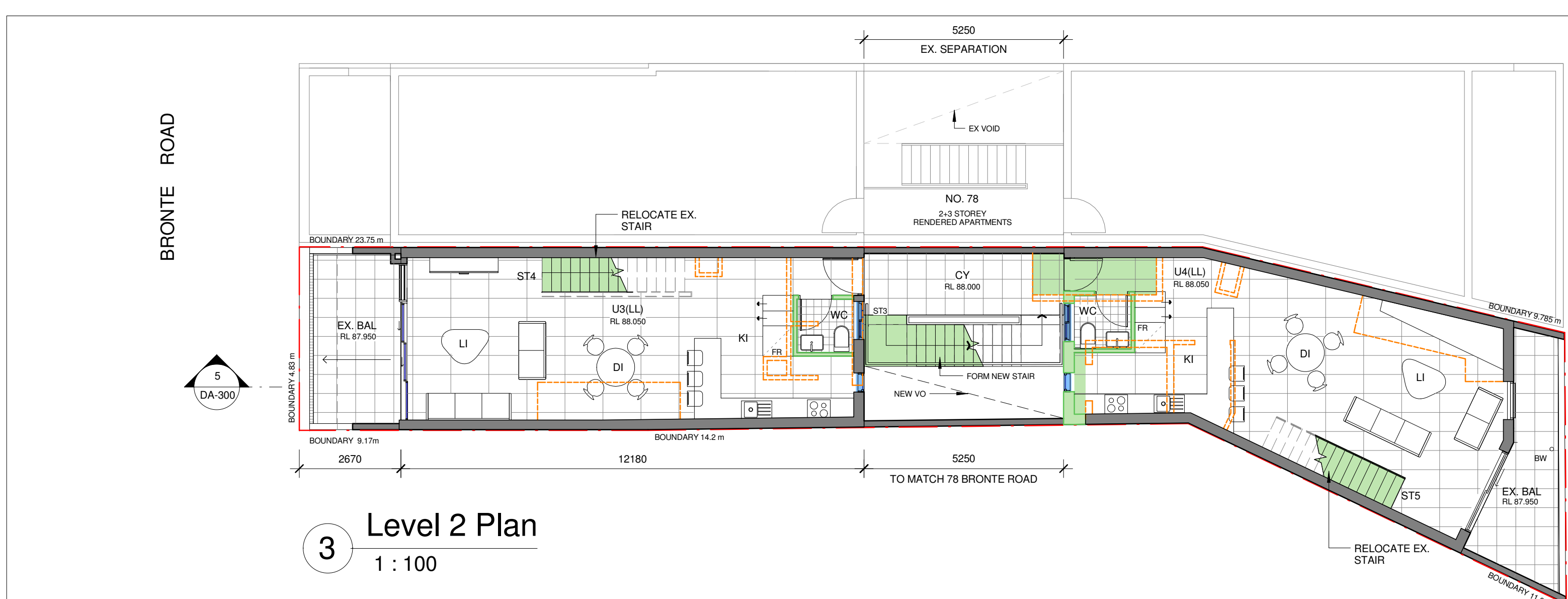
The primary address number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary that fronts Bronte Road. The primary and sub address numbers are to be positioned on the site prior to the issue of the Occupation Certificate.

Any variation to the above premises numbering requires a new application to be lodged with Council.

### **85. FINISHES**

The building is to be finished to an acceptable standard to ensure the significance of the heritage façade is retained. The heritage architect appointed to supervise works to the façade is to verify that the works are an acceptable quality and finish.





LEGEND:			
AL	ALUMINUM	EL	ELECTRICAL CUPBOARD
BA	BATHROOM	ED	EXHAUST DUCT
BAL	BALCONY	FE	FIRE EXIT
BR	BEDROOM	FO	FOYER
BY	BICYCLE	GB	GARAGE BINS
CC	COPPER CLADDING	GC	GLASS CANOPY
CO	CONCRETE	KI	KITCHEN
CO	COMMERCIAL	LA	LOUNGE AREA
CY	COURTYARD	LB	LETTERBOX
DR	DRIVEWAY	LS	LIFT SHAFT
DT	DISABLED TOILET	LDY	LAUNDRY AREA
		LO	LIFT OVERRUN
		OGB	OBSOLETE GLASS BALUSTRADE
PB	PLANTER BOX	PL	PLANT
RE	RESIDENTIAL	SC	SCREEN
SD	SERVICES DUCT	SK	SKYLIGHT
SL	SKYLIGHT	SL	SLIDING
ST	STAIR	ST	STAIR
TCW	TIMBER WALL CLADDING	TE	TERRACE
U	UNIT	WC	WATER CLOSET
WC	WATER CLOSET	WI	WINDOW

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reg no 4911

PROJECT MODIFICATION TO THE APPROVED MIXED-USED  
80 BRONTE ROAD, BONDI JUNCTION

DRAWING TITLE  
**FLOOR PLANS**

Certificate no.: 0004342610  
Assessor Name: Zoltan Lipovski  
Accreditation no.: 20884  
Certificate date: 08 November 2019

Average star rating  
**6.1**  
NATIONWIDE HOUSE  
ENERGY RATING SCHEME  
www.nathers.gov.au

PROJECT No. 16114  
SCALE 1 : 100  
DRAWING No. **DA-100**

DATE 16/12/2019  
9:51:45  
HN  
DRAWN  
REVISION **A**



1 NORTH ELEVATION  
1 : 100

2 ELEVATION THROUGH BRONTE ROAD  
1 : 100

3 SOUTH ELEVATION  
1 : 100

4 ELEVATION THROUGH ADAMS LANE  
1 : 100

LEGEND:

AL ALUMINUM  
BR BRICK RENDER  
CC COPPER CLADDING  
CG CLEAR GLASS  
CR CONCRETE RENDER  
GB GLASS BALUSTRADE  
LV LOUVERS  
ML METAL LOUVERS  
OGB OBSCURE GLASS BALUSTRADE  
PLD PANEL LIFT DOOR  
SS SLIDING SHUTTERS  
TCW TIMBER CLAD WALL

ISSUE	DATE	AMENDMENTS/ ISSUE FOR
A	13/12/2019	Issued for s4.55

The contractor shall verify all dimensions on site and report any discrepancies before proceeding with the work. Written dimensions are to take preference over scaled dimensions. This drawing shall be read in conjunction with drawings and documents prepared by associated consultants for this project. The documents and design remain the copyright of the Architect and cannot be reproduced in any manner without written consent.

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PROJECT MODIFICATION TO THE APPROVED MIXED-USED  
80 BRONTE ROAD, BONDI JUNCTION

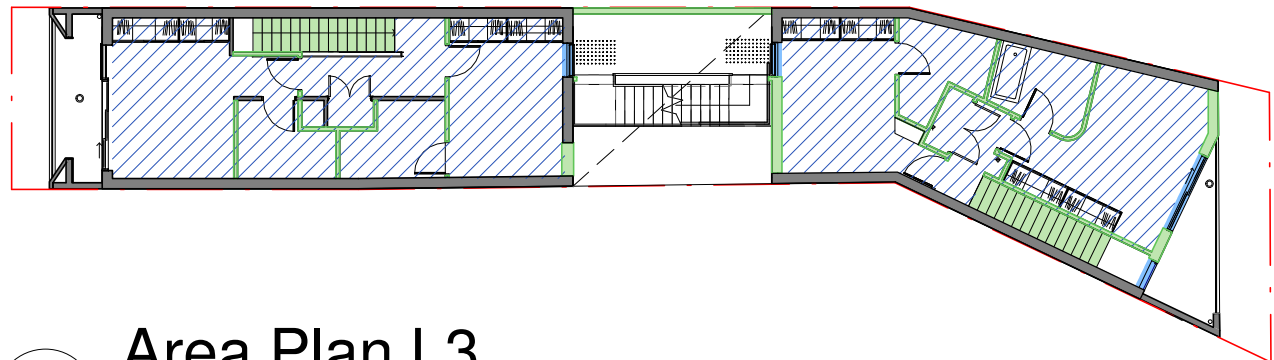
DRAWING TITLE  
**ELEVATIONS**

PROJECT No. 16114  
SCALE 1 : 100  
DRAWING No. **DA-200**

DATE 16/12/2019  
9:51:47  
HN  
DRAWN  
REVISION **A**



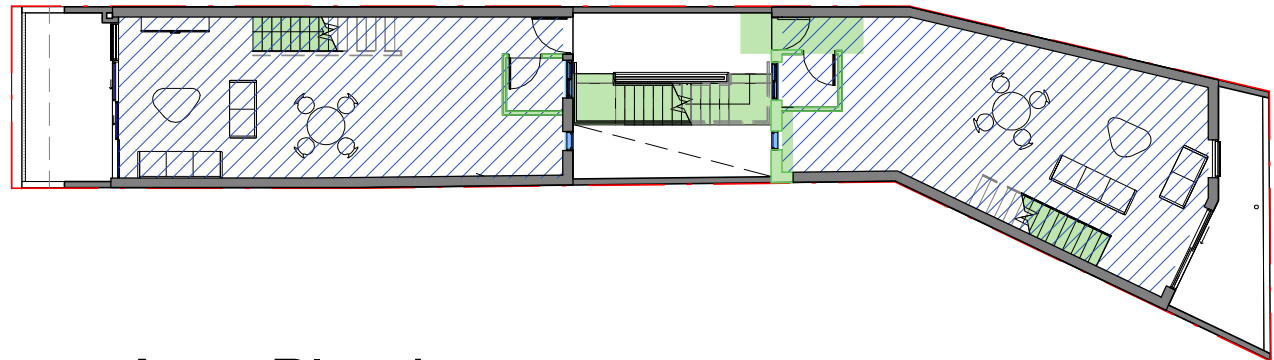




4 Area Plan L3

1 : 200

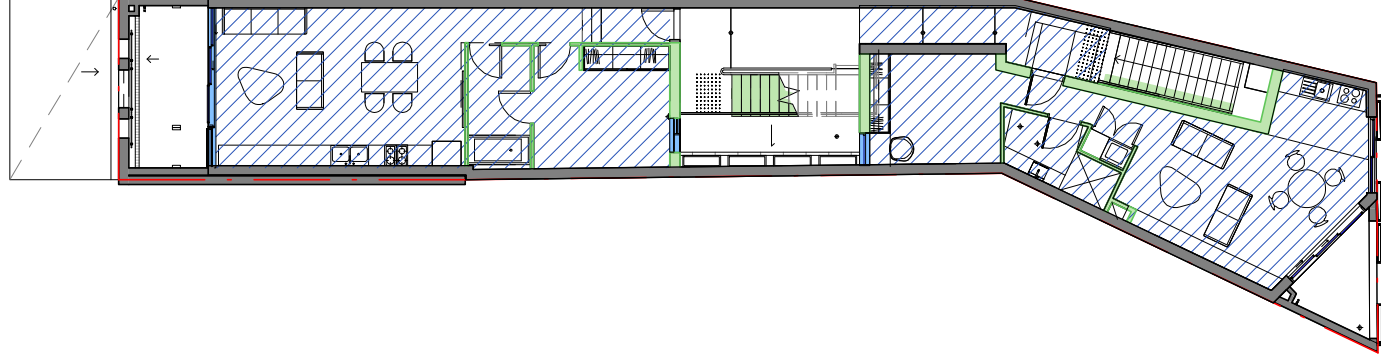
GROSS FLOOR AREA: 84.2m²



3 Area Plan L2

1 : 200

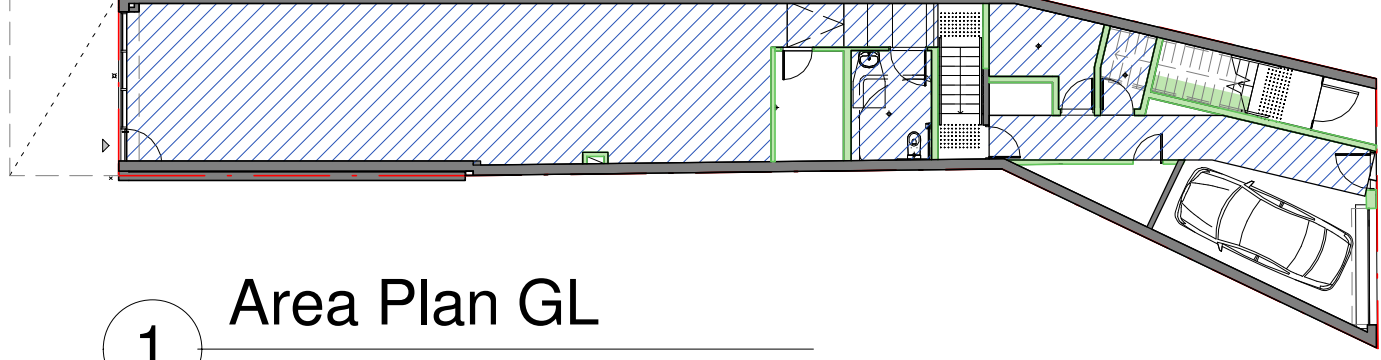
GROSS FLOOR AREA: 98.6m²



2 Area Plan L1

1 : 200

GROSS FLOOR AREA: 96.1m²



1 Area Plan GL

1 : 200

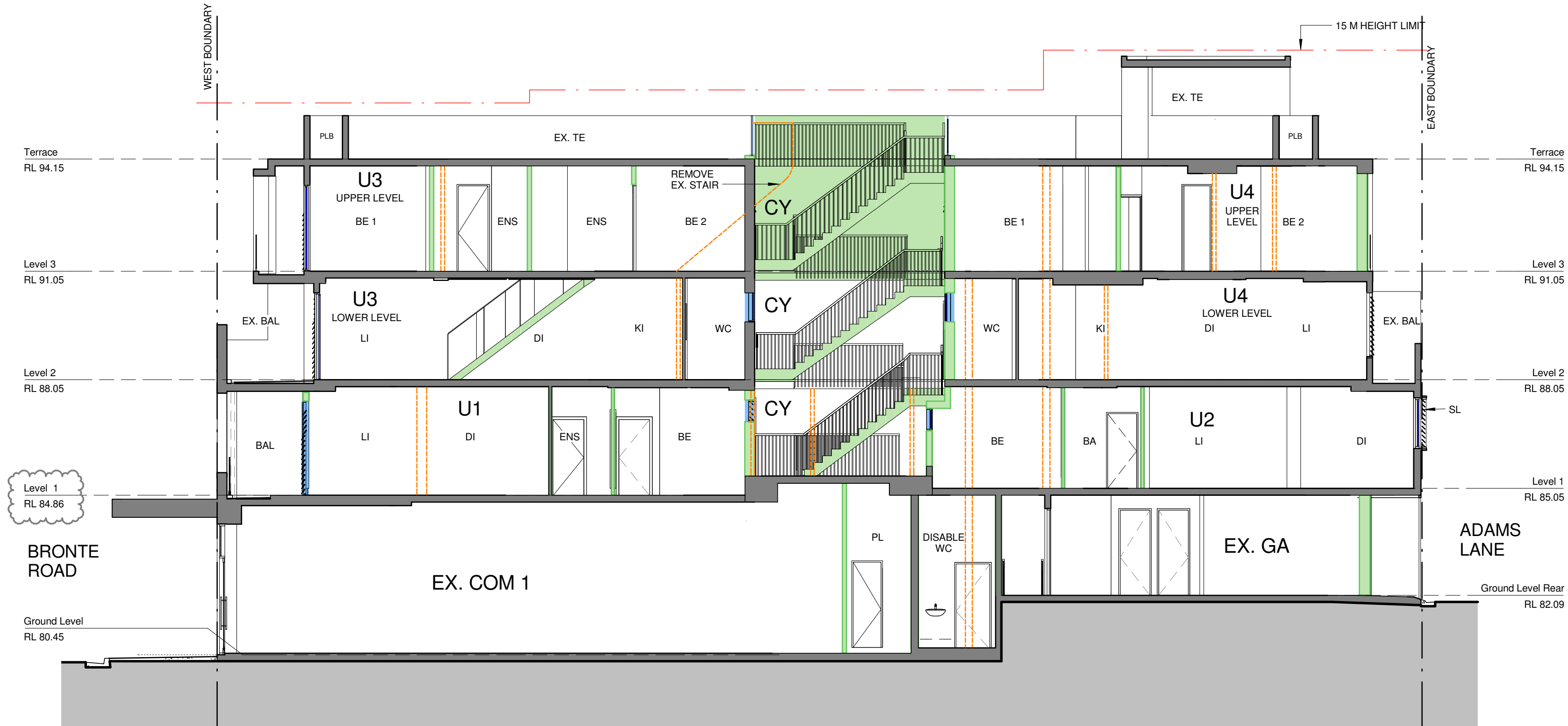
GROSS FLOOR AREA: 100.08m²

AREA CALCULATIONS

RESIDENTIAL AREA:	278.9m²
COMMERCIAL AREA:	100.08m²
GROSS FLOOR AREA:	378.98m²
SITE AREA:	170.3m²
SITE AREA	FSR 2:1
APPROVED FSR	FSR 2.16:1
PROPOSED FSR	FSR 2.23:1

LEGEND

GFA  
CALCULATION



5 Section A-A

1 : 100

ISSUE	DATE	AMENDMENTS/ ISSUE FOR
A	13/12/2019	Issued for s4.55

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**SGAMMOTTA ARCHITECTS**

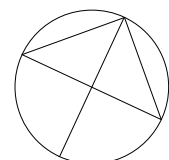
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reg no 4911

PROJECT MODIFICATION TO THE APPROVED MIXED-USED  
80 BRONTE ROAD, BONDI JUNCTION

DRAWING TITLE  
**SECTION + AREA CALCULATIONS**



PROJECT No. 16114 DATE 16/12/2019  
SCALE As indicated DRAWN 9:51:50  
DRAWING No. REVISION HN  
**DA-300 A**

**MINIMUM NatHERS & BASIX REQUIREMENTS – typical for each unit unless noted otherwise**

**WATER**

**LANDSCAPING**

- Provide indigenous or low water use species of vegetation throughout 30m² metres of the site.

**RECEIVED**

**WELS Water Rating**

- 3star rated (>7.5 but <= 9 L/min) (>6 but <= 7.5 L/min) (>4.5 but <= 6 L/min) showerheads to all showers
- 4star rated toilets
- 4star rated taps to Kitchen
- 4star rated taps to Bathrooms / Ensuites

**Application No: DA-435/2016/A**

**Waverley Council**

**Thermal Performance** Date Received: 19/12/2019

**INSULATION**

- R2.0 bulk insulation + anti-glare foil with no gap to all external walls
- R2.0 insulation to underside of slab in upper most ceiling of Units 3 & 4 only.

**EXTERNAL COLOURS**

- Light (SA<0.475) external walls colour
- Dark (SA>0.70) roof colour

**GLAZED WINDOWS & DOORS**

- Aluminium framed with clear glazing to all windows and doors;
  - pivot system: U=6.7 & SHGC<0.57
  - sliding/fixd system: U=6.7, SHGC<0.70
- Refer NatHERS Certificate for further details

**CEILING PENETRATIONS**

- Australian Standard approved non-ventilated covers or shields to all downlight installations throughout dwelling, when used.
- All exhaust units to be sealed.

**FLOOR COVERINGS**

- Timber flooring to Living area's
- Carpet flooring to Bedroom area's
- Tile flooring to all wet area's

**ENERGY**

**HWS**

- Gas instantaneous - 5star

**HEATING AND COOLING**

- 3 Star zoned single-phase air conditioner to Living & Bedroom area

**VENTILATION**

- Ducted artificial ventilation to min. One Bathroom
- Ducted rangehood to Kitchen
- Ducted artificial ventilation to Laundry

**FLUORESCENT OR LED LIGHTING**

- Provide efficient Lighting to Bedrooms, Living, Dining, Kitchen, Bathrooms, Toilets, Ensuite, Laundry and Hallways

**OTHER (appliances and fixtures)**

- Gas cooktop & electric oven
- Indoor clothes drying line or cupboard
- Ventilated fridge space

**COMMON AREAS**

- Garbage residential - exhaust only ventilation – compact fluorescent lighting (manual on / manual off)
- Comms room - no mechanical ventilation – compact fluorescent lighting (manual on / manual off)
- Electrical room - no mechanical ventilation – compact fluorescent lighting (manual on / manual off)
- Disabled WC - exhaust only ventilation (time clock) – compact fluorescent lighting (manual on / manual off)
- Ground floor entry hall - no mechanical ventilation – LED lighting (manual on / manual off)
- Upper level lobby - no mechanical ventilation – LED lighting (manual on / timer off)

**ABSA**

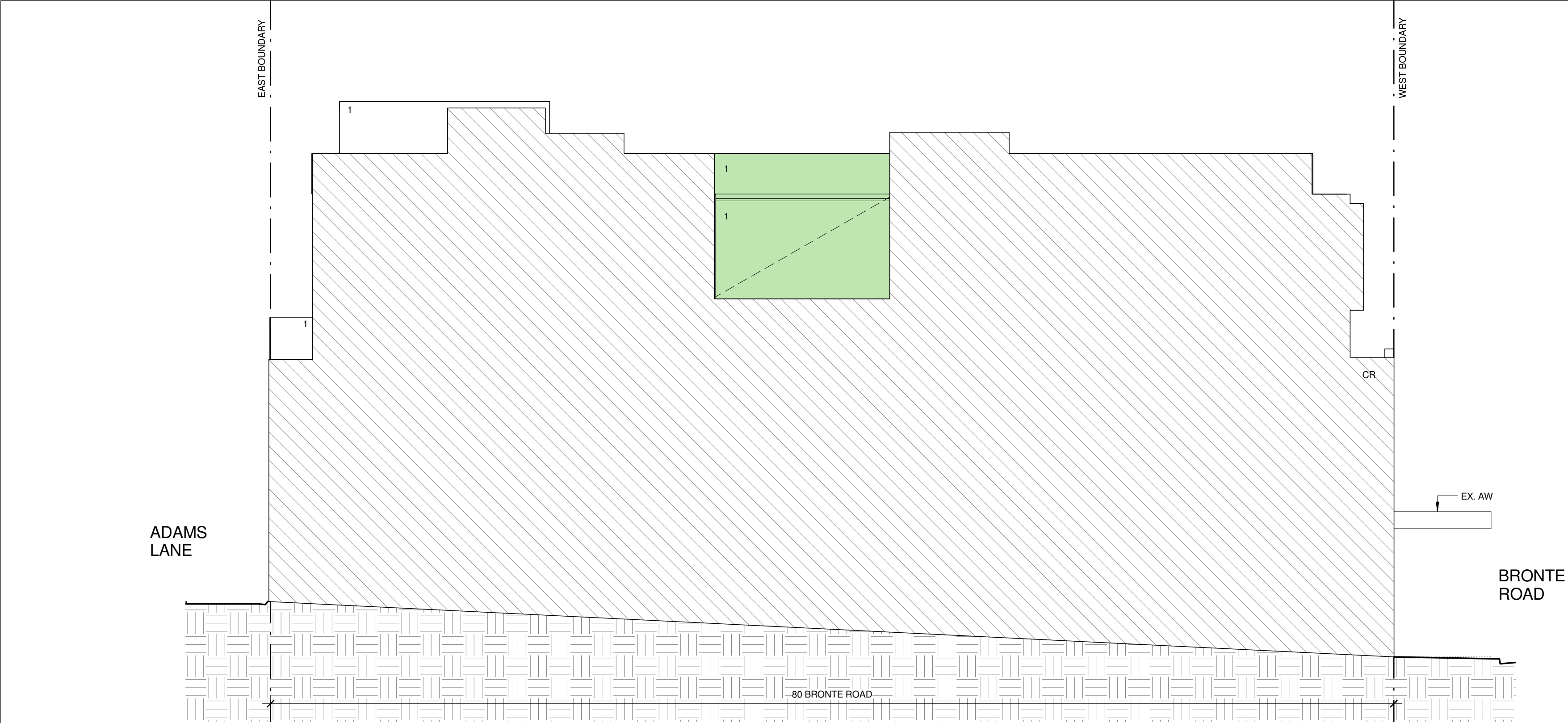
**NATIONWIDE HOUSE ENERGY RATING SCHEME**

Average star rating: 6.1

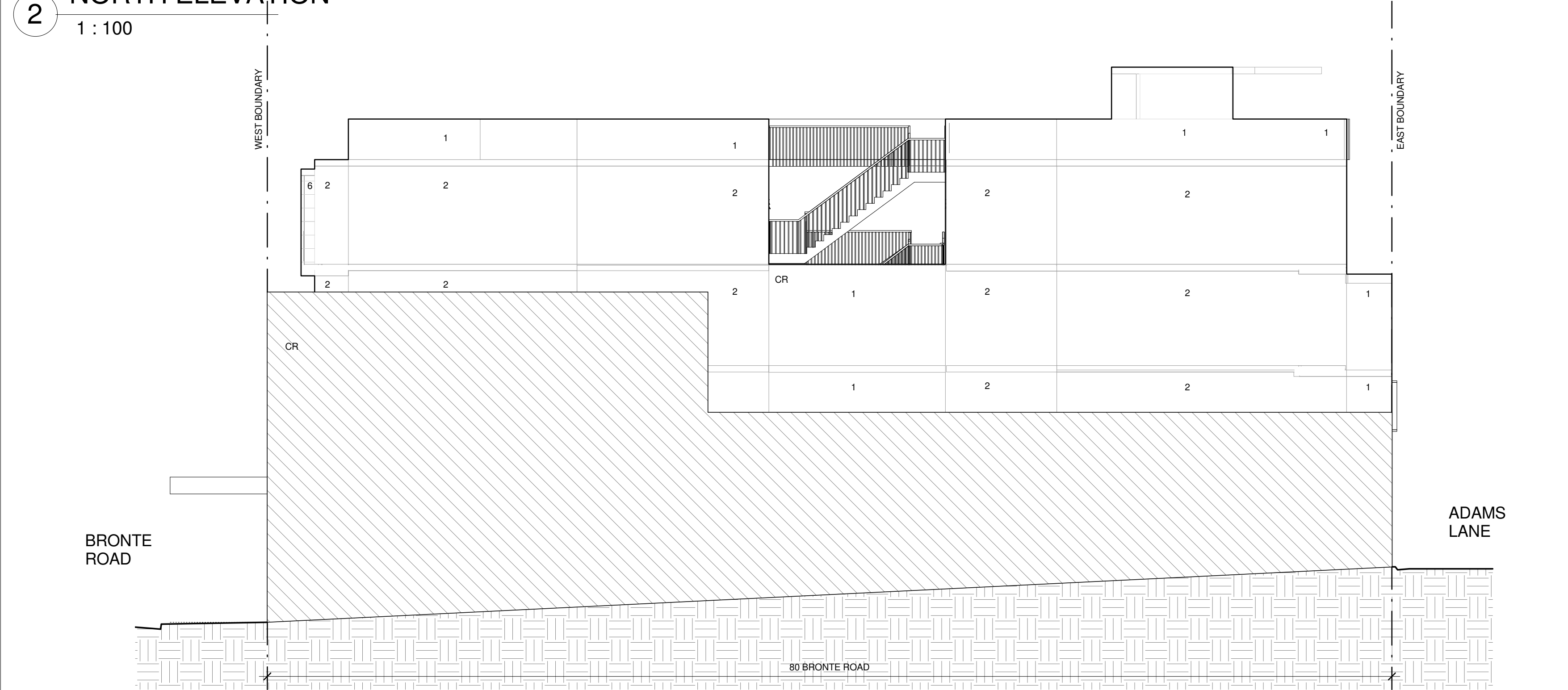
Certificate no.: 0004342610  
Assessor Name: Zoltan Lipovski  
Accreditation no.: 20884  
Certificate date: 08 November 2019  
Dwelling Address: 80 Bronte Road Bondi Junction, NSW 2022  
www.nathers.gov.au







2 NORTH ELEVATION  
1 : 100



3 SOUTH ELEVATION  
1 : 100

							
1 CONCRETE RENDER DULUX WHITE ON WHITE	2 CONCRETE RENDER DULUX DOMINO	3 CONCRETE RENDER DULUX STEPNEY	4 CLEAR GLASS	5 ALUMINUM SCREEN	6 COPPER CLADDING	7 METAL LOUVERS	8 TIMBER CLAD WALL

ISSUE	DATE	AMENDMENTS/ ISSUE FOR
A	13/12/2019	Issued for s4.55

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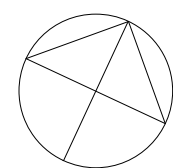
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reg no 4911

PROJECT MODIFICATION TO THE APPROVED MIXED-USED  
80 BRONTE ROAD, BONDI JUNCTION

DRAWING TITLE  
COLOR SCHEDULE



PROJECT No.	16114	DATE	16/12/2019
SCALE	As indicated	DRAWN	HN
DRAWING No.	DA-400	REVISION	A

1 ELEVATION THROUGH ADAMS LANE  
1 : 100



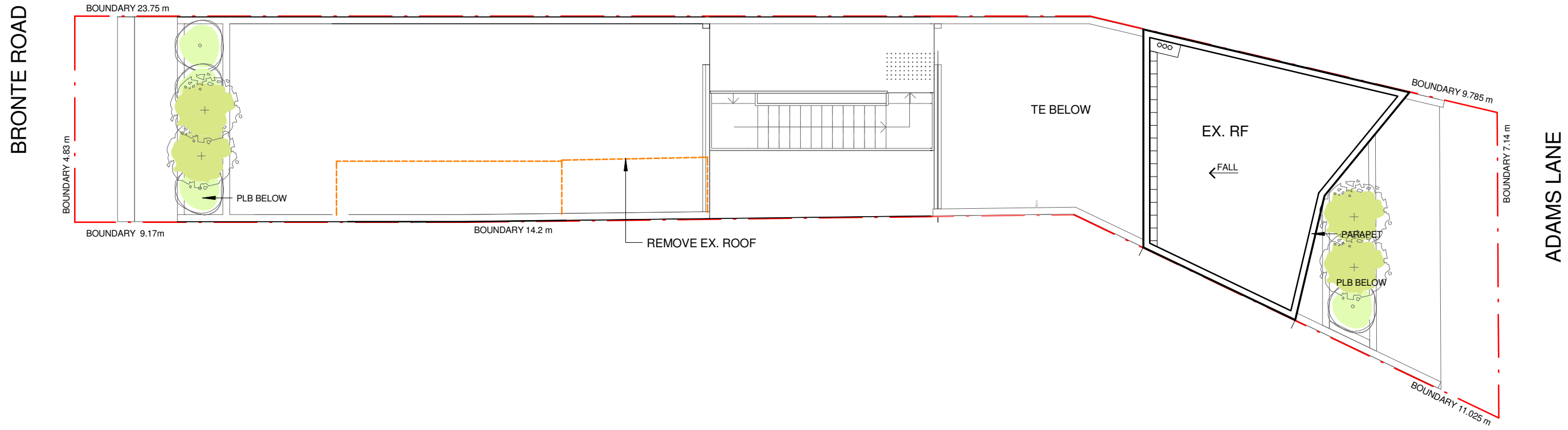
1 ELEVATION THROUGH ADAMS LANE  
1 : 100

4 ELEVATION THROUGH BRONTE ROAD  
1 : 100

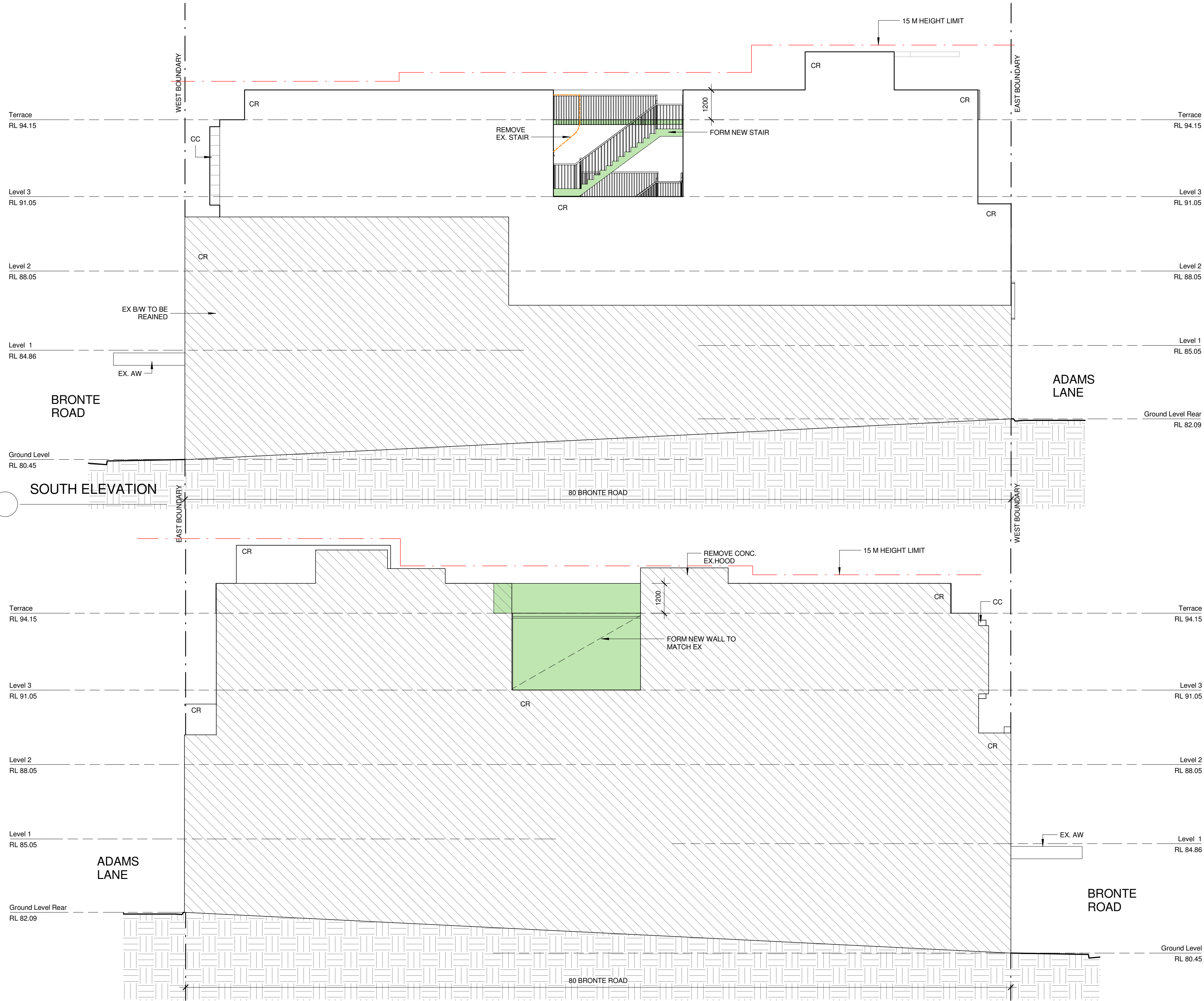


4 ELEVATION THROUGH BRONTE ROAD  
1 : 100

ROOF PLAN

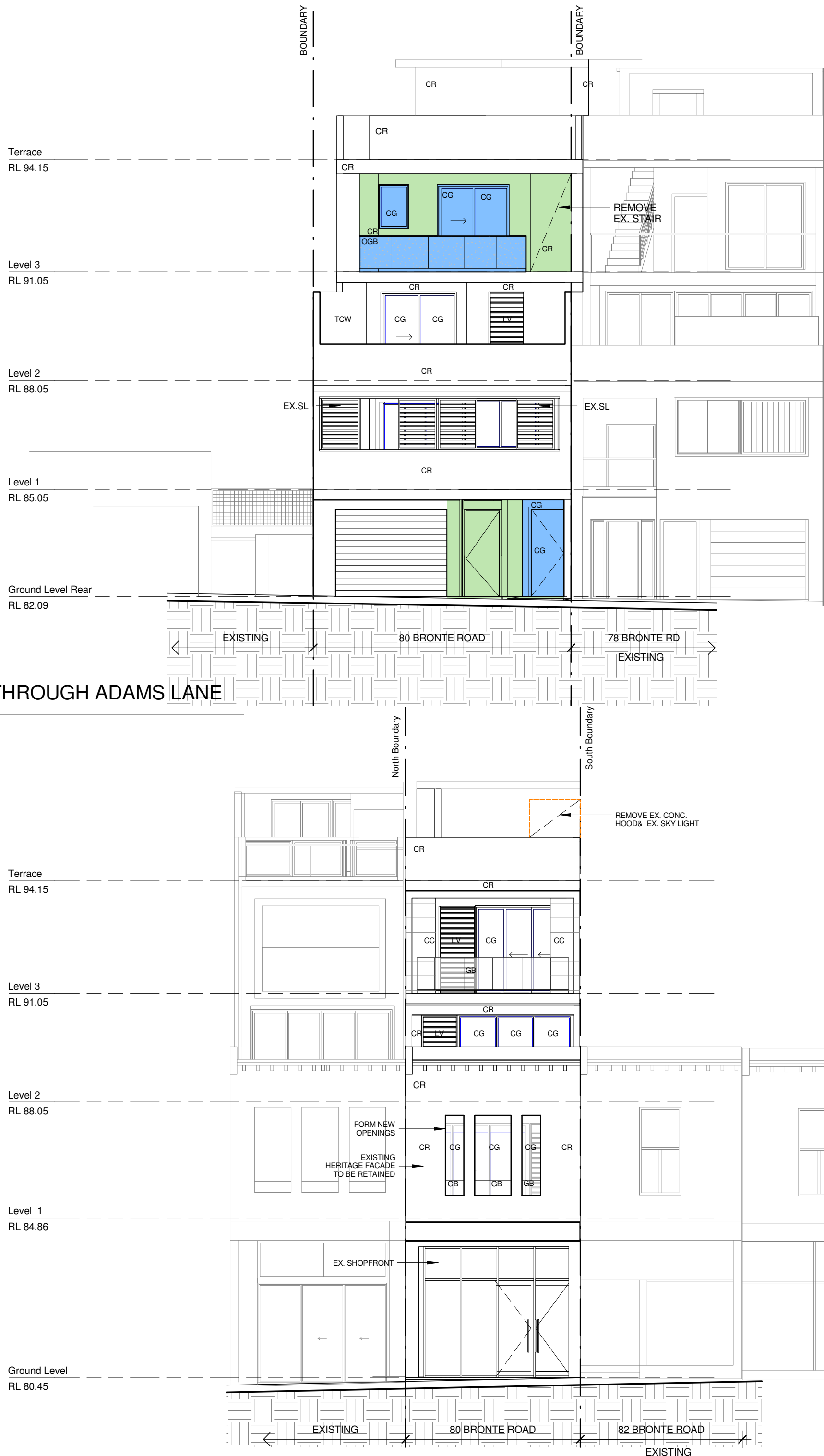


SOUTH ELEVATION



NORTH ELEVATION

ELEVATION THROUGH ADAMS LANE



ELEVATION THROUGH BRONTE ROAD

ISSUE	DATE	AMENDMENTS / ISSUE FOR
A	13/12/2019	Issued for s4.55

The contractor shall verify all dimensions on site and report any discrepancies before proceeding with the work. Written dimensions are to take preference over scaled dimensions. This drawing shall be read in conjunction with drawings and documents prepared by associated consultants for this project. The documents and design remain the copyright of the Architect and cannot be reproduced in any manner without written consent.

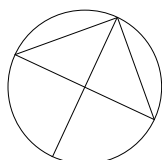
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abn 58 065 479 286  
reg no 4911

PROJECT MODIFICATION TO THE APPROVED MIXED-USED  
80 BRONTE ROAD, BONDI JUNCTION

DRAWING TITLE  
**NOTIFICATION PLAN**



PROJECT No. 16114 DATE 16/12/2019  
SCALE 1 : 100 DRAWN 9:51:54  
DRAWING No. REVISION Author  
**DA-500 A**

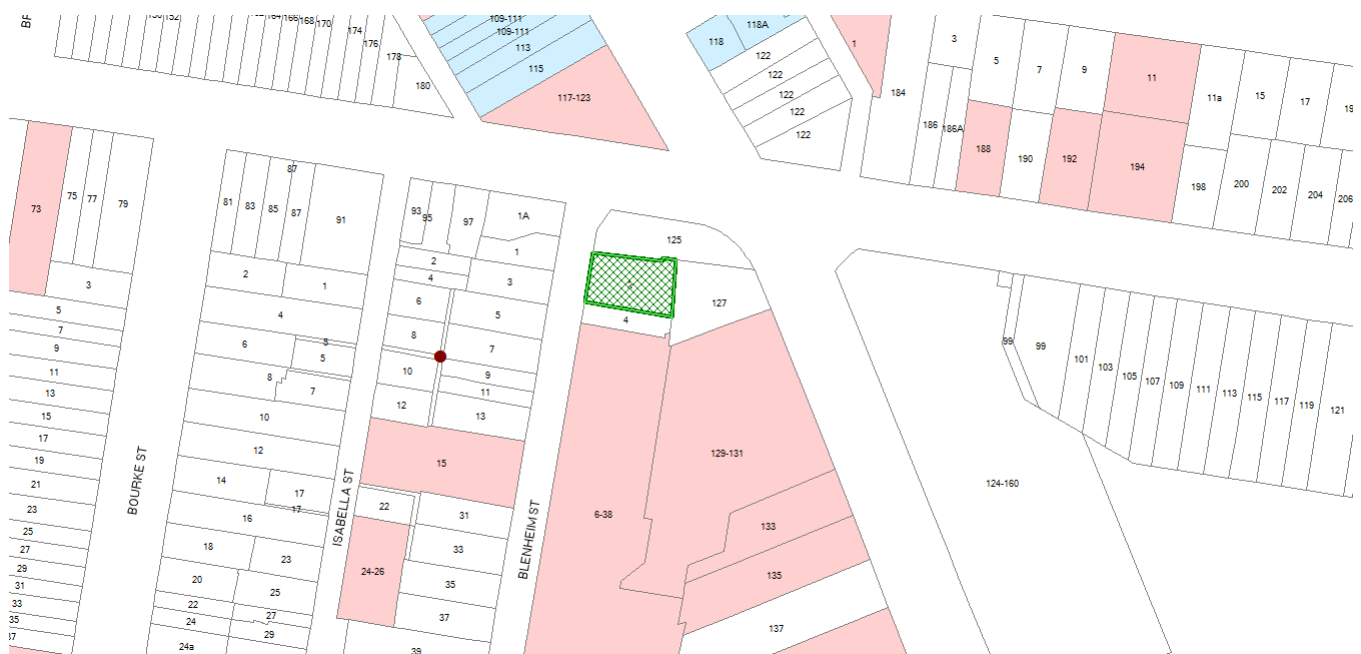




## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-236/2018/A
<b>Site address</b>	2 Blenheim Street, QUEENS PARK
<b>Proposal</b>	Modification to approved roof and alterations and additions to second and third floor
<b>Approved development description</b>	Demolition of existing dwelling and ancillary domestic structures, and the construction of a residential flat building comprising affordable rental housing units
<b>Date of lodgement</b>	24 March 2020
<b>Owner</b>	Mr A Vrankovic & Mrs G Vrankovic
<b>Applicant</b>	M Bednarczyk
<b>Submissions</b>	Three (3)
<b>Issues</b>	SEPP (ARH) 2009, SEPP 65, Heritage, Bulk & Scale, Streetscape, Dwelling Size, Amenity
<b>Recommendation</b>	That the application be <b>REFUSED</b>

**Site Map**



## 1. PREAMBLE

### 1.1 Site and Surrounding Locality

A site visit was carried out on 30 April 2020.

The site is identified as Lot B in DP 33600, known as 2 Blenheim Street, QUEENS PARK. It is located on the eastern side of Blenheim Street between Birrell Street and Yenda Avenue.

The site is irregular in shape, measuring 336m<sup>2</sup> in area and is generally flat.

The site is occupied by a single storey dwelling house with vehicular access provided from Blenheim Street to a garage at the rear of the site via a Right of Way which spans the entire northern side boundary also benefiting 127 – 129 Bronte Road (property to the rear).

The subject site is adjoined by commercial premises to the north (side), a two-storey terrace to the south (side), and a three storey residential flat building to the east (rear). The locality is characterised by a variety of residential development, including semi-detached dwellings, terraces and residential flat buildings.

The subject site is located within the Blenheim Street/Bronte Road Landscape Conservation Area (C24) and is opposite the Blenheim Street Conservation Area - General (C1). The subject site is not Heritage Listed. Properties opposite, namely 1 and 3 Blenheim Street are heritage listed.



**Figure 1:** Subject site frontage to Blenheim Street.





**Figure 2:** Surrounding development at the rear of the site.



**Figure 3:** Rear of the existing dwelling.

## 1.2 Details of Approved Development

The original development application (**DA-236/2018**) sought consent for demolition of the existing dwelling and ancillary domestic structures, and the construction of a residential flat building comprising affordable rental housing units.

Following the preliminary assessment of the original application, it was deferred to allow the Applicant an opportunity to address concerns regarding: non-trafficable roof area; window openings; balustrade material; materials and finishes; internal unit layouts; basement size; storage; side and rear fencing; landscaping; communal open space; encroachment into right of way; and designation of affordable rental housing units.

An amended proposal was received by Council and Council's recommendation to the Waverley Local Planning Panel (WLPP) was *deferred commencement* that required the development to be modified as follows:

1. *The entire eastern section of the upper level (third floor on plan) extending from the lift core to the rear shall be deleted. This includes the bedroom, bathroom, laundry and kitchen of unit 7. In this regard, this upper level floor area shall be connected to a unit below (units 5 or 6) rather than be a separate independent unit. Should the form or layout be sought to be modified, a s4.55 modification application will be required. The area from the lift core eastwards shall revert to a flat non trafficable roof.*
2. *The section drawing (Plan DA13) should be updated and improved to describe ceilings, bulkheads, concrete roof insulation and balcony drainage, setdowns to concrete balconies, sunshading, roof gutters, lift wall acoustic separation (to Units 4,6 and 7), basement pump-out tank.*
3. *Cross-section details at 1:20 scale describing the roof, walls, windows, balconies and the like shall be provided.*

At the WLPP meeting on 24 July 2019, the Panel granted deferred commencement consent however, the third-floor level was not supported and the deferred commencement conditions of consent were amended as follows:

1. *The entire upper level (third floor on plan) shall be deleted.*
2. *The front wall including glazing line of the face of the building on the second (2nd) floor level on the plans shall be set back a further 1m from Blenheim Street.*
3. *The aluminium louvres on the ground and first floor of the front façade shall be replaced with single storey sliding aluminium louvres.*
4. *The section drawing (Plan DA13) should be updated and improved to describe ceilings, bulkheads, concrete roof insulation and balcony drainage, setdowns to concrete balconies, sunshading, roof gutters, lift wall acoustic separation (to Units 4,6 and 7), basement pump-out tank.*
5. *Cross-section details at 1:20 scale describing the roof, walls, windows, balconies and the like shall be provided.*

The reason for the above amendments read as follows:

*"The Panel is of the opinion that the entire top most floor should be deleted and the second floor level should be set back by a further 1m. With these amendments the Panel is of the view that a better transition is achieved and a better streetscape result."*

Furthermore, **Condition 2 – General Modifications** of the consent requires the plans to be amended as follows:

## **2. GENERAL MODIFICATIONS**

*The proposal shall be amended as follows:*

- (a) The motorcycle parking in the rear yard shall be redesigned to provide 2 spaces, side by side to provide sufficient and ready access directly from the right of way.*
- (b) The BBQ area in the rear yard is to be relocated to the motorcycle space (relocated in subclause a) closest to the rear access doorway.*
- (c) The rear boundary perimeter planting shall extend over the (now relocated) BBQ area.*
- (d) Stone cladding shall be provided to the front elevation and return along the northern and southern elevation (as per approved architectural plans) that provides a minimum thickness of 300mm stone to ensure quality stone is used. Plans to be amended accordingly.*
- (e) The balustrade to the front balcony of unit 7 shall match material, colour and finish of those balcony balustrades to levels below, being vertical metal members.*
- (f) The vertical panel of windows to the stairwell may be operable to provide natural ventilation, provided such windows are translucent to mitigate privacy impacts.*
- (g) Window operation for all openings shall be shown on the plans.*
- (h) Ceiling fans should be located in all habitable rooms and clearly shown on the drawings.*
- (i) The letterbox location is to be shown on the plan, located in the front entry of the building, easily accessible for postal services.*

*The amendments / details are to be approved by the Director of Planning, Environment and Regulatory Services (or delegate) prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.*

Amended plans were submitted to address the deferred commencement conditions. Accordingly, the consent was activated on 22 October 2019. Condition 2 – General Modifications, as outlined above, has not yet been satisfied and remains on the consent.

### **1.3 Proposal**

The application has been lodged as a section 4.55(2) application and provides for the following modifications to the approved development:

#### Basement Plan

No change.

#### Ground Floor Plan

- Apartment 1: Reposition window to the kitchen area of the studio.

#### First-Floor Plan

No change.

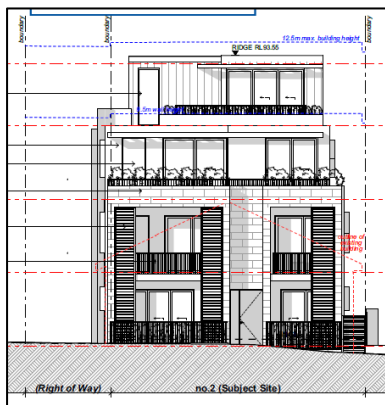
## Second Floor Plan

- Reconfiguration of staircase/vertical circulation.
- Apartment 5: Extension of unit into the approved balcony area.
- Apartment 5: Reposition wardrobe in bedroom 1.

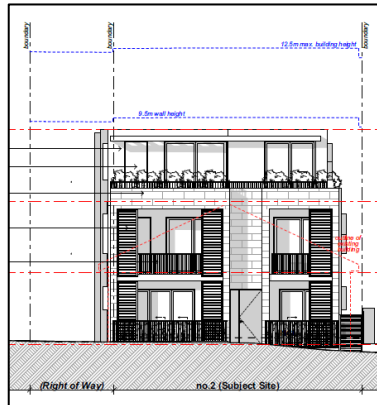
## Proposed Third Floor Plan

- Conversion of the non-trafficable roof for the reinstatement/construction of a third-floor level to accommodate an additional one-bedroom unit (Apartment 7).

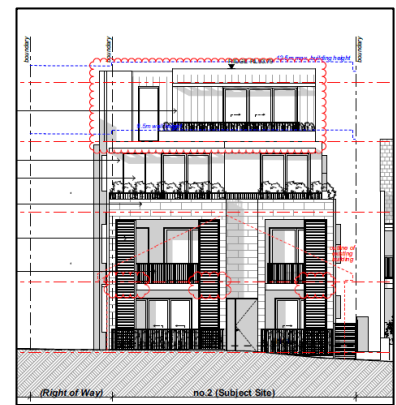
A comparison of the Blenheim Street elevation plans between the plans originally assessed, the plans lodged that satisfied the deferred commencement conditions and the plans lodged with the subject application is provided below:



**Figure 4:** Assessed under DA-236/2018.



**Figure 5:** Deferred commencement satisfied.



**Figure 6:** Blenheim Street elevation plan lodged with this subject application.

## **2. ASSESSMENT**

The following matters are to be considered in the assessment of this modification application under sections 4.15 and 4.55 of the *Environmental Planning and Assessment Act 1979* (the Act).

### **2.1 Section 4.55 Considerations**

**Section 4.55 (2) applications** - the modifications, if approved are substantially the same development as the original consent. Council has consulted any relevant Minister or Authority and notified the application and considered submissions as discussed further in the report.

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

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

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

An amended BASIX Certificate has been submitted with the development application.



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

### 2.2.2 SEPP 55 Remediation of Land

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

### 2.2.3 SEPP 65 Design Quality of Residential Flat Development

The original application was referred to the Design Excellence Panel on 17 September 2018. The comments in response to the original application did not raise any strict objection to the primary subject of this modification application that is the construction of a third-floor level. Therefore, given that the proposed modifications are similar to that of the original proposal that has been reviewed by the Panel, the subject modification application was not referred to the DEP for comment.

Nevertheless, a planning assessment against the nine design quality principles under SEPP 65 is provided in the table below:

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

Principle	Planning Comment
1. Context & Neighbourhood	The predominant character of Blenheim Street is derived from two storey dwellings that are terrace in style with shallow front setbacks, while adjoining sites to the north and east consists of 3 - 6 storey development or higher densities and limited open space. Blenheim Street is located within a Landscape Conservation Area and adjacent to the site are two dwellings of local heritage significance. The proposed third floor level raises concerns regarding internal amenity and streetscape presentation of the building to Blenheim Street.
2. Built form & Scale	The proposed modifications are considered to result in a built form and scale that is inappropriate for the site and surrounding context.
3. Density	The application seeks to benefit from the bonus floor space available through SEPP (ARH) 2009 which results in a building form larger than allowed for under the provisions of WLEP 2012. Associated impacts and streetscape presentation are discussed in detail throughout the report.
4. Sustainability	Conditions have been imposed on the original consent with regards to incorporating sustainability features throughout the development.
5. Landscape	The proposal does not seek to alter the approved landscaping on the site.
6. Amenity	As previously outlined, the proposed modifications do not provide adequate residential amenity, specifically with regards to proposed Unit 7 at the third-floor level.

Principle	Planning Comment
7. Safety	Conditions have been imposed on the original consent with regards to safety.
8. Housing Diversity and Social Interaction	The modified proposal continues to provide for affordable housing units which is supported.
9. Aesthetics	As mentioned above, the proposed modifications do not maintain an acceptable presentation of the building to Blenheim Street, the landscape conservation area, adjacent heritage items and surrounding context.

#### 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>	No	The original proposal has been approved with non-compliant setbacks that were considered to be satisfactory, given that the width of the site is only 13.705m. Therefore, strict compliance with the minimum separation distances as provided by the ADG cannot be reasonably achieved. Despite non-compliance, this is not considered to be a reason for refusal of the subject application.
<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	<p>The application claims that 5 of the 7 units (71%) receives at least 2 hours solar access during mid-winter. All units are dual aspect and as such all receive some direct sunlight mid-winter.</p> <p>The proposal is consistent with the remaining objectives of this part of the ADG ensuring that daylight access is satisfactory and incorporating shading in the warmer months.</p>

Design Criteria	Compliance	Comment
<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 are provided with at least one window for natural ventilation.
<b>4C Ceiling heights</b>		
<ul style="list-style-type: none"> <li>Habitable rooms – 2.7m</li> </ul>	No	A ceiling height of only 2.6m is proposed to Apartment 7 that is located at the proposed third floor level of the building that is non-compliant and is unacceptable.
<b>4D Apartment size and layout</b>		
<p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"> <li><i>Studio = 35 m<sup>2</sup></i></li> <li><i>1 Bed = 50 m<sup>2</sup></i></li> <li><i>2 Bed = 70 m<sup>2</sup></i></li> <li><i>3 Bed = 90 m<sup>2</sup></i></li> <li><i>Add 5m<sup>2</sup> for each additional bathroom (above 1)</i></li> <li><i>Add 12m<sup>2</sup> for each additional bedroom</i></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>	No	<p>The units propose the following internal areas:</p> <ul style="list-style-type: none"> <li>Unit 1 (studio): 35m<sup>2</sup></li> <li>Unit 2 (1 bed): 50m<sup>2</sup></li> <li>Unit 3 (2 beds): 73.1m<sup>2</sup></li> <li>Unit 4 (studio): 43.4m<sup>2</sup></li> <li>Unit 5 (2 beds): 71.4m<sup>2</sup></li> <li>Unit 6 (studio): 38.5m<sup>2</sup></li> <li>Unit 7 (1 bed): 41.9m<sup>2</sup></li> </ul> <p>As demonstrated above, proposed Unit 7 at the new third floor level is a one-bedroom apartment and does not comply with the minimum required GFA of 50m<sup>2</sup> and is unacceptable. This unit is not considered to be provided with adequate residential amenity and is not supported.</p>
<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>3+bed - 12m<sup>2</sup> &amp; 2.4m depth</li> <li>Ground level, min 15m<sup>2</sup> &amp; 3m depth</li> </ul>	Yes	Proposed Unit 7 (one bedroom) at the third-floor level would be provided with a balcony approximately 13m <sup>2</sup> that is compliant. Unit 5 (two bedroom) on the second floor level would maintain a balcony with an area of 10m <sup>2</sup> for the area that meets the minimum depth requirement of 2m as proposed to be modified that is compliant.
<b>4F Common circulation and spaces</b>		
<ul style="list-style-type: none"> <li>Max of 8 units accessed off a circulation core on a single level</li> </ul>	Yes	Less than 8 units are proposed per level.
<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> </ul>	Yes	The proposal provides separate storage within each apartment and maintains a total of eight (8) storage cages at the basement level that meets the requirements and objectives of the ADG.

Design Criteria	Compliance	Comment
<ul style="list-style-type: none"> <li>2-bed – 8m<sup>3</sup></li> <li>3+bed – 10m<sup>3</sup></li> </ul>		

## 2.2.4 SEPP (Affordable Rental Housing) 2009

Part 2 Division 1 relates to in-fill development for the purposes of residential flat buildings. The proposed development satisfies the prescribed criteria, as the construction of a residential flat building is permitted with consent in the R3 Medium Density Residential Zone under the WLEP 2012. Further, the subject site does not contain a heritage item.

The subject site is located within an accessible area as defined under clause 4 as it is located within a 400m walking distance of a regular service bus stop, and 800m of Bondi Junction train station. Accordingly, the following clauses apply:

### *Clause 13 – Floor Space Ratio*

Applies where the percentage of gross floor area (GFA) used for the purposes of affordable housing is 20 percent or more.

**Table 3: Assessment of the Allowable Floor Space Ratio (FSR)**

Planning Instrument	FSR
WLEP 2012	0.9:1 development standard
SEPP Affordable Rental Housing	Minimum 20% of the GFA is to be used for affordable housing
Proposed Affordable Housing GFA	123.5m <sup>2</sup> or 31.42% of the GFA is allocated to affordable housing
Proposed bonus FSR	0.31
Allowable FSR with bonus	1.21:1
Proposed FSR (with bonus)	1.17:1 (complies)

In this instance, 31.42% of the building is proposed to be used for affordable housing, which proffers an additional bonus to be applied, bringing the allowable floor space ratio to 1.21:1.

The proposal seeks a FSR of 1.17:1, which is consistent with the provisions of this clause.

However, the proposed modifications are not supported for reasons discussed throughout this report. Therefore, the approved GFA and FSR on the site is recommended to be retained as originally approved.

### *Clause 14 – Standards that cannot be used to refuse consent*

The assessment of this development application should have regard for the criteria for certain matters that cannot be used to refuse consent on the site. These include site area, landscaped area, deep soil zones, solar access, parking and dwelling size. An assessment against these standards is provided below:

**Table 4: Standards under the ARH SEPP which cannot be used to refuse development**

Development Standard	Compliance	Comment
<b>Site &amp; Solar Access</b>		
<b>Site area:</b> (1)(b) if the site area on which it is proposed to carry out the development is at least 450 square metres,	Merit Assessment	As originally approved, the site has an area of 336m <sup>2</sup> and is considered to be capable of providing reasonable amenity to the site and adjoining properties, subject to recommended conditions.
<b>Landscaped area:</b> (ii) at least 30% of the site area is to be landscaped,	Yes	No change to original approval (30.3%).
<b>Deep soil zones:</b> (i) there is soil of sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the site area (the deep soil zone), and (ii) each area forming part of the deep soil zone has a minimum dimension of 3m, and (iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,	Yes	No change to original approval (27.5%).
<b>Solar access:</b> if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	Further Information Required	The application states that 71% of dwellings receive minimum 2 hours solar access. Inadequate documentation has been provided to clearly determine if 3 hours solar access is received by these units.
<b>General</b>		
<b>Parking:</b> (ii) at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,	Yes	As originally approved, no on-site vehicular parking has been provided, given that the site is located within close proximity to Bondi Junction and public transport options.
<b>Dwelling size:</b> each dwelling has a GFA of at least: (i) 35m <sup>2</sup> in the case of a bedsitter or studio, (ii) 50m <sup>2</sup> in the case of a dwelling having 1 bedroom, (iii) 70m <sup>2</sup> in the case of a dwelling having 2 bedrooms, (iv) 95m <sup>2</sup> in the case of a dwelling having 3 or more bedrooms.	No	As previously outlined, proposed Unit 7 is a one-bedroom unit that has an internal area less than the required 50m <sup>2</sup> and is non-compliant. Therefore, the proposal is non-compliant with this requirement of SEPP (ARH) 2009.

#### *Clause 16 – Continued application of SEPP 65 and Clause 16A Character of local area*

An assessment of the proposal against SEPP 65 has been considered earlier in this report. This clause specifies that a consent authority must not consent to development without considering the compatibility of the design of the building to the character of the surrounding area.

The modifications under the subject application have been reviewed by Council's Heritage Advisor who does not support the application with regards to building and its relationship in the context of the existing the character of the area. *See discussion in Section 2.2.5 of this report for further details.*

#### *Clause 17 – Must be used for affordable housing for 10 years*

To utilise bonus FSR provisions of SEPP (ARH) 2009, the following must be satisfied:

- (1) *A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:*
  - (a) *for 10 years from the date of the issue of the occupation certificate:*
    - (i) *the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and*
    - (ii) *all accommodation that is used for affordable housing will be managed by a registered community housing provider, and*
  - (b) *a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.*

The proposal maintains three (3) affordable housing units as originally approved in accordance with the provision of SEPP (ARH) 2009. A condition was imposed on the original consent to ensure that the identified units are used for this purpose. The proposal is considered to comply with this clause.

### **2.2.5 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)**

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

**Table 3: 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 as discussed throughout this report.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R3: Medium Density Residential Zone	Yes	The proposal is defined as a residential flat building, 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>12.5m</li></ul>	Yes	The proposal appears to be sited below the maximum building height applicable to the site however, it is noted that an inadequate floor to ceiling height is provided to Unit 7 on

Provision	Compliance	Comment
		the proposed third floor level that may have the potential to result in an increase in building height to comply with the relevant provisions of the BCA.
4.4 Floor space ratio and <ul style="list-style-type: none"> <li>Site Area: 336m<sup>2</sup></li> <li>Permitted FSR: 0.9:1 plus SEPP (ARH) bonus 0.31 (overall permitted FSR 1.21:1)</li> </ul>	N/A	<i>Refer to discussions above.</i>
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	No	<i>See discussion below.</i>
<b>Part 6 Additional local provisions</b>		
6.2 Earthworks	Yes	No new earthworks are proposed.

### Clause 5.10 – Heritage

The subject site is located within the Blenheim Street/Bronte Road Landscape Conservation Area. While the subject site is not listed as an item of heritage significance, it is located adjacent to heritage listed residences and is opposite the Blenheim Street Conservation Area that is characterised by mid to late 19<sup>th</sup> Century one and two storey workers cottages. The conservation area and streetscape retain some of Waverley's earliest remaining residences.

Council's Heritage Architect has reviewed the application and the following comments have been provided:

- The proposed development is located at a pivotal point between a regime of taller buildings at the intersection of Birrell Street and Bronte Road and the one and two storey streetscape of Blenheim Street.*
- Previous discussions centred on the need for the subject building to be cohesive with the scale, articulation and existing height [of two storeys with attic levels i.e. three levels] of the streetscape.*
- It remains the opinion of the author that the proposed reinstatement of the previously deleted top floor will detract from the streetscape and fail to provide a cohesive interface between the taller buildings to the north and the established streetscape to the south. On this basis the proposed reinstatement of the top floor is not supported.*

Furthermore, the proposal is inconsistent with objectives and controls of Part B9 Heritage in Waverley Development Control Plan 2012 (WDCP 2012) as outlined below:

- Section 9.1.3 - Landscape Items and Landscape Conservation Areas, as the application does not maintain or enhance the landscape conservation area.
- Section 9.5 – Landscape Conservation Areas, specifically objective (a) and controls (a) and (b), as the application fails to acknowledge the significant character, detail and context of the setting and does not give consideration towards the visual and physical impact of the development, particularly the reinstatement of the third floor level, upon the streetscape setting.

- Section 9.6 – Character and Streetscape, specifically objectives (a) and (c), Section 9.6.1 - All Development, specifically control (c), Section 9.6.3 – Infill Development, specifically controls (a)-(c), as the development is incompatible with development in the immediate vicinity and context of the street and is not sympathetic in bulk and scale to the adjacent heritage items.
- Section 9.7 – Siting, specifically objectives (a) and (d), Section 9.7.1 – All Development, specifically control (a) as the extension of the external wall of Unit 5 located on the second-floor level towards Blenheim Street does not respect the setting of the site within the streetscape and adds further bulk to the building as visible from Blenheim Street and the surrounds.
- Section 9.8 – Scale and Proportion, specifically objectives (b) and (c), Section 9.8.2 Infill Development, specifically controls (a), (b) and (d) as a greater setback to the second-floor level fronting Blenheim Street and the development is not cohesive in terms of scale and proportion to the surrounding streetscape and buildings.

Therefore, the application is not supported as the development does not maintain cohesion with the existing streetscape, does not ensure that a cohesive interface is provided between the proposed development to the existing streetscape to the south, the conservation area, and the local heritage items adjacent to the subject site.

## 2.2.6 Waverley Development Control Plan 2012 - Amendment No 7 (Waverley DCP 2012)

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

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

Development Control	Compliance	Comment
1. Waste 1.4.1.1 Storage 1.4.1.2 – Residential 1.4.2 – Access and Collection 1.4.3 – Amenity 1.4.4- Management	Yes	No change to the approved waste facilities is proposed with the subject application. Conditions have been imposed on the original consent with regards to waste management that is satisfactory.
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. This is not considered to be a reason for refusal.
3. Landscaping and Biodiversity	Yes	No change to the approved landscaping on site is proposed.
7. Accessibility and adaptability	Yes	Conditions of consent were imposed on the original consent to ensure that the works comply with the access standards.
8. Transport 8.1 – Streetscape 8.2 – On Site Parking 8.3 – Loading Facilities 8.4 – Pedestrian/Bicycle Circulation and Safety	Yes	No car parking facilities were originally approved that acceptable. The proposal retains space for five (5) bicycle parking spaces that is considered to be acceptable, given that the site is located in an accessible area.



Development Control	Compliance	Comment
8.5 – Green Travel Plan 8.6 - Traffic and transport Management Plan 8.7 – Car Share 8.8 – Electric Vehicle Charing Points		
9. Heritage	No	<i>See comments above.</i>
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP.
11. Design Excellence	No	The modifications are not a suitable design response to the site and streetscape. <i>See below for further comments.</i>

**Table 5: Waverley DCP 2012 – Part C4 High Density Residential Development Compliance Table**

This part applies to development that is subject to State Environmental Planning Policy (SEPP) 65 – Design Quality of Residential Apartment Development, including the residential flat buildings, shop top house or mixed use developments that are 3 or more storeys and contain 4 or more dwellings.

Development Control	Compliance	Comment
<b>4.1 Site, scale and frontage</b>		
<ul style="list-style-type: none"> <li>Minimum frontage: 15m – R3 zone</li> </ul>	No	The site frontage is retained as originally approved.
<b>4.2 Height</b>		
	No	<i>See discussion below.</i>
<b>4.4 Streetscape</b>		
<ul style="list-style-type: none"> <li>Setbacks to be consistent with building line along the street</li> <li>Setbacks above street frontage height are to be included where the adjacent buildings includes upper level setbacks</li> <li>Buildings to be articulated to respond to the streetscape.</li> </ul>	No	<i>See discussion below.</i>
<b>4.5 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>The colour and finish of external finishes should be sympathetic to the street and contribute to</li> </ul>	No	<i>See discussion below.</i>

Development Control	Compliance	Comment
the overall appearance of the building.		
<b>4.6 Fences and walls</b>		
	Yes	As originally approved.
<b>4.8 Pedestrian access and entry</b>		
<ul style="list-style-type: none"> <li>• Accessible entry</li> <li>• Separate to vehicular entry</li> <li>• Legible, safe, well-lit</li> </ul>	Yes	As originally approved.
<b>4.9 Landscaping</b>		
<ul style="list-style-type: none"> <li>• Minimum of 30% of site area landscaped: 100.8m<sup>2</sup></li> <li>• 50% of the above is to be deep soil: 50.4m<sup>2</sup></li> </ul>	Yes	As originally approved.
<b>4.10 Views and view sharing</b>		
<ul style="list-style-type: none"> <li>• Minimise view loss through design</li> </ul>	Yes	The proposal is unlikely to result in a loss of views across the site.
<b>4.11 Visual privacy and security</b>		
<ul style="list-style-type: none"> <li>• Prevent overlooking of more than 50% of private open space of lower level dwellings in same development</li> <li>• Privacy be considered in relation to context density, separation use and design.</li> </ul>	No	Adjoining the subject site to the north is a recently approved, (yet to commence construction) boarding house development (at 125 Bronte Road). The subject modification application seeks to alter the approved kitchen window of Unit 1 on the ground floor level that is not considered to maintain reasonable amenity for the boarding house development on the adjoining site as this may cause some direct overlooking into the kitchen of the boarding house development. Therefore, the modification to this window is not supported.
<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	The modifications are considered to generally maintain acoustic privacy.
<b>3.21 Building services</b>		
<ul style="list-style-type: none"> <li>• Services are to be integrated into the design of buildings (garbage rooms, mail boxes, fire hydrants boosters, electrical substations, down pipes, plant rooms, satellite/communications structures</li> <li>• Plant rooms away from entry communal and</li> </ul>	Yes	No services appear to be provided on the roof.

Development Control	Compliance	Comment
private open spaces and bedrooms. • Building Services setback from walls, edges and front entrances • Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge		

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

### **Proposed Third Floor Level & Extension of Unit 5**

The proposed works are inconsistent and non-compliant with the relevant objectives and controls in *Sections 4.2 – Height, 4.4 – Streetscape and 4.5 Building Design and Streetscape* for the following reasons:

- The site is located within the R3: Medium Density Residential Zone and the development exceeds the FSR development standard envisaged for the site as a result of FSR bonus applied under the provisions of SEPP (ARH) 2009. Furthermore, a wall height control of 12.5m is applicable to the surrounding locality, whereby the resulting built form is incompatible with the Blenheim Street streetscape, landscape and heritage conservation area.
- The height of the building exceeds the height of existing development in the immediate vicinity fronting Blenheim Street, is unsympathetic to the locality and is not of a high design standard.
- The proposed third-floor level would accommodate an additional unit on the subject site however, this third-floor level does not have adequate floor to ceiling heights and is undersized for a one-bedroom apartment. Therefore, the amenity of this additional unit is compromised and represents an overdevelopment of the site.
- The proposal seeks to extend the front building line of Unit 5 on the second-floor level into the balcony space. This results in unacceptable bulk and scale impacts upon the streetscape therefore, the development does not appropriately respond to the streetscape character.

Therefore, the proposed built form of the development is not supported, and the application is recommended to be refused.

### **2.3 Other Impacts of the Development**

The proposed development is capable of complying with the BCA. Despite this, it is considered that the proposal will have significant detrimental effect relating to environmental, social or economic impacts on the locality for reasons discussed throughout this report.

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

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

## 2.5 Any Submissions

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

Three (3) submissions were received. The issues raised in the submissions are summarised and discussed below.

**Table 6: Summary of property addresses that lodged a submission**

Property
127 Bronte Road, WAVERLEY
604/131 Bronte Road, WAVERLEY
8 Blenheim Street, QUEENS PARK

**Issue:** *Bulk and scale.*

**Response:** *Refer to comments throughout this report.*

**Issue:** *Solar access.*

**Issue:** *8 Blenheim Street will have little sun into the rear courtyard from midday and absolutely NO sun into the rear courtyard from 1pm onwards.*

**Response:** The above comments are noted and the application is not supported.

**Issue:** *The proposed one-bedroom unit is undersized.*

**Response:** Agreed. *Refer to comments throughout this report.*

**Issue:** *Increased residential density and no car parking provisions.*

**Response:** As previously outlined, the site is in an accessible area and car parking is not required to be provided. A condition was imposed on the original consent that does not allow for car parking permits to be provided to residents of the subject site.

**Issue:** *Proposed balconies have no separation from the right of way.*

**Response:** No balconies are proposed with this modification application in the vicinity of the right of way.

**Issue:** *Communal open space/BBQ area at ground floor level noise impacts.*

**Response:** No change to the communal open space is sought with this application. It is noted that the applicant is also yet to satisfy Condition 2 – General Modifications of the original consent that required changes to the communal open space area.

**Issue:** *Affordable housing will not be supervised to ensure that rents are affordable to low income persons and families.*

**Response:** A condition was imposed on the original consent for the affordable housing units to operate for a minimum of ten years.

**Issue:** *“The developer resides in the Liverpool area. His choice of Queens Park as a precinct in which to build affordable housing is for the purpose of obtaining higher rents.”*

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

**Issue:** *“Council should postpone any action on this DA for at least 6 months or until the Coronavirus is no longer a threat.”*

**Response:** This is not a relevant matter for consideration in the assessment of this application.

## 2.6 Public Interest

It is considered that the proposal will have adverse effect on the public interest and is not supported.

## 3. REFERRALS

### 3.1 Heritage – Urban Planning, Policy & Strategy

*See comments in section 2.2.5 of this report.*

## 4. SUMMARY

The application seeks consent to modify **DA-236/2018** by altering the approved roof and undertaking alterations and additions to the second floor level and reinstating a third floor level of the approved residential flat building on the site. Aspects of the proposal were previously refused by the WLPP in the determination of the original application due to adverse streetscape impacts. The subject application is not supported by Council for the following reasons:

- The proposal is non-compliant with SEPP 65 Design Quality of Residential Flat Development and the Apartment Design Guide as the development results in adverse streetscape impacts, inadequate floor to ceiling heights have been provided and the new unit is undersized.
- The proposal is non-compliant with SEPP (ARH) 2009 due to the inadequate size of Unit 7 and is incompatible with the locality.
- Council’s Heritage Advisor does not support the application on the basis that the development does not maintain cohesion with the existing streetscape, does not ensure that a cohesive interface is provided between the proposed development to the existing streetscape to the south, the conservation area, and the local heritage items adjacent to the subject site.
- The bonus FSR applicable to the development under the provisions of SEPP (ARH) 2009 render the development incompatible with the envisaged bulk and scale of the Blenheim Street streetscape character that primarily consists of one and two storey dwellings and terrace houses. The proposal is not an appropriate response to the existing scale of surrounding buildings and is not adequately setback at levels above the street frontage height.
- The modified window on the northern elevation of the ground floor level is considered to result in overlooking of the approved boarding house development on the adjoining property.

- The proposal does not demonstrate design excellence.
- Three (3) submissions were received regarding bulk and scale, overshadowing and unit size.

Therefore, the proposed modifications are not supported and the application is recommended to be refused.

#### **DBU Decision**

The application and assessment report was reviewed by the DBU at the meeting on 27 May 2020 and the DBU determined:

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

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

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

That the Section 4.55 Modification Application be **REFUSED** by the Waverley Local Planning Panel for the following reasons:

##### **Report prepared by:**



Judith Elijah  
**Development Assessment Planner**

**Date:** 9 June 2020

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



Angela Rossi  
**Manager, Development Assessment (Central)**

**Date:** 9 June 2020

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

- 4 Sensitive development:
  - (b) SEPP 65 development (previously modified and determined by WLPP)

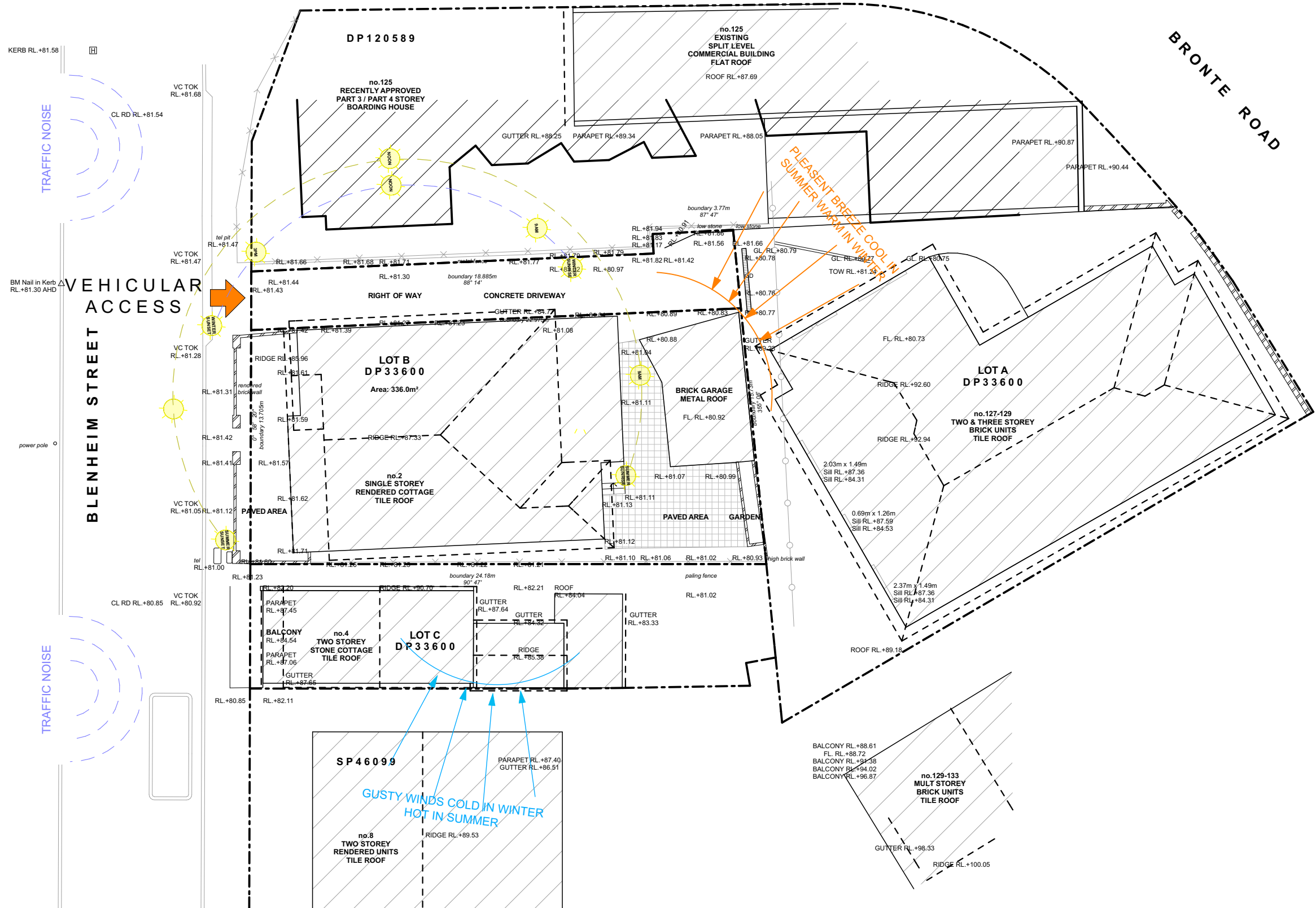
## **APPENDIX A – REASONS FOR REFUSAL**

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

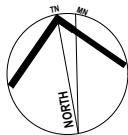
1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design or amenity in the built environment.
2. The proposal does not satisfy section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not comply with State Environmental Planning Policy (SEPP)
  - a. SEPP 65 Design Quality of Residential Flat Development as the proposal does not achieve the 10 Design Quality Principles, specifically, Principle 1 Context and Neighbourhood, Principle 2 Built form and Scale, Principle 6 Amenity and Principle 9 Aesthetics as the modifications result in adverse streetscape impacts and inadequate floor to ceiling heights and unit sizes are proposed.
  - b. SEPP (Affordable Rental Housing) 2009 as the proposal fails to comply with Clause 14(2)(b)(ii), Clause 16 and Clause 16A of the SEPP.
3. The proposal does not satisfy section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the Waverley Local Environmental Plan 2012, in particular, the following provisions:
  - a. Clause 5.10(1)(a) and (b) as the proposal does not conserve the environmental heritage of Waverley, adversely impacts upon the adjacent heritage items, Heritage Conservation Area and the Blenheim Street/Bronte Road Landscape Conservation Area, and results in loss of original setting of the site within the streetscape.
4. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
  - a. Part B9 – Heritage
    - i. Clause 9.1.3 – Landscape Items and Landscape Conservation Areas and Clause 9.5 – Landscape Conservation Areas, specifically objective (a) and controls (a) and (b) as the application fails to consider the visual and physical impact of the development of the landscape conservation area and streetscape.
    - ii. Clause 9.6 – Character and Streetscape, specifically objectives (a) and (c), Clause 9.6.1 - All Development, specifically control (c), Clause 9.6.3 – Infill Development, specifically controls (a)-(c), Clause 9.7 – Siting, specifically objectives (a) and (d), Section 9.7.1 – All Development, specifically control (a), Clause 9.8 – Scale and proportion, specifically objectives (b) and (c) and Clause 9.8.2 Infill Development, specifically controls (a), (b) and (d), as the application is not cohesive with the scale and proportion of buildings in the streetscape and is incompatible with development in the immediate vicinity.

- b. Part B12 – Design Excellence
    - i. Clause 12.1 - Design, specifically objectives (a) and (d) and controls (a), (b) and (e) as the development does not positively contribute to the overall urban design quality of Waverley.
    - ii. Clause 12.2 - Context Analysis, specifically objectives (a)-(d) as the development is not an appropriate design response.
  - c. Part C4 – High Density Residential Development
    - i. Clause 4.2 – Height, specifically objectives (a) and (c) as the development is incompatible with the scale and character of the streetscape and local area.
    - ii. Clause 4.4 – Streetscape, specifically objectives (a), (d), (e) and (g) and control (f) as the development is not adequately setback above the street frontage height and is not an appropriate response to the existing scale of surrounding buildings.
    - iii. Clause 4.5 – Building Design and Streetscape, specifically objectives (a), (b), (e) and (f) and control (a) as the application is not an appropriate response to the streetscape character with regards to bulk and scale.
    - iv. Clause 4.11 – Visual Privacy and Security, specifically objectives (a) and (b) and controls (e) and (f) as the application does not maintain adequate visual privacy for neighbouring properties.
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. Solar Access diagrams and details demonstrating which units receive 3 hours solar access.
  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 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.
  7. The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the development is excessive in bulk and scale and is therefore considered unsuitable for the site.
  8. The proposal is not considered to be in the public interest for the reasons outlined above and for the reasons outlined in public submissions, contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.





Site Analysis  
Scale 1:200



ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	26/02/2020	Issue for S4.55

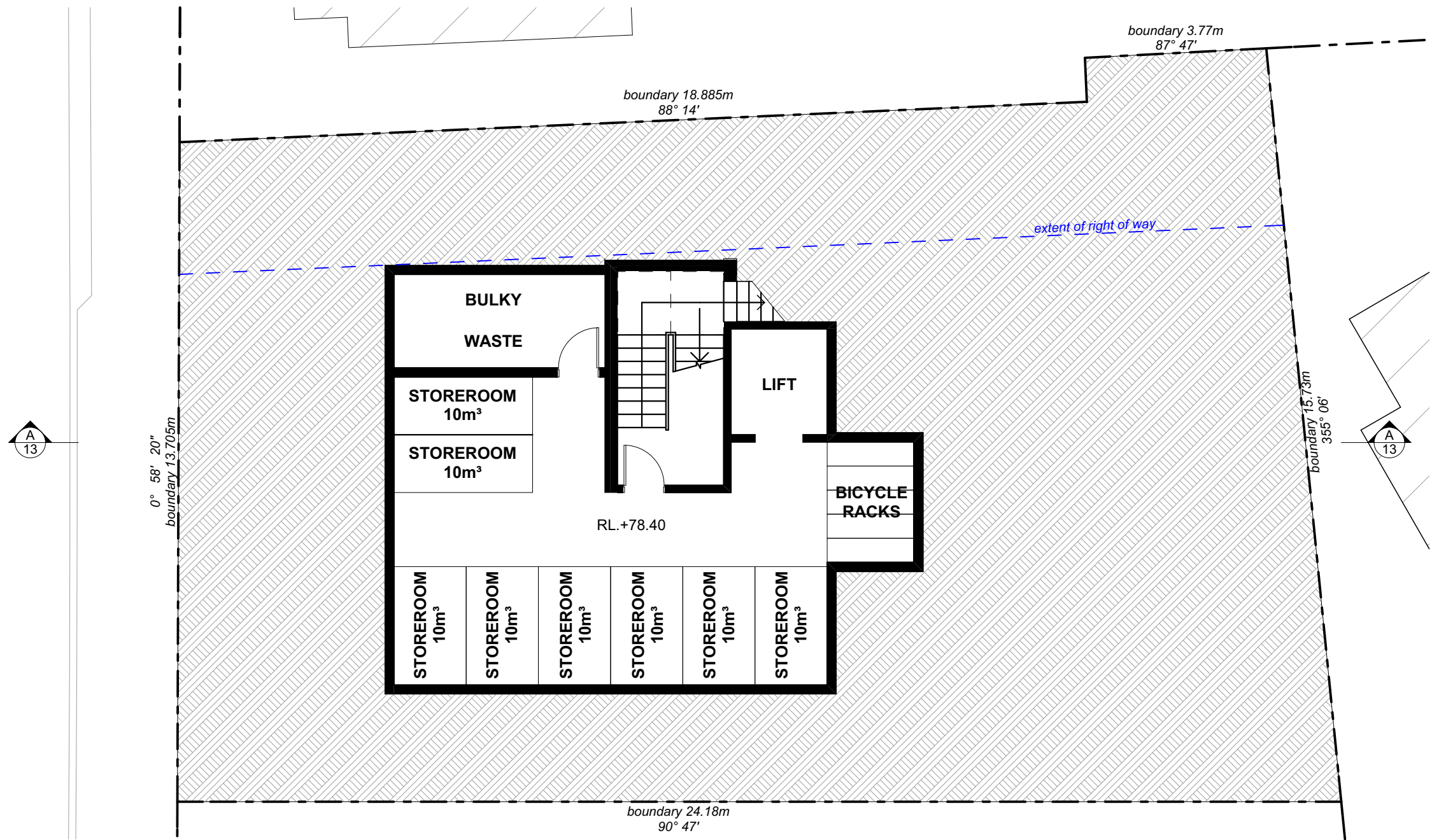
PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

CLIENT:  
**Alex Vrankovic**

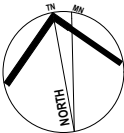
SHEET TITLE:  
**Site Analysis**

SCALE: 1:200 @ A3  
DRAWN: BA

SHEET SIZE: A3  
DWG NO: DA01  
REVISION: b109



Proposed Basement  
Scale 1:100



ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	25/03/2019	Adjustments as per deferral letter
C	26/02/2020	Issue for S4.55

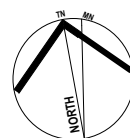
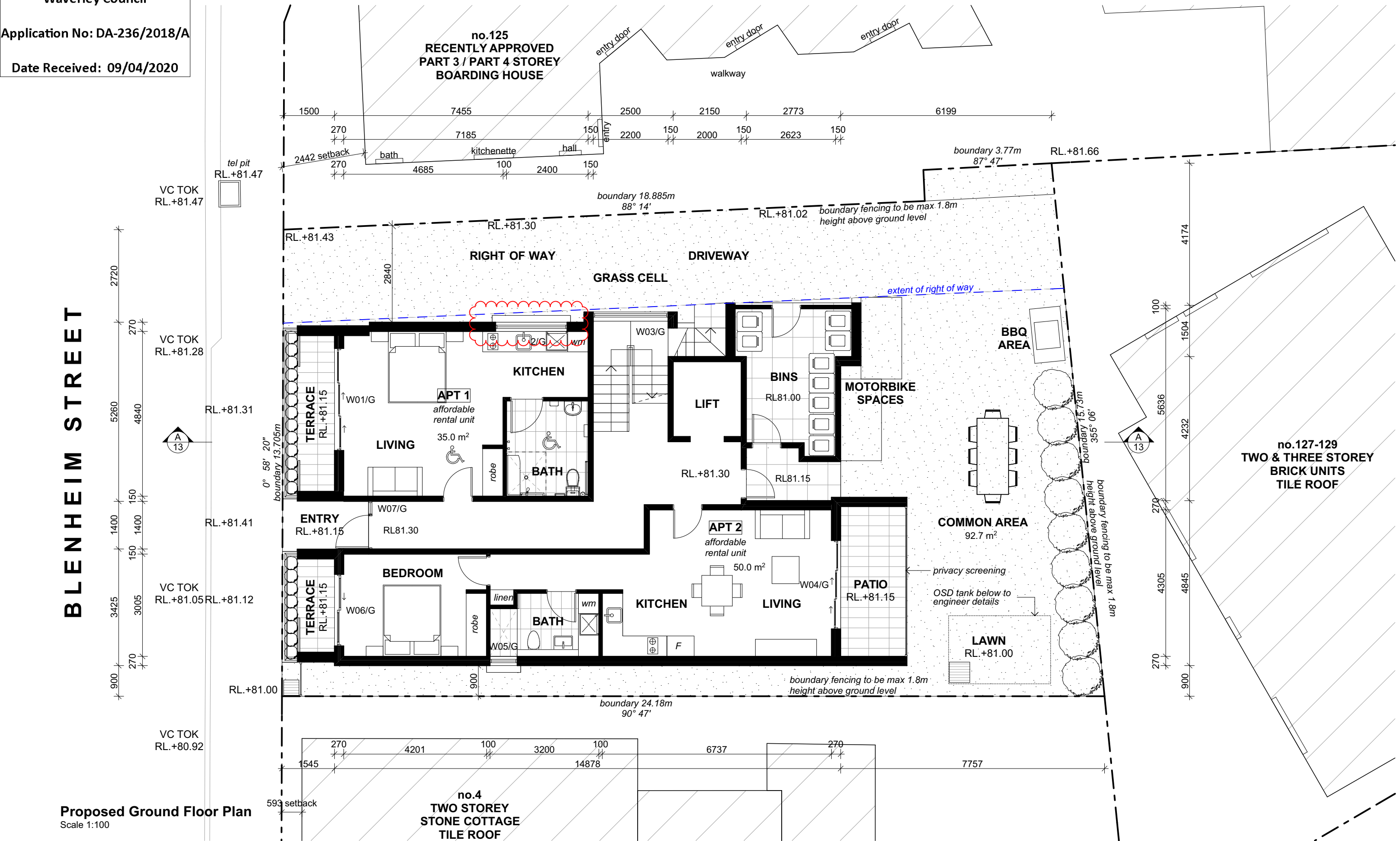
PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

CLIENT:  
**Alex Vrankovic**

SHEET TITLE:  
**Proposed Basement**

SCALE: 1:100 @ A3  
DRAWN: BA

SHEET SIZE: **A3**  
DWG NO: **DA02**  
REVISION: **c10**



ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	25/03/2019	Adjustments as per deferral letter
C	05/06/2019	Adjustment to affordable units
D	26/02/2020	Issue for S4.55
E	03/04/2020	Revised issue for S4.55

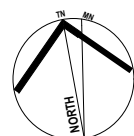
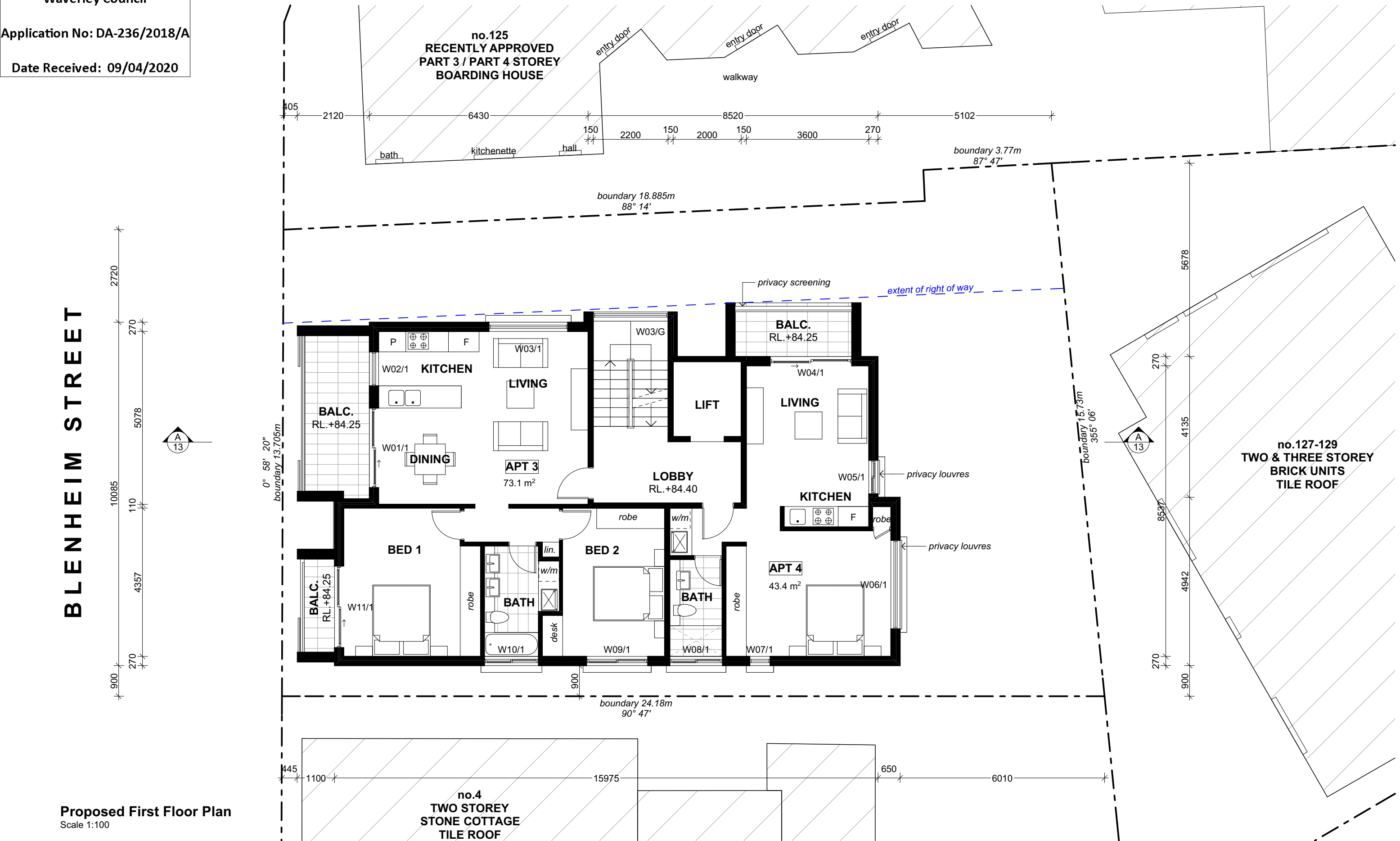
PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

CLIENT:  
**Alex Vrankovic**

SHEET TITLE:  
**Proposed Ground Floor**

SCALE: 1:100 @ A3  
DRAWN: BA

SHEET SIZE: A3  
DWG NO: DA03  
REVISION: 111



ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	25/03/2019	Adjustments as per deferral letter
C	05/06/2019	Adjustment to affordable units
D	26/02/2020	Issue for S4.55
E	03/04/2020	Revised issue for S4.55

PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

CLIENT:  
**Alex Vrankovic**

SHEET TITLE:  
**Proposed First Floor Plan**

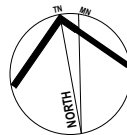
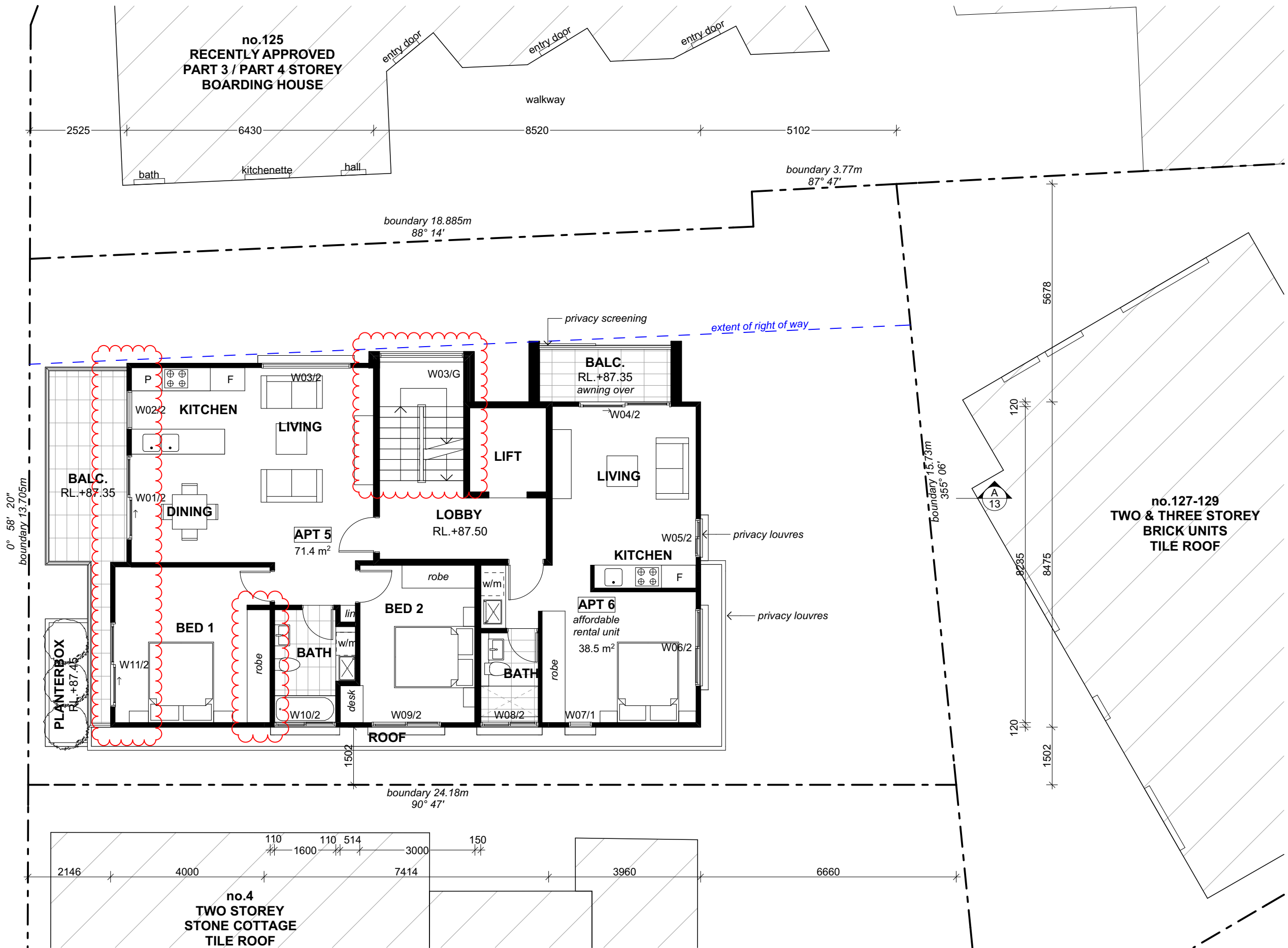
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DRAWN: BA

SHEET SIZE: A3  
DWG NO: DA04  
REVISION: e112



BLenheim STREET

Proposed Second Floor Plan  
Scale 1:100



ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	25/03/2019	Adjustments as per deferral letter
C	26/02/2020	Issue for S4.55
D	03/04/2020	Revised issue for S4.55

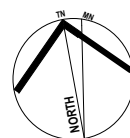
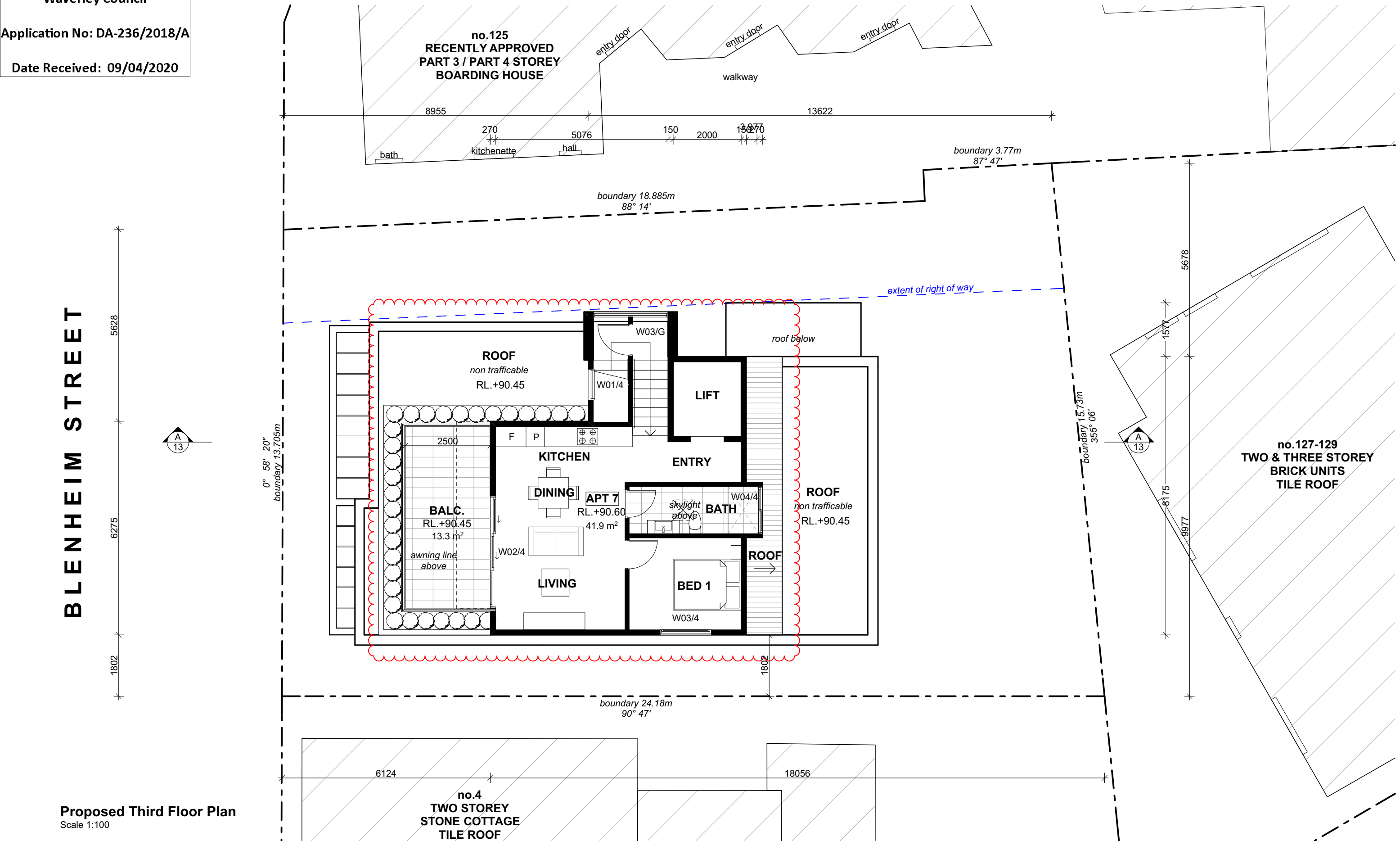
PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

CLIENT:  
**Alex Vrankovic**

SHEET TITLE:  
**Proposed Second Floor Plan**

SCALE: 1:100 @ A3  
DRAWN: BA

SHEET SIZE: A3  
DWG NO: DA05  
REVISION: d113



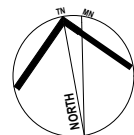
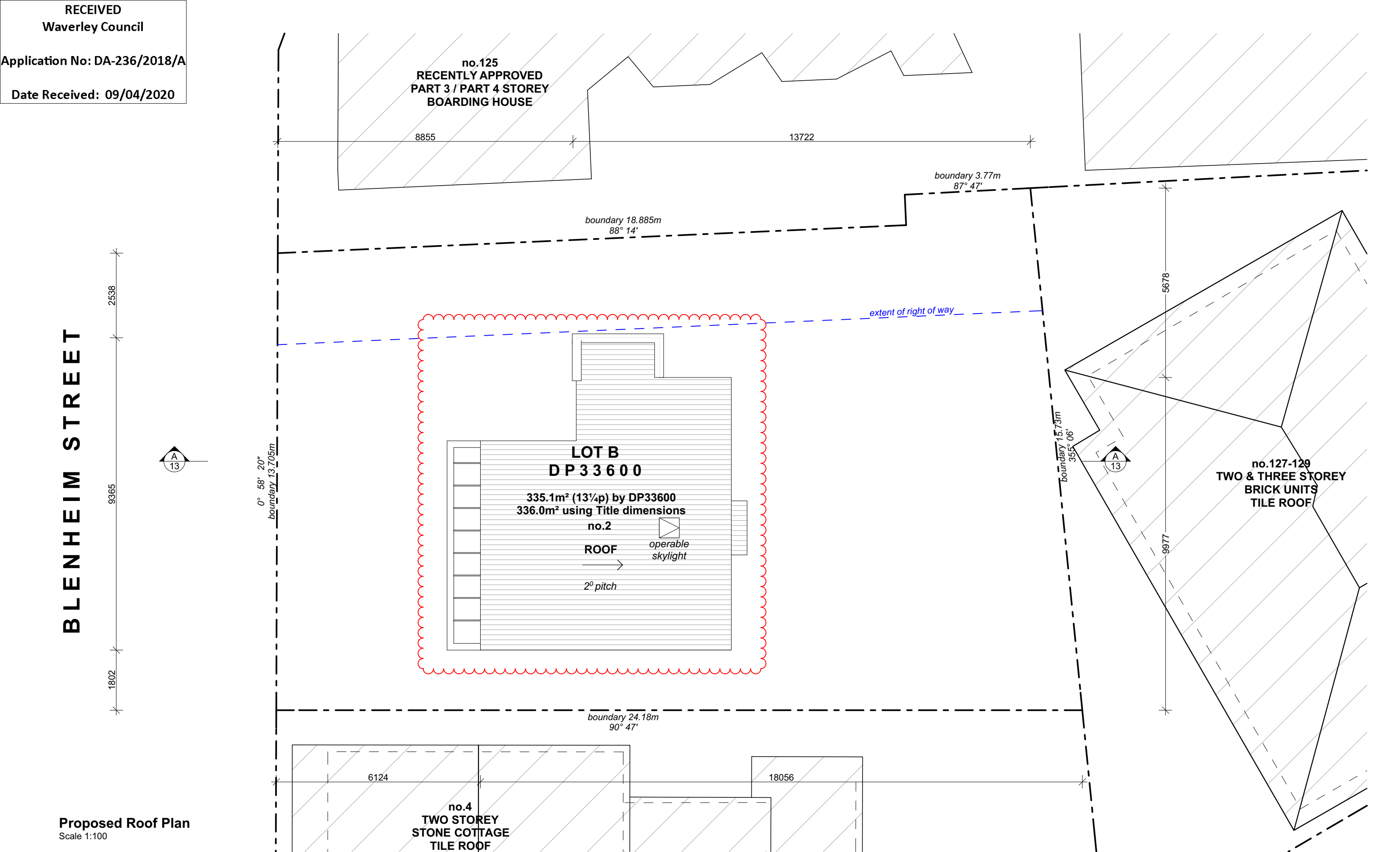
ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	25/03/2019	Adjustments as per deferral letter
C	26/02/2020	Issue for S4.55
D	03/04/2020	Revised issue for S4.55

PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

CLIENT:  
**Alex Vrankovic**

SHEET TITLE:  
**Proposed Third Floor Plan**

SCALE: 1:100 @ A3  
DRAWN: BA  
SHEET SIZE: A3  
DWG NO: DA06  
REVISION: d114



ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	25/03/2019	Adjustments as per deferral letter
C	26/02/2020	Issue for S4.55
D	03/04/2020	Revised issue for S4.55

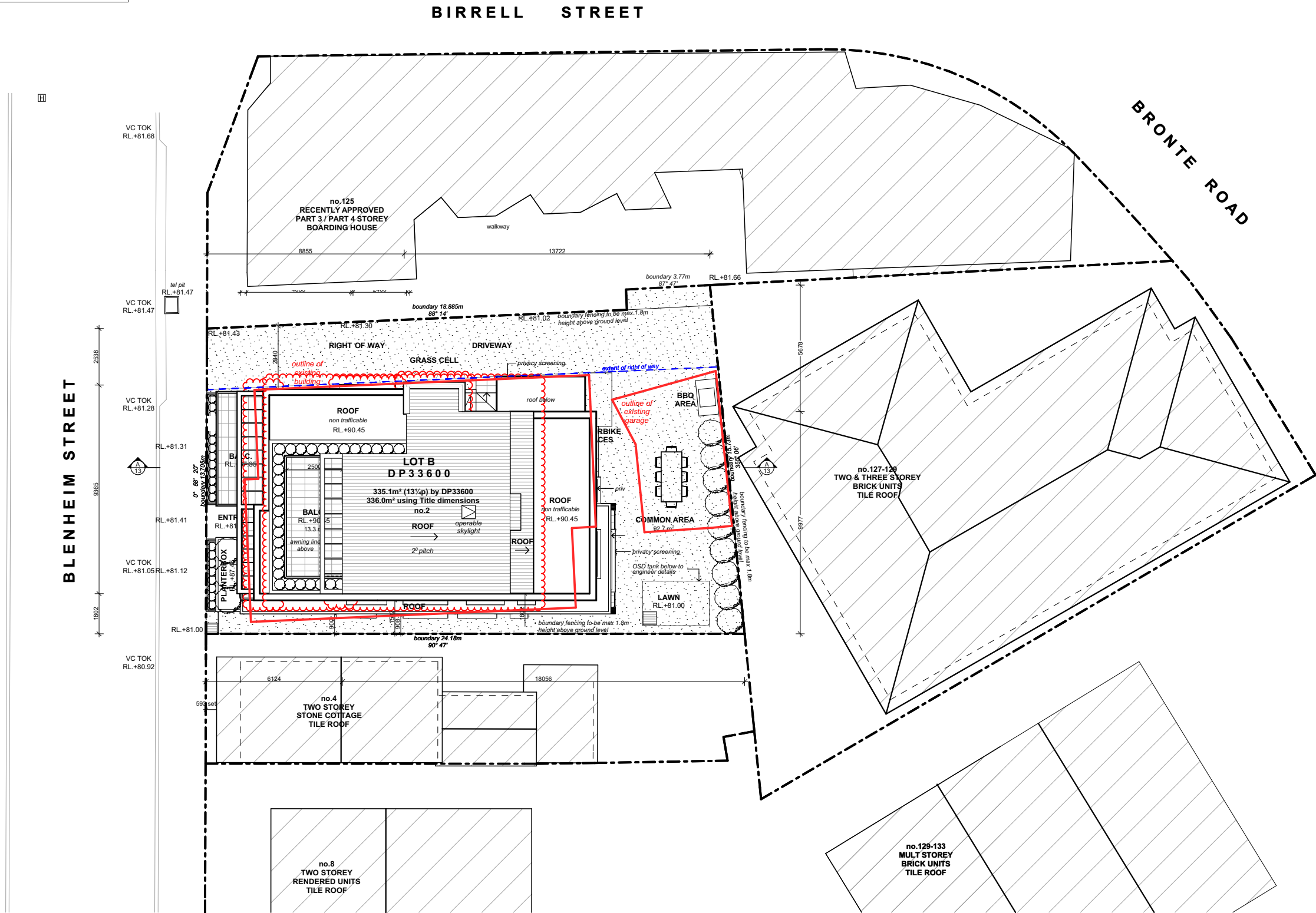
PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

CLIENT:  
**Alex Vrankovic**

SHEET TITLE:  
**Proposed Roof Plan**

SCALE: 1:100 @ A3  
DRAWN: BA

SHEET SIZE: **A3**  
DWG NO: **DA07**  
REVISION: **d115**



Proposed Site & Roof Plan  
Scale 1:200

**NatHERS Specs:**

- Floor slabs: - Concrete.
- Exterior walls:
  - Wall system reaching a total R-value (R1.9). E.g. Lightweight wall with foil + R1.2 batts in cavity to plasterboard lining. (Top floor as per plans).
  - Cavity brick - aircell insulation (R1.24). Or, wall system of R1.6 rating. To remaining units.
- "Exterior walls  
All unit walls that are not party walls to other units or enclosed hall way. Unit walls bordering stairwells & lift shafts to be considered as "exterior" and meet the designated R-value.
- Glazing:
  - Low Solar Gain Low-E glazing: for units1 & 7.
  - Type A (U-Value: 5.6, SHGC: 0.36).
  - Type B (U-Value: 5.6, SHGC: 0.41).
- Single clear glass: modelled for remaining unit glazing.
- Type A (U-Value: 6.7, SHGC: 0.57).
- Type B (U-Value: 6.7, SHGC: 0.70).

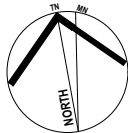
**U-Value & SHGC are combined glass and frame figures.**

- Ceiling insulation:
  - R2.0 ceiling insulation to all concrete & metal roofs.
  - Top floor units rated with sealed downlights& exhaust fans.
  - Metal (with foil under) & concreteroofof modelled as unventilated with medium colour finishes.
- External walls modelled with medium colour finishes

**Project Manager**



Suite 705, Level 7, 35 Spring Street, Bondi Junction NSW 2022  
info@coronaprojects.com.au 0419438956



ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	25/03/2019	Adjustments as per deferral letter
C	26/02/2020	Issue for S4.55
D	03/04/2020	Revised issue for S4.55

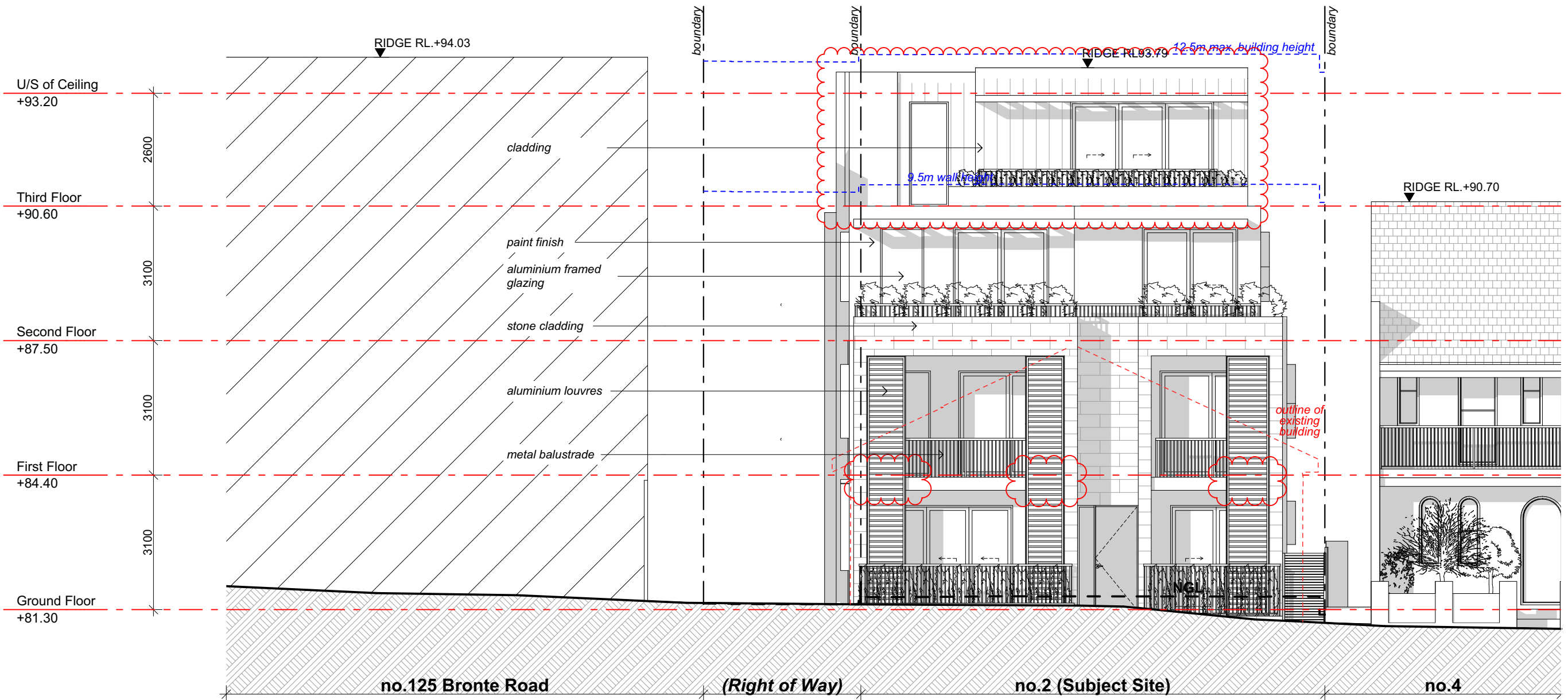
PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

CLIENT:  
**Alex Vrankovic**

SHEET TITLE:  
**Proposed Site & Roof Plan**

SCALE: 1:200 @ A3  
SHEET SIZE: A3  
DWG NO: DA08  
REVISION: d16  
DRAWN: BA





Proposed West Elevation (Blenheim Streetscape)  
Scale 1:100

ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	25/03/2019	Adjustments as per deferral letter
C	26/02/2020	Issue for S4.55
D	03/04/2020	Revised issue for S4.55

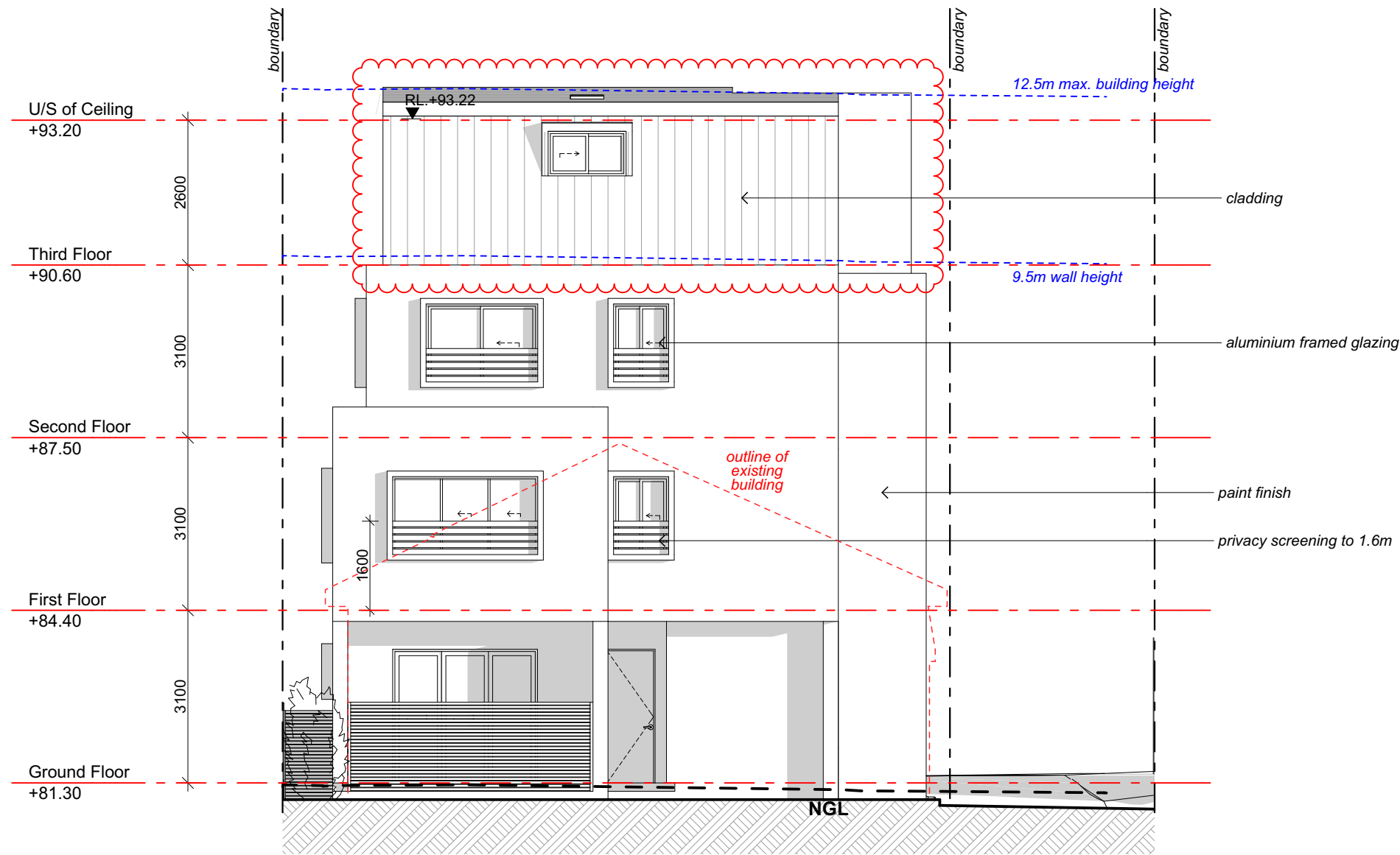
PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

CLIENT:  
**Alex Vrankovic**

SHEET TITLE:  
**Proposed West Elevation (Blenheim Streetscape)**

SCALE: 1:100 @ A3  
DRAWN: BA

SHEET SIZE: **A3**  
DWG NO: **DA09**  
REVISION: **d117**



Proposed East Elevation (Rear)  
Scale 1:100

ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	25/03/2019	Adjustments as per deferral letter
C	26/02/2020	Issue for S4.55
D	03/04/2020	Revised issue for S4.55

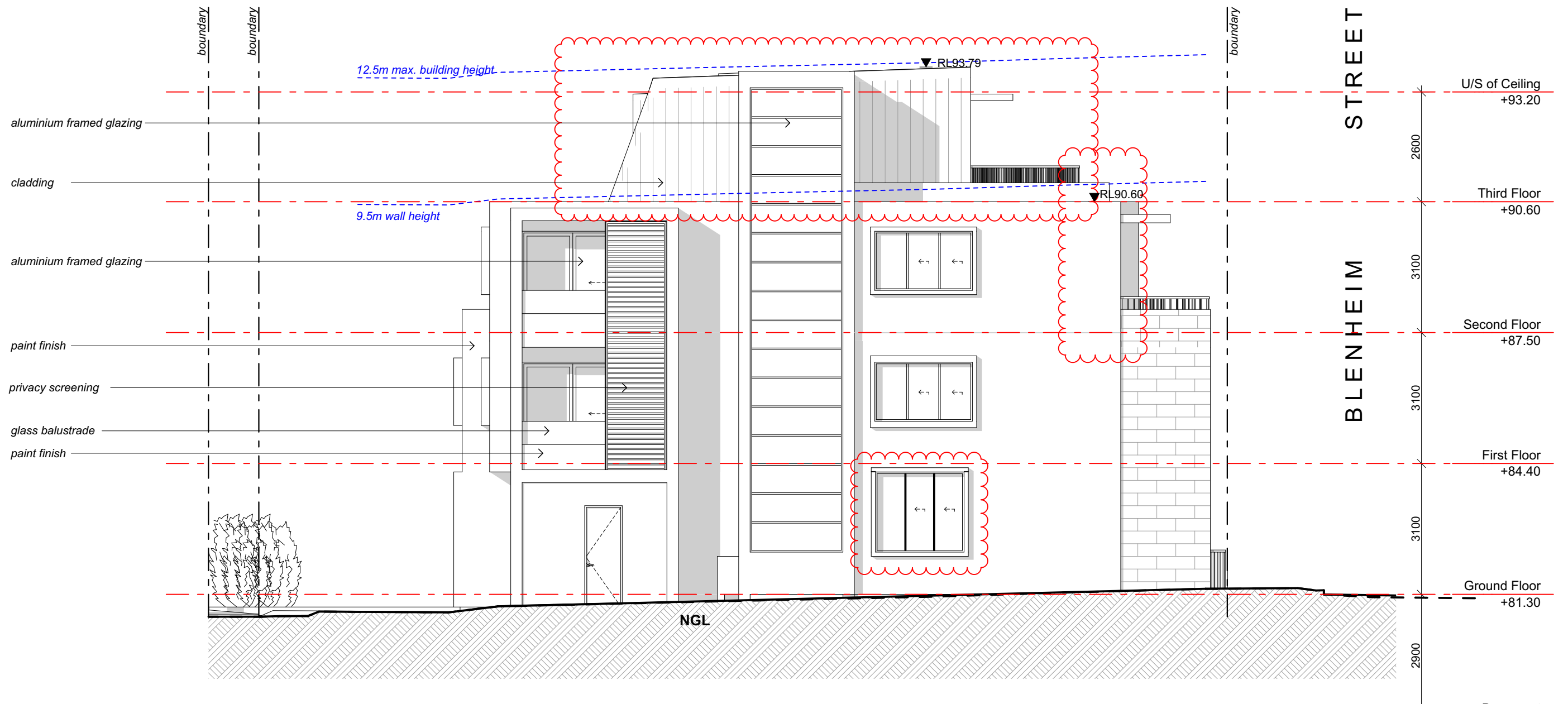
PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

CLIENT:  
**Alex Vrankovic**

SHEET TITLE:  
**Proposed East Elevation (Rear)**

SCALE: 1:100 @ A3  
DRAWN: BA

SHEET SIZE: **A3**  
DWG NO: **DA10**  
REVISION: **d118**



Proposed North Elevation  
Scale 1:100

ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	25/03/2019	Adjustments as per deferral letter
C	26/02/2020	Issue for S4.55
D	03/04/2020	Revised issue for S4.55

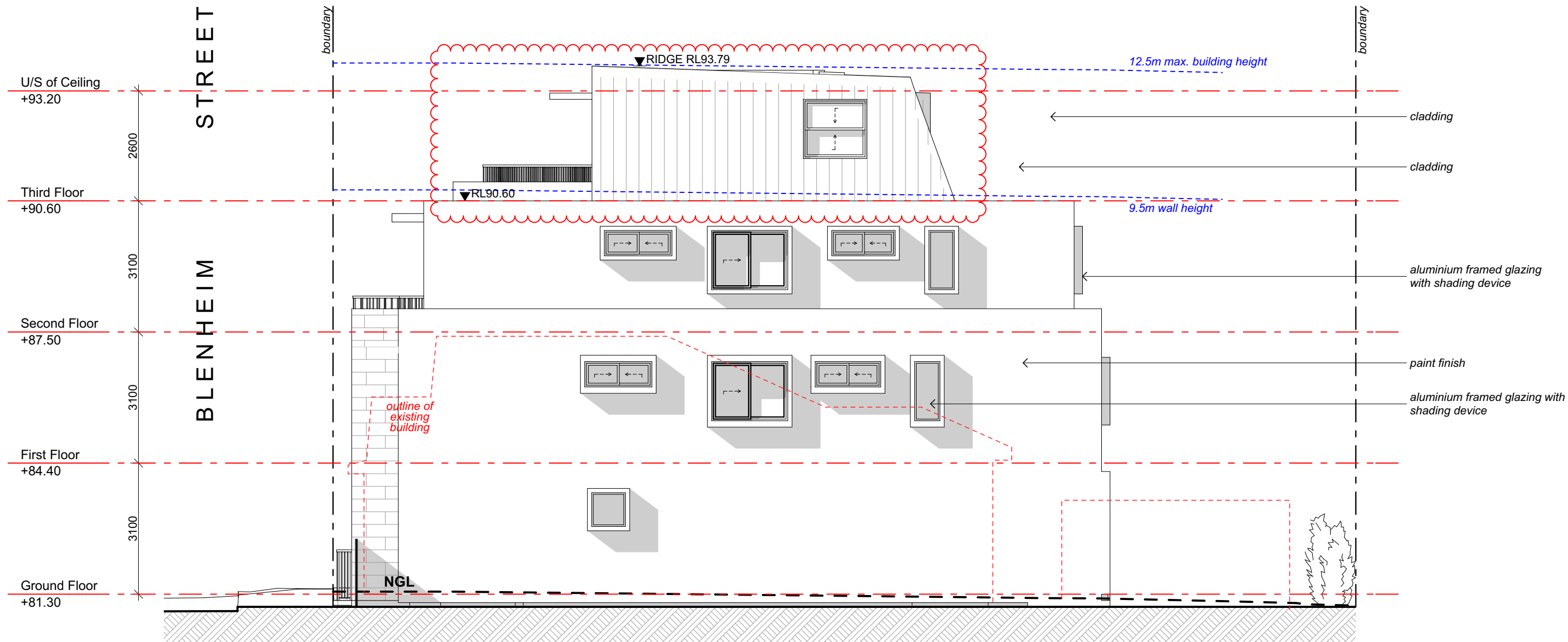
PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

CLIENT:  
**Alex Vrankovic**

SHEET TITLE:  
**Proposed North Elevation**

SCALE: 1:100 @ A3  
DRAWN: BA

SHEET SIZE: A3  
DWG NO: DA11  
REVISION: d119



Proposed South Elevation  
Scale 1:100

ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	25/03/2019	Adjustments as per deferral letter
C	26/02/2020	Issue for S4.55
D	03/04/2020	Revised issue for S4.55

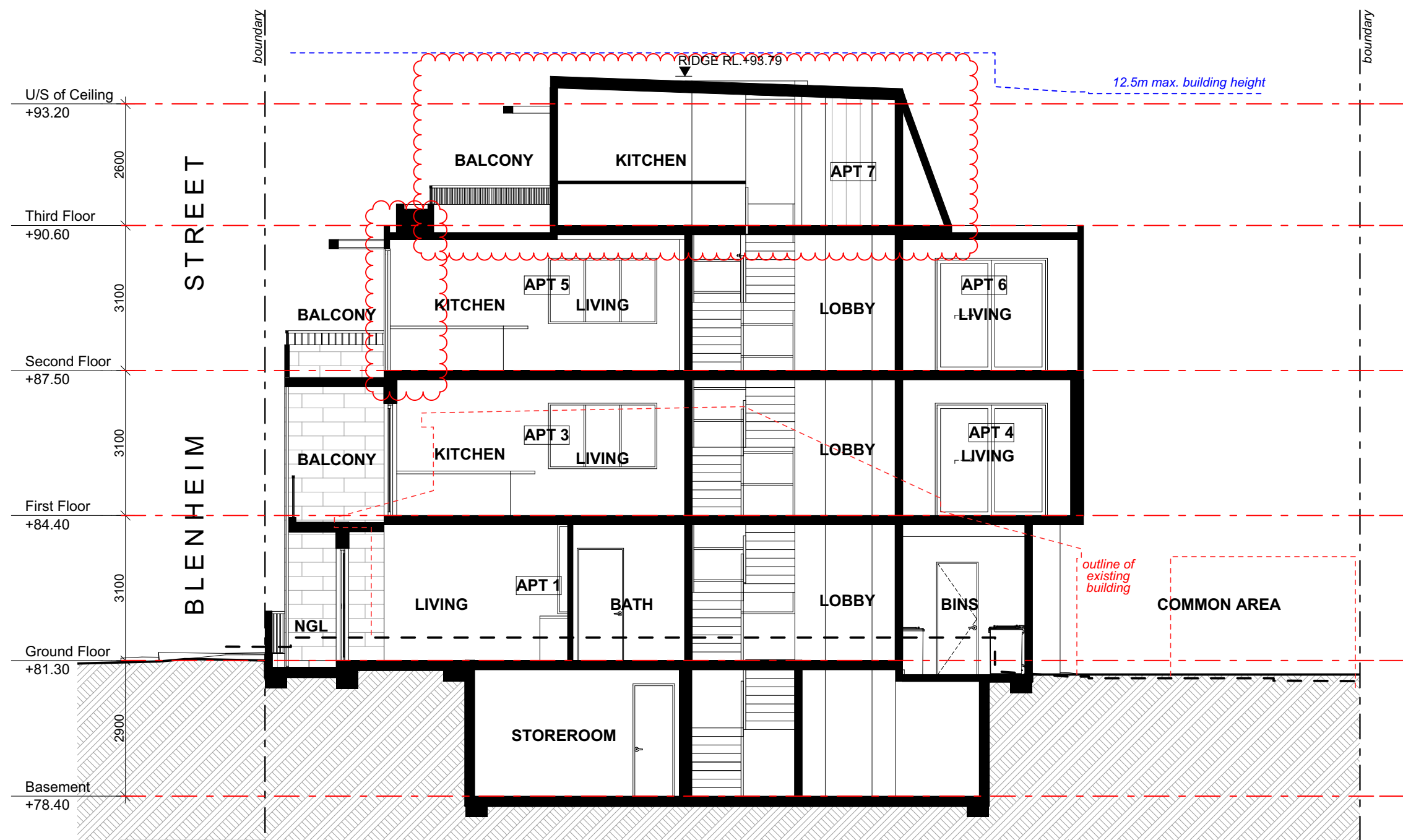
PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

CLIENT:  
**Alex Vrankovic**

SHEET TITLE:  
**Proposed South Elevation**

SCALE: 1:100 @ A3  
DRAWN: BA

SHEET SIZE: A3  
DWG NO: DA12  
REVISION: d120



Proposed Section AA  
Scale 1:100

ISSUE	DATE	DESCRIPTION
A	20/06/2018	DA Issue for Council
B	25/03/2019	Adjustments as per deferral letter
C	26/02/2020	Issue for S4.55
D	03/04/2020	Revised issue for S4.55

PROJECT:  
**Proposed Development at:  
2 Blenheim Street, Queens Park**

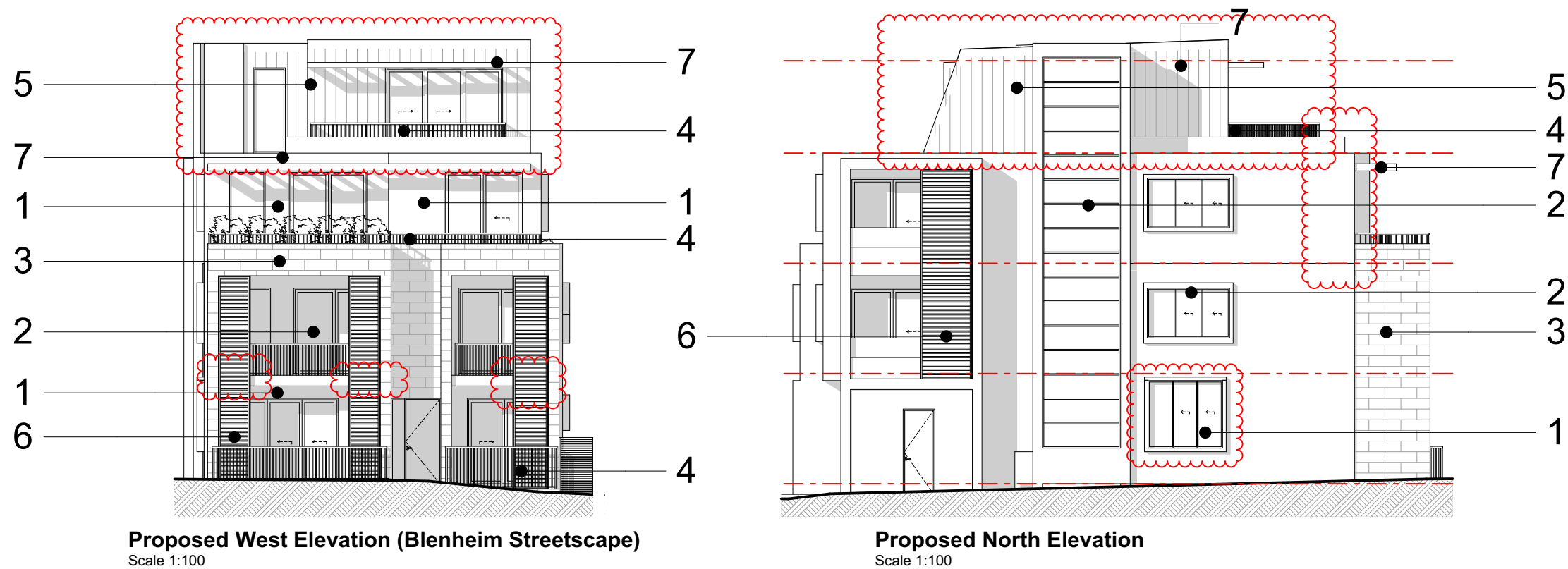
CLIENT:  
**Alex Vrankovic**

SHEET TITLE:  
**Proposed Section AA**

SCALE: 1:100 @ A3  
DRAWN: BA

SHEET SIZE: **A3**  
DWG NO: **DA13**  
REVISION: **d121**





dulux paint:  
surfmist

aluminium frame  
glazing

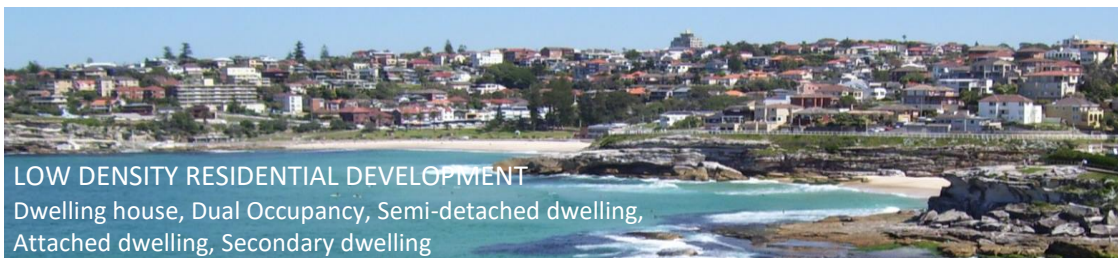
sandstone  
cladding

metal balustrade

zincalum  
cladding

external metal  
louvres

external horizontal  
louvres



## Delegated Report

<b>Application number</b>	DA-434/2019/1
<b>Site address</b>	69 Anglesea Street, BONDI
<b>Proposal</b>	Review of decision seeking alterations to front of dwelling to accommodate a hard stand car space, including minor excavation and new front fence.
<b>Date of lodgement</b>	3 April 2020
<b>Owner</b>	JS Osie & AP Tow
<b>Applicant</b>	CSA Architects Pty Ltd
<b>Submissions</b>	Nil.
<b>Cost of works</b>	\$5000.00
<b>Issues</b>	Car parking design, the cut out into dwelling is unsuitable for some vehicles to use, location and alteration to the front façade.
<b>Recommendation</b>	That the application be REFUSED

**Site Map**



## **1. PREAMBLE**

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

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

The site is identified as Lots 1 and 2 in DP 1069743, known as 69 Anglesea Street, BONDI. The site is rectangular in shape with an eastern street frontage measuring 10.06m, side boundaries measuring 32.285m and western rear boundary measuring 10.06m. The site has an area of 324.78m<sup>2</sup> and falls from the rear towards the street by approximately 3.4m.

The site is occupied by a single storey detached dwelling house. Currently no vehicular access is provided to the site.

The subject site is adjoined by two storey dwelling houses on either side. The Locality is characterised by a variety of residential developments including semi-detached, detached dwellings and residential flat buildings.



**Figure 1:** Westerly view of the subject site from Anglesea Street.





**Figure 2:** North westerly view of the adjoining properties at 65-67 Anglesea Street.



**Figure 1:** South westerly view of 71 Anglesea

## 1.2 Relevant History

### Original Application:

**DA-434/2019:** The original development application sought consent for the alterations to dwelling façade and front fence to create hardstand parking. The application was lodged on 23 December 2019. The application was refused under staff's delegated authority on 19 March 2020 for the following reasons:

1. *The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design or amenity in the built environment.*
2. *The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:*
  - a. *Part C2 – Low Density Residential Development;*
    - i. *Clause 2.8.1, control (a), as site and locality conditions do not support on-site parking in this form, i.e. with a cut out.*
    - ii. *Clause 2.8.3, control (iv), as the distance between the building and the front property boundary is less than the minimum 5.4m without cut out.*
    - iii. *Clause 2.8.4, control (c), as it is proposed to remove elements of the façade to accommodate car parking.*
    - iv. *Clause 2.8.5, control (a), as the proposed hardstand does not comply with minimum dimensions, i.e. 5.4m minimum depth without alterations to the façade.*
    - v. *Clause 2.8.5, control (b), as without the cut out, the proposal does not accommodate a vehicle without it overhanging into the public domain.*
3. *The proposal is not considered to be in the public interest for the reasons outlined above and is therefore contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.*

### Subject application:

**DA-434/2019/1:** The Section 8.2 review application was lodged on the 3 April 2020. No changes were made to the original application and the supporting planning statement reiterated the previously raised points in the Statement of Environmental Effects.

## 1.3 Proposal

The subject Section 8.2 application seeks a review of the determination made under DA-434/2019. In response to the refusal of the application, no changes have been proposed to the Architectural Plans.

The application seeks consent to undertake the following works:

- Demolish a portion of front fence and landscaping;
- A 3m sliding gate to front fence;
- New crossover, 3m in width (excluding splay);

- Alterations to the dwelling façade under the existing verandah to create cut out measuring a depth of 1.95m, width of 2.7m and a height of 1.577m.
- New retaining walls below the house and in the front garden.
- New hardstand measuring 2.7m x 5.4m.

## **2. ASSESSMENT**

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

### **2.1 Section 8.2 Considerations**

Section 8.2 of the Act enables Council to review a previous determination of a development application subject to the following provisions:

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

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

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

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

The determination of the original development application was made on 19 March 2020. The period of the right of appeal for the applicant to exercise (referenced in section 8.3(2)(a) of the Act), is six months after the date of determination. The application is scheduled to be determined by the Waverley Local Planning Panel on 24 June 2020, which satisfies the statutory timeframe to determine this review application.

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

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

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

#### **2.2.1 SEPP 55 Remediation of Land**

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

#### **2.2.2 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 does not contravene 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 and additions to a dwelling house, which is permitted with consent in the R2 zone.

### 2.2.3 Waverley Development Control Plan 2012 (Amendment 7)

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

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

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste & Recycling Management plan has been submitted with the originals application to address waste disposal during construction.  The waste and recycling storage area is located in an area convenient for users of the site.
3. Landscaping and Biodiversity	Yes	A landscaping plan wasn't submitted with the application. The architectural plans detail that the front lawn and shrubs will be removed but will retain the three (3) trees along the front boundary. This is not considered acceptable because it does not retain as much existing vegetation as possible and the hard stand is not considered to enhance the visual setting of the site.
6. Stormwater	No	The proposal was submitted without Stormwater Management Plan and cannot satisfy this section of the DCP.

Development Control	Compliance	Comment
8. Transport	No	The vehicular access to the site is limited to one cross over and complies with the minimum required dimensions. There is no street parking permitted on the western side of Anglesea Street so the driveway crossing does not result in any loss of on street parking. However, the proposal does not comply with the minimum required dimensions for a hardstand parking space without first altering the front of the dwelling to provide a sufficient vehicle length. Subsequently, the proposal seeks to remove the lower portion of the front of the dwelling to provide 5.4m in length. Cut outs are not considered to be part of the character of the streetscape. This design does not achieve a high standard of urban design nor contribute to the amenity of the streetscape and landscape.
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP.
12. Design excellence	No	This proposal does not positively contribute to the architectural character of Anglesea Street. The removing of the existing landscaping and cutting into the front facade is not an appropriate design response.

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

The proposal is defined as a “Dwelling House” in the LEP.

Development Control	Compliance	Comment
<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 &amp; proportions of existing dwelling</li> <li>Significant landscaping to be maintained.</li> <li>Porticos only permitted where a character of the streetscape</li> </ul>	No	<p>The proposed development does not adequately balance the proposed car parking space with suitable urban design and amenity outcomes.</p> <p>The proposed car parking would dominate the streetscape. Landscaping within the front setback is reduced with the proposal. The vehicle access and pedestrian entryways create a large block of pavement in the front setback.</p>
<b>2.4 Fences</b>		
<p><i>Front:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> </ul>	No	The proposal seeks to demolish a 2.7m wide section of the front fence to provide a vehicle access sliding gate which would be the same height as existing. The existing fence has a height of 1.5m, of which 1.1m is solid masonry.





Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Crossings not permitted where 2 on street spaces are lost</li> </ul>		The proposal results in the loss of one on-street parking space.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area</li> </ul>	Yes	The existing open space area is retained on site due to the cut out.
<ul style="list-style-type: none"> <li>Overall landscaped area: 15% of site area</li> </ul>	No	The existing site is under in landscaping with the additional removal of 9.8m <sup>2</sup> resulting in 8% (25.9m <sup>2</sup> ).
<ul style="list-style-type: none"> <li>Minimum area of 25m<sup>2</sup> for private open space</li> </ul>	Yes	The proposal does not alter the existing private open space at the rear of the site.
<ul style="list-style-type: none"> <li>Front open space: 50% of front building setback area</li> </ul>	Yes	The proposal maintains the existing open space within the front building setback area.
<ul style="list-style-type: none"> <li>Front landscaped area: 50% of front open space provided</li> </ul>	No	Proposed Front Landscaped Area: 44.5% (15.6qm).

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

### Car Parking

The subject site is situated on the western side of the street which is comprised of a mixture of medium scale residential flat buildings and dwellings. The eastern side comprises primarily attached and detached dwellings. A streetscape analysis has been conducted which indicates a predominance within this section of Anglesea Street of vehicle crossings and on-site car parking in the form of hardstand and/or garages. Many of these examples on the opposite (eastern) side of the street are undersized and do not comply with Council's controls or have not been constructed in accordance with their relevant development consents.

The subject proposal seeks to remove part of the dwelling to accommodate the car parking space which is acknowledged has occurred with other developments in the street. However, the difference in this proposal compared with previous applications that have altered the front façade is the mere volume and amount that needs to be altered to accommodate the hardstand car space. In other sections of the street, the front verandah of dwellings have been altered to accommodate the parking, whereas in this scenario, the actual main form of the dwelling is to be altered and the result will have an adverse impact on the streetscape and the architectural integrity of the remaining dwelling. Several properties within Anglesea Street have on-site parking in the form of hardstands and garages; however, there is no predominance of cut outs within the vicinity of the site. Accordingly, it is considered that the proposal is at odds with Part C2 clause 2.8 of the DCP 2012 and demonstrates that on-site parking is not appropriate for the site.

Notwithstanding this, the primary objective of Part B8 of the DCP 2012 is to ensure on-site parking is useable and safe, with control (a) requiring the car park design to be in accordance with relevant Australian Standards. In this regard, AS/NZ S 2890.1:2004 refers to a B85 standard design vehicle as having a *minimum* length of 4.91m; noting that Council's dimension controls for dwellings in Part C2 of the DCP 2012 requires 2.5m width x 5.4m length as a *minimum* for a car space to ensure sufficient scope for a variety of vehicles, that can be wholly parked within the boundary of a site.

While the proposal does provide the minimum vehicle dimensions of 2.5m width x 5.4m length, it can only do this by altering the front façade with a cut out design. Subsequently, for a section of 1.95m of its length, the vehicle sits beneath the dwelling in the 'cut out' where the clearance height is only 1.57m. The remaining section of the hardstand carspace is 3.45m of length. This is evident in the section diagram below.

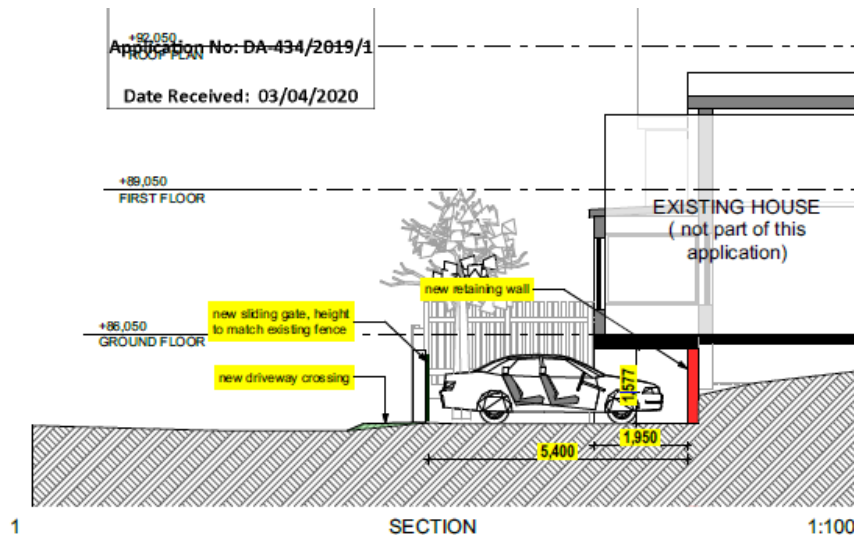


Figure 2: Section detail of proposal (Source: applicant)

The resultant effect may result in some vehicle types overhanging the footpath (eg 4WDs, vans) , as not all vehicle types can fit into this space, raising concern for vehicle and pedestrian safety, as well as this proposal having an adverse impact on the streetscape and architectural integrity of the dwelling being compromised.

Part C2 clause 2.8.4 of the DCP states that no element of the street façade of a building is to be removed or demolished in order to accommodate car parking. Without demolition of a portion of the dwelling, the proposed hardstand would measure 3.45m in length.

The proposed development is typically not supported by Council within the Local Government Area as the proposal fails to comply with Council's controls and is contrary to Council policy. However, in the case of Anglesea Street, it is noted there have been deviations from the controls on the sole basis that this street has exceptional circumstances of precedence and subsequent predominance for parking in the front setback. However, in this circumstance, having regard to the vehicle dimensions, the vehicle clearances and the architectural integrity and streetscape impact, this proposal is just too deficient to support this design.

Furthermore, it is unreasonable to support the application subject to only 'small vehicles' using the parking space. Council do not support this approach having regard to compliance issues for enforcement and that should the property ownership change, it is unreasonable to restrict future users vehicle ownership choices.

## 2.3 Other Impacts of the Development

The proposed development is capable of complying with the BCA.



It is considered that the proposal will have a detrimental effect upon the environmental, social or economic impacts on the locality.

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

The site is not suitable for the proposed development.

## **2.5 Any Submissions**

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

Nil submissions were received.

## **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 Traffic & Development**

The operation of the hardstand requires a significant portion of the car to be situated in the 'cut out' section. The 1.577m clearance may prove to be unsuitable for some vehicles to use the hardstand space. It is recommended that should the application be supported, that conditions be imposed to ensure vehicles do not overhang the property boundary and obstruct the pedestrian footpath.

# **4. SUMMARY**

The application seeks a review of the refusal of DA-434/2019, which sought construction of a hard stand car space, minor excavation under single dwelling and new front fence with a sliding gate. In response to the refusal of the application, the applicant has not made any changes to the Architectural Plans.

The proposal was referred to Council's Manager Traffic and Development who did not object to the proposal, purely as numerically the car space fits on site. However, it was also clearly stated that the clearance may prove to be unsuitable for some vehicles to use the hardstand space.

The proposal is non-compliant with Council's controls for car parking, results in a further reduction of landscaped area, alters the front façade of the dwelling and the design does not achieve a high standard of urban design nor contribute to the amenity of the streetscape. The front setback is undersized and the site is not appropriate to fit a single spaced hardstand without the cut out. It is considered to dominate the presentation of the property to Anglesea Street and erode the existing character of the streetscape due to the landscaped area being reduced.

The application was notified and received no submissions. There were no declarations of interest throughout the assessment process.

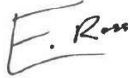
When assessed against the matters for consideration under section 4.15 of the EP&A Act 1979, the proposal is considered to contravene a number of controls contained within the WDCP 2012. The

review application is not considered to be appropriate in the context of the site and accordingly the application is recommended for Refusal.

## 5. DETERMINATION TO WAVERLEY LOCAL PLANNING PANEL

That the Development Application is **REFUSED** by the Waverley Local Planning Panel for the reasons contained in Appendix A:

**Report prepared by:**



Edwina Ross  
**Development Assessment Planner**

**Date: 29/05/2020**

**Report determined by:**



Angela Rossi  
**Manager, Development Assessment (Central)**

**Date: 06/06/2020**

**Reason for referral:**

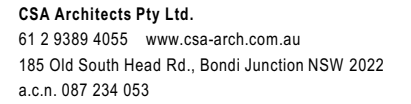
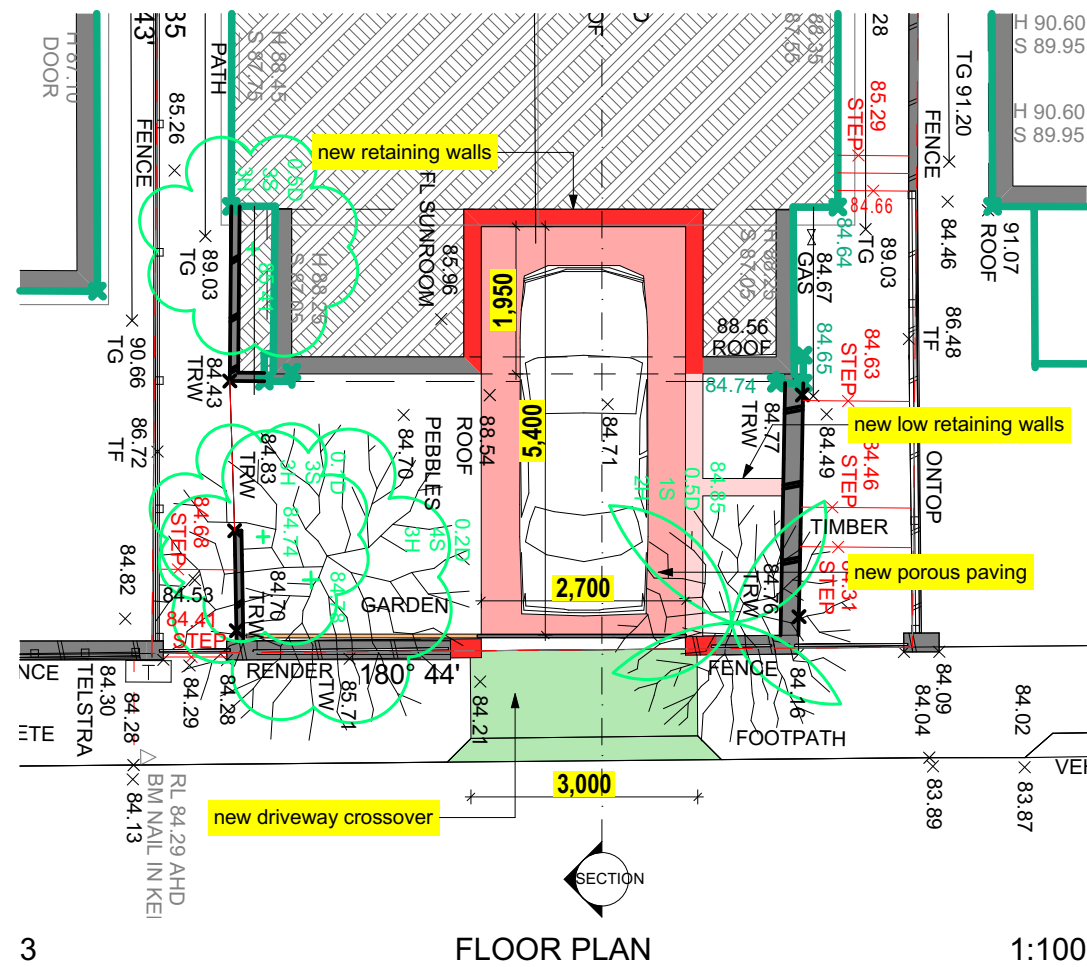
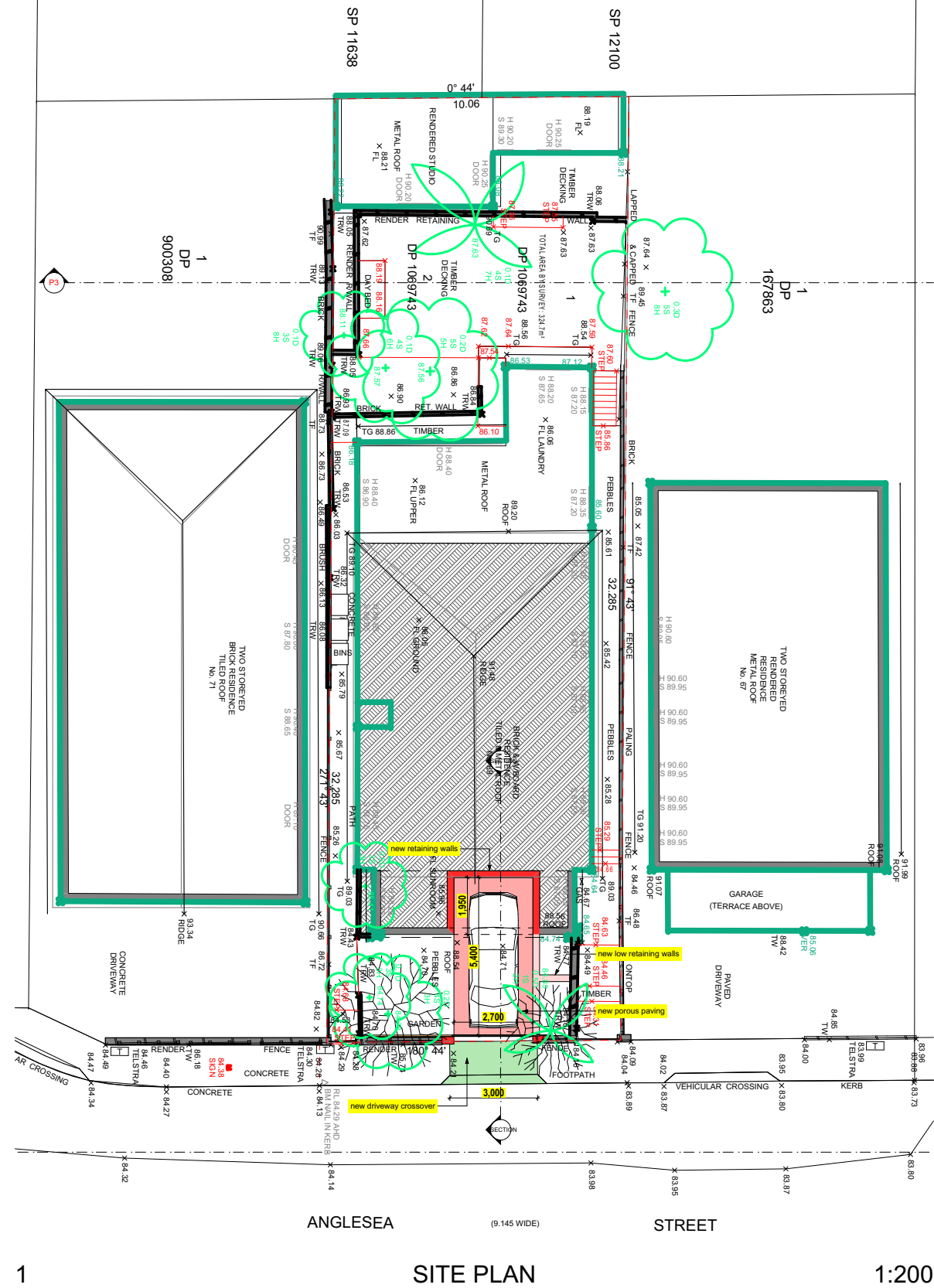
1 Section 8.2 Review

## APPENDIX A – REASONS FOR REFUSAL

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

1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design or amenity in the built environment.
2. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
  - a. Part B8 - Transport
    - i. Clause 8 Transport, specifically objectives (d), (e), (j) and (k) as the hardstand would dominate the site, remove existing landscaping and is not suitable for the constrained site.
    - ii. Clause 8.1 Streetscape, specifically objectives (a) and (b) as the application does not adequately balance the proposed car parking space with suitable urban design and control (c) as the proposed car parking would dominate the streetscape and landscaping within the front setback is reduced.
  - b. Part B12 – Design Excellence
    - i. Clause 12.1 Design, specifically objectives (a), (b) and (d) and controls (a) and (e) as the proposal does not result in a desired design quality.
  - c. Part C2 – Low Density Residential Development;
    - i. Clause 2.3 Streetscape & Visual Impact, specifically control (d), as the car parking space dominates the front setback area and erodes the character of the streetscape given that landscaped area within the front setback is reduced with the development.
    - ii. Clause 2.8.1, control (a), as site and locality conditions do not support on-site parking in this form, i.e. with a cut out.
    - iii. Clause 2.8.3, control (iv), as the distance between the building and the front property boundary is less than the minimum 5.4m without cut out.
    - iv. Clause 2.8.4, control (c), as it is proposed to remove elements of the façade to accommodate car parking.
    - v. Clause 2.8.5, control (a), as the proposed hardstand does not comply with minimum dimensions, i.e. 5.4m minimum depth without alterations to the façade.
    - vi. Clause 2.8.5, control (b), as without the cut out, the proposal does not accommodate a vehicle without it overhanging into the public domain.
3. The proposal is not considered to be in the public interest for the reasons outlined above and is therefore contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.
4. The estimated cost of works (\$5000) is not considered to be an accurate reflection of the actual cost for undertaking the proposed development.

**Application No: DA-434/2019/1**  
**Date Received: 03/04/2020**



Client

**OSIE & TOW**

Project

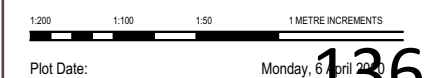
**NEW HARDSTAND CARSPACE**

**69 ANGLESEA ST BONDI**

Status

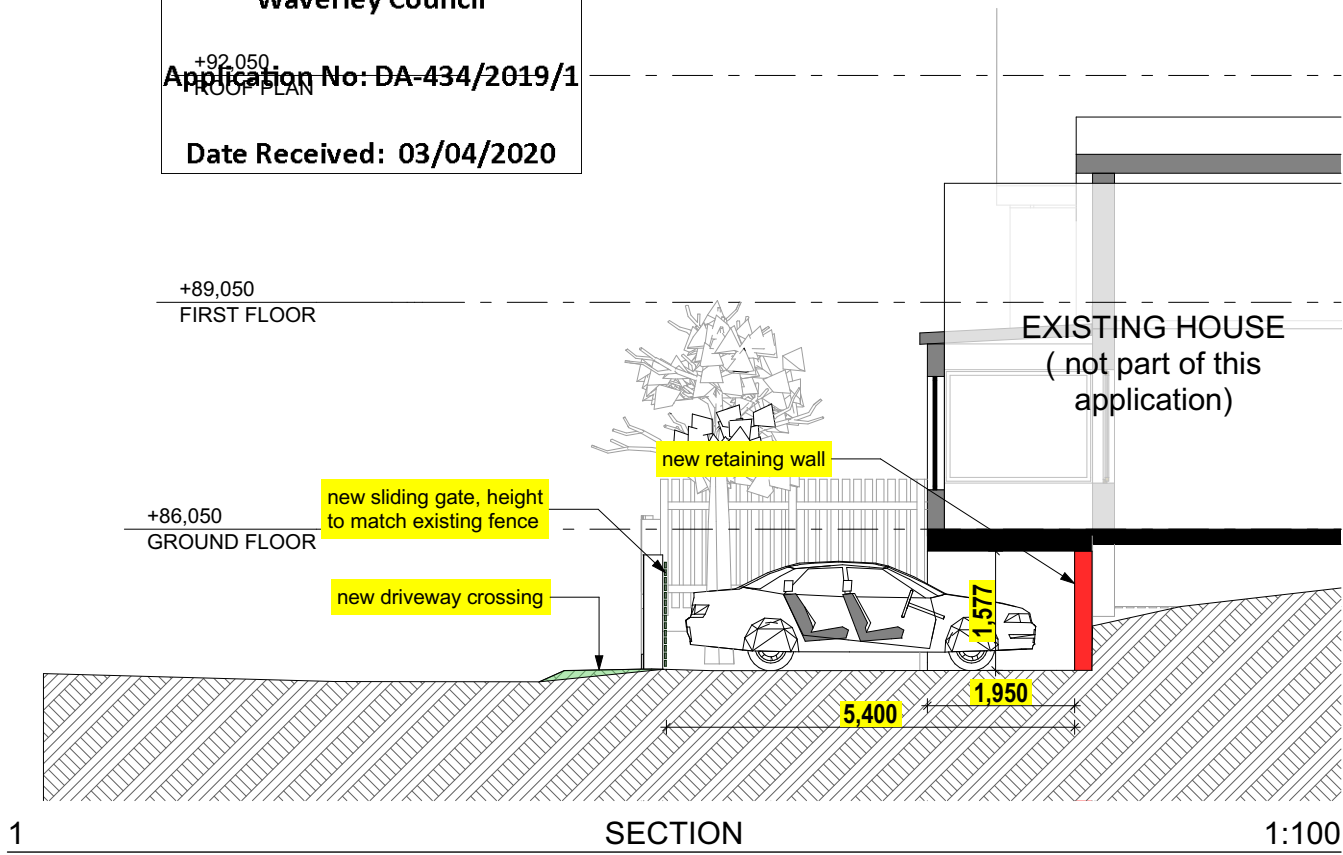
**DEVELOPMENT APPLICATION**

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Sheet No. <b>OSSIE-01</b>			
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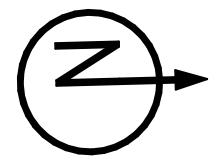


RECEIVED  
Waverley Council  
Application No: DA-434/2019/1  
Date Received: 03/04/2020



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

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



Rev	Description	Date
A	Development Application	19/12/2019
B	Review of Determination	6/04/2020

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

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Client  
**OSIE & TOW**  
Project  
**NEW HARDSTAND CARSPACE**  
**69 ANGLESEA ST BONDI**  
Status  
**DEVELOPMENT APPLICATION**

Drawing Title:  
**FLOOR PLANS (pg 2 of 2)**  
Sheet No.  
**OSSIE-02**

Drawn: AY	Checked: AS/DRB	Scale: 1:100 U.N.O	Rev. <b>B</b>
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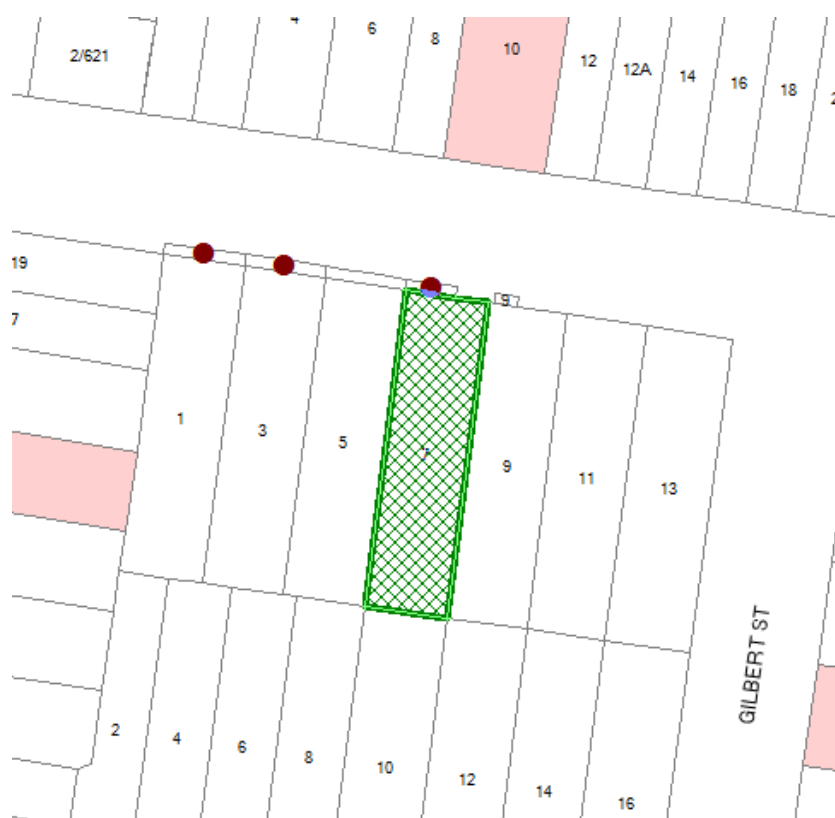




## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-75/2020
<b>Site address</b>	7 Lancaster Road, DOVER HEIGHTS
<b>Proposal</b>	Alterations and additions to dwelling including internal reconfiguration and first floor addition
<b>Date of lodgement</b>	13 March 2020
<b>Owner</b>	Mr G P Spies and Mrs C Spies
<b>Applicant</b>	Castlepeake Architects
<b>Submissions</b>	Nil
<b>Cost of works</b>	\$1,347,061.98
<b>Issues</b>	Works outside of the lot boundary, breach to FSR and stormwater
<b>Recommendation</b>	That the application be APPROVED

**Site Map**



## 1. PREAMBLE

### 1.1 Site And Surrounding Locality

A site visit was carried out on 08 April 2020.

The site is identified as Lot 18 in DP 4185, known as 7 Lancaster Road, DOVER HEIGHTS. The site is rectangular in shape with a northern frontage of 12.19m, a southern rear boundary of 12.19m, and an eastern and western side boundary of 47.245m. The site has an area of 575.8m<sup>2</sup> and slopes by approximate 3.05m from the north to the south.

The site is occupied by a two storey detached dwelling set above the public domain with vehicular access provided from Lancaster Road to a garage that is located to the front of the site. There is an existing swimming pool and shed to the rear of the site. A portion of the garage is located on land owned by Waverley Council and the entry stairs accessed from the public footpath is located within the public domain (refer to **Figure 2**).

The subject site is adjoined by detached dwellings on either side. The locality is characterised by a majority of detached dwellings, although there are examples of residential flat buildings and dual-occupancies within the area.



**Figure 1:** Site viewed from Lancaster Road





**Figure 2:** Privately owned land of 7 Lancaster(yellow hatch), Council owned land (red hatch), public domain (not coloured)

## 1.2 Relevant History

### BA-696/1997

Construct front fence to existing premises

Approved: 11 December 1997

### DA-184/1997

To establish a centre based childcare.

Refused: 30 September 1997 (Waverley Council)

Approved: 25 November 1997 (LEC)

### DA-185/2004

Change of use/childcare centre increasing day care places from 13 to 15.

Refused: 02 June 2004

### DA-421/2004

Internal alterations and additions to the existing childcare centre including an additional 15 children aged between 3-5 years.

Refused: 08 October 2004

### DA-654/2005

Removal of use as residence and full use as a childcare centre increasing numbers from 13 to 21 including internal alterations.

Refused: 28 February 2006

### DA-325/2007

Alterations and additional storey to existing dwelling.

Approved: 26 August 2008

### CD-108/2011

Timber Deck.

Lodged: 31 October 2011

#### CD-182/2016

Construct new inground concrete swimming pool to rear.

Lodged: 14 September 2016

#### DA-242/2018

Alterations and additions to existing dwelling including new first floor addition.

Refused: 02 May 2019

*Reasons for refusal:*

- *Exceeded maximum building height;*
- *Exceeded maximum Floor Space Ratio (FSR);*
- *Inadequate Clause 4.6 Variation;*
- *View Loss; and*
- *Incorrectly scaled plans.*

#### DA-242/2018/1

Review of refused development for alterations and additions to existing dwelling including a first-floor addition.

Refused by WLPP: 25 September 2019

*Reasons for refusal:*

- *Exceeded maximum building height;*
- *Exceeded maximum Floor Space Ratio (FSR);*
- *Inadequate Clause 4.6 Variation; and*
- *View Loss*

### **1.3 Proposal**

The DA is for partial demolition and alterations and additions to the existing dwelling, including internal reconfiguration and a first floor addition. Specifically:

#### Basement floor alterations:

- Internal stair linking the ground floor with the basement floor;
- Open gym area to replace existing gym area;
- Laundry;
- Plant room; and
- Side access off internal stairwell

#### Ground floor alterations:

- Open plan living, dining and kitchen to the southern rear section of the floor;
- New rear deck to replace existing deck (similar size) off the kitchen and living area;
- New internal staircase to connect to upper and lower levels of the house;
- New WC; and
- General internal alterations

#### First floor additions:

- Master bedroom with ensuite, walk in wardrobe and rear deck;
- Two bedrooms and a bathroom;
- Front terrace;
- Linen cupboard; and
- Void over entry below.

#### External works:

- New metal front fence to replace existing metal fencing;
- New pergola structure along entry path;
- New tiled entry path and steps down to street;
- New paving to both eastern and western side access paths;
- New garbage enclosure at street level; and
- Spiral stairs leading up to ground floor terrace at rear.

The application has been amended since lodgement, to provide amended Gross Floor Area (GFA) calculations and an updated clause 4.6 variation; a first floor setback analysis; concept landscaping plan; and a finishes schedule to include finishes of the gate to the bin storage.

## **2. ASSESSMENT**

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

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

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

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

A BASIX Certificate has been submitted with the DA.

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 (as well as a childcare centre). Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

#### **2.1.3 Waverley Local Environmental Plan 2012 (WLEP)**

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

**Table 1: WLEP Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal meets the aims of the WLEP.

Provision	Compliance	Comment
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table <i>Low Density Residential 'R2' Zone</i>	Yes	The proposal is defined as dwelling house, which is permitted with consent in the R2 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings • 8.5m	Yes	The dwelling will have an overall height of 8.1m
4.4 Floor space ratio (FSR); and 4.4A Exceptions to FSR • Max FSR: 0.5:1 • Max GFA: 287.9m <sup>2</sup>	No. Clause 4.6 required.	<u>GFA Calculations</u> Lower Ground: 51.71m <sup>2</sup> Ground Floor: 175.71m <sup>2</sup> First Floor: 106.5m <sup>2</sup> TOTAL: 333.92m <sup>2</sup> SITE AREA: 575.8m <sup>2</sup> FSR: 0.58:1 The proposal is 46.02m <sup>2</sup> or 15.98% over the maximum permitted GFA and therefore a clause 4.6 variation is required to be submitted.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of the WLEP to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.

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

#### Clause 4.6 Exceptions to Development Standards

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

The site is subject to a maximum FSR control of 0.5:1 (287.9m<sup>2</sup>). The proposed development has a FSR of 0.58:1 (333.92m<sup>2</sup>), exceeding the standard by 46.02m<sup>2</sup> equating to a 15.98% variation.

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

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

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

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

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The proposal is well considered and appropriate for the area, compatible in terms of bulk and scale with neighbouring buildings and buildings in the locality despite the numerical non-compliance;*
  - (ii) *The non-complying floor area is largely located at the rear of the property, which is not visible from the public domain and does not negatively impact neighbours;*
  - (iii) *The proposal complies with the WLEP height standard, resulting in a height and scale that is compatible with the streetscape, despite the FSR non-compliance;*
  - (iv) *The current bungalow appearance of the existing dwelling does not reflect the streetscape. The first floor addition creates a bulk and scale consistent with neighbouring dwellings;*
  - (v) *The building sits largely within the existing footprint, complies with height, setbacks and landscape area requirements. Views from neighbouring dwellings are preserved;*
  - (vi) *Numerical compliance would reduce the built form of the dwelling, resulting in the development not being consistent with the streetscape*
  - (vii) *Removal of the basement area would not alter the bulk and scale of the dwelling; and*
  - (viii) *Other examples of dwellings exceeding the FSR are found in the surrounding area.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) *The proposal with its non-complying floor space ratio meets the planning objectives of the low-density residential zoning, the desired future character and the planning objectives of the floor space ratio standard; and*
  - (ii) *Reducing the development to a compliant FSR will not result in lesser impacts to the streetscape.*

#### Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

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

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

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

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

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

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

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard referencing the development meets the objectives of the R2 zone and FSR development standard and responds to the desired future character 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 standard and the objectives for development within the zone in which the development is proposed to be carried out including;

**Objectives of the Low Density Residential 'R2' Zone**

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

The proposed dwelling is appropriate in terms of meeting the needs for a family. Additionally, the dwelling is designed appropriately to respect of the surrounding streetscape.

**Objectives of FSR**

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

The dwelling is within a compliant building envelope. This is discussed throughout this report.

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

A streetscape analysis has concluded that the development will be compatible with the surrounding streetscape in terms of bulk and scale.



*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 dwelling is within a compliant building envelope. The dwelling has been reduced from previously refused applications in order to protect views accessed from neighbouring dwellings.

#### Conclusion

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

#### **2.1.4 Waverley Development Control Plan 2012 (WDCP)**

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

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

Development Control	Compliance	Comment
1. Waste	No. Condition Recommended.	A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction. A condition of consent is recommended regarding ongoing waste on site.  The proposed bin storage is located within the public domain and is therefore not supported. A condition of consent is recommended that the waste and recycling storage area is located within the existing garage.
2. Ecologically sustainable Development	Yes	A BASIX Certificate is submitted with the DA which is acceptable.
3. Landscaping and Biodiversity	Yes	The DA does not propose any landscaping work.
5. Tree preservation	Yes	Tree removal is not proposed.
6. Stormwater	No. Condition Recommended.	A condition of consent is recommended that amended stormwater plans be submitted to Council's Stormwater Engineer prior to the issue of the Construction Certificate for approval.
8. Transport	N/A	The DA does not propose changes to the existing garage or associated crossover.
11. Design Excellence	Yes	The proposal is considered to achieve design excellence. The development is within an appropriate building envelope, uses appropriate materials and finishes, reflects the streetscape in terms of bulk and scale and maintains existing views that are captured from neighbouring dwellings.

Development Control	Compliance	Comment
14. Excavation	Yes	Excavation is more than 0.9m from side boundaries.

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

The proposal is defined as a “Dwelling House” in the WLEP.

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 WDCP.
<b>2.1 Height</b>		
Pitched Roof dwelling house <ul style="list-style-type: none"> <li>• Maximum external wall height of 7m</li> </ul>	Yes	The dwelling will result in a maximum continuous wall height of 7m.
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines	N/A	<u>Lower Ground Floor Front Setback</u> N/A
<ul style="list-style-type: none"> <li>• Predominant front building line</li> </ul>	Yes	<u>Lower Ground Floor Rear Setback</u> This will not alter from the existing setback.
<ul style="list-style-type: none"> <li>• Predominant rear building line at each floor level</li> </ul>	Yes	<u>Ground Floor Front Setback</u> This will not alter from the existing setback.
	Yes	<u>Ground Floor Rear Setback</u> Similar to the existing setback of both the external wall and deck balustrading.
	Yes	<u>First Floor Front Setback</u> This setback is consistent with the front first floor setbacks of No. 5 and 11 Lancaster Road. The front balcony to the first floor will be considerably setback from the front first floor balcony at 11 Lancaster Road.



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Roof tops to be non-trafficable unless predominant in the immediate vicinity</li> </ul>		<p>No privacy screen to this terrace is acceptable as it does not overlook neighbouring private open space and there is a precedence of front terraces with no privacy screens (No. 1, 5 and 11 Lancaster Road) to enable view sharing.</p>
	No. See Discussion.	<p><u>First Floor Rear Terrace</u>            Depth: 1.8m            Area: 8.8m<sup>2</sup>            No privacy louver to the western side of this deck is acceptable for the following reasons:</p> <ul style="list-style-type: none"> <li>Precedence of no privacy screens within street (see discussion below this table); and</li> <li>Potential to impact city views to the west of the site.</li> </ul>
	Yes. On Merit.	<p>As it is proposed to demolish the existing external staircase and replace with a new external staircase it is recommended that the proposed external stairs incorporate privacy screens to ensure visual privacy to the neighbouring dwelling, creating a positive precedence.</p>
	Yes	<p>The windows to the eastern elevation are acceptable. The windows are narrow in width and are anticipated to cause minimal visual privacy to neighbouring dwellings. Larger windows are appropriately screened.</p> <p>The windows to the western elevation are acceptable. The windows are narrow in width and are anticipated to cause minimal visual privacy impacts to neighbouring dwellings. Larger windows are appropriately screened. Vegetation between 5 Lancaster Road and the subject site acts as privacy screening and ensures that windows do not look directly into one another.</p>
	Condition Recommended.	<p>A condition is recommended to ensure privacy screens are fixed to ensure the larger windows respect visual privacy. Additionally, it is recommended that first floor bathroom windows incorporate opaque glazing to ensure visual privacy protection to both neighbour and occupant.</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 living areas and principal open space areas of adjoining properties on 21 June</li> </ul>	Yes	<p>The additional shadowing impacts are considered acceptable.</p> <p>At 9.00am, No. 5 Lancaster Road will receive additional overshadowing to their private open space, however from 12 noon and into the afternoon the proposal will not overshadow this property.</p> <p>The subject sites private open space will be overshadowed at 12 noon. However, the development will not overshadow its own private open space during the morning and afternoon.</p> <p>At 3.00pm, No. 9 Lancaster Road will receive additional overshadowing to their private open space, however from 9.00am to noon the development will not overshadow this property.</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. See Tenacity assessment below this table.	<p>The proposal has been amended from DA-242/2018 and DA-242/2018/1 through a reduced floor to ceiling height (to the first floor) and roof pitch.</p> <p>In addition, there is a letter of support from No. 11 Lancaster Road.</p>
<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>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>	<p>53.4%</p> <p>28.2%</p> <p>&gt;25m<sup>2</sup></p> <p>Not altering.</p> <p>Not altering.</p>

Development Control	Compliance	Comment
		The private open space is capable of providing a clothesline.

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

### Balconies and Terraces

Below is a streetscape analysis of neighbouring balconies and terraces to determine if larger balconies and terraces that lack privacy louvers are a common feature in the streetscape.

**Figure 3:** Balcony analysis to the front of dwellings along the southern side of Lancaster Road



First Floor

- Depth: 2m
- Area: 6m<sup>2</sup>
- CD-59/2017
- No privacy screens

First Floor

- Depth: 6.8m
- Area: 37.2m<sup>2</sup>
- LD-506/2000
- No privacy screens

Ground Floor

- Depth: 8.2m
- Area: 43.4m<sup>2</sup>
- DA-752/2003
- No privacy screens

First Floor

- Depth: 1.1m
- Area: 1.9m<sup>2</sup>
- DA-752/2003
- No privacy screens

Existing no privacy screens. Proposed re-development, no terrace proposed.

Ground Floor

- Depth: 5.2m
- Area: 50.3m<sup>2</sup>
- DA-442/2010
- No privacy screens

First Floor

- Depth: 1.4m
- Area: 5.9m<sup>2</sup>
- DA-442/2010
- No privacy screens



**Figure 4:** Balcony analysis to the rear of dwellings along the southern side of Lancaster Road



<p><u>First Floor</u></p> <ul style="list-style-type: none"> <li>• Depth: 1.6m</li> <li>• Area: 14.3m<sup>2</sup></li> <li>• DA-442/2010</li> <li>• No privacy screens</li> </ul>	<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> <li>• Depth: 5.6m</li> <li>• Area: 44.6m<sup>2</sup></li> <li>• DA-442/2010</li> <li>• Privacy wall to the east, nil privacy screen to the west</li> </ul>	<p>LEC approved dual occupancy with ground floor decks only that incorporate privacy screens to either side.</p>	<p><u>First Floor</u></p> <ul style="list-style-type: none"> <li>• Depth: 2.2m</li> <li>• Area: 8.2m<sup>2</sup></li> <li>• DA-752/2003</li> <li>• No privacy screen</li> </ul>	<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> <li>• Depth: 2.2m</li> <li>• Area: 13.6m<sup>2</sup></li> <li>• DA-752/2003</li> <li>• No privacy screens</li> </ul>	<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> <li>• Depth: 2.5m</li> <li>• Area: 35.7m<sup>2</sup></li> <li>• DA-423/2005</li> <li>• No privacy screens</li> </ul>	<p><u>First Floor</u></p> <ul style="list-style-type: none"> <li>• Depth: 6.45m</li> <li>• Area: 32.9m<sup>2</sup></li> <li>• LD-506/2000</li> <li>• No privacy screens</li> </ul>	<p><u>First Floor</u></p> <ul style="list-style-type: none"> <li>• Depth: 3.5m</li> <li>• Area: 12.9m<sup>2</sup></li> <li>• CD-59/2017</li> <li>• No privacy screens</li> </ul>
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From analysing the above, it can be determined that larger balconies and terraces that do not encompass privacy louvers are common in the streetscape. Therefore, the proposed balconies without screens are considered appropriate.

Lack of privacy screens are due to the views obtained from these balconies to the west. The incorporation of a privacy screen to these balconies could result in view impacts to the city views obtained from dwelling to the west.


#### View Loss Assessment Tests (Tenacity)

In accordance with clause 2.7 of the WDCP – *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.

Lower density residential accommodation is to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.

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.

Address	11 Lancaster Road, DOVER HEIGHTS (East of site)
View Reference	Window 1: First Floor. Master Bedroom Window 2: First Floor. Child’s bedroom Window 3: First floor. Stairwell Window 4: First floor. Living Room Window 5: First floor. Front Terrace
Photos	Below are images provided by the applicant. The computer generated Image (CGI) has taken into account the proposed development to aid in a Tenacity assessment.
	
Window 1: First Floor. Master Bedroom	



**Window 2: First Floor. Bedroom**



**Window 3: First floor. Stairwell**



**Window 4: First floor. Living Room**



**Window 5: First floor. Front Terrace**

**P26 – Test 1 - Assessment of Views**

*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.*

<b>Description</b>	City Views, including Harbour Bridge and Opera House	<b>Comment:</b> No. 11 Lancaster Road will obtain their views to the western side of the lot as demonstrated by the CGI's.
<b>Value</b>	Iconic	
<b>Amount</b>	Full	



P27 – Test 2 – Location of View		
<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>		
<b>Floor</b>	First Floor	<b>Comment:</b> The view is accessed to the western side of the dwelling. With this being a side view, the applicant has designed the dwelling appropriately to retain the view.
<b>Boundary/Elevation</b>	Western – side boundary	
<b>View Level</b>	Appears standing	
P28 – Test 3 – Extent of Impact		
<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>		
<b>Use Area</b>	Ranges from bedroom to living areas to open space	<b>Comment:</b> The development has reduced the roof pitch and lowered the floor to ceiling height of the first floor from DA-242/2018 and DA-242/2018/1 in order for the occupants of 11 Lancaster Road to retain iconic views to the west.
<b>Quantative Loss</b>	N/A	
<b>Qualitative Loss</b>	Minor	
P29 – Test 4– Reasonableness of Impact		
<i>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.</i>		
<b>Height Compliance</b>	Yes <b>Allowable Height:</b> 8.5m <b>Proposed Height:</b> 8.1m	<p>This breach is appropriate given a well-founded clause 4.6 variation.</p> <p>An assessment against the WDCP has concluded the dwelling is within a compliant building envelope.</p> <p>Under DA-242/2018 and DA-242/2018/1 the development was refused primarily due to the view loss suffered from 11 Lancaster Road. The dwelling has been designed to reduce floor to ceiling heights of the first floor and the pitch of the roof. This has resulted in an acceptable design in terms of impacts on view. This is supported by a letter of support from the owners of 11 Lancaster Road.</p>
<b>FSR Compliance</b>	No <b>Allowable FSR:</b> 0.5:1 <b>Proposed FSR:</b> 0.58:1	
<b>DCP Compliance</b>	Yes <b>State:</b> Wall height, setbacks	
<b>Alternative design</b>	<b>Skilful design with same development potential can be created:</b>	

## **WDCP Considerations**

Notwithstanding the above, when assessed in conjunction with Clause 2.7 of the WDCP for impact to views:

- (a) The proposal results in existing views and vistas available from the public domain being maintained where possible by the design of buildings.
- (b) The proposal does not comply with maximum development controls (regarding FSR), although the degree of impediment to the iconic views is of a degree that does allow the maximum controls to be achieved or even breached.
- (c) The proposal has been designed and sited to enable sharing of views in accordance with the tests above.
- (d) The neighbouring views are enjoyed across a proposed deck, terrace or balcony. The proposal does not include privacy screens, in order to maintain existing views.

## Conclusion

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 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 supported, as the proposal is in accordance with section 2.7 (*Views*) of the WDCP 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 proposed development is capable of complying with the BCA.

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

## **2.3 Suitability of the Site for the Development**

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

## **2.4 Any Submissions**

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

No submissions were received.

## **2.5 Public Interest**

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



### **3. REFERRALS**

#### **3.1 Stormwater**

No Stormwater Plans were submitted with the DA, therefore Council's Stormwater Engineer could not carry out an assessment. Conditions of consent are recommended regarding stormwater provisions.

#### **3.2 Trees**

An internal referral was sought from Council's Tree Officer who did not object to the proposal.

#### **3.3 Public Domain**

A referral was sought from Council's Public Domain Officer who did not support any works outside of the subject site (Lot 18, DP 4185).

This was clarified with the Public Domain Officer who confirmed, *Council will require any existing encroachments to remain in their current form unless demolished or removed during development, until Council can go forward with the road widening proposal in due time. Again, during construction if any of the encroaching assets are dilapidated and require reconstruction, Council will not allow the reconstruction within Council land. Finally post development, this condition will become acknowledged by the positive covenant.*

Conditions of consent are recommended.

### **4. SUMMARY**

The DA is for alterations and additions to a detached dwelling, including a first floor addition. The proposed development exceeds the FSR development standard, however, this is supported as it was accompanied by a well-founded Clause 4.6 variation and the Tenacity assessment against the CGI images concluded that the development has been designed in a way to reduce view loss impacts.

Council's Public Domain Officer is not supportive of any works that encroach the lot boundary, therefore conditions of consent are recommended.

The DA received nil submissions.

The DA is recommended for approval.

#### **DBU Decision**

The application and assessment report were reviewed by the DBU at the meeting on 19/05/2020 and the DBU determined: The application is acceptable and should be approved, subject to the conditions in Appendix A.

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

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

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

**Report prepared by:**

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

Joseph Somerville

**Development Assessment Planner**

**Date:** 19 May 2020

Bridget McNamara

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

**Date:** 10 June 2020

**Reason for referral:**

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

**Attachment A**  
**Conditions of the development consent**

**DA-75/2020**

**A. APPROVED DEVELOPMENT**

**1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

- (a) Architectural Plans prepared by Castlepeak Architecture 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 Plan	March 2020	13/03/2020
DA02	Basement Floor Plan	March 2020	13/03/2020
DA03	Ground Floor Plan	March 2020	13/03/2020
DA04	First Floor Plan	March 2020	13/03/2020
DA05	Roof Plan	March 2020	13/03/2020
DA06	East and West Elevations	March 2020	13/03/2020
DA07	Street, North and South Elevations	March 2020	13/03/2020
DA08	Section A	March 2020	13/03/2020
DA09	Section B and C	March 2020	13/03/2020

- (b) BASIX Certificate; and

- (c) Schedule of external finishes and colours (DA10) received by Council on 14/05/2020.

Except where amended by the following conditions of consent.

**2. GENERAL MODIFICATIONS**

The application is approved subject to the following plan amendments;

- (a) Works outside of Lot 18, DP 4185 (7 Lancaster Road, DOVER HEIGHTS) are **NOT** permitted. This includes works to the front fence, external stairs and bin storage area;
- (b) Bins are to be stored in the existing garage;
- (c) External privacy louvers to windows are to be fixed to reduce overlooking to neighbouring properties;
- (d) Windows that provide an outlook from the first floor bathrooms are to include opaque glazing; and
- (e) A fixed privacy screen is to be positioned to the western side of the external staircase from the natural ground level to the top of the balustrade on the ground floor, the privacy screen is to be the width of the spiral staircase.

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

## **B. 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.

### **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.

### **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 \$26,650.00 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

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

## **7. LONG SERVICE LEVY**

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

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

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

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

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

## **9. 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.

## **10. EROSION & SEDIMENT CONTROL**

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

## **11. 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. STORMWATER MANAGEMENT**

- (a) Stormwater plans and details shall be prepared by a suitably qualified hydraulics engineer to ensure the management of stormwater runoff from the development is undertaken without impact to the subject site, neighbouring properties or receiving drainage system.

OSD required for following DA's:

- New Development, or
- Increase in impervious area > 50m<sup>2</sup>, or
- Additional Storey or part of, or
- Cost of development > \$100,000

- (b) The development will require the installation of an On-Site Detention (OSD) system. Details of the tank are required (e.g. location, dimensions, cross & long sections, top water level, details of orifice plate including orifice diameter & depth of water above centreline of orifice etc). A completed checklist as set out in page 22 of Council's Water Management Technical Manual is required as part of the plan submission.

- (c) The plans and details shall be prepared in accordance with Council's *Water Management Technical Manual* and must be submitted to and approved by Council's Executive Manager, Infrastructure Services (or delegate), prior to the issue of any Construction Certificate. 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)

## **14. BASIX**

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



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

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

## **16. WORK OUTSIDE PROPERTY BOUNDARY**

All proposed works are to be within the property boundary of the currently registered deposit plan for lot 18, DP 4185 as per condition 2(a). The existing building encroachment/s into Council land shall not be reconstructed or added to. The building owner will not be permitted to reconstruct or undertake any work within Lot 3, DP 1021972.

Prior to a construction certificate, the plans must be presented to the electricity board (Ausgrid) for their quick check and approval.

Applicant to note further investigations may be required by a qualified surveyor and/or property conveyance officer, and updated deposit plan and/or dealing to be submitted to LRS, at the cost of the applicant. Council will not permit the property owner to assert adverse possession of the existing encroachment.

## **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.

## **17. CONSTRUCTION SIGNS**

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

## **18. 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.

## **19. 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.

## **20. 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.

## **21. 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.

## **22. 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.

## **23. CONSTRUCTION HOURS**

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

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

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

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

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

## **25. CONSTRUCTION INSPECTIONS**

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

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

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

## **27. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building

## **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.

### **28. 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.

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

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

### **30. CERTIFICATION OF 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.

### **31. ON-SITE STORMWATER DETENTION CERTIFICATION.**

The submission of certification by a suitably qualified 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.

### **32. POSITIVE COVENANT AND SURVEY AMENDMENT**

A positive covenant to the approval of Council shall be placed on the title of the property acknowledging any future redevelopment of the site shall be within the property boundary. The existing building encroachment/s into Council land shall not be reconstructed in its current alignment should the garage walls and staircase be deconstructed in the future. The building owner will not be permitted to construct any additional storeys above the existing encroachment/s. The wording of the covenant must acknowledge the property owner will not assert adverse possession of the existing encroachment/s.

Evidence of the creation of the covenant is to be approved and submitted prior to the issue of any Occupation Certificate. The covenant shall not be revoked or modified without the prior approval of Council. All costs associated with the covenant are to be borne by the applicant.

## **E. ADVISORY MATTERS**

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

### **AD1. SYDNEY WATER REQUIREMENTS**

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

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

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

### **AD2. 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.

### **AD3. 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.

### **AD4. 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.

**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.



SPIES RESIDENCE  
7 LANCASTER ROAD, DOVER HEIGHTS  
DEVELOPMENT APPLICATION DOCUMENTATION  
MARCH 2020

## ARCHITECTURAL DOCUMENTATION

DA00	SITE ANALYSIS PLAN
DA01	SITE PLAN
DA02	BASEMENT FLOOR PLAN
DA03	GROUND FLOOR PLAN
DA04	FIRST FLOOR PLAN
DA05	ROOF PLAN
DA06	EAST & WEST ELEVATIONS
DA07	NORTH & SOUTH ELEVATIONS
DA08	SECTIONS A
DA09	SECTIONS C & D
DA10	EXTERNAL FINISHES SCHEDULE
DA11	FLOOR SPACE RATIO CALCULATION PLAN

SW01	CONCEPT STORMWATER
SD01	SHADOW DIAGRAMS (PLAN) - 0900 JUNE 21

## SUPPORTING DOCUMENTATION

STATEMENT OF ENVIRONMENTAL EFFECTS  
COMPLYING BASIX CERTIFICATE No. A318075\_04  
SITE WASTE MANAGEMENT PLAN  
COMPLETED BY CASTLEPEAKE CONSULTING

DETAILED LEVEL SURVEY - IDENTIFICATION 17566-01  
COMPLETED BY C.M.S SURVEYORS PTY LTD.


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## BASIX REQUIREMENTS



**BASIX** Certificate

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

**Alterations and Additions**

Certificate number: A2180751\_04

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability. It is valid in accordance with the commitments of all parties. Terms set out in this certificate, or in the conditions, must be followed to the document entitled "BASIX: Alterations and Additions" available on [www.basix.gov.nsw.gov.au](http://www.basix.gov.nsw.gov.au)


This certificate is a revision of certificate A2180751\_02 signed with the consent authority on 16 October 2012 and 01/01/2018 with application SA-002239-18.

It is the responsibility of the applicant to comply with the consent authority that the original, or any amended certificate, is available to the public on request under the provisions of the Environmental Planning and Assessment Act 1979.

**Decay:**

Period of decay: 18 February 2020

For this certificate, the validity must be lodged within 1 month of the date of issue.



Planning,  
Infrastructure &  
Environment

**Project address**

Project name: Spire Healthcare\_OA

Street address: 7 Lonsdale Street Corner Higgins 2010

Local Government Area: Waverley Council

Plot type and number: Described (File 118)

Lot number: 10

Section number: A

Project type: A

**Dwelling type**

Separate dwelling house


**Point of valuation and auction**

10% reservation price is valued at \$50,000 or more, add does not include a top (prior) sale.

**Decay:**

Period of decay: 18 February 2020

For this certificate, the validity must be lodged within 1 month of the date of issue.



Planning,  
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**Certificate Prepared by**

NSW Planning Services, 10/01/2018

NSW Planning Services, 10/01/2018

**NSW Planning Services**

Planning,  
Infrastructure &  
Environment

BIMBA Certificate number: 4182023_28						page 6 of 6	
Clustering requirements						Share on C&A Plans	Certified Plans & Specs
Product	Brand	Characteristics	Height of cable	Dimensions	Building details	Plans and glass type	
W	h						
W9	M	2,75 x 0	0		external aluminium (fixed)	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	
W10	E	1,43 x 2,4	0,39		seawater-resistant/impregiated/aluminium	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	
W11	E	1,41 x 0,92	0,39		seawater-resistant/impregiated/aluminium	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	
W12	E	0,46 x 0,92	0,39		seawater-resistant/impregiated/aluminium	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	
W14	E	2,7 x 0	0		seawater-resistant/impregiated/aluminium	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	
W15	E	1,43 x 0	0		seawater-resistant/impregiated/aluminium	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	
W16	N	3,07 x 2,38	3,2		seawater-resistant/impregiated/aluminium	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	
W17	M	0,96 x 0	0		seawater-resistant/impregiated/aluminium	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	
W18	M	0,96 x 0	0		seawater-resistant/impregiated/aluminium	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	
W19	M	0,96 x 0	0		seawater-resistant/impregiated/aluminium	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	
W20	M	0,96 x 0	0		seawater-resistant/impregiated/aluminium	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	
W21	M	7,23 x 0	0		seawater-resistant/impregiated/aluminium	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	
W22	E	1,44 x 0	0		seawater-resistant/impregiated/aluminium	laminar or UPVC, single panotype low, 10-value 3,8, BRCC 1,4	

Planning, Industry & Transport

Building Sustainability from www.bimba.com

BASIS Certificate number: J218725_2A			
Page 2 of 2			
Features and systems	Issue on Call Centre	Issue on Customer Portal & Email	Customer Voice
Hot water			
The applicant must install the following hot water system in the development: gas instantaneous.	✓	✓	✓
Lighting			
The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.		✓	✓
Fixtures			
The applicant must ensure new or altered downlights have a flow rate no greater than 9 litres per minute or a 3 litre water rating.			
The applicant must ensure new or altered taps have a flow rate no greater than 4 litres per average bath or a minimum 3 star water rating.			
The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.	✓	✓	✓

[illegible]

















Construction			Green on Site Plans	Green on Construction Plans & Notes	Capital Plans
<b>Insulation requirements</b> The applicant must construct the new or altered construction (Roofs, walls, and ceilings/floors) in accordance with the specifications listed in the table below, except that if additional insulation is not required where the area of new construction is less than 2500, no insulation specified is not required for parts of additional construction where insulation already exists.					
Construction	Additional insulation required (if valid)	Other specifications			
concrete slab on ground floor	n/a				
floor above existing parking or loading	n/a				
external wall: masonry block	n/a				
external wall: framed (weatherboard, fibre, metal cladding)	R1.30 (or R1.70 including conductor)				
flat ceiling: plastered roof	ceiling: R4.45 (juli, roof flat bached tarced)	medium (jular absorbance 0.45 - 0.70 (55 mm)			
raised ceiling: aluminium/clay roof: framed	ceiling: R1.74 (juli, roof flat bached tarced (55 mm)	medium (jular absorbance 0.45 - 0.70 (55 mm)			

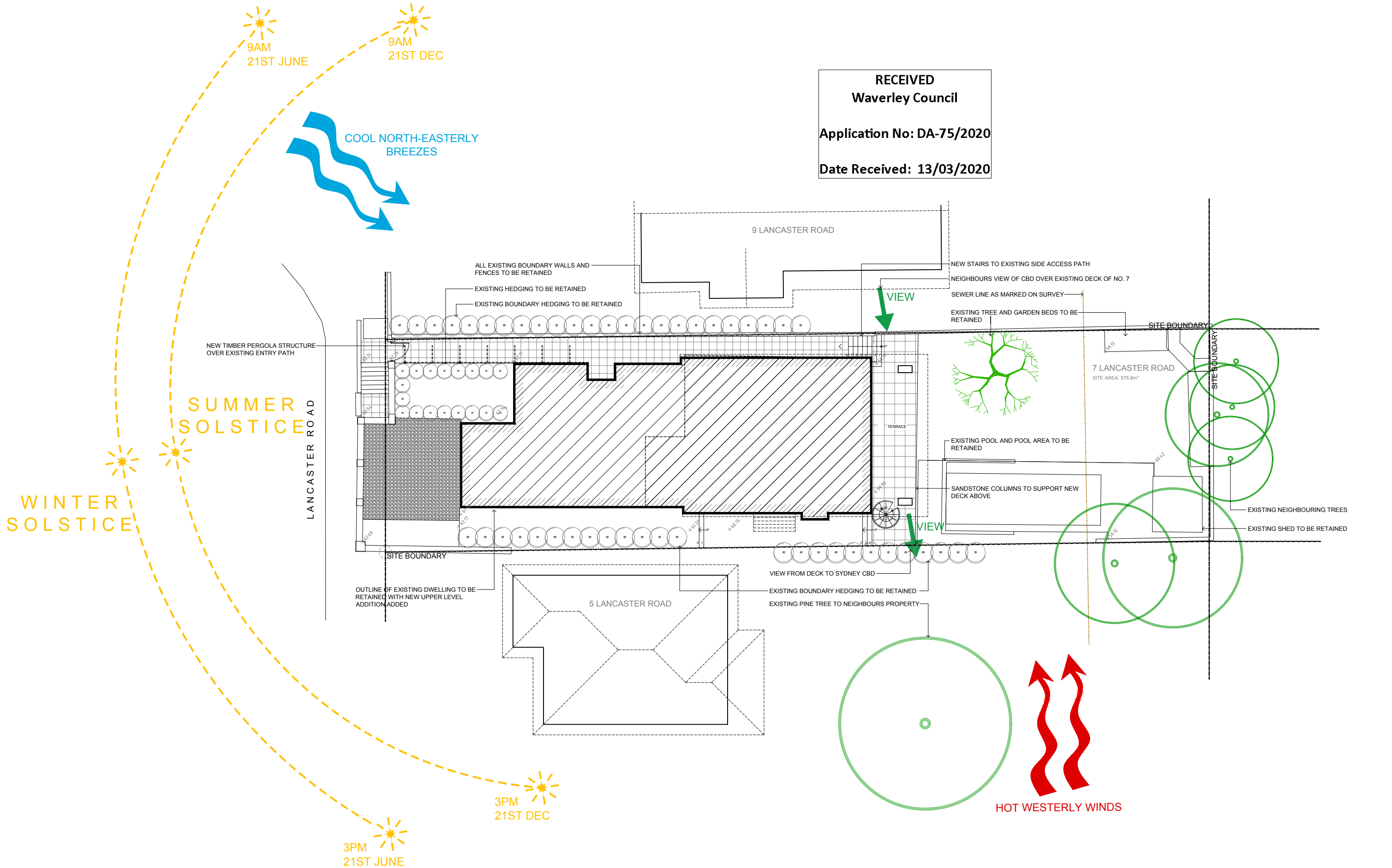
BARR Certificate number: 4318021_04				page 7	
Classing requirements			Shore-out (EN 12455)	Shore-out (EN 12455) Pile 5 open	Caribbean Channel
U-Align number	Angle of shading in Plane (°)	Shading device	Plane and glass type		
			U-value 2.0, SHGC 0.455		
S2	0.55	no shading	U-value, 2.0, SHGC 0.455 Shaded, 2.0, SHGC 0.455 U-value 2.0, SHGC 0.455		
S3	0.55	no shading	U-value, 2.0, SHGC 0.455 Shaded, 2.0, SHGC 0.455 U-value 2.0, SHGC 0.455		

[illegible]




BIMBA Certificate number A218255_24	page 6 of 8
Legend	
In these commitments, "applicant" means the person carrying out the development.	
Commitments identified with a "y" in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).	
Commitments identified with a "y" in the "Show on CGO/CDC plans & specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.	
Commitments identified with a "y" in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate for the development can be issued.	

## LEGEND

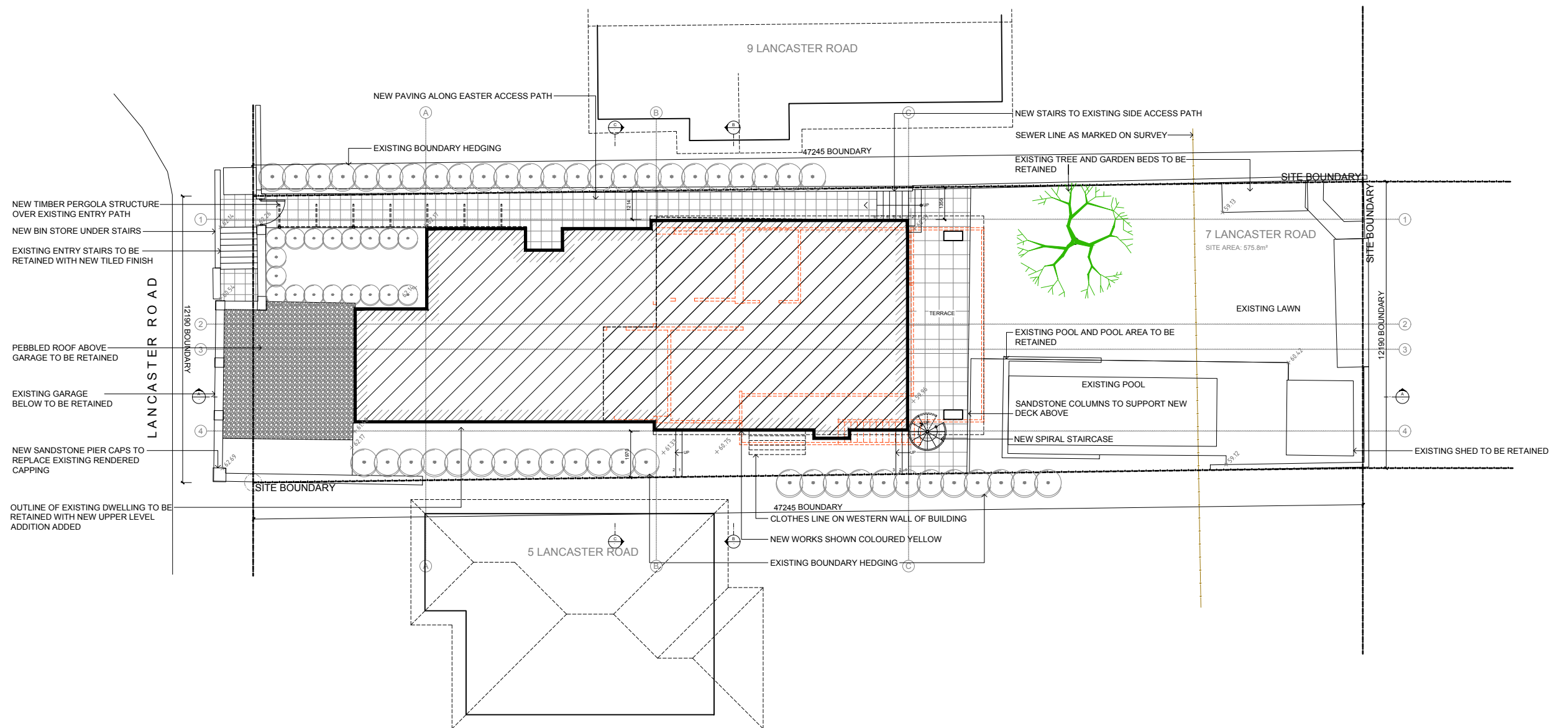
	GRID LINE REFERENCE	$+ 59.71$	EXISTING LEVEL RETAINED	 ex DP	EXISTING DOWN PIPE	 OF	OVERFLOW
	DETAIL OR SECTION REF. DRAWING REFERENCE	$+ 59.71$	EXISTING LEVEL DEMOLISHED	 DP	DOWN PIPE	 WM	WATER METER
	DOOR NUMBER	FFL RL+ 62.64	PROPOSED FINISHED FLOOR LEVEL	 DP+RWH	DOWN PIPE + RAINWATER HEAD	 GM	GAS METER
		RL+ 62.64	PROPOSED FINISHED GROUND LEVEL	 DP+S	DOWN PIPE + SPREADER	 SD	SMOKE DETECTOR
	WINDOW NUMBER	+ TOW 45.000	TOP OF WALL LEVEL	 ST	PLUMBING STACK IN WALL	FW	FLOOR WASTE
	PROPERTY BOUNDARY			 GB	GAS BAYONET POINT	 HC	HOSE COCK

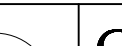


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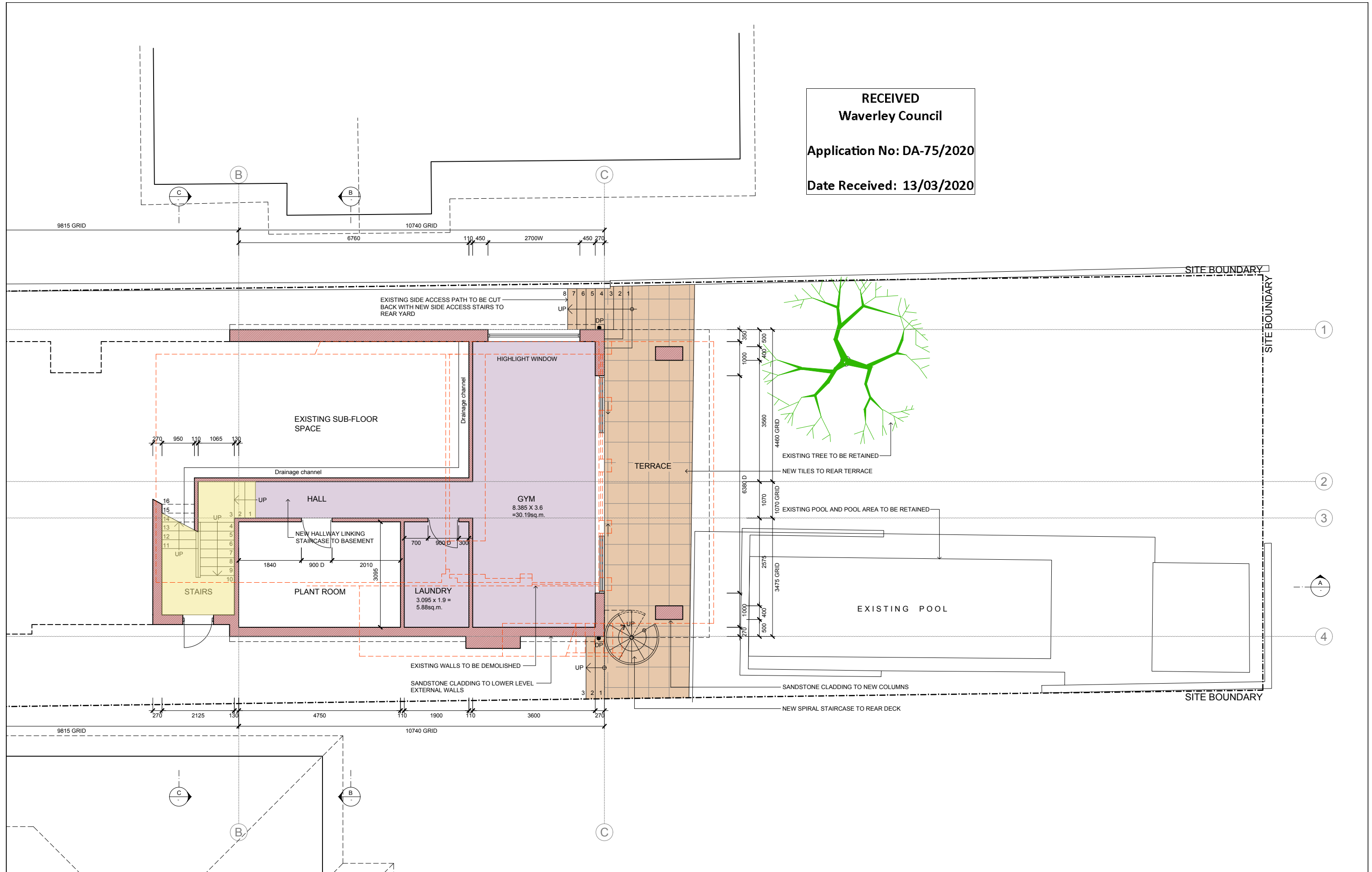
																	Drawing Title																
											Castlepeake Consulting Pty Ltd    ABN 85 054 612 761 71/36 Willoughby Rd, Crows Nest NSW 2065    P +61 2 9437 1800				www.castlepeake.com.au		SITE ANALYSIS PLAN																
											This drawing remains the property of Castlepeake Consulting Pty. Ltd. Unauthorised use of this drawing is prohibited. It may only be used for the purpose for which it was commissioned and is to be used in accordance with the terms of engagement. Figured dimensions are to take precedence over Scaled dimensions. All dimensions are in millimetres unless otherwise stated. Any discrepancies are to be reported to the Architect for a decision before proceeding with site work.						Project SPIES RESIDENCE- 7 LANCASTER RD. DOVER HEIGHTS																
DA		ISSUE FOR DEVELOPMENT APPLICATION								MARCH 20		1/3/11		MO																			
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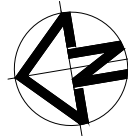


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**CASTLEPEAKE**

Architecture  
Interior Design

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7/136 Willoughby Rd, Crows Nest NSW 2065 P +61 2 9437 1800  
www.castlepeake.com.au

Drawing Title  
**BASEMENT FLOOR PLAN**

Project  
**SPIES RESIDENCE- 7 LANCASTER RD. DOVER HEIGHTS**

Nominated Registered Architects  
Mark Oxenham - Reg No. 7130  
Martin Hall - Reg No. 9854

Scales  
**1:100@A3**

Job No.

Drawing No.  
**DA02**

Revision  
**DA02**

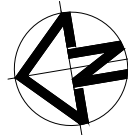
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LANCASTER ROAD

9 LANCASTER ROAD, DOVER HEIGHTS

5 LANCASTER ROAD,  
DOVER HEIGHTS

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Architecture  
Interior Design

Drawing Title  
**GROUND FLOOR PLAN**

Project  
**SPIES RESIDENCE- 7 LANCASTER RD. DOVER HEIGHTS**

Nominated Registered Architects  
Mark Oxenham - Reg No. 7130  
Martin Hall - Reg No. 9854

Scales  
**1:100@A3**

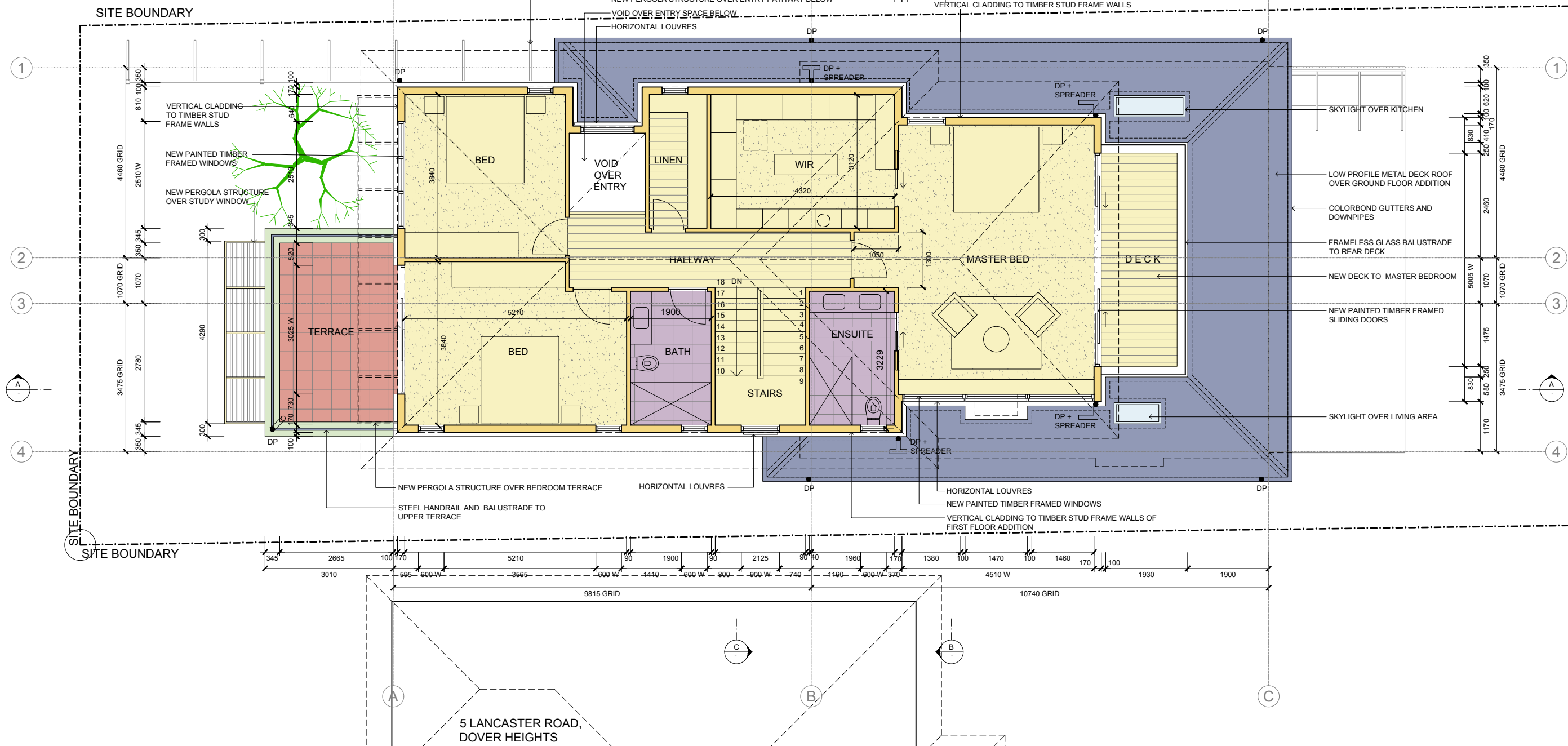
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Drawing No.  
**DA03**

Revision  
**174**



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											Castlepeake Consulting Pty Ltd    ABN 85 054 612 761 7/136 Willoughby Rd, Crown Nest NSW 2065    P +61 2 9437 1800			Project SPIES RESIDENCE- 7 LANCASTER RD. DOVER HEIGHTS															
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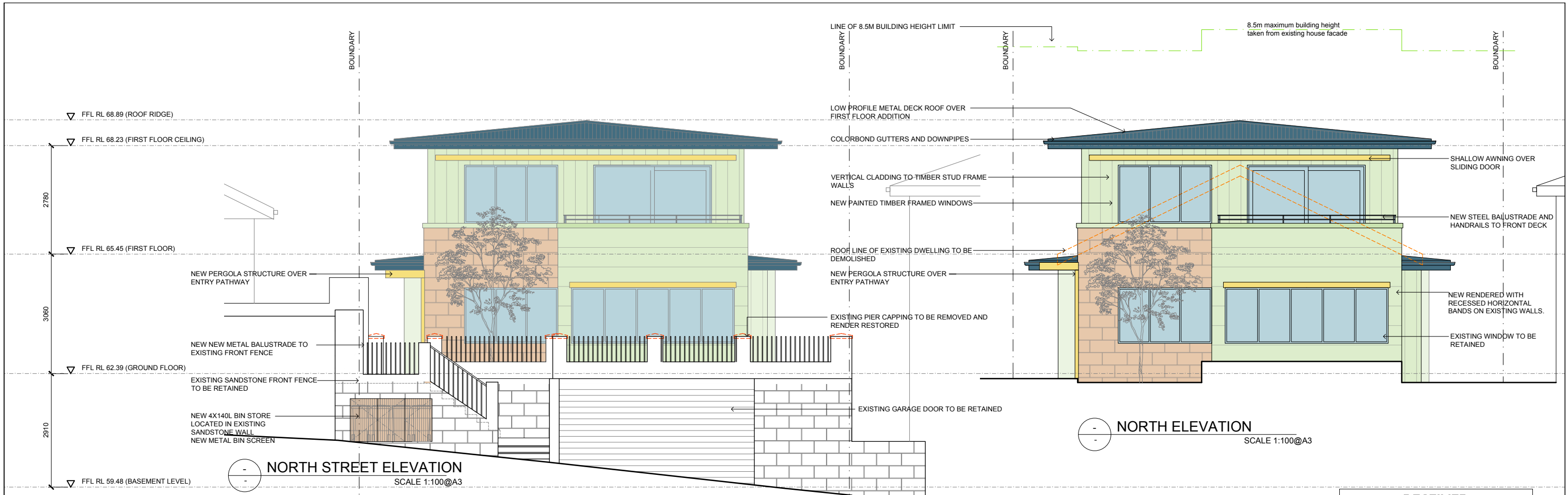
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Nominated Registered Architects  
Mark Oxenham - Reg No. 7130  
Martin Hall - Reg No. 9854

DA06

1 DA



NORTH ELEVATION  
SCALE 1:100@A3

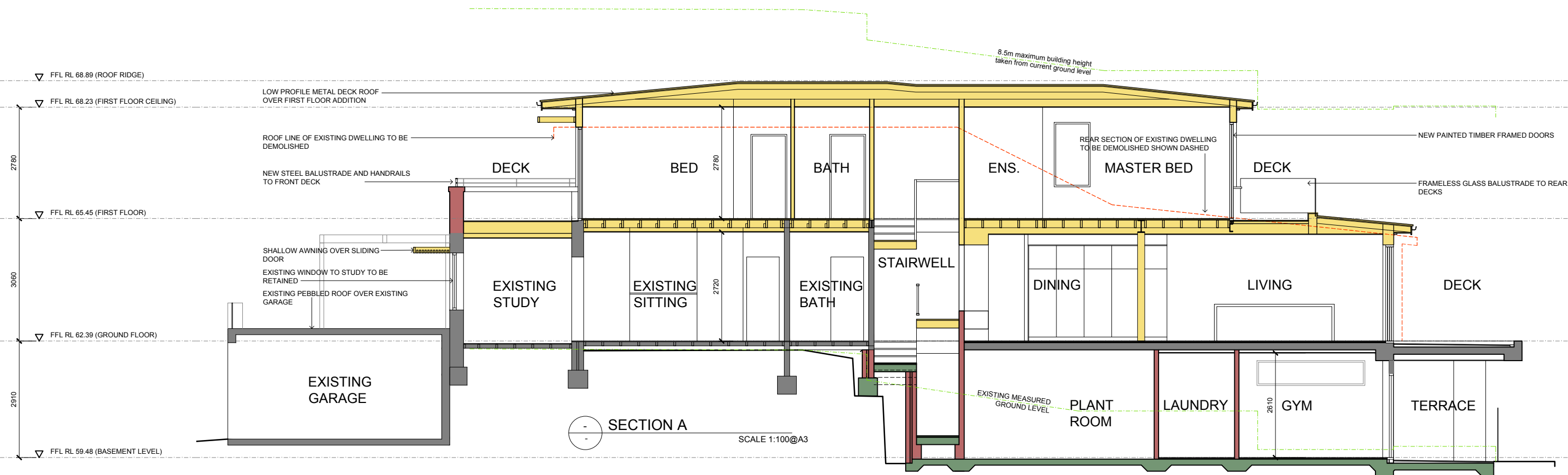
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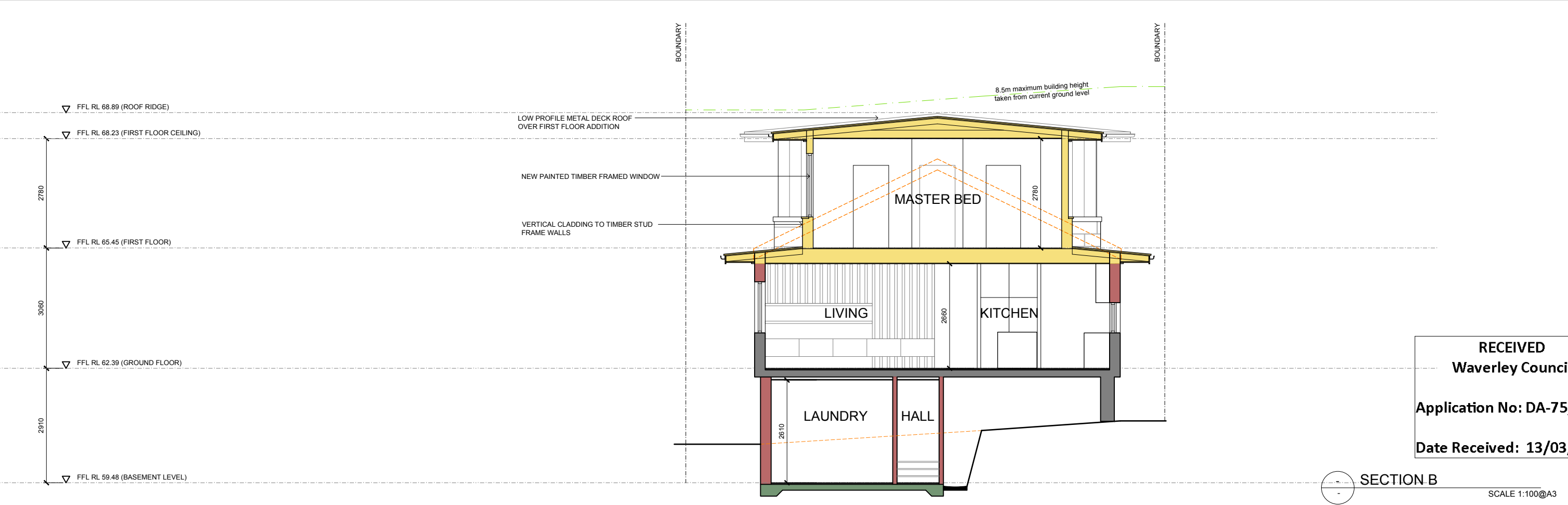


SOUTH ELEVATION  
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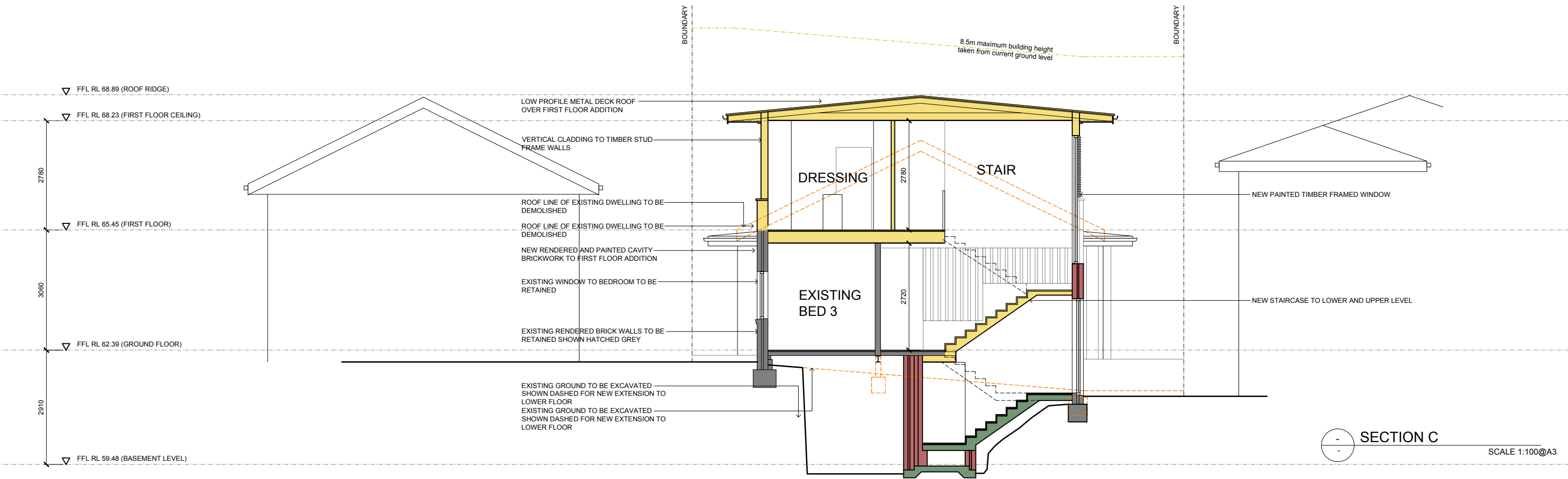
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RECEIVED  
Waverley Council

Application No: DA-75/2020

Date Received: 13/03/2020



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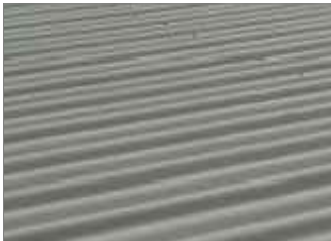





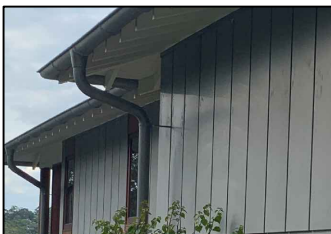

# AMENDED PLANS

RECEIVED  
Waverley Council

**Application No: DA-75/2020**

**Date Received: 14/05/2020**



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| <p>1</p> <p>LOW PROFILE METAL DECK ROOF<br/>DARK</p>  | <p>2</p> <p>TIMBER WORK<br/>DARK</p>        | <p>3</p> <p>STEEL BALUSTRADE &amp; GATES<br/>DARK</p>  |
| <p>4</p> <p>SANDSTONE<br/>EXTERNAL WALLS</p>          | <p>5</p> <p>DOORS AND WINDOWS<br/>DARK</p>  | <p>6</p> <p>RENDER<br/>LIGHT</p>                       |
| <p>7</p> <p>VERTICAL CLADDING<br/>MEDIUM - DARK</p>   | <p>8</p> <p>GLASS BALUSTRADE</p>            |   |

DA 1	ADDITIONAL INFORMATION FOR DEVELOPMENT APPLICATION	MAY '20	/\{} \{/	MO								
DA	ISSUE FOR DEVELOPMENT APPLICATION	MARCH '20	/\{} \{/	MO								
REVISION	AMENDMENT OR REASON FOR ISSUE	ISSUE DATE	DRAWN	CHECKED	REVISION	AMENDMENT OR REASON FOR ISSUE				ISSUE DATE	DRAWN	CHECKED

# CASTLEPEAKE

Castlepeake Consulting Pty Ltd ABN 85 054 612 761  
7/136 Willoughby Rd, Crows Nest NSW 2065 P+61 2 9437 1800

**Architecture**  
**Interior Design**

[www.castlepeake.com.au](http://www.castlepeake.com.au)

Drawing Title

## EXTERNAL FINISHES SCHEDULE

**P**

SPIES RESIDENCE- 7 LANCASTER RD. DOVER HEIGHTS

Nominated Registered Architects  
Mark Oxenham - Reg No. 7130  
Martin Hall - Reg No. 9854

Scales  
1:100@A3

Job No. \_\_\_\_\_

Drawing No.

Drawing No.  
DA1

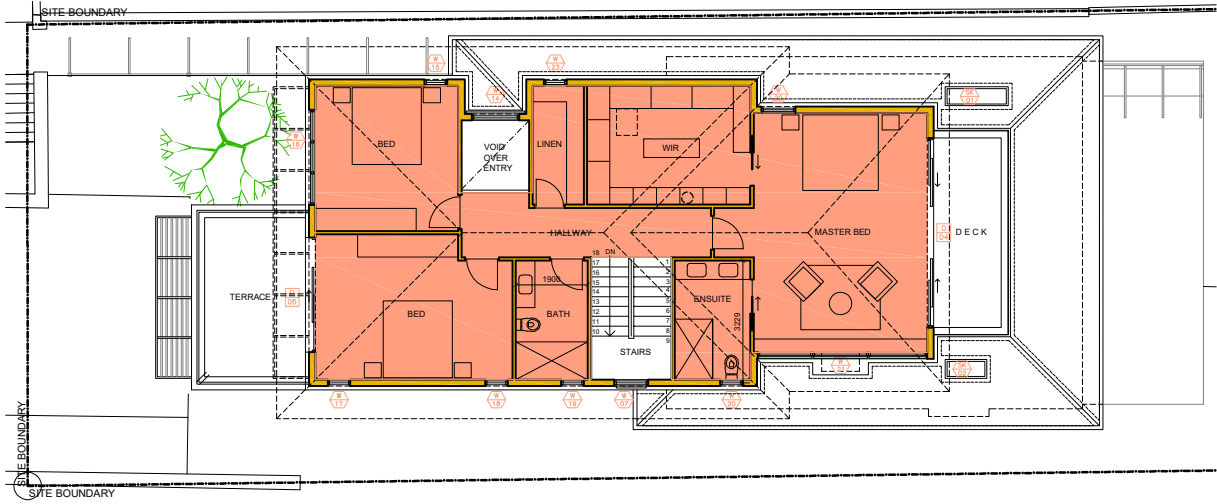
Revision

Revision

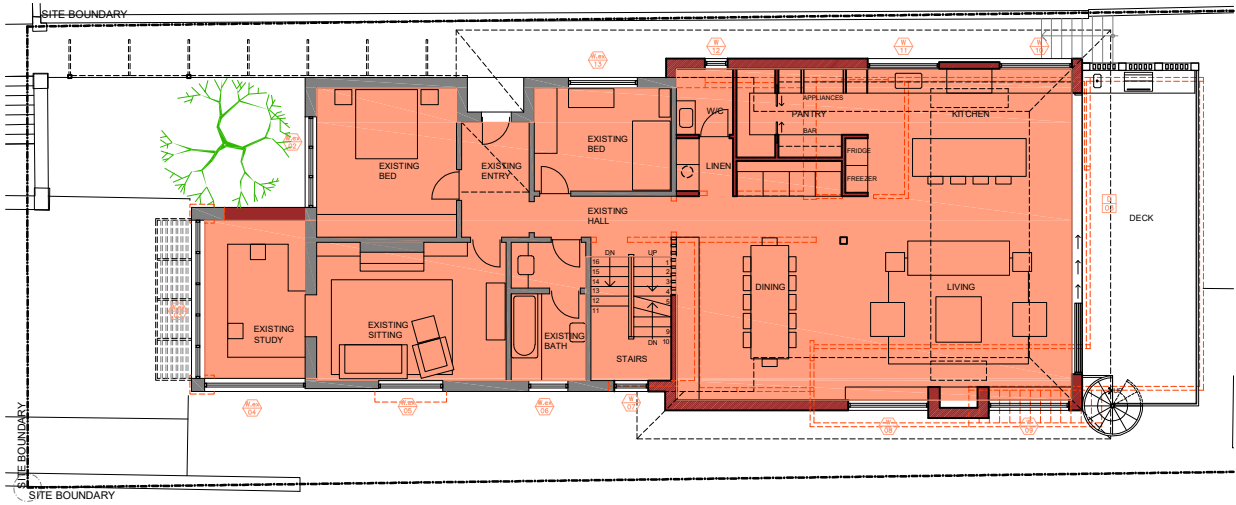
RECEIVED  
Waverley Council

Application No: DA-75/2020

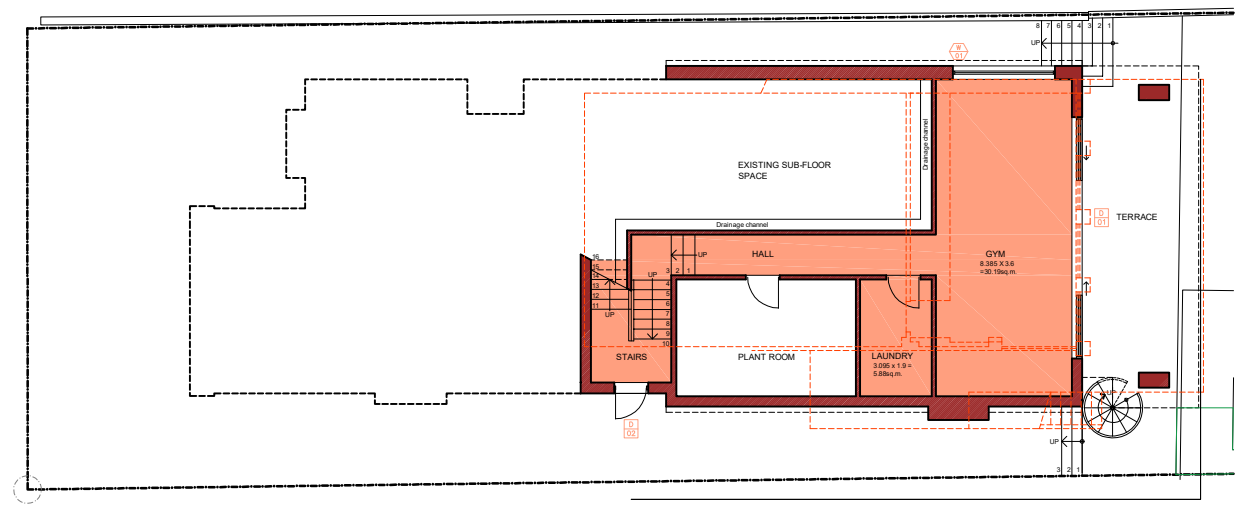
Date Received: 14/05/2020



FIRST FLOOR PLAN  
SCALE 1:200@A3



GROUND FLOOR PLAN  
SCALE 1:200@A3



BASEMENT FLOOR PLAN  
SCALE 1:200@A3

AREA CALCULATIONS

FLOOR SPACE RATIO CALCULATIONS

MAXIMUM FLOOR SPACE RATIO = 0.5:1 (WLEP 2012)  
= 0.5 X 575.8m<sup>2</sup> (SITE AREA)  
= 287.9m<sup>2</sup>

PROPOSED FLOOR SPACE RATIO  
BASEMENT FLOOR = 51.71m<sup>2</sup>  
GROUND FLOOR = 175.71m<sup>2</sup>  
FIRST FLOOR = 106.5m<sup>2</sup>

TOTAL = 333.92m<sup>2</sup> (46.02m<sup>2</sup> / 15.98% ABOVE MAX. FSR)

NOTE - 1) INTERNAL STAIRS COUNTED TWICE (BASEMENT & GROUND FLOOR)  
2) BASEMENT PLANT ROOM, STORE, AND SUB-FLOOR SPACE EXCLUDED FROM FLOOR AREA.

DA 1	ADDITIONAL INFORMATION FOR DEVELOPMENT APPLICATION	MAY '20	/ /	MO															
DA	ISSUE FOR DEVELOPMENT APPLICATION	MARCH '20	/ /	MO															
REVISION	AMENDMENT OR REASON FOR ISSUE	ISSUE DATE	DRAWN	CHECKED	REVISION	AMENDMENT OR REASON FOR ISSUE	ISSUE DATE	DRAWN	CHECKED										

CASTLEPEAKE

Architecture  
Interior Design

Castlepeake Consulting Pty Ltd    ABN 85 054 612 761  
7/136 Wiloughby Rd, Crows Nest NSW 2065    P +61 2 9437 1800  
www.castlepeake.com.au

Drawing Title

GROSS FLOOR AREA CALCULATION PLAN

Project

SPIES RESIDENCE- 7 LANCASTER RD. DOVER HEIGHTS

Nominated Registered Architects  
Mark Overham - Reg No. 7130  
Martin Hall - Reg No. 9854

Scales

1:200@A3

Job No.

Drawing No.

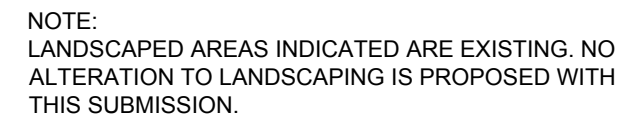
DA11

Revision

DA 1

182





<p><b>RECEIVED</b> <b>Waverley Council</b></p> <p><b>Application No: DA-75/2020</b></p> <p><b>Date Received: 14/05/2020</b></p>	
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GROUND FLOOR PLAN



## LANDSCAPING CALCULATIONS

### TOTAL LANDSCAPED AREA CALCULATION

LANDSCAPED AREA = 15% of total site area to be landscaped (WDCP 2012)  
= 0.15 X 575.8m<sup>2</sup> (site area)  
= 86.37m<sup>2</sup>

PROPOSED LANDSCAPED AREA

AREA 1 = 22.41m<sup>2</sup>  
AREA 2 = 127.88m<sup>2</sup>  
AREA 3 = 8.48m<sup>2</sup>

TOTAL = 158.77m<sup>2</sup> (landscaping complies with 72.4m<sup>2</sup>)

RECREATIONAL SPACE = Minimum of 25m<sup>2</sup> of recreational space (WDCP 2012)  
(private open space as recreational space complies)

LANDSCAPED AREA FRONT OF SITE = min. 50 % of open space provided at the front of site, to be landscaped area (WDCP 2012)

OPEN SPACE      **AREA 1**      = 74.92 x 50%  
= 37.46

LANDSCAPED AREA 1 = 22.41m<sup>2</sup> (does not comply by 13.05m<sup>2</sup>)

## OPEN SPACE CALCULATIONS

## OPEN SPACE CALCULATION

OPEN SPACE = 40% of total site area to be open space (WDCP 2012)  
= 0.4 X 575.8m<sup>2</sup> (site area)  
= 230.32m<sup>2</sup>

PROPOSED OPEN SPACE

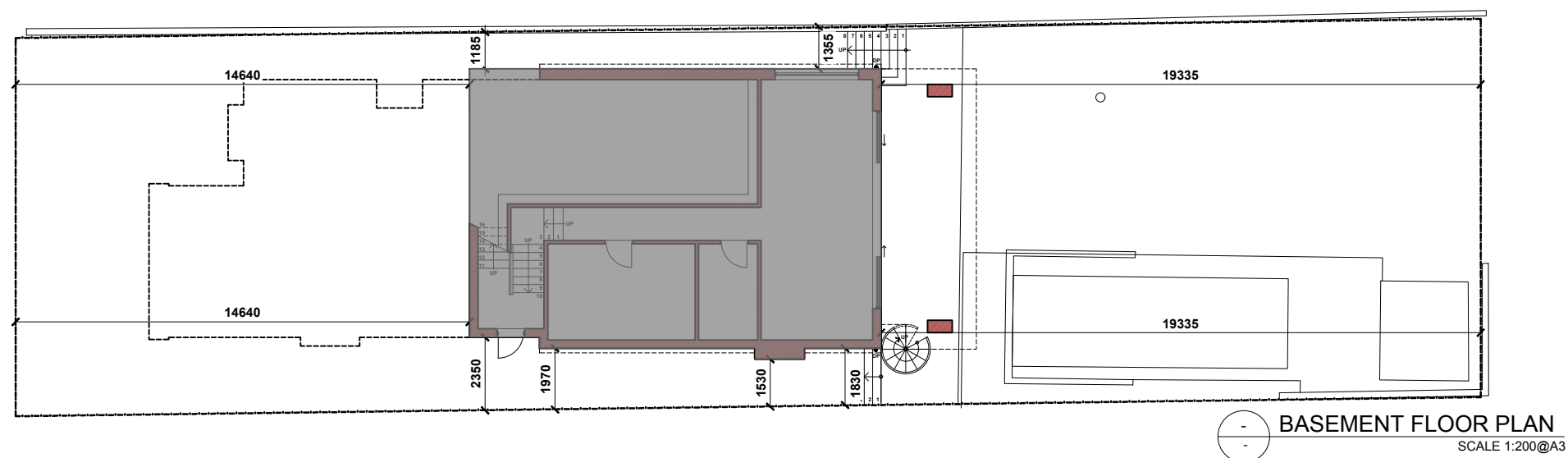
AREA 1 = 74.92m<sup>2</sup>  
AREA 2 = 186.01m<sup>2</sup>

TOTAL = 260.93m<sup>2</sup> (open space complies with 30.61m<sup>2</sup>)

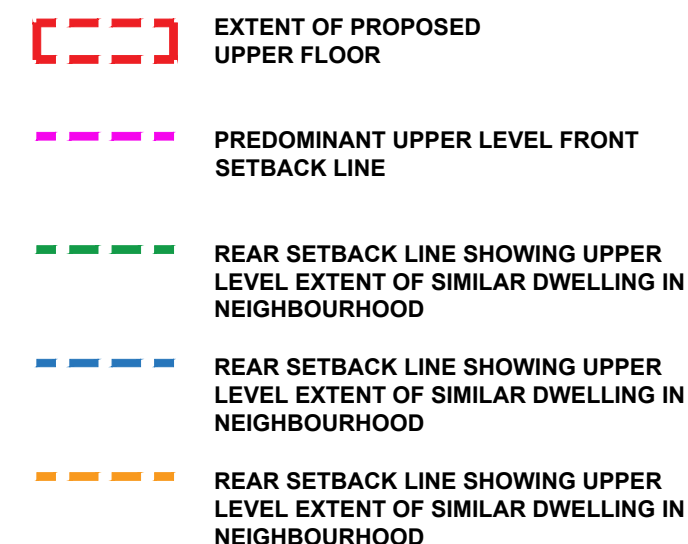
STREET OPEN SPACE = 50% of the area between front of the primary building and the street alignment is to be open space (WDCP 2020)  
= 90m<sup>2</sup> x 50%  
= 45 00m<sup>2</sup>

AREA 1 = 74.92m<sup>2</sup> (thus complies)

[illegible]

[illegible]



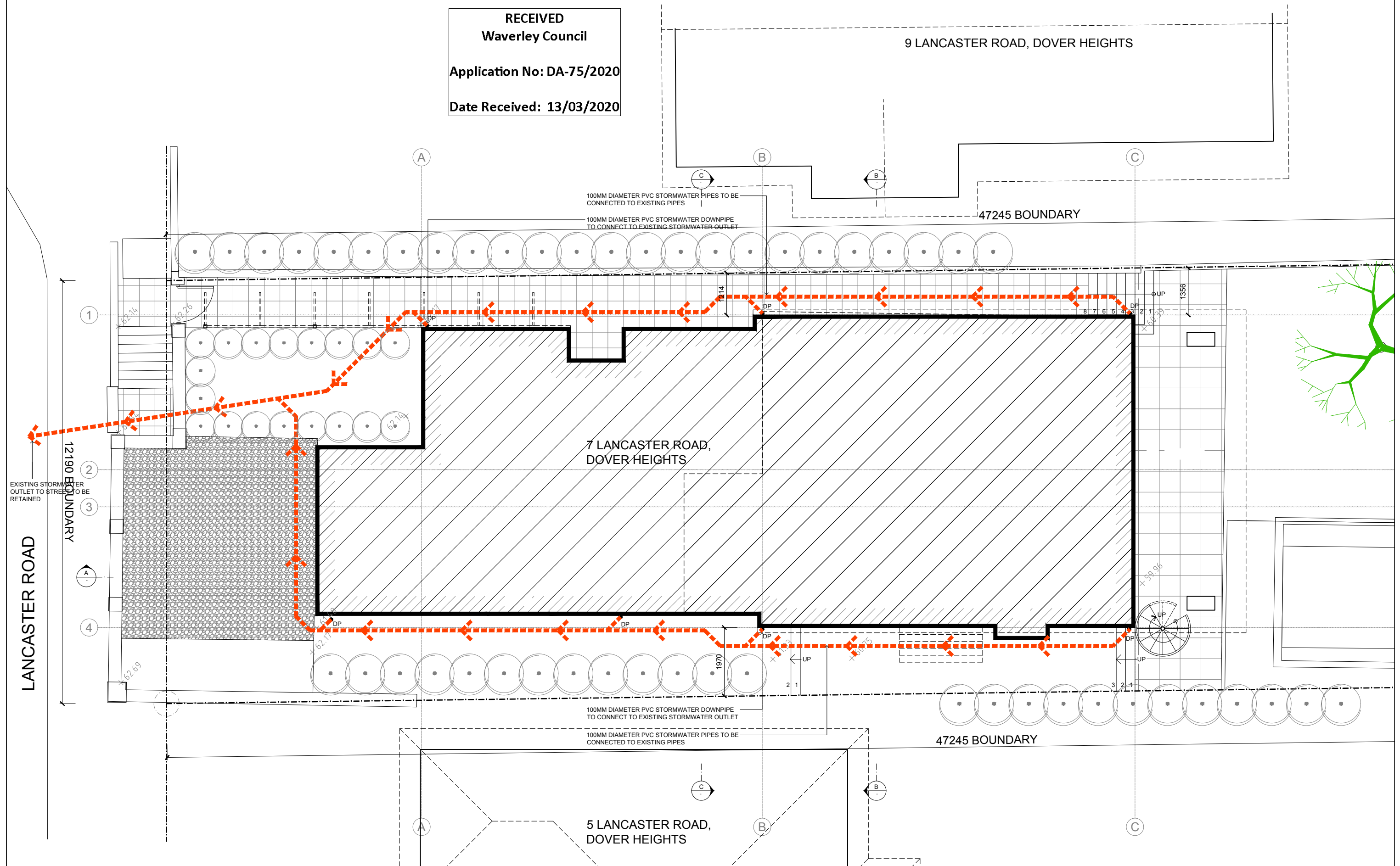


SCALE 1:200@A3

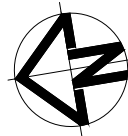
[illegible]



RECEIVED  
Waverley Council  
Application No: DA-75/2020  
Date Received: 13/03/2020



DA	ISSUE FOR DEVELOPMENT APPLICATION			MARCH '20	/11/11/	MO													
REVISION	AMENDMENT OR REASON FOR ISSUE			ISSUE DATE	DRAWN	CHECKED	REVISION	AMENDMENT OR REASON FOR ISSUE			ISSUE DATE	DRAWN	CHECKED						



NORTH

**CASTLEPEAKE**

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Interior Design

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Drawing Title  
**CONCEPT STORMWATER PLAN**

Project  
**SPIES RESIDENCE- 7 LANCASTER RD. DOVER HEIGHTS**

Nominated Registered Architects  
Mark Oxenham - Reg No. 7130  
Martin Hall - Reg No. 9854

Scales  
**1:100@A3**

Job No.  
SW01

Drawing No.  
SW01

Revision  
1

